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HOUSE OF REPRESENTATIVES—*Tuesday, October 17, 1989*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us to appreciate, O gracious God, the good freedoms we enjoy and all the blessings of liberty that have been our heritage. May each of us be responsible in our use of these gifts, accepting the tasks unique to our democracy, and thus being good stewards of all that we have received from Your bountiful hand. This we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from Virginia [Mr. BLILEY] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. BLILEY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2742. An act to extend and amend the Library Services and Construction Act, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3027) "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1990, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 5, 7, 11, 16, 18, and 19, to the above-entitled bill.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate numbered 15 with an amendment.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 76. Concurrent resolution welcoming members of the Canadian Parliament on their visit to the Capitol.

OVERRULE USDA POISONING OF EAGLES

(Mr. CAMPBELL of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAMPBELL of Colorado. Mr. Speaker, last Friday I learned that the USDA will conduct experiments on captive eagles in Lakewood, CO, that will entail feeding compound 1080, a deadly poison, to them. The USDA wants to find out, of all things, if 1080 will kill these majestic birds.

As I understand it, the U.S. Fish and Wildlife Service issued a permit to USDA to conduct feeding experiments on these captive eagles without knowing that it could result in the death of the eagles.

Mr. Savarie, one of the USDA research scientists, is quoted in the Denver Post as saying, "I don't think they will die from it." Mr. Speaker, I cannot believe anyone sworn to uphold the law in this Nation would intentionally play Russian roulette with any animal protected by the Endangered Species Act, and particularly one as noble as the golden eagle.

Today I will be circulating a letter among my colleagues to be sent to both Secretary Yeutter and Secretary Lujan condemning this inhumane act. I hope our collective voices will convince them to overrule the decisions of those who would intentionally poison captive eagles.

STANDARDS FOR ETHICS REFORM LEGISLATION

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, Congress will act on ethics reform legislation this year.

The need to revise our standards of public conduct does not reflect adversely on the integrity of this body's individual Members. Rather, it grows out of citizens' increased interest in Government decisionmaking.

Citizen concerns should give us pause to consider the appropriateness of standards that may have been acceptable yesterday but, in the hot, harsh light of today's TV cameras, appear less than flattering to our representative institutions.

The reaffirmation of traditional American values in new, revised standards of ethical conduct will do much to confirm the integrity of our representative form of government today.

Ethics reform must be exacting enough to insure that officials act with integrity to command the public's confidence. That is the standard of the President's "Governmentwide Ethics Act of 1989." It is a bipartisan standard we can adopt as our own.

AMERICANS RISING UP TO DEFEND ABORTION RIGHTS

(Mr. EDWARDS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. EDWARDS of California. Mr. Speaker, the National Abortion Rights

Action League [NARAL] yesterday presented Congress with a petition signed by over 1 million Americans from every State of the Union and the District of Columbia.

Here is the pledge made by these 1 million of our constituents:

I pledge to oppose any attempt to interfere with the fundamental right of a woman to make her own decision about abortion.

Our constituents who signed this petition are sending us a heartfelt message:

We want Members of Congress to support this fundamental right of American women. We don't want this most personal of decisions being made by the government.

Since the Webster decision was handed down, a drumbeat has gone out across this Nation. People are awakening and rising up to protect this right so essential to the safety, health, and dignity of women.

Their message is one we in Congress—and our President—should hear, loud and clear.

In 38 States, NARAL activist collected the following number of signatures since the Supreme Court announced its consideration of the Webster case:

Alabama	7,000
Arkansas	5,000
Arizona	30,000
California	250,000
Colorado	10,000
Connecticut	10,000
Florida	25,000
Georgia	10,000
Hawaii	3,000
Illinois	25,000
Indiana	8,000
Louisiana	2,000
Maine	2,000
Maryland	20,000
Massachusetts	45,000
Michigan	10,000
Minnesota	20,000
Missouri	25,000
Montana	4,000
New Hampshire	10,000
New Mexico	12,000
New York	60,000
Nevada	2,000
North Carolina	15,000
Ohio	15,000
Oklahoma	3,000
Oregon	20,000
Pennsylvania	40,000
South Dakota	4,000
Tennessee	10,000
Texas	70,000
Utah	4,000
Vermont	7,000
Virginia	17,000
Washington	45,000
West Virginia	4,000
Wisconsin	18,000
Wyoming	1,000

Additionally, more than 200,000 signatures were sent directly to the National NARAL office. Those include names from all 50 States and the District of Columbia.

BOXER AMENDMENT ON ABORTION

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks).

Mrs. BOXER. Mr. Speaker, the President says he will veto the Boxer amendment which this House approved in order to give a choice to poor women who are the victims of rape or incest.

President Bush says he supports such an abortion choice in such tragic cases but only if the woman can pay. If she cannot she is left twisting in the wind.

Mr. President, I hope you sign that bill. Or else how could you look into the eyes of a child, and remember 1 in 5 children lives in poverty, how could you look in the eyes of a child who was assaulted by her alcoholic father—would you say:

Young woman you may be just eleven, you may be suffering from a violent family, you may have much pain in your life but here's just one more thing—

Your government is leaving you stranded. You may have to drop out of school to bear the product of this incest.

Your life may be marked forever by this physical and psychological experience.

But your President can't back down and be called a wimp.

Mr. President, she will not understand and neither will the American people. And I hope the American people will unite and ask you not to veto the bill.

□ 1210

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will remind all Members in accordance with the Chair's statement yesterday and on a previous occasion, Members should not refer to the President of the United States in the second person, but address the Chair. Members may comment on Presidential actions and may urge Presidential actions, but Members should not address the President personally.

GRANTING FEDERAL CHARTER TO NATIONAL ASSOCIATION OF WOMEN VETERANS

(Mr. JONES of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES of Georgia. Mr. Speaker, today I have introduced legislation which would grant a Federal charter to the National Association of Women Veterans, a nonprofit corporation based in Georgia.

A congressional charter to this important veterans group will serve to recognize the contributions of the 350,000 American women who served in the Armed Forces during World War II.

Until recently, women were the invisible veterans, and recognition of the dedicated service and commendable contributions of these veterans is long overdue.

Over 17,000 members of the Women's Army Corps [WAC] served in every combat area overseas. More than 2,500 women earned combat and noncombat decorations during World War II, including Distinguished Service Medals, Silver Stars, Bronze Stars, Air Medals, Legion of Merit, Commendation Medals, and Purple Hearts; 110 women were held captive for almost 37 months after the fall of Bataan and Corregidor, and more than 250 Army and Navy nurses lost their lives during World War II.

During the Korean conflict, and in Vietnam, women again answered the call of their Nation.

The National Association of Women Veterans is dedicated to promoting and teaching the American way of life, defending and upholding the Constitution, encouraging young women to choose a career in the military, and honoring outstanding women veterans.

I am honored to introduce this legislation on behalf of this great American organization.

WALL STREET CANNOT KEEP UP WITH AMERICA'S NEW HIGH TECHNOLOGY FUTURE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Japan is developing new jobs. They have laser arc welders, robotic electricians, structural steel engineers, energy technicians, computer mechanics, diversified plumbers, but do not worry, America will not be denied, we are going to keep pace.

I cited one such job last week, a pantyhose crotch closer. Actually it is a pantyhose crotch closer machine operator.

But it does not stop there. We are also developing coconut jelly rollers, belly builders, and corn cob pipe assemblers.

In addition, our kids could also become a gizzard skin remover or a brassiere cup molder-cutter.

So, Mr. Speaker, why worry? In years past we made steel and built skyscrapers. Now we build bras and pantyhose.

Mr. Speaker, maybe that is why Wall Street is so unsettled with America's new high technology job future. Maybe we should take a look at our real jobs being produced in America.

FEDERAL GOVERNMENT SHOULD NOT DENY WOMEN PERSONAL CHOICE

(Mrs. SCHROEDER asked and was given permission to address the House

for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, if any Members have ever been a victim of a crime, we know how it rattles us to the very core, whether we have been held up or had our home broken into.

Mr. Speaker, I ask people to think about what it must feel like to have been the victim of a crime where your body has been violated. That is exactly what happens in the cases of rape and incest.

Mr. Speaker, I hope this body pleads with the President not to veto the bill. It should not be the policy of the U.S. Government, home of the land of the free and the brave, that women and young girls who have been the subject of one of the most brutal crimes around, either rape or incest, must bear the fruit of that crime and must then deal with it for the rest of their lives.

If people want to make that personal choice, all right. But the Federal Government should not deny them that choice.

Mr. Speaker, I hope every Member encourages the President of the United States not to veto the bill. That is not the way we should be going.

I think that women and young girls in this country are due much, much more respect by this Government.

PRESIDENT URGED TO SUPPORT EXPANDED MEDICAID COVERAGE FOR ABORTION SERVICES

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, I rise today to join my colleagues in urging President Bush to support the expanded Medicaid coverage for abortion services in the case of rape and incest as passed by the House and Senate.

This policy will put an end to the injustice against low-income women who have been sexually assaulted and have become pregnant. This policy will restore a degree of fairness and compassion to the Federal Medicaid abortion funding policy. Low-income women who are pregnant as a result of rape or incest should have the same ability as affluent women to choose to terminate pregnancies that result from sexual crimes.

Public opinion polls show that 8 in 10 Americans support availability of abortions for sexually assaulted women. In my home State of Oregon voters have had the opportunity to vote on ballot initiatives that would restrict poor women's access to abortion services twice—in 1979 and 1986. Both measures were defeated. Clearly, restricting the availability of abortions for these victims is not the policy that most Americans want.

Different religious groups in the United States hold varying beliefs about when abortion may be an ethical alternative. For many, conscience dictates that abortion may be a moral choice for women impregnated as a result of sexual crimes. The Government should remain neutral and not place obstacles in the way of women who wish to act according to their religious beliefs. To make one religious belief about the morality of abortion the law, to the detriment of other, equally valid religious beliefs, is to trample one of our Nation's most cherished constitutional rights—the right of freedom of religion.

SECRETARY BAKER'S KHMER ROUGE FORMULA

(Mr. ATKINS asked and was given permission to address the House for 1 minute.)

Mr. ATKINS. Mr. Speaker, a very troubling article appeared in the Washington Post yesterday. It appears that the Secretary of State is proffering a plan, known as the Baker formula, that would secure for the Khmer Rouge power in a transition government in Cambodia. His intention is to interest our allies in his formula.

Mr. Speaker, when the United States went to the Paris peace talks this past summer, the Secretary articulated American policy that the Khmer Rouge should play no role in Cambodia's future. It would only be at the behest of Prince Sihanouk that we would relent on this point and accept an interim arrangement with the Khmer Rouge.

Now, we are to be the chief architects for a return to power of the Khmer Rouge. Can it really be that our own Secretary of State is going to proselytize outright for a resurgence of power of one of the bloodiest regimes known to mankind? And, worse, have we not learned from our past experience in Southeast Asia that we cannot impose governments, even interim governments, that cannot keep faith with the people they govern? Has anyone, including Secretary Baker, asked the Cambodian people if they believe it is in their best interests to have any legitimate power conferred on the deeply evil and wantonly destructive Khmer Rouge.

Mr. Speaker, I would like the Secretary of State to explain the moral justification for an American proposal that would breathe new life and legitimacy into the Khmer Rouge.

I ask my colleagues to join me in signing a letter I am circulating asking the Secretary of State to clarify for the Congress precisely what his intentions are in the region and to explain the moral justification for an American proposal that would breath new life and legitimacy into the Khmer Rouge.

LOWER MISSISSIPPI DEVELOPMENT COMMISSION RELEASES INTERIM REPORT

(Mr. ESPY asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. ESPY. Mr. Speaker, in a little more than a decade from now we will usher in the beginning of a new century.

Many parts of our Nation are prepared for the challenge of this new era. Others, Mr. Speaker, are woefully unprepared.

Now, that is the bad news. The good news is that we do have time to bring the rest of the Nation along if we begin to focus the bright light of this Congress on this undeveloped region. Mr. Speaker, this light is beginning to shine.

Yesterday the Lower Mississippi Delta Development Commission released its interim report to the President and Congress. The report is a clear call to action.

It outlines the plague in poverty in 241 counties and parishes spread out over seven States along the Mississippi. It tells how 8.3 million in the Lower Mississippi Delta struggle with neglect, but how they have been trying to deal with this problem themselves.

As Members know, Mr. Speaker, the Lower Mississippi Delta Development Commission was created last year by this Congress to study poverty in a seven State region and to release a 10-year economic development plan for the rest of the area by May of 1990.

The comprehensive interim report released yesterday drives home why we must no longer turn away from the problems of this region. We must strive to bring this most fertile region, yet poorest region, which has been described as soil rich but dirt poor, into full partnership with the rest of the county.

□ 1220

Mr. Speaker, I therefore urge my fellow colleagues to read this interim report, react to it. We must all work to make sure that the 8.3 million residents in this region can celebrate the coming of this new century with the rest of the country.

TRADE REPRESENTATIVE CARLA HILLS' VISIT TO JAPAN

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, this past weekend, the Washington Post ran a story about the first official visit to Japan of trade representative Carla

Hills. Entitled: "Hills Adopts Gentle Tone in Japan," the report characterizes the visit as one in which she blames the United States for our trade deficit and says she will be refraining from making any demands of the Japanese. I hope she was misquoted. I am particularly distressed by this since I was just about to commend Ambassador Hills after reading two recent stories regarding her tough stance on the European Community and Japan. However, before I had the opportunity to communicate my thoughts to her, I saw this Washington Post article.

Although our trade representative has an excellent reputation as a skilled and thoughtful negotiator in often complicated trade matters, I am deeply troubled by the appearance of these remarks. While I can understand there may be some tactical motivations of assuming a conciliatory posture, I certainly hope the United States is not going to remain curled up in a ball to continue to be "rolled" on trade matters.

Mr. Speaker, I think the FSX fighter aircraft was an excellent example of what kind of deal we get with a conciliatory posture. I do not believe any U.S. Government official should be giving cannon fodder to the Japanese who are always looking for another excuse to stonewall.

THE REAGAN LEGACY OF NEGLECT

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, for 8 years we had a President that rode into office on a promise to squeeze every last wasted dollar from the Federal budget. He reassured America with rosy scenarios and rosy claims that homelessness and hunger did not exist.

That President has since ridden off into the sunset. But he has left us an unimagined legacy of scandal and inept management at agencies like HUD. He threw away an opportunity to place public service above private greed.

We have heard about so many scandals of the past 8 years, we are almost numb to their real effects.

But every time someone at HUD signed a check to pad the pockets of some politically well-connected developer, he signed away hope for families who desperately needed a decent home.

In case President Bush decides finally to address this issue, he should know this: You don't have to round up people from 10 blocks away and lure them into Lafayette Park to make a point about the extent of homelessness. All he has to do is look out his window.

SPIRIT OF BROTHERHOOD STRONG IN PULASKI AND GILES COUNTIES, TN

(Mr. COOPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COOPER. Mr. Speaker, I would like to congratulate the residents of Pulaski and Giles County, TN, for working together to discourage racism and bigotry in their community.

For several years now, outside hatemongers like the Ku Klux Klan have tried to hold marches in the community in order to publicize their cause. Local folks mainly ignored them, hoping they would go away.

But this year, on October 6, when a group called Aryan Nations tried to march the townspeople greeted them with closed stores and thousands of orange ribbons symbolizing racial brotherhood. The whole community united to quietly but effectively thwart the uninvited, unwanted, unholy advocates of racism.

The spirit of brotherhood is now stronger than ever in Pulaski, TN, as they rallied against a common enemy.

I appreciate ABC television for following this story and naming Pulaski as its "Person of the Week" last week for promoting the cause of unity, harmony, and brotherhood.

PROGRESS IN OILSPILL BIOREMEDIATION

(Mr. LAUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAUGHLIN. Mr. Speaker, in late April of this year the Coast Guard and Navigation Subcommittee of the Merchant Marine and Fisheries Committee held the first hearings in the Congress to discuss the lack of readiness in the Alaska oilspill tragedy. After I listened to various representatives of government, science, and business it was quite refreshing to hear from a prominent scientist representing a Texas company which has an oilspill capability ready for immediate use.

Mr. Speaker, I will not go into all the reasons that this previously proven oilspill capability was not used in Alaska. Even though the biological process had been successfully demonstrated with the approval of both the Environmental Protection Agency and the Coast Guard, it took approximately 4 months to obtain new product approval which, of course, made it too late to help Alaska.

Mr. Speaker, I do, however, have some very good news. As a result of the outstanding cooperation between my office here in Washington; the commissioner of the General Land Office of Texas, Mr. Gary Mauro; the Texas Railroad Commissioner; the Texas Water Commissioner; the Governor's office in Austin; the University of Texas in Austin; the Environmental Protection Agency; the U.S. Coast Guard; and the Alpha Environmental Co. of Austin, TX, a controlled oilspill will be conducted on the campus of the University of Texas Marine Institute at Port Aransas on Thursday, October 26, 1989.

Mr. Speaker, this demonstration and the proof and knowledge obtained therein should set the stage for effective bioremediation on any oilspill occuring on the waters of our country. We expect to see demonstrated the ability of micoorganisms to degrade oil on the water's surface.

Mr. Speaker, I expect to be back here in the House in a few weeks reporting on the success of a very important project.

CONGRESS SHOULD PASS A CLEAN RECONCILIATION BILL

(Mr. SCHIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHIFF. Mr. Speaker, last night automatic across-the-board cuts began under the Gramm-Rudman-Hollings law. This cut began because we do not have a budget in place for fiscal year 1990 even though we have already passed October 1, which in the start of that fiscal year.

The reason we have no budget in place, Mr. Speaker, is because we have not passed all of the required budget laws.

Right now, the Budget Reconciliation Act is bogged down over in the other body.

And the reason why the Budget Reconciliation Act is bogged down in the other body is because there are so many issues contained in this one act. Many of these issues are not directly related to budget reconciliation, but it is the debate over them which in holding up the budget process.

Mr. Speaker, regardless of how individual Members of the House feel about these various issues, I think that all the extraneous matter should be removed from the Budget Reconciliation Act and that the Congress should pass a clean budget reconciliation bill.

Then we will have the budget in place and then the automatic across-the-board budget cuts will stop.

DO NOT VETO ABORTION LEGISLATION

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, any of us who have been involved in public

life understand very well that abortion is often a complicated and serious issue. Over the years when this question has been debated, it often escalates into emotion and upsetting situations.

I still vividly remember campaigning with Geraldine Ferraro in her quest for the Vice Presidency and being so saddened and disappointed when a meeting or a rally would erupt and be ruined.

However, the other day we voted on this whole question of the rights of women for reproductive freedom. That vote came out this time with the majority saying yes, in fact a woman who has been raped or who has been involved in incest had the freedom of choice concerning her future.

Mr. Speaker, I have to say to you today that the President should not veto this piece of legislation. This country's democratic system is rooted in the rights of the individual, that each citizen will be treated fairly and with dignity under the law. Because of this statute that will happen to the women involved in this legislation.

So, Mr. Speaker, I say, through you, "Mr. President, do not veto this legislation."

INDIA STONEWALLS ON HUMAN RIGHTS

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, true democracies have nothing to hide. A free press, fair judiciary, and open access for human rights monitors is standard practice.

Unfortunately, India is the only democracy in this world that has refused to grant access to Amnesty International, and in August even revoked the passport of former High Court Justice and Human Rights Expert Ajeet Singh Bains.

Bains has been invited to appear before the United Nations Human Rights Organization to present documented cases of 150 disappearances in India.

Mr. Speaker, these actions suggest that India does indeed have something to hide. With freedom on the march around the globe, India should lift the lid of secrecy on its human rights situation and grant Justice Bains and Amnesty International the passports and visas they require.

□ 1230

THE HUD SCANDALS

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, we were told in 1980 that there was a painless way to balance the Federal budget. We could eliminate waste, fraud, and abuse. Cuts were made in programs that were very important to people.

Unfortunately, the deficits grew. The deficits grew because waste, fraud, and abuse, under the Reagan-Bush administration increased.

The Reagan-Bush administration cut the budget at HUD from $34 billion to $15 billion, attacking the department for waste and fraud. Faulty analysis made brilliant prophecy. The cost of waste and fraud under Reagan's HUD director Samuel Pierce has been estimated at between $4 to $8 billion. When the administration officials could not cut programs, they found more sinister ways to redirect funding. Political connections took the place of ethical convictions at HUD.

When HUD appropriations should have been funding construction and rehabilitation of housing units in our cities, Vice President Bush silently watched as a number of burned-out neighborhoods and homelessness increased because of the sins of omission and commission being committed by those HUD officials.

BUDGET SIMPLIFICATION AND REFORM ACT OF 1989

(Mrs. PATTERSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. PATTERSON. Mr. Speaker, because of the failure of the President and Congress to come together on a realistic plan to reach the Gramm-Rudman-Hollings targets, we find ourselves in the early days of sequestration. Two weeks into the new fiscal year, only one appropriations bill for fiscal year 1990 has been signed into law. In other words, we once again find ourselves tied in knots as we attempt to do the Nation's fiscal business.

Last week, along with 19 other members, I introduced, H.R. 3464, the Budget Reform and Simplification Act of 1989. H.R. 3464 is a comprehensive reform of the Federal budget process designed to simplify the process and do away with some of the smoke and mirrors. Among other things, it includes biennial budgeting and a binding budget resolution.

Most importantly, H.R. 3464 puts an end to the practice of borrowing from the Social Security Trust Fund to pay for other activities of the Government. This practice allows the Federal Government to use the Social Security surplus to fund itself through regressive increases in the payroll tax, threatens the future health of the trust fund and hides the true size of the deficit.

This bill also puts an end to the budget loophole that earlier this year allowed us to spend $20 billion without recognizing the deficit impact of that action for at least another year. H.R. 3464 includes a novel "look back" provision that adds new spending to the deficit targets for the following year.

H.R. 3464 also enhances the President's rescission power, places stringent limits on continuing resolutions, and removes the built-in inflation increases under the current services baseline. Pay-as-you-go budgeting is one other reform included in the bill.

Mr. Speaker, it is time we dealt honestly with the American people and put an end to the games, frustration and confusion that now surround the budget process. I invite my colleagues who are truly concerned about what we are doing to join us by cosponsoring H.R. 3464.

WAKE UP IN THE WHITE HOUSE

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, I had intended to come up and talk about the HUD scandal, but to tell the truth, today there is more of a scandal with the President. The President announced he is prepared to veto the bill on which the abortion amendment was placed last week.

Let me say, ladies and gentlemen, and my colleagues, it is a sad day for this country when we can have a White House spokesman come up to the podium and say that the President is in favor of abortion in cases where the life of the mother is at stake, where rape or incest has occurred, and that is okay, but when it comes to Government funding, it is not okay. That is where money management is involved.

Those Americans out there, this year, who are poor, do not get raped, make sure you do not get involved in incest, because if a citizen is poor, that citizen does not mean anything. They mean less than money management.

This is one of the most atrocious statements I have heard emanating from the White House since I have been old enough to listen to some of the remarks that come out. I think it is disgusting. The American people ought to rise up as one and take the view that James Kilpatrick, who is usually a defender of this type of administration, has taken, and that is saying that Members cannot fund abortions for poor people who are involved in rape or incest, and make those young girls, in many cases young girls, carry to term, is immoral and unconscionable. That is what Americans think, as well. To those people in the White House, wake up.

INDIVIDUAL SOCIAL SECURITY ACCOUNTS: THE ANSWER TO MANY OF OUR PROBLEMS

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, Congress is using the Social Security reserves as its private slush fund, spending currently what should be saved for America's future retirees.

America's workers deserve better, Mr. Speaker. It is time to reorganize Social Security to protect the trust fund from being used to guarantee our deficits.

We should create an Individual Social Security Retirement Account, an ISSRA, for each American worker. Then, rather than allowing Congress to spend the Social Security reserves to cover our deficits. The amount not needed to pay current benefits should be refunded into workers' ISSRA's annually.

At least four wonderful things would happen: First, we would gradually—over 50 years—move to a vested, funded Social Security system; second, we would prevent Social Security from continuing to guarantee spending not otherwise covered by taxes; third, we would create a huge base of investment and savings under the American economy and get us off our dependency on foreign capital; and fourth, we will have in place the basis for a completely portable private pension system, which would also be fully vested and funded.

ISSRA's make so much sense, Mr. Speaker, you are going to hear me talking about them a good deal in the days to come.

STOP SELLING AMERICA

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, I think a lot of Members got this letter from T. Boone Pickens, and it may be in your mailbox. If Members have not had a chance to read it, Members ought to read it and learn a lot about America's one-sided trade policies.

Pickens bought 25 percent of Koita Manufacturing of Japan. It cost him $1.2 billion. He is a major shareholder in this corporation. Corporate Japan is very upset about this intrusion by an American coming in and buying. This corporate giant is being harassed. He has been barred from serving on the board of directors.

This is ridiculous. Yet, we allow Sony to come in and buy Columbia Pictures, and America thinks it is good for our economy. We are a bunch of damn fools if we are going to continue to allow this kind of Japanese intrusion into America to continue.

Japan has a lot of cash, and they do not know where to put it. They are putting it into America, and they plan on continuing to expand its investment.

Trade and trade barriers go both ways. I think Americans in this country ought to let their President and Members of Congress know that the selling of America has got to stop.

UNFAIR BUSH BASHING

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, we seem to have an organized Bush bash going on, on the other side, and I think we need to understand that as it is with most of these kinds of bashes, this is more political than factual.

It has taken on two issues: homelessness and abortion. On the issue of abortion, the facts speak for themselves. If, in fact, under present law, we have a victim of rape or incest, they can go to the hospitals right now and get medical treatment to assure that no pregnancy takes place. That is the law. That is what, I think, the Bush administration fully supports.

Second, with regard to the homelessness, the administration has come up with a program to reform the HUD administration, and brought it to Capitol Hill. Guess what? On Capitol Hill they ran into screams of protest. What does the administration propose? They propose that the community development block grants be dedicated toward poor people. What did they find on Capitol Hill? They found people here that think those moneys should go to build rock-and-roll museums.

It seems to me the Bush administration is acting on behalf of the American people. We ought to deal with the facts, not the politics.

BAN AIRLINE SMOKING

(Mr. OBERSTAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBERSTAR. Mr. Speaker, soon airline passengers who fly coast to coast will be able to breathe clean air aboard aircraft, provided the House-Senate conferees bring back the bill that has just been agreed upon in the House, approves that bill, which I am confident, by an overwhelming margin, the House will do.

I introduced my first legislation to ban smoking aboard aircraft many years ago, and just this early summer held the longest hearing in the history of the Committee on Public Works and Transportation, 11 straight hours of hearings on the issue of banning smoking aboard aircraft, which provided some momentum for a national movement that now has many heroes.

I am very proud to see the work that the House-Senate conferees and the Committee on Public Works and Tranpsortation have brought back to Members. Though we were not able to bring our bill to the House floor, the conferees have done their job for Members.

I say three cheers for the House-Senate conferees, the Public Works and Transportation, for banning smoking aboard aircraft.

AN UPDATE ON THE EFFECTS OF HURRICANE HUGO

(Mr. DE LUGO asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DE LUGO. Mr. Speaker, it is now more than 1 month since Hurricane Hugo hit my home, the Virgin Islands, and particularly devastated the island of St. Croix. Now that the mainland press has moved on from its sensational reporting, I just wanted to share with the Members a little bit about where the people of St. Croix are 1 month afterward, despite Herculean efforts by FEMA and by the Department of Defense and despite the full support of our President and a number of his Cabinet officers.

Nevertheless, as night falls, let me tell the Members that on St. Croix only 12 percent of electric power has been restored despite incredible efforts. That means that 83 percent of the people on St. Croix have no power. On St. Croix only 15 percent of the people have telephones. But worse than that, as night falls on St. Croix, despite the best efforts, 2,000 people have no homes. Their homes were totally destroyed. Right now 2,717 have no roofs on their homes. They have no temporary roofs. There is a program to put plastic roofs on the roofs to give them some kind of shelter, but so far only 283 have that plastic roof, and that is what they are living with in this U.S. territory.

Mr. Speaker, I want to thank all my colleagues for their offers of assistance.

URGING THE PRESIDENT TO VETO THE BOXER AMENDMENT

(Mr. HOLLOWAY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HOLLOWAY. Mr. Speaker, we hear the words used these days concerning the rights of a woman to have an abortion. To me the issue before us today is not the right of a woman to have an abortion. That can only be given by the Supreme Court of this country.

We have before us the issue of the taxpayers paying for the abortion, for

the murder of innocent, unborn children. My opponents in this debate say that the woman does not have a right to an abortion if we do not pay for it. She has every right in the world to that abortion, the way the law reads today, if she is willing to have it and if she needs it and goes out to get it, because there are plenty of clinics available.

But, Mr. Speaker, I oppose the Boxer amendment. I do ask the President to veto the Boxer amendment, which says the taxpayers of this country, with the needs that we have in this country regarding Medicare and other types of spending, must provide the abortion. I do ask the President to veto this amendment.

VICTIMS OF RAPE AND INCEST DESERVE GOVERNMENT SUPPORT

(Ms. SLAUGHTER of New York asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Ms. SLAUGHTER of New York. Mr. Speaker, I do not question for 1 minute the sincerity of the gentleman who just spoke and of our other colleagues who do not agree with us that poor women and young girls who are the victims of rape and incest have the right that their more prosperous sisters have to some medical recourse, but when I hear the debate on the floor and in other places, when they are asked, "What would you do if it was your daughter or your wife?" Their answer is inevitably this: "We would sit down together as a family, put our arms around them, cry a little bit, and counsel them to go on with it."

That is not America today, Mr. Speaker. The young victim of incest has no intact family. Victims of rape are often alone and afraid. These are the persons we have tried to help and the persons this House said deserve Government help when we passed the Boxer amendment. As long as Government cannot protect women and children from the crimes of rape and incest, Government should not compound that felony by denying those victims the right of some recourse.

So, Mr. Speaker, I beg the President, do not veto this measure.

PRO-CHOICE—A WINNING VOICE

(Mrs. LOWEY of New York asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Mrs. LOWEY of New York. Mr. Speaker, I called on the President this Saturday to remember his words about a kinder, gentler nation. I came to Congress as a new Member because I want to work with the President in a bipartisan fashion to focus on the issues that really matter—the issues of the quality of life, education, child care, and drug treatment.

I cannot believe that we are calling this "Bush bashing," that we are calling it cruelty, and that we are calling the words that we have expressed this morning to protect the poorer women of society unfair.

I am calling on the President to give the same rights to the poorer women of society that most of the women of society who can afford it would take. It is absolutely imperative that we hear the words of the men and women of our communities.

These are not new voices. These are voices that have been out there but are now part of the politics of outrage.

Mr. President, the pro-choice voice is a winning voice. This is the voice that is going to carry across America. Do not make a mistake. Remember the kinder, gentler world you were talking about. Let us work together and focus on the quality of life.

TRADE DEFICIT DEEPENS

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, the merchandise trade figures came out this morning. They are terrible, and they demonstrate once again that the policy of devaluing the dollar was more a palliative for our trade problem than a cure.

Maybe one dismal monthly report is not definitive, but this report shows again that we have to address the basics of our trade problem—the erosion of competitiveness, the constriction of market access for our exports, the budget deficit, and the high real interest rates.

Even before our monthly merchandise deficit started worsening again, our overall current account balance was stuck deep in the red, and now the "don't worry, be happy" policy line of the administration is just about played out.

Friday the 13th on Wall Street was a sign of our precarious trade deficit. The unemployment figure in my State is 8.1 percent, up 1.2 percent from the month before.

Mr. Speaker, they are not all singing "don't worry, be happy" back in my district because the economy of the United States indeed has serious long-term ills.

NEWSPRINT RECYCLING INCENTIVES ACT

(Mr. TORRES asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. TORRES. Mr. Speaker, today I am introducing a new bill, the Newprint Recycling Incentives Act.

Just by way of background, Mr. Speaker, let me ask, do you know that every Sunday it takes half a million trees to be cut in order to bring us our Sunday newspaper? Did you know that the average recycled fiber content of newspapers in America is less than 15 percent?

Yet I have here two excellent newspapers, the Los Angeles Times, which has a recycled fiber content of 80 percent, and Rollcall, which has a 100 percent recycled fiber content. This is an excellent record.

Mr. Speaker, we know the litany of events in the history of newspaper recycling. Communities all across America set up newspaper collection facilities in order to make money and also to relieve the growing burden on municipal landfills. Newsprint represents 6 percent of the solid waste produced in America. These programs, which have been successful up until now, have run into some serious problems because there is no market for this product.

Mr. Speaker, this situation can and must be turned around before we waste more of our valuable resources. The bill I am introducing today, the Newsprint Recycling Incentives Act, approaches this problem where it can be best solved, right here in the pocketbook. When this bill becomes law, it will mandate that all newsprint manufactured and imported into the United States contain a certain percentage of recycled content.

Mr. Speaker, this is not a first amendment issue. This legislation will enhance the quality of our environment, given the global-warming effect that is now taking place and the need to release new economic market forces in the industry of recycled newsprint production.

CATASTROPHIC HEALTH CARE BUDGET

(Mr. GOSS asked and was given permission to address the House for 1 minute.)

Mr. GOSS. Mr. Speaker, 2 weeks ago this House voted overwhelmingly to repeal the Catastrophic Health Care Act—legislation which the senior citizens across this Nation oppose and want overturned.

That vote marked a significant breakthrough in a long, uphill struggle to wipe this bad law off the books.

But unless we followthrough now, Mr. Speaker, we risk turning that landmark vote into nothing more than a meaningless gesture.

The Senior citizens of the country are not—nor should they be—satisfied with a vote that says we'd like to do away with this law. They want final

action that once and for all lays this flawed law to rest.

And, while we've taken a crucial step in that direction, we've still got work to do. Recent events have shifted the focus of debate away from the issue of catastrophic health care. It's time we shifted it back.

Mr. Speaker, my constituents are demanding that we repeal this law one way or another. We still have an opportunity to meet their legitimate demands through the budget process. I urge my colleagues not to let this opportunity slip away.

□ 1250

TOBACCO KILLS

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, in a few months America's airline passengers will witness a major victory: Our national policy will guarantee that virtually every airline flight in America is smoke-free.

Last night the conference committee of the House and Senate Appropriations Committees culminated a 3-year battle by approving a policy of no smoking on every domestic flight in the continental United States and all flights to and from Alaska and Hawaii scheduled for 6 hours or less. America's airline passengers will breathe a little easier. Flight attendants, who have been trapped in smoky workplaces, will have a new clean environment.

The battle against tobacco disease is far from over with this victory. We now have to end the insidious recruitment of our children as smokers. We have to end our trade subsidies to deadly tobacco exports, and we have to realize, as a nation, that tobacco kills 390,000 Americans each year.

Mr. Speaker, tobacco is not just another political issue. It is a matter of life and death.

WHAT WE SHOULD DO IF THE PRESIDENT VETOES THE LABOR-HHS BILL

(Mr. MILLER of California asked and was given permission to address the House for 1 minute.)

Mr. MILLER of California. Mr. Speaker, Members of the House, with the announcement by the White House that the President intends to veto the Labor-HHS bill they are telling us apparently that the President has made two decisions; one, that he recognizes and agrees with what the House and the Senate have done, and that is that is that a woman who has been subjected to rape or incest has a right to choose an abortion, and he has also made a second decision; that is, he wants to make it more difficult for her to realize that choice. He is telling us that he is going to take an already traumatized woman, or in some cases a very traumatized young girl, and make it more difficult for her to comply with the law so that she can exercise her choice to have an abortion in the case of rape or incest. She is going to have to make, apparently, if the President was to have his way, a series of complex bureaucratic decisions to make sure that, rather than talking to her priest, or rabbi, or her religious counselor, or to her family, that she immediately go to the police station first, that they record she came there first, that she did not go anywhere else, that she did it in 48 hours.

Mr. Speaker, there is no end apparently to the hurdles that this administration and President Bush would like to set up in the way of a woman exercising her choice.

The House and the Senate should stick by the decisions that they made. Should the President decide to veto this bill, we should send this issue back to him either on the continuing resolution or on another passed version of the HHS-Labor appropriations bill.

It is very important that now, having made this decision, that we do not use the bureaucracy, we do not use the meanness of this President, to deny this woman her right to that choice.

RESIGNATION FROM COMMITTEE ON VETERANS' AFFAIRS

The SPEAKER pro tempore (Mr. GEJDENSON) laid before the House the following resignation from the Committee on Veterans' Affairs:

HOUSE OF REPRESENTATIVES,
Washington, DC., October 12, 1989.

Hon. THOMAS FOLEY,
Speaker of the House of Representatives, Capitol Building, Washington, DC.

DEAR SPEAKER FOLEY: This is to notify you that, in order to take a seat on the House Interior and Insular Affairs Committee, that I hereby resign my seat on the House Veterans Affairs Committee, effective immediately. Thank you.

Sincerely,

TIM JOHNSON.

The SPEAKER pro tempore. Without objection, the resignation will be accepted.

There was no objection.

COMMUNICATION FROM CHAIRMAN OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Public Works and Transportation which was read and, without objection, referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, DC, October 7, 1989.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Enclosed are copies of resolutions adopted by the Committee on Public Works and Transportation on August 3, 1989. These resolutions authorize studies of potential water resources projects by the Army Corps of Engineers in accordance with the provisions of section 4 of the Act of March 4, 1913.

Sincerely,

GLENN M. ANDERSON,
Chairman.

There was no objection.

WELCOMING MEMBERS OF THE CANADIAN PARLIAMENT TO THE UNITED STATES CAPITOL

Mr. FASCELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 76) welcoming members of the Canadian Parliament on their visit to the Capitol, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, I do so to afford the gentleman from Florida [Mr. FASCELL], the chairman of our committee, an opportunity to explain the resolution.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, I am pleased to call up Senate Concurrent Resolution 76, welcoming members of the Canadian Parliament to the United States Capitol.

The United States and Canada have lived side-by-side as close and friendly neighbors for over a century. That this relationship is positive and vibrant was symbolized this year by the entry into force of the Canada-United States Free Trade Agreement, which will remove most of the few remaining trade and investment barriers between our two countries. While bringing our economic system closer together in order to be mutually reinforcing, our two countries respect the other's distinct political system and cultural attributes.

Mr. Speaker, it will be a pleasure to have with us tomorrow such a distinguished delegation from the Canadian Parliament, led by the Speaker of the Senate Guy Charboneau, and the Speaker of the House, John Fraser. The purpose of the visit is to bring to the Congress a parliamentary resolution commemorating the bicentennial

of the U.S. Congress. We are honored by this recognition of our anniversary.

I note that the delegation includes several old friends from meetings of the Canada-United States Interparliamentary Group, including the current House Chairman Pat Nowlan.

I extend my personal welcome to the delegation and urge unanimous support for this resolution which recognizes the importance of our relationship with Canada.

Mr. BROOMFIELD. Mr. Speaker, I want to express my strong support for Senate Concurrent Resolution 76 in which Congress welcomes and salutes the Speaker of the Senate, the Speaker of the House of Commons, and other members of the Canadian Parliament on their visit to the Capitol.

Canada and the United States not only share a common border, we share a close friendship and vital strategic alliance relationship that is unparalleled. We have the largest bilateral trade relationship in the world which has recently been strengthened by a free trade agreement. This agreement may well become a model for bilateral trade relationships around the globe.

My State—Michigan—has a particularly close geographical, social and economic relationship with Canada and we feel a great deal of affection for our friends to the north. With this in mind, I want to welcome our good friends from Canada to the United States Congress and in some way return the many courtesies extended to the delegates of the Canadian Interparliamentary Delegation during our spring trip to the Canadian Parliament in Ottowa.

I offer my wholehearted support to the resolution before us.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 76

Whereas the United States and Canada share a mutual heritage of democracy, and have allied themselves to preserve and defend their liberty and security during two world wars and other international conflicts;

Whereas the Congress of the United States and the Canadian Parliament, as legislative bodies, share an unwavering commitment to representative government under our respective constitutions;

Whereas the Congress of the United States and the Canadian Parliament for the past three decades have established and maintained regular contact and cooperation through meetings of the Canada-United States Interparliamentary Group; and

Whereas the Canadian Embassy in Washington has recently moved to a handsome new building at the base of Capitol Hill, as a new neighbor to the United States Capitol: Now therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States welcomes and salutes the Speaker of the Senate, the Speaker of the House of Commons, and other members of the Canadian Parliament on their visit to the Capitol, and reaffirms the strong ties of friendship and mutual support between our national legislatures.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas or nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate is concluded on all motions to suspend the rules.

ANTITRUST CRIMINAL PENALTIES AMENDMENTS OF 1989

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3341) to amend the Sherman Act to increase the fines that may be imposed for a violation of such Act, as amended.

The Clerk read as follows:

H.R. 3341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Antitrust Criminal Penalties Amendments of 1989".

SEC. 2. AMENDMENTS.

(a) RESTRAINT OF TRADE AMONG THE STATES.—Section 1 of the Sherman Act (15 U.S.C. 1) is amended—

(1) by striking "one million dollars" and inserting "$10,000,000", and

(2) by striking "one hundred thousand dollars" and inserting "$350,000".

(b) MONOPOLY.—Section 2 of the Sherman Act (15 U.S.C. 2) is amended—

(1) by striking "one million dollars" and inserting "$10,000,000", and

(2) by striking "one hundred thousand dollars" and inserting "$350,000".

(c) OTHER RESTRAINTS OF TRADE.—Section 3 of the Sherman Act (15 U.S.C. 3) is amended—

(1) by striking "one million dollars" and inserting "$10,000,000", and

(2) by striking "one hundred thousand dollars" and inserting "$350,000".

The SPEAKER pro tempore. Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. BROOKS. Mr. Speaker, I am pleased to bring to the floor H.R. 3411, an important piece of legislation to buttress much needed enforcement of our Nation's antitrust laws. I am joined in this effort by the ranking Republican member of the Judiciary Committee, Mr. FISH of New York and by a strong bipartisan majority of all the members of the committee.

H.R. 3341, the "Antitrust Criminal Penalties Amendments of 1989," is an amendment to the Sherman Act that would increase the maximum fines for criminal violations of the act. If enacted, this bill would raise criminal penalties for only the third time in the 100 years since the Sherman Act was enacted. The bill would make no change with respect to the penalty of imprisonment under the Sherman Act.

At the present time, the maximum fine that may be levied upon conviction of each count of an indictment under the Sherman Act is $1 million for corporations and $100,000 for individuals. H.R. 3341 would increase the criminal penalty fines to $10 million for corporations and $350,000 for individuals. I have long considered the current criminal fine provisions—which have been in place for almost 15 years—to be an entirely insufficient deterrent or punishment for the economic crimes forbidden by sections 1, 2, and 3 of the Sherman Act. My bill is designed to send an unambiguous signal to potential offenders of our antitrust laws that Congress intends that violations of these statutes be dealt with severely by the Judiciary.

It is time to be realistic in admitting that the criminal sanctions now on the books very often have minimal deterrent effect. Prison sentences in antitrust cases have been exceedingly rare; and since corporations can never face imprisonment, the deterrent effect of the existing sanctions may be negligible except for the stigma of conviction. Increasing the act's maximum penalties would thus lessen the possibility that violations of our antitrust laws would ever be profitable to the offender. However, I harbor no illusions that the mere raising of the criminal fine provisions will ever be a completely effective remedy: Only through vigorous enforcement of the competition statutes by the enforcement agencies will the proper level of deterrence and punishment be achieved.

For the record, I note that a technical amendment to the bill as ordered reported by the committee on October

3, 1989, has been made. That technical change involves inserting the word "dollars" after the words "one million" in subsection 2(c)(1) of the bill, thus correcting a printing omission.

I urge all in the body to join with me in supporting this legislation and pressing quickly for enactment.

Mr. Speaker, I reserve the balance of my time.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the ranking Republican on the Judiciary Committee, I was pleased to cosponsor this legislation with our chairman, Mr. BROOKS. I did so because I regard the antitrust criminal penalties amendments, H.R. 3341, as both timely and important.

H.R. 3341 is timely because it has been 15 years since the Congress has increased criminal penalties under the Sherman Act. In 1974, the Antitrust Procedures and Penalties Act set the maximum fine at $1 million for corporations and $100,000 for individuals for each criminal violation under the Sherman Act. Even if we make the assumption that these dollar amounts were correctly set in 1974, 15 years of inflation have substantially eroded their punitive impact.

This bill also comes at an opportune time because the new Sentencing Commission guidelines for criminal antitrust violations direct that organizational offenders pay between 20 and 50 percent of the value of commerce affected by their violation, and individual offenders between 4 and 10 percent. Those penalties, however, are capped by the ceilings set under existing law. It is, therefore, both appropriate and necessary to raise the caps. Our bill does just that. It increases the maximum corporate penalty for each criminal violation under the Sherman Act tenfold, from $1 million to $10 million, and sets the maximum fine for individuals at $350,000.

Mr. Speaker, this is also an important bill, because it will make a significant contribution to the deterrent effect of our antitrust laws. All too often, as the Department of Justice has testified before our committee, the courts have refused to impose meaningful jail terms on individual antitrust offenders, despite the fact that they can be sentenced to up to 3 years in prison under existing law. It becomes more important than ever before, therefore, to deter such individuals by means of heavier fines.

When criminal antitrust penalties lag too far behind the possible gain from illegal pricefixing, bid rigging, and other criminal conspiracies, they may actually be perceived by potential violators as an affordable risk, a calculated cost of doing business. This legislation will upset that calculation. It sends a message that cynical manipulation of competitive markets is a gamble not worth taking.

The Assistant Attorney General for Antitrust, James F. Rill, testified before the Senate Judiciary Committee that the Justice Department's No. 1 antitrust enforcement priority is to root out clearly anticompetitive antitrust violations through criminal prosecution, and that, for that reason, proposals to increase the maximum fines that may be imposed for criminal violations are of great significance to the Department. He went on to state that:

> The pervasiveness and persistence of criminal antitrust violations throughout the U.S. economy is strong evidence that antitrust penalties, at least historically, have either been set too low or have not been properly meted out.

In accord with this, on July 24, 1989, the Department wrote to the chairman of the House Judiciary Committee, Mr. BROOKS, that it recommends increasing the Sherman Act maximum fine for organizations to $10 million and does not object to an increase in the maximum fine for individuals to $350,000.

Mr. Speaker, I am not so sanguine as to believe that increasing the maximum penalties for Sherman Act violations will prevent all criminal behavior, but I am confident that it will curb economic crime in the executive suite by deterring more potential violators. If they are not deterred, however, and if corporations and individuals unwisely proceed to violate the law, our Federal courts will now be empowered to impose punishment that more appropriately fits the crime. I urge all Members to join Mr. BROOKS and myself in support of H.R. 3341, the Antitrust Criminal Penalties Amendments Act of 1989.

□ 1300

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GEJDENSON). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 3341, as amended.

The motion was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

BANKRUPTCY TREATMENT OF OIL AND GAS FARMOUT AGREEMENT

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3152) to amend title 11 of the United States Code to exclude from the estate of the debtor certain interests in liquid and gaseous hydrocarbons.

The Clerk read as follows:

H.R. 3152

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO TITLE 11 OF THE UNITED STATES CODE.

Section 541(b) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "or" at the end,

(2) in paragraph (2) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

"(3) any interest of a debtor in or to liquid gaseous hydrocarbons to the extent that—

"(A) the debtor has transferred or obligated itself to transfer such interest pursuant to the terms of a written lease, sublease, farmout agreement, or participation agreement, or any written agreement directly related to such lease, sublease, farmout agreement, or participation agreement; and

"(B) but for the operation of this paragraph, the estate could include such interest only by virtue of any action authorized by section 365, or section 544(a) other than paragraphs (1) and (2) of such section.".

SEC. 2. EFFECTIVE DATE; APPLICATION OF AMENDMENT.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendment made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMEMDMENT.—The amendment made by section 2 shall not apply with respect to any case commenced under title 11 of the United States Code before the date of the enactment of this Act.

The SPEAKER pro tempore (Mr. GEJDENSON). Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3152 is legislation I introduced to harmonize the bankruptcy laws with actual oil and gas industry practices. It was favorably reported by the Committee on the Judiciary on October 3, 1989.

H.R. 3152 would amend the Bankruptcy Code to deal with the treatment of oil and gas farmout agreements and related agreements. A farmout agreement is essentially a present agreement by an owner of a lease of real property to make a future assignment of oil and gas rights for the leased land to a third party. Before the actual assignment is perfected, however, the third party must first earn the assignment by drilling a producing well on the lease owner's land, or by contributing to the drilling operation in some way.

These farmout agreements have historically provided the financial means and incentives for wells to be drilled in

search of new oil and gas resources. A very large portion of our country's energy supply has been discovered by independent oil and gas operators. Without farmouts, many of these operators would simply not have the wherewithal to explore and drill new wells.

Under current bankruptcy law, there is a chance that the holder of a farmout agreement could lose the interest conveyed if the grantor of the farmout—often the lease owner—files bankruptcy. The operation of sections 365 and 544(a)(3) of the Bankruptcy Code could have the effect of canceling an unrecorded farmout of a farmout that is viewed as an executory contract. Contrary to oil and gas industry practices, this result could take away the farmout holder's right to drill or explore, even though he might have already started his costly drilling or exploration operation—and even though he might have already developed a producing well. The ripple effect of such an unfair and unintended result could dislocate new drilling activity precisely at a time when the United States is again becoming dangerously dependent on foreign oil.

H.R. 3152 would clarify this potentially hazardous interpretation to conform with longstanding industry practices, so that a holder of a farmout will not be stripped of his interest in a bankruptcy. By doing so, the bill will protect the use of the farmout agreement, thereby fostering the continued development of the country's oil and gas resources without doing harm to our basic bankruptcy principles.

Mr. Speaker, I urge my colleagues to support H.R. 3152.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the downturn in our domestic oil and gas industry has brought a number of companies into the bankruptcy courts. There the application of the Bankruptcy Code to certain long-established practices of the oil and gas industry has caused great concern. I refer specifically to the practice of not immediately recording farmout agreements and assignments of investor interests in oil and gas leaseholds.

We have been assured by witnesses before our Economic and Commercial Law Subcommittee, who are active in the industry, that this measure will protect the interests of both participating investors and providers of services who enter into executory contracts with the owners of oil and gas leases. The bill has the additional virtue of conforming to the usual practice of the Judiciary Committee in that it is inapplicable to cases which are pending prior to the date of enactment.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 3152.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

APPLICATION OF EMPLOYER SANCTIONS TO LONGSHORE WORK

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2138) to amend the Immigration and Nationality Act with respect to the application of employer sanctions to longshore work, as amended.

The Clerk read as follows:

H.R. 2138

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPLICATION OF EMPLOYER SANCTIONS TO LONGSHORE WORK.

(a) IN GENERAL.—Section 274A(h) of the Immigration and Nationality Act (8 US.C. 1324a(h)) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULES RESPECTING LONGSHORE WORK.—

"(A) TREATMENT OF CERTAIN LONGSHORE WORK.—For purposes of this section, any person or other entity, including but not limited to ships agents, brokers, charterers, and procurers of labor, acting independently or on behalf of any other such person or entity, who brings into the United States (or coastal waters thereof) an individual who performs longshore work (as defined in subparagraph (D)), shall be considered to have hired such individual for employment in the United States within the meaning of subsection (a) as of the first date that the individual first performs such work.

"(B) PAPERWORK REQUIREMENT FOR LONGSHORE WORK.—In applying the requirements of paragraph (3) of subsection (b) (relating to retention of verification forms) to employment described in subparagraph (A), the person or entity shall designate, in writing to the Attorney General, a person or entity located at a port in the United States in the vicinity of the location of the longshore work involved who agrees to be responsible for the retention and making available for inspection of such forms under such paragraph.

"(C) NO AUTHORIZATION MERELY THROUGH CLASSIFICATION AS ALIEN CREWMEN.—The mere classification of an alien as a nonimmigrant under section 101(a)(15)(D) (without the document or documents described in subsection (b)(1)(E)(i) with respect to the alien) shall not be considered to authorize, for purposes of this section and section 274B, the performance of longshore work by that alien.

"(D) LONGSHORE WORK DEFINED.—In this paragraph and subsection (b)(1), the term 'longshore work' includes activities relating or incident to the loading or unloading of cargo, including the operation of cargo-related equipment, whether or not integral to the vessel, and the securing of the vessel, in the United States or the coastal waters thereof; except that, for purposes of subsection (b)(1)(E)(ii), such term includes such activities with respect to vessels in (or in the coastal waters of) the reciprocal foreign state.".

(b) EMPLOYMENT VERTIFICATION SYSTEM.—Section 274A(b)(1) of such Act (8 U.S.C. 1324a(b)(1) is amended—

(1) in subparagraph (A)—

(A) in cluase (i), by striking "or";

(B) in cluase (ii), by striking the period and inserting ", or"; and

(C) by inserting after clause (ii) the following new clause:

"(iii) with respect to longshore work, the document or documents described in subparagraph (E)(i).''; and

(2) by adding at the end the following new subparagraph:

"(E) DOCUMENTS ESTABLISHING RECIPROCITY OF LONGSHORE WORK.—

"(i) IN GENERAL.—The document or documents described in this clause with respect to an individual's performance of longshore work are such a document or documents, in a form acceptable to the Attorney General, that establish that—

"(I) the individual is a national of a reciprocal foreign state (described in clause (ii)), and

"(II) the individual will perform such work in connection with a vessel that is documented and enrolled with a reciprocal foreign state.

"(ii) RECIPROCAL FOREIGN STATE DEFINED.—In clause (i), the term 'reciprocal foreign state' means of a foreign state which the Attorney General has determined, in accordance with section 553 of title 5, United States Code—

"(I) has in effect immigration laws and regulations which authorize, on a nationwide basis, the performance of longshore work by United States nationals who are crewmembers of vessels which are documented and enrolled in the United States; and

"(II) in the territory or coastal waters of which United States nationals described in subclause (I) have performed such work during the six months preceding the application of clause (i) with respect to a national of the state or vessel documented and enrolled with the state.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed on or after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in a significant and increasing number of cases, longshore operations in U.S. ports have been performed by foreign crewmembers of foreign-flag vessels—even though qualified U.S. longshoremen were ready and willing to do the work. This activity violates the most fundamental

principle of the 1986 Immigration Reform and Control Act [I.R.C.A.] and immigration legislation that preceded it: That work in the United States should be reserved in the first instance for U.S. citizens who are available to perform it.

However, the Immigration and Naturalization Service [INS] has interpreted the law in such a way that leaves U.S. longshoremen unprotected against the use of foreign labor to perform this work while such foreign workers are aboard ship in U.S. ports or coastal waters. The agency claims that it has no authority to regulate employment activities aboard ship. As a result of this misguided interpretation of current law, the United States now appears to be the only maritime country in the world that allows foreign crewmembers to perform longshore work in its ports.

Mr. Speaker, the U.S. Court of Appeals for the Ninth Circuit last August reversed the INS interpretation of the law. The court ruled that cargo loading is not an activity associated with traditional crewmen but is ordinarily associated with longshore laborers. Mr. Speaker, H.R. 2138 would codify the circuit court decision and make it applicable nationwide.

H.R. 2138 accords to U.S. longshoremen and their employers the same protection that all other U.S. workers enjoy under the Immigration Reform and Control Act of 1986. It imposes no burden on foreign vessels that use U.S. longshoremen to load and unload maritime cargo in U.S. ports. However, vessels which use foreign crewmen or workers to do longshore work in the United States would be required to attest to the legal authorization of each worker to perform such work in the United States. Such documentation would consist merely of a standard verification form which is already required of all U.S. employers.

The Immigration and Naturalization Service would be required to investigate only cases of alleged violations. In such investigations, the agency would only need to confirm that maritime cargo was loaded or unloaded in a U.S. port by foreign workers, and that the documentation required for such work was not submitted and retained by a designated agent in the United States.

Mr. Speaker, the bill does provide for the possibility that another country may in the future permit American seamen on U.S. vessels to perform longshore work within the foreign country's jurisdiction. In such event, the U.S. Government might be obligated to reciprocate out of comity and good will.

I urge the Members to vote in favor of H.R. 2138 in order to protect U.S. workers performing longshore work.

Mr. Speaker, I reserve the balance of my time.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support H.R. 2138, legislation introduced by Mr. BROOKS this year to protect U.S. longshore industry. This bill would restrict foreign crews from handling commercial cargo to and from a foreign flagship by enforcing employer sanctions that would penalize employers who knowingly hire unauthorized longshore workers.

The legislation would expand employer sanctions regulations to include jurisdiction over employment in coastal waters of the United States and would specifically apply to all foreign vessels invovled in offloading cargo within the territorial waters of the United States. Additionally, the bill would require foreign crewmen to obtain authorization from the Attorney General in order to perform longshore work in the United States. Authorization would only be allowed to foreign longshoremen if the worker's home country allowed U.S. nationals to perform longshore work in their country.

Mr. Speaker, I urge my colleagues to vote for this bill because it will protect U.S. longshoremen's jobs. I compliment Chairman BROOKS on his dedicated work on this imporant legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the subcommittee, the gentleman from Connecticut [Mr. MORRISON].

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Mr. MORRISON of Connecticut. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise first in support of this legislation. I want to thank the chairman of the full Judiciary Committee for his initiative in bringing this legislation forward and his help to me and to the subcommittee in formulating the legislation in the form that we now have before us on the House floor.

Frankly, I wish that we did not have to legislate in this area. I wish that the Immigration and Naturalization Service were not taking such a tortured interpretation of current law such that they have ruled themselves not to have jurisdiction to act in this area. But in the absence of a more appropriate definition to preserve the jobs of American longshore workers, this legislation definitely fills the bill and does the trick.

We have here an expansion or really a clarification of the application of the employer sanction provisions of the law which were created in the Immigration Reform and Control Act of 1986.

By this legislation we make clear that longshore work could be performed by American workers on foreign flag ships that come in and unload in our ports, and only if those workers are not available and the reciprocity provisions are applied in this case, should longshore work be performed by alien crewmen. Those alien crewmen will have to go through a certification process to ensure that they are only used when American workers are not available.

The chairman of the committee has given us legislation that creates a regulatory structure that can be applied successfully and fundamentally protects American longshore workers from not being displaced improperly by foreign crewmen. I commend to the Members of the House this legislation and urge its unanimous adoption.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FISH. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. SMITH], the ranking minority member of the subcommittee.

Mr. SMITH of Texas. Mr. Speaker, I thank the ranking minority member of the Judiciary Committee for yielding me this time.

Mr. Speaker, I rise in support of H.R. 2138, which amends the Immigration and Nationality Act by adding longshore work to the employer sanction provisions of the act. This act requires that all U.S. employers verify that newly hired employees are authorized to work in the United States. These employer sanction provisions were added by the Immigration Reform and Control Act of 1986.

This legislation provides that foreign longshore workers are allowed to work in the United States only if a worker's home country allows U.S. nationals to perform longshore work in their country.

During the subcommittee hearings on this legislation, we heard testimony that the United States is the only country that now allows foreign longshoremen to perform work at its own ports. The bill corrects this inequity by allowing only U.S. longshoremen to perform work at U.S. ports.

The legislation before us today is compatible with current immigration law and was unanimously agreed to by subcommittee members.

The Department of Justice, while it does not support H.R. 2138, does support its concept. I hope that it is possible for us to reach an agreement on the concepts embraced by H.R. 2138.

Mr. FISH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GEJDENSON). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 2138, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

IMMIGRATION NURSING RELIEF ACT OF 1989

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3259) to amend the Immigration and Nationality Act to provide for adjustment of status, without regard to numerical limitations, for certain H-1 nonimmigrant nurses and to establish conditions for the admission, during a 5-year period, of nurses as temporary workers, as amended.

The Clerk read as follows:

H.R. 3259

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Immigration Nursing Relief Act of 1989".

SEC. 2. ADJUSTMENT OF STATUS FOR CERTAIN H-1 NONIMMIGRANT NURSES.

(a) IN GENERAL.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act shall not apply to the adjustment of status under section 245 of such Act of an immigrant, and the immigrant's accompanying spouse and children—

(1) who, as of September 1, 1989, has the status of a nonimmigrant under paragraph (15)(H)(i) of section 101(a) of such Act to perform services as a registered nurse,

(2) who, for at least 3 years before the date of application for adjustment of status (whether or not before, on, or after, the date of the enactment of this Act), has been employed as a registered nurse in the United States, and

(3) whose continued employment as a registered nurse in the United States meets the standards established for the certification described in section 212(a)(14) of such Act.

The Attorney General shall promulgate regulations to carry out this subsection by not later than 90 days after the date of the enactment of this Act.

(b) TRANSITION.—For purposes of adjustment of status under section 245 of the Immigration and Nationality Act in the case of an alien who, as of December 31, 1989, is present in the United States in the lawful status of a nonimmigrant under section 101(a)(15)(H)(i) of such Act to perform services as a registered nurse, or who is the spouse or child of such an alien, such an alien shall be considered as having continued to maintain lawful status as such a nonimmigrant until the end of the 120-day period beginning on the date the Attorney General promulgates regulations carrying out subsection (a).

(c) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—The definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

SEC. 3. REQUIREMENTS FOR ADMISSION OF NONIMMIGRANT NURSES DURING 5-YEAR PERIOD.

(a) ESTABLISHMENT OF A NEW NONIMMIGRANT CLASSIFICATION FOR NONIMMIGRANT NURSES.—Section 101(a)(15)(H)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended—

(1) by inserting "(a) who is coming temporarily to the United States to perform services as a registered nurse, who meets the qualifications described in section 212(m)(1), and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that an unexpired attestation is on file and in effect under section 212(m)(2) for the facility for which the alien will perform the services, or (b)" after "(i)", and

(2) by inserting "(other than services as a registered nurse)" after "to perform services".

(b) REQUIREMENTS.—Section 212 of such Act (8 U.S.C. 1182) is amended by adding at the end the following new subsection:

"(m)(1) The qualifications referred to in section 101(a)(15)(H)(i)(a), with respect to an alien who is coming to the United States to perform nursing services for a facility, are that the alien—

"(A) has obtained a full and unrestricted license to practice professional nursing in the country where the alien obtained nursing education or has received nursing education in the United States or Canada;

"(B) has passed an appropriate examination (recognized in regulations promulgated in consultation with the Secretary of Health and Human Services) or has a full and unrestricted license under State law to practice professional nursing in the State of intended employment; and

"(C) is fully qualified and eligible under the laws (including such temporary or interim licensing requirements which authorize the nurse to be employed) governing the place of intended employment to engage in the practice of professional nursing as a registered nurse immediately upon admission to the United States and is authorized under such laws to be employed by the facility.

"(2)(A) The attestation referred to in section 101(a)(15)(H)(i)(a), with respect to a facility for which an alien will perform services, is an attestation as to the following:

"(i) There would be a substantial disruption through no fault of the facility in the delivery of health care services of the facility without the services of such an alien or aliens.

"(ii) The employment of the alien will not adversely affect the wages and working conditions of registered nurses similarly employed,

"(iii) The alien will be paid at the prevailing wage rate for registered nurses similarly employed by the facility.

"(iv) Either (I) the facility has taken and is taking timely and significant steps designed to recruit and retain sufficient registered nurses who are United States citizens or immigrants who are authorized to perform nursing services, in order to remove as quickly as reasonably possible the dependence of the facility on nonimmigrant registered nurses, or (II) the facility is subject to an approved State plan for the recruitment and retention of nurses (described in paragraph (3)).

"(v) There is not a strike or lockout in the course of a labor dispute, and the employment of such an alien is not intended or designed to influence an election for a bargaining representative for registered nurses of the facility.

"(vi) At the time of the filing of the petition for registered nurses under section 101(a)(15)(H)(i)(a), notice of the filing has been provided by the facility to the bargaining representative of the registered nurses at the facility or, where there is no such bargaining representative, notice of the filing has been provided to registered nurses employed at the facility through posting in conspicuous locations.

A facility is considered not to meet clause (i) (relating to an attestation of a subtantial disruption in delivery of health care services) if the facility, within the previous year, laid off registered nurses. Nothing in clause (iv) shall be construed as requiring a facility to have taken significant steps described in such clause before the date of the enactment of this subsection.

"(B) For purposes of subparagraph (A)(iv)(I), each of the following shall be considered a significant step reasonably designed to recruit and retain registered nurses:

"(i) Operating a training program for registered nurses at the facility or financing (or providing participation in) a training program for registered nurses elsewhere.

"(ii) Providing career development programs and other methods of facilitating health care workers to become registered nurses.

"(iii) Paying registered nurses at wages at a rate above the prevailing wage rate for registered nurses in the geographic area.

"(iv) Providing adequate support services to free registered nurses from administrative and other nonnursing duties.

"(v) Providing reasonable opportunities for meaningful salary advancement by registered nurses.

The steps described in this subparagraph shall not be considered to be an exclusive list of the significant steps that may be taken to meet the conditions of subparagraph (A)(iv)(I).

"(C) Subject to subparagraph (E), an attestation under subparagraph (A) shall—

"(i) expire at the end of the 1-year period beginning on the date of its filing with the Secretary of Labor, and

"(ii) apply to petitions filed during such 1-year period if the facility states in each such petition that it continues to comply with the conditions in the attestation.

"(D) A facility may meet the requirements under this paragraph with respect to more than one registered nurse in a single petition.

"(E)(i) The Secretary of Labor shall compile and make available for public examination in a timely manner in Washington, D.C., a list identifying facilities which have filed petitions for nonimmigrants under section 101(a)(15)(H)(i)(a) and, for each such facility, a copy of the facility's attestation under subparagraph (A) (and accompanying documentation) and each such petition filed by the facility.

"(ii) The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a facility's failure to meet conditions attested to or a facility's misrepresentation of a material fact in an attestation. Complaints may be filed by any aggrieved person or organization (including bargaining representatives, associations deemed appropriate by the Secretary, and other aggrieved parties as determined under regulations of the Secretary). The Secretary shall conduct an in-

vestigation under this clause if there is reasonable cause to believe that a facility fails to meet conditions attested to.

"(iii) Under such process, the Secretary shall provide, within 120 days after the date such a complaint is filed, for a determination as to whether or not a basis exists to make a finding described in clause (iv). If the Secretary determines that such a basis exists, the Secretary shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint within 60 days of the date of the determination.

"(iv) If the Secretary of Labor finds, after notice and opportunity for a hearing, that a facility (for which an attestation is made) has failed to meet a condition attested to or that there was a misrepresentation of material fact in the attestation, the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties) as the Secretary determines to be appropriate. Upon receipt of such notice, the Attorney General shall not approve petitions filed with respect to a facility during a period of at least 1 year for nurses to be employed by the facility.

"(v) In addition to the sanctions provided under clause (iv), if the Secretary of Labor finds, after notice and an opportunity for a hearing, that a facility has violated the condition attested to under subparagraph (A)(iii) (relating to payment of registered nurses at the prevailing wage rate), the Secretary shall order the facility to provide for payment of such additional amounts of back pay as may be required to comply with such condition.

"(3) The Secretary of Labor shall provide for a process under which a State may submit to the Secretary a plan for the recruitment and retention of United States citizens and immigrants who are authorized to perform nursing services as registered nurses in facilities in the State. Such a plan may include counseling and educating health workers and other individuals concerning the employment opportunities available to registered nurses. The Secretary shall provide, on an annual basis in consultation with the Secretary of Health and Human Services, for the approval or disapproval of such a plan, for purposes of paragraph (2)(A)(iv)(II). Such a plan may not be considered to be approved with respect to the facility unless the plan provides for the taking of significant steps described in paragraph (2)(A)(iv)(I) with respect to registered nurses in the facility.

"(4) The period of admission of an alien under section 101(a)(15)(H)(i)(a) shall be for an initial period of not to exceed 3 years, subject to an extension for a period or periods, not to exceed a total period of admission of 5 years (or a total period of admission of 6 years in the case of extraordinary circumstances, as determined by the Attorney General).

"(5) For purposes of this subsection and section 101(a)(15)(H)(i)(a), the term 'facility' includes an employer who employs registered nurses in a home setting.".

(c) IMPLEMENTATION.—The Secretary of Labor and (in consultation with the Secretary of Health and Human Services) shall—

(1) first publish final regulations to carry out section 212(m) of the Immigration and Nationality Act (as added by this section) not later than the first day of the 8th month beginning after the date of the enactment of this Act; and

(2) provide for the appointment (by January 1, 1991) of an advisory group, including representatives of the Secretary, the Secretary of Health and Human Services, the Attorney General, hospitals, and labor organizations representing registered nurses to advise the Secretary—

(A) concerning the impact of this section on the nursing shortage,

(B) on programs that medical institutions may implement to recruit and retain registered nurses who are United States citizens or immigrants who are authorized to perform nursing services,

(C) on the formulation of State recruitment and retention plans under section 212(m)(3) of the Immigration and Nationality Act, and

(D) on the advisability of extending the amendments made by this section beyond the 5-year period described in subsection (d).

(d) LIMITING APPLICATION OF NONIMMIGRANT CHANGES TO 5-YEAR PERIOD.—The amendments made by the previous provisions of this section shall apply to classification petitions filed for nonimmigrant status only during the 5-year period beginning on the first day of the 9th month beginning after the date of the enactment of this Act.

(e) PROHIBITION ON CHANGES IN H-1 REGULATIONS.—The Attorney General shall cancel the rulemaking proceeding commenced August 8, 1986 (51 F.R. 28576-28589). Except as required to carry out the amendments made by this section, the Attorney General shall not issue or implement, before October 1, 1992, any proposed or final rule that changes the regulations in effect on August 1, 1989, with respect to nonimmigrants described in section 101(a)(15)(H)(i) of the Immigration and Nationality Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. SMITH of Texas. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. SMITH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3259, the Immigration Nursing Relief Act of 1989, responds to our national shortage of qualified nurses by permitting foreign nurses to stay in the United States and admitting additional ones. The nursing shortage is a nationwide phenomenon. The vacancy rate for professional or registered nurses is as high as 10 percent in some areas of the country, resulting in overcrowding of hospitals, emergency room backlogs, and a lower standard of care.

The inadequate supply of nurses has been partially alleviated by admitting foreign nurses into the United States. Between 1983 and 1989, about 32,000 foreign-educated nurses were licensed in the United States, constituting almost 7 percent of the total number of nurses who passed the professional nurse licensing examinations for that period.

Under current law, foreign nurses in the United States hold H-1 visas. These nurses are initially admitted into the United States for only 2 or 3 years, but they have been allowed to extend their visas for several years. However, the Immigration and Naturalization Service instituted a 5-year limit on H-1 visas, effective March 1987. Therefore, foreign nurses must apply for permanent residency or leave the United States at the end of 5 years.

The imposition of a 5-year limit is a serious threat to nurses from overseas. Quotas for permanent residency are such that some foreign nurses must wait 7 to 14 years, because of backlogs, to convert to permanent status.

H.R. 3259 gives immigrant status to alien nurses currently employed in U.S. hospitals. The bill also provides for the admission of additional alien nurses for a 5-year period to relieve the current shortage in U.S. hospitals.

H.R. 3259 also requires U.S. hospitals to take certain steps to recruit and retain nurses so that future reliance on alien nurses is decreased. The bill also provides for the appointment of an advisory group, including representatives of the Departments of Labor, Health and Human Services, and Justice, as well as hospitals and labor organizations representing registered nurses, to advise on the impact of the bill.

I believe H.R. 3259 is an appropriate response to the critical nursing shortage and ask the House's support for this worthwhile legislation.

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the United States today faces a serious nursing shortage—a shortage that poses a public health risk to the American people. The disruptions in health care delivery that result from insufficient numbers of practicing nurses concern many of us in the Congress. We must seek long-term solutions by providing incentives for qualified individuals to enter nursing and by encouraging nurses to continue to work in their important profession.

Foreign nurses, in recent years, have helped to alleviate the severity of the nursing crisis. I believe we can continue to benefit from their help at the same time that we expand our recruitment and retention efforts within the United States.

Today, we are considering legislation that, first, permits certain nonimmigrant nurses and accompanying spouses and children to obtain permanent resident status without reference to numerical limitations and, second, establishes—with a 5-year sunset—a

new nonimmigrant classification for foreign nurses.

Congress, in my view, should enact legislation that makes it possible for foreign nurses currently in the United States to continue to perform nursing services in this country. H.R. 3259 is designed to accomplish that objective by offering permanent resident status to foreign nurses outside of the normal immigration processes. However, I believe that there is another approach that is better tailored to achieve the purposes of this legislation—and would do so without either undermining important immigration law principles or creating inequities in our treatment of various groups. The preferable approach, in my view, is to extend periods of nonimmigrant status until nurses can qualify to immigrate under the third or sixth preferences without circumventing existing waiting lists.

The conferral of permanent resident status on certain nurses without reference to positions on existing waiting lists sets an unfortunate precedent. We do not want to provide a magnet to others to abuse nonimmigrant status in the expectation that they too can qualify for some future legislation. We also must treat fairly individuals who have waited to immigrate for many years outside the United States. Bypassing waiting lists and moving certain nonimmigrants ahead of the line is inequitable to others who have been waiting in their home countries—relying on the provisions of existing law.

As a practical matter, there is no assurance that an individual granted permanent resident status will remain in a particular profession. The goal of encouraging the continued performance of nursing services is not enhanced by conferring permanent resident status on this group prematurely. An extension of temporary stay, on the other hand, provides greater assurance of the nursing help our hospitals need—because temporary status can be conditioned on continued service as a nurse.

We should keep in mind that the Subcommittee on Immigration, Refugees, and International Law has already held hearings on legal immigration. Proposals for a new category of independent immigrants, if enacted, may substantially increase the migration opportunities for individuals who do not have close relatives in the United States. The fact that we are examining the major issues of legal immigration appears to justify avoiding action which singles out a particular occupational group for special access to permanent resident status.

H.R. 3259 also imposes added requirements for nurses to qualify for nonimmigrant status during a future 5-year period. The version of this provision presented today incorporates an improvement over the corresponding provision in the original version of the bill. H.R. 3259's requirement for an attestation on behalf of a health care facility that various requirements are met appears to be administratively much less burdensome on the Government than the labor certification requirement of the bill in its original form—a requirement that would necessitate various individualized determinations by the Department of Labor.

We can all agree on the need to enact legislation to address the nursing shortage. Although we differ on specific approaches, I—with some reluctance—support H.R. 3259.

□ 1320

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield 4 minutes to the gentleman from Connecticut [Mr. MORRISON], the distinguished chairman of the subcommittee.

Mr. MORRISON of Connecticut. I thank the chairman for yielding.

Mr. Speaker, this legislation was introduced by the gentleman from New York [Mr. SCHUMER], who last year identified the crisis of foreign nurses who were about to exceed their time period of permissible stay in the United States, would be forced to leave and leave our hospitals and other health care facilities with a critical shortage. Last year, with the gentleman's leadership, we extended the time for an additional year those individuals could remain in the United States.

Mr. Speaker, the deadline for that extension is approaching; it is December 31, 1989.

It is critically important that we put in place a more permanent response to this critical shortage of adequate nursing personnel in the United States. That is what this legislation, also introduced by the gentleman from New York, is intended to do, and I think does do in a number of ways.

First of all, it deals with the circumstances of nurses who are here on temporary status, so-called H-1 category. It recognizes the fact that most temporary nurses from most of the countries of the world find themselves able to adjust to permanent residence within the 5-year time period allowed by the H-1 regulations. But those from the Philippines and a few other so-called oversubscribed countries where there are long backlogs, long waiting lists to come to the United States, are not able to make that adjustment. In order to accommodate them we allow H-1 nurses who have been here for 3 years or more to make an adjustment to permanent status without regard to those waiting lists and those backlogs.

That deals with the problems of those who are here now, but it does not deal with two other problems. That is, a continuing need for some temporary foreign nurses in order to deal with a recognized shortage, and, second, a strategy to deal in the long term with the shortage of nurses by bringing into the nursing profession and retaining in the nursing profession the necessary number of American nurses.

This legislation tries to address both of those problems.

First, it creates a new temporary nursing provision, an H-1-A program under which nurses would be brought to the United States from overseas; it requires additional certifications by the hospitals that employ those nurses, but it does it in a way to alleviate much of the paperwork burden.

It adopts an attestation that standards would be met, that working conditions of American nurses would not be undercut, and that these health care facilities will commit themselves to the necessary steps to bring additional nurses into the nursing field and retain those American nurses currently working in those hospitals in that job.

The legislation therefore provides an answer to those questions that were seen last year and needed to be addressed temporarily. It does it in the form of a 5-year pilot program so that we can see whether the techniques both for increasing the requirements to bring in temporary nurses and increasing the incentives to bring more American nurses into the field will in fact be effective.

I commend the gentleman from New York for his initiative in giving us this legislation, and I hope that the House will adopt this bill.

The legislation brought before the House today addresses the nationwide nursing crisis temporarily through immigration. For a decade now there has been a severe shortage of nurses affecting not only metropolitan areas, but rural as well—not only hospitals but nursing homes and other health care facilities. Some facilities have closed down, others are stretching already finite resources to the limit.

The bill addresses this problem in two ways:

First, it recognizes that those foreign nurses in the United States who have served during these years of crisis should be granted relief. To gain permanent residence, the nurse must meet the standard requirements for licensure and must have been employed in that occupation for 3 years. Many of these nurses would be on the track toward permanent residence today if it weren't for the lengthy visa backlogs from the Philippines and other oversubscribed countries. This provision allows all nurses regardless of country of origin to adjust status because of the urgent nature of the problem.

Second, the bill balances the grant of permanent status for those in the United States with stricter requirements for future admissions. A pilot program is established which for the first time in the H-1 category imposes cer-

tain labor standards. For too long the admission of nonimmigrants has been without proper domestic labor protections. The new petitioning procedures in the bill incorporate some necessary safeguards for American nurses and it does so in a streamlined fashion. The employer is required to file an attestation stating that there would be substantial disruption of health care services without the services of the foreign nurse, that wages and working conditions of U.S. nurses will not be adversely affected, and that the prevailing wage is being paid. In addition to attesting to current conditions, the hospital must demonstrate that it is taking significant affirmative steps for the future to recruit and retain U.S. nurses. Such steps could include providing opportunities for career advancement, providing training programs, or assisting nurses in support services.

At the same time, there is a need for a more regional approach if we are to address the underlying causes of the nurse crisis. The bill provides for a State plan which would be an alternative approach for facilities which are seeking long-term solutions. The State is the logical provider for the development of training programs and can be an important link between nurses and opportunities of employment available to them. The State can also stimulate interaction between education disciplines and employers in attracting men and women into the nursing profession. Under the State umbrella special programs can be nurtured to target those who have temporarily left nursing and desire reemployment. Also, for those seeking career advancement the State has the resources to promote special home study programs and work credits in cooperation with facilities to encourage aspiring nurses.

Although the admission requirements are streamlined, the bill provides very structured penalties on employers who make misrepresentations on the attestation or fail to comply with the conditions. Any aggrieved nurse may file a complaint with the Secretary of Labor, and the Secretary can initiate investigations on its own. Public postings are required to alert affected parties of petitions approved for the admission of foreign nurses. The bill also provides for expedited hearings on complaints.

Because the subcommittee anticipates enactment of a legal immigration bill this Congress, the bill halts temporarily any changes in the regulations regarding H-1 visas. The spiraling admissions under the H program coupled with loose interpretations of definitions have made a sham of this program. Congress has twice before withheld the regulations and the bill continues this prohibition.

In summary, the bill addresses a critical care need of today and sets the cornerstone for future changes to legal immigration in the future.

Mr. SMITH of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, last year Congress enacted legislation providing for an extension of H-1 nonimmigrant status through December 31, 1989, for certain foreign nurses working in the United States. We acted in response to an undeniable, severe shortage of registered nurses—recognizing that disruptions in health care delivery would be exacerbated if we failed to provide interim relief.

In May of this year, the Subcommittee on Immigration, Refugees and International Law held a hearing on the immigration aspects of the nursing crisis—and 2 weeks ago, the Committee on the Judiciary voted to report H.R. 3259 favorably. That bill—which is before this body today—generally permits registered nurses in H-1 nonimmigrant status on September 1, 1989 to obtain permanent resident status after 3 years of U.S. employment in their profession. The legislation also modifies provisions of current law relating to the temporary admission of foreign nurses during a 5-year trial period.

During our subcommittee markup, the ranking minority member of the Immigration Subcommittee, the gentleman from Texas [Mr. SMITH] offered an amendment that would have deleted the provision for expedited permanent resident status and substituted annually renewable nonimmigrant status. I supported the amendment because I believed it addressed the needs of health care facilities for the services of foreign nurses without disregarding the numerical limitations of current law in the admission of immigrants. Foreign nurses, under that proposal, eventually could qualify for permanent resident status when visa numbers become available—and in the meantime such nurses would have every incentive to continue providing nursing services in the United States.

Although H.R. 3259 does not incorporate the amendment offered by the gentleman from Texas [Mr. SMITH], the bill nevertheless is needed—and I therefore plan to support final passage. We cannot, in my view, allow the December 31 cutoff date in last year's interim measure to pass without taking action, because desperately needed nurses will lose their legal status.

This bill, the Immigration Nursing Relief Act of 1989, may provide a precedent for other occupational groups to seek favored treatment—but I am hopeful that the public health crisis we face constitutes an adequate basis for this body to distinguish registered nurses from other professionals.

Mr. BROOKS. Mr. Speaker, I yield 3½ minutes to the gentleman from New York [Mr. SCHUMER], the distinguished chairman of the subcommittee, author of the bill, and long-time promoter of what we call the Filipino nurses bill.

Mr. SCHUMER. I thank the chairman for his generous offer of time. I also want to thank him for moving this important bill quickly to the floor.

I would also like to thank the gentleman from Connecticut [Mr. MORRISON], for his leadership and hard work on H.R. 3259. I would also like to thank Chairman BROOKS for moving quickly to bring this important measure to the floor.

There is no doubt that this legislation is sorely needed. The nursing shortage is truly a nationwide problem. It has spared neither urban nor rural hospitals and has impacted all types of nursing services.

In my home State of New York, hospitals face nursing vacancy rates of up to 25 percent. By the end of this year, these hospitals could lose hundreds or even thousands of nurses.

It is no exaggeration to say that in New York City, health care is on the brink of disaster. The loss of just 1,000 foreign-trained nurses could push the city over the edge.

City hospitals report having 5,400 unfilled positions, at the same time that their occupancy rates are exceeding 95 percent. Nursing homes are experiencing 25 percent vacancy rates for registered nurses.

Lincoln hospital in the Bronx has been unable to open a newly constructed 28-bed, $3.3 million AIDS ward due to the lack of nurses.

At the newest facility in the city, Allen Pavilion of Columbia Presbyterian, 100 out of 300 beds are unused because nurses cannot be hired.

Last year at the Montefiore Medical Center when overcrowding was at its worst, 60 to 80 beds a day were out of operation as a result of staffing shortages. Twenty-five patients a night were forced to sleep on gurneys in the emergency room.

New Jersey hospitals, with 17 percent nurse vacancy rates, report that 10 percent of their registered nurses are on H-1 visas. Without this legislation, over 1,000 of these nurses will be out of status next year.

California hospitals with a 9-percent nurse vacancy rate and 19-percent turnover as of last year, report that a significant number of nurses will lose their status next year.

The Immigration and Naturalization Service [INS] estimates that 16,000 nurses may be able to adjust their status under the permanent residency provisions of this legislation.

By conservative estimates, 2,000 to 2,500 nurses will be out of status without this legislation.

H.R. 3259 recognizes that the nursing shortage will not be solved by temporary foreign workers, and therefore encourages facilities to implement measures to recruit and retain U.S. and immigrant nurses. At the same time, it acknowledges that these temporary nurses have become indispensable in serving critically ill patients and assisting overworked U.S. nurses.

Faced with a growing number of patients requiring extensive and intensive care—AIDS victims, crack addicts, and the elderly—we cannot afford to lose beds and experienced nurses. Sending these nurses home now when we are in dire need of their services would unnecessarily jeopardize many lives.

□ 1330

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 3259, legislation to help ease our Nation's chronic nursing shortage.

And I would like to commend the gentleman from New York [Mr. SCHUMER] for introducing this important legislation.

H.R. 3259 amend the Immigration and Nationality Act to allow a special immigrant status for certain foreign nurses. Moreover, this legislation will allow for the temporary admission of these nurses under a nonimmigrant status.

Mr. Speaker, the nursing shortage is a problem throughout our Nation.

However, in our State of New York this shortage is particularly severe.

A report from the New York State Labor-Health Industry Task Force on Health Personnel, December 1988, states that in New York, 4,800 registered nurse positions were reported unfilled by hospitals, nursing homes, and home health care agencies. This represents a vacancy rate of over 10 percent.

Furthermore, the New York report states that the number of registered nursing program graduates in New York State dropped by 24 percent between 1980 and 1987, and this decline appears to be continuing.

This statistics are even grimmer when considering that due to the shortage of personnel, hospitals have been forced to close entire units and to restrict admissions.

The health care industry desperately needs a prompt solution to this serious problem.

Mr. Speaker, I urge my colleagues to join today in support of this vital bill.

Mr. SMITH of Texas. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise today in support of this legislation. As a cosponsor of the original bill, H.R. 5329 introduced in September 1988 and reintroduced as H.R. 1507 in March of this year, I want to commend the Judiciary Committee for recognizing the critical shortage of nurses in this Nation and for bringing this legislation to the floor.

When I testified before the subcommittee last summer, I noted that there were some 300,000 unfilled nursing positions in our hospitals and nursing homes. Over 70 percent of our health care facilities were experiencing shortages of trained nursing staff. In addition, the data at the time indicated that enrollment in our nursing school programs was down at least 20 percent.

There can be no doubt that with the continuing crisis we are facing with the AIDS epidemic, the longevity of our citizens, and the increasing advances in critical care medicine and rehabilitation, which are helping to save more lives and to help the critically injured return to society in a productive capacity, the demands for more nursing care will only increase.

One area in which hospitals and nursing homes have been able to help offset the critical shortage of nurses has been the ability to attract foreign nurses. In this respect, the Immigration and Naturalization Service does offer temporary H-1 visas to foreign nurses in order that they may become employed in U.S. health care facilities. These visas are usually granted for a period of 5 years. Currently, there are approximately 16,000 foreign nurses working in the United States. These nurses are represented in nearly every State but are concentrated in six States. In addition to my State of New Jersey, New York, California, Texas, Illinois, and Ohio all have large populations of foreign nurses.

Unfortunately, as we have seen, each year thousands of visas expire. And each year hospitals, nursing homes, and other care facilities must petition the INS for relief by granting extensions for these visas. This is a very time-consuming effort, is disruptive to the staffing plans of the facilities, and in many cases results in failed attempts to retain the nurses.

In my State of New Jersey, our hospitals and care facilities are operating at a 17-percent vacancy rate for nurses. The number of foreign nurses currently employed in New Jersey is approximately 1,640. This represents about 10 percent of the total RN positions in our facilities. But as I outlined earlier, each year our hospitals have to fight to keep these nurses from being sent home. In fact, it is estimated that without this legislation before us, New Jersey could lose 37 percent of our current foreign nursing staff as their visas expire in 1990. This, as in other States, will create a significant gap in preexisting quality of care due to the severe staff shortages already in place.

H.R. 3259 will help alleviate this nursing problem. This bill would allow foreign nurses who have worked in the United States for at least 3 years as a practicing nurse to apply for permanent resident status without regard to immigration quotas. This should help our facilities by removing the annual visas problems they have to resolve for their employees and restore some long-term stability to staffing requirements. It meets a critical need while not displacing American nurses and are necessary to supplement our home nursing staff.

While this legislation represents a good start to addressing our nursing shortage, it is clear to everyone involved that the greater problem must be addressed by much broader programs of nurse recruiting and retention. Certainly, the use of foreign nurses, while helpful, cannot in any way substitute for a broad national policy on nurse recruitment and retention.

H.R. 3259 recognizes this greater domestic need to encourage nurse training and retention by providing specific guidelines for the continued recruitment of foreign nurses. Under the provisions of the bill, hospitals can bring in additional foreign nurses if they can show the Labor Department that they are taking specific steps to recruit and retain American nurses or that they are in compliance with State plans for the recruitment and retention of nonforeign nurses. Finally, hospitals and other facilities must demonstrate that the continued employment of foreign nurses does not adversely affect the wages and working conditions of nurses similarly employed.

Mr. Speaker, this legislation is a product of a good deal of cooperation between our hospitals, our nurse organizations, and labor unions. While the granting of permanent resident status is an unusual step, the need for action has been clearly demonstrated. This legislation assists health care facilities by granting their temporary foreign nurses an opportunity to become permanent residents while at the same time recognizes the need to take urgent steps to make the nursing profession more appealing and accessible to American nurses and those considering a career as a professional nurse.

I urge passage of this legislation.

Mr. SMITH of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 3259, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 3341, H.R. 3152, H.R. 2158, and H.R. 3259, the bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENTS TO THE CONTROLLED SUBSTANCES ACT

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2806).

To amend section 511 of the Controlled Substances Act to make technical, clarifying, and administrative amendments, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2806

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION OF CERTAIN TRANSFERS OF FORFEITED PROPERTY TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES IF SUCH TRANSFERS CIRCUMVENT STATE LAW.

(a) PARTICIPATION REQUIREMENT.—Section 511(e)(3) of the Controlled Substances Act (21 U.S.C. 881(e)(3)) is amended to read as follows:

"(3) The Attorney General shall assure that any property transferred to a State or local law enforcement agency under paragraph (1)(A) has a value that bears a reasonable relationship to the degree of direct participation of the State or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based.".

(b) ANTI-CIRCUMVENTION REQUIREMENT.—Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by adding at the end the following new paragraph:

"(4) The Attorney General shall assure that property is not transferred following utilization of an adopted seizure process to circumvent any requirement of State law that limits the disposition of property forfeited to State or local agencies. An adopted seizure process is one in which investigative and prosecutive activity related to the seizure (other than activity relating to the actual forfeiture) was carried out exclusively by State and local agencies. In determining whether the transfer would be in circumvention of State law, the Attorney General may rely upon a written opinion of the attorney general of the pertinent State that such a process is not being utilized to circumvent State law. A decision by the Attorney General under this subsection is not subject to review by any court.".

(c) EFFECTIVE DATES.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. The amendment made by subsection (b) shall take effect on July 1, 1991.

SEC. 2. CLARIFICATION OF ATTORNEY GENERAL'S AUTHORITY TO WARRANT CLEAR TITLE UPON TRANSFER OF FORFEITED PROPERTY.

Section 524(c) of title 28, United States Code, is amended—

(1) by redesignating paragraph (10) as paragraph (11); and

(2) by inserting after paragraph (9) the following new paragraph:

"(10) Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department, the Attorney General is authorized, at his discretion, to warrant clear title to any subsequent purchaser or transferee of such forfeited property.".

SEC. 3. SUMMARY SEIZURE AND FORFEITURE OF MONEY AND SIMILAR ITEMS UNDER THE CONTROLLED SUBSTANCES ACT.

Section 511 of the Controlled Substances Act (21 U.S.C. 881) is amended—

(1) by redesignting subsection (1) as subsection (k); and

(2) by adding at the end of the following new subsection:

"(1) Notwithstanding any other provision of this title, the Attorney General may carry out seizure and forfeiture of moneys in the manner provided with respect to seizure and forfeiture of conveyances by the Secretary of the Treasury under section 607 of the Tariff Act of 1903.".

The SPEAKER pro tempore. Is a second demanded?

Mr. McCOLLUM. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

□ 1340

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2806, legislation which was developed to clarify an amendment which we attached to the 1988 Anti-Drug Abuse Act (section 6077) involving equitable sharing of forfeited assets. We have added two additional provisions to expedite the processing of forfeited assets. This legislation was worked out in a bipartisan fashion with the Department of Justice, and I believe it will further strengthen our forfeiture process.

The bill today continues the Judiciary Committee's history of close oversight and continued fine tuning of our forfeiture statutes which are a most effective tool against drug trafficking. At the committee's most recent hearing we heard from the General Accounting Office that the Government's forfeiture process is now a "billion dollar" operation and that the present rate of seizures represent an increase of over 3,200 percent above that which took place a decade ago.

The forfeiture process, however, must be watched very closely. For example, while it may be desirable to expand the authority of the Government to seize property involved in drug trafficking, we must also be careful not to tread on State laws in this area. We also must greatly increase the efficiency of the process by which we liquidate these assets.

H.R. 2896 contributes to both of these goals. Section 1 of the bill clarifies our intent under section 6077 of the 1988 anti-drug bill to limit the sharing of forfeited assets in so-called adoptive forfeitures and then only when the adoptive forfeiture is designed to circumvent State law. The U.S. Attorney General is allowed to rely on assurances from the State attorneys general that the intent of the adoptive forfeiture was not to circumvent their State laws, and this can be a general assurance. The bill makes the U.S. Attorney General's determination the deciding factor and not subject to judicial review. I have been assured by the Department of Justice that this will clarify any ambiguities in section 6077 and will allow the department to continue sharing proceeds with State and local law enforcement agencies in appropriate cases.

The bill before the House today contains one change from the bill unanimously reported out by the full Committee on the Judiciary. We have changed the effective date when the anticircumvention amendment goes into effect to July 1, 1991. This change is to accommodate States like Virginia which need extra time to update their State forfeiture laws and still support active antidrug enforcement by their law enforcement agencies in the interim. This change has been worked out with all the parties involved, and I believe that the provision improves the bill.

Section 2 of the bill is designed to increase the marketability of forfeited property by allowing the Attorney General to warrant clear title to civilly forfeited property. This is particularly important in the real property area and will provide the same authority now available under the criminal forfeiture statutes.

Section 3 corrects a problem we have had with large cash seizures which at the present time must go through an extended judicial process if the amount is over $100,000 even though most of these cases end up as default judgments. This section allows the Government to administratively forfeit these large cash seizures in the same fashion it can forfeit conveyances with a value over $100,000 under present law. It still reserves all the rights of owners in contested cases, but it will save a great deal of time.

I believe the bill is good legislation that will clarify and expedite our drug

forfeiture procedures, and I urge your support.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I am happy to yield to my distinguished colleague, the gentleman from New York [Mr. GILMAN], who is one of the leaders in the area of forfeiture, money laundering, and a whole host of other initiatives.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to commend the distinguished chairman of the subcommittee of the Committee on the Judiciary, the gentleman from New Jersey [Mr. HUGHES]. He has been the major proponent of forfeiture and seizure statutes and is responsible for refining the process by this measure. This is one of the major tools that our prosecutors and law enforcement people are using in our war against drugs, and as the gentleman indicated, there has been a massive increase of funds that the Government has been able to accrue as a result of these statutes.

Just this very morning some of us on our Narcotics Committee met with people from Thailand who are trying to adopt similar statutes, recognizing the importance of these types of vehicles to fight the battle.

Mr. Speaker, I want to commend the gentleman, I associate myself with his remarks, and I urge my colleagues to support the measure.

Mr. HUGHES. Mr. Speaker, I thank the gentleman from New York [Mr. GILMAN] for his very kind remarks, and I appreciate his leadership.

I also want to congratulate and commend the distinguished chairman of our full committee, the gentleman from Texas [Mr. BROOKS] for his leadership in this whole area of forfeiture over these many years that we have developed forfeiture legislation. I also commend the ranking Republican member of the full committee, the gentleman from New York [Mr. HAMILTON FISH].

I am very fortunate to have on my subcommittee as the ranking Republican the gentleman from Florida [Mr. BILL MCCOLLUM], who is likewise one of the leaders in not just this area of forfeiture but money laundering, which is now doing dramatic things. It is a brandnew tool in our arsenal of financial investigations.

Mr. Speaker, this is good bill, and I commend it to the Members.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I yield to the distinguished chairman of the full committee.

Mr. BROOKS. Mr. Speaker, I rise in support of H.R. 2806 which would amend the forfeiture provisions that were enacted into law as part of last year's Anti-Drug Abuse Act. The Judiciary Committee has led the way in enacting measures permitting the seizure and forfeiture of assets related to drug crimes. One important element of Federal forfeiture law is the process which allows "equitable sharing" of the funds of federally forfeited assets with State and local governments which participated in the enforcement action leading to the forfeiture.

In hearings last year, our Subcommittee on Crime became aware that the sharing process was being used on occasion to circumvent State forfeiture laws. In order to correct this situation, a provision of the 1988 drug abuse law was enacted. H.R. 2806 clarifies Congress' intent in enacting this provision and makes several other minor changes to facilitate the forfeiture process and enhance its value as a weapon in the war against drugs.

I urge support for H.R. 2806.

Mr. HUGHES. Mr. Speaker, I reserve the balance of my time.

Mr. MCCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased today to express my support for H.R. 2806. This bill makes improvements to the Federal Asset Forfeiture Program, which has become one of the most significant weapons in the war against drugs.

H.R. 2806 is primarily concerned with the correction of a flawed provision included in last year's drug bill, the Anti-Drug Abuse Act of 1988. That provision is section 6077, and it became effective on the first of October. Section 6077 prohibits the Attorney General from sharing the proceeds from forfeited assets with State and local law enforcement agencies when such sharing would result in the circumvention of State laws limiting forfeiture or the use and disposition of forfeited assets. In principle this is an appropriate policy but in practice without modification to allow some flexibility and exception it is unworkable and counterproductive.

For the benefit of my colleagues who may be unfamiliar with this issue, there are several States that require some or all of the proceeds from assets forfeited under their laws to be distributed to agencies other than the law enforcement agency that seized the property. For example, in California a recently enacted State law provides that while 75 percent of the forfeiture proceeds is to be distributed to the law enforcement agency making the seizure, 25 percent of the proceeds goes to the prosecutor's office and drug treatment programs. Federal law should not be used to circumvent this California law when local law enforcement officials disagree with their State legislature and want more of the proceeds for themselves. However, in Virginia, a provision in it's Constitution dating back to the early 19th century requires all the benefits from forfeited property to be deposited in a literary fund used for education. This is not right; drug forfeiture proceeds should go to fighting the war on drugs.

Law enforcement officials in States with laws that do not give forfeiture proceeds to law enforcement or drug related purposes frequently ask the Department of Justice to adopt their cases so that under the equitable sharing provisions of the Federal forfeiture law they can receive nearly all of the proceeds from the forfeited assets. This procedure, known as adoptive forfeiture allows these State and local law enforcement agencies to retain more of the benefits from forfeiture cases.

I also should mention that some States do not have the broad forfeiture authority that is contained in the Federal law, and in those States law enforcement authorities must depend upon the Federal law to seize and forfeit the property of drug traffickers. For example, in Florida, the State law contains limitations on the ability of law enforcement agencies to forfeit real property. Therefore, Florida law enforcement officials can utilize Federal law to forfeit the vast real property holdings of drug traffickers.

As currently drafted, section 6077 could be interpreted to prohibit the use of Federal forfeiture laws in States where forfeiture authority is limited or where the State law directs proceeds to go to areas unrelated to the war on drugs. It also could be viewed as prohibiting the Attorney General from transferring the proceeds from forfeited assets to law enforcement agencies in any State which has a law concerning the distribution of forfeited assets, even in those States where it is clear that adoptive forfeitures are not intended to frustrate the intentions of the State government. Mr. Speaker, I strongly agree with the Department of Justice and law enforcement organizations throughout the country which have voiced their overwhelming opposition to section 6077 as presently written. Cooperation between the Federal Government and State and local law enforcement agencies in the area of asset forfeiture has greatly added to State and local resources and has struck a crippling below to thousands of drug trafficking networks. If section 6077 remains unchanged, this highly effective strategy would be hurt.

Mr. Speaker, it is understandable that many are calling for the reapeal of section 6077. In fact, the other body has passed unanimously six bills in the last 3 months with an amendment to repeal section 6077. But I must say today, that repealing section 6077 is not the wisest course of action. Congress should repect States' rights wherever possible. The right of a State to determine what shall be done with

assets seized by its law enforcement officials is an appropriate area for State self-determination in most situations.

H.R. 2806 attempts to balance the need to maximize the effectiveness of the asset forfeiture program with the right of States to determine their own policies in the area of asset forfeiture without the Federal Government assisting in the undermining of such policies. This bill authorizes the Attorney General to determine whether a State or local law enforcement agency which requests the use of Federal forfeiture laws is doing so because it wants to circumvent State laws pertaining to the distribution of forfeited assets and clarifies the Attorney General's discretion is only applicable to adoptive forfeiture cases.

Also one of the features of H.R. 2806 is that the authority of the Attorney General to turn away adoptive cases when he believes they are intended to frustrate the intentions of State law will not become effective for 18 months. This will allow those States, which may be viewed by the Attorney General as jurisdictions where an attempt to circumvent is occurring, to change their asset forfeiture distribution laws. And it will allow Virginia to complete the constitutional amendment process now underway so that law enforcement may be allowed to receive forfeiture proceeds in that State which is not now the case.

Finally, Mr. Speaker, allow me to give an example of why the protection of States rights is important. Recently, the Attorney General transferred over $200 million from the Justice Forfeiture Fund to the Bureau of Prisons for new prison construction. With States under great pressure to build prisons as well, it is quite likely that some States will, if they have not already, decide to use forfeited assets to finance local prison construction. State prison construction is one of the top priorities of the national drug policy strategy. Many States are already under court order to release prisoners. Under Federal adoptive forfeiture procedures virtually all proceeds would go to local law enforcement and not to build prisons or for other purposes important to the war on drugs which a State might choose to direct the proceeds to. Therefore, it is very important that we establish a policy now that respects State self-determination and keeps the forfeiture effort strong.

I thank the gentleman from New Jersey, the chairman of the Subcommittee on Crime for his leadership and courtesy.

□ 1350

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, Members of the House, the American public looks favorably upon any measure that the Congress would undertake to facilitate the seizure of assets from the drug dealers who are becoming enriched by their filthy enterprise. So, the confiscation of tangible assets, the takeover of real estate owned by these individuals, all of that is in the process of lessening and reducing their power to dominate the enterprises in which they are involved.

So, Mr. Speaker, what we must do in the adoption of this legislation, which I support, is to allow the Federal Government to act as a kind of referee in those cases where State law mandates a certain avenue for these forfeitures and seizures to take place. We want to see a situation where, if a State law mandates that part of the proceeds of forfeitures or seizures have to go to a literary funding, like in Virginia, or some other kind of fund peculiar to their own State mandates, then we want to make sure that the State law enforcement officials do not have to do some end-around-the-law and plead with the Federal Government to take charge of this case so that their own State law will not go into effect.

Mr. Speaker, this is a very difficult thing to orchestrate, but this legislation, it appears, would help to solve that problem by allowing the Attorney General of the United States, the Attorney General, to decide in his discretion if indeed the forfeiture at hand would unfairly prejudice already existing State laws. If he found that that was so, then he could issue an order that would rectify that and give credence to that State law.

This may not be the perfect answer to it, but in a case of a turf battle, like we are seeing in this situation, this legislation, I think, is in tune with the ongoing endeavors that the Congress, and particularly the Committee on the Judiciary and all those involved in the war on drugs, look upon with favor as another instrument in that war on drugs.

Mr. McCOLLUM. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. SLAUGHTER].

Mr. SLAUGHTER of Virginia. Mr. Speaker, as noted H.R. 2806 seeks to modify section 6077(B) of the Anti-Drug Abuse Act of 1988, Public Law 100-690; a provision which prohibits the U.S. Attorney General from distributing the proceeds from forfeited assets to any State or local law enforcement agency when the distribution would "circumvent any requirement of State law that prohibits forfeiture or limits use or disposition of property forfeited to State or local agencies." The provision was originally drafted to address a concern that States not use adoptive forfeiture process to circumvent their own State laws. However, the U.S. Department of Justice narrowly construed section 6077(B) to mean that all adoptive forfeitures are banned. An unqualified prohibition was not the intention of Congress, and the Justice Department's interpretation will endanger the adoptive forfeiture programs in a number of States.

Since the State of Virginia has a constitutional requirement that all assets from drug seizures be used for education through the literary fund, the unintended effect of the Justice's Department's interpretation of section 6077(B) is that Virginia will lose millions of dollars in revenue for State and local law enforcement efforts. I believe that if my state is to continue to fight the war on drugs, it can ill afford to suffer the loss of revenues caused by such interpretation.

I commend Chairman HUGHES of the Subcommittee on Crime and Mr. MCCOLLUM, ranking minority member of the subcommittee, for their leadership in the adoption of amendments to this bill which will delay the effective date of this act until July 1, 1991.

Mr. McCOLLUM. Mr. Speaker, reclaiming my time, I would like to say that the gentleman from Virginia [Mr. SLAUGHTER] has been at the forefront of pointing out the problems the State of Virginia has had with the current law, and because of his bringing it to the attention of the chairman and myself I think we have been able to craft something in this legislation that will accommodate Virginia's process of changing its constitution. I think the bill is an excellent vehicle for the changes necessary, and I urge my colleagues to vote aye and adopt H.R. 2886.

Mr. PARRIS. Mr. Speaker, I rise on this occasion to address H.R. 2806 as related to the Controlled Substances Act of 1988. As my colleagues are aware, H.R. 2806 clarifies an "equitable sharing" amendment that Congress attached to the Anti-Drug Abuse Act of last year. This clarification specifically addresses seizures carried out by State and local authorities and includes provisions to expedite the asset forfeiture process.

Section 6077(B) which became effective October 1, 1989, was crafted to address the concern that States not use the adoptive forfeiture process to circumvent their own State laws. The Department of Justice interpreted this language to mean that all adoptive forfeitures would be banned under this section. This was not the original intent of Congress, and I am concerned that, as it stands, this language could jeopardize the use of adoptive forfeitures to aide law enforcement officers in carrying out antidrug operations in the State of Virginia.

While I will vote in favor of Mr. HUGHES' legislation calling for a 21-month delay in the effective date of implementation of section 6077; in my judgment, however, it would be more prudent to consider a complete repeal of this section. I am hopeful that such a

change will be made when H.R. 2806 is considered in the Senate, and I will lend my support to a repeal should such legislation come before the House. I would respectfully urge my colleagues to join me on this issue.

Mr. PAXON. Mr. Speaker, as a member of the House Select Narcotics Committee, I strongly believe that it is local law enforcement—agencies at the village, town, city, and county levels—that play the key role in winning the war against those who sell illegal narcotics in American communities.

It is the local policeman and woman who day-in and day-out are putting their lives on the line to make our neighborhoods drug free.

When drug profits—like cars, boats, homes, and cash—are seized, these resources should be turned back to these front line police agencies, to be used to fund more officers and better equipment and training to fight the well-funded drug dealers and drug lords.

Local police seize this property. It should be those same local police forces that can use these resources for enhanced enforcement.

As a result, I rise today in reluctant support of the bill before us, H.R. 2806.

I do so reluctantly because I believe the measure is well intentioned and will help solve some of the difficulties that many States are now facing with the new forfeiture law.

Unfortunately, this measure does not go far enough.

H.R. 2806 does not ensure that local law enforcement receives these funds. In New York State, in fact, it is the State that benefits first and foremost from seized property and assets from drug dealers.

In the area of New York State that I represent, more than $3 million last year was seized locally from drug dealers and should be spent locally to fight the war on drugs. It should not be held hostage over a frustrating bureaucratic squabble over whose money it is and who should spend it.

But this money has been placed in jeopardy by an obscure provision, section 6077, of last year's Anti-Drug Abuse Act that went into effect October 1.

I have introduced legislation, H.R. 3376, that will repeal this provision and ensure that seized drug dealer property is returned to those local law enforcement agencies who made the busts.

I commend the gentleman from New Jersey for his leadership in the area and his willingness to address this problem quickly. While his legislation does not call for outright repeal of section 6077, it makes many needed and sensible changes.

I have talked to many local police officers and prosecutors in my district and they are all deeply concerned about the effect section 6077 will have on their ability to fight drug abuse.

These front line forces in the war on drugs want and deserve quick action. Although they support efforts to clarify section 6077, they believe, as I do, that outright repeal is the best, most comprehensive solution.

It is true that we could use the money and property confiscated from drug dealers for worthwhile purposes other than law enforcement. And I am certainly sympathetic to the argument that individual States should have the authority to determine how best to allocate these assets.

But depriving law enforcement officials of money that they have come to rely upon removes a vital incentive for them to aggressively fight drug crimes. If they can expect none, or only a fraction of the assets that are a product of their efforts, what incentive do they have to assist or cooperate with Federal agents in fighting the war on drugs?

I wholeheartedly endorse William Bennett's objective to fight drug abuse on the streets, to root it out of all communities. But to do that we need the commitment and help of local police officers.

Passing this legislation is an important step forward toward ensuring that our effort to fight drug abuse at the local level is not diminished.

I support H.R. 2806 but hope that in working with the Senate we can achieve the complete repeal of section 6077, similar to my legislation, H.R. 3376.

Mr. RANGEL. Mr. Speaker, I rise in support of H.R. 2806, a bill amending section 511 of the Controlled Substances Act to make technical, clarifying, and administrative amendments, and for other purposes.

This bill, which deals primarily with the problem of adoptive forfeitures designed to circumvent State law requirements, was sponsored by William J. Hughes, the chairman of the Crime Subcommittee of the House Judiciary Committee.

Drugs are big business. The Select Committee on Narcotics, which I am privileged to chair, estimates that street drug sales in America currently total at least $110 billion annually. Drug traffickers command vast sums of cash and other valuable assets which are the proceeds of their nefarious activities.

To attack drug kingpins where it hurts the most, a tool was needed to deprive them of their illegally obtained gains. Consequently, in the 1984 comprehensive crime bill and the 1986 and 1988 omnibus antidrug bills, Congress greatly expanded the authority of the Federal Government to forfeit illegally obtained drug proceeds. To encourage greater cooperation among Federal, State, and local drug enforcement efforts, Congress authorized the equitable sharing of Federal forfeiture proceeds with State and local law enforcement agencies that participate in joint drug investigations resulting in forfeitures.

The equitable sharing statute has proven to be very effective. In fiscal year 1986 the Department of Justice shared $24.4 million with State and local law enforcement. By fiscal year 1988, this figure had increased to over $104 million, and it is estimated that total sharing in fiscal year 1989 could reach $150 million.

During consideration of the Anti-Drug Abuse Act of 1988, compliants were received from a number of States that the Federal forfeiture law was being used to circumvent State laws prohibiting forfeiture or establishing different requirements for distribution of forfeited assets.

Because most State drug law violations are also violations of Federal law, some State and local law enforcement agencies were asking the Federal Government to forfeit under Federal law drug-related assets seized in State or local investigations in which there was no Federal involvement. Initially, this adoptive forfeiture procedure was used because many States did not have their own forfeiture laws. In such cases, the Federal Government keeps only 10 percent of the forfeiture proceeds as a processing charge and returns 90 percent to the State or local law enforcement agency that makes the seizure.

More recently, however, adoptive forfeiture has been used by some State and local law enforcement agencies to avoid the requirements of State laws which may prohibit forfeiture altogether or earmark a large share of forfeited proceeds for education, law enforcement generally, or other State purposes so that the seizing agency receives less than the 90 percent share under Federal adoptive forfeiture.

As a result of the complaints about adoptive forfeiture, the Anti-Drug Abuse Act of 1988 included language—section 6077—banning the Attorney General from transferring forfeited property to a State or local law enforcement agency in a way that would circumvent any requirement of State law that prohibits forfeiture or limits the use or disposition of property transferred to State or local agencies.

Section 6077 was never intended to eliminate equitable sharing in cases of cooperative investigations among Federal, State, and local agencies. Its only purpose was to stop adoptive forfeitures used to avoid State law. Unfortunately, the Justice Department's interpretation of section 6077 would virtually eliminate equitable sharing, contrary to congressional intent.

Mr. Speaker, section 1 of H.R. 2806 solves the problem of adoptive forfeitures designed to circumvent State law, while still allowing equitable sharing to facilitate law enforcement cooperation. Effective in July 1991, section 1 specifically limits its coverage to adoptive forfeitures designed to circumvent State law. Under the bill, such a forfeiture would be one in which State or local agencies carry out all of the investigation and prosecutive activities related to a seizure, other than the actual forfeiture. The bill allows the U.S. Attorney General to rely upon an opinion of the attorney general of the State in question that an adoptive forfeiture procedure is not being used to circumvent State law.

Sections 2, 3, and 4 of H.R. 2806 facilitate the sale and disposition of seized assets. Section 2 adds a provision to allow the Attorney General to warrant clear title to forfeited assets, which will facilitate the sale of real property forfeited in civil proceedings. Section 3 deals with a problem involving large cash seizures which presently must go through the judicial process, but which are essentially default judgments in 99 percent of the cases and should be subject to administrative forfeiture where appropriate. This section will allow the Government to administratively seize and forfeit cash in excess of $100,000 in uncontested cases, as is allowed under current law for conveyances with a value of $100,000 or more.

Section 4 is a technical amendment to correct a typographical error in the Anti-Drug Abuse Act of 1988.

H.R. 2806 clarifies the intent of Congress with respect to adoptive forfeiture and pre-

serves equitable sharing which has greatly expanded State and local law enforcement coordination with Federal agencies. It also would make several other useful changes in Federal forfeiture law. I urge Members to support enactment of this bill.

Mr. McCOLLUM. Mr. Speaker, I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 2806, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT TOMORROW TO FILE CONFERENCE REPORT ON H.R. 2916, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1990

Mr. TRAXLER. I ask unanimous consent that the managers may have until midnight tomorrow, October 18, 1989, to file a conference report on the bill (H.R. 2916) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1990, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

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DEMOCRACY AND HUMAN RIGHTS IN BURMA

Mr. SOLARZ. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 61) in support of basic human rights and democracy in Burma, as amended.

The Clerk read as follows:

S. CON. RES. 61

Whereas the people of Burma are currently ruled by an unelected military government that does not govern by the consent of the people;

Whereas Burmese citizens from all social classes and ethnic backgrounds are striving to replace military rule with a democratic government;

Whereas hundreds of thousands of Burmese citizens demonstrated peacefully for democratic change in August and September 1988;

Whereas the Burmese Government violently suppressed these peaceful demonstrations, killing thousands of unarmed civilians and forcing others to flee for their lives;

Whereas the Government of Burma has pledged to hold free and fair elections in Burma by May 1990;

Whereas despite this commitment, the Burmese military has heightened restrictions on Burma's political opposition, imprisoning thousands of political activists and placing National League of Democracy leaders Aung San Suu Kyi and U Tin Oo under house arrest;

Whereas the Government of Burma has also continued to obstruct peaceful opposition protests and has continued to use deadly force against demonstrators;

Whereas the procedural rights of persons charged with political offenses have been severely curtailed through martial law orders bestowing judicial authority on military commanders and empowering them to conduct summary trials that lack basic safeguards;

Whereas the United States Department of State and independent human rights monitors report that severe mistreatment of political prisoners (including burnings, beatings, and use of electric shock) is commonplace in Burma and in some cases has led to death; and

Whereas the United States Government has condemned gross violations of human rights by the Government of Burma and called for the lifting of restrictions on freedom of expression, assembly, and association: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) calls upon the Government of Burma to—

(A) remove house arrest orders imposed on Aung San Suu Kyi and U Tin Oo;

(B) release all persons imprisoned for the peaceful expression of their views;

(C) abandon martial law restrictions on the right to a fair trial and provide all persons charged with crimes with access to lawyers and family members, adequate time to prepare defenses, and the opportunity to have cases heard by an impartial tribunal;

(D) order thorough investigations of reports of torture and pursue prosecutions against those believed to be responsible for mistreatment of detainees;

(E) permit opposition political parties to operate freely in Burma and, in particular, to exercise their rights of free association, expression, and assembly without fear of arrest, imprisonment, or prosecution; and

(F) maintain its commitment to hold free and fair elections in Burma by May 1990;

(2) calls upon all nations to withhold foreign assistance from the Government of Burma until a democratically elected government assumes office; and

(3) calls upon the President, the Secretary of State, the United States Permanent Representative to the United Nations, and the United States Ambassador to Burma to—

(A) condemn publicly the heightened level of repression in Burma; and

(B) encourage free and fair elections by May 1990 and the provision of international observers for such elections.

The SPEAKER pro tempore (Mr. MURTHA). Is a second demanded?

Mr. LEACH of Iowa. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLARZ] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there are many rotten and repressive regimes in the world today, but in the long list of countries that specialize in the systematic abuse of the human rights of their own people surely the Government of Burma, which recently renamed itself the Government of Myanmar, must rank near the very top of the list.

Members will recall that slightly over a year ago the mass and peaceful movement for democracy in Burma was brutally suppressed by the military regime in that country and literally thousands of innocent Burmese who wanted nothing more than the opportunity to peacefully determine their own destiny were killed and maimed by the bullets and bayonets of the dictatorship.

What happened on the streets of Rangoon in September 1988 turns out in retrospect to have been a tryout for Tiananmen Square, because in June of this year the Chinese authorities did to their people what the Burmese authorities did to their people several months earlier.

The situation in Burma over the course of the last few months has gone from bad to worse. Over the summer, literally thousands of Burmese were incarcerated by the authorities because of their continuing commitment to democracy and peaceful change. Credible reports have reached our country of widespread and systematic torture of those Burmese who have been arrested by the authorities. Eyes have been gouged out. Throats have been slit. Electric prods and shocks have been applied to those unfortunate enough to find themselves in the clutches of the Burmese authorities. The leaders of the movement for democracy in Burma, particularly a gallant young woman, the daughter of the national hero of Burma who was the founder of the Burmese Republic, a woman by the

name of Aung San Suu Kyi, and her associate, a former Minister of Defense, U Tin Oo, have both been put under house arrest.

The people of Burma are becoming increasingly desperate. For over 40 years they have suffered from the depredations of one of the most repressive and xenophobic regimes ever known in the history of mankind, a nation rich in natural and human resources which could have provided all of its people with a good and decent existence has been driven to the depths of despair and into the pits of poverty.

This resolution which we have brought before the House today, Senate Concurrent Resolution 61, has already passed the Senate. An identical version of this resolution—House Concurrent Resolution 185—was reported out unanimously by the Foreign Affairs Committee. This resolution takes note of all these developments and expresses the sense of the Congress that the authorities in Burma—and I insist on calling it Burma, not Myanmar, just as I insist on calling Cambodia the country of Cambodia, rather than Kampuchea, because I do not believe those who destroy and despoil a country should also be given the right to change its name over the objections of their own people—calls upon the authorities in Burma to release from house arrest Aung San Suu Kyi and U Tin Oo.

And let me put them on notice that if they so much as harm a hair on the heads of these two people, there will be consequences which will result from it in terms of their relationship with the United States.

The resolution also calls upon the Burmese authorities to release all of the other political prisoners who now languish in Burmese prisons. It calls upon them to lift martial law. It calls upon them to investigate the allegations of torture, and indeed to stop torture itself. It calls on them to permit opposition political parties to peacefully participate in the political process of Burma, such as it is, and it calls upon them to keep the commitment made over a year ago to hold a free and fair election by May 1990.

Finally, Mr. Speaker, this resolution calls upon all other countries that provide foreign aid to Burma to suspend that aid until such time as a free and fair election is held and a democratically elected civilian government comes to power in that country.

Mr. Speaker, let me just say in conclusion that the adoption of this resolution may have only a limited impact on the rulers of Burma who pay no attention to their own people and even less attention to the opinion of an outraged world. But I can assure you that the adoption of this resolution will be known to the people of Burma themselves via the Voice of America upon which most of the Burmese people depend for their information on the outside world.

I do not know how many of our fellow Americans are aware of the fact that last year when the movement for democracy in Burma was at its peak, when literally hundreds of thousands of Burmese in Rangoon and in other cities around the country were peacefully demonstrating for democracy, that the demonstrations which took place in the capital of the country, Rangoon, invariably took place in front of the American Embassay. This was not by accident. It was because the Burmese people believe that the United States symbolized their hopes for genuine political pluralism in Burma and because they were aware of the fact that the United States was in strong support of their own aspirations for democracy.

I think the Bush administration deserves credit for its willingness to speak out on behalf of democracy and human rights in Burma.

I think our Ambassador in Rangoon, Burt Levin, has acted in the finest traditions of the American Foreign Service in identifying our country not with the repressive regime but with the cause of the Burmese people.

I want to thank my friends on the other side of the aisle, particularly the gentleman from California [Mr. ROHRABACHER], for his efforts to initiate this resolution. He has been actively involved in the effort to make sure that we do not forget Burma and that Burma remains in the forefront of our foreign policy consciousness.

I also want to thank my very good friend, the distinguished ranking minority member of the Subcommittee on Asian and Pacific Affairs, the gentleman from Iowa [Mr. LEACH], for his strong support of this intitiative as well.

Mr. Speaker, I reserve the balance of my time.

Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman for his thoughtful comments. They profoundly describe the circumstances.

Let me just begin by pointing out that Burma is a country that has been left out of the sweep of progress in Asia. It is a country that has been left out of the sweep of freedom in the world as we know it. Tragically, the government has been consumed with the maintenance of power, rather than the advancement of progress.

Freedom as we know it implies consent of the governed. This is important in both a political and social context. Freedom also implies societal flexibility, which is important in an economic sense. To keep up with the times, Burma must change.

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What this resolution basically does is call upon Burma to join the sweep of history, the movement of history, and catch the excitment of change. It calls on Burma to dig itself out of the stagnation that a militarist status quo invokes.

It is always awkward to comment on the affairs of other states, yet this Congress would be remiss in its obligations to uphold the ideals on which the principles and institutions of the United States are built if we failed to comment.

For that reason, I hope this body moves unanimously in support of this resolution.

Mr. Speaker, I yield 1 minute to the distinguished ranking member of the Committee on Foreign Affairs, the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Speaker, I wish to express my support for this resolution before us today urging the Burmese Government to cease its repressive policies and respect basic democratic and human rights practices.

It has been a little over a year since we saw the killing by the government of thousands of unarmed Burmese citizens who were demonstrating peaceably for democratic change. As in the Tiananmen Square massacre in China, Burmese citizens of every social strata participated in thise demonstrations, and as in China the government violently tried to crush the people's call for greater democracy and freedom.

The oppression by the unelected military government continues today. While elections are promised by the government for May 1990, the political opposition continues to be harassed and restricted. Opposition party political leaders find themselves under house arrest, and demonstrations and protests are obstructed—sometimes with deadly force. Those who are arrested for political reasons face trial, with no shred of due process, and once imprisoned, face mistreatment and torture.

This resolution calls upon the military government of Burma to cease its repressive practices, and to lift the house arrest orders imposed on the leaders of the political opposition. It also calls upon the Burmese Government to honor its promise for free and fair elections, and calls upon all nations to withhold their foreign assistance to Burma until a democratically elected government assumes office.

I wish to congratulate the Chairman of the House Foreign Affairs Committee, Congressman FASCELL, and our colleagues, Congressmen SOLARZ, LEACH, YATRON, BEREUTER, and ROHRABACHER for bringing this important issue before this body.

Mr. Speaker, administration through its representatives, has continued to express its concerns about the practices of the Burmese Government. The Congress should also add its voice in support of the democratic aspirations of the Burmese people and pass this resolution.

Mr. LEACH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN], one of the distinguished leaders of the human rights movement in the U.S. Congress.

Mr. GILMAN. Mr. Speaker, I rise to express my strong support for House Concurrent Resolution 186, and I commend the gentleman from Florida [Mr. LEWIS] and the gentleman from California [Mr. ROHRABACHER] for their fine work on this measure.

This legislation calls on the Burmese Government to respect basic human rights practices and to cease its repressive policies. Evidence indicates that last year, the government of that nation killed thousands of Burmese citizens who were demonstrating for democratic change. That oppression continues today. Although Burmese law prohibits summary executions and Buddhist tenets stress the sanctity of life, 1988 saw large scale indiscriminate killings of Burmese citizens by the regime's security forces.

This resolution calls on the Burmese military government to:

First, abandon martial law restrictions on the right to a fair trial and to have cases heard before an impartial tribunal; second, remove house arrest orders imposed on opposition party leaders, and those other individuals who are incarcerated for espousing their views: third, permit opposition parties to operate freely; fourth, order thorough investigations of torture reports and prosecute those responsible for mistreatment of detainees; and fifth, maintain its commitment to hold elections by May 1990.

Mr. Speaker, human rights is an issue all of us, on both sides of the aisle and in both Houses, can agree on. Accordingly, I urge all of our colleagues to support this measure.

Mr. SOLARZ. Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from Indiana [Mr. MCCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would just like to say that it is truly tragic, as the gentleman from Iowa [Mr. LEACH] has pointed out, that we have freedom on the march in so many places in the Communist and previously autocratic world, and to think that at this time we have such regression, such a move back, such occasions of brutality in Burma.

Mr. Speaker, I rise in strong support of Senate Concurrent Resolution 61, concerning democracy and human rights in Burma.

In September 1988, Burmese security forces opened fire on unarmed demonstrators, killing at least 2,000 Individuals suspected of being political activists have reportedly been dragged off buses and taken into custody.

The State Department has reported incidents of torture, including beatings, starvation, sleep deprivation, electric shocks, and cigarette burns. The government has authorized local military commanders to use summary powers of trial and execution, effectively eliminating any legal defenses and appeal procedures.

Earlier this year, national public and media attention was focused on China where perhaps hundreds or more lost their lives in Tianamen Square. The military dictatorship of Burma last year murdered thousands of its people. It has engaged in brutal repression of political dissent. Unlike China, the human rights violations in Burma have received scant notice in news reports. This resolution is of vital importance. It condemns the actions of the Rangoon Government. It urges the world community to apply economic and diplomatic pressure until the repression ends.

The current military regime of Burma, which took power in 1988, had pledged to hold democratic elections in 1990. As a result, over 200 political parties began campaign activities with the national league for democracy, led by Aung San Suu Kyi, emerging as a clear public favorite. Massive demonstrations took place throughout Burma. Foreshadowing China, students played a prominent role in calling for democracy.

The military government reacted brutally. State Department testimony last month indicated that thousands were killed. Ms. Suu Kyi has been isolated and placed under house arrest. There has been no indication when she will be released. We call for her immediate release.

The United States must condemn these actions. I urge all Members to support this resolution. In addition, I call upon the administration and the State Department to pursue all diplomatic means to end these human rights abuses and encourage free and fair elections.

Mr. LEACH of Iowa. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Nebraska [Mr. BEREUTER], who is one of the great commonsense spokesmen for American values.

Mr. BEREUTER. Mr. Speaker, I rise to support the resolutions as the ranking minority member of the Subcommittee on Human Rights and International Organizations. Mr. Speaker, Burma continues to be a nation shrouded in mystery. Few westerners are permitted to visit. Almost no journalists are allowed to enter. The exchange of information between Burma and the rest of the world is almost nonexistent. Indeed, for almost 30 years the same dictator—General Ne Win—has struggled to isolate Burma from the rest of the world.

During this period of imposed isolation General Ne Win has literally stripped his country bare. One need only look at the condition of Burma's agricultural production to get a sense of what the military dictatorship has done to that country. Once the world's rice basket, Burma is now a starving nation that is unable to feed itself. From being one of Asia's foremost food exporters, the situation has deteriorated so far that Burma must now import even the most basic foodstuffs or starve.

For the most part General Ne Win has been successful in his effort to isolate Burma. However, beginning with the popular uprising of 1988, we in the West have begun to grasp the brutality of Burma's leadership.

We have learned that General Ne Win is even worse than an "Asian Noriega." His military junta rules by the gun, and tolerates no dissent. When students and workers took to the streets last year in protest, the reaction of the military government was to open fire on the crowds. Thousands were killed, and tens of thousands have simply disappeared. In the intervening months, the protestors who survived have been methodically hunted down and shot, or sent to forced labor camps.

The abuses by the military dictatorship of Burma have been among the most appalling violations of basic human rights. Yet the thousands of murders that have occurred in Burma, the countless arrests, and the denial of even the most basic freedoms have gone almost unnoticed. H.R. 185 seeks to address this oversight.

H.R. 185 condemns the abuses of the government of Burma and urges the end of martial law and the release of political leaders presently under arrest. It calls upon the President to condemn the heightened level of brutality and to encourage free and fair elections in 1990.

Mr. Speaker, this is a truly bipartisan effort. It enjoys the strong support of the administration. It enjoys strong support from both sides of the aisle. In particular, the work of the distinguished gentleman from New York [Mr. SOLARZ], the distinguished gentleman from Iowa [Mr. LEACH], and the distinguished gentleman from California [Mr. ROHRABACHER] in bringing this issue before this body is to be commended. In addition, the efforts of the chairman of the Subcommittee on Human Rights and International Organizations, the gentleman from Pennsylvania [Mr. YATRON], who

could not be present today, should be recognized.

This member would urge adoption of H.R. 185.

Mr. LEACH of Iowa. Mr. Speaker, I yield 8 minutes to the distinguished gentleman from California [Mr. ROHRABACHER], who is one of the most thoughtful new Members of this body and the architect of this resolution.

Mr. ROHRABACHER. Mr. Speaker, I am pleased to have this opportunity to talk about the current situation in Burma and to speak in favor of the resolution now under consideration. Over the last year, I have become deeply involved in efforts to help the gallant people of Burma who are struggling to win their freedom, especially the Burmese students. In September of last year these students were forced to flee the cities when a military clique violently surpressed their massive yet peaceful pro-democracy demonstrations. These brave young souls now live in jungle refugee camps in the most desperate conditions. Last November I visited these Burmese students in a jungle encampment near the Thai border. I talked with them about the future of Burma and about their commitment to the cause of democracy, decency, and individual freedom.

Most of these brave young people are the ages of our own high school and college students. And Mr. Speaker, these young Burmese men and women are some of the most heroic champtions of democracy in the world today. They live in horrendous conditions—they are desperately in need of food, medicine and medical supplies, and they deserve our support.

The terrible repression in Burma should be compared to that which more recently shook the world when blood was spilled in Tiananmen Square. Yet the tragedy in Burma largely escaped the world's scrutiny because of the absence of the international media—if Mikhail Gorbachev and Ted Koppel had gone to Rangoon instead of Beijing, the Burmese students would have achieved the hero status which they so richly deserve. For this reason, I am pleased, Mr. Speaker, that there is a forum, and a vehicle, through which the terrible abuses of the Burmese regime can be brought to light.

The dictatorship in Rangoon has curtailed even the most basic of human freedoms: The right of free speech, of a fair trial, of travel within or outside their country, even the freedom of assembly. Gatherings of more than 4 persons have been outlawed. Arbitrary arrest, imprisonment and torture are common place. The judicial system has no semblance of fairness or independence from the dictatorship and the judicial proceedings which do occur are mere formalities.

The systematic abuse of ethnic minorities by the Burmese regime has long been a source of tension and conflict. Today it is evident in the practice of forced porterage: Men and women of all ages are subjected to seizure by the Burmese army and, if they are unable to offer a sufficient bribe, the military forces them into physical labor, carrying military supplies over vast distances and rugged terrain. These conscribed porters are often forced to walk across mine fields ahead of soldiers. Countless porters have been killed or maimed by land mines, died from disease, or have been shot by soldiers when physically unable to perform their duties.

The regime's brutality and the emptiness of its promises of free and fair elections is evident. The most prominent political leader in Burma committed to democratic change, Aung San Sue Gee, remains today under house arrest in Rangoon. Without her participation and that of her party—the most popular in Burma—genuinely representative elections are impossible.

Thankfully, the U.S. State Department has finally begun to recognize the futility of treating the Burmese dictatorship with kid gloves. In the past, some members of the State Department actually lobbied against providing humanitarian assistance to the Burmese students, even as the students died from disease, malnutrition and wounds inflicted by the Burmese military. We hope that in the future the State Department remains unwaveringly behind those who are putting their lives on the line for freedom, fairness and democracy in that troubled land.

Within the international community, the ghastly deeds of the Burmese regime must be recognized and vigorous action taken. We can no longer tolerate Japan unilaterally strengthening the blood-stained hands of the Burmese dictatorship by supplying development assistance.

Finally, it has come to my attention that some Members of Congress support renewed assistance to the Burmese regime for drug defoliation and eradication. Talk about having the fox guard the chicken coop. The Burmese generals profit from the golden triangle drug trade. When we supply them with agent orange-type compounds, they use these only to cement their dominion over the drug trade—and against the ethnic peoples of Burma.

We should not be associated with a regime like this, we should be firmly and demonstrably against it. If we in America do not stand for freedom, then we do not stand for anything. Large numbers of brave Burmese have placed their lives in great danger—thousands in the pro-democracy movement have already died—in order to carry on the struggle for freedom in their country.

What I hope will emerge from this and other resolutions is a policy mandate for the administration. The Burmese Government should be isolated from all Western assistance. And we should seek not only to ameliorate the conditions of the freedom loving students, but also to bring their vision of democracy in Burma closer to reality—and to give them hope.

Our Government should exert continued political and economic pressure for democratization. And beyond that, as a Government and as a people, we should support through humanitarian assistance, the students struggling for democracy in Burma. Their cause is our cause.

I want to praise the gentleman from New York [Mr. SOLARZ], the chairman of the subcommittee, for all his fine work in this area. I've been working closely with the chairman to get this resolution to this stage and in trying to win humanitarian support for the Burmese students. And I want to personally thank you, Mr. Chairman, for all you are doing to keep our country on the moral high ground and to keep our Government solidly in the pro-democracy camp concerning Burma and in other places where freedom is at stake. I look forward to continuing to work together with you in this cause.

Mr. Speaker, I am pleased that the House has approved $2 million in the foreign operations authorization bill for humanitarian aid to these brave Burmese students. I am also pleased that the Senate has specifically earmarked $250,000 in the foreign operations appropriations bill for this purpose. Our debate today and this resolution, make the necessity of this aid even more evident. Now it is up to our House conferees to agree to the Senate provisions on aid for the Burmese students.

□ 1420

Mr. LEACH of Iowa. Mr. Speaker, the minority has no further requests for time. I would simply like to conclude by thanking the distinguished gentleman from New York [Mr. SOLARZ], the chairman of the Subcommittee on Asian and Pacific Affairs, for his leadership on another Asian issue.

Mr. Speaker, I yield back the balance of my time.

Mr. SOLARZ. Mr. Speaker, I want to express my appreciation to my good friends on the other side of the aisle who have demonstrated once again that when it comes to the cause of freedom and liberty abroad there are no partisan differences, but rather bipartisan commitment to putting our country on record on behalf of those fundamental values on which our own

Republic was established 200 years ago.

Mr. FASCELL. Mr. Speaker, I rise in support of Senate Concurrent Resolution 61, as amended, and urge its immediate adoption. The House version of this measure, House Concurrent Resolution 185, which calls public attention to the gross violations of human rights and suppression of democratic aspirations taking place in Burma, was introduced by our distinguished colleagues, Representative YATRON, chairman of the Subcommittee on Human Rights and International Organizations, Representative SOLARZ, Chairman of the Subcommittee on Asian and Pacific Affairs, and Representative ROHRABACHER. I commend these gentlemen for their leadership on this important issue and for the timeliness with which the two subcommittees marked up the resolution. The full Committee on Foreign Affairs last week considered the measure, as amended, last week and unanimously adopted it.

Mr. Speaker, the world watched with amazement and admiration when last August and September thousands of Burmese citizens took to the streets to peacefully demonstrate for democratic reform in their country. That amazement turned to horror when the Burmese military government responded with brutal force to suppress these demonstrations and quell the democratic fever that had spread througout the Burmese people. Thousands of unarmed Burmese civilians were killed and many more fled for their lives. In the aftermath of this violent repression, thousands more have been imprisoned, including Aung San Suu Kyi and U Tin Oo, the leaders of the beleaguered opposition, the National League of Democracy, who were placed under house arrest.

Independent human rights organizations have reported that torture, including beatings, burnings, and electric shock, of prisoners is common in Burma. These reports were confirmed by the Department of State which took the welcome step this summer of vigorously condemning this practice as well as other gross violations of internationally recognized human rights in Burma, including the denial of freedom of expression, assembly and association.

Mr. Speaker, the United States has a special responsibility to the people of Burma. American democracy was the model to which the demonstrators turned in the heady days before the government crackdown. They marched to the American Embassy in Rangoon, not to protest American actions, but to emulate our form of government. It is only fitting that we in the Congress and the administration should continue to support their aspirations and call upon the Government of Burma to respect human rights, release political prisoners, and allow the holding of free and fair elections in Burma by May 1990. This resolution does precisely that. I urge its immediate adoption.

Mr. YATRON. Mr. Speaker, I am in strong favor of Senate Concurrent Resolution 61 which condemns the suppression of Burma's democracy movement and supports basic human rights and democracy in Burma. I am a cosponsor of the companion legislation in the House and commend Mr. SOLARZ for introducing House Concurrent Resolution 185 and for his untiring attention to the determination political and human rights situation in Burma.

In 1988, the Burmese Government hit a new low in its history of egregious violations of human rights. The early part of 1988 saw many, perhaps hundreds, of student demonstrators killed. The State Department's human rights report estimated that 2,000 democracy protesters were killed during August 1988. Protests continued and on September 18 the military leadership reasserted control by a military takeover. Eyewitness accounts place those killed during subsequent protests at 1,000.

The Burmese Government is still wielding terror over its citizens, where thousands have been forced to flee their country and thousands more have been imprisoned. Since the September takeover, many young Burmese have been forced into porterage, carrying heavy loads of ammunition in areas where the military is still battling insurgents. As a result, many have lost their lives

The Burmese Government has promised to hold free and fair elections by May 1990. Although the military leadership has pledged to hold multiparty elections, two of the leaders of the most viable opposition party are under House arrest. This action in no way resembles a free and fair electoral process and has cost the current regime considerable credibility.

Mr. Speaker, this legislation is designed to support the democratic aspirations of the Burmese people by calling for democratic reforms and respect for internationally recognized human rights. Senate Concurrent Resolution 61 also calls upon the United States Government and other nations to condemn the suppression in Burma and stand behind the democratic initiatives of the Burmese people. I strongly urge my colleagues to vote for this legislation.

Mr. SOLARZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HAYES of Illinois). The question is on the motion offered by the gentleman from New York [Mr. SOLARZ] that the House suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 61), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution, as amended, was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the Senate concurrent resolution just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1990

Mr. DIXON. Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 3026) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1990, and for other purposes, with the Senate amendment to the House amendment to the Senate amendment No. 15, and concur therein.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. DIXON moves to take from the Speaker's table the bill (H.R. 3026) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1990, and for other purposes, with the Senate amendment to the House amendment to the Senate amendment No. 15, and concur therein.

The text of the Senate amendment to the House amendment to the Senate amendment No. 15 is as follows:

Senate amendment to House amendment to Senate amendment No. 15: *Resolved,* That the Senate agree to the amendment of the House of Representatives to the amendment of the Senate numbered 15 with an amendment as follows: At the end of the amendment, insert:

SEC. 110B. (a) APPLICATION FOR EMPLOYMENT, PROMOTIONS, AND REDUCTIONS IN FORCE.—

(1) IN GENERAL.—The rules issued pursuant to the amendments to the District of Columbia Government Comprehensive Merit Personnel Act of 1978 made by the Residency Preference Amendment Act of 1988 (D.C. Law 7-203) shall include the provisions described in paragraph (2).

(2) DESCRIPTION OF POLICIES.—

(A) POLICY REGARDING APPLICATION FOR EMPLOYMENT.—The Mayor of the District of Columbia may not give an applicant for District of Columbia government employment in the Career Service who claims a District residency preference more than a 5 point hiring preference over an applicant not claiming such a preference, and, in the case of equally qualified applicants, shall give an applicant claiming such a preference priority in hiring over an applicant not claiming such a preference.

(B) POLICY REGARDING PROMOTIONS AND REDUCTIONS IN FORCE FOR CAREER SERVICE EMPLOYEES.—In calculating years of service for the purpose of implementing a reduction-in-force, the Mayor may not credit an employee in the Career Service who claims a District residency preference with more than 1 year of additional service credit, and in the case of equally qualified employees, shall give an employee claiming such a preference priority in promotion over ar employee not claiming such a preference.

(C) INDIVIDUALS SUBJECT TO PROVISIONS.—The amendments to the District of Columbia Government Comprehensive Merit Personnel Act of 1978 made by the Residency Preference Amendment Act of 1988 shall apply only with respect to individuals claim-

ing a District residency preference or applying for employment with the District of Columbia on or after March 16, 1989.

(b) SCOPE OF 5-YEAR DISTRICT RESIDENCY REQUIREMENT FOR EMPLOYEES CLAIMING PREFERENCE.—

(1) CAREER SERVICE EMPLOYEES.—Section 801(e)(5) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (section 1-608.1(e)(5), D.C. Code), as amended by the Residency Preference Amendment Act of 1988 (D.C. Law 7-203), is amended by adding at the end the following new paragraph:

"(7)(A) Except as provided in subparagraph (B), the Mayor may not require an individual to reside in the District of Columbia as a condition of employment in the Career Service.

"(B) The Mayor shall provide notice to each employee in the Career Service of the provisions of this subsection that require an employee claiming a residency preference to maintain District residency for 5 consecutive years, and shall only apply such provisions with respect to employees claiming a residency preference on or after March 16, 1989.".

(2) EDUCATION SERVICE EMPLOYEES.—Section 801A(d) of such Act (section 1-609.1(d), D.C. Code), as amended by the Residency Preference Amendment Act of 1988 (D.C. Law 7-203), is amended by adding at the end the following new paragraph:

"(7)(A) Except as provided in subparagraph (B), the Boards may not require an individual to reside in the District of Columbia as a condition of employment in the Educational Services.

"(B) The Boards shall provide notice to each employee in the Educational Service of the provisions of this subsection that require an employee claiming a residency preference to maintain District residency for 5 consecutive years, and shall only apply such provisions with respect to employees claiming a residency preference on or after March 16, 1989."

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The SPEAKER pro tempore (Mr. HAYES of Illinois). The gentleman from California [Mr. DIXON] will be recognized for 30 minutes, and the gentleman from New Jersey [Mr. GALLO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. DIXON].

GENERAL LEAVE

Mr. DIXON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the motion for consideration of the Senate amendment to the House amendment to the Senate amendment numbered 15.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are dealing only with the Senate's further amendment to amendment No. 15 to H.R. 3026, the District of Columbia Appropriations Act for Fiscal Year 1990.

And that further amendment simply reinserts language on the hiring preference system which was stricken on a "germaneness" point of order on the House floor last week. Since it is coming to this House as a Senate amendment, it is my understanding that under the House rules, it is not subject to a point of order and must be considered on its merits.

That is all we are dealing with here today.

The conference report, House Report No. 101-270, was adopted last Wednesday, October 11, and all of the 14 amendments in technical disagreement were disposed of.

On one of the 14 amendments, amendment No. 15, the conferees added language in section 110B that put into place a hiring system that would give preference to District residents employed by the District government in the career and educational services.

As I mentioned in my statement last Wednesday, the language provides the following:

For career employees—

First, a maximum of five points will be given to new employees who claim the residency preference;

Second, residency will be a tie breaker for employees who claim a residency preference on promotions;

Third, in cases of reductions in force, a maximum of 1 year will be added to the service of a resident who claimed the residency preference; and

Fourth, the 5-year District residency requirement will apply only to applicants who claim the preference and are appointed on or after March 16, 1989, and those individuals promoted on or after March 16, 1989, who claim the preference.

For educational service employees—District residency of 5 years will be required of only those employees who have received or who will receive a residency preference when hired or promoted on or after March 16, 1989.

There is no change in the present requirement that all excepted and executive service employees hired by the District after December 31, 1979, live in the city for the duration of their employment in those services.

Again, let me emphasize that the Senate's further amendment simply reinserts into the District's fiscal year 1990 Appropriations Act, language agreed to by the conferees which was stricken on the House floor last week on a "germaneness" point of order.

Mr. Speaker, I urge an "aye" vote on my motion to concur.

Mr. Speaker, I have no other requests for time, and I reserve the balance of my time.

Mr. GALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the chairman has provided an adequate summary of what we are seeking to vote on today, and I want to add that I am pleased we are finally going to address the residency question.

Mr. GALLO. Mr. Speaker, I have no further requests for time, and I, therefore, yield back the balance of my time.

Mr. DIXON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 2989, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1990

Mr. ROYBAL. Mr. Speaker, I call up the conference report on the bill (H.R. 2989) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1990, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 11, 1989, at page H6927.)

The SPEAKER pro tempore. The gentleman from California [Mr. ROYBAL] will be recognized for 30 minutes, and the gentleman from New Mexico [Mr. SKEEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this was a most difficult conference. The conferees met five separate times before reaching agreement on the 203 amendments of the Senate. The final agreement provides $18.4 billion in appropriations for these agencies for fiscal year 1990, a reduction of $24 million below the budget request and $29 million below the House-passed bill.

May I highlight a few of the significant items in the conference report:

For the U.S. Customs Service, the conferees have recommended $1.06 billion which will provide funds to add additional positions for the Customs Service. The conferees believe that in view of the severe drug problem in this country, a significant increase in personnel in the very agency that mans our borders and ports of entry is essential. This bill provides approximately 235 full-time personnel over 1989.

The high level of drug abuse and related crime in this country requires a strong law enforcement effort to stem the tide of illicit drugs coming into the United States. The increase will expedite the processing of visitors to this country and of our own citizens returning from abroad. The increase will also expedite the processing of commercial goods being imported into the United States. More importantly, this increase will greatly improve the Government's ability to interdict the flow of illegal drugs and other contraband into the country, as well as on its ability to prevent the illegal exportation of high technology items to unfriendly countries. We have, therefore, added more positions to this important drug interdiction agency.

The conferees have recommended $5.550 billion for the Internal Revenue Service which is $7.4 million above the President's request. This small increase above the budget is for the criminal investigation activity and the conferees expect the Service to dedicate this additional funding to the criminal investigation of drug dealers. I am pleased that we were able to provide full funding for the Internal Revenue Service this year. The Internal Revenue Service has testified that for every dollar spent in this activity, many additional dollars of revenue would be collected. In addition, Internal Revenue Service personnel contact many other people during the course of audits, collections, and investigations which serve to remind other taxpayers that failure to pay the proper amount of taxes owed results in positive action against the violator by the Service. The positive effect on voluntary compliance is difficult to measure but is probably very significant. The Service cannot allow the tax collection process to become a lottery where dishonest taxpayers can take a chance on either not filing, or filing incorrect returns with the knowledge that the chances are that they either won't be caught or that if they are caught nothing will be done to them. If that situation is ever allowed to occur then the honest taxpayers will be losers.

I hope we can keep the IRS funded at levels which will allow IRS to adequately perform its essential mission.

For the Postal Service, the conferees have recommended $459.8 million, the amount testified by the Postal Service as necessary to keep the preferred mail rates at the current level through all of fiscal year 1990.

The conferees have provided funding for the Office of Information and Regulatory Affairs in the Office of Management and Budget. It is our hope that authorizing legislation can be enacted for this office so that we will not have this authorization problem next year.

Finally, I would like to point out to the Members of the House that this conference report complies with the 302(b) budget allocation for both new obligational authority and outlays.

Mr. Speaker, I think this is a good conference report and represents a reasonable compromise with the Senate. I urge your favorable consideration. I have a comparative statement of obligational authority that I will insert in the RECORD at this point.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 1990 (H.R. 2989)—CONFERENCE SUMMARY
NEW BUDGET (OBLIGATIONAL) AUTHORITY

Agency and item	FY 1989 Enacted	FY 1990 Estimate	House	Senate	Conference	Conference compared with--- Enacted	Estimate	House	Senate
TITLE I - DEPARTMENT OF THE TREASURY									
Departmental Offices:									
Salaries and expenses	59,618,000	83,091,000	58,081,000	83,091,000	58,081,000	-1,537,000	-25,010,000	.....	-25,010,000
International affairs	22,000,000	.....	25,010,000	.....	25,010,000	+3,010,000	+25,010,000	.....	+25,010,000
Office of the Inspector General	.....	13,605,000	13,605,000	13,605,000	13,605,000	+13,605,000	.....	.....	.....
Federal Law Enforcement Training Center:									
Salaries and expenses	34,664,000	34,158,000	34,664,000	36,277,000	36,000,000	+1,336,000	+1,842,000	+1,336,000	-277,000
Facilities, acquisition and related expenses	20,000,000	9,880,000	9,880,000	20,783,000	15,000,000	-5,000,000	+5,120,000	+5,120,000	-5,783,000
Financial Management Service:									
Salaries and expenses	277,230,000	289,695,000	289,695,000	289,695,000	289,695,000	+12,465,000	.....	.....	.....
Bureau of Alcohol, Tobacco and Firearms	241,000,000	245,933,000	245,933,000	257,565,000	257,565,000	+16,565,000	+11,632,000	+11,632,000	.....
United States Customs Service:									
Salaries and expenses	1,033,911,000	1,031,490,000	1,041,490,000	1,059,634,000	1,059,634,000	+25,723,000	+28,144,000	+18,144,000	.....
Operations and maintenance, air interdiction program	149,262,000	128,128,000	125,128,000	231,728,000	196,728,000	+47,466,000	+68,600,000	+71,600,000	-35,000,000
Customs forfeiture fund (limitation on availability of deposits)	10,000,000	10,000,000	10,000,000	20,000,000	10,000,000	.....	.....	.....	-10,000,000
Customs services at small airports (to be derived from fees collected)	1,588,000	1,588,000	1,588,000	2,175,000	2,175,000	+587,000	+587,000	+587,000	.....
Receipts	.....	.....	.....	-587,000	-587,000	-587,000	-587,000	-587,000	.....
Total, United States Customs Service	1,194,761,000	1,171,206,000	1,178,206,000	1,312,950,000	1,267,950,000	+73,189,000	+96,744,000	+89,744,000	-45,000,000
United States Mint:									
Salaries and expenses	47,000,000	50,735,000	50,735,000	50,735,000	50,735,000	+3,735,000	.....	.....	.....
Bureau of the Public Debt	219,430,000	244,316,000	219,430,000	244,316,000	207,906,000	-11,524,000	-36,410,000	-11,524,000	-36,410,000
Payment of Government losses in shipment	960,000	.....	.....	.....	.....	-960,000	.....	.....	.....
Internal Revenue Service:									
Salaries and expenses	87,165,000	72,382,000	72,382,000	72,382,000	72,382,000	-14,783,000	.....	.....	.....
Processing tax returns	1,740,353,000	1,946,003,000	1,953,446,000	1,946,003,000	1,946,003,000	+205,650,000	.....	-7,443,000	.....
Examinations and appeals	1,932,441,000	1,911,301,000	1,911,301,000	1,911,301,000	1,911,301,000	-21,140,000	.....	.....	.....
Investigation, collection, and taxpayer service	1,434,921,000	1,612,809,000	1,620,252,000	1,612,809,000	1,620,252,000	+185,331,000	+7,443,000	.....	+7,443,000
Total, Internal Revenue Service	5,194,880,000	5,542,495,000	5,557,381,000	5,542,495,000	5,549,938,000	+355,058,000	+7,443,000	-7,443,000	+7,443,000
United States Secret Service	357,500,000	368,401,000	371,401,000	360,785,000	370,785,000	+13,285,000	+2,384,000	-616,000	+10,000,000
Total, title I, Department of the Treasury, new budget (obligational) authority	7,669,043,000	8,053,515,000	8,054,021,000	8,212,297,000	8,142,270,000	+473,227,000	+88,755,000	+88,249,000	-70,027,000
TITLE II - POSTAL SERVICE									
Payment to the Postal Service Fund	436,417,000	459,755,000	459,755,000	429,755,000	459,755,000	+23,338,000	.....	.....	+30,000,000
Payment to the Postal Service Fund for nonfunded liabilities	.....	36,942,000	36,942,000	36,942,000	36,942,000	+36,942,000	.....	.....	.....
TITLE III - EXECUTIVE OFFICE OF THE PRESIDENT									
Compensation of the President	250,000	250,000	250,000	250,000	250,000	.....	.....	.....	.....
Office of Administration	18,350,000	18,325,000	18,325,000	18,825,000	18,825,000	+475,000	+500,000	+500,000	.....
The White House Office	27,950,000	30,639,000	30,639,000	30,639,000	30,639,000	+2,689,000	.....	.....	.....
Executive Residence at the White House	5,698,000	6,773,000	6,773,000	6,898,000	6,898,000	+1,200,000	+125,000	+125,000	.....
Official Residence of the Vice President	258,000	378,000	578,000	578,000	578,000	+320,000	+200,000	.....	.....
Special Assistance to the President	2,199,000	2,335,000	2,335,000	2,335,000	2,335,000	+136,000	.....	.....	.....
Council of Economic Advisers	2,787,000	2,906,000	2,906,000	2,906,000	2,906,000	+119,000	.....	.....	.....
Office of Policy Development	3,000,000	3,079,000	3,079,000	3,079,000	3,079,000	+79,000	.....	.....	.....
National Critical Materials Council	225,000	.....	225,000	550,000	400,000	+175,000	+400,000	+175,000	-150,000
National Security Council	5,100,000	5,409,000	5,409,000	5,409,000	5,409,000	+309,000	.....	.....	.....
Office of Management and Budget	39,640,000	43,894,000	44,894,000	44,894,000	44,894,000	+5,254,000	+1,000,000	.....	.....
Office of Federal Procurement Policy	2,353,000	2,660,000	2,660,000	2,660,000	2,660,000	+307,000	.....	.....	.....
Unanticipated needs	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	.....	.....	.....	.....
Investment in management improvement	1,000,000	18,000,000	1,000,000	.....	500,000	-500,000	-17,500,000	-500,000	+500,000

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 1990 (H.R. 2989)—CONFERENCE SUMMARY--Continued
NEW BUDGET (OBLIGATIONAL) AUTHORITY

Agency and item	FY 1989 Enacted	FY 1990 Estimate	House	Senate	Conference	Conference compared with --- Enacted	Estimate	House	Senate
Office of National Drug Control Policy:									
Salaries and expenses	3,500,000	12,000,000	12,000,000	12,000,000	12,000,000	+8,500,000			
Special forfeiture fund		136,000,000	136,000,000				-136,000,000	-136,000,000	
Total, title III, Executive Office of the President, new budget (obligational) authority	113,310,000	283,648,000	268,073,000	132,023,000	132,373,000	+19,063,000	-151,275,000	-135,700,000	+350,000
TITLE IV - INDEPENDENT AGENCIES									
Administrative Conference of the United States	1,865,000	1,865,000	1,865,000	1,865,000	1,865,000				
Advisory Commission on Intergovernmental Relations	1,040,000	1,300,000	1,300,000	1,300,000	1,300,000	+260,000			
Advisory Committee on Federal Pay	205,000	205,000	205,000	205,000	205,000				
Committee for Purchase from the Blind and Other Severely Handicapped	862,000	937,000	1,062,000	1,062,000	1,062,000	+200,000	+125,000		
Federal Election Commission	15,433,000	15,768,000	14,257,000	15,570,000	15,330,000	-103,000	-438,000	+1,073,000	-240,000
(By transfer)	(250,000)					(-250,000)			
General Services Administration:									
Federal Buildings Fund:									
Appropriation			3,000,000	17,000,000	25,220,000	+25,220,000	+25,220,000	+22,220,000	+8,220,000
Limitation on availability of revenue:									
Construction & acquisition of facilities	(119,820,000)	(244,539,000)	(123,253,000)	(41,739,000)	(138,843,000)	(+19,023,000)	(-105,696,000)	(+15,590,000)	(+97,104,000)
Repairs and alterations	(532,865,000)	(438,193,000)	(541,505,000)	(478,443,320)	(558,692,320)	(+25,827,320)	(+120,499,320)	(+17,187,320)	(+80,249,000)
Payment on purchase contracts	(133,000,000)	(129,752,000)	(126,752,000)	(128,752,000)	(126,752,000)	(-6,248,000)	(-3,000,000)		(-2,000,000)
Rental of space	(1,177,532,000)	(1,351,500,000)	(1,351,500,000)	(1,341,736,000)	(1,341,736,000)	(+164,204,000)	(-9,764,000)	(-9,764,000)	
Real property operations	(882,000,000)	(968,298,000)	(951,253,000)	(948,000,000)	(948,000,000)	(+66,000,000)	(-20,298,000)	(-3,253,000)	
Program direction & centralized services	(49,000,000)	(70,520,000)	(68,020,000)	(65,520,000)	(68,020,000)	(+19,020,000)	(-2,500,000)		(+2,500,000)
Design and construction services	(130,000,000)	(157,081,000)	(146,302,000)	(152,081,000)	(146,302,000)	(+16,302,000)	(-10,779,000)		(-5,779,000)
Total, Federal Buildings Fund:									
New budget (obligational) authority			3,000,000	17,000,000	25,220,000	+25,220,000	+25,220,000	+22,220,000	+8,220,000
(Limitations)	(3,024,217,000)	(3,359,883,000)	(3,308,585,000)	(3,156,271,320)	(3,328,345,320)	(+304,128,320)	(-31,537,680)	(+19,760,320)	(+172,074,000)
Federal Supply Service:									
Operating expenses	47,000,000	47,644,000	47,644,000	47,644,000	47,644,000	+644,000			
Federal property resources service	10,800,000	12,174,000	12,174,000	12,174,000	12,174,000	+1,374,000			
Real property relocation	4,000,000	10,000,000	8,000,000	8,000,000	8,000,000	+4,000,000	-2,000,000		
General management and administration	120,774,000	124,297,000	124,297,000	124,297,000	124,297,000	+3,523,000			
Grants			16,152,000		13,152,000	+13,152,000	+13,152,000	-3,000,000	+13,152,000
Information resources management service	31,875,000	32,480,000	32,480,000	32,480,000	32,480,000	+605,000			
Office of the Inspector General	25,000,000	26,500,000	26,500,000	26,500,000	26,500,000	+1,500,000			
Allowances and Office Staff for Former Presidents	1,431,000	1,823,000	1,823,000	1,823,000	1,823,000	+392,000			
Expenses, presidential transition	3,000,000					-3,000,000			
National defense stockpile transaction fund	30,000,000					-30,000,000			
Total, General Activities	226,880,000	207,274,000	221,426,000	205,274,000	218,426,000	-8,454,000	+11,152,000	-3,000,000	+13,152,000
Total, General Services Administration	273,880,000	254,918,000	272,070,000	269,918,000	291,290,000	+17,410,000	+36,372,000	+19,220,000	+21,372,000

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TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 1990 (H.R. 2989)—CONFERENCE SUMMARY--Continued
NEW BUDGET (OBLIGATIONAL) AUTHORITY

Agency and item	FY 1989 Enacted	FY 1990 Estimate	House	Senate	Conference	Conference compared with ... Enacted	Estimate	House	Senate
Martin Luther King, Jr. Federal Holiday Commission	.....	300,000	300,000	.....	.....	.....	-300,000	-300,000	.....
National Archives and Records Administration	121,900,000	122,612,000	126,612,000	126,612,000	126,612,000	+4,712,000	+4,000,000	.....	.....
Office of Government Ethics	.....	3,414,000	3,414,000	3,414,000	3,414,000	+3,414,000	.....	.....	.....
Office of Personnel Management:									
Salaries and expenses:									
Appropriation	108,000,000	113,668,000	113,668,000	111,192,000	112,430,000	+4,430,000	-1,238,000	-1,238,000	+1,238,000
(Limitation on adminstrative expenses)	(77,017,000)	(81,907,000)	(81,907,000)	(81,907,000)	(81,907,000)	(+4,890,000)	.....	.....	.....
Office of Inspector General	.....	2,918,000	2,918,000	2,918,000	2,918,000	+2,918,000	.....	.....	.....
Government payment for annuitants, employees health benefits	2,374,414,000	3,780,169,000	3,780,169,000	3,780,169,000	3,780,169,000	+1,405,755,000	.....	.....	.....
Government payment for annuitants, employee life insurance benefits	.....	2,700,000	2,700,000	2,700,000	2,700,000	+2,700,000	.....	.....	.....
Payment to civil service retirement and disability fund	4,858,668,000	5,211,732,000	5,211,732,000	5,211,732,000	5,211,732,000	+353,064,000	.....	.....	.....
Federal Retirement Thrift Investment Board (limitation on administrative expenses)	(16,603,000)	(17,324,000)	.....	.....	.....	(-16,603,000)	(-17,324,000)	.....	.....
Total, Office of Personnel Management	7,341,082,000	9,111,187,000	9,111,187,000	9,108,711,000	9,109,949,000	+1,768,867,000	-1,238,000	-1,238,000	+1,238,000
Merit Systems Protection Board:									
Salaries and expenses:									
Appropriation	20,488,000	20,987,000	20,987,000	20,987,000	20,987,000	+499,000	.....	.....	.....
(Limitation on adminstrative expenses)	(1,400,000)	(1,450,000)	(1,450,000)	(1,450,000)	(1,450,000)	(+50,000)	.....	.....	.....
Office of special counsel	5,000,000	5,142,000	5,142,000	5,142,000	5,142,000	+142,000	.....	.....	.....
Total, Merit Systems Protection Board	25,488,000	26,129,000	26,129,000	26,129,000	26,129,000	+641,000	.....	.....	.....
Federal Labor Relations Authority	17,540,000	17,500,000	17,500,000	17,680,000	17,590,000	+50,000	+90,000	+90,000	-90,000
Total, federal personnel activities	7,384,110,000	9,154,816,000	9,154,816,000	9,152,520,000	9,153,668,000	+1,769,558,000	-1,148,000	-1,148,000	+1,148,000
United States Tax Court	29,345,000	28,120,000	28,120,000	28,120,000	28,120,000	-1,225,000	.....	.....	.....
Total, title IV, Independent Agencies:									
New budget (obligational) authority	7,828,640,000	9,584,255,000	9,604,021,000	9,600,586,000	9,622,866,000	+1,794,226,000	+38,611,000	+18,845,000	+22,280,000
(Limitations)	(3,119,237,000)	(3,460,564,000)	(3,391,942,000)	(3,239,628,320)	(3,411,702,320)	(+292,465,320)	(-48,861,680)	(+19,760,320)	(+172,074,000)
Grand total, all titles:									
New budget (obligational) authority	16,047,410,000	18,418,115,000	18,422,812,000	18,411,603,000	18,394,206,000	+2,346,796,000	-23,909,000	-28,606,000	-17,397,000
(Limitations)	(3,119,237,000)	(3,460,564,000)	(3,391,942,000)	(3,239,628,320)	(3,411,702,320)	(+292,465,320)	(-48,861,680)	(+19,760,320)	(+172,074,000)

Mr. Speaker, I reserve the balance of my time.

Mr. SKEEN. Mr. Speaker, I yield myself such time as I may consume.

□ 1440

Mr. SKEEN. Mr. Speaker, we bring before you today the conference report on H.R. 2989, which makes appropriations for a wide variety of agencies crucial to the smooth operation of the Federal Government, and several of which play a critical role in our Nation's war against drugs.

Principal among these is the Treasury Department which includes revenue producing entities such as the Internal Revenue Service, Customs, and the Bureau of Alcohol, Tobacco and Firearms.

Also included within the Treasury appropriations are such entities as the Secret Service, which has the double duty of protecting our national leaders and protecting our currency from counterfeit, the Bureau of the Mint, which just recently issued a commemorative coin for the Bicentennial of the Congress, and the Federal Law Enforcement Training Center, which plays a critical role in the training of Federal law enforcement officers used in drug interdiction.

I want to make some specific remarks a little later on in connection with the committee's activity and the conference activity in regard to this training center.

Additionally, the conference report contains appropriations for the U.S. Postal Service (revenue foregone), the executive office of the President, and 12 independent agencies, from the Federal Elections Commission, to the Archives, to the Committee for Purchase from the Blind.

The conference committee has acted in a responsible manner to see that each agency has the resources it needs to meet its objectives. We have worked with GSA in the effort to provide a safe and comfortable workplace for Federal employees.

We have insured that nonprofit organizations retain special postal rates. We have increased funding for vital drug interdiction agencies. We have met these obligations while remaining within the tight constraints of our budget allocations.

Mr. Speaker, this was not an easy conference. I have to give credit to our subcommittee chairman, the gentleman from California [Mr. ROYBAL] who is a kind and gentle man, but a very, very tough arbiter when it comes to the conference. He has certainly upheld the House's position and has done it very well.

The conferees had to make decisions unpopular to agencies, to constituencies, and to ourselves. Meeting our budget allocations has meant that many good, worthwhile projects have had to be prioritized right behind better, more worthwhile projects. The Federal pockets are not as deep as they once were.

Yet, Mr. Speaker, the conferees have found the means to fund those programs that are crucial to the well-being of America. We have continued to be farsighted in our plans to curb the flow of drugs across our borders. And we have seen to the efficient running of our Government by the many small, independent agencies funded by our subcommittee.

This conference report represents several weeks of hard work and agonizing decisions on the part of the conferees. It was crafted in the spirit of bipartisanship with a knowledge that the agencies covered by this bill are personnel intensive where small changes have significant impact. The conference committee has worked hard within tight budgetary constraints to formulate a well-balanced, equitable report.

I urge the Members of the House to sustain the good work done by this conference committee and pass the conference report for H.R. 2989.

Mr. Speaker, before I leave the podium, I want to make particular mention to the farsightedness of this particular subcommittee and this conference in dealing with drug interdiction and law enforcement training.

Mr. Speaker, long before there was a real type on the so-called war on drugs, this committee was committing funding to law enforcement training, and giving an affording Members the facilities to train the people who will be engaged in this all-out effort. This has been done for years, prior to the time that we were going to need this kind of personnel.

Members have in place, because of the farsightedness of this committee, those facilities, the capacity to train the ever-increasing numbers of law enforcement people dealing with the war on drugs. I think a lot of credit ought to go to the chairman and the members of this subcommittee and their staffs, as well, both the House and the Senate, and I would like to recognize the fact that in the areas of law enforcement training, we have led the curve, we have led this Congress in fashioning the kinds of response that this country expects.

One other final comment, in the area of interdiction. It was a little bit painful to hear that the Aerostat Program received a bad report from the General Accounting Office, even before it was even built or completed. Even a partial station along the border have known, from a wide-open situation that we have had for many years, now we are seeing the drug interdiction program is far more successful because the drug traffickers that are importing this stuff into the United States are now being forced on the ground. We are making bigger busts—tonnage busts, where it used to be pounds or kilos. I think it is significant that the Aerostat Program is working, the P-3 Program is working and this was an effort and an end product and a work product from this committee, both the House and the Senate, that afforded this kind of an interdiction program and answer to some of the problems before they ever had to be dealt with in the so-called war on drugs.

We think that effort is an admirable one, but we also that this committee should be given credit for leading the curve in this process. I think that it is plainly attributable to the fact that our chairman, the gentleman from California [Mr. ROYBAL] has always been a great champion of being ahead of the curve on taking care of this war on drugs in the interdiction program.

Mr. ROYBAL. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I thank the chairman for his leadership in this conference report. The gentleman had done an outstanding job. But that is nothing new. He has been doing that for some time.

Mr. Speaker, section 618 of H.R. 2989, a bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President and certain independent agencies for the fiscal year ending September 30, 1990, would place a moratorium on spending for two specific nondisclosure agreements—standard forms 312 and 4355—and for the implementation or enforcement of certain provisions of other nondisclosure forms. Under this provision, the administration would not be able to collect new signatures on standard forms 312 and 4355 or to enforce the terms listed in this provision (section 618) during the coming fiscal year.

During the last two fiscal years Congress passed provisions that placed spending moratoriums on the implementation and enforcement of two other nondisclosure agreements—standard forms 189 and 4193—as well as on certain provisions in other nondisclosure agreements. However, when the ban was first imposed, the administration disregarded it and continued to require Federal employees to sign these forms in violation of the spending ban. Accordingly, seven Members of Congress, along with the American Foreign Service Association, brought a lawsuit to compel the administration to comply with the law.

In its decision in that lawsuit, a district court misinterpreted the nondisclosure provisions, incorrectly saying that subsections (1) through (5) permitted "the President to ensure the secrecy of national security information only by those means authorized by Congress" and concluding that those

provisions were unconstitutional. Neither the old provisions nor the provisions of section 618 in the current bill restrict the President's ability to protect national security information only to statutory means. Rather, they prohibit those means which are inconsistent with Federal statutes, and they block various specified means which exceed the requirements of the President's Executive order on national security information, E.O. 12356, and case law applying it. The district court's erroneous decision was subsequently vacated by the Supreme Court.

As a result of this litigation, the administration eventually discontinued the use of standard forms 189 and 4193 and provided noticed to Federal employees that the term "classifiable" would be defined in a way that narrows its meaning, although it still extends to a wide range of unmarked information. In addition, the administration began to use two new forms in place of the discontinued ones. Section 618 addresses these new forms and should resolve the issues pending in the current litigation and, therefore, mark an end to currently pending court challenges.

The notice to Federal employees modifying the old standard forms 189 and 4193 and the new standard forms 312 and 4355 themselves raise a number of troubling concerns. First, section 618 and its predecessors do not allow spending on nondisclosure agreements covering unmarked information unless the employee knows that the information is either classified or in the process of a classification determination. In contrast, the administration's notice and new forms covered unmarked information without requiring that the employee have actual knowledge that it must be protected. In this respect, the nondisclosure agreements conflict with Executive Order 12356, because that order allows sanctions to be imposed only for disclosures of properly classified information, and requires that there be classification markings on a document in order for it to be considered properly classified. As a result, the nondisclosure agreements threaten to chill a vast range of public debate over fraud, waste, and public policy matters, because employees will be reluctant to discuss unmarked information unless they are absolutely certain that the administration does not consider it to be classified.

Second, standard forms 312 and 4355 purport to impose a new duty on employees to inquire as to the classification status of unmarked information whenever they are uncertain about whether it is classified. In other words, before making a disclosure of information that is unmarked and that the employee does not know requires protection, the employee must identify herself or himself by asking superiors whether it is in fact classified. By making such inquiries, employees will have to identify themselves as potential whistleblowers. This novel duty to single oneself out as a potential whistleblower violates the concept of anonymous dissent—the cornerstone of the Whistleblower Protection Act of 1989 which Congress unanimously passed twice last year. Like the extension of the nondisclosure agreements to unmarked information, where the employee has no knowledge of its sensitive nature, the duty to inquire threatens to chill whistleblower disclosures and public debate on policy matters.

Third, standard form 4355 continues to require employees to submit any writings, including works of fiction, that even arguably contain any information that relates to sensitive compartmented information. This broad language establishes a lifelong prepublication review requirement which finds no basis in the President's Executive order and creates a system of prior restraint regarding political speech which is totally at odds with the first amendment.

Congress has raised objections to all of the provisions in the nondisclosure agreements, but the administration has been unwilling to accommodate our concerns or even engage in meaningful discussion about them. Instead, the administration has continued to use nondisclosure agreements that create obligations and remedies that are not permitted under, and that conflict with, existing statutes and the President's own Executive order. For this reason, it is necessary that we adopt another spending ban. The purpose of this moratorium is to persuade the administration to resume good faith negotiations on the terms of its nondisclosure agreements. In particular, the administration should go back to the drawing board and totally redesign its nondisclosure agreement policy. Under a redesigned policy Members of Congress and the public should receive notice and their views should be considered by the administration in drafting nondisclosure agreements that will replace standard forms 312 and 4355, which would be prohibited by section 618. This can be easily accomplished by following the procedures set forth in the notice and comment rulemaking provisions of the Administrative Procedures Act so that all interested persons can be heard before any replacement forms are issued.

Mr. ROYBAL. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, today is an exciting day for me and for the scientfic community both in Colorado and around the Nation. The measure we're voting on today includes more than $31 million for construction of a new Federal laboratory facility so that three Department of Commerce [DOC] agencies—the National Oceanic and Atmospheric Administration [NOAA], the National Institute for Standards and Technology [NIST], and the National Telecommunications and Information Administration [NTIA]—can consolidate operations now scattered in leased space around Boulder, CO.

As you may recall, the House already approved funding for the new building when we passed the Treasury, Postal, and General Government appropriations bill. However, the Senate appropriations bill deleted the entire amount. Under the leadership of my distinguished colleague, Chairman ROYBAL, the conferees agreed to the House language with respect the new Federal building in Boulder. In am deeply grateful to both the Chairman and to my house colleagues who, as confeees on this bill, went to bat for me and this important project.

Boulder is home to some of our Nation's most critical scientific research programs and preeminent scientists. It's hard to overestimated the benefits of enabling better coordinated research on global climate change, acid rain, solar phenomena, and weather prediction—to name just a few of the Boulder-based programs.

In addition, consolidating the agencies will save the American taxpayers about $12.6 million in rent and costly duplication of facilities.

But what's most important is that in funding this research facility, we're making a major commitment to our future. A commitment to scientific excellence. And a commitment to the best possible efforts to understand our environment and what we need to do to preserve and protect it for future generations.

Mr. ROYBAL. Mr. Speaker, I yield 2 minutes to the gentleman from Maine [Mr. BRENNAN].

Mr. BRENNAN. Mr. Speaker, I rise in strong support of this conference report. This measure contains an important provision which I have urged this body to adopt—and that is funding to pay non-Federal units of Government for the additional costs imposed on them for protecting the President of the United States.

Last June, I introduced H.R. 2792 which calls for an authorization of $160,000 per year to assist State and local communities with the increased security needed for President Bush's visits to his home in Maine. Mainers are proud to welcome President Bush and other world leaders to our State, and to meet the increased security responsibilities. However these security demands have placed an undue financial burden on State and local law enforcement agencies. Many of these small local communities are already

hard pressed for necessary funding because of the increased population growth.

In working with members of the Appropriations Committee especially Chairman ED ROYBAL, I have explained that President Bush is likely to make several visits to Kennebunkport, ME, each year as his most used away-from-Washington residence. This funding is similar to assistance which was given in 1977 to help Plains, GA, with security costs for then-President Jimmy Carter. I believe the appropriators have made the correct and proper decision to grant my request for this badly needed aid to these communities. I appreciate the cooperation of Chairman ROYBAL and ranking member SKEEN in accepting this funding request.

I urge my House colleagues to accept this request and to adopt this conference report.

□ 1450

Mr. SKEEN. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I rise in support of the conference report for the fiscal year 1990 Treasury-Postal Service Appropriations Act.

This conference report provides $18.4 billion in new budget authority for the 65 agencies and departments funded by this appropriations act. That is $24 million below the President's request; $28 million below the House-passed amount; and $17 million below the Senate level. Compared to last year, this amounts to a substantial increase, but the lion's share of that increase is due to mandatory cost increases in Federal employee retirement and health benefits programs.

For discretionary programs, the conference report does meet this subcommittee's 302(b) allocation for both budget authority and outlays. In fact, the bill is $48 million under the allocation for budget authority.

Within this fiscally responsible framework, the conferees provided the resources necessary to meet compelling law enforcement and revenue collection needs.

First, compared to the amounts made available last year, the conference report provides substantial increases for drug interdiction programs, including $2.6 million for the Federal Law Enforcement Training Center; $16.5 million for the Bureau of Alcohol, Tobacco and Firearms; $26 million for Customs salaries and expenses; and $47.5 million for the Customs air interdiction program.

Second, the conferees provided a sizable increase for the revenue collection activities of the IRS. The agreement provides an amount $355 million over the fiscal year 1989 level. That is a split between the House and Senate amounts: $7.5 million below the House and $7.5 million above the Senate and the President's budget.

Third, the conference report provides a much needed increase for investigative and protective functions of the Secret Service, just over $13 million more than the amount provided last year.

Finally, the conferees rejected a Senate proposed $30 million cut in the revenue forgone postal subsidy for nonprofit mailers. The Senate sought to prohibit the use of the subsidy for profitmaking purposes. The Conferees restored the funds and requested a report from the Postal Service by February 1, 1990 outlining specific recommendations to eliminate abuses of this type.

Mr. Speaker, this is an excellent conference report. It is fiscally sound, below the President's budget, and yet it provides adequate resources to continue the war on drugs and to collect the revenue needed to meet deficit reduction targets. It is my understanding that the administration has made no objections to this conference report. I expect that the President will sign this bill when it reaches his desk.

And so, I urge all my colleagues to support this conference report, the sixth one to be considered by the House, so that we can complete the appropriations process in time to avoid a continuing resolution.

There is no doubt that we have a long way to go. Two of the conference reports are headed for a veto, and we still have seven more to finish. And that is not even considering funding the drug bill, now in conference as part of an amendment to the transportation bill. If it seems discouraging, well, it is. But a strong show of support for this conference report will be an important sign that the House remains serious about avoiding a massive continuing resolution, a procedure we are preparing to repeat if we do not send these bills to the President.

Mr. SKEEN. Mr. Speaker, I reserve the balance of my time.

Mr. ROYBAL. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Mr. Speaker, I rise not on the conference report but to address a subject through the jurisdiction of the conference report, the Treasury Department and the Secret Service.

It has recently come to my attention, as I am sure it has to most Members of Congress, that it has become a new business for former Presidents of the United States to travel around the world and receive large fees for speaking. I am not certain whether or not a former President's advice is worth $50,000 a minute to foreign corporations, and I am not going to pass on the credibility of that question. However, I do think it is reasonable to ask what it is costing American taxpayers to send a former President of the United States to Japan so that he may engage in conversations with Japanese corporations and gain $2 million in personal income for doing that?

I understand our friends in the U.S. Senate have addressed this, and the Senator from Arkansas has requested of the Secret Service the cost for that trip. I understand that he has been told that that is a security matter and it is not subject to being disclosed at this time. I think a proper committee of the House should look into this, and I would ask Members to join me in requesting a General Accounting Office study of not only the cost of this particular trip of Mr. Reagan to Japan, but of providing services for all former Presidents, since we have four former Presidents and some of them have taken it upon themselves to engage in activities to gain personal income. Since they are given security protection by the Secret Service of the United States that is paid for by the taxpayers of the United States, I think the people's representatives have a right to know what those costs are.

I think this Congress should inquire into whether or not we are too generous in our largesse in providing services and underwriting costs to former Presidents who engage in personal-income endeavors. Our former First Lady said, "Just say no." If I were going to make a recommendation to some of our former Presidents of the United States, I would say that perhaps they should "just say no" to earning personal income from foreign corporations after they leave the services of this country. This practice is somewhat embarrassing, to say the least.

Second, there is the audacity of charging this Government and these taxpayers these large amounts of money when we are running such high deficits. Spending millions of dollars for security so that they may earn millions of dollars personally, I believe, is uncalled for.

I would also like to compliment a former President of the United States, one who has taken a lot of abuse from both this Congress and from our citizens. Former President Richard Nixon has taken it upon himself to provide his own security at his own cost. Where he has personal endeavors and receives income resulting from any activity, he pays for that protection himself. I would recommend that our other former Presidents of the United States undertake to do the same for the benefit of American taxpayers. If they really are serious about this deficit and they really are conservative in the expenditure of taxpayers' money, it seems to me they should recognize it is an unmitigated atrocity that they should take it upon themselves to travel to Japan and speak for 20 min-

utes to Japanese corporations receive millions of dollars in personal income, and then charge the American taxpayers for the cost of security.

Mr. SKEEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I want to thank the gentleman for yielding this time to me.

Mr. Speaker, I urge my colleagues to vote for the conference report that we have had brought before us. I rise to point out one section of the bill that I think needs to be reiterated for the benefit of my colleagues, and I refer to a section of the bill that I am very pleased to say the chairman of the subcommittee, the gentleman from California [Mr. ROYBAL] and the gentleman from New Mexico [Mr. SKEEN] have been helpful on in years past and again this year. That is the section of the bill that mandates a drug-free workplace across the board in Federal agencies, departments, and instrumentalities.

□ 1500

Mr. Speaker, I want to remind my colleagues that this provision of law covers the U.S. Congress, and I am a little chagrined at the fact that we have had it defined in recent weeks on the House floor as something that Congress can afford to ignore. This has been the law of the land for more than a year. According to the newspaper, Roll Call, in its most recent edition, more than 300 Members of Congress have, thus far, failed to comply with the law. The law requires not only a drug-free workplace policy, but it requires that it be in writing.

Mr. Speaker, I ask my colleagues to refer themselves to section 619 of the bill that they will be voting on today. They will find specifically that requirement. I say to them, "You can't duck it. It is the law of the land. Those of you who have not created drug-free workplace policies for your office are in violation of the law, you're a law breaker on drug law."

Mr. Speaker, I think that it is time that the Congress wakes up to its responsibilities. We have a long history and a reputation around here of not covering ourselves under the laws we pass. There are a whole series of labor laws, safety laws and all kinds of things that we have refused to cover ourselves on. Even when we try to bring amendments to the floor we are told that those amendments are not germane.

Mr. Speaker, in this particular case Congress has made a specific decision to cover ourselves under the law. It is included in this bill.

I say to my colleagues, "When you vote for this bill today, you will be voting to cover Congress for yet another year. It's high time now you bring yourself into compliance with what the law requires."

Mr. ROYBAL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I take this time to compliment, first of all, the gentleman from New Mexico [Mr. SKEEN] and the members of the committee for doing an excellent job on this conference report.

Mr. SKEEN. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL], the distinguished ranking member under whose auspices we take the 302(b) allocation and always manage to go under.

Mr. FRENZEL. Mr. Speaker, I hate to rain on the picnic or to be the onion in the petunia patch, but I would like to invite the Chamber's attention to the fact that this bill costs $2.3-plus billion more than last year's bill, and that is an increase of 14½ percent, which ought to be enough to pave the streets with gold. The gentleman from New Mexico [Mr. SKEEN], the distinguished subcommittee vice chairman, my good friend, has indicated to this House how foresighted the committee has been. If one looks only at the numbers, one would have to say that in addition to being farsighted that the committee has been open-handed to a remarkable extent.

Mr. Speaker, it has been pointed out to me that a large proportion of the increase is due to what the committee classes as mandatory, and these mostly occur with respect to retirement and health systems. On the other hand, our committees are supposed, when they have emergencies, to be able to overcome them by making cutbacks in other areas, and it does seem to me at a time when we have an overall spending increase of about 5 percent across the board, that for one cost center, Treasury, postal, et cetera, to come in at 14½ percent is just taking a little bit more out of the system than is probably deserved in this case.

Mr. Speaker, I know the bill is going to be passed, and I share in the warmth of the congratulations to the managers. Nevertheless, I shall not be able to support it.

Mr. ROYBAL. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL. Mr. Speaker, I would like to engage in a colloquy with the gentleman from Maryland [Mr. HOYER].

Mr. Speaker, there is a provision in amendment No. 71, an amendment in disagreement that appropriates $1.5 million for the Christopher Columbus Center on Marine Research and Exploration to be located in Baltimore.

Last month, when I brought H.R. 1668 to the floor, I expressed some concern about this center because there was not enough money in the budget of the National Oceanic and Atmospheric Administration to fund it, and the gentleman from Maryland [Mr. MCMILLEN] withdrew the amendment that he had before the body in regard to the Christopher Columbus Center.

As my colleagues know, in the last decade we have seen the NOAA budget frozen and cut under the Reagan administration all these years, and the research it does for the oceans and Great Lakes are most important to everyone in this country. I have agreed to hold a hearing in my Oceanography and the Great Lakes Subcommittee on Marine Research Centers, and I intend to do so. However, I will not object to the $1.5 million in this bill at this time, nor raise a point of order against it.

In return, Mr. Speaker, I would like the gentleman from Maryland [Mr. HOYER] to indicate if he would agree that no future Federal funding will be sought until our committee has held a hearing and reported out an authorization for the Christopher Columbus Center, and also I would ask the gentleman if he will agree to have the planning and design work funded by the appropriation in this bill submitted to the Committee on Merchant Marine an Fisheries for our review in the context of our hearing on this matter.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. HERTEL. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I appreciate the question of the gentleman from Michigan [Mr. HERTEL] and his leadership on this very, very important issue of marine biotechnology research centers.

Mr. Speaker, we had an excellent discussion on the floor of the House when the bill of the gentleman from Michigan [Mr. HERTEL] was on the floor, and we considered the bill. We understand his concern.

First of all, let me assure the gentleman from Michigan [Mr. HERTEL], and I have discussed it with the chairman and ranking member; there is, of course, no money, as the gentleman knows, out of NOAA in this bill. Furthremore, I want to assure the chairman, and the gentleman from Maryland [Mr. MCMILLEN] is here with me, and he is vitally concerned about this project, as well, and a member of the Committee on Science, Space, and Technology, but in any event we will not be expecting any further appropriations which would in any way adversely affect the NOAA budget unless there is an authorization.

Mr. Speaker, we have discussed that before on the floor. That is still our position. We understand the position of the chairman and share that position.

Let me assure my colleagues that the State of Maryland of course, as they know, has agreed to fund either in kind or in terms of financial discussion 75 percent of the cost of this center and realizes full well the chairman's position and the necessity of yet an authorization before proceeding with any further funding out of the NOAA budget.

Mr. Speaker, in all honesty we want the gentleman from Michigan [Mr. HERTEL] to review this. We will discuss it with him further, and we will seek no appropriations out of the NOAA budget until that is complete and the deliberations of the gentleman's subcommittee are complete.

Mr. ROYBAL. Mr. Speaker, I yield 30 additional seconds to the gentleman from Michigan [Mr. HERTEL] and ask him to yield to me.

Mr. HERTEL. I yield to the gentleman from California.

Mr. ROYBAL. Mr. Speaker, I would like to first of all assure the gentleman form Michigan [Mr. TRAXLER] that the gentleman form Maryland [Mr. HOYER] has definitely expressed correctly the position of the committee. We have no funds at the moment that come from NOAA, and none will be used unless it is authorized. I can assure him that.

Mr. ROYBAL. Mr. Speaker, I yield 2 additional minutes to the gentleman from Michigan [Mr. HERTEL].

Mr. McMILLEN of Maryland. Mr. Speaker, will the gentleman yield?

Mr. HERTEL. I yield to the gentleman from Maryland.

Mr. McMILLEN of Maryland. Mr. Speaker, as a member of the Committee on Science, Space, and Technology, and working with the other proponents, some from the committee of the gentleman from Michigan [Mr. HERTEL], I want to say that I appreciate the gentleman's agreeing to hold hearings on marine science projects across the country, in Baltimore, hopefully, in the near future.

Mr. Speaker, let me reiterate what my colleague said. It is certainly not our intent to work outside the authorization process with regard to NOAA in funding this, and we will look forward to working with the gentleman from Michigan [Mr. HERTEL] in seeking those funds through the authorizing process.

Mr. HERTEL. Mr. Speaker, the subcommittee will go ahead with the hearings then as planned and will look also into the appropriation on this bill regarding the planning and designing of the center we have been discussing.

Mr. SAWYER. Mr. Speaker, today the House will consider the conference report for H.R. 2989, making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies.

Earlier this year, Congress approved legislation to extend the life of the Martin Luther King, Jr. Federal Holiday Commission for 5 years and authorized an annual appropriation of $300,000 for the operation of the Commission. That funding originally was contained in the House passed version of H.R. 2989.

During consideration of H.R. 2989 by the Senate, the $300,000 appropriation was deleted. It is my understanding that the funding was deleted solely for jurisdictional reasons. However, funding for the Commission was included in the Commerce, Justice, State, Judiciary, and Related Agencies appropriations bill, as passed by the Senate.

In agreeing to forgo an appropriation for the King Commission in the bill we are considering today, I hope my colleagues will retain their commitment to providing funds through an alternative legislative vehicle in the near future.

I am privileged to represent my colleagues on the King Holiday Commission and hope that the Commission can continue to be an effective force in promoting Dr. King's vision of equality for every American and social progress through non-violence. Accordingly, I urge my colleagues to support the $300,000 appropriation for the Commission in the Commerce, Justice, State, Judiciary, and Related Agencies Appropriations bill.

Mr. PENNY. Mr. Speaker, there are a number of reasons to oppose the Treasury-Postal Service appropriation bill before us today. The bill represents an increase of over $2.3 billion in spending over last fiscal year and is further evidence of our inability to make tough choices necessary to reduce the budget deficit. But, by far, the most egregious provision of this measure is the $18 million in special-interest earmarks; $13 million of the $18 million in earmarks include: $1.5 million for the Rochester Institute of Technology; $5 million for the Michigan Technological University; $1.5 million for the University of Maryland, College Park; $1 million for the University of Hawaii; and $4 million for the University of Texas, El Paso.

These appropriated grants are for activities or construction related to strategic materials important to our national security. I do not dispute the importance that this research, development and construction should not proceed. I do object to legislated grants for a small number of universities, totally bypassing the customary competitive grants process.

The five institutions that would benefit by this bill are fine institutions, but there are many excellent research schools in this country that can establish the facilities and do the research envisioned by these special interest grants, and maybe, just maybe, some other school could do it better or cheaper. As I asked the House in July when we debated the House bill, which itself contained $16 billion in earmarks for five universities, I ask again today as we debate the conference report: as a matter of fairness to all interested schools across this Nation, shouldn't these funds be reserved for the normal competitive grants process?

If violating fundamental precepts of fairness and the normal competitive grants process isn't onerous enough, earlier this year, as part of the Defense Authorization Act, H.R. 2461, in title 23 of that measure, related to strategic and critical materials development, research and conservation, the House agreed to this language:

Any grant or contract under this section for the performance of development and research (or for the construction of a facility for the performance of such development and research) may be made or awarded only—(1) using competitive procedures and (2) only if the President determines at the time of making such grant or awarding such contract that such grant or contract shall serve the national defense needs.

The $13 million in this appropriations measure for these five universities is plain and simple pork and should be stricken from this bill. The normal grants process should work its will. If these same five schools win awards in a competitive grants process, fine, but we should not be awarding scientific grants in an appropriations bill.

Finally colleagues, in addition to the earmarks for funding related to strategic materials, the conference report contains another $5 million in earmarks: $2 million for development of the Marine Biomedical Institute; $1.5 million for Smith College; and $1.5 million for the Christopher Columbus Center on Marine Research and Exploration.

Now, Mr. Speaker, these fine academic and research organizations may be worthy, and our colleagues who represent them will be able to get credit for their legislative prowess in gaining the funds, but I am left wondering about the hundreds—if not thousands—of other academic institutions around the country that will not even have an opportunity to apply for these funds. Does earmarking special interest grants represent the science policy of the Congress? I hope not, Mr. Speaker.

Mr. Speaker, I know members are unwilling in many cases to oppose earmarks for various reasons, but the special interest grants in this bill are an especially egregious disregard for fairness and the normal competitive grants process. Accordingly, I must urge our colleagues to take a second look and to oppose this conference report.

□ 1510

Mr. SKEEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROYBAL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HAYES of Illinois). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 383, nays 30, not voting 19, as follows:

[Roll No. 291]

YEAS—383

Ackerman	Eckart	Kostmayer
Alexander	Edwards (CA)	Kyl
Anderson	Edwards (OK)	LaFalce
Andrews	Emerson	Lagomarsino
Annunzio	Engel	Lancaster
Anthony	English	Lantos
Applegate	Erdreich	Laughlin
Archer	Espy	Leach (IA)
Aspin	Evans	Leath (TX)
Atkins	Fascell	Lehman (CA)
AuCoin	Fazio	Lent
Baker	Feighan	Levin (MI)
Ballenger	Fields	Levine (CA)
Barton	Fish	Lewis (CA)
Bateman	Flake	Lewis (FL)
Beilenson	Flippo	Lewis (GA)
Bentley	Foglietta	Lipinski
Bereuter	Ford (MI)	Livingston
Berman	Frank	Lloyd
Bevill	Frost	Long
Bilbray	Gallegly	Lowery (CA)
Bilirakis	Gallo	Lowey (NY)
Bliley	Gaydos	Luken, Thomas
Boehlert	Gejdenson	Lukens, Donald
Boggs	Gekas	Machtley
Bonior	Gephardt	Madigan
Borski	Geren	Manton
Bosco	Gibbons	Markey
Boucher	Gillmor	Marlenee
Boxer	Gilman	Martin (IL)
Brennan	Glickman	Martin (NY)
Brooks	Gonzalez	Martinez
Broomfield	Goodling	Matsui
Browder	Gordon	Mavroules
Brown (CA)	Goss	Mazzoli
Brown (CO)	Grandy	McCandless
Bruce	Grant	McCloskey
Bryant	Gray	McCollum
Buechner	Green	McCrery
Bunning	Guarini	McCurdy
Burton	Gunderson	McDermott
Bustamante	Hall (OH)	McGrath
Byron	Hall (TX)	McHugh
Callahan	Hamilton	McMillan (NC)
Campbell (CA)	Hammerschmidt	McMillen (MD)
Campbell (CO)	Hansen	McNulty
Cardin	Harris	Meyers
Carper	Hastert	Mfume
Carr	Hawkins	Michel
Chandler	Hayes (IL)	Miller (CA)
Chapman	Hayes (LA)	Miller (OH)
Clarke	Hefley	Miller (WA)
Clement	Hefner	Mineta
Clinger	Henry	Moakley
Coble	Herger	Mollohan
Coleman (MO)	Hertel	Montgomery
Coleman (TX)	Hiler	Moody
Collins	Hoagland	Morella
Combest	Hochbrueckner	Morrison (CT)
Condit	Holloway	Morrison (WA)
Conte	Hopkins	Mrazek
Conyers	Horton	Murphy
Cooper	Houghton	Myers
Costello	Hoyer	Nagle
Coughlin	Hubbard	Natcher
Coyne	Huckaby	Neal (MA)
Crockett	Hughes	Neal (NC)
Darden	Hutto	Nelson
Davis	Hyde	Nowak
de la Garza	Inhofe	Oakar
DeFazio	Ireland	Oberstar
DeLay	James	Obey
Dellums	Johnson (CT)	Olin
Derrick	Johnson (SD)	Ortiz
DeWine	Johnston	Owens (NY)
Dickinson	Jones (GA)	Oxley
Dicks	Jones (NC)	Pallone
Dingell	Jontz	Panetta
Dixon	Kanjorski	Parker
Donnelly	Kaptur	Parris
Dorgan (ND)	Kasich	Pashayan
Douglas	Kastenmeier	Patterson
Downey	Kennedy	Paxon
Durbin	Kennelly	Payne (NJ)
Dwyer	Kildee	Payne (VA)
Dymally	Kleczka	Pelosi
Dyson	Kolbe	Perkins
Early	Kolter	Pickett
Pickle	Schuette	Tanner
Porter	Schulze	Tauke
Poshard	Schumer	Tauzin
Price	Sharp	Thomas (CA)
Pursell	Shaw	Thomas (GA)
Quillen	Shuster	Thomas (WY)
Rahall	Sikorski	Torres
Rangel	Sisisky	Torricelli
Ravenel	Skaggs	Towns
Ray	Skeen	Traxler
Regula	Skelton	Udall
Rhodes	Slattery	Unsoeld
Richardson	Slaughter (NY)	Upton
Ridge	Slaughter (VA)	Valentine
Rinaldo	Smith (FL)	Vander Jagt
Ritter	Smith (IA)	Vento
Roberts	Smith (NE)	Visclosky
Robinson	Smith (NJ)	Volkmer
Roe	Smith (TX)	Vucanovich
Rogers	Smith (VT)	Walgren
Ros-Lehtinen	Smith, Denny (OR)	Walker
Rose	Smith, Robert (OR)	Walsh
Rostenkowski	Snowe	Watkins
Roth	Solarz	Waxman
Roukema	Solomon	Weber
Rowland (CT)	Spence	Weldon
Rowland (GA)	Spratt	Wheat
Roybal	Staggers	Whittaker
Russo	Stallings	Whitten
Sabo	Stangeland	Williams
Saiki	Stark	Wilson
Sangmeister	Stearns	Wise
Sarpalius	Stenholm	Wolf
Savage	Stokes	Wolpe
Sawyer	Studds	Wyden
Saxton	Sundquist	Wylie
Schaefer	Swift	Yates
Scheuer	Synar	Young (AK)
Schiff	Tallon	Young (FL)
Schneider		
Schroeder		

NAYS—30

Armey	Fawell	Petri
Bartlett	Frenzel	Rohrabacher
Bates	Gradison	Sensenbrenner
Bennett	Hancock	Shays
Cox	Jacobs	Shumway
Craig	McEwen	Smith, Robert (NH)
Crane	Moorhead	
Dannemeyer	Nielson	Stump
Dornan (CA)	Packard	Traficant
Dreier	Pease	
Duncan	Penny	

NOT VOTING—19

Akaka	Gingrich	Molinari
Barnard	Hatcher	Murtha
Clay	Hunter	Owens (UT)
Courter	Jenkins	Weiss
Florio	Lehman (FL)	Yatron
Ford (TN)	Lightfoot	
Garcia	McDade	

□ 1530

Messrs. HANCOCK, DORNAN of California, and CRAIG changed their votes from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore (Mr. HAYES of Illinois). The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 2: Page 2, strike out lines 2 to 25, and insert:

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For necessary expenses of the Departmental Offices, including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $95,000 for official reception and representation expenses; not to exceed $200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not less than $2,000,000 and 40 full-time equivalent positions for the Office of Foreign Assets Control; not to exceed $2,000,000 for official travel expenses; not to exceed $1,649,000, to remain available until expended, for systems modernization requirements; not to exceed $573,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex; $83,091,000.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; not to exceed $22,000 for official reception and representation expenses; not to exceed $200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not less than $2,000,000 and 40 full-time permanent positions for the Office of Foreign Assets Control; not to exceed $1,649,000, to remain available until expended, for systems modernization requirements; not to exceed $573,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex; $58,081,000.

INTERNATIONAL AFFAIRS

For necessary expenses of the international affairs function of the Office of the Secretary; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,000,000 for official travel expenses; and not to exceed $73,000 for official reception and representation expenses; $25,010,000.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 4: Page 5, strike out lines 3 to 6, and insert:

For expansion of the Federal Law Enforcement Training Center, for acquisition of necessary additional real property and facilities, and for on-going maintenance, facility improvements and related expenses, $20,783,000, to remain available until expended.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 4 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

For expansion of the Federal Law Enforcement Training Center, for acquisition of necessary additional real property and facilities, and for on-going maintenance, facility improvements and related expenses, $15,000,000, to remain available until expended.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Mr. ROYBAL. Mr. Speaker, I ask unanimous consent that Senate amendments Nos. 10, 21, 35, 51, 53, 55, 60, 68, 73, 77, 86, 93, 95, 97, 98, 100, 108, and 109 be considered en bloc and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The texts of the various Senate amendments referred to in the unanimous-consent request are as follows:

Senate amendment No. 10: Page 6, line 19, strike out "maintain a base level of 3,701" and insert "achieve a minimum level of 3,850".

Senate amendment No. 21: Page 9, line 7, strike out all after "expended" down to and including "program" in line 9 and insert ": Provided, That no aircraft or other related equipment shall be transferred to any Federal agency, Department, or office outside of the Department of the Treasury during fiscal year 1990

Senate amendment No. 35: Page 12, line 22, after "appropriation" insert: upon the advance approval of the House and Senate Committees on Appropriations

Senate amendment No. 51: Page 18, line 9, after "vehicles" insert "and of which not less than $500,000 shall be made available to the White House Conference on Indian Education".

Senate amendment No. 53: Page 19, line 10, after "112-114" insert "and of which $125,000 shall remain available until expended for refurbishment of furniture".

Senate amendment No. 55: Page 20, line 20, after "$225,000" insert ": *Provided*, That a minimum level of 5 permanent full-time equivalent positions shall be hired and maintained by the National Critical Materials Council in fiscal year 1990: *Provided further*, That none of the funds made available to the Council under this Act shall be used to pay other Federal agencies for reimbursable detailees in fiscal year 1990 without the advance approval of the House and Senate Committees on Appropriations".

Senate amendment No. 60: Page 23, line 9, strike out "Policy, $12,000,000" and insert "Policy; for research activities pursuant to title I of Public Law 100-690; not to exceed $7,500 for official reception and representation expenses; for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement; $12,000,000: *Provided*, That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Office".

Senate amendment No. 68: Page 26, after line 25, insert:

Iowa:

Ames, a grant to establish a midwest Supercomputer Access Center at Iowa State University, $5,000,000

Senate amendment No. 73: Page 27, after line 19, insert:

Nebraska:

Lincoln, a grant for expansion of the Eppley Institute for Research in Cancer and Allied Diseases, $5,000,000

Senate amendment No. 77: Page 28, after line 11, insert:

Other selected purchases including options to purchase, $500,000:

Senate amendment No. 86: Page 31, after line 11, insert:

New Mexico:

Santa Fe, Federal Building, Cathedral Place at Palace, $2,130,000

Senate amendment No. 93: Page 32, after line 16, insert "Douglas, New Border Station, $4,000,000".

Senate amendment No. 95: Page 32, after line 23, insert "Otay Mesa, New facility, $2,000,000".

Senate amendment No. 97: Page 33, after line 2, insert:

New Mexico:

Santa Teresa, New Border Station, $6,152,000

Senate amendment No. 98: Page 33, after line 5, insert "Columbia, New Border Station, $4,000,000".

Senate amendment No. 100: Page 33, line 12, after "ed" insert ": *Provided*, That by no later than July 30, 1990, the Administrator of General Services shall assess the level of unobligated balances, if any, in the Federal Buildings Fund and request reprogramming of such balances, not to exceed $10,000,000, to provide additional funding for United States-Mexico Border Facility projects".

Senate amendment No. 108: Page 35, line 15, after "Code" insert ": *Provided further*, That the limitation on purchase price for the Oakland, California building authorized under this heading in Public Law 100-202 may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate for a greater amount".

Senate amendment No. 109: Page 35, line 18, strike out "Courthouse" and insert "Courthouse; Capital Improvements for United States-Mexico Border Facilities; and the Santa Fe, New Mexico, Federal Building".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to Senate amendments Nos. 10, 21, 35, 51, 53, 55, 60, 68, 73, 77, 86, 93, 95, 97, 98, 100, 108, and 109 and concur therein.

The motion was agree to.

□ 1530

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 13: Page 7, line 10, strike out "$1,041,490,000" and insert "$1,059,634,000".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 13 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert the following: "$1,059,634,000, of which up to $7,000,000 shall be available for the Interagency Border Inspection System, and".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 17: Page 8, line 11, strike out "1990" and insert "1990, of which a minimum level of 10,385 full-time equivalent positions shall be allocated to commercial operations activities, and of which a minimum level of 960 full-time equivalent positions shall be allocated to air interdiction activities of the United States Customs Service".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of

the Senate numbered 17 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "1990, of which a minimum level of 10,385 full-time equivalent positions shall be allocated to commercial operations activities, and of which a minimum level of 930 full-time equivalent positions shall be allocated to air interdiction activities of the United States Customs Service."

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 24: Page 9, line 19, after "airports" insert "or other facilities".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "or other facilities when authorized by law and".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 25: Page 9, line 24, after "airports" insert "or other facilities".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 25 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "or other facilities when authorized by law and designated by the Secretary of the Treasury,".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 26: Page 10, line 12, strike out "$219,430,000" and insert "$244,316,000".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 26 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert the following: "$207,906,000".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 27: Page 10, lines 22 and 23, strike out "expended, for research" and insert "expended for research, and of which $128,000 shall remain available until expended only for tax systems modernization initiatives".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 27 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "expended for research, and of which $128,000 shall remain available until expended for tax systems modernization initiatives".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 29: Page 11, lines 7 and 8, strike out "not to exceed $80,000,000" and insert "$156,419,000".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 29 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$156,419,000 shall remain available until expended for tax systems redesign initiatives and of which not to exceed $60,000,000".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 31: Page 11, line 16, strike out "$1,911,301,000" and insert "$1,911,301,000, of which $1,674,000 shall remain available until expended only for tax systems modernization initiatives".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 31 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$1,911,301,000, of which $1,674,000 shall remain available until expended for tax systems modernization initiatives.".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 34: Page 12, line 16, strike out "$1,620,252,000" and insert "$1,612,809,000, of which $1,431,000 shall remain available until expended only for tax systems modernization initiatives".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 34 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$1,620,252,000, of which $1,431,000 shall remain available until expended for tax systems modernization initiatives; and of which an additional $7,400,000 shall be available for criminal investigations activities: *Provided*, That an additional $7,400,000 may be made available within existing funds for criminal investigations".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 38: Page 14, line 8, strike out "Residence" and insert "Residence, and of which not to exceed $160,000 shall be made available for the protection of the permanent residence of the President of the United States under the provisions of section 12 of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note)".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 38 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "Residence, and of which not to exceed $160,000 shall be made available for the protection at the one non-governmental property designated by the President of the United States under provisions of section 12 of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note)".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 40: Page 15, after line 18, insert:

SEC. 104. Notwithstanding any other provision of law, beginning October 1, 1990, and thereafter, the Financial Management Service shall be fully and directly reimbursed from the Social Security Trust Funds for the costs it incurs in processing Social Security Trust Funds benefit payments, including but not limited to, payment preparation, postage, and account reconciliation. Such direct reimbursement shall also be made for all other trust and special funds which are the recipients of services performed by the Financial Management Service and which prior to enactment of this provision reimburse the General Fund of the Treasury for such services.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 40 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 104. Notwithstanding any other provision of law, beginning October 1, 1990, and thereafter, the Financial Management Service shall be fully and directly reimbursed from the Social Security Trust Funds for the costs it incurs in the issuance of Social Security Trust Funds benefit payments, including all physical costs associated with payment preparation and postage costs. Such direct reimbursement shall also be made for all other trust and special funds which are the recipients of services performed by the Financial Management Service and which prior to enactment of this provision reimburse the General Fund of the Treasury for such services.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 42: Page 15, after line 18, insert:

SEC. 106. (a) Not more than $22,640,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory or assistance services by the Department of the Treasury.

(b)(1) Not later than 20 days after the end of each fiscal quarter, the Secretary of the Treasury shall (A) submit to Congress a report on the amounts obligated and expended by the department during that quarter for the procurement of advisory and assistance services, and (B) transmit a copy of such report to the Comptroller General of the United States.

(2) Each report submitted under paragraph (1) shall include a list with the following information:

(A) All contracts awarded for the procurement of advisory and assistance services during the quarter and the amount of each contract.

(B) The purpose of each contract.

(C) The justification of the award of each contract and the reason the work cannot be performed by civil servants.

(c) The Comptroller General of the United States shall review the reports submitted under subsection (b) and transmit to Congress any comments and recommendations the Comptroller General considers appropriate regarding the matter contained in such reports.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 42 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 105. Not more than $22,640,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory or assistance services by the Department of the Treasury.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 65; Page 25, line 22, strike out "$3,000,000" and insert "$17,000,000".

MOTION OFFERED BY MR. ROYBAL

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 65 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert the following: "$25,220,000".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent

that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore (Mr. HAYES of Illinois). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 66: Page 26, line 18, strike out "$3,308,585,000" and insert "$3,156,271,320".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 66 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert the following: "$3,328,345,320".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 67: Page 26, line 18, strike out "$123,253,000" and insert "$41,739,000".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 67 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert the following: "$138,843,000".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 71: Page 27, after line 14, insert:

Woods Hole, a grant for the development of the Marine Biomedical Institute for Advanced Studies, $2,000,000

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 71 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

Woods Hole, a grant for the development of the Marine Biomedical Institute for Advanced Studies, $2,000,000

Northampton, a grant for a science center at Smith College, $1,500,000

Maryland:

Baltimore, a grant for planning and design of the Christopher Columbus Center on Marine Research and Exploration, $1,500,000

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 74: Page 28, strike out lines 1, 2, and 3.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 74 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following:

North Carolina:

Asheville, Federal Building, Site and Design, $4,000,000

Oregon:

Astoria, grant to the City of Astoria for reconstruction (including parking/roadwork) of the first U.S. Custom House west of the Rockies, $90,000

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 78: Page 29, line 1, strike out "$541,505,000" and insert "$478,443,320".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 78 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert the following: "$558,692,320".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 107: Page 34, line 25, after "Code" insert ": *Provided further*, That, notwithstanding any other provision of law, the Administrator of General Services is hereby directed to enter into a lease to ownership agreement, pursuant to a competitive selection process, for the lease purchase of such buildings as required to provide not to exceed 1,400,000 occupiable square feet and necessary parking for the Environmental Protection Agency, on a site in the District of Columbia. The contract shall provide, by lease or installment payment over a period not to exceed thirty years, from funds available in the Federal Buildings Fund for the payment of the purchase price and reasonable interest thereon, and shall provide for title to the building(s) to vest in the United States on or before the expiration of the contract term upon fulfillment of the terms and conditions of the agreement. Obligation of funds for the lease or installment payments shall be limited to the current fiscal year for which payments are due without regard to section 1341(a)(1)(B) of title 31, United States Code".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 107 and concur therein with an amendment, as follows: In lieu of

the matter proposed by said amendment, insert the following ": *Provided further*, That, notwithstanding any other provision of law, the Administrator of the General Services is hereby authorized to enter into a lease to ownership agreement, pursuant to a competitive selection process, for the lease purchase of such buildings as required to provide not to exceed 1,400,000 occupiable square feet and necessary parking for the Environmental Protection Agency, on a site in the District of Columbia. The contract shall provide, by lease or installment payment over a period not to exceed thirty years, from funds available in the Federal Buildings Fund for the payment of the purchase price and reasonable interest thereon, and shall provide for title to the building(s) to vest in the United States on or before the expiration of the contract term upon fulfillment of the terms and conditions of the agreement. Obligation of funds for the lease or installment payments shall be limited to the current fiscal year for which payments are due without regard to section 1341(a)(1)(B) of title 31, United States Code".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 110: Page 36, line 17, strike out "$3,308,585,000" and insert: "$3,156,271,320".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 110 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert the following: "$3,328,345,320".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 117: Page 43, line 25, strike out all after "Office" over to and including "space" in line 3 on page 44.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 117 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following: "and is directed if unable to correct such problems through the lessor within 90 days, to take such actions necessary to accomplish the corrections and withhold such amounts expended on such corrections from rental payments".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 124: Page 46, after line 19, insert:

SEC. 9. The Administrator of General Services after consultation with the Internal Revenue Service, Department of the Treasury and the Department of Defense shall submit a prospectus for the Internal Revenue Service and a prospectus for the Department of the Navy to the House Committee on Public Works, the Senate Committee on Environment and Public Works, and the House and Senate Committees on Appropriations within 90 days of enactment of this Act.

One prospectus shall provide for the consolidation of existing leased space for activities of the National Office of the Internal Revenue Service and additional space which may be required by such activities in the National Capital Region, into one consolidation suburban Maryland location in the National Capital Region.

A second prospectus shall provide for the consolidation of existing leased space in northern Virginia and additional space required by the Department of the Navy in the northern Virginia area into one consolidated location in the northern Virginia area.

The prospectuses shall outline how such space shall operate in a coordinated fashion with existing Government controlled space that will continue to be occupied by such agency or department and shall provide that the Administrator of General Services shall competitively acquire and select quality space representing the best value for the Government at the lowest possible cost within each respective area.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 124 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert the following: "14".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 127: Page 47, after line 9, insert:

SEC. 10. (a) CONVEYANCE.—Subject to subsection (c), notwithstanding any other provision of law, the Administrator of General Services (Administrator) shall convey, subject to existing easements, without consideration, to the State of Hawaii, all right title and interest of the United States in and to approximately 89.274 acres more specifically described in subsection (b), together with any improvements, structures and fixtures located thereon and related personal property in Waianae, Oahu, State of Hawaii at the former U.S. Coast Guard transmitter site.

(b) LEGAL DESCRIPTION.—This land is a portion of Grant 4751 to H.M. Von Holt and a portion of Lot A-4-A of Land Court Application 103 situated about 2,000 feet Northeasterly from Farrington Highway at Lualualei, Waianae, Oahu, State of Hawaii; beginning at the Northwest corner of this piece of land and on the easterly boundary of Grant 7859 to Ralph E. Turner, the true azimuth and distance from Government Survey Triangulation Station "Puu-O-Hulu (Makai)" being 167°33' 5556.27 feet and running by true azimuths measured clockwise from South: (1) 261°44' 1940.00 feet along 50' road easement; (2) 360°00' 2551.34 feet; (3) 89°06' 1413.41 feet; (4) 167°33' 2349.87 feet along Grant 8422 to Lizzie Gilliland and Grant 7859 to Ralph E. Turner to the point of beginning; total acreage 93.575.

Excluding from said 93.575 acre parcel, Parcel A of WAIANAENUI WATERSHED PROJECT, MAILI CHANNEL IMPROVEMENT, LINES M-5 and M-6, Being Lot 202-A, area 1.440 acres, as shown on Map 53, and filed in the Office of the Assistant Registrar of the Land Court of State of Hawaii with Land Court Application No. 130 of Alexander C. Dowsett et als, and being a portion of the land described in Transfer Certificate of Title No. 86,019 issued to said grantor, situated at Lualualei, Waianae, Oahu, Hawaii, and also excluding therefrom, Parcel "B" of WAIANAENUI WATERSHED PROJECT, MAILI CHANNEL IMPROVEMENT, LINES M-5 and M-6: All of that certain parcel of land being a portion of Grant 4751 to H.M. Von Holt (Portion of U.S. Civil No. 868), situated at Lualualei, Waianae, Oahu, Hawaii, approximately 2.861 acres.

(c) CONDITIONS OF CONVEYANCES.—(1) The Administrator shall convey the approxi-

mately 89.274 acres described in subsection (b) to the State of Hawaii on the condition that the State of Hawaii, within 3 years of date of conveyance, exchange such property for one or more of Hawaiian home lands on the islands of Hawaii, Oahu and Molokai—consisting of: (1) approximately 6.00 acres of real property located in Keaukaha (Tract 1), Waiakea, Hilo Hawaii, being the present site of Keaukaha School; (2) approximately 26.207 acres of real property filed in the Office of the Department of Land and Natural Resources in C.S.F. No. 20282 and a separate parcel, being the present site of Molokai High school and Athletic Field; and (3) approximately 13.675 acres, filed in the Office of the Department of Land and Natural Resources in C.S.F. Nos. 12325, 10414, and 6342, being the present site of Nanaikapono Elementary School.

In the event the exchange of the property is not completed within the time period as specified herein, all right, title and interest to such property shall revert to the United States and the United States shall have the immediate right of entry thereon.

(2) Prior to the conveyance by the Administrator of approximately 89.274 acres described in subsection (b), as a condition of the conveyance, the State of Hawaii shall agree that the Hawaiian Home Land properties to be acquired by the State of Hawaii in the exchange described in subsection (c)(1) shall only be used for governmental purposes in perpetuity, and in the event the properties ceased to be so used, all or any portion of such properties, shall, in its existing condition evert to the United States.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 127 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 17. (a) CONVEYANCE.—Subject to subsection (c), notwithstanding any other provision of law, the Administrator of General Services (Administrator) shall convey, subject to existing easements, without consideration, to the State of Hawaii, all right, title and interest of the United States in and to approximately 89.274 acres more specifically described in subsection (b), together with any improvements, structures and fixtures located thereon and related personal property in Waianae, Oahu, State of Hawaii at the former U.S. Coast Guard Transmitter site.

(b) LEGAL DESCRIPTION.—This land is a portion of Grant 4751 to H. M. Von Holt and a portion of Lot A-4-A of Land Court Application 130 situated about 2,000 feet Northeasterly from Farrington Highway at Lualualei, Wainae, Oahu, State of Hawaii; beginning at the Northwest corner of this piece of land and on the easterly boundary of Grant 7859 to Ralph E. Turner, the true azimuth and distance from Government Survey Triangulation Station "Puu-O-Hulu (Makai)" being 167°33' 5556.27 feet and running by true azimuths measured clockwise from South: (1) 261°44' 1940.00 feet along 50' road easement; (2) 360°00' 2551.34 feet; (3) 89°06' 1413.41 feet; (4) 167°33' 2349.87 feet along Grant 8422 to Lizzie Gilliland and Grant 7859 to Ralph E. Turner to the point of beginning; total acreage 93.575.

Excluding from said 93.575 acre parcel, parcel A of WAIANAENUI WATERSHED PROJECT, MAILI CHANNEL IMPROVEMENT, LINES M-5 and M-6, Being Lot 202-A, area 1.440 acres, as shown on Map 53, and filed in the Office of the Assistant Registrar of the Land Court of State of Hawaii with Land Court Application No. 130 of Alexander C. Dowsett et als, and being a portion of the land described in Transfer Certificate of Title No. 86,019 issued to said grantor, situated at Lualualei, Waianae, Oahu, Hawaii, and also excluding therefrom, Parcel "B" of WAIANAENUI WATERSHED PROJECT, MAILI CHANNEL IMPROVEMENT, LINES M-5 and M-6: All of that certain parcel of land being a portion of Grant 4751 to H. M. Von Holt (Portion of U.S. Civil No. 868), situated at Lualualei, Waianae, Oahu, Hawaii, approximately 2.861 acres.

(c) CONDITIONS OF CONVEYANCES.—(1) The Administrator shall convey the approximately 89.274 acres described in subsection (b) to the State of Hawaii on the condition that the State of Hawaii, within 3 years of date of conveyance, exchange such property and other appropriate consideration (if necessary) for an equal total amount of consideration that includes one or more parcels of Hawaiian home lands on the islands of Hawaii, Oahu, and Molokai consisting of: (1) approximately 6.00 acres of real property located in Keaukaha (Tract 1), Waiakea, Hilo, Hawaii, being the present site of Keaukaha School; (2) approximately 26.207 acres of real property filed in the Office of the Department of Land and Natural Resources in C.S.F. No. 20282 and a separate parcel, being the present site of Molokai High School and Athletic Field; and (3) approximately 13.675 acres, filed in the Office of the Department of Land and Natural Resources in C.S.F. Nos. 12325, 10414, and 6342, being the present site of Nanaikapono Elementary School.

In the event the exchange of the property is not completed within the time or period as specified herein, including recording the deed for the conveyance of the property from the State of Hawaii in accordance with all applicable laws, all right, title and interest to such property shall revert to the United States and the United States shall have the immediate right of entry thereon.

(2) Prior to the conveyance by the Administrator of approximately 89.274 acres described in subsection (b), as a condition of the conveyance, the State of Hawaii shall agree that the Hawaiian Home Land properties to be acquired by the State of Hawaii in the exchange described in subsection (c)(1) shall only be used for educational purposes in perpetuity, and in the event the properties cease to be so used, all or any portion of such properties shall, in its existing condition, revert to the United States.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 128: Page 47, after line 9, insert:

SEC. 11. (a) Notwithstanding Sec. 203(k) of the Federal Property and Administrative Services Act of 1949, any implementing regulations, and the conveyance of Deed Without Warranty of June 5, 1968 recorded in Book 250 pages 183 through 196 of the Deed Records of Chaves County, New Mexico, on June 5, 1968, and Correction Deed of January 6, 1969, to the Deed Without Warranty of June 5, 1968, recorded in Book 252 pages 100 through 115 of the Deed Records of Chaves County, New Mexico, from the United States of America to the Board of Regents, Eastern New Mexico University (ENMU), the Secretary of Education shall, as to the property described in subsection (b), grant a release to ENMU from all terms, conditions, reservations, and restrictions required by the Federal Property and Administrative Services Act, implementing regulations or contained in the above mentioned Deeds, to permit at no cost to ENMU, a lease by ENMU for unrestricted use of such property to the City of Roswell, Chaves County, New Mexico upon such terms, conditions and for such periods (not to exceed 99 years) which in the sole discretion of ENMU, may be prescribed. To the extent that the leased property continues to be used for any educational or training purpose (not limited to the purposes in the application) by the city of Roswell or any other party, such use shall be considered as being in compliance with the terms of the deeds for purposes of compliance by ENMU with the 30-year educational use requirement and the earning of the public benefit allowance by ENMU. The Secretary of Education shall issue such modifications to the deeds as may be required.

(b) The property referred to in this section is described as a tract of land lying and being situated in Section 33, Township 11 South, Range 24 East, NMPM, Chaves County, New Mexico and being more particularly described as follows: Beginning at a point on the South boundary of the PECOS VALLEY VILLAGE SUBDIVISION from which the Northwest corner of said Section 33 bears N 6°16'28" W a distance of 2,382.64 feet, said point being the intersection of said South boundary and the centerline of Gail Harris Street; thence S 89°37'30" E along the south boundary of the PECOS VALLEY VILLAGE SUBDIVISION, a distance of 753.38 feet; thence S 0°00'43" E a distance of 2,382.10 feet; thence S 89°58'24"W a distance of 771.18 feet to the centerline of Gail Harris Street; thence N 0°24'51"E along said centerline, a distance of 2,387.43 feet to the point of beginning. Containing 41.7245 acres, more or less.

(c) Notwithstanding the conditions subsequent, or the provisions concerning abrogation contained in the above mentioned deeds, the Secretary of Education shall, if requested by ENMU, consent to a sale, of the property described in subsection (b), to the city of Roswell, if EMNU pays to the United States an amount computed by deducting, from the estimated fair market value of the property described in subsection (b), as of the date of the original conveyance from the United States to EMNU, a credit at the rate of 3⅓ percent of the estimated fair market value for each 12 months during which the property has been utilized for educational or training purposes, in accordance with the purpose specified in the application referred to in the deeds.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 128 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 18. (a) Notwithstanding Sec. 203(k) of the Federal property and Administrative Services Act of 1949, any implementing regulations, and the conveyance of Deed Without Warranty of June 5, 1968 recorded in Book 250 pages 183 through 196 of the Deed Records of Chaves County, New Mexico, on June 5, 1968, and Correction Deed of January 6, 1969, to the Deed Without Warranty of June 5, 1968, recorded in Book 252 pages 100 through 115 of the Deed Records of Chaves County, New Mexico, from the United States of America to the Board of Regents, Eastern New Mexico University (ENMU), the Secretary of Education shall, as to the property described in subseciton (b), grant a release to ENMU from all terms, conditions, reservations, and restrictions required by the Federal property and Administrative Services Act, implementing regulations or contained in the above mentioned Deeds, subject to the United States retaining until June 5, 1998, a reversionary interest, which runs with the land, if any part of the property described in subsection (b) is not used for educational or training purposes.

(b) The property referred to in this section is described as a tract of land lying and being situated in Section 33, Township 11 South, Range 24 East, NMPM, Chaves County, New Mexico and being more particularly described as follows: Beginning at a point on the South boundary of the PECOS VALLEY VILLAGE SUBDIVISION from which the Northwest corner of said Section 33 bears N 6°16'28" W at a distance of 2382.64 feet, said point being the intersection of said South boundary and the centerline of Gail Harris Street; thence S 89°37'30" E along the south boundary of the PECOS VALLEY VILLAGE SUBDIVISION, a distance of 753.38 feet; thence S 0°00'43" E a distance of 2382.10 feet; thence S 89°58'24" W at a distance of 771.18 feet to the centerline of Gail Harris Street; thence N 0°24'51" E along said centerline, a distance of 2387.43 feet to the point of beginning. Containing 41.7245 acres, more or less.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 129: Page 47, after line 9, insert:

SEC. 12. Notwithstanding any other provision of law, the Administrator of General Services—

(a) shall convey, without consideration, jurisdiction (custody, accountability and control) to the Institute of American Indian and Alaska Native Culture and Arts Development (Institute), over approximately 31,006 square feet of real property, together with any improvements, structures, and fixtures located thereon and related personal property, located at Cathedral Place at Palace, in Ward Number 4 of the City of Santa Fe and Precinct Number 18 of the County of Santa Fe, New Mexico, and

(b) shall transfer to the Institute, from revenues and collections in the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 (49 United States Code 490(f)), the sum of $2,130,000 for the purpose of repairs and alterations to the facility transferred by this section.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 129 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 19. Notwithstanding any other provision of law, the Administrator of General Services—

(a) shall convey, without consideration, jurisdiction (custody, accountability and control) to the Institute of American Indian and Alaska Native Culture and Arts Development (Institute), over approximately 31,006 square feet of real property, together with any improvements, structures, and fixtures located thereon and related personal property, located at Cathedral Place at Palace, in Ward Number 4 of the City of Santa Fe and Precinct Number 18 of the County of Santa Fe, New Mexico, and

(b) shall transfer to the Institute, from revenues and collections in the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 United States Code 490(f)), the sum of $2,130,000 for carrying out, in consultation with the Administrator of General Services, repairs and alterations to the facility transferred by this section.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 130: Page 47, after line 9, insert:

SEC. 13. (a) Notwithstanding any other provision of law, the Secretary of Education shall convey, without consideration to the School District of Charleston County, South Carolina, a deed releasing the reversionary interest held by the United States to the property identified in paragraph (b).

(b) All that lot, piece or parcel of land, situate, lying and being on the west side of Chisolm Street, in Ward 2, in the City of Charleston, County of Charleston, and State of South Carolina.

Measuring and containing in front on Chisolm Street 100 feet, and the same on the west or back line, and in depth on the northernmost line from east to west 150 feet and ½ inch, and the same on the southern most line—be all the said dimensions a little more or less.

Butting and bounding to the north on lands now of Anderson Lumber Company, formerly of Mrs. E.C. Rennecker; east on Chisolm Street aforesaid; south on part of the original tract of land owned by the said A.B. Murray and West Point Mills Company, now reserved by the said grantors, and west on another part of the said original tract, formerly belonging to the said A.B. Murray and West Point Mills Company, and conveyed by them to the United States of America.

The said lot of land hereby conveyed being the northern most portion of that portion of the Chisolm's Mills Property, reserved by the A.B. Murray and West Point Mills Company after conveyance of the greater part of the said Chisolm's Mills property to the United States of America, by Deeds which are recorded and may be seen in Book U-24, Page 582 and Page 585 in the R.M.C. Office for Charleston County, and all of which is more fully shown and delineated on a Plat of the said Chisolm's Mills Property, dated April 23, 1914, and made and certified to by H.D. King, Inspector, United States Light House Department, which said Plat is on record in Plat Book C, Page 97, in the R.M.C. Office for Charleston County.

Being the same premises which were conveyed to the United States of America by deed of Andrew B. Murray dated October 23, 1916, and recorded in the Office of the R.M.C. for Charleston County in Book U-24, Page 587, and by deed of West Point Mill Company, dated November 20, 1916, and recorded in said office in Book U-24, Page 589.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 130 and concur therein with a amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 20. (a) Notwithstanding any other provision of law, the Secretary of Education shall convey, without consideration, to the School District of Charleston County, South Carolina, a deed—

(1) releasing the reversionary interest to the property identified in subsection (b), held by the United States on the date of the enactment of this Act; and

(2) which is subject to the condition that—

(A) the property shall be used for educational purposes for a period of 25 years; and

(B) if during that period the property or any portion of the property ceases to be used for educational purposes, all right, title, and interest in and to the property shall revert to the United States.

(b) all that lot, piece or parcel of land, situate, lying and being on the west side of

Chisolm Street, in Ward 2, in the City of Charleston, County of Charleston, and State of South Carolina.

Measuring and containing in front on Chisolm Street 100 feet, and the same on the west or back line, and in depth on the northernmost line from east to west 150 feet and ½ inch, and the same on the southernmost line—be all the said dimensions a little more or less.

Butting and bounding to the north on lands now of Anderson Lumber Company, formerly of Mrs. E.C. Rennecker; each on Chisolm Street aforesaid; south on part of the original tract of land owned by the said A.B. Murray and West Point Mills Company, now reserved by the said grantors, and west on another part of the said original tract, formerly belonging to the said A.B. Murray and West Point Mills Company, and conveyed by them to the United States of America.

The said lot of land hereby conveyed being the northernmost portion of that portion of the Chisolm's Mills Property, reserved by the A.B. Murray and West Point Mills Company after conveyance of the greater part of the said Chisolm's Mills Property to the United States of America, by Deeds which are recorded and may be seen in Book U-24, Page 582 and Page 585 in the R.M.C. Office for Charleston County, and all of which is more fully shown and delineated on a Plat of the said Chisolm's Mills Property, dated April 23, 1914, and made and certified to by H.D. King, Inspector, United States Light House Department, which said Plat is on record in Plat Book C, Page 97, in the R.M.C. Office for Charleston County.

Being the same premises which were conveyed to the United States of America by deed of Andrew B. Murray dated October 23, 1916, and recorded in the Office of the R.M.C for Charleston County in Book U-24, Page 587, and by deed of West Point Mill Company, dated November 20, 1916, and recorded in said office in Book U-24, Page 589.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 131: Page 47, after line 9, insert:

SEC. 14. (a) Notwithstanding any other provision of law, agencies are authorized to make rent payments to the General Services Administration for lease space relating to expansion needs of the agency and General Services Administration is authorized to use such funds, in addition to the amount received as New Obligational Authority in the Rental of Space activity of the Federal Buildings Fund. Such payments are to be at the commercial equivalent rates specified by Section 201(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j)) and are to be deposited into the Fund established pursuant to Section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)).

(b) There are hereby appropriated, out of the Federal Buildings Fund, such sums as may be necessary to carry out the purpose of subsection (a).

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 131 and concur therein with an amendment, as follows: In lieu of the first section number named in said amendment, insert the following: "21".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 132: Page 47, after line 9, insert:

SEC. 15. Notwithstanding any provisions of this Act or any other Act in any fiscal year, obligations of funds for lease, entered into in accordance with section 210(h)(1) of the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 490, shall be limited to the current fiscal year for which payments are due without regard to section 1341(a)(1)(b) of title 31, United States Code.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 132 and concur therein with an amendment, as follows: In lieu of the first section number names in said amendment, insert the following: "22".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the merit offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 133: Page 47, after line 9, insert:

SEC. 16. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Norfolk Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 133 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert the following: "23".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The queston is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 134: Page 47, after line 9, insert:

SEC. 17. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 134 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert the following: "24".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 135: Page 47, after line 9, insert:

SEC. 18. Section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757) establishing the Information Technology Fund is amended by adding a sentence at the end of paragraph (a)(2): These plans fulfill the requirements of 31 U.S.C. 1512 and 1513.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 135 and concur therein with an amendment, as follows: In lieu of the first section number named in said amendment, insert the following: "25".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 138: Page 49, line 1, strike out all after "amended;" down to and including "Code" in line 4.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 138 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following ": *Provided*, That notwithstanding 31 U.S.C. 3302, the Director is hereby authorized to accept gifts for goods and services, which shall be available only for hosting National Civil Service Appreciation Conference, to be held in several locations throughout the United States in 1990. Goods and services provided in connection with the conference may include, but are not limited to, food and refreshments; rental of seminar rooms, banquet rooms, and facilities; and use of communications, printing and other equipment. Awards of minimal intrinsic value will be allowed. Gifts provided by an individual donor shall not exceed 50 percent of the total value of the gifts provided at each location; $112,430,000 of which not less than $250,000 shall be made available to establish a program to facilitate the use of job sharing arrangements in agencies as authorized in section 3402 of title 5, United States Code, and of which not to exceed $1,000,000 shall be made available for establishment of Federal health promotion and disease prevention programs for Federal employees.".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 143: Page 54, strike out lines 3 to 16.

MOTON OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 143 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following:

SEC. 501. Where appropriations in this Act are expendable for travel expenses of employees and no specific limtitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the approrpiations without the advance approval of the House and Senate Committee on Appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROBYAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 148: Page 55, after line 19, insert:

SEC. 505. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6-104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970: *Provided*, That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source and product. This section shall be applicable to all solicitations for bids opened after its enactment.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 148 and concur therein with an amendment, as follows: In lieu of the first section number named in said amendment, insert the following: "505A".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 167: Page 62, strike out lines 22 to 25.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 167 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following:

SEC. 522. The Commissioner of the Internal Revenue Service shall take such action as necessary to maintain the existing staffing level without any downgrading of existing employees at the Detroit Data Center in the course of modifying certain payroll and personnel processing operations in the Office of Fiscal Operations and in the Resources Systems Development Division and modifying the capacities of the Center to achieve backup compatibility with the Internal Revenue Service Martinsburg Computer Center in West Virginia.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 168: page 63, strike out lines 1 to 5.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 168 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment insert the following:

SEC. 523. The Director of National Drug Control Policy, as established by the Anti-Drug Abuse Act of 1988, P.L. No. 100-690, 102 Stat. 4181, (1989), is hereby authorized in cooperation with the Administrator of General Services to select a site not to exceed 30,000 occupiable square feet for housing the Office of National Drug Control Policy suitable to meet the mission and security requirements of such Office, and the Administrator of General Services is hereby authorized to enter into a lease for such site under such terms and conditions as the Administrator finds to be in the best interests of the United States, notwithstanding any other provisions of law.

SEC. 524. Notwithstanding any other provision of law, the United States Customs Service may acquire by purchase land in the Bahamas for the operation of an aerostat site. Appropriations for the Air Program shall be available for the acquisition of such land.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 172: Page 63, after line 17, insert:

SEC. 523. The Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note) is amended by adding at the end thereof:

"SEC. 12. Expenditures by the Secret Service for services to secure the non-governmental property of the permanent residence of the President of the United States are authorized not to exceed an additional amount of $160,000 in each fiscal year to be made available to the local municipality or applicable political subdivision of any State in which such residence is located: *Provided*, That the permanent residence is located in a municipality or political subdivision of any State where the permanent resident population is 7,000 or less and where the absence of such Federal assistance would place an undue economic burden on the municipality or political subdivision.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 172 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 527. The Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note) is amended by adding at the end therof:

"SEC. 12. In carrying out the protection of the President of the United States, pursuant to section 3056(a) of title 18, at the one non-governmental property designated by the President of the United States to be fully secured by the United States Secret Service on a permanent basis, as provided in section 3.(a) of Public Law 94-524, the Secretary of the Treasury may utilize, with their consent, the law enforcement services, personnel, equipment, and facilities of the affected State and local governments. Further, the Secretary of the Treasury is authorized to reimburse such State and local governments for the utilization of such services, personnel, equipment, and facilities. All claims for such reimbursement by the affected governments will be submitted to the Secretary of the Treasury on a quarterly basis. Expenditures for this reimbursement are authorized not to exceed $160,000 in any one fiscal year: *Provided*, That the designated site is located in a municipality or political subdivision of any State where the permanent resident population is 7,000 or less and where the absence of such Federal assistance would place an undue economic burden on the affected State and local governments."

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 175: Page 63 after line 20, insert:

SEC. 525. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6-104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 175 and concur therein with an amendment, as follows: In lieu of the first section number named in said amendment, insert the following: "529".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

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The SPEAKER pro tempore, (Mr. HAYES of Illinois).

The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 177: Page 63, after line 20, insert:

SEC. 527. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated by this Act.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 177 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert the following: "530".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 185: Page 69, after line 3 insert:

SEC. 608. Funds available by this or any other Act to the "Postal Service Fund" (39 U.S.C. 2003) shall be available for employment of guards for all buildings and areas owned or occupied by the Postal Service and under the charge and control of the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of

the Act of June 1, 1948, as amneded (62 Stat. 281; 40 U.S.C. 318), and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318c).

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 185 and concur therein with an amendment, as follows: In lieu of the first section number named in said amendment, insert the following: "609".

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 191: Page 72, strike out all after line 15 over to and including line 2 on page 73.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 191 and concur therein with an amendment, as follows: Resolve the matter stricken by said amendment, to read as follows:

SEC. 614. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to furnish or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing, or redecoration is expressly approved by the Committees on Appropriations of the House and Senate.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 194: Page 74, strike out all after line 20 over to and including line 19 on page 75.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 194 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following:

SEC. 619. Section 622(b) of this Act shall have no force effect.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 201: Page 81, after line 6, insert:

SEC. 620. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 201 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 623(a). No amount of any grant made by a Federal agency shall be used to finance the acquisition of goods or services (including construction services) unless the recipient of the grant agrees, as a condition for the receipt of such grant, to—

(1) announce in any solicitation for offers to procure such goods or services (including construction services) the amount of Federal funds that will be used to finance the acquisition for which such offers are being solicited; and

(2) express the amount announced pursuant to paragraph (1) as a percentage of the total costs of the planned acquisition.

(b) The requirements of subsection (a) shall not apply to a procurement for goods or services (including construction services) that has an aggregate value of less than $500,000.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 202: Page 81, after line 6, insert:

SEC. 621. Notwithstanding section 1346 of title 31, United States Code, or section 608 of Public Law 100-440, funds made available for fiscal year 1990 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order Numbered 12472 (April 3, 1984).

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 202 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert the following: "624."

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 203: Page 81, after line 6, insert:

SEC. 622. (a) Section 3392 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) The Senior Executive Service shall be a service in which rank and rate of pay are based on the performance of an individual and not on the position in which such individual is employed.

"(2) The Office of Personnel Management, or any department or agency may not prescribe or enforce any regulation that—

"(A) sets qualification or classification standards for admission or service in the Senior Executive Service which is not based on the requirement of paragraph (1); or

"(B) violates the requirement of paragraph (1) relating to the status of any career appointee in the Senior Executive Service.".

(b) Section 5383 of title 5, United States Code, is amended by adding at the end thereof the following new subsections:

"(e)(1) If a career appointee in the Senior Executive Service is reassigned or transferred under section 3395, or accepts an assignment under sections 3372 and 3373, such appointee shall retain his rank and rate of pay regardless of the designation of rate of pay and rank of the position to which the appointee is transferred or assigned.

"(2) If any agency coerces or requires a career appointee to accept a position described under paragraph (1) at a lower rate of pay or rank, such employee may file a complaint with the Merit Systems Protection Board, Office of Special Counsel as a prohibited personnel practice.

"(f) The rate of pay of a career appointee in the Senior Executive Service may not be reduced, unless such reduction is based on the poor performance or misconduct of such appointee.".

(c) Section 5384(c) of title 5, United States Code, is amended by adding at the end thereof the following: "In the case of performance awards paid by any agency under this section to career appointees, any such award shall be based on recommendations by a performance review board with a membership that consists of more than one-half career appointees.".

(d)(1) Chapter 57 of title 5, United States Code, is amended by inserting after section 5724c the following new section:

"§ 5724d. Relocation bonuses for career appointees

"Subject to regulation to the Office of Personnel Management, an agency may pay a relocation bonus of an amount no less than 15 percent and no greater than 25 percent of the annual compensation based on the basic rate of pay of a career appointee in the Senior Executive Service to such an appointee, if the agency determines that a bonus is appropriate to attract highly qualified career appointees for a position located in an area which is geographically undesirable because of local cost-of-living factors.".

(2) The table of sections for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5724c the following:

"5742d. Relocation bonuses for career appointees.".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 203 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 625. (a) Section 5384(c) of title 5, United States Code, is amended—

(1) by striking "(c)" and inserting "(c)(1)"; and

(2) by adding at the end thereof the following:

"(2) not less than a majority of the members of any review board referred to in paragraph (1) shall be career appointees whenever making recommendations under such paragraph with respect to a career appointee. The requirement of the preceding sentence shall not apply in any case in which the Office of Personnel Management determines that there exists an insufficient number of career appointees available to comply with the requirement."

(b) Section 5381 of title 5, United States Code, is amended by inserting " 'career appointee'," before "and".

(c) None of the funds in this Act may be used to reduce the rank or rate of pay of a career appointee in the Senior Executive Service upon reassignment or transfer.

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

GENERAL LEAVE

Mr. ROYBAL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

LEVERAGED BUYOUTS DAMAGE ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. INHOFE] is recognized for 5 minutes.

Mr. INHOFE. Mr. Speaker, I appreciate very much your allowing this Member to have a few minutes here on a issue that is extremely important nationwide, not just to my district in Oklahoma, but particularly to my district in Oklahoma.

We have been reading a lot recently about leveraged buyouts, about LBO's, about whether or not they are a useful function in our economy, and about what corporations have been damaged.

I would like to suggest here we have a bill, H.R. 3443, that will allow Members to put some regulation on LBO's, some oversight by the Secretary of Transportation only in those cases that affect the airline industry.

Now, if Members look at yesterday's Washington Post, there is an article in here coming from the meeting that took place in Hot Springs, VA, last weekend. In that meeting, they talked about the various CEO's in the major corporations of America, the hundred largest corporations. Virtually all of them agreed that the plunge in the stock market last Friday was due in large part to the LBO buyouts. As a matter of fact, specifically, the chairman of the board of General Motors, Roger B. Smith, who said, "I think it was a reaction to the LBO's."

The chairman of the board of Rand, chairman of IT&T said:

> The whole thing is crazy, everybody knows it, but nobody stops it. The only one who can stop it is government. They are the only ones legally empowered to do so.

Friday's sellout was largely concentrated in stocks that had been perceived as takeover targets. Virtually every publication we have seen in the last 3 and 4 weeks talked about the damage to our economy that is being sustained by the leveraged buyouts.

I would have to say that I am prejudiced because in my district in Tulsa, OK, I have what I consider to be the best operated and the best-run company of airline companies in America, American Airlines. It has the best qualified, highly technical employees. We have 10,000 employees in Tulsa, OK, and right now we are under attack by Donald Trump, in his effort for a leveraged buyout.

Now, if Members look they will see the very nature of the leveraged buyout is that they generally will use the assets of the company being bought out, to take care of the purchase of control. We have a situation, and I happen to remember this, because I was mayor of Tulsa, and during the years I was mayor, by being mayor, I was also the one who appoints and sits on the airport authority. We worked with our most valued corporate citizen in Tulsa, the American Airlines, and helped them to get themselves in a position of growth. We worked on their long-term growth plans.

Right now there is a terrible shortage of highly trained skilled employees for the airline industry. We are not cranking enough out. In Tulsa, we have the largest school, Spartan School of Aeronautics, and still we cannot produce that many. So American Airlines is putting together their own school, and putting something together, that in my opinion, will provide the skilled workers for the future.

Now, where is the first area that cuts would be made in order to pay the enormous costs of these leveraged buyouts? It is in things that are intangible, future needs, such as planning for future growth. This is my fear, and this is the reason I believe, very strongly, that the Secretary of Transportation should play some part in

looking to see if the public's interest should be served.

I am a conservative. I happen to be a Republican. Generally, I want less intrusion of Government into business. However, in this case, I can see that we are dealing with an industry that is already partly regulated, already has an obligation to safety to the public. This is something that I think Government must become involved in.

I did a little survey in my own company, the American Airlines, the company in my district, and I found of their employees, if we add the total years of experience, they have over 77,000 years of experience. On top of that, it is considered to be one of the best-run airlines anywhere in the world. They have the best employees anywhere in the world, and certainly those in Tulsa, OK, are, and yet we are, right now, on the verge of being taken over by Donald Trump who has a grand total of 90 days in the airlines industry.

Now, I realize he came out yesterday while we were considering a bill, and said that he was going to back off this buyout. I really believe this is because we had a bill being considered.

Therefore, Mr. Speaker, there is not time to go into this, since I have used my 5 minutes already, but tomorrow at 5 o'clock or immediately following the last vote, we have an hour special order in which we will talk about the damages that can be done to industry and business by leveraged buyouts in America today. I encourage all of my colleagues to watch, to come in, to join in, and those in other places to observe, to see that this takeover of our Nation's economy does not continue.

RESPONSE TO THE 68 SENATORS' LETTER REGARDING THE PLO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. CROCKETT] is recognized for 5 minutes.

Mr. CROCKETT. Mr. Speaker, 68 Senators recently wrote to Secretary of State Baker, arguing the PLO Chairman Yasser Arafat should be, once again, denied a visa to come to the United States to address the U.N. General Assembly.

I could not disagree more strongly with the position taken in that letter. What the Senators seem not to recognize is that a second visa denial would create yet another obstacle to this country playing a constructive role in finding a peaceful solution to the Middle East conflict. There can be no Middle East peace without the participation of the Palestinian people. That undeniably means that the PLO can no longer be excluded. It is ample time for the United States to realize that it must open a full dialog with the PLO and encourage the Israeli Government to do the same. But unfortunately, as the Senators' letter reflects, some U.S. policymakers continue to stand alone in opposition to such a process. That does no good either for the United States or for Israel.

In response to the aforementioned letter, the Foundation for Middle East Peace prepared a briefing paper, entitled "Response to the 68 Senators' Letter Regarding the PLO." That paper, based on a study by the Foreign Broadcast and Information Service of the CIA and Israeli sources, refutes each of the charges made by the Senators. I would like to share that paper with my colleagues, and therefore, ask that it be included in today's CONGRESSIONAL RECORD.

RESPONSE TO THE 68 SENATORS' LETTER REGARDING THE PLO

On September 21, 1989, sixty-eight United States senators called upon Secretary of State James Baker to withhold a visa to Yasser Arafat should Arafat seek a visa to speak to the United Nations' General Assembly. The senators state that "the PLO, through its recent statements and actions, is on a collision course with the peace process."

Because the U.S.-PLO dialogue is essential in bringing Israelis and Palestinians together to negotiate a comprehensive settlement, and because we believe that negotiations between the parties are the only practical way to achieve a lasting peace, the Foundation for Middle East Peace offers the following comments to the senators' letter.

Senior veteran correspondent for Israel Television, Ehud Yaari, recently assessed the current state of PLO and Israeli views of the peace process for The Washington Institute for Near East Policy and concluded that:

"Without trying to assess Shamir's or PLO Chairman Yasser Arafat's tactical considerations, and without attempting to judge the sincerity of their public statements, one must conclude that at least at the declarative level there has been significant movement on both sides. Israel—despite its hope that elections will exclude the PLO from the peace process—has recognized the Palestinians as the partner for an immediate agreement, while the PLO has in fact recognized Israel. The PLO is backing away from its goal of eliminating Israel while Israel is reassessing its attempts to ignore Palestinian nationalism. A process of qualified mutual acknowledgement is actually taking place: Israel is limiting its recognition of the Palestinian partner to the residents of the West Bank and Gaza and continues to disqualify the PLO, while the PLO predicates its recognition of Israel on Israeli acceptance of a Palestinian state as the outcome of the peace process."

While progress on the peace process has been slow, nonetheless Yaari's analysis points to important signs of progress which must be encouraged both by Congress and the Administration.

A recent study entitled, "Analysis Report—PLO Statements on Middle East Peace: Speaking With a Forked Tongue?", prepared by Foreign Broadcast Information Service of the Central Intelligence Agency, concluded that: "leadership statements and PLO media commentary have in general been consistent in relaying the main points of the PLO's peace initiative, even when transmitted in Arabic."

While FBIS reports on exceptions to these statements, it notes that these are indeed exceptions to and not a continuum of PLO statements.

The report (FBIS, p. 6) notes that the Voice of the PLO in Baghdad on December 15, 1988 broadcast the text of Arafat's explicit acceptance of Israel's right to exist and renunciation of terrorism at his press conference in Geneva the day before. Also, that on December 26, 1988, in an interview with the German magazine, Der Spiegel (FBIS, p. 16), Arafat stated:

"The recognition of the State of Israel by me is based on U.N. Resolution 181, the partition plan of 1947 * * * This resolution did an injustice to us. But I accept it. A Jewish and a Palestinian state are to be established * * *"

According to the report, the Voice of Palestine in North Yemen, on March 18, 1989 (FBIS, p. 6), reported the text of Arafat's address on March 17 to a meeting of the International Parliamentary Union which convened in Budapest. FBIS (p 6) comments, "While repeating standard PLO attacks on Israeli policy, Arafat also clearly reiterated the main provisions of the PLO initiative, including acceptance of Resolutions 181 and 242, and professed a strong desire for a peaceful, negotiated settlement with Israel."

Arafat, in an interview in the Arabic-language weekly Al-Majallah, on April 5 (FBIS, p. 8), insisted that, "the PLO peace initiative is a far-reaching strategic action—not merely a feeler or tactical move."

In an interview with Mike Wallace for CBS' 60 Minutes on February 19, 1989, Arafat in answering Wallace's question if he would negotiate with Shamir, said, "Why not? With whom am I going to achieve peace? With my friends I do business, but with my enemies I will achieve peace." (Transcript from 60 Minutes, 2/19/89)

TERRORISM

In their letter, the senators charged that Arafat expressed "understanding and sympathy for the terrorist who drove a bus off an Israeli highway in July, killing sixteen people." They failed to note Arafat's comments about this tragic incident to John Wallach of Hearst News Service which appeared in the Washington Post on July 13, 1989 and is noted in the FBIS report. Wallach quotes Arafat as saying, "Both sides of the Arab-Israeli conflict are 'fed up' with violence and should stop this bloodshed. It is painful for me to witness the loss of these civilian lives." Arafat continued that he "would tell the families of the victims that we are fed up, both of us, by the increasing number of massacres and in particular by this tragedy. We have to stop the bloodshed." It is worth noting that this is the first time that a PLO leader has expressed regret at the loss of Israeli life.

COLLABORATORS

The senators allege that "the PLO has encouraged the killings of many Palestinians alleged to be Israeli 'collaborators' . . ." An article (Israelis Training Groups of Arabs to Halt Uprising") by Sabra Chartrand in the New York Times of September 24, 1989 sheds light on the issue. Chartrand reports that groups of Palestinians charge that Palestinian collaborators are armed and trained by the Israeli military and "are regularly assaulting their neighbors . . ." Chartrand quotes an Israeli security official as saying that "the army has armed and trained dozens of Palestinians in the Jenin area and added that these Palestinians helped the military raid villages and make arrests . . . The security official said these people were needed for "intelligence cooperation and the supply of data . . . they are now helping the army find people to arrest."

The Israeli military's arming and empowering Palestinian collaborators is, unfortunately, part of the cycle of violence which has claimed both Israeli and Palestinian lives. It is to be expected that Palestinian residents of these villages will defend themselves when physically harassed by collaborators.

Palestinians are not the first people to abhor collaborators. During the American war for independence, George Washington assailed all those, including his own nephew, who collaborated with the British.[1]

ELECTIONS

The senators claim that the PLO is trying to undermine elections by calling for an end to meetings between West Bank and Gaza Palestinians and Israeli officials. Yet Egyptian President Hosni Mubarak recently stated that Arafat supports the Egyptian initiated to make elections possible.

In an interview in the Jerusalem Post (September 27, 1989), PLO Executive Committee member Mohammed Milhem praised Israeli Vice-Premier Shimon Peres for his expressed willingness to accept expelled residents of the territories as members of a Palestinian delegation to negotiate with Israel. In the interview, Milhem said that Peres "hit upon the formula that could break the deadlock between the Israeli Government's position that it will only talk to Palestinians from inside the territories, and the PLO position that "diaspora Palestinians must be involved in any talks with Israel." Milhem said that Mubarak's proposals "constituted an effort just to move the process to the stage of elections, and to clarify the conditions for the election of the peace process. No one of us is against this." These sentiments hardly constitute an attempt by the leaders of the PLO to thwart U.S. support for West Bank/Gaza elections.

FATAH RESOLUTIONS

The senators charge that recent resolutions of Fatah contradict Arafat's December commitments. The communique from the Fatah Congress indeed contained many points which reasonable people can conclude complicate the peace process. While Fatah is a major group within the PLO, its resolutions do not govern PLO policy. Only decisions taken by the Palestine National Council and Executive Committee of the PLO govern PLO policy. Arafat's and other PLO Executive Committee members' positive interaction with Egyptian President Mubarak's ten-point peace plan for making elections possible is a concrete indication that Mr. Arafat's diplomatic initiatives have continued since his December commitments and since the Fatah Congress.

Indeed there is much more that the PLO can and should do to reassure Israelis that the fundamental issue of security can be achieved in any peace plan. Nevertheless, the evidence presented in the FBIS Report and by other PLO public statements contradict the conclusion reached by the senators that the PLO is "on a collision course with the peace process."

In only one respect do we agree with the senators: "the dialogue between the United States and PLO should not be an end in itself; it must be a catalyst for, not an impediment to, a dialogue between Israel, her Arab neighbors and the Palestinians."

Last year, Mr. Arafat used the United Nations forum to advance moderate attitudes on behalf of the Palestinians. At that time, he met the three conditions set by the U.S. Government as conditions for U.S.-PLO talks. In December 1988, at the United Nations, he recognized Israel's right to exist, accepted U.N. Resolution 242 and renounced terrorism. Withholding a visa could well pre-empt an important opportunity to further the peace process and impede the fragile progress already made.

The FBIS report (p. 13) concludes:

"At the same time, barring a collapse of current diplomatic efforts, the mainstream [of the PLO] will probably be able to maintain its overall consistency on the substance of the PLO political proposals that have been adopted thus far, as well as on any further political concessions * * * that might be adopted in the future."

The distinguished former Israeli Foreign Minister Abba Eban has identified four points on the value of the U.S./PLO dialogue:

"The opening of the American-Palestinian dialogue at the end of 1988 has already had salutary results. *It has given the U.S. an appropriately dominant role in the Israeli-Palestinian dialogue. It has stimulated a sharply positive change in the rhetoric and ideology of the Palestinian movement. It has made Palestinian nationalism sharply sensitive to American reactions. It has correspondingly weakened the Soviet monopoly of an important sector of Arab nationalist thinking . . .*" (Italic added) Jerusalem Post (July 22, 1989)

The U.S. Government should take every opportunity to further the peace process and support the Mubarak initiative as it attempts to create a dialogue between Israelis and Palestinians and set the stage for elections. The U.S./PLO dialogue and the decision to grant Mr. Arafat a visa to address the General Assembly should be seen as an opportunity for Palestinian diplomacy to play its role in reassuring the Israelis and furthering the peace process. The alternative will only condemn present and future generations of Israelis and Palestinians to further violence.

[1] While Washington commanded the American revolutionary forces, his nephew, Lund Washington, was left in charge of Mount Vernon. Washington took Lund to task for entertaining the British: "* * * that which gives me most concern, is, that you should go on board the enemys Vessels, and furnish them with refreshments. It would have been a less painful circumstance to me, to have heard, that in consequences of your non-compliance with their request, they had burnt my House, and laid the Plantation in ruins. You ought to have considered yourself as my representative, and should have reflected on the bad example of communicating with the enemy, and making a voluntary offer of refreshments to them with a view to prevent a conflagration."

□ 1600

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LEHMAN of Florida (at the request of Mr. GEPHARDT) for today and the balance of the week on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. INHOFE) to revise and extend their remarks and include extraneous material:)

Mr. INHOFE, for 5 minutes, today.

Mr. INHOFE, for 60 minutes, on October 18.

(The following Members (at the request of Mrs. UNSOELD) to revise and extend their remarks and include extraneous material:)

Mr. CROCKETT, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission, to revise and extend remarks was granted to:

(The following Members (at the request of Mr. INHOFE) and include extraneous material:)

Mr. PORTER.

Mrs. ROS-LEHTINEN.

Mr. CHANDLER.

Mrs. BENTLEY.

Mr. BROOMFIELD.

Mr. CONTE.

ADJOURNMENT

Mr. INHOFE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 2 minutes p.m.), the House adjourned until tomorrow, Wednesday, October 18, 1989, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1844. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of October 2, 1989, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 101-98); to the Committee on Appropriations and ordered to be printed.

1845. A letter from the Chairman, National Credit Union Administration, transmitting a report on discriminatory lending practices by mortgage lenders, pursuant to Public Law 101-73, section 1220(a) (103 Stat. 547); to the Committee on Banking, Finance and Urban Affairs.

1846. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1847. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1848. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess

royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1849. A letter from the Administrator, Environmental Protection Agency, transmitting a report on the water quality of the Nation's lakes, pursuant to 33 U.S.C. 1315; to the Committee on Public Works and Transportation.

1850. A letter from the Acting Administrator, General Services Administration, transmitting a building project survey report for Omaha, NE/Council Bluffs, IA, pursuant to 40 U.S.C. 610(b); to the Committee on Public Works and Transportation.

1851. A letter from the Acting Administrator, General Services Administration, transmitting informational copies of lease prospectuses for the Bureau of Mines and the National Labor Relations Board in Washington, DC, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

1852. A letter from the Director, the Office of Management and Budget, transmitting the final OMB sequester report to the President and Congress for fiscal year 1990, pursuant to 2 U.S.C. 901 (H. Doc. No. 101-99); to the Committee on the State of the Union of the Whole House and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MONTGOMERY: Committee on Veterans' Affairs. Report of the Committee on Veterans' Affairs pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. 101-289). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. House Resolution 257. Resolution denouncing the adoption by the European Community of a restrictive broadcasting directive; with amendments (Rept. 101-290). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CHANDLER (for himself and Mr. ANDREWS):

H.R. 3478. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of individual retirement accounts when the balance in such an account is taken into account for purposes of determining eligibility for reduced cost or no cost services; to the Committee on Ways and Means.

By Mr. DONNELLY:

H.R. 3479. A bill to require the Attorney General to defer deportation of aliens alleged to have committed an aggravated felony until completion of judicial proceedings and any term of imprisonment; to the Committee on the Judiciary.

By Mr. JONES of Georgia (for himself, Mr. BARNARD, Mr. DARDEN, Mr. GINGRICH, Mr. HATCHER, Mr. JENKINS, Mr. LEWIS of Georgia, Mr. RAY, Mr. ROWLAND of Georgia, and Mr. THOMAS of Georgia):

H.R. 3480. A bill to recognize the organization known as the National Association of Women Veterans, Inc.; to the Committee on the Judiciary.

By Mr. GLICKMAN (for himself, Mr. BROWN of California, and Mr. JONTZ):

H.R. 3481. A bill to develop a comprehensive safety program in order to protect public health and to ensure the wholesomeness of all fish products intended for human consumption in the United States; jointly, to the Committees on Agriculture, Energy and Commerce, and Merchant Marine and Fisheries.

By Mr. TALLON (for himself, Mr. SPRATT, Mr. RAVENEL, Mr. DERRICK, Mr. SPENCE, Mrs. PATTERSON, and Mr. MCMILLAN of North Carolina):

H.R. 3482. A bill to provide disaster assistance to private timber producers for the reestablishment of timber stands necessitated by Hurricane Hugo; to the Committee on Agriculture.

By Mr. TORRES (for himself, Ms. SCHNEIDER, Mr. BATES, Mr. BEILENSON, Mr. DE LA GARZA, Mr. DURBIN, Mr. FUSTER, Mr. FAZIO, Mr. GEJDENSON, Mr. MILLER of California, Mr. ORTIZ, Mrs. ROS-LEHTINEN, and Mr. WOLPE):

H.R. 3483. A bill to amend the Solid Waste Disposal Act to require producers and importers of newsprint to recycle a certain percentage of newsprint each year, to require the Administrator of the Environmental Protection Agency to establish a recycling credit system for carrying out such recycling requirement, to establish a management and tracking system for such newsprint, and for other purposes; to the Committee on Energy and Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

294. By the SPEAKER: Memorial of the House of Representatives of Pennsylvania, relative to declaring its support for the goals of the October 7, 1989, "Housing Now" march; to the Committee on Banking, Finance and Urban Affairs.

295. Also, memorial of the House of Representatives of Pennsylvania, relative to requesting the Congress to take action on the issue of child care in the United States; to the Committee on Education and Labor.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 45: Mr. COUGHLIN.

H.R. 394: Mr. BILIRAKIS.

H.R. 458: Mr. HUTTO.

H.R. 913: Mr. RAHALL.

H.R. 1110: Mr. BEVILL, Mr. CAMPBELL of Colorado, and Mr. ROGERS.

H.R. 1457: Mr. DREIER of California, Mr. KASTENMEIER, Mr. MATSUI, and Mr. SWIFT.

H.R. 1461: Mr. PAYNE of Virginia, Mr. TOWNS, and Mr. HANCOCK.

H.R. 1574: Mr. DWYER of New Jersey.

H.R. 1691: Mr. BROWN of California, Mrs. BOXER, Mr. SOLARZ, Mr. WOLPE, Mr. TOWNS, Mr. MRAZEK, Mr. HERTEL, Mr. BRYANT, Mr. BOEHLERT, Mr. BRUCE, and Mr. TORRES.

H.R. 1713: Mr. KOLTER.

H.R. 2186: Mr. SCHUETTE and Mr. STEARNS.

H.R. 2258: Mr. WATKINS.

H.R. 2269: Mr. EDWARDS of Oklahoma.

H.R. 2407: Mr. HUNTER.

H.R. 2529: Mr. UPTON, Mr. SCHAEFER, Mr. ATKINS, and Mr. JOHNSTON of Florida.

H.R. 2617: Mr. BERMAN and Mr. LIPINSKI.

H.R. 2618: Mr. BERMAN and Mr. LIPINSKI.

H.R. 2700: Mr. LAGOMARSINO and Mr. HANCOCK.

H.R. 2813: Mr. PAXON and Mr. SOLOMON.

H.R. 2836: Mr. JACOBS, Mr. JONTZ, Mr. WHITTEN, Mr. UPTON, Mr. DOWNEY, Mr. BRUCE, Mr. ATKINS, and Mr. FUSTER.

H.R. 2852: Mrs. KENNELLY.

H.R. 3243: Mr. HANCOCK.

H.R. 3256: Mr. LAGOMARSINO, Mrs. SAIKI, Mrs. COLLINS, Mr. HORTON, Mrs. JOHNSON of Connecticut, Mr. DYMALLY, Mr. WALSH, Mr. MRAZEK, and Mr. CONDIT.

H.R. 3272: Mrs. ROUKEMA, Mr. MONTGOMERY, Mr. HOPKINS, Mr. WILSON, Mrs. MORELLA, Mr. MARTIN of New York, Mrs. LOWEY of New York, Mr. SMITH of New Hampshire, Mr. MCNULTY, Mr. HARRIS, Mr. COURTER, Mr. RANGEL, Mr. ROE, Mrs. JOHNSON of Connecticut, Mr. ACKERMAN, Mr. PENNY, Mr. NELSON of Florida, Mr. RAY, Mr. CHAPMAN, Mr. PALLONE, Ms. PELOSI, Mr. ROBERT F. SMITH, Mr. OWENS of New York, Mr. HUGHES, Mr. RHODES, Mr. DWYER of New Jersey, and Mr. RAHALL.

H.R. 3278: Mr. ACKERMAN, Mr. TOWNS, Mr. BATES, Mr. FUSTER, Mr. PALLONE, Mr. MILLER of California, Mr. GEJDENSON, and Mr. DWYER of New Jersey.

H.R. 3386: Mrs. BENTLEY, Mr. TOWNS, Mr. MCDADE, Mr. MURPHY, Mr. WEISS, Mr. PEASE, and Mr. GAYDOS.

H.R. 3391: Mr. ACKERMAN, Mr. BRUCE, Mr. SABO, Mr. DWYER of New Jersey, Mr. MORRISON of Connecticut, and Mr. FOGLIETTA.

H.R. 3402: Mr. BORSKI, Mr. ROSE, Mr. LEVIN of Michigan, Mr. BRYANT, Mrs. KENNELLY, Mr. AUCOIN, Mr. LAGOMARSINO, Mr. BEREUTER, Mr. DEWINE, Mr. MILLER of Washington, Mr. GALLEGLY, and Mrs. ROS-LEHTINEN.

H.R. 3430: Mr. NEAL of North Carolina and Mr. CROCKETT.

H.R. 3443: Mr. JONES of Georgia, Mr. PALLONE, Mr. BOEHLERT, Mr. HAYES of Illinois, Mr. PAYNE of Virginia, Mr. INHOFE, Mr. LAUGHLIN, and Mr. ROE.

H.J. Res. 35: Mr. AKAKA, Mr. IRELAND, Mr. BOUCHER, Mr. COLEMAN of Texas, Mrs. VUCANOVICH, Mr. DINGELL, Mr. SPRATT, Mr. COURTER, Mr. BOEHLERT, Mr. JOHNSON of South Dakota, Mr. DYSON, Mr. FEIGHAN, Mr. BOSCO, Mr. ROYBAL, Mr. VALENTINE, Mr. WYLIE, Mr. TAUKE, Mr. CONYERS, Mr. MOLINARI, Mr. SAWYER, and Mrs. JOHNSON of Connecticut.

H.J. Res. 171: Mr. ESPY, Mr. GINGRICH, Mr. HOCHBRUECKNER, Mr. JONES of North Carolina, Mr. THOMAS A. LUKEN, Mr. MAZZOLI, and Mr. MILLER of California.

H.J. Res. 230: Mr. GARCIA, Mr. YOUNG of Alaska, Mr. GINGRICH, Mr. RIDGE, Mr. IRELAND, Mr. LIPINSKI, Mr. TRAFICANT, Mr. BROWDER, Mr. MCNULTY, Mr. LEWIS of Florida, Mr. MAVROULES, Ms. SLAUGHER of New York, and Mr. RITTER.

H.J. Res. 248: Mr. CLEMENT, Mr. COUGHLIN, Mr. DINGELL, Mr. HUCKABY, Mrs. MARTIN of Illinois, Mr. MORRISON of Washington, Mr. JOHNSON of South Dakota, Mr. TRAFICANT, and Mr. YATRON.

H.J. Res. 278: Mr. AUCOIN, Mr. BROWN of Colorado, and Mr. BROOKS.

H.J. Res. 341: Ms. PELOSI, Mr. MOORHEAD, Mr. JOHNSTON of Florida, Mr. DORNAN of California, Mr. LEWIS of Georgia, Mr. BOSCO, Mr. ANNUNZIO, Mr. MILLER of Cali-

fornia, Mr. WOLF, Mrs. SAIKI, Mr. LEWIS of Florida, Mr. SPENCE, Mr. YATRON, Mr. LOWERY of California, Mr. TRAXLER, Mr. LEHMAN of Florida, Mr. PANETTA, Mr. ESPY, Mr. MARTIN of New York, Mr. TOWNS, Mr. JONTZ, Mr. HORTON, Mr. FAUNTROY, Mr. FAZIO, Mrs. PATTERSON, Mr. SCHAEFER, Mr. APPLEGATE, Mr. FASCELL, Mr. MRAZEK, Mr. MANTON, Mr. EMERSON, Mrs. BOXER, Mr. BUECHNER, Mr. FOGLIETTA, Mr. PAXON, Mr. SKAGGS, Mr. CARR, Mr. FRANK, Mr. JENKINS, Mr. DYMALLY, Mr. JONES of Georgia, Mr. DELLUMS, Mr. HAWKINS, Mr. HOCHBRUECKNER, Mr. SABO, Mr. LAGOMARSINO, Mr. TRAFICANT, Mrs. COLLINS, Mr. LEVIN of Michigan, Mr. HALL of Ohio, Mr. YOUNG of Alaska, Mr. DARDEN, Mr. GINGRICH, Ms. SNOWE, Mr. BARNARD, Mr. WOLPE, Mr. SLATTERY, Ms. OAKAR, Mr. THOMAS A. LUKEN, Mr. WALGREN, Mr. ACKERMAN, Mr. SHAW, Mr. ENGEL, Mr. FALEOMAVAEGA, Mr. HATCHER, Mr. ATKINS, Mr. EVANS, Mr. MCDADE, Mr. SPRATT, Mr. STOKES, Mr. OBERSTAR, Mr. DWYER of New Jersey, Mr. HOYER, Mr. MARKEY, Ms. LONG, Mr. ROWLAND of Georgia, Mr. SOLARZ, Mr. SYNAR, Mr. FROST, Mr. ROYBAL, Ms. KAPTUR, Mr. KLECZKA, Mr. RICHARDSON, Mr. GEJDENSON, Mr. TORRICELLI, Mr. KOSTMAYER, Mr. COLEMAN of Texas, Mr. LEHMAN of California, Mr. MOLINARI, Mr. VISCLOSKY, Mr. ECKART, Mr. GIBBONS, Mr. SWIFT, Mr. NAGLE, Mr. GUARINI, Mr. PETRI, Mr. DONALD E. LUKENS, Mr. DOWNEY, Mr. MCNULTY, Mr. DORGAN of North Dakota, Mr. WEISS, Mr. BATES, Mr. EDWARDS of California, Mr. KILDEE, Mr. DURBIN, Mr. MCCLOSKEY, Mr. LANCASTER, Mr. KASICH, Mr. HARRIS, Mr. CARDIN, Mr. MOAKLEY, Mr. NIELSON of Utah, Mr. DEFAZIO, Mr. RUSSO, Mr. BROOMFIELD, Mr. SISISKY, Mr. TALLON, Mr. HAMILTON, Mr. ROBERTS, Mr. PACKARD, Mr. BOEHLERT, Mr. BILBRAY, Mr. SIKORSKI, Mr. WAXMAN, Mr. LAFALCE, Mr. MCGRATH, Mr. GLICKMAN, Mr. MOODY, Mr. BRUCE, Ms. SLAUGHTER of New York, Mrs. LOWERY of New York, Mr. MCMILLEN of Maryland, Mr. GOSS, Mr. DREIER of California, Mr. NOWAK, Mr. AKAKA, Mr. MFUME, and Mr. FRENZEL.

H.J. Res. 346: Mr. SPENCE, Mr. MORRISON of Connecticut, Mr. ROWLAND of Georgia, Mr. ROBINSON, Mr. HILER, Mr. ROYBAL, Mr. ROBERTS, Mr. DICKS, Mr. GARCIA, Mr. GILLMOR, Mr. PARRIS, Mr. DELLUMS, Mr. CHAPMAN, Mr. RUSSO, Mr. AKAKA, Mr. DEFAZIO, Mr. DONNELLY, Mr. KOLTER, Mrs. PATTERSON, Mr. STOKES, Mr. STANGELAND, Mr. ROBERT F. SMITH, Mr. DENNY SMITH, Mr. RAVENEL, Mr. PASHAYAN, Mrs. MARTIN of Illinois, Mrs. KENNELLY, Mr. SHARP, Mr. BOUCHER, and Mr. BROWN of Colorado.

H.J. Res. 354: Mr. HUGHES.

H. Con. Res. 149: Mr. PAYNE of Virginia, Mr. ASPIN, and Mr. OBERSTAR.

H. Res. 257: Mr. STARK, Mr. CLINGER, Mr. OWENS of Utah, Mrs. JOHNSON of Connecticut, Mr. DANNEMEYER, and Mr. LEVINE of California.

PETITIONS, ETC.

Under clause 1 of rule XXII,

102. The SPEAKER presented a petition of the Council of the City of New York, NY, relative to honoring the memory of George Thomas "Mickey" Leland, Congressman from Texas; which was referred to the Committee on Post Office and Civil Service.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2494

By Mr. GUARINI:

—Page 26, after line 17, add the following:

SEC. 408. LINKAGE OF DEBT REDUCTION LOANS TO REDUCTION IN DRUG TRAFFICKING.

(a) FINDINGS.—The Congress finds that—

(1) the Brady Initiative is a positive step, recognizing as it does the need for reducing the debt and debt service burdens of the indebted developing countries;

(2) the multilateral development banks should, as part of this debt reduction process, encourage such countries to further reform their economies by reducing their dependence on production and trafficking on illicit narcotics; and

(3) reduction of debt should relieve some of the financial burden on these countries, and thereby enable them to rely on legal income-generating activities.

(b) INSTRUCTION OF UNITED STATES EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank that, in voting with respect to loans from the multilateral development bank to reduce the debt and debt burden of borrowing countries, the Executive Director shall give preference to those countries which show marked improvement in reducing the volume of cultivation, processing, trafficking, and export to the United States of illegal drugs. In making a determination under the preceding sentence with respect to a country's improvement, the Secretary of the Treasury shall consult with the heads of the relevant agencies.

(c) REPORT TO CONGRESS.—The Secretary of the Treasury shall include, in the detailed accounting required by section 2018(c) of the International Narcotics Control Act of 1986 (22 U.S.C. 2191 note), relating to multilateral development bank assistance for drug eradication and crop substitution programs, an additional discussion of the steps taken and the progress made in implementing the goals set forth in subsection (b) of this section, and further steps needed to secure the achievement of these goals.

(d) DEFINITIONS.—As used in this section—

(1) the term "multilateral development bank" includes the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Inter-American Investment Corporation, the Asian Development Bank, the African Development Bank, and the African Development Fund; and

(2) the term "illegal drugs" means "narcotic and psychotropic drugs and other controlled substances", as defined in section 481(i)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(i)(3)).

By Mr. McCOLLUM:

—Page 7, after line 7, insert the following:

SEC. 102. EXTENSION OF CREDIT BY EXPORT-IMPORT BANK WITH RESPECT TO ANGOLA PROHIBITED UNLESS CERTAIN CONDITIONS ARE MET.

Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended by adding at the end the following:

"(12) PROHIBITION RELATING TO ANGOLA.—Notwithstanding any determination by the President under paragraph (2) or (11), the Bank may not guarantee, insure, or extend (or participate in the extension of) credit in connection with any export of any good (other than food or an agricultural commodity) or service to the People's Republic of Angola until the President certifies to the Congress that free and fair elections have been held in Angola in which all participants were afforded free and fair access, and that the government of Angola—

"(A) is willing, and is actively seeking, to achieve an equitable political settlement of the conflict in Angola, including free and fair elections, through a mutual cease fire and a dialogue with the opposition armed forces;

"(B) has demonstrated progress in protecting internationally recognized human rights, and particularly in—

"(i) ending, through prosecution or other means, involvement of members of the military and security forces in political violence and abuses of internationally recognized human rights;

"(ii) vigorously prosecuting persons engaged in political violence who are connected with the government; and

"(iii) bringing to justice those responsible for the abduction, torture, and murder of citizens of Angola and citizens of the United States; and

"(C) has demonstrated progress in its respect for, and protection of—

"(i) the freedom of the press;

"(ii) the freedom of speech;

"(iii) the freedom of assembly;

"(iv) the freedom of association (including the right to organize for political purposes);

"(v) internationally recognized worker rights; and

"(vi) other attributes of political pluralism and democracy.

The President shall include in each report made pursuant to this paragraph a detailed statement with respect to each of the conditions set forth in this paragraph.".

Page 2, after the item relating to section 101 in the table of contents, insert the following:

Sec. 102. Extension of credit by Export-Import Bank with respect to Angola prohibited unless certain conditions are met.

SENATE—*Tuesday, October 17, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

The Lord is my shepherd; I shall not want. He maketh me to lie down in green pastures: he leadeth me beside the still waters. He restoreth my soul: he leadeth me in the paths of righteousness for his name's sake. Yea, though I walk through the valley of the shadow of death, I will fear no evil: for thou art with me; thy rod and thy staff they comfort me. Thou preparest a table before me in the presence of mine enemies: thou anointest my head with oil; my cup runneth over. Surely goodness and mercy shall follow me all the days of my life: and I will dwell in the house of the Lord for ever.—Psalm 23.

Gracious Lord God, may every person who is part of our large Senate family feel the touch of the gentle Shepherd today. Let Thy peace reign in every heart and home and Thy grace touch every need with healing and hope. Thank Thee, kind Father in Heaven. In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, following the time for the two leaders, there will be a period for morning business, with Senators permitted to speak therein for up to 5 minutes each. That period for morning business will continue until 10 o'clock this morning when the Senate will resume consideration of constitutional amendment relating to flag desecration. That debate will continue until 12:30, when the Senate will go into recess to accommodate the party conferences until 2:15.

At 2:15, there will be a vote on the motion to invoke cloture on the Nicaraguan assistance bill. If cloture is not invoked, that matter will be withdrawn. If cloture is invoked, the Senate will remain on that bill throughout the day and into this evening until the bill is completely disposed of. Since there are several amendments pending, there is a likelihood of rollcall votes throughout the day and into the evening.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and I reserve the time of the distinguished Republican leader.

The PRESIDENT pro tempore. Without objection, the time of each of the two leaders is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business with Senators permitted to speak therein for not to exceed 5 minutes each.

RHETORIC VERSUS REALITY: THE BUSH ADMINISTRATION AND CHEMICAL WEAPONS ARMS CONTROL

Mr. MITCHELL. Mr. President, in his speech at the United Nations on September 25, President Bush assessed the threat of chemical weapons proliferation as follows:

> The threat is growing. More than 20 nations now possess chemical weapons or the capability to produce them. And these horrible weapons are now finding their way into regional conflicts. This is simply unacceptable. For the sake of mankind, we must halt and reverse this threat.

The President went on in his address to the General Assembly to outline three steps necessary to attain the stated goal of the United States, a total, worldwide ban on chemical weapons. These steps were described as: First, elimination of 98 percent of United States chemical weapons in the first 8 years of the treaty; second, destruction of all United States chemical weapons within 10 years, provided that every nation capable of manufacturing chemical weapons has signed the multilateral ban; third, destruction of 80 percent of the existing United States stockpile if the Soviet Union agrees to cut to an equal level, even in the absence of a multilateral ban.

This is promising rhetoric. The sentiments are noble. But according to recent press accounts, the President has recently signed a secret directive which contains several escape clauses permitting continued production of chemical weapons by the United States for up to 8 years after a treaty banning production and storage has been signed.

Yesterday on the Senate floor I called on the President to clarify his position on this matter. If he has in fact decided that the United States will continue to produce chemical weapons even after a multilateral ban is negotiated, he should explain how this decision can contribute to the overall goal of eliminating these weapons completely. If he has in fact made such a decision, then it would seem that the reality of administration policy is in serious conflict with the rhetoric that has been used by the administration to describe its policy.

This gap between the administration's public statements and its real policies is part of a disturbing pattern in which promises are substituted for performance. The administration has promised far more than it has delivered in response to the historic change underway in Eastern Europe. It has shown itself unprepared and unwilling to act with respect to General Noriega in Panama, despite months of public posturing to the contrary.

Now it may be continuing to speak out against chemical weapons proliferation while, at the same time, pursuing policies that would legitimize the possession of chemical weapons. After all, if the United States demands the right to possess and manufacture chemical weapons even after signing a treaty banning them, surely other countries will demand the same rights. The effort to control and constrain the development of chemical weapons will have suffered a tremendous setback.

I am also disturbed by the manner in which this decision has apparently been made. Despite the implications for our negotiating posture in the Geneva talks, no consultations with our allies appear to have been undertaken. Despite the fact that the Congress must provide the funding for chemical munitions—funding which has been highly controversial in the past, in the absence of a treaty ban-

ning production—the Congress has not been consulted on this strategy.

It seems that the administration intends to permit highsounding words to disguise the reality of policy and to continue on this contradictory path without regard to the long-term consequences. Those who truly care about the threat of chemical weapons proliferation cannot stand idly by while such mistakes are made. I again call upon the President to clarify his policies and his decisions in this matter and to permit the American people to assess whether the administration's policy on chemical weapons arms controls lives up to its rhetoric.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, am I correct we are in morning business?

The PRESIDENT pro tempore. The Senator is correct.

Mr. HEINZ. Mr. President, I ask unanimous consent that I may proceed for not to exceed 8 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator is recognized for 8 minutes.

THE STOCK MARKET

Mr. HEINZ. Mr. President, on Friday, the 13th of October, the stock market plunged 190 points and we all had that sense of "deja vu all over again." Yesterday the stock market leaped up 88 points. If nothing else, the events of the last 2 days have shown us that the stock market crash 2 years ago was not an aberration. I take the floor this morning very briefly in my capacity as ranking member on the Securities Subcommittee to share with my colleagues my observations on what we have experienced and what we might learn from that.

Mr. President, what we now know is that the black Monday of 1987 can reappear on any day of the week. The stock market, as we all know, has gone through periods of bust and boom over the years, but a boom and bust period that took, historically, months and years, in today's markets can occur in just a matter of minutes or hours. If someone mistook the stock market chart for a person's electrocardiogram, what we would do is call an ambulance and rush that individual to the hospital and into intensive care.

But the stock market charts we have been looking at lately do not reflect the actions of one person. Indeed, these days the market has relatively few individual investors, who used to predominate. Instead, today's markets are dominated by institutional traders—that is the pension funds, the insurance companies, the mutual funds, the banks. They hold $5 trillion in assets. They own over half of all the equity of the stocks of our largest corporations. They account for as much as 70 percent of all the trading volume in our stock markets. Therefore, Mr. President, what we are seeing is a stock market that is purely and simply a reflection of the people who are playing it: the institutional investors.

The volatility of our stock markets reflects these institutional traders who trade stock indexes, because it is not worth their time to investigate the value of individual stocks, these institutions manage huge portfolios—1,200 stocks in a single portfolio is not unusual. The result is that when they trade, they stampede the market with orders to trade entire portfolios or indexes of stocks.

Program trading has created a computerized herding instinct. But instead of a bull market, the stock market looks more like a bucking bronco. Investors can ride high for a few moments and then suddenly be thrown to the ground.

Our stock markets are volatile because institutional investors do not trade stocks any more; they trade the stock market. Two weeks ago, Senator DODD and I cochaired a hearing with institutional investors. The manager of the largest private pension fund, that of AT&T, said, and I paraphrase him: "It is not cost-effective for us to analyze the values of individual stocks. We simply trade indexes, and we can do as well as the stock market average. We are doing well, indeed."

What that means, of course, is that a share of stock is no longer seen as the ownership of a piece of a corporation's assets and earnings. It is simply viewed as a slice of the market and, as a result, the S&P 500 index is probably traded more frequently than any single share of stock.

Is it little wonder then when the whole market is constantly changing hands, economic reality will slip through our fingers. The market has become a commodity where there is no longer any interest in the underlying value of corporate assets that equity represents.

Mr. President, the individual investor is spooked by market volatility, and that individual investor can flee the market, but America's corporations who have to raise capital in that market have no place else to go. Corporate America depends on a sound and stable market for capital formation. We are a capitalist country and without capital formation, we lose.

Our industries cannot reliably depend on our markets to raise capital when the windows of opportunity open and close faster than a shutter on a camera. When stock markets are dominated by traders instead of investors, corporate America is victimized and left orphaned. We do not often think of corporate America as being victimized. We think they can take care of themselves and, for the most part, they are fully capable of doing exactly that.

But today, corporate ownership changes constantly as shares pass from one institutional portfolio to another in a matter of minutes. Although single institutions each own the shares of a thousand corporations, they all act like the owners of none.

So think of it, Mr. President: The Fortune 500 corporations without owners, without shareholders to keep the boards of directors accountable, without shareholder oriented boards to keep management accountable. As a result, what we have are corporations that have millions of owners, but are seemingly controlled and held accountable by none.

Mr. President, while the stock market may have recovered, there are still ailments to be cured. Last March, as the ranking member of the Securities Subcommittee of the Banking Committee, I joined our chairman, Senator DODD, in introducing the Market Reform Act of 1989. These reforms, which include large trader reporting, the holding company risk assessment provisions, authority for coordinated clearance and settlement, and SEC trading halt authority are not going to change the market, but they will, on balance, help us deal with it.

I, together with Senator DODD, intend to press forward to explore ways to ensure that our stock markets are strong and that they serve the capital formation needs of our Nation.

It is this Senator's view that unless we take additional steps, this country will be without the financial markets it needs to be competitive, to meet the needs of investors and those companies that they invest in; namely, the employers of America.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll, the point of no quorum having been raised.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise simply to inform my colleagues that it has now been 1,676 days that

Terry Anderson has been held in captivity in Beirut.

DISTRICT OF COLUMBIA APPROPRIATIONS—CONFERENCE REPORT

Mr. KERREY. Mr. President, last night the Senate adopted the conference report on the District of Columbia appropriations bill. I want to commend the Senator from Washington [Mr. ADAMS], the chairman of the subcommittee, and the ranking member, Mr. GRAMM, for their work on this legislation.

As we all know, work on the DC appropriations bill is a difficult and often thankless task. The difficulty is illustrated by our hearings this year—the special hearings on the mammoth drug problems in the city and the hearings which illuminated the tragedy in a school system confronted with neglected children of drug users, an unacceptably high dropout rate, and disappointing performance scores in the upper grades.

Fortunately, Mr. President, the subcommittee has focused this year on the real issues facing the District and this is reflected in the conference report which is before us today. This conference report, drawing heavily on the Senate recommendations in the drug and education areas, directs an additional $32 million toward what I view as the two most pressing problems in the city.

The conference agreement, through the provision of additional police officers, further prison construction and enhanced court support, contributes significantly to law enforcement efforts designed to combat drug dealing.

And, it seeks to provide important new human support services. The agreement provides $2.02 million for a new initiative to treat and assist pregnant drug abusers, whose unborn children are already condemned to various physical and neurological problems. It includes $1.3 million for after-school programs which are designed to provide the District's children with a viable alternative to the streets. Both the District and a local group known as Parents United are to be commended for their cooperation in devising after-school activities. Finally, I want to mention the $420,000 provided for the options program at the National Learning Center. This is an intensive program directed at teenagers who are at high risk of dropping out of school. Selected by the school system, the participants in the program will be given an individualized program of instruction designed to upgrade their skills, self-esteem, and ability to function in a regular academic environment.

I, and I am sure the other members of the subcommittee who sat through the hearings, have at times felt overwhelmed by the problems in the District, especially in the human services area. But, I believe the conference report makes a real contribution to meeting the District's needs, and, again, I commend the chairman and ranking member of the subcommittee for the direction which they took during the hearings, markup, and conference consideration.

HEALTH PROVISIONS STRICKEN FROM BUDGET RECONCILIATION

Mr. SYMMS. Mr. President, after long hours of deliberation on the enormous budget reconciliation bill, the Senate agreed to trim it down by striking all the extraneous provisions.

I agree that Congress has abused the reconciliation process. Reconciliation was intended to reduce the deficit, not to serve as an omnibus vehicle for legislation. So, the reconciliation bill was stripped.

Unfortunately, among the provisions stricken from the original package was almost the entire section on rural health. There were several provisions in this section which are vital to my State of Idaho. Rural areas in this country are hurting for assistance in health care and the rural package which was stricken from the bill would have alleviated a great deal of financial pressure.

However, the Senate leadership, including the distinguished chairman of the Senate Finance Committee, has promised that there would soon be another change for these important provisions to move quickly through the legislative process.

Among the provisions deleted from the reconciliation bill was the elimination of the urban/rural reimbursement differential for hospitals under Medicare, which would raise the reimbursement level for rural hospitals to a point where they can at least cover their costs.

Other provisions lost were the 3-year extension of the rural referral center designation which reimburses larger rural hospitals at a rate between urban and rural, and the establishment of the geographical classification review board, which would hear appeals from various hospitals wishing to be classified in an urbanized area or a competing area with a different wage base.

The bill had also provided a national fee schedule for certified registered nurse anesthetists—very important to my State as Idaho's CRNA's receive the lowest reimbursement rate under Medicare in the country.

Mr. President, these provisions are extremely important, not only to Idaho, but to all rural areas. I hope Congress acts quickly to move these and the other health care provisions stripped from the reconciliation bill so that our rural areas may continue to provide health care to the citizens of this country.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Under the order, morning business is closed.

PROPOSED CONSTITUTIONAL AMENDMENT TO PROHIBIT PHYSICAL DESECRATION OF THE AMERICAN FLAG

The PRESIDENT pro tempore. Under the order previously entered, the Senate will resume consideration of Senate Joint Resolution 180, which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 180) proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States.

The Senate resumed consideration of the joint resolution.

The PRESIDENT pro tempore. The Senator from Utah [Mr. HATCH].

Mr. HATCH. I thank the Chair. I appreciate this opportunity to speak on behalf of Senate Joint Resolution 180, which of course would, if enacted, become the 27th amendment to the Constitution of the United States of America.

That amendment says:

Congress and the States shall have power to prohibit the physical desecration of the flag of the United States.

I believe this amendment effectively restores to Congress and the States the power to protect the flag many of us believed they had prior to the now, I think, infamous case of Texas versus Johnson.

At the outset of my remarks, I want to commend the distinguished chairman of the Judiciary Committee, Senator BIDEN, and his staff, for the work they have done on this issue. Senator BIDEN has made a serious and sincere effort to protect the flag without resort to a constitutional amendment. My disagreement with him over how best to achieve our common purpose, the protection of the flag, in no way diminishes my respect for him and for his efforts.

Two weeks ago, Mr. President, at least 94 Senators expressed their view that the American flag deserves governmental protection as a symbol of our country. This number included 91 Senators who voted for H.R. 2978, as amended. It also included at least three Senators who voted against the bill—Senators DOLE, GRASSLEY, and myself—because while we want the flag protected, we view H.R. 2978 as an empty gesture and ineffectual means of protecting the flag.

I respect the views of those who disagree about the need or desirability of affording the flag governmental protection against abuse, even as I profoundly disagree with those views. Since there is such an overwhelming consensus in favor of protecting the flag, however, I will simply refer to my remarks during the previous debate, on October 4, 1989, for the reasons I believe the American flag deserves our protection through the means of a constitutional amendment.

PROTECTING THE FLAG DOES NOT THREATEN THE FIRST AMENDMENT

Let me stress again, as I did 2 weeks ago, that, in my view, it cannot be seriously argued that the protection of the flag from physical desecration impairs the first amendment's principle of freedom of speech. This freedom has never been deemed absolute. Libel is actionable, even under the first amendment. Obscenity is not protected under the first amendment. Nor are "fighting words," designed to provoke violent reactions by an audience, protected. Reasonable time, place, and manner limits may be constitutionally placed on speech. Hence, a person cannot blare out his or her political views at 2 o'clock in the morning in a residential neighborhood and claim first amendment protection.

These are well-known examples of restrictions that are placed on speech, and I think almost everybody would agree they are appropriate.

Protecting the flag from physical desecration does not prevent a single idea or thought from being expressed. It does not interfere with the numerous ways of conveying an idea—through speech, use of placards, leaflets, newspapers, and more. It involves the censorship of no idea. It merely prevents conduct with respect to one object, and one object only, our flag. We can withdraw that one unique object from physical desecration without limiting freedom of speech. Indeed, for many years, a Federal statute and 48 State statutes did protect the flag. Can anyone identify actual harm to the first amendment during that time? I do not think so.

I note that other ardent supporters of the first amendment have expressed similar views, including Chief Justice Earl Warren, Justice Hugo Black, and Justice Abe Fortas, in their dissents in *Street* v. *New York*, 394 U.S. 576 (1969).

Moreover, there is no slippery slope here—because there is simply nothing else like our flag. We are seeking no protection whatsoever for any other symbol.

A STATUTORY RESPONSE TO TEXAS VERSUS JOHNSON IS INADEQUATE

Mr. President, one of the principal arguments against Senate Joint Resolution 180 is that a statutory response to Texas versus Johnson can adequately protect the flag and, thus, there is no need for a constitutional amendment. If I believed that a statutory response could do the job with certainty, I would concede the power of this argument. Indeed, initially, I cosponsored one of the versions of Senator BIDEN's statutory approach because I believed at the time it might work. I later withdrew my cosponsorship of the bill because I concluded that a constitutional amendment is absolutely necessary to ensure with certainty the validity of any statute banning flag desecration. I believe it is futile to try to overturn this particular Supreme Court interpretation of the Constitution by a statute. The Constitution provides, in article V, for the exclusive means of its amendment. The article V amendment process is an organic, fundamental part of the Constitution and should not be evaded.

The statutory measure finally adopted by the Senate on October 5, states:

Whoever knowingly mutilates, defaces, physically defiles, burns, maintains on the floor or ground, or tramples any flag of the United States shall be fined under this title or imprisoned for not more than one year:

The bill contains an exception which states.

This subsection does not prohibit any conduct consisting of the disposal of a flag when it becomes worn or soiled.

The purpose of this statute is clearly to protect the flag as a symbol. See S. 12620 (Senator BIDEN); August 1, 1989, hearing, at 9 (Senator BIDEN); Report 101-152, accompanying S. 1338, page 2. Indeed, it cannot be denied that the principal, if not the only, purpose in enacting a statute, even a supposedly facially neutral or content neutral statute, is to prohibit expressive conduct that physically desecrates the flag. No one claims that we are interested in protecting the material, the thread, and the dye in the flag. We protect the flag as a symbol, including against those who would desecrate the flag as part of a political expression. Protecting the flag as a symbol is a governmental purpose clearly related to expression. Because this is the clear purpose of the statutory approach, that approach will fail after Texas versus Johnson. Why? Because the Supreme Court declared in that case that the Government's asserted interest in preserving the flag as a symbol of nationhood and national unity is insufficient to overcome a person's so-called right to burn the flag as part of expressive conduct.

The argument that a statutory response to Texas versus Johnson is constitutionally sound if phrased in neutral language that supposedly does not affect free speech is misplaced. Irrespective of the language chosen, the principal purpose of H.R. 2978, passed by the Senate, like the pending constitutional amendment, is to change the result of the Johnson case. The Supreme Court frequently examines the legislative history of a statute. See, for example, *Wallace* v. *Jaffree*, 472 U.S. 38 (1985). The legislative history of this law, if it is enacted, will reveal overwhelming evidence that it was designed to prevent the expression of an idea through flag desecration—that is an unconstitutional purpose under the Johnson decision. Indeed, Justice Brennan has written that:

The only basis for a governmental interest, if any, in protecting the flag is precisely the fact that the flag has substantive meaning as a political symbol. Thus, assuming that there is a legitimate interest at stake, it can hardly be said to be one divorced from political expression.

Kime v. *United States*, 459 U.S. 949, 953 (1982) (Brennan, J., dissenting). Now, I do not always agree with Justice Brennan, and I would substitute the term "national symbol" for "political symbol," but he is essentially correct on this point.

As William Barr, Assistant Attorney General for Legal Counsel, testified:

It cannot be seriously maintained that a statute aimed at protecting the flag would be constitutional.

The unconstitutionality of any statute which attempts to protect all forms of flag destruction has been predicted by Justice Brennan, who wrote that any statute "that simply outlawed any public burning or mutilation of the flag, regardless of the expressive intent or nonintent of the actor," would be "invalid for the reasons stated in my discussion of *Spence* v. *Washington* [418 U.S. 405 (1974)], supra." *Kime* v. *United States*, 459 U.S. 949, 954 and 955 n.7 (1982) (Brennan, J., dissenting).

Even assuming such a statute can constitutionally reach flag desecration which is not part of expressive conduct, such a statute will be unenforceable when applied to a person, such as Johnson, who desecrates the flag as part of a political expression after Texas versus Johnson.

The statute adopted by the Senate, in any event, is not content neutral. H.R. 2978, adopted by the Senate, contains an exception to its prohibition against the knowing mutilation and burning of the flag. This conduct is permissible under H.R. 2978 when undertaken to dispose of a worn or soiled flag. But permitting the mutilation and burning of the flag to permit the reverent disposal of the flag robs the statute of any pretense of content neutrality. Flag burning to dispose of a worn flag signifies a positive treatment and attitude toward the flag and is permitted by H.R. 2978. Johnson's mutilation or burning of the flag, for expressing a negative attitude toward the flag, however, is criminalized. As the Supreme Court said in Texas versus Johnson itself, if a State were to forbid "flag-burning wherever it is likely to endanger the flag's symbolic

role, but allow it wherever burning a flag promotes that role—as where, for example, a person ceremoniously burns a dirty flag—we would be saying that when it comes to impairing the flag's physical integrity, the flag itself may be used as a symbol—as a substitute for the written or spoken word—* * * "only in one direction." Slip opinion at 19. This, the Court indicated is impermissible. While the Court did not make this remark in the context of an otherwise blanket ban on flag desecration, I am deeply concerned that such a rationale would be used to invalidate just such a blanket statute.

Now, this departure from content neutrality is a real problem for the advocates of a statute-only approach because content neutrality is the linchpin of their argument that a statute can survive Texas versus Johnson, a view I believe is wrong in any event. Thus, the advocates of the statute simply try to define away the problem created by the exception. But, in so doing, they only reinforce the constitutional infirmities of H.R. 2978. In explaining the constitutional acceptability of this exception, the distinguished chairman of the Judiciary Committee, Senator BIDEN, said: "We are burning flags [under this exception] because they are no longer worthy symbols." Precisely, that is my point. He then says, and here is where I simply cannot agree with the explanation, "They are no longer flags. They no longer are flags, as we mean them and intend them and define them to be in the law." (S. 12620) (October 4, 1989). But H.R. 2978 defines a flag to mean "any flag of the United States, or any part thereof, made of any substance, of any size, in a form that is commonly displayed." It does not say the flag must be in a "condition" that is commonly displayed, which would raise the very same content-laden concern I mentioned earlier. In other words, a worn flag remains a flag under this definition. A dirt stain on the flag soils the flag, but it does not transmute the flag into a new object; it is still a flag. The fact it may not be a fit emblem for display, does not mean it is not a flag. Indeed, Congress has already said this at 36 U.S.C. 176(k):

> The flag, when it is in such a condition that is no longer a fitting emblem for display, should be destroyed in a dignified way, preferably by burning.

Indeed, we destroy a worn or soiled flag in a dignified way precisely because it is a flag.

Mr. President, there is simply no way around the additional devastation this exception causes to the constitutionality of H.R. 2978. The statute adopted by the Senate is simply not content neutral on its face. Moreover, its purpose, whether its langauge is content neutral or otherwise, is to overturn Texas versus Johnson to prohibit expressive conduct and, only incidentally, nonexpressive conduct as well. And in any event, however described, and even if able to outlaw nonexpressive conduct, it is, at a minimum, unenforceable when applied to someone burning the flag as part of a political protest. Our distinguished colleague, the senior Senator from New York, Senator MOYNIHAN, put it this way:

> It seems plain to me that if the notorious Mr. Johnson were to burn another flag at the next Republican Convention and were to be convicted under the proposed law, the Supreme Court would strike down the law just as it did the Texas statute. And the reason, whether we agree with it or not, would be the same—his symbolic political speech is protected by the first amendment and may not be punished by State or Federal statute. (S. 12611).

Thus, in order to overturn the Supreme Court's interpretation of the first amendment, we must resort to a constitutional amendment. Many other persons, including witnesses before the Judiciary Committee and others, agree with this conclusion.

The American Bar Association's House of Delegates adopted a resolution opposing both a constitutional amendment to overturn Texas versus Johnson as well as a statutory approach to protecting the flag. The resolution was unanimously proposed by an ABA Task Force. The task force was chaired by former Commissioner of the Internal Revenue Service Randolph Thrower. Its members were Columbia University Law School Dean Barbara Black; former Deputy Secretary of State Warren Christopher; former Harvard Law School Dean and Solicitor General of the United States Erwin Griswold, who was also a witness before the Judiciary Committee; Stanford University Law School Prof. Gerald Gunther; former New York University Law School Dean Robert McKay; former U.S. attorney Earl Silbert; and former Secretary of State Cyrus Vance.

The ABA's analysis of the constitutional flaws of the legislative approach mirrors my own. The ABA's analysis of the legislative approach was a general one, although it was aware of the content neutral approach. Its analysis, in my view, is applicable to all legislative approaches to overturning Texas versus Johnson. The ABA said:

> The basic infirmity of these proposals is that they might validate prosecution of those physically abusing the flag without intending to express a contemptuous or dissenting view but would run afoul of Texas versus Johnson and fail on consitutional grounds in those cases where the flag is burned or otherwise abused in an effort to dramatize a protest or communicate a dissenting view.

The ABA also said:

> Whatever the state or federal legislation on the subject, we can be sure that political protests against actions of the Federal Government will continue to be made by both words and expressive conduct. We can also be assured that legislation such as that being proposed will violate the principles of Texas versus Johnson when applied to desecration of "the flag" as an act of politcial expression. Yet, desecration of the flag as a political protest is the real target of the legislative proposals. It would thus seem not only futile but also irresponsible for the Congress to enact legislation which would directly challenge a recent decision of our highest court.

As I have mentioned, I believe protecting the flag from desecration is appropriate, but I agree with the ABA that such protection cannot be constitutionally achieved by statute.

Mr. President, even some of those witnesses cited by supporters of the constitutionality of a statute, when quoted more fully, expressed doubts or were less than wholehearted in their view that a statute would be constitutional. Dean Geoffrey Stone did say that—

> There are at a minimum reasonable grounds to believe that the Supreme Court would uphold the proposed [Biden] statute.

But he also said:

> * * * I cannot say and I do not think anyone else can fairly say that the Biden-Roth-Cohen Flag Protection Act is necessarily constitutional or necessarily unconstitutional under existing law. As evidenced by the Barr-Tribe disagreement about these very issues, it is clear that reasonable minds can disagree. In my view, it is not as clear as Mr. Barr would have us believe [namely, that the statute would be unconstitutional] and it is not as clear as Mr. Tribe would have us believe either [that is, that such a statute would be found constitutional. * * *] (August 1, 1989 hearing, at 197–198.)

This is not exactly a ringing endorsement of the statute's constitutionality.

In my own view, Mr. Barr's statement and testimony is quite persuasive.

Prof. Walter Dellinger stated that "there are at least reasonable grounds to believe" that the Supreme Court would uphold a statute "protecting the physical integrity of the flag in all circumstances." In his written statement of September 14, 1989, at page 2, he also said that such a statute "would not necessarily be inconsistent with the Court's opinion in Texas versus Johnson. * * *" This, in my view, is a very clear hedge.

These two scholars do not favor Senate Joint Resolution 180, but they hardly expressed certainty about the constitutionality of a statute after Texas versus Johnson. I might add, that no recent correspondence from them which I have seen contains any less of a hedge.

Some commentators believe that Justice Blackmun would join the four dissenting Justices in Texas versus Johnson to uphold a content neutral statute. Aside from the fact H.R. 2978 is not content neutral, I think it is doubtful at best as to how Justice Blackmun might vote in the future. I

could explain in my doubts in more detail if Senators wish to explore the question. But right now, I want to question whether Justice Stevens, one of the four Texas versus Johnson dissenters, would vote, in the future, to uphold a flag protection statute. He may believe, as I and others do, that Texas versus Johnson would invalidate any such statute, or at least any such statute as applied to a person burning the flag as part of political protest. And, out of adherence of the principle of stare decisis, he might vote to invalidate the statute. There is a basis for my suggestion. *Johnson* v. *Transportation Agency,* Santa Clara County, 480 U.S. 616 (1987), is a title VII case involving the discriminatory denial of a promotion for a male in favor of a female. In his concurrence, Justice Stevens remarked that prior to the decision in *Steelworkers* v. *Weber,* 443 U.S. 193 (1979), and under Justice Steven's view of title VII prior to Weber, the male petitioner would have prevailed. But because in Weber the Court permitted the voluntary adoption of a racially preferential training program, Justice Stevens felt he should adhere to that precedent in the Santa Clara case. 480 U.S. at 643–644 (Stevens J., concurring). So there is a perfect illustration that Justice Stevens may very well now apply Texas versus Johnson, especially where you do not even have a facially neutral statute.

Accordingly, if the proponents of the statutory response to Texas versus Johnson want to count on Justice Blackmun's vote for their statute, a very uncertain proposition, I think it is only appropriate to raise doubts as to what vote Justice Stevens will cast in the future on this issue.

Thus, Mr. President, while some statutes which are found to be unconstitutional can be cured by a legislative response, depending on the nature of the constitutional defect, flag protection statutes are not among them, after Texas versus Johnson, for the reasons I mentioned earlier. Accordingly, a flag protection statute seeks to alter the construction of the Constitution itself, as expressed in a Supreme Court decision, by simple majority vote. Doing so is an evasion of article V of the Constitution, which provides for the sole means of the Constitution's amendment.

Now, Mr. President, three cases were cited during the debate on the statute for the proposition that the statute is not an evasion of the constitutional amendment process.

One case, *Shacht* v. *United States,* 398 U.S. 58 (1970), is relevant to whether a flag protection statute is constitutional. The case, however, does not lend constitutional support for H.R. 2978.

Two of the examples, Bowsher versus Synar and Buckley versus Valeo, are beside the point, with respect to the issue before us; namely, how can we assure protection of the flag from desecration.

Buckley v. *Valeo,* 424 U.S. 1 (1976), upheld major portions of the Federal Election Campaign Act. The Court, however, declared the composition of the Federal Elections Commission violative of article II, section 2, clause 2—the appointments clause—with respect to all but its investigative and informative powers. Since a majority of the Commission's voting members were appointed by Congress, it could not engage in enforcement activity. Obviously, Congress can correct that error by reconstituting the Commission, and it did so.

In *Bowsher* v. *Synar,* 478 U.S. 714 (1986), the Court reviewed a part of the Gramm-Rudman-Hollings Act under which mandatory spending cuts were put in place if the Comptroller General issued a report estimating that the budget deficit exceeded the amount permitted by the Act. The Court held that the powers vested in the Comptroller General under the Gramm-Rudman-Hollings Act violate the constitutional requirement that Congress play no role in the execution of the laws. It was easy for Congress to respond by giving its role of designating mandatory spending reductions to someone else. It did so by giving that authority to the Director of OMB.

Neither of these cases helps us decide whether Texas versus Johnson can be constitutionally redressed through a statute. They are simply not on point.

The *Shacht* v. *United States,* case, 398 U.S. 58 (1970), is more on point but still unpersuasive as a justification for H.R. 2978.

In Shacht, the Court looked at two Federal laws. One prohibited any person "without authority [to wear] the uniform or a distinctive part thereof * * * of any of the Armed Forces of the United States"; 18 U.S.C. 702.

Another Federal law said:

> While portraying a member of the Army, Navy, Air Force, or Marine Corps, an actor in a theatrical or motion picture production may wear the uniform of that armed force if the portrayal does not tend to discredit that armed force, 10 U.S.C. 772(f).

Shacht did wear parts of an Army uniform in an antiwar theatrical production and was not a member of the Armed Forces.

The Court indicated that 18 U.S.C. 702, making it an offense to wear a military uniform without authority, standing alone, is facially constitutional. But it does not stand alone, since 10 U.S.C. 772(f) authorizes such wearing in a theatrical production. The Court ruled that the last clause of 10 U.S.C. 772(f) is an unconstitutional infringement of freedom of speech, because it allowed use of a uniform in a skit praising the Army but not in one condemning the Army.

But the neutral protection of the military uniform does not, by analogy, support the so-called neutral protection of the flag. The neutral protection of the military uniform, which the Court indicated would be constitutional, serves other than symbolic purposes. For example, it can protect people from unscrupulous persons trying to con them. The misuse of a uniform could lower public esteem for the military, affecting recruiting, or lessening discipline and lowering morale in the Armed Forces. These are not symbolic purposes of a blanket ban on use of the military uniform; these are practical purposes. A statute protecting the flag, whether couched in neutral terms or not, only serves to protect the flag as a symbol. Thus, the constitutionality of a neutral statute prohibiting misuse of a military uniform does not support the constitutionality of a neutral flag desecration statute. The latter protects an object solely for its symbolic purposes. And Texas versus Johnson teaches us that desecration of this symbol for expressive purposes is constitutionally protected.

Moreover, Mr. President, the bill passed by the Senate, H.R. 2978, is not neutral. It permits the burning of the flag for disposal purposes—a respectful treatment of the flag—but for no other purposes.

THE FRAMERS AND THIS AMENDMENT

Mr. President, I want to turn to one more argument invoked against enactment of Senate Joint Resolution 180 before I turn to the specific criticism of Senate Joint Resolution 180 itself.

The names of James Madison, and other framers of the Constitution, have been invoked against Senate Joint Resolution 180. It is asked, how can we add to the majestic document they created if it really isn't necessary to do so and a statute can do the job? James Madison has been quoted by those opposed to this amendment because constitutional amendments "should be reserved for great and extraordinary occasions." Ironically, the real lesson we should draw from James Madison's example and his words is that we should enact a constitutional amendment, if we truly believe protection of the flag is as important as over 90 Members of this body say we believe.

After all, James Madison and the other framers at the Philadelphia Convention did not adopt a Bill of Rights as part of the Constitution. Alexander Hamilton argued that the Constitution already contained sufficient safeguards, including the prohibition of ex post facto laws, protection of the writ of habeas corpus, and similar provisions. He argued that Con-

gress had no power in the Constitution to restrain liberty of the press, so there was no need to say so in a Bill of Rights, Federalist No. 84. Madison also believed that a Bill of Rights was not really needed because the Federal Government did not have the power to deny the rights in question. Letter to Thomas Jefferson, October 17, 1788. Saul K. Padover, ed., "James Madison, The Forging of American Federalism" (1953) at 253.

Why did these framers later agree to a Bill of Rights? Becasue it would reassure those who were concerned about the rights in question. Briefly, James Madison wrote to Thomas Jefferson, October 17, 1788, and said that he always favored—

> A bill of rights; provided it be so framed as not to imply powers not meant to be included in the enumeration. At the same time I have never thought the omission a material defect, nor been anxious to supply it even by subsequent amendment, for any other reason than that it is anxiously desired by others. I have favored it because I supposed it might be of use, and if properly executed could not be of disservice. Padover, supra at 253.

H.R. 2978 affords, at best, an uncertain protection of the flag, even in the view of some of its supporters. In my view, it is no protection at all. If the supporters of the statute believe protecting the flag is important enough, and I am sure they do, and then further, if they truly wish to take their cue from Madison, they will, in the paraphrase of Madison, reassure us. They will support a constitutional amendment. They will support it because even if the likelihood of success of the statute is much greater than I believe it is, its success is still far from certain. And, the common purpose of this body, if that purpose is really to protect the flag, is important enough that we take this step. Such an amendment is clearly of great use to us if we wish to be certain to protect the flag. I believe over 90 Senators truly wish to do so.

Simply put, I do place the protection of the flag from physical desecration, this one unique symbol of our country, on a par with the protection of freedom of speech, not in contradiction to it. I see no clash between those protections. That is why I believe, for the sake of assuring such protection, we should adopt a constitutional amendment.

Let me also note that the first amendment, by its own terms, does not apply to the States. And so all of these citations to Madison and other framers by opponents of the flag amendment, which I hope I have just shown are misplaced, also focus on the wrong aspect of this matter. The framers of the Constitution and the first amendment would have been much more astonished by the proposition that the States lack power to protect the flag from desecration than by any proposed amendment to so provide. It was only when the Supreme Court construed the 14th amendment as making the 1st amendment applicable to the States that such a State power could be questioned.

And I find it highly unlikely that the Congress which sent the 14th amendment to the States believed that it was denying States power to prohibit flag desecration. After all, during the Civil War, men on both sides risked their lives to capture enemy flags and to protect their own flags from capture. They risked their lives even though safeguarding the flag had no military significance. The Union awarded the Medal of Honor for such acts, including for some stirring episodes of protecting the American flag that I might like to share with my colleagues later in this debate. I do not think that the Congress which enacted the 14th amendment intended to deny States power to prohibit desecration of the very flag for which Union heroes had been awarded the Nation's highest decoration to save from capture.

SENATE JOINT RESOLUTION 180 WILL OVERTURN TEXAS VERSUS JOHNSON

Mr. President, we heard criticism during debate on the statute 2 weeks ago that the amendment is not clear. The amendment reads: "The Congress and the States shall have power to prohibit the physical desecration of the flag of the United States." Some have suggested that Senate Joint Resolution 180 will not overturn Texas versus Johnson, that the amendment it proposes will still be subject to the first amendment and the Texas versus Johnson decision construing it.

I respect those who make this argument; it is a serious criticism. My own proposal for a constitutional amendment, Senate Joint Resolution 169, introduced the day after the Texas versus Johnson decision, contains language which says that Congress and the States shall have power to protect the flag "notwithstanding" any other provision of the Constitution.

I am convinced, however, that the language of the amendment effectively overturns the Texas versus Johnson decision and restores the power to Congress and the States to prohibit flag desecration, a power which we believe they always had. No more precision is needed than is already provided by Senate Joint Resolution 180.

In Johnson, the Court said:

> To conclude that the government may permit designated symbols to be used to communicate only a limited set of messages would be to enter territory having no discernible or defensible boundaries. Could the government, on this theory, prohibit the burning of state flags? * * * Of the Constitution? In evaluating these choices under the first amendment, how would we decide which symbols were sufficiently special to warrant this unique status. * * * There is, moreover, no indication—either in the text of the Constitution or in our cases interpreting it—that a separate juridical category exists for the American flag alone.—Slip opinion at 19, 20.

Mr. President, this amendment establishes just such a separate category in the Constitution's text. It designates the one symbol among those mentioned in the Court's opinion that is worthy of protection from physical desecration.

Frankly, both the text of the amendment, in obvious response to the Texas versus Johnson decision, and its legislative history can leave no reasonable doubt that it overrules that decision and gives to Congress and the States the power it says it gives.

SENATE JOINT RESOLUTION 180 DOES NOT OVERRIDE THE ENTIRE CONSTITUTION

Senate Joint Resolution 180 merely gives Congress and the States power to prohibit the physical desecration of the American flag—period. It gives no authority to override the cruel and unusual punishment clause of the eighth amendment; the ban against unreasonable searches and seizures in the fourth amendment; or other constitutional guarantees. There is no language in the amendment to provide Congress or the States any such power. There is no such intention on the part of any of its sponsors. The amendment simply overturns a Supreme Court decision construing the first amendment and, thereby, restores a power to protect the American flag that Congress and the States had prior to that decision.

Indeed, the 16th amendment, worded in the same form as Senate Joint Resolution 180, has never been construed to do more than it says. It reads:

> The Congress shall have the power to lay and collect taxes on income, from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration.

The power to tax incomes, of course, is a pervasive power. Yet, the 16th amendment has not been held to override the 8th amendment's cruel and unusual punishment clause. No one has been drawn and quartered for income tax evasion. The 16th amendment has not been held to override the 4th amendment's ban on unreasonable search and seizures or the 6th amendment's guarantee of a speedy and public trial.

The fear that Senate Joint Resolution 180 will overturn these and other guarantees is simply misplaced.

THE TERMS "PHYSICAL DESECRATION" AND "FLAG" ARE SUFFICIENTLY CLEAR

Some opponents of Senate Joint Resolution 180 have suggested that the meaning of the "physical desecration" and "flag of the United States" is too vague, too open-ended, too general.

I think the testimony of William P. Barr, Assistant Attorney General for Legal Counsel at the Department of Justice, more than adequately explains the amendment. Mr. President, we must keep in mind that the amendment does not prohibit anything; it authorizes Congress and the States to prohibit physical desecration of the American flag. Thus, it is left to the people and their elected representatives to decide whether to prohibit physical desecration of the flag and, if so, in what manner under the authority granted by the amendment.

Defining the flag is easy enough to do. We have done so twice in the last 21 years. The current flag antidesecration statute defines "flag" at 18 U.S.C. 700(b). S. 1338, as reported by the Judiciary Committee, retained that definition. We defined the flag differently, 2 weeks ago, in H.R. 2978. This is a definitional choice that should not baffle our Nation's lawmakers. Indeed, the 48 States may well leave their current statutes on the books if this amendment is adopted.

"Physical," as modifying "desecration," means "[s]ome contact with the flag, some physical touching of the flag whether by the person himself or caused by the person. * * *" Barr statement at 16. This would include maintaining it on the ground or floor, if a legislative body so chose to prohibit, as Congress did 2 weeks ago. Under the amendment, however, no legislative body could penalize mere words or gestures of any sort, including those aimed at the flag. No idea is censored—numerous ways remain available to express any idea other than by flag desecration. No damage is done to the first amendment. And until Gregory Johnson's case was decided by the Supreme Court, I was unaware of any Senator who claimed that banning only contemptuous treatment of the flag despoiled the first amendment. We have had such a Federal ban for over 20 years.

As to the amendment's parameters for the term "desecration," Assistant Attorney General Barr said, "The common-sense understanding of the term" applies. Barr statement at 17. He cited Webster's Ninth New Collegiate Dictionary and its definition of "desecrate" as follows:

1. to violate the sanctity of: PROFANE 2. to treat irreverently or contemptuously often in a way that provokes outrage on the part of others. Black's Law Dictionary contains a similar definition of "desecrate": To violate sanctity of, to profane, or to put to unworthy use. These definitions capture the essence of the term as used in the amendment. Indeed, these definitions make clear that a ban on "desecration" is particularly well suited for preserving the symbolic value of the Flag. Ibid.

I note that Chief Justice Earl Warren has said, "I believe that the States and the Federal government do have the power to protect the flag from acts of desecration and disgrace. * * *" *Street* v. *New York*, 394 U.S. 576, 605 (1969) (Warren, C.J., dissenting). Justice Abe Fortas, dissenting in the same case said, "[T]he States and the Federal Government have the power to protect the flag from acts of desecration committed in public. * * *" Id. at 615 (Fortas, J., dissenting).

The "whereas" clauses of Senate Joint Resolution 180 note that "physical desecration may include, but is not limited to, such acts as burning, mutilating, defacing, defiling or trampling on the flag, or displaying the flag in a contemptuous manner. * * *"

The reason that the term "physical desecration" cannot be spelled out in more detail is that there are a variety of ways of physically desecrating the flag. If one such way is left out of a constitutional amendment, then banning such conduct toward the flag in the future would require another amendment. For example, the current Federal statute does not prohibit contemptuous treatment of the flag by maintaining it on the ground or floor. Senator DOLE, responding to an episode of just such contempt, offered an amendment to the Federal statute several months ago, as he did 2 weeks ago when H.R. 2978 was on the floor.

Thus, the language of the amendment, as a grant of authority to legislative bodies, must have a degree of generality.

Ironically, the committee report disapproving of Senate Joint Resolution 180 said that generality in the Constitution has its advantages: "We have adhered to Chief Justice John Marshall's maxim that a constitution should not have the prolixity of a legal code but rather requires only that its great outlines should be marked, its important objects designated." Report at page 5. That is precisely what Senate Joint Resolution 180 does with respect to the American flag. We believe the flag is an important enough symbol to merit constitutional protection in light of Texas versus Johnson.

Let me stress again that no idea can be censored under this amendment. The fact that a State can prohibit Johnson's burning of the flag as part of an anti-American protest but permit a person to burn the flag publicly for disposal purposes is not censorship. It is the contemptuous conduct toward the flag which is being prohibited, not the voicing of any anti-American protest. That protest can be made in countless ways that are totally unaffected by Senate Joint Resolution 180.

We heard the argument seriously advanced on the floor during debate on the statute that under the constitutional amendment, a State legislature will be authorized to bar the Nazi Party and the Socialist Party from flying the American flag. This is absolute nonsense. No one can be barred from properly displaying the flag under the authority granted by Senate Joint Resolution 180. No one can be prohibited from doing so because of his or her views. No such power is granted in the amendment, and no sponsor supports that interpretation. The administration's witness, Assistant Attorney General Barr, also made this clear.

We also heard that this constitutional amendment would authorize the State of Maine to prohibit the flying of the flag on the day moose season opens in that State. There is no such power granted in this amendment. The amendment grants power to prohibit the physical desecration of the flag, not its proper display by particular individuals defined by their viewpoint, or the surroundings in which the flag is flown, or the day on which it is flown.

It is just one more of the ironies of this debate that the critics of Senate Joint Resolution 180 have complained about its alleged vagueness or uncertain meaning. If the amendment's critics were to be consistent in their criticism of such proposed constitutional langauge, then they would have stood on the floor of the First Congress and opposed large portions of the Bill of Rights they now purport to defend.

I can just imagine the critics of Senate Joint Resolution 180, 200 years ago: "What do we mean by the term 'unreasonable' in the proposed fourth amendment's ban against 'unreasonable search and seizure'? What is a search? What is a seizure?"

How could these modern-day critics have supported the sixth amendment's "right to a speedy * * * trial" when they could not know what is meant by "speedy?" Or consider the seventh amendment's guarantee that "no fact tried by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of the common law." I can picture the opponents of Senate Joint Resolution 180, who claim they have so much difficulty with the term "physical desecration," wrestling with that one—after all, what are the "rules of the common law?" I can picture them quibbling over the fifth amendment's clause protecting persons from being "deprived of life, liberty, or property, without due process of law." After all, "liberty" is a pretty broad concept, much broader than the concept of "physical desecration." What does it mean? What kind of "property" are we talking about—"real" property or "personal" property or both? And how can you put such an amorphous concept as "due process" into our majestic Constitution by amendment?

Indeed, consider this observation about the first amendment itself which these critics claim they are de-

fending: "What is the liberty of the press? Who can give it any definition which would not leave the utmost latitude for evasion? I hold it to be impracticable. * * *" This was Alexander Hamilton, in Federalist 84, arguing in support of the Constitution, notwithstanding the absence of a Bill of Rights. But he and the other framers who wrote the Constitution accepted the first 10 amendments to the Constitution as an assurance of the rights contained therein. Similarly, we can accept Senate Joint Reoslution 180 as an assurance of the protection of the flag.

I cannot resist one more illustration of the contrived nature of this criticism of Senate Joint Resolution 180: The same critics, if they were to be consistent in their criticism of this amendment, evidently would have opposed the "equal protection" clause of the 14th amendment. After all, what does "equal protection" mean?

The terms of Senate Joint Resolution 180, including "physical desecration," are at least as clear on their face and as supported by the legislative record as all of the terms I just cited from the Bill of Rights and the 14th amendment. We can discern the meaning of the Bill of Rights and we can discern the meaning of the proposed 27th amendment. The Bill of Rights was important enough to add to the Constitution, despite its general terms and despite the view of many framers that it was not really necessary. The question before us today is, is protection of the flag important enough to add to the Constitution. I believe it is.

SENATE JOINT RESOLUTION 180 AND LITIGATION

Another argument raised against Senate Joint Resolution 180 is that it will spawn litigation. Even assuming this will be true, if that is an important factor in our consideration, then we should also consider repealing the entire Bill of Rights. The provisions of the first amendment on freedom of speech, press, religion, assembly, and petition, have spawned thousands of cases. The fourth amendment's ban on unreasonable searches and seizures has spawned a similar avalanche of cases over the years. So has the fifth amendment's due process clause, the eighth amendment's cruel and unusual punishment clause, and so on. But, we consider these provisions so important that we put up with the litigation they generate. Similarly, assuring the protection of the flag is important enough that, if there is some risk of litigation over the amendment, that risk is clearly outweighed by the importance we attach to protecting the flag. And more than 90 of us have shown that we believe in that importance.

Moreover, I see no likelihood of any burst of litigation if this amendment is enacted. Forty-eight States already have flag desecration statutes. They can leave them in place if this amendment becomes law.

I'll tell you what will spawn litigation. If we fail to adopt this amendment validating the State laws already on the books, that will generate litigation. Why? Because the States will have to change their current laws. By so doing, the opportunity for litigation will be heightened.

Indeed, just take a look at the bill we passed 2 weeks ago. The exception, protecting "conduct consisting of disposal of a flag when it has become worn or soiled," will spawn litigation. The chief sponsor of the statutory approach, Senator BIDEN, says that under this exception "[w]e are burning flags because they are no longer worthy symbols. They are no longer flags.* * *" (S. 12620). I have already explained my view that the language of H.R. 2978 cannot support this interpretation and that this exception devastates the case for the constitutionality of this provision. But let us assume the interpretation is valid. How many court cases will be generated by the issue of, "When is a flag not a flag?" How much soiling is necessary before the flag is no longer a flag and lawfully may be burned for disposal purposes? How worn must the flag be before it is no longer a flag and can be disposed of?

There is another aspect of H.R. 2978 that will spawn litigation. During the debate on that measure, Senator SYMMS inquired of Senator BIDEN about the lawfulness of someone's burning the flag in order to keep from freezing to death. Under the literal terms of H.R. 2978, that person has violated the statute. Senator BIDEN replied, "It would be treated the same way as if you shoot someone in self-defense. There is a law that says you cannot shoot folks. It would be a defense to raise as to why you did what you did." That is, you shot someone in self-defense. Similarly, he argued, the courts would read an exception for self-preservation into H.R. 2978 (S 12602). That is a good argument. But it does have to be resolved in a court of law, both as a matter of fact—was the person really burning the flag to keep from freezing to death—and as a matter of law, in terms of whether the exception will be read into the statute by the courts.

What about other defenses that might get raised that no one is thinking about now? They, too, will be resolved in litigation. So that argument does not hold water.

WILL SENATE JOINT RESOLUTION 180 SPAWN A MULTIPLICITY OF STATUTES?

Among the other arguments heard in these debates, none is perhaps so fallacious as the claim that passing a constitutional amendment to empower the Federal Government and the States to prohibit flag desecration would raise the specter of numerous, onerous, varying laws that could hardly be complied with. To begin with, it should be pointed out that the possibility of multiple laws being passed on the same subject is inherent in the nature of our Federal system. That possibility did not present a problem for the drafters of the Constitution, nor should it long delay us today. Many of the most fundamental matters of life and death with which legislators must deal—from murder to abortion—are addressed in State statutes which reflect the varying values of the States of this Nation.

Indeed, the very same Bill of Rights that the opponents of Senate Joint Resolution 180 claim they are defending contains an affirmation of this principle. It is called the 10th amendment which says: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

It should also be pointed out that we already have 49 different flag desecration statutes, and no Senator has risen in these debates to point out a single problem that has occurred from the maintenance of these various differing statutes on the books for decades.

If the amendment is passed by Congress, the likelihood is that the requisite number of States will, instead of adopting new statutes, ratify the amendment. They would thereby validate the laws they have on the books now. But even if there were some rational basis for the Nation to fear a multiplicity of laws on this subject, the most important answer to be made to this argument is simple: H.R. 2978 does nothing to prevent this possibility and, in fact, would, if the constitutional amendment fails, be an incentive to the enactment of a whole round of new, no doubt differing State statutes on flag desecration. The bottom line is this: If Congress can avoid the effect of the Johnson case by simply passing a law, then so can every State legislature and every city council, and they probably will try until this statute is finally held to be unconstitutional.

If a constitutional amendment is passed to state clearly that Congress and the States shall have the power to prohibit the physical desecration of the flag, then the 48 statutes on the books will become enforceable without the need of further legislative action. Just as the mere fact that those statutes differ has presented no problem in the past, it can be anticipated that their variety will present no problem in the future.

Implicit in the argument of those who advocate a single national standard for flag desecration is the apparent belief that H.R. 2978 would preempt the States from enacting their own flag protection statutes. There is

no basis for believing this. The current Federal statue has never been given such effect but has existed alongside the various State statutes for years. Nor is there any language in H.R. 2978 to state the intention of Congress to preempt the State laws. This is as it should be. Flag desecration is a proper subject of State as well as Federal legislation.

Basically, I believe that those who fear the multiplicity of flag desecration statutes that could be enacted if Senate Joint Resolution 180 were to be adopted actually fear the people and their elected representatives. They are the ones who will have the power to enact the statutes, and I trust they will do so in a responsible way. I regret that the critics of a constitutional amendment do not, apparently, share my faith in the wisdom and good sense of the people.

If, on the other hand, H.R. 2978 becomes law—despite the Justice Department's assertion that its constitutionality "cannot be seriously maintained"—and no constitutional amendment is passed, then every State will be encouraged to enact new flag desecration statutes that they believe will pass constitutional muster. What variations there will be in each State can hardly be anticipated.

Indeed, I am certain that a multiplicity of new laws will develop if we do not enact this amendment. Like this Congress, many State legislatures are probably going to feel that the flag should be protected. In the absence of an amendment validating their current laws, what choice will they have but to enact new ones, in what I believe will be a vain effort to avoid the consequences of Texas versus Johnson?

That the likelihood of a multiplicity of statutes is greater if we do not adopt an amendment than if we do is perhaps best illustrated by the odyssey traveled by Senate supporters of the statute-only approach to Texas versus Johnson.

The distinguished chairman of the Judiciary Committee, Senator BIDEN, in his earnest effort to protect the flag statutorily, has introduced, called up, or voted for no less than five different statutory versions of a flag protection bill. I do not say this as even the slightest criticism of his efforts. Indeed, the changes the bill went through simply reflect the normal legislative give-and-take. I mention this, however, only to point out that a multiplicity of approaches is more likely to occur if we seek to evade Texas versus Johnson by statute than if we enact the constitutional amendment.

Immediately following the Texas versus Johnson decision, Senator BIDEN introduced an amendment to the child care bill. It prohibited public conduct with respect to the flag. That was version one. A short time later, he introduced S. 1338. That bill deleted the word "public" and, thus, reached private conduct as well. That was version two. On October 4, 1989, Senator BIDEN called up from the desk. H.R. 2978. It included an explicit exception from the so-called content neutral ban on flag destruction in the case of disposal of the flag. This was version three. The managers then accepted an amendment from Senator DOLE which added the phrase "maintains on the floor or ground" into H.R. 2978. It had been left out of H.R. 2978, even though it had been in S. 1338. With that amendment, a fourth version of the bill existed. Finally, over the Senator from Delaware's opposition, the phrase "physically defiles" was added to the bill. This was the fifth version of the statutory approach we saw on the Senate side, which passed with the support of the Senator from Delaware.

I stress, again, that I am not criticizing the Senator from Delaware on his efforts. As I mentioned earlier, what I just described is the normal legislative process. Unless we pass Senate Joint Resolution 180, that process may well be repeated in many, if not virtually all States, with the precise outcome unpredictable. If we enact the amendment, we will likely have no change in State laws.

SENATE JOINT RESOLUTION 180 DOES NOT TAMPER WITH THE FIRST AMENDMENT

I am surprised that some of the supporters of a statute who oppose Senate Joint Resolution 180 would claim that it changes the first amendment. Senate Joint Resolution 180 does not tamper with the first amendment. It overturns a Supreme Court decision construing the first amendment, which many of us believe, including four sitting Justices, is profoundly erroneous. It does not change the first amendment.

These very same critics of an amendment responding to Texas versus Johnson just voted for a statute which denies Gregory Johnson the right to burn the flag as part of a political expression. Indeed, that is the clear purpose of the statute. One cannot make another argument on that. The statute is aimed at protecting the flag, as a symbol, a purpose inherently related to expression. We all know this.

If Senate Joint Resolution 180 infringes on the first amendment, so does H.R. 2978. The fact that H.R. 2978 incidentally bans more than just expressive conduct does not alter this conclusion. Even assuming this statute is content neutral on its face, which it is not, its purpose is related to suppressing expression. Unlike the neutral protection of, say, a draft card as in the O'Brien case, where the protected object has other than a symbolic purpose, the flag is protected only because of its role as a symbol.

Senate Joint Resolution 180, in short, no more infringes on the first amendment than H.R. 2978, whether regarded as neutral on its face or not.

Mr. President, I urge my colleagues to support Senate Joint Resolution 180. I think it is the constitutionally sound thing to do. It is the way to resolve this issue and since better than 90 of us want the issue resolved and resolved appropriately it seems to me this is the only appropriate way to do it within constitutional standards.

I yield the floor and apologize to my distinguished colleague from Missouri for taking this long but I felt these arguments had to be answered and felt I had to make the answers on the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. SANFORD. Mr. President, I have listened with a great deal of interest to my learned colleague and have a great respect for his thorough knowledge of the law.

But I think this problem is much simpler. I do not think we really need to get quite that complicated in discussing the various ramifications of this proposal. It seems to me we have a choice here, as we consider this constitutional amendment: A choice between the protection of the flag against desecration on the one hand, and what amounts, truly, to the desecration of the Bill of Rights on the other hand.

We need to start with the basic proposition that the Bill of Rights is the most important document in the world.

Because the Bill of Rights is the most important document of freedom in all the world, we ought to be very, very careful if we talk about altering it in any way.

With various Constitutional amendments we have strengthened the freedoms and rights of people in America, but we have never set out to diminish those rights. Today we are talking about the right to protest; the right to protest against the Government.

Protest is often offensive to those who have to endure the protestations. I know, as the former President of Duke University, I did not like to see people protesting against the university and the Vietnam War. But I knew very well that anybody in the academic world who did not understand that those students had every right to stand up and condemn the governmental action, to stand up and condemn the administration of the university, simply did not understand the fundamentals of freedom in America. Because what is protest? Protest is the fundamental ingredient of liberty.

What is the first thing that any dictator is going to strike down? The right to protest.

Do we think Noriega puts up with any protest? We saw for years the Communist countries send people off to Siberia or elsewhere, or put them in

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concentration camps, or execute them, because they protested against the Government. We condemn these actions because as a people we hold sacrosanct the liberties protected by the Bill of Rights.

Freedom starts with the right to say to the Government, "You are not acting right, and we do not like it, and we want changes to occur." That is the essence of democratic government.

How did we get the Bill of Rights in the first place? We got the Bill of Rights because a great many people in the emerging States thought that we needed a guarantee that the freedoms fought for in the American Revolution would be fundamental to this new Government. It is true that Alexander Hamilton argued that we did not need a Bill of Rights, but suppose Hamilton had been successful in carrying that point. This would be an entirely different country, if a country at all.

This country would present an entirely different image for all the world if we did not have the Bill of Rights. Not only is this document fundamental to us, it is fundamental to freedom-loving, freedom-seeking people all over the world. As they look to their futures, it is the Bill of Rights that they look to as their hope. They want the Bill of Rights as part of their lives and part of their constitutions.

It is true that the Bill of Rights was not in the original Constitution, and therein lies a bit of North Carolina history in which I take pride. As the other States were ratifying the Constitution, some expressed doubts about the lack of guarantees of basic human freedoms. The argument was that we will leave that to the future.

So this document came to Hillsborough, which was then the capital of our State. People gathered from all over the State. You can imagine the great difficulty and time it took to assemble that convention. Then they discussed the Constitution for 5 days, and concluded that it was a pretty good structure for the Government. As they reflected upon the Revolutionary War, they remembered that they were fighting for something far greater than a neat structure of government. They were fighting for fundamental freedoms, and they would not vote for this Constitution until it included those basic freedoms.

So North Carolina voted overwhelmingly to turn down the Constitution, saying, "We do not want to join the United States if we are not going to carry forward those principles for which we fought the King of England. We were fighting for the right to protest. We were fighting for freedom of religion. We were fighting for freedom of speech. We are not going to ratify the Constitution if it does not protect our liberties. Then they listed 22 freedoms, most of which were ultimately included in the Bill of Rights.

Fearful that North Carolina would not belong to the Union, our Founding Fathers took another look, and James Madison drafted, 200 years ago last month, the Bill of Rights. It was only then that North Carolina delegates met in Fayetteville to ratify the new Constitution and adopt the Bill of Rights.

The Bill of Rights, a product of the American Revolution, is the document for which the American flag stands. To protect the flag against desecration, we do not need to tinker with the Bill of Rights. It is the document of fundamental freedoms for this country and for people everywhere all throughout the world that care about and seek freedom. Because there are other means of protecting the flag, we should not desecrate the Bill of Rights.

Disturbed by the Supreme Court decision in the first part of July, I rushed over to the Senate floor to condemn the nuts who had burned the flag. I knew something had to be done to protect the flag. And the more I thought about it, the more I thought we had to take care of this by some kind of a rational procedure, a statute. We already had 48 some statutes, some of which no doubt would have been constitutional. We did not need to whittle away at the Bill of Rights.

I was a little bit apprehensive, as I began to cool down, that we would do something here that we would forever regret and, if we did not regret it personally, certainly history would regret it for us. I feared that drastic action would indicate for the first time that we do not have the confidence; or of belief that our country can withstand any kind of protest or that our kind of democracy can take any kind of dissent and criticism. This lack of confidence sends the wrong message at a time when all over the world there is a wave now for the freedoms for which we have stood for 200 years.

In early July, I was attending a reunion for the 517th parachute combat team. So I began talking to these old wartime friends, and immediately, as I might have anticipated, all of them said, put the flag burners in jail, execute them, protect the flag, pass a constitutional amendment.

I said to each one in turn, but what about the Bill of Rights? I thought we were over there fighting to protect the Bill of Rights. I thought we were fighting the concept of Hitler that did not put up with any kind of protest, and that did not observe any kind of civil rights. Almost to the person they agreed, "Well, I hadn't thought about that."

The flag is our great symbol of liberty; but our great document of liberty is the Bill of Rights and we should not damage it. Do we want to put this name of Johnson, who burned the flag in Texas, in the history books? Do we want, years from now, the history of the Bill of Rights, to include "The Johnson-Bush amendment of 1990." Do we want to enshrine this fellow who wanted to protest at a Republican convention?

The history books would record this amendment as the first time we succumbed to the temptation to restrict the freedoms of America. It would be the first time since the Revolutionary War that we said we do not believe we can stand up to protest. We do not believe we can absorb it. We are not as strong as we thought we were.

My friends, I do not believe that this Senate wants to put that twist on history. I believe we can do what needs to be done through enactment of a statute. If States want to provide additional legislation in view of the fact we do not give them a constitutional amendment, they are free to do so. But how many of them are going to be too excited about it? I asked a Senator this morning, "How many flag burnings do you remember? You are 50 years old." He said, "Well, wait a minute now. Maybe two."

Flag burning is not rampant in this country. If we pass this constitutional amendment, it is going to be even more rampant, I predict, because then protesting by burning the flag is really a protest and you can get in the papers.

Of course burning the flag is offensive. Of course we do not like it. Of course we would simply like those people to go away and not be in our society. But we do not want them to go away. We do not want protestors to disappear. This is the great message to the world. This is the great message of freedom that a strong democracy, a government of the people can stand—indeed, I would say can invite—protest. When we come to the point at which we cannot absorb protest, we will no longer be a great freedom-loving nation.

Mr. President, this very well may be the most important vote the Senate will have taken in the time I and a good many other people have been here, because we are going back to our beginnings. We are going back to the American Revolution when both the flag and the Bill of Rights were created.

We know very well that our flag will fly high and brighter all the time if we protect the freedoms for which it stands. Nobody can truly destroy that freedom by burning a flag. But if we begin to whittle away at those freedoms, we will soon see that the flag does not go up in flames but people who have been watching all over the world will see the brightness of those colors fade as they lose faith and confidence in our kind of government.

This, indeed, is an important vote. We must not whittle away at the basic

document of freedom of the world, our bill of Rights.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. PELL). The Senator from Missouri.

Mr. DANFORTH. Mr. President, one reason it is good not to rush things is that sometimes on reflection you realize that views you have held are mistaken, and consideration gives you an opportunity to reflect and to change your mind. That is exactly what I have been doing with respect to the constitutional amendment which is now before us.

I rise this morning, Mr. President, for the purpose of admitting a mistake. It was a mistake of the heart, but nonetheless it was a mistake. If Senators will look at the resolution that is on their desks, they will see that my name appears as a cosponsor of this constitutional amendment. I rise now to state that I made a mistake in doing that, and I will not vote for this constitutional amendment. I will vote against it.

Mr. President, it was a mistake of the heart. Like all of us in the Senate, like all of us in our country, I was raised to revere our flag. I grew up during one of the great periods of patriotism in American history. I grew up during the Second World War. I grew up to recite the pledge of allegiance and to respect the flag and to take a keen interest in our war efforts. I remember both with pride and sadness the news that my cousin had been killed in north Italy fighting that war to protect our country.

When I go home to Missouri, one of the first things I do is raise the flag. I have a large flagpole outside my house. I might say it is the second flagpole I have had outside my house in Missouri. The first one I thought was just a little too flimsy to do the job. It started getting rusty, and it just did not look the way a flagpole should look. So I bought a much taller, sturdier, shinier flagpole from which to fly the flag outside my house.

The flag is dear to me as it is dear to every Member of the Congress and it is dear to every person in this country. So it was a mistake of the heart.

When the proposal came around to my office to cosponsor a constitutional amendment to protect the flag, my response was: If that is what is necessary to protect the flag, fine. I will do it. But on reflection, Mr. President, that decision was just plain wrong. I think it was wrong for a couple of practical reasons, and it was wrong for a much bigger reason as well.

One practical reason was touched on by the Senator from North Carolina, who said in effect that he believed if we were to so amend the Constitution, it might invite flag burning; it might serve as a waving of the red flag in front of those who would seek to be arrested. Maybe the best way to deal with these people is to ignore them. Maybe to outlaw desecration of the flag simply causes more desecration of the flag. That is a practical thing to consider.

Then there is a question of the statute. It has been argued that the statute is unconstitutional. How do we know it is unconstitutional? We just passed it 2 weeks ago in the Senate. More than 90 Senators voted for it. Do you mean that more than 90 Senators voted for something at the time they knew was unconstitutional? I do not think so.

We do not know that a statute is unconstitutional until it goes through the courts, until it is held to be unconstitutional by the courts, and this is not even a statute yet. It is barely a bill. It was just passed. It was sent to the President.

I think, Mr. President, that if it is possible to accomplish something by a statute we should do it by a statute, not by amending the Constitution of the United States.

So I say why not give the statute a chance? Why do we have to rush it? Maybe if we give the statute a chance some more people will conclude as I have that to amend the Constitution of the United States is no trivial matter, that there is no more profound thing we as a country do than to amend the Constitution of the United States.

This, Mr. President, is an amendment to the Bill of Rights.

The Senator from Utah at the close of his very learned speech disputed this fact. He said this does not amend the Bill of Rights.

Mr. President, of course it amends the Bill of Rights. The decision of the Supreme Court of the United States was founded solely on the first amendment to the Constitution. The Supreme Court's decision in Texas versus Johnson was an interpretation of the first amendment. This constitutional amendment is put forward for the express purpose of cutting back on the first amendment to the Constitution as that amendment has been interpreted by the Supreme Court. Of course, this is an effort to amend the Bill of Rights, and if it succeeds, and it may well succeed, Mr. President, it will be a first. If it succeeds, and it has a good chance of succeeding, it will be unique, unique in the history of the United States of America.

I say "if it succeeds" because, Mr. President, I believe that if it is going to be stopped it will be stopped in the Senate. I can remember, very soon after the Supreme Court's decision, speaking with Senator BIDEN, and he said he believed that the constitutional amendment would go through this country like a hot knife through butter. This is such an emotional issue. Can you not see State legislatures rushing to act on constitutional amendment resolutions in their States?

The question of whether we are going to do this is going to be determined here in the Senate. So, Mr. President, this is not a throwaway vote. This is not just the kind of vote that you cast thinking, well, this is nothing, somebody else can act as the safety net. We are the decisionmakers. We will be responsible if our Constitution is amended. And if it is amended, it will be the first time in the history of our country that we have altered the Bill of Rights.

We are talking about the flag. The flag has been altered any number of times. But in the 200-year-plus history of our Constitution, the Bill of Rights has never been altered. Not even a comma has been changed.

Now we are told, well, the first amendment is too big, the first amendment is too broad. Let us act on a constitutional amendment to cut the first amendment down to size.

Mr. President, if there is anything that is protected by our Constitution it is political speech. Some say that the act involved in the Texas case was not speech, but the Supreme Court says that it was. The Supreme Court held that what this character Johnson did was political expression and therefore speech. Some Senators might disagree with that. But that is what the Supreme Court said, and as Charles Evans Hughes once noted, in this country the Constitution is what the judges say it is. I think in this case the judges were right.

What was it other than political speech? It took place at the time and at the place of the Republican National Convention in 1984. It involved a demonstration. It was part of a political demonstration. Pamphlets were being handed out. Speeches were being made. And Mr. Johnson burned the flag. He did not burn it because it was some kind of hobby. He did not burn it because he had an itch to burn the flag. He burned it because it was part of the expression of political views.

It is political speech. And political speech is the most important right to be protected by the Constitution of the United States.

Mr. President, was it nice speech? Was it attractive speech? Was it an agreeable speech? Absolutely not. It was totally abhorrent to everything we believe in. It was an affront to every American. It makes your blood boil to think about it—burning the flag of this country.

But, Mr. President, the first amendment to the Constitution does not protect only nice speech or only attractive speech or only popular speech. We would not need a Constitution for that purpose. The great thing about the United States of America is that our

Constitution protects any crackpot who wants to stand on his soapbox and express any oddball point of view that pops into his mind.

Nor does the Constitution say that you can express whatever opinion you have provided that you do so in the official prescribed way.

Burning the flag was a terrible act. But it was within the protection of our Constitution.

Some say, well, there is some expression, some political expression that is so abhorrent, so awful that we just cannot take it anymore, so abhorrent that we cannot tolerate it. But that is not what the Constitution says. So then people say, well, then let us change the Constitution.

Well, Mr. President, if we change the Constitution to prevent this abhorrent, terrible kind of political expression, what other kind of unpopular political expression will we decide is outside the bounds of property and law? Where would we stop? I think, Mr. President, the answer is that we should never start. The answer is the same as it has been for 200 years, that we should never start to change the Bill of Rights.

Every country has a flag. But America has the Bill of Rights. It is the crowning glory of our country. It is what makes this place so special. This is not just a place where you hang your hat.

This is America, and this is the place where freedom does shine. Mr. President, the amendment before us would alter the first amendment to the Constitution of the United States. It would pare it down, and that is why I was mistaken to cosponsor this amendment in the first place. That is why I repudiate my cosponsorship and why I will vote against the amendment.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER (Mr. CRANSTON). The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

Mr. President, I congratulate my distinguished colleague from Missouri for that very eloquent presentation. The unfortunate aspect about debate in the world's most deliberative body is there are not too many Senators deliberating on the Senate floor this morning. I trust that those not present on the floor are listening to it in their offices. I note the presence of a large group in the gallery, and that C-SPAN II is in operation. Again, I think Senator DANFORTH's comments were very well articulated, and I congratulate him for that.

Mr. President, the issue before us is very profound, as the Senator from Missouri indicated. My view is that the critical issue to be decided regarding the matter now before the U.S. Senate is an analysis of the statute which has been passed, protecting the flag, and a determination as to its constitutionality, which I believe will be upheld.

I intend to address this issue in some depth on the question of what the Supreme Court has done in the past on reconsideration of key issues. Perhaps the most succinct statement by the Supreme Court of the United States on reconsideration was articulated in the famous case, landmark decision, of West Coast Hotel versus Parrish, which was decided in the 1936 term, actually decided March 20, 1937.

In that decision, the Supreme Court of the United States reversed a case which had been handed down less than a year before, Moorehead versus Tipaldo, decided June 1, 1936, and in West Coast Hotel versus Parrish, the Supreme Court articulated these guidelines as a basis for a change in judgment: "The importance of the question in which many States having similar laws are concerned, the close division by which the decision in the Atkins case was reached, and the economic conditions which have supervened and in the light of the reasonableness and in the light of which the reasonableness of the exercise of the protective power of the State must be considered, make it not only appropriate, but we think imperative, that in deciding the present case the subject should receive reconsideration."

Note, Mr. President, there are similarities confronting the Supreme Court on the minimum wage issue in the thirties and the flag issue today. Many States, 48 of our States, have flag laws; a close division of the Court, 5-to-4 decision, in Texas versus Johnson, conditions which have supervened the public response and the public concern on the flag decision, and even the most extreme response by the Congress in consideration of the constitutional amendment, which may well pass if it is not stopped here in the U.S. Senate.

So that this is, Mr. President, I think the critical issue. It is regrettable that we in the Senate, in our debate, and luxuriating in the toddle of the world's most deliberative body, do not come more to grips with this matter as we consider it, and, perhaps, in the course of this discussion, we will come to grips with the cases, the constituency of the Court, and the way the Court functions in interpreting the Constitution which is not mechanistic and does not mean that where a case has been declared unconstitutional, a statute has, in Texas versus Johnson, when there is a revised statute which makes a significant change, and there is a very significant public impact of the doctine of legal realism which holds with great authority and persuasiveness that the Court does look at the prevailing conditions and public responses, to an extent, that the new statute would be upheld.

I believe, Mr. President, and it is plain that if the assurances were positive, that the current statute would be upheld, that there would not be this cry for a constitutional amendment.

Mr. President, before delving into the legal analysis, I want to make a few preliminary comments about the posture of this matter today, because we have not yet established sufficiently, in my judgment, the importance of the flag. Many who are coming forward to oppose the constitutional amendment do so on the ground that there ought to be no protection. My own view is that protection is appropriate and protection is necessary.

When I first heard of the decision of the Supreme Court of the United States last June—and I think it is important to focus on how properly we have acted, because the Court decided this case only on June 22—less than 3 months later, the Senate passed a statute, which now the House has passed.

The President signified that he will permit it to become law, albeit without his signature, because of his preference for a constitutional amendment. When I heard the radio report the next morning, I was surprised because my view was that there was ample attitude under the constitutional decisions to uphold the statute and to prohibit the burning of the statute. I thought at that time about the Chaplinsky case on fighting words, that there are limits.

So what you can do by incendiary speech and expression, it is not true that speech is unlimited. I thought of Holmes' famous dictum about crying "fire" in a crowded theater and about the obscenity cases where that form of expression is prohibited, and the Constitution does not afford that kind of protection.

It seemed to me then, as it seems to me now, Mr. President, that protection of the flag is worthwhile. We have had many hearings on this subject, and there was a very well-reasoned judgment to the contrary expressed by Justice Lewis Powell. Senator BIDEN and I had hearings in Philadelphia. Justice Powell said we ought to do nothing about the burning of the flag. Many have said that the real meaning of America and the real meaning of the flag is freedom of expression, to do whatever you choose, including the burning of the flag.

Mr. President, I disagree with that, because in my opinion, my life's experience is that the flag represents many volumes of America. It represents freedom of speech, certainly, and the correlatives of the first amendment—freedom of the press, freedom of religion. I think it represents national pride.

It represents our commitment to freedom not only in the United States but freedom worldwide as we intervene around the globe in the interest

of freedom. It expresses our concern about human rights which again we promote all over the world at the expense of American dollars and the expense of American lives. It reflects our generosity to anyone who is hungry anywhere in the world. The United States responds in a generous way in a wide variety of situations. It expresses our interest in economic opportunity for a better life in this country.

But there are many, many values which are encompassed in the American flag beyond freedom of expression. So I do not believe that it is valid to say that the value of freedom of expression supervenes all others and people should be able to express themselves with total freedom even if it involves the burning of the flag.

Mr. President, there is a kind of equation in our society for many with military service and the flag as a patriotic symbol. For many in our country desecration of the flag denigrates their military service where wounds were inflicted on many Americans who believed the flag should be protected, where many of their comrades died in military service.

My own recollections of the flag go back to my father's view and my mother's view. My parents came to this country from foreign shores; my father fought in World War I as an immigrant to make the world safe for democracy; he carried shrapnel in his legs until the day he died. He had great respect for the flag. He was a patriot. He had great concern about many other values in our society beside the flag, but certainly patriotism in his own contribution was one facet in the repertoir of values which I learned as a child.

As I travel through my State of Pennsylvania I hear many people very, very concerned about the flag. I think as a matter of public policy they have a right to be concerned and if you were to take it to a majority vote I think there is no question that America would vote to protect the flag and if you took it to a vote of two-thirds of the people, as we must have two-thirds of the Congress to protect the flag for a constitutional amendment, I believe there would be a two-thirds vote. If you took it to a three-fourths vote, as the Constitution requires ratification by three-fourths of the States, I think there would be a three-fourths vote.

There is no question but that the popular side of this issue, Mr. President, is to vote in favor of the constitutional amendment to protect the flag.

The American people are reasonable, and I do believe that even those who most zealously wish to protect the flag, and I count myself among them, would be satisfied to do it through the statute if they had the assurance that the statute would be sufficient.

Politically, a vote against this constitutional amendment is unwise because there is not an opportunity to speak to the people of my State, who are more concerned about the issue, as we speak to the people in the gallery, as we speak to one Senator who is on the floor, as we speak to whoever may be watching on C-SPAN II. So it has to be explained. As soon as you have to explain, Mr. President, as you and I know, people who run for public office, you are already in some difficulty and some trouble.

Mr. President, I believe the right decision is not to amend the Constitution where it can be avoided. I think the classical definition of that was given by Justice Brandeis years ago in Ashwander versus Valley Authority when he talked about what the Supreme Court did in not reaching a constitutional issue if it could be avoided. Justice Brandeis said this:

> The Court will not pass upon the constitutional question although properly presented by the record if there is also present some other ground upon which the case may be disposed of. This rule has found most varied application. Thus if a case can be decided on either of two grounds, one involving a constitutional question, or a question of a statutory construction or general law, the Court will decide only the latter.

Mr. President, I think that is wisdom in the essence and I think in the long run a statute will satisfy the American people.

I think it is important not to turn this debate into a partisan issue of Democrats versus Republicans or not to turn this debate into an issue of patriotism versus those who are patriotic.

I do wish to express a disagreement with the comments of one of my colleagues yesterday on the floor on this subject, and I called his office to give him notice that I would be articulating this disagreement in a mild manner and respectful tones. Yesterday there was a charge that President Bush seeks to make political capital out of this issue. In addition, there was an articulation on the floor of the U.S. Senate that we are being asked to do so partly because of concern over the obnoxious act of a protester who burned the flag, but—and this is in the words of one of our colleagues—"largely because of an unseemly effort to gain partisan political advantage from the incident."

There was the later statement that "The public pressure for a constitutional amendment has subsided but the partisan pressure has not."

A further statement:

> As a Presidential candidate President Bush had waged the partisan political campaign around the flag during the election of 1988 but it is a very different thing for President Bush as President of all the people to use his high office to wage a similarly partisan and similarly political campaign around the flag in 1989.

Mr. President, I do not believe that this is a partisan issue between Democrats and Republicans or between those who are patriotic and those whose patriotism may be questioned. And when my colleague referred on two occasions to this as the Atwater-Bush amendment I have to categorically disagree and I think I can demonstrate that it is not so.

Senate Joint Resolution 180, Calendar No. 257, has 16 Democratic cosponsors. This is not an amendment that is proposed by Lee Atwater, the chairman of the Republican National Committee, or proposed by President George Bush. This is an amendment which was proposed by many Democrats and many Republicans, 16 of whom as I say are Democrats.

So that issue, I think, Mr. President, ought to be laid to rest and we ought to discuss the public policy considerations as to whether it is appropriate to protect the flag or whether the flag does not need protection and, as I say, I believe the flag does need protection for the reasons that I have already articulated.

Mr. President, I believe that our Constitution is big enough to give broad latitude to freedom of speech and at the same time some narrow protection for the flag, and the statute is the appropriate course.

Then, the real question before this body, having decided those who concur—and I think the majority do—that there ought to be some protection for the flag, is how does the Constitution mandate as articulated by the Supreme Court in Texas versus Johnson and how does the bill already passed by the Senate and the House and acquiesced by the President, albeit without his signature, square?

In Texas versus Johnson, the Supreme Court was plain in striking down the Texas statute because of the issue of expressive conduct that is expressly articulated at page 5 of the Court's slip opinion where the Court says "We first determine whether Johnson's burning of the flag constituted expressive conduct permitting him to invoke the first amendment in challenging his conviction," later expressed at page 7, again with the reference to expressive conduct; again at page 8 and again at page 9.

I shall not read them because there are other Senators on the floor who are waiting to speak. But I believe that the import of that opinion is plain that it turns on expressive conduct.

We have had a response, Mr. President, by statute, H.R. 2978, where expressive conduct has been ruled out, where the statute says that any act of flag burning is a violation whether it is public or private. That distinction is important in a constitutional sense because it was the public flag burning in the Texas versus Johnson case which

made it the public act, or expressive purposes, really moving to the issue of expression for others in public, but where the statute is silent therefore covering private as well as public acts, that is a significant statutory distinction. The Senate considered an amendment to make it public as well as private, offered apparently to perhaps undercut the constitutional solidity of this statute. This Senate rejected that effort. So it is not merely a public act, or not only a public act.

Mr. President, I shall not dwell now, as I say, because other Senators are on the floor, on this issue, but I think it is plain that this statute is narrowly drawn, distinctive of the statute in Texas versus Johnson, and can pass political muster.

Perhaps one of the most famous statements on the shifts in Supreme Court interpretation is a quote attributed to Finley Peter Dunne, a turn-of-the-century political commentator, who used the pen name Mr. Duley, who said:

> No matter whether the Constitution follows the flag or not, the Supreme Court follows the election returns.

Senator DANFORTH has referred to Justice Hughes' statement that the Constitution is what the Supreme Court says it is. And in a very learned treatise on Congress and the courts, a noted authority, Walter F. Murphy, in his book, commented, "As a participant in public policymaking who has only limited power, a justice of the Supreme Court, like a legislator, must weigh consideration of political prudence and American constitutional law." As Robert McCloskey has noted, "though not simply the creature of the popular will, nevertheless has always to reckon with it."

So there is no doubt that the popular view is a matter of considerable importance.

Mr. President, I alluded very briefly a few moments ago to the decisions by the Supreme Court of the United States. I use this only illustratively because there were many cases in the 1930's, with President Roosevelt's New Deal, where the Supreme Court, in the case of Moorehead versus Tipaldo invalidated the New York statute which provided for minimum wages for women. And that decision was handed down on June 1, 1936. The Supreme Court handed down that decision because of its judgment that the State was without power to enact legislation which dealt with freedom of contract.

Less than a year later, in the case of West Coast Hotel Company versus Parrish, the Supreme Court of the United States reached precisely the opposite view because of its determination that there had been a change in circumstances. That change in circumstances had been a substantial public outcry that the Supreme Court of the United States was too narrowly interpreting the due process clause, and President Roosevelt had started to move toward a packing of the Court when there was no question about public opinion in the United States being of the view that laws were necessary in many lines, one of which was to protect women by providing for a minimum wage. And in a few months, the Supreme Court changed its decision.

There was a highly celebrated string of decisions, Mr. President, in the late 1950's, involving the issue of people refusing to answer questions before congressional committees. In the case of Watkins versus the United States, decided in 1957, Watkins was convicted of a violation of a misdemeanor after he was summoned as a witness and refused to answer questions as to whether he had known certain other persons to have been members of the Communist Party.

The Supreme Court of the United States there invalidated that conviction on the ground that the power of Congress to conduct investigations is broad but not unlimited, and that the Bill of Rights applicable to congressional investigations prohibited that conviction because it abridged freedom of speech, press, or assembly.

The same day, Mr. President, in the celebrated case of Sweezy versus New Hampshire, the Supreme Court of the United States similarly invalidated action taken in New Hampshire where an investigation conducted by the State attorney general led a person to refuse to answer questions concerning the contents of a lecture he had delivered at the State university and his knowledge of the Progressive Party of the State and its members. The Court invalidated that conviction because the rights of the individual were violated under the due process clause of the 14th amendment.

There was at that time, Mr. President, the hue and cry about the Court's response in that particular line. And 2 years later, in the case of Barrenblatt versus the United States, the Supreme Court did an about-face. There the issue involved a summons to testify before the subcommittee of the House of Representatives on un-American activities. There was a refusal to answer questions as to whether an individual was or had ever been a member of the Communist Party, and was convicted of a violation of Federal law which made it a misdemeanor for any person summoned as a witness of either House of Congress to refuse to answer any questions.

The Supreme Court of the United States, in the light of the very strong congressional reaction, strong public reaction, turned that decision around and upheld in that case the conviction.

Again, I do not dwell upon the rationale or the statements of the Court because I want to be as brief as I can. And I soon will conclude because others are on the floor wishing to speak.

I want to make very brief reference to one other string of cases. I should note, however, that many, many cases could be cited, Mr. President, in the history of the Supreme Court of the United States, on the issue of the modifications of court doctrine, depending upon public reaction and depending upon the doctrine as articulated by the professors of legal realism.

We have had quite a bit of discussion this year, Mr. President, about the shift of the Supreme Court on the issue of affirmative action. The Supreme Court decided in 1971, in the case of Griggs versus Duke Power Co., the so-called disparate impact test on affirmative action.

And in the case of Wards Cove Packing Co. versus Antonio, this year, the Supreme Court came down with an opinion which changed the Griggs case. Moving away from disparate impact and looking to intent, looking to barriers specifically imposed, and again I am not going into the details of the decisions, Mr. President, but it is plain that those cases constitute a very marked departure on Supreme Court doctrine because of some changes in circumstances and some substantial changes in public reaction.

The final case that I would cite, Mr. President, is an opinion just a few months ago, June 26, 1989, by Justice Scalia, in the case of Stanford versus Kentucky, which involved the issue of capital punishment for those under 18. While that case is different in a number of respects from the case before us, on several occasions in the course of the opinion by Justice Scalia, there were references to a national consensus as being an important factor in the Court's opinion. And there were a substantial number of State statutes noted by Justice Scalia on page 9 of the slip opinion, concerning the imposition of the death penalty under those circumstances. There is a different constitutional amendment in issue, cruel and unusual punishment, and it is a different factual and legislative situation, but the analogy is close enough, Mr. President, that the Court does look to the national consensus.

So that when we refine the decision in Texas versus Johnson, when we analyze the statute which soon will become final U.S. law when the time has elapsed for Presidential veto, we have an act which will provide protection for the flag. We have an act which I think, submitted to the Supreme Court, will pass constitutional muster.

This statute, Mr. President, has a provision for expedited review so that the odds are excellent that within the

course of the year we will have a decision on this statute. Once the bill is passed, I think there is no doubt that someone will step forward. There will be a race to test the decision. There will be a race among the flag burners to put this statute to the test.

While the Congress of the United States cannot tell the Supreme Court what to do, the Congress does have authority to establish a timetable and establish standards for the Court's taking jurisdiction of the case, and that we have done with our requirement for an expedited decision.

If this statute is not upheld, Mr. President, there will be ample time to deal with the question of a constitutional amendment. But in the context of 202 years, a constitutional government in this case, and in the context of the Bill of Rights, which I think is the most emphatic statement ever made in the history of man about the privacy of individual rights and constitutional rights and the centrality of the first amendment and, within the first amendment, the centrality of freedom of speech, we ought not to disturb that constitutional guarantee, except in the case of extreme emergency and extreme necessity, which we do not face at the present time, Mr. President. This resolution for a constitutional amendment should, in my judgment, be defeated. I thank the Chair and yield the floor.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Washington is recognized.

Mr. ADAMS. Mr. President, I support the efforts to protect our flag from abuse, as do all of my colleagues in the U.S. Senate. However, I am opposed to the constitutional amendment before us today.

Before proceeding further, I want to congratulate Senator DANFORTH, who was just on the floor, for his statement and his withdrawal of support for the amendment which he had originally supported. I compliment Senator SPECTER for an excellent analysis of the cases on the first amendment and on the flag. I agree with his conclusion and with those cases. As a U.S. attorney in 1960 and 1961, I remember the arguments that we had over the McCarran Act which involved the freedom of political expression, and, one by one, those sections fell under the provisions of the first amendment, which protects the rights of dissidents.

Senator BIDEN's legislation, as has been so well outlined on the floor, would correct flag statute problems by prohibiting people from physically damaging the flag. It is a straightforward approach to upholding the dignity of the flag without decimating the Bill of Rights, without doing away with first amendment rights.

On the contrary, efforts to amend the Constitution, that is, the first amendment, in order to protect the flag are treading on hallowed ground. We cannot jeopardize the true meaning of our Constitution in reaction to some misguided political act.

The first amendment, it has been well stated, protects crackpots, dissidents, all kinds of political thought and speech, as well as respected political minority views. The protection we have against a government silencing us as individuals is fundamental, and we should not tamper with it unless there is a dire emergency, which I certainly do not see anyplace on the horizon at this point.

I was deeply offended by the flag-burning act brought by Texas versus Johnson to the Supreme Court. I think all Members here were. But in our effort to show disdain for burning the flag, we must not destroy the freedoms which the flag represents. It is the constitutional protection of our right to express our views, no matter how unpopular, which distinguished our Nation from other nations around the world, and that is given to us by the Bill of Rights. The Bill of Rights is our shield against arbitrary Government action.

I believe, Mr. President, it is very important that at the very time that the Supreme Court was issuing its opinion, protesters seeking political freedom and expression of their political rights in China were being massacred in Beijing. The first amendment protects precisely this kind of dissenting political opinion, no matter how popular or how unpopular it may be. It should not be changed.

I am pleased to join my colleagues on the floor today who have spoken before me in stating our reasons why we should not tamper with the Bill of Rights and, in particular, the first amendment. Limiting the first amendment would be nothing less than a fundamental change in the way our Government operates and what our Republic represents to our people and to the people throughout the world. As we celebrate the bicentennial of the Constitution, I am reminded of Benjamin Franklin's warning:

> Those who would give up essential liberty to purchase a little temporary safety deserve neither liberty nor safety.

Mr. President, the first amendment, like the flag, has weathered attacks for over the centuries and survived with glory. I will resist efforts to alter the foundation of our form of government that has served us so well for so long. Those of us who have tried these lawsuits before where attempts were made to stifle public opinion, as far back as the 1960's and through to today, have seen the effects that can occur when we rush to change the Consitution and the basic right of political dissent to exist in this country. We have ample means and have used them to prevent abuse of the flag as a symbol of our country. It is not necessary, and it is dangerous to change the Bill of Rights by an amendment to the Constitution that would stifle the very thing that we stand for: Political debate, political dissent, political opinion, and the basic right of every American to criticize his or her Government whenever they feel like it, knowing full well that his Government created the first amendment so they could do so.

Mr. President, I hope we turn down this resolution for a constitutional amendment. I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. I thank the Chair. Mr. President, I have spoken several times on the floor of the Senate about this amendment. I have also spoken several times about it in my own State of Vermont. Basically, what I have done, both in Vermont and here, is expressed not only my concern, but my outrage, at the prospect of amending the Constitution in this way. What we are talking about, is notwithstanding everything that has happened in this country for the last 200 years, we are for the first time considering amending the Bill of Rights. We did not amend the Bill of Rights during the world wars; we did not amend it during the Great Depression, Presidential assassinations, or expansion of the country. We did not amend the Bill of Rights. No matter what the provocation we were able to resist amending the Bill of Rights.

I hope we will resist amending the Bill of Rights one more time. I hope at the conclusion of this debate the Senate will put an end to what one local news commentator has called the star-spangled spectacle.

In June, the U.S. Supreme Court held that a Texas statute which banned desecration of the American flag was unconstitutional. Both the House and the Senate reacted immediately. They reflected the concerns of most Americans: virtually every American respects and reveres the flag.

Based on extensive and very thorough hearings, the Judiciary Committee recommended to the Senate that the appropriate course of action would be to adopt a statute that would outlaw flag burning and then to reject the proposed constitutional amendment.

Consider what the Senate has done. On October 5, the Senate passed the statute by a vote of 91 to 9. The House approved that amended bill overwhelmingly last week and today it is on the President's desk. President Bush has assured the American public that he will not veto the legislation, and the minute the legislation takes

effect, physical destruction of the American flag will be outlawed—done, signed, sealed and delivered.

Congress has addressed the problem of flag burning thoroughly, effectively, and quickly. We have passed a statute which will prohibit physicial desecration of the flag in all circumstances. We have acted to protect the symbol that we all hold dear, and we have done so in a manner that does not offend the basic principles underlying the Constitution.

Our democracy has worked well in this case. We have addressed the issue of flag burning by changing the current Federal statute. There is no reason to do more. The proposed consitutional amendment before us today is superfluous, unworkable, and harmful to the integrity of the Constitution. The Senate is going to reject it.

The Supreme Court's decision in Texas versus Johnson aroused powerful emotions in most Americans. We realized that the flag is valuable not only for what it represents but for its power to unify us as a people. It has grown with us from 13 stars to 50. It has led us into battle. It has fortified us in times of despair. From world wars to gold medals at the Olympics, the flag has seen us through the best and worst of times.

It is appropriate that Congress take steps to protect this valued symbol, but it is inappropriate for Congress or the President to suggest that protecting the flag requires us to jeopardize the rights and liberties that all Americans enjoy; that is contrary to the fundamental principles of our system of government and to the very purpose of the Constitution.

Our Constitution was born of the blood and hardships of generations of early Americans. From the first settlers who fled oppression and discrimination to build new lives in America to the framers of the Constitution who survived a bloody revolution—those who established this democracy knew that freedom was worth fighting to obtain. They sacrificed to preserve and protect individual liberty and freedom, not only for their children but for ours and for our children's children. They knew that the individual had to be shielded from the great overwhelming power of the Government.

Thus, the fundamental principle underlying our democracy is that the Government's power over the people must be limited. The freedoms guaranteed by the Constitution ensure diversity by protecting individual liberty, and it is this diversity that fuels and defines our democracy.

Any country that guarantees diversity guarantees democracy. Any country that stifles diversity stifles democracy. The first amendment, perhaps more than any other, protects that diversity. It provides, and I think we ought to take time to read it one more time:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of people peaceably to assemble, and to petition the Government for a redress of grievances.

Freedom of expression is the first amendment to the Constitution for a very profound reason. It protects the right of every American to think, to speak, to write, to defend—and even to offend—beliefs as we please without the threat of Government reprisal or censorship.

Mr. President, let us all remember: This is not a weak Republic, so intolerant of dissent and outrageous acts of civil disobedience that freedoms are stripped away from all of us in an effort to silence one of us.

We are the most powerful nation on Earth. Part of our power comes from our diversity and all the efforts we have made in over 200 years to protect that. Let us not have the Senate limit the power of this great democracy by limiting our rights of dissent.

We cannot allow one publicity-hungry jerk in Texas to goad us into threatening our democracy by limiting the rights and liberties guaranteed by the Bill of Rights. The President and some Members of Congress would enshrine Gregory Lee Johnson by giving him an undeserved place in our history books. They would make him the most famous miscreant since Edward Hale's characterization of Philip Nolan—the man without a country who spurned his birthright in a similar fashion and paid dearly for it by being prohibited from ever touching its soil again.

As the story goes, Nolan died with very few possessions—one of which was the flag he kept hidden in his cabin. As the reckless extremes of adolescent behavior were tempered by age and knowledge, Nolan recognized the folly of his disavowal of citizenship.

We hope Gregory Lee Johnson will one day recognize, with shame and self-recrimination, why his reckless act angered so many Americans. He is a man who believes his country is wrong. In our society he has that right. He may someday recognize that the response of his country to his act is proof of its greatness.

I urge all of my colleagues to recognize and honor that greatness now by opposing this amendment.

The Bill of Rights was drafted amid real, patriotic fervor. Mr. President, it is hard for us; we sometimes think of patriotic fervor as who has the best 30-second ad, who films themselves with the most flags or who has the greatest band playing. It becomes almost a travesty of patriotism.

Let us think of real patriotism. Think of the fervor of the founders of this country who were building a whole new nation out of a revolution, who were setting themselves on a path to democracy wider than anybody had ever thought. They went back to the writings of history from the Greeks straight on through. They said, "We will take what is best and we will build on it. We will build a new nation."

So many times people have said they would do that. This time they succeeded. But think of the patriotic fervor as they struggled to ensure the birth of that new nation. The framers of our Constitution and of the Bill of Rights captured that spirit simply and honestly in a document that embodies the basic principles of this democracy. But this proposed amendment to the Bill of Rights betrays the memory of the framers and the brilliant document they crafted 200 years ago.

We should ask ourselves what passing this amendment would do to their memory, what kind of dangerous precedent does it start? Where do we stop? Do we vote for constitutional amendments on the basis of public opinion polls? Do we dare risk bastardizing the Constitution so that it comes to resemble the U.S. Tax Code? We should not and we cannot allow the passions of the moment to push us to amend the Constitution unnecessarily.

For 200 years our predecessors in this body and the House of Representatives resisted those passions of the moment. Should we be unable to resist them today simply because we live in an electronic age? Each of us in the Senate has sworn an oath to uphold the Constitution. We must see the calls to amend this framework of our democracy through the prism of the oath we were sworn to uphold. We must act as the conscience of the Nation and reject any efforts to tamper with the principles embodied in the Bill of Rights. We must remember that the Constitution preceded all 100 Senators and the Constitution will exist long after all 100 of us are gone from this body.

We must remember, Mr. President, that none of us sat on this floor, none of us stood on this floor to address the Senate, and none of us voted in this Senate until after we stood before the President of the Senate and swore a solemn oath to uphold the Constitution. Today we get the chance to uphold that Constitution by declaring that we will vote to keep the Constitution from being diminished and diluted by this amendment.

We cannot allow the Constitution to become a forum for political battles. The issue is not political symbolism, political posturing, or political commercials. Demagoguery has no place in discussions of the future of our Constitution. We all know that symbols are susceptible to demagoguery. We value them because of their meaning, but as we saw in last year's Presidential campaigning they can be manipulated and brandished for raw political gain.

We cannot allow that political threat to shake our courage or resolve. Over the last few months the American people have spoken out. They are deeply offended by those who would destroy the American flag but they are equally offended by those who would sacrifice their liberties in an overreaching, unnecessary response to those flag burners.

The American people understand this issue. They understand what should be done and what is at risk. Those who believe that they can use this issue for their own gain underestimate the integrity and resolve of the public.

My fellow Vermonters agree with me when I say I will resist any effort to amend the Bill of Rights to address this problem. They are adamant.

You know, I am home in Vermont almost every week, and I find that they are impatient. Vermonters repeatedly tell me that we have spent enough time on this issue. The American people expect us to address the serious problems facing this Nation. Some wonder if perhaps we are unable to face up to the real problems of the country.

We have children in the United States who do not have enough to eat. One out of five children in this country which is the most wealthy nation in the world is in poverty. They do not have adequate schools or homes. These children face—on a daily basis—the threat of violent crime and drugs. Why are we not addressing that issue with equal fervor?

We have scandals in the Department of Housing and Urban Development, and scandals in the administration of the savings and loan industry. Why are we not addressing those issues with equal fervor?

We face the prospect of future generations being buried by enormous debt, with the direction of this country not being set by policy considerations but by debt considerations. Why are we not addressing that with equal fervor?

So let us move ahead. Let us uphold our responsibility to represent the American public. Most importantly, let us bequeath to future generations the same Bill of Rights bequeathed to us.

In closing, Mr. President, let me say this. I will never forget the day in January 1975, when I first came to the floor of this Senate. I was 34 years old. My mother and father, my parents-in-law, and my wife and children sat in the gallery. They watched me as I held up my hand to take my oath of office. Whatever memories may fade in later years, that is a memory that never will.

I have kept my oath of office on my desk ever since. I try to read it virtually every day to remind myself of why I am here, why all of us are here. Our oath was not to uphold our States. Our oath was not to uphold our political party. Our oath was not to uphold our own individual political fortunes. Our Oath was to uphold the Constitution of the United States.

Mr. President, all of us are proud of this democracy. Every single Senator, Republican, or Democrat, is a patriot, or they ought not be in this body. But let us remember that what has held the country together has not been the 100 of us here, no matter what part we might have played in that, but for 200 years what has held this country together is our Constitution. Let us remember that. Let us remember the oath we took. Let us preserve the Constitution and the Bill of Rights as we have for 200 years.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. MITCHELL. Mr. President, will the Senator yield briefly?

Mr. HEFLIN. Yes.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I note the presence of several Senators on the floor wishing to address this subject. I hope that we will be able to vote on this amendment in the early afternoon tomorrow, and I want to accommodate Senators who wish to speak now. So what I am going to suggest is that we proceed with the party conferences as scheduled but that we permit those Senators who now wish to do so to address the subject.

That would accommodate the interests of the Senators who are present at this time and will hopefully enable us to give everybody the opportunity who wishes to speak for such time as each Senator wishes to speak, and still have the vote tomorrow in the early afternoon, which is what I am suggesting that we do.

Accordingly, Mr. President, I understand there are four Senators present, and I ask that Senators HEFLIN, ROTH, CRANSTON, and RUDMAN be recognized to address this subject, and that upon the completion of their remarks, at such time as that may occur, the Senate then stand in recess until 2:15 p.m. as under the previous order.

Mr. ROTH. Will the majority leader yield? I do not intend to address the legislation before us. I want to make a statement as if incorporated as part of morning business.

Mr. MITCHELL. I have no objection to that. I do not know if the distinguished Senator would prefer to——

Mr. ROTH. I will discuss it with the other Senators if it is all right with them.

Mr. MITCHELL. As long as the distinguished managers do not object in that regard.

The PRESIDING OFFICER. Is there objection to the majority leader's request? If not, it is so ordered.

FILING OF AMENDMENTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that notwithstanding the recess of the Senate today Senators be permitted to file second-degree amendments to H.R. 3385 before the hour of 1:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues.

For the benefit of all Senators, the party conferences will go forward as scheduled. Senators should be aware of that, and be prepared to attend their conferences notwithstanding the fact that the Senate will continue in session to permit this debate to go forward to accommodate the schedules of the Senators here present.

I thank my colleagues.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama [Mr. HEFLIN] is recognized.

Mr. HEFLIN. Mr. President, I rise today in support of the constitutional amendment which will prevent the desecration of the American flag.

As I have stated before on this Senate floor, I feel that the Supreme Court decision in the case of Texas versus Johnson incorrectly places flag burning under the protection of the Constitution.

I feel that the Supreme Court decision was wrong. It was wrong for me personally. It was wrong for patriotism. It was wrong for the country. And it was judicially wrong.

In an earlier decision involving the desecration of the flag, Chief Justice Earl Warren wrote in dissent in Street versus New York, in 1969:

> I believe that the States and the Federal Government do have the power to protect the flag from acts of desecration and disgrace. However, it is difficult for me to imagine that had the Court faced this issue it would have concluded otherwise.

In this same case, Justice Hugo Black, dissenting, stated, "It passes my belief that anything in the Federal Constitution bars a State from making the deliberate burning of the American flag an offense." I do not think anybody can question that Earl Warren and Hugo Black were champions of the first amendment, but they recognize that the flag was something different, something special, and the vast majority of Americans feel the same way.

The Supreme Court substantiated this view in Smith versus Goguen in 1974 when the majority of the Court noted that certainly nothing prevents a legislature from defining with substantial specificity what constitutes forbidden treatment of the U.S. flag.

In a like manner, I feel that the flag is a symbol of our Nation, a symbol of freedom, and I feel that the flag ought to be safeguarded. Certainly, the

people of America have a right to expect that the honor, the integrity, and reputation of our country's flag should be protected.

Every school child knows the words of the Pledge of Allegiance. We pledge allegiance to the flag of the United States and to the Republic for which it stands. The flag stands for the Republic. Therefore, I urge my colleagues to join me in securing the sanctity of this great symbol.

Although I voted in favor of the legislative approach, I am still convinced that the constitutional amendment is the only sure way of putting an end to the legal desecration of our flag. I am a strong believer in the first amendment, but I recognize, as has the U.S. Supreme Court on many occasions, that first amendment rights are not absolute and unlimited. There have been numerous expressions in decisions of the U.S. Supreme Court that limit the freedom of expression.

Many of my colleagues have argued—and it has been written by many columnists—that we should not tamper with the first amendment, that we should not change it in any way. I want to point out, however, that the first amendment is language that is interpreted, according to the U.S. Supreme Court, at various times and places in the history of this Nation.

I think I can substantiate this, that we have tampered with the first amendment on a number of occasions, occasions that we felt that it was necessary by the adoption of constitutional amendments. While the 13th, 14th, and 15th amendments dealt with rights and privileges of those who had been slaves, it also amended the 1st amendment. I do not think there is anyone that can stand here and say that slaves had the right of freedom of speech, or freedom of press, that slaves had the right of expressive conduct.

The 13th, 14th and 15th amendments changed—yes, if you want to use the word "tamper," it tampered with it and gave the rights to those who been slaves, the freedom of expressive conduct.

I realize that the first amendment has changed on numerous occasions. One could argue also that the 19th amendment changed when it gave the right of vote to women. Is the right of vote an expressive conduct? I think it can be argued that it is a form of expressive conduct. Therefore, when the 19th amendment was adopted, it, in effect, changed or tampered with the 1st amendment.

There is no question that at any one time and place in our history, the first amendment has been as the Supreme Court then interpreted it. Therefore, I feel if we look today at the present membership of the Supreme Court and see those that voted with the majority in Texas versus Johnson and anticipate that they will still be there, I think we can certainly come to the conclusion that a legislative enactment will in all likelihood fail to change the opinion of those Justices in the Johnson majority, not to mention future Supreme Court Justices.

They had the language of Hugo Black; they had the language of Earl Warren before them; and the decision could have gone off on the fact that the flag was stolen and was not the property of the person who burned it. Nevertheless, they wanted to go beyond the language of Warren, beyond the language of Black and, therefore they, in effect, could be construed as being an activist Court in reaching the decision that they reached.

I feel that legislative changes will probably be an exercise in futility. The flag is, indeed, an important national asset which we must always support as we would support the country herself. The flag reaches to the very heart of what it means to be an American.

It would be a tragedy for us to allow the power of the flag to be undermined through the legal desecration of that flag. Allowing the burning of the American flag creates a mockery of respect that so many Americans, patriotic Americans, have for the flag.

We must act to ensure that the American flag remains protected and continues to hold the high place we have afforded it in our hearts and in our history. A constitutional amendment, in my judgment, is the only sure way of putting a permanent end to the unlawful and the unwise desecration of our beloved flag.

I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I ask unanimous consent that my statement be included as a part of morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

LET'S PUT TWO TIGERS IN OUR TANK

Mr. ROTH. Mr. President, some seem to view IRA's and the capital gains tax cut as alternative ways to stimulate the engine of economic growth. Why not do both? My IRA plus plan will provide the fuel of new savings, while the capital gains tax cut will supercharge our economy. With these two modifications our economy could shift to a higher gear, outracing our foreign competitors and speeding all Americans to a higher standard of living.

My IRA plus legislation would inject new savings into the economy, generating higher output. Our current tax law functions as a governor on our economy by slowing the flow of personal saving needed for capital formation. On the other hand, the capital gains cut would increase incentives for investment and risk taking, boosting, the economy's power curve and creating new jobs.

The liberals talk about raising taxes. Clearly their think tanks are running on empty. A tax rate increase would be like adding sugar to the gas tank and removing the spark needed to ignite economic growth. The last time the liberals moved a major tax increase, the stock market crashed as investors bailed out. What we need are checkpoints around the beltway to deter tax addiction from driving economic policy.

The taxpayers should fasten their safety belts and resist the fuelish calls for higher tax rates. With America's job machine purring along, we don't need a tax increase to wreck our progress. Higher taxes would just let the air out of our tires and leave the economy up on blocks like it was in the late 1970's.

Instead, the taxpayers should downshift, hit the gas, and race away from those who promise more taxes. These tax advocates would lead us down the road of tax and spend policy to the blind alley of economic malaise. Instead, we should make a right turn to limited taxation, fiscal restraint, and continued prosperity. The IRA plus and capital gains tax cut together provide a roadmap to a better economic future.

PROPOSED CONSTITUTIONAL AMENDMENT TO PROHIBIT PHYSICAL DESECRATION OF THE AMERICAN FLAG

The Senate continued with the consideration of the joint resolution.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. Mr. President, debate on a constitutional amendment is one of the most serious and important tasks this body can undertake.

Those on both sides of the merits of this particular amendment have said many times over that we ought to approach amending the Constitution of the United States with great caution.

That is an observation that deserves repetition.

Our Constitution has endured for more than two centuries. It is the oldest national written constitution in the world. It has withstood the test of time. It has helped to make our Nation the greatest in the world, a beacon of hope and inspiration to oppressed people around the globe.

The Constitution our forefathers wrote in Philadelphia more than 200 years ago established a government of

limited powers. As James Madison observed, "Every word [of our Constitution] decides a question between power and liberty." The result is a carefully crafted, delicate balance between the liberty of individuals and the power of the State.

The drafters of the Constitution recognized the need to provide mechanisms for changes in this document to respond to the changing needs of the times, but the process of amendment was deliberately made difficult, to be reserved as Madison noted, for "great and extraordinary occasions." They recognized that subjecting the Constitution to frequent amendment could jeopardize the stability that the new Nation needed to survive and prosper. Changes in the Constitution were intended to be reserved for those critical problems that could not be solved by other means.

This power to amend the Constitution has been used sparingly.

The Constitution has been amended only 26 times in 200 years—the first 10 of those amendments, which form our Bill of Rights—were adopted immediately after ratification of the Constitution itself.

With only a few exceptions, amendments to the Constitution have been aimed at expanding the rights of individuals, not at expanding the powers of Government over individuals. Indeed, 6 of the last 11 amendments—the 15th, 17th, 19th, 23d, 24th, and 26th—relate to voting rights and extension of the franchise.

One amendment, however, stands out as an example of an effort to expand the powers of Government and limit the freedom of individuals. That amendment—the 18th—was an utter failure. Prohibition made criminals out of law-abiding citizens and bred disrespect for the law. That folly ended with the repeal of the 18th amendment by the 21st amendment.

This proposed amendment now before us, like the 18th amendment, is aimed at expanding the power of Government. It would give governmental entities at all levels unprecedented and unchecked powers over individuals. It is unwise, unnecessary, and poorly crafted.

STATUTORY RESPONSE FAR PREFERABLE TO CONSTITUTIONAL AMENDMENT

Last week the Congress of the United States overwhelmingly passed legislation, which I cosponsored, which would provide criminal penalties for those who burn, deface, physically defile, mutilate, trample, or display on the ground the American flag, without regard to purpose of such actions or motive of the individual. This statute was carefully drafted to meet the criteria for constitutionality set down by the Supreme Court in Johnson versus Texas. Numerous constitutional professors from law schools all over the country have submitted statements attesting to the fact that there is a reasonable basis for believing that the Supreme Court will uphold the constitutionality of the new statute.

Lawrence H. Tribe, professor of constitutional law at Harvard Law School, observed in a New York Times article published last summer:

> Properly understood, the Court's decision upheld no right to desecrate the flag, even in political protest, but merely required that Government protection of the flag be separated from Government suppression of detested views. Texas went astray by punishing * * * Johnson for the view he publicly expressed in burning the flag instead of punishing him for the bare fact of this desecration of that special object.

Great defenders of the first amendment such as Chief Justice Earl Warren, Justice Hugo Black, and Justice Abe Fortas have all expressed the view that a simple prohibition on flag burning would not violate the first amendment. Justice Black observed in a 1969 case:

> It passes my belief that anything in the Federal Constitution bars a State from making the deliberate burning of the American flag an offense.

The statute we have approved clearly and concisely defines what acts are prohibited and what punishment will be in store for individuals who violate this law. The statute leaves no room for local bureaucrats to decide what is offensive and what is not. It sets a uniform standard to which all must adhere. It does not allow some Government censor to decide which ideas or conduct will be tolerated and which will be punished.

In sharp contrast, the proposed amendment opens the door to all varieties of mischief. It simply provides that "Congress and the States shall have the power to prohibit the physical desecration of the flag of the United States." It contains no limits or checks on the exercise of that power.

Some constitutional scholars have testified that it could be interpreted to override not only the provisions of the first amendment to the Constitution, but all other provisions of the Bill of Rights, including the fourth amendment's protections against unlawful searches and entry into our homes. It could be interpreted to authorize overzealous Government bureaucrats to create "flag polic patrols" to monitor how citizens display the flag.

In testimony before the Senate Judiciary Committee, an administration witness, Assistant Attorney General Barr, indicated that the definition of desecration included putting an object "to an unworthy use." Legislative bodies would have virtually unchecked freedom to determine what was an "unworthy use." President Bush recently presented to a foreign dignitary a pair of boots with the American flag emblem embossed in the leather. Some might feel that displaying the flag on shoes is an unworthy use, to be proscribed and punished by imprisonment. Others might even feel that politicians wrapping themselves in the American flag at political conventions is an unworthy use and should be banned.

Under this amendment, citizens crossing State lines might well face dramatically different rules as to what is and is not appropriate display of the Stars and Stripes. In one State, flag material worn as a garment might be regarded as patriotic; in another, a violation of criminal law.

Mr. President, this amendment would thrust us into an unknown void in an area of the utmost sensitivity. It would open the door to Government censorship unprecedented in our society. The proponents of the amendment have argued that it is a simple, direct and sure response to the Johnson case. Quite the contrary is true. Ratification of this amendment would lead to more, not less litigation, as Government entities at all levels seek to flex this new undefined power. Questions of how such an amendment would relate to other provisions of the Bill of Rights, not just the first amendment, are substantial. Unlike a statute, the careless wording of this amendment cannot easily be corrected once it has been ratified.

THIS AMENDMENT SHOULD BE REJECTED

Mr. President, this amendment is not the right way to deal with the Supreme Court's decision in the Johnson case. We have passed an appropriate legislative response, carefully crafted to deal with behavior toward the American flag that is clearly objectionable.

Millions of Americans are justifiably outraged by physical abuse of the American flag. I share that sense of outrage. Millions have fought valiantly, and many have died to protect this symbol of our Nation. But the proper response to this problem is the measured response represented by the legislation that Congress has approved.

We do not honor the flag by desecrating the Constitution with this kind of poorly crafted and ill-conceived amendment.

We do not honor the values and principles which the flag represents by rushing to amend our Constitution—the great governing law of our land—when a more appropriate response is readily available.

We do not honor our democracy by making a vote for or against this amendment as litmus test of patriotism.

The truest and deepest form of patriotism is expressed by a dedication to preserving our Constitution and protecting the unique freedom that Americans enjoy. However well intended, this amendment has no place in the Constitution of the United States.

The PRESIDING OFFICER (Mr. BREAUX). The Chair recognizes the Senator from New Hampshire [Mr. RUDMAN].

Mr. RUDMAN. Mr. President, I rise today to speak on Senate Joint Resolution 180, the proposed constitutional amendment relating to the burning of the flag of the United States. Like all Americans, I was shocked and dismayed on June 21 by the Supreme Court's decision in Texas versus Johnson which overturned a conviction for the burning of the American flag.

News reports indicated that the Supreme Court had made flag burning a protected constitutional right. Because I believed, and still believe, that it is ludicrous to equate the setting of a fire with speech protected under the first amendment, I immediately joined as a cosponsor of the pending constitutional amendment.

Since making that decision, I have read the Texas statute in question, the Supreme Court's decision and the accompanying minority opinions, and the extensive analysis and research that has been undertaken by legal scholars.

Upon reading the decision and the Texas statute in question, it is clear that the Court was forced to consider the first amendment implications of this action because of the structure of the Texas statute.

Mr. President, the Texas law under which Mr. Johnson was prosecuted prohibits flag desecration and defines desecrate as "deface, damage, or otherwise physically mistreat in a way that the actor knows will seriously offend one or more persons likely to observe or discover his action." Inasmuch as offending a third party is an integral element of the crime, the statute is aimed at expressive conduct. It is aimed not at the act but at the communicative nature of the act and, quite frankly, that makes it constitutionally suspect under the first amendment. The Court appears to have made this distinction between conduct and expression in overturning Mr. Johnson's conviction. The majority opinion states:

> Johnson was prosecuted because he knew that his politically charged expression would cause "serious offense." * * * The Texas law is thus not aimed at protecting the physical integrity of the flag in all circumstances. * * * Whether Johnson's treatment of the flag violated Texas law thus depended on the likely communicative impact of his expressive conduct.

The Court then went on to compare this statute with a Federal law, also struck down, which prohibited:

> The display of any sign within 50 feet of a foreign embassy if that sign tends to bring that foreign government into "public odium" or "public disrepute."

Nothing in the Supreme Court decision leads me to believe that content-neutral legislation to protect the flag in its status as a national symbol is unconstitutional, or would be so held by this Court. Moreover, such broader legislation is in fact preferable. As Brady Williamson, lecturer in constitutional law at the University of Wisconsin Law School noted during hearings before the Senate Judiciary Committee:

> If we are really serious about protecting the flag as a national symbol, then we should be serious about preventing its desecration in all circumstances, not just in circumstances where the political message that some people might perceive is one that makes us uncomfortable, or one that we find despicable.

The Senate passed such a statute with my support on October 5, and the House approved it on October 12. That bill is now before the President and it is about to become law.

I believe the Court will uphold this new Federal statute which is content neutral. In my view, a statute which seeks to protect the most cherished and respected of all American symbols from defacement or wanton destruction does not abridge the freedom of speech which is the foundation of our democratic government.

The freedom of speech is one of, if not the most important, liberty protected by the Constitution. But, desecration of the flag is an act, and the prohibition of that act does not affect the right of individuals to speak freely or dissent from the policies of their government or practices of our society.

The flag is a national monument and the symbol of the rights and freedoms Americans have fought and died for, and it can be protected. Among the cornerstone of those liberties is the Bill of Rights, the first 10 amendments to the Constitution. The Bill of Rights protects all Americans—our right to free speech, the free exercise of religion, to keep and bear arms, to be free from unreasonable search and seizure, and to a speedy and public trial before an impartial jury. These amendments have served this country well. Taken together, they guarantee our freedom and protect us from tyranny. Since their ratification on December 15, 1791, 198 years ago, they have never been amended.

Mr. President, to amend the Bill of Rights is a serious step with both substantive and symbolic consequences. It is a step that we should be loathe to undertake. It is an action that should be undertaken only in extraordinary circumstances and only as a last resort.

Mr. President, we have not yet reached that point. Congress has fully responded to the Supreme Court's decision in Texas versus Johnson. We have passed a law which thoroughly protects the flag in a way that complies with the Supreme Court's guidelines. There is no need at this time to tamper with the Bill of Rights and, accordingly, I will vote against Senate Joint Resolution 180.

I thank the Chair and I yield the floor.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until 2:15 p.m.

Thereupon, at 12:57 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 2:15 p.m. having arrived, under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on H.R. 3385, an act to provide assistance for free and fair elections in Nicaragua.

George J. Mitchell, Bob Kerrey, Harry Reid, Bob Dole, John H. Chafee, Bob Kasten, Terry Sanford, T. Daschle, Dennis DeConcini, Frank R. Lautenberg, Connie Mack, Richard G. Lugar, John Heinz, Mitch McConnell, William Cohen, Al Simpson, Bill Armstrong, Lloyd Bentsen.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on H.R. 3385, an act to provide assistance for free and fair elections in Nicaragua, shall be brought to a close? The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 74, nays 25, as follows:

[Rollcall Vote No. 245 Leg.]

YEAS—74

Armstrong	Coats	Fowler
Baucus	Cochran	Garn
Bentsen	Cohen	Glenn
Biden	D'Amato	Gore
Bond	Danforth	Gorton
Boren	DeConcini	Graham
Boschwitz	Dixon	Gramm
Bradley	Dodd	Grassley
Breaux	Dole	Hatch
Bryan	Domenici	Hatfield
Burns	Durenberger	Heflin
Chafee	Exon	Heinz

Helms	Lugar	Riegle
Hollings	Mack	Robb
Inouye	McCain	Roth
Jeffords	McClure	Sanford
Kassebaum	McConnell	Sasser
Kasten	Mitchell	Simpson
Kennedy	Moynihan	Specter
Kerrey	Murkowski	Stevens
Lautenberg	Nickles	Symms
Leahy	Nunn	Thurmond
Levin	Packwood	Wallop
Lieberman	Pell	Warner
Lott	Reid	

NAYS—25

Adams	Harkin	Pryor
Bingaman	Humphrey	Rockefeller
Bumpers	Johnston	Rudman
Burdick	Kerry	Sarbanes
Byrd	Kohl	Shelby
Conrad	Matsunaga	Simon
Cranston	Metzenbaum	Wirth
Daschle	Mikulski	
Ford	Pressler	

NOT VOTING—1

Wilson

The PRESIDING OFFICER. On this vote, the yeas are 74, the nays are 25. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

ASSISTANCE FOR FREE AND FAIR ELECTIONS IN NICARAGUA

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Will the Chair state the parliamentary situation now?

The PRESIDING OFFICER. The clerk will report the unfinished business.

Assistant legislative clerk read as follows:

An act (H.R. 3385) to provide assistance for free and fair elections in Nicaragua.

The Senate resumed consideration of the bill.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. Under cloture, each Senator may speak up to 1 hour. Amendments must be germane, unless specified to the contrary. The total consideration may not exceed 30 hours.

Mr. LEAHY. I thank the Chair.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 1005

(Purpose: To provide additional funding for the Drug-Free Schools and Communities Act of 1986 and to provide activities for latchkey children)

Mr. ADAMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington, [Mr. ADAMS], for himself and Mr. HARKIN, proposes an amendment numbered 1005.

Mr. ADAMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 7, strike all after "Public Law 101-14," and insert in lieu thereof the following:

"shall be available only for the purposes authorized by Section 5111 (a) of the Drug-Free Schools and Communities Act of 1986.

SEC. 2. ACTIVITIES FOR LATCHKEY CHILDREN.

(a) Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended by inserting at the end thereof the following new subsection:

"(c)(1) Funds received under section 5124(a) may be used to implement programs for latchkey children involving school and community activities before and after school, on weekends, and during summer months, which may include—

"(A) athletic activities;

"(B) community service activities;

"(C) activities involving arts, crafts, and other programs to stimulate creativity among latchkey children; and

"(D) educational instruction in subjects otherwise not available during the normal school day such as foreign languages or programs designed to improve a student's ability to resist involvement with substance abuse.

"(2) For purposes of this section, the term 'latchkey children' means elementary and secondary school age children who are unsupervised by an adult for more than 11 hours per week before school or after school, or on a regular basis on week ends or during the summer when school is not in session."

AMENDMENT NO. 1027 TO AMENDMENT NO. 1005

(Purpose: Providing that funds not be made available directly or indirectly to the Government of Nicaragua)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator will be advised that unless an amendment is already filed, it cannot be submitted. An amendment already filed can be called up. Is the Senator attempting to call up——

Mr. ADAMS. Parliamentary inquiry, Mr. President.

Mr. HARKIN. Mr. President, I send to the desk a filed amendment that I filed under the unanimous-consent agreement entered into last Thursday.

The PRESIDING OFFICER. If the Senator will withhold, the Chair will attempt to identify the amendment. We have the amendment of the Senator from Washington, properly filed. We are not certain about the Senator from Iowa.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 1027 to amendment 1005.

At the end of the amendment, add the following: ": *Provided further*, That notwithstanding any other provision of this Act, no funds made available by this Act shall be made available, directly or indirectly, to the Government of Nicaragua or to any agency, instrumentality or official of such Government".

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, my amendment to the underlying amendment offered by Senator ADAMS is straightforward, simple, and makes a lot of sense. As to the underlying amendment following the clause, and I will read it again so the Senators understand clearly:

Notwithstanding any other provision of this act, no funds made available by this act shall be available, directly or indirectly, to the government of Nicaragua or to any agency, instrumentality or official of such government.

Mr. President, I offer this amendment with the full understanding of what such a prohibition implies, the ability of the administration to provide direct assistance to UNO, the direct opposition union. I offer this amendment because I am concerned about the turn we are taking with this legislation with respect to the blatant and heavyhanded manner in which we are attempting to tip the balance of the February elections, and how we are doing that.

I believe the approach that the administration is taking will backfire in our faces. What the opposition needs in Nicaragua is not money to bribe voters, but a fair shot at a free and fair election. That means money to ensure that voter registration will result in the maximum number of Nicaraguans participating in the political process.

We need international observers at every polling place to see firsthand that the February election is handled fairly and squarely.

What the opposition does not need is a sign around their necks that they are bought and paid for by the U.S. Government. What I know about the region, I can tell you if we go forward with this legislation as currently drafted, we will be giving President Ortega the best campaign weapon he can possibly seek.

Why is it that the administration has so little confidence in the ability of the opposition and its candidate, Mrs. Violeta Chamorro, and her running mate, to convince the voters that the opposition ticket deserves the vote of the Nicaraguan people?

Why is the administration suggesting, with the excessive sums we are proposing in this bill, that the only way to win a free and fair election in Nicaragua is to buy it?

Mr. President, we are heading down the wrong road. We had it right when we supported the Esquipulas agreement, and the successor agreement from the Nicaraguan resistance. We had it right when we endorsed participation by international observer teams from the OAS and United Nations to ensure that the Government lives up

to its commitment in free and fair elections.

When we began to interfere in the political process by pouring in massive amounts of funds to candidates for their campaign organizations, to Nicaragua or any other country, we began to seriously erode the very principles of democracy that I believe this country is all about.

Mr. President, I wonder how many people understand that by voting for the administration's package, they are indeed voting to give money to the Nicaraguan Government. They do not say it very loudly, but evidently in its zeal to give money to the opposition party in Nicaragua, the administration is willing to give some of that money to go to the Sandinista government.

I offer this amendment because I do not believe that our money ought to go to either side, quite frankly. There is a way that we ought to be involved there, as we were in Chile or Poland or other places; that is to provide in-kind aid. In other words, the National Endowment for Democracy, I believe, has a role to play in emerging democracies all around the globe.

That role is to act as a facilitator, a teacher, an educator, to teach people how to organize, how to campaign effectively, how to poll watch, how to take polls, how to conduct campaigns, all the rudiments that we take for granted in our country. By doing that, if NED does that in Nicaragua or Poland or Chile or the Philippines or anywhere else, they really are building up a basis for democratic elements that will exist into the future. But by simply pouring in massive amounts of money into one political party or another and this money is used to either buy votes or pay off voters, or whatever it might be used for, I think that destroys those democratic principles.

So there is a way around this, and that is, as I have voted in the past, for NED to be involved only in kind and not giving cash. That is what this amendment seeks to do: Do not give any cash to either side, either UNO or to the Sandinista government.

So, again, I offer this amendment because I believe there are many people who do not understand how this works and that in fact, by voting for the administration's package, Senators are indeed voting to give money to the Sandinista government.

I also congratulate my colleague from Washington on his amendment, and I will speak on that a little bit later, because I think his amendment has a great deal of merit and that is if we are talking about shifting money here, spending taxpayers' dollars, what are we going to spend it on. I think Senator ADAMS' amendment to shift this to fight the war on drugs, to help the problem of latchkey children is not only a well-intentioned amendment, but one I think deserves all of our support.

Lastly, Mr. President, I will point out now and I will point out continuously throughout this debate that last Friday we voted here on the floor of the Senate to cut a lot of programs. We cut a lot of programs important to farmers in my State. We cut a lot of programs important to poor people in this country. We cut a lot of programs important to education. We cut programs important to all segments of American society. And now we are coming back here just a few days later and saying, yes, we voted to cut all those meaningful programs, but now we want to spend $9 million for the elections in Nicaragua. I wonder what the American people think we are doing around here sometimes and what our priorities are.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President, I rise in support of this perfecting amendment by Senator HARKIN, and I am very pleased that he has offered it. We are in the midst now today of a sequester procedure, which started yesterday, and which will be felt day after day, and which we may not be able to overcome. The American people may not feel strongly about it today because it has not started biting everyplace, but it will as those checks come.

I rise in support of this amendment because I do not believe we should be sending any more money, we have already sent some, to the Government of Nicaragua or to any political party or candidate in this election.

The United States does not look well and should not be attempting to influence the election by monetary contributions, but rather letting the election run its course. After all, it is the nature of a true democracy, and that is what we hope or think or believe we are trying to create.

Mr. President, if we go forward with this bill and approve the use of this $9 million, we will be providing funds to the Nicaraguan Government. I submit to all of you that to take that action just makes no sense. They have laws, which will be gone into in this debate, just as we do, and they provide a tax on outside contributions.

So as we send this money down through these channels as listed in this bill, and it does not all go through the National Endowment, the Nicaraguan Government will receive its share, and I do not believe there are a lot of Senators here who want to be spending money to support the Nicaraguan Government.

It is hypocritical because the Congress has spent millions of dollars—I have not supported that, but a lot of other Members have. In their good conscience, they felt we ought to send money down to the Nicaraguan fighting forces that are called the Contras, and they spent millions of dollars backing a fighting force to overthrow the Sandinistas. We have maintained an economic embargo of Nicaragua that squeezed that economy severely.

All along, this Senator has said that our policy toward Nicaragua has been misguided, but approval of this $9 million part that we are coming up with today, part of which under Nicaraguan law will go to the Sandinistas, will be the latest installment in this misguided policy, and I am very pleased that the Senator from Iowa [Mr. HARKIN] has brought this up early in the debate, has placed this amendment before everyone so they know, if they vote against this amendment or vote to table it, that under Nicaraguan law it is clear fully 50 percent of the foreign aid to political parties will go to the Government in the form of a tax. Once it is collected by the Government, there are no controls on what that money can be used for. It can be used to buy bullets or ballots. Would that not be the ultimate irony? The United States sending money to buy guns for both sides in the conflict.

Whether or not you are one who has supported the Contra cause or opposed it, if you have supported the Contras, adoption of this bill will simply contribute to the undoing of all that you have stood for. If you have opposed the Contra cause, as I have, this expenditure is misguided. We could use it at home because we should never have set out to support one faction in Nicaragua over the other in this type of activity. It reminds us all too much of Vietnam.

I submit to you that the amendment which has been raised by my good friend from Iowa [Mr. HARKIN] deserves all of our support. Whether you have been for or against the Contras, we owe him a great deal for pointing out through this effort how ridiculous the policy is that underlies this bill.

I urge the adoption of the Harkin amendment to the Adams amendment, and I hope that my colleagues, regardless of their prior positions, will understand that this is simply a misguided policy and we should get rid of it now, and this is the time and point early in this debate. We can adopt this amendment, finish up this debate, and get rid of it all.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona [Mr. MCCAIN].

Mr. MCCAIN. Mr. President, I oppose this amendment rather strenuously. I would like to begin by responding to some of the remarks made by both my friends from Iowa and Washington. I think, first of all, remember that we all have voting records that were referred to by both Senators. Both have been, especially the sponsors of this amendment, ada-

mantly opposed to any assistance to those who are seeking freedom in any form in Nicaragua against the Sandinista government.

In fact, if I remember correctly, some years ago when the Senator from Iowa and I were both in the House of Representatives and comparing the Contras or freedom fighters, resistance fighters, to those of Sandinistas in comparison, I believe, and I will be glad to be corrected by my friend from Iowa, that he described the Sandinistas as Boy Scouts.

I have never believed that they are Boy Scouts. In fact, I have always believed they are one of the most oppressive and cruel bunch of people who have ever taken control of a country. In fact they have totally violated promises and commitments that they have made to the people of Nicaragua, that came to power when we gave vital and crucial assistance, both in a military sense economic and diplomatic sense, in helping the Sandinista government come to power on the pledge that there would be free and open and honest elections, which in the view of many—I will be glad to yield to my friend from Iowa to respond to the Boy Scout remark.

Mr. HARKIN. I thank the Senator. I know he would yield, and I appreciate his yielding. I believe the RECORD will reflect, and I will go back and get the exact quote, but what I said at that time in debate was that the Sandinistas certainly are not, for example, Eagle Scouts, but compared to the Contras they are Boy Scouts. I said "compared."

Mr. McCAIN. I believe I quoted my friend accurately. I said in comparison to the Contras they were Boy Scouts.

Mr. HARKIN. Compared to the Contras I said they are Boy Scouts, yes.

Mr. McCAIN. I appreciate my friend's reclarifying that. I thought I made that clear.

What we have, Mr. President, is a situation today where a Marxist government has total control of the government and, because of a variety of pressures, a variety of pressures, that government has agreed to hold elections in February. It is our obligation, as we have supported freedom and democracy throughout the world, whether it be in Chile or Poland or Nicaragua, to take whatever steps we can to ensure a free and fair election.

Frankly, Mr. President, if this amendment is adopted, there will be no opportunity to do so because basically this is a killer amendment because we know that the Sandinista Government controls everything. So therefore any moneys that were paid by the UNO organization would then go to the Sandinista Government. Now that may not be the intent of this amendment, but it is indeed the effect of it.

Also, whether it is the intent or the effect, we know that the electoral laws of Nicaragua require that some moneys go to the Supreme Electoral Council. Mr. President I do not like that. I do not think any member of this body likes that or approves of it. But, at the same time, we do not have the right, even though this government is so malodorous, to change those electoral laws.

Let me also point out to you, Mr. President, that UNO operates today, because of the nature of that society, on a shoestring. I would refer the attention of my colleagues to the article that was in the Washington Post just a few days ago where it described that the headquarters of the National Opposition Union had one telephone line until a government-run phone company finally came last week to install three new lines. There is no ability to get out in the countryside and register voters. There is no ability to print. There is no ability to carry out the basic of political operations.

Mr. President, we are not talking about a level playing field. So the solution proposed by my friend from Washington that says do not give cash to either side totally ignores the fact that about $500 million of Cuban-Soviet money will go into Nicaragua this year. There will be another $350 to $400 million in military equipment this year provided to the Sandinista Government. So how can we say there will be a level playing field if we do not give cash to either side?

Mr. President, the leader of the United Opposition Party, which is a coalition of some 14 parties, is headed by, on the top of the ticket, a woman that is known to many of us, perhaps not to all Americans, whose name is Violeta Chamorro.

I have had the great and distinct privilege of knowing and meeting Mrs. Chamorro over the years, not in her role as the opposition Presidential candidate but a leader and symbol to the Nicaraguan people of the opposition to the terrible and repressive and oppressive government in Nicaragua, embodied by her courageous and incredible stewardship of La Prensa, the only newspaper in all of Nicaragua for years that spoke the truth and spoke in opposition.

She has been physically attacked. Her establishment has been desecrated. She has been shut down by the vagaries and whims of the Sandinista Government from time to time. Let me remind my colleagues that her husband was killed by the Somocistas. Her husband was assassinated by the Somocistas. There should be no question about her credibility as a person who speaks for freedom and democracy. She is the leader of the party. Today she sent a letter to Senator ROBERT DOLE. I ask unanimous consent that the full text of the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNION NACIONAL OPOSITORA,
October 17, 1989.

Hon. ROBERT J. DOLE,
Minority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: I know that today the United States Senate will be considering the proposal of President Bush's administration for a program of assistance to the National Opposition Union of Nicaragua. As the presidential candidate of UNO, I wanted to write directly to you to let you know how important this help is to us in our struggle to bring democracy to Nicaragua.

My colleagues in UNO and I believe that the voting in February is more than an election. It is a referendum, a chance for the Nicaraguan people to choose between democracy and dictatorship. But we need help to get our message out to the people. The Sandinistas control the entire apparatus of government—the television, radio, the police, the armed forces—and they use this control to try to ensure that their authoritarian rule will be prolonged. With help from the United States, as well as from other democratic countries and friends of democracy around the world, we can compete on a more even basis with the Sandinistas.

Nicaraguan law allows for contributions to political parties and coalitions like UNO by foreign governments and organizations. It seems to me that your National Endowment for Democracy, which has a history of support for democratic forces, is the ideal organization to help us. We seek that help within Nicaragua's legal framework, and we know that in accordance with Nicaraguan law we will have to make a contribution to our Supreme Electoral Council.

I firmly believe that this election represents a historical opportunity for Nicaragua. All of us in UNO will do our utmost to seize this opportunity to bring democracy to our beloved Nicaragua. I ask for your support and that of all the members of the United States Senate in this historic work.

May God bless you and all of your colleagues in your work, and may He give us here the strength to prevail in this civic struggle.

Sincerely,
Violeta Barrios de Chamorro.

Mr. McCAIN. Mr. President, I will excerpt it for the RECORD. "I want to write directly to you to let you know how important this help"—talking about the legislation that is being prepared today—"is to us in our struggle to bring democracy to Nicaragua."

It is a referendum, a chance for the Nicaraguan people to choose between democracy and dictatorship. But we need help to get our message out to the people. The Sandinistas control the entire apparatus of government—the television, radio, the police, the armed forces—and they use this control to try to ensure that their authoritarian rule will be prolonged. With help from the United States, as well as from other democratic countries and friends of democracy around the world, we can compete on a more even basis with the Sandinistas.

Nicaraguan law allows for contributions to political parties and coalitions like UNO by foreign governments and organizations.

The final paragraph says:

I firmly believe that this election represents a historical opportunity for Nicaragua. All of us in UNO will do our utmost to seize this opportunity to bring democracy to our beloved Nicaragua. I ask for your support and that of all the members of the United States Senate in this historic work.

Mr. President, my colleague from Iowa mentioned in his remarks that the Sandinistas, if we provide this aid, will seize this as an opportunity to accuse the election of being orchestrated by the United States Government. Mr. President, it has already happened. It has already happened time and time again.

On September 28 of this year, just this last September 28, in an interview with President Daniel Ortega over Managua radio Sandino, Mr. Ortega said:

We do have a powerful rival in the United States of America. For this reason there is no real opposition here but rather an artificial opposition.

Then he went on to say:

It is not possible. Because the United States is the opposition party we face in this election, the elections here are not against specific persons or parties under a certain name or slogan. The elections here are between the United States and Nicaragua.

Last September 28, Mr. President, Mr. Ortega stated this on radio Sandino and has said it time and time again throughout Nicaragua before we have given one penny for this election process. So I hope my colleagues have no illusions whatsoever as to the way the Sandinista government will be conducting this electoral campaign, whether we provide assistance to the opposition or not.

Mr. President, there is no way possible that the opposition can in any way have a viable opportunity unless they indeed are allowed to have some kind of financial assistance.

Some people say that we are providing more funds than we did in Chile. I would remind my colleagues that in Chile, there was a viable history of democracy in that country and we provided them with as much help as we could.

It is quite possible that, despite our best efforts, U.S. money may be received by the Sandinistas. This would be truly regrettable. The amount of funds would be minimal, as I stated before. This amendment is not, Mr. President, designed to prevent the Sandinistas from receiving U.S. support. This amendment is intended to prevent the Nicaraguan opposition from receiving U.S. support.

Some of the Senators supporting this amendment will be the first Members to take the floor and call for U.S. assistance to the Sandinistas after they have purchased Western support by winning unfair elections.

Mr. President, I am sure most Senators are aware of my unyielding opposition to the perpetuation of Sandinista tyranny. I hope most Senators understand that I would not want the Sandinistas to profit from our support for democracy in Nicaragua. Yet, we must be realistic that it is simply impossible to provide assistance to any Nicaraguan organization without some of that assistance being received by what could be classified as Nicaraguan Government agencies.

Further, it is ludicrous to assume that this eventuality would represent a reversal of U.S. policy or a perversion of the democratic principles that underlie our policy.

As I said before, when the opposition pays a phone bill, they pay a government agency. When they pay custom duties, they pay them to the Government of Nicaragua; everything they use in the course of the elections. Obviously, some payments will have to be made. The Supreme Electoral Council, I was told by Mrs. Chamorro this morning, who is to be the recipient of that aid have so far—and I emphasize so far—treated the opposition party fairly in her view. This is the organization, by the way, that would receive 50 percent of the moneys.

Yes, the Supreme Electoral Council is dominated by 4 to 1 of the 5 members in either pro-Sandinista or Sandinista members, but so far, in the view of Mrs. Chamorro, they have not been treated unfairly.

But, Mr. President, I do not expect us to be able to have a total level playing field. In fact, I have great skepticism as to whether a truly fair and equal election will be allowed in Nicaragua by the Sandinistas since they have a 10-year record of not allowing such a thing. But, at least, Mr. President, we should do everything we can to help them and assist them.

If we have to resist this issue in any way in the event of a fraudulent or criminal election taking place next February, at least we can say with clear conscience that we, as Americans, did everything we could to further the cause of freedom and democracy, whether it be in Nicaragua, Chile, Poland, or any other part of the world in which we have involved ourselves in the furtherance of democratic principles, ideals, and elections. The United States, as I said, cannot make these elections free and fair. Unfortunately only the Sandinistas can do that.

But we can make the theft of these elections a more difficult proposition for the Sandinistas. Let us not be found wanting in this effort.

Mr. President, if we accept this amendment, we all know the effect. Please, let us not misunderstand the effect of this amendment. The effect of this amendment will be that we will not be able to provide those moneys because we will then be in violation of Sandinista electoral laws, which, by the way, President Carter who is going to be a major player in observing these elections was quoted on September 17 as saying: "Any money that comes from the United States should be open and overt and comply completely with the laws of Nicaragua." That is the statement of President Carter who was quoted on September 17 in the Washington Post.

Mr. President, all we are asking is that this money be extended in compliance with the laws of Nicaragua.

I yield for a question from my friend from Iowa.

Mr. HARKIN. I wonder if the Senator will engage in a colloquy?

Mr. President, the Senator from Arizona certainly knows my great respect for him. He is an intelligent and well-reasoned individual. I know in the past we have worked together. As a matter of fact, the Senator and I worked together on a Senate amendment providing aid for elections in Chile to provide money for any need to help conduct the election in Chile. I only hope we had a package in front of us similar to what that was, both in scope and amount.

Again, my problem with it, and I have already voted, I want the record to be clear, I have already voted for $3.5 million to give to NED for the election process in Nicaragua. I am clearly on record of supporting it. I have problems with the scope here and the amount, I say to my dear friend from Arizona.

First of all, in response to the point that this is a killer amendment, I point out to the Senator that if this amendment were adopted, aid could still go to the process in Nicaragua. It is just that money could not go to the political parties, neither to the Sandinistas on the Supreme Electoral Council nor to UNO, but money, more specifically in-kind services, could go to Nicaragua for the process, much of what we did in Chile.

The amount of money the Senator and I supported for Chile went down there for the process and not to be given to a certain candidate and a certain party. I make that argument again today that if we really want to support a democratic movement in Nicaragua, support the process, not just pump a lot of money into one political party or another.

I just say to my friend that I do not believe this is a killer amendment. Yes, I will be glad to admit it kills aid to the political parties, but the administration still would be free, working through NED, to give money or in-kind services for the process in Nicaragua. I just ask my friend if that is not the case?

Mr. McCAIN. First, in response to my friend from Iowa, of course, I am

grateful for his support of the political process and the furtherance of democracy and freedom in Chile. I think that is a singlar achievement there of replacing a dictatorial government with what clearly will be a freely elected one which I think is a testimonial, first of all, to the people of Chile but also ample testimony that this Government and the American people can and will make an effort to bring about democracy either in this hemisphere or any other. I applaud my colleague's effort in that direction.

When my friend from Iowa says this money is going to one political party, I think it is well recognized that it is going to the united opposition, which is composed of 14 parties, which is the only opposition to the present government. And I might add—and probably should not—that one of those parties is a Communist Party, but this is a broad-based spectrum alignment which has aligned itself and united against the Sandinista government. To portray this as simply a contribution to one political party does not adequately in any way describe what we are talking about in whom we are assisting, No. 1.

No. 2 is, in Chile, at least, there were telephones, there were printing presses, there were vehicles, there were all kinds of equipment and capabilities that the Chilean people had in order to further their efforts when they basically won an overwhelming victory in a referendum that took place down there.

I say to my friend from Iowa, these people have nothing and their state controls everything. So unless they are given the wherewithal to have telephones in the opposition party, to be able to go out and register voters and the kind of political grassroots activities that make up a campaign, then I think obviously their chances of success are incredibly minimal.

Does my friend from Iowa have any other comment?

Mr. HARKIN. I thank my friend for responding to my question. My friend from Arizona says that the UNO is a compilation of different groups that have come together, and that is true. But there are still other parties in Nicaragua.

I would like to ask my friend what about Eric Ramirez? He is a candidate on the Social Christian Party ticket. What about him? And, as I understand it, there may well be about four or five other Presidential candidates besides.

Mr. McCAIN. May I say to my friend, first of all, I think it is clearly recognized by all—I do not believe as many as five additional candidates are indeed on the ballot, thanks to some efforts on the part of the Sandinistas, but no one who observes Nicaragua believes anything that the coalition of 14 different parties, ranging from far right to far left, is not representing the overwhelming majority of the opposition.

I think we can get into a semantical point. Maybe there will be another name on the ballot, but clearly the opposition who has even any remote opportunity for success is the UNO which, as I mentioned, covers the entire political spectrum, united by only one principle, and that is that they are totally dissatisfied with the present government under which they live.

Mr. HARKIN. Mr. President, I will respond. Certainly, there is no doubt Ramirez represents a broad coalition. How much depth they have and how much support I think remains open to question.

I point our Eric Ramirez, because his running mate is Mauricio Diaz of the Christian Party. Diaz sits on the reconciliation commission. Brooklyn Rivera, who is one of the leaders of the Miskitos Indians, is supporting Eric Ramirez and Mauricio Diaz. That is not an inconsequential number of people. Here is a whole segment of Nicaragua society led by Brooklyn Rivera supporting someone other than Chamorro. Why should we be pouring all that money into one political party rather than supporting the process?

Mr. McCAIN. Part of the money goes to the political party. A large majority of it goes to other apparatus which furthers the cause of democracy. I believe $9 million is not devoted to any particular party. The fact is, by the view of any rational observer, UNO is the opportunity that they have to replace the present government if there is a free election. Also, the $5 million that will be going to simply attempt to install apparatus for free and full election, those other candidates, as minor as they may be, will greatly profit from that as well.

I think to make a case that a candidate or two would not profit by this entire package does not recognize the fact that a great deal of money is also going just to establish the apparatus for free and fair elections.

In all due respect to my friend, I think to say that one candidate or another is not receiving these amounts of money as a reason not to give money at all, frankly, is not logic that I can accept, although I understand why my friend from Iowa feels that way.

Mr. HARKIN. What I am saying is that, again, I think we destroy the real basis for the National Endowment for Democracy when we start injecting ourselves into one political party or another, when, in fact, there are different people who are running it.

I still think our strongest position is one of supporting the democratic process, of ensuring that people are taught how to register, how to get out the vote, how to poll, how to organize to make sure that every poll has poll watchers on election day, to build up that volunteer group, to make sure we have enough international observers there, to make sure it is a free and open and fair election. Once you start pumping in that amount of money—and my good friend from Arizona knows this region very well and he knows the sentiments not only in Nicaragua but other countries in Central and Latin America—the amount of money that we will be pouring into Nicaragua to support UNO, when you figure the equivalency of $25,000 amounts in this country to about half a billion dollars.

In other words, it would be as if, during our last Presidential election, some other country were to come in here and pour one-half billion dollars into Mike Dukakis' campaign or into George Bush's campaign. We would not stand for that; and, quite frankly, there would be a legitimate backlash against that.

Again, on some things I know my friend and I agree. That is we both want to see an open and fair and free election. We want to see democratic reform in Nicaragua. We want to see democratic institutions spring up, a democratic form of government. Our disagreement is on the best way to achieve that.

Again, my friend's knowledge of the area is well known. Does he not feel that this amount of money being poured in would create a backlash, that Daniel Ortega and others would be able to point to Villeta Chamoro and say yes, she is bought and paid for by the United States? I am sure they would say that and I do not know how she would answer it except to say yes, they poured in a half a billion dollars into her campaign. Does my friend from Arizona have a concern about that?

Mr. McCAIN. First, when my colleague talks about half a billion dollars, I would have to look at that with some care. Very frankly, that is $9 million; $9 million in Nicaragua is $9 million here.

The basic point and the most important point, I would say to my friend from Iowa, is that this party, this unification of 14 opposition parties, has nothing at this time.

We might be able to put in all the nice things which we are going to do with the other $5 million, as far as ballot boxes and as far as voter registration for which, by the way, there are only two Sundays remaining according to the Sandinista law. We can do all that. But if the party does not have anything in a society where, if they want to obtain anything, it is due to the largess of the Sandinista government, then they cannot conduct a campaign. Surely my friend understands that.

We can have all the infrastructure in the world but unless the party has some kind of capability to get its message out, which it does not, not now because it is totally destitute, clearly it cannot conduct a free and honest and open campaign.

Again, as far as creating a backlash is concerned, I quote again to my friend from Iowa. Mr. Ortega has already said on Radio Sandino:

> We have a powerful rival, the United States. For this reason there is no real opposition here but rather an artificial opposition. Because the United States is the opposition party we face in these elections. The elections here are not against specific persons or party under certain name or slogan. Elections are here between the United States and Nicaragua.

He has already said that, I say to my friend from Iowa. If he is afraid of a backlash on the part of the Sandinistas, it is already there. We have known for a long time they will base their campaign against the United States of America, whether the united opposition receives any support financially or otherwise.

Again, how, possibly, I ask my friend from Iowa, how in the world can a party conduct a campaign that does not even have three telephone lines, that has no transportation, that has no ability to pay its workers, not only pay them but feed them?

How in the world can you conduct a viable opposition if you are literally destitute? Of course, the economy we all know about. But, clearly, they are dependent upon the Sandinista government for any kind of assistance, all of which, clearly, they would have to pay for since they are not going to be getting any of it for free.

My answer to my friend from Iowa is, unless we provide this kind of assistance, there will be no viable opposition. I do not have any doubt about it.

I yield to my friend from Wisconsin.

Mr. KASTEN. Mr. President, I make a parliamentary inquiry. Is the time of this exchange being deducted from the time of the Senator from Iowa or the Senator from Arizona?

The PRESIDING OFFICER (Mr. WIRTH). The Senator who was last recognized was the Senator from Arizona. Consequently the time would be deducted from the time of the Senator.

Mr. McCAIN. I yield the floor.

Mr. KASTEN. I suggest to the Senator if we go on——

Mr. HARKIN. Mr. President, my colleague can take half. I will be happy to yield time.

The PRESIDING OFFICER. Does the Senator from Iowa seek recognition?

Mr. HARKIN. I did not mean to take all this time. I will be happy to give some of this time or split it in half. I will give the Senator any time he needs to cover that last little bit of exchange.

Mr. McCAIN. Mr. President, can we have 5 minutes back?

The PRESIDING OFFICER. If that is a unanimous-consent request?

Mr. McCAIN. Yes, it is.

The PRESIDING OFFICER. Without objection, 5 minutes will be transferred to the time of the Senator from Arizona.

Mr. McCAIN. I thank my friend from Iowa.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from Iowa has remaining 48 minutes.

Mr. HARKIN. Does the Senator from Arizona want more time?

The PRESIDING OFFICER. By unanimous consent we just yielded 5 minutes to the Senator from Arizona.

The Senator from Arizona is recognized.

Mr. McCAIN. I remind my friend from Iowa, I am sure he has ample explanation for it, of the vote he cast on July 13, 1988, which was a part of the Interior and related agencies appropriation. It was a Byrd second-degree amendment that would provide a substitute to the Dole amendment. What that amendment did was express the sense of the Senate's disappointment over the situation in Nicargua.

More specifically, the amendment would urge that the United States strengthen democracy in the independent media, provide the democratic opposition with assistance, and renew humanitarian and possible military aid if Sandinista violations persist.

According to the CONGRESSIONAL RECORD, the Senator from Iowa voted in favor of that amendment.

I suggest that that is in some contravention to the amendment that is before this body at this time.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Iowa.

Mr. HARKIN. Mr. President, I am informed I did not ask for the yeas and nays. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HARKIN. Mr. President, I want to make another point. I again direct my remarks to the Senator from Arizona on this issue of consistency. By denying election-related aid to the Government of Nicaragua, I believe we are consistent with stated U.S. administration policy.

Currently the United States Government, dating back to 1985, has imposed a trace embargo against Nicaragua and has continued to extend that embargo every 6 months under provisions of the International Emergency Economic Powers Act.

The administration's justification for extending the embargo are quite clear. Let me quote from former President Reagan's initial Executive Order of May 1, 1985, when he first invoked this International Emergency Economic Powers Act to impose the Nicaraguan trade embargo.

> I, Ronald Reagan, President of the United States of America, find that the policies and actions of the Government of Nicaragua constitute an unusual and extraordinary threat to the national security and foreign policy of the United States and hereby declare a national emergency to deal with that threat.

That threat, according to the May 1955 Executive Order, was declared in response to "the emergency situation created by the Nicaraguan Government's aggressive activities in Central America."

In 1987 the administration still saw that threat posed to American national security as being so severe that in 1987 the administration denied OXFAM the right to export to that country humanitarian goods, agricultural tools, seeds, and other equipment. The reason, and again I am quoting from a May 1, 1987, letter from then Assistant Secretary of State:

> OXFAM America's request for an exception to trade sanction regulations was denied because one of the institutions through which OXFAM plans to channel its aid provides assistance only to government-sanctioned groups that agree with the ideology of the Sandinista party.

That letter continues:

> Granting licensing exceptions to the sanctions for the benefit of organizations that are set up by the government to consolidate its control of all aspects of private, political, and economic life in Nicaragua is contrary to U.S. policy.

As recently as April 21 of this year, President Bush reextended the trade embargo, declaring, "The policies and actions of the Government of Nicaragua continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States."

So I say to my friend from Arizona, who I see on the floor—and we have had a good colloquy in the past—what I was just reading from was the 1985 finding of President Reagan that the Government of Nicaragua posed a threat to the security of the United States, and thereby he imposed a total embargo on Nicaragua. That embargo has been extended every 6 months since that time.

In 1987, OXFAM America, of which I am sure the Senator is aware, a religious-based organization, wanted to send humanitarian goods to Nicaragua. They asked for an exemption to the trade embargo. The Reagan administration said no, and the reason

they gave was because the humanitarian aid would have to go through one of the agencies of the Nicaraguan Government and therefore they would not grant them that exception.

In April of this year, President Bush again extended the trade embargo by saying:

The policies and actions of the Government of Nicaragua continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States.

I guess what I am wondering is now we are being asked to give money through the National Endowment for Democracy that, one, will go through the Central Bank of Nicaragua and, second, be split so that about half of the money will go to the Supreme Electoral Council, which the Senator himself has pointed out is controlled 4 or 5 to 1 by the Sandinistas and which is an arm of the Sandinista government.

I cannot understand why OXFAM America would be denied sending humanitarian aid to Nicaragua because some of the aid would go through the Nicaraguan Government, but yet right now we are being asked to give money to the Nicaraguan Government. How can that be consistent with what President Bush said this April in extending the trade embargo?

I yield to my friend.

Mr. McCAIN. First of all, I am not familiar with OXFAM America, although I am certainly familiar with organizations like it. What my friend has described as " humanitarian assistance," as far as I have been able to tell, has been direct input into the Sandinista Government. They have made very clear their opposition to the resistance and Contras within Nicaragua, so I guess it is in the eye of the beholder as to what humanitarian assistance is, because these organizations, although humanitarian—I do not question their humanitarianism—the object of their largess has been the Sandinista Government, Sandinista organizations, Sandinista hospitals, and so forth. If the Senator could cite me an example where some of this humanitarian aid was received by the resistance and freedom fighters either inside or outside of Nicaragua, I would sure like to know about it because, to my knowledge, none of that has ever happened.

So when we call it humanitarian assistance, I think that is a very selective kind of humanitarianism which applies to only a certain segment of the Nicaraguan population.

Let me also say to my friend that what we are seeking now is a chance, an opportunity for all Nicaraguans to be heard. We are seeking an opportunity for all Nicaraguans to be able to take part in a process which in my view they will clearly not be allowed to do unless they have the wherewithal to set up the kind of viability that is important for any organization to be able to achieve if they are going to get out their message.

They do not even have sound equipment. They do not even have loudspeakers. They do not have automobiles to go from one place to another, and if they do not, I do not think the Sandinistas or OXFAM America are going to give them to them.

How are they going to get a level playing field? Only through our assistance.

Let me respond to one more point of my friend from Iowa, and that is the subject of the Electoral Council. As I said, it is very unpleasant for me, and I am sure every Member of this body, to see American dollars perhaps going to a council that has a 4-to-1 pro-Sandinista makeup, but at the same time, as President Carter said—I believe the Senator from Iowa has some respect for President Carter's role in this issue—any American assistance must comply with the laws of Nicaragua.

So for us not to do that then would be in noncompliance with the laws of that nation, and I know that my friend from Iowa would strongly oppose covert assistance in this effort to bring about freedom and democracy. Frankly, we are out of options except the one that is before us today.

Mr. HARKIN. I agree; I am adamantly opposed to covert aid, too, but there is a way out of this and that is in-kind aid for the process that does not have to go through the Supreme Electoral Council. There is a way to do that.

Mr. McCAIN. I understand that point. But when you have an opposition that has no means whatsoever to get their message out, has no means whatsoever to finance their campaign and their ability to even register voters for their party, then I suggest there is no way we can ensure a free and fair election even though obviously my friend from Iowa feels that just simply providing money for an electoral infrastructure will be sufficient. I do not agree.

Mr. HARKIN. Does the Senator from Arizona believe that Nicaraguan laws supersede United States law? The United States law says that Nicaragua is a threat to our national security. Does the Senator believe that Nicaragua is no longer a threat to our security?

Mr. McCAIN. I believe it is, and I believe the best way to remove that threat is to have a freely elected government, and the day that happens I believe you will see that totally disappear.

By the way, I know my friend from Iowa has disagreed with that finding on the part of the Reagan and Bush administrations, but I suggest that his concerns and mine will be totally resolved if there were a free and fair election in Nicaragua, which in the minds of most observers and certainly this Senator has absolutely never happened since 1979 when the Sandinistas came to power with our help and with that commitment.

I know I have used a lot of the time of my friend from Iowa. I will be glad to share this time if we are going to continue this colloquy.

Mr. HARKIN. That is all right; it is a good dialog. Again, listening to my friend speak, it sounds as if the opposition is just stone-cold broke and does not have any money. Let me point out that we have already given $3.5 million. That is more than we gave Chile. Chile is a country of 12 million people. We gave them less money than that.

Here is Nicaragua with 3 million people, and we have given them $3.5 million already.

Mr. McCAIN. Let me point out that is over a 3-year term, as the Senator well knows.

Mr. HARKIN. No; it just passed last year.

Mr. McCAIN. I will be glad to check. It is my understanding it was over a 3-year period of time. A great deal of that money, as my friend well knows, was spent to keep La Prensa in operation because the Sandinista Government would not even allow them the print in order to be able to publish the paper, and when they did, of course, they charged them the most exorbitant prices.

I am sure, as my friend well knows, that money has been spent and has been spent on very worthwhile purposes.

Mr. HARKIN. I want to also point out that in addition to the U.S. money, private sources have provided at least the following: $3.1 million from the West German Konrad Adenauer Foundation; $200,000 from the West German Friedrich Neumann Foundation; $100,000 from Venezuela; $20,000 from a Miami-based Committee for Free Elections in Nicaragua.

Again, they have received a lot of moneys from outside this country, also. It is not just the $3.5 million we have given them.

Mr. McCAIN. I think the Senator makes a very good point. May I also remind him in that period of time there has been $500 million of Cuban and Soviet money and economic assistance and $300 to $350 million in military assistance, which of course makes the small amount that the Senator from Iowa is describing a mere pittance in comparison to the kinds of funding that has gone to a government which is not only a government, it is the state and the party and the army and everything altogether.

Mr. HARKIN. I really do not think the Senator wants to get into that argument because we will get into El Salvador, all the money we give them,

their military, and support of that political party in that country.

Mr. McCAIN. At the proper forum, I look forward to the opportunity of getting into that debate, including the fact that the FMLN as been supported by the Sandinistas, recently admitted by the Sandinistas, which has caused to a large degree our significant investment in El Salvador. I agree with my friend. That would be out of the scope of this colloquy in which we are engaged.

Mr. HARKIN. The last point I wanted to make is the Senator quoted from the Washington Post newspaper of Friday, the 13th, talking about how broke UNO was. There is one other point to the article the Senator did not quote. That was saying a fundraising trip to Miami by Chamorro last month netted a disappointing $10,000, according to campaign officials.

Here are all these people living in Miami wanting to support free elections there; they only give $10,000. Come on. There are a lot of wealthy, very wealthy, Nicaraguans living in Miami, and they can only cough up 10,000 bucks. It kind of makes you pause and wonder why the taxpayers of this country have to finance that campaign.

Mr. McCAIN. If I can, the Senator from Iowa makes a very important point. I would like to get the services of the fundraiser of the Senator from Iowa in the last campaign and perhaps they might do a better job. My response to that frankly is that I was disappointed. And I think there is more there than meets the eye, and there has been significant support not only from the Nicaraguan community in Miami but also the Cuban community and others. I would suggest the answer to that is go back and have that fundraiser.

Mr. HARKIN. I appreciate the humor. But I again want to point out that we have an administration policy declared as late as last April by President Bush that a national emergency still exists with regard to Nicaragua. How can we justify sending aid to that same government that President Bush said poses a real threat and danger to our Government? I do not understand any justification for it.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Before I yield on my time, would the Senator from Iowa yield for a question? I want to make sure we understand. I apologize for having to step off the floor briefly on another matter. How much money did the United States send down to Nicaragua for these elections last year?

Mr. HARKIN. The total amount of money the United States has given to the Nicaraguan opposition has been $3.5 million.

Mr. LEAHY. That is this year.

Mr. HARKIN. In the fiscal 1988 appropriations and in the supplemental this year combined it was $3.5 million.

Mr. LEAHY. If the Senator will yield further on my time for a question, as I recall, the Senator from Iowa was quite involved in the help for the Chilean elections. I am trying to think. The amount of money being requested here, the total amount of money, what has already gone and what is being requested in the legislation before us, if the Senator from Iowa might want to compare on a per capita basis the kind of money that went down to Chile as compared to the amount of money, if this legislation passes successfully, is not money that would go to Nicaragua.

Mr. HARKIN. If the Senator will give me a second, in Chile, the amount of aid that we provided amounted to about 8 cents per person. The amount that we are providing to Nicaragua amounts to about $5 per person.

Mr. LEAHY. Five dollars?

Mr. HARKIN. Five dollars. Eight cents for Chile, $5 in Nicaragua.

Mr. LEAHY. In fact, I think when you look at the Philippines, the Philippines has 60 million people. Mr. President, we spent $1.3 million there. If you take everything that the administration has done and proposed doing, you take $2 million in Nicaragua, so everybody understands what we are talking about. We spent $2 million last year, and $3 million this year in a country with about 1.5 million eligible voters. They want to spend another $9 million. That is $14 million in about 18 months in a country of 3 million people with a per capita income of about $300 a year.

The biggest industry, it appears, is going to be the amount of money coming from the United States for these elections. We spent about $2.4 million to help ensure fair elections in Chile with 12.5 million people; $100,000 in Panama, a country with 2.5 million people; in the Philippines with 60 million people, we spent about $1.3 million—60 million people, $1.3 million; Nicaragua, with 3 million people, we want to spend $14 million. What will happen will happen.

Every Senator is going to have to ask himself or herself how they are going to vote. I wonder if somebody someday, perhaps some historian, will look back and ask the United States just how we got into this situation. Why this unbelievable fixation on this impoverished little country of Nicaragua? The administration substituted a covert action policy for a foreign policy with disastrous results, disastrous results ranging from Iran to contra camps on the Honduras-Nicaraguan border, with a subsequent diminution in the credibility of the United States and our foreign policy, all because of this fixation on Nicaragua.

Sometimes we have difficulty in this country setting our priorities right. We will spend days debating some National Endowment for the Arts grants, but not $1 trillion worth of extra debt. We will spend enormous amounts of time debating Nicaragua, but very little bit of time debating either the relationships between the two superpowers or the emerging advantages we have now in Eastern Europe, things that could really advance the foreign policy of this country.

We debated this morning at great length the constitutional amendment on the flag. We will not debate anything about the millions of homeless people in this country.

We will debate expenditures of a few hundred thousand dollars on some disputed governmental issues. We almost, with a wave of the hand, passed on $150 to $200 billion to bail out a savings and loan mess which never should have happened in the first place.

I just worry, Mr. President, that we are all going to have to ask ourselves, Republicans and Democrats alike, Members of Congress as well as members of the administration, whether we are more involved with rhetoric than reality, whether more with form than substance in this Government. If so, we have to ask ourselves if we are really doing the kind of work that a great democracy like ours deserves.

I reserve the remainder of my time.

Mr. BUMPERS addressed the Chair.

The SPEAKER pro tempore. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I intend to support both the second-degree amendment and the amendment in the first degree if I get a chance to vote for both of them. I intend to support both of them.

Mr. President, I think this is bad business. It was either last year or the year before that we debated endless hours about campaign finance reform in this body. I happen to be an unabashed believer that you will never get the country back on track, and you will never get the political process functioning as it should, until you change the way we finance campaigns in this country.

It is shameless for a Senator to have to raise $12,000 a week every year he is here to finance his next campaign. In 1986, when I ran, the average winning Senator spent $3 million. It is estimated that in this next cycle, 1990, the average Senator who wins will spend $4 million. Where is the money coming from?

I am not even going to belabor the point. Everybody knows where the money comes from. We all go around with our tin cup out. If one asks a Senator to help him with a bill, he has to go look at his contributor list to see whether he is going to offend anybody or not.

There is not a country on Earth that runs the financing of their elections the way we do. But you could not get anybody in this body to vote for that. I will not say anybody, because there are a lot of people here that would, but there are a lot of people that would not. They think there is something socialistic about it, I guess. Here we are wanting to publicly finance an election in Nicaragua. And in order to get money to Mrs. Chamorro, we are willing to give Daniel Ortega, who has been the nemesis of Ronald Reagan and George Bush for the last many years, $2 million in order to get $2 million to Mrs. Chamorro. That may make eminent good sense to some Members of this body, but it makes absolutely none to me.

When I ran for the Senate the first time in 1974, a Canadian doctor who was treating my brother, who was supposed to be the world's expert on a condition that my brother was suffering from—the day after I announced for the Senate, I went to Montreal, and I spent 3 days with my brother, and I got to know this great neurosurgeon on a personal basis. We became very good friends, and he became interested in my race, and he sent me $200 after I got home.

You know what I did? I checked the election laws, and I found that you cannot accept a contribution from an alien. So I had to send the $200 back to Canada. Here we are going to put $9 million into Nicaragua, because they do not have such a law. Mrs. Chamorro came up here and raised $10,000, and that is OK under their law. But you think about us putting $5 per voter into an election in Nicaragua.

Reverse it and let us assume that Saudi Arabia, which is a very wealthy nation, I guess the wealthiest nations on Earth per capita—maybe it is Kuwait. Kuwait, I have always believed, was one of the wealthiest nation on Earth per capita. Let us assume that Kuwait thinks that Congress is just a little bit tilted toward Israel. They do not like our votes in the United States Congress because they think we give Israel too much money. And because Kuwait has more money than they know what to do with and would like to see the United States elections tilted in such a way they felt they would get a little better shake as an Arab nation, let us assume they just sent us a billion dollars, which would not be an awful lot more than the $9 million we are proposing to send to Nicaragua. Cut the figure down to make it more interesting. Assume they send $50 million to influence the outcomes of elections of U.S. Senators. What do you think the reaction would be among the American people? What do you think the reaction would be among the people of Arkansas, if they thought I was taking money from the Kuwaitis because they had a little ax to grind, or some other Senator took their money?

I will tell you what would happen. He would not get enough votes to count. He would get waxed unmercifully. Even though Nicaragua is a very small nation, one of the poorer nations on Earth, do you think they do not have national pride in Nicaragua?

I read an interview the other day in a magazine called Arms Control Today by George Kennan, a man whom I respect greatly on the issue of arms control. He was simply talking about how we deal with the Soviet Union, in sort of a vaccum. We do not understand that the Soviet Union really thinks more in political terms than we give them credit for. He said, they think further than the end of their noses about the political consequences of all their actions.

Let me ask this question: I will ask two questions. No. 1, let us assume we send $9 million to Nicaragua to influence the outcome of the election, and let us assume that Mrs. Chamorro wins; I promise you the tide will turn on Mrs. Chamorro, because the consensus of opinion will build in Nicaragua over a period of time that she is a puppet of the United States. She may say all the things that you say rhetorically to show that your heart is in the right place, where democracy is concerned, but she will be perceived as having won her seat because of the assistance she got from us. That is a loser. That is a loser for her, a loser for Nicaragua, a loser for us.

The second example: Let us assume that Daniel Ortega wins; the perception will be that he won, despite the great North American gringo who tried to beat him, and he further solidifies his position in the minds of the people who love those Davids that slay Goliaths. So he wins, Nicaragua loses, and we lose.

I can tell you just because Nicaragua is a small nation, the resentment will be just as deep there as it would be here if the same situation were being perpetrated on us.

Finally, Mr. President, I am absolutely staggered at the number of people in this body who are apparently willing to vote this and face those 30-second spots about how he voted to give Daniel Ortega, the biggest Marxist next to Castro in this hemisphere, $2 million. Now, you may go back and say, yes, I was trying to help the democratic process down there. What do you mean? Do you consider giving Daniel Ortega, an avowed Marxist tyrant, $2 million of taxpayers money of this country? Senator, you must be out of your mind.

Finally, Mr. President, when I think of all the problems in this country that require men to solve, $9 million does not go very far. Nine million dollars to a country as large as Arkansas is a lot of money. Think about education. Here we are dead last in competition with all the industrial nations of the world, in math, in science, and global studies. This morning's Post reported that 78 percent of the Korean children had no problem working mathematical equations of two steps or more, while only 40 percent of American students could do it. The President, every time he gets a chance, says he wants to be the education President. But look at the budget and look at his recommendations on funding to fulfill those beautiful words.

Here we are 19th in infant mortality; the infant mortality rate in Washington, DC, is higher than it is in Panama. And drugs, we fought here for weeks over whether we were going to put $7 billion into drugs or $10 billion into drugs. Two million people in this country are addicted, want treatment, and we put up enough money to provide treatment for about 20,000 people. There are 38 million people with no health care whatever. We just got through rescinding a catastrophic health bill for the elderly of this country, trying to cap the amount of hospital bills they pay, cap the amount of doctor bills they pay, cap the amount of drug bills they pay. We just got through repealing that, because we could not afford it.

The reconciliation bill we passed here in the late hours the other night stripped all extraneous matter. Senators know what some of the extraneous matter was—home health care for the elderly, income averaging for farmers, child care, a $1.2 billion for child care. Look at the list of things that came off of that bill the other night, some of them extremely meritorious, really important to this great Nation.

We stripped them off because we could not afford it, and here we stand debating today sending $9 million to influence the outcome of an election of a country of 3½ million people because somebody thinks they are a threat to our national security.

I promise you, Mr. President, this is a loser by any measure. And I intend to vote for both of these amendments, and I intend to vote against this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, it is always a hazard to follow the distinguished Senator from Arkansas in any circumstances and certainly today is no exception. Once again he has waxed eloquent on a subject matter which he cares very deeply about and that is the spending priorities of this country.

Mr. President, I am going to support the Harkin and Adams amendment. There is the underlying amendment or the second-degree amendment. I be-

lieve that we are confronted with some pretty forward choices in the legislation as it has been presented by the administration.

I would say to my friend from Iowa and my friend from Washington that I am not entirely comfortable as they both know because I frankly would like to see us do something in support of the electoral process in Nicaragua. I happen to be a very strong supporter of the National Endowment for Democracy. I have seen it be a significant and positive constructive force, and I know that I can take some of that money, I say to my friend from Arkansas, and bring it back to Connecticut and spend it on some things there that I would love to see get funded, as I am sure I could in Arkansas.

But I happen to believe that the U.S. backing of the democratic processes is something we ought to be involved in. In no small measure, I think, we can claim some credit for the results in the Philippines, the results in Chile, the results in Poland just recently. The fact that we are able to uncover the abuses that occurred in Panama are due in small measure at least to the fact that the United States was involved. We were down there committed, trying to support a process that would make it possible for people to choose freedom, a government that would represent democratic values.

So I would like to be standing here today supporting an appropriation for a free election in Nicaragua. I happen to believe and, as I said on countless occasions, Mr. President, that the only way we are going to effectuate change in Latin America is by promoting democratic institutions, and I happen to believe we are on the right track and we see it today, a free election for the first time in 60 years in Argentina where the reins of power were passed freely from one government to the next.

We have a very important election in Chile coming up on December 15, the first time in 15 years, in that country. The people all have an opportunity to choose freely. In Uruguay after military coup and rule, the election is coming; in Brazil, a new government; in Bolivia, a democratic government; in Colombia fighting against drug cartels, fighting for its very existence.

I am not afraid to say some taxpayer money has gone to support that process.

It is difficult to make choices from time to time, but as Americans we believe the democratic values and democratic institutions serve people best and to invest in that process is something none of us ought to ashamed of but today, quite frankly, we are going beyond the pale, in my view, and that is the reason I support the Adams and Harkin amendment.

Nine million dollars, in my view, is an awful lot of money to be spent. Let me just share with my colleagues for the purposes of comparison some statistical analyses to look at a few of these other elections. We have been involved with the National Endowment for Democracy in a number of elections since the founding of NED.

In Panama, a nation of 2.1 million people, NED spent $300,000 to support the processes in that nation, and I think it proved to be worthwhile.

In the Philippines, a nation of 50 million people, fiscal years 1986 and 1987, we committed $890,000 to support democratic process in that nation.

In Paraguay, a nation of 3.5 million people, we spent $500,000.

In Chile, a nation of 12.1 million people, we put in $1.5 million to support democratic elections on the plebiscite in October of last year.

In Poland, with 35.8 million people, we came up with $2.8 million, none of which, by the way, supported a particular candidate even though all of us in this body, all of us, have identified with the efforts of Solidarity and individual candidates. Not a single penny of taxpayer money backed a particular candidate in that election.

In Namibia, a nation of 989,100 people, we came up with $145,000.

In Guatemala, a nation of 8.3 million people, we came up with $252,000, and what an important election that was, to support the process in this country.

But what I have a problem here with is that we are going to end up supporting particular candidates, and that is where I think this falls apart. In addition to the size of the money, it will be unprecedented in an overt way for the U.S. Congress to pick out candidates and support them. That is what is going to happen here, and I think that is a mistake. Our colleague from Iowa has already pointed out as strong as UNO may be, as attractive as Violeta Chamorro is as a candidate, as much as many like her and hope in some way she may prevail in this, there are others down there. There may be as many as 10 presidential candidates, 9 of whom are not supporters of the Sandinistas.

What do we say there when they do not get any assistance or help in the particular process? What do we say in the next case that emerges?

Let me share with Senators the budget for UNO because we asked how are you going to spend this money? Where are the dollars going to go? Let me share with my colleagues from them now, not from me, this is from UNO and what your taxpayer money is going to go for. This is their answer to the question, How are you going to spend this money? Salaries, $1,464,000 in Nicaragua; $49,400 for salaries for central headquarters.

Let me show you some of the specific items under that $49,000: Janitor, central headquarters, $500 for 4 months. Let me tell you what the average teacher makes in Nicaragua; it is $15 a month for a teacher. It will be $150 for the janitors. Three messengers for central headquarters, $1,500, each one $500 a month; five drivers for central headquarters, $3,000, each driver, $600 a month. The average Nicaraguan makes 82 cents a day, that is an average income in that country. Eleven four-wheel vehicles at $19,000 per vehicle, seven air conditioners at $1,000 per unit, and the list goes on.

I know all Senators have been involved in politics one time or another. This is going beyond what seems realistic to me or needed. As was pointed out by our friend from Arkansas, the problem here is that you are going to end up appearing as though we are trying to buy this election.

I will offer, depending on what happens at a later time, an amendment that does not go after the money because I do not believe you ought to try to raise more arguments than you can handle. I know there are those who believe that $9 million ought to go down there. I disagreed with that. I would like to see that this process would be no different than the process that was followed in Chile, Panama, Poland, the Philippines, Paraguay, that the National Endowment for Democracy will do the job it has been doing for years.

We would not allow any of these funds to be spent on individual candidates. That, it seems to me, would at least make us consistent with our past practices.

I noted earlier that the argument was made, of course, that the Soviets may be putting millions of dollars into this campaign. They have certainly provided millions of dollars in military assistance. I do not deny that, but I am not sure that is a reliable standard. Then if that were the case, I suppose Solidarity should have been beaten in Poland because, clearly, the government there has more resources than Solidarity. In the Philippines, Marcos had more resources than Corazon Aquino. Certainly, General Noriega had more resources financially than the civilian opposition in Panama. You can go down a long list in terms of resources.

We all remember in this country that John Connolly ran for President and spent millions of dollars. I think he got one delegate and I think it was in Arkansas. We produced one delegate in that race. And there was the recent mayoral race in New York City where candidate Lauder spent I think somewhere in the neighborhood of $15 million of his own money and ended up with a fraction of the vote. So money does not necessarily buy you an election. We have seen examples of it in this country.

I think we will find in this particular case it probably is not going to win you a campaign.

I say again I would like to see us providing assistance to this process. I feel we ought to do that, Mr. President. It is something I would like to see us do. But I would like to see us do it consistent with the law.

Let me just quote for my colleagues what the charter for the National Endowment for Democracy says in section 505(a):

Partisan politics. Funds may not be expended either by the Endowment or any of its grantees to finance campaigns of candidates for public office.

Now, that is as clear as any language you will read on any statute.

Yet if you read the bill before us, what it allows on page 2, line 1, is "up to $5 million in assistance to internal groups, such as support for political organizations and alliances." It goes on further, I should add, "through and consistent with the charter and standard operating procedures of the National Endowment for Democracy."

But you cannot tell me that those two pieces of language are consistent.

For that reason, at a later point, Mr. President, I will offer an amendment that would make it clear that we do not allow any of these funds to support candidates for public office. But, in the meantime, it seems to me that the best opportunity we have of maybe getting back to a table here to resolve some of this is to support the amendments being offered by the Senator from Iowa and the Senator from Washington.

Mr. President, I yield the floor.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Washington is recognized.

Mr. ADAMS. Mr. President, we have just finished a reconciliation bill. From that experience we should have learned how valuable our Federal dollars have become. Yet before us now is a measure which makes no sense from a budgetary standpoint. In addition, it is bad policy.

This bill proposes to send $9 million to Nicaragua to finance their elections. This expenditure of taxpayer dollars is an outrage. The American people don't want their tax dollars going to buy ballots in Nicaragua any more than they wanted their dollars going to buy bullets in that country.

Rather, they want to see that their scarce tax dollars are going to educate their children and fight drugs.

As a result of action taken last summer, the United States has already sent more money—$3.5 million—to finance these elections in Nicaragua than we sent to the Philippines, Chile, or Poland. In the 1986 elections in the Philippines, the National Endowment for Democracy spent $900,000 of U.S. taxpayer dollars.

In the 1988 plebiscite in Chile, the NED spent $1.2 million of taxpayer dollars. In the recent Polish elections in a country which has been dominated by Communist ideology for the last 40 years, we allocated $2.7 million of taxpayer dollars. The bill before us asks us to add $9 million more which would have us spending more in Nicaragua than we did in all of those other countries combined. Nicaragua is a country of 3.5 million people. The Philippines has 50 million people. Chile has 12 million. Poland has 35 million people. Given these facts, how on Earth can we justify passage of this bill? I submit to you that we cannot.

The amendment which I am proposing on behalf of myself and Senator HARKIN will provide a constructive alternative for expenditure of this $9 million. It will transfer the $9 million identified under the bill into activities to fight drugs, specifically among latchkey children; $9 million is not a great deal of money, but it is clear to this Senator that it will be much more wisely spent doing what we suggest in our amendment instead of what is suggested in the underlying bill.

It is estimated that between 2 and 6 million children under the age of 13 lack any adult supervision before and after school. These children who come home to empty houses and apartments are more likely to become involved with drugs. A recent study found that eighth-grade students who cared for themselves 11 or more hours per week were twice as likely to engage in alcohol and substance abuse as were their fellow students who had at least one parent in the home after school. Mr. President, I ask unanimous consent that a copy of a September 7 article from the Washington Post, entitled "Latchkey Children Found at Greater Risk for Drugs" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"LATCHKEY CHILDREN" SEEN AT RISK FOR DRUG USE—INCREASED ALCOHOL, MARIJUANA USE FOUND

(By Jay Mathews)

LOS ANGELES, Sept. 6.—Children left to care for themselves after school—whether rich or poor, from single- or two-parent homes—are twice as likely to use tobacco, marijuana and alcohol, according to a major new study.

The study of 5,000 California eighth-graders is said to be the largest to focus on those often called "latchkey children." It found increased risk to children who care for themselves at least one hour a week regardless of the child's sex, race, family income, number of parents at home, academic performance or involvement in sports and extracurricular activities.

"We would have expected the risk to fade away in some strata we tested—in two-parent families, for instance," said Jean Richardson, the study's principal investigator. "But the increased risk prevailed virtually across the board. This says self-care is a strong risk factor for substance use in adolescents."

The study was funded by the National Institute on Drug Abuse and conducted by the University of Southern California, where Richardson is an assistant professor of preventive medicine. In it, public-school students in the Los Angeles and San Diego areas completed questionnaires, and parents were surveyed to check the self-care responses.

About 69 percent of the children reported caring for themselves after school. About 24 percent said they did so for one to four hours a week, 16 percent for five to 10 hours and 29 percent for more than 10 hours.

Reported in the current issue of the journal Pediatrics, the study said the risk of substance use for respondents caring for themselves more than 10 hours a week, compared with those under adult supervision, was twice as great for alcohol, 2.1 times greater for cigarettes and 1.7 times greater for marijuana.

For those unsupervised for five to 10 hours, the relative risk was 1.7 for alcohol, 1.6 for cigarettes and 1.5 for marijuana.

Adolescents caring for themselves were less likely to live in two-parent homes but more likely to be white and more likely to live in affluent neighborhoods than students supervised by adults after school. The lowest incidence of self-care occurred in Hispanic families, apparently because of the presence of grandparents, aunts and members of the extended family.

The study showed three significant social influences on substance use by latchkey children: having friends who smoked, being offered cigarettes by friends and tending to take risks.

"The information related to risk-taking suggests that the self-care situation causes adolescents to perceive themselves as more autonomous, more mature and more able to make decisions that adults may not approve," Richardson said.

The increased substance use, she said, "makes one wonder what other consequences" might arise from self-care.

Richardson said she recognized that her findings would be controversial in the continuing debate about parents who work, and she rejected the notion that one parent should stay home at all costs. Given the financial condition of many families, she said, "that is not realistic."

"We need to develop strategies for safe and healthy self-care and alternatives to self-care for adolescents," she said. A University of Wisconsin study, for instance, suggests benefits from requiring a latchkey child to perform certain chores and check in with a parent by telephone.

"Community service is an area which certainly could stand more attention," Richardson said. "In traditional societies, adolescents had clearly defined roles in the life of the community, but these contributory roles have largely been replaced by leisure . . . . We need to think about what kind of contributions would be appropriate and not exploitive."

Mr. ADAMS. The problem of the latchkey child will not go away. In most cases, children return to empty homes because both their parents must work, or because they come from the growing number of single-family households where the parent is in the work force.

Our children are our most precious resource. We cannot ignore their needs. This amendment will help provide opportunities for the latchkey child to become involved in recreational activities, community service, or other educational endeavors instead of going home to an empty house.

There already are innovative initiatives underway in some areas of our country aimed at the problem of the latchkey child. But more must be done. In my home State, some private businesses have realized that an investment in programs like the ones called for in this amendment are important to ensure that they have a well educated and productive work force in the future. In Washington State, both Weyerhauser and Security Pacific Bank have made a beginning by providing funding through schools, YMCA's, and Boys Clubs to create worthwhile activities for the latchkey children. But more must be done. When learning of my efforts on behalf of the latchkey children last week, a school director in the Richmond Community School commented, "We will jump on it."

You will find a similar reaction from the school officials in your State. In the months ahead, we must take steps to see that the needs of all of our the latchkey children, not just a few, are addressed. We must make resources available to all our schools and communities for this purpose. This amendment makes a modest, but important beginning in that effort.

In summary, Mr. President, let's not squander $9 million of taxpayer money by passing this bill unamended. Rather, let's take the $9 million, which is already appropriated and available for another use, and channel it into our anti-drug efforts. This is what the American people want us to do and this is what we should do. I urge adoption of the amendment.

Mr. President, we have asked for the yeas and nays on the underlying amendment. I hope we will have the yeas and nays on both the secondary and first amendment.

The PRESIDING OFFICER. Is that a request?

Mr. ADAMS. That is a request, we have the yeas and nays on the underlying amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ADAMS. Mr. President, at this point I am prepared to yield the floor, but I plead with my colleagues to simply recognize there can be good bills in this area and there can be good use of American money. This is a bad bill drawn in the wrong way presented at the wrong time, and I hope these amendments will be adopted.

If they are adopted, then the bill can be supported. Otherwise, I do not see how anyone in this Chamber can support this kind of legislation.

I yield the floor.

The PRESIDING OFFICER. There has been a request of the Chair. It has been unanimously agreed to, a request for the yeas and nays. But there is no showing at this point of a sufficient second. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 34 minutes remaining.

Mr. HARKIN. Mr. President, I think about all has been said that can be said on my amendment. Debate has been enjoined. The hour is getting late.

I do not mean to keep prolonging this. We ought to move ahead and vote on my second-degree amendment.

So, Mr. President, I move to table my amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. KASTEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. There is not a sufficient second. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LEAHY. Will the Senator withdraw his amendment?

Mr. HARKIN. Mr. President, I ask unanimous consent that the motion to table be withdrawn.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Iowa is permitted to withdraw his motion to table.

The Senator from Wisconsin is recognized.

Mr. KASTEN. Mr. President, I will make two or three very brief points here. I think it is important to recognize that this legislation is, in fact, consistent with that we have done in the Philippines and what we have done in Chile, in our effort to ensure free and fair elections.

In Chile, for example, we sent $33,832 for participation in a series of technical seminars on voter registration and electoral process. This money went through the National Democratic Institute for International Affairs to the Campaign for Free Elections—which was the coalition that roughly corresponds to UNO.

Also, the National Democratic Institute for International Affairs gave to democratic groups money to gain access to the media, in order to urge voter registration and participation. This was another means of achieving free elections.

What we are doing here is consistent with what we have done in the past.

The President of the United States has written Senator DOLE, and all of us have a copy of the letter from the President of the United States, talking about his clear and firm support and also the idea that this is such an important issue today and now.

I ask unanimous consent that letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, October 17, 1989.

Senator ROBERT DOLE,
Republican Leader,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: I want to make very clear my strong support for election aid for Nicaragua and my firm belief that the Harkin amendment will ruin our efforts to support democracy there. The presidential candidate of the United Nicaraguan Opposition, Violeta Chamorro, has told us that the opposition needs our assistance desperately, and that only by receiving help can it make a real contest of this election. The opposition has also told us repeatedly that the only way it can get money from abroad is to comply with the rule regulating foreign contributions.

None of us likes the idea of giving money to the Nicaraguan government but we should not let this displeasure that we all share be used as a transparent attempt to prevent the United States from helping its democratic friends in Nicaragua.

Current legislation provides that only the minimum necessary will go to the Supreme Electoral Council. The opposition's representative on that body will seek to ensure that such funds are used solely for technical electoral assistance, such as ballot-printing and computerized registrations. But the main point is that we have to comply with the regulations if we are to achieve our all-important goal of helping the democratic opposition. This is the only way we can get assistance to the opposition and help level the electoral playing field. Whatever small benefit the Nicaraguan government may derive from a contribution to the Electoral Council, the opposition will gain much more: a fighting chance to win in February.

The Harkin amendment stipulates that no U.S. funds will go to the Nicaraguan government or its agencies. It thus ensures that the U.S. will either violate the Nicaraguan election law or provide no assistance to democratic forces there. It is a killer amendment in false "anti-Communist" clothing. If passed, the Sandinistas will still have their $500 million in Soviet economic aid and the opposition will have nothing.

We must not undermine the only means we have to help ensure that democracy asserts itself peacefully—through a free and fair election. I urge you to do everything possible to defeat this amendment and move to rapid passage of H.R. 3385 in its present form.

Sincerely,

GEORGE BUSH.

Mr. KASTEN. Mr. President, any amendment adopted today would be viewed as a killer amendment. Essential to this package is that we move forward with the registration process. The voter registration process is taking place on Sundays in October.

We now, through delay, have used up half of the available Sundays. If we were to adopt an amendment, any amendment today, it would mean we would go to conference and would most likely miss the next Sunday. That would mean we would only have one Sunday, the 22d, remaining in order for the process of registration to take place. This is the key to the overall effort.

So any amendment, whether it is the Harkin amendment, the Adams amendment, or any other amendment, must be viewed as a killer amendment and I am hopeful all amendments will be disposed of today.

Mr. President, on September 20, a Washington Post editorial on Nicaragua and the free elections, included this statement:

If NED money goes to Nicaragua, it will do so under local laws written by the Sandinistas, who presumably think they will reap some of the benefit. The American premise will be, as it always is, in a fair contest the people's choice will prevail.

Mr. President, I ask unanimous consent the full editorial of the Washington Post editorial of September 20 be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KASTEN. Mr. President, the New York Times on September 14 wrote,

There is only one genuinely democratic ticket in the running, and to have a shot at winning, the democrats will need to overcome the advantages of a regime that has dominated public debate while censoring and restricting opposition voices for most of the last 10 years.

Mr. President, I ask unanimous consent that this entire article be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. KASTEN. I simply want to point out that some of the parallels that have been raised, as to elections in this country, just do not make any sense. What we are talking about here is a process that has not taken place since 1979 in a country that has been controlled by the Sandinistas. The idea that there is a comparison here to a Giuliani race or a race in Washington or somewhere else is simply not true. We are talking about setting up the structure for a free and fair election, exactly as we did in Chile, exactly as we did in the Philippines, and I believe exactly as it is correct to do here.

Finally, Mr. President, in deciding on an overt program instead of a covert program, both the Nicaraguan opposition and the White House realized they would have to comply with Nicaraguan law. What we are hoping for here is that funneling of the 50-percent tax through the opposition and not directly to the Supreme Electoral Council will, in fact, enable Mrs. Chamorro to bargain with the Sandinistas for further electoral funds and legitimate expenditure of funds given to the Supreme Electoral Council. We believe that the Electoral Council's shortfall of funds, combined with Daniel Ortega's desire, or at least have a technically, if unfree correct election, will strengthen the opposition's hand in dealing with the Sandinista's electoral reform and fund usage issues.

This bill is very important. Any amendment, in effect, defeats it by delaying it. We have to move forward without amendments. I believe we can be successful, and I believe we must be successful.

EXHIBIT 1

[From the Washington Post, Sept. 20, 1989]

THE DEMOCRATS AND NICARAGUA

The Democrats, or the liberals among them, cannot have very many more opportunities left to lose in assisting the democratic struggle in Nicaragua. For years, you will recall, they argued that the policy of military aid to the contra resistance kept them from supporting the democrats in Managua; eventually the military aid stopped. Then the Democrats said they'd love to help the internal political opposition to the Sandinistas, but they couldn't support covert action; the CIA was extracted from the proceedings. Then they said they'd love to help overtly, but to aid the opposition party through the National Endowment for Democracy would compromise the mandate and purity of that organization, which is supposed to concentrate on aiding the democratic process; the Bush administration agreed to keep the NED out of supporting a particular party. Now the administration seeks $4 million or $5 million for NED's usual and useful nonpartisan work on process—voter registration, education, poll-watching—and the request faces a budget squeeze that may take the numbers way down.

Come on, you guys. How many ways can Democrats find to say no to a cause they profess to believe in? In other, conservative-run places, American liberals champ impatiently and imaginatively to get their government to do the right thing. In Sandinista-run Managua, they seem to have an endless proclivity to say no to the political and military opposition alike. Take Sen. Chris Dodd (D-Conn.), who in this debate revealed a deep and, by some, unsuspected devotion to the independence and integrity of the National Endowment for Democracy. In hailing the administration's decision not to support the opposition campaign through the NED, he said of Nicaragua's president: "Ortega is not Marcos or Noriega. He has a real popular base in his country." It was a curious remark by one who presumably shares the common interest in devising conditions to determine fairly whether Mr. Ortega is more than the Marxist military commander many of his adversaries believe him to be.

If NED money goes to Nicaragua, it will do so under local laws written by the Sandinistas, who presumably think they will reap some of the benefit. The American premise will be, as it always is, that in a fair contest the people's choice will prevail. It would be good to have Democrats warmly and unequivocally aboard.

EXHIBIT 2

[From the New York Times, Sept. 14, 1989]

HELP NICARAGUA'S DEMOCRATS, OPENLY

Early next year, Nicaraguans will at last be able to register a meaningful choice about their political future in free, internationally observed elections. A coalition of democratic parties is now preparing to challenge the Sandinista regime in accordance with the Central American peace agreement.

For Nicaragua, it will be an unprecedented democratic exercise. For the United States, it could be an opportunity to help Nicaraguan democrats in a way that all Americans can be proud of, through above-board financial aid dispensed through the National Endowment for Democracy.

The Bush Administration wants Congress to approve a shift of funds and to waive the restriction against donating Endowment money to candidates for office. That's a far wiser approach than the most likely alternative, covert assistance sent through the C.I.A. The Bush proposal deserves support from those on both sides of past debates over the contra war.

Congress established the Endowment in 1983 to promote democratic institutions and processes. It is mainly funded by the Government and is administered by a board with Republican, Democratic, industry and labor representatives. It was meant to provide an alternative to covert financial aid for political groups abroad. After reports of ideological abuses during the early Reagan years the Endowment's charter was amended in 1985 to bar direct aid to candidates for office.

Normally, the U.S. Government has no business backing one or another slate in democratic elections. But Nicaragua is a very special case, for two reasons. There is only one genuinely democratic ticket in the running. And to have a shot at winning, the democrats will need to overcome the advantages of a regime that has dominated public debate while censoring and restricting opposition voices for most of the last 10 years.

The opposition coalition is headed by two unambiguous democrats and Nicaraguan patriots. Violeta Chamorro, the presidential candidate, took over as publisher of La Prensa in 1978 after her husband was assassinated, presumably by pro-Somoza thugs. She served with the Sandinistas in their first ruling junta, then moved into opposition in 1980. Virgilio Godoy, her running mate, served the Sandinistas as Labor Minister until 1984.

Mrs. Chamorro will run against the incumbent President, Daniel Ortega, candidate of the Sandinista National Liberation Front. Despite protests to the contrary, the Sandinistas are Marxist-Leninists who believe that their leadership of the anti-Somoza revolution entitles them to permanent predominance in the post-revolutionary state.

Open foreign funding of candidates is legal under Nicaraguan law. Europe's Social and Christian Democratic foundations regularly take an active role in Latin American politics. And the Sandinistas will likely get considerable help, overtly or covertly, from their own friends.

Perhaps, given past Congressional funding for the contra war, any acknowledged U.S. Government money would do its Nicaraguan recipients more harm than good. That is for them to decide.

Past divisions over Nicaragua should not obscure the merits of open, legal help to democrats seeking peacefully to make their case to the voters.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona [Mr. McCAIN].

Mr. McCAIN. Mr. President, there was some discussion earlier about where National Endowment for Democracy has spent $3.5 million in the last year. I would like to point out that money has been spent and is being spent on independent radios, women voter education project, youth voter registration projects, democratic civic movement among other things.

Mr. President, I ask unanimous consent that the listing of where these NED expenditures have gone be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NED Grants (FY 1988/AID):	*Funds obligated*
La Prensa	$220,000
InterAmerican Bar Foundation	$38,808
Cultural Magazine	25,000
Centro de Asesoria para la Democracia	247,500
Coordinadora Nicaraguense	22,000
Free Trade Union Institute	397,345
National Democratic Institute	290,140
National Republican Institute	174,000
National Republican Institute	120,000
Independent Radios	55,000
Women's Voter Education Project	55,000
Youth Voter Education Project	55,000
Democratic Civic Movement	220,000
Free Trade Union Institute	80,207
Total funds obligated as of June 1989	2,000,000

Mr. LEAHY. Will the Senator from Arizona yield for a question?

Mr. McCAIN. I will be glad to.

Mr. LEAHY. Do we have an accounting of where that money has exactly gone? Is it the sort of thing where an accountant could find virtually every dollar?

Mr. McCAIN. I say to my friend from Vermont that every penny that goes to any effort on behalf of freedom for democracy in Central America is scrutinized and accounted for; otherwise, we get into these tempests in a teapot over the accounting procedures. I am sure that a clear record of accounting for those moneys will give my friend from Vermont some confidence.

Mr. LEAHY. Mr. President, I say to my friend from Arizona, I am glad to know things have changed down there. We went through several years in various investigatory committees trying to find what happened to all the money we sent down there. We have had testimony before in my Foreign Operations Subcommittee as late as the year that some Central American money has pretty well disappeared. When I asked for an acounting, they said it could be well accounted for. I said, "How do you account for it?" "Well, we delivered it." "Do you know where it went?" "No, we do not know where it went. We certainly knew how much it was when we delivered it." I think my friend from Arizona would agree with me that is not the kind of accounting we want to see.

Mr. McCAIN. As my friend knows, that is not money that went through the National Endowment for Democracy. Those are funds that went through AID or others. I think it is important to bring up that distinction.

Mr. LEAHY. Mr. President, if the Senator will yield briefly at that point, I am not referring to the National Endowment for Democracy, and the Senator from Arizona is correct.

Mr. McCAIN. Can I remind my friend from Vermont that congressional action prohibited any further action for or implementation of aid due to the desire of my friend from Vermont and a majority in Congress to make sure there was absolutely no involvement by the United States. In the GAO study, indeed, they came up with the same conclusion because a U.S. presence was prohibited once that assistance was delivered. It was a catch-22 situation that I am sure the Senator from Vermont can appreciate.

Mr. President, let me remind this body again where this money is going. There seems to be a perception that the money will simply go to UNO candidates and/or the party. This is a total of $9 million in aid, which, by the way, has already been passed by the other body by a 263-to-156 vote. Mr. President, OMB and CBO have stated that this $9 million will not result in any new outlays. The money will be reprogrammed from funds that were to have been used to monitor the supposed ceasefire in Nicaragua; $5 million of the $9 million will go through the Nicaraguan opposition for noncampaign activities. These include training poll watchers, et cetera. This will go through the National Endowment for Democracy, consistent with their charter. The remaining $4 million will be used for the following three purposes and three purposes only: To meet the tax that will be levied on the $5 million we would give to the Nicaraguan opposition. The tax will be used for the activities of the Supreme Electoral Council, the organ that will run the technical aspects of the Nicaraguan election, not a group that is particularly satisfactory to this Senator, but in accordance with the laws of Nicaragua. That is an important point I would like to come back to in a moment.

Election monitoring activities; $400,000 has been earmarked for the Council of Freely Elected Heads of Government; $200,000 has been earmarked for the Center of Democracy for election promotion activities, $400,000 has been earmarked for CAPEL, a Costa Rican-based organization which has helped run elections throughout the region. That is all the money is being used for.

Let me remind my friends, the sponsors of this amendment and supporters came to the administration and asked for a package of overt assistance. They categorically rejected covered assistance. The administration agreed. The same group asked the administration for a package that respected Nicaraguan law. This was insisted upon by the sponsors of this amendment. The administration agreed. The same sponsors of this amendment asked the administration for a package which would not provide direct assistance to candidates. The administration agreed. What more we can do.

Mr. President, in summary, what we do here today may represent our last opportunity to keep faith with those Nicaraguans who have sacrificed so much in such long pursuit of freedom for Nicaraguans. When the supporters of this amendment persuaded the administration to abandon any notion of covert assistance, when they insisted on no direct campaign assistance, and when they refused further military assistance to the Contras, we were always promised—and the record is clear—we were always promised that we would be left one opportunity to support democracy in Nicaragua. This is that opportunity, Mr. President. Let us not be tricked into throwing it away.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I indicated to the Senator from Iowa that I will make a brief statement and I will make a motion to table the Harkin amendment, not the underlying amendment.

Mr. President, I thank my colleagues on both sides. From time to time, we talk about killer amendments on this floor. I think this one ought to be classified as premeditated murder. This is to deny any funds to the opposition. As President Bush outlines in his letter, which has been printed in the RECORD by the Senator from Wisconsin, the Harkin amendment stipulates no United States funds would go to the Nicaraguan Government or its agencies. It thus ensures the United States will either violate Nicagaguan election law or provide no assistance to democratic forces there. It is a killer amendment in false anti-Communist clothing. If passed, the Sandinistas will still have their $500 million in Soviet economic aid, and the opposition will have nothing. I think that is

the purpose of the amendment; do not give the opposition anything.

We can dress this up any way we want, but the bottom line is there are some who do not want the opposition to have any assistance. They know the Sandinistas are going to have all they need. I think we should understand this is an important amendment.

Mr. President, the real purpose of this amendment is to kill the program.

Voter registration in Nicaragua ends October 2. Some of this money could be used for registration. Much of it is going to be used for other purposes just outlined by the Senator from Arizona. Do we want to kill this program to kill off what little possibility remains that the democratic opposition will have a fighting chance in an election that Ortega has already at least semirigged? And again we have the letter which has been made part of the RECORD addressed to me and Senator MITCHELL from Violeta Chamorro today asking that we do this, pointing out that it is very important, that it is critical.

This Senator knows what the Sandinista law says. He knows that the opposition will be taxed on any money it receives from foreign sources. The Senator knows that if we tell the opposition it cannot use a dime of our money to comply with Sandinista law, the opposition cannot accept a dime of our money.

I want to commend the Senator from Iowa on his clever drafting. It is a setup, pure and simple. How do you vote against a prohibition against giving money to the Communist Sandinistas?

Let me tell you how. You do it by ripping the sheep's clothing off this wolf and exposing it for what it is.

Mrs. Chamorro, as I have indicated, wants this money. The President of the United States has outlined in his letter he wants this money. The simple fact is we have two choices. The one I support, to provide as much assistance as we can to the democratic opposition, even if it means that some of our dollars will end up in an election board dominated by the Sandinistas, and the Senator from Wisconsin just commented on that. There might be some way we could leverage something there.

The other choice, which I do not think is a choice, is to turn our backs on the democratic opposition and give Ortega and his goons a free field to continue their tyranny in Nicaragua. That is what some of us have been fighting against for a long time.

That is the real choice. Those are the two choices you are getting with the amendment of the Senator from Iowa. So there are those who want this bill to pass and those who want to kill it. I have not had a letter from Daniel Ortega lately, but I bet he does not want this bill to pass. He likes it the way it is. He will get all the money he needs from the Soviet Union. The democratic opposition will get none. And the election is already half rigged or more. There will be little, if any, chance for the democratic opposition.

So the issue is what is best for democracy in Nicaragua. Mrs. Chamorro is on one side and Daniel Ortega is on the other side. You figure it out and you make the choice.

I think there is a lot of misunderstanding about the real purpose of the administration's effort. There were a lot of negotiations in the House. I think the final vote was 160-some Republicans voted for the administration package, 99 Democrats supported it. It was bipartisan. It was negotiated. Some who violently opposed any aid to the Contras over the years in effect supported what the administration was trying to do.

Mr. President, we are supposed to have a bipartisan accord. One of the first things Secretary Baker did when he became Secretary of State was to work out a bipartisan accord with Republicans and Democrats on Nicaragua. I might add that some who supported the Contras were not very happy with that accord. We have stuck with it. The administration has worked hard to deal with the Democratic Members of both the Senate and the House to address their legitimate concerns. To be honest with you, a lot of us on this side have some serious questions about whether our concerns were being taken as seriously as the concerns on the other side. But I believe that at this point we ought to table the amendment by my friend, Senator HARKIN, from Iowa, so we can pass this bill clean, and we can begin to match our rhetoric about supporting democracy in Nicaragua with some concrete action to give the democratic opposition a fighting chance.

Let me complete the record by going back to a July 13, 1988, vote in the Senate, vote No. 248. I offered an amendment that would express the sense of the Senate's condemnation of the Sandinista violations of human rights. Senator ROBERT BYRD offered a second-degree amendment that would provide a substitute to the Dole amendment, to express the sense of the Senate's disappointment over the situation in Nicaragua. More specifically, Senator BYRD's amendment urged that, one, United States strengthen democracy and the independent media; two, provide the democratic opposition with assistance and, three, renew humanitarian and possibly military aid if Sandinista violations persist. The vote on that amendment was 91 to 4. The four in opposition were Senators HATFIELD, ADAMS, MATSUNAGA, and Proxmire. Not voting were Senators BIDEN, Stennis, HELMS, PRESSLER, and THURMOND. Everyone else, including the distinguished Senator from Iowa [Mr. HARKIN] and the distinguished Senator from Connecticut [Mr. DODD] not only voted for the amendment but were cosponsors.

This is the third section of that amendment:

> The United States should respond to these blatant violations of the Esquipulas accord by the Sandinistas by pursuing a policy that includes, (ii) maintaining the democratic opposition as one aspect of an overall policy toward the Sandinistas, by continuing to provide that democratic opposition with assistance.

Assistance, I assume, would be assistance. That is what we are trying to do, give them one last chance with some assistance. I think it is fairly clear that by 91 to 4 we felt we had some obligation to give the democratic opposition a chance.

I ask unanimous consent that vote No. 248 of the 100th Congress, 2d session, be printed in the RECORD.

There being no objection, the vote was ordered to be printed in the RECORD, as follows:

YEAS (91)

Republicans (42 or 98%): Armstrong, Bond, Boschwitz, Chafee, Cochran, Cohen, D'Amato, Danforth, Dole, Domenici, Durenberger, Evans, Garn, Gramm, Grassley, Hatch, Hecht, Heinz, Humphrey, Karnes, Kassebaum, Kasten, Lugar, McCain, McClure, McConnell, Murkowski, Nickles, Packwood, Quayle, Roth, Rudman, Simpson, Specter, Stafford, Stevens, Symms, Trible, Wallop, Warner, Weicker, Wilson.

Democrats (49 or 94%): Baucus, Bentsen, Bingaman, Boren, Bradley, Breaux, Bumpers, Burdick, Byrd, Chiles, Conrad, Cranston, Daschle, DeConcini, Dixon, Dodd, Exon, Ford, Fowler, Glenn, Gore, Graham, Harkin, Heflin, Hollings, Inouye, Johnston, Kennedy, Kerry, Lautenberg, Leahy, Levin, Melcher, Metzenbaum, Mikulski, Mitchell, Moynihan, Nunn, Pell, Pryor, Reid, Riegle, Rockefeller, Sanford, Sarbanes, Sasser, Shelby, Simon, Wirth.

NAYS (4)

Republicans (1 or 2%): Hatfield.

Democrats (3 or 6%): Adams, Matsunaga, Proxmire.

NOT VOTING (5)

Republicans (3): Helms—2, Pressler—2, Thurmond—2.

Democrats (2): Biden—3, Stennis—2.

Explanations of absence:

1—Official Business.

2—Necessarily Absent.

3—Illness.

4—Other.

Between April 5, 1985, and April 8, 1989, there were 53 record votes on aid to Nicaragua including humanitarian aid, and the distinguished Senator from Iowa voted against all of them. So a record of support for freedom in Nicaragua is not overwhelmingly in evidence in that voting record.

I do not have the date, but I have a quote of the Senator from Iowa in support of a bill to prohibit covert American efforts to influence the 1990 Nicaraguan elections, and that is something that somebody asked about, why did we not do this covertly:

maybe we would not have to give any money to this electoral commission. Can you imagine what would happen if this administration tried some covert action in Nicaragua to support the democratic opposition? Why many would be all over him like a blanket in this body and the other body.

So the administration is doing what they can. They have to comply with the Sandinista law. They do not like it any more than we like it. But we do want to give the democratic opposition a chance in a free and fair election.

In support of a bill to prohibit covert American efforts, the distinguished Senator from Iowa said:

Should not the Nicaragua democratic opposition, which our Government sees as the last hope for democracy in that country, have a say over what kind of aid it receives from the United States? Over the past year I have consistently advocated the position that the United States should be involved in upcoming Nicaraguan elections, but it should be constructive and open.

That is precisely what this is; it is constructive and open. Not covert.

In 1988, I played a small role in assisting the forces of democracy during the Chilean plebiscite by adding $1 million for the National Endowment for Democracy's activities in Chile.

With the technical assistance and training provided by the endowment, Chile's democratic opposition mounted a highly sophisticated campaign. The plebiscite was generally free and fair, according to most international observers, and democracy prevailed. The final test of the process begun on October 5, 1988 will occur this December, when Chileans will select their president for the first time in 19 years.

The Bush administration and Secretary Baker's State Department should heed the lessons of Chile.

As I recall, in a meeting this morning with the President, it is precisely what he said. We are going to heed the lessons of Chile. That is precisely what the Senator from Iowa said, precisely what a lot of others have said. We want our policy to be open, we want it constructive; we do not want any covert action. I do not think very many in this body just want to see the democratic opposition go without any chance at all, without any opportunity. And this is not a partisan issue. There are Members on the Democratic side who feel just as strongly as if not more strongly than, many on the Republican side.

So this is a bipartisan effort. And I do not fault the Senator from Iowa, or the Senator from Washington, or the Senator from Connecticut or anybody else who wants to change it to try to change it. But I would say before I move to table the amendment that it seems to me the Senator from Iowa is on record for wanting to help the democratic opposition. He indicates himself that he offered some assistance to Chile to give democracy a chance. That is all we are asking in Nicaragua. Give democracy a chance.

We can quarrel about the money, and we can say you ought to spend it on drugs. We already crossed that bridge. I might add, the Senator from Washington and I remember when Senator WILSON offered his amendment. There were some who said we ought to take money out of franking and put it into drugs. It passed the Senate with some kind of a compromise in conference. I am not clear precisely what it was. But after the vote on that, there was sort of a bipartisan agreement that Senator BYRD started that we would not "Wilsonize" all of these appropriations bills. We would not start taking money out of this or that, and putting it into drugs. That is precisely what the amendment by the Senator from Washington seeks to do.

At the appropriate time, either up or down, or tabling, we hope that amendment can be defeated.

So I say to my colleagues that the administration obviously feels very strongly about this, as any administration would. They want fair elections. They want free elections. They want the democratic opposition to have a chance. The democratic opposition candidate has written to us as recently as today pleading for us to support this measure. The President has done the same. I believe we ought to go about our business and table this amendment.

I will withhold if the Senator from Iowa wishes to speak before I do.

I yield to the Senator from Iowa.

Mr. HARKIN. I thank the Senator.

Mr. LEAHY. Mr. President, if the Senator will yield for 20 seconds, for the last 45 minutes I have been told by everybody that in 3 minutes there would be a tabling motion. When my distinguished colleagues say they are going to proceed for 3 minutes, there might be time to go home, have lunch, say hi to my wife and kids, probably catch up on my correspondence and come back.

I am not trying to rush anybody. I wonder only for those people who have been coming back and forth from committee meetings if we might have some idea when there may be a vote.

Mr. HARKIN. I am sorry.

Mr. LEAHY. I am curious when we might get to a vote.

Mr. DOLE. As soon as the Senator finishes, I will move to table.

Mr. HARKIN. I appreciate that. I thank the distinguished minority leader for yielding to me to respond.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, the distinguished minority leader is correct. I supported NED money for Chile. Also, I might remind the distinguished leader, I voted for $3.5 million for Nicaragua. The distinguished minority leader thinks it sounds like we have not given anything to the Nicaraguan opposition. We have already given $3½ million to NED for the opposition in Nicaragua. That is $1.2 million more than we gave Chile—a country of 12.5 million people. Nicaragua only has 3 million people. Yet already we have given them $1.2 million more than Nicaragua.

As I pointed out earlier, in the colloquy with the Senator from Vermont, the amount of money we gave to Chile totaled about 8 cents a voter. The amount of money we are talking about under this package will total $5 a voter in Nicaragua.

My argument with this package is not whether or not we should support the democratic opposition in Nicaragua. I am clearly on record in supporting that.

My problem has to do with scope and amount of this package. This is too much money. This will flood dollars into Nicaragua, a very poor country.

This package will create a backlash that is going to overwhelm the opposition.

Second, I am concerned about the scope of the package: I do not believe we ought to throw in cash to the political opposition. We did not do that in Chile. We involved ourselves in the process through NED. That is what ought to be going on in Nicaragua. NED should organize, set poll watchers up at every polling place, teach people how to campaign, set up the structures of democracy but not just pour money into it. That is the way NED was involved in Chile. What we did in Chile was the right way to do things and I hope the administration will follow that example. The way we are proceeding in Nicaragua I believe is absolutely the wrong way.

Lastly, with my amendment the administration would still be able to give the money for the election process. They could not give it to UNO because obviously my amendment would not permit that because it would not permit money to go to the Sandinista government. It would permit them to give money to NED to be involved in the election process in Nicaragua.

If my amendment fails or succeeds, I am prepared to offer another amendment which will be a scaled-down version of this package and which will only be used for in kind processes in Nicaragua and not be given out as cash.

I thank the distinguished minority leader.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I thank the Senator from Iowa.

As I indicated before, rather than have him move to table his own amendment, I would be happy to accommodate him. So I move to table the amendment.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas to lay on the table the amendment of the Senator from Iowa.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDING OFFICER (Mr. GORE). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 59, nays 40, as follows:

[Rollcall Vote No. 246 Leg.]

YEAS—59

Armstrong	Garn	McConnell
Bentsen	Gore	Mitchell
Bond	Gorton	Moynihan
Boren	Graham	Murkowski
Boschwitz	Gramm	Nickles
Breaux	Grassley	Nunn
Burns	Hatch	Packwood
Chafee	Heinz	Reid
Coats	Humphrey	Robb
Cochran	Inouye	Roth
Cohen	Jeffords	Rudman
Conrad	Kassebaum	Sanford
D'Amato	Kasten	Simpson
Danforth	Kennedy	Specter
DeConcini	Lieberman	Stevens
Dixon	Lott	Symms
Dole	Lugar	Thurmond
Domenici	Mack	Wallop
Durenberger	McCain	Warner
Fowler	McClure	

NAYS—40

Adams	Glenn	Metzenbaum
Baucus	Harkin	Mikulski
Biden	Hatfield	Pell
Bingaman	Heflin	Pressler
Bradley	Helms	Pryor
Bryan	Hollings	Riegle
Bumpers	Johnston	Rockefeller
Burdick	Kerrey	Sarbanes
Byrd	Kerry	Sasser
Cranston	Kohl	Shelby
Daschle	Lautenberg	Simon
Dodd	Leahy	Wirth
Exon	Levin	
Ford	Matsunaga	

NOT VOTING—1

Wilson

So the motion to lay on the table was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT 1005

Mr. KASTEN. Mr. President, it is my understanding that now pending before the Senate is the underlying Adams amendment. We have already had an opportunity to debate that amendment at great length. It is my understanding there will be a leadership statement on the amendment coming almost immediately. I do not know whether the Senator from Washington wants a vote.

Mr. ADAMS. Mr. President, I hope there will not be a tabling motion and that we will simply have an up-or-down vote.

The yeas and nays have already been ordered.

The PRESIDING OFFICER. The Senator from Wisconsin has the floor. The pending question is the amendment No. 1005. Is there further debate?

The Republican leader.

Mr. DOLE. Mr. President, I wish to try to accommodate the Senator from Washington. Let me make about a 1-minute statement, and the majority leader might concur.

I would say we had this agreement. I think Senator BYRD indicated we were not going to Wilsonize all these bills. We followed that agreement. Everyone can get up and say: I want to take $10 million out of this and put it into drugs. It is very attractive, and I quoted the case where the Senator from California [Mr. WILSON] did this on the franking privilege and it failed.

It seemed to me in the spirit of that agreement we ought to defeat this amendment. I am willing to have an up-or-down vote. We had that agreement. It was bipartisan and adhered to on both sides of the aisle, as far as this Senator knows.

We did not offer any further amendment to transfer any funds out of one program to the war on drugs.

Mr. ADAMS. Mr. President, I just would reply to the comments of the minority leader that I checked very carefully before we started with this. This is not an appropriations bill. This was a separate bill brought through in a separate way. I talked with the chairman of the Appropriations Committee and the chairman of the subcommittee before it started. The Appropriations Committee was against this bill, I say to the minority leader, and, therefore, I did not consider this was any part of an agreement that we had regarding the 13 appropriations bills.

If someone had come to me and raised that argument, I would have considered it. But nobody even stated that, because this was not part of the regular appropriations bills. This came in separate, whistling over the transom. We had not seen it before.

I apologize to the minority leader if he felt that way, but I certainly would not have broken any agreement to not put amendments on appropriations bills. There were 13 of them, and I have honored that completely.

Mr. DOLE. Mr. President, it is an appropriations bill. It came out of the Appropriations Committee. I will not say anything further. It is an appropriations bill.

I do not want to get into a quarrel with the distinguished Senator from Washington, but my understanding was that on appropriations bills we would try to comply with the agreement that I thought we had made.

Mr. MITCHELL. Mr. President, whatever the understanding of individual Senators may have been—we all respect that and everyone has acted in good faith—there is no question but that the intent of the agreement with respect to the drug funding legislation was that amendments seeking to divert funding from other programs to drug-related measures would not be offered or, if offered, those who participated in the agreement would urge the Senate to reject them on the grounds that that is the only way we could deal with the drug-funding problem at the time.

Therefore, with the greatest respect for the Senator from Washington—and he was not involved in those negotiations; he was not a party to them—I believe that this amendment, for that reason, should be rejected. I also believe—independent of that, that this amendment should be rejected—that we ought to be providing the assistance to encourage a free and fair election process in Nicaragua. This is in a direct response to the opposition leaders and parties there, and we ought to be doing our best to provide that kind of assistance.

So, for both of those reasons, I hope that the Senate will defeat this amendment.

I thank my colleagues.

Mr. LEAHY. Mr. President, just so there not be any confusion, it is an appropriations bill. It is a unique and special appropriations bill. It is not one of the 13 regular appropriations bills.

The leadership did request that this move up onto the calendar. The distinguished chairman of the Appropriations Committee is here. He arranged to have a hearing or a markup forthwith on it, which he did. I am chairman of the subcommittee whose jurisdiction it is under. At the request of the chairman of the committee, I have been managing the bill, even though I oppose it. We have tried to move it quickly through.

But this is a unique situation. The Senator from Washington is correct, it is a unique situation.

The leadership agreement, as I understood it, was to try to expedite this—and some might say extradite this—as quickly as possible. We have done exactly that.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Washington, [Mr. ADAMS]. The yeas and nays have been

ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 25, nays 74, as follows:

[Rollcall Vote No. 247 Leg.]

YEAS—25

Adams	Dodd	Mikulski
Baucus	Ford	Pryor
Bingaman	Harkin	Riegle
Bradley	Heflin	Rockefeller
Bumpers	Kerry	Shelby
Burdick	Leahy	Simon
Conrad	Levin	Wirth
Cranston	Matsunaga	
Daschle	Metzenbaum	

NAYS—74

Armstrong	Gore	McClure
Bentsen	Gorton	McConnell
Biden	Graham	Mitchell
Bond	Gramm	Moynihan
Boren	Grassley	Murkowski
Boschwitz	Hatch	Nickles
Breaux	Hatfield	Nunn
Bryan	Heinz	Packwood
Burns	Helms	Pell
Byrd	Hollings	Pressler
Chafee	Humphrey	Reid
Coats	Inouye	Robb
Cochran	Jeffords	Roth
Cohen	Johnston	Rudman
D'Amato	Kassebaum	Sanford
Danforth	Kasten	Sarbanes
DeConcini	Kennedy	Sasser
Dixon	Kerrey	Simpson
Dole	Kohl	Specter
Domenici	Lautenberg	Stevens
Durenberger	Lieberman	Symms
Exon	Lott	Thurmond
Fowler	Lugar	Wallop
Garn	Mack	Warner
Glenn	McCain	

NOT VOTING—1

Wilson

So the amendment (No. 1005) was rejected.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I am not sure who has an amendment now. I believe the Senator from Iowa may be thinking of an amendment.

Might I just ask this—and I do not want to interfere with the rights of any Senator—but might we have some idea what the next amendment would be? And then I would ask if it might be possible to have a very short time agreement on it with an agreement that there be an up-or-down vote?

I am about to yield the floor so anybody who has an amendment can bring it up, but I simply ask whoever brings it up, that they might yield to me so I might propound such a unanimous-consent request.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I understand we want to get moving on this. I do not have a problem with what the manager of the bill has propounded. I would be willing to exchange a time limit for an up-or-down vote. I only have one more amendment that I would like to offer. I will be willing, if we can get an up-or-down vote on it, to move ahead with consideration of this amendment.

Mr. LEAHY. Is it my understanding the Senator from Iowa has but one remaining amendment? He has one remaining amendment.

Mr. President, I wonder if it would be possible to agree that when the Senator from Iowa brings up his amendment, that we have, say, 15 minutes equally divided, with an understanding it is going to be with an up-or-down vote at the end. I do not propound that; I simply make the request.

I see the distinguished ranking member of the committee here and the distinguished Republican leader. I ask if that might be a way so we can have some kind of idea of how the schedule might go.

Mr. KASTEN. If the Senator will yield, is it also our further understanding, and it would be important to make it firm, that this is, in fact, the last amendment that the Senator from Iowa has. As part of this agreement, it would be important to make it clear that this is the last amendment the Senator from Iowa intends to offer with regard to this legislation.

Mr. HARKIN. If the Senator will yield, as the Senator knows, I have a number of amendments filed. But in exchange for a time agreement and an up-or-down vote on this one last amendment of mine, I would be willing to make this my last amendment.

Mr. KASTEN. With that understanding and assurance, I say to the manager of the bill that we would want to work with you to get a 10- or 15-minute time limit on the next Harkin amendment and that it would be a vote up or down.

Mr. LEAHY. Mr. President, I ask unanimous consent—if this in in order—that when Senator HARKIN brings up his amendment, it being the only amendment that he will bring up on this legislation; that there be a time agreement of 15 minutes equally divided between the managers of the bill or their designees; that there be no amendment to the amendment in order, and at the end of that, the yeas and nays would be considered as ordered, and that there be a straight up-or-down vote on it, and the time will be equally divided between the managers or their designees.

The PRESIDING OFFICER. Is there objection to the request as stated?

The Senator from Iowa.

Mr. HARKIN. Is the 15 minutes equally divided and then an up-or-down vote?

Mr. LEAHY. Up-or-down vote, no amendments to the amendment would be in order.

Mr. HARKIN. I believe I can describe my amendment in 7½ minutes.

Mr. LEAHY. I am trying to think of the vocal chords of the Senator from Iowa. I know he has a cold.

The PRESIDING OFFICER. The Chair will advise that the yeas and nays cannot be considered as ordered before the amendment is propounded. But the unanimous-consent request, as understood by the Chair, is that amendment to be offered by the Senator from Iowa will be considered the last amendment he will offer; that 15 minutes will be equally divided between the Senator from Iowa and the managers of the bill or their designees; and that no tabling motion would be in order.

Mr. LEAHY. And there be no amendments to the amendment.

The PRESIDING OFFICER. And that there be no amendments to the amendment. Is there objection to the request?

Hearing no objection, it is so ordered.

The Senator from Iowa is recognized.

AMENDMENT NO. 1010

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 1010.

Mr. LEAHY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, beginning on line 4, strike out "up to $3,000,000" and all that follows through "1990" and insert in lieu thereof the following: "up to $2,500,000 of the funds made available by section 9 of Public Law 100-276 may be used by the Administrator of the Agency for International Development, notwithstanding any other provision of law, for assistance for the promotion of democracy and national reconciliation in Nicaragua: *Provided*, That such assistance may be made available only as follows: (1) up to $1,000,000 for election support and monitoring to ensure the conduct of free, fair, and open elections through and consistent with the charter of the National Endowment for Democracy; and (2) up to $1,500,000 for election support and monitoring of which up to $400,000 shall be made available to ONUVEN, the United Nations Election Monitoring Team in Nicaragua, and of which up to $400,000 shall be made available for the Center for Training and Election Promotion, and of which up to $400,000 shall be made available for the

Council of Freely-Elected Heads of Government, and of which up to $300,000 shall be made available for the Center for Democracy: *Provided further,* That the provisions of sections 7, 8, and 9 of Public Law 101-14 shall be applicable to funds made available by this Act: *Provided further,* That no cash assistance shall be provided by the National endowment for Democracy or its grantees to any political party, alliance or candidate: *Provided further,* That funds made available by this Act shall remain available until February 28, 1990".

Mr. LEAHY. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. I yield such time within the time agreement as the Senator needs.

The PRESIDING OFFICER. The Senator from Iowa controls 7½ minutes.

Mr. HARKIN. Mr. President, the amendment is really what the bill before us ought to read. My amendment is a substitute which provides for $2.5 million to be divided in this way: $1 million for the National Endowment for Democracy that would be used in in-kind and not cash assistance to the political parties.

Furthermore, my amendment would provide $1.5 million for election support for monitoring: $400,000 for President Carter's Council of Freely Elected Heads of Government; $400,000 for the United Nations monitoring team; $400,000 for the Center for Training and Election Promotion; and $300,000 for the Center for Democracy.

Mr. President, this amendment represents what I consider to be a reasonable alternative to H.R. 3385 which, as I have stated many times before in this debate, provides way too much money and is too broad in scope for the elections in Nicaragua.

I chose the $1 million fee because that amount of money was spent by NED for a 1988 plebiscite in Chile with more than four times the population of Nicaragua. The $1 million provided in this package is more than sufficient to assist the Nicaraguan election opposition.

I point out that we have already given Nicaragua $3.5 million. With this amendment, it would total $4.5 million, In the 1989 Foreign Operations bill appropriated $2 million, and this summer added another $.5 million.

I offer this amendment to ensure that this election is not bought and paid for the taxpayers of this country. I offer this amendment to save Violeta Chamorro and UNO from the charge that she is the best candidate the United States can buy.

Mr. President, the total of the money in H.R. 3385 and the funds we have already sent to Nicaragua is $12.5 million—equal to all of the money for NED's entire global budget last year. In other words, all of the money that the National Endowment for Democracy has received to support democratic movements around the world is equal to the amount of money that we are giving to one country of 3 million impoverished people in Nicaragua.

I urge what the administration proposed to do with the $5 million included in this package and, that is, to make sure that the money goes for in-kind services. Again, I ask, have they seen the list of what UNO wants to purchase with this money?

Travel allowances and per diem for 20,000 poll watchers, $600,000—$600,000. That is $30 per person for 1 day of work. That is nearly equal to 2 month's salary in Nicaragua. Boy, you can buy a lot of votes for that kind of money.

There is $140,000 for courtesy invitations to international observers. What are they going to do, print them in 22-carat gold? There is $815,000 for salaries and benefits and related expenses. How about $1,345,000 for vehicles? That is what is in this bill before us now—$1.345 million for vehicles. As Congressman CONTE pointed out on the House side, if you rented a Hertz Rent-a-Car for $20 a day, they could rent 2,241 cars for a month.

The opposition does not need these numbers of vehicles in Nicaragua to run an election. And yet that is what you are voting for in this bill.

Last Friday, Mr. President, we voted in this body to cut assistance to people in rural areas. We voted to keep intact the urban payment differential to our hospitals, not do away with it. We voted to eliminate protecting Medicare-dependent rural hospitals. We voted to eliminate the reimbursement of nurse practitioners in rural areas. We voted to do away with income averaging for farmers. We voted to do away with assistance to elderly to remain in their own homes. We voted against increased assistance to hospices. We voted against increasing child care assistance. We all voted to cut these programs last Friday, programs that mean a lot to our constituents in our States, and now we are being asked to vote $9 million for Nicaragua. What is going on around here?

On one day we are asked to cut programs that are meaningful to the people we represent in our States to get it below the budget deficit. We marched down to the well and voted to cut those programs on Friday night at 11 o'clock. Four days later, the administration now asks us to send $9 million to Nicaragua.

My substitute amendment provides some money, $2.5 million, but only in kind and not in cash. It provides $1 million to the observer groups. That I believe is a reasonable alternative to the bill that we have before us. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? If no one yields time, time will be deducted equally from the two sides.

Mr. HARKIN. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Iowa has 1 minute 47 seconds remaining.

Mr. DODD. Will the Senator yield?

Mr. HARKIN. Yes.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. I yield the remainder of my time.

Mr. DODD. Mr. President, I commend my colleague from Iowa. We could have avoided a lot of this had there been any effort to try to sit down and work out a package that would have provided some intelligent assistance to the democratic process and also to the observer groups which, as the Senator from Iowa has accurately pointed out, have needed some help in order to conduct a proper observation of the election in Nicaragua.

But this is, in my view, the height of irresponsibility. We are charging off providing funding that is beyond all realm of reasonableness. It is going to end up funding particular candidates, which we have never done in the past. The National Endowment for Democracy has passed this body by margins of one vote. I would say, Mr. President, very candidly this evening, I am going watch very carefully; I suspect the minimum is going to be going forward. I do not think I will ever support the Endowment again if 1 nickel ends up being spent on a particular candidate. I do not care who it is. We set up the endowment to support a democratic process, and we are now aborting that process. We are turning this into a political action committee that picks and chooses candidates.

What about Brooklyn Rivera, head of the Miskito Indians? Is he going to qualify? He is not mentioned in here. He does not qualify for a nickel of this kind of help if this goes through.

I think it is tragic. I think it is a mistake. I think it sets back the clock on this country being involved and participating in promoting democratic elections around the world. It is going to turn that national endowment into nothing more than a political party or some political action committee, and that is tragic in my view. I hope the Harkin amendment is adopted.

The PRESIDING OFFICER. The time of the Senator from Iowa has expired. The Senator from Vermont has 7 minutes and 30 seconds in opposition to the amendment.

Mr. LEAHY. Mr. President, I may have made a mistake. The Senator from Wisconsin opposes the amendment. He has 7½ minutes.

The PRESIDING OFFICER. The Senator from Wisconsin has 7 minutes and 30 seconds.

Mr. KASTEN. Mr. President, very briefly, first of all, any amendment to this bill will put off its passage. We will miss next Sunday by the process of going to conference with the House. That means we miss one more registration day—three out of four—and we undermine the effort to get this money into the hands of the democratic forces in Nicaragua so that they can have free and fair elections. So any amendment at this time ought to be defeated.

Second, this amendment ruins the whole purpose of the bill. The Sandinistas have set up hurdles for those who wish to help the democratic forces. Sufficient funds and flexibility are needed to overcome those hurdles and to provide the needed help. The National Endowment for Democracy under its charter and by a vote of its board is permitted to give cash to both political parties and alliances. The endowment has done so both in Panama and in Chile, and these are programs that were supported by this body and by the Senator from Iowa. I am hopeful that this amendment, Mr. President, will be defeated.

I am pleased to yield whatever time the Senator from Kansas may need.

Mr. DOLE. I will be very brief. I do not think there is any assurance that the National Endowment for Democracy is going to give anybody $5 million. In fact, we raised this question ourselves. Is this too much money? Enough money? Who knows? It seems rather strange to me we are talking about $9 million to give them a chance in Nicaragua for free and fair elections maybe to overthrow peaceably a Communist government, and we have literally a party contest going on to see who can spend the most on Poland, whether it ought to be $100 million, $200 million, $1 billion. Nobody sat up that I know of and said "What about $1 billion, we could have done this and this." That is not a good argument, one you can use. But I see almost a footrace on who can spend the most and do the most in Poland. It is very important. I support efforts in Poland, because what has happened there demonstrates again that communism is a failure.

We are talking about $9 million, $9 million. Let us keep it in perspective. And maybe not $9 million. Maybe the National Endowment for Democracy will give much less. The Senator from New Mexico called this to my attention earlier. And not even this might be necessary if the Soviets would stop their $500 million—more than 50 times as much—to the Sandinistas.

The Senate and the Congress and the administration and the American people want to give freedom a chance, and democracy a chance, in Nicaragua. The American people have indicated through polls they have had enough of the other option—and to the Contras. They want to see if it will work at the ballot box. So this is the last opportunity. I believe one way to undermine this chance is to adopt any amendment and have to go to conference, delay it further. So I hope this amendment will be defeated.

The PRESIDING OFFICER. The Senator from Wisconsin has 4 minutes and 25 seconds remaining.

Mr. KASTEN. Mr. President, I would like to yield what time he may desire to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I was not sure that I was going to get to the floor because of the time limitations, so I suggested to our Republican leader the topic he has just raised in the Senate.

It is incredible to me; this amendment is intended to kill this effort to promote fair elections in Nicaragua. Now, this effort might not be perfect, but it is obvious that the amendment is a subterfuge to kill it.

As my good friend, the Senator from Kansas, indicated, why are we almost competing openly to see who can do more for Poland? Because we would like to encourage, hopefully in an appropriate way, a group of people who want freedom. The Polish people are fed up with an economic system and a political system that are dead. Poland, as I saw for myself last month, is a place where individual opportunity is dead, freedom is dead, and prosperity is gone. We all want to help them.

A few hundred miles from some of our State borders sits a regime that the Senate has concluded—it has taken some 6, 7 years to conclude—is just as devastating to individual rights, just as dead in terms of opportunity and economic prosperity as anything in Eastern Europe. Perhaps at this particular moment in history Nicaragua's economy is worse than most of the countries in Eastern Europe. We argue among ourselves who can do more for Poland, yet we sit seriously debating whether we should give Nicaragua the same opportunity.

So I submit to you we have our priorities mixed up when we are competing in far countries to do what is right, and right here close to home, either directly or through some subterfuge, we want to deny those who want to run against a Communist regime which has been forced on them by force of arms. As in Poland, the Communists in Nicaragua have been forced to have an election. We do not want to vote yes or no to help the Nicaraguan version of Poland's Solidarity Coalition.

To me it just absolutely defies any sense of responsibility. It seems to me we are abdicating the responsibility of the premier free government in the world, and yet running around talking as if we are trying to help them.

I submit we ought to vote the amendment down. We ought to do what the President requested. It may not work. But is it not worth $9 million to at least show a bit of good faith toward some united, prodemocracy group which wants to contest a Communist dictatorship in a unique, possibly free election. Doesn't this giant idea of freedom called America want to do a little bit?

I submit that is what we ought to do. We ought to vote the amendment down and get on with giving Nicaraguans at least $1 million opportunity to have an election that is meaningful.

Mr. LEAHY. Mr. President, I will support this amendment. Although I do not agree with everything in it, it is a reasonable compromise. I hope other Senators who want to support the political process in Nicaragua will support it too.

Everyone wants to see democracy in Nicaragua. Everyone wants the election to be fair. But I know many Senators feel as I do that the administration's proposal goes too far. It is a blatant attempt to influence the outcome of the election. We would not tolerate that in our own country, and we should not be doing it to Nicaragua.

This amendment is carefully drafted. Most important, it would drastically cut the amount of money we send down there. Instead of $9 million, this amendment would limit the amount to $2.5 million; $1.5 million of those funds would be for election monitoring. The other $1 million would be to support the election process through the National Endowment for Democracy.

This kind of support will help ensure a fair election without putting the United States in the unseemly position of looking like we are trying to dictate the outcome.

It will also prevent any cash from being given to any political party, alliance or candidate, unlike the underlying legislation which would permit the payment in cash directly to UNO—the umbrella organization supporting Mrs. Chamorro's candidacy.

According to the administration, $600,000 of that cash would be for UNO poll watchers. That is the equivalent of a month's salary in Nicaragua, to pay for a day's work what we get volunteers to do in our elections.

Another $50,000 is for overseas travel for UNO leaders. Is that what the American people want us to spend their tax dollars on? To buy plane tickets for UNO leaders?

The sum of $1.3 million is for vehicles. We are going to use foreign aid dollars—which are being cut for all sorts of humanitarian programs which

the American people support—for cars for political campaigners in Nicaragua? What about the hundreds of families in St. Croix whose homes were demolished by the hurricane and don't even have a roof to sleep under? What about the tens of thousands of refugees who are being turned away? What about the homeless in our own country?

Mr. President, we may be the richest country in the world but we do not have $9 million to throw away, not in Nicaragua or anywhere else.

This amendment deserves broad support. It is consistent, both in amount and what it is for, with what we have done in the past—in Panama, Chile, and Poland. Nobody can say we have not tried to help the political opposition in Nicaragua. Nobody can say we did not try to ensure a fair election.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. KASTEN. I am prepared to yield back the remaining time.

Mr. LEAHY. There is no time on this side.

Mr. KASTEN. Mr. President, I yield the remainder of our time.

The PRESIDING OFFICER. All time has expired. There being no further debate, the question is on agreeing to the amendment of the Senator from Iowa.

On this question, the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New York [Mr. MOYNIHAN] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. HEINZ] and the Senator from California [Mr. WILSON] are necessarily absent.

The PRESIDING OFFICER (Mr. ROBB). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 33, nays 64, as follows:

[Rollcall Vote No. 248 Leg.]

YEAS—33

Adams	Ford	Levin
Baucus	Harkin	Matsunaga
Bingaman	Hatfield	Metzenbaum
Bradley	Helms	Mikulski
Burdick	Johnston	Pell
Byrd	Kennedy	Pressler
Conrad	Kerrey	Riegle
Cranston	Kerry	Rockefeller
Daschle	Kohl	Sarbanes
Dixon	Lautenberg	Simon
Dodd	Leahy	Wirth

NAYS—64

Armstrong	Chafee	Exon
Bentsen	Coats	Fowler
Biden	Cochran	Garn
Bond	Cohen	Glenn
Boren	D'Amato	Gore
Boschwitz	Danforth	Gorton
Breaux	DeConcini	Graham
Bryan	Dole	Gramm
Bumpers	Domenici	Grassley
Burns	Durenberger	Hatch
Heflin	McClure	Sanford
Hollings	McConnell	Sasser
Humphrey	Mitchell	Shelby
Inouye	Murkowski	Simpson
Jeffords	Nickles	Specter
Kassebaum	Nunn	Stevens
Kasten	Packwood	Symms
Lieberman	Pryor	Thurmond
Lott	Reid	Wallop
Lugar	Robb	Warner
Mack	Roth	
McCain	Rudman	

NOT VOTING—3

Heinz	Moynihan	Wilson

So the amendment (No. 1010) was rejected.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia, Senator ROCKEFELLER.

RECOGNITION OF SENATOR ROBERT C. BYRD'S 12,000TH VOTE

Mr. ROCKEFELLER. Mr. President, at the end of last week Senator BYRD talked deeply with great wisdom about the history of the Senate and the meaning of the reconciliation bill in the context of that history, and in fact over the years and over the recent years that I have been in the Senate, he has paused from time to time to talk about moments from history and, in fact, as we all know has written extensively with more volumes to come about the history of the Senate.

I think it not inappropriate to point out that the vote which has just been recorded is the senior Senator from West Virginia, ROBERT C. BYRD'S 12,000th vote in the U.S. Senate. [Applause.]

Mr. President, I would point out that over a period in excess of 31 years, this record has been created. And I would also point out that after another 134 votes he will surpass all Senators in all of Senate history in terms of the number of votes. I point that out not just as a tribute to the Senator but as a statement about really the fact that the State of West Virginia was born in the crucible of the Civil War.

Life has never been easy. We have had to depend upon people who have worked hard and through the dint of their hard work and the diligence of their late work, pulling themselves up the hard way as indeed the senior Senator has done. The work ethic is what has created this possibility for the senior Senator from West Virginia. And I think I relfect, as a junior colleague on behalf of all of our colleague in the Senate on both sides of the aisle, a deep and fundamental pride in his record not only of votes but more importanly in his record of service.

The PRESIDING OFFICER. The Chair recognizes the majority leader, Senator MITCHELL.

Mr. MITCHELL. Mr. President, we are all indebted to the distinguished junior Senator from West Virginia who with his typical greatness has pointed out the accomplishment of his senior colleague.

Every Member of the Senate I know felt a surge of pride late one evening last week when we listened to the distinguished senior Senator from West Virginia discuss the history of the Senate in connection with the debate we were having on the reconciliation bill and it is, therefore, I think, a fortunate coincidence that just a short time after he, by his diligence, reminded us of the privilege we have to serve in the Senate, that he should this day reach such a milestone. It is a tribute not only to his longevity, but to his commitment to the Senate, to the people of his State and the Nation.

On behalf of every Member of the Senate I join in expressing our gratitude for the service of the distinguished senior Senator from West Virginia and our pride at being one of his colleagues. There are few honors greater than to be able to say that we served in the U.S. Senate with ROBERT C. BYRD who has come in his person and career to personify that which is honorable in this institution.

Mr. BYRD. Thank you.

The PRESIDING OFFICER. The Chair recognizes the President pro tempore.

Mr. BYRD. Mr. President, I will just take one moment to thank my colleague from West Virginia, Senator ROCKEFELLER for his thoughtfulness, and his grace in making mention of my vote, and to thank my leader, Senator MITCHELL, for his graciousness in commenting on my vote and my service as he has.

To have the respect and the plaudits of my colleagues and my peers is as great an honor, Mr. President, as I could ever hope for. I am deeply grateful for the kindnesses, their many courtesies to me over the years, and for their great patience. I thank you very, very much. I hope that when I cast my 24,000th vote you will be here to commend me again.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont [Mr. LEAHY].

Mr. LEAHY. Mr. President, I almost hate to go back to the business of the Senate after what has been said.

I concur with the statement of the distinguished majority leader in praise of the distinguished senior Senator from West Virginia. I think the distinguished senior Senator from West Virginia was about the first Senator I met with when I was elected to the Senate and was down making my rounds of senior Members of the Senate.

I well knew of his reputation at that time and had met with him as a candidate once in my capacity as a prosecutor. I mentioned that I was a candidate and was not meeting with the distinguished Senator from West Virginia in my role as a prosecutor. That would never, ever occur.

But I have served with him for all but 2 years of my time in the Senate as a member of the Appropriations Committee. I served with him for a number of those years as a member of the Judiciary Committee. I served with him for a number of years as a member of the Intelligence Committee. So I probably have served with him on almost as many committees as any person here during my 15 years.

There is no person who is more respectful for or more respectful of the traditions and rules and the reasons for the Senate than ROBERT C. BYRD, nor no person more jealous in the guarding of what makes the Senate work the way it should.

I have stated on this floor many, many times that the Senate should be the conscience of the Nation. The Senate can fulfill that role as the conscience of the Nation if we protect what are the rules and the reasons for the Senate. In that regard, 99 Senators look to 1 Senator to give us the direction, and that one Senator, the senior Senator from West Virginia, has always done that.

SENATOR ROBERT C. BYRD'S MILESTONE

Mr. KERRY. Mr. President, I want to join with the rest of my colleagues in praising the distinguished chairman of the Senate Appropriations Committee for the extraordinary milestone he has achieved.

Sentor ROBERT C. BYRD has cast 12,000 votes in the Senate. It is a most impressive achievement. These 12,000 votes represent 30 years of dedicated service to his State of West Virginia and to the Nation.

But just as importantly, Mr. President, these votes are a tribute to an individual whose commitment to the U.S. Senate as an institution has been unchallenged by those who came before him and most probably those who will follow him. For if there is one thing, among many, that Senator ROBERT C. BYRD epitomizes, it is the integrity of this institution.

In my short tenure as a U.S. Senator, the one thing that has stood out in my mind about our distinguished colleague is his respect for, and dedication to, the U.S. Senate as an institution. Time and time again, when we become bogged down in parochial matters, he reminds us that we have an obligation to this institution. There isn't anyone who has mastered the intricacies of the rules of parliamentary procedure which govern our deliberations in this body as well as Senator BYRD. As Democratic Leader, he did not seek advantage of the rules with his knowledge. He worked diligently to ensure that the rules were applied fairly and that the rights of all were protected.

Senator BYRD has every right to be proud of this and his other achievements on behalf of his State and the Nation. But just as importantly, he has rendered invaluable service to this very unique institution. I look forward to his continuing this exceptional service in the thousands of votes he will be called upon to make in the future.

To Senator ROBERT C. BRYD, I offer my congratulations, but most of all, I offer my heartfelt admiration for an exceptional public servant.

Mr. KENNEDY. Mr. President, I join in commending my friend and colleague from West Virginia, Senator BYRD, for this latest distinction in his long and brilliant Senate career.

What stories, what history, lie behind these 12,000 rollcall votes in the U.S. Senate. Cast over a period of more than 30 years, they are a microcosm of our country's modern history. And in a very real sense—as Senator, as majority leader, and now as chairman of the Appropriations Committee and President pro tempore—ROBERT BYRD has been a powerful influence in shaping that history and making America a better country.

What a difference he has made—for the people of West Virginia, for the Nation as a whole, and for our country's role in international affairs. Let me say to my distinguished colleague—well done; we congratulate you on this milestone; and may your next 12,000 votes be even greater than the first.

Mr. BYRD. Will the Senator yield?

Mr. President, I thank my friend for his generous and courteous remarks. I am indeed grateful.

ASSISTANCE FOR FREE AND FAIR ELECTIONS IN NICARAGUA

The Senate continued with the consideration of the bill.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut [Mr. DODD].

AMENDMENT NO. 1001

(Purpose: Substitute amendment)

Mr. DODD. Mr. President, I call up an amendment in the nature of a substitute, amendment No. 1001, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 1001.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. STATEMENT OF POLICY.

With respect to the upcoming elections in Nicaragua, presently scheduled to occur on February 25, 1990, it shall be the policy of the United States to encourage the national reconciliation of opposing political forces in that country, to strengthen democratic processes and procedures in cooperation with indigenous democratic forces, and to support election monitoring and oversight by appropriate national, regional, and international groups.

SEC. 2. FUNDING AUTHORITY.

(a) Notwithstanding any other provision of law, of amounts remaining unexpended from funds allocated to the Agency for International Development, up to $3,000,000 of the funds made available under section 9 of Public Law 100-276, and up to $6,000,000 of the funds made available under section 2 of Public Law 101-14, may be made available by the Administrator of Agency for International Development, for assistance to further the promotion of democracy and national reconciliation in Nicaragua, except that such assistance shall not exceed—

(1) $7,000,000 in assistance for programs and projects through the National Endowment for Democracy and consistent with the National Endowment for Democracy Act (including the specific requirement contained in section 505 of such Act that "funds may not be expended either by the Endowment or by any of its grantees, to finance the campaigns of candidates for public office"); and

(2) $2,000,000 in assistance to support election-monitoring and related activities in Nicaragua, of which not less than—

(A) $750,000 shall be available only to support the election-monitoring project of the United Nations and Organization of American States;

(B) $400,000 shall be available only for the Council of Freely-Elected Heads of Governments; and

(C) $350,000 shall be available only for programs of the Center for Democracy.

(b) The provisions of sections 7, 8, and 9 of Public Law 101-14 shall be applicable to funds made available by this section.

SEC. 3. REPORTING REQUIREMENT.

The Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives shall be informed in writing within 5 days of decisions made to fund specific programs and projects pursuant to this Act.

Mr. DODD. Mr. President, I yield to the distinguished floor manager.

Mr. LEAHY. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays have been ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent, on the Dodd amendment for which the yeas and nays have been ordered, that there be 20 minutes, equally divided; that there be no other amendments to the amendment; that no tabling motion would be in order; that no other amendments would be offered to H.R.

3385; and a vote on final passage would follow immediately the vote on the Dodd amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object, I do have some further comments that I want to make on the package itself. I understand the unanimous-consent request of the Senator from Vermont was that we would go immediately to final passage.

Mr. LEAHY. That is right.

Mr. HARKIN. I am going to have to object to that. I do not want to take a lot of time, but there were a number of things said on the floor that I want to respond to. It probably will not take me over 5 or 10 minutes, but I do want some time to comment on the package itself before final passage.

Mr. LEAHY. Mr. President, I withdraw the unanimous-consent request, but if I were to make a unanimous-consent request again, I would make it exactly the same, except between the vote on the Dodd amendment and final passage there be 20 minutes equally divided.

Mr. DOLE. We object.

Mr. LEAHY. I have not made that request. I understand there would be objection on the other side.

Mr. President, I withdraw my request. I yield the floor.

Mr. DODD. Mr. President, I will not take much time at all. We have had a lengthy debate this afternoon on this matter and even though there may be no unanimous-consent agreement agreed to, I will move as quickly as I can on this.

I wanted to point out to my colleagues, first of all, in commending our distinguished former leader, the President pro tempore of the Senate, it is a somewhat ironic coincidence of history—I was thinking as I was sitting here—that the 12,001st vote of the distinguished Senator from West Virginia would be on a Dodd amendment, because 30 years ago he came to the Senate with another fellow by the name of Dodd. I am not sure he would have imagined 30 years ago on his 12,001st vote he would be voting on an amendment offered by the son of his colleague that year.

So I wish to commend him, as well. He has been a dear friend to two generations of Dodds and a particular good friend of mine during my short tenure in the Senate. I am truly honored to be on the floor this afternoon to celebrate with him his accomplishment that was recognized by his junior colleague who so adequately pointed it out really as a testimony to his service more than the accomplishment of having been around long enough to cast 12,000 votes.

I want to say what a privilege and an honor it has been to serve with the distinguished Senator from West Virginia. I do not know how he will vote, but I am proud he will be able to cast his 12,001st vote on the Dodd amendment.

Mr. BYRD. Mr. President, I wish to thank Mr. LEAHY and Mr. DODD for their very gracious and overly charitable remarks.

Mr. DODD. I thank the Senator.

Mr. President, very briefly, this amendment is rather straightforward. It should not be terribly complicated. I have talked about it earlier today.

Very briefly, it does not change any of the figures in the money whatsoever. The $9 million that is included as part of the President's package that was adopted in the House and sent over to us remains intact. The one distinction between the substitute that I am offering and the administration's proposal is the adoption of language which is already included in the charter which established the National Endowment for Democracy. I quote, Mr. President, from that charter, which includes the language specifically that I have offered in my substitute. That language says, in section 505(a):

> Partisan politics. Funds may not be expended, either by the Endowment or any of its grantees, to finance the campaigns of candidates for public office.

Now, this has been a central ingredient. In fact, during the debate on whether or not to adopt the charter for the National Endowment, a major question was raised and discussed at some length here as to whether or not the Endowment would be involved in partisan politics around the globe. The advocates, myself included, strongly argued that that was not the purpose of the National Endowment.

In fact, in section 502 of the National Endowment, we spell out rather clearly what we hoped the National Endowment will accomplish. It was:

> To encourage free and democratic institutions throughout the world through private sector initiatives, including activities which promote the individual rights and freedoms (including internationally recognized human rights) which are essential to the functioning of democratic institutions.

It goes on, Mr. President, to identify three or four or five paragraphs that all go to the central ingredients. In paragraph (4), it states:

> To strengthen the democratic electoral process abroad through timely measures in cooperation with indigenous democratic forces.

And, of course, the prohibition about supporting individual candidates. No matter who the candidate is, no matter how legitimate the party is, no matter whether or not all of us here strongly believe that that individual or that particular group of people ought to have the support of us individually, we do not believe, under the charter of the National Endowment, that public funds ought to be used to finance the campaign of individuals. And I believe very strongly in that.

The National Endowment carried here by one vote. It was a hot debate. I believe the National Endowment has served our country and democracy well in the Philippines, in Panama, in Chile, and recently in Poland. In every one of those countries, Mr. President, we do not get involved in backing a candidate for a party, no matter that we strongly identified with the aspirations of many of the people in those races.

All I am suggesting here with this amendment is that we live up to that tradition. I believe this $9 million is extravagant, Mr. President, but nonetheless that debate has been waged here today and a decision has been made to appropriate $9 million. A portion of it will be spent on the observer groups but a substantial part of it to go into Nicaragua. I accept that.

All I want now is for us to, if you will, endorse the concept which we have embraced since the endowment has been adopted, and that is that not a nickel of these funds will support a particular candidate. That is the way it has been in every other country and it ought to be no different here.

Yet, if we read the legislation it becomes quite clear that at the insistance of the administration language be added, which, as I read it, make it quite clear we will end up supporting particular candidates.

I say that as someone who has a great deal of affection for—and, believe me, I would love to see her prevail—Violeta Chamorro, in Nicaragua. But I also happen to believe the principle encompassed in the National Endowment is something we ought not to lose sight of no matter how appealing this particular race is.

There will be other candidates. My colleague from Arizona today recognized that fact. We know of at least three, Eric Ramirez, Mauricio Diaz, and Brooklyn Rivera, who may very well all end up as Presidential candidates. Yet, as this reads, it may be very difficult to get funds to that particular organization of people behind and supporting those candidates.

Of course, the budget submitted by UNO hardly indicates that this is going to be anything but funds that would be used in by individual candidates. We have $1.5 million in salaries, $1.5 in vehicles, $838,000 in media campaign polling and consultants and $560,000 in office equipment, furniture, and travel on a per diem basis. I think it is going to be hard to argue that those funds are going to end up in the pockets of individual candidates. That destroys, in my view, the very arguments, we made to support the National Endowment.

So the $9 million is here. We are just restraining, as the charter does, the use of those funds by individual candidates.

I am being told we can accept no amendments; we have to reject everything. Mr. President, in my view it would take about an hour to negotiate out the difference between the House language and Senate language, and those funds would be available by this weekend for the registration process.

So it is not a delaying tactic. It is something I feel very strongly about, that the National Endowment is in risk of self destruction and we are going to be placed in the position of having the Endowment being sought out by other candidates in other countries. They will cite this example and ask why they are not good enough to receive funds when they are fighting Pinochet or a Marxist government in Hungary or in Poland or in some other country where we may end up being divided on that question.

We ought not to be in the business, in this body, of picking out and choosing candidates in international races involving other countries. We ought to support a process, support that process which desperately needs help in Nicaragua; but not get involved, no matter how appealing and how tempting it is at this point, through public funds.

Raise money individually with campaign fundraisers. They raised $10,000 for Violeta Chamorro in Miami. Let them have a bunch of those fund raisers. Venezuela made contributions, the Christian Democrats in Europe made those contributions. Let our Republican and Democratic Parties make contribution to Mrs. Chamorro and UNO. But let not the public's funds in this Treasury pick out a candidate and say we are going to support you to the exclusion of others.

It is a bad precedent no matter how appealing it may be at this hour. I realize it is late but I urge my colleagues to at least give this amendment consideration and we will negotiate out the differences, if that becomes necessary, in a very quick order and send the bill to the President's desk, which I think will accomplish what all of us would like to do.

I reserve the remainder of my time.

The PRESIDING OFFICER. Senator HARKIN.

Mr. HARKIN. I want to compliment my distinguished colleague from Connecticut on a very eloquent and very forceful statement. I hope every Senator listened to him. I believe, as the Senator from Connecticut does, that NED has a role to play, the National Endowment for Democracy, fostering democratic institutions across the globe. The surest way to kill NED—and, as the Senator pointed out, we passed it by one vote here—the surest way to kill NED is to make it a PAC, a political action committee, which is funding one candidate over another.

We may have a momentary victory here. You may get the $9 million and it will go down to finance a candidate. But I think it may well spell the end of the National Endowment for Democracy. Because it will not be just this candidate. It will be another candidate down the pike in some other country. That is why I believe the assistance that went to NED ought to be in kind and not cash. That did not pass. But I am hopeful the Dodd amendment will pass to make it clear that none of the money can go to any political candidates.

I understand people on the other side do not want any amendments because they do not want to go to conference. They want to get this through. They say: Well, registration is running out.

Mr. President I am going to make clear now and I will make it clear again this evening on at least one more time when I take the floor, registration is doing quite well. They have already registered 1.2 million voters in Nicaragua, in the first couple of Sundays. And there are two more Sundays to go. In three Sundays they registered 1.2 million people. So registration is proceeding quite well.

This money that we are voting for here has nothing to do with registration. Absolutely nothing whatsoever.

In fact, if we look at the list of things that UNO wanted the money for—the Senator from Connecticut read some parts—none of it is for registration.

So those who are saying we have to hurry up and get this through for registration, that is just absurd. They have already got money for registration. Registration is proceeding apace. They already have, as I said, 1.2 million out of 1.7 million people already registered. This money is for something on down the line.

Second, proponents of this package say they do not want to go to conference. Well, Mr. President, I am quoting here from a New York Times article of September 28 by Robert Pear.

At a hearing of the Senate Foreign Relations Committee, Bernard W. Aronson, the Assistant Secretary of State for Inter-American Affairs, was, for example, unable to explain why the State Department wanted to spend $815,000 in salaries and $1.3 million on "vehicles" for opposition members working on next February's elections.

Mr. President, the most important part of the article is the next paragraph.

Afterward, administration officials said they would reduce Mr. Bush's proposal because it was obvious they would not get the full amount requested. They did not know the new figure.

Obviously the administration came up here and asked for $9 million, fully expecting to negotiate that down to some level and, lo and behold, they are going to get every nickel they wanted. In fact the headline of the article is: "U.S. To Pare Aid in Nicaragua Vote."

Mr. President, I ask unanimous consent the full article be printed at this point in the RECORD.

There being objection, the article was ordered to be printed in the RECORD, as follows:

U.S. TO PARE AID IN NICARAGUA VOTE

((By Robert Pear)

WASHINGTON, September 28.—The Bush Administration moved today to scale down its $9 million plan to help opposition groups in Nicaragua, after Republican and Democratic members of Congress sharply criticized the proposal.

Lawmakers generally endorsed the idea of helping the opposition, but said that President Bush's proposal was excessive and hastily conceived.

At a hearing of the Senate Foreign Relations Committee, Bernard W. Aronson, the Assistant Secretary of State for Inter-American Affairs, was, for example, unable to explain why the State Department wanted to spend $815,00 in salaries and $1.3 million on "vehicles" for opposition members working on next February's elections.

Afterward, Administration officials said they would reduce Mr. Bush's proposal because it was obvious they would not get the full amount requested. They did not know the new figure.

Mr. Aronson said there was an urgent need for swift Congressional action because voter registration in Nicaragua "is scheduled only for the first four Sundays of October." But Representative David R. Obey of Wisconsin, Democratic chairman of the House Appropriations subcommittee responsible for foreign aid, said today that "we still have minimal information from the Administration about the specifics" of its plan.

HELMS FURIOUS

Mr. Aronson described the $9 million proposal as "a modest program; to assist democratic forces in "a David versus Goliath fight."

Senator Jesse Helms, Republican of North Carolina, said he was furious because the State Department had devised its legislative strategy in consultation with the Senate Democratic leader, George J. Mitchell of Maine. The Republican leader, Senator Bob Dole of Kansas, "was not informed or consulted in any way," Mr. Helms said.

Aides to Mr. Helms expressed concern that the money would subsidize the Communist Party of Nicaragua, one of 14 members of the opposition alliance that nominated Violeta Barrios de Chamorro for President.

Carl Gershman, president of the National Endowment for Democracy, acknowledged that Mr. Bush's proposal to send $5 million through his organization to Nicaragua "dwarfs what the endowment has been able to spend" on elections in Chile, Panama, the Philippines or any other country. The endowment is a private nonprofit corporation that receives almost all its money from the Federal Government.

Senator Christopher J. Dodd, chairman of the Foreign Relations subcommittee on Latin America, said the Administration was proposing to spend $5 for every potential voter in Nicaragua's electorate of 1.8 million people.

TOTALLY UNACCEPTABLE

"We want to help," said Dodd, Democrat of Connecticut. "But just coming up here and saying, 'I want nine million bucks and I can't tell you how it's going to be spent,

where it's going to be used,' is totally unacceptable."

Senators from both parties said they were distressed to learn that up to $2 million of the $9 million was intended for the Supreme Electoral Council of Nicaragua, which supervises the elections. The State Department says the council is controlled by the ruling Sandinista National Liberation Front.

Senator Claiborne Pell of Rhode Island, the chairman of the Foreign Relations Committee, asked Mr. Aronson if President Bush was planning any "covert operations" to influence the Nicaragua elections. Mr. Aronson declined to answer, saying such questions should be discussed behind close doors by the Congressional intelligence panels.

Paul S. Reichler, a Washington lawyer who represents the Government of Nicaragua, criticized the Administration proposal as "an attempt to buy the election" for Mrs. Chamorro.

On Sept. 15, the board of directors of the National Endowment for Democracy approved $1.5 million in grants for Nicaragua. That money is separate from the $9 million requested for the fiscal year 1990, which begins Sunday.

Mr. HARKIN. So again it is clear the administration knew there would have to be some negotiating on it but for some inexplicable reason it has gone through without any cuts whatsoever. But the amendment offered by the Senator from Connecticut is one that I believe will at least make it clear none of the money goes to any candidates. I believe it will also be a vote to ensure the National Endowment for Democracy is able to live on. Because I believe if his amendment is not adopted, two things will happen.

First, of all, a lot of this money will go into the pockets of candidates for office in Nicaragua. And, second, I believe it will spell the end of the National Endowment for Democracy.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona [Mr. McCAIN].

Mr. McCAIN. Thank you, Mr. President. I will take up where my colleague from Iowa left off concerning the threat to the integrity of the National Endowment for Democracy. It is important to recognize, and I speak as a strong supporter of the National Endowment for Democracy, that the opinion just stated by my two colleagues conflicts with the views of the president of NED, Mr. Carl Gershman.

Mr. Gershman has always been very careful to protect his organization's integrity. This effort has also been endorsed by NED's very prestigious and knowledgeable board of governors. Let me state their position definitively all funding will be spent in accordance with NED's charter.

So I do not know where the concern voiced by my friend from Connecticut comes from that somehow this will be viewed as damaging to the National Endowment for Democracy.

I remind my friends that NED's charter states, and I quote:

* * * was founded upon the belief that the world's greatest democracy should help others who share our democratic values and are striving to build free and Democratic societies.

That is NED's charter. I cannot imagine a more worthwhile place for NED's efforts to be made at this time than in assisting Nicaragua democrats.

I noted that this amendment makes no mention of the Supreme Electoral Council. I do not know if this is an accident or an oversight.

But the fact remains, as my colleague from Connecticut knows, that to fail to take the Supreme Electoral Council into account would be a violation of Nicaraguan election laws. No one that I know of, including President Carter, says that we should do anything but comply with Nicaraguan election laws.

Also, the Senator from Connecticut seems to feel that this UNO funding will somehow go to candidates. Let me assure him it will not. The money has been earmarked for infrastructure support—salaries and benefits, seminars, lectures and meetings, education programs for registration for voting, invitations to international observers, travel expenses for poll watchers, vehicle maintenance, office equipment, et cetera. There is no mention of support for individual candidates in this legislation. So what is the problem? What is the problem?

By the way, this amendment authorizes money for the United Nations. I know the Senator from Connecticut is a strong supporter of the United Nations, but this is the first time in my memory that we are offering money when the United Nations has not even asked for any. So I am sure the United Nations appreciates this proposed largess, but I suspect that most Americans consider the U.N. to be very, very well funded.

Mr. President, if we adopt this amendment, which in many ways is redundant, we will hold up the entire passage of this legislation. Despite the comments, which I am sure are well-founded, by my friend from Iowa, voter registration is not going well outside Managua. The opposition does not have the transportation and means to register the voters.

Yes, the Sandinistas are doing well on voter registration. They have all the means of transportation and communications. UNO does not. Unless UNO procures these resources in the two Sundays remaining for registration, they will be at a permanent disadvantage throughout this election. Mr. President, we cannot allow this bill to get hung-up in conference by adopting this amendment. While we delay we further reduce UNO's ability to get their voters registered and out to vote on election day.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida [Mr. GRAHAM].

Mr. GRAHAM. Thank you, Mr. President. Mr. President, there is an obvious point and I believe an important historical context for the debate on this legislation and this specific amendment. I think the obvious point is that the purpose of this amendment is not to refine, modify and slightly redirect the funds for support of democratic elections in Nicaragua. The purpose of this amendment, and I suggest the purpose of most of those which have preceded it, is to inter this idea, to deny the United States the opportunity to play a meaningful role in promoting democracy in a nation in our own hemisphere.

The legislation that we now have before us has been approved by the House of Representatives after a long and tortuous process of negotiation by a vote of 263 to 156. The bill is carefully crafted to take account of the concerns expressed by Members of Congress, as well as the legal complexities of Nicaraguan law governing foreign assistance to the election process.

Mr. President, what we need to do now is to move forward. The democratic opposition is in desperate need of support. As the Washington Post reported on October 13, the opposition is running a shoestring operation, and I mean a shoestring. It has no staples, no paper, no telephones.

If we begin amending this bill now, we will be forced into a conference with the House of Representatives. Under those circumstances, no one knows what will be done or when we will have final passage.

We cannot risk further delay. We have already delayed this legislation to the point that we have missed three of the four registration periods. That was a direct result of action taken in this Congress to have procrastinated with this issue.

I think that is a great debt and burden that we must suffer under, that we have been so late in responding to this legitimate call for assistance. At least we can avoid adding further to our responsibility.

The language proposed in this amendment puts at risk the ability to accomplish the intended purposes of the legislation, which are to strengthen democratic forces in Nicaragua, by failing to provide for whatever contribution to the Supreme Electoral Council may be necessary.

None of us like the idea of contributing to the Supreme Electoral Council, but we are in a position that if we are to help the democratic forces in that country, we obviously will need to allow for that eventuality because that is what is required by Nicaraguan law.

The amendment also omits the itemization of internal democratic groups which may receive contributions to in-

clude political organizations and alliances, the independent media, labor unions, business, civic, and professional organizations.

As the Senator from Arizona has pointed out, the new language earmarks $750,000 for election monitoring efforts of the United Nations and the Organization of American States. Frankly, there has been no explanation of why this earmarking is provided.

The United Nations, to my knowledge and to no one's representation, has not sought the funds for its election observation efforts. It is my understanding that AID has just signed an agreement providing an additional $2 million in assistance to the Organization of American States. That is in addition to the $1.5 million that was approved for the OAS by Congress earlier this year.

Mr. President, I think it is obvious the purpose of this amendment is not to further the purpose of United States assistance to the democratic elements in Nicaragua, but to preclude any opportunity for the United States to be of aid.

Mr. President, that places this amendment and this debate in that broader historical context. We have an opportunity today to come to the defense of democracy in our hemisphere in Nicaragua. This debate comes at a time when we are witnessing fundamental change in the Soviet Union and around the world. It comes at a time when a virtual tidal wave of democracy is breaking over Eastern Europe; when students in China are willing to risk their lives for freedom. It comes at a time when democratic governments are attempting to consolidate their positions in Latin America.

The question that we really face in this debate is whether the United States of America is going to sit idly by as these changes are played out on the world stage, or whether this Nation is going to make a commitment to help people who are striving for representative government.

Mr. President, after 45 years of cold war, we are confronting revolutionary change that just a few short years ago, maybe even just a few short months ago, would have been unimagined. Our long-term interests, our continuing security in an uncertain world are tied to the success of people around the world in their search for democratic government.

We have fought this fight before among ourselves. How involved should the United States become in supporting democratic change in the world? This is not the first time that we have had this debate in the United States. I argue that we should become involved. It is in our interest to be involved. It is in our historic tradition to be involved.

It is ironic that many of my colleagues on this side of the aisle have taken the leadership in opposing United States assistance to the democratic process in Nicaragua. Ironic because one of, if not the first great debate that divided this Congress and this Nation into what are now the two great political parties, was over exactly that issue: Should the United States of America, a fledgling group of new colonial states, become involved in the French Revolution 200 years ago today?

That debate was raging across the land, and who stood for the position that the United States should become involved; it was our moral responsibility that if we were to be true to the words of the Declaration of Independence in which we stated that all men, not just American men, but that all men had certain inalienable rights. Thomas Jefferson said that the strength of our democracy, that our moral position in the world, depended upon the success of similar efforts of democracy around the world and, therefore, the United States could not, as it being suggested today that we do in Nicaragua, stand aside, that we could not hold ourselves immune from the waves of democracy which were then sweeping Europe.

On the other side were the voices of concern, the voices who said it is not our place to become involved. Those were voices largely echoed from Alexander Hamilton. It was that basic division, what should the role of the United States be in terms of carrying out the commandments of the Declaration of Independence, that led to the creation of our two great political parties.

It, frankly, saddens me that tonight the party of Thomas Jefferson is the party that is urging timidity; that is saying we should not be involved; that we should stand back. It is the party of Alexander Hamilton that is advocating that we should be faithful to the tradition of Jeffersonian democracy and commit ourselves in a meaningful way, in a timely way, in a way that makes a difference to the cause of democracy in Nicaragua.

This is not, as I said, Mr. President, the only time that we have had this debate. It was almost 50 years ago that a similar debate raged in these Halls.

In May 1940, a Senator, who held the seat that I am now privileged to hold, introduced into the Senate legislation which would have provided for lend-lease; it would have allowed the United States to provide assistance to Great Britain in its time of greatest peril. He introduced that legislation to tremendous hostility. Claude Pepper saw himself hung in effigy on the lawn of this Capitol because of his advocacy of lend-lease. His legislation was quickly presented before the Senate Foreign Relations Committee so it could get a prompt and appropriate hearing.

After that hearing, the vote was taken. The vote for the United States to support Great Britain through lend-lease got 1 vote in the Foreign Relations Committee. To those who argued, as those have here today, that it was inappropriate for the United States to become involved in another Nation's war, that we had more urgent domestic needs—and we have urgent domestic needs that have to be attended to—here we were still in the last shadows of a great world depression, the idea that the United States should be spending taxpayers' money to be providing ships and airplanes for a European war was abhorrent. And so by a vote of 1 yea to 22 nays, the Senate Foreign Relations Committee voted, in May 1940, to reject the proposal for lend-lease to aid Britain at its moment of greatest peril.

The interesting evolution of that story, Mr. President, is it was 13 months later when another vote was taken in the Foreign Relations Committee and then before the full Senate and before the full House of Representatives when this legislation was passed and signed into law by President Roosevelt and became one of the critical steps in the preservation of democracy in Great Britain, which allowed us the time once we became an active combatant to become the force that eventually led to victory over the Nazis and over the Japanese.

Mr. SIMON. Will my colleague yield?

Mr. GRAHAM. I will yield when I finish my remarks.

And so, Mr. President, we are at another one of those times as we were 200 years ago and as we were 50 years ago, and that is what is the role of the United States in terms of our responsibility for democracy in the world. I stand with Thomas Jefferson. I stand with Claude Pepper. I stand with the tradition of this Nation that we are not an insular people, that the beliefs and values of liberty and freedom and justice and democracy are not values that are finite and that we must hoard to ourselves; that, to the contrary, we have a responsibility to spread those values around the world.

Mr. President, we have done so, and we are succeeding. The effort which is being proposed today in this legislation is in the best tradition of the Democratic Party, it is in the best tradition of the U.S. Senate. It is in the best tradition of the United States of America. This is our opportunity to lay down guns and to accept the ballot box, the open forum of ideas and opinions. If that opportunity is going to be available to those democrats in Nicaragua who are seeking out an opportunity for a better future for themselves and see it in being more like us, this is the time when we need to extend a hand in friendship. The opportunity

to do so is the legislation that is before us. The democratic opposition in Nicaragua needs, I say deserves, our assistance and it needs and deserves that assistance now.

We do not have many opportunities left to lose in the democratic struggle in Nicaragua. We have an opportunity today to function at our best. I urge this Senate to be faithful to its own responsibility and to that ennobling spirit which has led this Nation for 200 years.

Before I yield, Mr. President, I ask unanimous consent that there appear after my remarks an editorial from the September 20 Washington Post, an article from the October 13 Washington Post, and a letter from Mr. Robert Pastor on behalf of former President Jimmy Carter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 20, 1989]

THE DEMOCRATS AND NICARAGUA

The Democrats, or the liberals among them, cannot have very many more opportunities left to lose in assisting the democratic struggle in Nicaragua. For years, you will recall, they argued that the policy of military aid to the contra resistance kept them from supporting the democrats in Managua; eventually the military aid stopped. Then the Democrats said they'd love to help the internal political opposition to the Sandinistas, but they couldn't support covert action; the CIA was extracted from the proceedings. Then they said they'd love to help overtly, but to aid the opposition party through the National Endowment for Democracy would compromise the mandate and purity of that organization, which is supposed to concentrate on aiding the democratic process; the Bush administration agreed to keep the NED out of supporting a particular party. Now the administration seeks $4 million or $5 million for NED's usual and useful nonpartisan work on process—voter registration, education, poll-watching—and the request faces a budget squeeze that may take the numbers way down.

Come on, you guys. How many ways can Democrats find to say no to a cause they profess to believe in? In other, conservative-run places, American liberals champ impatiently and imaginatively to get their government to do the right thing. In Sandinista-run Managua, they seem to have an endless proclivity to say no to the political and military opposition alike. Take Sen. Chris Dodd (D-Conn.), who in this debate revealed a deep and, by some, unsuspected devotion to the independence and integrity of the National Endowment for Democracy. In hailing the administration's decision not to support the opposition campaign through the NED, he said of Nicaragua's president: "Ortega is not Marcos or Noriega. He has a real popular base in his country." It was a curious remark by one who presumably shares the common interest in devising conditions to determine fairly whether Mr. Ortega is more than the Marxist military commander many of his adversaries believe him to be.

If NED money goes to Nicaragua, it will do so under local laws written by the Sandinistas, who presumably think they will reap some of the benefit. The American premise will be, as it always is, that in a fair contest the people's choice will prevail. It would be good to have Democrats warmly and unequivocally aboard.

[From the Washington Post, Oct. 13, 1989]

NICARAGUAN OPPOSITION OPERATING ON A SHOESTRING

(By Lee Hockstader)

MANAGUA, NICARAGUA.—Dilsia Saenz, a Managua housewife not much involved in politics, happens to live next door to the headquarters of the National Opposition Union, the political coalition that is challenging the Sandinistas in next February's general elections.

For the past few months, Saenz has allowed her neighbors to attach an extension to her phone line. Until the government-run phone company finally came by this week to install three new lines, it was the only phone the opposition had.

In Washington, where the Bush administration sees the Nicaraguan elections as a historic opportunity to topple the anti-American Sandinista regime, the debate concerns how many millions of dollars to send to finance the opposition presidential campaign of newspaper publisher Violeta Chamorro. In Managua, the Sandinista government of President Daniel Ortega trumpets reports that under-the-table funds from the CIA are already filtering into opposition coffers.

But the reality at the Nicaraguan opposition's headquarters is that with voter registration already underway, it is struggling to keep a shoestring operation afloat at a critical juncture in the electoral process. Judging from appearances, UNO, as it is known in its Spanish initials, is practically broke.

"Here we have no paper, no folders, no staples, barely any furniture," said Roberto Guzman, the director of the Nicaraguan Socialist Party, one of 14 parties in the UNO coalition. "We had an ad in the paper the other day asking for secondhand furniture, typewriters, anything."

Guzman estimates the opposition needs $6 million to run its campaign.

Throughout the country they have ruled as a virtual one-party monopoly for a decade, the Sandinistas have offices in almost every city and town. In Managua, Sandinista banners and flags adorn public buildings and lamp posts. Teen-agers wear Sandinista T-shirts, and drawings of the distinctive broad-brimmed hat of Augusto Cesar Sandino, the 19th-century guerrilla who inspired the ruling party's name and revolution, can be seen nearly everywhere.

By contrast, UNO is practically invisible. It has opened offices in just half of the country's 16 departments, or provinces, and is still struggling to come up with a slogan to compete with the Sandinistas' "Everything will be better." At this point, UNO campaign organizers say, hiring a political consultant—let alone a media specialist—is out of the question.

"We lack funds, we lack materials, and we lack experience," acknowledged Guzman. "The only thing we have is the people's support."

Whether or not UNO has widespread popular support is a matter of debate. Polls taken during the summer, before Chamorro was nominated, suggested that the Sandinistas start the campaign with a substantial advantage.

What is more certain is that the UNO coalition, which includes 14 parties ranging from conservative to Communist, is getting a slow start in what is expected to be a hard-fought campaign.

For years, the opposition blamed most of its problems on persecution and manipulation by the Sandinistas. But in recent months, UNO has acknowledged that the Sandinistas, under close scrutiny by election observers from the United Nations, the Organization of American States and other groups, have backed off and are mostly leaving the opposition alone.

On several occasions when the opposition has cried foul, the Supreme Elections Council has quickly stepped in. When UNO complained that a portion of one of their television spots had been censored by state-run television, the council, which oversees electoral matters, immediately ordered that the spot be re-broadcast in its entirety. The government complied.

At the same time, however, UNO has been plagued by internal bickering and organizational confusion. A fund-raising trip to Miami by Chamorro last month netted a disappointing $10,000, according to her campaign officials.

Source in Miami also said that on the first day of ther trip, Chamorro angered a group of well-connected exiled Nicaraguan businessmen when she canceled a fund-raising dinner with them at the last minute. The group had planned the dinner to present the candidate with a plan to set up a nonprofit corporation that would raise funds and channel them to Chamorro's campaign.

Most analysts agree that the timing of UNO's organizational travails could not be worse.

Registration for the Feb. 25 elections is scheduled only for the first four Sundays in October. Nicaraguans who do not register on those four days cannot vote.

On Oct. 1, about 360,000 Nicaraguans registered to vote, a total regarded as low by political analysts here. There are thought to be about 1.9 million eligible voters. A low turnout, many observers say, would favor the Sandinistas, who have a hard-core base of support of about 30 percent of the electorate, including government employees, members of the army and young people. The Sandinistas won the last elections, in 1984, with about two-thirds of the vote against a weak and divided opposition.

UNO is also worried that it was able to post observers at only about half the 4,394 registration centers nationwide. The Sandinistas had their supporters at virtually every station.

The elections council has mounted an impressive campaign to publicize the registration program. Lately, it has been almost impossible to turn on the television or radio without being exhorted to register.

But Chamorro campaign officials worry that their supporters need to hear the message directly from the opposition if they are to be motivated to register.

"I'm optimistic that the people are behind us," said Alfredo Cesar, a former contra rebel director who is now a key UNO strategist. "But I'm realistic that we don't have the resources to compete with the same chances as the Sandinistas. They have a hell of a propaganda machine funded by the Soviet Bloc."

Said one Latin American diplomat: "UNO's strategy is to present the election as a referendum on the Sandinistas, and that's a good strategy because there's a lot of resentment against the Sandinistas. But at the same time the opposition needs to give people a positive reason to come out and support them."

Lately, the Sandinista propaganda machine has cranked into high gear in an effort to paint UNO and Chamorro as stooges for Washington. Ortega has said publicly that he considers his real adversary to be President Bush, not Chamorro, and has challenged Bush to debate.

Last week, Interior Minister Tomas Borge alleged that an ambassador from an unnamed Central American country had secretly channeled funds to the opposition, using Cesar as a conduit.

And a report in Newsweek, citing intelligence sources said the CIA has provided $5 million in covert funds for "opposition housekeeping."

Both accounts are hotly denied by UNO officials, who insist they don't even have a bank account, let alone millions of dollars to deposit in it.

The U.S. House of Representatives has already approved a $9 million package that would finance a number of civic and political groups in Nicaragua, principally be UNO coalition. Senate action is pending.

Opposition officials badly want the U.S. aid but concede that publicity about its imminent arrival has put them in a bind. "With all this talk about money from the United States, everyone thinks we must be rolling in cash," said Guzman. "The truth is, we have nothing."

Reuter reported from Washington:

The Soviet Union has cut direct arms shipments to Nicaragua in half this year, but increased shipments from Eastern Europe, North Korea and Cuba have made up the shortfall, the Defense Department said yesterday.

Although describing the evidence as circumstantial, the Pentagon said Moscow may be orchestrating delivery of Soviet Bloc military aid to Managua through Cuba despite a promise to end such assistance.

Secretary of State James A. Baker III said that at his recent talks with Soviet Foreign Minister Eduard Shevardnadze in Wyoming he did not challenge Moscow's assertions that it had ceased arms shipments to Nicaragua.

THE CARTER CENTER
OF EMORY UNIVERSITY,
Atlanta, GA, October 17, 1989.

Sentor BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: As you know, former President Jimmy Carter as head of the Council of Freely-Elected Heads of Government visited Managua in mid-September 1989 for conversations with the government, the opposition, the Supreme Electoral Council, and the OAS and UN monitoring groups. He was accompanied by Rosalynn Carter, former Argentine President Raul Alfonsin, Dr. David Morales Bello, the Chairman of the Senate Foreign Relations Committee of Venezuela and a personal representative on the delegation of President Carlos Andres Perez, and me in my capacity as Executive Secretary of the Council and Director of the Latin American Program of the Carter Center of Emory University.

In our conversation, President Ortega assured us that if the United States provided funding to UNO that was overt and legitimate, that portion of the funding that would be required to be transferred to the Electoral Fund of the Supreme Electoral Council could be earmarked by the United States solely for purposes related to the electoral process. Moreover, President Ortega said that the U.S. government could monitor the expenditures of those funds. It is our view that such funds are needed to ensure that the election would be fair and run smoothly. By earmarking and monitoring the expenditures, the U.S. government can ensure that the funds would be spent for their intended purposes of assuring a fair and efficient election.

One of the reasons that President Carter visited Managua in September and plans to return before the election is because he and members of his delegation view their role of observing the Nicaraguan elections as involving more than just the date of the election. We have been invited by president Ortega to monitor the entire electoral process with unrestricted access to the voting and the counting. Five members of our delegation will be visiting Nicaragua this weekend to observe the voter registration process.

Sincerely,

ROBERT PASTOR,
Director, Latin American
and Caribbean Program.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I will be brief. At 6:20, I thought everybody was willing to enter into a 20-minute time agreement on this amendment, which meant we would have voted on it and would have voted now on final passage. I am wondering how many more hours we might be going on this 20 minutes. I am not trying to cut anybody off. They may take as long as they want. Of course, anybody could object to that 20 minutes and obviously did. But for those who have relied on the possibility of 20 minutes an hour or so ago, can we give them some idea how many more hours that 20 minutes might be?

Mr. SIMON. If my colleague will yield, I have a 1-minute question and a 1-minute response. I intend to take no more time than that.

Mr. LEAHY. That is 2 minutes. Under our rule of thumb, we will tell everybody that in 30 or 40 minutes we will be voting.

Mr. KASTEN. I have no further requests for statements on our side. I might make a 30-second statement, and then we will proceed to a vote.

The PRESIDING OFFICER. The Senator from Illinois [Mr. SIMON].

Mr. SIMON. Mr. President, I simply ask my colleague from Florida, for whom I have great respect, he mentioned the lend-lease example. You find many examples of economic aid or military aid. Does the Senator know of another example in the history of our country when we have openly provided aid in terms of an election taking place in another country?

Mr. GRAHAM. Most recently would be Panama when we provided assistance to the opposition in that country. We did it covertly. I think the real question is not whether we provide aid. It is whether we want to do it above board in the manner we are proposing today with this legislation, or do we want to follow a pattern that says we want to do it but we just do not want you to know about it.

Mr. SIMON. If my colleague will yield, we have less and less interfered covertly, and I think the pattern, the trend, of doing it less and less is a wise one. I hope we will not with our money interfere with the election in other countries. I think it is a very unwise policy to pursue.

Mr. GRAHAM. If the question is should we be involved and is our history one of involvement, the answer is clerly our history is one of involvement, going back to our involvement with the French Revolution 200 years ago. We were not passive bystanders to the French Revolution. We took a clear position in favor of the forces of reform. If the question is, do we do it overtly with a clear public debate as to what our goals, intentions, aspirations and level of commitment are, or do we do it covertly as we have done for much of the last decade, I believe we should do it the way we are doing it tonight, and I believe the Nation will be stronger for the debate that we are having. I believe Nicaragua will be stronger for the consequences of the debate that we are having.

Mr. SIMON. I am afraid we may be getting into the territory my colleague from Vermont suggested, but I will just respond for 1 minute before yielding the floor. I think the French Revolution example is a good one because there we stood up for human rights. We did it openly. But in terms of interfering in an election process, I think it is unwise. Obviously, this bill is probably going to pass today, but it is not going to pass with my vote. I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut [Mr. DODD].

Mr. DODD. Mr. President, we had hoped to make this a very brief debate. I feel obligated to respond to the eloquent remarks of my good friend from Georgia. I commend him for his comments.

But I think it is important to make a distinction. The amendment that I am proposing will not diminish by one nickle the amount of money that is included in the package. My amendment allows the expenditure of $9 million which is what has been before us here.

The simple distinction I make here is we live up to the charter of this thing. We are not going to back a particular candidate because we have never done that overtly in the history of this country. We have supported democratic processes and I am proud to have supported those. But overtly we have never picked out individual candidates and backed them with public moneys in this country. That, at least overtly, has not ever hap-

pened. Covertly, yes we have done it, but not overtly.

Certainly, under the National Endowment for the Democracy the language could not be clearer. It says we do not finance or back individual candidates for public office. This is not expressing support for democracy. I do not think there is any debate. I hope there is no debate here about whether or not we support this process that is going on down there and hope it is going to produce the results we all would like to see.

I did not know that is what we were debating. We are not debating here whether or not you provide assistance of the kind that would be included in the $9 million to support a democratic process. That is not the debate here. There is a significant distinction—a significant distinction.

Thomas Jefferson cannot stand up and say I want you to back his candidate in Paris. Claude Pepper did not stand up and say I am going to pick out a candidate in Great Britain. That is going to the subject of lend-lease. They never asked for that. They asked to support a process. He asked to support people in need. That has never changed.

There is a significant distinction here. We are talking about supporting the process. We are supporting individual candidates. It has been stated by others today. I do not believe there should be too much argument about this. We are not in the business of picking out candidates in other countries. We are in the business of supporting democratic processes. All this amendment does is say let us live up to that tradition. It is not that big of a difference.

Despite the statements of my colleague form Arizona, I would point out the simple reading of the legislation would indicate that there is specific language here which would indicate that we are going to do something other than what I have suggested.

Second, I would point out the reasons I did not include the Supreme Electoral Council is because under Nicaraguan law you do not have to divide the money with the Nicaraguan Government if you do not support a partisan candidate.

I would like to avoid that. I do not want to see a nickel of our money go to the Sandinista Government. If you support the process without supporting the candidates, then you make the case that the Sandinista Government has no right to a single penny of this money. Once you get into partisan politics, under Nicaraguan law they can claim 50 cents on every dollar.

My amendment tries to avoid that so at least you are getting more money into the process and I believe helping UNO. Quite frankly I say that to my colleagues here by supporting that process—than pumping money into individual candidates.

So the substitute here, I believe, will do more to advance democracy in Nicaragua, provide more meaningful assistance to the observers, which if we use the Philippine example, was extremely important in the final days of that election. Just avoid that which we have historically avoided overtly in this country; that is, choosing among individual candidates.

Brooklyn Rivera, I would argue for instance, is a very fine candidate; could be a very fine candidate. But as I read this here, I do not see any budget being submitted by Brooklyn Rivera to seek out individual funds for that particular candidate. So it is not being considered for that matter.

I urge this amendment be considered by my colleagues. I do not offer it to be disruptive. I do not offer it to try to avoid providing assistance. I want to be on record in supporting assistance going into Nicaragua. I would like to see us involved in that. But I want to see us doing it in a consistent way that lives up to our traditions of supporting democratic institutions, I say to my good friend from Florida.

This is not an issue that ought to divide us. Rather we do it intelligently and soundly so this country can go on record in supporting those various other efforts in Panama, the Philippines, Chile, and so forth that we have been involved in in the past.

So again I urge my colleagues to look at the substitute. I am confident we can resolve the differences with the House very quickly and give the President a bill within a matter of hours if we wanted to. So the argument somehow this is going to delay this process any further is not one that I find has much merit.

Mr. President, I apologize to my colleagues for going on longer than we certainly intended with this. I am prepared at this point to vote and not to address the matter any further.

Mr. COATS. Mr. President, in my years in the House and Senate, I have been a witness to the gradual evacuation of American credibility from Central America. I supported Nicaragua's anti-Communist resistance from the moment Sandinista tyranny first made it necessary. I watched as we fed the Contras into a meat grinder, giving them just enough aid to keep them dying in the jungle, but not enough to achieve their freedom. I remember how certain Members held high hopes of winning Sandinista good will through preemptive concessions. And then, finally, I saw this Government virtually abandon the Contras, yielding to the transparent promises of an oppressive dictator.

At each stage of this process, the slogans were the same—ballots not bullets, votes not violence. Nicaraguan patriots, fighting for their freedom and our security, were sacrified in the distant hope of elections. Positions were reformulated, retreats were engineered, commitments were broken, all in the cause of promised democracy. And now, with an election in the works, some Members of this body are trying to make one more retreat—a retreat from even this last tired and timid responsibility, to work against hope for a fair election.

It is discouraging to find myself having to defend the feeble aid we are offering. It will go, through the National Endowment for Democracy, to help with voter registration and education, election monitoring, get-out-the-vote campaigns and the like. Yes, it will be weighted toward democratic forces in Nicaragua. But this isn't a drawback, it is the purpose for this legislation.

Even under the best circumstances, the Nicaraguan opposition undertakes a nearly impossible task. With little money or equipment—even a shortage of paper and staples—they are challenging a regime that can't see a belt without hitting below it. They face a government whose approach toward organized opposition is simple: what's mine is mine, and what's yours is negotiable.

The Sandinistas have threatened and silenced opposition voices for the last decade. They have offices in almost every city and town. They have a propaganda machine funded by the Soviet block—already smearing Violeta Chamorro with outlandish lies. And they have an ideology that leads them to imagine themselves the end and culmination of human history—hardly a recipe for healthy pluralism.

This playing field is not only unlevel, it is nearly vertical. Nicaraguan democrats don't just face an uphill fight, they are assaulting mountains. Giving them a few million dollars in help, after so long a history of broken commitments, is little more than conscience money. But it might help a little. It is quite literally, the least we can do.

Neutrality in the Nicaraguan election is not an option. It ignores a history of tyranny and oppression, by a regime that wraps its brutal past in a gauze of unconvincing lies. In Nicaragua, and elsewhere, we are witnessing a revolution of those determined to be free. Their job is not always easy. But by aiding these democrats, we take our stand, to borrow a phrase, on the right side of that revolution.

Over the last few years, I have seen the torch of our pledges to Nicaraguan freedom progressively dimmed. But if this legislation is passed, it will finally be extinguished—with a hiss that reechos around the world. And we should not be a party to it.

Mr. KASTEN. Mr. President, I hope we can proceed immediately to a vote.

We oppose this amendment. The administration opposes the amendment. It would delay the process. We are out of time. We are out of Sundays for registration. It would gut the ability to aid UNO by disallowing any contribution to the Supreme Electoral Council.

Most importantly, the language earmarks money for the U.N. and the OAS, which they are not asking for; money for the United Nations, and the OAS, which is superfluous and unnecessary. AID just signed an agreement with the OAS to provide an additional $2 million in assistance. That is beyond the $1.5 million previously provided for OAS election efforts. These are from already available funds. So I am hopeful, Mr. President, we will defeat this amendment.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I want to respond to both the Senator from Arizona and my distinguished colleague and friend from Florida. I really believe the Senator from Connecticut has given us a warning shot here as to what is going to happen with the National Endowment for Democracy when we continue on this path of giving money to candidates.

I would refer my friend and colleague from Florida to an article that appeared in the Wall Street Journal on Friday, October 13, last Friday. I would commend it to all of my colleagues. Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 13, 1989]

U.S. GROUP AIDED ARIAS'S COSTA RICA FOES

(By Robert S. Greenberger)

WASHINGTON.—For much of the past three years, the National Endowment for Democracy, which Congress created to nurture political freedom around the world, has helped fight a Republican grudge match against the president of a democratic nation—tiny Costa Rica.

The funding of a group with strong ties to Costa Rica's main opposition party was continued until last July and produced strange bedfellows. Another donor to the Costa Rican opposition: Panamanian strongman Manuel Noriega. According to a deposition given to a Senate Foreign Relations subcommittee last June by Jose Blandon, a former Panamanian official, Gen. Noriega gave the opposition group's candidate $500,000 in 1985.

While one wing of the National Endowment was shoring up the Costa Rican opposition, another was touting Costa Rica as a model of democratic stability. Now, President Bush plans to visit Costa Rica later this month to help celebrate 100 years of Costa Rican democracy.

Costa Rican President Oscar Arias was never the Reagan administration's favorite Latin American leader. He refused to support the White House's war against leftist Nicaragua and won a Nobel Peace Prize for a plan that pulled the rug from under the U.S.-backed Contra effort.

DOCUMENTS ARE CITED

Documents that surfaced here this week show that at the same time that Mr. Arias was falling out of favor with the White House, the NED's Republican wing—the endowment has parts from both major U.S. political parties—began funding a political association with close ties to Mr. Arias's political opponents. Since 1986, NED has spent $434,000 on several projects, including a magazine that criticized Mr. Arias's peace plan and said it sapped the virility of the nation.

The executive director of the association, Rafael Calderon, ran against Mr. Arias in 1986 and is the opposition candidate in next February's election.

The decision to launch a program in Costa Rica was a strange one for the budget-strapped NED. Costa Rica's democratic roots run deeper than almost anywhere else in the Western Hemisphere.

Last summer, as Congress got wind of the Costa Rican funding and began making quiet inquiries, NED reconsidered the situation and discontinued the project. "It has been re-oriented," says Keith Schuette, president of NED's Republican affiliate, the National Republican Institute for International Affairs.

The NED was founded by Congress in 1984 to encourage democratic institutions around the world. In addition to its Republican and Democratic wings, it has two other elements: the AFL-CIO's Free Trade Union Institute and the Center for International Private Enterprise, an affiliate of the U.S. Chamber of Commerce.

Carl Gershman, president of the endowment, says that his board was aware of the Costa Rica project. Indeed, he says, the GOP wing submitted detailed proposals. He said the board gives each of the four branches autonomy to develop programs, "as long as they operate clearly within the framework of our law," a test he says was met by the GOP wing. He adds that the Republican wing tends to "establish relations with institutions that associate with political parties," while the Democrats "have pursued a more multipartisan approach."

HAM IN THE SANDWICH

Mr. Schuette insists that he was only trying to help Costa Rica, which he calls "the ham in the sandwich between the two worst neighbors in the hemisphere." Wedged on the Central American isthmus between Nicaragua and Panama, Costa Rica needs protection from those totalitarian nations, he argues.

"Attempts are made to subvert their democracy," says Mr. Schuette, adding: "It's our position that no democratic system ought to be taken for granted in Latin America despite the length of its democratic history."

Yesterday, the Costa Rican Embassy in Washington didn't have any immediate comment.

Nobody is contending that the endowment broke the law. But some critics say that it came close. "They may technically have been within the law, but I felt this clearly violated the spirit," said Rep. Stephen Solarz, a New York Democrat. "The whole purpose of NED is to facilitate the emergence of democracy where it doesn't exist and preserve it where it does exist. In Costa Rica, neither of these applies."

Nonetheless, the NED seems to have stepped into the thick of Costa Rican politics. Documents supplied by a Costa Rican source show close ties between the Association for the Defense of Costa Rican Liberty and Democracy, which NED funded, and the opposition Social Christian Party. According to these documents, the association was incorporated in 1984 by an attorney, Luis Fishman, a Social Christian congressman and top campaign adviser to Mr. Calderon. The documents also list as top officials of the association several Social Christian officials and senior advisers to Mr. Calderon.

NED funds also supported the magazine "Fragua," or Forge. An editorial in the magazine's first issue, dated September 1986, attacked Mr. Arias's "political amateurism," and asserted that his peace plan for Central America was "impugning the national virility" of Costa Rica.

Such activities don't appear to meet the standard set in the endowment's "statement of principles and objectives," which mandated that the organization "will not pick and choose among the democratic competitors in countries where such competition is possible."

Mr. Schuette says that NED's GOP wing openly supports groups that are affiliated with political parties in several countries, including Bolivia, Argentina and Colombia. He says that "we watch what's in" the publication in Costa Rica but "don't exercise editorial control." He adds that his group decided to withdraw from activities in Costa Rica last July because it didn't want to become embroiled in domestic politics, as Costa Rica's February election approaches.

BUDGET OF $15.8 MILLION

Even critics of NED's Costa Rica activities characterize them as an aberration from the endowment's usual good work. They note that the small organization, whose fiscal 1989 budget is $15.8 million, is playing a valuable role in fostering democracy around the world. Poland's Solidarity union received regular funding from NED before its breathtaking electoral victory earlier this year. And the organization has played an important supporting role as Chile makes the transition to democracy from military dictatorship.

"They've stopped [the Costa Rica project,] and I would write this off as part of the growing pains of an organization that is new in the American political system," concludes Rep. Solarz.

Mr. HARKIN. Mr. President, it says "U.S. Group Aided Arias' Costa Rica Foes." Let me read a little bit of this article.

For much of the past three years, the National Endowment for Democracy, which Congress created to nurture political freedom around the world, has helped fight a Republican grudge match against the president of a democratic nation—tiny Costa Rica.

Documents that surfaced here this week show that at the same time that Mr. Arias was falling out of favor with the White House, the NED's Republican wing—the endowment has parts from both major U.S. political parties—began funding a political association with close ties to Mr. Arias's political opponents.

Get this:

Since 1986, NED has spent $434,000 on several projects, including a magazine that criticized Mr. Aria's peace plan and said it sapped the virility of the nation.

The executive director of the association, Rafael Calderon, ran against Mr. Arias in 1986 and is the opposition candidate in next February's election.

In Costa Rica.

I ask my friend from Florida to read that article, because I think is raises a flag about what has happened with NED. It was founded by Congress to encourage democratic institutions around the world not to be involved in a democratic nation like Costa Rica, funding one candidate against another in a country that we all agree has had free, fair, and open elections for over 100 years. Yet, NED has pumped $434,000 into the opposition party's political efforts against Mr. Arias in Costa Rica.

Is that the kind of stuff we want to be supporting? Maybe my Republican friends might want to support that. I would say fine, do it through the Republican Party if they want to do it but not with taxpayers dollars through the National Endowment for Democracy.

I want to quote one other thing here too. Carl Gershman, president of the Endowment, said his board was aware of the Costa Rican project. Indeed, he says:

"The GOP wing submitted detailed proposals." He said "The Board gives each of the four branches autonomy to develop programs as long as they operate clearly within the framework of our law. A test was met by the GOP wing."

He adds that the Republican wing tends to "establish" relations with institutions that associate with political parties while the Democrats "have pursued a more multipartisan approach."

Well, as Representative Solarz from the other body said, they may not have violated the law, but they violated the spirit of the law in Costa Rica. What we are doing here is using NED to go in and fund another political party. As I said earlier, I think that this vote right now on Senator DODD's amendment is very crucial, not only for Nicaragua, and how that money is going to be used, but I think crucial as to the future of NED.

If this money goes down there, this Senator—and I am sure others who in the past supported NED—is going to say, wait a minute, this is not what we want. We did not want taxpayers' dollars going in to fund one political party or one candidate. We wanted the money to go into establishing democratic institutions. When NED pumps almost one-half million dollars into Coasta Rica to fund one political party against another, then I say it is out of bounds, and it is time that the NED start living up to the letter and spirit of the law.

The PRESIDING OFFICER. Is there further debate on the amendment? Hearing none, the question is on agreeing to the amendment by the Senator from Connecticut [Mr. DODD].

Mr. DODD. The yeas and nays have been ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered. The Clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Montana [Mr. BOND] and the Senator from California [Mr. WILSON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 32, nays 66, as follows:

[Rollcall Vote No. 249 Leg.]

YEAS—32

Baucus	Fowler	Matsunaga
Biden	Glenn	Metzenbaum
Bingaman	Harkin	Mikulski
Bryan	Hatfield	Pell
Burdick	Hollings	Riegle
Byrd	Kennedy	Rockefeller
Conrad	Kerrey	Sanford
Cranston	Kerry	Sarbanes
Daschle	Lautenberg	Simon
Dodd	Leahy	Wirth
Ford	Levin	

NAYS—66

Adams	Gore	McConnell
Armstrong	Gorton	Mitchell
Bentsen	Graham	Moynihan
Boren	Gramm	Murkowski
Boschwitz	Grassley	Nickles
Bradley	Hatch	Nunn
Breaux	Heflin	Packwood
Bumpers	Heinz	Pressler
Burns	Helms	Pryor
Chafee	Humphrey	Reid
Coats	Inouye	Robb
Cochran	Jeffords	Roth
Cohen	Johnston	Rudman
D'Amato	Kassebaum	Sasser
Danforth	Kasten	Shelby
DeConcini	Kohl	Simpson
Dixon	Lieberman	Specter
Dole	Lott	Stevens
Domenici	Lugar	Symms
Durenberger	Mack	Thurmond
Exon	McCain	Wallop
Garn	McClure	Warner

NOT VOTING—2

Bond	Wilson

So the amendment (No. 1001) was rejected.

Mr. KASTEN. I move to reconsider the vote by which the amendment was rejected.

Mr. LEAHY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I ask unanimous consent that we have 10 minutes of debate equally divided and then final passsage.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. LEAHY. Could we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

The Senate will be in order.

The Senator from Vermont [Mr. LEAHY] has the floor.

Mr. LEAHY. Because I have had other requests, I ask that there be 12 minutes equally divided with no amendments in order and then final passsage.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Who wishes to be recognized?

Mr. MITCHELL. Mr. President, if the Senator would yield, I ask unanimous consent that the time I am about to use for this announcement not be taken out of the time on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE FOR THE REMAINDER OF THE WEEK

Mr. MITCHELL. Mr. President, for the information of Senators, I have consulted with the distinguished Republican leader and will indicate the schedule now for the next 2 days.

Mr. FOWLER. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order. The majority leader has the floor.

Mr. MITCHELL. Mr. President, the vote on final passage of this bill will be the last rollcall vote this evening. Tomorrow morning the Senate will resume deliberation of the flag amendment. It is not anticipated that there will be any votes during the day tomorrow. As Senators know, there will be a recess between 10:45 a.m. and noon so that Senators who wish to do so may attend the joint meeting with the House to hear the address by the President of the Republic of Korea. From 2 until approximately 6 or shortly thereafter, the Senate will be considering the impeachment proceedings against Judge Alcee Hastings, and I urge all Senators to be present for that period of time.

Upon the completion of that portion of the impeachment proceedings, we will resume consideration of the flag amendment and we will stay tomorrow evening for as long as there are Senators wishing to address that subject. Several Senators have indicated they want an opportunity to speak. They will have that opportunity tomorrow evening. We will then return to the flag amendment Thursday morning with 40 minutes equally divided between the distinguished Republican leader and myself, and a vote on the flag amendment at approximately 11 a.m. on Thursday morning.

Mr. President, I will summarize again. This will be the last rollcall vote this evening. It is likely that there will not be any rollcall votes tomorrow, although we will have the impeachment proceedings which all Senators are urged to attend, and then we will vote on the constitutional amendment on the flag at approximately 11 a.m. on Thursday morning.

I yield to the distinguished Republican leader to see if I have omitted anything in my summary based upon our conversation.

Mr. DOLE. Only that I understand tomorrow afternoon, I assume about 1:30, we would prepare for the impeachment proceedings so I assume the debate on the flag amendment would probably end about 1:30. It takes about 30 minutes to set up the room.

Mr. MITCHELL. That is correct. The debate on the flag amendment will resume at approximately noon tomorrow when we return from the joint meeting at 1:30, we will then recess for setting up the impeachment proceedings, which will go from 2 until 6, or thereafter, and when that is completed we will resume debate on the flag amendment.

Mr. STEVENS. Reserving the right to object, will the Senator yield?

Mr. MITCHELL. Yes.

Mr. STEVENS. Could the distinguished leader tell us what will follow the vote on the flag amendment?

Mr. MITCHELL. Yes. I advised the distinguished Republican leader that I hope to move to the Labor-HHS appropriations conference report on Thursday. Now, understand that there will be another proceeding with respect to the impeachment matter beginning at 2 o'clock on Thursday and continuing until Senators have completed their remarks on that matter or deliberation on that matter. But it is my intention to proceed to the Labor-HHS appropriations conference report immediately after completion of the flag amendment. I have discussed this previously with the distinguished Republican leader as well.

Mr. DOLE. Friday would be the vote.

Mr. MITCHELL. That is correct; to go forward at the end of the week. If I might, we will not schedule votes on the impeachment proceedings until after the closed deliberations of the Senate are completed. And since we cannot know in advance how long that will take, it is obviously not possible to state in advance precisely when the votes will occur.

If we complete action on the deliberations on Thursday—and I must say I can see no reason why we could not do so, beginning as we will at 12 o'clock that afternoon—then it would be my intention to begin voting on Friday morning to give Senators time over that night to consider the deliberations that will have just occurred. And since there will be several votes, could be several votes, and I know that we have had long evenings and weeks in the last few weeks, it would be my hope that we could begin at a reasonably early hour Friday morning to complete the vote on that matter, after which we would not be in session, obviously, until Monday.

I thank all my colleagues for their attention. I thank the distinguished Republican leader for his cooperation.

ASSISTANCE FOR FREE AND FAIR ELECTIONS IN NICARAGUA

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order there are now 12 minutes allocated for debate prior to final passage.

Mr. LEAHY. Mr. President, as a firm opponent of the Contra war policy and the trade embargo against Nicaragua I oppose this plan to send another $9 million to fund the election campaign of the political opposition in that country.

I have listened carefully to the arguments of the proponents that this aid is needed to help create a level playing field in the Nicaraguan elections. There is no doubt that the opposition parties in Nicaragua are at a disadvantage, having only recently begun to cooperate with each other and to organize.

The Sandinistas have spent years promoting their party and the state as one and the same. They control the powers of the state—the military, the police, Government employment, most of the media, transportation, communications, and the election machinery.

At the same time, it must be recognized that the Government has guaranteed the opposition access to the media and communications to carry out its political campaign. The Government is providing campaign financing directly to all parties, including the opposition.

I also believe that as long as it is permitted by local law and done openly for all to see, there is nothing inherently wrong with the United States supporting free elections abroad. Many other democracies provide such support as well. That is why I supported funding to get out the vote and monitor the elections in Chile, the Philippines, Haiti, and Panama, when there was a real and present danger that incumbent regimes would steal the elections. Indeed, in Panama, that is exactly what happened.

The story of our involvement in Nicaragua is not one to make any American proud. For four decades the Somoza family ruled with an iron fist, propped up by its notorious National Guard, which intimidated and terrorized the population on behalf of the ruling oligarchy.

Since the popular uprising which brought the Sandinistas to power in 1979, the United States has spent tens of millions of dollars on an insurgency that spread terror through the countryside. With the mining of the Nicaraguan harbors, attacks on civilian populations, assassination manuals, and the Iran-Contra scandal, the Contra war was a disastrous idea which only got worse.

The Reagan administration also cut off all aid to Nicaragua, stopped United States trade, and blocked multilateral bank loans to that impoverished country. The Contra war and our embargo have helped bring Nicaragua to the brink of economic ruin.

This history taints everything the United States does toward Nicaragua. It makes suspect our every action, however legitimate, including efforts to help support the election process.

Now the administration proposes to spend another $9 million to help the opposition, on top of $2 million last year and $3 million this year, in a country of at most 1½ million eligible voters. That is $14 million in about 18 months in a country of 3 million people, where the per capita income is about $300 a year.

In comparison, we spent only $2.4 million to help ensure a fair election in Chile, with 12½ million people. We spent $900,000 for the same purposes in Panama, a country of 2½ million people. And in the Philippines, with 60 million people, we spent only $1.3 million. In each of these countries the money was primarily for voter registration and election observers.

But look at what the administration proposes to do in Nicaragua. Of the additional $9 million it requests now, $5 million is to go through the National Endowment for Democracy. I don't think it is any secret that NED will then direct a large portion of these funds to the National Opposition Union, the umbrella coalition which is promoting Violetta Chamorro's candidacy. There is nothing neutral about this aid. It is intended for one purpose only—to help the opposition political coalition defeat the Sandinista Party at the polls.

The other $4 million supposedly is to go for the costs of the election, but only through the UNO. Even this so-called technical support is designed to be as helpful as possible to one side.

Whatever we might choose to call it, this aid is intended to influence the outcome of the Nicaraguan elections, not just to get out the vote, support international monitoring, print ballots, and set up polling booths.

Measured by any standard, $14 million for the Nicaraguan elections is grossly out of line with what we have done in the past, both in terms of the amount and what it is for. If a foreign country spent the same per voter on a U.S. national election it would have to spend half a billion dollars.

Who among us would ever tolerate such a blatant attempt by a foreign power to influence events in our own country? How can we possibly justify this kind of interference in a tiny country like Nicaragua?

Interfering in free elections is completely repugnant to our democratic tradition, but that is certainly what the administration is trying to do in Nicaragua.

And at what price? Just last week, we stripped the budget reconciliation bill of dozens of items which would have directly benefited low-income Americans. Let me mention a few examples:

Expanded Medicaid coverage for infants and pregnant women.

Extension of low-income housing credits, and tax credits for child care.

Expansion of child and rural health services.

These are programs we are telling the American people we can not afford, yet at the same time we are going to send $9 million to pay for salaries and vehicles and office space for political parties in Nicaragua? That does not make any sense.

Mr. President, last month President Carter returned from Nicaragua and reported that he believes the circumstances exist for a free election and I find him a most credible observer. Other international observers also declare that the opposition is functionng freely. The United Nations, the OAS and other international groups and organizations are going to monitor every aspect of the campaign and the elections. Any significant cheating or intimidation will be detected.

In a very real sense, the Sandinistas have no choice but to permit a genuine political campaign and a free election.

That is a significant change from the 1984 elections, and one which should bear heavily on what we do here today.

The administration's request is so vague that virtually anything short of handing over a bag of thousand dollar bills to the UNO Presidential candidate, Violetta Chamorro, would be permitted.

Mr. President, nobody wants to see a free and fair election in Nicaragua more than I. It is the way to put a final end to the failed Contra policy, and get United States-Nicaragua relations back on track. But after so many years of bungled attempts by the United States to dictate events in that tiny country, it is time to let the Nicaraguan people attempt to resolve their own differences without interference from us.

I would be willing to support a reasonable amount of money to help neutral, nonpartisan observers guarantee the fairness of the election process. But I will not be party to an attempt to buy the outcome of a freely contested election. Thinly veiled attempts by the administration to disguise its true purpose should be rejected by the Congress.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. How much time does the distinguished Senator request?

Mr. HARKIN. Five minutes.

Mr. LEAHY. Of the 6 that I have under my control.

Mr. HARKIN. Yes.

Mr. LEAHY. I yield the Senator 5 minutes.

The PRESIDING OFFICER. The Senator from Iowa [Mr. HARKIN].

Mr. HARKIN. I thank the distinguished floor manager for yielding me this time. Just a couple brief points I wanted to wrap up.

I think much has been said on most of the issues today. First of all, I do not understand how we can be here tonight and vote this $9 million for Nicaragua when, as I pointed out earlier, last Friday night we voted to cut funding for the elderly, cut funding for farmers, cut medical assistance to foster care and SSI children, but home health care, all in the name of budget reduction, and now tonight we are being asked to vote $9 million for Nicaragua. And of that money, even the administration cannot justify the amount.

In testimony before the House of Representatives, Under Secretary of State Bernard Aronson, when he was asked about the money to UNO, could not justify it. He could not say why UNO wanted $1.3 million, $1.4 million, or $1.5 million for vehicles. As Congressman CONTE pointed out in the House—Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senator from Iowa has the floor.

Mr. HARKIN. As Congressman CONTE pointed out on the House side, if you rented a car from Hertz Rent-a-Car for $20 a day, that is $2,041 for cars. They cannot justify that. They cannot justify travel allowances for trips abroad by UNO leaders, salaries, benefits, and related expenses of $815 million. It is absurd. They cannot justify it.

Under Secretary Aronson could not justify it, could not say where the money was going to go. What we got here is we are going to have a lot of money siphoned off with this loose kind of accounting. You can bet your bottom dollar that a lot of this money is going to wind up in the pockets of a lot of people who are not even in Nicaragua.

Basically, what we have here is a lot of walking-around money. That is what they are going to put out there: Walking-around money.

I cannot understand how people here voted against the proposal of Senator BYRD for partial public financing of campaigns in this country and yet are going to turn right around and vote for public financing for the campaign in Nicaragua. For the life of me I do not understand how Senators can do that. No, they are not for public financing here but, boy, they are for public financing in Nicaragua.

Mr. President, I point out that all of us want to see democracy be established in Nicaragua. But this is too much money. It is cash. And I believe the National Endowment for Democracy is going to rue the day that they started putting money into political parties and into candidates. The money ought to be in-kind, and not cash.

But, I see the handwriting is on the wall. It looks like this is going to be passed. I hope it is not. I hope with all the different votes we have had here this evening, some for some amendments, some for other amendments, I hope on this the most crucial vote of all the Senate will stand up and say no, that this is unconscionable, it is too much money; it is going to work to the detriment of the democratic processes in Nicaragua.

Mr. President, let me point out if this provision, this $9 million is defeated, it does not mean the National Endowment for Democracy cannot help the process in Nicaragua. They can. They can go down there with the money they have and be involved in the political process, in helping set up poll watchers, registration, setting up canvassing, setting up all the procedures for a free and fair and open election.

So the vote against this does not mean no money will go to Nicaragua. It just means no cash will go to a political party in Nicaragua. A "no" vote means the NED, the National Endowment for Democracy, can do what it is supposed to do, and that is be involved in the democratic process and not on the side of one political party or candidate.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I am going to follow the practice. We have had a complete debate. Many Members of this body will spend as much as we are sending to Nicaragua on their own reelection, but it seems to me this is an opportunity for free and fair and open elections. Hopefully, it may happen. It may not happen.

It seems to me it is in the interests of the United States to support this measure. This may be the last, best chance we have.

The PRESIDING OFFICER. Who yields time?

Mr. KASTEN. Mr. President, how much time do we have on our side?

The PRESIDING OFFICER. The Senator has 12 minutes, 26 seconds.

Mr. KASTEN. I yield as much time as he requires to the majority leader.

Mr. MITCHELL. I yield myself 2 minutes and then yield back the remainder of my time.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, it is obvious Senators are prepared to vote, and want to vote.

The arguments have been made and remade. Let me just conclude this debate by saying that I support this legislation. I believe it is an appropriate means of expressing American support for a free and fair election in Nicaragua.

The opposition faces a difficult, uphill struggle. Everyone acknowledges that. We ought not to shrink from providing assistance to enable them to achieve a free and fair election in Nicaragua.

Obviously, we cannot dictate the result. Obviously, what occurs will depend upon the Nicaraguan people. But just as we have provided assistance throughout the world to encourage a free and fair election process, so, also, should we do so in this case in Nicaragua.

I urge my colleagues to support this legislation. I yield back the remainder of my time.

Mr. HATFIELD. Mr. President, just last April, I spoke in this Chamber during the debate on funding for humanitarian assistance to the Contras in Nicaragua. During my remarks I said that our policy toward Nicaragua "has been based upon manipulation and deceit." And now, as the people of Nicaragua close in on their long-awaited opportunity to freely choose their own government, I am sad to say that our policy remains one of manipulation and deceit. And the victims of the terrible, irreversible harm from that policy will be the Nicaraguan people.

The $9 million package before us has careened through Congress at astonishing speed. I can recall few other assistance packages which have been given this kind of special treatment—certainly not the McKinney Homeless Assistance Act, which took months to craft, and certainly not the various antidrug bills this body has approved. Usually we take a little more time because we want to put a little more thought into our efforts. By rushing this proposal through the Senate, we have managed to avoid any opportunity to debate how best to provide assistance to those working for democracy in Nicaragua.

Until now, Mr. President. I wish to express my gratitude to my colleague from Iowa [Mr. HARKIN] for his efforts to bring about careful consideration of this package. After all, the House committee of jurisdiction did not even act on the bill. The administration's request passed the full House with only a few hours of debate. And now we are being told by the sponsors of this package that we should place our own rubber stamp upon the bill.

Certainly, we should not approve this with a wave of the hand. Over and over, throughout the House debate, we heard about the lack of accountability for the funds included in this package. We still have no full accounting of the intended use of the amount to be spent: Only a one-page document which states that funds will go for seminars, salaries and benefits, rental equipment, vehicles, et cetera. As stewards of the taxpayers' money, we must demand more information.

Those are my procedural objections. My feelings on the policy of unwise intervention in Nicaragua are well known. Despite the fact each of us here today support the elections in that country, I believe that some limitations should be placed upon that support so that we avoid crossing the line into intervention and manipulation. If the total $9 million package is sent to Nicaragua as planned, I believe that we will have crossed that line.

Certainly we can agree that funds for the independent election monitoring groups may be necessary. It may be that a small supplement to the current $3.5 million currently being expended by the National Endowment for Democracy is justifiable. But I cannot fathom the reasoning for the other five or so million dollars included in this package. Do we really need to send another $5 million? I don't think so. This amount is unprecedented. Yes, we did provide funds through this private endowment to help make the miracle vote in Poland happen. But that effort only amounted to 75 cents per Polish voter. This proposal suggests that we expend over $8 for every possible Nicaraguan vote.

And are we truly to believe that all of this money is only to go for "get-out-the-vote efforts"—whatever that means—and not for blatant vote buying? This proposal threatens to drown in dollars all realistic hopes for free and fair elections and a democratic government which benefits the beleaguered victims of 10 years of Sandinista rule. This kind of support plays fast and loose with the integrity of Violeta Chamorro and the UNO party. Any efforts we undertake to assist UNO must guarantee choice and participation. We can do that best by showing them how democracy works, and by safeguarding the legitimacy of the election process.

We should know by now that opening the door for waste, graft, and corruption will only harm those who seek power. Rather, we should be showing the way to democracy by giving individual citizens the confidence, encouragement, and ability to exercise their freedom to choose. We didn't buy the spirit of Lech Walesa; his success came from the people. We didn't buy safety for the people of Guatemala and El Salvador as they walked to the ballot box; yet they risked their lives for democracy. Now we should be helping to aim the spotlight of international concern on Nicaragua so that the people can cast their votes with confidence in the system.

This debate is a sad indication of just how perverted our own belief in the hope of democracy has become. It assumes that the only way democratic principles can assert themselves is if they are backed up by cold, hard cash. After all, this proposal was negotiated only in order to avoid an underground supply of funding going to the opposition. Talk about manipulation and deceit, Mr. President. I hope that my colleagues join me in saying, "no more." No more disguises, no more secrets. I urge my colleagues to join me in opposing the Nicaraguan election assistance package.

Mr. DURENBERGER. Mr. President, I rise today to urge my colleagues to support the measure before the Senate to provide assistance to the democratic election process in Nicaragua. By providing this assistance, the United States will once again demonstrably confirm, in deed and word, its unwavering support for democracy and the democratic process, for free, fair, and open elections. We have a unique opportunity to assist the people of Nicaragua to realize their democratic aspirations, to freely express their political will. This is not an opportunity they can afford to miss.

Mr. President, I believe it is important that we consider several essential factors that lead me and others to support this proposal. First, the United States is not alone in its desire and activity to ensure free, fair, and open elections. Indeed, no less than the United Nations and the Organization of American States have already sent international observer teams to Nicaragua. Both organizations intend to augment these groups substantially during the course of the election process. Former President Carter will also lead a major delegation to Nicaragua to help ensure the freeness and fairness of the elections. President Carter has indicated that he supports U.S. aid to the internal opposition.

We must also take special note that the Nicaraguan elections, scheduled for February 25, 1990, are the result of a long series of events. The United States has truly come a long way in its support for opposition forces in Nicaragua. No longer do we provide covert military aid to the Contras. No longer do we provide any lethal military aid, covert or otherwise, to the Contras. For the large part of this decade, I have opposed the Contra program. I have consistently and doggedly supported democratic reforms in the region, achieved by open, political means.

Now, Mr. President, we have a rare opportunity to support the democratic process in what we hope will soon be a formerly totalitarian society. In the case of Nicaragua, this process re-

ceived a major boost in August 1987, when the Presidents of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua signed a regional peace agreement, referred to as Esquipulas II.

That agreement called for adopting a cease-fire and ending of hostilities by November 7, 1987, in El Salvador, Nicaragua, and Guatemala. The three countries were also supposed to implement democratization and national reconciliation measures. The agreement also called for ending military aid and assistance to guerrilla forces. Unfortunately, not much progress was made on these issues until early 1989, but Esquipulas did provide the foundation and framework for later achievements.

In February 1989, the five Central American Presidents signed a new peace accord, generally referred to as the Tesoro Beach agreement. Under this plan, the Presidents pledged to develop a plan for the voluntary demobilization and repatriation of the Contras to Nicaragua or a third country. Nicaragua pledged to begin a political liberalization process, leading to elections in Nicaragua by February 25, 1990.

And on August 7, 1989, the five Presidents signed a followup agreement, called the Tela accord. Tela includes a plan for voluntarily demobilizing, repatriating, or relocating the Contras as well as urging the Salvadorans and FMLN to make peace.

It is these elections, the result of intense, regional diplomacy, that we must support with the assistance package we are debating today. The best chance for peace and democracy in Nicaragua and the region as a whole stems from diplomatic initiatives indigenous to the region itself. Our proper and essential role, in whatever appropriate way we can, is to help promote, foster, advance, and institutionalize the democratic process in Nicaragua and in other countries where there are strong elements that are striving to achieve the cherished human right of self-determination

Regarding this assistance package, on which we will soon vote, let us now look closely at what this assistance would provide. Broadly, this money, being provided via the National Endowment for Democracy [NED], will go to support the democratic electoral process in Nicaragua. It will support voter registration, election monitoring, get-out-the-vote efforts, and other activities in the election process.

This money will not, let me repeat, not support any political campaigning by the UNO opposition coalition or any other opposition parties. NED's charter—Public Law 98-164—prohibits NED from financing the campaigns of candidates for public office. NED will not violate its charter. The United States will not directly fund Violetta Chamorro's campaign for the Presidency of Nicaragua. NED's charter, it is important to note, says nothing about contributions to political parties or alliances of political parties. U.S. assistance through NED will not pay for salaries of campaign staff nor will it purchase TV and radio time for UNO candidates. Nor will it be used to purchase campaign paraphernalia.

This money will, however, provide funding for a wide array of activities that will help make the contest as free and fair as possible.

Of the total $9 million in the assistance package, $5 million will be provided through NED and will go to supporting internal Nicaraguan groups. These groups must first apply to NED in order to receive any funding. This money would be available to political organizations, such as the UNO opposition alliance; independent elements of the media, such as Radio Catolica and La Prensa. It could also potentially be used to support independent labor unions, such as the Confederation of Nicaraguan Workers and the Council for Trade Union Unity; and business and civic groups, such as the Via Civica and the Superior Council on Private Enterprise [COSEP]. With this funding, these groups will provide essential services in achieving fair elections. These services will include voter registration, get-out-the-vote efforts, election monitoring, communications support, and more.

The remaining $4 million will go toward additional efforts to ensure that the Sandinista government conducts free, fair, and open elections. This money will support nonpartisan—I repeat, nonpartisan—and technical activities for the election process. A certain portion will support election monitoring by private groups such as former President Carter's Council of Freely Elected Heads of Government as well as the Center for Democracy. It will also support other activities such as voter registration and civic education programs. The civic education programs will inform Nicaraguans regarding such things as when, where, and how to register and to vote. Additional money will go to support the Center for Training and Election Promotion.

It is true, as the critics have duly noted, that some of the money the United States provides, in strict accordance with Nicaraguan laws, will go to the Sandinista-controlled Supreme Electoral Council [SEC]. It is not true, however, that the 50-percent tax that we've heard so much about will be applied to the entire $9 million.

Approximately $2 million will be available to pay the tax. The UNO representative on SEC will work to ensure that any SEC payments are only for technical support activities, such as ballot printing. To be sure, there is a complex set of guidelines that determines what is and isn't subject to the tax, and it goes without saying that NED will attempt to channel as much money as absolutely possible to those functions and activities that are not "taxable".

For example, money that goes to independent media entities such as Radio Catolica will not be taxed. Money that goes to civic organizations, which conduct activities such as voter registration and poll watching will not be taxed. Training of poll watchers will not be taxed. Whatever money does find its way to the FSLN will certainly be of marginal utility to the FSLN compared with the enormous benefits to the democratic electoral process that the remaining money will help ensure. Nevertheless, as noted above, the opposition representative on the SEC will work hard to ensure that what money does go to the SEC will be used for technical, nonpartisan electoral activities, such as purchasing ballot boxes and printing the ballots themselves.

Mr. President, let us turn for a moment to some of the criticisms of this package.

Opponents contend that the United States is buying the election from the Nicaraguan people, that the United States is interfering in Nicaraguan internal affairs. On the contrary, the United States is helping to make it possible for the Nicaraguan people to choose, as freely and fairly as possible, the leaders and policies they themselves wish to have. And the United States is providing this assistance completely above board and in compliance with Nicaraguan law.

Without this overt U.S. assistance, one can hardly consider the elections that would result to be free and fair. How would we even know if the elections were free or not? We wouldn't have nearly as much capacity even to monitor the elections.

Mr. President, another significant criticism of the assistance is a strange one. Some critics suggest that because the United States would not accept foreign intervention in our elections, neither should the Nicaraguan people accept any United States involvement. Although on the face of it, this argument may appear to have some merit, it is naive and myopic to equate the United States and Nicaraguan electoral processes.

There is absolutely no democratic rationale for foreign involvement in U.S. elections. The incumbent party in a U.S. election does not control the military. It does not control the media. It does not control access to the radio and television. It does not control all political organs and bureaucracy of the state. It cannot use military, political, or economic pressure, threats, or persuasions to influence how people might vote—or even if they will vote.

The incumbent party cannot prevent people from getting to the polls. The list goes on. It is a specious argument that the United States should not aid the democratic election process in Nicaragua because West Germany, for example, does not aid the election process in the United States.

Critics also contend that the United States does more damage than good to those we seek to help because our assistance links them too closely to the Yankee Americans. This charge is something we've heard in the past, in Nicaragua and elsewhere. The Sandinistas continue trying to do just this. The Sandinistas and other opponents of democracy and freedom will always try to do that. But let's let UNO judge what is best for UNO. UNO has stated that it welcomes this U.S. assistance. And by the way, let us not forget who is funding the Sandinistas. It is not exactly as if the Sandinistas are rejecting outside assistance—from the Soviet Union, Cuba, and others. Nicaragua received roughly $1 billion in military and economic aid in the last year. Will 50 percent of outside contributions to the Marxist Sandinistas go to pay for ballot boxes and ballot printing? I think not, Mr. President.

Opponents also argue that there is not adequate accountability for these funds, that we really won't know how the money's being spent. Mr. President, let me remind my colleagues that NED programs are never detailed to the last dollar—in advance of their expenditure. The Agency for International Development, the agency through which NED receives this funding, must report to Congress before funds are obligated, per normal practice. Furthermore, all grants must be approved by NED's Board of Directors.

Of major importance, Mr. President, is the fact that NED, and its several institutes, will employ a major, international accounting firm to establish and implement strict accounting and auditing policy guidelines and management structures. These will be used to ensure segregation of NED funds from campaign activities. All NED budget costs can and will be legitimately segregated from campaign expenditures for partisan purposes. There will be strict monitoring and accountability of NED-funded activity.

Mr. President, let us also recall that NED was established and is funded by Congress to support and promote the spread of democracy throughout the world. A major function of NED is to assist countries involved in the process of democratization. This is precisely what NED is attempting to do in Nicaragua. These are also among the objectives of the democratic opposition in Nicaragua. If Members support these objectives, they should also support the efforts of NED and the democratic opposition to promote and institutionalize them.

Mr. President, let us also take special note that NED has provided funding for democratic elections in other countries. NED has provided precisely the same type of support for the electoral process that is now proposed for Nicaragua in Poland, the Philippines, Chile, Panama, and other countries.

What do the critics of NED money to the Nicaragua elections say about NED funding to these other countries that have struggled to achieve democracy? Let us be perfectly clear here: nothing that NED will do or fund during this election campaign will be a first for them. Everything it will do has a precedent in previous NED activities. Let me repeat—every activity NED will pursue has a precedent in other countries. There is nothing unique about NED's activities in the Nicaraguan election process.

Did opponents of this assistance to the Nicaraguan election process also oppose comparable assistance to Poland or Chile? In Poland, NED funds went to Solidarity for creating and strengthening the democratic political infrastructure and to establishing a medical fund. Did the United States hesitate to provide this support to the Polish democrats? No, we did not. Should we hesitate to provide comparable assistance to the Nicaraguan election process? No, Mr. President, we should not.

NED, in 1987, provided substantial funding in Chile for the promotion of democratic activities leading to a transition to democracy in that country. And now, that transition is underway. The coalition of political parties that opposed the Pinochet regime received direct funding from NED and its affiliates. I reemphasize, there are positive, successful precedents for the type of election support that NED will provide in Nicaragua.

And what about NED assistance in Panama? That election had the appearance of being free and fair, at least until it came time to count the votes and announce a winner. It is not at all certain the opposition would have won that election if U.S. assistance had not helped to level the playing field. To be sure, Noriega is regrettably still in power, but only at great cost to him and his people, and only after the world saw him steal the election by annulling the results.

Will Ortega pull a Noriega if he loses the Nicaraguan election? Well, perhaps, but that's another matter. If the United States doesn't provide adequate assistance in this election process, then we can be quite certain that Ortega won't have to pull a Noriega on his own people. He will win an unfair election, and all we'll hear from him and his supporters is how wonderful the Nicaraguan election process works when the United States just stays out of it.

Are opponents of this assistance package prepared to oppose comparable election assistance in the future to other countries that are struggling valiantly to achieve what we take for granted—the opportunity to express through the ballot a preference for political leadership, to implement a fervent desire to determine their own political future, and by extension, to have a say in their own economic and social futures? Are Members willing to take that stand? If so, vote against this package. If not, it is incumbent upon each Member of this body to support the package.

If Members of this body are serious about assisting the cause of democracy in Nicaragua, they must seriously consider supporting this assistance package. We continue to profess our support for democracy, and we now have the opportunity to back up our words with deeds. Opponents of Contra aid, including myself, have an obligation now to support democracy in Nicaragua. We have an obligation not to forget the valiant democrats in a country not characterized by a long history of democratic freedoms. Opponents of this aid keep finding ways to say "no" to a cause for which they otherwise continue to profess their support. It is time now to say "yes" to democracy in Nicaragua, and to vote to support the democratic process in that country. And I hope a large majority will support it.

Mr. PELL. Mr. President, we have concluded many hours of debate on this measure; and we are now about to vote on whether to provide assistance to help ensure free and fair elections in Nicaragua. We have had a spirited and informative debate. Several of my colleagues have argued that the United States should not go beyond financing the monitoring of the elections. The administration, on the other hand, argues that assistance needs to go beyond monitoring in order to ensure a "level playing field" for the opposition.

The administration's proposal would provide infrastructure support for the opposition political parties, but financing opposition candidates or party campaign activities would not be permitted. In other words, no funds could be used for such things as campaign ads, the personal expenses of candidates or expenses involved in staging a political rally.

There are risks in providing money directly to the opposition coalition for its infrastructure needs. Whenever cash is involved, there is the possibility of waste and theft; I am, however, prepared to live with that, because I have confidence that the National Endowment for Democracy will be carefully overseeing this program. After

all, the NED has a solid track record in facilitating elections in Chile and the Philippines.

The risks involved in helping the opposition are, in my view, greatly outweighed by the risks involved in not approving this bill. If the opposition is not able to function reasonably well as a political entity, those who have supported the Contras as well as other efforts to subvert the Government of Nicaragua will contend that the elections were not fairly conducted, that the elections were a meaningless farce, and that a renewed effort to oust the Sandinistas by force is the only answer.

I don't want to see this country and this Congress plunged into another debate on Contra aid or other covert programs to continue the conflict in Nicaragua. I would prefer that the United States not get involved in this election, but I also do not want to provide an opportunity for anti-Sandinista zealots to cry foul and beat the drums for reviving the war in Nicaragua. This election is supposed to lay the groundwork for peace and reconciliation in Nicaragua, not to provide an excuse for renewed hostilities. Therefore, I intend to vote for this legislation.

Mr. CHAFEE. Mr. President, I intend to support the Assistance for Free and Fair Elections in Nicaragua Act of 1989. This legislation represents a modest and sensible United States contribution to the election process in Nicaragua, leading to the February 25, 1990, Presidential election.

First, let me point out two concerns I have had about some of the election assistance proposals that have been entertained in the past few months. Much ink has been given to reports that the administration would ask Congress to allow covert assistance to the Nicaraguan opposition parties, or to approve direct financial support for an opposition campaign.

In my view, neither of these would have been a good way to proceed. Certainly, I hope that Violeta Barrios de Chamorro is victorious in her election bid against Daniel Ortega. I think her success would be in the best interests of the Nicaraguan people. Nevertheless, as a democracy, we should respect the right of those people to conduct their elections in the open. We would demand no less for ourselves.

As far as throwing our financial weight behind a specific candidate goes, I think it is unwise to take so clear a side in the Nicaraguan elections. As important as it is to U.S. interests to have Daniel Ortega removed from power, it is more important to give the seeds of democracy a chance to grow. Thus, our role is to do what we can to ensure that the will of the Nicaraguan people is expressed on election day, not to ensure the victory of the candidate we favor.

Because it shows the Nicaraguan people that we stand firmly behind democracy in their country, I support this aid package. It contains $9 million in previously appropriated funds to help level the playing field so that all Nicaraguan candidates will have a shot at getting their message out to the electorate.

Five million dollars will go to the National Endowment for Democracy to support groups involved in voter registration and education, polling, training poll workers, election monitoring, civic education meetings, information media representations, get-out-the-vote campaigns, and international observer programs.

The other $4 million will be used for nonpartisan, technical support of the elections process.

Since the Sandinistas are permitting voter registration only during the four Sundays of October, it is essential that we approve this legislation without delay. I hope other Senators will agree that a strong showing on our part for the electoral process in Nicaragua will go far toward ensuring its ultimate success.

Mr. KOHL. Mr. President, the United States has already spent $3.5 million through the National Endowment for Democracy to promote free and fair elections in Nicaragua. I'm glad we did. Other nations and organizations have also spent considerable sums in an effort to promote free elections. I'm glad they have. And I would be glad to support a modest and moderate request for additional funding to assure that observer groups have an opportunity to do their job properly. I would even be willing to support a moderate and modest increase in funding, as allowed by Nicaraguan law, for the opposition. I'd like the opposition to do well; I recognize that they are operating under a disadvantage; I know they need more money. Giving them more aid is not illegal under Nicaraguan law nor is it inappropriate in terms of American moral values.

But giving them $9 million in aid is just stupid politics. If anything has become clear in Central America it is that being pictured as "a puppet of American interests." And if anything is clear about this proposed package it is that it allows that picture to be painted.

There are, however, some things which are not clear. It is not clear why we are proposing to spend $815,000 for salaries, benefits, and related expenses. It is not clear why we are spending $1,345 million on vehicles and transportation. It is not clear why we are spending $315,000 on seminars, lectures, and meetings. It is not at all clear what kind of controls we have on who gets the money and how it is spent.

Mr. President, the available evidence suggests that the election process is as fair as things get in Central America. The available evidence suggests that we are making progress. The available evidence suggests that ever since we reversed course on aid to the Contras, peace has become possible and progress toward democratization have developed.

Can't we ever recognize when we are winning? Can't we ever say enough? Can't we begin to leave well enough alone? Do we really have to try to buy elections? Can't we trust and accept the will of the people and restrict ourselves to making sure that they have an opportunity to freely and fairly express their will?

Mr. President, as I have said, I am not opposed to increased aid. I enthusiastically support the observer groups and monitoring efforts which are taking place. But I must oppose this bill—the amount of money is excessive, it is not adequately controlled and targeted, it invites abuse. It deserves to be rejected.

Mr. KERRY. Mr. President, I have to oppose the administration's election package as it is presently constituted. The issue, as some would portray it, is not whether or not the United States turns its back on the democratic opposition in Nicaragua.

There are legitimate reasons for many of us opposing the package submitted by the opposition. Nobody has been more eloquent in opposing this package than has been my distinguished colleague from Massachusetts, Mr. SILVIO CONTE. I would like to quote from Congressman CONTE's floor speech of October 4, when this measure was before the full House. In Mr. CONTE's words:

> You have heard of the Stealth bomber. You may have even seen it. Well, the State Department has one-upped defense. Today, rolling out of foggy bottom and onto the House floor to be fueled with dollars, we have H.R. 3385—the Stealth Bamba.
>
> Mr. President, La Bamaba zoomed into my sights Monday night. No radio contact. No flight plans. The State Department didn't bother talking to me and I don't think they bothered talking to a lot of others they should have talked to. State flies solo.
>
> By Tuesday, the Stealth Bamba was before the Appropriations Committee. No hearings. No subcommittee. No justification. I hear it. I see it. But I don't know what it is. Maybe it's an enchilada.
>
> By today, La Bamba has flown onto the House floor, untouched by human hands. An airspeed record. Those doorkeepers out there must have their radar off.
>
> I have a list describing what the $9 million transfer for elections in Nicaragua will be used for. Bear in mind, this is for 3 months for voter registration and election. Put on your flak jacket.
>
> First, salaries, benefits, and related expenses—$815,000. Here it is, Mr. President, a Nation's chance to reenter democracy. A chance to shrug off tyranny and oppression and they need money for fringe benefits. Mr. President, I don't know about you, but when I run a campaign I rely on volunteers.

Second, seminars, lectures, and meetings—$315,000. Mr. President, we're paying for coffee and donuts.

Third, courtesy invitations to international observers and/or visiting delegations—$140,000; $50,000 for the Nicaraguans to fly abroad and observe the international observers. Fly the friendly skies of Nicaragua. Who gets the frequent flyers miles?

Fourth, vehicles—$1,345,000. Mr. President, I hope we're renting and not buying. At $20 a day from Hertz rent a car, that is 2,241 cars for a month. And if they're buying, instead of renting they're surely going to win the election—with the slogan "Register to vote and get a free car."

And listen to this Mr. President.

Fifth, gasoline, lubricants, and maintenance, $149,472.

Lubricants, Mr. President, what kind of monkey business are we getting into?

Mr. President, no wonder this Bamba is flying by night. It is one thing to support the vital cause of democracy. It is another to be taken for a ride: $9 million is more than a drop in the bucket. I just wish I knew into whose bucket this Bamba was being dropped.

I believe our House colleague's observations are particularly compelling.

I do not believe that providing nearly $5 million in direct assistance to the united Nicaragua opposition will enhance their prospects in the upcoming election. As a matter of fact, it could have the direct opposite effect—giving credence to the assertion by the Sandinistas that they are nothing more than surrogates of the "gringos."

The issue is whether, if we approve this package, we will be opening a Pandora's box we have sought to avoid ever since the National Endowment for Democracy was created. We have judiciously avoided supporting individual political parties or political candidates with Endowment moneys, whether it has been the Philippines, Poland, Chile, or Panama. What we utilized our moneys for is to support the process, the most important element of which has been the election monitoring process.

The concern I have stems from a report which appeared in the October 13, 1989, edition of the Wall Street Journal. Written by Robert S. Greenberger, the article details the activities of the National Republican Institute for International Affairs which has provided $434,000 to the political opposition of President Oscar Arias in Costa Rica.

As the article pointed out:

Documents that surfaced here this week show that at the same time that Mr. Arias was falling out of favor with the White House, the NED's Republican wing . . . began funding a political association with close ties to Mr. Arias' political opponents. Since 1986 NED has spent $434,000 on several projects, including a magazine that criticized Mr. Arias' peace plan * * *

Mr. Greenberger noted that the executive director of the association which received funding from the Republican Institute was Rafael Calderon, Mr. Arias' opponent in 1986 and the opposition candidate in Costa Rica's upcoming February elections.

By expanding on the mandate of the National Endowment for Democracy to directly assist political candidates and political parties in elections, I believe we will be encouraging the very abuses of the Endowment that we have seen in Costa Rica.

Mr. President, I do not have any objection to providing assistance to the Nicaraguan elections, if such assistance is used to promote the outcome that we all desire—a free, fair, and honest process.

There is also another question that has not been answered, particularly in light of the fact that some $815,000 of this package is to go for salaries, benefits, and related expenses. How much is the opposition itself willing to put up on behalf of their own election effort?

Finally, the October 2, 1989, edition of the New York Times carried an article that pointed out that:

In contrast to efforts to monitor voting conditions in countries such as the Philippines, El Salvador and Panama, international officials say the effort in Nicaragua will place unusual emphasis on monitoring election conditions over the entire campaign period, rather than concentrating primarily on the voting day.

The article went on to point out that:

The acceptance of the observer role marked an institutional turning point for the United Nations, which has long experience in overseeing elections in partitioned territories or former colonies, but has never before monitored elections in a sovereign country. The political novelty of the mission was recently heightened by the choice of an American, Elliott Richardson, to be the personal representative of the United Nations Secretary General, Javier Perez de Cuellar, in overseeing the mission.

Mr. President, we should be concentrating our resources on supporting organizations such as the U.N. and OAS monitoring organizations, regional monitoring organizations, and U.S.-based monitoring organizations. While the Sandinistas have obvious financial and organizational advantages over the opposition, the major advantage enjoyed by the opposition is the unique and pervasive international presence in Nicaragua.

I ask unanimous consent that the Wall Street Journal and New York Times articles to which I referred be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal Oct. 13, 1989]

U.S. GROUP AIDED ARIAS'S COSTA RICA FOES

(By Robert S. Greenberger)

WASHINGTON.—For much of the past three years, the National Endowment for Democracy, which Congress created to nurture political freedom around the world, has helped fight a Republican grudge match against the president of a democratic nation—tiny Costa Rica.

The funding of a group with strong ties to Costa Rica's main opposition party was continued until last July and produced strange bedfellows. Another donor to the Costa Rican opposition: Panamanian strongman Manuel Noriga. According to a deposition given to a Senate Foreign Relations subcommittee last June by Jose Blandon, a former Panamanian official, Gen. Noriega gave the opposition group's candidate $500,000 in 1985.

While one wing of the National Endowment was shoring up the Costa Rican opposition another was touting Costa Rica as a model of democratic stability. Now, President, Bush plans to visit Costa Rica later this month to help celebrate 100 years of Costa Rican democracy.

Costa Rican President Oscar Arias was never the Reagan administration's favorite Latin American leader. He refused to support the White House's war against leftist Nicaragua and won a Nobel Peace Prize for a plan that pulled the rug from under the U.S.-backed Contra effort.

DOCUMENTS ARE CITED

Documents that surfaced here this week show that at the same time that Mr. Arias was falling out of favor with the White House, the NED's Republican wing—the endowment has parts from both major U.S. political parties—began funding a political association with close ties to Mr. Arias's political opponents. Since 1986, NED has spent $434,000 on several projects, including a magazine that criticized Mr. Arias's peace plan and said it sapped the virility of the nation.

The executive director of the association, Rafael Calderon, ran against Mr. Arias in 1986 and is the opposition candidate in next February's election.

The decision to launch a program in Costa Rica was a strange one for the budget-strapped NED. Costa Rica's democratic roots run deeper than almost anywhere else in the Western Hemisphere.

Last summer, as Congress got wind of the Costa Rican funding and began making quiet inquiries, NED reconsidered the situation and discontinued the project. "It has been re-oriented," say Keith Schuette, president of NED's Republican affiliate, the National Republican Institute for International Affairs.

The NED was founded by Congress in 1984 to encourage democratic institutions around the world. In addition to its Republican and Democratic wings, it has two other elements: the AFL-CIO's Free Trade Union Institute and the Center for International Private Enterprise, an affiliate of the U.S. Chamber of Commerce.

Carl Gershman, president of the endowment, says that his board was aware of the Costa Rica project. Indeed, he says, the GOP wing submitted detailed proposals. He said the board gives each of the four branches autonomy to develop programs, "as long as they operate clearly within the framework of our law," a test he says was met by the GOP wing. He adds that the Republican wing tends to "establish relations with institutions that associate with political parties," while the Democrats "have pursued a more multipartisan approach."

HAM IN THE SANDWICH

Mr. Schuette insists that he was only trying to help Costa Rica, which he calls "the ham in the sandwich between the two worst neighbors in the hemisphere."

Wedged on the Central American isthmus between Nicaragua and Panama, Costa Rica needs protection from those totalitarian nations, he argues.

"Attempts are made to subvert their democracy," says Mr. Schuette, adding: "It's our position that no democratic system ought to be taken for granted in Latin America despite the length of its democratic history."

Yesterday, the Costa Rican Embassy in Washington didn't have any immediate comment.

Nobody is contending that the endowment broke the law. But some critics say that it came close. "They may technically have been within the law, but I felt this clearly violated the spirit," said Rep. Stephen Solarz, a New York Democrat. "The whole purpose of NED is to facilitate the emergence of democracy where it doesn't exist and preserve it where it does exist. In Costa Rica, neither of these applies."

Nonetheless, the NED seems to have stepped into the thick of Costa Rican politics. Documents supplied by a Costa Rican source show close ties between the Association for the Defense of Costa Rican Liberty and Democracy, which NED funded, and the opposition Social Christian Party. According to these documents, the association was incorporated in 1984 by an attorney, Luis Fishman, a Social Christian congressman and top campaign adviser to Mr. Calderon. The documents also list as top officials of the association several Social Christian officials and senior advisers to Mr. Calderon.

NED funds also supported the magazine "Fragua," or Forge. An editorial in the magazine's first issue, dated September 1986, attacked Mr. Arias's "political amateurism," and asserted that his peace plan for Central America was "impugning the national virility" of Costa Rica.

Such activities don't appear to meet the standard set in the endowment's "statement of principles and objectives," which mandated that the organization "will not pick and choose among the democratic competitors in countries where such competition is possible."

Mr. Schuette says that NED's GOP wing openly supports groups that are affiliated with political parties in several countries, including Bolivia, Argentina and Colombia. He says that "we watch what's in" the publication in Costa Rica but "don't exercise editorial control." He adds that his group decided to withdraw from activities in Costa Rica last July because it didn't want to become embroiled in domestic politics, as Costa Rica's February election approaches.

BUDGET OF $15.8 MILLION

Even critics of NED's Costa Rica activities characterize them as an aberration from the endowment's usual good work. They note that the small organization, whose fiscal 1989 budget is $15.8 million, is playing a valuable role in fostering democracy around the world. Poland's Solidarity union received regular funding from NED before its breathtaking electoral victory earlier this year. And the organization has played an important supporting role as Chile makes the transition to democracy from military dictatorship.

"They're stopped [the Costa Rica project,] and I would write this off as part of the growing pains of an organization that is new in the American political system," concludes Rep. Solarz.

[From the New York Times, Oct. 2, 1989]

IN NICARAGUA, THE ELECTION OBSERVERS ARE COMING?

(By Mark A. Uhlig)

DIRIAMBA, NICARAGUA, October 1.—As national voter registration began today, Nicaraguans got their first look at what will be a huge international effort to preserve peace and supervise free elections in their war-battered country.

At registration centers here and throughout the country, dozens of two-member observer teams from the United Nations and the Organization of American States were sent out in shiny white jeeps to guard against fraud or other irregularities.

The Secretary General of the O.A.S., João Baena Soares, led an observer team to oversee registration in the heavily populated Pacific Coast region. United Nations technicians inaugurated a sophisticated radio and satellite communications network that will link hundreds of international observers across Nicaragua from now through February, when the elections are scheduled to take place.

In New York and in Honduras this weekend, officials discussed final arrangements for two or three large new international contingents, including armed military units, that are being set up to monitor Nicaragua's borders and oversee demobilization of the contra rebel army. Those units are expected to begin operations in earnest over the next two months.

A FIRST FOR THE U.N.

"It is the first time that the U.N. has been involved in a Latin American country in this kind of work," said Josué Cardoza Perdomo, a retired Colombian Air Force officer and a 20-year United Nations veteran who inspected registration procedures today as part of the observer force assigned to Diriamba, about 30 miles south of Managua. "It is also the first time we have agreed to supervise elections in an independent country."

The formidable international presence, established piecemeal under a series of regional peace accords, began to take shape six weeks ago and has quickly become a visible feature of Nicaraguan life. International officials hope the scale of the undertaking will, in itself, discourage conflict and election fraud and help promote a fresh start for this deeply divided society.

The most visible and unusual of the international contingents setting up operations are assigned the task of supervising the election process, from this month's voter registration to the conduct of the campaign to the final vote count. The two principal organizations will be the United Nations and the Organization of American States, which will conduct separate but coordinated monitoring efforts under an accord signed by the five Central American Presidents last February in Tesoro Beach, El Salvador.

SEPARATE MISSION BY CARTER

The two missions, of roughly equal size, will be augmented later in the campaign by former President Jimmy Carter, who has accepted a separate invitation from the Nicaraguan Government to lead a 30-member group to monitor the elections under the auspices of the Council of Freely Elected Heads of Government.

In contrast to efforts to monitor voting conditions in countries such as the Philippines, El Salvador and Panama, international officials say the the effort in Nicaragua will place unusual emphasis on monitoring election conditions over the entire campaign period, rather than concentrating primarily on the voting day.

The acceptance of the observer role marked an institutional turning point for the United Nations, which has long experience in overseeing elections in partitioned territories or former colonies, but has never before monitored elections in a sovereign country. The political novelty of the mission was recently heightened by the choice of an American, Elliot Richardson, to be the personal representative of the United Nations Secretary General, Javier Pérez de Cuéllar, in overseeing the mission.

"We've done something that is almost unheard of," said a senior United Nations officials in New York, "which is to appoint an American to oversee elections in a country with which the United States is virtually at war."

Day-to-day operations of the observer force will be handled by a United Nations official from Pakistan, Iqbal Riza. But Mr. Richardson is to visit Nicaragua at important moments in the electoral process, and will have a central role in shaping the organization's final report on the conduct and fairness of the election. International officials hope that his participation will eliminate any doubt about the impartiality of the verification process, particularly for conservative Americans, whose opinion is considered important to broad acceptance of the election results.

"In that sense," the official said, "the credibility of someone like Richardson might be bigger than that of the U.N. itself."

EXPERIENCED OBSERVERS

The United Nations contingent now includes 29 full-time observers, technicians and specialists in electoral procedure. They are assisted by personnel from other United Nations agencies already operating in the country, together with 26 Nicaraguan drivers and secretaries.

A spokesman, Angelica Hunt, said that all of the observers, who wear light blue hats and armbands with United Nations insignia for identification, are experienced United Nations officers from countries other than Nicaragua, and that most are from Western Europe and Latin America.

Mrs. Hunt said that during the campaign, which is under way, the observer force will be charged with keeping track of all aspects of the election process, including voter rolls, the amount of air time and advertising space devoted to the campaign, the use of official property or personnel for political purposes and other politically sensitive issues.

FORCE TO GROW

By November, the number of United Nations observers is expected to double, and then to rise again in February, when the overall number of observers is to reach at least 160. Those observers, assisted by personnel from other United Nations agencies, will form 80 mobile monitoring teams, a number that United Nations officials say will permit close surveillance of at least 10 percent of all polling stations in the country, yielding a clear statistical picture of any irregularities.

A similar number of teams will also be fielded by the Organization of American States, giving a separate but equally comprehensive picture of the election process, international officials say.

In mid-October, officials from a combined United Nations-O.A.S. task force, the International Commission for Assistance and

Verification, will visit Contra bases in Honduras to begin preparing for the repatriation or relocation of the estimated 6,000 to 10,000 anti-Sandinista guerrillas in remaining camps there. Under regional agreements signed Aug. 7 in Tela Honduras, the commission will also be responsible for receiving and storing arms surrendered by the guerrillas. It will therefore have a military branch that will carry arms intended for defense, United Nations officials say.

ARMED AND UNIFORMED

Mobile units of United Nations military observers will be deployed in November. The United Nations Observers in Central America will use jeeps and helicopters to monitor all borders among the five Central American countries, but are expected to focus the largest share of their energies on the Honduran-Nicaraguan border. The units, in which there will be more than 100 trained observers from Spain, Canada, Venezuela and Colombia, will be uniformed and carry arms intended for defense, United Nations officials say. A technical planning mission for the force visited the region late last month, and approval of the final plan is expected from the Security Council this month.

A third, still larger United Nations military mission contemplated by the Tela accords would be a full-fledged peace-keeping force to prevent incursions along the Honduran-Nicaraguan border. United Nations officials have indicated their willingness to consider such a mission, but have said the two countries involved have not raised the issue directly since signing the Tela agreements. Such a force would require the approval of the Security Council.

Mr. LEVIN. Mr. President, I voted for amendments to modify and improve this bill. I voted for Senator HARKIN'S amendment to modify the funding level, and to limit its use to international monitoring groups and in-kind contributions by the National Endowment for Democracy [NED].

I supported Senator DODD'S amendment which would have appropriated the full $9 million funding, $7 million to the National Endowment for Democracy, and $2 million to international monitoring activities. This amendment would have prohibited any cash assistance to either UNO or the Sandinistas.

Mr. President, it is my belief that sending funds to a specific candidate is a mistake, counter to our best interests. It would play into the hands of the Sandinistas, and help their efforts. I hope the Sandinistas are rejected by the Nicaraguan people. But to have American cash sent to parties and individuals running against the Sandinistas will only hurt the anti-Sandinistas' cause, not help it. The Sandinistas would use it to their advantage, and UNO would be in the endless and losing position of denying that it is bought and paid for by the United States, and is America's puppet.

Mr. President, it is my preference that we not spend American taxpayers' money to finance specific candidates in foreign elections. In addition to being unwise in this case, it would be an unacceptable precedent. The United States should not start sending cash contributions to specific candidates overseas. That is a road we should not travel, and a journey we should not begin.

The National Endowment for Democracy has served the interests of democracy and freedom well in countries throughout the world. It can serve a useful and appropriate role in Nicaragua, too, and that is why Congress has already appropriated $3.5 million for the National Endowment for Democracy for the Nicaraguan elections.

But, Mr. President, this bill, as written, will do more than fund more money for the NED; it will ironically send $2 million to the Sandinista's Supreme Electoral Council, and $2 million to the UNO candidate. Not only is it a bad precedent to begin financing foreign political parties, it is wrong to help finance the Sandinistas' election efforts.

Regrettably, because the amendments were not accepted that would have improved this bill, I cannot vote for it as written.

Mr. KENNEDY. Mr. President, time and again over the last decade, I have joined my colleagues on the Senate floor to debate United States assistance to Nicaragua. We have debated U.S. mining of that nation's harbors by the CIA, U.S. covert efforts to overthrow the Sandinista government, U.S. military aid to the Contras, and U.S. humanitarian aid to the Contras—and nothing worked. The Reagan administration's policy on Nicaragua became the scandal of the hemisphere—and proved to be one of the most failed and ill-conceived United States foreign policies of the decade.

We have come a long way in 1989, however, from those flawed policies of the past. The years of covert military aid to the Contras, of circumventing the will of Congress and the law of the land are over. Upon taking office, President Bush recognized the failure of our policy and wisely negotiated with Congress for a new bipartisan approach. Military aid to the Contras was abandoned in favor of a negotiated settlement in the context of the Central American peace process.

Remnants of the old, failed policy surfaced briefly again this year when the administration tried to intervene covertly, contrary to the wishes of the democratic opposition, in the upcoming Presidential elections in Nicaragua. And Congress lost no time in rejecting that effort.

If we have learned anything over the last decade, it is that our covert efforts in Nicaragua have been an utter failure. We have damaged the credibility of the United States and set back the hope for peace in the region.

As we discuss this package of assistance before us, let us not lose sight of the progress we have made. Friends of peace in Nicaragua have already won a very important battle—a halt to United States covert activities. That victory has paved the way for peace and internal reconciliation among the Nicaraguan people of that nation.

The United States does have a positive role to play in Nicaragua. We bear a heavy responsibility for the crisis in that nation—and we have a responsibility to do what we can to repair the damage. Our policy in Nicaragua has undermined the true democratic opposition there—not the Contras residing in Honduras, but the dedicated and committed leaders of the middle class, the business sector, the press, the church, and labor inside Nicaragua. Our support for the Contras handed the Sandinistas a convenient excuse to repress and persecute their opposition.

Our trade embargo did not topple Ortega—instead, it undercut the moderate elements of Nicaraguan society that America should have supported.

Peace and democracy will not come to that country without a strong democratic opposition. Nicaraguans face a critical juncture in their history and a real chance for peace, and we should help them achieve the democracy they seek.

The Senate should support reasonable and well-monitored assistance to achieve that goal. The continuing crisis of recent years has left the economy in shambles and the democratic opposition in disarray. Limited election assistance—for training, seminars, equipment, get-out-the-vote efforts, transportation, election observation, and voter registration are legitimate and worthwhile uses of U.S. assistance.

But the package proposed by the administration is too much and too broad. I would have preferred to see a more realistic and less wasteful level of funding. But the issue we face on final passage is all or nothing. We hold no brief for the Sandinistas. The democratic opposition in Nicaragua deserves our support. It is better to give too much election assistance than to give none at all.

The Nicaraguan people have a clear choice in their February elections—between an open society or a closed society, between democracy or dictatorship. I urge the Senate to support United States assistance for democracy in Nicaragua. It may turn out to be the best thing we have done for the people of Nicaragua in the past 10 years.

The PRESIDING OFFICER. Who yields time? The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I yield back the remainder of our time.

The PRESIDING OFFICER. All time has now been yielded back. The question is on the third reading of the bill.

The bill was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. There being no further debate, the question is on passage of H.R. 3385. The yeas and nays have not been ordered.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Both sides have yielded back their time. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 64, nays 35, as follows:

[Rollcall Vote No. 250 Leg.]

YEAS—64

Armstrong	Gore	McConnell
Bentsen	Gorton	Mitchell
Biden	Graham	Moynihan
Bond	Gramm	Murkowski
Boren	Grassley	Nickles
Boschwitz	Hatch	Nunn
Breaux	Heflin	Packwood
Bryan	Heinz	Pell
Burns	Hollings	Reid
Chafee	Humphrey	Robb
Coats	Inouye	Roth
Cochran	Jeffords	Sanford
Cohen	Kassebaum	Shelby
D'Amato	Kasten	Simpson
Danforth	Kennedy	Specter
DeConcini	Lautenberg	Stevens
Dole	Lieberman	Symms
Domenici	Lott	Thurmond
Durenberger	Lugar	Wallop
Exon	Mack	Warner
Fowler	McCain	
Garn	McClure	

NAYS—35

Adams	Ford	Metzenbaum
Baucus	Glenn	Mikulski
Bingaman	Harkin	Pressler
Bradley	Hatfield	Pryor
Bumpers	Helms	Riegle
Burdick	Johnston	Rockefeller
Byrd	Kerrey	Rudman
Conrad	Kerry	Sarbanes
Cranston	Kohl	Sasser
Daschle	Leahy	Simon
Dixon	Levin	Wirth
Dodd	Matsunaga	

NOT VOTING—1

Wilson

So, the bill (H.R. 3385) was passed.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KASTEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURDICK). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

NAALEHU WINS NATIONAL ENERGY AWARD

Mr. MATSUNAGA. Mr. President, I rise to bring to the attention of my colleagues and others a singular achievement in the energy field on the part of the Aloha State, which I am privileged to represent in this body.

The Department of Energy has recognized the State's energy agency with three national awards, one of which is the grand prize in the Department's best energy education promotion competition; this is the first year DOE has made such an award in the category of secondary education. The grand prize was for a photovoltaic car designed and built by students at an intermediate school on the big island of Hawaii at Naalehu, a small coastal community isolated by towering mountain ranges.

Department of Energy officials were so impressed by the vehicle that they are displaying it at their headquarters on Independence Avenue on October 16 through 22, in conjunction with activities commemorating National Energy Awareness Month.

The car's 13-year-old designer, Mandy McCasland, drove it for two laps around the Indianapolis 500 Speedway last month to the cheers of spectators in attendance at DOE's 1989 National Energy Program Managers Conference from all 50 States and territories. Mandy and her colleagues in the project were eighth graders when they produced the automobile.

Mandy told interviewers after the demonstration: "There's so much sun in Hawaii and the car doesn't contribute to the pollution in the world."

The demonstration program that resulted in the production of the photovoltaic car was initiated by Hawaii Gov. John Waihee last year at the International Renewable Energy Conference held in Honolulu. DOE provided a $27,000 grant for the project under a program administered by the State energy division in the department of business and economic development. Two State high schools had entries but Naalehu's vehicle was selected for the national competition.

Mr. President, I for one look forward to seeing this remarkable "chariot of the sun" assembled in Naalehu by talented and knowledgeable eighth graders, and I urge my colleagues to include a visit to DOE headquarters this week to see this car of the future, designed and built by the automobile makers of the next century, the "can-do" students of Naalehu.

I yield the floor.

REMARKS OF JACK VALENTI ON THE "WAR ON POVERTY"

Mr. PELL. Mr. President, Mr. Jack Valenti, president and chief executive officer of the Motion Picture Association of America, addressed the National Association of Community Action Agencies here in Washington on September 8, 1989. In a poignant and personal way, Mr. Valenti recalls one of the greatest legacies of our 36th President: President Lyndon Baines Johnson's War on Poverty.

For those of us privileged to serve in the Senate during the Johnson years, Mr. Valenti's words recount vividly the sense of purpose, responsibility, hope, and vigor with which a new era began. With an eye to the promise of the young, fallen President John F. Kennedy, and with an understanding of the needs and opportunities of a difficult and controversial time, President Johnson led this Nation from great tragedy and fear to great hope and fulfillment of promise.

Mr. President, Jack Valenti's contribution to the Johnson Presidency, to the ideas and programs of the Johnson administration, and to the War on Poverty are well known indeed. His perspective on those times, and his recollection of the words and wisdom of President Johnson, are summarized in his eloquent remarks to the National Association of Community Action Agencies. I ask unanimous consent, Mr. President, that his remarks, "LBJ's War on Poverty: 'The Heart Has Its Reasons Which Reason Knows Not,'" be printed in full following the conclusion of my remarks.

There being no objection, the remarks were orderd to be printed in the RECORD, as follows:

LBJ'S WAR ON POVERTY "THE HEART HAS ITS REASONS WHICH REASON KNOWS NOT"

(Remarks of Jack Valenti)

It is a curious fact, as Paul Johnson wrote, that the most important debate in political history may have taken place not in the Congress, or in our Constitutional Convention or the House of Commons but in the fifteenth-century parish church of St. Mary in Putney, England. There, on 28 October 1647, some forty men gathered. These men were the commanders of the New Model Army, led by Oliver Cromwell. They were in civil war against an intractable King. Cromwell's son-in-law attempted to impose on the group the notion that only men of property should have the right to rule over a democratic England. And then there rose to his feet, a tall, gaunt man, a peasant farmer, by name of Rainborough, who had risen to the

rank of Colonel because of his valor and ability on the field of battle.

Colonel Rainborough looked squarely at Cromwell and his son-in-law, General Henry Ireton, and he said: "I think the poorest he that is in England has as much a life to live as the richest he in England." And so it was three hundred and forty two years ago that cry for opportunity was writ in stone by the living Grace of a free people, the title deeds of freedom which we so value today. Martin Luther King said much those same words, over and again, the poorest he in America has as much a life to live as the richest he, the same words which Lyndon Johnson, by God, determined to make real and true in the brief time he would govern.

We celebrate today the first Great Society shot to be fired and heard 'round the land, LBJ's war on poverty, injustice, and ignorance, when he took up arms on behalf of the old and the sick and the black, the undereducated young and the powerless poor, when he dared to summon the nation to help all those who were pressed against the wall because of circumstances over which they had no control. It was a call that ricocheted through the countryside, stirring a nation, beckoning them to action. It was the beginning of a social, political and economic revolution and what was begun at that time and that place can never be forgotten or ignored. If over the years, the trumpet has been stilled, if the resolve has weakened, if the commitment has been frayed, lose not heart. For like the roots of an enduring tree, it will one day again be resurgent and nourished, and it will grow again. What is right can never be wronged.

I remember, oh how well I remember, for I was present at the creation. I was riding in the motorcade in Dallas on Friday, November 22, 1963 when the world was stunned by a senseless act of mindless malice, when the nation gasped and held its breath, teetering in a kind of mystical collapse. But while the light in the White House may flicker, the light in the White House can never go out. The nation must go on. I flew back on Air Force One with the newly sworn 36th President of the United States. And I was there with two other newly minted members of the White House staff, in the bedroom of his home in Spring Valley that evening until well into the morning of the next day while LBJ told us what he intended to do now he was President. Out of his melancholy there came an invincibility of spirit. He was going take his passions to the people, and so infect the Congress and the country that they would follow him to the mountaintop.

I remember his voice. I remember his words. He said: "Now that I got the power, I aim to use it. We're going to pass the Civil Rights bill, we will not compromise, we will not cavil. We have the moral high ground, and so long as we don't retreat we will win. I'm going to make it possible for every boy and girl in this country, no matter how poor, no matter where they come from, or the color of their skin, to get all the education they can take, and the federal government is going to help them do it. I'm going to see to it that Harry Truman's dream comes true, that old people will not have to worry how they will pay their medical bills when they get sick. We're going to eradicate poverty in this country, We're going to do it, because it has to be done."

Though none of we three who listened in rapt attention that night realized it, Lyndon Johnson was defining for us the design of his Great Society.

No piece of that Great Society was more valuable to LBJ than the War on Poverty. I remember during the Christmas holidays in 1963, Johnson's presidency only a few weeks old, he gathered Kermit Gordon, Director of the Budget, Walter Heller, Chairman of the Council of Economic Advisers, Bill Moyers and me and put us in the guest quarters some hundred yards or so from the main house of his ranch in Texas. "I don't want you guys to leave this room until we have a battle plan for ending poverty in America." When finally we emerged, we had a plan and we had a name: The War on Poverty. On January 4, 1964, in his first State of the Union message, President Johnson clanged the bell for all to hear, and the battle was joined.

President Johnson now had to find his field commander, and he didn't have to look too far. Sargent Shriver was, as LBJ liked to say, his first, second and third choice. On February 1, 1964, General Shriver went to war, with his commander-in-chief urging him on, supporting him every bit of the way. This charismatic man, this happy warrior, loyal, warmhearted, affectionate to friend and foe alike, Sargent Shriver deserves the jubilant gratitude of all those who live in this free and loving land for a brand of effective leadership which is seldom seen in Washington.

With LBJ's customary zeal for the parliamentary unexpected and the politically suitable, he asked Congressman Phil Landrum, of Georgia, to introduce the War on Poverty legislation. It was Johnson at his incandescent best, enlisting a conservative southern Congressman to lock arms with Sarge Shriver, brother-in-law of a slain President, backed by a Texas-born President, marching into unmapped territory, seeking the support of the people as they began to do radical, untried, adventuresome things.

It isn't important how many tongues buzzed around LBJ while he was President. What does count is whether after twenty-five years it mattered that what he did when he was in power was in the long term best interests of the people he had by solemn oath sworn to serve.

By that measure, he was eminently successful.

The seedbed he planted in the War on Poverty nourished the land and gave heart to those who were enfeebled. What sprung from that planting was Community Action, an adventure that was both radical and simple, which is to say it proffered to citizens the role of a caring leadership in their own neighborhoods. Precisely what Tom Jefferson would have been proud to have authored. Out of Community Action came Head Start, Narcotics addiction programs, Neighborhood Health Centers, Legal Service, Upward Bound, Foster Grandparents. And from other departments of the Government there was more: Vista, Job Corps, Neighborhood Youth Corps including in-school, out-of-school and summer program, rural loans. The War on Poverty attacked the ancient enemies of our society across a broad front. It was the first time the might of the government had ever been focused in one huge strike on the ills and the frustrations which had besieged too many communities in too much of the country for too long.

Was it worth it?

The War on Poverty has been inspected, assaulted, spit on, kicked around, mauled and vilified. Its critics, resplendent in their retrospective wisdom, brandishing their selective data, are eager to issue the last rites. We must admit that in some instances, we went too fast, spent too much, wasted too much. We were, unhappily, too often ambushed in political quarreling.

But the War on Poverty opened the eyes of the nation to the maladies afflicting this society. More importantly it invaded the heart of the nation. That is why the War on Poverty will go on. It has to. What drove LBJ to impassion the public and exhort the Congress was not merely an ornament that a leader wears and then discards casually. What President Johnson could have said if he had ever read Pascal, which he hadn't, was that "the heart has its reasons that reason knows not." This magnificent adventure was not of the head. Few people are animated by fables of the intellect. LBJ's crusade was of the heart, where all great causes are stored. If those who succeeded to power after LBJ had felt in their heart the same passions that inhabited him, we would be farther up the mountain than we are now.

That was what LBJ was speaking of at Howard University in June, 1965, when he uttered the greatest affirmation yet of the cause of human justice. There President Johnson said the objective of the Great Society was "not only freedom but opportunity, not just legal equity but human ability, to fulfill the fair expectations of man." We are failing in that, and the virus of that failure will, in time, contaminate the whole society.

But I am optimistic that the years in front of us will be better than the years recently passed. I believe that President Bush before his first term is over will be hailed as a great captain in the cause of those who are mostly forgotten and dispossessed, those who can see no light at the end of the tunnel, because there is no tunnel. I say that because the champion who will lead this charge must care, care so very much so very deep in his gut, about the vacancy of hope and opportunity. President Johnson used to say he wanted people around him who would weep real tears when they saw a little old lady fall down in the street. Caring, really caring about others, is the prime passion that inflames a leader to do what is just though the way is hard. I know President Bush cares, and when the leader cares he has enough craving in his belly to command the future.

I once wrote in a speech that I had prepared for LBJ a line that he didn't use, but I wish he had. I was trying to sum up what he stood for and I remembered something that a long ago King of England once said: "So long as I have lived I have striven to live worthily. I desire to leave men who come after me a remembrance of good works."

Lyndon Johnson had every right to this sentiment for his achievements are there, for all to see, in the War on Poverty, in the Civil Rights Act of 1964, the Voting Rights Act of 1965 in the Fair Housing Act of 1968, in Medicare, in the Elementary and Secondary Education Act and a hundred other pieces of legislation. It is there and it is truly has a worthy claim to greatness. However, as Ralph Ellison once wrote, "because of Vietnam, Lyndon Johnson will just have to settle for being the greatest American president we have ever had for the poor, the old, the sick and the black, but," said Ellison, "that's not a bad epitaph at all."

AMENDING THE CONSTITUTION WITH RESPECT TO FLAG DESECRATION

Mr. WARNER. Mr. President, I rise today to support legislation, Senate Joint Resolution 180, calling for an amendment to the Constitution of the United States which would give Congress and the States the power to prohibit the desecration of the flag. I am proud to be an original cosponsor of this measure.

Decisions are made by the Government on almost a daily basis which affect the citizens of this great Nation. Some of these decisions are popular, some are not, and some go unnoticed by vast groups of people. But, in this Nation's system of government, the people ultimately have the last word. Let them exercise their rights through a constitutional amendment.

Rarely do we witness a decision, as in the Supreme Court's ruling in Texas versus Johnson, that reaches the core of every individual's mind, heart, and soul. School children who work to learn how to recite the Pledge of Allegiance sense that there is something wrong in burning the American flag.

Last week, both Chambers passed legislation, H.R. 2978, which will prohibit the desecration of the flag, short of amending the Constitution, through a statutory revision of the United States Code. I supported that legislation. However, I strongly prefer the constitutional amendment route.

Why? First, I am not certain that H.R. 2978 would be upheld by the courts should the statute be tested. Second, and more importantly, I believe that the American people should have the greatest possible opportunity to speak out on this controversial issue and to participate fully in reaching the right solution.

In a letter to William Charles Jarvis dated September 28, 1820, the eminent Virginian Thomas Jefferson wrote "I know no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but inform their discretion." I, too, have faith in the American people and their ability to make a proper decision with respect to a constitutional amendment to protect the flag.

The procedure to amend the Constitution, which was devised over 200 years ago, requires the participation of all 50 State legislatures. The Founding Fathers of our Nation wanted to protect these living instruments, our Constitution and bill of rights, and the more people who become involved, the more likely the result—amendment or no amendment—will be the proper solution. It will be the solution which not only protects our flag, but equally cherished right of freedom of expression of our individual views.

The constitutional amendment procedure demands the individual judgment of 7,461 men and women in the State legislatures rather than just the 535 Federal lawmakers. This far greater breadth in number is insurance that our solution will be correct. Further, a far greater period of time, time for careful reflection, perhaps several years, will be necessary to complete the constitutional amendment procedure. Is not this better than a brief debate in the Congress?

Through a constitutional amendment, the views of all Americans would be better reflected on this controversial issue. Citizens then will be able to participate in this decision at both the State and Federal levels.

Let us make certain that constitutional scholars alone do not have the final word on this important issue—rather let Main Street America guide both their Federal and State legislators to a proper and balanced solution.

I urge my fellow colleagues to join me in supporting this important legislation.

CATASTROPHIC HEALTH INSURANCE

Mr. DASCHLE. Mr. President, as the House and Senate prepare for conference on the catastrophic health insurance law, a conference that may result in the repeal or dramatic restructuring of this year-old expansion in the Medicare Program, lawmakers should consider the depth of elderly opposition to this law. After all, the push for repeal was a response to a perceived grassroots cry of opposition from senior citizens.

Opponents of this law have repeatedly stressed that the elderly have studied the costs and benefits of catastrophic and deemed the law ill-considered and unnecessary. But how do we know that the elderly really understand this complicated piece of legislation that has not yet been fully implemented? How well have Congress and the senior advocacy groups educated their constituents about this bill?

Not very well, according to a recent study by the inspector general of the Department of Health and Human Services. This study revealed that the vast majority of senior citizens know very little or nothing about this benefit. Almost half of the elderly questioned in this random survey said they had never heard of the law. Still, Congress appears determined to beat a hasty retreat from this program.

Though it is probably too late to reverse this situation, our experience with the catastrophic health insurance law teaches Congress an important lesson for the future: simply put, we must educate our constituents about new laws that will affect them and engage in an informed dialog with them about the ramifications of these new measures.

This lesson is especially important when we ask the beneficiaries of a law to pay for their new benefits, a policy that will undoubtedly become more common as our budget deficit grows and new social spending faces increased opposition. The lesson should not be, as some have suggested, that the elderly do not deserve to be helped. We cannot blame senior citizens for our inability to reach them.

Congress clearly failed the elderly when it enacted the catastrophic health insurance law; we failed to let them know exactly what new benefits they would receive and how much each of them would pay for these new benefits. Congress cannot afford to make this mistake again if we are to garner the support necessary to enact new programs designed to help our citizens.

I ask that the full text of the article from the Washington Post be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 17, 1989]

CATASTROPHIC-HEALTH LAW UNFAMILIAR TO ELDERLY

(By Spencer Rich)

A survey of Medicare recipients by Health and Human Services Inspector General Richard P. Kusserow has found that two-thirds of those questioned knew nothing or next to nothing about the benefits in the 1988 catastrophic health care law.

In contrast, the respondents were quite familiar with the main Medicare program that has been in effect since 1965.

Although the catastrophic-care law was passed with bipartisan support for new hospital, medical and prescription drug benefits, there have been protests since then against a surtax, or add-on to the income tax, that must be paid by the better-off 40 percent of the aged to help finance the benefits. The House has voted to repeal the law and the Senate has voted to eliminate the surtax and cut benefits. A conference committee will resolve the differences.

The surtax can reach $800 a person this year for the more affluent. Although only 5.6 percent of the elderly will pay the $800 maximum, a substantial number of the elderly seem to think it's a bad deal.

On Capitol Hill, supporters of the catastrophic-care provisions have complained that the 60 percent who pay no surtax and who will get valuable benefits have been so silent that the program has been undermined by "greedy geezers' unwilling to pay the surtax.

Kusserow's survey suggests that one reason for the silence is little knowledge of the benefits.

The HHS inspector general sent questionnaires to 640 randomly selected beneficiaries in June. The responses showed an overwhelming majority seemed to know a lot about the basic Medicare program of hospital and doctor benefits. But 65 percent "either are not aware of or didn't understand the Catastrophic Health Care Coverage Act," despite two major HHS mailings

to all beneficiaries. Almost half of this group said they had never heard of the law.

Asked questions about specific benefits in the 1988 law, only 29 percent said they were aware of the biggest one—a guarantee that once a person spent $1,370 a year out of pocket on Medicare-eligible doctor bills, Medicare would pick up all remaining costs for such bills that year.

Only 36 percent were aware of the second major benefit—a new prescripton drug benefit—and only 51 percent knew of the third, improved hospital coverage.

The crowning irony: despite all the protests over the surtax, less than half the respondents (47 percent) knew about it.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:14 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1495. An act to amend the Arms Control and Disarmament Act to authorize appropriations for the Arms Control and Disarmament Agency, and for other purposes; and

H.J. Res. 380. Joint resolution designating October 18, 1989, as "Patient Account Management Day."

MEASURES REFERRED

The following joint resolution, which was being held at the desk pending further disposition, was read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 412. Joint resolution to reauthorize the National Flood Insurance Program, the Federal Crime Insurance Program, and the Defense Production Act of 1950, to extend certain housing programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

The following bill and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1495. An act to amend the Arms Control and Disarmament Act to authorize appropriations for the Arms Control and Disarmament Agency, and for other purposes; to the Committee on Foreign Relations.

H.J. Res. 380. Joint resolution designating October 18, 1989, as "Patient Account Management Day"; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bill, previously received from the House of Representatives for concurrence was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2748. An act to authorize appropriations for fiscal year 1990 for intelligence and the intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate together with accompanying papers, reports, and documents which were referred as indicated:

EC-1792. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend section 333(b) of the Consolidated Farm and Rural Development Act to permit county committee certification of eligibility for farm operating loans for periods of up to two years; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1793. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Consolidated Farm and Rural Development Act provisions governing eligibility of certain entity type applicants for disaster emergency loans; to the Committee on Agriculture, nutrition, and Forestry.

EC-1794. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the fourth annual report on agricultural trade consultations dated September 1989; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1795. A communication from the Acting Secretary of the Navy transmitting, pursuant to law, notice of the approval of a waiver of the requirement for contractor certification of procurement integrity in a contract with the Director des Constructions et Armes Navales, a repair facility of the Republic of France; to the Committee on Armed Services.

EC-1796. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the "Report on Loan Discrimination" required by the Financial Institutions Reform, Recovery and Enforcement Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-1797. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law a report on progress in enhancing its level of support to those law enforcement agencies responsible for aviation drug interdiction; to the Committee on Commerce, Science, and Transportation.

EC-1798. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report concerning improved Loran-C synchronization, Loran-C/GPS interoperability, and the minimum standards for a sole radionavigation system required in aircraft; to the Committee on Commerce, Science, and Transportation.

EC-1799. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, a report on progress in correcting certain deficiencies in the Airmen and Aircraft Registry System for the period November 18, 1988 through May 18, 1989; to the Committee on Commerce, Science, and Transportation.

EC-1800. A communication from the Acting Secretary of Commerce, transmitting, pursuant to law, the annual report on the administration of the provision of Title IV of the Outer Continental Shelf Lands Act Amendments; to the Committee on Commerce, Science, and Transportation.

EC-1801. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to extend the Federal Aviation Administration's Civil Penalty Assessment Demonstration Program; to the Committee on Commerce, Science, and Transportation.

EC-1802. A communication from the Deputy Association Director for Collection and Disbursements, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1803. A communication from the Acting Administrator of General Services transmitting, pursuant to law, informational copies of a lease prospectuses for the Bureau of Mines and the National Labor Relations Board in Washington, DC; to the Committee on Environment and Public Works.

EC-1804. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report on the water quality of the Nation's lakes; to the Committee on Environment and Public Works.

EC-1805. A communication from the Secretary of Labor transmitting, pursuant to law, the fifth report on the impact of the implementation of the Caribbean Basin Initiative on United States labor; to the Committee on Finance.

EC-1806. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting pursuant to law a report on international agreements other than treaties, entered into by the United States in the 60 day period prior to October 12, 1989; to the Committee on Foreign Relations.

EC-1807. A communication from the Director of the Office of United States Courts, transmitting a draft of proposed legislation to authorize additional judicial positions for the Court of Appeals and District Courts of the United States; to the Committee on the Judiciary.

EC-1808. A communication from the Secretary of Education, transmitting a draft of proposed legislation to terminate the Intergovernmental Advisory Council on Education, and for other purposes to the Committee on Labor and Human Resources.

EC-1809. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the Final OMB Sequester Report for Fiscal Year 1990; pursuant to the order of January 30, 1990, as modified, referred jointly to the Committee on Appropriations; the Commit-

tee on the Budget; the Committee on Agriculture, Nutrition, and Forestry; the Committee on Armed Services; the Committee on Banking, Housing, and Urban Affairs; the Committee on Commerce, Science, and Transportation; the Committee on Energy and Natural Resources; the Committee on Environment and Public Works; the Committee on Finance; the Committee on Foreign Relations; the Committee on Governmental Affairs; the Committee on the Judiciary; the Committee on Labor and Human Resources; the Committee on Rules and Administration; the Committee on Small Business; the Committee on Veterans' Affairs; the Select Committee on Indian Affairs; and the Select Committee on Intelligence.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. 135. A bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes (Rept. No. 101-165).

By Mr. PELL, from the Committee on Foreign Relations, with an amendment in the nature of a substitute and an amendment to the title:

S. 195. A bill entitled the "Chemical and Biological Weapons Control Act of 1989" (Rept. No. 101-166).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

Terrence O'Donnell, of the District of Columbia, to be General Counsel of the Department of Defense;

Edson G. Case, of Maryland, to be a Member of the Defense Nuclear Facilities Safety Board for a term of one year;

John W. Crawford, of Maryland, to be a Member of the Defense Nuclear Facilities Safety Board for a term of two years;

Herbert Kouts, of New York, to be a Member of the Defense Nuclear Facilities Safety Board for a term of three years;

A. J. Eggenberger, of Montana, to be a Member of the Defense Nuclear Facilities Safety Board for a term of four years;

John T. Conway, of New York, to be a Member of the Defense Nuclear Facilities Safety Board for a term of five years;

James R. Locher, III, of Virignia, to be an Assistant Secretary of Defense.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. NUNN. Mr. President, for the Committee on Armed Services, I also report favorably a list of Army general officer nominations (reported minus two names: James W. Ball and Samuel A. Leffler) which appeared in full in the CONGRESSIONAL RECORD of July 11, 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KOHL:

S. 1762. A bill for the relief of the Menominee Indian Tribe of Wisconsin; to the Committee on the Judiciary.

By Mr. HEINZ (for himself and Mr. WIRTH):

S. 1763. A bill to amend the Solid Waste Disposal Act to require producers and importers of newsprint to recycle a certain percentage of newsprint each year, to require the Administrator of the Environmental Protection Agency to establish a recycling credit system for carrying out such recycling requirement, to establish a management tracing system for such newsprint, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BOSCHWITZ:

S. 1764. A bill to require certain consumers of newsprint to use, in their commercial operations, a certain percentage of recycled newsprint; to the Committee on Environment and Public Works.

By Mr. PRESSLER (for himself and Mr. DASCHLE):

S. 1765. A bill to authorize the planning and construction of the Mid-Dakota Rural Water System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DANFORTH (for himself and Mr. MOYNIHAN):

S. 1766. A bill to amend titles XVIII and XIX of the Social Security Act to require providers of services under such titles to enter into agreements assuring that individuals receiving services from such providers will be provided an opportunity to participate in and direct health care decisions affecting such individual; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KOHL:

S. Res. 195. Resolution to refer S. 1762 entitled "A bill for the relief of the Menominee Indian Tribe of Wisconsin" to the chief judge of the United States Claims Court for a report thereon; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KOHL:

S. 1762. A bill for the relief of the Menominee Indian Tribe of Wisconsin; to the Committee on the Judiciary.

FOR THE RELIEF OF THE MENOMINEE INDIAN TRIBE OF WISCONSIN

● Mr. KOHL. Mr. President, today I am introducing legislation that would provide to the Menominee Indian Tribe of Wisconsin an opportunity which it has long awaited.

Specifically, this bill gives the tribe an opportunity to be heard in the U.S. Claims Court on the merits of a series of claims against the United States resulting from enactment of the Menominee Termination Act of June 13, 1954, and the Government's alleged mismanagement of Menominee assets held in trust by the United States prior to April 30, 1965, when the termination of Government supervision of the Menominee Tribe and reservation became effective.

The bill I am introducing merely sets out the claims of the tribe. It is accompanied by a Senate resolution which—on enactment—will refer this bill to the Chief Judge of the U.S. Claims Court for judicial determination of facts for congressional use in deciding whether these claims merit legislative relief.

My distinguished predecessor, Mr. Proxmire, introduced similar legislation in the 100th Congress, but that Congress adjourned sine die before action could be completed on the resolution.

As a member of the Judiciary Committee and of the Administrative Practices Subcommittee to which this legislation will be referred, I'm looking forward to the opportunity of bringing its merits to the consideration of my colleagues.

While adoption of this resolution will send a series of seven claims to the Claims Court for evaluation, I want to emphasize that the court has no jurisdiction to award money damages for these claims, and that Congress is not obligated to follow the recommendations of the court, though it often has done so.

Mr. President, the congressional reference procedure is recognized by sections 1492 and 2509 of title 28 of the United States Code. It is designed so that the court may examine claims against the United States based on negligence or fault, or based on less than fair and honorable dealings, regardless of technical defenses that the United States may otherwise assert, especially the statute of limitations.

The Menominee Tribe has seven related claims which appear to fit exactly into this mold. These are:

First, that the Menominee forest, held in trust from 1951 to 1961, was seriously undercut, and that the BIA, which knew that additional cutting was required, breached its trust by failing to advise Congress of the need to raise the statutory ceiling from 20 million board feet annually;

Second, that the BIA, in carrying out its trust duties in the management of the tribe's mill, negligently failed to replace wornout equipment and make necessary changes in plant design and procedures;

Third, that the Federal Government breached its duty to the tribe by nego-

tiating a right-of-way agreement with the Wisconsin Power & Light Co., that was unfair and discriminatory;

Fourth, that the Government failed to maintain and operate properly water and sewage facilities on the reservation, to the damage of the tribe;

Fifth, that the Government mismanaged tribal funds;

Sixth, that the Termination Act breached the trust by subjecting the tribal forest to State management restrictions to the detriment of the tribe's interests; and

Seventh, that the Termination Act unfairly deprived the tribe of its exemption from State taxation guaranteed by its treaty with the Federal Government.

In summary, the tribe charges that it and its members suffered grievous economic loss from BIA mismanagement of its resources and through legislative termination of its rights.

The tribe initially filed suit on these claims, and though it obtained favorable trial court judgments on them, an appellate court, in 1984, dismissed the suit on technical grounds without disturbing the factual findings which essentially upheld the tribe's position.

While the now-defunct Indian Claims Commission specifically had jurisdiction to hear claims based on less than fair and honorable dealing, these claims accrued after the time for filing of such claims before the Commission expired. The grant of jurisdiction to the Court of Claims, and now to the Claims Court, does not include jurisdiction to hear claims based on less than fair and honorable dealing.

In holding certain of the claims were time barred, the Court of Appeals made an unusually strict interpretation of the statute. It held that the statute of limitations continued to tick throughout the 1950's even as to claims the tribe was unaware of. *Menominee Tribe of Indians* v. *United States*, 726 F. 2d 718, 721 (1984).

However, during the period after the Termination Act of 1954, when the claims could have been timely filed, the Menominee faced circumstances that were adverse in the extreme. While on the one hand desperately seeking to avert or delay termination, they tried on the other hand to carry out the statutory plan as best they could.

Congress has long since acknowledged that the Menominee Termination Act was a tragic error which brought the Menominee Tribe to the brink of economic, social, and cultural disaster. In 1973, the tribe was restored to Federal recognition and tribal status by action of the Congress. But the damages the tribe suffered under termination are yet to be redressed.

Adoption of this resolution will permit the Claims Court to adjudicate these claims on their merits and make appropriate recommendations to Congress in the interests of justice.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1762

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Secretary of the Treasury is authorized and directed to pay to the Menominee Indian Tribe of Wisconsin, out of any money in the Treasury of the United States not otherwise appropriated, a sum equal to the damages sustained by the Menominee Indian Tribe of Wisconsin by reason of—

(1) the enactment and implementation of the Act of June 17, 1954 (68 Stat. 250), as amended, and

(2) the mismanagement by the United States of Menominee assets held in trust by the United States prior to April 30, 1961, the effective date of termination of Federal supervision of the Menominee Indian Tribe of Wisconsin.

SEC. 2. Payment of the sum referred to in section 1 shall be in full satisfaction of any claims that the Menominee Indian Tribe of Wisconsin may have against the United States with respect to the damages referred to in such section.●

By Mr. HEINZ (for himself and Mr. WIRTH):

S. 1763. A bill to amend the Solid Waste Disposal Act to require producers and importers of newsprint to recycle a certain percentage of newsprint each year, to require the Administrator of the Environmental Protection Agency to establish a recycling credit system for carrying out such recycling requirement, to establish a management tracking system for such newsprint, and for other purposes; to the Committee on Environment and Public Works.

NEWSPRINT RECYCLING INCENTIVES ACT

● Mr. HEINZ. Mr. President, I send the Newsprint Recycling Incentives Act of 1989 to the desk and ask that it be appropriately referred and I further ask unanimous consent that the text of the bill appear in the RECORD at an appropriate place. I will have more to say on this bill at another time, but it is essential that the legislation itself be referred and consideration begin as soon as possible. ●

By Mr. BOSCHWITZ:

S. 1764. A bill to require certain consumers of newsprint to use, in their commercial operations, a certain percentage of recycled newsprint; to the Committee on Environment and Public Works.

NEWSPRINT RECYCLING ACT

● Mr. BOSCHWITZ. Mr. President, I rise today to introduce the Newsprint Recycling Act of 1989.

As we enter the 1990's, our Nation is confronted with a garbage problem of mammoth proportions. Not only does the United States generate approximately 50 percent of the world's solid wastes, but it also insists upon landfilling most of that waste, rather than recycling it. Unfortunately, we cannot continue to do this. In recent years it has become increasingly clear that everyday garbage can contain materials capable of contaminating ground water supplies and the air around us. In addition, the Environmental Protection Agency projects that 75 percent of all existing landfills will be closed within 15 years, leaving over 56 million tons per year of solid waste that our solid waste management systems will be unable to handle.

Despite this bleak outlook for landfilling, the United States lags far behind Europe and Japan in recycling. It is estimated that the United States landfills over 80 percent of its solid wastes while recycling only 10 percent. In contrast, Japan landfills only 16 percent of its solid waste, and recycles 50 percent.

In recent years, there has been a lot of talk about recycling. Many cities and towns across America have established municipal collection programs, requiring residents to sort out newspapers and beverage containers from their garbage. But recycling is not merely the collecting of sorted garbage. Recycling occurs when the sorted material is used to make a new product. Unfortunately, this half of the recycling equation has not really been addressed so far. The demand for recycled goods is far below the supply of sorted material.

This demand-side problem is especially great with newspapers, the item most targeted by municipal collection programs. The recycling program here in Washington exemplifies what is going on around the Nation. While Washington residents are required to separate newspapers from the rest of their garbage, the city is having problems getting rid of the papers. Due to a lack of demand by paper mills, it is estimated that half of the newspapers may end up in landfills anyway. The used newsprint glut is so bad that prices have fallen from approximately $40 per ton a year ago to as low as negative $10 per ton, forcing the city to pay paper mills to cart away sorted newsprint.

Recently, many people have called on the Federal Government to nurture the demand for recycled goods. As a recent study by Shearson Lehman Hutton states, "the government must play a major role in nurturing the flow of materials out of recycling programs and towards end markets that can use them." Some States have already moved in this direction and passed newsprint recycling laws. Just a few weeks ago, California passed a law that will require that 50 percent of the

newsprint used by publishers be recycled by 2000.

The response by the paper industry has been immediate. Since California's law was passed, several American paper mills have announced that they will install equipment in their mills to process recycled newsprint. In addition, several Canadian paper companies have announced that they will be conducting active recycling studies.

Of the 14 million tons of newsprint that is annually consumed in the United States, only 1.4 million tons is recycled back into newsprint, despite the many municipal collection programs. The Newsprint Recycling Act would greatly increase that amount to at least 3 million tons by the year 2000 by requiring that at least 40 percent of the newsprint used by publishers be recycled. This would save approximately 5.3 million cubic yards of landfill in the United States.

This bill would also harness the powers of the market in encouraging newsprint recycling. Through a credit-trading system, those newspapers that exceed the recycling guidelines would be allowed to sell credits to those papers that do not meet the guidelines. This will allow newspaper publishers greater flexibility than any of the State laws presently being considered.

A large increase in the supply of recyclable materials has not led to increased recycling. We must help to encourage the demand for recycled goods, and I believe that this bill is an important step in that direction.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1764

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Newsprint Recycling Act of 1989".

SEC. 2. DEFINITIONS.

For purposes of this Act, the term—

(1) "consumer of newsprint" means a person who uses 1,000 metric tons or more annually of newsprint in a commercial printing or commercial publishing operation;

(2) "recycled newsprint" means newsprint meeting the minimum content standard of guidelines issued pursuant to section 6002(e) of the Solid Waste Disposal Act;

(3) "Administrator" means the Administrator of the Environmental Protection Agency.

SEC. 3. RECYCLING PROGRAM.

(a) The Administrator shall, by regulation, establish a program for the purpose of requiring each consumer of newsprint to use a certain percentage of recycled paper in its printing or publishing operations in accordance with the following:

(1) For each of the calendar years 1992 and 1993, the aggregate amount of newsprint used for any such calendar year by each consumer of newsprint shall consist of not less than 15 percent recycled newsprint.

(2) For each of the calendar years 1994, 1995, and 1996, the aggregate amount of newsprint used for any such calendar year by each consumer of newsprint shall consist of not less than 20 percent recycled newsprint.

(3) For each of the calendar years 1997, 1998, and 1999, the aggregate amount of newsprint used for any such calendar year by each consumer of newsprint shall consist of not less than 30 percent recycled newsprint.

(4) For the calendar year 2000, and each calendar year thereafter, the aggregate amount of newsprint used for any such calendar year by each consumer of newsprint shall consist of—not less than 40 percent recycled newsprint.

(b) Prior to the expiration of calendar year 1998, the Administrator shall report to the Congress his or her view as to whether the recycling program established by this Act should be modified or expanded.

SEC. 4. CREDITS; REGULATIONS.

(a) Within the 12-month period following the date of the enactment of this Act, the Administrator shall, by regulation, establish a program pursuant to which consumers of newsprint may establish credits for newsprint recycled in excess of the amounts required by this Act. Under such program, consumers of newsprint shall be permitted to purchase or sell such credits for the purpose of meeting the requirements of this Act.

(b) Regulations issued pursuant to this section shall include, among others, provisions requiring consumers of newsprint to—

(1) maintain and make available to the Administrator such records and other data as the Administrator determines necessary to carry out the provisions of this Act; and

(2) report to the Administrator during each calendar year—

(A) the amount of newsprint and recycled newsprint used by such consumer during the 12-month period immediately preceding such report; and

(B) the number of credits purchased and sold by such consumer of newsprint during such 12-month period.

(c) For calendar years 2004, 2005, and 2006, no credits may be used by a consumer of newsprint to meet the requirements of this Act, unless the newsprint used by such consumer, in the case of any such calendar year, consisted of at least 20 percent recycled newsprint. For calendar years 2007, 2008, and 2009, no such credits may be used, unless the newsprint so used in any such calendar year consisted of at least 30 percent recycled newsprint. No such credits may be used for meeting the requirements of this Act after the expiration of calendar year 2009.

SEC. 5. MULTIPLE OWNERSHIP.

The Administrator shall, by regulation, require any consumer of newsprint owning more than one commercial printing or publishing operation to consider such operations as a single operation for purposes of complying with the provisions of this Act.

SEC. 6. CIVIL PENALTIES.

(a)(1) Whoever violates this Act, or any regulation promulgated pursuant thereto, shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each such violation. Such penalty shall be assessed by the Administrator by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Administrator shall give written notice to the person to be assessed a civil penalty and provide such person an opportunity to request, within 15 days of the date the notice is received by such person, a hearing on the order.

(2) In determining the amount of a civil penalty, the Administrator shall consider the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of such prior violations, the degree of culpability, and such other matters as justice may require.

(3) The Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under this subsection. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

(4) Any person who requested in accordance with this subsection a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

(5) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with this section, or

(B) after a court in an action brought under this section has entered a final judgment in favor of the Administrator,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in paragraph (4) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

SEC. 7. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

By Mr. DANFORTH (for himself and Mr. MOYNIHAN):

S. 1766. A bill to amend titles XVIII and XIX of the Social Security Act to require providers of services under such titles to enter into agreements assuring that individuals receiving services from such providers will be provided an opportunity to participate in and direct health care decisions affecting such individuals; to the Committee on Finance.

PATIENT SELF-DETERMINATION ACT

● Mr. DANFORTH. Mr. President, the legislation which I introduce today on behalf of Senator MOYNIHAN, and myself will protect a person's right to self-determination in health care decisions. This is an important bill. This

bill accomplishes a critical goal. It ensures that people are informed of their rights, under State law, to control decisions about their own health care—even when they are no longer able to voice their wishes—through the use of advance directives for medical care.

Common law dictates that compentent patients always have a right to refuse any and all treatment for themselves, even if doing so would certainly hasten death. If I am told I have cancer, I have a right to say I do not want chemotherapy, even if there's a chance that treatment could save my life. Religious teaching in the Catholic, Protestant, and Jewish traditions say that medical treatment is not morally required in every situation. General ethical principles buttress the idea of individual autonomy, thus the freedom of a person to make decisions for himself or herself. Good medical practice seeks the consent of patients before any medical intervention. Doctors face criminal sanctions when they treat an unwilling competent adult.

People clearly have an indisputable right to refuse treatment. And a patient should not lose that right if he or she becomes comatose or unconscious and terminally ill or otherwise unable to make decisions. But that, Mr. President, is in effect what happens today. Our bill seeks to protect that right.

Fifty years ago a bill like this would not have been so necessary. In 1939, only 37 percent of the population died in institutions. Most people died at home surrounded by family and friends. Today, 75 percent of people are dying in hospitals and medical centers; possibly higher than 80 percent if we include nursing homes. More and more people can be kept alive, even when they have lost consciousness and any ability to function.

These advances in medical technology have forced us to ask whether and when we should limit the measures we take to extend life. Technology has also tended to wrest decisionmaking from patients. More and more it is arguable that we play God by subjecting people to unwanted and sometimes unnecessary treatment, treatment that unnaturally prolongs the dying process. Our health care system has become obsessed with extending life, at times neglecting the caring component of medicine and trampling on the rights of patients. What's needed is an effort to reevaluate health care practice and policy from an ethical, human, and caring perspective.

Our bill only begins the process of bringing those concerns to the forefront. What it accomplishes, though, is really very simple. It encourages people to at least start thinking about planning ahead. It does so by requiring Medicare and Medicaid providers to inform patients of a vehicle for doing that: advance medical directives.

Advance medical directives—which include living wills and durable powers of attorney—give people the opportunity to express their desires about the kind of life-sustaining measures they would or would not want if ever they should become unable to make those decisions. Such directives are recognized as legally valid in 40 States and the District of Columbia. Our legislation would require those States without a legal recognition of advance directives to enact such a law, and we would withhold Medicaid reimbursement from those States that fail to do so.

Advance directives encourage people to discuss and document their views of life-sustaining treatment in advance. They uphold the right of people to make their own decisions. And they enhance communication between patients, their families, and doctors, easing the burden on families and providers when it comes time to decide whether or not to pursue all possible treatment options.

Unfortunately, without any clear directive from a patient, the fear of liability and malpractice suits sometimes causes doctors to refuse the termination of treatment, even when the family says the medical intervention is the last thing in the world that their loved one would have wanted.

Without an advance directive doctors and families often just don't know a patient's wishes and fear the awesome responsibility of guessing what the patient would have thought was best.

We get worried when we start making decisions for others and we should. All of us should avoid making judgments about someone else's life based on our own presumptions and experiences. To do so violates the dignity and autonomy of that person. But it also violates dignity and autonomy to continue treating a person when it is clear that he or she would view such treatment as a fate worse than death.

Mr. President, we have all heard the real life stories. In fact, we probably all know someone who has had to suffer with the knowledge that their loves one has died in a way they would have never chosen to endure.

There was Dan Delio, the 33-year-old marathon runner. He had cardiac arrest during routine surgery which left him in a permanent vegetative state. He had once told his wife, Julie, that "not even for one day" would he ever want to be kept alive in such a state. She had to endure a year-long battle in the New York courts, 365 more days and much more money spent keeping him alive than he would have consented to, until finally the court ruled that treatment could be stopped. She later said, "You cannot imagine the psychological trauma involved in pleading for the death of the person you love most in the entire world."

Clair Conroy was an 84-year-old nursing home resident who had a number of ailments. She could barely swallow. She was fed by a stomach tube, lay in a fetal position, unable to speak or move. She was not brain dead, she was not in a coma. She was terminally ill, expected to die in a year even with feeding tubes. Her nephew wanted treatment stopped. Ultimately, the supreme court in New Jersey ruled that it was OK to remove treatment, saying ultimately that it would have been her wish. These cases should never have to go to court.

Nonetheless, many cases end up in court. There is the Missouri case, the Nancy Cruzan case, pending before the Supreme Court right now. And there are countless other cases that are not settled by lawyers and judges in the court, but still would have been made easier with an advance directive. I have heard from friends who tell me they wish that their mother or father had had a living will. Others have told me about situations where a living will existed, or a proxy had been appointed, and the death of a loved one was peaceful and dignified. Jane Brody last month in the New York Times wrote about the difference between her mother's death, where her last days were spent attached to tubes, and her mother-in-law's death last June which, due to a living will, was natural and peaceful. Just last week in Missouri, I heard from many high school students about their grandparents, parents, and siblings who were able to die with dignity because their wishes were respected.

Advance directives will not solve all problems related to end-of-life decisions, they do not answer the hard ethical questions that inevitably arise about when society's interest in preserving life, if ever, should outweigh a patient's right to self-determination, they do not take the pain away from someone we love, but they do ensure that a person's voice continues to be heard and they do ease the burden, pain, and guilt that families often feel when making decisions for their dying loved one.

There are many issues that reach beyond the scope of this bill. But our bill suggests that at the very least, a mentally incompetent comatose or terminally ill patient has the same rights as a competent patient to direct health care decisions. Those rights should be explained and respected.

The ethical principle of patient autonony is a critical one in health care. It is a concern that is rarely addressed by Congress. The Patient Self-Determination Act begins to change that.

Mr. President, I ask unanimous consent that the following statements from authorities on the ethical teach-

ings of the three main line religions' traditions, medical ethics, and patient care be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS ON THE PATIENT SELF-DETERMINATION ACT

(By John C. Fletcher, Ph.D.)*

In 1946, about 50 percent of Americans died at home; today 80 percent die in hospitals or nursing homes. Powerful technologies, e.g., ventilators, dialyzers, feeding tubes, etc. can extend and prolong life, at times beyond rational limits. But without a person's stated desires, preferably in writing, about limiting life-sustaining treatment, real ethical concerns can arise. Ethical tragedies, like the Nancy Cruzan case, can and do happen. The greatest prevention of such tragedies is clearly stated personal choice about limiting treatment, the aim of the Patient Self-Determination Act.

If 100 or 100,000 people were asked if they would rather be dead than simply exist in permanent unconsciousness supported only by a machine or feeding tubes, virtually all will answer "Of course, being dead is preferable."

But a huge gap lies between the ideal—where each adult thinks through their desires about treatment at the end of life, freely chooses to state these desires in a "living will" and backs up the process with a durable power of attorney that appoints someone to make such decisions if he/she is incapacitated—and the actual. Only a small fraction of Americans have such documents, despite their views. Why? My experience in ethical problems in the clinical setting suggests that it is largely because good educational opportunities—with people who can explain and assist a personal choice—are rare. The results are sad—when families of terminally ill patients too ill to speak for themselves say when asked, "Did he (or she) ever express their wishes for a situation like this?" have to answer, "We didn't talk about it; we wish we had." At the University of Virginia, we are taking steps to prevent such outcomes by training physicians and nurses to take a "value history" of adult patients, along with the medical and family history, the better to understand the patient's beliefs and preferences, including choices about a living will and durable power of attorney.

Our society places great emphasis on the ethical principle of respect for persons and their self-determination, especially with regard to their choices about health care and end-of-life decisions. Is our society doing everything it can, within reason, to educate people to know and use their options? This Act will create literally millions of such educational opportunities. It places the responsibility to educate upon the hospital and professional community, exactly where it should be placed. This Act is the most important—and most widely supported—step our nation could take to close the gap between the ideal and the actual.

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DECISIONS TO FOREGO LIFE-SUSTAINING TREATMENT

(By John C. Fletcher, Ph.D.)

PROBLEMS AND DILEMMAS

Decisions to forego (i.e., not to start or to stop) life-sustaining technologies raise the most frequent ethical problems in the clinical and long-term care settings in the U.S.[1] The "foregoing" question is especially hard in cases when death is the only alternative to starting or stopping costly treatment. "Costly" includes pain and suffering, as well as resources.

Problems and dilemmas in this area are complex and stressful. A variety of cases and disputes commonly arise, for example:

(1) a capable (competent) patient refuses life-sustaining treatment, but health care professionals or family members disagree with the choice and feel that they must act on their objeciton;

(2) disputes arise among health care professionals—or between them and family—about the most ethically sound basis for making decisions to forego life-sustaining treatment;

(3) disputes arise as to whether specific treatments, e.g., feeding, hydration, antibiotics, etc., ought always to be started or continued, regardless of the prognosis of the patient;

(4) when physicians decide that particular treatments are futile and should not be tried or started, must the patient and family always be informed? Disputes arise about the duty to inform in some circumstances where it is felt that the information will itself further "burden" the patient or family;

(5) in cases of incapacitated (incompetent) patients, when disputes arise between surrogate decision makers (family or guardians) and physicians about starting or stopping lifesustaining technologies, must there be a "failsafe" policy to treat under all circumstances while the dispute is being resolved? The President's Commission recommended such a policy about disputes involving cardio-pulmonary resuscitation (CPR). But is policy the right one? Are there any exceptions?

PREMISES IN ETHICS

Premises are crucial in ethics. If one begins from a premise in such cases that favors sustaining life—as does a report of a distinguished President's Commission [2] that considered these issues—the major cause of ethical problems in this area quickly becomes clear. Sustaining life does not always benefit the patient—in fact, in some cases the harms [to the patient] of rescue exceed accepting death. Unless one has a premise that death is the ultimate evil—to be fought at all costs—then a simple, unguarded premise that favors sustaining life will not sustain rational decision making in the clinical setting. On a closer look at these cases, the main cause of ethical problems occurs when a duty to benefit the patient (presumably by sustaining life) collides with a duty not to harm or unduly burden patients for unjustified reasons. The premise favoring sustained life, as the Commission's report went on to argue, is not absolute but conditional. Why? Because, aided by powerful technologies, the drive to sustain life can—and often does—go too far. It frequently collides with a very strong and older ethical duty, to relieve suffering and accept death as a part of life.

Footnotes at end of article.

HISTORY OF THE PROBLEM

Ethical issues have histories. Lewis Thomas, the well-known medical author, traces the history of this issue. He points first to the past and the art of medicine. Thomas tells a story of being invited to a county medical association in the 1950's for the inauguration of the president-elect. At dinner, the physician-honoree received a phone call, left, and returned just as the evening was ending. Having missed his own inauguration, he explained to Thomas that a patient of his, near death for days, had just died. He left the meeting, in his words, because "the family was in distress and needed him." Thomas ends the story, "This was in the early 1950's when medicine was turning into a science, but the old art was still in place."

Thomas' story is retold in "Choosing Life or Death," a book by a psychiatrist and an educator for "patients, families and professionals." [3] The book traces the enormous change in the role of the physician in the 20th century, from the "old art," i.e., doctors practicing the art of medicine treated the patient in the context of the family, to the "new science," i.e., doctors practicing medicine concerned themselves with scientific understanding of disease processes, and only secondarily with the person who had the disease.

Thomas also describes the present and future of technologies found in large teaching or community hospitals: e.g., kidney dialysis, respirators, organ transplantation, chemotherapies, and coronary by-pass operations. Such technologies are paradoxical, since they involve a contradiction. They are "life-sustaining," on the one hand. Applied by well-trained physicians and nurses, technology can rescue again and again from the brink of death and add valuable months or years to an otherwise doomed life. But, on the other hand, Thomas explains them as "halfway technologies," [4] which do not prevent or reverse diseases or finally defeat death.

Death comes to everyone. Understanding where most people die explains the prevalence of ethical problems in choices to forego life-sustaining treatment. In 1946, half of the persons who died in the U.S. died at home or at the scene of accidents. Only 49 percent died in hospitals or nursing homes. Today about 80 percent of Americans who die each year die in institutions where life-sustaining technologies can be readily used or used after transfer to a hospital.[5]

BRIDGING BETWEEN BIOMEDICAL ETHICS AND CLINICAL ETHICS

Medical ethics, an ancient discipline, was always a subset of general social ethics. A new field, biomedical ethics, emerged in the last twenty-five years to study ethical problems in medicine and other life sciences under general social ethics. Biomedical ethics tends to be the preferred term today because it includes concerns about biomedical research and the societal problems of medical technologies. Also, a sub-field of "clinical ethics" has emerged to replace the older term "medical ethics." Clinical ethics involves the identification, analysis, and resolution of ethical problems in the care of patients. The term "clinical ethics" is also more inclusive than "medical" ethics, which suggests that those trained in medicine have a special place in the ethical arena. Physicians are therapeutic authorities and leaders in the clinical setting. However, in ethical problems in patient care, the President's

Commission advised emphasis on the capable patient's decisions in a context of shared decision making. "Shared" means involvement of all in the clinical setting with ethically relevant knowledge of the patient.

CHARACTERISTICS OF MAXIMS

"Maxims" in ethics bridge between broader concerns of biomedical ethics and judgments in the care of particular patients. The word "maxim" comes from the Latin, maxima senteniae, which literally means "long sentences." Maxims are longer than "moral rules," e.g., "do not lie" "do not cause unnecessary pain," etc., because they apply to a particular family of cases, rather than to social life in general.

A maxim is a short summary of ethical guidance about the best approaches to types of ethically problematic cases. As such, maxims are like a "standard of care" for an optimal approach to an ethical problem. Maxims have five characteristics:

1. Maxims are "bridges" from general principles to cases. Maxims are grounded in basic ethical principles and other resources in ethical theory. These five ethical principles are imbedded in institutions and practices, including those in the medical arena. The name of the principle follows its central imperative.

(a) Do not harm others (nonmaleficence).

(b) Act to benefit others (beneficence).

(c) Balance and produce a net balance of benefits over burdens, harms and costs (utility or proportionality).

(d) Distribute benefits and burdens, harms, and costs fairly (justice).

(e) Respect persons, especially their autonomous choices, and protect those who have lost or never had any autonomy (respect for persons).

Principles have clearer relationship to "maxims" than they do to particular cases. Some writings in medical ethics try to "overlay" complex cases with single principles, leading to what Toulmin has called a "tyranny of principles." [6] Maxims, grounded in principles and enriched by clinical experience, span the two levels, but do not dictate actions in a wooden way.

2. Maxims predispose decision makers to action upon entering a case but before discovery of facts. Until the facts of the case are really known and analyzed in terms of the paradigm given earlier, judgment should be restrained.

3. Maxims have the backing of contemporary, authoritative groups assembled to study ethical problems in medicine. In the United States, such groups include the President's Commission for the Study of Ethical Problems in Medicine, ethics committees of medical specialty societies, working parties of the Hastings Center,[7] opinions of the Judicial Council of the American Medical Association, codes of national and international medical and nursing, organizations, and other significant group efforts, including religious groups.

4. Maxims are not "written in stone" but evolve and change, subject to good studies of whether following them results in more benefits or more harms. When the harms outweigh the benefits, change is required, even when it comes to ethical traditions and practices.

5. Maxims in ethics are similar to but different from the law. It is a serious mistake to assume that ethics and law are identical. Chapman [8] explains the difference: For present purposes we may view ethics, in a free society at least, as concerned with rules that are beyond the province of law, in that they summon the individual to actions that are nobler, and usually more altruistic, than those required by law. Legal requirements, in contrast are in a sense minimal; in some instances (for example, the common law of negligence), the standard of performance required by law is by design mediocre. Ethical standards, to the contrary, require the best performance the individual can, by virtue of training and natural endowment, deliver.

However, law often reflects higher aims of ethical standards. Laws on health care and physicians tend to be more than minimalistic, largely because physicians have been articulate about high standard of performance.

TWO EARLIER MAXIMS ON LIFE-SUSTAINING TREATMENT

How ought choices be made to forego treatment? What guidance is reliable? Two older ethical distinctions—widely used—now prove to be less than helpful or even misleading. Foremost was the distinction between ordinary and extraordinary treatment. "Extraordinary" is also called "heroic," or "artificial." A major ethical distinction used (and taught as a maxim) in clinical ethics in the past was that if a treatment were "ordinary," it was obligatory; if it was "extraordinary," it was optional. Ordinary treatments were depicted as "usual," (e.g., every hospital had them), "not unusually complex," "not excessively invasive," "not burdensomely expensive," and "available to virtually all." Extraordinary treatments were described in opposite terms: unusual, complex, invasive, expensive, unavailable to many, etc. But in a modern critical care setting, what is "ordinary" and what is "extraordinary"? Technology cut the legs out from under this distinction's usefulness in the clinical setting.

The second familiar distinction was between an "act" (leading to death) and an "omission" (leading to death). To act appeared, at face value, to be more morally culpable than to omit to act. As applied to decisions to forego treatment, this distinction appeared to support the idea that it is morally harder to withdraw than to withhold life-sustaining treatments. Many doctors and nurses still believe that it is morally harder to stop (withdraw) treatments already begun than it is not to start (withhold) them at all. For example:

By not starting a "routine IV" I am not committed to that modality of therapy. It is easier not to start daily intravenous parenteral fluids than to stop them, once begun—just as it is easier not to turn on the respiratory . . . machine than to turn the switch off, once started.[9]

Reflection on this physician's reasoning reveals a fallacy. If anything, it ought to be morally harder to withhold a treatement—especially if not yet tried—than to withdraw any treatment that has failed to benefit the patient or is "futile." Loyalty to patients grows in extended treatment, but there is more emotion in the physician's reasoning than reason. Emotions need tutoring by reason.

The barethreadedness of these older tools in ethics was not always the case. There was fulsome meaning of the original ordinary/extraordinary distinction that is still cogent today. Catholic moral theologians,[10] like Banez, used it as long ago as 1595 in almost the same sense as in the major maxim below. While holding it to be reasonable that a person must try to maintain his or her life, Banez taught that it was not obligatory to use "extraordinary" means, but only to preserve life by nourishment, medicine, clothing, pain and anguish "common to all." He continued that any extraordinary or horrible pain or deeds (sumptos) extraordinarily disproportionate to one's state in life was not required. The original meaning of ordinary/extraordinary was confused in a growth of technologies in critical care. The distinction originally pointed to the proportionality principle, namely, whether the burdens a treatment imposes are proportionate or disproportionate to its benefits.

EVOLUTION OF CONFLICT: TECHNOLOGY AND LANDMARK CASES

Conflicts broke out in the 1960's, 1970's, and the 1980's about such decisions. In the U.S. the conflict tended to be technology dependent and related to the original uses of specific technologies. In the 1960's the problem was about kidney dialysis. There were few dialysis machines and many dying of kidney disease without them. Seattle's first dialysis unit used a "selection committee" to decide finally who would receive it, when all could not have it. In 1962, Shana Alexander wrote a story for Life magazine telling how the committee chose patients, and that sometimes "social" criteria were involved. There was public outcry about the story and about anonymous committees "playing God."

In the 1970's the focus shifted to ventilation—machines that breathe for the patient. The Karen Ann Quinlan case, which began in 1975, was a paradigm for the future. Karen was a 21 year old New Jersey woman who suffered severe brain damage from anoxia, came into the emergency room. She eventually needed a respirator to breathe and a nasogastic feeding tube. She was not "brain dead" but was eventually diagnosed as being in a "persistent vegetative state," a condition that did not change. In 1976, her father asked the court to appoint him guardian so that he could authorize removal of the respirator. He was opposed by her physicians, who argued that maintaining the respirator was "standard treatment" and removing it would be an act leading to her death. A lower court, the local prosecutor and the state attorney general agreed with the physicians. The New Jersey Supreme Court, however, granted the request. Her doctors "weaned" her slowly from the machine over a two month period. She continued to live in an unconscious state for more than nine years.

The New Jersey court reasoned: ". . . the State's interest (i.e., in the preservation of life) contra weakens and the individual's right of privacy grows as the degree of bodily invasion increases and the prognosis dims. Ultimately, there comes a point at which the individual's rights overcome the State's interest."[11]

The claim that the patient had a constitutional "right of privacy," based on respect for the autonomy that she had lost but that could be exercised by her family in requesting the removal of life-supports, was a key part of the Court's finding. Karen's parents wanted ventilation halted, but they did not ask that feeding be stopped.

Then controversy shifted in the 1980's to "artificial" feeding and hydration—by the use of tubes and IV's, or feeding tubes placed surgically into the gastrointestinal tract. In a 1982 California case—Barber v. Superior Court [12]—two physicians were charged with homicide after they granted the requests of a patient's family to stop a respirator and intravenous feeding and hydration. The patitent, Clarence Herbert, had cancer, and had surgery to close an ileostomy. In the recovery room he stopped

breathing and his heart stopped (he had a history of heart problems) and he was left brain damaged and in a vegetative state likely to be permanent. The family wrote a request that the respirator be stopped. Agreeing with the family that there was no benefit from continuing it, the physicians stopped the respirator. Two days later, after discussion with the family about the futility of continuing the IV tubes for feeding and hydration, they removed them and Herbert died two days later. A nurse who tried to discuss the ethical problems of stopping feeding with the doctors was rebuffed. She reported the incident to the district attorney who brought criminal charges. A hearing and two trials resulted. Finally, the Court of Appeal found the criminal charges baseless, but most importantly, the Court was the first to cite the reasoning of a President's Commission's report issued in 1983 that recommended that the main approach to decision making in this area be based on the proportionate benefits and burdens of each treatment that sustains life. More than 50 state court cases in the U.S. have been similarly decided.[13]

SUPPORT FOR MAXIMS

The maxims below, except for the fifth, express ethical guidance recommended by several distinguished bodies: the President's Commission for the Study of Ethical Problems in Medicine and Biomedical Research [14] (1983), the American Medical Association [15] (1986), the Office of Technology Assessment [16] (1987), and a Hastings Center interdisciplinary task force [17] (1987). Many denominational statements also support the essentials of the maxims, especially the first and second.

MAXIMS FOR CASES ON FOREGOING LIFE SUSTAINING TREATMENT

Five maxims are required for the major types of disputes in this area. Maxim 2 is the major maxim in the sense that all decisions to forego treatment ought to conform to it. However, Maxim 1 is the most overriding maxim, with one exception, even when physicians have solid evidence that the benefits of treatment outweigh the burdens. Maxim 1 also points to the ethical grounds for "advance directives" (the living will), i.e., respect for the patient's self-determination. The Patient Self-Determination Act, a bill introduced in the 101st Congress by Sen. John Danforth (R-MO), embodies the major points of Maxims 1 and 2.

Maxim 1: The Capable Patient, with One Exception—Decisions to forego life-sustaining treatment, like all other health care choices, finally rest with the capable patient in a shared decisionmaking process between physician, patient, family, and others caring for the patient. The one exception to the maxim is when the patient is capable but demands that clearly futile treatment be started; physicians can ethically refuse to acquiesce and should seek to resolve the ethical dispute.

The case of Elizabeth Bouvia [18] clearly illustrates a violation of Maxim 1, because a nasogastric tube was forced on a debilitated but competent patient with cerebral palsy who refused treatment because she desired to die.

Maxim 2: Benefit/Burden: The Major Maxim—the distinction between benefits and burdens of each treatment that sustains life is the most ethically sound approach to choices to forego. When the benefits of treatment clearly outweigh the burdens, it is obligatory to give treatment, except when the capable patient refuses it. It is optional to forego treatment when the burdens of particular treatment(s) clearly outweigh any possible benefits.

The Herbert case, described above, clearly illustrates this maxim. Definitions of benefit and burden with cases applying the maxim are cited below.[19]

Maxim 3: Maxim 2 Has No Exceptions—Conventional wisdom that withdrawing is morally harder than withholding is flawed. The choice not to start treatment that may be marginally beneficial or futile ought to be morally harder than to withhold any treatment that has proved futile, assuming that standards of substituted judgment (for once-capable patients) or "best medical interests" (for never-capable patients) have been met.

The Nancy Cruzan case will test Maxims 2 and 3.[20] In this case, the Missouri Supreme Court has ruled that the state has an interest in protecting the life of an individual—even in a persistent vegetative state—by not permitting withdrawal of artificial feeding and hydration. The bearing of Maxim 2 on feeding and hydration is controversial, but the prevalence of the moral view that regards all treatments as morally similar places the burden of proof on those who argue to the contrary.

The Linares case is a tragic example of the fallacy involved in claiming that withdrawing is morally (and legally) harder than withholding treatment.[21]

Maxim 4: The Duty To Inform—Physicians have a duty to inform the capable patient or the family of the incapacitated patient as to recommendations to withhold or withdraw treatments that may be life-sustaining but futile or extremely burdensome. Morally, the duty to inform falls within the larger scope of duties to disclose poor prognosis and to limit medical care when rational approaches to thereapy have failed.[22]

Maxim 5: In Ethical Disagreements With Surrogate Decision Makers, the Policy Is To Treat Until the Dispute Is Resolved, With One Exception—If the guardian or family of an incapacitated patient without any written advance directives demand:

(a) that beneficial treatment for the patient be withheld, physicians should not acquiesce, seek to resolve the dispute by ethics consultation and treat by court order if necessary, placing the best medical interests of the patient above all other considerations;

(b) that beneficial treatment for the patient be withdrawn, physicians should not acquiesce, and should seek to resolve the dispute by ethics consultation and continue to treat by court order if necessary;

(c) that clearly futile treatment be continued, physicians should respectfully disagree and continue treatment while seeking to resolve the dispute by ethics consultation;

(d) that clearly futile treatment be started, after good faith efforts to resolve the disputes by ethics consultation, physicians should withhold futile treatment, even over the objections of guardians or family members.

The experience at Massachusetts General Hospital in applying Maxim 4 (d), although very controversial, was done in 20 cases avoiding harm to patients of futile use of cardiopulmonary resuscitation, and without any law suits by families, even though threats were made in each case.[23]

Maxim 5 is the newest and least settled in the set of maxims and section (d) would be experimental and controversial in almost every clinical setting at this time. Studies of the efficacy of section (d) ought to be designed as research and approved by an Institutional Review Board. The purpose of such studies would be to document the harm done by continuing the recommendation of the President's Commission for an absolute "failsafe" policy—to continue treatment in the context of all types of disputes—the maxim presumes that this approach needs reform in one facet: to permit withholding of clearly futile treatment (e.g., CPR) over family demands that it be started.

ETHICAL GROUNDS FOR THE MAXIMS

Maxim 1 is grounded in respect for persons and their autonomy, and is consistent with approaches to informed consent and refusal. Maxim 2 originates mainly in the principle of proportionality and also affirms that physicians should avoid doing harm by futile treatments. The ethical ground of Maxim 3 is the same as Maxim 2. Maxim 4 is also grounded in respect for persons and is akin to the informed consent maxim. Maxim 5 is grounded in a basic ethical premise to favor sustaining life—especially in the midst of disputes about treatment, while vigorously seeking to resolve the dispute on ethical grounds out of respect for the family- or duly appointed surrogates. The one exception in Maxim 5 originates in the nonmaleficence principle. Surrogate's desires that clearly futile treatment be started can be ethically refused by physicians, so as to minimize harm to the patient. To take this position, physicians should be completely willing to subject their medical judgment to withhold treatment to a court.

Section (c) of Maxim 5 recommends against unilateral withdrawal by physicians of life-sustaining technologies over a family's or guardian's desires to continue it, even if the treatment is clearly futile. The physician should seek pastoral counselling for the family and ethics consultation, but if this mediation does not resolve the dispute, treatment should be continued. Although this step compromises Maxim 3, stopping life-sustaining treatment over the objections of family members could cause great psychological harm and distress to family members and also carries heavy legal risks. This compromise also permits family members to be the *final* interpreters of quality of life of their members.

FOOTNOTES

[1] Sixty-six (66%) of requests for ethics consultation to the 2-year old Hospital Ethics Committee's Consultation Service at University of Virginia Hospitals concern decisions to forego life-sustaining treatment. Cf. "Newletter of the Society for Bioethics Consultation," Vol 1 (No. 1), July 15, 1988, p. 6.

[2] President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. "Deciding to Forego Life-Sustaining Treatment" (Washington, D.C.: U.S. Government Printing Office, 1983), p. 3.

[3] William J. Winstade and Judith Wilson Ross. "Choosing Life and Death" (New York: Free Press, 1986), p. 5.

[4] Lewis Thomas. "The Youngest Science. Notes of a Medicine-Watcher" (New York: Viking, 1983).

[5] John C. Fletcher. Ethics and the Costs of Dying. In: Aubrey Mitunsky and George J. Annas, "Genetics and the Law 11" (New York: Plenum Press, 1980), p. 192.

[6] Stephen Toulmin. The Tyranny of Principles. "Hastings Center Report" 11: (Dec.) 31-39, 1984.

[7] Reports of such task forces are frequently found in "Hastings Center Report."

[8] Carleton B. Chapman. "Physicans, Law, and Ethics." (New York: New York University Press, 1984), p. 2.

[9] Louis S. Baer. Nontreatment of Some Severe Strokes. "Annals of Neurology" 4:381-383, 1978.

[10] Cf. President's Commission, op. cit., pp. 82-3.

[11] *Quinlan* [70 N.J. 10, 355 A.2d 647 (1976)].

[12] *Barber v. Superior Court [147 Cal. App. 3d 1006, 195 Cal. Rptr. 484. (Ct. Appeal 1983)*

[13] Paul W. Armstrong. Of Counsel. "Info Trends: Medicine, Law, and Ethics" University of Medicine and Dentistry of New Jersey. Vol. 4 (No. 3), Spring, 1989, p. 8.

[14] President's Commission, op. cit.

[15] American Medical Association, Council on Ethical and Judicial Affairs, "Statement on Withholding or Withdrawing Life-Prolonging Treatments," Chicago, IL, March 15, 1986.

[16] U.S. Congress, Office of Technology Assessment, "Life-Sustaining Technologies and the Elderly," OTA-BA-306 (Washington, D.C.: U.S. Government Printing Office, July 1987).

[17] Hastings Center, "Guidelines on the Termination of Life-Sustaining Treatment and the Care of the Dying." (Hastings Center: 255 Elm Road, Briarcliff Manor, NY 10510, 1987).

[18] Bouvia v. Superior Court (Glenchur). 179 Cat. App. 3d 1127, 225 Cal. Rptr. 297 (Ct. App.) "review denied" (Cal. June 5, 1986)

[19] Other cases: Conroy (NJ-1985); Brophy (MA-1986); Jobes (NJ-1986); McConnell (CT-1989)

Definitions: a) Benefits promote the well-being of the patient either as health benefits, i.e., empirically measurable reversals of the patient's disease, conditon, symptoms and pain, or benefits to the patient's quality of life, i.e., as improvement to mental status or extension of life that is mutually rewarding to the patient and others. b) Burdens are the opposite of benefits, i.e., increasing pain, suffering or debilitation without any health benefits, or diminishing the patient's quality of life.

[20] Cruzan, by Cruzan v. Harmon, 760 S.W. 2d 408 (Mo.banc, 1988)

On January 11, 1983, Nancy Beth Cruzan, then age 25, was injured in a single car accident, found lying face down in a ditch, thrown approximately 35 feet from her overturned vehicle. A State Trooper who first arrived at the accident examined her and found "no detectable respiratory or cardiac function." Paramedics revived her breathing and heartbeat but she suffered permanent brain damage. In the hospital, a gastrostomy tube was implanted on February 7 to permit nutrition and hydration, and rehabilitation efforts were begun, but without success. She was then transferred to the Missouri Rehabilitation Center. Her parents (as co-guardians) asked hospital employees to end the gastrostomy feedings. The request refused, the Cruzans filed a declaratory judgment action seeking judicial sanction of their instructions. The medical facts, as presented to the Court, included:

1. Her respiration and circulation are not artificially maintained and are within normal limits of a 30 year old female;

2. She is "oblivious to her environment" except for reflexive responses to sound and painful stimuli;

3. She has suffered "cerebral cortical atrophy" which is "irreversible, permanent, progressive, and ongoing";

4. she is a spastic quadriplegic with all four extremities contracted with irreversible muscular and tendon damage;

5. She has no cognitive or reflexive ability to swallow food or water and will never recover this function;

6. She is in a persistent vegetative state. Medical experts testified that she could live for another 30 years in her present condition.

Source: "Info Trends: Medicine, Law, and Ethics," Spring, 1989, p 1

[21] On April 26, 1989, when he was 8 months old, Samuel Linares swallowed a balloon. His father was with him and got to the child quickly. He smelled rubber on his breath and tried to revive him. When he could not revive him, he ran with the child to a firehouse where emergency CPR was performed. The child showed no vital signs for at least 20 minutes. He was intubated at the hospital and admitted to the pediatric intensive care unit of Rush Presbyterian Hospital in Chicago and placed on a ventilator. Severe brain damage was diagnosed.

The child did not improve and was diagnosed as in a "persistent vegetative state." As months passed, his father and mother, Rudy and Tammy Linares, became despondent and requested that physicians stop the ventilator. Neighbors described the parents as devoted to the child. The Linares' financial problems were heavy. Medical bills in the case exceed $200,000. Mr. Linares, a 23 year old laborer, earns about $300 a week.

The hospital has no ethics committee and offered no ethics consultation in this case. The central figure for the hospital was Max Brown, the hospital's attorney. His position was that while Illinois law did clearly permit hospitals to withdraw life supports from patients who are "brain dead" (the Illinois definition of death act), there is no precedent for withdrawing a ventilator in a patient with "minimal brain function." Illinois does accept funds for child protection from the Federal government. In such cases, the Federal "Baby Doe" law applies. This law permits withholding or withdrawing treatment from infants under one year of age who are in "irreversible coma." Mr. Brown, however, did not interpret Federal law to permit withdrawal in this case.

After 8 months in the ICU, hospital officials advised the Linares couple to seek a court order authorizing the removal of the respirator. They made an appointment with a lawyer on April 28 to discuss the matter. On April 26, they returned to their apartment to find a message on the answering machine from hospital officials that Samuel was about to be transferred to a long-term care facility about 70 miles away. They were aware of the hospital's plans, but were shocked that the move was to be made so soon.

Later that day, Mr. Linares entered the ICU with a .357 Magnum pistol. "I'm not here to hurt anyone," he said, as he unplugged his child's respirator, "I just want to let my son die." Within moments, the 16 month old child's heart stopped. Mr. Linares continued to rock Samuel in his arms for 20 minutes. Then, he slid the gun across the floor to the police and collapsed in wrenching sobs. Mr. Linares was charged with first degree murder. Freed on bond, he appeared in Cook County Criminal Court on May 18.

The child's physician, Dr. Gilbert Goldman, said, "There was no ethical difference of opinion here. The physicians agreed that the child was in an irreversible coma and would not recover. There was no medical opposition to removing the ventilator. What we faced was a legal obstacle. Brown said that he advised the medical staff not to remove the life support. "There is an absence in the law," he said. "I told the medical staff there was a possibility they would face criminal charges. I can't speculate with the careers of doctors and nurses."

Almost a month later, after much public outcry in support of Linares, who had been charged with first degree murder, a 16-member grand jury decided not to indict him for murder, and the prosecutors quickly dropped the charge.

Sources: The New York Times, May 1, 1989, p. A.1,3; "Hospital Ethics," July/August, 1989, pp. 11-14.

[22] Stuart J. Youngner, Who Defines Futility? JAMA 260:2094-95, 1988.

[23] Massachusetts General Hospital experience: (20 DNR orders over objections of family): Troyen A. Brennan TA. Incompetent patients with limited care in the absence of family consent. Annals of Internal Medicine 109:819-825, 1988; see also Brennan, Do-not-resuscitate orders for the incompetent patient in the absence of family consent. "Law, Medicine and Health Care," 14:13-19, 1987.

On the Patient Self-Determination Act

(By Father Dennis Brodeur)

I am Father Dennis Brodeur. I am a Roman Catholic priest from the Diocese of Providence, Rhode Island and am Senior Vice President-Stewardship at the SSM Health Care System. My responsibilities include health care ethics, public policy, and the corporate values of the SSM Health Care System. The SSM Health Care System is sponsored by the Franciscan Sisters of Mary and consists of 18 operating entities including nursing homes and hospitals.

Let me begin with two vignettes. A 65 year-old South Carolina man who had suffered from hypertension, diabetes, kidney failure, and a variety of other diseases collapsed on the kitchen floor of his home after supper. His wife called the emergency number 911, paramedics arrived at the home and began resusciating the gentleman. The time between his collapse and the attempt at resuscitation exceeded 12 minutes, in itself an indication that extensive brain damage had already occurred. With some luck he was resuscitated, intubated, and rushed to the hospital emergency room. Over the next 11 days his health deteriorated dramatically, there was never any hope that he would regain consciousness, be able to breathe on his own, or overcome the numerous maladies that affected him. There was uncertainty as to what he wanted for himself he had never taken the opportunity to fill out a living will or to document any other wishes. Through all communications he indicated to his wife and his family that he did not want to be a vegetable but reports of family conversations were not acceptable to the physician to withdraw the ventilator upon which the gentleman had become dependent and allow him to die.

An 83-year-old St. Louis woman was admitted to one of the SSM Health Care System hospitals for complications that developed because of respiratory distress and pneumonia. After several tests and a bronchoscopy it was decided that the advanced respiratory disease from which she was suffering was irreversible. It was foreseen that she would have to be placed upon a ventilator eventually in order to assist her in breathing, otherwise she would die. In this case the patient had executed a living will according to the laws of the state of Missouri and had numerous family discussions with her sons about what she wanted for herself should she never suffer from a life threatening illness and be in a terminal condition. Both the documented evidence in the living will and the discussions with her family were accepted as a reasonable indication of her desires. She died some days later comfortably without a ventilator and not in pain.

Modern medicine has advanced significantly in the last 40 years. Health care routinely cures diseases which would have killed people only 60 years ago. New technology, new surgical techniques, and new drugs contribute to the well being of the American population. One side effect of these medical advances is an increasing group of chronically ill patients and greater acuity of illness at the end of life. Unfortunately, at the end of life there are a large number of individuals who become incapacitated because of their illnesses or other factors associated with their illnesses and who are no longer able to discuss decisions about appropriate medical treatment.

Also, there has been an erosion of the role of the family in medical decision making. Because of advanced age, because of emotional strains and family life, because of the technological imperative that is a part of medicine, and because of the fear of legal action on the part of providers and health care institutions the family unit is no longer the source of decision making for incapacitated, critically ill persons.

In addition, there are few uniform communication mechanisms which identify patient values and patient wishes across a continuum of care. What is known, identified, and charted in a hospital may not be the same information found in a nursing home or extended care facility, and vice versa. Individuals who are routinely called upon to transport individuals from hospitals to nursing homes work under a different set of assumptions and frequently are not privy to previous patient determinations about their care, their hospitalization, resuscitation, etc.

Legal problems arise because the legal system never identified the decision making responsibilities of spouses or adult children for their parents. While there is a legally recognized assumption that parents have the right to make decisions for their minor children (unless the child has been emancipated), no such legal presumption exists for

other family members. The spate of court cases and the constant appointment of guardians and guardians ad litem to participate in patient decision making has also confused lawyers, physicians, and health care institutions as to what are the specifications, if any, that are necessary for families to be decision makers for their loved ones.

These problems have also created fear in the minds of many American people who believe that they will lose their right to make decisions for themselves at the end of their life, that their dying will be prolonged, that they will not be relieved of pain, or that they will be left to the whims of a physician or health care institution who will make decisions for them.

Since the 1970s states began to pass so-called living will laws which began with the Natural Death Act of the state of California and have more recently begun to amend durable power of attorney acts or pass new legislation which allow individuals to designate a guardian or surrogate decision maker who will be the decision maker of fact in conjunction with the physician should the principal become incapacitated and no longer be capable of participating in the medical decision making process.

The large number of people expected to sign living wills has not occurred and some people suspect that even fewer will take the opportunity to designate a surrogate decision maker to interact with the physician once an individual becomes incompetent. Even in those cases where people have signed living wills or appointed durable powers of attorney for health care matters, the documents are put in safety deposit boxes, are not accessible, not shared with physicians, not shared with the nursing home administrator, or not shared with the admissions clerk when an individual is admitted into a health care institution. Some people remain ignorant of their right to make decisions and as a result have not executed appropriate documents.

ETHICAL PRINCIPLES AND CONCERNS

The first ethical principle in decision making is commonly referred to as the principle of autonomy which, simply stated, allows competent individuals to make decisions about the acceptance or refusal of medical treatment. The decision making act is generally exercised with one's physician, other health care providers, and one's family and friends. While the competent person is ethically and legally permitted to make a decision about the acceptance or rejection of medical treatment, based on conversations with his or her physician alone, this decision making process is not frequently seen. Rather, families, spouses, friends, clergy persons, and other individuals are frequently involved.

A second ethical principle is proxy consent. This principle states that when individual's are incompetent they should have decisions made for them as they would have made them for themselves were they capable. In general, this requires that patients, when competent, make statements that help decision makers determine which decision should be made. These expressed wishes in either written or oral form would then be respected by the decision maker for the incompetent person.

Both of these ethical principles involve the process of decision making. In Roman Catholic moral thinking and in Roman Catholic Church statements there is always a strong presumption of the place of the family unit in society and the presumption that family is a sacred and noble place where the dignity and well being of individual persons is nurtured, loved, and supported. Traditionally, and most commonly, it will be family members who will be called upon to make decisions for incapacitated loved ones. Unless there is a clear indication that family members will not act in the best interest of their family, these relationships should be respected.

In some cases, where dysfunctional families exist or where there is not family, more deliberate instructions to individual family members, friends, or trusted individuals need to be recognized. Living wills and durable powers of attorney can be mechanisms to ensure sound decision making.

The Patient's Self-Determination Act reflects a fundamental belief that individuals who have the ability to consent to or refuse medical treatment have that right respected even once they have become incompetent. Providers in health care institutions can play a significant role in the provision of this information both to the communities they serve and to individual patients whom they see. While undue duress to sign living wills or to identify durable powers of attorney must be avoided in all circumstances, the educational role of the physician and the hospital is such that these will be the places and the opportunities to discuss these important matters.

At the end of life there are many ethical issues. The Roman Catholic Church has a long standing moral position of recognizing that individuals never have a moral obligation to accept a useless or futile medical treatment and that some medical treatments may prove to be so burdensome and difficult that the treatments, in and of themselves, prevent individuals from pursuing the goals and purposes of life. These treatments, too, can be withheld or withdrawn.

Each individual in this country is called to form and develop their conscience in these critical matters so that moral and ethical choices at the end of life can be made and that these choices are not compromised by the incapacity of the sick person.

STATEMENT ON PATIENT SELF-DETERMINATION ACT, 1989

(By Rabbi Rav. A. Soloff)

Bible dicta like "heal yourself" and "a time to die" are strange attractors around which swirls thousands of years of Jewish discussion of patient self-determination. Rabbenu Nissim Gerondi (about 800 years ago, commenting on Nedarim 40a, top) said that there are times when a man should ask God's mercy for a sick person, that he may die. The *Code of Jewish Law (Shulhan Arukh*, Orah Hayim 328.5, etc. and commentaries) teaches that the decision favored the patient who considered a high risk treatment necessary, even against the opinions of 100 doctors "because a heart knows its own bitterness." I represent a current, liberal Jewish viewpoint.

"Autonomy of the individual" is a principle explicitly affirmed in *Reform Judaism: A Centenary Perspective.* Reform Judaism is the faith of the million and more members of the Union of American Hebrew Congregations, to be represented at the UAHC Biennial Convention in New Orleans next month; their Committee on Bioethics intends to raise issues of patient self-determination, and hopes to pass a statement supporting advance directives.

Reform rabbis have discussed patient self-determination for many decades, supporting the objectives of Senator Danforth's "Act". I participated in the work of the Responsa Committee of the Central Conference of American Rabbis which produced *American Reform Response* (1983), The more recent response of Rabbis Friedman, Zlotowitz, and Jacob are following my remarks.

The Central Conference of American Rabbis, Committee on Health, meeting at our Centennial Convention in Cincinnati, Ohio on June 23, 1989, considered a memorandum from Senator John C. Danforth to Chairman, Rabbi Joseph Levine, concerning "The Patient Self-Determination Act (of 1989)". The Committee voted full support in principle, and asked me to express this support on their behalf. We are especially comfortable with the "Act" because advance directives can spell out the circumstances under which the patient wishes to undergo experimental treatment, standard treatment, no treatment, or whatever his/her designated surrogate may choose. An Orthodox Jew could designate his rabbi and feel confident that no decision would be made in conflict with Jewish Law as understood by the patient and his spiritual leader.

There are two benefits that I want to underscore, of having the patient's wishes clearly written out while the patient is competent to express them. The first is to the patient: knowing that he/she continues to have some control over his/her life gives empowering confidence. The second is to family, physicians, clergy and ethicists: having an advance directive may well relieve them of major moral and emotional burdens if they ever have to make health care decisions when the patient is no longer able to do so.

STATEMENT BY RABBI DAYLE A. FRIEDMAN

A physician's obligation to heal is well-established in our tradition. According to Maimonides (commentary on Mishnah, Nedarim 4:4), the physician's duty to provide service to a person in a life-threatening situation is a binding religious obligation. According to the Shulkhan Arukh (Yoreh De'ah 336:1), one who shirks the task of healing another is guilty of bloodshed (shefikhut damim.) Clearly, the physician's sense that he must "help" Mrs. M. by providing her with the available treatment has some support from the tradition.

But what of the patient? In general, a person is obligated to seek medical treatment, though there are important exceptions. One is obligated to avail oneself of treatment, provided its utility is well-proven. A treatment whose efficacy is uncertain (refu'ah lo bedukah) is not incumbent upon a patient, even if no potential hazards are known (R. Jacob Emden, Mor u-Kezi' ah Orah Hayim 328.) Dialysis is a treatment which, while it clearly can compensate for kidney malfunction, carries significant risks. Hemodialysis, the procedure for which Mrs. M. would be a candidate, requires a surgical insertion of a catheter in the arm. Risks include: sepsis (blood infection), heart attack, hepatitis/AIDS from blood transfusion, nausea, pain and metabolic derangement.

On these grounds alone, it might be argued that the physician's obligation to treat is overridden by the patient's right to refuse a treatment which poses significant risks to the patient. However, even if the physician were to argue that the risks were minimal, that the treatment's curative power was well-established, we could not support imposing treatment on Mrs. M.

against her wishes. This conviction emerges from analysis of this case, as well as from the principles of Reform Judaism.

Ethical decisions often become clarified when we examine the consequences of the choices before us. Imagine, for a moment, that Mrs. M. were compelled to undergo dialysis. To receive dialysis, Mrs. M. would be forcibly transported three times a week to a facility outside of the nursing home. Initially, she would undergo surgery to insert a catheter in her arm, a procedure which would almost certainly have to be repeated as the skin graft would break down over time. On each visit, she would spend two to four hours with a large-bore needle inserted in the catheter in her arm, during which time she might be nauseous and in pain. This would go on for the rest of her life. Her most likely cause of death would be complications from the dialysis, either heart attack or blood infection.

This scenario is most disturbing, as it depicts a violation of this individual's wishes, her privacy and her body. The sense that violating Mrs. M. in this way would be wrong is supported by the Reform Jewish principle of autonomy of the individual. In contrast to our heteronomous tradition, Reform Jews have held that individuals have a direct, personal relationship with God in addition to their relationship via the Jewish people's covenant with God. "Autonomy of the individual" is a principle explicitly affirmed in the statement, Reform Judaism: Centenary Perspective. We Reform Jews champion the right of individuals to make choices regarding their own conduct, including the "right of conscientious dissent" from the dictates of tradition when mandated by individual conscience, or by individual understanding of contemporary circumstances (Borowitz, Choices in Modern Jewish Thought, p. 269). We reject imposition of specific choices from external authorities, either contemporary or historical.

Discussion of the value of individual autonomy in Reform Judaism has most surrounded matters of ritual observance. Autonomy has not been asserted as a factor in Reform writings on questions of medical ethics. However, it seems clear that the principle holds even more urgency in ethical matters, and especially for the question at hand. If one should have autonomy in making choices which affect only the manner in which one's very life and well-being are at stake? Who other than the individual could possibly claim authority here?

Our position in the case at hand is simple: Since she is the person who bears the burdens, benefits and risks of the various courses of action before her, Mrs. M. is the most appropriate person to decide whether or not to face these risks. Only she can appropriately weigh the Jewish values of preservation of life against these risks.

Lest this discussion be perceived to be heading down a "slippery slope" which leads inevitably to validating any choices, including suicide, it should be noted that respect for Mrs. M's autonomy does not bar her family, physician, or rabbi from engaging her in dialogue about her choice, or even from openly disagreeing with her. Certainly, her physician is not obligated to act in a way which violates his own sense of duty; if he cannot abide Mrs. M.'s choice, he can arrange for her case to be transferred to another physician. Moreover, permitting Mrs. M. to decline dialysis is not comparable to facilitating suicide, as she is not actively hastening her death, but rather desisting from staving if off. Her actions, if anything, are no more self-destructive than the person who smokes cigarettes or overeats while suffering from obesity.

What is being proposed here is that the value of autonomy must be a guiding principle in a Reform Jewish discussion of choices in medical ethics. In the instant case, based on the principle of autonomy, we would have to hold that the patient, a competent, mature adult, has made a decision which must be respected. We would hope that the decision which such a person had made would emerge from a confrontation with the values expressed in Jewish tradition, both Halakha and Aggadah. Ultimately, however, the principle of autonomy requires us (and Mrs. M.'s physician) to respect even choices which might seem to conflict with our understandings of the values of the tradition. As reform Jews, we are called to respect individuals, and to enable them to make conscientious, autonomous decisions in the agonizing choices persented in dilemmas like that of Mrs. M.

STATEMENT BY RABBI BERNARD M. ZLOTOWITZ

Does an elderly patient have the right to refuse dialysis?

We are dealing here with two conflicting moral and ethical imperatives. What is the patient's responsibility to life and what is the physician's responsibility to fulfill his oath regarding maintaining life.

The ailment (renal disease) of the 83-year old widow, Mrs. H.M., was diagnosed 8 years ago. Notwithstanding her refusal to undergo dialysis for her kidney condition, she is still alive. She doesn't want to suffer at her age the indignities of mechanical ventilation, feeding tubes, etc., that would be required. In addition, she may be concerned, though this is not indicated in the case study, with the side effects of the treatment, which can be as painful and harmful as the disease itself.

According to our rabbis, one should pray for the recovery of a person and do everything possible to preserve life. In fact, except in three cases (murder, idolatry and sexual offenses), preservation of life takes precedence over all other Jewish values (Sanh. 74a). One may violate the Sabbath to preserve life (Yoma 85b). But there comes a time when you have to let nature take its course (Nissim Gerondi—to Nid. 40a).

Moses Isserles states that in the case of a dying person one is permitted to do such things "which do not involve action at all, but merely remove that which hinders his death." (Shulchan Aruch, Yoreh Deah 339:1). Thus, if we understood Isserles correctly, the doctor may not take overt action to hasten a person's death, but he can certainly refrain from doing that which will delay the death of an individual. The Talmud tells us that while Rabbi Judah the Prince was suffering an excruitiating death, the Rabbis prayed to keep him alive. But in order to allow the Rabbi to die peacefully, Rabbi Judah's maid threw down an earthen jar, which distracted the Rabbis from their prayers and at that moment Rabbi Judah's soul departed from his body and he went to his eternal rest in peace. (Ket. 104a).

Though in our case death is not imminent, nevertheless our sources indicate that a person does have a right to refuse treatment. The physician is not required to give treatment to a patient who refuses it.

Incidentally, a recent New York Court of Appeals' decision held that a patient has to enumerate the life-sustaining measures which he or she refuses to have applied, in order to have a physician respect his/her wishes. Unless there is "clear and convincing evidence" of the patient to undergo dialysis, the doctor has a right to order dialysis treatments. "If there is error," the Court ruled, "in understanding the patient's wishes on the subject, it should be made on the side of life." (Matter of O'Connor, Oct. 14, 1988).

In other words, according to this recent decision, since Mrs. H.M. did not specify "dialysis," as the exact life-sustaining system which she refuses to have applied, the doctor has a responsibility to take over and administer treatment through dialysis. However, in another court case, the Matter of Storar, 1981 Court of Appeals decision, the Court held that "a competent adult has a common-law right to decline or accept medical treatments, a violation of which right results in civil liability for those who administer medical treatment without consent, despite the fact that the treatment may be beneficial or even necessary to preserve a patient's life, as the patient's right to determine the course of his own medical treatment is paramount to which might otherwise be the doctor's obligation to provide needed medical care; therefore a doctor cannot be held to have violated his legal or professional responsibilities when he honors the right of a competent adult patient to decline medical treatment." (Public Health Law ss2504, 2805-d; CPLR 4401-a).

To further re-enforce this view Justice Cardozo held that every person "of adult years and sound mind has a right to determine what should be done with his own body." (Schloendorff v. Society, N.Y. Hospital, 211, N.Y. 125, 129-Bd, 105, N.E. 92).

In Jewish law there is an overriding principle that enables an observant Jew to submit to the primacy of secular law when the halacha is in conflict with secular law. This principle is called dina d'malchuta dina, (the law of the land is supreme.) Therefore, the wishes of Mrs. H. M. cannot be followed, if we strictly follow the Court's reasoning in O'Connor. But, on the other hand, if the decision in the Matter of Storar is followed, her wishes should be complied with because she knows what she wants and is competent.

It is my suggestion that in order to reconcile the Court's decision and halacha, Mrs. H. M. should write a "Living Will," expressly indicating which life-sustaining measures she does not want, specifically naming "dialysis." Thus, Mrs. H. M.'s wishes will be respected and the physician will not violate his professional responsibility, or be held liable for not treating Mrs. H. M.

AN ELDERLY PATIENT WHO REFUSES DIALYSIS

Question. An intelligent, articulate, eighty-three year old widow has renal disease which can be treated by kidney dialysis. She was diagnosed eight years ago and refused dialysis. Since then her health has generally deteriorated with a hip fracture, incontinence and heart disease. She has now entered a nursing home and suffers from end-stage renal disease as well as congestive heart failure. She has made it clear to her brother as well as those at the nursing home that she wishes no drastic treatments (CPR, mechanical ventilation, feeding tubes, etc.) but wants to die peacefully and without pain. One of the attending physicians feels a strong obligation to save this patient's life. He argues that he cannot let her die or renal kidney disease and wants to impose dialysis upon her. Should she be forced to undergo dialysis? What are her

rights and obligations and what are those of the physician in this case (Rabbi Dayle Friedman, Philadelphia, PA)

Answer. A good deal has been written about the obligations of a physician to heal. Our tradition from Talmudic times onward has encouraged the use of every possible medical procedure in order to save lives (The discussions were based on "He shall cause him to be thoroughly healed" (Ex. 21.20) and "You shall not stand idly by the blood of your fellow" (Lev. 19.16). Even risky procedures may be undertaken if the physician thinks that there is a reasonable hope for recovery (San 73a; A.2. 27b; J. Reischer, Shevut, Yaakov, III, #85; Eleazer Waldenberg, Tzitz Eliezer, 10, #25, Chap. 5, Sec. 5; Moshe Feinstein, Igrot Mosheh, Yoreh Deah 2, #59; I. Y. Unterman, Noam 12, page 5; W. Jacob, ed., American Reform Responsa, Nos. 75, 76, 77, 79; W. Jacob, Contemporary American Reform Response, Nos. 77, 85). We have gone somewhat further and permitted a patient who understands the risks, to be part of a dangerous medical experiment in which the chances of recovery are slim (W. J., Contemporary American Reform Response #17).

Patients have certainly always been encouraged to use physicians and to follow the Biblical dictum "Heal yourself". Physicians have been held in high regard from early times onward. (Ben Sirah 38.1; Tobit 2.10, Micah, Exodus, Rabbah 21.7) See also I. Jakobovits, Jewish Medical Ethics, pp 201ff. On the other hand skepticism about physicians has also played its role in Jewish life; the Mishnah quotes R. Judah, "The best among physicians is destined for hell", (M. Kid 4.14). All of these sources establish the physicians duty to heal as well as the patient's obligation to maintain good health and to do whatever is considered reasonable to regain health.

It has been established that nothing positive may be done to hasten death even in a terminal patient, yet, there is also no obligation to intervene in a hopeless situation to minimally prolong life (S. B. Freehof, Modern Reform Responsa, #34 and #35). In most instances in which this has been discussed the terminal patient is no longer capable of making rational decisions and must rely completely on those who are providing treatment. In this instance we are dealing with an individual who has made her wishes known.

We may understand the role which the patient and the physician play in their inter-relationship by looking at the frequently discussed theme of treatment for illness overriding various religious obligations. It has long been permitted to violate the Sabbath laws not only in order to save a life but even for someone who is dying. (Yoma 84b; I. Lampronti Pahad Yitzhag Holeh B'shabbat, etc.) The general principle is that if either the physician or the patient believe that a treatment is required and there is some risk to life then the normal religious legislation is suspended. (Shulhan Arukh Orah Hayim 328.5, etc., and commentaries). The decision favored the patient who considered a treatment necessary even if a hundred doctors considered it not sufficiently urgent to override religious obligations, "because a heart knows its own bitterness". This and other discussions indicate that the patient is heavily involved in the treatments and not merely a quiet and subservient recipient.

In the instance of our patients proper persuasion might have brought the widow to dialysis eight years ago. The fact that she lived eight years without dialysis at this advanced age may indicate that she chose the appropriate path for herself. Now as she is suffering from end stage renal disease as well as congestive heart failure, it is not a question of saving her life, but possibly prolonging it at the expense of her dignity and with some pain both physical and psychological.

This patient rejected dialysis while living independently at home; and should not have dialysis imposed upon her now that she is dependent upon the services of a nursing home. Her attitude has led to a full, long life. Additional medical attention which she does not wish should not be forced on her; it is only likely to shorten her life.

The physician has done his duty by suggesting the treatment. The patient who knows that she is close to the end of her life with or without the treatment and is not obliged to accept the suggestion.—Walter Jacob, Chairman, Response Committee.

STATEMENT BY MIDWEST BIOETHICS CENTER IN SUPPORT OF THE PATIENT SELF-DETERMINATION ACT OF 1989

(By Myra J. Christopher)

Until recently, treatment decisions for persons who could no longer communicate were uncomplicated. Decisions were made by family members, and the answer to questions about treatment was usually, "Do everything possible." Today, the advent of the technological revolution in health care, the demise of the traditional family unit, spiraling health care costs and increasing legal intervention in health care present us with unprecedented dilemmas regarding decision making for hopelessly ill and incapacitated persons.

Dying patients can now be kept alive for extended periods—bodily functions can even be sustained long after many believe life has ended. In addition, there is a tendency for health care providers and institutions to continue to use life-sustaining technology—sometimes even when patients and families do not wish further treatment. Yet, in the United States there is a long standing precedent (both legal and ethical) that one may refuse any medical treatment, even life-sustaining treatment in most cases. This situation had led people to look for ways to protect themselves against unwanted medical intervention. The living will is one means that has been devised for this purpose.

Simply put, the living will is a document which allows individuals to state in advance their wishes regarding the use of life-sustaining procedures should they become unable to communicate. The first living will law was passed in California in 1976. Today forty states and the District of Columbia have passed living will legislation. Most physicians, nurses, attorneys, ethicists, patient advocates and others concerned with protecting patient's rights believe that living wills are extremely helpful when making treatment decisions for people who lack capacity and that they maximize patient autonomy and the freedom to be self determining. However, less than 9% of all adults in the United States have enacted a living will. The most prominent reasons why this is true is that most people do not know about the living will or, if they do, they do not know where to obtain a living will or how to get sufficient information to enact one. Concern about this information gap recently led Midwest Bioethics Center to join together with the Kansas City Metropolitan Bar Association in a community project to educate people in the Greater Kansas City Metropolitan Area about the living will option.

Midwest Bioethics Center is a not-for-profit community-based ethics center founded "to assist individuals and society to respond to the ethical dilemmas in modern health care and biomedical technology." It is important to note that in an effort to fulfill this mission, Midwest Bioethics Center has adopted a formal policy of neutrality on positions on various ethical issues. So, as the Center engaged in this project, it was not in an advocacy role but rather in the role of providing information. Midwest Bioethics Center has made no attempt to convince individuals to exercise the living will option but rather has attempted to educate people about the living will and encouraged them to make a considered decision whether or not to enact a living will.

The experience of Midwest Bioethics Center with the living will project has led the board and staff to conclude that people are eager to learn about living wills and that many people are genuinely fearful of the consequences of not having made an advance directive. Since releasing information into the community about this project, Midwest Bioethics Center has received thousands of requests from both individuals and institutions for information. The numbers of requests themselves are convincing but, perhaps even more so, are the stories people have shared about experiences within their families that are the most compelling. For example, one evening after office hours an elderly woman left a lengthy request for a living will on a telephone recorder explaining that seven years before, her husband, who did not have a living will, had died on life-support—against her wishes and against what she truly believed to be his desires. In the telephone message, she shared her feelings of helplessness and despair as she had watched her husband of more than forty years die what she referred to as a "death that was like torture." She told also that in the process enormous medical bills had accumulated and that she had been forced to sell her home to pay those bills. She now lives in an apartment. To a telephone recorder, she said, "Please, send me a living will; I pray that I won't have to die like that." There have been many such stories.

The Patient Self-Determination Act as proposed by Senator JOHN DANFORTH provides an effective mechanism for providing a large segment of our population with information about the living will and giving them the opportunity to make a decision about this option. For this reason, Midwest Bioethics Center strongly supports passage of The Patient Self-Determination Act.

REMARKS OF BARBARA MISHKIN, ESQ., HOGAN & HARTSON, WASHINGTON, DC

About eight years ago, my great aunt's health began to fail. She had traveled to Africa and Alaska just a year or so earlier, and had remained active—physically, mentally, and socially—until past her 98th birthday. Then, in her 99th year, she began to decline. She took to her bed and made clear to her family and friends that she had lived a good life and was now ready to let go. Luckily, she could afford private nurses, so she could stay in her apartment.

We all understood—as did her personal physician—that she wanted to die at home. Her physician promised my aunt that she would not have to go to the hospital and

that no heroic treatments would be forced upon her.

Unfortunately, she lapsed into a coma on a weekend when her physician was out of town. The doctor covering his practice knew nothing of his promise to my aunt, and insisted that she be taken to the hospital. Family members vigorously objected, but the doctor would not listen; and so my aunt was sent to the hospital where she died, attached to all the equipment that she had made very clear she did not want. Since then, the D.C. City Council has enacted legislation providing mechanisms for dying patients to assure that their wishes will be honored.

The bill introduced today by Senators Danforth and Moynihan would permit written directives about health care, executed pursuant to the laws of one state, to be effective in other jurisdictions to the extent permissible under local law. It will also require Medicare and Medicaid providers (e.g., hospitals, nursing homes, and their medical and nursing staffs) to learn about living wills and durable powers of attorney for health care, and to inform their patients about them. By increasing awareness about such mechanisms, this bill will enhance the ability of all of us to maintain control over health decisions even if we become incapacitated.

The ability to control intimate aspects of one's life, even at the end of life, is central to maintaining a sense of dignity and emotional well-being. Dying patients need more than relief of pain; they need to maintain control over their care and to chart their own course. Being stripped of dignity and autonomy as death approaches is the ultimate burden for the dying.

Four years ago, I testified with former Senator Jacob Javits at a hearing on: Dying With Dignity: Difficult Times, Difficult Choices. It was just a few months before his death and he was paralyzed from the neck down. His testimony was punctuated by pauses during which a portable ventilator sent oxygen to his lungs, and a nurse moistened his lips. He explained that being terminally ill and totally paralyzed had a way of concentrating his mind on the subject at hand, and he said:

"As the Bible teaches, the road which opens with birth leads to the grave. Birth and death are the most singular events we experience and, therefore, the contemplation of death as of birth should be a thing of beauty and not of ignobility." [1]

Senator Javits ended by "calling attention to the confusion and confrontation which takes place in families if the individual who faces death and is no longer able to make his own decisions has not left the necessary instructions in a living will or a durable power of attorney," and urged greater use of such documents.[2]

Today, many states have laws permitting competent adults to plan ahead for health care decisions; but the laws vary from one state to another,[3] and many people are unaware of their existence. The Patient Self-Determination Act will go a long way toward educating health care practitioners and the general public about living wills and durable powers of attorney for health care, and expanding the geographic areas in which they can be used. I congratulate Senators Danforth and Moynihan for introducing this bill, and strongly urge its enactment.●

[1] Dying With Dignity: Dificult Times, Difficult Choices, Hearing Before the House Select Committee on Aging, 99th Cong., 1st Sess. (Comm. print 1985) at 5-6 (testimony of former Senator Jacob Javits).

[2] *Id.* at 7.

[3] *See, e.g., A Matter of Choice: Planning Ahead For Health Care Decisions,* Senate Special Comm. on Aging, S. Rep. No. 211, 99th Cong., 2d Sess. (1986).

ADDITIONAL COSPONSORS

S. 185

At the request of Mr. DIXON, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 185, a bill to amend title 18 of the United States Code to punish as a Federal criminal offense the crimes of international parental child abduction.

S. 221

At the request of Mr. MOYNIHAN, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 221, a bill to amend title 23, United States Code, to authorize the use of rights-of-way along Federal-aid highways for the construction of transportation systems that will be part of the Federal-aid highway system.

S. 435

At the request of Mr. REID, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 435, a bill to amend section 118 of the Internal Revenue Code to provide for certain exceptions from certain rules determining contributions in aid of construction.

S. 478

At the request of Mr. DODD, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 478, a bill to provide Federal assistance to the National Board for Professional Teaching Standards.

At the request of Mr. PELL, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 478, supra.

S. 543

At the request of Mr. SIMON, the name of the Senator from Washington [Mr. ADAMS] was withdrawn as a cosponsor of S. 543, a bill to amend the Job Training Partnership Act to strengthen the program of employment and training assistance under that act, and for other purposes.

S. 626

At the request of Mr. HATCH, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 626, a bill to amend the Lanham Trademark Act regarding gray market goods.

S. 714

At the request of Mr. MCCLURE, the names of the Senator from Delaware [Mr. BIDEN] and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 714, a bill to extend the authorization of the Water Resources Research Act of 1984 through the end of fiscal year 1993.

S. 727

At the request of Mr. HEFLIN, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 727, a bill to amend the Animal Welfare Act to provide protection to animal research facilities from illegal acts.

S. 845

At the request of Mr. HATCH, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 845, a bill to amend the Federal Food, Drug, and Cosmetic Act to revitalize the Food and Drug Administration, and for other purposes.

S. 1165

At the request of Mr. GLENN, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 1165, a bill to provide for fair employment practices in the Senate and the House of Representatives.

S. 1207

At the request of Mr. PACKWOOD, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1207, a bill to amend the Communications Act of 1934 to reform the radio broadcast license renewal process, and for other purposes.

S. 1224

At the request of Mr. BRYAN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1224, a bill to amend the Motor Vehicle Information and Cost Savings Act to require new standards for corporate average fuel economy, and for other purposes.

S. 1277

At the request of Mr. FORD, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Georgia [Mr. FOWLER], the Senator from New Hampshire [Mr. RUDMAN], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 1277, a bill to amend the Federal Aviation Act of 1958 to prohibit the acquisition of a controlling interest in an air carrier unless the Secretary of Transportation has made certain determinations concerning the effect of such acquisition on aviation safety.

S. 1310

At the request of Mr. SIMON, the names of the Senator from Washington [Mr. ADAMS] and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of S. 1310, a bill to eliminate illiteracy by the year 2000, to strengthen and coordinate literacy programs, and for other purposes.

S. 1380

At the request of Mr. WILSON, the name of the Senator from Washington

[Mr. GORTON] was added as a cosponsor of S. 1380, a bill to amend title 31, United States Code, to increase both citizen participation in and funding for the war on drugs by directing the Secretary of the Treasury to issue Drug War Bonds, and for other purposes.

S. 1384

At the request of Mr. DASCHLE, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1384, a bill to amend title XVIII of the Social Security Act to provide direct reimbursement under part B of Medicare for nurse practioner or clinical nurse specialist services that are provided in rural areas.

S. 1661

At the request of Mr. PRYOR, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1661, a bill to amend the Internal Revenue Code of 1986 to provide for a tax credit for qualifying disability expenses.

S. 1692

At the request of Mr. NUNN, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1692, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain timber activities under passive loss rules.

S. 1698

At the request of Mr. GORE, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1698, a bill to amend the Communications Act of 1934 to provide for fair marketing practices for certain encrypted satellite communications.

SENATE JOINT RESOLUTION 184

At the request of Mr. HATCH, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Washington [Mr. GORTON] were added as cosponsors of Senate Joint Resolution 184, joint resolution to designate the periods commencing on November 26, 1989, and ending on December 2, 1989, and commencing on November 28, 1990, and ending on December 2, 1990, as "National Home Care Week."

SENATE JOINT RESOLUTION 187

At the request of Mr. HATCH, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Ohio [Mr. GLENN], the Senator from California [Mr. CRANSTON], the Senator from Maine [Mr. MITCHELL], the Senator from Alabama [Mr. HEFLIN], the Senator from Iowa [Mr. GRASSLEY], the Senator from Michigan [Mr. RIEGLE], the Senator from New York [Mr. D'AMATO], the Senator from Texas [Mr. GRAMM], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Illinois [Mr. SIMON], the Senator from Wisconsin [Mr. KOHL], the Senator from Tennessee [Mr. SASSER], the Senator from Arkansas [Mr. BUMPERS], the Senator from New York [Mr. MOYNIHAN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Virginia [Mr. WARNER], were added as cosponsors of Senate Joint Resolution 187, a joint resolution to designate the periods commencing on November 19, 1989, and ending on November 26, 1989, and commencing on November 18, 1990, and ending on November 25, 1990, as "National Adoption Week."

SENATE JOINT RESOLUTION 198

At the request of Mr. SIMON, the names of the Senator from California [Mr. WILSON], the Senator from Washington [Mr. GORTON], the Senator from Alabama [Mr. SHELBY], the Senator from Maine [Mr. COHEN], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of Senate Joint Resolution 198, a joint resolution designating November 1989 as "An End to Hunger Education Month."

SENATE JOINT RESOLUTION 205

At the request of Mr. BIDEN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Joint Resolution 205, a joint resolution designating December 3 through 9, 1989, as "National Cities Fight Back Against Drugs Week."

SENATE JOINT RESOLUTION 212

At the request of Mr. SIMON, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of Senate Joint Resolution 212, a joint resolution designating April 24, 1990, as "National Day of Remembrance of the Seventy-fifth Anniversary of the Armenian Genocide of 1915-1923."

At the request of Mr. PRYOR, his name was withdrawn as a cosponsor of Senate Joint Resolution 212, supra.

At the request of Mr. BOND, his name was withdrawn as a cosponsor of Senate Joint Resolution 212, supra.

At the request of Mr. DIXON, his name was withdrawn as a cosponsor of Senate Joint Resolution 212, supra.

At the request of Mr. INOUYE, his name was withdrawn as a cosponsor of Senate Joint Resolution 212, supra.

At the request of Mr. BRYAN, his name was withdrawn as a cosponsor of Senate Joint Resolution 212, supra.

SENATE RESOLUTION 122

At the request of Mr. SANFORD, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Rhode Island [Mr. PELL], the Senator from Connecticut [Mr. DODD], the Senator from New Jersey [Mr. BRADLEY], the Senator from Michigan [Mr. LEVIN], the Senator from Massachusetts [Mr. KERRY], the Senator from New York [Mr. MOYNIHAN], the Senator from Illinois [Mr. SIMON], the Senator from Maryland [Mr. SARBANES], the Senator from Indiana [Mr. LUGAR], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of Senate Resolution 122, a resolution expressing the sense of the Senate in support of actions to eliminate preventable deaths and disabling illness expecially among children, through intensified international collaboration to attain the United Nations goals of Universal Childhood Immunization by 1990 and Health for All by the Year 2000, and through the convening of a World Summit on Children.

SENATE RESOLUTION 161

At the request of Mr. PELL, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of Senate Resolution 161, a resolution expressing the sense of the Senate that long-term care aides make significant contributions to individuals of all ages in the United States and deserve recognition and compensation for their efforts.

SENATE RESOLUTION 195—REFERRING S. 1762 TO THE CHIEF JUDGE OF THE U.S. CLAIMS COURT FOR A REPORT THEREON

Mr. KOHL submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 195

Resolved, That S. 1762 entitled "A bill for the relief of the Menominee Indian Tribe of Wisconsin" now pending in the Senate, together with all the accompanying papers, is referred to the chief judge of the United States Claims Court. The chief judge shall proceed according to the provisions of sections 1492 and 2509 of title 28, United States Code, and report back to the Senate, at the earliest practicable date, providing such findings of fact and conclusions that are sufficient to inform the Congress of the nature, extent, and character of the damages referred to in such bill as a legal or equitable claim against the United States or a gratuity, and the amount, if any, legally or equitably due from the United States to the Menominee Indian Tribe of Wisconsin by reason of such damages.

AMENDMENTS SUBMITTED

ASSISTANCE FOR FREE AND FAIR ELECTIONS IN NICARAGUA

DOLE AMENDMENT NO. 1012

(Ordered to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to the bill (H.R. 3385) to provide assistance for free and fair elections in Nicaragua, as follows:

Add at the end the following:

"Congressional staff shall be prohibited from making any contacts with the Sandi-

nista government or any instrumentality thereof, during the election campaign ending in February, 1990 without the express written consent of the Speaker of the House, the House Minority Leader, the Majority Leader of the Senate and the Minority Leader of the Senate.

KASTEN AMENDMENTS NOS. 1013 THROUGH 1018

(Ordered to lie on the table.)

Mr. KASTEN submitted six amendments intended to be proposed by him to the bill H.R. 3385, supra, as follows:

AMENDMENT No. 1013

Strike the period at the end of the amendment and insert: ", except that nothing in this proviso shall in any way prevent funds made available pursuant to this Act from being made available as a contribution to the National Opposition Union to help ensure free and fair elections."

AMENDMENT No. 1014

Strike the period at the end of the amendment and insert: ", except that nothing in this proviso shall in any way prevent funds made available pursuant to this Act from being made available as a contribution to the National Opposition Union to help ensure free and fair elections."

AMENDMENT No. 1015

Strike the period at the end of the amendment and insert: ", except that nothing in this proviso shall in any way prevent funds made available pursuant to this Act from being made available as a contribution to the National Opposition Union to help ensure free and fair elections."

AMENDMENT No. 1016

Strike the period at the end of the amendment and insert: ", except that nothing in this proviso shall in any way prevent funds made available pursuant to this Act from being made available as a contribution to the National Opposition Union to help ensure free and fair elections."

AMENDMENT No. 1017

Strike the period at the end of the amendment and insert: ", except that nothing in this proviso shall in any way prevent funds made available pursuant to this Act from being made available as a contribution to the National Opposition Union to help ensure free and fair elections."

AMENDMENT No. 1018

Strike the period at the end of the amendment and insert: ", except that nothing in this proviso shall in any way prevent funds made available pursuant to this Act from being made available as a contribution to the National Opposition Union to help ensure free and fair elections."

DOLE AMENDMENTS NOS. 1019 THROUGH 1024

(Ordered to lie on the table.)

Mr. DOLE submitted six amendments intended to be proposed by him to the bill H.R. 3385, supra, as follows:

AMENDMENT No. 1019

Strike the period at the end of the amendment and insert: ", except that nothing in this proviso shall in any way prevent funds made available pursuant to this Act from being made available as a contribution to the National Opposition Union to help ensure free and fair elections."

AMENDMENT No. 1020

Strike the period at the end of the amendment and insert: ", except that nothing in this proviso shall in any way prevent funds made available pursuant to this Act from being made available as a contribution to the National Opposition Union to help ensure free and fair elections."

AMENDMENT No. 1021

Strike the period at the end of the amendment and insert: ", except that nothing in this proviso shall in any way prevent funds made available pursuant to this Act from being made available as a contribution to the National Opposition Union to help ensure free and fair elections."

AMENDMENT No. 1022

Strike the period at the end of the amendment and insert: ", except that nothing in this proviso shall in any way prevent funds made available pursuant to this Act from being made available as a contribution to the National Opposition Union to help ensure free and fair elections."

AMENDMENT No. 1023

Strike the period at the end of the amendment and insert: ", except that nothing in this proviso shall in any way prevent funds made available pursuant to this Act from being made available as a contribution to the National Opposition Union to help ensure free and fair elections."

AMENDMENT No. 1024

Strike the period at the end of the amendment and insert: ", except that nothing in this proviso shall in any way prevent funds made available pursuant to this Act from being made available as a contribution to the National Opposition Union to help ensure free and fair elections."

ARMSTRONG AMENDMENT NO. 1025

(Ordered to lie on the table.)

Mr. ARMSTRONG submitted an amendment intended to be proposed by him to an amendment to the bill H.R. 3385, supra, as follows:

Before the period at the end of the amendment, insert the following: "*Provided further,* That the funds made available under this Act may be available to the Nicaraguan Opposition through the Government of Nicaragua (or any agency or instrumentality thereof), under its election laws, whenever the President certifies to the Congress that furnishing funds in such a manner is necessary to assist the conduct of free and fair elections."

HARKIN AMENDMENTS NOS. 1026 THROUGH 1035

(Ordered to lie on the table.)

Mr. HARKIN submitted 10 amendments intended to be proposed by him to the bill H.R. 3385, supra, as follows:

AMENDMENT No. 1026

Strike all after the words "*Provided further,*" and insert in lieu thereof the following: ": *Provided further,* That notwithstanding any other provision of this Act, no funds made available by this Act shall be made available, directly or indirectly, to the Government of Nicaragua or to any agency, instrumentality or official of such Government".

AMENDMENT No. 1027

At the end of the amendment, add the following: ": *Provided further,* That notwithstanding any other provision of this Act, no funds made available by this Act shall be made available, directly or indirectly, to the Government of Nicaragua or to any agency, instrumentality or official of such Government".

AMENDMENT No. 1028

Strike all after the words "*Provided further,*" in the pending amendment and insert in lieu thereof the following: "That notwithstanding any other provision of this Act, no funds made available by this Act shall be made available, directly or indirectly, to the Government of Nicaragua: *Provided further,* That notwithstanding any other provision of this Act, no funds made available by this Act shall be made available, directly or indirectly, to any agency, instrumentality or official of the Government of Nicaragua".

AMENDMENT No. 1029

At the end of the pending amendment, add the following: ": *Provided further,* That notwithstanding any other provision of this Act, no funds made available by this Act shall be made available, directly or indirectly, to the Government of Nicaragua; *Provided further,* That notwithstanding any other provision of this Act, no funds made available by this Act shall be made available, directly or indirectly, to any agency, instrumentality or official of the Government of Nicaragua".

AMENDMENT No. 1030

Strike all after the words "*Provided further,* in the pending amendment and insert in lieu thereof the following: "That notwithstanding any other provision of this Act, no funds made available by this Act shall be made available, directly or indirectly, to the Government of Nicaragua".

AMENDMENT No. 1031

At the end of the amendment, add the following: ": *Provided further,* That notwithstanding any other provision of this Act, no funds made available by this Act shall be made available, directly or indirectly, to the Government of Nicaragua".

AMENDMENT No. 1032

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. TRANSFER OF FUNDS.

That of the amounts remaining unexpended from funds allocated to the Agency for International Development, up to $3,000,000 of the funds made available by section 9 of Public Law 100-276, and up to $5,000,000 of the funds made available by section 2 of Public Law 101-14, are hereby rescinded, but—

(1) $4,5000,000 shall be available only for the purposes authorized by Section 5111(a) of the Drug-Free Schools and Communities Act of 1986; and

(2) $4,500,000 shall be available for purposes authorized by section 501 of title I of the Omnibus Crime Control and Safe Streets Act for the use by States and units

of local government in the States for programs designed to identify and prosecute criminals who sell drugs to children or use children in furtherance of drug-related crimes.

SEC. 2. ACTIVITIES FOR LATCHKEY CHILDREN.

Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended by inserting at the end thereof the following new subsection:

"(c)(1) Funds received under section 5134(a) may be used to implement programs for latchkey children involving school and community activities before and after school, on weekends, and during summer months, which may include—

"(A) athletic activities;

"(B) community service activities;

"(C) activities involving arts, crafts, and other programs to stimulate creativity among latchkey children; and

"(D) educational instruction in subjects otherwise not available during the normal school day such as foreign language or programs designed to improve a student's ability to resist involvement with substance abuse.

"(2) For purposes of this section, the term 'latchkey children' means elementary and secondary school age children who are unsupervised by an adult for more than 11 hours per week before school or after school, or on a regular basis on weekends or during the summer when school is not in session.".

AMENDMENT No. 1033

Strike all after the words *"Provided further,"* and insert in lieu thereof the following: "That notwithstanding any other provision of this Act, no funds made available by this Act shall be made available, directly or indirectly, to the Government of Nicaragua or to any agency, instrumentality or official of such Government".

AMENDMENT No. 1034

Strike all after the words *"Provided further,"* and insert in lieu thereof the following: "That notwithstanding any other provision of this Act, no funds made available by this Act shall be made available, directly or indirectly, to the Government of Nicaragua or to any agency, division, instrumentality or elected official of the Sandinista Government".

AMENDMENT No. 1035

Strike all after the words *"Provided further,"* and insert in lieu thereof the following: "That notwithstanding any other provision of this Act, no funds made available by this Act shall be made available, directly or indirectly, to the Government of Nicaragua or to any agency, division, branch, instrumentality or official of such Government".

DODD AMENDMENTS NOS. 1036 THROUGH 1038

(Ordered to lie on the table.)

Mr. DODD submitted three amendments intended to be proposed by him to amendments to the bill H.R. 3385, supra, as follows:

AMENDMENT No. 1036

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. STATEMENT OF POLICY.

With respect to the upcoming elections in Nicaragua, presently scheduled to occur on February 25, 1990, it shall be the policy of the United States to encourage the national reconciliation of opposing political forces in that country, to strengthen democratic processes and procedures in cooperation with indigenous democratic forces, and to support election monitoring and oversight by appropriate national, regional, and international groups.

SEC. 2. FUNDING AUTHORITY.

(a) Nothwithstanding any other provision of law, of amounts remaining unexpended from funds allocated to the Agency for International Development, up to $3,000,000 of the funds made available under section 9 of Public Law 100-276, and up to $6,000,000 of the funds made available under section 2 of Public Law 101-14, may be made available by the Administrator of the Agency for International Development, for assistance to further the promotion of democracy and national reconciliation in Nicaragua, except that such assistance shall not exceed—

(1) $7,000,000 in assistance for programs and projects through the National Endowment for Democracy and consistent with the National Endowment for Democracy Act (including the specific requirements contained in section 505 of such Act that "funds may not be expended either by the Endowment or by any of its grantees, to finance the campaigns of candidates for public office"); and

(2) $2,000,000 in assistance to support election-monitoring and related activities in Nicaragua, of which not less than—

(A) $750,000 shall be available only to support the election-monitoring project of the United Nations and Organization of American States;

(B) $400,000 shall be available only for the Council of Freely-Elected Heads of Government; and

(C) $350,000 shall be available only for programs of the Center for Democracy.

(b) The provisions of sections 7, 8, and 9 of Public Law 101-14 shall be applicable to funds made available by this section.

SEC. 3. REPORTING REQUIREMENT.

The Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives shall be informed in writing within 5 days of decisions made to fund specific programs and projects pursuant to this Act.

AMENDMENT No. 1037

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. STATEMENT OF POLICY.

With respect to the upcoming elections in Nicaragua, presently scheduled to occur on February 25, 1990, it shall be the policy of the United States to encourage the national reconciliation of opposing political forces in that country, to strengthen democratic processes and procedures in cooperation with indigenous democratic forces, and to support election monitoring and oversight by appropriate national, regional, and international groups.

SEC. 2. FUNDING AUTHORITY.

(a) Notwithstanding any other provision of law, of amounts remaining unexpended from funds allocated to the Agency for International Development, up to $3,000,000 of the funds made available under section 9 of Public Law 100-276, and up to $6,000,000 of the funds made available under section 2 of Public Law 101-14, may be made available by the Administrator of the Agency for International Development, for assistance to further the promotion of democracy and national reconciliation in Nicaragua, except that such assistance shall not exceed—

(1) $7,000,000 in assistance for programs and projects through the National Endowment for Democracy and consistent with the National Endowment for Democracy Act (including the specific requirement contained in section 505 of such Act that "funds may not be expended either by the Endowment or by any of its grantees, to finance the campaigns of candidates for public office"); and

(2) $2,000,000 in assistance to support election-monitoring and related activities in Nicaragua, of which not less than—

(A) $750,000 shall be available only to support the election-monitoring project of the United Nations and Organization of American States;

(B) $400,000 shall be available only for the Council of Freely-Elected Heads of Government; and

(C) $350,000 shall be available only for programs of the Center for Democracy.

(b) The provisions of sections 7, 8, and 9 of Public Law 101-14 shall be applicable to funds made available by this section.

SEC. 3. REPORTING REQUIREMENT.

The Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives shall be informed in writing within 5 days of decisions made to fund specific programs and projects pursuant to this Act.

AMENDMENT No. 1038

At the end of the pending amendment add the following:

SECTION 1. STATEMENT OF POLICY.

With respect to the upcoming elections in Nicaragua, presently scheduled to occur on February 25, 1990, it shall be the policy of the United States to encourage the national reconciliation of opposing political forces in that country, to strengthen democratic processes and procedures in cooperation with indigenous democratic forces, and to support election monitoring and oversight by appropriate national, regional, and international groups.

SEC. 2. FUNDING AUTHORITY.

(a) Notwithstanding any other provision of law, of amounts remaining unexpended from funds allocated to the Agency for International Development, up to $3,000,000 of the funds made available under section 9 of Public Law 100-276, and up to $6,000,000 of the funds made available under section 2 of Public Law 101-14, may be made available by the Administrator of the Agency for International Development, for assistance to further the promotion of democracy and national reconciliation in Nicaragua, except that such assistance shall not exceed—

(1) $7,000,000 in assistance for programs and projects through the National Endowment for Democracy and consistent with the National Endowment for Democracy Act (including the specific requirement contained in section 505 of such Act that "funds may not be expended either by the Endowment or by any of its grantees, to finance the campaigns of candidates for public office"); and

(2) $2,000,000 in assistance to support election-monitoring and related activities in Nicaragua, of which not less than—

(A) $750,000 shall be available only to support the election-monitoring project of the United Nations and Organization of American States;

(B) $400,000 shall be available only for the Council of Freely-Elected Heads of Government; and

(C) $350,000 shall be available only for programs of the Center for Democracy.

(b) The provisions of sections 7, 8, and 9 of Public Law 101-14 shall be applicable to funds made available by this section.

SEC. 3. REPORTING REQUIREMENT.

The Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives shall be informed in writing within 5 days of decisions made to fund specific programs and projects pursuant to this Act.

METZENBAUM AMENDMENT NO. 1039

(Ordered to lie on the table.)

Mr. METZENBAUM submitted an amendment intended to be proposed by him to an amendment to the bill H.R. 3385, supra, as follows:

At the end of the pending amendment add the following: "*Provided further,* That no funds made available by this Act may be used to pay for the services of any U.S. media consultants or U.S. political consultants."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, October 17, 1989, at 2 p.m., in open session to consider the nominations of Mr. Edson G. Case, Mr. John T. Conway, Mr. John W. Crawford, Jr., Mr. Andrew J. Eggenberger, and Dr. Herbert J.C. Kouts to be members of the Defense Nuclear Facilities Safety Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, October 17, 1989, at 3:30 p.m. to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Tuesday, October 17, 1989, at 10:30 a.m. to conduct an oversight hearing on the condition of the banking system.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Tuesday, October 17, 1989, at 9:30 a.m. The committee will hold a hearing on the Regulatory Flexibility Act of 1980 and its impact on small business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, October 17, 1989, 9:30 a.m., to conduct an oversight hearing concerning the appropriate role of methanol as a potential alternative fuel in our future.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Surface Transportation Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 17, 1989, at 9:30 a.m., to hold a hearing on advanced transportation systems: magnetically levitated and high speed rail transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION AND INFRASTRUCTURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, October 17, beginning at 9 a.m., to conduct a hearing on S. 1007, the National Highway Fatality and Injury Reduction Act of 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Tuesday, October 17, 1989, from 9:30 a.m. to 5 p.m. to hold a hearing on the reauthorization of the CFTC.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Research and General Legislation of the Senate Committee on Agriculture, Nutrition, and Forestry and the Subcommittee on Departmental Operations, Research and Foreign Agriculture of the House Committee on Agriculture be authorized to meet during the session of the Senate on Tuesday, October 17 at 3 p.m. to hold a joint hearing on the national initiative for research on agriculture in 1300 Longworth Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, October 17, 1989, at 10 a.m. in executive session to receive testimony on the recent situation in Panama.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

MILLER BREWING CELEBRATES 10 YEARS AT ALBANY PLANT

● Mr. FOWLER. Mr. President, 10 years ago in November, the Miller Brewing Co. began production at a new brewery in Albany, GA. The Miller Co. searched many areas of the Southeast before selecting the site formerly occupied by Turner Air Force Base.

This was a very good decision for the Georgia economy.

The initial investment in construction alone totaled almost $285 million, and Miller has since made approximately $25 million in state-of-the-art improvements.

Today, almost 1,000 people are employed by the brewery. Miller's can manufacturing facility in nearby Moultrie, GA, employs close to 200 additional workers.

The brewery uses modern, high-tech equipment and is Miller's most productive brewery. In April 1987, the brewery employees broke the industry safety record of 1.6 million hours without a production delaying accident. This offers an excellent example to other industries of what they can accomplish by locating in Georgia—an example of what our people can do that means a great deal to our State.

Last year, Miller Brewing Co. contributed $303.6 million to the Georgia economy through expenditures for salaries, wages and benefits, utilities, taxes, and purchases of goods and services from Georgia businesses.

Miller also has 10 distributors in Georgia, employing 200 people and providing an important indirect income supplement for our State.

In addition to its economic impact, Miller—which is an operating unit of Philip Morris, Inc.—has been an important community citizen. Last year alone, it donated $102,000 in support of local and State charitable organizations, and spent $263,000 to sponsor a number of community events that enriched the lives of area residents.

Mr. President, we Georgians are pleased and proud to have this good corporate citizen among us, and we

salute the Miller Brewing Co., its officers and employees, on the occasion of the 10th anniversary of the Albany Brewery.●

MAINE ACADIAN CULTURE PRESERVATION ACT

● Mr. COHEN. Mr. President, I am pleased to be a cosponsor of Senator MITCHELL's legislation to authorize the creation of a Federal cultural center dedicated to the preservation of the Acadian way of life that exists in Maine today.

Acadians have made a significant contribution to Maine's culture and heritage during the past three centuries. It is important that those traditions and contributions be preserved so that all Maine residents now and in the future have the opportunity to understand and appreciate this unique culture.

During the 17th century, Acadians came to the New World from France and settled in an area that is now a part of both Maine and Canada. The center of the community was the church, and the strength of their culture lay in the importance of the church and the family. Through the years, the Acadians have perpetuated their strong beliefs and have been successful at preserving a way of life that is unique in Maine, despite the pull of time and change.

The history of the Acadians is closely intertwined with the history of Maine's settlement and development. We need to preserve these pockets of ethnic culture so that our history can continue to be experienced by many. Once a facet of our history is lost, it cannot be retrieved, and we are diminished as a consequence. It is important that the traditions and beliefs of the Acadians be shared with others to foster a better understanding of our history and people.

With support from State, local, and private interests, the Federal cultural center we proposed in this legislation should help assist in making the Acadian way of life accessible to all Maine residents as well as visitors to our State.

I hope that my colleagues in the Senate will support our efforts and review this legislation as soon as possible.

I would like to place in the CONGRESSIONAL RECORD a copy of an article about the Acadian culture and local efforts to preserve it that was published in the spring/summer issue of Echoes, a magazine devoted to life in Aroostook County, ME. The article was written by a member of my staff, Cynthia Beckwith, who is from the St. John Valley in Maine, the home of many Acadian descendants.

The article follows:

OUR LADY OF LILLE

(By Cynthia Beckwith)

Notre Dame du Mont-Carmel looms over the tiny village of Lille-sur-St-Jean, midway between Madawaska and Van Buren on U.S. Route 1.

It was blessed, but never consecrated, because it is made of wood, which the diocese sees as less sturdy than brick or stone. It was closed for worship in 1978, because there were so few parishioners. It might have been torn down or allowed to deteriorate.

But the stately church with its two domed towers is becoming a symbol of French Acadian heritage and of efforts to revive cultural awareness in the St. John Valley of northern Maine. Led by cultural historian Don Cyr of Lille, l'association Culturelle et Historique du Mont-Carmel is working to restore the church as a museum and cultural center that will be alive with concerts and seminars as well as a home for religious artifacts.

"We've got to make heritage important," says Cyr. "We're different and interesting because of it. We have been trying to make ourselves look American, when in the long run it will pay to be Acadian."

Acadians came from France to St. Croix Island in Calais, Maine, in 1604, three years before Jamestown was settled and 16 years before the Pilgrims arrived in the New World. In 1785, they settled on the banks of the St. John River in what is now the northern tip of Maine and New Brunswick. The Acadians built their communities around their strong beliefs in family and religion.

Cyr describes the Acadians as a forgotten part of America's history and he hopes to remind America of them. By establishing the cultural center in the church, Cyr feels the process of bringing more attention to the unique history of the St. John Valley will begin.

"With every elderly person who dies, a part of our culture dies," Cyr said. He fears that before too long, there will be very little to remind the young people growing up in the area of their heritage. He also fears that many people of Acadian descent are ashamed of their ancestry because speaking French has made them different.

Cyr, who teaches Acadian history at the University of Maine in Fort Kent and Presque Isle, wants the people of the St. John Valley to know that their ancestors "were not ignorant people."

"They were from the most sophisticated part of France. They were people with trade, recruited by their lords to go to America."

Cyr anticipates that the central location of the church will enhance its potential to attract audiences from both Canadian and American sides of the St. John River for concerts, workshops, seminars and other cultural events. He also hopes the association can publish more Acadian literature and history.

Completed in 1910, the church was donated to l'association Culturelle et Historique in 1984 by Bishop O'Leary of Portland with his approval of the restoration. The exterior was designed in France by a famous architect named Daoust.

"The building was built to specifications on the exterior, but was modified on the interior by local builders," said Cyr. "It's a statement from France and a statement from the St. John Valley at the same time."

The restoration began in 1984 with the support of "a network of people throughout New England" who are interested in the project and are part of the association. Many people from the outside who have moved away know more about the project than those who drive by the church every day, Cyr said. Stabilization of the foundation has been a major project and restoration of the interior will involve scraping, painting and decorating.

"Luckily, because it was a poor parish, there had been very little altering done," Cyr explained. Side altars, the communion rail and the back of the main altar were destroyed at some point, but excellent photographs from around 1916 show clear detail and are valuable guidelines in the restoration. In addition, pieces of the communion rail were found in the barn behind the church

"The side altars are going to be the biggest expense," Cyr said, explaining that cost was a greater problem than getting the work done.

The restoration project is funded by a $31,000 grant from the Maine Historic Preservation Commission which had to be matched dollar for dollar. An anonymous donor from Canada offered to pay off the loan the association has taken out to match the grant. This year, the association is applying for a $37,000 matching grant to continue the project and conducting a fundraising campaign to pay off the loan for the matching funds.

Although he was born in Edmundston, N.B., and raised in Presque Isle, Cyr feels his home is in the St. John Valley. His mother is a native of St. Hillaire, N.B., and his father is from Fort Fairfield. He visited his grandparents in the Valley often during his childhood and said his return to the Valley resulted from a strange string of coincidences that made him realize where he was meant to be.

Cyr lives in the rectory, adjacent to the church, and a walk through its rooms is a walk into the lives of early Acadians. The priest's bedroom and the bishop's room are appropriately furnished with massive wooded beds and large chests of drawers. Acadians wrote records of their lives inside the doors of the cabinet which can still be seen today and the kitchen shelves are lined with antique pots and pans.

Someday, Cyr will donate the rectory to the association and these rooms will be visited by the descendants of the people who originally used their furnishings, so the people of the Valley won't forget "that you can be 100 percent Acadian and American at the same time."●

R.J. O'BRIEN & ASSOCIATES OF CHICAGO CELEBRATES ITS 75TH ANNIVERSARY IN COMMODITIES INDUSTRY

● Mr. DIXON. Mr. President, I rise before you today to commemorate the 75th anniversary of R.J. O'Brien & Associates, the Chicago-based family owned commodities brokerage firm. R.J. O'Brien is one of the founding members of the Chicago Mercantile Exchange, and is one of only a handful of family owned clearing firms still remaining in the futures industry.

Over the years, "RJO" has provided outstanding service through its grassroots dedication to its clients' needs. At the same time, R.J. O'Brien's tremendous leadership continues to keep

the Chicago Mercantile Exchange and the Chicago futures industry strong and vibrant. R.J. O'Brien, in fact, helped lay the groundwork for the international monetary market in the 1970's. Among its many firsts, R.J. O'Brien was the initial firm to allow a woman onto the trading floor, and it was the first to take delivery of a live commodity, cattle.

Mr. President, at a time when the Chicago futures industry, and, indeed, the entire American commodities and financial industries, face increased competition from the Far East and Europe, R.J. O'Brien is to be commended for its never-ending commitment to the continued well-being and competitiveness of Chicago and the entire United States.●

SECRETARY JACK KEMP'S HUD REFORM PACKAGE

● Mr. MACK. Mr. President, I would like to express my strong support for the reform package proposed by Secretary of Housing and Urban Development Jack Kemp.

I commend my former colleague in the House for his diligence and leadership in beginning the task of reforming the Department of Housing. He is doing an outstanding job of forging the path toward making the much needed institutional changes at HUD.

Secretary Kemp's recently released reform package is designed to help ensure ethical, financial, and managerial integrity in the programs at the Department of Housing and Urban Development. His plan to "clear the decks" and rid HUD of waste, mismanagement, and fraud before moving on with new policy initiatives is exactly the direction we should take.

Increased accountability and openness at HUD in funding decisions is central to the Secretary's plan. The elimination of certain discretionary funding methods will be replaced by formulas and competitive processes. Consultants doing business with HUD will be required to register and be subject to public scrutiny.

Billions of dollars that were meant for the housing needs of the poor went to everyone except the poor. This is a reflection of large-scale flaws in our housing programs that have existed for decades.

I urge my colleagues to support Secretary Kemp's reform package. I look forward to working with my colleagues and Secretary Kemp in reforming HUD and shaping a housing policy that ensures that HUD dollars meant for the poor in fact go to the poor.●

PRESERVING FEDERALLY FUNDED ART

● Mr. HEINZ. Mr. President, Dr. Sheldon Hackney, president of the University of Pennsylvania, in remarks to the class of 1993 about the National Endowment for the Arts [NEA] controversy involving his institution, suggested that Congress "should not use the power of the public purse to limit the public's intellectual and cultural life."

I concur with his remarks now, as I did nearly 2 months ago, in opposing provisions in the fiscal year 1990 Interior appropriations bill regarding the NEA funding to two grantees.

Senate action on the fiscal year 1990 Interior appropriations bill included language barring for 5 years NEA grants to the Institute for Contemporary Art at the University of Pennsylvania and the Southeastern Center for Contemporary Art [SECCA] in Winston-Salem, NC. This provision was irresponsible, as it inappropriately sought to punish two art institutions for exhibiting the controversial photographic works of Robert Mapplethorpe. Let us all understand that insofar as blame or error is to be assigned, it should be directed toward the NEA, for it was the NEA that granted Federal moneys for the exhibition of controversial photographs by Mapplethorpe and by granting a fellowship to Andres Serrano—not the Institute for Contemporary Art and the SECCA.

In light of this error, Congress and the public would be well served by an extensive review and if necessary an overhaul of NEA's funding guidelines, procedures, and its panels system process.

The Interior conference report makes major improvements in the Senate-passed measure in responding to the current NEA controversy. First, the conferees designate $250,000 for the establishment of a 12-member, independent commission. The tasks before the Commission are to examine the NEA's grantmaking procedures, including the NEA's panel system, and determine if standards for publicly funded art should be different than the standards for privately funded art.

Second, the conference report includes language pertaining to future NEA grants to the Institute for Contemporary Art at the University of Pennsylvania and the SECCA. It states that if the NEA intends to provide direct grant moneys to the Institute of Contemporary Art or the SECCA in the future, it must notify, within 30 days of the award, the House and Senate Appropriation Committees of intent.

Mr. President, this provision, while an improvement over the Senate's 5-year NEA funding ban on these two art institutions, is still excessive. The notification provision stands as an invisible barrier. True, the two institutions are eligible for NEA funds, but to receive them they must jump through more hoops than other grantees. The playing field is no longer level. Because of this notification provision, it is my ardent hope that under the leadership of the new NEA Chairman, John E. Frohnmayer, the NEA will not shy away from awarding these two institutions funding when deserved.

Unfortunately, the innocent victims during this whole debate on NEA funding and the nature of art to be federally supported, have been the University of Pennsylvania's Institute for Contemporary Art and the SECCA. It would be disheartening if this notification provision cripples these two institutions creatively and financially.●

MINNESOTAN ACCEPTS TRADOC CHALLENGE

● Mr. DURENBERGER. Mr. President, I rise today to commend Gen. John W. Foss for his outstanding military achievements which have brought him to his newly appointed position as head of the U.S. Army Training and Doctrine Command.

General Foss, a native of Hutchinson, MN, has dedicated the last 33 years of his life to our armed services and the defense of our country, serving as commanding general of the 7th Army in Europe and also as commander of the 4th Infantry Division in Vietnam.

A graduate of the Army War College, Foss has been gifted with the special ability to translate his experience in the field and classroom into effective methods of training. And, in his three decades of service, he has witnessed first hand the way in which technology has changed the requirements of our personnel as well as the tools with which we expect them to perform. Now more than ever, our troops are working in partnerships with computers and sophisticated mechanical devices to achieve our country's defense.

At the time, I request that an article, entitled "Foss installed as TRADOC head with all-NCO change of command," which appeared in the August 4, 1989 edition of Casemate, be printed in the RECORD as a tribute to the lifetime of commitment and achievement which marks the military career of TRADOC Gen. John W. Foss. Minnesota's veteran community is especially proud of this native son and I am honored to share this good news with my colleagues.

The article follows:

FOSS INSTALLED AS TRADOC HEAD WITH ALL-NCO CHANGE OF COMMAND

(By S.H. Kelly)

Gen. Maxwell R. Thurman turned leadership of the U.S. Army Training and Doctrine Command over to Gen. John W. Foss in an NCO-run change-of-command ceremony, at Continental Park here Wednesday.

The ceremony was presided over by Army Chief of Staff Gen. Carl E. Vuono, himself a former TRADOC commander. Also attending the ceremony were Secretary of the

Army John O. Marsh Jr; former TRADOC commander, retired Gen. William R. Richardson; FORSCOM Commander Gen. Colin Powell; and Gen. James J. Lindsay, commander in chief Special Operations Command, MacDill AFB, Fla.

TRADOC CSM Henry J. Goodwin was commander of troops. Command sergeants major from 25 TRADOC installations or activities participated in the ceremony, with their color guards.

Thurman, who has been the commander since Aug. 29, 1987, has been nominated to go to Panama and take over the U.S. Southern Command. He was previously scheduled to retire Sept. 1.

Foss arrived here from Washington, where he was the Department of the Army's deputy chief of staff for plans and operations. He was also the senior Army member of the Military Staff Committee to the United Nations.

A 33-year Army veteran, Foss earned his commission through the U.S. Military Academy at West Point, N.Y., graduating in June of 1956. He also has a master's degree in public administration from Shippensburg State College in Pennsylvania. He is from Hutchinson, Minn.

This is the general's second assignment at Headquarters TRADOC. In 1973 he was here as the combat-developments staff officer, Special Assistance Group, in the Office of the Deputy Chief of Staff for Combat Development. He later became chief of the Special Assistance Group.

From 1976 to 1977 he was chief of TRADOC's Division Restructuring Study Group, first here, then at Fort Hood, Texas.

In each of the four assignments prior to the most recent one in Washington, Foss wore two hats.

He was commanding general of the Seventh Army Training Command and assistant deputy chief of staff for operations, U.S. Army Force Europe from July 1982 to March 1984; he commanded the U.S. Army Infantry Center and was commandant of the U.S. Infantry School, Fort Benning, Ga., from January to October 1986; he commanded the 92nd Airborne Division at Fort Bragg, N.C., from January to October 1986; and from October 1986 to October 1988 he commanded XVIII Airborne Corps and Fort Bragg.

His other commands have included: 3rd Brigade, 1st Cavalry Division, Fort Hood; 3rd Bde., 4th Infantry Div. in Vietnam; and Company C, 3rd Battalion, 32nd Inf., 7th Inf. Div., U.S. Army Pacific. He was also a platoon leader in Co. D, 1st Airborne Battle Group, 187th Inf., and Co. A, 2nd Airborne Battle Group, 504th Inf., U.S. Army Europe.

Foss' military education includes graduation from the Army War College, the Command and General Staff College, and the Infantry Basic and Advanced Courses.

He has worked on the other side of the podium on a number of occasions as an instructor—at the U.S. Military Academy; the Royal Military Academy in Sandhurst, England; and in the Ranger Department of the Infantry School.

The general has earned the Distinguished Service Medal, Silver Star (with Oak Leaf Cluster), Defense Superior Service Medal, Legion of Merit (with Oak Leaf Cluster), Distinguished Flying Cross, Bronze Star Medal (with Oak Leaf Cluster), Meritorious Service Medal, Air Medals with "V" Device, Army Commendation Medal with "V" Device (with three Oak Leaf Clusters) and the Army Good Conduct Medal.

He is also authorized to wear the Combat Infantryman Badge, the Expert Infantryman Badge, the Master Parachutist Badge and the Ranger Tab.

Foss and his wife, Gloria, will live on post. They have three children, Julie, John Junior, and Kevin.●

ECONOMIC SUPPORT FOR POLAND

● Mr. KERRY. Mr. President, after 40 years of trying to pry Eastern European nations from the Soviet orbit, the United States seems on the verge of attaining its fondest wish. Poland today has a mostly non-Communist government and Hungary's government, while Communist, has undertaken major reforms to promote economic and political liberalism. In the light of these extraordinary changes, what has been the administration's response? In the case of Poland, it has offered $169 million in aid, or one-third the cost of a B-2 bomber. For Hungary, the administration is requesting $25 million.

Poland's emergency needs alone, however, run into the billions. The country is suffering from a $39 billion external debt which needs to be rescheduled. Food supplies need to be provided until agricultural reforms yield results.

Nobody in the present Solidarity-led government seeks a blank check from the West. Warsaw understands that the medium- and long-term prospects for economic revival will have to be tied to austerity and looser state control. The Poles know exactly where they want to go.

The Poles want an economy that looks very much like those in Western Europe, with free markets and hard currency. Without aid from abroad this transition will impose great suffering as old jobs vanish, controlled prices leap upward, and the old benefits and patronage disappear. It could become painful enough to threaten the government, thereby jeopardizing Poland's first freely elected government in well over half a century. That is why Western aid is necessary, and why speed is crucial. And that is why the Democrats on the Foreign Relations Committee have supported the East European Democracy Act of 1989, which provides $1.8 billion in economic assistance, most of which is directed for private sector development, to Poland and Hungary over the next 3 years.

We all know former U.N. Ambassador Jeane Kirkpatrick's tenet; namely, that Communist countries can never be converted to democracies. The people of Poland have proved that idea wrong. We are entering a new era, and in order to assure that Poland succeeds, we must provide very real assistance to the Polish people at this critical moment.

The East European Democracy Act establishes the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund, two nonprofit organizations which will receive $375 million over 3 years starting in fiscal year 1990. The money, which is almost four times the amount proposed by President Bush, will come from unobligated funds from the Department of Defense budget. The money will be used to promote development of the private sector and of the entrepreneurial spirit in Poland. The bill will also provide $108 million immediately for food assistance for Poland from United States surplus agricultural commodities.

One of the ways we could further assist Poland in revamping its agricultural sector would be to promote a Farmer-to-Farmer Program with Poland through the Agency for International Development. Under the Farmer-to-Farmer Program, United States volunteers with expertise in their field would go to Poland and provide technical assistance to Polish farmers on a variety of problems, from animal care to field crop cultivation, to food processing, farm credit, and marketing. The current AID-funded Farmer-to-Farmer Program has been very successful and has sent over 200 U.S. farmers to over 35 countries since 1986. We have a strong model on which to build, and I hope that we will do so.

The bill also provides funds for medical assistance, environmental protection, the modernization of Poland's telecommunications systems, OPIC eligibility for Poland, trade preferences, the establishment of a Peace Corps in Poland, and the exchange of Fulbright scholars.

Mr. President, the winds of change are blowing strongly in the direction of democracy all over the world, and in Eastern Europe they are blowing at gale force. It will be a tragedy of extraordinary proportions if we do not seize this opportunity to provide every reasonable assist possible to these people who are struggling to embrace the democratic ideals for which our country stands. The actions of the Foreign Relations Committee are indeed a triumph for Poland, and it is my hope that support for the East European Democracy Act will quickly come to the Senate floor so that Poland will start to receive the dire help that she needs.●

MINNESOTA'S THOMAS RICHARD ANDERSON

● Mr. DURENBERGER. Mr. President, yesterday services were held for a great Minnesotan whom I will long remember, Thomas Richard Anderson. As an individual he was as great as anyone we have ever elected to office, and as smart as any professor I've known. As time passes, I know we will finally realize the real value in Thomas R. Anderson.

Anderson's life was a varied and interesting one which began in Fergus Falls, MN, a small community in the northwestern area of the State. He was a 1934 graduate of the University of Minnesota, and later graduated from the university's law school. Anderson served the university in his adult life at one point as director of the James Ford Bell Library.

Books and libraries received a great deal of Anderson's attention. He was a member of the Antiquarian Society and had in his possession roughly 6,000 volumes of rare books. Many say that this comprises one of the largest collections of Minnesota history books.

Anderson's interests, though, stretched far beyond the bound and printed word. Upon passing the bar, he served for 7 years as an assistant in the State attorney general's office, and for over a quarter-century, was president of Perry Bell Investments.

Investment and technology continued to catch Anderson's attention, as he held the title of founder and CEO of ADC Telecommunications, Lehigh Coal and Navigational Co., and Shenandoah Oil. And he didn't rest with those responsibilities, for his civic and professional report card notes him as a board member of many a worthy organization, lending his expertise and support to those less fortunate.

Few Minnesotans have had the chance to make the impact that Thomas Richard Anderson did, and I am proud to have known him and to have benefited from his patience, sense of humor and kindness. He will be missed, I know, by not only his wife, children and grandkids, but by countless Minnesotans. Much like the Pied Piper, Anderson obtained friends and followers at every turn. So today, only days after his death, the people of Fergus Falls, Edina, and Nisswa, MN—and club members, former employees and a long and distinguished trail of friends and acquaintances is mourning the passing of this very special man. He will be sorely missed.●

AGRICULTURAL TRADE TALKS

● Mr. BAUCUS. Mr. President, I rise today to speak on S. 1746.

The agricultural negotiations are the most difficult and contentious portion of the new GATT round. Personally, I support the underlying principle of the United States proposal in the Uruguay round to eliminate agricultural trade distortions.

In most years, the United States is the world's number one agricultural exporter. Last year, the United States exported about 75 percent of its wheat crop and 40 percent of its soybean crop as well as significant quantities of rice, beef, corn, and many other commodities.

In my State, more than 85 percent of the wheat crop normally goes for export as does a growing percentage of beef production. Nationally, more than one out of every three cultivated acres raises crops for export.

If other nations, like the EC, Japan, and Korea, were to eliminate their trade barriers, United States agricultural exports could skyrocket. For instance, the 1989 National Trade Estimate indicated that elimination of the EC's Common Agricultural Policy [CAP] would result in a $7-billion improvement in the U.S. trade balance. On a level playing field, American farmers would prosper.

This is why Senator BOREN and I recently introduced S. 1746. The legislation encourages America's trading partners to liberalize their agricultural markets in the GATT and compete fairly with American agriculture.

S. 1746 would require the administration to use section 301 and various agricultural export programs to protect the interests of American farmers if the GATT talks break down. It is intended to send a strong message to our trading partners that the United States is serious about agricultural trade, and to strengthen the hands of our negotiators.

CONSULTATION PROBLEMS

I do, however, have some concerns about the way that the agricultural negotiations have proceeded so far. From the perspective of my constituents, this is the most difficult trade negotiation the United States has ever engaged in. A good agreement could be a bonanza for American farmers, but a bad agreement could be an economic disaster. Literally every word of an agreement is potentially critical. This means that we need to take consultations to a new level in order to reach an agreement that the Congress can support.

Too often consultations on trade negotiations have been a matter of sending the Congress a press release an hour before it is released. This is certainly not what the Congress had in mind when it wrote consultation requirements into U.S. trade law.

Things have improved recently. Ambassador Hills deserves praise for making an extra effort to consult with Congress and take our advice on contentious issues, like the Korean beef quota and the dispute over section 337. But in regard to the agricultural negotiations in the GATT, consultations have involved informing Congress of administration proposals in advance and allowing Members and staff to observe negotiations.

Unfortunately, the communication has been essentially one way. I have seen little willingness on the part of the administration to take congressional suggestions.

That is simply inadequate. If the administration is not willing to take our suggestions, they could have serious problems getting an agreement approved by Congress.

I have two suggestions I particularly want to impress upon the administration. First, the administration should adopt a tougher, more mercantilistic negotiating posture. The administration proposals on agriculture seem to be driven as much by an ideological commitment to free trade as by a desire to improve the position of U.S. agriculture. The administration's negotiating proposals are as much aimed at eliminating portions of the U.S. farm program that they oppose as at opening foreign markets.

There was a time when the United States could lead the world by example in trade policy. The United States could afford to concede more than other nations and to grant concessions to benefit other nations while gaining little in return.

Those times are gone.

Any trade agreement that the administration brings to Congress for approval will be judged on whether or not it benefits the United States. The agreement must demonstrate concrete benefits for American farmers, businessmen, and workers.

Fortunately, as was the case with the United State-Japan beef and citrus agreement, freer trade typically benefits other nations as well as the United States. But the United States must negotiate with its own best interests in mind, not those of Australia, Thailand, or any other nation.

The administration would do well to remember that the first GATT agreement was turned down because Congress judged it to be a bad deal for American farmers. Concessions that are offered lightly could easily bring down a potential agreement. Congress will be interested in the bottom line, not consisting of principle.

Second, I strongly oppose granting special waivers of rules for developing countries. Last year, then Treasury Deputy Secretary Mr. Peter McPherson called for an end to special and differential treatment for developing countries in the GATT. He argued articulately that this concept had outlived its usefulness and was being used by developing countries as an excuse to continue protectionist policies. Yet, the United States agreed to special treatment for developing nations with regard to agriculture in the midterm ministerial declaration.

There is no sound reason for letting the developing nations play by a special set of rules in agricultural trade. Many developing nations have highly developed agricultural sectors. In fact, the developing nations are likely to be clear winners if world agricultural trade is liberalized.

Yet, many maintain egregious trade barriers. Nigeria bans importation of

wheat. Korea until recently banned importation of beef and continues to block adoption of GATT recommendations that it phase out its quota on beef imports. Korea also maintains restrictions on a variety of other agricultural products. Brazil and Argentina subsidize soybean exports. Brazil blocks imports of a number of agricultural products with import licenses—now the subject of a "Super 301" investigation. Unfortunately, this list goes on and on.

Taken alone none of these developing countries represents as large a problem as the EC or Japan. But these nations are the growth markets for U.S. agricultural exports. Allowing developing nations to retain their restrictions and subsidies while the developed nations phase their restrictions out deprives American farmers of export markets. The principle of special treatment for developing nations simply has no place in a GATT agreement on agriculture.

With all of the above in mind, I want to reiterate that I support the principle of free trade.

We have a tendency to think of computer manufacturers and other high-technology industries as America's world-class competitive industries. Those industries are world-class competitors. But the United States' most consistent winner by far has been agriculture. In the modern era, the United States has always run a large surplus in agricultural trade.

The United States is blessed with ideal soil and weather conditions as well as a diverse and highly skilled agricultural sector. The United States will always be a world-class competitor in agriculture.

Thus, we have a considerable amount of gain from a strong agricultural trade agreement.

But we are not desperate. If we cannot negotiate an adequate agreement, the United States can and will go it alone if need be by using section 301, the Export Enhancement Program, and marketing loans. Senator BOREN and I introduced S. 1746 to remind our trading partners of this fact.

In this regard, I would like to make my colleagues aware of a fine CRS study recently published on the use of section 301 to open agricultural markets. It clearly demonstrates the impressive record section 301 has built in agriculture. I ask that it appear in its entirety directly following my statement in the RECORD.

I believe it provides strong support for the concepts incorporated in S. 1746.

The study follows:

[CRS Report for Congress]

ADDRESSING UNFAIR TRADE: AGRICULTURAL CASES UNDER SECTION 301 OF THE TRADE ACT OF 1974

(By Donna U. Vogt, Analyst in Agricultural Policy, Environment and Natural Resources Policy Division, Sept. 11, 1989)

SUMMARY

Congress authorized procedures in 1974 by which U.S. exporters could receive Federal assistance in seeking remedies to problems caused by unfair foreign trade practices. The procedures are commonly referred to as "Section 301." Section 301 (actually sections 301 through 310 of the Trade Act of 1974, as amended) empowers the Administration to enforce U.S. rights under trade agreements and to respond to certain other unfair trade practices. Trade agreement rights include rights under the General Agreement on Tariffs and Trade (GATT) as well as rights under other international agreements. An alleged unfair foreign trade practice includes any violation of terms of a trade agreement as well as an act, policy, or practice of a foreign government that is unreasonable or discriminatory, and causes a burden on U.S. products or trade related services.

Since 1975, the U.S. Trade Representative (USTR) has investigated a total of 78 formal complaints. Of these 30 (almost 40 percent), involved agricultural products. Agricultural Section 301 petitions filed in the first decade sought redress against trading practices forbidden under trade agreements while petitions after 1984, for the most part, sought to reduce and eliminate market access barriers.

"Relatively successful" appears to be the general assessment by many who have worked on these 301 agriculture cases. Definition of success appears to depend on what each industry wanted when it filed a petition or an investigation began. For the most part, Section 301 agriculture cases helped to pressure foreign governments into addressing agricultural groups' concerns over certain trade practices.

The law was expanded by amendments in the Omnibus Trade and Competitiveness Act of 1988, including the so-called Super 301 provision. Super 301 requires the USTR to list trade policies of countries which, if eliminated, could increase U.S. exports significantly. On May 26, 1989, USTR announced its list, naming three countries, Japan, India and Brazil, and six practices specifically targeted to be eliminated. Japan and India were not named for their agricultural barriers. However, USTR will be investigating trade problems caused by Brazil's 1,000 quantitative import barriers that include barriers to several agricultural products. In its announcement, USTR also gave the highest priority to the successful conclusion of the GATT Uruguay Round multilateral trade negotiations, where new rules on agricultural practices have been proposed.

INTRODUCTION

Congress authorized in 1974 by which U.S. exporters could receive Federal assistance in seeking remedies to problems caused by unfair foreign trade practices. The procedures referred to as "Section 301." Section 301 (actually sections 301 through 310 of the Trade Act of 1974, as amended) empowers the Administration to enforce U.S. rights under trade agreements and to respond to certain unfair trade practices. Trade agreement rights include rights under the General Agreement on Tariffs and Trade (GATT) as well as rights under other international agreements. An alleged unfair foreign trade practice includes any violation of terms of a trade agreement as well as an act, policy, or practice of a foreign government that is unreasonable or discriminatory, and causes a burden on U.S. products or trade related services.[1]

The unique feature of Section 301 is the action that the Administration (through the Office of the U.S. Trade Representative (USTR) can take against foreign trade practices. USTR can deny trade agreement concessions (e.g. concessionary tariff rates), impose import restrictions, agree to a compensation package, or sign an agreement with the offending country that it will change its policy. If the foreign trade barrier violates any internatinal trade agreement, USTR is required to act (unless action is waived); if the foreign barrier is unreasonable or discriminatory, USTR retains discretionary authority on whether or how to take action.

Before the 1974 trade act, U.S. businesses relied on any international trade agreement's dispute settlement procedures (most often the GATT procedures) to settle disputes. After 1974, particularly as world trade in agricultural products grew, U.S. agribusinsses began filing a number of Section 301 petitions against what they considered foreign unfair trade practices. However, the petition process did not bring about the hoped for changes in these practices. Congress over time has amended the original provisions. The most recent amendments in the Omnibus Trade and Competitiveness Act of 1988, made mandatory some retaliatory actions if certain foreign practices continued.[2]

This report reviews the law's definition of an unfair trading practice, and the procedures of Section 301 as a trade remedy for agricultural products. It discusses some general characteristics of the Section 301 petitions concerning agricultural products that have been investigated. It then reports on how persons involved in this process view its effectiveness for agriculture trade.

BACKGROUND

Under Section 301 of the Trade Act of 1974, as amended, Congress gave the President and the Executive Branch enhanced authority to respond to what the United States considered unfair trading practices.[3] Often these practices took the form of nontariff barriers, which many U.S. exporters consider to be unfair trading practices.

Successive rounds of multilateral trade negotiations had lowered border tariffs trade flows. Soon, however, to protect their domestic industries, including their agricultural sectors, countries erected non-tariff barriers. Non-tariff barriers on agricultural products are often more difficult and time consuming to notice, to quantify and to negotiate than tariff barriers. These barriers often protect domestic agricultural industries from competing imports, and if these barriers are longstanding, they develop political support within govenments and among interest groups.

To assist these exporters in trying to change foreign government practices considered unfair, Congress defined in Section 301 an unfair trading practice. Originally in 1974, an unfair trading practice was an act, policy, or practice that was unjustifiable and unreasonable, that burdened the value

[1] Footnotes at end of report.

of U.S. trade, that limited access, that engaged in discriminatory acts, or that provided subsidies which had the effect of reducing U.S. sales.

Since then, Congress has expanded the definition to allow the USTR to determine whether an action or policy violated terms of a trade agreement or denied benefits under an agreement. In fact, a trading practice can be defined as unfair even if it doesn't violate a trade agreement but is considered otherwise unfair and inequitable or has that effect. A practice is also defined as unfair if it restricts access of U.S. products to markets, uses export targeting,[4] or shows persistent denial of worker rights or tolerates systematic private anti-competitive activity.[5] Foreign countries fear U.S. retaliation if USTR finds unfair trade practices based on one or more of these criteria. This fear places U.S. negotiators in a position to press for changes in foreign trading practies.

In effect, Section 301 provides a domestic legal mechanism whereby the United States can act unilaterally against foreign trade practices such as export subsidies or quantitative import restrictions. It does not require USTR to go through the GATT or any agreement dispute settlement process, however, when responding to foreign unfair trade practices that are unreasonable, discriminatory and a burden to U.S. commerce. Plus it applies to practices and policies of countries whether or not they are covered by, or are members (signatories) of the General Agreement of Tariffs and Trade (GATT).[6] However, in forming Section 301 procedures, the lawmakers had in mind mainly the GATT and/or one of the GATT codes concluded in 1979.

A REVIEW OF SECTION 301 PROCEDURES

The law clearly defines the procedures used to challenge unfair trade practices.[7] The procedures apply to all U.S. commerce and not just to trade of agricultural products. See Figure 1 for highlights of Section 301 scheduled determination deadlines.

[Figure not reproducible in the RECORD.]

Initiation Process

Action under Section 301 can be initiated two ways: (1) by a petition filed with USTR by an interested party (an individual, group, or organization); or (2) by USTR's own motion. The petition states the reason for the complaint and gives the reasons why a foreign unfair or discriminatory trade practice has had an adverse effect on U.S. business. The law means that a "foreign government practice" is any federal, state (intermediate) of local government action. In all cases, USTR must decide within 45 days of a petition's filing whether to initiate an investigation.

If USTR accepts the petition and begins initiates an investigation within a reasonable time, USTR publishes a summary of the petition in the Federal Register. USTR then provides a period for public comment including, if requested, a public hearing for parties interested in expressing views on the petition within 30 days (or at some other mutually agreed time). If USTR rejects the petition, it immediately publishes its reasons in the Federal Register. USTR also explains to Congress why it rejected the petition and what economic interests could be adversely affected by the investigation.

USTR has discretion in rejecting petitions. It has done so: for long-term policy reasons, on legal grounds, for deficiency of necessary information, for fear of retaliation by the foreign country, or because the United States is unlikely to prevail in a dispute settlement case in the GATT.

Before formalizing a petition, interested parties are encouraged to submit a draft petition for comments to USTR and to members of the Interagency Section 301 Committee who will rule on the petition.[8] This procedure forewarns USTR of developments that would require an allocation of USTR resources. The draft is then extensively reviewed by government officials who become acquainted with the petitioner's arguments. Because the petition at this point is still in draft form, officials appear more willing to comment on possible deficiencies, revisions, different arguments, and the likelihood of the United States prevailing in the dispute settelment process under the GATT. Such comments and advice are not official; USTR has no public record of these draft petitions. But such pre-filing consultations help avoid USTR's rejection of a petition for technical deficiencies that could have been corrected.

In addition, if potential petitioners need more information to develop an adequate Section 301 petition, USTR is to make available all nonconfidential information concerning the nature of the trade practice and all remedies available to the petitioning party. If, for some reason, USTR does not have such information, it must request the information from the foreign government concerned or advise the petitioner, in writing, of the reasons for declining to ask the foreign government. The petitioner also can find out through such a process what government efforts are already underway to resolve problems arising from the unfair trade practice. Certain business information that might jeopardize the businesses' commerce is treated confidentially.

A draft petition serves to bring a higher level of attention to the industry's complaint and serves to pressure negotiators to resolve the problem before negotiators lose flexibility when the formal Section 301 process begins.

Investigation Process

USTR's accepting a petition and starting an investigation does not necessarily mean that USTR will find or address the alleged unfair trade practice. Under Section 301, USTR investigates whether a trade practice violates any terms of a trade agreement (bilateral or multilateral) or is an act, policy or practice that restricts U.S. commerce.[9]

However, there is a difference between denial of benefits under a trade agreement and violation of a trade agreement itself. A country can act in accordance with its obligations under exceptions established in the agreement, but the result of the actions is a denial of the benefits that the agreement was supposed to bring. If a foreign country takes such actions (nullification or impairment of agreement rights), the United States must establish in a formal petition to the agreement dispute settlement body that it has lost the benefits of the agreement either through reduced exports to the country or into third country markets, before it takes retaliatory action.

Consultations

USTR requests consultations with the foreign government on the same day that the investigation begins. If the investigation involves a trade agreement, consultations must be completed within a period provided by the agreement (if there is one), or 150 days from the initiation of the investigation, whichever is earlier. The period provides officials with an opportunity to handle the negotiations bilaterally. If, by the deadline, such consultations do not resolve the problem, USTR must request formal dispute settlement procedures as provided by any applicable agreement.

USTR can delay the request for consultations for up to 90 days to improve the quality of the petition. However, after the 90 days, the 150-day limit begins. If USTR does decide to delay the request for consultations, a notice of delay must be published in the Federal Register and the reasons for it must be reported to Congress in the regular semi-annual report on Section 301 activities.

Throughout the entire Section 301 investigative process, USTR consults with a variety of officials; (1) members on the Section 301 Committee from other Federal agencies, (2) private sector advisory representatives on the Advisory Committee for Trade Negotiations (created by Section 135 of the original law), (3) interested parties to the dispute, (4) representatives of "downstream" industries that use the product or service concerned, and (5) Members of Congress, particularly if there are any reasons for a delay in dispute settlement beyond the minimum period provided in any trade agreement.[10]

Determinations

Basically USTR is required to take action (subject to exceptions spelled out below) if the USTR finds that terms of a trade agreement were violated. Exceptions are made: (1) if the GATT panel disagrees with USTR, decides the practice is consistent with a trade agreement and doesn't affect U.S. rights; (2) if the foreign country ensures that the United States receives its rights; (3) if the foreign country eliminates or phases out the practice; (4) if the foreign country compensates with trade benefits to the United States; (5) in extraordinary cases, if the taking of action would have an adverse impact on the U.S. economy substantially out of proportion to the benefits of action, taking into account the impact of inaction on the credibility of the Section 301 program; or (6) causes serious harm to national defense.

If USTR considers a foreign trade practice is unreasonable or unjustifiable, USTR has the discretion whether to take action; it is not required to do so. Even if USTR is not obligated to take action, Section 301 process appears to alert foreign governments to the U.S. concerns. Governments often prefer to cooperate in multilateral negotiations or to open their markets to imports rather than have a 301 action brought against them.[11]

Deadlines for determinations depend on the type of trade practice investigated. In investigations involving a trade agreement (except the GATT Subsidies Code) the deadline for a decision is the earlier of either 30 days after the end of the agreement dispute settlement procedures, or 18 months after the initiation of the investigation, whichever is shorter. In all other cases, the limit is 12 months after the initiation of investigations.

Retaliatory Actions

Section 301 language leaves USTR with some discretion as to the type of protective or retaliatory actions to be taken, if needed. However, USTR is required by statute to give preference to using tariffs in retaliation for unfair practices over other important restrictions. Authorized actions include the suspension or withdrawal of benefits agreed to in a trade agreement, and/or the imposition of duties and other import restrictions, or the negotiation of another agreement.[12] It is a common practice to impose penalties

on the offending country's major exports. For example, the United States increased tariffs on pasta to protest EC's trade practices hindering U.S. citrus export trade. (For a thorough discussion of the use of different products for retaliation, see CRS Rept. No. 87-911 ENR, The "Citrus-Pasta Dispute" between the United States and the European Community, By Donna U. Vogt.)

Implementation

USTR must take the retaliatory action, if any, within 30 days after the determination is made (subject to the specific direction, if any, of the President regarding any action.) USTR can delay action by 180 days or less if: (1) the petitioning party requests a delay; (2) the majority of the representatives of the domestic industry that would benefit from the action requests a delay; or (3) USTR determines progress is being made or that the issues involved are complex and complicated and the investigation requires additional time.

If USTR finds export targeting under the investigation but does not retaliate, the law requires USTR to form an advisory panel to recommend measures promoting the competitiveness of the domestic industry affected by that targeting.[13] The panel has 6 months to write a report. On the basis of the advisory panel's report, the USTR (subject to the specific direction of the President, if any) may take any administrative action authorized by law and, if necessary, propose legislation to implement any other actions. Within 30 days of the panel's report, USTR must submit to Congress a report on such administrative actions taken and legislative proposals made.

Once there is a decision, the reasons must be published in the Federal Register.

Monitoring of Foreign Compliance and Termination of Actions

The President is required to monitor and to modify or terminate any retaliatory actions taken, if necessary. The retaliation automatically ends after four years unless the industry affected petitions for an extension. If, after being notified beforehand, the petitioner or affected industry requests a continuation of the action within the action's last 60 days, USTR has the discretion to continue or end the action.

The GATT Connection

Section 301 creates a unique relationship between U.S. law and the GATT, or any other international agreement dispute settlement process. Primarily it allows private parties access to an international mechanism for settling disputes.[14]

The law applies most frequently to practices violating the GATT. Under the GATT dispute settlement procedure, the GATT Council establishes a panel and its terms of reference.[15] The GATT panel examines the facts and arguments from the contending parties and recommends a course of action to the GATT Council.[16] The Council if it rules on the recommendations, only does so by consensus. However, the process often is drawn out. In fact, a General Accounting Office study found that the GATT dispute settlement procedures for most complaints averaged about 45 months, just short of 4 years.[17]

Early petitions, particularly those challenging domestic EC agricultural policies, took between 2 to 12 years to resolve. Because of the inordinately slow process, Congress insisted on putting time limits around the 301 process.

Uruguay Round negotiators of the GATT Negotiating Group on Dispute Settlement also recently recommended time limits on the dispute settlement process. The proposed recommendations suggest an overall timetable that would require panels to report within 15 months to the GATT Council of Ministers with findings on the petition.[18] Dispute settlement panels are composed of representatives from 3 GATT-member countries disinterested in the dispute. The panel's general task (called terms of reference) is to find information about the practice and the problems it caused. In recent years, contending members have used disputes over terms of reference as a delaying tactic.

"Super 301" Provision

"Super 301" is a provision of the Omnibus Trade and Competitiveness Act of 1988 (Section 310) that amended Section 301 of the Trade Act of 1974. It called upon the Administration to act aggressively in naming foreign countries and practices that injured the flow of U.S. commerce. See below for a discussion of recent actions taken under its authority.

AGRIBUSINESS CASES UNDER SECTION 301

Appendices A and B show all recorded petitions involving agricultural products that have been filed with USTR since 1975. Appendix A covers petitions accepted by USTR. Appendix B lists petitions concerning agricultural products that were filed but not accepted for investigation.

Each of the petitions described in the appendices is assigned an official number when the case is accepted for investigation. Of the 78 petitions accepted by USTR since the 1974 trade act became law, 30 petitions or approximately 39 percent involved agricultural products. Of these 30, two formal petitions, involving soybean oil and meal subsidies, were pursued by USTR in conjunction with a previously filed and accepted petition. This paper, therefore, reports on 28 petitions involving agricultural exports. USTR did not investigate (rejected) 24 petitions, of which 7 involved agricultural products. Appendix B lists these seven. Figure 2 graphs the years when petitions were filed. No more than 5 petitions were filed in any one year.

[Figure not reproducible in the RECORD.]

Of the 30 cases described in Appendix A, 17 petitions or 57 percent of the agricultural cases alleged harm caused by trading practices of the European Community (EC) or countries within the EC. Other countries mentioned in at least one petition by itself or in combination with other countries were: Argentina (3), Korea (2), Taiwan (2), Brazil (2), Canada (2), Japan (1), Malaysia (1), India (1), Spain (1) and Portugal (1).

The products mentioned varied considerably. Canned fruit was mentioned three times while citrus products were specified in two petitions. Oilseeds and products were specified in four petitions; meats were also specified in four petitions. Eggs were specified in two petitions, wine, beer, and/or tobacco in two petitions. Other products mentioned at least once were: rice, wheat flour, wheat, livestock feed, sugar, malt, hides, almonds, poultry and pasta.

Of the 30 cases involving agricultural products, 17 either are still pending or were brought to the GATT for dispute settlement, while 13 are pending or were resolved through bilateral consultations outside the formal GATT procedures. Bilateral consultations and negotiations outside of the GATT appear to speed up the process. For example, four of the five cases initiated so far by the President were resolved bilaterally without recourse to the GATT procedures.

Also, earlier cases took longer to resolve, while more recent petitions and investigations have moved more expeditiously. Cases filed in the 1970s and early 1980s took from 4 to 12 years to resolve. However, more recent cases have been resolved much more rapidly, taking between 1 to 2 years.

Part of the reason for the lengthy negotiation period was because earlier petitions sought redress against trading practices forbidden under GATT rules such as predatory export subsidies and trade practices in third country markets. One petition now symbolizes the problems with using the GATT dispute settlement procedures to change national trading policies. A petition by the Millers National Federation (see Investigation No. 301-6) claimed that the EC export subsidy on wheat flour was a subsidy on a processed product. Processed product subsidies were forbidden under the GATT Tokyo Round Code on Subsidies and Countervailing Duties if used to gain unfair competitive advantages in third country markets.[19] The Millers Federation claimed that the EC export subsidy on wheat flour gave the EC just such an advantage. The EC argues that wheat flour was a primary product and therefore its exportation could be subsidized under GATT Code rules. The EC further contended that even if wheat flour is processed, only the primary product component is subsidized, and the EC had not used subsidies to gain more than an equitable share of the market. A panel report found that the EC's share of world wheat flour exports had increased while U.S. and other suppliers' shares decreased. The panel did not rule, however, on whether the EC's use of export subsidies was legal under GATT rules.

The wheat flour case showed many GATT member countries that it was difficult to change an internal domestic policy (as the EC calls its export subsidies) in the GATT dispute settlement arena. The length of time (the issue will be subject to negotiation in the Uruguay Round), the costly administration effort, and the frustration of the U.S. wheat millers demonstrated that petitioning against agreement violations through Section 301 procedures was not very successful in bringing about any fundamental change in the EC policy, nor did the 301 process restore what the U.S. group considered its market share.

More recent cases petitioned against hindrances to market access either because of quotas, bans, or licensing arrangements. These Section 301 cases have been resolved sooner than earlier cases. A petition against Korean wine restrictions, for example, was successful in negotiating in less than one year greater market access for U.S. products.[20] Consultations and negotiations were held on a bilateral basis with the entire process lasting 10 months.

Appendix B, gleaned from the public files at USTR, lists 7 petitions involving agricultural products that were officially filed but not accepted by USTR. This appendix also includes the determination of whether the petition was withdrawn or why USTR dismissed the complaint.

ASSESSMENT OF SECTION 301 AGRIBUSINESSES COMPLAINTS

How successful has the Section 301 process been in removing unfair trade practices for U.S. agricultural exports? Have the various amendments to the original Section 301 strengthened the negotiating hand for groups interested in regaining market share

and acquiring market access for agricultural commodities?

"Relatively successful" appears to be the general assessment of the Section 301 process from many who have worked on 301 cases.[21] Success appears to depend on what the industry wanted when it filed a petition or an investigation began. For the most part, Section 301 agriculture petitions have pressured foreign governments into addressing some of the agricultural groups' concerns. The "successful" comment stems not from small starting exporters, but from groups that have already been exporting and have encountered problems that they see as substantial stumbling blocks to their trade flows. In the 14 years of the 301 process, 30 petitions from agricultural groups have been investigated; these are principally from major commodity groups. The opinion of many spokespeople for the petitioners is that the law should be amended to increase the number of foreign unfair policies against which retaliation was required. Petitioning groups consider such strengthening as important Administration leverage to correct unfair trading practices.

Support for Section 301 Use

High Visibility. Supporters of the Section 301 process are quick to point out that filing a Section 301 petition is one major way that U.S. private businesses can get the U.S. Government involved in protesting another country's policies. With a 301 petition, the private interest group draws U.S. and world attention to an unfair trading practice and the economic impact of the practice on U.S. commerce. Because the practice is under the "spotlight," U.S. companies also can look at their own industry and marketing techniques to insure they also are compatible with world trading rules. The Rice Millers Association filed two different Section 301 petitions (1986 and 1988) against Japan's ban on imports of rice. Although these two petitions were rejected by the USTR, the filing process and the publicity given to this trade barrier has stayed in public view, and is often cited as an example of Japan's protectionist policies.[22]

Leverage in Bilateral Negotiations. Also, the threat of loss of U.S. markets or of other retaliatory acts can be a significant incentive to foreign countries to reconsider questionable trade policies. In fact, some countries have become more flexible in negotiations when faced with a Section 301 petition. The EC became much more flexible in its negotiations over its barrier to U.S. meat exports, the so-called Third Country Meat Directive after a Section 301 petition was filed.[23] (See Appendix A, Docket No. 301-60.) This directive established new and costly requirements on methods of slaughtering and meat processing in non-EC countries, including the United States. Although the directive is still in effect, the EC became much more amenable to certifying U.S. slaughterhouses after the petition was filed.

Leverage in Multilateral Negotiations. USTR claims that these bilateral negotiations conducted under the auspices of Section 301 can have a positive impact on the multilateral trading system.[24] For example, the 1988 settlement with Japan on beef and citrus quotas, brought in part by the Section 301 petition of the U.S. citrus industry, has opened the market for beef and citrus imports from the United States as well as from Australia and New Zealand. So in this manner, Section 301 is furthering the Administration's goals of expanding access to all markets and ensuring "fair play" around the world in agricultural trade.

Problems with Section 301

Cost and lack of effectiveness appear to be the primary reasons why more interested U.S. agribusiness groups do not use the Section 301 process.

Cost. Section 301 petitions can be costly. Petitioning industries incur costs in both time and money without the assurance that trade practices will be remedied or market access eased. The cost to petitioners of Section 301 cases varies depending on the expertise within the petitioning organization, the type of industry that is claiming injury, and the amount of revenue lost in the period covering the dispute. In addition, the industry would not have complained about the practice unless it was losing money. Therefore, as the Section 301 process drags on, producers face the additional loss of income while in the petitioning process.

In fact, the cost of Section 301 petitions can depend on whether the Administration's trade objectives coincide with the objectives of the petitioners. For example, if an industry applies for relief from another country's unfair trade practices in a Section 301 petition, and the Administration supports the objective of the petition, or if the Administration initiates relief action itself, government officials would assist in the preparation and negotiations. Overhead costs to the petitioning industry might be smaller, and the relief could be relatively rapid. Costs can also be held down if petitioners combine forces and split up the costs. Case number 301-60 was filed by a coalition of U.S. interest groups protesting the EC's Third Country Meat Directive (see Appendix A, investigation no. 301-60), which kept costs to the individual groups down.

If, on the other hand, an industry initiated relief action under section 301 without the support of the Administration, the overhead cost and the time spent could be quite large. And the domestic industry may not be organized in a way that permits it to act in a unified manner and together fund the necessary research and filing of the petition. For example, although pecans could perhaps gain a sizable market share in the European Community, where nontariff barriers have caused difficulties in market access for pecans, U.S. pecan producers (approximately 12,000) cannot coordinate the fundraising to pay for a petition. Apparently, the cost of forming the necessary organization and raising the needed funds to file a petition is greater than the benefit to these pecan producers at this time.[25]

In an informal survey of spokespeople for 11 petitioners, five petitioners claimed their cost range between $1,000 and $25,000 per petition. Two claimed their costs ranged between $35,000 and $50,000; one said its cost was between $100,000 and $200,000; and three claimed costs from between $600,000 and $1.5 million.[26]

Effectiveness. Several spokespeople interviewed questioned the effectiveness of the Section 301 process. Their major complaint was that the process takes a long time and the alleged unfair practices and related trade injury continue during the delay. Suporting this comment is evidence collected by the General Accounting Office that estimated the average time for completing 301 cases is 34 months (just short of 3 years).[27] In one case, USTR rejected a petition for lack of complete data. The petitioner could not find 10 years of data easily, and did not spend the money or time to collect it.[28]

Some U.S. industries recovered their lost markets (examples include eggs and malt) after going through the Section 301 process. However, others qualified their satisfaction over the outcome with comments about problems with the process. Even if a petition is successful, through a GATT panel or through retaliatory action, the U.S. industry may not gain the market access it hoped or the satisfaction of seeing a trade practice changed. The country may just shift to alternative barriers. A GATT panel investigating EC subsidies on EC member states' products including canned peaches, fruit cocktail, and raisins, confirmed that EC subsidies nullified the benefits of tariff concessions negotiated in previous GATT rounds.[29]

The United States has only used retaliatory actions in five cases (Appendix A, Docket Nos. 301-11, 301-24, 301-25, 301-54, 301-62). At times, the actions taken either gave an advantage or disadvantage to the petitioners in the original complaint or to another product rather than to the originating interest of the petitioner. In one petition (Docket No. 301-11), the Florida Citrus Commission along with other citrus interest groups, filed the original petition. During the 301 process, the EC imposed higher tariffs on lemons and walnuts. Later, when the United States reached an agreement for EC tariff concessions on citrus, the EC lowered tariffs on almonds and peanuts.

The petitioning firm also may incur the foreign government's hostility by filing a Section 301 petition, and the government may refuse to change the injuring practice or may even retaliate. The "citrus-pasta" war and the EC growth hormones ban on meat products are two examples of the exchanges that have led to an escalation of tensions. (See Appendix A, investigation docket numbers 301-11, 301-25, and 301-62.)

Some analysts have suggested that it may be more effective in gaining market shares to use direct subsidies against unfair trading practices, such as those under the Export Enhancement Program, rather than retaliatory actions. Direct subsidies draw the instant attention of foreign competitors. Competing exporters then pressure their governments to change policies, while the lengthy and risky procedures under Section 301 may not bring such direct results.

SUPER 301

The so-called "Super 301" provision of the 1988 trade act (Section 310) added a new requirement to the 301 process. Under the new statute, not only would USTR deal with trade barriers one at a time; in addition, under "Super 301," USTR must negotiate a whole list of trade barriers and identify U.S. trade liberalization priorities. One list would be prepared covering 1989 and another for 1990. It then was to be submitted to the Senate Finance and House Ways and Means Committees. The statute asked USTR in each list, to name those countries with the most restrictive and pervasive barriers to U.S. exports. Not only were countries to be named, but so were the "priority practices" of these countries.

USTR named six priority practices of Japan, Brazil and India to be the target of this year's Super 301 investigations. The list also gives information on action being taken to eliminate any pact, policy or practice identified.

Procedures

The "Super 301" list was based on an annual inventory of trade barriers entitled "National Trade Estimate Report," published by USTR since 1974, that lists significant trade distorting practices of principal U.S. trading partners.[30] Where feasible, the

report gives quantitative estimates of the impact of foreign practices upon the volume of U.S. exports. USTR released its most recent report at the end of April 1989.

Once identified, USTR initiates Section 301 investigations within 21 days with respect to all of those priority practices identified in the list for each of the priority foreign countries. USTR also has the discretion to initiate investigations of any other priority practice identified in the earlier report. "Super 301" investigations follow the usual procedure for Section 301 cases, meaning there is an investigation period during which USTR negotiates for the removal of barriers.

During the consultations with the "priority country governments," USTR is required to seek to reduce, to eliminate, or to receive compensation for, priority practices within 3 years of the start of the investigation. The negotiations are expected to bring an agreement to increase U.S. exports to that country incrementally each year over the 3 years. If such an agreement is negotiated before the date on which any action is required, the investigation will be suspended. But if the foreign country signs an agreement and then doesn't comply with its terms, USTR shall continue the investigation as though such an investigation had not been suspended.

A delay of 180 days is possible if suitable reasons are published. From then on, the "Super 301" investigation follows the same procedures as for any other Section 301 investigation. If USTR is not satisfied with the increase in exports, it can continue the investigation under standard Section 301 time limits. Beginning in 1990, USTR must submit annual progress reports on the reduction in priority practices by priority countries.

IMPLEMENTATION

In identifying the "priority trading practices" required in Super 301, USTR named the successful conclusion of " . . . the Uruguay Round of multilateral trade negotiations by December 1990" to be the highest trade liberalization priority. Also, the United States seeks to achieve multilateral agricultural reform in these negotiations. In fact, USTR identified, in its "Super 301" report of trading practices, the specific agricultural practices that the United States wants to negotiate with its trading partners:

"European Community variable levies on imports of grains, sugar, dairy products, beef, poultry, eggs, pork and processed products made from these commodities, which afford protection to European producers of these products, adversely affecting U.S. exports to the EC.

"European Community agricultural exports subsidies. The EC grants export "restitutions" on a wide range of agricultural products including wheat, wheat flour, beef, dairy products, poultry, and certain fruits, as well as some processed products. The result of such subsidies is downward pressure on world agricultural prices and unfair competition for U.S. exporters in third country markets.

"Japan's imports of rice. Japan's strict prohibition on the import of rice adversely affects U.S. rice producers and exporters and is unjustifiable in light of Japan's GATT obligations." [31]

Changes in these practices will be pursued through Uruguay Round negotiations. Multilateral negotiations are sought because problems over agricultural subsidies are difficult to solve absent broad multilateral agreements. According to USTR, any government that agrees to eliminate subsidies in a bilateral agreement places its producers at a competitive disadvantage with respect to countries that have not assumed a similar obligation.[32]

Besides these U.S. priorities in the Uruguay Round agriculture negotiations, the "Super 301" list names agricultural matters in conjunction with quantitative import restrictions of Brazil. Brazil is named as having bans, quotas, and restrictive licensing regimes inhibiting imports of over 1,000 items including manufactured and agricultural products (meat and dairy products were mentioned).

In the preparation of the "National Trade Estimate Report," the USTR invited the public to comment on practices that should be considered in identifying priority practices under the "Super 301" provision.[33] Comments included: "the major barriers and trade distorting practices the elimination of which are likely to have the most significant potential to increase U.S. exports, either directly or through the establishment of a beneficial precedent." The public comment period ran from March 2, 1989 through March 24, 1989.

Out of a total of 46 groups filing their comments, 19 (or 41 percent) were agricultural groups. Most of these (13) complained of Korean high import tariffs and quotas on their products.

Reactions by Foreign Governments

The Super 301 statute already appears to be a major factor in changing U.S. agricultural product access to Korean markets. Korean and U.S. officials agreed to eliminate over 2 years, in three stages, tariffs on 62 products of interest to the United States; to reduce immediately tariffs on almonds, raisins, cherries, pistachios, alfalfa, avocados, and particle-board. Korea also promised to give more information about its import process, and liberalize some nontariff barriers such as the blending requirement on frozen concentrate orange juice imports. USTR claims that this agreement with Korea shows that bilateral negotiations on particular practices complement the multilateral negotiations on generic trading rules. Taiwan also agreed to changes in restrictive import practices on agricultural imports.

Other trading partners, notably Japan and the EC, complained that the "Super 301" process has a tendency to distract from the current multilateral trade negotiations, and even undermine efforts toward solutions to trading problems.[34]

Several U.S. trading partners see the Section 301 process as a threat to their own trading systems. The European Community (EC) loudly protested its use over the years. In fact, to "fight fire with fire", the EC released just days after USTR's report, the "EC Report on U.S. Trade Barriers." The report names almost 40 U.S. trade barriers, (export subsidies, customs barriers, quantitative restrictions, etc.) including U.S. alleged restrictive practices in agriculture. In the announcement releasing its report, the EC Commission expressed its concern about the use of unilateral retaliatory measures incompatible with international trading rules.[35] However, some analysts consider the report to be itself retaliatory and a method of pressuring the United States into dropping its more "militant" posture.

Japan, Brazil and India all protested being placed on the "Super 301" list of priority countries that have persistent barriers to U.S. trade. Japanese Prime Minister Uno was quoted as saying that the U.S. move was "extremely regrettable," and that the U.S. trade deficit was caused in part by macroeconomic policies and the huge Federal budget deficit, not by Japanese trade barriers.

One risk is that countries named on the "Super 301" list could retaliate, even before the 301 process requires U.S. retaliation (within 18 months of the beginning of the investigation.) Another risk is that by embarrassing named foreign governments, public opinion could be turned against the United States and ultimately undermine its attempts at trade liberalization. News reports quoted an Indian official as suggesting that India had lost face in being named. The official was reported to have asked, "How can you expect any self-respecting country to (negotiate under this threat?)" [36] In fact, in this Indian election year, it is unlikely that India will substantively negotiate because negotiated trade concessions benefitting the United States would be unpopular politically.

The strongest protect against the "Super 301" action was aired in protests that such a unilateral action undermined the principles of the GATT; critics contended that it meant that trade negotiations were to be conducted on U.S. terms. The ministers at the June 1989 meeting of the Organization of Economic Cooperation and Development (OECD) issued a statement in which they rejected any "tendency towards unilateration, sectoralism, and managed trade which threatens the multilateral system." [37]

FOOTNOTES

[1] U.S. Library of Congress. Congressional Research Service. Foreign Trade Barriers and Section 301, by Lenore Sek. Issue Brief 89113. Updated regularly.

[2] For a complete legislative history of the debate over mandatory/discretionary actions, see Bello, Judith Hippler and Alan F. Holmer. The Heart of the 1988 Trade Act: A Legislative History of the Amendments to Section 301. Stanford Journal of International Law. Vol. 25, Fall 1988. pp. 1-44.

[3] The predecessor statute, section 252 of the Trade Expansion Act of 1962 (P.L. 87-794, approved October 11, 1962) was repealed and Section 301 took its place in the Trade Act of 1974 (P.L. 93-618, approved January 3, 1975, 19 U.S.C. 2411). The law has been substantially amended by Title IX of the Trade Agreements Act of 1979 (P.L. 96-39, approved July 26, 1979), by the Trade and Tariff Act of 1984 (P.L. 98-573, approved October 30, 1984) and by the Omnibus Trade and Competitiveness Act of 1988 (P.L. 100-418, approved August 23, 1988). Also see CRS Report entitled, Section 301 of the Trade Act of 1974: Agricultural Commodity Cases, by A. Ellen Terpstra. Archived CRS Report. March 1982.

[4] Section 304 of the Trade Act of 1974, as amended. 19 U.S.C. 2414. Export targeting is defined to mean "any government plan or scheme consisting of a combination of coordinated actions (whether carried out severally or jointly) that are bestowed on a specific enterprise, industry, or group thereof, the effect of which is to assist the enterprise to become more competitive in the export of a class or kind of merchandise."

[5] Section 301(d)(3)(B) of the Trade Act of 1974, as amended, defines unreasonable practices to include: any act, policy, or practice, which denies fair and equitable—

(I) opportunities for the establishment of an enterprise;

(II) provision of adequate and effective protection of intellectual property rights; or

(III) market opportunities, including the toleration by a foreign government of systematic anticompetitive activities by private firms or among private firms in a foreign country that have the effect of restricting, on the basis inconsistent with commercial considerations, access of U.S. goods to purchasing by such firms.

[6] Public Law 100-418, Sections 1301-1302; 102 Stat. 1164-1179.

[7] Many details on Section 301 procedures are in Bello, Judith Hippler and Alan F. Holmer. The Heart of the 1988 Trade Act: A Legislative History

of the Amendments to Section 301. Stanford Journal of International Law. Vol. 25, Fall 1988. p. 1-44.

[8] This interagency standing Section 301 Committee is chaired by USTR and is composed of representatives of the Departments of State, Treasury, Commerce, Justice, Agriculture, Labor, the Office of Management and Budget, and the Council of Economic Advisors.

[9] Section 304 of the Trade Act of 1974, as amended. (19 U.S.C. 2424)

[10] Trade Act of 1974 Section 135 (19 U.S.C. 2155) is amended by P.L. 98-573, October 30, 1984, 98 Stat. 3011. The Advisory Committee for Trade Negotiations is a committee made up of representatives from the private and non-Federal governmental sector.

[11] Ambassador Alan F. Holmer, and Judith Hippler Bello. The 1988 Trade Bill: Is it Protectionist? Unpublished paper of the Office of the Trade Representative. Fall 1988. p. 8.

[12] Telephone conversation with Harold Jackson, President of Sunsweet Commodities. (415) 463-7536.

[13] Export targeting here means that a foreign government's policies, acts, or practices protect home markets; promote or tolerate cartels, place special restrictions on technology transfer to gain commercial advantage, practice discriminatory government procurement policies, use export performance requirements that limit foreign competition, and subsidize in a way that gains them more than an equitable share of the market. U.S. Congress. House of Representatives. 2nd Session. Omnibus Trade and Competitiveness Act of 1988. Conference Report to accompany H.R. 3. Report 100-576. April 20, 1988. p. 567.

[14] U.S. General Accounting Office. Statement for the Record by Allen I. Mendelowitz, Senior Associate Director, National Security and International Affairs Division, for the Senate Committee on Finance, July 22, 1986 in hearings on Section 301 of the Trade Act of 1974, as amended. Presidential Authority to Respond to Unfair Trade Practices. Hearing before the Committee on Finance, U.S. Senate, 99th Congress, 2nd Sess., July 22, 1986, Title II of S. 1860 and S. 1862. S. Hrg. 99-1001. p. 189-197.

[15] Article XXIII:1 of the GATT says that trading partners should consult with each other over the trade problem and these consultations should be carried out in a timely manner. If consultations do not resolve the problem, Article XXIII:2 states that a panel should be formed. It is the usual practice that the panel consist of three to five members, normally drawn from experts from countries not involved in the dispute. These panel members are expected to act as disinterested mediators and not as representatives of their governments. See also Section 303(2), 19 U.S.C. 2413, 102 Stat. 1170.

[16] The panel examines the facts and arguments from the two parties, normally including at least two rounds of written briefs and two rounds of oral arguments. The panel then writes a report. The report contains the panel's conclusions and suggested remedies that the members may choose to adopt as recommendations to the disputing parties. Bilateral settlement among parties to a dispute is possible at every phase of the process, up until the final adoption of the panel report by the member ruling Council. The panel circulates the report initially to only the two disputing parties for comment. Thereafter, the panel transmits the final report to the GATT Council for acceptance. The Council votes on the report only if both parties accept the report's conclusions; one party can prevent the report's presentation to the Council for a vote. The Council acts by consensus, not by majority vote, and therefore will not formally accept a panel report unless all members agree to either abstain or vote for the report's acceptance.

[17] General Accounting Office. International Trade: Combatting Unfair Foreign Trade Practices. GAO/NSIAD-87-100. March 1987. p. 18.

[18] The April 1989 "framework agreement" section on agriculture included in its work program the goal of "strengthened and more operationally effective rules and disciplines . . ." General Agreement on Tariffs and Trade. Chairman's text. p. 8. Also see Edward C. Wilson, GATT Mid-Term Review. World Agriculture: Situation and Outlook Report. U.S. Department of Agriculture. Economic Research Service. March 1989. pp. 10-12.

[19] The GATT Tokyo Round of multilateral trade negotiations ran from 1974 to 1979, and focused on the reduction of tariffs and non-tariff barriers as well as forming rules for trading in codes.

[20] In a January 1989 U.S.-Korean exchange of letters, ending the Section 301 investigation (301-67), Korean officials agreed to increase wine and wine product quotas substantially in 1989 and eliminate them in 1990. Sparkling wine and brandy import restrictions will be lifted in 1991. The agreement also provides for reduced tariffs on wine and wine products, a reduced liquor tax on wine coolers and wholly owned foreign investment in importation and distribution of foreign wine and wine products. Office of the U.S. Trade Representative. 1989 National Trade Estimate Report on Foreign Trade Barriers. p. 117.

[21] The information in this section came from telephone conversations with a number of people in private business who represent U.S. agricultural interests and have worked with Section 301 petitions: John Baize, American Soybean Association; Paul Green, Millers National Federation; Leonard Lobred, National Food Processors Association; Jerry Welcome, Mike Copps, Amerian Meat Institute; Steve Gabbert, Gabbert Associates; Robert G. Hibbert, Heron, Burchette, Ruckert, and Rothwell; Paul C. Rosenthal, Collier, Shannon, Rill, and Scott; Larry Kleingartner, National Sunflower Association; Bob Schramm, Schramm and Associates; Sheldon Hauk, National Soybean Processors Association. Others were contacted July 1988 for similar information: Don Farmer, Florida Citrus Commission; Mr. Bill Quarrels, California-Arizona Citrus League; Jean Marie Peltier, California Pear Growers Association; Tom Krugman, California Cling Peach Advisory Board.

[22] Telephone conversation with Steve Gabbert, Gabbert Associates, 5/23/89. (202) 452-1846.

[23] Telephone conversation with Robert G. Hibbert, Heron, Burchette, Ruckert, and Rothwell, attorneys at law. 5/22/89. (202) 898-6425.

[24] Holmer, Alan F. and Judith Hippler Bello. The 1988 Trade Bill: Is it Protectionist? Unpublished paper distributed by Office of the U.S. Trade Representative. Fall 1988.

[25] Telephone conversation with Bob Schramm, Schramm and Associates, 5/19/89. (202) 543-4455

[26] Cost information came from a variety of telephone conversations with persons listed in footnote 21.

[27] U.S. General Accounting Office. Statement for the Record by Allen I. Mendelowitz, Senior Associate Director, National Security and International Affairs Division, for the Senate Committee on Finance, July 22, 1986 hearings on Section 301 of the Trade Act of 1974, as amended. Presidential Authority to Respond to Unfair Trade Practices. Hearing before the Committee on Finance, U.S. Senate, 2nd Sess., 99th Congress, July 22, 1986, Title II of S. 1860 and S. 1862. S. Hrg. 99-1001. P. 189-197.

[28] Telephone conversation with Larry Kleingartner, National Sunflower Association, 5/18/89. (701) 224-3019.

[29] Telephone conversation with Ms. Jean Marie Peltier, President of California Pear Growers, 6/27/88.

[30] Some countries were excluded from the USTR report primarily because of the relatively small size of their markets or the absence of major U.S. industry and agricultural trade complaints. Most centrally-planned or nonmarket economies also were excluded because the trade barriers in those countries are qualitatively different from those found in market economies.

[31] Office of the U.S. Trade Representative. Fact sheet: "Super 310" trade liberalization priorities. May 26, 1989. p. 9.

[32] Office of the United States Trade Representative. Fact Sheet: "Super 301" Trade Liberalization Priorities", May 26, 1989. p. 8.

[33] Federal Register, Vol. 54, No. 40, Thursday, March 2, 1989. p. 8867.

[34] European Community Office of Press and Public Affairs. E.C. Reacts to U.S. "301" Decision. European Community News. No. 15/89, May 26, 1989.

[35] European Community Office of Press and Public Affairs. E.C. Releases 1989 Report on U.S. Trade Barriers. European Community News. No. 13/89, May 3, 1989.

[36] Journal of Commerce. U.S. Trade Warning Baffles India. June 1, 1989.

[37] Hobart Rowen. OECD Nations Offer Veiled Criticism of U.S. Policies. The Washington Post. June 2, 1989. p. F3.

APPENDIX A.—AGRICULTURAL PETITIONS INVESTIGATED BY USTR AS OF SEPT. 6, 1989

Country and product concerned (assigned docket investigation No.)	Complaint	Disposition or present status
Canada Egg Quota (301-2)	United Egg Producers and American Farm Bureau Federation filed petitions on July 17 and 21, 1975, alleging that a Canadian quota on the importation of U.S. eggs constituted an unfair trade practice (40 FR 33749).	As a result of bilateral negotiations, Canada approximately doubled its quota for imports of U.S. eggs. USTR terminated the investigation on March 14, 1976 (41 FR 9430).
E.C. Supplementary Levies on Egg Imports (301-3).	Seymour Foods, Inc. filed a petition on Aug. 7, 1975, alleging that changes in the E.C.'s supplementary levies on imports of egg albumin impaired the ability of U.S. exporters to contract for sales in the E.C. (40 FR 34649).	Following informal consultations, supplementary levies were replaced with increased import charges. However, since U.S. exports of egg albumin steadily increased, the Section 301 Committee determined that no further action was necessary. USTR terminated the investigation on July 21, 1980 (45 FR 48758).
E.C. Minimum Import Price & License/ Surety Deposit Systems on Canned Fruits, Juices and Vegetables (301-4).	The National Canners Association filed a petition on Sept. 22, 1975, alleging that the E.C.'s minimum import prices and an import license/surety deposit system with respect to canned, fruits, juices, and vegetables constituted an unfair trade practice (40 FR 44635).	USTR initiated an investigation and held public hearings on Nov. 17, 1975. Consultations under GATT Art. XXIII:1(c) were held March 29, 1976. A GATT panel was appointed under Art. XXIII:2. As a result of the panel's report, the E.C. discontinued use of minimum import price mechanism. USTR terminated the investigation on Jan. 5, 1979 (44 FR 1504).
E.C. Subsidies of Malt Exports (301-5)	Great Western Malting Company filed a petition on Nov. 13, 1975, alleging E.C. subsidies on malt to third countries (40 FR 54311)..	In 1976, the E.C. reduced the subsidy. USTR terminated the investigation on the advice of the Section 301 Committee and with petitioner's agreement on June 19, 1980 (FR 41558).
E.C. Export Subsidies on Wheat Flour (301-6).	Millers' National Federation filed a petition on Dec. 1, 1975, alleging violation by the E.C. of GATT Art. XVI:3 in using export subsidies to gain more than an equitable share of world export trade in wheat flour (40 FR 57249).	USTR initiated an investigation on Dec. 8, 1975. Consultations under GATT Art. XXIII:1 were held in 1977 and 1980, and technical discussions followed in 1981. On Aug. 1, 1980, the President directed USTR to pursue dispute settlement (45 FR 51169). The Subsidies Code dispute settlement process was initiated on Sept. 29, 1981. The Subsidies Code panel (established on Jan. 22, 1982) issued its conclusions on Feb. 24, 1983. The Code Committee considered the panel report on April 22, May 19, June 10, and Nov. 17, 1983. The issues raised by the panel report are the subject of Uruguay Round negotiations.
E.C. Variable Levy on Sugar Added to Canned Fruits and Juices (301-7).	The National Canners Association filed a petition on March 30, 1976, alleging that sudden changes in the variable levy assessed on sugars added to canned fruits and juices by the E.C. constitute unjustifiable and unreasonable import restrictions and impair the value of GATT-bound tariff rates to the U.S. (41 FR 15384).	Following consultations during the MTN, the parties reached an agreement on July 11, 1979, which changed the variable levy to a fixed 2% levy on sugar added. USTR terminated the investigation with the advice of the Section 301 Committee and petitioner's agreement on June 18, 1980 (45 FR 41254).
E.C. Livestock Feed Mixing Requirement (301-8).	The National Soybean Processors Association and the American Soybean Association filed a petition on March 30, 1976, alleging that the E.C. requirement that livestock feed be mixed with domestic nonfat milk constituted an unfair trade practice since it displaced other protein sources such as soybeans and cake imported primarily from the U.S. (41 FR 15384)..	USTR initiated an investigation and held a public hearing on June 22, 1976. The GATT panel appointed under Art. XXIII:2 met February and March 1977. In the interim, the E.C. terminated its system. USTR terminated the investigation on Jan. 5, 1979 (44 FR 1504).

APPENDIX A.—AGRICULTURAL PETITIONS INVESTIGATED BY USTR AS OF SEPT. 6, 1989—Continued

Country and product concerned (assigned docket investigation No.)	Complaint	Disposition or present status
E.C. Citrus Tariff Preferences for Certain Mediterranean Countries (301–11).	Florida Citrus Commission et al. filed petitions on Nov. 12, 1976, alleging that the E.C.'s preferential tariffs on orange and grapefruit juices and fresh citrus fruits from certain Mediterranean countries have an adverse effect on U.S. citrus exports to the E.C. (41 FR 52567).	USTR initiated an investigation on Nov. 30, 1976, and held public hearings on Jan. 25, 1977. During the MTN, the U.S. obtained duty reductions on fresh grapefuit only. GATT Art. XXII:1 consultations were held in October 1980, followed by informal discussions. Formal consultations under GATT Art. XXIII:1 were held April 20, 1982. Conciliation efforts in September 1982 failed. On Nov. 2, 1982, the GATT Council agreed to establish a panel. The panel composition and terms of reference of the panel took some months to resolve. The panel met on Oct. 31 and Nov. 29, 1983, and Feb. 13 and Mar. 12, 1984. The factual portion of the panel report was submitted to the parties on Sept. 27. The full report was submitted on Dec. 14, 1984. The GATT Council considered the panel's findings and recommendations on March 12 and April 30, 1985, but the E.C. blocked any action. On April 30, the U.S. considered the dispute settlement concluded. On May 10 USTR held a public hearing on the substance of our recommendations to the President (50 FR 15266). USTR transmitted his recommendation on May 30, and on June 20 the President determined that the E.C. practices deny benefits to the U.S. arising under the GATT, are unreasonable and discriminatory, and constitute a burden on U.S. commerce (50 FR 26143). Effective July 6, the President imposed a 40% ad valorem duty on pasta products not containing egg and a 25% ad valorem duty on pasta products containing egg (50 FR 26143). The E.C. reacted by raising duties on lemons and walnuts imported from the U.S., effective July 8. On July 19, USTR announced that in return for the U.S. suspension of increased duties on imported pasta, the E.C. would drop its proposed duty increases, reduce E.C. pasta export subsidies by 45 percent, and take steps to increase access to the E.C. market for U.S. citrus exports by Oct. 31. Because the E.C. did not increase our access to its citrus market, by Oct. 31, as promised, the U.S. imposed the substantially higher duties on pasta imported from the E.C. on Nov. 1. The E.C. then counter-retaliated and imposed higher duties on lemons and walnuts imported from the U.S. On August 10, 1986, the U.S. and E.C. reached an agreement that resolved this case. The U.S. obtained tariff conscessions from the E.C. on citrus products. In addition, the agreement provides for E.C. tariff concessions on almonds and peanuts, in return for certain U.S. tariff reductions. After negotiating this agreement, both the U.S. and E.C. terminated their retaliatory duties (51 FR 30146). Subsequently the U.S. increased the E.C. cheese quota (52 FR 8439) and the E.C. lowered its tariffs on some products. Authority to reduce U.S. tariffs is included in the Omnibus Trade and Competitiveness Act of 1988, and was implemented by Presidential Proclamation on Decmeber 21, 1988. Finally, the U.S. and E.C. agreed to negotiate a prompt settlement to the pasta dispute (see Docket No. 301–25).
E.C. Wheat Export Subsidies (301–16)	Great Plains Wheat, Inc. filed a petition on Nov. 2, 1978, alleging that E.C. report subsidies were enabling exports of wheat from the E.C. to displace U.S. exports in third country markets (43 FR 59935).	USTR held public hearings in February 1979, and consulted with the E.C. in July 1979. Both parties agreed to monitor developments in the wheat trade, exchange information, and consult further to address any problems that might arise. USTR terminated the investigation on Aug. 1, 1980 (45 FR 49428).
E.C. Sugar Export Subsidies (301–22)	Great Western Sugar Company filed a petition on August 20, 1981, alleging E.C. violation of GATT Art. XVI and the Subsidies Code in using export subsidies to obtain more than an equitable share of world export trade in sugar (46 FR 49697).	USTR initiated an investigation on Oct. 5, 1981, and held a public hearing on Nov. 4, 1981. The U.S. consulted with the E.C. under Art. 12:3 of Subsidies Code on Feb. 16, 1982. The conciliation phase was completed by April 30, 1982. USTR submitted a recommendation to the President on June 7, 1982. On June 28, 1982, the President directed USTR to continue international efforts to eliminate or reduce E.C. subsidies (47 FR 28361). On July 29, 1987 the petitioners requested that the investigation be reactivated. USTR denied their request; agricultural export subsidies are being addressed in the Uruguay Round negotiations.
E.C. Poultry Export Subsidies (301–23)	The National Broiler Council filed a petition on Sept. 17, 1981, alleging E.C. violation of GATT Art. XVI and the Subsidies Code in using export subsidies that displace U.S. poultry exports to third country markets (46 FR 54831).	USTR initiated an investigation on Oct. 28, 1981. Consultations with the E.C. under Art. 12:3 of the Subsidies Code were held Feb. 16, 1982. On June 11, the U.S. submitted requests for information under Art. 17 of the Code to the E.C. and Brazil. USTR submitted a recommendation to the President on June 28, 1982. On July 12, the President directed expeditious examination of Brazilian subsidies (47 FR 30699). The U.S. informally consulted with Brazil on August 30, 1982, and additionally consulted with the E.C. on Oct. 7, 1982. Formal Art 12 consultations with Brazil were held April 1, 1983, and the U.S. met again with the E.C. and Brazil on June 23. Since these consultations did not resolve the problem, the U.S. requested conciliation. The Subsidies Code Committee held the first conciliation meeting on Nov. 18, 1983. Conciliation continued on April 4, May 4, June 20, and Oct. 16, 1984. No further action has taken place in the Subsidies Code Committee; agricultural export subsidies are being addressed in the Uruguay Round negotiations.
Argentina Hides (301–24)	The National Tanners Council filed a petition on Oct. 9, 1981, alleging breach by Argentina of a U.S. Argentina hides agreements, and unreasonable restrictions on commerce imposed by Argentine hide export controls (46 FR 59353).	USTR initiated an investigation on Nov. 24, 1981. The U.S. consulted with Argentina on Feb. 23 and April 15, 1982. USTR held a public hearing on Oct. 6, 1982, on a proposed recommendation to the President concerning termination (47 FR 40959). The U.S. terminated the hides agreement effective Oct. 29, 1982, and the President increased the U.S. tariff of leather imports effective Oct. 30 (47 FR 49625). Petitioner withdrew its petition on Nov. 9, 1982. USTR terminated the investigation on Nov. 16, (47 FR 52989).
E.C. Pasta Export Subsidies (301–25)	The National Pasta Association filed a petition on Oct. 16, 1981, alleging E.C. violation of GATT Art. XVI and the Subsidies Code in using pasta export subsidies, resulting in increased imports into the U.S. (46 FR 59675).	USTR initiated an investigation on Nov. 1981. Beginning on Dec. 2, 1981, the U.S. consulted with the E.C. several times. On March 1, 1982, the U.S. referred this matter to the Subsidies Code Committee for conciliation. The U.S. later requested a dispute settlement panel, and on April 7 the Committee authorized its establishment. The panel began its work on July 12. On July 21, the President, directed USTR expeditiously to complete dispute settlement (47 FR 31841). The panel met again on Oct. 8 and issued factual findings on Jan. 20 1983. At the E.C's request, an additional panel meeting was held March 29. The panel report (3–1 in favor of the U.S.) was submitted to the Subsidies Code Committee May 19. The Committee considered the report on June 9 and Nov. 18, but deferred decision on adoption of the report. In 1985 and 1986, the U.S. increased duties on pasta imports in retaliation against the E.C.'s discriminatory citrus tariffs (50 FR 26143, 33711; 51 FR 30146). The E.C. counter-retaliated by raising its duties on lemons and walnuts. (See the Citrus case, Docket No. 301.11.) Under the agreement reached in that case on Aug. 10, 1986, both parties agreed to terminate their retaliatory duties (51 FR 30146) and to settle the pasta dispute through prompt, good faith negotiations. A tentative agreement was reached on Aug. 5, 1987, under which the E.C. agreed to reduce its pasta export subsidies by 27.5%, which is intended to eliminate all export subsidies on half of the pasta exported to the U.S. The Agreement was signed Sept. 15 1987. On Sept. 30, 1987, the President proclaimed that the Customs Service shall exclude from entry into the U.S. any E.C. pasta unless accompanied by appropriate documentation determined by USTR to be necessary to enforce the Agreement (52 FR 36897).
E.C. Canned Fruit Production Subsidies (301–26).	The California Cling Peach Advisory Board et al. filed a petition on Oct. 23, 1981, alleging violation by the E.C. of GATT Art. XVII in granting production subsidies on E.C. members states' canned peaches, canned pears, and raisins, that displace sales of non-E.C. products within the E.C. and impair tariff bindings on those products (46 FR 61358).	USTR initiated an investigation on Dec. 10, 1981. The U.S. consulted with the E.C. under GATT Art. XXIII:1 on Feb. 25, 1982. The U.S. requested a dispute settlement panel under Art. XXIII:2 on March 31, 1982. On Aug. 17, 1982, the President directed USTR to expedite dispute settlement (47 FR 36403). The panel met on Sept. 29 and Oct. 29, 1982. The panel report was submitted to the U.S. and E.C. on Nov. 21, 1983. The panel met again with the parties on Feb. 27, 1984. A revised panel report was submitted to both parties on April 27, 1984. An additional panel meeting was held on June 28. A final panel report was issued on July 20. The U.S. requested adoption of the panel report in GATT Council meetings of April 30, May 29, June 5, and July 16, but Council action was deferred because the E.C. was not yet ready to act on the report. On Sept. 7, 1985, the President directed USTR to recommend retaliation unless this case was resolved by Dec. 1, 1985. In December 1985 the U.S. and the E.C. reached a settlement under which, in addition to subsidy reductions already implemented on canned pears, the E.C. agreed to phase out processing subsidies for canned peaches. In October and November 1988 USTR consulted with the E.C. regarding its failure to fully implement the settlement agreement. Technical talks continued in 1989 regarding E.C. calculation of its subsidies, and the matter was raised at Ministerial level on February 18, 1989. Since the matter remained unresolved as of May 1989, a new investigation was initiated. See Docket 302–71.
Brazil Soybean Oil and Meal Subsidies (301–40).	The National Soybean Processors Association filed a petition on April 16, 1983, alleging that the governments of Argentina, Brazil, Canada, Malaysia, Portugal and Spain engage in unfair practices, including export and production subsidies and quantitative restrictions that restrict U.S. exports of soybean oil and meal (48 FR 23947).	On May 23, 1983, USTR initiated an investigation involving Brazil, Portugal, and Spain. USTR held a public hearing on June 29 and 30. The U.S. and Brazil consulted under Art. 12 of the Subsidies Code on Nov. 21. USTR submitted a recommendation to the President on Jan. 23, 1984; on Feb. 13, the President directed USTR to pursue dispute settlement procedures under the Subsidies Code (49 FR 5915). The U.S. has requested additional consultations.
Portugal Soybean Oil and Meal Subsidies (301–41).	See 301–40	The U.S. and Portugal consulted under GATT Art. XXII on Nov. 29, 1983. In June 1984, Portugal began lifting its restrictions on soymeal imports.
Spain Soybean Oil and Meal Subsidies (301–42).	See 301–40	The U.S. and Spain consulted under GATT Art. XXII on Dec. 1, 1983.
Taiwan Soybean Oil and Meal Subsidies (301–43).	The Rice Millers Association filed a petition on July 13, 1983, which it withdrew on Aug. 26. It refiled on Sept. 29, 1983, alleging that Taiwan subsidizes exports of rice that restrict U.S. exports and burden the U.S. support program (48 FR 56289).	On Oct. 11, 1983, USTR initiated an investigation. Consultations were held Dec. 8–9, 1983, and Jan. 17–18 and Feb. 20–22, 1984. Based on an understanding reached during those discussions providing for limits on subsidized rice exports from Taiwan, petitioner withdrew its petition on March 9, 1984, and USTR terminated the investigation on March 22 (49 FR 10761).
Taiwan Rice Export Subsidies (301–43)	See 301–40	The U.S. and Spain consulted under GATT Art. XXII on Dec. 1, 1983.
Argentina Soybeans and Soybean Products (301–53).	The National Soybean Processors Association filed a petition on April 4, 1986, alleging that the differential in Argentine export taxes (higher for soybeans than for soybean products) provides Argentine crushers with an unfair cost advantage that burdens U.S. exports in third-country markets.	USTR initiated an investigation on April 25, 1986 (51 FR 16764). Following bilateral consultations with Argentina, the President suspended this investigation on May 14, 1978, based upon Argentina's assurance that it planned to eliminate these export taxes and thus any differential (52 FR 18685).

APPENDIX A.—AGRICULTURAL PETITIONS INVESTIGATED BY USTR AS OF SEPT. 6, 1989—Continued

Country and product concerned (assigned docket investigation No.)	Complaint	Disposition or present status
		In February 1988, Argentina reduced the export tax differential by 3 percent. However, on July 29, 1988, Argentina established a tax rebate on oil and meal exports to third countries which subsidize these products. Hence, consultations with Argentina resumed in August 1988. The Argentine Government provided only a few rebates under this scheme before it was suspended in December 1988. USTR continues to consult with Argentina, which is considering other options to aid its soybean crushing and exporting industry.
E.C. Enlargement (301–54)	On March 31, 1986, the President announced his intention to (1) impose quotas on E.C. products if the E.C. did not remove certain quantitative restrictions on oilseeds and grains in Portugal; and (2) increase tariffs on E.C. products if the E.C. did not provide compensation for U.S. losses resulting from the E.C.'s imposition of variable levies on corn and sorghum imports into Spain in branch of prior tariff commitments.	On May 15, 1986, the President imposed quotas on E.C. imports in response to the E.C.'s quantitative restrictions in Portugal (51 FR 18294). On Oct. 14, 1987, the level of these quota restrictions was increased to avoid a more damaging effort on E.C. trade than is warranted by the current operation of the E.C. restrictions in Portugal (52 FR 38167). On July 2, 1986, an interim solution was reached with the E.C. with regard to the import levy restrictions in Spain. That solution provided that any shortfall in U.S. corn, sorghum, and corn gluten feed exports to Spain below a monthly E.C. average of 234,000 metric tons through the remainder of 1986 would be compensated for through reduced import levy quotas in the E.C. On Dec. 30, 1986, the U.S. announced that unless the E.C. agreed to compensate the U.S. satisfactorily by the end of January for $400 million in lost corn and sorghum exports to Spain, the President would be compelled to impose duties of 200% ad valoreum on imports into the U.S. of certain E.C. cheeses, ham, carrots, endive, white wine, brandy and gin—accounting for $400 million in E.C. exports to the U.S. The President proclaimed these tariff increases on Jan. 21, 1987, to take effect Jan. 30 (52 FR 2663). On Jan. 30, 1987, the U.S. and E.C. settled this case. The E.C. agreed to ensure annual imports of corn and sorghum in Spain of 2 million and 300,000 metric tons, respectively. It also agreed to rescind its requirement in Portugal that 15 percent of the Portuguese grain market (about 400,000 metric tons) be reserved for sales from E.C. member countries. It further agreed to reduce duties on 26 other products (including plywood, apple and cranberry juices, and certain aluminum products), and to extend all current E.C. tariff bindings to Spain and Portugal. In light of these developments, the Trade Representative suspended the increased duties proclaimed Jan 21, 1987 (52 FR 3523)
Taiwan Beer, Wine & Tobacco (301–57)	On Oct. 27, 1986, the President determined that acts, policies and practices of Taiwan regarding the distribution and sale of U.S. beer, wine, and tobacco products in Taiwan are actionable under Section 301. He decided to take proportional counter measures so long as Taiwan continues these practices, and directed the Trade Representative to propose appropriate and feasible actions (51 FR 39639).	On Dec. 5, 1986, Taiwan agreed to cease these practices. As a result, USTR announced that no retaliatory action would be proposed as previously directed by the President (51 FR 44958).
India Almonds (301–59)	The California Almond Growers Exchange filed a petition on Jan. 6, 1987, alleging that India's licensing requirements and steep tariffs on almonds are actionable under section 301.	On Feb. 20, 1987, USTR initiated an investigation and requested consultations with India (52 FR 6412 and 7057). The U.S. consulted with Indian under GATT Art. XXIII:1 in June and September. USTR requested the establishment of a panel under Art. XXIII:2 at the GATT Councils in July, October and November. The U.S. also raised almond issues in the full consultations with India held in the GATT Balance of Payments Committee in October. In November 1987, the GATT Council agreed to the establishment of a panel. In May 1988, a satisfactory bilateral settlement was reached and USTR terminated the investigation (53 FR 21757). The Indian Government established a separate quota for almonds, which increases access to that market, to the satisfaction of U.S. industry. Moreover, India agreed to eliminate the quota in three years if its balance of payment position improves as specified in the Agreement. India also reduced and bound its tariff for shelled almonds and bound its tariff on unshelled almonds.
E.C. Third Country Meat Directive (301–60).	On July 14, 1987, the American Meat Institute, U.S. Meat Export Federation, American Farm Bureau Federation, National Pork Producers Council and National Cattlemen's Association filed a petition complaining of the E.C.'s Third Country Meat Directive as a violation of GATT Art. III and an unjustifiable, unreasonable discriminatory practice that burdens U.S. commerce.	On July 22, 1987, USTR initiated an investigation and requested consultations with the E.C. (52 FR 28223). The U.S. consulted with the E.C. twice under GATT Art. XIII:1, in September and November, 1987. USTR requested the establishment of a panel at the GATT Councils in October and November, but the E.C. blocked it. The E.C. acquiesced to that request at the December GATT Council. Since then, the E.C. has taken steps to provide access for a number of U.S. meat packers.
E.C. Hormones (301–62)	On Nov. 25, 1987, the President announced his intention to raise customs duties to a prohibitive level on as much as $100 million in E.C. exports to the U.S. This action was in response to the implementation scheduled for Jan. 1, 1988 of the Animal Hormone Directive. Without valid scientific evidence, this directive would ban imports of meat produced from animals treated with growth hormones. However, the President said he would suspend increased duties if E.C. member states continued to allow such imports for a 12-month transition period.	On Dec. 24, on his own motion, the President proclaimed but immediately suspended increased duties on specified products of the E.C. (52 FR 49131), pending E.C. implementation of its Directive. He delegated authority to modify, suspend or terminate the increased duties (including to terminate the suspension of such increased duties) to the Trade Representative. The E.C. implemented its directive on January 1, 1989. In response, the USTR terminated the suspension of the increased duties, effective January 1, 1989, with some modifications (53 FR 53115). The U.S. and E.C. agreed on January 12 to allow a grace period for goods exported, or meat certified for export, prior to January 1, if they entered before February 1 (54 FR 3032). On February 18, the U.S. and E.C. established a task force of high-level government officials to seek a resolution to the hormones dispute by May 4, 1989. In May, the task force's mandate was extended and its work continues.
E.C. Oilseeds (301–63)	On Dec. 16, 1987, the American Soybean Association filed a petition complaining that the E.C.'s policies and practices relating to oilseeds and oilseed substitutes nullified and impaired benefits accruing to the United States under the GATT and, specifically, are inconsistent with a zero tariff binding agreed to by the E.C. ASA alleged that the practices also are unjustifiable, unreasonable, and burden or restrict U.S. commerce.	On Jan 5, 1988, USTR initiated an investigation and requested consultations with the E.C. (53 FR 984). The U.S. consulted with the E.C. several times, both informally and formally, under GATT Art. XXIII:1. The E.C. blocked the U.S. request for a panel at the May 1988 GATT Council, but acquiesced at the June 1988 Council. However, the E.C. delayed composition of the panel for several months with a number of procedural maneuvers. A panel was finally formed and the first oral arguments heard on June 27, 1989. The panel's briefing is scheduled to end October 1, 1989. On July 5, 1989, USTR determined to delay any action under Section 301 because the panel's formation showed progress was being made in negotiations.
Korea Beef (301–65)	On Feb. 16, 1988, the American Meat Institute filed a petition alleging that the ROK maintains a restrictive licensing system on imports of all bovine meat, in violation of GATT Article XI, which is unjustifiable, unreasonable, and burdens or restricts U.S. commerce.	On March 18, 1988, USTR initiated an investigation (53 FR 10995). The U.S. had already consulted with the ROK under GATT Art. XXIII:1. On May 4, 1988, GATT Council established a panel under Art. XXIII:2. Australia was also authorized a panel on the same matter, so consultations on panel selection included coordination between two panels. The first panel meeting was November 28, 1988; the second meeting was January 20, 1989.
Japan Citrus (301–66)	On May 6, 1988, Florida Citrus Mutual, et al. filed a petition alleging that Japan's import quotas on fresh oranges and orange juice contravene GATT Article XI, and their domestic content mixing requirements violate Art. III:5.	On May 25, 1988, USTR initiated an investigation. The U.S. had already consulted with Japan under GATT Article XXIII:1, and a panel under Art. XXIII:2 had been authorized by GATT Council on May 4, 1988. Intensive settlement negotiations followed, and on July 5, 1988, a bilateral agreement was reached to settle the issue. Among other issues settled, import quotas on fresh oranges will end April 1, 1991, and on April 1, 1992 for orange juice; the blending requirement will be phased out in 1988–89 and eliminated as of April 1, 1990. Based upon this agreement, the citrus industry withdrew its petition and USTR terminated the investigation on July 5, 1988 (53 FR 25714).
Korea Wine (301–67)	On April 27, 1988, the Wine Institute and the Association of American Vintners filed a petition complaining of policies and practices of the Korean Government that unreasonably deny access to the Korean wine market and are a burden or restriction on U.S. commerce.	On June 11, 1988, USTR initiated an investigation (53 FR 22607) and requested consultations with the Korean Government. Consultations were held October 11–12 in Washington and October 25 in Seoul. Further consultations finally resulted in an agreement, reached on January 18, 1989, in which Korea agreed to provide foreign manufacturers of wine and wine products non-discriminatory and equitable access to the Korean market. The investigation was terminated on January 18, 1989.
EC Canned Fruit (301–71)	On May 8, 1989, USTR self-initiated an investigation regarding compliance by the E.C. with a trade agreement (see Docket 301–26) in which the E.C. agreed to limit processing subsidies granted on canned fruit.	USTR requested public comment and on June 9, 1989 held a public hearing (54 FR 20219) on whether the E.C. practice is actionable under Section 301. The hearing also asked whether the E.C. practice violates a trade agreement; and if so, the appropriateness of subjecting certain E.C. products to increased U.S. tariffs. On June 30, 1989, USTR announced a tentative solution involving (1) E.C. lowering subsidy rates for canned peaches and pears to comply with the 1985 agreement; (2) U.S. and E.C. officials clarified terms of the 1985 agreement; and (3) E.C. promised to limit subsidies in the future. USTR then agreed to suspend consideration of any action until October 1989.
Brazil Import Licensing (301–73)	On June 16, 1989, USTR initiated an investigation of certain import restrictions maintained by the Brazilian Government including its "suspended list", company and sector-specific import quotas, and lack of transparency of its import licensing regime. Included were licenses on beef and dairy imports. This investigation resulted from identification of this practice as a "priority practice" under the "Super 301" provision in the Trade Act of 1974, as amended.	USTR requested public comments on Brazil's policies and practices, and on the amount of burden or restriction on U.S. commerce caused by these practices (54 FR 26135).

Source: Office of the U.S. Trade Representative. Section 301 Table of Cases. June 22, 1989. Released on June 28, 1989.

APPENDIX B.—AGRICULTURAL PETITIONS NOT INVESTIGATED BY USTR AS OF AUG. 29, 1989

Country and product concerned (assigned petitions No.)	Complaint	Disposition or present status
Venezuela—Prunes (P–1)	On February 22, 1980, Diamond Sunsweet, Inc., filed a petition complaining of a unilateral decision taken by the Government of Venezuela on 11/06/79 to increase its ad valorem duty on dried prunes. It withdrew its petition on 04/01/80 for a period of 30 days to allow USTR to continue negotiations. The petition was refiled on 05/30/80 since an acceptable solution had not been reached.	On July 16, 1980, Diamond Sunsweet, Inc., withdrew its petition. According to Harold Jackson, President of Sunsweet Commodites, Diamond Sunsweet, Inc. withdrew its petition after Venezuela promised to lower its duties. Duties dropped on prunes in August of 1980
Argentina—Sunflower Oil & Meal (P–4)	On September 28, 1983, National Sunflower Association filed a petition asserting that Argentina's crushing subsidy constitutes an unreasonable restriction on U.S. commerce and is inconsistent with the GATT.	On November 17, 1983, National Sunflower Association withdrew its petition. According to Larry Kleingartner, Executive Director of the National Sunflower Association, his organization withdrew its petition after USTR promised to discuss the problem with Argentinean officials.
European Community—Raisins (P–5)	On July 24, 1984, the Sun Diamond Growers of California filed a petition complaining of the E.C.'s minimum import price scheme on raisins. The scheme granted price, production, and storage subsidies on EC member states raisins. These subsidies cause the displacement of sales of non-EC products within the EC and impair tariff bindings on those products.	On August 2, 1984 Sun Diamond Growers of California withdrew its petition because it was assured that the complaint would reach a resolution under an earlier petition. (See Appendix B. docket no. 301–26)
European Community, Netherlands, Colombia, Mexico, Guatemala, Dominican Republic, Costa Rica, Israel—Fresh Cut Roses (P–6).	On August 5, 1985, Roses Incorporated filed a petition alleging that the regulations, acts, policies and practices of the European Community, Netherlands, Colombia, Mexico, Guatemala, Dominican Republic, Costa Rica, and Israel with regard to international trade in fresh cut roses are unjustifiable, unreasonable, and disciminatory and/or are inconsistent with or otherwise deny to the U.S. benefits under the GATT.	On September 19, 1985, USTR decided not to initiate an investigation. The reasons for this determination were based on the following factors: (1) several of the alleged unfair practices named in the petition had been terminated or were found not to exist; (2) several of the practices had already been dealt with in the context of countervailing duty investigations; (3) many of the allegations of unfair practices were not sufficiently supported by information in the petiton; and (4) the petition did not, with respect to several allegations, adequately demonstrate the burden on U.S. commerce or the causal link between the alleged practice and effect. (50 FR 40250)
Argentina—Soybeans (P–9)	On December 13, 1985, the National Soybean Processors Association filed a petition asserting that Argentina's differential export tax system is an unreasonable practice within the meaning of section 301 because it conveys an artifical and unfair cost advantage to soybean crushing firms in Argentina and thus constitutes a production subsidy.	On January 27, 1986, the National Soybean Processors Association withdrew its petition in part because, according to a NSPA spokesman, the NSPA were discouraged by U.S. officials concerned about destabilizing Argentina's Government at the time, and because U.S. officials did not think, at the time, that the United States could win its arguments before a GATT panel
Japan—Rice (P–14)	On September 10, 1986, the Rice Millers Association filed a petition under section 302 for relief from the effect of Japanese market barriers to U.S. rice exports.	On October 23, 1986, USTR decided not to initiate an investigation, choosing instead to pursue the matter in the Uruguay Round of multilateral trade negotations. (51 FR 39731)
Japan—Rice (P–22)	On September 14, 1988, the Rice Council for Market Development and the Rice Millers' Association filed a petition complaining that Japan's virtual prohibition on the importation of rice violates the GATT and denies benefits to the U.S. under the GATT.	On October 28, 1988, the USTR decided not to initiate an investigation, arguing that the Uruguay Round of multilateral trade negotiations provides a more effective way to open the Japanese rice market to U.S. exports. (53 FR 449700)

Source: Office of the U.S. Trade Representatives. Section 301 Table of Cases. Feb. 13, 1989.○

PEACE FOR PEACE

● Mr. DECONCINI. Mr. President, I would like to comment today on an unfortunate event that is played out each year in the United Nations. It was with great interest that I read an editorial in the New York Times of October 3, 1989, by the distinguished commentator, Mr. A.M. Rosenthal. In the editorial, he noted the hypocrisy behind the annual motion to throw Israel out of the U.N. General Assembly. He went on to make the sensible suggestion that the countries involved in this campaign could, at the very least, show their commitment to peace in the region by recognizing Israel's legitimate right to be a member of this international body.

I regret to say that the U.N. delegations that go through with this ugly ritual each year once again did not heed Mr. Rosenthal's sound advice. Today, on a technical motion by Denmark not to vote on an Arab motion to remove Israel from membership in the United Nations, 95 nations voted against the Arabs, while 37 voted with them and a total of 27 abstained or did not cast a vote either way.

Significantly, however, some traditional Arab allies changed their votes. A number of Eastern bloc countries, led by the Soviet Union and including Poland, Czechoslovakia, and East Germany, abstained from voting rather than voting with the Arab States. While the Eastern bloc countries did not take the extra step and register their strong opposition to the hostile issue of expulsion, they did move and register their feelings in the nuanced diplomatic world of gestures and signals. We need other countries to take additional confidence building measures and supportive actions to move the regional peace process off dead center.

Ending the childish and mean-spirited ritual of voting to expel Israel from the United Nations would be a positive first step toward calming the rhetoric surrounding the Middle East peace process. Getting all sides to focus on the central issue of peace, not the extraneous hot air that only escalates tempers and poisons a climate of good will, is desperately needed if the region is to move forward toward peace. There is a concrete proposal on the table known as the Shamir plan. There are also the positive proposals made by the President Mubarak designed to move the process forward. I would hope that those states which want to help this process would cease and desist from their obstreperous rhetoric and destructive actions. I ask that the editorial to which I have referred be printed in the RECORD at this point.

The editorial follows:

[From the New York Times, Oct. 3, 1989]

PEACE FOR PEACE

(By A.M. Rosenthal)

Every year about this time a particularly unpleasant piece of nastiness takes place at the United Nations, a ritual of hatred and hypocrisy.

A delegate of an Arab state gets up and demands that Israel be thrown out of the General Assembly, the one forum where all 159 members of the U.N. have a voice and vote.

Up rises an envoy from one of the Scandinavian countries to make a technical motion not to vote on the Arab proposal. That motion carries.

Israel is graciously allowed to sit for another year among the states ruled by dictators, thugs, terrorist paymasters and fanatics—a sizable proportion of the membership.

Last year 95 countries voted not to consider the Arab proposal, 41 voted for it, meaning Israel out. Twenty-two ran away, casting abstentions or not voting at all.

The challenge to Israel's right to membership in the community of nations is scheduled to take place again within two weeks. Perhaps, only a faint perhaps, this year the Arab states will decide they want to make a move of some real meaning toward peace in the Middle East.

In all the talk about elections leading toward an Israeli-Palestinian settlement some important things are forgotten.

One is that every Arab nation except Egypt still considers itself officially at war with Israel—and arms itself as if ready to go to battle tomorrow. These states will be not bound by any agreement with the Palestinians. They will continue without risk to use all their political and economic weight against Israel and to keep the military threat growing.

Syria, Libya, Iraq and Iran will insist that the Palestinian movement make every-growing demands on Israel—to meet their goal of eradicating the Israeli state.

The world may have forgotten this. The Israelis have not. A point in Prime Minister Yitzhak Shamir's election package was that the Arab states must make peace with Israel.

From the Arabs and the West, silence about this. But the Palestine Liberation Organization, still sworn by its covenant to Israel's death, and the Arab states know exactly what the Israelis know:

No agreement with the Palestinians will itself bring peace to the Middle East. That will happen when, and only when, the Arab states call off their 40-year war against Israel.

Israel has been asking the Arabs for peace ever since its foundation—and before. Jerusalem returned the huge Sinai to Egypt in the hope other Arab states would make peace with Israel. They have not.

Now, with election suggestions from Mr. Shamir and President Hosni Mubarak of Egypt on the table, the Arab states have

their chance to help a Palestinian settlement.

They can accept Israel as a legitimate member of the U.N. and drop their campaign to throw her out. That would be a fine prelude to the essential next step—a commitment to end the state of war with Israel when Palestinians and Israelis sit down together.

Americans in government and journalism urge Israel to move further toward a Palestinian settlement. They would be more effective if they also pressured the Arab states that threaten and surround Israel to make their own peace, which might make a Palestinian settlement feasible.

Hope that this year the Arabs will be wise enough to extend peace, not hate, toward Israel is barely alive.

Last week, the Israelis called every Arab delegation at the U.N., asking for a meeting with Foreign Minister Moshe Arens. All but Egypt refused. Instead when Mr. Arens began to address the Assembly, all the Arabs except the Egyptians walked out in one more show of arrogant contempt.

If the Arabs again try to bar Israel from the General Assembly, read the roll call of states supporting them. Last year it included all the Moslem nations but Egypt, most African states, Vietnam, Cuba, Nicaragua, the usual crowd—including the Soviet Union.

After years of glasnost and talk about the importance of regional peace everywhere, the Soviet Union, as always, voted with the Arabs to throw out the one country pivotal to Middle East peace—the one country against which war is being made.

Perhaps this year Moscow will show more courage.

And, with everybody talking about elections for Palestinians, there is a simple way for the United States and the Soviet Union to bring them closer.

They can stand up at the U.N. and finally say the plain truth. "Land for peace," the slogan Palestinian sympathizers address to Israelis, is not enough. There must be another, sent loud to all Arab states:

Peace for peace.●

COMMITTEE OF ESCORT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort His Excellency Roh Tae Woo, President of the Republic of Korea, into the House Chamber for the joint meeting to be held tommorrow, Wednesday, October 18, 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE HELD AT DESK—H.R. 3318

Mr. MITCHELL. Mr. President, I ask unanimous consent that H.R. 3318, a bill to designate the Concord Building in Houston, TX, the Mickey Leland Federal Building, be held at the desk when received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

ELBERT P. TUTTLE U.S. COURT OF APPEALS BUILDING

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 801, a bill to designate the U.S. Court of Appeals building in Atlanta, GA, as the Elbert P. Tuttle U.S. Court of Appeals Building" and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 801) to designate the United States Court of Appeals Building at 56 Forsyth Street in Atlanta, Georgia as the "Elbert P. Tuttle United States Court of Appeals Building."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 801) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I call for regular order.

MOTION TO PROCEED TO CONSIDERATION OF H.R. 1231

THE PRESIDING OFFICER. The clerk will report the motion to proceed.

The assistant legislative clerk read as follows:

A motion to proceed to Calendar No. 33, a bill (H.R. 1231) to direct the President to establish an emergency board to investigate and report respecting the dispute between Eastern Airlines and its collective bargaining units.

Mr. MITCHELL. Mr. President, the Senate is now considering the motion to proceed while under the cloture provisions of rule XXII. I now ask unanimous consent that the 30 hours of consideration provided under rule XXII be deemed to have expired, and the Senate now vote on the motion to proceed to the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on agreeing to the motion.

The motion was agreed to.

INVESTIGATION OF EASTERN AIRLINES DISPUTE

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1231) to direct the President to establish an emergency board to investigate and report respecting the dispute between Eastern Airlines and its collective bargaining units.

The Senate proceeded to consider the bill.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the bill be the pending business before the Senate beginning on Monday, October 23.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I now ask unanimous consent that, notwithstanding the provisions of rule XII, paragraph 4, a vote on final passage of Senate Joint Resolution 180, occur at 11 a.m. on Thursday, October 19, and that no amendments to the resolution, or motions be in order.

I further ask unanimous consent that when the Senate recesses on Wednesday, it stand in recess until 10 a.m. on Thursday, October 19, and that the time reserved for the two leaders be reduced to 15 minutes and that the Senate then turn to the consideration of Senate Joint Resolution 180, with the 45 minutes remaining before the vote equally divided and controlled between the two leaders or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

RECESS UNTIL 10 A.M.; MORNING BUSINESS

Mr. MITCHELL. Mr. President, I now ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 o'clock on tomorrow, Wednesday, October 18; and, that, following the time for the two leaders, there be a period for morning business with Senators permitted to speak therein for up to 5 minutes each until 10:45 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT MEETING OF THE CONGRESS

Mr. MITCHELL. Mr. President, I further ask unanimous consent that at 10:45 a.m. until the hour of noon the Senate stand in recess to permit the Members of the Senate to attend a joint meeting with the House of Representatives to hear an address by the President of the Republic of Korea.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE JOINT RESOLUTION 180

Mr. MITCHELL. Mr. President, I further ask unanimous consent that when the Senate reconvenes at 12 noon it return to the consideration of Senate Joint Resolution 180, until 1:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS FOR PREPARATION OF CHAMBER

Mr. MITCHELL. Mr. President, I further ask unanimous consent that at 1:30 p.m. the Senate stand in recess until 1:45 to permit the Chamber to be prepared for the consideration of the Hastings impeachment matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLARIFICATION OF DISASTER PROGRAM

Mr. DOLE. Mr. President, I will just say briefly for nearly 3 weeeks now there has been a minor bill pending that affects farmers, not just in the State of Kansas, but in the State of Texas, and probably four or five other States with reference to second crops.

It is part of a clarification of the Disaster Program. It could not be worked out with the U.S. Department of Agriculture. Senator KASSEBAUM introduced a bill. I think it has bipartisan support. I know it has. We had bipartisan meetings.

We hopefully can proceed and wrap up with this bill, and send it to the House where I believe it can be favorably acted on.

I have not raised any question of reference to the bill for the past 3 weeks but I would indicate as I will continually from now on that there is no reason this bill should not be passed.

I hope that we might have action on this bill very soon. Farmers in my State, for example, are being denied the payments until we clarify this bill. It is related to the disaster we had in the State of Kansas and other States—the States of Texas, Oklahoma, the State of North Dakota, South Dakota, parts of Colorado, and a bit of Missouri.

It would be most appreciated by the farmers in those States if we could take action on this bill soon.

RECESS UNTIL 10 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if the distinguished Republican leader has no further business, and if no other Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess under the previous order until the hour of 10 a.m. tomorrow.

Thereupon, the Senate, at 8:29 p.m., recessed until Wednesday, October 18, 1989, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate October 17, 1989:

DEPARTMENT OF STATE

DANIEL HOWARD SIMPSON, OF OHIO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CENTRAL AFRICAN REPUBLIC.

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, FOR THE PERSONAL RANK OF CAREER AMBASSADOR IN RECOGNITION OF ESPECIALLY DISTINGUISHED SERVICE OVER A SUSTAINED PERIOD:

MORTON I. ABRAMOWITZ, OF THE DISTRICT OF COLUMBIA.

TERENCE A. TODMAN, OF THE VIRGIN ISLANDS.

UNITED NATIONS

THE FOLLOWING-NAMED PERSONS TO BE REPRESENTATIVES OF THE UNITED STATES OF AMERICA TO THE FORTY-FOURTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS:

SAM GEJDENSON, OF CONNECTICUT.

CHRISTOPHER H. SMITH, OF NEW JERSEY.

DEPARTMENT OF ENERGY

MARTIN LEWIS ALLDAY, OF TEXAS, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR A TERM EXPIRING OCTOBER 20, 1993, VICE CHARLES G. STALON, TERM EXPIRING.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

ELINOR GREER CONSTABLE, OF NEW YORK.

BRANDON H. GROVE, JR., OF THE DISTRICT OF COLUMBIA.

SHELDON J. KRYS, OF MARYLAND.

DENNIS KUX, OF NEW YORK.

MELVYN LEVITSKY, OF MARYLAND.

DANIEL ANTHONY O'DONOHUE, OF VIRGINIA.

ROBERT H. PELLETREAU, JR., OF CONNECTICUT.

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

ALVIN P. ADAMS, JR., OF VIRGINIA.

JOHN H. ADAMS, OF VIRGINIA.

CHARLES R. BAQUET III, OF THE DISTRICT OF COLUMBIA.

DAVID L. BLAKEMORE, OF VIRGINIA.

AVIS T. BOHLEN, OF THE DISTRICT OF COLUMBIA.

JOHN A. BOYLE, OF VIRGINIA.

AURELIA E. BRAZEAL, OF GEORGIA.

JOHN S. BRIMS, OF CALIFORNIA.

GREGORIE W. BUJAC, OF MARYLAND.

PIERCE KENDALL BULLEN, OF FLORIDA.

JOSE J. CAO-GARCIA, OF MARYLAND.

MARSHALL L. CASSE III, OF FLORIDA.

JOHN EIGNUS CLARK, OF FLORIDA.

ANTHONY S. DALSIMER, OF FLORIDA.

GERALD DE SANTILLANA, OF CALIFORNIA.

ROBERT BRUCE DUNCAN, OF DELAWARE.

ADOLPH H. EISNER, OF FLORIDA.

THOMAS AUSTIN FORBORD, OF CALIFORNIA.

SAMUEL EDWIN FRY, JR., OF WASHINGTON.

HAROLD W. GEISEL, OF ILLINOIS.

RICHARD WILLIS GETZINGER, OF CALIFORNIA.

STEPHEN RICHARD GIBSON, OF CALIFORNIA.

JON D. GLASSMAN, OF VIRGINIA.

ROBERT T. GREY, JR., OF CONNECTICUT.

RICHARD E. HECKLINGER, OF NEW YORK.

W. NATHANIEL HOWELL, JR., OF VIRGINIA.

THOMAS C. HUBBARD, OF ALABAMA.

DARRYL N. JOHNSON, OF WASHINGTON.

A. ELIZABETH JONES, OF TEXAS.

RALPH T. JONES, OF MARYLAND.

JOHN R. MALOTT, OF VIRGINIA.

GERALD EUGENE MANDERSCHEID, OF CALIFORNIA.

EDWARD MARKS, OF CALIFORNIA.

WILLIAM H. MARSH, OF PENNSYLVANIA.

ROBERT A. MACCALLUM, OF OREGON.

LAURALEE M. PETERS, OF VIRGINIA.

JOSEPH A. PRESEL, OF RHODE ISLAND.

KENNETH M. QUINN, OF IOWA.

MARK S. RAMEE, OF VIRGINIA.

ESTHER P. ROBERTS, M.D., OF TENNESSEE.

ARTHUR J. ROLLINS, M.D., OF MARYLAND.

THEODORE E. RUSSELL, OF VIRGINIA.

DOROTHY M. SAMPAS, OF MARYLAND.

RICHARD C. SCISSORS, OF MISSOURI.

GEORGE F. SHERMAN, JR., OF MARYLAND.

LEONARD G. SHURTLEFF, OF NEW HAMPSHIRE.

KEITH C. SMITH, OF VIRGINIA.

RUFUS GRANT SMITH, OF NEW JERSEY.

ANDREW G. THOMS, JR., OF MARYLAND.

JAMES L. WARD, OF VIRGINIA.

KEITH L. WAUCHOPE, OF NEW YORK.

RICHARD H. WILLIAMS, OF UTAH.

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE, AND FOR APPOINTMENT, AS CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE, AS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

EDWARD GORDON ABINGTON, JR., OF FLORIDA.

JOSEPH J. BORICH, OF VIRGINIA.

KENT N. BROWN, OF CALIFORNIA.

WILLIAM J. BURKE, JR., OF VIRGINIA.

JOHNNIE CARSON, OF ILLINOIS.

EMIL CASTRO, OF NEW YORK.

CHARLES O. CECIL, OF CALIFORNIA.

LEE O. COLDREN, OF CALIFORNIA.

JOAN ELLEN CORBETT, OF VIRGINIA.

RUST M. DEMING, OF THE DISTRICT OF COLUMBIA.

JAMES P. DODD, OF KENTUCKY.

JAKE M. DYELS, JR., OF MARYLAND.

RALPH FRANK, OF WASHINGTON.

ROBERT C. FRASURE, OF WEST VIRGINIA.

OLIVER PASTRANO GARZA, OF TEXAS.

RONALD D. GODARD, OF TEXAS.

JACK L. GOSNELL, OF VIRGINIA.

MAURICE N. GRALNEK, OF ILLINOIS.

G. JONATHAN GREENWALD, OF PENNSYLVANIA.

MARK G. HAMBLEY, OF IDAHO.

DONNA J. HAMILTON, OF VIRGINIA.

F. ALLEN HARRIS, OF TEXAS.

THOMAS L. HOLLADAY, OF ARIZONA.

JAMES R. HOOPER, OF VIRGINIA.

DONNA JEAN HRINAK, OF PENNSYLVANIA.

DENNIS COLEMAN JETT, OF NEW MEXICO.

DONALD C. JOHNSON, OF TEXAS.

WILLIAM C. KELLY, JR., OF MARYLAND.

MELINDA L. KIMBLE, OF ARIZONA.

JAMES A. LAROCCO, OF MICHIGAN.

RICHARD R. LA ROCHE, OF THE DISTRICT OF COLUMBIA.

RONALD DEAN LORTON, OF VIRGINIA.

RONALD L. MAIN, OF OKLAHOMA.

PEDRO MARTINEZ, OF TEXAS.

J. RICHARD MASON, OF TEXAS.

ROBERT M. MAXIM, OF VIRGINIA.

MARSHALL F. MCCALLIE, OF VIRGINIA.

ALAN R. MCKEE, OF MARYLAND.

RICHARD KELLER MCKEE, OF VIRGINIA.

JOHN MEDEIROS, OF NEW YORK.

DAVID NORMAN MILLER, OF VIRGINIA.

RICHARD A. MORFORD, OF VIRGINIA.

KATHLEEN J. MULLEN, OF CALIFORNIA.

LARRY C. NAPPER, OF TEXAS.

J. MICHAEL O'BRIEN, OF PENNSYLVANIA.

W. ROBERT PEARSON, OF CALIFORNIA.

CLARENCE E. PEGUES, JR., OF ALABAMA.

DAVID CATLIN PIERCE, OF CALIFORNIA.

JOAN MELANIE PLAISTED, OF CALIFORNIA.

JOHN R. RATIGAN, OF VIRGINIA.

BARBARA JANE SCHRAGE, OF MARYLAND.

JOSEPH T. SIKES, OF MARYLAND.

INTS M. SILINS, OF VIRGINIA.

LEROY C. SIMPKINS, OF CALIFORNIA.

KENNETH A. STAMMERMAN, OF VIRGINIA.

DONALD K. STEINBERG, OF CALIFORNIA.

RUSSELL J. SURBER, OF CALIFORNIA.

ALMA LUCILLE THOMAS, OF NORTH CAROLINA.

PHYLLIS S.F. VILLEGOUREIX-RITAUD, OF FLORIDA.

JOHN WAY VINCENT, OF THE DISTRICT OF COLUMBIA.

JENNIFER CLAUDETTE WARD, OF THE DISTRICT OF COLUMBIA.

KAARN JAYNE WEAVER, OF CALIFORNIA.

GERALD J. WHITMAN, OF CALIFORNIA.

SHARON P. WILKINSON, OF NEW YORK.

MOLLY K. WILLIAMSON, OF CALIFORNIA.

R. SUSAN WOOD, OF FLORIDA.

LACY A. WRIGHT, JR., OF VIRGINIA.

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, AND CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

FREDERICK B. BRANDT, OF MARYLAND

SPENCER W. BROWN, OF FLORIDA.

JOHN W. FUHRER, OF VIRGINIA.

JOSEPH J. HAZEWSKI, OF ARIZONA.

JEFFREY THOMAS LUTZ, OF NORTH CAROLINA.

JOHN F. MERMEL, OF VIRGINIA.

BRENDON P. OHANLON, OF NEW JERSEY.

WAYNE S. RYCHAK, OF MARYLAND.

PHILIP M. TINNEY, OF VIRGINIA.

H. THOMAS WIEGERT, OF WASHINGTON.

INTER-AMERICAN FOUNDATION

BERNARD WILLIAM ARONSON, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION OR THE REMAINDER

OF THE TERM EXPIRING SEPTEMBER 20, 1990, VICE ELLIOTT ABRAMS.

ENVIRONMENTAL PROTECTION AGENCY

DON R. CLAY, OF MARYLAND, TO BE ASSISTANT ADMINISTRATOR, OFFICE OF SOLID WASTE, OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE J. WINSTON PORTER, RESIGNED.

IN THE NAVY

THE FOLLOWING-NAMED REAR ADMIRAL (LOWER HALF) IN THE STAFF CORPS OF THE UNITED STATES NAVY FOR APPOINTMENT TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

CIVIL ENGINEER CORPS (5104)

To be rear admiral

REAL ADM. (LOWER HALF) JAMES CARL DOEBLER, xxx-xx-xxxx/5104, U.S. NAVY.

EXTENSIONS OF REMARKS

MAJOR JAPANESE COMPANY INVESTS IN U.S. EDUCATION

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. HAWKINS. Mr. Speaker, a consensus among business leaders seems to have formed behind the notion that investment in education makes good economic sense. Employers are already feeling the pinch of a shortage of workers with solid basic educational skills who can be trained and retrained to keep pace with ever changing technological advances. All estimates show this situation will only get worse in the years ahead. Bridging the gap between the rhetorical support for education and practical steps that businesses can take to form partnerships with all aspects of education is a slow process, but there are encouraging signs throughout our country that things are beginning to happen.

Among the pace setters of this trend, is the Committee for Economic Development [CED], representing 250 business executives and university presidents. Under the pragmatic and enthusiastic leadership of the Chairman, Owen "Brad" Butler, CED has spent years developing sound and workable policy recommendations for improving the development of young people and in bringing business communities throughout the country to join this effort.

In recognition of Brad Butler's outstanding contributions to the advocacy of quality education for all of America's children, the Japanese firm, Daiwa Securities, Ltd., located in Tokyo, has given the CED a gift of $1 million for the "Owen B. Butler Program in Education Studies". The endowment certainly recognizes the importance of long-term investments in U.S. educational excellence and the significant role the private sector can play in strengthening education. Daiwa's generous contribution will enable the CED to continue the pioneering work they have done in developing innovative education policies, in identifying practical programs and strategies, and in helping American businesses and communities forge effective and lasting partnerships.

Daiwa is a leader in the financial services industry and Daiwa Securities America has been a U.S. corporation for 30 years. This kind of outstanding citizenship by a major Japanese firm should not go unnoticed. I hope it will serve as an inspiration to other companies, especially our own homegrown industries, to forge new and expanding levels of partnerships between education reaps broad benefits for our citizens, our communities, and the entire U.S. economy. Daiwa's actions should be applauded and replication should be encouraged.

THE WORLD'S KNOWLEDGE AND OUR NATION'S INFORMATION NEEDS—A THOUGHTFUL DISCUSSION BY LIBRARIAN OF CONGRESS, DR. JAMES BILLINGTON

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. LANTOS. Mr. Speaker, the Library of Congress is one of our Nation's great treasures. In an age when information is absolutely critical to anything we do, the great storehouse of knowledge in the Library of Congress is indeed one of our most valuable resources.

We are likewise fortunate in having Dr. James H. Billington as our Librarian of Congress. He brings to this critical position, not only a well-deserved reputation as a distinguished academician, but also great skill as an administrator and manager. Most important, however, is his understanding of the value of the Library of Congress to the Congress and the American people and his insight about what we can do to better utilize this great resource.

Mr. Speaker, Dr. Billington was the keynote speaker at a recent, very unique conference in San Mateo, CA, on the theme: "The Book and Beyond: Roots From the Past—Routes to the Future." For the first time since the Library of Congress was established, the resources of the Library were brought directly to the American people. Most significant was the interactive video technology being developed by the Library to expand access to its unique resources for all Americans.

The full-day conference "The Book and Beyond" involved a large number of community leaders, academicians, educators, people interested in the transmission of knowledge, and individuals of all ages who love stories, books, and literature. This outstanding conference was a celebration of literacy and knowledge, of memories of the past and bright possibilities for the future.

Mr. Speaker, Dr. Billington's address at the conference "The Library of Congress: The World's Knowledge and the Nation's Needs" is a brilliant vision of the future of the Library and the Library of the future. Mr. Speaker, I insert his address in the RECORD and I urge my colleagues to read it and give it careful, thoughtful attention:

THE LIBRARY OF CONGRESS: THE WORLD'S KNOWLEDGE AND THE NATION'S NEEDS

(Remarks by James H. Billington, the Librarian of Congress)

First of all, let me say how pleasant it is to be back in California, a state that still has the pioneering sense which has been so important to the American dream. And to be invited here by Congressman Tom Lantos to share with you the excitement we feel at the Library of Congress is a special pleasure. Tom and Annette—Annette has worked so hard to celebrate 200 years of Congress, an event for which we open an exhibit on October 28—are good friends and great supporters of the things we are here to celebrate together today . . . our freedom, education, books, learning, and cooperative efforts to help the coming generations.

I also know that many people have worked very hard to make today's events possible, and we greatly appreciate all the effort that has gone into the planning. Most important is our appreciation to all of you for getting here so early to launch what we hope will be a very productive day.

California, as I know you realize—like each and every state—is important to us at the Library. I recently had the opportunity to meet with people interested in libraries and books in Sacramento and then to visit Ken Dowlin, the new head of the San Francisco Public Library, who has some excellent plans for a new high-tech library there. More recently, I was in Los Angeles and had the chance to discuss issues facing libraries in the state more generally. I am aware of the remarkable University of California library network and see models in it that we at the Library of Congress can learn from.

It also might surprise you to know that the Library's American Folklife Center has had a team of five researchers here now investigating the role of Italian-Americans in the opening of the American west. This is a fascinating story of the diverse ethnic heritage of one of our many immigrant groups that contribute to our unique national experiment.

I have come with several of my colleagues from the Library of Congress this time, not only to participate in this exhibit but to seek your ideas for cooperative efforts. Through a series of forums much like this one, we are trying to define specific ways to improve cooperation and communication between the Library of Congress and this nation's libraries. We are looking for fresh ideas, and this is really our first educational outreach event to explain more fully what we do.

We all have a busy day ahead of us, and I want to give you ample opportunity to see all the demonstrations we have brought. We also might not have too much time to talk together throughout the day so what I would like to do with you now is to give you a little insight into the Library and its history, explain what we are doing, and hopefully leave a few minutes for your questions. I believe you have packets of information about the Library of Congress to take with you for later reference.

Let me begin with a little bit of the Library's background. The first books ordered for the Library of Congress were geographies, ancient and modern histories, biographies, chronologies, legal treatises, economic studies, and classic writings on international law. These first books arrived from England in February 1801. John Randolph, a representative from Virginia, observed that "A good library is a stateman's workshop." By 1814, this library housed in the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

U.S. Capitol had grown to 3,000 items. This was, unhappily, just enough to serve as kindling during the War of 1812 when Washington was captured by the British who set fire to the Capitol and with it Congress' library.

Within a month Congress had passed a resolution calling for the replacement of the library. During this period, Thomas Jefferson, now in retirement, had written to his old friend Samuel Harrison Smith, founder of the *National Intelligencer,* offering his own library—then the nation's most extensive library in private hands. Jefferson said: "Congress should have the first refusal of it at their own price."

He concluded prophetically, "I do not know that it contains any branch of science which Congress would wish to exclude from their collection; there is, in fact, no subject to which a Member of Congress may not have occasion to refer." This is why for nearly 200 years the Library of Congress has collected the world's knowledge in an aggressive way. In fact, today the Congress of Congress' Congressional Research Service answers nearly 500,000 requests each year from the Congress for information on every subject known to man.

Final approval of the Congress for the purchase of the Jefferson library for $24,000 came in January 1815 by a narrow margin of ten votes in the House of Representatives—Daniel Webster voting in the negative! Thus was built the foundation of what today is the largest collection of knowledge ever assembled by any nation in the history of civilization.

Congress remained determined to maintain it. A Christmas Eve fire in the Capitol in 1851 destroyed more than half of the library collection, including collections, including many items from Mr. Jefferson's library. The Librarian of Congress reported that the book, *Birds of America,* selected and hand-bound by Mr. Audubon was "saved and uninjured."

The years following the Civil War were a crucial period for the preservation of our intellectual heritage. Persuaded by Librarian of Congress Ainsworth Rand Spofford, Congress established a new copyright act. The act provided that anyone claiming a copyright on any book, map, chart, dramatic or musical composition, engraving, cut, print, or photograph must send two copies to the Library of Congress. That single act made the Library the repository for the nation's production of knowledge.

The Library of Congress, as you would expect, has a great array of Presidential memorabilia, including the contents of Lincoln's pockets the night he died, given to the Library by Lincoln's granddaughter. Lincoln's odds and ends, you probably want to know, included two pairs of gold-rimmed glasses, a pocket knife, a watch fob, a five-dollar Confederate note and newspaper clippings praising the President!

Other treasures in the Library of Congress chronicle the history of our nation and the world—a copy of the first "moving" picture, "Fred Ott's Sneeze;" Alexander Graham Bell's original working drawing of the telephone as well as the first transcription of a telegraph message, "What hath God wrought" by Samuel Morse; a watercolor of the earliest known map of Manhattan Island prepared in 1639; Brahms, Liszt, and Haydn music manuscripts; and the first book printed in the United States, *The Bay Psalm Book.*

The collections of the Library are enriched through purchase by Congressional appropriations and through the generosity of many private benefactors. One of the Library's greatest benefactors, Lessing J. Rosenwald, former head of Sears, Roebuck and Company, presented over 2,500 early printed books and manuscripts to the Library of Congress including the Giant Bible of Mainz created between 1452-1453. It is considered the finest example of a hand-lettered, medieval manuscript in existence. On display directly across from the Mainz Bible is a perfect, vellum copy of the first book printed on movable type—the Gutenberg Bible. This bible was purchased by the Congress with appropriated funds in 1930, in the midst of the Great Depression. For $1.5 million the Gutenberg Bible and 2,000 other books printed before 1500 were acquired for the nation's library. The two bibles exhibited together signal the Library's debt to the Congress, to the taxpayers, and to its many private benefactors.

Today, the collections of the Library of Congress—some sample of which you will see illustrated in our American Memory demonstration—number 88 million items. They include 15 million books, 1 million audio disks and tapes, 36 million manuscripts, and 4 million maps. There are 12 million visual items—motion pictures, photographs, posters, prints and drawings, and video tapes. Over 450 languages are represented in the various items in our three buildings.

I need not remind Californians that the art form most developed in America is the motion picture. One of the Library's most popular public progress is the showing in the Mary Pickford Theater of the early motion pictures and classics from the Library's collections. The films date to the earliest produced by the Edison Company in 1894. We also have contemporary productions now being shown in theaters across the country. In a month or so, there will be a unique series of Frank Capra films restored from our archives that will be opening in Palo Alto at a new theater.

This Library is such a colossal reservoir of important things and beautiful things, that not to share them with a broader audience, all of you hopefully in the future, and not to use the printed form, which is still in many ways the most democratic and most universally available would be almost a dereliction of duty.

As so many of you know, especially those of you who work with young people, libraries are starting places for the adventure of learning that can go on whatever one's vocation and location in life. Reading is an adventure like that of discovery itself. Libraries are our base camps. John Cole from our Center for the Book, which has affiliates around the country, has done an exceptional job in this area, and I know you will be fascinated with what he has to say. The nature of the adventure can be compared to Columbus' historic voyage of discovery, the quincentenary of which we are preparing to celebrate in 1992.

Columbus did not find exactly what he was looking for and many of us never reach all the young people we want to. Still, and what is important is that he was an Italian sailing for Spain in search of Asia. But because he was willing to take some risks, he found something even more important. He built adventure into the opening of the New World. The New World was the pilgrim's alternative to older, more absolute empires. By limiting rather than expanding control power, by proclaiming rights rather than a simple ideology, the founders of this country produced an innovation so stunning that we have yet fully to understand it.

Educators, all of us, are the new explorers for our national revival and here in California, you stand at frontiers of an exciting era completing Columbus' dream. It is the Pacific Basin. That is the new challenge and if you are to carry forward the American tradition and memory, and meet the country's growing educational needs, the Library of Congress should be here to help you do that.

So how is our national library preparing to serve the nation? The attempt to answer this question has been a driving force behind unprecedented, just-completed, yearlong internal examination of what this Library's mission and strategy should be for its third century which wil begin in the year 2000. It is my conviction that the wealth of library information we have accumulated must now be made available to the nation. There is a need and we want to meet the challenge in a meaningful way.

The Library has a contribution to make (both as leader and as partner) to the educational process broadly understood—combatting not just the illiteracy that is growing alarmingly in this country, but also the growing *aliteracy* of those who can read but rarely do—as well as the tendencies even among educated people toward a passive spectatorism and self-indulgent cynicism that undermines the active intellect and the hopeful spirit which are both indispensable to a healthy and improving democracy.

The Library of Congress' main service to the nation since the beginning of this century has been providing inexpensive cataloging for other libraries, but the time has now come to begin also sharing the actual contents of this Library with the broader library community. New technologies make it possible to reproduce key elements of our massive special collections of sights and sounds as well as instructive and inspirational facsimiles of the unique record we have of the American experience at inventing a self-governing society. The beauty of the information that we have, as compared say to a museum of large, immovable objects, is that our materials can be shared electronically. We, accordingly, initiated a project for sharing our vast resources through new technologies in a series we are calling "American Memory"—a demonstration is part of today's program.

American Memory will use optical disk and other advanced technologies to offer access in local libraries to such collections as: The first editions of Stephen Foster's music; this Library's vast holdings of unpublished drama; American folk songs recorded in the 1930s and 1940s; turn-of-the-century motion pictures (not in any other collections; out-of-print and obscure works of local history and genealogy.

The series will establish "American Memory" corners—providing local libraries both with exciting new technology that will interest young people not otherwise attracted to libraries in an audiovisual age, but at the same time provide solid content that will raise questions and lead them to the books in the library for further answers. In the process, American Memory will quietly increase a present-minded generation's knowledge of, and pride in, its own past. Local libraries and schools can build their own teaching materials around what will be permanent enrichments to their libraries' collections.

We believe that this collection will also interest foreigners, who are more fascinated

than ever with our ongoing experience, as well as the American people—and that it will help them understand us better—just as our reenforcement of foreign area studies in Washington will help us understand them better. I was in Paris just two weeks ago meeting with library heads from around the world, and despite what some people may say about the "decline" of America, everyone I met still looks to the Library of Congress as the premier library. They want and expect our leadership.

The Library is also preserving our national memory by serving as the world's pioneer in new methods of preservation technology. Library specialists have patented, developed and tested a gas deacidification process to extend by as much as 500 years the life of books that are decomposing because of the high acid content used in most paper since the middle of the 19th century.

The Library also serves this nation as its reference checker of last report. In person, by telephone, or by correspondence, the Library of Congress last year answered nearly 3 million inquiries—more than a million directed from the general public to our various research divisions, nearly a half million from Congress to the Congressional Research Service, another half million to the Copyright Office, and more than 700,000 to the Law Library.

You will hear a great deal about these topics and many more during today's events. Members of my staff are here and I am sure they will be talking with nearly everyone. Also, please remember that like you, we are here to learn as much as possible. We need your advice and thoughts if we are to serve the nation's needs. You will get a short questionnaire to fill out at the end of my talk so that we can have a better sense of how what we are doing meets with your needs. I hope you will fill it out and return it.

Again, it is great to be here, and I know it will be a great day. Congressman Lantos is a great public servant and that he has invited the Library of Congress to come here and learn together with you is a great honor and pleasure. Thank you all for being here, and I will be happy to answer a few questions before we get into the day's events.

CONGRATULATIONS WILLIAM J. JENNINGS

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. FEIGHAN. Mr. Speaker, I would like to take this opportunity to congratulate William J. Jennings, the 1989 recipient of the Matthew DeMore Labor Management Award.

The presentation of this award is well-deserved recognition of Bill's long and distinguished civic and labor career. As early as 1946, when Bill joined the International Association of Machinists and Aerospace Workers [IAMAW], Bill devoted his work to making life better for others.

Bill rose quickly through the ranks and made an impact on greater Cleveland labor activities, serving as shop steward and subsequently as a negotiating committee member of the local lodge 1228. From there, Bill became business representative for district 54 of the IAM in 1970.

Recognizing his fine work and devotion, the IAM district elected him district director. The international assigned him to the law committee. Bill proved to be one of the most talented and respected leaders in northeast Ohio and was named vice president of the Cleveland Federation of Labor AFL–CIO in 1984.

His community efforts are equally impressive. His desire to strive for continued improvement of the labor movement led to his selection as a member of the long run strategic program planning committee for the United Labor Committee. Here, Bill has been instrumental in formulating the future course of area labor activities.

Bill possesses great talent and expertise in the field of labor-management relations and serves as a member of the Industrial Relations Center Advisory Board for Cleveland State University. As a board member, Bill continues to assess the needs of area labor-management relations and how best to meet these needs.

Bill's career is a shining example of giving back to the community. Through involvement with such campaigns as the United Way, where Bill served as labor chairman, Bill time and again put his talents to work for others less fortunate.

The Matthew DeMore Award is presented by the Northeast Ohio Labor Management Awards Committee. The award recognizes outstanding achievements on the part of labor representatives in establishing productive relations between management, labor, and the community served. The award's namesake, Matthew DeMore, compiled a nearly unrivalled record in this field, improving life for the entire northeast Ohio community. Bill Jennings lives and works under the principles espoused by Matthew DeMore and he greatly deserves this award.

I take great pride in having Bill as both a colleague and a friend. I wish him the best of luck and congratulations on his day in the spotlight. He's earned it.

TRIBUTE TO THE FOSTER GRANDPARENT AND SENIOR COMPANION PROGRAMS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to the Foster Grandparent and Senior Companion Programs and their outstanding volunteers. Through the Federal ACTION Agency's Older American Volunteer Programs, the Foster Grandparent and Senior Companion Programs have given 15 years of excellent service to the citizens of my home district of Sacramento.

Since 1974, the Foster Grandparent Program has helped disadvantaged children and youth by assisting them with their special physical, mental, and emotional needs. The Senior Companion Program has also been assisting the Sacramento community by working with the developmentally disabled, the homebound and blind seniors, as well as those seniors needing adult day health care. The program has helped many seniors achieve their highest level of functioning as they strive for independent community living. Through their knowledge, maturity, and caring these older volunteers are a positive example of volunteerism in California.

It is through the dedicated work of these talented volunteers, that the Foster Grandparent Program and the Senior Companion Program have been able to offer our citizens a place to turn. The active involvement of the volunteers we honor today is an example of the effective method of how the ACTION Agency helps people to help themselves.

Mr. Speaker, I highly commend all the volunteers and staff of the Sacramento Older American Volunteer Programs for their many accomplishments and the vital assistance they have provided to the citizens of the city and county of Sacramento and salute their dedication and commitment to the welfare of our great State. I also extend all my best wishes for much success in all of their future endeavors.

ROBERTSON COUNTY BAPTIST ASSOCIATION CELEBRATES 75TH ANNIVERSARY

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. CLEMENT. Mr. Speaker, I want to recognize and pay tribute today to the Robertson County Baptist Association.

This week the association celebrates its 75th anniversary. Formally organized in 1915, the association began with a membership of 16 churches. Today the association consists of 30 churches, a local mission, and boasts a membership of 12,124 members.

I want to recognize the Robertson County Baptist Association, located in my home district, for the outstanding contributions they've made to the community for the past three-quarters of a century.

The association has always been ready and willing to offer a helping hand to people in need. Through the years the group and its members have provided help and aid to low-income families, people in distress and those who have found themselves in the midst of trouble.

The Robertson County Baptist Association's mission is continuing the work begun by their forefathers. The mission shines as a guiding light for people and families in need and in trouble.

A integral part of our community, the Robertson County Baptist Association is always willing to offer assistance. The comforting thought that the association is always standing by, willing to lend a hand, helps make Robertson County a wonderful place to live.

I want to offer my thanks, congratulations, and promise of continued support to this vital and worthwhile organization. I'd also like to add my best wishes for the association during their next 75 years.

A TRIBUTE TO DICK CAPEN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mrs. ROS-LEHTINEN. Mr. Speaker, I wish to commend a true public-spirited individual in our community who has worked diligently throughout his years in Miami to make Dade County a better place in which to live. This person is Mr. Richard G. Capen, Jr., who has recently been promoted to vice chairman of Knight-Ridder, Inc.

Dick Capen became vice chairman of Knight-Ridder, Inc., in September 1989 after serving almost 7 years as chairman and publisher of the Miami Herald. As vice chairman, he has direct responsibility for Knight-Ridder's fast-growing companies engaged in business news and information services and electronic retrieval services.

Dick also serves on the Knight-Ridder board of directors, executive committee and operating committee. In addition, he oversees corporate communications and the company's significant investment in cable television.

During Dick's tenure, the Miami Herald—one of 29 dailies published by Knight-Ridder—received five Pulitzer Prizes and was selected twice by Time magazine as one of the Nation's top 10 newspapers. Fluent in Spanish and author of a Sunday column in the Herald, Dick oversaw the launch of El Nuevo Herald, which is now the largest Spanish-language newspaper in the continental United States.

Dick joined Knight-Ridder in 1979 after serving 18 years with San Diego-based Copley Newspapers where he rose to become senior vice president and director.

From 1968 to 1971, Dick worked for Secretary of Defense Melvin Laird, first as Deputy Assistant Secretary of Defense for Public Affairs and subsequently as Assistant to the Secretary of Defense for Legislative Affairs. For his leadership in obtaining congressional approval on key defense legislation—and for his efforts in behalf of American prisoners of war, Dick received the Defense Department's highest civilian decoration, the Distinguished Service Medal.

Dick serves on advisory boards for the Ford Foundation, the Stanford University Graduate School of Business, the Duke University Institute of Policy Sciences and Public Affairs, and Harvard University's Center on the Press, Politics and Public Policy.

He is past chairman of the United Press International and San Diego Chamber of Commerce and has served as an outside director of several public corporations. He's currently a member of the Florida Council of 100 and chairman of the board of the Dade County United Way.

Born in Hartford, CT, Dick is a 1956 graduate of Columbia University, which he attended on a Navy ROTC scholarship. Following graduation, he served 3 years as an officer in the U.S. Navy. Dick and his wife, Joan, live in Miami and have three children—Chris, 25, Kelly, 21, and Carrie, 16.

Mr. Richard G. Capen, Jr., deserves the respect of all south Floridians who want our area to be free of crime and drugs so that our children can grow up without this plague engulfing them. I commend the Knight-Ridder corporation for its ability to select high quality professionals to lead their organization.

HOBIE FELDMAN: AN ASSET TO SOUTH FLORIDA

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. LEHMAN of Florida. Mr. Speaker, "Hobie" Feldman and his wife, Judy, are free spirits that direct their individuality to making south Florida a more livable place for all of us.

Even before I came to Congress, when I was a member of the Dade County School Board, I've known the Feldmans as people concerned about quality education in our public schools.

After I was elected to the House, the Feldmans enlisted my support for the preservation of Arch Creek, a northeast Dade natural and historical resource.

Dr. Feldman is a renaissance man, politician, musician, private pilot, charter boat captain, and environmentalist. Hobie is not one to say something simply because it is popular. You can count on him to speak his mind. What he says often challenges accepted beliefs and, though he may disturb, he forces one to think hard.

Mr. Speaker, I would like to share with my colleagues the following story from the Miami Herald which offers further insights into my dear friend:

KEYSTONE POINT MAN'S ENJOYING HIS HIGH-FLYING LIFE OF ADVENTURE

(By Dan Keating)

The son of a DeSoto salesman, Hobie Feldman has ridden the waves and played for raves. He's fought for trees and flown the breeze.

He is, or has been, a pilot, politician, doctor, boat captain, professional musician and ardent environmentalist.

"I don't consider it to be a lot," said Feldman, who will perform with the Keystone Jazz next weekend. "I've kept busy."

Born 68 years ago in New Hampshire and raised in rural Pennsylvania, Feldman moved with his wife, Judith, to Keystone Point in North Miami in 1961 to fulfill an urge to live near the water.

Working as an allergist, he has specialized since 1971 in ecological and environmental irritants. Chemicals—often man-made—in air, water or food can cause physical, emotional and psychological problems that many doctors do not detect, he said.

One of his patients suffered an uncontrollable outbreak of anger and violence while driving a car. Feldman said it was caused by petrochemicals coming off the spare rubber fan belts she had in the car.

"Every time I turn around, there's another patient with a similar story," he said.

Feldman's music almost kept him from being a doctor. He plays the piano, violin and saxophone, but the clarinet is tops.

He worked as a musician during the big band era while studying at the University of Pittsburgh. One night, a representative of Jimmy Dorsey's band asked Feldman to go on the road with them.

"That was one of the most difficult decisions I ever had to make, because the road split right there. I decided I wouldn't let anything come in the way of finishing school."

Flying came more as a whim when Feldman was 60 years old.

"I was driving by and a magnet grabbed me at North Perry Airport," he said. He went in and began taking flying lessons immediately. He bought a Cessna four-seater.

Like leasing his boat for charters and playing music professionally, Feldman found a way to make the plane pay for itself. He flew to Everglades City and came back with a cockpit full of stone crabs.

"If I couldn't get a plan to pay for my toys, then I shouldn't waste large sums of money for them," he said.

Feldman's career as a North Miami city councilman lasted from 1973 to 1981, but he was never called a politician.

"I've always been guilty of not compromising. I've never felt that a half a loaf was better than nothing—which is not any good if you're going to be in politics. So I can vehemently state that I'm not a politician."

He was referred to as the Lone Ranger during his term because he was so often alone. He battled against the bay-side Munisport dump and for other environmental issues that were not as popular then as they are now. But he has left the battles behind.

"I am as close to oblivious to what's happening in city government as you can be," he said. "I'm delighted that way."

With all his talents and accomplishments, Feldman's only battle now is against time. Parkinson's disease sometimes puts a tremble in his fingers.

"When I'm aware of it, I tell myself that I'm not going to let it bother me. I'm encouraged by my being able to play [the clarinet]. It takes dexterity, reasonable flexibility and some talent.

"That's a way to say I'm not going to get old. I'm fighting it all the way. I'm determined it's not going to get me."

ANNUAL FALLEN FIREFIGHTERS MEMORIAL SERVICE

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mrs. BYRON. Mr. Speaker, I am submitting to the CONGRESSIONAL RECORD a letter which I sent to the Administrator of the U.S. Fire Administration, to be read at the Annual National Fallen Firefighters Memorial Service held on October 15, 1989, at the National Fire Academy in Emmitsburg, MD.

Each year, the service honors those firefighters who sacrificed their lives for the safety of others. I commend the bravery of these men and women and extend my sympathy to their families and communities. They will be deeply missed.

The letter to Clyde Bragdon, Jr., Administrator of the U.S. Fire Administration follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 15, 1989.

Hon. CLYDE A. BRAGDON, Jr.,
Administrator, U.S. Fire Administration, Federal Emergency Management Agency, Washington, DC.

DEAR MR. BRAGDON: I am sorry that I cannot be with all of you today to recognize

and honor the bravery of our nation's fallen firefighters.

I am saddened to know that of the men and women we honor today we include Mr. Frederick W. White, of the Hagerstown Fire Department. As a Representative of dozens of rural communities, many times I have heard the sounding of a fire alarm and witnessed a virtual transformation of a town. Men and women rush from their homes and jobs to join in a struggle to save the lives and property of others. With each call those firefighters, like Mr. White, do not focus on their personal safety, or turn away from the danger of the situation, but instead, willingly commit themselves to the safety of others.

Though the National Fallen Firefighters Memorial cannot describe the heroic actions which claimed the lives of hundreds of firefighters, it will serve as a constant reminder to those visiting the National Fire Academy of the courage of those firefighters, and the fire programs. Their actions will never be forgotten.

Again, I would like to express my deepest sympathy to those who have lost a loved one. May we continue to have a fire community which so freely gives of itself.

Sincerely,

BEVERLY B. BYRON.

WORKPLACE OF TOMORROW IN MILWAUKEE TODAY

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. KLECZKA. Mr. Speaker, years ago the city and county governments of Milwaukee, WI began using innovative employee practices in the workplace, such as parental leave for mothers and fathers. Only recently have these ideas been discussed at the national level in the U.S. Congress.

Translating job sharing and flextime, scheduling practices into national labor laws may be difficult, but examining ways of doing this could pay handsome dividends in greater worker productivity. The 8-percent decline in Milwaukee County employees' sick leave between 1982 and 1988 illustrates this. The impressive reduction was due, in part, to liberal job-sharing and flextime scheduling practices. If these results were repeated even partially at the national level, U.S. productivity would increase noticeably.

Local pride aside, a recent New York Times article describes several other workplace improvements in the Milwaukee area. I include the article as part of the RECORD:

[From the New York Times, Oct. 12, 1989]

MILWAUKEE HELPS PACE U.S. AS INNOVATOR FOR WORKPLACE

(By Peter T. Kilborn)

MILWAUKEE.—Without methodical planning or a grand design, this breezy and muscular city on Lake Michigan has become a flourishing laboratory of the kinds of workplace innovations that national policy makers and private businesses are only beginning to experiment with.

For more than a decade, the city and county governments have provided tuition subsidies for workers to keep abreast of their fields, and have offered job sharing and four-day weeks. In the 1980's, they adopted unpaid parental leave, giving fathers the same rights as mothers.

City Hall provides pay incentives for 980 managers to do better work and vacation incentives for nearly 9,000 city employees to refrain from abusing sick leave. John M. Tries, the city's director of employee relations, says he is rewriting the entire civil service code to allow the city more flexibility in redefining the workplace.

At the county's courthouse headquarters, six blocks from City Hall, 170 welfare workers in the Department of Social Services keep "4-40" schedules, working four 10-hour days, starting at 7 A.M. Ninety-one members of the department follow "flextime" schedules, which many use to work nine hours for four days and four hours Friday mornings.

Because of the years of testing approaches to accommodating the needs of a changing work force, Milwaukee officials have a sense of which approaches succeed, in what circumstances, and which need more testing. For private employers and other cities around the country, Milwaukee, a city with a long progressive tradition, provides an opportunity to examine their own efforts to accommodate the special needs of their employees, particularly the two-earner family that is now the norm.

"It has been a laboratory for workplace innovation," said Byron Yaffe, professor of industrial relations at the University of Wisconsin.

The County Executive, David F. Schulz, says the city has only responded to a trend that is evident everywhere. "There has been a sea-change," he said. "Employers value their employees more. We're fitting the job to the employee and not the employee to the job."

John Parr, executive director of the local chapter of the American Federation of State, County and Municipal Employees, said, "We've had a long-running, formal relationship with the city so we've been able to get at these issues early."

How well Milwaukee's workplace adjustments serve the government, its workers and the taxpayers is not established in any detail. High taxes are a likely price, and taxes are a disincentive to businesses that would open up shop here. Among 31 big cities that Fortune magazine surveyed, state and local taxes in Milwaukee are higher per capita than in all but four other cities: Washington, New York, Boston and Baltimore. Boston and another city that is high on the list, Minneapolis, are also often cited as workplace innovators like Milwaukee.

Officials here say that they have found their workplace accommodations hard to apply to the police, firefighters and others who have tightly structured jobs, but that they have worked well for thousands of office employees, especially for those below the top ranks.

JOB-SHARER'S EXPERIENCE

One illustration is Amy Grow, a job-sharer in the city and county governments. Mrs. Grow, whose husband, a police officer, works the night shift, spends her mornings fielding inquiries from taxpayers in the City Treasurer's office. At noon, she usually leaves to pick up her 4-year-old son at the nearby county day care center and goes home for the rest of the day. Another woman takes her place at the office.

"I have just enough time to get out of house and have an almost normal home life, too," she said. Other job-sharers make quite different arrangements. Two in the county museum carve the five-day week in half, working two full days and a half day each, while two in the county's accounts payable office take turns working two days one week, three days the next.

The arrangements can pose complications when a member of a job-sharing team leaves or shifts to full-time work. But Mrs. Grow's boss, Frank Bartoszewicz, says he prefers job-sharers to people who work nine-to-five. Rather than an employee who wears down as the day progresses, he said, "I get four hours of a fresh person twice a day."

Mr. Parr, whose local represents more workers than any other, said of job-sharing, "They do that instead of having people quit."

Why Milwaukee's public sector has been more responsive to the changing labor force than most communities seems to owe little to particular leaders, like chief executives who set goals and standards in private industry. Most innovations have been sporadic and spontaneous and confined within individual departments and agencies. Thus one of the smaller city departments, the library, has many more job-sharers, with 12, than any other, and these resulted largely from the pressure of Mr. Parr's union.

These days, the city has to compete with some real-world practicalities that tend to work against things that people might like to try, like paid parental leave or free day care. The city and the county, under the pressure of tight budgets, are doing things like shaving health benefits, raising some fees, eliminating jobs as population shrinks, and on occasion using temporary workers for jobs that full-time employees did earlier.

At the same time, the governments have to compete for workers in a state with unemployment around 4 percent. That leaves a small pool of people to recruit, most of them women and minority workers and many with little training. Such workers often require special training for ever more sophisticated work, and once trained, they represent investments that a cost-conscious employer has more incentive than ever to try to keep.

Being responsive to workers, moreover, can help the governments respond better to the community, said Mr. Schultz, the County Executive. The 10-hour days that many social workers and financial assistance workers keep, for example, permits them to do paperwork early in the morning so they can be free to meet with clients from 9 to 5.

In such an environment, the innovations keep coming. Last year, City Hall adopted an incentive pay plan under which department heads can spend 4 percent of their payroll budgets to reward administrators for meeting prescribed goals. Under the city's sick leave program, adopted for managers six years ago and for all employees two years ago, employees get an extra day of vacation for every four months they go without calling in sick.

UNPAID PARENTAL LEAVES

The county, which oversees the courts, highways, the jail and welfare for Milwaukee and 15 nearby small cities and villages, started an unpaid parental leave program for new fathers, as well as mothers, well before most other government institutions. Parents can take a leave, initially for six months, and then apply to their supervisors for an extension, without losing their jobs.

And partly because of the labor shortage in Milwaukee, Mr. Schulz said the county is planning one program next year to train some of the 30,000 mothers on welfare for regular jobs, a project that has taken on some urgency because of the cost of welfare.

The county is planning another program under which young, lower-level employees will be granted one-year appointments in other departments to give them broader experience and a chance at bigger jobs.

To help families of employees cope with child care bills that can run as much as $90 per week per child, the county will introduce a cost-saving voucher system in January. Employees will get vouchers covering cost of care. They will submit the vouchers to child-care centers, which will turn them into the city for reimbursement. The employees will still pay for the care, but since the voucher does not count as income, the taxable income will be lower.

No one has compiled comprehensive data on the workers engaged in job sharing, flextime scheduling and the like, so no one can document the effects of the programs. But sick leave, a partial gauge of job satisfaction, seems to be declining. The county lost 514,600 work hours to sick leave in 1982, and 477,400 in 1988.

County officials said annual job turnover shows no clear trend. Over the last five years, it has ranged between the high of 8.6 percent in 1986 and the low of 6.4 percent in 1987.

The four-year-old county day care center, open from 6 to 6, for children 6 months to 6 years old, appears to benefit both parents and government. Mark Kustermann, the county's deputy director for human resources, said he did a spot check of five employees who keep children there. Three reported that their attendance at work had improved, he said, two that they returned to work after having babies sooner than they would otherwise have, and two would have considered resigning had it not been for the center.

EARNED INCOME TAX CREDIT NOT A SUBSTITUTE FOR HIGHER MINIMUM WAGE

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. LEVIN of Michigan. Mr. Speaker, the House will shortly revisit the question of the inadequacy of the current minimum wage of $3.35 an hour. As we prepare for this debate, I think it is important to address one of the arguments that opponents of a minimum wage are making, that the earned income tax credit [EITC] is a superior alternative.

As a number of the House Ways and Means Committee, I have long been an advocate of a more generous EITC. The tax credit helps to offset the heavy bite of the Social Security tax on the very poorest wage earners. However, the EITC alone will not bring a family of four up to the poverty line and does not help the single worker with no dependents.

I would like to call to my colleagues' attention an excellent op-ed piece written by Robert Greenstein and Isaac Shapiro from the Center on Budget and Policy Priorities. The article, which appeared in the Washington Post on August 15, is a pointed response to the contention that the EITC should replace an adequate minimum wage.

I ask for unanimous consent that the article be reprinted in the CONGRESSIONAL RECORD. I hope that the Members of the House will take a moment to consider its analysis.

A HIGHER MINIMUM WAGE WOULD HELP THE POOR

It is fashionable lately to denigrate the minimum wage as an outmoded, ineffective mechanism for assisting the working poor—and to celebrate the earned income tax credit, a tax credit for working poor families with children, as a superior alternative. Articles such as Robert J. Shapiro's "The Minimum Wage Deal," [op-ed, July 3] contend that the minimum wage actually hurts the poor more than it helps them, and that ultimately we should let it "pass into history" while expending the earned income tax credit in its place.

There is little question of the merits of the earned income tax credit. It increases the income of low-income working families, boosts work incentives and rewards parents who live with and support their children. Our organization has been calling for expansion of the credit since 1984 and coordinated a national information campaign this year to increase its use by eligible families.

Unfortunately, some recent converts to the credit banner are losing sight of an essential condition for making it fully successful: it must function as a supplement to, not a replacement for, an adequate minimum wage.

Shapiro endorses a short-term legislation package that blends a modest minimum wage increase with an expanded earned income tax credit, but argues for ultimately abandoning the minimum wage. His central argument is that virtually the total cost of a higher minimum wage would be passed on to consumers through inflation rather than coming out of, for example, profit margins. Because most poor households do not have minimum wage workers, he argues, the poor in general would be hurt more than helped.

This argument, and the figures supplied to support it, are wide of the mark. The Congressional Budget Office, after a careful research review, concluded that the minimum wage bill that President Bush recently vetoed would cause a rise in inflation of between one-tenth and three-tenths of 1 percent. Using these data, the inflation impact on a poor family turns out to be about half what Shapiro estimated.

Even this lower estimate overstates the impact on the poor. Many poor, particularly the elderly and the disabled poor, receive most of their income from government benefits that are indexed for inflation; they would feel little impact. For many other poor households that are not made up of the elderly and the unemployed, the small loss in purchasing power from a higher minimum wage will last for only a short period. If members of these families find jobs in the following year (a not uncommon occurrence), many would be paid at or near the minimum wage, gaining hundreds of dollars from a minimum wage increase.

Let us project these figures to 1992, the year the vetoed legislation would have taken effect. While a non-working family whose income sources are not indexed would have lost about $70 a year in purchasing power, a poor worker employed half time at the minimum wage would have earned $1,248 more. A fulltime worker would have gained twice that much.

Some contend these figures are irrelevent because most minimum wage workers aren't poor. Most aren't, but that's only half the story. Fifty-seven percent of all poor workers paid hourly earn the minimum wage or close to it. Most of these workers and their households would benefit from a minimum wage hike.

Throughout most of the 1960s and 1970s, full-time work at the minimum wage lifted a family of three out of poverty. It now leaves such a family $2,900 below the poverty line. The minimum wage has fallen in value every year since 1978; during this period, the ranks of the working poor have swelled. While minimum wage erosion is but one of a number of reasons for this development, it bears mentioning that from 1978 to 1987, the number of full-time workers who remained poor shot up 43 percent.

Those who argue for replacing the minimum wage with the earned income credit miss another crucial point despite the EITC's many virtues, it cannot do the job by itself. As Shapiro rightly noted, the policy goal should be to ensure that if a parent works full-time, the family should not fall below the poverty line. This goal is unachievable with an enlarged EITC alone. If one of the biggest and best EITC expansions now before Congress—the Employment Incentives Act introduced by Rep. Tom Downey (D-N.Y.)—were coupled with the $4.25 minimum wage level that now seems likely to pass, a family of four with a full-time worker still would be left $3,600 below the poverty line. And poor workers without children would be shut out: they don't qualify for the credit.

Robert Shapiro attempts to address this problem by calling for expanding the EITC to childless workers and increasing its benefits enough to raise a family to the poverty line. But he does not discuss the price tag—eventually likely to exceed $25 billion a year. Given the federal deficit, the Gramm-Rudman-Hollings law and major unmet needs in such areas as health care and housing, this much money for the EITC alone is not in the cards.

For these and other reasons, more and more leading poverty analysts have decided that only a higher minimum wage and an enlarged EITC can ensure that fulltime work lifts a family out of poverty.

This is not the notion of tired old ideologies refighting the battles of the Great Depression. Rather, it represents some of the best new thinking about how to fight poverty in the 1990s.

RADIO STATION KJLH

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. HAWKINS. Mr. Speaker, I rise today to acknowledge the contributions of radio station KJLH in Los Angeles. For the people of the 29th District in California and other Los Angeles communities, KJLH radio has offered valuable help in finding employment opportunities.

KJLH, in connection with St. Brigid's Catholic Church, sponsored Career Days 1989 this past spring. These 2 days were designed to increase community participation in the highly competitive job market. KJLH's support proved invaluable, especially to the women and minority participants who generally face greater difficulty in finding employment. The placement of more than 250 people is evidence to the event's success.

The accomplishments made by the station in codesigning the format for Career Days and

publicizing it with free airplay are enormous. When a private entity utilizes its own resources for the betterment of the community it brings an extra sense of exhilaration. The ability of KJLH to maximize employment opportunities for those who might not otherwise gain the chance is truly an achievement. The management and staff at KJLH exemplify the type of support that builds a strong and progressive community.

TRIBUTE TO ROBERT S. McMICHEN

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. FEIGHAN. Mr. Speaker, I rise today to pay tribute to Robert S. McMichen, retiring vice president of the Communications Workers of America and president of the Printing, Publishing, and Media Workers Sector. With his retirement, we not only lose a dedicated and talented 45-year union member, but we also lose a valued and trusted leader.

Bob was born in Florida but moved to Atlanta, where he began his printing career with a local shop and soon joined the International Typographical Union [ITU]. His peers quickly recognized his talents and leadership and elected him president of the local union.

In 1957, Bob moved into the national union movement as the ITU promoted him to a post as an international representative. As a student of collective bargaining and a gifted and intelligent negotiator, Bob traveled across the country skillfully resolving contract talks. He not only gained respect from the local unions he assisted but also from the employers with whom he negotiated.

Bob ran for his first international union office in 1974 and was elected second vice president of the International Typographical Union. From there he became first vice president of the ITU in 1983 and then president of the ITU. As president, he spearheaded the merger between the ITU and the CWA, recognizing the high ideals and spirited membership shared by the two unions. With the ITU becoming a sector of the CWA, Bob came aboard as the sector's first president and thus a vice president of the CWA.

At each step of his career, Bob made his mark, leaving behind a legacy of fairness and respect to everyone he encountered. Bob is now retiring after a long and illustrious career coupled with his 45 years as a union member. From his early days with the ITU through his stay with the CWA, Bob has earned the respect from everyone he encountered due to his sure judgment, sharp intellect, and warm compassion for his fellow workers.

Bob McMichen personifies the selfless, humanitarian spirit that our country so desperately needs. His vast union and civic achievements prove that a caring and compassionate citizen can make a difference.

PUBLIC POWER WEEK

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. MATSUI. Mr. Speaker, I rise today to invite my colleagues to join me in commemorating October 8–14, 1989, as "Public Power Week."

In the 1932 Presidential campaign, Franklin D. Roosevelt defended the right of local people to make choices about public power. He said:

Where a community, city, or a county, or a district, is not satisfied with the service rendered or the rates charged by the private utility, it has the undeniable right as one of its fundamental functions of government to set up its own governmentally owned and operated service.

In my own community, the Sacramento Municipal Utilities District provides service to over 375,000 residential customers, and over 47,000 business and commercial firms. While small compared to giant power corporation, the utility's gross annual revenue of approximately $575 million makes SMUD a major economic contributor to our community. Because local consumers and the community own the system—and share common goals—public power is a strong force in guiding local development and prosperity.

Today, more than 2,200 communities nationwide have chosen to establish nonprofit, community owned electric utilities. In every State but Hawaii, public power is the better choice. More and more communities are considering public power for the same benefits that we in Sacramento enjoy: local control, community ownership, and not-for-profit service.

Mr. Speaker, I salute the Sacramento Municipal Utilities District and all public power agencies across the Nation as they celebrate "Public Power Week 1989."

COUNTRY MUSIC MONTH

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. CLEMENT. Mr. Speaker, I recently sponsored House Joint Resolution 401, designating the month of October as "Country Music Month."

Representative DAVE MCCURDY of Oklahoma was inadvertently listed as one of the cosponsors of this resolution.

I regret the error and any inconvenience which may have occurred as a result of the error.

CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR 1989

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mrs. ROS-LEHTINEN. Mr. Speaker, I rise to participate in the 1989 Congressional Call to Conscience Vigil by speaking out for the Refuseniks in the Soviet Union. The term "refusnik" describes a Soviet Jew who, having been refused permission to emigrate—or, many times, the right even to apply—often experiences the fear of dismissal from work or school, harassment by the KGB, and the threat of anti-Semitism as a daily part of their lives. I wish to share with my colleagues one particular case.

Vladimar Dashevsky, his wife Tatiana, and their four children applied for a visa in the spring of 1977 and waited 23 months for the reply they had feared. Vladimir, who worked as a astro physicist, was not involved in state secrets. The reason for his refusal is unknown. Since his application to emigrate, Vladimar has been unable to find work in his profession. The family is in deep need of financial help.

On June 1, 1986, Vladimir was invited to a meeting of the Committee of Religious Affairs. With several people in attendance, he was told that the authorities knew everything about him. Under a law of 1929 by the Executive Committee of the Soviet Peoples Commissar, all of Vladimir's activities are punishable. He was asked to curtail teaching religious subjects, organizing religious seminars, and various other endeavors. Vladimar requested a detailed consultation of exactly where he is breaching the law, as well as a definition of freedom of conscience which is guaranteed by the Constitution. This conversation was not official, but it is one of the steps to put pressure on religious education. it represents yet another incident of labeling Jewish religious observance a criminal offense.

In June 1989, the British House of Commons voted to award a distinguished service award to Vladimar. He was denied a visa to travel to accept the award, because the OVIR claimed that the invitation was an official, not a personal one. Dashevsky discovered that no department of the government is authorized to grant a visitor's visa on official grounds.

Mr. Speaker, as an advocate of human rights, I am asking my colleagues to recognize and reflect on man's most previous element of life—freedom.

COAST GUARD'S OIL IDENTIFICATION PROGRAM

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. GEJDENSON. Mr. Speaker, I rise today to bring attention to the important contribution of the U.S. Coast Guard Research and Development Center located in Groton, CT, on the

campus of the University of Connecticut at Avery Point. As we consider funding for the Coast Guard and as we look further at the oil spill and our ability to prevent and clean up oil spills, I encourage my colleagues to recall the important role of the Coast Guard's Oil Identification Program in discovering who is responsible for oil and hazardous material spills in Valdez, AK, and in countless other class cases over the past decade.

The Coast Guard Oil Identification Laboratory [COIL], which has performed more than 60,000 analyses, involving more than 3,000 cases since its inception in 1978, has been recognized as a powerful tool for determining the source of oil spills both large and small. This process has made it possible to match a spilled oil with its correct source. This process has allowed us to find those responsible for a significant number of spills, saving the taxpayers large amounts of money in clean up costs, allowing Federal cleanup dollars expended during an incident to be recovered and enabling the enforcement authorities to assess penalties against those who violated the Federal water quality laws.

The COIL process has been recognized as legal evidence by the U.S. judicial system for establishing the source of spilled oils. The oil identification process developed by the Coast Guard serves not only to eliminate erroneously suspected sources of pollution, but can also pinpoint the actual sources of pollution in a complex oil spill investigation.

Mr. Speaker, I submit for the RECORD, an article from the Washington Times, which describes oil identification research work conducted by the Coast Guard at the research and development center in Groton.

[From the Washington Times, Oct. 16, 1989]

COAST GUARD'S OIL SLEUTHS ARE REALLY SLICK OPERATORS

GROTON, CONN. (AP).—When millions of gallons of oil blackened Alaska's Prince William Sound, the whole world knew where it came from—a jagged rip in the hull of the grounded *Exxon Valdez.*

But when a fisherman finds his fishing grounds befouled or a beachcomber's favorite stretch of sand is soaked with oil, it's often a mystery.

That's where the super sleuths of oil-spill investigations come in: The U.S. Coast Guard Oil Identification Laboratory.

The laboratory, often working with dissipated evidence and few clues, has helped track down those responsible for hundreds of oil spills nationwide, from one or two gallons to hundreds of thousands.

The laboratory uses sophisticated tests to identify the type of oil and pinpoint its source, a task complicated by the fact that even oils of the same weight have different chemical "fingerprints," depending on where the original crude was pumped out of the ground and how it was stored.

"It's like crime-solving in which all of the pieces of evidence have to fit together," said Martha S. Hendrick, the chief chemist and the only civilian in a lab that employs nine other marine-science technicians.

The Coast Guard was given jurisdiction for determining liability for oil spills by the Federal Water Pollution Control Act of 1972.

The lab, located at the University of Connecticut's Avery Point campus, has helped investigate more than 3,000 oil spills and seen its caseload grow each year amid heightened concern about the environment.

The lab can also help exonerate those being blamed for a spill.

Two technicians who assisted in the Alaska investigation helped save Exxon $97 million in cleanup costs when they found that several thousand gallons in haddock- and salmon-fishing grounds didn't come from the *Exxon Valdez*

Most investigations into oil spills, however, have far fewer clues than the *Exxon Valdez* disaster.

In 1987, a 50- to 75-gallon spill fouled the Willamette River near Portland, Ore., leaving Coast Guard officials with a slick, but no suspects. A year later, the lab linked the spill to oil found near an intake valve on the underside of a tanker that was in dry dock for repairs. The tanker's owner agreed to pay for the cleanup.

"A lot of people are very surprised when they learn that the oil did come from their vessel or their facility and they immediately cooperate once they're shown the evidence," said Cmdr. Larry H. Gibson, 40, who has headed the laboratory for two years. "Some other people fight it tooth and nail."

Field investigators take 4-ounce samples from the spill, along with samples from possible sources in the area.

Back at the lab, the oil undergoes testing: gas chromatography, thin-layer chromatography, fluorescence spectroscopy, infrared spectroscopy and high-performance liquid spectroscopy.

The gas chromatograph separates the chemicals that make up the oil based on their different boiling points, which in turn helps scientists determine the oil's "fingerprints," Cmdr. Gibson said.

"We compare the intrinsic chemical traits of the spilled oil against all of the suspects to pick out the source of the spill," he said.

Spills can consist of dozens of kinds of oil, fron the lighter kerosene and jet fuels to the thin No. 6 oil used in heavy industry. Oil of the same weight can have slightly different characteristics.

"There are thousands and thousands of compounds in any particular oil sample, and the makeup of the sample depends on the oil fill it came from and the conditions of formation," Cmdr. Gibson said.

"Also it depends on any refinery processes that the oil has been through. Any time you mix a batch of oil with another batch of oil, it's going to change the fingerprint a little bit and that's where we can really get down to pinpointing the source of the pollution."

THE 50TH ANNIVERSARY OF THE ADAMS LIONS CLUB

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. CONTE. Mr. Speaker, I rise today to pay tribute to one of the finest chapters in the world of Lions International. I am very pleased and proud to announce that on October 28 the Adams Lions Club of Adams, MA will celebrate the 50th anniversary of its charter.

It was the dawn of World War II, Mr. Speaker, when the Adams Lions Club was sponsored by the Lions Club of North Adams. In the five decades since, the Adams Lions Club has established a history of goodwill. This chapter has continued to provide very important services to its community through their time and generosity. The services are not only needed but, I daresay, they are vital to the northwestern corner of Massachusetts. The Adams Lions Club provides services to the young and the old, to the sick and the poor, and does so indiscriminately.

I believe that the Lions Club can potentially walk hand-in-hand with someone right through life. It can be said that the Lions Club of Adams can help guide a youngster through his or her formative years and then help that same person enjoy the golden years of life, or in some cases, make those years pass more peaceably.

Mr. Speaker, there are many examples that I could expound upon to you and to my colleagues here on the House floor but let me give you just a few. The Adams Lions have sponsored youth football, baseball, and basketball leagues. They have donated their time to the Girl Scouts of America and since 1945 they have sponsored a Halloween parade.

Education is of vital importance to this organization that has given so much. This year the Adams Lions held another Honor Society banquet for the high school students at Hoosac Valley and McCann. The Adams Lions Club members have donated $1,200 in scholarship money to those fine students. And Mr. Speaker, this was not the first time such a ceremony has occurred—they have been furnishing higher education scholarships to high school students since 1954.

As time goes on many of the people who the Lions have helped support through the formative years of life will become members of the club themselves. It would be frivolous to say merely that a sense of community spirit exists amongst the Lions. The Adams Lions are brothers among themselves and are friends to the people in the area. That friendship, Mr. Speaker and my distinguished colleagues, extends to the older Americans and the physically dependent people of my district who the Adams Lions help serve. This magnanimous club has donated or loaned many items to the Berkshire Medical Center and to the North Adams Regional Hospital. This includes everything from walkers and crutches to a kidney dialysis room at the Berkshire Medical Center.

Mr. Speaker, the Adams Lions Club has gone above and beyond the call of duty. Their civicmindedness has been nothing short of outstanding. I want to salute the past and present members of the Adams Lions Club for their half-century of service and fraternity. I wish the Adams Lions Club many more years of continued success.

SALUTE TO DR. NANCY GRASMICK

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mrs. BENTLEY. Mr. Speaker, it has often been said that a successful education depends on one's willingness to learn. Of equal importance, however, is the presence of someone—a very special someone—who is

willing to teach and to impart knowledge with the same degree of passion and commitment.

With this in mind, it gives me great pleasure to salute Dr. Nancy Grasmick, special secretary of the Governor's Office for Children, Youth, and Families as well as one of my home State's most special citizens, upon being named "Woman of the Year" by the Towsontowne Business and Professional Women's Club. Indeed her many accomplishments demonstrate that she is truly worthy of this award—and much more.

This is only the latest award in a life that has been filled with many special achievements. In addition to serving as a teacher and in various administrative posts in Baltimore County over a period of nearly 30 years, Dr. Grasmick earned advanced degrees in deaf education and in communicative sciences. She also served as an instructor at Mount Agnes and Loyola Colleges, teaching techniques for educating the deaf to other teachers.

Dr. Grasmick's interest in educating the physically and mentally challenged, however, was never confined to the classroom or the workplace. She has assumed a much-needed position of leadership by serving in a score of professional organizations, such as with the Professional Advisory Board of the Jemicy School for Dyslexic Children, as president of the Child Care Foundation, as a member of the Foundation Board for WBAL-TV's "Wednesday's Child" Program—just to name a few.

And her efforts have not gone unnoticed. In the past Dr. Grasmick has been honored with the Jimmy Swartz Foundation Medallion Award, the Johns Hopkins University's Excellence in Education Award, and the International Reading Association's Literacy Award. She was also named Outstanding Administrator of the Year by the governments of Baltimore County and the State of Maryland.

Mr. Speaker, through her tireless efforts Dr. Nancy Grasmick has shown all of us that she is an educator who truly cares—an individual whose actions and accomplishments speak for themselves. Truly she has earned this latest award—as well as the respect and affection of many thousands of Marylanders.

Congratulations, Nancy, and thanks for a job well done.

CONGRESSMAN DALE E. KILDEE HONORS "MR. FLINT," JACK A. HAMADY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. KILDEE. Mr. Speaker, I want to urge the Members of the House of Representatives to join me in honoring Mr. Jack Hamady, a man that has done so much to improve the quality of life in my hometown of Flint, MI.

Mr. Speaker, Jack Hamady is one of those rare individuals that simply loves life and loves people. As an immigrant from Baakline, Lebanon, Jack Hamady worked with his family to build the most successful food stores in the Flint area, the Hamady Brothers Food Markets. While he has always been a highly successful businessman, Jack Hamady has been equally successful in improving the lives and futures of the citizens in the Flint area.

For over 50 years, Jack Hamady has been a leader in our community. His involvement in the Flint Rotary Club, the International Institution, Salvation Army, Goodwill Industries, Urban Coalition of Flint, Big Brothers, and many other organizations has earned him many honors and awards, including the highly prestigious Charles Stewart Mott Citizen of the Year Award, and the International Institute Golden Door Award. Not only has Mr. Hamady been a beacon of light to the residents of Flint, but he has also been recognized for his outstanding contributions for volunteer work across the State of Michigan. Indeed, Jack Hamady is a true community activist.

Mr. Speaker, when we in Flint think of what we can do to better ourselves and the city we live in, we think of the tremendous efforts and activities of Jack Hamady. Mr. Jack Hamady is truly "Mr. Flint." Since the Hamady family came to Flint, they have worked to enhance and protect human dignity in our community. During the Great Sit-Down Strike of 1937, the Hamady family provided food to striking autoworkers and extended credit to many of their families. We consider ourselves truly fortunate to have a family like the Hamadys, and a person like Jack Hamady, living in our community.

Mr. Speaker, every year the sales and marketing executives of Flint, MI, present the Americanization of Youth Award to a local business person who best promotes the free enterprise system with the youth of the community. It is indeed a fitting tribute to Jack Hamady that the name of this award will be changed to the Jack Hamady Americanization of Youth Award. Jack Hamady exemplifies the ideals of the late Charles Stewart Mott, who said, "Let us be known by our deeds." The deeds of Jack Hamady has made our State, and our city, a better place to live for ourselves, our children, and our children's children.

TIMBER ACREAGE DAMAGED BY HURRICANE HUGO

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. TALLON. Mr. Speaker, 3 weeks ago, my district was devastated by the worst storm of this century. By now the rest of America knows that Hurricane Hugo ploughed through South Carolina leaving in its wake complete destruction and chaos.

We've got a half million people displaced, a quarter of a million out of work and damage to physical property exceeding $4 billion. That's not taking into account the effects on agriculture, tourism, and daily increases in clean up costs.

It will take us years to recover.

But, as the people of South Carolina begin the long, painful process of piecing their lives and belongings back together, it has become clear that one of the greatest casualties was our forests.

Hugo prematurely harvested over 3 years' worth of South Carolina's timber—the State's largest cash crop. It left over 6.5 billion board feet of saw timber on the ground. For a $4.3 billion industry this sort of damage is crippling for the entire State economy.

One observer said, "It looks like a giant walked through the forest and snapped off trees. Trees 30 inches in diameter are snapped like twigs."

And unlike other crop producers, timber farmers have no substantial Federal assistance program to fall back on.

For agricultural producers of program and nonprogram crops there are a number of Federal farm assistance programs available. The Disaster Assistance Act of 1989 provides disaster assistance payments to farmers who suffered losses in production due to damaging weather including hurricane. As well, the Farmers Home Administration has low interest emergency loans for loss of farms and equipment.

But the timber farmer is largely left to his own devices.

This is bad news for those concerned about the production and conservation of the 4 million plus acres affected by Hurricane Hugo.

That's why today I, along with members of the South Carolina delegation, am introducing legislation to set up a cost-sharing program for the clearing and reforestation of timber acreage damaged by Hurricane Hugo.

This program will encourage tree owners to reestablish their damaged stands by assisting in the reforestation of damaged stands, site preparation, and other necessary timber stand reestablishment.

The bill provides $100 million for this program and assumes 75 percent of the cost of implementation for private timber stands of 1,000 acres or less and 50 percent for private stands over 1,000 acres.

This program is modeled on the Forestry Incentive Program which has been extremely effective in encouraging reforestation but which if funded at current levels would take 111 years to reforest South Carolina.

Mr. Speaker, timber is a costly, long-term investment. Most of South Carolina's small timber owners simply don't have the means to replant damaged and destroyed stands. The result will be a severe blow to our national conservation efforts and to South Carolina's economy.

This country's spent millions promoting conservation in the West, the Amazon, and other areas around the world. I urge my colleagues to turn their eyes back to South Carolina, North Carolina, and Puerto Rico and help restore one of this Nation's most important natural resources—her forests.

AGGRAVATED FELONY ACT OF 1989

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. DONNELLY. Mr. Speaker, I rise today to introduce legislation which would put an end to the frustration our local police have been

experiencing in arresting illegal alien drug dealers. The bill would force the Federal Government to detain illegal aliens alleged to have committed an aggravated felony and to prohibit deportation of these illegal aliens until they stand trial and serve time in prison.

An aggravated felony is defined as murder, drug trafficking or gun trafficking. My proposal ensures expedited judicial proceedings to protect the rights of both the defendant and the American people. The bill codifies State law to Federal law, giving State law enforcement officials the same tools Federal officials already have.

This legislation mandates the Federal Government to provide temporary custody of deportable aliens at the request of the State, until the case against them is adjudicated. Because of the massive overcrowding in State and local prisons, it has become literally impossible for States to deal with the increasing number of illegal aliens committing aggravated felonies. The Federal Government must assume a much greater role to deal with what is, in fact, a national problem.

Currently, certain persons committing some crimes under Federal law can be held without bail if it is likely that person will flee the jurisdiction. Denial of bail is also provided if the individual poses a threat to themselves or the community (18 U.S.C. 3142). Congress chose to deny bail in these cases especially for individuals who have no ties in the community and are likely to flee. The constitutionality of bail denial has been upheld in several of the circuit Courts of Appeal, including *United States* v. *Walker*, 808 F.2d 1309 (9th Cir., 1986); *United States* v. *Perry*, 788 F.2d 100 (3rd Cir., 1986); *United States* v. *Zannino*, 798 F.2d 544 (1st Cir., 1986). My proposal effectively applies this Federal law to States so illegal aliens will be held without bail if they are charged with an aggravated felony under State law.

Mr. Speaker, throughout Boston and probably in every other urban area across the country, drug dealers are thumbing their noses at the police and opening the equivalent of corner drug stores.

These people do not fear the police because they know that if they are arrested they have two options: either post bond, face the criminal charges against them and serve time in prison, or flee the country.

A large number of these illegal alien drug dealers have been arrested over and over, only to be released again. According to the Boston Police Drug Control Unit, nearly 1 of 3 drug arrests on cocaine dealing charges have been by illegal aliens. In the past year and a half, the Boston police have arrested well in excess of 500 illegal aliens who were cocaine traffickers and dealers.

Mr. Speaker, because these drug dealers know their legal options by not having to stand trial and go to prison simply by leaving the country, they have no reason to give the police any information on their drug distribution hierarchy. With absolutely no attachments to this country whatsoever, they have almost made themselves exempt from the judicial process.

The methods they use are simple and effective. When these people enter the country illegally, they band together and live in flop housing, buy inconspicuous vehicles and open up shop. Supplied by upper level distributors, the drugs go out and the cash comes in. Once the cash is in hand, they simply wire it back home.

Mr. Speaker, this loophole in the law is so big you could drive a Mack truck through it. Allowing these drug dealers the easy option to leave the country without serving time in prison has got to be stopped and my bill effectively does that. Passage of this legislation will send a message to citizens of foreign countries that you can't come to the United States, peddle poison to our children and return home rich without facing swift and harsh punishment.

I insert a technical description of my proposal with my remarks:

The first provision of the legislation would require that a deportable alien who is charged with an aggravated felony be remanded to the Attorney General at the request of the State bringing charges against the deportable alien. As under present law, the term "aggravated felony" means murder, drug trafficking, firearms trafficking, or conspiracy to commit these crimes (*see* 8 U.S.C. 1101(a)(43)).

Under present law, if an individual is arrested under Federal law for violation of certain crimes, that individual can be held without bail if there is a possibility that the individual will flee the jurisdiction. The bill essentially creates a presumption that a deplorable alien is likely to flee if that individual is charged with violation of an aggravated felony under State law. Under the bill, therefore, the State could request that the alien be remanded to the custody of the Attorney General, who would hold the alien in Federal prison without jail.

In addition, the bill defers deportation of aliens pending the disposition of the aggravated felony charges. Thus, deportable aliens could not be deported from the United States until after judicial proceedings and, if a prison sentence is imposed, after completion of the term of imprisonment. After the completion of the prison sentence, the individual would again be remanded to the custody of the Attorney General, who could then deport the alien.

The legislation would be effective for charges brought after October 17, 1989.

GARY LAMONT PRAISED FOR HIS WORK WITH LUZERNE COUNTY OFFICE OF COMMUNITY DEVELOPMENT

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. KANJORSKI. Mr. Speaker, recently a very dedicated and extremely professional individual in northeastern Pennsylvania ended a 13-year career in public service.

Gary F. Lamont of Hazleton, PA, had served as director of the Luzerne County Office of Community Development in my district for many years. His decision to enter the private sector is a great loss to us.

While director of the office of community development [OCD], Mr. Lamont focused his attention on numerous projects and activities that have had a positive impact on the economic growth and quality of life in Luzerne County.

He designed a loan program for interim financing of various aspects of business development that, since 1982, has assisted nearly 300 companies in projects totaling $250 million. This program has been instrumental in creating nearly 5,500 permanent jobs in Luzerne County to date. In addition, it has helped save approximately 3,900 existing and 2,600 temporary construction jobs that, without financial assistance, would have been lost.

The U.S. Department of Housing and Urban Development recognized the merits of this program by awarding it their Certificate of National Recognition for Community Development Partnerships.

The Business Development Loan Program provides financing to businesses regardless of size—from the "mom and pop" businesses of our district to the Fortune 500 companies. The program has helped contribute to the cultural growth of the area as well. The financing program was instrumental in establishing two civic centers in our district—the F.M. Kirby Center for the Performing Arts in Wilkes-Barre and the Greater Hazleton Area Philharmonic Cultural Center.

While under the direction of Mr. Lamont, the office of community development obtained funding for four extensive programs through the highly competitive Urban Development Action Grant Program [UDAG]. A total of $3.9 million in UDAG assistance was awarded to the county.

Mr. Lamont established the Luzerne County Taxable Note Loan Program in which 15 local lenders committed to purchase $20 million of taxable notes. The county then administered a below market-rate loan program, which assisted 68 businesses with projects totaling $31 million.

He applied for and administered over 375 public improvement projects which enabled county municipalities to provide much needed improvements to their community. The individual budgets of each of these communities could not accommodate the improvement projects without the help of Mr. Lamont.

In addition, Gary Lamont was responsible for establishing Luzerne County's first economic development strategy. He coordinated four regional marketing areas within the county, compiling existing information and contracting with a nationally recognized consultant to complete the study.

Mr. Speaker, I have listed just a few of Gary Lamont's achievements as community development director. He clearly exemplifies what public service is all about.

Working closely with chairman of the county commissioners, Frank Crossin, and OCD's solicitor, attorney John Moses, Gary Lamont brought Luzerne County the most up-to-date information on economic development and initiated innovations that were eventually implemented in other parts of the State.

His zeal was contagious. His professionalism crossed into other agencies in the county. For example, he worked closely with the director of the commission on economic opportunity, Gene Brady, and both of these agencies were better as a result of that partnership.

Gary Lamont will now go to work for one of the largest banks in my district. I will have the opportunity to continue to work closely with him, especially because of my service on the House Banking Committee. Nevertheless, his contributions in the public arena will be missed.

Mr. Speaker, I salute Gary Lamont: his wife, Letty; and their daughter, Elizabeth. Mr. Lamont's service and his family's sacrifice has contributed immensely to the quality of life in northeastern Pennsylvania. I hope other local officials across the United States will recognize what this one man has done for our community. If other local officials followed by Mr. Lamont's lead, the lives of Americans in the many countries, towns, and cities of our Nation would be enhanced.

CONGRESSIONAL SALUTE TO GINA AND FRANK LUCAS, JR., ON THEIR BEING HONORED BY THE MOTHER CABRINI SOCIETY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. ROE. Mr. Speaker, it is with the greatest pride and admiration that I rise today to salute a truly outstanding family from my home State of New Jersey whose many professional and civic contributions have truly made their community, State, and Nation a better place to live.

I am speaking of Gina and Frank Lucas, Jr., of Ringwood, NJ. For their tireless civic and professional efforts, they will be honored by the Mother Cabrini Society at its 39th anniversary dinner-dance on Sunday, October 22, 1989, at The Tides in North Haledon, NJ.

Mr. Speaker, I know this event will be a source of great pride, not just to Frank and Gina, but also to their fine families; their two sons, Blaise and Frank III; Mrs. Lucas' parents, Robert and Gerry Guth; her six sisters, Mary Jean, Christine, Merrice, Celene, Lorretta and Dolores; her brother, Bob, Jr.; Frank Lucas' mother, Theresa, and his brother, Bill. I know, too, that Frank will be thinking of his father, Frank Lucas, Sr., who passed away last February.

Mr. Speaker, Frank Lucas, Jr., is a graduate of Rutgers University and is the president of Labor, Industry and Professional Organization, Inc., of Paterson, NJ, an accounting and professional service firm. This fine firm serves many labor unions, and handles the pension and welfare funds of companies from across the country. It also supplies medical computer software and hardware throughout the world.

Along with raising their two children, Gina Lucas also works in the company business, doing auditing and keeping watch over the health and pension benefits of numerous working men and women. Prior to working for the company, Gina, who is expecting a child in April 1990, managed a day care center for 8 years.

Mr. Speaker, along with his busy professional schedule, Frank Lucas has also found ample time to contribute to his community. Among the endeavors that keep him most active, he serves as a council member for the Adult Community Board of Education in Fair Lawn, NJ, a position he has held for 5 years.

Mr. Speaker, I appreciate this opportunity to present a brief profile of two people who have truly enriched their community, State, and Nation through their many efforts and endeavors, and I invite you and our colleagues to join me in saluting Gina and Frank Lucas, Jr., of Ringwood, NJ, this year's honorees of the Mother Cabrini Society.

A CONGRESSIONAL SALUTE TO NORMALEE KADICH

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. ANDERSON. Mr. Speaker, it is with a strong sense of pride and great enthusiasm that I rise today to pay tribute to Normalee Kadich. This outstanding San Pedro resident will be honored with the Woman of Achievement Award by the Business and Professional Women's Organizations of Compton, El Segundo, Wilmington and the Greater South Bay Area on Wednesday, October 18, 1989. This occasion gives me the opportunity to express my deepest appreciation for the many years of service she has provided to San Pedro and the surrounding community.

Mr. Speaker this is a great honor to bestow upon Normalee Kadich. It is my understanding that she was selected by her colleagues on the basis of outstanding achievement in her career and community; her efforts on behalf of women; assistance she has given to other women in advancement of their career; and guidance to youth and career women. Based on this criteria, there are a great many activities that have led to Normalee Kadich receiving this award.

Currently she is a member of the San Pedro Art Association, the Emblem Club, Elks Lodge, San Pedro, the Yugoslav-American Women's Auxiliary and, of course, the Business and Professional Women. She has been very active in fundraising for all of these organizations over the years. Various community convalescent hospitals and the Angel Gate Cultural Center have also benefited from her volunteer assistance. Her political activities include support for Mothers Against Drunk Driving, Always Vote, and the League of Women's Voters.

My wife, Lee, joins me in extending our congratulations to Normalee Kadich on this special occasion and wish her all the best in the years to come.

TRIBUTE TO RICH BERRYMAN

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Rich Berryman, educator and coach of Columbiana High School, who has retired after 37 years of service to his fellow man.

Rich became a part of the Columbiana community when he moved there in 1936. He graduated from Columbiana High School in 1947. In 1951 he completed his studies in education from Ohio State University and also received a masters degree from Youngstown State University.

After serving as a teacher and head basketball coach at York Township School for a year, Rich obtained a teaching position in 1952 at Columbiana High School and remained there until his retirement this year. During his tenure at Columbiana High School, Rich served as the school's head basketball coach for 16 years, the head football coach for 4 years, the golf coach for 25 years, and the athletic director for 17 years. From 1953 to 1957, he doubled as both the school's head football and basketball coach.

Highly respected among his peers, Rich served as the assistant secretary treasurer of the Ohio High School Basketball Coaches' Association for 11 years. He was also president and board member of the Mahoning Valley Coaches' Association for 11 years and board member of the Northeast District Athletic Directors' Association for 12 years.

Mr. Speaker, I would like to take this opportunity to congratulate Rich Berryman for his outstanding service to his community. The reason for Rich's success as an educator stems from his knowledge, understanding, and compassion for other people. We are deeply indebted to him for his dedication and the contributions he has made to our area. I am honored to represent this outstanding individual.

HUMAN RIGHTS VIOLATIONS IN ROMANIA

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. HALL of Ohio. Mr. Speaker, I rise to call to the attention of my colleagues a recent, though tragically familiar, disregard for human rights in Romania. Erno Ujvarossy was found murdered last month in the Vadasz Woods outside the Transylvanian town of Timisoara in Romania. Mr. Ujvarossy was a dedicated parishioner of Laszlo Tokes, the outspoken pastor of the Hungarian Reformed Church in Timisoara. This gruesome discovery capped months of harassment and death threats toward Pastor Tokes and members of his congregation. These incidents were apparently in response to Pastor Tokes' vociferous criticism of the Ceausescu regime's incessant violations of human and religious rights, particularly its repression of the Hungarian minority.

Mr. Ujvarossy was a faithful member of Pastor Tokes' congregation in Timisoara. He generously offered his engineering skills in the restoration of the church and rose to defend his pastor against false accusations leveled against him.

The Romanian Government has long sought to intimidate and harass religious and lay figures alike who have dared to speak out

against the human rights violations occurring in Romania today.

One way that my colleagues can express their concern about human rights violations in Romania is to cosponsor H.R. 2765, the bill introduced by the gentleman from New Jersey [Mr. SMITH]. This bill would ban the importation of Romanian agricultural products or commodities into the United States.

I also would encourage my colleagues to urge the Subcommittee on Trade to hold hearings on H.R. 2765 and the issues it seeks to address. The recent events in Timisoara underscore the timeliness of examining further ways to apply international pressure on the Ceausescu government.

IN HONOR OF JOSEPH SABBA

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. MANTON. Mr. Speaker, I rise today to pay tribute to Joseph Sabba for his lifelong commitment to the Sunnyside and Woodside communities in Queens, NY. On October 13, 1989, Joe Sabba was honored as "Man of the Year" by the Anoroc Democratic Club in recognition of his achievements as editor of the Woodside Herald and his service to the people of Queens.

Joe Sabba began his distinguished journalism career at the tender age of 9 peddling newspapers in the New York City subways. By the age of 15, Joe had already begun working at newspapers such as the Bronx Home News, the Williamsburg News, and the Coney Island Times, where he learned the printing trade. In 1956, Joe Sabba began his editorial career when he purchased a partnership in the Woodside Herald. After becoming sole owner of the Herald, in 1950, Joe opened a commercial printing operation and has been in the printing and publishing business ever since.

Joe Sabba's career as a journalist is just one aspect of his important contribution to the Queens community. As a civic leader, Joe has been involved in countless activities to improve the lives of the residents of Queens. For example, Joe originated the annual Queens Flag Day Parade in which I proudly march every year. Joe serves on the board of directors and is a past president of the Sunnyside Kiwanis as well as the Sunnyside Chamber of Commerce. Joe also is a member of the American Legion, the Veterans of Foreign Wars, the New York Publishers Association, the Knights of Pythias, the Newspaper Reporters Association of New York City, the New York Press Club, and the Order of AHEPA.

Mr. Speaker, I ask my colleagues to join me in saluting Joe Sabba for his dedication to the Queens community. Joe's spirit of commitment to his community should be an example for us all.

TRIBUTE TO TWO GREAT TEAMS

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mrs. BOXER. Mr. Speaker, as the Nation pauses to observe the climax of its "national pastime," the World Series, I think it is fitting that we pay tribute to the two great teams representing the best of baseball.

They are a study in contrast but also have some striking similarities. I am proud to represent a portion of the city of San Francisco, home of the Giants. While the Giants were in the National League playoffs only 2 years ago, it has been a long wait since their last appearance in the series, 27 years to be precise.

Many great names have graced their roster since that time, Mays, Marichal, and McCovey to name a few, but the San Francisco Giants have only made that one appearance in the Series—until now.

Bob Lurie, Al Rosen, Roger Craig, and their staffs and players have a commitment to excellence. That commitment is demonstrated every time they take the field. From Will Clark's record-setting MVP appearance in the championship series, to Kevin Mitchell's league leading home run and RBI numbers, to Scott Garrelts' league leading E.R.A., to Matt Williams powerful rookie debut to Dave Dravecky's courage, they represent the best in sports.

The A's, by contrast, were in the Series only last year, and many people look at their lineup and talk dynasty. The A's have power, speed, defense and great pitching. The A's have Series experience. And, in short, the A's have the same commitment to excellence as the Giants. The Haas,' Sandy Alderson, and Tony La Russa have built an organization and a team that rivals many of the all-time great teams of the past. Oakland can be proud.

One of the remarkable things about this first ever Bay Area or BART Series is the deep feeling Bay Area fans have for both teams. I have never before seen a baseball cap with two competing teams' insignias on the same cap. We have now. This is a historic celebration for the entire San Francisco Bay Area.

Mr. Speaker, as we deal with the many important matters confronting our country and world, let's take a moment to salute this historic, poetic, artistic game and the great athletes who create the stuff of which legends are made. May this great game and these great teams continue to bring joy to thousands for many years to come.

EXPLANATION OF VOTES

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. PORTER. Mr. Speaker, I was unavoidably unable to cast votes on rollcalls No. 289 and No. 290 yesterday, October 16. Had I been present and voting, I would have voted "aye" for House Concurrent Resolution 194—support for the people of Colombia—rollcall No. 289, and "aye" for H.R. 1310—Clara Barton Parkway—rollcall No. 290.

FRAUD AND ABUSE AT HUD

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. MARTINEZ. Mr. Speaker, the problems that have been uncovered at the Department of Housing and Urban Development are complex and far reaching. Throughout the hearings held by the Subcommittee on Employment and Housing, I have heard confusing and contradictory testimony. In my mind, I have heard enough to realize that there was widespread influence peddling throughout the Department and that this was also known throughout the housing business community.

Losses from poor management and influence peddling are in the millions and still growing. This is the worst kind of fraud imaginable—fraud against the American taxpayer. With the housing shortage in this country growing and the homeless situation abounding everywhere, it is apparent that we need what scarce resources there are to go directly toward providing low-income housing. Yet, during the 8 years under Secretary Pierce it was common knowledge that a consultant could reap at least $1,000 per unit once a contractor obtained funding for from HUD. This kind of abuse and waste of valuable funds is truly a disgrace to the millions of homeless people in the United States.

We have heard of projects throughout the United States which were not considered good risks or worthwhile by the career technical staff at HUD. Yet somehow many of these questionable projects were funded. Such as the Durham hosiery mill project located right beside railroad tracks and still in use. The Seabrook apartment project, a moderate rehabilitation project which the town did not want and which has been plagued by problems such as asbestos and poor drainage systems. These are just the tip of the iceberg of a list of projects which should not have been funded by HUD.

We are fortunate to have a new Secretary at HUD who has taken initiatives to correct the problems which were imbedded in HUD policymaking. However, we still are in need of information as to the depth of the problems and the reasons behind the longtime situation of fraud and abuse at HUD so that we can fully understand and correct the problems so that the American taxpayers can really get affordable housing from HUD, not just a lot of empty promises.

TRIBUTE TO CHIEF JOSEPH B. HILL

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. STARK. Mr. Speaker, I rise today to pay tribute to Chief Joseph B. Hill of the Pleasanton, CA, Fire Department in the Ninth Congressional District. Chief Hill is retiring after 25 years of dedication to the fire service with 12 of those years as fire chief of the city of Pleasanton.

Chief Hill began his career with the fire service in 1964 when he joined the city of Pacifica Fire Departent as a new firefighter. In 1969, he was promoted to the rank of fire captain.

In 1970, Chief Hill nearly lost his life in a cliff rescue at Pomponio Beach in San Mateo County. He was commended by the California State Assembly for this rescue. After the rescue, he went on to teach a cliff rescue course for the State of California Board of Fire Services in order to better prepare northern California firefighters for these types of emergencies.

In 1976, Chief Hill competed for and was hired as fire chief for the city of Madera Fire Department. In 1977, he competed and was hired for this same position in the city of Pleasanton where he continued in this capacity for 12 years.

Chief Hill had the determination to become an expert in all aspects of his job. He started fire service classes at the College of San Mateo in 1965. He received an associates of arts degree in fire technology in 1975 after completing 10 years of night school. And, in 1980, Chief Hill received a bachelors of public administration from the University of San Francisco.

Chief Hill is also a member of a number of organizations including the International Fire Chiefs Association, the California Fire Chiefs Association, the Fire Chiefs Association of Alameda County, and the Twin Valley Fire Chiefs Association.

He has been married to Louetta Hill for 18 years and they have 3 sons. Tony, 29, is a firefighter for the Dougherty Regional Fire Authority. Mike, 27, is a streets maintenance worker for the city of Pleasanton and, Joe, 25, is a volunteer firefighter in Alameda and mover for a moving and storage company.

Mr. Speaker, I would like to congratulate Chief Joseph B. Hill on his retirement, and, commend him for his outstanding service to the citizens of the Ninth Congressional District of California.

A TRIBUTE TO SAN FRANCISCO STATE UNIVERSITY'S COACH VIC ROWEN

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Ms. PELOSI. Mr. Speaker, I would like to share with my colleagues a special event occurring in San Francisco.

On November 11, 1989, Vic Rowen, San Francisco State University head football coach and professor of physical education, will relinquish his duties as the head football coach.

Coach Rowen, the dean of northern California collegiate football coaches, has been the Gators' head grid mentor for 29 years and a member of the university's Physical Education Department for 36 years. He has held the position of assistant football coach, interim head basketball coach, and head baseball coach.

During the more than three decades that Coach Rowen has been with the SFSU Sports Department, he has been a primary leader in the success of the university's successful football teams. He has been instrumental in training and teaching future teachers and coaches and in keeping the SFSU Football Program functioning through the tumultuous periods.

Vic Rowen became the SFSU head football coach in 1961 and for the ensuing 7 years the Gators compiled a 50–16–3 season record; 30-5-3 in league competition. The Rowen coached gridders won FWC titles in 1961, 1962, 1963, 1965, and 1967.

Coach Rowen continues to rank as one of the Nation's outstanding football coaches and teachers. He is also a guest lecturer at football clinics, seminars and workshops; author of numerous articles in athletic journals; and twice named San Francisco University's "Outstanding Teacher."

Vic Rowen's tireless dedication and countless years of service to SFSU is recognized today as we honor him for his leadership and commitment to the world of sports.

PERSONAL EXPLANATION

HON. BEN JONES

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. JONES of Georgia. Mr. Speaker, I was absent Monday, October 16, for rollcall votes 289 and 290, House Concurrent Resolution 194 and H.R. 1310, respectively. Had I been present, I would have voted "aye" on rollcall 289 and "aye" on rollcall 290.

LOCAL ENGINEER POWERS FRENCHMAN'S REEF THROUGH HURRICANE

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. DE LUGO. Mr. Speaker, the U.S. Virgin Islands is blessed with many heroes in the aftermath of the devastation created by Hurricane Hugo.

Many of our people have responded to this crisis by going far beyond their duty to help our community. They are comforting neighbors, helping to replace roofs, sharing scarce food and water, and dedicating their talents to the awesome task of rebuilding from a storm that damaged or destroyed well over half the buildings in this U.S. community where more than half of our people are still without electrical power.

Today I want to commend one such quiet hero, James Bernier, the chief engineer of Frenchman's Reef Hotel on St. Thomas, and commend the Frenchman's Reef Manager Nick Pourzal for his policy of hiring locally to fill important jobs.

James, 36, started as a houseman earning $2.65 at the Reef 11 years ago. He worked hard and rose to become chief engineer, so he was instrumental in keeping the water and power flowing for this major, 500-room hotel when our islands were hit by the worst storm of this century.

James is an outstanding model for the Virgin Islands in this time of hardship and rebuilding. The Bernier family and our entire community are proud of his accomplishments and his dedication to service in this time of need.

Frenchman's Reef also deserves praise for hiring young local people, then offering training so they can rise in the business and reach their full potential. That's not only good for our community, it's also good business, as demonstrated by James Bernier's great performance in this crisis. I hope other Virgin Islands businesses will take note of Frenchman's Reef's leadership in this area and adopt similar policies themselves.

I insert the following excellent story from the October 11 edition of the Virgin Islands Daily News, which profiles the achievements and can-do attitude of James Bernier:

AT THE REEF, THE POWER IS IN HIS HANDS

(By Abu Bakr)

When he started 11 years ago as a houseman at Frenchman's Reef Beach Resort, earning $2.65 an hour, James Bernier knew there were things he wanted to do. Now he is one of the hotel's top managers.

"I had asked for an opening in the power plant. I didn't get it right away. But within six months, I was there. I love it," Berneir said.

As chief engineer and the man in charge of the electricity-generating and water-production facility that is the "heart" of the resort, Berneir controls the technical and administrative functions of the power plant.

At 36, he could be considered a success. Earning "not much less" than a commissioner or senator (they draw down $55,000 a year), he credits this success to a determination to succeed, appreciative management at the Reef, and the encouragement of his family and of his wife, Thersea.

His boss, vice president William Kivler, said, "When I came down here nine years ago to look at the plant, I recognized his ability. He always takes the extra step. He reads. He went beyond the normal requirement, and once he started working up the ladder, he proved his administrative ability."

The Total Energy plant produces 175,000 gallons of water and generates 44,000 kilowatts of power a day.

The maintenance of its five diesel generaters is done in-house, amazing the equipment's manufacturers, who have asked the plant's staffers about what the secret is behind their success.

"The longest we've been off for the last 9 years is 20 minutes," Kivler said, adding that work in keeping the underground plant running 24 hours a day is hot, noisy and in-

tense, requiring real enthusiasm of whoever sticks with it.

The plant stayed running during Hurricane Hugo and its aftermath.

Bernier said, "All the power lines to the hotel run underground, so we didn't have a problem with broken lines, and nothing happened to the plant. So we were able to provide lights, air conditioning and water to the hotel all through the storm."

Bernier recalls some circumstances of his life that he said helped give him the drive to succeed.

"I was brought up in Frenchtown by the Bernier family, and for many years I thought they were my real folks. It wasn't until after I had grown up that I realized I was an adopted child. Not knowing my real parents was hard for me. But I said to myself that when all the odds are against you, you just have to do it," Bernier said.

Many years later, after graduating from Charlotte Amalie High School and after spending three years in the Army, where he rose to the rank of sergeant, Bernier was to come home, establish himself and find his real mother.

"I looked for her," he said, "and when I found her, I loved her as my mother."

Bernier, a Cubmaster and active member of the Catholic parish of Our Lady of Perpetual Help, said it was important for him to set goals in life.

"When I was in the Army at Fort Hood, Texas, I decided to be a squad leader, so I worked hard and I asked the leader," Bernier said. "I wasn't fully qualified, but he made me assistant leader. This is the advice I would give any young person: You have to work hard and push yourself."

EXPLANATION OF ABSENCE FOR THE VOTE ON H.R. 2978

HON. BERYL ANTHONY, JR.

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. ANTHONY. Mr. Speaker, many of us were shocked by the Supreme Court decision which stated that the burning of our flag is protected action under the first amendment of the Constitution.

On June 28 of this year, I became an original cosponsor of a joint resolution introduced by my colleague, Congressman BILL ALEXANDER, which proposed the following amendment to our Constitution: "The Congress may by law prohibit and establish criminal penalties for an act of physical abuse, misuse, or improper display of the flag of the United States." Amending the Constitution is a long process but I think that most residents of the Fourth District believe that it is the most effective way to ensure the protection of this very important symbol of freedom.

On October 12, the House voted on H.R. 2978, the Flag Protection Act of 1989, a Federal statute which imposes criminal penalties for abusive treatment of the U.S. flag. While a statute does not carry the same impact as a constitutional amendment, it does amount to a very important deterrent to those who would desecrate the American flag. Although I was not present for the vote on H.R. 2978, I would have given it my support by voting "yea."

FREE CHECKING IS NOT A TAX DODGE

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. CHANDLER. Mr. Speaker, when a Department of Labor advisory opinion on individual retirement accounts was brought to my attention, I checked the date to make sure it hadn't been drafted as an April Fool's Day spoof. Advisory Opinion 89–12A establishes that "the receipt of free checking account services by a customer in connection with the investment of IRA assets in bank financial products would constitute a violation of section 4975(c)(1)," which is to say that it is a prohibited transaction.

In other words, if your bank gives you free checking because your IRA assets bring your deposits to the requisite total, the tax status of your IRA is in doubt. The letter was silent as to free parking while doing business at the bank, or free calendars at Christmas for that matter.

The opinion, which is similar to a private letter ruling, addressed a specific question raised by a Michigan bank, but it certainly clouds the tax status of any IRA which has been used to calculate the minimum deposit requirements for free checking.

Mr. Speaker, the only abuse here lies with the heavy-handed position taken by the Labor Department. I am hopeful that the Department will see fit to reverse this ill-advised ruling. But if the Department doesn't act, Congress should.

For that reason, the gentleman from Texas [Mr. ANDREWS] and I are introducing a bill that would overturn this needless assault on individual retirement accounts.

We should be trying to encourage people to save and invest for their retirement, not scaring the daylights out of innocent taxpayers.

TRIBUTE TO ELIZABETH MURPHY BURNS

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. WOLPE. Mr. Speaker, on behalf of my cochair, Representative FRANK HORTON, and all members of the Northeast-Midwest Congressional Coalition, I want to extend special thanks to Elizabeth Murphy Burns for her leadership of the Northeast-Midwest Institute. For the past 4 years, Liz has chaired that organization and been responsible for enhancing its stature, improving its finances, and enlarging its services to policymakers from the region.

One of the joys of cochairing the congressional coalition has been the opportunity to work closely with Liz Burns. She brings a rare combination of good sense and good humor to public policy considerations. A skilled manager, she is able to translate new ideas into practical programs.

A native of Wisconsin and a current resident of Minnesota, Liz is president of Morgan Murphy Stations, which owns radio and television stations in Wisconsin, Washington, and North Dakota. She also is vice president and joint owner of the Evening Telegram Co., the parent company of Morgan Murphy Stations, which has a distinguished history of innovation in the communications field. Liz's father, for instance, constructed the first FM station in the country, as well as put on air many other radio and television stations.

Liz has continued that spirit of technological innovation with the establishment of several production houses that create videos for business communications. She is particularly noted for her partnership with Education Service District 101 in Spokane, WA which provides curriculum to 94 school districts in 10 States. Liz's company, RXL Communications, offers a broadcast quality production so that the educational program maintains the interest of the students and enhances the learning process.

While Liz is retiring as the Northeast-Midwest Institute's chair, we are fortunate that she will remain as a board director. I know that the entire membership of the Northeast-Mideast Congressional Coalition joins me in thanking Liz Burns for her outstanding leadership.

NATIONAL SPINA BIFIDA MONTH

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. MAZZOLI. Mr. Speaker, I rise today to request that my colleagues join me in sponsoring House Joint Resolution 286, which designates this month as "National Spina Bifida Month."

Spina bifida, which is a condition resulting from the failure of the spine to close properly during prenatal development, is a common birth defect, occurring in 1 of every 1,000 births.

Many of the March of Dimes and Easter Seal poster children have spina bifida. Unfortunately, proper care facilities and specialized professionals to provide the most effective treatment for children with spina bifida are limited nationwide.

In years past I have introduced this legislation, and I have been pleased with the strong display of support I received from my House colleagues. I am urging my colleagues to join me once again in supporting this measure which brings recognition to this little known and little understood condition.

It is important that we move quickly to pass "Spina Bifida Month" in order to increase public awareness of this problem and stimulate the interest and concern needed to increase research and hopefully lead to the discovery of a cure.

HOW THE OAS HELPS US

HON. GEO W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1989

Mr. CROCKETT. Mr. Speaker, recently Ambassador Robert M. Sayre, a distinguished career diplomat with extensive experience in Latin America who is now working at the Organization of American States, gave an address in which he set forth the very concrete ways in which OAS programs serve the interests of the United States. This includes OAS programs that deal with Latin America's economic crisis, with drug trafficking, with the environment that we all share in this hemisphere, and with protecting human rights.

We constantly hear the OAS being criticized for its failure to accomplish things that are inherently impossible, such as persuading a general to relinquish power in Panama overnight. But beneath the headlines, the OAS is accomplishing a great deal of useful work. I believe my colleagues will benefit from Ambassador Sayre's exposition of the contributions that the OAS makes to our hemisphere and our security—and of the greater contributions that the OAS could make if all its members, including the United States, paid their dues.

The address follows:

PROSPECTS FOR LATIN AMERICA: THE MULTILATERAL DIMENSION

No man is an island, entire of itself; every man is a piece of the continent, a part of the main, if a clod be washed away by the sea, Europe is the less, as well as if a promontory were, as well as a manor of thy friends or of thine own were; any man's death diminishes me, because I am involved in Mankind; and therefore never send to know for whom the bell tolls, It tolls for thee.—John Donne

I

It is a pleasure to be here at the College of William and Mary. For Mrs. Sayre and me, it is somewhat of a home coming. We have been visiting in Williamsburg since 1952. Two of our children were students here at William and Mary. Last year, Professor Torregrosa brought his class to Washington, and I had the pleasure of meeting and talking with them about the Latin American debt issue. And having devoted more than three decades of my life to relations with Latin America, I am pleased that William and Mary is sponsoring this seminar to encourage greater interest in Latin America throughout the Virginia education system.

When we discuss Latin America it has to be done in the context of the overall world situation, and, with respect to the United States, in the context of the overall interests and objectives of the United States. "What is it that we want to see?, President Bush asked in a speech on May 24. "It is a growing community of democracies anchoring international peace and stability, and a dynamic free-market system generating prosperity and progress on a global scale. . . . America looks forward to the challenge of an emerging global market. . . . These values are not ours alone; they are now shared by our friends and allies around the globe . . . the opportunity for peace—world peace, lasting peace—has never been better. . . . Our goal—integrating the Soviet Union into the community of nations—is every bit as ambitious as containment was in its time."

Within this strategy, the Secretary of State has spoken to the Congress and to the public about this hemisphere. In his presentation to the Senate which was considering his nomination, he said that affairs in this hemisphere are now of first priority. To a meeting at the Carter Presidential Center, he characterized changes in Latin America as truly historic. "The United States does not stand aloof from the historic changes which are transforming our hemisphere—in fact quite the opposite. We are proudly rediscovering our shared heritage with Latin America."

After four decades of a highly successful strategy based on nuclear deterrence and massive retaliation, the United States has a new agenda. The United States has decided to join the world and work with our friends and allies as the leader among equals. The Soviet Union, wrestling with the failure of its economic and political systems, seems to have decided that "if you can't lick 'em, join 'em." The emphasis is on democracy; and economic, trade and financial relationships based on the free market idea. We seek a new relationship with the Soviet Union which gives the Soviet Union an essential stake in the world economy and reductions in armaments and political violence. It is in this context of new relationships and a new agenda that we need to look at Latin America and the Caribbean, the Organization of American States, and relations with individual countries in this hemisphere.

II

More than a century ago, on May 24, 1888, the Congress of the United States authorized the President to invite the independent nations of this Hemisphere to a meeting in Washington to address eight agenda items which in fact broke down into two broad topics: peaceful settlement of disputes and a customs union based on uniform customs rules and a common medium of exchange. President Grover Cleveland's Secretary of State extended the invitations on the President's behalf on July 12. Canada was not included because at the time it was not independent. The meeting convened the next year on October 2, 1889. Actually, when the meeting convened, the President was Benjamin Harrison and the Secretary of State, James G. Blaine. The White House had changed parties, but there was a bipartisan commitment to go forward. The only shift on the part of the United States was one of emphasis from peaceful settlement and arbitration to trade and commerce. The Conference itself gave more emphasis to peaceful settlement and arbitration because our Latin American neighbors did not believe that the hemisphere was quite ready for a common market.

The meeting was a culmination of efforts that had been initiated some 60 years before by the leaders of Latin America in a meeting in 1826 in Panama, which was then a part of Colombia. These previous efforts never quite got off the ground because of poor attendance by the United States and others. And maybe the original idea of Simon Bolivar of a union of independent states in the western hemisphere was too ambitious. The concept of the meeting in 1889 was much less ambitious—it would be consultative and recommendatory, and without power to bind any of the parties. Each state would have only one vote, thus recognizing the sovereign equality of states. Also, the United States wanted to broaden the tools of diplomacy to include what I would call parliamentary diplomacy.

The first international conference in the Americas was a meeting to discuss broad issues and hopefully arrive at a consensus. The international organization that emerged—first the Union of American Republics and today the Organization of American States—is the creature of the member states—nothing more and nothing less. The meeting in 1889 set the pattern for future international organizations, including the United Nations. These international organizations have no independent status, but are designed to provide the meeting place to perform the function that President Wilson spoke of—open covenants openly arrived at.

The essential question that one must then ask is: What are the key issues confronting the hemisphere and what role can a hemispheric organization play in resolving them?

III

The major issues confronting this hemisphere is the economic crisis in Latin America and the Caribbean, which the United Nations Commission on Latin America and the Caribbean has characterized as of "dramatic proportions." Per capita income has fallen to the 1978 level, i.e., a decade of growth has been lost. Inflation, on the average, has doubled, and real salaries and wages have decreased. Transfers of capital out of the area continue to be alarming with the net transfer now running at an annual rate of $20 billion with an added amount for capital flight. The deteriorating economic situation has taken on a life of its own with scarce foreign exchange, a weakened investment climate, and declining possibilities for growth. This crisis stems primarily from internal policies in Latin America. There needs to be much better analysis of the problems and a consensus on solutions. The OAS can play a key role in developing that consensus.

The debt crisis in Latin America, and the economic situation I have just described, has been exceedingly costly to the United States in financial terms. Our sales to Latin America which were running at the rate of $42 billion annually in 1981 have fallen to $30 billion today, a drop of 30 percent. Sales of steel and automobiles fell 50 percent, construction equipment by 80 percent, farm machinery by an even larger percentage, and agricultural sales were especially hard hit. Overall, this loss has cost the United States about 1 million jobs. But it is more than that because the US has been running a $15 billion annual trade deficit with Latin America since 1982 to help compensate for capital transfers out of the area. But it is even more than that. For if we had been able to maintain and increase our market in Latin America at even a reasonable rate of 10 percent annually we would be selling $40 billion more this year, i.e., close to $80 billion, or $40 to $50 billion in lost sales. About one-third of our overall trade deficit can be attributed to lost market shares in Latin America. The trade has been also damaged by acts of commission, such as the US decision to cut severely the Latin American sugar market in the United States.

When we look at this issue on trade, we see that after a century of effort we have come back to square one. We debate our trade with Japan and Europe, but the fact is that in 1982 Latin America was our most important trading partner—more important than either the four largest trading nations in Europe combined, or Japan. As we con-

template a genuine common market in Europe in 1992—like our own common market in the United States—we have to ask ourselves about our competitive position and whether a common market with Canada alone is an adequate answer. Some 70 years after the American Civil War, and in the aftermath of the worst economic depression in our history, the United States finally decided in 1935 to promote the economic development of the South, and bring that part of our country fully into the Union. Maybe the time has finally come to promote actively closer commercial and financial relations with neighbors further south.

What role can the Organization of American States play? It includes all of the countries in the western Hemisphere except Canada, but we have already worked out a comprehensive commercial relationship with Canada. So we have a multilateral forum in which to pursue more cooperative trade relationships with the other independent countries in this hemisphere. In addition, the OAS is making a major effort to provide the basic data and other information on the trade situation. It has set up a unique computer data bank that already has in it all of the trade information on the United States and over the next few years will have readily available information on the European countries and the other major countries in the Organization of American States. Our long term objective is, of course, a strong and effective international trading system. But that is built block by block as the Europeans have been shown and as we are demonstrating by our new trade relationship with Canada.

The OAS is also managing a multi-million dollar study to update the telecommunications systems in Latin America and the Caribbean and tie it together with the United States and Europe. We expect this program to result in investments of at least $25 billion.

The United States has not tried to use a multilateral mechanism of largely debtor countries to talk about the debt situation. That is understandable. They might "gang up" on us, so the US has preferred the case-by-case approach. We have only talked about debt in a multilateral organization where the developed countries have the controlling vote—at the IMF and the World Bank. But the mere existence of the OAS has brought pressure for better solutions. And the persistent pressure from the member countries of the OAS in Latin America and the Caribbean has promoted a new approach on Latin American debt which has some possibility of assuring a more positive growth rate in the hemisphere in the 1990s. But I have doubts that this new debt strategy will be adequate, even as the previous effort proved inadequate to the task. I continue to believe that we need a new and stronger strategy on trade relations in the hemisphere backed up by adequate financing on a long term basis, say, 20 years, if the United States is to be in a competitive trading position in the world.

IV

Another major issue affecting the hemisphere is drug trafficking. For many years, the United States said that it was a supply problem, and the Latin American countries insisted that it was driven by demand from the United States. Finally, in 1986, the Organization of American States met in Rio de Janeiro at a special conference on the drug issue. There was a unanimous political agreement that it was both demand and supply, and the member countries agreed to work together to resolve the problem. They set up a Commission to oversee the effort. They inaugurated an effort to collect essential information on drug abuse and provide it to the member states. They agreed that there had to be a vigorous effort on drug awareness in the education systems encouraged by the OAS. They also agreed that stronger efforts had to be made on harmonizing legal efforts. They worked out an agreement with the United Nations so that the programs of the two international organizations would be fully coordinated.

Since the Rio meeting, efforts have been made to get special financing for the hemisphere-wide narcotics control programs and the United States and the European countries have contributed. I do not want to suggest that this hemispheric program will solve the problem. What I do want to say is that the hemisphere is now working together more effectively on the drug issue and that we are pursuing a strong multilateral initiative through the Organization of American States. This hemispheric program will get us closer to a solution. Stronger efforts are needed, as well as more funds for a broader and more effective awareness program.

V

Another major issue is the environment. If you have endured the 100 degree heat in Washington at this time of year, you would appreciate that the "greenhouse effect" is real. The scientists tell us that the most serious threat to our civilization is the gross abuse of nature and our seeming inability to balance the persistent demand for growth with the future of the planet. The issue is not how to conquer nature, but how to live with it.

Much is said about the protection of the huge Amazon region and the effect of what happens there on the air we breathe and the life we live. This huge area which is larger than all of the United States west of the Mississippi is divided among eight sovereign states. They have a compact among them. They have asked the Organization of American States to help them, and the OAS has been doing so. In effect, the OAS has been establishing the standards on the development and protection of the Amazon. But the resources available to the OAS are woefully inadequate to this huge task. The United States has been contributing about $600,000 annually to this continental-size effort. If the United States wants to do something about the environment in the western hemisphere, and wants to help avoid disputes in the future over environmental issues, then it would be well advised to make a serious financial contribution to the work of the OAS.

VI

Democratic government has historically been a major foreign policy objective of the United States. Thomas Jefferson believed that the underpining for the security of the United States was the extension of democratic government throughout the world. That is still a basic policy objective of the United States. Crucial to democracy is respect for human rights. From its very inception, promotion of democracy and respect for human rights have been key objectives of the Organizations of American States. Each year that passes in the inter-American system, these objectives are reinforced and the member governments agree to stronger and firmer language in their Charter on these subjects. It should surprise no one that democratic government has grown in this hemisphere over the past decades despite economic adversity. Panama stands out today because it is so inconsistent with this long term effort. But democracy can stand only so much strain as we have seen repeatedly throughout history. If we really believe in political democracy, then we must also insist on and support economic democracy, including policies that make economic democracy work.

So far as international organizations go, the record of the Organization of American States on the protection and promotion of human rights is unsurpassed. This record has been achieved because the Human Rights Commission is an independent body. The members are not representatives of government who act under instructions. They are generally lawyers who are committed to democracy and act on their conscience. They have truly been "watch dogs" who have not been afraid to call a "spade a spade." The Commission has been monitoring the situation in Panama for many months, long before the Organization became involved at the political level. It has made strong contributions in the case of Nicaragua, as well as on Cuba and others. The inter-American system also has a Human Rights Court which hears cases and makes decisions. All of this is financed in the budget of the Organization of American States. If the member governments want more done, the machinery is there. All they have to do is to provide the fuel to keep it running efficiently and effectively. Unfortunately, the commitment of member governments often does not match the rhetoric, and that includes the United States.

VII

Let me say a word about Central America. The issues there are democracy, economic development and security. After the meeting of the OAS in Nicaragua in 1979, the tactics of the United States to achieve its policy objectives became unilateral. The expressed vital concern was the security of the United States. This was a genuine concern, given the level of arms the Soviets were pouring in directly and through Cuba, and the military facilities being constructed. And Nicaragua was used as a transit point into El Salvador and elsewhere. A side effect was the flight of people northward seeking refuge in the United States from the warfare and economic depravation. In pursuing its policy, the United States unfortunately overlooked, or decided not to use, its treaty rights in the Rio Treaty and the OAS Charter. That unilateral approach was not consistent with these rights. But the United States strategy is now headed in a direction that its allies in Central America say they want, and also is one that its own long-term interests require.

We are now negotiating the agreement between the OAS and the United States which will enable the OAS to make a major contribution on monitoring the elections in Nicaragua. The OAS also hopes to obtain contributions for this purpose from European countries. And if I had not been so pre-occupied by this negotiation and the OAS budget for the next biennium, I might have been better prepared for this seminar. Again, let me stress that this election in Nicaragua, by itself, will not solve the problems of Central America. But in working more closely with its democratic neighbors in Central America, the United States is now on the right road. It is pursuing its objectives consistent with its rights and international law and its own principles and

values which, more and more, are becoming the values of the international community.

The broad issues then are reducing debt, stopping drug trafficking and drug abuse, development on an efficient and rational basis, and democracy. On each, the OAS can make an essential contribution—sometimes leading, sometimes handling key elements, and sometimes playing a supporting role. If the United States has finally decided to join the world, as President Bush indicates, then the multilateral organization for this hemisphere is ready to play its part.

VIII

Let me turn to Brazil and Mexico, where in my diplomatic career, I played a major role in managing the relationship in the 1960s and then with Brazil again from 1978 to 1982. Brazil and Mexico are two of the key players in the hemisphere—indeed in the world. It is not possible to have an effective inter-American system unless the United States, Brazil and Mexico are working together. A major difficulty over the past two decades is that these relationships have not been working well.

Mexico is making major adjustments in its domestic political and economic systems, as well as its relationship with the rest of the world, especially the United States. It seeks to open up both its political and economic systems. On the economic side, it has joined the General Agreement on Tariffs and Trade—a clear signal that it is prepared to play a larger role on international trade. It has made a framework agreement with the United States on economic matters. It has just concluded with the banking community negotiations on overall agreement on debt. There is a consensus that Mexico is trying to do everything that it can to get its economy functioning effectively, including resolving the debt crisis. In doing so, Mexico has had to try to overcome a lot of history such as the century of difficult relations with the United States before World War II. It is also adjusting its political arrangements to keep pace with its political and economic growth.

I had the privilege of working with Mexican officials in resolving two serious disputes: one a long standing boundary dispute at El Paso, Texas over the Chamizal area; the other a more recent environmental issue involving the pollution of Colorado River water delivered to Mexico under the 1944 Water Treaty. My experience over seven years advising Presidents Kennedy and Johnson on their meetings with Presidents Lopez Mateos and Diaz Ordaz of Mexico persuades me that it is possible to work together effectively. I am on the positive side on the future of Mexico, as well as the United States relationship with Mexico.

Brazil stands somewhat in contrast both as to the past and future. Brazil is a member of the "Big Ten"; one of the ten largest countries and economies in the world. In a way, it has difficulty dealing with its huge size and major importance. Brazilians are very practical. They are seeking to resolve problems associated with their remarkable success from 1945 to 1982. They too seek to open up their political and economic systems. The issues are not quite the same as in Mexico. Brazil, for example, has many political parties. As in the United States, Brazil needs to delegate more of the details of government to the states and municipalities.

On the economic side, Brazil also needs to broaden the base among its people. The so-called informal economy is spreading and really cannot be controlled by existing restrictive rules. The Brazilians are a creative, imaginative and hard-working people. So I am confident they will do it.

What troubled me as Ambassador in Brazil was the breakdown beginning in the late 1960s of the historic working relationship with Brazil. The involvement of the United States in the Vietnam war and the political turmoil in the United States was a major contributing factor. The United States had been the first to recognize Brazilian independence in 1822, and Brazil and the United States had the closest of relationships in World Wars I and II and in between those two wars. Trade and financial relationship were also especially close.

But both the United States and Brazil have had trouble adjusting to Brazil's major role in the world especially since the 1960s. I spent every working hour in the four years that I was Ambassador developing new links and working relationships based on the major changes occurring in the United States and Brazil, and international affairs in general. I consider a relationship similar to the one the United States has with NATO and Summit Seven partners essential not only for Brazil and the United States, but the world in general.

At the moment Brazil is focused inward on a very murky political situation as well as a most unsettled and deteriorating economic situation. More than any other bilateral relationship, this one with Brazil must move to the top of the United States international agenda because a failure to put it back in good working order based on equality and mutual respect portends serious consequences for both countries.

IX

You are suggesting by this seminar that Latin America needs priority attention. You are right. The situation there has deteriorated badly in the 1980s. It has been a lost decade. Events there have been extremely costly to the United States, whether it is the few billions spent on Central America, or the tens of billions taken each year since 1982 by Adam Smith's "invisible hand" through the collapse of the trade relationship.

You must help to turn this situation around. The 1990s and beyond must be a time for rededication to cooperation and growth. I commend you for your keen perception that the long term interest of Virginia and the United States are bound up in the well-being of our hemispheric neighborhood.

"And therefore never send to know for whom the bell tolls. It tolls for thee."

SENATE—*Wednesday, October 18, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont.

The PRESIDING OFFICER. Today's prayer will be offered by Bishop Glenn Potter, the Church of Jesus Christ of Latter-day Saints, Kensington, MD.

PRAYER

The Reverend Bishop Glenn Potter offered the following prayer:

O God, our Father, we thank Thee for this day and for the blessing of life itself.

We acknowledge Thy hand in the guidance of this great Nation and Thy role as Author of our liberty. We give thanks for the Constitution of the United States of America and for our inspired system of representative government. We are greatly blessed as a people and thank Thee for Thy help as this Nation has developed.

We invoke Thy blessing this day upon the U.S. Senate, its Presiding Officer, and all who labor in its service. We pray that the deliberations and proceedings of this body will help contribute to the solution of the problems and challenges which face the American people.

Today, we remember the tragedy of the earthquake which yesterday caused loss of life, destruction, and great anxiety in the San Francisco Bay area of northern California. We pray for Thy healing power and comfort for the people who have been injured and afflicted by this great calamity. Bless, also, local and National Government leaders and those involved in public safety that they may be inspired to respond with timely assistance to those in need.

We pray for Thy continued guidance and inspiration. Help us, O God, to better understand our duties and to recognize those matters of state which require our most careful attention.

We thank Thee for our many blessings, and ask this prayer in the name of Jesus Christ. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 18, 1989.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. LEAHY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, following the time for the two leaders, there will be a period for morning business until 10:45 a.m., with Senators permitted to speak therein for up to 5 minutes each.

When morning business closes at 10:45, the Senate will recess until 12 noon so that Members of the Senate may attend a joint meeting with the House at 11 a.m. to hear an address by the President of the Republic of Korea.

Debate on the flag amendment will resume at noon today and continue until 1:30, and then will resume after 6 p.m., following the conclusion of the final arguments in the impeachment proceedings against Judge Hastings. I again stress the importance of all Senators attending the impeachment proceedings. I urge all Senators to be in the Senate Chamber today and tomorrow at 1:45 when a live quorum will begin, just prior to the commencement of the impeachment proceedings themselves at 2 p.m. on today and tomorrow. This is an important constitutional part of each Senator's responsibilities, and each Senator has an obligation to the participants in the case and to his office or her office to be present and informed and participate.

SAN FRANCISCO AREA EARTHQUAKE

Mr. MITCHELL. Mr. President, the earthquake which struck the San Francisco area yesterday evening was a violent reminder of the power of nature. It was a tragedy for the people of San Francisco and communities such as Hollister, Santa Cruz, Oakland, San Jose, and others in the bay area.

News reports indicate over 200 deaths and over 400 injuries identified so far. We pray that those numbers, as high as they are, will not increase. Our prayers and thoughts are with the people of the region and all those who have families and friends there.

The devastation of the earthquake has made communications difficult. Authorities are doing the best they can to restore communications, but those who have been unable to reach loved ones have our wishes for good news when they do get through.

The mayor of San Francisco announced at midnight eastern time that all essential services in the city are functioning. Medical care, public safety, fire and traffic control are all operating.

The people of San Francisco and the entire bay area have shown their spirit of courage in the face of this tragedy. They have the promise of the Federal Government, from President Bush through the Congress and through the entire Government, that the help they need will be forthcoming.

Yesterday's event is a forceful reminder that the awesome potential of this natural power remains far beyond human ability to withstand. There is nothing funny about the San Andreas Fault. This is the worst earthquake to hit San Francisco since the great quake of 1906. The people of the region are fortunate that this time the emergency response system is much more effective. It is due to the heroic effort of emergency workers throughout the region that the casualty lists are not much higher and that the unavoidable fires have been contained.

I commend President Bush on his prompt response. He has sent the Transportation Secretary for a first-hand look and report. Federal emergency workers are reported ready to take prompt action. The President's personal concern for the people of the region is natural and self-evident. The work of the Federal emergency agencies accurately reflects that concern. The people of the region should get

the best and most prompt assistance of which our Nation is capable.

The Senate stands ready to act in whatever appropriate way may be needed to help, of course. We will, when called upon, do our part to provide the needed assistance. In the meantime, those who suffered losses have our prayers and sympathy. Those who are still seeking news of friends and family have our hope for good news. All of the people of the region have our admiration and our support, and will have our assistance, as they seek to put their shattered communities and lives back together again.

RESERVATION OF LEADERS' TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I reserve the leader time of the distinguished Republican leader.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

JOINT MEETING OF THE CONGRESS

Mr. MITCHELL. I ask unanimous consent that the Senator from Arkansas [Mr. PRYOR] be considered as the Acting President pro tempore of the Senate for the purpose of presiding over the joint meeting today.

I ask unanimous consent further that the Acting President pro tempore of the Senate be authorized to appoint a committee on the part of the Senate to join with the like committee on the part of the House of Representatives to escort His Excellency, the President of the Republic of Korea, into the House Chamber for the joint meeting.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quroum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is now in morning business.

SOUTH KOREA

Mr. BUMPERS. Mr. President, I will be very brief. I just want to emphasize, first, that we are honored to have Roh Tae Woo, the President of South Korea, in our country. There are some questions about, perhaps, his commitment to human rights, as we understand it, and those questions are being raised with him while he is here. But he is a democratically elected President and that always is extremely gratifying to us in the United States because we are so firmly committed to democracy, democratic principles, human rights, and the dignity of man.

So my comments this morning are to say, first of all, we are honored to have him in the country, honored to have him addressing a joint meeting of Congress. But having said that, I also want to say that my commitment—and I believe the commitment of those who helped me cosponsor an amendment which failed here to start getting our troops out of South Korea—is not diminished.

It still makes no sense for us to have a presence of 43,000 to 44,000 troops in South Korea at a very great cost to the American taxpayers—almost $3 billion a year—at a time when South Korea's economy is so much more vibrant than even our own.

We are looking for a 2-percent growth in our GNP this year, and South Korea is anticipated to have between a 7- and 10-percent economic growth rate this coming year. And while their trade surplus against the United States has dropped from the $10 billion figure it was, I believe, in 1988, they will still have a significant trade surplus against the United States this year, 1989.

And the President, Roh Tae Woo, has been quoted in this morning's Washington Post as saying they hope to be able to open their markets up to the United States by the mid-1990's.

Let me reiterate one of the primary reasons for my objection to spending $3 billion a year to maintain this kind of presence.

North Korea does, indeed, have 1 million troops under arms but it has a zero growth rate. Their economic situation is devastated. They are stagnant.

North Korea has 21 million people and South Korea has twice as many, 42 million people. And while South Korea only has 630,000 regulars in its army, or roughly 370,000 fewer than North Korea, that is their choice. And one of the reasons it is their choice not to try to match North Korea man for man in the number of people in their military is they feel infinitely superior because of the qualitative advantage they have in their weapons.

This morning's Post was quoted as saying: But North Korea has Mig-29's, which the Soviet Union has sent to North Korea. And the Mig-29 is a fairly sophisticated fighter plane. But it is no match for the planes in the South Korean Air Force, mostly of American make. The fact that North Korea has Mig-29's in its arsenal is no justification for us spending $3 billion a year and maintaining a 43,000-man presence there. Besides, you should ask the Pentagon how many Mig-29's North Korea has, versus how many F-16's South Korea has.

The thing that is about as offensive to me as anything is the arguments on the other side of this issue where they say now is not the time, No. 1; and No. 2, we can only do this in negotiations with South Korea.

No. 1, I have heard that argument, "now is not the time," for 30 years, and we have more men in South Korea now than we had in 1981. Now is the time.

And the second argument, that we must work this out with South Korea, is to say we are hostage, we are not in control of our own situation there and that we may only leave with the permission of South Korea. How can we conclude anything else or reach any other conclusion?

Mr. President, as I say, I never cease to be amazed at the nonsense we indulge ourselves in around here. Nobody is suggesting we are not committed to South Korea's defense. We are committed to Mexico's defense, but we do not maintain troops in Mexico.

Does anybody doubt for an instant that if Canada were attacked, we would come to their rescue? But we do not maintain a military presence in Canada. Only in West Germany and Japan do we have more troops than we have in South Korea.

This is about the fourth time I have spoken on this issue and I intend to keep speaking on it because it makes no sense. I know—or at least the press has reported—that the Joint Chiefs of Staff are right this minute engaged in studying an orderly withdrawal from South Korea. That is all I am asking for, an orderly withdrawal. As a matter of fact, it might be prudent for us to leave our Air Force there, roughly 12,000 men and women.

But, Mr. President, we saw yesterday where our trade deficit for August was over $10 billion—a big jump from what it was in July. And our trade deficit is related to what we call our balance of payments.

We have 43,000 troops in South Korea and 18,000 American civilians there to support them—18,000 jobs held by Americans in South Korea, spending American dollars in South Korea. What do my colleagues think that does to our balance of payments? We do not have to be rocket scientists to figure that one out. And that doesn't include military and civilian dependents.

Mr. President, it just makes no sense. The Presiding Officer can tell from the frustration in my voice how unsettling it is that we just, almost by rote in this body, continue to do the same things over and over and over again.

Nobody seems to be concerned about the deficit. Nobody seems to be concerned about the fact that South Korea is a great big grown-up boy, quite capable of defending itself. Now is not the time? Nonsense. We must let South Korea determine whether we leave? Nonsense.

The Defense Minister of South Korea was here 3 weeks ago and he said,

> Well, we are thinking in terms of the year 2004, 2006. About 15 to 16 years from now, we might be willing to talk to the United States about whether we will let you leave then or not.

Mr. President, this is just one of a number of things on which we need to change our thinking around here.

Let me close by saying we are honored to have Roh Tae Woo in our Nation. And I am pleased that President Bush has raised the human rights issue with him.

President Bush has said we have no intention of beginning a withdrawal there. And Roh Tae Woo says the invasion of the Ambassador's residence was an attempt to embarrass him on his trip to this country, and it probably was. That is not a significant issue. That should play no role in our decision here—the fact that a few renegades broke into the American Ambassador's residence.

Having said that, the pending business here is going to be a constitutional amendment to protect the flag. That is what we have been debating for the last 2 or 3 days and I guess we will debate it a couple of more days. But the Presiding Officer knows American flag burning is a favorite pastime of South Koreans. Just 3 nights ago I saw pictures of these people burning the American flag.

What I am trying to say is that every dissident in South Korea—and there are a lot—does exactly what dissidents do everywhere, where there is an American presence or even a Soviet presence on the other side.

They blame everything that happens to them that is adverse to their interests on whoever happens to be there. In South Korea, it is us. So every dissident that is unhappy with the present President, every dissident who has an ax to grind on any subject goes out and burns the American flag or invades the Ambassador's residence. So we are just a lightning rod by staying there.

We had an 18-hole golf course, the finest prime piece of real estate in South Korea, and everybody in South Korea who went to work in Seoul every morning had to drive by this 18-hole golf course owned by the United States. Even that became a subject of tremendous controversy in the country.

Mr. President, the time has come to not precipitously withdraw from South Korea but to begin the process. Mr. President, I yield the floor.

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND INDEPENDENT AGENCIES APPROPRIATIONS, 1990—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, on behalf of Senator DECONCINI, I submit a report of the committee of conference on H.R. 2989 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2989) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1990, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 11, 1989.)

Mr. DECONCINI. Mr. President, I submit a conference report on H.R. 2989, the fiscal year 1990 Treasury, Postal Service, and General Government Appropriations Act, and ask for its immediate consideration.

The conference report accompanying the fiscal year 1990 appropriations bill for the Department of the Treasury, Postal Service and General Government totals $18,394,206,000 in budget authority and $17,931,973,000 in budget outlays. This amount represents a reduction of $23,609,000 below the President's budget request; $386,000 below the subcommittee 302(b) outlay ceiling for fiscal year 1990; and is $2,347,796,000 above the fiscal year 1989 enacted level. The increase over fiscal year 1989 can be attributed to mandatory program increases of $1.76 billion for civil service health, retirement and disability benefit costs, and an increase of approximately $348 million, requested by the President, for the Internal Revenue Service. The IRS increase complies with the fiscal year 1990 bipartisan budget agreement which assumed an additional $450 million in revenue from the IRS enhancement. This additional funding will also enable the Internal Revenue Service to increase taxpayer service and fund critical redesign of the automated data processing systems which will ensure a secure tax system well into the future.

Mr. President, I would like to take this opportunity to briefly outline some of the other funding highlights included in the final conference agreement.

The conferees have recommended increased funding for the construction of training facilities for the Federal Law Enforcement Training Center. Mr. President, the Federal Law Enforcement Training Center provides a consolidated approach to law enforcement training nationwide. In June of this year, the center published its facilities master plan which calls for the construction of 83 million dollars' worth of buildings and other improvements which will enhance the Federal Government's ability to provide critical law enforcement training to Federal, as well as State and local law enforcement agencies.

Second, the conference agreement includes an increase of $11.6 million for the Bureau of Alcohol, Tobacco and Firearms [BATF]. The BATF is responsible for carrying out the Armed Career Criminal Apprehension Act which has been extremely effective in enforcing the apprehension of individuals who repeatedly engage in criminal behavior involving the use of firearms. In fiscal year 1990, a total of $50.8 million will be provided to the Bureau of Alcohol, Tobacco and Firearms to expand its efforts to get armed career criminals off the streets. Many members in this body have been avid supporters of the armed career criminal program. The Senator from Pennsylvania [Mr. SPECTER] was the prime author of the Armed Career Criminal Apprehension Act and continues to be a persistent advocate of sufficient funding to properly implement this program. The Senator from Illinois [Mr. SIMON] has also been an enthusiastic supporter of increased funding for the armed career criminal program and has worked closely with this Senator to ensure that the Bureau of Alcohol, Tobacco and Firearms receives the manpower necessary to curb the increasing violence in our cities and towns associated with armed career criminals.

Third, the conference agreement contains $54.6 million to continue the effort to upgrade our facilities along the United States-Mexico border. Three years ago, along with my very capable ranking member, PETE DOMENICI, the Treasury Subcommittee initiated a serious effort to improve the condition of facilities along the southwest border from Texas to California. That program has been very success-

ful in improving the facilitation of trade with Mexico and has helped both the United States Customs Service and the Immigration and Naturalization Service to restrict the flow of illegal drugs coming into the United States.

The amount provided in fiscal year 1990 will enable the General Services Administration to continue the progress that has been made over the past several years on upgrading our ports on the southwest border.

Fourth, the conference agreement includes increased funding for the U.S. Customs Service to carry out its role in the interdiction of illegal narcotics destined for U.S. markets. Mr. President, with the increasing violence associated with drug trafficking, I think it is imperative that we maintain a vigilant effort to deter individuals who attempt to bring illegal drugs into the United States. The funding included in the conference agreement will assist the U.S. Customs Service in its implementation of the drug air interdiction strategy and increase the intensive examination of containerized cargo carrying illegal contraband into the United States.

Finally, Mr. President, the conference agreement contains the President's fully requested amount for the Postal Service's revenue foregone subsidy. This program, however, Mr. President, is not without some controversy. This year, my ranking member and I tried to eliminate what we consider to be a clear abuse of the nonprofit third-class mailer, that is, the use of the mailer to advertise products and services which have no relevance to the primary mission of the nonprofit organization but which are used strictly for commercial advertising purposes. Unfortunately, we could not convince our House conferees to yield on this issue, but I want to let my colleagues know that if the Postal Service does not eliminate this abuse during fiscal year 1990, I will again aggressively pursue this issue in the context of the fiscal year 1991 Postal Service appropriation.

Mr. President, the conference report on H.R. 2989 is the result of many long and difficult negotiating sessions with the House over the past several weeks. Despite the many differences of opinions over priorities and funding levels, I believe the conference report contains a fair and balanced approach to all of the programs under the subcommittee's jurisdiction and protects the interests of the Senate which were contained in the original Senate bill.

The final conference agreement is $28,606,000 below the House-passed bill and $17,397,000 above the Senate bill.

Mr. President, in closing I want to take this opportunity to express my thanks and appreciation to my ranking member, PETE DOMENICI. He has been an equal partner in the formulation of this conference agreement and with his strong negotiating skills the Senate conferees provided a formidable challenge to the House. It has been a real pleasure working with the Senator from New Mexico, and his very experienced and capable clerk, Rebecca Davies. Let me just say for the record, that when negotiations get tough, the Senator from New Mexico is one of the best allies to have on your side.

With that, Mr. President, I will yield the floor to the Senator from New Mexico for any statements he would like to make at this time.

Mr. DOMENICI. Mr. President, I urge my colleagues to support the conference agreement on the fiscal year 1990 Treasury, Postal Service, and General Government Appropriations Act. This agreement is the product of 5 days of meetings between the House and Senate conferees on this measure. It was a difficult conference. There were a few issues on which the Senate and House had very different views. I would have preferred to see the Senate position prevail on some of these. However, certain compromises were necessary to reach agreement with the House on this measure.

The conference report we bring before the Senate today provides a total of $18,394,000 in new budget authority for fiscal year 1990. Of this amount, a total of $9,362,413,000 in new budget authority is provided for discretionary programs and activities covered by this appropriations act. Total outlays associated with this act and prior-year spending actions are estimated to be $17,931,973,000 for fiscal year 1990. These amounts are below the subcommittee's 302(b) budget authority and outlay allocations, both for discretionary and mandatory spending.

The total level of appropriations provided by this conference report is below that requested by the President for fiscal year 1990. It is also below the House- and Senate-passed bill amounts. It is approximately $2.3 billion above the total appropriations level enacted for fiscal year 1989. Of this increase above fiscal year 1989, $1.8 billion is associated with mandatory program funding requirements, essentially for payments the Federal Government is required to make by law to cover its share of retirement and disability, health benefits, and life insurance costs of annuitants, survivors, and certain other Federal employees. Of the approximately $550 million increase provided for discretionary funding requirements above fiscal year 1989, $355 million is provided for the Internal Revenue Service to adequately fund its taxpayer service, revenue enhancement, and tax modernization activities for fiscal year 1990.

This conference agreement maintains the Senate bill's strong commitment to providing adequate levels of funding for law and drug enforcement activities in fiscal year 1990. An additional $14.5 million is provided for the Bureau of Alcohol, Tobacco, and Firearms' highly successful Armed Career Criminal Program, as proposed by the Senate.

An increase of roughly $73 million above the fiscal year 1989 level is provided for the U.S. Customs Service. This includes an additional $58 million for custom's air interdiction activities, and the President's proposed increases of $3 million for money laundering investigations and $28 million for cargo container examinations to increase the detection of illegal narcotics smuggled in commercial shipments entering the United States.

An additional $7 million above the level of the President's request is also provided for the Federal law enforcement training center. This includes an increase of $1.8 million for the center's operating expenses, and $5.1 million to implement priority projects included in the center's recently submitted master plan for further development of its facilities. The master plan, which requires an investment of over $80 million, must be funded to assure adequate training capacity for the Federal Government's law enforcement agencies in future years. I am pleased even though the Senate bill proposed an additional $10 million for this purpose, at least half the increase was preserved in conference to allow us to proceed with some of the most important projects in that plan.

Total funding of over $5.5 billion is provided for the Internal Revenue Service, $355 million above the fiscal year 1989 level. This funding increase includes the $113 million for IRS tax compliance enforcement efforts required by the bipartisan budget agreement to yield an additional $500 million in revenues in fiscal year 1990. An additional $7.4 million, as proposed by the House, is also included to allow the IRS to pursue additional investigations of narcotics-related money laundering activities during fiscal year 1990.

The conference agreement provides the full $459,755,000 needed to reimburse the U.S. Postal Service for the revenue loss it incurs as a result of carrying certain categories of mail at free or reduced rates, as authorized by law. The Senate bill had proposed a reduction in this appropriation, accompanied by a provision eliminating the use of subsidized third-class mail rates for commercial advertising purposes having no direct relation to the mission of the nonprofit organization. The House conferees refused to accept the Senate position. However, the statement of managers accompanying

the conference agreement does require the Postal Service to report on the extent to which Federal funds are being used to subsidize commercial enterprises rather than the educational and nonprofit organizations for whose direct benefit the preferred postage rates were authorized. I am hopeful that the Congress will take appropriate action to eliminate reported abuses of reduced-rate mailing privileges in the future.

Another major item of dispute between the House and Senate bills was funding for grants to universities for strategic and materials-related research, equipment and facilities. Such funding was not considered by this Senate subcommittee for fiscal year 1990 on the basis that the activities related to the national defense stockpile transaction fund now fall under the jurisdiction of the Defense Appropriations Subcommittee. This agreement contains $13,152,000 for such grants; however, the Senate conferees have indicated that this will be the last time such funding is included in this appropriations measure.

This conference agreement sets a total limitation of approximately $3.3 billion on Federal buildings fund expenditures for fiscal year 1990. Also included is approximately $112.4 million for the Office of Personnel Management; $5 million for grants for historical records and publications under the National Archives and Records Administration; $207.9 million for the Bureau of the Public Debt; approximately $132.4 million for Executive Office of the President agencies; and $15.3 million for the Federal Election Commission for fiscal year 1990.

Mr. President, we are fast approaching the October 25 expiration date of the current continuing appropriations resolution. It is imperative that we act swiftly to complete action on the regular appropriations bills for fiscal year 1990. I understand that the administration has made no objection to this conference agreement. Given this, I fully expect the President to sign this Appropriations Act.

Mr. President, in closing, I would like to commend the subcommittee chairman, Senator DECONCINI, for his leadership on this bill. It was a particularly difficult conference and he did a remarkable job negotiating out the differences between the House and Senate in order to achieve this conference agreement. I urge my Senate colleagues to support its adoption.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the amendments of the House to the amendments of the Senate in disagreement be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments of the House to the amendments of the Senate in disagreement were agreed to, en bloc, as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 2 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; not to exceed $22,000 for official reception and representation expenses; not to exceed $200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not less than $2,000,000 and 40 full-time permanent positions for the Office of Foreign Assets Control; not to exceed $1,649,000, to remain available until expended, for systems modernization requirements; not to exceed $573,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex; $58,081,000.

INTERNATIONAL AFFAIRS

For necessary expenses of the international affairs function of the Office of the Secretary; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,000,000 for official travel expenses; and not to exceed $73,000 for official reception and representation expenses; $25,000,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 4 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

For expansion of the Federal Law Enforcement Training Center, for acquisition of necessary additional real property and facilities, and for on-going maintenance, facility improvements and related expenses, $15,000,000, to remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 13 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum stricken and inserted by said amendment, insert: "$1,059,634,000, of which up to $7,000,000 shall be available for the Interagency Border Inspection System, and".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 17 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert "1990, of which a minimum level of 10,385 full-time equivalent positions shall be allocated to commercial operations activities, and of which a minimum level of 930 full-time equivalent positions shall be allocated to air interdiction activities of the United States Customs Service".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 24 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert "or other facilities when authorized by law and".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 25 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert "or other facilities when authorized by law and designated by the Secretary of the Treasury,".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 26 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum stricken and inserted by said amendment, insert "$207,906,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 27 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert "expended for research, and of which $128,000 shall remain available until expended for tax systems modernization initiatives".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 29 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert "$156,419,000 shall remain available until expended for tax system redesign initiatives and of which not to exceed $60,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 31 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert "$1,911,301,000, of which $1,674,000 shall remain available until expended for tax systems modernization initiatives".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 34 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert "$1,620,252,000, of which $1,431,000 shall remain available until expended for tax systems modernization initiatives; and of which an additional $7,400,000 shall be available for criminal investigations activities: *Provided,* That an additional $7,400,000 may be made available within existing funds for criminal investigations".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 38 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert "Residence, and of which not to exceed $160,000 shall be made available for the protection at the one non-governmental property designated by the President of the United States under provisions of section 12 of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note)".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 40 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 104. Notwithstanding any other provision of law, beginning October 1, 1990, and thereafter, the Financial Management Service shall be fully and directly reimbursed from the Social Security Trust Funds for the costs it incurs in the issuance of Social Security Trust Funds benefit payments, including all physical costs associated with payment preparation and postage costs. Such direct reimbursement shall also be made for all other trust and special funds which are the recipients of services performed by the Financial Management Service and which prior to enactment of this provision reimburse the General Fund of the Treasury for such services.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 42 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 105. Not more than $22,640,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory or assistance services by the Department of the Treasury.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 65 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum stricken and inserted by said amendment, insert "$25,220,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 66 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum stricken and inserted by said amendment, insert "$3,328,345,320".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 67 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum stricken and inserted by said amendment, insert "$138,843,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 71 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

Woods Hole, a grant for the development of the Marine Biomedical Institute for Advanced Studies, $2,000,000

Northampton, a grant for a science center at Smith College, $1,500,000

Maryland:

Baltimore, a grant for planning and design of the Christopher Columbus Center on Marine Research and Exploration, $1,500,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 74 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken by said amendment, insert:

North Carolina:

Asheville, Federal Building, Site and Design, $4,000,000

Oregon:

Astoria, grant to the City of Astoria for reconstruction (including parking/roadwork) of the first U.S. Custom House west of the Rockies, $90,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 78 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum stricken and inserted by said amendment, insert "$558,692,320".

Resolved, That the House recede from its disagreemet to the amendment of the Senate numbered 107 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert "*Provided further,* That, notwithstanding any other provision of law, the Administrator of General Services is hereby authorized to enter into a lease to ownership agreement, pursuant to a competitive selection process, for the lease purchase of such buildings as required to provide not to exceed 1,400,000 occupiable square feet and necessary parking for the Environmental Protection Agency, on a site in the District of Columbia. The contract shall provide, by lease or installment payment over a period not to exceed thirty years, from funds available in the Federal Buildings Fund for the payment of the purchase price and reasonable interest thereon, and shall provide for title to the building(s) to vest in the United States on or before the expiration of the contract term upon fulfillment of the terms and conditions of the agreement. Obligation of funds for the lease or installment payments shall be limited to the current fiscal year for which payments are due without regard to section 1341(a)(1)(B) of title 31, United States Code".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 110 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum stricken and inserted by said amendment, insert "$3,328,345,320".

Resolved, That the House recede from its disagreemnt to the amendment of the Senate numbered 117 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken by said amendment, insert "and is directed if unable to correct such problems through the lessor within 90 days, to take such actions necessary to accomplish the corrections and withhold such amounts expended on such corrections from rental payments".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 124 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number named in said amendment, insert "14".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 127 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 17. (a) CONVEYANCE.—Subject to subsection (c), notwithstanding any other provision of law, the Administrator of General Services (Administrator) shall convey, subject to existing easements, without consideration, to the State of Hawaii, all right, title and interest of the United States in and to approximately 89.274 acres more specifically described in subsection (b), together with any improvements, structures and fixtures located thereon and related personal property in Waianae, Oahu, State of Hawaii at the former U.S. Coast Guard transmitter site.

(b) LEGAL DESCRIPTION.—This land is a portion of Grant 4751 to H.M. Von Holt and a portion of Lot A-4-A of Land Court Application 130 situated about 2,000 feet Northeasterly from Farrington Highway at Lualualei, Waianae, Oahu, State of Hawaii; begining at the Northwest corner of this piece of land and on the easterly boundary of Grant 7859 to Ralph E. Turner, the true azimuth and distance from Government Survey Triangulation Station "Puu-O-Hulu (Makai)" being 167°33' 5556.27 feet and running by true azimuths measured clockwise from South: (1) 261°44' 1940.00 feet along 50' road easement; (2) 360°00' 2551.34 feet; (3) 89°06' 1413.41 feet; (4) 167°33' 2349.87 feet along Grant 8422 to Lizzie Gilliland and Grant 7859 to Ralph E. Turner to the point of beginning; total acreage 93.575.

Excluding from said 93.575 acre parcel, parcel A of Waianaenui Watershed Project, Maili Channel Improvement, Lines M-5 and M-6, Being Lot 202-A, area 1.440 acres, as shown on Map 53, and filed in the Office of the Assistant Registrar of the Land Court of State of Hawaii with Land Court Application No. 130 of Alexander C. Dowsett et als, and being a portion of the land described in Transfer Certificate of Title No. 86,019 issued to said grantor, situated at Lualualei, Waianae, Oahu, Hawaii, and also excluding therefrom, Parcel "B" of Waianaenui Watershed Project, Maili Channel Improvment, Lines M-5 and M-6: All of that certain parcel of land being a portion of Grant 4751 to H.M. Von Holt (Portion of U.S. Civil No. 868), situated at Lualualei, Waianae, Oahu, Hawaii, approximately 2.861 acres.

(c) CONDITIONS OF CONVEYANCES.—(1) The Administrator shall convey the approximately 89.274 acres described in subsection (b) to the State of Hawaii on the condition that the State of Hawaii, within 3 years of date of conveyance, exchange such property and other appropriate consideration (if necessary) for an equal total amount of consideration that includes one or more parcels of Hawaiian home lands on the islands of Hawaii, Oahu, and Molokai consisting of: (1) approximately 6.00 acres of real property located in Keaukaha (Tract 1), Waiakea, Hilo, Hawaii, being the present site of Keaukaha School; (2) approximately 26.207 acres of real property filed in the Office of the Department of Land and Natural Resources in C.S.F. No. 20282 and a separate parcel, being the present site of Molokai High School and Athletic Field; and (3) approximately 13.675 acres, filed in the Office of the Department of Land and Natural Resources in C.S.F. Nos. 12325, 10414, and 6342, being the present site of Nanaikapono Elementary School.

In the event the exchange of the property is not completed within the time period as specified herein, including recording the deed for the conveyance of the property from the State of Hawaii in accordance with all applicable laws, all right, title and interest to such property shall revert to the United States and the United States shall have the immediate right of entry thereon.

(2) Prior to the conveyance by the Administrator of approximately 89.274 acres described in subsection (b), as a condition of the conveyance, the State of Hawaii shall agree that the Hawaiian Home Land properties to be acquired by the State of Hawaii in the exchange described in subsection (c)(1) shall only be used for educational purposes in perpetuity, and in the event the properties cease to be so used, all or any portion of such properties shall, in its existing condition, revert to the United States.

Resolved, That the House recede from its disagreement to the amendment of the

Senate numbered 128 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 18. (a) Notwithstanding Sec. 203(k) of the Federal Property and Administrative Services Act of 1949, any implementing regulations, and the conveyance of Deed Without Warranty of June 5, 1968 recorded in Book 250 pages 183 through 196 of the Deed Records of Chaves County, New Mexico, on June 5, 1968, and Correction Deed of January 6, 1969, to the Deed Without Warranty of June 5, 1968, recorded in Book 252 pages 100 through 115 of the Deed Records of Chaves County, New Mexico, from the United States of America to the Board of Regents, Eastern New Mexico University (ENMU), the Secretary of Education shall, as to the property described in subsection (b), grant a release to ENMU from all terms, conditions, reservations, and restrictions required by the Federal Property and Administrative Services Act, implementing regulations or contained in the above mentioned Deeds, subject to the United States retaining until June 5, 1998, a reversionary interest, which runs with the land, if any part of the property described in subsection (b) is not used for educational or training purposes.

(b) The property referred to in this section is described as a tract of land lying and being situated in Section 33, Township 11 South, Range 24 East, NMPM, Chaves County, New Mexico and being more particularly described as follows: Beginning at a point on the South boundary of the Pecos Valley Village Subdivision from which the Northwest corner of said Section 33 bears N 6°16'28" W at a distance of 2382.64 feet, said point being the intersection of said South boundary and the centerline of Gail Harris Street; thence S 89°37'30" E along the south boundary of the Pecos Valley Village Subdivision, a distance of 753.38 feet; thence S 0°00'43" E a distance of 2382.10 feet; thence S 89°58'24" W at a distance of 771.18 feet to the centerline of Gail Harris Street; thence N 0°24'51" E along said centerline, a distance of 2387.43 feet to the point of beginning. Containing 41.7245 acres, more or less.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 129 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 19. Notwithstanding any other provision of law, the Administrator of General Services—

(a) shall convey, without consideration, jurisdiction (custody, accountability and control) to the Institute of American Indian and Alaska Native Cluture and Arts Development (Institute), over approximately 31,006 square feet of real property, together with any improvements, structures, and fixtures located thereon and related personal property, located at Cathedral Place at Palace, in Ward Number 4 of the City of Santa Fe and Precinct Number 18 of the County of Santa Fe, New Mexico, and

(b) shall transfer to the Institute, from revenues and collections in the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 United States Code 490(f)), the sum of $2,130,000 for carrying out, in consultation with the Administrator of General Services, repairs and alterations to the facility transferred by this section.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 130 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 20. (a) Notwithstanding any other provision of law, the Secretary of Education shall convey, without consideration, to the School District of Charleston County, South Carolina, a deed—

(1) releasing the reversionary interest to the property identified in subsection (b), held by the United States on the date of the enactment of this Act; and

(2) which is subject to the condition that—

(A) the property shall be used for educational purposes for a period of 25 years; and

(B) if during that period the property or any portion of the property ceases to be used for educational purposes, all right, title, and interest in and to the property shall revert to the United States.

(b) All that lot, piece or parcel of land, situate, lying and being on the west side of Chisolm Street, in Ward 2, in the City of Charleston, County of Charleston, and State of South Carolina.

Measuring and containing in front on Chisolm Street 100 feet, and the same on the west or back line, and in depth on the northernmost line from east to west 150 feet and ½ inch, and the same on the southern most line—be all the said dimensions a little more or less.

Butting and bounding to the north on lands now of Anderson Lumber Company, formerly of Mrs. E.C. Rennecker; east on Chisolm Street aforesaid; south on part of the original tract of land owned by the said A.B. Murray and West Point Mills Company, now reserved by the said grantors, and west on another part of the said original tract, formerly belonging to the said A.B. Murray and West Point Mills Company, and conveyed by them to the United States of America.

The said lot of land hereby conveyed being the northernmost portion of that portion of the Chisolm's Mills Property, reserved by the A.B. Murray and West Point Mills Company after conveyance of the greater part of the said Chisolm's Mills Property to the United States of America, by Deeds which are recorded and may be seen in Book U-24, Page 582 and Page 585 in the R.M.C. Office for Charleston County, and all of which is more fully shown and delineated on a Plat of the said Chisolm's Mills Property, dated April 23, 1914, and made and certified to by H.D. King, Inspector, United States Light House Department, which said Plat is on record in Plat Book C, Page 97, in the R.M.C. Office for Charleston County.

Being the same premises which were conveyed to the United States of America by deed of Andrew B. Murray dated October 23, 1916, and recorded in the Office of the R.M.C. for Charleston County in Book U-24, Page 587, and by deed of West Point Mill Company, dated November 20, 1916, and recorded in said office in Book U-24, Page 589.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 131 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the first section number named in said amendment, insert "21".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 132 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the first section number named in said amendment, insert "22".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 133 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number named in said amendment, insert "23".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 134 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number named in said amendment, insert "24".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 135 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number named in said amendment, insert "25".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 138 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken by said amendment, insert ": *Provided,* That notwithstanding 31 U.S.C. 3302, the Director is hereby authorized to accept gifts for goods and services, which shall be available only for hosting National Civil Service Appreciation Conferences, to be held in several locations throughout the United States in 1990. Goods and services provided in connection with the conference may include, but are not limited to, food and refreshments; rental of seminar rooms, banquet rooms, and facilities; and use of communications, printing and other equipment. Awards of minimal intrinsic value will be allowed. Gifts provided by an individual donor shall not exceed 50 percent of the total value of the gifts provided at each location; $112,430,000 of which not less than $250,000 shall be made available to establish a program to facilitate the use of job sharing arrangements in agencies as authorized in section 3402 of title 5, United States Code, and of which not to exceed $1,000,000 shall be made available for establishment of Federal health promotion and disease prevention programs for Federal employees.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 143 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter striken by said amendment, insert:

SEC. 501. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the appropriations without the advance approval of the House and Senate Committees on Appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 148 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the first section number named in said amendment, insert "505A".

Resolved, That the House recede from its disagreement to the amendment of the

Senate numbered 167 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken by said amendment, insert:

SEC. 522. The Commissioner of the Internal Revenue Service shall take such action as necessary to maintain the existing staffing level without any downgrading of existing employees at the Detroit Data Center in the course of modifying certain payroll and personnel processing operations in the Office of Fiscal Operations and in the Resources Systems Development Division and modifying the capacities of the Center to achieve backup compatibility with the Internal Revenue Service Martinsburg Computer Center in West Virginia.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 168 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken by said amendment, insert:

SEC. 523. The Director of National Drug Control Policy, as established by the Anti-Drug Abuse Act of 1988, P.L. 100-690, 102 Stat. 4181 (1989), is hereby authorized in cooperation with the Administrator of General Services to select a site not to exceed 30,000 occupiable square feet for housing the Office of National Drug Control Policy suitable to meet the mission and security requirements of such Office, and the Administrator of General Services is hereby authorized to enter into a lease for such site under such terms and conditions as the Administrator finds to be in the best interests of the United States, notwithstanding any other provisions of law.

SEC. 524. Notwithstanding any other provision of law, the United States Customs Service may acquire by purchase land in the Bahamas for the operation of an aerostat site. Appropriations for the Air Program shall be available for the acquisition of such land.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 172 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 527. The Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note) is amended by adding at the end thereof:

"SEC. 12. In carrying out the protection of the President of the United States, pursuant to section 3056(a) of title 18, at the one non-governmental property designated by the President of the United States to be fully secured by the United States Secret Service on a permanent basis, as provided in section 3(a) of Public Law 94-524, the Secretary of the Treasury may utilize, with their consent, the law enforcement services, personnel, equipment, and facilities of the affected State and local governments. Further, the Secretary of the Treasury is authorized to reimburse such State and local governments for the utilization of such services, personnel, equipment, and facilities. All claims for such reimbursement by the affected governments will be submitted to the Secretary of the Treasury on a quarterly basis. Expenditures for this reimbursement are authorized not to exceed $160,000 in any one fiscal year: *Provided,* That the designated site is located in a municipality or political subdivision of any State where the permanent resident population is 7,000 or less and where the absence of such Federal assistance would place an undue economic burden on the affected State and local governments."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 175 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of first section number named in said amendment, insert "529".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 177 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number named in said amendment, insert "530".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 185 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the first section number named in said amendment, insert "609".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 191 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows:

SEC. 614. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to furnish or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing, or redecoration is expressly approved by the Committees on Appropriations of the House and Senate.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 194 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken by said amendment, insert:

SEC. 619. Section 622(b) of this Act shall have no force or effect.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 201 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken by said amendment, insert:

SEC. 623. (a) No amount of any grant made by a Federal agency shall be used to finance the acquisition of goods or services (including construction services) unless the recipient of the grant agrees, as a condition for the receipt of such grant to—

(1) announce in any solicitation for offers to procure such goods or services (including construction services) the amount of Federal funds that will be used to finance the acquisition for which such offers are being solicited; and

(2) express the amount announced pursuant to paragraph (1) as a percentage of the total costs of the planned acquisition.

(b) The requirements of subsection (a) shall not apply to a procurement for goods or services (including construction services) that has an aggregate value of less than $500,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 202 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number named in said amendment, insert "624".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 203 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 625. (a) Section 5384(c) of title 5, United States Code, is amended—

(1) by striking "(c)" and inserting "(c)(1)"; and

(2) by adding at the end thereof the following:

"(2) not less than a majority of the members of any review board referred to in paragraph (1) shall be career appointees whenever making recommendations under such paragraph with respect to a career appointee. The requirement of the preceding sentence shall not apply in any case in which the Office of Personnel Management determines that there exists an insufficient number of career appointees available to comply with the requirement.".

(b) Section 5381 of title 5, United States Code, is amended by inserting " 'career appointee'," before "and".

(c) None of the funds in this Act may be used to reduce the rank or rate of pay of a career appointee in the Senior Executive Service upon reassignment or transfer.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendments in disagreement were agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

IN MEMORY OF JOHN M. KINNAIRD

Mr. HOLLINGS. Mr. President, it was with great sadness that I recently learned of the death of John Morrow Kinnaird. John is remembered by many Members of the Senate for his superlative representation of our Nation's trucking industry in the Halls of Congress. During the decade of the seventies, in his capacity as vice president-government relations for the American Trucking Associations, Inc., John helped enact legislation designed to bring about desirable change in our national transportation policy. Just prior to his retirement in 1981, John had an opportunity to demonstrate his great talent as a shaper of political compromise. The Motor Carrier Act of 1980 is the final product of his years of excellence in legislative advocacy.

John and Sarah Kinnaird paid the State of South Carolina the honor of being their chosen place of retirement. They built a lovely home on the Waccamaw River in Pawleys Island where Sarah continues to reside and, I might add, resided right through the visit of Hurricane Hugo. In the all too few years that John enjoyed his retirement, he became an admired member of the Pawleys Island community. A tribute to John published in the

Coastal Observer 2 days after his untimely death attests to the high esteem in which he was held by his friends and neighbors.

Mr. President, I ask unanimous consent that the September 7, 1989, tribute to John M. Kinnaird which appeared in the Coastal Observer appear at this point in the RECORD.

[From the Coastal Observer, Sept. 7, 1989]

JOHN M. KINNAIRD, 68, HISTORICAL BOARD MEMBER

John Morrow Kinnaird, 68, a member of Georgetown County Historical Commission and noted antique decoy collector, died Tuesday at this home at Rossdhu after a long battle with cancer.

A retired lawyer, he was born in Lancaster, Ky., a son of the late John Gill and Margaret Morrow Kinnaird. He graduated from University of Kentucky at Lexington.

His college days were interrupted by World War II. Kinnaird served about two years in the Army Air Corps, flying a P-51 fighter plane in combat in Burma and India.

After college, he practiced law, then was employed with the Kentucky State Police. He later became Commissioner of Motor Transportation for the state.

Kinnaird went to work for Consolidated Freightways and moved to Washington, D.C. He later went into private practice there, specializing in transportation law.

His last working years were with American Trucking Association, which he served as an attorney-lobbyist for about 10 years. He retired in 1981 as the association's vice president of government relations.

Kinnaird moved to Litchfield after he retired.

After he moved here, he became active in conservation issues. "He loved the river," said his friend and neighbor Cappy McFadden.

"He was very taken with the beauty of this area and wanted to see it preserved," his daughter Jula Kinnaird said.

A lifelong hunter, Kinnaird also owned black powder muzzle-loading guns and belonged to a local club. He became interested in antique decoys about 10 years ago, his daughter said.

After being appointed to the historical commission a year ago, he arranged an antique decoy exhibit at the Rice Museum in conjunction with a convention of decoy collectors.

"He was a visionary, and was creative, and had a wonderful talent for bringing people and energy together. He'll be greatly missed," said Rice Museum Director Jim Fitch.

"He was a great fellow," said Sam McFadden. "He was smart and honest."

Kinnaird was also a golfer and member of Litchfield Country Club. He was a member of Pawleys Island Presbyterian Church, Georgetown County League of Women Voters, Pawleys Island Masonic Lodge, Sierra Club, and was a former board member of Pawleys Island Rescue Squad.

Surviving are his wife, Sarah Denny Kinnaird; three daughters, Anne K. Ringham of Pittsburgh, Jula J. Kinnaird of Falls Church, Va. and Patsy K. Hardin of Alexandria, Va.; a brother, Paul M. Kinnaird of Lexington, Ky.; and three grandchildren.

Memorial services will be Friday at 11 a.m. at Pawleys Island Presbyterian Church, directed by the Rev. Frank Holsclaw.

Memorials may be made to Hospice of Georgetown County, PO Box 1436, Georgetown 29442, or Pawleys Island Presbyterian Church Building Fund.

Goldfinch Beach Chapel is in charge.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, today marks the 1,677th day that Terry Anderson has been held in captivity in Beirut. I would ask that my colleagues not forget that Terry Anderson's ordeal has now lasted for more than 4½ years.

COMMENDATION FOR MR. DEAN BIBLES

Mr. DECONCINI. Mr. President, we often rise on the Senate floor to present our thoughts and feelings on many diverse and important subjects. Today, however, is especially significant for me because I want to take a moment to recognize and commend a man who, in my opinion, is one of the finest and most respected Federal Government employees that has ever served in the great State of Arizona. I have feelings of both sadness and pleasure in doing this. I am saddened because Arizona is losing a tremendously effective land manager, yet pleased that we had the opportunity to benefit from 7 years of dedicated and extremely competent service.

On September 7, 1989, the Bureau of Land Management announced that Dean Bibles had been selected from a list of highly qualified applicants to become the new State director of that agency's programs in Washington and Oregon. On Monday, October 23, 1989, Dean is being honored by his many friends and colleagues in Arizona. As Dean moves to this new and exceptionally challenging assignment, he goes knowing that Arizona is considerably better off today because of his significant contributions in improving the resource management of the many acres of public lands in Arizona.

Dean's distinguished 32-year career with the Bureau of Land Management has been punctuated with increasingly demanding assignments and prestigous awards. Since graduating from Texas A&M University in 1957 with a B.S. in range management, Dean has held 14 different positions within the Bureau of Land Management. Twenty-two of his 32 years of dedicated service have been in supervisory positions, which is testament to his outstanding leadership ability.

Since 1982, Dean has served as the Arizona State Director, where the demanding nature of his position required that he provide leadership and direction for the multiple use management of thousands of acres of public land, including nearly 12.5 million surface acres and 28 million subsurface acres of mineral estate and the mineral leasing program for 20 million acres of native American property. As State director, Dean administered programs that included range, watershed, wildlife habitat, lands, wilderness, survey, fire, cultural resources, minerals management, and recreation in addition to the managerial demands involved in the area of environmental coordination and review.

The following is a list of selected accomplishments Dean worked long and hard hours to leave as a part of his Arizona legacy:

Developed and implemented a Land Exchange Program to address land tenure adjustments between the State of Arizona, private landowners, and the Federal Government to make resource management more effective. Specific actions included:

Directed the exchange of approximately 2,520,647 acres of land in Arizona;

Completed the State Indemnity Selection Program to repay 194,000 acres of in lieu land owed to Arizona since statehood;

Completed the exchange of approximately 29,039 and 28,310 acres of Federal lands to repay Arizona for State lands used in the Yuma Mesa compensation and the central Arizona project;

Completed the exchange of 215,000 acres of private lands required by the Navajo-Hopi Relocation Act of 1980; and

Completed and implemented all actions to establish a significant area for the Zuni Indians known as Zuni Heaven.

Established long-term visitor areas along the Lower Colorado River and implemented a permit system to help control impacts resulting from heavy winter visitor camping use.

Implemented a concession management program along the Colorado River to provide for more recreation opportunities on public lands through cooperative partnerships with private investors.

Worked with various interest groups and private industry to resolve wilderness issues in the Arizona strip, which ultimately resulted in the passage of the Arizona wilderness bill of 1984.

Prepared public land orders and secured Secretary of Interior approval to remove power sites and other agency withdrawals within the Grand Canyon National Park.

Probably the most lasting testament to his tenure in Arizona is the creation of the San Pedro Riparian National Conservation Area in southeastern Arizona. This is the Nation's first Riparian National Conservation Area. It will protect a rare 35-mile segment of this extremely fragile and unique desert riparian ecosystem. I can recall the first meeting I had with Dean almost 4 years ago to discuss his ambitious plans for acquiring the two Spanish land grants that now compose the conservation area. I must admit that I was

a bit skeptical at the time that he would pull it off. However, I supported him, and with his energy, commitment, tireless efforts, and leadership, Dean's dream of 4 years ago became a reality on May 6, 1989, the day this unique conservation area was dedicated. This is only one of many examples of his contributions that he has made to improving the quality of life in Arizona.

Dean has received many honors during his illustrious career, including the Secretary of Interior's Meritorious Service Award, rank of Meritorious Executive in the Senior Executive Service from former President Reagan, Conservationist of the Year Award from the Arizona Wildlife Foundation, Secretary of Interior's Distinguished Service Award, Joseph Wood Krutch Award from the Arizona Chapter of the Nature Conservancy, Arizona Parks & Conservation Association's Conservationist of the Year Award—1988, and rank of Distinguished Executive in the Senior Executive Service under former President Reagan.

Mr. President, I ask unanimous consent that the article by Mr. Ben Avery, which appeared on September 22, 1989 in the Arizona Republic, be printed in the CONGRESSIONAL RECORD. Mr. Avery's article clearly expresses how many Arizonans feel about Dean's accomplishments as BLM's Arizona State director.

It seems clear to me why all Arizonans sincerely regret losing Dean to Oregon and Washington. Our loss is truly their gain. On behalf of all of Arizona, this Senator bids farewell to a good friend and an exceptional public servant. We certainly wish him the very best in his future endeavors and extend our most heartfelt appreciation for his extraordinary accomplishments as BLM's Arizona State director.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BIBLES' INFLUENCE HELPED STEER LAND SWAPS

Transfer of Arizona Bureau of Land Management Director Dean Bibles to the Oregon-Washington BLM office ends a 7½-year era of remaking the map of our state and fulfilling hopes of preserving such wildlife as antelope, bighorn sheep, desert tortoises and tiny endangered fish along with vital natural areas of our state.

Before Bibles and the unheard-of trust and cooperation that was developed between him and former Gov. Bruce Babbitt many of the objectives of this broad conservation program were only hopes and dreams.

Thank you Dean Bibles.

It started shortly after Babbitt became governor when he set out to gain title for the state to nearly 200,000 acres of federal lands owed Arizona since statehood. Babbitt first established guidelines for these land selections to make sure that huge land transfer was carried out in the best interest of the state.

Meantime, the state sponsored a natural heritage inventory awakening us to the many critical riparian, scenic, wildlife habitat or endangered fragile ecosystems that need protecting—many on state trust or private lands that must be managed for profit.

We also were awakened to the millions of acres of split-mineral estate (where the land surface is owned by one entity and the subsurface by another) plus an unmanageable checkerboard or surface ownership.

The state land department, with 9½ million acres of trust land given to the state to finance schools and other institutions, had no authority to protect and preserve anything. And it owned much land in areas it could not even lease.

The BLM, with about 13 million acres, could manage land for the benefit of the public and to protect its resources.

In 1985, BLM and the state established criteria for a comprehensive land exchange, to give the state or, in some cases, individuals or firms land with potential development value in exchange for land containing vital public treasures—wildlife, beauty, endangered species, archaeologic treasures or riparian ecosystems needing protection for future generations.

Essentially, the criteria required that land exchange be of equal acreage with comparative subsurface value.

Many Arizonians with an historic knowledge and background of land values have been monitoring this program because it has been carried out during a period of rapidly changing and highly inflated land values with many armchair experts abroad.

In six years—1984 to 1989—the state has received 640,734 acres from BLM, and BLM has received 782,321 acres from the state. Private owners have received 408,189 acres from BLM, land in the path of community expansion, and BLM has received 730,784 acres of land with desirable public values needing preservation.

In a nutshell, that's 2.5 million acres on our state map that has changed color in critical areas.

The people of Arizona and the United States have seen the integrity of public ownership bestowed on:

Some 40 miles of San Pedro River, formerly two privately owned Spanish land grants.

The 41,604-acre Empire-Cienega-Rose Tree ranch grassland and riparian ecosystem 52 miles southeast of Tucson that includes 7½ miles of Cienega Creek, key habitat for the Gila topminnow.

The watershed of five perennial streams on the Muleshoe Ranch at the south end of the Galurio Mountains—a 55,000-acre area.

Public ownership of the Buenos Aires Wildlife Refuge and adjoining riparian Avrivaca Creek. The list could go on and would include clearing up land-ownership problems in parks, wildlife refuges, the CAP Canal, etc.

SENATOR HELMS' BIRTHDAY

Mr. KASTEN. Mr. President, I rise today to pay my respects to one of the most honored Members of this body on the occasion of his 68th birthday. It was 68 autumns ago that JESSE HELMS made his first appearance in North Carolina—and today he serves North Carolina and the United States as a dedicated public servant, an accomplished and skillful debater, and a statesman with deeply held convictions about public affairs.

I've been privileged to have Senator HELMS as a colleague for the last 9 years. I've witnessed first hand the steely determination and the wry humor with which he has fought for what he thinks is right—and I think no one combines the qualities of honor, courtesy, and perseverance in political combat than the senior Senator from North Carolina.

He is a gentleman, in the highest sense of that word. I wish him a happy birthday, and many happy returns.

A DRY WHITE SEASON

Mr. KENNEDY. Mr. President, I want to call the attention of Members of the Senate to the showing of the film "A Dry White Season" that Senator HATFIELD and I are sponsoring at 6:30 p.m. this evening in the Dirksen Auditorium. All Members of the Senate and their staffs are invited, and I hope that as many as possible will take the opportunity to see this powerful film on the evil of apartheid in South Africa.

If it is true that a picture is worth a thousand words, then "A Dry White Season" is worth a thousand speeches on apartheid. As we all know, great art can also serve great causes. It can be a powerful weapon against injustice. "Cry the Beloved Country" touched the conscience of the world a generation ago. And so can "A Dry White Season" in our own time.

The release of Walter Sisulu last week after 25 years in prison in South Africa is a hopeful sign that we may be on the threshhold of important change in that country. The United States' sanctions against apartheid are contributing to that change, and films like "A Dry White Season" will encourage America and many other nations to keep the pressure on. What all of us do in the coming months may well make all the difference, not just in ending apartheid, but in ending it peacefully and promptly.

I ask unanimous consent that excerpts from a publication by Metro-Goldwyn-Mayer Pictures, Inc. describing "A Dry White Season" be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

A DRY WHITE SEASON

Ben du Toit (Donald Sutherland), a schoolteacher, lives with his family in a serene Johannesburg neighborhood. He cherishes his life—a life filled with satisfaction from his work, admiration from his peers and affection from his family.

Gordon Ngubene (Winston Ntshona) has a loving family as well. And treasured friends. And he is proud to be Ben's hard-working and skillful gardener. The streets of Gordon's neighborhood, however, do not possess the tranquil, idyllic qualities found

in the du Toit's backyard. The Ngubene family lives in Soweto, a black township six miles outside of Johannesburg, one of many set up by the politically, socially and economically powerful white minority government of South Africa under the system known as apartheid.

On a particularly hot and dusty summer day, Gordon's young son, Jonathan, joins thousands of other black schoolchildren in a peaceful march and demonstration against their second-rate educational system. The government and the police, however, see it as a threat and, without warning, the police begin to fire tear-gas and bullets as they baton-charge into the unarmed crowd of young students. The violent incident sparks a chain of events that later become known as the Soweto Uprising.

A Dry White Season is a fictional story of the devastation of two families, one black and one white, during the Uprising. The destruction of the peaceful and law-abiding Ngubene family begins when Gordon and his young son, Jonathan, die while in police custody following the children's protest. For the du Toits, a white Afrikaner family who has long accepted the system, their ironclad world is shattered after Ben du Toit learns the truth about the mysterious deaths and makes a commitment to expose the injustices of the minority-ruled country.

The film marks the major directorial debut for Euzhan Palcy, who achieved international success after the release of her first feature-length film, "La Rue Cases Negres" ("Sugar Cane Alley"). With the same passion and determination that inspired the children of Soweto, Palcy and producer Paula Weinstein bring to the screen this thrilling story of prejudice and politics, loyalty and love, set against the violence and unrest of 1976 South Africa.

A Dry White Season, a Davros Production for Metro-Goldwyn-Mayer Pictures, Inc., stars Donald Sutherland, Marlon Brando, Susan Sarandon, Janet Suzman, Zakes Mokae and Jurgen Prochnow. The film is directed by Euzhan Palcy from a screenplay by Palcy and Colin Welland, adapted from the novel by André Brink. Paula Weinstein is the producer and Tim Hampton serves as executive producer. The film will be distributed in the United States and Canada by MGM/UA Distribution Co. and by MGM/UA Communications Co. through United International Pictures in the rest of the world.

ABOUT THE PRODUCTION

A Dry White Season is a motion picture about love, loyalty and the consequences of commitment, set within the tension and drama of a thriller. The culmination of a rare collaboration between two women, producer Paula Weinstein and director Euzhan Palcy, is a film which possesses the same spirit and passion as its filmmakers.

Weinstein and Palcy first met at Warner Brothers in 1986. Weinstein was developing her own project about South Africa and Palcy had been brought in after the success of her first film, "La Rue Cases Negres" ("Sugar Cane Alley").

"I had seen Euzhan's film and liked it enormously," Weinstein says. "The studio asked us to combine forces. After talking, we realized we wanted to make the same picture, but not with the script that already existed. I had long admired the novel (André Brinks' A Dry White Season) but thought the movie had to demonstratively show the struggle and pain of the blacks as well as reveal Ben as an 'active' rather than passive man. Euzhan agreed. We shared the same point of view."

"I had long been interested in South Africa," Weinstein continues, "and was determined to do something about it. Euzhan had the story in her head and I said write it. I sent her to South Africa and she came back with the structure we had discussed—of turning the story into a thriller."

Says Weinstein: "A Dry White Season was Euzhan's project. She was absolutely committed to it. She was offered a lot of material after "Sugar Cane Alley" but she never wavered. She was positively convinced that this was the film she wanted to make."

Palcy's involvement with a Dry White Season actually had begun two years before her initial meeting with Weinstein, when she had read the book in France. "As soon as I read Andre Brink's book, I saw the film I could make," says Palcy.

Although Palcy had an immediate and positive response to the novel, she felt there was much more to it that she could capture on film. "The book is all about Ben, everything is seen through his eyes, it's the education of a white man in South Africa," says Palcy. "I didn't want to make that film. Although I was very moved by this 50-year-old white man who suddenly realizes what is going on around him, I felt I couldn't stick to the book exactly because the South African situation evolves so quickly, audiences would ask 'why doesn't Ben know? It's impossible that he is not aware.' "

"I feel the film is more compelling," says Palcy, "because it is more than just Ben's story, it is about two families, one black and one white, and the victimization that they both suffer due to the minority-ruled system."

In 1987, Weinstein moved over to MGM and eventually Palcy and A Dry White Season joined her. At this point, Palcy recalls, "I'd given so much time to the project and was so committed to the project, I was obsessed with it. I could not just go on 'working' on it, I now had to actually make the film."

Palcy and Weinstein proceeded to assemble their cast and crew. Directors of Photography Kelvin Pike and Pierre-William Glenn, and Production Designer John Fenner, among others, made up the international team of artists and technicians.

The cast, headed by Marlon Brando, making his first screen appearance since 1980, is a mix of nationalities drawn from America, Europe and South Africa.

"Marlon Brando was the first person we cast," producer Weinstein says. It was also a plus for director Palcy, not because of who he is and/or his place in movie history, but "to have an actor like him portray the lawyer who goes after the representatives of the apartheid system in court, I knew would be very powerful," says Weinstein.

For the character of schoolteacher Ben du Toit, Palcy envisioned a very tall man, someone who could be convincingly naive yet possess an appealing softness. She saw many films and many actors before it became clear in her mind that the role should be played by Donald Sutherland, an actor known for his abilities and one who could certainly possess the qualities she imagined.

The other American in the cast is the popular and talented actress Susan Sarandon, who portrays Melanie Bruwer, a progressive white journalist who aids Ben du Toit in his investigation.

Weinstein and Palcy were also in total agreement that South African actors should play the black roles in the film and they found the best from a talented group that is emerging from the cultural strains of their homeland to gain international recognition.

Zakes Mokae, who portrays Stanley, the taxi driver, now lives in exile in America. Mokae is considered a hero to every black actor in South Africa, having been the first to overcome official prejudice and harassment to make his living as an actor; Winston Ntshona (Gordon) and John Kani (Julius), with writer Athol Fugard, helped build The Serpent Players, a small theatre group in Port Elizabeth, into a company respected throughout the world; Thoko Ntshinga (Emily) made her debut with Cape Town's Space Theatre; Sello Maake (Johnson Seroke) is a member of Johannesburg's prestigious multi-racial Market Theatre, and Sophie Mgcina (Margaret) is one of the great black singing stars to come out of the townships with a voice known and loved throughout the world.

"We didn't want good American and British black actors but rather people who came from the real situation," says Weinstein. "We got South African actors who were committed to the theatre there and who now have a chance to have their talents seen on a mass basis. They all represent both the talents and struggles in South Africa."

Born in South Africa, actress Janet Suzman portrays Susan du Toit, Ben's loving yet unsupportive wife. As the niece of liberal member of parliament Helen Suzman, the drama of opposition was a part of Janet's everyday life while growing up. She ultimately had to make the decision between acting and political activism and, in 1957, moved to England to study at the London Academy of Music and Dramatic Arts. From there, she went on to become one of the world's foremost Shakespearean actors and has appeared in numerous films, including "Nicholas & Alexandra," for which she was nominated for an Academy Award. She also is a patron and founding member of Johannesburg's multi-racial Market Theatre.

Europe is represented by West German actor Jurgen Prochnow and Dutch actor Gerard Thoolen. Prochnow, most famous for his role as the World War II U-boat captain in "Das Boot," portrays Stolz, the Special Branch officer who justifies torture and murder as being for the "good of the country." Thoolen plays Col. Viljoen, the Special Branch officer who repeatedly tries to allay Ben du Toit's fears and frustrations over the mysterious deaths of Gordon and Jonathan Ngubene. Both actors shared the opinion of other cast members in that a Dry White Season would prove to be not only a challenge for them as actors, but a very exciting and important film as well.

Although set in Johannesburg and Soweto, A Dry White Season was filmed on location in and around Harare, Zimbabwe.

"Zimbabwe has an enormously cooperative film industry and there is a good work force as well," says Weinstein. "Parts of Harare looked very much like Johannesburg and we were also able to find a township in which to film the Soweto demonstration scenes. Everything we needed was there, which is not true of somewhere like Nairobi, Kenya, which has a more English colonial feel to it."

The production filmed on 45 different locations and employed 120 local technicians and between four and five thousand extras, black and white. Because there is no established acting community in Zimbabwe,

either in films or theatre, many of the "walk on" parts were cast from enthusiastic amateurs; ex-rugger players became Special Branch policemen, schoolteachers recreated their own lives as masters at Ben du Toit's school and freelance journalists became story-grabbing reporters and photographers outside the courtroom.

All of the Soweto sequences were filmed in Mafekose, one of Harare's oldest townships, which is located a few miles from the center of the city. Two thousand students, many children of exiles from South Africa, were given three days leave from school to march in the demonstration scenes.

All of the people of the township were very cooperative, allowing the film's art department to cut down their maize crop, take down fences, spread red earth over the roads and spray anything green (using a flour paste mixed with a red pigment) to make Mafekose look like Soweto in June. Many of the residents were very pleased when the production bought up the township's old doors, chairs, tables and curtains, and replaced them with new fittings. "We wanted them for sets in the studio," explains Production Designer John Fenner. "We could never recreate the detail on the furniture we bought from them. The paint had faded, the doors were kicked, bits were broken off, panels removed—it would have taken forever for us to make them look correct."

John Vorster Square Police Headquarters, possibly one of Johannesburg's best-known buildings and probably one of the most notorious, is, in reality, a ten-story glass front structure. In 1976, the entrance was similar to a hotel, but currently it is surrounded by a high fence and guarded gates. Palcy needed a building to match the real police headquarters and the Air Zimbabwe offices in Harare filled the bill for the facade, while the Zimbabwe Travel Centre doubled for the interior. Arriving on the set, one of the South African actors, who has more than a passing knowledge of the infamous Johannesburg building, agreed the Harare location was so like the real thing that there was constantly an aura of fear surrounding that particular locale.

A resident of Harare lent his house to the production as the set for the Johannesburg residence of the du Toits. The local man, Mr. Mpofu, returned after six weeks in a hotel at the production's expense, and happily found his garden rebuilt and replanted, the verandah repaired and a garage and study added to the back of the property.

In addition to realistic South African sights, the proper sounds of the region were of concern to the filmmakers. Tim Monich, a dialect coach from New York, was hired not to specifically encourage the actors to speak with genuine South African accents but, instead, to find a common sound, something that would not get in the way of instant acceptability to a worldwide audience.

The partnership of Weinstein and Palcy is more than the usual producer/director "marriage of convenience"—it is a trust based on a mutual respect and commitment to quality, and a passion for filmmaking. "Through all the ups and downs of getting the picture made, it was clear that we were both doing it for reasons far beyond making 'just another movie'—for us there was something more pressing," says Weinstein. "For me personally, it was a happy combination of being able to make this film with a black woman director, a woman with whom I could share visions and trust instincts."

The association is no less important to Palcy, who is the first black woman to make it to the top as a director of films for the international market. "Paula knows me better than anyone; we spent two and a half years together working day and night," says Palcy. "She's very supportive, she knows when I say I don't want this I mean it and she would never try to impose anything on me. We both knew that what mattered was the truth. We both know that in films we cannot always express things exactly as they are in life, yet when it comes to essential facts, we cannot lie."

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. I thank the Chair.

(The remarks of Mr. BURNS pertaining to the introduction of S. 1767 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

RECESS UNTIL 12 NOON

The PRESIDING OFFICER. Under the previous order, the hour of 10:45 having arrived, the Senate will stand in recess until the hour of 12 noon.

Thereupon, the Senate, at 10:45 a.m., recessed until 12 noon; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. METZENBAUM].

PROPOSED CONSTITUTIONAL AMENDMENT TO PROHIBIT PHYSICAL DESECRATION OF THE AMERICAN FLAG

The PRESIDING OFFICER. Under the previous order, the clerk will report the pending business.

The bill clerk read as follows:

A joint resolution (S.J. Res. 180) proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States.

The Senate resumed consideration of the joint resolution.

Mr. DIXON. Mr. President, I ask unanimous consent to proceed as though in morning business for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOW IS NOT THE TIME TO PROCEED WITH THE KOREAN FIGHTER PROGRAM

Mr. DIXON. Mr. President, President Roh Tae Woo of Korea is currently in the United States to meet with President Bush and other administration officials, and with the Congress, on a variety of issues. I welcome President Roh's visit. The United States and Korea have been strong allies, and I believe we all want that kind of good relationship to continue.

It is because of the warm regard I have for the United States-Korea relationship, and because of its importance, that I am taking the floor today to discuss a matter that needs to be addressed before it becomes a real problem between the United States and Korea. I am, of course, referring to the Korean fighter program.

As my colleagues know, the Senate passed an amendment authored by Senator HEINZ and me, together with a number of other Senators, urging the administration to postpone signing a memorandum of understanding on the KFP until some very basic but fundamentally important conditions are met.

The amendment's requirements were simple. It called for no "MOU" to be signed until:

First, the General Accounting Office has had a chance to review the proposal; and

Second, the Secretary of Defense has reported to the Senate and House Armed Services and Foreign Relations Committees assessing the impact of the proposed sale on the United States industrial base, the United States-Korea balance of trade, and the interagency coordinating and consulting process for analyzing sales of this kind called for by last year's Department of Defense authorization bill. However, the amendment was added to the State Department authorization bill, S. 1160. That bill is still in conference, so the amendment is not yet law. As a result, neither the GAO report nor the report of the Secretary of Defense has even been started yet.

Mr. President, I hope it is clear to both President Roh and President Bush that it would be premature to act on any memorandum of understanding covering the KFP until the requirements of that amendment are met. The FSX sale to Japan became very controversial, in no small part because the decision was made before the proper background work was done. As a result of the lack of that work, the wrong decision was made by the administration.

Congress came very close to overturning the President's veto in the FSX case. The veto was sustained by the narrowest possible margin. The KFP sale differs in significant respects from the FSX sale, but if the real questions raised by the sale are not satisfactorily answered, it could be even more controversial.

The Korean fighter program involves 120 aircraft. As currently constituted, the agreement would include:

The sale of 12 aircraft;

The sale of 36 kits for coassembly; and

The coproduction of 72 aircraft.

Korea has not yet reached a decision on which American fighter it wants. Both the F-16 and the FA-18 are

under consideration. However, an agreement covering either aircraft would likely cost between $1.8 and $3 billion. Since we had a trade deficit last year with Korea of over $10 billion, that may seem like a good idea. However, Korea wants "offsets," direct and indirect, totaling at least 30 percent of the contract price—and perhaps as much as 60 percent or more—which dramatically reduces any favorable impact the agreement could have on our trade situation.

In the KFP, we would be transferring major aerospace technology to Korea. There is not even a pretense that we will receive any technology in return. The transfer is all one way—from the United States to Korea.

Korea will be coproducing aircraft, not codeveloping them as in the FSX sale, which means the technology transfer involved in this proposed sale is somewhat less. However, there is still very extensive technology transfer involved.

Japan has 307 fighter aircraft. Korea has 480. It is therefore much more cost effective for both countries to buy U.S.-built fighters off-the-shelf or from kits rather than to codevelop or coproduce their own. Both countries have refused to buy off-the-shelf, however, for the same reason—they want to develop therir own domestic aerospace industries.

Korea has made it clear that development of their aerospace industry is a top priority. We don't have to rely on intelligence estimates to assess Korea's goals; the Korean Government itself has explicity stated its objectives. According to Mr. Chung Tae Seung, the Director of the Defense Industry Division of the Ministry of Trade and Industry, the Korean fighter program is designed to give South Korea world-class aerospace industry capabilities.

While both Japan and Korea want to compete with the United States in the aerospace area, there is an important difference between the two countries that we need to consider very carefully. Japan has a provision in its Constitution that forbids it from maintaining offensive military forces, and longstanding Japanese Government policy forbids the exports of arms. Korea has no such constitutional provision and no such policy with respect to arms exports. Reaching a "MOU" with Korea, therefore, will likely not only mean serious new competition for United States civilian aircraft manufacturers, it will likely also mean further proliferation in the manufacture of high-technology militrary weapons. The agreement could therefore contribute to the Third World arms race that is already underway.

Mr. President, I think we must act to ensure Korean national security. That is why we have troops in Korea. Maintaining the peace in Korea is in our interest as well as theirs. I do not believe, however, that we should endanger our own industrial base and transfer vital aerospace technology to Korea, just so the Koreans can use their military program to develop a major civilian aerospace industry. I do not believe that is in our national interest. I do not see how that helps enhance either American national security, or our economic competitiveness.

Once again, our negotiators seem driven by short-term considerations. Once again, they seem not to have pressed the American case for buying off-the-shelf strongly enough. In fact, the Defense Department's briefing material on the sale that was prepared earlier this year demonstrated a fundamental misunderstanding of our negotiating position. Its briefing paper stated that "the challenge to the U.S.-side was [to] walk the tightrope between dictating to an ally and going along with a program that it believed would not work." Unlike our Defense Department, I do not see how offering to sell United States-built high-performance fighters to Korea while refusing to sell them the manufacturing technology for those aircraft represents "dictating to an ally." In fact, by offering to sell first-line aircraft to Korea, we are demonstrating how important their national security is to us.

Korea, as I stated earlier, had a $10 billion trade surplus with the United States last year. Korea barely avoided being listed under the "super 301" provisions. Korea has made it clear that its drive for coproduction of fighter aircraft is not driven by national security needs, but by their desire to build an internationally competitive aerospace industry. Yet we are considering approving a sale constructed in a way that would give Korea vital United States aerospace technology, and to allow huge offsets that will further enhance the development of their aircraft industry.

These facts might well warrant refusing to permit comanufacturing at all; they certainly more than warrant the simple amendment requiring delay and analysis that the Senate acted on in July.

I therefore strongly urge the administration and President Roh to take that amendment to heart, and not to act on any MOU until the requirements of that amendment are met and until the questions it raises have been satisfactorily answered. There is still an opportunity for the administration and Korea to reach an agreement that Congress could support. That agreement would have to differ in major ways from the outline KFP sale that has been described in the press, but I believe that an agreement that meets Korean security concerns and American economic concerns can be achieved. I urge the administration and President Roh to take the time necessary to bring us that kind of agreement. To do otherwise, to repeat the mistakes that were made in the FSX case, to fail to provide Congress with the kind of economic and security information it needs to adequately consider any proposed sale, invites the kind of controversy that could be very hurtful to the U.S.-Korea relationship.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Texas.

AMERICAN-KOREAN RELATIONS

Mr. GRAMM. Mr. President, I want to make a very short statement about the speech we just heard from the President of Korea. I commend him on that speech.

I wish to simply remark on one thing related to American-Korean relations. There is something in every human heart that makes it most critical of the thing that it creates. We are more critical of our own families than we are of families in general, and I think it is important on this occasion to remember that the Korean economy and the Korean democracy are largely creations of America; that on the Korean Peninsula we have generated an economic and political miracle. There have been few legitimate elections on the mainland of Asia in history and two of them have been in Korea. So I commend the President of Korea and the Korean nation.

PROPOSED CONSTITUTIONAL AMENDMENT TO PROHIBIT PHYSICAL DESECRATION OF THE AMERICAN FLAG

The Senate continued with consideration of the joint resolution.

Mr. GRAMM. Mr. President, I want to speak very briefly here today—because I know my dear colleague from Ohio has other things to do, and so do I—in favor of the constitutional amendment to protect the American flag.

Mr. President, the Supreme Court struck down a Texas law which sought to protect the flag, and it struck it down on a logic with which I disagree. The logic was that if someone burns or desecrates the American flag as part of a political protest to make a statement, it is part of their freedom of speech.

Mr. President, I believe in freedom of speech. I believe people have a right to express their views. If they want to jump up and down to call attention to their views, if they want to set their britches on fire, as long as they do not set anybody else's britches on fire, they have a right to do that. But, I do not believe that freedom of speech extends to desecrating the symbol of the Nation.

I voted for the bill in which we attempt by statute to protect the American flag, but, Mr. President, I do not believe that law is going to be upheld because the same logic that struck down the Texas statute I believe will strike down that statute.

I want to read to my colleagues the text of the amendment that is before us. I read it to make two points. No. 1, it could not be clearer, and, No. 2, I want to ask my colleagues, in looking at this language, how could this in any way limit the legitimate freedom of the American people? The amendment reads, "The Congress and the States shall have power to prohibit the physical desecration of the flag of the United States." You cannot be more straightforward, simple, and direct than that.

There are many reasons I could give for wanting to protect the flag, but to save the time of the Senate and to improve the quality of my oratory, I thought I would share with my colleagues a speech that I heard the other day while visiting a school in my State. In fact, this speech was given by Kevin Jordan, who is a fourth grader at Pine Tree Intermediate School in Longview, TX. I am very thankful that this young man is not 30 years old and running against me for the Senate. In fact, I am convinced, were he 30 years old, he would be running on the same ticket on which I am running. But in any case, Mr. President, I cannot improve on what he said, and I want to share it with my colleagues, and then I will yield the floor.

WHY AMERICA SHOULD PROTECT THE FLAG

My name is Kevin Jordan. I'm here to tell you why I think America should protect the flag.

Our flag represents our country. We should be proud of our country. We should love it and show it respect.

The entire history of our nation is symbolized in our flag. The 13 tiny colonies which fought to be free are represented by the stripes. As the last two hundred years have gone by the field of stars have grown from the original 13 colonies to 50 as each state was added to our Union.

Building our country wasn't very easy. The red stripes on our flag stand for the blood shed from our fathers, grandfathers and other ancestors who fought and died to make our country strong. It's not just anybody who fought, it's my grandfathers who I love and care for.

We don't let people kill bald eagles, we protect them. We don't let people tear down the Washington monument, we protect it. We don't let people break the liberty bell, we protect it. We don't let people spray graffiti on the Vietnam memorial, we protect it. We shouldn't let people burn the flag; we should protect it.

Mr. President, the American flag is the symbol of the Nation. Some people take the view we ought to let the Supreme Court decide whether the flag should be protected. In many other countries in the world, we would not have any choice except to do that. But we have a choice. We have the opportunity once and for all and forever to protect the American flag.

I know it does not look like a big issue inside the beltway of Washington, DC, but I want my colleagues to know that in the fourth grade at the Pine Tree Intermediate School in Longview, TX, it is a very big issue. It is a very big issue in the large cities and small towns all over Texas and all over America. I support this amendment. I think it is reasonable. I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio [Mr. METZENBAUM] is recognized.

Mr. METZENBAUM. Mr. President, I rise in strong opposition to the amendment before us.

The path of history is littered with millions of men and women who were punished for expressing unorthodox views.

These countless tragedies have occurred at the hands of governments so distrustful of their own people, that they made criticism a crime.

If there's one thing that our Founding Fathers learned from the colonial experience—and from their knowledge of the earlier religious persecutions in Europe—it was that men should not be punished for disagreeing with their government. No nation has so jealously guarded the principle that everyone can have his or her say.

It is no accident that the fundamental right of Americans to differ, is enshrined in the first amendment of our Constitution. Each person can speak out, even if we hate the message and despite that messenger.

In 200 years we have never retreated from that principle. We have passed through innumerable crises—a Civil War, two world wars and a Great Depression—without every succumbing to the temptation to restrict the right of dissent.

This Nation's steadfast protection of free expression is a wellspring of strength here at home and a source of inspiration around the world. Around the world, men and women are willing to die for a taste of the right that we would voluntarily weaken today in this Chamber.

Why are we even considering such action?

We are here today because the Supreme Court ruled that Gregory Lee Johnson could not be jailed for burning the flag in protest of his Government's policies. Johnson indulged himself in a despicable form of protest, which strains the limits of our tolerance and tests our commitment to free expression.

Like others, I am hard-pressed to identify what kind of message Johnson's act conveyed, other than some sort of infantile rage at our President. Chief Justice Rehnquist may have been right when he said that flag burning is little more than an "inarticulate grunt" of dissent.

But the Court majority in Johnson properly recognized that the first amendment does not make exceptions for expression that is inarticulate or unsophisticated. Both Johnson's message—and the manner in which he expressed it—demonstrated contempt for all that Americans hold dear. But in this country, we do not punish people for contemptuous expression.

The question before the Court in Johnson was not whether the Justices loved the flag. Rather, the issue was whether the first amendment allows government to prohibit expression which it finds to be disagreeable or offensive. The answer to that question is no.

Today, the question before us is not whether we love the flag enough to protect it from desecration. No one doubts that every Member of Congress loves the flag.

No, the real question is whether we're going to ignore the first amendment and suppress a form of expression which we do not like. To put it more bluntly, Mr. President: Are we going to allow a character like Johnson to bait us into weakening the Bill of Rights. The answer to that question must be "No."

There is no political charter more eloquent or durable than the first 10 amendments of the Constitution. Compare the eloquence and majesty of the Bill of Rights with the proposal we are considering today—a measure which reads like a municipal ordinance. Compare the wisdom and experience which spawned the Bill of Rights with the crass and hasty political machinations which gave birth to this amendment.

Supporters of this proposal assert that there's no "real" loss of first amendment liberties, since protesters like Johnson can express their dissent in countless other ways. This is a dangerous argument, Mr. President, which has no root in our tradition.

When governments are allowed to decide which forms of protest are acceptable—and which are not—the right to dissent is all but meaningless. Certainly there are nations that allow their people to disagree with the party line, as long as they do so in an officially sanctioned manner. Until today, ours has never been such a nation.

Supporters of this measure also urge that our respect for the flag must be codified into law. I love the flag as much as anyone in this country. But it is contrary to our values to legislate devotion to the flag. What is the value of patriotism forced by the threat of prison? What is the worth of respect for the flag if we jail those who do not display such respect?

Every day, Mr. President, legions of Americans quietly, routinely and freely decide to display the stars and stripes. The flag is well protected by the pride and reverence which those millions feel whenever they see it flying.

Respect for the flag is not under siege. There's no epidemic of flag desecration in this Nation. American values are not being undermined by flag-burners. That is why the American people are not clamoring for us to amend the Constitution.

Look around, Mr. President. The stock market has taken a huge tumble. The budget deficit is still unaddressed. The scourge of drugs and violence continues to wreak havoc in our cities. And we act as if the security and solvency of the entire Republic hinges on our ability to jail flag-burners.

The Senate has spent a huge chunk of time needlessly fiddling with a constitutional amendment that will do far more damage to this country than Gregory Johnson could ever have dreamed of. If ever there was an issue in which the solution is far worse than the problem, this is the one.

Just read the language of the amendment. It gives Congress and the States unfettered discretion to define flag desecration. The proposal states that "physical desecration may include, but is not limited to * * * displaying the flag in a contemptuous manner." It is hard to imagine language more open-ended than that.

The Judiciary Committee heard from law professors who testified that this language could allow States to outlaw displays of the flag at a meeting of an unpopular political group. States could jail artists who paint disrespectful or inaccurate renderings of the flag.

Filmmakers could be punished for displaying the flag in a movie which is considered offensive or anti-American. I do not like it when advertisers use the flag in TV commercials. But I do not think we ought to pass a constitutional amendment which would enable us to outlaw that practice.

Consider for a moment, the impact of allowing each of the 50 States—and perhaps thousands of localities as well—to decide what flag desecration is. A person driving across the country could be arrested for having a flag sewn onto his clothes, even though that might be perfectly legal in his home State. Indeed, when the Attorney General of the United States was asked whether wearing the flag on an article of clothing would be desecration, his reply was: "It depends on how it is worn * * * what the intent is."

Mr. President, if this was not so serious, it would be ridiculous. We are actually considering amending the Constitution so that States can, if they wish, jail people for wearing the flag in a disrespectful manner—depending on "what their intent is." This kind of loyalty law is the hallmark of Communist countries and rightwing dictatorships. It has absolutely no place in this country.

Mr. President, this amendment is a waste of the Senate's time and a threat to the Bill of Rights. Aside from that, the most disconcerting aspect of this issue is that some of my colleagues might vote for this ludicrous, unworkable, and dangerous proposal, even though they know full well that it is wrong to do so. Why? The answer can be summed up in two words: politics and fear.

The truth is that we are seriously considering cutting back on the first amendment in order to avoid giving our opponents an issue in the next election. The Bill of Rights is being held hostage to fears of negative advertising spots in next fall's campaign.

I am a realist, Mr. President. I have been around politics long enough to know that some votes are tougher than others. Sometimes Members of the Senate have to sit out an issue in order to be able to fight more important battles. But let me tell you something: this is not one of those times. There is not going to be anything more important than standing up for the first amendment right now—today.

We cannot allow ourselves to be bullied by this unprecedented escalation of the politics of patriotism. If we yield now, how are we going to resist the next effort to stifle unpopular or offensive protest—an effort which also will be couched as a test of our patriotism. If we get stampeded into shrinking the first amendment in order to deal with the nonexistent problem of flag desecration, imagine how ill-suited we will be to resist such efforts during a real crisis.

Certainly there is no end to the politically appealing arguments which can be made against the Bill of Rights. Take the fourth amendment's protection against unreasonable search and seizure—well, there is a drug war on, let us get rid of it. Or how about the fifth amendment privilege against self-incrimination—that only helps criminals. Sixth amendment right to counsel—well, it costs too much to give poor defendants their own lawyer. Or how about the right to a jury trial—that clogs the courts and slows down the criminal system.

Mr. President, the Bill of Rights is not designed to protect people or ideas that would win popularity contests. The Constitution would be just an ordinary political document if it only protected views favored by the majority. And we will take a giant step toward turning it into an ordinary document unless we reject this proposal before us.

If we reject this amendment today, we will be doing more than simply honoring the flag and the liberties for which it stands. By rejecting this amendment, we will be saying to the Nation that there is a limit to how shallow our politics can be. We can show the American people that our votes on issues are not dictated by fears of 30-second TV spots which distort issues and smear reputations. And by rejecting this amendment, we can show the Nation and the world that the Bill of Rights is not just another political football, which can be put into play whenever some campaign consultant thinks it might be worth a few points in the polls.

Mr. President, I hear a great deal of talk about how there's a decline in values in this country. I think such talk betrays a lack of faith in the decency and strength of the American people. But if there is anything that signals a decline in values, it is the cynical idea that the flag and the Bill of Rights are just political pawns to be manipulated by campaign managers and media consultants.

Let us show some strength, Mr. President. Let us show that we have enough faith in our people's love for the flag that we can avoid mandating their devotion to it. Let us show that we're strong enough to keep one lone flag-burner from propelling us into amending the Constitution. And let us show that the threat of being wrongly smeared as unpatriotic, will not keep us from standing up for the Bill of Rights.

Let us reject this amendment.

I yield the foor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KERRY] is recognized.

Mr. KERRY. Mr. President. I want to thank the distinguished Senator from Ohio for his comments, as well as his early leadership on this issue. He has spoken out with courage on it. It is obviously not always easy to explain why one opposes an amendment to the Constitution to protect the flag. I think his voice has been loud and clear, and I appreciate it.

Mr. President, in the immediate heat of the moment after the Supreme Court decision, I, like others, reacted with immediate disbelief and anger, and in a sense I could not understand why the Supreme Court has not taken steps to protect our flag, as we have heard the Senator from Texas and others describe it.

As a veteran, I was particularly sensitive, Mr. President, because I think all veterans hold the flag in a particular place of value, because of their service to country and because of what it came to mean in that context.

Since the moment when that decision came down and we had a first reaction on the floor with a resolution, this process in its infinite wisdom has

given us an opportunity to take time to think, to reflect on the Constitution, to reflect on the first amendment and on the principles that they embody. I am very grateful for that time, Mr. President, because it has permitted me to go back and read the case law, to read our constitutional debates, and to reflect on what is really at stake here.

In the quiet of my home, away from the political caldron of Washington, I came to an inescapable personal decision—an amendment to the Constitution to protect the flag would do violence to the essence of our freedom in this extraordinary country of ours. It is ill advised; it is unnecessary; it is unwise; it is wrong.

There are a number of reasons for my drawing this conclusion, some historical, some legal, and some very personal. First, Mr. President, we have passed a law. I voted for that law, and I believe that law adequately protects the flag. I voted for this statute not because a statute is so essential to protect the flag of the United States, but because the flag is a symbol vital and important enough to deserve a ratification of law that has existed in 48 States of this Union, and because I believe that one can do so without doing violence to the first amendment. I did so mindful of the fact that a majority of the current Court has made it clear that if a statute were passed, seeking to "protect the physical integrity of the flag in all circumstances," such a statute could withstand constitutional scrutiny.

I did so, Mr. President, recognizing that in the Johnson case, it was the message for which Johnson was punished. To pass constitutional muster, there can be no linkage of the act the statute seeks to prohibit and the message that the burner seeks to express, or in some other act seeks to express. I believe the statute we passed avoids that linkage.

So I believe, Mr. President, in passing a statute to protect that flag, we have met whatever threat someone can define, and we as citizens and Senators have affirmed our concern for the flag. But what if we have not? What if it did not pass constitutional muster? Do we want to change the Constitution of the United States of America for this purpose?

The Constitution has been amended only 16 times in the 198 years since the Bill of Rights was ratified. No amendment has ever limited the Bill of Rights itself. That fact alone makes us question why we are here at this particular moment. It was, after all, only 6 days after the Court's decision that the President proposed a constitutional amendment, dead in the heat of the emotions swirling around that decision, and one wonders how much careful deliberation went on in this period, how many constitutional scholars suggested that this was worthy or important?

But you do not need to look far to understand what has really brought us to this moment, in this deliberative body, to this remarkable consumption of the Senate's time, while we sit with a sequester and while debt piles up.

The New York Times of July 24 may have given us the answer when it reported:

> Republicans are poised to use a vote for or against a constitutional amendment as a critical weapon in the rough politics of values.

Or as a Congressional Campaign Committee aide said: "It's going to be a very long campaign season for those who get on the wrong side of this."

Or as a very high official of the Republican party said: "We don't intend to make this a partisan issue. The only people who will make it a partisan issue are Democrats if they choose not to support an amendment."

Mr. President, I believe it is really tragic for the process and for the country alike when the flag and Constitution are abused for partisan politics. That is its own form of desecration.

Symbols have always been an important part of the governing process of any nation, and we, in the United States, are no exception. Symbols are important to candidate, to party, to country, to community.

But no one ever suggested that symbols and the debates about them should become a substitute for the real process of governing. In the final analysis, this debate is really one more in a long stream of symbolic substitutes.

Too much of the vital debate of this country has been consumed by one symbol or another being thrust into the national consciousness, tapping into the hopes, fears, and prejudices.

But no symbol better underscores government by the symbol than the current debate taking place in this Chamber.

It is hard to believe that with all the other pressing problems this Nation faces this Senate should be forced to devote such energy to this curious choice of priorities.

It is one thing to pass a statute which regulates conduct and which, by most interpretations, does not do violence to the bill of rights and the first amendment in order to protect our cherished flag. It is another to change the Constitution itself so that you take away from future generations the ability to be able to make a judgment about some future form of expression with respect to the flag.

As Duke law Prof. Walter Dellinger testified before the Senate Judiciary Committee:

> This potentially dangerous amendment would create an entirely unlimited exception to either one, some, none or all of the Bill of Rights; it would place this power in the hands of all future Congresses, 50 State legislatures, the government of the District of Columbia, and perhaps as many as 14,000 local governments; it would set a dangerous precedent for resorting to the amendment process for the curtailment of the rights of the unpopular in general, and for unpopular speech in particular; and it would deprive the first amendment of much of its moral legitimacy by suggesting that speech that is deeply offensive to most of us will be suppressible, while speech deeply offensive to others must continue to be tolerated.

As Professor Dellinger explained, it is possible to presume that this constitutional amendment is not intended to modify the first amendment to limit freedom of speech—but in that case, Mr. President, it would not reverse the Supreme Court's ruling in Texas versus Johnson. That is supposedly the purpose that is before us today. Or we could understand the amendment, as I think most of us do, as literally trumping the first amendment and any other provisions of the Bill of Rights that might limit protest with respect to the flag.

If it does that—and I believe it does—this amendment undermines not only the powerful, clear understanding that we now have in the United States that no one can be prosecuted for expressing an opinion, but it also undermines what Professor Dellinger calls the "moral legitimacy of the first amendment."

As Professor Dellinger concluded, this amendment "would reward Gregory Lee Johnson with his ultimate trophy, the 27th amendment to the Constitution of the United States." If we adopt this amendment, Johnson will have succeeded beyond his wildest imagination. He will have succeeded in taunting us into drafting a permanent blemish onto our most fundamental constitutional principles. He will have succeeded in making us look just a little silly and a little less free and a little less brave.

Mr. President, I cannot help but feel that an amendment to the Constitution for this purpose is not the mark of a nation that feels and vibrant, confident in the natural affection that flows from citizens to the symbols of nationhood.

A nation so strong and vibrant does not need to change the bill of rights to protect a symbol. That symbol should be protected by the very love and devotion which elevate symbols in the first place.

I believe that we have more to fear from passing an amendment prohibiting the burning of a flag than we do from the act of some miscreant burning the flag itself. The passage of such an amendment is an act of fear. We are not a nation which shows signs of losing our confidence. We have not lost our ability to look a demagog in the face and stare him down, and surely we are still a nation whose

scorn and public approbrium for a flag burner should be protection enough.

James Madison warned us of the dangers of exactly what this amendment seeks to do.

On June 8, 1789, Madison rose to propose the amendments to the Constitution and that became the bill of rights, and what he said was: "It is necessary to proceed with caution, for while we feel all these inducements to go into a revisal "—his word—" of the Constitution, we must feel for the Constitution itself."

He said:

I should be unwilling to see a door opened for a reconsideration of * * * the principles and the substance of the powers given, because I doubt, if such a door were opened we should be very likely to stop at that point which would be safe to the Government itself.

So James Madison in proposing the Bill of Rights itself cautioned us about the respect for those rights, Mr. President.

I do not believe that Americans need to hide behind an amendment to protect the glory of our flag. The Stars and Stripes does not need any one individual to protect it, because its strength and its power does not come from any one protector or from any one amendment.

The flag is such a powerful symbol precisely because it embodies everything we are as a people, everything that we offer our people, and everything that we want to be as a nation.

Is flag burning really so epidemic in this country that this extraordinary institution has to be consuming its time with this debate, especially having passed a law? How many flags have been burned recently in America? How many flags have been burned ever in America? How many Americans are threatened in their streets or homes because flags are being burned? How many children have come home to ask a parent about people who burn a flag?

If the answer is, "one flag burned in America is too many" I am left asking, is that really what this fuss is all about—one flag burning? Is that sufficient in the face of the law we passed for the Government of the United States to change its sacred bill of rights for the first time ever?

The question Americans ought to be asking is who in the U.S. Senate will stand for what America is really about?

The question we ought to be asking is not who will protect the flag but who will protect the Constitution and the Republic?

Who is willing to define the real strengths and weaknesses of this country?

I just cannot help but think that an amendment to protect a symbol that needs no added protection actually weakens what that symbol represents. Those who vote for an amendment and assert a proprietary political patriotism so brazenly, diminish the real definition of patriotism.

What is patriotism after all? Patriotism is love of country, not love of flag, but love of country, a country that tolerates its dissent, not a flag that does that; a country that forgives its wayward sons and daughters, not a flag that does that; a country that with its magnanimity is able to forgive the errors of folks who demonstrate in ways that we may not approve, but not a flag that does that. It is not a flag that does any of those things, Mr. President, but a country that has confidence in its strengths and its willingness to do them.

If this amendment were to pass, it will not be the first time that a legislative body has pandered, but it will be the first time that the U.S. Senate will have taken so powerful a national symbol and in the name of protecting what it stands for weaken the very foundation on which it stands.

After this vote is taken, I wonder, Mr. President, will America be stronger for the vote? Will we wake up tomorrow and breath a sigh of relief because Old Glory now has a constitutional amendment to protect her from being defiled by some miscreant who would be totally ostracized by any community that believes in that flag? I wonder, perhaps, if this would be an act that we will commit not unlike that referred to in Shakespeare's words when he talked about an act "full of the sound and fury but signifying nothing."

The problem is, Mr. President, that on further reflection this is not an act that under any circumstances can signify nothing, because it will in truth diminish the real power of this country, which comes from confidence in ourselves, from laws that are properly applied, from aspirations adequately fulfilled, from opportunities that are broadly created.

Some might suggest that a vote on this amendment really is not about protecting the flag that protects itself, but it is a vote as symbolic as the flag itself—an affirmation of our national pride and patriotism. I understand how colleagues and others may feel that way—but I say there is nothing symbolic about the impact that this has on rights and nothing symbolic in its comment on our national state of mind.

By voting not to pass an amendment we could, in fact, give real definition to the strength of the Stars and Stripes, and a real affirmation of American values.

Mr. President, my most important reservation about this amendment is deeply personal. It has to do with my opposition to the war in Vietnam and my experience as a soldier in Vietnam and the efforts that many of my friends, fellow veterans and I made to end that war. It has to do with lessons learned about the importance of many different kinds of protest—different kinds of expression—and the value to this country of never limiting our tolerance of dissent.

During the years of civil rights protests and Vietnam war protests, countless citizens expressed countless feelings through symbols—peace signs, dress codes, the form of demonstration—all contributed to the process of communicating something about self and about ideas about their country. The famous case of Cohen versus California in 1971 illustrates this when Justice Harlan wrote about epithets about the draft written on the back of a jacket saying, "One man's vulgarity is another's lyric."

Eighteen years ago I was a leader, or one the leaders, of a group of veterans opposed to the war. We came to Washington—more than 5,000 strong. We took part in a week-long demonstration in front of the Capitol. It included many different forms of protest. No one would have tolerated, as a veteran, the burning of a flag, nor was there ever a burning of the flag.

But there were dramatic moments involving symbols. On one occasion, a group of marines carried an American flag upside down—marines, honorably discharged with medals and decorations, carried an American flag upside down—the international sign of distress. They took extraordinary care to never let the flag touch the ground, to fold it formally and correctly; but, nevertheless, people saw in their act what they wanted to see, many misinterpreting it. And despite their scars, despite their medals, despite their uniforms, their love of country and honorable service, some observers disdained their form of protest.

Ironically, after the Supreme Court flag decision, hundreds of veterans flew American flags upside down in protest of the decision, and not a murmur was heard. Same flag—same tradition—same form of protest—but different messages and meanings in the eyes and mind of the beholder.

It seems to me that nothing could tell us more about our ability to fall prey to passions applied differently to similar forms of protest.

In another ceremony, a ceremony of extraordinary powerful emotion, the veterans assembled returned to their country and Government the symbols of their service as a way of trying to reach the conscience of the Nation. One by one we stepped forward and dropped, threw, hurled, or placed medals or ribbons or certificates of service or berets or something that had been worn in Vietnam over a fence erected in front of the Capitol. And I will never forget the sorrow and the anguish as I put over that fence

my own ribbons and, at his request, the Bronze Star of an absent friend.

I do not think there was one dry eye among those veterans who gave back the symbols of a war that we thought should end forthwith. That, too, was a confrontation with symbols which many could not understand. It called to question the very patriotism of men who loved their country deeply, who had bled for it and were willing to do so again.

That event and its use of symbols reinforces deeply in me, Mr. President, the caution with which we should approach any restraint whatsoever on freedom of expression. It showed me how fragile is our patience, how easily upset our tolerance, and how quickly some might judge unacceptable an act which someone else deems patriotic. We cannot afford to pick and choose expressions we agree or disagree with based on a moving standard. The first amendment has always understood that pact.

Mr. President, my flag did not send me to Vietnam. My country did. And like thousands of others veterans, when I fought there, I fought for my country. I fought with my flag and with great pride, but not for it specifically. And when a firefight ended, Mr. President, I thought not immediately about the flag, but about wounded or about how wonderful it was to be alive or about friends and family who seemed so far away. And when we talked in quiet moments, Mr. President, about the war, about home, we talked about politics, about communism, about foreign policy, about strategy, about R&R, about wives and girlfriends, about past wars, about the peace movement, about protests back home—about the future—I do not believe I ever heard a fellow soldier in one of those discussions talk to me about the flag. We did not need to, Mr. President. We respected it—even revered it. It was with us everywhere. We needed no constitutional amendment to affirm its status.

The other day I stood at attention, hand across heart, singing the "National Anthem" at the opening of a Red Sox game. It was a beautiful evening, Mr. President; the sky was clear and the Stars and Stripes stood out briskly fluttering in the breeze. And as we sang the words, "the rockets' red glare, the bombs bursting in air, gave proof through the night that our flag was still there," I was struck with the simplicity and clarity of the choice that we face in the U.S. Senate. Through bombs and rockets, through fires and pestilence, through war and peace, our flag is still there. And it is there without hungry politicians grabbing for proprietary political advantage, without amendments to protect it, without challenges to the Bill of Rights.

And as I watched and I listened and I saw the proud flag waving in the night, it just hit me, and I said, "What is all this fuss about? What is this really all about?" This flag does not need us to protect it. It will protect itself because of the Republic for which it stands. And if we protect the Republic, Mr. President, the flag will take care of itself.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa [Mr. HARKIN] is recognized.

Mr. HARKIN. Mr. President, first of all I want to commend my colleague and friend from Massachusetts for a very impassioned and very eloquent statement. I listened intently to his speech and to his comments, and I can tell my colleagues, I know they come from the heart and from the soul of my distinguished friend and colleague from Massachusetts.

Like him, I am also a veteran. When Senator KERRY speaks about the flag and what it means to him as a veteran, it strikes very close to home with me. I want to thank him for taking the time to be here on the Senate floor and for speaking those very eloquent words in support of our flag and what our flag really represents.

I commend him for his very, very eloquent statement.

Mr. KERRY. I thank my colleague.

Mr. HARKIN. Mr. President, today we consider an amendment to the Constitution of the United States to ban the burning of our flag. In considering this amendment we must separate our passions from our reason. We must seek not just to preserve the flag, but to preserve the principles and the values it represents.

As my colleague before me, I speak as a veteran, a Vietnam-era Navy pilot. I also speak as a proud member of American Legion Post 562 of Cumming, IA, my hometown where I was born and raised.

Nobody cares more about his or her country than the men and the women who served in our Armed Forces. I guess that is why this flag-burning decision got under the skins of so many of us. We all have memories that cut very deep, to the heart. When we see a flag burning, it is like something burning inside of us.

As my colleague from Massachusetts, I think of all the friends I lost in Vietnam defending our flag. I think of the years of service that I put in as a Navy pilot, putting my own rear end on the line, day after day. But I was lucky.

I remember escorting the body of a fellow pilot to his home and presenting the flag to his widow.

I remember what that flag meant to my mother, an immigrant from Yugoslavia, who could barely speak English. We always had a flag very proudly displayed in our home because, to my mother, that flag meant the freedom and opportunity of her new country.

I have not forgotten these things and I never will forget them. And even now, the American flag standing proudly by my desk is the first thing I see when I go to work in the morning and the last thing I see when I go home at night. So, let me tell my colleagues what I felt when I first heard about the Supreme Court decision which gave the green light to flag burning.

My first reaction was immediate. It was to see if there was some way we could take those people who burned the flag and strip them of their citizenship and expel them from the country. In fact, I even called up my staff to see if such a thing could be done. I thought, if they hate our country that much, they do not deserve to be citizens.

That is how I personally felt about these flag burners, and that is how I still feel about flag burners.

As I found out, of course, we cannot strip people of their citizenship for that reason or other reasons. That is why I supported legislation recently that would make flag desecration a punishable offense. Because the flag is not just the symbol of our Nation. It is really and truly the embodiment of our aspirations, our highest ideals as a Nation. Respect for the flag is a sign of respect for the democratic ideals that countries the world over want to emulate.

So our laws should encourage this respect as an essential ingredient of good citizenship. But an amendment to the Constitution, in this case a first-ever amendment to the Bill of Rights as now proposed before us by President Bush, is quite a different matter. When the President first came out with the proposed constitutional amendment, when I was asked my opinion of it, I reserved judgment. I reserved judgment because of my strong feelings on the Supreme Court decision, which I still have.

I was also concerned about the effect such an amendment could have on all of our first amendment freedoms. I felt the anger that so many others felt toward those who would burn and desecrate our flag. So, like many Americans, I was torn by these conflicting emotions.

I turned to my fellow veterans to see what they felt. Again, some were for, some were against. But I listened and listened very carefully. The arguments of those veterans who were against the amendment became clearer and clearer and made more and more sense to me.

As time has passed, more and more veterans I have heard from and talked to have told me of their opposition to this amendment. I note for the RECORD, Mr. President, I have received

159 letters from my Iowa constituents in favor of the constitutional amendment, and 157 against it. Nearly an even split.

However, I want to point out an interesting fact. The bulk of the letters supporting the amendment came right after the Supreme Court decision, while most of the letters against the amendment have come over the past several weeks. Among my Iowa constituents, evidently, passions have cooled considerably over this amendment.

I expected one of my neighbors, for example, Joe Daley, who got five Purple Hearts, to be gung ho for a constitutional amendment. But he told me he was absolutely opposed to an amendment, and as near as I can remember what he said, he said: "I fought for freedom. I didn't fight for doing away with it." This is from an individual who got five Purple Hearts.

I read a letter to the editor in the Des Moines Register on the Fourth of July, from Bob Watson, of Decorah, a former marine sergeant and decorated disabled Vietnam veteran, who said in his letter:

> Give not patriotic words to dead men who have died in war. Most of the men I knew who died, and they died every day, would have just as soon been home, attacking politicians for being so unclear in their thinking as to have gotten those men into combat in the first place.

Then I read an article that appeared in the Cedar Rapids Gazette, by a former POW in Vietnam, a man by the name of James Warner. Let me read a part of his article. He said:

> It hurts me to see other Americans willfully desecrate the flag. But I have been in a Communist prison where I looked into the pit of Hell. I cannot compromise on freedom. It hurts to see the flag burned, but I part company with those who want to punish the flag burners.

He goes on to say how in the prison camp he was given a choice. He could renounce his country and leave and be free, or stay and be tortured. James Warner chose to stay.

The North Vietnamese tortured him and tried to break his spirit, but they could not. During one interrogation and torture session, his captors showed him a photograph of some Americans protesting the war by burning the flag.

"There," the officer said, "people in your country protest against your cause. That proves you are wrong."

"No," Warner said, "That proves I am right. In my country we are not afraid of freedom, even if it means that people disagree with us."

The article by James Warner went on. He said:

> In that moment, the interrogator was on his feet, his face purple with rage. There was also pain in the interrogator's eyes, compounded by fear. The Communist feared freedom; only freedom could be used to defeat him.

That article, written by an individual I have never met, a former POW, had a profound effect on my thinking. But perhaps the comments of another Iowa veteran I met at a coffee shop this summer when I was traveling around Iowa captures the perspective of what we are talking about.

This just happened when I was in a coffee shop talking to a number of people, some people talking in favor of the amendment and some people against it, and the talk was going around the table. This one guy just said, as best I can recollect:

"Look," he said, "this flag burner, this Greg Johnson, he's just one of a handful of kooks. Should we change the Bill of Rights, which has never been changed, for a handful of kooks?"

After he said that, a number of people around the table began to nod their heads and think, yes, he has a point. Should we change the Bill of Rights for a handful of kooks who want to burn the American flag? Burning the flag is a sick and very violent act. It aroused very hot passions in me and many other Americans, but there is a difference between America and North Vietnam; there is a difference between America and China, and that difference is freedom. Look what the Chinese dictators did to the students who made a Statue of Liberty. I heard someone else say one time that if you want to go to a country where they punish flag burners, go to China; they will take good care of you. But none of us want to live in that kind of society.

We have to look at the Senate because the proposed amendment is in front of us. I think it is appropriate, Mr. President, that some time has passed between the Supreme Court decision and today on the Senate floor. It is appropriate because of what Thomas Jefferson once said. Thomas Jefferson once called the U.S. Senate a saucer that cools the hot coffee, the hot passions of our times. To Thomas Jefferson, the Senate was the place where those hot passions of the moment could be cooled, where the Senate could take a look at something in perspective without the drumbeat of hot passions of the moment.

So I hope that the Senate will exercise its judgment and its historical mission to cool the hot passions and reject this ill-advised attempt to amend the Bill of Rights, part of the Constitution of the United States.

As a veteran, I will never desecrate the flag, but as a veteran and an American, I also do not want to do anything that would desecrate what our flag represents.

So I urge my colleagues to exercise the courage of their convictions, to vote to do what is right for our country, not to fall prey to the host passions of the moment, nor to fall prey to the easy demagoguery of wrapping oneself in the flag to prove one's patriotism. The way to honor our flag is not to destroy the most precious freedoms for which countless Americans have fought and died. I believe that we can leave this debate with a positive legacy, not a diminution of our rights as citizens, but an increase in the public displays of the flag, an increase in people's knowledge and understanding of the flag's history, an increase in the understanding of what the flag stands for, and an increase in good citizenship and public service. In other words, Mr. President, we are proud of the flag. Let us fly the flag. We are proud of the flag. Let us tell our children and grandchildren about what that flag represents, what it means, and why so many died for it.

There are many ways that I see our flag being desecrated today, when you look at it. I see it used as tablecloths and napkins. I see it used as scarves in women's clothing. I saw an advertisement not too long ago, Mr. President, for alcohol with the American flag behind it, selling a legal drug with the American flag standing proudly behind the bottle of whiskey. Mr. President, that flag in my mother's house was not used as a tablecloth, and it was not used as a scarf, and it was not used to keep a can of beer cold. I grew up believing there was a proper way to hold the flag, a proper way to display it, and to be proud of it. Across the country, I am counting on our veterans to continue to promote the proper respect for the flag and encourage more Americans to fly it proudly.

Throughout this debate, I have noticed one thing that says something very positive about our country today, and this really is the essence of my remarks. There is something very positive that has happened in our country. Twenty years ago, there might have been some who supported this flag burning. Today, though some disagree on how to best deal with it, everyone agrees that flag burning is wrong. I believe that is a step in the right direction, a giant and positive step in the right direction in our country. I take that as a sign of renewed patriotism, a renewed respect for our veterans, a renewed belief in the ideals of democracy.

Mr. President, I hope the Senate will carry forward this positive legacy by showing its respect for the document of our democracy and the linchpin of our freedoms, that which the flag stands for: Our Bill of Rights, our Constitution. I urge my colleagues to show their respect for the flag by rejecting this dangerous attempt to destroy what the flag represents—our basic and fundamental constitutional freedoms.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Wisconsin [Mr. KASTEN].

Mr. KASTEN. Mr. President, over the last two centuries the American people have amended their Constitution 26 times. In each case, there has been a clear and present public purpose for the amendment—and these amendments have improved the legal and political framework of our Nation.

Today, we have an opportunity to set in motion the 27th change in the Constitution of 1787, an amendment that would protect our most sacred national symbol.

Mr. President, we have all heard a great deal of debate about the issue of flag burning. What we are to do today is to give voice to the American consensus—the consensus that the flag ought to be protected from desecration by the fundamental law of our land.

Americans share a deep conviction that guaranteeing freedom of speech and protecting the American flag are far from incompatible goals. Rather, they are both essential components of the spirit that makes us Americans.

In his spirited dissent in Texas versus Johnson, the 5-to-4 Supreme Court decision that has occasioned our debates, Justice John Paul Stevens argued that the American flag "is a symbol of freedom, of equal opportunity, of religious tolerance, and of goodwill for other peoples who share our aspirations."

Mr. President, I would go further than that. The flag of our country is more than merely a symbol of our country, because our country has many symbols; no, the flag is the symbol of our country. It is the symbol par excellence of everything that is good about our country, of everything that we have tried to accomplish in this, mankind's greatest experiment. It is even the symbol of our first amendment.

It is these very ideals and accomplishments that we are truly honoring when we try to protect the American flag.

I do not believe there is any merit to the contention that our flag amendment impinges upon the first amendment. America has a first amendment because we Americans believe that the right to dissent is central to human freedom. Nothing in our proposed amendment would take away or in any way inhibit that right. Every conceivable avenue of dissent—whether it is loudspeakers, radio, TV, pamphlets, or any other form of communication—remains to open to the dissenter.

The only avenue we will be closing is physical desecration of the symbol of America's tolerance itself—the American flag.

That symbol has represented liberty not just to Americans, but to the millions of men and women all over the world who prize that liberty. This is because it is a truly unique flag. It is the flag of the first human republic to be built not on the basis of race or ethnicity, but on the firm foundation of the human rights that are common to all men and women.

Before the American experiment, people of the same ethnic and regional background would gather around their provincial lord and fly his banner. The United States introduced a new dimension to this patriotism, by showing that men and women could be bound by stronger ties than common residency in a fatherland. They could be bound together by their ideas.

These new Americans spoke different languages, worshipped in different kinds of churches, and had different skin colors. What they shared was infinitely more important than what divided them, because what they shared was the dream that this country would rise up to be a republic of freedom and tolerance that would amaze the world.

Together, they created a symbol of what they called this "new order of the ages"—and this symbol was the Stars and Stripes, a banner that carries all the mystical weight of these ideas of freedom, tolerance, and brotherhood.

Mr. President, I am persuaded by those among us who are legal scholars that a constitutional amendment—instead of a statutory enactment—will be necessary if the integrity of the flag is to be protected.

Let us recommit America to the ideals of her founding, and vote to protect both our right to dissent and the objective symbol of our right to dissent—the flag of the United States of America.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I rise as an original sponsor of Senate Joint Resolution 180, which proposes a constitutional amendment allowing Congress and the States to ban desecration of the American flag.

On October 5 of this year, 91 Senators voted in favor of H.R. 2978, a statutory attempt to protect the American flag. In doing so, our goal was very clear. No one should be allowed to desecrate the most outwardly recognizable symbol of our country. I voted in support of the statute. Today our debate is of a different nature. We have established that the Senate favors protecting the flag. However, we did not guarantee the citizens that flag desecration will not occur.

Senator BIDEN and his very capable staff worked diligently on the statute and they should be commended. I believe it is the best solution short of a constitutional amendment. And as Senator BIDEN stated, "It is simple and it is quick." However, like the Attorney General of the United States, I do not believe that the Supreme Court would find it constitutional.

So the basic question today as we debate this constitutional amendment is this, in my opinion: Do we want the flag of the United States to be burned and mutilated, destroyed, or not?

If the American people feel very strongly, as I believe they do, that we should not allow desecration of the flag, we should not allow it to be burned, I am convinced we are going to have to go with the constitutional amendment. The statute will not be enough. So we can talk about legal terms, court decisions. We can talk about the first amendment, but it is a basic debate: Are we going to allow the flag to be burned or not? Are we going to allow the Congress and the States to take action to prevent that or not? If that is our intent, then I believe we are going to have to pass this constitutional amendment.

Senate Joint Resolution 180, like the bill, H.R. 2978, is the result of the Supreme Court's 5-to-4 decision in Texas versus Johnson. The decision overturned the Texas statute prohibiting intentional defacing of the national flag and other objects if the actor knew that his action would "seriously offend one or more persons likely to observe or discover his action."

The statute, the bill we passed, attempts to remove the content bases of the Federal law which caused the Texas law to be overturned on the grounds that it violated the first amendment. We removed the content bases by banning flag desecration in all cases without regard to the emotional impact of the act. However, I do not believe the current disposition of the Supreme Court would make such a distinction. In the majority opinion of the court, Justice Brennan gave us clear insight into future decisions when he stated:

> Nor does the State's interest in preserving the flag as a symbol of nationhood and national unity justify his criminal conviction for engaging in political expression.

Justice Brennan has already addressed the focus of our debate. The Court used flag burning as an expression, clear and simple. I see no indication from the Justice's statement that he would view our statute any differently than the Texas statute. We cannot deny the expression by attempting to ban the act.

Prof. Gerald Gunther of the Stanford School of Law and a member of the ABA Task Force on the first amendment agreed. When writing to Senator BIDEN in opposition to Senate Joint Resolution 180, Professor Gunther added: "the application of the revised statute would clearly be unconstitutional."

Their opinion was adopted by the ABA task force. Our goal today is unchanged—protection of the American

flag. What has changed is that we are now faced with legislation that will guarantee the constitutionality of our statutes, and the result that 91 of us voted for earlier.

I believe the American people not only support the protection of the flag but they demand it. Now it is being asserted here in this Chamber that the passion has died and the people really do not demand it. Just wait. Just wait until there is another inflamed example of flag burning, there is a challenge, it comes to the Supreme Court, and the Supreme Court says once again it is all right to burn the flag. The American people will rise up again, and very loudly. Therefore, we should pursue the most effective means to guarantee that we will never face this issue again.

Justice Kennedy stated:

> We cannot here ask another branch to share responsibility, as when the argument is made that a statute is flawed or incomplete. For, we are presented with a clear and simple statute to be judged against a pure command of the Constitution.

In the most basic terms a constitutional amendment will guarantee the protection of the flag. A statute cannot do it.

Senate Joint Resolution 180 simply states: the Congress and the States shall have power to prohibit the physical desecration of the flag of the United States. Would the language of the amendment protect the flag by itself? No. It would, however, give Federal and State governments the constitutional authority to pass regulations such as H.R. 2978 to protect the flag. The amendment allows us to protect the flag from physical desecration.

Now in some of the debate we have had here in the Chamber there has been a lot of debate about what is desecration. How can we possibly define it? What does it mean?

Well, as defined in the preamble of this amendment physical desecration would include but not be limited to such acts as burning, mutilating, defacing, defiling or trampling on the flag, or displaying the flag in a contemptuous manner. According to Webster's, desecration means "to treat an object of veneration irreverently or contemptuously." By granting the authority to ban physical desecration we will protect the dignity of the flag.

We will not, however, prohibit the Joey Johnsons of our country from voicing their discontent. In the rally leading to his arrest he chanted "America, the red, white, and blue, we spit on you." It was his right. Nor will we prohibit Mr. Johnson from assaulting our country through the media and the written word. What we will do is simple. We will guarantee that preservation of our national symbol the flag.

The argument has been made that constitutional amendments are serious and should not be taken lightly. This is self-evident. In the 200 years of our Constitution the United States has exercised the powers granted under article V only 26 times. The process is difficult, and rightly so. If two-thirds of both Chambers of the Congress approve this amendment the debate will be heard at every State legislature in the Union. That is as it should be. Should the amendment fail to gain support in three-fourths of the States, so be it. We will at least have given them the opportunity to speak on the issue. The process begins here in the U.S. Senate, in the Congress. We must act to give the people a chance to be heard in the State legislatures of this constitutional amendment process.

In his dissenting remarks, Chief Justice William Rehnquist wrote:

> Surely one of the high purposes of a democratic society is to legislate against conduct that is regarded as evil and profoundly offensive to the majority of the people.

Clearly, flag burning is offensive to the majority of the Americans. It is offensive to over 1.3 million veterans who signed a petition in favor of Senate Joint Resolution 180, and it is offensive to 91 Senators and 380 Congressmen who already voted to outlaw the desecration of the flag.

Mr. President, speaking for the Court, Justice Brennan said:

> We can imagine no better way to counter a flag-burner's message than by saluting the flag that burns.

I would say to Justice Brennan that Americans own the flag. It has been paid for through the blood of our veterans and ensured by the love of our country. When we salute our flag, it will be in all the glory and the strength that it so proudly represents.

If we are really serious about preventing the desecration of the flag, as we have said we were with our 91 votes for the statute, then we should vote for this constitutional amendment. We cannot hide behind the statute. In the end it will be held unconstitutional, in my opinion.

If it is held constitutional, great. But in the meantime we should begin the process that is slow and very difficult, as it should be. Therefore, I urge my colleagues to support the only guarantee to solve this problem, a constitutional amendment allowing the Congress and the States to ban the desecration of the American flag.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the act of burning the flag, of seeing it desecrated, raises deep emotions of disgust within most Americans, including this Senator. We hold the flag above all other symbols as the illustration of our more than 200 years as a free people.

The Constitution also has a special hold on us. More than any other words perhaps in the history of civilization, the Constitution of the United States is the foundation of our democracy. As much as our flag is a symbol, our Constitution and the Americans who have fought and died for this Nation are the threads that give this symbol its meaning.

Our Founding Fathers through the Constitution constructed a form of government that gives power to individuals. And after the ratification of the original document that defined the checks and balances of representative democracy, there was a clamor in the States for a bill of rights.

Jefferson was adamant on this point: "a bill of rights is what the people are entitled to against every government on earth." And so the Bill of Rights was incorporated as the first 10 amendments to the Constitution.

Enter Gregory Johnson the flag burner. The Supreme Court decision that brings us here today struck down a Texas law relating to the flag. The popular wisdom is that the Texas law struck down by the Court was a simple statute protecting the flag. "Why, then," the critics of the bill passed by this body say, "are we wasting time writing another statute?"

Because, Mr. President, the Court did not just strike down a simple statute. Instead the Supreme Court reversed a single Texas conviction that mixed the issues of first amendment freedom and flag burning.

In striking down the Texas statute, the Supreme Court says that this confusion of free speech issues and flag desecration was at the heart of its decision.

Let me quote from the case.

The Court said:

> The expressive, overtly political nature of (Johnson's) conduct was both intentional and overwhelmingly apparent. * * * Texas has not asserted an interest in support of Johnson's conviction that is related to the suppression of expression * * * the restriction of Johnson's political expression is content-based, since the Texas statute is not aimed at protecting the physical integrity of the flag in all circumstances, but is designed to protect it from intentional and knowing abuse that causes serious offense to others.

The Court also notes how narrow it sees the Johnson case. The Court said:

> Because the prosecution of a person who had not engaged in expressive conduct would pose a different case, and because we are capable of disposing of this case on narrower grounds, we address only Johnson's claims that (the Texas stat.) as applied to political expression violates the First Amendment.

Further, the Court says:

> We have not automatically concluded, however, that any action taken with respect to our flag is expressive. Instead, in characterizing such action for first amendment purposes, we have considered the context in which it occurred.

The Court also says it has no doubt government has a legitimate interest in preserving the flag and specifically rejects Johnson's claim that the Government lacks any State interest whatsoever in regulating display of the flag.

Mr. President, the Senate has already asserted that State interest in the statute we just passed. I believe the Court will find the statute we passed is constitutional because it differs from the Texas statute and the current Federal statute in two important respects. First, this statute is aimed at actions, not at motive, intent, purpose, or effect of those actions. Second, the current law covers public behavior only, while this covers all behavior. Both changes are designed to answer the Court's concern that desecration cannot be banned if it is aimed at political expression as it was in the Johnson case.

Mr. President, the statute which we recently adopted protects our flag and is constitutional. In the history of the Supreme Court there has been perhaps no greater protector of the first amendment than Justice Hugo Black. In 1968 he wrote that it was impossible for him to believe "that anything in the Federal Constitution bars a State from making the deliberate burning of the American flag an offense".

The legislation that we recently passed and which I cosponsored will meet the test of the constitutionality. But surely we should wait to see what the Supreme Court does, and we will know that within a year, before we amend the Constitution and the Bill of Rights.

The statute that we have adopted also meets the test of effectiveness. What is says very clearly is that burning the flag for any reason at any time except for disposing of a flag that becomes worn through everyday use is against the law. If you break the law, you can go to jail and be fined; period.

In little more than a week that act of Congress becomes the law of the land. President Bush, sworn like each of us to uphold and defend the Constitution, could veto the Flag Protection Act that we passed if he thought it was unconstitutional. But he has said that he will not veto the bill.

Before we amend the Constitution and possibly modify the Bill of Rights for the first time, we should protect the flag by allowing a carefully drafted statute an opportunity to work.

As I said, I think the statute will do the job. We will see. People who are not even willing to try the statute route may or may not be scoring political points. By voting against the statute but for changing the Bill of Rights some may hope they can look more patriotic or stronger, but they look just about as tough as the guy who gets rid of termites in the cellar by firing buckshot through the living room floor.

Like some of those who aim for the flag burners through the first amendment, maybe he gets the termites, maybe he gets the furnace, but he does not care if he just looks tough.

Mr. President, appearances are deceiving. The amendment before us actually offers weaker protection for the flag than the statute that we passed here 2 weeks ago and that is about to become law. The statute says "whoever knowingly mutilates, defaces, or physically defiles, burns, maintains on the floor or ground or tramples upon the flag of the United States, shall be either fined or put in jail or both.

Compare this to the amendment before us. "The Congress and the States shall have the power to prohibit the physical desecration of the flag."

The differences are important. The statute that we passed bans all acts of flag burning, with the narrow exception of worn flags. The amendment before us allows each of the 50 States and the Congress the power to choose whether to protect the flag and, is so, which type of flag burning it will allow and which it will not allow, which use of the flag is politically offensive, unpopular or controversial, and which type is politically correct, popular or agreeable. So the statute that we have passed is stronger, and cleaner. It does not leave flag protection to the discretion of anyone.

Mr. President, I think it is important to note that the actions of one lone protester on the streets of Dallas in August of 1984 have brought us to this point on the floor of the U.S. Senate.

I think it is also important to note that before that time, during that time, and since that time, the Stars and Stripes has flown uninterrupted in nearly every nation in the world; the symbol of freedoms, among them is to speak, vote, to assemble for worship under the same guarantee that allows parades on the Fourth of July or demonstrations in front of city hall. Seeking to amend the Constitution is the most serious and perhaps the most solemn act that a Member of Congress can undertake.

We need to understand and relate to the American people what this great country seems ready to do in response to political pipsqueaks like Gregory Johnson. Acts such as his gain nothing but the revulsion of the American people. If this one man, if this one repulsive act, results in an unncessary change to our Bill of Rights, he will have won.

Mr. BINGAMAN. Mr. President, last June, the Supreme Court issued a decision that disturbed the Nation. Throughout the summer, emotions ran high as America expressed its collective disbelief, disappointment, and outrage with the Court's decision to declare unconstitutional a Texas statute prohibiting the desecration of the American flag. We in the Congress were not immune to these emotions, either personally or politically. We felt the need to take action, to show the voters back home that we were every bit as patriotic as they were and more patriotic than the Supreme Court.

Within days of its decision in Texas versus Johnson, we passed a resolution expressing our profound disappointment with the Court. Last month, after an emotional debate, we approved legislation to protect the flag from physical desecration. I cast my vote in favor of the legislation for a very simple reason: I personally deplore acts of violence against the flag.

The flag is the living symbol of our Nation. It is a symbol of hope and equal opportunity for people around the world. It is a symbol of our freedom—our freedom to speak, to worship, to enjoy life. When we see that symbol devalued or destroyed, we are, I believe, justifiably outraged.

But now, at the request of the President and a number of our distinguished colleagues, we are preparing to vote on an amendment to the Constitution that effectively would reverse the Supreme Court's decision. I question the wisdom of such a vote. I wonder where it will lead and when it will stop.

I fear that today's amendment may be the first of many advocated by the President at the expense of our most fundamental rights. Indeed, he already has proposed amending the Constitution to prohibit most abortions and to give him the power of line-item veto. Are we going to have to debate the merits of amending the Constitution every time the Supreme Court issues a decision with which the President disagrees?

I fully understand, and even share, the President's concern about the issue of flag burning. But I know that it is a concern founded in emotions and politics, and I am troubled. I am troubled because of my deep respect for our flag, a respect that is not limited to the tangible object.

My love and respect for the flag extends much further—to the intangible concepts the flag symbolizes: our freedoms, our hopes, and our dreams. It is derived from my deep conviction that those ideals, as they are embodied in the Bill of Rights to the Constitution, are what make this country great. We cannot sacrifice these ideals, the basic rights upon which our country was founded, the rights that our ancestors fought hard to gain and we fought hard to protect, for short-term political advantage. The Bill of Rights simply is too important.

Never before in our history has such a sacrifice been made. Never has the Bill of Rights been amended. Never

has the first amendment's guarantee of freedom of speech been restricted by constitutional amendment. Yet today, we could vote to do just that. I urge my colleagues to resist such a step, despite the political innuendoes coming from the administration and the emotional appeals coming from organized constituencies. The time has come to put aside emotional outcries and political fears.

It is our duty to act responsibly, to show honor and respect for the American flag and all that it symbolizes. Surely, we do not honor the symbol of our freedom by criminalizing the offensive acts of those who express opposition to governmental policies by abusing the flag. As former Justice Jackson wrote in West Virginia State Board of Education versus Barnette:

[F]reedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order.

If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion * * * or force citizens to confess by word or act their faith therein. (319 U.S. 624, 642 (1943).)

I urge my colleagues to heed the wisdom of Justice Jackson's words and to protect that which makes our country unique in the world—the freedoms symbolized in the flag we love and guaranteed to each and every one of us through the Bill of Rights. Thank you.

Mr. BOSCHWITZ. Mr. President, I rise to speak in support of this legislation, but at the same time, express my hope that this constitutional amendment never needs to be ratified by the States.

My hope, Mr. President, is that this body has already dealt with the issue of flag-burning in a satisfactory manner by passing the flag desecration law we passed just a short time ago. Several legal scholars, including some of my distinguished colleagues here in the Senate, tell me that the law we passed can indeed pass constitutional muster, and will take care of the problem of flag desecration.

However, should the legislation we passed a short time ago be found to be unconstitutional, then I think it's important that we have this constitutional amendment in place, ready to be acted upon by the States.

Since the Supreme Court's decision in this matter, I believe the American people—and certainly my constituents in Minnesota—have made clear that they want some kind of prosecution for the American flag. I held more than 60 meetings in outstate Minnesota this summer, and at almost every stop, this was one of the first issues people brought up.

My answer has always been that I would prefer a legislative solution to the problem, rather than a constitutional amendment. Amending our Constitution is a very serious matter, which is why the Founding Fathers made it a difficult, time-consuming process, assuring that it was not done in a capricious manner.

Nevertheless, the reaction in my State certainly supports a constitutional amendment, if that is what we need to protect our flag. And so I'm happy to support this amendment as a back-up plan of sorts, to be used in the event that the legislation we recently passed is found to be unconstitutional. This amendment will already be in the works, the States can be holding their own deliberations, and we will be assured that we have responded to the voice of the American people, who have made clear their desire to provide protection for the American flag.

Mr. President, I yield the floor.

RECESS UNTIL 1:45 P.M.

The PRESIDING OFFICER. Under the previous order, the hour of 1:30 p.m. having arrived, the Senate will now stand in recess until the hour of 1:45 p.m.

Thereupon, at 1:30 p.m., the Senate recessed until 1:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer.

The PRESIDENT pro tempore. The Chair in his capacity as a Senator from the State of West Virginia suggests the absence of a quorum, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

IMPEACHMENT OF JUDGE ALCEE L. HASTINGS

PRIVILEGE OF THE FLOOR

Mr. MITCHELL. Mr. President, I ask unanimous consent that floor privileges be granted during today's impeachment proceedings of Judge Alcee L. Hastings to the individuals noted below and contained in a list which I now send to the desk.

The PRESIDEINT pro tempore. Without objection, it is so ordered.

The material is as follows:

MANAGERS OF THE HOUSE OF REPRESENTATIVES

Representative Jack Brooks.
Representative John Bryant.
Representative Mike Synar.
Representative Hamilton Fish, Jr.
Representative John Conyers.
Representative George W. Gekas.

HOUSE MANAGERS STAFF

Alan I. Baron, Special Counsel.
William M. Jones, General Counsel.
Daniel M. Freeman, Counsel.
Janice E. Cooper, Asst. Special Counsel.
Patricia Wynn, Asst. Special Counsel.
Lori E. Fields, Asst. Special Counsel.
Peter Levinson, Associate Counsel.
Raymond V. Smietanka, Assoc. Counsel.
Alan Coffee.
Ron Strohman.
Jerilyn Dupont.

JUDGE HASTINGS AND REPRESENTATIVES

Honorable Alcee L. Hastings.
Terence J. Anderson, Counsel.
Patricia Williams, Counsel.
Ann B. Richardson, Attorney.
Robert S. Catz, Attorney.
Lewis Meyer, Esq.
Mark McDonald, Esq.
Charles Francis, Esq.
Stephanie Moore, Esq.
William Twining, Esq.
Christine Housen, Esq.

SENATE

Martha Pope, Chief of Staff, Majority Leader.
Charles Kinney, Democratic Policy Committee.
George Carrenbauer, Democratic Policy Committee.
Anita Jensen, Senator Mitchell.
Rebecca Roberts, Office of President pro tempore.
Roy Greenaway, Senator Cranston.
Sheila Burke, Chief of Staff, Republican Leader.
Robert Dove, Republican Leader's Staff.
Dennis Shea, Republican Leader's Staff.
Jim Whittinghill, Republican Leader's Staff.
Richard Quinn, Republican Leader's Staff.
Mike Tongour, Assistant Repubican Leader's Staff.
Michael Davidson, Senate Legal Counsel.
Jack Sousa, Rule Committee.
Terry Wooten, Judiciary Committee.
Thad Strom, Judiciary Committee.
Lorraine Waller, Judiciary Committee.

IMPEACHMENT COMMITTEE

Elaine W. Stone, Counsel.
Mark A. Klugheit, Counsel.
Bruce O. McBarnette, Counsel.
Anthony L. Harvey, Administrative Assistant.
P. Casey McGannon, Administrative Assistant.
Isabel T. McVeigh, Administrative Assistant.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

CALL OF THE ROLL

The PRESIDENT pro tempore. The clerk will call the roll to establish the presence of a quorum.

The legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 6]

Baucus	DeConcini	Leahy
Bentsen	Garn	McCain
Bingaman	Grassley	Mikulski
Byrd	Humphrey	Mitchell

The PRESIDENT pro tempore. A quorum is not present. The clerk will call the names of the absentees.

The legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

Adams	Breaux	Burdick

The PRESIDENT pro tempore. A quorum is not present.

The legislative clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their names:

Adams	Garn	McConnell
Armstrong	Glenn	Metzenbaum
Baucus	Gore	Mikulski
Bentsen	Gorton	Mitchell
Biden	Graham	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grassley	Nickles
Boren	Harkin	Nunn
Boschwitz	Hatch	Packwood
Bradley	Hatfield	Pell
Breaux	Heflin	Pressler
Bryan	Heinz	Pryor
Bumpers	Hollings	Reid
Burdick	Humphrey	Riegle
Burns	Jeffords	Robb
Byrd	Johnston	Rockefeller
Chafee	Kassebaum	Roth
Coats	Kasten	Rudman
Cochran	Kennedy	Sanford
Conrad	Kerrey	Sarbanes
D'Amato	Kerry	Sasser
Danforth	Kohl	Shelby
Daschle	Lautenberg	Simon
DeConcini	Leahy	Simpson
Dixon	Levin	Specter
Dodd	Lieberman	Stevens
Dole	Lott	Symms
Domenici	Lugar	Thurmond
Durenberger	Mack	Wallop
Exon	McCain	Warner
Ford	McClure	Wirth

The PRESIDENT pro tempore. A quorum is present. The Senate will be in order. The Senate will please be in order.

COURT OF IMPEACHMENT

The PRESIDENT pro tempore. Under the previous order, the hour of 2 p.m. having arrived and a quorum having been established, the Senate will resume its consideration of the articles of impeachment against Alcee L. Hastings. The Sergeant at Arms will make the proclamation.

The SERGEANT AT ARMS. Hear ye. Hear ye. Hear ye. All persons are commanded to keep silent, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against Alcee L. Hastings, U.S. district judge for the southern district of Florida.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, on March 26, 1989, the President pro tempore appointed, pursuant to Senate Resolution 38, Senators BINGAMAN, SPECTER, LEAHY, DURENBERGER, PRYOR, RUDMAN, BRYAN, BOND, KERREY, GORTON, LIEBERMAN, and BURNS to perform the duties provided for by rule XI of the Senate's impeachment rules.

Under the leadership of its chairman, the Senator from New Mexico [Mr. BINGAMAN] and its vice chairman, the Senator from Pennsylvania [Mr. SPECTER], the committee heard 18 days of testimony between July 10 and August 3. During that time the committee heard from 26 witnesses who were called by the House of Representatives and 29 witnesses who were called by Judge Hastings. Judge Hastings testified on his own behalf over the course of 3 days. The committee also admitted into evidence the testimony of 26 other witnesses whose testimony had been recorded in prior proceedings, more than 150 stipulations of fact, and hundreds of exhibits.

On October 2 the committee filed its report, which was received as Senate Report 101-156. In accordance with impeachment rule XI, the committee report certified that Senate Hearing Report 101-194, which reprints the committee's proceedings, is a transcript of the proceedings and testimony had and given before the committee.

Before proceeding further, I would like to verify with the Presiding Officer that the evidence and testimony received by the Senate from the committee shall, as prescribed in rule XI, "be considered to all intents and purposes, subject to the right of the Senate to determine competency, relevancy and materiality, as having been received and taken before the Senate * * *." Will the Presiding Officer advise the Senate whether this is correct?

The PRESIDENT pro tempore. The majority leader is correct. The testimony and other evidence reported by the committee will be considered, in accordance with impeachment rule XI, as having been received and taken before the Senate.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, rule XI provides that the Senate's receipt of evidence reported by the committee is subject to the Senate's right to determine competency, relevancy and materiality. Further, rule XI explicitly provides that nothing in it prevents the Senate from sending for any witness and hearing that witness' testimony in open Senate, or by order of the Senate having the entire trial before the full Senate.

Will the Presiding Officer advise the Senate whether, following the report of the committee, any motions have been filed by the parties to the impeachment asking that any witnesses be heard in open Senate?

The PRESIDENT pro tempore. In response to the majority leader, neither party, following the report of the committee, has moved that any witness be called in open Senate and the Senate may now proceed to hear final arguments on the basis of the record reported by its committee.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, the parties have filed their final written briefs, and the Senate is now ready to hear final arguments on the merits. In accordance with the unanimous-consent agreement of last week, each side will be permitted no more than 2 hours for its final argument and the arguments may be made by three persons on each side. Under impeachment rule XXII, final argument will be opened and closed by the House.

As we have done in the past, we have provided that counsel may face the full Senate during their presentations. They should remain mindful, nevertheless, that the proceedings are under the direction of the Presiding Officer. On their part, Senators should recall that any questions they have should, pursuant to impeachment rule XIX, "be reduced to writing, and put by the Presiding Officer." There is secretarial assistance available in the respective cloakrooms to aid Members in the drafting of questions. Questions may be sent to the Chair during the argument, for reading by the Chair at the appropriate times.

The managers on behalf of the House of Representatives, Representative JACK BROOKS, Representative JOHN CONYERS, Representative MIKE SYNAR, Representative JOHN BRYANT, Representative HAMILTON FISH, Jr., and Representative GEORGE GEKAS—and special counsel to the House, Alan Baron, are present at the manager's table. Terence Anderson, Patricia Graham Williams, and Robert Catz are counsel to Judge Hastings and are present with him.

The PRESIDENT pro tempore. The Chair understands that final arguments for the House will be presented by Representative BRYANT, Representative CONYERS, and Representative GEKAS. Mr. BRYANT has asked to speak first.

Mr. BRYANT, do you wish to reserve a time for closing, and, if so, how much time?

Mr. BRYANT. Mr. President, we ask to reserve whatever remainder of our time is remaining in our 2-hour allocation in closing.

The PRESIDENT pro tempore. Very well. You may proceed.

Mr. BRYANT. Mr. President, on behalf of the House of Representatives, I wish to thank you and the Members of the Senate for the opportunity of presenting our closing argument and, along with the other House managers, wish to express our appreciation for the time and the effort the Senate has taken in this impeachment proceeding.

I will begin our presentation, and I will be followed by the Honorable GEORGE GEKAS, of Pennsylvania, and the Honorable JOHN CONYERS, of Michigan. We hope not to use our entire 2 hours and, as previously stated, ask to reserve the remainder of our time for final closing.

Members of the Senate, this is a case of enormous, and perhaps unprecedented, importance. It involves not simply a crime committed by a judge which is unrelated to the office which he holds. It involves a violation of the

most fundamental legal and moral obligations of a jurist, behavior that strikes at the heart of his obligation to our system of justice. This case involves the participation of a U.S. district judge in a scheme to extort a bribe from a defendant in his own courtroom.

For those of us in the House who were charged with the responsibility to recommend for or against impeachment to our colleagues, this was a difficult case. Members of the Subcommittee on Criminal Justice, which each of us are, took this assignment with great skepticism. We knew that on one of the central charges referred to us, Judge Hastings had obtained an acquittal in a criminal trial.

And more than one of us was heard to state our skepticism about considering the impeachment of anyone who had previously obtained a favorable verdict in a jury trial. But our decision to reserve judgment on this matter until we saw the facts proved to be a good one because, Members of the Senate, there was not one verdict on this matter, there were two jury verdicts.

One year before Judge Hastings' trial, his coconspirator, William Borders was tried on the very same facts for the very same charge. In fact, the two men were codefendants in the same indictment, but their trials had been severed due to pretrial motions.

That jury, the jury in the Borders' case, determined beyond a reasonable doubt that William Borders conspired with Judge Hastings to obtain a bribe from defendants in the judge's own courtroom.

In daily attendance at William Borders' trial was Judge Hastings' lawyers, gathering a preview of all the Government's evidence and giving the judge a year to fashion a version of events and fabricate evidence to mislead the jury in his case. And also awaiting our inspection was the work of the Federal judiciary. The investigative committee of the 11th circuit, which spent 3 years carefully studying all the facts in this case, unanimously concluded that there was clear and convincing evidence that Judge Hastings is guilty as charged. They have determined that he engaged in a bribery conspiracy and that his acquittal was a product of intentional false testimony. The judicial council of the 11th circuit reached the same conclusion and the U.S. Judicial Conference then determined that Judge Hastings' conduct warranted referral to the House.

In other words, it was the action of the judicial branch. And I would point out that many of the participating judges in this process had significant civil rights backgrounds. It was the action of the judicial branch that placed this responsibility before us, and we now place it before you.

We were than faced with the same question that faces you as Members of the Senate: What if a Federal judge participates in a conspiracy to obtain a bribe, but by the use of false testimony and fabricated evidence is able to obtain an acquittal? What if all the facts indicate the judge's guilt? Are we in that unusual circumstance to look away because of two contradictory jury verdicts and by our inaction allow the judge to continue to serve?

Certainly the answer for us and for you must be no. We had the obligation to take the matter up, and upon a both painful and painstaking study of the facts in an independent investigation, we concluded unanimously that we must recommend impeachment to the House. And the House by a vote of 413 to 3 charged Alcee Hastings with 17 articles of impeachment.

We deeply believe that Judge Hastings conspired to obtain a bribe from defendants in his courts; that to avoid conviction from this crime he fabricated evidence and lied to a Federal jury 14 times; and that in a separate transaction, to be addressed later by Mr. GEKAS, he revealed the confidential content of a federally authorized wiretap under his supervision.

The facts which led us to this belief we contend are overwhelming.

On Friday, October 9, 1981, U.S. District Judge Hastings of Miami, FL, arrived at Washington National Airport, where he was met by a prominent Washington, DC, attorney and personal friend of 12 years, a man named William Borders. Borders took Judge Hastings to the L'Enfant Plaza Hotel, where the two of them checked into a suite with adjoining rooms, and then, after a few intermediate stops, they went to William Borders' law office. There Borders received a message from Frank, who Borders believed to be Frank Romano, a defendant in a criminal case pending before Judge Hastings.

Frank was an undercover FBI agent who for 4 weeks had been posing as Frank Romano and already paid $25,000 down on a $150,000 bribe which had been negotiated for favorable treatment by Judge Hastings in the case then pending against Frank Romano in the judge's court. Frank told Borders, "I have all the necessary papers," and Borders, knowing what that meant, arranged to meet Frank at the hotel to collect the balance due. While Borders went to collect the money, Judge Hastings went back to his hotel room at the L'Enfant Plaza.

At 1 p.m., William Borders was arrested by the FBI, in possession of $125,000 in cash he had just received from the agent posing as the defendant in Judge Hastings' court.

At about 3 p.m., Judge Hastings learned that Borders had been arrested, was told that the arrest had something to do with bribery in his courtroom and was told that the FBI had asked that he call them so that they could interview him about the matter. Judge Hastings was given the number of the Washington field office of the FBI.

But Alcee Hastings did not call the FBI as requested. Instead, U.S. District Judge Alcee Hastings fled from the city. Though he had just arrived that morning with plans to stay through the weekend, he left Washington, DC, at that moment, so fast that he did not check out of the hotel: He did not pay his bill, he even left behind one of his suits.

Where did he go? The logical route back home to Miami would be to go to National Airport, 10 minutes away from the L'Enfant Plaza Hotel, where a Miami-bound flight with seats available was scheduled to leave that afternoon, according to the record we provided to the Senate trial committee. That route of leaving was too logical. Instead, Judge Hastings took a $50 cab ride to the Baltimore-Washington International Airport, 1 hour and 32 miles away from his hotel.

When he arrived at BWI, he did not immediately make a reservation to fly home. Instead, he made his first phone call since learning of the bribery conspiracy scheme's discovery by the FBI. He called his mother. He then called Patricia Williams who at that time was his fiance. He spoke with her briefly and then he moved to another pay phone and he called her again. Then he gave her the number of his pay phone and told her to leave her house and go to a pay phone and call him back at that pay phone. When she did so 20 minutes later, he took her pay phone number and moved to yet another pay phone and called her once again.

Forty minutes later, Judge Hastings boarded a plane destined for Miami International Airport where his car was parked, but when the plane made an intermediate stop in Fort Lauderdale, Judge Hastings got off the plane and rented a car.

I ask Members of the Senate rhetorically, what would cause a U.S. district judge to act in this way; to flee from a city after learning of the arrest of his close friend, to leave town by a circuitous route only a few hours after having arrived, and to leave his hotel without even checking out? Why would a U.S. district judge move from pay phone to pay phone in order to carry on a conversation and instruct the person who was calling to leave home and call him back from a pay phone?

The answer, we submit to you, is that he did so because he knew that he was guilty of the bribery conspiracy for which his good friend Bill Borders had just been arrested. He had engaged in a corrupt conspiracy to

obtain $150,000 from defendants in his courtroom in exchange for which he would reduce the defendants' prison sentences to probation, as charged in article I of the articles of impeachment. He knew that if he stood any chance of avoiding prosecution himself, he would have to get his story together before facing the FBI, lest he give away too much and permanently condemn himself.

So, on October 9, instead of contacting the FBI and assisting them in their investigation, instead of helping his friend William Borders, who had just been arrested, U.S. District Judge Alcee Hastings fled the city to buy himself some time.

We submit to you today that Judge Hastings' flight from Washington, DC, on that day is only one piece of the pattern of clear and convincing evidence establishing Judge Hastings' guilt. Ironically, Members of the Senate, it is not left to the House managers alone to prove the involvement of Judge Hastings, for Judge Hastings, in the very beginning, set out to prove it himself.

For months, William Borders had been attempting to entice the Romano brothers into a bribery deal. Unbeknownst to Borders, and unbeknownst to the judge, the Government had gotten wind of their scheme and ultimately Borders set up a bribery deal not with the real Frank Romano, but with an undercover agent who he thought was Frank Romano. It was during their very first meeting that the agent posing as Frank Romano asked for proof of Judge Hastings' involvement in this bribery conspiracy before he would be willing to pay any bribe money. Borders said, OK, we will do it this way. The judge will signal that he is a player in two ways: First, he will show up at a particular time and a particular place of your choosing and, second, after a downpayment on the bribe, he will order the return of a substantial amount of your property which he had previously ordered forfeited under the Federal RICO statutes after the trial in the case.

Members of the Senate, Judge Hastings took both actions promised to prove his involvement in the bribery scheme to his coconspirators, and we submit that he did prove it, not just to the other participants in the scheme but also to the House and also to the Senate.

First, there was the promise that he would show up at a particular time and place. When they met on September 12, 1981, to set up the bribery deal, Borders and the man he believed to be Frank Romano agreed to this. And the undercover agent gave Borders the chance to check with the judge to determine when the judge was available to show up at a particular time, to signal his involvement. But Borders, if you will read the record of this case, did not need to check. He did not hesitate. He immediately picked Wednesday, September 16, 1981, as the date of the show. The undercover agent then chose the time and the location. He said 8 p.m. in the main dining room of the Fontainebleau Hotel.

What happened on September 16, Wednesday, September 16, 1981? A little before 8 p.m., Judge Hastings arrived at the Fontainebleau Hotel in the main dining room exactly as promised, as the deal was constructed. He came with a date, a lady named Ms. Essie Thompson, who testified before the impeachment trial committee, and until even today is still a friend of the judge.

Judge Hastings contends that he went to the Fontainebleau that night not because he was part of a bribery deal but because William Borders, his friend, had asked him to be there.

But we ask this question. If this was the case, why then did Judge Hastings make a reservation for only two people at the Fontainebleau Hotel that night? Why, as Ms. Thompson unequivocally testified to the trial committee, did the judge never mention to her that they were planning to meet William Borders or anyone else that evening? And if the Judge's version was true that William Borders was tricking him into coming to the Fontainebleau Hotel that evening, why would William Borders ask the judge to meet for dinner on the very night which we now know William Borders was attending the Sugar Ray Leonard-Tommy Hearns championship fight in Las Vegas, a fact that had been known to the friends and employees of Mr. Borders for weeks. He was an inveterate fight fan and he planned for many weeks to be in attendance at that fight. It was a fact that would have been easily discovered by Judge Hastings, his good friend.

Members of the Senate, these questions are based on facts that are in the record and have never been answered by Judge Hastings. Indeed, he cannot answer them because he appeared at the Fontainebleau Hotel on September 16 to prove his involvement in the bribery conspiracy. He proved it to his coconspirators in order that the deal might proceed and he proved it to the U.S. Senate.

There is the second proof that Judge Hastings was to give in order to prove his participation in the deal. William Borders and the man he believed was Frank Romano also agreed that after a downpayment on the bribe was paid, Judge Hastings would issue an order returning a substantial amount of the Romanos' property, which he had previously ordered forfeited, and this would show the judge's clear intent to cooperate in the conspiracy.

The deal was that once the order returning the property was issued, the Romanos were to pay the remainder of the bribe. Then Judge Hastings would reduce their prison sentences to probation as had been agreed.

Again, Judge Hastings proved that he was on board. On September 19, 1981, the undercover agent made the $25,000 downpayment, after which Borders said that the order would be issued, returning a substantial portion of the property in 10 days. But the order did not come out on time, and so on October 2 the undercover agent, the man posing as Frank Romano, called Borders to ask what was up, to inquire why the order had not been issued on time. This was a Friday afternoon.

In that conversation, the first in a series of recorded conversations, Borders told the agent that he would check into the order that day but added, "I don't know if I can find out because of the time." Within 2 hours, Borders called Judge Hastings. He was informed the judge had left for the day.

And 2 days later, on Sunday morning, October 4, the undercover agent again called Borders. This time Borders said he didn't have an answer, quoting him, "cause I haven't been able to talk to anybody." That afternoon Borders again called Judge Hastings, and the very next morning, Monday, October 5, Judge Hastings told his law clerk to get the Romano forfeiture order out, to get it issued that day.

We ask, was there any legal deadline requiring the issuance of the Romano order on that day? The answer unequivocally is "No." The order had been pending for months. Nothing had happened in the case to require immediate action on the order. It was not in fact until the bribery scheme was in place, the down payment had been made and the series of phone calls between the undercover agent, Borders, and Judge Hastings had occurred that Judge Hastings took any action. On October 6, 1981, Judge Hastings issued an order reversing himself—returning $845,000 of the over 1 million dollars worth of Romano property which he had previously ordered forfeited, just as Borders had promised.

Now, Judge Hastings responds to this damning evidence by saying that he told his law clerk to get the Romano order out because the clerk was leaving at the end of the month and the judge had a heavy travel schedule taking him out of the office. But this cannot be true, because, as the evidence establishes, the law clerk was not scheduled to leave for another 4 weeks and the judge's travel schedule had him at home in the office for half of the workdays in October 1981. There was ample opportunity for the judge to sign the order in advance of the law clerk's departure.

Plus there are other undisputed incriminating facts. It was unusual for Judge Hastings to demand that an order be finished the same day according to the record in this case. The law clerk, in fact, was sufficiently impressed with the urgency of the specific matter that he had to leave the office and drive 45 minutes to his home to work on it. The judge did not ask his law clerk to finish any other pending work prior to his departure from employ with the judge. And most telling of all perhaps is the fact that the judge pressured his staff not only to get the order written but also to get the Romano order mailed out, which would have nothing of course to do with whether or not the law clerk was departing his employ in a month. Indeed, as Marilyn Carter testified before the Impeachment Trial Committee—and I would point out that she is still to this day Judge Hastings' deputy clerk—the judge told her, "Sorry for the rush, but this must go out today." Ms. Carter, in fact, felt so much pressure that she dropped other work and she even sent the order out special delivery.

Members of the Senate, only the judge could issue this order. The Romano forfeiture order went out on October 16, 1981, to prove to the man they believed was Frank Romano that the judge was an active participant in the conspiracy and that he could be counted on to complete the terms of the deal if the balance of the bribery money was paid. The bribery scheme then was on track.

Now, what else is known about Judge Hastings and Borders' relationship which can shed light on whether they conspired to solicit a bribe. How often were they in contact in order to pass information to each other about the Romano case? Again, facts that are in the record and which are absolutely undisputed provide the answers.

First, as a politically active Democrat, with connections in the White House, William Borders, the record reflects, helped Judge Hastings get appointed to the Federal bench. Judge Hastings even testified to that fact himself.

Second, Borders even attended Judge Hastings' investiture ceremony when he was sworn in as U.S. district judge.

But we submit to you that most telling about the relationship is the fact that William Borders has refused to testify in this impeachment proceeding as well as in all other proceedings in which, if Judge Hastings' version of the facts is true, Borders could have established Judge Hastings' innocence. Borders is in jail today at this moment and will be until this body votes, and he is in jail for refusing to testify before the Impeachment Trial Committee despite a grant of immunity. I ask you, on behalf of the House managers, why would he go to jail, again, if by his testimony he could honestly vindicate his close friend of so many years.

The fact is that Borders will not talk, because if he tells the truth he must acknowledge Judge Hastings' role in the conspiracy, and if he does not tell the truth he risks placing himself in violation of the law again. And that is why he refused to testify, and that is why the judge did not call Borders to testify at his own trial. Judge Hastings explained his failure to call Borders by saying that Borders would not talk because he feared for his life, but before the Senate Trial Committee when Senator RUDMAN asked Borders if fear of his life was the reason he would not testify, Borders had no idea what the Senator was talking about.

We submit there can be no clearer picture of the complicity of Judge Hastings and Borders in this scheme than the documented contacts between the two of them.

Starting back in February 1981 every time there was a significant event in the Romano case, Judge Hastings and Borders were either together or on the phone. In fact, throughout 1981, almost all of the contacts between the two men correlate precisely with events in the conspiracy. For example, on the very day Judge Hastings entered the order initially forfeiting $1.16 million of Romano property, he left an urgent message for William Borders. On the day Borders learned that the man he believed to be Frank Romano was interested in making a deal, there was a flurry of documented phone calls between Borders and the judge. The night before the first meeting with Frank Romano set up a deal, Judge Hastings and Borders went to great lengths as reflected in the record to arrange and rearrange their flight schedules in order to cross paths and to be together at National Airport. After the first meeting with Frank Romano, the man they believed was Frank Romano—and promising that the judge would appear at the Fontainebleau Hotel, Borders made Herculean efforts to return to the District of Columbia in time to be with Judge Hastings that night. And when the undercover agent asked about the promised order returning a substantial amount of Romano property, which was late, Borders immediately called the judge. All of this is in the record.

These are only a few of the documented contacts between the two men—contacts that were often of brief duration, at odd hours and at least once involved pay telephones. As set forth in our brief, there are at least 19 instances between February and October 1981, in which Judge Hastings and Borders were in contact at critical times in the bribery conspiracy. Borders clearly was not acting alone. The pattern is too precise. I urge you on behalf of the House managers to take a look at our master chronology, appended to our brief, setting out the incriminating pattern. In fact, take a look at the fact that 3 days after Borders' arrest—3 days after Judge Hastings allegedly learned that Borders had implicated him in a bribery conspiracy—a call was placed from Judge Hastings' home phone to Borders' home phone. If indeed Borders had betrayed him, had victimized him for profit, as he will contend before the Senate today, why was the judge calling him at his home?

But perhaps, however, the most incriminating telephone call of all is the call made by Judge Hastings to Borders on October 5, 1981, which is known as the "coded conversation." This conversation was also recorded. We listened to it. You can listen to it. So we know exactly what was said.

You will recall that on the morning of October 5, the judge told his law clerk to get the Romano order out that day. At 4:22 that afternoon, the undercover agent, posing as Frank Romano, called Borders and was told that the order "has been taken care of." How did Borders know it had been taken care of? Then at 5:12 p.m., Judge Hastings called William Borders.

What do they talk about in this conversation? Allegedly letters of support for their friend Hemphill Pride who was in professional and financial trouble. According to the judge, this was a topic they had talked about every time he and Borders spoke in 1981. But members of the Senate, that conversation was not about letters for Hemphill Pride their friend. Instead, it was about the bribery conspiracy.

In the October 5 conversation, Judge Hastings was calling Borders to make sure the Romano deal was still on in spite of the delay in getting at the order returning property. Remember, the order did not go out in 10 days as Borders had promised the undercover agent. There has been a delay. Having instructed his clerk to do the order, the judge needed to make the call to be sure all was well before he sent the order out.

I urge you to take a look at the conversation. A copy of it is before you. I think if you look at it, it will become quickly apparent to you that simply on its face, the conversation makes no sense.

For example, if you look at the conversation received according to Judge Hastings he was calling Borders to get information about Hemphill Pride's financial status so he could finish some draft letters in support of Mr. Pride. But notice what he learns in the conversation. Borders tells me at line 18, "See, I had, I talked to him and he, he wrote some things down for me." The

judge responds, "I understand." And then Borders tells him, "And then I was supposed to go back and get some more things." "Alright, I understand * * *" says the judge. My question and your question should be: what does Judge Hastings understand? Borders never explains what he is referring to as "things." He fails to give the judge any financial information at all. Yet Judge Hastings goes on to say at line 21, "Well then, there's no great big problem at all," and promises to send the "stuff" off in the morning. The point I am making here is that, in other words, having been told that Borders had not yet gotten the information Judge Hastings wanted, the judge ignores what would apparently be a critical fact, and announces his intention to go ahead with sending out the letters. This does not make any sense.

When Hemphill Pride who was the purported beneficiary subject to this conversation was asked about this conversation before the setting trial committee and before the House Impeachment Committee, he completely refutes Judge Hastings' testimony.

Next there is Hemphill Pride himself. I urge you to ask your fellow members who served on the Impeachment Trial Committee about Hemphill Pride's testimony. He was a powerful witness. He unequivocally testified that he did not know of any letters of support, he did not want any letters of support and, in fact, such letters would have hurt rather than helped him. Indeed, after this indictment for the bribery conspiracy, Judge Hastings even tried to convince Mr. Pride to see it otherwise to convince him that the judge's story about the letters was legitimate. Mr. Pride would have none of it. He also testified that Borders never asked him for any information, nor did Mr. Pride write anything down for him. It is hard to believe that Mr. Pride, who was Judge Hastings' best friend, would give such devastating testimony, in this case if it were not the truth. His testimony, even if standing alone, damages Judge Hastings' explanation of the coded conversation beyond repair.

Next we submit there is the undisputed fact that Judge Hastings never even sent the draft letters, the direct opposite of what he promises Borders in the conversation, in spite of the fact that, according to the judge, he and Borders had been discussing the letters for 8 months and Borders had been pressuring him to send the letters out.

Not only that. Having announced that he would send the letters out the next day, he does not even tell Borders about his change of heart, a noteworthy fact in view of the fact that Hastings represents to us that that was a matter of critical importance to both of them. He does not call Borders back to correct the misimpression that the letters were going out. He does not mention the letter when again they talk on the phone and 4 days after the conversation when they are together all morning—that is the morning of Borders' arrest. The judge again does not tell Borders that the letters never went out.

We submit to you, Members of the Senate, that the letters never went out because the letters never existed.

And finally according to the coded conversation, there is Dr. Roger Shuy, a noted linguist at Georgetown University, who studied the conversation and testified before the Impeachment Trial Committee that the conversation indeed is not about labor reported to be about, or what Judge Hastings said it was about. Instead, the conversation is a cover.

One characteristic he noted are all the pauses such as "ah," repeated words, and false starts in the conversation. In standard linguistic analysis, these characteristics occur when people are being careful about their choice of words. Look at where the pauses, false starts, and repeated words occur here—precisely around the topic words in the conversation. Take a look at lines 11, 13, and 18, for example.

Members of the Senate, the October 5 conversation was a means of passing information about the bribery scheme. Borders learned that the deal was still on track when he spoke to the undercover agent less than an hour earlier. He then, when Judge Hastings called him, conveyed the information to the judge. He reminded the judge that he got the downpayment "see, I have talked to him and he wrote some things down for me," thereby reconfirming the fact that he had gotten down the payment and that after the order comes out and then he will collect the remainder of the bribe. Now it makes sense for Judge Hastings to state at line 21, "Well then, there's no great big problem at all. I'll, I'll see to it that, ah, I communicate with him. I'll send the stuff off to Columbia in the morning." The very next day, Judge Hastings sent out the order, returning a substantial amount of property to the Romanos.

Members of the Senate, this is only a part of the overwhelming evidence incriminating Judge Hastings in the bribery conspiracy: His flight from Washington, DC, the Fountainebleau Hotel, the Romano forfeiture order, the damning pattern of contacts and the coded conversation. We ask you to consider as well this other evidence of respondent's guilt:

Judge Hastings' undisputed knowledge that the Romanos had access to large sums of cash and were accustomed to making payoffs. During their trial he had learned that the Romanos had looted a construction project of over a million dollars and that they had frequently made payoffs in the course of their business.

We ask you to ask this question: How did Borders know about the Romano case in the first place? The fact is that Borders had no other source for the information about the Romano case except Judget Hastings. Borders did not practice law in Florida. He was a District of Columbia lawyer. The case did not receive national publicity. The Romano file, like all other case files, was kept in Judge Hastings' chambers and neither Borders nor his representative ever asked to review it. Plus all of the judge's staff deny making a disclosure of information of any kind about this case to any other party. Judge Hastings does not contend otherwise.

Then there is the incriminating pay phone to pay phone call made to Borders by the judge from just outside his chambers. This occurred at exactly at the time the Romanos were first being contacted about the bribery scheme. Judge Hastings admits that he may have left his chambers and placed the call in response to a request by William Borders to go out to a pay phone and call him back. I ask you, what topic could they have be discussing that required the judge to leave his chambers and walk down the hall and use a pay phone to call another pay phone in the courthouse in Washington, DC?

Members of the Senate, we submit to you that this and all the other evidence in the record proves abundantly that Judge Hastings knew what was going on, that he was a player, and that as charged in the first article of impeachment, he conspired with William Borders to obtain a bribe.

But there is also something else that all the evidence proves: When confronted with his crime, Judge Hastings put himself above the law by repeatedly lying under oath to a jury. As charged in articles 2 through 15 of the articles of impeachment, Judge Hastings knowingly misled the jury in his criminal case and he thereby obtained his acquittal by fraud.

The record very clearly and convincingly establishes Judge Hastings' false testimony. As charged in articles 2, 3, and 4, he testified falsely when he explicitly denied being part of the bribery scheme. As charged in article 5, he intentionally misled the jury when explaining why he went to the Fountainebleau Hotel on September 16. And, he lied under oath when he stated that he was surprised—his own word—when William Borders showed up to see him after setting up the bribery deal, as charged in article 6.

As if this was not enough, Judge Hastings also testified falsely at his criminal trial about why he ordered his law clerk to get out the Romano

order that day, and about the true meaning of the October 5 recorded conversation. These are the false statements charged in articles 7, 8, and 9.

He then misled the jury about four phone calls allegedly made to Hemphill Price—using telephone records which were his only credible documentary evidence in support of his claim that he was intimately involved in Mr. Pride's problems. Indeed, the judge even admits that his testimony was false in this regard. He has seen all the evidence and knows he has been caught, as charged in articles 10 through 13. So at this late stage of the proceedings, the judge now attempts to characterize this false testimony as a mistake.

And finally, as charged in articles 14 and 15, Judge Hastings lied about why he fled Washington, DC, after learning of Borders' arrest, and particularly about why he fled by way of BWI.

Members of the Senate, just one of these calculated false statements made under oath is more than enough reason to remove Judge Hastings from the Federal bench. But the judge did not intentionally mislead the jury just once. As charged in the articles of impeachment, 14 different times during his criminal trial, Alcee Hastings violated his oath to tell the truth. He knowingly misled the jury to obtain an acquittal, and he did receive that acquittal.

Now what does Judge Hastings say to all of this? How does he defend himself? He defends himself first by raising extraneous issues, not by confronting the facts because, in short, they cannot be refuted.

Judge Hastings attempts to divert your attention from what is the truth by complaining about how the Senate conducted this proceeding. He complains about the House, the Federal judiciary and the FBI. Indeed, he has been quick to angrily denounce all of these institutions and witnesses who testified against him. But I think it is important to note that not once did he voice anything against the man who he now claims wronged him, William Borders, until pressed during questioning by Senator SPECTER.

The judge devotes an inordinate amount of time criticizing William Dredge, the man who told the Government about the planned bribery conspiracy—even though the evidence irrefutably establishes that what Dredge told the Government was corroborated and, indeed, Dredge had nothing to do with the bribery scheme once it got underway.

Instead of presenting facts, Judge Hastings makes the totally unsubstantiated claim that missing witnesses and documents would vindicate him. But what missing witness or document could explain away his appearance at the Fontainebleau Hotel or the issuance of the Romano order immediately following the calls between the undercover agent posing as Romano, Borders, and the judge?

Finally, when Judge Hastings does address the facts, his explanations of his conduct are absolutely incredible and impossible to accept. For example, when asked why he made a reservation for only two people at the main dining room of the Fontainebleau Hotel if, in fact, he and his date were expecting to meet William Borders there, the judge replied, "I only made reservations for two people to eat because that's all I was going to pay for." Surely, that is not a credible response to an incriminating set of circumstances.

When asked about the call from his home to Borders' home three days after Borders' arrest, Judge Hastings testified that he was calling William Borders' mother, who lived with her son, on the behalf of the judge's mother. But later Judge Hastings had to admit on the stand that the mothers do not even know each other.

My final example is the judge's explanation for why he fled Washington, DC, after learning of Borders' arrest. At his criminal trial, Judge Hastings testified that he made two telephone calls from his hotel before leaving town. He unequivocally stated that he called his mother and learned she was hysterical because reporters were already banging at her door. He testified under oath that he called his fiancee, Patricia Williams, who told him that both she and his staff had already been interviewed. Accordingly to the judge, that is why he fled town—because of what he learned from these calls.

But Members of the Senate, that very same night, when they finally caught up with him near midnight, the FBI asked the judge why he left town so fast. Curiously, he did not say anything to them about any calls from his hotel room to his mother or his financee. And, as shown in the Senate Trial Committee, there is no record of the calls—indeed, the hotel records do not reflect any calls to south Florida during the relevant time period. Plus reporters had not even reached Mrs. Hastings' home yet, nor had Ms. Williams' interview been completed.

In short, Judge Hastings' explanation at his trial of his incriminating flight from Washington was totally false. We submit that even the judge has reached the conclusion that it is unbelievable. For now, before this body at this late date, he has taken the position that he thinks he made the calls to his mother and Ms. Williams, but perhaps he made a mistake. Senators, there was no mistake. Is there any question how he obtained that acquittal in that jury trial? He created a story and lied under oath.

I will make only two final points.

The judge is going to assert to you today that William Borders was rainmaking, a word which the judge and his counsel defined as being a scheme by which a lawyer promises to be able to control actions of a judge in order to extort money from a defendant, knowing full well that he has no power over the judge whatsoever.

There is no doubt that Borders set up a bribery deal and that he made promises about the judge. Judge Hastings claims that when doing so, Borders made promises that he knew he could not keep but this is simply wrong. Not only does all the evidence establish Judge Hastings' guilt, but perhaps the most telling fact of all is at the same time this was taking place, Borders was also making promises to one Santo Trafficante.

Who was Trafficante? He was the reputed crime boss of south Florida. He controlled the underworld in that region and by all accounts was a very dangerous man at the time. At the same time the Romano bribery conspiracy was going on, Trafficante also had a criminal case pending before Judge Hastings. There is evidence in the record for you to examine that Borders was cutting a bribery deal with Trafficante as well at the same time.

We submit to you that it is not credible that Borders would be tricking Trafficante, promising favorable treatment by Judge Hastings which he knew he could not deliver. According to the witnesses who testified before the Impeachment Trial Committee, Trafficante knew how to retaliate. No one in his right mind would pull a trick like that on Trafficante. Borders was no rainmaker. He was involved in a bribery scheme with a knowing Federal judge, Alcee Hastings.

My final point is this: Judge Hastings also complains that the manner in which he was investigated by the Government back in 1981 left what he calls a cloud of suspicion which, despite all of his efforts, he will never be able to dispel.

For this reason, he claims he should be free of the charges before him pending in the Senate, too. But Members of the Senate, I submit to you that Judge Hastings is right. There is a cloud of suspicion, but it was not created by the FBI, or by any institution of the Federal judiciary, or by anyone else, but by the judge himself.

In fact, it is more than a cloud of suspicion. It is a mountain of evidence pointing to his certain guilt. The truth is that Judge Hastings internationally proved by his own actions his complicity in this matter, to make the bribery deal work. He intended only to prove it to his coconspirators. But in doing so, he proved to all the world and to the House and to the Senate that he conspired to obtain a bribe and that

he knowingly violated the oath he took to tell the truth at trial.

We respectfully ask you to find Alcee Hastings guilty as charged in articles I through XV and thereby to remove Alcee Hastings from office.

The PRESIDENT pro tempore. Thank you, Representative BRYANT.

Representative GEKAS will now continue the argument for the House.

Mr. Manager GEKAS. Mr. President, Members of the Senate, and our colleagues on the House side, Mr. ANDERSON, and to Judge Hastings and cocounsel, to all, I, too, want to express my gratitude for the extraordinary privilege of presenting the case in this instance before the Senate and to express the heartfelt devotion and belief that we have in this case.

Article XVI of the articles of impeachment: "Stay away from Kevin Gordon, he's hot, he's been using your name in Hialeah." It takes just a few seconds to utter that little phrase, and it sounds like something out of a Humphrey Bogart movie of the 1930's. And yet that little expression constituted a monumental breakdown of several investigations of law enforcement efforts to do some good in the Miami area and to bring disgrace on that court and on our system of justice, and constitutes a treachery to the American people as well.

The title III wiretap law that a Congress prior to ours put into effect called for a system whereby because we were not quite certain if law enforcement would overreach itself, it compelled the law enforcement agency that wanted to indulge in a wiretap situation to go to the court and to have the court order and directly monitor and supervise a wiretap.

Why? Because Members of the Congress felt that if anyone could be trusted to supervise a wiretap investigation, a wiretap situation, and thus ensure the public that no undue invasion of privacy would occur and that no violation of civil rights or other violations would occur, we would, the Congress said, entrust a judge to make sure that this wiretap investigation was pure and good.

So we see that in the summer of 1985, with all kinds of activities occurring in the Miami area, the FBI embarking on several investigations almost simultaneously, one an investigation into the longshoremen at the docks who were extorting large sums of money in return for memberships to their hallowed union; another investigation was occurring in the community of Hialeah where there were allegations that public officials would be subject to bribery in return for preferences in zoning and other favors; and a third one about police corruption in the community of North Bay Village in which, in return for bribery and payoffs, police officers would look the other way while offloading was occurring as to drugs in that community.

The FBI, critical as their efforts are and criticized often as they are, even by Members of our Congress, for some of their activities, were intent on doing a job for us and the American people in their area, in Miami. So, they undertook, with the cooperation of the U.S. attorney's office, as is always the case, to undertake a wiretap.

They went to the court, and the luck of the draw, the judge of the month who was to undertake these kinds of special requests was Alcee Hastings. The disclosures were made to the judge of the necessity for the wiretap, a full account of the investigations at hand, the existence of undercover men on the part of the FBI who had to infiltrate the longshoremen and the zoning people in Hialeah, and the police establishment in North Bay. Undercover agents were involved in these wiretap investigations.

Under that title III, as all of you know, weekly progress reports had to be given after the authority was granted for a wiretap so that the judge could see what was happening; was there any progress being made; was it worthwhile continuing the investigation; should we continue the wiretap, or is it falling flat and therefore we should withdraw it because it is not doing any good, it could be violating somebody's privacy rights.

So these weekly progress reports were even rendered to Judge Hastings. All of a sudden, it is noted that in the weekly conversations held with Judge Hastings by the U.S. attorney or the FBI agent presenting the progress report, there was a little colloquy between the judge and the officer on some of the names that appeared in the disclosures and requests for wiretapping. Mayor Steve Clark of Miami, FL, was mentioned; Kevin Gordon was mentioned, and indeed one of the targets of the requested wiretap was Kevin "Waxy" Gordon.

The judge, throughout all those weekly progress reports throughout the summer of 1985, asked only two questions about the whole content of all these progress reports, and both of them had to do with Mayor Steve Clark and Waxy Gordon, words to the effect—the transcript has it; it is at your disposal—words to the effect that Kevin Gordon is hot, and the mayor better watch out what he is doing with Kevin Gordon. Or, that is heavy stuff; the mayor better watch out what he is doing with this Kevin Gordon.

You will recall from the reading of the transcripts and of the reports of the committee that indeed these were the subjects of the dissertation between the judge and the requesting authority of the wiretap.

I ask you to hold that in suspense for a moment, to remember that the judge was asking about Mayor Clark and the effect that this whole thing about Waxy Gordon would have on Steve Clark.

The end of the summer, the beginning of September, at the Hyatt Regency Hotel in Miami on September 6, 1985, there was a great community meeting to give awards and to hear speeches, among which was the main speech of the day scheduled for Alcee Hastings.

Mayor Steve Clark was there. It is undisputed that Mayor Steve Clark and Alcee Hastings were together for a brief period of time. How brief, I do not know.

How brief, I do not know. Nobody knows exactly how much time they spent together, but they were together. And a Monsignor Walsh, who testified throughout all these proceedings, concurs that, indeed, the three of them were together at one time, and indeed, of course, two of them, Steve Clark and Alcee Hastings, had to be together.

In a brief period of time, an exchange was made, and only hours later the mayor, Steve Clark, in an insistent manner, made sure through his office that he would have an appointment with Kevin Gordon. And within hours he was in the presence of Kevin Gordon, when the mayor summoned Gordon to his side at a club and told him to stop using his name in Hialeah, and what did he think he was doing associating his name with whatever he was doing in Hialeah?

This was right after this little get-together at the Hyatt Regency Hotel in which Mayor Steve Clark met, ever so briefly, with Alcee Hastings, who were both joined at a particular point by Monsignor Walsh. What did this imply?

Then later you will find in the transcript abundant evidence to the effect that Kevin Gordon, who was now on tap—you know, he was the subject of the wiretap so that his calls kept reflecting little things. One of the things that kept recurring in his own wiretap reports to the FBI was that he was complaining about what Clark was complaining about, about Alcee Hastings revealing this investigation and telling him, telling Clark, to stay away from him, Kevin Gordon.

All these things may appear to you to be items of circumstantial evidence, and perhaps they are.

Now, I ask you to go back to the hotel with me for a moment and to listen, as you have, through the transcripts and through the questions that you posed and through the report of the committee that we have direct, unaltered, unaltering, unchangeable testimony from Steve Clark himself which fills in all this circumstantial evidence to which I have been alluding. How does it fill in? He testifies that on that morning at that hotel

where he himself, Steve Clark, was going to be honored with a special award and in which he was going to listen to the speech to be made by Alcee Hastings that Alcee Hastings in a brief exchange said to him, "Stay away from Kevin Gordon. He's hot. He is using your name in Hialeah."

How long did that take? Could it have been uttered in that time space where Monsignor Walsh saw the two men together? Could it have been uttered at that time? Does the telephone call that the tapes show occurred in which Kevin Gordon was involved where he got a call from the mayor's office at about 8:48, or 8:50, close to 9 o'clock—was that a coincidence, or was that in direct, frantic preparation by Mayor Clark of the events that were disclosed in that brief exchange? Not a Humphrey Bogart movie, but at the Hyatt Regency Hotel on September 6, 1985.

Now, you might say, or a casual observer might say, so what if this indeed did happen, what consequences were there? You and I know the consequences.

But the actual consequences were that as soon as the FBI had this array of evidence that, indeed, their trusted judge, the one that they asked to supervise this wiretap, to authorize it, was revealing the information, leaking the information that was at the heart of the investigations, they could do only one thing and they did it. They ripped away the undercover man from the longshoreman situation. They dropped the Hialeah zoning investigation; killed both of them immediately. And for reasons best known to them, because they still saw vibrancy left in the police corruption situation in North Bay Village, left that alone for the time being. But these two important drug, longshoremen, corruption-of-public-officials cases were dropped.

And I might add, because of the consequences of that, and the fear of the discovery of undercover men we may still have consequences that are left to us today. As we speak here today, it may not be a safe climate in that area for the FBI to install undercover men or to otherwise pursue investigations of the type that Alcee Hastings caused to crash down in a heap of rubble.

But listen to Alcee Hastings' explanation of all that. Coincidence, the judge will say. "I cannot help it if on that same day when in that hotel I saw Steve Clark, that on that very same day Kevin Gordon was heard to say on the wiretap that I was supposed to stay away from him and all of that. That is just a coincidence."

But we know they were together. Monsignor Walsh knows they were together. It takes a brief time to say, "Stay away from Kevin Gordon. He is hot and he is using your name in Hialeah." A very short time. You can time that and see that you could say "Hello," and all of that within seconds. It could not have been coincidence. Could it have been coincidence that they just happened to go to that place, particularly at that time, and have a discussion, but not discuss what later turned out to be the core of telephone calls? Or would you believe the defense version of events, that Steve Clark is a liar?

Steve Clark testified before a grand jury, before a gathering of judges who were given the responsibility of listening to this case for judicial proceedings. He testified before a subcommittee in the House of Representatives and subsequently testified before the committee of your own body to hear the evidence—unwavering testimony, direct, important testimony from Steve Clark. There is nothing to indicate in the record or any allegations even made by the defense or from any point of view of any of the evidence in this case that he lied or had any motive to lie or any reason to lie. And he stood fast to his story even to the effect that he was sure—although he was mistaken, undoubtly—he was sure that it took place after the speech by Judge Hastings and not before as the series of events of the telephone calls and the meetings which are related really show actually what happened. He was mistaken as to that.

But all of us who have been accustomed to trials and to review of evidentiary proceedings know that the best witness many times is mistaken in elements of the story that are not very important or, if important, are not as important as the core of his testimony, which on its face has to be believed or disbelieved in order to make a final decision, in this case, unswerving, unchallenged, undeniable, straightforward testimony by Steve Clark that, indeed, Alcee Hastings told him to stay away from "Waxy" Gordon, or Kevin Gordon.

Or, is it possible that Steve Clark was trying to frame Alcee Hastings for some ethereal reason that has never come to light. But what reason? There was given no personal animosity. In fact, they were friends or acquaintances, political coworkers, that kind of situation. Never any scintilla of evidence of any reason that Steve Clark should lie to get back at Judge Hastings for some reason again not revealed by the evidence or the record. Coincidence? Some coincidence.

And what a great array of evidence was brought in by the defense before the committee, before the subcommittee in the House, about what happened at the hotel and how it was impossible for the judge to have walked down and talked with Steve Clark after the speech because he was spirited out after the speech was made, out backstage and out back into the courtroom, and that shows, he says, that shows indubitably that Steve Clark is a liar. Is Monsignor Walsh a liar who saw them together, who saw them together for enough time, 10 seconds, 12 seconds: "Stay away from Kevin Gordon. He's hot. He is using your name in Hialeah." How long does it take him to utter that break in law enforcement continuity?

One of the most telling pieces of evidence that I have ever heard in my entire life came from the U.S. attorney who, when asked in direct question, or perhaps in cross-examination or perhaps from a member of the committee that was listening, from the Senate, said that he, a U.S. attorney, sworn to uphold the U.S. Constitution and do his duty, could never bring himself again to trust Alcee Hastings; could never feel comfortable in presenting a case before Alcee Hastings. And so it was uttered by others involved in this case.

Why? Because Alcee Hastings had destroyed the fabric of law enforcement for those particular times and in those particular circumstances in the Miami area. He not only was guilty of betraying the oath of office, as blatant as that is; not only in betraying the law-enforcement officials and the standards of that community; not just the betrayal of his peers on the bench and the people of the United States' betrayal; but that betrayal, unlike any other of his misdeeds as part of these impeachment proceedings, actually endangered the lives of individuals sworn to law enforcement who, in other ways, every single day, risked their lives for us, the American people.

It was an episode of monumental betrayal. I thank the Senate.

The PRESIDENT pro tempore. Thank you, Representative GEKAS.

Representative CONYERS will now conclude the opening argument on the part of the House.

Mr. Manager CONYERS. Mr. President, Mr. Majority Leader, Mr. Minority Leader, Members of this distinguished body, when I came to the Congress 25 years ago, to this body from the civil rights movement, in part, from local activity, I think I was one of four black Members of the House. My agenda focused then, as it does today, on increasing access to political power for African-Americans and members of other minority groups who for so long have been excluded from positions of influence and authority in American life. I have seen some progress in this past quarter of a century and I also know, as you do, that we still have a long way to go.

As a lawyer who occasionally got into courtrooms, I have been before my share of hostile judges, racist judges, in the North and the South. I found nothing more satisfying, in the course of my congressional career, than to help the development of a capable and vigorous bar of African-

American lawyers, men and women, and the elevation of some of its more outstanding practitioners to the prestigious position of Federal judge where they can serve, not merely as dispensers of equal justice under the law, but as models for their community and for the Nation.

So, I am saddened to come before you today to urge the removal of one of the handful of black judges who presently occupy the Federal bench. I am not happy to come here to argue that Alcee L. Hastings has forfeited his right to one of the most honored places in this American political system. But we did not wage the civil rights struggle in order to substitute one form of judicial corruption for another.

I do not question that Alcee Hastings is a man of extraordinary accomplishment who once contributed much to his community and to the Nation. But that recognition only saddens me all the more because his conduct of the last 9 years does not diminish his former accomplishments any more than his former accomplishments excuse his more recent misdeeds. It is precisely because he betrayed his trust and betrayed those who looked to him for leadership, the possibility of a fairer, better system, that our obligation to face the truth as we see it in this matter before us is so great.

This man has been a role model for all who want to see justice administered, administered with fairness and compassion, without regard to race or wealth. Instead, we argue that he must be removed from office, so that he may not teach others that justice may be sold and that our system of justice may be beaten by continuous outrageous prevarication; by blaming others and the system for one's own transgressions.

I cannot explain or have any claim to understand what caused the metamorphosis of this man. I can only deal with my impression of the facts, and they lead me to the indisputable conclusion that he has betrayed his office and is no longer fit to wield the power and authority that has been bestowed upon him.

No one could have been more skeptical than I at the start of this process. No one more anxious to ensure that this man be neither penalized for his race or insulated by his race, from the consequences of wrongful conduct. No one was more predisposed to believe the best of Judge Hastings and his case and to doubt his accusers. I said so.

I was also sympathetic to the notion that the jury verdict should have settled the matter. We had a delegate speaking on that with supposedly great authority just yesterday.

As chairman of the subcommittee that held the evidentiary hearings in the Congress, however, I began to reacquaint myself with the law in this matter. I may have had more to do with impeachment proceedings than anybody around here. And I heard some evidence that forced me to reevaluate my position, the evidence presented, not only in my subcommittee but over here as a manager. I have heard this thing twice. And what I have seen and heard and studied and listened to and reread and argued with my staff counsel and back and forth has only matured my conclusion that, measured by any standard, Judge Hastings' guilt has been established and Congress has an obligation to protect the integrity of the judiciary.

Whether, as for me, the conclusion of guilt tears at your soul, and it used to do that for me, should not deter you from making a decision that you will have to make. A few years ago the Congress grappled with the very question of what the standard of proof should be in an impeachment trial. Currently we choose to leave it to the decision of each Member, as it should be. So the House does not ask you to reach your decision lightly or based just on what we did or even just what your committee did.

Each of you have to review this yourself. But what we do ask is that when you weigh the evidence, you take into account the nature of the competing interests, for that is what is reflected in the concept of the standard of truth. It is the balancing of the interests of the public against those of any civil officer facing impeachment charges that is recognized by the standard of proof you adopt. So whether or not the particular catchwords make any real difference in your factfinding, the choice does have constitutional significance. In an impeachment trial, nothing short of our very liberty is at stake. For a free society cannot endure if it permits the corrupt to govern others. And that issue here is the public trust and the confidence in the officials who constitute our Government.

The penalty upon conviction is not a sentence of imprisonment. It is not a criminal adjudication; it is the removal from office. As you all know, it so happens to be the only way you can remove a judge from office. Thus, the public interests are clearly predominant over the interests of the respondent.

In American jurisprudence, the degree of certainty required for a verdict varies according to the weight of the competing interest of the parties. In criminal proceedings, it is one thing; in civil proceedings, it is another. But Judge Hastings has suggested that the strictest standard be applied. That will make it tough to arrive at the conclusions that we already arrived at, and his lawyer's reasoning flies in the face of precedent and logic. It is very interesting. They cite a Supreme Court case, Addington versus Texas, that says no such thing. Look it up.

This case started off complicated. There is no such thing. The facts are garden variety stuff. The law started off complicated. No such thing. We just do not handle impeachment measures that often in the Congress. Once you examine the precedent and the history, it is not that difficult at all by the standards of the work that we discharge every single day of the week.

The purpose, traditionally at least in modern times where officials have been accused of more than one act of misconduct, the House has included, the Senate has accepted, an omnibus article of impeachment. The purpose is not only to permit the Senate to consider whether the acts of misconduct constitute impeachable conduct in combination rather than individually. It is also a recognition of the devastating effect that a pattern of such misconduct has upon the institution, the judiciary, upon which this respondent serves. Accordingly, I urge you to conclude that Judge Hastings be convicted on article 17 as well.

You do have to study the record carefully, and you have. There is an enormous amount of evidence that makes no sense at all unless Judge Hastings conspired with William Borders and lied at the trial. It is the mass of evidence that makes the case, but it may be just one of the undisputed facts that convinces you that Judge Hastings is not to be believed on this and many, many other facts made both in and outside of this legal process.

Can anyone study this document and really believe that the judge was expecting Borders at the Fontainebleau Hotel even though when he was seated at a table for four, he watched the extra place settings removed? Everybody knows that Borders was a fight fan that night and anybody who knew, including the judge, knew exactly where he was.

Is it credible that the judge insisted that the Romano forfeiture order be mailed out immediately on October 6 because he was worried his law clerk was going to leave 4 weeks later? What about the judges' inexplicable behavior in leaving Washington upon learning of Borders' arrest and his gratuitous and discredited tales of telephone calls from L'Enfant Plaza to persuade the jury that some innocent reason, the concern for his mother, compelled his hurried departure?

Does it make sense that on the evening of Borders' arrest, the judge, if he were innocent, would tell Ms. Williams to leave her home and go to a pay phone to call him? Does it ring true that the judge and Borders spent months working on a strategy to help their mutual friend, Hemphill Pride,

poor guy, and that their months of talking and writing culminated in absolutely no action at all? Is there any plausible source for Borders' insight or knowledge of the Romano case, other than Judge Hastings himself? Is this tough, difficult fact?

Is it plausible that the judge could draft six pages of handwritten letters while simultaneously trying cases without a single mistake or crossout? Those letters for Hemp are fakes, never shown to the judge's secretary or to his original legal representative, for that matter, written after October 5 to explain the coded telephone conversation that was sure going to get him in a lot of hot water.

What about Borders' choice of imprisonment rather than testify here? One Senator pointed out Borders' explicit assumption that he was being called by the Senate to testify against a friend. That is his assumption; certainly not ours.

The incriminating evidence cannot be ignored, and it is compelling. But the most compelling testimony of all came from his former best friend, quiet, unwilling, reluctant witness who did not want to say what he had to say about Judge Hastings. Yes, Judge Hastings says he was not conspiring with Bill Borders to sell justice. He and Borders were just working out a plan to help their good buddy Hemp. They were always working out details to send letters to the South Carolina bar to get Hemp readmitted.

The only thing was Hemp did not know anything about it. The only thing was that when he found out about it, he said:

> Do not do it because in South Carolina they do not like you guys advising us who should be practicing law.

And following the indictment, the judge told Hemp that he needed Hemp's testimony to support his alibi.

And you read what Hemphill Pride told the judge.

And he did this no matter how much he loved and admired or probably used to love and admire Judge Hastings.

Judge Hastings said Pride was wrong when he said that he, the judge, made no calls from L'Enfant Plaza after they learned of Borders' arrest, wrong again when he said that they never discussed Hemphill's letters while driving to the airport in Columbia, SC. Well, who are you going to believe?

Justice and the integrity of our Government depend on the importance of these impeachment proceedings, and they argue that the judge should be removed from the bench.

When he came to my subcommittee, he said:

> I'm glad I'm here. Finally, we're going to get a hearing. Let's get it on with, ready to go. You got the right place.

He put on nothing, nobody. I even called the two judges that filed the impeachment action before my committee. I even allowed the judge to make an opening statement without being subject to cross examination. I allowed the judge to cross-examine his Federal colleagues that filed the complaint against him. Read what happened. He said, "Isn't it true we disturbed the collegiality of the bench down there?" Well, you bet we disturbed the collegiality of the bench. Not one remark about racism, which is what is going to be the subtly argued problem around here. "What's a hundred white guys and women doing picking on this black judge. What do you know about it?" And nobody in this country, save maybe Jesse Jackson, has fought harder to integrate this body than me. So he is going to say, "Well, look at the system." Well, like so many in our system he came to my committee and he wanted a fair hearing and he got one. That was when the trouble started.

And by the way, there are other black judges that have looked at this case. You do not hear much about them. The first black judge in Florida at the circuit level reviewed this matter. A distinguished member of the judiciary here in Washington reviewed this matter at the conference level. The Congressional Black Caucus reviewed this matter. The Hispanic Caucus reviewed this matter. All of my friends that wanted to talk to me about it in the House of Representatives have discussed this matter with me to any point that they chose and that I could be available.

Circumstantial evidence. Well, there are so many lawyers here. What is wrong with circumstantial evidence?

And so I come to you to argue that this is not another case like Adam Powell. This is not another case like Clarence Mitchell. I happen to know something about those cases. This is not a case about Geronimo Pratt. This is the case of one Judge Alcee Hastings. There have been a lot of problems in our judicial system in which race has been involved. This is not one of them or I would be the first person in the Congress to tell you so.

I am on three committees that do mostly nothing but watch the FBI, and CIA, the Department of Justice, the criminal justice system, the corrections system, the courts. Police injustice, nobody in the Congress handles more cases than me. And so I am not here to downplay the impeachment process. I think it is an important one. It is very significant. So I join you to ask that you do what you have to do. I have done what I had to do. I have done it twice, as a matter of fact, and would do it again because I believe that this system can be made better than it is and that we are making it better than it is. So, ladies and gentlemen, do your duty.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I am advised that a vote has just commenced on the House floor.

Would it be agreeable to the managers that some could go and return so that we could continue the proceedings, and there could be some Members here at all times? If that is agreeable, Mr. President, then I suggest that course of action and that we continue the proceedings as scheduled.

The PRESIDENT pro tempore. Very well.

Mr. Manager GEKAS. Mr. President, will you excuse us for the purpose of casting a vote?

The PRESIDENT pro tempore. Very well. That will be done.

Arguments will now be heard on behalf of Judge Hastings.

Judge Hastings has asked to be first. Judge Hastings.

Judge HASTINGS. Thank you, Mr. President.

Mr. President BYRD, distinguished majority leader, distinguished minority leader, distinguished Senators, on both sides of the aisle:

Today, all of us are rightly concerned about the calamitous consequences in California and in South Carolina with our fellow citizens. I use California as the touchstone for any of my remarks for the reason that there is no Richter scale for the Constitution. I would like to thank each of you, and a special thanks to the distinguished members of the 12-person committee. That was an interesting summer and a lot of history is involved in what transpired there.

My range of emotions—I have these papers here that my lawyers assisted me in preparing. My range of emotions are extraordinary at this time for I have heard from three extremely distinguished Congress persons whom I have come to know as serious advocates and very capable individuals in their leadership roles in this great country of ours.

And I just question whether or not you have heard from them or read in their papers certain things that I think are going to be germane for all of us at this particular point in time. The only measurement for this kind of constitutional potential calamity is within the hearts and the minds of those of you, ladies and gentlemen, in the Senate who are going to have the responsibility, awesome responsibility, of deciding many of these questions.

I would also like to momentarily take an opportunity on the floor of this august body to thank each and every one of my lawyers that are here assembled—and there are some of them who are not here who have contributed so very much to us, and I ask your indulgence to allow me the privilege of thanking them publicly before this forum. Even from as far away as England one of our lawyers traveled

today and previously when we were here to follow this constitutionally significant case and the magnitude of it so that he, too, as the scholar that he is, and my lawyers are, will have it in proper perspective.

Now, if I thought that outstanding oratory or word wizardry or ringing rhetoric, if I thought that was what was going to be the determining factor, then I would have stayed up all night long or all year long preparing same.

But I did not think that was going to be a needed item. It was not until now that I determined to dispel quickly the myth that JOHN CONYERS just perpetrated here in this body, and I do not wish my outrage to sound as if I do not want each and every one of you, as is your responsibility, to deal with the facts to do that. But I just heard Representative CONYERS implicate racism into this particular situation. I have had my say on that outside this forum. I have had my say on that outside the forum when the judges were conducting their responsible constitutional irresponsible undertaking. But I invite any Senator here to look at the record of the trial of the United States of America versus Alcee Hastings in 1983 and find any notion whatsoever that racism was employed as my defense. I invite any Senator here to look at the record of the judicial council, at the judicial conference, as I believe you have, and find in there for me where race was my defense.

But, more important, your distinguished colleagues who were with me this summer, in their questioning, understanding full well the cultural differences that may exist in this country, and I believe respecting them, I invite you to look at that record from July to early August and find anywhere where I said that race was my defense. Race is not my defense, was not my defense, and when you decide this case do not decide it because an African-American is standing here; you decide it on the facts, please, Senators, please, just on the facts. If you decide on the facts, as did the jury, then I think that once you do that you will come to the same conclusion that they did.

When Congressperson CONYERS said he conducted a fair inquiry I believe that he believes that he did. But I do not think he quite understands the historical magnitude of what he did when he did it. We submitted to him—and please, if there is no Senator—and I do not intend to be pejorative—if there is no Senator who does not understand the dynamics of what transpired, please go to the record and understand that we submitted witnesses for Representative CONYERS to call. It was not our prerogative to call anyone we so chose. It was my prerogative to choose not to testify before his committee, and I so chose and did not. But I testified before your colleagues and to the best of my ability answered each and every question that each and every one of them put to me. But if one would believe that we gave him 70 witnesses to call and he called three of them, then I invite you to understand that a lot needs to be said.

So we have grown up, JOHN and I. We are here today, now standing as men, and that is as it should be. And if we were to be women, that would be as it should be.

I am not guilty of having committed any crime. And that is my defense, was my defense in 1983, and has been and is, and will remain until I die, my defense.

I was not a participant in Bill Borders' corrupt scheme. The testimony I gave before the jury was as honest as I could make it, and any errors I made were honest errors, as I believe that most of the errors that the FBI made may very well have been honest as well.

I take article 17 and say one thing. I did not tell Steve Clark anything, and I believe that my lawyers will speak to that.

I said I was not guilty in 1981 before Judge Craft. I told him that we would be diving into swirling constitutional waters. Judge Craft told me, "No, Judge Hastings, this is just an ordinary case." I said, "No, it will not be, sir." And now we know that it is not and has not been.

The FBI and the Justice Department rightly, as is their constitutional responsibility when I said I was not guilty, disputed that claim. I appeared in the forum they chose and said it again in 1983 that I was not guilty. They argued that my testimony was false.

I sat here almost disbelieving. I heard three people, with the exception of Representative GEKAS, arguing but one of the points. But I heard all of them arguing things that I have heard argued before. I will get back to that, and I will do all of this quickly in the interest of your time, Senators.

The jury rejected the prosecutors' argument unanimously. Never in my life have I and as many of you who are lawyers, and most of you that may have been in a courtroom—never did I see a jury, each one of them, spontaneously stand and say "not guilty" as did this jury; not required by our court system in Miami and the Federal courts, but that is what they did. I said it again this summer before Chairman BINGAMAN, Cochairman SPECTER, and the distinguished colleagues of yours that they joined—that I was not guilty. I will say it again to you now. I am not guilty.

The managers have argued otherwise. I believe that to be their constitutional responsibility. I will leave it to my lawyers to explain to the Senate why you should again reject their argument.

There is one point that I wish to address personally. The impeachment trial committee and the outside managers have questioned the absence of outrage. Why is not Alcee L. Hastings more outraged at Bill Borders for what he did to him? And I heard it raised here again today before you in this distinguished body.

Well, would it surprise you to know that nobody ever asked me that until I got to the trial impeachment committee? That was never put before me to be said. Then I said what I had to say. That is in this record. But so we will not have it misunderstood, I am and will remain outraged by what Bill Borders did, and stealing my name, but that outrage has since been joined by other concerns that might be called outrages, and let me describe just a few of them to you. I would like, if you would, to go to the record with reference to them.

I was and I remain concerned by the FBI's decision that my honor and my integrity, my innocence, and my reputation were not worth 125,000 American dollars. They knew the case against me was unsubstantial. Not only that, they knew it was shaky. When they decided to arrest Bill Borders at the scene of the payoff, and they now claim that protecting the integrity, the reputation, the innocence, the life of a district judge who, in this instance, just incidentally is named Alcee Hastings, was not worth $125,000, was it that the honor and integrity of a Federal judge was not worth $125,000 or was it just the honor and integrity of me? You can answer that.

I was and I remain concerned that a horde of FBI agents, 11 of them, to be exact, went to my chambers on October 9, 1981, with a subpoena duces tecum and seized whatever papers took their fancy on that day. The very idea that FBI agents should invade the chambers of a Federal judge, and when they discovered that neither he nor his secretary were present, rummaged and helped themselves in his office under the aegis of a subpoena duces tecum causes genuine concern.

That does not get around those core facts. I was and I remain concerned that two judges, so as how you all clearly understand, those two judges were not colleagues of mine from the Southern District of Florida, as has been so often misrepresented in America since this instance began.

Those two judges—I was tried in Miami, FL. One of them is and was the chief judge of the Middle District of Florida. The other one was and is the chief judge in Brunswick, GA. Neither of them were at my trial.

There was daily copy at that trial, and neither one of them had the bene-

fit of the record. Please go to the complaint and read it, and you will find they attached newspaper clippings as the basis for their information and belief. Those newspaper clippings, as the basis of their information and belief, led to 3½ years of investigation. That also causes me concern, as I believe each Senator in this room and each Member of the House of Representatives rightly should be.

This committee did not even bother—they talk about Hemphill Pride as my friend—to get his telephone records. When we tried, we were unsuccessful, and the record bespeaks that. For 8 years, Senators—or 3 or 4—I am the only person in the history of America standing here that all three branches of government have had an active and hands-on responsibility in seeking to remove.

For 8 years, the only issue has concerned my guilt or my innocence. For 8 years, no one has cared about the conduct or misconduct of those who have accused and investigated this Federal judge.

Eighteen months, two able lawyers, the resources of the FBI, and a jury verdict were not enough. The issue required more, more than 6 years, six outstanding lawyers and their aides, untold millions of dollars more.

Now, for 8 years—we enter the ninth—no one has cared about the physical and emotional consequences to me or to my family, and no one has cared, it does not appear to me, about my colleagues in the Southern District of Florida, who are in desperate need of additional judge power at this time.

For 8 years, no one has cared about whether it was fair to impose the costs and burdens of three investigations and two trials on an acquitted Federal judge.

I was outraged in 1981 and in 1982 when I learned what Bill Borders had done to me, and I am outraged about it now. That outrage is ongoing, and will be forever, and is joined by other things that have happened to me during this 8 years.

The Senate has the power to make a just decision this week, and I believe they will. The Senate also has the power to exercise fairness, and I believe they will.

I want to share with you something, Senators. The question was put by the trial committee, and has been an overriding concern, as I am sure it is for all of us, and that is the subject of what deference, if any, in your deliberations, you should give to the jury verdict in which I was found not guilty in Miami.

On Tuesday, the second week of the proceedings before the outstanding impeachment committee—and I thank them for all of their time and attention, recognizing the size and complexity of their responsibilities as well as yours—on that second Tuesday, I sat there and made sort of a bond, at least in my mind, and spiritually, with Mr. Madison and Mr. Jefferson and Mr. Franklin, and other persons who helped author our Constitution and the Federalist papers.

I have heard Terry argue and Robert argue and Stephanie and Patricia, and all of my lawyers argue the constitutional ramifications of double jeopardy as pertains to this matter. I read James Kilpatrick's columns regarding same, as I am sure some of you have.

We have argued humorously and seriously from the legal and philosophical standpoint. All of my life, I always thought as a lawyer that the reason the double jeopardy clause was placed there was because the Founders were capable of seeing that things would happen that would cause people not to have to suffer that pressure. I believe that I am the only individual in this room that has had to undergo that pressure.

You know what, I believe that Mr. Madison and Mr. Jefferson and Mr. Franklin had had that same experience in their lives, and that is why I believe it is in the Constitution. I have borne that burden, and I come to you asking but one simple thing: Fairness. Please, act fairly.

Thank you, Senators.

[Clapping in the gallery.]

The PRESIDENT pro tempore. The guests in the Chamber are the welcome guests of the Senate. The rules state there may be no demonstrations of approval or disapproval in the galleries. The Chair intends to enforce that rule and hopes that the visitors in the galleries will cooperate with the Chair in maintaining order throughout the trial.

Thank you, Judge Hastings. Ms. Williams will now continue the argument.

Ms. WILLIAMS. Mr. President, distinguished Senators, House managers, my very capable colleagues, let me also express my appreciation to the Senate for this opportunity to come forward and argue the defense of article XVI on behalf of Judge Alcee Hastings.

October 9 marked the ninth year since the onset of the mega-dilemma of Judge Alcee Hastings. Only a strong, determined individual who believes in himself and is committed to his principles can withstand for 9 years an unrelenting attack on his reputation, manhood, his sense of security in his country, his peace of mind, his health, his financial well-being, and his general pursuit of happiness for that long a period of time.

But Alcee L. Hastings has not only withstood that attack, but he has stood up to it with integrity and with dignity.

Judge Hastings long ago recognized that his problem was bigger than he is, and at some point he became committed to standing up to protect not only himself, but to protect precious constitutional principles such as separation of powers, double jeopardy, and the independence of the Federal judiciary.

My task this afternoon is to sum up the evidence and to argue same as pertains to article XVI, which alleges that Judge Hastings leaked confidential wiretap information to Mayor Stephen P. Clark in Miami, FL, on September 6, 1985.

Article XVI, though factually unrelated to the previous 15 articles, nevertheless sheds light on those 15 articles and provides some insight into the mind and motives of the accusers of Judge Alcee Hastings.

Article XVI is based on a set of facts which never link up. They never make sense. They never could have happened. Yet, it is here before you today.

How that came to be, that we are here today on article XVI, is a question as important as whether or not the judge leaked confidential information to Mayor Clark.

I ask that you hold both questions in mind always as you deliberate on article XIV. These are the facts. Mayor Clark was given an award and Judge Hastings was the guest speaker at a MAPP convention in Miami on September 5, 1985. Mayor Clark has testified before the grand jury in Miami, before the investigating committee on the 11th Circuit in Atlanta, before the House subcommittee, and before the Senate subcommittee that after Judge Hastings gave his speech, the judge stepped down from the podium, went into the audience, shook the hands of various members, worked his way back to the third row and there whispered into Mayor Clark's ear the famous phrase that Mr. GEKAS has voiced over and over again, "Stay away from Kevin Gordon, he's hot, he's been using your name in Hialeah."

The mayor testified that, after the judge put this in his ear, he then left the MAPP convention momentarily, drove to his office 5 or 6 minutes away and called Peter Ferguson, Clark's campaign manager and a political associate of Clark. Clark told Ferguson to call Kevin "Waxy" Gordon and tell him that the mayor wanted to meet with him at noon or so at the club, as Mr. GEKAS has pointed out.

This often repeated set of facts is what I earlier told you simply could not have happened and never links up. By all accounts, by the testimony of all the witnesses who testified before the subcommittee, the judge's speech ended after 9:30 in the morning and probably ended about 10:15 that morning.

The FBI intercepted Ferguson's call to Gordon, which Ferguson made as a result of Clark's call to Ferguson at 8:58 in the morning, long before Steve Clark says he had any contact whatso-

ever with Judge Hastings, long before Judge Hastings had even commenced his speech, let alone thereafter walked into the audience and greeted Steve Clark.

In addition to that, the evidence further establishes that it did not happen the way Steve Clark said through the testimony of Joy Royals Vickers. This young lady came in and testified that at the MAPP convention she was assigned the task of bringing the judge down in time to give a speech and of making sure that he concluded it at such a time that he would be able to get out of the convention and to the courthouse in order to resume a jury trial that he was in. She testifies that at some point she came onto the dais, stooped down next to the judge at the podium so that she could not be seen in the audience, and started tugging on his coattail to alert him that it was time for him to conclude his speech. The judge concluded his speech. He greeted certain people on the dais. She then directed him out of the auditorium, through the rear doors behind the podium. She says the judge never stepped down from the podium, he never went into the audience, he never greeted anybody there, he certainly did not greet Steve Clark at that time.

Pat Thomas corroborates Ms. Vickers' testimony. She testified she assigned this task to Joy Royals Vickers, so does Lonnie Sumpter and one other witness, Roy Phillips, who says that he was coming onto the dais, which can only be exited and entered from the end of the dais where the steps are. As Roy Phillips was coming onto the dais in order to greet the judge and congratulate him on his speech, he saw Joy Vickers take the judge through the back doors and out of the convention. As I said before, it could not have happened the way Steve Clark says it happened.

At some point Steve Clark was confronted with this inconsistency, and his response, contrary to what Mr. GEKAS says, was, "I cannot explain it." He had no explanation for the inconsistency. The story that he told he has told over and over again, and he has never attempted to provide any explanation for the time inconsistency. Further, when he was confronted with the possibility that the judge may have made the statement to him when he was speaking with Monsignor Walsh that morning—and let me back up one moment, if I may.

It was Judge Hastings who produced Monsignor Walsh, it was not the committee, it was Judge Hastings who did that, and he did that because he recollected that he had in fact seen Steve Clark on this morning at the MAPP convention and that, when he did so, it was in the presence of Monsignor Walsh. Monsignor Walsh says that there were no private conversations between Steve Clark and Alcee Hastings when they had that little encounter on that morning. He said it was just an exchange of cordiality, "Good morning, how are you? Is the coffee good?" That kind of chat. He said there were no private conversations. He never saw Judge Hastings take Steve Clark over to the side and whisper anything in his ear. He never heard anything about "Waxy" Gordon or anything along those lines.

Steve Clark says that he does not have any recollection of Monsignor Walsh at all, and he denies, contrary to what GEKAS says, he denies that it was at that time that the judge made the disclosure. I repeat, it did not happen; the story is not true. It does not link up. It makes no sense.

What does the FBI do faced with an obviously untrue story? Well, they gnawed apart what did not fit a scheme of guilt for Judge Hastings, and they proceeded to try to make a case.

First, they confronted Clark, and they said to Steve Clark, "We need you to make contact with Judge Hastings. Give him a call on the telephone, and we will record the conversation. Or visit his chambers wearing a Nagra tape. Have lunch with him at some restaurant he frequents."

They made all these suggestions to Steve Clark, to which Steve Clark responded "No, no, no." He would not do any of them. Why would he not do it? Steve Clark has never called Judge Alcee Hastings in his life; neither has Judge Alcee Hastings ever called Steve Clark. It is not that kind of relationship. When they meet, it is under circumstances just like the one that I just explained to you, on a dais where they are both guests at a political or civic function of some sort in Miami.

Steve Clark has never been to Judge Hastings' chambers or to his home and neither has Judge Hastings been to Steve Clark's office or his home. They do not drink together. They do not know each other. There was no way.

The FBI scheme was a very intelligent one, I do believe. What they wanted to do, according to the FBI Telex was have Steve Clark sort of bump into the judge, sort of accidently, and then to thank the judge for the tip and to tell him that he checked it out and it was true, and then the judge's response would one way or the other reveal whether or not the judge was involved.

So Steve Clark refused. He would not do that. He said he had a heart condition and that his doctor said that if he wore this Nagra tape, he might incur some kind of a physical problem. But, as I told you, Steve Clark testified before the grand jury, the investigating committee, the House subcommittee, and the Senate subcommittee here, and I wish you could see, I hope you have time to go back and watch that testimony. The truth is in the watching of Steve Clark.

And there has never been any documentation from any source of any position of Steve Clark saying that he was so desperately ill that he could not accommodate the FBI's very, very reasonable request which may in some way have put an end to this nonsense that we are here on today.

Now, did the FBI find it strange or suspicious that Clark would not assist them in any way? No, they did not. Instead, they made a decision to take Steve Clark before the grand jury.

Now, this is a little bit bothersome because you, in reviewing the evidence, will find a Telex from the FBI where they had made a decision on March 3, 1986, that they would not take Steve Clark to the grand jury. And what they said is that they would not take him to the grand jury for the purpose of locking Clark into his testimony.

We contend that they had a subsequent decision and when things did not go the way they needed them to, they then decided that all they could do was take Steve Clark to the grand jury for the singular purpose of locking in his testimony. And that is not what grand juries are about. Grand juries are not about locking some people into testimony. But that is the sole purpose for which they took Steve Clark there.

We received the House subpoena and did receive the grand jury testimony of the Steve Clark matter. There is the testimony of agent Mazzella, the FBI agent, and there is the testimony of Steve Clark and that is all there is. There is no request by any prosecutor at any time for an indictment against Judge Alcee Hastings. Never asked for one. That is why there is no indictment nor no true bill. Nothing. They went into the grand jury solely to lock him in and they did. And that is why four times around, in spite of a glaring inconsistency, Steve Clark continues to tell the same story that he told under oath before the grand jury, he has no choice, or face perjury allegations.

Now, the House did not investigate whether or not there were any other possible sources of this information having reached Steve Clark. Let me bring to your attention very quickly—I have a time problem here—that in July 1985, when we got the discovery evidence from the House, we found information there from the FBI which revealed that in July 1985, a call had been made to a Tom Dowd at the FBI, inquiring whether or not there was an investigation ongoing about Steve Clark and Ferguson regarding Hialeah zoning problems.

Now this was in July, which was a month to 2 months before Judge Alcee Hastings knew anything about a wiretap. So somehow this information was

already being leaked, but this was never investigated until we came up here before the Senate and we called Glen Whittle, who made that call to Tom Dowd. And what we learned was there was a nice little clique, a little group, or, as Terrence Anderson refers to it, FBI groupies that consisted of Steve Clark and H. Paul Rico, who was the guy who played Frank Romano (the undercover agent who played Frank Romano), in the bribery allegations.

Steve Clark played golf with H. Paul Rico and Tony Amoroso, who was the supervising agent on the operational file. These persons were golf buddies. Every weekend they played golf.

Steve Clark married Tom Dowd and his wife and she worked for H. Paul Rico. There is all this little cliquey, little group thing going on here. Steve Clark had sources for information that had nothing whatsoever to do with Judge Alcee Hastings.

I would like to just take a few more minutes to ask you to take a look at how article XVI comes before you today. They went to the grand jury. That did not work. There was no indictment. The Justice Department declined to prosecute on the case, setting out essentially that they did not think there was a case.

The FBI nevertheless pushed, pushed on this matter and a complaint was filed under the Judicial Conduct and Disability Act alleging this very same matter. And then, somehow or the other, by osmosis or whatever means, it appeared before the U.S. House of Representatives.

Now I wrote to try to find out how that matter got over to the House and JOHN CONYERS did not respond to my letter and neither did Alan Baron; just informing us as to how it got there.

The problem that I wish to point out to you before I sit down is that I do not believe that this act was intended to be used this way. Twice it has been used this way against Judge Alcee Hastings; in their failure in the court, as there was with the acquittal in the bribery matter. Then a complaint was filed under the Judicial Disability Act.

When there was no court action taken or declination or no indictment, then a complaint was filed on the Judicial Disability Act. I do not believe that that act was designed—and you ought to know much better than I—in order to give second whacks at Federal judges when you are not able to get them in the Federal court. But that is how it is being used.

And I do not believe that the two judges who filed the complaint against Judge Hastings after the original bribery allegation intended to instruct the executive branch that if you fail in court you can always file a complaint under this act and stretch a judge out to the point of no return, until sooner or later you have him where you want him to be. But, that is a fact, the situation that we are faced with today. This allegation makes no sense, actually makes absolutely no sense, but here we are on it before the Senate today.

I would like to just very, very briefly make one comment regarding Roberto Martinez, who, according to Mr. GEKAS, was a prosecutor who formed a distrust for Judge Hastings. And he did. He certainly did. But he did it based on a lack of knowledge.

When informed as to the time inconsistency, when informed about the witnesses who came forward, he said it could not have happened; he knew nothing whatsoever about that at the time that he formed his impression that the judge could not be trusted.

And I defy Mr. GEKAS or anyone else from the House managers—Mr. GEKAS said there were others that came forward and said they did not trust the judge. Tell us who that was and point to the record, anywhere in the record, and show us any judge or lawyer other than Roberto Martinez, who was informed, who came forward at any time expressing any problem regarding Alcee Hastings as a judge capable of being trusted.

The bottom line is you have Steve Clark's word versus Alcee Hastings, Joy Vickers, Lanny Sumpter, Pat Thomas, and Monsignor Walsh, that is what you have, a credibility problem here, a problem of who do you believe. What makes sense? And Steve Clark's version makes no sense.

Thank you very much.

The PRESIDING OFFICER. Thank you Ms. Williams.

Professor Anderson will now conclude the argument for Judge Hastings.

Mr. ANDERSON. Thank you, Mr. President. This is the 10th time the Senate will be called upon to pass a judgment on a Federal judge. On the nine previous occasions—several can be discounted: Justice Chase was a Supreme Court Justice, Alcee Hastings is not; Pickering was arguably insane; Humphreys was during the Civil War and had gone over to the South; and Judge Claiborne was handicapped by a jury conviction.

When you get down to the five fought-out cases, you have five cases in which, every time the House managers, as is their constitutional duty, have come over and told this body the evidence was overwhelming, this man is guilty of an offense, it is an offense that requires he be removed in the name of judicial integrity.

You have rejected that four out of the six contested times. I say this not to raise an institutional defense, for Judge Hastings' defense is his innocence. I say it to remind you that there is a distinction between the role this body must perform and the role that the Constitution assigns the managers.

Mr. BRYANT has emphasized that Bill Borders was convicted by a jury that must have found beyond a reasonable doubt that there was conspiracy, and in that instance he is correct. He has emphasized that a body of judges who took evidence certified that the evidence of Judge Hastings' involvement was clear and convincing, and in that he is correct. He has emphasized that Mr. CONYER'S subcommittee heard evidence and decided it was clear and convincing and merited prosecution; probable cause was there.

What has not been emphasized is the jury that heard the evidence in Bill Borders' trial did not hear Alcee L. Hastings. They saw the circumstantial case without explanation, and no one has ever disputed the evidence of that; Bill Borders' participation was direct, not circumstantial.

The judges gathered the evidence and marshaled it against Juge Hastings and found probable cause to proceed. The House subcommittee heard 8 witnesses to summarize the case that it took 26 witnesses over here for them to present.

This is a man who has been found guilty by those who have heard him not, and who know him not. This is a man who was acquitted by a jury that heard the evidence on both sides. This is a man who the record before you, witness after witness after witness, tells you is a man who is believed in in his own community.

This is a man, Judge Matthew Perry, Judge Rogers, Jesse McCrary—these are men who have known him all their lives. They come forward and say: We believed in him then. We believe in him now.

More to the point, Neal Sonnett, the president of the National Society of Criminal Defense Lawyers, member of the American Bar Association House of Delegates, attorney for the Romanos on appeal, a former Chief of the Criminal Division in the U.S. Attorney's office in the Southern District of Florida, a man who has lived with this case almost as long as Alcee Hastings, Neal Sonnett has studied the matter; Neal Sonnett continues to believe he is innocent. But Neal Sonnett cares because he is satisfied with the jury verdict and he regards this man as an outstanding district judge before whom he has confidence in appearing.

Marty Raskin, the Chief of the Criminal Division in the U.S. Attorney's office in the Southern District of Florida in 1981, an outstanding judge said:

> I have been trusted with and tried for the Government cases involving sensitive information. I have absolute confidence in his integrity. I, today, and senior practitioners in the Southern District of Florida, remain confident in his integrity. We are content with the jury verdict. We are not content with the FBI's decision to arrest that man,

Borders, when no money had ever gone to judge Hastings and thereby create a circumstantial case.

But, let me confront Mr. CONYERS and the overwhelming evidence the House has presented, for I submit to you the evidence, far from being overwhelming, supports on balance the judge's innocence. The morning of Saturday, September 12, William A. Borders met with H. Paul Rico, playing the role of Frank Romano. William A. Borders and Rico-Romano cut a deal that had two shows of proof. One, the judge would have dinner at the Fontainebleau the following Wednesday. The judge did and that is suspicious. Two, on or before September 29, 1981, the judge would issue this order restoring a part of the property.

It is not disputed by anyone that the order the judge issued was compelled by precedent. As the impeachment trial committee well framed it, the only issue is: Was the judge holding the order back to give the Romanos a chance to make a deal? And did he issue it as a show of proof? There is no question, this was not part of the bribery. There has never been an allegation he issued that order as a part of the conspiracy. It is only its timing.

Bill Borders promised Rico-Romano that order would be issued on or before September 29, 1985. He promised it on September 12, within 10 days. He came back and collected his down payment on the 19th, and said: 10 days.

Rico-Romano said: 10 days from the last time we met?

No, no, 10 days from Friday. It is not a big difference; by the 29th.

So firm was the promise, they agreed they would meet on Saturday, October 3, at the Miami International Airport for the final pay off.

Rico-Romano said: I will know something by then, huh?

Borders: Yes.

September 19 was a Saturday. The judge—there is nothing in the record—the judge says that he and Borders had a telephone conversation on the 20th—21st. In the House's theory, the judge, by that time, knew what the deal was. You do not have to look at the judge's testimony, although you should. Look at his law clerk's testimony. Monday, September 21, did the judge tell you to get the order out? Tuesday, September 22; Wednesday, September 23; Thursday, September 24; Friday, September 25; Monday, September 28? No.

This man is alleged to be involved in a conspiracy where he has to do but one thing, tell his clerk to get an order out. When the clerk was finally instructed on October 5, it took him 1 day. Had the judge given that instruction on September 28, or any day prior to that, it would have been over.

The show of proof was the timing and it was not there. That is a question the House has never been able to answer.

You have a concern, what is the standard of proof. Here is a doubt; a big doubt. What do we do with that?

Well, I want to create more doubt. I want to create a lot of doubt. I want to satisfy you that there is nothing in those five volumes that is clear; little that is convincing; and less that is unequivocal.

But you have this one gaping doubt. And hold on to it. Bill Borders promised, as a show of proof, the order would be out the 29th. It wasn't.

But what do we know about the history of the Romano order? Does the evidence enlighten us as to how it happened? What we know is, on May 4, 1981, Judge Hastings entered an order directing the forfeiture of $846,000 in cash and an interest in a motel. At that time that order was consistent with precedent. On June 19, while a motion to reconsider was pending, the U.S. Court of Appeals handed down a decision known as United States versus Martino. For Judge Hastings's circuit that decision construed the law and said: Cash proceeds aren't reachable, under the RICO Forfeiture Act.

That was briefed with the last brief being filed on July 6. It is undisputed, and I take it undisputable before a body such as this, that briefs and memoranda and slip opinions that come into a Federal judge's chambers are routed automatically to the judge responsible for the case. Jeff Miller was the clerk for even numbered cases. These things do not go to the judge. They go to the clerk. They go to the clerk for a workup when the clerk has a proposed order or memorandum or recommendation. Or when the judge is going to have to hear it, then they go to the judge. Miller's testimony, the staff testimony, that is business practice, that is established.

Look at the judge's calendar for July 8, that is the day the Romanos were set for argument on motions, and sentencing. Five matters that morning, two sentencings at 10:30, the same time, Romanos and one other.

A hearing, in the case which has been dragged into this thing, United States versus Accordo.

What does Mr. Miller say? "Minutes before the judge went on the bench I handed him a handwritten memoranda addressing this motion, other motions that were pending."

He did not have time to read the Martino decision. Nonetheless, as there may have been, within Congress and among other judges, Judge Hastings is a quick study. He took the bench; he heard argument; he pushed counsel. He heard arguments on all the past-trial motions, including the Romano order, and at the end of it, he flat out denied a motion for a new trial.

He said, "I'm going to deny your motion to reconsider the forfeiture and let it stand, but I will issue a brief order that takes account of these new decisions." And he proceeded to sentence the Romanos to imprisonment, what Mr. Deichert the prosecutor, argued and precisely what the probation office recommended.

Mr. Miller, not Judge Hastings, said after the hearing the judge told me he wanted the order to stand by the original forfeiture. I understood that is what he wanted, but I understood him to say if it could be done consistently with the law.

Mr. Miller has never waivered in that view and he, too, has testified before grand juries and Mr. Borders' trial, Judge Hastings' trial, before the investigating committee, now the House, and before the Impeachment Trial Committee. He never waivered. Mr. Miller, the young lawyer, now not so young, who in 1981 sat down to try and draft an order and he could not distinguish Martino.

You have the draft order. It was done by the end of July. The best he could do was come up with a conclusion that would have called upon the parties to submit additional briefing on a possible distinction.

"Mr. Miller: I never gave it to the judge. I put it aside. I got caught up in other matters in August."

"Judge King: This is the busiest district court in the country."

These are judges who even after the expansion of the bench still have to hear 50 jury trials a year.

A case, which part of the docket is in your record, involving the Haitians came in and was heard, an emergency thing trying to affect the Government's right to exclude Haitians who come over on boats. This is a court where emergency matters crop up. This is a court where criminal trials to determine guilt or innocence take priority, where emergencies take priority, where orders, drafting, and hearings are secondary. Jeff Miller said: "I have to put the order aside. I did not give the draft to the judge."

August 27, 1981, the Court of Appeals hands down a second decision, United States versus Peacock. The court reverses the district judge for failing to follow Martino and says that will remain the law of this circuit and is to be followed by all district judges unless and until this court sits to decide on bond or the Supreme Court reverses it. Follow it.

Mr. Miller, by his reputed account, called that to the judge's attention in early September and in that conversation, the judge said, "All right, give them their money back, but make sure my order reflects my disagreement with the Court of Appeals." That conversation, by all accounts, took place prior to September 10, prior to the day

when the Government cut its deal with William Dredge, prior to the day when Dredge called Borders and said the Romanos are ready to deal. Why, if Judge Hastings was delaying the order waiting for a deal, did he tell the clerk to draft it before the deal was on? I have heard the suggestion that Mr. Dodge, in the background, may have been trying to persuade Mr. Borders on deals just down the pike and maybe the judge was confident that a deal was coming, as one explanation as to this inconsistency.

I submit to you, if you take that view of it, you cannot avoid September 29. If this was a judge who anticipated the possibility that maybe we will get a deal, Jeff get on it, draft the order; and if he is doing that before September 10, why did this judge, no date, between September 10 and October 5th go back to the clerk and say, "Where's the order?" This punctual man could have said to Mr. Miller, "I want the order on my desk on September 12." Then he could have sat on it. He could have waited until the moment was right if he were involved in this deal. He did not.

It is inexcusable to say, it seems to me, that here is a man who Bill Borders could make go to the Fontainebleau, but here is a man who Bill Borders could not even ask his clerk to get an order out on time. Here is a man who is seeking $150,000? What is the explanation? He forgot. There is no evidence, and that is Jeff Miller in chambers, pressure by the judge to get the order out. The only evidence you will find is pressure from the Government to Mr. Miller, but that did not work. That is, I think, a gaping hole. It is a hole that the Government should have been aware of. Judge Hastings' defense is innocent but bears upon the dual responsibility you have here to protect the independence as well as the integrity of the judiciary, to examine now what happened in the face of that knowledge.

Look in your exhibits. There is a telex dated September 23 from the FBI plotting the balance or describing the balance of its operation Apple Eye scenario. At that time, the FBI knew that Bill Borders had met with Rico-Romano and promised at the Fontainebleau the order. They knew Bill Borders met with Rico-Romano on the 19th and taken the $25,000, promised the order would be out on September 29. They wanted a wiretap at that point because Mr. Weingarten, the Justice Department prosecutor, had some reservations that even with two shows of proof, even if the judge did issue the order by the 29th, it might not be enough to go after a Federal judge. They wanted the wiretap so that Mr. Rico-Romano could call Bill Borders and have some questions about the order that might provoke a call to the judge so they might get something.

Asked of the evidence, why when they did not even get their second show of proof they decided to roar ahead and arrest Mr. Borders at the scene of the payoff when none of the money had ever gone to the judge? Let me confront these patterns of communications in this admittedly crucial period. The order did not come out on the 29th. There is no evidence at all of any communication between the judge and William Borders from September 21 until 5:12 p.m. October 5. Yes, a receptionist in Mr. Borders' office on Friday, October 2, 1 hour and 40 minutes after Rico-Romano's call to Borders called Judge Hasting's office. We do not know who she called on behalf of. She did not say. The judge was not there. We know only because this honest man reported that Bill Borders called his home and talked with his mother on Sunday. We know for a fact that the judge was at the Sonesta Beach Hotel attending the meeting of the Florida chapter of the National Bar Association that weekend, and he was not home.

We have a recording of a call between Rico-Romano and Mr. Borders at 4:12 in the afternoon when Mr. Borders says, "It has been taken care of; your friend should tell you." We have no record, with the resources of the FBI, a court authorized wiretap, no record anywhere in the long distance records of any call, communication between Alcee L. Hastings and William Borders from the date of Rico-Romano's first inquiry until the time of the call when he says it has been taken care of.

The first contact we have comes 50 minutes later, and that is the letters for Hemp call. That is how you generate suspicion in a circumstantial case.

Let me take up Mr. BRYANT's challenge and ask you to refer to the text, which I am told is before you, of that conversation. What is the evidence? Judge Hastings opens up and says I have drafted all those letters for Hemp. According to the judge, Borders has been pestering him to draft two kinds of letters: One letter soliciting to raise money for their friend who was in distress and the other to get character references. The fundraising is the one that caused the judge ethical problems.

The evidence is clear that Mr. Pride says he was in desperate financial straits. He had been convicted; he had been sentenced to jail; he had just emerged; he had judgments and they were going to have to be dealt with before he could seek readmission. The evidence is consistent. Mr. Pride testified that Bill Borders and Judge Hastings had done things on his behalf without clearing it with him or talking with him before. But that at least is the judge's statement as to what the trigger was. According to the judge during the day, he had written out some drafts—three drafts: One proposed draft letter soliciting funds; a second proposed draft letter for character references; and a third draft cover letter transmitting the two proposed drafts to Hemphill Pride asking for his approval.

Examine the conversation, if you would, with me, in that light.

"A draft all those letters for Hemp and everything is OK. The only thing I wonder, I was concerned with, was did you hear? You heard from him after we talked."

"Yeah. See, I had talked to him and he wrote some things down for me." Measure it from Alcee Hastings' standpoint. Hemphill had gone through Washington and had stopped and chatted with Borders in September. Hemphill Pride admits he was calling Judge Hastings and Borders regularly from the time he was released from prison onward. That was a plausible explanation: He wrote some things down for me about his financial condition. And then I was supposed to go back and get some more things, more information.

That, if you are embarking on a campaign, is consistent. But they take umbrage: "Oh, no, big problem."

Then I will send the stuff off to Columbia tomorrow.

The stuff is the two proposed drafts, not completed drafts, with a dollar sign in the money blank that is to be sent off to Columbia tomorrow to Hemphill Pride to review. That is the judge's understanding.

Now, you can listen to Roger Shuy, if you want to, and say this is a linguistically peculiar conversation, and it is. But let me now challenge the House's evidence and explain to me how this conversation can be interpreted as a conversation about the Romano order. Focus with me on the passage to which Mr. BRYANT called the Senate's attention:

> See, I had talked to him and he wrote some things down for me and I was supposed to go back and get some more things.

This is 5:12 on October 5. According to the explanation, as I understand it, Mr. Borders is telling the judge the deal is still on track by telling him he wrote some things down for me; that is, I picked up the downpayment. And then I was supposed to go back and get some more things; that is, the payoff. If Judge Hastings was a participant in this conspiracy, he knew that on September 12 in the House's theory. He knew by September 12 that the downpayment had been paid and that Borders was supposed to go back on October 3 and get the balance. If the inquiry was, is the deal still on, it calls for some more information than last week's news: I went and got the downpayment. I was supposed to go

back and get more things. Yeah, I know that. I am asking you, is the deal still on.

Indeed, if the House is correct, there is an undetected conversation between Sunday, October 5, and 4:22 p.m. on Monday between the judge and Mr. Borders.

The information is current in the judge's head about everything except the other recorded call you have between Rico-Romano and Mr. Borders. Explain this passage to me as sensible commentary on the state of Judge Hastings' knowledge if he had been a participant. Hear me explain, whatever the linguistic peculiarities, that conversation in light of the judge's testimony. You may not be happy with the "ah's" and the "Um's" and the repeated pause fillers that so trouble Mr. Shuy, but the judge's explanation is the only one that conforms to the evidence. This is not evidence that comes at the wrong time and it does not explain anything in the purported bribery scheme.

But, Mr. BRYANT, if I understand him, would take us beyond that. He would talk about the pattern of contacts. Let me talk about the pattern of contacts for here, as your impeachment trial committee correctly noted, I become concerned about telescoping, I become concerned about remarshalling the data.

You have heard one view today of a story that gets changed every time the evidence cannot be made to fit. Originally, the story of Mayor Clark was after the speech the judge told him. That never quite worked. But when the judge brought Monsignor Walsh forward and said, "Oh, yeah, I saw him before," it is now, here is a man who said after the speech, but we are going to make it a circumstantial case that it occurred before.

That is what happened here time and again. On each retelling this evidence gets a little more refined to see if we cannot squeeze out two more explanations by the judge and pump up one more event.

But let me look at the events that have been pumped into the 1980 version. The House identifies 19 contacts that are grounds for suspicion. The National Bar Association Board of Governors and its judicial council were scheduled to meet in Miami Beach from February 26 until March 1. On February 20 Judge Hastings called Bill Borders and they talked for 2 minutes—3 minutes or less. The judge was scheduled to be the keynote speaker. Bill Borders was President of the National Bar Association. The judge had planned to host a reception. He called Bill Borders and the two men spoke for 3 minutes or less. I submit if he had not called Bill Borders, that would be grounds for suspicion. But it did happen, when we went back and looked at the docket that there was an evidentiary hearing in the Romano case on the forfeiture issue that day. Juxtapose the House would ask you. But let me ask you, if you are juxtaposing to listen to one of their other arguments and play it my way.

We have heard about inordinate delays in sentencing, decisions, issuing orders. I do not know, and the judge does not know, but I appeal to your common sense, do you really believe, to borrow, Mr. BRYANT's form, that as of February 20 Bill Borders was reaching out to bribe the Romanos and he was still persisting 7½ months later?

I do not know how rainmaking works, but my strong hunch is if a crook tells you no the first time, you back away quick, because he just might sell you for something. We have a 7½-month set of negotiations going on here. That is the 1980 version.

The 1983 version had it beginning on or about September 10. But when you have to redo it, you have to relook at the data and see what else you can find, and we have February 20. We have April 9. What is the evidence before you? You have a message slip in William Borders' office log saying the judge called that morning and said, "In office between 12 and 1." You have two message slips saying Hemphill Pride called Bill Borders that day. And you have a long-distance phone call from a pay phone outside the judge's chambers to a pay phone in the D.C. Courthouse which the judge charged to his home phone number which is why you know about it. That is your evidence.

Now, there are lots of possibilities in that evidence. One, we know as established fact that Bill Borders used pay phone conversations out of some form of eccentric paranoia with prominent officials who had never been suspected. Andrew Chisholm, the Director of Minority Affairs for the Carter campaign in 1976, Bill Borders used to call him and say, "I am using a pay phone. I think you should, too." Delano Stewart, a Florida lawyer. It is there in the record. This was one of the man's eccentricities, and it did not make other people suspicious.

So it is possible, even though we have no record, that at some time shortly after 12, Bill Borders called the judge, and it is possible that the judge, when he called, was calling Bill Borders at the courthouse. The call lasted a minute or less. And you should understand that 1 minute is the minimum billing unit. If I call and get your son, who says, "The Senator is not home," and I say, "Thanks," that is 1 minute. All you know from a minute call was there was a connection. But if you are willing to put together the message in Borders' message log with the long-distance call and assume that there was an intervening call and that the judge went out and called William Borders rather than someone else at the D.C. Courthouse, and that Mr. Borders was there to take the phone, and that the two men talked for a minute less, you are now at the point where you have established a circumstance that we can reason with.

So now let us assume as proven fact, as the House would have it, that the judge talked to Mr. Borders. What did they talk about? Well, you have the two messages from Hemphill Pride. Then Mr. BRYANT suggests that I cry a lot about missing evidence. I do not have Hemphill's phone records. I do have his testimony: I was calling the judge and Bill Borders regularly after my release from prison.

I would like to know whether Hemphill Pride had called Alcee Hastings April 9 or the day before. I would like to know whether he got through to Bill Borders April 9. I would like to know what is going on there. The records have been destroyed. They are not part of what the judge's accusers chose to say. But the House would have you believe major events in the Romano case are to be juxtaposed.

Let me talk about nonsense events. On April 8 the last memorandum of law was filed on the forfeiture issue.

That memo went routinely to the judge's law clerk. That was a piece of paper. It was a brief. The judge did not have that issue for decision until May 4. Had the judge intervened in his business practice and pulled the Ramano file out, it would have been noticed.

It is almost inconceivable that a judge on the busiest district court in the country would be aware of the fact that a lawyer had dropped off a memo, and it had been plunked in the clerk's box. You can speculate the possibility is there. But this is the danger of after-the-fact marshaling of the circumstantial data.

There were 17 events in this period in the Romano case. There is a series of message slips, phone calls of 1 minute or less, and one 3-minute phone call. Shuffle the deck, just toss the cards, and you have grounds for suspicion. You have no more, and not much of that.

You have a cluster of calls at the end of April and early May. How do we explain those? Alcee Hastings had written to Bill Borders and to other members of the Judicial Council, and said:

Let's have a fundraiser at the annual NBA meeting, and let's get Bill Borders to get Jimmy Carter or Griffin Bell, or both, to come so they can be honored for their appointments of minorities to the Federal bench, and let's raise some money and I want the Judicial Council to get most of it.

And to Bill Borders:

By the way, we should complete the report we are working on.

You have a series of message slips and 1-minute calls spanning a period from April 27 to May 11. For the most part, those tell you Alcee Hastings did not talk to Bill Borders. You know from a message slip that he was not able to get him. With a minute or less call, you really do not know whether he talked or not.

But on May 11, there were two calls: One at 6:28 and the other at 6:29 in the morning to different numbers. It sounds like he was reaching and not finding him.

Did Justice Hastings have grounds to discuss those questions with Bill Borders? Could Hemphill Pride have been calling at that time, also? Were there other persons in the NBA or otherwise that were matters of concern? Shall we speculate?

Let me, out of respect for the clock, bring your attention to the concern to what I consider the nontrivial events, the events of September and October, again. These are where the perjury charges are lodged. It is, I take it, the House's claim that Alcee Hastings and William Borders met at that airport on the evening of September 11.

The reasoning behind that is a series of telephone messages where the judge kept Borders advised of the flight plan, and the fact there was an overlap in the time; they could have been in the airport; the fact that the judge's plane got in around 8:04, and he did not get to the hotel until 10. They postulate that was so they could review the negotiations Borders was flying down to Miami to embark on.

Let me juxtapose that to the next event. On September 12, William Borders showed back up at the Sheraton Hotel, and that is admitted by the judge. The only claim is the judge said, "I didn't expect him. I was surprised." I take it the House has alleged the judge testified falsely when he said he was surprised.

In other circumstances, he would give him one, but not both. He said, "I can't claim both." I submit you can give him neither. If Alcee Hastings had met with Bill Borders on September 11, Bill Borders would not have bothered to return on September 12. Bill Borders was the master of the pay phone contact. We know that.

Bill Borders was going down to a long-planned large family reunion. The one way, I take it, to guarantee your movements will be noted is to cut out on a large-scale planned family reunion and make as they describe desperate attempts to get back to Washington. That is guaranteed notice.

Alcee Hastings and Jesse McCrary had planned to socialize over the weekend of the 12th in Washington. They had adjoining rooms, a small suite at the Sheraton. On September 12, Mr. McCrary invited Donna Mendez, now Myrill, and Alcee invited Pearl and Margaret Dabreau to join them in their rooms for drinks and snacks, and later for dinner.

I submit to you that a corrupt conspirator who is waiting for a report from the front on how went the opening negotiations does not assemble a party of five, all of whom concede there was a fair amount of liquor being consumed, so that there would be four witnesses to the arrival of his corrupt conspirator. You cannot have them both. It did not happen.

How does the judge explain this evidence, and why should you accept that explanation? There is no dispute that his and Jesse McCrary's plan had been made in advance, and the judge had a speaking engagement, and McCrary had a speaking engagement. They discovered they were going to intersect.

There is no dispute that Borders routinely picked judges up and other dignitaries when they go to the airport. There is no dispute the judge was scheduled to fly in on September 10. There is no dispute that he had a jury trial that did not end that forced him to stay over on the 11th.

There is no dispute that he courteously kept Borders' office informed of his changing flight plans and that he kept Shirley Ross, his date of the evening, informed of the changes in the flight plan. According to the judge, he did not know what time Borders' plane left. He was simply keeping persons posted.

According to the judge, when he got to D.C. National Airport, there was a delay in his flight. I do not find that surprising, especially as one who flies to Florida.

The cab driver could not find Shirley Ross' apartment up near Walter Reed Hospital with ease. Ms. Ross was not ready. They were delayed getting back to the hotel. It took them—whatever time the plane touched down at 8:04, however long it takes to get into the gates, however long it takes to get out of the plane, however long it takes to get back; however long it takes to get the cab driver up to Walter Reed Hospital and find a difficult address; however long it takes your date of the evening to get ready, put on her coat, come back; however long it takes to drive back from the hotel—that is how long it took, and that is why he did not register until that evening. He did not expect Borders on the 12th. If he had been in the deal, he would not have done it.

More importantly, if he had been in the deal, the deal would have ended. There were pictures of Romano in the court file. The judge lived with them at trial. He saw them. Look at the recorded conversation between William A. Borders and Rico and Romano. Find out from this vast wealth of information that Mr. Borders had his information which would lead him to inquire, do some verification. Is this really Frank Romano?

What you read when you read that converation—and it does not take a Roger Shuy to tell you this—is a brokered deal. William Dredge has told Borders what he can expect Rico and Romano to want and was told he got what they expected William Borders to write. These people are talking in code. They cut a deal faster than anyone I have ever seen. This is the figure you heard. "You got some property, order, 10 days, you mentioned a restaurant, yes, Vincent, kept, no make it a clean vote, down Fontainebleau, Wednesday, the 8th, we are out of there."

On this the deal was cut. There is no inquiry of the kind that a Bill Borders who talked with Alcee Hastings would have made to find out whether Frank Romano is Frank Romano. And had he come back with the description and a report, the deal would have ended.

The jury saw that. The jury saw a Paul Rico when he was younger, 1983, and Judge Alcee Hastings subpoenaed a Frank Romano to his trial. The jury saw three questions in the record: What is your name? Were you the defendant in the case? Would you stand so the jury may see you? I have no further questions.

Among that other evidence that is missing that does not trouble Mr. BRYANT is Frank Romano is dead. I cannot bring him in here and ask you to look at him and Paul Rico. I cannot tell you how absurd that comparison would make this case.

Dinner at the Fontainebleau—there is one that is suspicious—a ground for suspicion. Borders sent him there. He was there.

But I submit to you you are being asked on the facts to judge a man which facts you do not know, and when you pose the question on the undisputed facts, we know the judge arrived at 7:45. We know that he had Essie Thompson with him. We know he did not object to the two places removed. We know that before dinner was served, he got up and went in to the Poodle Lounge in the restaurant. We know when he came back, he said he had been looking for friends from D.C. We know these facts.

How would an innocent Judge Hastings, who expected William Borders, have behaved on that day? Would he have committed to an occasional date? "We are going to meet the immediate past president of the National Bar Association, who is coming down to meet with me in Miami tonight."

With the risk of embarrassment that is somewhat unreliable William Borders would not show up or would he have left it to chance, eliminating the possibility of risk, preserving the benefit that his date would be suitably pressed when the immediate past president came. When Mr. Borders did not come, would he have said, "Do not

take the places away." Would he have searched every lounge and restaurant, abandoning his date while he went on his mad foray, or would he have chalked it up to a quick visit to an adjoining lounge, saying, "If he comes, fine. If he doesn't come, fine." How would a guilty Alcee Hastings behave? Would he have gone alone? That would have been a show of proof, no date, no excuse. Would he have taken a date as a cover? If he had taken a date as a cover, would he have impressed upon her they were going to meet William Borders in Washington, DC, in terms so certain she could not have forgotten? Would that guilty Alcee Hastings have gone up to the maitre d' and say, "I expected to see William Borders here." Would he have had him paged? Well, that would have blown the show. In that way, he would have had it both ways, made a show of proof, but he would have protected himself on the down side.

I am not going to answer those questions for you, but I submit that, unless you can answer those to the degree of certainty that is required in this case, you must acquit this man. Those are norms, unless you are willing to say that there is only one inference that may be drawn from the behavior of Alcee Hastings on that occasion, and we know Alcee Hastings, and can put ourselves in his shoes so clearly that we can say it, you have to acquit.

Let me now turn to flight and talk to you about the meaning of flight and behavior on October 9 and on the behavior on the eight October nights that have since intervened. It is in our memoranda noted to your attention to the flight evidence is notoriously weak. It is because we do not have statistical studies, how people react, when they are stunned by shocking news. The Supreme Court has recognized, and all the courts recognize, that this is not something you can say that an innocent man behaves this way and a guilty man that way. This is a question where, as the impeachment trial committee noted, we get on sensitive ground. This is a black civil rights leader. William Borders was the president on the National Bar Association. He had been a prominent adviser, high in the Democratic Party in the Carter administration. Judge Hastings had just learned that the FBI had arrested the president of the National Bar Association, a former adviser to President Carter, on charges that had something to do with Alcee Hastings.

I do not know how I would react. I do know that the FBI has at least some grounds to question what his reputation among black civil rights leaders was at that time. Yes, he went home to his mother, yes; whether he got the detail of the day straight or not, he opened himself to cross-examination and he did not need to.

The essential story remains the same. He was concerned about his mother and was told to get back on his own turf. He had good grounds, and that was legitimate. He talked to the FBI as long as they wanted to talk on October 9. He chose his home court. Did he want to think about it? I do not know. If he did not want to think about it, I would have more concern about representing him as a Federal judge. If the FBI called me today and said they want to talk to me, I am going to say what about. I do not want to misinform them. I want to get it straight. That does not strike me as strong evidence of guilt.

Let me tell you about flight evidence that I wish you to consider. Why is this man here? At any point from 1983 onward, he could have quit. Six years, untold millions of dollars, six lawyers, ongoing investigations. Why has he endured? You have in appendix D a copy of this man's financial statement. It was submitted to the impeachment trial committee, in connection with our request for funds, but it bears on the issue before you. The evidence is uniform. The FBI can see this has never been a man who is ambitious for money. He lived within his means; everybody says that.

This is not a man who does not want some financial security and, indeed, he has testified one of his reasons for going on the bench was to get it. He could have cut off the liabilities, the costs, burdens, the psychological harm, and saved 8 years of his life and reputation by simply quitting, and he could have gone to the streets effectively and done what Mr. CONYERS said he has done, attacked institutions with good justification, and emerged comfortable in his own political world, more comfortable financially, in better health, 8 years of his life preserved. Why has he not fled when the escape would have been sure? He stands before you an innocent man. The jury said it in 1983.

The House managers have ably marshaled the circumstantial data to show there are grounds for suspicion. They have ignored the fundamental way in which your duty, your role, is distinct from theirs. They are prosecutors. It is their duty to bring to your attention cases in which they believe the evidence raises concerns about the integrity of the Federal courts.

It is your duty to take into account the independence of the Federal courts. It is your duty as triers to take into account things like the presumption of innocence and due process.

What should be the standard of proof? It is open to every one of you, the 17 who so voted in Claiborne, and the rest of you, in this case of impeachment, to insist upon evidence beyond a reasonable doubt.

I take it as virtually conceded that the threshold standard you must be satisfied, every Senator must be satisfied by, is clear and convincing. As I have submitted in my papers, there is good ground for those who are not willing to insist on evidence beyond a reasonable doubt, to insist on the intermediate standard, clear, convincing, and unequivocal. That is what we insist upon before we will deport someone from these shores. Will you not insist on that before you banish this man?

What weight should you give the jury verdict? If clear and convincing is the threshold in every case of impeachment, and if your decision in March meant that, as I understood it, you were not in principle willing to say an acquittal bars a retrial, you must give the fact of that verdict some weight. Frank Romano is dead, Hemphill Pride's telephone records are not here. There has been a penalty for delay. Untold millions, lawyer hours, FBI gathering evidence on one side, nothing, and we are here 8 years after the fact.

How are you going to give that some credit? It does not bar a trial in principle. That was your decision. There is only one fulcrum in this entire case where you can give that weight the respect it is due, and that is in the burden to which you will hold the House's evidence, in the respect you give the presumption of innocence, and in the proof upon which you insist.

This is a case in which great suspicion has been cast. You have volumes of it. I agree with Mr. BRYANT, the evidence is massive. The relevant evidence, the evidence it bears, is nothing more than a message slip on April 9, followed by a phone call on April 9, followed by a look at a docket entry, followed by a lot of speculation.

One question, however, remains, and let me address it. How did Bill Borders know what was going on in the Romano case, if Alcee Hastings did not tell him? Let me tell you at the outset, I cannot prove that. I can only marshal the circumstantial data to create a suspicion. It is not my burden, but let me do a little marshaling. William Dredge told three different stories, at least, only one of which is consistent with the circumstantial data. In 1985 he told the committee of judges, "I met Bill Borders some time after my indictment and before my arrest." We have no telephone contact between Borders and Dredge prior to May 5.

We have no travel into D.C. National Airport prior to May 5. We have regular evidence in Dredge's telephone records of calls between he and Borders after May 5. We have regular travel into D.C. National Airport after May 5.

I am inclined to think, and I think the evidence shows, he met Bill Borders sometime in early May. By all ac-

counts Dredge, by mid-May was out to make a deal in his drug case. You have the testimony of Kenny Robinson. He came in and tried to fix the case, "$100,000, pay off a judge, pay off a cop, pay off an assistant U.S. attorney; do something to get me out of a drug case; I don't want to go to jail," and for good reason.

You have him going into the U.S. Attorney's Office on July 20, and by his own account in this period he is stringing Borders along and lying to him. He does not claim he is dealing with the Romanos; he claims he is lying to Bill Borders to keep his interest alive in order that Bill Borders will deal.

But how did Dredge find out about the Romano case? Dredge knew Joe Nesline.

If you believe Dredge, the Romanos were part of the Genovese family. If you believe Agent Shull, Nesline was connected into the Genovese family in both Florida and Washington. He was a big-time gambler. He was big enough that the FBI sent an undercover agent to go with him to Amsterdam to try and gather information in 1985.

But if you believe Nesline you believe that this man is innocent because in 1985 he told Agent Shull Borders was running a scam, he had no power on the judge. What was the response?

Permit me to share a bit of my client's outrage. There is a Telex. It is in your materials. The FBI reported that the investigating committee of judges did not want this line of inquiry pursued.

What is my problem with missing evidence? Joe Nesline is incompetent now. We do not know the basis for that; all we know is what he said. How did Borders get the information about the Romano case? Dredge could get information anywhere. That is what Jimmy Harmon, his control officer, said. Nesline surely had access. Bill Dredge knew Borders was blowing smoke and had no power on the judge. Kenny Robinson would not agree to fix this case. He had to make a deal. He went out and found out the information he needed about the Romano case and put the deal together, or Nesline may have done it originally.

After July 20, how did he find out about how to cut a deal? First, he is the one who told the FBI that the restaurant show of proof is in the cards. After July 20 Agent Murphy asked James Deichert, the Romano prosecutor, to keep a report on conversation with Jeff Miller on status of any order.

In August Deichert called Miller, and they both recall it, and learned that Miller was writing an order sufficiently to possibly merit publication. Deichert has testified that Martino required that forfeiture order to be revised. Peacock reinforced that. Deichert would have known that if Miller was writing an order, although he says he did not believe it, he would have known if Miller was writing an order sufficient to merit publication, it was going to be a reversal.

If he did not know it when he called on August 27, when he read Peacock he would have known it. Did Deichert report that to Agent Murphy? Was Bill Dredge briefed?

Bill Dredge is making background conversations throughout this period. In September Deichert calls again. The only one urging Miller to get the order out, although I do not claim it was intentional, is James Deichert, the prosecutor, not Alcee Hastings.

We do have in the record September 16, William Dredge called Caesar's Palace. Alcee Hastings did not know that Bill Borders was out of the fight but William Dredge did, and there is a 4-minute call on his bill to Caesar's Palace.

Did Bill Dredge set up a telephone exchange later in the evening to confirm to Bill Borders, "Yeah, your man was at the hotel; you can come down and pick up your other half. The other guy's got to be having 20. That is why we need the payoff in advance."

Who is the other guy? The other guy is William Dredge. "It has been taken care of. Your man should talk to you." Who is "your man"? Your man is William Dredge.

Can I prove that? No. Can I marshal the circumstantial data to make it very plausible? Yes. The House has done an able job of marshaling circumstantial data. But neither the weight of those green books, nor the volume of the data can do any more than cast suspicion.

Why is this man trusted by those, by judges and senior practitioners, who appear before him now? Why are they willing to accept a jury verdict? Why was he appointed? Why did the FBI acknowledge this is not a man motivated by money? Why do people come forward?

It is the reputation he had earned in the 45 years before these events occurred that established the prior probability.

What is the probability that a man of this kind who cared not about money in any particular degree, who did care about honor, who had a reputation of being honest when it hurt, a reputation that he has demonstrated throughout these proceedings, what is the prior probability that a man of that kind would engage in a little scheme for $150,000?

What is the posterior probability? Why is he here 6 years after the trial? Why has he sacrificed his health, his finance, his reputation? Why has he fought on when escape would have been so simple? That establishes the posterior probability.

Why was not the order issued on September 29? Explain that. Why did he tell Miller before the deal was even on to go back to draft the order? This is Swiss cheese you are dealing with. If you look at the holes you will find a lot of suspicion buried deep inside if you poke your finger.

After this case is over I could, historians may, write a book which gives you three different stories. On each story you will have new grounds for suspicion and new grounds for explanation. That is the nature of scarce circumstantial data. It is fragmented. It is fragmented and stale.

He cannot dispel suspicion. They could not prove guilt.

The only way this man can be convicted is if you get it backward. He owns the presumption of innocence. He earned it. The Constitution assigns it to him. He has the added weight that must be given that jury verdict. He has the added weight that must be given. They cannot speculate about telephone calls from Hemphill Pride, when they did not produce the record. He gets the inference. It is on his side of the scale. They must come forward and satisfy you with a degree of certainty that is commensurate with this occasion.

For the 10th time you are called upon to pass judgment on a U.S. district judge. This was a judge who in his own community is viewed as outstanding but who is a maverick. He is not exactly everyone's judge but that was a responsibility of the President and the Senate that made that political choice.

The duty now is to protect this judge and the right of every President and Senate and the right of every judge who is appointed to execute his duties comfortably, that he need not fear, be it venal or dumb, he need not fear that the FBI will casually arrest someone at the scene of a payoff and leave a circumstantial residue of suspicion and get away with it, that they will ultimately be protected in this body to which the Constitution assigned responsibility because it thought it was the only body who could fairly adjudicate and stand between the right of the individual accused and the representative of the people, his accuser.

You have been called on nine times before. You have acquitted four. I submit to you all you can do on this occasion if you study the evidence is acquit again.

Thank you, Mr. President.

The PRESIDENT pro tempore. Thank you, Professor Anderson. The House will now be heard in rebuttal.

Mr. BRYANT, you have 32 minutes and 16 seconds remaining. Before you proceed with your prepared rebuttal, the Chair has a question submitted to the Chair.

Mr. MITCHELL. Mr. President, I am advised that a vote is now occurring in

the House and that there are approximately 9 minutes remaining to accommodate the managers. Would they prefer to go over and vote and come back? Or could we keep the procedure.

Mr. Manager BRYANT. I suggest it would be agreeable to continue the proceedings here and take chances with the vote.

Mr. MITCHELL. I am advised by Mr. BRYANT that the House managers are agreeable to permitting the procedures to continue and they will rotate going to the vote as before.

The PRESIDENT pro tempore. Very well.

If Representative GEKAS could remain at this moment, the Chair will address to him the question which was submitted to the Chair by the majority leader, Senator MITCHELL. The question to Representative GEKAS is as follows: In your presentation you made no mention of why you believed Judge Hastings made the unauthorized wiretap disclosure. What do you suggest was his motive for making the unauthorized disclosure?

Mr. Manager GEKAS. I thank the President for posing the question. That has been a subject of discussion from the very start and although there is no concrete chain of events or chain of evidence that would show exactly what the motive is, the only one that can be finally propounded is that this judge wanted to demonstrate to Steve Clark that he had control of the situation, that he would do a favor or that somehow he was able to conduct a wiretap or other Federal process and be in control of it and let Steve Clark know that he was a powerful man.

The PRESIDENT pro tempore. Another question which has been submitted to the Chair and which may be answered by Mr. BRYANT or anyone among the Representatives from the House. This has been submitted by Senator JOSEPH LIEBERMAN. It is as follows:

Assuming for the sake of argument that the Senate votes to acquit Judge Hastings on Articles I to XVI, must the Senate also necessarily vote to acquit him on Article XVII? If no, what standard of proof do you urge us to apply in judging Article XVII, the "omnibus" article, and why should it be different or yield a different result than for Articles I to XVI?

Mr. Manager BRYANT. Mr. President, the House submits to the Senate that the standard of proof that you should follow is the standard of preponderance of the evidence. But if you wish to apply a higher standard, the standard of proof of clear and convincing is the appropriate standard. It is a higher standard than preponderance, but it is less than a reasonable doubt. You can have a reasonable doubt but still conclude that the evidence is clear and convincing. A clear and convincing standard would require a vote of conviction if a Senator found it highly probable that Judge Hastings had committed an impeachable offense.

With regard to the question of whether or not acquittal on the previously mentioned articles would therefore mandate an acquittal on article XVII, we assert to the Senate that it would not mandate that acquittal and that we understand that in the past the Senate has chosen to take up an omnibus article and pass it when, in fact, it has previously not adopted lesser but included articles that were also included.

In addition to that, we would submit to the Senate that there is no restraint on the part of this Senate to convict; that is to say, you are free, under the Constitution, and unrestrained under the law to convict on the basis of any article regardless of the perception or the reality that there might be some contradiction between a decision regarding one article and a decision regarding any other.

The PRESIDENT pro tempore. The Chair has one final question to address to the House managers. This question is submitted by Senator BINGAMAN.

In their Post-Trial Memorandum, the House Managers state that if the Senate were to vote to acquit Judge Hastings on Article I, which charges him with having conspired with William Borders to solicit a bribe from the Romano brothers, that decision would be dispositive of certain of the false statement articles, namely, Articles II, III, IV, V, VII, VIII, and IX. According to the House Managers, it would be inconsistent to acquit Judge Hastings of involvement in the bribery conspiracy and to convict him on these particular false statement articles. If the Senate were to vote to acquit on Article I, would either party object to the entry of a judgment of acquittal on Articles II, III, IV, V, VII, VIII, and IX, without the taking of a vote by the Members on those articles?

Mr. Manager BRYANT. Mr. President, we would not object.

Mr. ANDERSON. The respondent would not object, Mr. President.

The PRESIDENT pro tempore. Very well.

Now, if the House managers would like to proceed with their rebuttal.

Mr. MITCHELL. Mr. President, may I inquire as to how much time remains for the House managers?

The PRESIDENT pro tempore. Thirty-two minutes and 16 seconds remain to the House for rebuttal; Judge Hastings and his party have 20 minutes and 14 seconds remaining.

The House, under the rules closes the argument.

Mr. Manager BRYANT. Mr. President, does that mean that I should defer until the rest of the time is used up by the respondent?

The PRESIDENT pro tempore. Does Judge Hastings wish to respond now?

Mr. ANDERSON. I think we have said what we want to say. If there are questions, we would be happy to take them, but we waive the rest of our time.

The PRESIDENT pro tempore. Very well. The time is waived, except for possible questions.

Mr. Manager BRYANT. Mr. President, I will be mercifully short. I wish only to make a few points.

I believe that it is important for the Senate to focus carefully on the conversation of October 5 one last time because this conversation is a quicksand from which Judge Hastings cannot extricate himself, and the more he struggles and the more he produces alternative explanations, the more thoroughly he finds himself entangled in a situation from which there is no escape.

A few moments ago you heard Mr. ANDERSON tell you that the October 5 conversation—that is the coded conversation, a copy of which all of you have—was the conversation of two men who had not talked in a very long time. But I ask you to pick the conversation up and look at it. It is only one page in length. I ask you to look at the way the conversation begins and the way the conversation ends and to ask yourselves: Is it likely, is it even possible, that this is a conversation between two friends who have not recently talked?

Note how abruptly it begins: "Yes, my brother."

"Hey, my man."

"Um hum."

"I've drafted all those ah, ah, letters, ah, for Hemp * * *."

It goes right to the business. No, "How are you doing? How is business? How are things? What have you heard?" No introductory message whatsoever.

And how does it end? "OK."

"Right."

"Bye bye."

No, "Say hi to the wife."

No, "Say hello to your mom."

No query with regard to what you are going to do next week. Nothing. This is a business conversation that was conducted for the purpose of communicating information in such a way that outsiders would not be able to understand what it meant.

The fact of the matter is Hemp never wrote anything down for William Borders. He testified to that; perhaps the most powerful witness in the whole case. He never wrote anything down for Borders, as Borders said he did in his conversation.

Now, if this is really a conversation about Hemp between Borders and Hastings in an effort to help their friend Hemphill Pride, why would Borders be lying to Judge Hastings? The fact of the matter is he was not talking about Hemp. He was communicating the information about the bribery scheme.

And Hemp testified clearly and concisely he never heard about any letters. He did not want any letters. He refused, as well, to go along with the judge's attempt to get him to go along with the judge's explanation of his conversation and of those letters.

And finally what I think wraps it up is, after all these months of talking, all this business about letters for Hemp, all the efforts by this respondent to explain his contacts by saying that somehow he and Borders were trying to help Hemp, they never sent any of the letters for Hemp. In fact, not one single thing was ever done.

I think it would be helpful if you took a look at the letters that eventually showed up, interestingly enough, right at the last minute, before Judge Hastings' trial began. These letters are part of the record of this case. They are in a box. They usually reside in a filing cabinet over here. I hope you will take the time to look at many of the exhibits.

The fact of the matter is he claims in his October 5 conversation that it was about letters for Hemp. He learned about that during the trial of the other case. He learned that the Government had a tape recording of the October 5 conversation. So he had to do something to be able to explain away the meaning of the October 5 conversation and he decided to produce the letters. And I have them in my hand here. He claims they were written during a trial while he was sitting on the bench and paying attention to the trial with one ear and paying attention to the business of writing these letters with another ear. Examine them.

I will give credit to the members of the Senate trial committee who brought this out, because we did not point it out first. These letters are written without a single mistake, a single scratchout, a single starting over. They are perfectly written.

These are not the letters—I hope you will examine them—that were written by somebody who was drafting letters for him. These letters that were put together by somebody who was trying to find a way to explain away a tape recorded conversation which he learned by watching his friend's trial that had to be explained if he was to find a way to be acquitted. They were never typed. They were never sent. In fact, they were never even shown to his original counsel, the lawyer he hired originally to defend him, who, by the way, withdrew from the case.

He never saw these letters. They surfaced nearly a year later.

Members of the Senate, these letters are fakes. I urge you to examine them and arrive at your own conclusion.

They not only convict this respondent of the bribery scheme, they also convict him of article IX, in which we have alleged that he purposely lied about the nature of these letters.

I have mentioned in my remarks, Mr. ANDERSON mentioned in his response, all of the contacts. The astonishing fact that every single event in the Romano case is accompanied by a contact between Judge Hastings and William Borders. And he attempts to explain away the incriminating contacts by giving after-the-fact explanations, each of which are wholly unpersuasive and at times perfectly preposterous.

For example, he testified before the Impeachment Trial Committee that every time he spoke to William Borders in 1981, every time, they discussed Hemphill Pride. That was his testimony. They discussed the need to help Hemphill Pride. Yet not one time, as I said a moment ago, between February and October 1981 when all the relevant telephone calls occurred, did Judge Hastings or Borders take any concerted action to help their friend, Mr. Pride.

According to the judge, in many of the calls, Borders was pestering him, pushing him to write letters in Pride's support. That was the judge's testimony. But it was not until October 5, 8 months after the calls had begun, that the letters, he says, were written. And even then the judge fails to send them out and fails to inform Mr. Borders that he did not send them out.

We submit to you that Judge Hastings's own actions belie this feeble explanation that Hemphill Pride was the reason he and Borders were repeatedly in contact.

Knowing that this explanation does not wash, and makes no sense, the judge goes on to provide other reasons, now, why he and Borders were so closely allied.

You heard Mr. ANDERSON mention a few of them a moment ago. He emphasizes that both he and Borders were members of the National Bar Association and that, therefore, had been speaking about upcoming events. But the problem is that is explained by one of Judge Hastings' own witnesses. He called as a witness Judge Henry Latimer.

The section of the National Bar Association to which Judge Hastings belongs, the Judicial Council, is an autonomous section of the organization, responsible for its own programs and its own social functions.

As president of the general National Bar Association, William Borders would not have regular interaction with the judges who are active in their autonomous section of the NBA. So his explanation that they had to be in contact because of common membership in this organization simply does not hold water.

Moreover, even if Judge Hastings and Borders were in contact about these National Bar Association events, those events fall far short of explaining away the astonishing number of contacts.

The judge offers only three NBA events, in fact, in February, May, and July 1981, which fail to explain all the other significant telephone calls throughout the rest of the year, especially those in September and October.

We just submit to you, Members of the Senate, that unlike a jury in a normal case, you will have the opportunity to examine before you vote the documents in this case, to hear the arguments of the members of the committee.

I strongly urge you to take it up, take up the task of examining those documents and these exhibits and the testimony of the witnesses carefully. We do not believe that an examination of those can yield anything other than a decision that this judge is guilty of the articles as charged.

I will just close with these questions.

The judge says he felt like an innocent man. His lawyer says we have put together a list of circumstantial events that somehow, by some astonishing coincidence, point to his guilt and he should not be looked upon as guilty. But if he felt innocent, why did he flee the city on the day his best friend was arrested? Why did he flee the city when the FBI asked to talk to him? Why would he not want to help them clear up any question regarding the possibility of bribery in his own courtroom? Why did he call Border's home, 3 days after Borders had been arrested, as he tells it, for trying to destroy the judge's reputation by tricking him and making it appear that he was, somehow, part of a bribery scheme? Why was he calling his house?

Why did he show up at the prescribed time at the Fontainebleau Hotel, right on the money? If he believed he was going to meet Borders there, why did not he make a reservation for Borders? Why did he sit idly while they moved away the other two place settings? Why did not he tell his date that they were going to meet someone at dinner that night? And how can you explain that every single event in the Romano case is accompanied by contacts by telephone or in person between Judge Hastings and William Borders?

Finally, why did he have the coded conversation? Surely, no one in the face of the overwhelming evidence to the contrary can believe that coded conversation had anything to do with Hemphill Pride. Hemphill Pride knows it did not have anything to do with Hemphill Pride. He testified against his former best friend that it did not have anything to do with him. He did not need letters. He did not want letters. Letters would hurt him.

Finally, I would repeat my appeal to you to look at record. A moment ago I

heard Mr. ANDERSON stand up and say, "the investigating committee of the judicial district based its decisions on newspapers articles."

Members of the Senate, the investigating committee of the judicial district based its decision on 100 witnesses, 3,000 exhibits, 3 years of an investigation and a 500-page report directed by Mohn Doar, the former head of the Civil Rights Division of the Justice Department, a man with impeccable civil rights credentials. We investigated this matter for a year and a half. The matter received a 1-month trial before the Senate.

I suggest to you that the astonishing amount of evidence that points to the guilt of Judge Alcee Hastings cannot be overlooked; that your responsibility, as difficult as it is, and our responsibility, as difficult as it is, must be, as charged, to make the decision to impeach this judge, to remove him from office, and forever remove the stain that has been left upon the judicial system of the United States by a scheme which cannot be sanctioned by verdict of not guilty.

Mr. President, we thank you very much for the time and the great patience that you have given to this case. With that we close.

The PRESIDENT pro tempore. Thank you, Representative BRYANT.

The Chair thanks both the Representatives on the part of the House and the respondent on his part.

"One of the key questions," asks Senator Levin, of the House managers, "with regard to the bribery allegations, is the authenticity of the 'letters to Hemp,' produced by Judge Hastings. Judge Hastings testified that he offered to show these letters to John Shorter, William Border's attorney, before the Borders trial in March 1982.

"Shorter would appear to be a key witness as to the authenticity of these vital letters.

"Why," asks Senator Levin, "didn't you call him as a witness during the Senate committee proceedings"?

Mr. Manager BRYANT. Shorter's previous testimony was that he never looked at the documents, and we felt that there was no purpose to be served in calling him because any testimony beyond that would have been a violation of his attorney-client relationship with Mr. Borders and, therefore, he could not have testified in any meaningful way about the involvement of Mr. Borders and Judge Hastings in this matter.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, pursuant to impeachment rule XX, I move that upon the establishment of a quorum tomorrow, pursuant to the live quorum call starting at 1:45 p.m., the doors of the Senate be closed then while the Senate is deliberating its decisions on this matter.

The PRESIDENT pro tempore. Without objection, the motion is agreed to.

Pursuant to the previous order, this completes the Senate's consideration today of the articles of impeachment. The Senate will begin its closed door considerations on the articles of impeachment tomorrow at 2 p.m., following the live quorum call that shall begin at 1:45 p.m.

SCHEDULE

Mr. MITCHELL. Mr. President, may we have order, as I describe for the Senators the schedule for the remainder of the evening and tomorrow?

The PRESIDENT pro tempore. The Senate will be in order.

Mr. MITCHELL. Pursuant to the previous order, upon the clearing of the well of the Senate, the Senate will resume consideration of the flag amendment to the Constitution, and any Senator who wishes to address that subject will be accommodated this evening. This will be the last opportunity.

When we return tomorrow morning, there will be only 45 minutes, equally divided, to be used by the distinguished minority leader or his designee and myself.

Therefore, any Senator who wishes to address the subject has the opportunity to do so this evening. The vote on the amendment will occur at 11 a.m. tomorrow. All Senators are encouraged to be present, of course, for that vote.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. ROCKEFELLER). Without objection, it is so ordered.

PROPOSED CONSTITUTIONAL AMENDMENT TO PROHIBIT PHYSICAL DESECRATION OF THE AMERICAN FLAG

The PRESIDING OFFICER. The Senate will resume consideration of Senate Joint Resolution 180, which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 180) proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States.

The Senate continued with the consideration of the joint resolution.

Mr. BIDEN. Mr. President, we are at a point, where, as the majority leader and the minority leader indicated, we are going to be having speeches this evening that are going to be made by those who have not had an opportunity to speak on this issue. I am a little disappointed that we are not going to get more of an opportunity to engage in debate on this issue, to join the issue as they say, to have those of us who feel strongly that the statute we passed and will be law now in I believe 8 days or 7 days, will be the law of the land—that we have done the Nation's business.

We set out—when the Senator from Delaware drafted the flag legislation—to protect the physical integrity of the flag. That is what most of us talked about wanting to do. In 7 days, I believe it is 7, 8 days, based on the President allowing it to become law, in 8 days it will become the law of the land.

I want to reiterate to my colleagues who have doubts about the wisdom of a constitutional amendment, an amendment to the Constitution, and even further doubts about this particular amendment that we are debating, we should resolve the doubts on the side of time; that is, that we have always felt in this body for over 200 years that amending the Constitution was one of the most serious undertakings that we would engage in.

Obviously, the President believes that the statute which we drafted and passed at least is likely to be constitutional, likely to protect the physical integrity of the flag from being trampled on, walked upon, burned, et cetera; or he would have as a matter of conscience been required to veto it.

I remember his—how can I say it—lecture to Governor Dukakis on the issue of whether or not Governor Dukakis should have vetoed a bill coming from the Massachusetts State Legislature requiring a pledge of allegiance. The Governor of Massachusetts indicated that he was informed by attorneys that it was unconstitutional.

If I remember correctly, he was instructed by then his opponent, now our President, that that is something as a matter of conscience and insight brought about by one's own reading of the Constitution, as well as advice one may get, and he did not understand why he could not in fact let it become law if in fact he really thought it was a good idea to pledge allegiance to the flag.

Obviously our President, although admittedly he thinks a constitutional amendment is better and surer, at a minimum, and his advisers, believe it is constitutional or likely to be declared to be constitutional.

So when we hear debate about those who are opposed to the constitutional amendment and this particular constitutional amendment, when we are told that those of us who have that position are against protecting the flag—and we have not been told that, I might add, by the proponents of this

constitutional amendment, but we read it in the press on occasion—I think it is important to put it in perspective.

There are three positions that have been taken on this floor, and will be taken when we vote. The first is that neither a statute nor an amendment is either an advisable or a constitutionally sound procedure, constitutionally wise. That is a view held by several of our colleagues, and they have spoken forthrightly to that.

There is a second group of us who believe strongly in the need to protect the flag, but believe that we should do it the surest, swiftest, most certain way, and we have done it overwhelmingly, Republican and Democrat alike, along with the blessing of the President of the United States of America.

And it will in 8 days be the law of the land. Anyone who burns a flag like Mr. Johnson did in the famous Texas versus Johnson case will be able to be arrested, convicted, and fined or put in prison, or both.

So there is a second group of us who think that we have already done the wisest of things. There is a third group on this floor, notwithstanding that they may have voted for the amendment—excuse me, the statute which will in 8 days be the law of the land, who say one of two things: Either that is a bad idea, BIDEN, your idea about a statute; it really is not constitutional. I want to protect that flag and the only way I know how to protect that flag, they say, is a constitutional amendment.

There is a subgroup among them that say: BIDEN, it may be constitutional what we all did; the statute may work. But what harm does it do to have the backup of the Constitution? How can we be doing any damage to our effort if we have both the statute and a constitutional amendment?

So as is always the case here, there is spirited, honest, and principled debate and differences. But for the record, and for those who are following the debate, we should again clarify that there are three choices. You do nothing. There is one group who says we should not do anything because the Nation is not burning flags, and there is no need for any law. There are those of us who say there is a need for a law, as I believe there is, but we should do it by statute and we have done it. It will be the law before this could even get to the States—an amendment. That is sufficient, and is quite frankly broader in its coverage and protection of the flag, physical integrity of the flag, than the proposed amendment is. And there is a third group who say, maybe or maybe not. Maybe that will work, BIDEN, but we want to protect the flag, and the only way we think you can really do it is an amendment. Those are the parameters of the debate on this floor, and we are going to get to vote on the third of those options tomorrow morning.

Two days ago, when I took the floor and presented the reasons, in my view, the proposed constitutional amendment that we will vote on in a few days should not be adopted, I tried as hard as I could to set the record straight, and at least from my perspective, to separate fact from fiction and truth from myth, not because I doubt the sincerity of anyone on this floor or anyone in this body who supports the proposed amendment, but because some may believe the amendment does things that it does not do, while others may think that it does not do things that it does do.

I will now briefly, because there are those waiting to speak—and for those waiting to speak, to give them an idea, I will not likely take more than 8 to 10 minutes—I want to reiterate what I consider to be the many myths that have surfaced during the past 4 months about the proposed amendment. Suffice it to say, Mr. President, that what it boils down to, at least in my view, is this: The legislation that we passed overwhelmingly, and will become law in 8 days, provides the maximum amount of protection possible for the flag, and it will be against the law to burn the flag anywhere, any time, under any circumstances, save one: When you are disposing of a flag that becomes dirty or torn through everyday use. Beyond that, any and all flag burning will be illegal, period.

You simply cannot protect the flag any more than the legislation that we have passed. That is the greatest protection possible. So why did the administration want this amendment? In my view, Mr. President, they wanted this amendment, first, because they want to single out and punish only offensive flag burning, and they have testified to that. That is their purpose. They make a distinction between flag burning that will be offensive and flag burning that is not offensive. They want States to be able to choose among them.

The veteran who offers up the flag as a sacrifice is not offensive. The one who burns it because he is angry with the country is offensive. Put one in jail; do not do anything with the other. Because they wanted to discriminate among flag burners, and they wanted the States to pick and choose so flag burning is illegal only in certain situations, the administration wanted to amend the first amendment. That is what this amendment is about. The administration has so testified.

I will not reiterate all their testimony in the interest of allowing my other colleagues who wish to speak to speak. But I am convinced beyond a shadow of a doubt that this amendment in question would allow the Government to do what it has never been allowed to do in 200 years, and that is, censor views it does not like.

I thought our purpose was to protect the flag, not to censor views. This, Mr. President, the first amendment forbids. The essence of the first amendment is that the Federal Government and the States cannot discriminate against types of speech. The Government cannot say it likes some ideas and not others and then protect the former and punish the latter. That is what the proposed amendment seems to do, Mr. President.

But the irony of ironies is that the administration's amendment may not even get that job done, for they are on the horns of a dilemma. They have been unwilling to come out forthrightly, as Senator STEVENS did in 1971, and say, "I want to amend the first amendment." In order to be able to do that, you have to say "Notwithstanding any other provision of the Constitution, the following will become law." Failure to do that leads to the second horn of the dilemma they are on. That is, they do not want to say—in my view, for political reasons—that they are the first in over 200 years to propose amending the first amendment, even to propose it, by way of constitutional amendment.

They do not want to say that for political reasons, but they want people to be able to discriminate among States, what they want to punish and what they do not. By saying, "Notwithstanding any other provision of the Constitution," they may have drafted a constitutional amendment that would not even overrule Texas versus Johnson, the case that precipitated all of this calamity. For, in Texas versus Johnson, the Court said the Texas statute violated the first amendment. So if you pass this amendment and the Texas Legislature passes the same statute under the constitutional amendment that they would now be allowed to pass, it would have no impact, because you cannot override other parts of the Constitution without expressly stating it.

To reiterate, I said the day before yesterday that the 16th amendment gave the Federal Government the power to levy an income tax. It did not say, "Notwithstanding any other provision of the law." So, obviously, although it says—I do not have the actual text in front of me—in bold print to levy an income tax, obviously, we cannot pass an income tax law out of the Congress that says we will tax women more than we will tax men, we will tax black people less or more than white people, we will tax tall people more than we will short people.

We cannot do that because there are other provisions in the Constitution, the due process clause, equal protection clause, that prevent that kind of thing from happening. This amend-

ment does not explicitly state that it supersedes any other part of the Constitution. Basically, it says States can go out and pass what statutes they want. But the constitutional scholars who testified, even though supporting an amendment, said if they pass a law that impacts on the first amendment, then it is not constitutional, notwithstanding the fact that we just passed the 27th amendment. A dilemma—refusal to say you want to amend the first amendment, and failing to do so, ending up passing an amendment that means absolutely nothing.

If the administration is right, that you can supersede the first amendment without explicitly stating it, then obviously you can supersede the fifth amendment and the sixth amendment and the eighth amendment. You can say that because there was a flag burning and someone took a videotape of it and the State wants that as evidence to prosecute the flag burner, even though that tape may be in the possession of a third party in their home, in their private residence, now you would have to get a search warrant to get it.

This would supersede the fourth amendment. It would supersede it. You would just show up, bang down the door, go in and get the tape, because if you can override the first amendment, you can override the fourth amendment, or you can say now that we have this flag burner before us we are going to decide in flag burning cases there will be no trial by jury. We can do that.

Mr. President, the fact of the matter is that this amendment gives Congress the power to "Prohibit, the physical desecration of the flag" and the power to do that just like any other power that imposes taxes, is limited by the first amendment unless you say so.

Mr. President, in my view the safest, wisest, and most constitutional course is to vote no on this amendment when we vote tomorrow. We can be proud of the stronger flag protection legislation that we have already passed overwhelmingly here and in the House, legislation that will become law in 8 days, legislation that constitutional scholars of all stripes, conservative, moderate and liberal, believe is constitutional, legislation that 91 Members of this body believe is constitutional, and legislation that the President of the United States believes is constitutional, for, as I said earlier, if he thought it was unconstitutional he clearly would have vetoed it.

Why then should we pass any constitutional amendment at this point, much less this deeply flawed one, when we will have a law on the books 8 days from now that makes it a crime to burn a flag under all circumstances.

The law will be constitutional until the Supreme Court says it is not, if it ever does. So we have lost absolutely nothing, Mr President, by waiting, by being prudent. Even if the minority view is correct that the statute is unconstitutional we have lost nothing.

So I submit, Mr. President, that we should vote "no" tomorrow on this amendment and know full well that we have already solved the problem when we vote "no", because we have passed a statute. I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, as we discuss the proposed constitutional amendment for bidding desecration of our flag, I think it is important to bear in mind what this debate is not about.

The debate is not about who among us is the most patriotic. Every man and woman who serves in this Chamber is an American and is a patriot. So this is no occasion to either parade one's patriotism or to pillory that of others.

Also, Mr. President, it is not about the latest trends in American polls. Many say that the American people want this particular amendment. There is no way of ascertaining that accurately. But I do believe that the American people do want assurance that we, as their representatives, will take actions based upon careful and deliberate thought, not based on any national polls that represent a temporary whim of the public. I believe we best serve our constituents by avoiding the passions of the moment and acting in the best interest of long-term consequences and what is in the best interest of our Nation.

Also, Mr. President—I would particularly like to stress this point—this is not a referendum on our President. President Bush supports a constitutional amendment. Many of us do not agree with him on this particular matter. Whatever differences some of us might have with the President on this amendment are confined solely to this and no other issue.

We have heard, and will hear more, how this amendment trespasses upon the first amendment of our constitution, that it is a restriction, of an expansion, of individual freedoms. Those are worthy points and I am not going to disagree with them. Indeed I do agree with them.

However, my opposition to this amendment is also based on different grounds, namely, that we must not trivialize our magnificant Constitution.

The document written by those men of genius in Philadephia 200 years ago and the amendments that have been added thereto, make it one of the most sweeping and stirring concepts of the human spirit.

Just let us briefly note some of those:

"We the People of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America;" "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging freedom of speech or of press or the right of the people peaceably to assemble * * *;" "The right of the people to be secure against unreasonable searches and seizures shall not be violated * * * shall exist within the United States * * *;" the right * * * to vote shall not be denied or abridged * * * on account of sex."

These are bold and noble rights and protections, and there is no trafficking here in the mundane or the petty. Do we really want to trivialize this document, designed as a protection for the American people, with restrictions on how we treat an inanimate tangible article, the flag? I do not think so.

Mr. President, as we discussed this I am reminded of the story from World War II of how the aides to Winston Churchill came to him and complained that he seemed to be spending inordinate amounts of time in selecting the code names for the major offensives of the Allies. He insisted upon names like "Overlord," "Torch," and "Anvil," names that rang with grandeur.

He said, in response to the complaints of his aides, "No mother wants to learn that her son died bravely in Operation Tiddlywinks."

Likewise, it seems to me, Mr. President, that we want to retain the nobility of this magnificent guiding document and we do not want to crowd it with concepts that I can only suggest border on the trivial.

Our Constitution, in addition to the grandeur of it that I mentioned, is exordinarily brief. Indeed the Constitution of the United States is two-thirds the length of the constitution of my State. I do not know what the constitutions of other States are like, but I suspect that most of them are lengthier than the Constitution of the United States.

The authors did not choose to anticipate every possible exigency. The broad principles were tersely enunciated with the belief that future generations would apply those concepts, those basic principles to the challenges that would subsequently arise.

Recognizing that any set of guiding principles must be capable of change, the authors of our Constitution provided a procedure for amendment. But this process is no simple one. It is not easy. What has to take place in the normal process of changing the Constitution in the usual manner? What has to take place? Both branches, the Senate and the House, must approve the amendment by two-thirds of the vote of each body's membership; not two-thirds of those present, but two-thirds of the membership, and thereafter the change must be ratified by three-quarters, not two-thirds, but

three-quarters of the legislatures of the respective States.

Clearly amendments to our Constitution are not to be undertaken lightly or unadvisedly but only with deliberation.

Let us look at this particular amendment before us. It results from an unpopular Supreme Court decision that was handed down only 17 weeks ago. The language of this amendment appeared quickly thereafter following 4 days of hearings.

I do not believe we ought to act in haste and repent at leisure.

Let me just recount, Mr. President, my lifespan is not all that long, but in my lifetime I have seen one amendment of the Constitution repealed. The 18th amendment was repealed in 1933. And I have seen questions raised about another amendment that was only added maybe 15 years ago, the 22d amendment, which limited the terms a President of the United States might serve. We really questioned whether that was a good amendment.

So I think we ought to move cautiously and at deliberate speed before we act to amend the Constitution.

Does the desecration of the flag present a threat to our Nation? I really do not think so. Since the Supreme Court decision last spring, has our country been thrown into peril by a rash of flag burning defilements? I do not think so. If such incidents have been taking place, they have not been brought to my attention; and furthermore, indeed, if they have taken place, I think our country's foundation is solid enough to endure such thoughtlessness. Indeed those who sully the flag do it for publicity. They seek every bit of attention they can garner to their cause and they revel in the publicity when they are hauled away to jail or tried for their actions.

I think we also might consider in this day, when our penal system is so overburdened, whether we want to add to it the self-gratification that comes with those who are seized for burning the flag.

Finally, Mr. President, I would point this out. What do we mean by physical desecration of the flag? The preamble to this amendment states that the desecration may include trampling upon it.

I would like to point out that there is a work of art that is highly prized in the principal museum in my State, the Museum of the Rhode Island School of Design. This object is a hooked rug, beautifully crafted by patriotic women of our country about 100 years ago.

What is the design on this hooked rug? It is the American flag. Proud of our Nation, those women designed their rug with their Nation's flag on it, just as flags at that time were seen imprinted on curtains and sheets and clothing. And their rug was designed to be walked upon. That is why they made it. Even trampled upon, I suppose. Is it possible that something that was patriotic 100 years ago now suddenly becomes an indictable offense if this amendment is passed?

Mr. President, I do not think there is any need for this amendment. It was conceived in haste. It restricts rather than expands our rights. It trivializes one of the noblest expressions that has ever come forth from any people on this Earth—the Constitution of the United States.

I thank the Chair.

Mr. EXON. Mr. President, I rise today to voice my support for Senate Joint Resolution 180, a constitutional amendment to outlaw desecration of an American flag.

I have found that the Texas versus Johnson decision created a storm of reaction with the American people.

Thousands of Nebraskans have expressed their outrage with that decision and their support for legislation that will protect Old Glory from destruction. By now, however, the winds have calmed and enough time has transpired to enable everyone to step back and to take a more dispassionate look at this issue. I agree with my colleague from Nebraska when he asserts that there has not been, nor is there likely to be, an outbreak of flag burning in this country.

Yet, I find that the disagreement and disappointment with that decision is still evident.

Like those many Nebraskans, I found the actions of Gregory Johnson in burning our flag while chanting, "America, the red, white and blue, we spit on you" to be deeply offensive and very deplorable. Our flag is indeed a unique symbol of our precious heritage.

As a veteran of World War II, I am well aware of the thousands of sacrifices that have been made on behalf of our country. Our American flag is certainly the most revered and universally accepted symbol of the principles and ideals for which those sacrifices were made.

In my view, our American flag is worthy not only of our respect but of our protection and our States and Federal Government should be free to pass laws to ensure that it is not desecrated. The free and open discussion of political ideas and opinions is unquestionably one of the cornerstones of our Nation. Yet, will a law that prevents the physical desecration of our flag limit that discourse in any, and I emphasize any, significant manner? I do not believe so.

If there remain individuals in this country who are convinced that the correct way to persuade the American public is by profoundly offending them, I am fully confident in those individuals to find ways to offend absent a constitutionally protected ability to destroy our flag.

Although there is not one of my colleagues who has not expressed disapproval at the burning of our American flag, there is clearly a wide divergence of opinions as to what to do about it. I do not intend to join the debate as to whether a new law or a constitutional amendment is the best approach. I supported the passage of legislation which amends our current law in an effort to make its provisions pass constitutional muster.

I would like to see this matter resolved by means of a new statute. But, the simple fact is that it will take five votes on the Supreme Court to answer that question and all of the constitutional scholars and law professors in this country combined do not have a single vote. We have no way of knowing what will happen to a new law and it seems to me that its chances of failing to pass constitutional muster are even at best. And, the new law, if constitutional, may not prove adequate to its task.

I do not view support for both the statutory approach and a constitutional amendment as being contradictory. The amending of our Constitution is not an easy process, nor should it be. We should proceed with our efforts to amend the Constitution regarding this issue. There is no reason to wait to find out whether the new flag desecration law can gather those five votes and I believe we should proceed down both tracks as soon as possible.

Mr. WALLOP. Mr. President, I do not often disagree with my colleague from Rhode Island, but today and tonight I do.

Haste is not a measure, or lack of haste is not a measure of either necessity or equality. I do agree with the Senator that amending the Constitution is serious business and I would say that this is a serious purpose contained in the resolution.

Some of us, indeed I believe most of us, whether enough of us, do not feel that this does trivialize the Constitution. Some of us feel that it adds a strength and nobility to it and that triviality it does not possess.

If it is not simple to amend the Constitution, as my colleagues have pointed out, then why should we fear it? Why should we here in our arrogance in this Senate of the United States say we know better and do not think it is best to put it to people in their legislatures closest to home to express their views of the flag of the United States? It is preposterous on its face to say this is censorship.

Even those, I would say, who oppose this resolution thought the man Johnson to be scum. I think he was scum. The reaction of the police to the behavior of Johnson was solely directed to his behavior with regards to the flag. He said the most appalling, the most scurrilous, the most disgusting

things about his country, about its soldiers, about its police, and everything else. He was not charged on what he said. He was charged on the basis of an act to desecrate the symbol to which all Americans swear allegiance.

This is unlike other countries, our view of the flag. The flag to us possesses a symbol that is not necessarily possessed by the flags of other countries.

Judge Bork pointed out that we do not swear allegiance to the Constitution, though we live and abide by it and treasure it. He also pointed out that it is absurd to say that there are no actions of Americans which are not prohibited by law and sustained by the Constitution.

I think one of the things he said that was most interesting in the testimony in front of the House committee was: Did they, the committee, suppose that should the Congress enact a law against pornography and should someone seek the most graphic forms of protest against the passage of that law and expose himself, does anyone doubt that that person could be arrested for that behavior? Does anyone doubt it?

The Senator from Missouri last night said that he had a change of heart because his first reaction had been a reaction of the heart. You may recall when that amendment came out the events of Tiananmen Square were underway. My first reaction was the opposite to that of the Senator from Missouri. My first reaction was that I did not want our Government behaving like the Chinese Government in restricting the behaviors of its citizens on the basis of what they may or may not be doing.

This, Mr. President, is substantially different. This is protecting something that belongs to all Americans, to which all Americans swear allegiance; and not just black Americans, or white Americans, or Indian Americans, or Jewish Americans, or agnostic Americans, or Christian Americans, or any other kind. This is a common bond and a common binding to us all. It is a thing for which soldiers and sailors and airmen, the men and women of our Armed Forces have fought and died for. It is the symbol of this country that was installed on the Moon. It is a constant reminder to us of the Constitution. It is a constant reminder to us of the things that make America different.

So it is not trivial. And those of us who support this amendment do not view it as trivial.

I could not agree more that it is not about patriotism. It is not. It is about the flag, the symbol of America, the symbol of our country, that thing which binds all Americans to the one great land that sustains and supports us all.

I am not afraid of what the people would say if given their choice. I do not understand why we do not want to provide that choice for the legislatures of this country. It is not a question of polls. I understand that. It is a question of having the people speak an expression not in haste but in consideration of the protection of the one symbol which binds us all, the one symbol to which we swear allegiance.

So it is a cohesive, national symbol that binds, not separates. It is that one area of this land which all Americans who maintain allegiance to this country stand underneath, salute, and pay respect. Those who do not have all the speech in the world about the Government, about the people who occupy the Government, about the behavior of the Government, about where our Armed Forces are or are not, about the President, about the judges, about anybody.

But does anyone in here suppose that a judge in a court cannot restrain and constrain speech of Americans by holding them in contempt of court? Surely, if a judge can hold a citizen in contempt of court, the country can hold flag desecraters in contempt of the country. Surely, that is a possibility for us. The Senate today restrained the members of the gallery. Why shouldn't Americans be given the same right when it comes to their flag?

It is not a mystery. It is nothing bizarre, but a straightforward expression that the symbol which Americans treasure belongs to them and not to some scoundrel, such as Mr. Johnson, who burned it.

I recall, again, that Mr. Johnson was not charged on what he said, nor would he be under this amendment or under the protections that all Americans enjoy. But those who fought and died for this flag, those who may again, those who salute it and treasure it, those who swear allegiance to it, those who are schoolchildren, those who are senior citizens, those who are members of these parties and Members of the Congress ought not to be frightened by the fact that a provision in the Constitution that protects that symbol will diminish their freedom. It will, in fact, not diminish their freedom but enhance the one great symbol of that which binds us all.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, if we recall the events that led up to our present state of affairs, namely, the pendency of a proposed amendment to the U.S. Constitution, we recall that the Supreme Court in its own words upheld the free speech rights of a citizen in Texas who burned the American flag.

Virtually the instant that decision was handed down a great wave of revulsion swept across this country, and understandably so. And within hours, proposals were put forth to amend the Constitution so that in future cases the Supreme Court could not uphold the right, if you will, of citizens to express themselves by desecrating our flag.

Indeed, within a matter of days, the President himself called for such an amendment, going to the Iwo Jima Memorial to dramatize his point.

What I am trying to invoke is the memory of a popular passion which quickly flashed across this country, flashed through this very Chamber, and that is what brought us to this moment. But I want to ask the question of my colleagues: Is it well for the Senate to respond to flashes of passion? Are we not supposed to be a more deliberative Chamber than one which responds to passion and popular polls?

In this present circumstance, namely, the pendency of this resolution, one might ask: What distinguishes the Senate from the House of Representatives, except that we serve for 6 years? But where is the dispassion? Where is the logic? Where is the cool and the calm and the long view that we are supposed to expect of the Senate? Perhaps it will yet prevail. I think so. I hope so.

But, for a while, it was a near thing. Perhaps I am wrong. Perhaps it still is a near thing. But, certainly, for a while, it was a very near thing and not the least bit becoming to the Senate, in my view.

Mr. President, the resolution before us to amend the Constitution would, as a practical effect, narrow the first amendment right to free speech, though not in a terribly significant way. But any narrowing of the first amendment right to free speech is a mistake in the view of this Senator.

It is true, of course, that the right to free speech is not unlimited. It is not unbounded. We do not have the right to libel another person. We do not have the right to slander another person. We do not have the right to damage someone's property as a means of expressing ourselves. So the right to free speech is not unbounded but it is bound only to the extent necessary to protect the rights of others. Beyond that criterion, our free speech right is unlimited and thus it should always be.

Senators, as students of our Nation's history and of the Constitution, will recall that the Bill of Rights, the very first 10 amendments to the Constitution, has one fundamental purpose and that is this: to limit the power of Government. Do we want to weaken such limits? As a conservative, I say, "No. Never." And I urge my colleagues, who style themselves as conservatives, to consider that point.

The point of the Bill of Rights, the fundamental purpose, is to limit the

power of Government. Even a casual perusal will discover that fact. The first amendment, the first of the 10 first amendments of the Constitution, the Bill of Rights, says that "Congress shall make no law respecting an establishment of religion."

There it is, limiting the power of Congress, in this case and by extension, Government, with respect to establishing religion. "Congress shall make no law respecting an establishment of religion."

Then it says, "Congress shall make no law * * * abridging the freedom of speech, or of the press; or of the right of people peaceably to assemble, and to petition the Government." Congress shall not. Congress shall not.

If we look at the second amendment, it says "A well regulated Militia, being necessary to the security of a free State, the right of a free people to keep and bear Arms, shall not be infringed."

What does it mean? It means the Government shall not infringe on the right of the people to bear arms.

The third amendment, "No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law."

It means that Congress, the Government, may not quarter troops in the homes of its citizens, of its people.

These are amendments which limit the power of Government; which bind Government. Let us keep Government bound because too much, notwithstanding the Bill of Rights, Government has been unbound and too much empowered in recent decades. We must stand guard against any further unbinding of the Government.

The fourth amendment says, "The right of people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated."

Violated by whom? By the Government. The fourth amendment, like all of the amendments in the Bill of Rights, restricts the power of Government; binds the Government, limits its power. And I say let it be so forever.

Those who wrote and promoted and ultimately saw the enactment of the first 10 amendments were drawing upon the concept of natural rights as they had been spelled out in the great English charters, and indeed in the Bills of Rights of the various States. That is what is protected in this Bill of Rights, natural rights, the natural right to speak one's mind however offensive that may be to the hearer or to the observer. It is a precious right, this binding of the power of Government so it cannot begin to interfere in the natural rights of any human being.

Mr. President, the pendency of this resolution proposing to amend the Constitution, is absurd. One would think that we had a national crisis. One would think that America was aflame with burning flags. Nothing could be further from the truth.

How many such cases are there in a year—10 or 20? And we are proposing to amend the Constitution to deal with 10 or 20 cases of flagrant flag desecration? It is preposterous. But it is even more preposterous to talk about limiting the most precious of our rights, the right to free speech; to talk about loosening the binds on Government which protect that precious right. It is preposterous.

I urge all our fellow citizens to read these first 10 amendments and to note that they have a singular purpose of binding Government, limiting its power so that it may not infringe upon our natural rights.

I understand the revulsion and the disgust and the popular cry for remedy that arose out of the Johnson decision. I understand that very well. But it seems to me there are times when this body at least ought to be able to rise above popular passion and Gallup polls and political leverage for the next elections and to do what is right for posterity. Lord knows, we do not do it with respect to the budget process or any fiscal matters. Let us at least do it with respect to our precious natural rights and the preservation of the Constitution.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I was of mind to speak at some length on Senate Joint Resolution 180 "Proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States." It develops, however, that what I really want to say can be said in a few words.

It is a curious fate to be a Member of the U.S. Senate. We come here for only a brief time. But we remain here for the rest of the history of the American Republic. We are part of the annals. So long as the Republic endures there will be a Biographical Director of the U.S. Congress. Each of us will be in that directory. So far there have been 1,792 Senators. May the day come when there will have been 17,930. And should it do, we here today will be part of that continuing body even then.

Few of us will be remembered; but each of us will be recorded. I would hope that it will be recorded that I did some things here that were right. But I have no control over that. What I can do and do is determine that I shall never have done one particular thing that would be irredeemably, irretrievably wrong. I can have it recorded that on October 19, 1989, 2 centuries and 45 days after it was passed by the Senate, then sitting in New York, the senior Senator from New York declined absolutely to have anything to do with altering and diminishing the first amendment of the Bill of Rights.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I will oppose the constitutional amendment pertaining to flag desecration. I will do so for two reasons.

The first is the sanctity of the Bill of Rights. These first 10 amendments to the Constitution were ratified on December 15, 1791. In the almost 198 years since, our Nation has ratified 16 more amendments—and almost every one of those amendments has expanded—not contracted—the Bill of Rights.

Now is not the time to change that course. Now is not the time to tamper with laws, precedents, and principles that have stood us in good stead for almost two centuries. Now is not the time for us to do something we have never done before—restrict the democratic ideals our Founding Fathers saw fit to write into the document we use as the foundation for our existence as a nation.

Second, I believe wholeheartedly that we have an obligation to protect symbols or objects of veneration. But I also believe that we have a right to speak our mind, whether people agree with us or not.

How can we do both? We have already, by passing a law that protects our flag. I voted for that bill. It will become law in a few days. Our flag will be protected, and our 200-year tradition of freedom of speech will be protected.

A constitutional amendment is unnecessary, time-consuming, and ill-advised. I will not support it.

Mr. BUMPERS. Mr. President, I rise this evening in opposition to the proposed constitutional amendment before this body today. I disagree with my colleagues not out of disrespect, because I believe those who support this proposition do so sincerely, and out of a fierce and genuine love for our flag. But that love for our flag, Mr. President, is something shared by all of us, not just those who plan to vote for this resolution.

I did not arrive at this decision easily, Mr. President, but after much thought I have concluded that an amendment to the Constitution to prohibit flag-burning is an unwise and dangerous step at this time in our his-

tory, and perhaps more importantly, world history.

We all want to protect our flag. We all cherish this uniquely American symbol of our hopes, dreams, and aspirations.

But, Mr. President, I also love the Constitution. That document not only symbolizes our dreams, as the flag does, but it is the engine and protector of our dreams. It is what has made us the brightest light of freedom on this mortal Earth. Alfred North Whitehead, an English philosopher, once said there have been only two times in history when man has done what he set out to do, and did it about as well as it could be done. The first was the reign of Caesar Augustus and the second was the drafting of the Constitution in 1787.

The product of that hot, sweltering summer in Philadelphia 202 years ago has kept the fires of liberty burning in the hearts of men and women all over the world. It is why students in China and Estonia and Lithuania quote Patrick Henry and Abraham Lincoln instead of Karl Marx and Vladimir Ilyich Lenin.

It is almost eerie how that great assemblage of minds congregated, in what was then a distant, nearly unchartered corner of the world, and painted the majestic, inspired strokes of the Constitution.

It is the tremendous wisdom of the Constitution that has made it—in the words of William Gladstone, Prime Minister of Great Britain—"the most remarkable work known * * * in modern times to have been produced by the human intellect, at a single stroke."

It is the Constitution that has bound our Nation together when threatened, even in the darkest hours of the Civil War and the two world wars. It is, in the words of Barbara Tuchman, "our last great hope." And it is, above all else, what keeps us free. So when someone suggests changing one letter of that document, we should all say, "just a minute."

The Constitution is also the one piece of irrefutable political evidence that says every person counts, that all are equal in the eyes of the law. I hold it second only to the Holy Bible as the most sacred possession in the hands of mankind. For these reasons, any amendments to the Constitution must be examined with the greatest degree of scrutiny.

But I also rise today because I do not believe we should have to choose between the flag and the Constitution—between the hallmark of freedom and the temple from which it springs. Between the Stars and Stripes which unfurl proudly and majestically over a land incredibly bountiful and free—and the words of the Constitution, which ring just as proudly and majestically in our hearts and minds.

Yet this resolution forces us to make that impossible choice. It is ironic in the extreme that this resolution comes at this moment in history, when the whole world is clamoring for freedom; when all the world's children are waking up from a long ideological slumber in an incredibly exciting and dynamic way.

And I would not be honest if I did not say that I almost resent having to make this choice—mostly because it is so unnecessary in light of Congress' recent action.

The proponents of Senate Joint Resolution 180 have argued that in light of the Supreme Court's ruling in Texas versus Johnson it is not possible to draft a statute that is constitutional and that would protect our flag. Yet, the same people who argued that, voted in overwhelming numbers for such a statute. I do not think the Court's holding is so broad that a law cannot be and could not be drafted that would pass constitutional muster. The statute we passed just the other day is a far cry from the Texas law which the court rendered unconstitutional in the Johnson case.

As other Members and witnesses before the Senate Judiciary Committee have indicated, the Johnson Court did not say that Congress could never constitutionally ban flag-burning. It did not categorically foreclose Congress' ability to protect the flag through statutory means. Rather, it said that Gregory Lee Johnson's conviction could not stand because Texas' desecration statute only protected the flag in a discriminatory way, and in a way that was content-based. The Court said the Texas statute did not apply evenly across the board, and was used to prosecute only those who desecrated the flag in a way which would "seriously offend one or more persons likely to observe or discover" the flag burning.

Further, the Supreme Court ruled that the flag-burning statute, as applied to Gregory Lee Johnson, was designed to prohibit a particular political message. Thus, his conviction could not be upheld under the first amendment. But the Court did not say that a flag-burning statute could never be drafted.

Rather, the Court expressly left several questions open, such as whether a conviction would lie if Johnson's flag-burning had caused a breach of the peace or was likely to incite or produce imminent lawless action. Or had fallen within the "small class of 'fighting words' that are 'likely to provoke the average person to retaliation.'" Because the facts of Johnson's case did not raise these issues, the Court declined to rule on them.

Similarly, the Court also stated:

> The Texas law is * * * not aimed at protecting the physical integrity of the flag in all circumstances, but is designed to protect it only against impairments that would cause serious offense to others.

This seems to leave room for properly drafting a statute that does protect the physical integrity of the flag in all circumstances, without regard to the defendant's motive or the reactions of those who may witness the conduct. Indeed, the legislation passed by Congress the other day is such a statute—a flat, content-neutral ban of harmful, destructive conduct.

We can make a strong argument for the statute we passed.

As long as the statute we passed has a prayer—and, believe me, it has mine and I hope those of 90 other Senators—I cannot support an amendment to the Constitution, and certainly not one as broad and vague as the one before us.

For some who may believe that it is inconsistent to argue for a ban against flag burning one day, and then—2 weeks later—oppose a constitutional amendment on the same subject, I can only say this—there can be an addition to the United States Code by a simple majority vote of both Houses. It can always be changed by a majority vote. That is one thing. But altering the Constitution is quite another.

As many Senators have stated in the course of this debate, the amending process set forth in article V of the Constitution is intentionally difficult. It was, in the words of James Madison, to be reserved "for certain great and extraordinary occasions."

So the framers provided the constitutional amending process—a two-thirds vote by Congress plus ratification by three-fourths of the States. I have always thought that the framers were pretty good counters, and were precise in the Constitution when they needed to be. They purposely upped the ante on constitutional amendments to check the passions of the people, to ensure that any so-called collective judgments were near universal.

The framers knew that transitory passions could sweep us off our feet, and they sought to protect against our own folly. I have always known that it is easier to bring people to their feet than to their senses.

In my view, article V asks a solemn and awesome responsibility of us, that we should treat the Constitution with care and with reverence. It is not meant for willy-nilly amendments just to make the 6 o'clock news or pump out a press release. And, worst of all, it is not meant for matters of political convenience, which I fear is mostly at work here.

As Senator BIDEN and others have said: "Amending the Constitution is the means of last—and not first—resort." That to me is not just a sound constitutional maxim, but eminent good sense.

As I mentioned the other day, what disturbs me somehow about this debate—and some of the others we have had around here lately—is the underlying suggestion that maybe a Senator just does not quite love America enough if he or she does not vote to amend the Constitution. In my opinion, nothing could be demonstrably farther from the truth. To the contrary, it is a love of freedom, for the principles that make us great, that should instruct caution.

It is, after all, in defense of the principles embodied in the Constitution that most of our wars have been fought. But I can see the paid political messages now, and so does everybody else in this body. You can see those 30-second spots impugning the patriotism of those who quibble about changing the Constitution as the President has requested.

It is worth repeating now, Mr. President, that we have only amended the Constitution 16 times since the ratification of the Bill of Rights in 1791—198 years since the first 10 amendments were adopted as the Bill of Rights. In that entire period of time, we have never seen fit to change one "t" or one "i" of those 10 amendments.

So we really have only amended the Constitution 16 times in almost 200 years, a real tribute to the American people. If you take the 18th amendment out, which prohibited drinking and the 21st, which put it back in, it is really only 14 times.

Mr. President, I am disturbed that while the people of this great Nation have only sought to change the Constitution 16 times, the President, has proposed 5 constitutional amendments in 9 months. It is a manifestation of contempt for this great document.

While some amendments have broadened the protection of the Bill of Rights, the slate is absolutely barren of amendments which have narrowed our freedoms.

Ten thousand constitutional amendments have been proposed, most of them for political purposes, most of which, happily, died after the author issued his press release. None of those 10,000 have ever been adopted that would limit our liberties. Not one that would limit our liberties has ever passed muster with the American people.

Even if such a dangerous excursion into the constitutional thickets of the Bill of Rights were advisable, it seems that it should at the very least be necessary, as the Senate Judiciary Committee argued in its report. It seems to me that some necessity ought to be demonstrated as a minimal threshold test. Certainly, as long as the statute we passed last week is sitting on the President's desk, no such need exists.

Furthermore, each one of us takes a solemn oath. I have said this time and time again, Mr. President. Every 6 years when we are elected or reelected, we hold up our hand and say that we will defend the Constitution. And believe me, after the framers' experience with mother England, they did not require oaths easily, but they felt so strongly about it that they asked it of all Members of Congress, State legislators, judges, and all officers of the United States, as set out in article VI. "I will preserve, protect and defend the Constitution of the United States."

Sports fans, we are not talking about football. When it comes to amending the Constitution, our best defense is not a good offense. It is defense, preservation, protection, to the best of our abilities. Senate Joint Resolution 180 just does not qualify.

That brings me to the President's role in all of this, because, unfortunately, I think he has fanned—instead of cooled—the fires in this debate. I do not question his patriotism for a moment, but I would have to admit to being naive if I did not suspect that his motives have a political bias.

The distinguished Senator from Nebraska [Mr. KERREY] who, as far as I know, is the only Congressional Medal of Honor holder in this body, said it so well back in July, and I quote him verbatim:

> I am disappointed that the strength of leadership shown by President Bush in his travels to Poland and Hungary was not shown here at home. President Bush did not stand before the angry and distressed mob to stop us in our tracks before we did something we would regret. He did not offer words that calm us or give us assurance that the Nation is not endangered. Instead of leading us, he joined us. The polls showed support for his constitutional amendment, and so he yielded to his political advisers—not his lawyers, his political advisers. Even though most Americans had not read the decision in the Johnson case prior to being polled, even though they did not understand what is potentially at stake when we alter our Bill of Rights, the President chose the path of least resistance and greatest political gain.

It reminds me of a quote of Abraham Lincoln on our courts and judges when he said:

> It is a duty from which they may not shrink to decide cases properly brought before them, and it is no fault of theirs if others seek to turn their decisions to political purposes.

Those of us who oppose this amendment do so at our political peril.

While the President is in a carefully-calculated win-win situation, we are going to defeat this amendment in the morning at 11 a.m., and the Bill of Rights and the sanctity of the Bill of Rights will have been preserved. But the politics will favor those who voted for this ill-conceived amendment. Tragic but true. Just as we expect the Supreme Court to exercise judicial restraint, Congress and the President ought to use political restraint.

In conclusion, Mr. President, the chairman of the Senate Judiciary Committee has outlined very eloquently how the language of Senate Joint Resolution 180 could do untold damage to the Bill of Rights.

We do not know the interpretations that the States give to the words, "physical desecration," or "prohibit," or "flag of the United States"; how this might actually open the door to much more intrusive regulation than we ever intended or the President intended.

Bear in mind, this amendment says this Congress and the States shall have the power. We can end up with 51 radically different flag-burning statutes across the Nation. We are uncertain of the impact of this proposed constitutional amendment on other cherished guarantees. We do not know how this amendment might spawn years and years of endless litigation because of its language, which will be examined through a microscope.

Does the word "power" in this amendment, which is granted to both the U.S. Congress and to the States, include the power to suspend jury trials? Does it give the States and the Congress the power to impose the death penalty for flag desecration? Does the power granted to Congress supersede the power given to the States? Or are we powerless when some State goes much too far?

All this, in my view, brings us straight to the heart of our constitutional duty as Members of Congress, and especially as Senators. We are suposed to be a deliberate body, and that means we are supposed to deliberate, to wait, to examine, to debate, to search the sky for where the true storm clouds gather.

We were not elected to make easy choices. We are here to make the decisions that test us as human beings and Americans and as a nation. So I implore this body to wait. This resolution is too much too soo. When our statutory means have been exhausted, we can then decide the wisest and most deliberate course.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, as we near the end of debate on this proposed constitutional amendment, there are several points which should be reiterated.

There have been arguments made by some opponents of this proposed amendment that its language would supersede various parts of the Constitution. It is my firm belief that this proposed language for a 27th amendment will give the Congress and the States power to prohibit physical desecration of the flag, nothing more.

This amendment will not trump the eighth amendment's protection

against cruel and unusual punishment or other constitutional protections such as the ban against unreasonable searches and seizures embodied in the fourth amendment.

Senate Joint Resolution 180 is drafted in the same form as the 16th amendment which provides Congress with the power to lay and collect income taxes. I do not believe a serious argument can be made that the 16th amendment's power to tax allows IRS agents the authority to enter homes of private citizens in violation of the 4th amendment. Nor does the 16th amendment grant the Federal Government authority to impose "cruel and unusual punishment" against those persons who may be delinquent in their tax returns.

In short, Mr. President, Senate Joint Resolution 180 does not amend the first amendment or any other amendment to the Constitution. It would, however, effectively overturn a Supreme Court interpretation of the first amendment.

Another argument proffered by the opponents of Senate Joint Resolution 180 is that the proposed language is overbroad or vague. While I do not believe that this language suffers from uncertainty in its meaning, I would point out that other amendments to the Constitution were not precisely drafted. Is there a concrete definition of an "unreasonable search and seizure," a "speedy trial," "due process of law," or "equal protection." I believe the terms of Senate Joint Resolution 180 are much more clear on the face than many of the phrases mentioned earlier. Also, the Congress has established a clear legislative history for this proposed amendment which shows our efforts are to prohibit the contemptuous desecration of the flag.

Finally, Mr. President, I am convinced that an overwhelming number of Americans believe the flag is worthy of our respect and protection. It is our most unique symbol of democracy and embodies our values as a nation.

The recently passed statute may protect this great symbol—we can not be sure. That is why we should vote now to send this proposed amendment on to the States to allow them the opportunity to begin considering its ratification.

Mr. President, I ask unanimous consent that a statement prepared by the Department of Justice on this matter be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The Dole-Dixon amendment, which has been endorsed by the President, is by design simple and straightforward. It does not itself prohibit any Flag desecration. Rather, it merely restores to Congress and State legislatures the authority to prohibit Flag desecration that they have reasonably exercised for more than 100 years. Suggestions that the Amendment would authorize the prohibition of innocent conduct are seriously misplaced. The Amendment enables the people's elected representatives to make the choices they believe best serve their constitutents. That is the definition of democracy.

It is also clear, despite the contention of some, that the proposed Amendment would reverse the Court's decision in *Johnson*. The Court expressly noted that it was not able to find a separate juridical category for the Flag, because, in part, it was nowhere mentioned in the Constitution. With this amendment, it would be clear that the Government's interests in preserving the Flag's symbolic value is in fact compelling, a fact that the Court did not recognize. Moreover, any court confronted with the question would look to the context in which the proposed Amendment was ratified—as is done with every other Amendment.

That the Amendment would operate by making clear that the Government's interests in the Flag are sufficiently compelling to outweigh an individual's First Amendment interests in desecrating the Flag also explains why the proposed Amendment would have no effect on other provisions in the Bill of Rights. Unlike the First Amendment context where the Court expressly balances the Government's interests in the Flag with an individual's interests, that is not the case elsewhere. Regardless of the strength of the Government's interests in protecting the Flag (or anything else for that matter), the protections of the Fourth, Eighth, and Fourteenth Amendments are not affected. It is simply not a part of the Court's calculus of those guarantees to consider the strength of the Government's underlying interest. That is the case, however, with the First Amendment, as the Court's decision in *Johnson* makes plain. It is therefore untenable to suggest that the proposed Amendment either would not affect the *Johnson* decision or would trump all the guarantees of the Bill of Rights.

Finally, it is worth observing that the weakness that some perceive in the Amendment's imprecise terms, is in fact the Amendment's strength. A constitutional amendment, unlike a criminal statute, should not attempt to resolve every question and define every term. That is the job of the elected representatives who would be empowered upon the ratification of the proposed Amendment to prohibit the physical desecration of the Flag. Moreover, there is no need to fear the decision those representatives will make. Not only are they accountable to the people, but there is an ample track record for determining what Congress and the States would do if they again possessed the power stripped from them on June 21, 1989.

Mr. THURMOND. Mr. President, I firmly believe Justice Rehnquist expressed the views of millions of Americans when he stated:

The American flag * * * throughout more than 200 years of our history, has come to be the visible symbol embodying our Nation. The flag is not simply another "idea" or "point of view" competing for recognition in the marketplace of ideas. Millions and millions of Americans regard it with an almost mystical reverence regardless of what sort of social, political, or philosophical beliefs they may have. I cannot agree that the First Amendment invalidates the Act of Congress, and the laws of 48 of the 50 States, which make criminal the public burning of the flag.

Accordingly, I urge my colleagues to support this proposal and thereby support the right of the American people, through the amendment process, to protect the flag of the United States of America from physical desecration.

Mr. President, I will have more to say on this subject tomorrow.

I yield the floor at this time.

The PRESIDING OFFICER. The Senator from Vermont.

PRIVILEGE OF THE FLOOR

Mr. LEAHY. Mr. President, I ask unanimous consent that Mark Gerchick have privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I have received a great deal of correspondence on the issue of flag burning. I would like to include just a few of these letters in the RECORD.

Members of the press have been particularly adamant in their opposition to any attempt to abridge the rights guaranteed by the first amendment. I would like to include letters from the National Newspaper Association and the Magazine Publishers of America, both of whom oppose Senate Joint Resolution 180.

I would also like to include a letter opposing Senate Joint Resolution 180, signed by 511 constitutional law professors. These professors teach at 158 law schools in 46 States and the District of Columbia. They say in their letter that they "regard the proposed amendment as both unwisse and inconsistent with the basic premise of the Bill of rights.

Another letter, signed by 101 constitutional law professors, says that there is a reasonable basis for believing that the Supreme Court will uphold the flag protection statute and that this proposed amendment is unnecessary.

Finally, I wish to include a letter from People for the American Way, on behalf of the organization's 275,000 members, urging us to protect the Bill of Rights by opposing this proposed amendment.

Mr. President, I ask unanimous consent to print in the RECORD the sundry items.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL NEWSPAPER ASSOCIATION,
Washington, DC, October 12, 1989.

Hon. PATRICK J. LEAHY,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: The National Newspaper Association, the Association of Area Business Publications, the American Court and Commercial Newspapers Association, the American Jewish Press Association, the Inland Press Association, the National Newspaper Publishers Association, and the Suburban Newspapers of America are all writing to express our strong opposition to S.J. Res. 180, which seeks to amend the

Constitution of the United States, and to urge you to vote against it.

This proposed constitutional amendment seeks to overturn protections inherent in the First Amendment by allowing punishment for flag desecration on a pick-and-choose basis, depending upon the stance of the desecrator. We find this prospect appalling, particularly since Congress recently passed a content-neutral statute which would punish flag desecration on a nonpartisan and nondiscriminatory basis, and whose intent is not to tinker with sacred First Amendment principles.

During the two hundred years in which the American democratic experiment has evolved and the breadth of our constitutional protections has broadened, our political system has prospered like no other in the world. Never in those two centuries has Congress seen the need to tamper with the Free Speech principles of our Constitution. We see no need to do so now.

Our Constitution, and specifically the First Amendment, has traditionally set us apart from the rest of the world in terms of individual expression. Never in the history of the world has a people been as free as the American people. Never in the history of the world has a press been as free as the American press. The single most important key to that freedom has been and still is America's willingness to tolerate expression that the majority find repugnant. In sharp contrast to the Chinese spectacle at Tiananmen Square, America has always been strong enough and sufficiently sure of itself to accept dissent within its ranks.

We believe that America is as strong and as sure as ever, and that we should avoid measures such as S.J. Res. 180. They are signs of weakness. They are steps down the wrong path.

S.J. Res. 180 should not pass.

Thank you for considering our views.

Sincerely,

The National Newspaper Association, the Association of Area Business Publications, the American Court and Commercial Newspapers, the American Jewish Press Association, the Inland Press Association, the National Newspaper Publishers Association, the Suburban Newspapers of America.

ATTACHMENT

The National Newspaper Association (NNA) is a national trade association representing daily and weekly newspapers published throughout the country. Founded in 1885 and with more than 5,000 member newspaper publishers, NNA is the oldest and largest national trade association in the newspaper industry.

The Association of Area Business Publications (AABP) is comprised of nearly 100 local and regional business newspapers and magazines in virtually all major U.S. markets. Combined circulation of member publications is more than 2.2 million.

The American Court and Commercial Newspapers, Inc. (ACCN) is comprised of those general circulation newspapers whose contents are of particular interest to the court, business, banking, commerce, and real estate communities, because of their massive volume of public notices, as well as news of interest to those professions, along with the general public.

The American Jewish Press Association (AJPA), founded in 1943, is a voluntary organization of over 175 American Jewish newspapers, magazines, and individual journalists. These English-language publications have a combined readership of more than three million. The AJPA, through its meetings, workshops and publications, works to upgrade the status of American Jewish Journalism, by providing a forum for the exchange of ideas and cooperative activities among the American Jewish press.

The Inland Press Association is a trade association of 436 newspapers in 33 states. Founded in 1885, Inland represents most of the daily newspapers in the midwestern states.

The National Newspaper Publishers Association (NNPA) is a national trade association representing the interests of the major Black-owned daily and weekly newspapers in the country. NNPA was founded in 1940, and currently has 150 members.

The Suburban Newspapers of America (SNA) is a national organization of more than 200 member companies representing over 1,200 community and urban newspapers with a combined circulation of approximately 18 million. The association was formed in 1971 as a result of merging three independent suburban newspaper organizations.

MAGAZINE PUBLISHERS OF AMERICA,
Washington, DC, October 16, 1989.

Hon. PATRICK J. LEAHY,
U.S. Senate, Washington, DC.

DEAR SENATOR: On behalf of the Magazine Publishers of America, Inc., representing more than 200 United States publishing companies, I write to urge you to vote against approval of S.J. Res. 180, the Flag Amendment.

We understand the public's consternation in reaction to the flag-burning case, but amending the Constitution to overturn the Supreme Court's narrowly-drawn decision in *Texas v. Johnson* goes far beyond what is necessary to provide protection for the flag and to punish those who desecrate it.

Congress acted quickly in response to the public demand to protect the flag. H.R. 2978, approved by large majorities in both the House of Representatives and the Senate, makes it a felony for any person to mutilate, deface, burn, or trample upon any flag of the United States. This legislation carefully balances the need to guarantee protection of the flag with the need to preserve First Amendment freedoms of speech and assembly. By ensuring a "content-neutral" prohibition against desecrating the flag, Congress has preserved both the flag and the cherished American liberties for which the flag is an everlasting symbol.

We hope that you will vote against H.J. Res. 180.

Sincerely yours,

GEORGE GROSS.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman of the Senate Judiciary Committee, Dirksen Senate Office Building, Washington, DC.

Hon. JACK BROOKS,
Chairman of the House Judiciary Committee, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Following the decision of the Supreme Court in *Texas* v. *Johnson*, 57 U.S.L.W. 4770 (June 21, 1989), the President proposed an amendment to the Constitution to overrule that decision and to prohibit the physical desecration of the American flag. The proposed amendment has been introduced in the Senate as Senate Joint Resolution 180 and the House of Representatives in a variety of similar forms.

As law professors we are acutely aware that the Bill of Rights is largely responsible for the unique nature of our democracy. We regard the proposed amendment as both unwise and inconsistent with the basic premises of the Bill of Rights and, more particularly, of the First Amendment itself. The core purpose of the First Amendment was to protect unpopular speech from suppression by the political majority to ensure, in Justice Holmes' phrase, freedom for even "the thought that we hate." *United States* v. *Schwimmer*, 279 U.S. 644, 655 (1929).

We urge the Congress to reject the proposed amendment.

CONSTITUTIONAL LAW PROFESSORS WHO SIGNED STATEMENT OPPOSING CONSTITUTIONAL AMENDMENT ON FLAG BURNING

(Listed by state and institution)

ALABAMA

University of Alabama School of Law: Martha I. Morgan, Jay Murphy.

ARIZONA

Arizona State University College of Law: Paul Bender, Hannah Arterian Furnish, John D. Leshy, Alan A. Matheson.

University of Arizona College of Law: Charles E. Ares, Robert Jerome Glennon, G. Kenneth Reiblich, Roy Spece.

ARKANSAS

University of Arkansas Fayetteville, School of Law: Mark R. Killenbeck, Albert M. Witte.

University of Arkansas, Little Rock, School of Law: Glenn Pasvogel.

CALIFORNIA

California Western School of Law: Michael R. Belknap, Arthur W. Campbell, James E. Leahy, Penn Lerblance.

Golden Gate University School of Law: Michael D. DeVito.

Loyola Law School, Los Angeles: Jan Clifford Costello, George C. Garbesi, Frederick J. Lower, Jr., Christopher N. May.

Pepperdine University School of Law: Bernard James.

Santa Clara University School of Law: George J. Alexander, Howard C. Anawalt, Russell W. Galloway, Paul Howard Zarefsky.

Southwestern University School of Law: James A. Kushner, George J. Zervas.

Stanford Law School: Paul Brest, William Cohen, John Hart Ely, Lawrence M. Friedman, Edward McGlynn Gaffney, Jr., Gerald Gunther,[1] Charles R. Lawrence, III, David L. Rosenhan.

UCLA School of Law: Benjamin Aaron, Reginald Alleyne, Julian N. Eule, Kenneth L. Karst, Herbert Morris, Jonathan D. Varat.

University of California at Berkeley School of Law: Jesse H. Choper, Robert H. Cole, William A. Fletcher, Charles McClain, Robert Post, Harry N. Scheiber.

University of California at Davis School of Law: Edward L. Barrett, Jr., Michael J. Glennon, Gary Goodpaster, John W. Poulos.

University of California, Hastings College of Law: David L. Faigman, Joesph R. Grodin, William B. Lockhart, Calvin, R.

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[1] Professor Gunther requested that the following statement be included with his name: "I also urge that Congress reject the proposed 'cure' for *Texas* v. *Johnson*, in accordance with the reasons—especially that the application of the revised statute would clearly be unconstitutional—set forth in the recent report of the ABA Task Force on the First Amendment of which I was a member. (The ABA has adopted our proposed resolution at the August 1989 ABA Annual Convention.)"

Massey, Judith L. Maute, Scott Sundby, Samuel D. Thurman.

University of San Diego School of Law: Lawrence A. Alexander.

University of San Francisco School of Law: John Denvir, Peter J. Donnici, Trina Grillo.

University of Southern California Law Center: Erwin Chemerinsky.

University of the Pacific, McGeorge School of Law: J. Clark Kelso, Brian K. Landsberg, Lawrence C. Levine, John Cary Sims.

Whittier College School of Law: Elwood Hain, Harold Quadres.

COLORADO

University of Colorado School of Law: David S. Clark, Gene R. Nichol, Pierre Schlag, Charles F. Wilkinson.

University of Denver School of Law: Stephen L. Pepper, George W. Pring.

CONNECTICUT

University of Bridgeport, School of Law: William V. Dunlap, Neal Feigenson, Stuart J. Filler, Martin B. Margulies, Elizabeth Phillips March, Alexander M. Meiklejohn, Robert C. Power, Eileen M. Quinn, John P. Sahl, Sheila Taub, Mary Moers Wenig, Jamison Wilcox.

University of Connecticut School of Law: Loftus E. Becker, Jr., Deborah A. Calloway, Thomas Morawetz, James H. Stark.

Yale Law School: Bruce Ackerman, Akhil Reed Amar, Boris I. Bittker, Robert A. Burt, Harold Hongju Koh, Peter H. Schuck, Harry H. Wellington.

DISTRICT OF COLUMBIA

American University, Washington College of Law: Anthony C. Morella, Thomas O. Sargentich, Herman Schwartz, Burton D. Wechsler.

Catholic University of America School of Law: William A. Kaplin, Nell J. Newton.

George Washington, University National Law Center: Jerome A. Barron, C. Thomas Dienes, Beth Nolan.

Georgetown University Law Center: Judith Areen, J. Peter Byrne, Sherman L. Cohn, Robert F. Drinan, S.J., Peter B. Edelman, Willaim N. Eskridge, Jr., Thomas G. Krattenmaker, John G. Murphy, Jr., Robert L. Oakley, Louis Michael Seidman, Mark Tushnet, Heathcote W. Wales, Silas Wasserstrom.

DELAWARE

Widener University School of Law: Charlotte L. Bynum, Robert Justin Lipkin.

FLORIDA

Florida State University College of Law: Patricia Dore, Steven G. Gey, Mack A. Player.

Nova University Center for the Study of Law: John B. Anderson, Michael M. Burns, Johnny C. Burris, Anthony Chase, John E. Sanchez.

Stetson University Law School: Mark R. Brown.

University of Florida College of Law: Fletcher N. Baldwin, Jr., Robert Moffat, Sharon Rush.

University of Miami School of Law: D. Marvin Jones, Keith S. Rosenn, Irwin P. Stotzky.

GEORGIA

Emory University School of Law: Howard O. Hunter.

Georgia State University College of Law: L. Lynn Hogue, Charles A. Marvin, Kathryn R. Urbonya.

Mercer University Law School: Theodore Y. Blumoff, Richard S. Creswell.

University of Georgia School of Law: Milner S. Ball, Paul M. Kurtz, James F. Ponsoldt, Dean Rusk.

HAWAII

University of Hawaii School of Law: Jon M. Van Dyke.

IDAHO

University of Idaho College of Law: Dale Goble, James S. Macdonald.

ILLINOIS

DePaul University College of Law: Jeffrey M. Shaman.

IIT—Chicago Kent College of Law: Ralph L. Brill, Howard Eglit, Sheldon Nahmod, Joan E. Steinman, Margaret Stewart.

John Marshall Law School: John D. Gorby, Michael P. Seng, George B. Trubow.

Loyola University School of Law, Chicago: Diane Geraghty.

Northern Illinois University College of Law: Kathleen Patchel, Lawrence Schlam, Leonard P. Strickman, Joel H. Swift.

Northwestern University School of Law: Ronald J. Allen, Robert W. Bennett, Irving Gordon, Michael J. Perry.

Southern Illinois University School of Law: Thomas B. McAffee.

University of Chicago Law School: Michael W. McConnell, Geoffrey R. Stone, David A. Strauss.

University of Illinois College of Law: Deborah Jones Merritt, Ronald D. Rotunda.

INDIANA

Indiana University School of Law: W. William Hodes, William E. Marsh, James W. Torke.

Valparaiso University School of Law: Rosalie Berger Levinson, Seymour Moskowitz.

IOWA

Drake University Law School: Robert C. Hunter, Stanley Ingber, Lawrence Pope.

University of Iowa College of Law: S. James Anaya, Martha Chamallas, Robert N. Clinton, Mary L. Dudziak.

KANSAS

University of Kansas School of Law: David J. Gottlieb, Francis H. Heller, Philip C. Kissam, Richard E. Levy, Reginald L. Robinson.

Washburn University School of Law: Allen K. Easley, William Rich.

KENTUCKY

Northern Kentucky University College of Law: David A. Elder.

University of Kentucky College of Law: Alvin L. Goldman, Paul Oberst, Dwight Reginald Whitt.

University of Louisville School of Law: Laurence W. Knowles, Robert L. Stenger.

LOUISIANA

Louisiana State University Law Center: Paul R. Baier, Melvin G. Dakin.

Loyola University School of Law, New Orleans: Janet Mary Riley, Dan Rosen.

Tulane, University School of Law: S. Alan Childress, Robert Force, Catherine Hancock, John R. Kramer.

MAINE

University of Maine School of Law: Tybe A. Brett, James Friedman, Colleen A. Khoury, Merle W. Loper, Martin A. Rogoff, Melvyn Zarr.

MARYLAND

University of Baltimore School of Law: Paul B. Herbert, Barbara Mello.

University of Maryland School of Law: David S. Bogen, Peter E. Quint, Robin West.

MASSACHUSETTS

Boston College Law School: Charles H. Baron, Arthur L. Berney, Robert C. Berry.

Boston University School of Law: Kathryn Abrams, Eric D. Green, Pnina Lahav, Kenneth W. Simons.

Harvard University Law School: Derrick Bell, Martha A. Field, Paul A. Freund, Erwin N. Griswold,[2] John H. Mansfield, Frank I. Michelman, Martha Minow, Albert M. Sacks, Laurence H. Tribe.

New England School of Law: Thomas C. Fischer, Elizabeth K. Spahn.

Northeastern University School of Law: Judith Olans Brown, Denise S. Carty-Bennia, Robert W. Hallgring, Michael Meltsner.

Western New England College School of Law: James A. Gardner, Leora Harpaz.

MICHIGAN

Detroit College of Law: Martin L. Kotch, Harold Norris.

Thomas M. Cooley Law School: Dorean M. Koenig.

University of Detroit School of Law: Robert N. Brown.

University of Michigan Law School: T. Alexander Aleinikoff, Lee C. Bollinger, Samuel D. Estep, Yale Kamisar, Donald H. Regan, Terrance Sandalow, Frederick Schauer, Christina Brooks Whitman.

Wayne State University Law School: Robert H. Abrams, William Burnham, Robert A. Sedler, Jonathan Weinberg.

MINNESOTA

Hamline University School of Law: David M. Cobin, Joseph L. Daly, William E. Martin, Michael Scherschligt, Steven R. Swanson, Howard J. Vogel.

University of Minnesota Law School: Daniel Farber, Philip P. Frickey, Suzanna Sherry, Robert A. Stein.

William Mitchell College of Law: Kenneth Kirwin.

MISSISSIPPI

University of Mississippi School of Law: George Cochran.

MISSOURI

St. Louis University School of Law: Roger L. Goldman, Alan J. Howard.

University of Missouri-Columbia, School of Law: William B. Fisch.

University of Missouri—Kansas City, School of Law: Douglas O. Linder, Joan Mahoney, Robert Popper.

Washington University School of Law: D. Bruce La Pierre, Stanley L. Paulson.

MONTANA

University of Montana School of Law: Larry Elison.

NEBRASKA

Creighton University School of Law: G. Michael Fenner, Kent J. Neumeister, Richard E. Shugrue.

University of Nebraska School of Law: Richard S. Harnsberger, Emily Fowler Hartigan.

NEW HAMPSHIRE

Franklin Pierce Law Center: Richard A. Hesse.

NEW JERSEY

Rutgers Law School—Camden: Albert P. Blaustein, Jonathan Mallamud, Rand E. Rosenblatt, Allan R. Stein, Robert F. Williams.

Rutgers Law School—Newark: Frank Askin, Norman L. Cantor, Jonathan M.

[2] Former Dean, Harvard University Law School.

Hyman, Eric Neisser, James C.N. Paul, Nadine Taub.

Seton Hall University School of Law: James B. Boskey, Eugene Gressman.

NEW MEXICO

University of New Mexico School of Law: Michael B. Browde, Robert L. Schwartz.

NEW YORK

Albany Law School, Union University: Francis H. Anderson, Robert A. Barker, Martin H. Belsky, Stephen E. Gottlieb, Katheryn D. Katz, Mary Helen Moses.

Brooklyn Law School: Ursula Bentele, Eve Cary, Nancy H. Fink, Joel M. Gora, William E. Hellerstein, Michael Madow, Elizabeth M. Schneider.

City University of New York Law School: Rhonda Copelon, Victor M. Goode, Sidney L. Harring.

Columbia University School of Law: Vivian Berger, Lori F. Damrosch, Walter Gellhorn, Frank P. Grad, Louis Henkin, Gerard E. Lynch, Albert J. Rosenthal, Peter L. Strauss.

Cornell Law School: Alfred C. Aman, Jr., Theodore Eisenberg, Sheri Lynn Johnson, Milton R. Konvitz, David Lyons, Steven H. Shiffrin, Gary J. Simson, Susan Hoffman Williams, David C. Williams.

Fordham University School of Law: Mary C. Daly.

Hofstra University School of Law: Monroe H. Freedman, Eric M. Freedman, Ronald H. Silverman.

New York Law School: Michael Botein, Joel S. Lee, Arthur S. Leonard, Jethro K. Lieberman, James F. Simon, Ruti Teitel.

New York University School of Law: Anthony G. Amsterdam, Norman Dorsen, Thomas M. Franck, Sylvia A. Law, Robert B. McKay, Burt Neuborne, David A.J. Richards, Diane Leenheer Zimmerman.

Pace University School of Law: Donald L. Doernberg, Ralph Michael Stein, Gail J. Wright.

SUNY Buffalo School of Law: Lee A. Albert, Jacob D. Hyman, Frank Munger, Wade J. Newhouse, Judy Scales-Trent.

St. John's University School of Law: Rosemary C. Salomone, Philip Weinberg.

Suffolk University Law School: Alvan Brody, Marc D. Greenbaum.

Syracuse University College of Law: Robert M. Anderson, Leslie Bender, Dean Braveman, Richard A. Ellison.

Touro College Jacob B. Fuchsberg Law Center: Howard A. Glickstein, Richard Klein, Martin A. Schwartz, Thomas A. Schweitzer, Gary M. Shaw, Hazel Weiser.

Yeshiva University Cardozo School of Law: David Rudenstine, Edward de Grazia, Michael Herz, Richard H. Weisberg.

NORTH CAROLINA

Duke University School of Law: Walter Dellinger, Peter Graham Fish, Thomas D. Rowe, Jr.

North Carolina Central University School of Law: Patricia H. Marschall, Louis Westerfield.

University of North Carolina School of Law: Arnold H. Loewy, William P. Murphy, Barry Nakell, Daniel H. Pollitt.

Wake Forest University School of Law: Luellen Curry, Michael J. Gerhardt, David A. Logan, Joel Newman, Ronald F. Wright.

NORTH DAKOTA

University of North Dakota School of Law: Marcia O'Kelly, Barry R. Vickrey.

OHIO

Case Western Reserve University Law School: Melvyn R. Durchslag, Jonathan L. Entin, Lewis R. Katz, William P. Marshall.

Cleveland-Marshall College of Law: Joan E. Baker, Stephen W. Gard, Arthur R. Landever, Steven H. Steinglass, Janice Toran.

Ohio Northern University, Pettit College of Law: Bruce Comly French, Albert T. Quick.

Ohio State University College of Law: Francis X. Beytagh, David Goldberger, Lawrence Herman, Louis A. Jacobs, Stanley K. Laughlin, Barbara Rook Snyder.

University of Akron, C. Blake McDowell Law Center: William D. Rich.

University of Cincinnati College of Law: Joseph P. Tomain.

University of Dayton School of Law: Richard B. Saphire, Allen Sultan.

University of Toledo College of Law: Henry J. Bourguignon, Howard M. Friedman, Donald E. Lively.

OKLAHOMA

University of Oklahoma Law Center: Teree E. Foster, William A. Grimes, Kevin W. Saunders.

University of Tulsa College of Law: Stephen M. Feldman Ray Yasser.

OREGON

Lewis and Clark Northwestern School of Law: Paula Abrams, Michael C. Blumm, William Funk, Stephen Kanter.

University of Oregon School of Law: James M. O'Fallon, David Schuman.

Willamette University College of Law: Claudia Burton.

PENNSYLVANIA

Dickinson School of Law: Gary S. Gildin, Robert E. Rains.

Duquesne University School of Law: Kenneth L. Hirsch, Bruce Ledewitz.

Temple University School of Law: Burton Caine, Richard K. Greenstein, Robert Reinstein.

University of Pennsylvania Law School: C. Edwin Baker, Colin S. Diver, Seth F. Kreimer.

University of Pittsburgh School of Law: John M. Burkoff, Jules Lobel, Richard H. Seeburger, Welsh S. White.

Villanova University School of Law: Doris Del Tosto Brogan.

PUERTO RICO

Inter American University School of Law: Judith Berkan.

University of Puerto Rico School of Law: Efren Rivera.

SOUTH CAROLINA

University of South Carolina School of Law: Randall M. Chastain, William Shepard McAninch, Eldon D. Wedloch, Jr.

TENNESSEE

Memphis State University School of Law: Frederick Davis.

Vanderbilt University School of Law: Donald J. Hall, Thoams R. McCoy.

TEXAS

South Texas College of Law: Neil Colman McCabe.

Southern Methodist University School of Law: Neil H. Cogan, Ellen K. Solender, Harvey Wingo.

St. Mary's University School of Law: Michael S. Ariens, David Dittfurth.

Texas Tech University School of Law: Thomas E. Baker, Rodric B. Schoen.

University of Houston Law Center: G. Sidney Buchanan, David R. Dow, Peter Linzer, Laura Oren, Jordan J. Paust, Irene Merker Rosenberg, Daniel L. Rotenberg.

University of Texas School of Law: Jack M. Balkin, Douglas Laycock, Sanford Levinson, John A. Robertson, Edward F. Sherman, Richard W. Wright.

UTAH

Brigham Young University J. Reuben Clark Law School: Douglas H. Parker.

University of Utah College of Law: A.C. Emery, Edwin B. Firmage, John J. Flynn, Wayne McCormack.

VERMONT

Vermont Law School: David Firestone.

VIRGINIA

University of Richmond Law School: Gary Leedes.

University of Virginia School of Law: Michael Klarman, Harold J. Krent, Richard B. Lillich, David A. Martin, G. Edward White.

Washington and Lee University School of Law: L. H. LaRue, Ann MacLean Massie.

William and Mary, Marshall-Wythe School of Law: Jayne W. Barnard, John M. Levy, Rodney A. Smolla, Richard A. Williamson.

WASHINGTON

Gonzaga University School of Law: James M. Vache.

University of Puget Sound School of Law: David M. Skover.

University of Washington School of Law: John Fitzpatrick, Stewart Jay, Arval A. Morris.

WEST VIRGINIA

West Virginia University College of Law: Robert M. Bastress, Judith Schenck Koffler.

WISCONSIN

Marquette University Law School: Wallace A. MacBain, III.

University of Wisconsin Law School: Gordon B. Baldwin, Ted Finman, G.W. Foster, Jr., Marc Galanter, Neil K. Komesar.

WYOMING

University of Wyoming College of Law: Robert B. Keiter, Dee Pridgen.

WASHINGTON, DC,
October 12, 1989.

Hon. PATRICK J. LEAHY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEAHY: When the Senate takes up the proposed constitutional amendment on flag descration one critical question will be whether the statute which both houses have passed is likely to be upheld by the Supreme Court.

We believe that there is a reasonable basis for believing that the Court will find the statute constitutional. In light of that, we urge you to vote against a constitutional amendment now and to await a Supreme Court decision on the statute. We are joined in this view by more than 100 other law professors who have endorsed the following statement:

We have differing views as to the Supreme Court decision in *Texas* v. *Johnson* and on whether Congress should enact a new flag burning statute.

We agree on the following:

1. There is a reasonable basis for believing that the Supreme Court, as currently constituted, might uphold the statute being considered by the Congress.

2. In light of that, it would be inappropriate for the Congress now to adopt a constitutional amendment.

A list of those who have signed the statement is attached. As you will see, it is a diverse group from around the country with differing views on the correctness of the Su-

preme Court decision in *Texas v. Johnson*. The reasoning that leads to the belief that the Court might well uphold the statute is contained in testimony which each of us and Dean Geoffery Stone presented to Congressional Committees. Copies of that testimony is enclosed for your consideration.

In short, we believe that it would be inappropriate for Congress to propose the first amendment which would restrict the Bill of Rights, when there is a reasonable chance that the Supreme Court will upheld a statute which will accomplish the only legitimate objectives of any such amendment. An analysis of the *Johnson* opinion and other decisions of the Court suggests that at least five Justices might well vote to uphold the content neutral statute just passed by the Congress.

Sincerely,

Prof. WALTER E. DELLINGER.
Prof. LAURENCE H. TRIBE.

THE FOLLOWING INDIVIDUALS HAVE ENDORSED THE STATEMENT AND AUTHORIZED THE USE OF THEIR NAME IN A JOINT LETTER

Professor G. Alexander, Santa Clara University.

Professor Larry Alexander, University of San Diego, School of Law.

Professor Robert M. Anderson, Syracuse University College of Law.

Emeritus Professor Chester James Antieau, Georgetown University.

Dean Judith C. Areen, Georgetown University Law Center.

Professor Charles E. Ares, University of Arizona College of Law.

Professor Carl A. Auerbach, University of Minnesota Law School.

Professor Thomas E. Baker, Texas Tech University School of Law.

Professor Taunya L. Banks, University of Maryland School of Law.

Professor William M. Beaney, University of Denver College of Law.

Professor Loftus E. Becker, Jr., University of Connecticut School of Law.

Professor Maxwell Bloomfield, Catholic University of America School of Law.

Professor David S. Bogen, University of Maryland School of Law.

Professor H.J. Bourguignon, University of Toledo College of Law.

Professor Michael B. Browde, University of New Mexico School of Law.

Professor Alan Brownstein, University of California Davis, School of Law.

Professor John M. Burkoff, University of Pittsburgh School of Law.

Professor Robert A. Burt, Yale Law School.

Professor Norman L. Cantor, Rutgers Law School.

Professor Randal M. Chastani, University of South Carolina Law School.

Associate Dean Neil H. Cogan, Southern Methodist University School of Law.

Professor Tom A. Collins, College of William and Mary, Marshall-Wythe School of Law.

Professor Minor Crager, University of Baltimore School of Law.

Professor Richard Cummings, Pace University School of Law.

Professor Joseph L. Daly, Hamline University School of Law.

Professor George Dargo, New England School of Law.

Professor Walter E. Dellinger, Duke University School of Law.

Professor Michael D. DeVito, Golden Gate University School of Law.

Professor Peter B. Edelman, Georgetown University Law Center.

Professor David A. Elder, Salmon P. Chase College of Law, Northern Kentucky University.

Professor G. Michael Fenner, Creighton University School of Law.

Dr. Antonio Fernos, Inter American University.

Professor Martha A. Field, Harvard University Law School.

Professor Ted Finman, University of Wisconsin Law School.

Professor David B. Firestone, Vermont Law School.

Professor Barbara Flagg, Washington University School of Law.

Professor G. W. Foster, Jr., University of Wisconsin Law School.

Professor Teree E. Foster, University of Oklahoma College of Law.

Professor Monroe H. Freedman, Hofstra Law School.

Professor George C. Garbesi, Loyola Law School.

Professor Helen Garfield, Indiana University School of Law—Indianapolis.

Professor Michael J. Gerhardt, Wake Forest University School of Law.

Professor Diane Geraghty, Loyola Chicago School of Law.

Professor Roger Goldman, Saint Louis University School of Law.

Professor Stephen E. Gottlieb, Albany Law School, Union University.

Professor Emily Fowler Hartigan, University of Nebraska—Lincoln College of Law.

Professor Francis H. Heller, University of Kansas School of Law.

Professor Richard A. Hesse, Franklin Pierce Law Center.

Professor Jonathan M. Hyman, Rutgers Law School.

Professor Sheri Lynn Johnson, Cornell Law School.

Professor David Kader, Arizona State University College of Law.

Professor Katheryn D. Katz, Union University Albany Law School.

Professor Andrew Kaufamn, Harvard Law School.

Professor Robert B. Keiter, University of Wyoming College of Law.

Professor Mark R. Killenbeck, University of Arkansas School of Law.

Professor Philip C. Kissam, University of Kansas Law School.

Professor Richard Klein, Touro College.

Professor Douglas W. Kmiec, Notre Dame Law School.

Professor Paul M. Kurtz, University of Georgia School of Law.

Professor Joel S. Lee, New York Law School.

Professor John D. Leshy, Arizona State University.

Professor Richard B. Lillich, University of Virginia.

Professor Donald E. Lively, University of Toledo College of Law.

Professor Bert B. Lockwood, Jr., University of Cincinnati College of Law.

Professor David A. Logan, Wake Forest University School of Law.

Professor William Shepard McAninch, University of South Carolina School of Law.

Professor Neil Colman McCabe, South Texas College of Law.

Professor Wayne McCormack, University of Utah College of Law.

Professor Judith G. McKelvey, Golden Gate University School of Law.

Professor Patricia H. Marschall, North Carolina Central University School of Law.

Professor Calvin R. Massey, University of California, Hastings Law School.

Interim Dean Alan A. Matheson, Arizona State University College of Law.

Professor Christopher N. May, Loyola Law School.

Professor Edward Mearns, Jr., Case Western Reserve University.

Professor Barbara Mello, University of Baltimore School of Law.

Professor Arval A. Morris, University of Washington Law School.

Professor Seymour Moskowitz, Valparaiso University School of Law.

Professor William P. Murphy, University of North Carolina School of Law.

Professor James F. Ponsoldt, University of Georgia School of Law.

Professor Philip J. Prygoski, Thomas M. Cooley Law School.

Professor Rand E. Rosenblatt, Rutgers University School of Law.

Professor Thomas D. Rowe, Jr., Duke Law School.

Professor Lawrence Schlam, Northern Illinois University College of Law.

Professor Richard H. Seeburger, University of Pittsburgh School of Law.

Professor Michael P. Seng, The John Marshall Law School.

Professor Gary Michael Shaw, Touro College School of Law.

Professor Allen E. Shoenberger, Loyola University Law School.

Professor Richard E. Shugrue, Creighton University School of Law.

Professor Kenneth W. Simons, Boston University School of Law.

Professor David M. Skover, University of Puget Sound School of Law.

Professor Rodney A. Smolla, College of William and Mary, Marshall-Wythe School of Law.

Professor Joan Steinman, ITT Chicago Kent College of Law.

Associate Professor Nat Stern, Florida State College of Law.

Professor Margaret Stewart, ITT Chicago-Kent College of Law.

Dean Geoffrey R. Stone, University of Chicago Law School.

Professor Victor J. Stone, University of Illinois at Urbana-Champaign College of Law.

Professor Peter L. Strauss, Columbia Law School.

Professor Allen Sultan, University of Dayton Law School.

Professor Nadine Taub, Rutgers University School of Law.

Professor R. Teachout, Vermont Law School.

Professor Ruti Teitel, New York Law School.

Professor Fernando R. Teson, Arizona State University College of Law.

Professor Samuel D. Thurman, University of California, Hastings College of Law.

Professor Joseph D. Tomain, University of Cincinnati College of Law.

Professor Laurence H. Tribe, Harvard Law School.

Professor Luis M. Villaronga, University of Puerto Rico School of Law.

Professor E. D. Wedlock, University of South Carolina Law School.

Professor Philip Weinberg, St. John's University School of Law.

Professor Welsh S. White, University of Pittsburgh School of Law.

Professor Albert M. Witte, University of Arkansas School of Law.

Professor Larry W. Yackle, Boston University School of Law.

PEOPLE FOR THE AMERICAN WAY
ACTION FUND,
Washington, DC, October 11, 1989.

Hon. PATRICK J. LEAHY,
Russell Office Building,
Washington, DC.

DEAR SENATOR LEAHY: In a few days, the Senate will consider the proposed constitutional amendment to address flag burning. On behalf of the 275,000 members of the People For the American Way Action Fund, I urge you to preserve the sanctity of our Bill of Rights by opposing this unwise amendment.

At the direction of the full Senate, the Senate Judiciary Committee held hearings on the proposed constitutional amendment. After extensive testimony and careful reflection, the Committee voted to report the constitutional amendment with a negative recommendation. In addition, both the Senate and the House have passed a flag protection statute. Under the circumstances, it is unnecessary to vote for S.J. Res. 180, which would limit the First Amendment.

As you reflect on this issue, I encourage you to review the enclosed analysis of the proposed constitutional amendment. I have also attached a recent article by constitutional law scholar William Van Allstyne that details the conceptual and practical flaws of the proposed amendment.

Flag burning is an extremely emotional issue. No one condones disrespect for our most revered national symbol. But as you consider the proposed constitutional amendment, we ask you to remember that as painful as flag burning is, changing our Bill of Rights to restrict the freedom of expression would be far worse. Let us not diminish our most cherished freedoms in an effort to protect the symbol of those freedoms.

Sincerely,

JOHN H. BUCHANAN, Jr.,
Chairman.

Mr. LEAHY. Mr. President, I have spoken a number of times during the past several months on the constitutional amendment regarding the desecration of the flag. I know it is a late hour and other Senators may wish to speak and if other Senators do not wish to speak then the distinguished occupant of the Chair may wish to go home. So I will not prolong it. But I feel that this is such an important issue that I wish to speak briefly again.

I think in my 15 years here in the U.S. Senate I have spoken about this issue more than virtually any other issue, with the possible exception of nuclear arms control. I know, and I would hope that the press and the American people know by now that this amendment will not pass the U.S. Senate. I have spoken to most of the Senators in this body, sometimes for a very long time, about the problems with this proposed amendment. My staff, Ann Karkins and Cathy Russell, especially, have spent numerous hours, evenings, weekends working on this. Throughout it all we have seen a shift in the mood in the Senate as we have seen a shift in the mood of the American people. I know that there are enough votes in this body to pass a constitutional amendment regarding the flag and that is as it should be.

The Senate is and should be the conscience of the United States. If we go back 200 years ago to when this country was founded, Senators were initially appointed, and not popularly elected, until this century. Senators were given a 6-year term so they could step back and look at things through the eye of history, through the eye of what is best in the long term for the country.

Somebody once referred to the Senate as the saucer in which passions may cool. Well, Mr. President, in 15 years here I have seen passions do anything but cool. I have seen them very heated, and properly so, as they have been on this issue. There are good friends of mine on both sides of the aisle on both sides of this issue. I think Senators have expressed their feelings based on what they feel is best for the country. So do I.

I have said, as I did within a few days of the time this issue first came up, that the United States has done very well under our constitutional form of government. We have never amended that Bill of Rights in 200 years although we have had temptations to do it: We have had Presidential assassinations; we had a great Civil War, 2 world wars; the expansion of our country we had the questions of sedition, internal turmoil within this country; concerns about fifth columns in the United States; concerns about our security being eroded from within. We have seen the dark days of the McCarthy era, when even the President of the United States was unwilling to stand up for one of the greatest Americans this country has ever had, unwilling to stand up for General Marshall. We have seen all that. But throughout all that time, throughout all the temptations, we have not dabbled with the Bill of Rights, not once. Not once did this great country that we have the honor and the privilege of representing, not once did we touch the Bill of Rights. And that is as it should be, because Mr. President, public passions ebb and flow, public opinion polls come and go. What might be the passion of the moment is the dinosaur of history a decade later.

Through the turmoil, if the U.S. Senate is going to be the conscience of the Nation, it will stop for the moment and say wait, do we really want to step in? Is this of such importance that we must now change the Bill of Rights that has served us so well for 200 years?

Can any one of us stand up here and say, because of an activity of a publicity-seeking jerk in Texas, one who was mostly interested in getting his face on television that night, that because of his action, we will amend the Bill of Rights. Is this the step that after 200 years of tumultuous history, is this the step that finally brings this country and this body to amend the Bill of Rights?

Mr. President, history would look back at us and wonder what kind of men and women populated this body. History would look back at us and wonder if any of us had ever taken a history lesson. History would look back at us and ask, do we really understand what the U.S. Senate is for? Do we really understand what this body stands for today and what it has stood for 200 years? History would wonder if any of us knew of Thomas Jefferson, if we knew of the Federalist Papers, if we knew of the Constitution that brought us together in the first place?

Mr. President, we spend only a short time here and that is as it should be.

I once jokingly said, when one of my children was doing a science test—that the shortest measurable period of time is a 6-year Senate term if you are the one serving it. We really do have a short period of time here, whether it is our first day in the U.S. Senate or our last day. It is short as compared to a 200-year-old Constitution, and a 200-year-old Bill of Rights.

Mr. President, if we truly understand our role as the conscience of the Nation, if we truly understand the very special position each of us holds as the 100 people who represent 250 million Americans, then do we not have an added responsibility not to think of what might be important to us politically for the moment, what might be of passing popularity in our own State of the moment, but rather what is in the best interest of the United States?

For if we amend the Bill of Rights here, where do we stop? Do we determine that we do not like the next abortion case and amend the Bill of Rights, that we do not like the next civil rights case and we amend the Bill of Rights, and that we do not like the next criminal law case and then amend the Bill of Rights, and that maybe we do not like the Tax Code and amend the Bill of Rights then? Do we not little by little diminish this unique democracy that we serve in, a democracy that really has no parallel in recorded history?

Mr. President, when I first came to the U.S. Senate I was 34 years old. that was 15 years ago. And I could say then the same thing I could say now, and that is that I have three children. They are a little bit older than they were 15 years ago, but they will live the majority of their lives in the next century. I have said to my wife, Marcelle, many times, that when I think of Kevin, and Alicia, and Mark Patrick, I realize that part of my responsibility here is to them—in helping to determine what kind of a century that will be.

Mr. President, that is your responsibility also and that is the responsibility of 98 other Members in this body. Whether it is your children or my children or somebody else's children or grandchildren, or children as yet unborn often what we do here in areas of arms control, in feeding the hungry, in education, providing for the defense of our Nation, tending to the fiscal horrors facing this Nation, what we do here reflects what kind of a century they will live in.

Mr. President, when I first came here, like you and like 98 others, I stood up there by the desk at which you now sit, and I raised my hand along with other Senators and I took an oath to protect the Constitution of this country. As Senator-elect, I was allowed to walk on this floor prior to taking that oath. But I could not speak on this floor and I could not vote on this floor until I first took an oath to protect the Constitution of the United States. That has always, always, been foremost in my mind in this body because I knew that that was somehow a special moment, that it was intended to be.

As a U.S. Senator, the Constitution allows me to say many things that I could not say otherwise. The Constitution says I cannot be held to account in any other place for what I say here. The Constitution allows me to vote on everything from the impeachment of a Federal judge, an issue we addressed this afternoon, to the advice and consent of Presidential appointments and treaties entered into by our country. It allows me to vote on many, many things. But not until, Mr. President, I swear to uphold the Constitution and to protect the Constitution of the United States.

I do not question the dedication of any member of this body in upholding our oath. But I hope all Senators, when they go home tonight and before they vote tomorrow, will ask themselves: what is more important, a public opinion poll, a political position, a 30-second ad or a 200-year-old Constitution we are sworn to uphold?

Mr. President, the flag is important to me. The flag is important to you. The flag is important to the 98 other Senators. It is a symbol of our great Nation. I know how I feel when I am in another country and see our Embassy with the flag flying. It gives me the same thrill when I see it flying in front of my own home or in front of my parents' home.

Mr. President, that thrill is not only for the flag but for the country for which it stands. Because it is a flag that stands for a country that allows dissent, a country that guarantees diversity in the first amendment, diversity of thought, diversity of political belief, diversity of action, diversity of religion and by guaranteeing that diversity guarantees the greatest democracy in the world. We do not honor the flag if we pass a constitutional amendment, an amendment to the Bill of Rights, that diminishes even slightly that guarantee of diversity, that guarantee of a great democracy.

So, Mr. President, I have stated before how I am going to vote. I have told the people of Vermont how I am going to vote. I hope that they will agree with that position. I think many will. Because like all Vermonters, I cherish the Constitution. And I think all Vermonters know that when I took that oath I took it first and foremost to uphold that Constitution, first and foremost to be true to it, no matter what a passing political fancy might be, no matter what a passing political passion might be. None of us should feel that we will be here forever. But this country is going to be here. The Constitution will be here, and that is what we protect tonight.

So, Mr. President, I will vote against this amendment to the Bill of Rights, just as my predecessors in the past have been opposed to diminishing the Bill of Rights. I hope someday a Senator from Vermont, years from now, who is put to the same test and the same temptation to diminish the Bill of Rights, will stand here as I have and say this Vermonter will not diminish the Bill of Rights.

Mr. President, I would like to take 1 minute and thank staff members who have worked to defeat this amendment: Jeff Peck, of Senator BIDEN's staff; Jeff Blattner, of Senator KENNEDY's staff; Suzanne Martinez, of Senator CRANSTON's staff; Bill Shore, of Senator BOB KERREY's staff; Chris Harvie, of Senator METZENBAUM's staff; Charles Kinney, of Senator MITCHELL's staff; Catherine Leroy and Jim Dempsey, of Congressman DON EDWARDS' staff; Bill Jones and Bob Brink, of Congressman BROOKS' staff; and members of my staff: Ann Harkins and Cathy Russell.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, I have on two previous occasions stated my opposition to the constitutional amendment to protect the flag currently under debate, so I do not believe it is necessary for me to heap any additional words upon the rather large mound already rising from this floor. It seems to me this room and that of the House of Representatives is completely full of proflag phrases and that any more from me would simply threaten to burst the seams of this room.

Most of the words, I believe, Mr. President, are the direct result of the President of the United States who blew the trumpet and urged us all to charge this new enemy. The enemy the President saw was a terrifying scene of individuals who might at some time in the future choose to burn the American flag. President Bush even dramatized the importance of the issue by going to one of America's most sacred places, the Iwo Jima Memorial.

In the anger of the moment which followed the Supreme Court's decision, the President chose to direct us into battle. He believes it is deserving of the enormous amount of time which has been required of each of us to consider what should be done and then come to this floor to debate what should be done.

Thus far, both Houses have debated the issue for more than 51 hours. Over 100 witnesses were called to testify or submit testimony to the House subcommittee and the Senate committee. The editorial pages of this Nation's newspapers have been packed with opinions about the proper thing to do. Mr. President, I believe that the allocation of this amount of time to a threat that is essentially nonexistent is deeply sad. The Nation is not endangered by the small number of people who believe they can affect our opinion by burning the American flag.

We have been terrorized by the Supreme Court's decision and the thought of negative 30-second commercials. Our panic has been accentuated by President Bush's call to action.

Ask any citizen to compose a list of real and present dangers to America and I seriously doubt if flag burning will be on it. As a testimonial to that fact, I urge upon you, Mr. President, and others who are present, to see how many people are out in the Rotunda, how many people are in the gallery, how many people are watching this debate right now? Almost none. Instead, Americans are concerned about the deficit and drugs and trade and schools and health care and the real possibility that a new understanding and relationship can be developed with the Soviet Union. Mr. President, consider what would have happened if President Bush had gone to the Iwo Jima Memorial and said this:

> I know that Americans are upset with this flag burning incident but it is not the real danger to our Nation. The freedom for which these men risked it all is jeopardized far more by the fact that 3,000 of our children are dropping out of school every day. Our way of life faces a very real threat by the violence and destruction which accompany drug use. Rather than arguing about flag burners, I urge Congress to debate what can be done to reduce the Federal borrowing that is eroding our standard of living.

Imagine what we might accomplish if the President would call on us and

the American people as well to put the same amount of energy to debating a new national security strategy. Imagine what would occur if each of us researched the issue of the health of our people as much as we have researched and debated the health of our flag.

Sadly, President Bush did not tell the American people of dangers that are larger than the not-so-looming specter of flag burners. As a result, America's political leaders have spent far too much time and have wasted far too much political capital on a subject which in the end will make very little difference to the future of our country.

At the Presidential inauguration last January, the images of George Bush and George Washington were placed alongside each other. The President's people noted the coincidence of the 200th anniversary of the Presidency with the two Presidents having the same name. In my opinion, the comparison ends with the first name. In my opinion, George Washington would be embarrassed and angry by the spectacle of this flag debate. The man who endured Valley Forge knew that freedom faced many larger dangers than the threat to this Nation's flag.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUDICIARY APPROVES ARMENIAN GENOCIDE RESOLUTION

Mr. DOLE. Mr. President, yesterday the Senate Judiciary Committee favorably reported Senate Joint Resolution 212 the joint resolution on Armenian genocide that I introduced earlier this month.

I want to express my satisfaction at this action. As the resolution states, the 75th anniversary of the onset of this terrible tragedy is marked next April 24. So it is high time we took appropriate note of this horrible period in world history.

I know some significant concerns have been expressed about the resolution, particularly in regard to a possible impact on United States-Turkey relations. I hope there will be no negative repercussions—there should not be, since this resolution in no way criticizes the Turkish Republic on the current government, nor suggests any culpability on the part of the people of modern day Turkey for what happened so many years ago.

But there are concerns—and I am certainly willing to listen and consider all of them. So I will continue to consult with other Senators, with the administration, and with interested Americans on both sides of this issue. And, as I wrote to Judiciary Committee members yesterday, I am open to any ideas or thoughts people have on how to improve or clarify this resolution, without compromising its basic intent.

I wish to express special appreciation to the distinguished Senator from Delaware, Senator BIDEN, who has given strong leadership on this issue, did give strong leadership on this issue in the committee, and the other seven Senators who voted in favor of this resolution.

As every Senator already knows, and as one Senator noted during the committee meeting, those favorable votes were cast in the face of the most intense lobbying campaigns to defeat the resolution in the experience of any of us.

I might say the administration was up to their elbows, or higher, in lobbying. The Ambassador from Turkey came back. Some of the tales I have heard—I am not certain what he told certain Senators but there was a feeling that if somehow this resolution was adopted, it would lead to great turmoil between the United States and Turkey.

That is not the intent of the resolution. I certainly have high regard for Turkey, and I understand their importance as a NATO ally. I understand, in fact, we drafted the resolution carefully to exclude the Republic of Turkey.

I also want to express some disappointment that some Americans who have themselves, or through families, been victims of attempted genocide, in some cases genocide, have not been more sympathetic to this resolution.

The bottom line is that this is not a pro-Armenian resolution. It is certainly not an anti-Turkey resolution. It is a resolution that reminds all of us of the incredible human suffering that genocide brings, and, by reminding us, helps ensure that this kind of tragedy should never be allowed to happen again.

At the committee meeting, Senator SIMON quoted these telling words from Elie Wiesel, in a speech he delivered in the Capitol 8 years ago: "Before the planning of the 'final solution,' Hitler asked: 'Who remembers the Armenians?' * * * and he was right. No one remembered."

Elie Wiesel's point—that no one remembered, and so it happened again, on an even more tragic scale—explains precisely why I offered Senate Joint Resolution 212. It explains, too, why I am pleased—and why I think all Americans of all ethnic and religious groups should take satisfaction—at the Judiciary Committee's action yesterday.

JOHN F. KENNEDY WAS DEAD—ASSASSINATED

Mr. MOYNIHAN. Mr. President, it happens I was one of a small company assembled in the big southwest corner office of the west wing of the White House in the early afternoon of November 22, waiting word from Dallas. In any event, no message came; leastwise, none that I recall. Rather, at one point we all seemed to come to the same realization. John F. Kennedy was dead—assassinated.

Within minutes Hubert Humphrey burst into the room, tears streaming, grabbing Ralph Dungan by both arms: "What have they done to us?"

We all knew who they were. The right wing in Dallas. And yet, later in the day we learned on radio that an arrest had been made of a man who had been connected with Fair Play for Cuba. Oh, God, I said to myself. They will kill him, too. This is a matter of record. I began to plead that the Federal Government must get physical custody of Oswald. Else we would never know. Late that evening I went out to Andrews Air Force Base to meet the plane bringing the Cabinet back from its aborted trip to Japan. We must get custody of Oswald. I really worked at this. Dean Joan Konner of the Columbia School of Journalism recalls my coming into her studio at channel 13 on 56th Street and 9th Avenue to plead the case. Assassinations, you see, linger. Societies sicken.

I had more than Castro in mind. Obviously, we had tried without success to assassinate him. Had he succeeded in an attempt at revenge? But there was something more, Mr. President. It happened that at the time we also knew that we had been in on the assassination of Ngo Dinh Diem in Vietnam. We did not order it. We certainly did not do it. But we were around. I was not then involved in foreign affairs, but had friends who were. These friends were sick at what we had done. Diem was an innocent man; an ally. We had decided we needed a better one. Get out of the truck; say your prayers. Something like that. I don't even want to look it up. It was enough to read Senator COHEN's words yesterday—

> We have a tendency to take snapshots of today's events and airbrush away unpleasant experiences from our past. But it is important to remember that America reaped no political rewards in the coups that resulted in the deaths of South Vietnam's President Ngo Dinh Diem and Chile's Salvador Allende. And many will always wonder

whether our own attempts to murder Fidel Castro played a role in the assassination of President John Kennedy.

And so I have ever since been of the view, not perhaps an exceptional insight, that assassination works both ways. Hence I went a little sick myself yesterday morning to read on the front page of the New York Times the headline, "CIA Seeks Looser Rules on Killings During Coups." Will we never learn? How little we know. How little we influence actual events. How vast and menacing our image in the world can become because of such statements. Statements made to please—but, Mr. President, I will restrain myself.

There is also a matter of law. Not of executive orders. But law. To be specific, supreme law. Article VI, paragraph 2 of the Constitution we are busily amending today. "Treaties * * * shall be the Supreme Law of the Land." The issue is intervention. Intervention in the internal affairs of another nation is a violation of the U.N. Charter, the Charter of the Organization of American States. It is a violation of law. And, as President Bush said to the General Assembly on September 25:

> The founders of this historic institution believed that it was here that the nations of the world might come to agree that law, not force, shall govern.

Mind, there is a distinction between intervention and merely attempting to influence events in another nation. That is normal and hugely desirable. By influencing one another, nations learn to get along. Much as people do. But it is another thing to seek to coerce in situations of violence. Worst of all is assassination. The word is "Arabic," of course, but the calling is age-old, worldwide and universally despised.

I would further note that the United States is party to the four 1949 Geneva Conventions on the laws of war. Assuming that an internal convulsion rises to the point of international conflict—assuming that the coup to overthrow Noriega brought in Nicaragua which in turn involved Colombia, or whatever—then the Geneva Conventions come into play. At that point, Mr. President, individuals become responsible. The Geneva Conventions codify the judgments made at Nuremburg. Order the murder of a prisoner—you can get yourself hanged.

I concede that there is little prospect that the current Director of the CIA would ever issue such an order; he is a man of peace and law. But someone in that role just might. And that someone should not exclude the possibility that somebody he might find himself on trial. Somewhere not pleasant. Mr. President, I left my innocence behind the southwest corner of the White House 26 years ago.

It may be we just don't believe in law anymore. Fair enough. But then shouldn't we have the integrity to say so? Or, rather, the nerve.

MESSAGES FROM THE HOUSE

At 10:08 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution without amendment:

S. Con. Res. 76. Concurrent resolution welcoming members of the Canadian Parliament on their visit to the Capitol.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2989) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1990, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 10, 21, 35, 51, 53, 55, 60, 68, 73, 77, 86, 93, 95, 97, 98, 100, 108, and 109 to the bill, and agrees thereto; it recedes from its disagreement to the amendments of the Senate numbered 2, 4, 13, 17, 24, 25, 26, 27, 29, 31, 34, 38, 40, 42, 65, 66, 67, 71, 74, 78, 107, 110, 117, 124, 127, 128, 129, 130, 131, 132, 133, 134, 135, 138, 143, 148, 167, 168, 172, 175, 177, 185, 191, 194, 201, 202, and 203 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 15 to the bill (H.R. 3026) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1990, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 76. An act to amend the Wild and Scenic Rivers Act to study the eligibility of the St. Mary's River in the States of Florida and Georgia for potential addition to the wild and scenic rivers system;

H.R. 1310. An act to redesignate a certain portion of the George Washington Memorial Parkway as the "Clara Barton Parkway";

H.R. 1622. An act to amend title 17, United States Code, to change the fee schedule of the Copyright Office, and to make certain technical amendments;

H.R. 3045. An act to amend chapters 5 and 9 of title 17, United States Code, to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to sit in Federal court by any person for infringement of copyright and infringement of exclusive rights in mask works, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private person or against other public entities; and

H.R. 3294. An act to authorize distribution within the United States of the United States Information Agency film entitled "A Tribute to Mickey Leland".

At 6:15 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the concurrent resolution (H. Con. Res. 61) in support of basic human rights and democracy in Burma; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1473. An act to designate certain lands in Los Padres National Forest as wilderness, to designate Sespe Creek and the Sisquoc River in the State of California as wild and scenic rivers, and for other purposes;

H.R. 2138. An act to amend the Immigration and Nationality Act with respect to the application of employer sanctions to longshore work;

H.R. 2806. An act to amend section 511 of the Controlled Substances Act to make technical, clarifying, and administrative amendments, and for other purposes;

H.R. 3152. An act to amend title 11 of the United States Code to exclude from the estate of the debtor certain interests in liquid and gaseous hydrocarbons; and

H.R. 3259. An act to amend the Immigration and Nationality Act to provide for adjustment of status, without regard to numerical limitations, for certain H-1 nonimmigrant nurses and to establish conditions for the admission, during a 5-year period, of nurses as temporary workers.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 194. Concurrent resolution to express the support of the Congress for the courageous people of Colombia.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3299) to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on the Budget, for consideration of the House bill (except title XI and sections 10181 through 10191), and the Senate amendment (except title VI), and modifications committed to conference, and as exclusive conferees with respect to any proposal to report in total disagreement: Mr. PANETTA, Mr. GEPHARDT, Mr. RUSSO, Mr. LEATH of

Texas, Mr. SCHUMER, Mrs. BOXER, Mr. SLATTERY, Mr. FRENZEL, Mr. GRADISON, Mr. GOODLING, and Mr. DENNY SMITH.

From the Committee on the Budget, for consideration of title XI and sections 10181 through 10191 of the House bill, and title VI of the Senate amendment, and modifications committed to conference: Mr. PANETTA, Mr. GEPHARDT, Mr. RUSSO, Mr. JENKINS, Mr. GUARINI, Mr. FRENZEL, Mr. GRADISON, and Mr. THOMAS of California.

From the Committee on Agriculture, for consideration of title I of the House bill, and title I of the Senate amendment, and modifications committed to conference: Mr. DE LA GARZA, Mr. GLICKMAN, Mr. STENHOLM, Mr. HUCKABY, Mr. BROWN of California, Mr. ENGLISH, Mr. CONDIT, Mr. MADIGAN, Mr. COLEMAN of Missouri, Mr. STANGELAND, and Mr. SCHUETTE.

From the Committee on Agriculture, for consideration of subtitle B of title VI (except section 6131) of the House bill, and modifications committed to conference: Mr. DE LA GARZA, Mr. HUCKABY, Mr. VOLKMER, Mr. OLIN, Mr. STALLINGS, Mr. HARRIS, Mr. SARPALIUS, Mr. MARLENEE, Mr. MORRISON of Washington, Mr. ROBERT F. SMITH, and Mr. HERGER.

From the Committee on Banking, Finance and Urban Affairs, for consideration of title II of the House bill, and title II of the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Mr. ANNUNZIO, Mr. FAUNTROY, Mr. GARCIA, Mr. MORRISON of Connecticut, Mr. ERDREICH, Mr. KANJORSKI, Mr. WYLIE, Mr. BEREUTER, Mr. ROTH, and Mr. PAXON.

From the Committee on Education and Labor, for consideration of sections 3000 through 3009 of the House bill, and subtitle B of title VIII of the Senate amendment, and modifications committed to conference: Mr. HAWKINS, Mr. WILLIAMS, Mr. FORD of Michigan, Mr. OWENS of New York, Mr. HAYES of Illinois, Mr. PERKINS, Mr. GAYDOS, Mr. COLEMAN of Missouri, Mr. GUNDERSON, Mr. HENRY, and Mr. SMITH of Vermont.

From the Committee on Education and Labor, for consideration of sections 3051 through 3201 of the House bill, and subtitle A of title VIII of the Senate amendment, and modifications committed to conference: Mr. HAWKINS, Mr. CLAY, Mr. FORD of Michigan, Mr. KILDEE, Mr. MILLER of California, Mr. HAYES of Illinois, Mr. OWENS of New York, Mrs. ROUKEMA, Mr. BARTLETT, Mr. FAWELL, and Mr. BALLENGER.

From the Committee on Education and Labor, for consideration of subtitles D and E of title III of the House bill, and modifications committed to conference: Mr. HAWKINS, Mr. FORD of Michigan, Mr. KILDEE, Mr. WILLIAMS, Mr. OWENS of New York, Mr. SAWYER, Mrs. LOWEY of New York, Mr. TAUKE, Mr. PETRI, Mr. GUNDERSON, and Mr. GRANDY.

From the Committee on Energy and Commerce, for consideration of subtitles A through E of title IV, subtitle B of title X (except sections 10101-10112, 10171, 10181, and 10182), and sections 10003, 10005 (except subsection (c)), 10077(d), 10226, 10233, and 10248 of the House bill, and sections 4001 through 4013, 5201 through 5401, 5501 and 5601 (insofar as it relates to title XIX of the Social Security Act) of the Senate amendment, and modifications committed to conference:, Mr. DINGELL, Mr. WAXMAN, Mr. SCHEUER, Mr. WYDEN, Mr. BRUCE, Mr. ROWLAND of Georgia, Mr. HALL of Texas, Mr. LENT, Mr. MADIGAN, Mr. DANNEMEYER, and Mr. WHITTAKER: *Provided*, That Mr. TAUKE is appointed in place of Mr. DANNEMEYER for consideration of sections 4001 and 10123 of the House bill, and Mr. BILIRAKIS is appointed in place of Mr. WHITTAKER for consideration of sections 10183 through 10191 of the House bill, and Mr. NEILSON of Utah is appointed in place of Mr. WHITTAKER for consideration of subtitles C and D of title IV and sections 10226, 10233, and 10248 of the House bill and section 5501 of the Senate amendment.

From the Committee on Energy and Commerce, for consideration of subtitle F of title IV and section 6001 of the House bill, and section 4101 of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mr. SHARP, Mr. WALGREN, Mr. TAUZIN, Mr. COOPER, Mr. RICHARDSON, Mr. BRYANT, Mr. LENT, Mr. MOORHEAD, Mr. DANNEMEYER, and Mr. FIELDS.

From the Committee on Energy and Commerce, for consideration of subtitles G and H of title IV of the House bill and section 301 of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mr. MARKEY, Mr. SWIFT, Mrs. COLLINS, Mr. ECKART, Mr. BOUCHER, Mr. MANTON, Mr. LENT, Mr. RINALDO, Mr. TAUKE, and Mr. BLILEY: *Provided*, That Mr. RITTER and Mr. OXLEY are appointed in place of Mr. TAUKE and Mr. BLILEY for consideration of subtitle G of title IV of the House bill.

From the Committee on Government Operations, for consideration of title V and section 8001 of the House bill, and section 7001 of the Senate amendment, and modifications committed to conference: Mr. CONYERS, Mrs. COLLINS, Mr. NEAL of North Carolina, Mr. ERDREICH, Mr. BUSTAMANTE, Mr. KLECZKA, Mrs. BOXER, Mr. KYL, Mr. SHAYS, Mr. SMITH of Vermont, and Mr. CLINGER.

From the Committee on Interior and Insular Affairs, for consideration of subtitle F of title IV and title VI of the House bill, and section 4101 of the Senate amendment, and modifications committed to conference: Mr. UDALL, Mr. MILLER of California, Mr. MARKEY, Mr. MURPHY, Mr. RAHALL, Mr. VENTO, Mr. WILLIAMS, Mr. YOUNG of Alaska, Mr. CRAIG, Mr. HANSEN, and Mrs. VUCANOVICH.

From the Committee on Interior and Insular Affairs, for consideration of section 4201 of the Senate amendment, and modifications committed to conference: Mr. UDALL, Mr. MILLER of California, and Mr. YOUNG of Alaska.

From the Committee on Merchant Marine and Fisheries, for consideration of title VII of the House bill, and sections 302(b), 303, and 4201 of the Senate amendment, and modifications committed to conference: Mr. JONES of North Carolina, Mr. STUDDS, Mr. HUGHES, Mr. TAUZIN, Mr. FOGLIETTA, Mr. HERTEL, Mr. DYSON, Mr. DAVIS, Mr. YOUNG of Alaska, Mr. SHUMWAY, and Mr. FIELDS.

From the Committee on Post Office and Civil Service, for consideration of titles V and VIII and sections 10004(a) and 10004(b) of the House bill, and title VII of the Senate amendment, and modifications committed to conference: Mr. FORD of Michigan, Mr. CLAY, Mrs. SCHROEDER, Ms. OAKAR, Mr. SIKORSKI, Mr. MCCLOSKY, Mr. ACKERMAN, Mr. GILMAN, Mr. HORTON, Mr. YOUNG of Alaska, and Mr. RIDGE.

From the Committee on Public Works and Transportation, for consideration of sections 302(a), 304, and 4301 of the Senate amendment, and modifications committed to conference: Mr. ANDERSON, Mr. ROE, Mr. MINETA, Mr. OBERSTAR, Mr. NOWAK, Mr. RAHALL, Mr. APPLEGATE, Mr. HAMMERSCHMIDT, Mr. SHUSTER, Mr. STANGELAND, and Mr. CLINGER.

From the Committee on Veterans' Affairs, for consideration of title IX and section 11650 (except subsection (a)) of the House bill, and title IX of the Senate amendment, and modifications committed to conference: Mr. MONTGOMERY, Mr. EDWARDS of California, Mr. APPLEGATE, Mr. EVANS, Mr. PENNY, Mr. STAGGERS, Mr. ROWLAND of Georgia, Mr. STUMP, Mr. HAMMERSCHMIDT, Mr. WYLIE, and Mr. MCEWEN.

From the Committee on Ways and Means, for consideration of subtitle B of title III and title XI (except sections 11901 through 11903) of the House bill, and title VI and sections 302, 4004 through 4013, and 8001 of the Senate amendment, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. PICKLE, Mr. RANGEL, Mr. STARK, Mr. FORD of Tennessee, Mr. DOWNEY, Mr. ARCHER, Mr. VANDER JAGT, Mr. CRANE, and Mr. SCHULZE.

From the Committee on Ways and Means, for consideration of subtitle A of title IV, sections 4101 (insofar as it relates to section 1142 of the Social Security Act), 4111, and 4121 (insofar as it relates to section 1142 of the Social Security Act), and title X

(except sections 10181 through 10191) of the House bill, and title V (except section 5501) of the Senate amendment, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. PICKLE, Mr. RANGEL, Mr. STARK, Mr. JACOBS, Mr. DOWNEY, Mr. CRANE, Mr. BROWN of Colorado, Mr. CHANDLER, and Mr. SHAW.

From the Committee on Ways and Means, for consideration of sections 10181 through 10191 of the House bill, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. STARK, Mr. DONNELLY, Mr. COYNE, Mr. PICKLE, Mr. ANTHONY, Mr. LEVIN of Michigan, Mr. ARCHER, Mr. VANDER JAGT, Mr. CRANE, and Mr. SCHULZE.

From the Committee on Ways and Means, for consideration of sections 11901 through 11903 of the House bill, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. DOWNEY, Mr. FORD of Tennessee, Mr. PEASE, Mr. MATSUI, Mrs. KENNELLY, Mr. ANDREWS, Mr. SCHULZE, Mr. SHAW, Mr. SUNDQUIST, and Mrs. JOHNSON of Connecticut.

From the Committee on Ways and Means, for consideration of section 304 of the Senate amendment, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. DOWNEY, and Mr. MCGRATH.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 76. An act to amend the Wild and Scenic Rivers Act to study the eligibility of the St. Marys River in the States of Florida and Georgia for potential addition to the Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

H.R. 1310. An act to redesignate a certain portion of the George Washington Memorial Parkway as the "Clara Barton Parkway"; to the Committee on Energy and Natural Resources.

H.R. 1473. An act to designate certain lands in Los Padres National Forest as wilderness, to designate Sespe Creek and the Sisquoc River in the State of California as wild and scenic rivers, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1622. An act to amend title 17, United States Code, to change the fee schedule of the Copyright Office, and to make certain technical amendments; to the Committee on the Judiciary.

H.R. 2138. An act to amend the Immigration and Nationality Act with respect to the application of employer sanctions to longshore work; to the Committee on the Judiciary.

H.R. 2806. An act to amend section 511 of the Controlled Substances Act to make technical, clarifying, and administrative amendments, and for other purposes; to the Committee on the Judiciary.

H.R. 3045. An act to amend chapters 5 and 9 of title 17, United States Code, to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of exclusive rights in mask works, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private person or against other public entities; to the Committee on the Judiciary.

H.R. 3152. An act to amend title 11 of the United States Code to exclude from the estate of the debtor certain interests in liquid and gaseous hydrocarbons; to the Committee on the Judiciary.

H.R. 3259. An act to amend the Immigration and Nationality Act to provide for adjustment of status, without regard to numerical limitations, for certain H-1 nonimmigrant nurses and to establish conditions for the admission, during a 5-year period, of nurses as temporary workers; to the Committee on the Judiciary.

H.R. 3294. An act to authorize distribution within the United States of the United States Information Agency film entitled "A Tribute to Mickey Leland"; to the Committee on Foreign Relations.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 194. Concurrent resolution to express the support of the Congress for the courageous people of Colombia; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

H.R. 498. A bill to clarify and strengthen the authority for certain Department of the Interior law enforcement services, activities, and officers in Indian country, and for other purposes (Rept. No. 101-167).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments.

S. 724. A bill to modify the boundaries of the Everglades National Park and to provide for the protection of lands, water, and natural resources within the park, and for other purposes (Rept. No. 101-168).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 1277. A bill to amend the Federal Aviation Act of 1958 to prohibit the acquisition of a controlling interest in an air carrier unless the Secretary of Transportation has made certain determinations concerning the effect of such acquisition on aviation safety (Rept. No. 101-169).

By Mr. BIDEN, from the Committee on the Judiciary without amendment and with a preamble:

S.J. Res. 159. Joint resolution to designate April 22, 1990 as Earth Day, and to set aside the day for public activities promoting preservation of the global environment.

S.J. Res. 164. Joint resolution designating 1990 as the "International Year of Bible Reading".

S.J. Res. 177. Joint resolution designating October 29, 1989, as "Fire Safety At Home Change Your Clock, Change Your Battery Day".

S.J. Res. 181. Joint resolution to establish calendar year 1992 as the "Year of Clean Water".

By Mr. BIDEN, from the Committee on the Judiciary with amendments and an amendment to the title and with a preamble:

S.J. Res. 184. Joint resolution to designate the periods commencing on November 26, 1989, and ending on December 2, 1989, and commencing on November 28, 1990, and ending on December 2, 1990, as "National Home Care Week".

By Mr. BIDEN, from the Committee on the Judiciary without amendment and with a preamble:

S.J. Res. 186. Joint resolution designating the week of March 1 through March 7, 1990 as "National Quarter Horse Week".

S.J. Res. 194. Joint resolution designating November 12 through 18, 1989 as "National Glaucoma Awareness Week".

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S.J. Res. 212. Joint resolution designating April 24, 1990, as "National Day of Remembrance of the Seventy-Fifth Anniversary of the Armenian Genocide of 1915-1923".

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Conrad K. Cyr, of Maine, to be United States Circuit Judge for the First Circuit;

Marvin J. Garbis, of Maryland, to be United States District Judge for the District of Maryland;

Rebecca Beach Smith, of Virginia, to be United States District Judge for the Eastern District of Virginia;

Jeffrey R. Howard, of New Hampshire, to be United States Attorney for the District of New Hampshire for the term of four years;

Michael D. McKay, of Washington, to be United States Attorney for the Western District of Washington for the term of four years;

Robert W. Genzman, of Florida, to be United States Attorney for the Middle District of Florida for the term of four years; and

Herbert M. Rutherford III, of the District of Columbia, to be United States Marshal for the District of Columbia for the term of four years.

By Mr. BIDEN, from the Committee on the Judiciary:

Stuart M. Gerson, of Maryland, to be an Assistant Attorney General.

(The above nomination was reported with the recommendation that it be approved, subject to the nominee's commitment to respond to requests to appear and testify before and duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BURNS (for himself, Mr. BAUCUS, and Mr. SYMMS):

S. 1767. A bill to reimburse individuals for expenses incurred to test cattle for brucellosis organisms carried outside Yellowstone National Park by elk and bison and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCONNELL (for himself and Mr. FORD):

S. 1768. A bill to amend title V of the Surface Mining Control and Reclamation Act of 1977 to assist small surface coal mine operators, and for other purposes; to the committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself, Mr. DOLE, Mr. CRANSTON, and Mr. WILSON):

S. Con. Res. 77. Concurrent resolution expressing the sense of Congress with regard to the major earthquake which occurred in the San Francisco Bay area on October 17, 1989; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BURNS (for himself, Mr. BAUCUS, and Mr. SYMMS):

S. 1766. A bill to reimburse Montana and individuals for expenses incurred to test cattle for brucellosis organisms carried outside Yellowstone National Park by elk and bison, and for other purposes; to the Committee on Energy and Natural Resources.

REIMBURSEMENT OF MONTANA AND CERTAIN INDIVIDUALS FOR TESTING OF CATTLE FOR BRUCELLOSIS

Mr. BURNS. Mr. President, I rise today to introduce a bill to reimburse my State of Montana for expenses incurred due to actions or inactions by the Federal Government.

Let me explain. Many of you will remember last year's harsh winter in the central Rockies. If you do not remember the winter, you will remember that Montana had a special bison hunt that was met with mixed support. A number of the Yellowstone National Park bison moved north out of the park in search of winter feed. This migration threatened the cattle herds with the risk of brucellosis, a highly infectious organism that causes cows to abort their calves.

Montana has, and still is, certified as a brucellosis-free State permitting the sale of livestock to neighboring States. Should brucellosis be discovered, all infected animals would have to be destroyed.

That in itself causes economic impact, but you cannot believe how much work and how much money it takes to gain a certified brucellosis-free State. But it is worth it because the State gains a reputation of offering disease-free cattle in the marketplace.

We knew that the buffalo in the park were infected, but we did not know to what extent. After the hunt of the winter of 1989, over 50 percent of the harvested animals were found infected. As a result, the State livestock board ordered extensive tests to determine if any of our cattle herds were infected. This cost my State and private stockmen thousands of dollars to make this determination.

This issue may not seem so big but it becomes significant when you realize that Montana livestock growers grossed over $750 million on sales in 1987. We just cannot afford to risk a brucellosis outbreak to occur, since the costs could be devastating.

The State veterinarian asked the Park Service to reimburse the State and stockgrowers who incurred the testing costs due to the Federal animals moving out onto private land. The Park Service told them that they had no legal jurisdiction, nor liability for the animals when they leave the park. They went on to say that they question their responsibility to control the brucellosis organism because it may be a natural process that must be protected.

Now the Federal Government cannot have its cake and eat it too. First we are told that herd sizes will not be controlled to the capability of the park habitat. That is silliness in itself. This means there will be years when the herds will move out of the park. They then say they have no responsibility for the animals when they leave the park sancturary. The brucellosis will not be controlled.

So who loses on this deal? Not the Park Service. Montanans lose! We must assume all the risk and all the expenses. We must bear the criticism for not feeding starving animals or for hunting them. This is a de facto expansion of the park at the expense of its neighbors. What we are saying is that the Federal Government is not being a very good neighbor.

The passage of this bill will cost the Federal Government a small pittance, but at the same time it will demonstrate fair treatment to the people who are harmed by misguided Federal action or inaction.

I did receive a letter from the Under Secretary of the Park Service. I ask unanimous consent it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE,
Washington, DC, September 15, 1989.

In reply refer to: N1615(490).

Hon. CONRAD BURNS,
U.S. Senate,
Washington, DC.

DEAR SENATOR BURNS: Director Ridenour has asked me to respond to your August 9 letter about brucellosis in Yellowstone National Park. In your letter, you expressed the view that the National Park Service should share the costs the State of Montana has incurred in testing cattle for brucellosis. In addition, you also indicated a belief that the National Park Service bison and fire management policies resulted, last year, in a further reduction of the forage available to the bison in Yellowstone National Park.

First, I would like to address your concerns about the impact of the 1988 fires upon Yellowstone National Park. In 1988 Yellowstone National Park experienced one of the most severe droughts in the park's history. The drought, together with the effects of the 1988 Yellowstone fires and the severe 1988-1989 winter, combined to reduce availability of forage to bison. While it is difficult to quantify, scientists in Yellowstone believe that the effects of the 1988 drought on reduction of bison forage in Yellowstone's northern range were more significant than the effects of the fires.

Contrary to some news reports, the park was not devastated by last year's fires. The burned areas were mosaics—with a piece here and a piece there—with some parts becoming green almost immediately after the fires and many more becoming green this year. On the average, less than 40 percent of the vegetation burned inside most of the park's different fire perimeters. Unusual conditions, including the severe drought, accumulations of duff on the forest floor, lightning strikes without rain, and exceptionally high winds, combined to create last summer's fires. Once we determined that a fire was burning out of prescription we aggresssively managed it, attempting to bring it back into prescription. I would also like to assure you that the fires of 1988 have not had a determintal affect on the resources of the park. Because the biological components of the Greater Yellowstone Ecosystem are dependent upon periodic fires to maintain the ecosystem, we can expect over the next few years, as a result of these fires, increases in both the diversity and growth of vegetation in the park. Much of the vegitative growth will also have good forage value.

We have considered your view that the National Park Service share in paying the costs incurred by the State of Montana in conducting a brucellosis testing program. After careful examination of this possibility, we feel that it is not appropriate for the National Park Service to partically reimburse the State of Montana for its brucellosis testing program because (1) bison are native animals maintained in the wild in a free-roaming condition and (2) the National Park Service has no legal jurisdiction over, or liability for, bison when they are outside the boundary of Yellowstone National Park. While preparing this response to your letter, we received a formal claim from the State which we have forwarded to the Solicitor, who is responsible for processing tort claims.

Although we understand your concerns about the possible contamination of free-ranging cattle with brucellosis because of potential exposure to brucellosis-carrying bison, we would like to take this opportunity to describe some of the National Park Service views and activities we have undertaken concerning the brucellosis question.

The National Park Service responsibility for Yellowstone National Park is to preserve and protect park natural and cultural resources, which includes preserving as many elements of the natural biological diversity native to the park as possible. The scientific evidence to date is unclear as to whether the brucella organism which causes brucellosis is native or exotic to the park. Similarly, the scientific evidence to date is unclear as to what role the brucella organism may play in the ecology of the bison and the many other mammalian species with which it is associated. Additionally, because of the free-roaming nature of the Yellowstone bison and elk herds, the large size and complexity of the park, and the interdepend-

ence of various animal species with the bison and elk in what is largely a wild natural system, any attempt eradicate brucellosis from the park's bison and elk populations using currently available techniques is likely to cause significant and unacceptable impact to the park's natural resources and wilderness quality. Because of these current uncertainties, we cannot accept at this time any actions and that are designed to remove the brucella organism from the park. We take this position because we have learned from past experiences that management action implemented in the absence of adequate, scientifically valid research can lead to detrimental outcomes to park natural resources.

Because our current management preference is for strategies that prevent the exposure of susceptible free-ranging cattle to brucella-bearing bison or elk, rather than the destruction in the park of the bison and elk hosts or the elimination from the park of the brucella organism, we have several times expressed our interest in developing means to reduce the possibility for wild bison or elk to intermingle with free-ranging domestic cattle outside the park boundary. Among the large number of possible approaches that may exist for preventing such intermingling, we have encouraged examination of the following: (1) effectiveness and economics of techniques like the winter hunting program conducted in Montana, (2) elimination of artificial support of elk populations accomplished through the providing of winter food supplements which concentrate elk and potentially increase the rate of spread of brucellosis in migratory elk herds, (3) delaying the movement of cattle onto potentially affected national forest grazing allotments until after the end of the bison calving season, or (4) developing a regular program of vaccinating cattle or other free-ranging domestic livestock that possibly could be exposed to brucellosis through being pastured in areas potentially visited by bison or elk. Given the large numbers of wild elk that live outside the park but within the Greater Yellowstone Ecosystem, and prairie parks, we periodically remove animals to mitigate for the absence of natural population control mechanisms. In yet other cases, as in the Greater Yellowstone Ecosystem for example, we rely on State-managed sport hunting programs outside the parks to provide any needed wild animal population control in ways that not only complement our own natural area preservation efforts, but also benefit other users of the nation's wild animal resources. Similarly, and also in the Greater Yellowstone Ecosystem, we work cooperatively with both Federal and State agencies to solve other animal management issues, such as managing the grizzly bear by working through the Interagency Grizzly Bear Committee. In all of these cases, we look to the results of research conducted both by ourselves and by others to guide us in improving our management programs.

I hope this information indicates the level of National Park Service involvement in resource management activities, such as the brucellosis question, which could affect lands adjoining National Park Service lands.

We appreciate your interest in the interrelationships of domestic livestock, wild animals, and disease and in our efforts to develop mutually compatible programs for managing them.

Sincerely,

F. EUGENE HESTER,
Associate Director, Natural Resources.

By Mr. MCCONNELL (for himself and Mr. FORD):

S. 1768. A bill to amend title V of the Surface Mining Control and Reclamation Act of 1977 to assist small surface coal mine operators, and for other purposes; to the Committee on Energy and Natural Resources.

ASSISTANCE TO SMALL COAL OPERATORS

● Mr. MCCONNELL. Mr. President, today I am pleased to introduce legislation with my distinguished colleague WENDELL FORD that would amend the Small Operators Assistance Program, commonly referred to as the "SOAP" program.

There is an old adage, "If it ain't broke, don't fix it." Well, in this case, we have a Federal program that is "broke" and desperately needs fixing. This bill seeks to eliminate the deficiencies within the current SOAP program and to make it one that truly works for the small coal operator.

The small operator is an important part of Kentucky's coal industry. In fact, the small operator makes a significant contribution to the economies of many coal-producing States. However, changes in the structure of the coal industry and the operation of coal markets have made it difficult for today's small operator to remain competitive.

The Small Operators Assistance Program was orginally designed to help the small operator compete. However, since election to the Senate in 1984, I have heard from many of my State's small coal operators about the ineffectiveness of the program. The problem, Mr. President, is that the program has failed to keep up with changes in the coal industry and coal markets.

The program's qualification requirements are now a disincentive to participation and are causing the SOAP program to be grossly underutilized by those most in need of assistance. For those operators who do participate, the list of items for which assistance is available simply does not cover all of the requirements which must be met under today's coal mine permitting system.

As a result, utilization of, and national expenditures on, the SOAP program have declined steadily since 1982. For the 3-year period ending 1987, annual expenditures averaged only $1.5 million, even though under the statute $10 million could be available annually.

Under current Federal law, a "small operator" is one who mines less than 100,000 tons of coal annually. The 100,000 ton limit is unrealistic and sets a level that is entirely too low. Additionally, once an operator is deemed eligible for assistance under the program, he cannot "succeed." Should the program actually help him increase production and should he mine more than 100,000 tons, the operator must reimburse the Government services received.

As a result, many operators are forced to cut production in order to remain under this prescribed limit. Obviously, this runs counter to the intention of the SOAP program. In fact, one of the goals of SOAP is to help the small operator increase production.

My legislation addresses these problems. Under this bill, the small coal operator would be redefined as anyone mining less than 300,000 tons. This establishes a much more realistic "cap" and will include those who most need assistance. The bill also expands the list of services which the program will provide to the small operator.

Qualifying operators will be able to request assistance with, among other things, the determination of probable hydrologic consequences, the development of cross section maps and plans, the geologic drilling and statement of results of test borings and core samplings, and the performance of preblast surveys and archaeological and environmental studies. Also, funding will be made available to train small surface coal operators in the preparation of permit applications and regulatory compliance.

Mr. President, I am greatly encouraged by the positive changes to the Small Operators Assistance Program this represents and hope my colleagues will join me in moving this bill toward final passage. The small coal operators of my State and of this country deserve a working SOAP program.

Mr. President, I ask unanmous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1768

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ASSISTANCE TO SMALL COAL OPERATORS.

Section 507(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257(c)), is amended to read as follows:

"(c)(1) If the regulatory authority finds that the probable total annual production at all locations of a coal surface mining operator will not exceed 300,000 tons, the cost of the following activities shall be assumed by the regulatory authority upon the written request of the operator in connection with a permit application:

"(A) the determination of probable hydrologic consequences required by subsection (b)(11) of this section, including the engineering analyses and designs necessary for the determination;

"(B) the development of cross-section maps and plans required by subsection (b)(14) of this section;

"(C) the geologic drilling and statement of results of test borings and core samplings required by subsection (b)(15) of this section, which shall be performed by a quali-

fied public or private laboratory designated by the regulatory authority;

"(D) the collection of archeological information required by subsection (b)(13) of this section and any other archeological and historical information required by the regulatory authority, and the preparation of plans necessitated thereby;

"(E) pre-blast surveys required by section 515(b)(15)(E) of this Act;

"(F) the collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by the regulatory authority under this Act; and

"(G) the collection and analysis of geological and hydrologic data requested by the operator.

"(2) A regulatory authority may conduct studies and perform analyses in advance on a regional basis to generate information necessary to provide the assistance described in paragraph (1) at the time a permit application is made.

"(3) Records and information generated pursuant to this subsection shall be for the use only of the regulatory authority and a coal operator that meets the qualifications stated in paragraph (1), and shall be exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552 et seq.).

"(4) A regulatory authority shall provide or assume the cost of training coal operators that meet the qualifications stated in paragraph (1) concerning the preparation of permit applications and compliance with the regulatory program, and shall ensure that qualified coal operators are aware of the assistance available under this subsection.".

SEC. 2. REIMBURSEMENT OF COSTS.

Section 507 of the Surface Mining Control and Reclamation Act of 1977 is amended by adding at the end thereof the following new subsection:

"(h) A coal operator that has received assistance pursuant to subsection (c) (1), (2), or (3) of this section shall reimburse the regulatory authority for the cost of the services rendered if the program administrator finds that the operator's actual and attributed annual production of coal for all locations exceeds 300,000 tons during the 12 months immediately following the date on which the operator was determined to be eligible for assistance.".●

● Mr. FORD. Mr. President, I am pleased to join my colleague, Senator MCCONNELL, in the introduction of much needed amendments to the small operators provisions of the Surface Mining Control and Reclamation Act of 1977 [SMCRA].

Mr. President, the provisions of section 507(c) of SMCRA are the remnants of one of my amendments to the 1977 act. The amendment barely survived. However, the purpose behind it is still sound—to retain a place for the small operators in Eastern U.S. coal production. To me this is important and it is important to Appalachia.

The sorry state of the program is reflected in data from the Kentucky field office of OSM. In 1984, there were 163 applications for assistance, in 1987 there were 37, in 1984, 490 operators received assistance, in 1987 there were 29.

The legislation introduced today addresses the problems in the present law as experienced in the coal fields by responsible operators and State regulators. This legislation is the first in a series of surface mining bills that I will be introducing. Any legislation providing for the extension of the coal tax will have to include modification in the existing law that provide some of the equities and reasonable provisions that I fought for in 1977; without these, it will not have my support.

Mr. President, I ask unanimous consent that the following documents be printed in the RECORD: March 29, 1988, letter from Carl H. Bradley, secretary, Kentucky Natural Resource and Environmental Protection Cabinet, with enclosures to director, Office of Surface Mining; March 15, 1988, letter from Paul D. Corbin, director, Kentucky Small Coal Operators Advisory Council; and the August 31, 1989, letter—with enclosures—from Paul D. Corbin, director, Kentucky Small Operators Advisory Council.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMONWEALTH OF KENTUCKY,
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET,
Frankfort, KY, March 29, 1988.

Hon. WENDELL H. FORD,
U.S. Senate, Washington, DC.

DEAR SENATOR FORD: The Kentucky Department for Surface Mining is undertaking an extensive effort to revitalize the Small Operator Assistance Program. Since the implementation of Public Law 95-87 (The Surface Mining Law) we have found that hundreds of small coal operators have either gone out of business or are working for larger companies. While we fully support this law we recognize the importance of the Nation's small coal operators in stabilizing and stimulating the economy of the depressed coal regions. We believe that the legislators who passed the Surface Mining Laws could not have intended to adversely affect legitimate small operators.

To prevent further hardship on our small coal operators, this Cabinet has taken the initiative to request the Federal Office of Surface Mining to review the limitations imposed by regulation on the Small Operator Assistance Program. Certain changes to these regulations, without changing the intent of the Act, would allow us to increase assistance to small operators and hopefully prevent them from going out of business. We are pursuing these concepts with OSM.

We have also found that many small operators now mining between 100,000 and 250,000 tons of coal per year are in danger of being forced out of the coal business because of the expense of complying with the Act. It is in this area we need your help.

It is important to Kentucky's economy that we prevent further hardship on our small coal operators. We therefore request your assistance to increase the annual coal production limitation now required by PL 95-87 for assistance to small operators from 100,000 to 250,000 tons per year. We are also requesting your help in revising the Federal Surface Mining Regulations to reflect the changes recommended in our letter of March 8, 1988, to Hord Tipton of the OSM Lexington Field Office (copy attached). These changes include:

Allow SOAP assistance to include the geologic drilling required to complete the Statement of Core Analysis,

Remove the production limitations of 100,000 tons per year for assisted operators after they have been initially determined eligible,

Allow the use of SOAP funds to provide regionalized geologic and water data collection and analysis for small operators,

Allow the use of SOAP funds for promotional programs and public relations, and

Support actions necessary to amend Public Law 95-87 to allow assistance to small operators that mine less than 250,000 tons of coal a year.

We appreciate the assistance, support, and leadership you have provided in the past and we look forward to working with you on this important issue.

Respectfully,

CARL H. BRADLEY,
Secretary.

Attachment.

COMMONWEALTH OF KENTUCKY,
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET,
C. THOMAS BENNETT COMMISSIONER,
Frankfort, KY, March 8, 1988.

W. HORD TIPTON,
Director, Office of Surface Mining,
Lexington, KY 40504.

DEAR MR. HORD: During the past few years, there has been a sharp decline in requests for assistance from the Small Operator Assistance Program (SOAP). There are several factors which contribute to this decline. The economy of the coal industry in recent years has forced Kentucky's small operators to either quit mining or increase their production to remain solvent. It seems that very few of Kentucky's small coal operators still mine less than 100,000 tons of coal per year. Those that do hope to increase their production in the near future in order to meet expenses. Some believe that the assistance provided by SOAP is not sufficient to justify the liability incurred in receiving the assistance. Others have been misinformed by their permit engineers as to the benefit of the assistance. If this decline continues we are concerned that the program may not remain viable.

Be assured that this administration supports the continuance of the program and this Department is presently developing plans to hopefully revitalize the program. We have already taken some steps to attract more interest in the program; however, we find that we are limited by OSM rules and regulations to make the positive changes that we believe necessary to really provide sufficient assistance to Kentucky's small operators. Small operators are a vital part of Kentucky's coal industry and we are requesting your agency's help in making the following changes:

1. Allow SOAP assistance to include the geologic drilling required to complete the Statement of Core Analysis,

2. Remove the production limitations of 100,000 tons per year for assisted operators after they have been initially determined eligible,

3. Allow the use of SOAP funds to provide regionalized geologic and water data collection and analysis for small operators,

4. Allow the use of SOAP funds for promotional programs and public relations, and

5. Support actions necessary to amend Public Law 95-87 to allow assistance to small operators that mine less than 250,000 tons of coal a year.

Your assistance in this matter will be greatly appreciated. If you have any questions concerning this request, we are available to meet with you or your staff at any time.

Sincerely,

C. THOMAS BENNETT,
Commissioner.

COMMONWEALTH OF KENTUCKY,
SMALL COAL OPERATORS ADVISORY COUNCIL,

March 15, 1988.

Hon. WENDELL H. FORD,
U.S. Senate, Washington, DC.

DEAR SENATOR FORD: Small coal operators need your help and support.

Kentucky's Small Operators Advisory Council was established by state statute to advise the Secretary of the Natural Resources and Environmental Protection Cabinet on matters affecting coal production and utilization, including coal market development, transportation and storage problems. The Council is also charged with coordinating and improving the working relationships between those state agencies administering programs which regulate, serve or aid small coal mine operators.

Over the past several years the Council has seen the demise of the Small Operator Assistance Program (SOAP) authorized under Section 507 of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87. For example, in 1982 SOAP assistance was being provided to over 400 mine permit applicants in the Commonwealth. In 1987, only 21 applications for SOAP assistance were received by the Natural Resources and Environmental Protection Cabinet. In 1985, 22.5 million dollars was set aside for SOAP; nationwide only 1.9 million dollars was spent under the program.

It is the Council's position that SOAP can greatly benefit small coal operators, provided certain changes are made to make it more applicable to the real needs of the small operator. As Chairman of the Council, I respectfully request you to take necessary actions to develop and effect the following changes to Section 507 of the Act: (1) increase the annual production limitation for small mine operators from 100,000 tons up to 350,000 tons; (2) authorize the use of SOAP funds to pay for the core drilling necessary for preparing the geologic statement needed for inclusion in a mining permit application; and (3) authorize the use of SOAP funds to conduct regional hydrology and geology data collection studies.

It is my understanding that Representative Udall's efforts to amend the Act to make illegal mining a felony are well underway. Since the Small Operator Assistance Program is a very non-controversial program, it appears to me to be an ideal time to also amend the Act to address the problems confronting the SOAP program.

Your assistance and support in this matter will be appreciated. If you have questions or need additional information, please let me know.

Sincerely,

PAUL D. CORBIN,
Chairman.

COMMONWEALTH OF KENTUCKY,
SMALL COAL OPERATORS ADVISORY COUNCIL,

August 31, 1989.

Hon. WENDELL H. FORD,
U.S. Senate, Washington, DC.

DEAR SENATOR FORD: The Small Coal Operators Advisory Council is writing to solicit your support for changes to PL 95-87, which would amend the Small Coal Operators Assistance Program. This program currently has many limitations and offers very few benefits to the small coal operator.

Since 1985, our Council has pushed to expand the assistance program to better serve the small coal industry. Everyone we have contacted, including the Federal Office of Surface Mining, feels amendments are needed but no action has been taken. During this time much has been written and said about the problems of the program. We feel it is time to stop talking and get down to action. The small coal operator cannot afford for these amendments to be put off any longer.

For your information, I have enclosed a Position Paper which the Department for Surface Mining Reclamation and Enforcement has prepared on the Small Coal Operators Assistance Program. This paper outlines the amendments that so desperately need to be made to the program. Our Council has gone on record as fully supporting the Department's position and would encourage you to do the same.

Senator Mitch McConnell has drafted a Bill which will, if passed, amend section 507 of the Surface Mining Act to include the enhancements outlined in the Department's Position Paper. A copy of Senator McConnell's proposed Bill has been enclosed. One area we fell pretty strong about, which is not addressed by the Bill, is the period of liability for reimbursement by operators who mine over the tonnage limit. We have asked Senator McConnell to include a reduced liability period from five years to one year in his Bill. A five year liability discourages production and actually penalizes an operator for being successful. Our Council fully supports this Bill and urges you to contact Senator McConnell and offer your support and assistance.

As you are well aware, Kentucky's small coal operators are slowly falling by the wayside. With so many complicated regulations and such a depressed coal market, an expanded Small Operators Assistance Program would be a tremendous boost to the small operator. Your support and assistance would be well appreciated.

If the Council can be of any assistance, please do not hesitate to contact us.

Sincerely,

PAUL CORBIN,
Chairman.

Enclosure.

KENTUCKY DEPARTMENT FOR SURFACE MINING RECLAMATION AND ENFORCEMENT DIVISION OF PERMITS, SMALL OPERATOR ASSISTANCE PROGRAM—POSITION PAPER

(By J.R. Hamm, P.E. Program Manager)

As evidenced by the historical performance of the Small Operator Assistance Program, the program may not be functioning as intended by the Act's writers. Since the 1977 enactment, changes within the coal industry and regulatory requirements have combined to place the Small Operator (defined by regulation as 100,000 ton/year or less producer) at a tremendous economic disadvantage.

Small operators wishing to utilize the Small Operator Assistance Program are faced with future payment liability if they succeed, and concurrently must attempt to mine more coal each year to meet expenses. The combination of weak coal markets and increasing regulatory requirements of SMRCA have combined to cause many operators to either cease mining or become contract miners for larger energy conglomerates.

The results are costly. Livelihood and tax base support are lost while the operator forced to quit leaves environmental damage, bond forfeitures, and increasing workloads for enforcement personnel.

Inclusion of Section 507(c) of the Act was well intended as legislators realized the expense of compliance, and revitalization of the Small Operator Assistance Program can help to reinstitute the original intent of the program.

The Department for Surface Mining Reclamation and Enforcement, Division of Permits, Small Operator Assistance Program Branch has responded to the increased need of the small operator and will continue our efforts. The program still remains too limited by provisions of the Act to respond as aggressively as may be necessary to provide the level of assistance needed to fulfill current regulatory requirements. At the time SMRCA became law, it was believed that application requirements for the Probable Hydrologic Consequence Report and Geologic Statement would be the most expensive additional permitting needs of the small operator. Although this was the case in 1977, further regulation and implementation of the Act have added additional permitting requirements. These changes clearly illustrate that the 1989 small operator produces more coal and has different needs than his predecessor of the 1970's.

With years of implementation experience and a comprehensive evaluation of the assistance needs of the surviving small operator, DSMRE would like the expanded scope to reflect current permitting requirements. Expansion of the program was addressed in 1988, and although favored by both Office of Surface Mining and the Kentucky Natural Resources Environmental Protection Cabinet, the legislative changes were not completed. Documentation of this effort includes correspondence between Mr. Paul Corbin to Congressman Jim Bunning, dated March 26, 1988; Senator Mitch McConnell to Secretary Carl H. Bradley, dated April 6, 1988; Secretary Carl H. Bradley to Senator Wendell H. Ford, dated March 29, 1988; then Commissioner C. Thomas Bennett to Lexington Field Office Director W. Hord Tipton, dated March 8, 1988; memorandums to Secretary Carl H. Bradley and Commissioner C. Thomas Bennett from Bruce Williams, dated September 30, 1988; a bill drafted to amend SMRCA dated May 27, 1988, and a 1987 SOAP White Paper; and a memorandum outlining the need for changes dated January 30, 1989.

In addition to the above, OSMRE has recognized the need for changes to the program in the "Sixth Annual Report-Kentucky Permanent Program" covering the period of July 1, 1987, to June 30, 1988. The report states on page 60: "Kentucky officials believe and the Lexington Field Office (LFO) concurs, that it will take major changes in OSM rules and perhaps amendments to SMRCA to make the SOAP more attractive to Kentucky operators. Congress is considering legislative changes and OSM is reviewing rulemaking proposals suggested by Kentucky."

SOAP Branch personnel conducted a survey of small operators in Kentucky in November of 1988, and responses indicated

strong support for suggested revisions to increase assistance.

The Small Operator Assistance Program has identified the following changes as necessary to ensure the long-term viability of Kentucky's SOAP program:

1. Revise the small operator definition from 100,000 tons per year to 300,000 tons per year. Reduce potential reimbursement liability period from five (5) to one (1) year after operators are determined initially eligible for assistance.

2. Allow assistance for site specific studies required to develop the fish and wildlife protection and enhancement plans.

3. Allow assistance for application requirements to fulfill OSM/DSMRE obligations of the National Historic Preservation Act (i.e. site specific cultural and historic resource studies).

4. Allow assistance for costs associated with geologic drilling required to complete the statement of core analysis.

5. Allow assistance for completion of preblast survey requirements.

6. Allow funds to be expended to promote the program and to assist in training of qualified operators in regulatory requirements.

These changes can be made without changing the intent of the Act, and will provide relief to the legitimate small operator striving for compliance with increasing regulatory requirements and survival in today's market. Flexibility in implementation of regulatory requirements and a cognizant effort to provide sufficient assistance to the small operator can help those in danger of being forced out of business because of the expense of complying with the Act.●

ADDITIONAL COSPONSORS

S. 198

At the request of Mr. HATCH, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 198, a bill to amend title 17, United States Code, the Copyright Act to protect certain computer programs.

S. 342

At the request of Mr. DANFORTH, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 342, a bill to amend the Internal Revenue Code of 1986 to provide that certain credits will not be subject to the passive activity rules, and for other purposes.

S. 369

At the request of Mr. BOSCHWITZ, the names of the Senator from North Carolina [Mr. SANFORD] and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 369, a bill to seek the eradication of the worst aspects of poverty in developing countries by the year 2000.

S. 543

At the request of Mr. SIMON, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 543, a bill to amend the Job Training Partnership Act to strengthen the program of employment and training assistance under that act, and for other purposes.

S. 753

At the request of Mr. GORE, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 753, a bill to provide a special statute of limitations for certain refund claims.

S. 1060

At the request of Mr. PRYOR, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1060, a bill to amend the Internal Revenue Code of 1986 to provide refundable income tax credits to primary health services providers who work in rural health manpower shortage areas, and for other purposes.

S. 1067

At the request of Mr. GORE, the names of the Senator from Nevada [Mr. REID] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 1067, a bill to provide for a coordinated Federal research program to ensure continued U.S. leadership in high-performance computing.

S. 1100

At the request of Mr. MCCONNELL, the name of the Senator from Colorado [Mr. ARMSTRONG] was added as a cosponsor of S. 1100, a bill to provide greater certainty in the availability and cost of liability insurance, to eliminate the abuses of the tort system, and for other purposes.

S. 1216

At the request of Mr. SIMON, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 1216, a bill to amend the National Labor Relations Act to give employers and performers in the live performing arts rights given by section 8(e) of such act to employers and employees in similarly situated industries, to give to such employers and performers the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 1361

At the request of Mr. FOWLER, the names of the Senator from Maryland [Mr. SARBANES], the Senator from Georgia [Mr. NUNN], the Senator from Virginia [Mr. WARNER], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 1361, a bill to amend title 38, United States Code, to require that burials be permitted in national cemeteries on weekends and holidays under certain conditions and for other purposes.

S. 1384

At the request of Mr. DASCHLE, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1384, a bill to amend title XVIII of the Social Security Act to provide direct reimbursement under part B of Medicare for nurse practitioner or clinical nurse specialist services that are provided in rural areas.

S. 1619

At the request of Mr. BOSCHWITZ, the name of the Senator from Vermont [Mr. JEFFORDS], was addded as a cosponsor of S. 1619, a bill to amend the Internal Revenue Code of 1986 which reduce the occupational tax on small retail liquor and beer dealers and for other purposes.

S. 1692

At the request of Mr. NUNN, the name of the Senator from Arkansas [Mr. PRYOR], was added as a cosponsor of S. 1692, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain timber activities under passive loss rules.

SENATE JOINT RESOLUTION 180

At the request of Mr. JOHNSON, his name was added as a cosponsor of Senate Joint Resolution 180, a joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States.

SENATE JOINT RESOLUTION 198

At the request of Mr. SIMON, the names of the Senator from Colorado [Mr. WIRTH], the Senator from New Mexico [Mr. DOMENICI], the Senator from Maryland [Mr. SARBANES], the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Joint Resolution 198, a joint resolution designating November 1989 as "An End to Hunger Education Month."

SENATE JOINT RESOLUTION 205

At the request of Mr. BIDEN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Joint Resolution 205, a joint resolution designating December 3 through 9, 1989, as National Cities Fight Back Against Drugs Week."

SENATE CONCURRENT RESOLUTION 77—RELATIVE TO THE MAJOR EARTHQUAKE IN THE SAN FRANCISCO BAY AREA OF CALIFORNIA ON OCTOBER 17, 1989

Mr. MITCHELL (for himself, Mr. DOLE, Mr. CRANSTON, and Mr. WILSON) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 77

Whereas the largest American earthquake since 1906 struck the San Francisco Bay community at 5:04 pm on October 17 sending shock waves throughout an area that includes 6 million persons;

Whereas earthquake experts with the U.S. Geological Survey (USGS) have placed the quake at 6.9 perhaps 7.0 on the Richter scale;

Whereas a Presidential declaration of disaster has been announced for 7 counties in northern California: San Francisco, Santa

Cruz, Santa Clara, San Mateo, San Benito, Monterey, and Alameda;

Whereas dozens of bridges, highways, buildings, and homes have been severely damaged or destroyed; and

Whereas area officials claim the death toll, at this point, is expected to exceed 270 and more than 500 individuals have been injured; Therefore, be it

Resolved by the Senate (the House of Representatives concurring), That we are deeply saddened by the horrible destruction and loss of life caused by the earthquake, and send our thoughts and prayers to the victims and their families.

(1) We also commend the following dedicated men and women for their swift action in a time of crisis:

(a) those individuals who immediately rushed to the scene to voluntarily help their fellow citizens;

(b) those local, county, state and federal officials who immediately set into motion their disaster assistance plans;

(c) those local, county, state and federal employees who immediately sought to address problems associated with fires, explosions, communication, and medical assistance;

(d) those individuals who thought of and implemented earthquake advisories and public warnings on occasions throughout this decade in California and earlier this year to diffuse public panic in time of crisis;

(2) be it also resolved that the Congress stands ready to assist in whatever manner deemed necessary to bring order back to the 7 county area affected by the October 17 earthquake.

(3) be it also resolved that because earthquake experts deemed this to be a milder precursor of a monumentally bigger quake, every effort must be made to be continually and completely prepared for a more devastating quake that is expected in the future.

AMENDMENTS SUBMITTED

WETLANDS CONSERVATION ACT

HEINZ AMENDMENT NO. 1040

(Ordered to lie on the table.)

Mr. HEINZ submitted an amendment intended to be proposed by him to the bill (S. 804) to conserve North American wetland ecosystems and waterfowl and other migratory birds and fish and other wildlife that depend upon such habitats; as follows:

At the end of the bill, add the following:

SEC. 14. DEFINITIONS FOR TITLES I THROUGH IV OF THIS ACT.

As used in titles I, II, III, and IV of this Act, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "Agency" means the United States Environmental Protection Agency;

(3) "assessment" when used with respect to ground water or ground water resources, means the description of the extent and hydrogeologic properties of aquifers; recharge and discharge areas, and flow paths; and the status of and trends in the quantity and quality of ground water at national, regional, and local levels;

(4) "assistance" means any assistance provided by any agency pursuant to provisions of this Act in the form of grants, loans, loan guarantees, property, contracts (except those for the procurement of goods and service of the Government of the United States), cooperative agreements or technical assistance, whether the recipient is a State or local government, a nonprofit organization or other person;

(5) "contaminant" means any solid, liquid, semi-solid, dissolved solid, or gaseous material naturally occurring or anthropogenic chemical, or parameter for measurement of water quality, or biological organism which in its original form or as a metabolite or degradation or waste product may impair the quality of ground water or may have an adverse effect on human health, welfare, or the environment as a constituent of ground water;

(6) "contract" means any contract, grant, agreement, understanding or other arrangement, which includes research, development, or demonstration work, and includes any assignment, substitution of parties, or subcontract executed or entered into thereunder;

(7) "contractor" means any person having a contract with or on behalf of the Administrator;

(8) "demonstration" means the initial exhibition of a new technology, process or practice or a significantly new combination or use of technologies, processes, or practices, for the purpose of proving technological feasibility and cost effectiveness;

(9) "develop" includes activities which assist in the transfer of technology to users of practices, methods, or techniques which may be effective in preventing, detecting or correcting ground water contamination;

(10) "Federal agency" or "agency of the United States" means any department, agency or other instrumentality of the Federal Government, including any independent agency or establishment of the Federal Government, any Government corporation, and the Tennessee Valley Authority;

(11) "ground water" means water below the land surface in the zone of saturation;

(12) "invention" means inventions or discoveries, whether patented or unpatented;

(13) "local government" means any city, town, borough, county, parish, district, or other public body which is a political subdivision of a State and which is created pursuant to State law;

(14) "made" when used in relation to any invention, means the conception or first actual reduction to practice of such invention;

(15) "nonprofit organization" means any organization, association, or institution described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation pursuant to the provisions of section 501(a) of such Code;

(16) "person" means an individual, trust, firm, joint stock company, corporation (including any government corporation), partnership, association, consortium, joint venture, State, local government, commission, regional agency, interstate agency, or Federal agency;

(17) "source" or "source or potential source of contaminants" includes, but is not limited to—

(A) any facility, building structure, installation, equipment, pipe, pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, tank, or activity which causes contaminants to migrate to ground water, or

(B) any site or area where a contaminant has been deposited, stored, disposed of, or placed, or otherwise come to be located so as to allow the discharge of such contaminant to ground water;

(18) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and federally recognized Indian tribes; and

(19) "vadose zone" or "unsaturated zone" means the zone between the land surface and the zone of saturation.

TITLE I—COORDINATION OF FEDERAL GROUND WATER RESEARCH AND EDUCATION PROGRAMS

SEC. 101. DUTIES OF PRESIDENT AND ESTABLISHMENT OF THE INTERAGENCY GROUND WATER RESEARCH TASK FORCE.

(a) The President shall provide for coordination of activities conducted by agencies of the United States Government related to ground water research, assessment, and monitoring, including technology development and transfer, information dissemination, training, and education.

(b) The President shall establish, within 90 days from the date of enactment of this title, an Interagency Ground Water Research Task Force to provide for the coordination of research, development, demonstration, technology transfer, training, and information dissemination activities authorized in this title.

SEC. 102. ESTABLISHMENT OF THE INTERAGENCY GROUND WATER RESEARCH TASK FORCE.

(a) The President shall appoint the members of the Interagency Ground Water Research Task Force from each Federal agency involved in ground water related activities, including the Environmental Protection Agency, the Department of the Interior, the Department of Agriculture, the Department of Energy, the Department of Defense, the National Science Foundation, and the Department of Health and Human Services. The Task Force shall be chaired by the Administrator of the Environmental Protection Agency. The Secretary of the Interior and the Secretary of Agriculture shall each serve as vice chairmen. The Task Force shall meet no less often than 4 times per year.

(b) The Interagency Ground Water Research Task Force shall—

(1) identify major research data needs and scientific uncertainties regarding ground water assessment, monitoring, protection, management, and remediation;

(2) recommend overall priorities and a coordinated research plan and where appropriate, disseminate such information to the President and Congress and other Federal agencies for addressing the data needs and scientific uncertainties identified;

(3) facilitate information collection, data management, and storage;

(4) review the academic and related institutional capabilities for education and training of scientists, geologists, hydrologists, and other ground water research related professions and identify opportunities for improving and strengthening education and training programs;

(5) otherwise facilitate, through joint funding and other means, interagency cooperation and coordination on ground water research, development and demonstration programs;

(6) consult with State and local governments, environmental organizations, scientific and professional organizations, indus-

try, academia, and other appropriate institutions to determine the ground water research and information needs of State and local governments and other persons who have responsibilities for protecting or managing ground water resources; and

(7) recommend priorities for the assessment of ground water resources based on the threat to human health or the environment posed by contamination or likely contamination of those resources.

(c)(1) The Task Force shall submit an annual report to the President and Congress describing the results of the preceding year's research, progress and schedule updates, complete and incomplete programs, new problems to be addressed, revisions of priorities for the program as a whole and for each agency or institution.

(2) The annual report shall serve as the management plan for the National ground water research program of the Federal Government and shall provide for coordination of all research, development and demonstration activities relating to the protection, maintenance, restoration, and management of ground water resources.

(3) The annual report of this section shall reflect an itemized list and discussion of major policy decisions as determined by individual agencies affecting all aspects of protection, maintenance, and restoration of ground water resources which are pending before the Federal Government or which will arise in the foreseeable future and shall specify in a comprehensive manner the type of research relevant to such policy decisions, and define the research and studies necessary to address the deficiencies in the available information.

(4) Every 2 years, the Task Force shall submit an analytical report which summarizes research findings and results of research, education, technical assistance, and demonstration programs.

(d)(1) Coordination shall recognize the principal roles of the participating agencies:

(A) The United States Department of Interior, acting through the Geological Survey, for research in the hydrologic sciences appraising the Nation's water resources, and providing hydrology and geochemical information;

(B) The Environmental Protection Agency for research relating to health and environmental effects of contaminants, the fate and transport of contamination in ground water, risk assessment, source control, and mitigation methods; and

(C) The United States Department of Agriculture, for research on pesticide and nutrient impacts on ground water, plant and animal health effects, and development of farming and forestry practices designed to reduce or prevent contamination.

(2) Nothing in this title shall be construed to diminish or alter the statutory mandates assigned to these agencies, nor their budgetary authorities or appropriations as determined by Congress.

(3) Each participating agency in the Interagency Ground Water Research Task Force shall submit an annual research plan which shall be made available to Congress and which shall be reviewed by the Task Force within 60 days of submission to ensure that—

(A) programs are not unnecessarily duplicative;

(B) memoranda of understanding are in place where necessary;

(C) high priority research topics are given appropriate attention; and

(D) information exchanges among Federal agencies and between Federal agencies and States are facilitated.

(e)(1) Not later than 3 years after enactment of this Act, the Task Force shall organize a national conference on ground water research, to review the national ground water research programs. The Task Force will invite participation by academia, State and local government, and the public.

(2) A proceedings shall be published from the conference presentations.

SEC. 103. ESTABLISHMENT OF AN ADVISORY COMMITTEE.

(a) There is established an Advisory Committee on Ground Water Research (hereinafter referred to in this subsection as the "Advisory Committee").

(b) The Advisory Committee shall be established within 180 days of the date of enactment of this Act, and shall be exempt from section 14 of the Federal Advisory Committee Act.

(c) The Advisory Committee shall be composed of not more than 15 individuals to be appointed by the President in consultation with the majority and minority leaders of the Senate and the Speaker and minority leader of the House of Representatives, no less than 5 of whom shall be elected or appointed State or local officials or their representatives.

(d) Members shall serve terms of not to exceed 3 years. Members shall be selected from State and local government officials, environmental organizations, scientific and professional organizations, industry, representatives of the Water Research Institutes, and the general public. Members should possess a knowledge of ground water and should represent various regions of the country.

(e) A chairman of the Advisory Committee shall be elected by its members on an annual basis.

(f) The Advisory Committee shall advise the President on matters related to ground water research and shall represent to the Interagency Ground Water Research Task Force the views of State and local governments and other interested parties concerning the ground water research programs and policies carried out by participating agencies of the Task Force.

(g) The Advisory Committee shall review and comment on the annual report by the Interagency Ground Water Research Task Force required by subsection (c)(1) of section 102.

(h) The Advisory Committee shall meet on a regular basis and shall meet jointly with the Interagency Task Force at least semiannually.

(i) Such clerical and technical assistance as may be necessary to discharge the duties of the Advisory Committee shall be provided by personnel of the Environmental Protection Agency and the other agencies of the Interagency Ground Water Research Task Force.

(j) Members of the Advisory Committee shall, while attending meetings or conferences of the Committee or otherwise engaged in the business of the Committee, be compensated at a rate to be fixed by the Chairman of the Interagency Task Force, but not to exceed the daily equivalent of the base rate of pay in effect for grade GS-15 of the General Schedule under section 5332 of title 5 of the United States Code, for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Committee. While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

SEC. 104. ESTABLISHMENT OF A CLEARINGHOUSE COMMITTEE AND AGENCY INFORMATION CENTERS.

(a) The Interagency Ground Water Research Task Force shall appoint a Clearinghouse Committee within 180 days following the date of the enactment of this Act.

(b) The Clearinghouse Committee shall consist of no more than five individuals, who are not Task Force members, who are knowledgeable in the field of data management and retrieval systems, and who are familiar with the existing data systems at the United States Geological Survey, the Environmental Protection Agency, the United States Department of Agriculture and the Water Research Institutes.

(c) The Clearinghouse Committee shall facilitate coordination of information systems among participating agencies by improving compatibility among systems, including data input and output; bibliographic searches, and other means.

(d)(1) Each participating agency of the Interagency Ground Water Research Task Force shall establish a technical transfer and information center that is responsible as a repository of reliable ground water information relevant to their authorities and related information, and each such agency technical transfer center shall be coordinated through the efforts of the Clearinghouse Committee.

(2) At a minimum the information center at each agency shall establish and make available reports, programs, and materials developed pursuant to this Act.

(3) Each center shall facilitate ready access to data and information gained under the program to Federal, State, and local agencies and other interested persons and shall facilitate requests for data and information from all interested persons by coordinating and communicating with other agencies' systems.

(4) The Clearinghouse Committee shall include in its first annual report recommendations for a National Ground Water Hotline and identification of a Federal public information officer to respond to public inquiries.

(e) The Clearinghouse Committee shall submit a report to the Interagency Ground Water Research Task Force 1 year after the date of enactment of this Act, evaluating the current capabilities of each agency, abilities to exchange information and data between different information systems; recommendations for improving communication links, requests for necessary monies and equipment, procedures, and personnel to fully implement the necessary changes for a fully cross-linked computerized system for information retrieval.

SEC. 105. ESTABLISHMENT OF AN EDUCATION COMMITTEE.

(a) The Task Force shall appoint an Education Committee within 180 days following the date of enactment of this Act.

(b) The Education Committee shall be chaired by the Task Force representative from the National Science Foundation and shall consist of no more than 14 individuals who are not Task Force members and who have scientific or educational expertise rele-

vant to ground water research and management. The remaining 13 members shall include the President's Science Advisor, a representative from the Water Research Institutes, the Administrator of the Environmental Protection Agency, the Secretary of the Interior, the Secretary of Agriculture, a representative of the States, two representatives from private academic institutions active in ground water, two representatives from industry, and two representatives from nonprofit environmental organizations.

(c) The Education Committee shall evaluate existing academic training programs at the university and postgraduate levels to identify weaknesses in existing programs, and to recommend a plan to strengthen such programs through Federal grants and fellowships and improved curricula.

(d) The Education Committee shall prepare a report describing its findings and making such recommendations as it deems necessary and appropriate not less than 2 years from the date of enactment of this Act. Such report shall be included in full in the report provided for in section 102(c)(1).

(e) Such clerical and technical assistance as may be necessary to discharge the duties of the Advisory Committee shall be provided by personnel of the United States Geological Survey and the other agencies of the Interagency Task Force.

(f) Members of the Task Force, other than Federal employees, shall, while attending meetings or conferences of the Committee or otherwise engaged in the business of the Committee, be compensated at a rate to be fixed by the Chairman of the Interagency Task Force, but not to exceed the daily equivalent of the base rate of pay in effect for grade GS-15 of the General Schedule under section 5332 of title 5 of the United States Code, for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Task Force. While away from their homes or regular places of business in the performance of services for the Task Force, members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

SEC. 106. AUTHORIZATIONS.

For the purposes of carrying out the activities authorized in sections 102 through 105 of this title, there are authorized to be appropriated $3,000,000 for each fiscal year to the Administrator commencing with fiscal year 1989 and ending with fiscal year 1993.

SEC. 107. WATER RESEARCH INSTITUTES.

(a) Section 104(b)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10302(b)(1)) is amended to read as follows:

"(1) plan, conduct, or otherwise arrange for competent research that fosters (A) the entry of new research scientists into the water resources fields, (B) the training and education of future water scientists, engineers, and technicians, (C) the preliminary exploration of new ideas that address water problems or expand understanding of water and water-related phenomena, and (D) the dissemination of research results to water managers and the public, and.".

(b) Section 104(c) of such Act (42 U.S.C. 10302(c)) is amended to read as follows:

"(c) From the sums appropriated pursuant to subsection (f) of this section, the Secretary shall make grants to each institute to be matched on a basis of no less than one non-Federal dollar for every Federal dollar during the fiscal year ending September 30, 1989, and each of the next four following fiscal years, such sums to be used only for the reimbursement of the direct cost expenditures incurred for the conduct of the water resources research program.".

(c) Section 104(e) of such Act (42 U.S.C. 10303(e)) is amended to read as follows:

"(e) The Secretary shall conduct a careful and detailed evaluation of each institute at least once every 5 years to determine that the quality and relevance of its water resources research and its effectiveness as an institution for planning, conducting, and arranging for research warrants its continued support under this section. If, as a result of any such evaluation, the Secretary determines that an institute does not qualify for further support under this section, then no further grants to the institute may be made until the institute's qualifications are reestablished to the satisfaction of the Secretary.".

(d) Section 104(f)(1) of such Act (42 U.S.C. 10303(f)(1)) is amended by deleting "September 30, 1985, through September 30, 1989" and inserting in lieu thereof "September 30, 1989, through September 30, 1993,".

(e) Section 104(f)(2) of such Act (42 U.S.C. 10303(f)(2)) is amended by deleting "section 106 of this Act" and inserting in lieu thereof "section 105 of this Act".

(f) Section 105(a)(1) of such Act (42 U.S.C. 10304(a)(1)) is amended by deleting the following: ", on a dollar-for-dollar matching basis,".

(g) Section 105(a)(3) of such Act (42 U.S.C. 10304(a)(3)) is repealed.

(h) For the purposes of carrying out the activities authorized by section 105(c) of the Water Resources Research Act of 1984, there are authorized to be appropriated $10,000,000 for each fiscal year commencing with 1989 and ending with 1993.

(i) Section 108(6) of such Act (42 U.S.C. 10307(6)) is amended by inserting immediately after "depletion" a comma and the word "contamination".

(j) Section 108(8) of such Act (42 U.S.C. 10307(8)) is amended by inserting immediately after "water" the words "quality and quantity".

(k) Section 104 of such Act is amended by adding the following:

"(l)(1) There is further authorized to be appropriated to the Secretary of the Interior the sum of $5,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993, only for reimbursement of the direct cost expenses of additional research or synthesis of the results of research by institutes which focuses on water problems and issues of a regional or interstate nature beyond those of concern only to a single State and which related to specific program priorities identified jointly by the Secretary and the institutes. Such funds when appropriated shall be matched on a not less than dollar-for-dollar basis by funds made available to institutes or groups of institutes, by States or other non-Federal sources. Funds made available under this subsection shall remain available until expended.

"(2) Research funds made available under this subsection shall be made on a competitive basis subject to the merit of the proposal, the need for the information to be produced, and the opportunity such funds will provide for training of water resources scientists or professionals.".

TITLE II—GROUND WATER RESEARCH PROGRAMS OF THE FEDERAL GOVERNMENT

PART A—PROGRAMS OF THE ENVIRONMENTAL PROTECTION AGENCY

SEC. 201. AUTHORITY.

(a) The Administrator shall, in consultation and coordination with the Interagency Ground Water Research Task Force established under title I, establish a research, development, and demonstration program to support the protection, maintenance, and restoration of the ground water resources of the United States, and as part of such program shall conduct and promote the coordination and acceleration of research, investigations, experiments, demonstrations, surveys, and studies relating to the causes, sources, effects, extent, prevention, detection, and correction of ground water contamination. In carrying out the provisions of this Act, the Administrator is authorized to—

(1) collect and make available through publications and other appropriate means, information from research, development, and demonstration activities (including pertinent recommendations by the Administrator) conducted pursuant to this section;

(2) cooperate with other Federal agencies, States, local governmental entities, interstate and regional agencies, other public agencies and authorities, nonprofit institutions and organizations, and other persons, in the preparation and conduct of such research, development, and demonstration activities;

(3) make grants to the States and to local governmental entities, to other public agencies and authorities, nonprofit institutions and organizations and to other persons;

(4) conduct investigations and research and make surveys concerning any specific problem of ground water contamination in cooperation with any State or local governmental entity with a view to recommending a solution to such problem;

(5) enter into contracts (including contracts for construction) or cooperative agreements with public agencies and authorities, nonprofit institutions and organizations, and other persons without regard to section 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5);

(6) conduct, in cooperation with the Secretary of the Department of Health and Human Services, studies, including epidemiological studies of the effects of ground water contaminants or potential contaminants on mortality and morbidity and clinical and laboratory studies on the immunologic, biochemical, physiological, and the toxicological effects including the carcinogenic, teratogenic, mutagenic, and neurotoxic effects of ground water contaminants or potential contaminants;

(7) develop and disseminate informational documents on ground water contaminants describing the nature and characteristics of such contaminants at various concentrations;

(8) collect and disseminate, in cooperation with other agencies of the United States, and with other public agencies and authorities, nonprofit institutions and organizations having related responsibilities, basic data on the chemical, physical, and biological contaminants that may affect ground water quality and other information pertaining to ground water contamination and the prevention, detection, and correction thereof;

(9) develop effective and practical processes, methods, and techniques for the prevention, detection, and correction of ground water contamination;

(10) construct such facilities and staff and equip them as may be necessary to carry out the provisions of this section;

(11) call conferences concerning the potential or actual contamination of ground water resources giving opportunity for interested persons to be heard and to present papers at such conferences;

(12) establish and maintain research fellowships in the Environmental Protection Agency and at public or nonprofit private educational institutions or research organizations;

(13) utilize, on a reimbursable basis, facilities and personnel of existing Federal scientific laboratories and research centers; and

(14) acquire secret processes, technical data, inventions, patent applications, patents, licenses, and an interest in lands, plants, equipment and facilities, and other property or rights, by purchase, license, lease, or donation.

(b) In carrying out the provisions of this section, the Administrator (and the Agency Ground Water Research Committee established by section 202 of this Act) shall give priority to research, development, and demonstrations projects which—

(1) assess the fate and transport characteristics of contaminants or potential contaminants in ground water;

(2) develop practices, methods, techniques, or processes effective in controlling sources or potential sources of ground water contaminants with emphasis on sources which discharge or release nonhazardous waste or contaminants not considered to be waste which shall be in addition to similar development activities already conducted pursuant to the Solid Waste Disposal Act (42 U.S.C. 6901, et seq.) and the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601, et seq.) with respect to sources of hazardous waste;

(3) determine the effects on human health and the environment of the contaminants which are or may be present in ground water;

(4) develop field, laboratory, and other analytical procedures for monitoring and evaluating ground water quality and the flow characteristics of aquifer systems;

(5) develop methods or techniques to restore ground water resources that have been damaged by contamination; and

(6) develop practices, methods, or techniques effective in reducing the quantity or toxicity of waste materials from the processes or activities which have a potential to contaminate ground water resources.

(c) For purposes of this title, the term "develop" shall include research projects, demonstration projects, or activities which assist in the transfer of technology to users of the practices, methods, or techniques identified.

(d) The Administrator shall conduct or assist research, investigations, studies, surveys, or demonstrations with respect to (but not limited to) the following—

(1) the effects on human health of contaminants or combinations of contaminants whether natural or anthropogenic that are found in or that are likely to be found in the ground waters of the United States;

(2) the exposure of persons to contaminants that are found in ground water, including exposure to such substances from sources other than ground water contamination including air, diet, and workplace exposures;

(3) the effects on the environment including aquatic life, wildlife, and other environmental resources of contaminants that may be found in ground water discharged to the surface;

(4) the hydrologic relationship between surface water and ground water and the likely impact of contamination in one medium on the quality and uses of the other;

(5) methods and techniques for characterizing and modeling subsurface hydrogeology in both the saturated and unsaturated zones;

(6) the transport and dispersion of particular contaminants in the saturated and unsaturated zones;

(7) the fate, including the degradation and transformation, of particular contaminants in the saturated and unsaturated zone including the native ability of the ground water system to modify the nature and threat of human induced or generated contaminants;

(8) methods and techniques to characterize the vulnerability of locations to contamination based on factors including climate, vegetation, topography, soil characteristics, and subsurface hydrology;

(9) methods and techniques to characterize and model zones of influence and wellhead protection areas which contribute recharge to water production wells;

(10) methods and techniques for sampling ground water including well construction, sample collection, and the storage of samples before analysis;

(11) methods for detecting and quantifying contaminants in ground water samples including screening methods to improve the efficiency and reduce the cost of analysis;

(12) methods and techniques for monitoring, sampling, and analyzing the discharge from sources or potential sources of contaminants in various categories and subcategories;

(13) methods and techniques for monitoring, sampling, and analyzing contaminants in the unsaturated zone and correlating the results of such methods and techniques with likely future impacts of ground water quality;

(14) methods and techniques of water conservation in household, agricultural, commercial, and industrial uses;

(15) conduct economic, legal, institutional, engineering, social, biological, geographic, ecological, and other studies related to the protection of ground water quality;

(16) processes and technologies to assure the more efficient use of toxic chemicals and other substances which are potential ground water contaminants including pesticide and fertilizer products;

(17) methods or techniques for controlling discharges, whether intentional, or accidental, from sources or potential sources of contaminants in various categories and subcategories;

(18) the design and operation of waste treatment systems including septic systems, land treatment systems, and containment systems that minimize the potential for contaminants to reach ground water;

(19) methods and techniques for the closure and post-closure care of sources or potential sources of contaminants to minimize the potential for further discharge of contaminants to ground water;

(20) methods and techniques for the remediation and restoration of contaminated ground water resources;

(21) methods and techniques for the treatment of contaminated water supplies to render such supplies potable; and

(22) methods and techniques for remediation, restoration, and treatment of contaminated water resources in the saturated or unsaturated zones utilizing in situ biological, chemical, or physical treatment.

(e) Nothing in this title shall be construed, interpreted, or applied to limit or diminish in any way the authority or responsibility of any Federal agency to conduct monitoring of the quality or quantity of the Nation's ground or surface water resources or any other activity which is necessary or appropriate to carry out the duties assigned to such Agency by this Act or other Federal statutes.

SEC. 202. RESEARCH COMMITTEE AND MANAGEMENT PLAN.

(a) In carrying out the functions pursuant to this part, the Administrator shall establish a mediaspecific research committee for ground water resources (in addition to the media-specific research committees already established) to be cochaired by the Assistant Administrator for Water and by the Assistant Administrator for the Office of Research and Development. The membership of the committee established by this subsection shall be broadly representative of the program and research concerns within the Agency related to the protection, maintenance, and restoration of ground water resources.

(b)(1) The research committee shall make an annual report, which shall cover a period of at least 5 fiscal years, summarizing the major research issues concerning the protection, maintenance and restoration of ground water resources as identified by the committee, describing the research accomplishments of the preceding fiscal year, identifying the status of ongoing research, and outlining the ground water research program for the Agency for the 3 succeeding fiscal years.

(2) The annual report of the committee shall serve as the management plan for the ground water research program of the Agency and shall assure the coordination of all research, development and demonstration activities relating to the protection, maintenance, and restoration of ground water resources conducted by the Agency and shall facilitate and accelerate the development of control technologies as authorized by this Act. The annual report shall constitute the basis upon which requests for appropriations to carry out this title are to be made for the succeeding fiscal year.

(3) The annual report required by this section shall include an itemized list of all major policy decisions affecting all aspects of the protection, maintenance, and restoration of ground water resources which are pending before the Agency or which will arise in the forseeable future and shall specify in a comprehensive manner the type of information relevant to such policy decisions, evaluate the adequacy of available information in each category, and define the research and studies necessary to address the deficiencies in the available information.

(4) The annual report required by this section shall include a description and assessment of each project conducted pursuant to section 203 of this Act.

(5) The annual report required by this section shall include a description of the status of health effects and related research for each contaminant listed pursuant to this

part. The report shall identify any additions to the list and summarize any proposals, including applications, recommendations, petitions, for listing pursuant to section 204 and indicate the disposition of such proposals. The report shall identify the status of all research in progress pursuant to this part.

(6) The annual report required by this section shall include a description of the status of environmental effects and related research for each contaminant listed pursuant to section 204 of this Act.

(7) The annual report required by this section shall be released in draft form for review including review by the Science Advisory Board, and shall be available for public comment for a period of 60 days after its submission in draft form. The annual report shall be released to the Congress in final form, not later than April 15 of each year, and shall incorporate such needed revisions as arise from comments received during the review period.

(8) This annual report shall also serve as the annual report to the Interagency Ground Water Research Task Force as required in section 102(d)(3).

(c)(1) The Administrator shall appoint a Ground Water Research Manager in the Office of Research and Development who shall be charged with carrying out the management plan, as incorporated in the annual report required by subsection (b) of this section, and who shall provide central direction for ground water research within the Office of Research and Development.

(2) The Research Manager shall serve as liaison with Clearinghouse Committee and shall ensure that results of all appropriate research and demonstration projects be available through the information centers established by this Act.

SEC. 203. CONTROL TECHNOLOGIES.

(a) The Administrator is authorized and directed to carry out a program of research, evaluation, testing, development, and demonstration of practices, methods, technologies, and processes which are (or may be) effective in controlling sources or potential sources of ground water contaminants and preventing the occurrence of ground water contamination. In addition to research, development, and demonstration activities conducted by the Administrator pursuant to section 201 and by the ground water research institutes established by section 210 of this Act, the Administrator may enter into contracts or cooperative agreements, or provide financial assistance in the form of grants, to public agencies and authorities, nonprofit institutions and organizations or other persons, to demonstrate such practices, methods, technologies, or processes only if the Administrator finds that—

(1) such contract, cooperative agreement or grant will serve to demonstrate a new or significantly improved practice, method, technology or process or the feasibility and cost effectiveness of an existing, but unproven, practice, method, technology, or process, and will not duplicate other Federal, State, local, or commercial efforts to demonstrate such practice, method, technology, or process;

(2) such contract, cooperative agreement or grant meets the requirements of this section and serves the purposes of this Act; and

(3) the demonstration of such practice, method, technology, or process will comply with all other laws and regulations for the protection of human health, welfare, and the environment.

(b) The demonstration program established by this section shall include solicitations for demonstration projects; selection of suitable demonstration projects from among those proposed; supervision of such demonstration projects, evaluation of the results of the demonstration projects which are conducted; dissemination of information on the effectiveness and feasibility of the practices, methods, technologies, and processes which are proven effective in controlling sources or potential sources of contaminants through demonstration under this section. The Administrator shall issue regulations to assure satisfactory implementation of each element of the demonstration program authorized by this section.

(c) Within 365 days after the date of enactment of this Act, and no less often than every 24 months thereafter, the Administrator shall publish a solicitation for proposals to demonstrate, prototype or at full-scale, practices, methods, technologies, and processes which are (or may be) effective in controlling sources or potential sources of contaminants. The solicitation notice shall prescribe the information to be included in the proposal, including technical and economic information derived from the applicant's own research and development efforts, and other information sufficient to permit the Administrator to assess the potential effectiveness and feasibility of the practice, method, technology, or process proposed to be demonstrated.

(d) Any person and any public or private nonprofit entity may submit an application to the Administrator in response to the solicitations required by subsection (c) of this section. The application shall contain a proposed demonstration plan setting forth how and when the project is to be carried out and such other information as the Administrator may require.

(e) In selecting practices, methods, technologies or processes to be demonstrated, the Administrator shall fully review the applications submitted and shall evaluate each project according to the following criteria—

(1) the potential for the proposed practice, method, technology, or process to effectively control sources or potential sources of contaminants (including control through improved use, management, storage, handling, transfer, or disposal of contaminants) which present the greatest risk to human health or the environment or present the greatest likelihood of ground water contamination and which are not effectively controlled by existing practices, methods, and technologies;

(2) the capability of the person or persons proposing the project to successfully complete the demonstration as described in the application;

(3) the likelihood that the demonstrated practice, method, technique or process could be applied in other locations and circumstances to control sources or potential sources of contaminants, including considerations of cost effectiveness, and feasibility;

(4) the extent of financial support from other persons to accomplish the demonstration as described in the application; and

(5) the capability of the person or persons proposing the project to disseminate the results of the demonstration or otherwise make the benefits of the practice, method, or technology widely available to the public in a timely manner.

(f) The Administrator shall select or refuse to select a project for demonstration under this section within 120 days of receiving the complete application for such project. In the case of a refusal to select a project, the Administrator shall notify the applicant within such 120-day period of the reasons for the refusal. In each 12-month period the administrator shall select at least ten qualified demonstration projects for support according to the provisions of this section.

(g) Each demonstration project under this section shall be performed by the applicant, or by a person satisfactory to the applicant, under the supervision of the Administrator. The Administrator shall enter into a written agreement with each applicant granting the Administrator the responsibility and authority for testing procedures, quality control, monitoring, and other measurements necessary to determine and evaluate the results of the demonstration project. The Administrator may pay the costs of testing, monitoring, quality control, and other measurements required by the Administrator to determine and evaluate the results of a demonstration project, including the use of innovative or alternative waste treatment technologies, and the limitations established by subsection (i) of this section shall not apply to such costs.

(h) The Administrator shall enter into arrangements, wherever practicable and desirable, to provide for monitoring, testing procedures, quality control, and such other measurements necessary to evaluate the results of demonstration projects or facilities intended to control sources or potential sources of contaminants, including hazardous waste treated in situ, whether or not such projects or facilities are constructed and operated under the provisions of this section, for the purpose of obtaining information concerning the performance, and other aspects of such facilities, methods, practices, technologies, or processes. Where the Administrator provides only monitoring and evaluation or personnel and provides no other financial assistance to a facility or project, title to any invention made or conceived of in the course of developing, constructing, or operating such facility or demonstrating such practice, method, technology, or process, notwithstanding the provisions of title IV of this Act, shall not be required to rest in the United States and patents respecting such invention shall not be required to be issued to the United States.

(i) Each demonstration project under this section shall be completed within such time as is established in the demonstration plan. The Administrator may extend any deadline established under this subsection by mutual agreement with the applicant concerned.

(j) In providing financial assistance under this section to a demonstration project, the Administrator shall endeavor to enter into agreements and make other arrangements for maximum practicable cost sharing with other Federal, State, and local agencies, private persons or any combination thereof. Total Federal funds for any full-scale demonstration project under this section shall not exceed 50 per centum of the total cost of such project estimated at the time of the award of such assistance. In cases where the Administrator determines, in accordance with criteria established by regulation, that research under this section is of a basic nature which would not otherwise be undertaken, the Administrator may approve grants under this section with a matching requirement other than that specified in this subsection, including full Federal funding.

(k) In carrying out the demonstration program under this section, the Administrator shall conduct a technology transfer program including the collection and dissemi-

nation of information, data and recommendations relating to the practices, methods, technologies, and processes for controlling sources or potential sources of contaminants demonstrated under the provisions of this section. In consultation with the Clearinghouse Committee the Administrator shall make available such information through a technical transfer and information center as required in section 104 of this Act. The information maintained by the Administrator shall be made available to the public, subject to the provisions of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other government agencies in a manner that will facilitate its dissemination; except that upon a satisfactory showing to the Administrator by any person that records, reports, or information, or a particular part thereof (except data on discharges), to which the Administrator has access under this section if made public, would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such records, report or information or particular portion thereof confidential in accordance with the provisions of section 1905 of title 18, United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act. Notwithstanding any provision contained in this section or any other provision of law, all information reported to, otherwise obtained by, the Administrator (or any representative of the Administrator) under this Act shall be made available upon written request of any duly authorized committee of the Congress, to such committee (including records, reports, or information obtained by representatives of the Environmental Protection Agency).

SEC. 204. LIST OF CONTAMINANTS.

(a)(1) Within 6 months after the date of enactment of this Act, the Administrator shall prepare and publish in the Federal Register a list of the contaminants which are known to occur (or which may be expected to occur) in the ground waters of the United States. The Administrator shall, from time to time and as necessary to carry out the provisions of this section but not less often than annually, review and revise such list adding other contaminants pursuant to the requirements of this section. The listing of a contaminant under this subsection is not an agency rulemaking and is not subject to the requirements of section 553 of title 5, United States Code.

(2) The initial list of contaminants shall include, but is not limited to, the following—

(A) contaminants for which the Administrator is required to promulgate a national primary drinking water regulation pursuant to the provisions of the Safe Drinking Water Act (42 U.S.C. 300f, et seq.);

(B) other contaminants for which a health advisory has been prepared by the Office of Drinking Water at the Environmental Protection Agency;

(C) contaminants listed according to the provisions of section 104(i)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act and which are known to occur in ground water;

(D) contaminants listed pursuant to section 307(a) of the Clean Water Act; and

(E) pesticides which the Administrator determines have the potential to leach to ground water.

(3)(A) The Administrator shall promptly revise the list of contaminants established by paragraph (1) of this subsection to include any contaminant which is found in ground water samples at three or more locations or which is listed pursuant to section 104(i)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act.

(B) Upon application of the Governor of a State, showing that a contaminant or potential contaminant of ground water which is not on the list established by paragraph (1) of this subsection may be reasonably anticipated to endanger public health, public welfare or the environment as a result of its presence or potential for presence in ground water, the Administrator shall, within 90 days, revise the list established by paragraph (1) of this subsection to include such contaminant or publish in the Federal Register a statement of the reasons for not making such revision.

(C) Within 90 days of receiving a recommendation from the Director of the National Toxicology Program, the National Institute of Environmental Health Sciences, and the Administrator of the Agency for Toxic Substances and Disease Registry that a particular contaminant be added to the list established by paragraph (1) of this subsection, the Administrator shall revise the list to include such contaminant or publish in the Federal Register a statement of the reasons for not making such revision.

(D) Any person may petition the Administrator requesting that a contaminant or potential contaminant be added to the list established by paragraph (1) of this subsection. The Administrator shall, within 90 days, either grant or deny the petition based on a showing by the petitioner that the contaminant may have an adverse effect on human health, welfare or the environment due to its presence or potential for presence in ground water. If the petition is granted the Administrator shall revise the list established under paragraph (1) of this subsection to include such contaminant.

(E) The Administrator may remove from the list any contaminant not known to occur in ground waters of the United States.

(b) For each contaminant listed according to the provisions of subsection (a) of this section, the Director of the National Toxicology Program in consultation with the Director of the Agency for Toxic Substances and Disease Registry shall, within 120 days of the listing of that contaminant, develop and transmit to the Administrator a proposed research program for that contaminant including a description of a program of toxicological testing which in the judgment of the Director is necessary to supplement information needed to prepare a risk assessment document described in section 205 for such contaminant. The Director shall consider data, criteria, and analyses developed pursuant to other Federal environmental laws in developing the research programs. In the case of a contaminant listed pursuant to subsections (a)(1) and (a)(2) a research program shall be developed within 120 days of the listing or as soon thereafter as practicable but not later than 3 years after the date of listing. Upon receipt, the Administrator shall publish the proposed research program in the Federal Register and seek comment thereon. Within 60 days after receipt of a proposed research program, the Administrator shall approve such program or make such amendments as the Administrator deems necessary to fulfill the purposes of this title. The research program shall, in combination with available data and information, assure complete and adequate information necessary to prepare a risk assessment pursuant to section 205, including—

(1) studies of the chemical and physical properties and characteristics of the contaminant;

(2) studies of the dispersion, persistence, and fate (including the degradation products and metabolites) of the contaminant when released into the environment;

(3) studies of human exposure to the contaminant as a result of its presence in ground water and through other pathways of contact with human populations;

(4) studies (including, but not limited to, laboratory and epidemiological studies) of the health effects of the contaminant (and its degradation products and metabolites) including studies to determine acute toxicity, subacute toxicity, chronic toxicity, and the potential for the contaminant to cause cancer, gene mutations, or birth defects; and

(5) studies of the ecological effects (including the propensity of the contaminant to bioaccumulate when discharged to surface waters) of the contaminant as a result of its presence in ground water.

The Administrator may use the authorities of section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act to conduct research programs outlined under this section, and shall coordinate with the development of contaminant profiles under section 104(i)(3) and research under section 104(i)(5) of such Act. To the extent practicable the research program developed pursuant to this subsection shall be completed within a 2-year period. Approved research programs shall be transmitted to the States and other interested persons. Nothing in this section shall limit the authority of the Administrator to conduct any study with respect to a contaminant in addition to the studies included in the research program.

(c)(1) The Administrator shall implement research programs developed pursuant to subsection (b). The Administrator shall consult with the Director of the National Toxicology Program and the Administrator of the Agency for Toxic Substances and Disease Registry and may delegate implementation of the research program to the Administrator of the Agency for Toxic Substances and Disease Registry.

(2) It is the sense of Congress that the costs of implementing research programs under this section be borne by the manufacturers and processors of the hazardous substance in question as required in programs of toxicological testing under the Toxic Substances Control Act and Federal Insecticide, Fungicide and Rodenticide Act.

(d) Funds authorized under section 111(m) of the Superfund Amendments and Reauthorization Act may be used to develop and implement research programs pursuant to this part to the extent that the Administrator, in consultation with the Administrator of the Agency for Toxic Substances and Disease Registry, determines that such use will not in any way limit or constrain the full and effective implementation of the activities otherwise authorized to be funded under section 111(m) of the Superfund Amendments and Reauthorization Act.

SEC. 205. GROUND WATER CONTAMINANT RISK ASSESSMENT ANALYSIS.

(a) The President shall designate the Administrator as the lead official for the purposes of carrying out the activities author-

ized in this section. The Administrator shall carry out such activities in consultation and coordination with the members of the Interagency Ground Water Research Task Force and such other agencies as the President may designate.

(b) The Administrator shall conduct and publish a risk assessment for ground water contaminants as identified in section 204. Such risk assessment shall use scientifically sound methodologies to assess the risk to human health and the environment associated with a range of concentrations of the ground water contaminant.

(c) Each risk assessment shall include—

(1) the most recent scientific knowledge on the physical, chemical, biological, and radiological properties of the contaminant and its effects on human health and the environment;

(2) an assessment of factors, including contaminant sources, variable aquifer conditions, and ground water uses, which may influence the effect of the contaminant on human health and the environment;

(3) an assessment of the assumptions, scientific uncertainties, ranges of risk, and data gaps contained in the risk assessments;

(4) the association of the contaminant with various human activities which have the potential to be sources of the contaminant in ground water; and

(5) a comparison of the risks posed by such contaminants to risks posed by other ground water contaminants.

(d) The Administrator shall establish and use a standard format for the presentation of risk assessments to facilitate the use of such analyses by State and local officials in setting ground water standards or in monitoring ground water quality and by the public.

(e) In carrying out this section, the Administrator shall use, to the fullest extent practicable, existing data or analyses developed by other agencies, including the Department of Health and Human Services. The Administrator shall also consider data and analyses developed pursuant to the Federal Water Pollution Control Act, title XIV of the Public Health Service Act (relating to safe drinking water), the Toxic Substances Control Act, the Comprehensive Environmental Responses, Compensation and Liability Act of 1980, and the Federal Insecticide, Fungicide, and Rodenticide Act. The Administrator may conduct such additional studies under the authorities of such Acts to gather data necessary to reduce scientific uncertainties in the risk assessments. Such additional studies may be conducted in consultation with the National Institute of Environmental Health Sciences and the Agency for Toxic Substances and Disease Registry.

(f) The Administrator shall publish, with an opportunity for public notice and comment, risk assessment analyses for not less than 30 contaminants within 24 months after the date of enactment of this title, and not less than 30 additional contaminants within 36 months after the date of enactment of this title. The Administrator shall distribute copies. The Administrator shall continue to publish such assessments for additional contaminants at a rate which is consistent with the needs of the State and local governments in developing ground water quality standards.

(g) The Administrator shall publish risk assessments giving priority to contaminants posing the most significant potential threat to human health due to their known or suspected toxicity to humans and the potential for human exposure to such substances.

SEC. 206. GROUND WATER QUALITY SURVEYS.

(a) The Administrator, in consultation with other appropriate Federal agencies and officials of the several States, shall conduct nationwide ground water quality surveys to identify the frequency and concentration of contaminants in ground water associated with various categories of current or potential sources of contaminants. The surveys authorized by this section shall include monitoring as feasible and practicable at wells which supply public water systems and at wells which supply private households to determine effects or potential effects of such sources on public health and at other ground water sampling points to determine effects of such sources on the general quality of the Nation's ground water resources.

(b) The surveys conducted pursuant to the authority of subsection (a) shall include, but need not be limited to, surveys with respect to the categories and subcategories of sources or potential sources of contaminants hereafter listed in clauses (1) through (9). Nothing in this section shall preclude the use of coordinated collection and field efforts. Each survey shall be completed and a report of the survey transmitted to the President and to the Congress not later than the date indicated in the following schedule for each category or subcategory—

(1) pesticide applications, January 1, 1991;

(2) septic tanks and cesspools, January 1, 1992;

(3) landfills, surface impoundments and wastepiles, July 1, 1992;

(4) class V injection wells including agricultural drainage wells, January 1, 1993;

(5) fertilizer applications, January 1, 1993;

(6) irrigation return flows, July 1, 1993;

(7) publicly owned treatment works, July 1, 1993;

(8) light industry, January 1, 1994; and

(9) transportation corridors, January 1, 1994.

(c) The Governor of any State may petition the Administrator to initiate a nationwide survey of a category or subcategory of sources in addition to those listed in subsection (b). The Administrator shall respond to the petition within 90 days and shall include a copy of the petition and any response in the annual plan required by subsection (j).

(d) In conducting the surveys authorized by subsection (a) the Administrator is directed to complete the following preliminary phases for each survey—

(1) in cooperation with the several States, the Administrator shall conduct an analysis to determine the number, type, and geographic distribution of sources in each category or subcategory;

(2) in cooperation with the directors of the national laboratories, the Administrator shall develop the analytical techniques necessary to test for the major contaminants of national concern which may be associated with any category or subcategory of sources;

(3) the Administrator, acting through the Office of Drinking Water, shall prepare health advisories for each of the contaminants which are likely to be associated with any particular category or subcategory of sources;

(4) the Administrator shall publish general guidance on the design of such survey including sampling and analytical protocols, based on the human health and environmental threat of such sources and shall take comment, including comment from the Science Advisory Board, on the elements of the survey; and

(5) the Administrator shall conduct pilot studies as appropriate for each survey the results of which shall be reviewed by the Science Advisory Board before the followup analyses are begun.

(e) The ground water quality surveys conducted pursuant to this section shall be adequate to provide the Administrator with a clear understanding of the need for instituting contaminant source control strategies on a local, state, or national basis. Such surveys may provide data to—

(1) determine the interaction between various characteristics of the saturated and unsaturated zone related to ground water vulnerability and the likelihood that particular source within the category or subcategory will have adverse effects on ground water quality; and

(2) determine the effectiveness of various control strategies and technologies that are practiced or employed in association with particular sources in the category or subcategory to reduce or prevent ground water contamination.

(f) Subject to the provisions of section 104, the data from these and ongoing ground water surveys shall be stored in an electronic data base for use by the States and the public.

(g)(1) To the extent that a contaminant is found in any well supplying a public water system as the result of a survey authorized by this section, the Administrator shall notify the public water system of the presence of such contaminant and the public water system shall in response take all steps required by the Safe Drinking Water Act (42 U.S.C. 300f, et seq.) including notification of the persons served by such system as provided in sections 1414(c) and 1445(a) of such Act.

(2) To the extent that contaminants are found in any well supplying a private household as the result of a survey authorized by this section, the Administrator shall notify the owner of the well (and any other person residing on the property who depends on the well for a potable water supply) and include with the notification a copy of the health advisories for the contaminants detected and shall provide counseling to the owner of the well on the appropriate steps to take in response to the contaminant, but shall assure that information released to the public does not divulge information with respect to water quality in any specific well but is only of a general nature.

(3) To the extent a contaminant is found at any drinking water well or ground water sampling point as the result of a survey authorized by this section and it is possible to identify a particular source of contaminants, the Administrator shall notify appropriate officials of the local, State, or Federal Government for response, including action to abate or correct the contamination as provided in other law.

(h) In conducting the surveys authorized by this section, the Administrator shall to the maximum extent possible, involve appropriate officials of the States in each phase of the survey including: survey of existing sources; conduct of the pilot study; selection of the wells to be sampled; interviews and sampling done as part of the survey; notification of owners of wells where contaminants are found; and actions taken to abate or correct sources of contamination.

(i) In seeking and incorporating the views of the Science Advisory Board in the conduct of the surveys authorized by this section, the Administrator shall provide members of the Board (or the appropriate subcommittee) with all necessary materials in a

timely fashion so as to assure prompt completion of each survey. In no event shall the report required by subsection (k) be delayed by the process of consultation with the Science Advisory Board, but such report shall include comments from the Board to the extent that the Board is in full accord with the findings as reported.

(j) To the maximum extent possible (consistent with the need for confidentiality of the results as provided in subsection (e)(2)), the Administrator shall involve the public in the design and conduct of the survey authorized by this section and the Advisory Committee established under section 103 for the purpose of providing the Administrator with technical assistance in the design and conduct of each survey and notice and opportunity for public comment on each report before it is submitted.

(k) The Administrator shall provide to Congress within 2 years following the date of enactment of this Act and annually thereafter, a plan for implementing this section including a report on the status of each survey required by subsection (b) and any plans to initiate surveys for categories or subcategories not listed in that section.

(l) The Administrator shall prepare a report on the findings of each survey together with any recommendations for Federal, State or local regulatory or legislative modifications which the Administrator determines to be appropriate in light of such findings. The Administrator shall complete draft reports for each survey not later than 90 days before the schedule of completion dates listed in subsection (b). The draft reports shall then be made available for public comment for a period of at least 45 days. The final report shall be submitted to the President and to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Environment and Public Works of the Senate, to the several States and to the public.

SEC. 207. HEALTH EFFECTS OF NITRATES AND NITROSAMINES.

(a) The Administrator, in consultation with the Director of the National Institute of Environmental Health Sciences, shall conduct a study of the effects on public health (including carcinogenic endpoints) of nitrates, nitrosamines and other metabolites of nutrients and nitrogen compounds in public and private drinking water supplies, the sources of such contaminants, current and projected levels of exposure to such contaminants under various conditions, technologies or measures to reduce exposure including modification in agricultural and domestic practices and treatment techniques for water supplies (including private water supplies), and the costs of such technologies, measures or treatment techniques. Such report shall include an evaluation of current standards for such contaminants promulgated pursuant to the Safe Drinking Water Act and whether additional steps are necessary to protect public health (including the health of persons relying on private water supplies) from exposure to such contaminants.

(b) In furtherance of this study, the Administrator may review studies and research conducted by other Federal agencies and State agencies with respect to such contaminants and may invite participation by other concerned persons including other Federal agencies, State and local governments and nonprofit institutions in the conduct of the study.

(c) The Administrator shall publish a report on such study not later than 18 months after the date of enactment of this Act, unless a longer period is necessary to conduct laboratory research, in which case, a preliminary report shall be published on such date and the final report shall be published no later than 48 months after the date of enactment of this Act.

SEC. 208. STUDY OF ABANDONED WELLS.

(a) Not later than September 1, 1989, the Administrator of the Environmental Protection Agency shall report to the Committee on Environment and Public Works in the Senate and the Committee on Energy and Commerce in the House of Representatives information summarizing the available data on abandoned production and injection wells and the impacts that such wells may have on ground water quality. The Administrator's report shall include data and recommendations with respect to—

(1) the number of abandoned wells and their regional distribution including identification of areas where underground sources of drinking water do not exist;

(2) impacts of abandoned wells on ground water quality including information on actual damage cases which have resulted from migration of contaminants through abandoned wells including an indication as to the likelihood that current regulatory requirements would have prevented the damage;

(3) practices and technologies which are available for locating and capping or closing abandoned wells;

(4) the cost of locating and capping or closing abandoned wells including an estimate of the probability of successfully locating, reentering, remediating, and closing abandoned wells;

(5) programs developed by the States or other nations to address the abandoned well problem;

(6) assistance which may currently be available under Federal or State programs to land owners to share the cost of locating and closing or capping abandoned wells; and

(7) programs or requirements which may be adopted by the Federal Government or by the States to assure that ground water quality will not be impaired by abandoned wells, including recommendations with respect to closure requirements at the time the well is abandoned, title to the property on which the well is located is transferred or other schedule.

(b) For purposes of this section—

(1) the term "abandoned well" means an injection or production well including, but not limited to, drinking water wells, industrial supply water wells, mining, storage, oil and gas wells, and wells defined as injection wells under the Safe Drinking Water Act the use or construction of which has been permanently discontinued or which is in such disrepair that its continued use or existence may cause or allow a threat to human health or ground water contamination; and

(2) the term "closing" means the act or process of stopping or preventing the flow of water or other fluids into or out of an underground zone through a borehole or well penetrating that zone.

SEC. 209. ADDITIONAL PROVISIONS.

(a) Nothing in this Act shall be interpreted, construed or applied to limit or diminish the authorities granted to the Administrator, the Secretary of the Interior, or any other head of any Federal agency under any other statute or Executive order or to preclude the collection of information or the conduct of any research, development, or demonstration activities for other purposes including the development of regulatory or remediation measures.

(b) All studies and results of studies conducted under this Act shall be reported or adopted only after appropriate peer review. Such peer review shall be completed, to the extent practicable within 60 days, and shall be conducted by panels of no less than three and no more than seven members, who shall be disinterested scientific experts selected for such purposes by the Administrator or the head of the agency conducting the study in consultation with the National Science Foundation on the basis of their reputation for scientific objectivity and the lack of institutional ties with any person involved in the conduct of the study or research under review. Not later than 12 months after the date of enactment of this Act, the Administrator shall issue guidelines for the implementation of this subsection at the agency including criteria to be used in determining which persons qualify as "disinterested" scientific experts.

(c)(1) A contract or cooperative agreement of the Agency for research, development or demonstration, may provide for the acquisition or construction by, or furnishing to, the contractor, of research, developmental, demonstration, or test facilities and equipment that the Administrator determines to be necessary for the performance of the contract or cooperative agreement. The facilities and equipment may be acquired or constructed at the expense of the United States, and may be lent or leased to the contractor with or without reimbursement, or may be sold to the contractor at a fair value. This subsection does not authorize new construction or improvements having general utility.

(2) Facilities or equipment that would not be readily removable or separable without unreasonable expense or unreasonable loss of value may not be installed or constructed under this section on property not owned by the United States, unless the contract or cooperative agreement contains—

(A) a provision for reimbursing the United States for the fair value of the facilities at the completion or termination of the contract or within a reasonable time thereafter;

(B) an option in the United States to acquire the underlying land; or

(C) an alternative provision that the Administrator considers to be adequate to protect the interests of the United States in the facilities or equipment.

(3) Proceeds of sales or reimbursements under this subsection shall be paid into the Treasury as miscellaneous receipts, except to the extent otherwise authorized by law with respect to property acquired by the contractor.

SEC. 210. GROUND WATER RESEARCH INSTITUTES.

(a) The Administrator shall make grants to institutions of higher learning or other research institutions (or consortia of such institutions) which are nonprofit organizations to establish and operate 8 ground water research institutes in the United States.

(b) The responsibility of each Ground Water Research Institute established under this section shall include, but not be limited to, the conduct of research and training relating to the protection, maintenance, and restoration of ground water resources and the publication and dissemination of the results of such research.

(c) Any institution of higher learning or other research institution (or consortium of such institutions) which is a nonprofit orga-

nization and which is interested in receiving a grant under this section shall submit to the Administrator an application in such form and containing such information as the Administrator may require by regulation.

(d) The Administrator, acting jointly with the Secretary of the Interior shall select recipients of grants under this section on the basis of the following criteria—

(1) each Ground Water Research Institute shall be located in a region which makes significant use of ground water to meet drinking water, agricultural or other needs and is representative of a given region of the Nation;

(2) each Ground Water Research Institute shall, to the extent practicable, be located in an area which has experienced significant ground water contamination or depletion problems;

(3) each Ground Water Research Institute shall have available for carrying out this section demonstrated research capability;

(4) each Ground Water Research Institute shall have the capability to provide leadership in making national and regional contributions to the solution of both long-range and immediate ground water contamination or depletion problems;

(5) each Ground Water Research Institute shall make a commitment to support ongoing ground water research programs with budgeted institutional funds; and

(6) each Ground Water Research Institute shall have an interdisciplinary staff with demonstrated expertise in ground water management and research.

(e) The Federal share of a grant under this section shall not exceed 50 percent of the costs of establishing and operating each ground water research institute and related activities carried out by the grant recipients.

(f) No funds made available to carry out this section shall be used for the acquisition of real property (including buildings) or the construction or substantial modification of any building.

(g) Not less than 20 percent of the funds made available to carry out this section for any fiscal year shall be available to carry out technology transfer activities.

(h) Prior to, and as a condition of receipt each year of funds appropriated to carry out this section, each research institute shall submit to the Administrator for approval a ground water research program that includes assurances, satisfactory to the Administrator, that such program was developed in consultation with the States, local governmental entities, and other agencies and institutions within the region having ground water protection or management responsibilities and interested members of the public. Such program shall include plans to promote research, training, information dissemination, and other activities meeting the needs of the region and the Nation, and shall encourage regional cooperation among institutions in research into areas of ground water protection, maintenance, and restoration that have a regional or national character. The Agency Ground Water Research Committee established under section 202 shall review proposed research programs and advise the Administrator concerning approval of proposed programs.

(i)(1) The Administrator shall establish procedures for a careful and detailed evaluation of each Ground Water Research Institute to determine whether the quality and relevance of its ground water resources research and its effectiveness as an institution for planning, conducting and arranging for research warrants its continued support under this section in the national interest. The evaluation of each Ground Water Research Institute shall be made by a team of knowledgeable individuals including research personnel of the Environmental Protection Agency, other agencies of the United States including the Geological Survey, university faculty or administrators, personnel from State and local governmental entities with ground water management or protection responsibilities, and private citizens selected for this purpose. The Administrator may also secure the cooperation of the National Research Council and the National Academy of Sciences for the purpose of this evaluation. The evaluation team shall visit each Ground Water Research Institute and shall assess the scientific quality of its research program, the potential effectiveness of its research in meeting ground water protection and management needs, and the demonstrated performance in making research results available to users in the region and elsewhere in the Nation. Criteria for making the determination that a Ground Water Research Institute is an effective instrument for ground water resources research shall include the following: accreditation in sufficient disciplines to successfully mount a multidisciplinary research program; sufficient resources, including laboratory, library, computer and support facilities; a sufficiently close proximity to a university to provide an effective working relationship with other researchers, faculty and students in a wide range of disciplines; and an institutional commitment to the support and continuation of an effective ground water resources research and education program.

(2) The Administrator, acting jointly with the Secretary of the Interior shall arrange for each of the Ground Water Research Institutes supported under this section to be evaluated within 2 years after its establishment and to be reevaluated at intervals not to exceed 5 years. If, as a result of any such evaluation, the Administrator and the Secretary of the Interior determine that a Ground Water Research Institute does not qualify for further support under this section, then no further grants to the Ground Water Research Institute may be made until the Ground Water Research Institute's qualification is reestablished to the satisfaction of the Administrator and the Secretary.

SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

(a) For the purpose of carrying out the activities authorized by section 201 and 202 of this Act, there are authorized to be appropriated $40,000,000 for each of the fiscal years 1990, 1991, 1992, and 1993.

(b) For the purpose of carrying out the activities authorized by section 203 of this Act, there are authorized to be appropriated $20,000,000 for each of the fiscal years 1990, 1991, 1992, and 1993.

(c) For the purpose of carrying out the activities authorized by sections 204 and 205 of this Act, there are authorized to be appropriated $20,000,000 for each of the fiscal years 1990, 1991, 1992, and 1993.

(d) For the purpose of carrying out the activities authorized by section 206 of this Act, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1990, 1991, 1992, and 1993.

(e) For the purpose of carrying out the activities authorized by section 207 of this Act, there is authorized to be appropriated $2,000,000 without fiscal year limitation.

(f) For the purpose of carrying out the activities authorized by section 208 of this Act, there are authorized to be appropriated such sums as necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

(g) For the purpose of carrying out the activities authorized by section 210 of this Act, there are authorized to be appropriated $16,000,000 for each of the fiscal years 1990, 1991, 1992, and 1993.

PART B—PROGRAMS OF THE DEPARTMENT OF THE INTERIOR

SEC. 221. GENERAL AUTHORITY.

(a)(1) The United States Department of the Interior, acting through the Geological Survey, has the principal Federal responsibility for research in the hydrologic sciences, for appraising the Nation's water resources, and for providing hydrologic information.

(2) The Secretary of the Interior, acting through the Geological Survey in consultation and cooperation with the Interagency Ground Water Research Task Force, is authorized to undertake basic and applied research; collect hydrologic and related data on surface and ground water quantity and quality; conduct national, regional, and local investigations, resource assessments, and surveys; and undertake other activities related to maintaining a continuing assessment of the state of the Nation's water resources. The Secretary is authorized to undertake such activities in cooperation with other Federal, State, and local governments and agencies, and academic institutions. The Secretary of the Interior is further authorized to disseminate the results of such activities by means of publication, data dissemination, cataloging and referral services, training and education, and technical assistance to Federal, State, and local governments, and to private persons.

(b)(1) The Secretary shall appoint a Ground Water Research Manager in the Department of the Interior who shall be charged with carrying out the research and education plan, as incorporated in the annual report required by section 102(c)(1) of this Act, and who shall provide central direction for ground water research within the appropriate bureau.

(2) The Research Manager shall serve as a liaison with the Clearinghouse Committee and ensure that results of all appropriate research and demonstration projects be available through the Technical Transfer and Information Center established in section 104 of this Act.

(c)(1) The Secretary may undertake the activities authorized by subsection (a) of this section on a reimbursable or cooperative basis with other Federal agencies, State and local governments, and Federal permittees or licensees but only after execution of a written agreement which outlines for whom such reimbursable or cooperative activities are being undertaken, and the purpose, cost and duration of the activities.

(2) The activities authorized by subsection (a) of this section shall include, but are not limited to, a Federal-State cooperative program to determine the quantity and quality of surface water and ground water of the United States and the uses of the Nation's water resources through a series of projects jointly funded on an equal matching basis by the Geological Survey and the States or their political subdivisions and interstate compacts.

(3) In the case of cooperative program activities for mapping of ground water re-

sources, the Secretary shall provide 60 percent of project costs.

(4) The activities authorized by subsection (a) of this section shall include, but are not limited to, a program to investigate ground water quality and flow characteristics in various hydrologic regions of the United States to—

(A) determine the availability and chemical quality of water stored in each aquifer system;

(B) determine the discharge and recharge characteristics of each aquifer system;

(C) determine the hydrogeologic and chemical controls that govern the response of each aquifer system to stress;

(D) develop models to improve understanding of the affects of human activities on each system; and

(E) develop maps at a consistent scale to be determined in consultation with the States delineating ground water resources, aquifer systems and the recharge areas of such systems.

(5) The activities authorized by subsection (a) of this section shall include, but are not limited to, a program to improve understanding of the processes which control the movement, fate, and alteration of toxic and hazardous substances and other contaminants in ground water.

SEC. 222. NATIONAL GROUND WATER QUALITY INVENTORY.

(a)(1) The Secretary of the Interior, acting through Geological Survey and in consultation with the Interagency Ground Water Research Task Force, and the several States, shall prepare a report which shall include, but need not be limited to, the following:

(A) an assessment of the Nation's ground water quantity and quality based on existing and readily available data and information, including a description of areas where insufficient quantity and quality information is available;

(B) an evaluation of the adequacy of existing ground water data collection and monitoring programs conducted by Federal, State, and local governments and private industry including an assessment of monitoring protocols and recommendations for improvement to such protocols;

(C) a description of changes and trends in the quantity and quality of the Nation's ground water resources to the extent that existing data and information are available; and

(D) an assessment of the water supply needs of the Nation including water supply for public, agricultural, industrial, and other uses and the impact of water supply needs in the future on available ground water quality and quantity.

(2) The Secretary shall complete a draft of the report authorized by paragraph (1) no later than 12 months following the date of enactment of this Act. Such report shall then be made available for public comment for a period of at least 45 days. The final report shall be submitted to the House Committee on Interior and Insular Affairs and the Senate Committee on Environment and Public Works, the several States, and to the public no later than 30 months after the date of enactment of this Act.

SEC. 223. NATIONAL GROUND WATER QUALITY ASSESSMENT.

(a) The Secretary of the Interior, acting through the Geological Survey, is authorized and directed, based on information contained in the report prepared pursuant to section 102(d)(3) and after consultation with the Interagency Ground Water Research Task Force and the several States, to establish and conduct a National Ground Water Quantity and Quality Assessment program to—

(1) identify, assess, and monitor the quantity and quality of the Nation's ground water resources; and

(2) describe changes and trends in the quantity and quality of the Nation's ground water.

(b) In conducting the program authorized by subsection (a) of this section, the Secretary shall ensure that the program—

(1) includes agreements or memorandum of understanding, where appropriate, with the Environmental Protection Agency, other Federal agencies, the several States, local governments, private organizations and individuals detailing the ground water monitoring and assessment responsibilities of each entity in order to assure consistency and avoid duplication of effort;

(2) recommends and seeks to achieve, to the extent possible considering other statutory mandates, uniform data collection protocols for Federal agencies, State and local governments, and private organizations and individuals to use in the collection of reliable ground water data and information;

(3) provides guidance on the use of existing ground water quantity and quality data and information including means to integrate and analyze data collected under varying protocols and various monitoring and assessment programs;

(4) assists Federal agencies in meeting their responsibilities under this Act and the Safe Drinking Water Act (42 U.S.C. 300f, et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1151, et seq.), the Solid Waste Disposal Act (42 U.S.C. 6901, et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 135, et seq.), the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601, et seq.), the Toxic Substances Control Act (15 U.S.C. 2601, et seq.), the Hazardous Liquid Pipeline Safety Act (49 U.S.C. App. 2001, et seq.), the Surface Mining Control and Reclamation Act (49 U.S.C. 1201, et seq.), the Federal Land Policy and Management Act (43 U.S.C. 1701, et seq.), the Uranium Mill Tailings Radiation Control Act (42 U.S.C. 7901, et seq.), and other Federal statutes with respect to the protection and management of ground water resources;

(5) improves the generic knowledge and understanding of the nature, extent, causes and effects of ground water contamination;

(6) assists State and local governments in the protection and management of ground water resources and the design of ground water monitoring programs; and

(7) is specifically designed to obtain complementary surface water quality data to provide an integrated knowledge of water quality conditions within specific hydrologic regions and subregions.

(c) The Secretary shall report every 3 years to the Congress on the results of the assessment program established by this subsection.

SEC. 224. AUTHORITIES.

Nothing in this part shall be construed, interpreted, or applied to limit or diminish in any way the authority or responsibility of the Administrator of the Environmental Protection Agency or any other Federal agency to conduct monitoring of the quality or quantity of the Nation's ground water or surface water resources or any other activity which is necessary or appropriate to carry out the duties assigned to the Administrator and the Agency by this Act or other Federal statutes.

SEC. 225. BUREAU OF RECLAMATION RESEARCH PROGRAM.

(a) The scope of research involving the Bureau of Reclamation shall include the effect of existing and proposed dams, reservoirs, and other water diversion projects on the local and regional ground water recharge and the effects of such projects on quality and quantity of ground water aquifers and surface streams, rivers, and lakes.

(b) The Secretary of the Interior, acting through the Bureau of Reclamation, and in consultation with the Interagency Ground Water Research Task Force and with the several States, shall conduct an investigation and analysis and prepare a Ground Water Reclamation Study for Congress, which shall include—

(1) an assessment of the impacts of existing and proposed Bureau of Reclamation projects on the quality and quantity of ground water resources;

(2) analyses of regional water budgets and the impact of the water projects on these budgets under varying annual weather conditions;

(3) a description of methods for optimizing Bureau of Reclamation project operations to ameliorate adverse impacts on ground water, if any;

(4) an analysis of the potential for ground water recharge facilities and the need to demonstrate artificial recharge technologies under a variety of hydrogeologic conditions taking into account the activities and information generated by Public Law 98-434;

(5) an analysis of how the Federal government could assist State and local governments in using artificial recharge facilities and technologies; and

(6) a description of the Federal technical assistance available to State and local agencies on economic engineering and other factors relating to the design and construction of ground water management facilities.

(c) The Secretary of the Interior shall submit his recommendations, along with the recommendations of the Governors of the affected States, concerning the establishment of a Ground Water Management and Technical Assistance Program in the Bureau of Reclamation in order to minimize adverse impacts of projects on ground water through development and implementation of management plans and activities.

(d) The report shall be delivered to Congress prior to the expiration of the 24-month period following the date on which funds are first appropriated pursuant to an authorization contained in this Act.

SEC. 226. INVESTIGATION OF MINING IMPACT ON GROUND WATER.

(a) The Secretary of the Interior acting through the Bureau of Mines and in consultation with the Interagency Ground Water Research Task Force and the several States, shall conduct an investigation and analysis and prepare a report on Ground Water and Mining, which shall include—

(1) a summary of the national mining activities; including a discussion of the methods and impact of these activities on the ground water resulting from tailings ponds, leach pads, tailing pads, and mine water leachates;

(2) an evaluation of procedures or practices that may be adopted that would reduce the amount of waste or mitigate leaching of contaminants into the ground water systems; and

(3) an evaluation of the mine reclamation procedures for open pit and drift mines to determine if reclamation methods are adequately mitigating the potential for ground water contamination.

(b) The report shall be delivered to Congress prior to the expiration of the 24-month period following the date on which funds are first appropriated pursuant to an authorization contained in this Act.

SEC. 227. AUTHORIZATIONS.

(a) For the purpose of carrying out the provisions of sections 221 and 222 of this Act, there are authorized to be appropriated to the Geological Survey $160,000,000 for each of the fiscal years 1990, 1991, 1992, and 1993.

(b) For the purposes of carrying out the activities authorized in section 223 there are appropriated $10,000,000 for each of the fiscal years 1990, 1991, 1992, and 1993.

(c) For the purposes of carrying out section 225 of this Act, there are authorized to be appropriated $500,000 to the Bureau of Reclamation for the fiscal year 1990.

(d) For the purposes of carrying out provisions of section 226 of this Act, there are authorized to be appropriated $1,000,000 to the Bureau of Mines for each of the fiscal years 1990, 1991, 1992, and 1993.

PART C—GROUND WATER RESEARCH PROGRAM OF THE DEPARTMENT OF AGRICULTURE

SEC. 231. GENERAL AUTHORITY.

(a) The Secretary of Agriculture, in consultation and cooperation with the Interagency Ground Water Research Task Force, shall be responsible for planning and coordinating the ground water research program within the divisions of the Department.

(b) The Secretary shall oversee the activities of the various divisions to ensure proper cooperation, and timely execution, of all ground water activities within the Department.

(c) In the conduct of such research, development, and demonstration, the Secretary of Agriculture shall give highest priority to projects and activities which improve the efficiencies of agricultural chemicals including nutrients and pesticides in use; reduce water requirements for irrigation; demonstrate integrated pest management techniques; reduce the number of agricultural chemicals in use through the demonstration of effective alternatives; and improve chemical disposal practices.

(d) Participation in the Department of Agriculture ground water research program shall include the Agricultural Research Service Division, the Cooperative State Research Service, the Extension Service, the Soil Conservation Service, the Economic Research Service, the Forest Service, Land Grant Colleges and Universities, the State Agricultural Experiment Stations, and the Cooperative Extensions Services.

(e)(1) The Secretary shall appoint a Ground Water Research Manager who shall be charged with carrying out the management plan, as incorporated in the annual report required by section 102(c)(1) of this Act, and who shall provide central direction for ground water research among the Department's Divisions.

(2) The Research Manager shall serve as liaison with the Interagency Clearinghouse Committee and ensure that results of all appropriate research and demonstration projects be available through the information center established in this Act.

SEC. 232. EVALUATION.

(a) The Secretary of Agriculture shall conduct in consultation and coordination with the Interagency Ground Water Research Task Force, an investigation and analysis and prepare reports to the Congress on the relationship between agricultural practices, policies, and ground water use that shall include—

(1) the current status and level of effort of programs at the Department of Agriculture to evaluate, prevent, and mitigate ground water quality problems; evaluate present water use and predict future use for agricultural and rural residents based upon geohydrological conditions and current and predicted levels of use and withdrawal;

(2) procedures for disseminating data and information and reports both to the public, farming communities, and other researchers, and computerization of data and information based systems;

(3) a detailed description of how ground water quality issues are included in management plans for lands of the Department of Agriculture;

(4) a listing of major policy decisions relating to agricultural impacts on ground water quality which are likely to be pending before the Department of Agriculture within the succeeding 3 fiscal years, and the types of scientific information needed for such policy decisions;

(5) a national overview of the impacts of agricultural operations, including the effect of size and different practices on the quality of ground water, and including identification of specific organic and inorganic sources of pollution, to the extent that current scientific knowledge and data coverage permit;

(6) a review of the roles of the various divisions and services of the Department and recommendations for eliminating duplication in research efforts; and

(7) specific recommendations for changes in existing programs and new initiatives in monitoring research, extension, and technical assistance efforts to address present and potential water quality and quantity problems.

(b) The Agriculture Research Service (ARS) shall fund basic and applied research in ground water, including, but not limited to, control and monitoring technologies as they pertain to agricultural practices and uses of ground water in rural areas as follows:

(1) The Agriculture Research Service shall direct its research toward improving understanding of basic physical processes that govern the movement and fate of agricultural chemicals, including the role of different soil types, and agricultural practices.

(2) The Agriculture Research Service shall direct research efforts into non-chemical alternatives and agricultural practices for controlling insects, pests, weed control, and plant nutrients.

(c) The Cooperative State Research Service shall fund and coordinate the agricultural research program in the Land Grant University system.

(d) The Cooperative State Research Service is directed to coordinate the research program efforts around the State and local data and information needs regarding the identification of contaminants, contaminant sources and prevention; fate and transport research and as established through the Cooperative Extension System.

(e) The Cooperative State Research Service, acting through the State Agricultural Experiment Stations, shall be responsible for research in the effects of various soil types, tillage, and conservation practices have on pesticide and fertilizer contamination in local ground waters. Such effort shall be coordinated with the Agricultural Research Service and with the regional Water Research Institutes to determine the effect of different soil types and climatic conditions.

(f) There is authorized to be appropriated to the Soil Conservation Service such sums as may be necessary to carry out a study of the impact of conservation tillage and other soil and water conservation practices on ground water quality, including the effect of this practice on the use and leach potential of agrichemicals.

SEC. 233. AGRICULTURAL RESEARCH PROGRAM.

(a) The Secretary of Agriculture, acting through the Agricultural Research Service and the Cooperative State Research Service, and in consultation and cooperation with the Interagency Ground Water Research Task Force, shall establish a national research, development, and demonstration program with respect to the impact of agricultural practices on ground water quality. For purposes of this section agricultural practices shall include, but not be limited to, the application of pesticides and nutrients, irrigation practices and the operation of animal feedlots. In carrying out such program the Secretary may—

(1) conduct, and promote the coordination and acceleration of research, investigations, experiments, demonstrations, surveys and studies relating to the causes, effects, extent, prevention, detection, and correction of ground water contamination which results, or may result, from agricultural practices, including storage, preparation, application and disposal practices (including back-siphoning and the rinsing and disposal of containers);

(2) encourage, cooperate with, and render technical assistance to the States and to local governmental entities, other appropriate public agencies and authorities, nonprofit institutions and organizations, and other persons in the conduct of such activities;

(3) establish technical advisory committees and interagency working groups composed of recognized experts in various aspects of ground water protection and the agricultural sciences to assist in the examination and evaluation of research progress and proposals and to avoid duplication of research;

(4) exercise in the same manner and to the same extent those authorities granted to the Administrator in section 201 of this Act.

(b) The Secretary shall conduct or assist research, investigations, studies, surveys, or demonstrations with respect to (but not limited to) the following—

(1) chemical and biological interactions and processes including—

(A) the fate and transport of organic and inorganic substances released by agricultural practices from the point of release through the soil, vadose and saturated zones (and including releases and transport through air and surface waters),

(B) the biological, chemical and physical factors that govern nutrient transformation and mediate pesticide efficacy, stability, fate and transport in the soil, vadose and saturated zones,

(C) the source, extent and occurrence of agricultural chemicals and their metabolites and degradation products including pesticides, nutrients and salts resulting from irrigation in the soil, vadose and saturated zones;

(2) analytical models and testing methodology including—

(A) physical process models to describe the movement of water and agricultural chemicals through the soil, vadose and saturated zones,

(B) methods of measuring, sampling and characterizing the spatial and temporal variability, flux rate, and other features of the physical environment in the soil, vadose and saturated zones,

(C) predictive models to manage the impact of alternative agricultural chemical applications, water management programs, and production systems on ground or surface water quality,

(D) management systems to enable users to determine optimal nutrient and pesticide applications while minimizing effects on ground water quality for various soils, geomorphology and cultural conditions, and

(E) data bases and data base management systems for model testing and validation; and

management and control including—

(i) the effects of changing application technology, irrigation and agricultural production systems on chemical and water flux in the soil, vadose and saturated zones,

(ii) the effectiveness of water management and tillage practices in controlling the movement of water and its constituents through the interacting soil medium,

(iii) the effect of various water management and agricultural production systems on soil microbiota which may effect the efficacy, persistence and breakdown of agricultural chemicals, and

(iv) new agricultural chemical products including controlled release pesticides and nutrients which may improve the efficacy, reduce application variability, and minimize the possibility of soil and ground water contamination.

SEC. 234. AGRICULTURAL NITROGEN BEST MANAGEMENT PRACTICES COMMITTEE.

(a) The purpose of this section is to protect public health and the environment through development of education programs on agricultural best management practices to minimize nitrogen losses from all potential agricultural sources and practices. The Extension Service, through the Cooperative Extension System, shall be responsible for the development and delivery of these programs.

(b) The Secretary of Agriculture and the Administrator of the Environmental Protection Agency shall establish and cochair an Agricultural Nitrogen Best Management Practices Committee consisting of—

(1) the Administrator of the Agriculture Research Service;

(2) the Administrator of the Extension Service;

(3) the Chief of the Soil Conservation Service;

(4) the Administrator of the Agriculture Stabilization and Conservation Service;

(5) the Administrator of the Cooperative State Research Service;

(6) the Manager of the National Fertilizer Development Center, Tennessee Valley Authority;

(7) the Director of the Office of Water Regulations and Standards, Environmental Protection Agency;

(8) the Director of the Office of Ground Water Protection, Environmental Protection Agency;

(9) a representative of the United States Geological Survey;

(10) an individual selected by the Board of Agriculture of the National Research Council of the National Academy of Science;

(11) a representative of National Association of Conservation Districts;

(12) a representative of farmers nationwide, to be selected by the Secretary of Agriculture;

(13) a representative of State government officials with knowledge of ground water selected by the Administrator of the Environmental Protection Agency;

(14) a representative of national environmental organizations selected by the Administrator of the Environmental Protection Agency;

(15) a representative of the State Agricultural Experiment Stations selected by the Secretary of Agriculture; and

(16) a representative of the State Extension Services selected by the Secretary of Agriculture.

(c) The Committee shall—

(1) develop agricultural best management practices for agricultural nitrogen utilization in crop production and protection of public health and surface and ground water quality;

(2) develop educational and training materials including slide presentations, brochures, and video tapes; and

(3) disseminate the educational materials to American farmers and other information users through appropriate means, including—

(A) county Agricultural Soil Conservation Services offices, and county soil water conservation district offices; and

(B) extension agents.

(d) The Committee shall report back to Congress 1 year after the date of enactment of this Act on the progress of its efforts. The report shall include a description of—

(1) the agricultural best management practices developed, with particular emphasis on practices to minimize the impact of agricultural nitrogen on ground water and surface water quality;

(2) material developed to promote agricultural best management practices;

(3) the strategy for dissemination;

(4) the number of farmers exposed to the information; and

(5) the number of farmers adopting agricultural best management practices.

(e) For the purpose of this section—

(1) the term "agricultural nitrogen" means nitrogen in all forms which may be present and available for crop production (whether natural, physical, manmade, chemical, or biological) including nitrogen supplied by leguminous plants (such as soybeans and alfalfa), animal manure, decaying leaves and other vegetation, commercial fertilizers, human and industrial sewage, precipitation, dustfall, soil and soil bacteria; and

(2) the term "agricultural best management practices" means management practices designed to protect public health and to reduce and prevent contamination of ground water and surface water and erosion and runoff from cropland, including, but not limited to, use of conversion tillage, no till, ridge planting, strip tillage, contour farming, strip cropping, irrigation water management, judicious fertilizer application, slowrelease fertilizers, soil and tissue testing, and vegetative buffer strips.

(f) There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the first 5 fiscal years beginning after the date of the enactment of this Act.

(g)(1) Section 319(c) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph:

"(3) Any approved management program and report required by subsection (b) shall be made available to the Interagency Ground Water Research Task Force established in section 102 of the Ground Water Research, Management, and Education Act of 1988.".

(2) Section 319(m)(2) of such Act is amended by adding at the end thereof the following new paragraph:

"In preparing reports under this paragraph, the Administrator shall consider the report of the Agricultural Nitrogen Best Management Practices Committee required under section 234 of the Ground Water Research, Management, and Education Act of 1988.".

SEC. 235. EFFICIENT USE OF NUTRIENTS.

(a)(1) The Secretary of Agriculture, in cooperation with the Administrator and the Director of the National Fertilizer Development Center, shall conduct research and investigations on practices, methods, and techniques for improving the efficiency of fertilizer uses in agriculture including practices which would change the timing, rate or methods of fertilizer application to reduce the potential for nitrates and other fertilizer constituents or degradation products to leach to ground water, and soil management practices and animal waste management.

(2) The Secretary of Agriculture shall report the preliminary results of such research and investigations to the Congress within 24 months after the date of enactment of this Act. Such report shall include recommendations as to the policies and programs that may be implemented by Federal agencies or the States to encourage the use of practices that are more efficient. The report shall also include an estimate of the benefits to be derived from the adoption of such practices, methods and techniques and an estimate of any increase in costs associated with such practices, methods and techniques.

(3) There are authorized to be appropriated for purposes of carrying out this subsection not to exceed $3,500,000 in each of the fiscal years 1990, 1991, 1992, and 1993.

(b)(1) The Administrator, after consultation with the Secretary of the Department of Agriculture and the Director of the National Fertilizer Development Center, shall conduct a study of commercial fertilizer products sold for use in the United States to determine the chemical constituents including the presence of trace elements in such products and the potential for such constituents to leach and to contaminate ground water resources. The study shall include a survey of fertilizer products used in agriculture and sold in commerce for use on lawns, gardens and golf courses.

(2) The Administrator shall report to the Congress the results of the study not later than 18 months after the date of enactment of this Act including any steps which the Administrator will take or will recommend to other Federal agencies to protect human health or the environment from any adverse effect which may result from the use of such products.

(3) There are authorized to be appropriated without fiscal year limitation $1,000,000 to carry out the study and issue the report required by this subsection.

(4) The Administrator shall take such actions as are necessary and appropriate pur-

suant to the authorities granted the Administrator in the Toxic Substances Control Act (15 U.S.C. 2601, et seq.) to prevent any adverse effect on the human health or the environment which may result from the presence of hazardous constituents in fertilizer products distributed in commerce within the United States.

SEC. 236. AGRICULTURAL DRAINAGE WELLS STUDY.

(a) The Administrator and the Secretary of Agriculture shall conduct a study of agricultural drainage wells including the impact of such wells on ground water quality, the alternatives to wells for drainage purposes and the costs of plugging or otherwise closing existing wells.

(b) The Administrator shall report the results of such study to the Congress within 24 months after the date of enactment of this Act. Such report shall include an inventory of agricultural drainage wells in each State and a description of Federal or State programs that may be available to assist the owners of such wells with the cost of closure and the installation of alternative practices.

(c) There are authorized to be appropriated for purposes of carrying out this section not to exceed $750,000 without fiscal year limitation.

(d) For the purposes of carrying out the activities authorized by sections 232 and 233 there are authorized to be appropriated $16,000,000 for each of the fiscal years 1990, 1991, 1992, and 1993.

SEC. 237. TRAINING PROGRAM.

(a) The Secretary of Agriculture, acting through the Extension Service and the Soil Conservation Service, shall establish a training program for staffs of both agencies. The Cooperative Extension System shall establish an education program for the public to ensure that information on farming practices, alternatives to pest control, soil management practices, leach potential of agrichemicals, and other pertinent information regarding the protection of ground water, resulting from the research programs authorized in this part, is available to the farming communities and individuals.

(b) For the purposes of carrying out the activities authorized in this section, there are authorized to be appropriated $12,000,000 for each of the fiscal years 1990, 1991, 1992, and 1993.

PART D—ADDITIONAL PROVISIONS

SEC. 241. LAKE OKEECHOBEE ECOSYSTEM RESEARCH SYSTEM.

(a)(1) The Administrator, in cooperation with the Secretary of the Army, shall conduct a program of research of the Lake Okeechobee ecosystem on the relationship between surface and ground water quality and the management and control of aquatic plants. The Secretary of the Army shall provide such resources and services as may be necessary to assist the Administrator in conducting such program.

(2) The program conducted under this subsection shall—

(A) examine, interpret, and summarize existing data relating to surface and ground water quality and the management and control of aquatic plants, and identify the location of major collections of such data;

(B) examine the impact of existing methods for the management and control of aquatic plants on the Lake Okeechobee ecosystem;

(C) conduct any research which the Administrator determines is necessary for the development of effective methods of management and control of aquatic plants and surface and ground water quality; and

(D) be conducted in coordination with similar programs conducted by other Federal agencies and State, regional, and local authorities engaged in research involved in Lake Okeechobee.

(3) Methods developed under this subsection shall—

(A) be capable of application in a variety of combinations as separate components of systems for such management and control;

(B) be adaptable for application, without a significant loss of accuracy and utility, to a wide variety of surface and ground water ecosystems and regions of the United States; and

(C) be compatible with all aspects of each ecosystem to which they may be applied.

(4) Subject to the availability of appropriations, the Administrator and the Secretary of the Army may each enter into contracts for the performance of research required for the development of methods under this subsection.

(5) The Administrator shall provide information about methods developed under this subsection to any official of State, regional, or local government upon receipt by the Administrator of a request submitted by the official.

(b) The Administrator shall conduct a project demonstrating methods developed under subsection (a) at the Lake Okeechobee ecosystem. Such project shall—

(1) assess the utility of methods developed under subsection (a) as components of a variety of comprehensive systems for the management and control of aquatic plants and surface and ground water quality; and

(2) identify any further research required to allow development of effective methods for the management and control of aquatic plants and surface and ground water quality.

(c) The Administrator shall solicit recommendations regarding activities under subsections (a) and (b) from—

(1) scientists other than those participating directly in activities under such subsections, including scientists representative of the Federal, State, regional, and local scientific communities, universities, and private industry; and

(2) management and operational personnel involved in the management and control of aquatic plants,

and shall utilize such recommendations in the development of methods under subsection (a).

(d) The Administrator shall complete the research program under subsection (a) and demonstration project under subsection (b) not later than 3 years after the date of the enactment of this title.

(e) Not later than 180 days after the date of the enactment of this title, the Administrator and the Secretary of the Army shall each transmit to the Congress a report outlining a plan for carrying out the functions of the Administrator or Secretary of the Army, as the case may be, with respect to the research program and demonstration project to be conducted under this section. Such reports shall each include a description of the cooperative measures to be undertaken by the Administrator or the Secretary of the Army, as the case may be.

(f) Any department or agency of the United States may utilize any recommendation contained in a report on the results of the research program and demonstration projects conducted under this section—

(1) if the recommendation may be utilized without interfering with any management or demonstration project already in progress; or

(2) after consultation with each person conducting such a management or demonstration project.

(g) For the purposes of this section, the term "Lake Okeechobee ecosystem" means Lake Okeechobee, Florida, all rivers and streams entering into and carrying water away from such lake, the surrounding marsh area, the associated 100-year flood plain, and associated ground water resources.

(h) There are authorized to be appropriated to carry out this section $2,500,000 for each of the fiscal years 1990, and 1991. Upon request of the Secretary of the Army, the Administrator may transfer to the Secretary of the Army such funds as may be necessary for the Secretary of the Army to comply with the provisions of this section applicable to the Secretary of the Army.

SEC. 242. ANNUAL REPORT.

Not later than January 15, 1990, and each January 15 thereafter, the President shall prepare and submit to Congress an annual report on the activities carried out by the Administrator, the Secretary, the Interagency Ground Water Research Task Force, other Federal agencies as appropriate, and State and local governments regarding ground water assessment, protection, management, and remediation activities under this title for Lake Okeechobee. The annual report shall contain a discussion of the ground water assessment and research findings to date, needs of the Federal Government and State and local governments, and an evaluation of the extent to which the programs authorized by this title are addressing those needs.

SEC. 243. WESTERN CENTER FOR NUCLEAR AND GROUND WATER RESEARCH.

(a) DEFINITIONS.—As used in this part, the term—

(1) "Center" means the Western Center for Nuclear and Ground Water Research established by this section;

(2) "Board" means the Board of Directors as established by this section; and

(3) "Administrator" means the Administrator of the Environmental Protection Agency.

(b) FINDINGS.—The Congress finds that—

(1) the protection of ground water from nuclear and hazardous wastes requires further research in the containment of those wastes and in the monitoring of the environment;

(2) growing demands for ground water in arid regions require further research to protect and monitor existing aquifers and locate future aquifers;

(3) a variety of Federal agencies are conducting research in ground water, with a variety of research centers throughout the Nation being utilized;

(4) the Nevada Test Site and surrounding area has been selected as an area where nuclear weapons are tested, nuclear wastes may be stored, and hazardous materials and activities may be evaluated;

(5) unique research capabilities exist within Nevada because of the Nevada Test Site; and

(6) utilization and enhancement of research at universities can be economical, lead to high-quality research, and further lead to the training of additional scientists and professionals to address critical environmental issues.

(c) PURPOSE.—The purposes of this section are to—

(1) establish a Western Center for Nuclear and Ground Water Research within Nevada to evaluate the suitability of man made and natural materials for the isolation of hazardous and nuclear wastes from the environment;

(2) increase research in monitoring the movement and concentration of contaminants in ground water and to coordinate the research with other Federal departments and agencies, and State and private agencies, institutions, and entities;

(3) utilize the resources of the Center to independently review methods for the containment of nuclear or hazardous wastes, and the use of man made or geologic materials for such containment; and

(4) promote and coordinate research in the availability, usage, management, and monitoring of ground water.

(d) ESTABLISHMENT OF CENTER.—(1) The Administrator of the Environmental Protection Agency, in consultation with the Governor of the State of Nevada, is authorized to take such action as may be necessary to establish, in the State of Nevada, the Western Center for Nuclear and Ground Water Research.

(2) The Center shall be under the control, jurisdiction, and direction of the Board.

(3) The Center shall be located at such place or places as the Administrator, after consultation with the Governor and the Board, shall designate.

(4) The Administrator of General Services is authorized, subject to the availability of funds, to assist the Administrator in providing necessary facilities for the purposes of this part. In providing such facilities, the Administrator of General Services shall consult with the Governor of Nevada and the Board.

(5) The Administrator is authorized to enter into such agreements or other arrangements with the State of Nevada and other public and private agencies, institutions, or entities, as may be necessary to enable the Administrator to carry out the purposes of this part.

(e) BOARD OF DIRECTORS.—(1) There is established the Western Center for Nuclear and Ground Water Research Board of Directors.

(2) The Board shall be composed of 9 members, selected by the Administrator as follows:

(A) one member designated by the Governor of the State of Nevada;

(B) one member designated by the Administrator;

(C) one member designated by the United States Geological Survey;

(D) one member designated by the Bureau of Reclamation;

(E) one member designated by the Environmental Research Center;

(F) one member designated by the University of Nevada, Las Vegas;

(G) one member designated by the University of Nevada, Reno;

(H) one member designated by the Department of Energy; and

(I) one member designated by the Desert Research Institute.

(3) The member designated by the Governor of Nevada shall be Chairman.

(4) Members of the Board shall be appointed for a term of 4 years.

(5) Five members of the Board shall constitute a quorum, but a lesser number may conduct meetings.

(6) The first meeting of the Board shall be called by the Administrator and shall be held within 60 days after the date of the enactment of this Act.

(7) A vacancy on the Board resulting from death or resignation by a member shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(f) DUTIES OF THE CENTER.—The Center shall—

(1) study and evaluate, on a continuing basis, the suitability of man made and natural materials for the isolation of hazardous and nuclear wastes from the environment;

(2) study and evaluate, on a continuing basis, ways and means of increasing research in monitoring the movement and concentration of contaminants in ground water and to assist the Center in coordinating such research with other Federal departments and agencies, and State and private agencies, institutions, and entities;

(3) study and evaluate the availability, usage, and management of ground water in arid regions;

(4) take such action as may be necessary to promote and coordinate research, governmental and private, in the areas of nuclear and hazardous waste containment and disposal, including methods and materials used or to be used in connection therewith;

(5) review and study existing and proposed Federal, State, and local public and private programs and projects, including research relating to the suitability of the methods for the containment of nuclear or hazardous wastes, and the use of man made or geologic materials for such containment;

(6) make recommendations to the Congress on the creation of interstate compacts and other forms of interstate or interregional cooperation to help further the purposes of this part;

(7) provide a forum for consideration of problems involving the protection of ground water from nuclear and hazardous substances, and, as appropriate, utilize citizens, and special advisory councils; and

(8) make the Center accessible to the public by holding scheduled, well publicized public meetings throughout the State of Nevada.

(g) COMPENSATION.—Each member of the Board who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-15 under the General Schedule contained in section 5332 of title 5, United States Code, including traveltime, for each day he or she is engaged in the actual performance of his or her duties as a member of the Board. A member of the Board who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(h) POWERS AND ADMINISTRATIVE PROVISIONS.—(1) The Board is authorized to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(2) The Board is authorized to enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Board in such amounts as may be agreed upon by the Chairman and the Administrator of General Services.

(3) The Board is authorized to procure supplies, services, and property, and make contracts in any fiscal year, only to such extent or in such amounts as are provided in appropriation Acts.

(4) The Board is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(5) The Board or, on the authorization of the Board, a member thereof, may, for the purpose of carrying out the provisions of this part, hold such hearings and sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of books, records, memoranda, papers, and documents as the Board or such member deems advisable.

(6) The Board, or on the authorization of the Board, any member thereof, may, for the purpose of carrying out the provisions of this part, have such printing and binding done, enter into contracts and other arrangements to such extent or in such amounts as are provided in appropriation Acts, and make such expenditures as the Board or such member deems advisable.

(7) The Board may acquire directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this Act. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Board, upon request by the Chairman.

(8) The Chairman of the Board is authorized to appoint, terminate, and fix the compensation, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, of an Executive Director and such additional personnel as the Chairman finds necessary to enable the Board to carry out its duties. The annual rate of compensation of the Executive Director may not exceed a rate equal to the rate provided for level V of the Executive Schedule under section 5316 of such title and the annual rate of compensation of all other personnel may not exceed a rate equal to the maximum rate for GS-15 of the General Schedule under section 5332 of such title.

(9) Upon request of the Board, the head of any Federal agency is authorized to make any of the facilities and services of such agency available to the Board or to detail any of the personnel of such agency to the Board, on a reimbursable basis, to assist the Board in carrying out its duties under this part, unless the head of such agency determines that overriding reasons will not permit the agency to make such facilities, services, or personnel available to the Board and so notifies the Chairman in writing.

(10) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(11) Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board or before such member.

(12) The Board may expend funds made available for purposes of this part for printing and binding, notwithstanding any other provision of law.

(13) No sums appropriated for this part may be used to lease, construct, or purchase physical facilities.

(i) REPORTS.—Not later than 1 year after the date of enactment of this Act, and thereafter upon the request of the Congress, the Board shall prepare and transmit to the Congress, the President, and the governor of the State of Nevada a report describing the findings and activities of the Board, together with any recommendations regarding specific actions necessary to be taken to enable the Center to carry out its mission under this part.

TITLE III—STATE GROUND WATER STRATEGIES

SEC. 301. GENERAL AUTHORITY.

(a)(1) The Administrator is authorized to make grants to the States to support the development and implementation of State strategies designed to detect, prevent, and correct ground water contamination which have as an objective the protection of human health and the environment and which are designed to control sources or potential sources of ground water contaminants in that State.

(2) Subject to the requirements of this section, activities assisted may include, but are not limited to—

(A) planning;

(B) identification and mapping of ground water resources within the State, done in consultation with the United States Geological Survey;

(C) identification, control, and regulation of sources or potential sources of ground water contaminants within the State;

(D) research, development, and demonstration of practices, methods, and techniques effective in preventing, detecting, and correcting ground water contamination;

(E) monitoring, including ambient monitoring and monitoring to identify the nature and frequency of ground water contamination problems;

(F) data collection and management including management programs that assure the compatibility of data systems maintained by the State with data systems of other States and agencies of the United States;

(G) assessment of the legal authorities of the State or its political subdivisions for the protection and management of ground water resources and recommendations for new authorities;

(H) enforcement of permits, standards, regulations, conditions, requirements, prohibitions, or orders with respect to the detection, prevention, or correction of ground water contamination;

(I) public education and awareness programs;

(J) programs to increase the expertise and capabilities of the personnel employed by the State or by local governments within the State in ground water protection and management activities; and

(K) program administration.

(3) The strategy of each State should—

(A) identify a lead agency and provide an institutional framework for protection of ground water quality;

(B) identify legal authorities for the protection of ground water;

(C) identify major sources of ground water contamination and the contaminants associated with each source;

(D) assure coordination among Federal, State, and local agencies involved in ground water protection; and

(E) assure coordination of ground water protection programs with surface water protection programs and with the activities of public water supply systems.

(4) From such sums as are appropriated to carry out the purposes of this section in any fiscal year, the Administrator shall make allotments to the several States in accordance with regulations promulgated for that purpose which determine the amount of the allotment for each State on the basis of the extent of ground water contamination in that State or of factors (including the number and nature of the sources of contamination in that State) which contribute to or are likely to contribute to ground water contamination in that State, the geographic area of the State, and the number of persons relying on ground water for drinking water supplies. No eligible State shall receive less than $75,000 or one-half of 1 percent whichever is greater or more than 10 percent of the total allotment or allotments made under this section except that such minimum shall not apply in the case of Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, or the Trust Territories, or federally recognized Indian tribes.

(5) The grant to any State under this subsection shall not exceed 50 percent of the cost of carrying out, during a 1-year period, a State program eligible under this subsection.

(6) The Administrator shall include no maintenance of effort requirement in the regulations for any grant program authorized under this section.

(7) Grants authorized by this section, but not obligated by a State during the fiscal year for which they were first authorized, or during the fiscal year immediately following, shall revert to the Administrator, and shall be added to the funds available for grants under this section.

(8) Grants to the State for the purpose of developing ground water protection strategies shall be made under the authority of this section and not section 106 of the Federal Water Pollution Control Act or other statute.

(9) Federal funds received by a State from other sources shall not be used to pay the State's share of the cost of a program which receives a grant under this section nor shall any funds authorized by this Act be used as a State share to match Federal funds from other sources.

(10) Of the funds received by any State under the authority of this section, not less than 30 percent shall be used to carry out the provisions of sections 1427 and 1428 of the Safe Drinking Water Act.

(b) Each State, which receives any grant according to the provisions of subsection (a), shall submit an application for such grant at least 90 days prior to the beginning of the fiscal year for each fiscal year for which funds are to be received by the State. The manner and form of the application shall be prescribed by the Administrator. The application required by this subsection shall include a statement of the State's plan for use of the funds, information on the types of activities to be supported, and assurances that all requirements of this Act will be met by the State. Applications prepared by the States shall be made available to the public in such State before submission to the Administrator.

(c) The Administrator shall approve or disapprove any application submitted according to the provisions of subsection (b) of this section and if disapproved, the Administrator shall state the reasons for disapproval in writing. The State may modify and resubmit an application that has been disapproved. If the application (or resubmitted application) is approved, the Administrator shall distribute the funds authorized by titles I through IV of this Act to the State.

(d) Each State receiving assistance under titles I through IV of this Act shall, to the maximum extent practicable, establish procedures including, but not limited to, public hearings and the establishment of technical and citizens' advisory committees, to encourage public participation in developing the ground water strategy assisted under this section.

(e) With the approval of the Administrator, a State may allocate to a local government, to a regional planning agency, to an interstate agency, to a public water system, or to a resource management district organization any portion of a grant made under this section to accomplish the purposes of this Act. A State may use funds from grants made pursuant to this section for financial assistance to persons only to the extent that such assistance is related to the costs of demonstration projects.

(f) No funds provided to a State under the authority of this section may be used to assist any person or governmental entity in complying with any requirement of the Safe Drinking Water Act (42 U.S.C. 300f, et seq.), the Solid Waste Disposal Act (42 U.S.C. 6901, et seq.), the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601, et seq.), the Clean Water Act (33 U.S.C. 1251, et seq.), the Toxic Substances Control Act (15 U.S.C. 2601, et seq.), or other Federal statutes involving the construction, operation, or maintenance of facilities (or connections thereto) or requirements for monitoring of particular sources of contamination for the presence of pollutants or contaminants or releases of contaminants; or used to clean up any source of contamination or bring any source or potential source of contamination into compliance with Federal, State, or local statutes.

(g) The Administrator or the Comptroller General of the United States may request such information, data, and reports as deemed necessary to carry out their responsibilities to assure that funds made available pursuant to this section are properly used and that only eligible activities are assisted.

(h) No grant shall be made to a State under this section unless the Administrator determines, on the basis of information provided by the State and from other relevant sources, that the State is implementing the provisions of this Act satisfactorily.

(i) Each State receiving funds under this section in any fiscal year shall make a report, not later than 60 days after the close of the fiscal year, to the Administrator on the use of such funds, which report shall be sent to the Interagency Ground Water Research Task Force.

(j) Upon request of a State, the Administrator, or another Federal agency, shall, to the extent resources and statutory limitations allow, provide technical assistance to such State in development or implementation of programs addressing ground water protection, management, and restoration. Such assistance may include but shall not be limited to—

(1) design and implementation of surveys of the location and occurrence of ground water contaminants in the State;

(2) design and implementation of public information and education programs;

(3) design and implementation of State or local programs to control sources of ground water contamination;

(4) delineation of wellhead protection areas, and other areas of recharge that are vulnerable to ground water contamination; and

(5) design and implementation of ground water monitoring programs.

(k) There are authorized to be appropriated for grants under this section $50,000,000 for each of the fiscal years 1990, 1991, 1992, and 1993.

SEC. 302. ASSISTANCE FOR SMALL COMMUNITIES WITH GROUND WATER RADIUM CONTAMINATION.

(a) The Administrator of the Environmental Protection Agency, in cooperation with State public authorities, may assist local governments in demonstrating mitigation of radium contamination in ground water. Upon application of any State public authority, the Administrator may make a grant to that authority for such purposes. Assistance provided pursuant to this subsection shall be used for financing the acquisition and installation of ground water treatment technologies needed to remove radium from ground water used as a source of public drinking water for residents of small communities under the jurisdiction of such local governments.

(b) A grant may only be made under subsection (a) for removal of radium from ground water if the level of contamination from such radium exceeds the maximum contaminant level for radium established under title XIV of the Public Health Service Act (relating to safe drinking water).

(c) Funds made available through grants under subsection (a) may only be used by the grant recipient for one or both of the following purposes:

(1) Providing insurance or prepaying interest for local debt obligations issued by a local government to finance the acquisition and installation of treatment technologies described in subsection (a).

(2) Paying for the costs of administration for establishment and operation by such authority of a program to provide financing for such acquisition and installation.

(d) For purposes of this section—

(1) The term "small community" means a political subdivision of a State the population of which does not exceed 20,000 individuals.

(2) The term "State public authority" means an agency or instrumentality of a State which is established for the purpose of assisting local governments in financing capital improvements on a statewide or regional basis.

(e) For the purpose of carrying out the activities authorized by this section, there are authorized to be appropriated $4,000,000 for fiscal year 1991 and $5,000,000 for each of the fiscal years 1992 and 1993.

SEC. 303. EXTENSION OF WELLHEAD PROTECTION AREA PLANS.

(a) Section 1428(a) of the Safe Drinking Water Act is amended by striking "3 years of the date of enactment" and inserting in lieu thereof "5 years of the date of enactment".

(b) Section 1428(d) of such Act is amended by striking "3 years after the enactment of this section" and inserting in lieu thereof "5 years after the enactment of this section".

SEC. 304. EXTENSION OF SOLE SOURCE AQUIFER DESIGNATIONS.

Section 1427(b) of the Safe Drinking Water Act is amended by striking "24 months after the enactment" and inserting in lieu thereof "48 months after the enactment of".

TITLE IV—PATENT POLICY

SEC. 401. PATENT POLICY.

It is the policy and objective of the Congress to use the patent system to promote the utilization of inventions arising from federally supported research or development arising out of any contract or other agreement with the Environmental Protection Agency; to ensure that such inventions made by nonprofit organizations and small business firms are used in a manner to promote free competition and enterprise; to promote the commercialization and public availability of such inventions made in the United States by United States industry and labor; to ensure that the Government obtains sufficient rights in such federally supported inventions to meet the needs of the Government and protect the public against nonuse or unreasonable use of such inventions; and to minimize the costs of administering policies in this area.

SEC. 402. DEFINITIONS.

As used in this title—

(1) The term "Agency" means the Environmental Protection Agency.

(2) The term "funding agreement" means any contract, grant, or cooperative agreement entered into between the Agency and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government. Such term includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as herein defined.

(3) The term "contractor" means any person, small business firm, or nonprofit organization that is a party to a funding agreement.

(4) The term "invention" means any invention or discovery which is or may be patentable or otherwise protectable under this title or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

(5) The term "subject invention" means any invention of the contractor conceived or first actually reduced to practice in the performance of work under a funding agreement: *Provided,* That in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act (7 U.S.C. 2401(d))) must also occur during the period of contract performance.

(6) The term "practical application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are to the extent permitted by law or Government regulations available to the public on reasonable terms.

(7) The term "made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(8) The term "small business firm" means a small business concern as defined at section 2 of Public Law 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration.

(9) The term "nonprofit organization" means universities and other institutions of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

SEC. 403. DISPOSITION OF RIGHTS.

(a) Each nonprofit organization or small business firm may, within a reasonable time after disclosure as required by paragraph (c)(1) of this section, elect to retain title to any subject invention: *Provided, however,* That a funding agreement may provide otherwise (i) when the contractor is not located in the United States or does not have a place of business located in the United States or is subject to the control of a foreign government, (ii) in exceptional circumstances when it is determined by the Agency that restriction or elimination of the right to retain title to any subject invention will better promote the policy and objectives of this chapter, (iii) when it is determined by a Government authority which is authorized by statute or Executive order to conduct foreign intelligence or counter-intelligence activities that the restriction or elimination of the right to retain title to any subject invention is necessary to protect the security of such activities, or (iv) when the funding agreement includes the operation of a Government-owned, contractor-operated facility of the Department of Energy primarily dedicated to that Department's naval nuclear propulsion or weapons related programs and all funding agreement limitations under this subparagraph on the contractor's right to elect title to a subject invention are limited to inventions occurring under the above two programs of the Department of Energy. The rights of the nonprofit organization or small business firm shall be subject to the provisions of paragraph (c) of this section and the other provisions of this chapter.

(b)(1) The rights of the Government under subsection (a) shall not be exercised by the Agency unless it first determines that at least one of the conditions identified in clauses (i) through (iii) of subsection (a) exists. Except in the case of subsection (a)(iii), the Agency shall file with the Secretary of Commerce, within 30 days after the award of the applicable funding agreement, a copy of such determination. In the case of a determination under subsection (a)(ii), the statement shall include an analysis justifying the determination. In the case of determinations applicable to funding agreements with small business firms, copies shall also be sent to the Chief Counsel for Advocacy of the Small Business Administration. If the Secretary of Commerce believes that any individual determination or pattern of determinations is contrary to the policies and objectives of this title or otherwise not in conformance with this title, the Secretary shall so advise the head of the Agency and the Administrator of the Office of Federal Procurement Policy, and recommend corrective actions.

(2) Whenever the Administrator of the Office of Federal Procurement Policy has determined that the Agency is utilizing the authority of clause (i) or (ii) of subsection (a) of this section in a manner that is contrary to the policies and objectives of this title the Administrator is authorized to issue regulations describing classes of situations in which the Agency may not exercise the authorities of those clauses.

(3) At least once each year, the Comptroller General shall transmit a report to the Committees on the Judiciary of the Senate and House of Representatives on the manner in which this title is being imple-

mented by the Agency and on such other aspects of Government patent policies and practices with respect to federally funded inventions as the Comptroller General believes appropriate.

(4) If the contractor believes that a determination is contrary to the policies and objectives of this title or constitutes an abuse of discretion by the agency, the determination shall be subject to section 404(b).

(c) Each funding agreement with a small business firm or nonprofit organization shall contain appropriate provisions to effectuate the following:

(1) That the contractor disclose each subject invention to the Agency within a reasonable time after it becomes known to contractor personnel responsible for the administration of patent matters and that the Federal Government may receive title to any subject invention not disclosed to it within such time.

(2) That the contractor make a written election within 2 years after disclosure to the Agency (or such additional time as may be approved by the Agency) whether the contractor will retain title to a subject invention: *Provided,* That in any case where publication, on sale, or public use, has initiated the 1-year statutory period in which valid patent protection can still be obtained in the United States, the period for election may be shortened by the Agency to a date that is not more than 60 days prior to the end of the statutory period: *And provided further,* That the Federal Government may receive title to any subject invention in which the contractor does not elect to retain rights or fails to elect rights within such times.

(3) That a contractor electing rights in a subject invention agrees to file a patent application prior to any statutory bar date that may occur under this title due to publication, on sale, or public use, and shall thereafter file corresponding patent applications in other countries in which it wishes to retain title within reasonable times, and that the Federal Government may receive title to any subject inventions in the United States or other countries in which the contractor has not filed patent applications on the subject invention within such times.

(4) With respect to any invention in which the contractor elects rights, the Agency shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States any subject invention throughout the world: *Provided,* That the funding agreement may provide for such additional rights; including the right to assign or have assigned foreign patent rights in the subject invention, as are determined by the Agency as necessary for meeting the obligations of the United States under any treaty, international agreement, arrangement of cooperation, memorandum of understanding, or similar arrangement, including military agreements relating to weapons development and production.

(5) The right of the Agency to require periodic reporting on the utilization or efforts at obtaining utilization that are being made by the contractor or his licensees or assignees: *Provided,* That any such information, as well as any information on utilization or efforts at obtaining utilization obtained as part of a proceeding under section 404 of this title shall be treated by the Agency as commercial and financial information obtained from a person and privileged and confidential and not subject to disclosure under section 552 of title 5 of the United States Code.

(6) An obligation on the part of the contractor, in the event a United States patent application is filed by or on its behalf or by any assignee of the contractor, to include within the specification of such application and any patent issuing thereon, a statement specifying that the invention was made with Government support and that the Government has certain rights in the invention.

(7) In the case of a nonprofit organization, (A) a prohibition upon the assignment of rights to a subject invention in the United States without the approval of the Agency, except where such assignment is made to an organization which has as one of its primary functions the management of inventions (provided that such assignee shall be subject to the same provisions as the contractor); (B) a requirement that the contractor share royalties with the inventor; (C) except with respect to a funding agreement for the operation of a Government-owned-contractor-operated facility, a requirement that the balance of any royalties or income earned by the contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, be utilized for the support of scientific research, or education; (D) a requirement that, except where it proves infeasible after a reasonable inquiry, in the licensing of subject inventions shall be given to small business firms; and (E) with respect to a funding agreement for the operation of a Government-owned-contractor-operated facility, requirements (i) that after payment of patenting costs, licensing costs, payments to inventors, and other expenses incidental to the administration of subject inventions, 100 percent of the balance of any royalties or income earned and retained by the contractor during any fiscal year, up to an amount equal to 5 percent of the annual budget of the facility, shall be used by the contractor for scientific research, development, and education consistent with the research and development mission and objectives of the facility, including activities that increase the licensing potential of other inventions of the facility provided that if said balance exceeds 5 percent of the annual budget of the facility, that 75 percent of such excess shall be paid to the Treasury of the United States and the remaining 25 percent shall be used for the same purposes as described above in this clause (D), and (ii) that, to the extent it provides the most effective technology transfer, the licensing of subject inventions shall be administered by contractor employees on location at the facility.

(8) The requirements of sections 404 and 405 of this title.

(d) If a contractor does not elect to retain title to a subject invention in cases subject to this section, the Agency may consider and after consultation with the contractor grant requests for retention of rights by the inventor subject to the provisions of this title and regulations promulgated hereunder.

(e) In any case when an employee of the Agency is a coinventor of any invention made under a funding agreement with a nonprofit organization or small business firm, the Agency is authorized to transfer or assign whatever rights it may acquire in the subject invention from its employee to the contractor subject to the conditions set forth in this title.

(f)(1) No funding agreement with a small business firm or nonprofit organization shall contain a provision allowing the Agency to require the licensing to third parties of inventions owned by the contractor that are not subject to inventions unless such provision has been approved by the head of the Agency and a written justification has been signed by the Administrator of the Agency. Any such provision shall clearly state whether the licensing may be required in connection with the practice of a subject invention, a specifically identified work object, or both. The Administrator of the Agency may not delegate the authority to approve provisions or sign justifications required by this paragraph.

(2) The Agency shall not require the licensing of third parties under any such provision unless the Administrator of the Agency determines that the use of the invention by others is necessary for the practice of a subject invention or for the use of a work object of the funding agreement and that such action is necessary to achieve the practical application of the subject invention or work object. Any such determination shall be on the record after an opportunity for a hearing by the Agency. Any action commenced for judicial review of such determination shall be brought within 60 days after notification of such determination.

SEC. 404. MARCH-IN RIGHTS.

(a) With respect to any subject invention in which a small business firm or nonprofit organization has acquired title under this title, the Agency shall have the right, in accordance with such procedures as are provided in regulations promulgated hereunder, to require the contractor, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the contractor, assignee, or exclusive licensee refuses such request, to grant such a license itself, if the Agency determines that such—

(1) action is necessary because the contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;

(2) action is necessary to alleviate health or safety needs which are not reasonably satisfied by the contractor, assignee, or their licensees;

(3) action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the contractor, assignee, or licensees; or

(4) action is necessary because the agreement required by section 405 has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is a breach of its agreement obtained pursuant to section 405.

(b) A determination pursuant to this section or section 403(b)(4) shall not be subject to the Contract Disputes Act (41 U.S.C. 601 et seq.). An administrative appeals procedure shall be established by regulations promulgated in accordance with section 407. Additionally, any contractor, inventor, assignee, or exclusive licensee adversely affected by a determination under this section may, at any time within 60 days after the determination is issued, file a petition in the United States Claims Court, which shall have jurisdiction to determine the appeal on the record and to affirm, reverse, remand or modify, as appropriate, the determination of the Agency. In cases described in para-

graphs (1) and (2), the Agency's determination shall be held in abeyance pending the exhaustion of appeals or petitions filed under the preceding sentence.

SEC. 405. PREFERENCE FOR UNITED STATES INDUSTRY.

Notwithstanding any other provision of this title, no small business firm or nonprofit organization which receives title to any subject invention and no assignee of any such small business firm or nonprofit organization shall grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Agency upon a showing by the small business firm, nonprofit organization, or assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

SEC. 406. CONFIDENTIALITY.

The Agency is authorized to withhold from disclosure to the public information disclosing any invention in which the Federal Government owns or may own a right, title, or interest (including a nonexclusive license) for a reasonable time in order for a patent application to be filed. Furthermore, the Agency shall not be required to release copies of any document which is part of an application for patent filed with the United States Patent and Trademark Office or with any foreign patent office.

SEC. 407. UNIFORM CLAUSES AND REGULATIONS.

The Secretary of Commerce may issue regulations which may be made applicable to the Agency implementing the provisions of sections 403, 404, and 405 of this title and shall establish standard funding agreement provisions required under this title. The regulations and the standard funding agreement shall be subject to public comment before their issuance.

SEC. 408. DOMESTIC AND FOREIGN PROTECTION OF FEDERALLY OWNED INVENTIONS.

(a) The Agency is authorized to—

(1) apply for, obtain, and maintain patents or other forms of protection in the United States and in foreign countries on inventions in which the Federal Government owns a right, title, or interest;

(2) grant nonexclusive, exclusive, or partially exclusive licenses under federally owned patent applications, patents, or other forms of protection obtained, royalty-free or for royalties or other consideration, and on such terms and conditions, including the grant to the licensee of the right of enforcement pursuant to the provisions of chapter 29 of title 35 of the United States Code as determined appropriate in the public interest.

(3) undertake all other suitable and necessary steps to protect and administer rights to federally owned inventions on behalf of the Federal Government either directly or through contract; and

(4) transfer custody and administration, in whole or in part, to another Federal agency, of the right, title, or interest in any federally owned invention.

(b) For purposes of assuring the effective management of Government-owned inventions, the Secretary of Commerce is authorized to—

(1) assist the Agency's efforts to promote the licensing and utilization of Government-owned inventions;

(2) assist the Agency in seeking protection and maintaining inventions in foreign countries, including the payment of fees and costs connected therewith; and

(3) consult with and advise the Agency as to areas of science and technology research and development with potential for commercial utilization.

SEC. 409. REGULATIONS GOVERNING FEDERAL LICENSING.

The Secretary of Commerce is authorized to promulgate regulations specifying the terms and conditions upon which any federally owned invention under this title may be licensed on a nonexclusive, partially exclusive, or exclusive basis.

SEC. 410. RESTRICTIONS ON LICENSING OF FEDERALLY OWNED INVENTIONS.

(a) The Agency shall not grant any license under a patent or patent application on a federally owned invention unless the person requesting the license has supplied the Agency with a plan for development and/or marketing of the invention, except that any such plan may be treated by the Agency as commercial and financial information obtained from a person and privileged and confidential and not subject to disclosure under section 552 of title 5 of the United States Code.

(b) The Agency shall normally grant the right to use or sell any federally owned invention in the United States only to a licensee that agrees that any products embodying the invention or produced through the use of the invention will be manufactured substantially in the United States.

(c)(1) The Agency may grant exclusive or partially exclusive licenses in any invention covered by a federally owned domestic patent or patent application only if, after public notice and opportunity for filing written objections, it is determined that—

(A) the interests of the Federal Government and the public will best be served by the proposed license, in view of the applicant's intentions, plans, and ability to bring the invention to practical application or otherwise promote the invention's utilization by the public;

(B) the desired practical application has not been achieved, or is not likely expeditiously to be achieved, under any nonexclusive license which has been granted, or which may be granted, on the invention;

(C) exclusive or partially exclusive licensing is a reasonable and necessary incentive to call forth the investment of risk capital and expenditures to bring the invention to practical application or otherwise promote the invention's utilization by the public; and

(D) the proposed terms and scope of exclusivity are not greater than reasonably necessary to provide the incentive for bringing the invention to practical application or otherwise promote the invention's utilization by the public.

(2) The Agency shall not grant such exclusive or partially exclusive license under paragraph (1) of this subsection if it determines that the grant of such license will tend substantially to lessen competition or result in undue concentration in any section of the country in any line of commerce to which the technology to be licensed relates, or to create or maintain other situations inconsistent with the antitrust laws.

(3) First preference in the exclusive or partially exclusive licensing of federally owned inventions shall go to small business firms submitting plans that are determined by the Agency to be within the capabilities of the firms and equally likely, if executed, to bring the invention to practical application as any plans submitted by applicants that are not small business firms.

(d) After consideration of whether the interests of the Federal Government or United States industry in foreign commerce will be enhanced, the Agency may grant exclusive or partially exclusive licenses in any invention covered by a foreign patent application or patent, after public notice and opportunity for filing written objections, except that the Agency shall not grant such exclusive or partially exclusive license if it determines that the grant of such license will tend substantially to lessen competition or result in undue concentration in any section of the United States in any line of commerce to which the technology to be licensed relates, or to create or maintain other situations inconsistent with antitrust laws.

(e) The Agency shall maintain a record of determinations to grant exclusive or partially exclusive licenses.

(f) Any grant of a license shall contain such terms and conditions as the Agency determines appropriate for the protection of the interests of the Federal Government and the public, including provisions for the following:

(1) periodic reporting on the utilization or efforts at obtaining utilization that are being made by the licensee with particular reference to the plan submitted: *Provided*, That any such information may be treated by the Agency as commercial and financial information obtained from a person and privileged and confidential and not subject to disclosure under section 552 of title 5 of the United States Code;

(2) the right of the Agency to terminate such license in whole or in part if it determines that the licensee is not executing the plan submitted with its request for a license and the licensee cannot otherwise demonstrate to the satisfaction of the Agency that it has taken or can be expected to take within a reasonable time, effective steps to achieve practical application of the invention;

(3) the right of the Agency to terminate such license in whole or in part if the licensee is in breach of an agreement obtained pursuant to paragraph (b) of this section; and

(4) the right of the Agency to terminate the license in whole or in part if the Agency determines that such action is necessary to meet requirements for public use specified by Federal regulations issued after the date of the license and such requirements are not reasonably satisfied by the licensee.

SEC. 411. PRECEDENCE OF CHAPTER.

(a) Except to the extent provided in section 203 of this Act, this title shall take precedence over chapter 38 of title 35 of the United States Code, and any other Act which would require a disposition of rights in subject inventions of small business firms or nonprofit organizations contractors in a manner that is inconsistent with this title, including but not necessarily limited to the following:

(1) section 10(a) of the Act of June 29, 1935, as added by title I of the Act of August 14, 1946 (7 U.S.C. 427i(a); 60 Stat. 1085);

(2) section 205(a) of the Act of August 14, 1946 (7 U.S.C. 1624(a); 60 Stat. 1090);

(3) section 501(c) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 951(c); 83 Stat. 742);

(4) section 106(c) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1395(c); 80 Stat. 721);

(5) section 12 of the National Science Foundation Act of 1950 (42 U.S.C. 1871(a); 82 Stat. 360);

(6) section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182; 68 Stat. 943);

(7) section 305 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457);

(8) section 6 of the Coal Research and Development Act of 1960 (30 U.S.C. 666; 74 Stat. 337);

(9) section 4 of the Helium Act Amendments of 1960 (50 U.S.C. 167b; 74 Stat. 920);

(10) section 32 of the Arms Control and Disarmament Act of 1961 (22 U.S.C. 2572; 75 Stat. 634);

(11) subsection (e) of section 302 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 302(e); 79 Stat. 5);

(12) section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901; 88 Stat. 1878);

(13) section 5(d) of the Consumer Product Safety Act (15 U.S.C. 2054(d); 86 Stat. 1211);

(14) section 3 of the Act of April 5, 1944 (30 U.S.C. 323; 58 Stat. 191);

(15) section 8001(c)(3) of the Solid Waste Disposal Act (42 U.S.C. 6981(c); 90 Stat. 2829);

(16) section 219 of the Foreign Assistance Act of 1961 (22 U.S.C. 2179; 83 Stat. 806);

(17) section 427(b) of the Federal Mine Health and Safety Act of 1977 (30 U.S.C. 937(b); 86 Stat. 155);

(18) section 306(d) of the Surface Mining and Reclamation Act of 1977 (30 U.S.C. 1226(d); 91 Stat. 455);

(19) section 21(d) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2218(d); 88 Stat. 1548);

(20) section 6(b) of the Solar Photovoltaic Energy Research Development and Demonstration Act of 1978 (42 U.S.C. 5585(b); 92 Stat. 2516);

(21) section 12 of the Native Latex Commercialization and Economic Development Act of 1978 (7 U.S.C. 178(j); 92 Stat. 2533); and

(22) section 408 of the Water Resources and Development Act of 1978 (42 U.S.C. 7879; 92 Stat. 1360).

This title shall be construed to take precedence over any future Act unless that Act specifically cites this Act and provides that it shall take precedence over this Act.

(b) Nothing in this title is intended to alter the effect of the laws cited in subsection (a) of this section or any other laws with respect to the disposition of rights in inventions made in the performance of funding agreements with persons other than nonprofit organizations or small business firms.

(c) Nothing in this title is intended to limit the authority of the Agency to agree to the disposition of rights in inventions made in the performance of work under funding agreements with persons other than nonprofit organizations or small business firms in accordance with the Statement of Government Patent Policy issued on February 18, 1983, agency regulations, or other applicable regulations or to otherwise limit the authority of the Agency to allow such persons to retain ownership of inventions, except that all funding agreements, including those with other than small business firms and nonprofit organizations, shall include the requirements established in sections 403(c)(4) and 404 of this title. Any disposition of rights in inventions made in accordance with the Statement or implementing regulations, including any disposition occurring before enactment of this section, are hereby authorized.

(d) Nothing in this title shall be construed to require the disclosure of intelligence sources or methods or to otherwise affect the authority granted to the Director of Central Intelligence by statute or Executive order for the protection of intelligence sources or methods.

SEC. 412. RELATIONSHIP TO ANTITRUST LAWS.

Nothing in this title shall be deemed to convey to any person immunity from civil or criminal liability, or to create any defenses to actions, under any antitrust law.

SEC. 413. DISPOSITION OF RIGHTS IN EDUCATIONAL AWARDS.

No scholarship, fellowship, training grant, or other funding agreement made by the Agency primarily to an awardee for educational purposes will contain any provision giving the Agency any rights to inventions made by the awardee.

SEC. 414. TITLE 35, UNITED STATES CODE.

The provisions of chapter 38 of title 35, United States Code, shall not be applicable to any patent or invention within the purview of this title.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, October 18, 1989, at 12 p.m. to hold a hearing on legal issues raised by the termination of Oliver North's retirement pay.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, October 18, at 10 a.m. until 1:30 p.m. for a joint hearing with the Committee on the Budget on the issue of budget reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Wednesday, October 18, 1989, at 10 a.m. until 1:30 p.m. to conduct an oversight hearing on the Third World debt and U.S. trade.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DR. JOYCELYN ELDERS

● Mr. BUMPERS. Mr. President, I rise today to pay tribute to Dr. Joycelyn Elders, the director of the Arkansas Department of Health. Dr. Elders has become a crusader in what she calls the second civil rights movement, the crusade to reduce the teen pregnancy rate in Arkansas. Our State has suffered the unfortunate distinction of being among the leaders in its teen pregnancy rate, and Dr. Elders has made it one of her goals as health director to reduce the teen pregnancy rate and the problems associated with it.

The problem is deserving of a crusade, and the State of Arkansas is fortunate that Dr. Elders has dedicated herself to improving our future by improving the future of thousands of young people.

I ask that a recent New York Times Magazine article, "The Crusade of Dr. Elders," be reprinted in the RECORD.

The article follows:

THE CRUSADE OF DR. ELDERS

(By Steve Barnes)

On a holiday Monday, the large, labyrinthine headquarters of the Arkansas Department of Public Health, in Little Rock, is virtually empty. On call in the basement are a pair of communications specialists, whose job it is to dispatch trained personnel in the event of a medical emergency, toxic chemical spill or other threat to the commonwealth.

Five floors above them, the 56-year-old black woman who is Arkansas's public health director is the only other department employee at work. She is telling a visitor about a different sort of threat that this small, poor, Southern state has only begun to address, and relating an episode that occurred a quarter-century ago. It was, she says, the most galvanizing experience of her medical career, and one that shapes her agenda to this day.

"I was a pediatric resident," she remembers, her usually full, firm voice dropping to a murmur. "The patient—she was my patient—was a young girl with a thyroid ailment.

"I went to her room to tell her she could go home the following day. She looked up at me, and she was frightened. She said, 'Dr. Elders, I don't want to go home.'

" 'Why not? I asked her. 'It's perfectly all right for you to be released.' "

Here Joycelyn Elders, M.D., pauses, looking away for a moment, to be certain she is recalling precisely the words, precisely the emphasis her patient used.

" 'Dr. Elders, every Saturday night my brothers and my uncles and my daddy get drunk, and they use me. They use me. Me and my sister.'

"Well, I thought of myself as a very bright young doctor, you know, and I just thought—really didn't believe her; I said, 'You'll have to tell your mother.' And she told me, 'I tell my mother. She don't do nothing about it.' "

Again, Elders pauses, to say that her patient was not black. In so doing, she asks one to imagine the threshold of fear and shame the young white teenager had had to vault, in the South of the early 1960's, to confide her agony to a black person, even if the person was a woman, and a doctor.

"You know," she continues, turning to look out the window, "that was before doctors could report suspected child abuse with

immunity." It is an explanation she neither avails herself of nor an excuse she will grant herself, because—"I did nothing. I just discharged her and sent her home, and didn't do anything. I didn't do anything."

What Dr. Joycelyn Elders has been doing since becoming Arkansas's health director two years ago is demanding that the state come to grips with the daunting realities of human sexuality in the late 20th century: the threat of AIDS, the necessity of early, effective "life education," child sexual abuse, the reality of teen sexual experimentation, and especially an adolescent pregnancy rate that is among the highest in the country. She has sought to change the definition of "public health" in Arkansas, demanding that it recognize sexual and reproductive hygiene to be as worthy of concern as measles vaccinations.

Hers might be described as a second civil rights movement, a characterization she approves of; a poor teen-ager with a baby, Elders thunders, is "captive to a slavery the 13th Amendment did not anticipate."

Though Elders' position would trigger debate in any region of the country—and has—the South in particular has long resisted the notion that social policy might legitimately extend to anything as private as sexuality. Elders has unsettled parents, antagonized conservative state legislators and "polite" society, frightened and outraged the religious right, jolted the medical community, and, occasionally, frustrated Gov. Bill Clinton, the youthful liberal who appointed her, in 1987. In her first press appearance with the Governor, Elders was asked by reporters how she planned to tackle the teen-age pregnancy problem. She said she thought school-based clinics were one approach. And would they distribute contraceptives? "Well," she blurted, "we're not going to put them on their lunch trays, but, yes."

Elders recalls Clinton turning "beet-red." "I was being flip," she says. "Now I know better." She laughs. "I've been running ever since that day."

It is the human cost that fuels her determination to break the poverty cycle, literally at the point of conception, but it is the numbing financial expense of adolescent pregnancy that Elders uses to awaken Arkansas taxpayers to the problem. In 1986, the year before she became the state's health director, Arkansas recorded 8,874 pregnancies of females 19 and younger. Almost 2,000 of those conceptions were terminated by clinical abortion. (Arkansas has traditionally ranked in the bottom third of states in abortion since the Supreme Court ruled in Roe v. Wade, affirming the legality of abortion.) The roughly 6,500 babies born to teenage mothers in 1986 amounted to almost 20 percent of the state's total births that year. By comparison, the United States natality rate for the same age group during 1985 was 12.7 percent, and only Texas and Mississippi exceeded Arkansas in the number of births in the 15-to-19-year-old age group.

A 1988 Arkansas study on teen-age pregnancy by a consortium of public and private agencies described the need for intervention as "urgent, indeed imperative." Noting that black and low-income youth were disproportionately represented, the study documented an "alarmingly high" pregnancy rate among all teen-age groups, and found that it was increasing faster among white females than black.

A study completed this year for the Southern Governors' Association fixed the cost in taxpayer dollars for Arkansas adolescents and their children at $82 million in fiscal year 1987, though it examined just three of several public-assistance programs: Aid to Families With Dependent Children, Food Stamps and Medicaid.

Elders contends that figure is far too conservative, noting that it excludes, for example, the $54 million Arkansas receives from the Agriculture Department for Women, Infants and Children's supplemental nutrition assistance. Nor, she points out, did the conference even attempt to address such ancillary costs as public housing, in which hundreds of thousands of Southern families live, some with four generations under a single roof, including a new, unmarried mother not yet old enough to lawfully operate a motor vehicle.

"And how many prison cells have we filled with the children of teen mothers?" she wonders aloud. "How many angry, pointless, wasted souls will the taxpayers have to shelter for who knows how long? How many guards will it take to keep them locked up? How many police to arrest them? How many judges to sentence them?"

Elders' crusade took her first to the Arkansas public school system. The first school-based health clinic, in the Ozark mountain community of Lincoln, was already in place when she assumed her post, and it convinced her more were needed. A year after the clinic opened, offering contraceptives on request—condoms and foam but no birth-control pills—senior-class pregnancies had declined from 13 to 1.

Under Elders' supervision, 18 other school clinics were soon functioning. Only four, however, were authorized by their local boards of education to distribute contraceptives. Conservative opposition was beginning to build, with anti-abortion groups taking the lead, charging that the clinics exploited children and assaulted family values, by condoning promiscuity. Despite the fact that Arkansas law has long prohibited state financing of abortions as well as abortion referrals by public health workers, Elders could not persuade these critics that her goal was to prevent pregnancy, not encourage abortion. "Whenever I hear of a young girl having an abortion," she has said, "I consider it is personal failure." (She states her position on abortion as prochoice, though she is personally opposed to it: "I'm a pediatrician, after all.")

Still, according to Elders, the debate in Arkansas isn't about family values or abortion. It isn't even about contraceptives, she says. It's about sex—unmarried sex—and the just punishment for sin that many people feel a baby represents and contraceptives or an abortion deny. It is a piety, she contends, that has extracted a horrible price, especially in the South, and from her "little sisters" in particular.

The battle was quickly joined—Elders, Planned Parenthood and a few feminist organizations versus a coalition of fundamentalist and evangelical Christians, the Arkansas Right to Life, FLAG (Family, Life, America, God), the Federation for Decency, the Roman Catholic Diocese of Arkansas and a handful of physicians, including some obstetricians.

Letters, postcards, telegrams and telephone calls began peppering the office of Governor Clinton. The messages regarding Elders and the school clinics were among "the strongest and meanest" Clinton had received since he took office, according to his aides. Elders received correspondence every bit as pointed as the Governor's, some of it suggesting she might do well to vary her route home.

Elders invited her opposition to meet with her in her departmental auditorium. Those who responded were predominantly white, and they came in cars and vans and pickup trucks and church buses. "Sex education is pornography!" declared a woman from Right to Life who attended one session. "School clinics are an abortion referral agency," said the state organization's executive director, Julie C. Wright, who then acknowledged the group had no proof on which to base the assertion. The Federation for Decency president argued that "we didn't have teen pregnancy in the old days because they just abstained."

"We talk about life," Elders answered from the podium. "What I saw in many of the places my nurses took me, I don't define as living. We have 19-year-olds who already have five children. That's not life. We have 10-year-olds who've been raped by 'Mama's boyfriend' and having babies—I don't call that life."

Elders would later recall the series of hearings, covered by the three statewide Little Rock television stations, as pivotal. Evening after evening, moderate voters, who are a clear majority in Arkansas, watched footage of the meetings, dismayed. Most Arkansans are deeply resentful of their stereotyping by the entertainment industry as ignorant hillbillies. But this wasn't Hollywood—this was their own state Capitol. The actors weren't Yankee poseurs faking Southern accents, but real Arkansans. And to many, the woman who stole the show, herself an Arkansan, made the opposition look foolish, even extremist.

A star was born. The liberal Arkansas Gazette and the conservative Arkansas Democrat both began covering Elders and her campaign in earnest; both took up her cause editorially. Television and radio reporters found her a willing and reliable source of pithy material. "Our young people are asking the State Legislature for a drink of water, not Waterford," she told one.

Many State Representatives, however, continued to oppose the school clinics. In the fall of 1988, when a bill to grant statutory authority to on-campus clinics was introduced, State Representative H. Lacy Landers attached an amendment that would prohibit them from distributing contraceptives. "If you want something to destroy your community," he warned, "where animosity and hate and a lot of stuff is generated, then you just pass this bill without the amendment."

"I will not turn those children over to their vile affections," declared Representative Tom Collier, a lay minister and member of the House Public Health, Welfare and Labor Committee. "We'd be saying, 'We give up on you kids, we give up on Arkansas, we give up on the family.' "

In the Arkansas Senate, it was a different story. Although one member urged "a moral stand" against the clinics and another likened them to "teaching a cannibal to eat with a knife and fork," the majority were in favor of Elders' program. "Any of you who think we're going to get the job done with abstinence, you're older than I am," quipped a senior member.

Neither house would accept the other's version of the bill, and the legislative session ended in a stalemate. Today, no state law protects clinics, but none threatens them, either. "Not such a bad place to be," Elders says.

Elders grew up in the southwestern Arkansas farming community of Schaal, where she was born, at home, in 1933, the first child of Haller and Curtis Jones. Much of the family farm had been acquired at the Depression price of a dollar an acre; her father earned the money by selling the skins of racoons he had trapped: 1 coonskin, 1 acre.

The Jones children rode a bus 13 miles to an all-black school that was probably inferior to the whole school they passed en route, but Elders remembers it fondly, even proudly. By the time she neared graduation from high school, she had won a scholarship to Philander Smith College, an all-black, church-supported liberal-arts school 100 miles to the northeast, in Little Rock.

There was never pressure from either parent to succeed in a professional sense, she says. "I think my Dad probably felt I should stay on the farm and help there." But Grandmother Minnie Jones had other ideas, and it is she Elders credits with pushing her to make a different life for herself.

"'You go on,'" she remembers her grandmother telling her. "'I got enough young 'uns around here to hold you up.'" In fact, her brothers and sisters picked cotton and did chores for neighbors to provide her bus fare to Little Rock, and to finance "the essentials—you know, some shoes, some socks."

Joycelyn did well at Philander Smith, especially enjoying biology and chemistry. She had decided that being a lab technician was the highest calling she could aspire to: "That was 'it,' the top."

Edith Irby Jones (no relation) changed her thinking. When she addressed a Philander Smith academic sorority in 1949, Jones was the first black to study at the University of Arkansas School of Medicine. Awestruck, Joycelyn Jones resolved to follow in her footsteps.

"If I was any inspiration to Joycelyn," says Edith Irby Jones, today an internist in Houston, "then I'm very proud," a pride she says is all the greater for Elders's concentration on health services for the poor. "We're very much on the same frequency."

Joycelyn Jones enlisted in the Army immediately upon graduation from college, her eye on the G.I. Bill. She was trained as a physical therapist at Fort Sam Houston, in San Antonio, and enjoyed life there so much she stayed a year beyond her original obligation. "It may have been the only truly carefree time of my life," she says. So in need of physical therapists was the Army that basic training was waived for students, the sooner to bring them on-line at Brooke Army Medical Center.

In 1956, by then a first lieutenant, she bade the military farewell and followed Edith Jones at the University of Arkansas School of Medicine, in Little Rock. She was 23. Brown v. Board of Education, two years earlier, had already set the South on a defiantly segregationist course, and Gov. Orval E. Faubus would later summon the Arkansas National Guard to block the court-ordered integration of Little Rock Central High School. Elders insists, however, that she was never uncomfortable, not even when confronted with a rule that black medical students use a different dining room than their white counterparts.

"When you haven't been accustomed to eating with whites. . . ." She shrugs. "I just don't think we thought about it."

She had two black classmates, both men. "I think we were so pleased to be in medical school that I don't remember us being upset about it. In fact, I think the white students were more uncomfortable than we were."

The students had a chance to earn spending money by giving local high school students the physical examinations required for team sports. A tall, strikingly handsome basketball coach was startled one autumn when an attractive young woman came to his gymnasium and declared herself ready to proceed with the physicals.

"You're the doctor?" asked an incredulous Oliver Elders.

"I'm the doctor," she replied.

Joycelyn Jones married Elders in her final semester of medical school. He remained in Little Rock while she served her internship at the University of Minnesota Hospitals, internationally known for pediatrics training.

Elders returned to Little Rock and the University Hospital in 1961, for her residency. A short time later, Dr. Theodore C. Panos, the revered chairman of the pediatrics department, appointed her chief pediatric resident. She was to supervise the new residents and interns—all white and all male.

Many of her former charges still call her "chief" as a greeting. "I don't remember a single time when I wasn't accorded the respect the chief resident was due," she says, although she allows that, with the civil rights movement gripping the South, it was a time of "real turmoil" away from the campus. "If you were trying to win a popularity contest, the last thing you did with a black woman was make her chief resident."

"Dr. Panos called us in one by one," recalls Dr. Dale D. Briggs, a Little Rock pediatrician who was among Elders' charges. "He was very clear—he expected Joycelyn to have no problems because of her sex or race." Elders considers Panos, who died in 1967, one of the greatest influences on her life and career; her voice can tighten at mention of his name. "Dr. Panos was like me—I should say, I hope I'm like him—in that he went out and fought for causes because they were right. The political consequences didn't matter."

For the next 20 years, Elders combined a university clinical practice with a research career in pediatric endocrinology. She is author or co-author of 138 published monographs, many of them dealing with growth problems and diabetes, the treatment of which first brought her to the attention of the entire Arkansas medical community. Her level of expertise was such that physicians across the state began to routinely refer to her their juvenile patients with insulin-dependent diabetes. Elders estimates only a handful of such cases escaped her personal attention. And it was in treating diabetic adolescents that she first observed the value of candor in sexual matters.

Diabetic females are hazards to themselves and their offspring if they become pregnant at too early an age, before their runaway endocrine systems have stabilized. Expectant teenage diabetics run an exceptional risk of spontaneous abortion. Their infants are susceptible to a wide range of congenital anomalies—low blood sugar, inadequate calcium levels and a lung disorder called hyaline membrane disease.

"If I wanted to keep those kids healthy, I decided I had no choice but to take command of their sexuality at the first sign of puberty," she says. "I'd tell them, 'You're gonna have two good babies, and I'm gonna decide when you're gonna have them.'" All discussions regarding the patient's sexual development were conducted with the parents present. "Both the kids and their parents needed to know what to expect. Obviously, if a girl is just developing breast buds, she isn't thinking of having sex. But you'd better tell her what's going to happen next, in terms of her hormone system and her physical maturation, and she'd better know what she'll be feeling."

With parental consent, female diabetics were prescribed birth-control pills to regulate menses, but also as insurance against runaway emotions. "Given the dangers of pregnancy to their daughters," Elders says, "the mothers always consented."

The forthright discussions of sexuality and risk of pregnancy paid off. Approximately half of the 520 or so juvenile diabetes Elders treated were female. Only one became pregnant, she says.

Though she is plainly skeptical that "preaching" and "moralizing" will much retard post-pubescent exploration, it is not difficult to envision Elders in an arms-akimbo, drill-sergeant mode, driving home an admonition to virtue. She is the daughter of a farmer but she is also the sister of a Methodist minister; her oratory, mechanical at the outset, segues seamlessly into the cadences of the gospel pulpit when she senses that she and her audience are in accord.

She is sensitive to suggestions that she has devoted too many official hours to the teen-age-pregnancy issue to the detriment of other health programs, and has chided both the press and her critics for "ignoring all the other vital issues we're addressing," such as nutrition, community health and medical assistance to the elderly. When word recently reached her that Health Department sanitarians felt underappreciated, she canceled an entire day's appointments and spent the time traveling with them, looking at and smelling things a government executive does not normally encounter.

She usually wears a wide smile and laughs easily, even at herself. She does not blink when occasionally addressed by rural lawmakers as "Miz" Elders, rather than "Doctor," and appears undistracted by remarks that seem patronizing. But when she is tired, or confronted with equations she cannot ethically compute, Elders can turn brittle, even caustic.

She is clearly weary of explaining that the kindergarten-through-high school sex-education program the State Legislature mandated for the 1989-90 term—at her strong urging—is not sex education exclusively, but a course encompassing hygiene, substance abuse, self-esteem and human sexuality, the latter to emphasize that sexual responsibility is not an exclusively feminine obligation. The course outline had for some years been available through the Arkansas Department of Public Education, but many school districts had declined to implement it, citing "inadequate revenue." No more.

Elders smiles when she describes herself as "the right person at the right time; the right sex and the right color." Her race is widely viewed as an unbeatable asset in winning the confidence of black Arkansans. There have been no complaints from the black community at large regarding school clinics and contraceptives, nor has there been any rhetoric alleging ethnic genocide, though white opponents of clinics briefly alluded to what they termed "a racist trend" of locating school clinics in predominantly black areas.

There is no mystery in that, Elders resounds—clinics ought to be where birthrates of unmarried adolescents are highest, and that not infrequently means the slums and

public housing projects. She winces at the suggestion by the Nation of Islam leader Louis Farrakhan that American blacks "can breed ourselves into power."

"Why should we want all our black children born of black children?" she asks. "Why should we want a race of black people who are retarded, ignorant and poor? Why? What black America needs is bright, happy, healthy, well-motivated children with hope."

Not surprisingly, perhaps, Elders seems to enjoy a special rapport with black women. When she accepted an award from her old sorority recently, her remarks met with near-constant murmurs of approval.

"When we see a 10-year-old or a 13-year-old girl pregnant," she said, her voice rising to stridency, "we know she hasn't been promiscuous, she's been abused!" Three generations of knowing black women came to their feet and smothered Elders with applause.

By contrast, her meeting several nights later with black Arkansas clergymen became tense at points. Elders told them she hoped they would continue to preach celibacy to the youth of their churches, but wanted them to "face some realities."

"This contradicts what we preach," protested one minister.

"You've been preaching abstinence for a hundred years," she fired back. "I've still got a problem. I've still got thousands of teen-agers having babies every year."

At home, Dr. Elders and her husband spend most of their free time pruning and puttering about their handsome, 15-acre suburban homestead. She tends to her flora, he to his swimming pool and fishing pond. Their two sons, both in their 20's—one an M.B.A. candidate, the other a zoologist—come home often to visit.

Looking from a meadow toward her home, bathed in the light of the evening, Elders recently confessed that it both deadens and energizes her to think how few of her "little sisters" will likely have the chance for a better life than she had. The great irony is that things in the rural South of the 1930's and 40's simply were; knowledge was prized but scarce, and the ability to change anything for the better was limited. Life is different now, she observed, or ought to be.

More clinics are planned, and she is certain they will prevent some pregnancies—but not all the heartache. Given that the Supreme Court, in Webster v. Reproductive Health Service, upheld the right of states to limit access to abortion, Elders braces for a possible reversal of Roe v. Wade. Even if the process takes years, she says, it will soon enough close the abortion option—for poor women, at least.

The Court's ruling last session in the Webster case "means we're going to have to stress pregnancy prevention more than ever," she says. "The pro-life groups, if they're really serious about it, should be working harder than anyone in behalf of school clinics or anything else that can stop this epidemic." "Of course," she adds, "that's if they truly want to prevent abortion."

Elders, meanwhile, will keep working to provide school clinics and insure that sex education is taught in the public schools. She'll also keep crisscrossing the state, talking to civic leaders and teenagers. Recently, she visited the Mississippi River community of Helena, Ark., currently part of a federally financed study on the extreme poverty of the Delta States region. There, as elsewhere, she spoke of the need not only to prevent adolescent pregnancy but to provide prenatal and infant health care.

It is all, she says, part of an effort to educate Arkansans about what life could be and, she hopes, to make partial amends to that frightened teen-age girl she treated as a young doctor.

"I owe her," Dr. Elders says, "and I'm in a hurry. I'm really in a hurry."●

A GOOD NEIGHBOR SIGNS OFF

● Mr. DURENBERGER. Mr. President, one of the Midwest's most beloved radio personalities retired last week, and this event, as a mark in the history of the industry as well as the region, is one I find worth noting in this very special way.

Howard Viken has been an institution at the largest AM radio station in the Midwest, WCCO AM, for nearly four decades. He came to the station just as radio was hitting its peak as a communications medium. Even today, with a full selection of entertainment and media available to us, certain stations, and their on-air personalities, hold a special place in our hearts. Howard Viken, delivering the news, weather, stock market and commodities reports remained for many through the years the trusted and comforting voice.

I do not associate Howard's voice with the various moments in history when we all remember how we received Earth shaking news. Rather, in my mind, he delivered the news of the days when I was young, my sons were small and the world, at least from the eyes of a St. Paul attorney, seemed a lot simpler.

By gubernatorial proclamation, Minnesota celebrated "Howard Viken Day" last Thursday, October 12. It was a day of celebration at the "Good Neighbor Station" in downtown Minneapolis, with Howard taking a fair share of ribbing from his colleagues, and being reminded, in a variety of ways, of the very important role he has played in so many people's lives over the last four decades. And, I am sure for him and his family, it was a day of sweet sadness, for a retirement of any sort means a change in life.

Though Minnesota remains a seasonal wonderland, full of challenges and picturesque scenes, I cannot blame Howard and Mary one bit for deciding that their new house in Naples, FL, is the place where they would like to spend the coming years of their lives together. And, come January and February, Howard may find that his friends in Minnesota miss him so much, they find it necessary to "check in" on him down in the land where the sun shines warmly.

As a tribute to Howard's interesting and lengthy career in the area of radio broadcasting, I wish to submit to the RECORD an article which appeared in the St. Paul Pioneer Press/Dispatch on October 13, 1989. I think the writer, Dennis Lien, did an excellent job of capturing the sentiment and love we all feel for our own regional legend.

The article follows:

DRY EYES ARE FEW AS HOWARD VIKEN SIGNS OFF THE AIR

(By Dennis Lien)

The calls kept coming Thursday, from old friends, acquaintances, and colleagues. And Howard Viken took them the way he always has, with humor, grace, and humility.

OUT FRONT A HUSHED VOICE

Thursday was Viken's last day at WCCO-AM, the radio station he joined in 1950 as a staff announcer and helped maintain as one of the nation's dominant broadcast forces.

The day started with an hourlong stint on the Boone and Erickson show, continued with a party by 'CCO staff and finished with his noon news show.

Along the way, Viken got calls from a dozen of his former colleagues at 'CCO—people like Joyce Lamont, of the cheery disposition and endless supply of recipes, Franklin Hobbs, whose voice and late night music always seemed one and the same; and Bob DeHaven, who once advised Viken not to listen to the lure of another station.

There were others: Gov. Rudy Perpich proclaiming Thursday as Howard Viken Day in Minnesota and entertainers Mitch Miller and Bob Newhart, both of whom credit Viken with boosting their careers.

It added up to the same thing. It was family day at 'CCO, which advertises itself as the Good Neighbor and which has had Viken to make the contention seem natural.

"I think this is much to do about nothing," said Viken, who seemed genuinely embarrassed so many people would take the time to tell him goodbye.

"I told Mary when I left this morning, 'Geez, I wish this day was over,'" he said when he arrived. "She said, 'Why not relax.'"

Viken and his wife Mary and their German schnauzer Mozart are headed for Naples, Fla., where they have built a house. He said he plans to take it easy for awhile, then get busy, perhaps with a local radio station and a philharmonic hall.

Viken's congenial personality, smooth delivery, rich voice and ability to talk with audiences instead of to them have endeared him to generations of Upper Midwest residents. He reported the news, shared jokes and sold products. And he never did it in a way that wasn't welcome the next time around.

A lot of that banter was played back Thursday—the time he traded jokes with comedian Morey Amsterdam, the time he slipped up while selling Peters meat products, and the time he recorded a holiday song and wasn't mistaken for Bing Crosby.

"I'm going to thank you," he said at one point, "but I'm going to reserve judgment."

When Miller and Newhart called, they thanked Viken for helping their careers. "What you did with those sing-a-long records was truly historic," said Miller, the famed band leader.

When a record producer told him there was an order for 50,000 sing-a-long records from Minnesota, he said there must be a mistake. "I said that they must have made a mistake with the zeroes," Miller said.

Newhart said he couldn't figure out why copies of an early album of his were so scarce. "They told me a guy named Howard Viken is playing it all the time" in Minneapolis, Newhart said.

Viken, now 65, didn't join 'CCO as a star in 1950, when radio was unchallenged by television. "I was the new kid on the block and scared to death," he said.

He graduated from North High School in Minneapolis in 1942 and joined the Marine Corps during World War II. Trained as a radio operator, he served on Guam, Iwo Jima and other parts of the South Pacific.

After his discharge, Viken attended the University of Minnesota, where a professor encouraged him to attend the American Institute of the Air, a broadcast school that has been renamed Brown Institute. He worked at stations in Iron Mountain, Mich., and Duluth before getting a job at 'CCO.

In his early years with the station, Viken served as a standby announcer, giving station breaks, short newscasts and reading commercials. He stepped out occasionally, once serving as a replacement for Arthur Godfrey on his nationally syndicated radio show.

His noon-hour show has been a longtime favorite in the Twin Cities market. Ruth Koscielak will extend her 1-3 p.m. show to include Viken's noon hour, according to Steven Goldstein, the station's vice president and general manager.

Goldstein presented Viken with a plague Thursday and told him he "symbolized the Good Neighbor."

Viken's informal style, Goldstein said, made him a pioneer in radio. "He was one of the first in the business to personalize a commercial," he said.

"Everyone at 'CCO should pay tribute to this guy, because he kept 'CCO Number One," said Roger Erickson, co-host of the morning show.

For the most part, Viken, trim and tan in a beige sportcoat, gray pants, and red tie, took the accolades, the jibes at his baldness, and rolled with the punches. But not always.

"This means a lot to me," he said after Goldstein's presentation, tears in his eyes and a catch in his throat.

Goldstein, at the forefront of the station's effort to present a fresher, younger image without alienating the listeners who made it a giant, has not always been received so graciously.

In recent years, Viken's role has been reduced, and on-air personalities like Lamont, Hobbs, and Chuck Lilligren have left, not always willingly.

That shouldn't signal an end to the station's commitment to strong, identifiable personalities, Goldstein said. People asked the same questions, he said, when Cedric Adams, whose listeners ended their days with his broadcasts, died in 1961.

"There is a respect for the passing of a torch," he said, citing the transition of the morning news leadership from Bob Montgomery to Viken to Eric Eskola. "Any management needs to make certain it is prepared for the change that will ultimately come."

Viken, a fair golfer, a good tennis player and a better man, made his move Thursday.

And there weren't many dry eyes in the house to watch him go.●

THREAT OF A PRESIDENTIAL VETO OF LEGISLATION PROVIDING FEDERAL FUNDING OF ABORTION IN CASES OF RAPE AND INCEST

● Mr. BINGAMAN. Mr. President, yesterday President Bush sent word to the distinguished chairman of the Senate Appropriations Committee, Mr. BYRD, that he would veto legislation providing Federal funding for abortions, even in very limited circumstances. I am deeply disappointed that the President has chosen to turn his back on those most in need of our compassion and support, the victims of rape or incest who are living in poverty.

At issue, of course, is the fiscal year 1990 appropriations bill for the Departments of Labor, Health and Human Services, and Education. For the first time in 8 years, the bill would allow Medicaid to fund abortions in cases of rape or incest. By signing this package, the President would simply give poor women access to the same options available to financially secure women who are victims of rape or incest. In choosing not to do so, he will continue to make access to abortion a "class" issue.

Last week, the President said he was seeking "room for flexibility" on the issue. At that time, I held hope that the President would agree with the Congress and allow simple justice to prevail. Unfortunately, he has not. Rather, his impending veto sends a message that if the Congress chooses to show a little compassion for the neediest among us, then he will do all he can to ensure that funding is denied to all of the programs within the Departments of Health and Human Services, Labor, and Education.

I fully respect the convictions of the President and of those individuals who believe abortion is morally wrong, and I agree that the Government should not directly support or fund abortions as a proper form of birth control. But in the cases of rape and incest, I firmly believe that compassion for the victims, whether rich or poor, must be shown. That compassion was not evident in the White House yesterday when the President formally threatened to veto this legislation. Thank you.●

SALUTE TO THE ENVIRONMENTAL EFFORTS OF IG-LO OF LEXINGTON, KY

● Mr. McCONNELL. Mr. President, it is with the greatest pride and admiration that I rise today to salute a company based Lexington, KY. That company is IG-LO Products, a division of Valvoline and Ashland Oil. Over the years, IG-LO has displayed the great American virtues of inventiveness and ingenuity in developing automotive refrigerant products. Now IG-LO, with its sincere concern for the environmental effects of its products, is leading the way in consumer education and development of new products to confront the serious problem of global ozone depletion.

Chlorofluorocarbons, known as CFC's, and other chemicals have been linked to the depletion of the Earth's protective ozone layer and the warming of the Earth's atmosphere, commonly known as the greenhouse effect.

The problem of ozone depletion, and the predicted detrimental health effects which could ultimately impact all life on Earth, have caused world leaders and U.S. elected officials at the Federal, State, and local level to call for a phaseout of CFC's, over the next decade.

I am greatly impressed with the efforts of IG-LO to address the concerns expressed by many regarding the Earth's ozone layer. This company has set a fine example for other companies to follow.

Recently, IG-LO kicked off an outstanding program of significant consequence. This program is designed to promote responsible and conservative use of CFC-12 as automotive air-conditioning refrigerant. Elements of the program include the manufacture of CFC recycling units and the investment of $1 million in an education program for the users of CFC-12.

When car air-conditioning systems are serviced, CFC's are often vented into the atmosphere. IG-LO's development of recycling machines and the accompanying educational initiative emphasizing the importance of their use will heighten awareness of the problems with CFC's and the need to end the practice of venting.

Mr. President, it is commendable when an industry takes the initiative to address environmental problems in the absence of legislative or regulatory mandate. I have every confidence the program will contribute to the successful transition of this Nation from ozone-depleting CFC's to nonozone depleting chemicals.

I am proud to represent in the Congress a company which is committed to corporate responsibility and environmental stewardship. I congratulate IG-LO's executives and employees for their foresight in understanding the changing needs of our time and meeting them with creative and practical means.

Mr. President, I appreciate having this opportunity to recognize and praise IG-LO for its dedication to improving its product to meet not only the needs of the consumer, but also to prevent further environmental harm.●

CHILDREN IN POVERTY

● Mr. BUMPERS. Mr. President, I would like to take a few minutes to discuss the tragedy of poor children in the United States. Many children are cheated from the moment of birth or even before because their mothers

don't get prenatal care and the children don't have a healthy beginning.

As Howard Hiatt, M.D., and Donald M. Berwick, M.D., point out in the New England Journal of Medicine, studies have suggested that diminished access to health care is associated with poor birth outcomes. And unfortunately, because millions of pregnant women each year get little or no prenatal care, millions of babies are born at a disadvantage. And the struggles a poor child faces only begin at birth. Compared to an affluent child, a poor child in the United States experiences "more trauma, more accidental poisoning, more tuberculosis, more mental illness, more alcoholism, more learning disability, more nutritional deficiency, more chronic illness and handicaps, more spina bifida, more lead poisoning, more anemia—the list is longer still. To be born poor in this wealthy Nation is to face more than one's fair share of risk and illness."

Our children deserve decent health care, proper nutrition, appropriate education, and good housing. As Drs. Hiatt and Berwick point out, our children are paying the price for our neglect now, but we will all pay in the future. Our children deserve better.

Mr. President, I ask that the editorial by Drs. Hiatt and Berwick be reprinted in the RECORD. I would also like to note that Dr. Hiatt is a dear friend of Betty and mine who has worked tirelessly for peace and for quality health care for all Americans. I encourage my colleagues to heed his warning about the human and emotional costs of neglecting our children.

The editorial follows:

WHO PAYS?

Americans have no right to health care. In this respect, we stand almost alone among the industrialized nations of the world. Only some of our citizens pay the price directly for this lapse in commitment, however. In this issue of the *Journal*, Braveman and her colleagues [1] remind us again of who those citizens are.

Reviewing discharge data about more than 146,000 births in eight California counties in 1982, 1984, and 1986, the authors found that adverse outcomes—defined as a hospital stay of more than five days, transfer to another facility, or death—were more common among uninsured newborns. The risk associated with lack of insurance increased over the period studied; by 1986, adverse outcomes were more common in the uninsured by over 30 percent. The burden was borne disproportinately by blacks and Latinos, but even with control for race and ethnicity, lack of insurance was associated with poorer birth outcomes. Low birth weight and fetal malnutrition were 28 percent more common in newborns without insurance. In 1986, 8 percent of all newborns in the study and almost one in every five Latino babies was uninsured.

With appropriate caution, the authors warn that in their uncontrolled, retrospective study, correlation does not necessarily reflect causation. We cannot know for certain whether the mere provision of health insurance to these mothers and newborns would have resulted in better health. Among Latinos, for example, there are substantial cultural barriers to receiving care that extend far beyond the barriers presented by insurance status.[2] The determinants of obstetrical risk are still not well understood; we do not really know what causes permaturity; and most low birth weight remains unexplained. Even the copious evidence associating early prenatal care with favorable obstetrical outcomes remains incomplete at a formal scientific level. Nonetheless, the authors conclude that their findings are "explained most plausibly by diminished access to care, together with other factors related to lower socioeconomic status." We agree.

These are only some of the health hazards facing the underprivileged in the United States. A poor child in our country confronts not just more perinatal mortality and morbidity than an affluent child, but also more trauma, more accidental poisoning, more tuberculosis, more mental illness, more alcoholism, more learning disability, more nutritional deficiency, more chronic illness and handicaps, more spina, bifida, more lead poisoning, more anemia—the list is longer still.[3-6] To be born poor in this wealthy nation is to face more than one's fair share of risk and illness.

Humanitarian concern is not the only reason for viewing with alarm the state of our children's health. Another is the burden placed on all of us by the epidemics of teenage pregnancy, drug abuse, violence, and acquired immunodeficiency syndrome. The threat to our nation's security is a third. We see other countries leaving us behind not only in rates of infant mortality and childhood immunization, but also in productivity, urban improvement, and attention to environmental problems. We need a return of the sense of community and the creativity that until recent decades helped us set the pace for the world in many areas. To this end, we must give full attention to the condition of today's children, in whose hands our country's future rests.

Would providing uninsured children with health insurance answer that need? Not by itself, surely. The relations between poverty and poor health are too deep and intricate to be disrupted with a mere insurance form. Behavioral habits are at issue, as are community infrastructures, the adequacy of schools and housing, crime patterns, the disease burden of immigrants, and the lack of primary care facilities in inner cities and remote rural areas. But committing ourselves to health insurance for our entire citizenry would be a start in addressing a much larger agenda of change, one that would identify health as a basic American right at last—a right that, if met, would do much for the nation's security.

Trends today are moving in a different direction. Payers who are angry that the United States spends at least a third more on health care than other nations are demanding real reform in the financing of American medical care. They have stopped believing that the so-called reforms of the 1980s—prospective payment, diagnosis-related groups, competition, and regulation of capital expenditures, for example—will turn the tide. A new phase of cost control is gaining momentum. Among its instruments are direct reductions in payments to physicians, increases in copayment and deductible expenses for insured employees, pressure on hospitals to reduce expenses, and demands by payers for larger amounts of data from those who provide health care to their beneficiaries.

This new wave of change in financing will probably affect the poor disproportionately. Seeking to control costs, hospitals will first make reductions in ancillary services, such as social service, that often supplement the basic medical care offered to persons with low incomes. Since the poor may be more expensive to treat, many hospitals worried about their balance sheets will seek ways and send them elsewhere. Pressed to justify their expenses, providers will not compete for the patients who cost the most to care for. Investments in the training of interns and residents—who today provide a great deal of the care for the poor, for better or worse—will be challenged as well. In short, as we turn serious about cost control in health care (and we must), once again the poor will suffer the most.

Financial arguments can be marshalled to support the need for universal access to health care. Some preventive programs or children that health insurance would cover—prenatal care,[7] immunization,[8] and the prevention of lead poisoning [9] are examples—would save more money than they cost, an overall reform of our health care system is urgently needed.

Such reform is only one of many steps needed to improve the deplorable health status of America's poor children, however. They also need decent housing, proper nutrition, appropriate education (beginning with day care for infants and children), and job training; the length and complexity of the list are discouraging, leading some to say that nothing will work. We say that such a prophecy would be self-fulfilling.

If not only the health of our children is at stake, but also the security of our nation, then we physicians have ample reason to lead the way in promoting change. Health care can serve as the leading edge of an enlightened social policy for children. With such information as Dr. Braveman and her colleagues have presented, we can focus on the consequences of our policy failures, pointing out what happens when our children are deprived of health care. A comprehensive insurance program will not fix all the problems that Braveman et al. have identified, but it will help. A restructured health system providing universal access to primary care will do more. And if physicians lead efforts to equip the next generation of Americans better to guide the nation, what an achievement for our profession that would be!

Who pays when we fail our children? Those children and their families, first and foremost. But that is only part of the answer. We all pay, we will pay more as time goes on, and these are bills the nation cannot afford.

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RONALD L. THOMPSON, NATIONAL MINORITY ENTREPRENEUR OF THE YEAR

● Mr. DIXON. Mr. President, I rise today to honor one of my constituents, Mr. Ronald L. Thompson, who was recently named National Minority Entrepreneur of the Year.

In 1980, Mr. Thompson purchased General Railroad Equipment & Services, Inc. in east St. Louis, IL. Since that time the company's sales have grown to over $25 million, and the employment base has increased fivefold from 64 employees to 300.

General Railroad has been recognized many times for the contributions it makes to the communities in which it operates. Mr. Thompson's initiatives include sponsorship of a program which educates minority youth about entrepreneurship, as well as maintenance of an active affirmative action strategy resulting in significant improvements in the number of company also actively seeks to promote minority suppliers, including professional and service firms. In each of the past 3 years, the company has purchased in excess of $1 million in goods and services from minority vendors.

Mr. President, Ronald Thompson continues to make valuable contributions to our society, and this was recognized by President Bush on August 4, 1989. His work toward improvement in the area of minority opportunity should be an inspiration to us all.

I am proud to honor Ronald L. Thompson today as National Minority Entrepreneur of the Year.●

DEATH PENALTY FOR DRUG KINGPINS—A CONSTITUTIONAL IDEA WHOSE TIME HAS COME

● Mr. D'AMATO. Mr. President, last year's Federal death penalty law for drug-related killings sent a strong message that society is prepared to defend itself against such killing with every means at its disposal, including capital punishment.

It is now time to take the next step—to enact a death penalty statute for large-scale drug trafficking, even when no specific death is proven to result.

I intend to introduce such legislation, and I am pleased to report that Senators THURMOND, DECONCINI, and HATCH have agreed to cosponsor this bill.

It is very significant that the Justice Department has concluded that the death penalty for drug traffickers is constitutional.

On October 2, 1989, Edward S.G. Dennis, Jr., Assistant Attorney General for the Criminal Division, testified on the death penalty before the Senate Judiciary Committee.

I ask that the full text of Mr. Dennis' testimony be printed in the RECORD immediately following my remarks.

In his testimony, Mr. Dennis states:

It is the considered view of the Department of Justice that imposition of the death penalty on the leaders of large-scale drug production and distribution operations would be consistent with the proportionality requirement of the eighth amendment. * * * We believe that imposition of the death penalty on the leadership of major drug organizations would be constitutionally permissible because of the enormous magnitude of the public harm they cause and the depraved state of mind—the reckless disregard for human life—involved in managing these death-dealing enterprises.

His testimony also points out that there are Federal death penalty statutes for several other crimes not directly involving the taking of another life, including treason, since 1790; espionage, since 1917; and airliner hijackings, since 1961.

Stating that "the scope of the public harm caused by those who introduce large quantities of drugs into our society is staggering," Mr. Dennis cites the following important statistics:

Over one-third of all violent felonies are committed by persons under the influence of drugs;

In a 12-month period in Miami, 573 narcotics users were responsible for 6,000 robberies and assaults, 6,700 burglaries, nearly 900 vehicle thefts, and more than 26,000 prostitution offenses;

In the 4-year period from 1985 to 1988, the drug abuse warning network reports that over 14,000 overdose deaths were reported in 26 metropolitan areas, exluding New York City;

One-half of all AIDS deaths are drug related; and

Seventy-five percent of infant AIDS cases are attributable to drug use.

It is the Justice Department's view that the Congress could find that the link between the activities of large-scale drug dealers and the destruction of human life is such that the harm they cause, combined with their reckless indifference to the value of human life, justifies the ultimate penalty. I completely agree. The drug traffickers have brought society to its knees. They are killing our children by the thousands. They are destroying lives by the millions. They are tearing at the fabric of this Nation. It is time for society to defend itself by invoking capital punishment. It is time to put the drug traffickers to death.

STATEMENT OF EDWARD S.G. DENNIS, JR., ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION

Mr. Chairman and Members of the Committee, thank you for giving me the opportunity to appear today. I am pleased to present to the Committee the views of the Department of Justice on the issue of racial imbalance in the imposition of the death penalty. With your permission, I will also take this opportunity to address certain related issues of interest to the Committee, posed by pending death penalty legislation and by the recently issued report of the committee chaired by Justice Powell, the Ad Hoc Committee on Federal Habeas Corpus in Capital Cases.

First, I will discuss the allegation that the death penalty is imposed in a racially discriminatory manner. Second, I will briefly discuss habeas corpus reform in light of the Powell Committee's recent report and proposal. Finally, I will discuss whether the death penalty is a proportionate sentence under the Constitution for those drug kingpins who knowingly engage in the massive and ongoing sale of lethal and illegal drugs.

I. THE ALLEGEDLY DISCRIMINATORY IMPOSITION OF THE DEATH PENALTY

Critics of the death penalty have argued that the death penalty is imposed in a racially discriminatory manner, so that—for invidious reasons—the murderer of a white victim is more likely to receive the death sentence than the murderer of a black victim, and that black murderers are more likely to receive a death sentence than white murderers.

I am not a statistician, and cannot speak to the highly technical statistical methods often cited in consideration of this issue. I can, however, offer the following legal analysis.

First, it is clear beyond dispute that an individual defendant who can demonstrate that race motivated the prosecuror's decision to charge him with a capital crime, or the jury's decision to impose the death penalty, has a constitutional claim for relief. *McCleskey* v. *Kemp,* 481 U.S. 279, 292 (1987); *Wayte* v. *United States,* 470 U.S. 598, 688 (1985). That fact alone strongly suggests that there is no unredressable racial bias in the administration of the death penalty.

Second, I wish to emphasize that what is currently being considered by you and by the Congress is expansion of the federal death penalty, which of course will be administered by the Department of Justice. I can assure you that the Department already has in place the strongest possible safeguards against allowing invidious or arbitrary factors to influence the decisions of individual federal prosecutors to seek the death penalty. The final decision to seek the ultimate sanction would not be made by an Assistant United States Attorney, or even by a United States Attorney, alone. Rather, in each and every case, this decision would be made by the Attorney General. Prior to the Supreme Court's decision in *Furman,* the *United States Attorney's Manual* contained a requirement that the Attorney General personally decide on the appropriateness of seeking the death penalty. That provision remains in the manual, and shortly after the death penalty for drug-related killings was enacted in 1988, all United States Attorneys were reminded of this requirement. I can assure the Committee that this careful control over decisions to seek the death penalty would apply to

any new federal death penalty provisions enacted by this Congress.

There remains the question of various statistical studies purporting to show certain racial disproportions in relation to the imposition of the death penalty in various states. The Supreme Court addressed this issue more than two years ago, in *McCleskey* v. *Kemp*, 481 U.S. 279 (1987). I will briefly review the holding in that case, principally because it has been the focus of discussion on this issue and has been frequently mischaracterized.

There appears to be a misconception that *McCleskey* involved a judicial finding of systemic discrimination in the imposition of the death penalty, and the upholding of capital punishment despite such a finding. Any such reading of the Court's opinion is contrary to fact. As I will discuss in greater detail below, the district court in *McCleskey* found that the empirical study on which the systemic discrimination claim was based was seriously flawed. The Supreme Court, in reviewing the case, did not question the accuracy of the district court's findings.

In *McCleskey*, the defendant submitted a statistical study, the Baldus study, that purported to show that a disparity in the imposition of the death penalty in Georgia was attributable to the race of the murder victim and, to a lesser extent, the race of the defendant. *Id.* at 286. The defendant argued that the Baldus study demonstrated that his rights had been violated under the Eighth and Fourteenth Amendments.

The Supreme Court, in an opinion by Justice Powell, assumed without deciding that the Baldus study was statistically sound. *Id.* at 291. Even with that assumption, the Court rejected the defendant's arguments.

With respect to the defendant's Fourteenth Amendment equal protection claim, the Court held that the defendant was required to prove that the decisionmakers in his case acted with a discriminatory purpose. The defendant offered no such evidence, but instead relied solely on the general statistical analysis contained in the Baldus study. *Id.* at 292-93. Given the nature of the capital sentencing decision, the uniqueness of individual juries, and the innumerable variables that the Constitution requires be considered by the jury in its deliberations, the Court held that the defendant's general statistical evidence was insufficient to show that any decisionmaker at the guilt or sentencing stages of his trial acted with a discriminatory purpose. *Id.* at 293-97. The Court also rejected the defendant's Fourteenth Amendment claim because the defendant offered no evidence that the State of Georgia as a whole had acted with discriminatory purpose by adopting a capital punishment statute and permitting it to remain in force. *Id.* at 297-99.

Defendant's Eighth Amendment, "cruel and unusual punishment" claim fared no better. The facial constitutionality of the Georgia death statute had already been upheld by the Court in *Gregg* v. *Georgia*, 428 U.S. 153 (1976). Because the defendant's sentence was imposed pursuant to constitutional procedures, and because the Baldus study did not "demonstrate a constitutionally significant risk of racial bias affecting the Georgia capital sentencing process," 481 U.S. at 313 (footnote omitted), the Court rejected the Eighth Amendment challenge as well. *Id.* at 306-13.

Let me emphasize two points with respect to the *McCleskey* decision. First, the defendant utterly failed to prove that either his own trial, or his own sentence, had been infected with racial bias. If the defendant had proved that, he would have had a valid equal protection claim. 481 U.S. at 292. Thus, it remains the law that any defendant who can demonstrate that his conviction or sentence was infected by racial bias can obtain constitutional redress.

Second, as noted above, the Supreme Court simply assumed that the Baldus study was statistically accurate in order to reach the defendant's constitutional arguments. The record is clear, however, that the Baldus study was significantly flawed. As the Supreme Court noted, the district court in the *McCleskey* care had examined the Baldus study "with case," following "an extensive evidentiary hearing." 481 U.S. at 287. In the course of a thoughtful and exhaustive opinion, the district court found that the Baldus study was unpersuasive. Among many other things, the district court found that the data compiled as the basis for the study was incomplete and contained "substantial flaws" and that the defendant had not established by a preponderance of the evidence that the data was "essentially trustworthy." *McCleskey* v. *Zant*, 580 F. Supp. 338, 360 (N.D. Ga. 1984).[1]

I would therefore suggest that a healthy scepticism is warranted towards claims by opponents of the death penalty that empirical studies—such as the Baldus study used in *McCleskey*—have shown the existence of racial discrimination in the imposition of the death penalty. Moreover, I would counsel against reliance on simplistic numerical studies of the death penalty—such as a comparison of the number of black inmates on death row to the black percentage of the populace. Discrimination cannot validly be inferred merely from such gross statistics. By way of comparison, women comprise about half of the general population, but only a minute fraction of the death row population. It would be irrational to infer from this numerical disparity alone that men are being invidiously singled out for the imposition of the death penalty on a discriminatory basis.[2] In general, gross figures of this type are meaningless in assessing the risk of discrimination unless the potential effect of other, non-invidious factors is taken into account.

Nonetheless, if the case were made and tested through the adversarial process that there was a constitutionally significant risk that race was affecting the imposition of the death penalty, that problem could be rationally addressed without abolishing or limiting the death penalty.

If, for example, we were not executing murderers of black victims in the same proportion as murderers of white victims in comparable cases, we should seek to correct that imbalance through policies that make clear that the lives of all citizens, regardless of race, are precious to the government, and that those who murder black citizens will face the death penalty in appropriate cases as certainly as those who murder white citizens. Among other things, Congress should ensure that sufficient resources will be available to prosecute aggressively those cases in which the death penalty is appropriate. Another procedural safeguard would be to require judges in cases involving the death penalty to instruct jurors that the race of the victim must not be taken into account in determining whether the death sentence is appropriate. A certification procedure, by which individual jurors are required to sign a statement that the race of the victim was not a factor in their decisions, would also further that end. Indeed, such procedures are already found in the current death penalty for drug-related killings, 21 U.S.C. § 848(o)(1), as well as in the general death penalty proposed in title II of the President's violent crime bill, S. 1225. It makes no sense, therefore, to address any perceived imbalance by abandoning the death penalty—which is a clear-cut policy of increased leniency for murderers of black citizens as well as white.

Similarly, jury instructions and juror certificates insulating against the consideration of the race of the defendant will further insure that any disproportion among the races in the imposition of the death sentence is not the product of racial bias. Again, both existing law and the President's violent crime bill contain such provisions.

Many other protections are already in place, designed to ensure that not only the death penalty but all criminal penalties are administered in a race-neutral manner. The Supreme Court has acknowledged the risk that considerations of race may enter into the administration of the criminal justice system and, as a result, has engaged in "unceasing efforts" to eradicate racial prejudice from the system. *Batson* v. *Kentucky*, 476 U.S. 79, 85 (1986). Among other things, the Court has already held that grand and petit juries cannot be selected on the basis of race, *Vasquez* v. *Hillery*, 474 U.S. 254 (1986), *Whitus* v. *Georgia*, 385 U.S. 545 (1962); that prosecutorial discretion may not be exercised on the basis of race, *Wayte* v. *United States*, 470 U.S. 598 (1985); that a prosecutor may not exercise peremptory challenges on the basis of race, *Batson* v. *Kentucky*, *Supra;* that the Constitution prohibits racially biased prosecutorial arguments, *Donnelly* v. *DeChristoforo*, 416 U.S. 637 (1974); and that widespread bias in the community can make a change of venue constitutionally required, *Irvin* v. *Dowd*, 366 U.S. 717 (1961).

Further, if the circumstances of a particular case indicate a significant likelihood that racial bias may influence a jury, the Constitution requires examination of any such bias during *voir dire*. In a capital sentencing hearing, a defendant convicted of an interracial murder is entitled to such an examination regardless of the circumstances of the case. *Ristaino* v. *Ross*, 424 U.S. 589, 596 (1976); *Turner* v. *Murray*, 476 U.S. 28 (1986).

The teaching of these cases and of the various statutorily mandated procedures is that when there is a constitutionally significant risk that the criminal justice system might operate in a racially discriminatory manner, the Congress and the courts will fashion an appropriate remedy—and, just as that remedy with respect to the criminal justice system in general is not the wholesale abandonment of criminal justice, so in the specific context of the death penalty it is not necessary, or even logical, to restrict or abandon the application of the penalty because of a perceived risk that race may

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[1] *See also* the Supreme Court's summary of the flaws in the Baldus study found by the district court. 481 U.S. at 288 n.6.

[2] Similarly, it would be unwarranted to infer that white homicide defendants are being discriminated against in the imposition of the death penalty from data that indicates that white homicide defendants are more likely to be sentenced to death than black homicide defendants. *See* Bureau of Justice Statistics, Bulletin, *Capital Punishment 1984*, at 9-10 (whites were 50.2% of adults arrested for murder and non-negligent manslaughter for 1980 through 1984, and were 57.9% of those admitted to prison under a sentence of death; for the same time period and offenses, blacks were 48.5% of adults arrested and 40.9% of those entering prison with a death sentence).

enter into the application of that penalty, so long as other means of addressing that risk are available.

II. THE POWELL COMMITTEE PROPOSAL

I would now like to address briefly the recommendations of the Ad Hoc Committee of the Judicial Conference on Federal Habeas Corpus in Capital Cases, which I will refer to as the "Powell Committee" after its chairman, Justice Powell. The committee membership included several distinguished members of the federal Judiciary. It was convened in June 1988 by the Chief Justice to inquire into "the necessity and desirability of legislation directed toward avoiding delay and lack of finality" in capital cases.

In essence, the Committee's report proposes legislation that would afford states the option of establishing effective systems for providing indigent capital defendants with competent representation in state collateral proceedings. If a state chose to establish such a system, stronger rules of finality would apply in subsequent federal review. Specifically, the defendant would normally be limited to a single federal habeas corpus petition. Following the affirmation on appeal of the district court's denial of such a petition, and affirmation of the judgment or denial of certiorari by the Supreme Court, further federal review would be barred except on grounds that undermine confidence concerning the defendant's factual guilt of the underlying capital offense for which the sentence had been imposed.

The Department of Justice strongly supports the enactment of the legislation proposed by the Powell Committee, subject to certain amendments. A legislative proposal embodying the Powell Committee recommendations will shortly be sent to Congress by the Administration. We believe that the legislation enacting the Committee's proposal should be passed in conjunction with the general habeas corpus reform proposal and federal death penalty proposal in the President's violent crime bill, S. 1225.

III. THE DEATH PENALTY FOR DRUG KINGPINS IS CONSTITUTIONAL

Let me turn now to a legal issue that was raised earlier in these hearings. Without getting into the details of any particular proposal, I will now address the constitutionality of imposition of the death penalty on those who lead and organize large drug distribution enterprises, individuals commonly referred to as "drug kingpins."

It is the considered view of the Department of Justice that imposition of the death penalty on the leaders of large-scale drug production and distribution operations would be consistent with the proportionality requirement of the Eighth Amendment. The Eighth Amendment's rule of proportionality requires that the severity of punishment be proportionate to (1) the gravity of the injury caused by the offense and (2) the moral culpability, or blameworthiness, of the offender's state of mind. *See Tison* v. *Arizona*, 481 U.S. 148-149 (1987); *Coker* v. *Georgia*, 433 U.S. 584, 598 (1977); *Gregg* v. *Georgia*, 428 U.S. 153, 173 (1976) (principal opinion). We believe that imposition of the death penalty on the leadership of major drug organizations would be constitutionally permissible because of the enormous magnitude of the public harm they cause and the depraved state of mind—the reckless disregard for human life—involved in managing these death-dealing enterprises.

The Supreme Court has held that the death penalty—the ultimate sanction—must be reserved for cases where the harm caused by the offense is especially grievous. *See Gregg*, 428 U.S. at 187 (principal opinion). The Court has recognized two ways to measure the gravity of a crime. One is the degree of injury done to the individual who is the direct victim of the offense. *Coker, supra*, at 598. The death penalty is appropriate for the cold-blooded murderer because the degree of injury inflicted on the individual victim—the taking of the victim's life—is enormous. *Gregg, supra*, at 187. However, the gravity of a crime can also be measured by the magnitude of the "public injury" caused by the offense. *Coker, supra*, at 598. Thus, capital punishment has historically been considered appropriate for certain crimes that profoundly endanger the public welfare. Since the inception of our Republic, it has been recognized that certain criminal conduct—even though it may not directly involve homicide—may inflict such egregious injury to society at large, or may pose such a clear and present danger to the lives of a large number of citizens, that the death penalty is warranted for those who purposefully engage in such conduct.

In the past, Congress has dealt with broad threats to the security of the Nation and the people's welfare by imposing the death penalty on individuals who—although they have not directly taken the life of another individual human being—engage in conduct that profoundly injures the Nation as a whole. In the first statute defining federal crimes after the framing of the Constitution, Congress prescribed the death penalty for those guilty of treason. *See* Act of April 30, 1790, 1 Stat. 112 (1790). The Supreme Court has noted that legislation passed by the First Congress sheds significant light on the scope of constitutional limitations on legislative action, *see Marsh* v. *Chambers*, 463 U.S. 783 (1983), and the Court has itself upheld the imposition of sentences of death for treason. *See Kawakita* v. *United States*, 343 U.S. 717, 745 (1952). Federal law still prescribes a penalty of death for treason today. *See* 18 U.S.C. § 2381. Similarly federal law has, since 1917, allowed the imposition of the death penalty for certain crimes of espionage. In 1946, Congress responded to the enormous threat posed by the release of sensitive information concerning nuclear technology to hostile powers by imposing the death penalty for such conduct in certain circumstances. *See* Act of August 1, 1946, 60 Stat. 766-767 (1946). The death penalty remains available for peacetime espionage today, including espionage involving nuclear secrets. *See* 10 U.S.C. § 906a. In 1961, the Congress responded to the threat to public safety posed by aircraft piracy by making the death penalty applicable to airliner hijackings. *See* Act of September 5, 1961, 75 Stat. 466 (1961). As these historical examples indicate, Congress has the power to respond to conduct posing a serious threat to public safety and national security by imposing the death penalty, even in situations where the defendant has not personally and directly engaged in the killing of another human being.

Not since the dawn of the nuclear age, have we faced a threat more pernicious, more dangerous to the security and welfare of the Nation than the current crisis involving the large-scale importation and sale of narcotics. The importation of drugs into this country by large-scale distribution organizations violates the sovereignty of our borders and effects our foreign relations with our neighbors in Central and South America. At home, drug use destroys lives through dependency, overdoses, violent crime associated with drug use, and the facilitation of the spread of diseases like AIDS. The scope of the public harm caused by those who introduce large quantities of drugs into our society is staggering. Over one third of all violent felonies in this country are committed by persons under the influence of drugs. U.S. Department of Justice, Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics—1988* 624 (1989). In New York City, in 1988, 90 percent of all male arrestees tested positive for drug use. United States Department of Justice, Bureau of Justice Assistance, *1988 Report on Drug Control* 2 (1989). A recent study of the criminal activity of 573 narcotics users conducted in Miami graphically illustrates the connection between drugs and violent crime. In a twelve month period these 573 drug users were responsible for 6,000 robberies and assaults, 6,700 burglaries, nearly 900 vehicle thefts, and more than 26,000 prostitution offenses. *Id.* at 18. In 1983, it was estimated that the cost of drug use to American society in terms of lost productivity, crime, and health care services was almost sixty billion dollars. U.S. Department of Justice, *Report to the Nation on Crime and Justice* 114 (2d ed. 1988). Indeed, last Term, in the drug testing cases, the Supreme Court itself recognized that the importation, sale, and use of illegal drugs is "one of the greatest problems affecting the health and welfare of our population." *National Treasury Employees Union* v. *von Rabb*, 109 S. Ct. 1384, 1392 (1989).

Recent federal court decisions have recognized the fact that the harm to society caused by the distribution of illicit drugs may far exceed that involved in the case of the killing of an individual human being. In *Terrebonne* v. *Butler*, 848 F.2d 500 (5th Cir. 1988), *cert. denied*, 109 S. Ct. 1140 (1989), the Court of Appeals for the Fifth Circuit rejected the argument that the Eighth Amendment proportionality requirement prohibited a sentence of life imprisonment without parole for the sale of a small amount of heroin. Judge Gee wrote for the en banc court:

"Except in rare cases, the murder's red hand falls on one victim only, however grim the blow; but the foul hand of the drug dealer blights life after life and, like the vampire of fable, creates others in its owner's evil image—others who create others still, across our land and down our generations, sparing not even the unborn." *Id.* at 504.

Similarly, in *Young* v. *Miller*, No. 88-1103 (6th Cir., August 29, 1989), the Court of Appeals for the Sixth Circuit upheld a sentence of life imprisonment without parole for possession with intent to sell 1300 grams of heroin. In finding that the sentence was not disproportionate under the Eighth Amendment, the Court noted that the crime of large-scale distribution of drugs "is one of the gravest that a person can commit today," and that "[t]he ripple effect on society of such a large quantity of heroin is staggering to contemplate." Slip op. at 14. Given the widespread harms wreaked by those who lead the very largest of drug distribution operations, the Department believes that Congress would be within its constitutional powers in determining that this class of individuals, narrowly and appropriately defined, presents the same danger to the health and welfare of the Nation as those who engage in treason or espionage. As a consequence, imposition of the death

penalty in these cases would not be disproportionate under the Eighth Amendment.

Congress has significantly more latitude than any individual State in determining the necessary punishment for federal crimes that affect the security of the Nation as a whole. The Supreme Court has repeatedly recognized that "[t]he Constitution gives Congress broad comprehensive power '[t]o regulate commerce with foreign Nations, '" and that "[h]istorically such broad powers have been necessary to prevent smuggling and to prevent prohibited articles from entry." *United States* v. *Montova de Hernandez,* 473 U.S. 531, 537-38 (1985) (quoting *United States* v. *Ramsev,* 431 U.S. 606, 618-19 (1977)). Thus, in reviewing Congress' determination that past measures have been ineffectual and that sterner penalties are necessary, substantial deference would be given to congressional fact-finding. This is particularly so in the Eighth Amendment context. In determining whether a particular state law penalty is disproportionate, the Supreme Court inquires into the legislation of the fifty States to determine the "conceptions of decency" shared by "modern American society as a whole." *Stanford* v. *Kentucky,* 109 S. Ct. 2969, 2974-75 (1989). Federal legislation, passed by the Congress and signed by the President, represents the views of the representatives of all the people, and should be entitled to great weight in making the determination whether American society as a whole regards a particular penalty for a particular cirme as disproportionate.

Some have suggested that, under the Eighth Amendment, the death penalty can only be imposed for criminal conduct causing the death of another human being. While we believe that the Eighth Amendment imposes no such requirement, imposition of the death penalty on the leaders of large-scale drug distribution organizations meets even this standard. In its recent decision in *Tison* v. *Arizona,* 481 U.S. 137 (1987), the Supreme Court discussed the moral culpability necessary to justify a sentence of death in the felony murder context. *Tison* involved the imposition of the death penalty on defendants who assisted two inmates in escaping from an Arizona correctional facility. The defendants armed the escapees with weapons and aided them in flagging down a family on the road to steal their vehicle. The two inmates killed the family members after seizing their car. Thus, the actual defendants in *Tison* did not have an intent to kill, nor did they accomplish the actual killing. The Supreme Court noted that "[a] critical facet of the individualized determination of the culpability required in capital cases is the mental state with which the defendant commits the crime." *Id.* at 156. The Court found in the legislation of the States and the common law support for the proposition that "reckless indifference to the value of human life may be every bit a shocking to the moral sense as an 'intent to kill.'" *Id.* at at 157. The Court stated in conclusion:

"[W]e hold, that the reckless disregard for human life implicit in knowingly engaging in criminal activities known to carry a grave risk of death represents a highly culpable mental state, a mental state that may be taken into account in making a capital sentencing judgment * * *" *Id.* at 157-58.

In our view, those who lead large-scale drug distribution enterprises "knowingly engage in criminal activities known to carry a grave risk of death" under *Tison* and thus exhibit a mental state which the Supreme Court has indicated can support a sentence of death. As the Supreme Court noted in *Tison,* "[d]eeply ingrained in our legal tradition is the idea that the more purposeful is the criminal conduct, the more serious is the offense, and, therefore, the more severely it ought to be punished." *Tison,* 481 U.S. at 156. In the case of so-called drug kingpins, we deal with a conscious decision to introduce into society addictive substances whose destructive capacity is unlimited. Thus, unlike the murderer or rapist who generally strikes only one victim, the large-scale drug distributor threatens millions, indeed society at large. *Cf. Gregg* v. *Georgia,* 428 U.S. 153, 202-203 (1976) (principal opinion) (creating "risk of death to more than one person' is an aggravating factor which may properly be considered in capital sentencing). Moreover, the large-scale drug distributor engages in this destruction of human life solely for pecuniary gain. This, too, is a factor the Supreme Court has considered relevant in adjudging moral blameworthiness in the capital context. *Gregg,* 428 U.S. at 197. Finally, the link between the activities of large-scale drug enterprises and death is clear. In the four-year period from 1985-1988, the Drug Abuse Warning Network reports that over 14,000 overdose deaths were reported in 26 metropolitan areas, excluding New York City. Secretary Bennett's National Drug Control Strategy report indicates that drug use is now the single largest source of new AIDS infections, and that one-half of all Aids deaths are drug related. The report further indicates that the number of drug-related emergency hospital admissions increased by 121 percent between 1958 and 1988. A recent survey of state prisoners incarcerated for murder indicated that over 28 percent were on drugs when they killed. U.S. Department of Justice, *1988 Report on Drug Control,* at 19. The deadly effect of drugs even reaches beyond birth to our future generations. The Centers for Disease Control report that 75 percent of infant AIDS cases are attributable to drug use. Recent newspaper accounts indicate that the infant mortality rate in the District of Columbia is three times the national average. Drug use by pregnant mothers is the cause. In our view, the Congress could find that the link between the activities of large-scale drug dealers and the destruction of human life is such that the harm they cause, combined with their reckless indifference to the value of human life, justifies the ultimate penalty.

Let me turn briefly to the relevance of the Supreme Court's decision in *Coker* v. *Georgia,* 433 U.S. 584 (1977), to the constitutionality of prescribing the death penalty for drug kingpins. In *Coker,* the Supreme Court held that the death penalty was excessive punishment under the Eighth Amendment for the crime of the rape of an adult woman. The plurality opinion in *Coker* relied heavily on the fact that Georgia alone among the fifty States allowed imposition of the death penalty for rape, and that juries in Georgia itself seldom returned sentences of death for rape. The *Coker* plurality also indicated that in its view, "in terms of moral depravity and injury to the person and public, [rape] does not compare with murder." *Id.* at 598. The reason given was that "rape by definition does not include the death of or even the serious injury to another person." *Id.* (footnote omitted).

Coker's analysis of the past legislative practice of the States and juries within the States has little relevance to the constitutionality of a federal statute prescribing the death penalty for those who lead large-scale drug enterprises. Rape was a crime at the English common law, and thus the Court could look to a significant history of legislative choice of punishment by the States. In contrast, large drug enterprises, particularly those of international scope, are a relatively recent phenomenon. The situation is much as if a weapon were invented which reduced its victims to a vegetative mental state but did not otherwise affect their physical well-being. The constitutionality of imposing the death penalty for the use of such a weapon could not be measured by *past* practices of the States.

Moreover, the absence of state legislation in this area is not necessarily an indication of public disapproval of the death penalty for the leaders of large-scale drug distribution rings. A far more likely explanation is that given the international and interstate ramifications of the activities of these massive enterprises, the States rightfully view the problem as beyond their capacity to cope with and as demanding a comprehensive federal solution.

In addition, *Coker* dealt with a common law crime perpetrated against a single individual, and the Court focused only on the harm to that individual. As several commentators have noted, *Coker* did not purport to pass on the proportionality of the death penalty in situations where significant risk of serious injury or death is posed to many individuals. *See* Note, *Coker v. Georgia: Disproportionate Punishment and the Death Penalty for Rape,* 78 Columb. L. Rev. 1714, 1729 (1978) (indicating that aircraft hijacking and espionage may be outside the *Coker* framework); *accord The Supreme Court, 1976 Term,* 91 Harv. L. Rev. 70, 128 (1977).

Finally, it should be noted that even as to State legislation, the *Coker* decision does not purport to hold that the death penalty is disproportionate to any crime which does not directly result in the death of another human being. *Coker* involved only the crime of rape of an adult woman, and the *Coker* plurality explicitly left the question whether crimes comparable to murder in terms of "moral depravity" and "injury to the person and public" might be punished by death. *Coker,* 433 U.S. at 598. Indeed, after *Coker* a number of States continue to maintain the death penalty for crimes not necessarily involving the death of another human being where those crimes involve either serious permanent injury to an individual, or a serious threat to society at large. *See, e.g.,* Cal. Penal Code § 37 (West 1988) (treason); Ga. Code Ann. § 17-10-30 (1982) ("The death penalty may be imposed for the offenses of aircraft highjacking or treason in any case."); Idaho Code § 18-4504 (1987) (first degree kidnapping); La. Civ. Code Ann. art. 14:113 (West 1986) ("Whoever commits the crime of treason shall be punished by death."); Mont. Code Ann. § 45-5-303 (1987) (aggravated kidnapping) § 48-18-220 (1987) (attempted murder and aggravated assault while imprisoned); S.D. Codified Laws Ann. § 22-19-1 (1988) (Kidnapping with bodily injury); Utah Code Ann. § 76-5-103.5(2)(b) (1987) (aggravated assault while imprisoned).

In sum, the Department is of the view that the Congress may impose the death penalty for non-homicidal crimes which imperil national security or threaten the fabric of our society, or pose a mortal danger to a large number of our people. The more narrowly drawn the category of offender, so as to target those most culpable of wreaking broad societal harm, the more

likely that a "drug kingpin" death penalty statute would pass constitutional muster. The Department also believes that under *Tison* v. *Arizona*, the Congress could find that the link between large-scale drug organizations and human destruction is such that the leaders of these organizations exhibit "reckless indifference to the value of human life," and thus may be subject to the death penalty. Under this latter theory, the more well-documented the link between the destruction of human life and the activities of drug kingpins (as a class or in an individual sentencing proceeding) the more likely that the statute would survive proportionality review under even the broadest reading of the Supreme Court's decision in *Coker*.

That concludes my prepared testimony. I will be happy to answer any questions that the Committee may have.●

DR. JOHN SAMPSON TOLL

● Mr. SARBANES. Mr. President, Dr. John Sampson Toll has stepped down as the president of the University of Maryland after a decade of distinguished leadership and service to this outstanding institution of higher education.

Dr. Toll received his bachelor's degree from Yale University and masters degree and doctorate from Princeton University before starting his career as a theoretical physicist at the Los Alamos Scientific Laboratory and later at the Princeton Forrestal Research Center. He first joined the University of Maryland in 1953 and soon thereafter became the youngest department chair in the history of that institution. Under his leadership, the physics department grew from six members to seventy, gaining an international reputation for excellence.

In 1965 Dr. Toll was recruited by the Governor of New York and the New York educational system to become the president of the Stony Brook campus of the State University of New York. In his 13 years at SUNY's growing campus, Dr. Toll brought this young institution from a student enrollment of 1,700 to 17,000 and transformed this campus into a thriving, vital part of the New York State system of higher education.

In 1978 Dr. Toll returned to the University of Maryland to succeed Wilson H. Elkins as the new president. Dr. Toll pledged at the outset to turn the University of Maryland into one of the premier public educational institutions in America. Over the past decade, Dr. Toll has accomplished this goal by concentrating on attracting new faculty and strengthening academic standards and curriculum.

The Governor and the Maryland General Assembly provided funds and support. By strengthening the curriculum, developing vital partnerships with business and industry, and taking full advantage of the university's proximity to our Nation's Capital, Dr. Toll's efforts paid great dividends as demonstrated by an increase in the number of national merit scholars enrolling at the university.

The university and its faculty have received many foundation grants and won large numbers of Sloan, Guggenheim and other top-level faculty fellowships. The University of Maryland has also received significant support from government and private sources including Westinghouse and Martin Marietta, both major corporate citizens in Maryland, to initiate and improve specific programs. These new programs have added to the prestige of the institution under the guidance of Dr. John Toll.

Dr. Toll also won the respect and admiration of his colleagues in the educational community. Robert L. Clodius, president of the National Association of State Universities and Land Grant Colleges, called him "a marvelous spokesman for higher education. As a national leader living in the Washington region, he has been tremendously generous with his time in representing national interests in congressional hearings and with Federal agencies. He has always stood for the highest standards and the highest quality in public higher education, and his example has been an inspiration to many."

Mr. President, as John Toll steps down as president of this distinguished institution he is clearly leaving it in a far stronger position then it was when he arrived. His leadership placed the University of Maryland in the highest ranks of the Nation's public universities. Graduates, students, and faculty can take enormous pride in the progress of their university, a pride shared by all the citizens of Maryland. Mr. President, I thank John Toll for his contributions and wish him well in the years ahead.●

A TRIBUTE TO BECKY PETTISS

● Mr. SHELBY. Mr. President, it is with a great deal of pleasure that I ask my colleagues in the Senate to join me in recognizing an outstanding Alabamian. Becky Pettiss of Mobile has been selected as an alternate for Alabama Teacher of the Year and will be honored here, in Washington, next week.

Becky is special because her selection for this award brings recognition not only to herself and to the Palmer Pillans Middle School, but to all the teachers of Alabama, who like her, are striving to make a difference.

Qualified, motivated, dedicated—these are the words that can best describe many of Alabama's teachers. I would like to thank Becky and the countless other teachers in Alabama and across the country for their efforts to improve the quality of education in this country.

Becky Pettiss has pursued excellence throughout her life. At age 15, Becky was stricken with a mysterious condition which caused her to be paralyzed. Despite her handicap, Beckey received a bachelor of science degree and a master's degree in special education from the University of South Alabama. Becky is currently working on her doctorate from that same university.

Becky has left a remarkable legacy in education that has helped to pave the way for the handicapped in Alabama. She was instrumental in developing a program in Mobile County that would enable special education students to attend classes with their peers in regular classes. Since that time, more than 300 students labeled as mentally retarded, learning disabled, and handicapped have been able to take physical education classes, electives, and many academic subjects. About one-third of the special education students in Mobile transfer to the Palmer Pillans Middle School because of this program.

In addition to her unparalleled career in education, Becky's commitment to her community extends into the realm of civic and charitable endeavors. The Junior League of Mobile, the advisory board of the Office of Development on Accessibility and Educational Services for the Handicapped at the University of South Alabama, the St. Paul's Episcopal Church, and the Southwest Regional Planning Commission are just a few organizations that have benefited from her participation.

Becky embodies many of the characteristics that identify our American spirit—faith, courage, and determination. She is a most fitting selection as an alternate for the Alabama Teacher of the Year Award and a source of great pride for the State of Alabama. I am honored to serve as one of her representatives in Washington.●

VULNERABILITY OF THE PANAMA CANAL

● Mr. MOYNIHAN. Mr. President, we have in recent days heard a great deal of criticism on this floor of President Bush's restraint, as it is termed, in the recent coup attempt against Gen. Manuel Noriega.

I was not privy to any of the discussions and do not wish to make more than a general comment which is intended—and I wish to be open about this—to be supportive of the President and to suggest why he may have felt that restraint was in order.

My comments, Mr. President, address the structure. The vulnerable point is the Culebra Cut. It runs 8 miles north and south at the point of the Continental Divide. It cuts through the Continental Divide. It is 500 feet wide and about 42 feet deep. It has huge steep slopes on each side. The soil is loose and continually sheds.

In turn, dredges operate continually. About 1 million cubic yards of soil is removed every year.

Mr. President, one 155mm howitzer drawn at random from the inventory of most any field artillery regiment set 10 miles away with, may we say, 30 shells, would reduce the Culebra Cut to a blocked ditch in 30 minutes. At its widest point, the canal operating zone represents only a 5-mile buffer; at its narrowest point, less than one-half a mile. If you did not have a howitzer handy, you could hike up with 10 men and, say, 1,000 pounds of plastic explosive and you would have a ditch filled. You could clean it up, of course. It probably would not take more than 2 years, possibly 3, depending on the atmosphere in the Canal Zone and its surroundings.

If your taste runs to the exotic, Mr. President, we could blow up the dams that create Gatun Lake. But that would be just a bit too sensational even for our thrill-saturated age.

A President who gave some thought to the vulnerability of the canal to sabotage in the aftermath of a nationalist uprising might be deemed to be carrying out his constitutional duty to be careful.●

AID TO THE NICARAGUAN ELECTIONS

● Mr. JEFFORDS. Mr. President, since early 1983, Congress and the administration have struggled to define the proper role for United States policy toward Nicaragua. I have continually spoken out in opposition to the administration's policy of arming the Contras in order to bring down the Sandinista Government. In my mind, this policy worked against President Reagan's stated goal of bringing democracy to Nicaragua. U.S. policy suffered from inconsistency and contradiction, and congressional indecision added to the confusion.

As Congress and the administration became locked in a standoff over military aid, President Oscar Arias of Costa Rica stepped forward with his proposal for a regional peace accord. In August 1987, the five Central American Presidents agreed that the problems of the region should be settled by diplomatic instead of military means. Pressure for a negotiated solution to the Nicaraguan conflict produced the Sapoa agreement and steady progress toward opening up Nicaragua to allow the Contras to return. This past March, Congress voted to provide nonmilitary assistance to the Contras until such time as they return to Nicaragua or can be resettled elsewhere.

This long march away from a policy that sought the military overthrow of the Nicaraguan Government has finally come around to support for the internal opposition in what we hope will be free and fair elections. I am saddened that it has taken so long to reach this point and that so many lives have been lost in the process. But the point is that we are now debating assistance for free elections instead of for armed insurrection.

However, let me articulate some of my concerns with the bill before us. I am concerned that $9 million, in addition to the $3.5 million that was provided in fiscal year 1989, is more than can be sensibly spent in view of the time constraints. It is appropriate that we help the Nicaraguan opposition compete against the Sandinista party. Candidate Ortega has at his disposal all of the resources of a party in power. The Sandinistas have successfully prevented the development of any significant political opposition or uncensored opposition media. The National Opposition Union now has 4 short months to put together a viable organization and run a national campaign. But we should not be flooding the country with such substantial amounts of money that we skew the results. We should help the opposition provide a true choice to the Nicaraguan people. It must then be up to the people of Nicaragua to choose their leaders. And the United States must abide by that choice.

By refusing covert U.S. involvement in the elections and preventing direct assistance to opposition candidates, this legislation is an acceptable alternative to the proposals previously suggested. While I am not happy with every aspect of this legislation, I am voting for it because I believe we have an obligation to provide the Nicaraguan people with a fair opportunity to choose the future direction of their nation. And I hope we have finally learned a lesson from these torturous years of agonizing over United States policy toward Nicaragua. We must let the people of Central America take the lead in shaping their own destiny.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar items Nos. 430, 431, 432, 433, 434, 435, 436, and 437.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. I further ask unanimous consent that the nominees be confirmed en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF DEFENSE

Terrence O'Donnell, of the District of Columbia, to be General Counsel of the Department of Defense.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

The following-named person to be a Member of the Defense Nuclear Facilities Safety Board for a term of 1 year: Edson G. Case, of Maryland (new position).

The following-named person to be a Member of the Defense Nuclear Facilities Safety Board for a term of 2 years: John W. Crawford, Jr., of Maryland (new position).

The following-named person to be a Member of the Defense Nuclear Facilities Safety Board for a term of 3 years: Herbert Kouts, of New York (new position).

The following-named person to be a Member of the Defense Nuclear Facilities Safety Board for a term of 4 years: A.J. Eggenberger, of Montana (new position).

The following-named person to be a Member of the Defense Nuclear Facilities Safety Board for a term of 5 years: John T. Conway, of New York (new position).

DEPARTMENT OF DEFENSE

James R. Locher, III, of Virginia, to be an Assistant Secretary of Defense,

ARMY

The following-named officers for appointment in the Regular Army of the United States to the grade indicated, under the provisions of title 10, United States Code, section 611(a) and 624:

To be permanent major general

Brig. Gen. Wallace C. Arnold, [redacted], U.S. Army.
Brig. Gen. Patrick H. Brady, [redacted], U.S. Army.
Brig. Gen. Henry M. Hagwood, Jr., [redacted] U.S. Army.
Brig. Gen. Ronald E. Brooks, [redacted], U.S. Army.
Brig. Gen. Peter M. McVey, [redacted], U.S. Army.
Brig. Gen. Jere H. Akin, [redacted], U.S. Army.
Brig. Gen. Patrick J. Kelly, [redacted], U.S. Army.
Brig. Gen. William H. Forster, [redacted] U.S. Army.
Brig. Gen. Edward R. Baldwin, Jr., [redacted] U.S. Army.
Brig. Gen. Donald M. Lionetti, [redacted] U.S. Army.
Brig. Gen. William N. Farmen, [redacted] U.S. Army.
Brig. Gen. John D. Robinson, [redacted], U.S. Army.
Brig. Gen. Malcolm R. O'Neill, [redacted] U.S. Army.
Brig. Gen. James A. Guest, [redacted], U.S. Army.
Brig. Gen. William C. Page, Jr., [redacted] U.S. Army.
Brig. Gen. Guy A. Loboa, [redacted], U.S. Army.
Brig. Gen. Stephen Silvasy, Jr., [redacted] U.S. Army.
Brig. Gen. Fred F. Marty, [redacted], U.S. Army.
Brig. Gen. Paul E. Funk, [redacted], U.S. Army.
Brig. Gen. John C. Heldstab, [redacted], U.S. Army.
Brig. Gen. Barry R. McCaffrey, [redacted] U.S. Army.

Brig. Gen. Neal T. Jaco, xxx-xx-xxxx, U.S. Army.
Brig. Gen. Craig A. Hagan, xxx-xx-xxxx, U.S. Army.
Brig. Gen. Gerald H. Putman, xxx-xx-xxxx xxx-..., U.S. Army.
Brig. Gen. James D. Starling, xxx-xx-xxxx, U.S. Army.
Brig. Gen. Marc A. Cisneros, xxx-xx-xxxx, U.S. Army.
Brig. Gen. Paul E. Menoher, Jr., xxx-xx-xx... xxx-..., U.S. Army.
Brig. Gen. Robert L. Ord, III, xxx-xx-xxxx, U.S. Army.
Brig. Gen. Waldo D. Freeman, Jr., xxx-xx-x... xxx-..., U.S. Army.
Brig. Gen. John F. Sobke xxx-xx-xxxx, U.S. Army.
Brig. Gen. John P. Herrling xxx-xx-xxxx, U.S. Army.
Brig. Gen. Ronald H. Griffith, xxx-xx-xxxx xxx-..., U.S. Army.
Brig. Gen. Samuel E. Ebbesen, xxx-xx-xxxx xxx-..., U.S. Army.
Brig. Gen. James R. Ellis xxx-xx-xxxx, U.S. Army.
Brig. Gen. Walter B. Moore, xxx-xx-xxxx, U.S. Army.
Brig. Gen. Ernest J. Harrell xxx-xx-xxxx, U.S. Army.
Brig. Gen. John E. Miller xxx-xx-xxxx, U.S. Army.

STATEMENT ON THE NOMINATION OF JAMES R. LOCHER TO BE ASSISTANT SECRETARY OF DEFENSE FOR SPECIAL OPERATIONS AND LOW-INTENSITY CONFLICT

Mr. WARNER. Mr. President, it is a pleasure to have this opportunity to speak here on the floor of the U.S. Senate about one of our former professional staff members of the Senate Armed Services Committee, Mr. Jim Locher.

Jim has been nominated by the President, favorably recommended by our committee, and I am sure will be confirmed by the Senate to be the Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict.

I have had the pleasure of working with Jim Locher since I came to the Senate in 1979. He is the epitome of a professional staff member. You could not ask for a more worthy opponent if it is your misfortune to be on the opposite side of an issue from Jim—and I know that from personal experience.

On the other hand, you cannot find a better ally to have on your side—and I can attest to that from personal experience also.

Yesterday, I spoke with our former colleague and great friend, Barry Goldwater, to let him know that the Armed Services Committee had favorably reported this nomination to the Senate. Senator Goldwater asked me to state on his behalf that he considers Jim Locher to be brilliant.

As many on this floor will recall, Jim was the principal professional staff member responsible for the Goldwater-Nichols Department of Defense Reorganization Act of 1986. Senator Goldwater has not forgotten the exceptional professional competence and perserverance which characterized Jim Locher's performance during that period.

Jim was also the senior committee staffer for legislation which mandated reforms in the area of special operations and low-intensity conflict. Now Jim has been nominated to be the Senior Assistant to the Secretary of Defense for these matters. In my view, this post is one of the most important in the Department of Defense.

In 1961, President Kennedy referred in his inaugural address to the long twilight struggle. This twilight struggle continues today and has turned out to be one of the most perplexing national security problems facing our nation.

Our continuing difficulty as a nation to adequately address the areas of special operations and low intensity conflict led the Congress to mandate the position for which Jim Locher has been nominated.

The challenges are great, but I am confident that the President has selected the right man for the job.

On behalf of our former colleague and great mentor, Senator Barry Goldwater and myself, I urge all my colleagues to support this nomination.

STATEMENT ON THE NOMINATION OF MR. JAMES R. LOCHER III, TO BE ASSISTANT SECRETARY OF DEFENSE FOR SPECIAL OPERATIONS AND LOW INTENSITY CONFLICT

Mr. NUNN. Mr. President, it is my privilege to report to the Senate the nomination of Mr. James R. Locher III to be Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict. The Armed Services Committee unanimously approved this outstanding nomination, and I strongly recommend that the Senate take the same action.

The President has nominated Mr. Locher to a position of considerable importance to our national security and of significant interest to the Armed Services Committee. In 1986, under the leadership of Senator COHEN, the committee played a key role in enacting into law comprehensive reforms in U.S. special operations and low-intensity conflict capabilities. We were joined in that effort by the late Congressman Dan Daniel from the House Armed Services Committee. One of the most important provisions of the 1986 legislation was the establishment of the position of Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict.

We are fortunate that the President has selected a person of the caliber of Mr. Locher to take on the responsibilities of this position. He has extensive academic training and professional experience in natural security policymaking. After graduating from the U.S. Military Academy, Mr. Locher worked as an analyst for several years in the Office of Program Analysis and Evaluation in the Defense Department. During this same period of time, he earned a master's degree in Business Administration from Harvard University.

In 1978, Mr. Locher joined the staff of the Armed Services Committee as a professional staff member. During his 11 years of service to the committee, he demonstrated that he is a true professional by serving four different committee chairmen from both sides of the aisle. Senator Stennis, Senator Tower, Senator Goldwater, and I—along with all of the members of the committee on both sides of the aisle—benefited from his expertise.

Although Mr. Locher worked on a wide variety of security issues, he was responsible for two staff efforts that bear directly on the position for which he has been nominated. For 3 years, he directed the bipartisan staff that supported the committee's work on the Goldwater-Nichols Department of Defense Reorganization Act of 1986. The significance of this historic piece of legislation was captured by Senator Goldwater in the candid, outspoken style that all of us in the Senate appreciated. After the Senate had passed the Reorganization Act by a vote of 95 to 0, Senator Goldwater described it as "the only [expletive deleted] thing I've done in the Senate that's worth a [expletive deleted]. I can go home happy, sit on my hill, and shoot jackrabbits." Mr. Locher made a large contribution to the success of that effort.

In the same year that the Goldwater-Nichols Reorganization Act was enacted into law, Mr. Locher assisted Senator COHEN and other members of the Armed Services Committee with the legislation mandating special operations and low-intensity conflict reforms. After 1986, Jim supported the Armed Services Committee's oversight of the implementation of these landmark laws. In light of his outstanding experience and professionalism, Jim is clearly an excellent nominee for the position of Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict.

Mr. President, the community of people who work on the business of the Armed Services Committee will certainly miss Jim. When he left our staff earlier this year, he had served on the committee staff longer than any other current professional staff member. Nonetheless, we are gratified that the President and Secretary of Defense Cheney have recognized that Jim can make an important contribution to our national defense. The Armed Services Committee's loss is definitely the Defense Department's gain.

I want to congratulate the President for nominating Jim Locher to this position, and I urge the Senate to give its consent to the nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

EARTHQUAKE IN SAN FRANCISCO

Mr. MITCHELL. Mr. President, on behalf of myself, Senators DOLE, CRANSTON, and WILSON, I send to the desk a concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 77) expressing the sense of the Congress with regard to the major earthquake which occurred in the San Francisco Bay area on October 17, 1989.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MITCHELL. Mr. President, on behalf of myself, my distinguished colleague the minority leader, Senator DOLE, and Senators CRANSTON and WILSON, I have sent to the desk a concurrent resolution commending those individuals who have selflessly volunteered their time and effort to assist the victims of the northern California earthquake.

Experts have set this quake at 6.9 or perhaps 7.0 on the Richter scale. It is the second worst earthquake in U.S. history.

Many of us remember the December 1988 earthquake that devastated Soviet Armenia. That earthquake killed 25,000 people and left 500,000 homeless and has been estimated to be about the same strength as the quake that hit northern California last night.

The miracle of last night's earthquake is that millions of people were not hurt.

While it is extremely unfortunate that hundreds of people were hurt and that lives were lost, we are all grateful that it was not much worse.

Local and State officials in California have been planning for years to prepare for an earthquake. That preparation ranges from construction and building design to public warning systems to disaster emergency teams.

Without that preparation, a crisis such as the earthquake that hit last night could have been an even larger catastrophe.

Much to the credit of the community, scores of private individuals, acting on their own, rushed to assist those hurt by the earthquake.

Emergency teams in the local area acted swiftly and efficiently to curb fires and explosions caused by broken gas mains.

Highway crews and civil engineer workers mobilized quickly as did the Red Cross.

Again, without these efforts, some private and voluntary and some organized and official, the devastation and loss of life could certainly have been much worse.

Seven counties in northern California have been declared eligible for disaster assistance by the President. I commend his swift action.

I am hopeful that the officials of the Federal Emergency Management Agency will provide assistance quickly so that families may put their lives back together, and communities can make the necessary repairs to the many roads, bridges, and buildings that sustained damage.

Our prayers and sympathy are extended to all families in northern California, and to those who have family in northern California.

This is a difficult time. There are no words eloquent enough to soften the impact of this terrible earthquake.

We commend those who have helped out in this crisis and we stand ready to provide whatever additional assistance is necessary.

The PRESIDING OFFICER. Is there further debate on the concurrent resolution? If not, the question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 77) was agreed to.

The preamble was agreed to.

The concurrent resolution and its preamble are as follows:

S. CON. RES. 77

Whereas the largest American earthquake since 1906 struck the San Francisco Bay community at 5:04 p.m. on October 17 sending shock waves throughout an area that includes 6 million persons;

Whereas earthquake experts with the U.S. Geological Survey (USGS) have placed the quake at 6.9 or perhaps 7.0 on the Richter scale;

Whereas a Presidential declaration of disaster has been announced for 7 counties in northern California: San Francisco, Santa Cruz, Santa Clara, San Mateo, San Benito, Monterey, and Alameda;

Whereas dozens of bridges, highways, buildings, and homes have been severely damaged or destroyed; and

Whereas area officials claim the death toll, at this point, is expected to exceed 270 and more than 500 individuals have been injured; Therefore, be it

Resolved by the Senate (The House of Representatives concurring), That we are deeply saddened by the horrible destruction and loss of life caused by the earthquake, and send our thoughts and prayers to the victims and their families.

(1) We also commend the following dedicated men and women for their swift action in a time of crisis:

(a) Those individuals who immediately rushed to the scene to voluntarily help their fellow citizens;

(b) Those local, county, state and federal officials who immediately set into motion their disaster assistance plans;

(c) Those local, county, state and federal employees who immediately sought to address problems associated with fires, explosions, communication, and medical assistance;

(d) Those individuals who thought of and implemented earthquake advisories and public warnings on occasions throughout this decade in California and earlier this year to diffuse public panic in time of crisis; be it also

Resolved, That the Congress stands ready to assist in whatever manner deemed necessary to bring order back to the 7 county area affected by the October 17 earthquake; and it also

Resolved, That because earthquake experts deemed this to be a milder precursor of a monumentally bigger quake, every effort must be made to be continually and completely prepared for more devasting quake that is expected in the future.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DESIGNATING OCTOBER 18, 1989, AS "PATIENT ACCOUNT MANAGEMENT DAY"

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of House Joint Resolution 380, a joint resolution to designate October 18, 1989, as "Patient Account Management Day," and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 380) designating October 18, 1989, as "Patient Account Management Day".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 380) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE AMENDMENT TO H.R. 3299

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate amendment to H.R. 3299, the Reconciliation Act, be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 3299

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as "The Omnibus Budget Reconciliation Act of 1989".

TITLE I—COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Reconciliation Act of 1989".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1001. Short title; table of contents.

Subtitle A—Agricultural Commodity Programs

Sec. 1101. Cotton acreage reduction program.
Sec. 1102. Purchase price for nonfat dry milk and butter.
Sec. 1103. Reduction of deficiency payments for 1990 crops.
Sec. 1104. Planting of soybeans, sunflowers, and safflowers on permitted acreage.

Subtitle B—Agricultural Trade Programs

Sec. 1201. Export enhancement program.
Sec. 1202. Targeted export assistance.

Subtitle C—General Provisions

Sec. 1301. Purchases of Financial Assistance Corporation stock by Farm Credit System institutions.
Sec. 1302. Calculation of premiums by Farm Credit System Insurance Corporation.

Subtitle A—Agricultural Commodity Programs

SEC. 1101. COTTON ACREAGE REDUCTION PROGRAM.

Effective only for the 1990 crop of upland cotton, section 103A(f)(2)(A) of the Agricultural Act of 1949 (7 U.S.C. 1444-1(f)(2)(A)) is amended by striking "(not to exceed 25 percent)" and inserting "(not to exceed 25 percent or, in the case of the 1990 crop, if the Secretary projects a carryover of more than 7,000,000 bales (as of July 31, 1991) of upland cotton, not to exceed 30 percent)".

SEC. 1102. PURCHASE PRICE FOR NONFAT DRY MILK AND BUTTER.

Section 201(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(1)) is amended—

(1) in subparagraph (C)—

(A) in clause (ii), by inserting after "Except as provided in" the following: "clause (iii) and"; and

(B) by adding at the end the following new clause:

"(iii) In carrying out this paragraph during calendar year 1990, the Secretary shall offer to purchase butter and nonfat dry milk for not less than $1.10 per pound for butter and $0.8475 per pound for nonfat dry milk, except that the Secretary may allocate the rate of price support between the purchase prices for nonfat dry milk and butter in such manner as the Secretary determines will result in the lowest level of expenditures by the Commodity Credit Corporation and shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of such determination."; and

(2) in subparagraph (D)(i), by striking "each of the calendar years 1988 and 1990" and inserting "calendar year 1988".

SEC. 1103. REDUCTION OF DEFICIENCY PAYMENTS FOR 1990 CROPS.

(a) IN GENERAL.—Title IV of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by adding at the end the following new section:

"SEC. 425. REDUCTION OF DEFICIENCY PAYMENTS FOR 1990 CROPS.

"(a) IN GENERAL.—Notwithstanding any other provision of law, the amount of deficiency payments made available to producers of the 1990 crops of wheat, feed grains, upland cotton, and rice under sections 107D(c), 105C(c), 103A(c), and 101A(c), respectively, shall be reduced by—

"(1) in the case of wheat, 2.33 cents per bushel;

"(2) in the case of corn, 2.33 cents per bushel (and a comparable amount for other feed grains, as determined by the Secretary);

"(3) in the case of upland cotton, .515 cents per pound; and

"(4) in the case of rice, 5.15 cents per hundredweight.

"(b) APPLICATION TO ADVANCE DEFICIENCY PAYMENTS.—To the extent practicable, the Secretary shall apply the reduction required under subsection (a) to any advance deficiency payment made available to producers of the 1990 crops under section 107C.".

(b) CONFORMING AMENDMENT.—Effective only for the 1990 crops of wheat, feed grains, upland cotton, and rice, section 107C(a)(2)(G) of such Act (7 U.S.C. 1445b-2(a)(2)(G)) is amended by inserting after "subsection" the following: "(taking into consideration any reduction in the payment made under section 425)".

SEC. 1104. PLANTING OF SOYBEANS, SUNFLOWERS, AND SAFFLOWERS ON PERMITTED ACREAGE.

(a) PLANTING OF SOYBEANS, SUNFLOWERS, AND SAFFLOWERS ON PERMITTED ACREAGE.—Effective only for the 1990 crops, subsection (e) of section 504 the Agricultural Act of 1949 (7 U.S.C. 1464(e)) is amended to read as follows:

"(e) Notwithstanding any other provision of this Act—

"(1) Effective for the 1990 crops, the Secretary shall, subject to paragraph (2), permit producers on a farm to plant soybeans, sunflowers, or safflowers on a portion specified by the producer (but in any event not more than 25 percent) of the producers' 1990 wheat, feed grain, upland cotton, extra long staple cotton, and rice permitted acreage, as determined by the Secretary.

"(2)(A) The Secretary shall establish a sign-up period during which the producers on a farm, participating in the 1990 crop wheat, feed grain, upland cotton, extra long staple cotton, or rice price support and production adjustment program, must state their intentions regarding use of the increased planting provision under paragraph (1).

"(B) After termination of the sign-up period under subparagraph (A), the Secretary shall estimate whether, based on the anticipated additional soybean, sunflower, and safflower plantings for the crop, the average market price for the 1990 crop of soybeans will be below 115 percent of the loan rate established for the 1989 crop of soybeans.

"(C) If the Secretary estimates that the average market price for the 1990 crop of soybeans will be below 115 percent of such loan rate, the Secretary shall reduce the percentage of permitted acreage on the farm that may be planted to soybeans, sunflowers, and safflowers to a level, or prohibit such plantings, as is necessary to ensure, to the extent practicable, that the average soybean market price does not fall below 115 percent of such loan rate.

"(D) The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a statement setting forth the reasons for any reduction in the permitted planting percentage, or prohibition on such plantings, under this paragraph.

"(3)(A) For the purposes of determining the farm acreage base or the crop acreage bases for the farm, any acreage on the farm on which soybeans, sunflowers, or safflowers are planted under this subsection shall be considered to be planted to the program crop for which soybeans, sunflowers, or safflowers are substituted.

"(B) The Secretary may not make program benefits other than soybean or sunflower seed price support loans and purchases available to producers with respect to acreage planted to soybeans, sunflowers, or safflowers under this subsection and shall ensure that the crop acreage bases established for the farm and the farm acreage base are not increased due to such plantings.".

(b) FEED GRAIN ACREAGE LIMITATION PROGRAM.—Effective only for the 1990 crop of feed grains, section 105C(f)(1)(C) of such Act (7 U.S.C. 1444e(f)(1)(C)) is amended—

(1) by striking "(C)", "1990", "(i)", and "(ii)" and inserting "(C)(i)", "1989", "(I)", and "(II)", respectively; and

(2) by adding at the end the following new clause:

"(ii) In the case of the 1990 crop of feed grains, if the Secretary estimates, not later than September 30, 1989, that the quantity of corn on hand in the United States on the first day of the marketing year for that crop (not including any quantity of corn of that crop) will be—

"(I) more than 2,000,000,000 bushels, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to feed grains for harvest on a farm would be limited to the feed grain crop acreage base for the farm for the crop reduced by not less than 12½ percent nor more than 20 percent;

"(II) less than 2,000,000,000 bushels but more than 1,800,000,000 bushels, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to feed grains for harvest on a farm would be limited to the feed grain crop acreage base for the farm for the crop reduced by not less than 10 percent nor more than 12½ percent; or

"(III) 1,800,000,000 bushels or less, the Secretary may provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to feed grains for harvest on a farm would be limited to the feed grain crop acreage base for the farm for the crop reduced by not more than 10 percent.".

Subtitle B—Agricultural Trade Programs

SEC. 1201. EXPORT ENHANCEMENT PROGRAM.

(a) REDUCTION OF EXPENDITURES.—During fiscal year 1990, except to the extent provided for under section 4301 of the Agricultural

Competitiveness and Trade Act of 1988 (Public Law 100-418; 7 U.S.C. 1446 note), the Commodity Credit Corporation shall not make available to exporters, processors, and foreign importers under the authority of section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f)) more than $650,000,000 in commodities of the Commodity Credit Corporation to enhance the export of United States commodities by making the price of such commodities competitive in the world market.

SEC. 1202. TARGETED EXPORT ASSISTANCE.

Section 1124(a) of the Food Security Act of 1985 (7 U.S.C. 1736s(a)) is amended—

(1) by striking "and" at the end of paragraph (2); and

(2) by striking paragraph (3) and inserting the following:

"(3) for the fiscal year 1989, the Secretary shall use under this section not less than $325,000,000 of the funds of, or commodities owned by, the Corporation; and

"(4) for the fiscal year 1990, the Secretary shall use under this section not less than $225,000,000 of the funds of, or commodities owned by, the Corporation.".

Subtitle C—General Provisions

SEC. 1301. PURCHASES OF FINANCIAL ASSISTANCE CORPORATION STOCK BY FARM CREDIT SYSTEM INSTITUTIONS.

(a) DELAYED EFFECTIVE DATE FOR STOCK PURCHASE REQUIREMENT.—Notwithstanding any other provision of law, the amendments to section 6.29 of the Farm Credit Act of 1971 (12 U.S.C. 2278b-9) made by section 646 of the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989 (Public Law 100-460; 102 Stat. 2266) shall be effective on October 1, 1992.

(b) PAYMENTS.—

(1) FOUR ANNUAL PAYMENTS.—Notwithstanding any other provision of law, the Financial Assistance Corporation shall pay, out of the Trust Fund established under section 6.25 of the Farm Credit Act of 1971 (12 U.S.C. 2278b-5), to each of the institutions of the Farm Credit System that purchased stock in the Financial Assistance Corporation under section 6.29 of the Farm Credit Act of 1971, four annual payments as provided in this subsection.

(2) TIMING OF PAYMENTS.—The annual payments provided for by this subsection shall be made available as soon as practicable after October 1 of each of the calendar years 1989 through 1992.

(3) CALCULATION OF FIRST PAYMENT.—The first annual payment made available under this subsection shall be in an amount equal to—

(i) a percentage equal to 1.5 times the average rate of interest received by the Financial Assistance Corporation from March 30, 1988, through September 30, 1989; times

(ii) the difference between $177,000,000 and 4.4 percent of the amount of the cumulative amount of the bonds issued by the Financial Assistance Corporation by September 30, 1989.

(4) CALCULATION OF REMAINING PAYMENTS.—The second, third, and fourth payments made available under this subsection shall be in an amount equal to—

(i) a percentage equal to the average rate of interest received by the Financial Assistance Corporation during each of the fiscal years 1990 through 1992; times

(ii) the difference between $177,000,000 and 4.4 percent of the amount of the cumulative amount of the bonds issued by September 30 of each of such fiscal years.

(5) DISTRIBUTION OF ANNUAL PAYMENTS.—Annual payments due under this subsection shall be made available to each institution described in paragraph (1) in an amount equal to the total amount of annual payments to be made available times the ratio of the amount of stock each institution purchased divided by $177,000,000.

SEC. 1302. CALCULATION OF PREMIUMS BY FARM CREDIT SYSTEM INSURANCE CORPORATION.

(a) IN GENERAL.—Section 5.55 of the Farm Credit Act of 1971 (12 U.S.C. 2277a-4(a)) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) AMOUNT IN FUND NOT EXCEEDING SECURE BASE AMOUNT.—

"(1) IN GENERAL.—Until the aggregate of amounts in the Farm Credit Insurance Fund exceeds the secure base amount, the annual premium due from any insured System bank for any calendar year shall be equal to the sum of—

"(A) the annual average principal outstanding (as adjusted under paragraph (2)) for such year on loans made by the bank that are in accrual status, multiplied by 0.0015; and

"(B) the annual average principal outstanding (as adjusted under paragraph (2)) for such year on loans made by the bank that are in nonaccrual status, multiplied by 0.0025.

"(2) ADJUSTMENT OF ANNUAL AVERAGE PRINCIPAL OUTSTANDING.—The Corporation, under procedures and criteria established by regulation, shall adjust downward the annual average principal outstanding for a bank during a year to exclude all or a portion of any principal outstanding on Government-guaranteed loans made by the bank and loans made by associations serviced by such bank (as described in subsection (d)(1)), as appropriate on an actuarial basis to more accurately reflect the reduced risks associated with such loans for the holders of insured obligations of insured System banks.

"(3) DEFINITION OF GOVERNMENT-GUARANTEED LOANS.—As used in this subsection and subsection (c), the term 'Government-guaranteed loan' means a loan, or portion of a loan, made by an insured System bank that carries a full faith and credit performance or loss guarantee or surety or an unconditional guarantee of the United States Government or any State government, or of any department, agency, bureau, board, commission, or establishment thereof, or any corporation wholly owned directly or indirectly by the United States or any State.";

(2) in subsection (b), by inserting after "for the following calendar year" the following: ", as determined under subsection (a),";

(3) in subsection (c), by inserting after "at such time" the following: "(adjusted downward to exclude, from that portion of such obligations attributable to Government-guaranteed loans made by insured System banks and loans made by associations serviced by such banks (as described in subsection (d)(1)), an amount that reflects all risk-based reductions of principal outstanding on such guaranteed loans for purposes of establishing premium rates under subsection (a), as determined by the Corporation)"; and

(4) in subsection (d), by striking paragraph (1) and inserting the following new paragraph:

"(1) by any production credit association or any other association making direct loans under authority transferred to it under section 7.6, that is able to make such loans because such association is receiving, or has received, funds provided through the Farm Credit Bank;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1989.

TITLE II—COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

SEC. 201. EXTENSION OF FLOOD INSURANCE PROGRAM.

(a) IN GENERAL.—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(b) EMERGENCY IMPLEMENTATION.—Section 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4056(a)) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(c) STRUCTURES ON LAND SUBJECT TO IMMINENT COLLAPSE OR SUBSIDENCE.—Section 1306(c)(7) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(7)) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

SEC. 202. FLOOD ZONE DATA.

Section 1360(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(a)) is amended by striking paragraph (2) and inserting the following:

"(2) establish or update flood-risk zone data in all such areas, and make estimates with respect to the rates of probable flood caused loss for the various flood risk zones for each of these areas until the date specified in section 1319.".

TITLE III—COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

SEC. 301. FEDERAL COMMUNICATIONS COMMISSION FEES, FINES, AND PENALTIES.

(a) FCC FEES.—

(1) UPDATE OF FEE SCHEDULES.—Section 8 of the Communications Act of 1934 (47 U.S.C. 158) is amended by adding at the end the following:

"(g) Until modified pursuant to subsection (b) of this section, the Schedule of Charges which the Federal Communications Commission shall prescribe pursuant to subsection (a) of this section shall be as follows:

"SCHEDULE OF CHARGES

Service	Fee amount
PRIVATE RADIO SERVICES	
1. Marine Coast Stations	
a. New License (per station)	$70.00
b. Modification of License (per station)	70.00
c. Renewal of License (per station)	70.00
d. Special Temporary Authority (Initial, Modifications, Extensions)	100.00
e. Assignments (per station)	70.00
f. Transfers of Control (per station)	35.00
g. Request for Waiver (per station)	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
2. Ship Stations	
a. New License (per application)	35.00
b. Modification of License (per application)	35.00
c. Renewal of License (per application)	35.00

d. Transfer of Control (per call sign) 35.00
e. Request for Waiver
(i) Routine (per request) 105.00
(ii) Non-Routine (per rule section/per station) 105.00
3. Operational Fixed Microwave Stations
a. New License (per station) 155.00
b. Modification of License (per station) 155.00
c. Renewal of License (per station) 155.00
d. Special Temporary Authority (Initial, Modifications, Extensions) 35.00
e. Assignments (per station) 155.00
f. Transfers of Control (per station) 35.00
g. Request for Waiver
(i) Routine (per request) 105.00
(ii) Non-Routine (per rule section/per station) 105.00
4. Aviation (Ground Stations)
a. New License (per station) 70.00
b. Modification of License (per station) 70.00
c. Renewal of License (per station) 70.00
d. Special Temporary Authority (Initial, Modifications, Extensions) 100.00
e. Assignments (per station) 70.00
f. Transfers of Control (per station) 35.00
g. Request for Waiver
(i) Routine (per request) 105.00
(ii) Non-Routine (per rule section/per station) 105.00
5. Aircraft Stations
a. New License (per application) 35.00
b. Modification of License (per application) 35.00
c. Renewal of License (per application) 35.00
d. Transfer of Control (per call sign) 35.00
e. Request for Waiver
(i) Routine (per request) 105.00
(ii) Non-Routine (per rule section/per station) 105.00
6. Land Mobile Radio Stations
a. New License (per call sign) 35.00
b. Modification of License (per call sign) 35.00
c. Renewal of License (per call sign) 35.00
d. Special Temporary Authority (Initial, Modifications, Extensions) 35.00
e. Assignments (per station) 35.00
f. Transfers of Control (per call sign) 35.00
g. Request for Waiver
(i) Routine (per request) 105.00
(ii) Non-Routine (per rule section/per station) 105.00
h. Reinstatement (per call sign) 35.00
i. Specialized Mobile Radio Systems-Base Stations
(i) New License (per call sign) 35.00
(ii) Modification of License (per call sign) ... 35.00
(iii) Renewal of License (per call sign) ... 35.00
(iv) Waiting List (annual charge per application) 35.00
(v) Special Temporary Authority (Initial, Modifications, Extensions) 35.00
(vi) Assignments (per call sign) 35.00
(vii) Transfers of Control (per call sign) 35.00
(viii) Request for Waiver
(1) Routine (per request) 105.00
(2) Non-Routine (per rule section/per station) 105.00
(ix) Reinstatements (per call sign) 35.00
j. Private Carrier Licenses
(i) New License (per call sign) 35.00
(ii) Modification of License (per call sign) ... 35.00
(iii) Renewal of License (per call sign) ... 35.00
(iv) Special Temporary Authority (Initial, Modifications, Extensions) 35.00
(v) Assignments (per call sign) 35.00
(vi) Transfers of Control (per call sign) 35.00
(vii) Request for Waiver
(1) Routine (per request) 105.00
(2) Non-Routine (per rule section/per station) 105.00
(viii) Reinstatements (per call sign) 35.00
7. Amateur License
a. New License (per application) 35.00
b. Modification of License (per application) 35.00
c. Renewal of License (per application) 35.00
d. Reciprocal Permit for Alien Amateur License. 35.00
e. Renewal or Modification of Amateur Club, RACES, or Military Recreation Station License 35.00
f. Special Temporary Authority (Initial, Modifications, Extensions) .. 35.00
g. Request for Waiver
(i) Routine (per request) 105.00
(ii) Nonroutine (per rule section/per station) 105.00
8. General Mobile Radio Service
a. New License (per call sign) 35.00
b. Modifications of License (per call sign) 35.00
c. Renewal of License (per call sign) 35.00
d. Request for Waiver ...
(i) Routine (per request) 105.00
(ii) Nonroutine (per rule section/per station) 105.00
e. Special Temporary Authority (Initial, Modifications, Extensions) .. 35.00
f. Transfer of control (per call sign) 35.00
9. Restricted Radiotelephone Operator Permit ... 35.00
10. Request for Duplicate Station License (all services) 35.00
11. Hearing (Comparative New and Modifications) . 6,760.00

EQUIPMENT APPROVAL SERVICES/EXPERIMENTAL RADIO

1. Certification
a. Receivers (except TV and FM receivers) 285.00
b. All Other Devices 735.00
c. Modifications and Class II Permissive Changes 35.00
d. Request for Confidentiality 105.00
2. Type Acceptance
a. All Devices 370.00
b. Modifications and Class II Permissive Changes 35.00
c. Request for Confidentiality 105.00
3. Type Approval (all devices)
a. With Testing (including Major Modifications) 1,465.00
b. Without Testing (including Minor Modifications) 170.00
c. Request for Confidentiality 105.00
4. Notifications 115.00
5. Advance Approval of Subscription TV System .. 2,255.00
a. Request for Confidentiality 105.00
6. Assignment of Grantee Code for Equipment Identification 35.00
7. Experimental Radio Service
a. New Construction Permit and Station Authorization (per application) 35.00
b. Modification to Existing Construction Permit and Station Authorization (per application) 35.00
c. Renewal of Station Authorization (per application) 35.00
d. Assignment or Transfer of Control (per application) 35.00

e. Special Temporary Authority (per application) 35.00
f. Additional Charge for Applications Containing Requests to Withhold Information From Public Inspection (per application) 35.00

MASS MEDIA SERVICES

1. Commercial TV Stations
a. New or Major Change Construction Permits... 2,535.00
b. Minor Change 565.00
c. Hearing (Major/Minor Change, Comparative New or Comparative Renewal) 6,760.00
d. License 170.00
e. Assignment or Transfer
(i) Long Form (Forms 314/315) 565.00
(ii) Short Form (Form 316) 80.00
f. Renewal 100.00
g. Call Sign (New or Modification) 55.00
h. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent) 100.00
i. Extension of Time to Construct or Replacement of CP 200.00
j. Permit to Deliver Programs to Foreign Broadcast Stations 55.00
k. Petition for Rulemaking for New Community of License or Higher Class Channel 1,565.00
l. Ownership Report (per report) 35.00

2. Commercial Radio Stations
a. New and Major Change Construction Permit
(i) AM Station 2,255.00
(ii) FM Station 2,030.00
b. Minor Change
(i) AM Station 565.00
(ii) FM Station 565.00
c. Hearing (Major/Minor Change, Comparative New or Comparative Renewal) 6,760.00
d. License
(i) AM 370.00
(ii) FM 115.00
(iii) AM Directional Antenna 425.00
(iv) FM Directional Antenna 355.00
(v) AM Remote Control 35.00
e. Assignment or Transfer
(i) Long Form (Forms 314/315) 565.00
(ii) Short Form (Form 316) 80.00
f. Renewal 100.00
g. Call Sign (New or Modification) 55.00
h. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent) 100.00
i. Extension of Time to Construct or Replacement of CP 200.00
j. Permit to Deliver Programs to Foreign Broadcast Stations 55.00
k. Petition for Rulemaking for New Community of License or Higher Class Channel 1,565.00
l. Ownership Report (per report) 35.00

3. Commercial FM Translators
a. New or Major Change Construction Permit 425.00
b. License 85.00
c. Assignment or Transfer 80.00
d. Renewal 35.00
e. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent) 100.00

4. Commercial TV Translators and LPTV Stations
a. New or Major Change Construction Permit 425.00
b. License 85.00
c. Assignment or Transfer 80.00
d. Renewal 35.00
e. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent) 100.00

5. Commercial Auxiliary Services (Includes Remote Pickup stations, TV Auxiliary Broadcast stations, Aural Broadcast STL and Intercity Relay stations, and Low Power Auxiliary stations)
a. Major Actions 85.00
b. Renewals 35.00
c. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent) 100.00

6. Commercial FM/TV Boosters
a. New and Major Change Construction Permits 425.00
b. License 85.00
c. Assignment or Transfer 80.00
d. Renewal 35.00
e. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent) 100.00

7. International Broadcast Station (Commercial)
a. New Construction Permit and Facilities Change CP 1,705.00
b. License 385.00
c. Assignment or Transfer (per station) 60.00
d. Renewal 95.00
e. Frequency Assignment and Coordination (per frequency hour) 35.00
f. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent) 100.00

8. Cable Television Service
a. Cable Television Relay Service
(i) Construction Permit 155.00
(ii) Assignment or Transfer 155.00
(iii) Renewal 155.00
(iv) Modification 155.00
(v) Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent) 100.00
b. Cable Special Relief Petition 790.00
c. 76.12 Registration Statement (per statement) 35.00
d. Aeronautical Frequency Usage Notifications (per notice) 35.00
e. Aeronautical Frequency Usage Waivers (per waiver) 35.00

10. Direct Broadcast Satellite
a. New or Major Change Construction Permit
(i) Application for Authorization to Construct a Direct Broadcast Satellite 2,030.00
(ii) Issuance of Construction Permit & Launch Authority 19,710.00
(iii) License to Operate Satellite 565.00
b. Hearing (Comparative New, Major/Minor Modifications, or Comparative Renewal) 6,760.00
c. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent) 100.00

COMMON CARRIER SERVICES

1. All Common Carrier Services
a. Hearing (Comparative New or Major/Minor Modifications) 6,760.00
b. Developmental Authority—Same charge as regular authority in service unless otherwise indicated
c. Formal Complaints and Pole Attachment Complaints Filing Fee. 120.00

2. Domestic Public Land Mobile Stations (includes Base, Dispatch, Control & Repeater Stations)
a. New or Additional Facility (per transmitter) 230.00
b. Major Modifications (per transmitter) 230.00
c. Fill In Transmitters (per transmitter) 230.00
d. Major Amendment to a Pending Application (per transmitter) 230.00
e. Assignment or Transfer (per call sign) 230.00

f. Partial Assignment (per call sign)	230.00
g. Renewal (per call sign)	35.00
h. Minor Modification (per transmitter)	35.00
i. Special Temporary Authority (per frequency/per location)	200.00
j. Extension of Time to Construct (per application)	35.00
k. Notice of Completion of Construction (per application)	35.00
l. Auxiliary Test Station (per transmitter)	200.00
m. Subsidiary Communications Service (per request)	100.00
n. Reinstatement (per application)	35.00
o. Combining Call Signs (per call sign)	200.00
p. Standby Transmitter (per transmitter/per location)	200.00
q. 900 MHz Nationwide Paging	
(i) Renewal	
(1) Network Organizer	35.00
(2) Network Operator (per operator/per city)	35.00
r. Air-Ground Individual License	
(i) Initial License (per station)	35.00
(ii) Renewal of License (per station)	35.00
(iii) Modification of License (per station).	35.00
3. Cellular Systems (per system)	
a. New or Additional Facilities	230.00
b. Major Modification	230.00
c. Minor Modification	60.00
d. Assignment or Transfer (including partial)	230.00
e. License to Cover Construction	
(i) Initial License for Wireline Carrier	595.00
(ii) Subsequent License for Wireline Carrier	60.00
(iii) License for Non-wireline Carrier	60.00
(iv) Fill In License (all carriers)	60.00
f. Renewal	35.00
g. Extension of Time to Complete Construction	35.00
h. Special Temporary Authority (per system)	200.00
i. Combining Cellular Geographic Service Areas (per system)	50.00
4. Rural Radio (includes Central Office, Interoffice, or Relay Facilities)	
a. New or Additional Facility (per transmitter)	105.00
b. Major Modification (per transmitter)	105.00
c. Major Amendment to Pending Application (per transmitter)	105.00
d. Minor Modification (per transmitter)	35.00
e. Assignment or Transfer (per call sign)	105.00
(i) Partial Assignment (per call sign)	105.00
f. Renewal (per call sign)	35.00
g. Extension of Time to Complete Construction (per application)	35.00
h. Notice of Completion of Construction (per application)	35.00
i. Special Temporary Authority (per frequency/per location)	200.00
j. Reinstatement (per application)	35.00
k. Combining Call Signs (per call sign)	200.00
l. Auxiliary Test Station (per transmitter)	200.00
m. Standby Transmitter (per transmitter per location)	200.00
5. Offshore Radio Service (Mobile, Subscriber, and Central Stations; fees would also apply to any expansion of this service into coastal waters other than the Gulf of Mexico)	
a. New or Additional Facility (per transmitter)	105.00
b. Major Modifications (per transmitter)	105.00
c. Fill In Transmitters (per transmitter)	105.00
d. Major Amendment to Pending Application (per transmitter)	105.00
e. Minor Modification (per transmitter)	35.00
f. Assignment or Transfer (per call sign)	105.00
(i) Partial Assignment (per call sign)	105.00
g. Renewal (per call sign)	35.00
h. Extension of Time to Complete Construction (per application)	35.00
i. Reinstatement (per application)	35.00
j. Notice of Completion of Construction (per application)	35.00
k. Special Temporary Authority (per frequency/per location)	200.00
l. Combining Call Signs (per call sign)	200.00
m. Auxiliary Test Station (per transmitter)	200.00
n. Standby Transmitter (per transmitter/per location)	200.00
6. Point-to-Point Microwave and Local Television Radio Service	
a. Conditional License (per station)	155.00
b. Major Modification of Conditional License or License Authorization (per station)	155.00
c. Certification of Completion of Construction (per station)	155.00
d. Renewal (per licensed station)	155.00
e. Assignment or Transfer (per authorized station)	55.00
f. Extension of Construction Authorization (per station)	55.00
g. Special Temporary Authority or Request for Waiver of Prior Construction Authorization (per request)	70.00
7. Multipoint Distribution Service (including multichannel MDS)	
a. Conditional License (per station)	155.00
b. Major Modification of Conditional License or License Authorization (per station)	155.00
c. Certification of Completion of Construction (per channel)	455.00
d. Renewal (per licensed station)	155.00
e. Assignment or Transfer (per authorized station)	55.00
f. Extension of Construction Authorization (per station)	110.00
g. Special Temporary Authority or Request for Waiver of Prior Construction Authorization (per request)	70.00
8. Digital Electronic Message Service	
a. Conditional License (per nodal station)	155.00
b. Modification of Conditional License or Prior Construction Authorization (per nodal station)	155.00
c. Certification of Completion of Construction (per nodal station)	155.00
d. Renewal (per licensed nodal station)	155.00
e. Assignment or Transfer (per authorized station)	55.00
f. Extension of Construction Authorization (per station)	55.00
g. Special Temporary Authority or Request for Waiver of Prior Construction Authorization (per request)	70.00
9. International Fixed Public Radio (Public & Control Stations)	
a. Initial Construction Permit (per station)	510.00
b. Assignment or Transfer (per application)	510.00
c. Renewal (per license)	370.00
d. Modification (per station)	370.00
e. Extension of Construction Authorization (per station)	185.00
f. Special Temporary Authority or Request for Waiver (per request)	185.00
10. Fixed Satellite Transmit/Receive Earth Stations	
a. Initial Application (per station)	1,525.00
b. Modification of License (per station)	105.00
c. Assignment or Transfer	
(i) First Station on Application	300.00

(ii) Each Additional Station	100.00
d. Developmental Station (per station)	1,000.00
e. Renewal of License (per station)	105.00
f. Special Temporary Authority or Waivers of Prior Construction Authorization (per request)	105.00
g. Amendment of Application (per station)	105.00
h. Extension of Construction Permit (per station)	105.00
11. Small Transmit/Receive Earth Stations (2 meters or less and operating in the 4/6 GHz frequency band)	
a. Lead Application	3,380.00
b. Routine Application (per station)	35.00
c. Modification of License (per station)	105.00
d. Assignment or Transfer	
(i) First Station on Application	300.00
(ii) Each Additional Station	35.00
e. Developmental Station (per station)	1,000.00
f. Renewal of License (per station)	105.00
g. Special Temporary Authority or Waiver of Prior Construction Authorization (per request)	105.00
h. Amendment of Application (per station)	105.00
i. Extension of Construction Permit (per station)	105.00
12. Receive Only Earth Stations	
a. Initial Application for Registration	230.00
b. Modification of License or Registration (per station)	105.00
c. Assignment or Transfer	
(i) First Station on Application	300.00
(ii) Each Additional Station	100.00
d. Renewal of License (per station)	105.00
e. Amendment of Application (per station)	105.00
f. Extension of Construction Permit (per station)	105.00
g. Waivers (per request)	105.00
13. Very Small Aperture Terminal (VSAT) Systems	
a. Initial Application (per system)	5,630.00
b. Modification of License (per system)	105.00
c. Assignment or Transfer of System	1,505.00
d. Developmental Station	1,000.00
e. Renewal of License (per system)	105.00
f. Special Temporary Authority or Waiver of Prior Construction Authorization (per request)	105.00
g. Amendment of Application (per system)	105.00
h. Extension of Construction Permit (per system)	105.00
14. Mobile Satellite Earth Stations	
a. Initial Application of Blanket Authorization.	5,630.00
b. Initial Application for Individual Earth Station	1,350.00
c. Modification of License (per station)	105.00
d. Assignment or Transfer (per system)	1,505.00
e. Developmental Station	1,000.00
f. Renewal of License (per system)	105.00
g. Special Temporary Authority or Waiver of Prior Construction Authorization (per request)	105.00
h. Amendment of Application (per system)	105.00
i. Extension of Construction Permit (per system)	105.00
15. Radiodetermination Satellite Earth Stations	
a. Initial Application of Blanket Authorization.	5,630.00
b. Initial Application for Individual Earth Station	1,350.00
c. Modification of License (per station)	105.00
d. Assignment or Transfer (per system)	1,505.00
e. Developmental Station	1,000.00
f. Renewal of License (per system)	105.00
g. Special Temporary Authority or Waiver of Prior Construction Authorization (per request)	105.00
h. Amendment of Application (per system)	105.00
i. Extension of Construction Permit (per system)	105.00
16. Space Stations	
a. Application for Authority to Construct	2,030.00
b. Application for Authority to Launch and Operate	
(i) Initial Application	70,000.00
(ii) Replacement Satellite	70,000.00
c. Assignment or Transfer (per satellite)	5,000.00
d. Modification	5,000.00
e. Special Temporary Authority or Waiver of Prior Construction Authorization (per request)	500.00
f. Amendment of Application	1,000.00
g. Extension of Construction Permit/Launch Authorization (per request)	500.00
17. Section 214 Applications	
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b. Cable Landing License	
(i) Common Carrier	1,025.00
(ii) NonCommon Carrier	10,150.00
c. Domestic Cable Construction	610.00
d. All Other 214 Applications	610.00
e. Special Temporary Authority (all services)	610.00
f. Assignments or Transfers (all services)	610.00
18. Recognized Private Operating Status (per application)	610.00
19. Telephone Equipment Registration	155.00
20. Tariff Filings	
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b. Special Permission Filing (per filing)	490.00
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b. Review of Attest Audit.	34,000.00
c. Review of Depreciation Update Study (Single State)	20,685.00
(i) Each Additional State	680.00
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2. Radio Operator Examinations	
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b. Inspection of Passenger Vessels Under Title III, Part III of the Communications Act (per inspection)	320.00
c. Inspection of Vessels Under the Great Lakes Agreement (per inspection)	360.00
d. Inspection of Foreign Vessels Under the Safety of Life at Sea (SOLAS) Convention (per inspection)	540.00

e. Temporary Waiver for Compulsorily Equipped Vessel..... 60.00".

(2) CONFORMING AMENDMENTS.—Section 8 of the Communications Act of 1934 (47 U.S.C. 158) is further amended—

(A) by striking the last sentence of subsection (a); and

(B) in subsection (b)(1), by striking "April 1, 1987" and inserting in lieu thereof "October 1, 1991".

(b) REVISION OF FINES AND PENALTIES.—

(1) DISCRIMINATION AND PREFERENCE BY COMMON CARRIER.—Section 202 of the Communications Act of 1934 (47 U.S.C. 202) is amended—

(A) by striking "$500" and inserting in lieu thereof "$6,000"; and

(B) by striking "$25" and inserting in lieu thereof "$300".

(2) FAILURE IN FILING OF SCHEDULE OF CHARGES.—Section 203(e) of such Act (47 U.S.C. 203(e)) is amended—

(A) by striking "$500" and inserting in lieu thereof "$6,000"; and

(B) by striking "$25" and inserting in lieu thereof "$300".

(3) NONCOMPLIANCE WITH RATE ORDERS.—Section 205(b) of such Act (47 U.S.C. 205(b)) is amended by striking "$1,000" and inserting in lieu thereof "$12,000".

(4) NONCOMPLIANCE WITH LINE EXTENSION ORDERS.—Section 214(d) of such Act (47 U.S.C. 214(d)) is amended by striking "$100" and inserting in lieu thereof "$1,200".

(5) FAILURE TO FILE REPORTS OR INFORMATION.—Section 219(b) of such Act (47 U.S.C. 219(b)) is amended by striking "$100" and inserting in lieu thereof "$1,200".

(6) RECORDKEEPING FAILURES.—Section 220(d) of such Act (47 U.S.C. 220(d)) is amended by striking "$500" and inserting in lieu thereof "$6,000".

(7) NONCOMPLIANCE WITH SHIPBOARD RADIO REQUIREMENTS.—Section 364 of such Act (47 U.S.C. 364) is amended—

(A) by striking "$500" in subsection (a) and inserting in lieu thereof "$5,000"; and

(B) by striking "$100" in subsection (b) and inserting in lieu thereof "$1,000".

(8) NONCOMPLIANCE WITH PASSENGER VESSEL RADIO REQUIREMENTS.—Section 386 of such Act (47 U.S.C. 386) is amended—

(A) by striking "$500" in subsection (a) and inserting in lieu thereof "$5,000"; and

(B) by striking "$100" in subsection (b) and inserting in lieu thereof "$1,000".

(9) GENERAL FORFEITURES.—Section 503(b) of such Act (47 U.S.C. 503(b)) is amended—

(A) by inserting "(1)" immediately after "(b)"; and

(B) by striking paragraph (2) and inserting in lieu thereof the following:

"(2)(A) If the violator is (i) a broadcast station licensee or permittee, (ii) a cable television operator, or (iii) an applicant for any broadcast or cable television operator license, permit, certificate, or other instrument or authorization issued by the Commission, the amount of any forfeiture penalty determined under this section shall not exceed $25,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $250,000 for any single act or failure to act described in paragraph (1) of this subsection.

"(B) If the violator is a common carrier subject to the provisions of this Act or an applicant for any common carrier license, permit, certificate, or other instrument of authorization issued by the Commission, the amount of any forfeiture penalty determined under this subsection shall not exceed $100,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $1,000,000 for any single act or failure to act described in paragraph (1) of this subsection.

"(C) In any case not covered in subparagraph (A) or (B), the amount of any forfeiture penalty determined under this subsection shall not exceed $10,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $75,000 for any single act or failure to act described in paragraph (1) of this subsection.

"(D) The amount of such forfeiture penalty shall be assessed by the Commission, or its designee, by written notice. In determining the amount of such a forfeiture penalty, the Commission or its designee shall take into account the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.".

(c) EFFECTIVE DATE; IMPLEMENTATION.—The amendments made by this section shall take effect on the date of enactment of this section, and the Schedule of Charges required by the amendment made by subsection (a) of this subsection shall be implemented not later than 150 days after such date of enactment.

SEC. 302. INTERNATIONAL DEPARTURE FEES.

(a) ESTABLISHMENT OF COMMERCIAL AVIATION FEE.—

(1) IN GENERAL.—The Secretary of Transportation shall establish, assess, and collect a fee, which shall be imposed as of October 1, 1989, for each passenger on commercial aircraft departing the United States on international flights during fiscal year 1990.

(2) AMOUNT OF FEE.—The amount of a fee under this section is $3 per passenger on each flight with respect to which the fee is assessed.

(3) DEPOSIT OF FEES.—Amounts received by the United States Government under this subsection shall be deposited in the general fund of the Treasury as offsetting receipts of the Department of Transportation and ascribed to the activities of the Department of Transportation (including the Federal Aviation Administration) involving the monitoring and regulation of international air transportation operations, including air traffic control operations, aviation security and safety inspections, and activities associated with participation in the International Civil Aviation Organization.

(4) REGULATIONS.—The Secretary of Transportation shall prescribe regulations implementing this subsection not later than 60 days after the date of enactment of this subsection.

(b) ESTABLISHMENT OF PASSENGER VESSEL FEE.—

(1) IN GENERAL.—Chapter 35 of title 46, United States Code, is amended by adding at the end the following new section:

"§ 3507. Passenger vessel fee

"(a) The Secretary shall establish, assess, and collect a fee, which shall be imposed as of October 1, 1989, for each covered voyage during fiscal year 1990 of—

"(1) a passenger vessel having berth or stateroom accommodations for more than 16 passengers that is on a voyage that extends over 1 or more nights, except a vessel that is—

"(A) on a voyage of less than 12 hours between 2 points in the United States; or

"(B) owned and operated by a State or a political subdivision of a State; or

"(2) a vessel transporting passengers engaged in gambling aboard the vessel beyond the territorial sea of the United States.

"(b)(1) Subject to paragraph (2) of this subsection, the amount of a fee under this section is $3 for each passenger on a vessel for a covered voyage with respect to which the fee is assessed. Such fee shall be assessed only once for each passenger on a covered voyage, either when such passenger first embarks in the United States or when the passenger first disembarks in the United States.

"(2) The Secretary shall reduce a fee under this section for a covered voyage of a vessel in an amount equal to—

"(A) the amount for which the person from whom the fee is collected is liable with respect to that voyage under section 4461 of the Internal Revenue Code of 1986 (26 U.S.C. 4461), relating to harbor maintenance tax; plus

"(B) an amount, to be determined by the Secretary, representing fees for which that person is liable for inspections of the vessel performed by the Coast Guard.

"(c) A fee under this section may be collected from an owner, operator, or person in charge of a vessel for a covered voyage with respect to which the fee is assessed.

"(d) Of amounts received by the United States Government under this section—

"(1) two-thirds shall be deposited as offsetting receipts into the Harbor Maintenance Trust Fund established by section 9505 of the Internal Revenue Code of 1986 (26 U.S.C. 9505); and

"(2) one-third shall be deposited into the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.

"(e) In this section, 'covered voyage' means a voyage of a passenger vessel during which passengers of the vessel embark or disembark the vessel in the United States.".

(2) REGULATIONS.—The Secretary of the department in which the Coast Guard is operating shall prescribe regulations implementing section 3507 of title 46, United States Code, as added by this subsection, not later than 60 days after the date of enactment of this subsection.

(3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 35 of title 46, United States Code, is amended by adding at the end the following:

"3507. Passenger vessel fee.".

(4) CONFORMING AMENDMENT.—Section 9505(a) of the Internal Revenue Code of 1986 (26 U.S.C. 9505(a)), relating to the Harbor Maintenance Trust Fund, is amended—

(A) in paragraph (2) by striking ", or" and inserting in lieu thereof a comma;

(B) in paragraph (3) by striking the period at the end and inserting in lieu thereof ", or"; and

(C) by adding at the end the following new paragraph:

"(4) deposited into the Harbor Maintenance Trust Fund under section 3507(d)(1) of title 46, United States Code (relating to passenger vessel fee).".

SEC. 303. COAST GUARD USER FEES.

(a) IN GENERAL.—Notwithstanding the provisions of section 2110 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating (hereinafter in this section referred to as the "Secretary") shall establish and implement a system for the collection, commencing Oc-

tober 1, 1989, of $50,000,000 in fiscal year 1990 in receipts from payments by users of services provided by the Coast Guard, other than services associated with emergency search and rescue. Amounts received by the United States Government under this section shall be deposited into the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.

(b) REGULATIONS.—The Secretary shall, by October 1, 1989, issue regulations to carry out the provisions of subsection (a) of this section. Such regulations shall include a schedule of fees which shall be established in accordance with the provisions of section 9701 of title 31, United States Code.

(c) APPLICABILITY.—

(1) PAYMENTS FROM STAMPS AND FEES.—The system established and implemented under subsection (a) of this section shall include collections of payments from—

(A) the sale of Support of Services Stamps, possession of which will entitle the holder of such Stamps to specified services without charge; and

(B) fees to be charged to users of such specified services who have not purchased such a Support of Services Stamp.

(2) CONSIDERATION OF PAYMENTS FOR CERTAIN COAST GUARD SERVICES.—In developing such system and issuing regulations under this section, the Secretary shall consider collection of receipts from payments for nonemergency search and rescue, as well as other services provided by the Coast Guard.

(d) MINIMIZATION OF ADVERSE EFFECTS ON MARITIME INDUSTRY.—The Secretary shall, to the maximum extent practicable, ensure that such system minimizes adverse economic effects upon commercial towing services and other segments of the maritime industry.

(e) REPORT.—The Secretary shall report to the Congress on or before September 1, 1989, regarding activities undertaken to establish and implement such system and on or before September 1, 1990, regarding the implementation and effects of such system.

(f) DISCLAIMER.—Nothing in this section shall alter or expand the duties and liability of the United States under existing law for the performance of functions for which fees or payments are collected. The collection of such fees or payments shall not constitute an express or implied undertaking by the United States to perform any service or activity in a certain manner or to provide any service at a particular time or place.

SEC. 304. AIRPORT SLOT FEES.

(a) IN GENERAL.—The Secretary of Transportation shall, within 180 days after the date of enactment of this section, establish a schedule of fees to be collected—

(1) for each slot issued by the Federal Aviation Administration on behalf of the Federal Government and held by an air carrier, other than a commuter operator, at high density traffic airports; and

(2) to the extent consistent with international law and treaty obligations of the United States, for each such slot held by a foreign air carrier at such airports.

Such fees shall reasonably reflect the value of each such slot to its holder. The total amount of fees collected under this schedule shall be at least $239,000,000 for fiscal year 1990.

(b) DEPOSIT OF FEES.—The fees collected under these provisions shall be deposited in the general fund of the Treasury as offsetting receipts of the Federal Aviation Administration.

(c) REGULATIONS.—The Secretary shall prescribe appropriate regulations to carry out the provisions of this section.

(d) DEFINITION.—As used in this section—

(1) the terms "air carrier" and "foreign air car- rier" have the meanings given such terms, respectively, in section 101 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301); and

(2) the term "high density traffic airports" means airports so designated in subpart K of part 93 of title 14, Code of Federal Regulations, as in effect on the date of enactment of this section.

TITLE IV—ENVIRONMENT AND PUBLIC WORKS

Subtitle A—Atmospheric Pollution Fees

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SHORT TITLE

SEC. 4001. This subtitle may be cited as the "Stratospheric Ozone and Climate Protection Act of 1989".

FINDINGS

SEC. 4002. The Congress finds that—

(1) the best available scientific evidence shows that manufactured substances, including chlorofluorocarbons and other substances covered by this subtitle, are destroying stratospheric ozone, and significantly contributing to global climate change by enhancing the greenhouse effect and causing other atmospheric modifications;

(2) no level of stratospheric ozone depletion or global climate change caused by human activities can be deemed safe;

(3) stratospheric ozone depletion will lead to increased incidence of solar ultraviolet radiation in the troposphere and at the surface of the Earth;

(4) increased incidence of solar ultraviolet radiation will cause increased rates of disease in humans (including increased rates of skin cancer, cataracts, and, potentially, suppression of the immune system), threaten food crops and marine resources, and otherwise damage the natural environment;

(5) the Ozone Trends Report completed in March 1988 through the effort of over one hundred international scientists found undisputed observational evidence that the atmospheric concentrations of source gases important in controlling stratospheric ozone levels and aggravating the problem of uncontrolled global climate change (chlorofluorocarbons, halons, methane, nitrous oxide, and carbon dioxide) are increasing on a global scale as a result of human activities;

(6) scientific expeditions and analyses have established that chlorine compounds derived from emissions of chlorofluorocarbons are responsible for destruction of the stratospheric ozone layer over the Antarctic and the surrounding oceans;

(7) recent scientific reports indicate that a similar destruction of the ozone layer may occur over the Arctic region and that the same chlorine compounds found in the Antarctic region are present in areas of the Arctic ozone layer;

(8) experimental laboratory studies and measurements of ozone depletion suggest that the chemical reactions responsible for destruction of ozone over Antarctica could operate in the aerosol layer of the stratosphere and would not be limited to the polar regions;

(9) the Montreal Protocol on Substances that Deplete the Ozone Layer (the Montreal Protocol) provides a framework for all nations of the world to protect the Earth's ozone shield;

(10) the control measures that are set forth in the Montreal Protocol (a freeze on the consumption of certain chlorofluorocarbons at 1986 levels in 1989 followed by a 20 per centum reduction in 1993 and an additional 30 per centum reduction in 1998, coupled with a freeze on the consumption of certain halons at 1986 levels in 1992) will allow atmospheric concentrations of chlorine to increase by more than a factor of two;

(11) restrictions on the production and use of chlorofluorocarbons and halons, as required under the Montreal Protocol and by Environmental Protection Agency regulations, will reduce the supply and increase the price of these chemicals, and that increased prices will provide unwarranted, excess rates of return to producers, importers and distributors of these chemicals which may, absent payment to the Government as fees in exchange for limited production, importation and distribution rights, provide a disincentive for the introduction of substitute chemicals to replace chlorofluorocarbons and other substances covered by this subtitle;

(12) in exchange for the limited rights to produce or import chlorofluorocarbons and other ozone depleting substances, the Government should charge fees approximating the market value of such limited rights and use such fees to offset Government expenses associated with implementation of regulatory restrictions, to supplement other regulations and controls applicable to such substances, and for the benefit of the public;

(13) because of the worldwide recognition of the need to reduce significantly the use of ozone-depleting chemicals, United States chemical producers and chlorofluorocarbon and halon user industries should be encouraged to develop improved chemicals, products, and technologies that do not rely on chlorofluorocarbons and halons;

(14) the Ozone Trends Report and other recent scientific studies have raised serious questions about the adequacy of the control measures that are set forth in the Montreal Protocol;

(15) ozone depleting chlorofluorocarbons are also powerful greenhouse gases projected to be responsible for 15 to 25 per centum of global warming and, under the existing Montreal Protocol, 10 per centum of future warming;

(16) stratospheric ozone depletion and global climate change from continued emissions of chlorofluorocarbons and other halogenated chlorocarbons with ozone depleting potential, and emissions of other gases, such as methane and carbon dioxide, imperil human health and the environment worldwide;

(17) in order to stabilize and eventually reduce concentrations of chlorine and bromine in the stratosphere, to conserve the stratospheric ozone layer (an exhaustible

natural resource), and to reduce the extent of global climate change—

(A) emissions of chlorofluorocarbons and other substances covered by this subtitle, including halogenated carbons with ozone depleting potential, should be terminated rapidly;

(B) it is necessary to control international trade in substances covered by this subtitle and products containing such substances; and

(C) emissions of other gases, such as methane and carbon dioxide, should be controlled;

(18) the highest priority must be given to developing and deploying safe and energy efficient products and technologies as substitutes for ozone depleting substances as rapidly as possible; and

(19) the United States needs to develop and deploy safe, energy efficient substitutes to replace ozone depleting substances in order to demonstrate to the world its commitment to protect the stratosphere and to limit global climate change.

OBJECTIVES AND NATIONAL GOAL

SEC. 4003. (a) The objectives of this subtitle are to restore and maintain the chemical and physical integrity of the Earth's atmosphere, to protect human health and the global environment from all known and potential dangers due to atmospheric or climatic modification, including stratospheric ozone depletion, to provide for a smooth transition from the use of ozone-depleting chemicals to the use of safe chemicals, products, and technologies that do not threaten the ozone layer, and to reduce the generation of greenhouse gases in order to protect the Earth's ozone layer and to limit anthropogenically induced global climate changes by—

(1) reducing significantly the production and emission into the atmosphere of pollutants caused by human activities,

(2) promoting the rapid development and deployment of energy efficient alternatives to the use of chlorofluorocarbons and other substances covered by this subtitle,

(3) assuring that such alternatives reduce ozone depleting potential to the maximum extent possible and, at the same time, do not exacerbate the problem of human induced global climate change either directly as radiatively important trace gases or indirectly as substances that reduce the energy efficiency of products which incorporate or use such substances, and

(4) promoting additional scientific research on atmospheric or climatic modification, including stratospheric ozone depletion, and on the known and potential adverse effects therefrom on human health and the global environment.

(b) In order to achieve the objectives of this subtitle, it is the national goal to eliminate atmospheric emissions of manufactured substances with ozone depleting potential as well as direct and indirect global warming potential, including chlorofluorocarbons and other halogenated carbons with ozone depleting and global warming potential, to reduce to the maximum extent possible emissions of other gases caused by human activities that are likely to affect adversely the global climate, and to provide for an orderly and equitable shift to alternative, safe chemicals, products, and technologies.

DEFINITIONS

SEC. 4004. As used in this subtitle, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "distributor" means any person who purchases directly from a producer or importer and markets or sells, at wholesale or retail, ozone depleting chemicals subject to production, importation and distribution fees under this subtitle;

(3) "household appliances" means noncommercial personal effects, including airconditioners, refrigerators, and motor vehicles;

(4) "import" means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States;

(5) "manufactured substances" means any organic or inorganic chemical substances of a particular molecular identity, or any mixture, that has been manufactured for commercial purposes;

(6) "medical purposes" means medical devices and diagnostic products (including drugs, as defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) and drug delivery systems) (A) for which no safe substitute has been developed and (B) which, after notice and opportunity for public comment, has been approved and determined to be essential by the Commissioner of the Food and Drug Administration, in consultation with the Administrator;

(7) "ozone-depleting chemicals" refers to those chemicals listed under section 4011 of this subtitle;

(8) "person" means an individual, corporation (including a government corporation), partnership, firm, joint stock company, trust, association, or any other entity, or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof (including any interstate body), or of any foreign government (including any international instrumentality);

(9) "producer" means the manufacturer of ozone-depleting chemicals subject to production, importation and distribution fees under this subtitle;

(10) "Secretary" means the Secretary of the Treasury; and

(11) "substances covered by this subtitle" means those substances which are known or may reasonably be anticipated to cause or contribute to atmospheric or climatic modification, including stratospheric ozone depletion, and are listed under subsections (a) or (b) of section 4005 of this subtitle.

OFFSET OF GOVERNMENT EXPENSES ASSOCIATED WITH IMPLEMENTATION OF REGULATORY CONTROLS AND IMPOSITION OF PRODUCTION, IMPORTATION AND DISTRIBUTION FEES ON OZONE-DEPLETING CHEMICALS

IMPOSITION OF FEES

SEC. 4011. (a)(1) Within sixty days following the date of the enactment of this subtitle, the Administrator shall issue such regulations as may be necessary to impose production, importation and distribution fees, commencing with the effective date provided by the following table, on producers, importers and distributors of the following chemicals:

Ozone-Depleting Chemical	Effective Date
Trichlorofluoromethane (CFC-11)	July 1, 1989
Dichlorodifluoromethane (CFC-12)	July 1, 1989
Trichlorotrifluoroethane (CFC-113)	July 1, 1989
Dichlorotetrafluoroethane (CFC-114)	July 1, 1989
(Mono) chloropentafluoroethane (CFC-115)	July 1, 1989
Bromochlorodifluoroethane (Halon 1211)	January 1, 1992
Bromotrifluoroethane (Halon 1301)	January 1, 1992
Dibromotetrafluoroethane (Halon 2402)	January 1, 1992.

Ozone-depleting chemicals that have been recovered and recycled shall not be subject to the production, importation and distribution fees established under this subtitle.

(2) Such regulations shall include and establish the 1987 average sales price charged by producers, importers and distributors for each ozone-depleting chemical subject to a production, importation and distribution fee under this subtitle. To reflect changes in production, importation and distribution costs, the Administrator shall publish, on April 1, 1991 and on April 1 of each calendar year thereafter, an annual adjustment to such 1987 average sales prices. The adjustment shall reflect an amount indicated by (A) the producer price index for basic inorganic chemicals (published by the Department of Labor) for the period covered by the preceding calendar year and (B) other appropriate measurements established in regulations promulgated by the Administrator.

(b)(1) BASE FEE.—Each person producing or importing an ozone depleting chemical subject to a production, importation and distribution fee under this subtitle shall be required to pay, on a quarterly basis, for the right to produce or import such chemical. Such fee shall be an amount equal to sixty cents per pound of such chemical produced or imported by such person during the preceding three months.

(2) ALTERNATIVE FEE.—The production, importation and distribution fees established and due under this subtitle shall be the greater of (A) an amount equal to the base fee established under paragraph (1) of this subsection; or (B) an amount equal to each producer's, importer's and distributor's share of the total revenues collected by all such producers, importers and distributors and attributable to sales of each ozone-depleting chemical subject to a production, importation and distribution fee less (i) an allowance equal to the revenues that such sales would have generated at the 1987 average sales price for each such chemical, as determined and adjusted by the Administrator in accordance with the preceding subsection, and (ii) an amount equal to Federal and State income taxes due and payable on such revenues by such producer, importer or distributor. For purposes of computing the fee due and payable by a distributor under subparagraph (B) of this paragraph, the amount equal to such distributor's share of total revenues collected shall, in addition to the adjustments referred to in clauses (i) and (ii), be offset by an amount equal to sixty cents per pound of each ozone depleting chemical subject to a production, importation and distribution fee and sold by such distributor.

(3) Within sixty days following the date of enactment of this subtitle, the Administrator, in consultation with the Secretary, shall issue such regulations as may be necessary to collect the production, importation and distribution fees established by this subtitle, including requirements for payment, on a quarterly basis, of such fees by producers, importers and distributors of ozone-depleting chemicals subject to such production, importation and distribution fees. The im-

portation fees established by this subtitle shall be due and payable by the importer of record as listed on United States Custom Form 7501.

(c) The Administrator may promulgate regulations adding to the list of ozone-depleting chemicals subject to the production, importation and distribution fees referred to in subsection (a), any chemical that is known or can reasonably be anticipated to cause or contribute to stratospheric ozone depletion and is subject to regulatory controls that limit, on a chemical specific basis, production and importation. The Administrator shall also promulgate regulations to accelerate the effective dates in subsection (a) if such changes are necessary to protect public health and the environment and are in furtherance of the goal and objectives of this subtitle as set forth in section 4003.

(d) In promulgating regulations under this section, the Administrator shall take such action as may be necessary, consistent with the purposes of this section, to assure that no production, importation and distribution fee shall be imposed under this subtitle on any ozone-depleting chemical that is used and entirely consumed in the production of other ozone depleting chemicals that are subject to production, importation and distribution fees under this subtitle.

(e) Any person exporting an ozone-depleting chemical subject to a production, importation and distribution fee established by this subtitle may apply to the Administrator for a refund of fees paid by such person and attributable to the quantity of such ozone-depleting chemical that such person exported during the assessment period to a developing country that is a party to the Montreal Protocol on Substances that Deplete the Ozone Layer and is subject to Article 5 of such Protocol. Applications for refunds must be submitted to the Administrator for approval within thirty days after the end of the applicable assessment period. The Administrator shall review the request for a refund and notify both the requester and the Secretary within sixty days of the approval or denial of such requests. Requests for refunds approved by the Administrator shall be paid by the Secretary.

OFFSETTING GOVERNMENT EXPENSES ASSOCIATED WITH IMPLEMENTATION OF REGULATORY CONTROLS AND SUPPORT FOR ACTIVITIES RELATED TO ALTERNATIVES TO OZONE-DEPLETING CHEMICALS

SEC. 4012. All moneys received pursuant to this subtitle for any assessment year shall be deposited as offsetting receipts in the Ozone Layer and Climate Protection Trust Fund established by section 4013 of this subtitle.

TRUST FUND

SEC. 4013. (a) There is established in the Treasury of the United States a trust fund to be known as the "Ozone Layer and Climate Protection Trust Fund" (referred to in this subtitle as the "Trust Fund"). The Trust Fund shall consist of such amounts as may be deposited in it as provided in this subtitle.

(b) Amounts in the Trust Fund shall be available, as provided by appropriation Acts, to implement the Montreal Protocol and this subtitle, to carry out the grant program pursuant to section 4012 of this subtitle, and to carry out the abatement and control activities and the research and development activities of the Environmental Protection Agency.

(c)(1) It shall be the duty of the Secretary to report to the Congress each year on the financial condition and the results of the operation of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next five fiscal years.

(2) It shall be the duty of the Secretary to invest such portion of the Trust Fund as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. Such obligations may be acquired—

(A) as original issue at the issue price, or

(B) by purchase of outstanding obligations at the market price.

(3) Any obligation acquired with moneys from such Trust Fund may be sold by the Secretary at market price. The interest on and the proceeds from the sale or redemption of such obligation shall be credited to and become a part of the Trust Fund.

Subtitle B—Nuclear Regulatory Commission User Fees

SEC. 4101. Section 7601 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (Public Law 99-272) is amended to read as follows:

"(1) IN GENERAL.—The Nuclear Regulatory Commission shall assess and collect annual charges from its licensees on a fiscal year basis, except that—

"(A) the maximum amount of the aggregate charges assessed pursuant to this paragraph in any fiscal year may not exceed an amount that, when added to other amounts collected by the Commission for such fiscal year under other provisions of law, is estimated to be equal to 33 per centum of the costs incurred by the Commission with respect to such fiscal year, except that for fiscal year 1990 such maximum amount shall be estimated to be equal to 45 per centum of the costs incurred by the Commission for fiscal year 1990; and

"(B) any such charge assessed pursuant to this paragraph shall be reasonably related to the regulatory service provided by the Commission and shall fairly reflect the cost to the Commission of providing such service.

"(2) ESTABLISHMENT OF AMOUNT BY RULE.—The amount of the charges assessed pursuant to this paragraph shall be established by rule.".

Subtitle C—Payments to the Offshore Oil Pollution Compensation Fund

SEC. 4201. (a) IN GENERAL.—(1) Section 302(d)(1) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1812(d)(1)) is amended by striking out "not to exceed".

(2) Section 302(d)(2) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1812(d)(2)) is amended by striking out "not less than $100,000,000 and not more than" and adding in lieu thereof "not more than or less than".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

Subtitle D—Onondaga Lake Restoration Program

SEC. 4301. ARMY CORPS OF ENGINEERS.

The Secretary of the Army, acting through the Chief of Engineers, shall carry out a reconnaissance study for an environmental restoration project for Onondaga Lake as authorized by Committee Resolution _____, as adopted by the Senate Environment and Public Works Committee on July 9, 1989, and shall, to the degree that matching funds are available, carry out the feasibility study for such project as authorized by such Committee Resolution.

TITLE V—NON-REVENUE PROVISIONS OF THE COMMITTEE ON FINANCE

SEC. 5000. AMENDMENT OF THE SOCIAL SECURITY ACT; TABLE OF CONTENTS.

(a) AMENDMENT OF THE SOCIAL SECURITY ACT.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

(b) TABLE OF CONTENTS.—

TITLE V—NON-REVENUE PROVISIONS OF THE COMMITTEE ON FINANCE

Sec. 5000. Amendment of the Social Security Act; table of contents.

Subtitle A—Medicare

PART I—PROVISIONS RELATING TO PART A OF MEDICARE

Sec. 5101. Prospective payment hospitals.
Sec. 5102. Reduction in indirect medical education payments.
Sec. 5103. Reduction in payments for capital-related costs of inpatient hospital services for fiscal year 1990.

PART II—PROVISIONS RELATING TO PART B OF MEDICARE

SUBPART A—PAYMENT FOR PHYSICIANS' SERVICES

Sec. 5201. Updating payments for physicians' services.
Sec. 5202. Reduction in payments for certain overvalued procedures.
Sec. 5203. Reduction in payments for radiology services.
Sec. 5204. Anesthesia services.

SUBPART B—PAYMENT FOR OTHER SERVICES

Sec. 5221. Clinical diagnostic laboratory services.
Sec. 5222. Durable medical equipment.
Sec. 5223. Payments for capital for hospital outpatient services.

PART III—PROVISIONS RELATING TO PARTS A AND B OF MEDICARE

Sec. 5301. Delay in payments in fiscal year 1990.
Sec. 5302. Medicare as secondary payer.

PART IV—MEDICARE PART B BASIC PREMIUM

Sec. 5401. One-year extension of part B premium minimum.

Subtitle B—Medicaid

Sec. 5501. Miscellaneous Medicaid provisions.

Subtitle C—Income Security

Sec. 5601. Proposed amendments to authorize the offset of unpaid contributions from unemployment compensation (with technical amendments).

Subtitle A—Medicare

PART I—PROVISIONS RELATING TO PART A OF MEDICARE

SEC. 5101. PROSPECTIVE PAYMENT HOSPITALS.

Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) by striking "and" at the end of subclause (IV);

(2) in subclause (V), by striking "1990" and inserting in lieu thereof "1991" and redesignating such subclause as subclause (VI); and

(3) by inserting after subclause (IV) the following new subclause:

"(V) for fiscal year 1990, the market basket percentage increase plus 3 percentage points for hospitals located in a rural area, the

market basket percentage increase minus 0.7 percentage points for hospitals located in a large urban area, and the market basket percentage increase minus 1.4 percentage points for hospitals located in other urban areas, and".

SEC. 5102. REDUCTION IN INDIRECT MEDICAL EDUCATION PAYMENTS.

(a) INDIRECT MEDICAL EDUCATION PAYMENTS REDUCED.—

(1) Section 1886(d)(5)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(A) in subclause (I), by striking "1.89" and inserting in lieu thereof "1.752"; and

(B) in subclause (II), by striking "1.43" and inserting in lieu thereof "1.329".

(2) Section 1886(d)(3)(C)(ii) of such Act (42 U.S.C. 1395ww(d)(3)(C)(ii)) is amended—

(A) in subclause (I)—

(i) by striking "1985 and" and inserting in lieu thereof "1985,", and

(ii) by inserting "and by section 5102 of the Omnibus Budget Reconciliation Act of 1989" after "1987"; and

(B) in subclause (II)—

(i) by striking "1985 and" and inserting in lieu thereof "1985,", and

(ii) by inserting "and by section 5102 of the Omnibus Budget Reconciliation Act of 1989" after "1987".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for discharges occurring on or after October 1, 1989.

SEC. 5103. REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS OF INPATIENT HOSPITAL SERVICES FOR FISCAL YEAR 1990.

Section 1886(g)(3)(A) of the Social Security Act (42 U.S.C. 1395ww(g)(3)(A)) is amended—

(1) in clause (iii), by striking "and";

(2) in clause (iv), by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(v) 13.5 percent for payments attributable to portions of cost reporting periods or discharges (as the case may be) occurring during fiscal year 1990 (excluding such payments for such fiscal year for hospitals described in section 1815(e)(1)(B)).".

PART II—PROVISIONS RELATING TO PART B OF MEDICARE

Subpart A—Payment for Physicians' Services

SEC. 5201. UPDATING PAYMENTS FOR PHYSICIANS' SERVICES.

(a) DELAYING MEI UPDATE UNTIL APRIL 1.—

(1) IN GENERAL.—Subject to the amendments made by this section, any increase or adjustment in prevailing or customary charges, fee schedule amounts, maximum allowable actual charges, and other limits on actual charges with respect to physicians' services and other items and services described in paragraph (2) under part B of title XVIII of the Social Security Act which would otherwise occur as of January 1, 1990, shall be delayed so as to occur as of April 1, 1990, and, notwithstanding any other provision of law, the amount of payment under such part for such items and services which are furnished during the period beginning on January 1, 1990, and ending on March 31, 1990, shall be determined on the same basis as the amount of payment for such services furnished on December 31, 1989.

(2) ITEMS AND SERVICES COVERED.—The items and services described in this paragraph are items and services (other than ambulance services) for which payment is made under part B of title XVIII of the Social Security Act on the basis of reasonable charge or on the basis of a fee schedule if the fee schedule is subject to an annual adjustment based on the percentage increase in the MEI (as defined in section 1842(i)(3) of such Act).

(3) EXTENSION OF PARTICIPATION AGREEMENTS AND RELATED PROVISIONS.—Notwithstanding any other provision of law—

(A) subject to the last sentence of this paragraph, each participation agreement in effect on December 31, 1989, under section 1842(h)(1) of the Social Security Act shall remain in effect for the 3-month period beginning on January 1, 1990;

(B) the effective period for such agreements under such section entered into for 1990 shall be the 9-month period beginning on April 1, 1990, and the Secretary shall provide an opportunity for physicians and suppliers to enroll as participating physicians and suppliers before April 1, 1990;

(C) instead of publishing, under section 1842(h)(4) of the Social Security Act, at the beginning of 1990, directories of participating physicians and suppliers for 1990, the Secretary shall provide for such publication, at the beginning of the 9-month period beginning on April 1, 1990, of such directories of participating physicians and suppliers for such period; and

(D) instead of providing to nonparticipating physicians under section 1842(b)(3)(G) of the Social Security Act at the beginning of 1990, a list of maximum allowable actual charges for 1990, the Secretary shall provide such physicians, at the beginning of the 9-month period beginning on April 1, 1990, with such a list for such 9-month period.

An agreement with a participating physician or supplier described in subparagraph (A) in effect on December 31, 1989, under section 1842(h)(1) of the Social Security Act shall not remain in effect for the period described in subparagraph (A) if the participating physician or supplier requests on or before December 31, 1989, that the agreement be terminated.

(b) UPDATE.—Section 1842(b)(4)(E) (42 U.S.C. 1395u(b)(4)(E)) is amended by adding at the end thereof the following new clause:

"(iv) For purposes of this part for physicians' services furnished in 1990, after March 31, 1990, the percentage increase in the MEI is—

"(I) zero percent for radiology services,

"(II) 2 percent for other services (other than primary care services), and

"(III) such percentage increase in the MEI (as defined in subsection (i)(3)) as would be otherwise determined for primary care services (as defined in subsection (i)(4)).".

SEC. 5202. REDUCTION IN PAYMENTS FOR CERTAIN OVERVALUED PROCEDURES.

(a) REDUCTION IN PAYMENTS FOR IDENTIFIED OVERVALUED PROCEDURES.—

(1) IN GENERAL.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(14)(A) In determining the reasonable charge for a physician's service specified in subparagraph (C)(i) and furnished during the 9-month period beginning on April 1, 1990, the prevailing charge for such service shall be the prevailing charge otherwise recognized for such service for 1989 reduced by 15 percent or, if less, ¼ of the percent (if any) by which the prevailing charge otherwise applied in the locality in 1989 exceeds the locally-adjusted reduced prevailing amount (as determined under subparagraph (B)(i)) for the service.

"(B) For purposes of this paragraph:

"(i) The 'locally-adjusted reduced prevailing amount' for a locality for a physician's service is equal to the product of (I) the reduced national weighted average prevailing charge for the service (specified under clause (ii)) and (II) the adjustment factor (specified under clause (iii)) for the locality.

"(ii) The 'reduced national weighted average prevailing charge' for a physician's service is equal to the national weighted average prevailing charge for the service (specified under subparagraph (C)(ii)) reduced by the percentage change (specified under subparagraph (C)(iii)) for the service.

"(iii) The 'adjustment factor' for a locality is .54 plus the product of .46 and the geographic practice cost index value (specified under subparagraph (C)(iv)) for the locality.

"(C) For purposes of this paragraph:

"(i) The physicians' services specified in this clause are the physicians' services specified in Appendix A of the explanation of subtitle B of title X (Committee on Ways and Means) contained in the report of the Committee of the Budget, House of Representatives, to accompany H.R. 3299 ('Omnibus Budget Reconciliation Act of 1989'), 101st Congress, which specification is of physicians' services that have been identified as overpriced by at least 15 percent based on a comparison of payments for such services under a resource-based relative value scale and of the national average prevailing charges under this part.

"(ii) The 'national weighted average prevailing charge' specified in this clause, for a physician's service specified in clause (i), is the national weighted average prevailing charge for the service in 1989 as determined by the Secretary using the best data available.

"(iii) The 'percent change' specified in this clause, for a physician's service specified in clause (i), is the percent change specified for the service in the Appendix referred in clause (i).

"(iv) The geographic practice cost index value specified in this clause for a locality is such value specified for the locality in the Appendix referred to in clause (i).

"(D) In the case of a reduction in the prevailing charge for a physicians' service under subparagraph (A), if a nonparticipating physician furnishes the service to an individual entitled to benefits under this part, after the effective date of such reduction, the physician's actual charge is subject to a limit under subsection (j)(1)(D).".

(2) SPECIAL LIMITS ON ACTUAL CHARGES.—Section 1842(j)(1)(D) of such Act is amended—

(A) in clause (ii)(II), by inserting "or (b)(14)(A)" after "(b)(10)(A)", and

(B) in clause (iii)(II), by striking "or (b)(11)(C)(i)" and inserting "(b)(11)(C)(i), or (b)(14)(A)".

SEC. 5203. REDUCTION IN PAYMENTS FOR RADIOLOGY SERVICES.

(a) FEE SCHEDULES FOR RADIOLOGIST SERVICES REDUCED.—Section 1834(b)(4) (42 U.S.C. 1395m(b)(4)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) 1990 FEE SCHEDULES.—(i) For radiology services furnished under this part during 1990, after March 31 of such year, the fee schedules under this subsection shall be 95 percent of the amounts permitted under the fee schedules developed for 1989 under subparagraph (A).

"(ii) For portable X-ray services furnished under this part during 1990, after March 31 of such year, clause (i) shall be applied by substituting '97' for '95'.".

(b) REDUCTION IN PREVAILING CHARGES FOR RADIOLOGY SERVICES.—(1) Section 1842(b)(42 U.S.C. 1395u(b)) is amended by adding at the end thereof the following new paragraph:

"(15) The prevailing charge levels for radiology services furnished during 1990, after March 31 of such year, shall be 98 percent of the prevailing charge levels for such services furnished during 1989.".

(2) Section 1842(j)(1)(D) of such Act, as amended by subsection (a)(2) of this section, is further amended—

(i) in clause (ii)(IV), by inserting "or (b)(15)" before the comma at the end, and

(ii) in clause (iii)(II), by striking "or (b)(14)(A)(i)" and inserting "(b)(14)(A), or (b)(15)".

(c) 1-YEAR EXEMPTION OF NUCLEAR PHYSICIANS.—(1) In applying section 1834(b)(6) of the Social Security Act with respect to services furnished during 1990, after March 31, of such year, the term "radiologist services" does not include nuclear medicine services performed by, or under the direct supervision of, a physician who is certified by the American Board of Nuclear Medicine or by the American Board of Radiology (with Special Competence in Nuclear Radiology).

(2) The Secretary of Health and Human Services shall make such adjustments in the fee schedule under section 1834(b) of the Social Security Act as may be necessary to ensure that the exclusion required by paragraph (1) neither increases nor decreases the total amount that would have been expended in 1990 for radiologist services (including the services excluded pursuant to this paragraph) but for the exclusion.

(d) INTERVENTIONAL RADIOLOGISTS.—In applying section 1834(b) of the Social Security Act to radiology services furnished in 1990, the exception for "split billing" set forth at section 5262J of the Medicare Carriers Manual shall apply to services furnished in 1990 in the same manner and to the same extent as the exception applied to services furnished in 1989.

SEC. 5204. ANESTHESIA SERVICES.

For purposes of payment for anesthesia services (whether furnished by a physician or by a certified registered nurse anesthetist) furnished under part B of title XVIII of the Social Security Act on or after April 1, 1990, the time units shall be counted based on actual time rather than rounded to full time units.

Subpart B—Payment For Other Services

SEC. 5221. CLINICAL DIAGNOSTIC LABORATORY SERVICES.

(a) SETTING FEE SCHEDULE UPDATE FOR 1990 AT 3 PERCENT.—Paragraph (2)(A)(ii) of section 1833(h) (42 U.S.C. 1395l(h)) is amended—

(1) by striking "and" at the end of subclause (I);

(2) in subclause (II), by striking "1988." and inserting "1988, and"; and

(3) by adding at the end the following new subclause:

"(III) the annual adjustment under clause (i) to become effective on April 1, 1990, shall be an increase of 3 percent.".

(b) REDUCTION OF LIMITATION AMOUNT ON PAYMENT AMOUNT.—Paragraph (4)(B) of such section is amended—

(1) in clause (i), by striking "or" at the end;

(2) in clause (ii)—

(A) by striking "and so long as a fee schedule for the test has not been established on a nationwide basis," and inserting "and before January 1, 1990,", and

(B) by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(iii) after December 31, 1989, and so long as a fee schedule for the test has not been established on a nationwide basis, is equal to 95 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

SEC. 5222. DURABLE MEDICAL EQUIPMENT.

(a) DELAY IN AND REDUCTION OF UPDATE FOR 1990.—

(1) INEXPENSIVE AND ROUTINELY PURCHASED DURABLE MEDICAL EQUIPMENT AND ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—Paragraphs (2)(B) and (3)(B) of section 1834(a) of such Act (42 U.S.C. 1395m(a)) are each amended—

(A) in clause (i), by striking "in 1989" and inserting "in 1989 and the first 3 months of 1990",

(B) in clause (i), by striking "or" at the end,

(C) in clause (ii), by striking "for the preceding year" and inserting "for the last day of the preceding year",

(D) by redesignating clause (ii) as clause (iii), and

(E) by inserting after clause (i) the following new clause:

"(ii) in the remaining months of 1990, is the amount specified in clause (i) increased by 3 percent, or".

(2) MISCELLANEOUS DEVICES AND ITEMS AND OTHER COVERED ITEMS.—Paragraph (8)(A)(ii) of such section is amended—

(A) in subclause (I), by striking "1989" and inserting "1989 and the first 3 months of 1990",

(B) in subclause (I), by striking "or" at the end,

(C) in subclause (II), by striking "1990, 1991," and inserting "1991",

(D) in subclause (II), by striking "for the previous year" and inserting "for the last day of the previous year",

(E) by redesignating subclause (II) as subclause (III), and

(F) by inserting after subclause (I) the following new subclause:

"(II) in the remaining months of 1990, is the amount specified in subclause (I) increased by 3 percent, or".

(3) OXYGEN AND OXYGEN EQUIPMENT.—Paragraph (9)(A)(ii) of such section is amended—

(A) in subclause (I), by striking "1989" and inserting "1989 and the first 3 months of 1990",

(B) in subclause (I), by striking "or" at the end,

(C) in subclause (II), by striking "1990, 1991," and inserting "1991",

(D) in subclause (II), by striking "for the previous year" and inserting "for the last day of the previous year",

(E) by redesignating subclause (II) as subclause (III), and

(F) by inserting after subclause (I) the following new subclause:

"(II) to the remaining months of 1990, is the amount specified in subclause (I) increased by 3 percent, or".

(4) CONFORMING AMENDMENTS.—Such section is further amended—

(A) in paragraph (7)(A)(i), by striking "this subparagraph" and inserting "this clause";

(B) in paragraph (8)(C)(i), by striking "(A)(ii)(I)" and inserting "(A)(ii)"; and

(C) in paragraphs (8) and (9)—

(i) in subparagraph (B)(i), by striking "(A)(ii)(II)" and inserting "(A)(ii)(III)"; and

(ii) in clauses (ii) and (iii) of subparagraph (C), by striking "(A)(ii)(II)" and inserting "(A)(ii)(III)".

(b) ADJUSTMENT BY SECRETARY FOR OVERPRICED ITEMS.—Paragraph (1) of section 1834(a) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new subparagraph:

"(D) REDUCTION IN FEE SCHEDULES FOR CERTAIN ITEMS.—With respect to a seat-lift chair or transcutaneous electrical nerve stimulator furnished on or after April 1, 1990, the Secretary shall reduce the payment amount applied under subparagraph (B)(ii) for such an item by 15 percent.".

(c) TREATMENT OF POWER DRIVEN WHEELCHAIRS.—

(1) AS ROUTINELY PURCHASED.—Section 1834(a)(2)(A) (42 U.S.C. 1395m(a)(2)(A)) is amended—

(A) by striking "or" at the end of clause (i),

(B) by adding "or" at the end of clause (ii), and

(C) by inserting after clause (ii) the following new clause:

"(iii) which is a power-driven wheelchair (other than a customized wheelchair that is classified as a customized item under paragraph (4) pursuant to criteria specified by the Secretary),".

(2) AS CUSTOMIZED ITEM.—The Secretary of Health and Human Services (hereafter in this subsection referred to as the "Secretary") shall by regulation specify criteria to be used by carriers in making determinations on a case by case basis as whether to classify power-driven wheelchairs as a customized item (as described in section 1834(a)(4) of the Social Security Act) for purposes of reimbursement under title XVIII of the Social Security Act.

(3) The amendments made by paragraph (1) shall apply to items furnished on or after April 1, 1990.

SEC. 5223. PAYMENTS FOR CAPITAL FOR HOSPITAL OUTPATIENT SERVICES.

Section 1861(v)(1)(S) (42 U.S.C. 1395x(v)(1)(S)) is amended—

(1) by inserting "(i)" after "(S)", and

(2) by adding at the end the following new clause:

"(ii)(I) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of outpatient hospital services, the Secretary shall reduce the amounts of such payments otherwise established under this title by 13.5 percent for services provided in cost reporting periods beginning during fiscal year 1990.

"(II) Subclause (I) shall not apply to payments with respect to the capital-related costs of any hospital for a cost reporting period if the hospital is a sole community hospital (as defined in section 1886(d)(5)) or is eligible to be paid as a sole community hospital for the period.

"(III) Subclause (I) shall not apply to payments with respect to the capital-related costs of any hospital for a cost reporting period if the hospital is a hospital (described in section 1815(e)(1)(B)) for the period.

"(IV) The Secretary shall apply the reduction described in subclause (I) to services for which payment may be based on a blended rate under section 1833(n) or 1833(i)(3); however, the reduction shall be applied only to that portion of the payment based on hospital costs.".

PART III—PROVISIONS RELATING TO PARTS A AND B OF MEDICARE

SEC. 5301. DELAY IN PAYMENTS IN FISCAL YEAR 1990.

(a) PART A.—Section 1816(c) (42 U.S.C. 1395h(c)) is amended—

(1) in paragraph (2)(B)(ii)(IV), by striking "24" and inserting "25"; and

(2) in paragraph (3)(B)—

(A) by striking "and" at the end of clause (i),

(B) by striking the period at the end of clause (ii) and inserting ", and", and

(C) by adding at the end the following new clause:

"(iii) with respect to claims received in the 12-month period beginning October 1, 1989, 15 days.".

(b) PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended—

(1) in paragraph (2)(B)(ii)(IV), by striking "24" and "17" and inserting "25" and "20", respectively; and

(2) in paragraph (3)(B)—

(A) by striking "and" at the end of clause (i),

(B) by striking the period at the end of clause (ii) and inserting ", and", and

(C) by adding at the end the following new clause:

"(iii) with respect to claims received in the 12-month period beginning October 1, 1989, 15 days.".

(c) NECESSARY RESULT.—Any transfer of outlays, receipts, or revenues pursuant to this section, is a necessary (but secondary) result of a significant policy change for purposes of section 202 of Public Law 100-119.

SEC. 5302. MEDICARE AS SECONDARY PAYER.

(a) IDENTIFICATION OF MEDICARE SECONDARY PAYER SITUATIONS.—

(1) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION FOR VERIFICATION OF EMPLOYMENT STATUS OF MEDICARE BENEFICIARY AND SPOUSE OF MEDICARE BENEFICIARY.—

(A) IN GENERAL.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end thereof the following new paragraph:

"(12) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION FOR VERIFICATION OF EMPLOYMENT STATUS OF MEDICARE BENEFICIARY AND SPOUSE OF MEDICARE BENEFICIARY.—

"(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary shall, upon written request from the Commissioner of Social Security, disclose to the Commissioner available filing status and taxpayer identity information from the individual master files of the Internal Revenue Service relating to whether any medicare beneficiary identified by the Commissioner was a married individual (as defined in section 7703) for any specified year after 1986, and, if so, the name of the spouse of such individual and such spouse's TIN.

"(B) RETURN INFORMATION FROM SOCIAL SECURITY ADMINISTRATION.—The Commissioner of Social Security shall, upon written request from the Administrator of the Health Care Financing Administration, disclose to the Administrator the following information:

"(i) The name and TIN of each medicare beneficiary who is identified as having received wages (as defined in section 3401(a)) from a qualified employer in a previous year.

"(ii) For each medicare beneficiary who was identified as married under subparagraph (A) and whose spouse is identified as having received wages from a qualified employer in a previous year—

"(I) the name and TIN of the medicare beneficiary, and

"(II) the name and TIN of the spouse.

"(iii) With respect to each such qualified employer, the name, address, and TIN of the employer and the number of individuals with respect to whom written statements were furnished under section 6051 by the employer with respect to such previous year.

"(C) DISCLOSURE BY HEALTH CARE FINANCING ADMINISTRATION.—With respect to the information disclosed under subparagraph (B), the Administrator of the Health Care Financing Administration may disclose—

"(i) to the qualified employer referred to in such subparagraph the name and TIN of each individual identified under such subparagraph as having received wages from the employer (hereinafter in this subparagraph referred to as the 'employee') for purposes of determining during what period such employee or the employee's spouse may be (or have been) covered under a group health plan of the employer and what benefits are or were covered under the plan (including the name, address, and identifying number of the plan),

"(ii) to any group health plan which provides or provided coverage to such an employee or spouse, the name of such employee and the employee's spouse (if the spouse is a medicare beneficiary) and the name and address of the employer, and, for the purpose of presenting a claim to the plan—

"(I) the TIN of such employee if benefits were paid under title XVIII of the Social Security Act with respect to the employee during a period in which the plan was a primary plan (as defined in section 1862(b)(2)(A) of the Social Security Act), and

"(II) the TIN of such spouse if benefits were paid under such title with respect to the spouse during such period, and

"(iii) to any agent of such Administrator the information referred to in subparagraph (B) for purposes of carrying out clauses (i) and (ii) on behalf of such Administrator.

"(D) SPECIAL RULES.—

"(i) RESTRICTIONS ON DISCLOSURE.—Information may be disclosed under this paragraph only for purposes of, and to the extent necessary in, determining the extent to which any medicare beneficiary is covered under any group health plan.

"(ii) TIMELY RESPONSE TO REQUESTS.—Any request made under subparagraph (A) or (B) shall be complied with as soon as possible but in no event later than 120 days after the date the request was made.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) MEDICARE BENEFICIARY.—The term 'medicare beneficiary' means an individual entitled to benefits under part A, or enrolled under part B, of title XVIII of the Social Security Act, but does not include such an individual enrolled in part A under section 1818 or section 1818A.

"(ii) GROUP HEALTH PLAN.—The term 'group health plan' means—

"(I) any group health plan (as defined in section 5000(b)(1)), and

"(II) any large group health plan (as defined in section 5000(b)(2)).

"(iii) QUALIFIED EMPLOYER.—The term 'qualified employer' means, for a calendar year, an employer which has furnished written statements under section 6051 with respect to at least 20 individuals for wages paid in the year.

"(F) TERMINATION.—Subparagraphs (A) and (B) shall not apply to—

"(i) any request made after September 30, 1991, and

"(ii) any request made before such date for information relating to—

"(I) 1990 or thereafter in the case of subparagraph (A), or

"(II) 1991 or thereafter in the case of subparagraph (B).".

(B) SAFEGUARDS.—

(i) Paragraph (3) of section 6103(a) of such Code is amended by inserting "(l)(12)," after "(e)(1)(D)(iii),".

(ii) Subparagraph (A) of section 6103(p)(3) of such Code is amended by striking "or (11)" and inserting "(11), or (12)".

(iii) Paragraph (4) of section 6103(p) of such Code is amended in the material preceding subparagraph (A) by striking "or (9) shall" and inserting "(9), or (12) shall".

(iv) Clause (ii) of section 6103(p)(4)(F) of such Code is amended by striking "or (11)" and inserting "(11), or (12)".

(v) The next to the last sentence of paragraph (4) of section 6103(p) of such Code is amended by inserting "or which receives any information under subsection (l)(12)(B) and which discloses any such information to any agent" before ", this paragraph".

(C) PENALTY.—Paragraph (2) of section 7213(a) of such Code is amended by striking "or (10)" and inserting "(10), or (12)".

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect on October 1, 1989.

(2) RESPONSIBILITIES OF HCFA.—

(A) IN GENERAL.—Section 1862(b) (42 U.S.C. 1395y(b)), as amended by subsection (b)(1) of this section, is amended by inserting after paragraph (4) the following new paragraph:

"(5) IDENTIFICATION OF SECONDARY PAYER SITUATIONS.—

"(A) REQUESTING MATCHING INFORMATION.—

"(i) COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security shall, not less often than annually, transmit to the Secretary of the Treasury a list of the names and TINs of medicare beneficiaries (as defined in section 6103(l)(12) of the Internal Revenue Code of 1986) and request that the Secretary disclose to the Commissioner the information described in subparagraph (A) of such section.

"(ii) ADMINISTRATOR.—The Administrator of the Health Care Financing Administration shall request, not less often than annually, the Commissioner of the Social Security Administration to disclose to the Administrator the information described in subparagraph (B) of section 6103(l)(12) of the Internal Revenue Code of 1986.

"(C) DISCLOSURE TO FISCAL INTERMEDIARIES AND CARRIERS.—In addition to any other information provided under this title to fiscal intermediaries and carriers, the Administrator shall disclose to such intermediaries and carriers the information received under subparagraph (B) for the purposes of carrying out this subsection.

"(D) CONTACTING EMPLOYERS.—

"(i) IN GENERAL.—With respect to each individual (in this subparagraph referred to as an 'employee') who was furnished a written statement under section 6051 of the Internal Revenue Code of 1986 by a qualified employer (as defined in section 6103(l)(12)(D)(iii) of such Code), as disclosed under subparagraph (C), the appropriate fiscal intermediary or carrier shall contact the employer in order to determine during what period the employee or employee's spouse may be (or have been) covered under a group health plan of the employer and the nature of the coverage that is or was provided under the plan (including the name, address, and identifying number of the plan).

"(ii) EMPLOYER RESPONSE.—Within 30 days of the date of receipt of the inquiry, the employer shall notify the intermediary or carrier making the inquiry as to the determinations described in clause (i). An employer (other than a Federal or other governmental entity) who willfully or repeatedly fails to provide timely and accurate notice in accordance with the previous sentence shall be subject to a civil money penalty of not to exceed $1,000 for each individual with respect to which such an inquiry is made. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(iii) SUNSET ON REQUIREMENT.—Clause (ii) shall not apply to inquiries made after September 30, 1991.".

(B) DEADLINE FOR FIRST REQUEST.—The Commissioner of Social Security shall first—

(i) transmit to the Secretary of the Treasury information under paragraph (5)(A)(i) of section 1862(b) of the Social Security Act (as inserted by subparagraph (A)), and

(ii) request from the Secretary disclosure of information described in section 6013(l)(12)(A) of the Internal Revenue Code of 1986,

by not later than October 15, 1989.

PART IV—MEDICARE PART B BASIC PREMIUM

SEC. 5401. ONE-YEAR EXTENSION OF PART B PREMIUM MINIMUM.

Section 1839(e) (42 U.S.C. 1395q(e)) is amended by striking "1990" each place it appears and inserting in lieu thereof "1991".

Subtitle B—Medicaid

SEC. 5501. MISCELLANEOUS MEDICAID PROVISIONS.

(a) NURSE AIDE TRAINING.—

(1) DELAY IN REQUIREMENT.—Section 1919(b)(5) (42 U.S.C. 1396r(b)(5)) is amended—

(A) in subparagraph (A), by striking "January 1, 1990" and inserting "October 1, 1990", and

(B) in subparagraph (B), by striking "July 1, 1989" and "January 1, 1990" and inserting "January 1, 1990" and "October 1, 1990", respectively.

(2) WAIVERS FOR CERTAIN NURSE AIDES.—Section 1919(b)(5) (42 U.S.C. 1396r(b)(5)) is further amended—

(A) in subparagraph (A), by striking "any individual" and inserting in lieu thereof "any individual (except an individual described in subparagraph (H))", and

(B) by inserting at the end thereof the following new subparagraph:

"(H) EXCEPTIONS TO GENERAL RULE OF REQUIRED TRAINING OF NURSE AIDES.—

"(i) WAIVERS.—With respect to the nurse aide training and competency requirements described in subparagraph (A), a State shall waive such requirements with respect to an individual who—

"(I) was hired as a nurse aide by an employer before January 1, 1990,

"(II) can demonstrate to the satisfaction of the State that such individual has served as a nurse aide at one or more facilities of the same employer in the State for at least 24 consecutive months, and

"(III) has completed a 15-hour course of instruction in basic skills developed by the State.

"(ii) WAIVERS.—With respect to the nurse aide training and competency requirements described in subparagraph (a), a State shall waive such requirements with respect to an individual who—

"(I) was employed as a nurse aide before January 1, 1990,

"(II) can demonstrate to the satisfaction of the State that he or she has served as a nurse aide in the State in the preceding 24 month period, and

"(III) has completed a nurse aide training program that was required by the State and established before December 22, 1987.".

(b) DELAY IN REQUIREMENT FOR REMEDIES.—Section 1919(h)(2)(B)(i) (42 U.S.C. 1396r(h)(2)(B)(i)) is amended by striking "October 1, 1989" and inserting in lieu thereof "April 1, 1991".

(c) EFFECTIVE DATES.—Except as provided in subparagraph (B), the amendments made by this section shall take effect as if they were included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

Subtitle C—Income Security

SEC. 5601. PROPOSED AMENDMENTS TO AUTHORIZE THE OFFSET OF UNPAID CONTRIBUTIONS FROM UNEMPLOYMENT COMPENSATION (WITH TECHNICAL AMENDMENTS).

(a) IN GENERAL.—Section 303 is amended by adding at the end the following new subsection:

"(j)(1) The State agency charged with administration of the State law may deduct and withhold from the unemployment compensation otherwise payable to an individual an amount equal to the unpaid contributions, as defined in section 3306(g) of the Federal Unemployment Tax Act (26 U.S.C. 3306(g)), owed by the individual to the State's unemployment fund.

"(2) Any amount deducted and withheld under this subsection shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the State's unemployment fund in satisfaction of the contributions owed.

"(3) For purposes of this subsection, the term 'unemployment compensation' means any unemployment compensation payable under the State law (including amounts payable pursuant to an agreement under a Federal unemployment compensation law).".

(b) DEDUCTIONS FROM BENEFITS.—Section 303(a)(5) is amended by striking out the last proviso and inserting in lieu thereof the following: "Provided further, That amounts may be deducted from unemployment benefits and otherwise payable to an individual and used in payment of obligations owed by the individual solely as provided in subsections (d), (e), (g), and (j) of this section.".

(c) FEDERAL UNEMPLOYMENT TAX.—Section 3304(a)(4) of the Federal Unemployment Tax Act is amended by amending subparagraph (D) thereof to read as follows:

"(D) amounts may be deducted from unemployment benefits and used in payment of obligations owed by the individual solely as provided in subsections (d), (e), (g), and (j) of section 303 of the Social Security Act.".

TITLE VI—REVENUE MEASURES

SEC. 6001. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Revenue Reconciliation Act of 1989".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

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Sec. 6701. Coordination with Budget Act.

Subtitle A—Corporate Provisions

SEC. 6201. DIVIDEND RECEIVED DEDUCTION NOT ALLOWED FOR DIVIDENDS ON PREFERRED STOCK OF CERTAIN SUBSIDIARIES.

(a) IN GENERAL.—Section 246 (relating to rules for applying deduction for dividends received) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) DEDUCTION DISALLOWED ON PREFERRED STOCK OF SUBSIDIARY TO EXTENT TAXABLE INCOME REDUCED BY LOSSES OF GROUP.—

"(1) GENERAL RULE.—No deduction shall be allowed under section 243, 244, or 245 in respect of the disallowed portion of any applicable dividend.

"(2) APPLICABLE DIVIDEND.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable dividend' means any dividend—

"(i) on stock described in section 1504(a)(4) in any corporation which is a member of an affiliated group filing a consolidated return other than the common parent (hereinafter in this subsection referred to as the 'distributing corporation'), and

"(ii) paid out of the current earnings and profits of the distributing corporation for the taxable year (as determined under section 316(a)(2)).

"(B) LIMITATION BASED ON CONSOLIDATED LOSS OFFSET.—The aggregate amount of dividends treated as applicable dividends under subparagraph (A) shall not exceed the consolidated loss offset of the distributing corporation.

"(3) DISALLOWED PORTION.—For purposes of this subsection, the term 'disallowed portion' means the portion of an applicable dividend which bears the same ratio to such dividend as—

"(A) the consolidated loss offset, bears to

"(B) the separately computed taxable income of the distributing corporation.

"(4) CONSOLIDATED LOSS OFFSET.—For purposes of this subsection, the term 'consolidated loss offset' means, with respect to any distributing corporation, any of the following items of any other member of the same affiliated group as such corporation which are treated as used to offset the separately computed taxable income of such corporation:

"(A) Any net operating loss or any net operating loss carryover under section 172.

"(B) Any loss from the sale or exchange of any capital asset or any capital loss carryover under section 1212.

"(C) The deduction equivalent (determined in the same manner as under section 383) of any excess credit or any excess credit carryover (determined under section 383 without regard to any foreign tax credit allowed under section 27(a)).

"(5) SEPARATELY COMPUTED TAXABLE INCOME.—The term 'separately computed taxable income' means the taxable income of a distributing corporation computed as if it were not a member of an affiliated group.

"(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subsection, including regulations—

"(A) preventing the avoidance of this subsection through the transfer of assets with built-in losses to the distributing corporation, through delaying dividend payments, or through the use of tiered entities; and

"(B) exempting dividends from the application of this subsection if the taxpayer can establish such dividends were paid from previously taxed income.".

(b) REPORTING REQUIREMENTS FOR DIVIDENDS.—Section 6042(a) (relating to returns regarding payments of dividends and corporate earnings and profits) is amended by inserting "or" at the end of subparagraph (B) and by adding after subparagraph (B) the following new subparagraph:

"(C) who makes payments of applicable dividends (within the meaning of section 246(f)(2)) to any corporation a portion of which is not allowable as a deduction under section 243 or 245 by reason of section 246(f),".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to distributions after October 2, 1989, in respect of stock issued after such date.

(2) BINDING CONTRACT EXCEPTION.—The amendment made by this section shall not apply to distributions after October 2, 1989, in respect to stock issued after such date pursuant to a written binding contract in effect on October 2, 1989, and at all times thereafter before such issuance.

(3) SPECIAL RULE WHEN SUBSIDIARY LEAVES GROUP.—If, by reason of a transaction after October 2, 1989, a corporation ceases to be, or becomes, a member of an affiliated group, the amendment made by this section shall apply to any distribution in respect of the stock in such corporation after the date of such cessation or commencement, unless such transaction is of a kind which would not result in the recognition of any deferred intercompany gain under the consolidated return regulations by reason of the acquisition of the entire group.

(4) RETIRED STOCK.—The amendments made by this section shall apply to distributions in respect of stock described in paragraph (1) or (2) if such stock is retired (or acquired) by the corporation or another member of the same affiliated group, unless such retirement is pursuant to an obligation to reissue under a binding written contract in effect on October 1, 1989, and at all times thereafter.

(5) SPECIAL RATE FOR AUCTION RATE REFERRED.—For purposes of this subsection, auction rate preferred stock shall be treated as issued when the contract requiring the auction became binding.

SEC. 6202. DEFERRAL OF INTEREST DEDUCTIONS ON CERTAIN HIGH YIELD ORIGINAL ISSUE DISCOUNT OBLIGATIONS.

(a) GENERAL RULE.—Subsection (e) of section 163 (relating to interest deductions on original issue discount obligations) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULE FOR ORIGINAL ISSUE DISCOUNT ON CERTAIN HIGH YIELD OBLIGATIONS.—Any portion of any original issue discount on an applicable high yield discount obligation (as defined in subsection (i)) otherwise deductible by a C corporation shall not be allowable as a deduction until paid. For purposes of the preceding sentence, rules similar to the rules of subsection (i)(3)(B) shall apply in determining the time when original issue discount is paid.".

(b) APPLICABLE HIGH YIELD DISCOUNT OBLIGATION.—Section 163 is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) APPLICABLE HIGH YIELD DISCOUNT OBLIGATION.—

"(1) IN GENERAL.—For purposes of this section, the term 'applicable high yield discount obligation' means any debt instrument if—

"(A) the maturity date of such instrument is more than 5 years from the date of issue,

"(B) the yield to maturity on such instrument equals or exceeds the sum of—

"(i) the applicable Federal rate in effect under section 1274(d) for the calendar month in which the obligation is issued, plus

"(ii) 5 percentage points, and

"(C) such instrument has significant original issue discount.

For purposes of subparagraph (B)(i), the Secretary may by regulation permit a rate to be used with respect to any debt instrument which is higher than the applicable Federal rate if the taxpayer establishes to the satisfaction of the Secretary that such higher rate is based on the same principles as the applicable Federal rate and is appropriate for the term of the instrument.

"(2) SIGNIFICANT ORIGINAL ISSUE DISCOUNT.—For purposes of paragraph (1)(C), a debt instrument shall be treated as having significant original issue discount if—

"(A) the aggregate amount which would be includible in gross income with respect to such instrument for periods before the close of any accrual period (as defined in section 1272(a)(5)) ending after the date 5 years after the date of issue, exceeds—

"(B) the sum of—

"(i) the aggregate amount of interest to be paid under the instrument before the close of such accrual period, and

"(ii) the product of the issue price of such instrument (as defined in sections 1273(b) and 1274(a)) and its yield to maturity.

"(3) SPECIAL RULES.—For purposes of determining whether a debt instrument is an applicable high yield discount obligation—

"(A) any payment under the instrument shall be assumed to be made on the last day permitted under the instrument, and

"(B) any payment to be made in the form of another obligation (or stock) of the issuer (or a related person within the meaning of section 453(f)(1)) shall be assumed to be made when such obligation (or stock) is required to be paid in cash or in property other than such obligation (or stock).

"(4) DEBT INSTRUMENT.—For purposes of this subsection, the term 'debt instrument' means any instrument which is a debt instrument as defined in section 1275(a).

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this subsection, including—

"(A) regulations providing for modifications to the provisions of this subsection in the case of varying rates of interest, put or call options, indefinite maturities, contingent payments, assumptions of debt instruments, conversion rights, or other circumstances where such modifications are appropriate to carry out the purposes of this subsection, and

"(B) regulations to prevent avoidance of the purposes of this subsection through the use of issuers other than C corporations,

agreements to borrow amounts due under the debt instrument, or other arrangements."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to instruments issued after July 10, 1989.

(2) EXCEPTIONS.—

(A) The amendments made by this section shall not apply to any instrument if—

(i) such instrument is issued in connection with an acquisition—

(I) which is made on or before July 10, 1989,

(II) for which there was a written binding contract in effect on July 10, 1989, and at all times thereafter before such acquisition, or

(III) for which a tender offer was filed with the Securities and Exchange Commission on or before July 10, 1989,

(ii) the term of such instrument is not greater than—

(I) the term specified in the written documents described in clause (iii), or

(II) if no term is determined under subclause (I), 10 years, and

(iii) the use of such instrument in connection with such acquisition (and the maximum amount of proceeds from such instrument) was determined on or before July 10, 1989, and such determination is evidenced by written documents—

(I) which were transmitted on or before July 10, 1989 between the issuer and any governmental regulatory bodies or prospective parties to the issuance or acquisition, and

(II) which are customarily used for the type of acquisition or financing involved.

(B) The amendments made by this section shall not apply to any instrument issued pursuant to the terms of a debt instrument issued on or before July 10, 1989, or described in subparagraph (A) or (D).

(C) The amendments made by this section shall not apply to any instrument issued to refinance an original issue discount debt instrument to which the amendments made by this section do not apply if—

(i) the maturity date of the refinancing instrument is not later than the maturity date of the refinanced instrument,

(ii) the issue price of the refinancing instrument does not exceed the adjusted issue price of the refinanced instrument,

(iii) the stated redemption price at maturity of the refinancing instrument is not greater than the stated redemption price at maturity of the refinanced instrument, and

(iv) the interest payments required under the refinancing instrument before maturity are not less than (and are paid not later than) the interest payments required under the refinanced instrument.

(D) The amendments made by this section shall not apply to instruments issued after July 10, 1989, pursuant to a reorganization plan in a title 11 or similar case (as defined in section 368(a)(3) of the Internal Revenue Code of 1986) if the amount of proceeds of such instruments, and the maturities of such instruments, do not exceed the amount or maturities specified in the last reorganization plan filed in such case on or before July 10, 1989.

SEC. 6203. SECTION 351 MADE INAPPLICABLE TO CERTAIN TRANSFERS OF SECURITIES.

(a) GENERAL RULE.—Section 351(a) (relating to nonrecognition in cases of transfers to corporations controlled by transferor) is amended by striking "or securities".

(b) EXCEPTIONS FOR CERTAIN EXCHANGES.—Section 351 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) CERTAIN TRANSFERORS PERMITTED TO RECEIVE SECURITIES WITHOUT RECOGNITION OF GAIN OR LOSS.—

"(1) IN GENERAL.—In the case of the following exchanges, subsections (a), (b), (d), and (e) shall be applied by substituting 'stock or securities' for 'stock':

"(A) Any exchange in pursuance of a plan of reorganization.

"(B) Any exchange where the stock or securities received in the exchange are distributed in a transaction to which section 355 (or so much of section 356 as relates to section 355) applies."

(c) CONFORMING AMENDMENTS.—Subsections (b), (d), and (e)(2) of section 351 are each amended by striking "or securities".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to transfers after October 2, 1989, in taxable years ending after such date.

(2) BINDING CONTRACT.—The amendments made by this section shall not apply to any transfer pursuant to a written binding contract in effect on October 2, 1989, and at all times thereafter before such transfer.

(3) CORPORATE TRANSFERS.—In the case of property transferred (directly or indirectly through a partnership or otherwise) by a C corporation, paragraphs (1) and (2) shall be applied by substituting "July 11, 1989" for "October 2, 1989". The preceding sentence shall not apply where the corporation meets the requirements of section 1504(a)(2) of the Internal Revenue Code of 1986 with respect to the transferee corporation (and where the transfer is not part of a plan pursuant to which the transferor subsequently fails to meet such requirements.)

SEC. 6204. PROVISIONS RELATED TO REGULATED INVESTMENT COMPANIES.

(a) REQUIREMENT TO DISTRIBUTE 98 PERCENT OF ORDINARY INCOME.—

(1) IN GENERAL.—Subparagraph (A) of section 4982(b)(1) (defining required distribution) is amended by striking "97 percent" and inserting "98 percent".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to calendar years ending after July 10, 1989.

(b) TREATMENT OF CERTAIN MUTUAL FUND LOAD CHARGES.—

(1) IN GENERAL.—Section 852 (relating to taxation of regulated investment companies and their shareholders) is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF CERTAIN LOAD CHARGES.—

"(1) IN GENERAL.—If—

"(A) the taxpayer incurs a load charge in acquiring stock in a regulated investment company and, by reason of incurring such charge or making such acquisition, the taxpayer acquires a reinvestment right,

"(B) such stock is disposed of within 6 months of the date on which such stock was acquired, and

"(C) the taxpayer subsequently acquires stock in such regulated investment company or in another regulated investment company and the otherwise applicable load charge is reduced by reason of the reinvestment right,

the load charge referred to in subparagraph (A) (to the extent it does not exceed the reduction referred to in subparagraph (C)) shall not be taken into account for purposes of determining the amount of gain or loss on the disposition referred to in subparagraph (B). To the extent such charge is not taken into account in determining the amount of such gain or loss, such charge shall be treated as incurred in connection with the acquisition referred to in subparagraph (C) (including for purposes of reapplying this paragraph).

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) LOAD CHARGE.—The term 'load charge' means any sales or similar charge incurred by a person in acquiring stock of a regulated investment company. Such term does not include any charge incurred by reason of the reinvestment of a dividend.

"(B) REINVESTMENT RIGHT.—The term 'reinvestment right' means any right to acquire stock of 1 or more other regulated investment companies without the payment of a load charge or with the payment of a reduced charge.

"(C) NONRECOGNITION TRANSACTIONS.—If the taxpayer acquires stock in a regulated investment company from another person in a transaction in which gain or loss is not recognized, the taxpayer shall succeed to the treatment of such other person under this subsection."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to charges incurred after October 3, 1989, in taxable years ending after such date.

(c) REGULATED INVESTMENT COMPANIES REQUIRED TO ACCRUE DIVIDENDS ON THE EX-DIVIDEND DATE.—

(1) IN GENERAL.—Subsection (b) of section 852 (relating to treatment of companies and shareholders) is amended by adding at the end thereof the following new paragraph:

"(9) DIVIDENDS TREATED AS RECEIVED BY COMPANY ON EX-DIVIDEND DATE.—For purposes of this title, any dividend received by a regulated investment company with respect to any share of stock shall be treated as received by such company on the later of—

"(A) the date such share became ex-dividend with respect to such dividend, or

"(B) the date such company acquired such share."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to dividends in cases where the stock becomes ex-dividend after the date of the enactment of this Act.

SEC. 6205. LIMITATION ON THRESHOLD REQUIREMENT UNDER SECTION 382 BUILT-IN GAIN AND LOSS PROVISIONS.

(a) GENERAL RULE.—Clause (i) of section 382(h)(3)(B) (relating to threshold requirement) is amended to read as follows:

"(i) IN GENERAL.—If the amount of the net unrealized built-in gain or net unrealized built-in loss (determined without regard to this subparagraph) of any old loss corporation is not greater than the lesser of—

"(I) 15 percent of the amount determined for purposes of subparagraph (A)(i)(I), or

"(II) $25,000,000,

the net unrealized built-in gain or net unrealized built-in loss shall be zero."

(b) CONFORMING AMENDMENT TO ADJUSTED CURRENT EARNINGS PREFERENCE.—Subparagraph (H) of section 56(g)(4) (relating to treatment of certain ownership changes) is amended by striking clause (ii) and all that follows and inserting the following:

"(ii) there is a net unrealized built-in loss (within the meaning of section 382(h)) with respect to such corporation,

then the adjusted basis of each asset of such corporation (immediately after the ownership change) shall be its proportionate share (determined on the basis of respective fair market values) of the fair market value of

the assets of such corporation (determined under section 382(h)) immediately before the ownership change."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to ownership changes and acquisitions after October 2, 1989, in taxable years ending after such date.

(2) BINDING CONTRACT.—The amendments made by this section shall not apply to any ownership change or acquisition pursuant to a written binding contract in effect on October 2, 1989, and at all times thereafter before such change or acquisition.

(3) BANKRUPTCY PROCEEDINGS.—In the case of a reorganization described in section 368(a)(1)(G) of the Internal Revenue Code of 1986, or an exchange of debt for stock in a title 11 or similar case (as defined in section 368(a)(3) of such Code), the amendments made by this section shall not apply to any ownership change resulting from such a reorganization or proceeding if a petition in such case was filed with the court before October 3, 1989.

SEC. 6206. DISTRIBUTIONS ON CERTAIN PREFERRED STOCK TREATED AS EXTRAORDINARY DIVIDENDS.

(a) GENERAL RULE.—Section 1059 (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended by striking subsection (f) and inserting the following:

"(f) TREATMENT OF DIVIDENDS ON CERTAIN PREFERRED STOCK.—

"(1) IN GENERAL.—Any dividend with respect to disqualified preferred stock shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held the stock.

"(2) DISQUALIFIED PREFERRED STOCK.—For purposes of this subsection, the term 'disqualified preferred stock' means any stock which is preferred as to dividends if—

"(A) when issued, such stock has a dividend rate which declines (or can reasonably be expected to decline) in the future,

"(B) the issue price of such stock exceeds its liquidation rights or its stated redemption price, or

"(C) such stock is otherwise structured—

"(i) to avoid the other provisions of this section, and

"(ii) to enable corporate shareholders to reduce tax through a combination of dividend received deductions and loss on the disposition of the stock.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations—

"(1) providing for the application of this section in the case of stock dividends, stock splits, reorganizations, and other similar transactions and in the case of stock held by pass-thru entities, and

"(2) providing that the rules of subsection (f) shall apply in the case of stock which is not preferred as to dividends in cases where stock is structured to avoid the purposes of this section."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to stock issued after July 10, 1989, in taxable years ending after such date.

(2) BINDING CONTRACT.—The amendment made by subsection (a) shall not apply to any stock issued pursuant to a written binding contract in effect on July 10, 1989, and at all times thereafter before the stock is issued.

SEC. 6207. REPEAL OF ELECTION TO REDUCE EXCESS LOSS ACCOUNT RECAPTURE BY REDUCING BASIS OF INDEBTEDNESS.

(a) GENERAL RULE.—Subsection (e) of section 1503 (relating to special rule for determining adjustment to basis) is amended by adding at the end thereof the following new paragraph:

"(4) ELIMINATION OF ELECTION TO REDUCE BASIS OF INDEBTEDNESS.—Nothing in the regulations prescribed under section 1502 shall permit any reduction in the amount otherwise included in gross income by reason of an excess loss account if such reduction is on account of a reduction in the basis of indebtedness."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to dispositions after July 10, 1989, in taxable years ending after such date.

(2) BINDING CONTRACT.—The amendment made by subsection (a) shall not apply to any disposition pursuant to a written binding contract in effect on July 10, 1989, and at all times thereafter before such disposition.

SEC. 6208. OTHER PROVISIONS RELATING TO TREATMENT OF STOCK AND DEBT; ETC.

(a) CLARIFICATION OF REGULATORY AUTHORITY UNDER SECTION 385.—

(1) IN GENERAL.—Subsection (a) of section 385 (relating to treatment of certain interests in corporations as stock or indebtedness) is amended by inserting "(or as in part stock and in part indebtedness)" before the period at the end thereof.

(2) REGULATIONS NOT TO BE APPLIED RETROACTIVELY.—Any regulations issued pursuant to the authority granted by the amendment made by paragraph (1) shall only apply with respect to instruments issued after the date on which the Secretary of the Treasury or his delegate provides public guidance as to the characterization of such instruments whether by regulation, ruling, or otherwise.

(b) REPORTING OF CERTAIN ACQUISITIONS OR RECAPITALIZATIONS.—

(1) IN GENERAL.—Section 6043 is amended by striking subsection (c) and inserting the following new subsections:

"(c) CHANGES IN CONTROL AND RECAPITALIZATIONS.—If—

"(1) control (as defined in section 304(c)(1)) of a corporation is acquired by any person (or group of persons) in a transaction (or series of related transactions), or

"(2) there is a recapitalization of a corporation or other substantial change in the capital structure of a corporation,

when required by the Secretary, such corporation shall make a return (at such time and in such manner as the Secretary may prescribe) setting forth the identity of the parties to the transaction, the fees involved, the changes in the capital structure involved, and such other information as the Secretary may require with respect to such transaction.

"(d) CROSS REFERENCES.—

"For provisions relating to penalties for failure to file—

"(1) a return under subsection (b), see section 6652(c), or

"(2) a return under subsection (c), see section 6652(l)."

(2) PENALTY.—Section 6652 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) FAILURE TO FILE RETURN WITH RESPECT TO CERTAIN CORPORATE TRANSACTIONS.—In the case of any failure to make a return required under section 6043(c) containing the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to file such return, an amount equal to $500 for each day during which such failure continues, but the total amount imposed under this subsection with respect to any return shall not exceed $100,000."

(3) CONFORMING AMENDMENTS.—

(A) The subsection heading for subsection (a) of section 6043 is amended by striking "CORPORATIONS" and inserting "CORPORATE LIQUIDATING, ETC., TRANSACTIONS".

(B) The section heading for section 6043 is amended to read as follows:

"SEC. 6043. LIQUIDATING; ETC., TRANSACTIONS."

(C) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6043 and inserting the following:

"Sec. 6043. Liquidating; etc., transactions."

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transactions after March 31, 1990.

SEC. 6209. ESTIMATED TAX PAYMENTS REQUIRED FOR S CORPORATIONS.

(a) IN GENERAL.—Subsection (g) of section 6655 (relating to failure by corporation to pay estimated income tax) is amended by adding at the end thereof the following new paragraph:

"(4) APPLICATION OF SECTION TO CERTAIN TAXES IMPOSED ON S CORPORATIONS.—In the case of an S corporation, for purposes of this section—

"(A) The following taxes shall be treated as imposed by section 11:

"(i) The tax imposed by section 1374(a) (or the corresponding provisions of prior law).

"(ii) The tax imposed by section 1375(a).

"(iii) Any tax for which the S corporation is liable by reason of section 1371(d)(2).

"(B) Paragraph (2) of subsection (d) shall not apply.

"(C) Clause (ii) of subsection (d)(1)(B) shall be applied as if it read as follows:

"'(ii) the sum of—

"'(I) the amount determined under clause (i) by only taking into account the taxes referred to in clauses (i) and (iii) of subsection (g)(4)(A), and

"'(II) 100 percent of the tax imposed by section 1375(a) which was shown on the return of the corporation for the preceding taxable year.'

"(D) The requirement in the last sentence of subsection (d)(1)(B) that the return for the preceding taxable year show a liability for tax shall not apply.

"(E) Any reference in subsection (e) to taxable income shall be treated as including a reference to the net recognized built-in gain or the excess passive income (as the case may be)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1989.

SEC. 6210. LIMITATIONS ON REFUNDS DUE TO NET OPERATING LOSS CARRYBACKS OR EXCESS INTEREST ALLOCABLE TO CORPORATE EQUITY REDUCTION TRANSACTIONS.

(a) IN GENERAL.—Paragraph (1) of section 172(b) (relating to which loss may be carried) is amended by adding at the end thereof the following new subparagraph:

"(M) EXCESS INTEREST LOSS.—
"(i) IN GENERAL.—If—
"(I) there is a corporate equity reduction transaction, and
"(II) an applicable corporation has a corporate equity reduction interest loss for any loss limitation year ending after August 2, 1989,
then the corporate equity reduction interest loss shall be a net operating loss carryback and carryover to the taxable years described in subparagraphs (A) and (B), except that such loss shall not be carried back to a taxable year preceding the taxable year in which the corporate equity reduction transaction occurs.
"(ii) LOSS LIMITATION YEAR.—For purposes of clause (i) and subsection (m), the term 'loss limitation year' means, with respect to any corporate equity reduction transaction, the taxable year in which such transaction occurs and each of the 2 succeeding taxable years.
"(iii) APPLICABLE CORPORATION.—For purposes of clause (i), the term 'applicable corporation' means—
"(I) a C corporation which acquires stock, or the stock of which is acquired, in a major stock acquisition,
"(II) a C corporation which makes distributions with respect to, or redeems, its stock in connection with an excess distribution, or
"(III) any C corporation which is a successor corporation of a corporation described in subclause (I) or (II).
"(iv) OTHER DEFINITIONS.—For definitions of terms used in this subparagraph, see subsection (m)."

(b) CORPORATE EQUITY REDUCTION INTEREST LOANS AND CORPORATE EQUITY REDUCTION TRANSACTION DEFINED.—Section 172 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CORPORATE EQUITY REDUCTION INTEREST LOSSES.—For purposes of this section—
"(1) IN GENERAL.—The term 'corporate equity reduction interest loss' means, with respect to any loss limitation year, the excess (if any) of—
"(A) the net operating loss for such taxable year, over
"(B) the net operating loss for such taxable year determined without regard to any allocable interest deductions otherwise taken into account in computing such loss.
"(2) ALLOCABLE INTEREST DEDUCTIONS.—
"(A) IN GENERAL.—The term 'allocable interest deductions' means deductions allowed under this chapter for interest on the portion of any indebtedness allocable to a corporate equity reduction transaction.
"(B) METHOD OF ALLOCATION.—Except as provided in regulations and subparagraph (E), indebtedness shall be allocated to a corporate equity reduction transaction in the manner prescribed under clause (ii) of section 263A(f)(2)(A) (without regard to clause (i) thereof).
"(C) ALLOCABLE DEDUCTIONS NOT TO EXCEED INTEREST INCREASES.—Allocable interest deductions for any loss limitation year shall not exceed the excess (if any) of—
"(i) the amount allowable as a deduction for interest paid or accrued by the taxpayer during the loss limitation year, over
"(ii) the average of such amounts for the 3 taxable years preceding the taxable year in which the corporate equity reduction transaction occurred.
"(D) DE MINIMIS RULE.—A taxpayer shall be treated as having no allocable interest deductions for any taxable year if the amount of such deductions (without regard to this subparagraph) is less than $1,000,000.
"(E) SPECIAL RULE FOR CERTAIN UNFORESEEABLE EVENTS.—If an unforeseeable extraordinary adverse event occurs during a loss limitation year but after the corporate equity reduction transaction—
"(i) indebtedness shall be allocated in the manner described in subparagraph (B) to unreimbursed costs paid or incurred in connection with such event before being allocated to the corporate equity reduction transaction, and
"(ii) the amount determined under subparagraph (C)(i) shall be reduced by the amount of interest on indebtedness described in clause (i).
"(F) TRANSITION RULE.—If any of the 3 taxable years described in subparagraph (C)(ii) end on or before August 2, 1989, the taxpayer may substitute for the amount determined under such subparagraph an amount equal to the interest paid or accrued (determined on an annualized basis) during the taxpayer's taxable year which includes August 3, 1989, on indebtedness of the taxpayer outstanding on August 2, 1989.
"(3) CORPORATE EQUITY REDUCTION TRANSACTION.—
"(A) IN GENERAL.—The term 'corporate equity reduction transaction' means—
"(i) a major stock acquisition, or
"(ii) an excess distribution.
"(B) MAJOR STOCK ACQUISITION.—
"(i) IN GENERAL.—The term 'major stock acquisition' means the acquisition by a corporation pursuant to a plan of such corporation (or any group of persons acting in concert with such corporation) of stock in another corporation representing 50 percent or more (by vote or value) of the stock in such other corporation,
"(ii) EXCEPTIONS.—The term 'major stock acquisition' shall not include—
"(I) a qualified stock purchase (within the meaning of section 338) to which an election under section 338 applies, or
"(II) except as provided in regulations, an acquisition in which a corporation acquires stock of another corporation which, immediately before the acquisition, was a member of an affiliated group (within the meaning of section 1504(a)) other than the common parent of such group.
"(C) EXCESS DISTRIBUTION.—The term 'excess distribution' means the excess (if any) of—
"(i) the aggregate distributions (including redemptions) made during a taxable year by a corporation with respect to its stock, over
"(ii) the greater of—
"(I) 150 percent of the average of such distributions during the 3 taxable years immediately preceding such taxable year, or
"(II) 10 percent of the fair market value of the stock of such corporation as of the beginning of such taxable year.
"(D) RULES FOR APPLYING SUBPARAGRAPH (B).—For purposes of subparagraph (B)—
"(i) PLANS TO ACQUIRE STOCK.—All plans referred to in subparagraph (B) by any corporation (or group of persons acting in concert with such corporation) with respect to another corporation shall be treated as 1 plan.
"(ii) ACQUISITIONS DURING 24-MONTH PERIOD.—All acquisitions during any 24-month period shall be treated as pursuant to 1 plan.
"(E) RULES FOR APPLYING SUBPARAGRAPH (C).—For purposes of subparagraph (C)—
"(i) CERTAIN PREFERRED STOCK DISREGARDED.—Stock described in section 1504(a)(4), and distributions (including redemptions) with respect to such stock, shall be disregarded.
"(ii) ISSUANCE OF STOCK.—The amounts determined under clauses (i) and (ii)(I) of subparagraph (C) shall be reduced by the aggregate amount of stock issued by the corporation during the applicable period in exchange for money or property other than stock in the corporation.
"(4) OTHER RULES.—
"(A) ORDERING RULE.—For purposes of paragraph (1), in determining the allocable interest deductions taken into account in computing the net operating loss for any taxable year, taxable income for such taxable year shall be treated as having been computed by taking allocable interest deductions into account after all other deductions.
"(B) COORDINATION WITH SUBSECTION (B)(2).—In applying paragraph (2) of subsection (b), the corporate equity reduction interest loss shall be treated in a manner similar to the manner in which a foreign expropriation loss is treated.
"(C) MEMBERS OF AFFILIATED GROUPS.—Except as provided by regulations, all members of an affiliated group filing a consolidated return under section 1501 shall be treated as 1 taxpayer for purposes of this subsection and subsection (b)(1)(M).
"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—
"(A) for applying this subsection to successor corporations and in cases where a taxpayer becomes, or ceases to be, a member of an affiliated group filing a consolidated return under section 1501,
"(B) to prevent the avoidance of this subsection through related parties, pass-through entities, and intermediaries, and
"(C) for applying this subsection where more than 1 corporation is involved in a corporate equity reduction transaction.

(c) EFFECTIVE DATE.—
(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to corporate equity reduction transactions occurring after August 2, 1989, in taxable years ending after August 2, 1989.
(2) EXCEPTIONS.—In determining whether a corporate equity reduction transaction has occurred after August 2, 1989, there shall not be taken into account—
(A) acquisitions or redemptions of stock, or distributions with respect to stock, occurring on or before August 2, 1989,
(B) acquisitions or redemptions of stock after August 2, 1989, pursuant to a binding written contract (or tender offer filed with the Securities and Exchange Commission) in effect on August 2, 1989, and at all times thereafter before such acquisition or redemption, or
(C) any distribution with respect to stock after August 2, 1989, which was declared on or before August 2, 1989.

Any distribution to which the preceding sentence applies shall be taken into account under section 172(m)(3)(C)(ii)(I) of the Internal Revenue Code of 1986 (relating to base period for distributions).

Subtitle B—Employee Benefit Provisions

SEC. 6301. LIMITATIONS ON PARTIAL EXCLUSION OF INTEREST ON LOANS USED TO ACQUIRE EMPLOYER SECURITIES.

(a) EXCLUSION AVAILABLE ONLY WHERE EMPLOYEES RECEIVE SIGNIFICANT OWNERSHIP INTEREST.—Subsection (b) of section 133 (defining securities acquisition loans) is amended by adding at the end thereof the following new paragraph:

"(6) PLAN MUST HOLD 30 PERCENT OF STOCK AFTER ACQUISITION OR TRANSFER.—

"(A) IN GENERAL.—A loan shall not be treated as a securities acquisition loan for purposes of this section unless, immediately after the acquisition or transfer referred to in subparagraph (A) or (B) of paragraph (1), respectively, the employee stock ownership plan owns (after application of section 318(a)(4)) at least 30 percent of—

"(i) each class of outstanding stock of the corporation issuing the employer securities, or

"(ii) the total value of all outstanding stock of the corporation.

"(B) STOCK.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'stock' means stock other than stock described in section 1504(a)(4).

"(ii) TREATMENT OF CERTAIN RIGHTS.—The Secretary may provide that warrants, options, contracts to acquire stock, convertible debt interests and other similar interests be treated as stock for 1 or more purposes under subparagraph (A).".

(b) TERM OF LOAN MAY NOT EXCEED 15 YEARS.—Paragraph (1) of section 133(b) is amended by adding at the end thereof the following new sentence: "The term 'securities acquisition loan' shall not include a loan with a term greater than 15 years."

(c) VOTING RIGHTS.—Subsection (b) of section 133, as amended by subsection (a), is amended by adding at the end thereof the following new paragraph:

"(7) VOTING RIGHTS OF EMPLOYER SECURITIES.—A loan shall not be treated as a securities acquisition loan for purposes of this section unless—

"(A) the employee stock ownership plan meets the requirements of section 409(e)(2) with respect to all employer securities acquired by, or transferred to, the plan in connection with such loan (without regard to whether or not the employer has a registration-type class of securities), and

"(B) no stock described in section 409(l)(3) is acquired by, or transferred to, the plan in connection with such loan unless—

"(i) such stock has voting rights equivalent to the stock to which it may be converted, and

"(ii) the requirements of subparagraph (A) are met with respect to such voting rights.".

(d) TAX ON DISPOSITION OF SECURITIES BY EMPLOYEE STOCK OWNERSHIP PLANS.—

(1) IN GENERAL.—Chapter 43 is amended by inserting after section 4978A the following new section:

"SEC. 4978B. TAX ON DISPOSITION OF EMPLOYER SECURITIES TO WHICH SECTION 133 APPLIED.

"(a) IMPOSITION OF TAX.—In the case of an employee stock ownership plan which has acquired section 133 securities, there is hereby imposed a tax on each taxable event in an amount equal to the amount determined under subsection (b).

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be equal to 10 percent of the amount realized on the disposition to the extent allocable to section 133 securities under section 4978A(d).

"(2) DISPOSITIONS OTHER THAN SALES OR EXCHANGES.—For purposes of paragraph (1), in the case of a disposition of employer securities which is not a sale or exchange, the amount realized on such disposition shall be the fair market value of such securities at the time of disposition.

"(c) TAXABLE EVENT.—For purposes of this section, the term 'taxable event' means any of the following dispositions:

"(1) DISPOSITIONS WITHIN 3 YEARS.—Any disposition of any employer securities by an employee stock ownership plan within 3 years after such plan acquired section 133 securities if—

"(A) the total number of employer securities held by such plan after such disposition is less than the total number of employer securities held after such acquisition, or

"(B) except to the extent provided in regulations, the value of employer securities held by such plan after the disposition is less than 30 percent of the total value of all employer securities as of the time of the disposition.

"(2) STOCK DISPOSED OF BEFORE ALLOCATION.—Any disposition of section 133 securities to which paragraph (1) does not apply if—

"(A) such disposition occurs before such securities are allocated to accounts of participants or their beneficiaries, and

"(B) the proceeds from such disposition are not so allocated.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) EXCEPTIONS.—Rules similar to the rules of section 4978A(e) shall apply.

"(2) LIABILITY FOR PAYMENT OF TAXES.—The tax imposed by this section shall be paid by the employer.

"(3) SECTION 133 SECURITIES.—The term 'section 133 securities' means employer securities acquired by an employee stock ownership plan in a transaction to which section 133 applied, except that such term shall not include—

"(A) qualified securities (as defined in section 4978(e)(2)), or

"(B) qualified employer securities (as defined in section 4978A(f)(2)).

"(4) DISPOSITION.—The term 'disposition' includes any distribution.

"(5) ORDERING RULES.—For ordering rules for dispositions of employer securities, see section 4978A(d)."

(2) CONFORMING AMENDMENTS.—

(A) Section 4978A(d) is amended by redesignating paragraphs (3) and (4) as paragraphs (5) and (6) and by inserting after paragraph (2) the following new paragraphs:

"(3) Third, from section 133 securities (as defined in section 4978B(d)(3)) acquired during the 3-year period ending on the date of such disposition, beginning with the securities first so acquired.

"(4) Fourth, from section 133 securities (as so defined) acquired before such 3-year period unless such securities (or proceeds from the disposition) have been allocated to accounts of participants or beneficiaries."

(B) Section 4978A(d)(5), as redesignated by clause (i), is amended by striking "Third" and inserting "Fifth".

(C) The table of sections for chapter 43 is amended by inserting after the item relating to section 4978A the following new item:

"Sec. 4978B. Tax on disposition of employer securities to which section 133 applied.".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to loans made after June 6, 1989.

(2) BINDING COMMITMENT EXCEPTION.—The amendments made by this section shall not apply to any loan—

(A) which is made pursuant to a binding written commitment in effect on June 6, 1989, and at all times thereafter before such loan is made, or

(B) to the extent that the proceeds of such loan are used to acquire employer securities pursuant to a written binding contract (or tender offer registered with the Securities and Exchange Commission) in effect on June 6, 1989, and at all times thereafter before such securities are acquired.

(3) REFINANCINGS.—The amendments made by this section shall not apply to loans made after June 6, 1989, to refinance securities acquisition loans (determined without regard to section 133(b)(2) of the Internal Revenue Code of 1986) made on or before such date or to refinance loans described in this paragraph or paragraph (2), (4), or (5) if—

(A) such refinancing loans meet the requirements of such section 133 of such Code (as in effect before such amendments) applicable to such loans,

(B) immediately after the refinancing the principal amount of the loan resulting from the refinancing does not exceed the principal amount of the refinanced loan (immediately before the refinancing), and

(C) the term of such refinancing loan does not extend beyond the later of—

(i) the last day of the term of the original securities acquisition loan, or

(ii) the last day of the 7-year period beginning on the date the original securities acquisition loan was made.

For purposes of this paragraph, the term "securities acquisition loan" shall include a loan from a corporation to an employee stock ownership plan described in section 133(b)(3) of such Code.

(4) COLLECTIVE BARGAINING AGREEMENTS.—The amendments made by this section shall not apply to any loan to the extent such loan is used to acquire employer securities for an employee stock ownership plan pursuant to a collective bargaining agreement setting forth the material terms of such employee stock ownership plan which was agreed to on or before June 6, 1989, by one or more employers and employee representatives (and ratified on or before such date or within a reasonable period thereafter).

(5) FILINGS WITH UNITED STATES.—The amendments made by this section shall not apply to any loan the aggregate principal amount of which was specified in a filing with an agency of the United States on or before June 6, 1989, if—

(A) such filing specifies such loan is to be a securities acquisition loan for purposes of section 133 of the Internal Revenue Code of 1986 and such filing is for the registration required to permit the offering of such loan, or

(B) such filing is for the approval required in order for the employee stock ownership plan to acquire more than a certain percentage of the stock of the employer.

SEC. 6302. LIMITATION ON CONTRIBUTIONS TO SECTION 401(h) ACCOUNTS.

(a) IN GENERAL.—Section 401(h) is amended by adding at the end thereof the following new sentence: "In no event shall the requirements of paragraph (1) be treated as met if the aggregate actual contributions for medical benefits, when added to actual contributions for life insurance protection under the plan, exceed 25 percent of the total actual contributions to the plan (other than contributions to fund past service credits) after the date on which the account is established."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions after October 3, 1989.

Subtitle C—Foreign Provisions

SEC. 6401. TAXABLE YEAR OF CERTAIN FOREIGN CORPORATIONS.

(a) GENERAL RULE.—Subpart D of part II of subchapter N of chapter 1 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 898. TAXABLE YEAR OF CERTAIN FOREIGN CORPORATIONS.

"(a) GENERAL RULE.—For purposes of this title, the taxable year of any specified foreign corporation shall be the required year determined under subsection (c).

"(b) SPECIFIED FOREIGN CORPORATION.—For purposes of this section—

"(1) IN GENERAL.—The term 'specified foreign corporation' means any foreign corporation—

"(A) which is—

"(i) treated as a controlled foreign corporation for any purpose under subpart F of part III of this subchapter, or

"(ii) a foreign personal holding company (as defined in section 552), and

"(B) with respect to which the ownership requirements of paragraph (2) are met.

"(2) OWNERSHIP REQUIREMENTS.—

"(A) IN GENERAL.—The ownership requirements of this paragraph are met with respect to any foreign corporation if a United States shareholder owns, on each testing day, more than 50 percent of—

"(i) the total voting power of all classes of stock of such corporation entitled to vote, or

"(ii) the total value of all classes of stock of such corporation.

"(B) OWNERSHIP.—For purposes of subparagraph (A), the rules of subsections (a) and (b) of section 958 and sections 551(f) and 554, whichever are applicable, shall apply in determining ownership.

"(3) UNITED STATES SHAREHOLDER.—

"(A) IN GENERAL.—The term 'United States shareholder' has the meaning given to such term by section 951(b), except that, in the case of a foreign corporation having related person insurance income (as defined in section 953(c)(2)), the Secretary may treat any person as a United States shareholder for purposes of this section if such person is treated as a United States shareholder under section 953(c)(1).

"(B) FOREIGN PERSONAL HOLDING COMPANIES.—In the case of any foreign personal holding company (as defined in section 552) which is not a specified foreign corporation by reason of paragraph (1)(A)(i), the term 'United States shareholder' means any person who is treated as a United States shareholder under section 551.

"(c) DETERMINATION OF REQUIRED YEAR.—

"(1) CONTROLLED FOREIGN CORPORATIONS.—

"(A) IN GENERAL.—In the case of a specified foreign corporation described in subsection (b)(1)(A)(i), the required year is—

"(i) the majority U.S. shareholder year, or

"(ii) if there is no majority U.S. shareholder year, the taxable year prescribed under regulations.

"(B) 1-MONTH DEFERRAL ALLOWED.—Except as provided in paragraph (2), a specified foreign corporation may elect, in lieu of the taxable year under subparagraph (A)(i), a taxable year beginning 1 month earlier than the majority U.S. shareholder year.

"(C) MAJORITY U.S. SHAREHOLDER YEAR.—

"(i) IN GENERAL.—For purposes of this subsection, the term 'majority U.S. shareholder year' means the taxable year (if any) which, on each testing day, constituted the taxable year of—

"(I) each United States shareholder described in subsection (b)(2)(A), and

"(II) each United States shareholder not described in subclause (I) whose stock was treated as owned under subsection (b)(2)(B) by any shareholder described in such subclause.

"(ii) TESTING DAY.—The testing days shall be—

"(I) the first day of the corporation's taxable year (determined without regard to this section), or

"(II) the days during such representative period as the Secretary may prescribe.

"(2) FOREIGN PERSONAL HOLDING COMPANIES.—In the case of a foreign personal holding company described in subsection (b)(3)(B), the required year shall be determined under paragraph (1), except that subparagraph (B) of paragraph (1) shall not apply."

(b) TREATMENT OF DIVIDENDS PAID AFTER CLOSE OF TAXABLE YEAR.—

(1) IN GENERAL.—Section 563 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) FOREIGN PERSONAL HOLDING COMPANY TAX.—

"(1) IN GENERAL.—In the determination of the dividends paid deduction for purposes of part III, a dividend paid after the close of any taxable year and on or before the 15th day of the 3rd month following the close of such taxable year shall, to the extent the company designates such dividend as being taken into account under this subsection, be considered as paid during such taxable year. The amount allowed as a deduction by reason of the application of this subsection with respect to any taxable year shall not exceed the undistributed foreign personal holding company income of the corporation for the taxable year computed without regard to this subsection.

"(2) SPECIAL RULES.—In the case of any distribution referred to in paragraph (1)—

"(A) paragraph (1) shall apply only if such distribution is to the person who was the shareholder of record (as of the last day of the taxable year of the foreign personal holding company) with respect to the stock for which such distribution is made,

"(B) the determination of the person required to include such distribution in gross income shall be made under the principles of section 551(f), and

"(C) any person required to include such distribution in gross or distributable net income shall include such distribution in income for such person's taxable year in which the taxable year of the foreign personal holding company ends."

(2) CONFORMING AMENDMENT.—Subsection (d) of section 563 (as redesignated by paragraph (1)) is amended by striking "subsection (a) or (b)" and inserting "subsection (a), (b), or (c)".

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part II of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 898. Taxable year of certain foreign corporations."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after July 10, 1989.

(2) SPECIAL RULES.—If any foreign corporation is required by the amendments made by this section to change its taxable year for its first taxable year beginning after July 10, 1989—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary of the Treasury or his delegate, and

(C) if, by reason of such change, any United States person is required to include in gross income for 1 taxable year amounts attributable to 2 taxable years of such foreign corporation, the amount which would otherwise be required to be included in gross income for such 1 taxable year by reason of the short taxable year of the foreign corporation resulting from such change shall be included in gross income ratably over the 4-taxable-year period beginning with such 1 taxable year.

SEC. 6402. LIMITATION ON USE OF DECONSOLIDATION TO AVOID FOREIGN TAX CREDIT LIMITATIONS.

(a) GENERAL RULE.—Section 904 (relating to limitations on foreign tax credit) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) LIMITATION ON USE OF DECONSOLIDATION TO AVOID FOREIGN TAX CREDIT LIMITATIONS.—If 2 or more domestic corporations would be members of the same affiliated group if—

"(1) section 1504(b) were applied without regard to the exceptions contained therein, and

"(2) the constructive ownership rules of section 1563(e) applied for purposes of section 1504(a),

the Secretary may by regulations provide for resourcing the income of any of such corporations or for modifications to the consolidated return regulations to the extent that such resourcing or modifications are necessary to prevent the avoidance of the provisions of this subpart."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after July 10, 1989.

SEC. 6403. INFORMATION WITH RESPECT TO CERTAIN FOREIGN-OWNED CORPORATIONS.

(a) 25-PERCENT FOREIGN-OWNED CORPORATIONS REQUIRED TO REPORT.—

(1) Paragraph (2) of section 6038A(a) is amended to read as follows:

"(2) is 25-percent foreign-owned,".

(2) Subsection (c) of section 6038A is amended to read as follows:

"(c) DEFINITIONS.—For purposes of this section—

"(1) 25-PERCENT FOREIGN-OWNED.—A corporation is 25-percent foreign-owned if at least 25 percent of—

"(A) the total voting power of all classes of stock of such corporation entitled to vote, or

"(B) the total value of all classes of stock of such corporation,

is owned at any time during the taxable year by 1 foreign person (hereinafter in this section referred to as a '25-percent foreign shareholder').

"(2) RELATED PARTY.—The term 'related party' means—

"(A) any 25-percent foreign shareholder of the reporting corporation,

"(B) any person who is related (within the meaning of section 267(b) or 707(b)(1)) to the reporting corporation or to a 25-percent foreign shareholder of the reporting corporation, and

"(C) any other person who is related (within the meaning of section 482) to the reporting corporation.

"(4) FOREIGN PERSON.—The term 'foreign person' means any person who is not a United States person. For purposes of the preceding sentence, the term 'United States person' has the meaning given to such term by section 7701(a)(30), except that any indi-

vidual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States shall not be treated as a United States person.

"(5) RECORDS.—The term 'records' includes any books, papers, or other data.

"(6) SECTION 318 TO APPLY.—Section 318 shall apply for purposes of paragraphs (1) and (2), except that—

"(A) '10 percent' shall be substituted for '50 percent' in section 318(a)(2)(C), and

"(B) subparagraphs (A), (B), and (C) of section 318(a)(3) shall not be applied so as to consider a United States person as owning stock which is owned by a person who is not a United States person."

(b) U.S. RECORDKEEPING REQUIREMENTS.—Subsection (a) of section 6038A is amended by inserting before the period at the end thereof the following: "and such corporation shall maintain (in the location, in the manner, and to the extent prescribed in regulations) such records as may be appropriate to determine the correct treatment of transactions with related parties as the Secretary shall by regulations prescribe (or shall cause another person to so maintain such records)".

(c) INCREASE IN PENALTY.—Subsection (d) of section 6038A is amended to read as follows:

"(d) PENALTY FOR FAILURE TO FURNISH INFORMATION OR MAINTAIN RECORDS.—

"(1) IN GENERAL.—If a reporting corporation—

"(A) fails to furnish (within the time prescribed by regulations) any information described in subsection (b), or

"(B) fails to maintain (or cause another to maintain) records as required by subsection (a),

such corporation shall pay a penalty of $10,000 for each taxable year with respect to which such failure occurs.

"(2) INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the reporting corporation, such corporation shall pay a penalty (in addition to the amount required under paragraph (1)) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period.

"(3) REASONABLE CAUSE.—For purposes of this subsection, the time prescribed by regulations to furnish information or maintain records (and the beginning of the 90-day period after notice by the Secretary) shall be treated as not earlier than the last day on which (as shown to the satisfaction of the Secretary) reasonable cause existed for failure to furnish the information or maintain the records."

(d) ENFORCEMENT OF INFORMATION REQUESTS.—Section 6038A is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ENFORCEMENT OF REQUESTS FOR CERTAIN RECORDS.—

"(1) AGREEMENT TO TREAT CORPORATION AS AGENT.—The rules of paragraph (3) shall apply to any transaction between the reporting corporation and any related party who is a foreign person unless such related party agrees (in such manner and at such time as the Secretary shall prescribe) to authorize the reporting corporation to act as such related party's agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to any request to examine records or produce testimony related to any such transaction or with respect to any summons for such records or testimony.

"(2) RULES WHERE INFORMATION NOT FURNISHED.—If—

"(A) for purposes of determining the correct treatment of any transaction between the reporting corporation and a related party who is a foreign person, the Secretary issues a summons to such corporation to produce (either directly or as agent for such related party) any records or testimony,

"(B) such summons is not quashed in a proceeding begun under paragraph (4) and is not determined to be invalid in a proceeding begun under section 7604(b) to enforce such summons, and

"(C) the reporting corporation does not substantially comply in a timely manner with such summons,

the Secretary may apply the rules of paragraph (3) with respect to such transaction (whether or not the Secretary begins a proceeding to enforce such summons). If the reporting corporation fails to maintain (or cause another to maintain) records as required by subsection (a), and by reason of that failure, the summons is quashed in a proceeding described in subparagraph (B) or the reporting corporation is not able to provide the records requested in the summons, the Secretary may apply the rules of paragraph (3) with respect to any transaction to which the records relate.

"(3) APPLICABLE RULES IN CASES OF NONCOMPLIANCE.—If the rules of this paragraph apply to any transaction—

"(A) the amount of the deduction allowed under subtitle A for any amount paid or incurred by the reporting corporation to the related party in connection with such transaction, and

"(B) the cost to the reporting corporation of any property acquired in such transaction from the related party (or transferred by such corporation in such transaction to the related party),

shall be the amount determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

"(4) PROCEEDING TO QUASH.—

"(A) IN GENERAL.—Notwithstanding any law or rule of law, any reporting corporation to which the Secretary issues a summons referred to in paragraph (2)(A) shall have the right to begin a proceeding to quash such summons not later than the 90th day after such summons was issued. In any such proceeding, the Secretary may seek to compel compliance with such summons.

"(B) JURISDICTION.—The United States district court for the district in which the person (to whom the summons is issued) resides or is found shall have jurisdiction to hear any proceeding brought under subparagraph (A). An order denying the petition shall be treated as a final order which may be appealed.

"(C) SUSPENSION OF STATUTE OF LIMITATIONS.—If the reporting corporation brings an action under subparagraph (A) to quash the summons referred to in paragraph (2)(A), the running of any period of limitations under section 6501 (relating to assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to any transaction to which the summons relates shall be suspended for the period during which such proceeding, and appeals therein, are pending. In no event shall any such period expire before the 90th day after the day on which there is a final determination in such proceeding."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after July 10, 1989.

Subtitle D—Excise Tax Provisions

SEC. 6501. 9-MONTH SUSPENSION OF AUTOMATIC REDUCTION IN AVIATION-RELATED TAXES.

(a) IN GENERAL.—Subsection (a) of section 4283 (relating to reduction in aviation-related taxes in certain cases) is amended by striking "during 1990" and inserting "after September 30, 1990".

(b) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 4283(b)(1)(A) is amended by striking "1988 and 1989" and inserting "1989 and 1990".

(2) Paragraph (3) of section 4283(b) is amended—

(A) by striking "December 1, 1989" and inserting "September 1, 1990", and

(B) by striking "during 1990" and inserting "after September 30, 1990".

(3) Subsection (q) of section 6427 is amended by striking "during 1990" each place it appears and inserting "after September 30, 1990".

SEC. 6502. INCREASE IN INTERNATIONAL AIR PASSENGER DEPARTURE TAX.

(a) IN GENERAL.—Section 4261(c) (relating to tax on use of international travel facilities) is amended by striking "$3" and inserting "$6".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to transportation beginning after December 31, 1989.

SEC. 6503. SHIP PASSENGERS INTERNATIONAL DEPARTURE TAX.

(a) IN GENERAL.—Chapter 36 (relating to certain other excise taxes) is amended by inserting after subchapter A the following new subchapter:

"Subchapter B—Transportation by Water

"Sec. 4471. Imposition of tax.

"Sec. 4472. Definitions and special rules.

"SEC. 4471. IMPOSITION OF TAX.

"(a) IN GENERAL.—There is hereby imposed a tax of $3 per passenger on a covered voyage.

"(b) BY WHOM PAID.—The tax imposed by this section shall be paid by the person providing the covered voyage.

"(c) TIME OF IMPOSITION.—The tax imposed by this section shall be imposed only once for each passenger on a covered voyage, either at the time of first embarkation or disembarkation in the United States.

"SEC. 4472. DEFINITIONS.

"For purposes of this subchapter—

"(1) COVERED VOYAGE.—

"(A) IN GENERAL.—The term 'covered voyage' means a voyage of—

"(i) a commercial passenger vessel which extends over 1 or more nights, or

"(ii) a commercial vessel transporting passengers engaged in gambling aboard the vessel beyond the territorial waters of the United States,

during which passengers embark or disembark the vessel in the United States. Such term shall not include any voyage on any vessel owned or operated by the United States, a State, or any agency or subdivision thereof.

"(B) EXCEPTION FOR CERTAIN VOYAGES ON PASSENGER VESSELS.—The term 'covered voyage' shall not include a voyage of a passenger vessel of less than 12 hours between 2 ports in the United States.

"(2) PASSENGER VESSEL.—The term 'passenger vessel' means any vessel having berth or

stateroom accommodations for more than 16 passengers."

(b) CLERICAL AMENDMENTS.—The table of subchapters for chapter 36 is amended by inserting after the item relating to subchapter A the following new item:

"SUBCHAPTER B. Transportation by water."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to voyages beginning after December 31, 1989.

(2) NO DEPOSITS REQUIRED BEFORE APRIL 1, 1990.—No deposit of any tax imposed by subchapter B of chapter 36 of the Internal Revenue Code of 1986, as added by this section, shall be required to be made before April 1, 1990.

SEC. 6504. OIL SPILL LIABILITY TRUST FUND TAX TO TAKE EFFECT ON JANUARY 1, 1990.

(a) TAX TO TAKE EFFECT ON JANUARY 1, 1990.—

(1) IN GENERAL.—Subsection (f) of section 4611 (relating to application of Oil Spill Liability Trust Fund financing rate) is amended by striking paragraphs (1) and (2) and by inserting the following:

"(1) IN GENERAL.—Except as provided in paragraph (2), the Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply after December 31, 1989, and before January 1, 1992."

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 4611(f) is redesignated as paragraph (2) and is amended by striking "the commencement date" in subparagraph (A) and inserting "January 1, 1990,".

(b) 3-CENT RATE OF TAX.—Subparagraph (B) of section 4611(c)(2) is amended by striking "1.3 cents" and inserting "3 cents".

(c) OIL SPILL LIABILITY TRUST FUND TO BE OPERATING FUND.—

(1) IN GENERAL.—For purposes of sections 8032(d) and 8033(c) of the Omnibus Budget Reconciliation Act of 1986, the commencement date is January 1, 1990.

(2) CONFORMING AMENDMENTS.—

(A) Section 9509 (relating to Oil Spill Liability Trust Fund) is amended by adding at the end thereof the following new subsection:

"(f) REFERENCES TO COMPREHENSIVE OIL POLLUTION LIABILITY AND COMPENSATION ACT.—For purposes of this section, references to the Comprehensive Oil Pollution Liability and Compensation Act shall be treated as references to any law enacted before December 31, 1990, which is substantially identical to subtitle E of title VI, or subtitle D of title VIII, of H.R. 5300 of the 99th Congress as passed by the House of Representatives or the Oil Pollution Liability and Compensation Act of 1989, S. 686 of the 101st Congress as passed by the Senate."

(B) Paragraph (3) of section 9509(b) is amended by striking "(on the 1st day the Oil Spill Liability Trust Fund financing rate under section 4611(c) applies)" and inserting "(on January 1, 1990)".

(C) Paragraph (1)(A) of section 9509(c) is amended by striking the last sentence.

SEC. 6505. EXCISE TAX ON SALE OF CHEMICALS WHICH DEPLETE THE OZONE LAYER AND OF PRODUCTS CONTAINING SUCH CHEMICALS.

(a) IN GENERAL.—Chapter 38 (relating to environmental taxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Ozone-Depleting Chemicals, Etc.

"Sec. 4681. Imposition of tax.

"Sec. 4682. Definitions and special rules.

"SEC. 4681. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on—

"(1) any ozone-depleting chemical sold or used by the manufacturer, producer, or importer thereof, and

"(2) any imported taxable product sold or used by the importer thereof.

"(b) AMOUNT OF TAX.—

"(1) OZONE-DEPLETING CHEMICALS.—

"(A) IN GENERAL.—The amount of the tax imposed by subsection (a) on each pound of ozone-depleting chemical shall be an amount equal to—

"(i) the base tax amount, multiplied by

"(ii) the ozone-depletion factor for such chemical.

"(B) BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year is the amount determined under the following table for such calendar year:

"Calendar year:	Base tax amount:
1990	$1.07
1991	1.12
1992	1.67
1993	3.15
1994 or thereafter	3.15.

"(2) IMPORTED TAXABLE PRODUCT.—

"(A) IN GENERAL.—The amount of the tax imposed by subsection (a) on any imported taxable product shall be the amount of tax which would have been imposed by subsection (a) on the ozone-depleting chemicals used as materials in the manufacture or production of such product if such ozone-depleting chemicals had been sold in the United States on the date of the sale of such imported taxable product.

"(B) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (3) of section 4671(b) shall apply.

"SEC. 4682. DEFINITIONS AND SPECIAL RULES.

"(a) OZONE-DEPLETING CHEMICAL.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'ozone-depleting chemical' means any substance—

"(A) which, at the time of the sale or use by the manufacturer, producer, or importer, is listed as an ozone-depleting chemical in the table contained in paragraph (2), and

"(B) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.

"(2) OZONE-DEPLETING CHEMICALS.—

"Common name:	Chemical nomenclature:
CFC-11	trichlorofluoromethane
CFC-12	dichlorodifluoromethane
CFC-113	trichlorotrifluoroethane
CFC-114	1,2-dichloro-1,1,2,2-tetrafluoroethane
CFC-115	chloropentafluoroethane
Halon-1211	bromochlorodifluoromethane
Halon-1301	bromotrifluoromethane
Halon-2402	dibromotetrafluoroethane.

"(b) OZONE-DEPLETION FACTOR.—For purposes of this subchapter, the term 'ozone-depletion factor' means, with respect to an ozone-depleting chemical, the factor assigned to such chemical under the following table:

"Ozone-depleting chemical:	Ozone-depletion factor:
CFC-11	1.0
CFC-12	1.0
CFC-113	0.8
CFC-114	1.0
CFC-115	0.6
Halon-1211	3.0
Halon-1301	10.0
Halon-2402	6.0.

"(c) IMPORTED TAXABLE PRODUCT.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'imported taxable product' means any product (other than an ozone-depleting chemical) entered into the United States for consumption, use, or warehousing if any ozone-depleting chemical was used as material in the manufacture or production of such product.

"(2) DE MINIMIS EXCEPTION.—The term 'imported taxable product' shall not include any product specified in regulations prescribed by the Secretary as using a de minimis amount of ozone-depleting chemicals as materials in the manufacture or production thereof. The preceding sentence shall not apply to any product in which any ozone-depleting chemical is used for purposes of refrigeration or air conditioning, creating an aerosol or foam, or manufacturing electronic components.

"(d) EXCEPTIONS.—

"(1) RECYCLING.—No tax shall be imposed by section 4681 on any ozone-depleting chemical which is diverted or recovered in the United States as part of a recycling process (and not as part of the original manufacturing or production process).

"(2) USE IN FURTHER MANUFACTURE.—

"(A) IN GENERAL.—No tax shall be imposed by section 4681 on any ozone-depleting chemical which is used (and entirely consumed) by the manufacturer, producer, or importer thereof in the manufacture or production of any other chemical.

"(B) CREDIT OR REFUND.—Under regulations prescribed by the Secretary, if—

"(i) a tax under this subchapter was paid with respect to any ozone-depleting chemical, and

"(ii) such chemical was used (and entirely consumed) by any person in the manufacture or production of any other chemical,

then an amount equal to the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4681.

"(3) EXPORTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), rules similar to the rules of section 4662(e) (other than section 4662(e)(2)(A)(ii)(II)) shall apply for purposes of this subchapter.

"(B) LIMIT ON BENEFIT.—

"(i) IN GENERAL.—The aggregate tax benefit allowable under subparagraph (A) with respect to ozone-depleting chemicals manufactured or produced by any person during a calendar year shall not exceed the sum of—

"(I) the amount equal to the 1986 export percentage of the aggregate tax imposed by this subchapter with respect to ozone-depleting chemicals manufactured or produced by such person during such calendar year (other than chemicals with respect to which subclause (II) applies), and

"(II) the aggregate tax imposed by this subchapter with respect to any additional production allowance granted to such person with respect to ozone-depleting chemicals manufactured or produced by such person during such calendar year by the Environmental Protection Agency under 40 CFR Part 82 (as in effect on September 14, 1989).

"(ii) 1986 EXPORT PERCENTAGE.—A person's 1986 export percentage is the percentage equal to the ozone-depletion factor adjusted pounds of ozone-depleting chemicals manufactured or produced by such person during 1986 which were exported during 1986, divided by the ozone-depletion factor adjusted

pounds of all ozone-depleting chemicals manufactured or produced by such person during 1986. The percentage determined under the preceding sentence shall be based on data published by the Environmental Protection Agency.

"(e) OTHER DEFINITIONS.—For purposes of this subchapter—

"(1) IMPORTER.—The term 'importer' means the person entering the article for consumption, use, or warehousing.

"(2) UNITED STATES.—The term 'United States' has the meaning given such term by section 4612(a)(4).

"(f) SPECIAL RULES.—

"(1) FRACTIONAL PARTS OF A POUND.—In the case of a fraction of a pound, the tax imposed by this subchapter shall be the same fraction of the amount of such tax imposed on a whole pound.

"(2) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by this subchapter.

"(g) PHASE-IN OF TAX ON CERTAIN SUBSTANCES.—

"(1) TREATMENT FOR 1990.—

"(A) HALONS.—The term 'ozone-depleting chemical' shall not include halon-1211, halon-1301, or halon-2402 with respect to any sale or use during 1990.

"(B) CHEMICALS USED IN RIGID FOAM INSULATION.—No tax shall be imposed by section 4681—

"(i) on the use during 1990 of any substance in the manufacture of rigid foam insulation,

"(ii) on the sale during 1990 by the manufacturer, producer, or importer of any substance—

"(I) for use by the purchaser in the manufacture of rigid foam insulation, or

"(II) for resale by the purchaser to a second purchaser for such use by the second purchaser, or

"(iii) on the sale or use during 1990 by the importer of any rigid foam insulation.

Clause (ii) shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

"(2) TREATMENT FOR 1991, 1992, AND 1993.—

"(A) HALONS.—The tax imposed by section 4681 during 1991, 1992, or 1993 by reason of the treatment of halon-1211, halon-1301, and halon-2402 as ozone-depleting chemicals shall be the applicable percentage (determined under the following table) of the amount of such tax which would (but for this subparagraph) be imposed.

"In the case of:	The applicable percentage is: For sales or use during 1991	For sales or use during 1992	For sales or use during 1993
Halon-1211	7	5	3
Halon-1301	2	1	1
Halon-2402	4	2	1.

"(B) CHEMICALS USED IN RIGID FOAM INSULATION.—In the case of a sale or use during 1991, 1992, or 1993 on which no tax would have been imposed by reason of paragraph (1)(B) had such sale or use occurred during 1990, the tax imposed by section 4681 shall be the applicable percentage (determined in accordance with the following table) of the amount of such tax which would (but for this subparagraph) be imposed.

"In the case of sales or use during:	The applicable percentage is:
1991	23
1992	16
1993	8.

"(3) OVERPAYMENTS WITH RESPECT TO CHEMICALS USED IN RIGID FOAM INSULATION.—If any substance on which tax was paid under this subchapter is used during 1990, 1991, 1992, or 1993 by any person in the manufacture of rigid foam insulation, credit or refund (without interest) shall be allowed to such person an amount equal to the excess of—

"(A) the tax paid under this subchapter on such substance, over

"(B) the tax (if any) which would be imposed by section 4681 if such substance were used for such use by the manufacturer, producer, or importer thereof on the date of its use by such person.

"(h) IMPOSITION OF FLOOR STOCKS TAXES.—

"(1) JANUARY 1, 1990, TAX.—On any ozone-depleting chemical which on January 1, 1990, is held by any person (other than the manufacturer, producer, or importer thereof) for sale or for use in further manufacture, there is hereby imposed a floor stocks tax in an amount equal to the tax which would be imposed by section 4681 on such chemical if the sale of such chemical by the manufacturer, producer, or importer thereof had occurred during 1990.

"(2) OTHER TAX-INCREASE DATES.—

"(A) IN GENERAL.—If, on any tax-increase date, any ozone-depleting chemical is held by any person (other than the manufacturer, producer, or importer thereof) for sale or for use in further manufacture, there is hereby imposed a floor stocks tax.

"(B) AMOUNT OF TAX.—The amount of the tax imposed by subparagraph (A) shall be the excess (if any) of—

"(i) the tax which would be imposed under section 4681 on such substance if the sale of such chemical by the manufacturer, producer, or importer thereof had occurred on the tax-increase date, over

"(ii) the prior tax (if any) imposed by this subchapter on such substance.

"(C) TAX-INCREASE DATE.—For purposes of this paragraph, the term 'tax-increase date' means January 1 of 1991, 1992, 1993, and 1994.

"(3) DUE DATE.—The taxes imposed by this subsection on January 1 of any calendar year shall be paid on or before April 1 of such year.

"(4) APPLICATION OF OTHER LAWS.—All other provisions of law, including penalties, applicable with respect to the taxes imposed by section 4681 shall apply to the floor stocks taxes imposed by this subsection."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 is amended by adding at the end thereof the following new item:

"SUBCHAPTER D. Ozone-depleting chemicals, etc."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1990.

(2) NO DEPOSITS REQUIRED BEFORE APRIL 1, 1990.—No deposit of any tax imposed by subchapter D of chapter 38 of the Internal Revenue Code of 1986, as added by this section, shall be required to be made before April 1, 1990.

SEC. 6506. ACCELERATION OF DEPOSIT REQUIREMENTS FOR GASOLINE EXCISE TAX.

(a) IN GENERAL.—Section 6302 (relating to mode or time of collection), as amended by section 6504, is further amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) FREQUENCY AND TIME FOR DEPOSIT OF TAXES ON GASOLINE.—

"(1) GENERAL RULE.—Any person whose liability for tax under section 4081 exceeds $100 in any month of a calendar quarter shall make deposits of such tax with respect to tax periods in any month in the succeeding quarter as determined under paragraph (2).

"(2) TIME OF DEPOSIT.—

"(A) IN GENERAL.—Any deposit of tax required with respect to any tax period under paragraph (1) shall be payable on or before—

"(i) the 9th day after the close of the tax period, or

"(ii) if such deposit is made by wire transfer to any government depository authorized under section 6302, the 14th day after the close of the tax period.

"(B) TAX PERIODS.—Each month shall include 4 tax periods ending on the 7th, 14th, 21st, and last days of such month.

"(3) SPECIAL RULE WHERE 9TH OR 14TH DAY FALLS ON SATURDAY, SUNDAY, OR HOLIDAY.—If, but for this paragraph, the due date under paragraph (2) would fall on a Saturday, Sunday, or holiday in the District of Columbia, such due date shall be deemed to be the immediately preceding day which is not a Saturday, Sunday, or such a holiday."

(b) EFFECTIVE DATE; SPECIAL RULE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to payments of taxes for tax periods beginning after December 31, 1989.

(2) SPECIAL RULE.—Notwithstanding section 6302(f) of the Internal Revenue Code of 1986, as added by subsection (a), in applying such section in September 1990, the due date for the third tax period of such month with respect to 9-day payers and the due date for the second tax period of such month with respect to 14-day payers shall be September 27, 1990.

Subtitle E—Miscellaneous Provisions

PART I—LIKE KIND EXCHANGES BETWEEN RELATED PERSONS

SEC. 6601. LIKE KIND EXCHANGES BETWEEN RELATED PERSONS.

(a) SPECIAL RULES FOR EXCHANGES BETWEEN RELATED PERSONS, ETC.—Section 1031 (relating to exchange of property held for productive use or investment) is amended by adding at the end thereof the following new subsections:

"(f) SPECIAL RULES FOR EXCHANGES BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—If—

"(A) a taxpayer exchanges property with a related person,

"(B) there is nonrecognition of gain or loss to the taxpayer under this section with respect to the exchange of such property (determined without regard to this subsection), and

"(C) before the date 2 years after the date of the last transfer which was part of such exchange—

"(i) the related person disposes of such property, or

"(ii) the taxpayer disposes of the property received in the exchange from the related person which was of like kind to the property transferred by the taxpayer,

there shall be no nonrecognition of gain or loss under this section to the taxpayer with respect to such exchange; except that any gain or loss recognized by the taxpayer by reason of this subsection shall be taken into account as of the date on which the disposition referred to in subparagraph (C) occurs.

"(2) CERTAIN DISPOSITIONS NOT TAKEN INTO ACCOUNT.—For purposes of paragraph (1)(C), there shall not be taken into account any disposition—

"(A) by reason of the death of the taxpayer,

"(B) in a compulsory or involuntary conversion (within the meaning of section 1033) if the exchange occurred before the threat or imminence of such conversion, or

"(C) with respect to which it is established to the satisfaction of the Secretary that neither the exchange nor such disposition had as one of its principal purposes the avoidance of Federal income tax.

"(3) RELATED PERSON.—For purposes of this subsection, the term 'related person' means any person bearing a relationship to the taxpayer described in section 267(b).

"(4) TREATMENT OF CERTAIN TRANSACTIONS.—This section shall not apply to any exchange which is part of a transaction (or series of transactions) structured to avoid the purposes of this subsection.

"(g) SPECIAL RULE WHERE SUBSTANTIAL DIMINUTION OF RISK.—

"(1) IN GENERAL.—If paragraph (2) applies to any property for any period, the running of the period set forth in subsection (f)(1)(C) with respect to such property shall be suspended during such period.

"(2) PROPERTY TO WHICH SUBSECTION APPLIES.—This paragraph shall apply to any property for any period during which the holder's risk of loss with respect to the property is substantially diminished by—

"(A) the holding of a put with respect to such property,

"(B) the holding by another person of a right to acquire such property, or

"(C) a short sale or any other transaction.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including such regulations as may be necessary to prevent the avoidance of the purposes of this section."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers after July 10, 1989, in taxable years ending after such date.

(2) BINDING CONTRACT.—The amendments made by this section shall not apply to any transfer pursuant to a written binding contract in effect on July 10, 1989, and at all times thereafter before the transfer.

PART II—ACCOUNTING PROVISIONS

SEC. 6621. CHANGES IN TREATMENT OF TRANSFERS OF FRANCHISES, TRADEMARKS, AND TRADE NAMES.

(a) CONTINGENT PAYMENTS.—Paragraph (1) of section 1253(d) (relating to treatment of payments by transferee) is amended to read as follows:

"(1) CONTINGENT SERIAL PAYMENTS.—

"(A) IN GENERAL.—Any amount described in subparagraph (B) which is paid or incurred during the taxable year on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name shall be allowed as a deduction under section 162(a) (relating to trade or business expenses).

"(B) AMOUNTS TO WHICH PARAGRAPH APPLIES.—An amount is described in this subparagraph if it—

"(i) is contingent on the productivity, use, or disposition of the franchise, trademark, or trade name, and

"(ii) is paid as part of a series of payments—

"(I) which are payable not less frequently than annually throughout the entire term of the transfer agreement, and

"(II) which are substantially equal in amount (or payable under a fixed formula)."

(b) $100,000 LIMITATION ON CERTAIN PAYMENTS.—

(1) IN GENERAL.—Paragraph (2) of section 1253(d) is amended by adding at the end thereof the following new subparagraph:

"(B) $100,000 LIMITATION ON DEDUCTIBILITY OF PRINCIPAL SUM.—Subparagraph (A) shall not apply if the principal sum referred to in such subparagraph exceeds $100,000. For purposes of the preceding sentence, all payments which are part of the same transaction (or a series of related transactions) shall be taken into account as payments with respect to each such transaction."

(2) CONFORMING AMENDMENTS.—Paragraph (2) of section 1253(d) is amended—

(A) by striking all that precedes "If" and inserting:

"(2) CERTAIN PAYMENTS IN DISCHARGE OF PRINCIPAL SUMS.—

"(A) IN GENERAL.—", and

(B) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively.

(c) OTHER PAYMENTS, ETC.—Section 1253(d) is amended by adding at the end thereof the following new paragraphs:

"(3) OTHER PAYMENTS.—

"(A) IN GENERAL.—Any amount paid or incurred on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name to which paragraph (1) or (2) does not apply shall be treated as an amount chargeable to capital account.

"(B) ELECTION TO RECOVER AMOUNTS OVER 20 YEARS.—

"(i) IN GENERAL.—If the taxpayer elects the application of this subparagraph, an amount chargeable to capital account—

"(I) to which paragraph (1) would apply but for subparagraph (B)(ii) thereof, or

"(II) to which paragraph (2) would apply but for subparagraph (B) thereof,

shall be allowed as a deduction ratably over the 20-year period beginning with the taxable year in which the transfer occurs.

"(ii) CONSISTENT TREATMENT.—An election under clause (i) shall apply to all amounts which are part of the same transaction (or a series of related transactions).

"(4) RENEWALS, ETC.—For purposes of determining the term of a transfer agreement or any period of amortization under this subsection, there shall be taken into account all renewal options (and any other period for which the parties reasonably expect the agreement to be renewed)."

(b) TECHNICAL AMENDMENTS.—

(1) DEPRECIATION ALLOWABLE.—Subsection (r) of section 167 is hereby repealed.

(2) DEDUCTION SUBJECT TO RECAPTURE.—

(A) Subparagraph (C) of section 1245(a)(2) is amended by striking "or 193" and inserting "193, or 1253(d) (2) or (3)".

(B) The material preceding subparagraph (A) of section 1245(a)(3) is amended by striking "section 185" and inserting "section 185 or 1253(d) (2) or (3)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transfers after October 2, 1989.

(2) BINDING CONTRACT.—The amendments made by this section shall not apply to any transfer pursuant to a written binding contract in effect on October 2, 1989, and at all times thereafter before the transfer.

SEC. 6622. RESERVES OF MUTUAL SAVINGS BANKS AND OTHER THRIFT INSTITUTIONS.

(a) IN GENERAL.—Section 593 (relating to reserves for losses on loans) is amended by adding at the end thereof the following new subsection:

"(f) ORGANIZATIONS FAILING 60-PERCENT ASSET TEST.—

"(1) GENERAL RULE.—In the case of any taxpayer described in subsection (a)(1) which ceases to be so described or which fails to meet the requirements of subsection (a)(2)—

"(A) except as provided in this subsection, this section shall not apply for the disqualification year or any succeeding taxable year, and

"(B) if the taxpayer maintained any reserve for bad debts for its last taxable year before the disqualification year, the rules of paragraph (3)(A) of section 585(c) (without regard to paragraph (4) thereof) shall apply for the disqualification year with respect to the portion of such reserve allocable to additions to such reserve under the experience method of subsection (b)(3).

"(2) SUBSEQUENT LOSSES.—If paragraph (1) applies, the taxpayer shall continue to maintain its remaining reserves for loans held by the taxpayer as of the 1st day of the disqualification year and—

(A) the rules of subsection (e) shall continue to apply to such reserves, and

(B) the taxpayer shall charge against such reserves for any taxable year losses resulting from loans held by the taxpayer on such 1st day to the extent that the cumulative losses from such loans as of the close of such taxable year (reduced by recoveries) does not exceed the cumulative amount included in gross income by reason of paragraph (1)(B) as of the close of such taxable year.

"(3) DISQUALIFICATION YEAR.—The term 'disqualification year' means the 1st taxable year ending after the date of the enactment of this subsection for which a taxpayer described in subsection (a)(1) ceases to be so described or fails to meet the requirements of subsection (a)(2).

"(4) ELECTION IRREVOCABLE.—An election under paragraph (1), once made, is irrevocable."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

PART III—EMPLOYMENT TAX PROVISIONS

SEC. 6631. TREATMENT OF AGRICULTURAL WORKERS UNDER WAGE WITHHOLDING.

(a) IN GENERAL.—Paragraph (2) of section 3401(a) (defining wages) is amended to read as follows:

"(2) for agricultural labor (as defined in section 3121(g)) unless the remuneration paid for such labor is wages (as defined in section 3121(a)); or".

(b) CREW LEADER RULES TO APPLY.—Section 3401 is amended by adding at the end thereof the following new subsection:

"(h) CREW LEADER RULES TO APPLY.—Rules similar to the rules of section 3121(o) shall apply for purposes of this chapter."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid after December 31, 1989.

SEC. 6632. ACCELERATION OF DEPOSIT REQUIREMENTS.

(a) IN GENERAL.—Section 6302 (relating to mode or time for collection) is amended by redesignating subsection (e) as subsection

(f) and by inserting after subsection (d) the following new subsection:

"(e) DEPOSITS OF SOCIAL SECURITY TAXES AND WITHHELD INCOME TAXES.—

"(1) IN GENERAL.—If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21 and 24 on the basis of eighth-month periods, such person shall, for the year specified in paragraph (2), make deposits of such taxes on the applicable banking day after any day on which such person has an amount equal to or exceeding the threshold amount of such taxes for deposit. Rules similar to the rules of section 5061(e)(3) shall apply to the threshold amount in the preceding sentence.

"(2) SPECIFIED YEARS.—For purposes of paragraph (1)—

"In the case of:	"The applicable banking day is:
1990	1st
1991	3rd
1992	3rd
1993	1st
1994	2d.

"In the case of:	"The threshold amount is:
1990	$1,950,000
1991	$1,500,000
1992	$1,600,000
1993	$1,700,000
1994	$1,775,000

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to amounts required to be deposited after July 31, 1990.

(2) RULE FOR 1995 AND THEREAFTER.—For calendar year 1995 and thereafter, the Secretary of the Treasury shall prescribe regulations with respect to the date on which deposits of such taxes shall be made in order to minimize the unevenness in the revenue effects of the amendment made by subsection (a).

PART IV—OTHER PROVISIONS

SEC. 6681. TREATMENT OF DISTRIBUTIONS BY PARTNERSHIPS OF CONTRIBUTED PROPERTY.

(a) GENERAL RULE.—Subsection (c) of section 704 (relating to contributed property) is amended to read as follows:

"(c) CONTRIBUTED PROPERTY.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary—

"(A) income, gain, loss, and deduction with respect to property contributed to the partnership by a partner shall be shared among the partners so as to take account of the variation between the basis of the property to the partnership and its fair market value at the time of contribution, and

"(B) if any property so contributed is distributed by the partnership (other than to the contributing partner) within 3 years of being contributed—

"(i) the contributing partner shall be treated as recognizing gain or loss (as the case may be) from the sale of such property in an amount equal to the gain or loss which would have been allocated to such partner under subparagraph (A) by reason of the variation described in subparagraph (A) if the property had been sold at its fair market value at the time of the distribution,

"(ii) the character of such gain or loss shall be determined by reference to the character of the gain or loss which would have resulted if such property had been sold by the partnership to the distributee, and

"(iii) appropriate adjustments shall be made to the adjusted basis of the contributing partner's interest in the partnership and to the adjusted basis of the property distributed to reflect any gain or loss recognized under this subparagraph.

"(2) SPECIAL RULE FOR DISTRIBUTIONS WHERE GAIN OR LOSS WOULD NOT BE RECOGNIZED OUTSIDE PARTNERSHIPS.—Under regulations prescribed by the Secretary, if—

"(A) property contributed by a partner (hereinafter referred to as the 'contributing partner') is distributed by the partnership to another partner, and

"(B) other property of a like kind (within the meaning of section 1031) is distributed by the partnership to the contributing partner not later than the earlier of—

"(i) the 180th day after the date of the distribution described in subparagraph (A), or

"(ii) the due date (determined with regard to extensions) for the contributing partner's return of the tax imposed by this chapter for the taxable year in which the distribution described in subparagraph (A) occurs,

then to the extent of the value of the property described in subparagraph (B), paragraph (1)(B) shall be applied as if the contributing partner had contributed to the partnership the property described in subparagraph (B).

"(3) OTHER RULES.—Under regulations prescribed by the Secretary, rules similar to the rules of paragraph (1) shall apply to contributions by a partner using the cash receipts and disbursements method of accounting) of accounts payable and other accrued but unpaid items. Any reference in paragraph (1) or (2) to the contributing partner shall be treated as including a reference to any successor of such partner."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of property contributed to the partnership after October 3, 1989, in taxable years ending after such date.

SEC. 6682. ELIMINATION OF RETROACTIVE CERTIFICATION OF EMPLOYEES FOR WORK INCENTIVE JOBS CREDIT.

(a) IN GENERAL.—So much of subparagraph (A) of section 50B(h)(1) of the Internal Revenue Code of 1954 (as in effect for taxable years beginning before January 1, 1982) as precedes clause (i) thereof is amended to read as follows:

"(A) who has been certified (or for whom a written request for certification has been made) on or before the day the individual began work for the taxpayer by the Secretary of Labor or by the appropriate agency of State or local government as—".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of credits first claimed after March 11, 1987.

Subtitle F—Coordination With Budget Act

SEC. 6701. COORDINATION WITH BUDGET ACT.

Any transfer of outlays, receipts, or revenues pursuant to this title (including section 6209, 6507, 6631, or 6632) is a necessary (but secondary) result of a significant policy change for purposes of section 202 of the joint resolution entitled "Increasing the statutory limit on the public debt" (Public Law 100-119), approved September 29, 1987.

TITLE VII—CIVIL SERVICE AND POSTAL SERVICE PROGRAMS

SEC. 7001. BUDGETARY TREATMENT OF THE POSTAL SERVICE FUND.

(a) TREATMENT OF THE POSTAL SERVICE FUND.—(1) Chapter 20 of title 39, United States Code, is amended by inserting after section 2009 the following new section:

"§ 2009a. Budgetary treatment of the Postal Service Fund

"Notwithstanding any other provision of law, the receipts and disbursements of the Postal Service Fund, including disbursements for administrative expenses incurred in connection with the Fund—

"(1) shall not be included in the totals of—

"(A) the budget of the United States Government as submitted by the President; or

"(B) the congressional budget (including allocations of budget authority and outlays provided therein);

"(2) shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government; and

"(3) shall be exempt from any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.), and shall not be counted for purposes of calculating the deficit under section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) nor counted in calculating the excess deficit for purposes of sections 251 and 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 and 902), for any fiscal year."

(2) The table of sections for chapter 20 of title 39, United States Code, is amended by inserting after the item relating to section 2009 the following:

"2009a. Budgetary treatment of the Postal Service Fund."

(b) CONSTRUCTION.—Nothing in any amendment made by subsection (a) shall be considered to diminish the oversight authority of the Congress under law, rule, or regulation with respect to the budget and operations of the United States Postal Service.

(c) APPLICABILITY.—The amendments made by this section shall apply with respect to budgets for fiscal years beginning after September 30, 1989.

SEC. 7002. FUNDING OF COST-OF-LIVING ADJUSTMENTS FOR CERTAIN POSTAL SERVICE ANNUITANTS AND SURVIVOR ANNUITANTS.

(a) DEPOSIT OF CERTAIN FUNDS IN FISCAL YEAR 1990.—From the funds available to the United States Postal Service in fiscal year 1990, the Postal Service shall deposit into the Civil Service Retirement Fund established under section 8348 of title 5, United States Code, an amount equal to $400,000,000 at the end of fiscal year 1990. Such payment shall be considered as a prior year's loss for purposes of adjusting postal rates under part IV of title 39, United States Code.

(b) UNFUNDED LIABILITY OF POSTAL SERVICE.—Section 8348 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(m)(1) Notwithstanding any other provision of law, the United States Postal Service shall be liable for that portion of any estimated increase in the unfunded liability of the Fund which is attributable to any benefits payable from the Fund to former employees of the Postal Service who first become annuitants by reason of separation from the Postal Service on or after October 1, 1990, or to their survivors, or to the survivors of individuals who die on or after October 1, 1990, while employed by the Postal Service, when the increase results from a cost-of-living adjustment under section 8340 of this title.

"(2) The estimated increase in the unfunded liability referred to in paragraph (1) of

this subsection shall be determined by the Office after consultation with the Postal Service. The Postal Service shall pay the amount so determined to the Office in 15 equal annual installments with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System, with the first payment thereof due at the end of the fiscal year in which the cost-of-living adjustment with respect to which the payment relates becomes effective.

"(3) In determining the amount for which the Postal Service is liable under this subsection in cases in which the benefits involved are based on service of an individual who performed 1 or more forms of service besides employment with the Postal Service, the amount of the Postal Service's liability shall be prorated to reflect only that portion of total service which is attributable to employment with the Postal Service.".

SEC. 7003. FUNDING OF HEALTH BENEFIT PREMIUMS FOR SURVIVORS OF EMPLOYEES AND FORMER EMPLOYEES OF THE POSTAL SERVICE.

(a) GENERALLY.—Section 8906(g)(2) of title 5, United States Code, is amended by inserting "or for a survivor of such an individual or of an individual who died on or after October 1, 1986, while employed by the United States Postal Service," after "1986,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1989, and shall apply with respect to amounts payable for periods beginning on or after that date.

SEC. 7004. PARTIAL DEFERRED PAYMENT OF LUMP-SUM CREDIT FOR CERTAIN INDIVIDUALS ELECTING ALTERNATIVE FORMS OF ANNUITIES.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (c), any lump-sum credit payable to an employee or Member pursuant to the election of an alternative form of annuity by such employee or Member under section 8343a or section 8420a of title 5, United States Code, shall be paid in accordance with the schedule under subsection (b) (instead of the schedule which would otherwise apply), if the commencement date of the annuity payable to such employee or Member occurs after September 30, 1989, and before October 1, 1990.

(b) SCHEDULE OF PAYMENTS.—The schedule of payment of any lump-sum credit subject to this section is as follows:

(1) 50 percent of the lump-sum credit shall be payable on the date on which, but for the enactment of this section, the full amount of the lump-sum credit would otherwise be payable.

(2) The remainder of the lump-sum credit shall be payable on the date which occurs 12 months after the date described in paragraph (1).

An amount payable in accordance with paragraph (2) shall be payable with interest, computed using the rate under section 8334(e)(3) of title 5, United States Code.

(c) EXCEPTIONS.—The Office of Personnel Management shall prescribe regulations under which this section shall not apply in the case of any individual as to whom the application of this section would be against equity and good conscience, due to a life-threatening affliction or other critical medical condition affecting such individual.

(d) ANNUITY BENEFITS NOT AFFECTED.—Nothing in this section shall affect the commencement date, the amount, or any other aspect of any annuity benefits payable under section 8343a or section 8420a of title 5, United States Code.

(e) DEFINITIONS.—For purposes of this section, the terms "lump-sum credit", "employee", and "Member" each has the meaning given such term by section 8331 or section 8401 of title 5, United States Code, as appropriate.

TITLE VIII—COMMITTEE ON LABOR AND HUMAN RESOURCES

Subtitle A—Pension Plans

SEC. 8001. EMPLOYEE RETIREMENT INCOME SECURITY.

(a) PREMIUM RATES.—Section 4006(a)(3)(A)(i) of such Act (29 U.S.C. 1306(a)(3)(A)(i)) is amended by striking "$16" and inserting "$18".

(b) USE OF AMOUNT GAINED THROUGH INCREASE IN PREMIUM RATES.—

(1) TREASURY.—Additional amounts collected under section 4006(a)(3)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)(i)) pursuant to the amendment made by subsection (a) shall be credited on-budget as an offsetting receipt to the General Fund of the Treasury for fiscal year 1990.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the fund established under section 4005(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1305(f)) for fiscal year 1990, an amount equal to the additional amounts collected under section 4006(a)(3)(A)(i) of such Act pursuant to the amendment made by subsection (a).

Subtitle B—Education

HIGHER EDUCATION AMENDMENTS

SEC. 8101. SHORT TITLE.

This subtitle may be cited as the "Medical Residents' Student Loan Amendments Act of 1989".

SEC. 8102. DEFERMENTS.

(a) FEDERALLY INSURED STUDENT LOANS.—Section 427(a)(2)(C)(i) of the Higher Education Act of 1965, as amended (hereinafter referred to as the "Act") is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a comma and "provided that no borrower shall be eligible for a deferment under this clause, or a loan made under this part, while serving in a medical internship or residency program;".

(b) FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS.—Section 428(b)(1)(M)(i) of the Act is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a comma and "provided that no borrower shall be eligible for a deferment under this clause, or loan made under this part, while serving in a medical internship or residency program;".

(c) LOAN AGREEMENTS.—Section 464(c)(2)(A)(i) of the Act is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a comma and "provided that no borrower shall be eligible for a deferment under this clause, or a loan made under this part, while serving in a medical internship or residency program;".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective for any loan made, insured, or guaranteed under part B or part E of title IV of the Act, including a loan made before the enactment of this Act, and shall take effect on October 1, 1989, except that such amendments shall not apply with respect to any portion of a period of deferment granted to a borrower under section 427(a)(2)(C)(i), 428(b)(1)(M)(i), or 464(c)(2)(A)(i) of the Act for service in a medical internship or residency program that is completed prior to the effective date of this section.

SEC. 8103. FORBEARANCE.

(a) FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS.—Section 428 of the Act is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (T), by striking out "and" at the end thereof;

(B) in subparagraph (U), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new subparagraph:

"(V)(i) provides that, upon written request, a lender shall grant a borrower forbearance, renewable at 12-month intervals, for a period equal to the length of time remaining in the borrower's medical or dental internship or residency program on such terms as are otherwise consistent with the regulations of the Secretary, and agreed upon in writing by the parties to the loan with the approval of the insurer, if the borrower—

"(I) is serving in a medical or dental internship or residency program, the successful completion of which is required to begin professional practice or service, or serving in a medical or dental internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training; and

"(II) has exhausted his or her eligibility for a deferment under section 427(a)(2)(C)(vii) or subparagraph (M)(vii) of this paragraph; and

"(ii) provides that no administrative or other fee may be charged in connection with the granting of a forbearance under clause (i), and that no adverse information regarding a borrower may be reported to a credit bureau organization solely because of the granting of a forbearance under clause (i).";

and

(2) by amending subsection (c)(3) to read as follows:

"(3) FORBEARANCE.—A guaranty agreement under this subsection—

"(A) shall contain provisions providing for forbearance in accordance with subsection (b)(1)(V) for the benefit of the student borrower serving in a medical or dental internship or residency program; and

"(B) may, to the extent provided in regulations of the Secretary, contain provisions that permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer. Such regulations shall not preclude guaranty agencies from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default.".

(b) APPLICABILITY.—The amendments made by this section shall apply with respect to loans made before, on, or after the date of enactment of this Act.

SEC. 8104. SUPPLEMENTAL LOANS FOR STUDENTS.

Section 428A(b)(4) of the Higher Education Act of 1965 is amended by—

(1) inserting "(A)" after the paragraph designation; and

(2) by adding the following new subparagraph at the end thereof:

"(B) In the case of any borrower who, on the date of entering into the note or other written evidence of the loan, has not successfully completed the first year of a program of undergraduate education, the financial aid administrator shall not certify the borrower's eligibility for a loan under this section until a date which will ensure that the first disbursement of such loan to such

borrower does not occur until the borrower has attended the institution for 30 days during the period of enrollment for which the loan was made.".

SEC. 8105. DISCRETIONARY INFORMATION FEE PROHIBITED.

The Higher Education Act of 1965 is amended—

(1) in section 411F(12)(D) by inserting the following new sentence at the end thereof: "No student or parent may be charged a fee for supplying any supplementary information or documentation to a financial aid administrator pursuant to the provisions of this paragraph";

(2) in section 479A(a) by—

(A) striking "Nothing" and inserting "(1) Nothing";

(B) inserting the following new paragraph at the end thereof:

"(2) No student or parent may be charged a fee for supplying any supplementary information or documentation to a financial aid officer pursuant to the provisions of paragraph (1)";

(3) in section 480(d)(4) by inserting at the end thereof the following new sentence: "No student or parent may be charged a fee for supplying any supplementary information or documentation to a financial aid administrator pursuant to the provisions of this paragraph"; and

(4) in section 483(a)(1) by striking the period at the end thereof and inserting in lieu thereof "(except as provided in sections 411F(12)(D), 479A(a)(2), and 480(d)(4)).

TITLE IX—VETERANS PROGRAMS

SEC. 9001. HOME LOAN GUARANTY PROGRAM.

(a) ONE-YEAR EXTENSION OF LOAN FEE.—Section 1829(c) of title 38, United States Code, is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

(b) ONE-YEAR POSTPONEMENT OF RESTRICTIONS ON WITHOUT-RECOURSE VENDEE LOAN SALES.—Section 1833(a)(3) of title 38, United States Code, is amended by striking out "October 1, 1989" each place it appears and inserting in lieu thereof "October 1, 1990".

CHANGE IN CONFEREES TO STATE DEPARTMENT AUTHORIZATION BILE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the name of Senator BIDEN be deleted from the list of Senate conferees on H.R. 1487, the State Department authorization bill, and that the name of Senator DODD be added.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if the distinguished Republican leader has no further business, and if no Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order until 10 a.m. tomorrow, Thursday, October 19, 1989.

There being no objection, the Senate, at 7:57 p.m., recessed until Thursday, October 19, 1989, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 18, 1989:

DEPARTMENT OF DEFENSE

TERRENCE O'DONNELL, OF THE DISTRICT OF COLUMBIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

THE FOLLOWING-NAMED PERSON TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM OF 1 YEAR:

EDSON G. CASE OF MARYLAND.

THE FOLLOWING-NAMED PERSON TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM OF 2 YEARS:

JOHN W. CRAWFORD, JR. OF MARYLAND.

THE FOLLOWING-NAMED PERSON TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM OF 3 YEARS:

HERBERT KOUTS OF NEW YORK.

THE FOLLOWING-NAMED PERSON TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM OF 4 YEARS:

A.J. EGGENBERGER OF MONTANA.

THE FOLLOWING-NAMED PERSON TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM OF 5 YEARS:

JOHN T. CONWAY OF NEW YORK.

DEPARTMENT OF DEFENSE

JAMES R. LOCHER III, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 611(A) AND 624:

To be permanent major general

BRIG. GEN. WALLACE C. ARNOLD, xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. PATRICK H. BRADY, xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. HENRY M. HAGWOOD, JR., xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. RONALD E. BROOKS, xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. PETER M. MCVEY, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. JERE H. AKIN, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. PATRICK J. KELLY, xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. WILLIAM H. FORSTER, xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. EDWARD R. BALDWIN, JR., xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. DONALD M. LIONETTI, xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. WILLIAM N. FARMEN, xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. JOHN D. ROBINSON, xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. MALCOLM R. O'NEILL, xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. JAMES A. GUEST, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. WILLIAM C. PAGE, JR., xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. GUY A. LOBOA, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. STEPHEN SILVASY, JR., xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. FRED F. MARTY, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. PAUL E. FUNK, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. JOHN C. HELDSTAB, xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. BARRY R. MCCAFFREY, xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. NEAL T. JACO, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. CRAIG A. HAGAN, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. GERALD H. PUTMAN, xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. JAMES D. STARLING, xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. MARC A. CISNEROS, xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. PAUL E. MENOHER, JR., xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. ROBERT L. ORD, III, xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. WALDO D. FREEMAN, JR., xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. JOHN F. SOBKE, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. JOHN P. HERRLING, xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. RONALD H. GRIFFITH, xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. SAMUEL E. EBBESEN, xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. JAMES R. ELLIS, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. WALTER B. MOORE, xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. ERNEST J. HARRELL, xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. JOHN E. MILLER, xxx-xx-xxxx, U.S. ARMY.

HOUSE OF REPRESENTATIVES—*Wednesday, October 18, 1989*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O gracious God, that Your healing power will comfort all those who face loss and who know the pain of suffering. Make us aware of our responsibilities to use our resources to ease the hurt and to strengthen the lives of all in need. May Your benediction be upon all Your people this day and may Your love abide with us forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Massachusetts [Mr. MOAKLEY] will lead the House in the Pledge of Allegiance.

Mr. MOAKLEY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

The Chair announces that during the joint meeting to receive the President of the Republic of Korea, only the doors immediately opposite the Speaker and those on his left and right will be open.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3402, POLISH AND HUNGARIAN DEMOCRACY INITIATIVE OF 1989

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-291) on the resolution (H. Res. 266) providing for the consideration of the bill (H.R. 3402) to promote political and economic democracy in Poland and Hungary as those countries develop and implement programs of comprehensive economic reform, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2494, INTERNATIONAL DEVELOPMENT AND FINANCE ACT OF 1989

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-292) on the resolution (H. Res. 267) providing for the consideration of the bill (H.R. 2494) to amend the Export-Import Bank Act of 1945 to authorize the appropriation of not to exceed $100 million to the Tied Aid Credit Fund for fiscal year 1990, and to provide for expenditures from such fund during such fiscal year, which was referred to the House Calendar and ordered to be printed.

RECESS

The SPEAKER. Pursuant to the order of the House of Thursday, October 12, 1989, the House will stand in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 4 minutes a.m.), the House stood in recess subject to the call of the Chair.

JOINT MEETING OF THE HOUSE AND SENATE TO HEAR AN ADDRESS BY HIS EXCELLENCY ROH TAE WOO, PRESIDENT OF THE REPUBLIC OF KOREA

The SPEAKER of the House presided.

The Doorkeeper, the Honorable James T. Molloy, announced the Acting President pro tempore of the U.S. Senate, the Honorable DAVID PRYOR, and Members of the U.S. Senate, who entered the Hall of the House of Representatives, the Acting President pro tempore taking the chair at the right of the Speaker, and the Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort His Excellency Roh Tae Woo, President of the Republic of Korea, into the Chamber:

The gentleman from Missouri [Mr. GEPHARDT]; the gentleman from Florida [Mr. FASCELL]; the gentleman from Michigan [Mr. BONIOR]; the gentleman from Maryland [Mr. HOYER]; the gentleman from New York [Mr. SOLARZ]; the gentleman from Illinois [Mr. MICHEL]; the gentleman from Georgia [Mr. GINGRICH]; the gentleman from Michigan [Mr. BROOMFIELD]; the gentleman from California [Mr. LEWIS]; and the gentleman from New York [Mr. SOLOMON].

Senator PRYOR. The Acting President pro tempore of the Senate, at the direction of that body, appoints the following Senators as members of the committee on the part of the Senate to escort the President of the Republic of Korea into the Chamber:

The Senator from Maine [Mr. MITCHELL]; the Senator from Rhode Island [Mr. PELL]; the Senator from South Dakota [Mr. DASCHLE]; the Senator from Ohio [Mr. METZENBAUM]; the Senator from Kansas [Mr. DOLE]; the Senator from Wyoming [Mr. SIMPSON]; the Senator from Alaska [Mr. STEVENS]; the Senator from Indiana [Mr. LUGAR]; and the Senator from Alaska [Mr. MURKOWSKI].

The Doorkeeper announced the Ambassadors, ministers, and chargés d'affaires of foreign governments.

The Ambassadors, ministers, and chargés d'affaires of foreign governments entered the Hall of the House of Representatives and took the seats reserved for them.

At 11 o'clock and 5 minutes a.m., the Doorkeeper announced the President of the Republic of Korea.

The President of the Republic of Korea, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives, and stood at the Clerk's desk.

[Applause, the Members rising.]

The SPEAKER. Members of the Congress, it is my great privilege, and I deem it a high honor and personal pleasure to present to you His Excellency, Roh Tae Woo, President of the Republic of Korea.

[Applause, the Members rising.]

ADDRESS BY HIS EXCELLENCY, ROH TAE WOO, PRESIDENT OF THE REPUBLIC OF KOREA

President ROH. Mr. Speaker, Mr. President, before I go into my speech, I would like to express my deep sympathy on behalf of the Korean people and myself to the people who are suffering from the natural disaster in the San Francisco area. I sincerely hope and believe that the American people will soon get over this trial.

Mr. Speaker, Mr. President, distinguished Senators and Representatives: I would like to express my gratitude to you for giving me this rare privilege to speak before a joint meeting of the United States Congress—the august representative body of one of the world's oldest and most powerful democracies. As the democratically elected leader of one of the world's newest

democracies, I feel honored and proud standing here today.

I am honored, not only because it is in these halls that democracy has flourished, but also because the work of this great institution has brought freedom to many people of the world and has nurtured the best in human achievement.

I stand here proudly because I have a story to tell, the story of a people who, while enduring great hardship, have cultivated a free and vigorous democracy within a single generation.

Syngman Rhee, the first President of the Republic of Korea, came to this rostrum in 1954 in order to express the heartfelt gratitude of his countrymen for the courage and sacrifice that the people of the United States had rendered in protecting and preserving freedom and democracy in Korea.

At that time, the sounds of gunfire still echoed in the memories of President Rhee's countrymen, a legacy of the terrible Korean War. Thirty-five years have passed since then and much has changed.

From the depths of despair during the war, a spring of hope and confidence welled up in Korea. What was once a trickle soon grew into a rising tide of political and economic strength that continues to carry my people forward. And so, instead of long lines of hopeless children or hungry refugees, what the world saw at the 1988 Olympic Games was a prospering, confident people striding proudly towards the future.

Much has changed, indeed, Mr. Speaker. But the lofty ideals which bind Korea and the United States have endured, tested through sweat and, at times, blood. When Korea's very survival was in danger the United States rushed to defend the security and liberty of our people.

While my country strove endlessly to build a thriving democratic nation from the poverty and ruin of war, the United States stood beside us, shoulder to shoulder. For that, the Korean people's gratitude has never wavered.

For my part, I feel a particularly deep affinity for the United States. When my country was in flames, I volunteered, still wearing a student uniform, to fight for our liberty. At that time many American soldiers fought alongside me and my colleagues. Many gave their lives so that Korea might be free. Later I fought in Vietnam together with young American soldiers. I know there are many of my fellow soldiers among the members of the House and Senate who are present here today.

I thank those legislators and thousands of other brave Americans who fought for our freedom. Our people will long remember your sacrifice.

If you ask a Korean what America means to his country, his answer will be simple and clear: we are allies. And if you ask your constituents what Korea means to America, I am sure the answer will be the same. For us, the word 'ally' resonates with deep feelings of friendship, trust and enduring commitment.

Korea and the United States developed this alliance not only out of common national interests, but also because we share those common ideals: freedom and human dignity. Your Declaration of Independence proclaims that 'life, liberty and the pursuit of happiness are inalienable rights.' That spirit mirrors our traditional belief that "Man is as sacred as heaven."

Mr. Speaker, Mr. President, the world is now undergoing momentous changes, which are reshaping the international order of the past four decades. Across the walls and fences of the Cold War, a movement has begun—seeking to transform societies that restrict human liberty into those which promote it; to change systems which suppress aspiration into those which nurture it. These warmer winds are inducing obstinate and obsolete societies to shed their outmoded ideologies and to join the community of free nations.

This climate of openness and reconciliation throughout the globe inspires hope in us all. And notwithstanding the pains of division and the dangers of conflict, the Republic of Korea is committed to sharing the burden of building peace and prosperity throughout the world.

Korea has transformed itself. Our nation has emerged from the authoritarianism of the past and is now propelled by the momentum of liberty, openness and democracy. This new atmosphere led not only to the success of the Seoul Olympics, but has also provided the catalyst for changes unique among nations, whether developed or developing. The people of the Republic of Korea have made extraordinary strides toward democracy, and we are ready to face new challenges along the way.

You may recall the scenes in my country only two years ago when the streets of our cities were crammed with protesters, chanting and clamouring for democracy. The force of those demands prompted me, as a presidential candidate, to prove my faith in the essential principle of democracy—that power emanates solely from the people. Shortly thereafter, I issued a statement which became known as the June 29 Declaration of Democratic Reform, which embraced the aspirations of the Korean people.

The process of instituting democratic change began with that declaration. For the first time in Korean history, the constitution was revised with the concurrence of both government and opposition. In a free and competitive election process, I was entrusted with the Presidency, and the perennial controversy over the legitimacy of the government came to an end. Then in the general election of April 1988, the opposing parties, for the first time in Korean history, won a combined majority of the National Assembly seats. This enhanced the framework for representative democracy by providing a rigorous system of checks and balances.

Significantly, the elections reinforced our commitment to democratic principles as my administration accepted the reality of a legislature controlled by the opposition. To you, of course, this is not a new experience. To us, it is indeed a political novelty.

Our liberalization has gone well beyond politics. The media now enjoys uncensored freedom to criticize every aspect of society, including the Presidency. No one who encroaches on civil rights in Korea can escape the sanctions of public opinion or the rule of law. The changes in Korea are so diverse, rapid and far-reaching that they can truly be called revolutionary.

It has become clear to me that founding democratic institutions and making them work is no less difficult a task than promoting economic development. The pace of reform has stirred mounting expectations and competing demands in every corner of society. Rapid changes have shaken the fabric of existing political, social and labor relations and have placed the burden of reshaping them on my government. At times, social stability has been threatened, and we have taken measures to protect it.

Regrettably, certain radicals have resorted to force and committed unlawful acts to pursue their aims under the guise of democratic reform. Elements seeking to overthrow the basic principles of democracy through class struggle can be found among them. Here also are the tiny band of extremists who parade anti-American slogans and perpetrate attacks on U.S. facilities.

It is my belief that our political development will follow the example of the Western democracies and that the extreme elements in Korea will diminish in influence as the benefits of democracy and prosperity are enjoyed more and more. As one who pioneered reform in Korea, I will confront squarely every challenge to our young democracy, whether from within or without. My pledge to carry out democratic reform was a solemn promise before the people of Korea, and I have proudly honored that pledge. Democracy in Korea has already become an unstoppable force which no one can divert.

Out of the ashes and ruin of the war, Mr. President, Korea has emerged like a phoenix to become what is now termed a "newly industri-

alized country." The diligence and creativity of our people have made this tranformation possible, harnessing the twin energies of a market economy and free trade. While the United States helped Korea revitalize its war-torn economy with direct aid, access to the U.S. domestic market for Korean goods has been no less important to Korea's economic development.

The United States is Korea's largest and most important trading partner. In turn, Korea is now the seventh largest market for U.S. goods and the second largest market for your agricultural products. Although the potential for trade friction naturally increases with the expansion of trade volume, I am certain that all of these issues will be resolved to mutual satisfaction through close and cooperative consultation. I find our success in settling trade disputes thus far encouraging.

My government firmly believes that free enterprise will best serve our economy and that of the world as a whole. Thus, Korea is moving vigorously toward a more open, liberalized and self-regulating economy. It would be hard to find a country, developed or developing, which has moved so far so swiftly in opening markets, liberalizing capital flows and reducing tariffs.

I fully understand that the interests of constituents oblige you, their representatives, to seek ways of strengthening industrial competitiveness, protecting workers, and saving jobs. These are the same demands my people make of their government. Consider, for instance, our agricultural sector. Nearly 20 percent of all Koreans work on small, traditional family farms. Thus, our efforts to expand agricultural imports have important political and social consequences for nearly one-fifth of our population. Only with the passage of time, can Korea ultimately adjust and achieve openness in the agricultural market without causing political and social trauma.

We are undergoing an inevitably painful transformation in adapting ourselves to the principles of free trade, but we are making astonishing progress. Within only four or five years from now, we may expect the Korean economy to have achieved the same degree of openness as is found in the OECD countries.

Even as a wave of reconciliation brings about changes all over the world, the tide, distinguished members of Congress, has not yet reached all shores.

The confrontation on the Korean peninsula has resisted all efforts for its resolution. Korea has lived under great tension, each day for 36 years since the ceasefire. The Demilitarized Zone, or DMZ, lies only 26 miles north of Seoul, our capital, with a population of 10 million. Along the 155-mile-long DMZ more than one and a half million troops face each other, making it the most densely militarized area in the world. Imagine, if you will, hostile and combat-ready forces positioned as close to this Capitol as Dulles Airport!

Since the ceasefire of 1953, stability on the peninsula has been maintained not because Pyongyang's attitudes or intentions have changed, but because strong Korean and U.S. military cooperation has deterred further aggression. Any hint of weakening in the U.S. defense commitment or a precipitate lessening of the U.S. military presence might cause North Korea to misjudge the U.S. commitment to peace in the region. The results would be tragic.

Thus far, security cooperation between our two countries remains strong and effective. Let us not disturb it until necessity dictates change. For this reason, I welcome and applaud the pledge of President Bush and the American Government that U.S. ground troops will remain as long as the Korean people want and need them. And on this point, I must tell you that the voice of the Korean people is clear: A very recent poll has shown that 94 percent strongly support the presence of U.S. troops. Moreover, where this issue is concerned, the usually vocal opposition parties stand together with us as one.

Koreans have shouldered a greater burden of their own defense than any other American ally. They spend 5 percent of GNP, more than 30 percent of their government budget for defense. As our economy grows, so Korea will assume a larger role and take more responsibility in our common defense. And needless to say, a strong Korean-U.S. security relationship is an essential element in the process of inducing North Korea toward positive change.

In today's climate of openness, Mr. Speaker, it is inconceivable that North Korea can cling forever to its extreme, self-imposed isolation. Meanwhile, we are exerting every possible effort to move our divided land toward reconciliation and to convince North Korea that nothing will be achieved by force.

In July of last year, I announced a policy to reduce the longstanding hostility which divides our peninsula. The aim of this policy is to create a partnership between South and North where each contributes to the other's development.

Last month, I went further, in proposing concrete steps to achieve reunification by joining the two parts into "A Korean National Community." At the heart of any proposal is the formation of a Korean Commonwealth as an interim measure. Eventually, we shall reunify Korea as one nation under the principles of independence, peace and democracy.

I have been urging that a summit meeting take place between Seoul and Pyongyang. At this summit, all issues, including disarmament and an agreement on non-aggression between South and North Korea, could be discussed freely and without preconditions.

On this very day last year, I made a proposal at the United Nations General Assembly that a "Conference of Peace in Northeast Asia" be convened. The time has come now for the countries in the area to discuss seriously the question of how to lay a solid foundation for lasting peace and prosperity in Northeast Asia.

Through our active open-door policy, we have built a road for exchanges and trade with socialist countries with whom Korea has had no previous formal contact. We hope that our improved relations with socialist countries will deter North Korean aggression, ease tensions on the Korean peninsula and contribute to bringing North Korea out into the open world.

Ladies and gentlemen, the forces of freedom and liberty are eroding the foundations of closed societies, and the efficiency of the market economy and the benefits of an open society have become undeniable. Now, these universal ideals, symbolized by the United States, have begun to undermine the fortresses of repression.

There is no longer a need for hesitation; we know which social system best realizes human aspiration. In all parts of the world, the prosperity of a free society based on the common ideal of liberty has sparked a revolution in thought and action.

My friends, the nations of the Pacific Basin have made the open society and the market economy the engines that drive the fastest growing region in the world. The Pacific will become even more important to the United States, and Korea will begin to contribute more the prosperity and peace of the region, and become an increasingly important American ally.

I am confident that Korea and the United States of America will be "Partners for Progress" allied to open a new era—an era in which nations around the globe enjoy the freedom and prosperity we both so deeply cherish. Let us renew this relationship to foster prosperity and contribute to the world progress.

Mr. Speaker, Mr. President, ladies and gentlemen, although I am about to leave this rostrum, the message I came to deliver is not complete. That is because I look forward to the day when some future Korean president may be invited to address this distinguished assembly and describe the vision I spoke of today as an achievement fulfilled, not as tomorrow's hope. When that President speaks before you as I have today and reflects on those triumphs, all of us can take great pride. For we will have risen to the challenges of our day and passed

onto our children a world far better than the one we inherited: safer, more prosperous, fairer and happier.

God bless America and I thank you all.

[Applause, the Members rising.]

At 11 o'clock and 42 minutes a.m., the President of the Republic of Korea, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Doorkeeper escorted the invited guests from the Chamber in the following order:

The ambassadors, ministers, and charges d'affaires of foreign governments.

JOINT MEETING DISSOLVED

The SPEAKER. The Chair declares the joint meeting of the two Houses dissolved.

Accordingly, at 11 o'clock and 46 minutes a.m., the joint meeting of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The House will continue in recess until 12:15 p.m.

□ 1215

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 o'clock and 15 minutes p.m.

PRINTING OF PROCEEDINGS HAD DURING RECESS

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 801. An act to designate the United States Court of Appeals Building at 56 Forsyth Street in Atlanta, Georgia, as the "Elbert P. Tuttle United States Court of Appeals Building" and

H.R. 3385. An act to provide assistance for free and fair elections in Nicaragua.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1711. An act to implement the President's 1989 national drug control strategy.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will receive requests for 1-minute speeches.

THE OCTOBER 17 SAN FRANCISCO EARTHQUAKE

(Mr. BROWN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of California. Mr. Speaker, yesterday's earthquake in San Francisco highlights the importance of anticipating and planning for natural disasters, rather than merely reacting to them after the death toll has been announced. This magnitude 6.9 earthquake has resulted in at least 273 known deaths, as well as serious disruption of the infrastructure of the San Francisco-Oakland-San Jose region, including loss of electricity for over 1 million people. Yet the outcome could have been far worse. An earthquake comparable to the famous 1906 San Francisco event would unleash up to 50 times more destructive energy, with consequences that are unimaginable even in light of yesterday's disaster.

Our ability to plan for serious earthquakes and mitigate their effects has been seriously compromised by inadequate levels of funding for the National Earthquake Hazards Reduction Program. Funding for this program now stands at a mere $66 million. In real purchasing power, this is less than two-thirds of the funding appropriated in 1977.

A 1987 review by a blue ribbon panel of experts found that our earthquake hazards program was so eroded, and that some parts of the program were so poorly funded, that the momentum gained by recent advances in knowledge is dissipating, especially in the important area of earthquake resistant construction techniques. The committee also warned that without higher levels of funding, the program could soon lose many of its most qualified researchers.

In order to reverse this bleak outlook for the earthquake hazard program, this group recommended an annual budget of $198.4 million. This recommended funding level would represent only three-tenths of 1 percent of the total damages of $60 billion estimated to result from a single major U.S. earthquake.

The fiscal year 1990 request from the administration for the National Earthquake Program was a paltry $64.8 million—yet another reduction. This is entirely inadequate, and irresponsible as well. The earthquake in San Francisco yesterday is a reminder—and, in fact, it is a relatively gentle reminder—that natural hazards are best fought by preventative action, rather than by ambulances, fire trucks, and cranes.

DETRIGGERIZATION OF SEQUESTRATION BEFORE RECONCILIATION

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, we have once again arrived at that legendary landmark of legislative topography, the budget impasse.

We seem unable to go forward and unwilling to go back to find out where we lost our way, and it seems to me we need a guide through the budget impasse.

In a meeting with President Bush this morning, I proposed the following:

Sequestration should continue until all 13 bills are disposed of; sequestration should remain in force until reconciliation becomes law; sequestration should remain operative until the debt ceiling is resolved.

I also proposed today a continuing resolution to run until November 15 if we keep in mind the three cardinal virtues: It has to be clean, it has to be temporary, and it has to be the last one.

The idea that reconciliation alone will get us off the fiscal hook is wrong. Sequestration is meant to be a disciplinary instrument to curb our ungovernable appetites and energies. If we cast aside sequestration because we have agreed solely on reconciliation, we will abandon all discipline.

In our youth we were taught spare the rod and spoil the child. Today the message is: Spare the sequestration and spoil the House.

Mr. Speaker, this is my prescription for beginning the long march out of the dreaded budget impasse, in which so many deficits grow while promises disappear. I hope the House will see fit to follow these suggestions.

PRELIMINARY ESTIMATES ON NORTHERN CALIFORNIA EARTHQUAKE

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, as my colleagues are aware, northern California late yesterday suffered from an earthquake of devastating proportions that caused enormous damage to public and private property and substantial loss of life throughout the bay area.

At the present time, the death toll stands at no less than 272 with hundreds more injured, and the estimates of property damage are expected to be well in excess of $1 billion. The prelim-

inary estimates of road damage alone in the bay area are in excess of $500 million, according to the California Department of Transportation.

Clearly, the damage to the infrastructure in the bay area is going to have a harmful affect on the economy of the region for the near future.

And, while the losses of life are devastating to us all and are likely to escalate as we hear from those localities closer to the epicenter, it is important to remind ourselves that the tough building codes and the high state of emergency preparedness that California State and local governments maintain are largely responsible for holding down the number of fatalities and the scope of the damage from this enormous quake. The quake in Armenia last year, which was of the same magnitude as yesterday's San Francisco quake, resulted in the loss of more than 25,000 lives, 100 times the current confirmed casualties in the bay area. Similarly, 10,000 people lost their lives in the Mexico City quake.

Mr. Speaker, I applaud the quick response of Lt. Gov. Leo McCarthy in seeing that the area be declared a disaster area and be made eligible for Federal disaster assistance. And, I also applaud the quick response of the President, who just hours after the quake hit, reassured the residents of the bay area that the Federal Government would do all that it could to provide timely and meaningful disaster aid.

It is my understanding that FEMA has a large portion of the $1.08 billion that was just approved for disaster assistance in response to Hurricane Hugo. Much of that disaster assistance remains unspent. But my bay area colleagues and I will be working to ensure that adequate funds are available to FEMA and other disaster relief accounts for highway repairs, and the repair of other public and private structures, and to help bay area residents begin the long process of rebuilding.

□ 1220

WHITTIER, CA, TO ASSIST VICTIMS OF BAY AREA QUAKE

(Mr. DREIER of California asked and was given permission to address the House and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, 2 years and 17 days ago Whittier, CA, which I am privileged to represent, suffered a terrible earthquake, not nearly the magnitude of what we saw last night in the San Francisco Bay area, but it was nevertheless, a horrible experience. I hope very much, Mr. Speaker, that we will be able to apply what we learned from the Whittier quake to San Francisco's tragedy. I am pleased to see that we already have.

I would like to begin by commending President Bush and the Federal Emergency Management Agency for expeditiously taking the initial steps to address this horrible disaster. There is always a silver lining in this dark cloud. I will never forget when the people whom I represent in Whittier rushed to the assistance of others in the wake of the aftershock which took place the Sunday morning following the October 1 earthquake. Just like that we have seen many people in the San Francisco Bay area, who were at opposite ends of the spectrum when it came to the World Series, come together because of this horrible tragedy.

We have some very difficult days ahead.

I would like to say to my colleagues in the bay area that I pledge to do everything that I possibly can to provide assistance because of the experience which I and the people on my staff had 2 years ago.

GENE TAYLOR WINS FIFTH CONGRESSIONAL DISTRICT SEAT IN MISSISSIPPI

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I am pleased to announce that GENE TAYLOR, a Democrat running for the Fifth Congressional District seat in Mississippi, was elected by a 65-percent vote on this last Tuesday. He will be sworn in next Tuesday.

Mr. Speaker, a special Amtrak train coming from Mississippi to bring his supporters will come up to Washington for the swearing-in.

GENE TAYLOR has legislative and city council experience. In my opinion, Mr. Speaker, he will be active in his committee assignments and he will have a high voting and attendance record.

I believe Members will enjoy serving with GENE TAYLOR on both sides of the aisle.

Mr. Speaker, we have a seat for him back in the "amen corner."

OHIO HAS NATION'S BEST COLLECTION RATE OF STUDENT LOANS

(Mr. DONALD E. "BUZ" LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, the Department of Education has estimated that by the end of fiscal 1989, student loan defaults will reach $5.8 billion. Despite various collection methods employed by the Government over the years, that total continues to rise.

However, I am proud to announce that Ohio is not part of that problem. Ohio has the best collection rate of student loans in the country, almost 100 percent. Ohio has made a commitment to collect defaulted loans by allocating more money for default protection while employing a larger collection staff than most States.

Additionally, rather than wait until the loan goes into default to begin the collection process—180 days after the first day of a delinquent payments—the Ohio Student Loan Commission begins the collection process after the first day of delinquency.

This policy of a diligent collection process combined with a statewide commitment to pursue defaulted loans should be observed by less-successful States.

Since budget concerns are at the forefront of the national agenda, the collection of almost $6 billion should be given high priority.

TRADE POLICY FAIRNESS IS A TWO-WAY STREET

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, I, like many others, was very glad to see President Roh here today. He seems like a great man, and his speech was most encouraging.

But I do not want to be the one who rains on everybody's parade, and to steal BILL FRENZEL's line, to stop this love-in, but I have a few questions.

The first one is why does a Chevy truck cost $40,000 in Korea?

Now Mr. Roh talks fairness. When is this trade fairness going to be a two-way street?

Second of all, sure everybody wants our troops. Our troops are over there helping to keep everybody free and sound while America is going to hell.

I would like to see our troops come back here, be put on our border, spend the tax dollars here in America, keep drug smugglers out, and we would have a better country.

Now I am encouraged by Mr. Roh, but actions speak louder than words, and we need a two-way street trade policy.

A STANDARD FOR ETHICS REFORM LEGISLATION

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, the President's standard for ethics reform is that it be fair, objective, and consistent with common sense.

Fair in the eyes of both citizens and Government employees: The interests of the American people will not be

served by laws that would effectively punish public servants.

Objective: The ethics laws must be easily recognizable as serving the publics' interests and not special interests.

Consistent with common sense: Ethics laws should reflect Americans' values of right and wrong.

Following up on the outstanding efforts of the bipartisan task forces in the House, all Members will be well served in the months ahead by focusing on the guidelines set forth by the President.

Working together, we can reaffirm the integrity of our representative government.

THIS COUNTRY HAS TAKEN ON TOO MUCH DEBT

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, last Friday our stock market experienced a second major crash in 2 years. All experts tell us it was because businesses and corporations in this country have taken on too much debt. Debt-laden businesses, a debt-laden Government, and debt-laden American families.

Holding in my hand today, I have over 25 solicitations I personally received from banks across this country asking me to signup for credit cards; not to open up a savings account—Citibank, FCC National Bank of Delaware, Ameritrust, Chase Manhattan Bank, Equibank—the list goes on.

We even got solicitations from American Air Lines, Macy's, Sears and Colonial National Bank, U.S.A.

A few days ago in the paper it was reported a Denver bank has a new idea. Now they want to have young children, 12 years and younger, establish credit cards for which they will have to pay 18.8 percent in interest.

A buy-now, pay-later philosophy, that is what is wrong with this country. America became an industrial giant because we stood on our own two feet. Let us get back to basics and get the financial institutions of this country to help turn the American ship of state around.

We ought to learn how to pay our own bills.

STRENGTHENING OF BUILDING CODES PAYS DIVIDENDS

(Mr. NAGLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NAGLE. Mr. Speaker, like most Americans, I have been closely following the news reports of the earthquake in California. I have been deeply impressed by a number of things: The strength, resiliancy, and bravery of the people; the professionalism and preparation of the emergency response teams; and the amazing degree to which the damage—serious and widespread as it is—seems to have been limited compared to the damage which has occurred in other countries from similarly powerful earthquakes.

When I learned the power of this earthquake was similar to the one which leveled Armenia, I feared we would soon be hearing reports of the same kind of catastrophic results. But our cities have not been destroyed. And tens of thousands of Americans are not dead.

For several years some have offered a steady drumbeat about how ridiculous Government rules and regulations can be; how bothersome those who enforce them can be; and how we should—to the maximum extent possible—systematically dismantle the machinery of government.

What happened in California—or more to the point, what did not happen—proves the fallacy of those arguments.

In California, the machinery of local, State, and Federal Governments which set the building codes and enforced them; hired and trained the professional response teams, and which swung into immediate action has had obvious impact.

It has saved lives and prevented billions of dollars in property damage.

I think it is appropriate to remember that at a time like this, and in the weeks and months which lie ahead.

□ 1230

INSOLVENT THRIFT INSTITUTIONS TO BE SUBJECT OF SCHEDULED HEARING

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, I wish to advise the Members of the House to an important hearing on the role of federal borrowing and loan guarantees by the Resolution Trust Corporation in resolving insolvent thrift institutions. This hearing by the subcommitte on Oversight of the Committee on Ways and Means is now scheduled to be held on Tuesday, October 31, 1989.

In calling these hearings we are not attempting to reopen issues which were addressed and settled with the passage of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 [FIRREA]. Nor, am I raising questions about the issuance of bonds by the Treasury and the Resolution Funding Corporation which were authorized by law. I am, however, seriously concerned by the possibility that the administration intends to raise additional resources for the resolution of insolvent thrifts through the creation of additional financial entities. I am particularly concerned that such borrowing might be characterized as having the full faith and credit of the Federal Government while also being treated as off-budget for accounting purposes. Such an approach might well expose the American taxpayer to many billions of dollars in additional liabilities, and significantly increase the cost of the federal effort to assist failing thrift institutions.

We have already approved $50 billion dollars for this effort, and approved an additional $5 billion line of Treasury Department credit for the Resolution Trust Corporation. I feel very strongly that no additional resources should be raised or new entities created for this purpose without very careful deliberation and prior approval by the Congress. The purpose of this hearing is to determine exactly what the administration's plans are in this regard, and to determine how best the Congress might respond.

NEW INVESTIGATION CALLED FOR ON GANDER, NEWFOUNDLAND AIR CRASH

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, recent news accounts have heightened the concern regarding the 1985 Gander, Newfoundland, crash which killed 248 American soldiers. The American public is now called for a separate U.S. investigation of the crash.

My colleagues can show their determination to find answers about this tragedy by joining with more than 60 other members in signing a letter to President Bush urging him to initiate this investigation.

By now many of you are aware of the inconsistencies of the crash investigation. Over the next week or so, I intend to share with you several examples which are typical of the inconsistent and insensitive response of U.S. agencies to the Gander mystery.

Congress and the administration owe it to the soldiers who perished at Gander and their families to do everything possible to find the truth about this tragedy.

EXPRESSION OF SYMPATHIES ON THE CALIFORNIA EARTHQUAKE

(Mr. DE LUGO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LUGO. Mr. Speaker, I want to extend my heartfelt sympathies and the sympathies of the people of the U.S. Virgin Islands to the people of the San Francisco Bay Area and

northern California, who were struck by a major earthquake last night.

We in the Virgin Islands, of course, are going through our own disaster caused by Hurricane Hugo. So we know first hand the sense of loss and fear that strikes when nature shows her power to take human life and to sweep aside the electrical power, phone and communication systems that bind our communities together. The people of the Virgin Islands extend their sympathies and encouragement as the people of northern California mourn their losses and gather strength to rebuild.

I want to extend our concern to all my colleagues, the Members of Congress from northern California, who are doing their utmost to help their communities affected by the earthquake. This includes our special concern for the work of Representatives GEORGE MILLER, NANCY PELOSI, NORMAN MINETA, LEON PANETTA, VIC FAZIO, BARBARA BOXER, RON DELLUMS, PETE STARK, DON EDWARDS, TOM LANTOS, TOM CAMPBELL, DOUG BOSCO, WALLY HERGER, NORMAN SHUMWAY, and GARY CONDIT.

The death and destruction caused by this earthquake are tragic. I am sure that this Congress and our Nation will unite to relieve the suffering and rebuild the damage.

PRESIDENT BUSH IS COMMITTED TO SIGNING GOOD CHILD CARE LEGISLATION

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I think it is very important, as we look at the reconciliation negotiations, to recognize that President Bush is very committed to a good child care bill. He is very committed to a child care bill which does not discriminate against mothers who stay home with their children. He is very committed to a child care bill which will allow and empower parents to choose what kind of child care facilities they send their children to. He is very committed to a child care bill which allows people to use churches and synagogues and other religiously affiliated child care facilities.

But he is opposed to a child care bill which is antireligious, he is opposed to a child care bill which sets up a large Federal bureaucracy, and he is opposed to a child care bill which takes power away from parents and which discriminates against mothers who want to stay at home.

Mr. Speaker, I believe the President will veto a bad child care bill under any circumstance, no matter what it is packaged with, and I urge our colleagues to work with President Bush to develop a good, signable child care bill.

AIR NATIONAL GUARD UNIT COMMENDED ON WINNING "GUNSMOKE 89" COMPETITION

(Without objection, Mr. MONTGOMERY was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, an Air National Guard unit has again won the Air Force's worldwide air-to-ground gunnery competition, known as "Gunsmoke." The unit is the 169th Tactical Fighter Group, stationed at McEntire Air National Guard Base in Eastover, SC.

This competition includes unit and individual competition in the areas of bombing, strafing, navigation, maintenance, and weapons loading. "Gunsmoke 89" included 80 aircraft and more than 1,000 people from active and guard and reserve bases from around the world.

The top gun in the competition was an Air Force reservist, Capt. Patrick Shay, with the 944th Tactical Fighter Group from Luke Air Force Base, AZ.

Mr. Speaker, this is another indication of the skill and professionalism of our Air National Guard and Air Force Reserve. We have given our Reserve components more missions over the past few years and they have proven equal to the task.

AMERICA ON SALE FOR HALF PRICE

(Mr. RIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIDGE. Mr. Speaker, we are once again treated to a good deal of hand-wringing in this morning's papers following yesterday's release of the merchandise trade figures for August. Our trade deficit surged to the largest deficit of any 1 month this year and for the second month in row U.S. exports have dropped. The numbers appear to signal that the easy improvements in the trade deficit have been made and that perhaps our export drive has run out of steam.

Equally expected was the hue and cry from some corners that we need to reduce the value of the dollar if we are to make any substantial progress toward driving this deficit down. My colleagues, be aware, this is a wrongheaded and dangerous strategy. Dollar devaluation is no panacea to our trade and competitiveness problems.

And for those who need persuading, I would call their attention to the words of Bear Stearns' chief economist Lawrence Kudlow who was quoted recently as stating that, "were it true that a weak currency paves the way for trade surpluses, then presumably Argentina would be the center of today's global economy."

The drop in the dollar over the past few years has already put America on sale for half-price. The solution to continuing and staggering deficits is not a further discount on our already low prices. The solution is for this Nation to make itself a trading nation—we are not that today.

Mr. Speaker, we should be about the business of becoming a trade nation in the future. We must emphasize exports.

INTERNATIONAL DEVELOPMENT AND FINANCE ACT OF 1989

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 267 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 267

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2494) to amend the Export-Import Bank act of 1945 to authorize the appropriation of not to exceed $100,000,000 to the Tied Aid Credit Fund for fiscal year 1990, and to provide for expenditures from such Fund during such fiscal year, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by title instead of by section, each title shall be considered as having been read, and all points of order against the bill for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. It shall be in order to consider en bloc the amendments printed in the report of the Committee on Rules accompanying this resolution, if offered by Chairman Fauntroy of the District of Columbia, or his designee and said amendments en bloc shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. MURTHA). The question is, will the House now consider House Resolution 267?

The question was taken; and (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 267.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, I yield the customary 30 minutes, for purposes of debate only, to the gentleman from New York [Mr. SOLOMON], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 267 is the rule providing for consideration of H.R. 2494, the International Development and Finance Act of 1989. This is an open rule, providing for 1 hour of general debate to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Banking, Finance, and Urban Affairs.

The rule makes in order the Banking Committee amendment in the nature of a substitute now printed in the bill as original text, to be considered by titles, with each title considered as having been read. The rule also waives clause 7, rule XVI, which prohibits nongermane amendments, against the substitute. This waiver is needed because the committee-reported bill is broader than the bill as introduced.

The rule also makes it in order to consider en bloc the amendments printed in the report accompanying this resolution, if offered by Chairman FAUNTROY or his designee. The en bloc amendments are not divisible, but they are subject to amendment. Members from both sides of the aisle agreed that it was appropriate to consider Chairman FAUNTROY's amendments under this procedure.

Finally, the rule provides one motion to recommit, with or without instructions.

Mr. Speaker, H.R. 2494, the bill for which the Rules Committee has recommended this rule, contains a number of authorizations dealing with U.S. export programs, Third World debt, and multilateral aid to developing nations. It reauthorizes the Export-Import Bank's tied aid credit fund, provides for a capital increase for the Inter-American Development Bank, and authorizes a U.S. contribution to a new program of the International Monetary Fund to provide loans to poor countries with serious balance of payments difficulties. I urge the adoption of this rule, so that the House can proceed to the consideration of H.R. 2494.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an open rule which I strongly support. I would like to point out, Mr. Speaker, that this is the latest in a series of open rules I have had the pleasure of managing over the past several weeks. I hope this streak will continue into the weeks and months ahead, and I thank Chairman MOAKLEY and the Rules Committee for their efforts.

I would also point out, Mr. Speaker, that there had been a suggestion that amendments to H.R. 2494 be subject to a pre-printing requirement. The Rules Committee did not go along with that idea, and I thought the Members should know that.

As the gentleman from California [Mr. BEILENSON] has said, this rule makes in order consideration of H.R. 2494, the International Development and Finance Act. I cannot be as enthusiastic for this bill as I am about the rule. A number of senior members of the Banking Committee have expressed serious reservations about any number of provisions in this bill and the administration has, likewise, weighed in with its concerns.

We have plenty of material here at the desk for Members who are interested in those concerns.

And so, Mr. Speaker, I reserve judgment on the bill itself, pending the outcome of amendments. But I certainly urge support of this open rule so that the House can work its will.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from the District of Columbia [Mr. FAUNTROY].

Mr. FAUNTROY. Mr. Speaker, the rule before us is as straightforward as they get. An open rule with 1 hour of general debate.

Passage of this rule is important because it will allow the House to consider legislation which serves critical U.S. economic and foreign policy interests. The bill, H.R. 2494, would permit the United States to promote exports more effectively and to fulfill substantial international responsibilities.

Specifically, the legislation would reauthorize the Export-Import Bank's Tied Aid War Chest Program, authorize a pilot interest subsidy program for Exim, provide for a replenishment of resources for the Inter-American Development Bank and enable U.S. participation in the enhanced structural adjustment facility of the IMF. The legislation also contains important policy provision on Third World debt and the protection of the environment.

This bill has the strong backing of the Bush administration, and Members of the House on both sides of the aisle. Support has been registered in written form not only by Secretary of the Treasury Brady, but by numerous environmental organizations, private voluntary organizations, religious groups and U.S. business interests. We have labored long and hard to earn this level of support. I now ask Members for their vote in favor of the rule and the legislation.

□ 1250

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume. I mentioned earlier there were items in this bill that I am not enthusiastic about. There is one section of the bill which I am very enthusiastic about, and that is section 604. It calls on U.S. representatives at the World Bank and the Asian Development Bank to oppose loans to the People's Republic of China, until human rights violations have stopped and there is a movement on the part of that country toward democracy.

I will just read several excerpts from this section:

(1) the Government of the People's Republic of China ordered the People's Liberation Army to brutally attack peaceful demonstrators who had assembled in Tiananmen Square;

It goes on to say:

(4) these violations of human rights have evolved into a pattern of continuing repression and reprisals against citizens throughout China.

(5) the Government of the People's Republic of China is trying to suppress truthful accounts of the actions taken in Beijing and throughout the country.

It goes on to say:

(7) it is morally repugnant that, through such multilateral development banks, United States taxpayer dollars are used to support the present policies of the People's Republic of China;

(8) such development loans cannot be justified on economic grounds because economic development and market reforms cannot be achieved in the environment of repression that now clearly exists there;

So for those of you who want to support this legislation, there is a good reason to do it. It certainly speaks to the issue of China.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 267 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 2494.

□ 1253

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill

(H.R. 2494) to amend the Export-Import Bank Act of 1945 to authorize the appropriation of not to exceed $100,000,000 to the tied aid credit fund for fiscal year 1990, and to provide for expenditures from such fund during such fiscal year, with Mr. ROWLAND of Georgia in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from the District of Columbia [Mr. FAUNTROY] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. WYLIE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from the District of Columbia [Mr. FAUNTROY].

Mr. FAUNTROY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the legislation before us today will serve critical U.S. economic and foreign policy interests. The bill is proexport. The bill will help reinforce democracy through the promotion of economic growth in Latin America. The bill will help many of the destitute nations of Sub-Saharan Africa refinance some of their high-cost debt on concessional terms. The bill will provide a push to the Brady initiative on Third World debt. Finally, this legislation will promote the protection of rainforests and other endangered ecosystems in the developing world.

The bill would reauthorize the Export-Import Bank's tied aid or Warchest program, authorize a pilot interest subsidy program for Exim, provide for a replenishment of resources for the Inter-American Development Bank and enable U.S. participation in the Enhanced Structural Adjustment Facility of the IMF. The legislation also contains important policy provisions on Third World debt and the environment.

Let me briefly touch on each of these provisions.

EXIMBANK PROVISIONS

Title I of the bill would make two important contributions to our efforts to promote U.S. exports and thereby help lower our huge trade deficit. First, the bill reauthorizes the tied aid or Warchest program initially enacted in 1986. The Bush administration had requested this authorization to enable a renewed negotiating effort to further limit the practice of directly tying aid and trade. The administration asked for funding at a level of $100 million for fiscal year 1990, we authorize $200 million over a 3-year period fiscal years 1990–92.

This program will help provide the leverage U.S. negotiators must have if we are to have success in ending the disfunctional practice tied aid. To date, the Japanese and the French in particular have effectively packaged aid with export finance and thus heavily titled competition for export sales in favor of companies located in those countries. Exim has conservatively estimated that $400-$800 million in sales for U.S. firms are lost due to this practice just last year.

Indeed, we estimate that from $4 billion to $6 billion in capital goods markets are not now accessible to U.S. producers because of this practice of tied aid.

Second, title I would establish a pilot interest subsidy program within the Bank. This I-Match program as it is called would help stretch available resources for financing exports through Exim. Instead of Exim providing the entire package of financing in support of a sale, as is currently the case with the direct loan program, Exim would use its guarantee to underwrite financing provided by a commercial bank. Exim would provide cash only to buy down the interest rate on the loan from the commercial rate to the Organization for Economic Cooperation and Development (OECD) rate. Thus the $20 million authorized for fiscal year 1990 should leverage at least $200 million in exports. This pilot program is an example of the kind of effort we must make to leverage more with less.

INTER-AMERICAN DEVELOPMENT BANK

Title II of the bill authorizes U.S. participation in a capital increase for the Inter-American Development Bank [IDB]. While the amount of the U.S. subscription, $9.2 billion, looms large, in fact, only $232 million of that would actually result in cash outlays and it would be appropriated over 4 years. More of our assistance programs should be as cost-effective as this one. Our payment of $58 million per year will leverage an IDB lending program of $5–$6 billion or 65 times our contribution.

This capital increase took almost 3 years to negotiate. The Bush administration, as well as the governments of Latin America, finally realized the importance of a strong IDB, particularly in light of the deepening economic crisis. The debt crisis has robbed a decade from the people of Latin America. If growth is to resume in these reforming economies there must be debt relief, and the multilaterals, such as the IDB and World Bank, will have to provide the lion's share of new resources for development.

I do not believe it is an overstatement to suggest that democracy in Latin America depends in part on this bill being approved. We heard firsthand from President Salinas of Mexico, about the tremendous strains present in his country as a result of the debt crisis and economic reform efforts. High unemployment, impoverishment, drug trafficking, and illegal immigration all are manifestations of a society in a precarious state of transition. Should Salinas fail, we will face the negative consequences here in the United States almost as keenly as in Mexico itself. The IDB replenishment, because it will help countries such as Mexico generate economic growth, can make such an outcome far less likely. In this context, one must view the cost of this bill as a bargain.

IMF ENHANCED STRUCTURAL ADJUSTMENT FACILITY

Title III of the bill authorizes participation at a level of $150 million in the Enhanced Structural Adjustment Facility of the IMF [ESAF]. This level of funding from the United States is indeed minimal given that the total pool of ESAF resources committed by all countries is $8 billion. Nevertheless, this funding is an important symbol of our willingness to assist the debt strapped countries of sub-Saharan Africa.

The title would also require the IMF to assess the impact on the poor and the environment of past Fund programs in an effort to adopt policies and procedures for future programs which serve to safeguard the interests of the poor and the environment.

INTERNATIONAL DEBT

Title IV of the bill requires the bank regulatory agencies to establish higher reserve standards for U.S. commercial banks with outstanding loans to the highly indebted countries. This provision, while granting substantial leeway to the regulators to take into account the specific circumstances of individual banks, seeks to bolster the safety and soundness of the U.S. banking system while encouraging banks to participate in Brady plan workouts.

The Brady initiative correctly recognizes the need for debt reduction. The debt provisions in this legislation would encourage commercial banks to participate by making clear the reduced risk levels of Third World loan exposure if a country's debt obligations are reduced. We would expect to see substantially higher reserve requirements established for commercial institutions which refuse to participate in Brady reduction schemes.

ALLEVIATION OF POVERTY, ENVIRONMENTAL PROVISIONS

Title V of the bill contains most of the policy initiatives the committee is advocating with respect to U.S. participation in the MDB's. These policy initiatives include:

A provision which would require the U.S. representatives to the MDB's to pursue policy and program changes within the banks which serve to increase the emphasis on alleviating poverty in borrower countries and increase the productive participation of the poor in those economies.

A provision, originally put forward by Congressman JOHN PORTER, which would get the MDB's directly involved in the fight to save endangered ecosys-

tems including but not limited to tropical rainforests. The bill would accomplish this by requiring U.S. support for debt-for-nature swaps. This means that the MDB would make a loan to a country for the purpose of retiring some of its commercial bank debt in return for the country's agreement to undertake an environmentally beneficial project or program.

A provision, sponsored by Representative PELOSI, which would require environmental impact assessments to be prepared for any relevant project or program which may have an impact on the environment. The provision further requires these assessments to be made available to the public far enough in advance of the project so that the opportunity exists for revisions in the project which minimize any negative environmental effects.

A provision which would consolidate reporting requirements relating to U.S. participation in the international financial institutions. This is an important effort on our part to reduce the administrative burden of filing up to 38 separate reports by the executive branch while at the same time furnishing much of the information required in more usable form.

AID TO POLAND

Although I have not covered every item in the bill I do not want to conclude without mentioning some important sense of the Congress language adopted by the committee with respect to Poland. These provisions encourage the United States representatives at the IMF and World Bank to seek lending for Poland. Notwithstanding the fact that the House will be taking up a significant package of assistance for Poland this week, the plain truth is we cannot contribute enough through our bilateral aid programs. I want to emphasize to Members the potential resources that these multilateral institutions can provide for Poland and Hungary. The combination of these resources and western economic policies advocated by the Fund and the World Bank will play a critical role in assisting Poland.

□ 1300

Mr. WYLIE. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I will not take the time to explain the provisions of the bill. The gentleman from the District of Columbia has done a good job of explaining the provisions in this bill, and I want to compliment him and the gentleman from Iowa [Mr. LEACH] for the splendid job they have done in putting this bill together. They, along with the help of our distinguished chairman, Mr. GONZALEZ, have brought to the floor an excellent piece of legislation.

Mr. Chairman, I rise in support of the bill before us because the Inter-American Development Bank provides much needed project lending to countries in the Western Hemisphere. The bank was created in 1959 at the insistence of the Eisenhower administration to promote economic assistance to trading partners who are our neighbors. President Kennedy said it was the cornerstone of our good-neighbor policy. All Presidents since then have supported the Inter-American Development Bank.

The U.S. share of this replenishment is 34.7 percent. The U.S. participation in the seventh replenishment share is critical. The United States is expected to meet its commitment.

The importance of Latin America and the Caribbean to the prosperity of the United States is without question. Every $1 we contribute can be leveraged to $72 in potential lending.

The negotiations with the other countries took 3½ years. Much of the work was spent in creation of an environmental lending unit within the bank to bring about more awareness and action on environmental issues affecting our hemisphere.

The Eximbank, no question about it, is valuable to our companies trading abroad. We reauthorized the tied-aid credit fund. Earlier in this decade, United States exporters were losing sales to the Japanese and French companies because those governments were willing to sweeten their export financing with foreign-aid dollars. This fund helps the U.S. exporters compete in the world market, and the results have been dramatic since it came into being.

This is a good bill which has wide support from the U.S. Chamber of Commerce, the U.S. export community, environmental groups, various religious organizations and the administration. I urge passage of the legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. FAUNTROY. Mr. Chairman, I yield 3 minutes to the distinguished chairman of the full committee, the gentleman from Texas [Mr. GONZALEZ], who has given us tremendous leadership on the Committee on Banking, Finance and Urban Affairs. Indeed, the very first having convened as early as January 6 was on this very important subject of Third World debt, and his leadership has contributed much to the shaping of this measure.

□ 1310

Mr. GONZALEZ. Mr. Chairman, let me also acknowledge the great contribution of the gentleman from Ohio [Mr. WYLIE], the distinguished ranking minority member of the full committee, and the gentleman from Iowa [Mr. LEACH], the ranking minority member of the subcommittee.

Mr. Chairman, H.R. 2494 contains provisions that will promote U.S. exports, provide multilateral aid to many of the world's poorest nations, ensure that the multilateral development banks utilize their resources in a more environmentally sound manner, and promote the safety and soundness of the United States financial system by ensuring that commercial banks have adequate levels of reserves to safeguard against further deterioration in the value of their lesser developed country loan portfolios.

The Export-Import Bank plays an important role in promoting the competitiveness of U.S. exporters by assisting U.S. companies in maintaining or winning market share in capital goods markets in the developing world. To achieve the Bank's mission, this legislation provides resources to ensure the Bank's programs are effective in facilitating U.S. exports.

In order to combat certain unfair trade practices employed by several of our export competitors, and to give U.S. negotiators leverage in seeking an end to the practice of tying aid to export sales, H.R. 2494 reauthorizes the Export-Import Bank's Tied Aid Credit Program through 1992 and authorizes the program at $200 million over the 3 years. In order to increase the availability of export financing, this legislation authorizes $20 million in fiscal year 1990 and $50 million in fiscal year 1991 for a pilot interest rate subsidy program.

H.R. 2494 contains several provisions that will assist the poorest countries of the world, especially those in Latin America and sub-Saharan Africa.

H.R. 2494 authorizes a $150 million contribution for the interest subsidy account of the enhanced structural adjustment facility of the International Monetary Fund. This facility is designed to provide concessional financing to low-income countries facing serious balance of payments problems. H.R. 2494 also provides for U.S. participation in the capital increase of the Inter-American Development Bank [IDB] by authorizing a paid in contribution of $232 million over a 4-year period. It is difficult to imagine democratic governments in Latin America being sustained without a renewed effort to meet the basic needs of their populations. Since a major goal of the IDB is to alleviate poverty, important U.S. foreign policy and economic interests are served by participating in the replenishment of the Bank's resources. We must promote democratic and economic reforms in Latin America, and the multilateral development Banks is a cost efficient means of promoting such reforms. The U.S. contribution to the IDB will be leveraged in the capital markets and will ultimately provide over $20 billion to the Latin American region over the next 4 years. This legislation also authorizes $82 million for the IDB's concessional

lending affiliate, the fund for special operations, which helps the poorest countries of Latin America. H.R. 2494 also contains several provisions aimed at increasing the productive participation of the poor in developing countries and directs the multilateral development banks and the IMF to be more sensitive regarding the effects their programs have on the impoverished of the developing world.

There is widespread recognition that existing commercial bank loans to highly indebted countries valued at par do not reflect fundamental economic realities. In order to strengthen the financial soundness of the U.S. banking system, this legislation directs each appropriate bank regulatory agency to require commercial banks to establish and maintain levels of loan loss reserves that are in general significantly greater than the levels maintained as of June 30, 1989. This measure will ensure that commercial banks, and thus the financial system as a whole, are protected from potential future losses resulting from further deterioration in the value of loans to highly indebted nations.

It is clear that poverty plays a significant role in environmental degradation. Since a major goal of the multilateral development banks is to alleviate poverty, they have the potential to play an important role in minimizing environmental degradation. H.R. 2494 requires the multilateral development banks to establish and improve efforts to coordinate development assistance with sound environmental policy. This legislation directs the U.S. Executive Director of the multilateral development banks to require the banks to perform an environmental impact assessment for bank projects and requires this environmental assessment to be made public. If this procedure is not followed, the U.S. Executive Director is directed to vote "no" on such projects. In addition, the disclosure requirement can be waived if the Secretary of Treasury determines that there is a compelling reason to believe that disclosure would jeopardize the confidential relationship between the borrower country and the respective multilateral development bank. This legislation also directs the U.S. Executive Director of the multilateral development banks to promote the adoption of policies and procedures within the banks that will promote the preservation and protection of tropical forests and other endangered ecosystems through environmentally sensitive lending programs and debt for development swaps. These provisions ensure that the United States retains its leadership in bringing environmental reforms to multilateral development banks.

During subcommittee and full committee markup of this legislation, the Banking Committee has considered, and adopted over a dozen throughtful amendments. This is well crafted legislation, the Bush administration strongly supports this legislation, and the ranking minority members of the full committee and subcommittee strongly support this legislation. H.R. 2494 passed the Banking Committee by unanimous voice vote and I urge your support for passage of this needed measure.

I include with my remarks a letter from Nicholas F. Brady, Secretary of the Treasury, dated October 17, 1989.

THE SECRETARY OF THE TREASURY,
Washington, October 17, 1989.

Hon. HENRY B. GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I understand that the full House of Representatives will be considering H.R. 2494 providing for the authorization of the EX-IM Bank, the Inter-American Development Bank and the International Monetary Fund's Enhanced Structural Adjustment Facility (ESAF). We appreciate your efforts to bring this legislation to the attention of the full House of Representatives in an expeditious manner, and your Committee amendment that will go a long way to addressing many of our concerns with the bill. With the adoption of the Committee amendment, we strongly support the passage of this important bill.

As you know, the authorization of the Inter-American Development Bank's Seventh Replenishment is critical to the United States' achievement of much needed reforms in this institution. The negotiations for the Seventh Replenishment took three very long and arduous years, but were ultimately a success by requiring the creation of an environmental lending unit within the bank and bringing about greater awareness of the importance of soliciting the views of non-governmental organizations on environmental issues. Under the leadership of IDB President Enrique Iglesias, I am confident that these reforms will be carried out, and that the IDB will be an important vehicle for U.S. efforts in Latin America.

The ESAF is also especially important. Our participation in the EASF would provide for a modest U.S. contribution to leverage considerable funding (approximately $11 billion) for the poorest developing countries in Africa. U.S. funding for ESAF is crucial in enabling us to direct these resources to countries that are key to U.S. national interests.

The reauthorization of the EX-IM Bank's War Chest will allow the Administration to use the War Chest to target other countries' use of tied aid credits. A new round of negotiations will be launched shortly, and we pledge to aggressively use the War Chest to support these negotiations as we try to eliminate or reduce the use of tied aid credits in other countries.

We are concerned about the provisions in Section 1308(a) and we will continue to seek appropriate changes through the legislative process. These provisions would require U.S. opposition to multilateral development bank loans for which environmental impact assessments have not been made available to the public at least 120 days in advance of board consideration. The passage of this bill, however, is an important step in the legislative process and I appreciate your leadership in working on its passage.

We are in complete agreement with the environmental objectives that Section 1308 (a) seeks to advance, but believe the provision would be counterproductive. It would isolate the U.S. and undermine our ability to negotiate with other countries on environmental issues in the MDB's. If we have no choice about how we vote on individual loans, other countries will have no reason to listen to our views or accept our suggestions on how those loans might be improved. Instead, we must be in a position to work constructively on individual loans to avoid adverse environmental effects.

Again, Mr. Chairman, we appreciate your efforts to bring this legislation to the attention of the full House in an expeditious manner, and your efforts to address the key concerns that we have had. We look forward to continuing to work with you as the legislative process continues.

Sincerely,

NICHOLAS F. BRADY.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. LEACH], the ranking Republican on this subcommittee.

Mr. LEACH of Iowa. Mr. Chairman, I thank the gentleman for yielding time, and would like to express my appreciation for his leadership on this issue, as well as that of the distinguished chairman of the subcommittee [Mr. FAUNTROY] and the distinguished chairman of the full subcommittee [Mr. GONZALEZ].

Mr. Chairman, in a nutshell, H.R. 2494 contains three administration proposals for international development and finance which have the effect of expanding global cooperation to protect the environment and alleviate poverty.

While most Americans may not know what the IMF or Inter-American Development Bank are, they are becoming increasingly aware of the need to use international organizations and top foreign resources to preserve the world's tropical rain forests and to feed and clothe impoverished children.

A domestic and international financial crisis has been in the making for some time; it has fallen on the Bush administration to act. As evidenced by vacillations last week in the stock market it is not clear that financial convulsions can altogether be avoided, but it is clear that the new President has removed the rose-colored glasses of his predecessor and moved with professional dispatch to try and formulate a workable international economic plan that incorporates debt rescheduling and expanded U.S. leadership in international organizations.

At the heart of any financial system is one intangible ingredient—confidence—and as a legislator I feel compelled to give the administration the greatest benefit of doubt in its initiative to shore up the financial infrastructure of world trade.

People talk about the need in times of political crisis to walk to the water's edge in unity. If the great political crises of the next generation are likely

to be of economic rather than ideological origin, it is key that we in Congress work as constructively as possible together with the executive branch to right the mistakes of the past in such a fashion that confidence is maintained in our system and way of life at home and that a tolerant respect for the opinions of mankind is advanced abroad.

The administration has come forward with a responsible approach to international finance. It deserves our support.

Mr. FAUNTROY. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. McMILLEN].

Mr. McMILLEN of Maryland. Mr. Chairman, I rise in support of H.R. 2494.

Mr. Chairman, today I rise in support of H.R. 2494, the International Development and Finance Act of 1989. I would like to commend the chairman of the full committee, Mr. GONZALEZ, our subcommittee chairman, Mr. FAUNTROY, and Representative LAFALCE for their excellent work on this important legislation.

This bill is the work of many months and will serve several functions. First, the legislation would reauthorize the Export-Import Bank, which plays an important role in promoting the competitiveness of U.S. exporters. This includes the Tied Aid Program which is designed to give U.S. negotiators leverage in seeking an end to the unfair trade practice of tying aid to export sales.

H.R. 2494 also provides $150 million for the International Monetary Fund's interest subsidy account to provide desperately needed concessional funding for the poorest of the poor nations. Furthermore, the legislation provides for U.S. participation in the capital increase of the International Development Bank. It is important to note that this reauthorization is supported by the administration.

Finally, this bill requires commercial banks to establish and maintain levels of loan loss reserves that are generally significantly greater than levels as of June 30, of this year. This important provision recognizes the need for United States domestic banks to begin adequately reserving up to levels sufficient to protect the system from potential future losses from further deterioration in LDC debt. We on this committee recognize that U.S. banks are reserved at rates considerably less than that of European banks and several money center institutions do not meet regulatory capital requirements. This bill should serve as a signal to our financial institutions. That they put their house in order and effectively place the LDC debt problem behind them. Otherwise, we in Congress may be forced to take further action.

Mr. FAUNTROY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Chairman, I rise to give my wholehearted support to this important piece of legislation and to thank Mr. FAUNTROY and Mr. GONZALEZ for their excellent work.

Because of the overwhelming bipartisan support for the Inter-American Development Bank replenishment, and the funding for the emergency structural adjustment facility of the IMF, the Banking Committee realizes that a multilateral approach to international development is the most cost-effective way to proceed.

Mr. Chairman, there is much to gain by supporting these institutions:

We gain greater development in the underdeveloped world;

We gain procurement contracts that far exceed the cost to the government of participating;

We gain significant influence over the development of Third World nations; and

We gain the political goodwill of having financed growth for our poorer neighbors.

Mr. Chairman, this bill has many important parts to it, including new money for the Export-Import Bank's "war chest." These funds will be used to help U.S. companies counter subsidies to foreign companies that allow them to lower prices of export products.

While I support free trade in a perfect or equal world, the world is neither perfect nor equal. If our businesses are going to lose export markets. Let them do so because the products they make are not as good as their competitors, not because their competitors are able to artificially lower prices.

Our hope is that this money will not be spent at all—that by authorizing this money, we can convince competitors during the course of the Uruguay round of GATT negotiations that we will match them subsidy for subsidy, so that the whole game will be too costly for all concerned. Under such circumstances, it would be my hope that all subsidies will be ended.

I also want to emphasize two parts of this bill of which I think are particularly noteworthy.

First, many of us in the Congress have struggled for years with the problems that Third World debt have visited on our banking system, on our international trade accounts, and the standards of living of hundreds of millions of people living in Africa and Latin America. For years, we have urged the previous administration to break the deadlock and support debt relief.

Finally, Mr. Brady has offered the Brady initiative, which encourages debt relief. We welcome this change.

But such a plan requires that our banks be on a sound financial footing. First and foremost, this means that they reserve adequately against risky Third World loans.

Thus, Mr. FAUNTROY and I authored a provision, included in the bill we are considering, that directs the banking regulators to require commercial banks to establish significantly higher reserves against such loans that existed at the time of our amendment. It is very gratifying that some banks have already chosen to follow this policy.

This provision will enable Mr. Brady, and the banks themselves, to fully and flexibly address the Third World debt problem without being concerned about solvency.

Second, Mr. Chairman, I want to point out to my colleagues that this bill includes a resolution calling on the United States to oppose all multilateral development bank loans to China until such time as the repression in response to the Tiananmen Square demonstrations are halted.

In fact, this resolution simply directs the President to follow the law of the land, as established by the International Financial Institutions Act. That act says that the U.S. executive directors of all the international development banks must: "oppose any loan, any extension of financial assistance, or any technical assistance to any country * * * whose government engages in * * * a pattern of gross violations of internationally recognized human rights, such as * * * flagrant denial to life, liberty, and the security of person * * *."

That the present Government of China is guilty of such violations, is beyond dispute.

China needs Western currency and it needs Western loans. I believe that the United States should use its leverage to convince the Chinese Government that economic help from the West cannot fully proceed while human rights are being violated. Let us hope that the people in power in Beijing receive this message and respond accordingly.

Mr. WYLIE. Mr. Chairman, I yield 4 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for yielding time to me. I commend the leadership of the committee and subcommittee for bringing us this legislation. This legislation has important initiatives related to Poland, to environmental protection, to protecting tropical rainforests, to debt for development swaps, to debt for nature swaps, and some limitations on leveling activities of multilateral development banks for the People's Republic of China and for Laos.

The distinguished gentleman from Iowa [Mr. LEACH] a few minutes ago, however, correctly emphasized there are three primary elements that the administration supports and which constitute the primary elements of this legislation. They relate to funding for two Eximbank programs, the ESAF program of the IMF, and for the Inter-American Development Bank. I would like to primarily concentrate my remarks only on the two

programs of the U.S. Export-Import Bank.

Not since Congress passed the omnibus trade bill in 1988 has this body had the opportunity to vote on legislation that could so significantly improve our competitiveness in world markets. This bill calls for an extension of the tied-aid credit fund within the Eximbank for 3 more years.

For my colleagues who may not be familiar with this form of export finance, tied-aid credits are loans made by a government agency, in the case of the United States the Eximbank, that either require the borrowing country to spend the proceeds on goods and/or services from the donor country, or combine development assistance with export credits.

Admittedly tied-aid credits are controversial. In an ideal global economy they would not be necessary.

The United States supports multilateral effort to suspend the practice of using tied-aid. However, we do not live in utopia. The fact is if we want to reduce our $118 billion trade deficit we then must provide competitive financing for our exporters, who have already lost billions of dollars of export sales due to the use of tied-aid credit in our countries which we have routinely failed to meet.

This bill provides the Eximbank with an authorization for an additional $200 million for its tied-aid war chest.

Let me be clear, it is not the goal of the Committee on Banking, Finance and Urban Affairs to make these credits a permanent part of our overall export promotion strategy. This is a short-term measure, which if properly targeted and properly used, I believe would, along with the use of the Eximbank interest subsidy program, will provide the United States with the negotiating leverage necessary to reduce the trade deficit we face today. However, it must be utilized.

I am very sorry to report that in the last 2 fiscal years the U.S. Treasury Department has almost completely ignored the Eximbank tied-aid war chest that the Congress has authorized. In fiscal year 1988, only a meager $7.6 million, for sales in only two countries were made; in 1989, no authorized funds were utilized, although one may be used for a single sale with a miniscule Eximbank cost of $14 million was made.

Therefore, it is particularly important to reiterate what Secretary Brady said to us today in his letter to the distinguished gentleman from Ohio [Mr. WYLIE], dated October 17, 1989:

> A new round of negotiations will be launched shortly, and we pledge to aggressively use the war chest to support these negotiations as we try to eliminate or reduce the use of tied-aid credits in other countries.

I am, therefore, taking Secretary Brady at his word that we will use this aggressively. We cannot simply say the OECD has established some standards to define and then reduce the use of tied-aid, ask for OECD nations, our export competitors, and then leave it at that. The administration must be willing to fight fire with fire and use the war chest that the Congress has in the past authorized and will by the passage of this legislation authorize once again.

□ 1320

And that is why it is particularly important that the administration, by action of the Treasury or directly by the leadership of Eximbank, is very, very quick to use the war chest in a targeted fashion when our exporters are in the critical bidding stages against foreign exporters using the subsidized credit of their government. When an American firm, for example, faces subsidized competition from, for example, a French or Japanese firm, then the war chest should be utilized for a sale in a third nation—particularly when our company would succeed without foreign subsidies from foreign governments and especially when our traditional markets are being stolen by the subsidy of foreign governments.

Therefore, I think for this reason and for the reason that this legislation contains corrective language for the interest subsidy program of the Eximbank which has never been used in the past because of a $700 million threshold limitation, this legislation, which has never been met. These two Eximbank programs are extraordinarily important for expansion of our export market.

However, H.R. 2494 also provides an incentive to get private commercial banks to once again participate in export financing. The bill deletes language which would prohibit Eximbank from entering into commitments to make interest subsidy payments if the aggregate principal amount of its direct loans is less than $700 million in any fiscal year; that requirement was totally prevented for the last 2 years, the level of loan demand has far exceeded the amount of resources allocated for the program. The interest subsidy program authorized by this legislation allows the Eximbank to provide a subsidy to commercial banks equal to the difference between the official export credit rate which is set by the OECD and the private sector borrowing rate, significantly reducing the credit risk for commercial bankers.

H.R. 2494, in it original and current form, also strikes language requiring the Export-Import Bank to administer language requiring the Export-Import Bank to administer the program in accordance with the recommendations of the Secretary of the Treasury. As many in this body know, in the Eximbank's 1945 Charter, it is clearly stated that the purpose of the bank is to facilitate exports by neutralizing the effect of export credit subsidies from other governments and by absorbing risks that the private sector will not accept. I strongly believe the language provided in this bill which will allow the Bank to operate independently to carry out its mandate in an effective and efficient manner is necessary if we are serious about reducing out trade deficit.

This authority lets our export sector turn to the U.S. Government for assistance when they find themselves in a bidding match when that foreign firm dips into its own government's resources to gain an unfair pricing advantage. Used aggressively and selectively, the tied-aid war chest puts other governments on notice that the U.S. Government intends to wipe out the practice of sweetheart procurement deals where other governments are using their bilateral aid funds to gain a competitive export advantage. We need to continue to arm our negotiators and exporting community with this weapon to fight unfair export credit practices. Unless we pass the bill this year, our Treasury negotiators and Eximbank will lose this potentially effective tool for insuring export competitiveness at the time it is most needed.

The bill authorizes subscription of a 34.7 percent U.S. share of a new capital increase for the Inter-American Development Bank. For only $229.3 million in paid-in capital in appropriations over 4 years, about a third of what we will be authorizing in the way of appropriations for Poland and Hungary tomorrow, we will be able to increase the total pool for resources available for sound economic development in our own hemisphere—throughout Latin America and the Caribbean by $26.5 billion. That is better than a 100-to-1 fund ratio for use of our foreign assistance dollars for our southern neighbors. That is the kind of cost-effective foreign expenditures that are needed when our own resources are so scarce. The IDB is now under very able new leadership in the person of Enrique Igleasias which is turning around the concerns that led the United States to withhold its approval of this capital increase for 4 years until the proper assurances could be made to the Congress and the American people that this money would be well-spent. The IDB is an institution that now deserves our full support.

The bill continues a very strong leadership role being asserted by the U.S. Government in all of the multilateral development banks to make them and borrowing governments take the environmental impacts of their lending into full consideration. This bill includes a number of provisions to use these banks for immediate help in

protecting endangered tropical forests. It also makes it clear that, within a reasonable period of time, full environmental assessment studies should be undertaken and made available for all projects which will have major environmental impact. We need to keep this pressure on the banks and on the representatives of donor and recipient governments, to make sure that these institutions are setting a high standard of environmental review that is adequate to the environmental dangers and challenges we face as a world community.

Finally, the bill contains provisions that will complement provisions in the bilateral foreign assistance bill passed by the House and direct all our foreign assistance programs toward having a more measurable and effective impact on the most devastating forms of poverty. Unless poor people receive access to the basics to be self-supporting, foreign assistance is temporary relief at best. We cannot afford foreign assistance if it is just an international welfare system. The multilateral banks are the right institutions, because they are multilateral, to help borrowing governments develop effective strategies for increasing the productive economic role of poor people. These kinds of initiatives—on education, health, food, credit, land tenure—depend largely on the domestic commitment of the country itself. Multilateral banks and bilateral programs can help finance these programs, where appropriate. This legislation makes it clear that the American people want their contributions to the multilateral banks to help those who are helping themselves. Helping the poor become economically productive becomes the cornerstone of our strategy on poverty alleviation.

I think that the work of the Banking Committee and its leadership on this bill should be commended. It is often a controversial and thankless job to do the right thing and carefully craft legislation that moves the world in the right direction on environmental reform, poverty alleviation, economic soundness, and free and fair trade while working through multilateral institutions. I think this legislation does that, in a most careful way, and I urge my colleagues' support for it and for maintaining the necessary U.S. leadership role in this hemisphere.

Mr. Chairman, I urge my colleagues to support H.R. 2494 for these and for many other reasons.

Mr. FAUNTROY. Mr. Chairman, may I inquire of the Chair how much time remains?

The CHAIRMAN. The gentleman from the District of Columbia [Mr. FAUNTROY] has 13 minutes remaining, and the gentleman from Ohio [Mr. WYLIE] has 21 minutes remaining.

Mr. FAUNTROY. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Let me thank the chairman of the subcommittee for yielding time and also for his leadership on this issue.

I want to thank the chairman of the full committee, as well, for being so much behind many of us on this issue.

Let me say, Mr. Chairman, that I am in strong support of this legislation.

The severe economic crisis facing the developing world is a dagger poised in two directions: It is first poised at the heart of hundreds of millions of the very poorest people on Earth, people who are struggling and people who need help. But it is also poised at the geopolitical security of the United States because if we do not have stability and some economic progress in most parts of the world, it will redound negatively not only in the area in Latin America and in the Third World but in Los Angeles, in Chicago, in New York, Detroit, and in Pittsburgh.

This bill offers both hope and a firm United States commitment to continued support for development in the troubled countries.

In doing so, it accepts the necessity of a multilateral approach to development. There is only one way to go, which is the multilateral way.

Gone are the days when the United States alone could save the world through economic Marshall plans. Instead, in today's world our commitment must be shown through participation and leadership in multilateral programs.

We have demonstrated the leadership in this bill by encouraging the multilateral banks to assess environmental impact of development projects. We have demonstrated leadership on Third World debt because the bill requires increased reserves on bank loans to Third World countries. Higher reserves would strengthen the financial soundness of the banking systems and, more importantly, help break the logjam once and for all on Third World debt.

It is my belief that once the United States banks face the reality and accept the true value of their claims, they will be in a better position to offer real debt relief to countries burdened by debt.

This bill takes us a step closer to that day.

The next step, of course, must be made after the banks do that by the debtor countries themselves. We cannot forget that they are an important part in these reforms. They must make necessary economic reforms without which many countries will continue to slide toward economic and political chaos.

Debt relief alone will not stop that slide. If they are given additional money and squander it and do not help the economic conditions of their poor people, then we will not achieve anything.

So debtor countries, the banks are going to make their tough choices which they have begun to make, and then debtor countries will have to make their tough choices, too, to turn their economies around.

They need continued support in these efforts, but the first step must be taken by them.

In conclusion, Mr. Chairman, we cannot afford another lost decade of development, we cannot afford to see in Latin America the standards of living decline by 15 or 20 percent. If we do not resolve this crisis quickly, the 1990's will be a lost decade for our country and for the entire world.

Mr. WYLIE. Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. Mr. Chairman, today we come here to give yet another handout to the Inter-American Development Bank.

In title II of this bill, we pledge $9.2 billion in American tax dollars to an organization that has not given a damn about the interest of their largest contributor, the United States.

For the past 3 years the Treasury Department has been negotiating with the Inter-American Development Bank for reforms in their management procedures. They now claim that those negotiations are complete, the reforms are in place and it's time to ante up our share.

We here in this body should feel very uneasy about committing this amount of our tax dollars when all we have is a promise from someone who has ignored promises in the past.

In fact, the IDB was so impressed with these negotiations that while these negotiations were going on the IDB round-tripped $11 million to the Communist Government in Nicaragua.

The case in an interesting study in IDB mismanagement.

Previously, under pressure from the United States State Department, the IDB had not approved any new loans to the Nicaraguan Government since 1983. Also, because the Sandinista government had failed, since late 1986, to make payments on past IDB loans, the IDB had cut off disbursements of previously approved funds.

Then in November 1988, the Sandinistas cabled the IDB headquarters in Washington that they were transferring to the IDB accounts in Latin America back payments totaling $11 million.

In so doing the Communist Government of Nicaragua then became eligible for renewed disbursements under the pre-1983 loans. Indeed, 5 days later, the IDB wired Nicaragua $11

million and credited an additional $3 million against back interest charges.

The very next day the IDB received the bulk of the $11 million which Nicaragua had supposedly deposited in IDB accounts 6 days before.

The problem with this whole transaction was that Nicaragua had not deposited the money as they had promised and the IDB had not bothered to check.

It doesn't take a genius to see that they used the new funds to pay past obligations to the IDB. This is called round-tripping.

For the Ortega brothers, it was just another in their long list of bank robberies.

The IDB claimed that this was simply a mistake and assured the United States that they changed their policies to guard against this in the future.

Quite honestly, we do not know if it was a mistake or intentional, because they refused to release their internal audit report of the incident and even refused to show it to the U.S. Executive Director.

However, a recently released GAO report questions their sincerity.

First, the GAO says that they can not make certain that these revised procedures have been implemented and that, according to the U.S. Executive Director, the IDB is lying and has not implemented the procedures.

To quote from the GAO report:

The U.S. Executive Director said that the IDB president's memorandum of June 1988 was misleading because IDB, contrary to the memorandum, had not implemented all audit recommendations.

OK, so they're cheaters, they're liars and they learned their management skills from the savings and loans in Texas.

What is our congressional response.

Well of course we have to give them more money.

The response in this bill to the mismanagement in the IDB is an embarrassment.

We should be sending the IDB a message—not a blank check.

And the message, Mr. Chairman, should be that we are not going to open the check book of the American taxpayer until we see that the reforms are working.

Please vote "no" on H.R. 2494.

□ 1330

Mr. FAUNTROY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Indiana [Mr. JONTZ].

Mr. JONTZ. Mr. Chairman, I rise in support of H.R. 2494.

H.R. 2494 contains the provision authored by the gentleman from Nebraska [Mr. BEREUTER], and myself, which requires the U.S. Treasury Department to take into account the economic impact of its Third World debt policy on America's farmers. American agriculture has suffered losses estimated at $3 billion a year, according to Agriculture Secretary Clayton Yeutter, in agricultural exports, because of our Nation's debt policies.

Past Third World debt polices of this country have been detrimental to American agriculture by encouraging debtor nations to reduce standards of living and to export at any cost. These nations have increased agricultural production for export, reduced internal consumption of food, and undercut the United States in world oil, seed, and grain market, all to raise cash to pay back foreign debts. The American farmer deserves better. H.R. 2494 would require the Treasury Department to at least consider how their policies affect agriculture in our country.

Mr. Chairman, I urge adoption of H.R. 2494.

Mr. WYLIE. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. MCCANDLESS], a Member who is very interested and knowledgeable in Latin American affairs.

Mr. MCCANDLESS. Mr. Chairman, I rise in support of H.R. 2494, and ask unanimous consent to revise and extend my remarks.

I would like to direct my remarks primarily at my friends and colleagues on my side of the aisle, and I want to focus on the Inter-American Development Bank, better known as the IDB.

The issue is this: Should the United States be an active participant in financing the development of Latin America? Our worst enemy in the hemisphere is poverty and destitution. The lack of food, shelter, and most importantly, the lack of hope, is a sure formula for political unrest and instability in South and Central America.

The IDB is an international financial institution established in 1959 to help accelerate economic and social development in Latin America. The Bank's membership includes 27 Western Hemisphere countries, and 17 countries from outside the region.

In its 29 years of operations, the IDB has become a major catalyst in mobilizing resources for the development of Latin America.

It has helped to provide, secure, and organize financing for projects that represent a total investment of more than $118 billion.

It has pioneered the role of financing development projects designed to improve the quality of life of the lower income sectors of the region's population.

The Bank approved nearly $1.7 billion in loans during 1988. Those loans will stimulate investments in projects advancing Latin America's economic and social development, and help promote sustained long-term growth.

Specifically, some of those loans will be used to expand and modernize industrial capability, and others to provide and improve irrigation and drainage systems.

Other loans will help construct and improve nearly 2,000 miles of roads in five countries, while others will increase electric power generating capacity by 28,000 kilowatts.

In the social sector, last year's IDB loans will mean that five million more persons will be able to enjoy clean water. Three million will have access to new sewage treatment facilities. Thousands more will have access to new health and education facilities.

The legislation before us authorizes the United States to participate in the replenishment of the IDB's resources.

Our paid-in share of the replenishment is $232 million over the next 4 years. That's $78 million a year.

Any time we vote to spend the taxpayers' money, we need to ask what we are getting in return.

For starters, American firms can expect to do nearly $200 million a year worth of business with IDB-financed projects.

Participation in the Bank continues to be the most cost effective method of development assistance in a region of vital importance to the United States.

Each dollar of the U.S. participation is multiplied by the contributions of other member countries and the IDB's ability to borrow in the world markets. The net effect is that every dollar is leveraged 65 times. The United States simply could not afford to duplicate this effort without bilateral assistance.

The IDB is not perfect. It is not a U.S. institution. While we are the largest single shareholder in the Bank, we only have—and pay for—a 34.5 percent interest. That does not give the United States control, but it does give us a tremendous amount of influence at the Bank and in the region.

It clearly is in the best interests of the United States to participate in the IDB replenishment.

Latin America is currently experiencing severe economic conditions. Without assistance, the economic consequences in the region will be felt in the United States in the form of lost trading partners, a flood of immigrants, and most importantly, political instability in our hemisphere.

It is simply unrealistic to expect democratic governments to develop and to be sustained without a renewed effort to provide them with the resources to meet the basic needs of their people.

The IDB is the best way for the United States to have the maximum impact at the lowest cost in South and Central America. And I urge my colleagues to support this legislation.

Mr. FAUNTROY. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, I rise in strong support for H.R. 2494, the International Development and Financial Institutions Act. I want to thank chairman [Mr. FAUNTROY], chairman [Mr. GONZALEZ], and ranking member WYLIE for bringing this important measure to the floor of the House today.

For colleagues unfamiliar with world development funding, H.R. 2494 fulfills the financial commitment of the United States to international organizations created at the Bretton Woods Conference 40 years ago. Loans from the World Bank, International Monetary Fund [IMF], and multilateral development banks [MDB's], have put ex-colonies in Africa, Asia, and South America on the road to sustainable economic progress. Many of these growing nations are now valuable U.S. allies and trading partners.

In the 1990's we cannot weaken our resolve to these organizations. The new democracies of Eastern Europe desperately need international assistance to recover from setbacks caused by the centrally planned economies of failed Communist regimes.

Free political institutions go hand-in-hand with sustainable economic growth. Who imagined that a Solidarity-led government would be in power in Poland today? For this reason, I enlist the support of my colleagues for increased international aid to Poland. Almost $1 billion worth of vital technical and policy loans are now pending at the World Bank and IMF. The International Development Subcommittee overwhelmingly supported an amendment to this bill urging the Treasury Secretary to instruct our United States representatives at the international development banks to expedite review and release of funds and promptly act on new incoming requests from the Polish Government.

Representative KAPTUR deserves credit for her measures in this bill to base debt forgiveness to Poland on that nation's receptiveness to private business ventures, and to enlist the development banks in promoting the creation of private banking facilities in Poland. Polish private banks and businesses would bring valuable currency into circulation and fuel the fire of democratic reform.

Another major feature of this bill increases U.S. export financing through reauthorization and funding of vital Eximbank programs. The interest-match and tied aid programs ensure that American industries can compete in foreign markets where highly subsidized competitors now dominate.

I believe it is important we continue funding these programs—especially at a time when our trade deficit is again increasing. A recent report by the U.S. Department of Commerce shows the U.S. trade deficit for August 1989 at $10.8 billion.

I also am very pleased that full committee Chairman GONZALEZ included language in this bill requiring the Eximbank to conduct a loan-loss reserve feasibility study. I introduced similar legislation during the 100th Congress. The General Accounting Office [GAO] recently reported that, once again, Eximbank's financial statement does not accurately state its overall exposure. This Congress just finished cleaning up a mess caused by bad bookkeeping by thrift regulators. Generally accepted accounting practices [GAAP] should be used immediately at the Eximbank. In a recent meeting with new Eximbank president, John Macomber, I was encouraged by his views on this important matter.

Mr. Chairman, I urge my colleagues to vote for passage of this bill to finance world development during the early 1990's.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I have always supported this legislation, and I expect to continue to do so.

I think we live in a world that is increasingly interdependent. We need overseas markets for our exports. We need access to raw materials. Our national security is dependent on integrated defense strategies and mutual security relationships with many countries across the globe.

However, I am increasingly uneasy about our business as usual attitude in the realm of foreign aid, multilateral foreign aid, especially. We are in the throes of a budget crisis that is growing more difficult by the day. Sequestration is now upon Members, and the Congressional Budget experts are engaging in some of the most creative financial legerdemain. Evasion of the Gramm-Rudman budget balancing law is being achieved by such stunts as backing up the October 1 Pentagon payday to September 31, to evade the deficit reduction requirements of the current fiscal year, while raising the deficit of the previous one.

I think we need to reevaluate whether our foreign aid programs are having their intended effect and benefit on the recipients as well as the American taxpayers who are footing the bill. Particularly in an area of serious budget problems at home, we need to find ways to consolidate our foreign aid buck in order to ensure that it has more bang.

□ 1340

Instead, we seem to continue to fund at very high levels a plethora of multilateral and bilateral foreign aid mechanisms, including regional banks, funds, and foundations, World Bank and IMF funds, programs and special facilities, U.N. agencies, funds and programs, all in addition to our substantial bilateral programs in over 100 countries around the world.

I think it is time that we took a look at all of these spigots in their totality to determine if perhaps there is not a better way to spend the taxpayer's dollar. We really ought to exercise greater oversight in order to assess the impact of our aid efforts. It seems to me that the same standards should be applied to our assistance to multilateral aid programs that we hope to apply to our bilateral aid programs. A provision in the foreign aid authorization bill, which I do not think will see the light of day in the other body, requires a periodic country-by-country analysis of the impact and effectiveness of U.S. economic assistance programs. We need no less insofar as the multilateral banks are concerned.

If the administrators of these institutions are unwilling to endure that kind of scrutiny, perhaps we should explore other ways in which to more effectively pursue our foreign aid efforts.

As I said at the outset, Mr. Chairman, I do support the concept that foreign assistance can serve our interests and those of recipient countries, but I am not sure that we are doing anything other than business as usual this time around.

Mr. FAUNTROY. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, I rise in strong support of this bill, and I congratulate the gentleman from the District of Columbia [Mr. FAUNTROY] and all his colleagues for their initiative and for their foresight in getting this bill to the floor.

Mr. Chairman, this bill does not address the debt crisis. What this bill does address is the disastrous lending practices that have been obtained at the Inter-American Development Bank and most of the other financial institutions. This bill offers an environmental unit established at the Inter-American Development Bank. It provides for an increase in staff of folks with environmental training at the Inter-American Development Bank, and it provides for debt-for-nature swaps that allows developing countries to swap their debt for projects that protect and enhance their environment.

Mr. Chairman, we have had very harmful and very destructive lending practices at the Inter-American Development Bank and other world financing institutions in two respects: First of all, we have failed to analyze and quantify the predictable and environmentally degrading and destructive aftermath product of major megaprojects. We find after the fact time after time that if we had cranked into the computer, when we arrived at the cost benefit decisions affecting these

projects, other data, if we had put into those decisions the predictable damaging effects on the environment of these projects, we would have come to very different conclusions.

Our second mistake over the years has been that for Third World countries that have an abundance of labor and virtually no capital, we have funded capital-intensive projects that are labor saving. This is sheer idiocy. The developing world has to produce maybe 750 million new jobs by the end of this century. That is more than the entire employed population of the Western industrial world. For us to be funding projects that are capital intensive and labor saving is nonsense. We should concentrate on projects that are capital saving and labor intensive. Then we will find that we are doing a lot less in the area of environmental degradation.

Mr. LEACH of Iowa. Mr. Chairman, I yield 3 minutes to the gentlewoman from Rhode Island [Ms. SCHNEIDER], one of the great leaders on this issue.

Ms. SCHNEIDER. Mr. Chairman, I rise to single out my strong support for the excellent title V included in the International Development and Finance Act of 1989 (H.R. 2494). I am particularly impressed with the provisions requiring detailed environmental impact assessments on all multidevelopment bank projects, and would strongly oppose any weakening amendments of these provisions.

There is much to commend in title V of this legislation, which encompasses the alleviation of poverty, debt-for-development swaps, the protection of tropical forests, measures to stabilize climate change, and the means to spur sustainable development. I am pleased to note that these provisions are consistent with and amplify upon the provisions proposed in my comprehensive global climate change legislation, the Global Warming Prevention Act (H.R. 1078).

The provisions in the section on environmental impact assessments are particularly important because they serve to ensure the most thorough examination of how our tax dollars can be leveraged to the maximum extent to address these problems.

It is an unfortunate fact that the multidevelopment banks have a long, checkered history in failing to perform thorough environmental impact assessments, taking seriously the many less costly and risky alternatives, refusing to allow public scrutiny of and comment on this decision-making process, and then implementing multibillion dollar boondoggles that undermine the opportunities for maintaining both a thriving economy and the highest standards of environmental quality.

Allow me to offer two concrete examples, one that recently occurred in China and one currently underway in Brazil, where the EIA provisions in this bill could have played a vital role.

Refrigerators comprise one of the fastest growing demands for electricity in China, leading them to construct a dozen refrigerator factories. Unbelievably, not a wit of thought went into recognizing the opportunity to produce refrigerators requiring only half or less electricity than conventional models at no extra cost to produce. As a result, China has committed themselves to building thousands of megawatts of expensive coal plants to operate these inefficient refrigerators, which will spew millions of tons of extra greenhouse gases and require billions of dollars in extra loans from international banks. All avoidable by a more comprehensive EIA process.

Such fiscal and environmental disasters may yet be prevented in Brazil. Brazil's electricity expansion plans over the next 10 to 15 years call for flooding and destroying 12,000 square miles of Amazonian rain forests in order to construct hydrodams. There is no dispute that electricity is imperative for the Brazilian economy to expand its industrial output and satisfy growing residential and commercial demands.

What is in dispute, however, is whether this is the least-cost approach to delivering electrical services. Detailed studies performed jointly by Brazilian and United States energy experts unequivocably show that at least two-thirds of these dams, and the forest flooding, could be avoided by investing in lower cost energy efficient technologies. Indeed, the studies show that promoting and financing investment in high-efficiency motors, lights, refrigerators, and other electricity-consuming devices would not only save some 8,000 square miles of rain forests, reduce greenhouse gas emissions, and prevent the disruption of indigenous tribes, but it would save the Brazilian economy $30 billion.

The EIA provisions in this bill will help ensure that such alternatives are rigorously reviewed and implemented when available, and because of that I strongly oppose any weakening amendments.

Mr. FAUNTROY. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Chairman, I stand here today in strong support of this bill for many reasons. Most importantly, I believe the provisions to increase and encourage our exports in the Eximbank are critically important to regain the preeminent slot of the United States for our imports.

Second, the amendments of the gentlewoman from California [Ms. PELOSI], which encourage environmentally sound development throughout the Third World, are a tribute to her commitment to this issue. I know that she would be here speaking on those issues if she were not drawn to the city of San Francisco where she is so badly needed.

Mr. Chairman, the allies in Western Europe that we developed shortly after World War II have become our greatest friends, and they are our friends for many reasons, not the least of which was the Marshall Plan which this country committed itself to to assist those nations of war-torn Europe. Yet when we look at the Third World today, we find no example of the same type of commitment and help. So far we have failed to provide even the most minimal assistance to those nations. Even though our banks were willing to provide billions of dollars' worth of loans in the 1970's, we all know that those loans simply are not going to be paid back today.

□ 1350

Mr. Chairman, it seems to me that what we ought to be doing is recognizing there is no bankrupty court for the sovereign nations, that it is time to get off the Baker plan, it is time to make the Brady plan work, if we are going to ever take a stand.

In order to do that, Mr. Chairman, this bill does several things. First of all, we increase money for the ESAF, for the structural adjustment fund of which the IMF is in such vital need of, if we are going to make that an instrument that really can work on behalf of the developing world. Second, we make the banks and our international lending institutions much more sensitive to the needs of the environment; and, third, and I think very importantly, this bill calls for a mark-to-market study.

Mr. Chairman, this study is something that this country ought to take a hard look at. Every other institution in our country, every securities firm, every private corporation, has got to mark to market, and it seems to me that at a bare minimum, if we were forcing the banks of this country to mark their loans to the market conditions at the time, that it would provide them with the incentives we need.

Mr. Chairman, right now the banks of our country do not have the incentives to mark the loans down to the market conditions that the markets around the world set for Third World debt. If we simply ask them to mark those loans down to the markets as they exist throughout the world, debt forgiveness would be provided. It is the one element that we have, the one stick that we can provide to the banks, that would have avoided, as the gentleman from Texas [Mr. GONZALEZ] is aware, would have avoided the kind of debacle that took place with the savings and loan crisis. We are looking at the same type of crisis in the Third

World, and we need to change it. We need to change the accounting system.

Mr. LEACH of Iowa. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Texas [Mr. BARTLETT].

(Mr. BARTLETT asked and was given permission to revise and extend his remarks.)

Mr. BARTLETT. Mr. Chairman, I rise in strong support of H.R. 2494, the International Development and Finance Act of 1989. There are policy differences among members of the Committee on Banking, Finance and Urban Affairs, but this legislation is sound legislation and needs to be enacted.

Mr. Chairman, I will note that the gentleman from Ohio [Mr. WYLIE] and the gentleman from Texas [Mr. GONZALEZ] have made several changes in the legislation that does accommodate some of the administration's previous concerns, and the administration is strongly supporting the passage of this legislation. Indeed a letter written yesterday by the Secretary of the Treasury, Nicholas Brady, says the words, "We strongly support the passage of this important bill."

Mr. Chairman, this legislation is an authorization which does a number of things, but at its heart it is the authorization to honor the U.S. commitments negotiated by our administration for the U.S. 34.7-percent share of the Inter-American Development Bank's replenishment. Thus it is a multilateral replenishment where the United States is participating in a multilateral development bank for benefits that accrue to the Western Hemisphere, and those benefits are in many ways unilateral to the United States. It is very much in the U.S. interest to be certain that economic development occurs in the Western Hemisphere.

The legislation also is an authorization to fight predatory tied aid export financing by other nations and an authorization of our agreed to $150 million to allow the United States to contribute its share to the $8 billion enhanced structural adjustment facility which is part of the IMF.

The legislation in addition to that makes a straightforward and direct and needed policy directive to encourage borrower countries to move away from state-run enterprises, as they are doing throughout the Western Hemisphere. Now the Latin American countries are incresingly deciding to sell their state-owned enterprises, their parastatals, and move toward market place economics. The United States and the IDB with this legislation will be on the side of private enterprise and on the side of market place economics and will be on the side of encouraging those nations to sell their state-owned enterprises.

Mr. Chairman, voting for something called the Inter-American Development Bank is not easy to do. It is sometimes not easy to justify at home. It sounds like foreign aid; it sounds like giveaways, but in fact this legislation, this multilateral authorization, is very much of a unilateral benefit to the United States. The fact is, particularly in the Western Hemisphere, particularly in the Western Hemisphere multilateral development participated in by the United States, it is in the U.S. best interests because of the economic development of North and South America.

In short, Mr. Chairman, multilateral contributions mean unilateral benefits to the United States, particularly in the Western Hemisphere. If we did not have the Inter-American Development Bank, we would have to create it. If other nations were not participating in the multilateral bank, we would have to be conducting these activities unilaterally ourselves.

Mr. Chairman, it is good legislation. The IDB is sound economic and foreign policy, is in the best interests of the U.S. Government. I plan to support it. I urge others to do so.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I rise in strong support of H.R. 2494, the International Development and Finance Act. While I support the major provisions of this bill, I rise today to express my particular appreciation to Chairman FAUNTROY, JIM LEACH, and DOUG BEREUTER for including the provisions of my bill, H.R. 1704, the Tropical Forest Protection Act. Inclusion of these provisions makes this bill strongly proenvironment.

Mr. Chairman, the world is losing forests the size of a football field every second of every day. Forests in Central and South America, South Asia, Africa used to cover an area twice the size of the United States. Today only half remain and at current rates, tropical forests will become a thing of the past within our children's lifetimes.

Second to the burning of fossil fuels, the destruction of the world's tropical forests is a major contributor to the phenomenon of global warming. To combat the steady rise in temperature, we must save these forests.

The loss of the world's tropical forests will not only be a loss for the aesthetic beauty of our planet. Because these forests are home to half of all known species of plants and animals, the elimination of tropical forests will mean extinction for tens of millions of species that are the genetic storehouse of the planet.

The 19th century Irish famine caused by a blight on a single species of potato is the clearest example of the danger in relying on a one species of plant life for food. Today, we largely depend on six species of grain for food. The rain forests of the world contain another 60. The tropical forests of our world represent not only an opportunity for new foods, products, and medicines, but also an insurance policy against future viruses and diseases which may strike the grains and animals upon which we depend.

In the past, the IMF and World Bank have advocated strategies which relied on added debt and exports, flooding world commodity markets and encouraging single cash crops rather than sustainable development. The Tropical Forest Protection Act contained within this bill calls on our leadership at the World Bank to advocate the use of bank loans in swaps to retire more expensive private debt in return for environmental protection.

The bill also calls for "environmental structural adjustment lending" to support environmental reform and offers incentives to strengthen nongovernmental—NGO—environmental organizations worldwide.

Mr. Chairman, we have already seen eight debt-for-nature swaps with private funding and last month executed our first swap with U.S. Government funds through AID involving Madagascar, and I commend Ambassador Edelman for his leadership in this regard. It seems to me the time is now ripe to include the World Bank in this process.

Mr. Chairman, I want to also thank the staff members of the subcommittee, including Mark Constantine and Nelle Temple, for their help in crafting this important environmental measure. I urge Members to support this vital legislation.

Mr. WYLIE. Mr. Chairman, I yield the balance of my time, 2 minutes, to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, I rise in support today of H.R. 2494.

First, I would like to extend my appreciation to the chairman and ranking member of the Subcommittee on International Development, Mr. FAUNTROY and Mr. LEACH, for their assistance and that of their staffs in working with me to include, in the legislation before us today, an amendment I offered at full committee that would give the Eximbank special gift acceptance authority. My thanks also to Chairman GONZALEZ for his welcomed contributions to crafting this amendment. The committee leadership is also to be applauded for their efforts in bringing this full measure to the floor.

Stated simply, the Ridge amendment will serve to allow the Bank to greatly enhance its marketing capabilities by giving it the opportunity to communicate directly with exporters and financial institutions on the services and programs of the Bank. The evidence tells us that the exporters' knowledge on the availability of fi-

nancing and his ability to obtain financing are critical, if not the most critical, factors in his decision to export. We also know that exporters all too often don't have this information and, moreover, don't know where to go to get it. To the degree that these problems are addressed by the Ridge amendment, I believe we achieve a small but nonetheless very significant victory in our campaign to improve the Nation's trade position.

The Banking Committee's own staff report on export financing noted that U.S. companies are at a disadvantage in competing for export markets on financial terms because they do not have the type of access to financing that their overseas competitors do. The report's survey of exporters found that 66 percent of the responding companies expressed that competitive export financing is either sometimes or rarely available and 53 percent stated that they lost export transactions due to reasons related to financing. Most important, almost 55 percent of exporters stated that if more export financing were available they would export more. The report concludes that many exporters view available financing as a major determinant in their decision to export.

The most important question raised by my colleagues regarding the Ridge amendment has been the issue of what assurances we have that special gift authority does not result in abuses or misuse in the reimbursement of bank directors, personnel, and employees. Because of the importance of this issue, I would like to illustrate how the amendment has been structured to prevent these type of problems.

Upon its enactment, the Bank would be required to issue regulations to put this authority into effect. The regulations would be issued pursuant to section 553 of title 5, United States Code, which will require public notice and comment. The regulations would incorporate the existing ethics regulations (5 CFR section 735.202(a)) of the Office of Personnel Management. These regulations prohibit any member of the executive branch from receiving compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, program, or operations of their respective agency, or which draws substantially on official data or ideas not public information.

The Ridge amendment also provides that the regulations governing payment for travel and subsistence expenses would have to be in accordance with subchapter I of chapter 57 of title 5, United States Code. The effect of this provision is to make all payments consistent with government rates and schedules regulating official travel and per diem allowances. Additionally, this authority would not be used for any expenses incurred when payment or reimbursement would contravene Federal conflict of interest regulations or when the expenses incurred are for personal rather than official purposes.

Notable too is that the authority provided the Bank by the Ridge amendment is more restrictive than the gift acceptance authority that the Departments of State, Treasury, Commerce, and the Securities and Exchange Commission already have (22 U.S.C. 2697, 31 U.S.C. 321(d), 15 U.S.C. 1522 and 15 U.S.C. 78d(c) respectively). The authority is nonetheless consistent with the position taken by the President's Commission on Federal Ethics Law Reform on government gift acceptance and President Bush own proposed ethics legislation, H.R. 2337, section 107, governing governmentwide gift acceptance authority.

TIED AID AND MIXED CREDITS

Mr. Chairman, the other issue I wish to address here today, that of tied aid and mixed credits, is one that I believe is central to our fight for free and fair trade. Too often the United States has turned a blind eye toward unfair trade practices but my hope is that with the measure now before us we can begin to take the offensive on tied aid. This is, of course, only one part of what must be a comprehensive strategy to improving our international trade and competitiveness position but it is an important one nonetheless.

I take this opportunity to express my strong support for the administration's initiative to respond to foreign tied aid credit practices by "vigorous new negotiations" to substantially reduce the disadvantages American exporters face and to support these negotiations with a new "aggressive use" of the Eximbank's war chest. I am also heartened that, in addition to this undertaking, the administration has expressed its willingness to work with the Congress to ensure that, to the maximum possible degree, competition in our export markets focuses on price, quality, and service rather than on the availability of concessional financing. The offer is welcomed and accepted.

It is imperative that with other industrial nations offering tied aid and mixed credits to gain strategic positions in critical markets—at the expense of American exporters—U.S. resolve in upcoming negotiations coupled with a commitment to using the war chest is an absolute necessity. It probably comes as no surprise though for many to learn that American exporters, in the words of one exporter representative, are all from Missouri when it comes to the Government's commitment to combating foreign tied aid practices—"show me" they say. One can well understand their skepticism but I would urge them to put it aside and instead lend their support behind this initiative. Let us all work together, constructively.

Let's think back though just a short time ago. In 1986, the Congress first authorized the War Chest Program. It wasn't meant to be a permanent program. We implemented it to strengthen the United States' leverage in ongoing negotiations with OECD countries to have more stringent conditions placed on the use of tied aid credits by these nations. Participants then agreed to raise the minimum grant element for tied aid credits and to bring interest rates on loans more in line with market rates. The problems solved, right?

Wrong; the evidence so far indicates that neither the OECD agreement nor the Exim war chest have had much success in dissuading our trading partners from using tied aid and mixed credits to promote their exports. The OECD's own data indicates that tied and/mixed credit offers have increased from $11 billion in 1986 to over $15 billion in 1987 and that these credit offerings appear to have increased by 400 percent since the early 1980's. The United States plays by the rules while other nations break them and, in the end, it's the American exporter who bears the loss.

Documented by the administration's own tied aid credit report, American exporters have lost $400 to $800 million of annual sales to mixed credits and another $4 to $6 billion of aid funded capital projects closed to American businesses. The overall effect has been an undermining of U.S. commercial interests in markets and in export sectors where American exporters have traditionally held strong competitive positions.

Clearly with this much at stake, overcoming foreign resistance on tied aid will be no easy task. But the carrot and stick approach of the Treasury and the Eximbank, with the Congress' full support and backing, offers cause for hope to our exporters. It also sends the right message to those of our trading partners who break the rules on tied aid—there will now be a price for your transgressions.

I therefore urge my colleagues to lend their support to this measure. Remember, every day of delay is another lost opportunity and a further erosion of American markets overseas for our exporters.

Ms. OAKAR. Mr. Chairman, it is with pleasure that I rise in strong support of H.R. 2494, the international development, trade, and finance bill. This bill is critical to the continued contribution of the United States to the operations of the World Bank, other multidevelopment banks and the Export-Import Bank.

Mr. Chairman, this bill is the result of considerable thought and debate by the Banking, Finance and Urban Affairs Committee and deserves favorable consideration by the whole House. I want to commend Chairman FAUNT-

ROY, the Chair of the International Development, Finance, Trade and Monetary Policy Subcommittee, for his diligence regarding this bill. In addition, I want to congratulate Chairman GONZALEZ for his leadership and skills in bringing this important legislation out of full committee and onto the floor. The staffs of the subcommittee and full committees also deserve praise for their professionalism and hard work in the production of this measure.

Mr. Chairman, this bill provides the funds necessary for the continued operation of the Eximbank by providing $20 million in fiscal year 1990 and $50 million in fiscal year 1991 to provide interest rate subsidies to private banks as an incentive to finance additional export finance loans. In addition, the bill eliminates the $700 million minimum requirement before the interest rate subsidy program can go into effect. This will provide greater use of the funds for promoting U.S. exports—something many of our struggling export businesses need and that our trade deficit requires.

The bill also provides tied-aid funds for an additional 3 years, and provides $200 million over fiscal years 1990 through 1992. This is an especially important provision of the bill since it allows U.S. exporting companies to compete on a more level playing field with other international players, such as Italian and French businesses, which have used tied-aid credits for the last several years to gain access to previously closed markets. This should allow us to regain some of the $400 to $800 million a year U.S. businesses have lost over the last several years due to unfair competition.

In addition, the bill provides funding for the U.S. contribution to the Inter-American Development Bank. These contributions are a vital part of our foreign policy and demonstrate the willingness of the United States to assist our friends in Latin America. The current political and economic situation in Latin America gives special impetus for us to contribute; Colombia is fighting a major war against drug dealers and needs development money to counter the money offered by drug traffickers; the government in Peru is still fighting the Communist insurgence group, the Shining Path, and requires funds to demonstrate that the government offers the best path toward development; and Bolivia is only now beginning to recover from extended economic chaos and needs help to continue its climb out of poverty. These provisions of the bill are important to our foreign policy and to the stability of our Latin American friends.

Another provision of the bill requires multilateral development banks to assess the environmental damage that may be caused by a bank-funded project in order to assess whether the bank should lend money to that project. My good friend, Congresswoman PELOSI is to be congratulated for this provision. This is sound policy and will help to ensure the proper use of U.S. taxpayer dollars in an environmentally safe manner.

Mr. Chairman, in closing I want to urge all of my colleagues to vote for this excellent bill and the support to hard work and leadership demonstrated by our committee. The contents of the bill will make our trade position in the world more stable and will ensure our friends that we will assist them during their times of need. Vote "yes" on the international development, trade, and finance bill.

Mr. ROTH. Mr. Chairman, I rise in opposition to H.R. 2494 for two main reasons. First, it adds another $9 billion in U.S. Government commitments to international lending agencies, increasing the liability of the American taxpayer. And second, it seeks to pressure U.S. banks into making more bad loans to countries that already cannot pay their debts.

With regard to increasing our liabilities, the American taxpayer already is overexposed to billions in financial commitments that this Congress has made within this country. The taxpayer has already been handed a $284 billion bill for the bankrupt savings and loans. Other programs, such as FHA, student loans, farm loans, small business loans, and other Government lending programs are in trouble and will require eventual taxpayer assistance.

In this circumstance, we should not be adding more foreign liabilities to this pile of government-generated exposure. The Inter-American Development Bank should make do with the resources they have, or raise it elsewhere. The word must go out that we can no longer carry the world's financial problems on our backs. Instead of finding more ways to add to our taxpayers' burdens, we should be voting to reduce them. This bill is another $9 billion financial weight, which should be wrapped around the necks of someone else than the people of the United States.

Moreover, it is completely wrong-headed for our Government to push our banks into making more loans to countries who have already proven themselves to be incapable of paying their debts. Title IV of this bill does just that, by increasing Government pressure for new loans to replace existing indebtedness.

It makes no sense to reward the irresponsible governments of the world with access to more credit. Instead, we should be helping them, as we do wayward children, to learn a hard lesson: those who do not pay their debts will be held accountable. Unfortunately, this bill would let them continue to postpone the day of reckoning.

And finally, it makes absolutely no sense to expose our banks to more bad loans at a time when our deposit insurance system is reeling from the costs of covering 200 bank failures last year and more to come. Under this bill, our largest banks, who are already writing off billions of losses on earlier loans that our Government pushed on them, would be lined up for even more bad paper from these deadbeat countries.

I urge my colleagues to vote for the interests of our taxpayers and to preserve our banking system, by voting against this bill.

Mr. SHUMWAY. Mr. Chairman, the bill we have before us sounds very lofty in purpose. We are told that it will alleviate poverty. We are also told that it will save the environment, specifically by conserving precious natural resources and protecting fragile tropical forests. Finally, we are told that this wondrous bill will also expand exports. When a bill promises as much as that, it truly gets my attention.

The measure seeks to achieve those noble goals by attempting to address the enormous problems confronting the world's lesser developed countries [LDC's]. As I read through the provisions of the International Development and Finance Act, I identified five approaches authorized by this legislative remedy which seriously concern me.

First, the bill subsidizes interest payments to the tune of $70 million.

Second, it provides loan guarantees in an effort to share the risk of nonpayment with commercial lenders. Both of these troublesome approaches, which I view as the embodiment of questionable policy, will be implemented through the Export-Import Bank [Eximbank].

Third, the bill authorizes $9.2 billion as the United States' subscription to the Inter-American Development Bank [IDB]. We are told not to worry about this money; the actual contribution will really be only $232 million over a 4-year period—the rest is just "callable capital." And, besides, when has there ever been a call on "callable capital" in the history of the IDB? The fact remains that this money will be used by the IDB to finance loans totaling billions of dollars to some of the poorest areas of the world—loans which we, through the IDB, will make when private banks will not. Why won't private lenders make those loans? Is there an important lesson to be learned here? I think so.

Fourth, the bill provides for concessionary lending, whatever that is, in the amount of $82 million to something called the fund for special operations. What does that fund do? How do we know it will work?

Fifth, it again sanctions vague "concessionary lending," to the tune of $150 million to a thing called the enhanced structural adjustment facility. Do we know what that is, or what it purports to accomplish?

Those five provisions make a dismal truth clear to me: We are simply using the same old devices and methods which got us into this debt quagmire in the first place. These are not new ideas—they are tired old nostrums.

What we need instead of rehashed failures is new free-market reforms, initiatives which will help countries grow out of their staggering debt problem. We should be encouraging an end to state ownership and regulation in struggling LDC's. Those countries have been getting away with state ownership for years only because we have always come along to prop them up. We should open U.S. markets to goods produced by LDC's.

The record shows that IMF loans have been dismally counterproductive. They have demanded policies of higher taxes, as well as trade protectionism. Moreover, many such loans go to LDC's which take a hostile posture towards the United States, and which consistently oppose us at the United Nations.

There is no way that we can satisfactorily cure the many problems afflicting the IMF or the IDB so that they can work effectively. More money to multilateral lending institutions is no answer to debt, poverty, trade, or the environment. Instead, I would favor a bilateral remedies. Additionally, we should augment the Caribbean Basin Initiative [CBI], so that it is more responsive and effective. We should be encouraging approaches such as debt-for-equity swaps, which are both attractive and workable.

I mean no disrespect to the authors of this measure, and I am certain that their objectives

are laudable. However, this bill cannot possibly deliver what it promises. In fact, as written, I seriously believe the International Development and Finance Act will hinder far more than it will help. There is no way that I can possibly support it, and I strongly urge my colleagues to oppose it.

Mr. PARRIS. Mr. Chairman, I rise in opposition to H.R. 2494 and I would associate myself with the remarks of my colleague, the gentleman from Kentucky [Mr. BUNNING].

Once again, the Congress is about to authorize millions of taxpayer dollars for the multilateral development banks. And, as usual, we will be committing millions of taxpayer dollars to institutions which care little or nothing about how the United States would like to see them prioritize their lending policies.

It is awkward for me, as a Republican, to stand here and oppose legislation which is supported by a Republican administration. But it is also disappointing for me that while Republican administrations have generally opposed the replenishment of the IDB for many years, our current administration has now reluctantly decided to favor this misdirected and ill-conceived policy.

This legislation will expose the Federal Government to over $8 billion in contingent liabilities. If we have learned anything from the savings and loan crisis it should be that contingent liabilities can, and often will turn into real liabilities very quickly and with a devastating impact to the already drained resources of the Federal Treasury. What concerns me about the contingent liability of the U.S. commitment to the IDB is that the IDB's portfolio is not strong. Moreover, if debtor nations are unable to overcome their economic doldrums, not only will they be incapable of paying their commercial debt, they will most certainly be unable to service their official debt to the United States.

I am also opposed to this legislation because of the apparent policy trend of replacing private liabilities for public liabilities. I am aware that H.R. 2494 expounds the virtues of using funds to the IDB for economic and environmental concerns. However, while these are laudable goals there is no guarantee that the money will be used for this, and we have no assurance that U.S. tax dollars will not be used by these countries to service commercial creditors. This is one Member who opposes the use of U.S. tax dollars to pay-off the commercial creditors of foreign states.

Finally, the United States is the largest contributor to the IDB and yet the voting procedure within this institution is skewed in such a manner as to render the U.S. vote almost inconsequential. This is certainly reason enough for me to oppose a commitment of millions of dollars from my constituents to the IDB until this concern has been addressed in a definitive manner. My constituents in northern Virginia demand accountability and so do I.

The IDB is a bloated bureaucracy which does not have a proven track record in helping less-developed and economically depressed countries like those in Latin America. There simply must be a better way to use our Federal dollars in aiding less-developed and economically depressed nations. This is not the right bill or the right time. Let's go back to the drawing board and craft a better alternative to H.R. 2494.

Mr. Chairman, I oppose H.R. 2494 and I would urge my colleagues to join me in voting against this legislation.

□ 1400

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute, now printed in the reported bill is considered as an original bill for the purpose of amendment, and each title is considered as having been read.

It shall be in order to consider en bloc the amendments printed in House Report 101-292 by, and if offered by, the gentleman from the District of Columbia [Mr. FAUNTROY] or his designee. Said amendments en bloc shall not be subject to a demand for a division of the question.

The clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "International Development and Finance Act of 1989".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—EXPORT-IMPORT BANK ACT AMENDMENTS

Sec. 101. Export-Import Bank Act amendments.

TITLE II—INTER-AMERICAN DEVELOPMENT BANK

Sec. 201. Participation by the United States in a capital increase of the Inter-American Development Bank; increase in resources of fund for special operations.

Sec. 202. Investment in human capital.

Sec. 203. Limitations on Inter-American Development Bank policy based lending.

Sec. 204. Increase in Inter-American Development Bank lending to the Caribbean.

Sec. 205. Sense of the Congress that Inter-American Development Bank loans should reduce dependence on illicit narcotics.

Sec. 206. Directives regarding government-owned enterprises in countries receiving IADB loans.

TITLE III—INTERNATIONAL MONETARY FUND ENHANCED STRUCTURAL ADJUSTMENT FACILITY

Sec. 301. Contribution to the interest subsidy account of the Enhanced Structural Adjustment Facility of the International Monetary Fund.

Sec. 302. Discussions to enhance the capacity of the International Monetary Fund to alleviate the potentially adverse impacts of Fund programs on the poor and the environment.

TITLE IV—INTERNATIONAL DEBT PROVISIONS

Sec. 401. Short title.

Sec. 402. Purposes.

Sec. 403. Additional reserve requirements.

Sec. 404. Report on mark to market accounting.

Sec. 405. Study on elimination of capital flight.

Sec. 406. Factors to be taken into account in developing United States policy toward debt reduction for certain highly indebted countries; report to the Congress.

Sec. 407. Sense of the Congress that agreements to reduce debt burden should be accompanied by trade liberalization.

TITLE V—ALLEVIATION OF POVERTY; ENVIRONMENTAL PROVISIONS; DEBT-FOR-DEVELOPMENT SWAPS; CONSOLIDATION OF REPORTING REQUIREMENTS

Subtitle A—Alleviation of Poverty

Sec. 501. Increasing the productive economic participation of the poor.

Subtitle B—Tropical Forest Protection

Sec. 511. Short title.

Sec. 512. Purposes.

Sec. 513. Provisions to promote protection of the environment.

Subtitle C—Environmental Impact Assessments

Sec. 521. Assessment of environmental impact of proposed multilateral development bank actions.

Subtitle D—Debt-for-Development Swaps

Sec. 531. Encouragement of debt-for-development swaps through local currency repayment.

Subtitle E—Consolidation of Certain Reporting Requirements

Sec. 541. Consolidation of certain reporting requirements.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Sense of the Congress that the International Bank for Reconstruction and Development and the International Monetary Fund should expeditiously act upon loan requests from Poland.

Sec. 602. Sense of the Congress supporting assistance by multilateral lending institutions to establish financial institutions in Poland.

Sec. 603. Sense of the Congress relating to conditional financial assistance by multilateral lending institutions to Poland.

Sec. 604. Sense of the Congress opposing the making of certain loans or the extension of certain financial and technical assistance to the People's Republic of China.

Sec. 605. Sense of the Congress relating to family planning.

Sec. 606. Opposition to loans to Laos unless certain conditions are met.

TITLE VII—EFFECTIVE DATE

Sec. 701. Effective date.

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate title I.

The text of title I is as follows:

TITLE I—EXPORT-IMPORT BANK ACT AMENDMENTS

SEC. 101. EXPORT-IMPORT BANK ACT AMENDMENTS.

(a) INTEREST SUBSIDY PAYMENTS.—Section 2(f) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(f)) is amended—

(1) by striking paragraph (2) and redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively;

(2) by amending paragraph (3) (as so redesignated by paragraph (1) of this subsection) to read as follows:

"(3) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there are authorized to be appropriated to the Bank not to exceed—

"(A) $20,000,000, for fiscal year 1990; and

"(B) $50,000,000, for fiscal year 1991."; and

(3) in paragraph (4) (as so redesignated by paragraph (1) of this subsection), by striking "1988" and inserting "1991".

(b) TIED AID CREDIT PROGRAM AND FUND.—

(1) FURTHER NEGOTIATIONS REQUIRED.—Section 15 of such Act (12 U.S.C. 635i-3) is amended in each of subsections (a)(5), (b)(1), and (g)(2)(E), by striking "restricting" and inserting "eliminating".

(2) ADMINISTRATION OF PROGRAM.—Section 15(b)(2) of such Act (12 U.S.C. 635i-3(b)(2)) is amended by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(3) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 1990, 1991, AND 1992.—Section 15(e)(1) of such Act (12 U.S.C. 635i-3(e)(1)) is amended by inserting ", and for fiscal years 1990, 1991, and 1992, $200,000,000" after "$300,000,000".

(c) AUTHORITY TO ACCEPT REIMBURSEMENT FOR CERTAIN EXPENSES.—Section 2(a)(1) of such Act (12 U.S.C. 635(a)(1)) is amended—

(1) in the 6th sentence—

(A) by striking "The Bank may" and inserting "Subject to regulations which the Bank shall issue pursuant to section 553 of title 5, United States Code, the Bank may"; and

(B) by inserting ", and may accept payment for services performed for the Bank by non-Bank employees, and reimbursement for travel and subsistence expenses incurred by a director, officer, or employee of the Bank, in accordance with subchapter I of chapter 57 of title 5, United States Code" before the period; and

(2) in the 7th sentence, by inserting "and shall be offset against the expenses of the Bank for such activities" before the period.

(d) CLARIFYING AMENDMENT.—Section 2(b)(6)(G) of such Act (12 U.S.C. 635(b)(6)(G)) is amended by striking "this paragraph" and inserting "subparagraphs (B), (C), (D), and (F)".

(e) REPORT WITH RESPECT TO LOAN LOSS RESERVES.—Before the end of the 6-month period beginning on the date of the enactment of this section, the Export-Import Bank of the United States shall submit a report to the Congress explaining why the Bank has not established a loan loss reserve. In preparing such report, the Bank shall—

(1) determine if the establishment of a loan loss reserve would result in the unproductive characterization of the creditworthiness of certain types of borrowers;

(2) consult with the appropriate Executive branch entities to determine the budgeting and financial management implications of establishing a loan loss reserve;

(3) review whether, and the extent to which similar bilateral and multilateral lending institutions make provision against loan losses; and

(4) report on the steps needed to return the Bank to profitability.

AMENDMENTS EN BLOC OFFERED BY MR. FAUNTROY

Mr. FAUNTROY. Mr. Chairman, I offer amendments en bloc made in order by the rule.

The Clerk read as follows:

Amendments en bloc offered by Mr. FAUNTROY: Page 5, strike line 5 and all that follows through line 9.

Page 5, line 10, strike "(3)" and insert "(2)".

Page 5, beginning on line 24, strike "payment for services performed for the Bank by non-Bank employees, and".

Page 16, strike line 24 and all that follows through page 17, line 7.

Page 17, line 8, strike "(2)" and insert "(1)".

Page 17, line 13, strike "(3)" and insert "(2)".

Page 52, beginning on line 23, strike "PROVISION RELATING TO EXPORT ENHANCEMENT.—" and insert "PROVISIONS RELATING TO MULTILATERAL DEVELOPMENT BANK PROCUREMENT.—(1)".

Page 53, after line 4, insert the following:

(2) Section 2302 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4722) is hereby transferred to the International Financial Institutions Act, inserted after section 1802 (as added by the amendment made by subsection (a) of this section), redesignated as section 1803, and amended by striking subsection (c).

Page 53, beginning on line 9, strike ", in consultation with the Secretary of State".

Page 53, line 13, strike "members" and insert "member".

Mr. FAUNTROY (during the reading). Mr. Chairman, I ask unanimous consent that the amendments en bloc be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from the District of Columbia?

There was no objection.

Mr. FAUNTROY. Mr. Chairman, the amendment offered by the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ], the gentleman from Ohio [Mr. WYLIE], the gentleman from North Carolina [Mr. NEAL], and myself represents our best effort to remove remaining points of major contention in the legislation.

The amendment does several things. First, it strikes the provision in the reported bill which would have transferred authority over administration of the war chest from Treasury to the Export-Import Bank. While I believe, that this transfer still has merit because of the past lack of aggressive use of the war chest, I am also prepared to accept the reality that Treasury and Exim seem now to be on the same page in terms of combating the problem of tied aid.

Second, the amendment would revise language offered by Mr. RIDGE which would allow the Eximbank to accept reimbursements for costs incurred through travel or conference-related expenses. The administration has expressed specific concerns with one aspect of the language adopted by the committee. This amendment addresses those concerns. It has often been the case that outside organizations invite experts on exporting from Exim to describe the Bank's programs. There is no reason why the Bank should not be permitted to accept reimbursement for the expenses associated with such efforts.

Third, the amendment would revise language relating to the IMF which calls on the U.S. representative to advocate that the Fund assess the impact on the poor and the environment of Fund programs. We retain the requirement that the United States seek to have the Fund make such an assessment and apply lessons learned to future Fund programs. We have agreed, after strenuous administration objections, to drop the requirement that the Fund hire new staff specifically to undertake this assessment effort.

Fourth and finally, the amendment makes some purely technical changes which apply to the reporting consolidation provision of the bill.

The amendment has been crafted with bipartisan participation and I urge support for it.

Mr. WYLIE. Mr. Chairman, I rise in support of the amendments.

Mr. Chairman, as a cosponsor of these amendments, I want to voice my support for them and thank the gentleman from the District of Columbia [Mr. FAUNTROY] and the distinguished chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ], for working with the Treasury Department and myself to make what I regard as necessary changes.

As mentioned by the chairman, the amendment does three things:

First, it restores Treasury oversight of the Eximbank's war chest on the tied aid credit fund.

Second, the amendment deletes provisions in the bill which call for the United States to advocate the establishment of an environmental unit in the IMF.

Third, the amendment limits the gift authority given to the Eximbank to its promotion of export financing by not allowing the Bank to accept reimbursement for services performed.

Reinstatement of Treasury oversight of the Eximbank's war chest is needed in order to ensure compliance by other countries to an international agreement on tied aid credits. U.S. exporters have been unfairly disadvantaged by the mercantilist practices of a few other industrialized nations which tie their foreign assistance to their export financing programs. Under the Treasury's leadership the industrialized countries reached an agreement limiting the use of tied aid credits. The Treasury has been using money from

this war chest to enforce and improve the agreement.

Removal of Treasury's control over the fund seriously weakens Treasury's negotiating position and is like asking the State and Defense Departments to negotiate an arms control agreement, but giving the Department of the Interior control over the use of nuclear weapons. Furthermore, by giving the Eximbank the lead role in using the war chest, there is a valid concern that the few dollars Congress can afford to devote to tied aid credits will be used for general export promotion, instead of pressing for a long-term agreement to further limit the use of tied aid credits.

Another provision in the bill which needs to be corrected is the requirement of an environmental staff within the IMF. This provision is a gratuitous requirement especially since the IMF does not make project loans, but rather provides resources on a temporary basis to help countries with their balance of payment problems. The mandate also is counterproductive to U.S. efforts to streamline already bloated bureaucracies.

For these reasons, I gladly join the chairman in his amendment and thank him for his bipartisan cooperation to improve this bill.

Mr. SAXTON. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment, and more generally of H.R. 2494.

I strongly feel that the major provisions in this amendment and the bill calling for continued U.S. involvement in multilateral development banks [MDBS] are integral to preserving the United State's role as the Chief Steward in the Third World's march toward responsible development.

Certainly, the thirst for development is great in the country's dependent upon these multilateral lending institution's assistance. They will move towards this goal with or without our input and advice.

There can be doubt that we should continue to expand our participation to produce results which benefit not only the countries involved—but the world at-large.

There has been substantial criticism—and may I say valid criticism—over the international development bank's [IBD] handling and disbursement of funds to the totalitarian regime in Nicaragua. This was a serious mistake. The incident cannot be forgiven, nor should there be any doubt at the IDB, that if similar mistakes continue to happen, the United States will reevaluate its position relative to future constributions.

However, at this time, there is too much at stake in these banks from a foreign policy, economic, and environmental standpoint to pick up our marbles and go home this incident.

Instead of sticking our head in the sand and crying "foul", and not approving this money, the U.S. needs to actively address the policy questions through which this money will be spent. We need to participate in a meaningful way. We need to lead by example.

No where is this more apparent than in the environmental area. By agreeing to discuss the environmental situation and offering reasonable suggestions, the United States is emerging as the leader in encouraging the Third World toward spending that will enhance the world environment.

This bill provides two measures which will move in this direction:

First, we include the proven effective method of debt for nature swaps. This allows debtor countries to buy back some of their private debt with a multilateral development bank loan—if the loan is connected to an environmentally beneficial project.

So, not only is there debt reduction—but a sound environmental policy is put in place as well. This is a win-win situation.

Second, and most important, this bill calls for the establishment of new procedures to assess the environmental impact of bank-funded projects. These assessments will be made available to the directors of the banks, and to the public. To make certain that lending decisions are made with full knowledge of the environmental consequences.

The assessments are "sunshine laws" designed to shed light and attention—and where appropriate—pressure on the banks to adopt policies which benefit the economy and the ecosystems of developing nations.

Surely, taxpayers do not want to have their money spent on policies which adversely affect the environment.

It is important to note that this public concern is not solely the result of a Time magazine article or 20 years of environmentalist chipping away at public opinion.

Rather, this intolerance of environmental abuses is the product of hard, unpleasant facts. Facts that show Brazil's torching of their rain forests effect the citizens of this country.

Global environmental abuses and insensitivity have come home to roost as sure as a bad check:

It is a fact that there is a hole in the ozone;

It is a fact that species are becoming extinct;

It is a fact that human actions and industrialization has produced acid rain;

It is a fact that our climate is changing, and it is likely linked to global warming;

And it is a fact that coastal waters are in jeopardy because of reckless pollution.

The environmental provisions in this bill are vital to a responsible development of Third World Nations. Again, the measures are designed to be preventative and let developing countries gain from the industrialized nation's mistakes of the past.

In the end, we are all affected by violations of common sense to the environment.

I urge my colleagues to vote for U.S. involvement in these multilateral lending banks and these environmental provisions. They are responsible additions to the bill. Thank you.

□ 1410

Mr. BEREUTER. Mr. Chairman, I rise in opposition to the committee's amendment.

Mr. Chairman, as a member of the Committee on Banking, Finance and Urban Affairs, I regret the fact that I need to rise to oppose the committee amendments offered en bloc—but I must.

My concerns relate only to the part of the committee's en bloc amendment related to the reversal of a committee decision and recorded vote against placing the control of the Exim so-called Eximbank War Chest Fund under the control of the Treasury; the committee bill gave the control of the war chest directly to the management of the Eximbank with consultation only, with Treasury. I know that there are difficult responsibilities that the leadership of the committee must bear which indeed are borne by people on both sides of the aisle. I am particularly aware of the responsibilities of the distinguished gentleman from Ohio [Mr. WYLIE], since he, as the ranking Republican member, is trying his best to accommodate the concerns of our able new Secretary of the Treasury, Mr. Brady.

However, despite that, I would say respectfully to my distinguished and senior colleagues on the committee, from both sides of the aisle, that I do not think it is proper for a direct reversal of what the committee has decided by recorded vote to be offered as part of the committee amendments; that should be attempted by the amendment of an individual Member. We had a vote on whether or not the control of the Exim War Chest would be placed directly under the control of the Eximbank and returned to its current location under the direct control of Treasury rather than under Eximbank with only consultation from the Treasury. That effort to retain direct control under Treasury was defeated in the Banking Committee, but now with the committee amendments, we are reversing that recorded vote.

I too want to be accommodating to the views and concerns, and commitments of the new Secretary.

In his letter he indicated that:

We will pledge to aggressively use the war chest to support these negotiations as we try to eliminate or reduce the use of tied-aid credits in other countries.

Assistant Secretary of the Treasury for International Affairs, Charles Delara, himself called me 2 days ago making that same statement and commitment. Despite their commitments and good intentions, I have to say that I think it is a mistake to leave direct control with the Treasury. If the committee en bloc amendment prevails, they will take an opportunity to prove me wrong.

Unfortunately the legacy or past record of relative non-use of the war chest suggests that we should be skeptical. If we are going to have any success in negotiating the end to tied aid by our competitor export nations across the world, then we simply have to get tough and selectively, aggressively matching their subsidies in bids for controls and sales in which American firms are involved. We have to be willing to use the war chest that Congress has authorized and appropriated to the Eximbank in the past, and Treasury has to be alert, responsive and willing to use it aggressively and effectively.

The facts are that in fiscal year 1988 it was only used in two specific instances, two countries, in the amount of $7.6 million, and in the People's Republic of China for fiscal year 1989, one deal, for $14 million. At least the suppliers won the deal, but the financing has, in fact, not yet been authorized, I understand. It is going to take an actual repeated use of the war chest fund to make our negotiations successful. I hope that what the Secretary and Assistant Secretary have said to me and to the committee is going to be implemented—that is that they will specifically target the use of the war chest funds against those competitors that use the subsidized or tied aid to take export sales of equipment and services away from U.S. firms. It is particularly important that we use it against the French the most aggressive users of tied aid, such as to take back markets, to take back lost jobs, to take back industrial equipment sales that have been stolen from us by the subsidy from foreign treasuries.

It does not good for the OECD to set new definitions for what is subsidized or tied aid and to set limits and goals to reduce such practices, and or the administration to implore, preach, and lament the use of tied aid, but then never use the war chest that the Congress has provided. Either the administration uses the war chest or we are not going to be successful in negotiations, or alternatively, helping our exporters meet the subsidized competition. Blind ideology has to be set aside for reality or pragmatisms. We have to face the fact that we have effectively devalued ourself in their subsidized export war and that a failure to compete means lost jobs in the industry and service sectors.

For those reasons, and for the one provision in the en bloc amendment only, I oppose the committee amendment. It is a reversal of what the committee decided. It is not the way the democratic process should work in the House between the Bank Committee decision and the House floor, and I challenge, by my opposition to this provision the Treasury, since they are obviously going to win this one, to prove me wrong. I challenge them to show me and American exporters that they are going to aggressively use the war chest that we are making available to them in a targeted fashion.

Mr. GONZALEZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the en bloc amendments. Both the chairman, the gentleman from the District of Columbia [Mr. FAUNTROY], and our distinguished minority leader, the gentleman from Ohio [Mr. WYLIE], have forged and put together, and I have joined them.

I wanted to say also, first and foremost, that as to our distinguished Member and colleague, the gentleman from Nebraska [Mr. BEREUTER], who has just spoken, that I know of no Member on either the subcommittee or the full committee level who is more efficient, hard-working, and sustained in his effort in attendance at hearings and markups. He has explained very well that, of this rather complicated package, his objection is to one portion.

Mr. Chairman, I wanted to explain that, and I know he is concerned, and I think maybe we can assuage that concern a little bit.

□ 1420

First, this is a compromise actually reflecting a compromise between the administration and the minority on our committee. So four out of five of these Eximbank arrangements are compromises that we went along with reconciling the administration's views as distinguished from what the majority of the minority felt should be the case.

In this particular case the use of these funds and the committee, yes, in effect reversing itself by placing in the Treasury this funding mechanism, I think to a large extent we can rely on the Secretary of the Treasury's letter which was given to me today and was offered to be placed in the RECORD earlier. I would like to read from the paragraph addressing this issue. The Secretary says:

The reauthorization of the Export-Import Bank's war chest will allow the administration to use the war chest to target other countries' use of tied-aid credits. A new round of negotiations will be launched shortly, and we pledge to aggressively use the war chest to support these negotiations as we try to eliminate or reduce the use of tied-aid credits in other countries.

This is exactly the biggest concern the distinguished gentleman from Nebraska [Mr. BEREUTER] has expressed.

I think in all due deference to all Members concerned, we should yield to the Secretary's pledge, which I think is very definite, very explicit, that he is determined to use this aggressively in meeting this tied-aid use by other nations.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I thank the distinguished chairman for yielding. I want to compliment him for an excellent statement in support of this amendment. He is making an outstanding point.

Mr. Macomber, president of the Export-Import Bank, was in my office and I asked him about this. He said the Eximbank neither requested nor sought this amendment.

Without this amendment, the tied-aid fund becomes an entitlement program to this gentleman's way of thinking. With this amendment the fund can be used to fight predatory tied-aid practices.

It has been used wisely and well, and I do not think we should try to fix something that is already working.

I thank the chairman for yielding.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Nebraska.

Mr. BEREUTER. I appreciate the gentleman yielding. I understand that the accommodations are on the Republican side. I appreciate the difficult position that the chairman has been placed into in that respect. But I do think there are some arguments to be made that it should not become an entitlement program.

I have to object to any statement that it has been used wisely and it has been well used. It has scarcely been used at all, and it has not been used effectively.

I had hoped by somebody else's initiative, not this gentleman's, when we had a direct committee vote on it, we would now try a different approach, and that would be directly under the control of the Eximbank because it had not been used well and it had scarcely been used at all. I understand the concerns of the gentlemen on both sides of the aisle. I appreciate the chairman yielding to me.

Mr. GONZALEZ. I wish to say for the gentleman that if he will rely on our commitment to follow through and tightly oversee the Secretary's pledge and make sure that what the gentleman aptly described of a rather deficient use by the Treasury in offsetting these predatory practices by

other countries, that we will come around to satisfying the gentleman's concern.

I do think that the gentleman has performed a service in speaking out. I think it was an issue that the gentleman has been entirely engrossed in, and we respect him for that.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from the District of Columbia [Mr. FAUNTROY].

The amendments en bloc were agreed to.

AMENDMENT OFFERED BY MR. MC COLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCOLLUM: Page 7, after line 7, insert the following:

SEC. 102. EXTENSION OF CREDIT BY EXPORT-IMPORT BANK WITH RESPECT TO ANGOLA PROHIBITED UNLESS CERTAIN CONDITIONS ARE MET.

Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended by adding at the end the following:

"(12) PROHIBITION RELATING TO ANGOLA.—Notwithstanding any determination by the President under paragraph (2) or (11), the Bank may not guarantee, insure, or extend (or participate in the extension of) credit in connection with any export of any goods (other than food or an agricultural commodity) or service to the People's Republic of Angola until the President certifies to the Congress that free and fair elections have been held in Angola in which all participants were afforded free and fair access, and that the government of Angola—

"(A) is willing, and is actively seeking, to achieve an equitable political settlement of the conflict in Angola, including free and fair elections, through a mutual cease fire and a dialogue with the opposition armed forces;

"(B) has demonstrated progress in protecting internationally recognized human rights, and particularly in—

"(i) ending, through prosecution or other means, involvement of members of the military and security forces in political violence and abuses of internationally recognized human rights;

"(ii) vigorously prosecuting persons engaged in political violence who are connnected with the government; and

"(iii) bringing to justice those responsible for the abduction, torture, and murder of citizens of Angola and citizens of the United States; and

"(C) has demonstrated progress in its respect for, and protection of—

"(i) the freedom of the press;

"(ii) the freedom of speech;

"(iii) the freedom of assembly;

"(iv) the freedom of association (including the right to organize for political purposes);

"(v) internationally recognized worker rights; and

"(vi) other attributes of political pluralism and democracy.

The President shall include in each report made pursuant to this paragraph a detailed statement with respect to each of the conditions set forth in this paragraph.".

Page 2, after the item relating to section 101 in the table of contents, insert the following:

Sec. 102. Extension of credit by Export-Import Bank with respect to Angola prohibited unless certain conditions are met.

Mr. McCOLLUM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. McCOLLUM. Mr. Chairman, the amendment I am offering to the bill today is an amendment to a part of this bill which has restrictions in it with regard to what the Export-Import Bank can do. It is an extension of what we did a couple of years ago with respect to Angola.

Right now there is a prohibition for the Export-Import Bank against giving aid to any Marxist-Leninst country. We have a definition of what those countries are and clearly Angola is one of them. They are specifically named in the bill that currently exists.

However, the President has the right in his discretion to waive that, remove that, and make a decision that he is going to go ahead and give aid anyway, regardless of this particular designation that is in the law.

For that reason and because we wanted to make a policy statement to Angola and to the government there about the existence of Cuban troops, a couple of years ago we passed a separate provision that had another hoop that had to be jumped through before the Export-Import Bank and the President could decide to give aid to the Government of Angola. That provision required the withdrawal of the Soviet-led Cuban troops that are in Angola. That particular provision is currently law.

What I am proposing today, because it seems to me we have gotten kind of far afield from where we were with regard to our support for UNITA and the resistance in Angola, we still have a Marxist-Leninist totalitarian regime there, we simply add to the hoops that have to be gone through before the President is allowed to declare this is not a problem anymore and allow Export-Import Bank credits to go to Angola. He must report to Congress that the Government of Angola is willing and actively seeking to achieve an equitable political settlement of the conflict in Angola, including free and fair elections, a dialog with the armed forces of Jonas Savimbi and others; has demonstrated progress in protecting internationally recognized human rights, and particularly in ending, through prosecution or other means, involvement of members of the military and security forces in political violence and abuses of internationally recognized human rights; vigorously prosecuting persons engaged in political violence who are connected with the government; and bringing to justice those responsible for the abduction, torture, and murder of citizens of Angola and citizens of the United States; and has demonstrated progress in its respect for, and protection of the freedom of the press, the freedom of speech, the freedom of assembly, the freedom of association, internationally recognized worker rights, and other attributes of political pluralism and democracy.

If the President makes such a report in the findings, then the restriction is gone and he may choose to declare the Marxist-Leninist condition in that country no longer exists and proceed accordingly.

I would like to set a framework for this before the debate continues here, and that is to look at what happend over the past few years with the country of Angola.

The Soviet Union has pumped more than $10 billion in the last 10 years in military aid to the Government of Angola, their puppet regime.

On the other hand, the United States, just in the relatively recent past, decided to support the UNITA forces for independence and freedom. We have given over the same 10-year period $100 million compared to $10 billion the Soviets have given.

We are told everything is rosy, even though the forces of UNITA have not found it that way in recent negotiated efforts that have broken off.

We are being told, just like in Afghanistan, everything in glasnost and perestroika is fine. We are happy with it, the Soviets are happy with it. The Government of Angola is going to be hunky-dory and okay and we should let things progress as far as opening the door to aid to that government.

We suggest things have not worked so well in Afghanistan and they will not work in Angola. If we are foolish enough to proceed to accommodate the Government of Angola until such time as we have seen all of the Cuban troops removed and have seen some democratization come to the forefront, we are being foolish indeed.

That is the purpose of the legislation, to make a statement that the Exim aid has no purpose going to a Marxist-Leninist government.

Mr. DREIER of California. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I am glad to yield to the gentleman from California.

Mr. DREIER of California. I thank my friend for yielding. I would like to compliment the gentleman on what is certainly a fine and balanced amendment.

There is no doubt about the fact we are all supportive of the December 22 Brazzaville protocol which is designed to bring about peace in the region, Namibia and Angola.

It calls in fact for seeing, as Jonas Savimbi said, those 60,000 Cuban troops extricate themselves from Angola.

Clearly there have been a great many problems. I believe the gentleman's amendment addresses the issue very well. My colleague, the gentleman from California [Mr. SHUMWAY], the gentleman from Indiana [Mr. BURTON], the gentleman from Ohio [Mr. MCEWEN], and I were there earlier this year and had an opportunity to interview a number of prisoners who at that point told us we were clearly seeing violations of the agreement at that point because, unfortunately, the Cuban troops had already moved into an area where they were not supposed to have been based on that date which we had addressed at that time.

□ 1430

We want to see peace in the region, we want to see it come about. But I believe the law, as it exists, should in fact have better indications of democracy and reforms taking place than we have to date. I wholeheartedly support the gentleman in his amendment.

Mr. McCOLLUM. I thank the gentleman for his support.

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Michigan.

Mr. WOLPE. I thank the gentleman for yielding.

Mr. Chairman, was the gentleman aware that under current law, no Export-Import Bank loans can go to Angola until the President certifies to the Congress that no combatant forces or military advisers of the Republic of Cuba or of any other Marxist-Leninist country remain in Angola?

The CHAIRMAN. The time of the gentleman from Florida [Mr. MCCOLLUM] has expired.

(By unanimous consent Mr. MCCOLLUM was allowed to proceed for 5 additional minutes.)

Mr. McCOLLUM. I continue to yield to the gentleman from Michigan.

Mr. WOLPE. I thank the gentleman for continuing to yield.

Mr. Chairman, was the gentleman aware of that provision?

Mr. McCOLLUM. If I may reclaim my time, Mr. Chairman, I am very much aware of that provision because I offered that provision that went into law. I am very much in favor of that. But we are not here discussing in my resolution the Cuban question. I am concerned about that. I know that they are not, unfortunately, being withdrawn. But the fact is the Government of Angola, in its progress in terms of democratization and its attitude toward the Savimbi-UNITA forces and the opposition in that country, is what this resolution is concerned about, what this amendment is concerned with.

It is to set a framework, to say, "Look, here are the guidelines. You follow these guidelines, the President reports accordingly and then and only then can you get Export-Import Bank waivers."

Mr. WOLPE. In a few moments I will indicate why in my judgment the framework the gentleman is trying to impose here would be terribly counterproductive and move us away from the goal of peace and reconciliation inside Angola.

The point that needs to be stressed at this juncture is, first, the Export-Import Bank cannot give loans to Angola under existing circumstances, period. So there is no immediate operative impact of the amendment which the gentleman suggests.

Second, what the gentleman is really suggesting is that there should now be a new criterion; namely, the holding of fair and free elections. Now I think all of us in this body can certainly agree that free and fair elections ought to be the goal of American policy in each and every country in the world.

I think the question we ought to ask ourselves now is whether we are really suggesting that we should not give Export-Import Bank loans to countries that do not hold free and fair elections. If so, I think the nature of U.S./American relationships with a good part of this globe of ours would be radically transformed.

Is the gentleman suggesting a unique requirement for Angola that we are not requiring for——

Mr. McCOLLUM. Reclaiming my time, I suggest to the gentleman from Michigan, with all due respect, that the very fact that the Cuban troops are there and are now, fortunately, under an agreement, it looks like they are going to be withdrawn although they still have 40,000 of them there, does not make this amendment any less relevant.

The fact of the matter is that when those Cuban troops have finally left, unless there is some other restriction in here, the President will have the discretion to allow the Export-Import aid to go to Angola. I am suggesting to the gentleman from Michigan that I do not believe that any totalitarian Marxist regime ought to be getting Export-Import aid from the United States, period. I do not believe that is the case. I think there ought to be a negotiated result that brings about a free determination inside the country of Angola. We do not have that today. I think we very badly need it.

Mr. DREIER of California. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from California.

Mr. DREIER of California. I thank the gentleman for yielding.

Mr. Chairman, I believe the gentleman makes the point very clear: We are not in any way supporting any totalitarian regimes which are imposing repression on their people. We do not want to see loans going to those countries. But we have to also recognize that this is an even greater instance because clearly U.S. policy over the past several years since we repealed the Clark amendment has been to support UNITA. While we are providing that kind of support for UNITA, to in any way have a policy which tolerates support of the repressive regime of Mr. dos Santos is obviously a great mistake for us.

I thank the gentleman for yielding.

Mr. McCOLLUM. If I may reclaim my time, I would like to make the point historically to that before we had Export-Import Bank restrictions which have not been in place in Angola very long, we indeed financed the oil exploration over there with our Export-Import Bank. And it is money from the oil profits that were made in Angola that allowed them to buy the billions of dollars of arms from the Soviet Union.

Furthermore, I would like to make the point that we are seeing in Angola a question of broader U.S. policy than "what are we doing in a country in Africa?" It is Angola that is a pinpoint pivotal area of Soviet concern on the continent of Africa. It is there that the Soviets have made their stand as they have in South Asia with Afghanistan. It is in Angola that is exceedingly important that we make our stand, that we support freedom, that we support the freedom fighters, in this case UNITA, and that we make the clear statement at this time that we are not about to abandon them. That is what this amendment does. It says let us support the freedom fighters in Angola and not allow for some kind of negotiated settlement less than a full and fair and free determination be put on the people of Angola. That is all it says.

Especially not allow this President or some future President to allow some Export-Import aid once again to finance a Communist totalitarian, Soviet-dominated regime as exists in Angola today. Nothing has changed that I can tell in that country to make me feel any different about the leadership of that country.

So I urge the adoption of the McCollum amendment, and I hope that my colleagues will indeed support it, a rational extension of existing U.S. policy.

Mr. FAUNTROY. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker, having resumed the Chair, Mr. ROWLAND of Georgia, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2494) to amend the Export-Import Bank Act of 1945 to authorize the appropriation of not to exceed $100,000,000 to the Tied Aid Credit

Fund for fiscal year 1990, and to provide for expenditures from such Fund during such fiscal year had come to no resolution thereon.

APPOINTMENT OF CONFEREES ON H.R. 3299, OMNIBUS BUDGET RECONCILIATION ACT OF 1989

Mr. RUSSO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3299) to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. FRENZEL moves that the managers on the part of the House at the conference on the disagreeing votes between the two Houses on the bill, H.R. 3299, are hereby instructed to:

Recede from those provisions of the House passed bill which would for either of the fiscal years 1990 and 1991 result in a revenue decrease; and

Recede from those provisions of the House passed bill which would result in an increase in obligations of the government over those currently authorized for either of the fiscal years 1990 and 1991; and

Recede from those provisions in the House passed bill which would have no budgetary impact; and

Provided further, notwithstanding any other instructions, that the managers on the part of the House are hereby instructed to insist on the House passed catastrophic health care provisions and the House passed "Section 89 repeal" provisions.

The SPEAKER. The gentleman from Minnesota [Mr. FRENZEL] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. RUSSO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I yield myself 2 minutes.

Mr. FRENZEL. Mr. Speaker, for Mr. MICHEL, Mr. ARCHER, and myself, I am moving that the House conferees be instructed to recede from all House provisions which increase spending, reduce revenues or have no budgetary impact in fiscal years 1990 and 1991. Notwithstanding these principles, the conferees would also be instructed to insist on the House-passed catastrophic health care and section 89 provisions.

The Senate stripped out all extraneous provisions from the bill it sent to the House. The text of these stripped out extraneous items reportedly weighed some 9 pounds.

The House should match the Senate's action and do likewise by stripping down its similarly overweight 1,878-page bill.

Should the House agree to this instruction, it is intended that the conferees strip out spending increases of approximately $1.6 billion in fiscal year 1990—rising to approximately $3.9 billion in 1991, and revenue losers totaling approximately $2.6 billion in fiscal year 1990—rising to about $4.1 billion in 1991. The instruction also assumes that numerous authorizations, which have no direct budget impact, would be removed, as well as provisions such as the codification of the Fairness Doctrine and Dial-a-Porn. The resulting deficit reduction in the bill, taking into account the repeal of the Catastrophic Health Care Program and section 89, would be over $14 billion in fiscal year 1990.

I will insert here two tables which show my own interpretation of how major programs would be affected. Members will see immediately that the House's capital gains provisions would be retained and that its child care provisions would be handled separately.

H.R. 3299, OMNIBUS RECONCILIATION ACT OF 1989

[In millions of dollars]

	1990	1991	1992	1993	1994	Total
PROVISIONS RETAINED IN H.R. 3299 AS A RESULT OF THE MOTION TO INSTRUCT						
Real Deficit Reduction						
Program Changes:						
Ag—CRP, 0/92, deficiency recal., TEA	−280	−1,507	1,026	6	0	−755
Banking—insurance premiums	−190	−23	205	38	7	37
E&L—GSL reforms	−35	−120	−160	−60	−35	−410
Interior—Tongass	−27	−41	−41	−41	−41	−191
MM—Panama escrow interest	−23	−21	−29	−36	−44	−153
POCS—USPS COLAs and health	−76	−93	−146	−219	−317	−851
VA—nonrecourse loan sales	−496	−553	−134	−98	−78	−1,359
W&M and E&C—Medicare (current law)	−3,290	−4,010	−4,270	−5,711	−6,606	−23,887
W&M—Social Security	−174	−291	−258	−229	−161	−1,113
Subtotal	−4,591	−6,659	−3,807	−6,350	−7,275	−28,682
User Fees:						
E&C—SEC and FCC	−75	−94	−2	27	56	−88
E&C and Interior—NRC	−299	−313	−326	−340	−355	−1,633
Interior—Oil Shale	−20	−1	−1	−1	−1	−24
VA—Housing loan origination	−197	−206	−213	−219	−220	−1,055
Subtotal	−591	−614	−542	−533	−520	−2,800
Revenues:						
W&M—SS (deferred compensation)	−401	−1,101	−1,101	−1,101	−1,101	−4,805
W&M—all other	−5,006	−7,551	−8,520	−9,302	−10,083	−40,462
Subtotal	−5,407	−8,652	−9,621	−10,403	−11,184	−45,267
Total real deficit reduction	−10,589	−15,925	−13,970	−17,286	−18,979	−76,749
Capital gains	−2,871	−3,813	−2,697	5,723	5,177	1,519
Disingenuous Deficit Reduction						
Time-shifts—Spending:						
Ag—adv. deficiency repayments	−54	0	0	0	0	−54
E&C—SEC fees	−63	−3	−3	−3	−3	−75
POCS—lump sum payment	−700	−40	850	0	0	110
POCS—FECA shift	−330	−35	−40	−45	−50	−500
W&M and E&C—Medicare (current law)	−470	−70	−80	−80	−90	−790
Subtotal	−1,617	−148	727	−128	−143	−1,309
Time-shifts—Revenues: W&M—airline, telephone, employers	−158	147	−2	−2	−1,777	−1,792
Off-Budget:						
Ag—Bumpers-Pryor	−420	−483	−383	−420	0	−1,706
Gov. Op. and POCS—USPS off budget	−1,770	570	−780	670	720	−590
Subtotal	−2,190	87	−1,163	250	720	−2,296

H.R. 3299, OMNIBUS RECONCILIATION ACT OF 1989—Continued

[In millions of dollars]

	1990	1991	1992	1993	1994	Total
Paper Savings:						
Ag—mandate oilseed program	−116	−123	0	0	0	−239
Ag—reduce EEP	−194	17	0	0	0	−177
Ag—barley and oat targets	−1,070	0	0	0	0	−1,070
Subtotal	−1,380	−106	0	0	0	−1,486
Total disin. deficit reduction	−5,345	−20	−438	120	−1,200	−6,883
Deficit Increasing Provisions						
W&M and E&C—catastrophic	4,000	2,800	2,600	2,300	1,700	13,400
Section 89 Repeal	154	156	170	186	202	868
Subtotal	4,154	2,956	2,770	2,486	1,902	14,268
Reconciliation impact on deficit as a result of the motion to instruct	−14,651	−16,802	−14,335	−8,957	−13,100	−67,845
PROVISIONS DELETED FROM H.R. 3299 AS A RESULT OF THE MOTION TO INSTRUCT						
Program changes:						
E&C—Medicaid	188	660	800	1,108	1,446	4,202
POCS—redirect borrowing	5	10	10	9	9	43
W&M—Child Care	120	644	4,079	4,380	4,666	13,889
W&M—low income	316	1,006	1,451	1,323	1,295	5,391
W&M and E&C—Medicare (current law)	860	1,324	1,509	1,679	1,844	7,216
W&M—Social Security	183	321	367	407	460	1,738
Subtotal	1,672	3,965	8,216	8,906	9,720	32,479
Asset Sales and Loan Repayments:						
Ag—RDIF loan sales	1	3	3	3	3	13
E&L—loan forgiveness	1	0	0	0	0	1
Subtotal	2	3	3	3	3	14
User Fees: W&M—custom service	154	−773	8	12	4	−595
Revenues:						
E&L—asset reversion	400	300	300	300	300	1,600
W&M—CBI and tariffs	123	154	180	60	16	533
W&M—Child Care	0	37	385	300	407	1,179
W&M—expiring provisions	1,605	2,757	2,967	3,201	3,744	14,274
W&M—Miscellaneous	62	101	115	124	133	535
W&M—subcomittee items	432	748	809	781	802	3,572
W&M—technical changes	5	12	11	7	7	42
Subtotal	2,627	4,109	4,737	4,853	5,409	21,735
Provisions deleted from H.R. 3299 as a result of the motion to instruct	4,455	7,304	12,964	13,774	15,136	53,633
Enacted Legislation						
Ag—adjusted dairy prices (P.L. 101-7)	−25	−10	−8	0	0	−43
Banking and W&M—FSLIC (P.L. 101-72)	−568	−31	−351	−310	−213	−1,473
Total enacted legislation	−593	−41	−359	−310	−213	−1,516
H.R. 3299, as passed, impact on deficit	−10,789	−9,539	−1,730	4,507	1,823	−15,728

SELECTED PROVISIONS IN H.R. 3299 WITH NO BUDGETARY IMPACT

Agriculture:

Extension on sale of rural development loans.

Sense of Congress re: National Finance Center.

Export Enhancement Program to promote sale of meat in milit. commissaries.

Child Care:

H.R. 3 authorizations.

FCC:

Fairness doctrine.

Dial-porn.

Health authorizations:

New PHS Agency for Health Care Research and Policy.

Increases Maternal & Child Health block grant authorization by $100 million.

Authorizes Congressional access to FDA information.

Technical amendments to vaccine injury compensation program.

GAO study re: loss of retiree health benefits due to employer bankruptcy.

Medicare:

Resource-based physician fee schedule.

Medical outcomes and effectivess research.

Pensions:

Authorizes employers to transfer excess pension funds to retiree health plans, subject to existing excise tax (Ed & Labor).

ERISA technical corrections.

Postal Service:

Increase V.S.P.S. borrowing authority from $10 to $30 B.

Revenues:

Treasury studies of debt vs. equity and IRS private letter ruling process.

Increase Joint Tax Committee refund review threshold to $1 million.

Treas. regs authority re: pension funding limitations, deficit neutral basis.

SEC:

Authorizes spending for SEC activities to level of fee receipts.

Social Security Administration:

Established as independent agency.

Administrative authorizations relating to eligibility standards, reporting and recordkeeping, notification, procedural changes, and demonstrations.

Supplemental Security Income/Foster Care/Child Welfare Services:

Intergenerational demonstration projects authorized.

Outreach authorization.

Individual functional assessment (SSI).

Tongass Timber: Terminates long term contracts, designates wilderness areas, authorizes management improvements.

A joke around the Budget Committee is that every budget year is "worse than last year but better than next year." I sincerely hope that this is not the case, because it is hard to envision a reconciliation bill that takes more pages than this one to accomplish less in the way of real deficit reduction.

I also hope that House Members will give some serious consideration to adopting a rule which would prevent future reconciliation bills from being loaded up with these kind of so-called extraneous provisions. We may have an opportunity within a few weeks to legislate on the subject of budget process reforms, and I would like to suggest that a high priority be given to banning extraneous items on House reconciliation bills.

In the meantime, we can reinforce the main positions of the House and agree to a good Government reduction of the extraneous matter in the reconciliation bill by adopting my motion.

Mr. RUSSO. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I hope the motion is not agreed to. We should be very clear that, as the gentleman from Minnesota accurately pointed out that his motion would help the

House position on section 89 and catastrophic. Many Members who voted for those positions could vote against this instruction with no fear of inconsistency since the heavy vote in the House on both issues is likely to be respected in conference.

The critical parts do not deal with section 89 and with the catastrophic alone, but deal with other important provisions such as child care and other important policy matters.

The gentleman from Minnesota did not say, and I congratulate him, he was looking for a clean reconciliation bill to deal only with reconciliation. If one would hold to that, the repeal of section 89, would not be here. Section 89 is a tax matter, not budget matter, not reconciliation matter, properly and strictly construed. I am for going ahead with repeal of section 89, as I think are most Members of the House, but once we do that we have lost the argument that this will become a clean reconciliation bill. There will be nonreconciliation matters involved.

The question then is, Which ones? Child care was addressed, after a lot of very serious debate and discussion in this House. Few issues took as much energy in the reconciliation bill as child care.

The instruction motion would take the position of knocking all the child care provisions out of this bill. The argument has been, of course, about deficit reduction, and it is becoming clearer and clearer, Mr. Speaker, that we cannot do a sensible approach to the budget within the current constraints.

We have been talking before this, and we will go back to it, the question of our international obligations. Many Members feel that we ought to be doing more, though, in the economic areas, but increasingly, I think it is becoming obvious in the military area we have overcommitted ourselves, allowing allies of ours, who are quite wealthy, to do far less, and we are asking to sacrifice important needs of the American people such as child care, so we can continue, in my judgment, to overspend in areas militarily, where there is not a need. We will have, if we follow this kind of policy, a situation where American parents do not get services that are available to parents of children in Europe, because American tax dollars are going instead to pay for defense which the Europeans themselves ought to be able to pay for.

The question is one of priorities. The question is one of allocating resources. We should not allow ourselves to be told that we cannot afford, in this country, to provide adequate child care services for parents, while we are at the same time being told we have to spend excessively in so many areas.

The instruction motion has some pieces of which I agree, as is often the case. The thrust of it, however, is not to say we will have a clean reconciliation. It is to pick and choose among those nonreconciliation items that have been adopted by the bill, and it does so in a way which reflects a very unfortunate set of special priorities, child care being one, and the other, some of the tax extenders. Let me say in closing, low-income housing depends increasingly on tax provisions, would also suffer from that instruction motion.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I want to respond to the gentleman from Massachusetts and point out that those who believe that this is not a key vote on section 89 and on the catastrophic, have not been listening to the people who are interested in these two issues.

I have before me a letter from NFIB, a strong proponent of repeal of section 89, and they make it clear they support the effort on the motion to instruct House conferees to retain language which repeals section 89.

So, NFIB regards this as being a key vote on that issue. The Chamber of Commerce regards it as a key vote on that issue. The old folks out there, who are concerned about catastrophic, regard this as a key vote on their issue because the Senate does something other than repeal catastrophic, they came up with a program which was partially a repeal, and partially a salvation, and kept some of the charges for the old folks in place, while not repealing some of the taxes that have been imposed.

So this is a key vote for those people who want to see it completely repealed, because they understand that if we do not instruct the conferees, the likelihood is we will get something less than repeal, because that is the position that many in this House who are dealing with the issue in committee seem to favor. Therefore, I think that we have a very key vote here, and Members who feel that section 89 and catastrophic should be repealed would be advised to vote for the motion to instruct, and is sure that position is represented in conference.

Mr. Speaker, I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, I thank the gentleman for yielding.

We have an unfortunate tactic, yes. The instruction motion includes those things, but it voluntarily, at the choice of the offerer, includes other things. It includes other, more controversial things.

Mr. WALKER. Mr. Speaker, I think there are a number of things in there that the gentleman has included. For instance, it does try to keep Members out of recession by assuring that the capital gains vote moves forward. I think that is something which the majority of this House agreed with. I think that also it includes items to strip out of the Senate passed bill, a number of big spending items, largely pork barrel items, that the Senate put in. I think that those are things that most Members would find fairly attractive, and I would hope that gentleman would reconsider his position.

Mr. RUSSO. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, I appreciate this time because I think we ought to be clear about the nature of the tactics here.

What we have is a mixture, the gentleman offering a motion as is his right, took some very popular items, section 89 and catastrophic, and linked them at his choice with things like the low income tax credit and with child care. Now, if one were seeking to maximize support for repeal of section 89 and catastrophic, one would put an instruction motion forward that only dealt with those items. When a Member adds to that instruction motion other items that the gentleman knows are controversial, that passed this House by large margins in some cases, we are clearly transforming it.

It is not a case of section 89 and catastrophic, one way or the other, but a package which includes those, and also includes the capital gains tax. Therefore, the choice made by the makers of this motion to pick and choose among controversial items is a legitimate one, but it is not legitimate for them that this, therefore, be a test vote on section 89, the argument that if you are for repeal of section 89, you must be against child care. That is not logically correct and not parliamentarily correct.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the vice chairman of the Committee on Ways and Means, the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Speaker, I thank the gentleman for yielding, and I am particularly proud to join with him as a cosponsor of this motion to instruct.

I think the House should be aware that the Senate is not going to conference on the catastrophic illness issue with what passed over there in the form of the McCain amendment. They are going to conference with the current law, with all of its inequities and all of its onerous provisions, and it is absolutely essential that we pass this motion to instruct, to be sure that the Donnelly-Archer-Russo repeal of the catastrophic program voted overwhelmingly for in this House is the position that our conferees take when they go to conference with the Senate.

In addition, it is extremely important that we get serious about the deficits in our Federal budget. We are

already now in sequestration. We are acting as if nothing has happened.

□ 1450

If this motion to instruct is implemented by the conferees, it will save, as the gentleman from Minnesota said, $14.5 billion on the budget deficit over the first year. There is only $10.5 billion saved in the original House bill. In addition, it would save $67.8 billion over a 5-year period. Those are real savings. They are important to deficit reduction and reduction of the debt.

What is reconciliation all about? It should not be to bring about new spending programs that are in the form of entitlements, and yet we see that happening in reconciliation. We should reduce the deficit by implementing this motion to instruct. We should support repeal of section 89 and the repeal of catastrophic so that we can have a clean slate next year.

It has been argued by the other side that this does not give us a chance to tailor how we want to spend money, but that ignores the fact that almost all the appropriation bills have still not been passed into law. Those are still forthcoming. We still have the opportunity to do what we wish in that regard.

Mr. Speaker, this motion to instruct implements the very best in deficit reduction, as well as those issues that the House has voted for overwhelmingly, and I urge its adoption.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, it is not often that I rise on motions to instruct conferees, but I think this one is uniquely important because what we are really determining here is whether or not this conference, clearly the most important conference in the entire fiscal and legislative year, is going to be at all sensitive to the will of the House, and I think from that perspective it also becomes important that this motion becomes a test as to whether the leadership of this House is serious in its commitment to allow the House to work its will on the important issues of the day.

Whether Members are for it or whether they are against it, there ought to be nobody in this Congress that would suggest that catastrophic health, capital gains, and section 89 are not probably the three most visible issues that this Congress has been looking at, certainly in recent months, if not through the entire fiscal year. They are all included in this bill, because it was the decision of the leadership and the Rules Committee that they were clearly germane to reconciliation, and I agree that they are. They all have a dramatic fiscal effect one way or the other.

The House has worked its will, and now the question is: Are we going to be consistent with that will and are our conferees going to carry that forth in conference, or are we going to begin playing some kind of a game around here that says that we will take up issues on one bill and make sure the Senate does not consider them on that, in the same way that the Senate takes up drugs on DOT appropriations and makes sure we do not take it in that way? So all of a sudden we play this game here of not fooling the Senate but fooling the House and seeing if we can fool the American people.

I do not think we want to begin that process on a bill this important. That is why this particular motion is very specific in its intent of receding from those issues which in one way or the other, in 1990 and 1991—and we are obligated under the Budget Act here to do 2-year programs—receding from those programs that are either going to increase our costs or are going to result in reduced revenues. That is not selective, except when you get to the bottom and talk about section 89 and catastrophic. And, yes, if anybody is upset about that, they can vote against the motion to instruct the conferees and go home and tell their constituents they did that because they are opposed to catastrophic reform or repeal or they are opposed to repeal of section 89.

But most important, let us understand that this motion, this vote today is a test of whether we are going to play political shenanigans with the American people by playing ping-pong between the House and the Senate, or are we going to respond to the will of the House on these most important issues?

Mr. Speaker, let us not fool the American people, and let us not embark on any shenanigans, as the gentleman who preceded me in the well has said. If that is the case, if we do not want to fool the American people and we want to be honest with the American people, then the simple thing that needs to be done in this motion to instruct is to strike out everything after the word, "to," including the words "no budgetary impact." If they would strike out all those words, then all we would be left with is a clear motion to instruct on section 89 and on catastrophic health care.

If that is what we want to do, then the gentleman from Minnesota should be prepared to make that kind of motion. I say to the gentleman, you ought to move to amend your amendment so we do not fool the American people.

But this motion to instruct is carefully drafted. It is drafted in such a way as to fool the American people as to exactly what its contents are. Let us be honest. The budget process is not very honest as it is, and now our motions are not even honest anymore.

I take no back seat to anyone when it comes to catastrophic health care. I was one of the authors of the amendment on the floor of the House, and I am going to vote against this motion to instruct because it just does not deal with catastrophic health care. I supported the repeal of section 89, and I am going to vote against this motion to instruct. Why? Because that is not what this motion is.

This motion is a distinction between those who want to give the rich a major tax cut and who want to hurt the poor people, the disadvantaged people in this country.

Let us look at the motion. Here is what this motion does. Who does it protect? Well, it protects anybody who makes over $200,000 and wants to get a $24,000 tax cut. That is who it protects.

Who does it not protect? Let us look at it. It does not protect infants or pregnant women. It does not help out the infant mortality rate because that is taken out under this motion to instruct. It cuts out child health care provisions. That is not protected here. It cuts out major Medicare provisions, hospice care, payments to nurses, cancer hospital payments, community and other health care services, and mental heatlh care. That is who we are cutting out.

We are fooling the American people. This does not deal with catastrophic health care. This does not deal with section 89. But do the crafters of this amendment stop at that point? No, that was not enough. That was not enough to fool the American people. We have to go one step further.

We are going to take out child care. This motion takes out child care. So those Members who support child care are going to get it taken out by voting for this motion to instruct. And those Members who support the Fairness Doctrine, that is affected. It is not included in this motion to instruct.

How about maternal and child health reauthorization? That is taken out, too.

So we disguise this whole motion and we go to the well and tell the American people we are going to be honest with you and we want a motion to instruct on catastrophic health care and section 89.

Mr. WALKER. Mr. Speaker, I demand that the gentleman's words be taken down.

Mr. RUSSO. Mr. Speaker, the gentleman from Illinois is referring to comments that say this is only a motion to instruct conferees solely on catastrophic health care.

Mr. GINGRICH. Mr. Speaker, I demand the gentleman's words be taken down.

The SPEAKER pro tempore (Mr. MONTGOMERY). Does the gentleman ask unanimous consent to withdraw his words?

Mr. RUSSO. Pardon me, Mr. Speaker?

Mr. GINGRICH. Regular order, Mr. Speaker. I believe the Chair must rule prior to requesting anything of the gentleman.

The SPEAKER pro tempore. Unless the gentleman asks unanimous consent to withdraw or modify his words.

Mr. RUSSO. Mr. Speaker, I will withdrawn my words and say it was a mischaracterization of exactly what this motion is.

The SPEAKER pro tempore. Is there objection to the request by unanimous consent?

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois may proceed in order.

Mr. RUSSO. Mr. Speaker, let me just say in addition to that misrepresentation there are a few other things this misrepresents. It also takes out the targeted jobs tax credit provision. It takes out the 25-percent deduction for health care that small business thinks is very important. It takes out the R&D tax credit. It takes out the low-income housing. It takes out education assistance and mortgage revenue bonds.

□ 1500

Mr. Speaker, what are we getting in exchange for all of this? We get a nice provision for capital gains. Those key words that are left in here make sure that we protect capital gains and do not do any other things that are important for the rest of the American people.

Mr. Speaker, if there were just a motion to instruct on section 89 and just a motion to instruct on catastrophic health care, I would be joining my colleagues, the gentleman from Minnesota [Mr. FRENZEL], the gentleman from Texas [Mr. ARCHER], the gentleman from Illinois [Mr. MICHEL], in wholeheartedly supporting this motion to instruct. I may want to inform the members of the committee that the chairman of the House Committee on the Budget, the gentleman from California [Mr. PANETTA], is opposed to this motion to instruct and feels that it is premature and ought not to be done at this particular point.

Mr. Speaker, I reserve the balance of my time.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. MICHEL], the distinguished minority leader.

Mr. MICHEL. Mr. Speaker, as my colleagues know, motions to instruct the conferees are not unique around here. Every once in a while we feel compelled, particularly if there have been some outstanding votes with significant debate on issues, and recognizing full well that it may not be in sympathy with those who may or may not share the conference between the two bodies, to give a strengthened hand to those negotiators, and also recognizing full well that instructions to the conferees, one can argue, are not necessarily binding. They are advisory. But we do have that opportunity afforded to us, and it is a significant vote, particularly when it expresses the will of this body, as we expect it to do.

Mr. Speaker, what we are offering here is what we believe reconciliation ought to be as it comes out of conference. We believe that the reconciliation bill should conform to its intent and purpose, and it is a means of reconciling budget instructions to reduce the deficit. The provisions which do not do that ought to be dealt with separately.

Mr. Speaker, this Member has argued that time and time again as we have been going forward with this reconciliation now for several weeks. We made two exceptions to that rule, of course, Mr. Speaker, and we include the House vote on catastrophic health care and the House vote on section 89 of the Tax Code, as has been alluded to several times here today. These are issues in which the House expressed its will in no uncertain terms and should now be included in that final agreement even though in the best of all worlds even these items should have been dealt with separately.

Mr. Speaker, I believe these instructions move us back closer to a posture of responsibility on the critical issues of fiscal issues that we have before us. These instructions reflect action which is more consistent with how the House should deal with reconciliation and the whole budget process, and, as I mentioned earlier, Mr. Speaker, I believe the proper course for us now is to hold sequestration in place, meet our responsibilities to reduce the deficit and complete all 13 of our appropriations bills between the two Houses.

Mr. Speaker, what we need now is bipartisan cooperation and unity with the Senate, and we can achieve both of those, in my judgment, by adopting the instructions that have been offered by the distinguished gentleman from Minnesota [Mr. FRENZEL] and concurred in by the gentleman from Texas [Mr. ARCHER] and myself.

Mr. FRENZEL. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia [Mr. GINGRICH], the distinguished minority whip.

Mr. GINGRICH. Mr. Speaker, I have been fascinated with the reaction of some of our friends who are opposed to this motion to instruct. Everything we take out is taken out in the Senate reconciliation bill. It involves $53.6 billion in new spending over the next 5 years, so it is already out in the Senate side. What we insist on is a series of things we think are good for America and good for the American people. The gentleman from Illinois [Mr. RUSSO], my good friend, asks, "Who does this motion affect?"

Mr. Speaker, this motion affects every small business in America. There is concern about section 89, which is a threat to the insurance of the workers in those businesses. Let me read from the National Federation of Independent Businesses in a letter to the gentleman from Minnesota [Mr. FRENZEL].

DEAR BILL: On behalf of the over 570,000 members of the National Federation of Independent Business (NFIB), I want you to know we strongly support your effort on the motion to instruct the House conferees on the reconciliation package to retain language which repeals Section 89 of the Internal Revenue Code and reduces the captial gains tax.

Small business believes both of these provisions are important changes which need to be made in tax policy. Repeal of Section 89 has been one of NFIB's top priorities in this Congress. We do not want the overwhelming vote (390-36) for repeal by the House to be forgotten during complex negotiations on the reconciliation bill. Moreover, NFIB members support a reduction in the capital gains tax because it will enhance economic growth, create jobs, and promote greater entrepreneurial risk taking in the market.

Thank you for offering the motion to instruct. We urge all members to support your effort.

Mr. Speaker, maybe the gentleman from Illinois [Mr. RUSSO], my good friend, regards small business and the people who work in small business as not part of his constituency, but for most of America repealing section 89 is——

Mr. RUSSO. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Illinois.

Mr. RUSSO. Mr. Speaker, let me just ask the gentleman from Georgia [Mr. GINGRICH] a question.

If this were a pure case of a vote on catastrophic health care and on section 89, would the gentleman from Georgia [Mr. GINGRICH] say that this motion is strictly a motion to do just that, or does it have things beyond that?

Mr. GINGRICH. Mr. Speaker, I was going to go through and talk about the other things it has in it.

Mr. RUSSO. Mr. Speaker, if the gentleman from Georgia [Mr. GINGRICH] would further yield, I would just make one comment.

So, for me to make a characterization that this was a misrepresentation, was only done for 89 and catastrophic, would be proper. Maybe "bold face lie" was a little too extreme, but at least "misrepresentation."

Mr. GINGRICH. Mr. Speaker, I appreciate how in defense of his committee and in his passionate commitment to his cause the gentleman from Illinois [Mr. RUSSO], my friend, could

somehow leap a little too far. People sometimes say I do things like that.

Mr. RUSSO. Mr. Speaker, if the gentleman would yield, I say to him, "We have a lot in common besides just gray hair."

Mr. GINGRICH. The gentleman from Illinois [Mr. RUSSO] is correct.

Mr. RUSSO. Mr. Speaker, would the gentleman yield just a little further?

Mr. GINGRICH. I will yield one last time.

Mr. RUSSO. Mr. Speaker, it seems to me that the previous speakers before I took the microphone had indicated this was strictly a vote on section 89 catastrophic. I think the gentleman from Georgia [Mr. GINGRICH] now is basically laying out the scenarios I indicated, that it is far greater than just that.

Mr. GINGRICH. Mr. Speaker, let me say, first of all, that clearly anyone who reads, and it is only a one-page motion to instruct, will appreciate that it is a very clear document. It takes out everything which the Senate has taken out except section 89, which I have already described and which the National Federation of Independent Businesses endorses and asks for a yes vote on.

Second, this motion does affect the catastrophic insurance repeal and the repeal of the surtax which passed by an overwhelming vote, and I would again say to the gentleman from Illinois [Mr. RUSSO], my good friend, "Maybe you think that all of the senior citizens who have asked us to vote yes on repealing the catastrophic surtax aren't constituents of yours, but for most of the membership it is."

Finally, Mr. Speaker, I will also say this motion affects capital gains. Now this House passed the capital gains. We have already had that fight in this House. The fact is capital gains would create 500,000 new jobs. The fact is some people in this building do not seem to mind if we have a recession in 1990. Some people may even think it is for their partisan advantage to have a recession in 1990.

However, Mr. Speaker, when my colleagues look at the stock market of the last 3 or 4 days sending the signal that the Congress will pass the capital gains cut, giving the stock market new energy and new resources I think would be better for America. Avoiding a recession and creating 500,000 jobs would be good for America.

However, Mr. Speaker, let me close with this point: Every item we would insist on keeping in reconciliation and I would say to the gentleman from Illinois [Mr. RUSSO], my good friend, "Please listen carefully, and I will yield to you if in any way I'm inaccurate."

Every item we would insist on keeping in reconciliation with this motion received a majority support in this House earlier. For the Members of this House collectively to reflect their earlier votes, the three items I mentioned, and I have been blunt about all three, repeal every item, the three items, repeal section 89; that got a huge majority. Repeal catastrophic got a huge majority, and capital gains got a smaller, but still significant, majority.

So, Mr. Speaker, I think if Members voted for those items, they should vote for it. I do not expect every Member to vote for it.

Mr. RUSSO. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Illinois.

□ 1510

Mr. RUSSO. Mr. Speaker, I thank my friend, the gentleman from Georgia, for yielding to me.

It would be fair to say, to extend the gentleman's argument just a little further, that things like Medicaid, Medicare, child care, the Fairness Doctrine, the so-called extenders that I mentioned, and maternal health care reauthorization, were also supported by a majority of the Members of the House, and in fact, a majority of the Members on the gentleman's side on final passage of reconciliation; so the things that are being taken out in this instance are a repudiation of some of the things that the gentleman's own colleagues voted for.

Mr. GINGRICH. What we decided, and the gentleman from Minnesota I am sure will comment on this, what we decided was that since the Senate, including virtually every Democrat in the Senate, was sending a very stripped-down reconciliation, what should we focus on to keep, and we decided to focus on section 89, catastrophic health care and capital gains as the three most important things to insist on. Others might want to insist on more than the three. We thought those three were very powerful, and I have run out of time.

Mr. RUSSO. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, may I say to my good friend, the gentleman from Georgia, that part of what the gentleman also keeps in this motion are most of the ducks that are involved in the so-called reconciliation process; for example, the fees on graduated students loans, guaranteed student loans, NRC, SEC, FEC, user fees, the Medicare savings, all these things.

Mr. GINGRICH. Mr. Speaker, if the gentleman will yield, we do keep those things that the Ways and Means Committee put in, which as I understand the Senate would pass the Byrd rule in the Senate. It is true that the fine work the gentleman's committee did in that area is retained by our motion. We would hate to offend the gentleman's committee by not having kept the ducks in.

Mr. RUSSO. Well, the gentleman is not offending my committee.

I just want to point out that this was a well-crafted, selectively drawn motion. It does specific things, and I tried to point that out in my time.

Mr. GINGRICH. We thank the gentleman for those kind words.

Mr. RUSSO. And I also understood that the House has an opportunity to work its will. What the Senate does is their business. We can go to conference and we have as much autonomy as they have. We do not necessarily always kowtow to what they do.

My particular point is that we have cut out some very, very specific important provisins to the well-being of middle American and low-income people and things that we thought were important, including the gentleman's party, on child care. Those things are stripped out for the benefit of certain other provisions that the gentleman talked about.

As someone who has spent a lot of time with his constituents on catastrophic health care, I do not have to make any excuses to my constituents on whether or not I support the repeal of catastrophic health care. I have made a vote on the floor of the House at a critical moment when it counted, as did 366 other Members of Congress who have done that.

So I do not think we can worry about how our constituents are going to react if we vote against this motion to instruct, because it just does not deal with that provision.

I would ask my good friend, the gentleman from Minnesota, if we want to make this a strictly catastrophic health care and section 89, would the gentleman object to taking out the words I have mentioned earlier, from the word "recede" to the words "no budgetary impact."

Would the gentleman be prepared to do so that we can have a straight up or down vote on catastrophic health care and section 89?

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. RUSSO. I certainly will yield to the gentleman.

Mr. FRENZEL. Mr. Speaker, I will tell the gentleman that we people who authored the motion believe that it is complete and perhaps not perfect, but wonderful in all respects.

Mr. RUSSO. So the gentleman will not accept this unanimous-consent request?

Mr. FRENZEL. I will explain how wonderful it is in the final summation.

Mr. RUSSO. Mr. Speaker, I yield 15 minutes to the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in opposition to the motion to instruct.

Members on the Republican side just cannot have it both ways, arguing

that we should pass a clean reconcilation bill on the one hand, while at the same time instructing House conferees to insist on the repeal of catastrophic health insurance and section 89.

We are either genuinely interested in good government, doing what is best for the country, or we are not.

I first proposed a clean reconcilation bill 3 months ago in July when the Ways and Means Committee met its reconciliation obligations by cutting Medicare $2.7 billion and by raising revenues by $5.3 billion. I urged the administration at that time to stop right there, but they just said no.

Last month the Speaker made a similar offer to the administration, by the way with the support of the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL]. Unfortunately, the administration again rejected a clean reconciliation bill, preferring to pursue a misguided capital gains cut that will do nothing but create a national fire sale, despite all the rhetoric about promoting long-term economic growth.

To my regret, but not my surprise, deep divisions materialized in the Ways and Means Committee and on the floor of the House over capital gains and other controversial issues. The House reconciliation bill, a bill whose purpose is to reduce the budget deficit, however, marginally, turned into a political football that will actually increase the deficit in a few short years.

It was for this reason that I voted against the bill both in the committee and on the House floor.

Well, now the Senate has passed a stripped-down bill and has demonstrated a rare sense of good government. They have provided us with another opportunity, perhaps our last, to do what is right and pass a clean reconciliation bill, but the proponents of this motion to instruct want to go back to business as usual, politics as usual, at the expense of the national interest.

But why should any of us be surprised when the President continually sits on the sidelines content to provide absolutely no leadership on real deficit reduction. Why should we be surprised when the Director of the OMB and the Secretary of the Treasury publicly decry now-nowism and the collective pursuit of short-term gratification, while actively pursuing shallow political victories and bankrupt budget policies.

In the absence of bold and responsible leadership on the budget, all we have seen from this administration are slide-by budgets, blue smoke and mirrors, mythical deficit projections based on a crooked set of books, off-budget financing schemes, and most recently temporary revenue surges which will quickly disappear in 2 short years.

I am afraid that someone in the administration wants to replace our national anthem with the pop tune, "Don't Worry, Be Happy."

Mr. Speaker, they know exactly what they are doing, and so do we. Shame on their irresponsibility, but shame on us, too, letting them get away with it.

I have a little proposition to make. I would like to make it to both the House and the Senate and to the President of the United States. Let us reject this motion to instruct conferees. Let us go to conference quickly and strip the reconciliation bill clean as a whistle. In fact, let us go even further than the Senate to reduce the deficit and insist in conference upon several spending cuts and revenue increases contained in the House bill that the Senate was too timid to include in theirs. Then let us say to the Senate, "We'll send this clean reconciliation bill to the President as soon as you pass a clean debt ceiling bill" because my friends, make no mistake about it, my colleagues, the Senate is patting themselves on the back and demanding good government on the reconciliation, while planning to load up the debt ceiling bill with everything they dropped in reconciliation. The shelf life of the Senate's commitment to good government will last exactly 2 weeks until the debt ceiling extension is brought up, and my friends on this side of the aisle know it. I do not think we should let them get away with it.

To the President, I say, "Mr. President, let's surprise the country. Let's surprise the financial markets and the foreign investors and let's surprise even ourselves by enacting a clean reconciliation bill and a clean debt ceiling bill in the next 2 weeks."

□ 1520

And then, Mr. President, send us a bold, responsible, and credible deficit-reduction plan; call it whatever you like, Mr. President, but I call it governing, providing leadership that we are all elected to provide in difficult issues of critical concern to the American people and the national economy. To my colleagues and to my President, I say let us have the guts to do what we know is right. Let us have the courage, a majority of us, to face the facts and take the heat. Let us have more pride in ourselves and more faith in the American people.

I urge a no vote on the motion to instruct.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. Goss].

Mr. GOSS. Mr. Speaker, I rise in support of the motion to instruct conferees.

Mr. Speaker, we have once again arrived at a moment of truth of the issue of catastrophic health care.

We voted to repeal the Catastrophic Health Care Act—which most of us agree is a bad law that unfairly burdens our Nation's seniors. We voted overwhelmingly.

When we cast that vote, we made an irreversible statement to the senior citizens of this Nation that we heard their concerns and intended to take concrete action.

In this House, our votes represent our word—they represent our commitment to our constituents. We can not back away from that commitment. We have said we want repeal, now let us follow through and make it happen.

The budget reconciliation process has offered us the opportunity to bring the issue of catastrophic health care to the floor of this House—no small feat in itself given the stiff opposition we first met in trying to bring the topic up for debate.

Now the budget reconciliation process provides us with the opportunity to finish the job. I urge my colleagues who will be participating in the upcoming conference to insist that it include the House position of repealing the Catastrophic Health Care Act.

Mr. Speaker, I rise today to ask the 359 Members who joined me in voting for repeal 2 weeks ago to reinforce their votes by supporting the Frenzel motion to instruct conferees.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Ohio [Mr. DONALD E. "BUZ" LUKENS].

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, I rise in strong support of the motion of the gentleman from Minnesota to instruct the conferees.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as he may consume to the distinguished gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I rise in strong support.

Mr. RUSSO. Mr. Speaker, I yield myself back the balance of my time.

Mr. FRENZEL. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, we have heard a lot of discussion about this very difficult motion. It is quite obvious that Members of the House take a little different view of what is the intention here.

My intention in putting this amendment together along with the gentleman from Illinois [Mr. MICHEL] and the gentleman from Texas [Mr. ARCHER] was to do two things. The two things that we intended to do by this motion were, No. 1, to indulge in the virulent attack of good government that is raging in the Capitol by taking out of the reconciliation bill items which would either decrease revenue or increase expenses or which had no budgetary impact and were, therefore, extraneous to the reconciliation bill. Other people may have a different definition of what is a proper stripping device or a proper stripping definition. We took one we thought was simple and readily understood.

We then said that we have to do something else as well, and so we got into our second purpose. There were

two very strong positions taken by the House of Representatives, both of them by very large segments of our society. One dealt with the repeal of catastrophic Medicare insurance, and the other section 89. Those did not fit our definition. We said in our motion to instruct that those were important to the House and they needed to be covered in our resolution, and so we made them specific exemptions, and we did it with as much forethought as we could put into the question, and so we are telling our colleagues that, "If you vote for our motion, you are, first, stripping back to about as tight a definition as we can make, and second, you are restating two positions of the House which most of you believe in heartily and which many of you have already signed bills to try to remedy in a separate way." That is all we were trying to do with this motion.

Some of the speakers who have attempted to describe this motion for us have suggested that we are trying to cut things out of the bill, and one of the things suggested was child care and children's programs, sick programs. I must say that the reconciliation bill is not where these matters are supposed to be dealt with. The Senate stripped them from its bill and is going to insist on its position.

This House, the management of this House, the Democrats, can bring these up at any time they want, and so if they go out now, it simply means they are going to be handled at a different time in the same forum. It does not mean that we are turning our backs on any of these wonderful programs that the House and the Senate and the President will later decide are going to be good ones for the Republic.

Repeating that one more time, these are not in the Senate bill. The Democrats run the House. They can pass them anytime they want to or bring them up. We cannot. We are just saying they do not fit if you are going to be careful about defining what is extraneous on a reconciliation bill. One of the distinguished Members said that we should not strip them, that we were doing simething prematurely. The other one said he would like to have stripped more out.

We have done the best we can, and we are presenting this to the House with the idea that it may agree with us, and we would then be in a better position to negotiate with the Senate. The trouble is that these motions, while a previous speaker said are not unique, they are also usually not heeded. It is fair to remind the House that we are not passing law, we are passing some language on to our conferees which we hope they will take a look at and which, if they do not, there is some threat that they may not be able to bring them back to us in a conference that will be accepted.

Mr. RUSSO. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I am happy to yield to the gentleman from Illinois.

Mr. RUSSO. Mr. Speaker, the gentleman made a statement that catastrophic, that child care and that some of these other changes should not be part of reconciliation. Would the gentleman then concede also that catastrophic health care is not part of reconciliation and that section 89 is not properly within the purview of reconciliation?

Mr. FRENZEL. I do reclaim my time to answer the gentleman, and I would say that the House took very strong positions on those two items, catastrophic and section 89. It did not take a lot of other strong positions. It defeated some amendments. It passed some amendments. But what was left in the bill, and the two items that the House spoke most strongly on, were those two items.

In making an instruction to the conferees, we thought it would be perhaps more discrete and less valorous if we accepted that which the House had accepted. We thought that was the way to get your vote, I will say to the gentleman, and so we left those in. We know how serious he is in promoting the repeal of section 89 and the repeal of catastrophic.

We wanted to make this one easy for him.

Mr. Speaker, there is no need to unnecessarily prolong this debate. The problem is simple: a motion to instruct the conferees is not a magic wand that will suddenly make that which the gentleman from Texas [Mr. ARCHER], the gentleman from Illinois [Mr. MICHEL], and I want to happen actually happen. What it will do is restate the position of the House, first, for a stripped-down bill, and second, for very strong positions that the House has taken in the past.

It has already been pointed out that several large organizations, the NFIB and Chamber of Commerce, have been on paper supporting this motion. I hope that the motion will be passed.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore. (Mr. MONTGOMERY). The question is on the motion to instruct offered by the gentleman from Minnesota [Mr. FRENZEL].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 181, nays 228, not voting 23, as follows:

[Roll No. 292]

YEAS—181

Archer	Hastert	Ray
Armey	Hefley	Regula
Baker	Henry	Rhodes
Ballenger	Herger	Ridge
Bartlett	Hiler	Rinaldo
Barton	Holloway	Ritter
Bateman	Hopkins	Roberts
Bentley	Horton	Robinson
Bereuter	Houghton	Rogers
Bilirakis	Hubbard	Rohrabacher
Bliley	Huckaby	Ros-Lehtinen
Broomfield	Hutto	Roth
Brown (CO)	Hyde	Roukema
Buechner	Inhofe	Rowland (CT)
Bunning	Ireland	Saiki
Burton	James	Saxton
Callahan	Johnson (CT)	Schaefer
Campbell (CO)	Kasich	Schiff
Carr	Kolbe	Schneider
Chandler	Kyl	Schuette
Clinger	Lagomarsino	Schulze
Coble	Leach (IA)	Sensenbrenner
Coleman (MO)	Lent	Shaw
Combest	Lewis (CA)	Shays
Condit	Lewis (FL)	Shumway
Coughlin	Lightfoot	Shuster
Cox	Livingston	Skeen
Craig	Lowery (CA)	Slaughter (VA)
Crane	Lukens, Donald	Smith (NE)
Dannemeyer	Machtley	Smith (NJ)
Davis	Madigan	Smith (TX)
DeLay	Marlenee	Smith (VT)
DeWine	Martin (IL)	Smith, Denny (OR)
Dickinson	Martin (NY)	Smith, Robert (NH)
Dornan (CA)	Martinez	Smith, Robert (OR)
Douglas	McCandless	Snowe
Dreier	McCollum	Solomon
Duncan	McCrery	Spence
Edwards (OK)	McEwen	Stangeland
Emerson	McGrath	Stearns
English	McMillan (NC)	Stump
Fawell	McNulty	Sundquist
Fields	Meyers	Thomas (CA)
Fish	Michel	Thomas (WY)
Frenzel	Miller (OH)	Upton
Frost	Miller (WA)	Vander Jagt
Gallegly	Moorhead	Vucanovich
Gallo	Morella	Walker
Gekas	Morrison (WA)	Walsh
Gillmor	Myers	Watkins
Gilman	Nielson	Weber
Gingrich	Oxley	Weldon
Goodling	Packard	Whittaker
Goss	Parker	Wolf
Gradison	Parris	Wylie
Grandy	Pashayan	Young (AK)
Grant	Paxon	Young (FL)
Gunderson	Petri	
Hall (TX)	Porter	
Hammerschmidt	Pursell	
Hancock	Quillen	
Hansen	Ravenel	

NAYS—228

Ackerman	Brooks	Derrick
Akaka	Browder	Dicks
Alexander	Brown (CA)	Dingell
Anderson	Bruce	Dixon
Andrews	Bryant	Donnelly
Annunzio	Bustamante	Dorgan (ND)
Anthony	Byron	Downey
Applegate	Cardin	Durbin
Aspin	Carper	Dwyer
Atkins	Chapman	Dymally
AuCoin	Clarke	Dyson
Barnard	Clay	Early
Bates	Clement	Eckart
Beilenson	Coleman (TX)	Engel
Bennett	Collins	Erdreich
Berman	Conte	Espy
Bevill	Conyers	Evans
Bilbray	Cooper	Fascell
Boehlert	Costello	Fazio
Boggs	Coyne	Feighan
Bonior	Crockett	Flake
Borski	Darden	Flippo
Boucher	de la Garza	Foglietta
Brennan	DeFazio	Ford (MI)

Ford (TN)	Luken, Thomas	Sabo
Frank	Manton	Sangmeister
Gaydos	Markey	Sarpalius
Gejdenson	Matsui	Savage
Gephardt	Mavroules	Sawyer
Geren	Mazzoli	Scheuer
Gibbons	McCloskey	Schroeder
Glickman	McCurdy	Schumer
Gonzalez	McDermott	Sharp
Gordon	McHugh	Sikorski
Gray	McMillen (MD)	Sisisky
Green	Mfume	Skaggs
Guarini	Moakley	Skelton
Hall (OH)	Mollohan	Slattery
Hamilton	Montgomery	Slaughter (NY)
Harris	Moody	Smith (FL)
Hatcher	Morrison (CT)	Smith (IA)
Hawkins	Mrazek	Solarz
Hayes (IL)	Murphy	Spratt
Hefner	Murtha	Staggers
Hertel	Nagle	Stallings
Hoagland	Natcher	Stenholm
Hochbrueckner	Neal (MA)	Stokes
Hoyer	Neal (NC)	Studds
Hughes	Nelson	Swift
Jacobs	Nowak	Synar
Johnson (SD)	Oakar	Tallon
Johnston	Oberstar	Tanner
Jones (GA)	Obey	Tauke
Jones (NC)	Olin	Tauzin
Jontz	Ortiz	Thomas (GA)
Kanjorski	Owens (NY)	Torres
Kaptur	Owens (UT)	Torricelli
Kastenmeier	Pallone	Towns
Kennedy	Patterson	Traficant
Kennelly	Payne (NJ)	Traxler
Kildee	Payne (VA)	Udall
Kleczka	Pease	Unsoeld
Kolter	Penny	Valentine
Kostmayer	Perkins	Vento
LaFalce	Pickle	Visclosky
Lancaster	Poshard	Volkmer
Laughlin	Price	Walgren
Leath (TX)	Rahall	Waxman
Lehman (CA)	Rangel	Wheat
Levin (MI)	Richardson	Whitten
Levine (CA)	Roe	Williams
Lewis (GA)	Rose	Wilson
Lipinski	Rostenkowski	Wise
Lloyd	Rowland (GA)	Wolpe
Long	Roybal	Wyden
Lowey (NY)	Russo	Yates

NOT VOTING—23

Bosco	Hayes (LA)	Molinari
Boxer	Hunter	Panetta
Campbell (CA)	Jenkins	Pelosi
Courter	Lantos	Pickett
Dellums	Lehman (FL)	Stark
Edwards (CA)	McDade	Weiss
Florio	Miller (CA)	Yatron
Garcia	Mineta	

□ 1552

Messrs. LANCASTER, HUGHES, and THOMAS A. LUKEN changed their vote from "yea" to "nay."

So the motion to instruct was rejected.

The result of the vote is announced as above recorded.

PERSONAL EXPLANATION

Ms. PELOSI. Mr. Speaker, I offer a personal explanation of my absence from votes. I was absent from the House due to my necessary return to San Francisco in the aftermath of the tragic earthquake there. Had I been here to vote, I would have voted the following way:

On rollcall No. 292, motion to instruct the conferees on H.R. 3299, the budget reconciliation bill, "no."

GENERAL LEAVE

Mr. FRENZEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the motion just defeated.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER. The Chair appoints the following conferees, and without objection the Chair reserves the right to appoint additional conferees and to further specify the subjects of all appointments

There was no objection.

From the Committee on the Budget, for consideration of the House bill (except title XI and sections 10181 through 10191), and the Senate amendment (except title VI), and modifications committed to conference, and as exclusive conferees with respect to any proposal to report in total disagreement: Messrs. PANETTA, GEPHARDT, RUSSO, LEATH of Texas, and SCHUMER, Mrs. BOXER and Messrs. SLATTERY, FRENZEL, GRADISON, GOODLING, and DENNY SMITH.

From the Committee on the Budget, for consideration of title XI and sections 10181 through 10191 of the House bill, and title VI of the Senate amendment, and modifications committed to conference: Messrs. PANETTA, GEPHARDT, RUSSO, JENKINS, GUARINI, FRENZEL, GRADISON, and THOMAS of California.

From the Committee on Agriculture, for consideration of title I of the House bill, and title I of the Senate amendment, and modifications committed to conference: Messrs. DE LA GARZA, GLICKMAN, STENHOLM, HUCKABY, BROWN of California, ENGLISH, CONDIT, MADIGAN, COLEMAN of Missouri, STANGELAND, and SCHUETTE.

From the Committee on Agriculture, for consideration of subtitle B of title VI (except section 6131) of the House bill, and modifications committed to conference: Messrs. DE LA GARZA, HUCKABY, VOLKMER, OLIN, STALLINGS, HARRIS, SARPALIUS, MARLENEE, MORRISON of Washington, ROBERT F. (BOB) SMITH, and HERGER.

From the Committee on Banking, Finance and Urban Affairs, for consideration of title II of the House bill, and title II of the Senate amendment, and modifications committed to conference: Messrs. GONZALEZ, ANNUNZIO, FAUNTROY, GARCIA, MORRISON of Connecticut, ERDREICH, KANJORSKI, WYLIE, BEREUTER, ROTH, and PAXON.

From the Committee on Education and Labor for consideration of sections 3000 through 3009 of the House bill, and subtitle B of title VIII of the Senate amendment, and modifications committed to conference: Messrs. HAWKINS, WILLIAMS, FORD of Michigan, OWENS of New York, HAYES of Illinois, PERKINS, GAYDOS, COLEMAN of Missouri, GUNDERSON, HENRY, and SMITH of Vermont.

From the Committee on Education and Labor, for consideration of sections 3051 through 3201 of the House bill, and subtitle A of title VIII of the Senate amendment, and modifications committed to conference: Messrs. HAWKINS, CLAY, FORD of Michigan, KILDEE, MILLER of California, HAYES of Illinois, and OWENS of New York, Mrs. ROUKEMA, and Messrs. BARTLETT, FAWELL, and BALLENGER.

From the Committee on Education and Labor, for consideration of subtitles D and E of title III of the House bill, and modifications committed to conference: Messrs. HAWKINS, FORD of Michigan, KILDEE, WILLIAMS, OWENS of New York, and SAWYER, Mrs. LOWEY of New York, and Messrs. TAUKE, PETRI, GUNDERSON, and GRANDY.

From the Committee on Energy and Commerce, for consideration of subtitles A through E of title IV, subtitle B of title X (except sections 10101 through 10112, 10171, 10181, and 10182), and sections 10003, 10005 (except subsection (c)), 10077(d), 10226, 10233, and 10248 of the House bill, and sections 4001 through 4013, 5201 through 5401, 5501, and 5601 (insofar as it relates to title XIX of the Social Security Act) of the Senate amendment, and modifications committed to conference: Messrs. DINGELL, WAXMAN, SCHEUER, WYDEN, BRUCE, ROWLAND of Georgia, HALL of Texas, LENT, MADIGAN, DANNEMEYER, and WHITTAKER.

Provide that Mr. TAUKE is appointed in place of Mr. DANNEMEYER for consideration of sections 4001 and 0123 of the House bill, and Mr. BILIRAKIS is appointed in place of Mr. WHITTAKER for consideration of sections 10183 through 10191 of the House bill, and Mr. NIELSON is appointed in place of Mr. WHITTAKER for consideration of subtitles C and D of title IV and sections 10226, 10233, and 10248 of the House bill and section 5501 of the Senate amendment.

From the Committee on Energy and Commerce, for consideration of subtitle F of title IV and section 6001 of the House bill, and section 4101 of the Senate amendment, and modifications committed to conference: Messrs. DINGELL, SHARP, WALGREN, TAUZIN, COOPER, RICHARDSON, BRYANT, LENT, MOORHEAD, DANNEMEYER, and FIELDS.

From the Committee on Energy and Commerce, for consideration of subtitles G through H of title IV of the House bill and section 301 of the Senate amendment, and modifications committed to conference: Messrs. DINGELL, MARKEY, and SWIFT, Mrs. COLLINS, and Messrs. ECKART, BOUCHER, MANTON, LENT, RINALDO, TAUKE, and BLILEY.

Provided that Messrs. RITTER and OXLEY are appointed in place of Messrs. TAUKE and BLILEY for consideration of subtitle G of title IV of the House bill.

From the Committee on Government Operations, for consideration of title V and section 8001 of the House bill, and section 7001 of the Senate amendment, and modifications committed to conference: Mr. CONYERS, Mrs. COLLINS, and Messrs. NEAL of North Carolina, ERDREICH, BUSTAMANTE, and KLECZKA, Mrs. BOXER, and Messrs. KYL, SHAYS, SMITH of Vermont, and CLINGER.

From the Committee on Interior and Insular Affairs, for consideration of subtitle F of title IV and title VI of the House bill, and section 4101 of the Senate amendment, and modifications committed to conference: Messrs. UDALL, MILLER of California, MARKEY, MURPHY, RAHALL, VENTO, WILLIAMS, YOUNG of Alaska, CRAIG, HANSEN, and Mrs. VUCANOVICH.

From the Committee on Interior and Insular Affairs for consideration of section 4201 of the Senate amendment, and modifications committed to conference: Messrs. UDALL, MILLER of California, and YOUNG of Alaska.

From the Committee on Merchant Marine and Fisheries, for consideration of title VII of the House bill, and sections 302(b), 303, and 4201 of the Senate amendment, and modifications committed to conference: Messrs. JONES of North Carolina, STUDDS, HUGHES, TAUZIN, FOGLIETTA, HERTEL, DYSON, DAVIS, YOUNG of Alaska, SHUMWAY, and FIELDS.

From the Committee on Post Office and Civil Service, for consideration of titles V and VIII and sections 10004(a) and 10004(b) of the House bill, and title VII of the Senate amendment, and modifications committed to conference: Mr. FORD of Michigan, Mr. CLAY, Mrs. SCHROEDER, Ms. OAKAR, and Messrs. SIKORSKI, MCCLOSKEY, ACKERMAN, GILMAN, HORTON, YOUNG of Alaska, and RIDGE.

From the Committee on Public Works and Transportation, for consideration of sections 302(a), 304, and 4301 of the Senate amendment, and modifications committed to conference: Messrs. ANDERSON, ROE, MINETA, OBERSTAR, NOWAK, RAHALL, APPLEGATE, HAMMERSCHMIDT, SHUSTER, STANGELAND, and CLINGER.

From the Committee on Veterans' Affairs, for consideration of title IX and section 11650 (except subsection (a)) of the House bill, and title IX of the Senate amendment, and modifications committed to conference: Messrs. MONTGOMERY, EDWARDS of California, APPLEGATE, EVANS, PENNY, STAGGERS, ROWLAND of Georgia, STUMP, HAMMERSCHMIDT, WYLIE, and MCEWEN.

From the Committee on Ways and Means for consideration of subtitle B of title III and title XI (except sections 11901 through 11903) of the House bill, and title VI and sections 302, 4004 through 4013, and 8001 of the Senate amendment, and modifications committed to conference: Messrs. ROSTENKOWSKI, GIBBONS, PICKLE, RANGEL, STARK, FORD of Tennessee, DOWNEY, ARCHER, VANDER JAGT, CRANE, and SCHULZE.

From the Committee on Ways and Means for consideration of subtitle A of title IV, sections 4101 (insofar as it relates to section 1142 of the Social Security Act), 4111, and 4121 (insofar as it relates to section 1142 of the Social Security Act), and title X (except sections 10181 through 10191) of the House bill, and title V (except section 5501) of the Senate amendment, and modifications committed to conference: Messrs. ROSTENKOWSKI, GIBBONS, PICKLE, RANGEL, STARK, JACOBS, DOWNEY, CRANE, BROWN of Colorado, CHANDLER, and SHAW.

From the Committee on Ways and Means for consideration of sections 10181 through 10191 of the House bill, and modifications committed to conference: Messrs. ROSTENKOWSKI, STARK, DONNELLY, COYNE, PICKLE, ANTHONY, LEVIN of Michigan, ARCHER, VANDER JAGT, CRANE, and SCHULZE.

From the Committee on Ways and Means for consideration of sections 11901 through 11903 of the House bill, and modifications committed to conference: Messrs. ROSTENKOWSKI, DOWNEY, FORD of Tennessee, PEASE, and MATSUI, Mrs. KENNELLY, and Messrs. ANDREWS, SCHULZE, SHAW, SUNDQUIST, and JOHNSON of Connecticut.

From the Committee on Ways and Means for consideration of section 304 of the Senate amendment, and modifications committed to conference: Messrs. ROSTENKOWSKI, DOWNEY, and MCGRATH.

□ 1600

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this time for the purpose of inquiring of the distinguished majority leader as to the program for the balance of the day and of the week, and also perhaps to get an insight into the program beginning next Monday.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the majority leader.

Mr. GEPHARDT. Mr. Speaker, I thought it would be good for Members to have an understanding of what votes will be required in the next 2 or 3 days.

Today we still have to take up and complete the International Development and Finance Act. There could be a few votes on that before we leave today, but it should not take too long.

On tomorrow we will be taking up the package on aid to Poland and Hungary. That should be completed by 3 or 4 o'clock in the afternoon.

On Friday there will not be votes.

On Monday there will be suspensions, with the votes held over until 4:30 or 5 in the afternoon. There may or may not be votes that day, but Members could expect perhaps one or two votes, as we have had that experience the last 2 or 3 weeks. The reason we are holding votes over until later is so Members can make it back to Washington.

We also have a number of conferences which are meeting on Monday. There may be actions on conferences on appropriation bills and on the reconciliation conference, and for that reason we need business on the floor on Monday to ensure that the Members that need to be here will be here.

Mr. MICHEL. Mr. Speaker, I thank the distinguished majority leader, and I yield back the balance of my time.

INTERNATIONAL DEVELOPMENT AND FINANCE ACT OF 1989

The SPEAKER pro tempore (Mr. TALLON). Pursuant to House Resolution 267 and rule XXIII, the Chair declares the House in the Committee of the Whole on the State of the Union for the further consideration of the bill, H.R. 2494.

□ 1605

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2494) to amend the Export-Import Bank Act of 1945 to authorize the appropriation of not to exceed $100,000,000 to the Tied Aid Credit Fund for fiscal year 1990, and to provide for expenditures from such Fund during such fiscal year, with Mr. MONTGOMERY, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, title I was open to amendment at any point, and pending was an amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

Mr. MOODY. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I think that the gentleman from Florida [Mr. MCCOLLUM] who offered this amendment is certainly well motivated, and I respect him tremendously, but having visited Angola with a number of my colleagues, I think this amendment would not be in our public policy interests or in the national interest.

I would point out to my friend, the gentleman from Florida, as I have during the break, that the bill in question says the following: That notwithstanding any determination by the President under paragraph 2 the Bank may not guarantee, insure, or extend credit, et cetera, to the People's Republic of Angola until the President certifies to the Congress that no combatant forces or military advisers of the Republic of Cuba or any other Marxist-Leninist country such as defined in paragraph 2 above remain in Angola.

We not only give the President authority but we require the President

to come back to Congress and state that there are no troops from Cuba or any other Marxist-Leninist country in Angola before any Exim credit could be extended.

Mr. Chairman, I urge my colleagues to reject this amendment.

AMENDMENT OFFERED BY MR. MOODY TO THE AMENDMENT OFFERED BY MR. MC COLLUM

Mr. MOODY. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. MOODY to the amendment offered by Mr. MCCOLLUM: Page 3, line 2, strike the close quotation marks and the following period.

Page, 3 after line, insert the following: "This paragraph shall not be construed to impose any requirement with respect to Angola that is more restrictive than any requirement imposed by this section generally on all other countries.".

Mr. MOODY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. MCCOLLUM. Mr. Chairman, reserving the right to object, I have not seen the amendment, so I object.

The CHAIRMAN pro tempore. Objection is heard.

The Clerk will read.

The Clerk completed the reading of the amendment.

Mr. MOODY. Mr. Chairman, the reason I offer this amendment is to make it clear that whatever standards we want to apply to Angola, we should apply them equally to any other country regarding the goals the gentleman seeks to achieve with his original underlying amendment.

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. MOODY. I am happy to yield to the chairman of the Subcommittee on Africa.

□ 1610

Mr. WOLPE. Mr. Chairman, I believe the amendment of the gentleman from Wisconsin [Mr. MOODY] is a very helpful amendment. I intend to give it support.

I would suggest that the amendment that has been offered by the gentleman from Florida [Mr. MCCOLLUM], however well intentioned it may be, is incredibly ill timed. The fact of the matter is that in the past several months the Angolan Government has done everything that has been requested of it by the Government of the United States. They facilitated and entered into the Angola-Namibia accords. They agreed as well to the withdrawal of Cuban troops, and those Cuban troops are coming out of Angola on schedule. In November half of the Cuban troops that were previously there will have exited the country.

The Government of Angola has agreed to a number of economic reforms, macroeconomic reforms within the country, the kind of reforms that the Western nations have been asking of that country for some time. The Government of Angola, moreover, had agreed to enter into this accord which was symbolized by a handshake in Gobacolico with Mr. Savimbi, endowing Mr. Savimbi and the UNITA movement with legitimacy it did not previously have at that point in time.

Mr. Speaker, to now come with an amendment that would impose a wholly unique requirement upon the Government in Angola different from that which we would impose on any other country in the world represents a gratuitous attack on the country that is doing precisely what we, the United States, have asked of it. It will only complicate our diplomacy, make more difficult the task of peace and reconciliation that this administration is attempting to facilitate.

The administration opposes this kind of an amendment. It has opposed this kind of an amendment in the committee, and I am certain would oppose it at this point.

Mr. MOODY. Mr. Chairman, I thank the gentleman from Michigan [Mr. WOLPE] for his explanation in support of the amendment.

Mr. MCCOLLUM. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Wisconsin [Mr. MOODY] to my amendment.

Mr. Chairman, the gentleman from Wisconsin [Mr. MOODY] is attempting rather cleverly to gut the McCollum amendment. What he is suggesting is that the language that is in the McCollum amendment, which is somewhat extensive on the restrictions on any export aid to Angola until the President certifies the United States and those things would not be applicable. In other words, the amendment will be moot because there are no restrictions like this on any other country in there, and the reason there are not is very simply. We have a peculiar reason for bringing the Angolan question up today. We have a history in Angola that is unique. We have a story in Angola where the Export-Import Bank historically actually was the funding mechanism used in order to find the money for the Angolan Government to buy 10 billion dollars' worth of arms from the Soviet Union and thereby be able to wage its war as a Communist totaliarian regime against the freedom fighters there.

Mr. Chairman, the Export-Import Bank, having been abused by that in the past, in my judgment, should not under any conditions be allowed to go back in until the Government of Angola has made some demonstrative evidence that it is going to go toward pluralism, that it is going to deal in some way with those who are involved as opposition forces, namely, the freedom fighters of Savimbi and UNITA who are the real activists over there currently and that it demonstrates progress in ending the prosecution of many, many people, which it has done historically, and the exception is not the reason for this being offered and is not unusual. The exception is it is purely a gutting of it, to say that this cannot be there, this language cannot be there. There were agreements that were supposed to have been made for a ceasefire earlier this year. The fact of the matter is that in July and August the Government of Angola broke that cease fire. The fact of the matter is that they attacked on three different fronts with three different forces. The fact of the matter is they made conditionality to any elections in their country on Savimbi, the leader of the united forces not being a participant and that he would remove himself from the country for a couple of years.

Mr. Chairman, those kinds of conditions are absurd. It would be like George Washington being told by the British that, if he would make the agreement, as my colleagues know, to put down his forces, they were to go along with that providing he would not run for President. It is kind of a silly thing, and we are being asked now by this amendment by the gentleman from Wisconsin [Mr. MOODY] to say that all of those restrictions that MCCOLLUM would place in his amendment would be by the book because none of them, the amendment would be worthless on its face because there are no restrictions on other countries like the ones that I am imposing here, and I think that it behooves us to defeat this amendment to mine and to make a clear statement on the Angolan question once and for all so that the world can see it, so the Soviets can see it, so the Angolan Government can see it, and so the American people can see it, that we stand by freedom fighters, that we are not willing to let somebody run over them on the name and in the force that this particular way would be occurring provided that agreements are reached, as they are, is a sham over there in the past few months.

So, Mr. Chairman, I urge my colleagues to defeat the amendment to mine. It makes the effort that I had made in my amendment totally nonsensical and inappropriate, and it is just a mechanism for trying to defeat my amendment by the process of offering one to it rather than a straight up or down vote.

So, Mr. Chairman, I urge a no vote on the amendment of the gentleman from Wisconsin [Mr. MOODY].

Mr. FAUNTROY. Mr. Chairman, I rise in support of the amendment of the gentleman from Wisconsin [Mr.

MOODY] to the amendment of the gentleman from Florida [Mr. MCCOLLUM].

Mr. Chairman, I do so, quite frankly, with some reluctance because I agree fully with the gentleman from Michigan [Mr. WOLPE], the chairman of the Africa Subcommittee, that the amendment of the gentleman from Florida [Mr. MCCOLLUM] all together is perhaps ill timed. I am tempted to support, and I hope the McCollum amendment would have supported, an elimination of the restriction on Marxist-Leninist states like Angola, Poland, and Hungary at a time when peace apparently appears to be breaking out in significant regions of the world where we have had great difficulty. I had hoped that the gentleman from Florida [Mr. MCCOLLUM] would have acknowledged the fact that 50 percent of the troops, Cuban troops, have already left Angola, that there are negotiations under way to bring to a peaceful end the conflict betweeen the Santos Government and that of UNITA and that, as we will be voting tomorrow apparently now with respect to another Marxist-Leninist state, it is time to judge the needs of people not on the basis of ideology, but on the basis of their humanity.

So, Mr. Chairman, with that I urge support of the amendment of the gentleman from Wisconsin [Mr. MOODY] which would at least bring parity and equality of treatment to all through this measure.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. FAUNTROY. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I am concerned. I respect the gentleman from the District of Columbia [Mr. FAUNTROY] greatly.

Mr. Chairman, the figures are pretty close to those he is quoting. There are about 50,000 Cuban troops originally, as I understand it, in Angola. There are now about 35,000. So, about 15,000 are withdrawn, but 17,000 of the Cubans who have gone over there have been naturalized, and they were not counted in the withdrawal.

So, Mr. Chairman, it makes it very confusing. I am not, however, offering this amendment to in any way denigrate the existing law of the Cuban question. It is an addition, an add-on, as we discussed in the Committee on Banking, Finance and Urban Affairs. I think that is important.

Mr. Chairman, I respect the position of the gentleman from the District of Columbia [Mr. FAUNTROY], and I just respectfully disagree with his viewpoint on the subject, but I wanted to clarify the figures.

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. FOUNTROY. I yield to the gentleman from Michigan, the distinguished chairman of the Africa Subcommittee.

Mr. WOLPE. Mr. Chairman, responding to the gentleman from Florida [Mr. MCCOLLUM], the facts of the matter are that the Cuban troop withdrawal is right on schedule and that by November, 50 percent of the Cuban troops will be removed from the country of Angola.

Mr. McCOLLUM. Mr. Chairman, would the gentleman yield on that so that I can ask the gentleman from Michigan [Mr. WOLPE] one question on that?

Mr. FAUNTROY. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I would like to know if I am not right that about 17,000 Cubans have been nautralized, and they are not covered by this, so they will stay permanently.

Mr. WOLPE. Mr. Chairman, there can be no Cuban combat troops present. I do not know. I never heard that suggested before, and I would be glad to check into that for the gentleman from Florida [Mr. MCCOLLUM].

Mr. Chairman, the point I think that is important to underscore here is that the Reagan and Bush administrations have engaged in some very skillful diplomacy to achieve the Angola-Namibia accords, to achieve the Gobacolico reconciliation, to achieve a change in Angolan economic policy. The kind of amendment the gentleman is offering here in my judgment would be directly counterproductive, make much more difficult this administration's task as concluding finally a sentiment that will yield true peace and civility in that region and advance American interests in the process.

Mr. FAUNTROY. Mr. Chairman, I yield back the balance of my time.

Mr. BEREUTER. Mr. Chairman, I rise in support of the amendment of the gentleman from Wisconsin [Mr. MOODY].

Mr. Chairman, as the distinguished gentleman from Florida [Mr. MCCOLLUM] knows, I feel it is a mistake anytime we make specific direction in the Ex-Im Bank or multilateral development bank legislation specifically addressing one country, and I opposed the gentleman's amendment in the committee for that reason. Now I share some of his skepticism about what will happen in Angola, but I think it would be certainly a mistake for us to do anything to precipitate the violation of what the Angolan Government has agreed to.

□ 1620

The administration does not want, in fact specifically has indicated they do not want the amendment of the gentleman from Florida. In this case and in all cases with countries with specific legislation, let us not upset the current very difficult and delicate situation that we have today.

The gentleman well understands the Eximbank and how it works, but not all Members do, and I do not want to leave the impression that the Eximbank has ever been used for the purchase of Soviet goods by the Government of Angola. The Eximbank legislation provides assistance to U.S. exporters, to U.S. firms to be competitive to firms backed by other nations.

Now, it could well be, as I think the gentleman wants to suggest, that the well drilling involving U.S. firms might have generated funds, which in turn, since funds are fungible, could have been used for purchase of weapons in the past; but I do not want to leave the impression that the Eximbank funds are used for the purchases of weapons from a foreign country. That is not the case.

Here we have a situation where we are dealing with statutory direction proposed by this legislation. It is not a sense of the Congress resolution or provision. Those things are a little less difficult to deal with, a little less antagonist to the interests of the administration and the United States.

I think it is important also to remember, the administration is not going to approve the use of Exim funds for Angola for any firm trying to sell anything to Angola, certainly not during this delicate time.

So the amendment of the gentleman from Florida, while well-intentioned, motivated undoubtedly by the sake skepticism and doubts that I have, is not appropriate. It limits the administration, when the administration does not need to be limited and it sends the wrong message that we are involved at a time when we should not be involved in the Congress by taking this action.

I support the amendment of the gentleman from Wisconsin. I think at least it defuses the difficult situation posed by the McCollum amendment.

Mr. FRANK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I know consistency is not part of the rules of the House, so I do not want to invoke its absence as anything that is decisive, but it seems to me it is from time to time interesting.

We have heard often on the floor of this House when we deal with South Africa, Nicaragua, and other parts of the world, that the Congress ought not to "micromanage" the conduct of foreign policy. We are occasionally accused of micromanaging. We are then alternatively accused of macroabstaining. We are often not able to do anything right; but there has been a principle that we ought not to dictate or tie the hands and handicap the administration in the execution of foreign policy. In general, I do not think that is a view that has a lot of support around here, that is, most Members of this body, I think, believe that where we disagree with the administration

on a foreign policy question, we have a constitutional right to express that agreement, and I agree with that position.

I do say, however, that those who have from time to time claimed that is a false position, and there are people who have even said that constitutionally we have no business trying to make country by country foreign policy, that we ought to stay out of it, I do not understand how people who have made that argument, and I have never made it myself and I do not make it and do not believe it, but those who have made that argument, people who are objecting to micromanaging, what could be more micromanaging than saying that a particular Federal agency, controlled by the President, can make particular loans to a particular country? We are not talking here about the World Bank or the IMF or the multilateral institutions. We are talking about the Export-Import Bank, wholly under the control of the President.

So what this amendment says is, "Mr. Bush, Mr. Brady, and Mr. Baker, we do not trust your judgment. We think you have been taken in by the Angolans. We think you are not to be trusted with the discretion to make loans to Angola."

Now, I will say, if I disagreed with the policy of the administration on Angola, I would feel free to vote on this sort of amendment. I am struck by those who have said, "Oh, with regard to Nicaragua, with regard to South Africa, with regard to China, we have no right to make those decisions. We are micromanaging." Obviously, everybody who votes for this amendment waives their argument about micromanaging for the future, because they are voting to make as law a very specific intervention about a specific Federal agency with a specific foreign country.

My objection is not based on that, because I do not hold to it. My objection is that I think the Bush administration, as its predecessor administration, has been dealing quite sensibly and sensitively with Angola. As the chairman of the Africa Subcommittee has pointed out, progress has been made. Has it been perfect? Have enough Cubans moved out? I do not know. I have a hard time being a member of the Immigration Subcommittee telling us how many people have legally or illegally stayed in America, so I am certainly not going to make the argument with regard to how many Cubans there are in Angola.

I can say that on this issue, I believe the judgment of the President, of Secretary Cheney, of Secretary Baker and Secretary Brady, can be trusted, and that is the issue. This is not an amendment that deals with Angola. It is an amendment that deals with George Bush and his national security apparatus, because what it says is that we will not allow George Bush and those who advise him on foreign policy and international economic policy and national security policy, we will not allow that group to decide whether or not the Export-Import Bank can or cannot lend to Angola, based on internal democratic conditions in Angola, because the language, as has been pointed out regarding Cuban troops, remains on the books. That is the question.

So certainly those who have objected to micromanagement ought to be a little embarrassed about voting for this; but beyond that, Members ought to say, do you really think the Bush administration should be trusted here? Particularly with regard to the Angolan situation, because we have a situation where there has been movement. It is not a situation which any of us are now happy about. I do not see any great movement here of people wanting to go to Angola and live there, who think it is such a wonderful place.

The question is, Has the foreign policy approach of the Bush administration been a productive one and do we want to say on the contrary that we are so distrustful of that foreign policy approach, we are so prone to think the President and his advisers will be taken in the Angolans that we must impose this very specific restriction, and you cannot, again I want to be very clear, talk about a more specific restriction. We are talking about a Federal agency which the President effectively controls. We are talking about telling the President that he may not allow this particular Federal agency under his control to follow his general discretion in this regard.

As I said, if I thought the policy was dead wrong with regard to Angola, I would think that was OK, but I do not think the Bush administration deserves this rebuttal. I do not think that President Bush and Secretary Baker and Secretary Brady and Secretary Cheney have been taken in by the Angolans. I do not think they have been negligent in protecting American interests in Southern Africa, and I do not think we ought to interpose this very big obstacle between the Bush administration and its foreign policy objectives.

Mr. HENRY. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the amendment to the amendment offered by the gentleman from Wisconsin and opposed to the McCollum amendment.

Let me simply say that for all the talk about whether or not, to what extent the Angolan Government is some sort of militant, Marxist, Leninist regime, that time changes things. The amendment in some respects, in my judgment, is very ill-timed, given some of the changes that are taking place in the Angolan Government and the old temperament of that society. That is what this amendment fails to recognize.

I do not want to get involved in long historical discourses as to what created the problems in Angola in the first place, the nature of the Salazar regime and the radicalization of the independent movement, the very terrible transition they had, the nontransition to independence, and I am certainly not going to justify the early years of that government in terms of its rather mistaken notions of a centralized economy. Good grief, developed countries that have tried Marxist economics cannot pull it off, as we are seeing all across the face of Eastern Europe today and in the Soviet Union itself. Imagine a less developed, less bureaucratized economy trying to do the same thing. It has been an absolute shambles.

But what has happened is that government has learned and has not only shifted gradually and belatedly, in my opinion, but nonetheless very firmly, to open markets, to formally acknowledging the black market economy and bringing in now private sector investment with private sector freedoms, and that is freedom. It is economic freedom and it is beginning to set its foot in that country.

□ 1630

For the first time since their independence, nonmembers of the party actually hold government positions of rank including cabinet level, and for the first time a kind of perestroika of sorts is beginning to enter into the inner circles of that government. Those are facts.

The other thing is the diplomatic implications of what is happening down there. In the Brazzaville accords, every element of those accords has been a success to the benefit of every party of those accords except to the Angolan Government, and this is something we ought to be sensitive to. South Africa has benefited because it ensured a transition in Namibia that has thus far been remarkably peaceful and well ordered and gives the Namibian independent movement and the new government a genuine opportunity for a stable transition of power. Likewise, SWAPO has gained from it because they have had an opportunity to put down their guns and turn to their ballot boxes, and that has been good for both sides. It has been good for us in the sense that we have been able to see the Cuban troops removed from Angola on an orderly basis, and of all the parties to the agreement, the only party that has not benefited has been the Government of Angola, and that has not been solely the fault of the Angolan Government in terms of the problems relative to reaching a

cease-fire and reconciliation and, yes, hopefully in my judgment, too, elections, free elections. I would like to see that, but they have kept good faith on every commitment they have made.

Yes, there have been violations of the cease-fire on the Government side. There have also been violations of the cease-fire on Jonas Savimbi's side. Just yesterday, new efforts have been reached, and Assistant Secretary of State Crocker has now gotten, once again, both parties apparently about to sit face to face on that issue.

It is simply the wrong time to slap that government in the face. It could potentially mean a diplomatic setback in terms of our own national interests in the region, and it is also wrong to single out this state among all the others about which equivalent statements could be made in terms of their ideologies or their economies or their international alignments, and to single this out of all of those states for yet additional restrictions or sanctions that we do not impose on the others.

I am very pleased to associate myself with the gentleman from Wisconsin and urge support of his amendment.

Mr. BURTON of Indiana. Mr. Chairman I move to strike the requisite number of words.

Mr. Chairman, if we have a policy in Angola, it is a policy of supporting Dr. Savimbi and the UNITA freedom fighters until there are free and fair elections, until there is a government of national reconciliation that leads to free and fair elections.

Members have been led to believe by many of my colleagues, and I think maybe they are in error, that things are going along very well over there, that everything is headed in the right direction. The fact of the matter is, things are not headed in the right direction. There is a cease-fire. Twenty thousand Cubans have left. There are still 40-some thousand there, but the Communist government of Angola continues to resist direct negotiations with Dr. Savimbi and the freedom fighters over there.

As a matter of fact, the Foreign Minister from Angola who was here recently said that they are not yet ready to sit down and have face-to-face negotiations. That is what our negotiations have been all about, trying to get them to sit down and negotiate a peaceful settlement to this conflict so people will not be dying over there by the thousands.

Chevron and other oil companies from the United States and the free world have been pouring millions of dollars into the Communist Luanda government's coffers, and they have been using this money to purchase over 1 billion dollars' worth of military equipment a year. The Soviet Union has been supplying 1 billion dollars' worth of equipment each and every year.

If we allow the Eximbank to extend credit to this government, this Communist government, that will not negotiate, then that money may be used to buy military equipment, but it certainly frees up more of the money coming from Chevron to buy military hardware with which to defeat those who are fighting for freedom over there. Money is fungible. If we give them credit, that will free up other money they are getting from other sources, that is, Chevron, with which to buy military equipment and hardware.

The Communist government over there went to Gbadolite, a city in the northern part of Zaire, to meet with other government leaders from that part of the world ostensibly to negotiate not only a cease-fire but an end to that conflict. When they left Gbadolite, a lot of people thought things had been resolved. When dos Santos, the President of Angola, went back to Luanda, he got a lot of heat from his compatriots. So there was a second meeting which was held in Harare, and at that meeting Dr. Savimbi and his people were not invited, and I have talked about this on this floor. After that meeting, there were three things that were discussed that came out of a communique indicating that Dr. Savimbi had agreed to go into exile, that Dr. Savimbi had agreed to fold his troops in, his freedom-fighting troops, into the Communist MPLA, and that he had agreed to accept and live by the Communist constitution of that country. He had not agreed to any of those things.

So those in this body who would lead us to believe that everything is coming up roses over there simply are not aware of all of the facts. I am not saying that they are deliberately trying to mislead anyone, but they are not aware of all the facts.

I think the point that needs to be made is we need to hold their feet to the fire until the Cubans are out of there. We need to hold their feet to the fire until there is a movement toward national reconciliation. We need to hold the Communists' feet to the fire until there are free and fair elections.

I submit to the Members that if we allow the Eximbank to give them loans, it is going to free up other funds with which they can buy more military equipment which will be used to prolong this God-forsaken war over there that is killing thousands of innocent people.

Dr. Savimbi wants to negotiate. Dr. Savimbi wants free and fair elections. That is what we want.

In my view, the amendment offered by the gentleman from Florida [Mr. MCCOLLUM] is right on the money. Keep their feet to the fire until they agree to these things that they are very important not only to us but to their people.

If we allow any Exim loans to go to them, make no mistake about it, it will be used indirectly to purchase additional military hardware to prolong that terrible conflict.

Mr. MOODY. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Wisconsin.

Mr. MOODY. Mr. Chairman, I only wanted to say in reference to the gentleman's question about people are misled, that they do not know the facts, we stand here saying that George Bush and his administration do know the facts about Angola, that they have all the authority that they need, and that this is not a multilateral organization. This is executive branch authority that they have. We are willing to trust them. I would hope the gentleman would do that.

I do not think that the President is misled on Angola.

Mr. BURTON of Indiana. I understand what the gentleman is saying. I am not saying we mistrust our President. I am saying that a clear signal should be sent from this body that we do not want any Exim loans going to Angola until there are free and fair elections. That message needs to be sent to the State Department, to the Defense Department, to the administration, very clearly and directly, and I think this amendment of the gentleman from Florida [Mr. MCCOLLUM] does just that, and I think the amendment from the gentleman from Wisconsin should be defeated, and we should support the amendment of the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCURDY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the Moody amendment, and I do so with some reservations, because I say to my colleague and friend from Florida [Mr. MCCOLLUM] that I agree with the intent of his amendment, and I concur with the policy objective that he is trying to achieve, but do not believe that the amendment itself will achieve his desired result.

I have been a supporter of the efforts to achieve national reconciliation in Angola. I have been a strong supporter of efforts to support UNITA In their effort to resist the Cuban incursions into Angola and the Cuban support of the MPLA inside Angola, and one who would like to see free and fair elections in that country. I would like to see improvement in human rights, and I would like to, I think as all of us do, see objective reporting on human-rights abuses with the MPLA as well as with those allegations that may be raised against UNITA.

In my conversations with Dr. Savimbi, he has assured me, as he has others, that he intends to challenge the MPLA to stand up and match his efforts in regard to validation of human-rights concerns, and I think he is going to call the bluff of the MPLA. I believe that in a short timeframe there will be considerable efforts to have a cease-fire. I think that possibility is quite strong, that President Mobutu and Dr. Savimbi will agree to a new initiative which will put, I think, the burden on the MPLA.

Having said that, I think it should be clear that this provision that is offered by the gentleman from Florida unduly ties the administration's hands when it comes to dealing with the situation in Angola.

□ 1640

It is a fluid situation. The Cubans are withdrawing, not fast enough, they should not have been there in the first place, but they are withdrawing. There has to be the flexibility within the administration to work with both UNITA and the other African nations to try to reach a desired result of a ceasefire, a clearly negotiated ceasefire, the continuing withdrawal of the Cubans, an effort to achieve national reconciliation based on democratic principles. Some would disagree and say perhaps there is nothing wrong with that Marxist government. I disagree, but I believe the best hope of achieving that will be by working with the administration, as opposed to unilateral moves on the floor of the House either by the right or the left in trying to pick sides that are going to probably backfire in the long run.

So as one who believes that there is great potential and great hope for achieving the result that we desire in Angola, I will support the Moody amendment as the best option to give the flexibility to the administration.

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. McCURDY. I yield to the gentleman from Michigan.

Mr. WOLPE. Mr. Chairman, I thank the gentleman for yielding. As the gentleman knows, we have some differences in our analysis of the current situation in Angola. I want to express my appreciation to the gentleman for the support of the Moody amendment and the observations he made.

It might be helpful to remind all our colleagues that under current law not one Export-Import Bank dollar can go to Angola as long as there remains one single Marxist-Leninist troop.

No money is going out there. The issue is whether we apply a new requirement that will be wholly unique that will compromise the Nation's diplomacy.

I thank the gentleman for yielding.

Mr. McCURDY. I thank the gentleman from Michigan. The gentleman and I have some differences on some of the facts in Angola and on our views on the policy. However, I think in this area we can concur, and that is it is not our position in the Congress to tie the administration's hands or the State Department's hands in dealing with negotiations in that region.

I would urge my friends on the right as well as those on the left not to take those steps, and if there are amendments in the future that attempt to do that from this side, perhaps I will be in the well as well, trying to discourage that.

I say so with great respect for my friend and colleague from Florida, but I believe in this instance that we would be better served if the amendment were not adopted.

Mr. STEARNS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to address the argument from my colleague, the gentleman from Massachusetts, about micromanagement. I talk to it in the sense that I have gone back and looked at the law that was passed on this House floor in 1986. This is the United States Code, 12-635. Let me read to my colleague, the gentleman from Massachusetts:

> Prohibition relating to Angola: Notwithstanding any determination by the President under paragraph (2), the Bank may not guarantee, insure, or extend credit (or participate in the extension of credit) in connection with any export of goods or services, except food or agricultural commodities, to the People's Republic of Angola until the President certifies to the Congress that no combatant forces or military advisers of the Republic of Cuba or of any other Marxist-Leninist country * * * remain in Angola.

So we have had this statute in place since 1986. Congress in a sense has legislated and gotten involved with this.

So I am rising in support of the McCollum amendment and feel strongly what he is doing is not micromanaging, but is in fact an extension of something like this. So I remind the gentleman from Massachusetts that his argument about micromanaging, and I suggest to him, in all deference, I bet in fact he might have voted for this when it was out on the House floor.

Mr. McCOLLUM. Mr. Chairman, would the gentleman yield?

Mr. STEARNS. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman from Florida.

The gentleman's point is well made. We are not micromanaging here today. We have long had a definite policy toward Angola, and this is an important thing to do.

I thank the gentleman for coming forward with this. One of the things that needs to be pointed out in this whole debate is the fact we have had a longstanding situation with regard to Angola where the Cuban troops have been present, yes, but that is not the only issue.

The fact of the matter is that the big issue here is the Soviet involvement. The fact of the matter is that Angola is basically a puppet state, very similar to Afghanistan, and the Cuban troops were there because of their relationship with the Soviet Union. So this is a big geopolitical question for us.

What my amendment attempted to do before the Moody amendment by the gentleman from Wisconsin was interjected here was to simply lay out some ground rules and say one, two, three, the President can certify certain progress has been made, and that is all it is, is progress, toward resolution of the matters, free and fair elections, human rights violations have been done away with, toward having some pluralism in the country, and then and only then can the Export-Import Bank extension be made, even after the Cuban troops are gone.

The bottom line is the agreements made this summer did not last. As the gentleman from Indiana made the point earlier, we need very badly to reinforce the position of this country standing behind the freedom fighters for the future negotiations that go on. We do not need anyone having any doubt that this country would not under any circumstances allow the Export-Import Bank in the future to fund the type of warfare the Government did finance through that process.

One last point I would like to make is that the amendment of the gentleman from Wisconsin [Mr. MOODY] to mine says that nothing will apply to this country that does not apply to anybody else under the circumstances.

There are a number of very bad countries here. We do not do a whole lot with them under the section involved, except basically have a blanket prohibition with some discrepancy of the President. But I do not think anybody here would say Hungary is a country we should treat as Angola. As we look at each country separately, we have to make individual determinations.

There should not be the kind of restriction the gentleman from Wisconsin is trying to place on my amendment. I am trying to do something specifically for Angola. It is necessary to move the peace movement. I urge the amendment's defeat.

Mr. McEWEN. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the McCollum amendment and encourage my colleagues to join in what is a responsible action on behalf of an agency in which the American taxpayers play a major part.

If I could refer to a few statements in the amendment, it says that moneys will not go for the purpose unless there has been progress in ending envolvement of members of the military and security forces in political violence and abuses of internationally recognized human rights; in bringing to justice those responsible for the abduction and torture of citizens of Angola and citizens of the United States.

It appears to me if American tax dollars are going to be involved in the Export-Import Bank, it should be for the purpose of at least making sure that those funds are not used in violation of nationally recognized human rights standards.

That is all this amendment does. It was mentioned earlier there is a prohibition presently funding the People's Republic of Angola as long as the Soviet surrogate troops through Cuba are in the country.

That amendment was proposed by the gentleman from Florida [Mr. MCCOLLUM] in recognition of the fact that this is a nation that an international outlaw, that has broken virtually every agreement that they have ever set their pen to; that they have pledged elections from the time that they illegitimately took power in 1975 and never followed through with.

In one of my most recent conversations with them asking when do they anticipate having elections, they literally laughed out loud at the idea of having elections. Around the table there was thorough humor at the suggestion, even though those were the terms under which they preempted authority in that country some years ago.

It appears to me it is only logical, that it is only responsible, only prudent, for those Members that have any respect for international human rights, that have any value for the contribution we make to this effort through our tax dollars, that this is a minimum requirement that should be placed on these activities. As a result, I believe it is only responsible for us to support the McCollum amendment as a welcome addition to the bill and in recognition of the fact that in every one of the dealings with the People's Republic of Angola, they have misstated their position and misrepresented their position in denying Cuban troops were there for many, many years, and then saying there were only a handful of troops, and then only advisers. Now we recognize after having over 20,000 troops leave this year that there are still 40,000 remaining, something that they denied some years ago even existed at all.

So with that background, I think it is appropriated we take this action, and strongly support the McCollum amendment.

Mr. MOODY. Mr. Chairman, will the gentleman yield?

Mr. MCEWEN. I am glad to yield to the gentleman from Wisconsin.

□ 1650

Mr. MOODY. I know the gentleman is very sincere in his statement about human rights. I assume the gentleman would be supporting my amendment to the amendment since it applies that standard across the board.

Mr. MCEWEN. I would pose to the gentleman from Wisconsin: Is this an effort to raise the standards whereby export-import activity is applied, or is it merely a smokescreen whereby those who have had a paternalistic protection of Angola from day one, from the time that they took power illegitimately? You remember the Tunney amendment, as Mr. Tunney went the ways of all flesh, the Clark amendment then, there was a cocoon placed over that Government until it could stabilize itself.

Our activities could be involved any place in the cause of democracy and freedom any place in the world but not there. Unfortunately, the 1986 that was removed.

There was those that for many years were responsible in trying to further freedom, and now they are at the threshold, at the door. So I would hope the gentleman's desire is to make sure that that is preserved around the globe and not just as a cocoon of protection for Angola.

Mr. MOODY. Absolutely, the gentleman is correct. This is an amendment that goes to principle, not to country. We are looking at a principle, not a country. I assume the gentleman's abhorrence to human rights violations would be equal no matter where they are found.

Mr. MCEWEN. The gentleman is absolutely correct.

Mr. FRANK. Mr. Chairman will the gentleman yield?

Mr. MCEWEN. I yield to the gentleman from Massachusetts.

Mr. FRANK. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Florida mischaracterized my position. Unfortunately, he refuses to give me a chance to respond. I simply would like to say that any resemblance between the position of mine described by the gentleman, Mr. STEARNS of Florida, and my own is not even coincidental. I am sorry he did not given me a chance to repond to that. But I appreciate the gentleman from Ohio letting me take this moment.

Mr. MCEWEN. I appreciate the gentleman's comments. I am sure the record stands correct. I urge my strong support for the McCollum amendment. It is a welcome addition to the bill.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). The question is on the amendment offered by the gentleman from Wisconsin [Mr. MOODY] to the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

The amendment to the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM], as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN pro tempore. Are there other amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—INTER-AMERICAN DEVELOPMENT BANK

SEC. 201. PARTICIPATION BY THE UNITED STATES IN A CAPITAL INCREASE OF THE INTER-AMERICAN DEVELOPMENT BANK; INCREASE IN RESOURCES OF FUND FOR SPECIAL OPERATIONS.

The Inter-American Development Bank Act (22 U.S.C. 283 et seq.) is amended by adding at the end the following:

"SEC. 33. CAPITAL INCREASE; INCREASE IN RESOURCES OF FUND FOR SPECIAL OPERATIONS.

"(a) AUTHORITY TO VOTE FOR, AND TO SUBSCRIBE AND CONTRIBUTE TO, INCREASE IN AUTHORIZED CAPITAL STOCK OF BANK AND INCREASE IN RESOURCES OF FUND FOR SPECIAL OPERATIONS.—

"(1) VOTE AUTHORIZED.—The United States Governor of the Bank is authorized to vote for resolutions which—

"(A) were transmitted by the Board of Executive Directors to the Governors of the Bank by resolution of April 19, 1989;

"(B) are pending before the Board of Governors of the Bank; and

"(C) provide for—

"(i) an increase in the authorized capital stock of the Bank and subscriptions to the Bank; and

"(ii) an increase in the resources of the Fund for Special Operations and contributions to the Fund.

"(2) SUBSCRIPTION AND CONTRIBUTION AUTHORITY.—To the extent and in the amounts provided in advance in appropriations Acts, on adoption of the resolutions described in paragraph (1), the United States Governor of the Bank may, on behalf of the United States—

"(A) subscribe to 760,112 shares of the increase in the authorized capital stock of the Bank; and

"(B) contribute $82,304,000 to the Fund for Special Operations.

"(b) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—To pay for the subscription and contribution authorized under subsection (a), there are authorized to be appropriated, without fiscal year limitation, for payment by the Secretary of the Treasury—

"(1) $9,169,559,712, for the United States subscription to the capital stock of the Bank; and

"(2) $82,304,000, for the United States contribution to the Fund for Special Operations.

"(c) ORGANIZATIONAL CHANGES REQUIRED TO BE MADE BEFORE PAYMENT FOR SUBSCRIPTION TO CAPITAL STOCK AND CONTRIBUTION TO THE FUND FOR SPECIAL OPERATIONS.—The Secretary of the Treasury may not make any payment for the subscription and contribution authorized under subsection (a) unless the Bank—

"(1) has established an environmental unit with responsibility for the develop-

ment, evaluation, and integration of Bank policies, projects, and programs designed to promote environmentally sustainable development in borrower countries;

"(2) has increased the number of the staff of the Bank with environmentally oriented responsibilities and training;

"(3) provides for an increase in the number of environmentally beneficial projects and programs financed by the Bank; and

"(4) has designed a process for ensuring the access of indigenous non-governmental organizations to the process for designing projects and programs.".

SEC. 202. INVESTMENT IN HUMAN CAPITAL.

(a) PROMOTION OF LENDING IN SUPPORT OF HUMAN CAPITAL.—The Inter-American Development Bank Act (22 U.S.C. 283 et seq.) is amended by adding after the section added by section 201 of this Act the following:

"SEC. 34. INVESTMENT IN HUMAN CAPITAL.

"(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States Executive Director of the Inter-American Development Bank to propose and use the voice and vote of such director, during the 4-year period beginning on January 1, 1990, to vigorously promote an increase in the proportion of Bank lending in support of projects and programs which support investments in human capital and to seek the rapid implementation by the Bank of systematic mechanisms of consultation with locally affected populations in borrower countries either directly or through appropriate representative non-governmental organizations.

"(b) INVESTMENTS IN HUMAN CAPITAL DEFINED.—As used in subsection (a), the term 'investments in human capital' means investments in projects, policies, and programs designed to improve urban and rural health care and sanitation, basic nutrition, education, the small-producer private sector, the economic activities of women, and the development of indigenous non-governmental organizations.".

(b) REPORT TO THE CONGRESS.—The Chairman of the National Advisory Council on International Monetary and Financial Policies shall include in the report required by section 1701 of the International Financial Institutions Act for fiscal year 1991 a report on the efforts undertaken by the United States Executive Director of the Inter-American Development Bank, and the progress to date, in achieving the objectives of section 34 of the Inter-American Development Bank Act.

SEC. 203. LIMITATIONS ON INTER-AMERICAN DEVELOPMENT BANK POLICY BASED LENDING.

The Inter-American Development Bank Act (22 U.S.C. 283 et seq.) is amended by adding after the section added by section 202 of this Act the following:

"SEC. 35. LIMITATIONS ON POLICY BASED LENDING.

"The Secretary of the Treasury shall take all necessary steps to encourage the Bank to limit—

"(1) the aggregate value of the policy based loans made by the Bank (other than policy based loans made to any country which the Bank has determined is economically less developed or has a limited market economy, which are used to purchase sovereign debt of such country or to reduce the debt or debt service burden of such country) during the 4-year period beginning on January 1, 1990, to 25 percent of the aggregate value of all loans made by the Bank during such 4-year period;

"(2) the aggregate value of the policy based loans made by the Bank to the government of a particular country during such 4-year period, to 50 percent of the aggregate value of all loans made by the Bank to such government during such 4-year period;

"(3) instruct the United States Executive Director of the Bank to explore with the other Executive Directors of the Bank ways to use the resources made available to the Bank by reason of the subscription and contribution described in section 33(a)(2) for debt reduction and debt service reduction for countries described in paragraph (1); and

"(4) before the end of the 12-month period beginning on the date of the enactment of this section, report to the Congress on the matters described in paragraph (3).".

SEC. 204. INCREASE IN INTER-AMERICAN DEVELOPMENT BANK LENDING TO THE CARIBBEAN.

The Inter-American Development Bank Act (22 U.S.C. 283 et seq.) is amended by adding after the section added by section 203 of this Act the following:

"SEC. 36. INCREASE IN LENDING TO THE CARIBBEAN.

"The Secretary of the Treasury shall instruct the United States Executive Director of the Bank to enter into discussions with the management of the Bank and with other member country governments to seek to increase Bank lending to the Caribbean region, directly or through appropriate financial intermediaries, for viable projects which will—

"(1) result in expanded regional economic integration, diversification, and industrial and agricultural production, and improved infrastructure; and

"(2) seek to ensure equitable and environmentally sustainable economic growth.".

SEC. 205. SENSE OF THE CONGRESS THAT INTER-AMERICAN DEVELOPMENT BANK LOANS SHOULD REDUCE DEPENDENCE ON ILLICIT NARCOTICS.

It is the sense of the Congress that, whenever possible and appropriate, loans made by the Inter-American Development Bank during the 4-year period beginning on January 1, 1990, should promote economic development which will reduce the growing economic dependence on the production and transit of illicit narcotics in certain borrower countries.

SEC. 206. DIRECTIVES REGARDING GOVERNMENT-OWNED ENTERPRISES IN COUNTRIES RECEIVING IADB LOANS.

The International Financial Institutions Act (22 U.S.C. 262c et seq.) is amended by redesignating section 1612 as section 1613 and by inserting after section 1611 the following:

"SEC. 1612. DIRECTIVES REGARDING GOVERNMENT-OWNED ENTERPRISES IN COUNTRIES RECEIVING IADB LOANS.

"(a) FINDING.—The Congress finds that a principal focus of United States Government policy in the multilateral development banks has been and should be to foster greater development of the private sector in member borrowing countries of such banks.

"(b) TECHNICAL ASSISTANCE TO TRANSFORM GOVERNMENT-OWNED ENTERPRISES INTO PRIVATELY OWNED ENTERPRISES.—In order to assist and strengthen the advancement of ongoing efforts to have the Inter-American Development Bank play a key role in building a viable private sector in member borrowing countries of such bank, and to further assist such bank in its determination to facilitate the transfer of government-owned enterprises in such countries to private ownership, the Secretary of the Treasury shall instruct the United States Executive Director of such bank to vigorously encourage the provision of technical assistance to such countries to transform enterprises owned, in whole or in part, by the governments of such countries into privately owned, self-sufficient enterprises. Such technical assistance may involve the valuation of the assets of such government-owned enterprises, the assessment of tender offers, and the creation or strengthening of market-based mechanisms to facilitate such a transfer of ownership.".

The CHAIRMAN pro tempore. Are there any amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—INTERNATIONAL MONETARY FUND ENHANCED STRUCTURAL ADJUSTMENT FACILITY

SEC. 301. CONTRIBUTION TO THE INTEREST SUBSIDY ACCOUNT OF THE ENHANCED STRUCTURAL ADJUSTMENT FACILITY OF THE INTERNATIONAL MONETARY FUND.

The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end the following:

"SEC. 54. CONTRIBUTION TO THE INTEREST SUBSIDY ACCOUNT OF THE ENHANCED STRUCTURAL ADJUSTMENT FACILITY OF THE INTERNATIONAL MONETARY FUND.

"(a) CONTRIBUTION AUTHORIZED.—

"(1) IN GENERAL.—Subject to paragraph (2), the United States Governor of the Fund may contribute $150,000,000 to the Interest Subsidy Account of the Enhanced Structural Adjustment Facility of the Fund on behalf of the United States.

"(2) CONDITION.—The United States Governor of the Fund may not make a commitment to contribute any amount authorized to be contributed under paragraph (1) before an amount equal to such amount has been appropriated for such purpose.

"(b) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—To pay for the contribution authorized by subsection (a), there are authorized to be appropriated not to exceed $150,000,000, without fiscal year limitation, for payment by the Secretary of the Treasury.".

SEC. 302. DISCUSSIONS TO ENHANCE THE CAPACITY OF THE INTERNATIONAL MONETARY FUND TO ALLEVIATE THE POTENTIALLY ADVERSE IMPACTS OF FUND PROGRAMS ON THE POOR AND THE ENVIRONMENT.

The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding after the section added by section 301 of this Act the following:

"SEC. 55. DISCUSSIONS TO ENHANCE THE CAPACITY OF THE FUND TO ALLEVIATE THE POTENTIALLY ADVERSE IMPACTS OF FUND PROGRAMS ON THE POOR AND THE ENVIRONMENT.

"The Secretary of the Treasury shall instruct the United States Executive Director of the Fund to seek policy and staffing changes by the Fund, through formal initiatives and through bilateral discussions, which will result in—

"(1) the addition to the Fund's staff of—

"(A) natural resource economists;

"(B) poverty analysts;

"(C) development economists with expertise in determining and evaluating the relationship between the use of natural resources and the long-term economic and other effects of such use; and

"(D) other specialists trained in social issues;

"(2) the initiation of a systematic review of policy prescriptions implemented by the Fund, for the purpose of determining whether the Fund's objectives were met and the social and environmental impacts of such policy prescriptions; and

"(3) the establishment of procedures which ensure the inclusion, in future economic reform programs approved by the Fund, of policy options which eliminate or reduce the potential adverse impact on the well-being of the poor or the environment resulting from such programs.".

The CHAIRMAN pro tempore. Are there any amendments to title III?

If not, the Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—INTERNATIONAL DEBT PROVISIONS

SEC. 401. SHORT TITLE.

This title may be cited as the "Foreign Debt Reserving Act of 1989".

SEC. 402. PURPOSES.

The purposes of this title are to strengthen the financial soundness of the United States banking system by requiring increased reserves on risky Third World debt portfolios, and to encourage commercial banks to participate in reducing the debt of highly indebted countries.

SEC. 403. ADDITIONAL RESERVE REQUIREMENTS.

(a) IN GENERAL.—The International Lending Supervision Act of 1983 (12 U.S.C. 3901 et seq.) is amended by inserting after section 905 the following new section:

"SEC. 905A. ADDITIONAL RESERVE REQUIREMENTS.

"(a) FINDINGS.—The Congress finds that—

"(1) adequate reserves against loan losses are necessary for the safe and sound operation of depository institutions and for the protection of the federal deposit insurance funds;

"(2) since the adoption of this Act, the credit quality of loans by United States banking institutions to highly indebted countries has deteriorated and the prospects for full repayment of such loans have diminished;

"(3) United States banking institutions have increased their reserves for possible losses from loans to highly indebted countries, but such reserves, for some banking institutions, may not be adequate to deal with potential risks;

"(4) banking institutions in a number of foreign countries have established reserves against potential losses arising from loans to highly indebted countries in amounts that are significantly greater than the average loan loss reserves established by United States banking institutions; and

"(5) in order to deal adequately with the transfer risk inherent in loans to highly indebted countries, reserves should be increased and the appropriate Federal banking agencies should be required to increase reserve requirements with respect to such loans.

"(b) ADDITIONAL RESERVES REQUIRED.—

"(1) IN GENERAL.—Each appropriate Federal banking agency shall require a banking institution to establish and maintain a level of loan loss reserves that is in general significantly greater than the levels maintained as of June 30, 1989, relative to the exposure of the institution to risk with respect to the medium- and long-term loans made by such institution that are outstanding to any highly indebted country.

"(2) DETERMINATION OF INSTITUTIONAL EXPOSURE TO RISK.—In determining the exposure of an institution to risk for purposes of paragraph (1), the appropriate Federal banking agency may—

"(A) treat, as reducing such exposure, any loan which is—

"(i) made as part of a debt reduction or financing program approved by the International Bank for Reconstruction and Development or the International Monetary Fund; or

"(ii) secured, in whole or in part, by appropriate collateral for payment of interest or principal; and

"(B) take into account any other factors which bear on such exposure and the particular circumstances of the institution.

"(3) TIMING.—

"(A) DETERMINED BY AGENCY.—Except as provided in subparagraph (B), each appropriate Federal banking agency shall determine the timing of the addition to reserves required by paragraph (1).

"(B) DEADLINE.—Each banking institution required to establish and maintain a reserve pursuant to paragraph (1) shall establish such reserve not later than December 31, 1991.

"(c) HIGHLY INDEBTED COUNTRY DEFINED.—As used in this section, the term 'highly indebted country' means any country designated as a 'Highly Indebted Country' in the annual World Debt Tables most recently published by the International Bank for Reconstruction and Development before the date of the enactment of this section.".

SEC. 404. REPORT ON MARK TO MARKET ACCOUNTING.

(a) REPORT REQUIRED.—Before the end of the 90-day period beginning on the date of the enactment of this section, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency shall jointly report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the merits of mark to market accounting treatment as an appropriate accounting treatment for the sovereign debt of highly indebted countries which is held by United States commercial banks.

(b) CONTENTS OF REPORT.—The report required under subsection (a) shall include—

(1) a discussion of why mark to market accounting treatment should not be required as the appropriate accounting treatment for the sovereign debt of highly indebted countries which is held by United States commercial banks;

(2) a discussion of whether generally accepted accounting principles require mark to market accounting treatment of such debt; and

(3) a description of the factors which the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency will consider in future assessments of the applicability of mark to market accounting to such debt.

SEC. 405. STUDY ON ELIMINATION OF CAPITAL FLIGHT.

(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Monetary Fund to propose that the Fund conduct a study on multilateral means by which the banking industry might help reverse capital flight from countries which are engaged in debt restructuring, including—

(1) the feasibility of disclosing the names of account holders whose accounts may consist of flight capital, and the balances of such accounts;

(2) the usefulness of such disclosures in deterring the creation and maintenance of such accounts, and how such deterrence would operate or be defeated;

(3) the extent to which any such information is gathered and to whom such information is made available;

(4) the receptiveness of such countries to the disclosure of such information;

(5) the difficulties in, and the cost of, collecting such information and overcoming legal obstacles used to disguise the true ownership of such deposits, including the feasibility of using the threat of confiscatory penalties to prevent the disguising of the ownership of deposits;

(6) the usefulness of using taxes as a means to encourage the repatriation of flight capital; and

(7) the applicability (if any) of efforts to facilitate the identification, tracing, seizure, and forfeiture of drug crime proceeds, and to prevent the use of the banking system and of financial institutions for the purpose of money laundering.

(b) FLIGHT CAPITAL DEFINED.—As used in subsection (a), the term "flight capital" means any asset—

(1)(A) which is deposited in a banking institution for safekeeping or investment purposes; or

(B) for which a financial institution serves as a conduit, an agent, or a fiduciary in a transaction; and

(2) the owner of which may be a legal resident of a country other than the country in which the institution is located.

(c) REPORT TO THE CONGRESS.—Not later than the end of the 180-day period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Chairman of the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the actions taken and studies completed as required by subsection (a).

SEC. 406. FACTORS TO BE TAKEN INTO ACCOUNT IN DEVELOPING UNITED STATES POLICY TOWARD DEBT REDUCTION FOR CERTAIN HIGHLY INDEBTED COUNTRIES; REPORT TO THE CONGRESS.

(a) FACTORS TO BE TAKEN INTO ACCOUNT.—In developing the policy of the United States Government with respect to debt reduction for each highly indebted country which has a substantial share of the export market for 1 or more agricultural commodities the export market for which the United States also has a substantial share, the Secretary of the Treasury shall take into account the effects of such policy on each of the following:

(1) The volume of United States exports of such commodities.

(2) The world price of such commodities.

(3) Domestic farm income in the United States for producers of such commodities.

(4) Farm program outlays of the Federal Government.

(5) Domestic agricultural production and land distribution patterns in such country.

(6) The income of small-scale producers of agricultural commodities in such country.

(7) The volume of exports from such country of agricultural commodities the export market for which such country has a substantial share.

(8) Basic nutrition levels in such country.

(b) REPORT TO THE CONGRESS.—Before the end of the 12-month period beginning on the date of the enactment of this section, the Secretary of the Treasury shall submit a report to the Congress which analyzes, for

each highly indebted country described in subsection (a), the effects of the policy of the United States Government with respect to debt reduction in each of the areas listed in subsection (a).

(c) HIGHLY INDEBTED COUNTRY DEFINED.—As used in this section, the term "highly indebted country" means any country designated as a "Highly Indebted Country" in the annual World Debt Tables most recently published by the International Bank for Reconstruction and Development before the date of the enactment of this section.

SEC. 407. SENSE OF THE CONGRESS THAT AGREEMENTS TO REDUCE DEBT BURDEN SHOULD BE ACCOMPANIED BY TRADE LIBERALIZATION.

(a) FINDINGS.—The Congress finds that—

(1) Third World debtor nations have often been forced to raise trade barriers in order to accumulate foreign exchange surpluses to repay debt obligations;

(2) trade flows between such nations and the United States have lessened due to the debt crisis;

(3) the reduction of trade barriers would benefit the world economy and promote economic growth; and

(4) the Brady plan encourages debt reduction agreements on behalf of domestic financial institutions.

(b) SENSE OF THE CONGRESS.—It is the sense of Congress that the Secretary of the Treasury should continue to encourage trade liberalization as an element of economic reform programs.

AMENDMENT OFFERED BY MR. GUARINI

Mr. GUARINI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GUARINI: Page 26, after line 17, add the following:

SEC. 408. LINKAGE OF DEBT REDUCTION LOANS TO REDUCTION IN DRUG TRAFFICKING.

(a) FINDINGS.—The Congress finds that—

(1) the Brady Initiative is a positive step, recognizing as it does the need for reducing the debt and debt service burdens of the indebted developing countries;

(2) the multilateral development banks should, as part of this debt reduction process, encourage such countries to further reform their economies by reducing their dependence on production and trafficking on illicit narcotics; and

(3) reduction of debt should relieve some of the financial burden on these countries, and thereby enable them to rely on legal income-generating activities.

(b) INSTRUCTION OF UNITED STATES EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank that, in voting with respect to loans from the multilateral development bank to reduce the debt and debt burden of borrowing countries, the Executive Director shall give preference to those countries which show marked improvement in reducing the volume of cultivation, processing, trafficking, and export to the United States of illegal drugs. In making a determination under the preceding sentence with respect to a country's improvement, the Secretary of the Treasury shall consult with the heads of the relevant agencies.

(c) REPORT TO CONGRESS.—The Secretary of the Treasury shall include, in the detailed accounting required by section 2018(c) of the International Narcotics Control Act of 1986 (22 U.S.C. 2191 note), relating to multilateral development bank assistance for drug eradication and crop substitution programs, an additional discussion of the steps taken and the progress made in implementing the goals set forth in subsection (b) of this section, and further steps needed to secure the achievement of these goals.

(d) DEFINITIONS.—As used in this section—

(1) the term "multilateral development bank" includes the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Inter-American Investment Corporation, the Asian Development Bank, the African Development Bank, and the African Development Fund; and

(2) the term "illegal drugs" means "narcotic and psychotropic drugs and other controlled substances", as defined in section 481(i)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(i)(3)).

Mr. GUARINI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. GUARINI. Mr. Chairman, I am pleased to offer an amendment which motivates Third World countries mired in debt and in drugs to dig themselves out.

My amendment would link the vital issues of narcotics control and Third World debt reduction.

This amendment is supported by the majority, the minority, and the administration. I very much appreciate the committee's interest and support. Chairman GONZALEZ, Mr. FAUNTROY, Mr. WYLIE, the administration, and the Democrats and Republicans on the committee have all worked together, in the best bipartisan spirit, and I thank you.

It directs the U.S. member at the Multilateral Development Banks to give preference—in debt reduction loans—to countries which show progress in fighting the drug war.

In other words, the United States helps those nations who help themselves. By reducing production, processing, and trafficking in drugs, these countries receive a helping hand from the United States.

This amendment provides a carrot, not a stick.

It provides an incentive for these nations to crack down harder on drug trafficking within their own borders.

It will encourage economic reform. It will encourage legitimate income-generating activity. It will help these nations fight poverty while they fight drugs.

In turn, it will reduce the bloated supply of cocaine flowing over the U.S. borders.

Borrower nations can show significant improvement by punishing narcotraffickers, money launderers, and public corruption.

They can show satisfactory adherence to a bilateral narcotics control agreement with the United States.

Or they can exhibit increased support for drug prevention and education programs, and improve cooperation with U.S. antidrug personnel.

Mr. Chairman, I urge the Members' strong support of this amendment.

It is a positive and creative step whose time has come.

Let us work together with our neighbors and the community of nations all over the world who are fighting the plague of drugs.

They need and deserve our help.

Mr. FAUNTROY. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I want to commend the gentleman from New Jersey for bringing to us the fruits of his leadership not only on the Select Committee on Narcotics Abuse and Control but as the cochair of the Friends of the Caribbean.

Mr. Chairman, he is to be saluted for this amendment, and we on the committee have no objection to it, will support it vigorously.

Mr. Chairman, last year I offered legislation which was enacted that requires the MDB's to promote economic development which lessens the dependence of many of these poorer countries on narcotics trafficking and production.

The efforts associated with that legislation and others, such as the Guarini amendment here, make clear our commitment to a coordinated fight against drugs.

I want to thank the gentleman for his amendment and move adoption of it at this point.

Mr. WYLIE. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, Mr. GUARINI did me the courtesy of consulting with me on this amendment in advance. The amendment is the same as the language contained in H.R. 3439, which I read and got back to him and indicated to him that Treasury had no objection to his amendment.

Mr. Chairman, I think it is a good amendment. I do support it. I urge its adoption.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Chairman, I am pleased to rise in support of this amendment linking international narcotics control to debt reduction and I commend the gentleman from New Jersey [Mr. GUARINI] for his efforts in bringing this amendment before the House. I would also like to commend the chairman of the Select Committee on Narcotics, the

gentleman from New York [Mr. RANGEL], the ranking minority member of the select committee, the gentleman from Pennsylvania [Mr. COUGLIN] for their efforts on this matter.

Mr. Chairman, the crisis of drugs in our Nation has finally made its way into the spotlight. It follows, that with heightened attention to this problem, our Nation and our Government may begin to make valuable strides toward curbing and halting drug use in the United States. President Bush has now pledged further expenditures and involvement of our Armed Forces in the interdiction of drugs which reach our shores largely from indebted developing countries. But we cannot depend solely on seizure at our borders to completely stop these drugs from infiltrating our society.

The indebted, drug-producing countries must be encouraged to reduce their economic dependence on production and trafficking of illicit narcotics. The struggling economies of these developing countries rely largely on the production of illicit narcotics. Our war on drugs must be boosted by creating an impetus for these countries to produce alternative crops and base there economies on the exchange of legal commodities.

This amendment provides positive incentive by granting preference in reducing the debt burden to those countries which show progress in their own war on drugs. The U.S. Executive Director of each Multilateral Development Bank would consider the indebted countries' efforts in reducing the volume of cultivation, processing, trafficking, and export to the United States of illicit drugs.

Mr. Chairman, recently Chairman RANGEL introduced a joint resolution commending the people of Colombia for their courageous efforts in struggling to wrench the Colombian economy from the hands of drug lords. Colombia should stand as a lesson to Americans, assuring us that indeed people of indebted drug-producing countries are committed to halting drug production. They are committed to restoring order and halting the terrorism practiced by the drug cartels. Given a viable economic alternative, these people would say "no" to drugs.

Accordingly, I urge my colleagues to join in supporting this amendment. This measure is an important stride toward reducing the volume of narcotics that crosses our borders, enters our society, is consumed by our children, and dilutes the American dream.

□ 1700

Mr. WYLIE. Mr. Chairman, I commend the gentleman for an excellent statement.

I yield to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Chairman, I want to rise in support of the amendment by the gentleman from New Jersey. It is a very good amendment, I believe, because it is important in all of our dealings with other nations, and all the dealings of the international banks, to ensure that we, indeed every possible occasion, call attention to the question of the narcotics trade and try to help reduce the narcotics trade. The gentleman's amendment is important. It is well taken. I support it.

Mr. WYLIE. Mr. Chairman, I associate myself with the remarks of the gentleman from Pennsylvania [Mr. COUGHLIN] and I yield back the balance of my time.

Mr. RANGEL. Mr. Chairman, I rise in support of the Guarini amendment to H.R. 2494, which links debt reduction loans for narcotics producing countries to a reduction in drug production and trafficking.

A number of drugs producing and transshipment countries are burdened by serious foreign debt obligations. These financial burdens create additional hardships for countries that are trying to cope with a drug production or trafficking problem. The Guarini amendment is an attempt to alleviate some of this burden for the countries that have established effective narcotics control efforts, and to enable these countries to expand their economies and further their narcotics control efforts.

Under the Guarini amendment, U.S. representatives at Multilateral Development Banks are to give preference to cooperating drug producing or trafficking countries when considering favorable debt renegotiation.

This amendment provides to drug producing countries an important incentive for them to engage in effective narcotics control measures. It is an important positive step, one that should be welcomed by debt-reduced, drug producing countries.

I commend my colleague from New Jersey, who has long been an active member of the Select Committee on Narcotics Abuse and Control, for drafting this amendment, and I encourage my colleagues to support the Guarini amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. GUARINI].

The amendment was agreed to.

The CHAIRMAN. The Clerk will designate title V.

The text of title V is as follows:

TITLE V—ALLEVIATION OF POVERTY; ENVIRONMENTAL PROVISIONS; DEBT-FOR-DEVELOPMENT SWAPS; CONSOLIDATION OF REPORTING REQUIREMENTS

Subtitle A—Alleviation of Poverty

SEC. 501. INCREASING THE PRODUCTIVE ECONOMIC PARTICIPATION OF THE POOR.

The International Financial Institutions Act (22 U.S.C. 262c et seq.) is amended by redesignating section 1613 (as so redesignated by section 206 of this Act) as section 1614 and by inserting after section 1612 (as added by such section 206) the following:

"SEC. 1613. DISCUSSIONS TO INCREASE THE PRODUCTIVE ECONOMIC PARTICIPATION OF THE POOR; REPORTS.

"(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States Executive Director for each multilateral development bank to vigorously and continually advocate, in all replenishment negotiations and in discussion with other directors of such bank and with such bank, the following:

"(1) A major objective of such bank's operations and financing in each borrowing country, as a long term priority, should be to increase the productive role of the poor in the economy of such country.

"(2) Such bank should encourage and assist each borrowing country to develop sustainable national plans and strategies to eliminate the causes and alleviate the manifestations of poverty which keep the poor from leading economically and socially productive lives. Such plans and strategies should give attention to—

"(A) the enhancement of human resources, including programs for basic nutrition, primary health services, basic education, and safe water and basic sanitation;

"(B) access to income-generating activities, employment, and productive assets such as land and credit; and

"(C) consultation with public sector social agencies and local non-governmental organizations.

"(3) As an integral element of ongoing policy dialogue with each borrowing country to design structural adjustment plans and project lending programs, such bank should provide assistance consistent with achieving the objectives of the country's national plan for increasing the productive economic participation of the poor. Such dialogue should be conducted with government agencies working in social and economic sectors and with non-governmental groups in the borrowing country, especially those that have grassroots involvement with poor people.

"(4) In an annual review document, such bank should describe the extent to which the goal of increasing the productive economic participation of the poor is being advanced or retarded and the steps that are being taken to overcome obstacles to its fulfillment. Such review should be based on information contained in the bank's country implementation review documents and in the country strategy documents for each borrowing country. Such country strategy documents should describe the national strategy for productive economic participation of the poor and the steps the bank plans to take to assist the borrowing country during the period covered by the country strategy document.

"(5) Such bank should assist countries in assessing and monitoring progress in achieving poverty alleviation goals and targets through measurement by appropriate social indicators.

"(6) Such bank should adopt procedures and budgetary allocations for administrative purposes, and establish appropriate staffing levels, to ensure that adequate resources are available to implement the bank's program for enhancing the productive economic participation of the poor, in consultation with non-governmental groups.

"(7) Such bank should adopt, as a separate and major criterion in the allocation of concessional financing resources, a preferential allocation to each country which undertakes significant efforts to enhance the productive economic participation of the poor.

"(8) Such bank should require each country which receives structural adjustment assistance to have in place, after a reasonable phase-in period, a strategy to enhance the

productive economic participation of the poor.

"(b) PROGRESS REPORT.—Before the end of the 1-year period beginning on the date of the enactment of this section, the Secretary of the Treasury shall submit to the Committee on Banking, Finance and Urban Affairs and the Committee on Appropriations of the House of Representatives, and the Committee on Foreign Relations and the Committee on Appropriations of the Senate, a report on the following:

"(1) The status of advocacy and progress being made to implement the objectives of subsection (a), describing the success to date, the obstacles encountered, and future expectations of progress.

"(2) A description of the progress to date in achieving the purposes of section 1611, including the institutional capacity and effort devoted to assisting in the development of statistical measures to assess the well-being of the poor.

"(3) A description and evaluation of the progress to date in developing effective mechanisms for involving non-governmental organizations, directly or indirectly, in the design, implementation, and monitoring of development projects, programs, and policies of the multilateral development banks.".

Subtitle B—Tropical Forest Protection

SEC. 511. SHORT TITLE.

This subtitle may be cited as the "Tropical Forest Protection Act of 1989".

SEC. 512. PURPOSES.

The purposes of this subtitle are as follows:

(1) Protect tropical forests in debtor developing countries which will—

(A) stabilize the global climate;

(B) preserve biological diversity; and

(C) ensure future sustainable growth in such developing countries by preventing resource degradation and genetic erosion.

(2) Enable and encourage developing countries to establish and strengthen local institutions to formulate natural resource policy and manage natural resources.

(3) Improve the quality of life for those dependent on renewable natural resources in debtor developing countries.

SEC. 513. PROVISIONS TO PROMOTE PROTECTION OF THE ENVIRONMENT.

The International Financial Institutions Act (22 U.S.C. 262c et seq.) is amended by redesignating section 1614 (as so redesignated by section 501 of this Act) as section 1617, and by inserting after section 1613 (as added by such section 501) the following:

"SEC. 1614. PROMOTION OF THE PRESERVATION AND PROTECTION OF TROPICAL FORESTS AND OTHER ENDANGERED ECOSYSTEMS OR SPECIES THROUGH ENVIRONMENTAL LENDING PROGRAMS AND DEBT-FOR-NATURE SWAPS.

"The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to vigorously promote the adoption of policies and procedures which seek to preserve and protect tropical forests and other endangered ecosystems or species in debtor developing countries by assisting such countries in reducing and restructuring private debt through the use of a portion of a project or policy based environmental loan in ways which will enable such countries to buy back private debt at a rate of discount available for such debt, at auction in the secondary market or through negotiations with creditors holding such debt, if such country, in collaboration with local and international nongovernmental or private voluntary organizations for protection of the environment, as appropriate, converts an agreed upon amount of its debt to local currency for use in debt-for-nature swap programs, establishes set-asides, grants conservation easements, or establishes other environmentally beneficial projects, programs, or policies, which provide for the protection and preservation of tropical forests or other critical ecosystems or species that are renewable natural resources, including funding to—

"(1) promote scientific inquiry and limited tourism in forests;

"(2) establish tree nurseries and other facilities for the reforestation of land which has been deforested;

"(3) develop and implement curricula, materials, communications media programs, and education facilities for use in promoting the education of the public;

"(4) establish public data collection systems, information management and analysis systems, and remote sensing systems;

"(5) develop and implement research facilities and resource management training programs;

"(6) develop and implement comprehensive and cohesive land management programs and environmental policy, regulations, and incentives; or

"(7) protect and manage parks and preserves.

"SEC. 1615. PROMOTION OF LENDING FOR THE ENVIRONMENT.

"The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development to initiate discussions with the other executive directors of such bank and the management of such bank and propose that, in order to reduce the future need for bank lending for reforestation and restoration of environmentally degraded areas, the bank establish a project and policy based environmental lending program (including a loan a portion of which could be used to reduce and restructure private debt), to be made available to interested countries with a demonstrated commitment to natural resource conservation, which would be based on—

"(1) the estimated long-term economic return which could be expected from the sustainable use and protection of tropical forests, including the value of tropical forests for indigenous people and for science;

"(2) the value derived from such services as—

"(A) watershed management;

"(B) soil erosion control;

"(C) the maintenance and improvement of—

"(i) fisheries;

"(ii) water supply regulation for industrial development;

"(iii) food;

"(iv) fuel;

"(v) fodder; and

"(vi) building materials for local communities;

"(D) the extraction of naturally occurring products from locally controlled protected areas; and

"(E) indigenous knowledge of the management and use of natural resources; and

"(3) the long-term benefits expected to be derived from maintaining biological diversity and climate stabilization.

"SEC. 1616. PROMOTION OF INSTITUTION-BUILDING FOR NON-GOVERNMENTAL ORGANIZATIONS CONCERNED WITH THE ENVIRONMENT.

"The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to vigorously promote the adoption of policies and procedures which seek to—

"(1) increase collaboration with, and, where necessary, strengthen, nongovernmental organizations in such countries which are concerned with environmental protection by providing appropriate assistance and support for programs and activities on environmental protection; and

"(2) encourage international collaboration for information exchange and project enhancement with nongovernmental organizations in developing countries which are concerned with environmental protection and government agencies and private voluntary organizations in developed countries which are concerned with environmental protection.".

Subtitle C—Environmental Impact Assessments

SEC. 521. ASSESSMENT OF ENVIRONMENTAL IMPACT OF PROPOSED MULTILATERAL DEVELOPMENT BANK ACTIONS.

Title XIII of the International Financial Institutions Act (22 U.S.C. 262m et seq.) is amended by adding at the end the following:

"SEC. 1308. ASSESSMENT OF ENVIRONMENTAL IMPACT OF PROPOSED MULTILATERAL DEVELOPMENT BANK ACTIONS.

"(a) ASSESSMENT REQUIRED BEFORE FAVORABLE VOTE ON ACTION.—

"(1) IN GENERAL.—Beginning 2 years after the date of the enactment of this section, the Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank not to vote in favor of any action proposed to be taken by the respective bank which would have a significant effect on the human environment, unless for at least 120 days before the date of the vote—

"(A) an assessment analyzing the environmental impacts of the proposed action and of alternatives to the proposed action has been available to the Executive Director; and

"(B) except as provided in paragraph (2), such assessment and a comprehensive summary of such assessment has been available to all other interested Federal agencies and to interested members of the public.

"(2) EXCEPTION FOR DISCLOSURES JEOPARDIZING CONFIDENTIAL RELATIONSHIP.—

"(A) EXCEPTION.—The requirement of paragraph (1)(B) shall not apply in any case where the Secretary finds compelling reasons to believe that disclosure described in paragraph (1)(B) would jeopardize the confidential relationship between the borrower country and the respective bank.

"(B) REPORT BY SECRETARY.—Within 30 days after the Secretary makes a finding described in subparagraph (A), the Secretary shall report in writing to the Committees specified in subsection (f)(1) the Secretary's reasons for such finding, and shall include with such report the comprehensive summary described in paragraph (1)(B).

"(b) ACCESS TO ASSESSMENTS IN ALL MEMBER COUNTRIES.—The Secretary of the Treasury shall seek the adoption of policies and procedures, through discussions and negotiations with the other member countries of the multilateral development banks and with the management of such banks, which result in access by governmental agencies and interested members of the public of such member countries, to environmental assessments or documentary information containing comprehensive summaries of such assessments which discuss the environmental impact of prospective projects and programs being considered by such banks. Such assessments or summaries should be made available to such governmental agencies and interested members of the public at least 120

days before scheduled board action, and public participation in review of the relevant environmental information should be encouraged.

"(c) CONSIDERATION OF ASSESSMENT.—The Secretary of the Treasury shall—

"(1) ensure that an environmental impact assessment or comprehensive summary of such assessment described in subsection (a) accompanies loan proposals through the agency review process; and

"(2) take into consideration recommendations from all other interested Federal agencies and interested members of the public.

"(d) DEVELOPMENT OF PROCEDURES FOR SYSTEMATIC ENVIRONMENTAL ASSESSMENT.—The Secretary of the Treasury, in consultation with other Federal agencies, including the Environmental Protection Agency, the Department of State, and the Council on Environmental Quality, shall—

"(1) instruct the United States Executive Director of each multilateral development bank to initiate discussions with the other executive directors of the respective bank and to propose that the respective bank develop and make available to member governments of, and borrowers from, the respective bank, within 18 months after the date of the enactment of this section, a procedure for the systematic environmental assessment of development projects for which the respective bank provides financial assistance, taking into consideration the Guidelines and Principles for Environmental Impact Assessment promulgated by the United Nations Environmental Programme and other bilateral or multilateral assessment procedures; and

"(2) in determining the position of the United States on any action proposed to be taken by a multilateral development bank, develop and prescribe procedures for the consideration of, among other things—

"(A) the environmental impact assessment of the action described in subsection (a);

"(B) interagency and public review of such assessment; and

"(C) other environmental review and consultation of such action that is required by other law.

"(e) USE OF UNITED STATES PERSONNEL.—The Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality, the Administrator of the Agency for International Development, and the Administrator of the National Oceanic and Atmospheric Administration, shall—

"(1) make available to the multilateral development banks, without charge, appropriate United States Government personnel to assist in—

"(A) training bank staff in environmental impact assessment procedures;

"(B) providing advice on environmental issues;

"(C) preparing environmental studies for projects with potentially significant environmental impacts; and

"(D) preparing documents for public release, and developing procedures to provide for the inclusion of interested nongovernmental organizations in the environmental review process; and

"(2) encourage other member countries of such banks to provide similar assistance.

"(f) REPORTS.—

"(1) IN GENERAL.—The Secretary of the Treasury shall submit to the Committee on Foreign Relations of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives—

"(A) not later than the end of the 1-year period beginning on the date of the enactment of this section, a progress report on the efficacy of efforts by the United States to encourage consistent and timely environmental impact assessment of actions proposed to be taken by the multilateral development banks and on the progress made by the multilateral development banks in developing and instituting environmental assessment policies and procedures; and

"(B) not later than January 1, 1993, a detailed report on the matters described in subparagraph (A).

"(2) AVAILABILITY OF REPORTS.—The reports required by paragraph (1) shall be made available to the member governments of, and the borrowers from, the multilateral development banks, and to the public.".

Subtitle D—Debt-for-Development Swaps

SEC. 531. ENCOURAGEMENT OF DEBT-FOR-DEVELOPMENT SWAPS THROUGH LOCAL CURRENCY REPAYMENT.

(a) STATEMENT OF POLICY.—It is the sense of the Congress that each appropriate Federal banking agency should encourage debt-for-development swaps as 1 of the menu of options available to banking institutions seeking to participate in debt reduction agreements with highly indebted countries.

(b) NOTIFICATION RELATING TO LOCAL CURRENCY REPAYMENT THROUGH DEBT-FOR-DEVELOPMENT SWAPS.—Each appropriate Federal banking agency shall notify each banking institution holding sovereign debt of highly indebted countries that acceptance of local currency repayment as part of a debt-for-development swap is a legitimate form of repayment by the debtor if such repayment in local currency is made at a free market rate governing the exchange of United States dollars for the local currency at the time of the repayment.

(c) ACCOUNTING TREATMENT.—

(1) IN GENERAL.—Each banking institution which accepts a local currency repayment as part of a debt-for-development swap in a manner consistent with subsection (b) shall account for such repayment in accordance with the standard accounting principles used to govern the valuation and accounting for local currencies.

(2) NOTIFICATION.—Before the end of the 6-month period beginning on the date of the enactment of this section, the Comptroller of the Currency and the Federal Deposit Insurance Corporation shall, in consultation with the Board of Governors of the Federal Reserve System, notify each banking institution holding debt of highly indebted countries of the accounting treatment to be accorded to local currency repayments as part of debt-for-development swaps.

(3) SPECIAL RULE.—The accounting treatment accorded local currency repayments as part of debt-for-development swaps shall not be less favorable than the most favorable of the other available means of accounting for and valuing the financial assets which are the subject of such swaps.

(d) DEFINITIONS.—As used in this section:

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning given such term in section 903(1) of the International Lending Supervision Act of 1983.

(2) BANKING INSTITUTION.—The term "banking institution" has the meaning given such term in section 903(2) of the International Lending Supervision Act of 1983.

(3) DEBT-FOR-DEVELOPMENT SWAP.—The term "debt-for-development swap" has the meaning given such term in section 1608(b)(2) of the International Financial Institutions Act.

(4) HIGHLY INDEBTED COUNTRY.—The term "highly indebted country" means any country designated as a "Highly Indebted Country" in the annual World Debt Tables most recently published by the International Bank for Reconstruction and Development before the date of the enactment of this section.

Subtitle E—Consolidation of Certain Reporting Requirements

SEC. 541. CONSOLIDATION OF CERTAIN REPORTING REQUIREMENTS.

(a) IN GENERAL.—The International Financial Institutions Act (22 U.S.C. 262c et seq.) is amended by adding at the end the following:

"TITLE XVII—CONSOLIDATED REPORTING REQUIREMENTS

"SEC. 1701. ANNUAL REPORT BY CHAIRMAN OF THE NATIONAL ADVISORY COUNCIL ON INTERNATIONAL MONETARY AND FINANCIAL POLICIES.

"(a) IN GENERAL.—The Chairman shall report annually to the Speaker of the House of Representatives, the President of the Senate, and to the President of the United States on the participation of the United States in the international financial institutions. The Chairman shall present such report to the Speaker of the House of Representatives and the President of the Senate not later than April 1 of each year following the close of the fiscal year covered by such report.

"(b) CONTENTS OF REPORTS.—Each annual report required by subsection (a) shall contain—

"(1) such data and explanations concerning the effectiveness, operations, and policies of the international financial institutions, such recommendations concerning the international financial institutions, and such other data and material as the Chairman may deem appropriate;

"(2) the reports on each specific issue and topic which is required by any other provision of law to be included in the report of the National Advisory Council on International Monetary and Financial Policies required by section 4(b)(5) of the Bretton Woods Agreements Act, as in effect immediately before the date of the enactment of this section;

"(3) a description of each loan or other form of financial assistance approved by any international financial institution during the fiscal year covered by such report, and a discussion of how such loan or financial assistance will benefit the people, particularly the poor people, of the recipient country;

"(4) a review of the success achieved through the international financial institutions in reducing or eliminating import restrictions and unfair export subsidies which—

"(A) have been determined to be consistent with international agreements; and

"(B) have a serious adverse impact on the United States;

"(5) a description of the actions taken and the progress made in carrying out subsections (a) and (b) of section 45 of the Bretton Woods Agreements Act;

"(6) the report required by section 2018(c) of the International Narcotics Act of 1986 (title II of Public Law 99-570), discussing the actions taken and progress made in encouraging the multilateral development banks to finance drug eradication and crop substitution programs;

"(7) a description of the progress made by the United States Executive Director of the

International Monetary Fund with respect to the goals of section 55 of the Bretton Woods Agreements Act;

"(8) a description of the status of procedures in the multilateral development banks specifically designed to increase the productive role of the poor in the economies of the nations which are borrowers from such banks;

"(9) in consultation with the Secretary of State, a report on the progress toward achieving the goals of title VII (other than section 704), including the information required to be reported pursuant to section 701(c);

"(10) in consultation with the Secretary of State and the Administrator of the Agency for International Development, an assessment of the progress being made to implement the objectives of title XIII; and

"(11) a report on—

"(A) the progress made in transforming government-owned enterprises into privately owned enterprises as described in section 1612(b);

"(B) the performance of the privately owned enterprises resulting from such transformation; and

"(C) the contributions of development finance companies toward strengthening the private sector in member borrowing countries.

"(c) DEFINITIONS.—As used in this title, title XVIII, and title XIX:

"(1) CHAIRMAN.—The term 'Chairman' means the Chairman of the National Advisory Council on International Monetary and Financial Policies.

"(2) INTERNATIONAL FINANCIAL INSTITUTIONS.—The term 'international financial institutions' means the International Monetary Fund, International Bank for Reconstruction and Development, International Development Association, International Finance Corporation, Multilateral Investment Guarantee Agency, African Development Bank, African Development Fund, Asian Development Bank, Inter-American Development Bank, and Inter-American Investment Corporation.

"(3) MULTILATERAL DEVELOPMENT INSTITUTIONS.—The term 'multilateral development institutions' means the international financial institutions other than the International Monetary Fund.

"(4) MULTILATERAL DEVELOPMENT BANKS.—The term 'multilateral development banks' means the multilateral development institutions other than the Multilateral Investment Guarantee Agency.

"(d) TESTIMONY REQUIRED.—Upon request of the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Chairman shall testify before the Committee to support and explain each annual report required by subsection (a). If the President has delegated to a person or persons other than the Chairman the authority to manage United States participation in the international financial institutions which was vested in the President by section 1(b) of the Reorganization Plan No. 4 of 1965, such person or persons shall, upon request of the Committee, accompany the Chairman and testify before the Committee with regard to such report. The Chairman and such other person or persons shall assess, in their testimony, the effectiveness of the international financial institutions, the major issues affecting United States participation, the major developments in the past year, the prospects for the coming year, United States policy goals with respect to the international financial institutions, and any specific issues addressed to them by any member of the Committee.

"SEC. 1702. TRANSMISSION TO THE CONGRESS OF OPERATING SUMMARIES OF THE MULTILATERAL DEVELOPMENT BANKS.

"The Secretary of the Treasury shall transmit to the Congress, on a monthly basis, current copies of the Monthly Operating Summary of the International Bank for Reconstruction and Development, showing the loan proposals or appraisal reports under consideration and the status of those loan proposals or appraisal reports within the Bank. The Secretary of the Treasury shall also transmit to the Congress, at such times as may be appropriate, comparable documents prepared by the other multilateral development banks which shown the loans or credits under consideration in the other multilateral development banks.

"SEC. 1703. COMBINED REPORT ON EFFECT OF PENDING MULTILATERAL DEVELOPMENT BANK LOANS ON ENVIRONMENT, NATURAL RESOURCES, PUBLIC HEALTH, AND INDIGENOUS PEOPLES.

"Not later than April 1 and October 1 of each year, the Administrator of the Agency for International Development, in consultation with the Secretary of the Treasury and the Secretary of State, shall submit to the Committee on Appropriations and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Appropriations and the Committee on Foreign Relations of the Senate, as a combined report, the reports required by section 1303(c) of this Act and by section 537(h)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 1(e) of Public Law 100-202).

"TITLE XVIII—EXPORT ENHANCEMENT

"SEC. 1802. PROCUREMENT OPPORTUNITIES FOR UNITED STATES FIRMS.

"The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development institutions to take all possible steps to ensure that information relating to potential procurement opportunities for United States firms is expeditiously communicated to the Secretary of the Treasury, the Secretary of State, and the Secretary of Commerce, and is disseminated as widely as possible to large and small businesses.

"TITLE XIX—PERSONNEL PRACTICES

"SEC. 1901. PERSONNEL PRACTICES.

"(a) STATEMENT OF POLICY.—It shall be the policy of the United States that no initiatives, discussions, or recommendations concerning the placement or removal of any personnel employed by the international financial institutions shall be based on the political philosophy or activity of the individual under consideration.

"(b) CONSULTATION.—The Secretary of the Treasury shall consult with the Chairman and the ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate before any discussion or recommendations by any official of the United States Government concerning the placement or removal of any principal officer of any international financial institutions.".

(b) TRANSFER OF PROVISION RELATING TO EXPORT ENHANCEMENT.—Section 3202 of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 262a) is hereby transferred to the International Financial Institutions Act, inserted after the heading of title XVIII (as added by the amendment made by subsection (a) of this section), and redesignated as section 1801.

(c) CONFORMING AMENDMENT.—Section 701(c) of the International Financial Institutions Act (22 U.S.C. 262d(c)) is amended to read as follows:

"(c)(1) Not later than 30 days after the end of each calendar quarter, the Secretary of the Treasury, in consultation with the Secretary of State shall report quarterly on all loans considered by the Boards of Executive Directors of the institutions listed in subsection (a) to the Chairman and ranking minority members of the Committee on Banking, Finance and Urban Affairs of the House of Representatives, or the designees of such Chairman and ranking minority member, and the Chairman and ranking minority member of the Committee on Foreign Relations of the Senate.

"(2) Each report required by paragraph (1) shall—

"(A) include a list of all loans considered by the Board of Executive Directors of the institutions listed in subsection (a) and shall specify with respect to each such loan—

"(i) the institution involved;

"(ii) the date of final action;

"(iii) the borrower;

"(iv) the amount;

"(v) the project or program;

"(vi) the vote of the United States Government;

"(vii) the reason for United States Government opposition, if any;

"(viii) the final disposition of the loan; and

"(ix) if the United States Government opposed the loan, whether the loan meets basic human needs;

"(B) indicate whether the United States has opposed any loan, financial assistance, or technical assistance to a country on human rights grounds;

"(C) indicate whether the United States has voted in favor of a loan, financial assistance, or technical assistance to a country with respect to which the United States had, in the preceding 2 years, opposed a loan, financial assistance, or technical assistance on human rights grounds; and

"(D) in cases where the United States changed its voting position from opposition to support or from support to opposition, on human rights grounds—

"(i) indicate the policy considerations that were taken into account in the development of the United States voting position;

"(ii) describe human rights conditions in the country involved;

"(iii) indicate how the United States voted on all other loans, financial assistance, and technical assistance to such country during the preceding 2 years; and

"(iv) contain information as to how the United States voting position relates to the overall United States Government policy on human rights in such country.".

(d) REPEALS.—The following provisions of law are hereby repealed:

(1) Paragraphs (5) and (6) of section 4(b), and sections 15(b), 30(b), 33(c), and 50, of the Bretton Woods Agreements Act (22 U.S.C. 286b(b) (5) and (6), 286e-9(b), 286s(c), and 286b-2).

(2) Section 4(b) of the Asian Development Bank Act (22 U.S.C. 285b(b)).

(3) Section 12 of the Inter-American Development Bank Act (22 U.S.C. 283i).

(4) Sections 701(g)(1), 1103, 1307, and 1602(d) of the International Financial Institutions Act (22 U.S.C. 262d(g)(1), 262g-2 note, 262m-6, and 262p-1(d)).

(5) Chapter 3 of Public Law 91-599 (84 Stat. 1658).

(6) Sections 102 and 401 of Public Law 96-259 (22 U.S.C. 283 note and 262i).

(7) Sections 1005 and 1006 of the Supplemental Appropriations Act, 1984 (Public Law 98-181; 22 U.S.C. 276c-3).

(8) Section 537(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e) of Public Law 100-202; 22 U.S.C. 262l(c)).

(e) OTHER CONFORMING AMENDMENTS.—The following provisions of law are each amended by striking the last sentence:

(1) Section 4 of the International Finance Corporation Act (22 U.S.C. 282b).

(2) Section 4 of the Inter-American Development Bank Act (22 U.S.C. 283b).

(3) Section 204 of the Inter-American Investment Corporation Act (22 U.S.C. 283cc).

(4) Section 4 of the International Development Association Act (22 U.S.C. 284b).

(5) Section 408 of the Multilateral Investment Guarantee Agency Act (22 U.S.C. 290k-5).

(6) Section 204 of the African Development Fund Act (22 U.S.C. 290g-2).

(7) Section 1335 of the African Development Bank Act (22 U.S.C. 290i-3).

(8) Section 701(d) of the International Financial Institutions Act (22 U.S.C. 262d(d)).

(f) CLERICAL AMENDMENTS.—

(1) Section 4(b) of the Bretton Woods Agreements Act (22 U.S.C. 286b(b)) is amended by redesignating paragraphs (7) and (8) as paragraphs (5) and (6), respectively.

(2) Section 30 of the Bretton Woods Agreements Act (22 U.S.C. 286e-9) is amended by striking "(a)".

(3) Section 4 of the Asian Development Bank Act (22 U.S.C. 285b-9) is amended by striking "(a)".

(4) Title XIII of the International Financial Institutions Act (22 U.S.C. 262m et seq.) is amended by redesignating section 1308 (as added by section 521 of this Act) as section 1307.

The CHAIRMAN. Are there any amendments to title V?

If not, the Clerk will designate title VI.

The text of title VI is as follows:

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. SENSE OF THE CONGRESS THAT THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT AND THE INTERNATIONAL MONETARY FUND SHOULD EXPEDITIOUSLY ACT UPON LOAN REQUESTS FROM POLAND.

It is the sense of the Congress that, based on the liberalization of Poland's economic system and the opening of its economic system to market forces, the Secretary of the Treasury should instruct the United States Executive Directors of the International Bank for Reconstruction and Development and of the International Monetary Fund to urge upon their colleagues that their respective institutions move as expeditiously as possible in considering and acting upon loan requests from, and in disbursing approved loans to, Poland.

SEC. 602. SENSE OF THE CONGRESS SUPPORTING ASSISTANCE BY MULTILATERAL LENDING INSTITUTIONS TO ESTABLISH FINANCIAL INSTITUTIONS IN POLAND.

It is the sense of the Congress that the Secretary of the Treasury should instruct the United States Executive Directors of the multilateral development banks (as defined in section 1617 of the International Financial Institutions Act), of the International Finance Corporation, and of the Multilateral Investment Guarantee Agency to enter into discussions with the other executive directors of such institutions and, in such discussions, urge such institutions to consider and act promptly upon (and, in the case of the Multilateral Investment Guarantee Agency, after Poland becomes a member country of such institution) requests by individuals and private businesses in, and the Government of, Poland for financial and technical assistance in the establishment of financial institutions (including institutions such as credit unions, thrift institutions, and commercial banks) and businesses involved in the provision of credit and financial services.

SEC. 603. SENSE OF THE CONGRESS RELATING TO CONDITIONAL FINANCIAL ASSISTANCE BY MULTILATERAL LENDING INSTITUTIONS TO POLAND.

It is the sense of the Congress that the Secretary of the Treasury should instruct the United States Executive Directors of the multilateral development banks (as defined in section 1617 of the International Financial Institutions Act), of the International Monetary Fund, of the International Finance Corporation, and of the Multilateral Investment Guarantee Agency to enter into discussions with the other executive directors of such institutions and propose that such institutions not provide financial assistance or debt forgiveness to Poland until the government of Poland allows and facilitates privately owned entities established in foreign countries to invest in private commerical ventures in Poland.

SEC. 604. SENSE OF THE CONGRESS OPPOSING THE MAKING OF CERTAIN LOANS OR THE EXTENSION OF CERTAIN FINANCIAL AND TECHNICAL ASSISTANCE TO THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—The Congress finds that—

(1) the Government of the People's Republic of China ordered the People's Liberation Army to brutally attack peaceful demonstrators who had assembled in Tiananmen Square;

(2) this attack violated the human rights of the demonstrators;

(3) several thousand innocent and defenseless protesters were killed in the initial assault;

(4) these violations of human rights have evolved into a pattern of continuing repression and reprisals against citizens throughout China as evidenced by the beating of alleged dissidents, the order to the army to shoot "rioters"—the Chinese Government's term for the peaceful demonstrators—on sight, the mass arrest of students and workers, the public declarations by government-controlled media that physicists Fang Lizhi and Li Shuxian (who are being given refuge in the United States Embassy in Beijing) are "guilty" before being afforded due process, and the banning of all independent, unofficial prodemocracy organizations;

(5) the Government of the People's Republic of China is trying to suppress truthful accounts of the actions taken in Beijing and throughout the country, by, among other things, expelling foreign journalists, including the local bureau chief of the Voice of America, from the country;

(6) the People's Republic of China has received almost $8,000,000,000 in development loans from the International Bank for Reconstruction and Development, and increasing amounts of assistance from the Asian Development Bank;

(7) it is morally repugnant that, through such multilateral development banks, United States taxpayer dollars are used to support the present policies of the People's Republic of China;

(8) such development loans cannot be justified on economic grounds because economic development and market reforms cannot be achieved in the environment of repression that now clearly exists there; and

(9) the People's Republic of China is engaging in "a pattern of gross violations of internationally recognized human rights . . . such as flagrant denial to life, liberty, and the security of person".

(b) STATEMENT OF POLICY.—It is the sense of the Congress that the President should—

(1) instruct the United States Executive Directors of the International Bank for Reconstruction and Development and the Asian Development Bank to use their voices and votes to oppose the making of any loan or the extension of any financial or technical assistance to the People's Republic of China, in accordance with section 701(f) of the International Financial Institutions Act; and

(2) consider the People's Republic of China to be a country described in section 701(a)(1) of such Act until the President determines that the repression and reprisals against persons in connection with the prodemocracy demonstrations have ended.

SEC. 605. SENSE OF THE CONGRESS RELATING TO FAMILY PLANNING.

It is the sense of the Congress that—

(1) the Secretary of the Treasury should encourage the multilateral development banks to increase their efforts to support, through their lending, the effective implementation of national family planning programs, exclusive of the abortion option, in borrowing countries; and

(2) the Chairman of the National Advisory Council on International Monetary and Financial Policies should report annually to the Congress on United States advocacy in the multilateral development banks on the subject of family planning and population policy.

SEC. 606. OPPOSITION TO LOANS TO LAOS UNLESS CERTAIN CONDITIONS ARE MET.

Title VII of the International Financial Institutions Act (22 U.S.C. 262d et seq.) is amended by adding at the end the following:

"SEC. 706. OPPOSITION TO LOANS TO LAOS UNLESS CERTAIN CONDITIONS ARE MET.

"(a) CONDITIONS REQUIRED TO BE MET BEFORE MAKING LOANS.—The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks (as defined in section 1617), of the International Finance Corporation, and of the Multilateral Investment Guarantee Agency to actively oppose any loan to the Communist Government of Laos unless the President of the United States certifies, and reports to the Congress, that the government of Laos—

"(1) is willing, and is actively seeking, to achieve an equitable political settlement of the conflict in Laos, including free and fair elections, through a mutual cease fire and a dialogue with the opposition armed forces;

"(2) has demonstrated progress in protecting internationally recognized human rights, and particularly in—

"(A) ending, through prosecution or other means, involvement of members of the military and security forces in political violence and abuses of internationally recognized human rights;

"(B) vigorously prosecuting persons engaged in political violence who are connected with the government; and

"(C) bringing to justice those responsible for the abduction, torture, and murder of

citizens of Laos and citizens of the United States; and

"(3) has demonstrated progress in its respect for, and protection of—

"(A) the freedom of the press;

"(B) the freedom of speech;

"(C) the freedom of assembly;

"(D) the freedom of association (including the right to organize for political purposes);

"(E) internationally recognized worker rights; and

"(F) other attributes of political pluralism and democracy.

"(b) DETAILED STATEMENT REQUIRED.—The President shall include in each report made pursuant to subsection (a) a detailed statement with respect to each of the conditions set forth in subsection (a).".

AMENDMENT OFFERED BY MR. SOLARZ

Mr. SOLARZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLARZ: Page 63, strike line 7 and all that follows through page 65, line 6.

Page 4, in the table of contents, strike the item relating to section 606.

Mr. SOLARZ. Mr. Chairman, I believe this amendment will be acceptable to the majority and minority. I know it is supported by the administration and by the League of Families that represents the American families who have men missing in action or who are POW's in Indochina. I even hope that it will also be acceptable to my very good friend, the gentleman from Florida, the author of the language in the bill which this amendment seeks to strike.

The language which the amendment proposes to eliminate from the bill would, in effect, require our representatives in the multilateral lending institutions to vote against any loans for Laos unless the government of that country agrees to enter into negotiations with its armed opposition and has demonstrated progress on a variety of human rights issues.

I want to assure my good friend from Florida and any other interested Members that I certainly share the hopes embodied in this legislation for national reconciliation in Laos, and it certainly is true they could do much better in terms of their respect for the human rights of their own people. However, I fear that the language contained in the bill could be counterproductive in a number of respects.

Over the course of the last year, the Laos Government has been cooperating with the United States in the effort to determine the fate of those Americans who are still missing in action, who disappeared in the territory of Laos. In the beginning of November, a special United States delegation is going to the Vientiane, the capital of Laos, consisting of a representative of the State Department, and Mills Griffith, the Executive Director of the League of Families, in an effort to enlist the further cooperation of the Laotians in our effort to determine the fate which befell our men.

There is some concern that the adoption of this bill with the existing language would have a chilling effect on their ability to induce the Laotians to extend greater cooperation to Members on the MIA question.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I am happy to yield to the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I have great respect for the gentleman's concern. I did not know at the time I offered this amendment in committee, and it was adopted by a large majority, nor did the other members who voted with it, that there are some concerns in the nature the gentleman described.

I have been apprised of that fact in the last few days, and it is my understanding in view of this particular provision, that in law that I authored, if the gentleman's amendment is adopted, he would be willing to sponsor with this gentleman, a resolution coming out of his subcommittee, and hopefully to the floor, that would provide for a concern over the issues that the gentleman has described, including human rights abuses, and hopefully getting Members to pluralism in Laos without the same problems that this particular provision presents to our administration on the prisoner of war issue.

Is that the understanding, and is the gentleman willing to sponsor such a resolution?

Mr. SOLARZ. The gentleman is accurate in his characterization of my attitude on this question. I think that we could work out a mutually acceptable text for a resolution which would enable the Congress to express its views on the need for national reconciliation, democratization, and greater respect for human rights in Laos. I hope that would send an effective message both to the authorities in Vientiane, as well as to the Laos people, both in Laos and those who have come to our own country, about where the United States stands on these important issues.

Mr. McCOLLUM. If the gentleman will continue to yield, it is precisely for that reason that I originally offered this amendment in committee, and we got into the bill. The people of Laos, I think, particularly those that have been through all of the horrors they have been through in the past few years, really need some encouragement and some support for their opportunity for self-determination.

I am pleased the gentleman is willing to join in such a resolution. I understand the tenderness of the particular problem of the provisions in this bill, at this time, and I join with the gentleman in having this removed from the bill, without opposing it.

Mr. SOLARZ. Mr. Chairman, that is an act of genuine statesmanship on the part of my very good friend, the gentleman from Florida, and I would hope with this support this could meet with the approval of my colleagues in the committee.

Mr. Chairman, I yield to my good friend who also serves as the chairman of the Task Force on POW/MIA's, the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, as chairman of the House POW/MIA Task Force and a member of the Foreign Affairs Committee who has long been interested and involved in events in Indochina, I rise in support of the amendment being offered by our colleague STEVE SOLARZ to strike section 606 conditioning loans to Laos.

My colleagues know that I am an outspoken opponent of Communist dictatorships like the one ruling Laos. I agree that American tax dollars should not be used to finance corrupt, oppressive Communist regimes. I have a long and solid record of opposing American bankrolling—through bilateral and multilateral aid—Communist solidification and expansion.

I am very concerned, though, that this well intentioned section could derail the very sensitive, and at this time, increasingly productive negotiations with Laos regarding the fate of American POW/MIA's in Laos. To me, the POW/MIA issue takes a higher, top priority. Some 545 American servicemen are still unaccounted for in Laos. Some of these like Eugene Debruin, Capt. David Hrdlicka, and Col. Charles Shelton—who is still officially listed as a prisoner of war—are important discrepancy cases about which we need real answers now. I strongly believe that the American public would join me in being very disappointed if section 606 of this bill prompted the Lao to reverse their cooperation on the POW/MIA and narcotics issues.

I want to emphasize that today by law, we must actively oppose any multilateral loan to Laos because of Laos' decertification on narcotics. However, according to both the Lao and our own Government, Laos is trying to seriously address our concerns about drugs. There is a possibility that Laos may make enough progress to be "certified" next year. That would help our fight against drugs. And, even if Laos is certified, that is certainly no guarantee that we would support any multilateral loans. We would, of course, continue to consider other factors, like human rights.

Unfortunately, section 606 would deny the President any flexibility. Without the hope of this carrot, there is much less incentive for Laos to be cooperative with us on two issues of great importance to America—POW/MIA's and drugs. In my direct meetings with Lao officials, they have told me just that.

The administration is strongly opposed to section 606. It takes away the flexibility and decisionmaking ability of the President. I very much trust President Bush's judgment and Congress should not limit the President, especially a very capable President like George Bush, in this way.

I fully agree that we should continue to focus on human rights and the plight of oppressed Lao, like the Hmong. Major political and economic reforms are needed in Laos. These factors must be central to any decisions we make regarding bilateral and multilateral aid to Laos. However, unlike other Communist countries, except Vietnam, we have a unique, special interests in Laos—namely, POW/MIA's and narcotics. We must be extremely careful when adjusting our relations with Laos. While I agree with the intent of section 606, I believe that at this time it will do more harm than good—especially with regard to the POW/MIA issue and especially now when we, finally, may be getting real cooperation on this critical issue.

I urge my colleagues to support the Solarz amendment to strike section 606.

OCTOBER 18, 1989.

Hon. ROBERT J. LAGOMARSINO,
2332 Rayburn House Office Building,
Washington, DC.

DEAR CONGRESSMAN LAGOMARSINO: Representative McCollum has submitted legislation which would require the United States to oppose international financial institution loans to Laos on a variety of grounds. The National League of Families strongly oppose that legislation and is deeply concerned that passage would adversely affect ongoing bilateral cooperation on issues of highest priority concern to our nation. Following are reasons on which our opposition is based.

The amendment is factually inaccurate. It implies that there is a civil conflict in Laos and an armed opposition of such seriousness that the Lao Government should seek a cease-fire with it. Lao resistance groups are considered an irritation not a serious threat to the Lao Government, and the United States Government has stated repeatedly that it does not support them.

Passage of this amendment could result in immediate suspension of current U.S.-Lao cooperation on narcotics control and efforts to resolve the fates of 545 Americans still missing in Laos. U.S./Lao cooperation on POW-MIA matters has improved markedly over the past two years, and the Lao have agreed to additional crash site surveys, technical consultations and another joint excavation by the end of the year. Over the past year, the Lao Government has taken significant steps to improve its record on drug cultivation and trafficking, including signing an multi-year crop substitution agreement with the U.S. Lao officials have attended U.S. Customs and DEA-sponsored courses on narcotics interdiction and drug abuse education.

This amendment would punish Laos at a time when it is seeking, and with some success, to create a market economy, when it has sharply improved its political and economic ties with an American ally, Thailand, and when it is striving to open up its relations with the nations of ASEAN, with the West and with the United States. International financial institution loans are crucial to economic restructuring in developing countries, especially to a country as poor as Laos.

Without the money and the technical expertise the World Bank, the IMF and other institutions can provide, the Lao will be constrained to depend on the Soviet Union, Vietnam and China for necessary support.

Finally, this amendment would make further progress on improving U.S.-Lao diplomatic relations virtually impossible and contradicts long-standing United States policy, affirmed recently by President Bush at the League's National convention, of working to improve the bilateral relationship.

In the best interest of pursuing U.S. goals, I sincerely hope that the McCollum amendment will be opposed by the majority of the House. In our view, it would be counterproductive to "reward" increased cooperation by the Lao Government to resolve issues of serious priority to the United States by passing this punitive and inaccurate legislation.

Respectfully,

ANN MILLS GRIFFITHS,
Executive Director.

(On request of Mr. LAGOMARSINO and by unanimous consent, Mr. SOLARZ was allowed to proceed for 2 additional minutes.)

Mr. SOLARZ. Mr. Chairman, I yield to my good friend, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I rise in support of this amendment introduced by our colleague from New York [Mr. SOLARZ], and I commend our colleague for his distinguished service as chairman of our Foreign Affairs Subcommittee on Asian and Pacific Affairs.

The amendment offered by our colleague, Mr. SOLARZ, would strike section 606 from this legislation. I believe that it is vital we do so.

Mr. Chairman, the language of section 606 of this legislation as reported to us by the committee requires the Secretary of the Treasury to "instruct the United States Executive Directors of the multilateral development banks of the International Fine Corporation, and of the Multilateral Investment Guarantee Agency to actively oppose any loan of the Communist Government of Laos unless the President of the United States certifies, and reports to Congress, that the Government of Laos" complies with stated objectives, including "free and fair elections", "progress in protecting internationally recognized human rights", and "has demonstrated progress in its respect for, and protection of, freedom of the press, freedom of speech, freedom of assembly, the freedom of association, including the right to organize for political purposes; internationally recognized worker rights; and other attributes of political pluralism and democracy."

Mr. Chairman, no one in this body questions the good intentions of this section. We applaud and endorse the sentiments in favor of democratic government and against brutal oppression expressed therein.

However, adoption of this legislation is extremely ill-timed and would, if adopted by this House, prove to be counterproductive. Resulting in exactly the opposite effect of what its authors intended.

Mr. Chairman, the Government of Laos does not currently enjoy full diplomatic relations with the United States. However, we do have an Embassy in Vientiane and we are currently in the midst of ongoing negotiations with the Laotian Government.

We are seeking—and to a great extent have obtained—Lao cooperation on two issues of extreme importance to all Americans: a full accounting of the fates of the more than 2,300 POW's and MIA's from our involvement in the Southeast Asian conflict who are still unaccounted for, and cooperation in curbing the exodus of illegal narcotics from the infamous "golden triangle" of Southeast Asia.

Our negotiations with the Lao Government regarding the fate of our missing Americans have been making significant progress. Several known crash sites have been excavated by American teams, and in some cases the remains of missing Americans have been recovered, repatriated, and identified. Our ongoing negotiations with the Lao Government indicate that further excavations may be feasible in the near future.

The only way our Government can obtain information on these missing American heroes—both in recovering remains of deceased Americans and obtaining information and the release of any Americans who may possibly still be alive—would be by continuing these negotiations in Vientiane. The adoption of the language in this proposed legislation could effectively cut off those negotiations.

On the POW/MIA issue, we would be back to square one: to the same point we were in the mid-1970's, when there was no cooperation and no information from the Government of Laos.

Mr. Chairman, we should bear in mind that 545 of the over 2,300 American heroes still listed as missing in Southeast Asia were last seen in Laotian territory.

The National League of Families of our POW's and MIA's informs me that cooperation between Laos and the United States on this issue has increased dramatically over the past 2 years. Recently, the Lao Government has agreed to further crash site surveys, technical consultations, and another joint excavation of a crash site by the end of 1989. The adoption of this legislation would impede progress on the POW/MIA issue. We owe it to the families, friends, and loved ones of our missing heroes to make certain that this doesn't happen.

Moreover, as senior member on the House Select Committee on Narcotics, I can attest to the advances made in Southeast Asia in the field of narcotics. I had visited Southeast Asia several times with my colleague, the chairman of our Select Narcotics Committee, Mr. RANGEL and several other of our colleagues. We were appalled by the extensive production of narcotics in the "golden triangle."

I am now pleased to report that, over the past year, the Lao Government has taken significant steps to improve its record on drug cultivation and drug trafficking, including the recent signing of a multiyear crop substitution agreement with the United States. Lao officials have attended United States Customs and DEA-sponsored courses on narcotics interdiction and drug abuse education.

Similarly, with narcotics, as with the POW/MIA issue, adoption of this legislation will result in stepping backward. We cannot afford to go back to square one. Accordingly, let us adopt the amendment striking the language of section 606.

In addition, the legislation would punish Laos at a time when it is seeking to open its doors to other nations, most notably our ally Thailand and the United States. Laos is seeking to establish a market economy. We would be well advised to work with them to achieve this goal, with a carrot rather than with a stick.

In fact, the adoption of the committee language could very well result in Laos being driven back into the arms of Vietnam, the U.S.S.R., and Red China.

Finally, the adoption of the committee language would contradict administration policy, as stated recently by the President at the annual meeting of the National League of Families, that the United States is seeking bilateral relationships with the Communist governments of Southeast Asia.

Mr. Chairman, I believe that the adoption of the committee language would be a major step backward.

For these reasons, I urge our colleagues to support the Solarz amendment, striking the language of section 606.

Mr. ATKINS. Mr. Chairman, I wish to support the amendment of the gentleman from New York. I think he is correct that the provisions pertaining to Laos do not rightfully belong in this legislation.

It is difficult to stand up on the floor and criticize a provision that would elicit for the Lao people greater freedoms and improved civil rights. I believe the author of the original provision, the gentleman from Florida, is very well-meaning in seeking peace and stability in Laos, indeed in the region as a whole. My quarrel is not the values he wishes to promote, but rather the methodology used here to produce a desired effect.

I think the greatest mistake we could make at this juncture is to give Laos reason to feel unwelcome in the world community. For years after the war, Laos remained a closed society—an occasional beligerent to its immediate neighbor Thailand and virtually alienated from the United States, notwithstanding the fact that our diplomatic relations continued uninterrupted after the war.

Recently, the situation has changed dramatically. Laos is at peace with Thailand and, indeed, the pace of economic interaction between the two countries is staggering. Additionally, Australia, Sweden, Japan, among others have relatively large-scale aid and infrastructure building programs underway that are opening Laos to a myriad of economic and social changes.

In recent months, Laos has conducted elections. And Laos, has promulgated an investment code that speaks to a desire to develop a mixed economy and a will to attract foreign investment on terms that are not hostile to capitalist ventures.

Not surprisingly, the United States has had mixed success in relations with Laos. But as one who has recently visited Laos and follows circumstances in the region very closely, I am sanguine about a much improved relationship. Their willingness to address the legitimate concerns of the National League of Families of American Prisoners and Missing in Southeast Asia and to work cooperatively with their representatives in determining the ultimate fate of lost U.S. servicemen has been most commendable. In addition, after years of intransigence and refusal to come to terms with rampant drug trafficking, the Lao Government is finally opting for cooperation with our own DEA officials.

I am not naive about Laos. But, I believe that if we find new and creative ways to isolate Laos, there would be a chilling effect on the tentative reforms and diplomatic initiatives presently occurring there. And, thus, the very values that the gentleman from Florida would wish to have prevail, would be at even greater risk. Oftentimes, our providing inducements and outreach to old adversaries can be far more salutary and productive than tenaciously maintaining punitive ones.

Mr. Chairman, I think in the case of Laos, there is ample evidence that our tentative steps at outreach are working, and I would regret using the network of multilateral assistance programs for an unwise and ultimately unproductive United States foreign policy initiative. Therefore, I would encourage my colleagues to support the amendment of Mr. SOLARZ to delete the section pertaining exclusively to Laos.

Mr. RIDGE. Mr. Chairman, while section 606, which places conditions on loans to Laos, may be well intentioned, I am concerned that it might not be based on current information, and as a consequence, it could send absolutely the wrong international message at a most sensitive time in our relations with the Lao People's Democratic Republic.

Section 606 calls for a political settlement of the conflict in Loas including free and fair elections, through a mutual cease-fire and a dialog with the opposition armed forces.

This is confusing. The current government has been in power since 1975, without significant opposition. The Lao People's Democratic Republic is internationally recognized and holds the U.N. seat for Laos. The United States recognizes the LPDR, and has maintained our Embassy in Vientiane without interruption since 1975. There are antiregime opposition groups, but these are small and without important international support; the United States does not support any of them.

Linking loan opposition to political actions is untimely. In the last 18 months, the LPDR has indeed taken a series of positive actions to open its country economically. In addition, within the last year the first elections since 1975 were held on the district, provincial, and national levels.

Currently our stance on opposing loans to Laos is designed to move Laos to greater cooperation in combating illegal narcotics production and trafficking. We have begun to make progress on this critical issue. This year, for the first time ever, Laos is sending officials, such as its Deputy Chief of Customs, to United States training sessions on narcotics control. On September 30, the United States and Laos signed a bilateral agreement on a crop substitution project. Even now, officials from both countries are working to reach an agreement on issues of control and prosecution that will comply with the criteria of the Childs amendment requiring countries to be committed to the fight against drugs. To increase conditions on ending our loan opposition at time will most assuredly decrease Laos cooperation on the narcotics issue—an issue of highest priority to the United States.

On another issue of highest United States priority and bilateral interest between the United States and Laos, 545 POW/MIA's remain unaccounted for in that country. To date, one of the difficulties in making progress in Laos has been the fact that 90 percent of the Laotian area where our servicemen might be, is controlled by the Vietnamese. In January 1989, however, Laos agreed to a yearlong commitment of joint cooperation with the United States in resolving POW/MIA issues. Since then there have been a number of meetings between specialists from both countries. In August alone, a team from the United States went to six or more candidate sites for joint excavation, and followed them up with consultations. In a couple of weeks Gen. John Vessey, the President's Special Emissary to Vietnam for POW/MIA Affairs, will be returning to Hanoi to assess the status of his continuing efforts with that country. Afterward, a part of his team will split off and go to Laos to follow up on the improved cooperation that Laos has been providing. Needless to say, in this primary bilateral area as well, a hostile signal at this time would be counterproductive.

For these reasons, I ask that you approve Congressman SOLARZ' amendment that would strip out references to Laos, as those references are confusing, untimely, and counterproductive to national interests in terms of the current overriding bilateral issues between the United States and the Lao People's Democratic Republic—narcotics trafficking and POW/MIA resolution.

Mr. FLAKE. Mr. Chairman, I rise today as a member of the Subcommittee on International Development, Finance, Trade and Monetary Policy in full support of H.R. 2494. I would like to thank my subcommittee chairman, Mr.

FAUNTROY for his leadership, as well as my full committee chairman, Mr. GONZALEZ for his support of this legislation.

With the universal and rapid advancement in technology, communication and trade, the world is a more closely interrelated, interdependent community. Clearly, a smaller world results in intensified competition. America must work harder than ever before to keep its world leadership position in international development and foreign aid. This legislation responds to this priority through authorizing funds for the InterAmerican Development Bank, Export-Import Bank and contributing to the International Monetary Fund's special fund to encourage economic development in the poorest Latin American and African nations. Beyond financial aid, H.R. 2494, encourages new techniques in addressing debt reduction, such as debt-development swaps as well as debt-environment swaps. We must continue to support and encourage these nations to help themselves.

Responsible domestic aid is a key to H.R. 2494 as well. In an effort to increase security for American banks, there is a provision in this bill to encourage commercial banks to increase their level of loan loss reserves for loans to these developing countries, attempting to manage their overwhelming debt.

Lastly, in recognition of our diminishing environment, we can not continue to ignore our depletion of natural resources in an environment that we all share. Toward this end, I believe that debt reduction through a debt-environment swap is a necessary option provided in H.R. 2494. In addition, H.R. 2494 allows multilateral development banks to use their lending leverage to encourage sound environmental policies in these developing countries.

Mr. MOODY. Mr. Chairman, I rise in support of the International Development, Trade, and Fainance Act, H.R. 2494. This legislation addresses a major global concern: international environmental protection. Our planet is in danger because of the effects of global warming, depletion of the ozone, and acid rain. These are international problems and the United States needs to be part of the solution. I am pleased to see that we are addressing these concerns with this legislation. By requiring the Inter-American Development Bank [IDB] to establish an environmental unit, increase the number of environmental projects and programs, increase the number of IDB staff with environmental training and responsibilities, and ensure that non-governmental organizations have input into the design of such projects we are truly making an effort to protect the environment.

We are correct in making this committment to the environment. Encouraging debt-for-nature swaps, for example, sends a strong message from Congress to the World Bank. We are telling the World Bank that we must value our irreplaceable environment and protect it while helping international development.

I am pleased that in addition to measures to encourage environmental protection, this legislation addresses another critical factor affecting developing nations: population growth. The committee report expresses the sense of Congress that the Treasury Secretary should encourage the MDB's to increase their efforts to support, through their leading, the effective implementation of national family planning programs, exclusive of the abortion option, in borrowing countries and requires a progress report to be included in the National Advisory Council annual report on U.S. advocacy in the MDB's on the subject of family planning.

There is a strong connection between poverty, environmental degradation, and population pressure. We need to understand the linkage. Rapid population growth hampers economic development. For example, the Inter-American Development Bank reports that although Latin American countries experienced a 0.6-percent rise in economic output last year, because of continued rapid population growth in those countries the per capita output in that region actually declined by 1.5 percent. Global warming is directly related to the pressures of swelling population. Not only does an increase in population affect the growth in toxic emissions from automobiles and industry, but it also puts a demand on our forests and plantlife that help consume carbon dioxide. Forests and plantlife are a source of quick cash crop for developing nations and they are often cleared because the land is needed for agricultural purposes. In order to help countries develop without sacrificing their environment and natural resources to short-term political pressures, we must address population growth. Future legislation should continue to include environmental protection initiatives along with a policy to help developing nations with their voluntary family planning and maternal health care system.

As World Bank President Barber Conable noted during an address to the World Resources Institute, "The linkage between poverty, environmental degradation, and unchecked population growth is a real one. And it needs to be more widely recognized and more urgently addressed. In short, the global population issue must be put back on the global agenda."

It is a positive direction we are taking by following our former colleague's lead. International development funding must acknowledge the clear link between population pressures, environmental degradation, and economic development. This bill is an important step in that direction.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York [Mr. SOLARZ].

The amendment was agreed to.

□ 1710

The CHAIRMAN pro tempore (Mr. MONTGOMERY). The Clerk will designate title VII.

The text of title VII is as follows:

TITLE VII—EFFECTIVE DATE

SEC. 701. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

The CHAIRMAN pro tempore. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. MCCURDY] having assumed the chair, Mr. MONTGOMERY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2494) to amend the Export-Import Bank Act of 1945 to authorize the appropriation of not to exceed $100,000,000 to the Tied Aid Credit Fund for fiscal year 1990, and to provide for expenditures from such fund during such fiscal year, pursuant to House Resolution 267, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BUNNING. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 280, nays 125, not voting 27, as follows:

[Roll No. 293]

YEAS—280

Ackerman	Borski	Conte
Akaka	Boucher	Conyers
Alexander	Brennan	Cooper
Anderson	Brooks	Coughlin
Andrews	Broomfield	Coyne
Annunzio	Brown (CA)	Crockett
Anthony	Bruce	Darden
Aspin	Buechner	Davis
Atkins	Bustamante	de la Garza
AuCoin	Campbell (CO)	DeFazio
Baker	Cardin	Derrick
Barnard	Carper	Dicks
Bartlett	Carr	Dingell
Bateman	Chandler	Dixon
Bates	Chapman	Donnelly
Beilenson	Clarke	Dorgan (ND)
Bennett	Clay	Downey
Bereuter	Clement	Durbin
Berman	Clinger	Dwyer
Bilbray	Coleman (MO)	Dymally
Boehlert	Coleman (TX)	Eckart
Boggs	Collins	Edwards (OK)
Bonior	Condit	Engel

English
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank
Frenzel
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Gray
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hastert
Hatcher
Hawkins
Hayes (IL)
Hefner
Hertel
Hiler
Hoagland
Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Hughes
Hutto
Hyde
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lancaster
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (WA)
Moakley
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Patterson
Payne (NJ)
Payne (VA)
Pease
Penny
Perkins
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Rangel
Rhodes
Richardson
Ridge
Rinaldo
Roe
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Sangmeister
Savage
Sawyer
Saxton
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schumer
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Smith (VT)
Snowe
Solarz
Spratt
Staggers
Stokes
Studds
Swift
Synar
Tanner
Tauke
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Udall
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Vucanovich
Walgren
Walsh
Watkins
Waxman
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Wolpe
Wylie
Yates
Young (AK)

NAYS—125

Applegate
Archer
Armey
Ballenger
Barton
Bentley
Bevill
Bilirakis
Bliley
Browder
Brown (CO)
Bunning
Burton
Byron
Callahan
Coble
Combest
Costello
Cox
Craig
Crane
Dannemeyer
DeLay
DeWine
Dickinson
Dornan (CA)
Douglas
Dreier
Duncan
Dyson
Early
Emerson
Erdreich
Fields
Flippo
Gallegly
Gekas
Goss
Grant
Hall (OH)
Hammerschmidt
Hancock
Hansen
Harris
Hefley
Henry
Herger
Holloway
Hopkins
Huckaby
Inhofe
Ireland
Jacobs
James
Jenkins
Kyl
Lagomarsino
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lukens, Donald
Machtley
Madigan
Marlenee
Martin (IL)
McCollum
McEwen
Miller (OH)
Mollohan
Moorhead
Murphy
Myers
Nielson
Packard
Pallone
Parker
Parris
Pashayan
Paxon
Petri
Quillen
Ravenel
Ray
Regula
Ritter
Roberts
Robinson
Rogers
Rohrabacher
Roth
Russo
Saiki
Sarpalius
Schaefer
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skelton
Slaughter (VA)
Smith (NE)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stallings
Stangeland
Stearns
Stenholm
Stump
Sundquist
Tallon
Tauzin
Thomas (WY)
Traficant
Upton
Volkmer
Walker
Weber
Whittaker
Williams
Young (FL)

NOT VOTING—27

Bosco
Boxer
Bryant
Campbell (CA)
Courter
Dellums
Edwards (CA)
Florio
Ford (TN)
Garcia
Gingrich
Hayes (LA)
Hunter
Lantos
Lehman (FL)
McDade
Miller (CA)
Mineta
Molinari
Panetta
Pelosi
Stark
Towns
Traxler
Weiss
Wyden
Yatron

□ 1728

Messrs. SCHULZE, TRAFICANT, BARTON of Texas, and PALLONE changed their vote from "yea" to "nay."

Mr. HAWKINS and Mr. HALL of Texas changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to reauthorize the Export-Import Bank tied aid credit fund and pilot interest subsidy program, to provide for the participation of the United States in a replenishment of the Inter-American Development Bank and in the Enhanced Structural Adjustment Facility of the International Monetary Fund, to improve the safety and soundness of the United States banking system and encourage the reduction of the debt burdens of the highly indebted countries, to encourage the multilateral development banks to engage in environmentally sustainable lending practices and give greater priority to poverty alleviation, and for other purposes."

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. PELOSI. Mr. Speaker, I offer a personal explanation of my absence from votes. I was absent from the House due to my necessary return to San Francisco in the aftermath of the tragic earthquake there. Had I been here to vote, I would have voted the following way:

On rollcall No. 293, passage of H.R. 2494, the International Development, Trade and Finance Act, "yes."

GENERAL LEAVE

Mr. FAUNTROY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 2494, the bill just passed.

The SPEAKER pro tempore (Mr. MCCURDY). Is there objection to the request of the gentleman from the District of Columbia?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2494, INTERNATIONAL DEVELOPMENT AND FINANCE ACT OF 1989

Mr. FAUNTROY. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 2494, the Clerk be authorized to make corrections in section numbers, punctuation, and cross-references, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 2494, International Development and Finance Act of 1989.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from the District of Columbia?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1470

Mr. SIKORSKI. Mr. Speaker, I ask unanimous consent that the name of the gentleman from Indiana [Mr. JONTZ] be removed from the list of cosponsors of the bill, H.R. 1470.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 586

Mr. TORRES. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 586.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

COSTA RICAN DEMOCRACY UNDERMINED BY UNITED STATES DOLLARS

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RICHARDSON. Mr. Speaker, I am distressed to read that United

States taxpayer funds have been used to undermine the democratically elected Government of Costa Rica.

According to the Wall Street Journal, the National Endowment for Democracy provided funds which went to assist the conservative opposition party in Costa Rica, headed by Rafael Calderon. Mr. Calderon was his party's candidate for the Presidency in 1986 against Oscar Arias, and is running for office in elections scheduled for next February.

The National Endowment for Democracy was funding Calderon's activities at the same time that President Arias was actively trying to bring peace to his troubled region of the world—efforts for which he was granted the Nobel Peace Prize. Calderon's party also has the support of one of the United State's enemies in the region, General Noriega of Panama.

I think it very strange that the National Endowment for Democracy should allow funds to be used in Costa Rica—a country with extremely strong democratic roots. It is my understanding that the goal of the National Endowment for Democracy is to foster the growth of democratic institutions—it is certainly not supposed to involve itself in partisan politics in countries which practice free elections.

While the Costa Rican program has been closed down, I think the American people owe an apology to the people of Costa Rica. We should not have provided any U.S. funds to assist any partisan group in that country. It is my hope that the National Endowment for Democracy will show greater care in approving projects in the future.

[From the Wall Street Journal, Oct. 13, 1989]

U.S. GROUP AIDED ARIAS'S COSTA RICA FOES

(By Robert S. Greenberger)

WASHINGTON.—For much of the past three years, the National Endowment for Democracy, which Congress created to nurture political freedom around the world, has helped fight a Republican grudge match against the president of a democratic nation—tiny Costa Rica.

The funding of a group with strong ties to Costa Rica's main opposition party was continued until last July and produced strange bedfellows. Another donor to the Costa Rican opposition: Panamanian strongman Manuel Noriega. According to a deposition given to a Senate Foreign Relations subcommittee last June by Jose Blandon, a former Panamanian official, Gen. Noriega gave the opposition group's candidate $500,000 in 1985.

While one wing of the National Endowment was shoring up the Costa Rican opposition, another was touting Costa Rica as a model of democratic stability. Now, President Bush plans to visit Costa Rica later this month to help celebrate 100 years of Costa Rican democracy.

Costa Rican President Oscar Arias was never the Reagan administration's favorite Latin American leader. He refused to support the White House's war against leftist Nicaragua and won a Nobel Peace Prize for a plan that pulled the rug from under the U.S.-backed Contra effort.

DOCUMENTS ARE CITED

Documents that surfaced here this week show that at the same time that Mr. Arias was falling out of favor with the White House, the NED's Republican wing—the endowment has parts from both major U.S. political parties—began funding a political association with close ties to Mr. Arias's political opponents. Since 1986, NED has spent $434,000 on several projects, including a magazine that criticized Mr. Arias's peace plan and said it sapped the virility of the nation.

The executive director of the association, Rafael Calderon, ran against Mr. Arias in 1986 and is the opposition candidate in next February's election.

The decision to launch a program in Costa Rica was a strange one for the budget-strapped NED. Costa Rica's democratic roots run deeper than almost anywhere else in the Western Hemisphere.

Last summer, as Congress got wind of the Costa Rican funding and began making quiet inquiries, NED reconsidered the situation and discontinued the project. "It has been re-oriented," says Keith Schuette, president of NED's Republican affiliate, the National Republican Institute for International Affairs.

The NED was founded by Congress in 1984 to encourage democratic institutions around the world. In addition to its Republican and Democratic wings, it has two other elements: the AFL-CIO's Free Trade Union Institute and the Center for International Private Enterprise, an affiliate of the U.S. Chamber of Commerce.

Carl Gershman, president of the endowment, says that his board was aware of the Costa Rica project. Indeed, he says, the GOP wing submitted detailed proposals. He said the board gives each of the four branches autonomy to develop programs, "as long as they operate clearly within the framework of our law," a test he says was met by the GOP wing. He adds that the Republican wing tends to "establish relations with institutions that associate with political parties," while the Democrats "have pursued a more multipartisan approach."

"HAM IN THE SANDWICH"

Mr. Schuette insists that he was only trying to help Costa Rica, which he calls "the ham in the sandwich between the two worst neighbors in the hemisphere." Wedged on the Central American isthmus between Nicaragua and Panama, Costa Rica needs protection from those totalitarian nations, he argues.

"Attempts are made to subvert their democracy," says Mr. Schuette, adding: "It's our position that no democratic system ought to be taken for granted in Latin America despite the length of its democratic history."

Yesterday, the Costa Rican Embassy in Washington didn't have any immediate comment.

Nobody is contending that the endowment broke the law. But some critics say that it came close. "They may technically have been within the law, but I felt this clearly violated the spirit," said Rep. Stephen Solarz, a New York Democrat. "The whole purpose of NED is to facilitate the emergence of democracy where it doesn't exist and preserve it where it does exist. In Costa Rica, neither of these applies."

Nonetheless, the NED seems to have stepped into the thick of Costa Rican politics. Documents supplied by a Costa Rican source show close ties between the Association for the Defense of Costa Rican Liberty and Democracy, which NED funded, and the opposition Social Christian Party. According to these documents, the association was incorporated in 1984 by an attorney, Luis Fishman, a Social Christian congressman and top campaign adviser to Mr. Calderon. The documents also list as top officials of the association several Social Christian officials and senior advisers to Mr. Calderon.

NED funds also supported the magazine "Fragua," or Forge. An editorial in the magazine's first issue dated September 1986, attacked Mr. Arias's "political amateurism," and asserted that his peace plan for Central America was "impugning the national virility" of Costa Rica.

Such activities don't appear to meet the standard set in the endowment's "statement of principles and objectives," which mandated that the organization "will not pick and choose among the democratic competitors in countries where such competition is possible."

Mr. Schuette says that NED's GOP wing openly supports groups that are affiliated with political parties in several countries, including Bolivia, Argentina and Colombia. He says that "we watch what's in" the publication in Costa Rica but "don't exercise editorial control." He adds that his group decided to withdraw from activities in Costa Rica last July because it didn't want to become embroiled in domestic politics, as Costa Rica's February election approaches.

BUDGET OF $15.8 MILLION

Even critics of NED's Costa Rica activities characterize them as an aberration from the endowment's usual good work. They note that the small organization, whose fiscal 1989 budget is $15.8 million, is playing a valuable role in fostering democracy around the world. Poland's Solidarity union received regular funding from NED before its breathtaking electoral victory earlier this year. And the organization has played an important supporting role as Chile makes the transition of democracy from military dictatorship.

"They've stopped [the Costa Rica project,] and I would write this off as part of the growing pains of an organization that is new in the American political system," concludes Rep. Solarz.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

[Mr. OWENS of New York addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

CALIFORNIA AND THE NATION'S DISASTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, the loss of life from last evening's earthquake is a tragedy that we will be mourning for years to come. My heart goes out to the many grieving families.

The economic impact of the damage on I-880 and the Bay Bridge is also hard to imagine.

The equivalent in the D.C. area would be for all the bridges across the Potomac to be down, with only one beltway bridge still intact and with a large section of the Shirley Highway destroyed. Try to imagine the chaos in lost time, economic dislocation, and lost jobs.

The existing disaster assistance laws provide for Federal help for the reconstruction of public property, such as highways. But there is not enough in the budget to begin to address this enormous damage.

Just as we helped in Hurricane Hugo, we will need your help and support in funding our highway reconstruction. With the budget bill still pending before the House and Senate, I hope that a way can be found to quickly assist these stricken communities.

INCREDIBLE HYPOCRISY OF FREE WORLD LENDING MONEY TO SOVIET UNION TO FINANCE WEAPONRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, this morning I participated in a press conference over on the Senate side that our colleague, the gentleman from Pennsylvania [Mr. RITTER] had set up to point out with facts, figures, and data, the incredible hypocrisy that is going on in the free world lending money to the Soviet Union, putting the deposit account money of free world people to use for a Communist regime that is still sending billions of dollars, not rubles, but in a real currency sense of billions of dollars into the killing wars that are still going on in Afghanistan and in Angola.

The Soviets supply the big heavy mortars and the ammunition that is still tearing apart Beirut and other parts of Lebanon, and under Mr. Gorbachev more weaponry, military weaponry, has gone into Nicaragua, this godforsaken country between us and the Panama Canal, more Soviet arms has gone in there than everything that went in there under Brezhnev, under Andropov and under General Secretary Chernenko.

It is absolutely an incredible situation to ask people around the United States and around Europe to support moves at lending money to the Soviet Union, while they continue this genocide, for example, in Afghanistan.

Mr. Speaker, let me yield first to my distinguished fellow aviator, the gentleman from Oklahoma [Mr. INHOFE], and then I will come back to my distinguished colleague, the gentleman from California.

Mr. INHOFE. Mr. Speaker, I thank the gentleman from California for yielding to me, for two purposes. One, I was going to do a special order tonight on the leveraged buyouts that we will be doing on Tuesday, the 24th.

Mr. DORNAN of California. What date is the gentleman going to do that?

Mr. INHOFE. This will be on Tuesday, the 24th, about the same time.

Mr. DORNAN of California. I would like to join the gentleman in that special order.

Mr. INHOFE. There are a number of people who are very interested in the corporate raids that are taking place in this country, and particularly the gentleman might have noticed the meeting that took place in Hot Springs, VA, where the CEO's of all the large companies all agreed that the stock market plunge was due to the LBO's, the leveraged buyouts. We have a lot to talk about, but that is not what this subject is on.

□ 1740

I want to share with the Members something that is very close to this, and that is an experience that I had in East Germany as well as East Berlin over the past week. There is this discussion ever since that great salesman Gorbachev made a speech back in December 1988 about perestroika, about disarmament, about arms reduction, about a commitment in the European theater to reduce the tanks by 10,000, to reduce the troops by one-half million people. All of a sudden everybody seems to be caught up in this arms-reduction fever, and they think the cold war is over, but I just got back, and I found while I was over there, as the gentleman from Illinois [Mr. LIPINSKI] and I both found out when we were over there, that this is in fact not what is going on.

We had a poll that was taken back in 1981 where the American people were asked, "Do you think there is still a threat from the East, or is there no threat at all?" It was 50-50 at that time. That same poll taken in 1989 showed that 79 percent of the people think there is no threat and that disarmament and arms reduction is going to take place. That is the real threat that we are facing over there.

When we were there, I would suggest to the gentleman from California that the problem that he is addressing in Nicaragua with this special order is just as severe as it is today in Germany and throughout Europe. There is no reduction whatsoever that we can identify in tank production since he made that statement, and on top of that, and I was down at O.P. Alpha, the outpost, and the gentleman has been there many times, I am sure, on the border in southern Germany, and I looked over and saw that they were not only not reducing and taking down the fences but they were adding to their signal fences, the ones you touch and the rockets go off. They are building new ones at this time. So there is a lot of discussion out there, but no action. I hope the American people and this Congress will look for results, look for performance, and not listen to one man over there talk about that.

Mr. DORNAN of California. What was the occasion for the gentleman going into East Germany, Communist East Germany?

Mr. INHOFE. We went over there, and we knew that the riots were taking place. We wanted to see what the attitude of the people was over there. We found the people would do anything to escape.

Here, in East Berlin, it is supposed to be the greatest thing that the Communist Party has to offer. That is where they reward people who have been very good and let them go and spend a week in East Berlin. We went there. There is not anyone I know of in America who would want to spend 1 day over there.

We saw people wanting to escape. If one goes to Checkpoint Charlie today, you will see people lined up, these refugees, standing there hour after hour, day after day just looking to see who or which of their friends might be able to come back over. We had people approach us over there who wanted to get in our trunk and come back over, be smuggled across the line.

We went down in the southern part, and we noticed that still to this day they have to have their guards, East German guards, walk in pairs, and then they shift them around so they never walk with the same guy 2 days, because they do not want them to find out and collaborate with each other and both escape. All of that is taking place.

Yet, we are supposed to be in the middle of an arms reduction that some 79 percent of the people in America think is taking place today.

Mr. DORNAN of California. One of the ironies in the whole East Germany situation and this gigantic demonstration of 120,000 people, where was it, Leipzig or Dresden or somewhere the other day, is that there is still a quality of workmanship in East Germany, well, Czechoslovakia also, that is not found anywhere in the Soviet Union except where it pertains to space or the military.

When I rode the Trans-Siberian Railroad a year ago this last August with my son, my son looked at the aluminum fixtures on the train. He said, "Did they make this train car in the Soviet Union? It is awfully well made." I said, "I will bet you anything that if we go look at the manufacturer's label on the steps as you go in the door or in the compartment or in the maintenance compartment," I said, "I will bet you it is made in East Germany." Sure enough, it was made in East Germany. They still can make things. Their factories are better. There are more con-

sumer goods, and they are just as miserable, we find out now, in spite of winning as many gold medals as any other country in the world, in the United Nations, with only 17 to 18 million people, they come in third every year, and the last three or four Olympics behind the United States and U.S.S.R., the people are still miserable because they do not have their freedom.

Mr. INHOFE. Let me suggest to the gentleman from California those very individuals who are responsible for good quality of work over there in East Germany are the young, well-educated technicians. They are the ones who are getting out of there every time those gates open, and that is the brain drain that they cannot do without.

Mr. DORNAN of California. Exactly.

Mr. INHOFE. To touch one last time on this arms reduction that we have been talking about, the 10,000 tanks that were supposed to be reduced over there that were promised a year ago, right now the only evidence we have of any reduction is there has been a slight reduction in the T-64's, which are the outdated ones. It is my understanding that those are not being destroyed but that they are being taken back to the Ural Mountains where they can be used elsewhere, and they are being replaced with the T-80's, far more powerful, far more of a threat to freedom in Europe at the same time, so if anything, they have improved their conventional forces during this time that the 79 percent of the American people think there has been an arms reduction.

Mr. DORNAN of California. Mr. Speaker, I thank the gentleman for his significant contribution to this special order tonight, and I also thank him for taking the time to go to East Germany and see these things firsthand. One can study them and read them intellectually here in the States, and go to the library. I have had two or three friends who are senior to me in years who have lived their whole lives in the U.S. Marine Corps, and one of them is a great assemblyman in California, Gil Ferguson, who just took his first trip to East Germany and the Soviet Union. He came back absolutely appalled. The other one is one of our own Members, the gentleman from Guam [Mr. BLAZ] a Marine Corps brigadier general. He said that all the reading in the world cannot prepare one for the bucket of icewater in the face when one sees the reality of what building up these military machines has cost the average family, worker, the consumer there behind the Iron Curtain, that it is absolutely a staggering thing to see people trying to eke out a living that way knowing the money that has gone into the weaponry.

Mr. INHOFE. I have to add one more thing then, because if the gentleman will look, I talked to a gentleman in Fulda, not far from the border in southern Germany. He was an old man who can remember back in World War II. He told me that the expressions on the faces of those individuals who escaped through Czechoslovakia, across Austria, and coming back through to West Germany, that those expressions were exactly as he remembered the expressions on the faces of those individuals who had escaped Auschwitz in World War II. He was there, both places.

Mr. DORNAN of California. The same Fulda, as in Fulda Gap?

Mr. INHOFE. Fulda Gap.

Mr. DORNAN of California. I thank the gentleman from Oklahoma for his contribution.

I yield to my good colleague, one of the more valuable new Members to this Congress, not so new now after 10 months, but I yield to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I think earlier the gentleman touched on an issue that the American people deserve to pay attention to, because their pockets are about to be picked again.

We are hearing cries of hardship from the Soviet Government every day. In fact, I am going to a meeting tonight, a roundtable meeting tonight, meeting with different Soviet officials, in which they are talking about the necessity, the need that they have for credits and loans to build up their economy. Yet, at the same time, while we have been hearing these cries for help from the West, the Soviet Government has been sending billions and billions of dollars into Afghanistan alone in order to murder people who oppose that Communist regime in Afghanistan.

If we end up providing loans to the Soviet Union while at the same time the Soviet Union is spending billions of dollars in order to suppress people who are fighting for freedom in the Third World, what we are doing, is subsidizing the Soviet effort, the Soviet imperialistic effort, to keep Communist regimes in Angola, in Afghanistan, in Nicaragua, and I think it is an absolute abomination that we have people who seriously believe that they are representing our Government and the interests of the United States without calling the Soviets to task for their continued militarization in Afghanistan.

For example, the Western European governments have provided, I believe $20 billion in credits to the Soviet Union while, at the same time, the Soviet Union in this last 12 months has sent between 700 and 900 Scud missiles to Afghanistan. Each of those Scud missiles represents an expenditure of $1 million. That is between $700 million and $900 million in expenditures by the Soviet Union just in Scud missiles to Afghanistan.

□ 1750

If we at the same time give the Soviet Union credits on one end while on the other hand they are playing this kind of game, it is an abomination. It is a slap in the face to our own working people, who are working and trying to save their own money and would like that same kind of credit so they could buy automobiles and they could buy homes, but instead we would be extending this kind of credit to the Soviet Union.

I think that when we are dealing with the Soviet government, that we, meaning this body of Congress and the administration, have got to make darn sure that the policies of imperialism and militarization that the Soviet Union has followed for so long have been reversed. At this time we see evidence only of a lot of hot air coming out of Moscow and not a lot of hot action in terms of actually reducing those military expenditures and pulling back from imperialism and surrogate imperialism that the Soviets are so specialized in in these last 10 years.

Mr. DORNAN of California. If the gentleman will yield back, at our press conference this morning we had some big charts which we passed out for the press, the Western press, including some of the Soviet press that was there, because sometimes you believe they are trying to get out the truth and that they are still in the state of euphoria of glasnost where they can speak out.

I am going to try to get these charts built into a large size. They come from this new book that the Defense Department has put out called "Soviet Military Power, 1989," which I would remind anyone who reads the CONGRESSIONAL RECORD or follows the proceedings of the House floor on television or any way they can, that they can write to the Pentagon and get some of the tax dollars back in this excellent soft cover book, "Soviet Military Power."

I do want to ask the gentleman something about these special orders. I wonder is he and the gentleman from California, CHRISTOPHER COX, whose district touches both of ours, another new Member of the House who has been a very dynamic person trying to change the agenda of the United States, I wonder if the gentleman would join me in a letter to the Speaker, because it was not his policy, and ask the Speaker to change this ignominious policy of panning the House with the cameras to try to give the impression to 1 million people who are now watching House proceedings that there is nobody here and nobody is listening to us?

This started because of the gentleman from Pennsylvania [Mr. WALKER] and the gentleman from Georgia [Mr. GINGRICH] during the 10-year period of our great Speaker, Tip O'Neill. He was annoyed at some of the loyal opposition, Republican special orders down here on the House floor. One minutes did not bother him, letting off steam at the end of the day, but these 1-hour special orders got to him. So he gave an order that is not true during a State of the Union message speech, not true during the normal proceedings of the day, but only after regular business, legislative business when we go into these special orders, the cameras that we have, two up here, one on each side here, and one back up near the Press Galleries, they pan the floor to give this impression that we are wasting our time here.

I have people come up to me and say, "I really appreciate the time and effort you put into making up charts," which I will do with these for next week to show us what the Soviet Union is still doing in Afghanistan. "I did not know this. I cannot read it regularly in the L.A. Times, the New York Times, or the Washington Post. Thank you for doing this. But I was very embarrassed that you were speaking to any empty House."

I am getting tired of skirting around House rules by only speaking to other Members through the Chair and not acknowledging a fact of life in America, and that is that any night we are standing here in the well, between 400,000 and 1 million citizens, and it grows every day that a housing project is completed and cable television is plugged into 50 or 100 new homes, this C-SPAN I and II, this body and the other body, it goes on the air to thousands of families who want to watch this.

Mr. ROHRABACHER. If my distinguished colleague would yield on that point, being a new Member to the House of Representatives I was surprised to find how few people actually come to the floor to hear the debates during the day.

Mr. DORNAN of California. Exactly.

Mr. ROHRABACHER. What most Members of the House of Representatives do is they follow the debate, unless they are participating themselves, in their offices on their television sets.

In fact, at this moment we expect that a large number of our fellow colleagues are listening to this debate and this presentation via their television sets.

Mr. DORNAN of California. Fact.

Mr. ROHRABACHER. Our presentation today is no different than what would be occurring during the day. In fact, if the cameras were panning the chamber during today's debate, they would see that many of the Members who are actually in this Chamber were not paying attention to the debate itself.

Mr. DORNAN of California. Less attention than you can pay in your office with the focus of the television screen if the door is closed and you are really trying to follow a debate.

Mr. ROHRABACHER. That is correct. I think that this forum we are using at this moment offers a great opportunity, not only for the Member to use time in order to express to the American people certain ideas that he would not be given time to express during the rest of the day when the Congress is so busy, but it also affords an opportunity for the American citizenry to get an indepth briefing from Members of the House of Representatives.

To have a distraction, the changes of camera, this was done as a punitive action, a punitive political action on the part of the House leadership. I think that it is time to change.

For example, the issue we are talking about today, the issue is whether the United States should extend credits and loans to the Soviet Union and what the Soviet Union is doing the Third World with the military expenditures they already have. This is an important issue. This is an issue that deserves more than a 5-minute speech, more than a 2-minute speech.

Mr. DORNAN of California. Exactly.

Mr. ROHRABACHER. I am sure that the American people, those that are watching this, are appeciative of the fact we are spending this time trying to alert them that their hard-earned tax dollars may be going to provide credits and loans to an imperialistic Communist country that still kills thousands of Afghan citizens every week.

Mr. DORNAN of California. Let me ask the gentleman some questions, and I will ask him to give me the answer. Let me ask the gentleman some questions, because frankly it is easier for human beings to watch a colloquy than it is for the greatest orator in this House, the gentleman from Washington [Mr. FOLEY] or the gentleman from Michigan [Mr. VANDER JAGT] standing up here by themselves going on and on unilaterally on one subject.

The gentleman came to this House after putting in almost a debate in the White House so he is very knowledgeable on the Afghan issue. The gentleman has continued to hone down his level of expertise, so I can honestly say to him as a so-called freshman Member in his early forties, that there is no Member of this House that knows any more about this issue than he. So let me ask the gentleman to hold viewers' interest, as they would say in the world of TV: What is happening in the air over Afghanistan right now? What are the Soviets doing in the air?

Mr. ROHRABACHER. The Soviets, of course, claimed that they pulled out of Afghanistan. I myself marched into Afghanistan with the Mujahidin last November, and hiked right to the outskirts of Jalalabad and camped out with the Mujahidin and saw the type of battle that was about to take place around that strategic city.

At that moment the United States Government was planning to pull back its support from the Mujahidin in order to show some kind of good faith I imagine to the Soviet Government.

At that same moment, of course, when the Soviets saw this act of good faith happen, which happened earlier this year, which was the United States actually withdrew some of its support, much of its support, from the Mujahidin, the Soviets, instead of pulling back themselves and saying let us let these people settle this issue themselves, initiated what is the equivalent of the Berlin-type airlift to the Communist regime in Kabul in order to bolster that dictatorship as long as they can.

It will not succeed. They are pouring billions and billions of dollars worth of military equipment, and they will not succeed.

The regime will fall. It is an illegitimate regime, it is an illegal regime. The only result of this incredible Soviet airlift will be the death and destruction of hundreds of thousands of Afghan citizens, the maiming and killing of innocent people. Already they have lost 1½ million people out of a population of only 15 million.

In the air the Soviets, with their modern jets, we believe with surrogate pilots mainly, but also we have reports there are actually Soviet pilots flying some of these planes, continue to hammer away at Afghan citizens. A part of the people who were just walking across the desert while I was there in November, just out of nowhere a Soviet plane flew down and napalmed this group.

This type of tragedy continues and the responsibility and fault lies directly with the Soviet Government, the same Soviet Government now that is brash enough, but has the chutzpah to ask for loans and credits in order to help their own economic situation.

□ 1800

And until they stop this type of imperialism, this type of bloodletting in Afghanistan and elsewhere, I think it will be a slap in the face to the American people for us to even give any type of consideration to this type of request.

THE QUAKE OF '89

Mr. DORNAN of California. I yield to my distinguished friend from Maryland.

Mr. Speaker, I want to pay a courtesy to our friend from the State of

Maryland. He wants to talk about a tragedy in our State, the unbelievable earthquake which took place in the San Jose-Santa Cruz-San Francisco Bay area last night. Gladly I yield so that the gentleman does not have to wait.

Mr. DYSON. To the gentleman who is hosting this 60 minutes, I thank him very much because it would be a long wait.

Mr. Speaker, I share with many of my colleagues a deep sympathy and concern for the people of northern California who are now, even as I speak, digging their way clear of the devastation caused by last night's earthquake.

I represent the people of Maryland's First Congressional District, Mr. Speaker, and my constituents have first hand knowledge of what it's like to suffer the effects of sudden natural disaster.

They have survived hurricanes and floods. They have seen their homes flattened. They know what it's like to be plunged into darkness and to be without electricity, water, shelter, or emergency services.

And they know what it's like to look for protection and support from the Federal Government.

I believe I can speak for the people of my district when I say that their hearts and their hands will go out to the victims of the quake in the San Francisco Bay area.

Just 2 weeks ago, Mr. Speaker, the southeastern seaboard was blasted by Hurricane Hugo. The Federal Emergency Management Administration was, as we know, unprepared to handle this catastrophe and slow to respond to the enormous extent of the damages Hugo caused.

Shelters were opened immediately. But it took a full week, yes, 7 days before Federal disaster assistance centers were opened to the victims of Hurricane Hugo.

Were it not for the good work of the American Red Cross and the Salvation Army, a great many people in South Carolina might still be without food, water, and shelter.

Hurricane Hugo spared the communities I represent. But natural disasters can strike anywhere, anytime. And though we may be powerless to prevent them, we can at least be prepared to respond.

Within hours of the quake, President Bush had directed FEMA to launch a full-scale relief for the people of San Francisco, Oakland, Santa Cruz, and San Jose. We will know shortly whether the agency has in fact proven to be the equal of the task that it now faces.

In the meantime, I would like to express the sympathy and concern my constituents have for the victims of the quake.

Again let me thank the gentleman from California for being so generous with his time today.

Mr. DORNAN of California. I thank the gentleman and would add a note that several of our California colleagues were absent for the 2 votes today. As important as the votes were, and they are from both parties, I would hope that their voters will understand that a Congressman's duty in an emergency like this is to be home assessing the damage, to be able to talk to the President and others about getting some Federal aid in there.

But when I watched that live last night on television and Mr. Koppel was saying, "We hope there are no deaths. We know now that there are not," then a little later he said, "It looks like two," I turned to my wife and I said, "Try somewhere over 250. And before this is through, it is going to be over 300, but I certainly hope not."

We are all going to be thinking eventually when we reassess the amount of material damage, just as was the case with Hugo, that we will say, "How was the loss of life so small, given the tremendous amount of damage?"

So I appreciate the contribution of the gentleman from Maryland, and I yield further at this time to the gentleman from California [Mr. ROHRABACHER] to continue the Afghanistan "Nicaragua-Syria-Angola discussion.

Mr. ROHRABACHER. I appreciate the gentleman yielding further.

Mr. Speaker, I think it is appropriate for us to think about the destruction and the loss of life that is going on and that went on in San Francisco. Our hearts do go out to the people there and to their relatives.

It also behooves us to think about the destruction that the earthquake caused in relationship to the destruction and the death being brought about by the Soviet Government in Afghanistan.

When I hiked into Afghanistan in November, I hiked by 20 or 30 villiages, that all of them looked at though they had been leveled by earthquakes.

Mr. DORNAN of California. Everyone says that; that is the first thing that pops in your head, earthquake.

Mr. ROHRABACHER. And what you think is you are marching by ruins of some ancient structures destroyed by earthquakes 100 years ago.

Then you find out that these were villages in which a thousand or 1,500 people lived only 10 years before and that today they look like relics from an ancient time.

This is the type of death and destruction that is going on

One SCUD missile launched by the Soviet military personnel in Afghanistan, which is happening every day, today, leaves the same type of death and destruction in those cities in Afghanistan as we see as happened in San Francisco.

Three hundred people probably have lost their lives in San Francisco. This what the Afghans were losing almost on a daily basis for 10 years. It is a tragedy beyond all proportions.

What is even more tragic, this commitment by the Soviet Government to pump their resources into this type of battle does not in any way reflect the will of the Soviet people. I am convinced that if the people of the Soviet Union knew the degree to which their government had taken their resources from them and allocated them toward an operation of death and destruction in the Third World, they would be appalled. But they do not even know. They feel they know now what is going on. What glasnost is doing is opening their eyes. But they have had no say whatsoever in the allocation of resoures taken from their hard work.

They are moral people, and I believe that if we do not boost this regime in Moscow, if we do not prevent it from collapsing, that the good people of the Soviet Union will kick the Communists out because it has led to nothing but deprivation, tyranny, and bloodshed throughout the world.

Mr. DORNAN of California. You know, sometimes people will only focus on one isolated little instance that touches their heart.

On the news, the night before last, here are Soviet authorities in Moscow handing over to the Swedish family, the Wallenbergs, his passport, saying, "We just discovered it in a file search," 44 years after the man was taken.

I looked at that, and after talking to Soviet authorities in Moscow four or five different trips over there, being in the Rose Garden of the White House with our California colleague, who is also home assessing the earthquake damage, the gentleman from the other party, Mr. LANTOS, I was in the Rose Garden when Raoul Wallenberg was made an American citizen, the only other one since Winston Churchill. Possibly with one exception, a portrait of a foreigner in this Chamber, Mr. Lafayette of France, the marquis. But here is a man whom we made an honorary citizen, one of only two people in all history. We name a street for him down by the Washington Monument. The Holocaust Museum is being built just north of Wallenberg Plaza, down there between the Jefferson and the Washington Memorials. They suddenly, after all these years—it is like it is a sacred relic—they are handing it over to his sister and his half-brother, his passport.

This regime is now, through glasnost, coming up with remarkable things.

To let Mother Teresa in there before she became ill, in order to build a hos-

pital for the paraplegic Russian soldiers who became paraplegic down there, genociding Afghan people; to speak out as they are in some publications about mass graves of 300,000 human beings. That is what the Germans killed in one of their death camps, Belzec. They killed 300,000 in that death camp. Here is a death camp in the Soviet Union that they are trying to build apartments on it in order to forget the memory of what Stalin did.

It was on Soviet television a year ago right during the period that I came through that they said Stalin killed more people than Adolph Hitler. If they are not going to completely turn from this evil of the past, if they are going to continue pumping arms and instruments of war all over the world on every continent, how do they get the gall to come to us and ask us to fund it?

So we push money in one end of the warehouse and arms get kicked out the other end. And the FROG and SCUD missiles go down there to Afghanistan, and all this garbage goes into Nicaragua.

Then up in Wyoming Mr. Shevardnadze, with a straight face, says to our friend, the Secretary of State Jim Baker, "No, we are not sending anything into Nicaragua." And then you get this feeling at the State Department that they do not want to expose them. The reasoning is, "Well, we do not want to embarrass them with their hand caught red-handed in these foul deeds because they will keep getting better if we let them get away with a little bit of it." I reject that reasoning. We have got to expose the truth.

It is a form of lobbying the Russian people and all of the other nationalities, 135 of them, with 150 different languages, that are suffering under the Communist Soviet regime.

In the end we will end up doing more for Mikhail Gorbachev by dealing with everything truthfully. It helps them. Because why does he selectively leak ugly things against the hard-line Communists in that country if it does not reinforce his position?

□ 1810

We are not going to bail him out, where most of the evil stays in that regime, and we end up helping him make communism work.

Mr. ROHRABACHER. Mr. Speaker, if the gentleman will continue to yield, I believe the progress that we witnessed in the Soviet Union in the last few years is a direct result of the tough line that was taken by President Ronald Reagan in the last decade. We had liberals who were condemning Members every step of the way, every time we took a tough stand against the evil of communism and the expansion of communism. We had people in this body that fought Members for whatever good reasons they had, every step of the way. Had Ronald Reagan not been able to take these tough stands, I believe that the Soviet Union would not be going through a process of liberalization.

Although much progress has been made, every time we turn a blind eye to further examples of their disingenuousness, every time we turn a blind eye to the fact that when they say they are not going to give any further aid to Managua, and then they do it through Cuba instead, or suggest that we are going to try to solve Third World conflicts, and then they create a Berlin airlift to Afghanistan, when we turn a blind eye to those things, what we are telling them is that they do not have to liberalize. They do not have to go any further because we are willing to ignore the bad parts that still exist, and if we do that, the bad things that exist in that country will not recede, which is what we are being told by those people who say do not confront them on this or that. Instead, those evil things will grow, because evil grows when it is not confronted.

If Members want peace, as Ronald Reagan proved one thing, that if Members want peace, if Members believe in cooperation and a good spirit before people as a goal of international cooperation, do not do it by covering up differences. It is done by confronting the differences between the societies and coming to grips with them and making the changes that are necessary. That is what we have to do if we believe in a more peaceful world.

Mr. DORNAN of California. Mr. Speaker, I know the gentleman has stayed longer than he intended to.

Mr. ROHRABACHER. Mr. Speaker, I want to congratulate the gentleman from California [Mr. DORNAN] for taking this time and effort to express these ideas to the American people. They need to know what is going on in Afghanistan and Angola, and they need to know what is going on with their tax dollars, and the proposals that people are making about credits and loans for the future. If we are to have a more peaceful world, because it is a democracy, and the American people need to know what we are going to do in this Chamber with their money, especially if it is going to a Communist system that still commits atrocities.

Mr. DORNAN of California. What we have to do is to expand this message. We will write a letter to the gentleman from Washington [Mr. FOLEY], our new Speaker, and ask if he would rescind the policy of two Speakers ago to have the cameras only prowl this House to give a false impression that nobody is listening, during special orders. Get these charts that we used today, in color, made up so that they are very easily photographed by our cameras, and put them down here on the floor, get the gentleman from Pennsylvania [Mr. RITTER], the gentleman from Indiana [Mr. BURTON], the gentleman from California [Mr. COX], who participated by letter this morning, and begin to show the people that our hearts are going out to the Russian people. We want this progress to continue.

Just as I took my same son, Mark, before we started on a Trans-Siberian railroad in Tiananmen Square, and he was using one of the small sandbags called a haki-sak, where a person kicks it with their heel, and he was performing right there in Tiananmen Square, and a crowd draws around, and we were explaining to them that this is a Chinese game, the haki-sak. As we flew up to Mongolia on an old, same type of Soviet aircraft converted into a bomber, Antanov-12, in Afghanistan, my son said, "Dad, I guess China is set on a course now, toward democracy, that there is no reversing. What a wonderful people." Nobody is angry at the Chinese people, we are angry at the government that would create a slaughter and spread blood all over the very Tiananmen Square where my son Mark had the positive thoughts that the problems of the Soviet Union and the problems of China are behind citizens.

I used the name of a colleague from Orange County, CA [Mr. COX], and lo and behold, I look up, and the gentleman from California [Mr. ROHRABACHER] has atomized, and the gentleman from California, Mr. CHRISTOPHER COX, is before my eyes, and he is also joined by the gentleman from Ohio [Mr. MCEWEN], who has always traveled around the world to see firsthand the hypocrisy of the bailout of the Soviet Union while they kill people.

Mr. Speaker, I yield to the gentleman from Ohio [Mr. MCEWEN].

Mr. MCEWEN. Mr. Speaker, in reference to what is going on in China, let me tell a personal experience I had in meeting with some Chinese citizens. One was a mother, probably in her early fifties, was communicating to me that it was a unique time, and how much the openness had taken place in recent years. This was about 1987 or 1988, in which she explained an experience of which her children had disagreed with her, and that they were listening to Western rock music, and they were dancing in their home. She came in and turned off the radio, and the children were protesting with her and said, "We are allowed to listen to Western music now." She said, "I explained to them, all of this can change. At the time they changed the government, they will then come back and attack you for having listened to Western music once they change the rules. Therefore, I cannot permit you to listen to this Western music." Then

there was a little bit of interchange from her children as she was explaining to us, they felt that she was excessively concerned, and she said, "I have seen it before. Therefore, I do not think that we should take these liberalizations too deeply."

The point is that we have seen what has happened, that communism does not work. It is like putting people in a room with no fresh air. They suffocate. They lie on the ground. In order to get them alive, to get it functioning, they have to oxygenate the system a little bit, open the windows of freedom, and once people sense and breathe that little taste of freedom, they immediately run to the windows and ask for more. As they do that, then communism faces an alternative: permit more freedom or roll the tanks. In 1956, we saw, in Hungary, they rolled the tanks; in 1968, in Czechoslovakia we saw that they rolled the tanks; in 1981, in Poland, we saw that they rolled the tanks; in 1989, in China, we saw that they rolled the tanks.

Therefore, we need to keep our eye on the goal, and that is democracy and freedom, and that communism and freedom are anathematical. They cannot survive, one with the other, and we need to keep our commitment strongly to the preservation and encouragement and fostering of democracy and freedom, and not allow ourselves to be diverted by temporary deviations, by a regime that has proven itself proven to violating the goal.

Mr. DORNAN of California. Mr. Speaker, if I may recruit the gentleman to join me in a letter to our Speaker, the gentleman from Washington [Mr. FOLEY], to do away with the policy of prowling cameras, even during special orders, to create the false impression that there are not 500,000 people out there listening, which C-SPAN tells Members there are, and it is advertising on the cable TV guys on C-SPAN 1 or C-SPAN 2 on the Senate, people can participate in their government, more knowledgeably, without flying here and sitting in the gallery, but by watching the proceedings and getting it, and reading it the next day in your public library, which every public library should ask for the CONGRESSIONAL RECORD.

Mr. MCEWEN. If the gentleman will yield, I remember the night in which that was done, and it appeared to me at the time to be an effort to prevent the close manner in which people are able to follow the debate. I was sitting in my office, and suddenly I get a roaming camera of the Chair, and unable to focus on the issue at hand, I came over to protest it on that evening.

I think that it does a disservice to use the electronic means by which we have established the improvement in communications, whether it be to turn off the microphones or to rove the camera. All are very new innovations since the founding of the body, but should be used to the maximum effort to show our views for those following.

This has long served any purpose it may have had, and I join the gentleman vigorously and joyfully.

Mr. DORNAN of California. Mr. Speaker, I am glad the gentleman brought up the matter of microphones as I stand before Members as the only Congressman in the history of this House since it was first wired for microphones, who had the mike cut off. It was done by a sitting Speaker in the Chair, by the Speaker pro tempore. I was angry. The Sandinistas were supposedly crossing the border into Honduras, surrounding the camps of the freedom fighters, pounding the hell out of them, murdering the people. The Speaker before me, Mr. COELHO, went on over 2 minutes, under the liberal interpretation of the 1 minute at the beginning of the day. I took an extra 15 minutes to say people were dying. The mike was cut off, and thanks to our good friend, the gentlewoman from Illinois [Mrs. MARTIN], we passed unanimously, 390 to 0, that no Member would ever have his mike cut off again. That was the unanimous vote, because we understand if someone is totally out of control in the well, there are rules. The Sergeant at Arms is called to the floor, he picks up the Mace, comes to the well, and says, "Will the gentleman desist?" I would have been long gone before then. I always end my remarks when the gentle tapping starts.

That is something that shows that the membership understands we are here to communicate and exchange ideas and pass valuable legislation by the minority here, just as the majority, or as the minority, when it comes to the White House, good legislation is pounded out on the anvil of the minority. That goes back to the expression of the mother of Parliament in London.

□ 1820

Mr. Speaker, I think that the gentleman hit the nail right on the head. If we are communicating here, then during the day those cameras are always close shots with back and forth to those at the leadership desks, and to remain with this insulting order, and they do not like to do it downstairs in the technical rooms, to prowl the House with a camera and show that the Chamber is empty which, when this House is filled in the State of the Union, they are not allowed to show the diplomatic corps up close. They cannot go prowling around to see if one of the Joint Chiefs of Staff is plucking a hair from his nose. They are not allowed to see if one of the Members from the other body, who has worked all day, either party, has fallen asleep before the State of the Union starts. They are not even allowed to show who is applauding and who is not at a Presidential remark, and the State of the Union has this House as brightly lit as it ever is.

Mr. Speaker, why do we do it to those Members who take the time to come down here, who feel that a 1-minute steam valve is not sufficient at the beginning of the day to pour out their concern about some world problem? I would never do that to a Member on the other side of the aisle, and I think that the gentleman from Washington [Mr. FOLEY], our Speaker, is interested in comity and friendship in the House, that we do it without a vote because, if he will not, I will find a way to get a vote on the floor, as the gentlewoman from Illinois [Mrs. MARTIN] did on my microphone being cut off.

Mr. MCEWEN. Mr. Speaker, the gentleman from California [Mr. DORNAN] is absolutely correct. I think that the circumstances whereby that decision was made to delegate the authority whereby those of us in our offices are able to follow the debate on the floor, to delegate that to a nonelected Member, or an electrician, or a technician somewhere else in this building, was a decision that was unwise and is unbecoming the manner in which the speakership of the gentleman from Washington [Mr. FOLEY] has conducted itself and the new spirit of comity that has reigned in this Chamber since the current Speaker has taken office.

Mr. Speaker, I encourage the gentleman from California [Mr. DORNAN] to approach him personally because I think that in the understanding of the spirit that he has brought, I think that I am very hopeful that he would be responsive to the gentleman.

Mr. DORNAN of California. Mr. Speaker, I will submit a bipartisan letter signed by some of our friends on the other side, but there will be a letter coming by for their signature.

Before I yield to the gentleman from California [Mr. COX], I want to blackmail him. Would he be interested in signing a letter like that about the camera problem? How could he say not?

Mr. COX. Most certainly.

Mr. DORNAN of California. I know I can just put the name of the gentleman from California [Mr. DREIER] name on there because nobody utilizes the communication facilities of this House more frequently or more skillfully than DAVID DREIER of California. Whether it is special orders or 1-minutes, the gentleman from California [Mr. DREIER] will be on that.

I say to the gentleman from California [Mr. DREIER], "Mr. DREIER, do you want to come down and defend yourself? Will you consider signing a letter to our distinguished Speaker to have

the cameras concentrate on what we're saying here in the special orders?"

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. Yes, gladly.

Mr. DREIER of California. Mr. Speaker, I came over here specifically to talk about Afghanistan and the crisis that has gone on over there, so what is it the gentleman from California [Mr. DORNAN] is asking?

Mr. DORNAN of California. Because these special orders are important, and we are not getting this word out to the American people that the Soviets are killing at the same rate in Afghanistan that they were before their young draftees were pulled out of there in February, to not have the camera prowling the Chamber trying to indicate it is an empty House and that we are wasting our time here.

Mr. DREIER of California. Mr. Speaker, if the gentleman from California [Mr. DORNAN] continues to yield, I certainly would agree with that, but I think that that is minuscule when it comes——

Mr. DORNAN of California. I agree.

Mr. DREIER of California. To the importance of recognizing what is taking place in Afghanistan, and I hope very much that my friend would yield to our colleague from Newport Beach.

Mr. DORNAN of California. That is how we are going to get the message out.

I yield to the gentleman from California [Mr. Cox] who sent over an excellent statement to the press conference this morning in asking us to fund Soviet adventure.

I yield to the gentleman from California [Mr. DREIER] because I want his word.

Mr. DREIER of California. Mr. Speaker, if I can just interject for 1 second to explain?

Mr. DORNAN of California. Yes.

Mr. DREIER of California. Mr. Speaker, I am sorry that I was not there. Two years and 18 days ago Whittier, CA, had a 6.1 earthquake, and this morning during the press conference I was supposed to have been there, and I was on the phone talking to people in California about this.

So, I hope the gentleman from California [Mr. DORNAN] will understand why I was unable to be there, and I know that it certainly is important.

Mr. DORNAN of California. Mr. Speaker, did the gentleman hear that our colleague, the gentleman from California [Mr. ROHRABACHER] said though:

That when you travel to Afghanistan, and you look at these destroyed villages, the first thought that comes into your mind; it's universal, is: This must have been caused by an earthquake?

Mr. Speaker, the earthquake is the Soviet Union, but our hearts do go out to our suffering southern Californians with those horrible earthquakes.

I say to the gentleman from California [Mr. Cox] "Mr. Cox, thank you for being so patient. It's yours. You have 10 minutes."

Mr. COX. Mr. Speaker, I want to mention that I, too, during the news conference this morning was preoccupied, of course, with the earthquake in our home State, and I know that a lot of our constituents are first and foremost concerned with helping their friends and relatives in San Francisco, and that is what we are all about. I serve on the Committee on Public Works and Transportation, and we are going to be taking a look this weekend, and perhaps a special trip, and I know the gentleman and I discussed this earlier today with other Members of the California delegation the possibility of getting firsthand——

Mr. DORNAN of California. The trip is going then?

Mr. COX. Some look at what we can do as a body here, a deliberative one, to be sure, but nonetheless one that can authorize funds to replenish the emergency funds and also perhaps take care of some of those public structures, but had I been able to attend the news conference this morning, I would have brought to the attention of those present a meeting that I had yesterday with Commander Nassar Ahmad Ghouryani from Afghanistan. He brought with him some very troubling reports and some very troubling photographs concerning the use of chemical weapons by the Soviets in Afghanistan.

It was just last January, at an international conference in Paris, the Soviet delegate announced that his country would start eliminating its stockpiles of chemical weapons this year. To underscore the seriousness of Soviet commitment to cooperate with the West on this issue, Soviet Foreign Minister Eduard Shevardnadze stated in his address to the United Nations General Assembly that Moscow will do its utmost to curb the use of chemical weapons.

In spite of these authoritative statements, the Soviet Union continues to supply its puppets in Angola and Afghanistan with new types of chemical weapons. According to Commander Nassar Ahmad Ghouryani of the National Islamic Front of Afghanistan, with whom I met, Soviet Mig-23 and Mig-27 fighter planes are actively engaged in using chemical bombs against civilians in Afghanistan. These bombs are dropped from 33,000 feet and explode about 50 feet from the ground. The terrible consequences of these chemical weapons can be seen in many photos that the Commander brought with him from his country.

In Angola, the Soviets use a different type of chemical bomb. According to Prof. Aubin Heyndrickx of the toxicology department at the University of Ghent, Belgium, the new weapon is a firebomb that releases a toxic chemical that either kills its victims immediately or turns those who survive into human vegetables. The chemical formula of the toxic substance is unknown to him or any other Western experts or the North Atlantic Treaty Organization. When Professor Heyndrickx discussed the bomb with Soviet officials in Moscow they asserted that it was not a chemical weapon, but rather a bomb which emits a toxic cloud, because it contains a chemical substance that produces cyanide when ignited.

Professor Heyndrickx also visited territories controlled by the U.S.-backed anti-Communist forces of UNITA. According to his personal account, thousands of people died as a consequence of the use of this chemical weapon by Angola's Marxist government. In addition, 400 to 500 people who survived, and were seen by him, were blinded and paralyzed by the bomb.

These Soviet shipments to and the continued use of chemical arms in Afghanistan and in Angola are in clear violation of international agreements to which the Soviet Union is a party.

Mikhail Gorbachev has earned substantial public relations points for his campaigns of glasnost and perestroika. But so long as the Soviet Union continues to pour billions of dollars in the form of deadly weapons into Afghanistan and Angola, including specifically banned chemical weapons, the Congress will be forced to take appropriate action—including curtailing Western loans and investment—to ensure that Soviet deeds will match official promises in the future.

Mr. Speaker, I think it is our job here in the Congress to keep our eye on these facts when people like Commander Ghouryani come and visit us, show us the evidence, give us the eyewitness accounts. We have got to take that into account when dealing with the Soviet Union.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield on that point?

Mr. DORNAN of California. He will be on the Hill tomorrow in the office of the gentleman from Pennsylvania [Mr. RITTER] in the morning.

Mr. DREIER of California. Mr. Speaker, I thank the gentleman from California [Mr. DORNAN], my friend, for yielding.

Mr. Speaker, I would like to compliment our friend, the gentleman from California [Mr. Cox], for that very excellent contribution, and I would like to underscore the fact that there is another weapon which has not been dis-

cussed, and I just caught the tail end of this as I was walking out. Downstairs I have in my briefcase something that I have held up here probably a hundred times, and I know that my friend from Garden Grove knows exactly what it is. It is a little butterfly bomb which was shot off of an MI-24, and it is the domestic version, as we know, which was used by Soviets flying that helicopter, the most powerful helicopter known to man.

□ 1830

Clearly, that particular system was utilized to drop these toy butterfly bombs all over the ground in Afghanistan. One of the things that we discussed with the Soviets when we talked about withdrawal, the Soviet troop withdrawal, was the issue of these butterfly bombs, and we hoped very much that they would bring about at least maps of where these butterfly bombs were located.

The gentleman knows that there are 30 million of these little toy bombs which the Soviets placed off the MI-24, shot in a cartridge, end to end they float to the ground and a child picks them up and his or her hand is blown off.

One of the things that I have said over and over again throughout this entire decade is that tragically throughout history children have been the victims of war. In Afghanistan the Soviets have made them the targets. Why? Because a person that is killed is obviously buried, not forgotten, but buried. A child that is maimed is a much greater burden on the people.

It is such a sad commentary that the Soviets would resort to this kind of genocide and, yes, it clearly is genocide. There is no other word to describe what they have done there. With all the chemical weapons and things that the gentleman has been discussing, I think it is important for us to remember the tragedy of these toy bombs which are still on the ground in Afghanistan even after this February 15 withdrawal, as the gentleman said, of these young combat troops.

Mr. DORNAN of California. A few years ago, since I have been in the Congress, I was reading a story about my father's war, World War I. It was not just a story. It was a news story, that a Belgian farmer and his son—this is since I have been in the Congress about 8 or 9 years ago—was riding on a tractor in one of the World War I battle areas in Belgium, and they hit an old unexploded artillery shell and it blew up the tractor and killed this father and his son in the 1970's.

I went to my Encyclopaedia Britannica, opened it up and scratched through the figure of total deaths in World War I and added those two people.

Now, that had been going on, obviously, for half a century, and it still happens with World War II explosives occasionally, but these are rare, isolated instances that are worthy of a news story. This is going to go on in Afghanistan at a high rate for decades to come, innocent people on a trail with a mule making their way to some area to find an old deserted village that as the gentleman from California [Mr. ROHRABACHER] said looks like it has been deserted for a thousand years, and it was only 8 years ago that the Soviets pulverized it into earthquake style rubble, and they will hit one of these bombs, pick one up. Children will lose limbs for years.

We have got a roundtable on United States-Soviet relations going on.

Mr. DREIER of California. Mr. Speaker, if the gentleman will yield on that point, that is one of the reasons this is important for us, and the gentleman signed a letter with a group of us calling on the United Nations to insist that the Soviets at least provide some kind of direction as to where the major concentration of these land mines, they really are toy bombs, where they are located, and they have yet to respond.

Mr. DORNAN of California. Tell me something. I was not aware of this lady who has this superb article in the today's Wall Street Journal.

Mr. DREIER of California. Rosanne Klass.

Mr. DORNAN of California. Does the gentleman have her book—what is it called?

Mr. DREIER of California. The Great Game Revisited.

Mr. DORNAN of California. Afghanistan, Freedom House publishes it.

Does the gentleman want to go on down to that roundtable now? I would just close by reading some of her words. Then I will join the gentleman downstairs.

Mr. DREIER of California. Please do, and if the gentleman will excuse me, I am not going to be able to go downstairs because I am going to Dulles Airport, as I am flying from Dulles Airport and leaving in just a little while, so I hope the gentleman will understand, but I appreciate the gentleman taking time out for this very important special order, and I hope that we will in the next few months be able to resolve this, and if we have not, I hope that we will be able to continue to keep the pressure on the Soviets, and it is efforts like this that are doing just that, and I congratulate the gentleman.

Mr. DORNAN of California. Mr. Speaker, I thank the gentleman for participating.

I will close, Mr. Speaker, by referring to an article in today's Wall Street Journal, this Wednesday, October 18, by Rosanne Klass. She is the editor and coauthor of "Afghanistan: The Great Game Revisited," published by Freedom House. She also directs the Freedom House program on Afghanistan. I will submit this article for the RECORD, but I just want to underscore a couple points.

She begins the article by saying:

When the Soviets announced their last soldier had left Afghanistan in February, the voices of skepticism were all but drowned out by an international chorus of euphoria. It was "the Soviets' Vietnam." The Kabul regime would fall. Millions of refugees would rush home. A resistance government would walk into Kabul. Those who bought that illusion are now bewildered. Eight months after Gen. Boris Gromov walked across the bridge into the U.S.S.R., a Soviet-controlled regime remains in Kabul, the refugees sit in their camps,——

Over 3 million of then, 3½ million in Pakistan and a million in Iran—

and the restoration of Afghan freedom seems as far off as ever.

But there never was a chance that the Afghan resistance would overthrow the Kabul regime quickly and easily. Soviet leaders said they would support their Kabul clients by all means necessary—and did. The U.S. said it would fully support the resistance—and didn't.—

Not at the same rate.

With the February 1987 U.N. accords "relating to Afghanistan," the Soviet Union got everything it needed to consolidate permanent control.

This is what they are manipulating in Nicaragua, in Central America, and this is what they are trying to get in Angola and the West Coast of Africa.

The terms of the Geneva accords leave Moscow free to provide its clients in Kabul with assistance of any kind—including the return of Soviet ground forces—while requiring the U.S. and Pakistan to cut off aid. The only fly in the Soviet ointment was the last-minute addition of a ulilateral American caveat, that U.S. aid to the resistance would continue as long as Soviet aid to Kabul did. But as soon as the accords were signed, American officials sharply reduced aid.

It is that American impulse for good will again.

In February 1989, when the Soviets said they had completed their pullout, the U.S. cut it further.

Not so the Soviets.

And I will end here, Mr. Speaker.

Gen. Gromov himself said Soviet troops expected to leave behind more than $1 billion of military equipment and installations for the Kabul regime.

And I repeat that they are pouring it in now at a rate beyond anything they did when they had their own hapless draftees there being told to kill Afghans to further Soviet foreign policy.

Mr. Speaker, I will put this entire article in the RECORD.

[From the Wall Street Journal, Oct. 18, 1989]

UNITED STATES MUST REASSESS AFGHAN POLICY

(By Rosanne Klass)

When the Soviets announced their last soldier had left Afghanistan in February,

the voices of skepticism were all but drowned out by an international chorus of euphoria. It was "the Soviets' Vietnam." The Kabul regime would fall. Millions of refugees would rush home. A resistance government would walk into Kabul. Those who bought that illusion are now bewildered. Eight momths after Gen. Boris Gromov walked across the bridge into the U.S.S.R., a Soviet-controlled regime remains in Kabul, the refugees sit in their camps, and the restoration of Afghan freedom seems as far off as every.

But here never was a chance that the Afghan resistance would overthrow the Kabul regime quickly and easily. Soviet leaders said they would support their Kabul clients by all means necessary—and did. The U.S. said it would fully support the resistance—and didn't.

With the February 1987 U.N. accords "relating to Afghanistan," the Soviet Union got everything it needed to consolidate permanent control. The terms of the Geneva accords leave Moscow free to provide its clients in Kabul with assistance of any kind—including the return of Soviet ground forces—while requiring the U.S. and Pakistan to cut off aid. The only fly in the Soviet ointment was the last-minute addition of a unilateral American caveat, that U.S. aid to the resistance would continue as long as Soviet aid to Kabul did. But as soon as the accords were signed, American officials sharply reduced aid. In February 1989, when the Soviets said they had completed their pullout, the U.S. cut it further.

Not so the Soviets. Gen. Gromov himself said Soviet troops expected to leave behind more than $1 billion of military equipment and installations for the Kabul regime. Since the troop withdrawal, Moscow has poured in an additional $200 million to $300 million worth per month—nearly $2 billion since February, equivalent to the total U.S. aid to the resistance in nine years. This includes what Deputy Foreign Minister Yuli Vorontsov fetchingly called "new peaceful long-range weapons," including more than 800 SCUD missiles.

By early May, Moscow had delivered, for example, 1,000 trucks, about 100 tanks artillery and hundreds of other combat vehicles. Later that month, it added an entire tank brigade, including 120 T-72 tanks and more than 40 BMP state-of-the-art infantry fighting vehicles. By September, a new Reinforced Motorized Rifle Brigade with an additional 300 combat vehicles, 1,000 more trucks and 10,000 Soviet-trained Afghan troops had arrived in Kandahar. In the last few weeks, Moscow has added FROG-7B missiles, the bomber version of the An-12, MiG-23BN high-altitude aircraft, MiG-29s, which can outfly Pakistan's U.S. built F-16s, and Sukhoi SU-27 fighter-bombers, which can outfly the MiG-29s.

Moscow claims this is all needed to protect the Kabul regime against the guerrilla resistance. It is well-known that the regular Afghan infantry is filled with reluctant conscripts. But this is not the entire Afghan army, and it is no longer Kabul's only military force. Complete units have been trained and indoctrinated in the U.S.S.R. and other East bloc nations; 30,000 to 40,000 of these troops have returned.

In addition, the regime has established well-paid paramilitary forces totaling more than 100,000, including 35,000 Soviet-trained troops of the Interior Ministry (KHAD/WAD), which still is directed by 1,500 Soviet KGB officers. Even if not all these forces are committed to the regime, they are now dependent on it. And thousands of Afghan children have been taken to the Soviet Union, where they are hostage for the behavior of their families.

Since 1981, Indian military advisers have been assisting the Kabul regime. In preparation for the withdrawal, Moscow, Kabul and New Delhi signed two agreements for several hundred newly civilian Indian experts to replace some of the more visible Soviet military personnel. Cuban military personnel also have been active in Afghanistan since 1979. The Soviets cut a deal with Iran: a future Iranian role in Afghanistan in exchange for Iranian support of Soviet policy. The deal was symbolized by the restoration of the Shi'ite Sultan Ali Keshtmand to the Afghan prime ministry.

Moreover, serious questions have been raised about the claimed withdrawal of Soviet forces. Before his assassination in 1988, President Zia of Pakistan repeatedly stated that fresh Soviet troops were being inserted into Afghanistan even as others were ostentatiously withdrawn. Rep. Bill McCollum (R., Fla.) reports that these included 20,000 to 30,000 Soviet Central Asian KGB Border Guards, ethnically indistinguishable from Afghans and wearing unmarked uniforms.

Meanwhile, the Kabul regime is increasingly successful at portraying the resistance as bloody-minded fanatics. In this they are aided by years of American, European, Pakistani and Saudi support for the most extreme factions—radical Islamic fanatics with leaders whose policies are anathema to the Afghan public. This heavy outside support for the worst has undermined better, moderate leaders.

In autumn last year, for example, the regime garrison at Kandahar was prepared to surrender the city to resistance moderates. At the last minute, however, Pakistani officials sent in Gulbuddin Hekhmatyar, perhaps the most hated and feared of the extremists, with a demand that the surrender be made to his forces. The deal fell through, and Kandahar remains a major regime base.

The resistance lacks not only air power, armor and expertise but often such essentials as maps, mine detectors, or even winter gloves. Experienced resistance commanders wanted to use guerrilla action and siege tactics to wear down the regime. Instead, they were pressured by Pakistan's ISI, the channel for their support, into attacking Jalalabad. They took more than 25% casualties; journalists report that they faced minefields without mine detectors. The wonder is not that the resistance has failed to topple the Kabul regime, but that it continues to exist and fight at all.

Last summer, in response to congressional criticism, the State Department and the CIA said they had resumed military aid to the resistance months after it was cut off; but it is not clear how much is being sent or when it will arrive. For months the resistance has been defenseless against air attack. Thus far there is no indication that it has been re-supplied with Stingers or other antiaircraft weapons. Indeed, U.S. officials have indicated to the press that the continuation of aid depends on what success the weakened resistance achieves by the end of this year. Moscow and Kabul must have found that information useful.

For a decade U.S. policy has been incoherent, based on miscalculation and the defense of bureaucratic and political turf. No settlement negotiated by others can force the Afghan people to give up their struggle. A cutoff of U.S. military aid would merely abandon them to die in vain. Creation of a new, realistic U.S. policy is long overdue.

CRIME IN AMERICA

The SPEAKER pro tempore (Mr. PARKER). Under a previous order of the House, the gentleman from Illinois [Mr. LIPINSKI] is recognized for 60 minutes.

Mr. LIPINSKI. Mr. Speaker, our special order tonight is on the subject of crime. Joining me in this special order are two of my colleagues, the gentleman from Illinois [Mr. SANGMEISTER] and the gentleman from Illinois [Mr. POSHARD].

Mr. Speaker, I yield to the gentleman from Illinois [Mr. SANGMEISTER] to start the evening off.

Mr. SANGMEISTER. Mr. Speaker, I wish to extend my personal thanks to my colleague, the gentleman from Illinois [Mr. LIPINSKI] for inviting me to participate in this special order tonight on crime. It is certainly something that I have worked with in all my governmental career and something about which I have been very concerned.

Mr. Speaker, during the sixties and the seventies, criminologists and other social scientists almost universally believed that increases in crime were the result of increases in the number of people in the traditionally crime prone age groups; in other words, those people in their late teens and early twenties. Logically, if you bought that premise, of course, it was thought that the crime level would decline during the 1980's and the 1990's as the number of people in these crime prone age groups also declined. Thus, the result would be because of the aging of the baby boom generation, which is those people, 76 million Americans born between 1946 and 1964.

In this country, the demographic side of this hypothesis has gone largely as predicted, but instead of crime reducing, the number of arrests, the prosecutions, and the prison admissions in this country have all generally increased.

Now, what is the biggest reason for the increase in our crime? Without question, it is the prosecution of the drug violations that have is causing a substantial increase; but there are a lot of other statistics and I can give you all kinds of them. For example, the murder rate has increased almost 11 percent nationally between 1984 and 1988. A member of 5 percent of all households has been a victim of violent crime. Murders, rapes, and robberies were reported at rates 4 to 9 times higher in the United States than in Europe. Evidence-related deficiencies and witness problems accounted for more than half of the rejections at screening by prosecutors. We can go

on and on with statistics about why crime is up.

□ 1840

What are we going to do about it? We could stand here on the floor of the House and wring our hands or perhaps we could try to do something about it, and in the limited time we have tonight I would like to suggest that the Congress consider three areas.

One of them, of course, would be the expansion of the Federal death penalty. Two would be the limitation on the writs of habeas corpus that are being presented, and three, I think, ought to seriously consider codifying the exclusionary rule.

Let me just speak a little bit to each one of those topics. What about the death penalty? Frankly, I think we ought to be responding to the wishes of the American people. A 1988 Gallup Poll, and I think Gallup Poll is certainly a respected one, shows that 79 percent of the people in this country approve of the death penalty. In 1978 that same percentage was 62 percent, so we see in 10 years a 17-percent increase, that 4 out of 5 people in this country think we ought to have the death penalty.

I know those who argue against the death penalty will say, "Well, in those States or countries that enact the death penalty that, in fact, it is not a deterrent because the crime rate and the homicides do not go down." Let me say that I would have to agree with the statistics that I have seen on that, but there is one statistic that is not kept, and that is when Ma and Pa Grocery have a gun stuck in their face and some defendant tells them to turn over all the cash in the grocery store and they do so, and later that defendant is apprehended and placed into a lineup, and Ma and Pa Grocery pick them out, and on the basis of that identification he is later convicted, nobody ever asks the defendant at that time, "Why didn't you shoot Ma and Pa Grocery, because if you had done so, they wouldn't have been here to be able to identify you?"

As a former prosecutor, let me say that I have asked that question after conviction of various people for that crime, and invariably the answer that I got was, "It was bad enough that I did what I did in doing an armed robbery, but I was not about to do that and shoot them and put my own life in jeopardy." So do not let anyone kid you that the death penalty is not a deterrent. It really is. We do not keep that statistic.

Another thing, of course, it seems like it is awfully easy to be in favor of the death penalty. As I indicated, as a former prosecutor and working in the State legislature on this topic, it is very easy to say, "He is for killing all of these defendants," but actually it is not that easy to be in favor of the death penalty. Let me tell the Members that as a young fledgling prosecutor I remember one of my first cases was a death-penalty case. I will not go into the facts of the case. I want to say that it was a case that certainly amounted to a very heinous crime. I had to in that case do what at that time I was not a great advocate to do, ask for the death penalty, and I had to say to the jury in closing that the facts of this case in that crime called for it. Then I saw that jury come back in, and if anyone thinks it is easy for people who are sitting on juries to have to render a death penalty, they have a second guess coming, because when the foreman started reading off the verdict that the defendant was guilty and that they were recommending that he be put to death, there were literally tears running down the eyes of that jury when they realized what they had done, but they felt they had to under the circumstances.

I can say for myself it is a gut-wrenching feeling when for the first time one knows they participated in asking for somebody's life, and the jury has gone along with you, and now you, too, must bear the responsibility of what you have asked for.

I think it is really a lot easier to be on the other side of the issue. It is a lot easier to take the moral high road and say, "The commandment says thou shalt not kill," or the feeling that every life has some redeeming value. It is much easier to take that position.

I do not know what redeeming value the life of a Ted Bundy, and it will be recalled he was the serial killer from Florida, or presently sitting in our State, Mr. John Gacy, who has killed a couple dozen young men; what social redeeming value is left to save that life? I think the death penalty is a deterrent, and it ought to be expanded.

As I understand the Federal law at this point, there are only a couple of cases where the death penalty is applicable. In 1974 the Congress said that in airline hijackings the death penalty was applicable, and just last year in the Omnibus Drug Act, in 1988, that drug-related murders would also be subject to the death penalty.

Where else could that be expanded if we wanted to get serious about crime? There are any number of areas where we could do it. I would suggest that perhaps the attempted assassination of the President of the United States ought to be an area that we ought to look at. This is the leader not only of our country but of the entire free world. When we see now how the drug lords feel about it from South America and the threats that they have made, and as I understand it, security has been beefed up for the President, President Bush, and his family, as I think it should be, and I think that anybody at any time who attempts an assassination on the President of the United States ought to be subject to the death penalty in this country. That does not mean that we rule out all of the other defenses that are always there, and that was done in the matter of the insanity defense being asserted, and that should be done. I am not cutting aside any defense, but I think that is one crime that ought to be subject to the death penalty.

Also, what about the killing of a Federal prison guard? There are many in our Federal prisons who will never get out, and as a result have nothing to lose to take the life of a prison guard. But I think if their life would be taken in return, they have to think twice about it. We did that in Illinois, and I think we ought to do it on the Federal level.

There are many areas that we could talk about.

There are approximately now 2,200 prisoners who are on death row, and if my figures are correct, about 116 have been executed each year, with 200 more people who are added to that roll. So the question that we have is: Why does the judiciary delay in the system which really brings the criminal justice system into disrepute? The people in my district that I talk to and I have talked to for years say, "Yes, I am in favor of the death penalty, but it is a joke. The judiciary and the prosecutors do nothing to see that the sentence is carried out."

I think there are some reasons for that, and that is the second reason that I think we ought to be taking a look at the procedures, and one is the habeas corpus writs in the Federal courts concerning death cases. Even the least complicated case in which relief is denied at every stage can be presented to the U.S. Supreme Court three times and to the Federal district and appellate courts at least twice.

Justice Rehnquist and I do not want to sound like I am lecturing in a law school hall, but I think if we want to find out whether or not we ought to be doing this, we ought to be looking to the U.S. Supreme Court for some guidance, and Justice Rehnquist said in the case of Coleman versus Balkcom, and for those who are interested, it is cited as 451 U.S. 949, and in that case Justice Rehnquist said that the habeas corpus process in this country is a mockery of our criminal justice system, and I agree with him. Let me just quote from what he said in that case. Justice Rehnquist said,

> What troubles me is that this Court, by constantly tinkering with the principles laid down in the five death cases decided in 1976, together with the natural reluctance of States and of Federal habeas judges to rule against an inmate on death row, has made it virtually impossible for States to enforce with reasonable promptness their constitutionally valid capital-punishment statutes.

When society promises to punish by death certain criminal conduct and then the courts fail to do so, the courts not only lessen the deterrent effect of the threat of capital punishment, they undermine the integrity of the entire criminal-justice system.

He went on to further say,

The jurisdiction of the Federal courts over sentences of death should be ended, and unless the appropriate State officials commute a petitioner's sentence, it would presumably be carried out. In any event, the decision would then be in the hands of the State which initially imposed the death penalty, not in the hands of the Federal courts.

I frankly would not go that far, but I agree with Justice Rehnquist when he did state, "I think if we give the States an incentive to provide counsel for habeas petitioners and require that all Federal claims be consolidated in one petition and filed within a reasonable time after the conclusion of the direct review, that the system would be considerably improved," and to that I say amen. But then, of course, we have the question that people are going to raise: Is it constitutional to shorten the procedure or adopt a summary procedure where a person's life is at stake?

In that regard, let us turn to Justice White in the case of Barefoot versus Estelle, cited in 1983, and cited as 463 U.S. 880, and by the way he was writing for the majority opinion.

□ 1850

Justice White said,

With respect to the procedures followed by the Court of Appeals in refusing to stay petitioner's death sentence, it must be remembered that direct appeal is the primary avenue for review of a conviction or sentence, and death penalty cases are no exception.

It is important to remember that we are talking about habeas corpus, not the direct review, which every defendant automatically has.

When the process of direct review—which, if a Federal question is involved, includes the right to petition this court for a writ of certiorari—comes to an end, a presumption of legality and finality attaches to the conviction and sentence. The role of Federal habeas corpus proceedings, while important in assuring that constitutional rights are observed, is secondary and limited. Federal courts are not forums in which to relitigate state trials.

I think that is what we have to keep in mind. What Justice White is saying in short is summary proceedings on appeal from denial from a habeas corpus petition from a death sentence petitioner are acceptable, meaning also that they are obviously constitutional.

My understanding is that the Supreme Court has appointed the Powell Commission and they have now come back with a recommendation wherein they said on habeas corpus that one round of appeals at both the State level and Federal level is what the law ought to be, providing, and I agree with the proviso, that a competent attorney was appointed or retained at the State level.

Therefore you would have one shot up the Federal chain and one shot up the State chain, and that would be the termination of it.

I say very strongly that Members should legislate this concept here in the Congress.

One other item I would like to talk about which I think would help is for us to codify the exclusionary rule.

I want Members to understand that the fourth amendment is cherished and must not be flippantly dealt with. I certainly would not do that. But in some cases its arbitrary application exceeds the protection against unreasonable search and seizure.

Because the fourth amendment is very short and a very important amendment, let me read it. It says,

The right of the people to be secure in their persons, their houses, their papers and effects against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

So what is this rule that we talk about when we talk about the exclusionary rule? I can state it to you very simply: It means if evidence is obtained through an unlawful search it cannot be used to convict a defendant.

For example, let us say that a police officer, based on facts that he has, goes to a magistrate or a judge in a State court and signs an affidavit and gets a search warrant to be issued. Let us say that this particular police officer is investigating a homicide and he has facts that this certain person committed it and would like to perhaps search the house to see if he can find a weapon.

So, as the fourth amendment requires, there has to be specificity as to what you are looking for. The affidavit he receives allows him to go in and search for what? For the gun that committed the homicide.

The officer gets inside the house, and while he is looking for the gun he also discovers, let us say, a couple of pounds of cocaine and further evidence substantiating that this defendant is a drug peddler.

But what happens when he arrests that person based on that? Naturally there will be an immediate filing of a motion to suppress the evidence on the basis that the warrant was defective. It did not list on the warrant that he could be looking for cocaine, which he came across.

As a result, that type of evidence can be suppressed and the defendant goes free.

You try to explain that to a lay person. A lot of lawyers do not understand how a person can get off under that. Lay persons certainly do not understand where a police officer has done his job, that now the defendant is going to go free.

Of course, the whole idea behind the exclusionary rule is because the fourth amendment had nothing in it to say what is the punishment if somebody violates the fourth amendment and does an unreasonable search and seizure.

The punishment, of course, is you punish the police officer. You say to him, Mr. Police Officer, no longer can you do that. Because you did not do your search and seizure in a proper manner, we are going to let the defendant go free.

That makes a lot of sense. That surely punishes the police officer, does it not? What you are really punishing is the public.

It was so enlightening in 1984 in the case of *United States* v. *Leon*, 486 U.S., 897, to have the court say that the exclusionary rule should be modified so as not to bar the use in the prosecution's case in chief of evidence obtained by the officers acting in a reasonable reliance on a search warrant.

There, Mr. Speaker, was born the good faith exception, one that I really feel should be codified and put into the law because right now the exclusionary rule is a judicial rule that has evolved over the years.

The good faith exception should be put into the law so that police officers and prosecutors throughout this Nation know clearly that that is the rule, and when an officer does do his job in good faith, why should incriminating evidence in the case in chief be denied?

Of course, to do that there does have to be some punishment. That will be the question, if we do not punish the police officer that way, which I still say is really punishing the public, what are we going to do?

There are three ways it can be approached: First, there can be an external review board by nonpolice advisory people, a civilian review board which weighs the evidence and awards damages and imposes sanctions to discipline in these cases. That is one way you could take care of it.

The second way is to have an external review process or some form of administrative rulemaking by the police departments themselves. Do not think that police departments will not discipline within their own ranks when they know people are abusing the system.

Third, you can specifically allow for a cause of action against the offending police officer if a defendant is wrongfully incarcerated as a result of illegally obtained evidence. You can use the existing civil rights law under 42 U.S.C. 1983.

In conclusion, let me say if we want to do something here in the Congress,

I think we ought to expand the death penalty, we ought to limit habeas corpus, and we ought to codify the exclusionary rule.

I, frankly, think this would be a substantial step forward in reducing crime in this country, and the Congress should get on with it.

I thank the gentleman from Illinois.

Mr. LIPINSKI. I thank the gentleman from Illinois [Mr. SANGMEISTER] for his insightful experience, knowledge, and realistic helpful contribution to this special order on crime. I think Members can see by the knowledge he has that he has brought a great deal of assistance and support to the Judiciary Committee which he serves upon here in the House of Representatives.

I would like to turn now to the gentleman from Illinois [Mr. POSHARD], a colleague of mine from a little further south in the State of Illinois, from way down south, my very good friend.

Mr. POSHARD. Mr. Speaker, I thank my colleague for including me in his special order tonight. I am going to take a little different approach than our colleague from Illinois [Mr. SANGMEISTER] has taken. I would like to speak a bit here about the effect of drugs on crime in the rural areas of this country.

Mr. Speaker, let us be clear about one thing, drugs and crime and the combination of the two are not just an urban problem. They exist in rural areas like mine in southern Illinois, and that emphasizes the national scope of this problem.

As we discuss some solutions I would like to give you a little background on what we're up against.

Before yesterday the only thing I knew about ice was that it caused problems in the winter. I know more now. "Ice" is the latest drug to make its way into my district. Stephen Kunce directs the southern Illinois enforcement group, which is one of the multiagency task forces fighting drugs in my area. Mr. Kunce tells me this new drug called ice is a crystal stimulant which can be injected or inhaled. It's now available in southern Illinois. That's bad news. And it doesn't get any better.

Mr. Kunce also tells me the deadly crack cocaine, which we hear and read so much about, has been making its way into my district over the last 9 months. It is an uninvited and unwelcome intruder on southern Illinois.

Cocaine is still the most common drug, prices on the street are lower and the supply is up. Despite our best efforts, that plague continues without even pausing to catch its breath.

Marijuana growers also had a good year with favorable growing conditions and lots of hiding places in rural areas to produce their poison.

One of the dim consolations of all of this is, rural areas do not experience the same volume of drug violence and turf wars which exist in more urban areas. I suppose for that, we can, in some way, be thankful. But the enforcement group also notes that some larger drug operators are moving into rural areas to escape surveillance.

My area benefits from an interstate system that carries goods and commerce into and through southern Illinois.

Interstates 24, 57, and 64 all serve the people and businesses of my district. But if you ask the local and State police, to borrow a little of their jargon, they'll tell you it's always "snowing" on those interstates. What they're saying, is that unbelievable amounts of cocaine and other drugs move from the south to the north through southern Illinois on the Interstate System.

Aggressive interdiction can catch some of it, but we can only guess at how much goes on by—and it goes on to ruin lives.

Lt. Larry Cook of the Illinois State Police Division of Criminal Investigation heads up the southern Illinois drug task force. It covers the 22 southern counties in Illinois, my district and parts of some others, in operation since May of 1988.

Lieutenant Cook confirmed what Mr. Kunce related. Crack cocaine has made its way to southern Illinois, and pot growers are reaping a harvest of death.

Let me give you a few hard statistics from Lieutenant Cook about what they've been up against lately.

Since the task force was created they've made 175 arrests. They've made undercover purchases of about $210,528 in street value of various drugs, the majority, cocaine.

They've seized over 9 million dollars' worth of drugs, including one huge field of 58,000 marijuana plants. They've also taken in 24 weapons, and Lieutenant Cook tells me the number of armed suspects they're going up against is increasing. The average age of the defendant is 29½ years. That's nothing, if not pitiful. Men and women in what should be the prime of their lives, when their careers as worthy contributors to our communities should be on the rise, these people are instead, involved in the most sinister industry we know.

What does this mean for the average person in the community? Every person is at risk. They're at risk from being caught up in drug trafficking or use and falling into this wretched underworld that is taking a steady toll on our society.

Every kid is at risk from falling in with the wrong crowd and ruining a promising future. And if we're lucky enough to avoid those pitfalls, we're all at risk in other ways.

Both of the law enforcement agencies I've told you about agree there's a direct correlation between the number of residential and personal burglaries and the drug scene. People need money to buy their drugs and they'll rip off anyone to get the cash or the merchandise they can convert to make that happen. That means our homes, our businesses, are at constant risk because the drug wave rolls on. Crime and drugs are irrevocably married into a partnership of destruction.

I can relate the sad story of a 76-year-old man in a city in my district who was robbed and killed for money that was used to buy drugs. The perpetrator was arrested, convicted and sentenced to 55 years in prison, but the family of the dead man will serve a life sentence of heartache.

Enough of the bad news for a moment, because there is some good news to report. Lieutenant Cook's agency has made 92 arrests on drug and gun related charges. And they've secured 92 convictions.

It's a comfort to us to know we've got Stephen Kunce and the dedicated men and women he directs on our side, as the southern Illinois enforcement group continues its work. The enforcement group's arrests are up 20 percent from last year. They specialize in some of the most dangerous and most important drug enforcement area, the undercover operations.

And something else happened in southern Illinois recently which gives us all cause for hope. The U.S. attorney's office out of East St. Louis and Benton, IL, recently finished prosecution of one of the biggest drug cases in history.

Three men were convicted of engaging in a continuing criminal enterprise which requires a mandatory life sentence. That trio along with one other defendant was also guilty of conspiracy to distribute in excess of 1,000 pounds of marijuana.

The numbers in the case are absolutely staggering, including forfeitures of $30 million for one defendant, $60 million for another, and $59,500,000 and two promissory notes of $250,000 each for another. With that kind of money coming from just three individuals, we can only dream nightmares of what else lurks out there.

But this case was cracked by some extremely dedicated law enforcement professionals. It included the Federal Bureau of Investigation, Illinois State Police Division of Criminal Investigation, and Internal Revenue Service.

It was prosecuted by the U.S. attorney's office, southern district of Illinois. And I should add that in addition to the convictions already mentioned, the case resulted in 46 other convictions and forfeitures, and seizures valued at over $16.5 million. This shows what can happen when we join forces and attack this problem.

The credit goes to a wide range of persons, but U.S. attorney Frederick

Hess and FBI special agent Robert P. Wright point especially to assistant U.S. attorneys Michael C. Carr and Robert T. Coleman, who prosecuted the case, FBI special agents Robert E. Dueker and Larry J. Davis, Gary Brown, and Robert Emery of the Illinois Division of Criminal Investigation and Charles Quarenghi and Conley Lemons of the Criminal Investigation Division of the IRS.

That's the kind of production we can use more of. I salute all of those involved.

Let me propose a few solutions. We have to continue to fund the interagency task force with money from the Federal level so they can attack the problem at the local level. We must not relent in our pursuit of the drug runners and dealers who keep attacking our communities.

But we must do more in education. We must be able to show our young people a valid reason for staying clean, avoiding the quick profits and guaranteed destruction of living a life that belongs to drugs. We have to offer them something to say yes to.

My colleagues drugs are a big city concern. I hope after listening to what's happening in southern Illinois you are more aware that they are a rural concern as well. They are a problem for all of us. The same is true for the solution. It demands partnership, commitment, determination, and courage, from big city housing projects to the open fields or rural areas. Drugs are here. Let's work to make sure they're not here to stay.

□ 1900

Mr. LIPINSKI. Mr. Speaker, I want to thank Congressman POSHARD for those words. I think some of the things I am about to say, myself, now are going to echo what he said because I too have felt a very direct link between drug addiction and violent crimes in this country.

Mr. Speaker, I rise today to address yet another tragic aspect of our Nation's crippling drug war—the direct link between drug addiction and violent crime.

Sixty to eighty percent of all inmates responsible for violent crimes are addicted to illegal drugs and/or alcohol. Most of the violent crimes they were convicted for were either committed while they were under the influence of an illegal drug or desperately searching for a way to feed their addiction. During the 1980's, drug-related crimes have increased 229 percent and now account for 44 percent of all criminal trials. A chilling statistic.

Many studies have shown that the extent of violent criminality is directly affected by a person's drug addiction. I draw your attention to a 1983 study in Baltimore, MD, of 354 heroin addicts which revealed that when using drugs, their crime rates increased 4 to 6 times. While addicted over a 9-year period, this group averaged 2,000 crime-days per addict. That works out to an average of 78,666 violent crimes per year, 215 crimes per day and 9 violent, drug-related crimes an hour every hour every day for 9 years. This is an unacceptable number by any standard.

When these 354 people were off their heroin addictions, their crime rates were reduced by a drastic 84 percent. It seems to me that we have an obvious responsibility to provide drug treatment and rehabilitation in prison to end drug-related crimes and reduce the unnecessary violence plaguing our Nation. This modern scourge must be ended.

It is clear to anyone that crime is worsened by drugs and creates a vicious circle. Once a violent, drug-related crime is committed, it is very difficult to break the pattern and end a criminal's drug addiction. While a criminal may serve time for his crime, incarceration by itself is not the way to end an addiction. By simply throwing an addicted criminal into prison and throwing away the key, we are not solving the drug problem. As you all know, criminals manage to find their way back out to the streets merely to continue the circle. Rehabilitation is crucial to ending the violence caused by drugs.

Of course I am not suggesting that it isn't possible for a person to see the light and reform, but I am saying that it is extraordinarily difficult for drug addicted criminals to break the pattern of violence. Once they get out of prison, not only are they poor, depressed, and probably alienated by their families—if a family unit still exists—but they are still addicted to drugs. Even worse, they haven't been taught to not be addicted. Desperate for the long awaited "high" to escape from their misery, they hit the streets to plunder and pillage in hopes of scrounging some drugs.

Police raids, increased numbers of cops, more effective interdiction, citizen patrols, withholding driver's licenses, drug-free school zones—all these anti-drug initiatives will never be a match for a drug epidemic fed by poverty, illiteracy, joblessness, and an uneducated nation. The increase in crime and violence is attacking the well-being of our citizenry and crippling our country's productivity. We must seek to eliminate both the supply and demand of drugs in the United States. We simply cannot win the war if either aspect is left unchecked.

Not only do we have a responsibility for the incarceration and rehabilitation of drug addicted criminals, but there must be a national commitment to stop using illegal drugs and legal drugs illegally. Certainly, a short-term solution calls for an increase in policemen, new prisons to house the overflow of drug addicts, increased numbers of judges, marshalls, and interdiction teams, but this will only tap into the problem. Yes, we must end drug cartels' business here by halting foreign production and trade, but we have to effectively educate Americans inside and outside of prison.

Violent drug murders topped 360 to date in Washington, DC; 94 more than all last year; crack houses spread rampant through urban areas and the number of crack babies and addicted mothers has shot up to an unbelievable number. A whole generation is at risk.

My biggest fear is that the public simply does not understand the scope of the problem. Stopping the flow of cocaine and heroin from drug cartels and incarcerating drug criminals does not ameliorate the conditions that create the desire. Chemical substitutes can always change, a new drug can always be manufactured, and drug addicts will continue to stalk the streets until we take action to educate people.

Tastes change to accommodate the availability. That is how crack was developed. In fact, there is already a new and improved drug called ice. It has a longer duration than crack and can produce superhuman strength and increased physical activity in people. Since it creates such an intense pleasure, however, when the effects wear off, a deep depression ensues and the craving for another hit is uncontrollable. This is how the violent, vicious circle begins.

At some point, Americans must end their drug dependencies and stop craving mind-altering chemicals. The problem can't be solved simply by paying lip service to public policy and tossing criminals into prison without rehabilitating them.

Contrary to the administration's recommendations of concentrating on crack-downs on casual users, I believe we need to concentrate heavily on educating and rehabilitating the violent drug addicts already in prison. Of course, I am not condoning the continued unpunished practices of the casual user, but the outrageous number of repeat offenders of violent drug-related crimes leads me to believe that we are not doing enough to rehabilitate drug addicts in prison. And as I mentioned earlier, rehabilitation does make a difference—a difference worth financing.

I believe the larger causes of drug dependency are tied to a breakdown of ideas about the self, the family, and the community. We must project a more sustaining vision to our society which overrides the idea of gaining power, pleasure, and glorification from drugs. Somehow, we need to reteach Americans about their self-worth with-

out psychological and physiological drug dependencies.

Mr. Speaker, there is no excuse for criminals to hit the streets without having received some sort of drug rehabilitation, such as delineated in the Drug Dependent Federal Offenders Act of 1978. But not only do I firmly believe we should treat and rehabilitate criminals in prison for their drug addictions, we should also teach them useful life skills. Rather than simply allow them to waste away in prison, we should develop programs to educate them on how to look for jobs and keep them after they are off their addictions.

I realize my suggestions may appear very naive and perhaps laughable, but in all seriousness, the majority of people in prison have the capacity to contribute to society in some beneficial manner if we can teach them to live without drugs. There is no reason we should allow criminals to remain as parasites on our society once they get out. Yes, it is going to be very difficult to make the argument that working for minimum wage in a fast food joint is living it up, but I fail to understand why we aren't trying to teach drug addicts in prison to become law-abiding citizens and better people.

Perhaps there seems to be no way out of the vicious circle, but I am not convinced there isn't something we can do. The solution is as simple and as difficult as education. Teaching self-respect and self-worth has been been more important than now.

It makes me ill to think that we can prevent further violent, drug-related crimes by providing treatment in prisons and we aren't doing it. Certainly, I do not expect the problems plaguing our Nation to disappear with the wave of my magic wand, but unless we try we will never accomplish even the minimum. Mr. Speaker, I am calling on all my colleagues to speak out and sound the trumpets of retaliation. Let us end this hostility and reveal self-worth and self-respect to all our people without the use of drugs. To reach the end will require a long fight for the entire society. What are we waiting for?

LET'S PLAY HIDE THE BALL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. UPTON] is recognized for 60 minutes.

Mr. UPTON. Mr. Speaker, I do not intend to take my full 60 minutes this evening. It is Wednesday night. This is the night that our congressional reform task force has designated to try and explain to the American people some of the rules and procedures that we in the minority are sometimes forced to live with.

Mr. Speaker, tonight I am not expecting a great number of Members to join me as our session has lasted a little longer than we had originally anticipated. As has just been indicated, there were a number of other Members that were assigned to speak before myself that we did not realize were not going to be here this evening. So, our timing may be a little off.

However, Mr. Speaker, our topic tonight is: Let's play hide the ball, and it is about special interest gimmicks that get tucked away in omnibus spending bills that we have gotten so skillful at developing.

Now a good description of these kinds of measures was drafted by our Republican Policy Committee, and let me tell my colleagues what it says.

Tax appropriations and authorizing legislation are filled with line item benefits for particular persons, companies, communities or special interests. Most often these are sweetheart deals worked out between community members and special interests with the pork cloaked in obscure language, buried deep in a piece of legislation.

Mr. Speaker, the best running example of this kind of game-playing is the budget reconciliation bill now working its way through this Congress. I mention it again tonight because we had a very significant vote on this bill on this floor today—a vote demonstrating that a majority of the Members of this body are not willing to support responsible budgeting.

Let me explain:

During the past week, the Senate took its own reconciliation bill and stripped out all the gimmicks and new spending programs—they reduce the size of the bill by about two-thirds.

Today we in this House named our Members to a conference committee to work out differences between the House and Senate reconciliation bills. But before we did that, we had vote on a very simple motion. Here's what it said:

Moves that the managers on the part of the House at the conference on the disagreeing votes between the two Houses on the bill, H.R. 3299, are hereby instructed to:

Recede from those provisions of the House passed bill which would for each of the fiscal years 1990 and 1991 result in a revenue decrease; and

Recede from those provisions of the House passed bill which would result in an increase in obligations of the Government over those currently authorized for each of the fiscal years 1990 and 1991; and

Recede from those provisions in the House passed bill which would have no budgetary impact; and

Provided further, notwithstanding any other instructions, that the managers on the part of the House are hereby instructed to insist on the House passed catastrophic health care provisions.

Why did this motion make sense? Because that's what reconciliation is all about. It's supposed to produce deficit reduction. It's what the Members of the Senate decided to do.

What did we do? We failed to instruct our Members to the conference to operate under these rules. The vote was 181 yeas, but 227 nays. And this was only, for the most part, a symbolic vote—it was simply an instruction to our conferees, not a requirement. And the majority in this House could not do it.

Now, what is it in this bill that a majority of our Members are so determined not to let go? First, let me read part of a recent editorial from the Wall Street Journal.

> There's money for an oat acreage limitation program; for boosting the sale of meat in U.S. commissaries; for a $6 million "magnetic levitation transportation grant"; for "demonstration projects relating to telephone service centers"; and for the Finger Lakes Area Hospital Corp. in New York.
>
> One provision would prohibit the President from designating a country as covered by the Caribbean Basin Initiative unless it adopted certain labor laws. Special-interest provisions would pay for grants covering Onondaga Lake in New York and a special transition rule for the Kenosha Harbor in Wisconsin.

It goes on to say:

> This is Garbage Government. This is the way Washington legislates now, the way it has enacted poorly crafted laws in recent years and the way it will do so forever unless someone puts a stop to it.

But these items aren't all of it. A few weeks ago during one of these special orders, I brought out a copy of the reconciliation bill—all 1,935 pages of it. Tonight I have with me a copy of the Budget Committee report that goes along with reconciliation. Surprisingly enough, the report—which is supposed to explain the bill—is actually shorter than the bill itself—it's just 1,555 pages.

What do these pages contain? In addition to the items mentioned by the Wall Street Journal, this reconciliation package contains a range of major policy decisions that have never come up for a vote on the House floor.

Here's what our Republican members on the Ways and Means Committee said about the items in this bill:

> The reconciliation process is supposed to be a way to trim entitlement programs whose costs cannot be controlled through the appropriations process. Therefore it is particularly discouraging that reconciliation is serving instead as a vehicle to carry entitlement changes whose costs will mushroom in years to come. These new and expanded programs have insignificant costs in fiscal year 1990 which eventually will balloon in the out-years and make it impossible to meet future Gramm-Rudman targets.

In other words, this deficit reduction bill will make it impossible to reduce the deficit in the future. This is the

kind of thing that only Congress can do.

Now, let me give you some examples of the policy changes also tucked away in this bill:

First. There are major changes in the laws covering pension provisions. These can dramatically affect the financial security of pension plans covering the working people in this country. Let me indicate to you what some of our colleagues warned about these pension provisions.

The provisions of the bill, as well as those in budget reconciliation, which totally prohibit asset reversions upon termination make very drastic changes to the operation of single employer defined benefit pension plans. Under current law, in order to stabilize pension costs as a percentage of payroll, employers may voluntarily advance their plans and build up excess pension assets which are not attributable to unanticipated investment gains or other sources.

The total ban on reversions under Subtitle A and the near prohibition under H.R. 1661 will discourage employers from advance funding and undercut employee benefit security, because upon plan termination, and after all benefit promises under the plan have been satisfied, the employer's own voluntary contributions would be recharacterized and translated into either mandated benefits beyond those promised or, as also is the case under H.R. 1661, into mandated transfers to successor defined benefit plans.

These provisions, if adopted, would for the first time establish federal pension plan termination benefit mandates which are inconsistent with the voluntary nature of the private pension system. Such mandates would further discourage the formation and maintenance of defined benefit pension plans.

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Now, this is part of what the majority of the House voted to keep hidden in a deficit reduction bill. There is the creation of a new agency for health care, research and policy. Here we are in a deficit reduction bill and we are creating another new federal agency.

The bill includes what are called expenditure targets, which are supposed to clamp a lid on what we spend on Medicare, our health program for the elderly; let me read what some of our Members said about these expenditure targets, and again I quote from the report:

The adoption by the Ways and Means Committee for expenditure targets as part of medicare physician payment reform is bad policy, and we oppose this action. Expenditure targets are designed to place simplistic and arbitrary limits on future expenditures under medicare Part B for physician payment. The expenditure target policy will encourage under-reimbursement with the inevitable erosion in access to quality care and discourage the tough decisions necessary to address the causes of the health care cost explosion.

Expenditure targets will have a deleterious effect on physician payment and patient care. The arbitrary ceiling on payment required by the targets could limit honest physicians in providing needed care and will provide no guarantee that unscrupulous doctors will be prevented from offering unnecessary services. If the target is breached, both the conservative practitioner and the system's abusers will be punished by reduced reimbursement.

Now, I think this is a major policy change that we ought to consider on its own merits, considering the concerns raised here, but it is hidden in this massive reconciliation bill of 1935 pages long.

Then there are other changes in the Medicare Program. Let us take a look at what some of our Members said about that, and again I quote from the report:

The Budget Resolution contemplated Medicaid liberalizations amounting to $200 million in FY 1990. According to the Congressional Budget Office, the Medicaid expansion contained in the reconciliation bill begins with $183 million for the last four months of FY 1990, but expands to a total cost increase—

Remember, this was supposed to be a reduction—

of $4.15 billion over the five fiscal years 1990-1994. The Office of Management and Budget, which serves as the official scorekeeper for Gramm-Rudman purposes, estimates the five-year total as double that amount, nearly $8.9 billion.

Yet this is included in a deficit reduction bill.

Now, I could go on and on forever this evening, and I made some promises that I will not take my full hour, but now I offer some of the concluding remarks that Members put in this report. They called this "bacteria budgeting." What it means, they said, is this:

This is bacteria budgeting—put a little bacteria in the right place and watch it explode into a raging disease. The budget problems associated with these new spending programs are serious enough, but they are also quite difficult to justify in terms of social policy.

Now, we had a chance to change this today. We had a chance to take a stand against bacteria budgeting and garbage government. We failed to do it, and now our constituents are going to be stuck with the results.

Now, there are some ways that we can improve the process. We talked about this on other nights in previous weeks. We do not have the tools. We do not have something called the line item veto, something that even, and I have said this before, even Mike Dukakis, our great liberal from Massachusetts, indicated that he would support in the waning days of the campaign in 1988. Well, we need the line veto, because we need some process where we can eliminate some of these items that are stuck in the big reports and big bills that no one seems to know are there because we are unable to debate them.

CONFERENCE REPORT ON H.R. 2916

Mr. TRAXLER submitted the following conference report and statement on the bill (H.R. 2916) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1990, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-297)

The committee of conference on the disagreeing votes of the two Houses on he amendments of the Senate to the bill (H.R. 2916) "making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1990, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 11, 12, 16, 22, 24, 31, 51, 52, 61, 62, 64, 65, 66, 67, 68, 69, 72, 73, 74, 77, 78, 81, 85, 99, 101, 102, 107, 108, 111, 118, 120, 125, 126, and 127.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 5, 10, 14, 23, 28, 29, 33, 34, 35, 36, 44, 49, 50, 58, 59, 70, 76, 82, 96, 113, and 115, and agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$11,549,431,000*; and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$216,000,000*; and the Senate agree to the same.

Amendment numbered 63:

That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$6,000*; and the Senate agree to the same.

Amendment numbered 83:

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,000,000*; and the Senate agree to the same.

Amendment numbered 84:

That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$2,897,000*; and the Senate agree to the same.

Amendment numbered 87:

That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$2,639,000*; and the Senate agree to the same.

Amendment numbered 88:

That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$275,290,000*; and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$97,900,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 4, 6, 8, 9, 13, 15, 17, 18, 19, 20, 21, 25, 26, 27, 30, 32, 37, 38, 39, 40, 41, 42, 43, 45, 46, 47, 48, 53, 54, 55, 56, 57, 60, 71, 75, 79, 80, 86, 89, 90, 91, 92, 93, 94, 95, 97, 98, 100, 103, 105, 106, 109, 110, 112, 114, 116, 117, 119, 121, 122, 123, 124, and 128.

BOB TRAXLER,
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LINDY BOGGS,
ALAN B. MOLLOHAN,
JIM CHAPMAN,
CHESTER G. ATKINS,
JAMIE L. WHITTEN,
BILL GREEN,
LAWRENCE COUGHLIN,
JERRY LEWIS,
SILVIO O. CONTE,
Managers on the Part of the House.

BARBARA MIKULSKI,
PATRICK LEAHY,
J. BENNETT JOHNSTON,
FRANK R. LAUTENBERG,
WYCHE FOWLER JR.,
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ROBERT C. BYRD,
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ALFONSE M. D'AMATO,
CHARLES E. GRASSLEY,
DON NICKLES,
PHIL GRAMM,
MARK HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANTORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2916) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1990, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

TITLE I

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

Amendment No. 1: Appropriates $501,200,000 for readjustment benefits as proposed by the Senate, instead of $434,100,000 as proposed by the House.

Amendment No. 2: Appropriates $313,500,000 for the Loan Guaranty Revolving Fund as proposed by the Senate, instead of $453,000,000 as proposed by the House.

VETERAN HEALTH SERVICE AND RESEARCH ADMINISTRATION

Amendment No. 3: Appropriates $11,549,431,000 for the medical care, instead of $11,561,431,000 as proposed by the House and $11,514,938,000 as proposed by the Senate.

The conference agreement reflects the following additions to the budget request:

+$514,847,000 for 8,526 FTE to maintain the 1989 staffing level of 194,720. This amount includes $164,242,000 for the assumed 3.6 percent pay increase in January 1990.

+$1,000,000 for unbudgeted costs of contracting out for medical personnel where direct hires are not possible due to federal salary constraints.

+$73,948,000 to the $270,168,000 requested for equipment.

+$100,397,000 to the $208,919,000 requested for contract community nursing homes.

+$61,516,000 for other objects of expense such as supplies and materials, utilities and other services. Of this amount, $5,600,000 is to be spent to reduce the backlog of much-needed prosthetics appliances.

+$30,000,000 for homeless programs authorized by the McKinney Homeless Assistance Act, instead of absorbing approximately $25,000,000 as assumed in the budget request. Of this amount, $15,000,000 is for the domiciliary homeless program and $15,000,000 is for the community-based residential program for chronically, mentally ill homeless veterans.

+$10,000,000 above the budget request of approximately $80,000,000 for drug treatment and prevention activities.

+$5,900,000 for two additional integrated hospital system sites.

+$1,000,000 for an expanded alcohol outreach program and half-way house at Gallup, New Mexico.

+$6,000,000 for post-traumatic stress disorder [PTSD] treatment activities. Of this amount, at least $5,000,000 is to be used for the establishment of not less than 20 PTSD clinical treatment teams, not more than $500,000 is to be used for PTSD treatment-related activities, such as education, research, and evaluation, and not less than $500,000 is to be used for National PTSD Center. These funds for PTSD treatment are in addition to the $5,000,000 PTSD add-on included in the fiscal year 1989 appropriation and annualized in the fiscal year 1990 request.

+$3,000,000 for the Mobile Clinic Pilot program. The conferees agree that one of the mobile clinics is to be established in Arizona.

+$392,000 for the cost of the 3-month extension of the leave-transfer program (amendment numbered 124).

The conferees direct that the VA make a special AIDS allocation for the first quarter of fiscal year 1990 to the 16 hospitals with the highest AIDS caseloads in the same proportions as and under the same terms as specified in the 1989 conference report. The VA is also directed to submit a report by December 1, 1989, on the adequacy of fiscal year 1990 funds to cover the actual costs of AIDS care at VA medical centers treating substantial numbers of AIDS patients.

The managers are also aware of the need for a community-based clinic in southwestern Oregon. The VA is directed, from within available funds of the 1990 appropriation for veterans medical care, to establish a community-based clinic on Oregon's southern coast to be satellited to the Roseburg VA Medical Center.

In addition to the sum of $11,549,431,000 provided for medical care in amendment numbered 3, $50,000,000 is being appropriated in the 1990 Transportation and Related Agencies Appropriations Act for alcohol and drug treatment programs. Offsetting these two amounts is an across-the-board reduction of $115,339,000 carried in amendment numbered 123. The across-the-board reduction represents one percent of the $11,549,431,000 provided in the Act and includes 0.43 percent as the Subcommittee on VA, HUD, and Independent Agencies' proportional share of the overall reduction necessary to provide additional funding for the war on drugs. This 0.43 percent reduction has been applied to all discretionary accounts. The balance of the reduction is one-half of the 1.12 percent reduction applied against all other discretionary accounts in this Act to bring the total budgetary authority and outlay numbers within the section 302(b) allocations. The conferees have agreed to only decrease medical care by one-half of the percentage applied to all other accounts for the general reduction due to the high priority given this account.

This total amount of funding is specifically intended to support 194,720 full-time equivalent employees (FTEEs) with the understanding that, in accordance with established congressional practice, any additional pay costs necessary to support that FTEE level will be borne by the VA, using funds made available by this measure, funds made available by enactment of supplemental appropriations, or through absorption of the cost, or some combination thereof.

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided, That of the sum appropriated, $7,250,000,000 is available only for expenses in the personnel compensation and benefits object classifications*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are concerned with the VA medical management's inability to increase full-time permanent employment at the hospitals. The VA received a 1989 supplemental appropriation of $345,125,000 for medical care to increase the number of veterans that could receive medical treatment—on both an inpatient and outpatient basis. The statement of the managers of the committee of conference on that bill stated that, "the Veterans Health Service and Research Administration is directed to proceed as quickly as possible to increase the average employment to an annual rate of 194,720. * * * The conferees wish to make clear that the VA is not to hire temporary administrative and engineering support personnel simply to increase the 1989 staffing level. The VA is expected to hire permanent employees so as to be able to enter fiscal year 1990 at the 194,720 level."

Unfortunately, full-time permanent employment at the end of fiscal year 1989 was at the lowest level it had been all year. The VA also ended fiscal year 1989 at a staffing level approximately 1,800 below the 194,720 level.

The conference agreement includes an earmarking of $7,250,000,000 for personnel compensation and benefits costs so that medical administration in both the central office and at the hospitals can be assured

that adequate funds are available in fiscal year 1990 to support a staffing level of 194,720. The conferees have included this language recognizing that the employment level is not an end in itself but that a higher employment level will permit the treatment of more patients. In hiring the necessary additional staff, the VA is to maximize the number of direct patient care employees.

The VA entered fiscal year 1990 approximately 1,800 FTE below the 194,720 level. By providing funds for a 194,720 staffing level the VA will be able to increase staff above that level for part of the fiscal year. By the beginning of next summer, the VA should have some indication of what the fiscal year 1991 funding and staffing levels will be and can make any necessary adjustment in employment so as to enter fiscal year 1991 at an employment level that will be able to be supported during the year.

Amendment No. 5: Delays the availability of $278,882,000 of the $441,754,000 included in the conference agreement for the equipment and land and structures object classifications until August 1, 1990, as proposed by the Senate, instead of delaying the availability of $268,882,000 as proposed by the House.

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing for the scorekeeping of the delay in availability of funds for the equipment and land and structures object classifications.

Amendment No. 7: Appropriates $216,000,000 for medical and prosthetic research, instead of $211,000,000 as proposed by the House and $219,441,000 as proposed by the Senate.

The conferees agree that the distribution of the $18,690,000 increase above the budget estimate is as follows:

+$3,000,000 for prosthetic research.

+$1,000,000 for a dioxin survey.

+14,690,000 to be distributed at the discretion of the Department.

The conference report does not contain the Senate add-on of $1,000,000 for a study of PTSD and other psychological problems of minority Vietnam verterans. Instead, the conferees direct that VA, through the National Center on PSTD, study how best to provide outreach to and treatment for minority Vietnam veterans (including women Vietnam veterans) who are experiencing PTSD and other psychological problems in readjusting to civilian life.

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$46,112,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree with the following changes from the budget estimate:

+$1,000,000 to the $8,752,000 requested for the health professional scholarship program. The conferees expect that scholarship program participants will only be assigned for their service obligation to the 50 percent of facilities with the most serious recruitment and retention problems.

−$3,000,000 general reduction in medical administration to be taken at the VA's discretion. The conferees have agreed to this reduction in anticipation that fewer medical administration employees in the central office will simplify and improve the VA's ability to increase full-time permanent direct care employment at the medical centers.

−$429,000 for activities transferred in the reorganization to the general operating expenses appropriation—$290,000 and 2 FTE for emergency preparedness and $139,000 and 3 FTE for occupational health and safety.

DEPARTMENTAL ADMINISTRATION

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *4817,059,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The committee of conference is in agreement with the following changes from the budget estimate:

+$10,500,000 for 350 FTE to increase the 11,610 field staffing requested for the Veterans Benefits Administration.

+$4,500,000 for 150 FTE in the loan guaranty program for increased loan servicing activities to help veterans' retain their homes and lower claims against the Loan Guaranty Revolving Fund.

+$1,000,0000 for 24 FTE to restore the Board of Veterans Appeals staffing to the 1989 approved level of 427.

$1,500,000 for the loan production system.

−$4,729,000 from the $9,661,000 increase requested for other than salary costs in general administration. The decrease is to be applied at the VA's discretion to offices other than the Board of Veterans Appeals or the Board of Contract Appeals.

+$429,000 for activities transferred to the general operating expenses appropriation in the reorganization from the medical administration and miscellaneous operating expense account (MAMOE)—$290,000 and 2 FTE for emergency preparedness and $139,000 and 3 FTE for occupational health and safety. An offsetting reduction has been made in the MAMOE account.

+300,000 for program evaluation contracts transferred in the reorganization from the Office of Inspector General (OIG). An offsetting reduction has been made in the OIG account.

The conference agreement also includes authority to transfer up to $21,000,000 to the GOE account from the construction, minor projects account. The transfer authority is discretionary.

Amendment No. 10: Appropriates $21,949,000 for the Office of Inspector General as proposed by the Senate, instead of $22,249,000 as proposed by the House. The decrease of $300,000 below the budget request is for program evaluation contracts transferred in the reorganization to the general operating expenses appropriation.

Amendment No. 11: Restores language proposed by the House and stricken by the Senate appropriating $420,249,000 for construction, major projects, and deletes language inserted by the Senate appropriating $190,266,978 and authorizing installment-purchase arrangements for several construction projects.

The conference agreement includes the following changes from the budget estimate:

+$42,800,000 for a clinical improvements and patient privacy project at Nashville.

+$8,900,000 for a 290-bed psychiatric building project at Gainesville.

+$4,300,000 for design of a geropsychiatric facility project at Marion, Indiana.

+5,000,000 for design of a bed addition project at Temple.

+$1,000,000 for modification of preliminary plans for the clinical addition project at Wilmington.

+300,000 for an enviromental impact statement for a new cemetery in the Dallas/Ft. Worth area.

+$1,000,000 for design development of a replacement for the ambulatory care facility at El Paso which is to be located on the grounds of the William Beaumont Medical Center.

+$2,300,000 for design of a renovation/30-bed spinal cord injury unit project at Tampa.

+$400,000 for planning of a nursing home care unit project at Palm Beach.

+$2,000,000 for design of a domiciliary replacement project at Leavenworth.

−$4,300,000 from the budget request of $27,560,000 for the advance planning fund.

−$9,300,000 from the budget request of $13,600,000 for the design fund.

The conferees urge the VA to purchase approximately 13.5 acres of land adjacent to the Beckley VA Medical Center at an estimated cost of $100,000. The conferees expect the VA to complete design of the operating suite project at the Oklahoma City Medical Center in fiscal year 1990 and request construction funds in fiscal year 1991. The conferees direct the VA to submit a plan regarding the disposition of the Loch Raven VA Medical Center by December 15, 1989.

Amendment No. 12: Appropriates $113,699,000 for construction, minor projects as proposed by the House, instead of $111,596,000 as proposed by the Senate. The decrease of $1,000,000 below the budget request has been applied to the limitation on expenses for the Office of Facilities.

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing that not to exceed $200,000 of minor construction funds be used to assist the City of Sturgis, South Dakota, in funding improvements to a wastewater treatment plant which services the Ft. Meade VA Medical Center.

Amendment No. 14: Provides for the discretionary transfer of up to $21,000,000 from construction, minor projects as proposed by the Senate, instead of up to $15,000,000 as proposed by the House.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate permitting funds appropriated in the construction, minor projects account to also be transferred to the Office of Inspector General appropriation.

Amendment No. 16: Restores language proposed by the House and stricken by the Senate appropriating $29,375,000 for the parking garage revolving fund and authorizing the use of medical care funds for garage operation and maintenance expenses, and deletes language inserted by the Senate authorizing the use of medical care funds for garage operation and maintenance expenses.

GENERAL PROVISION

Amendment No. 17: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and

concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

Notwithstanding the earmarking of funds for the Veterans Benefits Administration identified in this Act within the general operating expenses appropriation, $565,329,000 of the $817,059,000 appropriated shall be for the Veterans Benefits Administration.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree that this revised earmarking of funds in the general operating expenses account for the Veterans Benefits Administration does not include any funds that might be transferred from other accounts.

TITLE II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(INCLUDING RESCISSION AND TRANSFER OF FUNDS)

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for $8,115,221,525, to remain available until expended: Provided, That of the new budget authority provided herein, $134,373,600 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity under section 202 of the Act (42 U.S.C. 1437bb); $457,717,000 shall be for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, other than for Indian families; $2,030,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 14371); $2,500,000 shall be for technical assistance and training under section 20 of the Act (42 U.S.C. 1437r); $883,830,000 shall be for assistance under section 8 of the Act for projects developed for the elderly under section 202 of the Housing Act of 1959, as amended 12 U.S.C. 1701q) and $180,000,000 for amendments to section 8 contracts for projects developed for the elderly and handicapped under section 202 of the Housing Act of 1959, as amended; $1,148,332,500 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f), of which $47,302,500 shall be for eligible tenants affected by the demolition or disposition of public housing units (including units occupied by Indian families) and $112,350,000 shall be for certificates to assist in the relocation of other eligible tenants or for project-based section 8 assistance to help implement plans of action approved under title II of the Housing and Community Development Act of 1987; up to $318,545,152 shall be for section 8 assistance for property disposition; $782,521,950 shall be available for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437(o)); and $1,373,060,823 for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended: Provided further, That of that portion of such budget authority under section 8(o) to be used to achieve a net increase in the number of dwelling units for assisted families, highest priority shall be given to assisting families, who as a result of rental rehabilitation action are involuntarily displaced or who are or would be displaced in consequence of increased rents (wherever the level of such rents exceeds 35 percent of the adjusted income of such families, as defined in regulations promulgated by the Department of Housing and Urban Development): Provided further, That up to $143,490,000 shall be for loan management under section 8; and, any amounts of budget authority provided herein that are used for loan management activities under section 8(b)(1) (42 U.S.C. 1437f(b)(1)) shall not be obligated for a contract term that is less than five years: Provided further, That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under sections 8(b) and 8(o), respectively, shall be established or increased in accordance with the authoization for such fees in section 8(q) of the Act: Provided further, That of the $8,115,221,525 provided herein, $324,062,500 shall be used to assist handicapped families in accordance with section 202(h) (2), and (3), and (4) of the Housing Act of 1959, as amended (12 U.S.C. 1701q) and $50,000,000 shall be for amendments to contracts under section 202(h), (2), and (3), and (4) of the Housing Act of 1959, as amended (12 U.S.C. 1701q); and $25,000,000 shall be for assistance under the Nehemiah housing opportunity program pursuant to section 612 of the Housing and Community Development Act of 1987 (Public Law 100-242), but such amount, and the $20,000,000 appropriated under Public Law 100-404 for such programs, shall be obligated under title VI of the Housing and Community Development Act of 1987, notwithstanding the sunset provision in section 613 thereof; and $50,000,000 shall be used for grants under the Public Housing Drug Elimination Act of 1988 (42 U.S.C. 11901 et seq.): Provided further, That amounts equal to all amounts of budget authority (and contract authority) reserved or obligated for the development or acquisition cost of public housing (including public housing for Indian families), for modernization of existing public housing (including such projects for Indian families), and except as hereinafter provided, for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1990, shall be rescinded: Provided further, That 50 percent of the amounts of budget authority, or in lieu thereof 50 percent of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628, 102 Stat. 3224, 3268) shall not be rescinded, or in the case of cash, shall not be remitted to the Treasury, and such amounts of budget authority or cash shall be used by State housing finance agencies in accordance with such section: Provided further, That notwithstanding the 20 percent limitation under section 5(j)(2) of the Act, any part of the new budget authority for the development or acquisition costs of public housing other than for Indian families may, in the discretion of the Secretary, based on applications submitted by public housing authorities, be used for new construction or major reconstruction of obsolete public housing projects other than for Indian families: Provided further, That up to $14,000,000 of the funds provided under this headimg may be transferred, merged, and added to sums appropriated for "Salaries and expenses" and any amount or amounts earmarked under this heading may be reduced accordingly.

Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended by inserting after subsectin (a) the following new subsection:

"(b)(1) Each contract for loans (other than preliminary loans) or contributions for the development, acquisition, or operation of public housing and public housing for Indians and Alaska Natives in accordance with the Indian Housing Act of 1988 shall provide that the total development cost of the project on which the computation of any annual contributions under this Act may be based may not exceed the amount determined under paragraph (2) (for the appropriate structure type) unless the Secretary provides otherwise, and in any case may not exceed 110 percentum of such amount unless the Secretary for good cause determines otherwise.

"(2) For purposes of paragraph (1), the Secretary shall determine the total development cost by multiplying the construction cost guidline for the project (which shall be determined by averaging the current construction costs, as listed by not less than 2 national recognized residential construction cost indices, for publicly bid construction of a good and sound quality) by

"(A) in the case of elevator type structures, 1.6; and

"(B) in the case of nonelevator type structures, 1.75.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees expect the Department and the Office of Management and Budget to adhere to the 1990 program detailed in the following table:

FY 1990, GROSS RESERVATIONS

	Units	Cost	Term	Budget authority
Recaptures	NA	NA	NA	221,500,000
Recission of recaptures	NA	NA	NA	(221,500,000)
New authority	NA	NA	NA	8,115,221,525
Total available	NA	NA	NA	8,115,221,525
Public housing:				
Public housing	6,500	70,418	NA	457,717,000
Indian housing	1,800	74,652	NA	134,373,600
Amendments	NA	NA	NA	184,000,000
Lease adjustments	NA	NA	NA	21,000,000
Modernization	NA	NA	NA	2,030,000,000
Technical assistance and training	NA	NA	NA	2,500,000
Subtotal, public housing	8,300			2,829,590,600
SEC. 8 AND OTHER				
Sec. 202:				
Regular	6,375	6,932	20	883,830,000
Amendments	NA	NA	0	180,000,000
Handicapped	2,125	7,625	20	324,062,500
Amendments	NA	NA	0	50,000,000
Subtotal, sec. 202	8,500			1,437,892,500
Vouchers:				
Incremental	23,760	5,083	5	675,853,200
Opt outs/prepayments/ relocation	3,750	5,083	5	106,668,750
Subtotal, vouchers	27,510			782,521,950
Existing certificates:				
Incremental (5 yr)	33,000	5,992	5	988,680,000
Opt outs/prepayments/ relocation	3,750	5,992	5	112,350,000
Public housing demol./ dispo.—Replacement certif. (15 yr)	500	6,307	15	47,302,500

FY 1990, GROSS RESERVATIONS—Continued

	Units	Cost	Term	Budget authority
Subtotal, existing	37,250			1,148,332,500
Renewals	NA	NA	NA	[1](1,091,978,475)
Loan management	6,000	4,783	5	143,490,000
Property disposition	3,157	6,694	15	318,545,152
Moderate rehabilitation—				
Homeless (SRO)	(2,044)	(3,670)	10	[1](75,000,000)
Sec. 23 conversions (5 yr)	400	3,394	5	6,788,000
Amendments:				
Existing housing	NA	NA	NA	734,760,000
Project reserves	NA	NA	NA	550,800,823
Moderate rehab	NA	NA	NA	67,500,000
Property disposition	NA	NA	NA	20,000,000
Subtotal, amendments	NA	NA	NA	1,373,060,823
Subtotal, sec. 8	82,817	NA	NA	5,210,630,925
Total, public housing and sec. 8	91,117	NA	NA	8,040,221,525
Nehemiah grants	NA	NA	NA	25,000,000
Drug elimination grants	NA	NA	NA	50,000,000
Total, annual contrib. account	91,117	NA	NA	8,115,221,525
Total, all programs	93,161	NA	NA	9,282,200,000
Incremental units (all programs)	81,604			
Incremental units (excluding LM)	75,604			

[1] Separate appropriation.

The conference agreement includes $50,000,000 for grants under the Public Housing Drug Elimination Act as proposed by the Senate, instead of $15,000,000 as proposed by the House. The conferees note that additional funding for this serious problem will also be included in the comprehensive drug package carried in the 1990 Transportation and Related Agencies Appropriations Act.

The recent drug-related shooting at the Moxey A. Rigby public housing project in Freeport, New York, illustrates the urgency for agressive and immediate action on curbing drug abuse and drug trafficking in public housing developments. The Secretary is strongly urged to move expeditiously in making available these funds for additional security at this project, and at other similar projects which are confronting this critical threat to the safety of low-income families.

The conference agreement also includes discretionary authority to transfer up to $14,000,000 to the salaries and expenses appropriation. The conferees recognize that strengthening the technical and management capabilities associated with the Federal Housing Administration is a critical priority of the Department in restoring confidence in the financial soundness of that entity's credit activities. Establishment and application of such improved policies are dependent on the agency's ability to monitor, analyze, and act upon very complex and technical issues. Previously imposed personnel constraints, however, have left the FHA with very limited internal capacity to conduct such sophisticated activities. If this transfer authority is exercised, the Department is urged to give priority to the augmentation of FHA staffing.

The conferees agree that the Department is not to issue new awards under the section 8 moderate rehabilitation program until it has revised its new regulations to more properly target these funds to lower-income communities. The conferees also agree that these new regulations should ban the use of non-technical consultants.

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

For assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) not otherwise provided for, for use in connection with expiring section 8 subsidy contracts, $1,091,978,475, to remain available until expended, of which $517,777,500 shall be for existing certificates, $449,145,000 shall be for housing vouchers and $125,055,975 shall be for loan management under section 8: Provided, That funds provided under this paragraph may not be obligated for a contract term that is less than five years: Provided further, That to the extent any amount in this paragraph is insufficient for the purpose for which it is earmarked, the Secretary may supplement such amount with up to $90,000,000 from funds otherwise earmarked under this paragraph: Provided further, That to the extent such supplement is insufficient, the Secretary may, from the Annual Contributions for Assisted Housing paragraph, transfer to, add to, and merge with the amounts appropriated under this paragraph up to $90,000,000 to fund such insufficiency, and the $1,373,060,823 earmarked for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, in the Annual Contributions for Assisted Housing paragraph, shall be reduced by an amount equal to the amount transferred.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $1,091,978,475 for the extension of expiring section 8 contracts in a new account. This amount is $424,626,575 more than the $667,352,000 requested in the budget, and reflects the Department's revised estimates for fiscal year 1990. The conferees are concerned with HUD's seeming inability to accurately forecast the level of renewal funds needed. If, after review, additional renewal funds are needed in fiscal year 1990, the conferees expect that the Department will submit a supplemental request for such funds. The conferees also expect that the Department's fiscal year 1991 budget request for renewals will reflect the true need for such funds.

In addition, the conferees wish to express strong displeasure over the use of $80,000,000 to $100,000,000 in 1989 amendment funds to extend for two years the contracts on 13,320 certificates that were to expire in 1990. This action violated both reprogramming guidelines and the commitment to a five-year renewal period. The Department is not to use any funds within the annual contributions for assisted housing account, including any funds designated for amendments but excluding funds transferred, for the renewing or extending of the original contract in lieu of renewing any section 8 contracts.

The following table outlines in detail the conferees' recommendations:

FISCAL YEAR 1990 REFUNDING OF CONTRACT EXPIRATIONS

	Per unit			Budget authority
	Units	Cost	Term	
Certificates (Oct./Nov.) [1]	20,305	$5,100	5	$517,777,500
Vouchers (Oct.) [1]	16,635	5,400	5	449,145,000
Loan management (Oct.) [1]	5,227	4,785	5	125,055,975

FISCAL YEAR 1990 REFUNDING OF CONTRACT EXPIRATIONS—Continued

	Per unit			Budget authority
	Units	Cost	Term	
Total	42,167			1,091,978,475

[1] Months refer to additional months in fiscal year 1991 that need renewal funding in fiscal year 1990.

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate extending the rural rental rehabilitation demonstration program by two years, until September 30, 1991.

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing that persons with AIDS are eligible for assistance under the section 202 housing for the elderly or handicapped program.

In agreeing to the Senate amendment stating that persons with AIDS are eligible for assistance under the section 202 program, the conferees strongly urge that at least 250 units be allocated for this purpose and that priority be given to those areas with high incidence of AIDS and a low vacancy rate for affordable housing.

Amendment No. 22: Appropriates $6,000,000 for congregate services as proposed by the House, instead of $5,400,000 as proposed by the Senate.

Amendment No. 23: Appropriates $1,795,600,000 for payments for operation of low-income housing projects as proposed by the Senate, instead of $1,769,200,000 as proposed by the House. The recommended funded levels should satisfy performance funding system (PFS) requirements. Any funds available in 1990 over and above PFS requirements shall be allocated to PHA's first for increased insurance liability expenditures.

Amendment No. 24: Deletes language inserted by the Senate appropriating $2,000,000,000 for public housing modernization, including $2,500,000 for technical assistance and training. Funds for these programs have been included in the annual contributions for assisted housing account (amendment numbered 18).

Amendment No. 25: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $350,093,000 to cover losses sustained by the special risk insurance fund and general insurance fund, authorizing such amounts as may be necessary during fiscal year 1990 for gross obligations for direct loans, establishing a 1990 limitation of $75,000,000,000 for additional commitments to guarantee loans, and authorizing that gross obligations for direct loans for the temporary mortgage assistance payments program during fiscal year 1990 shall not exceed $88,600,000. The language included in this amendment is identical to the House language stricken by the Senate in amendment numbered 34 except for an increase of $8,000,000,000 in the FHA mortgage insurance commitment limitation. The conferees agree to the restructuring of certain appropriating paragraphs so as to permit all of HUD's homeless programs to be carried Under a separate new heading.

Amendment No. 26: Reported in technical disagreement. The managers on the part of

the House will offer a motion to recede and concur in the amendment of the Senate establishing a limitation of $1,100,000 for nonprofit sponsor assistance loans in fiscal year 1990. The conferees have agreed to include the nonprofit sponsor assistance paragraph at this point in the Act and to delete identical language in amendment numbered 34 so as to permit all of HUD's homeless programs to be carried under a separate new heading.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate establishing the 1990 limitation on guarantees of mortgage-backed securities at $83,000,000,000. The conferees have agreed to delete the language establishing the 1990 limitation on guarantees of mortgage-backed securities at $75,000,000,000 in amendment numbered 36 so as to permit all of HUD's homeless programs to be carried under a separate new heading.

HOMELESS ASSISTANCE

Amendment No. 28: Inserts new center heading as proposed by the Senate.

Amendment No. 29: Appropriates $75,000,000 for the emergency shelter grants program as proposed by the Senate, instead of $125,000,000 as proposed by the House. The conferees agree that emphasis should be placed on housing persons on a permanent basis and have offset the $50,000,000 reduction from the budget request for this program with $25,000,000 increases in both the transitional and supportive housing demonstration program and the section 8 moderate rehabilitation single room occupancy program.

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed in said amendment, insert the following: *$130,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 31: Deletes language inserted by the Senate permitting the transfer of up to $10,000,000 to the Secretary's Discretionary Fund for homeless initiatives.

Amendment No. 32: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $75,000,000 for 2,044 units in the section 8 moderate rehabilitation single room occupancy program in a separate account. The conferees have agreed to delete the $50,000,000 earmarked for 1,350 single room occupancy units in the annual contributions for assisted housing account as proposed by the House and addressed in amendment numbered 18.

Amendment No. 33: Deletes language proposed by the House and stricken by the Senate appropriating $1,200,000 for the Interagency Council on the Homeless. Funds for this program have been included in amendment numbered 89. This action will remove this account from under the Department of Housing and Urban Development and include it in TITLE III—Independent Agencies.

Amendment No. 34: Deletes language proposed by the House and stricken by the Senate appropriating funds and establishing limitations on moneys in the Federal Housing Administration fund. The 1990 appropriation and limitations on the Federal Housing Administration fund are addressed in amendment numbered 25.

Amendment No. 35: Deletes language proposed by the House and stricken by the Senate establishing a limitation of $1,100,000 for nonprofit sponsor assistance loans in fiscal year 1990. The 1990 nonprofit sponsor assistance limitation has been included in amendment numbered 26.

Amendment No. 36: Deletes language proposed by the House and stricken by the Senate establishing the fiscal year 1990 limitation on guarantees of mortgage-backed securities of the Government National Mortgage Association at $75,000,000,000. Language establishing such a limitation at $83,000,000,000 has been included in amendment numbered 27.

COMMUNITY PLANNING AND DEVELOPMENT

Amendment No. 37: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$93,400,000.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are in agreement on the following changes to the budget request for the Secretary's Discretionary Fund:

$50,000,000 from the proposed new homeless program,

−$44,00,000 from the proposed new homeownership program,

+$510,000 for Dayton, WA downtown revitalization,

+$400,000 for Salisbury, NC collapsing utility tunnel,

+$500,000 for West Valley City, UT infrastructure, earmarked in bill language in Amendment No. 39,

+$3,000,000 for Roxborough/Logan, PA ground subsidence, +$750,000 for district heating and cooling,

+$450,000 for integrated urban data based in seven cities,

+$186,000 for Newport, WA courthouse handicapped access,

+$390,000 for Mackinac Island, MI library/recreation center,

+$270,000 for Otsego County, MI regional education center,

+$2,000,000 for Ottumwa, IA site clearance,

+$1,200,000 for Hawaiian home lands infrastructure, earmarked in bill language in Amendment No. 38,

+$500,000 for New Orleans Covenant House,

+$1,200,000 for Newark, NJ performing arts center,

+$200,000 for the National Association for the Southern Poor,

+$1,000,000 for Provo, UT and Orem, UT revolving fund demonstration,

+$320,000 for Omaha, NE infant mortality project,

+$225,000 for Chattanooga, TN homeless shelter,

+$800,000 for Chattanooga, TN low income housing demonstration,

+$1,200,000 for Charleston, SC downtown revitalization,

+$1,200,000 for Burlington, VT Northgate apartments,

+$180,000 for Leake County, MS bridge project,

+$1,300,000 for Hawiian sugar mills job retention,

+$249,000 for Rolling Fork, MS community hospital upgrading,

+$1,250,000 for Omaha, NE center for the disabled,

+$350,000 for Seattle, WA housing authority drug elimination,

+$16,000 for Parshall, ND and New Town, ND for municipal services to Indian housing, earmarked in bill language in Amemdment No. 39,

+$440,000 for downtown economic revitalization in Holyoke, MA,

+$600,000 for the neighborhood challenge grant revolving fund in Toledo, OH,

+$1,025,000 for the Mutual Housing Association of New York City for the purchase of a private residential building.

+$600,000 for the low- and moderate-income housing development program in Saginaw, MI,

+$800,000 for the Cuyahoga Metropolitan Housing Authority for fighting drugs and improving security and maintenance in the Central Estates area on the east side of Cleveland, OH,

+$800,000 for economic revitalization activities through the East Texas Human Development Corporation in Marshall, TX,

+$990,000 for Middle Grounds Park and waterfront, improvements, bridge lighting, and property acquisition in Bay City, MI,

+$500,000 for site planning and land acquisition for Bethlehem House in Highland, CA,

+$250,000 for renovation of transitional housing facilities owned and operated by Lazarus House in Lawrence, MA,

+$970,000 for constructing, furnishing and equipping the job training and retraining center in Saginaw, MI,

+$500,000 for acquisition, clearance and relocation activities in the Norristown, PA redevelopment area,

+$550,000 for equipment and landscaping to deter crime and aid police surveillance at Kemp Street Park in mount Clemons, MI,

+$529,000 for a facility for housing for homeless families and assisting recovering substance abusers in Fort Worth, TX,

+$200,000 for a technical assistance grant to Michigan State University for an urban affairs community development program,

+$15,000,000 for technical assistance activities to be allocated at the discretion of the Secretary. The conferees recognize the importance of HUD technical assistance funds in planning and management of CDBG housing and development programs, especially in low-income communities otherwise lacking these resources. The conferees urge the Secretary to review the circumstances in East Palo Alto, California and give consideration to awarding such funds.

Amendment No. 38: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *: Provided further, That $1,200,000 of the $93,400,000 shall be available for a special project under section 107 for infrastructure development on Hawaiian home lands by the Hawaii State Department of Hawaiian Home Lands, notwithstanding the provisions of section 107(d)(1)*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 39: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and

concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *: Provided further, That of such $93,400,000, notwithstanding any requirements or other provision in title I of the Housing and Community Development Act of 1974, as amended, $16,000 shall be available for the communities of Parshall and New Town, North Dakota, for municipal services provided in connection with properties owned by the Fort Berthold Indian Reservation Housing Authority, and $500,000 shall be available for West Valley City, Utah, for basic infrastructure in connection with the West Ridge Commerce Industrial Park*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *provisos*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 41: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate earmarking $2,000,000 for a neighborhood development demonstration.

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate raising the limitation on guaranteed loans under section 108 to $144,000,000.

Amendment No. 43: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *and for reimbursement to the Resolution Trust Corporation for properties conveyed by such Corporation for such use, in accordance with section 810(g)(3) of such Act, $13,200,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

POLICY DEVELOPMENT AND RESEARCH

Amendment No. 44: Appropriates $21,000,000 for research and technology as proposed by the Senate, instead of $21,400,000 as proposed by the House.

The conferees are in agreement on the following changes to the budget request:

−$1,900,000 general reduction,

+$500,000 for lead-based paint studies,

+$500,000 for housing technology research,

+$500,000 for a national masonry research center and regional training program.

FAIR HOUSING AND EQUAL OPPORTUNITY

Amendment No. 45: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate extending the fair housing initiatives demonstration period under section 561(e) until September 30, 1990.

MANAGEMENT AND ADMINISTATION

Amendment No. 46: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$738,530,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are in agreement with the following changes from the budget estimate:

+$40,432,000 for 900 staff years. These additional staff years, together with the 12,720 requested, will provide 13,620 staff years to administer HUD's program and address administrative reforms. This staffing level does not include the 528 staff years included in a separate account for the Office of Inspector General. The conferees note that the Administration has not requested an additional 1990 staffing funds to address proposed administrative reforms. The Department is directed to request adequate funds for administrative reforms and programmatic needs in the fiscal year 1991 budget.

+$1,000,000 for the Housing Assistance Council.

The following table reflects the 1990 staffing agreed to by the conferees:

STAFF YEAR SUMMARY

	1990			
	1989 estimate	Agency request	Conference agreement	Difference
Housing:				
Washington	544	544	574	+30
Field	5,686	5,586	5,967	+381
Public and Indian housing:				
Washington	144	148	158	+10
Field	1,224	948	1,244	+296
Government National Mortgage Association: Washington	56	61	61	
Community planning and development:				
Washington	258	233	270	+37
Field	829	780	846	+66
Policy development and research: Washington	132	145	145	
Fair housing and equal opportunity:				
Washington	137	170	170	
Field	507	582	582	
Department management: Washington	138	151	146	−5
Office of General Counsel: Washington	245	261	247	−14
Field legal services: Field	271	299	299	
Administration and staff services:				
Washington	1,118	1,128	1,181	+53
Working capital fund: Washington	284	284	284	
Field direction and operational support:				
Field	533	528	533	+5
Field administration: Field	877	872	913	+41
Total	12,982	12,720	13,620	+900

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$397,278,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided, That during fiscal year 1990, notwithstanding any other provision of law, the Department of Housing and Urban Development shall maintain an average employment of at least 1,402 for Public and Indian Housing Programs*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 49: Appropriates $31,065,000 for the Office of Inspector General as proposed by the Senate, instead of $29,112,000 as proposed by the House.

Amendment No. 50: Transfers $6,584,000 from the various funds of the Federal Housing Administration to the Office of Inspector General as proposed by the Senate, instead of $6,431,000 as proposed by the House.

ADMINISTRATIVE PROVISIONS

Amendment No. 51: Restores language proposed by the House and stricken by the Senate permitting the City of Hartford, CT to retain certain proceeds from urban renewal land disposition sales.

Amendment No. 52: Restores language proposed by the House and stricken by the Senate forgiving repayment of certain interest on public housing development funds by the City of Pittsburgh, PA.

Amendment No. 53: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate transferring $450,000 from the residual receipts reserve of the Bay View Tower housing project, subject to the availability of reserve funds, to the Seattle Housing Authority to be used for elderly health care services.

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate increasing the current maximum FHA loan on a one-family home from $101,250 to $124,875 during fiscal year 1990 and permitting the refinancing of certain section 235 mortgages and the rescission of any resulting excess contract authority.

Amendment No. 55: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

If the Secretary of the Department of Housing and Urban Development has not issued the lead-based paint technical guidelines on reliable testing protocols, safe and effective abatement techniques, cleanup methods and acceptable post-abatement lead dust levels by April 1, 1990, the Department's September 29, 1989, draft guidelines shall take effect and remain in force until revised by the Secretary.

Of the amount appropriated in this Act under the heading "Annual contributions for assisted housing" and earmarked for the modernization of existing public housing projects pursuant to section 14 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437), the Secretary shall set aside and may use up to $1,000,000 to indemnify any public housing agency that receives assistance under section 14 of the Act to test and abate lead-based paint in the Lead-Based Paint Abatement Demonstration Program under section 302(d)(2)(A) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(d)(2)(A)) and any person under contract with such agency, with respect to all or parts of claims arising from such testing or abatement, in accordance with the terms and conditions that the Secretary shall specify for the validation, processing, and payment of claims, and any other matters concerning the administration of the

amount set aside: Provided, That any balances not obligated before October 1, 1992, shall be made available without regard to this paragraph.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are well aware of the intensive, year-long process HUD has undertaken to develop technical guidelines on lead-based paint as directed by the 1989 HUD—Independent Agencies Appropriations Act. The NIBS study document and the refinements made through the Department's follow-up process represent a solid consensus of experts from various fields—and an important step forward in responsibly addressing lead-based paint problems.

While the Department did meet its commitment to the Committees to complete these guidelines by September 30, 1989, the document has been referred to the Office of Management and Budget for review. In order to avoid extended delays in the release of these guidelines, the conferees have included bill language making the current draft guidelines, as endorsed by HUD in September, effective on April 1, 1990, unless the Secretary issues other guidelines before such date.

While this approach does permit up to a six-month delay in the guidelines' scheduled release, it assures that comprehensive guidelines will take effect in the near future—and by a date certain. At the same time, this approach affords HUD additional time to address lead-based paint implementation issues related to the guidelines, to assure that the public housing modernization program is not unduly disrupted. The conferees expected HUD to take advantage of this schedule extension by taking the following steps.

First, this approach gives the Department the opportunity to "pilot test" the current draft guidelines in the course of the public housing lead-based paint abatement demonstration. Technical issues related to necessary controls in a multi-family setting would benefit from additional attention. In addition, however, the conferees urge HUD to concentrate this demonstration on the implementation and administrative issues related to integrating the technical guidelines into the CIAP process. Experience gained in this field test should be valuable in drafting workable handbook guidance to minimize problems in subsequent CIAP projects.

Second, the technical guidelines can be "fine tuned" based on additional experience and knowledge gained in the course of both the single family and public housing unit demonstrations. In addition, final evaluation of XRF testing instruments is expected to be submitted by the National Institute of Standards and Technology in the near future.

Finally, the conferees are aware of significant inconsistencies among the Department's regulations, handbooks, field notices and the technical guidelines dealing with lead-based paint. During the next six months, the conferees direct HUD to make a concerted effort to integrate, coordinate and make internally consistent the several documents addressing lead-based paint to simplify the tasks of public housing authorities and the HUD field offices. For example, the Department should update its June 6, 1988, regulations to reflect both the subsequent statutory changes and the knowledge gained in developing the draft technical guidelines. The handbook and guidance to the field should also be updated to fully reflect the regulations and technical guidelines. As an interim measure, the Department is also urged to expand and strengthen its CIAP Notice to summarize the thrust of the pending technical guidelines to avoid improper abatements during the next several months.

The conferees place a high priority on the public housing lead abatement demonstration and are encouraged that several housing authorities have expressed interest in participating. The Department is urged to provide incentives to public housing authorities who participate, including expedited CIAP approval procedures and other incentives as may be appropriate. To allay concerns over potential liability arising from these demonstration projects, the conferees have included bill language establishing a $1,000,000 reserve to indemnify participating public housing authorities, their abatement contractors and subcontractors, and architectural and engineering firms involved in this demonstration.

The Secretary should establish the terms and conditions for administering this indemnification fund as soon as possible, including, but not limited to the following: the nature of claims to be covered; limitations on amounts paid per person, per contractor, per occurrence, and per PHA; unavailability to the extent there is insurance coverage or any right of contribution for the claim; compensability of litigation and related costs; procedures and criteria for claims validation; subrogation and assignment requirements; relevancy of local defenses including sovereign immunity; and PHA and contractor duties to minimize financial exposure to claims.

The conferees are aware of potential concerns about the lack of adequate and affordable liability coverage for leadbased paint abatement work in public housing. While indemnification has been provided for the very limited pubic housing abatement demonstration due to the "research" nature of this effort, the conferees emphasize that no broader indemnification has been provided nor is such contemplated for public housing authorities at large. The conferees are convinced that private insurers will respond to this market after safe and effective abatement techniques and work practices are documented by the guidelines. In establishing consistent, state-of-the-art criteria for worker protection, dust containment, and clearance levels, these guidelines should clarify responsibilities for "due care" and reduce uncertainties over potential liabilities.

In the conferees' judgment, the liability of public housing authorities will be *reduced* by undertaking abatement projects under these guidelines. Such abatement work, carried out in accordance with these uniform national guidelines, represents the most responsible and proactive approach to preventing lead poisonings. The conferees are aware of at least one insurance group giving serious consideration to writing comprehensive policies and encourage the Secretary to aggressively seek out others within the insurance industry to enter this market.

The top management attention that lead-based paint has received in the offices of public and Indian housing and policy development and research has made possible substantial progress during the past year—after more than a decade of inaction. The conferees are aware that the Department is somewhat behind schedule in meeting the statutorily established deadlines, but are satisfied that a good-faith effort has been made. Clearly, the delay in the public housing demonstration has been largely due to factors outside of HUD's control, and the need for effective program argues strongly for a slippage in the original schedule. The Department is urged to redouble its efforts over the next six months to consolidate the gains made by integrating the regulations, field guidance, and the CIAP handbook and by formally issuing the technical guidelines before April 1, 1990.

The conferees place a high priority on public housing modernization, as evidenced by the funding increase in annual contributions to $2,030,000,000. The Department is instructed to advise the Committees on Appropriations immediately of any problems, including issues related to lead-based paint, which threaten to delay or disrupt progress in this important program.

Amendment No. 56: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate earmarking $896,000 for project-based assistance under the section 8 existing housing certificate program for the Ganado Acres project.

TITLE III

INDEPENDENT AGENCIES

American Battle Monuments Commission

Amendment No. 57: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and matter inserted by said amendment, insert the following: *$16,000,000, to remain available until expended*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Consumer Product Safety Commission

Amendment No. 58: Appropriates $35,700,000 for salaries of the Consumer Product Safety Commission as proposed by the Senate, instead of $35,500,000 as proposed by the House.

The conferees are in agreement on the following changes to the budget request:

+$1,200,000 for hazard contracts, including indoor air, and ATV enforcement,

+$221,000 for compliance and enforcement, and

+$800,000 for projected 1990 pay costs.

Court of Veterans Appeals

Amendment No. 59: Appropriates $4,000,000 for salaries and expenses as proposed by the Senate, instead of $3,000,000 as proposed by the House.

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate exempting the Court from section 509 of the General Provisions regarding personnel compensation and benefits costs and transferring to the VA's medical and prosthetic research account such amount, not to exceed $1,000,000, as the Chief Judge determines by July 1, 1990, to be excess to the needs of the Court during fiscal year 1990. The conferees, recognizing the difficulty and uncertainty of estimating personnel compensation and benefits costs, agree to exempt the Court from section 509 for only one year.

DEPARTMENT OF DEFENSE—MILITARY

UNITED STATES AIR FORCE, SPACE SHUTTLE LAUNCH ACTIVITIES

Amendment No. 61: Deletes language inserted by the Senate appropriating $217,000,000 to the Department of Defense for transfer to NASA for space shuttle related activities.

ENVIRONMENTAL PROTECTION AGENCY

Amendment No. 62: Restores language proposed by the House and stricken by the Senate to permit EPA to lease/purchase the motor vehicles emissions laboratory.

Amendment No. 63: Limits official reception and representation expenses to $6,000, instead of $7,000 as proposed by the House and $5,000 as proposed by the Senate.

Amendment No. 64: Appropriates $874,538,000 for salaries and expenses as proposed by the House, instead of $867,483,000 as proposed by the Senate.

The committee of conference is in agreement on the following changes to the budget request:

−$2,000,000 from consulting services,

−$8,000,000 from EPA Headquarters operating expenses. The conferees are concerned about disproportional funding increases in headquarters' offices in recent years, which have come at the expense of field offices and laboratories. In making this reduction, the Administrator is directed to apply $4,000,000 to headquarters support services, $3,000,000 to agency management, and $1,000,000 to be taken from across headquarters water program offices.

+$3,000,000 for priority field operating needs, for use as described in the House report,

+$1,200,000 and 20 FTE for pollution prevention activities,

+$1,500,000 and 20 FTE for radon programs,

+$1,500,000 and 25 FTE for long term environmental monitoring and assessment of major oil spills,

+$900,000 and 15 FTE for lead programs,

+$900,000 and 15 FTE for the Great Lakes program,

+$2,000,000 and 34 FTE for new legislative initiatives,

+$1,000,000 and 12 FTE for Indian programs,

+$400,000 and 10 FTE for ocean dumping site designations,

+$600,000 and 10 FTE for climate change and stratospheric ozone programs, and

+$3,000,000 and 42 FTE for Title III activities.

The Research Strategies Committee on EPA's Science Advisory Board recommended in September 1988 that EPA should provide Federal leadership for a national program of ecological research by establishing and funding a national environmental sciences institute. The institute's purpose would be to conduct a core ecological research program, monitor and report on trends in ecological quality and provide a catalyst for ecological research efforts funded by other Federal agencies, state governments, universities, and the private sector. Furthermore, the institute would provide a coordinated focus for ecological research. To this end, the conferees direct EPA to seriously consider the establishment of such a national institute through and open and fully competitive process. The conferees are cognizant of the outstanding environmental research carried out at Oregon State University and fully expect that this institution would be considered in such a competition.

Amendment No. 65: Deletes language inserted by the Senate prohibiting the use of funds related to withdrawing the State of North Carolina's RCRA authorization and requiring a report to the Congress on statutory changes to assure adequate national capacity to treat and dispose of hazardous waste.

Amendment No. 66: Appropriates $31,734,000 for the office of inspector general as proposed by the House, instead of $31,000,000 as proposed by the Senate.

Amendment No. 67: Deletes language inserted by the Senate prohibiting the use of funds requested for inspector general personnel compensation and benefits for other object classifications.

Amendment No. 68: Appropriates $241,500,000 for research and development as proposed by the House, instead of $234,950,000 as proposed by the Senate.

The committee of conference is in agreement on the following changes from the budget request:

−$4,250,000 from global warming research to offset increases for climate change policy studies,

−$5,000,000 as a general reduction to be applied at the Administrator's discretion,

+$3,000,000 for multi-media pollution prevention research. The conferees direct that the long overdue research plan be provided to the Committee on Appropriations no later than December 1, 1989.

+$3,000,000 for the lead research initiative,

+$1,000,000 for oil spill research,

+$2,500,000 for the Center for Environmental Management,

+$250,000 for cooperative research with DOE on solar applications to waste treatment and disposal,

+$800,000 for cloud tracer research at the University of North Dakota,

+$2,200,000 for the University of New Orleans Waste Management and Research Center,

+$2,500,000 for the demonstration of dry quenching to reduce coke oven emissions, which due to the unique nature of the technology, is appropriate for a sole source award,

+$500,000 for the Des Plaines River wetlands demonstration.

The conferees also urge EPA to review the merits of evaluating new technologies to permit phasing out halons used in fire protection for electronic systems.

Amendment No. 69: Deletes language inserted by the Senate permitting the use of research and development funds for facility construction and repair projects less than $75,000.

Amendment No. 70: Appropriates $829,940,000 for abatement, control, and compliance as proposed by the Senate, instead of $785,000,000 as proposed by the House.

The conferees are in agreement on the following changes to the budget request:

−$8,185,000 from contracting and consultant services. The conferees are concerned by the Agency's impulse to turn to contractors and consultants as a first resort for assistance on tasks, such as drafting regulations, preparing operating guidance and providing technical assistance, which should be the responsibilities of a competent and professional Federal work force.

−$8,500,000 from state water quality grants, including nonpoint source and wetlands activities,

−$1,200,000 from the national estuary program,

+$50,000,000 for asbestos-in-schools loans and grants. The conferees have agreed to earmark $1,500,000 for worker training through joint labor-management trust funds, $1,200,000 for state training certification programs, and $100,000 for minority and women contractor training.

+$40,000,000 for state nonpoint source grants under section 319 of the Clean Water Act. The conferees intend that these funds be made available to states with approved nonpoint source programs to begin implementation activities as soon as possible. Since no formula for allocating nonpoint source program funds has been developed, the conferees direct EPA to develop state-by-state planning targets for 1990 funding based on interim criteria which reflect nonpoint source needs. These criteria should reflect the extent and seriousness of nonpoint source problems, including the section 305(b) report, population, cropland acreage, pasture/rangeland/forest acreage, wellhead protection areas, critical aquatic habitats, and other significant water use impacts identified in section 319(a) assessments. Based on these planning targets, EPA should seek state grant applications no later than January 16, 1990. Final nonpoint source grant awards shall be made to states with approved programs no later than March 1, 1990, in accordance with the Agency's December 1987 nonpoint source guidance.

+$1,250,000 for state wetlands program assistance, including $250,000 for the Eugene, OR study identified in the House and Senate reports,

+$7,000,000 for the national, competitive clean lakes program. The conference agreement provides no additional funds for section 315(b) projects and does not identify any additional lakes for such funding. The conferees direct that $963,000 of the funds provided in 1989 for section 315(b) projects be reprogrammed and applied as follows: $343,000 for Delavan Lake, WI; $120,000 for Lake Champlain, VT; and $500,000 for Onondaga Lake, NY, for which a management conference shall be convened. This management conference shall develop a plan that identifies corrective action and compliance schedules for clean up, and coordinate implementation of the plan by members of the conference and others. The Agency should refer to correspondence from the Committee and members from the State of New York.

+$5,000,000 for global climate change policy studies,

+$1,500,000 for ocean dumping program support,

+$1,100,000 for Chesapeake Bay toxics studies,

+$3,500,000 for drinking water technical assistance to be applied in accordance with both the House and Senate reports,

+$350,000 for the Small Flows Clearinghouse,

+$1,000,000 to continue work on the Spokane aquifer,

+$2,000,000 to complete the one-third Federal funding of the San Joaquin Valley air quality model,

+$1,250,000 for the Chicago air quality model, to be made available subject to the requirements in the House report,

+$500,000 to complete the Sacramento air quality model,

+$250,000 to complete the Juarez/El Paso air quality monitoring effort,

+$250,000 to address interstate ozone nonattainment and visibility problems in the northeast under section 106,

+$600,000 for the environmental health study in Louisiana subject to the Senate report directives,

+$4,000,000 for pollution prevention state grants, of which $1,500,000 is for hazardous waste minimization and state training action plans,

+$4,000,000 for radon programs, including $2,000,000 for mitigation training; $1,000,000 for state radon grants; and $1,000,000 for school surveys. A minimum of $100,000 is intended for training women and minority contractors.

+$3,000,000 for Title III activities, as described in the Senate report,

+$2,000,000 for lead-based paint studies and support. The conferees request that the Administrator provide a progress report by January 1, 1990, on assuring that "hazardous waste" requirements are not applied to debris from lead-based paint abatement projects.

+$1,700,000 for stratospheric ozone protection activities, as described in the Senate report.

+$1,200,000 for underground injection control state grants, including $200,000 to develop a comprehensive strategy on class V wells in full consultation with the states.

+$1,000,000 for wastewater treatment operator training,

+$500,000 for course materials development for state/local technical staff training through community colleges.

+$1,400,000 for Great Lakes water quality, including $100,000 for necessary public improvements to upgrade shoreside facilities for homeporting the new Great Lakes research vessel at Bay City, MI. It is the intention of the conferees that this vessel be permanently stationed at Bay City.

+$400,000 for the Rouge River basin nonpoint source control demonstration,

+$200,000 in assistance to Northwest Indian tribes for controlling nonpoint pollution sources,

+$250,000 for the National Academy of Sciences study on urban coastal wastewater management, as described in the House report,

+$600,000 for the Camden, NJ groundwater demonstration described in the Senate report,

+$75,000 for an underground infiltration gallery for Crawford, NE,

+$500,000 for monitoring and cleanup of beaches in New Jersey and Maryland, as described in the Senate report,

+$100,000 for the Vermont Department of Public Health study on indoor air quality in rural homes,

+$250,000 to complete the farmworker/pesticide study,

+$1,000,000 in direct EPA funding to support the environmental initiative in Poland. The conferees emphasize that these funds are in addition to the $10,000,000 being authorized over a three-year period and to be provided through the Foreign Operations Appropriations Bill.

+$100,000 for the South Coast Air Quality Management District's alternative fuel options demonstration project, including compressed natural gas, ethanol, ethyl tertiary butyl ether, methanol, propane, and reformulated gasoline.

+$10,000,000 as a general add-on to be subject to all reprogramming procedures and approvals. The Administrator is directed to submit a plan for the allocation of these funds to the Committees on Appropriations within 30 days after enactment.

The conferees direct that the State of Maryland be included in the initiatives described in the Senate report with respect to the Patuxent River and Chesapeake Bay's Rock Creek.

Although the conferees have not specifically recommended funds for continuing work on radio frequency radiation guidelines, the conferees believe it is important for the Federal government to issue a rational, scientifically-based standard in order to alleviate the uncertainty, concern and confusion that currently exists as to what levels of radio frequency radiation are safe. The conferees understand that EPA has expended approximately $6,500,000 on radio frequency radiation since 1983, and this represents the majority of the cost of completing these guidelines.

Amendment No. 71: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$2,800,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are in agreement on the following allocation of these funds: $1,500,000 to continue worker training through joint labor-management trust funds; $1,200,000 for state training certification programs; and $100,000 for grants for women and minority contractors.

Amendment No. 72: Deletes language inserted by the Senate permitting the use of abatement, control, and compliance funds for facility repair and improvement projects up to $75,000 each.

Amendment No. 73: Deletes language inserted by the Senate delaying the availability of $95,000,000 until September 30, 1990.

Amendment No. 74: Deletes language inserted by the Senate earmarking $4,000,000 for the environmental initiative in Poland. Pending legislation on this subject authorizes $10,000,000 over three years to be appropriated in the Foreign Operations Appropriations Bill. The conferees have also provided an additional $1,000,000 directly to EPA in this bill to accelerate environmental assistance to Poland. Should legislation be enacted which earmarks funds already appropriated under the Clean Water Act, as proposed by the Administration, the conferees direct that such funds be taken from appropriations for state revolving funds under title VI.

Amendment No. 75: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$15,000,000 of which $3,000,000 shall be made available as a grant for an environmental laboratory addition to be constructed and owned by the University of Nevada, under such terms and conditions as the Administrator deems appropriate, with all of such sums.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are in agreement on the following changes from the budget request:

+$3,000,000 for repair and improvement projects to meet priority health and safety needs,

+$1,000,000 for improvements to EPA's Ada, OK laboratory,

+$3,000,000 for a laboratory addition to the Environmental Research Center at the University of Nevada, Las Vegas. Bill language has been included to authorize and earmark these funds as a grant for these improvements to this university-owned facility.

Amendment No. 76: Appropriates $1,575,000,000 for the hazardous substance superfund as proposed by the Senate, instead of $1,425,000,000 as proposed by the House.

The conferees are in agreement on the following changes to the budget request:

−$187,883,000 to be applied as a general reduction at the discretion of the Administrator,

+$10,400,000 for NIEHS worker training grants,

+$5,000,000 for NIEHS basic research grants,

+$5,500,000 for emergency removal. The conferees urge the Administrator to place additional emphasis on reducing risks at Superfund sites, both through expanded emergency removals and early, stop-gap remedial actions to control the release of wastes offsite and into groundwater.

+$2,000,000 and 50 FTE for ATSDR. The conferees support the Senate report language earmarking ATSDR funds for activities related to Lipari landfill.

+$300,000 for training small, minority, or women contractors.

The conferees direct EPA to continue in fiscal year 1990 to observe the reporting requirements and thresholds established for the four categories of the Superfund response program.

Amendment No. 77: Deletes language inserted by the Senate providing $250,000,000 for the Superfund appropriation as a payment from the General Fund under section 517(b).

Amendment No. 78: Limits funds available to the Agency for Toxic Substances and Disease Registry to $46,500,000 as proposed by the House, instead of $44,500,000 as proposed by the Senate.

Amendment No. 79: Reported in technical disagreement. The managers of the part of the House will offer a motion to recede and concur in the amendment of the Senate increasing the authorization for NIEHS worker training grants under section 9611(c)(12) of the Superfund Amendments and Reauthorization Act of 1986 from $10,000,000 to $20,000,000.

Amendment No. 80: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the master stricken and inserted by said amendment, insert the following:

For necessary expenses to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, $2,050,000,000, to remain available until expended, of which $1,002,000,000 shall be for title II (other than sections 201(m)(1-3), 201(n)(2), 206, 208, and 209) of the Federal Water Pollution Control Act, as amended; $1,002,000,000 shall be for title VI of the Federal Water Pollution Control Act, as amended; and $46,000,000 shall be for title V of the Water Quality Act of 1987, consisting of $7,000,000 for section 510, $20,000,000 for section 513, and $19,000,000 for section 515: Provided, That of the funds appropriated in previous fiscal years under this heading to carry out the purposes of section 206(a) of the Federal Water Pollution Control Act, as amended, $47,700,000 are rescinded: Provided further, That, notwithstanding section 602(b)(6) or

201(g)(1) of the Federal Water Pollution Control Act, as amended, of the funds appropriated in this paragraph, amounts awarded in a capitalization grant to an agency of any State, including funds transferred pursuant to section 205(m), shall be available for providing assistance in that State for the construction of publicly owned treatment works as defined in section 212 of that Act: Provided further, That, notwithstanding any other provision of law, from sums appropriated under this paragraph and allotted to the State of Texas under section 205 of the Federal Water Pollution Control Act, as amended, the State of Texas is authorized to set aside, at the discretion of the Governor, up to $15,000,000 for the establishment of a spcial revolving fund for the sole purpose of making loans to residents of colonias in the counties of Cameron, Hidalgo, Zapata, Starr, Webb, Maverick, Val Verde, Terrell, Brewster, Presidio, Hudspeth, and El Paso. Repayment amounts may remain in the special revolving fund for future loans to colonia residents, and funds set aside but not used for loans, including repayment amounts, may be transferred by the State to its general title VI revolving fund. Loans for the special revolving fund shall be made for the purposes of connecting residences to sewer collection systems and making any necessary plumbing improvements to enable such residences to meet existing county or city code requirements. The Texas Water Development Board is authorized to use funds from this set-aside for the administrative expenses of the special revolving fund: Provided further, That, notwithstanding any provision of law, from sums appropriated under this paragraph and before allotment of title II funds to the states under section 205, the Administrator shall award a grant under title II for $6,800,000 for construction of a connector sewer line, consisting of a main trunk line and four pump stations, for the Town of Honea Path, South Carolina to the wastewater treatment facility in the Town of Ware Shoals, South Carolina: Provided further, That, notwithstanding any other provision of law, sums appropriated under this heading allotted for title VI capitalization grants to American Samoa, Commonwealth of the Northern Mariana Islands, Guam, the Trust Territory of Palau (or its successor entity), Virgin Islands and the District of Columbia, may be used for title II construction grants at the request of the chief executive of each of the above named entities.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are in agreement on the following changes from the budget request:

+$602,000,000 for title II construction grants,

+$202,000,000 for title VI state revolving funds,

+$20,000,000 for Boston Harbor (section 513), none of which shall be used for the construction of sludge composting facilities,

+$19,000,000 for Des Moines, Iowa (section 515), and

+$7,000,000 for section 510, related to wastewater from Tijuana, Mexico.

The conferees have agreed to drop the House language earmarking additional funds for nonpoint sources, state planning, and state revolving fund administration.

The conferees want to emphasize that the inclusion of the bill language rescinding $47,700,000 of section 206(a) funds should not prejudice EPA's consideration of appeals by Rochester, NY and other cities. The conferees urge the Administrator to make a final determination on pending section 206(a) appeals as soon as possible and report the results to the Committees on Appropriations. If the appeals are approved, the conferees expect the Agency to assist the municipalities by identifying in its report to Congress the options available and administrative steps required for payment, including current construction grants appropriations and the claims and judgment fund.

Amendment No. 81: Deletes language inserted by the Senate making receipts in the Licensing and Other Services Fund available subject to appropriations.

EXECUTIVE OFFICE OF THE PRESIDENT

Amendmnent No. 82: Appropriates $1,500,000 for the Council on Environmental Quality as proposed by the Senate, instead of $861,000 as proposed by the House.

Amendment No. 83: Appropriates $1,000,000 for the National Space Council, instead of $1,200,000 as proposed by the House and $900,000 as proposed by the Senate.

Amendment No. 84: Appropriates $2,897,000 for the Office of Science and Technology Policy, instead of $2,027,000 as proposed by the House and $2,997,000 as proposed by the Senate.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Amendment No. 85: Deletes languages inserted by the Senate indicating that such sums of the 1990 appropriation as may be necessary shall be available for disaster relief to Puerto Rico and the U.S. Virgin Islands for damages resulting from Hurricane Hugo. Disaster relief funds are available for all eligible costs in a Presidentially declared emergency or disaster.

The conferees have been concerned about the adequacy and timeliness of FEMA's response to the damages resulting from Hurricane Hugo. The initial response was clearly inadequate and FEMA should take all necessary actions to improve its ability to respond to major disasters. To help improve that response capability, the conference agreement includes an additional $1,000,000 in the salaries and expenses appropriation for the Disaster Relief Administration.

Public Law 101-100, the 1990 Continuing Resolution, provided $1,108,000,000 in 1989 funds for the disaster relief appropriation. The need for this large supplemental appropriation resulted from Hurricane Hugo. The conference agreement assumes that outlays resulting from this appropriation, and any subsequent appropriation that may be necessary for the cost of Hurricane Hugo, will be classified as mandatory. Clearly, a dire emergency such as this is outside of the ability of the Committee on Appropriations to absorb within its section 302 discretionary allocation from the budget resolution.

Amendment No. 86: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$142,499,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are in agreement with the following changes from the budget estimate:

+$548,000 for 16 FTE in the civil defense, training and education program to continue current funding of the civil defense portion of NETC site administration, instead of transferring such costs to the training and fire programs.

−$548,000 from civil defense programs, other than training and education.

+$350,000 for seven FTE in the hazardous materials program above the 1990 requested staffing level of 15.

−$2,281,000 and 50 FTE, the budget request for NETC site administration, training and fire programs.

+$1,733,000 and 34 FTE for the National Fire Academy site administration to continue the present method of funding the NFA portion of those costs instead of transferring them to NETC site administration, training and fire programs.

+$198,000 and six FTE for U.S. Fire Administration programs. Of this increase, $100,000 and two FTE are for the fire prevention and arson control program and $50,000 and one FTE is for coordination with the earthquake program and its development of a national data base for heavy urban search and rescue capability.

+$50,000 and one FTE for the National Fire Academy hazardous materials first response training.

+$120,000 and three FTE for program management and administration of Title III Superfund training grants.

+$1,000,000 for additional salary and related costs for the Disaster Relief Administration. The conferees agree that this funding increase is in addition to the $10,373,000 requested to support 233 FTE. Future budgets are to reflect the actual FTE level that can be supported with the appropriation requested.

Amendment No. 87: Appropriates $2,639,000 for the Office of Inspector General, instead of $2,439,000 as proposed by the House and $2,709,000 as proposed by the Senate.

Amendment No. 88: Appropriates $275,290,000 for emergency management planning and assistance, instead of $271,160,000 as proposed by the House and $277,000,000 as proposed the Senate.

The conferees agree to the following changes from the budget estimate:

+$2,000,000 for emergency management assistance grants.

+$1,439,000 for student travel stipends, including $344,000 for civil defense training and education, $301,000 for the Emergency Management Institute and $794,000 for the National Fire Academy.

+$1,750,000 for the civil defense, training and education portion of NETC site administration costs.

−$1,000,000, the increase requested in the civil defense radiological defense, instrumentation program.

−$1,094,000 from the $2,518,000 increase requested for the civil defense, State and local direction, control and warning program.

+$2,500,000 for the U.S. Fire Administration's fire prevention and arson control program to maintain the 1989 program level of $3,000,000.

+$100,000 for the hazardous materials program.

+$200,000 for the Emergency Management Institute portion of NETC site administration costs.

+$2,750,000 for the National Fire Academy portion of NETC site administration costs.

+$200,000 for the U.S. Fire Administration portion of NETC site administration costs.

−$4,900,000, the increase requested for NETC site administration, training and fire programs.

+$445,000 for the earthquake program. The conferees agree that within the amount recommended is $300,000 to conduct a study of the lifeline systems located in Cajon Pass, California. The agency is to provide a complete report on the results of the study and the agency analysis by no later than December 31, 1991.

+$200,000 to develop a data base of public and private sector capabilities in the U.S. for heavy search and rescue efforts in urban areas. The agency is also to prepare a report on items of equipment needed and the costs for heavy search and rescue efforts in U.S. urban areas.

+$65,000 for the hurricane program.

+$40,000 for the hazard mitigation assistance program.

+$3,840,000 for Title III Superfund training grants.

+$250,000 for hazardous materials first response training. Of the increase provided, $140,000 is for National Fire Academy training and $110,000 is for Emergency Management Institute training.

−$1,500,000 from the $12,843,000 requested for the civil defense population protection program. The conferees agree that, to the extent possible, the reduction not be applied to State and local grants.

−$500,000 from the $1,579,000 increase requested for the civil defense telecommunications and warning program.

The conferees agree that from within available funds FEMA is to provide $200,000 to a consortium of 41 towns and four counties in Vermont for a regional dispatch system, $30,000 for an emergency generator at WORK-FM in Barre, Vermont, and a total of $500,000 for removal of the Washington Area Warning System. The conferees note that FEMA has already made available funds from the U.S. Fire Administration to the Western Fire Chiefs Association.

Finally, FEMA is to continue to increase staffing at NETC until the level of 140 is reached. No positions are to be filled in the Office of Training until such time as this employment level is achieved.

INTERAGENCY COUNCIL ON THE HOMELESS

Amendment No. 89: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate inserting language appropriating $1,100,000 for the Interagency Council on the Homeless and providing that the council carry out its field responsibilities through detail of employees of the department and agencies represented on the Council. The conference agreement has deleted similar language proposed by the House in amendment numbered 33 which would have appropriated $1,200,000 for the Interagency Council on the Homeless under Title II—Department of Housing and Urban Development. This permits the Council to appear under Title III—Independent Agencies.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Amendment No. 90: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; $5,366,050,000, to remain availabile until September 30, 1991: Provided, That of the funds made available under this heading, $1,800,000,000 is for the space station program only, $750,000,000 of which shall not become available for obligation until June 1, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: Provided further, That of the funds made available under this heading, $320,000,000 is for space transportation capability development only, which amount shall not become available for obligation until April 15, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: Provided further, That of $2,064,600,000 made available under this heading for space science and applications, only $1,000,000,000 shall be available prior to April 1, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: Provided further, That no funds appropriated by this Act or any other Act may be used to enter into contracts of the National Aeronautics and Space Administration for the comet rendezvous and asteroid flyby and Cassini missions (CRAF-Cassini) if the estimated total budget authority for development of the two spacecraft, through launch plus 30 days of the Cassini mission, exceeds $1,600,000,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conferees agree to the following changes from the budget request:

−$250,200,000 from the $2,050,200,000 requested providing a total of $1,800,000,000 for the space station. The space station recommendation is summarized as follows:

	Request	Conference
Space station:		
Development	$1,970,200,000	$1,720,000,000
Flight telerobotic servicer	15,000,000	80,000,000
Operations	25,000,000	0
Transition definition	25,000,000	0
Orbital debris radar	15,000,000	[1]
Total	2,050,200,000	$1,800,000,000

[1] $15,000,000 included under the Construction of Facilities Account.

While the conferees have not included bill language proposed by the House requiring that not more than 50 percent of any reduction in space station development costs be taken from work package prime contracts, the conferees are concerned that excessive management costs are being incurred within the space station budget. They note, for example, that the House Committee Surveys and Investigations Staff report suggests that both NASA personnel and work package contractors believe the number of personnel and resources committed to management and integration activities are excessive. Also, the report suggests that NASA center officials and contractors believe that Level II (Reston) involvement and systems engineering and integration have unnecessarily increased space station program costs.

In this connection, the conferees expect NASA to demonstrate that a reallocation of fiscal year 1990 resources between prime and non-prime areas is occurring. A report on that issue should be made in connection with submittal of the 1990 operating plan.

Solar dynamic power development is a critical resource in the out-year growth of space station. It offers higher efficiency and lower life cycle costs. As a result, the conferees considered directing accelerated development of solar dynamic power in the fiscal year 1990 NASA budget. However, in view of a restricted 1990 station funding profile, monies have not been included in this appropriation for this accelerated development. Nevertheless, NASA is directed to continue solar dynamic power development and provide concurrent to the submission of the fiscal year 1991 budget, a funding profile which will allow for the addition of solar dynamic power as a precursor to any future moon/Mars mission.

Finally, the conferees have agreed to include bill language delaying the availability of $750,000,000 of the $1,800,000,000 provided for space station until June 1, 1990.

−$10,000,000 from the $88,600,000 requested for upper stages. The conferees direct NASA to absorb $6,500,000 for the TOS upper stage for the ACTS satellite. If additional resources are required, the Committees on Appropriations will consider a reprogramming action at the time the 1990 operating plan is submitted. In that connection, the conferees are aware that the TOS program may be exceeding both past and current *total* cost projections. The conferees expect NASA to explore the question of "capping" this program at an appropriately agreed to level. Such action should be implemented in connection with the 1990 operating plans.

−$15,00,000 from the $189,800,000 requested for the engineering and technical base.

−$16,300,000 from payload operation and support—including $12,800,000 from space station support and $3,500,000 from commercially developed space facility activities. The conferees direct that these activities be absorbed in the development costs of the space station with the understanding that the shuttle program will retain control over the administration of payload operation and support activities.

−$19,000,000 from the $48,700,000 requested for advanced program, including a $5,000,000 general reduction and a reduction of $14,000,000 for space station crew rescue vehicle phase B studies from the $15,000,000 available in fiscal year 1989 and requested in fiscal year 1990. The conferees have agreed to provide an additional $1,000,000 for phase A prime CERV studies. The conferees understand that no phase B money is required before fiscal year 1991.

−$5,000,000 from the $5,000,000 requested for advanced launch systems.

−$10,000,000 from the $107,000,000 requested for the orbital maneuvering vehicle (OMV).

−$15,000,000 from the $124,200,000 requested for life sciences.

+$10,500,000 for the continuation of shuttle "C" phase A/B studies.

−$13,700,000 from the $23,000,000 requested for space station integrated planning and attached payloads.

+$10,000,000 for a total ozone mapping spectrometer satellite (TOMS).

+$5,000,000 for interdisciplinary research and analysis for climate studies.

+$62,000,000 for the advanced communications technology satellite (ACTS) program.

−$5,000,000 from the $61,000,000 requested for commercial programs. The conferees direct that $3,000,000 be allocated for the AdaNET project and that $4,000,000 be absorbed from within the commercial programs budget and be allocated to initiate and establish the National Technology and Transfer Center (NTTC) at Wheeling College.

+$625,000 for Rural Enterprises, Incorporated from within available funds.

−$2,500,000 requested for commercial programs for the development of a "wake shield facility." The conferees have agreed to fund this facility under the construction of facilities account.

−$20,350,000 from the $47,300,000 requested for the Pathfinder program.

−$6,000,000 from the $16,200,000 requested for in-space flight experiments.

−$92,000,000 from the $127,000,000 requested for the National Aerospace Plane (NASP). In addition, the conferees have provided for a transfer of up to $25,000,000 from the NASA construction of facilities account for the NASP program. This would provide for a total program level of $60,000,000.

+$3,000,000 to the $35,000,000 requested for university programs. In addition, the conferees have earmarked $1,000,000 under the research and program management account to expand the NASA aerospace education services program.

+$4,000,000 for a university consortium study of an international earth science information network.

The conferees strongly support the Earth Observation System (EOS) program. The remote sensing of earth, on the major scale envisioned by EOS, will provide vital information on future global environmental trends. This information can be utilized to promote global and national security, extend international cooperation, and improve our ability to understand and manage global environmental, economic, and social problems. In the past, NASA has often concentrated on data acquisition rather than data assimilation and dissemination. Other federal agencies are also collecting earth monitoring data for specific, narrowly focused missions. Although the Federal government has spent billions of dollars to acquire data, very little has been done to promote technology transfer and data analyses by enabling a broad cross-section of scientists to easily access the available information.

The conferees believe that NASA should take the lead in broadening the work now planned for EOS to create a network and the required associated facilities to integrate and facilitate the use of information from government-wide earth monitoring systems. Therefore, the conferees have agreed to include $4,000,000 to contract with a newly created consortium for international earth science information network. The consortium should be tasked to (1) analyze extant earth science information resources and those planned to be available from future efforts, (2) convene key present and potential users to assess the need for investment in integration of this information and support of its use, (3) analyze, based on this assessment, the current state of national and international plans for data integration and accompanying support for analysis and modeling, (4) develop recommendations and draft plans to achieve the appropriate level of effort in the utilization of earth science data for research and public policy purposes, and (5) outline the desirable pattern of interaction with the scientific and policy community to insure that the effort is responsible to their needs in the short and long term. These tasks should be carried out through broad consultation of the scientific and policy community internationally and should take into account the probable evolution of remote sensing technology and recognize the broadly interdisciplinary nature of the future research and public policy agenda for earth sciences.

The conferees have agreed to provide the $30,000,000 requested for initiation of the CRAF/Cassini program. The conference agreement includes a statutory "cap" of $1,600,000 on the program. In that connection, the conferees have recommended this amount for the CRAF/Cassini program with the understanding that the total budget authority for development of the two spacecraft, through launch plus 30 days of the Cassini mission, will not exceed $1,600,000. Recognizing normal budget constraints, the conferees expect to recommend the annual level required for this program. It will, however, "cap" each annual appropriation at such amount, provided that the accumulated sum of these amounts does not exceed the $1,600,000,000. In the event that it is determined during the course of this program that the total budget will exceed $1,600,000,000, NASA will be required to descope the program to fit within the total funding limit. If the descoping includes the cancellation of one of the missions, the mission to be cancelled is CRAF. The $1,600,000,000 estimate is based on the standard NASA inflation model. If such model proves to under run actual inflation, the conferees will consider revising the annual and total caps. The conferees expect NASA to submit with the fiscal year 1990 operating plan the projected annual funding requirements for each year of development of the CRAF/Cassini program. These annual funding requirements should be updated on January 31 and July 31 of each subsequent fiscal year based on the most recent data available, including the program operating plan (POP) results.

The conferees have no objection to the House language directing NASA to establish criteria for funding a university grant which would promote research in the areas of application of advanced electronics and dynamic control of lightweight structures, nondestructive testing during space manufacturing of crystals, and new lightweight composite materials for advanced space systems.

Both the Senate and House recommended bill language delaying the obligation of $384,000,000 of space transportation capability development funds. The conferees have agreed to reduce the delayed obligation to $320,000,000.

Finally, the conferees agree with the program "caps" as enumerated in the House report.

Amendment No. 91: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$4,614,600,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to the following changes from the budget request:

−$425,000,000 from the $4,037,500,000 requested for the space transportation system (space shuttle).

−$100,000,000 from the $1,102,100,000 requested for tracking and data acquisition.

The conferees agree that within the funds made available, a total of $121,000,000, the budget request, has been provided for the advanced solid rocket motor program. In addition, the committee of conference has included bill language providing for the transfer of up to $85,000,000 from the construction of facilities account to the space flight, control and data communications account. Of this amount, the conferees agree that up to $35,000,000 may be used for development of the advanced solid rocket motor program and up to $50,000,000 may be used for tracking and data acquisition activities.

Amendment No. 92: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended as follows: In lieu of the sum named, insert: *$75,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree that a total of $75,000,000 shall be derived from the funds previously appropriated for the construction of orbiter 105. The use of those funds is delineated as follows:

+$25,000,000 for the space shuttle "structural spares program."

+$25,000,000 for continued development of an extended duration orbiter (EDO).

+$25,000,000 for space transportation system requirements.

The conferees also agree that if negotiations currently under way concerning the proposal to "commercialize" the EDO renders unnecessary the use of all or part of the $25,000,000 added above, the Committees on Appropriations will consider a reprogramming of such funds at the appropriate time.

Amendment No. 93: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$601,300,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to the following changes from the budget request:

+$15,000,000 for the space station orbital debris radar.

+$90,000,000 for construction of an advanced solid rocket motor facility at Yellow Creek, Mississippi.

In addition, the conferees have agreed, under amendments numbered 94 and 95, to permit the transfer of $85,000,000 to the space flight, control, and data communications account; $67,000,000 to the research and program management account; and $25,000,000 to the research and development account.

Amendment No. 94: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$152,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 95: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *: Provided further, That of the amounts transferred under the authority of the foregoing proviso, not to exceed $85,000,000 may be for "Space flight, control and data communications", and not to exceed $67,000,000 may be for "Research and program management": Provided further, That in addition to the foregoing transfers, up to $25,000,000 of the funds provided by this paragraph may be transferred to and merged with sums appropriated for "Research and development"*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The $85,000,000 that may be transferred to the space flight, control and data communications account is available for tracking and data acquisition activities ($50,000,000) and the advanced solid rocket motor program ($35,000,000). The $67,000,000 that may be transferred to the research and program management account is available for the activities of that account—except that such funds may not be used to restore any reductions enumerated under the research and program management account; and the $25,000,000 that may be transferred to the research and development account is available for the national aerospace plane.

Amendment No. 96: Appropriates $1,982,200,000 for research and program management as proposed by the Senate, instead of $1,957,200,000 as proposed by the House.

The conferees have agreed to the following changes from the budget request:

−$9,000,000 and 178 FTE requested for space station activities at Level II. This will provide for a total 1990 NASA FTE level of 23,522 and a total 1990 space station level of 2,428.

-$6,000,000 from the $90,073,000 requested for travel and operation of facilities.

+$1,000,000 to expand the NASA aerospace education services program.

In addition, the conferees have agreed to provide transfer authority of $67,000,000 from the construction of facilities account.

Amendment No. 97: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *Provided further, That of the funds made available under this heading, up to $195,000 may be transferred to the "Office of Inspector General": Provided further, That the grade retention provisions of 5 U.S.C. 5362 shall remain available to Goddard Space Flight Center employees of the National Aeronautics and Space Adminstration, displaced by the conversion on September 3, 1989, of their civil service positions to private sector positions, from the time an affected employee is placed in a lower graded position until one or more of the conditions of 5 U.S.C. 5362(d) is met*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree that this permissive transfer authority will be made available only for fiscal year 1990. In the future, the Office of Inspector General will be expected to budget resources from within the separate account requested for that purpose.

Amendment No. 98: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

SMALL AND DISADVANTAGED BUSINESS

The NASA Administrator shall annually establish a goal of at least 8 per centum of the total value of prime and subcontracts awarded in support of authorized programs, including the space station by the time operational status is obtained, which funds will be made available to small business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) (6)), including Historically Black Colleges and Universities and minority educational institutions (as defined by the Secretary of Education pursuant to the General Education Provisions Act (20 U.S.C. 1221 et seq.)).

To facilitate progress in reaching this goal, the NASA Administrator shall submit within one year from enactment of this Act a plan describing the process to be followed to achieve the prescribed level of participation in the shortest practicable time.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are strongly committed to increasing the role of minority- and women-owned businesses in the aerospace industry, particularly in NASA-related procurement. For this reason, the conferees have modified the Senate provision to increase NASA's annual goal for minority- and women-owned businesses to eight percent. While the conferees fully expect the agency to reach this level, they recognize that NASA should be given a reasonable period of time to reach this goal. As a result, the conferees expect that the Administrator's report due one year after enactment will demonstrate NASA's good faith effort to work towards this eight percent level as quickly as is possible.

Amendment No. 99: Deletes language proposed by the Senate "capping" the level of outlays for the space flight, control, and data communications account at $4,681,161,000.

NATIONAL CREDIT UNION ADMINISTRATION

Amendment No. 100: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing the disbursements from the Community Development Credit Union Revolving Loan Fund be subject only to rules and regulations prescribed by the Board of the National Credit Union Administration.

NATIONAL INSTITUTE OF BUILDING SCIENCES

Amendment No. 101: Restores language proposed by the House and stricken by the Senate appropriating $500,000 as a payment to the National Institute of Building Sciences.

The conferees agree that further direct funding of NIBS will not be considered in the future unless such payments are authorized in legislation.

NATIONAL SCIENCE FOUNDATION

Amendment No. 102: Appropriates $1,715,000,000 for research and related activities as proposed by the House, instead of $1,685,000,000 as proposed by the Senate.

The conferees agree that the reduction shall be applied across all disciplines and activities except for global change, EPSCOR and an additional $1,500,000 for computing capabilities not available at national supercomputer centers.

Amendment No. 103: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate delaying the availability of funds under the research and related activities account of National Science Foundation.

Amendment No. 104: Earmarks $97,900,000 for program development and management, instead of $97,000,000 as proposed by the House and $101,400,000 as proposed by the Senate.

Amendment No. 105: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *: Provided further, That none of the funds appropriated in this Act may be used directly or through grants, contracts or other award mechanisms, for agreements executed after enactment of this Act, to pay or to provide reimbursement for the Federal portion of the salary of any individual functioning as a Federal employee at more than the daily equivalent of the maximum rate paid for ES-6 for assignments to Senior Executive Service positions, unless specifically authorized by law: Provided further, That notwithstanding the preceding proviso, none of the funds appropriated in this Act may be used to pay the salary of any individual functioning as a Federal employee, or any other individual, through a grant or grants at a rate in excess of $95,000 per year: Provided further, That of the funds appropriated in this Act, $900,000 shall be available only for the International Institute for Applied Systems Analysis, and that, notwithstanding any other provision of law, the Director may choose not to obligate these funds for that purpose*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to include $900,000 for the International Institute for Applied Systems Analysis (IIASA). The conferees urge that the National Science Foundation and the State Department expedite the processing of 1990 and prior year funding for IIASA.

Amendment No. 106: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate making available $20,000,000 for an academic research facilities program.

The conferees agree that the $20,000,000 provided for this activity in fiscal year 1990 shall be maintained as the maximum program level during fiscal years 1991 and 1992.

Amendment No. 107: Deletes technical change proposed by the Senate in the title of the United States Antarctic Program Activities.

Amendment No. 108: Appropriates $74,000,000 for United States Antartic Program Activities as proposed by the House, instead of $73,000,000 as proposed by the Senate.

Amendment No. 109: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede

and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: , *nor for procurements covered by the GATT Agreement on Government Procurement: Provided further, That the vessel contracted for pursuant to the foregoing shall be of United States registry*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have included bill language to clarify the procurement of the NSF's research vessel with icebreaking capability. The conferees direct NSF to move forward expeditiously with the ongoing procurement for this vessel.

Amendment No. 110: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

UNITED STATES ANTARCTIC LOGISTICAL SUPPORT ACTIVITIES

For necessary expenses in reimbursing Federal agencies for logistical and other related activities for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); maintenance, and operation of aircraft and purchase of flight services for research and operations support; maintenance and operation of research ships and charter or lease of ships for research and operations support; improvement of environmental practices and enhancement of safety; hire of passenger motor vehicles; not to exceed $82,000,000, to remain available until expended: Provided, That funds made available under this heading shall not become available for obligation until September 30, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: Provided further, That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 111: Appropriates $210,000,000 for science education activities as proposed by the House, instead of $200,000,000 as proposed by the Senate.

The conferees agree that an additional $15,000,000 shall be available for "pre-college" teacher preparation and an additional $5,000,000 shall be available for women and minority programs.

Amendment No. 112: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing for a separate account for the Office of Inspector General.

NEIGHBORHOOD REINVESTMENT CORPORATION

Amendment No. 113: Appropriates $27,260,000 for payment to the Neighborhood Reinvestment Corporation as proposed by the Senate, instead of $21,260,000 as proposed by the House.

SELECTIVE SERVICE SYSTEM

Amendment No. 114: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to include language providing that the Selective Service System be required to prepare no more than one report to Congress each year on SSS operations.

TITLE IV

CORPORATIONS

FEDERAL DEPOSIT INSURANCE CORPORATION

Amendment No. 115: Deletes language proposed by the House related to operations of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation.

Amendment No. 116: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

FEDERAL DEPOSIT INSURANCE CORPORATION

FSLIC RESOLUTION FUND

For payment of expenditures, in fiscal year 1990, of the FSLIC Resolution Fund, for which other funds available to the FSLIC Resolution Fund as authorized by Public Law 101-73 are insufficient, such sums as may be necessary: Provided, That the Chairman of the Federal Deposit Insurance Corporation shall provide quarterly reports to the Committees on Appropriations beginning November 15, 1989, on the receipts, disbursements, cash balance, estimated Treasury payments required by fiscal year, and total estimated costs to the FSLIC Resolution Fund.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

TITLE V

GENERAL PROVISIONS

Amendment No. 117: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate exempting travel performed by the Offices of Inspector General in connection with audits and investigations from the travel limitation established by section 501 of the General Provisions.

The conferees have agreed to include this language only for fiscal year 1990 to assist in the transition to the separate IG account structure.

Amendment No. 118: Deletes language inserted by the Senate amending 31 U.S.C. 1344 to permit the EPA Administrator portal to portal transportation.

Amendment No. 119: Reported in technical disagreement. The managers on the part of the part of the House will offer a motion to recede and concur in the amendment of the Senate exempting the Offices of Inspector General from the limitation on personnel compensation and benefits funds in Section 509 of the General Provisions. The conferees have agreed to include this language only for fiscal year 1990 to assist in the transition to the separate IG account structure.

Amendment No. 120: Deletes language inserted by the Senate permitting the use of up to $2,000,000 of HUD personnel compensation and benefits funds for other object classifications.

Amendment No. 121: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate changing reference to a section number.

Amendment No. 122: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

After January 1, 1990, and for the duration of fiscal year 1990, within the Department of Housing and Urban Development, the number of noncareer appointees to the Senior Executive Service shall not exceed 13 percent of the total number of Senior Executive Service positions in such department, unless the Office of Personnel Management approves a waiver to exceed that limitation in accordance with 5 U.S.C. 3134. The Office of Personnel Management, in consultation with the Office of Management and Budget, shall undertake an expedited review of Senior Executive Service positions in the Department of Housing and Urban Development and report its findings, recommendations, and justification for any waiver determination to the Congress by December 15, 1989.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are in agreement that adjusting the balance of HUD's Senior Executive Service in favor of career positions will improve departmental management and the effectiveness of housing and community development programs. For the past several years, the number of political SES appointees at HUD has approached 25 percent of the total—in sharp contrast to the government-wide ceiling of 10 percent. The conferees agree that the percentage of noncareer SES staff at HUD should be reduced to 13 percent by January 1, 1990, unless a waiver is granted by OPM and clearly justified to the Congress. The conferees expect OPM to apply the general principles set forth in the Senate report in distinguishing between noncareer positions that are policymaking and directing in nature and career positions that are predominantly managerial and operations oriented.

The compromise bill language also calls for a report to the Congress by December 15, 1989, by the Office of Personnel Management, in consultation with the Office of Management and Budget, on the classification with the Office of Management and Budget, on the classification of SES positions at HUD. The conferees expect that, among other things, this report will examine the increasing number of deputy assistant secretary positions and the justification for 22 such positions within the department.

The conferees have agreed to drop bill language prohibiting noncareer deputy assistant secretaries and deputy assistant administrators. However, the conferees want to make clear their opposition to the conversion of career deputy positions to noncareer status. Of particular concern are suggestions that the character of the Environmental Protection Agency and its longstanding traditions of professional management may be undergoing changes. The conferees direct the EPA Administrator to seek the concurrence of the Committees on Appropriations before establishing any additional noncareer deputy assistant administrator positions. The conferees note that EPA's noncareer SES staff has remained stable over the past decade at approximately six percent. The Agency is expected to maintain this level and to report statistics to the Committees quarterly on the number of non-career SES, Schedule C, and administratively appointed positions.

Amendment No. 123: Reported in technical disagreement. The managers on the part

of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken by said amendment, insert the following:

SEC. 517. Notwithstanding any other provision of this Act, amounts otherwise provided by this Act for the following accounts and activities are reduced by the following amounts:

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

"Direct loan revolving fund", $15,000;

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

"Medical care", $115,339,000;

"Medical and prosthetic research", $3,348,000;

"Medical administration and miscellaneous operating expenses", $715,000;

"Grants to the Republic of the Philippines", $8,000;

DEPARTMENTAL ADMINISTRATION

"General operating expenses", $12,664,000;

"Office of Inspector General", $340,000;

"Construction, major projects", $6,514,000;

"Construction, minor projects", $1,762,000;

"Parking garage revolving fund," $455,000;

"Grants for construction of State extended care facilities", $651,000;

"Grants for the construction of State veterans cemeteries", $68,000;

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

"Annual contributions for assisted housing", $125,786,525;

"Assistance for the renewal of expiring section 8 subsidy contracts", $16,925,475;

"Rental rehabilitation grants", $2,015,000;

"Housing for the elderly or handicapped fund", $7,442,000;

"Congregate services", $93,000;

"Payments for operation of low-income housing projects", $27,832,000;

"Housing counseling assistance", $54,000;

"Federal Housing Administration Fund" (limitation on guaranteed loans), $1,162,500,000;

"Federal Housing Administration Fund" (temporary mortgage assistance payments), $1,373,000;

"Nonprofit sponsor assistance", $17,000;

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

"Guarantees of mortgage-backed securities", $1,286,500,000;

HOMELESS ASSISTANCE

"Emergency shelter grants program", $1,162,000;

"Transitional and supportive housing demonstration program", $2,015,000;

"Supplemental assistance for facilities to assist the homeless", $170,000;

"Section 8 moderate rehabilitation single room occupancy", $1,162,000;

COMMUNITY PLANNING AND DEVELOPMENT

"Community development grants", $45,725,000;

"Community development grants", (by transfer), $775,000;

"Community development grants", (limitation on guaranteed loans), $2,232,000;

"Urban homesteading", $205,000;

POLICY DEVELOPMENT AND RESEARCH

"Research and technology", $325,000;

FAIR HOUSING AND EQUAL OPPORTUNITY

"Fair housing activities", $198,000;

MANAGEMENT AND ADMINISTRATION

"Salaries and expenses", $5,289,000;

"Salaries and expenses" (by transfer, limitation on FHA corporate funds), $6,158,000;

"Office of Inspector General", $379,000;

"Office of Inspector General" (by transfer, limitation on FHA corporate funds), $102,000;

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

"Salaries and expenses", $248,000;

CONSUMER PRODUCT SAFETY COMMISSION

"Salaries and expenses", $553,000;

COURT OF VETERANS APPEALS

"Salaries and expenses", $62,000;

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

"Salaries and expenses", $195,000;

ENVIRONMENTAL PROTECTION AGENCY

"Salaries and expenses", $13,556,000;

"Office of Inspector General", $492,000;

"Research and development", $3,743,000;

"Abatement, control, and compliance", $12,864,000;

"Buildings and facilities", $232,000;

"Hazardous Substance Superfund", $24,412,000;

"Hazardous Substance Superfund" (limitation on administrative expenses), $3,410,000;

"Leaking underground storage tank trust fund", $1,178,000;

"Leaking underground storage tank trust fund" (limitation on administrative expenses), $93,000;

"Construction grants", $31,775,000;

EXECUTIVE OFFICE OF THE PRESIDENT

"Council on Environmental Quality and Office of Environmental Quality", $23,000;

"National Space Council", $15,000;

"Office of Science and Technology Policy", $45,000;

FEDERAL EMERGENCY MANAGEMENT AGENCY

"Disaster relief", $1,550,000;

"Salaries and expenses", $2,209,000;

"Office of Inspector General", $41,000;

"Emergency Management Planning and Assistance", $4,267,000;

"Emergency Food and Shelter Program", $2,077,000;

GENERAL SERVICES ADMINISTRATION

"Consumer Information Center", $21,000;

"Consumer Information Center" (limitation on administrative expenses), $32,000;

DEPARTMENT OF HEALTH AND HUMAN SERVICES

"Office of Consumer Affairs", $29,000;

INTERAGENCY COUNCIL ON THE HOMELESS

"Salaries and expenses", $17,000;

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

"Research and development", $84,174,000;

"Space flight, control and data communications", $71,526,000;

"Construction of facilities", $9,320,000;

"Research and program management", $30,724,000;

"Office of Inspector General", $136,000;

NATIONAL CREDIT UNION ADMINISTRATION

"Central liquidity facility"(limitation on direct loans), $9,300,000;

"Central liquidity facility" (limitation on administrative expenses, corporate funds), $13,000;

NATIONAL INSTITUTE OF BUILDING SCIENCES

"Payment to the National Institute of Building Sciences", $8,000;

NATIONAL SCIENCE FOUNDATION

"Research and related activities", $26,582,000;

"Research and related activities" (program development and management), $1,517,000;

"Academic research facilities", $310,000;

"United States Antarctic program activities", $1,147,000;

"United States Antarctic logistical support activities", $1,271,000;

"Science education activities", $3,255,000;

"Office of Inspector General", $40,000;

NEIGHBORHOOD REINVESTMENT CORPORATION

"Payment to the Neighborhood Reinvestment Corporation", $423,000;

SELECTIVE SERVICE SYSTEM

"Salaries and expenses", $408,000.

In carrying out these reductions, each amount earmarked in this Act and not otherwise specified in this section shall be reduced in proportion to the overall reduction in the applicable account with the exception of the earmarking for personnel compensation and benefits costs carried in the Department of Veterans Affairs "Medical care" appropriating paragraph which shall not be reduced.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The across-the-board reductions carried in section 517 are necessary to bring the bill totals for budget authority and outlays within the revised section 302(b) allocations. These overall decreases include a .43 percent reduction in each account to offset the additional funding carried in the 1990 Transportation and Related Agencies Appropriations Act to fight the war on drugs.

The conferees agree that the reductions be applied to each program, project, or activity in each appropriation, definitions of which are carried elsewhere in the statement. To permit the reductions to be applied to each program, project, or activity, bill language has been included requiring proportional reductions in each individual earmarking of funds included in such appropriating paragraphs.

The conferees further agree that each department and agency is to submit its fiscal year 1990 operating plan to the Committees on Appropriations within thirty days of enactment of this appropriations bill. This directive applies to all discretionary appropriations. For the purposes of program execution, it is not intended that normal reprogramming between programs, projects, or activities be precluded after reductions required under this section or sequestration are implemented.

BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT

During fiscal year 1990, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the following information provides the definition of the term "program, project, and activity" for departments and agencies carried in the accompanying bill. The term "program, project, and activity" shall include the most specific level of budget items identified in the 1990 Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, the accompanying House and Senate Committee reports, the conference report or the joint explanatory statement of the managers of the committee of conference.

In applying any sequestration reductions, departments and agencies shall apply the percentage of reduction required for fiscal year 1990 pursuant to the provisions of

Public Law 99-177 to each program, project, activity and subactivity contained in the budget justification documents submitted to the Committees on Appropriations of the House and Senate in support of the fiscal year 1990 budget estimates, as amended, for such departments and agencies as subsequently altered, modified or changed by Congressional action identified by the aforementioned Acts, resolutions and reports. Further, it is intended that in implementing the Presidential order, (1) no program, project, or activity should be eliminated, (2) no re-ordering of funds or priorities occur, and (3) no unfunded program, project, or activity be initiated. However, for the purposes of program execution, it is not intended that normal reprogramming between programs, projects, and activities be precluded after reductions required under the Balanced Budget and Emergency Deficit Control Act are implemented.

Amendment No. 124: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 518. The authority of the Department of Veterans Affairs in section 618 of Public Law 100-440 to operate a leave transfer program for employees subject to section 4108 of title 38, United States Code, is extended through December 31, 1989. The provisions of the final sentence of such section 618 shall apply to transferred leave that is unused as of December 31, 1989.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 125: Deletes language inserted by the Senate expressing the sense of the Congress in support of joint medical research ventures.

Amendment No. 126: Deletes language inserted by the Senate permitting the HUD Secretary to adjust the level of assistance payments to reflect additional benefits provided in connection with housing assisted under the section 8 moderate rehabilitation program.

Amendment No. 127: Deletes language inserted by the Senate limiting amounts available for procurement of advisory or assistance services by the Department of Veterans Affairs, the Department of Housing and Urban Development, the Environmental Protection Agency, and the National Aeronautics and Space Administration.

Amendment No. 128: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 519. None of the funds appropriated under title II of this Act under the heading entitled Community Planning and Development, Community Development Grants, to any department, agency, or instrumentality of the United States may be obligated or expended to any municipality that fails to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within the jurisdiction of said municipality against any individuals engaged in nonviolent civil rights demonstrations.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement inserts a new general provision as proposed by the Senate which denies CDBG funds to municipalities that permit the use of excessive force against nonviolent civil rights demonstrators. The conference agreement also changes the section number designation of this provision.

The conferees agree that a municipality be penalized only for acts of law enforcement agencies under its jurisdiction and control, and not be held responsible for such abusive misconduct by any other law enforcement entity occurring within its geographical boundaries.

The conferees strongly deplore reported instances of the use of excessive force by law enforcement agencies in arresting nonviolent civil rights demonstrators. Such misconduct by official governmental instrumentalities is exceedingly objectionable and offensive, and must be condemned and curbed with the imposition of effective policies to prevent any further occurrences. The Secretary of the Department of Housing and Urban Development is therefore directed to formulate adequate reporting and certification standards by municipalities receiving Federal assistance to assure that policies against such use of unwarranted police force are adopted and enforced. Such guidelines will further assure that no municipality is unfairly penalized for actions outside its control or which occur despite good faith efforts to prohibit such abuses.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1990 recommended by the Committee of Conference, with comparisons to the fiscal year 1989 amount, the 1990 budget estimates, and the House and Senate bills for 1990 follows:

New budget (obligational) authority, fiscal year 1989	$60,620,881,000
Budget estimates of new (obligational) authority, fiscal year 1990	62,520,258,365
House bill, fiscal year 1990	65,143,950,000
Senate bill, fiscal year 1990	67,159,879,978
Conference agreement, fiscal year 1990	66,961,691,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1989	+6,340,810,000
Budget estimates of new (obligational) authority, fiscal year 1990	+4,441,432,635
House bill, fiscal year 1990	+1,817,741,000
Senate bill, fiscal year 1990	−198,188,978

BOB TRAXLER,
LOUIS STOKES,
LINDY BOGGS,
ALAN B. MOLLOHAN,
JIM CHAPMAN,
CHESTER G. ATKINS,
JAMIE L. WHITTEN,
BILL GREEN,
LAWRENCE COUGHLIN,
JERRY LEWIS,
SILVIO O. CONTE,
Managers on the Part of the House.

BARBARA MIKULSKI,
PATRICK LEAHY,
J. BENNETT JOHNSTON,
FRANK R. LAUTENBERG,
WYCHE FOWLER, Jr.,
J. ROBERT KERREY,
ROBERT C. BYRD,
JAKE GARN,
ALFONSE M. D'AMATO,
CHARLES E. GRASSLEY,
DON NICKLES,
PHIL GRAMM,
MARK HATFIELD,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MCDADE (at the request of Mr. MICHEL), for today, on account of illness.

Mr. PANETTA (at the request of Mr. GEPHARDT), for today, on account of official business.

Mr. EDWARDS of California (at the request of Mr. GEPHARDT), for today, on account of official business.

Mr. BOSCO (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of official business.

Mr. CAMPBELL of California (at the request of Mr. MICHEL), for today, on account of the massive earthquake in his district.

Ms. PELOSI (at the request of Mr. GEPHARDT), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. INHOFE) to revise and extend their remarks and include extraneous material:)

Mr. PARRIS, for 5 minutes, today.

Mr. INHOFE, for 60 minutes, on October 24.

Mr. GINGRICH, for 5 minutes, today.

(The following Members (at the request of Mr. HARRIS) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. INHOFE) and to include extraneous matter:)

Mr. GOODLING.

Mr. CONTE.

Mr. MACHTLEY.

Mr. BROOMFIELD.

Mr. YOUNG of Florida.

Mr. SCHUETTE.

Mr. PAXON.

Mr. HANSEN.

Mr. HUNTER.

Mr. SAXTON.

(The following Members (at the request of Mr. HARRIS) and to include extraneous matter:)

Mr. LEHMAN of California.
Mr. WISE.
Mr. COLEMAN of Texas.
Mr. HAMILTON.
Mr. MANTON.
Mrs. BYRON.
Mr. NATCHER.
Mr. FEIGHAN.
Mr. TALLON.
Mr. JACOBS.
Mr. TRAFICANT.
Mrs. KENNELLY in two instances.
Mr. GUARINI.
Mr. GARCIA.
Mr. ORTIZ.
Mr. MCDERMOTT.

BILL PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, a bill of the House of the following title:

On October 17, 1989:

H.R. 2987. An act to name the Department of Veterans Affairs medical center in Leavenworth, KS, as the "Dwight D. Eisenhower Department of Veterans Affairs Medical Center."

ADJOURNMENT

Mr. UPTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 36 minutes p.m.) the House adjourned until tomorrow, Thursday, October 19, 1989, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1853. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Kuwait for defense articles and services (Transmittal No. 90-01), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1854. A letter from the Comptroller General, transmitting a report, "Proposals for Reforming Federal Budgeting Practices" (GAO/AFMD-90-1; October 1989) part of a financial management report series; jointly, to the Committees on Government Operations, Rules, Appropriations, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BONIOR: Committee on Rules. House Resolution 266. Resolution providing for the consideration of H.R. 3402, a bill to promote political and economic democracy in Poland and Hungary as those countries develop and implement programs of comprehensive economic reform (Rept. 101-291). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 267. Resolution providing for the consideration of H.R. 2494, a bill to amend the Export-Import Bank Act of 1945 to authorize the appropriation of not to exceed $100,000,000 to the Tied Aid Credit Fund for fiscal year 1990, and to provide for expenditures from such Fund during such fiscal year (Rept. 101-292). Referred to the House Calendar.

Mr. DIXON: Committee on Standards of Official Conduct. In the Matter of Representative Jim Bates (Rept. 101-293). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2095. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize the collection of reclamation fees, and for other purposes; with an amendment (Rept. 101-294). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2949. A bill to authorize a study of nationally significant places in American labor history; with an amendment (Rept. 101-295). Referred to the Committee of the Whole House on the State of the Union.

Mr. FASCELL: Committee on Foreign Affairs. H.R. 91. A bill to prohibit exports of military equipment to countries supporting international terrorism, and for other purposes; with an amendment (Rept. 101-296). Referred to the Committee of the Whole House on the State of the Union.

Mr. TRAXLER. Committee of Conference. Conference report H.R. 2916 (Rept. No. 101-297). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CARDIN (for himself, Mr. MOORHEAD, Mr. FISH, Mr. SENSENBRENNER, Mr. SANGMEISTER, Mr. FROST, Mr. BUSTAMANTE, Mr. WILSON, Mr. TOWNS, Mr. GORDON, Mr. HASTERT, Mr. CHAPMAN, Mr. SAVAGE, and Mr. OXLEY):

H.R. 3484. A bill to amend the Trademark Act of 1946 regarding gray market goods; to the Committee on the Judiciary.

By Mr. HANSEN (for himself, Mr. RHODES, and Mr. NIELSON of Utah):

H.R. 3485. A bill to amend the Rehabilitation Act of 1973 to prohibit discrimination against individuals with respect to entrance to wilderness areas because of a disability; jointly, to the Committees on Education and Labor and Interior and Insular Affairs.

By Mr. JONES of North Carolina (for himself and Mr. DAVIS):

H.R. 3486. A bill to make technical corrections to the laws relating to vessel documentation, vessel identification, and commercial instruments and maritime liens, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. KANJORSKI:

H.R. 3487. A bill to amend section 3056 of title 18, United States Code, to limit secret service protection of former Presidents when they are traveling to engage in income-producing activities; to the Committee on the Judiciary.

By Mrs. MORELLA:

H.R. 3488. A bill to allow a deduction for the amount of the premiums paid on a life insurance contract the beneficiary of which is a trust established for the benefit of a disabled individual, and for other purposes; to the Committee on Ways and Means.

By Mr. PARRIS:

H.R. 3489. A bill to amend the Controlled Substances Act to increase the minimum prison sentence for employment of underage persons in illegal drug transactions, and for other purposes; jointly, to the Committees on the Judiciary and Energy and Commerce.

By Mrs. ROS-LEHTINEN:

H.R. 3490. A bill to amend title 18 of the United States Code to punish corruption; to the Committee on the Judiciary.

By Mr. ROWLAND of Georgia:

H.R. 3491. A bill to require the Secretary of Health and Human Services to submit to the Congress a proposal for the regulation of long-term care insurance policies, including an analysis and evaluation of such policies as are available to individuals, and to amend the Internal Revenue Code of 1986 to allow tax-free distributions from individual retirement accounts for the purchase of long-term care insurance coverage by individuals who have attained age 59½; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. VOLKMER:

H.R. 3492. A bill to provide for a divisional venue in certain Federal civil cases in which a single defendant resides in the Northern Division of the Eastern District of Missouri to the Committee on the Judiciary.

By Mr. WATKINS:

H.R. 3493. A bill to authorize a study on methods to commemorate the nationally significant highway known as Route 66, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GEJDENSON (for himself, Mr. MONTGOMERY, Mr. EVANS, Mr. DONNELLY, Mr. VALENTINE, Mr. PENNY, Mr. GUNDERSON, Mr. FAUNTROY, Mr. TOWNS, Mr. AKAKA, Mr. COSTELLO, Mr. ACKERMAN, Mr. MCCLOSKEY, Mr. LAGOMARSINO, Ms. KAPTUR, Mr. ATKINS, Mr. RANGEL, Mr. WOLPE, Mr. PALLONE, Mr. HARRIS, Ms. PELOSI, Mr. FUSTER, Mrs. COLLINS, Mr. JAMES, Mr. BUSTAMANTE, Mrs. MARTIN of Illinois, Mr. HAWKINS, Mr. HATCHER, Mrs. JOHNSON of Connecticut, Mr. EMERSON, Mr. FAZIO, Mr. WALSH, Mr. DELLUMS, Mr. ANNUNZIO, Mr. MCNULTY, Mr. NIELSON of Utah, Mr. BILIRAKIS, Mr. BRENNAN, Mr. BROWN of California, Mr. SLATTERY, Ms. SLAUGHTER of New York, Mr. OWENS of New York, Mr. KOLTER, Mr. OWENS of Utah, Mr. LEWIS of California, Mrs. SAIKI, Mr. EDWARDS of California, Mr. MADIGAN, Mrs. KENNELLY, Mrs. BENTLEY, Mr. SAXTON, Mr. CONYERS, Mr. ROE, Mr. BATES, Mr. MARTIN of New York, Mr. HORTON, Mr. HENRY, Mr. FRANK, Mrs. BOXER, Mr. LANCASTER, and Mr. GILMAN):

H.J. Res. 421. Joint resolution approving the location of the memorial to the women who served in Vietnam; jointly, to the Committees on Interior and Insular Affairs and House Administration.

By Mr. POSHARD:

H.J. Res. 422. Joint resolution proposing an amendment to the Constitution authoriz-

ing the President to disapprove or reduce an item of appropriations; to the Committee on the Judiciary.

By Mr. BEILENSON:

H. Res. 268. Resolution to amend the Rules of the House of Representatives to clarify the right of the Speaker to attend any meeting and to have access to any information in the possession of the Permanent Select Committee on Intelligence; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 444: Mr. FIELDS.

H.R. 446: Mr. LIVINGSTON and Mr. FEIGHAN.

H.R. 509: Mr. BARNARD, Mr. BILIRAKIS, Mr. BOSCO, Mr. BRYANT, Mr. DIXON, Mr. DORNAN of California, Mr. GALLEGLY, Mr. JONES of North Carolina, Mr. KASICH, Mr. LIVINGSTON, Mr. DONALD E. LUKENS, Mrs. MORELLA, Mr. MORRISON of Connecticut, Ms. OAKAR, Mr. OBERSTAR, Mr. OWENS of Utah, Mr. RAVENEL, Mr. RINALDO, Mr. DENNY SMITH, Mr. SOLARZ, Mr. TOWNS, and Mr. WYDEN.

H.R. 639: Mr. HUNTER, Mr. BUECHNER, Mr. HUGHES, Mr. DELLUMS, Mr. GARCIA, and Mr. BRYANT.

H.R. 725: Mr. HYDE.

H.R. 860: Mr. HYDE.

H.R. 911: Mr. JAMES, Mr. WISE, Mr. MACHTLEY, Mrs. BYRON, Mr. PACKARD, and Mr. HILER.

H.R. 993: Mr. BEILENSON and Mr. ROYBAL.

H.R. 1136: Mr. DOWNEY, Mr. WHITTEN, and Mr. COMBEST.

H.R. 1143: Mr. STENHOLM.

H.R. 1307: Mr. DARDEN, Mr. HAMMERSCHMIDT, Mr. GOSS, Mr. ARMEY, and Mr. MOORHEAD.

H.R. 1352: Mr. JAMES.

H.R. 1356: Mr. DOWNEY.

H.R. 1400: Mr. RUSSO, Mr. HASTERT, Mr. HALL of Ohio, Mr. JONTZ, Mr. LAUGHLIN, Mr. BATES, Mr. BORSKI, Mrs. VUCANOVICH, and Mrs. SAIKI.

H.R. 1617: Mr. GARCIA, Mr. OBERSTAR, and Mr. SABO.

H.R. 1730: Mr. DAVIS, Mr. STEARNS, Mr. SKAGGS, and Mr. HILER.

H.R. 2134: Mr. FISH.

H.R. 2174: Mr. GUNDERSON.

H.R. 2285: Mr. SMITH of Vermont, Mr. MCCURDY, and Mrs. BENTLEY.

H.R. 2333: Mr. HORTON.

H.R. 2418: Mr. STANGELAND, Mr. BEREUTER, and Mr. BUNNING.

H.R. 2426: Mr. VISCLOSKY.

H.R. 2437: Mr. SPRATT, Mr. DWYER of New Jersey, Mr. MARTINEZ, Ms. LONG, and Mr. HUCKABY.

H.R. 2493: Mr. KENNEDY and Mr. SHAYS.

H.R. 2584: Mr. DICKS and Mr. STUDDS.

H.R. 2648: Ms. KAPTUR.

H.R. 2693: Mr. FISH.

H.R. 2726: Mr. BERMAN.

H.R. 2779: Mr. SHUSTER and Mr. GARCIA.

H.R. 2798: Mr. PRICE, Mr. RINALDO, Mr. KENNEDY, Mr. DYMALLY, Mr. INHOFE, Mr. LEWIS of Georgia, Mrs. LOWEY of New York, Mrs. BENTLEY, Mr. BORSKI, Mr. LAGOMARSINO, Mr. FLORIO, Mr. MILLER of Ohio, Mr. LAFALCE, Mr. ROWLAND of Connecticut, Mr. LIVINGSTON, Mr. PENNY, and Mr. HYDE.

H.R. 2911: Mr. TANNER.

H.R. 2912: Mr. FAZIO, Mr. RITTER, Mr. LIVINGSTON, Mr. TOWNS, Mr. BENNETT, Mr. BROWN of California, Mr. JONTZ, and Mr. FOGLIETTA.

H.R. 2955: Mr. MAZZOLI.

H.R. 2970: Mr. CAMPBELL of Colorado, Mr. BEREUTER, Mr. DORGAN of North Dakota, and Mr. HANSEN.

H.R. 3020: Mr. KYL and Mrs. VUCANOVICH.

H.R. 3028: Mr. LAFALCE and Ms. SNOWE.

H.R. 3146: Mr. FUSTER.

H.R. 3156: Mr. CAMPBELL of Colorado.

H.R. 3172: Mr. FUSTER, Mr. PETRI, Mr. COURTER, and Mr. WALSH.

H.R. 3199: Mr. LOWERY of California, Mr. SLAUGHTER of Virginia, Mr. BLILEY, Mr. WALSH, Mr. SMITH of Florida, Mr. RAHALL, and Mr. BLAZ.

H.R. 3205: Ms. KAPTUR.

H.R. 3239: Mr. BERMAN, Mr. LAGOMARSINO, Mr. UPTON, Mr. LEVIN of Michigan, and Mr. FLIPPO.

H.R. 3254: Mr. WOLPE and Mr. FAUNTROY.

H.R. 3258: Mr. GEJDENSON, Mr. MOAKLEY, and Mr. VANDER JAGT.

H.R. 3297: Mr. ANDREWS.

H.R. 3343: Mr. JOHNSON of South Dakota, Mr. FOGLIETTA, Mr. BILIRAKIS, Mr. FAUNTROY, Mr. FRANK, Mr. HARRIS, Mr. DONNELLY, Mr. MARTINEZ, Mr. MURPHY, Mr. BONIOR, and Mr. SCHAEFER.

H.R. 3356: Mr. DYMALLY, Mr. ARMEY, Mrs. COLLINS, Mr. FUSTER, Mr. ROBINSON, and Mr. THOMAS A. LUKEN.

H.R. 3360: Mr. DARDEN.

H.R. 3372: Ms. KAPTUR, Mr. PALLONE, and Mr. GARCIA.

H.R. 3380: Mr. MCGRATH, Mr. MILLER of California, Mr. GAYDOS, Mr. BOSCO, Mr. TALLON, Mr. DWYER of New Jersey, Mr. BEVILL, Mr. HARRIS, Mr. SCHEUER, Mr. CARPER, Mr. FASCELL, Mr. MOLLOHAN, Mr. OWENS of New York, Mr. ACKERMAN, Mr. GREEN, Mr. MCCLOSKEY, Ms. LONG, Mr. ROYBAL, Mr. DICKINSON, and Mr. ERDREICH.

H.R. 3387: Mr. CHAPMAN, Mr. EMERSON, and Mr. ROE.

H.R. 3390: Mr. RAHALL.

H.R. 3394: Mr. LENT, Mrs. BENTLEY, and Mr. SAXTON.

H.R. 3401: Mr. GILMAN and Mr. MACHTLEY.

H.R. 3413: Mr. HUBBARD.

H.R. 3430: Mr. HAYES of Illinois and Mr. ECKART.

H.R. 3440: Mr. SMITH of New Hampshire, Mr. KYL, and Mr. PACKARD.

H.R. 3449: Mr. DERRICK and Mrs. PATTERSON.

H.R. 3475: Mr. WOLF, Mr. LEHMAN of Florida, Mr. SOLOMON, Mr. HORTON, Mr. KENNEDY, and Mr. GARCIA.

H.J. Res. 210: Mr. MCMILLEN of Maryland, Mr. PARRIS, Mr. MANTON, Ms. LONG, Mr. SKAGGS, Mr. ANTHONY, Mr. CRANE, Mr. HAMILTON, Mr. SMITH of New Hampshire, Mr. BENNETT, Mr. AKAKA, Mr. MCCOLLUM, Mr. JOHNSON of South Dakota, Mr. WELDON, Mr. RICHARDSON, Mr. JACOBS, Mr. WYLIE, Mr. YATES, Mr. THOMAS A. LUKEN, Mr. BORSKI, Mr. YOUNG of Florida, Mr. HANSEN, Mr. KLECZKA, Mr. THOMAS of Georgia, Mr. GILMAN, Mr. BRENNAN, Mr. BRUCE, Mr. SUNDQUIST, Mr. YATRON, Mr. DEWINE, Mr. APPLEGATE, Mr. SOLARZ, Mr. MILLER of Ohio, Mrs. ROUKEMA, Mr. MCEWEN, Mr. SKEEN, Mr. RUSSO, Mr. SHARP, Mr. GOODLING, Mr. KANJORSKI, Mr. HENRY, Mr. JONES of North Carolina, Mr. ATKINS, Mr. ARCHER, Mrs. BYRON, Mr. SCHEUER, Mr. VALENTINE, Mrs. BENTLEY, Mr. CONYERS, Mr. DE LA GARZA, Mr. DARDEN, Mr. DIXON, Mr. FUSTER, Mr. GRAY, Mr. GINGRICH, Mr. LIPINSKI, Mr. ROBINSON, Mr. SABO, Mr. STOKES, Mr. SMITH of Iowa, Mr. TAUZIN, Mr. COOPER, Mr. DICKS, Mr. INHOFE, Mr. TRAXLER, Mr. CARR, Mr. BONIOR, Mr. GARCIA, Mrs. KENNELLY, Ms. OAKAR, Mr. TALLON, Mr. BARNARD, Mr. MILLER of Washington, Mr. LIGHTFOOT, Mr. CRAIG, Mr. BROWDER, Mr. DERRICK, Mr. SCHAEFER, Mr. GREEN, Mr. CHANDLER, Mr. STALLINGS, Mr. GRANDY, Mr. BUECHNER, Mr. PRICE, Mr. SPENCE, Mr. HAMMERSCHMIDT, Mr. ROYBAL, and Mr. JONTZ.

H.J. Res. 224: Mr. MCDADE, Mr. TRAFICANT, Mr. MCCOLLUM, Mr. HAYES of Illinois, Mr. MILLER of Ohio, Mr. YOUNG of Florida, Mr. DONALD E. LUKENS, Mr. CARDIN, Mr. DEFAZIO, Mr. TALLON, Mr. LIPINSKI, Mr. TRAXLER, Mrs. ROS-LEHTINEN, Mr. CARPER, Mr. SCHUETTE, Mr. HAYES of Louisiana, Mr. LAGOMARSINO, Mr. GREEN, Mr. STARK, Mr. WAXMAN, Mr. BARNARD, Mr. ATKINS, Mr. SMITH of New Jersey, Mr. SAXTON, Mr. ESPY, Mr. VENTO, Mr. TOWNS, Mr. TORRICELLI, Mr. FASCELL, Mr. LANCASTER, Mr. SWIFT, Mr. VISCLOSKY, Mr. HARRIS, Mr. ECKART, Mr. GIBBONS, Mr. MOAKLEY, Mr. NIELSON of Utah, Mr. NAGLE, Mr. GUARINI, Mr. MARTINEZ, Mr. GUNDERSON, Mr. ENGEL, Mr. PALLONE, Mrs. BOXER, Mr. LIVINGSTON, Mr. BLILEY, Mr. MCEWEN, Mr. WELDON, Mr. GILMAN, Mr. HATCHER, Mr. ROWLAND of Connecticut, Mr. MARKEY, Mr. PORTER, Mr. KOLTER, Ms. OAKAR, Mr. HOCHBRUECKNER, Mr. LEVIN of Michigan, Mr. WEISS, Mr. MRAZEK, Mr. SHAW, Mrs. MORELLA, Mr. MURPHY, Mr. GEJDENSON, Mrs. PATTERSON, Mrs. COLLINS, Mr. EVANS, Mr. MORRISON of Connecticut, Ms. KAPTUR, Mr. SCHUMER, Mr. GALLO, Mr. SHAYS, Mr. BEVILL, Mrs. ROUKEMA, Mr. KASICH, Mr. WILSON, Mr. LEWIS of Florida, Mr. HOYER, Mr. CLAY, Mr. PANETTA, Mr. OWENS of New York, Mr. COURTER, Mr. SCHAEFER, Mr. ROE, Mr. MAZZOLI, Mr. YATES, Mr. RICHARDSON, Mr. DURBIN, Mr. MCCLOSKEY, Mr. COLEMAN of Texas, Mr. RUSSO, Mr. PETRI, Mr. BROOMFIELD, Mr. SISISKY, Mr. DOWNEY, Mr. HAMILTON, Mr. ROBERTS, Mr. PACKARD, Mr. MANTON, Mr. BOEHLERT, Ms. SNOWE, Mr. BILBRAY, Mr. GLICKMAN, Mr. LAFALCE, Mr. MOODY, Mr. BRUCE, Ms. SLAUGHTER of New York, Mrs. LOWEY of New York, Mr. GOSS, Mr. DREIER of California, Mr. NOWAK, Mr. HALL of Ohio, Mr. COBLE, Mr. CLEMENT, Mr. COSTELLO, Mr. DONNELLY, Mr. CLINGER, Mr. FEIGHAN, and Mr. FALEOMAVAEGA.

H.J. Res. 241: Mr. WELDON, Mr. FALEOMAVAEGA, Mr. HOPKINS, Mr. SHARP, Mr. KLECZKA, Mr. CONTE, Mr. TAUKE, Mr. GINGRICH, Mr. STANGELAND, and Mr. WISE.

H.J. Res. 278: Mr. SCHUMER, Mr. SMITH of Texas, and Mr. GINGRICH.

H.J. Res. 385: Mr. JOHNSON of South Dakota and Mrs. BYRON.

H.J. Res. 388: Mr. UPTON.

H.J. Res. 393: Mr. GRANDY.

H.J. Res. 394: Mr. BARTLETT.

H.J. Res. 410: Mr. BUSTAMANTE, Mr. FAZIO, Mr. KASICH, Mr. MCDADE, Ms. OAKAR, Mr. VANDER JAGT, Mr. WELDON, Mr. EVANS, Mr. JONTZ, Mr. MATSUI, Mr. NELSON of Florida, Mr. MRAZEK, Mr. MCNULTY, Mr. RAY, Mr. WAXMAN, Mr. AUCOIN, Mr. THOMAS of Wyoming, Mr. TRAXLER, Mr. WALSH, Mr. APPLEGATE, Mr. CARPER, Mr. FROST, Mr. ANNUNZIO, Mr. BROWN of California, Mr. CLARKE, Mr. COSTELLO, Mr. DAVIS, Mr. DEFAZIO, Mr. MILLER of California, Mr. TOWNS, Mr. VALENTINE, Mr. BEVILL, Mr. BROWN of Colorado, Mr. BATES, Mr. BLILEY, Mr. MAZZOLI, Mr. TAUZIN, Mr. CONYERS, Mr. WYDEN, Mr. TALLON, Mr. SAVAGE, Mr. SKELTON, Mr. DENNY SMITH, Mr. SMITH of Florida, Mr. PALLONE, Mr. ROBINSON, Mr. SCHEUER, Mr. ROBERT F. SMITH, Mr. SCHUETTE, Mr. ROE, Mr. LANCASTER, and Mr. GRAY.

H. Con. Res. 5: Mr. HOCHBRUECKNER.

H. Con. Res. 156: Mr. SHAYS.

H. Con. Res. 177: Mrs. MORELLA.

H. Con. Res. 182: Mr. HOAGLAND, Mr. HUGHES, Mr. SOLARZ, and Mr. WEISS.

H. Con. Res. 195: Mr. SHUSTER and Mrs. BENTLEY.

H. Con. Res. 206: Mr. OWENS of New York, Mr. MARKEY, Mr. MRAZEK, Mrs. UNSOELD, Mr. SCHEUER, Mr. GARCIA, Mr. BORSKI, Mr. SKAGGS, Mr. BERMAN, Mr. STARK, and Mr. JONTZ.

H. Con. Res. 210: Mr. SAXTON, Mr. DENNY SMITH, Mr. DORNAN of California, Mr. BRUCE, and Mr. MARTINEZ.

H. Res. 25: Mr. SCHIFF.

H. Res. 261: Mr. BRUCE, Mr. LEVIN of Michigan, Mr. FRANK, Mr. GARCIA, Mrs. BOXER, Mr. OWENS of New York, Ms. PELOSI, Mr. DEFAZIO, Mr. JONTZ, Mr. SCHEUER, Mr. NAGLE, Mr. MARKEY, Mr. BORSKI, Mr. MARTINEZ, and Mr. BERMAN.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1470: Mr. JONTZ.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3402

By Mr. GRANDY:

—At the end of the amendment reported by the Foreign Affairs Committee, add the following:

TITLE VII—CARGO PREFERENCE REQUIREMENTS

SEC. 701. EXEMPTION OF AGRICULTURAL ASSISTANCE FOR POLAND.

(a) EXEMPTION.—The cargo preference requirements of title IX of the Merchant Marine Act, 1936 (46 U.S.C. app. 1241 and following) shall not apply with respect to the agricultural commodities and products thereof made available for Poland pursuant to section 101 of this Act.

(b) EXISTING SHIPPING CONTRACTS.—Subsection (a) does not apply with respect to agricultural commodities or products thereof for which a contract for shipment on an ocean vessel was entered into before the date of enactment of this Act.

By Ms. KAPTUR:

—At the end of the amendment reported by the Foreign Affairs Committee, add the following:

TITLE VII—CARGO PREFERENCE REQUIREMENTS

SEC. 701. REDUCTION OF CARGO PREFERENCE REQUIREMENTS FOR FY 1990 AGRICULTURAL ASSISTANCE FOR POLAND FROM 75 TO 50 PERCENT OF COMMODITIES SHIPPED.

In order to allow additional agricultural commodities to be provided to Poland for fiscal year 1990 pursuant to section 101(c) of this Act, the reference in the first sentence of section 901(b)(1) of the Merchant Marine Act, 1936 (46 U.S.C. app. 1241(b)(1)), to "50 per centum" shall be deemed to be "25 per centum" for purposes of the agricultural assistance provided pursuant to section 101(c) of this Act. Nothing in this section affects the requirement of section 901b of the Merchant Marine Act, 1936 (46 U.S.C. app. 1241f), that an additional 25 percent of the gross tonnage of such assistance be transported on United States-flag commercial vessels.

EXTENSIONS OF REMARKS

GRAMM-RUDMAN IS ONCE AGAIN UPON US

HON. C.W. BILL YOUNG
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. YOUNG of Florida. Mr. Speaker, at midnight the folly of Gramm-Rudman once again fell upon our Nation as the computers at the Office of Management and Budget made $16.2 billion in budget cuts mandated by law because the Congress once again failed to meet its budget deadlines.

I opposed Gramm-Rudman when it was considered by the House in 1985 because I knew Congress would spend more time trying to skirt the law than it would attempting to make the difficult budget decisions necessary to reduce the Federal deficit and balance the budget. The endless list of examples of creative accounting and budget gimmickry is the legacy left us by this heralded budget reform legislation. In the past 5 years, we have seen: pay days moved from September 30 to October 1 to push them from one fiscal year to another, pay days moved from October 1 to September 30 for the exact opposite reason, funds fenced so that only a portion could be used in 1 fiscal year and carried over to another, the payment of bills delayed into a new fiscal year, new programs established with the cost being exempted from Gramm-Rudman deficit targets, and large Federal procurement programs stretched out at a significant added long-term cost to the American taxpayers.

This year is no exception as the Congress once again failed to fulfill its budgetary responsibilities primarily because we have run out of gimmicks and sleight of hand to meet the Gramm-Rudman targets. All the creative accounting has been used and now we are down to the point where we should have been 5 years ago, the point where we should face up to our fiscal responsibilities and make the difficult decisions about where to reduce Federal spending on a program by program basis.

The St. Petersburg Times, my hometown newspaper, welcomed news that sequestration took effect today with an editorial that restates many of my same objections to Gramm-Rudman. Following my remarks, I would like to include a copy of this editorial entitled "Gramm-Rudman: A Dud" for the benefit of my colleagues so they might have a better understanding of how the people we represent feel about this phony attempt by the Congress to regain control of the Federal budget.

As if the Congress did not learn its lesson from the initial adoption of Gramm-Rudman, 2 years ago we extended its life for 2 more years through the end of fiscal year 1992. Now, to my chagrin, the leadership of the House, Senate, and the respective budget committees, is discussing a further extension of this terrible legislation—an extension that could keep it alive through the end of this century.

Mr. Speaker, Congress has the constitutional responsibility to make Federal budget and spending decisions. We find ourselves in the position today where because we abrogated that responsibility Medicare payments will be reduced, aviation safety could be jeopardized, the readiness of our national defense is threatened by arbitrary cuts, and other Federal programs will be curtailed. The Congress has not been willing or able to make the difficult and politically sensitive votes to control Federal spending, reduce our Federal deficit, and move closer to a balanced budget.

What is required if we are to meet these goals is a commitment by this House and the Congress to establish Federal priorities and make the decisions about how we are going to reverse the tide of deficit spending. The solution lies in the willingness of every Member to cast the difficult votes on authorization and appropriations legislation. It also requires that we quit relying on phony proposals such as Gramm-Rudman to do the job for us and that we amend or repeal outright the ineffective Congressional Budget Act and eliminate the House and Senate Budget Committees. They have done nothing to ensure that we meet our budgetary deadlines and instead have added another layer of bureaucracy and another set of obstacles to our efforts to balance the Federal budget.

The solution to out-of-control Federal spending is simple but the decisions are difficult. The reason we are elected to this House, however, is to cast those difficult votes and I would hope that in the weeks ahead we will forego any further consideration of Gramm-Rudman extensions and other gimmickry and get down to the business of casting those tough votes.

GRAMM-RUDMAN: A DUD

The Gramm-Rudman-Hollings Act requires federal spending to be cut across the board if Congress fails to meet the annual deadline for cutting the projected deficit to the predetermined amount which this year is a relatively modest $110-billion. The deadline has passed, triggering the feared doomsday weapon. Washington is abuzz over this. Beyond the Beltway, however, the average American's response would be, "So what?"

One reason is that the cuts are not really across the board, or across even half the board. Social Security and federal retirement are exempt because Congress did not want to have to answer the mail from so many millions of angry citizens who expect their monthly checks on time and undiminished. In a fit of conscience, Congress also exempted Medicaid, food stamps and most other entitlements for needy people. The $16.2-billion to be cut will be absorbed largely by unfilled vacancies in the military, by higher processing fees for student loans, by small cuts in Medicare payments to doctors, hospitals and individual claimants and by assorted inconveniences to the staffs of the various federal agencies. Even there, the expectation is that the reductions will be restored when Congress finally reconciles the budget.

Congress, especially the Senate, deserves some credit for refusing to be stampeded into passing a capital gains tax cut and other giveaways that scarcely belonged in a deficit reduction bill. It would deserve even more, however, if it were to repeal the Gramm-Rudman-Hollings Act or at least change it beyond recognition.

The law is a sham. Granted, the necessity of feigning compliance with it has probably helped to keep overall spending somewhat lower than it might be otherwise, but another effect has been to encourage Congress and the White House to simply cook the books. The administration, for example, always forecasts the budget deficit on the basis of economic assumptions that are plainly too good to be true, yet Congress always plays along. Another trick is to count one-time revenue, such as a temporary speedup in tax collections, as if it were permanent. Another is to drop the Postal Service out of the budget when it happens to show a deficit. In one especially shabby stunt, the most recent military payday was moved up one day, from Oct. 1 to Sept. 30, so that it would contribute to the deficit for the last fiscal year instead of the fiscal year that began Oct. 1. This is one of the reasons why the actual deficit for fiscal 1989 turned out to be $160-billion, according to the Congressional Budget Office, instead of the $136-billion calculated under the Gramm-Rudman-Hollings Act a year ago.

This annual exercise in creative accounting owes to the fact that Gramm-Rudman-Hollings applies only to the projected budget, not to how the figures add up at the end of the year. There is no incentive to Congress or the White House to make an honest budget and stick to it. Worse yet, the surplus in Social Security collections is used to reduce the apparent deficit even though the surplus is supposed to be reserved for the benefit of workers who will retire in the next century. Since the government is borrowing from the surplus to meet military payrolls and other current expenses, the true annual deficit is still more than $200-billion. One of the more honest budget reform proposals calls for taking Social Security out of the mix and raising the Gramm-Rudman-Hollings targets accordingly.

But the law would still be essentially ineffectual for lack of a retroactive penalty. Suppose, however, that congressional and White House salaries had to be reduced by the same percentage by which the year's budget was overspent? Or better yet, how about an automatic compensating increase in the top marginal income tax rate?

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

AT HOME IN THIS CONTRA WAR

HON. EDWARD F. FEIGHAN
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. FEIGHAN. Mr. Speaker, in the recent debate on Nicaragua, we heard objections from some quarters that we were selling out the "freedom fighters" who remained the best hope for democracy in Central America. Up to the present day, there are those who insist on rehabilitating the international image of this CIA-financed, trained, and equipped force.

Recently, an article on Nicaragua was brought to my attention by Mr. Frank E. Gaul, the county treasurer for Cuyahoga County in my hometown of Cleveland. He is a long-time political and civic leader who is highly respected in our community. He joins a growing number of American citizens who are concerned about U.S. policy in the region.

The article was written by Ms. Moira Baker, a professor at Radford University, and published in Perspectives, the quarterly magazine published of Notre Dame University. Ms. Baker's experience adds to the growing number of reports of Contra attacks on civilians. I commend the following excerpts to my colleagues.

AT HOME IN THE CONTRA WAR

(By Moira Baker '82)

At 2 in the morning, our tiny house in Esteli, Nicaragua, shudders convulsively as a violent explosion sends slender strips of windowglass across my cot and onto the floor. The children in the next room begin to scream. From the streets I hear cries of "*Agua*!"

What's happening?

The Nicaraguan family with whom I'm living gather bowls, glasses and pots and run into the street. Rigoberto, the eldest living son, straps on his pistol before stumbling out the door. He is a civilian *miliciano* pledged to defend our *barrio*. From the noise in the street, I distinguish words and phrases—"*La torre*" . . . "*Los niños*" . . . "*Contras*."

Then gunfire. I am sick with terror.

The *Contras* are attacking the electrical tower that looms perilously close to a home for war orphans. The neighbors are hurrying with their bowls and pots to bleed the last drops of water from the pipes before the electrically generated pressure dies . . . . for how long, no one knows. This has happened before.

It is my second night in Nicaragua and already I begin to see the nature of the *Contra* war and the character of those troops my government calls "freedom fighters." We in Esteli were lucky this time: Only the children and I were terrorized. Milk, meat and ice cream spoiled in the merchants' lifeless coolers and the hospital's supply of blood was destroyed, but life itself is spared tonight in Esteli. And within 18 hours we have power, light and water again.

The civilians of Nicaragua do not always escape this easily the aggression waged against them. During two six-week visits to Nicaragua, I learned of so many other assaults on civilians by the *Contra* forces that I grew too weary to count them all. These were not statistics but human lives, those of my neighbors. Six times during my first week there, the cathedral bell called Esteli to mourn those fallen in the war. Some were soldiers, some children; one was a 17-year-old blown up by a U.S.-made Claymore mine as he returned from work on an agricultural cooperative. Towns with strange sounding names—Cusmapa, Quilali, Chontales, Jinotega, Mira Flor, San José de Bocay—haunt me at night when I think of the civilians massacred there.

In San José de Bocay, a 19-year-old pregnant woman and her 3-year-old son were machine-gunned by a Contra as his compaños stormed from hovel to hovel on the outskirts of a remote and pitiful army barracks—a feeble outpost hardly worth the trouble. The Contras mortared the town before they burst into houses, firing indiscriminately. They never got to the barracks. They never even tried. The American press, I read later, relied on releases from the Contras and the State Department to portray the action as a significant military victory. It demonstrated, the initial dispatches reported, the Contras' ability to attack and hold military targets within Nicaragua's interior.

During my second week in Nicaragua I visit a family which had struggled against the Somoza dictatorship during the 1979 revolution. The mother, Paula Ubeda, has given three sons—one in the insurrections before the revolution and two in the continuing struggle to defend the revolution against the Contras. Doña Paula prays for peace and is sustained by her faith as she and her family devote their lives to the poor who seek justice and freedom from oppression—the poor who constitute the majority in her country.

Doña Paula is not a Marxist-Leninist nor an atheist. She is one of many Christians who were instrumental in bringing the revolution to its triumph and who struggle now to defend it. She is among the 65 percent majority who voted for the Sandinist government in an election in which more than 70 percent of eligible voters cast a ballot.

Her sister-in-law, Digna, speaks of ways in which revolution has transformed their lives, such as the recent land reforms that enabled her family to own something for the first time. And she talks of the first time she and her husband went out to their new land and they were attacked and kidnapped by Contras. A neighbor had informed on them, charging they were cooperating with the government.

They were taken to a dark place and stripped, bound hand and foot, and kicked while they lay on the dirt floor. They were locked in the dark for many days, she thinks, although it was difficult to tell night from day. "After the first time, I would weep and scream whenever I heard them coming to the door," she says. "They would come in, four or five of them, and force themselves on me—all the time, continually. And my husband right there. And they would call him a Sandinista dog and tell him how much I enjoyed them."

* * * * *

Despite her fears, Reyna volunteers to do vigilance at the clinic in Jalapa. She carries a gun during her hours of watching. "I do not want to kill," she tells me, adding that in Nicaragua "health is for everyone." Reyna says she came to believe this when she was serving a rotation in Quilili amid some of the heaviest fighting of the war. "I have seen more combat than you can believe," she says. "I attend the wounded, just as many *Contras* as our own boys, even though the *Contras* alone are wicked to the *campesinos*. Health here in Nicaragua is for everyone."

Land in Nicaragua is for everyone too, I learned from my travels in the countryside. By 1985, more than 45,000 landless Nicaraguan families had received access to land on which to grow food for themselves. Nicaragua's land reform program, which has proved remarkably flexible and responsive to the demands of the people, is the cornerstone of its new economic concept—the mixed economy. The largest share of property, about 60 percent, lies in the hands of private owners, about 28 percent is cooperatively owned, and 12 percent is state-owned. Clearly, the goal of the Sandinistas has not been public ownership of the means of production; this is not a Marxist economy. The government guarantees the right to private property, yet requires that property be used productively for the benefit of society. Land tenure, in other words, carries an obligation, a social responsibility.

I saw the human impact of land reform when I visited the A.C. Sandino Cooperative in Mire Flor, where 10 families of landless peasants had organized themselves and requested land. They now own and work the land, sharing labor and production. When Victor Manuel Ruiz, the secretary of the cooperative, escorted my group across his fields, we were tense and edgy as we walked through a heavily foliaged section. The *Contras* had been spotted in the area and undoubtedly were keeping an eye on the coop. "They'd like to blow up our new electrical pump," Don Victor tells us.

A civilian *miliciano*, Don Victor carries his army-issue weapon, a battered AK-47 rifle that dangles from a rope strap. He walks at the rear of our single-file column and his eyes scan the hills around us; I stay as close to him as I can.

At the pump-house he turns on the irrigation system that has enabled growers to double production by freeing them from the mercy of the dry season. Giggling and chucking up clods of mud with their tiny bare feet, the children run through the water. Don Victor grabs his little son about the belly and lifts him up onto his shoulders. With the child clinging to his neck and his rifle hanging by his side, he brings us to the *comedor* where dinner awaits us.

"I never owned land before," he says. A tenant farmer, he was always in debt to the owner because he had to borrow to buy seeds, fertilizer and tools. As we wait for dinner, he stands framed by the doorway. Nursing their youngest child, his wife, Esperanza Chavarilla, sits by his side on the doorsill. His hand rests lightly on the nape of her neck and his little son fiddles with his father's pants leg. "We have a better life for our children now; we have a future," he tells us.

My eyes scan the hills behind the *comedor.*

I have learned what I know about Nicaragua from these people whose voices challenge everything my government believes, or says it believes, about their country. In opening their lives to a stranger, Nicaraguans have shown me their sufferings and hopes. When I think of them now, as my government seems determined to squeeze the life out of the fragile peace the Nicaraguan people are nurturing, I feel shame, just as I did on my second night in Esteli.

I am filled with rage and questions I cannot answer. I don't understand why my government is determined to destroy these people and the revolution for which they have already suffered so much anguish.

SUGAR PROGRAM REFORM—WINNERS AND LOSERS

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. SCHUETTE. Mr. Speaker, opponents of the U.S. sugar program often base their appeals for change on very limited versions of who wins and who loses. They describe the debate as consumers versus producers, or Caribbean Basin Initiative [CBI] versus U.S. growers. Let's look at the total picture under two scenarios.

By taking unilateral U.S. action to end the sugar program, the United States would be abandoning its level-playing field trading policy with regard to sugar and corn sweetener production. Consumers would be subject to violent price changes along with sugar and corn producers going out of business when the price drops dramatically. The world price would strengthen with the unilateral trade action, but countries such as Cuba, South Africa, Nicaragua, and the European Community [EC] would benefit the most because they currently do not export sugar to the United States.

More specifically, the result from this unilateral action by the United States would cause U.S. corn sweetener production to drop and sugar production would nearly disappear. The sugar industry would be destroyed and corn refiners crippled. That hurts industries like enzyme producers, equipment manufactures and transportation services. Jobs are lost, directly and among suppliers. Cane and beet farmers, by pure economics, shift to other crops such as corn. Thus, this causes corn surpluses to increase. Corn prices drop, increasing the cost of Federal crop support programs. Farmers not participating in crop support programs will earn less, and their reduced spending power hurts rural economies and farm suppliers.

Huge sugar-using corporations benefit from depressed U.S. sugar prices. But consumers see almost no savings, since they use sweeteners primarily as ingredients in processed products, and sugar prices contribute only fractions of a cent to the retail cost per unit of these products.

As U.S. production drops, imports jump, increasing the trade deficit. Although CBI nations ship more sugar to the United States, they don't get a reasonable price per pound. But as more CBI sugar goes to the United States, the EC faces less competition in world markets and spends less on subsidies to unload its surplus. That reduces the incentive to agree to or support multilateral reforms. The world retains its current pattern of artificial sugar regimes.

As subsidies end, grossly inefficient producers in Europe and elsewhere shift land and resources to more economically viable uses, reducing surpluses. Efficient CBI and Philippine industries get economically realistic world sugar prices. U.S. cane and beet producers compete on economic terms—and survive. Corn refiners, one of the most efficient producers, expand into markets from which they are currently barred. Corn usage increases, raising prices for American farmers, increasing U.S. exports and reducing farm program costs. Supplier industries and rural economies benefit from the growth.

Consumers and user industries in other countries, many now paying artificial prices for above U.S. levels, get lower prices, increasing the disposable funds they can apply to other purchases. The overall increase in free trade, conducted on economic terms, stimulates economic activity around the world and produces an inherently more viable world sugar economy.

Mr. Speaker, I urge my fellow colleagues to consider the importance of this issue. I trust they will conclude, as I have, that self-serving appeals for short-term, unilateral reforms of the U.S. sugar program are not in the long-term interest of the United States economy, the Caribbean and Philippine economies, or the world sugar economy.

MR. DEMOCRAT

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. JACOBS. Mr. Speaker, I place in the RECORD this editorial from the Indianapolis Star.

An historic landmark has moved from Indianapolis to heaven.

[From the Indianapolis Star, Oct. 12, 1989]

"MR. DEMOCRAT"

If being colorful had been the only ticket to high political office, James F. Cunningham would have been mayor of Indianapolis at the very least, for he had the verve and flair and look and ways that spell victory in politics.

He was tall and imposing, with black wavy hair that turned iron-gray in his later years. He walked fast. He talked persuasively. He remembered names and events and could tell 1,001 stories or more.

Lifelong resident of Indianapolis, he spent two years at the University of Notre Dame. Baptized into Democratic Party politics in 1922 as a clerk at a polling place, he was elected Center Township assessor in 1934 and kept running for the office and winning over and over, serving in all 36 years. He also won one two-year term, in 1948, as Marion County sheriff.

But it was as a kingmaker that he excelled. He lived and breathed politics. Political observers likened him to Frank Skeffington, the crafty, lovable mayor of Boston in the novel, "The Last Hurrah." Up-and-comers sought him out. A word from him could mean nomination.

"Mr. Democrat" was 87 when he died Monday—one of the last of a vanishing breed who brought a special brand of zest to the great game of politics.

HOPE FADING FOR FINDING A SOLUTION TO THE CYPRUS PROBLEM

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. BROOMFIELD. Mr. Speaker, last week, members of the House Foreign Affairs Committee met with the leader of the Turkish Cypriot community, Mr. Rauf Denktash. Mr. Denktash discussed the aspirations of the Turkish Cypriots for the future of Cyprus.

Committee members frankly expressed their deep concerns and real frustrations about the 15-year illegal occupation of the northern tier of that sovereign island and the recent setback in the intercommunal talks concerning that divided country. I understand that President Vassiliou made major concessions concerning Cyprus during this year's negotiations and was willing to work with the United Nation's draft outline that was designed to serve as a guide for future talks. Unfortunately, Mr. Denktash reportedly rejected the Secretary General's draft outline. At this point, I can only hope that the talks will continue in the future.

I found Mr. Denktask to be uncompromising and wedded to the view that he is content with the status quo on Cyprus and is essentially unwilling to make any major changes to the present arrangement on that island. I can assure him that the United States Congress and the American people will not accept the present status of Cyprus which has cruelly split that lovely island and created tensions between two NATO allies.

In discussing the issues, Mr. Denktash repeatedly returns to the events of 1963 when Archbishop Makarios sought to amend the Cypriot Constitution. However instructive history may be, there are new realities affecting Cyprus today, and it is in this milieu that agreements between the two sides must be reached. Greek Cypriots have a new leader in George Vassiliou, a man who is sincere in his desire to energetically work for a new arrangement between the Greek and Turkish communities. To focus on the past without acknowledging the changes that have taken place is, I believe, not helpful in trying to break the diplomatic stalemate and arrive at real peace.

For example, Mr. Denktash rejects the possible withdrawal of the 30,000 Turkish troops from Cyprus as a major step in moving toward peace. Part of the new realities affecting Cyprus are that there has not been a major violent military incident for about the past 15 years. Both sides to the dispute have stated that they want to find a negotiated settlement to the Cyprus dilemma. Despite these facts, Turkish units, armed with United States-supplied equipment, continue to occupy northern Cyprus.

Mr. Speaker, I have followed the problems regarding Cyprus for many years, and have found it to be an extremely frustrating situation. I have been a strong supporter of maintaining the 7:10 ratio in the amount of military aid the United States provides to Greece and Turkey, respectively, in an effort to convince

Turkey to finally withdraw its troops from Cyprus. In an age when peace appears to be breaking out all over, Turkey, a close NATO ally, continues to forcibly occupy part of a sovereign country in clear defiance of the concerns of the United States Government, the United Nations, and European states. It appears that our Government might have more influence over Communist states and the Third World countries than we do over an old friend and partner in the defense of NATO's southern flank. I believe the removal of the Turkish troops remains the key element in resolving the Cyprus situation and hope that it will be accomplished soon.

We are at an important point in the talks between Mr. Vassiliou and Mr. Denktash. Failure of these talks could lead to growing tensions between Greek and Turkish Cypriots and a worsening of the relationship between our two NATO allies, Greece and Turkey. I am running out of patience with Turkish Cypriot foot-dragging on this critical issue. It may be time to turn up the heat if we are to find a settlement to the longstanding Cyprus problem. Before it is necessary to take that step, however, I would hope that the new realities affecting Greece, Cyprus, and Turkey are fully understood by those who are involved in seeking a solution. Only with that understanding can we really hope to see a long-term settlement to the Cyprus problem, and the end to the 15-year-old occupation of the northern sector of that once united island.

TRIBUTE TO THE NATIONAL COLLEGIATE ALCOHOL AWARENESS WEEK

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the sixth annual National Collegiate Alcohol Awareness Week being held on the campus of Youngstown State University. The program is cosponsored this week by the substance abuse awareness and support group, the substance abuse services, and the student government of Youngstown State.

The week of October 15–21 has been designated as National Collegiate Alcohol Awareness Week. NCAAW will focus on many objectives, including raising the consciousness concerning alcohol and drug misuse on college campuses, stressing the need for effective prevention programs, highlighting the existing programs and encouraging other schools to adopt similar programs, and focusing the attention on different facets of the problem by scheduling special lectures, presenting displays, and performing other relevant activities.

The cosponsors of this conscious-raising event are three different organizations on campus, each group pursuing different means to achieve the same end. The substance abuse awareness and support group strives to provide support for recovering chemically dependent people. The organization has been active for 3 years and has sponsored NCAAW for 3 consecutive years. The SAA&SG provides support for individuals going through recovery by making available different social and educational alternatives. They have established a lounge for the purpose of providing a place where recovering addicts are able to meet together.

The substance abuse service is also a major contributor to fighting chemical dependence. They supply educational material through various lectures and pamphlets. The substance abuse service also provides various counseling and referral opportunities for those seeking assistance. Lastly, the student government, an important provider of funds for the chemically dependent programs. They give their wholehearted support through their valuable resources. All members of these organizations are actively involved in volunteering in the 12-step programs to prevent drug abuse or aid substance abusers.

Mr. Speaker, I would like to take this opportunity to acknowledge the tremendous contributions Youngstown State University has provided for chemical dependents in honoring National Collegiate Alcohol Awareness Week. The program's success stems from the understanding and compassion the students and faculty at the university have for other people's problems. We are deeply indebted to them for their dedication and compassion for others. I am honored to represent these outstanding individuals.

SAPELYAK PERSECUTED BY SOVIETS IN BETRAYAL OF GLASNOST

HON. BILL PAXON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. PAXON. Mr. Speaker, I rise today to call attention to yet another case in which the Soviet Union has betrayed its own policy of glasnost or openness. Despite the current euphoria over the pace of reform allegedly occurring within the Soviet Union, human rights abuses continue. The case of Ukrainian poet Stepan Sapelyak is an egregious example.

Sapelyak, a voice for Ukrainian freedom and independence, was recently drafted by the Soviet Army and told he was to begin a 3-month assignment cleaning up the No. 4 block at the Chernobyl nuclear powerplant. This incident is the latest in a series of harassments inflicted on Sapelyak since 1973. This cunning new approach to silence his message makes a mockery of the changes so highly publicized by Soviet President Mikhail Gorbachev.

The persecution of Stepan Sapelyak began 16 years ago when he was arrested and sentenced to 10 years imprisonment and exile for "writing tendentious and nationalistic poems which go against the Soviet and sociopolitical order of the U.S.S.R." and for "anti-Soviet agitation and propaganda." He served his sentence in the Perm 36 camp and Vladimir prison, and his exile was to Kolyma and Khabarovsk.

Apparently, Sapelyak did not learn his lesson during his 10 years of imprisonment and exile, because his persecution resumed following a spring 1989 visit to the United States and Canada.

For instance, on July 21 of this year, First Secretary V.P. Mysnychenko of the Communist Party publicly attacked Sapelyak in his address to the party plenum.

In the July 23 issue of "Socialistychnaya Kharkivshchyna," Sapelyak was described as an agitator and the head of an extremist group.

On July 26 authorities at Moscow's Sheremetovo Airport notified Sapelyak that they confiscated all the materials he acquired during his trip to the West.

Then on August 6, as Sapelyak addressed the 10,000 participants of an ecological demonstration organized by the Ukrainian Helsinki Union, police switched off his microphone. Sapelyak was attacked by 10 members of the special police who twisted his arms behind his back and injected him with an immobilizing agent.

Most recently, on August 18, he was summoned to the Lenin Regional Military Commissariat in Kharkiv where he was told that on August 22 he would begin his tour at Chernobyl.

Sapelyak claims that the action by the Army is being conducted in conjunction with the efforts of the local militia and KGB as a way to get him out of Kharkiv so that he could not participate as a candidate in the local elections scheduled for this fall.

Mr. Speaker, let us not forget, even in this age of glasnost, that the deplorable history of human rights violations in the Soviet Union is not yet over. As events in Poland and Hungary, turmoil in the Baltic States, and upheavel in Armenia and Azerbaijan all challenge President Gorbachev and his reforms, we must remain resolute and vigilant in our solicitude for the rights of those struggling for freedom.

We must not let the case of Stepan Sapelyak go unnoticed. Mr. Speaker, it must be known by President Gorbachev that the U.S. House of Representatives will neither tolerate nor forget the persecution of Stepan Sapelyak.

ONE YEAR AFTER PASSAGE OF LAW CREATING THE OFFICE OF INSPECTOR GENERAL AT THE DEPARTMENT OF JUSTICE: STILL NO INSPECTOR GENERAL

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. WISE. Mr. Speaker, a year ago, Congress enacted and the President signed a law creating the Office of the Inspector General at the Department of Justice. Today, there is one candle on the birthday cake, but no one to blow it out. Although the law became effective 6 months ago, the administration has yet to select someone to fill the position.

A fact sheet from the General Accounting Office shows that the IG's Office exists and is functioning. For that, I commend the Department. But, an office with no permanent leader represents a false start, and it is well past

time that President Bush should fill the position.

Justice says that it is conducting interviews, but has found no one qualified to take the job. Maybe the Department is not looking in the right places. No recruiters have been over to the General Accounting Office or to other Offices of Inspectors General where there are many experienced people.

Or, maybe Justice is putting too many restrictions on the job, and no one wants it.

Whatever the reasons, the American public, Congress, and the Attorney General are being cheated. The American public and Congress are cheated because we do not have an independent IG to identify waste, fraud and abuse in this $6.4 billion Department. The Attorney General is cheated because he does not have someone to cut through the traditional layers of the bureaucracy and give him an independent assessment of the problems in his Department.

Every day, important decisions are being made that will shape the effectiveness of the Justice Department's Inspector General for years to come. Unfortunately, it is not the new IG who is making those decisions, rather, it is an Acting Inspector General who is also a long time insider from the Department of Justice.

First, there are decisions about the staff to be hired. The people at the Senior Executive Service level set the tone for the Office, and the line investigators and auditors do the detailed work. Will people throughout the ranks be aggressive, experienced, independent, hard hitting, and unafraid to challenge the formidable "powers that be" at the Department, or will they be a reflection of business as usual?

Then, there is the overall tone that is set in the Office. A good Inspector General's staff will not be liked by the Department. IG's find things that are wrong. They criticize people. In the face of certain antipathy, there must be a permanent IG to establish a strong, supportive "esprit d' corps." No acting IG, regardless of how good, can be expected to build that spirit when everyone thinks he will be gone momentarily.

There are also all the detailed decisions of running an Inspector General's Office. Procedures governing how investigations and audits are to be conducted must be established, and manuals written. Decisions must be made regarding how and when to use administrative subpoenas, and the circumstances under which to issue seven day reports to Congress.

Audit and investigative plans must be developed. Will those plans reflect the independent mindedness of a statutory IG, or will they be more of the same audits which have been conducted over the past years? In the 6 months that the Office has been in place, 13 internal audits have been completed. Is this area getting the attention that it needs?

How will reports be written? Will they be clear, concise, interesting, understandable and include all of the important facts, including the embarrassing ones? Or, will they be sanitized, difficult to read, and leave everyone wondering whether or not there is a problem?

How will information be provided to the public and to Congress?

What kind of rewards system, both formal and informal, will be established?

Important relationships have to be worked out, both within the Department and with other investigative bodies. The Inspector General also needs to establish a working relationship with key committees in Congress.

Nothing is irreversible, but as time goes on, and a way of doing business becomes more established, it will be harder and harder to change. If we have learned nothing else from the disclosures surrounding the Department of Housing, Urban and Development, it is the importance of an Inspector General. In fact, last year, Inspectors General were credited with the recovery of over $21 billion in Federal funds, 4,298 successful prosecutions, and 2,481 debarment and suspension actions against persons or firms doing business with the Government.

There is a lot of work to be done, and it is time to get serious about it. It is somewhat ironic that the investigative arm of the executive branch is unable to get organized fully to investigate itself.

IN RECOGNITION OF 144TH FIGHTER INTERCEPTOR WING, FRESNO, CA

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. LEHMAN of California. Mr. Speaker, I am pleased to announce that the 144th Fighter Interceptor Wing, located in Fresno, CA, was recently awarded the Distinguished Flying Unit Plaque for 1989. The plaque was presented to the wing on September 21–23 at the 112th Annual Conference of the National Guard Association of the United States held in Detroit, MI. The 144th was one of the five flying units to receive the plaque from among 91 potential contenders.

The Distinguished Flying Unit Plaque signifies meritorious achievement in mishap prevention. The Air Force studies the flying safety achievement, higher headquarters inspections, as well as the exercises/deployments of the flying unit. The Air Force awards those flying units that excel in these categories.

I am pleased to mention that the 144th Fighter Interceptor Wing, in Fresno has an excellent history of mishap prevention. Since 1985, the 144th received two Air Force outstanding unit awards, a Tactical Air Command and Safety Plaque, in addition to an Air Force and Air National Guard Safety Plaque. I am proud of the achievements of the 144th Fighter Interceptor Wing in Fresno, CA, and commend their outstanding performance.

THE HUD SCANDAL

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 18, 1989, into the CONGRESSIONAL RECORD.

THE HUD SCANDAL

The unfolding story of abuses at the Department of Housing and Urban Development (HUD) during the 1980s is disheartening. Waste, fraud, and mismanagement plagued half of HUD's more than fifty programs. The scandal is largely the result of a lack of scrutiny and a willingness to overlook clear signals of abuse. The real scandal, though, is that the housing needs of millions of people were slighted.

HUD operates a variety of programs, ranging from mortgage guarantees for first-time homeowners to certificates given to low-income families to help them rent adequate living space. Pork barrel politics has been a part of HUD's operation in every administration, and it has had more than its share of problems since its creation in 1965. HUD's ostensible constituency, people who need low-income housing, are powerless and nearly invisible. The actual constituency, affluent developers and politicians, often use HUD grants for personal or political gain. What is different about the problems occurring during the Reagan Administration is the unprecedented size of the looting. Taxpayers will lose at least $7 billion because of recent HUD abuses.

Poor management is the most widely cited source of the problems. President Reagan paid virtually no attention to this huge department; neither did HUD Secretary Samuel Pierce. Pierce, the only Cabinet member to serve in the same post during all eight years of the Reagan presidency, was known for his hands-off management style. Apparently, the immediate staff under Secretary Pierce was not able to handle the additional responsibility he placed on them. HUD was a dumping ground for young staffers who had played minor roles in the Reagan presidential campaigns. Few appointed HUD officials had an extensive background in housing policy.

Indifference by many Administration officials toward housing programs worsened the problems created by poor management. The HUD crisis is a sorry, squalid record compiled by those who insisted all along that they were fighting waste, fraud, and abuse in government. Many HUD officials were more interested in politics and rewarding friends with lucrative contracts than with good management and housing programs for the poor. From 1980 to 1988, spending authority for HUD was cut from $36 billion to $15 billion. The reduced funding increased competition for federal housing money and fueled influence peddling for hard-to-get money. A variety of lobbyists—including former Interior Secretary James Watt, the Florida GOP Chairman, and several former HUD officials—made tremendous sums of money by exploiting their connections to win building contracts for wealthy developers. HUD officials obligingly created grant projects, or altered the specifics of existing programs, to fit the needs of their friends.

Coupled with the increased political orientation of HUD was a decrease in the number of officials responsible for oversight activities. Faced with a declining budget, HUD officials slashed the number of accountants and auditors. Even when the smaller oversight staff did detect mismanagement, its warnings were ignored. The HUD Inspector General, for example, repeatedly warned Secretary Pierce and other officials about many of the illicit activities.

The Congress shares the blame for failed oversight. It failed to monitor HUD programs closely and held almost no oversight hearings. The committees charged with overseeing HUD concentrated on new housing initiatives instead of the growing signs of mismanagement and abuse. Members of Congress often were more interested in construction projects for their constituents than in ensuring proper management of HUD. Further, in 1984, the Congress waived requirements that HUD funding be allocated to each state and on a needs basis. Intended to streamline agency decisionmaking, the change allowed HUD officials greater leeway to make awards based on political contacts.

Economic difficulties, especially in the South and Southwest, also played a role in HUD's demise. HUD guarantees, insures, and supports millions of mortgages across the country for first-time and lower-income families who want to purchase homes. Regional economic difficulties resulted in a large number of mortgage failures, increasing the financial obligations of HUD to meet the mortgage guarantees.

The Congress and the new HUD Secretary, Jack Kemp, have acted in response to the crisis. House and Senate committees charged with overseeing housing programs have conducted extensive hearings and more are planned. One difficulty faced by the committees is that Secretary Pierce and three of his top former assistants have cited the Fifth Amendment against self-incrimination, as is their right. Yet Secretary Pierce owes the people an account of his stewardship, and the Congress should keep the pressure on him. Secretary Kemp has pledged to clean up the mess he inherited, and the Justice Department, at the urging of the Congress, has begun a national investigation of HUD abuses.

How to prevent these events from happening again is not an easy question. There are no laws against greed and hypocrisy. Several proposals have been put forward in an attempt to improve the current situation: strengthening the power of the HUD Inspector General to investigate HUD's internal workings; awarding grants based on need alone, to eliminate discretionary decision-making; requiring a more rigid review of HUD mortgage loan recipients and lenders; limiting the use of lobbyists and consultants in awarding contracts; and providing assistance directly to the poor—rather than to developers—through rental assistance and vouchers. Secretary Kemp also has proposed several changes, including publishing all HUD funding decisions in the Federal Register and providing the HUD Secretary with more power to penalize graft.

The worst part of the HUD scandal is that billions of dollars meant for poor people were wasted. With proper diligence, the previous mistakes can be overcome. Then the federal government can return to a more important goal: providing housing to Americans.

NATIONAL 4-H WEEK

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. NATCHER. Mr. Speaker, it is a pleasure to again recognize the members of 4-H as they celebrate National 4-H Week in October. 4-H is the only youth program that combines county, State, and Federal Governments as a support base. It is administered through the U.S. Department of Agriculture and the Cooperative Extension Service and combines the cooperative efforts of local volunteers and support from businesses in the private sector with the work of Federal, State and local extension staffs. The mission of 4-H is to help young people become self-directing, productive and contributing members of society.

Participation in 4-H is open to all youth between the ages of 9 and 19. By selecting from over 100 projects areas, 4-H'ers not only learn practical skills, but also develop sound judgment, a sense of responsibility and individual motive for future career choices or later educational pursuits.

Volunteers are essential to the success of the 4-H program and last year 640,198 4-H volunteers worked directly and indirectly with youth—500,264 adult leaders and 139,834 junior and teen leaders. Kentucky is one of the leaders, with 28,139 volunteers.

Individual members enroll in one or more organized projects each year. Kentucky ranks first in project enrollment in mechanical science (12,414), energy (11,269) and health (12,257); second in plant science and crops (16,512), citizenship and community development (6,248) and economics, jobs and careers (2,170); and third in family resource management (9,893).

4-H'ers in the Second Congressional District of Kentucky, which I have the privilege of representing in the U.S. Congress, continued to achieve high honors. Two of the Kentucky State offices are from the Second District—Joe Spalding (Washington County), president and Jason Heath (LaRue County), treasurer. Bill Corum (Breckinridge County) has been elected president of the Friends of Kentucky 4-H and Linda Jeffiers (Spencer County) has been elected secretary. Keith Rogers (Hardin County) is president of the Kentucky 4-H Leadership Council.

The 4-H conference was held in June in Lexington with the theme "4-H: It's Yours" and provided delegates with personal and leadership development experiences, as well as an opportunity to elect State 4-H officers and participate in the State 4-H fashion show.

Russell Lemons (Hardin County) and Diane Cowles (Warren County) were honored as State winners in the Conrad Feltner 4-H Leadership Recognition Program and Jennifer Dowell (Hardin County) and Renee Poskin (Hardin County) had supreme grand champion market animals at the Kentucky State Fair.

Greg Swack (Warren County), Corley Lamkin (Meade County), Ernie Stith (Meade County, Rebecca Rasdall (Warren County), Theresa Boswell (Nelson County), Alice Dickerson (Nelson County), Duane Blandford (Daviess County), Renee Williams (Meade County), Tonya Basinger (Hancock County), Christina Hogue (Barren County), Michael Rock (LaRue County), and Anita Barnett (Daviess County) are winners in the State project records competition and will compete at the National 4-H Congress in Chicago.

Michelle Cowles (Warren County) participated in the International Youth Exchange Program, visiting and studying in New Zealand, and 21, 4-H'ers from the Second Congressional District participated in the 4-H American Heritage Conference in Washington, DC. They were part of a group of 190 young people learning more about Government and citizenship through "onsite" experiences.

I would like to commend all of the 4-H members and volunteers for their past dedication and achievements, and I wish them continued success in their future endeavors.

HONORING MIKE PHILLIPS AND JOHN MAVROMATIS OF WESTFIELD, MA

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. CONTE. Mr. Speaker, I rise today to pay tribute to Mike Phillips and John Mavromatis who have been the keepers of a historic tavern in my district for many years. The Foster House, located on North Elm Street in Westfield, MA, is listed in the Western Hampden Historical Society register as one of the oldest hotels in continuous operation in Hampden County. Built in 1843, the Foster House has traditionally been the center of social and political affairs in Westfield, one of the largest cities in western Massachusetts. Throughout the years, it has hosted the likes of Celtic great Bob Cousy, Notre Dame great and sportswriter Ray Fitzgerald, and Senator TED KENNEDY to name just a few.

In fact, my own introduction to the politics of the Whip City came at the Foster House on Patriot's Day in 1958 when I was campaigning for my congressional seat for the first time. On that April day, Mike Phillips and I sat and shared our views about politics, and since that meeting we've remained good friends. Mike and his "head chef" John Mavromatis have always gone out of their way to make me feel at home when I've visited their place. It's been a favorite stop on many a pass through Westfield.

The Phillips name is a well-respected one in Westfield. Mike's father, George, took over the ownership and operation of the Foster House in the early 1920's, where Mike was born in 1928. He grew up in that building and started out in the family business washing dishes at the age of 13. Mike was educated in the Westfield public shools and has dedicated his life to community service. A veteran of the Korean war, a generous contributor to various charities and an avid supporter of local athletic teams, he has earned himself an enormous amount of popularity with the people of Westfield.

And the same is true of John Mavromatis. Born and raised in Westfield, John is also a veteran of the Korean war. In 1973, he became "head chef" at the Foster House, and his personal touch has been evident in the quality of the food and service for these last 16 years. He's been a friend to me and to countless others who have visited the warm confines of the Foster House throughout the years.

Mr. Speaker, on October 30, 1989, the friends of the Foster House will hold "A Tribute to the Past: for two left-handed Greeks

who were always right," Mike Phillips and John Mavromatis. And as they prepare for retirement, I'd like to thank them both for their many years of community service, and wish them the very best life has to offer.

BUSH ADMINISTRATION SHOULD PUT INTERESTS OF NATION AHEAD OF POLITICS AND ACCEPT BIPARTISAN COMPROMISE

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. COLEMAN of Texas. Mr. Speaker, yesterday was day one of the imposition of the indiscriminate, across-the-board cuts under the Gramm-Rudman deficit reduction process. It is testimony to the inability of some of our Nation's leaders to put our fiscal house in order, and nowhere does this responsibility fall more heavily than on President Bush and his top budget adviser, Richard Darman.

The American people should never have had to face this kind of fiscal uncertainty. The Bush administration's insistence on including a capital gains tax cut in the budget reconciliation bill took us over the brink of the automatic cuts, and it appears to be in no hurry to resolve the crisis.

Republican and Democratic leaders in the Senate agreed last weekend to support a clean bill, one that was free of nonbudget related provisions such as the capital gains tax cut. But now the ball is in the Bush administration's court. They turned down the first bipartisan agreement in order to score political points. Let's hope they put the interests of the Nation as a whole first this time.

Despite the optimism produced by the weekend agreement in the Senate, House Republicans continue to be the major roadblock to avoiding sequestration. The Wall Street Journal reported yesterday that as bad as the automatic cuts might be, House Republicans are still clinging to the capital gains tax cut, which benefits their wealthy constituencies. The Journal reported the comments of minority ROBERT MICHEL, who said the House Republicans "* * * * don't want [the extraneous provisions] to die."

In contrast, Speaker of the House THOMAS FOLEY stated that he would try to push the House to follow the Senate's lead and strip from the budget bill all provisions that stand in the way of achieving a clean bill and thus removing the automatic cuts. While important in their own right, these provisions, which include the capital gains tax cut, the new aid for child care, and repeal of catastrophic health care, were defeated in the Senate during consideration of the reconciliation bill.

I will support speedy and fair consideration of all of these most important issues, but for now we must make sure that we fulfill owr responsibility to govern. We were not sent here to create mechanisms to make our choices for us. We were sent here to make the tough choices this Nation needs to lead us into the next decade and beyond. A $16 billion meat-ax approach is most certainly not what the American people had in mind, and we must redouble our efforts to reduce the budget deficit to the Gramm-Rudman targets as required by law.

Without leadership from the White House, however, all of our efforts will have been in vain. Is the President willing to give up some of his special-interest provisions in the budget reconciliation bill in favor of the greater good of the Nation? Republicans and Democrats in the Senate are willing to do so. The House leadership is willing to do so. The ball is in the President's court, and I hope he changes his mind to make the score "advantage—the Nation."

CONGRATULATIONS TO THE AMERICAN INDIAN CLINIC

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. DYMALLY. Mr. Speaker, I rise today to pay tribute to Joan Freeman and the American Indian Clinic, located in my district in Compton, CA, in celebration of its 20th anniversary on October 27, 1989. This anniversary will focus on increasing awarness about the AIDS epidemic.

The American Indian Clinic has been in operation since 1969. This vital clinic was established with the assistance of a number of native American and other minority groups who helped the American Indian Clinic founders in the renovation of the Grace Baptist Church in Compton, assembled needed medical equipment, and qualified professional staff, necessary to meet the health needs of a low-income population.

After 4 years of serving a steadly increasing patient workload, the clinic moved to its present, larger location, where it has the ability to diversify its services in its response to the community's needs. Although the primary function of the American Indian Clinic is to assist persons of American Indian heritage, throughout its 20-year history of service, the clinic offered its services to anyone requesting help.

The elected board of directors and clinic administrators are all American Indians, representing tribes from all over the United States.

The purpose of the clinic is to serve the Indian people and the neighboring community with the best quality service and comprehensive health care programs. These programs include prenatal care, child care, immunization, and chronic disease treatment. The clinic also provides medical supervision for illnesses such as diabetes, eye care, hypertension, alcoholism, dental care, and mental health education.

Executive Director Joan Freeman and the American Indian Clinic has long been a source of inspiration, vision and pride for all of us.

I wish them sincere congratulations and best wishes for continued success in serving the health needs of American Indians and all community residents.

TRIBUTE TO AN OUTSTANDING INDIVIDUAL, DAVE DRAVECKY

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. HUNTER. Mr. Speaker, today I would like to pay tribute to an outstanding individual, Dave Dravecky.

In San Diego on November 1 and 2, Dave will be telling his incredible story of his battle with cancer and his spirited return to big league pitching to hundreds of San Diego's businessmen and Youth for Christ supporters. San Diego Youth for Christ is hosting this event to pay tribute to the outstanding faith and courage that Dave Dravecky has shown throughout the past year. Dave's tremendous courage and determination make him an outstanding individual and an American hero.

While pitching for the San Francisco Giants, a lump on his pitching arm was diagnosed as cancerous. Faced with this incredible obstacle, Dave had to go through a very long and painful operation to have the tumor removed. Nearly half of his deltoid muscle was removed during the operation. He was told that there was very little hope he would ever pitch again, but he refused to give up and turned to his faith in God to face the struggle of rehabilitation. Just 10 months later, his prayers were answered, and it seemed as if all the pain and effort had been worth it. After a 20-day rehabilitation in the minor leagues, Dave reentered the major league.

Dave and the Giants won that first game 4–3. In the stands sat 6-year-old Alex Vlahos of Hillsborough, CA. Alex suffers from leukemia and needed suitable bone marrow transplants to survive. Dravecky and San Francisco radio station KNBR raised thousands of dollars from pledges for each pitch. Dave managed to use his triumphant return to help Alex and children like him to find suitable bone-marrow donors.

Just 5 days after his comeback victory for the San Francisco Giants, and six innings into his second, the arm gave out, breaking as he released a fastball. Although he had been warned that his arm was weakened by the surgery, he loved the game too much to quit. Despite the break, doctors feel optimistic that the bone will heal and become stronger than it had been following the cancer surgery. At a news conference following the break, Dravecky was asked if he thought he would pitch in the majors again. He said, "Only God can answer that question. But I hope so." Even if he doesn't return to baseball, Dave Dravecky's career will go down in baseball history and his faith will inspire others.

TRIBUTE TO MS. JOANNE COWLES

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mrs. KENNELLY. Mr. Speaker, I rise today to pay tribute to an outstanding individual; an

individual who deserves to be recognized for her devoted service to the public. Ms. JoAnne Cowles of Granby will be retiring from Government work after 28 years of dedicated service.

A lifelong resident of Connecticut, JoAnne began her public service career in 1961 with the U.S. Department of Housing, Education, and Welfare. From HEW she worked with various other Federal agencies until accepting her current position as congressional liaison for the Hartford Immigration and Naturalization Service.

As the contact person for congressional affairs, JoAnne's help has been immeasurable. On numerous occasions, she has guided and assisted my office through immigration trouble spots. Her dedicated commitment to Government service made working with the Hartford Immigration Service a genuine pleasure. Her excellent service to my constituents will be sorely missed.

Mr. Speaker, I, and all who have had the privilege of working with JoAnne hold her in the highest regard. She gave of herself totally and set an example for all to emulate. I take great pride in saluting Ms. Cowles, and ask that my colleagues join me in wishing her the best in retirement.

A TRIBUTE TO SAMUEL RAPPAPORT

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. FOGLIETTA. Mr. Speaker, I rise in honor of Samuel Rappaport, a man who is known to many people and organizations serving the needs of Philadelphia and the American people. When there is human need or community service demanding attention, Sam Rappaport is there to help. His concern, dedication, enthusiasm, and efforts consistently inspire others to become involved for the common good.

Sam is a real estate developer, who from humble beginnings built a business network that today extends far beyond his company headquarters in Philadelphia. He was born in New York of poor immigrant parents, who instilled in him the Jewish tradition of sharing with those even less fortunate than themselves.

Sam's dedication to helping others has evidenced itself both in community service in the United States and in his contributions to the State of Israel. Sam's parents lost 14 members of their families in the Holocaust. Forty-one members of his wife Rita's family perished, leaving only Rita and her mother as survivors. These tragic events gave Sam a personal vision of the need for Israel.

In the early 1950's, Sam settled in Philadelphia. His interest in Jewish affairs and concern for the well-being of the infant State of Israel gathered intensity in the years to follow. Bit by bit, he built his highly successful business organization. With each success in business, he steadily increased his participation in and support for his community's and Israel's human needs and economic development.

Recognized and respected as a financial investor, Sam has focused worldwide attention on Israel's economic development by his own example. Sam was among the first Jewish leaders in Philadelphia to purchase a $1 million note in 1982. By the end of 1988, he was established as the world's largest single investor in Israel Bonds.

At the Bonds Leadership Conference this year in Jerusalem, Sam founded the "The 1% Club," whose members agree to purchase 1 percent of the year's total bond sales. The 1989 goal was set at $750 million. Though he is national chairman of the club—and the sole member to date—he has already increased his commitment from $7.5 to $9 million, which includes a special $500,000 bond purchase designated for the Soviet resettlement in Israel program which he chairs in Philadelphia.

Over the years, Sam has provided to support to a huge range of charities for people of all faiths. He has chaired and cochaired numerous campaigns and tribute events designed to raise funds for institutions and special projects. Samuel Rappaport, without question, is "in deed" an extraordinary man.

TRIBUTE TO MARGUERITE BEAUBIEN

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. MACHTLEY. Mr. Speaker, Today I rise to pay tribute to Marguerite Beaubien for her leadership and dedication to the State of Rhode Island.

Marguerite devoted 40 years of her life to her State. She began her career as a social worker and quickly rose to coordinator for community relations and equal opportunity at the State's Human Service Agency. From 1978 to 1980 she served as secretary of the National Association of Commissions for Women. In 1983 she was appointed to the Rhode Island Commission for Human Rights and became its chairwoman in 1987.

Marguerite's work with women's rights, minorities, the poor, the elderly and people with disabilities is a testament to her inner strength and love for her fellow citizens. I wish her the best and would like to thank her for her selfless devotion to her State and her Nation.

TENTH ANNIVERSARY OF THE MILLER BREWING CO. IN ALBANY, GA

HON. CHARLES HATCHER

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. HATCHER. Mr. Speaker, I rise today in celebration of the 10-year anniversary of the Miller Brewing Co. in Albany, GA.

The Albany brewery began commercial production in November 1979, and since that time it has become one of the economic anchors of my district in southwest Georgia. The brewery has an annual economic impact of more than $300 million in Georgia in terms of salaries, wages, material purchases, and other production costs. The Albany site also contains a wastewater treatment plant with a daily capacity of 6.1 million gallons.

The Albany brewery has distinguished itself as one of the most productive and efficient plants in the Miller family by producing about 6.5 million barrels of beer annually. While employing almost 1,000 workers, it is also the safest brewery in the United States, establishing a record of 1.6 million hours worked without a lost-time injury.

The Albany brewery is not only a key factor in the area's economy. It is also a good neighbor. The plant is a very active and supportive member of the community, often filling the needs of local and State charitable organizations. In fact, last year the brewery spent $263,000 sponsoring local events. However, the company does not only aid the community monetarily but also with volunteers. Employees are encouraged to be active and involved citizens and to participate in community activities such as blood drives and service programs.

I am pleased that the Miller Brewing Co. decided over a decade ago to locate in my district. The success of the plant can largely be attributed to the commitment the company made to Albany and her citizens. The fine management team and dedicated work force guarantees that the brewery will continue to prosper and grow and that southwest Georgia will reap the many benefits.

CONSUMER AWARENESS AND TRADEMARK PROTECTION ACT OF 1989

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. CARDIN. Mr. Speaker, today I am introducing the Consumer Awareness and Trademark Protection Act of 1989 along with 13 of my colleagues. This bill, along with legislation introduced in the Senate by Senator HATCH, will clarify our trademark laws to put a stop to the gray market.

The gray market involves the importation and sale in the United States of goods intended for sale abroad. These goods bear trademarks that are identical or substantially similar to trademarks owned by U.S. trademark owners. Though properly applied for the market in which they are intended for sale, these goods are imported into the United States without the authorization of the U.S. trademark owner.

Because gray market goods are intended for sale abroad, they commonly differ from their U.S. counterparts, creating confusion and misleading consumers. Gray market goods substitute U.S. exports with imports, costing American workers jobs, and they contribute to our growing concerns about the trade deficit and the state of U.S. manufacturing. Gray marketeers undercut U.S. trademark owners' efforts to assure quality and consistency, permit the free ride on the U.S. trademark owners' promotional, research and development, and other expenditures, and seriously damage individual trademarks as well as the

integrity of our U.S. trademark system as a whole.

Consumers worried about the deception and confusion caused by the gray market have expressed their concerns to me. The National Consumers League, an 88-year old consumer organization, has written asking for help. They state that:

[We want] to resolve what we believe to be a serious national problem—the importation of "gray market" products. . . . Our major concern is that many of these products threaten the health and safety of the American consumer. . . . Gray market imported foods, pharmaceuticals, and cosmetics can pose serious safety hazards.

U.S. labor is concerned about the loss of jobs when goods manufactured from the United States must compete with gray market goods. U.S. businesses, who have watched their trademarks devalued and their goodwill damaged as the gray market flourishes, are also very concerned.

I believe the gray market undermines our intellectual property laws. From what I have learned, gray market goods are often deficient by U.S. standards with respect to quality, reliability, safety, and service. To the extent gray market goods fail to meet the consumer's expectations, no segment of our society benefits, and some are harmed.

The Consumer Awareness and Trademark Protection Act would clarify existing trademark laws. This bill would achieve the following:

(1) The Lanham Trademark Act would be amended to provide that no person may import into or sell within the United States any goods that is manufactured outside the United States if that goods bears a trademark that is identical to a trademark owned and properly registered by a person, corporation, or other entity, unless the U.S. trademark owner consents to such sale or importation.

(2) This prohibition would apply regardless of whether the foreign manufacturer of the goods or foreign trademark owner whose trademark appears on the goods is related in any way to the owner of the U.S. trademark. The prohibition would also apply regardless of whether the owner of the U.S. trademark has registered the trademark or has authorized the use of the trademark abroad.

(3) The legislation would empower the Secretary of the Treasury to exclude gray market goods if the U.S. trademark owner has registered a trademark with the Patent and Trademark Office and filed a copy of the certificate of registration with the Secretary of the Treasury. The U.S. trademark owner would also be allowed to bring an importer or seller of gray market goods to enjoin the importation or sale and to obtain monetary damages and lost profits because of any such importation or sale.

It should be emphasized that the legislation is not an attempt to embargo merchandise. The law does not prevent any person from importing goods that otherwise meet our health and safety standards provided the imports do not bear an unauthorized U.S. trademark. Many companies sell goods made by a U.S. trademark owner or an affiliate of a U.S. trademark owner under their own brand name or as a generic.

I urge my colleagues to join me in protecting the intellectual property rights of U.S. trademark owners, the health and safety of U.S. consumers, and the jobs of U.S. workers, by cosponsoring this bill.

TRIBUTE TO DONNIE HAMMOND

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mrs. BYRON. Mr. Speaker, I would like to take this opportunity to honor a young Frederick, MD, native who has continually proven to be a source of pride and inspiration to our community. His name is Donnie Hammond, and he makes a living by playing professional golf. Two weekends ago at the Texas Open, Donnie established a new 72-hole course record en route to capturing his first tour victory in over 3 years.

Not only did Donnie win the tournament, he came within one stroke to tying the all-time PGA Tour record for 72 holes. The victory assures Donnie an automatic berth in the next Masters tournament, as well as a 2-year exemption from qualifying.

Like most Frederick residents, I have had the pleasure of following Donnie's career for many years. I am impressed not only with his performance on the course, but also with the dedication he has shown to his profession. The PGA Tour is so competitive today that many golfers never find themselves in contention for even one victory. His recent success should serve as an example to all regarding the benefits of perseverence and hard work.

TRIBUTE TO HUMPHREY RICHARD TONKIN

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mrs. KENNELLY. Mr. Speaker, I rise today to recognize a very important event in the First Congressional District of Connecticut. I speak of the inauguration of Humphrey Richard Tonkin as the fourth president of the University of Hartford on October 28, 1989.

About 1 year ago the board of regents unanimously approved Dr. Tonkin's nomination to assume the university presidency on January 1, 1989. Dr. Tonkin succeeds Stephen Joel Tractenberg, who left the University of Hartford to become president of George Washington University here in our Nation's capital. Over 167 candidates applied for the position.

Humphrey Richard Tonkin, born in Truro, England, was educated at Cambridge University, and Harvard University where he received a Ph.D. in English in 1966. He served on the faculty of the University of Pennsylvania from 1966–83, assuming various administrative positions during his tenure. In 1983, he became the president of Potsdam College of the State University of New York. Dr. Tonkin, a well-known scholar of the English Renaissance, has published extensive works on language and the humanities. He is married to Dr. Jane Edwards, an English instructor. They have two lovely children.

The University of Hartford was founded in 1877 and chartered in 1957 when three institutions—Hartford Art School, Hillyer College, and Hartt School of Music—were merged. Vincent Brown Coffin became the first chancellor in 1959. He was succeeded by Archibald Woodruff in 1967 and by Stephen Joel Tractenberg in coeducational, nonsectarian institution, which provides educational programs in liberal arts and professional disciplines for undergraduate and graduate students. Nearly 8,000 full-time students presently matriculate in 105 undergraduate and 50 graduate programs.

Dr. Tonkin is committed to continuing the University of Hartford's linkage to the greater Hartford community. His own words say it best, "The university is a regional and national institution, but it's also in a very real sense a local institution. The problems of the innercity must be part of the university's concern, along with the problems and opportunities of the larger regional community." Mr. Tonkin has pledged to intensify the University of Hartford's participation in partnerships with local public schools in the region and to broaden cooperative programs that will mutually benefit all students involved.

We celebrate the inauguration of Dr. Tonkin as the fourth president of the University of Hartford and we look forward to his scholarly stewardship that will lead the university into the next decade. Intellectually, creatively, and culturally, the university will prosper under the tutelage of Dr. Tonkin.

Mr. Speaker, I am very pleased to mark this milestone for the benefit of my colleagues.

UKRAINIAN-AMERICAN COORDINATING COUNCIL SERVING PHILADELPHIA

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. FOGLIETTA. Mr. Speaker, I rise to pay tribute to the Ukrainian-American Coordinating Council which is having its annual banquet this Saturday night and to my good friend Walter Wasylchuck, its executive vice president.

The Ukrainian-American Coordinating Council is a nonprofit organization which exists to serve the Ukrainian community of the United States.

It cares for the proper development of religious, cultural, and community life of Ukrainians and their American-born successors in the United States.

It helps develop charitable organizations in the Ukrainian-American community.

It aids Ukrainian-established schools, inculcating understanding and love for the Ukrainian language, and its song and dance, and all other elements of Ukrainian culture.

It seeks to educate other Americans of the plight of the Ukraine and Ukrainians living under Communist rule.

It encourages Ukrainian-Americans to take an active part in American community life, while, at the same time, campaigning to free the Ukraine and allow it to take its rightful place among the free and independent nations of the world.

This is a vital organization which plays a significant role in the patchwork of Philadelphia and America. I am sure my colleagues will join me in applauding its good work as it prepares to break bread together this weekend.

HONOR THE CONTRIBUTIONS OF WOMEN WHO SERVED IN VIETNAM

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. GEJDENSON. Mr. Speaker, today I am introducing legislation to give final congressional approval for construction of a memorial to the women who served in the U.S. Armed Forces in Vietnam.

Like their male counterparts, these women served courageously, under extremely difficult circumstances. I have no doubt that there are thousands fewer names on the wall at the Vietnam Veterans Memorial as a result of the selfless and heroic nursing efforts of American women in Vietnam. It is only fitting that we confer full recognition for their service.

Last year Congress authorized the Vietnam Women's Memorial project to establish a memorial to these women, and expressed the sense that the memorial would be fitting and appropriate within the Vietnam Veterans Memorial site. The Secretary of the Interior has determined that such a memorial is of sufficient lasting historical significance to be placed in area I, the central monumental core of the District of Columbia.

Once congressional approval for a location within area I is received, the Vietnam Women's Memorial project will work with the National Capital Planning Commission, National Capital Memorial Commission, Commission of Fine Arts, and Secretary of the Interior to reach final agreement on the site and design. A specific location is under consideration within the 2.2-acre site of the Vietnam Veterans Memorial.

I wish to thank my many colleagues for their bipartisan support of this legislation. With the dedicated women of the Vietnam Women's Memorial project and the many supportive veterans' groups across this Nation, I look forward to early passage of this legislation.

NEW OILSPILL TECHNOLOGY

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. ORTIZ. Mr. Speaker, I wish to express my support for the demonstration of a new oilspill technology at the University of Texas Marine Institute at Port Aransas, TX, on Thursday, October 26, 1989.

The wide support that this important demonstration has received includes the Governor and three cabinet members of the State of Texas, the local authorities in my home city of Corpus Christi, the U.S. Coast Guard, the U.S. Environmental Protection Agency, the University of Texas, and the Alpha Environment Co., of Austin, TX. I wish to welcome representatives of each of these contributing groups to my district and to the city of Port Aransas on that date.

Mr. Speaker, my staff and I have anticipated with great interest the development of this project and look forward to furnishing the site for what we hope will be a major breakthrough in oilspill technology. Certainly, oil spill accidents do happen; however, if spilled oil can be kept from creating tragic damage to the shoreline, beaches, and wildlife it will be a monumental accomplishment.

TRIBUTE TO WILLIAM WALLACE SMITH

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. WHEAT. Mr. Speaker, with the passing of William Wallace Smith, the city of Independence, MO, and the Reorganized Church of Jesus Christ of Latter Day Saints have lost a leader of vision and compassion.

W. Wallace Smith is gone, but he leaves a lasting legacy in Independence, in the State of Missouri, and indeed throughout the world. As former president of the RLDS Church, which is headquartered in Independence, he presided over a period of unprecedented international expansion of the faith.

With his 6-foot 6-inch frame and full head of white hair, Smith was a dignified and instantly recognizable figure in the streets of Independence, where he played an active role in community affairs.

W. Wallace Smith came from a long and distinguished line of religious leaders. His grandfather, Joseph Smith, Jr., was founder of the Church of Jesus Christ of Latter-day Saints, also known as the Mormon Church.

Traditionally, the leadership of the RLDS has remained in the Smith family. Upon the death of his half-brother Israel in 1958, Smith was ordained the fifth president of the RLDS. After 20 years at the helm of the church, Smith became president emeritus in 1978 and was succeeded by his son Wallace B. Smith.

Under the guidance of W. Wallace Smith, the church undertook a broad international expansion. During his tenure, the number of nations with RLDS congregations grew from 15 to 35.

Indeed, Smith himself traveled widely and ministered in congregations throughout the United States and Canada, and in foreign missions in the British Isles, Europe, French Polynesia, Australia, New Zealand, Japan, Korea, and the Ryukyu Islands. He was often accompanied in his travels by his wife, Rosamund, who died in 1986.

Smith was a graduate of Graceland, College, in Lamoni, IA, and of the University of Missouri in Columbia. Although he dedicated his last three decades to religious and philosophical pursuits, his earlier years were spent gaining a strong background in business, through work in wholesale and retail sales in the Midwest and in the shipbuilding industry in the Pacific Northwest.

He was often honored for his involvement in community and civic organizations. Last year, he received the Independence Neighborhood Council's Community Appreciation Award for his lifetime of service in the local area, and he was recently recognized by the Independence Rotary Club for 33 years of perfect attendance. In 1982, he was awarded the Silver Beaver Award by the Heart of America Council of the Boy Scouts of America.

Smith served on numerous boards of trustees including the Independence Regional Health Center, the American Lung Association of Western Missouri, and the Missouri Historical Society. He was a member of Delta Upsilon Fraternity and earned a listing in Who's Who in America.

Although he retired in 1978, he maintained an active interest in church affairs, and continued to make daily trips to his office until just a few months before his death at the age of 88. He was an avid fisherman, and was never too busy to stop and show pictures of his latest catch to his friends.

Widely praised for his vision, his compassion, and his humility, William Wallace Smith will be deeply missed by the people of Independence. He lived simply but contributed a rich legacy to his community and the RLDS Church.

THE 137TH ORDNANCE COMPANY CHRONICLED

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. SAXTON. Mr. Speaker, I rise today to acknowledge the completion of the history of a most interesting military unit and to bring same to the attention of my colleagues in the House.

This illustrious unit was organized, trained, and led in the European theatre of operations during World War II by John E. Dimon then a captain, but now a practicing attorney and civic leader in Burlington County, NJ, which is part of my district.

The 137th Ordnance Company had a poor start because of several systems' failures over which the membership had no control or into which it had no imput. With the help of some newly acquired leaders and the dedication of those who stayed on, Captain Dimon fashioned a highly trained unit of soldiers and technicians and readily met the challenge when the company's mission was upgraded from medium to heavy maintenance, Field Army.

A prelude of the unit's history was recently provided to me. The prelude, in itself, delineates an interesting recount of true American grit in the survival and success resulting in acknowledgements of a job well done, the difficulties notwithstanding.

The entire history, distribution of which is limited to the membership, except for filings in meaningful repositories, contains gleanings from the life of the company soldier during World War II developed from roundtable sessions at the several reunions held since 1983, and spiced with sprinklings of humor, patriotism, and pathos.

Mr. Speaker, it seems only fitting and proper that copies of the history be filed with the Library of Congress, and I am assured this will be done.

In the interim, I hope my colleagues will join with me in congratulating this fine group of dedicated military personnel whose accomplishments and long-standing sense of loyalty and friendship have stood the test of time.

WASHINGTON STATE STUDENT RECOGNIZED FOR WORK

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. CHANDLER. Mr. Speaker, I am submitting into the RECORD a prize-winning speech written by a student from the 8th Congressional District of Washington.

She's Julie Harkness, a student at Newport High School in Bellevue, WA. Julie participated in a nationwide contest sponsored by the Population Institute. Each student was asked to write what he/she, as President of the United States, would say in a formal address to the U.N. General Assembly. Out of about 100 entrants, Julie's speech was awarded third prize.

Her topic was controversial, as were some of her recommendations. Yet whether or not one would agree with all of her conclusions, her writing and research stand out.

I would like to share her speech with all of my colleagues.

ADDRESS TO THE UNITED NATIONS GENERAL ASSEMBLY

(By Julie Harkness)

Your Excellencies of the General Assembly, we have achieved great success in uniting the nations of the globe and making our world a better place. Before us are grand prospects for understanding and prosperity. Democracy's voice rings out in places where for years oppressive silence has reigned. There has been peace, and there has been progress. Congratulations are due. Two million children were saved in 1987. For example, in Senegal the infant mortality rate has dropped 30%, as a direct result of improved health care. These inspiring statistics attest to the commitment of the United Nations to improve the living standards of people everywhere. But as you know all too well, as soon as one problem is controlled and solved, another emergency erupts in its place. Thus this miraculous accomplishment in turn begets another most serious dilemma: the world population explosion.

While thousands of infants who in the past would have died now survive, the birth rate has continued unabated. Twenty years ago, a woman of the Sahel might bear seven children and be survived by two. Today, perhaps six of the seven reach adolescence due to improved health care, but their existence is minimal to survival. They do not know schools, or tricycles, and their birthdays are not celebrated with parties. They are bound to their existence with no opportunities to break out of their poverty. They live with little stability, dependent on shipments of supplies from other parts of the globe. They live with little to dream for. In the United States, one of our fundamental tenets is the right to dream. The United Nations guarantees the same freedom in "The Rights of a Child", including the right to an education, the right to a culture, the right to grow up in spirit and mind as well as body. In the name of everything we cherish about our own lives, we must endeavor to extend these opportunities to those children.

This is not a light proposition. Those of us living in industrialized countries are beginning to realize our resources are alarmingly finite. Continued growth in resource-exporting countries could disrupt the flow of raw materials with disastrous results to our economies. Petroleum reserves will be exhausted within the next century we are told, the world's mighty forests are being reduced to tangled saplings. and there aren't enough fish in the sea to feed ourselves. Although science has provided many significant contributions to accommodate our increasing demand, such as aquaculture and engineered grain hybrids, the only true answer to our problem we intrinsically sense. It is astronomically costly in terms of energy to ship supplies across continents and through war zones. Those who receive them cannot depend on rock concerts to finance the expense. Our planet simply cannot support all of us in the manner we would like to live.

The National Academy of Sciences has concluded that slowing population growth would improve our well-being. More bluntly, Walter Cronkite asserts that humankind's greatest problems are either the result of or exacerbated by overpopulation. Conceivably, the Earth could support 300 billion existences if we all lived like Ethiopians, sixty times our current level. The people of Ethiopia survive in a mininal level, living in crowded conditions without plumbing, electricity, transportation or a varied diet. But why would we ever want to experiment with those conditions? The downward spiral into that abysmal state would be accompanied by war, famine, and cultural bankruptcy. Peoples would fight bitterly over whatever resources were still available; a present day example is the struggle for a homeland among the peoples of the Middle East. Starvation would erupt during the decline from moderate to subsistance living. As more natural habitat was claimed for agriculture, species would become extinct and the environment destroyed, as is happening now in the Amazon rainforests. Could each citizen in a world of 300 billion have a vote? Could there be dancing among such a swarm? Could athletes excel on a diet of no protein? Could poets still find beauty to celebrate? Could we continue our probe of the mysteries of the universe? Would we be man—or beast? It is in humanity's vital interest that we work together to ensure reality never becomes that negative utopia.

As certain parts of the world become moribund with overpopulation, migration occurs in droves. International migration can create political hostilities, such as those suffered in the U.S.S.R. and in the Middle East. Illegal aliens have entered the United States in vast numbers, enough to constitute a threat to national security. Mexico, current population 90 million, has produced one million illegal immigrants who have inundated our boundaries per year. They require housing, education, and employment, at a time when our federal government is struggling to cope with the current situation. Two trillion dollars in debt, we cannot afford to extend much more hospitality, but Mexico's population mushrooms at 2.4 percent growth annually.

In order to check explosive population growth, women must be given control over their reproduction. A World Fertility Survey consulted Fiji women and found that the vast majority wanted no more than four children, and envied the control Western women have over their bodies. The United Nations must work to provide them with the means to make their choice, and the United States will contribute funds expressly for that purpose.

Recently in my country however, the issue of the legality of abortion has been raised again. Although Americans still await a definitive ruling by the Supreme Court, activists on either side wish to influence our role here at the United Nations. Nevertheless, our global responsibility exceeds the demands of this internal discord.

Health clinics in Chile and elsewhere have documented the high female mortality rate due to improperly performed abortions. Where abortion is the principal means of birth control, some women require nine procedures during their life, exposing them to a greater risk. Yet over fifty million abortions are performed around the globe annually. Other funding nations may continue to support abortion, but grants by the United States must be channeled into alternative methods. As some drugs are expensive for massive application, perhaps substitute prescriptions could be engineered by research; my administration will actively encourage development of generic, cheaper and alternative birth control by pharmaceutical companies. Until then, a portion of our funds shall be spent to provide and educate women about available contraceptives.

In the past, the U.S. has provided large quantities of contraceptives to various agencies, but this resource has not been fully utilized. Some societies are restricted by morality, others by misinformation, and others by lack of access. Reaching across these boundaries requires the concerted effort of many groups, ideally with the help of those with specialized expertise. Work in conjunction with schools, churches and local governments, beyond the agency's offices, could effectively reach millions and provide reliable information.

There is now an additional reason to encourage the use of prophylactics. In many Third World nations, the disease AIDS is principally spread by heterosexuals. Encouraging the use of condoms to prevent an AIDS epidemic could also serve to lower population growth. On this subject, a union of disease control offices and population agencies could prove mutually beneficial.

Our intention is not to subvert cultures that morally disapprove of birth control. While discussing the merits of small families, the United Nations posts in those areas could explain methods that have not been prohibited. Other contraceptives could be offered but not forced on women. John D. Rockfeller has said that our present generation may be the last to have a free choice.

Without choice, couples impose a vast strain on a society economically, socially and ecologically. Once they have children, they cannot hold down a job or attend school, or escape a bad marriage, but must find some way to provide for the children.

Forced to cultivate borderline land, raze hillsides for fields and firewood and graze animals on exhausted ranges, burgeoning families participate in their own disaster. The earth is taxed beyond productivity, and becomes barren and unfruitful. Desertification already consumes more and more previously fertile land. We are awakening to the tremendous damage we have already inflicted on our environment: it will be impossible to repair if our population doubles.

Some of the destitute farmers migrate into the cities to find work, but instead settle into the vast slums of unemployed. South American cities such as Sao Paolo and Rio de Janerio have enormous populations camped in shanties on the sides of eroding hills. Various organizations have attempted to revitalize these people and align the ghettos into homes and businesses. Oftentimes however, these efforts are at crosspurposes. While one project may construct a dam for the generation of electricity, another may be trying to divert the same river for irrigation. This illustrates the need for groups to work together. United, a comprehensive plan could be put into action for the benefit of all, whereas divided, there is chaos and little is accomplished.

I am convinced that the strength and faith of this body can continue to achieve the miraculous. You have done it before. Protecting our environment and our world is of critical importance as we enter the twenty-first century. The world population situation must be contained before becoming catastrophic, but we are reasoning men, not lemmings. The techology to solve our problem is available, if we can apply it. Perhaps if we can unite this rising specter of overpopulation, we will then be able to solve more easily the other problems that press us. I believe that victory in the United Nations effort against population growth may directly aid us to achieve peace, well-being and human rights around the globe. As President of the United States of America, I promise to lead my country in the effort. We haven't any time to lose.

SAN FRANCISCO EARTHQUAKE

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Ms. PELOSI. Mr. Speaker, San Francisco is now experiencing the devastating effects of the second deadliest earthquake in U.S. history. The California Governor's office has confirmed 260 casualties as a result of the earthquake; the number of injuries is unknown.

I have flown to San Francisco to assess the extent of the damage and to evaluate the amount of Federal emergency funds that will be needed. Today, I will meet with Mayor Agnos, the San Francisco police and fire chiefs and will talk with Lt. Gov. Leo McCarthy to assess the city's needs. I will then make recommendations to Congress upon my return to Washington.

President Bush has declared the San Francisco Bay area a disaster area. I look forward to the support of my colleagues in my efforts to obtain Federal support to restore San Francisco and other affected areas.

I commend Mayor Art Agnos, Lt. Gov. Leo McCarthy, and the San Francisco police and fire departments for their preparedness and quick response during this time of crisis.

I extend my appreciation to all the people of San Francisco for their response to this very difficult situation. They have maintained their composure and have displayed exemplary behavior throughout this crisis.

THE REHABILITATION ACT OF 1973

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. HANSEN. Mr. Speaker, today I am introducing legislation to amend the Rehabilitation Act of 1973 to prohibit discrimination against individuals with respect to entrance to wilderness areas because of a disability.

An irony of events took place in 1964. While Congress was passing the Civil Rights Act of 1964, ending discrimination based on race, sex, and national origin, it also was deliberating the 1964 Wilderness Act, which prohibited the use of motorized vehicles or any other form of mechanical transport in wilderness area.

On one hand, Congress said an employer could not deny employment based on race, but on the other, said it was OK to deny individuals who required the use of a wheelchair equal access to the most pristine areas of our country.

I recently received a letter from a disabled person who expressed concern that he would no longer have access to an area in California because it was soon to be declared a wilderness area. He wrote:

I am a Sierra Club member * * *. I represent thousands of nature lovers that simply cannot hike into these areas. Many are disabled veterans who were injured fighting for all our freedoms. Will you deprive them of access to the very lands they sacrificed themselves for?

Mr. Speaker, there are 43 million Americans with disabilities. Some are blind; some are hearing impaired; some have Down Syndrome; many require the use of a wheelchair—a mechanical transport, if you will. Why should we say to the person who lost his legs in war, risking his life to defend the dream and opportunities for all, that he cannot experience the beauties of a wilderness area? What gives us the right to deny him access?

As well-intentioned as the 1964 Wilderness Act is, the fact remains the prohibition of mechanical transports discriminates against the handicapped. At a time when Congress has under review the Americans With Disabilities Act, which protects people with disabilities from being denied equal access to goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, it is incongruous that we continue to prohibit access to wilderness areas to those who are wheelchair bound.

Imagine how the Wilderness Act destroys the self-image of that proud American who risked his life to defend the very land to which he is being denied access.

Imagine the humiliation of a wheelchaired mother or father whose family cannot enjoy a summer vacation in wilderness area because of them.

People with disabilities have made great strides to overcome the obstacles society has placed on them. They are entitled to make their own choices and to be treated with respect. They are entitled to be recognized for what they can do, rather than for what they cannot do. They have dreams; they have desires; they have initiatives and goals. And yes, they have limits, but it's only because the disabled have placed those limits on themselves. The Government should never do that for them.

My bill has the support of the Disabled American Veterans. The National Council on the Handicapped wrote:

The Council welcomes the opportunity to consider the issue of access to our Nation's wilderness areas because we firmly believe that all Americans, including those with disabilities, must be able to enjoy the vast wonders of our Nation's wilderness areas.

As the House begins deliberation of the Americans With Disabilities Act, let's end wilderness discrimination and ensure that all Americans are, indeed, created equal.

MIAMI'S NEW CONSUL GENERAL OF ISRAEL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to welcome Miami's new Consul General of Israel; an individual who has witnessed the birth of Israel and the horror of the Holocaust. A man who has been ambassador to seven countries. In his 58 years, he has earned 12 degrees. He was a major in the Israeli Army and European commander of the Hagannah, the Jewish underground army prior to statehood. Mr. Speaker, I would like to honor the distinguished Moshe Liba.

Prior to beginning his 3-year post as Consul General in Miami, Mr. Liba was Consul to Israel's Minister of Foreign Affairs and director general of the Central Institute of Cultural Relations. Now he is the Consulate who links the Jewish communities of Florida and Puerto Rico with Israel. One of the challenges of his new position is to portray a positive image of Israel through the media and to enhance economic, cultural and scientific ties between the countries.

Although he was offered several posts, Mr. Liba chose Miami because of his ambassadorship in Latin American countries. He feels that Miami is where his contribution could be at its best, being a vast friend to Israel and one of the biggest Jewish communities in the world.

Moshe Liba says that he is an Israeli who had the privilege as a Jew, to participate in the beginning of the State of Israel. As an inspiration to us all, Moshe Liba sets an example of goodwill in the most unselfish manner. I welcome Mr. Liba to Miami.

PACIFIC RIM TRADE AND THE ENVIRONMENT

HON. JAMES A. McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. McDERMOTT. Mr. Speaker, I represent a community which is vitally concerned with trade, and in particular with the Pacific Rim trade that is so important to our Nation's future. Trade can be the foundation of both prosperity and peace among the world's peoples.

However, responsible trade policy is more than merely cheerleading for any kind of international commerce under any conditions. We must become more competitive in the world economy if we are to maintain our standard of living, provide for our children's future, and take our proper place in the family of nations. We must also be more alert to the effects of trade on the environment of the planet we share. Trade policy must recognize environmental values and impacts if it is to be effective and constructive over the long term.

With that recognition, I want to share with my colleagues a thoughtful paper written last year by one of my most articulate constituents, David E. Ortman, northwest representative of Friends of the Earth. In this paper Mr. Ortman points out some of the paradoxes of world trade and some crucial decisions we and other nations will have to make in the years ahead. I commend this reading to anyone who shares my concern about the importance of trade and economic development policy in meeting the environmental challenges of the future.

The material referred to follows:

PACIFIC RIM TRADE AND THE ENVIRONMENT

(By David E. Ortman)

According to a new World Resources Institute report, the U.S. ". . . is now the world's largest exporter and importer of both raw materials and manufactured goods, the largest overseas investor, and the largest international debtor as well as the largest creditor; and the dollar remains the primary reserve currency."

It is no wonder that trade issues have increasingly captured the attention of decisionmakers at the national and state level. Economic linkages are now recognized as either opportunities or threats to our nation's security.

The Seattle P-I (2 May 1986) carried an article which began, "Exports from West Coast ports are booming . . ." Further in the article it reports, ". . . the biggest share of the exports coming out of Seattle and other West Coast cities is raw materials . . ."

What makes up the Pacific Rim trade? Such things as crude oil, fish, logs, wood chips and pulp, coals, and minerals. The basics for international trade have been viewed by the U.S. and our international trading partners as exploitable natural resources.

Example: In the heart of New Zealand's North Island is the world's largest plantation forest. "Our whole logging technique in the post-war period is based on the Pacific Northwest," said A.W. Grayburn, manager of N.Z. Forest Product's forestry resources division. (Seattle Times, 11 May 1986).

Example: Australia sells sand to Saudi Arabia . . . The sand in Saudi Arabia isn't suitable for making concrete, and Australia's is perfect. Natural resources, including such things as iron, timber, gold and land (not to mention sand), are Australia's secret of economic survival. The nation lives off its land, exporting resources to the world. (Seattle Times, 11 May 1986)

Example: In the deep interior of Sarawak [Malaysia] tropical forests, thousands of indigenous people have formed human barricades across logging tracks in a bid to stop the destruction of their lands by timber companies. (The Sunday Star, Malaysia, 14 June 1987).

Example: As a report by the National Academy of Sciences notes, "More than 10 percent of the land area of the earth is now under cultivation. More than 30 percent is under active management for purposes of mankind." (Christian Science Monitor, 31 March 1987)

Trade policy today is focused on trade deficits, not environmental degradation; on trade protectionism, not environmental protection; and on national security, not on ecological security for spaceship earth.

Isn't it time we step back and ask about the relationship of international trade and our global environment?

The World Resources Institute report: "Not Far Afield: U.S. Interests and the Global Environment" (by Norman Myers, June 1987) expands on the notion of what is the U.S. National Interest in the global economy. The traditional values have been (a) the integrity of the sovereign state; (b) democratic traditions; (c) economic freedom; and (d) institutional latitude.

"To these long-established goals, this study argues, we now need to add a further one that complements and reinforces the others. It is safeguarding the global environment, thereby promoting sustainable development throughout the world, especially in the Third World, to foster those economic and political processes that will assure a secure natural-resource base for all. This additional goal will help maintain stability in international relations, at a time when environmental degradation and resource depletion increasingly threaten the orderly conduct of international affairs."

Despite efforts by the United Nations Environment Programme, The Club of Rome reports, and the Carter Administration's Global 2000 report, the recognition of ecological linkages has yet to penetrate policies and discussions on trade and competitiveness.

According to a report in Science (5 October 1984), ". . . issues such as ozone depletion, carbon dioxide buildup, and now acid rain have dramatized the need for a truly global program. Humans are beginning to perturb the climate and the biosphere on a planetary scale, and yet there are enormous gaps in our knowledge of the system: governments have been faced with making expensive and controversial policy decisions on the basis of scientific guesswork."

The Catholic bishops of the Philippines, for example, approve in January of 1988 a pastoral letter titled "What is Happening to Our Beautiful Land?". The bishops, asserting that ecology is "the ultimate prolife issue" point out that the ecological crisis "lies at the root of many of our economic and political problems. To put it simply our country is in peril. All living systems on land and in the seas around us are being ruthlessly exploited. The damage to date is extensive and, sad to say, it is often irreversible."

And the beat goes on. "Resources" are extracted, causing local environmental impacts which contribute to cumulative regional problems. These raw commodities are then shipped (sometimes more than once) across the Pacific at an every increasing energy cost. The manufacturing and labor conversion into finished products produces environmental pollution at a new source, again contributing to cumulative problems in a different spoke on the rim.

This frenzy of global trade is imparting some wobbles into the orderly workings of spaceship earth. According to the World Resources Institute among these wobbles include:

Loss of agricultural land. Mexico and the Phillippines, both food exporters in the mid-1970s, have recently become net importers—the results of a declining agricultural resource base and rapid population growth, together with faulty government policies.

Mass extinction of species. By the year 2000, we may lose as many as 1 million of Earth's 5-10 million species, and a good many more during the next decades.

Tropical deforestation. The Panama-U.S. Joint Commission on the Enviroment report of 5 August 1987 states that Panama is so concerned about deforesting the Panama Canal's watershed, that a five-year nationwide tree cutting ban has been issued.

The marine realm. We have seen how Secretary of Interior Hodel has opened up the entire Washington and Oregon Coast for oil and gas drilling. Coastal refineries, offshore oil rigs, and supertankers now spill more than 100 million barrels of oil into its waters each year. Overexploitation of fishery resources is another marine concern. A 1986 NOAA study of federal marine fisheries management identified 19 groups of finfish and shell fish that were being overfished as recently as 1986. Pacific species include chinook and coho salmon, Pacific ocean perch, red king and C. bairdi Tanner crab, and seamount groundfish.

Freshwater shortages. It is ironic that Seattle, WA is now discovering what Denver and Phoenix have been denying for a century—freshwater is a limiting factor. Imagine the difficulties if your water is not only limited, but unhealthy for drinking, as well.

Energy shortages. Every country, including the U.S., has a de facto energy policy: Use as much as possible, of everything possible, for as long as possible. The lesser developed countries fuelwood shortage is acute and growing.

Air pollution. Secretary of Interior Hodel became a worldwide laughing stock for his alternative of sticking our head in the sand concerning ozone depletion. While the State Department has signed a protocol to the Vienna Convention for the Protection of the Ozone Layer, other global air problems, including long range transport of pollutants and acid rain remain under an Administration inversion.

Climate change. Carbon Dioxide buildup and other "greenhouse gases" will accelerate global warming. Perhaps our grandchildren will have to learn how to sell iceboxes to eskimos.

The World Resource Institute warns that, "No nation can shield itself from various forms of environmental degradation in other nations." They recommend five major global transitions:

1. An economic transition toward sustainable development, together with an equitable distribution of benefits.

2. A natural-resource transition, from depletion of nature's "capital" to reliance on its "income."

3. A demographic transition toward early stabilization of population growth.

4. An energy transition, from an oil-dominated era to an energy future based on renewable sources and high efficiency of production and consumption.

5. A political transition toward a global bargain of complementary concerns between North and South.

As Michael McCloskey, Sierra Club Chairman, has warned, however, ". . . not a lot has yet been demonstrated about sustainability in a modern, industrial context. 'Sustainability' is still more a slogan—a bit of 'pasting new labels on old bottles'—than a proven body of theory and practice ready to be applied, and most of the development impulse now abroad is not working for anything that can be called sustainable."

It is time that the National Environmental Policy Act be applied to trade policies. The purpose of NEPA is to declare a national policy which will encourage productive and enjoyable harmony between people and their environment. On a global basis, the NEPA requirements for a detailed statement on trade policies and (iv) the relationship between local short-term uses of man's environment and maintenance and enhancement of long-term productivity, and (v) any irreversible and irretrievable commitments of resources which would be involved are desperately needed. The Earth needs more friends.

JERSEY CITY PUBLIC LIBRARY MARKS 100TH ANNIVERSARY

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. GUARINI. Mr. Speaker, this year marks the 100th anniversary of the Jersey City Public Library, which will be celebrated with a dinner at the Harborside Financial Center, Promenade Level, Jersey City, NJ, on Saturday, October 21, at 8 p.m.

The words that the Honorable Mark M. Fagan, mayor of Jersey City, said at the 25th anniversary of the library on May 13, 1914, still apply today:

Service: that has been the keynote of this institution. Everyone connected with the Jersey City Public Library has taken that for a motto, and what higher ideal could anyone have than to serve and help others. This has been the secret of the success of this institution and of the great work it has done and is doing. And the service which the Public Library gives is the highest form of service for it helps people to help themselves.

No institution wields as great an uplifting and civilizing influence as the public library. It is the most democratic of all our democratic institutions. It welcomes and helps young and old, rich and poor; it has no bias or restriction as to politics, religion, race or social condition. And of all libraries our Jersey City Public Library is the most dramatic.

In an article written by Joan Lovero, in Library Lines, April 1989, the following interesting history of the library is outlined:

On May 13, 1889 seven men met in the City Hall office of Mayor Orestes Cleveland to organize the first free public library for the City of Jersey City.

These newly appointed library trustees chose as their president the man who had battled for years to convince the public and the political officials that a municipal library was a necessity. He was Dr. Leonard Gordon whose first major task as president was to file a suit to force the city's Finance Board to appropriate funds mandated by state law.

With 15,515 books in stock and with no fanfare the new library opened on July 6, 1891 in rented, gas-lit rooms in two adjacent bank buildings on Washington Street near York. To go from one part of the library to the other, the public had to go out into the street. Clearly a new structure designed to house a large book collection and to provide seating capacity for a city with a population reaching the 200,000 mark was needed.

Throughout the 1890s the trustees and library staff acquired land at Jersey Avenue and Montgomery Street, hired a supervising architect, Professor A.D.F. Hamlin of Columbia University, and announced a design competition. The architectural firm of Brite and Bacon of New York was selected, contracts were awarded, and the cornerstone set in place on August 16, 1899. On January 14, 1901 the new building, which is today the main library, was dedicated.

As Jersey City grew, so grew the library system. The Hudson City branch opened in 1911 in rooms on the second floor of 337 Central Avenue. Its success, with over one hundred thousand books circulated in the first year, demonstrated the need for additional branches. Bergen branch opened on Jackson Avenue in 1915, and Greenville Branch the following year on Danforth Avenue. Like the main library, the inadequacy of these rented quarters were soon apparent and new branch buildings were constructed starting in 1917 with Zabriskie Street library.

Physical expansion continued into the 1920s and the main building itself was enlarged. The Depression, however, took its toll by curtailing any additional growth. It was not until 1962 that the library added a new building which is located at Five Corners.

In recent decades the library has added services. Biblioteca Criolla, a Spanish language library, opened in 1972. Storefront branches were added throughout the city. Media services were expanded and video rentals introduced. Additional programming, access to on-line databases, and the use of microforms, maps, and photographs have augmented the book and periodical collections. In 1989 the library, under the administration of Dennis J. Hayes, director and Rose Marie LiBrizzi, assistant director, embarks on its second century as a significant New Jersey institution.

On December 18, 1986, Dennis J. Hayes was appointed library director. In 1951 he started as a part-time page at 50 cents an hour. According to Hayes, "Every 2 weeks I had $30. That was a fortune in those days. At the time I was a student at St. Michael's High School, Jersey City, and worked at the library throughout the time when I was attending St. Peter's College, and was given a raise to 75 cents an hour."

Hayes continued his interesting recollection, "In 1956 I went on to work full time at the library as a junior library assistant, and then I worked my way up the ranks to be a library trainee and then senior librarian, prelibrary supervisor, deputy director, and then I was made the director. That is the only job I have ever had since I started to work."

Dennis J. Hayes is an example of a dedicated public employee.

The Jersey City Public Library now operates the main library at 472 Jersey Avenue, 11 branches, a bookmobile, a community awareness program, and specialized departments including the New Jersey Room, Government Documents, Media Arts, and Special Services. Its overall goal is to provide materials and services to meet the cultural, informational, and recreational needs of everyone in the community. Books are basic, of course, but in today's library they are supplemented by a variety of other material including periodicals, documents, pamphlets, newspapers, films, phonograph records, compact discs, video and audio tapes, and microfilm.

The Jersey City Museum is located on the top floor of the main library. It is truly a magnificent structure with a tremendous skylight which reflects on all of the presentations at the museum.

During our 200-year celebration of the Constitution, the main room of the museum was beautifully presented to the public, reflecting replicas of the art work which was created by the artist and sculptor who worked on the Hudson County Courthouse structure.

This beautiful building, which was saved from the wrecker's ball about 20 years ago, has been beautifully restored and its marble and granite interior and exterior indeed reflects the strength and beauty of our Nation.

The Jersey City Free Public Library was one of the first in the Nation to begin a bookmobile. If my memory serves me correctly, it was in the late 1950's that the city fathers sent a bookmobile to outlying sections of the city for people to enjoy library services. The main stops developed were in the low-income housing developments of the A. Harry Moore, Booker T. Washington, Montgomery Gardens and Curries Woods, and Marion Gardens housing developments, which surprised the critics who expressed opinions that the residents of the developments would not and could not enjoy the offerings of the library.

The main branch of the library stands in the midst of the Van Vorst section of our community, across from a public park. The park was deeded to the city for outdoor use by the public by the Van Vorst family, who were among the very first Dutch settlers in our community.

The Jersey City Public Library stands as a beacon of education and inspiration expressing the freedom of thought and action that every American citizen is entitled to under our Constitution.

During the years the library has built tremendous resources and collections and developed new concepts of services, establishing itself as a public information educational agency.

Its New Jersey Room, under the direction of Joan Doherty, does an outstanding job of providing information on New Jersey history. She is most knowledgeable and an integral part of the Jersey City library family. Her recent book on Hudson County has been well accepted.

The Jersey City Public Library has been working with and providing reference and interlibrary loan service to the people of the Essex-Hudson area. In return the library has been receiving grants from the Essex-Hudson region III for providing these services.

The library has also received a grant from the State library for a books by mail project. Books were provided to nursing homes and the senior citizens of Hudson County. A grant of $30,000 was received by the library for its collection department. Many books were ordered for the various ethnic groups in Jersey City.

A grant was also received from the John D. and Catherine T. MacArthur Foundation for videos that are now available to the public at the media arts department. A video oral history and cable TV program on Frank Hague in conjunction with the Irish Historical and Cultural Society and Jersey City State College is now in progress. The library board of trustees and administration working with Union Local 2265 have upgraded the salaries of all employees. Much has been accomplished in providing better service to the public.

The present library board of trustees and library administration are dedicated to reaching out to the citizens of Jersey City, Hudson County, and New Jersey in providing the best of service and programs to all citizens. Serving on the board of trustees are: President, Robert O. Leach; treasurer, Thelma Williams; secretary, Elba Cinciarelli; board members, Adelaide Dear, Michael Smith, Edith Rolston, Russell Lewis; ex-officio members, Mayor Gerald McCann, mayor of Jersey City; alternate, Harold Demellier; chief of staff, office of the mayor, Franklin Williams; alternate, Mrs. Leslie Silberman.

I would be remiss if I did not mention Edmund W. Miller, who served as librarian for 60 years. Mr. Miller came to the library in 1891.

He distinguished himself within a few years by a series of publications on local history and became librarian of Jersey City in 1915. If Dr. Gordon had ignited the initial spark, Mr. Miller had blown it into a huge bonfire. There were now four branch buildings, an enlarged central library, four small branches, four high school libraries, and a hospital branch. The intensive building program of the early twenties had provided a solid network of citywide service. And the public responded in a swarm of reading; children and adults flocked into the libraries to satisfy their appetite for books. As the Depression years slipped in, however, official Jersey City now found it increasingly difficult to supply adequate financial support. Thus, despite public demand, the Miller board settled down to a constant struggle to sustain the initial gains.

The significance of the achievement of the past 100 years lies not merely in the events themselves but also in the basic philosophy of trustee thought. To have grasped so firmly the changing concept of the public library as the community center of information; to have won community recognition of the library as a basic part of the educational structure; to guide the system into the unfolding network of library service in the State and Nation; to stand ready, with the insertion of State and Federal financing, to broaden its areas of service—these are the true measures of the achievement of the board of trustees. And the citizens of Jersey City express in this celebration their gratitude for the unswerving devotion of its library board to these ideals.

Every Jersey City child remembers walking into the beautiful lobby of the main library, with its marble stairs and truly outstanding stained glass window on the very first landing. Upon entering the building every Jersey City citizen knew they were going to enjoy something special. The New Jersey Room, with huge oak tables, where generations of Jersey City residents have sat and read and learned, still remain.

This library is part of the free public library system in America and indeed is dedicated to the principle of intellectual freedom. Materials on all subjects known to man, with all diverse viewpoints represented are made available to anyone seeking enlightenment. In essence, the public library is an open book for the study of the history of mankind.

I am sure that my colleagues here in the House of Representatives wish to join in this well-deserved salute to the Jersey City Public Library.

ROUTE 66 STUDY

HON. WES WATKINS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. WATKINS. Mr. Speaker, today, I am introducing legislation to authorize a study on methods to commemorate the nationally significant highway known as "America's Main Street"—Route 66. This legislation has a broad base of support both in the House and the Senate.

Route 66 was designated in 1926 and when completed in 1938 was the first paved highway across the Western United States. For 80 years the 2,448-mile road treked across the landscape of America from Chicago to Santa Monica, CA. In Oklahoma, Route 66 begins near Commerce, in the northeast corner and continues through the State for 396 miles, exiting into Texas near Texola.

I am introducing this legislation for two reasons. First, Route 66 was a glorious new beginning for the Nation and especially the Midwest and Southwest because for the first time there was a major transportation artery. It represented new hope, new beginnings. It marked a point of transition for Americans, a long moment in time suspended between the wagon train and the jumbo jet. That moment when the Nation's pulse suddenly, almost without warning, speeded up and time came to be measured not by weeks but by odometer. Distant places became reachable and real. Route 66 was America's highway. It deserves recognition.

As it did with many Americans, Route 66 made an impact on my life. During the Great Depression of the 1930's and early 1940's, families were driven by desperation to flee Oklahoma to find work in California. Route 66 was the road taken by the Okie and Arkies forming the "Grapes of Wrath." As a matter of fact, it was the only major East-West road in those days. With hope and a dream of prosperity my family would make the trip three times on this route to and from California in the 1940's in search of jobs and a better way of life. The trips on Route 66 in pursuit of a better way of life is part of my motivation of why I came to the U.S. Congress and to public service.

While offering hope to many, Route 66 also became a modern-day trail of tears. It was a time of leaving family and friends many which would never be reunited again. Second, I am introducing this legislation to hopefully remember Route 66 with the hope that my children and grandchildren will never have to take the road that I was forced to take in search of employment.

Before the end, Route 66 would spawn a television series by the same name. It inspired John Steinbeck's "The Grapes of Wrath." In the 1930's, folksingers Woody Guthrie and Pete Seeger hitchhiked from New York to Oklahoma together and wrote a song about Route 66, "66 Highway Blues," a still unrecorded testimony to Depression-years transience set to the refrain "I got them 66 Highway Blues." A few years after Guthrie and Seeger traveled Route 66, songwriter Bobby Troup wrote, "I Get My Kicks on Route 66."

Today, this legendary highway and associated landmarks has almost disappeared. The familiar shield-shaped highway markers have been pulled down by State highway departments. We must act quickly in order to determine how some of the last remaining trademarks of Route 66 may be preserved for future generations. The study that I am proposing will allow for the process to begin. This is an opportunity to work with local and State groups Route 66 association groups that have been formed.

My bill is simple. It calls for the National Park Service to undertake a comprehensive study and evaluation of U.S. Route 66, including preservation and revenue-generating tourism options associated with the highway through public and private efforts. Upon conclusion of the study, the Service would then recommend methods to maintain what remains of the highway and the facilities associated with it. Preservation of Route 66 has tremendous financial potential for Oklahoma and other States adjoining this historic route.

The study group would consist of delegates from each of the eight States along Route 66, including Illinois, Missouri, Kansas, Oklahoma, Texas, New Mexico, Arizona, and California.

The companion of this bill, S. 963, introduced by Senator DOMENICI, has already passed the Senate. The Department of the Interior has stated in correspondence that the Department does not object to the enactment of this legislation.

Route 66, John Steinbeck wrote in 1939, "is the path of a people in flight." Whether Route 66 represents to you or your loved ones hope, change, prosperity or a trial of tears, it is deserving of recognition and certain elements to be preserved.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Route 66 Study Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that—

(1) United States Route 66, that great two thousand-mile highway from Chicago, Illinois, to Santa Monica, California, played a major role in the twentieth-century history of our Nation;

(2) Route 66, a product of a grassroots effort for better American roads and a prime example of the 1926 National Highway System program, served a similar historical function as many earlier "travel and commerce corridors", such as the Santa Fe Trail;

(3) Route 66 has become a symbol of the American people's heritage of travel and their legacy of seeking a better life;

(4) Route 66 served as funnel for the twentieth-century westward migration from the Dust Bowl of the Central States;

(5) Route 66 has been memorialized in books, songs, motion pictures, and television programs, and has become a cherished part of American popular culture;

(6) although the remnants of Route 66 are fast disappearing, many structures, features, and artifacts of Route 66 remain, including several segments of the highway that offer excellent insight into the experience of so many who traveled the highway; and

(7) in light of the growing interest by organized groups and State governments in the preservation of features associated with Route 66, the route's history, and its role in American popular culture, a comprehensive evaluation of preservation and tourism options should be undertaken.

SEC. 3. STUDY AND REPORT BY THE NATIONAL PARK SERVICE.

(a) STUDY.—The Secretary of the Interior, acting through the Director of the National Park Service, shall undertake a comprehensive study of United States Route 66. Such study shall include an evaluation of the significance of Route 66, options for preservation and use of remaining segments of Route 66, and options for preservation of features associated with the highway. Private sector initiatives are to be fully evaluated. The study shall include participation by representatives from each of the States traversed by Route 66 and representatives of associations interested in the preservation of Route 66 and its features.

(b) REPORT.—Not later than two years from the date that funds are made available for the study referred to in subsection (a), the Secretary shall submit such study to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, October 19, 1989, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 20

9:45 a.m.
Environment and Public Works
To hold hearings on the nominations of Forrest J. Remick, of Pennsylvania, to be a Member of the Nuclear Regulatory Commission, and David C. Williams, of Illinois, to be Inspector General, Nuclear Regulatory Commission.
SD-406

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings to review the investigation of the HUD moderate rehabilitation program (Section 8).
SD-538

Judiciary
To hold hearings on the nominations of S. Jay Plager, of Indiana, to be United States Circuit Judge for the Federal Circuit, George W. Lindberg, of Illinois, to be United States District Judge for the Northern District of Illinois, Donald B. Ayer, of Virginia, to be Deputy Attorney General, Department of Justice, and K. Michael Moore, of Florida, to be Director of the United States Marshals Service, Department of Justice.
SD-226

Labor and Human Resources
To hold hearings on the nomination of Debra R. Bowland, of Louisiana, to be Administrator of the Wage and Hour Division, Department of Labor.
SD-430

OCTOBER 24

9:00 a.m.
Agriculture, Nutrition, and Forestry
Conservation and Forestry Subcommittee
To hold hearings on the protection of water quality.
SR-332

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Jerry R. Curry, of Virginia, to be Administrator of the National Highway Traffic Safety Administration, Department of Transportation.
SR-253

Foreign Relations
To hold open and closed hearings on S. 1227, to restrict proliferation of missiles and missile equipment and technology, and S. 1421, to provide for sanctions on persons who export, transfer, or otherwise engage in the trade of certain items in violation of laws and regulations implementating the Military Technology Control Regime (MTCR).
SD-419

Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold oversight hearings on copyright moral rights in films, television, and other performing arts.
SD-226

Labor and Human Resources
To hold hearings on S. 1425, to prescribe nutrition labeling for foods.
SD-430

2:30 p.m.
Agriculture, Nutrition, and Forestry
To hold hearings on proposed legislation to provide for the establishment of a Federal fish inspection program.
SR-332

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 1046, to study the Merrimack River in New Hampshire for inclusion in the National Wild and Scenic Rivers System, S. 1302, the Big Thicket National Preserve Addition Act, S. 1524, to study segments of the Pemigewasset River in New Hampshire for inclusion in the National Wild and Scenic Rivers System, S. 1559, to expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, S. 1594, to revise the boundary of Gettysburg National Military Park, and H.R. 1472, to establish the Grand Island National Recreation Area in Michigan.
SD-366

3:00 p.m.
Conferees
H.R. 1487, to authorize appropriations for fiscal years 1990 and 1991 for the Department of State.
2172 Rayburn Building

OCTOBER 25

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on cable carriage of local broadcast signals.
SR-253

10:00 a.m.
Foreign Relations
To hold hearings on the nomination of R. James Woolsey, of Maryland, for the rank of Ambassador during his tenure of service as U.S. Representative to the Negotiation on Conventional Armed Forces in Europe [CFE].
SD-419

Labor and Human Resources
To resume hearings to examine treatment and prevention measures relating to the drug crisis.
SD-430

2:00 p.m.
Agriculture, Nutrition, and Forestry
To hold joint hearings with the Committee on Energy and Natural Resources on issues relating to the national forest planning process as provided in the National Forest Management Act of 1976.
Room to be announced

Energy and Natural Resources
To hold joint hearings with the Committee on Agriculture, Nutrition, and Forestry on issues relating to the national forest planning process as provided in the National Forest Management Act of 1976.
Room to be announced

Judiciary
To hold hearings on the nomination of Vaughn R. Walker, to be United States District Judge for the Northern District of California.
SD-226

2:30 p.m.
Judiciary
Courts and Administrative Practice Subcommittee
To hold hearings on S. 590 to prohibit injunctive relief or an award of damages against a judicial officer for action taken in a judicial capacity.
SD-226

OCTOBER 26

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study, on activities of the National Weather Service, National Oceanic and Atmospheric Administration, Department of Commerce.
SR-253

Energy and Natural Resources
To resume hearings on S. 324, to establish a national energy policy to reduce global warming, focusing on provisions relating to the Public Utility Regulatory Policy Act contained in Subtitle B of Title III.
SD-366

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. Agricultural programs, focusing on cotton.
SR-332

2:00 p.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings on proposed legislation to promote and encourage travel in the U.S., and to review the National Tourism Policy Act (P.L. 97-63).
SR-253

OCTOBER 27

10:00 a.m.
Foreign Relations
To hold hearings on the nominations of Smith Hempstone, Jr., of Maryland, to be Ambassador to the Republic of Kenya, Francis T. McNamara, of California, to be Ambassador to the Republic of Cape Verde, and Keith L. Wauchope, of Virginia, to be Ambassador to the Gabonese Republic and to serve concurrently as Ambassador to the Democratic Republic of Sao Tome and Principe.
SD-419

Judiciary
Constitution Subcommittee
To hold hearings on S. 1236, to require a waiting period and certain documentation prior to the sale, delivery, or transfer of a handgun.
SD-226

1:00 p.m.
Finance
International Trade Subcommittee
To hold hearings on H.R. 3275, to extend the termination date until March 31, 1992, for enforcement of bilateral steel arrangements, and to implement the President's steel trade liberalization program.
SD-215

OCTOBER 31

9:30 a.m.
Energy and Natural Resources
To resume hearings on the Department of Energy's efforts to improve the operations and management of its atomic energy defense activities and its efforts to restore public credibility in the Department's ability to operate its facilities in a safe and environmentally sound manner, and on S. 972, S. 1304, and other related measures with respect to the environment, safety, and health aspects of operation of the Department of Energy's nuclear facilities.
SD-366

Governmental Affairs
To hold hearings on trade and technology issues.
SD-342

NOVEMBER 1

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on proposed legislation authorizing funds for the National Telecommunications and Information Administration, Department of Commerce.
SD-562

10:00 a.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold oversight hearings on programs administered by the U.S. and Foreign Commercial Service.
SR-253

NOVEMBER 2

9:30 a.m.
Energy and Natural Resources
To hold hearings on the findings of the study conducted by the Monitored Retrievable Storage (MRS) Commission and the Department of Energy's plans for including MRS in the waste management system.
SD-366

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on wheat production.
SR-332

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings on Indian health facilities.
SR-485

NOVEMBER 3

1:00 p.m.
Finance
International Trade Subcommittee
To hold hearings on proposed legislation to extend international trading rules to agriculture in the Uruguay Round of General Agreement on Tariffs and Trade (GATT) negotiations.
SD-215

NOVEMBER 6

2:00 p.m.
Finance
International Trade Subcommittee
To hold hearings on the U.S.-Japan Structural Impediments Initiative (SII).
SD-215

NOVEMBER 7

9:30 a.m.
Energy and Natural Resources
To resume hearings on S. 324, to establish a national energy policy to reduce global warming, focusing on provisions relating to the Public Utility Regulatory Policy Act contained in Subtitle B of Title III.
SD-366

2:00 p.m.
Finance
International Trade Subcommittee
To resume hearings on the U.S.-Japan Structural Impediment Initiative (SII).
SD-215

NOVEMBER 8

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 891, to provide for the modernization of testing of consumer products which contain hazardous or toxic substances.
SR-253

NOVEMBER 9

9:30 a.m.
Energy and Natural Resources
To hold hearings on a proposed committee amendment to S. 406, Competitive Wholesale Electric Generation Act.
SR-366

Governmental Affairs
To hold hearings to examine the current status of science and math education.
SD-342

NOVEMBER 15

9:30 a.m.
Veterans' Affairs
To hold hearings on health care for rural veterans.
SR-418

NOVEMBER 16

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold oversight hearings on the implementation of the Cable Telecommunications Act (P.L. 98-549).
SR-253

NOVEMBER 17

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To continue oversight hearings on the implementation of the Cable Telecommunications Act (P.L. 98-549).
SR-253

POSTPONEMENTS

OCTOBER 19

9:30 a.m.
Small Business
To hold hearings on the nomination of Kyo R. Jhin, of Maryland, to be Chief Counsel for Advocacy, Small Business Administration.
SR-428A

OCTOBER 20

11:00 a.m.
Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold hearings to examine Federal disaster relief efforts following Hurricane Hugo.
SD-406

HOUSE OF REPRESENTATIVES—*Thursday, October 19, 1989*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Open our eyes, O God, that we may see; open our minds, O God, that we may learn; open our hands, O God, that we may work; open our hearts, O God, that we may love.

May Your blessing be upon us this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from New York [Mr. WALSH] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. WALSH led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 380. Joint resolution designating October 18, 1989, as "Patient Account Management Day."

The message also announced that the Senate agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2989) "An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1990, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 2, 4, 13, 17, 24, 25, 26, 27, 29, 31, 34, 38, 40, 42, 65, 66, 67, 71, 74, 78, 107, 110, 117, 124, 127, 128, 129, 130, 131, 132, 133, 134, 135, 138, 143, 148, 167, 168, 172, 175, 177, 185, 191, 194, 201, 202, and 203, to the above-entitled bill.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 77. Concurrent resolution expressing the sense of the Congress with regard to the major earthquake which occurred in the San Francisco Bay area on October 17, 1989.

DON'T FURTHER VICTIMIZE THE VICTIMS

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, last week, the House rightly decided that a safe and legal abortion for victims of rape and incest should not be a privilege based on income. President Bush doesn't agree.

Though he would not ban abortions in these cases, the President says he'll veto the use of Federal funds for victims of rape or incest who can't afford an abortion. He's reported to be afraid of fraud and abuse by poor women exploiting some kind of rape and incest loophole. What gall.

President Bush says this is a difficult and agonizing question for him. For a woman being forced to bear a child conceived through rape or incest, difficult and agonizing don't quite describe it. We're talking about victims of the most violent and disgusting of crimes, about women and girls who've been violated, humiliated, physically, and emotionally battered.

It's heartless and cruel for this Government to tell poor women at this most vulnerable and excruciating time: "We're afraid you might be faking it—you're on your own."

NATIONAL RED RIBBON WEEK

(Mr. HILER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILER. Mr. Speaker, I rise today to draw special attention to a national campaign which stresses our Nation's commitment to a drug free lifestyle. Following the tragic murder of Federal Agent Enrique Camarena at the hands of drug traffickers, the National Red Ribbon Campaign was created to symbolize the need to reduce our demand for illegal drugs. What began as a local effort 4 years ago, Red Ribbon has grown into a drug awareness and education campaign of a truly national scope.

Drug abuse is no less a reality in northern Indiana than in any other area of this country, and I am proud to say that the people of the Third District have embraced the Red Ribbon theme wholeheartedly. Red ribbons will be a common sight next week, as Third District Hoosiers take part in parades, school activities, rallies, parent awareness programs, bike-a-thons, and numerous other events in commemoration of Red Ribbon Week. Churches and area businesses are also getting involved, further emphasizing the fact that this is a community effort.

Parades and red ribbons will not solve the drug crisis. What these activities will do is reaffirm our commitment to a healthy, drug-free existence, and to demonstrate that our communities are united against the scourge of illegal drugs. To all the local Red Ribbon activities planned next week in my district, as well as to the national campaign as a whole, I extend my sincerest wish for success. This Nation is at war against drug abuse, and your efforts are an essential part of this campaign.

VETO VICTIMIZES MANY PEOPLE

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, news reports indicate that the President intends to veto two major appropriation bills because they would permit Federal funding for the low-income woman who has been victimized by rape or incest and would permit her to choose whether to have an abortion. Mr. Speaker, this decision leaves a lot of victims; first, as a low-income woman already traumatized once would now be denied the opportunity to make the agonizing choice that should be hers.

There are a lot more victims, however: The many people under these appropriation bills who will lose by the vetoing of these bills, the children who will not receive Medicare or educational opportunities, the educational opportunities and programs that will not be funded; the many benefit programs that millions of Americans depend upon.

Abortion is an intensely emotional and personal decision, Mr. Speaker. It becomes even more traumatic by the President's decision.

The low-income woman is victimized once, then twice, and, unfortunately,

this veto then victimizes many more people even one more time.

OUR INFRASTRUCTURE CRISIS

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, the collapse of the second tier of the Cypress Expressway resulting from the earthquake in San Francisco this week and causing the tragic deaths of perhaps as many as 250 people, I think, reminds us again of the crisis in infrastructure that really faces this country. We are told that the girders supporting that second tier which collapsed could have been reinforced with steel girders, and that that is actually a plan that had been afoot to strengthen those girders, and had that been done it might well have meant the saving of the lives that were lost as a result of this tragedy. It was not done, and the fact is that this is a symbol of the fact of so much that is not being done to address the infrastructure crisis.

Our infrastructure, our public facilities, our highways, our bridges are wearing out faster than we are repairing or replacing them, and we are going to pay for that in lost lives in the future unless we do something about it. We have been underinvesting for years now, and we are beginning to pay that price. It is tragic, but I hope the message is getting through that we do need to address this issue, that we need to increase our investment in infrastructure, because only as long as we do that are we going to be able to maintain economic development and growth.

EUROPEAN LEADERS PUTTING QUOTAS ON JOHN WAYNE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, America makes $1 billion a year exporting television shows and movies to Europe. It is one of our few great trade successes. And, guess what, Members, last week European leaders said no more to Hollywood. They voted to put quotas on American movies and TV shows. In fact, one of their spokesmen was quoted as saying they "will not tolerate a European family sitting in front of a Japanese-made television watching an American movie."

Think about it now, folks. We spend $120 billion a year to protect Europeans so they and their families could be safe in their living rooms. Maybe it is time we send a message over, "We are going to start taking care of America if you are going to put quotas on our movies. We are going to start cutting back on that NATO money."

When is Congress going to wise up? How bad can it be? Now they are putting quotas on John Wayne.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3017

Mr. WALSH. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor from H.R. 3017.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

VETO JEOPARDIZES FUNDING FOR VITAL PROGRAMS

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, the President has announced that although most Americans and Congress support language allowing poor victims of rape and incest access to abortions, he will veto the Labor-HHS-Education appropriations bill because it includes this compassionate language.

Our Government policy should not force an economically disadvantaged woman who has been sexually assaulted to bear the child of her assailant. Abortion is a legal option for women with adequate financial means, yet it is not an option for poor women. Women who have been victimized by rape or incest should not be further victimized by denying them access to Medicaid funded abortions.

By vetoing this bill, the President will not only be committing an unjust act against poor women, but he will also jeopardize funding for many vital programs like Head Start, health research, and drug abuse.

Mr. President, I urge you to reconsider your decision and do what is right and what is fair and not veto this bill.

BUDGET ADRIFT AT SEA

(Mr. HANCOCK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANCOCK. Mr. Speaker, today is October 19, and once again the fiscal ship named the "Budget" is adrift at sea while Congress is asleep at the helm. The 1990 fiscal year began on October 1, but Congress has presented President Bush with no reconciliation bill and only 4 of the required 13 appropriations bills. Work on these bills was required by the Budget Act to be completed by the House back in June. But Congress jumped ship and missed the established deadlines, setting in motion the actions which have now resulted in a Gramm-Rudman sequestration. The President has signed a short-term continuing resolution which expires on October 25, but it appears unlikely that all of the appropriations bills will be completed by that date, so another continuing resolution will probably be necessary.

Mr. Speaker, this is no way to run a government. Governing by autopilot is in fact governing by abdication. The American people deserve better. They deserve and demand that we spend their money wisely, orderly, and with responsibility for the decisions we make. That is why I would hope and ask that President Bush follow the course of his predecessor and vow not to sign any more continuing resolutions, forcing Congress to carry out our constitutionally mandated fiscal duties.

MEDICAL CARE FOR ALL WOMEN

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, if a man showed up at a hospital and said he had been beaten up and attacked, no doctor would question whether he was telling the truth before agreeing to treat him. But this administration does not think it can trust women to tell the truth to their physicians.

Mr. Speaker, no woman should have to take a polygraph to receive medical treatment. And no woman should be denied the medical treatment she is entitled to simply because she cannot afford it.

I remember when safe abortions were not available. And I remember when two patients I took care of in 1963 died because they had unsterile abortions. For poor women and girls who have been raped, nothing has changed since 1963.

It is inconceivable that the President of the United States would say to a woman: "if you are rich, we'll take care of you, but if you are poor we won't."

That is not the way America works. In America, all our citizens are equal—and every American is entitled to decent medical care.

INTRODUCTION OF STEWART B. McKINNEY HOMELESS ASSISTANCE AND PREVENTION ACT OF 1989

(Mr. RIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIDGE. Mr. Speaker, long before the Congress and the Federal Government discovered the homeless problem, dedicated and talented com-

munity servants were providing shelter, food and services to the needy across this country.

For a variety of complicated factors, the problem outgrew the local provider's collective resources and it was essential that the Federal Government dedicated resources to the emergency. Unfortunately, the Congress could not resist directing and managing the program from Capitol Hill. We forgot our local service providers, we thought we knew best where the money should go and we ignored the importance of services in favor of bricks and mortar.

Today, I am introducing legislation which would inject much-needed community flexibility into homeless assistance programs administered by HUD. The legislation would allow communities to channel Federal funds based on the existing network of services and according to a comprehensive homeless assistance plan approved by HUD.

The bill would distribute funds using the Community Development Block Grant formula while HUD develops an objective formula that directly reflects the relative incidence of homelessness in individual jurisdictions. All of the existing McKinney Act activities would be approved activities and this bill would make sure that homeless prevention, transitional housing and supportive services are included as well as shelter grants.

The purpose of this bill is not to argue over whether Congress should spend more or less on homeless assistance. Instead, it simply provides a mechanism to do more and better with what we do provide. I ask for the support of my colleagues.

A TRIBUTE TO DOUGLAS W. HOPKINS

(Mr. RAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAY. Mr. Speaker, I rise today to pay a special tribute to an outstanding individual, Mr. Douglas W. Hopkins, my administrative assistant, who will be leaving my office to accept an executive position with an Atlanta, GA, based company—the Coca-Cola Co.

Douglas Hopkins is the epitome of a dedicated, hard-working civil servant, and a conscientious supporter of commonsense legislation and constituent concern. Our Government, and particularly the Congress, will be less well off in his absence.

He began as a minimum wage campaign staffer and upon my election in 1982 he became my legislative assistant and eventually legislative director. He has since served as my administrative assistant. He is a trusted worker and admired by the administrative assistant's association and his coworkers, and many of the constituents in the Third Congressional District of Georgia. He has earned the respect of me and my staff.

In leaving to go into the private sector, he leaves behind a congressional office that is functioning smoothly and efficiently, and I say with some modesty one which is regarded as one of the best organized on Capitol Hill due largely to his tenacity and organizational ability.

I know that my colleages will join me in wishing Douglas Hopkins all the very best in his new endeavor. He has my appreciation, and that of my wife Barbara, for a job well done.

PREVENTING FUTURE CONTINUING RESOLUTIONS

(Mr. GEKAS asked and was given permission to address the House for 1 minute.)

Mr. GEKAS. Mr. Speaker, just like the weather, the continuing resolution is a subject about which everybody talks and no one does anything. It is not enough anymore simply to say we are going to vote against a continuing resolution that clogs our schedule and creates mischief throughout the budget year.

I believe we have come to the point where Members must adopt a position, whether by statute or by sheer force of will, to make sure that when the dealine comes next year, that Members should adopt my amendment that will say if we have not passed the budget by October 1, like our own law propels us to do, that last year's appropriations, as they should, automatically go into effect.

This would cure once and for all the crisis atmosphere that Members create for themselves by not passing the budget by October 1, and will still leave Congress enough time whenever it wants to to pass a new budget. At least we will not have all of these secret provisions and special interest provisions burdening our budget process.

ABORTION ISSUE CRIES OUT FOR LEADERSHIP

(Mr. NAGLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NAGLE. Mr. Speaker, the President's new position on abortion is not the result of any new information or the product of any serious soul searching on the issue.

It is the result of political advice. Bad political advice.

According to knowledgeable Republicans quoted in the Washington Post, the President's political advisers have convinced him that after having been criticized for being timid in Panama; indecisive with regard to developments in Eastern Europe; and for offering an education program which emphasizes form over substance, the best way to beat the "wimp rap" is to get tough on abortion.

This issue cries out for leadership. The President was elected to lead. Instead, he has politicized the issue to deal with his own short-term political problems.

The President should worry less about how he is perceived and care more about where he is taking us.

He should make his decisions on the merits of the issue, not what his political advisers say he needs to do this week.

And on those issues which are among the most difficult we face, a President must—must—lead this Nation to real solutions, not merely use them for short-term political gain.

In trying so hard, so obviously, and so mistakenly to show his leadership and resolve in this way, the President, sadly, succeeds most convincingly only in demonstrating his lack thereof.

INDIVIDUAL SOCIAL SECURITY RETIREMENT ACCOUNTS AND FOREIGN INVESTMENT

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, America consumes nearly everything it earns and saves nearly nothing. This forces us to borrow much of our working capital from overseas. Furthermore, Social Security reserves that are supposed to be accruing to pay retirement benefits to today's workers are being spent by Congress as fast as they are collected.

I propose creating an individual Social Security retirement account for each American worker. The amount of the Social Security reserves not needed to pay current beneficiaries, would be paid annually into these accounts rather than left to Congress to cover deficits or to spend. Workers would be able to invest these accounts in the public and private sector in certain safe investments.

One of the many benefits this system would offer is that it would bolster our national savings rate immensely. Rather than becoming extra Government spending—consumption—as it is now, the Social Security reserve would be put into productive investments. This would provide a huge influx of capital to the economy and would dramatically lessen our dependence on foreign investment.

CHICAGO FUTURES MARKETS EXACERBATE STOCK MARKET MOVES

(Mr. HUCKABY asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. HUCKABY. Mr. Speaker, in looking at the data from the stock market crash in October 1989 and the stock market crash of October 1987, there are some similarities evolving. Truly the depth of both crashes was exacerbated by Chicago, by the S&P 500 futures index. Data indicate that they were showing in Chicago that the market was significantly lower than what it was actually in New York on the New York Stock Exchange.

□ 1020

This allows those who participate in computer program trading to make literally tens, if not hundreds, of millions of dollars while the wealth of America is being devastated as the stock market continues to fall and decline.

Mr. Speaker, I have asked the CFTC to provide me and Congress with the detailed data of what happened last Friday so that hopefully we can take correct legislative action to prevent this from occurring in the future.

MUSTARD GAS VICTIMS ARE SUFFERING

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, we have heard a great deal in recent weeks about victims—victims of Hurricane Hugo in the Caribbean and South Carolina—victims of the earthquake in northern California.

But I rise today because there is another group of victims—a special group that lacks a headline event to call attention to their plight—a group that has little more than a broken contract with the Federal Government.

Mr. Speaker, in 1945 hundreds of courageous young men made a deal with the Department of Navy to participate in experiments testing protective clothing against the dangers of mustard gas. Sadly, there were casualties.

These are the mustard gas victims. There are not thousands of them; we do not see them on television or read about them in the newspapers. But they are living in our districts and suffering daily.

They suffer the physical ailments caused by the mustard gas experiments such as eye deformities, swollen glands, stomach problems, and respiratory illness.

And they suffer the psychological consequences and disillusionment with a government that refuses to recognize their plight.

In 1980 the Veterans' Administration ruled that the victims of mustard gas must shoulder the burden of proving that these disastrous experiments actually happened. In 1986, when the VA finally admitted to the experiments, adequate health care for these men was still not forthcoming.

Victims of mustard gas experiments are suffering today because they faithfully served this country 40 years ago. It is time we helped them.

THE PEOPLE'S BILL

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, let me say that I hope the President does not veto the people's bill. The Labor/Health and Human Services appropriation bill passed 364 to 56. This package includes the extension of rights permitting Medicare payments for abortions for women who have been the victims of rape and incest. This House has expressed its position on this issue for good reason. I urge the President not to take the sentiment of the people's House lightly.

Americans believe overwhelmingly that government should not interfere in a woman's right to make her own choice on this most personal of issues.

The American people know that the impact of a rape or incest can be devastating and last for years or even a lifetime. They also know that a young woman or a girl in her early teens who finds herself pregnant as a result of a horrible crime can have her life potentially destroyed because she is not wealthy enough to afford a Medicare health care service.

Wealth should not be, I say to the President, wealth should not be a determining factor in this most difficult and personal situation.

Mr. Speaker, through you I say to the President, Remember your words in the first Presidential debate: "I have a couple of exceptions that I support; rape, incest and the life of the mother." Let not those exceptions be contingent upon one's ability to pay.

CALL FOR SEPARATE U.S. INVESTIGATION INTO CAUSE OF 1985 GANDER CRASH

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, yesterday I came before my colleagues on the floor regarding the necessity of opening a separate U.S. investigation into the cause of the 1985 Gander crash. Which killed 248 paratroopers of the 101st Airborne Division.

My colleagues should know that the Canadians have officially disowned their own conclusions about the crash and effectively passed the burden of proof to us.

The U.S. Airline Pilots Association stated in regard to the technical claims of the Canadians in reference to the flight recorder and I quote, "it should be clear they simply conjured up their trajectory with faulty, or perhaps more to the point, fabricated data".

Now listen to what our National Transportation Safety Board has to say in a letter of August 28 of this year. Concerning the Canadian investigation.

I quote "the Safety Board has followed this case as closely as possible, and it has been the staff's impression that the CASB conducted a thorough and competent investigation."

That is absolutely ridiculous. And in this light it is inconceivable that our own NTSB continues to support the discredited wing-icing theory.

Let us find out what happened in Gander, Canada, on December 12, 1985.

Join with me in signing a letter asking the President to order the appropriate Federal agencies to conduct a thorough and complete investigation.

VICTIMS OF RAPE AND INCEST SHOULD BE GIVEN THEIR CHOICE

(Mr. SAWYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAWYER. Mr. Speaker, it was just about a year ago that one Presidential candidate was asked his reaction if his wife were raped.

Now—for another purpose—we ask President Bush what he would do if his wife or daughter were raped or the victim of incest.

And we know his answer. He has told us often. With everything decent and kind and gentle in him, he would give his daughter—or yours or mine—every option, every alternative in that difficult and devastating time.

We are used to being able to give our children every opportunity, but some Americans have very few options in any aspect of their lives, and precious few alternatives at all.

And to these children—the victims of rape or incest—the President would give no real choice.

If they cannot afford a doctor, they must carry the unborn of that hateful act to term—they have no choice.

In debate last year, Vice President Bush said there were some penalties associated with abortion he had not thought completely through yet.

I hope he will think this one through with the same kind and gentle decency he would give his own daughter.

IN HONOR OF WILLIAM HOWARD TAFT HIGH SCHOOL

(Mrs. MARTIN of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mrs. MARTIN of Illinois. Mr. Speaker, this weekend a Chicago school is celebrating I think a wonderful anniversary.

There have been a lot of complaints, justified, about the Chicago school system. But the high school I attended is celebrating its 50th anniversary. This is the school that "Grease" was about.

□ 1030

Two of its graduates wrote that play, other graduates have distinguished themselves in public and private life.

I would like to say as a former teacher, it was at that that high school that I had two of the best teachers ever produced in that system, both Latin and English, and I would like to wish the Chicago school a happy anniversary, because it has produced an awful lot of good students.

SUPPORT REFORMS IN POLAND AND HUNGARY

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, I rise in support of the legislation we will vote on today to promote economic and democratic reforms in Poland and Hungary. For the first time in half a century, when the Iron Curtain was lowered between Eastern Europe and the West, the old order is looking for the new. Eastern Europe is carefully gesturing to the West. The unthinkable, the stirrings of freedom in countries where it had been stripped away, can become a reality. America must not turn away from this opening of the window to the West.

The people of Poland and Hungary hold great love and fervor for the people of the United States. As the leaders of the free world, we must not shrink from them, in their hour of hope. The road ahead is uncharted, but it is the only one that can move people into the future.

It was not so many years ago in our own American Revolution, when Polish generals Casimir Pulaski and Thaddeus Kosciusko left their native land to fight along and give their lives with America's patriots in our own struggle for freedom.

This Nation owes a debt to the Polish people and their Hungarian neighbors who, in their hearts, share their fundamental belief in freedom and individual liberty.

SHATTERED LIVES

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, every decision of Government involves choices, advancing the interests of one constituency, often compromising the interests of another. In choosing to veto legislation to provide assistance to the unfortunate victims of rape and incest, this President has made a choice in the cruelest term.

He is responding to the narrow interests of an element of his own political party, and denying choice to millions of American women. The price of his choice is potentially shattered lives of children and of women victimized once by their attacker, victimized now again, by a choice made for political purposes by their own President.

Mr. Speaker, this choice says much about the administration, and it does not sound very good.

VETO HARMS THE INNOCENT VICTIM

(Mr. KOSTMAYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOSTMAYER. Mr. Speaker, the President's decision to veto legislation allowing a limited number of Medicaid abortions in cases of rape and incest is an attack on America's most vulnerable citizens.

Already poor and often uneducated and unskilled, these women are frequently the victims of violence. They live on the edges of society. Many are very young. Really, still children themselves.

Now they find themselves brutalized and pregnant by rape or incest.

The House and Senate have voted to rescue them from this one final terrrible abuse, but the President of the United States, in a decision which will haunt him for the rest of his life, has turned his back on those who need him the most.

There in America's inner cities, slums that shame the Nation still, there in the desperate poverty of rural America, poor women plead, they cry out for help. The President speaks of a kinder and a gentler Nation—those words are ashes in his mouth.

THE CRUEL VETO

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. UNSOELD. Mr. Speaker, the President's messengers are telling Members he is planning on vetoing a couple of bills we have sent him. I would say, do not do it.

He extended his hand to the innocent victims of the violence of Hurricane Hugo. He went to San Francisco to extend his hand of help to the innocent victims of that violent earthquake. How cruel would be a veto, done for political purposes, to punish the innocent victims of violent crime, the victims of rape and incest. How cruel would be a veto done for political purposes to deny the people of this city the authority possessed by all other cities in this Nation, the ability to help their own citizens with their own money and their own solutions.

The President should not turn his back on these victims of violence, should not extinguish the thousand points of light created when we extend our hand to help one another.

NEWS REPORTS PUT REPUBLICANS IN LEAGUE WITH NORIEGA

(Mr. ACKERMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ACKERMAN. Mr. Speaker, I have troubling news to report to my colleagues this morning. National public radio is broadcasting details of an action by the Republican Party that puts them in a league with the drug dictator Manuel Noriega.

According to the news reports, the Republicans joined with Noriega in attempting to oust the President of Costa Rica, Oscar Arias. The man who won the Nobel Prize for peace.

The radio reports that the Republicans took a Federal grant, taxpayer money, and commingled it with a half-million dollars from the right-wing Noriega, to fund the opponents of President Arias.

Never mind, Mr. Speaker, that President Arias is a Nobel laureate, a man of peace recognized around the world.

Never mind, Mr. Speaker, that President Arias leads the region's most established democracy.

Never mind, Mr. Speaker, that an American political party is using taxpayer dollars to influence a democratic election in a foreign country.

What, Mr. Speaker, is the Republican Party doing, cooperating with the thug Noriega? Are they in a P-A-C together?

Why are they going after a democratic leader? Does Lee Atwater believe that President Arias has a furlough program that needs to be stamped out?

Does Roger Ailes believe that President Arias has somehow failed to make the Costa Rican flag a proper symbol of demogoguery?

Does President Bush know what's going on? I doubt it.

It seems to me, Mr. Speaker, as this House prepares to welcome Congress-

man TAYLOR from Mississippi, maybe the Republican Party could find more appropriate uses for their time and our money than becoming buddies with Manuel Noriega.

POLISH AND HUNGARIAN DEMOCRACY INITIATIVE OF 1989

Mr. BONIOR. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 266 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 266

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3402) to promote political and economic democracy in Poland and Hungary as those countries develop and implement programs of comprehensive economic reform, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with the provisions of clause 2(l)(6) of rule XI are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed three hours, with two hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, and with one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Foreign Affairs now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by title instead of by section, and each title shall be considered as having been read. The amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as having been adopted in the House and in the Committee of the Whole. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. RAY). The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentlewoman from Illinois [Mrs. MARTIN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 266 provides for consideration of H.R. 3402, a bill to promote political and economic democracy in Poland and Hungary as those countries develop and implement programs of comprehensive economic reform.

The rule provides for 3 hours of general debate. Two hours are to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs. An additional hour of debate will be equally divided and controlled by the Committee on Ways and Means. The bill shall be considered under the 5-minute rule.

House Resolution 266 is an open rule. Clause 3(l)(6) of rule XI, requiring a 3-day layover of legislation before consideration on the floor, is waived against the bill.

The rule makes in order the Foreign Affairs Committee amendment in the nature of a substitute now printed in the bill as original text. The substitute shall be considered for amendment by title instead of by section.

An amendment by the Committee on Energy and Commerce, which provides funding for activities of the Environmental Protection Agency required in this legislation, is printed in the report accompanying this resolution. The amendment shall be considered as having been adopted in the House and in the Committee of the Whole.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, the ice of the cold war is rapidly melting.

Political and economic developments are changing in Eastern Europe almost on a daily basis. Courageous efforts by the people of Eastern Europe to achieve greater freedom have captured the hearts of the American people.

The formation of new political parties, and the demise of old leaders has become common. Western-style economic reform is taking hold.

Nowhere is this more the case than in Poland and Hungary.

Just 4 months ago, on June 5, Solidarity won an overwhelming victory against the Polish Communist Party. It was the first free election in Poland since 1947, and the first ever held in a Communist-controlled Eastern European country.

Solidarity's victory cracked the iron fist of Stalinism; 1989 will be remembered as the year the Polish people shed the tyranny of the past, and inherited their future.

Events in Hungary have been no less remarkable. The Hungarian leadership has instituted numerous internal democratic reforms. The opposition has been legalized and elections are expected next year.

Hungary has become the first country to physically disassemble the Iron Curtain. As a result, thousands of East Germans have streamed across its border to the West.

The dramatic changes in Poland and Hungary cannot mask the tremendous economic problems each country's leaders have inherited from the old regime. Soaring inflation and massive foreign debt have racked these economies. The successes and failures in Poland and Hungary will not only shape their own future, but will be closely watched by millions living in the Soviet Union and China.

In November, we will welcome Lech Walesa to speak before this Congress. No one knows better than he the tremendous stakes involved. He has asked for our help * * * his request cannot be denied.

Those of us in this country of Polish and Hungarian descent feel a special call to help our brethren, our family, our people.

The extraordinary changes taking place in Poland and Hungary are moving those countries in the direction of democracy and free markets, goals we have sought since the end of the Second World War.

We have poured trillions into a nuclear and conventional arms race with the Soviet Union. We can surely afford millions to support the fragile experiments in democracy in Eastern Europe.

Not only is it the right thing to do * * * it's also in our national security and economic self-interest to see these reforms succeed.

Two world wars have been fought on the Continent of Europe in this century alone. This legislation today may well be our greatest tribute to the lives of Americans who died defending freedom in Europe. They were not afraid to take bold action then; we should not be today.

We have a unique opportunity to seize a moment in history. Peace is breaking out all over Europe.

Democratic souls are yearning to be free. Economic opportunity stands at our doorstep.

Once again the United States can take the lead in defending freedom. With our help, the march of democratic principles and free market reform in Eastern Europe will become irreversible.

H.R. 3402 authorizes $837.5 million for assistance to Poland and Hungary. This is nearly twice the level requested by the President. The Bush administration's early response to the struggle for freedom in Eastern Europe was far too weak. The administration has failed to grasp that this is a critical turning point in the history of East-West relations.

It is only through concerns expressed by the American people, and pressure applied by the Democratic Leadership, that we have reached a point of adequate funding in this legislation. The strong bipartisan backing which H.R. 3402 now enjoys proves

how right we were to fight for serious backing of reforms in these two countries.

The assistance will be used for economic stabilization, private sector development, trade and investment programs, support for democratic institutions, and medical and agricultural supplies.

Mr. Speaker, to my knowledge there is no controversy over this rule. It is an open rule, and was approved by voice vote in the Rules Committee. H.R. 3042 has strong bipartisan support.

I urge the adoption of House Resolution 266 so we may proceed to consideration of this important matter.

□ 1040

Madam Speaker, I reserve the balance of my time.

Mrs. MARTIN of Illinois. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, House Resolution 266 is an open rule providing for the consideration of the bill H.R. 3402, the Polish and Hungarian Democracy Initiative of 1989.

The rule provides for 3 hours of general debate, with 2 hours going to the Committee on Foreign Affairs and 1 hour to the Committee on Ways and Means. Debate time is divided equally between the chairman and ranking minority Members on those two committees.

Madam Speaker, the rule waives clause 2(l)(6) of House rule 11 against consideration of the bill. That clause prohibits the consideration of a bill if the report has not been available to Members for at least 3 days. Although the final two reports were filed by the Foreign Affairs and Public Works Committees on Monday, they were not available to Members until yesterday. That means that without this waiver, the bill could not be considered until tomorrow.

The rule makes in order the Foreign Affairs Committee's amendment in the nature of a substitute, now printed in the bill, as original text for the purpose of amendment under the 5-minute rule.

This rule does have one special feature which I want to call to the attention of my colleagues, and that is a self-executing provision. That provision automatically amends subsection 502(d) with substitute language that is printed in the report on this rule. The existing subsection authorizes $10 million to the Environmental Protection Agency for certain environmental programs in Poland and Hungary. The substitute subsection is a compromise worked out between the Foreign Affairs and Public Works Committees to make clear that this money will come from foreign assistance appropriations and not from domestic EPA moneys. I would hasten to add, however, that even though the self-executing amendment is considered as adopted in the Committee on the Whole and the House, there are still ways it can be further amended.

Finally, Madam Speaker, the rule provides for one motion to recommit, with or without instructions.

Madam Speaker, the winds of freedom and democracy are sweeping across Eastern Europe and are tearing holes in the Iron Curtain—holes which are letting in rays of hope for millions of people who have suffered under the yoke of communism for decades.

Madam Speaker, while this bill is entitled the "Polish and Hungarian Democracy Initiative of 1989," no one should be misled that we are somehow taking the initiative for democracy in those two countries. The winds of freedom and democracy are being generated from within the Eastern bloc countries in the hearts and souls of an oppressed people, yearning to breathe free. That is the real source of the democratic initiative we are witnessing.

At the same time, we in the West are partly responsible for the ray of hope now streaming through the Iron Curtain. It has been emitted by the beacon of freedom we in the West have long held high for all the world to see and by American policies that helped this light shine.

The time has now come for us to demonstrate that the beacon does indeed point the way to a better life and is not just an elusive dream or a false promise.

Madam Speaker, Edmund Burke once wrote that true liberty cannot long exist without order and virtue. The people of Poland and Hungary have more than proven both their virtue and their courage in standing up to their Communist rulers and demanding change. But that alone will not sustain this movement, no matter how powerful the idea.

Both countries are in the throes of an economic crisis resulting from their failed socialist experiments. The peoples of both countries have indicated their desire to move to both free markets and free elections. But such a transition from communism to political and economic freedom would be difficult even under more normal circumstances. In the midst of an economic crisis the challenge is overwhelming. It is up to the West, working in concert, to help provide the economic order and stability that will enable freedom and democracy to flourish and grow in these countries.

The bill before us today is designed to encourage that multilateral assistance that can only be provided through international financial institutions and the Western economies, working together. Specifically, this bill authorizes a $200-million stabilization grant for Poland which will hopefully encourage Europe and Japan to provide the remaining $800 million necessary to support a comprehensive, $1-billion economic reform package.

In addition, the bill provides a mix of short- and long-term assistance to develop agriculture and the private sector in both Poland and Hungary. I especially want to call attention to the authorization of at least $125 million in United States agriculture commodities to help relieve immediate food shortages in Poland. Our colleague from Iowa [Mr. GRANDY] will be offering an amendment to exempt those food shipments from the cargo preference laws. The Grandy amendment will ensure that the $125 million is used for real food aid, and will not be diverted for shipping subsidies. I support that amendment.

Madam Speaker, I commend President Bush and the House Foreign Affairs Committee on working together in a bipartisan, expeditious, and statesmanlike manner to develop this package. The yearning for freedom and economic stability in Eastern Europe are worthy of such an effort; they present a challenge and obligation from which we must not shrink.

Madam Speaker, back in 1810, Thomas Jefferson wrote to Gen. Thaddeus Kosciusko, the Polish soldier and statesman who, as a young man, fought with American forces during our Revolution. Jefferson thanked Kosciusko for, "devoting your sword and services (to our country) when oppressed by foreign dominion." And he added that our Revolution was, and I quote, "worthy of your philanthropy and disinterested attachment to the freedom and happiness of man."

Madam Speaker, the time has come for us to repay our debt of gratitude to Kosciusko by demonstrating to his Polish countrymen our strong devotion to the freedom and happiness of man. I urge the adoption of the rule and the enactment of the legislation it makes in order.

□ 1050

Madam Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. BROOMFIELD], the ranking member of the Committee on Foreign Affairs.

Mr. BROOMFIELD. Madam Speaker, very briefly, the rule we are now considering provides for 3 hours of general debate, after which time the bill will be open for amendment under the 5-minute rule. I believe that this rule will give us sufficient time for the Members to express themselves on the issues involved in this legislation.

Furthermore, Madam Speaker, it will provide consideration of any amendments Members may care to offer.

Madam Speaker, I testified before the Committee on Rules and request-

ed an open rule governing consideration of this bill. Although it is not a completely open rule, it is worthy of our support.

I want to indicate that while the administration has reservations about some of the funding levels in the bill, they do support the passage of this legislation.

Mrs. MARTIN of Illinois. Madam Speaker, I yield myself 30 seconds just to correct something for the RECORD.

The Committee on Rules in a truly bipartisan spirit made this a fully open rule, and although there was some concern from one chairman that it be partially closed, I just want the gentleman from Michigan [Mr. BROOMFIELD] to know it is a totally open rule, and it was a pleasure to work with my colleagues to produce such a rule.

Madam Speaker, I yield back the balance of my time.

Mr. BONIOR. Madam Speaker, in conclusion let me just say that, as a Member of this body and someone who is of Polish-American extraction, whose grandfather and grandmother came here at the turn of the century from Poland, who was raised in a Polish community within the city of Detroit known as Hamtramck, who was taught Polish alongside of English in grade school, it is with an immense amount of pride that I rise today in support of this legislation and with a tremendous amount of pride that I am able to carry this rule on this bill.

Madam Speaker, I am very appreciative of the Members of this body who helped put this together in such a timely, proper, and efficient manner: The gentleman from Florida [Mr. FASCELL], the chairman of the Committee on Foreign Affairs; the gentleman from Michigan [Mr. BROOMFIELD], the gentleman from Iowa [Mr. LEACH], the gentlewoman from Illinois [Mrs. MARTIN], my friend who handled the rule; the full and strong leadership of the gentleman from Indiana [Mr. HAMILTON], the gentleman from Michigan [Mr. DINGELL], the gentleman from Illinois [Mr. ROSTENKOWSKI], our Speaker pro tempore, the gentlewoman from Ohio [Ms. KAPTUR]; our Democratic leadership, the leader of the other body, the gentleman from Ohio [Mr. WYLIE], the gentleman from Illinois [Mr. LIPINSKI] who has played a tremendous role.

Madam Speaker, we have a saying in the tongue of my grandparents, Dziękuję, which means "thank you from the bottom of my heart."

This is historic legislation of monumental proportions, and I am pleased we can bring this to the floor today and we can move this legislation to the President so that the peoples of Hungary and Poland can indeed enjoy the fruits and the hope of providing for themselves and their families a brighter future.

So, with that, Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Ms. KAPTUR). Pursuant to House Resolution 266 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3402.

□ 1057

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee on the Whole House on the State of the Union for the consideration of the bill (H.R. 3402) to promote political and economic democracy in Poland and Hungary as those countries develop and implement programs of comprehensive economic reform, with Mr. HERTEL in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida [Mr. FASCELL] will be recognized for 1 hour; the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 1 hour; the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes; and the gentleman from Illinois [Mr. CRANE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida. [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 3402 is a historic piece of legislation. The Poland and Hungary initiative marks an effort by the people of the United States to respond in a timely and adequate manner to the unprecedented movement toward democracy in Poland and Hungary. When one considers that this bill is roughly $840 million over a period of 3 years, perspective requires us to remind ourselves that for over 40 years we have struggled as part of the free world and as the leaders of the free world to bring about the transition that is going on in Eastern Europe and other places. In order to maintain that position, the American people have invested billions of dollars in the maintenance of the cold war, in providing security for ourselves and for our allies in Western Europe, and NATO, and other places around the world because we saw this as a direct confrontation of differing systems of values, of ideology, and of culture. We fought that which seemed to be inimical to our best interests and, in fact, to our national security.

□ 1100

The investment we initiate today is a different kind of investment. It is an investment which builds upon the yearning and the desire of the people to tear away from a system that was so repressive that it not only destroyed hope and initiative but was totally destructive of society's ability to be able to care and provide for its people. At long last, because not only of the hope and courage of millions of people inside Poland and Hungary, but also because of the unfailing support of millions of people outside those countries, many of them in the United States, with connections through families and friends, we see now that we have the opportunity to help in the transition which in itself is monumental.

Let us not underestimate what is happening here. We are talking about the transformation of an entire society, a change in the political system, a change in the economic system, an entire change in the way the people have been accustomed to operating, working, and living. One of the main things this bill does, aside from providing short-range and the long-range assistance which is essential and necessary, is express the real desire of the American people to respond to the opportunity for freedom in those countries after all these years.

This bill is an effort to meet the critical needs in Poland and Hungary. It is cosponsored by bipartisan leadership here in the House and by the work of many people. In brief, the bill: Authorizes the Presidential request for a $200 million grant for economic stabilization assistance for Poland; urges the administration to take the leadership in a multilateral program of assistance and debt relief for Poland and Hungary; authorizes $200 million for the President's proposal for enterprise funds for those two countries as the mechanism for United States assistance to promote the private sector; authorizes assistance for technical training and education and cultural programs, scholarships, environmental protection, and labor transition; authorizes a system of general preferences and eligibility for the Overseas Private Investment Corporation; and establishes a Trade Credit Insurance Program.

I would like to thank now the chairmen and the members of the various committees of jurisdiction for their cooperation and assistance in expeditiously moving this legislation. This bill proves that the Congress can respond quickly and that we can work together to get something done. I would like to recognize the role of the various committees: the Committee on

Ways and Means, which inserted section 301 making Poland eligible for GSP; the Committee on Banking, Finance and Urban Affairs for its cooperation in drafting section 101 dealing with structural adjustment, and section 303 on the Export-Import Bank; the Committee on Agriculture for its cooperation on those provisions in section 101 and 102 dealing with food assistance; the Committee on Energy and Commerce and the Committee on Public Works and Transportation for their cooperation on the provisions on the environment and energy in sections 501 and 502; and the Committee on Education and Labor for its cooperation on section 202 on assistance with labor transition. The committees have either favorably reported the bill or, by letter, waived their jurisdiction.

Those letters follows:

COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, October 18, 1989.

Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As Chairman of the Committee on Energy and Commerce, I wish to thank you for your cooperation and consideration of our jurisdictional concerns relating to H.R. 3402, the Polish and Hungarian Democracy Initiative of 1989.

Mr. Chairman, H.R. 3402 expands the authority of the Environmental Protection Agency (EPA) to conduct training, technical assistance and monitoring activities in Poland and Hungary, including establishment of a regional environmental center in Hungary. Further, the amendment in the nature of a substitute authorizes the Department of Energy to provide advanced clean coal technology and to assess and develop equipment to assist Poland in using fossil fuels cleanly. These provisions in Title V of H.R. 3402, relating to environmental initiates for Poland and Hungary, are within the jurisdiction of the Committee on Energy and Commerce.

Recognizing that the Committee on Foreign Affairs has accommodated the interests and views of the Committee on Energy and Commerce on those matters within our jurisdiction, it was not necessary to take any formal action pursuant to the sequential referral.

Again, Mr. Chairman, I deeply appreciate your kind consideration in this matter and your willingness to acknowledge our claim by inclusion of this letter in the record during consideration by the House of H.R. 3402.

With best wishes.

Sincerely,

JOHN D. DINGELL,
Chairman.

COMMITTEE ON AGRICULTURE,
Washington, DC, October 16, 1989.

Hon. DANTE B. FASCELL,
Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Committee on Foreign Affairs recently reported H.R. 3402, a bill to promote political and economic democracy in Poland and Hungary as those countries develop and implement programs of comprehensive economic reform.

In the interest of expediting consideration of this important piece of legislation and in furtherance of the fine spirit of cooperation between our two committees, I would not object to consideration of the bill by the House without further consideration by the Committee on Agriculture. This of course is without prejudice to the jurisdictional interests of the Committee on Agriculture.

In keeping with that same spirit of cooperation, I would like to take this opportunity to thank you for your assistance in obtaining a joint re-referral of H.R. 3160, a bill to provide additional food assistance to Poland in the form of donated surplus agricultural commodities held in the Commodity Credit Corporation, to the Committee on Foreign Affairs and the Committee on Agriculture. It is through actions such as these that the close, cooperative working relationship of our Committees is enhanced and strengthened. As always, I deeply appreciate your willingness to work with the Committee on Agriculture on matters of mutual concern.

With best wishes,

E (KIKA) DE LA GARZA,
Chairman.

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, DC, October 11, 1989.

Hon. DANTE FASCELL,
Chairman, Committee on Foreign Affairs, Washington, DC.

DEAR MR. CHAIRMAN: I have reviewed the amendment in the nature of the substitute that you intend to offer during your Committee's consideration of H.R. 3402. In several instances your substitute proposes amendments to sections of H.R. 3402 that are within the jurisdiction of the Committee on Banking, Finance and Urban Affairs. In each instance in which the substitute proposes amendments to the sections within the jurisdiction of the Banking Committee, these amendments were recommended by the Banking Committee. The Banking Committee supports these amendments to H.R. 3402 and appreciate your cooperation in including these in your substitute.

In order to expedite consideration of the legislation by the House and since the amendments to provisions under the jurisdiction of the Banking Committee were made at our recommendation, the Committee on Banking, Finance and Urban Affairs will not object to being discharged from the further consideration of H.R. 3402 without prejudice to the jurisdiction of the Banking Committee.

You can be assured that the Banking Committee fully supports the amendment in the nature of a substitute you intend to offer. I appreciate your willingness to incorporate changes recommended by our committee.

Sincerely,

HENRY B. GONZALEZ,
Chairman.

COMMITTEE ON EDUCATION AND LABOR,
Washington, DC, October 13, 1989.

Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs, Washington, DC.

DEAR MR. CHAIRMAN: As Chairman of the Committee on Education and Labor, I wish to thank you for your kind consideration of our jurisdictional concerns relating to H.R. 3402, the Polish and Hungarian Democracy Initiative of 1989.

The Committee on Education and Labor under Rule X, cl. 1(g) has general labor jurisdiction and jurisdiction over all legislation empowering the Secretary of Labor to take specific actions regarding labor policies and programs. Mr. Chairman, H.R. 3402 contains a rather extensive labor package which authorizes the Secretary of Labor to provide assistance in the following areas: training and retraining, job search and employment services, occupational safety and health protection, labor-management relations, labor statistics, and analysis of productivity constraints. It is on this basis that the Committee on Education and Labor would normally exercise its jurisdictional claim.

Recognizing, however, that the consideration of this measure is under some time pressure and because the Committee on Foreign Affairs has made every effort to accommodate the interests and views of the Committee on Education and Labor, for which I am very appreciative, and has acknowledged our Committee's jurisdiction we will not exercise our jurisdictional prerogatives.

Again, Mr. Chairman, I very much appreciate your kind consideration in this matter and your willingness to acknowledge our claim by inclusion of this letter in your committee report to accompany H.R. 3402.

With best wishes,

Sincerely yours,

AUGUSTUS F. HAWKINS,
Chairman.

Mr. Chairman, I extend my deep appreciation to all of the other chairmen of the committees who worked on this, the ranking members, and the staffs who helped us put this together. The leadership, both the majority leader, the gentleman from Missouri [Mr. GEPHARDT] and the minority leader, the gentleman from Illinois [Mr. MICHEL], have played leading roles in facilitating the political consensus that was necessary to bring this bill to the floor. Without that, it just would not have happened this quickly. Other Members who have helped to develop this legislation are the gentleman from Illinois [Mr. ROSTENKOWSKI] and the gentleman from Michigan [Mr. DINGELL]. The gentleman from Indiana [Mr. HAMILTON], chairman of the Subcommittee on Europe and the Middle East has been the point person and still is the point person on this bill, and the most forceful spokesman for the need for immediate and generous response to the opportunity which is offered now by the transition that is taking place in Poland and Hungary. My own ranking member, the gentleman from Michigan [Mr. BROOMFIELD], has worked very diligently in helping us arrive at a consensus and working with the administration.

While we started out with a difference of opinion, we have managed through the dint of hard work and persuasion to bring all parties together on this bill so that, despite the fact that the administration may have some reservations about parts of this bill, they now are supporting this effort.

I would want to note that it is unclear as to whether there is direct spending in this bill. I will continue to consult my colleagues on the Commit-

tee on the Budget to determine if any changes are necessary. I can assure the Members that any budget problems that need to be straightened out will be done in conference.

Mr. Chairman, we have a critical piece of legislation which provides the United States the tools necessary to respond to a unique opportunity in history. Let me add that I would hope that my colleagues would overwhelmingly support this legislation, and I am sure they will.

We are not alone in this. We do not have enough money and enough talent to do it by ourselves. There is help coming from our allies. It is absolutely essential that other countries, West Europeans and others, participate in this effort, because what we are seeing here is the opening of a door to an entirely new vista. It has been made possible by many things, not the least of which has been the changes that are proposed by the Secretary General of the Soviet Union. Undergirding everything has been the constancy of the determination of the people in Poland and Hungary, who have shown unusual courage in making it possible today for us as Americans to assist in the transition which we deem vital to their own interest and is also so important to ours.

Mr. Chairman, this is an historic occasion. I am sure all Americans will appreciate what we in the Congress have done to respond to a very, very unusual opportunity in Europe.

□ 1110

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Illinois [Mr. ANNUNZIO], the chairman of the Subcommittee on Financial Institutions Supervision, Regulation and Insurance of the Committee on Banking, Finance and Urban Affairs.

Mr. ANNUNZIO. I ask the distinguished chairman of the Foreign Affairs Committee, Mr. FASCELL, to engage me in a colloquy regarding technical assistance for the establishment of viable financial institutions in Poland.

Mr. FASCELL. I would be happy to enter into such a colloquy.

Mr. ANNUNZIO. Mr. Speaker, financial institutions are as necessary for a healthy economy of a country as power lines are for the distribution of electricity. Financial institutions provide a means by which a nation's savings are reinvested and used to provide working capital and loans.

The financial institutions of Poland no longer serve that purpose. The Polish people do not trust their state run banks. They keep their savings under mattresses or hidden in the walls, where they are unavailable for making loans. Poland's state run banks no longer serve as efficient financial intermediaries between savers and borrowers. Credit unions, since they are owned and controlled by their members, have been suggested as a type of financial institution that might be viable in Poland.

Mr. Chairman, it is my understanding that AID is authorized to contract with the Treasury Department and other executive branch agencies to provide technical assistance to foreign nations. Is my understanding correct?

Mr. FASCELL. The gentleman from Illinois is correct.

Mr. ANNUNZIO. Is AID also authorized to contract with the National Credit Union Administration to provide the Polish Government and other Polish entities with technical assistance and advice regarding credit union issues, and with other Federal bank regulatory agencies to provide similar assistance regarding areas within their expertise?

Mr. FASCELL. The gentleman from Illinois is correct again. AID may enter into contracts with such agencies and other parties to provide such assistance as it determines is appropriate.

1Mr. ANNUNZIO. I thank my good friend for helping clarify these points.

Ms. KAPTUR. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I am delighted to yield to the gentlewoman from Ohio, who has expressed an interest in this subject.

Ms. KAPTUR. Mr. Chairman, I certainly have. I would like to thank the gentleman from Florida for his historic leadership in this legislation. I want to associate myself with the remarks of the gentleman from Illinois [Mr. ANNUNZIO] in support of the credit union language included in this measure.

In section 203 of the bill, I would like to call attention to language that will provide funds to the World Council of Credit Unions for technical assistance to Polish and Hungarian citizens to start credit unions. I would like to thank the distinguished chairman of the Foreign Affairs Committee for his cooperation in including this important language in H.R. 3402.

I would like to call particular attention to the keen interest of Solidarity in establishing credit unions. Solidarity officials visited this country and met with officials of both the World Council of Credit Unions as well as with the National Credit Union Administration. I would like to commend Mr. Larry Leck, chairman of the Polish Welfare Association in Chicago and Mr. Tom Gobby, vice president of Talman Savings in Chicago, for their instrumental role in setting up this visit.

Just yesterday, I received a call from Larry Leck who said that Solidarity was very interested in the credit union language in section 203 as well as in an amendment that Mr. LEACH will offer on the floor today to have the enterprise fund also provide technical assistance for credit unions. He informed me that Solidarity is extremely interested in starting a credit union under its name. Solidarity is very anxious to receive assistance from this Government to help them in this endeavor.

The World Council of Credit Unions has experience in over 50 developing countries in providing technical assistance to citizens that wish to start credit unions. It has been receiving Agency for International Development—AID—funds to provide such assistance since the 1960's. I am confident that it has the experience and expertise to assist the Polish people in organizing credit unions to facilitate the savings and lending activities that are so desperately needed to bring about the growth and reform of the Polish economy.

I would also like to call attention to important language that was included in the Foreign Affairs Committee report on H.R. 3402. This language will enable the National Credit Union Administration to continue the important dialog it has started with officials of Solidarity. In particular, the National Credit Union Administration will provide technical assistance to the Polish and Hungarian Governments regarding appropriate credit union laws and regulations. The recent need for a Federal bailout of the savings and loan industry demonstrates the importance of adequate regulation of financial service sectors by national governments.

Solidarity has estimated that Polish citizens are holding between $5 and $9 billion in hard currency outside of their state-controlled banking system. Member-owned and democratically controlled credit unions are an especially appropriate financial institution to promote much needed savings and lending activities due to the Polish people's desire to transition to democratically controlled political institutions and to market economies.

Mr. Chairman, I wish to again thank the gentleman from Florida [Mr. FASCELL] for his courtesy and leadership and willingness to work with all Members of the House.

Mr. FASCELL. Mr. Chairman, I thank the gentlewoman from Ohio for the remarks she has made with regard to this issue, and also thank her for her leadership in helping us put this bill together and especially for calling attention to this particular issue. I understand that an amendment will be offered later which the gentlewoman from Ohio is a cosponsor of, which will place additional emphasis with respect to the need for credit unions.

Again, I want to express our appreciation from the Committee on For-

eign Affairs for the gentlewoman's fine work.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman from Florida very much.

Mr. FASCELL. Mr. Chairman, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill has bipartisan support and is necessary to address Poland's immediate economic crisis. Furthermore, it will enhance the long-term prospects for democracy and free enterprise in both Poland and Hungary. We have an historic opportunity in Eastern Europe and it is crucial that we join with our allies to show tangible support for the changes occurring there.

The administration is concerned with the high level of funding in the bill for the two Enterprise Funds—an amount well over the administration request. We should not be too surprised or disappointed if the harsh budget constraints under which we are operating result in the appropriators being unable to reach the authorization ceilings in the long-term initiatives such as the Enterprise Funds.

We all recognize the urgency of the situation in Poland. It is of the utmost importance that the democratic gains made by the people of Poland be sustained and strengthened. We must move quickly in providing the kind of support that the people of Poland need today including agricultural commodities and short-term budget support. The International Monetary Fund and the Western democracies are working with Poland in order to reach agreement paving the way for grant assistance to stabilize the Polish financial system. These are the most urgent priority items in the package before us and I would encourage participants in the appropriations process to fund them accordingly.

The chairman and ranking members of the seven committees of jurisdiction should be commended for their effort to move this legislation expeditiously to Floor consideration. With the full cooperation of the Republican and Democrat leadership this bill demonstrates the bipartisan conviction of the House to respond to a truly historic opportunity.

Mr. Chairman, I would like to commend the chairman of our full committee, who really deserves so much credit for bringing this bill to the floor as quickly as he has. But there are so many other Members that deserve credit here.

The gentleman from Missouri [Mr. GEPHARDT] and the gentleman from Illinois [Mr. MICHEL], the minority leader, and so many others deserve a great deal of credit. I notice the gentleman from Illinois, DAN ROSTENKOWSKI, and the gentleman from Indiana, LEE HAMILTON, and the gentleman from Iowa, JIM LEACH. There are so many.

I was so happy to look over the list of sponsors from Michigan, including the gentleman from Hamtramck, Mr. HERTEL, who represents more Polish-American people than anybody else in the country, and, of course, the gentleman from Michigan, JOHN DINGELL, the dean of the Michigan delegation. Also other members of the Michigan delegation, Mr. SCHUETTE, and Mr. BONIER, of course, who did such an excellent job on the rule and who is deeply committed to the bill.

We have a lot to be proud of, the fact we are all joining together in this historic moment to push this bill through. Mr. Chairman, I hope that this legislation will receive the unanimous support of the majority of the Members of Congress.

Mr. Chairman, I reserve the balance of my time.

Mr. FASCELL. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Chairman, we are making history in the House of Representatives today. I think it is very important to pay tribute to the gentleman from Florida [Mr. FASCELL], the very distinguished chairman of the Foreign Affairs Committee, and to the incarnation of Arthur Vandenberg, the distinguished ranking minority Member of the Foreign Affairs Committee, the gentleman from Michigan [Mr. BROOMFIELD] for their willingness to join together and to present this legislation before the House.

The recent developments which have taken place in Poland and Hungary, the transformation of Poland from a one-party dictatorship into what appears to be a multiparty democracy, and the commitment on the part of the Hungarian authorities to hold the first truly free and fair elections in that country since the end of the Second World War, not to mention the recent vote by the Communist Party of Hungary to divest itself of its Leninst characteristics and to assume the aspects of a truly pluralist political party, are genuinely exciting developments.

I do not think any Members, even as recently as 2 or 3 years ago, could possibly have anticipated that the totalitarian regimes of Poland and Hungary would have the capacity to transform themselves into nations governed by the principles of political pluralism and a market economy.

□ 1120

And yet that is exactly what is now taking place in both nations.

It would, however, be a serious mistake for us to take the success of the reform movements in Poland and Hungary for granted. There are enemies both internally and externally of this reform process who would very much like to see it fail and who would like to bring about a reestablishment of totalitarianism in both nations.

The economic situation in Poland is an extremely grave one. The nation is on the verge of hyperinflation. There are serious food shortages which have emerged, and in Hungary as well the economic situation is in a very perilous condition. Consequently, the real threat to the success of the reform movements in Poland and in Hungary lie in spontaneous social upheavals, particularly in Poland if the economic situation there does not rapidly improve.

To a large extent an improvement in the Polish economy will depend primarily on the ability and the willingness of the Polish Government to institute the kind of comprehensive economic reforms which will make sustained economic growth possible and the kind of fiscal measures which will bring inflation under control.

We recently had a visit from the finance minister of the new Polish Government. He made it clear that the Polish authorities are now committed to precisely those kinds of reforms.

But they cannot do it all by themselves. They are going to need some additional assistance in order to cushion the impact of the economic reforms which in the short run are likely to make things worse before they get better in Poland.

That is why this bill is before us today.

I know there are some who say we cannot afford it, there are others who say we have unmet social needs in our own country. But, my colleagues, over the course of the last 40 years we have spent literally trillions of dollars to prevent the communization of Western Europe. Can we not now afford $800 million to facilitate the unraveling of communism in Eastern Europe?

It is not just in Poland and Hungary that the future of Eastern Europe is at stake; it is also in Czechoslovakia and in the German Democratic Republic and in Romania. In those countries people are watching what is now happening in Poland and in Hungary. If these promising experiments in political pluralism and in market economies fail in Poland and Hungary, it will stifle the prospects for political and economic reform in the other countries of Eastern Europe.

So I think it is fair to say that if the Cold War is ever truly going to come to an end, it will have to end the way it began, in Eastern Europe, with the emergence of governments that truly reflect the will and wishes of their own people.

That is what is now happening in Poland and in Hungary. It can happen elsewhere in Eastern Europe if Poland and Hungary are successful.

So I urge my colleagues to support this bill when it comes up for a vote on final passage later today. This is our opportunity to make a historic contribution to the transformation of Eastern Europe into a part of the world where citizens have governments of the people, by the people, and for the people.

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of H.R. 3402, the legislation before us to provide select aid to Poland and Hungary. As a consponsor of this bill and a member of the Foreign Affairs Committee, I believe it will help bolster the historic economic and political progress being made in these two pivotal Eastern European countries.

While I am encouraged with the positive changes toward economic pluralism and real democracy in Poland and Hungary, I recognize that they are still members of the Warsaw Pact and are still occupied by tens of thousands of Soviet troops. Thus, I am very sensitive to providing American tax dollars to prop up bankrupt Communist regimes. However, I support this aid package because I believe it really can help make the difference between success and failure for this historic move toward freedom and democracy. In addition, there are enough checks and balances to ensure that the people of Poland and Hungary benefit from this aid—not the Communist Party. If reforms are reversed, this aid can easily be halted.

It is very important for the United States, along with our Western Allies, to back up our words of encouragement to the Polish and Hungarian people with real deeds. This aid will do just that.

Events that have occurred in these two countries are remarkable. In Poland, we have witnessed, for the first time since the Communist takeover in the late 1940's, free elections. And, from the results it is clear that had the Communist Party not "reserved" a number of seats in the SEJM—the parliament, it would have been soundly ousted. It is very telling that the top Communist leadership, including the prime minister, were "unelected" by the Polish populace. While preelection agreements that controlled the electoral power of the people, such as the reservation of a number of seats for the Communist Party, were followed keeping the Communists in power, this election was a very significant step toward greater freedom and liberty in Poland.

Our aid is critical to Poland. The Communists lost support because they proved, through their repeated economic failures, that the Communist system does not work. But, years of bankrupt Communist rule have left Poland in the economic doldrums. Now, the freedom movement led by Solidarity has been tasked with turning the situation around. This will be an extremely hard job. Without our help, these noble efforts could fail allowing the Communists to claim a propaganda victory and giving them the excuse to monopolize power once again.

On the brighter side, our aid will, I believe, encourage further progress and promote even greater positive changes—like strengthening the private sector. Of course, should the Communist leadership change direction, so can we, as we did in 1982 after martial law was imposed by suspending Poland's MFN status. In 1987, the MFN status was restored and additional reforms in Poland occurred. Today, through allowing Polish goods to enter the United States under lower GSP tariff rates and through other economic assistance, I believe we are advancing the reform movement.

In Hungary, the reforms have been even greater. I visited Hungary in January 1989 with a number of my colleagues and was very surprised by the level of economic and political freedom enjoyed by Hungarians. While much more needs to be done and the iron fist of the Soviets still looms above Hungary, Hungary is the most advanced of all the Eastern European States.

Just recently, the Hungarian Communist Party voted itself out of existence. Yesterday, Hungary's parliament changed the status of Hungary from a Communist people republic to a republic based on democratic principles. Hungary's new constitution prohibits one-party rule—a first for Eastern Europe—and prohibits a party from controlling the organs of government. These are very significant changes that cannot go unnoticed. New presidential and parlimentary elections based on multiparty competition have been planned. This type of activity is, until today, unheard of in a Communist, much less a Warsaw Pact, country.

Our previous carrots to Hungary, in the form or Western economic assistance, have prompted this change and convinced the Hungarian people that our economic and political system is better than the Soviet's. Continued support, in the form of this aid package, helps accelerate Hungary down this reforming path and helps thwart any attempts to roll back these important accomplishments.

As one Hungarian official told me during a meeting in Budapest, "There is much talk about Gorbachev's reforms—glasnost and peristroika. However, think about this, if reform fails in Hungary, it too will fail in the Soviet Union. But, if reform fails in the Soviet Union, it will still continue in Hungary." Think about the meaning of that statement—Hungary has come a long, almost irreversible way. Hungary is the model for other East Bloc nations to follow. We should continue to support, with the necessary checks and provisions, this Eastern European maverick.

Again, this aid proposal is not a blank check. American assistance is carefully channeled and monitored. Its release is contingent upon continued economic and political reforms. This is a golden, perhaps one-time, opportunity to help cut out huge sections in the Iron Curtain. We should not miss this chance. I urge my colleagues to join me in supporting H.R. 3402.

Mr. FASCELL. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. DE LA GARZA], the chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Chairman, I thank the distinguished chairman for yielding time to me.

Mr. Chairman, I rise in strong support of H.R. 3402, the Polish and Hungarian democracy initiative of 1989.

I commend the House leadership and particularly Chairman FASCELL of the House Committee on Foreign Affairs for making the development and swift consideration of this aid package for the Polish and Hungarian peoples a top priority of this Congress. I am proud that this country is among the first of the free world to respond to the actions these countries are taking toward true democracy and a free enterprise economy.

The people of Poland and Hungary have made a historic decision to peacefully move their countries toward more free market-oriented economies. In both countries, but most particularly in Poland, the process of restructuring their economic systems will involve financial pain and actual sacrifice by their citizens.

Americans are cheering the move by these East European nations to peacefully travel the road—away from decades of economic stagnation under Communist rule—toward a future of more economic opportunities, more democratic government, and a better way of life.

But it is not enough for us to sit on the sidelines and applaud. We have a moral obligation as the world's oldest democracy to help them along their journey. We must lend these nations a helping hand.

The legislation before us today extends that lending hand. H.R. 3402 provides much-needed economic assistance for Poland and Hungary in the areas of trade and investment, educational, cultural and scientific exchanges, technical training and, most importantly, agricultural assistance.

While their political situations are similar in many respects, the agricul-

tural economies of these countries differ widely.

I have visited Hungary and seen firsthand its agricultural abundance, its marketing and distribution system, and its involvement of the private sector. Hungary has made tremendous strides in building its agricultural infrastructure. But the country still faces the problem of uncontrolled costs, rising food prices, and the lack of technical expertise for modern-day agriculture.

With regard to Poland, it is obvious that the vital key to the ultimate success of the Polish peoples' journey toward free enterprise is an adequate and affordable food supply.

Fortunately, Poland is blessed with agricultural resources capable of feeding its people and the farmers willing to meet that need.

However, simply getting food on the table in Poland is hampered by the country's grossly inadequate agricultural distribution system that is discouraging for both their farmers and their consumers. While most private farmers have money and are willing to buy agricultural necessities such as fertilizer and equipment, these inputs are simply not available.

More immediately, the Polish people are faced with rapidly escalating food costs since the removal of price controls by the Government in early August. This action has resulted in panic buying and hoarding by some consumers, and in many instances private farmers are withholding their commodities until prices rise.

I am advised that an increasing number of the Polish people are now experiencing severe hardships, particularly the elderly on fixed pensions and young children whose nutritional needs are most urgent.

Mr. Chairman, Poland desperately needs assistance to rebuild its agricultural sector. As an August 1 editorial in the Washington Post pointed out, "if Poland can't get its food markets straightened out, it isn't likely to be able to get the rest of its economy working."

As a first step in this direction, this legislation provides the Polish Government with food assistance which can be furnished directly to those in need or monitized to develop agricultural infrastructure.

Specifically, H.R. 3402 directs that Poland should receive in fiscal year 1990 not less than $125 million in funds through the Food-for-Peace, section 416 food donations, and Food-for-Progress programs.

In addition, the legislation mandates to the maximum extent practicable that this assistance, with emphasis on feed grains to sustain and build needed livestock herds, be provided through nongovernmental organizations. I personally am familiar with the Foundation for the Development of Polish Agriculture, and I am hopeful that this foundation can be fully utilized in this regard.

To correctly assess the ongoing needs of Poland, this legislation requires the President to file timely reports with the Congress on what additional agricultural assistance is needed by the Polish people and how much of this need will be met by the United States.

Private sector development is a primary goal of the Solidarity movement, and it is a primary goal of this legislation. Perhaps in no other economic sector is privatization so important or so beneficial to consumers as in agriculture.

The enterprise funds provided in this legislation along with the $10 million provided for technical training programs are aimed at developing the kind of private sector infrastructure desperately needed in both Poland and Hungary.

This legislation will greatly help meet some of the needs of these countries. Others are involved in this effort, and that is why this legislation calls for careful coordination of the U.S. effort with that of other countries and our multilateral lending institutions to better assure economic stability in these countries during this transition period.

Mr. Chairman, I personally intend to monitor very carefully the agricultural situation in Poland. I feel it is extremely important that the commodities the United States provides Poland are made available to the Polish people at reasonable prices.

Furthermore, I want to be assured that proceeds from the sale of any commodities go toward building the infrastructure and obtaining the inputs which Polish farmers need to put food on the tables of Polish families at afforable prices.

I am pleased to endorse this legislation, and I urge my colleagues to give it their full support.

□ 1130

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, this Member rises in support of H.R. 3402 and commends the distinguished cost of leadership from the House Foreign Affairs Committee and the Congress who are responsible for bringing us their carefully crafted legislation.

In recent months it has often been observed that we in the West have a historic opportunity to help the Poles and Hungarians to realize their democratic aspirations. The term "historic opportunity" has been bandied about so much we run the risk of loosing sight as to how truly significant the current event in Central and Eastern Europe actually are.

What we are witnessing in Hungary and Poland, Mr. Chairman, is a fundamental restructuring of political alignments that have existed since the end of the Second World War. If we in the West conduct ourselves in an imaginative but judicious manner, we have the chance to turn long-time adversaries into democratic friends. This is indeed a "historic opportunity."

This legislation is a truly bipartisan package that incorporates the contributions of the administration as well as many Members of this body. It is crafted to give maximum encouragement to privatization pluralism, economic restructuring and democraticism in Poland and Hungary not to prop up the status quo. We carefully bypass direct aid to the governments of Poland and Hungary wherever possible and proper. The House has been a bit overgenerous in some of the elements of this legislation, and I hope that will be pared down yet in the congressional process. This Member will in the time available, be able to address only a few of the many important provisions.

H.R. 3402 provides $125 million in near-term food assistance for Poland. This assistance serves a number of purposes. First and foremost, it addresses the very serious food shortage Poland is now experiencing. More than that, however, the food assistance is designed to improve the agricultural infrastructure and make improvements in food processing technology and distribution. That is the intent.

The food sector is perhaps the portion of the Polish economy that could respond most quickly to free-market forces. Unlike other Eastern European nations, most of Poland agriculture has remained in private hands. This is an important point that this bill takes into consideration. While the food aid component is designed to meet an immediate humanitarian need, we must be careful not to undermine the struggling or recovering independent farmers. Unstructured or carelessly designed programs for food aid would undermine the profit motive for Polish farmers, and could do long-term damage to the very people we are trying to help. I do hope that the administration will utilize the expertise of American and American-based agricultural cooperative association and related private voluntary organizations.

If agricultural production can be made profitable and if farmers are able to get their product to market, these independent farmers can quickly respond to the demand. A major problem that these farmers face is a weak food processing and distribution infrastructure. H.R. 3402 seeks to bolster this lagging infrastructure, and thus help Poland to help itself.

In addition, funds are provided to extend the Farmer-to-Farmer Program to Poland, but as clarified by the Member's amendment—not at the expense of our efforts in Latin America, the Caribbean, Africa, and elsewhere. The effort in Poland would come from additional resources. The organizations known as VOCA is well-suited to pursue the responsibility for initiating and managing this effort in Poland. This legislation allows U.S. farmers and personnel from our great land grant institutions to share their expertise with their Polish counterparts, while not undermining U.S. farmer-to-farmer initiatives elsewhere around the globe.

Another important feature of this legislation is the emphasis it places on education and cultural exchanges, and on underwriting scholarships. By providing funds for initatives such as the Fulbright Educational Exchange Program, the Samantha Smith Program, and the National Academy of Sciences exchange, a critically important person-to-person dialog is established. This cannot help but benefit United States-Polish relations.

By encouraging sister city and sister institution programs, this legislation brings the U.S. assistance effort at a community level. Sister city programs and the like mean that this assistance package will not simply be a case of a faceless national government coming to the aid of Poland. Rather, it will be American cities, universities, churches, and companies coming to the aid of Polish cities, universities, parishes, and churches. It is programs like these that bring out the best of America. And it is initiatives like these that make H.R. 3402 especially worthy of passage.

This Member urges approval of the Poland/Hungary assistance package.

Mr. FASCELL. Mr. Chairman, I yield 3 minutes to the distinguished chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I rise in support of H.R. 3402, the Polish and Hungarian Democracy Initiative of 1989.

I would like to commend the chairman of the House Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL] and the chairman of the Subcommittee on Europe and the Middle East, the gentleman from Indiana [Mr. HAMILTON] for working very hard in assembling this comprehensive and urgently needed legislation. I also want to commend the House leadership, on both sides of the aisle, particularly Majority Leader GEPHARDT, for making it possible for this important bill to be considered so expeditiously by the House. The bill includes provisions under the jurisdiction of a number of House committees, including the Committee on Energy and Commerce, which I chair. We have had a great deal of cooperation by all the committees involved to bring this bill to the floor as quickly as possible. Particular recognition should be given to my good friend and colleague, the gentleman from Illinois [Mr. ROSTENKOWSKI], who has worked diligently on helping to perfect this bill.

We have before the membership of this body the most momentous opportunity this country has confronted since World War II ended. We can achieve our basic policy of freedom, self-determination, multiparty elections, freely and fairly conducted, and an opportunity to foster economic self-determination and for market-oriented economies in those countries. They are moving faster than we.

The package which was submitted by the administration was a good one, but rendered inadequate by the turn of events. Our opportunity now is to craft something which will be more meaningful. Other nations are seeking to carry foward this end. Germany and the European Economic Community have talked already about a billion-dollar program. They have already given thousands of tons of food and other assets to Poland, and to other countries behind the Iron Curtain, to help them move forward.

Certainly this Nation can do no less. I urge my colleagues to adopt this bill with all speed, and to help ensure that Poland and Hungary will move toward freedom, self-determination, and a free-market economy.

The same opportunity lies before Members with regard to other nations behind the Iron Curtain. I urge my colleagues, in the interests of peace, in the interests of this Nation, in the interests of the world and harmony and interests of the people behind the Iron Curtain, to seize this opportunity. It is now. It may never come again.

Mr. Chairman, the need for this legislation was abundantly clear when I led a bipartisan group of 12 members to Eastern Europe, including Poland. Our group could clearly feel the winds of political freedom and economic change sweeping across these east bloc countries. For the first time in over 40 years, Poland has a non-Communist government. But this new government faces great challenges. Poland's economy is deteriorating. Inflation is growing at an annual rate of 200 percent—and this could double by the end of the year. The average wage is $30 a month, and falling. State managed industries are unproductive and inefficient.

As the members of our delegation walked though the streets of Warsaw, Gdansk and Krakow, we were approached by both adults and children desperate for U.S. dollars. Children selling postcards or Solidarity buttons wanted dollars—not zlotys—indicating how little faith they have in their own economic system.

The Polish people are suffering terribly. Consumer goods and food items, such as beef and dairy products, are unavailable or prices are far out of reach of ordinary citizens. Long lines for everything abound. The people are sad, angry and united in the demand for change. Ordinary citizens, parliamentary leaders and chiefs of state all recognize that Communist economic and political doctrine has failed.

There is no mistake that the Poles need our help. In July, Lech Walesa asked for $10 billion. When he met with our delegation in August he also asked for debt relief, assistance in establishing banks in Poland, food assistance, and programs to secure joint ventures and investments that could demonstrate principles of efficient business management.

The administration initially responded to Lech Walesa, Solidarity and the needs of Poland with 2 percent of what was requested. The administration's original assistance package, including emergency food aid, amounted to $170 million.

The administration then realized the fact that Congress would not tolerate a nickle and dime solution to the crisis in Poland. So instead of leading, as they should have, the administration is beginning to step in line behind the leadership of the Congress. It is now making progress in cooperating with the rest of the western world and to send more immediate food assistance to Poland and to become more of an active player in promoting the contribution of economic stabilization funds to these countries.

With Solidarity taking over, the future of democracy in Poland is more closely tied to the health of the Polish economy. This is why those of us that worked on drafting this legislation realized that it was important that we not focus solely on the economic component. Economic and political reforms are inseparaable. Solidarity was brought to power by widespread dissatisfaction with a crumbling economy. The lack of progress in the future will undermine support for Solidarity, and thus for democracy.

The Poles simply do not want direct government aid. Walesa has requested debt restructuring, loans, technical assistance, and joint ventures—not just from the United States, but from other nations and from international agencis and financial institutions.

In addition to providing much needed relief to Poland, this legislation will assist Hungary down the road to achieving a sound economy and democratic government. In Hungary, the Communist Party itself has started major reforms. The Hungarian Parliament has liberalized the right to form new political parties and groups,

reduced media censorship, and scheduled parliamentary elections early next year. It is possible that those elections could elevate non-Communist parties to a substantial majority of the Parliament. The Hungarian Communist Party also has adopted a platform advocating multiparty democracy and a market economy.

On the economic side, Hungary faces many of the same problems confronting Poland. There has been virtually no economic growth. Wages have fallen dramatically and at least one-quarter of the population lives in poverty. Its substantial foreign debt is nearly $19 billion.

This bill does a number of important things to help stablize the economies and political foundations of both Poland and Hungary. The $200 million economic stabilization grant for Poland will allow that country to help stabilize the balance of payments deficit. The authorization of $200 million for private enterprise funds established for Poland and Hungary will help promote private sector activities in both the business and agricultural sectors and create joint ventures with United States firms.

The bill calls on the administration to take the lead in pressing international financial institutions, such as the World Bank, to provide an optimal level of assistance to Poland and Hungary and to work towards restructuring the massive international debt of these two countries. The bill's authorization for the United States to spend at least $125 million in food assistance to Poland is urgently needed.

Because trade is essential to promoting sound economies, the bill removes restrictions currently preventing the President to provide specific trade benefits to Poland; it provides $6 million for a new trade and development program for both Poland and Hungary.

To promote private investment, this legislation encourages the President to seek bilateral investment treaties with Poland and Hungary. To promote private investment in Poland and Hungary, the legislation authorizes Overseas Private Investment Corporation [OPIC] programs, such a political risk insurance, and other innovative projects to help develop the private sector of these countries.

I believe those provisions of H.R. 3402 creating cultural programs, educational scholarship, science and technology exchanges, assistance for democratic institutions and providing medical and hospital assistance also are essential components of the legislation.

Another important provision of H.R. 3402 is title V which authorizes the Environmental Protection Agency and the Department of Energy to carry out environmental initiatives in Poland and Hungary. The President's plan to retrofit a coal-fired commercial powerplant with advanced clean coal technology that he announced in Poland last July is specifically authorized in section 502(e)(1). Such authorization is necessary because current authorities of the Energy Department, including the Department of Energy Organization Act and Federal Nonnuclear Energy Research and Development Act of 1974, do not provide the Department with authority to retrofit powerplants in Poland.

In addition, section 502(e)(2) contemplates a more extensive program by United States officials cooperating with Polish officials to assist Poland in developing the capability to use fossil fuels cleanly at industrial facilities throughout Poland. The purpose of these initiatives is to help Poland in addressing its serious air pollution problems.

The Environmental Protection Agency is also providing expanded authority to conduct training, technical assistance, and monitoring activities in Poland and Hungary, including establishment of a regional environmental center in Hungary. The Environmental Protection Agency is to be the lead Federal agency in carrying out actions authorized in section 502 (a), (b), and (c). As set forth in the amendment to section 502(d), funding for the Environmental Protection Agency activities will be provided from foreign assistance funds to the Agency for International Development and then transferred directly to the Environmental Protection Agency.

The ultimate question the administration and Congress must ask is what is the price for democracy in Poland, or for moving Hungary toward a democratic government? Whatever the cost, we now stand at the threshold of the greatest opportunity our country has seen since World War II. I would hope that we take every advantage of that opportunity to make an investment in democracy.

The most important aspect of this legislation is that it is attempt to seize the most momentous opportunity that this Nation has had presented to it for world peace, democracy and freedom since World War II.

One of our most important national policies has been in promoting freedom, self-determination and free elections in Eastern Europe. The Poles, Hungarians, and others are moving toward this goal faster than we are. Our hope of a decent living standard and market-oriented economies is now a goal of Eastern bloc countries.

Let us seize this opportunity. Let us help these people, their goals and their success is ours. And should they fail, their failure would be a disaster for us, for the world, and for peace.

When Lech Walesa comes to the United States in mid-November and addresses a joint meeting of Congress on November 15, I hope the Members in this Chamber can hold their head high and tell Mr. Walesa to his face that we've done the best we can do to help him ensure success for his country and his people.

I ask my colleagues for their full support of this legislation.

Mr. LAGOMARSINO. Mr. Chairman, I yield 3½ minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I am pleased to be an original cosponsor of this legislation (H.R. 3402), and I commend our distinguished chairman of Foreign Affairs Committee [Mr. FASCELL] and our ranking minority member [Mr. BROOMFIELD] and all of the members of our Foreign Affairs, Ways and Means, and Public Works Committees, who had a hand in its drafting.

We are poised at a momentous time in history. Two years ago, none would have believed the changes that are now taking place in Eastern Europe. Poland has launched the first non-Communist-led government in the Warsaw Pact, and Hungary is pushing ahead with unprecedented political reforms, including movement toward the establishment of a multiparty democracy.

This legislation, the Polish and Hungarian Democracy Initiative of 1989, authorizing $840 million in agricultural, economic, educational, and medical aid, is designed to promote political and economic democracy in Poland and Hungary as those countries develop and implement programs of comprehensive economic reform. The purpose of this measure is to acknowledge the important progress by these two countries and to help them address pressing economic and social problems.

In additiion, the bill before us today contains a provision for technical training for private sector development in Poland and Hungary. That provision provides a farmer-to-farmer program with funding authorized in section 203. I believe that there is no better way to demonstrate U.S. support for democracies in these two countries than the creation of a cadre of American volunteers who can provide the critically needed technical assistance and training at this crucial time.

This type of program is tailor-made for American farmers of Polish descent, who speak the language, know the culture, and can teach new agricultural practices and improved management skills to their Polish counterparts. This program could be managed and operated through private nonprofit organizations such as the Volunteers in Cooperative Assistance, which has the track record as well as the recruitment and management capabilities needed for the job.

The Farmer-to-Farmer Program for Poland is of particular interest to my 22d Congressional District in New York where there are many excellent Polish-American farmers who are willing to channel their time and efforts to help reorganize Poland's agricultural economy from a centrally planned economy to a market economy. Food shortages and high prices have been the barometer of Poland's economic and political unrest. Therefore, the provision of agricultural and food products are essential if the Solidarity-led government is to succeed.

I encourage the administration to utilize $1 million, authorized in section 203 for the Farmer-to-Farmer Program, which would allow 100 American volunteers to participate over a 3-year period.

The last brief point I wish to make is that it is essential to not only provide Poland and Hungary with the funds to affect changes in the economic infrastructure at the macro level, but to provide money for training and project development at the micro level. Mr. Chairman, I believe that this legislation will bring us closer to those goals. Accordingly, I urge my colleagues to fully support this measure.

□ 1140

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, I rise today in strong support of H.R. 3402, which will authorize over $800 million in aid and other assistance to Poland and Hungary. I congratulate the distinguished chairman of our committee, the gentleman from Florida [Mr. FASCELL], and I want to tell him how very, very pleased I am to serve on the Committee on Foreign Affairs and be a part of this very, very momentous step.

I congratulate all the Members of the United States Congress who are really making history by doing this, but more so I congratulate the brave people of Poland and Hungary who for so many years have endured hardships that we could never even think of in the United States. I remember the darkest days of Solidarity when government moved to crush Solidarity, and many of us thought there was not much hope. But the brave people of Poland persevered, and today we are seeing the fruits of their efforts, and what it says is that the human spirit can never be crushed by any tyranny whatsoever.

We in the United States Congress are seizing this opportunity, and I am glad that we have increased the aid beyond the point of $800 million. I hope this aid will continue to increase, because now is the time for us to really move forward. Certainly since the end of World War II we have seen no other instances where countries have moved to as great an extent as have Poland and Hungary. And, yes, I agree with restructuring and all the things that were mentioned before, but it is important for the Polish people and the Hungarian people to see that the American people and the American Government stand very, very squarely behind them in their important move to democracy.

Mr. Chairman, I want to raise one other subject, and I know this will come up later with some of the amendments. I want to state very, very strongly that efforts to waive cargo preference provisions are inconsistent with long-standing U.S. policies which should not be subverted. We should use American ships to give the aid to Poland and Hungary. We should help American labor and provide American jobs. It is very, very important as we move forward that we keep this in mind.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Iowa [Mr. LEACH], a senior member of our Committee on Foreign Affairs.

Mr. LEACH of Iowa. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, we are on the cusp of one of the great turning points in history. Communism is in retreat, pell-mell, and it is key that we respond in a responsible way.

What is happening in Eastern Europe is rooted above all in the courage of the people in the region, but it has been premised as well in the firmness of the West, especially in our commitment to NATO.

From a historical perspective, it is clear that three-quarters of a century of experimentation with state-sponsored coercion has not worked. Communism has no political legitimacy because it is not rooted in the consent of the people. Communism also has no claim to economic efficiency. History has proven that free enterprise raises the standard of living of people far more efficaciously and fairly than state-centered planning.

I stress these broad themes because in a tragic sense Eastern Europe has been a laboratory for social experimenters. Citizens have been used as guinea pigs. The only good news in this blasphemous sociological experiment is that everyone on the planet has had the opportunity to contrast East Germany with West Germany, Poland with the Scandinavian states. There is no one anywhere who has freely concluded anything except that the light pastels of freedom are vastly preferable to the gray hues of oppression.

This is a time for optimism. History and time have proven to be on our side.

This is also a time to celebrate our values and insure that others are allowed the right to shape their own destinies.

Mr. Chairman, this bill carries a price tag for the American people, but in a dollars-and-cents sense, it is an extraordinarily cheap way of helping redirect the course of history. I urge its adoption.

Mr. FASCELL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, the actions that we take here on the floor today are actions that most of us whose parents fled the East bloc thought would not come for another five decades, if we were lucky. My parents fled the Soviet Union in 1946, my father was in the Polish army at the beginning of World War II, and as we came to this great and free Nation and looked back to our parents, friends, and neighbors who had been left behind, we simply saw very little hope for the future. Certainly at the time of the Hungarian uprising or the crushing of the Czech Government when it moved toward freedom, it seemed that even as we entered the modern age, there was little hope that the people of Eastern Europe would have an opportunity for freedom.

But today we are here with a very easy effort on our part. The bravery and struggle of Solidarity have brought the first non-Communist government to power in the Eastern bloc. In Hungary, building on the work of the Hungarian freedom fighters of the 1950's, today Hungary is moving away from a one-party state, and even its Communist Party has gone through a transformation and claims it is now a party that seeks to have a multiparty system in government.

If 10 years ago or 5 years ago the Americans and their allies were asked for $2 billion to buy the freedom of Poland and Hungary, Western democratic leaders would queue up one after the other trying to take the opportunity to undo what had been done 40 years earlier. If over the last five decades we had been given the opportunity for some economic stabilization funds, a few guarantees from Public Law 480 assistance to buy the freedom of the Polish people and the Hungarian people and by that set an example of what could have been done for the rest of Eastern Europe, there would be no debate, there would be no effort to shove the administration toward an ever-increasing role to try to help the free people of Poland and those trying to become free in Hungary and elsewhere to have that opportunity.

I commend the chairman of the committee and the leadership for pressing this process forward. It is tough to go home and tell our con-

stituents that at times when we need more money for housing, more money for education, more money to help young kids go to college, more money to help farmers make it in areas where it is still tough for farmers, that we ought to spend money here on Poland and Hungary, but as the chairman of the Committee on Foreign Affairs pointed out, we have spent in excess of $1 billion a year in defense of Western Europe through our commitment to NATO, and here for a small portion of those funds we are not only helping the people of Hungary and Poland be free, we are with that small portion of what we spend in NATO insuring a freer and safer Western Europe.

In this piece of legislation, using the private incentive programs of OPIC and the new trade credit insurance program from the Trade Subcommittee which I chair, with the proposals brought by the leadership to provide economic stabilization, the proposal that I offered as an amendment at the suggestion of the gentlewoman from Connecticut [Mrs. KENNELLY] to have the Peace Corps work in Poland, we have taken a giant step forward.

Mr. Chairman, I am thrilled to be here today as a Member of Congress to help the people of Poland and Hungary achieve their freedom.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 3 minutes to the gentlewoman from Kansas [Mrs. MEYERS], a member of our Committee on Foreign Affairs.

Mrs. MEYERS of Kansas. Mr. Chairman, I rise in support of H.R. 3042.

Mr. Chairman, I just returned from a meeting of the North Atlantic Assembly in Rome. It was a 4-day meeting with a powerful impact. The North Atlantic Assembly is made up of our counterparts from the assemblies, congresses, and parliaments of Western Europe, the United States, and Canada. It is the political arm of NATO.

I came home with two very strong impressions, stated by several speakers and in many private conversations. Our counterparts are saying that the postwar period has come to an end and that we are seeing the profound transformation of the European political and security structure.

They are also saying that we must not let this happen on Gorbachev's terms—even though he is popular and they hope he prevails. They do not want East and West to be reconciled by a convergence in the middle. They say that Western values of democracy and free enterprise or a market-driven economy must prevail.

And finally, they say that the key to this result is in the success or failure of Poland and Hungary.

Mr. Manfred Worner, president of the North Atlantic Council, called on all alliance governments to give food assistance, trade facilitation, funds for pollution control, and assistance for debt burdens and scholarships. He stated:

> Poland and Hungary are the two test cases for our alliance strategy. If reform fails, the lessons will not be lost on the hardliners in Czechoslovakia and East Germany. But if reform succeeds, that success will generate pressure for similar change throughout Eastern Europe.

Mr. Chairman, I urge my colleagues to support this economic aid package. The people of Poland and Hungary have taken a bold leap toward democracy, and Western Europe and North America must make the most of this opportunity to help them.

□ 1150

Mr. GILMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE], a senior member of the Committee on Foreign Affairs.

Mr. HYDE. Mr. Chairman, this is a very important day in the history of freedom. We are going to see whether a great democracy such as ours can help a country that has been in the shackles of Marxism-Leninism for many, many years as we reach the post-Marxist era, and I think it is critical that we come to the assistance of Solidarity and those forces for freedom inside that great country, and the same, of course, goes for Hungary.

Mr. Chairman, things are happening that we never anticipated would happen for many years, but we are seeing the complete failure of the demand economy, we are seeing how Marxism cannot feed its own people, cannot distribute, cannot produce consumer goods, and we have also seen, particularly in the case of Poland, where religious faith has acted as a bulwark to the people's aspirations.

I will never forget visiting Krakow and attending a dinner in a castle in a public park, and there was a church built over the water, and I asked why that was. I was told that the Communists had forbidden building a church in the park, so they built a church over the water as a testament of the faith of the great people of Poland.

Mr. Chairman, Socialist development has proven to be an oxymoron. Development just does not occur under socialism. The free market system has a golden opportunity to prove itself. If we respond with advice, with technical help, and with dollars and with all of the resources that we can judiciously and appropriately give to that country it can succeed. They still have a Communist president, the military and the police will be under Communist control; but Solidarity has an opportunity unparalleled in history to take that opportunity, to take that society and economy and to make it work.

Mr. Chairman, we dare not fail, and they dare not fail, so I am very proud of the House and what we are doing today. I am proud of the bipartisan nature of this activity, and I have every hope and expectation that this is but the beginning of a partnership for freedom with the great people of Poland and the great people of Hungary. They will be showcases that freedom and the market system really work.

So, Mr. Chairman, I am very proud of what we are doing today and salute the sponsors of this important legislation.

Mr. GILMAN. Mr. Chairman, I yield 3½ minutes to the gentleman from Washington [Mr. MILLER], a distinguished member of the Committee on Foreign Affairs.

Mr. MILLER of Washington. Mr. Chairman, to those who believe, as once as said, that history is a record of human progress, a record of the struggle of the advancement of the human mind, of the human spirit toward some known objective, 1989 is the year of vindication. I believe it is quite possible that 50 years from now, when we or our descendants look back, we will say, "1989 was a turning point, a turning point in world history as the world moved decisively away from dictatorship, totalitarianism, authoritarianism, toward democracy and freedom."

Mr. Chairman, that movement has gone on all over the world this year. The movement has contested dictatorships of the left, as well as the right, but of course most exciting has been the movement in Eastern Europe, the struggle against Communist totalitarianism. There is excitement and joy that we have to share with the people, and should share with the people, of Eastern Europe as Poland moves toward a multiparty state, as Hungary moves toward free enterprise. It is marvelous.

Mr. Chairman, our support, when nations move toward democracy and freedom, is important in the early fragile stages of these movements when a nation reaches a turning point, a moment in its history when it can regress to tryanny and oppression or progress to freedom and democracy. In the cases of Poland and Hungary it appears that these two countries have made that turn toward the freedom and democracy.

We supported Solidarity with our hearts during the martial law years. Now we can support Solidarity with our resources during the reform years.

Mr. Chairman, others have commented that we have spent billions of dollars on defense in Western Europe to guard against the threat from the Warsaw Pact nations; Hungary and Poland being two members of the Warsaw Pact nations, but today we have the opportunity with but a small tiny fraction of those billions that we have spent on defense to achieve so

much more in terms of promoting not only democracy and freedom, but peace.

This bill is not primarily a monetary package. It provides trade benefits, incentives, and it provides for EPA to cooperate with Polish officials in establishing an air quality monitoring network. Our Department of Energy will assist in modifying fossil fuel equipment, and it does provide some emergency food aid.

Thomas Paine said 200 years ago, Mr. Chairman, "Those who expect to reap the blessings of freedom must undergo the fatigue of supporting it."

Then fatigue meant giving of life for the blessings of freedom. Today all we must give is material help and know-how. It is help worth giving.

Mr. Chairman, the purpose of freedom is to create it for others. That is what this bill is all about. Let us support it.

Mr. GILMAN. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut [Mrs. JOHNSON].

□ 1200

Mrs. JOHNSON of Connecticut. Mr. Chairman, will the gentleman from Florida [Mr. FASCELL], join me in a colloquy?

Mr. FASCELL. Mr. Chairman, if the gentlewoman will yield, I would be delighted to.

Mrs. JOHNSON of Connecticut. First, let me congratulate the gentleman and his committee on a very thoughtful piece of legislation that will provide both the short-term and long-term aid to both Poland and Hungary that they desperately need and richly deserve.

The level of funding for the enterprise fund has been the subject of much debate recently and I am among those who wish fiscal reality allowed us to respond somewhat more generously, but the purposes for which these funds will be used are in the long run more important than the level of funding. Therefore, I would like to inquire specifically whether Enterprise fund money would be available for the development of banking institutions and capital markets.

While the bill's description of the enterprise fund provides for the development of small businesses, agriculture and joint ventures with the United States, I am concerned that it does not more specifically mention development of the financial institutions that are the backbone of a market economy.

Poland especially faces monumental tasks in creating convertible currency, savings institutions in which Polish citizens may have confidence, and new stock and bond markets that can provide capital for the Polish economy. If we do not provide sufficient encouragement to building the financial infrastructure, long-term economic growth will be impossible.

As the distinguished chairman knows, I had planned to offer an amendment to insure that this legislation explicity identified development banking and capital markets as a priority. While I will not offer the amendment, I want to clarify on the record that the reference to joint ventures allows the joint development of the market-oriented financial institutions that are keys to building the Polish and Hungarian economies.

The CHAIRMAN. The time of the gentlewoman from Connecticut has expired.

Mr. GILMAN. Mr. Chairman, I yield 1 additional minute to the gentlewoman.

Mr. FASCELL. Mr. Chairman, if the gentlewoman will yield, I thank the gentlewoman for raising that question. We want to make it absolutely clear, and I agree with the gentlewoman, that in the language and purposes section of the Enterprise Fund, when we are talking about joint ventures there is no limitation there with respect to financial institutions.

One of the great needs will be to establish the kind of financial institutions in which the Polish people and the Hungarian people will have confidence. If that can be done by joint venture, certainly we do not want to have the language interpreted in any way as limiting that. To the contrary, we agree with the gentlewoman's assessment and we say that the language which says through loans, grants, equity investments, feasibility studies, et cetera, these insuring programs, that joint ventures include financial institutions of all kinds.

Mrs. JOHNSON of Connecticut. I thank the gentleman. I believe this bill is a strong first step in making our Nation a true partner with Poland and Hungary in confronting the great challenges they face.

This is an exciting time. Events taking place in Eastern Europe have no precedent in recent history. In Hungary, a Communist government has declared communism itself to be outdated and, on its own, torn down its section of the Iron Curtain. In Poland, a true peoples' movement has triumphed and boldly outlined its own plan to transform its economy into one based on principles of the free market.

Of the two countries, Poland faces perhaps the greatest task in dismantling its centralized economy. Because of galloping inflation and a nonmarket finance structure, Poland today suffers from a two-tiered economy: The local currency is spent as quickly as possible on necessities, while foreign currencies—mainly dollars—are kept out of circulation by the Poles waiting for the day when their money might be deposited in banks in which they have confidence. There is an estimated $5 billion in so-called mattress money that could be invested in revitalizing the Polish economy if it could be lured into circulation.

In addition to banking, Poland needs to create stock and bond markets that can provide capital to Polish industry as it grows. Enterprise funds in this bill could be used to help provide the financing know-how to ensure a smooth capitalization of currently state-run industries. Allowing the use of United States enterprise funds to spur banking and capital joint ventures is a legitimate means to bringing market-oriented financial mechanisms to the Polish and Hungarian economies.

Mr. Chairman, during the past few months while we have been debating how much assistance we should provide, I am pleased that many American businesses have taken the initiative themselves to seek new opportunities in Poland and Hungary. My good friend and former chairman of the National Association of Manufacturers, Don Davis of New Britain, CT, is among those who have shown that the business community's interest in helping Poland is there.

But we should not expect Davis and others to provide all the initiative and bear all the risk and I am pleased that this bill will add Poland and Hungary to the list of countries where OPIC, the Overseas Private Investment Corporation, can guarantee loans for United States ventures. Because of OPIC's lack of authority to guarantee such ventures, we have fallen behind the Europeans in moving on the best opportunities. West Germany alone has formed 160 joint ventures in Poland this year while OPIC has waited for authority to support United States investment. Government insurance programs like OPIC will spark Poland's economic development and provide many benefits on both sides of the Atlantic.

Congressional action approving aid to Poland is long overdue, but the tough job of following through is even more critical if that aid is to have a lasting effect. Poland's economy cannot be transformed by quick fixes or even a blank check but this bill will lay the cornerstone for an ongoing partnership with our Polish and Hungarian friends to build stronger societies based on freedom and human rights.

Mr. GILMAN. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. DONALD E. "BUZ" LUKENS], a member of the Foreign Affairs Committee.

Mr. DONALD E. "BUZ" LUKENS. Mr. Chairman, I thank the gentleman from New York for yielding me this time, and to the distinguished ranking member of the Subcommittee on

Europe and the Middle East, I would like to offer my congratulations, and also to the chairman of the committee, the gentleman from Florida [Mr. FASCELL], and the chairman of the Subcommittee on Europe and the Middle East, the gentleman from Indiana [Mr. HAMILTON], and to the gentleman from New York [Mr. GILMAN], and the gentleman from Michigan [Mr. BROOMFIELD], who have been so aggressive and on the point in taking responsibility for aid to Europe at this critical time in our history.

There are three or four things I would like to discuss. We do not want to waste the money like we did in the seventies, when we threw billions of dollars at Eastern Europe in the hopes that they would modernize and become more progressive, particularly in their pursuit of human rights, which they did not.

What happens now? The gentleman from Washington [Mr. MILLER] raised an interesting point that this is a critical year in the history of the world and we have the opportunity to see Europe remake itself with Western world assistance, and some from Japan, hopefully, that will allow people to seek freedom again and human rights and the opportunity to demonstrate that democratic elections are healthy for a country and that the economy can boom when you have freedom politically.

I want to make the point that during the Reagan years we matched the Eastern Europe spending in defense dollars. We outspent them. We overwhelmed them and we strained their economy. Now we have an opportunity going into the 1990's to see us balance that spending in the defense area with more reasonable and much more productive and beneficial spending in the areas of political restructuring and economic restructuring.

The word glasnost has come to mean restructuring politically, although it really means in Russian transparency, not openness, but transparency.

What we have seen in perestroika has been the attempt to economically restructure, and that is what we aim these dollars at today.

There is no doubt about Hungary leading the pack, and now Poland is following closely behind in freedom, new freedom, politically and economically.

You know, the Soviets have a third problem and Eastern Europe is inheriting that and the world is inheriting it. We in the United States will inherit this problem, and that is the ecology. The ecological damage done in the Soviet Union has been extreme. In the small city of Kuril'sk in the Ukraine, they issued gas masks by the thousands to citizens just to breathe the air because it was so toxic. They could die from their air, because they ignored the environmental and ecological dangers that the whole world is now aware of.

In Azerbaidzhan, the city of Sumgait, 65 percent of all babies born last year were blue babies because the water was so deadly due to chemical wastes in the rivers.

The point is, if this money is not used wisely in the area of economic restructuring because of the new-found political freedoms and the ecological demands finally being met throughout Eastern Europe, we in the Western world and the whole globe will suffer.

I think we have the opportunity now, not only to request but to require our new-found friends. We hope, throughout the Eastern bloc to address their environmental problems at the same time they are now addressing their economic problems.

I am excited by the prospects of the new, perhaps, credit unions for people throughout Poland and Hungary. I was there when they opened their stock markets, which is now enjoyed by thousands of individuals throughout Hungary, although not yet a full-time stock market. I was there when they opened the bond market. They have led the advent of Western world economic institutionalism throughout Eastern Europe.

It is time now that we address ourselves with reasonable restraint, but with the absolute willingness to assist these individuals and these state entities that are willing to grant new freedoms economically, new opportunities politically, with what we in the Western world having surpassed the whole Western world in producing, and that is economic prosperity.

Socialism as an economic theory is dead. Long live free markets and may we invest these dollars in the interests of freedom and the new market system throughout Europe.

Mr. GILMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. HILER].

Mr. HILER. Mr. Chairman, today we are discussing a historic piece of legislation. For many years we have advocated through a variety of means a rolling back of the Iron Curtain. We have condemned over and over the expansion of the Soviet empire into Eastern Europe and the repression and poverty that befalls those unfortunate citizens who are forced to live under a Communist dictatorship.

Well, the West is winning the war, not on the battlefield with tanks and planes, but in the battle for the hearts and minds of people who yearn to be free. No one, absolutely no one, believes that a Communist totalitarian government is the model to follow in the future.

Democratic capitalism is the wave of the future if we help those with courage who are making the painful transformation to a market economy and a democratically elected government.

It will not be easy, and that's why we must be there with a helping hand to facilitate this movement.

Now we see two countries making genuine strides away from the shadow of communism and moving toward democracy. This is the time for the United States to match its words of reform with deeds. This is not only a test case for our resolve to promote democratic principles. It is a critical point in history where our actions will affect the future of the people of Poland and Hungary.

It is an opportunity to solidify the newly elected non-Communist government in Poland; to enhance the powers of democracy in the upcoming elections in Hungary, and to set into motion a tradition of free elections and free market economies in the Eastern bloc. It is an opportunity to support the establishment of governments in Poland and Hungary that, if trends continue, will truly belong to the people, and to build economies under which their people can thrive.

The proposal that is now before us will provide funding to encourage the development of private enterprises which will lead to economic growth. It will provide technical training and Peace Corps participation. It will provide trade and development assistance and help to address several serious environmental concerns. It will also provide for food assistance and cultural exchanges.

Of course Poland will be receiving the bulk of this package because it has completed its elections and installed a widely popular new government. Hungary still looks forward to its elections and I believe when they are successfully completed we should consider expanding our aid package accordingly.

I have played an active role in activities on behalf of the people of Poland, both economic and political in nature, and in helping Polish families to emigrate to northern Indiana. For example, we witnessed the defection of a member of the Polish delegation to the Special Olympics, Mr. Josef Derbinszewski, in northern Indiana, and his subsequent application for political asylum with the help of the Catholic Church. It took us almost a year of working through immigration channels to reunite him with his wife and two children who were left behind in Poland. Today the family is together and living in South Bend.

As such, I must express a special feeling of happiness for the recent accomplishments within Poland. Although Poland has maintained its rich history of ethnic pride and tradition, we could not have guessed 12 months ago how far its political system would go in ridding itself of the bonds of communism. It is now almost 10 years since the creation of Solidarity. Who could have imagined what a successful

role it would ultimately play in the democratization of Poland? Yes, Poland still must confront a painful reform of its economy and I believe we must be there to help.

We have withheld economic assistance to the Eastern bloc because of the repressive human rights conditions that have existed there. Poland has taken gigantic leaps in a new direction, and Hungary is following closely behind. We must lend an arm in assistance and do it now to provide a good foundation for the growth of democracy and economic well-being. We must set an example for the democratic movements in Eastern bloc countries who have yet to enjoy significant success. We must show the people of Eastern Europe that we will support them. We will do what we can to improve their standard of living when they embrace the principles of freedom and give the power to the people to determine the government that they will live with.

For these reasons, I strongly support the passage of H.R. 3402 and urge my colleagues to do the same.

□ 1210

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Chairman, the stunning collapse of Communist rule has set the stage for dramatic changes in Eastern Europe. From the shipyards of Gdansk to the factories of Budapest the thirst for true economic and political freedom has taken hold. It is clear that the Communist system has failed people who yearn for freedom and who strive for a better standard of living.

The people of the United States are eager to aid the people of Poland and Hungary in their struggle for a better life. Our challenge is to show this support through a comprehensive assistance strategy as imaginative as the changes now taking place in Eastern Europe. Meeting this challenge means going beyond the old thinking that massive financial aid will do the job. While American financial assistance has an important role, U.S. dollars alone won't assure the democratic government and free enterprise system these people so desperately want.

That is why I am proud to be a cosponsor of H.R. 3402, the Polish and Hungarian Democracy Initiative of 1989. It offers us a strategy to achieve the long-term objectives of democracy and free enterprise in these nations. It supports the President's call for assistance by responding positively to the Warsaw Government's outline for sweeping economic change in Poland, and offers more than financial assistance alone. The bill provides the immediate short-range support for the strained economies of Hungary and Poland while laying a comprehensive foundation for the long-range social, economic, and political growth necessary for a democratic Eastern Europe.

As the sponsor of the Food for Democracy Act, which would have secured up to $120 million in surplus commodities to help ease Poland's critically strained food supply, I am especially pleased by H.R. 3402's authorization of 125 million dollars' worth of food aid for Poland in fiscal year 1990. It is extremely important that the people of Poland have confidence that their government can deliver food, because in the past other governments have failed because of the lack of food on the store shelves and the riots that ensued. We will be giving this food to the Government of Poland that, in turn, will sell it to provide the new private enterprise agricultural sector that is so important, more market-oriented, to assure food supplies in the future for this country. Combining this assistance with the grant for short-term cash needs, funds to encourage private enterprise, provision of technical assistance to farmers and small businessmen and assistance for students to attend American universities, H.R. 3402 represents a prudent yet strategic approach to nourishing the seeds of democracy in Poland and Hungary.

Mr. Chairman, we must stand ready with the tools of democracy and our free-market experience to assist our friends as they seek democratic government based on the will of a free people. The Polish and Hungarian Democracy Initiative of 1989 will enable us to do this, and I urge my colleagues to support this bill.

Mr. HAMILTON. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, I had the opportunity to visit Poland in 1984 and again this September of 1989. I can report personally on the tremendous, dramatic changes that have taken place in that country, something that no one, I think, would have expected even as early as the spring of this year.

Our congressional group met with Lech Walesa, and with Prime Minister Mazowiecki, as well as other members of Solidarity, both journalists and parliamentarians, and we met with top government officials. As others have mentioned, truly momentous times are happening in Poland.

At the same time Poland faces truly monumental problems. They face structural problems of 40 years of a centrally planned economic system with all of its lack of incentives. They are facing hyperinflation. They are facing shortages. They are facing unemployment.

Solidarity, which some felt would be timid because of their constituencies in the labor movement, has come in with an incredibly bold program to move the country forward. However, that program entails enormous sacrifices on the people of that country, including the workers of Solidarity. But that program, I think, will succeed if it receives adequate support from the West.

The ability of Poland to get through this difficult time and the sacrifices will be the key to its success. The main points of that program are: No. 1, privatization of state enterprises; No. 2, the devaluation and then eventually the convertibility of the zloty; and No. 3, cutting of government budgets by up to as much as 10 percent of GNP.

In the short term, this program will mean even increased unemployment and increased inflation. Therefore, Poland's greatest need in this immediate period ahead is for stabilization assistance to get through this period and structural assistance keyed to structural change. The funds that would be provided as stabilization and structural assistance are needed to finance imported goods to dampen inflation, and to help fund unemployment assistance. Mr. Chairman, in this context, speed of response is essential. If we delay at all, a great opportunity could be lost. The matters is truly urgent.

In this context, multilateral assistance is, of course, a vital part. The World Bank is ideally suited, with its experience in policy and structural loans, to be of assistance.

Mr. Chairman, I would appreciate a chance to engage in a colloquy with the chairman of the European Subcommittee, Mr. HAMILTON of Indiana. Mr. Chairman, we have heard that the World Bank can play an essential role. The World Bank has in the past made policy and structural loans to Third World nations that have literally made the very difference. We have a situation here of not a Third World nation but of a European nation; one that is nonetheless in a very comparable situation of needing rapid, short-term assistance of a structural and stabilization nature. Would the gentleman agree that the U.S. representation in the World Bank ought to press for just this sort of assistance, and press for its urgent consideration?

Mr. HAMILTON. Mr. Chairman, will the gentleman yield?

Mr. MOODY. I am happy to yield to the gentleman from Indiana.

Mr. HAMILTON. Mr. Chairman, I think the gentleman makes a very good observation. I agree with him entirely. The United States ought to encourage the Bank to act on an urgent basis.

Mr. BROOMFIELD. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, I would request a colloquy with the chairman. Mr. Chairman, section 202(c) of the bill permits the Depart-

ment of Labor to accept and use gifts and volunteer services in support of its program under the bill. Is it the gentleman's understanding that the Secretary may solicit such gifts and volunteer services from the private sector?

Mr. HAMILTON. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I am happy to yield to the gentleman from Indiana.

Mr. HAMILTON. Mr. Chairman, yes, it is. I think that is a correct understanding.

Mr. GOODLING. Is it also anticipated that the Secretary of Labor and other appropriate officials will take an active role in making appropriate individuals, groups, and organizations aware of their opportunity to contribute to the success of the program, and in connection with such activities, is it expected that the Department of Labor will observe certain safeguards, first, not accepting gifts that would be conditioned on the expenditure of appropriated funds for any project or activity for which such appropriated funds could not otherwise be lawfully expended and, second, is it recognized that gifts should not be accepted if to do so would impair public confidence in the integrity of any Labor Department program?

Mr. HAMILTON. If the gentleman will yield further, I think the gentleman's statement is correct. That is my understanding.

Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Chairman, since Poland's whirlwind of change began last April, Polish-Americans like myself have been awaiting American assistance to Poland worthy of the leader of the Free World.

In April, as General Jaruzelski legalized Solidarity and announced democratic elections, President Bush advised caution. As Solidarity candidates swept the June elections, the President praised the victory, but claimed that only a completely democratic Poland was worthy of United States aid. Finally, when Solidarity consolidated its power in August and elected Tedeusz Mazowiecki as Prime Minister, the administration offered a familiar excuse: We'd like to help, but our budgetary constraints won't allow it.

I do not buy the excuse that "our hands are tied", that we can not afford to aid Poland. Fortunately, the House leadership sponsoring this package also doesn't buy that. We recognize that the true costs for the United States comes not from providing economic aid, but from failing to actively promote democracy in Eastern Europe.

If the United States fails to respond to the unprecedented opportunity to cultivate democracy and free markets behind the Iron Curtain, the costs will be great. Other countries; namely, West Germany and Japan, will capture the free markets that will open in Eastern Europe. Already the nations of the European Community, not the United States, has been designated to lead the international effort to aid Poland and Hungary. In short, the U.S. leadership of the Free world is deteriorating, due to lack of Presidential conviction and lack of funds.

The lack of monetary support offered by the United States has been matched by the lack of vision offered by the President. The question of how Eastern Europe will move toward freedom, and what America's role will be in this transformation, remains unanswered by the administration.

H.R. 3402 answers these questions and fills the shoes of global leadership left vacant by the President.

In contrast to the President's assortment of limited and separate initiatives, H.R. 3402 offers a comprehensive approach to the opportunities in Poland. International lending is key to economic restructuring in Poland. The bill demands that American representatives to the IMF and the World Bank actively pursue debt rescheduling and lending programs for Poland and Hungary. Long overdue insurance provisions, trade preferences, and "Enterprise Funds" are also included, which will spur joint ventures, private investment, and privatization in Poland. Finally, the package includes authorizations for a dozen new programs to benefit the Polish people, from agricultural shipments to medical supplies to Peace Corps volunteers. These programs will increase the quality of life in Poland as the country undergoes stressful restructuring.

In its comprehensive approach, this package of assistance provides a meaningful commitment to the Polish people as well as to democracy and freedom worldwide.

While I urge my colleagues to support this vital package, I also urge them to not view H.R. 3402 as the final step in aiding Poland and Eastern Europe. The bill will require continued activism to truly help the Polish people. We must ensure that the American representatives to the IMF follow through with the bill's instructions. We will have to fight to see that each of a dozen programs in H.R. 3402 is swiftly granted appropriation.

Most importantly, this bill cannot be viewed as the final chapter in America's role in an ever-changing Eastern Europe. The replacement of Eric Honneker in East Germany highlights the fact that democracy's sweep through Eastern Europe is just beginning. The United States must be prepared to respond to each opportunity for democracy swiftly and with conviction, whether in Poland, Hungary, Czechoslovakia, or East Germany. America cannot afford to turn our backs on the captive peoples we have sought to free for the last 50 years.

The President cannot address each monumental opportunity as it comes to his desk. The United States must be prepared for global change with an approach of vision and conviction, or be prepared to concede our role as leader of the world.

H.R. 3402 is the first step in that direction, the first response to Poland and Hungary worthy of the United States. It's unfortunate the President could not take this step on his own, but sacrificing some of the President's leadership responsibilities to the Congress is far more bearable than continuing to sacrifice America's leadership of the free world.

Vote for democracy and freedom, and vote to help the people of Poland and Hungary.

Mr. BROOMFIELD. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Ohio [Mr. WYLIE], the vice chairman of the Committee on Banking, Finance and Urban Affairs.

Mr. WYLIE. Mr. Chairman, I rise in support of H.R. 3402, the Polish and Hungarian Democracy Initiative of 1989. I would compliment the gentleman from Florida [Mr. FASCELL], the distinguished chairman of the full committee, and the gentleman from Indiana, [Mr. HAMILTON] and the gentleman from Michigan [Mr. BROOMFIELD] for their excellent work in bringing this bill to the House floor today. We are all aware of the truly dramatic and historic events occurring in Poland and Hungary as democratic forces in those countries, for the first time since World War II, struggle to redirect their political and economic systems toward freedom.

To his credit, President Bush from the beginning of his administration has taken the lead in working with Congress to structure a truly bipartisan response to these encouraging developments. The legislation we are considering today incorporates the key elements of the President's program. The legislation includes funds to bolster the development of private enterprise in both Poland and Hungary, insurance loan guarantees to encourage and facilitate United States exports to Poland, direct food aid, and appropriate use of the Exchange Stabilization Fund in conjunction with assistance from the IMF as part of a temporary multilateral bridge loan for Poland.

In that connection, the chairman of the Committee on Banking, Finance and Urban Affairs waived jurisdiction to expedite proceedings today, although we on the committee do have considerable to say about assistance from the IMF and the use of the Exchange Stabilization Fund. What we have done here I do not think should be taken as a precedent. At first Treas-

ury had some concerns about the thrust of the use of the Exchange Stabilization Fund, and I would refer to a letter from Under Secretary David Mulford in response to a concern which this Member raised in connection with a meeting with Secretary Brady.

Secretary Mulford says:

I would like to advise you that the Treasury Department is willing to consider the use of the Exchange Stabilization Fund [ESF] as a part of a multilateral bridge loan for Poland, in circumstances consistent with the existing legislation, policies and practices guiding the use of the ESF. Such bridge loans must have an assured source of repayment which is generally provided by funds of the International Monetary Fund and World Bank.

I am told that is the case.

The legislation also directs United States representatives at both the World Bank and the IMF to take a lead role in pushing for the development of more permanent economic restructuring and lending programs. United States and international assistance should go a long way in helping the new Polish Government make one of the most profound and wrenching economic transitions ever attempted, from an inflexible Communist centrally planned economy to a free world market. We should not underestimate how difficult this will be to accomplish in a short period of time.

Mr. Chairman, this is urgent legislation. It will promote political and economic democracy in Poland and Hungary, and I urge its adoption.

Mr. HAMILTON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, let me first thank the gentleman from Indiana for yielding time to me.

Mr. Chairman, as an original cosponsor of the Polish and Hungarian Democracy Initiative of 1989 and a Member of Congress proud of his Polish ancestry, I am very pleased that the House of Representatives has acted so quickly to bring this measure to the floor.

Events in Poland and Hungary are moving rapidly so we must do the same. If the Freedom fighters of Eastern Europe are to succeed, they need the strong assistance H.R. 3402 provides now.

Let us not kid ourselves. If Poland and Hungary do not start radically restructuring their economies and societies, and do not receive generous foreign help in this effort, they may lose a golden opportunity for change.

The United States has long pledged itself to help oppressed peoples around the world to achieve freedom. We must not let them down in their difficult transition to democracy and free enterprise.

I am also pleased that H.R. 3402 contains key provisions which I proposed in the past; namely, section 302 of the bill relating to the Overseas Private Investment Corporation [OPIC].

This measure would allow OPIC to assist United State businesses wishing to invest in private enterprises in Poland.

OPIC involvement in Eastern Europe is essential because these nations desperately need to develop a productive and dynamic private sector to lift their economies out of stagnation.

And I can tell you first hand that American businesses want to invest in Poland because my constituents from Wisconsin's Fourth Congressional District have been calling me to find out how to do so.

Today, we in the House must give them this opportunity by approving the Polish and Hungarian Democracy Initiative of 1989. The Foreign Affairs, Banking, and Ways and Means Committees have acted quickly to approve this bill.

I urge my colleagues to do the same by overwhelmingly supporting H.R. 3402 and standing with the real "freedom fighters" of Poland and Hungary.

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from North Carolina [Mr. MCMILLAN].

Mr. MOORHEAD. Mr. Chairman, will the gentleman yield?

Mr. MCMILLAN of North Carolina. I yield to the gentleman from California.

Mr. MOORHEAD. Mr. Chairman, I thank the gentleman for yielding and rise in support of this legislation.

Mr. Chairman, during the recent August recess, I had the distinct pleasure of joining several of my Energy and Commerce Committee colleagues on an official visit to Poland. While there, we met with Solidarity Leader Lech Walesa, United States Ambassador John Davis, and Solidarity and non-Solidarity leaders in the Polish Parliament. We were particularly fortunate to be on the scene in Poland during the very week when a Solidarity-led government began to take shape. Based on my first hand observations, I can report that the assistance provided to Poland by this legislation is necessary and will be well received.

As ranking Republican member of the Subcommittee on Energy and Power, I would like to draw my colleagues' attention to the provisions in H.R. 3402 for energy-related assistance. After visiting Krakow, I certainly concur in the President's recommendation that the Department of Energy work with the Polish Government to retrofit an existing commercial powerplant in the Krakow region with clean coal technology. It is important to observe that the bill requires that DOE use clean coal technology which has been successfully demonstrated on a comparable scale in the United States. In addition, DOE would assist Poland with an assessment of how Poland could develop a capacity to manufacture or modify industrial boilers and other equipment to use fossil fuels more cleanly.

In conclusion, Mr. Chairman, it is no exaggeration to state, as others have already done, that we have a truly historic opportunity to expand political and economic reform in Poland and Hungary, if only we will seize the moment. H.R. 3402 is a modest proposal which constructively builds upon the President's initial proposal. I cosponsored H.R. 3402 and urge the House to support it today.

Mr. MCMILLAN of North Carolina. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise today in support of this legislation. Some financial aid is an important first step in helping Poland and Hungary achieve the goal of economic and political freedom, but it should be a reinforcing component of our major focus, enabling the United States private sector to join with the Polish people in creating an entreprenurial free market system.

I have recently been in Eastern Europe with members of the Energy and Commerce Committee. We met with Lech Walesa, and other leaders on the day they were choosing the first non-Communist Prime Minister. They talked candidly, but optimistically, about the awesome challenge that lies ahead.

No one disputed the necessity of emergency food aid and multi-lateral loans to prevent a short-term economic crisis, but the overwhelming call was for private sector help—financial and managerial—to accelerate change to a free market economy so that sustained, long-term economic development, can be achieved. For example: Rather than government loans, they advocate the creation of two competing Western-type private banks with an aggregate asset base of $10 billion, probably $5 billion of which could be built on current savings in Poland; rather than ongoing food aid, they want direct investment through joint ventures to bring Western entrepreneurial skills into play, addressing major shortfalls in the Polish economy such as food processing, distribution, and retailing. Without these changes the strong Polish agricultural base cannot be effectively utilized nor goods distributed in a cost-effective manner. Beyond these lie hundreds of small business opportunities that comprise major segments of any Western economy.

As I pointed out to Walesa, the United States private sector comprises over 70 percent of our gross national product. Energizing the capabilities of American enterprise into an effective change-agent for Poland and Hungary is our primary challenge. The U.S. private sector has a unique window of opportunity which can dwarf governmental aid. This bill is an important way to open that door.

I urge my colleagues to support this measure.

Mr. HAMILTON. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].TRAFICANT asked and was given permission to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Chairman, I have always believed that communism left alone, all to itself, would fall flat on its face, period. I have also felt and I have not had my philosophy changed by the rhetoric in Congress, that most of the money we spend overseas, especially to challenge communism in the form of aid and cash, simply does nothing more than to buoy up the Marxist-Leninist regimes that we try to defeat by circulating cash.

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Now I do not want to rain on everybody's parade today, but I have a basic question, representing a district that is trying to dig itself from under this economic collapse: Why does it take almost a billion dollars? I am thrilled to see the development of freedom and the pursuit of democracy in Poland and Hungary, but I am not really thrilled to take a look at Congress, again, going to send almost a billion dollars overseas when we have 38 million people in America with no health insurance.

We have roads and bridges which are unsafe, in some cases falling in. We have cities that need water lines repaired, sewers. We have kids graduating from high schools that can't read. Why does not the Congress, just think of this, with the crisis and the tragedy in San Francisco and in Oakland, Purerto Rico, the Virgin Islands, South Carolina; why not cut this in half and send this money to the American people on the west coast?

I seriously considered bringing an amendment, but I am in the minority and I will not jeopardize your flight schedule.

But I will say, you are setting the ducks in a row for the day when American goes chapter 11; you see how many of those countries come over here and help our families out.

If you think this is a pipe dream rhetoric, we will spend $180 billion on interest payments alone for the national debt next year; we have $120 billion to repay, money borrowed from the trust funds; we will spend more taxpayer dollars paying back interest on borrowed money from American trust funds to fix their bridges and roads and airports then we will spend on defense.

Here we go today, our No. 1 export now is scrap paper, No. 2 is junk scrap iron. I used to represent the No. 3 steel-producing region in the world. You know what? All those people who worked in the steel mills in my district, they lost their jobs.

I think Congress spends too much time spending money all over the world. I am for assistance to Poland and Hungary. I commend them for their great surge toward freedom.

I will tell you what, America is eroding our own base of freedom by sending and continuing to send our valuable resources out of this country.

Mr. HAMILTON. Mr. Chairman, I am pleased to yield 4 minutes to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank the chairman for this time.

I want at the outset to observe that no person in the Congress of the United States has been more in the forefront of saying what the United States ought to do and how quickly we ought to do it. The actions that we take today are the direct result of the leadership of the chairman of the Subcommittee on Europe and the Middle East of our Committee on Foreign Affairs. I commend him for it, his sense of urgency, which is in my opinion lacking from time to time in some of our quarters both in the administration and in the Congress, quite frankly.

As Chairman and Cochairman of the Helsinki Commission I have had the opportunity to visit both Poland and Hungary within the last 24 months. Like my predecessors who have spoken, like so many of us in the Congress, I have had the opportunity of sitting down with Polish and Hungarian leaders, and with one of the great leaders, of course, on the international scene, Lech Walensa, who has forged a consensus for change in Poland.

Let me perhaps comment on the remarks of the gentleman from Ohio [Mr. TRAFICANT]. Why do we send money overseas? Why should American taxpayers reach out to emerging democracies or other allies, indeed possible allies, to give them aid? I suggest we do so because it is in the interest of our own taxpayers.

I suggest we do so because we have encouraged around the world creation of democracies, believing, correctly, that the creation of those democracies, of more open societies, freer societies, that we bring stability to the international scene.

As we bring stability to the international scene, not only do we make our world a safer place for each one of our taxpayers and their children, but also we'll, inevitably, save substantial billions of dollars that we spend in the defense sector of our budget.

So I would suggest to the gentleman from Ohio and citizens who may be concerned that this money is really not in our best interests, but in the best interests of simply those who live in Poland or who live in Hungary, that is in fact very much in our own interest.

The North Atlantic Treaty Organization is a strong and viable organization that has brought stability to the European continent for the last 44 years.

Part of that is a direct result of the Marshall Plan which brought economic vitality to our Western European allies.

America can be very proud of the role that it played in revitalizing that area of the world.

This legislation today, while far less of an action than we took in the Marshall Plan, is nevertheless a significant step in bringing to fruition the kind of democracy and open societies for which we have fought ever since the Second World War to come to reality in central Europe.

With respect to food and economic aid, these are critical, critical if we are going to see the emerging democracy succeed, critical if we are going to see the openness of those societies succeed.

Failure on the economic front will inevitably lead to failure on the political reform front.

So I rise in very, very strong support of this legislation, believe it critical to the national itnerests of the United States, and to each of our taxpayers and critical to international stability.

Our commitment to nurturing democracy is not an artificial or abstract or even wholly altruistic one. It is a commitment built on the knowledge that the stronger the forces of democracy are, the safer our world will be. We all want the Poles and Hungarians to enjoy the fruits of democracy. We want the security of a stable world built on common, democratic values, too.

The bill we are considering today has been carefully crafted to be at once cost-effective and reflective of our values. Successful economic reform is the necessary precursor to successful political reform. H.R. 3402 calls for United States aid in the stabilization Poland needs so desperately to withstand the shocks of the transition to a market economy based on meaningful economic indicators. With its inclusion of provisions for a private enterprise fund and OPIC insurance, the bill ensures that U.S. funds will be used to develop a strong private sector in these two countries. The money will not be going down a black hole. And the bill provides for the export of a commodity we have in abundance: skills in the form of technical assistance and exchanges. Finally, and perhaps most critical, the bill provides for essential U.S. leadership in the multilateral arena, including the International Monetary Fund and the World Bank.

In short, Mr. Chairman, we can afford this program. We cannot, however, afford to pass up this unprecedented opportunity for historic change.

Mr. HAMILTON. Mr. Chairman, I thank the gentleman for his statement.

Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. KANJORSKI]

Mr. KANJORSKI. I thank the gentleman for yielding.

I rise in support of the legislation and merely wish to add that after 43 years, when Winston Churchill declared an Iron Curtain in Europe, we now see a venetian blind. The opportunity for us to look in and for the Eastern countries to look out is a fundamental change in the world.

It is with the best of intentions I think that we make this minimal investment in these Eastern bloc countries today so that the future of Eastern Europe and of the Communist world can be penetrated for the first time in 43 years.

Ultimately I think we can say to taxpayers of America that a billion dollars saved in defense over the next 10 years will more than warrant what this investment will be for the American taxpayer today.

Mr. BROOMFIELD. Mr. Chairman, I yield back the balance of my time.

Mr. HAMILTON. Mr. Chairman. I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 3402, as amended. This bill is an important measure to promote political and economic democracy in Poland and in Hungary as those countries develop and implement programs of comprehensive economic reform.

BACKGROUND

This bill is the product of several weeks of careful study and has broad bipartisan support in the Congress.

The bill has had the input of the leadership of seven comittees of the Congress, including the Foreign Affairs Committee, the Ways and Means Committee, the Banking, Finance and Urban Affairs Commitee, the Agriculture Committee, the Energy and Commerce Committee, the Public Works and Transportation Committee, and the Appropriations Committee;

The bill incorporates the three initiatives President Bush has announced so far during 1989 on Poland and Hungary:

His initiative announced in Hamtramck, MI in April;

His initiative announced in Warsaw and Budapest in July and incorporated in draft legislation submitted to the Congress September 8; and

His initiative announced October 4, to provide $200 million in additional grant assistance to Poland;

The bill before Members also includes some changes wanted by the administration;

The bill also incorporates provisions of H.R. 2550, a bill relating to Poland and Hungary and H.R. 2655, the foreign assistance authorization bill. Both these bills have passed in the House and both await Senate action; and

Finally, the bill undertakes several other initiatives to promote the private sector, to provide technical assistance and training, and to help develop the skills and the managerial expertise essential to the success of a market-oriented economy in these countries.

COMPARISON OF BILLS

Mr. Chairman, to put H.R. 3402 in perspective, it should be compared to other legislation which has been introduced. H.R. 3402 authorizes $840 million in assistance for Poland and Hungary over the next 3 years with a planned outlay in fiscal year 1990 according to the Congressional Budget Office of $218 million, subject to action by the Appropriations Committee.

By comparison, S. 1582, voted out of the Senate Foreign Relations Committee but without Senate floor action, would authorize $1.254 billion over 3 years; and the administration's requests to date would authorize $458 million over 3 years, with a projected outlay in fiscal year 1990 of $230.5 million.

The major differences between the administration's requests and the bill before the House is that we authorize:

$200 million for the Enterprise Funds instead of the $125 million the administration originally requested;

$200 million in trade credit insurance for Poland for which an appropriation is not needed unless there is a default;

Some $70 million in additional money for technical training, scholarships, trade and development programs, medical assistance, democracy support, the Peace Corps, and educational and cultural activities; and

Food and feed assistance for Poland in excess of $125 million, instead of the $100 million planned by the administration for 1990.

CONTENTS OF THE BILL

Mr. Chairman, I will not go through all the provisions, but I would point out that:

Title I authorizes $200 million as part of a multilateral economic stabilization fund for Poland, and calls on the United States to take the lead in mobilizing international financial institutions to support the implementation of a plan of the Government of Poland to attack hyperinflation and carry out comprehensive economic reform;

Title II authorizes the Enterprise Funds and basically incorporates the administration's initiative submitted to the Congress on September 8;

Title III addresses trade and investment issues and incorporates parts of H.R. 2550, already passed by the House, as well as other initiatives to promote the private sector and encourage and protect foreign investment;

Title IV expands educational, cultural, and scientific activities in Poland and Hungary, partially authorizing requests by the administration and also expanding existing programs;

Title V authorizes other assistance for the development of democratic institutions, environmental initiatives, and for medical supplies for Poland; and

Title VI calls for an annual report and gives the Secretary of State the lead in coordinating the various initiatives addressed in the bill.

GENERAL COMMENTS

Mr. Chairman, H.R. 3402, as many of my colleagues have suggested, comes at a historic time. For over 40 years, we have waited for the opportunity to be able to promote and reinforce political and economic change in Eastern Europe. That opportunity is here. The eyes of the free world and the eyes of all peoples in Eastern Europe are on developments in Poland and Hungary, and how we and our allies respond to these developments. We have a compelling interest in helping Poland and Hungary succeed.

I would only add five comments:

First, the bill, in my view, has the United States playing a critical leadership role in Poland and Hungary. This bill urges the President to utilize his existing authorities, to lead and coordinate an international effort in support of Poland's implementation of comprehensive economic reform.

Second, the bill rightly put emphasis on the role of our allies and international financial institutions in joining with the United States in helping Poland with its immediate economic needs. The bill urges immediate and large multilateral assistance that only the international financial institutions can provide. An IMF team is in Poland as we speak and we hope that in the coming weeks Poland and the IMF can reach an agreement which will help faciliate an international package.

American leadership in providing the $200 million grant of a multilateral $1 billion in structural assistance for Poland will provide, we hope, the impetus needed to get our allies to act. We want them to come up with the remaining $800 million in support of comprehensive Polish economic reform.

Third, the bill conveys a sense of urgency. Its balance of payments situation is precarious. The Polish Government estimates that to cover imports through the end of the year, to ensure adequate food through the winter and to enable Poland to keep up its productive capacity until next spring, Poland will need to cover roughly $1 billion in imports between now and the end of the year.

The implications of Poland's inability to obtain the help it needs are clear: Further deterioration in the economy; a delay in economic reforms, lack of adequate food stocks, and idle productive capacity. We do not know what will happen in Poland. Clearly, success with our help and that of our allies is uncertain, but failure without our assistance is assured.

Fourth, the bill is prudent and contains the needed conditionality.

H.R. 3402 conditions our immediate assistance on continued steps toward democracy and toward a market-oriented economy through the implementation of a comprehensive economic reform package. An agreement between the IMF and Poland is essential for multilateral assistance to proceed.

The bill authorizes the appropriate mix of short- and medium-term assistance to develop agriculture and the private sector, and there will be annual checks on the assistance provided. The bill provides the executive branch with the resources and flexibility in order to carry out U.S. policy.

Finally, the bill must be seen as part of a process of responding to the situation in Poland and Hungary and to Presidential initiatives. This bill prods our leaders to move forward in providing Western leadership.

We have had three Presidential initiatives on Poland and Hungary so far this year. The President plans to send a team to Poland soon and I suspect there may be other initiatives before long.

The point is that this bill must be seen as a key element in a rapidly changing situation. It urges further evolution in Poland and Hungary, and counsels strong American leadership in response to what may develop in these two countries and elsewhere in Eastern Europe.

CONCLUSION

Mr. Chairman, H.R. 3402, as amended, is an important bipartisan legislative initiative. It has the approval of several committees in the Congress. The administration does not oppose its passage. I urge my colleagues to support it and send a strong message to the other body in the hope that the Senate will act to expedite its consideration.

Mr. Chairman, I yield back the balance of my time.

□ 1240

Mr. SCHULZE. Mr. Chairman, I yield myself such time as I may consume.

Let me say that I have been involved with this issue for quite sometime and, having been a member of the Subcommittee on Trade for almost 14 years now, have seen many legislative initiatives pertaining to Eastern Europe. I remember a visit to Hungary, many, many years ago with then chairman of the Subcommittee on Trade—Charlie Vanik—and we were discussing the loosening of regulations and the gradual economic and political transition which Hungary was undergoing at that time. As this was discussed, one of the managers of a local business said to me:

Congressman, this week, for the first time, I have been able, and given the authority, to fire an employee. We have never had that authority before, and that will enable us to get a little bit better performance out of our workers, and be more selective in our employees, and I look for a great increase in efficiency and production for my plant.

I thought at the time that was one of the initial moves or sparks of reform that would be very difficult to stop.

Later on, during that same visit, I was chatting with one of their security personnel who had been assigned to our group, and I said.

As this process continues, eventually the people will, more and more, demand freedom and access to consumer goods, and as a consequence, you will become a free society.

He said:

No, no, no, no, no. That will never happen here under our socialist regime. We will always have an authoritarian society.

I said:

No, you will find that it is impossible; once this liberalization process begins, you will find it is impossible to stop unless you put an agent with every one of your citizens and watch their every move.

So, Mr. Chairman, I know that there are some problems with this legislation, but I also know the finer points of this legislation and the importance of the benefits it provides in support of economic and political reforms. As I review it in total, I come down on the side of support because of what is going on in Eastern Europe, and especially with Poland and Hungary. I urge my colleagues to view with favor this legislation and vote yes on H.R. 3402.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is with great pleasure that I rise in support of H.R. 3402, the Polish and Hungarian Democracy Initiative of 1989. I do so with gratitude for the hard and effective work done on this bill by many Members, most prominently the gentleman from Florida [Mr. FASCELL], the gentleman from Indiana [Mr. HAMILTON], the gentleman from Michigan [Mr. DINGELL], and—of course—my fellow Polish-Americans in the House.

Section 301 is the only provision of the bill which falls into the direct jurisdiction of the Committee on Ways and Means. Section 301 is identical to a provision in H.R. 2550, The Democracy in Eastern Europe Act of 1989, that passed the House on June 20 on the Suspension Calendar. Section 301 amends title 5 of the Trade Act of 1974 to remove Poland from the statutory list of countries that are excluded from designation by the President as beneficiaries of duty-free treatment of eligible products under the Generalized System of Preferences Program. Removal from the exclusion list does not automatically grant GSP benefits to Poland. The President will have to make a determination that Poland meets the existing statutory criteria under the act to merit designation.

Hungary was removed from the exclusion list in 1984 and designated by the President as a beneficiary country on September 18, 1989. Removal from the exclusion list will permit the granting of comparable duty-free trade benefits to Poland as well. The private sector business community strongly supports providing these benefits—as does the Bush administration and the new Solidarity-led Government of Poland.

That having been said, Mr. Chairman, let me also state my strong support for all other sections of this bill. It is a remarkable collection of provisions. It will result in all appropriate Federal agencies turning their attention, and their expertise, to the critical task of helping Poland and Hungary help themselves. I like to think of it as all instruments playing for democracy in Eastern Europe.

In this bill, we are faced with the rare opportunity to make a direct contribution to something we have been wishing and working for since World War II—the extrication of Eastern European countries from the economic and political oppression of the Communist system.

The recent history of United States-Poland relations in particular argues for the adoption of this bill. At each step along the way of their remarkable pursuit of freedom and pluralism—from the dark days of martial law up to the swearing-in of the Mazowiecki Government—the people of Poland have been buoyed up by our promises.

Time after time, we said that real economic reform, real social reform, real political reform would be acknowledged by strong positive action in support by the United States.

Could anyone have held up their end of the bargain more faithfully and courageously than the Poles? They believed in our friendship and in our good intentions. They stuck with the pursuit of their aspirations—aspirations we all share—with a zeal such as the world has seldom seen.

And now it is our turn to act with commitment. It is time for us to help them with their emergency needs through food shipments, and by shoring up the zloty.

It is time for us to help create the conditions for transforming their failed centrally planned economy into a great new private enterprise marketplace.

It is time for us to demonstrate our commitment to the future well-being of the people—through medical assistance, environmental protection assistance, education and cultural exchanges, and money to help them make the most of their newborn democratic institutions.

And it is time for us to lead other Western governments and developed nations in amassing worldwide support for democracy in Eastern Europe.

H.R. 3402 meets these objectives in many creative ways. Some of the provisions were first proposed by the administration—many others were devised through congressional leadership. I, for one, am less interested in who gets the credit for what is in this bill than I am concerned that the bill be enacted quickly.

As a matter of fact, I think this bill serves handsomely as a peace treaty in what has been called a bidding war. It should be enacted at the earliest possible date to bring an end to the oneupsmanship and the beginning of the necessary assistance programs.

I thank the leadership on both sides of the aisle for the expedited basis on which this legislation has been brought to the floor. It keeps us on schedule for completing all action by the time Lech Walesa arrives here in the middle of next month.

What will we say to him if we have to greet him with nothing more than more unfulfilled promises? I, for one, want to greet him with a dynamic package that responds to the economic needs of the Polish people at this critical time in their history. I strongly urge my colleagues to support this important legislation.

Mr. Chairman, I yield 2½ minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding.

I am here to speak on the entire bill. I think that this bill is a very meritorious bill, and I strongly urge the support of people on both sides of the aisle to pass this legislation.

Ladies and gentlemen, over the last 35 years, we have spent billions of dollars on weapons and soldiers and propaganda in fighting communism, and now we are being offered a real golden opportunity to get some bang for our buck. Now we have a chance to pull a country out of communism, to help Poland pull itself out of communism, and we have spent many, many rancorous hours on this floor, debating El Salvador, and debating Nicaragua, and before I got here, debating Vietnam. The amount of energy, mental energy and all sorts of other expenditures, aside from the monetary, and then the huge monetary expenditures, on trying and deciding the best way to keep countries free. A few months ago, I must tell my colleagues in this Chamber I was heartbroken, because here it was a country who was struggling to be free on its own, the brave people of Poland trying to lift the yoke of oppression from its shoulders, and this country simply sat idly by.

Where are our priorities? Where is our sense of values? Where is even our sense of efficiency when we can spend so much money and time and effort fighting a way, tens of thousands of miles away, and not spend what would seem by comparison, paltry sums, where we really have bang for the buck, and lift a country and make it a far greater friend to the United States, not to mention the value of human rights?

For decades we have talked about a policy of containment. Now we have a chance to practice a policy of inclusion. If we blow this chance, history will say that we were pennywise but foolish by the ton. By reaching out and helping Poland, we help ourselves. We help tear down the Iron Curtain, and bring a historic transition.

We do not always have to win by fighting a war. Members can win by, in timely doses, and timely amounts, helping countries out of their problems financially.

What I will say finally, Members can talk all we want about windows of opportunity. We all have to realize the administration and this Congress, we have to realize that this may be a unique chance to bring about real change, peaceful change in the Eastern bloc.

If a year from now the doors of this opportunity were closed and the situation in Poland had reversed itself, and we did not do our utmost to help the Polish people, we would be kicking ourselves.

Therefore, I urge support of this legislation.

□ 1250

Mr. ROSTENKOWSKI. Mr. Chairman, I reserve the balance of my time.

Mr. CRANE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to H.R. 3402, the "Polish and Hungarian Democracy Initiative of 1989," a bill designed to provide economic incentives to Poland and Hungary, primarily in response to recent economic and political reform efforts.

Although I recognize the changing climate for reform in these Eastern European countries, I urge my colleagues to be cautious about the potential for meaningful reform in these satellite countries. This is especially true for Poland, where independent political steps are just beginning.

The portion of this bill under the jurisdiction of the Committee on Ways and Means is limited to one section. The provision amends current statute as it relates to tariff benefits under the Generalized System of Preferences [GSP] by removing Poland from the list of countries prohibited from designation for GSP benefits. Existing criteria for designation would remain intact, but Poland would no longer be excluded from consideration.

The GSP Program was designed to provide special duty-free access to the U.S. market for developing countries in order to assist them in undertaking developmental reforms. Hungary has been designated for some time, and the program has greatly enhanced the export capability, and therefore the economic progress, of that country. Hungary, however, has had a considerably longer period of time to demonstrate its commitment to fundamental political and economic reform, as well as progress on human rights.

Even with its longer history of moving toward economic decentralization, Hungary has not progressed as far in the area of independent political thinking and free elections. Yet, they have made great economic strides over the years toward a market economy, and for their efforts they have been rewarded with GSP tariff treatment and other economic incentives.

Poland, on the other hand, has had virtually no chance to demonstrate that it can translate the vision of the reformers into real programs that ensure economic and political freedoms. I question whether, and how quickly, this long history of Communist oppression in Poland can be reversed.

Shouldn't we wait for a time until real economic and political progress is demonstrated, and until we can see with more certainty whether Poland is guiding its own affairs rather than the Communists in Soviet Russia? After all, we have had "Prague Springs" before.

Mr. Chairman, I cannot in good conscience support these very generous tariff benefits to Poland * * * a country so new to the ideas of democracy, political freedom, and dedication to human rights. As we have done with other Eastern European countries before them, we should allow Poland to demonstrate that it has the will, and the internal governmental foundation, to deliver on its promises.

Promises have been made, and all too often broken, by these countries so long under the repressive influence of communism.

Poland seems to be moving in the right direction, and I applaud that course of action. But we should save our most generous trade benefits for a time when Poland's actual progress toward a market economy, and its commitment to be a responsible partner in the world trading community, is demonstrated more fully.

Even the other aspects of the bill which the Ways and Means Committee did not address seem, in my view, to be a rush to see who can provide

the most money with no strings attached. We must be more responsible about how our dollars and influence are used, and we should strive to ensure that our efforts are truly in support of democracy and freedom.

Mr. Chairman, I urge my colleagues to vote "No" on H.R. 3402.

Mr. MANTON. Mr. Chairman, I rise in strong opposition to these amendments which would severely weaken our Nation's legitimate and vital cargo preference laws.

Mr. Chairman, this is not a unique situation. Either we believe in a strong domestic merchant marine or we do not. If we do, then we cannot allow for this, or any other, special exemption from our cargo preference laws.

Mr. Chairman, I had the good fortune to travel to Poland this past August with the Energy and Commerce Committee. I believe I have very good first hand knowledge of what the situation is in Poland, and what the opinions are of those who seek to bring about a democracy in this eastern bloc country.

I met with Lech Walesa, the leader of Solidarity and the principle force behind the miraculous changes which are occurring in Poland today. A man who, I believe, more than anyone else speaks for the pro-democracy movement in Poland.

Mr. Chairman, Lech Walesa told me that the people of Poland are not looking for handouts. They are looking for mutually beneficial business and trade arrangements.

The aid we are discussing today will help ease their current economic crisis and the turmoil resulting from their historic turn away from communism. But, they will also require our long-term support as a mutual partner in international trade and development.

Mr. Chairman, Lech Walesa is a labor man. He is, or rather was, a factory man. A worker. It was, and is, this very labor movement, a movement of the average working man, which has brought about the dramatic changes in Poland. Changes which we are trying to foster and assist with this aid package.

I feel confident in saying to my colleagues that if Lech Walesa were here before you today he would not support these unnecessary and unwise amendments.

He would not support an effort to hurt an industry or a labor movement and its members which is dependent upon that industry, even to help his own country. Lech Walesa is a man of vision and of loyalty. He would not sacrifice all he believes in for a marginal increase in temporary assistance for Poland.

He believes strongly in labor unions and the important role labor plays in all our lives. We should also have this same faith in our own laborers and the industries they represent. To throw away the little protection our Nation's merchant marine has—in the form of cargo preference—would be an affront to the very movement we are trying to assist with this measure.

We must defeat these amendments. We must reaffirm our support for a strong and viable national merchant marine. We must support cargo preference.

Cargo preference is good for our merchant marine, it is good for our Nation, and, in fact, in the long run, it will be good for Poland.

Mr. DORGAN of North Dakota. Mr. Chairman, the House has visited the issue of cargo preference a dozen times in recent years. The issue is usually cast as: Do you support American shipping and workers or do you support American agriculture and farmers? The only wrinkle is that this debate revolves around emergency aid to Poland.

Unfortunately, that characterization totally misses the point. The point is that cargo preference has utterly failed in its intended purpose: preserving maritime industry. Over the life of cargo preference, America has lost 50 percent of its shipping capacity. Cargo preference simply has not worked in sustaining or bolstering our shipping capability.

What it has done is diminish the shipment of American farm products and thereby hurt the leader of the American export industry: American agriculture. It injures the farm sector by reducing the amount of food aid we ship by requiring that more of our aid dollars are spent on the shipping cost of higher-priced U.S. bottoms—on transportation—than if we allowed for competitive bids on shipping.

So cargo preference has not helped America's maritime industry and its workers; it has only damaged American agriculture and family farmers.

If we seriously wanted to strengthen our shipping capacity, why not have the Department of Transportation and the Maritime Administration develop a new, workable approach. That might include a broader concept like enterprise zones. It might focus on breaking down foreign trade barriers that impede general commercial shipping. It might derive from a vigorous use of export enhancement.

But help to our shipping industry surely will not come from shop-worn ideas like cargo preference—nor will help to agriculture follow the imminent plan of the Bush administration to sell the American farmer down the river by trading away the American farm program in a sweetheart deal that benefits only the European Community—that's why we ought to strip the cargo preference section from this bill.

So I rise in support of the Grandy amendment because it will increase the amount of farm commodities shipped with the $125 million of food aid to Poland by as much as 40 percent. If we really want to help the people of Poland—including Polish workers—then we certainly do not stand in solidarity with them by cutting the amount of food aid this bill provides merely to genuflect before the altar of cargo preference.

The food aid package in this bill is small enough already relative to the staggering economic needs of the Polish people without frittering it away with unproductive subsidies that have never worked.

I would also suggest that we adopt the Kaptur amendment to the Grandy amendment as a reasonable compromise—if we cannot enact the Grandy measure as such. The Kaptur amendment at least reduces the cargo preference requirement from 75 percent to 50 percent, meaning that only half of the food aid to Poland would have to be shipped on United States bottoms.

Let the Kaptur amendment also signal that Great Lakes ports deserve a fair share of food aid shipments. Too often, they have gotten the short end of the stick, even though they directly serve the breadbasket of our Nation.

Let's do the right thing here and maximize our food aid to Poland. That country has defied all odds and broken the bonds of Soviet domination. It has held democratic elections for the first time since World War II and chosen a government headed by leaders of the Solidarity movement.

However, its people suffer from a 200-percent inflation rate and major food shortages. Let's ensure that our aid reaches as many Polish citizens as possible. We can do this by curbing cargo preference in this bill.

Then let's roll up our sleeves at a different table and draft a bill that really makes America's maritime industry No. 1 again.

Mr. HERTEL. Mr. Chairman, the first resolution that I cosponsored that became law was the establishment of a National Day of Solidarity in 1982 in the United States to unify our condemnation of the Polish dictatorship declaring Solidarity illegal. This is why it was so very heartening and exciting to be with President Bush in Hamtramck, MI, in my district on the day that he announced an aid package for Poland on the very day that Solidarity became legal again.

But not even the Democratic leaders of Poland today could have seen the swift movement to real democracy. The Western world with the United States in the lead must assure adequate aid to the Polish people. The Polish people themselves have the education, skills and the hard working ideals. They only need assistance in their valiant fight to establish democracy. I am proud to be an original cosponsor of this most important and expeditious legislation on behalf of freedom and friendship. I urge the Congress to swiftly enact this legislation.

Recent developments in Poland have focused the attention of the entire free world on the efforts of Solidarity to create a new Poland. For the first time in more than 40 years, Poles are in a position to frame their own destiny. There is hope that the prayers of this undaunted and courageous people will be answered; that the scepter of communism will soon be only a shadow as the people of Poland exercise their right to self determination. We hope that Tadeusz Mazowiecki, the new prime minister of Poland, can realize the dream he has laid before his fellow Poles: that "together we can build Poland."

Unfortunately, economic realities being what they are, it is a dream that will require some help from other sources. With an official inflation rate of 150 percent and $40 billion of foreign debt, Polish leaders are faced with an overwhelming task. They must stabilize the economy of Poland while they complete an internal revolution and convert a trade union movement to a force for a free market society. All the while, they must work with a population desperately clamoring for the basic necessities of life. Mazowiecki and Lech Walesa cannot accomplish this task alone. They need our help. This is our opportunity to fuel the winds of change and help spread the spirit of democracy.

That is why I am happy to be one of the original cosponsors of this legislation introduced in the House of Representatives. Under

the leadership of Speaker TOM FOLEY and Senate majority leader GEORGE MITCHELL, I joined with other Members of the House and Senate in putting forth a $2.5 billion aid package designed to help Poland stabilize its economy. The congressional plan would more than triple the administration's offer of $225 million in aid to Poland. Our plan also asks the administration to seek up to $2.5 billion in international monetary support and a 5-year moratorium on Poland's repayment of a $2.3 billion debt to the United States.

The point is that Poland needs help now. We need to commit ourselves to swift passage of this measure. This aid from the United States is not without precedent. We pride ourselves on being a society that helps fledgling democracies. I see this current action as an extension of the principles we embraced under the Marshall Plan following World War II. At that time, we provided assistance to help the countries of Europe survive and forestall the influence of communism. Now is our chance to make good on the precepts of the Marshall Plan with respect to Poland. Once again, we have an opportunity to help a European country survive and, in this case, release the bonds of communism.

My dear colleagues it has been a very great honor to chair the Committee of the Whole House on this historic occasion. For the first time we can assist people overturning the yoke of communism for the liberties and glories of democracy. The United States spent so much on the foresightedness of the successful Marshall Plan. Now decades later we have the opportunity to assist and sustain freedom in Eastern Europe and, therefore, the greatest chance for peace we have seen in two generations.

Mr. NEAL of Massachusetts. Mr. Chairman, history teaches quite clearly the consequences of failing to seize opportunities to encourage fundamental progressive, political change. Today, the winds of change are blowing across Eastern Europe, propelled by one of the strongest forces the world has ever known—the desire of people to determine their own destinies.

We are witnessing the remaking of the political map that has governed international affairs for more than 40 years. These are exciting days, filled with opportunities to help make the dream of democracy a reality for millions who have been yearning for it for so long from behind the Iron Curtain. But the United States can ill afford to merely applaud from the sidelines the political developments in Eastern Europe, or to half-heartedly support the quest for freedom that those developments reflect. This is a time for boldly seizing the opportunities presented by the brave people of Poland and Hungary by providing material support to accompany the verbal encouragement we have offered so consistently over the years.

The people of Poland need food, especially with the onset to winter fast approaching. The leaders of the pro-democracy forces in Poland need help to right their country's economy which has suffered so much from the failings of Marxism. Foreign investment needs to be encouraged in both Poland and Hungary, trade opportunities need to be expanded and the private sector in both countries needs to be developed. We must be involved in efforts to address these needs, in conjunction with our allies in Western Europe. H.R. 3402 is a start in the right direction, but we must be prepared to do more in the days and months ahead.

Mr. Chairman, the struggle for a free Europe has at last been openly joined. It is a struggle that demands our active participation. I urge my colleagues to approve H.R. 3402 as a clear signal that the people of the United States are firmly allied with the people of Poland and Hungary who have taken the first steps along the uncertain road to democratic reform.

Mr. RINALDO. Mr. Chairman, I am pleased to support H.R. 3402, which will provide much needed economic aid to Poland and Hungary.

After 40 years behind the Iron Curtain, freedom is coming to Eastern Europe. In the same soil of Communist domination where in 1953, Soviet troops killed brave Polish patriots, and in 1956, Soviet tanks crushed brave Hungarian freedom fighters, today the seeds of liberty are taking root.

A non-Communist government is now ruling Poland, and just this week, Hungary abolished its Peoples' Republic and is about to become a multiparty democracy.

As important as these changes are, they are only the first small steps toward economic and political freedom. Two centralized economies will again have to become free markets. There will be real adjustments to both their economies and real hardships that the Polish and Hungarian people will have to face.

Today, we are here to declare our support for these changes and to back up our words with dollars. The U.S. Government must do everything in its power to help these new governments and their supporters. The $837.5 million in aid we are providing to Poland and Hungary shows that our support is more than empty words.

This bill provides funds to stabilize their economies in the short run, and a new nonprofit organization to encourage the development of the private sector in the Polish and Hungarian economies. It will also provide food aid, environmental aid, and encourage educational and cultural exchanges. Perhaps most importantly, H.R. 3402 opens up a number of programs to help Poland and Hungary trade with the United States.

Although this is a good start, we should not believe that this is the extent of our commitment to Poland and Hungary. The same managers who ran their centralized economies are still in control. The same bureaucrats who imposed the orders of their Communist government will now have to dismantle the Communist state.

We in this country must be aware of the problems the new governments will face. More assistance will probably be needed in the not too distant future. However, we must not allow our emotions to persuade us that the success of the new governments and economies of Poland and Hungary will be automatic.

We must be vigilant to ensure that Communist Party functionaries do not subvert the emerging democracies and free economies. They should know that our continued support and aid will not be premised upon empty talk or promises, but on solid progress. No government that backslides to a prettified Communist dictatorship should expect our help.

Finally, I would like to say that helping Poland and Hungary is not just the responsibility of the United States. We must also put pressure on the other western democracies to come to the aid of Poland and Hungary. The survival of the new Polish and Hungarian Governments is in the interest of the entire free world, and if they are to free themselves from Communist dictatorships, other countries will have to join us in giving them significant support.

Mr. Chairman, this is a great day, but it is just the first step on a long and arduous road. The people of Poland and Hungary have demanded freedom. Their long nightmare is coming to an end, and I am delighted that we are assisting them, but disappointed that we are not providing even greater financial aid.

Mr. LANTOS. Mr. Chairman, for over four decades we have dreamed about the lifting of the Iron Curtain. Now it has become a reality.

Eastern Europe's first government in over 40 years headed by a non-Communist prime minister was installed recently in Poland. Hungary has taken bold steps—unthinkable as recently as 1 year ago—to establish a multiparty democratic system of government and a market economy. The Hungarian Government courageously defied its Warsaw Pact allies and opened the gates of freedom to tens of thousands of refugees from East Germany, and many more thousands of East Germans left their homeland through Czechoslovakia and Poland.

Mr. Chairman, we stand at a critical hinge of history. Events are swinging in new and exciting directions that hold the promise of a revolutionary transformation in the Soviet Union and Eastern Europe.

At this critical hinge of history, Mr. Chairman, the administration sounds an uncertain trumpet. As the whole non-Communist world rejoices in the triumph of freedom and democracy over the forces of repression and totalitarianism, the administration shows an excess of caution, vacillation, temporizing, and timidity, instead of joyfully seizing this historic opportunity.

The legislation we are considering today is a bold step, a dramatic step. It authorizes $837.5 million in assistance and trade credit insurance for Hungary and Poland during the next 3 years. The legislation has important provisions that will encourage foreign trade and investment in these two countries, as well as provisions that will promote the development of market-oriented economies in these countries.

Mr. Chairman, this task is not ours alone. Resources must come from Western Europe, Japan, Taiwan, and elsewhere. Already the European Community, the 12 democratic nations of Western Europe, have pledged substantial assistance to Poland and Hungary, and others will follow suit. But it is our task to provide dynamic and creative leadership, and this can only come from a clear-headed and courageous American initiative. Our legislation today provides that leadership.

Mr. Chairman, we have before us a fleeting moment of opportunity, a unique chance to alter the course of history. The legislation we

are considering today boldly seizes that opportunity and moves us forward toward our goal. I strongly urge my colleagues to join in supporting this important bill.

Mr. GLICKMAN. Mr. Chairman, I rise in support of H.R. 3402, the Polish and Hungarian Democracy Initiative Act of 1989, which gives Poland and Hungary a substantial amount of aid to support their government and people during their difficult transition period toward democracy and a free market economy.

Since World War II, these countries and their citizens existed behind the Iron Curtain, stifled by the inadequacies inherent to that system. Over the past few years, we in the Western World have watched these countries and others move toward a freer system of government. I believe now is the time that Americans should stand with the citizens and governments of Poland and Hungary to support them in every way we can to help them in their struggle toward democracy.

H.R. 3402 provides assistance to every sector of Poland's economy. Not only does it give immediate assistance to each sector, but long-term assistance in the form of technical training over a 3-year period. However, the most critical component for a country to succeed and grow is to provide food for its citizens. What made the United States great from its very beginning is its agricultural might. Farmers in this country have always been able to feed our people and I firmly believe that a country which experiences a successful and continuing agricultural revolution is well past the threat of doom and can go forward to become an international power.

I think H.R. 3402 goes in the right direction as far as helping Poland build its agricultural infrastructure. The bill authorizes $125 million in food aid commodities, under the Public Law 480 and section 416 programs, for fiscal year 1990. A very critical aspect to this food aid provision allows Poland to barter or sell these donated commodities to generate local currencies for purposes of not only funding all kinds of technical training programs, but agribusiness projects as well directed by Polish and American agricultural experts.

If Poland's agricultural infrastructure in any way resembles that of the Soviet Union's, then I believe that Poland's infrastructure needs a great deal of improvement. I was in the Soviet Union recently and I just want to relate to you the seriousness of the shortcomings in its agricultural infrastructure—it is simply a mess. I believe this section of the bill is critical because, reiterating my previous comments, Poland to succeed, must first be able to feed its citizens. I think that this is the crux of the problem in the Eastern bloc countries and the Soviet Union—they simply cannot feed their people under the current collective system and it is holding back their economic growth. Even though they are beginning to realize this, they need more reform in their systems than just offering hard currency for grain. They need technical assistance from the West to help them rebuild a more modern and effective system.

In the future, I would like to see, in any assistance program for other countries, a section specifically designated for agricultural development using funds solely provided under food aid programs donated by the U.S. Department of Agriculture.

Also included in the food aid provisions, the President has the authority to allocate more food aid over the next 3 years if he determines that there is a real need. However, the United States should be careful in giving food aid to Poland because, if we, by chance, flood its market with donated commodities, farmers will have no incentive to expand their production to meet Poland's future needs. Fortunately, this bill safeguards against that from happening, but I think the administration should look very carefully at this in the future.

For developing agribusiness, small business enterprises, and joint ventures with American companies, this legislation streamlines money to a designated private Polish and Hungarian organization, which will be governed by experts from the United States and the host country who have expertise in areas of private sector development. These organizations, called Enterprise Funds, will be given a total of $200 million—$160 million for Poland's Enterprise Fund and $40 million for Hungary's. In addition, the Agency for International Development, using an additional $10 million over a 3-year period, may use both Enterprise Fund organizations, the U.S. Department of Agriculture, the International Executive Service Corps, the farmer-to-farmer program, and United States, Polish, and Hungarian agencies to coordinate projects to develop these countries' business sectors.

H.R. 3402 includes not only domestic monetary and technical support, but includes provisions encouraging similar multilateral support for Poland and Hungary. Presently, the Polish Government has indicated that it will need over 2 billion in hard currency and technical support to meet its objective in converting to a market-oriented economy. It is critical to the success of Poland and Hungary's transition that the European Community, Japan, and world agencies including, the International Monetary Fund and the World Bank, match our support. This bill goes in the right direction in which the United States should lead and encourage more aid to Poland as well as Hungary.

This legislation calls for international and domestic banks having a stake in Polish debt, to restructure Poland's $2 billion-plus debt and utilize the Exchange Stabilization Fund in order to maintain economic stability during the transition. Additionally, the bill includes several trade provisions one of which allows the Export-Import Bank to extend credit, finance, and insure Polish and Hungarian purchases. These loans are then guaranteed by the President through the Trade Credit Insurance Program. Restructuring of Poland's debt and the extension of credit to both countries will allow each to use its limited supply of hard currency and resources to purchase critical necessities for its citizens.

H.R. 3402 goes further in allocating $5 million to the Department of Labor to work with Polish and Hungarian officials and businessmen in implementing labor market reforms conducive to a free-mark economy. The bill also includes environmental initiatives, science and technology exchanges and a $6 million dollar Peace Corps Program to assist in carrying out the objectives of the bill.

In closing, this bill is a worthy and I support it wholeheartedly in that it provides initial monetary and technical support over a broad spectrum of both countries' economies to help in their transitional processes. However, I call upon the European Community, other surplus nations and international institutions to contribute to Poland and Hungary's effort. Together we must help their efforts as well as other countries' efforts achieve a freer world for their citizens.

Mr. LEACH of Iowa. Mr. Chairman, in the context of this bill it is appropriate to reference the recent agreement between the United States and Polish Governments facilitating contracts between private businesses, foundations, and organizations. I am taking the liberty of inserting the full text of the agreement below because it stands as a reference point for this legislation and incorporates in article VI a listing of the kinds of organizations, like SCORE, the SABRE Foundation, and the Chamber of Commerce whose assistance or potential assistance to Poland is so respected by this body. Below is the text of the agreement signed by Secretary Mosbacher and Minister Swiecicki:

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE POLISH PEOPLE'S REPUBLIC ON THE FACILITATION OF CONTACTS BETWEEN PRIVATE BUSINESSES, FOUNDATION, AND ORGANIZATIONS

The Government of the United States of America and the Government of the Polish People's Republic (hereinafter referred to as the parties):

Recognizing the importance of participation by the private section in economic and industrial cooperation between the United States of America and the Polish People's Republic;

Recognizing the need for a stable economic and legal environment in order to promote the rapid development of private business activities in the Polish People's Republic and bilateral private sector cooperation;

Recognizing the steps that the Polish Governement has taken to encourage private sector development, particularly through the Law on Economic Activities of January 1, 1989;

Recognizing the benefit to economic relations between the United States of America and the Polish People's Republic of cooperation between U.S. small and medium-sized business, foundations and organizations and Polish private organizations;

Have agreed:

ARTICLE I

1. The parties, through the United States Department of Commerce and the Polish Ministry of Foreign Economic Relations, shall facilitate contacts between the Polish and U.S. private sectors.

2. The parties recognize the significant role of the Polish-U.S. Economic Council in facilitating contacts between U.S. and Polish private enterprises, foundations and organizations. The parties will support and encourage the activities of the Council to this end.

ARTICLE II

1. The parties shall arrange exchanges of experts to discuss:

a. the government's role in promoting the development of private enterprise;

b. the legal and practical requirements for establishing a private enterprise in the

United States of America and the Polish People's Republic;

c. the development of mechanisms to finance private enterprises.

The U.S. Department of Commerce, the U.S. Small Business Administration, and other U.S. government agencies as appropriate, in cooperation with appropriate Polish government agencies, will arrange these exchanges. Representatives of U.S. and Polish private sector entities shall be included in these exchanges.

2. The parties shall facilitate and encourage exchange between Polish and U.S. private foundations and organizations for the purposes of promoting the development of the private sector in the Polish People's Republic.

3. The parties shall encourage the development of management training programs to stimulate the establishment and expansion of private buinesses in the Polish People's Republic.

4. The parties agree to continue a dialogue on practical measures to remove impediments to and to facilitate rapid development of activities under this Agreement.

ARTICLE III

In order to encourage cooperation between the U.S. and Polish private sectors, the Government of Poland shall pursuant to its laws and regulations grant favorable consideration to requests to waive duties levied on the imports of technical material, books, equipment and other supplies donated by U.S. enterprises, foundations and organizations for the development of the Polish private sector.

ARTICLE IV

1. The parties shall solicit ideas and opinions regarding the further development of private sector cooperation from appropriate private sector businesses, foundations, organizations and individuals.

2. The Joint American-Polish Trade Commission shall discuss private sector cooperation at its regular meetings to ensure the continued vitality of this Agreement.

ARTICLE V

1. The Parties note the Proposal of the Government of the United States concerning the formation in the United States of a Polish-American Enterprise Fund. The Parties recognize that the Enterprise Fund will play a significant role in encouraging the activities called for in this Agreement.

2. The Parties shall work with the directors of the Enterprise Fund to promote private sector development.

ARTICLE VI

The businesses, foundations and organizations referred to in this Agreement shall include, but not be limited to, the Economic Society of Warsaw, the Industrial Society of Krakow, the U.S. Center for International Private Enterprise, the SABRE Foundation, Volunteers for International Technical Assistance, Foundation for the Development of Polish Agriculture, National Federation of Independent Business, the United States Chamber of Commerce, International Executives Service Corps, (IESC), International Marketing Institute, and Service Corps of Retired Executives Association (SCORE).

ARTICLE VII

This Agreement shall enter into force on the date on which each government shall have notified the other that its constitutional or other legal requirements, with respect to this Agreement, have been fulfilled. This Agreement may be terminated by either party at any time upon twelve months' written notice.

Done at Warsaw on September the 20th, 1989 in duplicate, each in the English and Polish languages, both texts being equally authentic.

For the Government of the United States of America, Robert A. Mosbacher, Secretary of Commerce.

For the Government of the Polish People's Republic, Marcin Swiecicki, Minister of Foreign Economic Relations.

Mr. LEVIN of Michigan. Mr. Chairman, I strongly support this response to the need of reform movements in Eastern Europe for help from America.

Our country is a beacon to the Poles and Hungarians who are fighting to expand the area of economic and political freedom in their homelands.

We must offer more than a beacon, though. We must offer direct, material aid.

The last time the West had a chance to help at a decisive moment in Eastern Europe, when solidarity burst onto the scene in 1980, we were not ready, and we failed to help seize the moment.

This time we must act, without further delay. By so doing we will help the reform movement keep up its momentum. And we will help the reformers keep up their morale, as they minister to the long-neglected ills of their economies and societies.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I rise in support of H.R. 3402, the Polish and Hungarian Democracy Initiative Act of 1989. Change in Eastern Europe continues to intrigue and amaze even the most skeptical observers. Yesterday, the last remaining Stalinist of the Warsaw Pact, Erich Honecker of East Germany, was removed from power. Also yesterday, the Hungarian Parliament approved a non-Communist constitution—abolishing the "People's Republic" in favor of the Republic of Hungary which is likely to provide more for the people than ever before. And, the non-Communist Solidarity government in Poland has more power than most observers would have thought possible a few months ago.

The watershed events in East Europe—potentially heralding the end of the cold war—pose unprecedented opportunities for the expansion of freedom around the world. Responding to these events demands foresight and flexibility—not only are the old rules of the game changing, the game itself has changed.

The proper response involves much more than U.S. dollars. Dr. David Hamburg, of the Carnegie Foundation, has proposed a foreign policy "SDI"—a plan to strengthen democratic institutions in the Eastern bloc. That is an important concept, and would be a natural task for an organization like the National Endowment for Democracy, which ought to be funded far better than it is. Others have proposed a high-level commission to better develop U.S. responses to the new dynamics in the Warsaw Pack. Clearly, the United States must be prepared to act to encourage the massive changes on the periphery of the Soviet orbit. And just as clearly, the U.S. response must be bipartisan and sustained. If we are in this, we must be prepared for the long haul and we must not seek short term political advantage.

Unfortunately some Democrats, in apparent response to a decision to assault President Bush on all fronts, have made U.S. policy toward Eastern Europe the basis for partisan attack. Senate Democrats are supporting a bill designed more to embarrass the President than to further democratic movement in Hungary and Poland. The Bush Administration has been accused of being "timid." Mr. Chairman, the administration has not been timid—on the contrary, it has been active across the board in responding to events in Eastern Europe.

Secretary of Commerce Mosbacher was in Budapest and Warsaw last month—with concrete commitments from the Bush administration and with American businessmen ready to invest. Hungary has been made eligible for the generalized system of preferences [GSP] trade benefits; most-favored nation status will be permanently granted once changes in Hungarian emigration law are codified; a new steel agreement has been signed; and legislation creating an enterprise fund and enabling the Overseas Private Investment Corporation [OPIC] to insure United States business investment in Hungary was submitted.

In Warsaw, Secretary Mosbacher laid the foundation for a comprehensive United States-Polish economic agreement, signed a tourism agreement and brought technical advisers to help Poles take advantage of GSP and OPIC benefits. The European Community—with the involvement and support of the United States—recently announced a $660 million aid package for Poland while the Bush administration plans to channel additional aid through the International Monetary fund as part of a multilateral effort.

Secretary Mosebacher's underreported trip is but one element in President Bush's efforts to encourage and reinforce democratic change in Poland and Hungary. The administration supports passage of this bill—with some reservations about certain sections. I support the Cox-Hyde amendment which spells out in needed detail our specific objectives: Less government regulation, more privatization, more political pluralism. H.R. 3402 has broad and deep bipartisan support. It represents a measured and timely response to the rapidly changing political, economic, and social situation in Poland and Hungary. I urge my colleagues to support the bill.

Mr. PANETTA. Mr. Chairman, while I must remain in California today due to the recent earthquake and aftershocks, I would like for the record to let my colleagues know of my strong support for H.R. 3402, the Polish and Hungarian Democracy Initiative of 1989. Had I been present, I would have strongly supported its passage.

Mr. OWENS of Utah. Mr. Chairman, Poland and Hungary are now in the throes of a fundamental transformation which is unparalleled in the Communist world. We are witnessing after more than four decades of tyranny the emergence of a fragile free market economy from one which was rigid and centrally controlled. We are seeing a dramatic evolution of civil liberty and political freedom from a system of government which was repressive and totalitarian.

The winds of change are sweeping throughout the Communist bloc, and as we've seen

over the last few weeks, even the Government of East Germany, a bulwark of repression, cannot suffocate the democratic aspirations of its people.

The continuing metamorphosis of Poland and Hungary is truly remarkable, but success is not yet guaranteed. Tangible economic improvements in these two countries may determine whether or not the march toward democracy will continue.

This is why the United States, along with our democratic allies, must provide adequate, targeted assistance to help the people of Hungary and Poland overcome 40 years of Communist economic disaster. The action that we take on this floor today could well determine the success of this fragile experiment. Timidity could mean failure; overcaution a missed opportunity. In either case, our actions will reverberate far beyond the borders of these two countries.

Success in Hungary and Poland will strenthen the forces of reform and create irresistible pressure for greater freedom elsewhere in Eastern Europe, perhaps even in other Communist countries around the world. An astute, bold, and creative U.S. policy could materially affect the economic and political lives of millions of people.

Not only is the level of U.S. assistance important, but the type of aid is also critical. For the short term, this aid package provides badly needed funds for currency stabilization and food aid. For the long term, it encourages debt reduction and multilateral assistance, and promotes the development of private enterprise. I strongly urge your support.

Mr. MOORHEAD. Mr. Chairman, during the recent August recess, I had the distinct pleasure of joining several of my Energy and Commerce Committee colleagues on an official visit to Poland. While there, we met with Solidarity leader Lech Walesa, United States Ambassador John Davis, and Solidarity and nonsolidarity leaders in the Polish Parliament. We were particularly fortunate to be on the scene in Poland during the very week when a Solidarity-led government began to take shape. Based on my firsthand observations, I can report that the assistance provided to Poland by this legislation is necessary and will be well received.

As Ranking Republican member of the Subcommittee on Energy and Power, I would like to draw my colleagues' attention to the provisions in H.R. 3402 for energy-related assistance. After visiting Krakow, I certainly concur in the President's recommendation that the Department of Energy work with the Polish Government to retrofit an existing commercial powerplant in the Krakow region with clean coal technology. It is important to observe that the bill requires that DOE use clean coal technology which has been successfully demonstrated on a comparable scale in the United States. In addition, DOE would assist Poland with an assessment of how Poland could develop a capacity to manufacture or modify industrial boilers and other equipment to use fossil fuels more cleanly.

In conclusion, Mr. Chairman, it is no exaggeration to state, as others have already done, that we have a truly historic opportunity to expand political and economic reform in Poland and Hungary, if only we will seize the moment. H.R. 3402 is a modest proposal which constructively builds upon the President' initial proposal. I cosponsored H.R. 3402 and urge the House to support it today.

Mr. BORSKI. Mr. Chairman, I rise in strong support of H.R. 3042, the Polish and Hungarian Democracy Initiative of 1989.

As a Polish-American, I am bursting with pride that the quest for freedom which brought my family to America more than a century ago, is becoming a quest that Polish men and women can join without leaving their homeland. As an American citizen, I am delighted that our Nation has acted like a beacon, drawing other nations to emulate us. As a U.S. Congressman I am excited by the potential for a world where freedom is the common denominator.

Mr. Speaker, the legislation we debate today is the most important new foreign policy initiative of my tenure in this body. We have an opportunity to shift the balance of the world in the direction of freedom and independence, a chance we have not had since the end of World War II. We must seize this chance to join with the new Government of Poland to forge a newer and better and freer world.

For 40 years we have promised that we would aid Eastern Europe if they would embrace democracy, and join us in the community of free nations. For the last 8 years, through the ravages of martial law, and the heroic struggle of Solidarity, our Presidents and leaders have stated that if Poland were not dominated by Soviet-controlled leadership, we would help.

Now, my colleagues, Poland has tested our promise. The Polish people demanded and won free elections. In those elections, Solidarity won an historic and overwhelming victory, demonstrating the popular support which made it possible to form the first non-Communist Eastern bloc government in world history.

But these steps forward, as historic as they are, need our active partnership to keep freedom marching forward. The Polish economy has been wrecked, and the Polish people, dispirited by years of totalitarian government, need to see that democracy can transform the quality of their lives. That is why H.R. 3402, modest as it is, is a vital development in our foreign policy.

This initiative would send to Poland the vital commodities which will keep the hope of freedom and prosperity alive in those countries: Food aid to prevent starvation from decimating their citizens and economic aid to strengthen their economy as it shrugs off the failed policies of communism.

Mr. Chairman, communism has blighted Eastern Europe by strangling its social, political, and economic growth. Before we can expect economic prosperity and political freedom to bloom again in Poland and Hungary, we have to make the ground fertile again.

Where collectivization has decimated Poland's food supply, H.R. 3402 would provide $375 million in new food aid to keep Poland and Hungary from starving over the next three winters.

Where government control has strangled enterprise, the democratic initiative would pour over $200 million into creating and supporting the development of local businesses through the President's proposal for enterprise funds for Poland and Hungary; authorize assistance for technical training, education and cultural programs, scholarships, environmental protection, and labor transition; authorize a generalized system of preference and Overseas Private Investment Corps eligibility; and establish a trade credit insurance program for Poland.

Most importantly, where communism has ground to a halt, leaving Eastern Europe without any options, the United States must show that we can act decisively, that we can lead with vision, not just follow with rhetoric,

We spend $300 billion per year to defend our interests, allies, and citizens around the world. Spending a part of that budget to show that democracy works for a people whom communism failed is not just an historic opportunity, it's a wise investment. And our action today is more than just acting on a piece of legislation. As the leader of the Western democracies, our action today will ripple through the councils of our allies. Today we will demonstrate that we have the will, and that we expect and encourage our allies to join us by reaching into their wallets.

Mr. Chairman, in a few weeks, Lech Walesa, the man who has done more to make democracy the rising tide of this decade than any other, will join us in these Halls. I urge my colleagues to join me as his partner in the grandest experiment going on in the world today, by voting to approve H.R. 3042, to aid Poland as a great nation turns from stagnation to rebirth, and from totalitarianism to democracy and freedom.

Mr. DONALD E. "BUZ" LUKENS. Mr. Chairman, I rise in opposition to H.R. 2494, the International Development and Finance Act.

I cannot support legislation that authorizes funds from the taxpayers' pockets of the Eighth Congressional District of Ohio to go to the governments of consistent trade violators like Brazil and Argentina. These countries continually refuse to open their markets to American goods, yet they're still there, standing in line with their hand out, waiting for Uncle Sam to bail out their bankrupt economic policies. This has got to stop.

Mr. Speaker, there are no conditions under which these countries receive these loans, like guidelines to restructure the policies that got them into these problems to begin with. Also, if the United States does protest a loan, like the one to the Government of Nicaragua, the inter-American Development either ignores our protests or finds some other manner in which to bypass our concerns. Why do we continue to fund these organizations when we have virtually no say as to where U.S. taxpayer money goes?

This country was built on free enterprise and this has been the foundation on which our economic successes have been built. Why then, are we encouraging countries with overburdensome government bureaucracies to continue down the road to economic ruin? I think we'll have a hard time explaining to our constituents why their money is going to these countries. If you want money to go to these countries, let the private banks fund them, not the American taxpayer.

Mr. SMITH of New Jersey. Mr. Chairman, the rapid political changes in Poland and Hun-

gary have been refreshing to watch unfold, and in turn present the West, and the United States in particular, a delicate challenge to address.

I am encouraged, Mr. Chairman, that Poland and Hungary's European neighbors, along with the United States and other Western countries, are coordinating food relief, economic aid, and technical training for the private sectors of these emerging market economies. The unprecedented transformation of a state-controlled economy and political system into a pluralistic democracy with a market-based economy demands creative approaches and effective, private sector assistance programs.

As an original cosponsor of this promising aid package for both Hungary and Poland H.R. 3402, I believe the package addresses one of the major complications facing the reformers, namely the national, debilitating economic problems.

Certainly, Mr. Chairman, one of the most intricate aspects of the dramatic change occurring in these countries is the myriad of economic reforms which must be accomplished. This is particularly true in the case of Poland and its stalemated economy where there is little infrastructure for free-market initiatives.

Mr. Chairman, I do support the amendment being offered by my good friend, HENRY HYDE, and our colleague, CHRIS COX, which clearly outlines U.S. objectives in extending this assistance. The clarifying language encourages privatization of economic entities—such as lending institutions and banks, calls for the establishment of the rights of private property and the cutting of redtape for businesses. Most importantly, the amendment promotes political pluralism while reducing the influence of the Communist, and its related parties.

This package authorizes investments in the nonprofit, private enterprise funds—proposed by President Bush—which will offer loans and provide technical support for new private businesses in Poland and Hungary. The funds—one each for Poland and Hungary—will be governed by private United States and host country citizens who are experts in the private sector development undertaken by the fund. Through loans, grants, equity investments, feasibility studies, technical assistance, training, and insurance, the funds will promote private sector development in these countries. Mr. Speaker, it is prudent that no funds will be channeled through the Government agencies.

In addition, Mr. Chairman, the bill provides money to promote environmental activities and exchanges which will help improve both air and water quality in both Poland and Hungary. Poland needs the technical environmental assistance we can offer to help restore and protect her natural resources, especially when economic demands could pressure industry to ignore sound environmental concerns. Likewise, in Hungary, a regional center will be established to help foster cooperative environmental activities between governmental experts and public and private organizations in each of our countries.

Through the Secretary of Labor, in consultation with the labor and business communities in the U.S. labor market reforms and technical assistance in training and retraining, labor-management relations, occupational safety and health protection will be promoted. Mr. Chairman, the hope is that such assistance will help facilitate adjustment to the market changes and the probable crushing economic problems.

In a special effort to help stabilize Poland's economy, H.R. 3402 provides for a $200 million United States grant contingent on their agreement to an economic reform plan with the International Monetary Fund. As my colleagues know, this grant would be part of a larger $1 billion multilateral stabilization program from Western industrialized countries.

In addition, Mr. Chairman, I understand that the emergency food aid which has been offered to Poland will be timed and coordinated with local agricultural projects and farmers to ensure that foreign assistance will not compete and interfere with local suppliers and farmers.

Mr. Chairman, I am hopeful that this partnership between United States experts—both in the private sector and the government—and private enterprises in Poland and Hungary will help transform those two countries into thriving free market economies. For the Hungarians and Poles the transition will have its obstacles and hardships but the potential is outstanding.

Mr. LENT. Mr. Chairman, I am pleased to join the chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], in supporting H.R. 3402, much needed assistance for Poland and Hungary. We led a delegation from the committee to Eastern Europe last August, including a visit to Poland.

It was a great honor to join Chairman DINGELL and my other colleagues who comprised the delegation at a very historic time.

When he addressed a joint session of the Polish parliament on July 10, 1989, President Bush spoke for all of us when he said:

Poland and the United States are bound, it is often said, by ties of kinship and culture. But our peoples are linked by more than sentiment.

The President later continued:

Poland is where the cold war began—and now the people of Poland can help bring the division of Europe to an end. The time has come to move beyond containment to a world too long deferred—a better world.

We also joined the President when he said:

Your responsibility for your country's future is immense. Poland's friends, including the American people, want Poland to be free, prosperous, democratic, independent—true to the best tradition of your nation's past.

Mr. Chairman, the task of the energy and commerce delegation is Poland was in large part to follow up on the President's visit by exploring the specific ways in which the United States can best assist Poland in making the unprecedented transition from a Communist system to democracy and a free market economy.

While in Poland, we met with Solidarity leader Lech Walesa in Gdansk, the birthplace of Solidarity, and ironically, the place where 50 years ago Hitler invaded Poland. We also met in Warsaw with the marshalls of the two houses of the Polish parliament, as well as with the chairman of the Senate Foreign Economic Relations Committee. We were aided in our work by in-depth briefings by U.S. Ambassador John Davis.

Upon returning to the United States, each of the 12 Members of our delegation—six Democrats and six Republicans—wrote to President Bush. In our letter dated August 25, 1989, we reported in our meetings and urged the President to submit legislation to Congress on his aid package at the earliest possible date.

I am pleased to report that last month the Secretary of State, the Secretary of Labor, and the administrator of the Environmental Protection Agency jointly submitted a legislative proposal for aid to Poland and Hungary. H.R. 3402—of which I am an original cosponsor—builds upon the President's plan.

During his visit to Poland, the President indicated that the environmental help for Poland would be concentrated in the area around Krakow, the medieval city which was the only major Polish city not destroyed during World War II. We can report from our visit to Krakow that the area is in desperate need of this assistance. While we wrestle with our own clean air problems, the city of Krakow is literally being destroyed, over time, by uncontrolled emissions from a steel plant located just outside of the historic city.

The Bush administration's proposals for aid to Poland go beyond the package set up last week. In our discussions, Lech Walesa stressed that he is not asking for loans or handouts. Above all else, he wants United States companies to invest in Poland and United States banks to open branches in his country.

Poland needs help in restructuring its foreign debt of $40 billion, the United States share of which is $2.2 billion. President Bush has indicated that the United States supports an early and generous rescheduling of this debt. The administration is also backing World Bank loans to Poland totaling $325 million for two economically viable projects.

Given our committee's interest in promoting foreign commerce—and the emphasis placed by Polish leaders on more United States investment—it is imperative that Congress follows through on steps to encourage more United States investment in Poland.

For example, Poland liberalized its foreign investment laws in 1986. However, the response was low—only six joint ventures with foreign firms, only two of which were United States firms. The law was amended and as such went into effect on January 1, 1989.

One obvious barrier to more investment is concern about the political situation. Thus, it is all the more important that we make investments in Poland eligible for assistance from the United States Overseas Private Investment Corporation [OPIC]. OPIC and the government of Poland have agreed on the administrative steps to allow OPIC to operate in Poland. Once Congress sends this enabling legislation to the President, and he signs it, the corporation will lead an investment mission to Poland, to introduce United States investors to Polish leaders, including potential joint venture partners.

In sum—as pointed out in an article in Forbes magazine, in the September 18, 1989 edition—not by politics alone will democracy and free enterprise be brought to Poland—rather, it must be done one small deal at a time.

Flora Lewis, writing in the New York Times of September 10, 1989, under the headline, "Yugoslavia's Lesson," concluded:

The solution isn't in sight—referring to unrest in Yugoslavia. But the message from Yugoslavia to other Communist societies is that reforms must not be stopped midway. It only leads to deterioration and complications in finding a way out of a failed system.

Mr. Chairman, I join with my colleagues who visited Poland, led by Chairman DINGELL, in seeing to it that the United States helps keep Poland from stopping midway. Lech Walesa and others in Solidarity are committed to reform—as are the non-Communist parties which make up the government now led by a Solidarity prime minister. They deserve our moral support and our tangible assistance, as the United States government and as private sector investors. H.R. 3402 would assist this effort and I urge its passage today.

Mr. CRANE. I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute, recommended by the Committee on Foreign Affairs now printed in the reported bill shall be considered by titles as an original bill for the purpose of amendment, and each title shall be considered as having been read.

The amendment printed in House Report 101-291 is considered as having been adopted.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Polish and Hungarian Democracy Initiative of 1989".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Section 1. Short title and table of contents.
TITLE I—STRUCTURAL ADJUSTMENT
Sec. 101. Multilateral support for structural adjustment in Poland and Hungary.
Sec. 102. Report to Congress.
TITLE II—PRIVATE SECTOR DEVELOPMENT
Sec. 201. Enterprise Funds for Poland and Hungary.
Sec. 202. Labor market transition in Poland and Hungary.
Sec. 203. Technical training for private sector development in Poland and Hungary.
Sec. 204. Peace Corps programs in Poland and Hungary.
Sec. 205. Use of Polish currency generated by agricultural assistance.
TITLE III—TRADE AND INVESTMENT
Sec. 301. Eligibility of Poland for Generalized System of Preferences.
Sec. 302. Overseas Private Investment Corporation programs for Poland and Hungary.
Sec. 303. Export-Import Bank programs for Poland and Hungary.
Sec. 304. Trade Credit Insurance Program for Poland.
Sec. 305. Trade and Development programs for Poland and Hungary.
Sec. 306. Bilateral investment treaties with Poland and Hungary.
TITLE IV—EDUCATIONAL, CULTURAL, AND SCIENTIFIC ACTIVITIES
Sec. 401. Educational and cultural exchanges and sister institutions programs with Poland and Hungary.
Sec. 402. Poland-Hungary scholarship partnership.
Sec. 403. Science and technology exchange with Poland and Hungary.
TITLE V—OTHER ASSISTANCE
Sec. 501. Assistance in support of democratic institutions in Poland and Hungary.
Sec. 502. Environmental initiatives for Poland and Hungary.
Sec. 503. Medical supplies, hospital equipment, and medical training for Poland.
TITLE VI—MISCELLANEOUS PROVISIONS
Sec. 601. AID administrative expenses.
Sec. 602. Annual reports to Congress.
Sec. 603. Coordination by Secretary of State.

The CHAIRMAN. Are there any amendments to section 1?

The Clerk will designate title I.

The text of title I is as follows:

TITLE I—STRUCTURAL ADJUSTMENT

SEC. 101. MULTILATERAL SUPPORT FOR STRUCTURAL ADJUSTMENT IN POLAND AND HUNGARY.

(a) ACTIONS BY THE UNITED STATES.—To the extent that Poland and Hungary continue to evolve toward pluralism and democracy and to develop and implement comprehensive economic reform programs—

(1) the United States Government shall take the leadership in mobilizing international financial institutions (in particular the International Monetary Fund and the International Bank for Reconstruction and Development and its affiliated institutions in the World Bank group) to provide timely and appropriate resources to help Poland and Hungary;

(2) the United States Government, in conjunction with other member governments of the Organization of Economic Cooperation and Development (OECD) and international financial institutions (including the International Monetary Fund), shall support the implementation of a plan of the Government of Poland to attack hyperinflation and other structural economic problems, address pressing social problems, carry out comprehensive economic reform, and relieve immediate and urgent balance of payments requirements in Poland, through the use of mechanisms such as—

(A) the Exchange Stabilization Fund pursuant to section 5302 of title 31, United States Code, and in accordance with established Department of the Treasury policies and procedures; and

(B) the authority provided in subsection (b) of this section;

(3) the United States Government shall urge all members of the "Paris Club" of creditor governments and other creditor governments to adopt, and participate in, a generous and early rescheduling program for debts owed by the Government of Poland; and

(4) the United States Government—

(A) shall make available to Poland, in coordination with the European Community, United States agricultural assistance to alleviate immediate food shortages and to facilitate the transition from state-directed controls to a free market economy, while avoiding disincentives to domestic agricultural production and reform; and

(B) in order to ensure the necessary quantity and diversity of such agricultural assistance, shall take all appropriate steps to encourage parallel efforts by the European Community and other agricultural surplus nations.

(b) STABILIZATION ASSISTANCE FOR POLAND.—

(1) GENERAL AUTHORITY.—In order to carry out subsection (a)(2), the President is authorized to furnish assistance for Poland, notwithstanding any other provision of law, to assist in the urgent stabilization of the Polish economy and ultimately to promote longer-term economic growth and stability, based on movement toward free market principles. Such assistance may be provided for balance of payments support (including commodity import programs), support for private sector development, or for other activities to further efforts to develop a free market-oriented economy in Poland.

(2) AMOUNT OF ASSISTANCE.—A total of $200,000,000 may be made available under paragraph (3) to carry out this subsection, in addition to amounts otherwise available for such purpose.

(3) SOURCE OF FUNDS.—Funds to carry out this subsection are authorized to be made available in an appropriation Act by—

(A) the appropriation for fiscal year 1990 of any moneys in the Treasury not otherwise appropriated; or

(B) the transfer or use, notwithstanding any other provision of law, of such unobligated funds available in fiscal year 1990 as may be specified in such appropriation Act.

(4) EXTENDED AVAILABILITY OF FUNDS.—Funds made available under this paragraph (3) are authorized to be made available for obligation through September 30, 1991.

(c) FY 1990 MINIMUM LEVEL OF AGRICULTURAL ASSISTANCE FOR POLAND.—In carrying out subsection (a)(4)(A), the level of assistance for Poland for fiscal year 1990 under section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 and following), and the Food for Progress Act of 1985 (7 U.S.C. 1736o) should not be less than $125,000,000. Such assistance—

(1) to the maximum extent practicable, shall be provided through nongovernmental organizations; and

(2) shall emphasize feed grains.

SEC. 102. REPORT TO CONGRESS.

(a) INITIAL REPORT.—Not later than 60 days after the date of enactment of this Act, the President shall submit a report to the Congress—

(1) describing the steps taken by the United States Government pursuant to section 101;

(2) assessing Poland's requirements for additional agricultural assistance during fiscal year 1990 and its requirements for ag-

ricultural assistance during fiscal years 1991 and 1992; and

(3) specifying how much agricultural assistance the President proposes be provided by the United States to meet those requirements.

(b) UPDATING ASSESSMENTS.—As additional information becomes available, the President shall provide to the Congress revised assessments of Poland's requirements for agricultural assistance during fiscal years 1991 and 1992, specifying how much agricultural assistance the President proposes be provided by the United States to meet those requirements.

The CHAIRMAN. Are there any amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—PRIVATE SECTOR DEVELOPMENT

SEC. 201. ENTERPRISE FUNDS FOR POLAND AND HUNGARY.

(a) PURPOSES.—The purposes of this section are to promote—

(1) development of the Polish and Hungarian private sectors, including small businesses, the agricultural sector, and joint ventures with United States and host country participants, and

(2) policies and practices conducive to private sector development in Poland and Hungary, through loans, grants, equity investments, feasibility studies, technical assistance, training, insurance, guarantees, and other measures.

(b) AUTHORIZATION OF APPROPRIATIONS.—To carry out the purposes specified in subsection (a), there are authorized to be appropriated to the President for the 3-year period beginning October 1, 1989—

(1) $160,000,000 to support the Polish-American Enterprise Fund, as designated pursuant to subsection (d); and

(2) $40,000,000 to support the Hungarian-American Enterprise Fund, as designated pursuant to subsection (d).

Such amounts are authorized to be made available until expended.

(c) NONAPPLICABILITY OF OTHER LAWS.—The funds appropriated under subsection (b) may be made available to the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund and used for the purposes of this section notwithstanding any other provision of law.

(d) DESIGNATION OF ENTERPRISE FUNDS.—

(1) DESIGNATION.—The President is authorized to designate two private, nonprofit organizations as eligible to receive funds and support pursuant to this section upon determining that such organizations have been established for the purposes specified in subsection (a). For purposes of this section, the organizations so designated shall be referred to as the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund (hereinafter in this section referred to as the "Enterprise Funds").

(2) CONSULTATION WITH CONGRESS.—The President shall consult with the leadership of each House of Congress before designating an organization pursuant to paragraph (1).

(3) BOARD OF DIRECTORS.—Each Enterprise Fund shall be governed by a Board of Directors comprised of private citizens of the United States, and citizens of the respective host country, who have demonstrated experience and expertise in those areas of private sector development in which the Enterprise Fund is involved.

(4) ELIGIBILITY OF ENTERPRISE FUNDS FOR GRANTS.—Grants may be made to an Enterprise Fund under this section only if the Enterprise Fund agrees to comply with the requirements specified in this section.

(5) PRIVATE CHARACTER OF ENTERPRISE FUNDS.—Nothing in this section shall be construed to make an Enterprise Fund an agency or establishment of the United States Government, or to make the officers, employees, or members of the Board of Directors of an Enterprise Fund officers or employees of the United States for purposes of title 5, United States Code.

(e) GRANTS TO ENTERPRISE FUNDS.—Funds appropriated to the President pursuant to subsection (b) shall be granted to the Enterprise Funds by the Agency for International Development (hereinafter in this section referred to as the "Agency") to enable the Enterprise Funds to carry out the purposes specified in subsection (a) and for the administrative expenses of each Enterprise Fund.

(f) MATTERS TO BE CONSIDERED BY ENTERPRISE FUNDS.—In carrying out this section, each Enterprise Fund shall take into account such considerations as internationally recognized worker rights and other internationally recognized human rights, environmental factors, United States economic and employment effects, and the likelihood of commercial viability of the activity receiving assistance from the Enterprise Fund.

(g) RETENTION OF INTEREST.—An Enterprise Fund may hold funds granted to it pursuant to this section in interest-bearing accounts, prior to the disbursement of such funds for purposes specified in subsection (a), and may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress.

(h) NONAPPLICABILITY OF OTHER LAWS.—Executive branch agencies may conduct programs and activities and provide services in support of the activities of the Enterprise Funds notwithstanding any other provision of law.

(i) ELIGIBLE PROGRAMS AND PROJECTS.—The Enterprise Funds may provide assistance pursuant to this section only for programs and projects which are consistent with the purposes set forth in subsection (a).

(j) LIMITATION ON PAYMENTS TO ENTERPRISE FUND PERSONNEL.—No part of the funds of either Enterprise Fund shall inure to the benefit of any board member, officer, or employee of such Enterprise Fund, except as salary or reasonable compensation for services.

(k) INDEPENDENT PRIVATE AUDITS.—The accounts of each Enterprise Fund shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of each such independent audit shall be included in the annual report required by this section.

(l) GAO AUDITS.—The financial transactions undertaken pursuant to this section by each Enterprise Fund may be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States, so long as the Enterprise Fund is in receipt of United States Government grants.

(m) RECORDKEEPING REQUIREMENTS.—The Enterprise Funds shall ensure—

(1) that each recipient of assistance provided through the Enterprise Funds under this section keeps—

(A) separate accounts with respect to such assistance;

(B) such records as may be reasonably necessary to disclose fully the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

(C) such other records as will facilitate an effective audit; and

(2) that the Enterprise Funds, or any of their duly authorized representatives, have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Enterprise Funds under this section.

(n) ANNUAL REPORTS.—Each Enterprise Fund shall publish an annual report, which shall include a comprehensive and detailed description of the Enterprise Fund's operations, activities, financial condition, and accomplishments under this section for the preceding fiscal year. This report shall be published not later than January 31 each year, beginning in 1991.

SEC. 202. LABOR MARKET TRANSITION IN POLAND AND HUNGARY.

(a) TECHNICAL ASSISTANCE.—The Secretary of Labor (hereinafter in this section referred to as the "Secretary"), in consultation with representatives of labor and business in the United States, shall—

(1) provide technical assistance to Poland and Hungary for the implementation of labor market reforms; and

(2) provide technical assistance to Poland and Hungary to facilitate adjustment during the period of economic transition and reform.

(b) TYPES OF TECHNICAL ASSISTANCE AUTHORIZED.—In carrying out subsection (a), the Secretary is authorized to provide technical assistance regarding policies and programs for training and retraining, job search and employment services, unemployment insurance, occupational safety and health protection, labor-management relations, labor statistics, analysis of productivity constraints, entrepreneurial support for small businesses, market-driven systems of wage and income determinations, job creation, employment security, the observance of internationally recognized worker rights (including freedom of association and the right to organize and bargain collectively), and other matters that the Secretary may deem appropriate regarding free labor markets and labor organizations.

(c) ADMINISTRATIVE AUTHORITIES.—In carrying out subsection (a), the Secretary is authorized to do the following:

(1) Accept in the name of the Department of Labor, and employ or dispose of in furtherance of the purposes of this section, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise. Gifts and donations of property which are no longer required for the discharge of the purposes of this section shall be reported to the Administrator of General Services for transfer, donation, or other disposal in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 and following).

(2) Accept voluntary and uncompensated services notwithstanding section 1342 of title 31, United States Code.

(3) Enter into arrangements or agreements with appropriate departments, agencies, and establishments of Poland and Hungary.

(4) Enter into arrangements or agreements with appropriate private and public sector United States parties, and international organizations.

(d) CONSULTATION WITH APPROPRIATE OFFICERS.—In carrying out the responsibilities established by this section, the Secretary shall seek information and advice from, and consult with, appropriate officers of the United States.

(e) CONSULTATION WITH LABOR AND BUSINESS REPRESENTATIVES.—For purposes of this section, consultation between the Secretary and United States labor and business representatives shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(f) DELEGATION OF RESPONSIBILITIES.—The Secretary shall delegate the authority to carry out the programs authorized by this section to the head of the Bureau of International Labor Affairs of the Department of Labor.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Labor for the 3-year period beginning October 1, 1989, to carry out this section—

(1) $4,000,000 for technical assistance to Poland; and

(2) $1,000,000 for technical assistance to Hungary.

SEC. 203. TECHNICAL TRAINING FOR PRIVATE SECTOR DEVELOPMENT IN POLAND AND HUNGARY.

(a) TECHNICAL TRAINING PROGRAM.—The Agency for International Development shall develop and implement a program for extending basic agribusiness, commercial, entrepreneurial, financial, scientific, and technical skills to the people of Poland and Hungary to enable them to better meet their needs and develop a market economy. This program shall include management training and agricultural extension activities.

(b) PARTICIPATION BY ENTERPRISE FUNDS AND OTHER AGENCIES AND ORGANIZATIONS.—In carrying out subsection (a), the Agency for International Development may utilize the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund (as designated pursuant to section 201(d)) and other appropriate Government and private agencies, programs, and organizations such as—

(1) the Department of Agriculture;

(2) the Farmer-to-Farmer Program under section 406(a) (1) and (2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736(a) (1) and (2));

(3) the International Executive Service Corps;

(4) the Foundation for the Development of Polish Agriculture;

(5) the World Council of Credit Unions; and

(6) other United States, Polish, and Hungarian private and voluntary organizations and private sector entities.

(c) NONAPPLICABILITY OF OTHER PROVISIONS OF LAW.—Assistance provided pursuant to subsection (a) under the authorities of part I of the Foreign Assistance Act of 1961 may be provided notwithstanding any other provision of law.

(d) AUTHORIZATION OF APPROPRIATIONS.—For purposes of implementing this section, there are authorized to be appropriated $10,000,000 for the 3-year period beginning October 1, 1989, to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance), in addition to amounts otherwise available for such purposes.

(e) LIMITATION WITH RESPECT TO FARMER-TO-FARMER PROGRAM.—Any activities carried out pursuant to this Act through the Farmer-to-Farmer Program under section 406(a) (1) and (2) of the Agricultural Trade Development and Assistance Act of 1954 shall be funded with funds authorized to be appropriated by this Act and local currencies made available under section 205, and shall not be funded with funds made available pursuant to section 1107 of the Food Security Act of 1985 (7 U.S.C. 1736 note) or a similar, subsequent provision of law.

SEC. 204. PEACE CORPS PROGRAMS IN POLAND AND HUNGARY.

There are authorized to be appropriated to carry out programs in Poland and Hungary under the Peace Corps Act, $6,000,000 for the 3-year period beginning October 1, 1989, in addition to amounts otherwise available for such purposes. Such programs shall give priority to using Peace Corps volunteers to extend the technical skills described in section 203(a) to the people of Poland and Hungary, using the Associate Volunteer Program to the extent practicable.

SEC. 205. USE OF POLISH CURRENCY GENERATED BY AGRICULTURAL ASSISTANCE.

(a) ADDITIONAL ASSISTANCE FOR POLAND.—A portion of the agricultural commodities described in subsection (c) may be made available and sold or bartered in Poland to generate local currencies to be used—

(1) to complement the assistance for Poland authorized by sections 101(a)(4)(A), 201, and 203 of this Act, and

(2) to support the activities of the joint commission established pursuant to section 2226 of the American Aid to Poland Act of 1988 (7 U.S.C. 1431 note),

notwithstanding section 416(b)(7) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)) or any other provision of law.

(b) EMPHASIS ON AGRICULTURAL DEVELOPMENT.—The uses of local currencies generated under this section should emphasize the development of agricultural infrastructure, agriculture-related training, and other aspects of agricultural development in Poland.

(c) COMMODITIES SUBJECT TO REQUIREMENTS.—Subsection (a) applies with respect to agricultural commodities made available for Poland for fiscal years 1990, 1991, and 1992 under section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 and following), and the Food for Progress Act of 1985 (7 U.S.C. 1736o).

(d) OTHER USES NOT PRECLUDED.—The uses of agricultural commodities and local currencies specified in subsection (a) are in addition to other uses authorized by law.

AMENDMENT OFFERED BY MR. LEACH OF IOWA

Mr. LEACH of Iowa. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEACH of Iowa: In section 201(d)(3), insert ", including at least 1 representative of United States credit unions" before the period.

Add the following new subsections to section 201:

(o) SUPPORT FOR INDIGENOUS CREDIT UNIONS.—

(1) POLISH-AMERICAN ENTERPRISE FUND.—The Polish-American Enterprise Fund may use not more than $8,000,000 of the funds made available to it pursuant to this section for technical and other assistance to support the development of indigenous credit unions in Poland.

(2) HUNGARIAN-AMERICAN ENTERPRISE FUND.—The Hungarian-American Enterprise Fund may use not more than $2,000,000 of the funds made available to it pursuant to this section for technical and other assitance to support the development of indigenous credit unions in Hungary.

(p) DEFINITION OF CREDIT UNION.—As used in this section and section 206, the term "credit union" means a member-owned, nonprofit, cooperative depository institution—

(1) which is formed to permit individuals in the field of membership specified in such institution's charter to pool their savings, lend the savings to one another, and own the organization where they save, borrow, and obtain related financial services; and

(2) whose members are united by a common bond and democratically operate the insitution.

After section 205, insert the following new section:

SEC. 206. UNITED STATES POLICY OF PRIVATE FINANCIAL SUPPORT FOR POLISH AND HUNGARIAN CREDIT UNIONS.

(a) IN GENERAL.—In order to facilitate the development of indigenous credit unions in Poland and Hungary, it is the policy of the United States that—

(1) United States citizens, financial institutions (other than federally insured depository institutions), and other persons may make contributions and loans to, make capital deposits in, and provide other forms of financial and technical assistance to credit unions in Poland and Hungary; and

(2) federally insured depository institutions may provide technical assistance to credit unions in Poland and Hungary, to the extent that the provision of such assistance is prudent and not inconsistent with safe and sound banking practice.

(b) AMENDMENT TO FEDERAL CREDIT UNION ACT.—Section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is amended by redesignating paragraph (16) as paragraph (17) and by inserting after paragraph (15) the following new paragraph:

"(16) subject to such regulations as the Board may prescribe, to provide technical assistance to credit unions in Poland and Hungary; and".

(c) FEDERALLY INSURED DEPOSITORY INSTITUTION DEFINED.—For purposes of subsection (a), the term "federally insured depository institution" means—

(1) any insured depository institution (as defned in section 3(c)(2) of the Federal Deposit Insurance Act); and

(2) any insured credit union (as defined in section 101(7) of the Federal Credit Union Act).

Mr. LEACH of Iowa (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. LEACH of Iowa. Mr. Chairman, this amendment simply authorizes the new enterprise funds that are being created in this bill to use some of their resources, particularly technical assist-

ance, to support the credit union movement in Poland and Hungary.

The idea behind this is that the new funds that are being created will use investment banking authorities to assist the people of Poland and Hungary. But in Poland and Hungary there is a major problem of private savings.

In Poland, for example, it is estimated that $4 to $6 billion is in mattresses because people do not want to put their money in institutions they do not control.

Credit unions are democratically controlled institutions. And the theory behind my amendment is that if the United States helps with their development, we will help the Polish people and the Hungarian people help themselves.

I must stress that this amendment is not an earmarking amendment as was offered earlier in the Foreign Affairs Committee. Rather, it is simply an authorization to give the administration discretion to authorize these funds in this way. Based on that, I am told that the administration has no particular objection to this approach.

Finally, Mr. Chairman, let met just observe that there are lots of pros and cons to credit unions per se, but in this particular context I think that there is nothing more democratic or more designed to help people help themselves. Therefore, I urge serious consideration be given to this approach.

Mr. FASCELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we had discussed this matter earlier, and let me ask the gentleman this question: The gentleman is amending, as I see it, the enterprise fund, not the technical assistance section in 203, but this is section 201(d)3?

Mr. LEACH of Iowa. Mr. Chairman, if the gentleman will yield, let me say that the gentleman is correct.

Mr. FASCELL. And referring to the language of the amendment, is it mandatory?

Mr. LEACH of Iowa. No, it is not. It is discretionary on the part of the administration, and so the earmarking concern that was reflected in our full committee is no longer there.

Mr. FASCELL. Mr. Chairman, I thank the gentleman for his response, and I have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa [Mr. LEACH].

The amendment was agreed to.

Mr. WOLPE. Mr. Chairman, I move to strike the last word.

Mr. WOLPE. Mr. Chairman, I rise in strong support of H.R. 3402, the bill to provide aid to Poland and Hungary, and I want to commend my chairman, the gentleman from Florida [Mr. FASCELL], and our ranking member, the gentleman from Michigan [Mr. BROOMFIELD], for bringing this legislation so expeditiously to the floor.

Mr. Chairman, startling events have been occurring in Eastern Europe at breakneck speed. At times we can only stare in disbelief at the dramatic economic and political changes which have transformed our conventional understanding of the Eastern bloc. We have been amazed by the courage of the Polish and Hungarian people as they are striving to forge new democratic political systems.

The newly formed Solidarity-led government in Poland and the creation of a new political party in Hungary are dramatic reminders to all of us of the enormous power of democratic values and ideals. They serve to remind us that the yearning for freedom is universal and ultimately irresistible. These striking achievements have brought us to a point which we could not have even imagined a few years ago: discussing sending American assistance to Poland and Hungary.

Yet we must also be mindful of the fragility of the emerging democracies in Eastern Europe. Leaders in both countries currently face monumental economic and political challenges. The Polish economy is beset with hyperinflation which has prompted the newly formed Polish Parliament to pass legislation this week to compensate workers for the inflation's devastating effects. Likewise, Hungary has experienced high-inflation rates and minimal economic growth. Therefore, it is incumbent upon the United States and other Western nations to provide both these countries with the desperately needed economic assistance which will help secure these newly achieved democracies.

While the administration has spoken eloquently about its support for reform in Poland and Hungary, its actions in some respects, I think, fall short. I deeply regret that the administration's original aid package was so paltry and that subsequently it expressed opposition to the magnitude of our committee's bill.

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Frankly, Mr. Chairman, I think the bill we have here today and which does enjoy bipartisan support is a good one, and I am pleased that the committee has increased the levels over the administration's original request, but even these assistance levels are meager in relation to the task before us.

Mr. Chairman, why is it so easy to find the funds to guard against the military threat of Communist tyrannies, yet so difficult to find a fraction of what is needed to promote and preserve the democracies which seek to institutionalize the very values which give definition to the American experience.

I submit to my colleagues that the establishment of democracy in Eastern Europe can yield the foundation for a far more stable international system which is democratic, just and peaceful. An investment now in consolidating democracy in Eastern Europe will help us avoid the military costs we once faced in battling totalitarian regimes. We have a unique window of opportunity to advance our cherished ideals of freedom and democracy and to enhance the quality of life for all of us, but in particular for those who have struggled so valiantly during the past four decades in Eastern Europe.

Mr. Chairman, I urge the passage of this legislation.

Mrs. KENNELLY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the bill to aid Poland and Hungary.

Mr. Chairman, I do not need to tell you that this is an absolutely critical time in the history of Eastern Europe. For decades we have all watched Communist governments operate in Poland and Hungary. For decades we have all hoped for reform. Now, finally, after years of waiting, years of hoping that Solidarity in Poland and the Reform Movement in Hungary would overcome the Communist regimes, they have been successful.

But their success may only be temporary. Due to the many years of Communist control, both nations face severe structural and economic problems. Many of their businesses are inefficiently run and their agricultural enterprises are underdeveloped. It is a well known fact, for example, that Poland's air and water pollution problems are among the worst in the world.

Now is the time for America to put its wealth of resources behind these countries. Poland and Hungary will have to undertake enormous changes to transform their state-run economies. And if we as a nation sit this out, than not only will we no longer be able to hold our democratic heads up high, but we will be partially to blame if their attempts at transformation fail.

As a member of the Ways and Means Committee, I know full well the budget constraints our Government is working under. But I cannot emphasize enough how crucial this funding is.

Finally, Mr. Chairman, I would like to add a quick word about one small provision in the bill that is dear to me. It is an amendment I authored which would allow the Peace Corps to recruit volunteers to aid Poland and Hungary with technical and professional assistance. The volunteers we are targeting would be retired individuals or those willing to take 6 months to 1 year off from their professional jobs. These volunteers, with years of experience,

would be able to provide much-needed expertise at a very low cost.

Mr. Chairman, I urge my colleagues to support this bill. I think no one can argue that it is a relatively modest amount to spend to promote democracy in Eastern Europe.

The CHAIRMAN. Are there further amendments to title II?

The Clerk will designate title III.

The text of title III is as follows:

TITLE III—TRADE AND INVESTMENT

SEC. 301. ELIGIBILITY OF POLAND FOR GENERALIZED SYSTEM OF PREFERENCES.

Subsection (b) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by striking out "Poland" in the table within such subsection.

SEC. 302. OVERSEAS PRIVATE INVESTMENT CORPORATION PROGRAMS FOR POLAND AND HUNGARY.

(a) ELIGIBILITY OF POLAND AND HUNGARY FOR OPIC PROGRAMS.—Section 239(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2199(f)) is amended by inserting ", Poland, Hungary," after "Yugoslavia".

(b) ENHANCEMENT OF NONGOVERNMENTAL SECTOR.—In accordance with its mandate to foster private initiative and competition and enhance the ability of private enterprise to make its full contribution to the development process, the Overseas Private Investment Corporation shall support projects in Poland and Hungary which will result in enhancement of the nongovernmental sector and reduction of state involvement in the economy.

SEC. 303. EXPORT-IMPORT BANK PROGRAMS FOR POLAND AND HUNGARY.

(a) AUTHORITY TO EXTEND CREDIT TO POLAND AND HUNGARY.—Notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(2)), the Export-Import Bank of the United States may guarantee, insure, finance, extend credit, and participate in the extension of credit in connection with the purchase or lease of any product by the Hungarian People's Republic, or any agency or national thereof, or by the Polish People's Republic, or any agency or national thereof.

(b) PRIVATE FINANCIAL INTERMEDIARIES TO FACILITATE EXPORTS TO POLAND.—Consistent with the provisions of the Export-Import Bank Act of 1945 (12 U.S.C. 635 and following), the Export-Import Bank of the United States shall work with private financial intermediaries in Poland to facilitate the export of goods and services to Poland.

SEC. 304. TRADE CREDIT INSURANCE PROGRAM FOR POLAND.

(a) ESTABLISHMENT OF PROGRAM.—Chapter 2 of part I of the Foreign Assistance Act of 1961 is amended by inserting after section 224 (22 U.S.C 2184) the following new section:

"SEC. 225. TRADE CREDIT INSURANCE PROGRAM FOR POLAND.

"(a) GENERAL AUTHORITY.—

"(1) ASSURANCE TO EXPORT-IMPORT BANK OF REPAYMENT.—The President is authorized to provide guarantees to the Bank for liabilities described in paragraph (2) in order to satisfy the requirement of section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) that the Bank have reasonable assurance of repayment.

"(2) LIABILITIES WHICH MAY BE GUARANTEED.—The liabilities that may be guaranteed under paragraph (1) are liabilities incurred by the Bank in connection with guarantees or insurance provided under the Export-Import Bank Act of 1945 for financing for transactions involving the export of goods and services for the use of the private sector in Poland.

"(b) GUARANTEES AVAILABLE ONLY FOR SHORT-TERM GUARANTEES AND INSURANCE.—Guarantees provided under subsection (a) shall be for short-term guarantees and insurance extended by the Bank which shall be repayable within a period not to exceed one year from the date of arrival at the port of importation of the goods and services covered by such guarantees or insurance.

"(c) AGREEMENT ON CRITERIA AND PROCEDURES.—Guarantees or insurance extended by the Bank and guaranteed pursuant to subsection (a) shall be provided by the Bank in accordance with criteria and procedures agreed to by the Administrator and the Bank.

"(d) RESERVE FUND.—The agreement referred to in subsection (c) shall also provide for the establishment of a reserve fund by the administering agency, with such funds made available to the reserve as the Administrator deems necessary to discharge liabilities under guarantees provided under subsection (a).

"(e) DISCHARGE OF LIABILITIES.—

"(1) FUNDS WHICH MAY BE USED.—Such amounts of the funds made available to carry out chapter 4 of part II of this Act (relating to the economic support fund) as the President determines are necessary may be made available to discharge liabilities under guarantees entered into under subsection (a).

"(2) CREDITING OF SUBSEQUENT PAYMENTS.—To the extent that any of the funds made available pursuant to paragraph (1) are paid out for a claim arising out of liabilities guaranteed under subsection (a), amounts received after the date of such payment, with respect to such claim, shall be credited to the reserve fund established pursuant to subsection (d), shall be merged with the funds in such reserve, and shall be available for the purpose of payments by the Administrator to the Bank for guarantees under subsection (a).

"(f) APPROPRIATIONS ACTION REQUIRED.—Commitments to guarantee under subsection (a) are authorized only to the extent and in the amounts provided in advance in appropriations Acts.

"(g) LIMITATION ON OUTSTANDING COMMITMENTS.—The aggregate amount of outstanding commitments under subsection (a) may not exceed $200,000,000 of contingent liability for loan principal during any fiscal year.

"(h) BIANNUAL REPORTS TO CONGRESS.—Every 6 months, the Administrator and the President of the Bank shall prepare and transmit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report on the amount and extension of guarantees and insurance provided by the Bank and guaranteed under this section during the preceding 6-month period.

"(i) ADMINISTRATIVE AND TECHNICAL ASSISTANCE.—The Bank shall provide, without reimbursement, such administrative and technical assistance to the administering agency as the Bank and the Administrator determine appropriate to assist the administering agency in carrying out this section.

"(j) FEES AND PREMIUMS.—The Bank is authorized to charge fees and premiums, in connection with guarantees or insurance guaranteed by the administering agency under subsection (a), that are commensurate (in the judgment of the Bank) with the Bank's administrative costs and the risks covered by the agency's guarantees. Any amounts received by the Bank in excess of the estimated costs incurred by the Bank in administering such guarantees or insurance—

"(1) shall be credited to the reserve fund established pursuant to subsection (d),

"(2) shall be merged with the funds in such reserve, and

"(3) shall be available for the purpose of payments by the administering agency to the Bank for guarantees under subsection (a).

"(k) RESTRICTIONS NOT APPLICABLE.—Prohibitions on the use of foreign assistance funds for assistance for Poland shall not apply with respect to the funds made available to carry out this section.

"(l) EXPIRATION OF AUTHORITY.—The President may not enter into any commitments to guarantee under subsection (a) after September 30, 1992.

"(m) DEFINITION.—For purposes of this section—

"(1) the term 'administering agency' means the Agency for International Development;

"(2) the term 'Administrator' means the Administrator of the Agency for International Development; and

"(3) the term 'Bank' means the Export-Import Bank of the United States.".

(b) CONFORMING AMENDMENT.—Section 224 of that Act is amended by inserting "FOR CENTRAL AMERICA" after "PROGRAM" in the section caption.

SEC. 305. TRADE AND DEVELOPMENT PROGRAMS FOR POLAND AND HUNGARY.

In order to permit expansion of the Trade and Development Program into Poland and Hungary, there are authorized to be appropriated $6,000,000 for the 3-year period beginning October 1, 1989, to carry out section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2241), in addition to amounts otherwise available for such purpose.

SEC. 306. BILATERAL INVESTMENT TREATIES WITH POLAND AND HUNGARY.

The Congress urges the President to seek bilateral investment treaties with Poland and Hungary in order to establish a more stable legal framework for United States investment in those countries.

The CHAIRMAN. Are there amendments to title III?

The Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—EDUCATIONAL, CULTURAL, AND SCIENTIFIC ACTIVITIES

SEC. 401. EDUCATIONAL AND CULTURAL EXCHANGES AND SISTER INSTITUTIONS PROGRAMS WITH POLAND AND HUNGARY.

(a) EDUCATIONAL AND CULTURAL EXCHANGES.—The United States should—

(1) expand its participation in educational and cultural exchange activities with Poland and Hungary, using the full array of existing government-funded and privately-funded programs, with particular emphasis on the J. William Fulbright Educational Exchange Program, the International Visitors Program, the Samantha Smith Memorial Exchange Program, the exchange programs of the National Academy of Sciences, youth and student exchanges through such private organizations as The Experiment in International Living, The American Field Service Committee, and Youth for Understanding, and research exchanges sponsored by the International Research and Exchanges Board (IREX); and

(2) take all appropriate action to establish binational Fulbright commissions with Poland and Hungary in order to facilitate and enhance academic and scholarly exchanges with those countries.

(b) SISTER INSTITUTIONS PROGRAMS.—The United States Government encourages the establishment of "sister institution" programs between American and Polish organizations and between American and Hungarian organizations, including such organizations as institutions of higher education, cities and towns, and organizations in such fields as medicine and health care, business management, environmental protection, and agricultural research and marketing.

(c) AUTHORIZATION OF APPROPRIATIONS.—To enable the United States Information Agency to support the activities described in subsections (a) and (b), there are authorized to be appropriated $12,000,000 for the 3-year period beginning October 1, 1989, in addition to amounts otherwise available for such purposes.

SEC. 402. POLAND-HUNGARY SCHOLARSHIP PARTNERSHIP.

(a) ESTABLISHMENT OF SCHOLARSHIP PROGRAM.—The Administrator of the Agency for International Development is authorized to establish and administer a program of scholarship assistance, in cooperation with State governments, universities, community colleges, and businesses, to provide scholarships to enable students from Poland and Hungary to study in the United States.

(b) GRANTS TO STATES.—In carrying out this section, the Administrator may make grants to States to provide scholarship assistance for undergraduate or graduate degree programs, and training programs of one year or longer, in study areas related to the critical development needs of Poland and Hungary.

(c) CONSULTATION WITH STATES.—The Administrator shall consult with the participating States with regard to the educational opportunities available within each State and on the assignment of scholarship recipients.

(d) FEDERAL SHARE.—The Federal share for each year for which a State receives payments under this section shall not be more than 50 percent.

(e) NON-FEDERAL SHARE.—The non-Federal share of payments under this section may be in cash, including the waiver of tuition or the offering of in-State tuition or housing waivers or subsidies, or in-kind fairly evaluated, including the provision of books or supplies.

(f) FORGIVENESS OF SCHOLARSHIP ASSISTANCE.—The obligation of any recipient to reimburse any entity for any or all scholarship assistance provided under this section shall be forgiven upon the recipient's prompt return to Poland or Hungary, as the case may be, for a period which is at least one year longer than the period spent studying in the United States with scholarship assistance.

(g) PRIVATE SECTOR PARTICIPATION.—To the maximum extent practicable, each participating State shall enlist the assistance of the private sector to enable the State to meet the non-Federal share of payments under this section. Wherever appropriate, each participating State shall encourage the private sector to offer internships or other opportunities consistent with the purposes of this section to students receiving scholarships under this section.

(h) FUNDING.—Grants to States pursuant to this section shall be made with funds made available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) or chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund). In addition to amounts otherwise available for such purpose under those chapters, there are authorized to be appropriated $10,000,000 for the 3-year period beginning October 1, 1989, for use in carrying out this section.

(i) RESTRICTIONS NOT APPLICABLE.—Prohibitions on the use of foreign assistance funds for assistance for Poland and Hungary shall not apply with respect to the funds made available to carry out this section.

(j) DEFINITION.—As used in this section, the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

SEC. 403. SCIENCE AND TECHNOLOGY EXCHANGE WITH POLAND AND HUNGARY.

(a) AGREEMENT WITH POLAND.—There are authorized to be appropriated to the Secretary of State for purposes of continuing to implement the 1987 United States-Polish science and technology agreement—

(1) $1,500,000 for fiscal year 1990,
(2) $2,000,000 for fiscal year 1991, and
(3) $2,000,000 for fiscal year 1992.

(b) AGREEMENT WITH HUNGARY.—There are authorized to be appropriated to the Secretary of State for purposes of implementing the 1989 United States-Hungarian science and technology agreement—

(1) $500,000 for fiscal year 1990,
(2) $1,000,000 for fiscal year 1991, and
(3) $1,000,000 for fiscal year 1992.

(c) DEFINITION OF AGREEMENTS BEING FUNDED.—For purposes of this section—

(1) the term "1987 United States-Polish science and technology agreement" refers to the agreement concluded in 1987 by the United States and Poland, entitled "Agreement Between the Government of the United States of America and the Polish People's Republic on Cooperation in Science and Technology and Its Funding", together with annexes relating thereto; and

(2) the term "1989 United States-Hungarian science and technology agreement" refers to the agreement concluded in 1989 by the United States and Hungary, entitled "Agreement Between the Government of the United States of America and the Government of the Hungarian People's Republic for Scientific and Technology Cooperation", together with annexes relating thereto.

The CHAIRMAN. Are there amendments to title IV?

The Clerk will designate title V.

The text of title V is as follows:

TITLE V—OTHER ASSISTANCE

SEC. 501. ASSISTANCE IN SUPPORT OF DEMOCRATIC INSTITUTIONS IN POLAND AND HUNGARY.

(a) AUTHORIZATION OF ASSISTANCE.—In addition to amounts otherwise available for such purposes, there are authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) $12,000,000 for the 3-year period beginning October 1, 1989, which shall be available only for the support of democratic institutions and activities in Poland and Hungary.

(b) NONAPPLICABILITY OF OTHER LAWS.—Assistance may be provided under this section notwithstanding any other provision of law.

SEC. 502. ENVIRONMENTAL INITIATIVES FOR POLAND AND HUNGARY.

(a) EPA ACTIVITIES GENERALLY.—In addition to specific authorities contained in any of the environmental statutes administered by the Environmental Protection Agency, the Administrator of that Agency (hereinafter in this section referred to as the "Administrator") is authorized to undertake such educational, policy training, research, and technical and financial assistance, monitoring, coordinating, and other activities as the Administrator may deem appropriate, either alone or in cooperation with other United States or foreign agencies, governments, or public or private institutions, in protecting the environment in Poland and Hungary.

(b) EPA ACTIVITIES IN POLAND.—The Administrator shall cooperate with Polish officials and experts to—

(1) establish an air quality monitoring network in the Krakow metropolitan area as a part of Poland's national air monitoring network; and

(2) improve both water quality and the availability of drinking water in the Krakow metropolitan area.

(c) EPA ACTIVITIES IN HUNGARY.—The Administrator shall work with other United States and Hungarian officials and private parties to establish and support a regional center in Budapest for facilitating cooperative environmental activities between governmental experts and public and private organizations from the United States and Eastern and Western Europe.

(d) FUNDING OF EPA ACTIVITIES.—To enable the Environmental Protection Agency to carry out subsections (a), (b), and (c), there are authorized to be appropriated $10,000,000 for the 3-year period beginning October 1, 1989, to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) or chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund). These funds may be used to carry out those subsections notwithstanding any provision of law relating to the use of foreign assistance funds.

(e) DEPARTMENT OF ENERGY ACTIVITIES.—

(1) CLEAN COAL.—The Secretary of Energy shall cooperate with Polish officials and experts to retrofit a coal-fired commercial powerplant in the Krakow, Poland, region with advanced clean coal technology that has been successfully demonstrated at a comparably scaled powerplant in the United States. Such retrofit shall be carried out by one or more United States companies using United States technology and equipment manufactured in the United States. The Secretary may vest title in any property acquired under this paragraph in an entity other than the United States.

(2) EQUIPMENT ASSESSMENT.—The Secretary of Energy shall cooperate with Polish officials and experts and companies within the United States to assess and develop the capability within Poland to manufacture or modify boilers, furnaces, smelters, or other equipment that will enable industrial facilities within Poland to use fossil fuels cleanly. The Secretary may vest title in any property acquired under this paragraph in an entity other than the United States.

(3) AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there are authorized to be appropriated $30,000,000 for the 3-year period beginning October 1, 1989. Not more than $10,000,000 of the funds appropri-

ated under this paragraph may be used to carry out the requirements of paragraph (1).

SEC. 503. MEDICAL SUPPLIES, HOSPITAL EQUIPMENT, AND MEDICAL TRAINING FOR POLAND.

(a) AUTHORIZATION OF ASSISTANCE.—In addition to amounts otherwise available for such purposes, there are authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) $6,000,000 for the 3-year period beginning October 1, 1989, which shall be available only—

(1) for providing medical supplies and hospital equipment to Poland through private and voluntary organizations, including for the expenses of purchasing, transporting, and distributing such supplies and equipment, and

(2) for training of Polish medical personnel.

(b) NONAPPLICABILITY OF OTHER LAWS.—Assistance may be provided under this section notwithstanding any other provision of law.

The CHAIRMAN. Are there amendments to title V?

The Clerk will designate title VI.

The text of title VI is as follows:

TITLE VI—OTHER PROVISIONS

SEC. 601. AID ADMINISTRATIVE EXPENSES.

For the purpose of carrying out its functions under this Act, the Agency for International Development may use up to $500,000 each fiscal year of the funds authorized to be appropriated by this Act that are appropriated to the Agency.

SEC. 602. ANNUAL REPORTS TO CONGRESS.

The President shall submit an annual report to the Congress on the actions taken pursuant to this Act. This report shall be submitted not later than January 31 each year, beginning in 1991.

SEC. 603. COORDINATION BY SECRETARY OF STATE.

The Secretary of State shall coordinate the assistance for Poland and Hungary provided for in this Act.

The CHAIRMAN. Are there amendments to title VI?

Mr. BOEHLERT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, there are historic dimensions to the work we are about today. By supporting the Polish and Hungarian democracy initiative of 1990 we are in a very tangible way demonstrating our determination to march shoulder to shoulder with our Polish and Hungarian brothers and sisters as they advance from the dark ages of oppression and totalitarianism to the dawn of a new era. It is one characterized by hope and promise. All that we represent as a free people is embodied in this measure. We are extending the helping hand when it is needed most.

Mr. Chairman, some will argue, as we have heard today, that by spending $840 million we are spending too much. I would respond to that by saying perhaps we are not spending enough. What price for democracy?

Mr. Chairman, we are doing ourselves proud today as we advance this legislation. There is hope, there is promise. We deserve nothing more than to stand tall today as we reach out to those people, those gallant people in Poland and Hungary, who are striving so marvelously for what we as a Nation cherish so dearly.

Mr. Chairman, I urge the support of this most important measure.

The CHAIRMAN. Are there any further amendments to the bill?

AMENDMENT OFFERED BY MR. GRANDY

Mr. GRANDY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GRANDY: Page 36, after line 23, add the following:

TITLE VII—CARGO PREFERENCE REQUIREMENTS

SEC. 701. EXEMPTION OF AGRICULTURAL ASSISTANCE FOR POLAND.

(a) EXEMPTION.—The cargo preference requirements of title IX of the Merchant Marine Act, 1936 (46 U.S.C. app. 1241 and following) shall not apply with respect to the agricultural commodities and products thereof made available for Poland for fiscal year 1990 pursuant to section 101(c) of this Act.

(b) EXISTING SHIPPING CONTRACTS.—Subsection (a) does not apply with respect to agricultural commodities or products thereof for which a contract for shipment on an ocean vessel was entered into before the date of enactment of this Act.

Mr. GRANDY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. GRANDY. Mr. Chairman, I rise in full support of H.R. 3402 and offer this amendment, not to rejoin the cargo preference debate, but to hopefully call for a ceasefire today in this particular piece of legislation. What this amendment asks for is an exemption regarding the $125 million of food aid to Poland in fiscal year 1990, and only in fiscal year 1990, and it exempts existing shipping contracts.

The purpose of this amendment, Mr. Chairman, is to hopefully not involve the Polish people and the fledgling government in a cross-fire between agriculture and maritime interests over the ongoing cargo preference debate. That debate will be joined in other foreign assistance bills and probably in the farm bill, but I ask today that we consider maximizing the dollars to Poland under our aid package, and in doing so I think that calls for a one-time-only waiver of the 75-percent requirement that existing law makes on food shipments to the Government of Poland.

Mr. Chairman, let me just talk briefly about the cost of cargo preference under this bill, and I say at the outset I read these figures and acknowledge there will probably be some argument about them subsequently. But the current differentials between U.S.-flag ships and foreign-flag ships prevent us from maximizing this drastically needed food aid.

A U.S. ship just set sail from Houston, the *Spirit of Texas*, with 11,500 tons of grain sorghum to Poland; the shipping rate, $84.95 per ton. The cost of the grain, Mr. Chairman, was a hundred dollars a ton. At the same time a Polish ship is being loaded in the Great Lakes with Wheat under an export enhancement program initiative. The shipping rate is $26 a ton.

□ 1310

I am told that there is an argument over whether or not it is an $85 differential, but as the attached memo, and I have a memo from the Foreign Agricultural Service to back this up, the typical differential between the United States and world rates is roughly $35 to $45 per ton guaranteed.

Now, it was noted at the Rules Committee when I asked for this amendment to be made in order by the distinguished chairman of one of the Foreign Affairs Subcommittees, the gentleman from Indiana [Mr. HAMILTON], that the need in Polish food aid is feed grains, and that differential, according to this FAS memo, roughly we are looking at a U.S. flag rate of 65 to 70 per metric ton, versus a foreign flag rate of $25 to $30 per metric ton.

I would just say, Mr. Chairman, that if we are to follow along the lines of many eloquent statements that have been made here today about allowing a door to open for democracy in a country that is trying to wean itself from a Marxist system, then we should put our money where our mouth is, and in this particular instance waive a law which I think probably will do more to maximize aid in the cause of democracy for the fledgling Polish Government than just about anything else we can do in the bill.

Now, I would note that this amendment was tried and defeated in the other body, but Senators GRASSLEY and SIMON who offered this amendment did, and I would also at least offer to this body these 250 telegrams from Polish Americans who are urging this support, but there are also people in Poland who are urging this.

From the Embassy of the Polish People's Republic comes a letter from the commercial councilor's office, from Mr. Jerzy Kapuscinski, who asks that we waive the cargo preference law in this particular instance, and he says:

Therefore I request you to carry this message to the Congress which is about to vote on an amendment waiving cargo preference. Your prompt action in this matter will be highly appreciated by the Government of the Polish People's Republic and the Polish nation.

Mr. LENT. Mr. Chairman, will the gentleman yield for a question?

Mr. GRANDY. I am pleased to yield to the distinguished gentleman from New York.

Mr. LENT. Mr. Chairman, I thank the gentleman for yielding to me.

It is my understanding that the gentleman's amendment would call upon the maritime industry of this Nation to forego its cargo preference subsidy so that more food would be delivered to the people of Poland, is that correct?

Mr. GRANDY. That is the nature of the amendment.

Mr. LENT. That is a worthy goal, but my question is, does the gentleman in this amendment call upon anyone from the agricultural community to forego any part of its subsidy at the same time?

Mr. GRANDY. As the gentleman probably knows, the answer to that question is not yes; however, what we are talking about in terms of food aid to Poland are existing surplus stocks of pork bellies and grain sorghum. The agricultural community, albeit subsidized, does not directly receive a subsidy from this transaction. If there is an advantage to the agricultural community——

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(By unanimous consent, Mr. GRANDY was allowed to proceed for 2 additional minutes.)

Mr. GRANDY. Just to respond to my friend, the gentleman from New York, Mr. Chairman, while it is true that obviously what we want to do in trying to expand agricultural exports overseas is to reduce the number of surplus stocks, and particularly in the case of feed grains and pork bellies, this particular transaction is advantageous. It does not anywhere near rival the 75 percent subsidy that the maritime interest enjoys.

I really would prefer not to debate this on the grounds of agriculture versus maritime. As the amendment clearly states, I am asking that we consider a one-time only exemption.

Mr. LENT. Mr. Chairman, will the gentleman yield further?

Mr. GRANDY. I am glad to yield to the gentleman from New York.

Mr. LENT. This Government provides over $20 billion a year in subsidies to farmers each year. I think there is a subsidy as well through the cargo preference to the maritime industry. I do not think it comes anywhere near $20 billion.

My point in asking the question initially to the gentleman was why is not the gentleman calling on his own industry, the agricultural industry, to take a similar cut? In other words, there are two industries here that Government seeks to favor, the Maritime Administration and the American farmer. Why are we taking it all out of the maritime side of the equation?

Mr. GRANDY. Reclaiming my time, Mr. Chairman, let me just say that the ongoing subsidies that agriculture has enjoyed, particularly since the onset of the Food Security Act in 1985, have been cut in half. We have gone from roughly a $26 billion commodity subsidy to roughly a $13 billion subsidy, drought aid included, I might add, and in return for that we have enjoyed roughly a $17 billion trade surplus in agriculture. So I think we can argue that for reduced dollars we are buying more commercial access. We are buying export enhancement, and more to the gentleman's point, we are making an industry competitive. I would doubt very seriously that you can make case for the American maritime industry by the subsidies that are traveling to those ships.

The CHAIRMAN. The time of the gentleman from Iowa has again expired.

(At the request of Mr. MILLER of Washington, and by unanimous consent, Mr. GRANDY was allowed to proceed for 2 additional minutes.)

Mr. MILLER of Washington. Mr. Chairman, will the gentleman yield?

Mr. GRANDY. I am glad to yield to the gentleman from Washington.

Mr. MILLER of Washington. The gentleman said that we should maximize the benefits to Poland of this package; that is correct, is that right?

Mr. GRANDY. That is correct.

Mr. MILLER of Washington. And that we could maximize the benefits by waiving cargo preference, that subsidy to the maritime industry.

Would we not also maximize the benefits if instead of taking food from the gentleman's State and others, if we just bought this on the world market at the lowest possible price?

Mr. GRANDY. Well, reclaiming my time once again, the answer to that question is probably yes, and the reason behind the Food Security Act was to make American commodities competitive on the world marketplace.

Now, let me just continue——

Mr. MILLER of Washington. Mr. Chairman, if the gentleman will yield further, I understand that, but that is also the purpose of the Maritime Act, to make the merchant marine competitive.

What I am failing to understand is why we do not want to maximize the dollars when it comes to buying the agricultural produce, but we do maximize when it comes to paying for the maritime shipment?

Mr. GRANDY. Because, and I think the figures I have already quoted speak for themselves, if you can buy transport on a ship that will cost you roughly $85 per ton versus a ship that will cost you $26 per ton, which are you going to buy? It is just the same with wheat. If you buy wheat at $4 a bushel, but you have the option to buy it at $3 a bushel, you will buy the $3 bushel of wheat. That is exactly what we have been doing in the Food Security Act through those export subsidies.

Mr. TORRICELLI. Mr. Chairman, will the gentleman yield?

Mr. GRANDY. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. Mr. Chairman, my colleague makes a very good point. The gentleman should know there are Members in this body who are prepared also to vote on this action in the future and to seek amendments, that if we want to get the most value for our money let us go to the world community and be prepared to buy Argentinean wheat or Canadian agricultural products and use them for American aid. If the concept of American foreign aid is to get the most for the dollar, whether it is in shipping or the food we give, I do not see why there should be different rules for maritime than for agriculture.

I appreciate the gentleman yielding, but the gentleman should know that he is opening that door and there are those of us who are prepared to walk through it, if those are the rules of the game.

Mr. CHAIRMAN. The time of the gentleman from Iowa has again expired.

(By unanimous consent, Mr. GRANDY was allowed to proceed for 5 additional minutes.)

Mr. LEACH of Iowa. Mr. Chairman will the gentleman yield?

Mr. GRANDY. I yield to my colleague, the gentleman for Iowa.

Mr. LEACH of Iowa. Well, first, Mr. Chairman, I think it is fair to suggest that even though a small door has been opened, this is a very narrow door that applies only to this particular issue.

Second, people in the farm belt are not opposed to American maritime interests. We are willing to support direct upfront assistance for the U.S. maritime industry. What is awkward is that by using cargo preference rules, the American farm producer is the exclusive payer to support the maritime industry—not the taxpayers at large, only the farm producer.

It comes home to roost in this particular issue. If you are going to give one-third less humanitarian aid, you are going to buy one-third less food products in order to have higher shipping bills.

Now, I do not think anyone from the Midwest would object at all to supporting direct governmental assistance for a national defense oriented approach toward bolstering American maritime interests. But the problem here is that we are taking money from one pocket to put into another, and the end result for Poland is unhumanitarian.

Finally, let me just say that what is different about debate over this issue today, is that historically we have pitted several large unions and several large shipping interests against agri-

cultural producers. Here for the first time we are pitting an established American union movement against an aspiring union movement in another country. This is Solidarity versus the American union movement, and it is very unsettling and very unfortunate.

I think, frankly, that a reasonable change in law that just affects this very small part of the cargo preference area is warranted today, although it symbolizes a larger problem as well.

□ 1320

Mr. MILLER of Washington. Mr. Chairman, will the gentleman yield?

Mr. GRANDY. I am happy to yield to the gentleman from Washington.

Mr. MILLER of Washington. Mr. Chairman, I just want to say to my distinguished colleague from Iowa the principle that he espouses has some merit. It is just that he is not willing to apply it universally. The gentleman from Iowa quoted figures on what it costs to ship food. I read that United States butter costs $2,656 per metric ton compared to $1,850 per metric ton for European butter. If we are trying to maximize in this one particular case, whether it comes to butter or any other commodity, why do we not go on the world market in the case of butter and buy the European butter? I mean, does the gentleman from Iowa agree with that? If that is the case, maybe we can get the true maximum effect from this package, and if he would expand his amendment to make it clear that the dollars are going to go where they are going to maximize, maybe he can get broad support, and then it will not look like it is discriminating against maritime in favor of agriculture. Then it will truly be getting the maximum results for Polish democracy and Solidarity.

Mr. GRANDY. Reclaiming my time, my understanding is right now we do not, under the USDA, have the authority to buy European butter. Perhaps at some point we can, but I would merely say that, again, we have subsidized the price of agricultural commodities down. We have lowered the price in the marketplace to allow these commodities to flow.

Mr. NAGLE. Mr. Chairman, will the gentleman yield?

Mr. GRANDY. I am happy to yield to the gentleman from Iowa.

Mr. NAGLE. Mr. Chairman, I was curious. Of course, I am a colleague of the gentleman from Iowa, and I have the greatest respect. But I am informed that in 1985 there were 10 agricultural groups that signed this pact with the maritime industry: The National Association of Wheat Growers, the National Corn Growers Association, National Cotton Council, National Council of Farmer Cooperatives, National Farmers Organization, the National Grain Sorghum Producers Association, National Farmers Union, National Grange, National Rice Millers Association, and the Five-State Rice Legislative Group. Have those groups that signed this pact with the maritime industry in 1985 acquiesced in this abrogation of the agreement or suspension of the agreement?

Mr. GRANDY. Mr. Chairman, I cannot confirm whether or not they have or not. I can confidently tell the gentleman that they have not called my office in loving support of the amendment. I can tell the gentleman that there were 35 agricultural organizations that opposed the compact in 1985, and I must tell the gentleman and this body that I did not, for this particular waiver, seek widespread commodity-based support from either our agricultural interests or the maritime interests.

Mr. NAGLE. If the gentleman will yield further, is he then telling the body that the principal grains that are to be exempt, wheat and corn, that those groups do not support his amendment?

Mr. GRANDY. I have not asked for their support. I have not solicited their support.

Mr. NAGLE. Have they called and said to the gentleman in essence, "The deal we signed in 1985 is off?"

Mr. GRANDY. If the gentleman pays attention to the amendment, he knows that the deal is not off. What we are asking for is, under the terms of the extraordinary circumstances of providing timely aid to Poland, food aid, we are asking for a one-time waiver. We are not looking to break the contract. We are only looking to a waiver.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. GRANDY. I am happy to yield to the gentleman from Iowa.

The CHAIRMAN. The time of the gentleman from Iowa [Mr. GRANDY] has again expired.

(At the request of Mr. LEACH of Iowa and by unanimous consent, Mr. GRANDY was allowed to proceed for 5 additional minutes.)

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. GRANDY. I am happy to yield to the gentleman from Iowa.

Mr. LEACH of Iowa. Mr. Chairman, this is the Congress of the United States of America. We pass laws that have nothing to do with deals in any part of the private sector, whether we identify with them or not. We pass what is in the best judgment of ourselves as elected representatives, and I would say that any deal crafted by any outside group is relevant for advice but not for surety of legislation. This is the Congress, containing 435 elected Members. Everyone the gentleman has identified with is not an elected Member of this body.

Mr. NAGLE. Mr. Chairman, will the gentleman yield?

Mr. GRANDY. I am happy to yield to the gentleman from Iowa.

Mr. NAGLE. Mr. Chairman, I thank the gentleman for reminding me where I was. I was not sure I was in the Congress of the United States. I thank the gemtleman for reminding me that we do not listen to these various constituency organizations that represent our constituents. But I think we do. I think the gentleman would be well advised to remember the next time he speaks to his local farm bureau to tell them they do not count. I do not think that the gentleman means to say that.

Mr. LEACH of Iowa. I certainly agree with that.

Mr. NAGLE. Our agreement is one based on reason, my distinguished colleague from Iowa, and not on animosity, and based on the fact that we have the difference over an idea, I am aware of where I am, and I am sure the gentleman is aware of where he is.

Mr. GRANDY. Mr. Chairman, reclaiming my time, just to wade into this debate briefly, in terms of polling constituents, it is true that the Farm Bureau supports this concept; it is true that the American Soybean Association supports this concept; it is also true that the American Export Grain Association supports this contract. But what about the people who sent these telegrams to Senators SIMON and GRASSLEY? They are Americans. I do not think one of them lives in my district. Perhaps they live in the gentleman's district. They should be listened to, too, and not necessarily their trade representatives here in Washington. This is about aid to Poland, and hopefully we are talking about a one-time-only agreement.

Mr. MILLER of Washington. Mr. Chairman, will the gentleman yield?

Mr. GRANDY. I am happy to yield to the gentleman from Washington.

Mr. MILLER of Washington. Mr. Chairman, I do want to get back to what the gentleman said about that, this is aid to Poland, and I agree with him. When I asked the question of would he join in an amendment that would eliminate all subsidies both to maritime and agriculture, he pointed out, well, there are different agricultural laws. There are different maritime laws here, too.

Could the gentleman not structure his amendment in a way that would eliminate subsidies to both agriculture and maritime that would allow us to maximize the dollars so that the most food bought on the open market gets to Poland? Would he be willing to do that? I would like to get an answer to my question. Would he be willing to do that? Then there would an element of fairness in this, and I think nobody would feel that maritime was picking

on agriculture or vice versa, and we would truly be maximizing aid to Poland.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. GRANDY. I am happy to yield to the gentleman from Iowa.

Mr. LEACH of Iowa. Mr. Chairman, I would like to simply respond that I think the gentleman has a very fair point. There is some validity to it. Let me say that one of the down sides to this approach concerns the fact that he is dealing with governmentally subsidized products from every other country in the world. If we took the gentleman's approach, with the United States taxpayer buying European wheat or Argentinian wheat, what we would be doing is adding another subsidy to a foreign government's subsidy of their agriculture products. And I think that is a system that would be untenable. But I grant that the gentleman has a valid philosophical point.

Mr. MILLER of Washington. If the gentleman will yield further, I think that the gentleman makes a good point. There would be added help to a subsidized product from another country. That, of course, is the same situation with the merchant marine. Other countries are subsidizing their products.

The CHAIRMAN. The time of the gentleman from Iowa [Mr. GRANDY] has again expired.

Mr. GRANDY. Mr. Chairman, I ask unanimous consent for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

Mr. TORRICELLI. Mr. Chairman, reserving the right to object, the gentleman has sought unanimous consent to be recognized on four or five occasions. I am not certain Members on either side of the aisle had anticipated or sought to have this debate simply administered by the gentleman from Iowa. I would be glad to accede to an additional moment if the gentleman wants unanimous consent, but he is asking for another 5 minutes, and presumably there is no reason to believe that unlimited time would not be consumed by the gentleman yielding to his colleagues.

Mr. MURPHY. Mr. Chairman, I object to the additional time.

The CHAIRMAN. Objection is heard.

Mr. BERMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I strongly supported the opposition to an effort to impose cargo preference language on the economic support funds that are part of our foreign aid and foreign assistance program when it came up in the course of the foreign assistance bill both in the Committee on Foreign Affairs earlier this year and then again on the House floor, as I did earlier, and I shared much of the concern that our very limited amount of foreign assistance would be diminished even further if we were to impose this new requirement on the law.

This amendment is something very difficult. This amendment is an effort to change existing law as it applies to Public Law 480 programs, and constitutes an effort to withdraw that protection from an existing program. When I first heard about this amendment and when it was offered by the gentleman from Iowa [Mr. LEACH] in the Committee on Foreign Affairs, I started out thinking myself sympathetic to it. But after listening to the debate, I concluded it was a mistake to pass this amendment at this time for several reasons.

Reason No. 1 is I have not heard any answer to the point made by the gentleman from Florida [Mr. SMITH] in the Committee on Foreign Affairs and repeated again here on the floor that if the goal of this amendment is to maximize the assistance to Poland to get as much for the $125 million as possible, then why are we doing it through United States commodities? Why are we not going out on the world market and buying as much as we can, which will be a great deal more? Let other government subsidies pay for the wheat that we would then be producing for Poland.

□ 1330

That would maximize this program. This amendment does not have that provision. This amendment at least calls into question whether the only motivation here is to provide as much assistance as possible.

Second, two points that were made by the gentleman from New York [Mr. SOLARZ], in the Committee on Foreign Affairs' debate on this amendment are relevant.

At the heart of the movement to support Solidarity year after year was the institution of organized labor in this country. When others were looking away and had other priorities, no other institution gave that kind of assistance to Solidarity.

To take this bill and turn it against an important component of that institution, an institution which I am willing to oppose on the issue of extending cargo preference to new programs, to take that here and reverse the protection of existing law I think is a symbolic slap in the face to an institution that has done more perhaps than anyone to try and promote the cause of democracy and freedom in Poland and to provide support for Solidarity, the people who are now running the government in Poland.

For those two reasons I urge Members who share my concern about expanding this cargo preference into the foreign assistance program not to support this amendment.

I would ask the gentleman from Iowa rhetorically, and he can choose to answer if he wants to, if his amendment is to maximize the aid, why does it not cover the points made by the gentleman from Washington? Why does it not have the U.S. Government take their $125 million and go out on the world market to find the cheapest commodities available, the cheapest wheat available, and other commodities, to provide to the Polish people?

Mr. BEREUTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this Member rises in support of the Grandy amendment to H.R. 3402.

The contentious issue of cargo preference has been raised on numerous occasions before this body. The issue today is simple: Is the United States to underwrite the United States maritime industry—to the tune of $40 to $50 million—with funds that are designed to feed those who are presently going hungry in Poland.

There is no question that reliance upon U.S.-flag ships will dramatically increase the costs of shipping the basic foodstuffs that are so desperately needed in Poland. Everyone acknowledges that U.S.-flag ships charge much higher rates than their foreign-flagged counterparts. The reasons for the inefficiency and noncompetitiveness of the U.S. merchant marine are not the subject of today's debate. What is the subject of today's debate is whether the United States Government will support that inefficiency with funds ostensibly intended to provide emergency food aid to Poland. As has been noted by other Members, up to 40 percent of the funds designated for emergency food aid could go for higher, yes higher than competitive shipping costs.

This is no exaggeration, Mr. Chairman. Because of the constraints of Gdansk Harbor, the large supertransports will be unable to be used to move food aid to Poland. Instead, only smaller transports can maneuver in at the Polish port of entry. These smaller vessels are among the most inefficient of the already costly U.S.-flag ship fleet. The result is that if emergency food aid must be shipped on U.S.-flag ships, the costs of transportation will be exorbitant.

The people of Poland are desperately short of basic food commodities, and are facing a long and difficult winter. They have been assured that the United States will help them as they struggle toward democracy. The Poles have not been told that the money authorized to forestall starvation will be siphoned off to prop up the U.S. maritime industry.

The gentleman from Iowa [Mr. GRANDY] and the other cosponsors offer a modest proposal—a 1-year waiver of cargo preference limits at a time when the Polish Government desperately needs our help. Such a waiver will not remove existing cargo preference legislation from the books. However, this waiver will greatly improve the efficiency of the United States assistance program, and will result in tens of millions in additional foodstuffs reaching Poland.

This Member commends the efforts of the gentleman from Iowa, and would urge adoption of the Grandy amendment.

I might also say when it comes to comparing the cost of U.S. commodities with commodities from other countries, one has to write an additional element into the equation, and I say this to the gentleman who have raised this issue: the other element they have to write in is what it costs now to store the food that is in surplus. If we are sending the food, we are not paying the storage costs.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Kansas.

Mr. ROBERTS. Mr. Chairman, I am not here to rehash this entire cargo preference debate. Some of our opponents, however, have suggested we have violated the agreement forced into the farm bill 4 years ago.

I would remind the critics there have been two bills on the floor since that time and we surely did not bring them.

What I am trying to say is I remember the time that the gentleman from North Carolina [Mr. JONES] and I had this debate on the floor 4 years ago.

I want to reiterate my strong support for a strong U.S. merchant marine. The time has come for Members to put these differences aside.

The gentleman from Tennessee [Mr. QUILLEN] said in the Rules Committee that we can defend a strong U.S.-flagship fleet. I do not want to get into a debate with my good friend, the gentlewoman from Maryland [Mrs. BENTLEY], especially as powerful as she makes the argument. But what we need to do is stop this business of hiding one subsidy behind another program.

The President's Maritime Commission has recommended that we go up front with this subsidy. Every other country in the world subsidizes their merchant marine. That is what we should do.

So I am extending an olive branch, if you will, to the maritime interests to cease this business of every third foggy night coming down here on the floor and saying who is subsidized at the expense of whom. Let us take it out of the Department of Transportation if in fact we have to do this. Let us go up front and find out what is wrong with the merchant marine, and then agriculture will back you.

In this particular instance I think the gentleman from Iowa makes a very good comment. If you bought the wheat from foreigners, you would still have to ship it on U.S. bottoms. That is no answer either.

I just want to say I will be happy to work with the Members in regard to a subsidy up front, not hidden behind agriculture.

Mr. Chairman, I am cosponsoring the amendment to exempt the assistance authorized in H.R. 3402 from the cargo preference shipping requirements. The primary goal of the aid to Poland and Hungary is to provide critically needed goods and services to the struggling Polish economy as its leaders work their way from communism, and to Democracy.

I'm not here to rehash their entire cargo preference debate. Some of the opponents to our amendment have suggested we've violated the agreement forced into the farm bill 4 years ago. I would remind our critics the cargo preference agreement has been on the floor twice since the 1985 compromise.

I would also remind my colleagues that the recent successful effort by Mr. TORRICELLI to ignore the 1985 agreement with a significant cargo preference expansion included language by our colleague, Mr. BERMAN, to authorize waivers of this costly subsidy if the recipient country's economy would be harmed by the higher cost of U.S. shipping.

Our amendment simply ensures that the citizens and Government of Poland receive the maximum agriculture commodities to supplement their food and feed needs. Without this amendment government and industry officials conservatively estimate the value of landed grain, meat, and dairy provisions will be reduced by 25 percent.

This assistance package shouldn't provide undue windfall opportunities for one segment of our economy. Our maritime industry, particularly in light of the well recorded support of Solidarity, should be more than willing to add their fair share of assistance to this historical effort.

Mr. Chairman, I want the record to reflect my strong belief in this Nation's need for a strong merchant fleet. As my colleagues, Mr. SOLOMON and Mr. QUILLEN, stated during the Rules Committee consideration of this legislative; the U.S. merchant fleet has proven its worth both in terms of national security and trade.

However, this Nation's approach to protecting the viability and competitiveness of our merchant fleet must stop hiding behind other program subsidies. A study released this summer by the Commission on Merchant Marine and Defense stated there is not a maritime country in the world that doesn't subsidize its maritime industry.

The Commission concluded we must begin an aggressive program to "jump-start" the shipbuilding industry. In addition, we need a thorough review of our maritime industry and develop a properly funded program in the committees of jurisdiction. And above all, it should stand on its own and not be hidden within other programs like this one.

Mr. Chairman, let me conclude by restating our purpose for this amendment. The United States and its allies have an historic opportunity to provide needed economic assistance to a country long dominated by aggressive neighbors. We must not let our assistance to be diluted by conventional cargo preference rules.

The Poland aid legislation is a clear-cut example of the type of foreign aid program that would benefit tremendously from a waiver of the cargo preference shipping requirements. Let's avoid a repeat of the 1984–85 assistance to Ethiopia program when we spent $66 million shipping $131 million of aid.

The thrust of our amendment is supported by agriculture in general, as well as Polish officials and United States groups representing constituents of Polish descent.

I urge my colleagues support.

Mrs. SMITH of Nebraska. Mr. Chairman, would the gentleman yield?

Mr. BEREUTER. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Chairman, I want to strongly support the Grandy amendment to exempt all agricultural commodities. My opposition to cargo preference is well known to many of my colleagues.

The CHAIRMAN. The time of the gentleman from Nebraska [Mr. BEREUTER] has expired.

Mr. BEREUTER. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

Mr. MURPHY. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. ENGEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in oppostion to the Grandy amendment to undermine the cargo preference provisions in H.R. 3402. At the same time that we move today to assist Poland and Hungary in their monumental transformation, we must do this in an intelligent and skillful way. Efforts to waive cargo preference provisions are inconsistent with longstanding U.S. policies which should not be subverted. The U.S. Congress has repeatedly debated this issue and has voted to include cargo preference as a standing policy of our foreign assistance. It is a policy which should be preserved today.

Efforts today to pass H.R. 3402, which will authorize over $800 million in aid and other assistance to Poland and Hungary, is an important first step. However, our focus on this crucial piece of legislation has been unnecessarily diverted by the attempt on the floor today to waive cargo preference requirements on the shipping of our food aid to Poland. A good deal of misinformation has surrounded the

costs associated with shipping this country's food aid on United States vessels. The source of much of this misinformation was a Boston Globe story of September 29, which cited an $85-per-ton rate. This figure has presented a highly misleading picture, and has been specifically refuted by the U.S. Deputy Maritime Administrator, Robert S. Siblerman, who, in his letter to the Boston Globe editor, stated that the cost cited in their story were grossly overstated. I do not want to argue figures here on the floor. This is neither the time nor the place for this type of argument. The only point I wish to make is that the cost differential is not nearly as dramatic as those who would wish to see cargo preference waived would like us to think.

□ 1340

Mr. GRANDY. Mr. Chairman, will the gentleman yield?

Mr. ENGEL. I yield to the gentleman from Iowa.

Mr. GRANDY. I thank the gentleman for yielding.

If the cost differential is the same, why does the gentleman need the subsidy?

I yield back.

Mr. ENGEL. Mr. Chairman, this is not the time to tamper with cargo preference. American farmers expect, as they should, U.S. food aid to be the product of the labor of American farmers. Why should American longshoremen expect any less? Why should their labor be discriminated against? I can find no satisfactory answers to these questions in today's debate.

Now is not the time to alter our commitment to our maritime unions. It was, after all, American labor which provided invaluable support to Solidarnosc during its darkest days under marshall law. I urge my colleagues to keep in mind the interests of American labor and American jobs and vote against any attempt to waive cargo preference on United States food aid to Poland. We in this Congress repeatedly support buy American provisions. This is not the time to undercut our commitment to ship American.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if we had a rule in this House, which we ought to have, that every bill ought to have in its title what it does, then this bill would be called the Polish and Hungarian Democracy Initiative of 1989 and the Merchant Marine Subsidy Act.

Now we are patting ourselves on the back for lining up with Solidarity and the brave freedom fighters of Poland and Hungary.

We do not mention the fact, although it is inevitable and it comes out, that this is an enormous subsidy to our domestic merchant marine.

Now that is fine, we ought to have a merchant marine, we need a better one, we need a bigger one. But this unique situation is, as I say, unique, sui generis, in a class by itself. We are trying to help a Marxist country become a free country. And we do that by sending food.

Now I have heard the argument that, OK, if you are going to subsidize the merchant marine, why are you subsidizing the farmer? Let us have this totally nonsubsidized help to the Polish people?

Well, the truth of the matter is this is a U.S. donation of surplus food that we are paying money for in storage.

So we help our taxpayers by sending our food on the cheapest bottoms we can get.

Now there might be an argument that we could kill two birds with one stone until you read in the Boston Globe last week that, Polish officials were stunned to learn that United States maritime companies planned to charge them $16 million to ship the first $20 million in corn and sorghum—$16 million to ship $20 million. That is outrageous. That is absurd. That is a sad, ironic joke on the Polish people, not to mention our taxpayers.

Now we are proud that we are helping Poland, we are helping Solidarity. Let us do that.

Now if we want to subsidize the merchant marine, and I will vote for it, bring a bill in and let us do it, but let us not march behind the notion that we are helping Solidarity and the Polish people when we are helping almost as much our merchant marine.

Mr. TORRICELLI. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I am delighted to yield to my friend from New Jersey.

Mr. TORRICELLI. I thank the gentleman for yielding.

Mr. Chairman, this is very kind of the gentleman from Illinois.

The gentleman would be very interested to know that in a letter from the Maritime Administration, Mr. Silberman, from this administration to the Boston Globe took issue with those facts and indeed said that the differential was probably less than $15 a ton. The reason for the initial differential was because it was a rush contract.

The gentleman would be further interested in knowing that the administration therefore supports keeping cargo preference in this aid package.

I know the gentleman offers his support often to the Bush administration. He should know the Bush administration opposes this amendment.

Mr. HYDE. Reclaiming my time, the gentleman is unused to members of his party disagreeing with his leadership. We do it all the time on our side.

Mr. GRANDY. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I am happy to yield to the gentleman from Iowa.

Mr. GRANDY. I thank the gentleman for yielding to me just briefly.

I would merely say there is a fine line between supporting and not opposing. The administration does not oppose a change in cargo preference law. The amendment does not propose a change in the cargo preference law, merely a waiver.

Mr. TAUKE. Will the gentleman yield?

Mr. HYDE. I yield to the learned gentleman from Iowa.

Mr. SMITH of Florida. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I am yielding to my side. But if you want to give me some extra time, if you will talk to Mr. MURPHY, I will yield to you all afternoon.

Mr. TAUKE. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman makes a very good point. We are not arguing here about whether or not we should assist the maritime industry. The question is: When we assist the maritime industry, why should we take it out of the mouths of the Polish people, take it out of the hides of taxpayers in this country?

Mr. HYDE. Could the gentleman find another word?

Mr. TAUKE. Why should we take it out of the pocketbook of the American farmer?

I think it is important if we are going to subsidize the maritime industry, that we do it up front. Without the waiver of the Grandy bill, 30 percent or more of the cost of this is going to go for transportation.

Mr. HYDE. Thirty percent, did the gentleman say?

Mr. TAUKE. Thirty percent is going to go for transportation.

Mr. HYDE. That is that much less that will go to the Polish people.

Mr. TAUKE. That much less food to the Polish people.

Mr. HYDE. We are patting ourselves on the back that today we are making a ringing endorsement of the Polish people's effort and we want to give them as much material help as we can?

Mr. TAUKE. That is absolutely correct. That is why it is so important that this amendment be approved.

Mr. SMITH of Florida. Mr. Chairman, will the gentleman yield?

Mr. HYDE. Mr. Chairman, I owe the gentleman from Florida, whose district is on the coast and has great shipping interests, I yield to my friend, Mr. SMITH.

Mr. SMITH of Florida. I appreciate the gentleman yielding, and I will try not to use any terms which would in any way denigrate his effort.

But I was interested in his remarks with reference to trying to make this Marxist country into a democracy.

What the gentleman is endorsing therefore by supporting this amendment is showing this newly emerging democracy, democratic country coming from Marxism, that the best way to become a democracy is to shut off your labor unions, is that correct?

Mr. HYDE. Not at all; support the labor unions.

Mr. MURPHY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment proposed by the gentleman from Iowa.

Speaker after speaker has stood here in the well today pleading the cause of the Polish worker, Solidarity, and the Hungarian worker, Solidarity; but not one word about the American worker.

It would take American ships and American crews and replace them with Philippine crews and ships made in Korea, registered in Liberia.

I would like to remind the gentleman that when we talk about this total subsidy, these are American tax dollars. These are not dollars we are plucking off somebody else. These are American tax dollars.

And I agree they should provide American-grown commodities, American-raised farm products and beef and cattle and grain. They should buy those, not from someone else.

But by the same token we have got to ship them on American ships with American workers, American crews. Those same corporations that run those fleets of American vessels pay their corporate income tax to the United States of America. That is where these dollars come from.

Every crew member on those ships pay their tax dollars to the United States and contribute to the Social Security trust fund.

I say, yes, if it is a subsidy, it is American tax dollars subsidizing it and let us do it across the board. Let us not just say we are going to take it out of the pockets of all these people who pay taxes and put them onto foreign ships and foreign vessels nor foreign farmers.

I will agree with the gentleman on that.

Mr. Chairman, I will yield the balance of my time to anyone that wants it.

Mrs. BENTLEY. Mr. Chairman, will the gentleman yield?

Mr. MURPHY. I yield to the gentlewoman from Maryland.

Mrs. BENTLEY. Mr. Chairman, I appreciate the gentleman getting up and in particular pointing out the amount of money that is paid back by Americans put to work by this.

I would just like to add to that if I may, namely that out of every dollar that might be spent of this fleet, if it goes on an American-flag ship, 42 cents of that will come back in taxes to help pay for the great subsidy that goes to the farmers, that we all have supported.

Mr. MURPHY. The gentlewoman is correct.

Mrs. BENTLEY. I would like to point out in response to what Mr. GRANDY had to say on the amount of cutbacks that the agriculture industry has incurred, that in 1980 the maritime industry had a total subsidy of about $650 million and today is $250 million. There is about $20 million that goes for freight on Public Law 480. Also, our good friend, Mr. HENRY HYDE, who is so eloquent and whom I always hate to be against, but he said 30 percent will go into freight rates.

□ 1350

Thirty percent may be what has to be paid for transportation. I question that. Not if it is just on American flagships. A certain amount of money has to go for transportation.

The actual difference is about $6 of tonnage between the high Polish rates and the American rates of $34 a ton. That is much less than any 30 percent differential.

We need to have these facts straightened out so that the American merchant marine is not always zapped.

In final comment, our friend, the gentleman from Kansas [Mr. ROBERTS], another great friend who said that we bring this up out of the "Foggy Bottom." We did not bring this up this time. It was the agricultural interests who did.

Mr. MURPHY. Mr. Chairman, I yield to the gentlewoman from Louisiana [Mrs. BOGGS].

Mrs. BOGGS. Mr. Chairman, I am very happy that the gentlewoman from Maryland, who is probably the most distinguished Member of this House and the most knowledgeable in maritime affairs, has spoken to this amendment. I thank the gentleman for yielding, because of what he said in his opening statement, and that is that the American labor movement was really the mainstay of the Solidarity labor movement, and helped them all along in their effort for freedom.

I am certain that the leaders of the Solidarity movement would be pleased to know that we recognize efforts of the American labor movement, particularly of the Seamens' Union, the SIU, in being helpful to the whole, beautiful defense effort that has been going on in Poland. I thank the gentleman for his efforts.

Mr. QUILLEN. Mr. Chairman, I move to strike the last word.

All Members are my friends, some on one side and some on the other, some on the wrong side, such as the gentleman from Iowa [Mr. GRANDY], and such as the others who support this waiver.

I shall not repeat the facts previously presented, in opposition to the amendment, although I agree with each and every point made. Let me make some new arguments. Since World War II we have let our merchant marine fleet go down the drain. There is no question about it. In case of another conflict, what would we do for security? What would we do for defense? What would we do for the protection of this great Nation of ours?

Now our merchant marine fleet is at the lowest ebb in the history of this Nation, with no build up at all.

These merchant marine seamen are Americans. These people need the aid of cargo preference, and we must not grant this waiver, because in granting it, we are whittling away at cargo preference, which is so meaningful for the life of our merchant marine.

Back during World War II, the merchant marine fleet helped win the war. There is no question about it. As I have said on the House floor before, when I was discharged from the Navy in Sasebo, Japan, I came back to the States on a merchant marine vessel. With the help of the merchant marine fleet during the war, supplying the goods and the equipment and the ammunition and whatever was necessary, we built up a great aggregation, which was essential to winning the war.

Past administration in the past have not spoken out to increase our merchant marine fleet, which is a great tragedy. If a drop of water drops long enough on a piece of steel, it hammers its way through. We have been letting the drop of water drop and drop and drop since World War II, until it has hammered its way through, and has weakened our merchant marine fleet.

As has been said before, these merchant mariners are Americans. They deserve the work, the same as the Polish people deserve the food. But the food should not be at the expense of the men who man our fleet. I urge that Members not grant this waiver. Let's defeat it for the benefit of the merchant marine, yes, and for the American farmers too, because we must use American produce. Members, I urge a vote against this amendment.

Mr. FOGLIETTA. Mr. Chairman, I rise in opposition to the Grandy amendment.

There is no doubt that the political developments in Eastern Europe are exciting and inspiring. I fully support the efforts of the Polish people to put an end to Communist rule. However, our aid to Poland should not be at the expense of American workers and the U.S. merchant marine. With its roots in the Shipyard of Gdansk, I cannot imagine that Solidarity would support such a move.

As Americans, we are lucky enough to have incredible bounty from our farms and dairies. And we are fortunate to have enough of this treasure to share with the rest of the world. We are a giving people. Our generosity is one of our many strengths. And we cannot retreat from this heritage of charity. This tradition of giving means something more.

Over the last year, a great deal has been said in this chamber about the American flag—how it cannot be desecrated, how it must be honored. Today, we must further honor the American flag by requiring that it fly over the ships that carry our bounty to the people of Eastern Europe.

If we want democracy to succeed in Poland, we must extend a helping hand to enable the polish people to overcome their current economic difficulties. But that aid should be brought over on U.S. flag ships.

How can we justify advancing the shipping industry in other countries while our own maritime industry is in such dire straits. I urge my colleagues to vote against the Grandy amendment and vote "yes" for the U.S. merchant marine.

AMENDMENT OFFERED BY MS. KAPTUR AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. GRANDY

Ms. KAPTUR. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Ms. KAPTUR as a substitute for the amendment offered by Mr. GRANDY: Page 36, after line 23, add the following:

TITLE VII—CARGO PREFERENCE REQUIREMENTS

SEC. 701. REDUCTION OF CARGO PREFERENCE REQUIREMENT FOR FY 1990 AGRICULTURAL ASSISTANCE FOR POLAND FROM 75 TO 50 PERCENT OF COMMODITIES SHIPPED.

In order to allow additional agricultural commodities to be provided to Poland for fiscal year 1990 pursuant to section 101(c) of this Act, the reference in the first sentence of section 901(b)(1) of the Merchant Marine Act, 1936 (46 U.S.C. app. 1241(b)(1)), to "50 per centum" shall be deemed to be "25 per centum" for purposes of the agricultural assistance provided pursuant to section 101(c) of this Act. Nothing in this section affects the requirement of section 901b of the Merchant Marine Act, 1936 (46 U.S.C. app. 1241f), that an additional 25 percent of the gross tonnage of such assistance be transported on United States-flag commercial vessels.

Ms. KAPTUR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. KAPTUR. Mr. Chairman, I have listened to the debate this afternoon, and I am a Member that has a strong record of support for the U.S. maritime industry. I think in this particular vote we are weighing several issues, including our deep concern that we do what is best for the people of Poland and the neighboring country of Hungary, especially during these upcoming winter months where we know inflation will be at well over 1,000 percent, and food is closely linked to stability, and the chance that the people in those nations have to build a country that has economic reforms that can put them on a more democratic road in the years ahead.

I have a compromise amendment. Let me state for those who may not be in the Chamber but are listening, under the bill in the main title dealing with food aid, there is $125 million in the bill for food, of which approximately $50 million will be spent for shipping costs. It could be a little bit less, could be a little bit more, but a ballpark of almost 40 percent for shipping costs. My amendment would provide a waiver of current cargo preference on a one-time only, temporary and emergency basis so that 50 percent of the food aid will be carried on United States-flagged vessels, and the other half on other vessels, including Polish vessels which are now serving the Great Lakes, where shipping costs are not quite as great.

In essence, my amendment, basically, shifts only about 10 to 15 percent of the money that is in the shipping section of the bill to food, not at all endangering any principle of cargo preference which I, frankly, have voted here for over the years, and it means instead of spending $50 million of the $125 million for transportation costs, we would rather be spending in the neighborhood of $37.5 million, plus or minus, depending on what the per tonnage costs are that would be devoted to those transportation costs, half of which would go to U.S.-owned vessels.

My amendment, in essence, supports the merchant marine, which needs a lot more support than this particular bill can provide, and my amendment also supports the farmers of this country by providing that an additional perhaps $10 to $12 million of food commodities could be purchased, in order to be sent to Poland.

Finally, my amendment supports the Polish people, which is the major intent of this bill, people who are so desperate for food as they face these winter months. My amendment also responds to the requests of Solidarity, which has let it be known that they would wish Members to waive certain provisions in our laws to meet the special circumstances that we are facing to make as much food, direct food available, not only for feed grains, but for their people.

Now, there might be the argument raised against this bill, and again my amendment will only affect a shift of about 10 to 14 or 15 percent, perhaps, moving some money from shipping into food aid. There might be an argument that the Kaptur amendment might break cargo preference compromises reached as a part of the 1985 farm bill. Let me answer that argument by saying no, it will not do that. It does not undue the basic principle of cargo preference. It is a one-time only, temporary, emergency waiver. It provides an emergency adjustment of the formula to help the Poles prevent a food crisis in the coming months, and frankly, the House of Representatives is already on record as recognizing that certain circumstances sometimes dictate that a modification of cargo preference is sometimes necessary to maximize food aid to countries in truly perilous situations. In fact, in the foreign aid authorization passed by the House in June, this amendment offered by the gentleman from California was adopted, which completely exempted this cargo preference requirement, any nations receiving less than $20 million, in cash transfer assistance.

This resulted in many of the famine-plagued African nations from receiving a complete waiver of cargo preference for this cash assistance provided in the bill. Poland is conducting the most fragile experiment of your fledgling democracy. A vote yes on the Kaptur amendment is a vote for the farmers and Polish people.

Mr. GRANDY. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. Mr. Chairman, I yield to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Chairman, as the author of the amendment and for whose amendment the gentleman is substituting, I would like to tell my colleagues on this side and on that side that have supported a waiver, that I will be more than pleased to accept the gentlewoman's amendment.

□ 1400

Mr. Chairman, I think this is a good compromise. I am pleased to see that we are returning to a discussion of the Polish people as opposed to our own parochial interests, and I encourage all the Members on my side to beat their anchors into plowshares and support the gentlewoman from Ohio [Ms. KAPTUR] in the amendment, because in this particular instance, I think it does strike a balance.

Mr. FASCELL. Mr. Chairman, we have had a pretty good debate on this subject. I do not really want to cut any Member off, but I would like to see how the membership feels about a suggestion that we terminate all debate on this amendment and any amendment thereto by, say, 2:30.

The CHAIRMAN. Will the gentleman put that request in the form of a unanimous-consent request?

Mr. FASCELL. Yes, Mr. Chairman.

Mr. GRANDY. Mr. Chairman, reserving the right to object, can the distinguished chairman of the committee tell me how he intends to apportion the 30 minutes?

Mr. FASCELL. Mr. Chairman, I believe that would be up to the Chair under the normal rules of the House. Members who want to talk would be

standing, and the time would be divided, as I understand it, under the rules.

The CHAIRMAN. Will the gentleman put his request in the form of a unanimous-consent request?

Mr. FASCELL. My unanimous-consent request, Mr. Chairman, is that debate on this amendment and all amendments thereto terminate at 2:30.

The CHAIRMAN. The Chair understands that to include debate on the Grandy amendment and all amendments thereto.

Is there objection to the request of the gentleman from Florida?

PARLIAMENTARY INQUIRY

Mr. GRANDY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GRANDY. May I inquire of the Chair how the Chair intends to divide the time between this amendment and all subsequent amendments?

The CHAIRMAN. In the Chair's opinion, the time should be divided and controlled between those who are for and against the current substitute and the Grandy amendment.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, the Chair has put my request correctly. It is all debate on the Grandy amendment, the substitute, and all amendments thereto. It includes both the original amendment and the substitute.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. WALKER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. FASCELL. Mr. Chairman, I ask unanimous consent that all debate on the basic amendment and the substitute and any amendments to either one of them end at 2:45.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. WALKER. Mr. Chairman, reserving the right to object, I understand what the gentleman is trying to do, and I think that we would normally be able to do that. The problem is that I see a lot of Members who are interested in debating this amendment, and a few minutes ago we had a couple of Members on our side who were objected to when they attempted to have the debate go on. It seems to me that if we are going to not allow Members to proceed in debate by unanimous consent, then we ought not to be limiting debate by unanimous consent either.

I would hope that what we could do is have a pattern on the House floor where debate that is proceeding under regular circumstances would not be objected to by Members, but since it was earlier, it just seems to me this is not an appropriate time, with so many Members wanting to participate in the debate.

Mr. FASCELL. Mr. Chairman, will the gentleman yield at that point?

Mr. WALKER. Yes, I am glad to yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I know what the gentleman is saying, and I would be inclined to agree with him, but let us get the facts straight. The objection was because of the unanimous-consent requests that were made on that side over and over again.

Mr. WALKER. Mr. Chairman, the point this gentleman is making is that as I watched the debate, I saw the Members who were controlling the time yielding to both proponents and opponents. There was an actual debate taking place. There was not an attempt to choke anybody off until the objection was heard to the actual debate, and it seemed to me that that was not an appropriate thing to do, given the fact that the debate was proceeding and that it was debate that I thought was rather illuminating on the subject.

So, Mr. Chairman, I do object.

The CHAIRMAN. Objection is heard.

Mr. FASCELL. Mr. Chairman, I withdraw my request. I do not even want to discuss it any more.

Mr. MILLER of Washington. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment and to the substitute.

Mr. Chairman, I have great respect for my colleague, the gentleman from Iowa [Mr. GRANDY] who proposed the original amendment, and for my colleague, the gentlewoman from Ohio [Ms. KAPTUR] who has engaged in Herculean efforts to propose a compromise. Her compromise does not go as far as the amendment, but I think it runs afoul of the same objections, although to a lesser degree.

Let us try to put this all in perspective. We are trying to promote democracy in Poland and Hungary, but as with all our aid, there is a secondary objective along with the primary objective, and that secondary objective is to give the aid in a way that helps America and Americans as well. I think this came out in the colloquy that I had with the gentleman from Iowa [Mr. GRANDY]. He talked about minimizing the dollars in this package, as does the gentlewoman from Ohio, to help the people of Poland, and I asked him whether he would be willing to go along with an amendment that not only cut back on the cargo preference subsidy but cut back on the agriculture subsidy, in other words, to go along with an amendment that would allow the United States administration to purchase the food on the open market, and understandably he demurred.

Let us pretend that we would accept my hypothetical amendment. The Poles need wheat. United States wheat costs between $161 and $166 per metric ton, and European wheat costs about $158 per metric ton. So if the proponents of these amendments want to be fair, we should buy European wheat to help Poland.

Similarly, United States butter costs $2,256 per metric ton, compared to $1,850 per metric ton for European butter. So we could buy European butter for Poland. Under a truly open and competitive market, we could get more wheat and butter for Poland because European products are cheaper and they do not need to be shipped as far.

The proponents of the amendments have not agreed to the proposal I offered, and I understand why they have not, because to be realistic, getting back to my first point, yes, we are trying to help Poland and Hungary, but as with all our aid programs, secondarily we are trying to help ourselves. We want our aid to help countries like Poland, but we also want our aid to help American businesses, American workers, American farmers, and American merchant mariners.

Mr. GRANDY. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Washington. I am happy to yield to the gentleman from Iowa.

Mr. GRANDY. Mr. Chairman, it was with that in mind that I agreed and said I would support the Kaptur amendment and encouraged my colleagues to do so.

The gentleman's figures, unless I am very much mistaken, do not include the Government's storage costs, the cost to this Government of those commodities. By getting rid of those commodities, we are reducing those costs. Those have to be figured into the gentleman's figures, too, and I believe they are not.

Mr. MILLER of Washington. Mr. Chairman, I accept the gentleman's addition, but I do not think it gainsays the major point. We are buying American agricultural products at a price above the market price to be shipped to Poland. We could get more product for the dollar if we did not do that, that is right. So there is no question that there, savings could be made.

The proponents of the amendments unfortunately want to have one set of rules for agricultural interests and another set of rules for all the rest, and I say, let us help Poland and let us help Hungary, but also let us help our farmers and not forget our merchant mariners. Let us defeat both amendments.

Mr. SMITH of Florida. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Washington. I am happy to yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Chairman, I want to commend the gentleman because he goes to the heart of the issue. All the rhetoric in the world is not going to shift the focus of what has been the center of this debate.

Somehow the Members who have submitted this amendment want to frame the debate on the fact that allowing American bottoms, the American merchant marine, to ship this is somehow unpatriotic and un-American, but buying American products at higher than market prices somehow is absolutely patriotic and wonderfully advantageous for Poland.

The bottom line is that that is mostly malarkey.

The reality is that American taxpayer dollars went into buying this food in the first place, and the American merchant mariners and those American ships paid for part of that food.

Mr. Chairman, this is the law as it currently exists, and the gentleman is right. We ought to defeat the substitute and defeat the amendment.

□ 1410

Mr. NAGLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. NAGLE. Mr. Chairman, as a farm State Member of this body, I find this debate over cargo preference very troubling. But the proposal to drop the requirement that a portion of free American food aid—free American food aid—be sent to Poland on American ships, is more than troubling. It is shortsighted and unwise.

And if there is anything more shortsighted and unwise than the proposal itself, it is for Members from farm States to be asking that this proposal be adopted.

You see, we farm State legislators made an agreement back in 1985. And this amendment would break that agreement.

Our constituents benefit from a great variety of Federal programs, including protection from unfair foreign trade practices on the crops that our constituents grow.

Had we been forced to rely only on our own farm State votes, none of those programs would have been enacted. Our numbers are small and getting smaller. So—back in 1985—we farm State Members sat down with other groups facing the same problem and reached an agreement on the proper scope of the cargo preference law.

Today, some of those farm State legislators who banded together with others to win help when we needed it, are now saying—now that we have our protection and now that others who helped us win it need some help themselves—now some of our farm State Members are saying: "We can't keep our word."

Worse yet, they are saying we can't keep our word just as Congress prepares to sit down and write a new farm bill. I remind my farm State colleagues: Our numbers are small. We don't have the votes—by ourselves—to pass a decent and just farm bill. We're going to have to have help and support from others.

And one of those "others" who stood with us when we needed help was the U.S. maritime industry. I hope they stand with us again.

Yet, some farm State Members want to look them in the eye today and say: "We are not going to help you this year, but by the way, we're sure looking forward to having your help again next year."

If that is our message today, I know what they are going to tell us next year when we ask for their help. I do not think we can grow corn in hell, but that is where they are going to tell us to plant it.

In Iowa, we have developed a reputation for keeping our word. It's a reputation that's served us well in our daily lives and on the floor of the U.S. Congress. To tarnish that image now for short-term profit and to look good at home is very shortsighted.

But this question is really bigger than breaking our word.

This proposal simply repeats a refrain that is becoming all too familiar in politics today. Each industry, each group of people, seeks aid for themselves and tries to block it for others.

How foolish we must look to our trading adversaries.

Can you image Japan sitting around the table saying: "We're going to send our goods free—free—to a needy country and, by the way, let's send it all on American ships."

Can you image President Roh of Korea standing before us yesterday and announcing that Korea is going to give us one of their vital and strategic industries?

I say America for Americans first.

I say that its great to cheer for the unions of Poland, but why not cheer for our own first and allow them to survive and prosper?

I say it it is wrong to pit one group of Americans—in this case farmers—against another group of Americans—the maritime industry.

Will the sponsors of this measure tell me how farmers are going to benefit if the day comes that this Nation is forced to go to war but first has to go knocking on the doors of foreign countries to find one willing to loan us the ships required to transport our supplies and troops and guns to the fields of battle abroad?

Of course, the answer is they won't. Because by then, we'll finally realize we're all in the same boat. But we won't have one.

So we have a choice today:

We can make the point that some farm groups—though not all—and some farm State Members—though not all—can't keep their word.

Or we can keep our word. We can help a vital American industry survive. We can protect our own vital national interest. We can put Americans for America first. And we can take an enlighted step back from political expediency and build allies for the American farmer.

Mr. Chairman, I urge the defeat of the amendments.

Mr. BRENNAN. Mr. Chairman, will the gentleman yield?

Mr. NAGLE. I yield to the gentleman from Maine.

Mr. BRENNAN. Mr. Chairman, today I would like to express my strong support for H.R. 3402, the Polish and Hungarian democracy initiative of 1989. The last several months have brought changes to Poland and Hungary that I never thought to see in my lifetime, and which promise to bring the light of democracy behind the Iron Curtain. I am pleased that the administration and Congress have been able to produce a bipartisan aid package which will nourish and sustain the fledgling democratic movements in Poland and Hungary.

This aid will help these two countries survive the difficult economic challenges facing them. Poland's inflation rate is currently 200 percent, and Polish foreign debt under the Communist Government reached almost $39 billion. In Hungary, inflation is running at 18 percent, and almost one quarter of the population lives in poverty. These countries have made great strides toward democracy: free elections in Poland produced a non-Communist Government, and the Hungarian Government has been instrumental in aiding those fleeing East German to find asylum in the West. Politically and economically, Poland and Hungary need and deserve our support.

This bill also serves another important purpose. It will strengthen and preserve the U.S. merchant marine, an industry vital to our defense in time of war, and to our economy in time of peace. Under current law, 75 percent of U.S. food aid must be shipped by U.S.-flagged ships. This cargo preference is a key element in our ability to maintain sealift capability in time of national emergency, and should not be waived or limited without serious consideration and debate.

Today we have an opportunity to accomplish two goals. We can provide vitally-needed economic aid to countries which have had the courage to turn away from 40 years of communism, and we can strengthen our own national defense by protecting our merchant marine. I urge my colleagues to vote "no" on any amendments which

would waive or limit U.S. cargo preference, and to strongly support the bill as written. By passing this measure, we support democracy abroad and we provide jobs at home. I call that a bargain, and an opportunity we cannot afford to miss.

Mr. SOLOMON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to have the attention of my colleagues for a moment.

As my colleagues know, normally when it comes to cargo preference, I stand on that side of the aisle, in that well, and I lecture to my Republican colleagues about supporting cargo preference because we need it for the national security of this country.

Let me say that I am standing up here right now in support of the substitute of the gentlewoman from Ohio [Ms. KAPTUR] to this amendment because it makes sense.

When my good friend, the gentleman from Iowa [Mr. GRANDY] came before the Committee on Rules a couple of days ago, I said to him, "I may not be supporting your amendment, but I will die fighting for your right to offer it on the floor." He has that right.

In the meantime, as my colleagues know, we have to be reasonable people, and I think that the gentlewoman from Ohio [Ms. KAPTUR] has come up with a reasonable alternative.

As my colleagues know, it is a disgrace what has happened to the merchant marine in this country. In the previous debates we have talked about how our merchant marine fleet has gone from 4,000 ships down to less than 400 in the last 30 years. We have seen the People's Republic of China, that backward nation that cannot do anything right, go from 20 ships to 1,600, four times as many as the greatest nation in the world, the United States of America.

Mr. Chairman, I have stood on this floor fighting for cargo preference because we have to tell the administration and this Congress that we have to do something about our merchant marine. We can do it by the U.S. Government getting into the business of buying merchant marine ships and leasing them out to the private sector so that we could be competitive with the other industrialized nations of this world. We are sending that message with every vote we have taken on cargo preference.

Today let us hand out the olive branch to our good friend from Iowa and the people in the agricultural industries who do need our help. Let us say to them that we will not give in to the European countries who subsidize all of their agricultural commodities to a point that we cannot compete. Let us say that we will compromise here today, but we will all work together and put together a merchant marine fleet that will protect this country in the case of emergencies.

Mr. Chairman, I appreciate the gentlewoman from Ohio [Ms. KAPTUR] offering this reasonable alternative.

Mr. DAVIS. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Michigan.

Mr. DAVIS. Mr. Chairman, the gentleman from New York [Mr. SOLOMON] has been a very strong supporter of the merchant marine industry in this country. I am concerned, very concerned, about the substitute amendment from the gentlewoman from Ohio [Ms. KAPTUR], and she is a very strong supporter of the merchant marine industry in the Great Lakes area, and I am, too.

Mr. Chairman, I am concerned in that we are compromising a position that we may never be able to get back because we now would be saying that we are willing to reduce from 75-percent to 50-percent cargo preference laws which have been on the books since 1954.

Mr. SOLOMON. Mr. Chairman, in reclaiming my time, and the gentleman from Michigan [Mr. DAVIS] will have time, let me say to every Member of this House, "If you've been to any one of the Warsaw Pact countries, if you've been to Poland, if you've been to Hungary, if you've seen the plight of those people as I have, I don't want to be put in the position of taking food out of their mouths. I want to give them as much as we possibly can."

Mr. Chairman, I assure my colleagues that Solidarity, the union members that I have talked to, would be in favor of the amendment of the gentlewoman from Ohio [Ms. KAPTUR]. They would vote for it today on this floor. I would urge us all to compromise on the issue, and then let us go home and catch our planes.

Mr. JONES of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendments and I urge my colleagues to do likewise. The movement of a substantial portion of aid-cargo to Poland on United States-flag vessels is not a newly imposed requirement. Cargo preference has been the law for shipments of this type since 1954, and was reiterated as part of the 1985 Farm Security Act compromise. When Congress authorizes and appropriates for food aid it contemplates all the costs of the program—including transportation costs whether on U.S.-flag or foreign-flag vessels. Under the 1985 compromise, a portion of the incremental costs of carriage by U.S.-flag vessels is borne by the Department of Transportation, thereby mitigating even further the "high cost" claims of the waiver proponents.

The Bush administration is opposed to this waiver. They specifically rejected the waiver on October 4, 1989, in testimony before the House Committee on Foreign Affairs. Cargo preference is the key element in our ability and commitment to provide sea-lift for national security.

The shipping cost differentials suggested by the proponents of the U.S.-flag waiver are grossly overstated. The $84.95 per ton United States-flag rate was for a single, small, spot-charter shipment for which the Polish rate offer was $60 per ton, not $15–$20 per ton as claimed by the proponents of the waiver.

The Maritime Administration states that the United States-flag rate for a normal shipment would be less than $34 per ton, with the Polish rate being in the high $20-per-ton range. The $70-per-ton differential suggested simply has no basis in fact.

A waiver would export U.S. jobs. In view of the vital role played by the AFL–CIO in supporting and encouraging democratic reform in Poland, the Polish union, Solidarity, would be appalled by a measure opposed by workers in America and the AFL–CIO.

Every relief program of the United States, starting with Lend-Lease to the AID and Public Law 480 programs today, has provided that a portion of the cargo generated by the Federal Government shall be carried in U.S.-flag ships. This is a clear reflection of the vital importance of the U.S.-flag merchant marine.

We urge you to continue your support for this well-established policy and vote "No" on this proposed waiver of United States-flag carriage of aid to Poland.

□ 1420

Mr. BATEMAN. Mr. Chairman, will the gentleman yield?

Mr. JONES of North Carolina. I yield to the gentleman from Virginia.

Mr. BATEMAN. Mr. Chairman, I thank my distinguished chairman of the committee for yielding to me.

If we were in the situation where the U.S. merchant marine's problems had even been addressed by existing cargo preference, the Kaptur amendment would be a very modest proposal and a very essentially fair proposal; but the fact of the matter is that we in the Congress and the administration have never addressed the problems of the American merchant marine in the last 10 years. Because we have not, even with the existing cargo preference laws without this waiver, our merchant marine has declined to where it has some 375 vessels left, and we are losing them almost every month.

This is not the time when the American merchant marine can therefore afford waivers.

Let me put it in a perspective that I think ought to be very interesting to you. We are debating special emergency assistance to Poland. Does Poland have a merchant marine? You bet it does. Is that merchant marine subsidized? You bet it is. It is very heavily subsidized. If you look at Poland versus the United States and the commerce it generates, which should have the larger number of bulk carriers in their merchant marine, Poland or the United States? Obviously, the United States should, but the fact of the matter is that Poland has 95 bulk carriers in its merchant marine, versus 26 bulk carriers in the American merchant marine.

In 1988, there were in Polish shipyards, contracts for new ships ongoing in the number of 46 vessels with 1,119,140 dead-weight tons of construction. We have not had a contract for the building of a commercial ship for the American merchant marine in something like 4 to 5 years. This is not a time to nickel and dime the American merchant marine to death. This is a time when we ought to be taking up the offer of the gentleman from Kansas [Mr. ROBERTS] to get about seriously addressing what really needs to be done in a more diverse and more thorough manner the legitimate needs of the American merchant marine and the national security interests of the United States that it represents.

Mr. Chairman, I thank the gentleman for yielding.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. JONES of North Carolina. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I just want to identify with the words and the statement of the gentleman from North Carolina [Mr. JONES], the distinguished chairman of the Committee on Merchant Marine and Fisheries who has done such an outstanding job for the American merchant marine.

Mr. Chairman, I rise in opposition to the substitute amendment offered by the gentlelady from Ohio [Ms. KAPTUR]. This proposed amendment would change the cargo preference system for foreign aid to Poland from the existing 75-percent requirement for American-flag carriage to 50 percent American-flag carriage.

Every time the issue of cargo preference for foreign aid comes up in this Chamber, some Member of this body who is opposed to cargo preference raises the point that the hard fought agriculture/maritime compromise in the 1985 farm bill should not be changed. In this case, however, it is these same opponents of cargo preference who are proposing to undo that very compromise.

Specifically, this amendment would reduce the requirement that giveaway cargoes be shipped on American-flag ships from the current level of 75 percent to 50 percent. The rationale for this change is that more cargo would be shipped to Poland with the same amount of Federal money. The proponents of the amendment cite a number of United States and foreign-flag shipping rates, none of which can be documented by any government source whatsoever. They say that U.S. rates are $70 per ton higher than foreign rates. That is not true.

The fact of the matter is that shipping commodities on American ships does, indeed, cost more than shipping those same commodities on cheap foreign ships. There is a very good reason for this. American ships and their crews are the best in the world. America also insists on paying our people a fair wage, in contrast to other nations of the world. These ships and their crews are also an important national asset for our defense. We need to keep these ships operating and one of the best ways to do it is by shipping government giveaway cargoes on American-flag ships.

For the life of me, I do not understand how Members of Congress who have supported the billions and billions of dollars of subsidy for our agricultural community can—with a straight face—rise up with such indignation when those of us who support a strong maritime industry try to retain the token amount of cargo preference assistance for the American merchant marine.

The actual difference in cost for shipping this Polish aid on a United States ship compared to a foreign ship is somewhere between $10 and $14 per ton. It seems to me that paying an additional $14 per ton to keep the American merchant marine operating is a very, very small price to pay. To put that $14 per ton in perspective, the Members should be aware that the cost of U.S. wheat coming from ports in the Gulf of Mexico is $166 per ton. The price of the same kind of wheat from European ports is $152 per ton. That is the exact same difference of $14 per ton. I could advocate that we simply give American cash to Poland and let them buy that European grain for $14 per ton less than our American grain, but I will not make that suggestion because, in my opinion, the Congress of the United States should be supporting both the American farmer and the American merchant seaman.

The American farmer is the most productive farmer in the world, and the American merchant seaman is the most efficient seaman in the world—and our Nation needs both. Consequently, Mr. Chairman, I think that this amendment offered by my friend from Ohio [Ms. KAPTUR], is not in the best interests of American foreign policy, is not in the best interests of the American merchant marine, and is simply not right. They want farmers to benefit from the sale of their surplus grain, but they would deny American merchant seamen the benefits from carrying that grain overseas.

I urge my colleagues to oppose this amendment.

Mrs. SMITH of Nebraska. Mr. Chairman, I move to strike the requisite number of words and to strongly support the Grandy amendment to exempt all agricultural commodities made available under section 101 of this bill from current cargo preference laws.

My opposition to cargo preference is well known to any of my colleagues who have served with me over the last 15 years. I adamantly oppose the requirement that 75 percent of U.S. agricultural aid be transported on the already over-protected U.S. shipping industry.

Because U.S. flagships charge nearly twice that of foreign competitors, cargo preference requirements make U.S. agricultural commodities more costly. In this instance, cargo preference provisions could reduce the aid to the Polish people by $40 million to $50 million.

In addition, cargo preference laws certainly do nothing to promote U.S. exports and a favorable balance of trade.

Cargo preference is bad, bad policy for U.S. agriculture and U.S. trade. Nevertheless, we have been here on the floor time and time again in heated debate with protectors of the maritime industry. And this House has voted too many times to limit food aid to the neediest of this planet, in favor of padding the pockets of the shipping industry.

We could repeat those past debates today, or we could do something truly historic by passing a bill that does exactly what it says it will do—aid to Poland.

H.R. 3402 provides for $125 million in food aid to Poland. And I stand ready to unite with my cargo preference allies and opponents to see that the United States sends as much of that aid as possible to the Polish people.

This unification and setting aside of differences will be achieved by approving a one-time waiver of cargo preference laws to ensure that the Polish people—and not the American shipping industry—receive as much aid as possible.

I know the powerful labor unions that pressured Congress to retain the current burdensome cargo preference requirements oppose this amendment.

I have received letters from several of these unions, and one letter claims that the maritime industry is in a state of emergency. Mr. Chairman, my colleagues, let us compare emergencies here. The Polish people have broken free from communist rule for the first time since World War II. They now have a democratically elected government.

Meanwhile, Polish inflation is currently 200 percent annually, and will probably double by the end of the year. Polish living standards continue to fall. Essential food items, such as meat and dairy products, are rarely, if ever, available. The Polish people are definitely in more of an emergency situation than is the already heavily-subsidized U.S. shipping industry.

Keep in mind that the same unions opposing a one-time cargo preference waiver have been supporting the Soli-

darity movement and democratic reforms in Poland and want to see the new Government succeed.

As such, I would think that these unions would be more than willing to waive cargo preference laws in this one instance to see that as much aid as possible reaches Poland. It is an extremely selfish and embarrassing move for these unions to oppose a one-time waiver of these costly provisions, so that they may pocket a large percentage of a desperately needed aid package.

The Polish Government has requested a waiver of cargo preference for this aid, and we should honor this request.

Let us make sure that the Polish people receive the largest possible percentage of this aid, and that the shipping industry, which wants very much to see the new Government succeed, does not receive a hefty windfall at the expense of the Polish people.

The Polish people are entering a brave new world as they proceed with the first non-Communist government there since World War II. And as we try to help this fledgling democracy stand on its own, this is truly not the time to strictly adhere to current cargo preference laws.

Support the Polish people by voting for the Grandy amendment.

Mr. SCHUETTE. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Michigan.

Mr. SCHUETTE. Mr. Chairman, I rise in support of the amendment offered by my colleague from the House Agriculture Committee, Mr. GRANDY. The question before us today is, do we want to provide as much agricultural assistance as we can to the people of Poland who are struggling and fighting to institute democratic reforms? Solidarity and the people of Poland have achieved a milestone in the movement around the globe toward freedom and democracy. The recent actions in Poland and Hungary are truly historic and the United States, as the world leader of democratic ideals, has an obligation to support these changes.

Let me add that we can go back and forth on this issue. Let me make it very clear. I have no quarrel with the maritime industry or the maritime unions, and I do not want any alterations to the 1985 farm bill. I want a strong Merchant Marine, but the issue here is how can we get the most bang for our bucks. How can we help provide as much assistance as possible to the people of Poland?

Now, we ought to have a debate on the merits of the subsidy to the maritime industry. I would welcome that. Let us deal with it on its face, but let us not hurt Polish democracy and let us not hurt the American farmer.

I would prefer a one-time waiver, but under the circumstances if the Kaptur amendment were to prevail, then that would be reasonable.

The issue is whether we will provide the assistance called for in H.R. 3402 in the most effective manner possible.

We are not asking in this amendment for the elimination of cargo preference laws. We are simply asking for a waiver so that the food made available by this bill will benefit the most people. We are only interested here in helping the people of Poland in their struggle for democracy. We are not attempting in any way to undermine U.S. maritime interests.

This bill provides $125 million in agricultural assistance in fiscal year 1990. In that package we plan to offer quantities of meat, corn, butter, butter oil, cotton seed/sunflower oil, cotton, rice, and/or other commodities that may be needed. Under current cargo preference laws, the United States is required to ship at least 75 percent of the food on ships owned by American shipping companies. Unfortunately this would add as much as $60 a ton to the transportation cost. The result is that the people of Poland will not recieve $125 million in food assistance, they will receive a drastically reduced $75 million in assistance.

For example, the first shipment of sorghum—11,500 tons aboard the *Spirit of Texas*—will cost the Polish broker $85 a ton to ship. In comparison, the average rate worldwide is only $25 a ton. The grain itself at $100 a ton is just barely more than the cost of shipping. This is a $60 a ton differential that never reaches the Polish people.

The new Polish Government is in such desperate need of the food assistance called for in this bill that they have offered to deliver the food on their own at $15 a ton. Mr. Chairman, this clearly demonstrates that the Polish people are in dire need of food assistance. They understand very well that shipping food supplies well above market rates will significantly reduce the benefits of the assistance called for in this bill.

The Polish Government was stunned last week when they learned that the costs to ship the first $20 million in corn and sorghum would be $16 million. They will be similarly astounded when they learn that shipping pork bellies and butter, also on the food-aid list, U.S. carriers will charge about $339 a ton for refrigerated cargo, more than double the estimated $162 a ton charged by foreign flag carriers.

Deeply concerned Polish officials sent a letter to Under Secretary of Agriculture, Richard Crowder, expressing their need for all the food assistance, we as a country, can provide them. They have asked us to waive the cargo preference laws for the food aid so they can receive a plentiful supply.

Mr. Chairman, this measure before us today is being considered because of the laudable objective of aiding Poland and Hungary—two nations struggling for democracy. I support this objective.

I would hope that all interests, all of us will consider carefully the one time appeal by the Polish Government and support the cargo preference waiver on food aid to Poland and Hungary. I hope American labor unions, the U.S. maritime industry, and my colleagues, will show their support for the new government in Poland and endorse this waiver.

Mr. LEACH of Iowa. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. Mr. Chairman, I thank the gentlewoman for yielding to me.

I would just begin by saying that I think the gentlewoman from Ohio [Ms. KAPTUR] has a very reasonable amendment. It is a compromise and it takes into account something that I think all of us, particularly those of us from the Farm Belt, ought to tip our hats to. And that is that the U.S. labor movement has been so critical to the success of the Polish independence movement. The right to organize in Poland has proven to be at the heart of the right of free assembly, and the root of the democratic trend in that particular country. The strongest outside supporter of Solidarity has been the U.S. labor movement.

I think all of us from the Farm Belt have to tip our hats in that regard. But I would stress that the opponents of this particular approach have probably given the most succinct arguments for the amendments that have been offered.

A merchant marine dependent upon cargo preference is a merchant marine that is becoming increasingly helpless. The statistics speak for themselves.

The U.S. merchant marine is in desperate shape because it is relying on the crumbs from the agricultural table. The time is here for a new approach toward supporting the merchant marine. It is time to take it off the bottle of milk and have it grow up to feast on the competitive gristle of free enterprise. If we must continue to subsidize the merchant marine, Congress should have the issue straight up with direct all-American assistance, not simply assistance from the American farmer.

□ 1430

I think it is time we put our humanitarian concerns above this indirect subsidy that falls almost exclusively on the back of the American farmer. It is time for a new approach to supporting the American merchant marine, and a humanitarian approach

to supporting the Polish people at this time.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise not to bury cargo preference but to praise it and to ask for equity, equity for the Great Lakes ports.

All we ask for in the Great Lakes region is that those U.S.-flag operators who are protected by the benevolence of U.S. law to be assured that 75 percent of agricultural commodities that are shipped out of this country under U.S. subsidy are carried on U.S.-flag vessels.

We just simply ask that they call on the ports of the Great Lakes, because I assure the Members the longshoremen who sit on the bench in the ports of Duluth and Superior, the seafarers who sit on the bench unemployed in Toledo and Cleveland and in Chicago are no less union members than those who are working in the east and the gulf and the west coast ports. Our workers deserve equity every bit as much as the workers in the maritime trades and the other coastal port ranges. Fair is fair.

You get a fairer deal, frankly, you get more cargo shipped because you get a lower-cost shipment when moving commodities out of the Great Lakes. As we debate right this very hour, this very hour, in the port of Duluth-Superior, a Polish freighter is taking on durum wheat produced in the heartland of America to be shipped out of the Great Lakes at a quoted price of $29 a ton. There have been several shipments of wheat on Polish vessels out of the Great Lakes this year for an average cost of $26 a ton. Compare that to the quoted prices, depending on size of vessel, that we have heard in the course of this debate on U.S.-flag operators, anywhere from $34 to $85 a ton. You are getting more for your dollar.

I do not like to see U.S.-flag operators taking second bench to any other flag operator anywhere in the world. I am for preference. I am for treatment of U.S.-flag operators when they are carrying goods subsidized by U.S. tax dollars, and U.S. workers ought to benefit from it. But, by golly, they have got to call on Great Lakes ports. They have got to be equitable in the way they ship their goods and not turn their back on the heartland of America where 45 percent of the Nation's agriculture is produced, where one out of five industrial jobs resides, where 45 percent of the Nation's industrial exports emanate. And we get second shrift.

We are not going to stand for it. The chairman, the distinguished chairman of the Committee on Merchant Marine and Fisheries, was exactly right when he said we have had cargo preference in law since 1954, but until 1985 that was 50 percent, and the Great Lakes were getting a fair share. When we have now gone to 75 percent, I want to tell the Members we had to go toe to toe. We had to haul people into my congressional office with other members of the Great Lakes delegation and plead and beg and argue for a lousy 16 percent that were supposed to be guaranteed on shipments of those agricultural commodities.

The U.S.-flag operators have turned their backs on the Great Lakes. I want them to turn their flags into the Saint Lawrence Seaway, call on the Great Lakes ports, have some equity, and we can stand proudly and support cargo preference. But until then, support the Kaptur amendment.

Mr. FIELDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to this onerous amendment which waives the application of our cargo preference laws for the shipment of U.S. food aid to Poland.

Before considering this amendment, I would ask my colleagues to contemplate the following:

First, during the past 40 years, our merchant fleet, once the largest in the world, has declined from more than 1,300 ships to fewer than 375 active vessels. We are, therefore, 275 ships below the minimum identified by the Presidential Commission on Merchant Marine and Defense—as the level which is essential to meet our sealift capabilities. By contrast, the Soviet Union has more than 2,500 merchant ships.

Second, despite the fact that the United States is the largest trading nation in the world, our market share of international trade transported by U.S.-flag vessels has declined dramatically—from over 50 percent in 1945 to less than 5 percent today.

Third, the Soviet Union carries more of our Nation's cargo overseas than we do. In fact, Soviet ships carry nearly 50 percent of all mail postmarked in the United States, while our domestic carriers transport a mere 2 percent of it. I think that is a national disgrace.

Fourth, in 1982, 110 privately owned shipyards operated in this country and they employed 112,000 people. By the end of 1988, the number of active yards had fallen to 69 and employment had dropped by more than 28 percent to 80,000 workers.

Fifth, in 1970, there were 18 major U.S. shipping companies. Now there are four.

And, finally, the number of shipboard jobs in the U.S. fleet has dropped from over 99,000 at the end of World War II to fewer than 13,000 today. Without trained seafarers, this Nation is in serious peril for the future.

Based on these facts, I am, frankly, amazed that we are even having this debate. At a time when the U.S. maritime industry is fighting for its very survival, this body should be considering measures to increase, not decrease, the amount of cargo carried on U.S.-flag vessels.

Sadly, that is not the case. Instead, we are being asked to deny our workers and our shipping companies cargo guaranteed to them by the Cargo Preference Act of 1954.

Mr. Chairman, every relief program in the United States, starting with Lend Lease in the 1930's, the Marshall Plan, the Japanese remobilization effort, and the African famine relief program, has had a U.S.-flag shipping requirement as an integral component of that program. Why have we had that requirement? Because every President from Franklin Roosevelt to George Bush has recognized the vital importance of the U.S.-flag merchant marine to the national security of this Nation.

As my colleagues may know, this amendment was offered and soundly rejected by the House Foreign Affairs Committee during its markup of H.R. 3402.

While the House Merchant Marine and Fisheries Committee was not given an opportunity to consider this amendment, which falls within our jurisdiction, I can confidently predict that it would have been overwhelmingly repudiated by our committee.

Mr. Chairman, this amendment is also strongly opposed by the Bush administration which has stated that it is contrary to the President's commitment to "strict adherence of existing maritime legislation and cargo preference laws."

In fact, the U.S. Maritime Administrator, Mr. Warren Leback, testified before our committee yesterday and he noted that the Bush administration is opposed to any amendment which would eliminate or reduce any portion of our cargo preference laws.

Mr. Leback went on to say that a suspension or waiver of our cargo preference laws for Poland would severely exacerbate the problem in our sealift requirements, since it would adversely affect a portion of our United States-flag industry which is vital to our military needs.

The proponents of this amendment argue that there would be a tremendous cost-savings involved in waiving our cargo preference requirements.

Mr. Chairman, that statement is false. In fact, the United States Department of Transportation has projected that this cargo will be transported on larger, more economical vessels than those offered by the Polish Government and that the United States freight rate could be less than $34 per ton. By contrast the only Polish ship which made an offer to carry this cargo was $60 per ton, not

the totally erroneous figure of $15 per ton which appeared in the Boston Globe article. In short, our Department of Transportation is convinced that United States-flag vessels can transport this cargo cheaper than their Polish counterparts.

However, if the proponents of this amendment are only interested in allowing the Polish people to receive the maximum amount of food under this program, then I am surprised that they aren't offering an amendment which would simply give Poland the $125 million and let them buy agricultural products from farmers in Australia, France, Brazil, or any other country. There is no question that U.S. agricultural products are going to cost far more than those that could be obtained abroad.

Mr. Chairman, I am frankly tired of hearing about the amount of subsidy received by the U.S. maritime industry. For the record, the industry receives about $300 million a year, which compares most unfavorably with the billions of dollars received by U.S. agriculture each year.

However, those of us who support the U.S. maritime industry are not trying to destroy any of our agricultural promotion programs. It is my firm belief that both merchant marine and agriculture are critical sectors of our economy. Instead of fighting with each other, some day I hope these two important industries will work together, as they did in 1985, for their mutual benefit.

Finally, this amendment is a blatant violation of the Agriculture/Maritime Compromise of 1985. This historic agreement ended years of controversy when the U.S. maritime industry gave up its right to transport millions of tons of Government export cargo. In return, the maritime industry received the right to transport U.S. donational or Food for Peace cargo in the future. This amendment violates the letter and the spirit of that agreement.

In the final analysis, the proponents of this amendment are asking us to waive the requirements of one of our last remaining maritime promotional programs and to allow Poland to take our agricultural products, paid for by our taxpayers, and to transport them on the vessels of their choice. I think that is a terrible mistake. If enacted, it will further destroy our U.S. maritime industry and further cripple our vital sealift capabilities. It is important to remember that our military experts estimate that in any overseas conflict 97 percent of the materials needed to supply our troops will be transported by ships.

Mr. Chairman, why should our workers be treated any differently than those of other nations. If Poland were acquiring food aid from Japan or Great Britain, you can be sure that 100 percent of that cargo would be carried on their flag vessels. It is time we stood up for America and for those ships which proudly fly our flag.

I urge my colleagues to join with me, the Bush administration, the AFL–CIO, and the leadership of the House Foreign Affairs and Merchant Marine and Fisheries Committees in voting "no" on this ill-conceived amendment.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to amendments to waive or reduce the United States-flag requirements for commodity shipments to Poland and Hungary.

How ironic it is that we face these amendments.

To provide economic support to a democratic movement that began in a shipyard, we consider denying the men and women who labor in our shipyards and who sail our ships, the full economic rights of survival they have won under our democratic system.

Perhaps "irony" is too soft a term to describe such a double standard.

I believe that additional assistance to the people of Poland and Hungary is justified and especially needed in economies that have been virtually destroyed by Communist leaders. At the same time, I believe we can provide the long-suffering people of those nations with the fruits of our labors, without losing solidarity with our own laborers, without paying foreign vessels and crews—who do not pay taxes to our Government—to carry the cargo. The U.S.-flag merchant marine fleet is a vital component of the Nation's strategic sealift capability. It is through cargo carriage requirements, that are an integral part of the Agricultural Trade Development and Assistance Act, that United States supports its merchant fleet just as other parts of that act support the agricultural community that produces the commodities we ship.

Waiving or diminishing the rights of American sailors so we can marginally increase the amount of assistance to Poland and Hungary is a proposition that we must reject. We would not tolerate buying cheaper foreign commodities to increase the amount of aid—that would harm our agricultural industry. And we should not tolerate buying cheaper foreign shipping services and labor because that would harm our shipping industry.

Foreign assistance has always depended upon a strong coalition of diverse interests. We work together because through foreign assistance we offer tangible evidence of our goodwill and the best of what America has to offer, and at the same time, we make our own economy stronger. These amendments strike against that coalition.

But in a larger sense, what we lose if these amendments pass is more than the support of our domestic shipping service that is currently required by our law. We also lose under these amendments something even more important. When this badly needed food arrives in Poland, the ship carrying it probably won't be flying the American flag, the crew that works with the Polish people to unload it are more likely to be Liberian, Panamanian, or Greek.

I, for one, believe that American aid should arrive in American ships, flying the American flag, and crewed by the American people.

□ 1440

Mrs. BENTLEY. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentlewoman from Maryland.

Mrs. BENTLEY. Mr. Chairman, the gentleman mentioned the amendments, and we have before us the amendment offered by the gentlewoman from Ohio [Ms. KAPTUR] who would give back 25 percent of the aid on the premise I assume that they would provide more money toward the purchase of the cargo, of the needed goods.

My understanding is under our bill, which was agreed to in 1985, in which the gentleman played such an important role, that the freight on 75 percent of the cargo, of the EL–480 foreign aid cargo and all cargo that goes overseas, that money comes out of the Department of Transportation budget.

Mr. TAUZIN. Mr. Chairman, the gentlewoman from Maryland is correct.

Mrs. BENTLEY. Therefore it would not be possible in my opinion, and I would ask for the gentleman's opinion because he is a distinguished chairman of one of our subcommittees, whether or not that 25 percent savings could be transferred from Department of Transportation to aid for the purchase of the goods?

Mr. TAUZIN. It might be possible, but it would take legislative action to accomplish it. I do not think we can assume it would be in the transfer.

Mrs. BENTLEY. It would require additional transfer. In other words, just our vote today would not do it?

Mr. TAUZIN. I do not believe it would.

Mrs. BENTLEY. Mr. Chairman, the gentleman is right.

Mr. TAUZIN. It would take some legislative action on the DOT budget. But assuming that it could, my point is we ought not sacrifice the coalition we have built between agriculture and the merchant marine industry, the coalition that has worked successfully for so many years, for just this marginal benefit, even if it could be achieved. We owe it to this coalition to keep the 1985 act together.

Mrs. BENTLEY. Mr. Chairman, I thank the gentleman for yielding. He has given some answers to the questions which I raised. My understanding is that without complex legislative followthrough, it would not be possible to transfer that.

Mr. TAUZIN. Mr. Chairman, the gentlewoman is correct on that.

Mrs. MARTIN of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, a sense of irony has always been a healthy attribute to have in this body. When the gentleman suggested there is an irony within this, I would suggest there is an even greater irony: That we, all Members, that we must do something involving our merchant marine, hold up as an example the fact that Poland subsidizes its merchant marine in a failed economy so we should do more of the same thing while we try on our subsidized ships to give money to Poland so they can free themselves from some of the subsidization they have so they have a healthy economy.

I would like to say just a few things, and believe me, arguing with the gentlewoman from Maryland [Mrs. BENTLEY] is never a pleasure because she is very good.

I suspect geography has a great deal to do with where our hearts may be on this. It was suggested by one of my colleagues that because I am part Polish I may even have a separate agenda, and perhaps that is true.

I would very much like to see this Nation, this land of my forefathers, succeed. I would like to see as much of the money as we can reasonably send there get there.

If those Members who wish to differ on the side of agriculture or the side of merchant marine and do it with our clever words, perhaps it is time to stop and listen to a compromise, which I suspect pleases none of us entirely, but which the gentlewoman from Ohio offers in good faith. I, who may have leaned rather strenuously as a coauthor of the Grandy amendment, even though I know in my heart and head I am absolutely right and this is what we should do, I too am willing to listen to that because of what I think is an essential argument about Solidarity and labor unions and how we should move on this thing.

Mrs. BENTLEY. Mr. Chairman, will the gentlewoman yield?

Mrs. MARTIN of Illinois. I am happy to yield to the gentlewoman from Maryland.

Mrs. BENTLEY. Mr. Chairman, I thank the very distinguished gentlewoman from Illinois for yielding.

I simply want to correct one statement the gentlewoman made. She was talking about subsidized ships of the United States which will be carrying this cargo to Poland.

I would like to point out that of the 26 bulk carriers that we have, only 4 of them are subsidized. So most of this would not be going on subsidized U.S. flagships.

Mr. Chairman, I thank the gentlewoman from Illinois.

Mrs. MARTIN of Illinois. Mr. Chairman, I thank the gentlewoman from Maryland. I suspect that many people outside of the industry view cargo preferences, and perhaps outside of this body, as a failed policy, but extraordinarily well-meant.

Mr. NAGLE. Mr. Chairman, would the gentlewoman yield?

Mrs. MARTIN of Illinois. I yield to the gentleman from Iowa.

Mr. NAGLE. Mr. Chairman, I am told, and perhaps the gentlewoman is aware of this, that the most likely ships that will ship American goods if the amendments are successful are either Liberian ships or Swedish ships.

I want to know the rationale for sending business to Liberia and Sweden, which are not contributing anything at all, not a darn dime, to Poland in aid, and penalize American ships when the American Government is sending aid. Why should we subsidize countries who do not help in this move to democracy in Poland?

Mrs. MARTIN of Illinois. First of all, I have no objection whatsoever to putting pressure on Sweden and other European nations, not just West Germany, not just the British Isles, to do more of their part in joining with us in this effort. So I have no objection to urging those nations under whose flags these ships go.

That is not the purpose of this bill. It is what the United States will do, not what Liberia will do.

I will add one more thing: Some of this money may be going ultimately to help Gdansk, the shipyards there grow. They will end up competitors. Does that mean we would never send foreign aid to Poland?

These are difficult problems. I am saying now, and I did not think I would, that the compromise does not give me what I want, does not give the gentleman from Iowa what he wants, but shows the incredible good will, may be the way to go, and I would hope that is what this body would do.

Mr. TORRICELLI. Mr. Chairman, would the gentlewoman yield?

Mrs. MARTIN of Illinois. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. Mr. Chairman, I thank the gentlewoman for yielding.

Let me make clear, this is not a compromise. This is an existing law which has governed the shipping of American assistance for two generations, from lend-lease to the Marshall Plan.

The Kaptur amendment, just as the amendment by the gentleman from Iowa [Mr. GRANDY] would change it. The net result would be the same, American taxpayers will send food on ships from a variety of nations. It is not a compromise.

Mrs. MARTIN of Illinois. Mr. Chairman, I will reclaim my time. The gentleman may not wish to compromise; I do.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am frankly not quite sure how to vote on the Tauke amendment because I basically believe that there is a good reason for this country to have cargo preference legislation. I do not believe there is anything wrong with the United States supporting its national interests in terms of shipping, any more than any other country.

I do have a dilemma, however, because those interests working in support of cargo preference are not recognizing that because of an anomaly in the shipping capabilities of one region of the country, one section of the country could be cut out of the ability to participate in shipping the kinds of goods that we are talking about today.

That is why we had the agreement in the 1985 farm bill. That agreement was simply to provide that the cargo preference percentage would be increased from 50 to 75 percent in return for certain changes, including the recognition of the need for a Great Lakes set-aside.

□ 1450

Now why does the Great Lakes need a set-aside? They need a set-aside because, given the physical nature of the locks on the St. Lawrence Seaway, it is not possible for American bottoms to ply the Great Lakes and then move those commodities overseas. And until we get recognition of that problem, we do not share in the shipping.

That is not an equitable national policy.

The gentleman from Louisiana referred to the coalition that has been built up in support of cargo preference. He is correct. But unless the legitimate needs of one region of the country are recognized, there is not going to be any more coalition.

So I am in support of the Kaptur amendment until such time as we gain recognition that we need to continue in the law the Great Lakes set-aside just as we are continuing in the law the 75 percent number of cargo preference.

The second reason why I am voting for the Kaptur amendment is because I received a letter, after our vote on the Torricelli amendment, from the chairman of the Metal Trades Department, AFL-CIO, Mr. Paul Burnsky. It was one of the most outrageous letters I have ever received. Now my record is a strong record in support of organized labor. I have an 87 percent lifetime voting record in support of organized

labor, and the workers they represent. I am proud of it.

But I got a letter, many of us did, from Mr. Burnsky suggesting that because of our votes on the Torricelli amendment, that his department is going to try to bring into question endorsements that I get from that sector of the American economy.

I frankly think that that kind of a threat is out of line. So I simply wanted to take this occasion to rise in support of the Kaptur amendment and read one paragraph from a letter which I sent to Mr. Burnsky in return. This paragraph reads as follows: "I have tried to reach an accommodation with the maritime interests that takes into fair consideration the needs and jobs of my own region. I will work with anyone, including you, to try to reach a reasonable compromise on the cargo preference issue. But when an official such as yourself tries to persuade me on this or any other issue based on threats or intimidation, I can have only one response: Go to hell in a handbasket and take your single-issue approach to politics with you.

"If I have to choose between the interests of my constituents and your endorsement, I will stick with my constituents and you can stick your rollcall and your endorsement in your nearest ear."

Now in my view that is the only proper response for a Member of this body to give a loud-mouthed bully boy who tries to tell a Member, that if you vote for the interests of your own constituents on a regional basis, he is going to try to deny you an endorsement come the next election.

I want to say once again to those who are in favor of cargo preference, (as I am) as a national policy, you cannot expect people like me to maintain support for that provision in the law unless you recognize the legitimate needs of the Great Lakes region of this country as far as shipping is concerned.

If the Kaptur amendment is not passed, that is an indication to me that there is no recognition of that legitimate claim on people's attention.

I urge people to recognize what is at stake on the Kaptur amendment and vote for it.

Mr. RHODES. Mr. Chairman, I move to strike the requisite number of words.

Mr. MACHTLEY. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Rhode Island.

Mr. MACHTLEY. Mr. Chairman, as America and its Western Allies have cheered on, the tide of democracy has swept into Poland and Hungary. While these new waters of freedom carry with them their own risk of failure, I am pleased by our ability today to offer economic and technical assistance to the Poles and Hungarians as they work to transform their antiquated socialist economies into a successful free market system. This economic transformation, this economic perestroika, is essential to sustaining popular support for the political transformations which have taken place.

United States interests in the transformations in Poland and Hungary are not altogether altruistic. It should be noted that burgeoning democracies and free market economies in Eastern Europe are of great benefit to our own concerns for national security and peace. That said, the question is what price is to be paid for our support of a freer and fairer Europe. In my book, United States support for economic restructuring in Poland and Hungary need not be subsidized at the cost of our own domestic interests.

I firmly oppose the waiver on U.S.-flag cargo preference. Shipments of relief cargo we send to Poland should come on United States ships, manned by our United States citizens. Sending our United States commodities on American ships will not hurt our assistance to Poland. Sending these goods on ships carrying the flags of other countries will hurt our domestic maritime interests.

Some on the other side of the aisle on this issue have argued that the United States should waive its cargo preference to make room for the transportation of U.S. commodities by foreign, and purportedly cheaper, foreign shippers. I am quite honestly confused by this reasoning. I am sure that we could find agricultural goods at cheaper costs than they are available in the United States, yet we are not going abroad to buy these goods. We should not send foreign wheat to our needy friends abroad. In the same vein, nor should we send our goods on foreign ships.

Today, we have the chance to support the beginnings of a newly democratic Eastern Europe. American support for the courageous step toward freedom taken by the Polish and Hungarian people is drawn in part from our own memories of the American struggle for individual rights. Let us not forget our own beginnings by turning away from the American worker. I urge a "No" vote on any amendments which would limit or waive the cargo preference requirements for U.S.-flagged ships.

Mr. RHODES. Mr. Chairman, I presume the gentleman from Wisconsin [Mr. OBEY] plans to follow his speech up with a strong letter.

Mr. Chairman, what about the rest of us? We have heard Representative after Representative from agricultural districts, Representative after Representative from maritime districts. It is time we heard from a Representative from the taxpayers' district.

Now, yes, farmers pay taxes; yes, maritime interests pay taxes. But so do a heck of a lot of the rest of us who have no direct interest in agriculture, no direct interest in the maritime industry.

In Mesa, AZ, we do not grow any wheat; in Mesa, AZ, we do not build any ships, we do not have any ports. The talk that the central Arizona project is in fact an inland waterway is just malicious rumor.

But we do pay an awful lot of taxes in Mesa, AZ. With our taxes, the taxes of the maritime interests, the taxes of the farmer interests, we have bought these commodities, they belong to us. We have decided to assist the people of Poland and the people of Hungary, not just in gaining the basic staffs of life but also in gaining on the road to democracy. We have decided to use these commodities that we, the taxpayers, have already purchased for those goals.

I think as a Representative of a nonagricultural, nonmaritime, taxpaying district, that it is incumbent upon me to say I think my constituents want you to know that if we are going to go along this road, if we are going to assist Poland and Hungary with these commodities, we want as much of those damned commodities as is humanly possible to get to those people. And the way to do it is to assist in the best way we can with the Grandy amendment, as amended by Ms. KAPTUR.

The nonagricultural, nonmaritime taxpayers of this country want to do as much as we can with the money that we have decided to spend, and that includes passing the Kaptur amendment.

Mrs. BENTLEY. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I yield to the gentlewoman from Maryland.

Mrs. BENTLEY. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Arizona is talking about the purchasing of the most for the tax dollar. He indicated that what he wanted was the most out of this appropriation to go to Poland and to Hungary, which we all support, incidentally. That is, the concept of helping them.

Now once again I want to point out that the freight of these goods is coming out of a different budget altogether and, therefore, any saving by Ms. KAPTUR or by Mr. GRANDY is not going to help the purchase from the Department of Agriculture.

I think the record should show that.

Now what do the gentleman's taxpayers want?

Mr. RHODES. I thank the gentlewoman from Maryland.

The taxpayers do not want to be confused by arguments like that.

Mrs. BENTLEY. These are facts.

Mr. RHODES. They want as much as they can possibly get to go to the people of Poland and Hungary, they want to spend their money as wisely as possible so we can do as much as we possibly can to help the people of Eastern Europe.

Mr. SMITH of Florida. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the substitute and to the amendment.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I rise in opposition to the amendment offered by my distinguished colleague. Waiving the cargo preference requirement as suggested by this amendment with respect to food aid shipments to Poland will not only compromise a significant law of the land but will undermine the role of the U.S. merchant fleet and its attendant seafarer work force as vital components of this Nation's strategic sealift.

I wholeheartedly support any assistance we can give Poland and its people in their united struggle toward democracy and in their effort to restructure their critical economic system. However, as a Nation, the United States must remain vigilant that in its efforts to assist this fledging democracy, it does not compromise laws which were enacted to protect and promote an American industry and American workers.

American maritime workers are no less sympathetic to the plight of the Polish people than are other sectors of American society. They have fully supported through material and moral assistance the democratic trade union movement in Poland. They have applauded the gallant efforts of the Polish people to dismantle the oppressive yoke under which they have labored since the partition of Eastern Europe after World War II. And, they will continue to support Poland's citizenry and workers who are the backbone of the Solidarity movement in the upcoming days when Poles will be faced with even greater trials and tribulations as they struggle to stabilize their nation's struggling economy.

I believe that we are creating an adversarial relationship—a wedge—between American and Polish industries and workers through the offering of this amendment. We are interfering with a kinship which has evolved through the mutual objective of a free labor movement. This is unacceptable. American workers, American industries, Polish workers, and Polish industries should equally reap the benefits of the generiosity of the American people. With this in mind, I urge my colleagues to reject this amendment.

Mr. LAUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I yield to the gentleman from Texas.

Mr. LAUGHLIN. Mr. Chairman, I rise in opposition to the amendment offered by my distinguished colleague waiving the cargo preference requirement for food aid shipments to Poland.

The U.S. cargo preference policy provides jobs for American workers, adds to the American economy and encourages the maintenance of the U.S.-flag fleet which is essential to our defense security. I believe that if the opponents of cargo preference win this round, they will succeed in undermining this basic support for our fleet and its maritime work force. I fear that a victory for the opponents of cargo preference in this debate will signal future retreats from this important law in its application to food donations to other nations, and will inevitably lead to a mass export of U.S. maritime jobs and the further decline of the U.S.-flag fleet.

Mr. Chairman, we cannot afford to let this happen. Our Nation depends on the support of the American fleet and its maritime work force in times of war or crisis. As we all know, the fleet's ability to respond to this national need is in peril. We must do all that we can to rebuild its effectiveness. By denying these vessels the cargo they need and are entitled to under the law, we are instead inevitably adding to their distress and to the continued loss of a manpower pool of skilled merchant mariners.

This American work force has supported the Polish people and the Solidarity movement for the last decade. Because of this bond, I do not believe that the Polish people and Solidarity would condone a measure which would help them at the expense of the very people who supported them in their darkest hours. We should ship American aid on American ships flying the American flag.

For these reasons, Mr. Chairman, I urge my colleagues to soundly reject this precedent setting and dangerous amendment.

Mr. SMITH of Florida. Mr. Chairman, there has been a very good debate, a very full debate, with three or four sides on this issue presented, if not more. We would all have been disappointed if there had been only two sides presented.

Now it is time to examine, as the debate winds down, where we are.

The Kaptur substitute purports to reduce, as a compromise, the amount of money flowing into the part of the $125 million that would pay for transportation. Therefore, by cutting that, she says, by 10 percent, you will increase the flow of food. Let us examine it: She cuts the $125 million by 10 percent, not the $50 million set-aside for shipping. So that is $12.5 million. When you take that off the shipping, it is 25 percent of the $50 million.

□ 1500

That means there is only $37½ million left. That is 25 percent off, but will that pay for additional food? No, because without waiving, under the Grandy amendment, without waiving the cargo preference, it only reduces the amount you can put into shipping, which means some of the food will be left on the docks.

Therefore, it is not a compromise at all. If Members do not pass the Grandy amendment, the Kaptur amendment hurts the Polish people because less food will be capable of being transported, first. Second, the original 50/50 cargo preference that existed, this goes to 75, which means that the 25 percent addition, the 25 percent addition in transportation is being paid for out of Department of Transportation funds. It will not be paid for out of the normal funds from the $125 million.

The net effect of the Kaptur amendment, cutting that money, in this bill, is zero, because the money that is cut is not the money that is paying for transportation, in any event. It is a very, very, I am sure, noble attempt to strike a middle ground, but frankly, it hurts the law, it hurts the Polish people, it hurts the maritime industry, and frankly would also hurt the Great Lakes because in a month, those lakes are going to freeze up. We will not be shipping out of the Great Lakes.

I urge Members to reject the Kaptur substitute. As to the Grandy amendment, the net effect is, first, it will change the law as it currently exists, very finely crafted, very much under assault consistently by the farm and agricultural interests, but frankly something we have rejected heretofore, both in committee and on this floor.

Second of all, it purports to ship more food to the Polish people. However, it does not, because in the long run, all we are going to do is ship the same amount of food and get the same amount of benefit. Members must understand, shipping it on non-American bottoms will save a small percentage of the total, not all of that $50 million. Remember this: The foreign Liberians, the Japanese, the Koreans, the Swedish, the Panamanians, all of these people pay no taxes in this country. Forget the workers, forget the crews, the American crews, the American dock workers, all of those that work on the American ships, the lines themselves pay no taxes in this country, but the American carrier, the American flag carrier pays taxes.

When we add back the taxes that they will pay on the money they earn carrying the American food to the Polish people, we will have a net gain, not a net loss.

If Members want to talk dollars, let us talk real dollars. Let us not talk the rhetoric that the farm belt people want Members to hear, because this is a favorite pet, year after year, to assault cargo preference. The bottom line is the net loss, if you go with the Grandy amendment.

Finally, yes, the gentleman from Arizona [Mr. RHODES] is right, the American people want as much to go. However, the American people also want the Polish people to benefit, but not the American people to suffer. Why should American crews on ships most likely built in America, flying the flag of America, of companies that still choose to do business and stay here in our country, be punished? It will be punishment, because the bottom line is that when those ships, if we agree with the Grandy amendment, come steaming into the harbor in Gdansk, they will be flying a Liberian flag. What a spectacle. What a sight, ladies and gentlemen, America helping with a Liberian flag.

Vote against the Grandy amendment. Vote against the Kaptur substitute, and stay with the law and the American people.

Mr. EMERSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in strong support of the Grandy amendment and, by extension, of the Kaptur substitute—as a reasonable compromise. I applaud the President and our joint congressional leadership for their courageous leadership in providing this necessary assistance to the people of Poland in their hour of need. However, our humanitarian effort is now being significantly diminished by a requirement that this aid be shipped to Poland under anti-agriculture cargo preference statutes. By mandating that American aid be transported subject to cargo preference, the beneficiaries stand to lose 30 percent and possibly more of our $125 million aid proposal. We do want a strong merchant marine, but I don't think we achieve it by a "taking it out of the hide" of the value of American agricultural commodities approach.

For some time there has been a strong feeling, not only in our country but among the Western world, that the democracy the Poles are struggling to establish greatly needs outside assistance. Our resources are short, and we should stretch as far as possible what we do contribute. That is why we are considering the Polish and Hungarian democracy initiative today. Additionally, many within this body have been critical, particularly toward the President, in stating that the United States is not doing enough in securing needed food assistance.

Amazingly however, many Members who claim to be looking out for the best interests of Poland's fledgling democracy may turn around today and vote in favor of cargo preference for this proposed aid package, and diminish the amount of help we can send to Poland, and diminish the value of this assistance, the giving of which is of value to the donor as well as the donee.

The need for this amendment is clear. If my colleagues on both sides of the aisle are sincere in their belief that American food aid is necessary, then let us do what is needed to provide maximum food relief in accord with our limited resources. If we have promised the people of Poland over 100 million dollars worth of food assistance, then let us give them exactly that. The Grandy amendment ensures that the Polish Nation receives 100 percent of what we say we are willing to offer them.

The effect of cargo preference on United States food shipments has been costly for years—diminish the quantity of what we have shipped—and the Polish assistance package presently before this body is no exception. The question I raise today is this: Do we want to provide the people of Poland with the most assistance we can, and do we want to relieve this discrimination against American agriculture? With the young government of Poland at risk, I urge my colleagues to show their support for that nation's democratizations efforts by approving this prohumanitarian/modified cargo preference amendment. While I prefer the Grandy amendment, the Kaptur substitute is a reasonable compromise in the immediate circumstance and I urge its adoption.

Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Chairman, I thank the gentleman from Iowa [Mr. GRANDY] and all of those who have been so supportive of this amendment, to try to reach a compromise on this extremely important issue.

It was just mentioned on the floor that Liberian ships would be moving into Poland and taking United States commodities. I might just say that today, as we are sitting here and debating this, Polish ships in the Port of Duluth are loading grain wheat that is going to be shipped to Poland. I think that the objectives here, in this amendment, and I have been a long time supporter of the United States maritime industry, and have a very strong labor record, but I also hold a deep concern, as do so many, including the gentleman from Arizona [Mr. RHODES], who spoke very eloquently, that the objective of this bill is to try to weigh various concerns: The needs of the Polish people for food, to get over these coming winter months.

I might say to the gentleman from Florida, who would say that the Great Lakes will freeze over, I live on the Great Lakes, and we can ship, many times, through December. God takes over in that instance. We do not really know, but we expect a lot of this grain will move through the Great Lakes. Our concern is to get the food to the Polish people before winter, in order to avert the terrible crisis that they face, in trying to pull that country together.

It is important to mention in summarizing, that in the bill itself, this is a very modest compromise amendment. The bill provides for $125 million of food aid, of which $50 million is for shipping. My amendment only asks that that be reduced by about 10 to 15 percent, depending on what the shipping charges are, bring shipping charges down to about $37.5 million. Half would continue to be shipped on U.S. ships, half would be continued to be shipped on other vessels. It is a one-time only temporary and emergency waiver.

In essence, my bill strongly supports the farmers of this Nation. We expect we will be able to devote more money to grain sales, to food. It supports the maritime industry which will get half or well over half of this business, and finally, it supports the Polish people, who are looking to this Nation, and its people who have been of great will and of good heart for so many years, to try to get them food in their hour of need.

I thank the supporters, and ask for a yes vote on the Kaptur amendment. I thank those who have spoken on its behalf.

Mr. EMERSON. Mr. Chairman, I yield to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, United States aid to Poland and Hungary is yet another demonstration of the goodwill and generosity of the American people, and I want to voice my wholehearted support for this endeavor.

Hungary has taken a giant step forward toward democracy and Poland is becoming ever closer to taking that step themselves and any effort the American Government, the world's bastion of peace and freedom, can make to help these forward-thinking people should be undertaken.

As a first generation American, whose parents emigrated from Serbia, there is no one more interested and willing than I am to help East Europeans in their brave, yet peaceful, efforts to free themselves from the grip of communism.

The blood that flows through their veins, flows through mine.

Their will, determination and hunger for freedom is that the same will, determination and hunger that filled the hearts of my parents, who risks their lives so that I and my family may enjoy freedom.

In helping the people of Poland and Hungary, Mister Chairman, we have an opportunity to help United States farmers, United States mariners and other United States enterprises.

Yet, here we go again with agriculture interests coming out of the cornfields raising the issue of cargo preference.

Here we go again with the agriculture interests wanting to set their own rules on the disbursement of foreign aid. They want to rewrite the provisions of the 1985 Farm Bill compromise, so that they may reap the benefits of U.S. generosity in our country's efforts to help others.

It is a continuation of the agricultural interests' tunnel vision of wanting to protect their own self-interests, while demonstrating a willingness to allow a vital component of our national defense capabilities to be further eroded; all the while they stuff their pockets with taxpayers' dollars, wave the flag and expound the virtues of their alleged humanitarian efforts to increase food supplies to Poland and Hungary.

And, Mr. Chairman, in the process of arguing their case, as they did in their unsuccessful efforts to strike the Torricelli amendment to the foreign aid authorization bill, agricultural interests continue to articulate misinformation regarding U.S. ocean freight rates versus those on foreign flag vessels.

Passage of the Polish and Hungarian Democracy Initiative bill of 1989 will accomplish a number of goals:

It will provide humanitarian aid.

It will provide jobs and revenue for American farmers.

And, it will provide jobs and revenue for the American merchant marine.

Waiving or reducing existing United States-flag shipping requirements with respect to the shipment of United States food aid to Poland would be a giant step backwards for the United States merchant marine.

The House Foreign Affairs Committee rejected such a step backwards and I urge my colleagues to vigorously resist any effort to waive or reduce in any degree the legitimate and rightful participation of our merchant

marine in the carriage of this government-impelled cargo.

Mr. EMERSON. Mr. Chairman, I yield to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Chairman, let me make what I hope will be the conclusion here and let me point out that neither the gentlewoman's amendment as a substitute, nor my original amendment, prevents U.S. ships from shipping cargo. It merely says they have to bid like any other ship in the world.

It says to them, they have to do what the American farmer has to do, which is get your costs down, so the charge is not so much.

Second, it was suggested on the floor that this somehow impacts longshoremen jobs. U.S. longshoremen load ships no matter what flag is flying. Finally, let me say by shipping on a foreign ship, we are not subsidizing a foreign country. We are providing a service and paying a competitive rate. The only subsidy involved is that of a premium which U.S. ships get because we provide them a monopoly. Finally, if Members want to buy European goods, as my colleague from Washington [Mr. MILLER] suggested, then I suggest Members subsidize the U.S. Department of Agriculture as much as the Europeans do. Roughly $27.5 billion, as opposed to $13 billion in this country. Finally, let me just say that my colleagues from the agriculture sector are all intending to support the Kaptur amendment as a measure in good faith compromise, so that we can go, at least part of the way.

I hope our colleagues on the other side will come the other way. Please support Kaptur-Grandy, because it supports farmers, seafarers, people in the Great Lakes, and the taxpayers.

Mr. EMERSON. Mr. Chairman, I thank the gentleman for his contribution and yield back the balance of my time.

Mr. TORRICELLI. Mr. Chairman, I move to strike the requisite number of words.

There is certainly much about this debate that, at this point, seems familiar, not only from the great number of speakers, but the many times that we have revisited this issue.

As I suggested before in my colloquy with the gentlewoman from Illinois, there is nothing new about this issue. From lend-lease to the Marshall plan, to 40 years of American foreign assistance, again and again we have revisited the issue. This lend-lease, it may have been machine manufactures; in the Marshall plan, it might have been food; but continually one section of the country or another has sought its own advantages through American foreign aid. That is unfortunate, because this program of American foreign assistance belongs to no region or no one industry. There is a larger interest, and what we should do today in finally defining our positions, are in cargo preference on American foreign assistance, is to define that larger interest.

Are we sending food to Poland because we are concerned about hungry people? The development of their economy? Of course.

□ 1510

Of course we want to get the most food there and help the most people possible. But is that our only interest? Is that the only reason why George Bush went to Warsaw or why my party or yours has offered programs? We know that it is not.

For a generation we want the Polish people to know that it is their moment. We want them to know that when they were tested, when their future was in the balance, the United States was there. What we want is an American ship with an American flag unloading an American product with an American label, headed toward a shelf to be read with an American flag on a container, so that it would be clear to all the Polish people that when they needed the United States, we were there. That is part of our objective, too.

What is it that the Kaptur amendment or the Grandy amendment would provide? What security interests of the United States or what foreign policy objective is served if a German ship or a Liberian ship pulls into Gdansk with its flag waving? Who is going to be grateful? The commerce secretary who receives a check? The Polish shipping company who knows they have to sign the contract?

We have many objectives here. Helping the poor people of Poland is one, the greater security and economic and diplomatic interests of the United States is another, and we can serve them all. The Bush administration knows that, and Members of the minority and the majority know it. That is why we ask the Members to defeat the Kaptur amendment and the Grandy amendment.

I say to my friends that even those today who ask that we change cargo preference understand that reality. If they did not, they would be asking us not to send assistance at all but simply to provide money to Poland. If our real interest is the most aid for the most money, we could send them a check. They could buy Cuban sugar, Argentine wheat, and subsidized European agricultural products. But that is not your interest, nor is it mine. We want foreign aid to be American people helping Polish people, and that is what this program is all about.

Who asked for this change? The administration? No. As I said before, the administration has risen in opposition to this. They want to keep cargo preference in this program.

The Polish Government? Well, it has been cited before that the commerce department that runs the Polish shipping industry, one of the most inefficient parts of the bankrupt Polish economy, agrees that they want this exception.

Is it Lech Walesa? Is it Solidarity? Do we think the working people of Poland who have fought for organized labor rights for their own country want their new effort at democracy to succeed on the backs of American working people? Do they want American workers to be idled so they can now organize their own labor? Does anybody who has heard Lech Walesa think that he is a part of wanting to jeopardize American labor rights? The fact is, no, he does not.

Mr. Chairman, I ask the Members to stand with us for an American foreign aid progam that does not help Poland at the expense of American farmers or American workers. I ask the Members to defeat the substitute and to defeat the Grandy amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentlewoman from Ohio [Ms. KAPTUR] as a substitute for the amendment offered by the gentleman from Iowa [Mr. GRANDY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Ms. KAPTUR. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 228, not voting 34, as follows:

[Roll No. 294]

AYES—170

Anthony	Eckart	Kastenmeier
Archer	Edwards (OK)	Kleczka
Armey	Emerson	Kolbe
Aspin	English	Kyl
Atkins	Espy	LaFalce
Ballenger	Fawell	Lagomarsino
Barnard	Frenzel	Lancaster
Bartlett	Gekas	Leach (IA)
Barton	Gillmor	Leath (TX)
Beilenson	Gingrich	Lewis (CA)
Bereuter	Glickman	Lightfoot
Boucher	Goodling	Lipinski
Broomfield	Grandy	Long
Brown (CO)	Grant	Luken, Thomas
Bruce	Gunderson	Lukens, Donald
Buechner	Hall (OH)	Madigan
Burton	Hall (TX)	Marlenee
Carr	Hamilton	Martin (IL)
Chandler	Hammerschmidt	Martin (NY)
Coleman (MO)	Hancock	Mazzoli
Combest	Hansen	McCandless
Cooper	Hastert	McCloskey
Cox	Henry	McEwen
Craig	Hoagland	McHugh
Crane	Hopkins	Meyers
Dannemeyer	Houghton	Michel
Darden	Huckaby	Montgomery
de la Garza	Hyde	Moody
DeLay	Ireland	Moorhead
DeWine	Jenkins	Morrison (WA)
Dickinson	Johnson (CT)	Myers
Dorgan (ND)	Johnson (SD)	Neal (NC)
Dornan (CA)	Jontz	Nielson
Douglas	Kaptur	Nowak
Durbin	Kasich	Oakar

Oberstar	Sensenbrenner	Synar
Obey	Sharp	Tauke
Olin	Shuster	Thomas (CA)
Owens (UT)	Sikorski	Thomas (WY)
Oxley	Skeen	Traxler
Parker	Skelton	Udall
Pashayan	Slattery	Upton
Paxon	Slaughter (VA)	Valentine
Penny	Smith (IA)	Vento
Petri	Smith (NE)	Visclosky
Porter	Smith (TX)	Volkmer
Poshard	Smith, Denny (OR)	Vucanovich
Pursell	Smith, Robert (NH)	Walgren
Ray	Smith, Robert (OR)	Walker
Regula	Solomon	Watkins
Rhodes	Stallings	Weber
Roberts	Stangeland	Whittaker
Rogers	Stearns	Williams
Rohrabacher	Stenholm	Wolf
Rose	Stump	Wylie
Sabo		Yates
Sarpalius		Yoong (FL)
Schuette		

NOES—228

Ackerman	Ford (TN)	Miller (OH)
Akaka	Frank	Miller (WA)
Alexander	Frost	Moakley
Anderson	Gallo	Mollohan
Andrews	Gaydos	Morella
Annunzio	Gejdenson	Morrison (CT)
Applegate	Gephardt	Mrazek
AuCoin	Geren	Murphy
Baker	Gilman	Murtha
Bateman	Gonzalez	Nagle
Bates	Gordon	Natcher
Bennett	Goss	Neal (MA)
Bentley	Gradison	Ortiz
Berman	Gray	Owens (NY)
Bilbray	Green	Pallone
Bilirakis	Guarini	Parris
Bliley	Harris	Patterson
Boehlert	Hawkins	Payne (NJ)
Boggs	Hayes (IL)	Pease
Bonior	Hayes (LA)	Perkins
Borski	Hefley	Pickett
Brennan	Hefner	Pickle
Brooks	Herger	Price
Browder	Hertel	Quillen
Brown (CA)	Hochbrueckner	Rahall
Bryant	Holloway	Rangel
Bunning	Horton	Ravenel
Bustamante	Hoyer	Richardson
Byron	Hubbard	Ridge
Callahan	Hughes	Rinaldo
Campbell (CO)	Hunter	Ritter
Cardin	Hutto	Robinson
Carper	Inhofe	Roe
Chapman	Jacobs	Ros-Lehtinen
Clarke	James	Rostenkowski
Clay	Johnston	Roukema
Clement	Jones (GA)	Rowland (CT)
Clinger	Jones (NC)	Rowland (GA)
Coble	Kanjorski	Roybal
Coleman (TX)	Kennedy	Russo
Collins	Kennelly	Saiki
Condit	Kildee	Sangmeister
Conte	Kolter	Savage
Costello	Kostmayer	Sawyer
Coughlin	Laughlin	Saxton
Coyne	Lent	Schaefer
Crockett	Levin (MI)	Scheuer
Davis	Levine (CA)	Schiff
DeFazio	Lewis (FL)	Schneider
Derrick	Lewis (GA)	Schroeder
Dicks	Livingston	Schulze
Dingell	Lloyd	Schumer
Dixon	Lowery (CA)	Shaw
Donnelly	Lowey (NY)	Shays
Duncan	Machtley	Shumway
Dwyer	Manton	Sisisky
Dymally	Markey	Skaggs
Early	Martinez	Slaughter (NY)
Edwards (CA)	Matsui	Smith (FL)
Engel	Mavroules	Smith (NJ)
Erdreich	McCollum	Smith (VT)
Evans	McCrery	Snowe
Fascell	McCurdy	Solarz
Fazio	McDade	Spence
Feighan	McDermott	Spratt
Fields	McGrath	Staggers
Fish	McMillan (NC)	Stokes
Flake	McMillen (MD)	Studds
Flippo	McNulty	Sundquist
Foglietta	Mfume	Swift
Tallon	Traficant	Whitten
Tanner	Unsoeld	Wilson
Tauzin	Vander Jagt	Wise
Thomas (GA)	Walsh	Wolpe
Torres	Waxman	Wyden
Torricelli	Wheat	Young (AK)

NOT VOTING—34

Bevill	Gallegly	Packard
Bosco	Garcia	Panetta
Boxer	Gibbons	Payne (VA)
Campbell (CA)	Hatcher	Pelosi
Conyers	Hiler	Roth
Courter	Lantos	Stark
Dellums	Lehman (CA)	Towns
Downey	Lehman (FL)	Weiss
Dreier	Miller (CA)	Weldon
Dyson	Mineta	Yatron
Florio	Molinari	
Ford (MI)	Nelson	

□ 1535

The Clerk announced the following pairs:

On this note:

Mr. Campbell of California for, with Mr. Dellums against.

Mr. Hiler for, with Mr. Ford of Michigan against.

Messrs. SCHIFF, STOKES, and FLIPPO changed their vote from "aye" to "no."

Messrs. COLEMAN of Missouri, ECKART, CRAIG, McCLOSKEY, OWENS of Utah, and PAXON changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa [Mr. GRANDY].

The amendment was rejected.

PERSONAL EXPLANATION

Ms. PELOSI. Mr. Speaker, I offer a personal explanation of my absence from votes. I was absent from the House due to my necessary return to San Francisco in the aftermath of the tragic earthquake there. Had I been here to vote, I would have voted the following way:

On rollcall No. 294, the Kaptur substitute to the Grandy amendment to H.R. 3402, the Polish and Hungarian aid bill, "no."

Mr. HILER. Mr. Chairman, on rollcall No. 294, I was unavoidably detained at the White House with a constituent, and had I been present I would have voted "aye."

Mr. FASCELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we are almost finished here. We have had excellent attention on this legislation. We have a colloquy with the gentleman from Pennsylvania [Mr. KOSTMAYER], some remarks, and one amendment that we have been working on, and then we will be ready for final passage.

Mr. KOSTMAYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to engage in a brief colloquy with the gentleman from Florida [Mr. FASCELL], chairman of the Foreign Affairs Committee.

This bill seeks to promote long-term economic growth and stability, an objective that can only be met with a sound energy policy. This bill provides $30 million to retrofit a coal-fired commercial powerplant in Krakaw with U.S. clean coal technology.

□ 1540

The bill also assists Poland and Hungary in the development of the capability to manufacture or modify boilers, smelters, and other equipment so that they may use fossil fuels cleanly. In light of the terrible energy inefficiency problems in Poland and Hungary, it is essential that the AID administrator give the highest priority to assisting both countries in improving the efficiency of their energy use.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I am happy to yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, can the gentleman from Pennsylvania provide the committee with figures detailing energy inefficiency apparently so prevalent in both of these countries?

Mr. KOSTMAYER. Mr. Chairman, yes, I can. Very briefly, for example, Hungary uses over seven times as much energy per dollar of GNP as France or Sweden. It uses four times as much per dollar of GNP as West Germany or Spain, and it uses more than two-and-a-half times as much energy per dollar in GNP as the United States.

Mr. FASCELL. If the gentleman will yield further, given the severity of inefficiency, I share the view that AID should take these facts into account in determining energy programs funded in this bill, and that one priority of these energy programs must be to improve energy efficiency in both countries.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I am happy to yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I just want to associate myself with the initiative by the gentleman from Pennsylvania [Mr. KOSTMAYER]. I support those efforts of providing some environmental direction to the assistance which this bill is providing. These efforts are sorely needed because of the pollution problems that are evident in both Poland and Hungary, and I would hope that the administration would apply proper attention to these problems in adopting this measure.

Mr. Chairman, I commend the gentleman from Pennsylvania [Mr. KOSTMAYER] and also commend the chairman, Mr. FASCELL, for engaging in this colloquy.

I fully support the efforts of the gentleman from Pennsylvania to provide an additional measure of environmental direction to the assistance which H.R. 3402 is providing to both Hungary and Poland.

These environmental efforts are much needed because the citizens of Hungary and Poland face some of the most polluted conditions in the entire world. For example, some experts estimate that only 1 percent of Polish

citizens have safe drinking water. Some of the rivers are so grossly polluted that they cannot even be used for industrial cooling without special pretreatment.

The legislation as reported provides some direction for clean coal technology. Hopefully we can provide important additional recognition of the fact that energy use in Hungary and Poland is not very efficient. In an analysis of the efficiency of energy use in major countries around the world by the Worldwatch Institute, Hungary turns out to be the least energy efficient. Its energy usage is over two and one half times greater per dollar of gross national product than the United States. This is significant because people generally cite the United States as being among the most energy wasteful countries. Making Hungary and Poland more energy efficient would save these economies large amounts of money and would help to greatly reduce pollution and environmental destruction.

In addition, it is important that the Congress should go on record as supporting the Government of Hungary's suspension of the Nagymaros Dam on the Danube. That this project would cost over $1 billion and would badly drain Hungary's hard-pressed economy at a time when investments in energy efficiency could provide equivalent energy returns for a fraction of the cost. Opposition to the project within Hungary has been enormous. The area involved is considered by experts to be the most beautiful in Hungary and of exceptional environmental importance. The forces of freedom in Hungary have used this dam project as an example of what is wrong with central planning and opposition to this white elephant project has been a key part of the popular movement for democracy in Hungary. We should send a message of support for scrapping this project and providing environmental protection to the area.

Accordingly, I appreciate my colleagues yielding me this time to join in our mutual efforts to highlight some of the environmental problems in both Hungary and Poland.

Mr. GEPHARDT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we come to the end of the debate on this important legislation. I wanted to take this moment to first congratulate the Members who have been leaders on the committee and on other committees in writing this legislation, first, the gentleman from Florida [Mr. FASCELL], the gentleman from Indiana [Mr. HAMILTON], the gentleman from Michigan [Mr. BROOMFIELD], and other members of the committee who have worked quickly and very, very hard to make this legislation as good as it is. I would also like to congratulate the chairpeople of the other committees who have been involved. There have been seven committees that have been involved in this legislation, and now we have the agreement of all of those committees. It is a bipartisan bill, and it is a bill that is now agreed to and supported by the administration, which I think is noteworthy as we move to the passage of this legislation.

I want to first say that this bill is the right thing to do because of the history of Eastern Europe, the history of our defense with NATO of Western Europe, and the significance of what has happened in Poland and Hungary in the last few months.

What we have been asking for 45 years is today happening before our very eyes. This legislation, even though it costs American taxpayers money, will help the people in Poland and the people in Hungary bring about real democracy and freedom in those countries. So it is the right thing to do.

It is also the smart thing to do. In the last decade, American taxpayers have spent over $1 trillion, taxpayers' dollars, to defend Western Europe against the Warsaw Pact. If the money we spend in this bill can achieve its purpose of bringing in freedom and hope and democracy to countries like Hungary and Poland, it simply means that we will not have to spend $1 trillion over the next decade to defend against the Warsaw Pact countries. That is good for our taxpayers, and that is good for the United States. It is the smart thing to do.

Finally, this legislation is the honorable thing to do. In 1776, America needed help as we fought our Revolution. We were given help by people from other countries. One of the people who helped was General Pulaski of the country of Poland, and one of the countries that helped was Poland. It is time now in 1989, as the people of Poland reach out for their freedom and their democracy, that we return the favor.

This bill is right. It is honorable. It is smart. Let us pass it by a huge majority.

AMENDMENTS OFFERED BY MR. COX

Mr. COX. Mr. Chairman, I offer two amendments and I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. Cox: At the end of the bill add the following:

TITLE VII—ADDITIONAL PROVISIONS CONCERNING ENTERPRISE FUNDS

SEC. 701. USE OF UNITED STATES PRIVATE VENTURE CAPITAL.

(a) MAXIMIZATION OF ENTERPRISE FUND RESOURCES.—In order to maximize the effectiveness of the activities of the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund (as designated pursuant to section 201), each Enterprise Fund may conduct public offerings or private placements for the purpose of soliciting and accepting United States venture capital which may be used, separately or together with funds made available pursuant to section 201, for any lawful investment purpose that the Board of Directors of the Enterprise Fund may determine in carrying out section 201(a).

(b) MATCHING VENTURE CAPITAL INVESTMENTS.—Enterprise Fund investments of funds made available pursuant to section 201, if the Board of Directors of the Enterprise Fund so determines—

(1) may include a matching component of private venture capital so as to enhance the effect of the contribution of the United States Government and increase the attractiveness of any potential return to venture capital investors; and

(2) may be made in private business enterprises that the Board determines have the potential for economic self-sufficiency and for earning an appropriate rate of return for the Enterprise Fund.

The Board may supervise and monitor such investments in such manner as is ordinary and prudent for the purpose of protecting the value thereof and enhancing the prospects for an appropriate rate of return on such investments.

(c) ENCOURAGEMENT OF ECONOMIC SELF-SUFFICIENCY.—The Enterprise Funds may condition any investment that includes a matching component of private venture capital on a detemination by the Board of Directors of the Enterprise Fund that—

(1) the private business in which such investment is to be made has the potential for economic self-sufficiency and for earning an appropriate rate of return; and

(2) the laws, or specific written assurances, of the host government permit repatriation of profits and capital from such investment.

(d) RETURNS FROM INVESTMENTS.—Financial returns on Enterprise Fund investments that include a component of private venture capital may be distributed, at such times and in such amounts as the Board of Directors of the Enterprise Fund may determine, to the investors of such capital.

At the end of the bill, add the following title:

TITLE VII—U.S. POLICY OBJECTIVES

SEC. 701. OBJECTIVES OF UNITED STATES ASSISTANCE.

(a) FINDINGS.—The Congress finds that—

(1) the most fundamental aspect of economic and political reconstruction in Poland and Hungary is to provide for the effective participation by the Polish and Hungarian people in determining their own future; and

(2) United States assistance to Poland and Hungary should be used to promote the development of greater personal freedom and economic liberty through maximum privatization of economic relations, decentralization of economic control and political pluralism.

(3) United States assistance to Poland and Hungary to facilitate the development of democratic institutions and free market economic systems in these countries should be flexible, conditional on the achievement of measurable progress, and designed to preserve United States leadership in the context of multilateral efforts.

(b) OBJECTIVES.—In order to ensure that assistance provided under this Act is consistent with the findings contained in subsection (a), the objectives of such assistance shall be—

(1) to encourage the elimination of centralized control of the economy through—

(A) privatization of economic entities,

(B) establishment of full rights to acquire and hold private property, including land and the benefits of contractual relations,

(C) simplification of regulatory controls regarding the establishment and operation of businesses,

(D) dismantlement of all wage and price controls,

(E) removal of trade restrictions, including on both imports and exports, and

(F) liberalization of investment and capital, including the repatriation of profits by foreign investors; and

(2) to promote political pluralism through—

(A) establishment of fully democratic and representative political systems based on free and fair elections,

(B) effective recognition of fundamental liberties and individual freedoms, including freedom of speech, religion, and association,

(C) termination of all laws and regulations which impede the operation of a free press and the formation of political parties,

(D) creation of an independent judiciary, and

(E) establishment of non-partisan military, security, and police forces.

(c) POLICY REVIEW.—

(1) The President should prescribe a process for interagency review of all assistance provided under this Act.

(2) The President should ensure that all assistance provided to this Act is designed to contribute to the development of democratic institutions and free market economic systems in Poland and Hungary, and not to contribute any substantial benefit to Communist or other polticial parties or organizations which are not committed to respect for the democratic process.

Mr. COX (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. COX. Mr. Chairman, the House is on the verge of passing this very important measure to aid both Hungary and Poland, and I think all of us here in the Chamber, Republican and Democrat, even those who might oppose the bill on final passage, agree with the basic premise.

The United States cannot stand idly by while the Polish and the Hungarian people are struggling to regain control over their political and economic destinies.

After careful reading of the bill, I am concerned about the lack of clearly defined policy objectives in H.R. 3402, and for this reason I am proposing a new title VII that states clearly the policy objectives of the United States with respect to financial and economic assistance to Poland and Hungary.

The second amendment is designed to carry out the objectives stated in the concept paper offered by the administration for the fund which stated specifically each fund will be encouraged to seek contributions from others than the U.S. Government including both public and private organizations from the United States and the respective host country. To the extent that each fund is able to broaden its base of financial support, it could engage in operations, programs and projects that go beyond the purview of U.S. grants. So the purpose of my second amendment is to make clear the authority of each fund to accept private venture capital investment.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. COX. I am happy to yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, let me ask the gentleman with respect to one of the amendments on the additional provisions concerning enterprise funds which we discussed extensively, this does not limit the authority of the enterprise fund contained in the bill and which were requested by the administration; these are in addition?

Mr. COX. Reclaiming my time, yes, the chairman is absolutely correct. The purpose of this amendment is to expand the authority of the directors and in no way to limit their discretion.

Mr. FASCELL. And they are not mandatory?

Mr. COX. They are all permissive; none is mandatory.

□ 1550

Mr. FASCELL. Let me ask the gentleman about his other amendments, which were objectives of this assistance. These are guidelines that the gentleman thinks should be followed and objectives which should be obtained by this legislation, but in no way bind the hands of the administration.

Mr. COX. That is entirely correct. This is in the nature of a preamble, and it is discursive only.

Mr. FASCELL. Mr. Chairman, I thank the gentleman. He has made a reasonable contribution to the bill, and we accept the amendments.

Mr. COX. I thank the gentleman from Florida.

Mr. ROTH. Mr. Chairman, I support the amendment introduced by Mr. COX and Mr. HYDE.

We all agree on the overarching goals of our assistance to Poland and Hungary: to promote democracy and free enterprise.

As it stands, H.R. 3402 lacks clear objectives. It therefore lacks benchmarks—criteria—by which we can evaluate our assistance programs at regular intervals to determine whether they are working beneficially or not.

The amendment introduced by my colleagues remedies this deficiency. With respect to the overall goal of promoting economic freedom in Poland and Hungary, the amendment specifies, in part, that our assistance should promote the objectives of privatizing government owned and operated corporations, establishing the right to acquire property, and dismantling wage and price controls.

Similarly, with respect to the broad goal of establishing democracy in Poland and Hungary, the amendment specifies, in part, that our assistance should promote the objectives of establishing an independent judiciary and nonpartisan military, security, and police forces.

Let's not forget that what this bill authorize is a foreign aid program. In the past, foreign aid for broad purposes like "structural adjustment" and "policy reform" has all too often promoted neither internal liberalization nor economic growth, but rather has propped up inefficient bureaucratic structures.

H.R. 3402 provides foreign aid for very broad goals—the political and economic transformation of Poland and Hungary. There is too much at stake here to leave the operational meaning of those goals undefined.

By providing clear objectives, and specific criteria for measuring progress, this amendment will help ensure that this aid is used judiciously and effectively.

Equally important, the amendment will put additional pressure on the Communists in Poland and Hungary by making clear what concrete reforms they must accept in order for Poland and Hungary to continue to deserve United States assistance.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California [Mr. COX].

The amendments were agreed to.

The CHAIRMAN. Are there other amendments to the bill?

Mr. GONZALEZ. Mr. Chairman, I rise in support of H.R. 3402. This legislation was jointly referred to the Committee on Banking, Finance and Urban Affairs. In an effort to expedite the consideration by the House of this legislation, the committee agreed to be discharged from the consideration of the bill with the understanding that such an action does not have any prejudice to, or diminish in any way, the jurisdiction of the Committee on Banking, Finance and Urban Affairs. I want to express my appreciation to the Committee on Foreign Affairs for including, upon the recommendation of the Banking Committee, several amendments to provisions of the bill, as introduced, that are within the jurisdiction of the Banking Committee. It is this kind of cooperation between committees that permits the House to act quickly on urgent issues such as these.

One issue within the jurisdiction of the Banking Committee is the provision urging the use of the exchange stabilization fund for an exchange of financial assets with Poland to relieve their pressing economic problems. Poland urgently needs this assistance and it is consistent with current law for the exchange stabilization fund to be used in this manner. The exchange stabilization fund has been used in the past for this purpose and it is my belief that the exchange stabilization fund is an appropriate resource for our Government to use to assist the restructuring of the Polish economy.

There has been some confusion about how this fund has been used in the past and under what conditions the fund should be used to assist Poland. It is not the intent of this legislation to significantly alter the manner in which the exchange stabilization fund has been used in the past. The President and the Secretary of Treasury have used their discretion appropriately to require the likelihood of the implementation of a multilateral assistance facility prior to the use of the exchange stabilization fund. I want to be sure that this legislation is

not interpreted to mean that the exchange stabilization fund can only be used on the condition that a IMF agreement has been signed or that a letter of intent has been issued.

In this decade the exchange stabilization fund has been used to assist Mexico, Brazil, Argentina, the Philippines, Ecuador, and Nigeria to resolve critical economic problems. In each of these cases the exchange stabilization fund was used prior to the time that an IMF agreement was signed. This intervening time period between the use of the exchange stabilization fund and the signed IMF agreement ranged from between 2 and 9 months.

The exchange stabilization fund has also been used in advance of the issuance of a letter of intent from the IMF. In the case of Mexico, Brazil, and Argentina the exchange stabilization fund was used 2 or more months prior to the issuance of a letter of intent.

It is the intent of the legislation that the fund be used to further a Polish plan for economic restructuring at a time when the Department of Treasury is confident that the use of the fund will not result in a loss to the fund and in conjunction with the international financial institutions and assistance from other countries and the international financial institutions. However this consideration should not be interpreted to result in the use of the exchange stabilization fund in a more restrictive manner than the fund has been used in the past. Section 101 clearly demonstrates the intent of Congress for the exchange stabilization fund to be used to provide urgently needed assistance to Poland.

Mr. NOWAK. Mr. Chairman, I move to strike the last word, and I rise in strong support of the bill.

Mr. Chairman, this legislation not only offers substantial support to emerging democracies, it also recognizes remarkable achievement by the people in the Eastern bloc.

Although we had long hoped the Polish and Hungarian struggles to join the free world would be successful, even a year ago no Member of Congress could have predicted with certainty that events would bring us to this point today.

Liberalization is real in these nations. It is also very precarious. The democratic gains are fragile and must have the support of the West if they are to gain strength. The Polish economy and infrastructure are in such desperate condition that even the determination of the Polish people cannot repair them. Yet without resolving these massive problems, the gains they have made are sure to be lost.

American money alone is no answer, and we cannot buy stability or send enough money to rehabilitate the damages brought by 40 years of Communist control. But free nations are joining in helping to establish both short- and long-term restorative aid.

That is why we are considering this bill today. It is thoughtfully formulated, providing immediate relief for urgent needs and a wide variety of bilateral and U.S. assistance. It is not merely government-to-government currency exchanges; it strongly emphasizes private enterprise and initiative, sends technological and economic expertise, attacks the most serious environmental, trade, and agricultural needs, and grants the support a capable but overwhelmed nation can utilize advantageously.

If the great progress is to be sustained, it is essential that we help provide its sustenance. The provisions in this legislation will help to nourish the growth, and I strongly urge passage.

Mr. LAFALCE. Mr. Chairman, I move to strike the last word, and I rise in strong support of the bill.

Mr. Chairman, I rise to give my strong support to H.R. 3402, the Polish and Hungarian Democracy Initiative of 1989. Mr. FASCELL and Mr. HAMILTON deserve particular thanks for coming forward with an imaginative, bipartisan approach which puts Congress on record in support of democratic change in these two vital countries.

The front pages of daily newspapers and the lead stories of network evening news broadcasts have recently informed Americans of historic and dramatic changes taking place in Eastern Europe, first in Hungary and Poland, and now in East Germany. How should the United States respond to these historic developments? A large part of the answer, Mr. Chairman, is contained in this piece of legislation. Some of its more important provisions include U.S. support for:

The establishment of enterprise funds for the revitalization of the private sector in Hungary and Poland;

Stabilization assistance for Poland, to help the country meet its short- and long-term economic adjustment challenges;

A variety of trade and investment initiatives—designed to expand U.S. bilateral trade and commercial ties with these two countries.

The pace of change in Eastern Europe requires, in my view, a firm and immediate American response. Failure to react quickly and postively to those changes hardly serves U.S. national interests; and could, over the medium-term, actually weaken our relations with key allies while undermining the domestic positions of reform advocates throughout Eastern Europe. Two aspects of this bill provide strong support for a more active U.S. posture toward Eastern Europe:

First, a recent study done by the House Committee On Small Business, which I chair, places special emphasis on the need for far-reaching structural reform in Eastern Europe. To quote from the report:

> • • • The West's foremost responsibility is to insist that financial assistance to Eastern Europe be conditioned on a given country's readiness to implement long overdue structural reform, i.e., an end to public sector monopoly, liberalized capital markets, combined with a revitalized private sector and meaningful price reform.

The International Monetary Fund and the World Bank should be given major responsibility for overseeing those changes. But the United States also has a major role to play in this arena. H.R. 3402's provision for labor market transition assistance and technical training for private sector development could provide the appropriate framework for these domestic reform efforts.

Second, America's large and growing current account deficit requires new efforts to open foreign markets for U.S. goods and investment. Such efforts should be global, and must prominently include Eastern Europe. For this reason, I strongly endorse this bill's provisions for making Hungary and Poland eligible for participation in OPIC [Overseas Private Investment Corporation] and Eximbank [Export-Import Bank] programs. Japan's and Western Europe's investment and export guarantee programs in Eastern Europe have, up to now, been more ambitious than ours. In view of the region's traditionally strong desire for expanded business ties with the United States, the door remains open for a more active U.S. presence there, which we should take advantage of now, rather than later.

What now? In view of American stakes in Eastern European renewal, more vision and activism will be required of us. The Bush administration's initiatives toward Hungary and Poland point in promising directions. But a good deal more can, and should be done by the White House to galvanize Western support for reformist governments in Budapest and Warsaw today, and, perhaps, in East Berlin and Prague tomorrow. How? Through the following steps.

HELP POLAND NOW

Though other Eastern European countries are experiencing economic difficulties, Poland's situation verges on the catastrophic. Living standards are deteriorating, as essential foodstuffs become increasingly scarce. And inflation could reach 400 percent by the end of the year. The newly installed Mazowiecki Government's commitment to far-reaching market liberalization must be matched by a corresponding Western commitment to provide immediate financial assistance to Poland.

Congress should accordingly urge the Bush administration to use its considerable influence to obtain multilateral support for Poland. A number of recent suggestions put forward by Jeffrey Sachs, Harvard economist and adviser to Solidarity, strike me as especially appropriate in this regard.

World Bank structural adjustment loans in the range of $500 to $700 million;

An IMF standby credit of about $700 million;

A stabilization loan of about $1 billion, to replenish the country's exhausted foreign exchange reserves;

Refinancing of all debt service by the Paris Club which falls due this year and next.

REVIEW U.S. TRADE LAWS AND PRACTICES TOWARD EASTERN EUROPE:

A rapidly changing political and strategic landscape in Eastern Europe requires a corresponding willingness on both the Congress's and administration's part to review trade laws which have inadvertently served to undermine U.S. competitiveness in that region—from the use of tariffs and quotas in managing the flow of imports from Eastern Europe to West-East technology transfer.

ORGANIZE FOR THE CHALLENGE

Finally, major changes taking place in Eastern Europe require a longer term U.S. commitment to the region akin to the Berlin and other special task forces during periods of heightened East-West tension. In the past, the United States has demonstrated an impressive ability to organize itself for overcoming East-West crises. The paradox facing Washington today is that a more congenial environment in Eastern Europe for U.S. interests will,

if anything, require more durable mechanisms for coordinating economic and security policies toward this increasingly open and independent region. Congress should play a leading role in creating and staffing such an entity.

The United States should, indeed must, play a major role in Eastern Europe's reemergence as a self-conscious, effective partner in world affairs. Combined with these broader initiatives, I believe that H.R. 3402 provides us with some tools for doing just that.

Mr. MARTIN of Illinois. Mr. Chairman, Mr. Speaker, I rise in strong support of H.R. 3402 and the Grandy amendment.

For Poles and Hungarians the world over, for Polish and Hungarian-Americans, and indeed for all Americans, these are days of great hope and deep personal satisfaction. A tragic half-century that began with the poisoned ideology and mechanized brutality of the Nazi onslaught, and dragged on through four Orwellian decades of Soviet domination, is drawing to a dramatic close.

Five years ago, during the dark days of martial law in Poland, even the most indefatigable optimist could not have dreamed that Lech Walesa and the other leaders of the Solidarity trade union would, before the end of the decade, hold the balance of political power in Poland. A few short years ago Tadeusz Mazowiecki was the Communist government's prisoner. Today he is their Prime Minister.

Who, moreover, could have anticipated Hungary's courageous decision to open a corridor to freedom for the thousands of East Germans who—with their feet—cast the most powerful vote of all and in so doing softened the foundation under a moribund but determined dictatorship.

The road ahead for Poland and Hungary will not be an easy one, but they will not be traveling it alone. The $850 million in economic and agricultural assistance which the legislation now before the House provides is evidence that the President, the Congress, and the American people all recognize the important role that the United States has to play in helping Poland and Hungary accomplish the political and economic reform that will be essential to the restoration of democracy and national self-determination in all of Eastern Europe.

While the news is good, we can make it better. As the legislation before the House now stands, we'll be taking back with one hand much of what we're preparing to give with the other. I'm speaking specifically of the cargo preference laws under which the food aid portion of the aid package will be delivered.

Cargo preference law requires that at least 75 percent of all U.S. food donations be delivered on U.S. merchant ships. At $70 to $90 a ton, U.S. rates are two to four times the market average. As a result, $100 to $130 million of regularly appropriated food aid money—money that could be buying food for the tables of the world's hungriest and in many cases the world's starving—is instead buying premium priced floor space in the holds of U.S. cargo ships.

Of the $125 million we are providing in this bill for food aid, $20 million to $30 million will be eaten up in payment of the U.S. maritime's premium.

If we don't exclude the agricultural commodities made available in this bill from cargo preference requirements, the subsidy to U.S. shippers will be larger than Hungary's share of the food aid allocation and the Poles will be paying close to 40 percent of their $108 million food aid allotment on shipping costs. It makes you wonder if we should have included the U.S. Merchant Marine in the title of this bill.

Let's make this a package of aid work for Poland and Hungary. U.S. shippers are already being very well fed. Vote for the Grandy amendment and then vote for passage of this important legislation.

The CHAIRMAN. Are there any other amendments to the bill?

The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. GEPHARDT] having assumed the chair, Mr. HERTEL, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 3402) to promote political and economic democracy in Poland and Hungary as those countries develop and implement programs of comprehensive economic reform, pursuant to House Resolution 266, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill. The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 345, nays 47, not voting 40, as follows:

[Roll No. 295]

YEAS—345

Akaka	Applegate	Ballenger
Alexander	Aspin	Barnard
Anderson	Atkins	Bartlett
Annunzio	AuCoin	Barton
Anthony	Baker	Bates
Beilenson	Guarini	Morrison (CT)
Bennett	Gunderson	Morrison (WA)
Bentley	Hall (OH)	Mrazek
Bereuter	Hamilton	Murphy
Berman	Hammerschmidt	Murtha
Bilbray	Hastert	Nagle
Bilirakis	Hawkins	Natcher
Bliley	Hayes (IL)	Neal (MA)
Boehlert	Hefner	Neal (NC)
Boggs	Henry	Nielson
Bonior	Hertel	Nowak
Borski	Hiler	Oakar
Boucher	Hoagland	Oberstar
Brennan	Hochbrueckner	Obey
Broomfield	Horton	Olin
Browder	Houghton	Ortiz
Brown (CA)	Hoyer	Owens (NY)
Bruce	Hubbard	Owens (UT)
Bryant	Huckaby	Oxley
Bustamante	Hughes	Pallone
Byron	Hunter	Parker
Campbell (CO)	Hutto	Parris
Cardin	Hyde	Pashayan
Carper	Inhofe	Patterson
Carr	Ireland	Paxon
Chandler	James	Payne (NJ)
Clarke	Jenkins	Pease
Clay	Johnson (CT)	Penny
Clement	Johnson (SD)	Perkins
Clinger	Johnston	Petri
Coble	Jones (GA)	Pickett
Coleman (MO)	Jones (NC)	Pickle
Coleman (TX)	Jontz	Porter
Collins	Kanjorski	Poshard
Condit	Kaptur	Price
Conte	Kasich	Pursell
Conyers	Kastenmeier	Quillen
Cooper	Kennedy	Rahall
Costello	Kennelly	Rangel
Coughlin	Kildee	Ravenel
Cox	Kleczka	Regula
Coyne	Kolbe	Rhodes
Darden	Kolter	Richardson
Davis	Kostmayer	Ridge
de la Garza	Kyl	Rinaldo
DeFazio	LaFalce	Ritter
Derrick	Lagomarsino	Roberts
DeWine	Lancaster	Robinson
Dickinson	Leach (IA)	Roe
Dingell	Leath (TX)	Rogers
Dixon	Lent	Rohrabacher
Donnelly	Levin (MI)	Ros-Lehtinen
Dorgan (ND)	Levine (CA)	Rose
Douglas	Lewis (CA)	Rostenkowski
Downey	Lewis (FL)	Rowland (CT)
Durbin	Lewis (GA)	Rowland (GA)
Dwyer	Lightfoot	Roybal
Dymally	Lipinski	Russo
Early	Livingston	Sabo
Eckart	Lloyd	Saiki
Edwards (CA)	Long	Sangmeister
Edwards (OK)	Lowery (CA)	Sarpalius
Emerson	Lowey (NY)	Savage
Engel	Luken, Thomas	Sawyer
Espy	Machtley	Saxton
Evans	Madigan	Scheuer
Fascell	Manton	Schiff
Fawell	Markey	Schneider
Fazio	Martin (IL)	Schroeder
Feighan	Martin (NY)	Schuette
Fish	Martinez	Schulze
Flake	Matsui	Schumer
Flippo	Mavroules	Sharp
Foglietta	Mazzoli	Shaw
Ford (TN)	McCloskey	Shays
Frank	McCollum	Shuster
Frost	McCrery	Sikorski
Gallo	McCurdy	Sisisky
Gaydos	McDade	Skaggs
Gejdenson	McDermott	Skeen
Gephardt	McEwen	Skelton
Geren	McGrath	Slattery
Gibbons	McHugh	Slaughter (NY)
Gillmor	McMillan (NC)	Slaughter (VA)
Gilman	McMillen (MD)	Smith (FL)
Gingrich	McNulty	Smith (IA)
Glickman	Meyers	Smith (NJ)
Gonzalez	Mfume	Smith (TX)
Goodling	Michel	Smith (VT)
Gordon	Miller (WA)	Smith, Robert (OR)
Goss	Moakley	Snowe
Gradison	Mollohan	Solarz
Grandy	Montgomery	Spence
Grant	Moody	Spratt
Gray	Moorhead	Stallings
Green	Morella	

Stearns	Traficant	Weber
Stenholm	Traxler	Wheat
Stokes	Unsoeld	Whittaker
Studds	Upton	Whitten
Sundquist	Valentine	Williams
Swift	Vander Jagt	Wilson
Synar	Vento	Wise
Tanner	Visclosky	Wolf
Tauke	Volkmer	Wolpe
Tauzin	Vucanovich	Wyden
Thomas (CA)	Walgren	Wylie
Thomas (GA)	Walker	Yates
Thomas (WY)	Walsh	Young (FL)
Torres	Watkins	
Torricelli	Waxman	

NAYS—47

Archer	Erdreich	Myers
Armey	Fields	Ray
Brown (CO)	Frenzel	Schaefer
Buechner	Gekas	Sensenbrenner
Bunning	Hall (TX)	Shumway
Burton	Hancock	Smith (NE)
Callahan	Harris	Smith, Denny (OR)
Chapman	Hayes (LA)	Smith, Robert (NH)
Combest	Hefley	Solomon
Craig	Herger	Staggers
Crane	Holloway	Stump
Crockett	Hopkins	Tallon
Dannemeyer	Jacobs	Young (AK)
DeLay	Laughlin	
Dicks	Lukens, Donald	
Dornan (CA)	McCandless	
English	Miller (OH)	

NOT VOTING—40

Ackerman	Ford (MI)	Panetta
Andrews	Gallegly	Payne (VA)
Bateman	Garcia	Pelosi
Bevill	Hansen	Roth
Bosco	Hatcher	Roukema
Boxer	Lantos	Stangeland
Brooks	Lehman (CA)	Stark
Campbell (CA)	Lehman (FL)	Towns
Courter	Marlenee	Udall
Dellums	Miller (CA)	Weiss
Dreier	Mineta	Weldon
Duncan	Molinari	Yatron
Dyson	Nelson	
Florio	Packard	

□ 1612

The Clerk announced the following pairs:

On this vote:

Mr. Ackerman, for, with Mr. Roth against.

Mr. Dellums for, with Mr. Marlenee against.

Mrs. SMITH of Nebraska changed her vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. PELOSI. Mr. Speaker, I offer a personal explanation of my absence from vote. I was absent from the House due to my necessary return to San Francisco in the aftermath of the tragic earthquake there. Had I been here to vote, I would have voted the following way:

On rollcall No. 295, passage of H.R. 3402, the Polish and Hungarian aid bill, "yes."

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted:

"Nay" on rollcall No. 294.

"Aye" on rollcall No. 295.

GENERAL LEAVE

Mr. LEVINE of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 3402, the bill just passed.

The SPEAKER pro tempore (Mr. GRAY). Is there objection to the request of the gentleman from California?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

On September 23, 1989:

H.R. 2136. An act to amend the District of Columbia Code to limit the length of time for which an individual may be incarcerated for civil contempt in the course of a child custody case in the courts of the District of Columbia, and for other purposes.

On September 26, 1989:

H.J. Res. 133. Joint resolution designating the week beginning September 17, 1989, as "Emergency Medical Services Week."

On September 29, 1989:

H.J. Res. 204. Joint resolution to designate October 1989, as "National Quality Month."

H.J. Res. 407. Joint resolution making continuing appropriations for the fiscal year 1990, and for other purposes.

H.R. 2696. An act making appropriations for energy and water development for the fiscal year ending September 30, 1990, and for other purposes.

On September 30, 1989:

H.R. 3282. An act to amend title 5, United States Code, to authorize the continuation of the performance management and recognition system through March 31, 1991, and for other purposes.

On October 2, 1989:

H.R. 419. An act to provide for the addition of certain parcels to the Harry S Truman National Historic Site in the State of Missouri.

H.R. 1529. An act to provide for the establishment of the Ulysses S. Grant National Historic Site in the State of Missouri, and for other purposes.

On October 6, 1989:

H.R. 2835. An act to provide for the relocation of certain facilities at the Gateway National Recreation Area, Sandy Hook, NJ, and for other purposes.

On October 13, 1989:

H.R. 1486. An act to authorize appropriations for fiscal year 1990 for the Maritime Administration, and for other purposes.

On October 17, 1989:

H.R. 2358. An act to authorize appropriations for fiscal year 1990 for the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives, and for other purposes.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2990) "An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1990, and for other purposes."

The message also announced that the Senate agrees to the amendments of the Senate numbered 8, 13, 14, 15, 16, 26, 27, 28, 29, 33, 36, 37, 44, 51, 57, 59, 64, 71, 75, 76, 77, 78, 84, 87, 90, 91, 93, 94, 101, 104, 108, 111, 114, 119, 123, 128, 129, 132, 139, 141, 156, 172, and 176, to the above-entitled bill.

The message also announced that Mr. DODD be a conferee, on the part of the Senate, on the bill (H.R. 1487) "An Act to authorize appropriations for fiscal years 1990 and 1991 for the Department of State, and for other purposes", vice, Mr. BIDEN, excused.

AUTHORIZING THE CLERK TO MAKE TECHNICAL CORRECTIONS IN H.R. 3402, POLISH AND HUNGARIAN DEMOCRACY INITIATIVE OF 1989

Mr. LEVINE of California. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill just passed, H.R. 3402, the Clerk be authorized to correct section numbers, cross references, punctuation, and grammatical and spelling errors, to make necessary revisions in the table of contents, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2459, COAST GUARD AUTHORIZATION ACT OF 1989

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-298) on the resolution (H. Res. 270) providing for the consideration of the bill (H.R. 2459) to authorize appropriations for the Coast Guard for fiscal year 1990, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION TO HAVE UNTIL MIDNIGHT TOMORROW TO FILE CONFERENCE REPORT ON H.R. 2991, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers

may have until midnight tomorrow, October 20, 1989, to file a conference report on the bill (H.R. 2991) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, might I inquire of the distinguished majority leader, the program for next week?

Mr. GEPHARDT. Mr. Speaker, as the gentleman knows, we have finished voting for this evening. There will be no votes tomorrow, Friday. On Monday, October 23, the House will meet at noon. We will have under consideration six suspension bills. Recorded votes on the suspensions will be postponed until after debate on all. In any event, we will hold the votes until, as usual, 4:30 or 5 o'clock in the afternoon.

The bills to be considered are House Resolution 257, denouncing the European Community Broadcast Director; H.R. 2120, Reauthorizing and Amending the Deep Seabed Hard Mineral Research Act; H.R. 2095, Abandoned Mine Reclamation Act of 1989; H.R. 2581, aviation research grants; Senate Concurrent Resolution 74, authorizing the "Gift of Democracy" from the U.S. Congress to the Senate and Sejm in Poland; and H.R. 91, Anti-Terrorism and Arms Export Amendments Act of 1989.

Tuesday, October 24, the House will meet at noon. We will take up the short-term continuing resolution for fiscal year 1990, subject to a rule, and we will take up H.R. 2916, consideration of the conference report for VA, HUD Appropriation Act for fiscal year 1990.

Wednesday, October 25, we will meet at 10 a.m. and take up H.R. 2883, consideration of the conference report for the Agricultural Appropriation Act for fiscal year 1990; H.R. 3015, consideration of the conference report for the Transportation Appropriation Act of fiscal year 1990; and H.R. 45, Chinese and Central American Temporary Protected Stability Act of 1989, subject to a rule.

On Thursday, October 26 and Friday, October 27, we will meet at 10 a.m., and we will be taking up H.R. 2459, the Coast Guard Authorization Act of 1989, subject to a rule; H.R. 3443, to provide DOT review of air carriers securities acquisition, subject to a rule; H.R. 2991, consideration of the conference report for Commerce, Justice, State, and Judiciary Appropriation Act for fiscal year 1990; and H.R. 3012, consideration of the conference report for Military Construction Appropriation Act for fiscal year 1990.

As the gentleman knows, the reconciliation conference is going on, and there will be a lot of activity among the Members that serve on that reconciliation conference. It will begin meeting again on Monday, but also, I will inform the gentleman that it is the intention of the leadership to bring up the minimum wage bill. The most likely time we would bring that up would be a week from Tuesday, although there is some chance that it might be brought up at the end of next week, but far more likely it will be brought up a week from Tuesday. So that would be the week after next.

Mr. MICHEL. I know that we are going to be considering short-term continuing resolution on Tuesday. The gentleman knows that I suggested in the last couple of days that maybe we might, in view of the prospective veto of a couple of the measures, we may want to run that continuing resolution until November 15. Is the gentleman prepared to make that judgment as to whether or not that is what the committee is thinking about seriously, or is that in the ballpark for a date? I do not intend to hold the gentleman absolutely, and I yield to the gentleman.

Mr. GEPHARDT. We have not made a final decision. It is still under consideration. We are well aware of the suggestion of the gentleman, and we will made a decision and will surely tell the gentleman and consult with the gentleman on what that date will be.

Mr. MICHEL. Then by the end of next week, we are at October 27 by that date, and if my memory serves me correctly, we are running close against the debt ceiling problem.

Now, if we preceive of a problem probably complicated more from the other side of the Capitol more than here, is there any prospect of a short-term debt ceiling that we might have to deal with next week?

Mr. GEPHARDT. If the gentleman will continue yielding, we still are in hopes that the Senate will be able to produce a longer term debt ceiling. They have, as the gentleman knows, our bill over there, and they can pick it up and send it back, or they could send another long debt ceiling bill. In any event, we have to wait for the Senate.

We believe, and we understand that they will likely bring up a debt ceiling bill of a shorter longer term next week, and we should have a clearer reading at that time as to what we will have to do.

Mr. MICHEL. Mr. Speaker, I yield to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I want to ask the distinguished majority leader, it seems to me that the public would be better served if we could have the minimum wage up on the Tuesday or Wednesday of the week after next so that those people around the country who are concerned about the issues, particularly some who may want to come here, some who may want to talk to their Representatives, would have some kind of set date. There does not seem to be any urgent time pressure.

I just wondered if it might not be possible to reach some kind of an agreement to bring it up on Tuesday a week rather than bringing it up at the very end of next week. Frankly, from the standpoint of the Members' work and the scheduling of their time and looking forward to when they want to focus on it, if they had a date certain, I think that would make their lives somewhat easier. I just wondered if it might be possible to work out some agreement to bring it up on Tuesday a week.

Mr. GEPHARDT. Mr. Speaker, as I said previously, it is most likely our intention to bring it up on Tuesday a week. The only reason I cannot at this particular moment give a 100-percent commitment that that would be the case is that we are having some concerns about the next week and what will be involved in terms of conference reports, the short-term debt ceiling, et cetera. But I think the greatest likelihood is that it will be a week from Tuesday, and we will try even later today or tomorrow to give the gentleman a definite answer so Members can be told and will know.

We had this conversation last week, and I said that we would do our best to give the Members notice of 2 weeks or thereabouts, and that is why I wanted to come on the floor today and tell the gentleman that the greatest likelihood was that it would come up a week from Tuesday.

Mr. MICHEL. And that would be October 31?

Mr. GEPHARDT. I believe that is right.

Mr. GINGRICH. Mr. Speaker, I thank the gentleman. That is helpful.

Mr. WALKER. Mr. Speaker, if the gentleman will yield, I wonder if the distinguished majority leader might be able to tell us something about some advanced scheduling such as for November. Are we expected to have Monday and Friday sessions in November? And also I wonder whether or not there have been any plans made around the Veterans Day holiday, and I would inquire as to what the schedule of Congress would be at that time.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield further, we are trying to complete all the business that we have before us, as the gentleman knows. We do have this need to finish the reconciliation and to get the

budget finished so we can stop the sequestration. We have the need to do the debt ceiling, and there are a number of other pieces of legislation we want to try to get through.

The leadership is trying to see if it might be possible to even finish our business before the Thanksgiving recess. I cannot at all say that we can do that. There may be a lot of reasons why we cannot do that, and as the gentleman well knows, all these events are not in our control nor in the control of all of us together. But that is something we are endeavoring to do, and we want to see if it could be done.

If that could be done, we really need to be able to hold on to as many of these days in October and November as we can. This week, as the gentleman knows, we held on to Friday until yesterday, and we tried to let Members know yesterday afternoon that we would not have to meet on Friday or would not have votes on Friday. We will endeavor to give Members notice as soon as we can.

I would say that it looks to me as though in the next couple of weeks there is going to be a lot of heavy traffic on the floor. We have a lot to do and a lot of business to complete, with the appropriations, the budget, the debt ceiling, and what-have-you. So I would say that Members should expect that in the next couple of weeks we will have 4- and 5-day weeks.

Mr. WALKER. Mr. Speaker, if the gentleman from Illinois will yield further, I understand what the gentleman is trying to do, and I think all Members would love to get out of here by Thanksgiving, if that is possible, and would be willing to work the days necessary in order to do that.

On the other hand, if it appears as though that is not a very likely scenario, the fact is that we have election day coming up in November, and most Members would like to be able to plan on making arrangements to fill out an absentee ballot for election day or finding out whether or not we are going to have off the Monday before election so that Members can come back.

Most Members would at least like to know around Veterans Day whether or not they can accept Veterans Day speeches in good faith at this point, and most of us would like to know whether or not we can plan family holidays around Thanksgiving. It is a little difficult to schedule all of those things with 2 days' notice. That is the problem, and I am wondering if we can figure out some way to accommodate what the gentleman is trying to do and also give the Members some signal of what our intention would be if it appears that we are going to have to go past Thanksgiving.

Mr. GEPHARDT. Mr. Speaker, the gentleman is correct in saying that we would like to give Members as much notice as possible. We will try to have in Members' hands next week a calendar for November.

We do expect that on November 10 there will not be votes on the floor because of the holiday, and we will make a decision between now and next week on the election day question so that Members can plan that.

One final note: I know the gentleman probably expresses the majority opinion when he says that we probably cannot get out by Thanksgiving, but I believe that if we can dream it, we can do it. I think we have to start believing that we might be able to do it if we are to actually bring it off. I believe that would be a good thing to do.

Mr. WALKER. Mr. Speaker, let me say to the gentleman that I hope that dream comes true, but in the meantime it is creating a number of nightmares, and I am hopeful that we can at least give the Members as much notice as possible.

Mr. GEPHARDT. Mr. Speaker, we certainly do not want to contribute to nightmares. We hope to have sweet dreams.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Mr. MICHEL. Mr. Speaker, I yield back the balance of my time.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Madam Speaker, I ask unanimous consent that the business in order under the Calender Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore (Ms. OAKAR). Is there objection to the request of the gentleman from Missouri?

There was no objection.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES ON MONDAY NEXT

Mr. GEPHARDT. I ask unanimous consent that it be in order for the Speaker to declare recesses on Monday, October 23, 1989, subject to the call of the Chair.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ADJOURNMENT FROM FRIDAY, OCTOBER 20, 1989, UNTIL MONDAY, OCTOBER 23, 1989

Mr. GEPHARDT. Madam Speaker, I ask unanimous consent that when the House adjourns on Friday, October 20, 1989, it adjourn to meet at noon on Monday, October 23, 1989.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DEVELOPMENTS CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO PANAMA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-100)

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

(For message, see proceedings of the Senate of today, Thursday, October 19, 1989.)

RESOLUTION SUPPORTING REGIONAL EFFORTS TO END DRIFT NET FISHING IN SOUTH PACIFIC

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FALEOMAVAEGA. Mr. Speaker, I come before this body once more to decry the use of high-technology drift nets by foreign fleets in the South Pacific. I rise today to introduce legislation supporting regional efforts to immediately ban this ecologically destructive fishing practice in the South Pacific.

Mr. Speaker, when one goes hunting for deer, you don't bomb the entire forest. But that, in the minds of many, is exactly the type of outrageous overkill that results from the deployment of 40 to 50 mile drift nets extending 50 feet deep on the South Pacific's high seas. Through the marine environment, the drift nets cut a swath of death that is unimaginably long, brutally efficient and indiscriminate in purpose. Untold thousands of porpoises, dolphin, whales, nontarget fish, sea turtles, and sea birds are senselessly slaughtered by drift net fishing. In short, nothing of substance escapes these maws of death.

On our recent visit to the South Pacific, my colleagues, Chairman STEPHEN SOLARZ, ROBERT DORNAN, and I met with the leaders of the island nations. These leaders relayed that within the past 2 years, the nations of the South Pacific have been confronted by a mushrooming, unchecked growth in the size of the foreign drift net fleets from Taiwan and Japan. These countries are the only ones that continue to drift net fish in the region. Although the increased drift netting poses a great danger to the South Pacific's marine resources, particularly hardstruck have been the albacore tuna stocks of the region. Albacore

tuna, for many of the Pacific island countries, constitutes the lifeblood and mainstay of their economies.

This past season, the albacore harvest by the foreign drift net fleet rapidly increased to an alarming level. The drift net catch is estimated by regional scientist to be two to three times the sustainable yield of the albacore stocks, and could decimate this vital fishery in as short as 2 years.

These preliminary studies galvanized the 15 island nations of the South Pacific forum to issue in July 1989 the "Tarawa Declaration," which calls for an immediate cessation of drift net fishing in the region pending further negotiations for a drift net free zone. This month, the South Pacific Commission, an organization comprised of the island governments and several western powers, adopted a resolution calling for an immediate ban on drift net fishing in the South Pacific until a fishery management program can be established.

Despite the international condemnation of this destructive practice and the call for its cessation in the South Pacific, Taiwan, and Japan have chosen not to comply and plan to continue their drift net operations in the region.

In introducing this concurrent resolution, Mr. Speaker, I am privileged and humbled by the tremendous show of bipartisanship in this endeavor. I am extremely pleased to announce to the leaders of the Pacific Island countries that 230 members of this great institution are original cosponsors of this resolution calling upon Taiwan and Japan to stop—immediately—the use of drift nets in the South Pacific.

This would not have been possible without the invaluable contributions of the distinguished gentleman from New York, House Subcommittee on Asian and Pacific Affairs chairman, Mr. STEPHEN SOLARZ; The distinguished gentleman from Iowa, ranking minority member of the subcommittee, Mr. JIM LEACH; the distinguished gentleman from Massachusetts, House Subcommittee chairman on fisheries, wildlife and the environment Mr. GERRY STUDDS; the distinguished gentleman from Alaska, ranking minority member of the Fisheries Subcommittee, Mr. DON YOUNG, and the distinguished gentleman from California, Mr. ROBERT DORNAN. I would also like to acknowledge the strong support of this resolution by my esteemed colleagues from the Pacific, the distinguished gentleman from Guam, Mr. BEN BLAZ; the distinguished gentleman from Hawaii, Mr. DANIEL AKAKA; the distinguished gentlewoman also from Hawaii, Mrs. PATRICIA SAIKI; and my good friend and colleague the distinguished gentlewoman from the State of Washington, Mrs. JOLENE UNSOELD, a leading proponent to ban drift net fishing in the Pacific.

Mr. Speaker, again, in good faith, I call upon the leaders of Taiwan and Japan to seriously consider this expression of concern by this body, and I am confident that our distinguished colleagues in the Senate will concur accordingly.

COSPONSORS FOR DRIFTNET RESOLUTION

Faleomavaega (original sponsor), Solarz, Dornan of California, Studds, Young of Alaska, Leach of Iowa, Ackerman, Akaka, Alexander, Anderson, Anthony, Applegate, Atkins, AuCoin, Baker, Barnard, Bates, Beilenson, Bennett of Florida, Bentley, Bereuter, Berman, Blaz, Boggs, Bosco, Boxer.

Brooks, Broomfield, Browder, Burton, Bustamante, Byron, Campbell of Colorado, Carr, Chapman, Clarke, Clay, Clement, Coble, Coleman of Texas, Conte, Costello, Coughlin, Coyne, Craig, Crane, Crockett, Dannemeyer, DeFazio, de la Garza, Dellums, de Lugo.

Derrick, Dicks, Dixon, Dorgan, Duncan, Durbin, Dymally, Dyson, Eckart, Edwards of California, Emerson, Engel, Espy, Fauntroy, Fazio, Feighan, Fields, Fish, Flake, Foglietta, Frank, Frenzel, Gallegly, Gejdenson, Gephardt, Gibbons.

Gilman, Glickman, Gonzalez, Goss, Gray, Guarini, Hall of Ohio, Hammerschmidt, Hansen, Harris, Hastert, Hawkins, Hayes of Illinois, Hefner, Henry, Hertel, Herger, Hoagland, Hoyer, Hubbard, Huckaby, Hunter, Hutto, Hyde, Jacobs, Jenkins.

Johnson of South Dakota, Johnston of Florida, Jontz, Kanjorski, Kaptur, Kastenmeier, Kennedy, Kennelly, Kildee, Kostmayer, Lagomarsino, Lantos, Laughlin, Leath of Texas, Levin, Levine, Lewis of California, Lewis of Georgia, Lightfoot, Lipinski, Long, Lowery of California, Lowey of New York, Lukens of Ohio, McCloskey, McCrery.

McCurdy, McDermott, McEwen, McNulty, Markey, Martin of Illinois, Martinez, Matsui, Mavroules, Meyers of Kansas, Mfume, Miller of California, Miller of Washington, Mineta, Montgomery, Moody, Moorhead, Morella, Mrazek, Murphy, Murtha, Myers of Indiana, Neal of Massachusetts, Neal of North Carolina, Nielson of Utah, Nowak.

Oakar, Oberstar, Obey, Ortiz, Owens of New York, Owens of Utah, Pallone, Panetta, Parker, Patterson, Payne of New Jersey, Payne of Virginia, Pelosi, Penny, Perkins, Pickle, Porter, Poshard, Rahall, Rangel, Rhodes, Richardson, Rohrabacher, Ros-Lehtinen, Rose, Roth.

Roybal, Russo, Sabo, Saiki, Sangmeister, Sarpalius, Savage, Sawyer, Scheuer, Schroeder, Schuette, Schumer, Shumway, Shuster, Sikorski, Skelton, Slaughter of New York, Smith of Florida, Snowe, Solomon, Stallings, Stark, Stenholm, Stokes, Stump, Swift, Synar.

Tallon, Tanner, Tauzin, Thomas of Wyoming, Torres, Torricelli, Traficant, Udall, Unsoeld, Vento, Vucanovich, Waxman, Weiss, Wheat, Williams, Wilson, Wise, Wolf, Wolpe, Wyden, Visclosky, Yates.

H. CON. RES. —

Whereas Japan and Taiwan have significantly expanded the combined size of their driftnet fishing fleets in the South Pacific region in recent years, from 9 vessels in 1987 to at least 121 vessels in the 1988–89 fishing season;

Whereas there is considerable concern among the nations of the South Pacific region that the continued widespread use of driftnets poses a danger to the South Pacific's marine resources and particularly to the albacore tuna resources of the South Pacific;

Whereas according to the report of the Second South Pacific Albacore Research Workshop, which was conducted in June 1989 under the auspices of the South Pacific Commission and included scientists from Japan and Taiwan, the harvest of South Pacific albacore tuna by driftnet fishing has "rapidly increased to an alarming level";

Whereas according to some marine biologists the continued practice of driftnet fishing in the South Pacific at current levels could deplete harvestable albacore tuna fish stocks within 2 years;

Whereas the depletion of this marine resource would have severe economic consequences not only for many of the nations of the South Pacific but also for United States economic interests in American Samoa and California;

Whereas scientific research to assess accurately the impact of driftnet fishing in the South Pacific has been greatly impeded by the absence of statistically reliable scientific data concerning driftnet fishing operations in the region, particularly those of Taiwan;

Whereas current driftnet practices result in the indiscriminate slaughter of sea birds, sea turtles, nontarget fish, porpoises, whales, seals, and other marine mammals, lending credence to claims that they function as "walls of death" where they are used;

Whereas lost and abandoned driftnets, called "ghost nets", continue to entangle, maim, and aimlessly kill thousands of marine animals each year;

Whereas on June 28, 1989, at a meeting convened in Suva, Fiji, by the South Pacific Forum Fishers Agency, to discuss the impact of driftnet fishing on albacore tuna stocks, the South Pacific nations, supported by the United States, called for a cessation of driftnet fishing in the South Pacific until a management regime can be established;

Whereas on July 11, 1989, the South Pacific Forum, a regional organization composed of 15 South Pacific countries, issued the Tarawa Declaration, which calls on the international community to support and cooperate in the negotiation of a regional convention to establish a driftnet free zone in the South Pacific region;

Whereas pending the negotiation of such a convention, the Tarawa Declaration calls for an immediate cessation of driftnet operations in the region by Japanese and Taiwanese vessels;

Whereas on October 11, 1989, at the 29th session of the South Pacific Conference, convened in Guam, the South Pacific Commission, including the United States, supported a resolution calling for an immediate ban on the practice of driftnet fishing in the South Pacific region to allow time for the development of a comprehensive fishery management program;

Whereas Japan has announced that it would not cease the practice of driftnet fishing but would reduce the number of its driftnet fishing vessels in the South Pacific region by two-thirds during the next fishing season; and

Whereas Taiwan has neither agreed to cease its driftnet operations in the South Pacific nor to reduce the size of its driftnet fleet: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. UNITED STATES SUPPORT FOR REGIONAL EFFORTS TO PROTECT MARINE RESOURCES IN THE SOUTH PACIFIC.

(a) PROTECTION OF MARINE RESOURCES.—The Congress declares that it is in the interests of the United States to support regional efforts to protect the marine resources of the South Pacific from the indiscriminate slaughter caused by driftnet fishing, not only albacore tuna but also porpoises, whales, seals, and other marine mammals, sea birds, sea turtles, and nontargeted fish.

(b) SUPPORT FOR TARAWA DECLARATION AND SOUTH PACIFIC COMMISSION RESOLUTION.—(1) The Congress supports the Tarawa Declaration's call for an immediate cessation of driftnet fishing in the South Pacific.

(2) The United States supports the policy, as expressed in the resolution of the South Pacific Commission, calling for an immediate ban on driftnet fishing in the South Pacific in order to allow time for the development of comprehensive fishery management programs in the region.

(c) INTERNATIONAL CONVENTION BANNING DRIFTNET FISHING.—The Congress urges the Secretary of State to cooperate with regional organizations in the South Pacific in the formulation of an international convention banning driftnet fishing in that region.

(d) ACTIONS BY JAPAN AND TAIWAN.—It is the sense of the Congress that Japan and Taiwan—

(1) should immediately cease the use of driftnets in the international waters of the South Pacific; and

(2) should furnish immediately all available scientific data on their driftnet fishing catch in the South Pacific to both the South Pacific Forum and to other appropriate regional or international organizations such as the South Pacific Forum Fisheries Agency.

SEC. 2. TRANSMITTAL OF RESOLUTION.

The Clerk of the House of Representatives shall transmit a copy of this resolution to the Secretary of State with a request that the Secretary transmit copies of the resolution to appropriate authorities in Taiwan, the Government of Japan, and the governments of the member countries of the South Pacific Forum.

VETERANS' HOSPITALS COPING IN EARTHQUAKE AFTERMATH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Madam Speaker, as the cities of San Francisco, Oakland, Santa Cruz, and surrounding communities begin the tremendous task of recovering from the devastation of Tuesday's massive earthquake, I know my colleagues join with me in letting the citizens of the area know that they are in our thoughts and prayers.

As chairman of the Committee on Veterans' Affairs, I want to share with my colleagues the following damage assessment of the four major veterans' medical facilities operated by the Department of Veterans Affairs in the earthquake region. The Department has sent a team of engineers from Washington to further assess damage at the hospitals and to help develop an action plan.

DAMAGE ASSESSMENT

SAN FRANCISCO

Status: The San Francisco VA Medical Center is located in the Western section of the city. The medical center has not sustained major damage from the earthquake. A more complete survey of buildings is currently underway.

The Director reported that the medical center lost power immediately following the earthquake. Power was restored during the night and all major utilities are operating. All communication systems are operational except FTS trunk lines. It has not been necessary to evacuate patients. Staff are being advised to report to work as usual. All transportation systems and networks are operating and it is not expected that the facility will experience problems and staffing shortages.

The medical center can accept some acute referrals and is prepared to accept them from area VA facilities.

Plan: Complete assessment of damage to structures, grounds and utilities to determine extent of corrective action required. Remain on standby to accept referrals from area VA facilities.

PALO ALTO

Status: The Palo Alto VA Medical Center is located 35 miles south of San Francisco. The medical center has sustained substantial damage from the earthquake, especially buildings one and five which house acute care wards and support services such as Radiology and Laboratory. Patients and staff have not sustained any injuries based on current information. As assessment of damage is currently underway.

250 patients were evacuated from buildings one and five within 30 minutes of the earthquake. Most have been relocated to other structurally sound buildings and arrangements are being made for transfers to other VA facilities. All other patient care buildings appear to be structurally sound, however, more through assessment will continue to be made.

Service buildings and other abandoned Administrative, Research and Support buildings have been severely damaged. Telephone systems have been interrupted throughout the facility and basically they are not operational. Radios are being used as a primary source of communication. Both Palo Alto and its Menlo Park Division have had major interruption to utilities. Complete gas service has been terminated at the Palo Alto Division. Water service has been severely curtailed at the Palo Alto Division. The Boiler Plant at Menlo Park is operational. Palo Alto's Boiler Plant suffered severe damage and is operating on a very restricted basis. Elevator systems at both Centers have been severely damaged and they are out of service. Electrical system in the less than severely damaged buildings appear to be in reasonably good shape. There is considerable damage to ADP equipment and most sensitive patient care diagnostic equipment.

The facility expects to have approximately 80% of employees report to work, however, due to the severely damaged and abandoned buildings there may be a problem with finding them a suitable work place.

Plans are being made for 100 patients to be transported to the Livermore VAMC by ambulance and van. Some may need air transportation and the staff is coordinating their efforts.

Transportation systems and roadways have been damaged. The impact of interruption is not known at this time.

Associate Director Charles Clark said employees "have performed in an exemplary manner." He reported patients were carried down stairs and out of buildings following the earthquake by medical center staff, including physicians and administrative personnel, using blankets, sheets and gurneys. He also reported many staff returned to the medical center immediately after the earthquake to assist. Assistance also came from patient's family members and two nurses who did not work at the facility, but stopped to help out throughout the evening. At least one patient, 95-year-old Jessie Winn, is having a sense of deja vu from the quake, having lived through the San Francisco quake in 1906.

MARTINEZ

Status: The Martinez VAMC is located approximately 16 miles from San Francisco. The facility has not sustained major damage. A full survey of damage will be conducted.

According to the Director, there has been no need to transfer patients from the medical center. All critical patient care and communication systems are operating. Based on preliminary assessment, the hospital buildings appear to be structurally sound. The clinic sustained cosmetic damage and a major roadway located three blocks away has collapsed.

Roadways and transportation systems to and from the medical center are generally accessible. The Director does not expect to experience problems of staffing shortages. Employees are being told that business is as usual. The Medical Center can take up to 150 patient referrals from other area facilities.

Plan: Complete assessment of damage to structures, grounds and utilities to determine extent of corrective actions needed. Remain on standby to accept acute care patient referrals from area VA hospitals.

LIVERMORE

Assessment of damage

No apparent physical damage at medical center. Physical plant surveyed Tuesday night. More indepth survey to occur when appropriate engineers can be obtained. Initial evaluation suggests facility is in no danger and suffered no damage as a result of the earthquake.

Patient transfers

Livermore will not be transferring any patient to another facility. However, tentative arrangements have been made to transfer approximately 100 patients to Livermore from Palo Alto which sustained severe damage to patient care buildings 1 and 5.

Communication

Internal facility communications are intact. There is some difficulty getting into the facility by telephone, and maintaining calls. It is believed that this is caused due to the tremendous telephone traffic which is occurring within the area.

Staffing shortages

None expected as most employees live within the local area and would not be affected by the bridge damage.

□ 1630

WHO NEEDS ENEMIES WITH FRIENDS LIKE OLIVETTI?

The SPEAKER pro tempore (Ms. OAKAR). Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Madam Speaker, once again, a foreign company has been accused of violating export agreements under the jurisdiction of the Coordinating Committee on Multilateral Export Controls or Cocom. Cocom is the unofficial forum through which the United States and its allies align their export-control policies to prevent the transfer of technology to the Communist bloc.

Now Italy's Ing. C. Olivetti & Company is alleged to have supplied militarily valuable technology to the Soviets and this revelation comes amidst pressure from "allies" and manufacturers to relax Cocom restrictions on high technology.

Relaxing Cocom restrictions just may be the catalyst that increases illegal technology exports. Indirectly, illegal sales have prompted the administration to consider relaxing export controls on machine tools because of pressure from machine tool companies and foreign machine tool manufacturers.

The logic is that East bloc countries can and will get this technology somehow, so we may as well sell it to them and make a profit.

Again, we live up to Lenin's prophecy that says, "The capitalists will supply us materials and technical equipment which we lack, will restore our military industry necessary for future attacks against our suppliers. To put it in other words, they will work on the preparation of their own suicide."

Lenin could use Olivetti's alleged export violation as a case-in-point—the West will do anything to make a profit even if it means selling out the larger interests at stake. I really don't think this is what we want for the West.

Engraved in stone at our own National Archives is another prophecy we should have no trouble understanding. It reads, "What's past is prologue." What has happened before is an introduction to the future: And we are not taking advantage of this warning.

A recent article in the Washington Post quoted an administration source as saying:

> The alleged Olivetti exports could prove to be more serious than the 1987-88 case in which the Toshiba Machine Company of Japan provided $17 million in milling machinery to the Soviets that was believed to have enabled them to build extremely quiet submarine propellers.

If only we could learn from experience. Toshiba and Norway's Kongsberg's sale of machine tools to the U.S.S.R. put back NATO's ability to detect Soviet submarines by 10 years at an estimated cost of $30 billion or much more.

Olivetti's alleged violation is wrong. Cocom was established to protect Western technology. Not only American technology, but all Western technology; and by relaxing export restrictions, we will be telling member nations, like Italy, that Cocom regulations mean nothing—export whatever you like and it will be overlooked.

Olivetti allegedly sold machine tools, which are believed to have been used to make parts for a Soviet jet fighter, the Yak-41, a new vertical-takeoff supersonic warplane. This sale is profitable to Italy and the Soviet Union at the expense of Western security.

The Yak-41 is the latest generation of Soviet fighter jets—more powerful than the Mig-29 which, until now, had been considered the top-of-the line in Soviet fighter planes.

To demonstrate the global importance of keeping our high technology in Western hands, it is important to remember that the Soviet Union exports military weapons to their allies. North Korea is the beneficiary of numerous Mig-29's and may soon be the beneficiary of Yak-41's.

An article in the September 2, 1989 issue of Congressional Quarterly asserts that the Mig-29 rivals or exceeds the F-16 in performance—and the F-16 technology was the centerpiece of the FSX controversy with Japan. Will the F-16 be able to hold its own with the Yak-41 or will we again be forced to upgrade?

Madam Speaker, while I am mentioning the FSX situation, I just want to remind our audience that we have reason to believe that the reason that the Russians were able to build the Mig-29 and that the Japanese were able to threaten us that they were going to develop their own FSX program is that in 1979 a Japanese source did get the plans for the F-16 plane, our F-16 plane. It was sold in Japan, and it was also sold to the Russians. So, that technology was transferred many, many years ago.

Moreover, the North Korean military, through illegal, third-party sources, has acquired approximately 80 small, United States-made Hughes helicopters.

United States servicemen in Korea potentially could be killed by illegally acquired Western equipment and technology supplied by our allies. They laugh all the way to the bank while the United States Government continues to spend billions of dollars to protect South Korea, and go deeper in debt doing so.

The Yak-41 is no child's toy. It is a state-of-the-art, strategic weapon—a warplane that Olivetti may have helped construct.

Even though the export of illegal technology provides lucrative opportunities for companies and countries alike, the growing trend is reinforced by the perception of a global movement toward representative government.

Although we are told that the Soviets do not have money for consumer goods and infrastructure, they do seem to have funds to build strategic weapons using illegally obtained technology. And, of course, paying for that illegally obtained technology.

The Soviet advances toward democratization remind me of throwing a rock into a pond and watching the expanding ripples. We have thrown democracy into their midst, but it does not mean that democracy has penetrated any further than the surface of the Soviet system.

A move toward democracy and capitalism may suit many Americans, as it may suit many of our allies, but there still are many unanswered questions.

As long as modern nations maintain a military, organizations like Cocom will be incremental to world security. If Cocom nations do not choose to uphold, to enforce and to monitor their corporations, they should make this known at the upcoming Cocom meeting and put their cards on the table.

I commend President Bush for his concern over Olivetti's alleged illegal sale to the Soviets and hope that negotiators keep the sale in mind when Cocom convenes in Paris on October 25.

If our allies continue to undermine Western security, Madam Speaker, I ask you the rhetorical question, With friends like these, who needs enemies?

□ 1640

INTEREST RATES AND AIDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Madam Speaker, I would just like to comment on the previous speaker's special order briefly. I think the gentlewoman from Maryland is right on the money, and I appreciate the comments that she makes on a regular basis to this House.

I would like to point out that with respect to the FSX deal that the Japanese garnered with the United States, they once again I think got a pretty good deal, while the United States ends up getting the short end of the stick again.

Today I received a letter from a major financial businessman, an industrialist in this country. He told me that he has been able to buy 25 percent of the stock of a major Japanese corporation, and even though he is the biggest stockholder of that corporation, Mr. Pickens, he cannot even attend the board meetings, get financial information, cannot be on the board of directors. They are in fact blackballing him for being a participant, and yet he owns more of the Japanese company than any other stockholder. That is the way the Japanese are treating us, while at the same

time we continue to give them things like FSX technology. I think it is a terrible tragedy, and we need to be very forthright in dealing with the Japanese to let them know that we are mad as heck and we are not going to take it anymore.

I have two things, Madam Speaker, that I want to talk about briefly today. I know everbody is anxious to depart, so I will not take too much time.

First of all, Madam Speaker, I rise today to call on the Federal Reserve Board to reduce interest rates. I also urge my colleagues to do their part to reduce interest rates by significantly reducing the deficit.

During the past decade the American automobile industry has vastly improved its efficiency. Our autoworkers work hard and, in my view, build cars that are as good as any in the world. We can compete with Japan or anyone else in the world if we have a level worldwide playing field.

But Americans cannot afford to purchase automobiles or other consumer durables if interest rates are too high. And interest rates have been too high for much of this year. The result has been a loss of approximately 105,000 manufacturing jobs in August, which includes a loss of 35,000 automobile manufacturing jobs. This translates into economic hardship for my district, which contains several major automotive part plants and many other smaller manufacturing facilities. These provide jobs for thousands of my constituents. Many of my colleagues from similar districts in the Midwest and other regions of the country can report similar difficulties at home.

I urge my colleagues in Congress to join me in my efforts to influence the Federal Reserve Board to reduce interest rates. Whatever the merits were earlier this year of keeping interest rates higher to hold down inflation, there is clearly much less inflationary pressure on the economy now. Lower interest rates will create new jobs in the automobile and other manufacturing industries and strengthen our economy as a whole. This will help greatly to reduce the deficit. Even relatively small drops in the unemployment rate save the Government billions of dollars. In turn, this economic growth will help stabilize our financial markets.

We cannot depend on the Federal Reserve Board alone to reduce interest rates. Congress must also do its part by reducing the deficit. If the Federal Government borrows less money to pay its bills, there is more money available for other borrowers and this will help reduce interest rates. Since all of these factors are so closely linked, it is crucial that Congress take action to significantly cut the deficit. Unfortunately, the House and Senate leadership have clearly evaded their responsibility in this area. Congress is not even able to pass so-called deficit reduction legislation by the new fiscal year deadline. The measure we are working on does not even begin to make any serious cuts in Federal spending. At the very least, we need an across-the-board freeze of all Federal spending. My constituents have indicated that they would support this action if all citizens are treated fairly, and I am convinced that our Nation as a whole agrees.

Madam Speaker, the other issue I want to talk about briefly tonight is an issue I have been talking about for some time, and that issue is AIDS. We have a pandemic, which is a horrible epidemic, facing this Nation.

Now, I have said on this floor many times that according to my projections and the projections of others, we are going to have as many as 4 to 8 million people in this country dead or dying of AIDS by the turn of the century. Now, when you realize we have about a 245-million population in this country and you realize that we are going to have 4 million, at least, dead or dying by the turn of the century, that means 1 out of every 60 or 65 people is going to be dying of AIDS. We only have 1.3 million hospital beds. I do not know where we are going to put all these people. I am sure we will be coming up with hospices and using buildings or sanatoriums for this purpose; but the fact of the matter is a lot of this could be avoided if we did the right things now, if we took the proper action right now.

Many of my colleagues have poohpoohed some of the things that we have said in the past. They continue to listen to the Center for Disease Control. I think the Center for Disease Control and HHS have not been giving the people of this country all the facts.

This week it was reported in the Indianapolis Star, and I think carried by many other papers across this country, a 2-year study that was done by the Hudson Institution, which is one of the leading think tanks in America regarding the AIDS pandemic. Now, it is no secret that I have been for mandatory testing programs for all Americans, adult Americans, because I think that is the only way we are going to find out where the disease is spreading most rapidly, how it is spreading, who has it, and what we can do to combat it. We need that statistical data, and we also need to do contact tracing, follow up each year with testing, so we can find out who is continuing to be irresponsible by going out and having sexual contact or other contact with human beings while they know they have the AIDS virus. It is worse than shooting someone with a gun, in my opinion. If a person has AIDS, as many of them know it and they continue to have sexual contact with people who unknowingly are dealing with someone with AIDS, then they are in effect putting them at risk and killing a lot of them.

There was an article in a Boston newspaper not long ago about a prostitute who was arrested at 2 o'clock in the morning. When she was arrested, she was getting into a brand new Mercedes Benz automobile from Bingham, MA. The police took her downtown and when they took her downtown they noticed that she had a plastic band on her wrist. The arresting officer as he was booking her said, "What is that band for on your wrist?"

And she said, "Well, I just got released from the hospital."

And he said, "What were you in the hospital for?"

And she said, "Oh, I have AIDS."

And he said, "Don't you realize you could be infecting other human beings out there?"

And as she rolled down her socks and exposed lesions on her legs which were oozing, making one of the policeman ill, she said, "I don't care. I need another fix."

Well, she was put in jail that night. The next morning this prostitute was taken before the judge and released on bail, and they saw her back in the red light district later on that day having sex with unknowing customers.

Now, that man in that Mercedes Benz, had he had contact with this woman, probably would have gone back to his wife and exposed her to the virus as well.

In Washington, DC, Howard University did a study. The last I heard of the study, they had found that approximately 50 percent of the prostitutes in this town have the AIDS virus, and they are out plying their trade every night, so conventioneers and people who come to this town to visit the Capitol, who go down there, are at risk, grave risk of getting AIDS and taking it back home to their families.

I even heard a young man talking about a liaison he had with one of those ladies. He was 23 years old. I heard him tell his friend, he said, "I haven't been married that long. I feel bad about it."

And the guy says, "Oh, don't worry about it. You're just sowing your wild oats. You're a young man."

All I could think of as I was eating my Chinese food in a restaurant here in town when I overheard this was, God, I hope that lady didn't have AIDS, because his wife is liable to have it and if she conceives, the child is at risk as well.

So we have a real problem in this country, and many people think that we have to have a comprehensive program to deal with AIDS. I have been

preaching about this for some time, but it continues to fall on deaf ears.

Let me just give you some statisitical facts, my colleagues. In 1983, we had 4,200 cases of AIDS.

In 1984, we had 9,900 cases of AIDS, active AIDS, where people were dead or dying.

A year later, we had 20,000.

A year later, we had 35,000.

A year later, we had 48,000.

This past year we had 80,538.

By the end of this year it is projected that we are going to have about 130,000 people dead or dying of AIDS.

□ 1650

When extrapolated, when this is taken on out over the years to come, the projections are that we could have as many as 4 to 8 million dead or dying within the next 10 years, and nobody who is not monogamous is safe from this disease.

I want to read to the Members briefly what the Hudson Institute said, and I agree with much of their article. The only thing I disagree with is, therefore, a voluntary testing program with incentives to be tested. I do not believe that a voluntary testing program will work, because there are a lot of people out there who are irresponsible who think they have been exposed and will not come in for voluntary testing. It needs to be a mandatory testing program like we had with tuberculosis, with syphilis and other diseases in the past. The health of the Nation is at risk.

Let me just read a brief excerpt from this article: "Without a new national policy based on the results of widespread voluntary testing, it was estimated that more than 8 percent of Americans aged 15 to 50 could become infected with the virus, and almost 3 million could die by the end of the century." I believe the figures are low. I think it is 4 to 8 million, or it may be 5 or 6 million. It may be somewhere in between there. But the people who are going to be hardest hit in the years to come are the teenagers who are sexually active.

I have a boy who is 15, a daughter who is 17, and a daughter who is 25. I preach to them all the time about this. A person can look perfectly healthy. A football player, big and strong, can look like a picture of health, yet he could be carrying a virus in every drop of blood he has; 230 million AIDS viruses will fit on the period at the end of a sentence. It is in every one of his bodily fluids. So a person can look perfectly normal and healthy and convey this disease to anyone with whom they have contact either through needles or through sex.

I worry about the teenagers of this country. Those of us who are not teenagers, who are older, 30, 40, 50, 60 years old, we have a stake in this as well, because the lifeblood of this country economically is the teenagers of today.

When we reach the 21st century, if a large portion of our teenage population is infected with AIDS, and they are dead or dying over the next couple of decades, it is going to put a tremendous burden on the economy not to mention the health costs involved. For each person who has the AIDS virus, it costs around $100,000 to take care of them until they die. It is estimated that we are going to have at least 4 million of them by the turn of the century, at least 4 million.

Let me go on to read what else they said. Hopkins, one of the authors of the study, said:

> The problem has been that the people who are most diligent about getting tested are least likely to be infected. For example, the elderly. Meanwhile, sexually active heterosexuals tend to ignore the message. We are talking about the mainstream population here, I mean, people who have had or will have five or six sexual partners in a year, and it is not all that uncommon.

He goes on to say:

> Researchers from the Indianapolis-based Hudson Institute said that at $5 per test, the entire American population from the ages of 12 to 65 could be tested annually for less than $650 million, a relatively small addition to the $150 billion Federal health care bill.

That is money well spent to test the population, because if we stop somebody from getting AIDS by testing the population, if we are able to stop just one person from getting AIDS, we save $100,000, because that is what it is going to cost to take care of them.

If those projections are extrapolated out, or if these figures are extrapolated out, we are going to find that we would save billions of dollars if we had an effective AIDS testing program, not voluntary, but mandatory. It could be called, if we do not want to call it mandatory, call it routine, if we do not like that word, but we need to routinely test the population.

Let me go on here. The title of the study was Catastrophe Ahead: AIDS and the Case for a New Public Policy in America.

The report, the product of a 2-year study, said that widespread testing would give public health officials their first reliable statistics on the true dimensions of this epidemic. We do not have any idea how many people have the virus. CDC said 5 years ago that we had 1.5 million people infected. Today they say we have 1.5 million infected, and yet they told us originally that every year it was doubling, and the facts bear out that it is almost doubling every year to year and a half as far as those coming down with active AIDS. But we have no idea how many are infected today.

I estimated, according to the figures I have had, which is still kind of flying in the dark, that we have 4 to 5 million people infected today in the country, and they are carriers. Most of them, 95 percent, do not even know they have the disease. They are out there meeting with people, having sexual contact and spreading the disease even further.

That is why the testing is so important. If we have 4 or 5 million people infected and they do not even know they have it, we can see what that is going to do to their partners, people who think that they are healthy. We need a testing program.

The report said that the Federal Government may be underestimating the health threat by relying on trends in the numbers of AIDS cases rather than on the rates of infection with the human immunodeficiency virus.

Only by knowing their viral status can individuals act responsibly, and only by knowing the true rates of infection can the Government devise effective anti-AIDS strategies, the report says.

I agree with that. Measuring the scope of the problem by examining reported AIDS cases, those people who are dead or dying of AIDS, measuring the scope of the problem by examining those people was said to be "the equivalent of measuring the incidence of alcoholism in the country by counting the number of people who are dying of cirrhosis of the liver." I think that is a good analogy.

Do we find out how many alcoholics there are in America by checking their livers? Of course not. We are not going to get an accurate count. Neither will we find out how many people have AIDS by guessing because of the number of people who are dead or dying from it.

We need to find out who has that virus in their system, and the only way we can do that is through testing.

The Nation still lacks the most basic knowledge to deal with the epidemic, researchers concluded. Until the data exist to make sound projections, public policy will continue to fly blindly into the growing storm. We are facing a real pandemic.

The leading scientists in this country and the world tell us that they doubt that there is going to be a cure, a cure for AIDS maybe ever, and they doubt that there will be a vaccination for AIDS for maybe the next 10 to 20 years. Yet we are not even finding out or attempting to find out how severe the epidemic is. It is insane.

Yet CDC continues to say, "Well, we do not want to do any mandatory testing. If they want to come in, fine." So that guy or that lady who is out there who has got the AIDS virus and they did not even know it, they are going on their way having sexual contacts with other people, spreading it, and it does not make sense.

We have had mandatory testing for tuberculosis, for syphilis and other dis-

eases in the past, and those were not fatal. Why would we ignore a fatal disease where the national health is concerned?

The report criticized the current Federal AIDS strategy for relying too heavily on public education to combat the outbreak. Far from getting most people to change their high-risk lifestyle, the campaign may inadvertently be contributing to the problem.

The report assailed a campaign message that suggests, and all of us have seen these on television, that condom use prevents infections with the AIDS virus. I wish every young person in America could listen to what I am about to read. I have said this many times. This is verified now by a leading research institute, and this is what it says about safe sex, listen to this:

The odds against infection, getting AIDS, are better with condoms, but they are a long way from zero. Sex still becomes a dangerous game. It may be Russian roulette with less cartridges in the gun, but it is still Russian roulette.

When someone on television says "Safe sex is the answer," it is an absolute, out-and-out lie, because there is still exposure. That AIDS virus is in every bodily fluid a human being has; 230 million of them will fit on a period at the end of a sentence.

I do not know too many people who are not involved with another human being who do not kiss them. I am telling everyone that there is a risk factor there, and that we should not rely on condoms or anything like it to prevent this virus from spreading, because it simply is not true. There is no such thing as safe sex outside of a monogamous relationship.

The report added that the only safe sex is sex between noninfected partners, and the only way to guarantee that is to stay with one person, stay at home.

□ 1700

The Hudson report takes the media to task for reporting that the epidemic has slowed and that the feared breakout of the virus into the mainstream population has not taken place.

This collective complacency is at best premature. The virus is still spreading, the report said. It said 90 percent of intravenous drug users are heterosexual and therefore pose a serious risk to their sex partners. Another entry point of the virus could be through drug-using prostitutes, which I just talked about a moment ago. They concluded by saying the time bomb has not been defused, it is still active.

I want to say to my colleagues and anyone else concerned about this, pressure should be brought upon the health agencies and the President of the United States. I am a strong Republican and a big supporter of President Bush, but pressure should be brought upon the President of the United States, the head of HHS, CDC, and the new Surgeon General, to come up with a comprehensive program to deal with this tragedy, because it is a tragedy, not just for individuals but for the Nation.

We should have a comprehensive program that includes testing, contact tracing, finding out those who have AIDS, where they got it, education, psychological training and teaching, telling people who have AIDS that they can no longer have sex outside of the AIDS community and that they are not only risking themselves but other human beings and helping them with their psychological problems.

We need to have reportability. In California it is illegal, against the law, for a doctor to tell an AIDS patient's wife that he has the virus.

Can you imagine that? A doctor is subject to penalties if he tells an AIDS patient's wife that he has the virus.

A guy comes in and the doctor says, "I am sorry, but you have AIDS. You had better go tell your wife." The guy says, "I do not want to tell her." The doctor cannot even tell her.

It is illegal for that doctor in California to report to the State health agencies that the guy has AIDS so they can keep statistical information. You have to report in California if a person has syphillis or any other venereal disease, but you do not have to report something that is going to kill you, the AIDS virus.

That is the problem. We have a disease in this country that is politically protected which threatens every human being in America directly or indirectly.

If we have 8 million people dead or dying or 4 million people dead or dying by the turn of the century, it is going to affect every man, woman and child in this country. Yet we are not doing anything to deal with it.

I just say to my colleagues tonight those people who are dead or dying from AIDS is doubling every year to year and a half. You do not have any idea how many carriers are out there because there has been no testing.

It has been estimated time and again that 95 percent of the people who have AIDS do not know it. I believe there are 4 to 5 million at least. CDC says 1 million and a half, Hudson Institute says 3 to 4 million. Nobody knows for sure. But even if it is the lowest figure possible, a million and a half, and 95 percent do not know they have it, they are a walking epidemic and they need to be informed, and it needs to be stopped.

We are not doing anything about it. We are walking around with our head in a sack, and the country has a great tragedy ahead for it.

I projected that by 1992 we would have at least 375,000 people dead or dying. The National Institute of Health says we are going to have 365,000 dead or dying. So my projections are not that far off from theirs. My extrapolations are not that far off.

I have been checking this month by month, week by week, day by day. I can tell you by 1999 we are going to have 4 million people in this country dead or dying of this terrible disease and probably another 25 to 30 million infected if we do not come up with a strong policy soon.

The time clock is ticking, the time bomb is ticking, and we are not doing anything about it. My colleagues, we need to get on with dealing with it. If we do not, our constituents, the people of this country, will hold us all responsible and they are going to condemn us for not taking positive action.

Madam Speaker, I yield back the balance of my time.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DYSON (at the request of Mr. GEPHARDT) for today on account of official business.

Mrs. BOXER (at the request of Mr. GEPHARDT) for today on account of official business.

Mr. DELLUMS (at the request of Mr. GEPHARDT) for today on account of official business.

Mr. LANTOS (at the request of Mr. GEPHARDT) for today on account of official business.

Mr. MILLER of California (at the request of Mr. GEPHARDT) for today on account of official business.

Mr. MINETA (at the request of Mr. GEPHARDT) for today on account of official business.

Mr. PANETTA (at the request of Mr. GEPHARDT) for today on account of official business.

Ms. PELOSI (at the request of Mr. GEPHARDT) for today on account of official business.

Mr. CAMPBELL of California (at the request of Mr. GEPHARDT) for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any Special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 60 minutes, on October 23, 24, 25 and 26.

Mrs. BENTLEY, for 60 minutes, on October 23, 24, 25, and 26 and for 60 minutes on October 30, 31 and November 1.

(The following Members (at the request of Mr. GONZALEZ) to revise and

extend their remarks and include extraneous material:)

Mr. TALLON, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GAYDOS, for 60 minutes, on October 25.

Mr. GONZALEZ, for 60 minutes, on October 20 and 23.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. COUGHLIN in two instances.
Mr. MILLER of Ohio.
Mr. HENRY.
Mr. SCHNEIDER.
Mr. PORTER.
Mr. SOLOMON.
Mr. BROWN of Colorado.
Mr. MOORHEAD.
Mr. HYDE.
Mr. PARRIS.
Mr. DORNAN of California.
Mr. LAGOMARSINO.
Mrs. ROS-LEHTINEN.
Mr. SAXTON.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. LEHMAN of Florida.
Mr. ROE.
Mr. SKELTON.
Mr. GUARINI.
Mr. DORGAN of North Dakota.
Mr. TORRES.
Mr. TALLON.
Mr. MONTGOMERY.
Mr. GAYDOS.
Mr. BILBRAY in two instances.
Ms. PELOSI.
Mr. PANETTA.
Mr. CROCKETT.
Mr. MOODY.
Mr. DARDEN.
Mr. EVANS.
Ms. OAKAR.
Mr. MAZZOLI.
Mr. NOWAK.
Mr. EDWARDS of California.
Mr. NEAL of Massachusetts.
Mr. LANTOS.
Mr. LEVIN of Michigan.
Mr. FORD of Michigan.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 963. An act to authorize a study on methods to commemorate the nationally significant highway known as Route 66, and for other purposes; to the Committee on Interior and Insular Affairs.

ADJOURNMENT

Mr. BURTON of Indiana. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 5 minutes p.m.) the House adjourned until tomorrow, Friday, October 20, 1989, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1855. A letter from the Comptroller of the Department of Defense, transmitting the supplemental contract award report for the period November 1, 1989, to December 31, 1989, pursuant to 10 U.S.C. 2431(b); to the Committee on Armed Services.

1856. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-88, "Construction Codes temporary Amendment Act of 1989," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1857. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-89, "District of Columbia Taxicab Commission Adjudicatory Authority Temporary Amendment Act of 1989," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1858. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-90, "District of Columbia Health Occupations Revision Act of 1985 Physician Assistants Temporary Amendment Act of 1989," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1859. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-91, "Association of American Medical Colleges Revenue Bond Act of 1989," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1860. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by Daniel Howard Simpson, of Ohio, Ambassador Extraordinary and Plenipotentiary-designate to the Central African Republic, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1861. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1862. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting a draft of proposed legislation to implement the Inter-American Convention on International Commercial Arbitration; to the Committee on the Judiciary.

1863. A letter from the Acting Secretary of Commerce, transmitting a report on the Fishermen's Contingency Fund for calendar year 1988, pursuant to 43 U.S.C. 1846(a); to the Committee on Merchant Marine and Fisheries.

1864. A letter from the Secretary of Transportation, transmitting a report on the flight plan and transponder requirements in support of drug interdiction, pursuant to Public Law 100-690, section 7212(b) (102 Stat. 4434); to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. H.R. 45. A bill to provide for a General Accounting Office investigation and report on conditions of displaced Nicaraguans and Salvadorans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Nicaraguans and Salvadorans, and for other purposes (Rept. 101-244, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 270. Resolution providing for the consideration of H.R. 2459, a bill to authorize appropriations for the Coast Guard for fiscal year 1990, and for other purposes (Rept. 101-298). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. COURTER:

H.R. 3494. A bill to permit the inclusion of appropriate security features in housing for elderly and handicapped families under section 202 of the Housing Act of 1959; to the Committee on Banking, Finance and Urban Affairs.

H.R. 3495. A bill to amend the Internal Revenue Code of 1986 to allow senior citizens a credit against income tax for the purchase and installation of locks and other security devices on residences; to the Committee on Ways and Means.

By Mr. DEFAZIO (for himself, Mrs. UNSOELD, Mr. AUCOIN, and Mr. MILLER of Washington):

H.R. 3496. A bill to prohibit the importation into the United States of fish or marine animal products of Japan, Taiwan, or the Republic of Korea until those countries cease the practice of driftnet fishing; jointly, to the Committees on Ways and Means and Merchant Marine and Fisheries.

By Mr. FLORIO (for himself and Ms. OAKAR):

H.R. 3497. A bill to authorize the Secretary of Housing and Urban Development to make grants to locally based nonprofit organizations, local governments, and Indian tribes to provide home repairs and modifications for older and disabled homeowners; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LIGHTFOOT (for himself, Mr. BALLENGER, Mr. CHAPMAN, Mr. DUNCAN, Mr. EMERSON, Mr. HANCOCK, Mr. HAYES of Illinois, Mr. INHOFE, Mr. LAUGHLIN, Mr. PACKARD, Mr. DENNY SMITH, Mr. HASTERT, Mr. GRANT, Mr. JONES of Georgia, and Mr. PAYNE of Virginia):

H.R. 3498. A bill to amend the Federal Aviation Act of 1958 to limit the age restrictions imposed upon aircraft pilots; to the Committee on Public Works and Transportation.

By Mr. MOORHEAD (for himself and Mr. KASTENMEIER) (both by request):

H.R. 3499. A bill to strengthen the intellectual property laws of the United States by providing protection for original designs of useful articles against unauthorized copying; to the Committee on the Judiciary.

By Mr. UPTON (for himself and Mr. MFUME):

H.R. 3500. A bill to amend the Internal Revenue Code of 1986 to provide a refundable credit to small businesses for the costs of providing nondiscriminatory public accommodations to disabled individuals; to the Committee on Ways and Means.

By Mr. PEASE (for himself, Mr. AUCOIN, and Mr. SAWYER):

H.R. 3501. A bill to amend titles III and IX of the Social Security Act with respect to grants to States for unemployment compensation administration, and for other purposes; jointly, to the Committees on Ways and Means and Education and Labor.

By Mr. RIDGE (for himself, Mrs. ROUKEMA, Mr. PAXON, Mr. MOLLOHAN, Mrs. SAIKI, Mr. BAKER, Mr. GALLO, Mr. REGULA, Mr. DANNEMEYER, Mr. MILLER of Washington, Mr. ROWLAND of Connecticut, and Mr. SCHUETTE):

H.R. 3502. A bill to provide funding to States and metropolitan cities and urban counties on a formula grant basis for housing and related activities for the homeless, in order to give grantees maximum flexibility to meet the needs of the homeless and to improve the efficiency and effectiveness of the homeless housing assistance programs under the Stewart B. McKinney Homeless Assistance Act, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Ms. SCHNEIDER (by request):

H.R. 3503. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 [MPRSA] to enhance enforcement; to the Committee on Merchant Marine and Fisheries.

By Mr. SENSENBRENNER:

H.R. 3504. A bill to establish a new Civil Rights Commission, and for other purposes; to the Committee on the Judiciary.

By Mr. FALEOMAVAEGA (for himself, Mr. SOLARZ, Mr. DORNAN of California, Mr. STUDDS, Mr. YOUNG of Alaska, Mr. LEACH of Iowa, Mr. ACKERMAN, Mr. AKAKA, Mr. ALEXANDER, Mr. ANDERSON, Mr. ANTHONY, Mr. APPLEGATE, Mr. ATKINS, Mr. AUCOIN, Mr. BAKER, Mr. BARNARD, Mr. BATES, Mr. BEILENSON, Mr. BENNETT, Mrs. BENTLEY, Mr. BEREUTER, Mr. BERMAN, Mr. BLAZ, Mrs. BOGGS, Mr. BOSCO, Mrs. BOXER, Mr. BROOKS, Mr. BROOMFIELD, Mr. BROWDER, Mr. BURTON of Indiana, Mr. BUSTAMANTE, Mrs. BYRON, Mr. CAMPBELL of Colorado, Mr. CARR, Mr. CHAPMAN, Mr. CLARKE, Mr. CLAY, Mr. CLEMENT, Mr. COBLE, Mr. COLEMAN of Texas, Mr. CONTE, Mr. COSTELLO, Mr. COUGHLIN, Mr. COYNE, Mr. CRAIG, Mr. CRANE, Mr. CROCKETT, Mr. DANNEMEYER, Mr. DEFAZIO, Mr. DE LA GARZA, Mr. DELLUMS, Mr. DE LUGO, Mr. DERRICK, Mr. DICKS, Mr. DIXON, Mr. DORGAN of North Dakota, Mr. DUNCAN, Mr. DURBIN, Mr. DYMALLY, Mr. DYSON, Mr. ECKART, Mr. EDWARDS of California, Mr. EMERSON, Mr. ENGEL, Mr. ESPY, Mr. FAUNTROY, Mr. FAZIO, Mr. FEIGHAN, Mr. FIELDS, Mr. FISH, Mr. FLAKE, Mr. FOGLIETTA, Mr. FRANK, Mr. FRENZEL, Mr. GALLEGLY, Mr. GEJDENSON, Mr. GEPHARDT, Mr. GIBBONS, Mr. GILMAN, Mr. GLICKMAN, Mr. GONZALEZ, Mr. GOSS, Mr. GRAY, Mr. GUARINI, Mr. HALL of Ohio, Mr. HAMMERSCHMIDT, Mr. HANSEN, Mr. HARRIS, Mr. HASTERT, Mr. HAWKINS, Mr. HAYES of Illinois, Mr. HEFNER, Mr. HENRY, Mr. HERTEL, Mr. HERGER, Mr. HOAGLAND, Mr. HOYER, Mr. HUBBARD, Mr. HUCKABY, Mr. HUNTER, Mr. HUTTO, Mr. HYDE, Mr. JACOBS, Mr. JENKINS, Mr. JOHNSON of South Dakota, Mr. JOHNSTON of Florida, Mr. JONTZ, Mr. KANJORSKI, Ms. KAPTUR, Mr. KASTENMEIER, Mr. KENNEDY, Mrs. KENNELLY, Mr. KILDEE, Mr. KOSTMAYER, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LAUGHLIN, Mr. LEATH of Texas, Mr. LEVIN of Michigan, Mr. LEVINE of California, Mr. LEWIS of California, Mr. LEWIS of Georgia, Mr. LIGHTFOOT, Mr. LIPINSKI, Ms. LONG, Mr. LOWERY of California, Mrs. LOWEY of New York, Mr. DONALD E. LUKENS, Mr. MCCLOSKEY, Mr. MCCRERY, Mr. MCCURDY, Mr. MCDERMOTT, Mr. MCEWEN, Mr. MCNULTY, Mr. MARKEY, Mrs. MARTIN of Illinois, Mr. MARTINEZ, Mr. MATSUI, Mr. MAVROULES, Mrs. MEYERS of Kansas, Mr. MFUME, Mr. MILLER of California, Mr. MILLER of Washington, Mr. MINETA, Mr. MONTGOMERY, Mr. MOODY, Mr. MOORHEAD, Mrs. MORELLA, Mr. MRAZEK, Mr. MURPHY, Mr. MURTHA, Mr. MYERS of Indiana, Mr. NEAL of Massachusetts, Mr. NEAL of North Carolina, Mr. NIELSON of Utah, Mr. NOWAK, Ms. OAKAR, Mr. OBERSTAR, Mr. OBEY, Mr. ORTIZ, Mr. OWENS of New York, Mr. OWENS of Utah, Mr. PALLONE, Mr. PANETTA, Mr. PARKER, Mrs. PATTERSON, Mr. PAYNE of New Jersey, Mr. PAYNE of Virginia, Ms. PELOSI, Mr. PENNY, Mr. PERKINS, Mr. PICKLE, Mr. PORTER, Mr. POSHARD, Mr. RAHALL, Mr. RANGEL, Mr. RHODES, Mr. RICHARDSON, Mr. ROHRABACHER, Mrs. ROS-LEHTINEN, Mr. ROSE, Mr. ROTH, Mr. ROYBAL, Mr. RUSSO, Mr. SABO, Mrs. SAIKI, Mr. SANGMEISTER, Mr. SARPALIUS, Mr. SAVAGE, Mr. SAWYER, Mr. SCHEUER, Mrs. SCHROEDER, Mr. SCHUETTE, Mr. SCHUMER, Mr. SHUMWAY, Mr. SHUSTER, Mr. SIKORSKI, Mr. SKELTON, Ms. SLAUGHTER of New York, Mr. SMITH of Florida, Ms. SNOWE, Mr. SOLOMON, Mr. STALLINGS, Mr. STARK, Mr. STENHOLM, Mr. STOKES, Mr. STUMP, Mr. SWIFT, Mr. SYNAR, Mr. TALLON, Mr. TANNER, Mr. TAUZIN, Mr. THOMAS of Wyoming, Mr. TORRES, Mr. TORRICELLI, Mr. TRAFICANT, Mr. UDALL, Mrs. UNSOELD, Mr. VENTO, Mrs. VUCANOVICH, Mr. WAXMAN, Mr. WEISS, Mr. WHEAT, Mr. WILLIAMS, Mr. WILSON, Mr. WISE, Mr. WOLF, Mr. WOLPE, Mr. WYDEN, Mr. VISCLOSKY, and Mr. YATES:

H. Con. Res. 214. Concurrent resolution in support of regional efforts to end driftnet fishing in the South Pacific; jointly, to the Committees on Foreign Affairs and Merchant Marine and Fisheries.

By Mr. HYDE (for himself, Mr. EDWARDS of Oklahoma, and Mr. SOLOMON):

H. Res. 269. Resolution directing the Committee on Rules to report to the House a resolution to amend the rules of the House to require that no member or employee of the Permanent Select Committee on Intelligence may be given access to any classified information in the possession or control of that committee unless and until an appropriate security clearance has been granted to such individual by the House and to establish an appropriate system under which security clearances could be granted by the House to Members and employees; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

296. The SPEAKER presented a memorial of the Legislature of the State of California, relative to housing for first-time home buyers; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 70: Mr. MILLER of Washington and Mr. CALLAHAN.

H.R. 81: Mr. PAYNE of New Jersey.

H.R. 100: Mr. CAMPBELL of California.

H.R. 211: Mr. TORRICELLI.

H.R. 215: Mr. SMITH of New Jersey and Mr. FAWELL.

H.R. 567: Mrs. UNSOELD.

H.R. 634: Mr. BROWN of California.

H.R. 645: Ms. SNOWE.

H.R. 844: Mrs. VUCANOVICH and Mr. KOLTER.

H.R. 1043: Mr. NEAL of North Carolina and Mr. LANCASTER.

H.R. 1068: Mr. FEIGHAN and Mr. MCMILLEN of Maryland.

H.R. 1069: Mr. GILMAN.

H.R. 1092: Mrs. BOXER, Mr. CONDIT, Mr. KILDEE, and Ms. SLAUGHTER of New York.

H.R. 1181: Mr. BROOMFIELD.

H.R. 1185: Mr. FISH.

H.R. 1187: Mr. WEISS and Ms. SLAUGHTER of New York.

H.R. 1280: Mr. MCCLOSKEY.

H.R. 1305: Mr. RICHARDSON.

H.R. 1593: Mr. HUCKABY, Mr. RICHARDSON, Mr. LEATH of Texas, and Mr. OLIN.

H.R. 1641: Mr. PICKLE.

H.R. 2192: Mr. BURTON of Indiana and Mr. HUTTO.

H.R. 2213: Mr. SMITH of Florida, Mr. ROBINSON, Mr. PALLONE, Mr. BOEHLERT, Mr. SIKORSKI, Mr. MCDERMOTT, Mr. LEHMAN of Florida, Mr. CLAY, and Mr. VALENTINE.

H.R. 2360: Mr. STUMP.

H.R. 2556: Mr. BOEHLERT and Mr. FUSTER.

H.R. 2690: Mr. MOORHEAD and Mr. COBLE.

H.R. 2926: Mr. LEVINE of California, Mr. ROE, Mr. FLAKE, Mr. ROYBAL, Mr. GALLO, Mr. HORTON, Mr. THOMAS A. LUKEN, Mr. VENTO, Mr. NEAL of North Carolina, and Mr. BORSKI.

H.R. 2952: Mr. PRICE.

H.R. 3004: Mr. CAMPBELL of California.

H.R. 3031: Mr. DELLUMS, Mr. FIELDS, and Mr. PARKER.

H.R. 3037: Mr. FUSTER.

H.R. 3066: Mr. ECKART and Mr. DEFAZIO.

H.R. 3082: Mr. NEAL of North Carolina, Mr. RAY, Mr. SPENCE, Mr. LEWIS of Georgia, and Mr. RAVENEL.

H.R. 3099: Mr. DELLUMS.

H.R. 3101: Mr. HANCOCK.

H.R. 3251: Mr. NEAL of North Carolina.

H.R. 3274: Mrs. BENTLEY, Mr. PAYNE of Virginia, and Mr. WISE.

H.R. 3280: Mr. WALSH, Mr. CROCKETT, Mr. HARRIS, Mr. JONTZ, Mr. MONTGOMERY, Mr. GORDON, Mr. FUSTER, Mrs. BENTLEY, Mr. GALLO, Mr. OWENS of New York, Mr. DELLUMS, and Mr. FLIPPO.

H.R. 3296: Mr. MOODY, Mr. RAVENEL, Mr. JOHNSTON of Florida, and Mr. KILDEE.

H.R. 3307: Mr. FOGLIETTA, Mr. FROST, Mr. KILDEE and Ms. PELOSI.

H.R. 3317: Mr. NEAL of North Carolina, Mr. SKELTON, Mr. LANCASTER, and Mr. CLINGER.

H.R. 3319: Mr. DWYER of New Jersey and Mr. ATKINS.

H.R. 3321: Mr. MYERS of Indiana, Mr. KANJORSKI, Mr. TALLON, Mr. WISE, and Mr. ROSE.

H.R. 3323: Mr. STENHOLM.

H.R. 3336: Mr. BRUCE, Mr. OWENS of New York, Mr. FAUNTROY, and Mr. DELLUMS.

H.R. 3343: Mr. SMITH of Florida, Mr. EMERSON, Mr. SUNDQUIST, Mr. OWENS of New York, Mr. LANCASTER, Mr. DELLUMS, Mr. FROST, and Mr. TRAFICANT.

H.R. 3380: Mrs. LOWEY of New York, Mrs. MORELLA, Mr. FLIPPO, Mr. BERMAN, Mr. BUSTAMANTE, Mr. COLEMAN of Texas, Mr. HOUGHTON, Mr. CONYERS, Mr. BOEHLERT, Mr. KILDEE, Mr. WALSH, Mr. GILMAN, Mr. BRYANT, Mr. RAHALL, Mr. KASTENMEIER, Mr. GUARINI, Mr. STALLINGS, and Mr. MAZZOLI.

H.R. 3390: Mr. BLAZ.

H.R. 3407: Mr. ATKINS, Mr. COYNE, Mr. DWYER of New Jersey, Mr. FAZIO, Mr. FRANK, Mr. HORTON, Mr. LAFALCE, Mr. LANCASTER, Mrs. MARTIN of Illinois, Mr. TOWNS, and Mr. UPTON.

H.R. 3409: Mr. WOLPE, Mr. VALENTINE, Mr. TORRES, Mr. SAVAGE, Mr. TRAFICANT, Mr. DE LUGO, Mr. ROE, Mr. BATES, Mrs. COLLINS, Mr. BONIOR, Mr. UDALL, and Mr. RITTER.

H.R. 3464: Mr. GUNDERSON, Mr. TALLON, and Mr. LANCASTER.

H.R. 3483: Mr. KLECZKA, Mr. ROYBAL, and Mrs. UNSOELD.

H.J. Res. 183: Mr. GOODLING, Mr. TORRICELLI, Mr. GONZALEZ, Mr. VANDER JAGT, Mrs. PATTERSON, Mrs. UNSOELD, Mr. MARTIN of New York, and Mr. COURTER.

H.J. Res. 198: Mr. KILDEE, Mr. CLINGER, Mr. ANNUNZIO, Mr. MONTGOMERY, Mr. ATKINS, Mr. THOMAS A. LUKEN, Mr. ASPIN, and Mr. LAFALCE.

H.J. Res 206: Mr. SPRATT, Mr. MCCLOSKEY, Mr. HAYES of Louisiana, Mr. BLILEY, Mr. DERRICK, Mr. SISISKY, Mr. POSHARD, and Mr. MCCRERY.

H.J. Res. 230: Mr. GORDON, Mr. COOPER, Mr. TORRICELLI, Mr. NEAL of North Carolina, Mr. STUMP, Mr. PERKINS, Mr. MOLLOHAN, Mr. FRENZEL, Mr. BARNARD, Mr. CLINGER, and Mr. BOUCHER.

H.J. Res. 241: Mr. DERRICK, Mr. BLAZ, Mr. CRANE, Mr. TAUZIN, Mr. VOLKMER, Mr. WILSON, Mr. GEKAS, Mr. ALEXANDER, Mr. HERTEL, Mr. MONTGOMERY, Mr. KENNEDY, Mr. MCEWEN, Mr. LEWIS of Georgia, Mr. DEFAZIO, Mr. STALLINGS, and Mr. KASTENMEIER.

H.J. Res. 248: Mr. CHANDLER, Mr. FRENZEL, Mr. GRAY, Mr. HAWKINS, Mr. MCDADE, Mr. NEAL of Massachusetts, Mr. SMITH of Texas, Mr. STENHOLM, and Mr. TRAXLER.

H.J. Res. 255: Mr. COUGHLIN, Mr. ROYBAL, Mr. LEVINE of California, Mr. BOSCO, and Mr. ROBINSON.

H.J. Res. 278: Mrs. BYRON, Mr. COLEMAN of Missouri, Mr. FLORIO, Mr. BUECHNER, Mr. COYNE, Mr. GOSS, Mr. DELAY, Mr. KASICH, Mr. LOWERY of California, Mr. MOORHEAD, Mr. NIELSON of Utah, Mr. VOLKMER, Mr. FIELDS, Mr. HUNTER, Mrs. BOGGS, and Mr. RHODES.

H.J. Res. 346: Mr. PICKETT, Mr. REGULA, Mr. BERMAN, and Mr. MFUME.

H.J. Res. 406: Mr. TOWNS, Mr. HORTON, Mr. FUSTER, Mr. FAUNTROY, Mr. BONIOR, Mr. LEWIS of Georgia, and Ms. KAPTUR.

H. Con. Res. 123: Mr. BLILEY, Mr. COOPER, and Mr. TRAFICANT.

H. Con. Res. 149: Mr. JENKINS.

H. Con. Res. 172: Mr. PRICE.

H. Con. Res. 175: Mr. JOHNSTON of Florida.

H. Con. Res. 203: Mr. LEVINE of California, Mr. FOGLIETTA, Mr. WHEAT, Mr. MORRISON of Connecticut, Mr. AKAKA, Mr. PENNY, Mr. BEILENSON, Mr. BATES, Mr. STUDDS, Mr. BROWN of California, Mr. FRANK, Mr. HUGHES, and Mr. MURPHY.

H. Res. 244: Mr. PARKER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

[Omitted from the Record of Oct. 18, 1989]

H.R. 586: Mr. TORRES.

[Submitted Oct. 19, 1989]

H.R. 3017: Mr. WALSH.

SENATE—*Thursday, October 19, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable RICHARD C. SHELBY, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

As we begin this day, let us continue to remember prayerfully all in the San Francisco area who suffered in the earthquake and for special guidance to those who are committed to healing, salvage, and restoration.

If any of you lack wisdom, let him ask of God, that giveth to all liberally, and upbraideth not; and it shall be given him.—James 1:5.

Eternal God, perfect in truth and justice, in love and mercy, in grace and peace, be present in power throughout this day, so heavy with the loneliness of decision. As Your servants weigh the arguments and contemplate amending the Constitution, cover them with grace and infuse them with the wisdom of God. As they sit as a court of justice to consider the onerous responsibility of impeachment, may the bright light of truth illuminate discussion and the grave moral duty of determining guilt.

In Jesus' name who is truth incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 19, 1989.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD C. SHELBY, a Senator from the State of Alabama, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. SHELBY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, the time for the two leaders this morning has been reduced to 7½ minutes each. At 10:15 a.m. there will be 45 minutes remaining for debate on the flag desecration constitutional amendment, with the time equally divided and controlled between the two leaders.

The vote on final passage is scheduled to occur at 11 a.m. Once this vote is completed, it is my intention to turn to consideration of the conference report accompanying the Labor-HHS appropriations bill, H.R. 2990.

At 1:45 p.m. today, there will be a live quorum, and at 2 p.m., the Senate will go into closed session to deliberate on the impeachment articles against Judge Hastings. All Senators are encouraged, and indeed urged, to be present to participate in those deliberations.

RESERVATION OF LEADERS' TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I reserve the leader time of the distinguished Republican leader.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. MITCHELL. I yield 2 minutes to my colleague from Delaware [Mr. BIDEN] out of my leader time for a statement on East Germany and 2 minutes out of my leader time to Senator CRANSTON for a statement about California.

The ACTING PRESIDENT pro tempore. The Senator from Delaware.

THE FALL OF HONECKER

Mr. BIDEN. Mr. President, I thank the majority leader. I will, later in the day, at the appropriate time, speak at greater length on this subject. I think it is appropriate for us to note in this body, and for our fellow citizens to know and for the world to know, that not only did a significant world event take place yesterday, but an incredibly symbolic event took place yesterday, at least in the mind of the Senator from Delaware. That is, the man who is responsible for constructing the Berlin Wall fell.

The man who constructed the greatest physical legacy to tyranny, in this Senator's mind, has fallen. I just say in the short amount of time I have now, and I will elaborate on this later in the day, the wall is not far behind. The winds of freedom that are buffeting Eastern Europe can no longer be ignored, nor, in this Senator's view, can any Communist nation withstand them any longer. The only hope for Honecker's successor—and I think there is none, quite frankly—is if he turns out to be something fundamentally different than he has been for the past 20 years, and that is "a reformer."

Quite frankly, the only reform that is available in Eastern Europe will be a reform that allows for plurality, a reform that allows for a multiparty system. As I said, in conclusion, Mr. President, I think it is appropriate the man who built the wall has fallen and the wall is not far behind.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California.

CALIFORNIA EARTHQUAKE

Mr. CRANSTON. Mr. President, the night before last I got word of the California earthquake. I flew out to California yesterday morning to be with my people, my constituents, to get a firsthand impression of the damage and a firsthand impression of what could be done to help those who need help.

I returned late last night to the Senate to be here today for the important issue we are about to contend

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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with on the flag amendment. I just want to say that I have profound admiration for the way the people of California who have been affected by all this have handled it. They have been very brave. They have been remarkably orderly in dealing with the problem. There has been no panic anywhere. At the baseball game just before the World Series was to start, the grandstands began to shake and people realized there was a quake.

As we all know the game was postponed, of course, and there are many people not Californians there also. There was no panic, as we saw in soccer games in England and elsewhere, no crush, no rush. People went out calmly; nobody shoved anybody. There was remarkable common sense and prudence.

When you see California from the air or streets of San Francisco, as I did, everything looks pretty normal. When you get close up along Market Street and other parts of San Francisco, there are many windows broken and some facades of buildings collapsed. I saw three terrible, horrible sights.

The Nimitz Freeway I saw from helicopter; it looks like somebody took an axe to a snake and chopped it in bits, separating it in someplaces and wounding it, damaging it in others. Many people were killed at that place. It will take a long time to correct that.

You can see the bay bridge where a piece of it fell in; some cars almost fell into the water but did not. Presumably there were casualties at that place, also.

Also I saw the place in the marina in San Francisco where there was a bad fire. One building slid off into the street.

Those were the worse parts of what I saw. Terrible things happened in the vicinity of Santa Cruz, also. I did not get there.

I assure the people of California that every step is being taken by the Federal Government and by the State government to help. If people in San Francisco want to know where they may be able to get help they could call my office in San Francisco, which was not opened yesterday. The building was closed and phones were out, but when we are back in business, I hope today, if people call 556-8440 in San Francisco they can learn what sort of help they may be able to get. The help that is available right now is help where there are life-threatening situations, and there still are some. The help that could come later will be some financial help to people who need financial help.

Mr. SYMMS. Mr. President, will the Senator yield for a comment?

The ACTING PRESIDENT pro tempore. The time has expired.

Mr. SYMMS. Mr. President, May I have 1 minute, please?

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. SYMMS. Mr. President, in conjunction with what the distinguished senior Senator from California just said, for information of many of my colleagues, and others, who wanted to know what the requirements are with respect to highways and road construction, under current law $100 million is standing available for immediate use in the disaster area without legislation.

Senator WILSON has contacted my office and we are planning, in conjunction with other colleagues and with the leadership, the Public Works Committee, of which I am the ranking Republican on the Transportation Subcommittee, to introduce legislation very rapidly either today or tomorrow or the next day which would waive the cap, which would be required under the $100 million.

I think the estimates of how much damage had been done to the roads in the bay area are still uncertain. I have had one estimate given to me already be the Federal Highway Administration of at least $200 million. My personal opinion is it will probably be higher than that from reports I have received.

I notify my colleagues if they have inquiries on that I would be talking with Senator MOYNIHAN and Senator BURDICK, and we will be trying to move in the Environment and Public Works Committee very rapidly to waive that cap for emergency funding. The money is available in the Federal highway trust fund.

I think this might also just speak to all of us that it tells us that the precaution of spending those highway dollars to fix roads and bridges in this country may in the long run save many lives and save many dollars, because in areas in the bay area where the roads can be improved to withstand the earthquake they did. In some areas where it was not completed, they had the tragedy.

Of course, we cannot legislate to stop disasters, but I think we can take all precautions.

I thank the Presiding Officer and the Republican leader.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. DOLE. I yield 5 minutes of my leader time to the distinguished Senator from South Carolina.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

PROPOSED AMENDMENT TO THE CONSTITUTION FOR PROTECTING THE FLAG

Mr. THURMOND. Mr. President, we are about to vote on a proposed constitutional amendment to provide the Congress and the states power to prohibit the physical desecration of the American flag.

For over 200 years, the American flag has flown as a shining beacon of democracy. Old Glory represents the most cherished values of America. It is immediatedly recognized and respected by freedom loving people all over the world.

Contemptuous conduct against the flag evokes emotions of anger and disgust from an overwhelming majority of American citizens. The American flag is a venerable emblem worthy of protection against offensive conduct. As Chief Justice Rehnquist concluded:

> Surely one of the high purposes of a democratic society is to legislate against conduct that is regarded as evil and profoundly offensive to the majority of people—whether it be murder, embezzlement, pollution, or flag burning.

Mr. President, as it has been stated, we are not discussing a mere piece of fabric. The President, sponsors and cosponsors of this proposed amendment want to protect this most unique American symbol which represents the very heart of our democracy.

The American flag has served as an inspiration and led thousands of brave men and women into battle in defense of our freedoms. As the flag has inspired Americans for over 200 years to stand up and defend our freedoms, our way of life, let us now take a stand to defend the American flag.

Mr. President, I wish to say this: The American Legion is to be highly commended for what they have done. They have gotten thousands and thousands of names on petitions, to do what? To pass a statute? No. To pass a constitutional amendment.

The American Legion comprised of the men who wore the uniform, the men who fought in battle, the men who offered their lives for their country have taken the lead in this matter.

Furthermore, the Disabled American Veterans, the Veterans of Foreign Wars, and the Paralyzed Veterans of America, all want to protect the flag.

Mr. President, why should we not pass this constitutional amendment?

The statute may get results, possibly will get results, but there is too much doubt about it. Even those who strongly favor doing something in some way feel there is doubt about a statute. Why not vote for a constitutional amendment to be sure we get results? The only way we can ensure results is to pass a constitutional amendment. That will definitely get results.

This proposed amendment has been recommended by the President of the United States. It has been recommended by the Attorney General of the United States. This has been recommended by various constitutional scholars who studied this subject, outstanding scholars.

The men who wore the uniform understand what the flag means. They followed the flag in battle. Important and respected veterans organizations say, "we want a constitutional amendment." They did not say, "we want a statute." They say, "we want a constitutional amendment." There are the letters here, even coming in today, from the American Legion and other organizations asking that we pass this constitutional amendment.

I hope we will not deny these people who wore the uniform and fought for their country, respect their flag, and fought under the flag. I hope we will go with them and pass the constitutional amendment. We ought to do it to ensure that results will be gotten. We must pass a constitutional amendment. There is too much doubt about a statute.

I hope the Congress will vote for this constitutional amendment.

The ACTING PRESIDENT pro tempore. The Republican leader has 2 minutes and 40 seconds time remaining.

Mr. DOLE. Mr. President, I reserve the remainder of my leader's time.

PROPOSED CONSTITUTIONAL AMENDMENT TO PROHIBIT PHYSICAL DESECRATION OF THE AMERICAN FLAG

The ACTING PRESIDENT pro tempore. All leader time being reserved, the clerk will report the pending business.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 180) proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States.

The Senate resumed consideration of the joint resolution.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. DOLE. Mr. President, first, I thank the distinguished Senator from South Carolina who has been a leader in the effort on this side, who introduced the first constitutional amendment with over 50 cosponsors.

Mr. THURMOND. Fifty-three.

Mr. DOLE. In any event we are about to wind up the debate on what I consider to be a very important issue.

Mr. President, I have listened to much of the debate either here in this Chamber or in my office over the past few days and earlier on the flag debate on the statute.

Mr. President, during the past several days, we have heard a great deal about the first amendment, the Bill of Rights, symbolic speech, the constitutional amendment process, the prudence of drafting a statute to overturn a Supreme Court decision, the meaning of the words "desecrate," "defile"—even the meaning of the word "publicly." These are all important subjects—and they have been amply examined by Members both in the House and in the Senate.

These legal subjects were examined earlier this week by Judge HEFLIN and Senator HATCH—two men who unquestionably rank among the best legal minds here in the Senate—and in this country. And I hope my colleagues listened carefully to their important remarks.

But it has surprised me that we have heard very little—during this debate—about the history of the flag itself. Many Senators have properly explained that the flag is our national symbol, a symbol that stands for freedom, hope, and the great sacrifices of those who have died over the years while defending this country. But there has been little discussion—surprisingly—about the flag's rich history—a history that spans more than 200 years—and one that proudly began even before the birth of our Nation.

So I intend today to examine the flag's history—for it seems to me—that an understanding of this history is absolutely essential to the grave task before us today—and essential if we are to properly understand why the flag deserves constitutional protection.

And let us face it: Only the fool ignores history—particularly a history as rich and as blessed as the one that belongs to our Nation's flag.

THE FLAG'S BEGINNINGS

When our war for independence began—when the shots first rang out in Concord, MA—Americans marched onto the battlefield under many different flags. These flags were adorned with colorful symbols such as beavers, pine trees, anchors, and even rattlesnakes.

Several of the Southern colonies—for example—chose the rattlesnake as their emblem for a simple reason: The rattlesnake warns everyone—even its enemies—with its distinctive rattling sound. But when the battle starts, there is no compromising—for the rattlesnake fights until victory or death.

These early colonial flags also bore colorful slogans—slogans such as "liberty or death," "hope," "an appeal to heaven," and "don't tread on me." These slogans demonstrated the commitment—perhaps the stubbornness—of the colonists to stand up to what they viewed as the oppressive yoke of the British Empire.

The first flag—however—to represent all the colonies was the continental colors—also known as the Grand Union Flag. This flag—which had 13 stripes and a representation of the British flag on its upper-left hand corner—was the unofficial flag of the American colonies from 1775 to 1777.

But then that great document—the Declaration of Independence—was drafted in Philadelphia. And the colonists—who viewed themselves no longer as colonists, but as citizens of a free, independent nation—decided that the flag of the British Empire did not belong on their flag. So—on June 14, 1777, the Continental Congress resolved to create an official—and distinctively—American flag. The Congress resolved that "the flag of the United States be 13 stripes alternate red and white, and the Union be 13 stars, white in a blue field representing a new constellation."

The colors of the flag were carefully chosen: The red for the sacrifices—sacrifices in blood—all made for the cause of national independence. The white for the purity of this cause. And the blue for vigilance, perseverance, and justice.

FRANCIS SCOTT KEY AND THE STAR-SPANGLED BANNER

Our young nation was barely 30 years old when it went to war a second time against the British Empire—in the War of 1812. During this war, the British naval forces burned down this city, our Nation's Capital. They then sailed up the Patapsco River to inflict a similar fate on the city of Baltimore.

But the British fleet had to first contend with Fort McHenry, standing proudly at the mouth of Baltimore Harbor. And while the British fleet was bombarding the fort, the Stars and Stripes waved undaunted throughout the night of the bombardment—"until the dawn's early light"—inspiring Washington Lawyer Francis Scott Key to write the words of our national anthem.

These words are sung by millions of Americans every day. And they will be sung later this week—probably now next week, next Tuesday at the earliest, during the World Series.

THE FLAG IN CRISIS: THE CIVIL WAR

The flag continued to wave during the most tragic chapter in our nation's history—the Civil War. The war began when the American flag was lowered at Fort Sumter—which somehow managed to survive a 33-hour bombardment by confederate troops.

Abraham Lincoln's Inauguration Day on March 4, 1861, was also the date on which the Confederate Congress adopted its first national flag the Stars and Bars—which came to symbolize the Confederacy's separation from the Union.

And the Civil War gave us Barbara Fritchie who—the poet, John Greenleaf Whittier tells us—stood face-to-face—eyeball-to-eyeball—with Stonewall Jackson. "Shoot if you must, this old grey head, but spare your country's flag, she said."

Well, our country's flag was spared—and when this ugly and bloody war finally ended—our flag flew once again over "an indestructible Union, composed of indestructible States."

THE ESTABLISHMENT OF FLAG DAY

In 1915, President Wilson—inspired by the sacredness of this union and by the cataclysm then raging across Europe—established June 14 as "National Flag Day." During the proclamation ceremony, President Wilson made these poignant remarks:

Many circumstances have recently conspired to turn our thoughts to a critical examination of the conditions of our national life, of the influences which have seemed to threaten to divide us in interest and sympathy, of forces within—and forces without—that seemed likely to draw us away from the happy traditions of united purpose and action of which we have been so proud.

It has therefore seemed to me fitting that I should call your attention to the approach of the anniversary of the day upon which the flag of the United States was adopted by Congress as the emblem of the Union, and to suggest to you that it should, this year and the years to come, be given special significance as a day of renewal and reminder, a day upon which we should direct our minds with a special desire of renewal to . . . the ideals and principles of which we have sought to make our great Government the embodiment.

And, I might add, that was the President speaking on the flag. For some who have been critical of President Bush speaking about the flag, they might want to go back and read President Wilson's comments about the flag and about Flag Day.

President Wilson's words still ring true today because the "ideals and principles" that the flag represents still ring true today. Just look at the communist world—a world that is slowly moving away from tyranny and fear—and toward freedom and democracy—toward hope—toward the very ideals that our flag unabashedly represents.

And Flag Day—proposed by President Wilson more than 70 years ago—serves as a reminder of how lucky we really are—how lucky we are that these ideals still prosper today—in this, our country.

RAISING THE FLAG ON MOUNT SURIBACHI

Perhaps the most shining moment in the flag's history occurred not here in the United States, but in a very strange and distant land—on the island of Iwo Jima. Five marines and a sailor scaled the slope of Mount Suribachi—encountering the cream of the Japanese Army every inch of the way—so that the flag could be firmly planted on the first Japanese territory captured in World War II.

The men who raised the Suribachi flag—Sgt. Michael Trank, Cpl. Harlan Block, Pfc. Ira Hamilton Hayes, Pfc. Rene Arthur Gagnon, Pfc. Franklin Runyon Sousley, Pharmacist's mate John Henry Bradley—were not constitutional scholars. They were not legal experts. They were young men—enlisted men—who got caught up in a war that they did not start.

But they loved the flag—and they fought to defend it. And so, too, did the 6,000 American boys who gave their lives so that the flag could be raised that day—6,000 in 1 day. And it was only fitting that President Bush chose the Iwo Jima Memorial as the site at which to propose this constitutional amendment.

THE FLAG ON THE MOON

Some 25 years after Iwo Jima, our flag made history again. For in 1969, the flag was thrust into a dry rock-strewn plane, not on this world, but on another world—on the surface of the Moon—some 239,000 miles away. And who can forget the words left behind by Neil Armstrong and Buz Aldrin—on a plaque describing their epoch-making journey: "We came in peace for all mankind!"

THE UNIQUENESS OF THE FLAG

So, you can see, the flag has had a unique and extraordinary history. It is a history rich with hope, rich with personal courage, and rich with the promise of America. And it is a history that all Americans can proudly share.

Shortly after he left office, President Calvin Coolidge—not my favorite President but a favorite President—I know—of some other politicians—asked this simple question: "What could be saved if the flag of the American Nation were to perish?"

Indeed, what could be saved? What could be saved if the flag did not survive the bombardment at Fort McHenry? If the flag did not survive the fierce battles of the Civil War? If the flag did not survive Mount Suribachi—and the other mountains and hills that now serve as the gravesites for countless thousands of American soldiers?

We would be in big, big trouble—and we probably would not be here today—deliberating peacefully over a constitutional amendment.

I have heard some of those Senators who oppose the constitutional amendment argue that protecting our flag will open a Pandora's box—that there are other national symbols—no different from the flag—that would also clamor for constitutional protection.

I do not buy this argument for a minute. And a simple understanding of the flag's history would easily dispel the notion that any other national symbol rivals the flag in importance and in the devotion of the American people.

Do we pledge allegiance to the Constitution, or to the Presidential seal, or to any other national symbol? Of course, we do not.

Flag Day—June 14, is a national holiday, but do we have a national holiday honoring the Constitution, or the Presidential seal, or any other national symbol? No, we do not.

The "Star Spangled Banner"—our national anthem—honors the resiliency of Old Glory. But does our national anthem honor the Constitution, or the Presidential seal, or any other national symbol? No, it does not.

Forty-eight States and the United States have enacted statutes prohibiting the desecration of the flag. Have the States and Congress passed laws prohibiting the desecration of the Constitution, or the Presidential seal, or any other national symbol? No, they have not.

So, you can see, the flag stands alone—it stands alone as the unique symbol of our ideals, our hopes, our aspirations as a nation.

THE NEED FOR A CONSTITUTIONAL AMENDMENT

After studying the flag's enormously rich history, which it seems we have forgotten in all the great debate on the floor, I could not understand why some in Congress are so defensive—so reluctant—about a constitutional amendment to protect the flag. I could not understand why Congress was in such a mad rush to conform to a Supreme Court decision about which 97 Senators—97 Senators—expressed "profound disappointment." and I could not understand why Congress was so eager to pass a bill that is patently overbroad and most probably unconstitutional.

I will make no bones about it: I want a Federal flag desecration statute that punishes what it is supposed to punish—flag desecration. I want a statute that protects the cherished values that the flag symbolizes, not a statute that views the flag neutrally—as if it were some lifeless rock. And I want a statute that punishes people who "publicly cast contempt" upon the flag, not a statute that lumps the innocent with the likes of Gregory Johnson, which the statute that we passed here last week would do.

Now, I will be the first to admit that the current Federal flag desecration statute is now unconstitutional as a result of the Johnson decision. But the way to preserve that statute was not to neuter it—as the Senate did last week. The way to protect the Federal statute—and the 48 State flag desecration statutes—is through an affirmative step, through a constitutional amendment. Pure and simple.

CLARIFYING THE RECORD

This past Monday, my friend, the distinguished Senator from Delaware, the chairman of the Judiciary Committee, gave a very impassioned—and indeed a very long—speech on this floor opposing the constitutional amendment. His remarks were certainly entertaining. But I must say that I will never invite the Senator to be an after dinner speaker, unless we are planning on breakfast, too.

But seriously, the Senator from Delaware said a number of things on Monday that deserve a response.

THE PHRASE "PHYSICAL DESECRATION"

First, I am a little tired of hearing that the phrase "physical desecration"

is somehow too vague, too open to interpretation.

I will start with Webster's Dictionary. According to Webster's, to "desecrate" means "to treat an object of veneration irreverently or contemptuously."

Justice Brennan uses the word "desecrate" at least 10 times in the Johnson decision. And I have not heard anyone question what the distinguished Justice meant when he used the word in his opinion.

The preamble to the amendment itself defines the phrase "physical desecration" in the following way:

Physical desecration may include, but is not limited to, such acts as burning, mutilating, defacing, defiling, or trampling on the flag, or displaying the flag in a contemptuous manner.

And the statute that Congress sent to the President last week contains the words "defiles," "defaces," and "mutilates." Certainly, these words are neither less vague nor more vague than the word "desecrate."

Let us look at the Bill of Rights. "Free speech," "speedy trial," "unreasonable search and seizure," "due process of law." These phrases—all part of the first 10 amendments to the Constitution—are cherished by Americans—and rightly so. They are embedded in our national consciousness. But are these phrases too vague? Are they too open to interpretation? Are they any different from the phrase "physical desecration?" I do not think so and I do not think most Americans think so either.

I am just thankful that the Senator from Delaware was not around when the Bill of Rights was drafted. Apparently, he would prefer a bill of rights that is 300 pages long, that is cluttered with thousands of footnotes, that sounds more like a textbook than a constitution, and that is completely inaccessible to the vast majority of Americans—all for the sake of clarity.

So, let us talk about the real issues here—and let us not just make up issues so we can take up time on the Senate floor.

"AMENDING THE BILL OF RIGHTS"

The Senator from Delaware—and other Senators, for that matter—also complain that we are somehow wielding an ax to the first amendment. I disagree.

I disagree because I believe that flag burning is conduct. If you burn a flag, that is conduct, malicious conduct, not speech. Pick up a flag, set a match to it—it is not speech, it is conduct. If, for some reason we are to treat the act of flag burning as speech we ought to view it in the same way as we view obscenity or "fighting words."

I disagree because I think it is absurd that we can pass laws making it illegal to destroy U.S. currency, making it illegal to deface your own mailbox, even making it illegal to rip the warranty label off your own bedroom mattress—but we cannot pass a law prohibiting our Nation's symbol from being burned, mutilated, defaced. I think that this point is pretty important.

And I disagree because this amendment will not prevent people like Gregory Johnson from continuing to speak out—in countless ways—against their country. They can do anything they want. They can speak out against their Government and against their flag: This is conduct not speech.

Four Justices of the Supreme Court share this opinion. So to say that the act of flag burning is somehow deeply enshrined in the first amendment is preposterous. You are right, five Justices said it was so last June but they were dead wrong and Congress has already decided that. We could not wait to decide that. We jumped on it immediately with a 97 to 3 vote in this Chamber saying we were disappointed in the decision.

Now, we have to decide how to correct the Supreme Court's blunder. And a constitutional amendment is the only honest way to accomplish this task.

Let us look again at the flag statute recently passed by the Senate. It covers contemptuous and uncontemptuous conduct. It covers intentional and unintentional conduct. It covers public and private conduct. In other words, the statute—by trying to be "all things to all people"—prohibits more conduct—more "speech"—than this constitutional amendment. So who should be complaining here about the first amendment? Who should be complaining about our free speech rights?

THE STATE FLAG DESECRATION STATUTES

Finally, the Senator from Delaware complains that the constitutional amendment would lead to a patchwork of 50 State flag desecration laws—as if having 50 State laws were somehow a terrible injustice.

This complaint ignores reality. It ignores the fact that most States will simply do nothing once the constitutional amendment is ratified. They will simply maintain the flag desecration statutes that are already on the books. Why pass a new one? And these statutes have worked well—and fairly—for decades. Prior to the Johnson decision, Congress was not deluged with constitutent mail complaining about the great injustices wreaked upon the American public by these statutes.

But beware. The real problem will arise if we do not pass this constitutional amendment. Then—and only then—will the States begin tinkering with their own flag desecration statutes in a mad rush to achieve something called content neutrality, whatever that means. That is open to a lot of interpretation. Then—and only then—will we have the patchwork of laws that the Senator from Delaware seems to fear so much.

And what does the distinguished Senator think about the 50 different State product liablity laws, the 50 different State insurance laws, the 50 different State securities' laws? Does he think that we ought to do away with the 50 State corporate laws—do away with the Delaware corporation statute—and have one national corporate law? I can assure you that the taxpayers of Delaware would not be too fond of this idea.

So, again, let us talk about the real issues here—and let us not just make them up as we go along. Let us not try to confuse people any more.

TOO MANY LAWYERS IN THE SENATE

If this debate has taught me anything, and I have listened fairly carefully, it has taught me that we have too many lawyers in the Senate—too many lawyers who still think they are on the high school debate team—and too many lawyers who would prefer to listen to themselves than to the millions of Americans who believe that the flag deserves protection—constitutional protection.

Do not believe me. I happen to be a lawyer. I do not say it very loudly these days when I hear all this talk about how everybody, former Attorneys General, former U.S. Attorneys, former district attorneys are trying to figure out some way to vote against the constitutional amendment. I will stick with the Legionnaires, and the Veterans of Foreign Wars, the Non-Commissioned Officers of America, and the other veterans groups. Most of the members of these groups are not lawyers. They did not go to Harvard. They are not Federal judges. They are not former Attorneys General. They are just hardworking people in my State and every State in this country who said: "pass a constitutional amendment."

Maybe they do not have college degrees in every case, maybe they are not lawyers, maybe they could not argue with Justice Brennan or anyone in this Senate, but they are Americans, and they should be heard.

I do not quarrel with any of my colleagues. I do not question anyone's patriotism—but let me cite one man, and I want to thank the chairman of the Judiciary Committee for inviting him to testify—a young man from Hutchinson, KS, named Gary Freeman. He served his country, he is not a lawyer.

He went out with his wife and because he felt so strongly about the flag, he collected 2,500 signatures. That is just one example. He did testify, thanks to the distinguished Senator from Delaware and the Senator from South Carolina.

He made an impression, but primarily with his hard work. How many in this Senate went out to see how many

would sign a petition on a constitutional amendment? None of us probably. We did not deal with the real people. We have been arguing all these cases, trying to confuse everybody and claiming we are smarter than anyone else. I assume the amendment is going to fail, unfortunately, but it will not be the fault of the Gary Freemans of America.

Mr. President, I will use the remainder of my leader time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOLE. Gary Freeman and countless other Americans were not in it for personal gain. They have worked for those petitions for one simple reason: They loved this country deeply and they cherished our Nation's flag.

Just ask the more than 1.3 million hard-working Americans who have signed a petition circulated by the American Legion. Just ask the 120,000 Americans who have signed these petitions—here in these boxes.

So, we can have all the legal debate. We can hear all the legal arguments. And Senators can impress themselves with their own uncanny knowledge of the Constitution and with their surprising ability to make fine legal distinctions.

The purpose of this amendment will not be found in a textbook or treatise on constitutional law. No, it will be found in the emotions of the heart, emotions deeply rooted in the real-life experiences of millions of real Americans and emotions that are crying out today to give the flag real and lasting protection.

Mr. President, I will conclude here with a few words from a piece entitled "The Banner Yet Waves," written by the editors of the Reader's Digest. These words are far more convincing than any words I can offer you today:

> While Americans know that behind this rectangle of cloth there is blood and great sacrifice, there is also behind it an idea that redefined once and forever the meaning of hope and freedom. Lawyers and justices may debate the act of flag-burning as freedom of expression. But a larger point is inarguable: when someone dishonors or desecrates the banner, it deeply offends, because the flag says all that needs to be said about things worth preserving, loving, defending, dying for.

Mr. President, that is what the flag is all about. That is what this debate should have been about, but we have gone off in different directions during the debate. We have been making fine distinctions, and we have been arguing about words.

I will speak again after the vote on this resolution. But I urge my colleagues to rethink their positions. It is not too late to listen to the people who sent us here, the real Americans—the members of the VFW, the members of the American Legion, the members of the Non Commissioned Officers of America, the farmers, the businesspeople, the businessmen, the businesswomen—who do not read Supreme Court decisions but are willing to fight and die for their country.

We can have different opinions. I am not here to suggest that. I am going to let these petitions speak for themselves, and these are only samples of the millions and millions of people who have been involved in this process. We are going to tell them in a few minutes, "It does not make any difference what you think; we know more than you do." I say let us stand up for the American people this one time.

The PRESIDING OFFICER (Mr. LEAHY). The majority leader controls the time between now and 11 o'clock.

Mr. MITCHELL. Mr. President, I understood that I had 22½ minutes of time.

The PRESIDING OFFICER. The Chair is advised by the Parliamentarian that the distinguished leader's request to extend his leader time cut into that time, but the majority leader can extend the time by unanimous consent.

Mr. MITCHELL. Mr. President, I ask unanimous consent that I be permitted to use such time as is necessary for my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I rise to inquire of the distinguished chairman of the Judiciary Committee concerning the pending amendment to the Constitution. I say to the chairman, it seems to this Senator that this amendment has a number of obvious defects. But I think there is an important issue that has not been addressed. That is, the advisability of acting on an amendment to the Constitution of the United States before we have a chance to determine the constitutionality of the statute due to become law within the next 2 weeks. I am confident that the statute not only effectively protects the flag, but is constitutional as well. My question, however, is this; does it not make sense to recommit the constitutional amendment to committee pending a judicial test of the law we have just passed?

Mr. BIDEN. I would say to the distinguished Senator from Michigan that some Senators may have considered that a prudent option. Any attempt to modify the Constitution as a response to Texas versus Johnson is precipitous in light of the very tough statute we have passed. But, as my friend knows well, the unanimous consent agreement under which debate on the pending amendment is proceeding does not allow recommital or any other delay.

Mr. LEVIN. So, Mr. President, the only choice before the Senate is to vote yes or no on this amendment at this moment in time?

Mr. BIDEN. The Senator is correct.

Mr. LEVIN. Mr. President, those of us like myself who believe that the amendment before us is poorly crafted and premature would more readily vote against this amendment for those reasons if we believed that a properly crafted amendment would be considered by the Senate promptly in the event the courts strike down the statute.

Mr. BIDEN. I understand that to be the case, Mr. President. I would say to the Senator from Michigan that I have no doubt that efforts would be made to draft an amendment should the Court find that a statutory remedy is unconstitutional.

Mr. KOHL. Mr. President, fewer than 4 months have passed since the Supreme Court announced its decision in Texas versus Johnson. Four months, and we're already voting on whether to add an asterisk to the Bill of Rights. We have responded to Gregory Lee Johnson's foolish act as if it precipitated a national calamity on the order of a war or depression. In these last 4 months, I believe we've expended more energy on the flag issue than on, say, the arms race or the budget deficit—each a far greater threat to our security.

By saying this, I do not mean to trivialize flag burning. It is reprehensible. And we have done what we need to do: denounce it, condemn it, and pass a law that punishes it. But now we are contemplating overkill. We are thinking of fiddling with the Constitution—the bedrock of our Republic—when the most responsible course would be to rely on the flag-protection statute we recently enacted. The proposed constitutional amendment is clearly unnecessary at this time, possibly ineffectual as a legal matter, and certainly dangerous in terms of the precedent it sets.

There is a contradiction, I am afraid, between this rush to amend the Constitution and our otherwise cautious handling of the Constitution itself. At the National Archives, America's great but fragile documents are sealed in individual bronze and glass cases. The air in those cases is drained and replaced by protective helium. Harmful light is filtered out. And each night, the Constitution, the Bill of Rights, and the Declaration of Independence are lowered 22 feet into a reinforced concrete and steel vault.

In short, Mr. President, we handle liberty with care. So we should not allow the foul air of political expediency to destroy the constitutional underpinnings of our Nation. And we must not permit the glare of the television cameras—or the heat of next election's campaign ad—to eat away at the foundations of our democracy. For these reasons, I strongly urge my colleagues to vote against Senate Joint Resolution 180.

Mr. SHELBY. Mr. President, I rise today in support of Senate Joint Resolution 180, legislation proposing an amendment to the Constitution which would authorize Congress and the States to enact flag desecration statutes in the wake of the Supreme Court decision of Texas versus Johnson.

Although I supported S. 1338, a bill that provided that it would be a crime to knowingly mutilate, deface, burn, maintain on the floor or ground, or trample upon any flag of the United States, it is my belief that Senate Joint Resolution 180, that calls for a constitutional amendment, is the better route to protect the U.S. flag from any form of desecration or abuse. I am an original cosponsor of Senate Joint Resolution 180. The resolution states that: "The Congress shall have the power to prohibit the physical desecration of the flag of the United States." This, in my opinion, is the suitable response.

Infringement on the first amendment was the fatal flaw in the Texas versus Johnson opinion. I was outraged over the Court's decision in Texas versus Johnson. I categorically and undeniably reject the majority of the Court's decision in the case. The integrity of the U.S. flag must be maintained.

It stretches the imagination to include the desecration of the U.S. flag within the zone of protection offered by the first amendment. The flag of the United States of America embodies the true spirit of democracy. Mr. Justice Stevens elaborated eloquently on this point. It is so important and central to this argument that it cannot be paraphrased but must be quoted in its entirety:

He said:

A country's flag is a symbol of more than nationhood and national unity. It also signifies the ideas that characterize the society that has chosen that emblem as well as the special history that has animated the growth and power of those ideas.

So it is with the American flag. It is more than a proud symbol of the courage, the determination and the gifts that transformed 13 fledgling colonies into a world power. It is a symbol of freedom, of equal opportunity, of religious tolerance and of goodwill for other peoples who share our aspirations. The symbol carries its message to dissidents both at home and abroad who may have no interest at all in our national unity or survival.

Mr. President, I can reach no other conclusion than that the desecration of the flag of the United States of America must be prohibited. To knowingly mutilate, deface, burn, maintain on the floor or ground, or trample upon any flag of the United States should not fall within the purview of first amendment protection. The scope of the protection is broad; but it should not extend this far.

As a believer in democracy and as a stalwart champion of the Bill of Rights, I have joined with my colleagues, on both sides of the aisle, in supporting legislation that provides for a constitutional amendment which will absolutely protect the integrity of the flag of the United States. S. 1338 must first withstand legal challenge and will not provide the absolute protection afforded by Senate Joint Resolution 180.

While I understand that a constitutional amendment should not be undertaken lightly, in this instance I believe that a constitutional amendment, to be absolutely sure of the protection offered, is both warranted and necessary. I urge all my colleagues to support Senate Joint Resolution 180.

Mr. DOMENICI. Mr. President, I rise today to express my support for a constitutional amendment to prohibit desecration of our American flag. I am a cosponsor of this amendment, which was proposed by the President, and I hope that the Senate will give its approval to it.

On June 21, the Supreme Court held that the burning of the American flag was a legitimate exercise of free speech in the case of Texas versus Johnson.

Since that time, I have heard from many of my constituents, and other Americans as well, who were extremely upset about the Supreme Court's ruling.

I too am upset by the Supreme Court's decision. I have little respect for those who devalue the flag by burning it, walking on it, or in any other way desecrating it.

While I feel we must protect the right of every American to speak his or her mind—no matter how offensive their ideas may be. Freedom of speech is a right that the Constitution grants to every American, and our Constitution has preserved the vitality of our Nation for over 200 years. However, there is a difference between speaking one's mind and desecrating the American flag.

The act of desecrating the American flag goes beyond merely expressing a point of view—it is a violent act against the symbol of our Nation. It is not an act of free speech. Every American is free to denounce our Nation and the ideals for which the flag stands. Frankly, I think they would be terribly misguided, but if that is what they want to say, they have the right to say it. There is a vast difference, however, between speaking one's mind and desecrating the symbol of our Nation.

The Supreme Court erred in equating free speech with the desecration of the American flag. It seems to me that the Supreme Court could easily have ruled the other way. I am sorry they did not. They made a mistake.

The Supreme Court's decision is gravely offensive to the countless Americans, particularly those who have carried the American flag into battle to protect our Nation and those who have come here from other lands in search of a better life.

The American flag is no mere sheet of cotton—it is a powerful symbol of the promise and reality of America. Ask any American, and he or she will tell you what the flag means to them personally.

Mr. President, allow me to tell you what the American flag means to me. It represents the hopes and dreams that led two families from Italy who separately packed their trunks and came to America about 80 years ago and settled in Albuquerque, NM.

In 1905, my father, Cherubino Domenici, was 13 years old and living in the small town of Lucca, in the province of Tuscany. One day his uncle Lorenzo Gradi, who previously had emigrated to America and was running a general mercantile store in Albuquerque, arrived at the Domenici household to take my father and his older brother with him back to America.

My father and his brother packed their trunks and left Lucca. With their uncle, the two brothers crossed the ocean and sailed through New York harbor, past the Statue of Liberty, to Ellis Island. They stayed in New York only long enough to get on a train. The two young men, ages 14 and 21, arrived in Albuquerque, NM, in 1906.

In 5 or 6 years, the brothers bought out their uncle, who returned to Italy. The young Domenicis turned the mercantile store, called the Montezuma Grocery, into a wholesale grocery company, and it flourished.

The brothers' partnership was interrupted by World War I, when my father was drafted. He served under the flag of the United States and became a naturalized American citizen by virtue of his service. When the war was over, he returned to Albuquerque and the grocery business.

My mother's name was Alda Vichi. In 1907, she was a baby, living with her mother, in the province of Tuscany in a little town called Fornovolosco, a coal mining town. Her father, Pietro "Pete" Vichi, was interestingly enough, living in Albuquerque and running a small grocery store. He sent for his wife and daughter because he felt he would be able to support them. They packed up their trunks and got on a ship. They, too, stepped off the ship and came under the American flag at Ellis Island. Then they boarded a train and traveled to Albuquerque.

The two were married in Albuquerque and had a rather successful life together and a successful marriage. They had four daughters and one son—me.

My father married my mother after World War I, after he became an American citizen. My mother became

an American citizen later—but that is another story.

In a way, both my parents came here because America represented the land of opportunity.

From what I can tell, my father left Italy for two reasons. One, he had a very generous and kind uncle; and two, this uncle told him and his brother that there was no future for them in Italy. They were essentially small farmers, and the fate of small farmers in Italy at that time was nothing short of desperation. They weren't going to have any chance of succeeding. Their uncle told them that there was a ready-made business for them, to come and work, and the sky was the limit. Obviously, he was right.

My mother had no part in deciding to come here because she was just a baby. But in a very real sense, she came because her father had a business in Albuquerque and felt there was a real future here.

There's no doubt that this country has been magnificent to the Domenicis.

We're very proud of our parents and the tremendous gamble that they took—just pack up a big suitcase and a big trunk and take off in a boat, coming over here and not really knowing what in the world was in store.

We learned a lot from the fact that my father was a success. We learned to have a great deal of pride in the American system—in business and enterprise—and we learned how lucky we were to get great educations.

Obviously for our family, the American flag and its promise—and reality—of a better life are very meaningful.

That is why when I see persons on television burning the American flag, it angers me. They are destroying the symbol of what brought my parents to this great land of ours.

The Supreme Court made a mistake in legalizing flag burning. I think we should correct that mistake.

The Court decision was wrong, and that is why earlier this summer I stood with a number of my colleagues here in the Senate to express my disapproval of the Supreme Court's decision.

Mr. President, this error needs to be corrected. Some have expressed their feeling that the antiflag desecration bill that we passed earlier this month solves the problem. Although I voted for that bill, I think that the foolproof and effective way to fix this error is by a constitutional amendment.

I commend the President for stepping forward to guarantee the sanctity of our flag through an amendment to the Constitution.

The President's amendment is simple and straightforward. It recognizes that the flag of the United States of America is a national symbol that should not be allowed to be desecrated. The amendment states:

> The Congress and the States shall have power to prohibit the physical desecration of the flag of the United States.

To those who say we must be careful that, in reacting to this outrageous decision of the Supreme Court, we do not weaken or dilute the first amendment rights of American citizens, I wholeheartedly agree.

I think the American people believe that a constitutional amendment to ban flag burning can be drafted that will not infringe on the constitutional rights that we all hold so sacred. This amendment fulfills those requirements.

The President understands the difficulty, and the significance, of seeking to overturn a Supreme Court decision. He has properly come to the conclusion that the flag deserves the protection of our laws, and that we can protect the flag without undermining the principles of the first amendment.

The American flag and all it represents deserves the protection of our laws. That is why I will support this amendment to prohibit flag burning because of the necessity to correct the flawed decision of the Supreme Court and protect the integrity of our Nation and its oldest symbol, the American flag.

Mr. GORTON. Mr. President, this Senator believes that the flag of the United States, as the symbol of this Nation and all it stands for, should be and must be protected.

For more than 200 years, it was assumed by Congress, the courts, and citizens alike that the protection of our flag against activities like that of Gregory Johnson in Texas versus Johnson did not infringe on constitutionally protected free expression and that such action could and should be punished criminally. That form of contemptuous treatment of the flag has not been, and should not be, considered to be an exercise of the first amendment rights and prohibiting it undercuts no fundamental liberty.

This Senator also believes that the majority opinions in Texas versus Johnson, the Supreme Court decision invalidating the Texas anti-desecration laws, are profoundly wrong. The Constitution of the United States does not, in my opinion, prohibit either the Congress or State legislatures from protecting the flag against its desecration.

As a consequence, I voted for H.R. 2978 believing it to be both sound policy and constitutional.

I also firmly believe that it is inappropriate to amend the Constitution of the United States, our fundamental charter, even in a case of this importance, unless it is absolutely essential to do so. Since both Houses of Congress have now passed a statute penalizing the desecration of the flag and have sent that statute to the President, it is now not necessary to amend the Constitution in order to protect the flag. I therefore intend to vote against this proposed amendment to the Constitution.

At the same time, should the Supreme Court persist in the error of its ways in Texas versus Johnson and invalidate the statute just passed by Congress, I believe it not only appropriate but imperative that the Constitution of the United States be amended to correct that error. The flag must and will be protected, and it can be protected without infringing on any fundamental right of free expression.

Mr. McCONNELL. Mr. President, I rise today to express my strong support for a constitutional amendment restoring to the States and Congress the power to prohibit any desecration of the American flag.

Like most Americans, I was truly outraged by the Supreme Court's bizarre decision in the case of Texas versus Johnson. In that case, the Court held that a person can do anything to the flag: burn it, soil it, walk on it, or spit on it—and the vast majority of Americans who love the flag and everything it stands for have to stand aside and let it happen.

After this decision, and the public outcry over it, some people argued that the flag was "just a piece of cloth"—no need to get so upset about burning it.

But, Mr. President, most of us know better—we know that the American flag is a lot more than a piece of cloth. It is the symbol and the standard of this great Nation. It is a beacon of freedom to those who live under the yoke of oppression throughout the world.

The American flag has fired the courage of our fighting men in war; and it is a strong reminder of the values of liberty and justice that set this country apart from every other nation on Earth.

Burning the flag is not merely burning a piece of cloth; it is an affront to every value and principle that we Americans hold dear. For those hundreds of thousands of families who have lost fathers and sons in war, burning the flag is indistinguishable from scorching the grass on these heroes' graves.

That is why I did not hesitate to advocate and cosponsor an amendment to the Constitution assuring the dignity and sanctity of the American flag. On the morning following the Supreme Court's ridiculous decision, I joined with the senior Senator from South Carolina [Mr. THURMOND] in introducing a constitutional amendment prohibiting flag burning and other acts of flag desecration.

Recently, the Senate also considered and passed a bill which purports to prohibit flag burning—without any constitutional amendment.

I share the sentiment behind this measure, but I am concerned that it will do virtually nothing to address the constitutional issue posed by the Supreme Court's decision.

If we only pass this statutory measure, we may be back here within a few months—after the Supreme Court strikes it down—and we will be giving the same speeches; and then, maybe at last, we will own up to the task of passing a real constitutional amendment.

It doesn't seem to me that a mere congressional statute will do anything to deter a lawless flag burner like the defendant in the Texas versus Johnson case. If anything, the bill recently passed by the Senate will be seen as throwing down a challenge to desecrate the flag—and see whether this statute is constitutional after all. In essence, we will be saying, "Go ahead—burn our flag." I don't think that is what we want to do in defense of our Nation's greatest symbol.

So in conclusion, Mr. President, flag burning is not speech. It merely reflects hostility for the traditions and values of this country. And rather than burn the U.S. flag, I suggest that such people express their hostility in a more meaningful way: By leaving the country and going somewhere else—like Tiananmen Square in China, or East Germany, or the Soviet Union. People in those countries are seeking refuge under our flag, not burning it.

The marines who risked their lives to raise the American flag over Iwo Jima knew what our flag stands for. Certainly, we know what the flag stands for. Now is the time to enact an amendment to the Constitution—to tell the Supreme Court what the American flag stands for.

We cannot stand idly by while the symbol of our Nation for over 200 years is dragged through the mud, spat upon, walked on, and torched by those who don't know what an honor and a gift it is to be an American.

I urge my colleagues to join the President, the Republican leader, and the ranking member of the Judiciary Committee, in passing this historic constitutional amendment to protect the glorious flag of the United States of America.

Thank you. I yield the floor.

Mr. DODD. Mr. President, the question before us is not whether or not we love the flag, and it is not whether or not we think it should be protected. Every Senator appreciates the unique symbol that the flag is to our country and wants to protect it and what it stands for. The question before us is how best to achieve those goals.

I believe the best way to protect the flag is to adopt legislation that makes destruction of the flag a crime. The Supreme Court has pointed in that direction and many constitutional scholars share that view. That is why I voted for H.R. 2978, a bill to protect the physical integrity of the flag, on October 5, and that is why this body adopted that bill by a 91-to-9 vote. As soon as the President signs that bill into law, the flag will be protected. Thereafter, anyone who harms it can—and should—be prosecuted and jailed.

Some have argued that we cannot craft a statute that will pass constitutional muster. As I have already mentioned, I think the Supreme Court has given us a roadmap to such a statute and I think H.R. 2978 is such a statute. Why don't we give it a try? Adoption of the statute will afford immediate protection against its mutilation. Sure the statute can and probably will be challenged but while the courts are determining its constitutionality, the flag will be protected. Should we be wrong, and the Supreme Court rule that we cannot constitutionally protect the flag by a statute, then we can always reconsider a constitutional amendment.

Why do I prefer the statutory route? I do so for several reasons. First, a statute would provide immediate protection. In contrast, passage of a constitutional amendment would merely begin the process. The amendment would not become effective until ratified by three-fourths of the States and that could take a long time. In fact, during the 200 years since the signing of the Constitution, only 26 amendments have been ratified. What protection will the flag have while we wait for that uncertain process to play itself out? The answer is none.

Second, I revere the Bill of Rights, which has never been amended in our history. That fact confirms how highly we value the freedoms contained in those amendments, freedoms that are the cornerstone of our democracy. I am reluctant to consider measures that could, however unintentionally, reduce those freedoms unless there is a compelling necessity. I do not believe such a necessity exists today. We are not confronted with an army of flag burners. We are talking about a few people who have violated our flag. And, we have an alternative—a statute—which I think will afford a simple and more effective remedy against those few who have violated or who would violate our flag.

Finally, I am concerned about the specific provisions of this proposed amendment. It is drafted so broadly that it could easily have unintended consequences. As constitutional expert Walter Dellinger testified before the Senate Judiciary Committee:

> This potentially dangerous amendment would create an entirely undefined exception to either one, some, none or all of the Bill of Rights; it would place this power in the hands of all future Congresses, 50 State legislatures, the government of the District of Columbia, and perhaps as many as 14,000 local governments. * * *

I share Professor Dellinger's concerns.

Mr. President, for all these reasons, I will vote against the proposed constitutional amendment. At the same time, I would urge President Bush to sign H.R. 2978 so we can put an immediate halt to flag burning.

Mr. LEAHY. Mr. President, last night I mentioned many staff members who have been essential to the resolution of this issue.

I would like to single out two especially.

Ann Harkins and Cathy Russell have been essential to this debate. For months they have worked day and night in preparing legal positions and arguments for me and dozens of other Senators. These two lawyers have met with me nearly every day for months. We have met evenings, mornings and weekends. They have coordinated the efforts of numerous individuals and organizations who united to protect our Bill of Rights.

The Bill of Rights has never been amended. World wars, a Civil War, Presidential assassination and resignation, the expansion of our country, the debate over civil rights, the trauma of the McCarthy era—none of these events were of such magnitude that we amended the Bill of Rights.

Today we will, once again, resist the temptation to amend it. When we do, this body, and the United States, owes a debt of gratitude to these two talented and dedicated people, Ann Harkins and Cathy Russell.

Mr. ROTH. Mr. President, since the ratification of the Bill of Rights, half of all the amendments to the Constitution have been passed to overturn Supreme Court decisions. It is time that we do so once again. The decision of the Supreme Court in Texas versus Johnson is wrong in its reasoning and its result.

Flag burning as a form of political protest is, in my opinion, distinguishable from speech protected by the first amendment. The Supreme Court said that in this case one had to weigh the value of the flag against the value of the communication. Five Justices voted for the latter while only four voted for the flag.

What this means is that political protestors of little talent are permitted to punctuate their comments with flag burning to give more punch to their message. Ironically, protestors cannot burn draft cards or deface Government property to make a point. They weigh more. Only the American flag is of so little value, that it is permitted as a protestor's prop.

This is what the Texas versus Johnson decision means, that in the constitutional hierarchy, the flag ranks at the bottom. The proposed amendment to the Constitution, Senate Joint Resolution 180, would correct this and

accord the flag the high position it deserves.

Less than 2 weeks ago, this body passed legislation, H.R. 2978, to protect the flag. So why, then, is it necessary to pass a constitutional amendment? I believe there are three reasons:

First, no matter what we do by simple legislation, we cannot change the low value the Supreme Court attaches to the flag as a symbol of our Nation. Only a change in the Constitution can change the way the Supreme Court values the flag.

Second, critics continue to attack the constitutionality of our effort both from the left and the right. We attempted to craft a content-neutral bill. However, some doubted whether a content-neutral bill would work while others doubted that we had, in fact, achieved our goal. While I do not find this criticism persuasive, the important point is that other reasonable men and women do not believe that H.R. 2978 will pass constitutional muster. It may well be that this new version of the flag-burning law will not command the support of the majority of the Court. Therefore, the only way to the protect the flag with certainty is through a constitutional amendment.

Third, whether or not we succeeded in crafting a content-neutral statute earlier this month, we may not want a content-neutral statute to be enforced as written. We may not want to punish the tired Boy Scout who drops the flag in the mud the same as one who contemptuously burns the flag in protest. Most people would find a difference. The 1967 version of the Federal statute, now on the books, found a difference; it required contempt as a necessary element of the offense. But the new version covers all burnings and defilings, many more offenses than before. In 1967, when we in Congress did not have to be concerned by the Johnson case, we did not approve of our recent course. Instead, we chose to cover a narrower field, where the flag is treated with contempt. By doing so, we avoided the troubling questions that arise when the flag is respectfully destroyed because it is soiled or worn.

Thus, while the legislation that is now on the President's desk may be the very best we could do in view of the Johnson decision, it may be far from ideal. I am happy to support the legislative effort because it may be the only approach that works in view of the Court's decision and congressional politics. However, if we wish to make constitutional the flag-burning laws now on the books in the 48 States as well as here, only a constitutional amendment will do.

I do not find any conflict in principle between free speech and protecting the flag from contemptuous destruction. To me, the conduct of contemptuously destroying the flag is well beyond the bounds of free speech, just as is burning a draft card, painting a message on the Lincoln Memorial, or assaulting a Senator. While any of these actions may be undertaken primarily to make a political statement, that cannot save the conduct from prosecution.

I, therefore, do not view Senate Joint Resolution 180 as an amendment to the Bill of Rights. Rather, I view Senate Joint Resolution 180 as the correction of a Supreme Court decision that misinterpreted the first amendment.

Mr. DURENBERGER. Mr. President, I rise to state my intention to vote against the pending constitutional amendment relating to the flag. I do so out of a profound respect for that flag and what it stands for.

This summer, I had the opportunity to travel through 18 nations in the Third World, from Syria to Laos and from Bangladesh to Guinea-Bissau. On several occasions, ground transportation was provided by the U.S. Embassy. I was pleased and somewhat surprised at the smiles and waves that were provoked by the sight of an American flag on the hood of our car as we drove through the streets. People who knew no English, or who never even heard of the Constitution, responded positively to the symbol of democracy, and what we stand for here in the United States. They respect our freedom, and they want it for their own countries.

The American people have chosen to amend the founding document of our society only 26 times over 200 years. And we have never amended the Bill of Rights. While we have not always obeyed it, we have tried to hold to the standard articulated by James Madison that the Constitution deals with "great and extraordinary" matters. The burden of proof is very heavy on those who propose to amend it.

They are asked to demonstrate that: First, a fundamental issue is at stake; second, the Constitution is the only appropriate place to address the matter; and third, the amendment accomplishes its objectives in a way that minimizes prospects for future problems. I do not believe the sponsors of this amendment have begun to meet that burden.

Gregory Lee Johnson engaged in a cynical and destructive act of national hatred when he burned an American flag in August 1984. He made no contribution to the betterment of society, he engaged only in a cheap, sensational stunt. He was charged and convicted under a Texas statute that made it illegal to desecrate a flag in a manner which would give substantial offense to those around him.

In its review of this case, the Supreme Court focused upon the communicative impact clause of the Texas statute, which made it a violation to mistreat the flag when the person "knows" that "such action will seriously offend one or more persons likely to observe or discover his action. The majority argued, "The Texas law is thus not aimed at protecting the physical integrity of the flag, but is designed instead to protect it only against impairments that would cause serious offense to others." The Court further argued that a "bedrock principle underlying the first amendment" is that "Government may not prohibit the expression of an idea simply because society finds the idea itself offensive and objectionable." The statute therefore, was unconstitutional.

It is clear from both the vote and the majority opinion that this was a very close decision, tied very specifically to this statute and set of circumstances. The Court declined to address this matter on broader grounds which were available to it.

There, of course, has been a sizable public reaction to the Court's decision. Personally, I have been contacted by 7,856 Minnesotans by mail or telephone who have urged that an amendment to the Constitution be adopted. Even 4 months after the Supreme Court decision a Minnesota poll published by the Minneapolis Star Tribune found that three-quarters of my constituents supported a legislative action to protect the flag. That strenuous expression of opinion by my constituents, and the American people, should not be ignored.

The Congress' first responsibility then is to find the most constitutionally unobtrusive means of doing so. I believe that method was presented to us on this floor 2 weeks ago with S. 1338, the so-called flag statute. It creates a Federal flag protection law that establishes a criminal penalty of a $1,000 fine, or imprisonment for a year for anyone who "mutilates, defaces, burns, maintains on the ground or floor or tramples upon" our flag. It includes a section providing for its expedited review by the Supreme Court.

As such, S. 1338 is directed at protecting the physical integrity of the flag, not prohibiting the communicative impact of destroying it, which was the defect in the Texas law. There are certainly no guarantees that this Court or a future Court will permit such an approach to flag protection. But there should be little argument that until it refuses to do so, this approach should be aggressively pursued.

Had the President of the United States felt this statute was unconstitutional, I believe he would have vetoed it. He has chosen, instead, to let it become law without his signature.

Mr. President, I want to make very clear that passage of the statute 2 weeks ago in no way precludes the Congress from considering a constitu-

tional amendment at a later date. I am certainly prepared to do that.

I think it is important to point out, Mr. President, that we are not faced with a widespread rebellion against our cherished national symbol. There is no urgency that flag protection be dealt with conclusively and without delay. To the contrary, I have observed that in part because of the publicity which has surrounded this case and the Court's decision, there is probably more respect and honoring of the flag today than prior to the Supreme Court's decision or Johnson's repulsive act 5 years ago.

I recall vividly being interviewed on the Minneapolis CBS-TV affiliate during a Fourth of July parade in Forest Lake, MN. Directly behind me in camera view was a home, fully draped by a mammoth American flag.

These events demonstrate the basic principle that you don't legislate a stronger belief in or application of values like patriotism by simply punishing those who don't hold them. Offensive ideas don't disappear because of a jail sentence; they do fade away when they are drowned out by good ideas.

When the Supreme Court handed down its decision prohibiting organized prayer in public schools, President John F. Kennedy said the following:

> The Supreme Court has made its judgment. A good many people obviously will disagree with it; others will agree with it * * * We have in this case an easy remedy, and that is to pray ourselves. And I think that it would be a welcome reminder to every American family that we can pray a good deal more at home, we can attend our churches with a good more fidelity and we can make the true meaning of prayer more important in the lives of our children.

We have the same remedy in this situation: that we honor the flag more in our own lives, and dedicate ourselves with greater energy to our patriotic duties as Americans.

Others have adequately addressed some of the more technical issues of the amendment before us. How does it relate to the other amendments in the Bill of Rights? Does it supersede protection against cruel and unusual punishment or searches and seizures in criminal statutes on flag desecration? How broadly will physical desecration be interpreted? Without specific reference to the first amendment or the Johnson case, would the amendment really even accomplish its objective?

On the other hand, it is so broad that it would permit actions far beyond the intentions of the sponsors? While these questions may appear to be highly hypothetical, we must understand that what is being proposed is a permanent change in the Constitution, a rule of our Government that will be around long after we are all gone. That argues for a high degree of specificity and reliability to what we propose to do. Simply wanting to protect the flag is not reason enough to support any amendment.

Eleven years ago, Mr. President, when I began this solemn responsibility, I swore an oath to preserve, protect, and defend the Constitution of the United States. In part, I still take that to mean that I preserve its basic principles, I protect its integrity and cohesion and that I defend it against attempts to use it for lesser purposes. The Constitution is a document for the ages, not a tool for dealing with the politics of the moment.

Given the lack of a threat of national significance, the presence of an alternative means of protecting the flag and a number of serious ambiguities in the language before us in Senate Joint Resolution 180, I believe we honor our oath, our Constitution, and our flag, by voting to reject this proposed amendment.

Mr. DASCHLE. Mr. President, the Bill of Rights is the heart of our Constitution, the protector of our most precious rights. In 200 years it has never once been altered. Before we consider surgery on these rights, we are foolish not to see whether we can solve the problem with something less drastic.

That's why we have already passed a strong law to protect our flag. Until we know that law is not enough, we should not do more. And if the law is not enough, we should think long and hard for any solution short of taking the knife to the Bill of Rights. Because when we do that we shake the foundation of our future's freedom and truly desecrate the wisdom of our Founding Fathers.

There are many in this body who have helped us and our Nation understand what is at stake here today. My neighbor BOB KERREY's courageous speech in this Chamber and my chairman, PAT LEAHY's, powerful advocacy of a responsible course stand out. The Senator from Vermont was an early opponent of this amendment, and worked hard from the beginning to urge me and other Senators to vote against it. PAT LEAHY and BOB KERREY, I'm certain, share the views of the National Newspaper Association which recently reminded us in a letter that:

> Our Constitution, and specifically the First Amendment, has traditionally set us apart from the rest of the world in terms of individual expression. Never in the history of the world has a people been as free as the American people. * * * The single most important key to that freedom has been and still is America's willingness to tolerate expression that the majority find repugnant. In sharp contrast to the Chinese spectacle at Tiananmen Square, America has always been strong enough and sufficiently sure of itself to accept dissent within its ranks.

In East Germany, Poland, and China, people have risked their lives and made great personal sacrifices to enjoy just some of the freedoms we enjoy. How ironic, that as these brave people yearn for more freedom, we would consider an amendment like this to take away some of our freedom. Let's not give up our freedoms, not now, not ever.

Mr. SIMPSON. Mr. President, I have only a few brief, but I think important, observations regarding this proposal which I support.

Just 2 weeks ago, this body unanimously passed a statute which was intended to protect against the physical desecration of the flag. The House of Representatives adopted that statute by a strong majority, a vote of 371 to 43. President Bush refused to sign that bill Friday as a symbolic gesture intended to show his disappointment at Congress' weak approach to protecting the flag.

Today we have the opportunity to show the American people how strongly we really feel about protecting the flag. We must show them the strength of our concerns, which mirror their concerns, and approve this measure by the same unanimous vote.

I share the concern of our colleagues who are reluctant to tamper with the Constitution. I, too, advise extreme caution in this approach.

I remind my colleagues, however, that even when we approve this measure in Congress, it is not effective until the people show their approval through the ratification process. Let them decide.

Only if two-thirds of the States ratify this amendment will it have its desired effect.

Ratification is a time-consuming process, that is why I also supported the statutory approach for we swiftly needed some protections in place in order to help avoid a repeat of the idiotic and offensive acts which gave rise to this issue. But we must give the people the opportunity to participate directly in this decision. That can only be done through the ratification process.

I have an immense amount of faith in the good people of my home State of Wyoming. I know they will not vote on such a proposal without having given the matter a great deal of thought and soul searching.

I have similar faith in the citizens of all of the States. The people will make the right decision. After all, the Constitution belongs to the poeple. We are not the sole custodians. It is arrogant to think we are. It is only fitting that they make the final decision whether or not it should be amended.

If this body were to vote against the proposal, we would be telling the people that we do not trust their judgment. We would be preventing them from direct participation in this highly emotional question. I think that would be wrong.

So, I do support adoption of this measure. I encourage all of my colleagues on both sides to vote in favor of this proposal.

But most of all, I ask my colleagues to remember that the final decision will be made by the people. That is just how it should be.

Letting the American people decide for themselves is the only correct decision that we, the Senate, can make on this matter.

Mr. GRASSLEY. Mr. President, I rise once more to speak on behalf of the proposed constitutional amendment to protect the physical integrity of the flag of the United States.

The proposed amendment overturns a Supreme Court decision, Texas versus Johnson, that, in the opinion of the vast majority of Americans, incorrectly construed the Constitution.

Make no mistake about this: The only power in the proposed amendment is to allow the people and their elected representatives to decide whether or not to prohibit the physical desecration of the flag.

I want to take a moment to answer some of the criticisms that have been raised by some against the proposed constitutional amendment.

First, Senate Joint Resolution 180 does not amend the Bill of Rights. It does not amend the first amendment; it does not limit any legitimate freedom of speech.

While in no way intending to diminish the importance of any provision of the Constitution, we must remember that in September 1787, the framers left Philadelphia in disagreement over the necessity for further individual protections to be written into the document they had just completed.

We know, of course, that a group of amendments were eventually proposed by the First Congress and ratified by the people of the States. Their purpose was to assure that the Federal Government did not have certain powers that many framers believed they had not given it in the first place.

To those who maintain that any amendment that attempts to prohibit the physical desecration of the flag tinkers or tampers with the first amendment—or seeks to overturn protections inherent in the first amendment by restricting its free speech guarantee—I must respectfully disagree.

We all know that the first amendment does not provide for an absolute freedom of speech. The first amendment does not allow for anything to be said at any place or at any time.

Not all verbal conduct is protected; and not all nonverbal conduct is protected as so-called symbolic speech.

Reasonable time, place, and manner limits can be—and have been—placed upon the freedom of speech guaranteed by the first amendment.

The proposed amendment will in no way interfere—prevent—impair—restrict or diminish a single idea or thought from being expressed. The amendment in no way censors ideas from being communicated.

The amendment only prohibits conduct with respect to one object and one object only—the flag. The flag can be protected from desecration without any inhibition being placed upon the guarantee of free speech in the first amendment.

Let me say again as plainly as I can: Nothing in the language of Senate Joint Resolution 180 or in the intentions of its sponsors gives power to Congress or the States to override any other provision of the Constitution such as the cruel and unusual clause of the eighth amendment, or the prohibition against unreasonable searches and seizures in the fourth amendment.

Second, those who predict dire and harmful consequences with the passage of this proposed amendment propose interesting hypothetical cases for our Nation's law school classrooms. The parade of horribles is endless. But they have no basis in reality, unless you fundamentally mistrust our constitutional system, which vests power in the people.

Anyone can contrive a fact situation that is intended to prove a case against the proposed 27th amendment. However, Senate Joint Resolution 180 will not produce laws that will reduce the protections of the Constitution. The laws that are passed pursuant to the power granted to the people through the Congress and the States by the proposed 27th amendment may indeed be subject to legal challenges.

But these challenges will be no different from the many legal challenges over the last 200 years of laws passed by Congress and the States pursuant to powers granted by other provisions of the Constitution. Provisions of the first amendment—ratified by the people—such as the freedoms of speech, press, religion, assembly, and petition—alone have been the subject of thousands of lawsuits since 1791.

Third, anyone can criticize the proposed amendment on the basis of its generalized wording, which may also result in legal challenges on the grounds that it is too vague or that it is overbroad.

However, the generalized wording of the amendment is not unique to the proposed 27th amendment. Indeed, it might be interesting to hear how the critics of Senate Joint Resolution 180 would have viewed some of the wording of the 12 proposed additions to the Constitution that were sent to the States by the First Congress and which eventually became the first 10 amendments to that document.

What exactly did the First Congress mean when it drafted language such as "deprived of life, liberty, or property without due process of law"; or "unreasonable search and seizure?" That Congress didn't contrive to make mischief out of the language of these amendments.

Perhaps we are quite fortunate that some of the critics of Senate Joint Resolution 180 weren't present to criticize the precision of the proposed Bill of Rights sent to the States for their ratification.

Fourth, the spectre of a multiplicity of statutes, spawning a patchwork of restrictions on individual liberty, has been raised.

But I argue that we should not fear the people or their elected representatives to act responsibly pursuant to the power granted them by the proposed 27th amendment to the Constitution.

I have more confidence in the people. I give more credit to our people.

We have history as our guide. No voice was raised in alarm during the time when the Federal statute and 48 State flag desecration statutes were in force.

Who argued that these statutes—passed by the representatives of the people—limited freedom of speech?

Finally, the Constitution is a great document.

But remember, that great document is not inviolate. The Framers of the Constitution—to their credit—provided for amendment, albeit through a most cumbersome process "for great and extraordinary occasions."

And we must be mindful that nothing the Congress does regarding an amendment to the Constitution is automatic or final.

By very thoughtful and intentional design, the passage of an amendment by two-thirds of both the House and the Senate signals only the beginning of the process—one that is cumbersome at best.

As we all know, the States—thankfully, as it should be—must have their opportunity to speak to the issue through the ratification process. Only upon the positive affirmation of three-fourths of the State legislatures does an amendment become a part of the Constitution.

Once again, I urge my colleagues to support the proposed 27th amendment as the only way to respond to the Texas versus Johnson decision.

Mr. PELL. Mr. President, today the U.S. Senate undertakes one of its most solemn constitutional responsibilities. We must decide whether the Bill of Rights, which has protected the liberties of the people of this Nation for almost 200 years, should be amended to protect the American flag.

Mr. President, I am deeply offended by any act of mutilation, defacing, or burning of our flag. To me, the flag represents all the best of our Nation

and is a vibrant symbol of our most cherished ideals. I know that many citizens across this Nation and many of my colleagues here in the Senate share my strong disapproval of such acts. Indeed, I was glad to cosponsor and vote for the bill introduced by my distinguished colleague from Delaware [Mr. BIDEN] and passed by the Senate, to protect the physical integrity of the flag.

I am told that the President intends to let that legislation become law, and I congratulate both the President and Senator BIDEN on their respective roles in that regard. But I am also told that some, including the President, continue to believe that more is needed: That the flag will not be protected adequately without an amendment to our Constitution. I have thought very carefully about that point of view, and I have concluded that we need not take this drastic step.

The legislation recently passed by the Senate is a carefully crafted effort to prohibit the mutilation, burning, defacing or trampling upon of our flag. In my view, this legislation provides a constitutional way to accomplish our goal without altering the Bill of Rights. We do not need to go further. Our flag will wave more proudly if as we protect it, we also protect the Bill of Rights.

Mr. CONRAD. Mr. President, I rise today to alert my colleagues that I intend to vote against Senate Joint Resolution 180. I believe that we must protect the flag from desecration, but adoption of a constitutional amendment at this time would be premature. On October 5, the Senate passed and sent to the President legislation that will protect the flag from desecration.

The proposed amendment to the Constitution that we are considering today would read as follows:

> The Congress and the States shall have the power to prohibit the physical desecration of the flag of the United States.

Consideration of this amendment comes in the wake of the Supreme Court's June decision relating to the constitutionality of a Texas statute barring desecration of the flag. On June 21, 1989, the Supreme Court ruled 5 to 4 that a protester in Texas who burned a U.S. flag should not have been convicted of a crime. This decision overruled State laws against burning the flag in 48 States. I shared my colleagues', and North Dakotans', sense of deep dismay that the Supreme Court did not see fit to protect the flag from desecration.

As I previously noted, the decision in Texas versus Johnson focused on a particularly blatant set of circumstances. During the Republican National Convention in Dallas in August 1984, Gregory Johnson participated in a series of demonstrations against the policies of the Reagan administration and the Republican Party. One demonstration, which culminated with a rally at Dallas City Hall, included activity in which Johnson unfurled an American flag, doused it with kerosene and set it on fire. While the flag burned, the protesters chanted "America, the red, white, and blue, we spit on you."

As my colleagues are aware, this body overwhelmingly passed and sent to the President legislation that will rewrite the Federal statute that bars flag desecration. I cosponsored this bill, which will become law in 7 days. This legislation would make it an offense to knowingly mutilate, physically defile, deface, burn, or trample upon a flag of the United States. The American flag deserves protection from physical desecration, and this bill is the quickest way to ensure that this sacred symbol is protected and maintains its integrity. It also contains provisions which will allow expedited review of the constitutionality of the statute.

Mr. President, every American feels strongly about the flag. I have been contacted by hundreds of North Dakotans who believe that the flag deserves protection. They were deeply offended by Gregory Johnson's actions. They believe, as do I, that the flag must be protected from desecration.

Constitutional scholars tell us that the statute that will soon become the law of the land will pass constitutional muster. Over 100 law professors signed a letter expressing their opinion that a Federal statute outlawing flag desecration, if properly drafted, would be accepted as constitutional. Mr. President, the flag must be afforded every protection, and this statute will do just that. In a matter of months, we will find out its constitutionality.

Let me just speak for a moment on the proposed constitutional amendment. In the distinguished history of this country, we have amended the Constitution only 26 times. There have been over 2,500 proposed amendments to this sacred document and only 26 times has the full amendment process been brought to completion. We have never amended the Bill of Rights.

What does this tell us? It should signal that amending the Constitution is an extremely significant step, one that should be turned to only as a last resort. Mr. President, we should not tinker with the Constitution—even for such a critical reason as this—when we have indications that statutory change will do the job. The bill that will soon become law should protect our flag—the symbol that is so important to all of us.

Mr. President, those are the reasons for my vote today.

Mr. MITCHELL. Mr. President, 2 weeks ago, by a margin of 91 to 9, the Senate voted to protect the American flag. We corrected a shortcoming in the Federal flag law similar to the shortcoming the Supreme Court identified in the Texas flag law.

That was an effective and timely response to a flag-burning incident that occurred in 1984.

Despite the large majorities which voted for this bill, in both the House and Senate, President Bush has said he will not sign it.

But he will not veto it either. Instead, he has asked that we amend the Constitution.

I support the goal of protecting the physical integrity of the American flag against abuse and mutilation. But I do not support changing the American Constitution. We can support the American flag without changing the American Constitution.

When the Supreme Court ruled in June that the Texas law that protected "venerable objects," including the American flag, did not override the free speech rights of Gregory Johnson, who burned a flag, the ruling offended millions of Americans.

Five of the nine Supreme Court Justices signed the majority opinion. Four Justices dissented. So did many Americans.

Some citizens and constitutional experts interpret the ruling in the case as falling in the direct line of other first-amendment decisions, because it affirmed a right of political expression. Those who disagree do so in large part because expression—that is, conduct—is not identical to speech.

The words of the first amendment, in their entirety, are:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievance.

It is the purpose of the first amendment to preserve the means by which our people remain free.

The amendment accomplishes this in two ways: It frees human conscience from Government interference, and it frees human speech from Government control.

The Supreme Court has broadly interpreted the right to free speech. But it has not extended equally broad protection to conduct. In this very decision, the majority opinion acknowledges:

> * * * we have rejected "the view that an apparently limitless variety of conduct can be labelled 'speech' whenever the person engaging in the conduct intends thereby to express an idea." [*United States* v. *O'Brien*] * * * We have not automatically concluded, * * * that any action taken with respect to our flag is expressive.

So, even in this ruling, the Court treats conduct and speech differently.

The reason for that is plain. Speech is different from conduct. Speech is

specified in the words of the first amendment itself. Conduct is not.

Ideas may be conveyed through pictures or symbols. But only words can form the basis for rational human debate. Conduct, however eloquent it may be, cannot convey what speech conveys.

Since conduct can never take the place of speech, it has not enjoyed the same degree of constitutional protection as speech.

In the flag-burning case, four Justices did not agree that burning a flag conveys a message sufficiently specific to invoke first amendment speech rights. I share their view.

Nonetheless, five Justices did find that the Texas law was impermissible, not because Texas tried to protect "venerated objects" against vandalism, but because Texas made the destruction of those objects a crime only when done "in a way that the actor knows will seriously offend one or more persons likely to observe or discover his action." [Texas Penal Code Ann. sec. 42.09 (1989)].

The majority ruling did not question the right of the State of Texas to protect public monuments, places of worship or burial, or State or national flags—all of which are identified in the State law.

Neither did the Court assert a general first amendment right to burn the flag. Although some have characterized the Court's ruling in just those terms, that is both misleading in effect and false on the facts.

Nowhere in the majority's opinion can be found any kind of right to burn or destroy the flag.

Instead, the ruling explicitly says, "* * * we do not doubt that the Government has a legitimate interest in making efforts to 'preserv[e] the national flag as an unalloyed symbol of our country'" [Spence versus Washington (1974)].

To achieve that legitimate governmental interest—to protect the flag—is what the Congress has already voted to do.

The bill passed by the Congress makes it an offense to knowingly mutilate the flag. It does so regardless of the intention of any individual to send a message of any kind. It makes an offense of the conduct itself, not of any message that the conduct is intended to convey.

That is the simple, direct and effective way to respond to the flag-burning episode. It reasserts our national belief that wanton destruction of the Nation's symbol, the American flag, is wrong.

Against this direct and effective law, a claim is now being made that unless the Constitution itself is amended, unless we alter the founding document of the Nation, we can not effectively protect the flag.

That argument is just plain wrong.

The proposed amendment is modeled on the 21st amendment to the Constitution. It says that Congress and the States shall have power to prohibit the physical desecration of the flag of the United States.

But the sponsors of this proposal have not explained what effect this language will have on the Constitution.

One of the amendment's sponsors, Congressman MICHEL, said in his testimony in the House that the amendment is not intended to amend the Bill of Rights but "the Constitution as a whole." But if that is so, then all it does is restate a power that Congress and the States already have—the right to enact legislation, subject to the limits of the whole Constitution.

Every provision of the Constitution which gives Congress the power to write laws is governed by the rest of the Constitution.

Congress has the power to regulate commerce. But we cannot regulate commerce by restricting the sale of books we do not approve. Congress has the power to create a postal service. But we cannot limit it to sending only mail of which we approve.

So if this proposed amendment does nothing but state explicitly what is already implicit—that Congress has the authority to write laws protecting the flag—then it is meaningless, since it gives no more power to such laws than they already have.

Flag protection laws, like laws regulating commerce or the postal service, would still be weighed against the other commandments and prohibitions of the Constitution, including the first amendment.

We gain nothing by engaging in such a needless exercise. But even if the amendment were adopted, it would have no more effect on a new flag burning case than leaving the Constitution unchanged. That is because the shortcoming the Supreme Court identified is not in the Constitution. It is in the law.

That is why we needed to amend the law. That is why we do not need to amend the Constitution.

If the sponsors of this amendment want flag laws to override the first amendment, this language will not achieve that result.

The way to overturn a Supreme Court ruling is to specify how the new amendment is to be construed. That is how other constitutional amendments are phrased.

The 11th and the 16th amendments were both directly intended to overrule particular Supreme Court judgments. Both those amendments specify in their language exactly which section of the Constitution the new amendment will override.

For example, the 11th amendment overruled a 1793 Court ruling, Chisholm versus Georgia, dealing with the right of citizens of one State to sue another State. It is explicit in its terms:

> The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

By its own terms, that language specifically applies to article III, section 2(1) of the Constitution which reads, "* * * the judicial power shall extend to all cases, in law and equity, * * * between a State and citizens of another State; * * *." By directly limiting the authority of the Federal courts in such cases, the amendment achieves its purpose.

Likewise, the 16th amendment to the Constitution, which overturned a Supreme Court ruling limiting the congressional taxing power (Pollock versus Farmers' Loan & Trust Co. (1985)), did not simply assert the right to impose income taxes.

It achieved its purpose by explicitly negating the constitutional barrier that the Court identified:

> The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration.

This language directly overrides language in article I, section 9, to the effect that "No Capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken."

But the language of the proposed flag amendment does not specify which provision of the Bill of Rights it is intended to supercede or which element of the right of free speech it is intended to suspend.

If the authors of this amendment want to explicitly override the freedom of speech or the due process of law, or some other provision of the Constitution, they should spell out precisely what they mean.

But they will not do that, of course, because that would expose, for all to see, the devastating consequences of their effort to amend the first amendment to the Constitution, the cornerstone of the Bill of Rights, which is itself the cornerstone of our freedom.

By its terms, the proposed flag amendment does not make it clear what is prohibited and what is not. Instead, it will open the door to new and extensive litigation to discover the reach and the limits of the language.

If this amendment is approved, the question before the Supreme Court would still be: How far may the States or the Congress go in protecting the flag?

A supporter of the constitutional amendment, Prof. Eugene W. Hickok, Jr., who testified that the flag statute we passed was too broad, made this very point. Notwithstanding his sup-

port for the idea of a constitutional amendment, he said:

* * * the proposed amendment would not provide Congress with any more authority to protect the flag than it has at this moment.

As the proposed amendment is worded, it provides Congress and the States with power to enact laws aimed at protecting the flag. However, the exercise of that power would be subject to other provisions of the Constitution; much the way the exercise of the commerce power by Congress is subject to other provisions of the Constitution.

In other words, amending the Constitution with the languages suggested by the President, would do nothing to alter the constitutional landscape carved out by the court in Johnson. When writing legislation under the authority of the proposed amendment, the Congress would still have to consider the first amendment and the Court's understanding of how that amendment might limit the Congress's ability to protect the flag.

Let me repeat that sentence:

When writing legislation under the authority of the proposed amendment, the Congress would still have to consider the first amendment and the Court's understanding of how that amendment might limit the Congress's ability to protect the flag.

Of course, Mr. President and my colleagues, that is precisely what Congress did when we debated the flag statute. We wrote a law designed to reach our goal without violating the Constitution.

The proposed flag amendment is both vague and open-ended. It does not directly limit the Bill of Rights. But if it were to be balanced against the protections in the Bill of Rights, as the 21st amendment is now balanced against the commerce clause, which of the rights now guaranteed to us could it supercede?

Would a State be permitted to suspend jury trials for flag cases? Would physical desecration be held to extend to improper forms of displaying the flag, such as flying it upside down?

Could a State ban the display of the flag on boots, such as those President Bush gave as a gift to the Chinese Premier earlier this year?

My conclusion is that the amendment as written does not limit the Bill of Rights and does nothing but merely restate a legislative authority the Supreme Court has already acknowledged—the right to legislate protection for the flag of the United States.

Prof. William Van Alstyne, professor of law at Duke University, one of the Nation's respected constitutional scholars, concluded that the proposed amendment would not have altered the outcome of Texas versus Johnson.

If that is so, the flag amendment does not overturn any flag-related case. It leaves the Court precedents unaltered and it does not disturb the existing order of the Constitution.

But what this proposal does is to send the States an amendment whose implicit question is "Are you for or against the flag?" That is the objective of their amendment, and the States will have no chance to modify it, alter it or correct it.

We do not serve our national tradition by forcing Americans to make a false and unnecessary choice between the American flag and the Constitution.

We Americans revere the flag. We also revere the Constitution. We need not choose between them.

Ours is a free nation, dedicated to the principle that each of us, in Government or out, in high office or not, has the liberty to speak our mind, to seek to persuade others, to argue our cause in the court of public opinion and private life.

We believe that from the free and full and vigorous exchange of opposing viewpoints, the truth will emerge. We impose neither standards of honesty nor taste on our political debate, trusting instead to our civility and sense of decency to pursue public debate in a manner that will serve our democratic principles, not subvert them.

For a free people, the fight against an enemy army demands sacrifice and courage. That is difficult and demanding. It is also difficult and demanding in time of peace to live up to our own high ideals.

For a free and confident people, as Americans are, it is not difficult to tolerate differences and eccentricities. But defending the freedom of those who would deny it to others—that is difficult.

Perhaps that is why no other nation today tries, or has ever tried, to live by a standard as high and as demanding as the American Bill of Rights.

America does try to live by its Bill of Rights. We have chosen not to take the easy way out. We have chosen not to try to silence those who are wrong, but rather to challenge them with the truth. That is why no one disputes Gregory Johnson's right to say offensive words about America, in America.

That path has served us well. It has preserved our liberties for two centuries.

When the First Congress convened two centuries ago, its first task was to write and submit for ratification a Bill of Rights to make sure that the liberties won from a foreign government in the War of Independence would not be lost to a domestic government.

The First Congress did its duty. The Bill of Rights was passed and sent to the States. By 1791, those first 10 amendments had become part of the Constitution.

They are as much a part of the originally conceived document as the articles outlining the powers of the President and the Congress.

Across the millenia of human history, there is no better, clearer, more concise or effective statement of the right of citizens to be free of the dictates of Government than the American Bill of Rights.

For 200 years, the Bill of Rights has protected the liberties of Americans through economic turmoil, civil war, political strife, social upheaval, and international tension. Despite the worst that fate has hurled at us, we have never found it necessary to abandon the fundamental principles on which our Government was founded and by which our liberties are secured.

Principles which have stood that test of time should not be lightly discarded.

Liberties that have seen us through civil wars and world wars should not be tampered with.

We face no sudden or uncontrollable burst of flag destruction. We face no massive alienation by our people from the symbols and traditions of our Nation.

Yet we are being asked to believe that the flag which neither Hitler nor Stalin nor anyone else could defeat is not threatened by a single misguided person who most Americans never heard of and not care about.

We are better than that. Both our flag and our people are stronger than that.

We can best protect our flag by passing a law, as the Congress has already done. We can best honor our Bill of Rights by leaving it alone, securing the liberties of each and every American. Those are two principles on which all Americans can and should agree.

I urge my colleagues to vote "no" on this amendment.

Mr. BIDEN. Mr. President, 200 years ago this year, the Bill of Rights was written. The 10 amendments embodied in the Bill of Rights—those 10 statements of overarching and fundamental principle—stand as the greatest testament to liberty and freedom that mankind has even known. They stand for this Nation's presumption of individual freedom and its desire to limit the scope of government.

At the core of those amendments is the first amendment, the essence of which is freedom of thought and freedom of speech. More than 50 years ago, Justice Benjamin Cardozo wrote that such freedoms are "the Matrix, the indispensable condition, of nearly every other form of freedom.

Mr. President, in a few moments, we will vote on a constitutional amendment that flies squarely in the face of our grand tradition of liberty and that strikes at the heart of that indispensable condition:

This amendment would not secure individual liberty—on the contrary, it would constrain it.

This amendment would not limit the power of Government—on the contrary, it would unleash it.

This amendment would not encourage freedom and equality—on the contrary, it would invite the States to pick and choose among the ideas the like and dislike, protecting the former and punishing the latter.

Mr. President, if we adopt this amendment, we would fray the comment that the flag embodies. We would become the First Congress in the history of this Nation to limit the Bill of Rights.

We would be the first generation in the history of America to leave for our children and grandchildren a nation that was less free, a nation that was less strong, and a nation that was less committed to the ennobling spirit that guided its formation 200 years ago.

Ten days ago we adopted a statute to protect the flag.

Today let us do what we must to protect the first amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read a third time, the question is, Shall it pass? On this question, pursuant to article 5 of the Constitution, a two-thirds vote in the affirmative is required for the joint resolution to pass. Are the yeas and nays requested?

Mr. MITCHELL. Yes.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 251 Leg.]

YEAS—51

Armstrong	Ford	McClure
Bentsen	Fowler	McConnell
Bond	Garn	Murkowski
Boschwitz	Gramm	Nickles
Breaux	Grassley	Nunn
Bryan	Hatch	Pressler
Burdick	Heflin	Reid
Burns	Heinz	Robb
Byrd	Helms	Rockefeller
Coats	Hollings	Roth
Cochran	Johnston	Shelby
D'Amato	Kassebaum	Simpson
DeConcini	Kasten	Stevens
Dixon	Lott	Symms
Dole	Lugar	Thurmond
Domenici	Mack	Wallop
Exon	McCain	Warner

NAYS—48

Adams	Gore	Matsunaga
Baucus	Gorton	Metzenbaum
Biden	Graham	Mikulski
Bingaman	Harkin	Mitchell
Boren	Hatfield	Moynihan
Bradley	Humphrey	Packwood
Bumpers	Inouye	Pell
Chafee	Jeffords	Pryor
Cohen	Kennedy	Riegle
Conrad	Kerrey	Rudman
Cranston	Kerry	Sanford
Danforth	Kohl	Sarbanes
Daschle	Lautenberg	Sasser
Dodd	Leahy	Simon
Durenberger	Levin	Specter
Glenn	Lieberman	Wirth

NOT VOTING—1

Wilson

So the joint resolution (S.J. Res. 180) was rejected.

The PRESIDING OFFICER. On this vote there are 51 yeas and 48 nays. Two-thirds of the Senators present and voting not having voted in the affirmative, the joint resolution is rejected.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the joint resolution was rejected.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Maine.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of Senators we will now proceed to the Labor-HHS appropriations conference report and will continue on that until we return to the impeachment proceedings this afternoon. It is important that all Senators attend and participate in the impeachment proceedings this afternoon. I urge their attendance this afternoon.

Mr. DOLE. Mr. President, I ask unanimous consent to proceed for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas.

THE FLAG VOTE

Mr. DOLE. Mr. President, we have had the vote. And it is now fair to say that the opponents of the amendment have not given the American flag the kind of protection it deserves and the American people are demanding. In my view, the flag ought to be flying at half staff after this vote.

I doubt anyone is going to be sending out frank mail today and say we helped beat the constitutional amendment on the flag. There will not be a franking effort. Maybe the headline ought to read: "Your Senator Beat a Constitutional Amendment To Protect the Flag."

I believe the American people have a different view. Just look at the millions and millions of Americans who have phoned us and our offices and just look at the American Legion, the VFW, and the other veterans groups who have contacted us through the mail and with petitions. But, unfortunately the Senate has given them a cold shoulder. When it became clear that the amendment's opponents had the votes, they were bold and more willing to take shots at the President of the United States. But I think the President of the United States was right all along.

I ask unanimous consent to print in the RECORD the statement of support from the administration. It is three lines. I do not think it will take up too much room in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF ADMINISTRATION POLICY, OCTOBER 13, 1989

The Administration urges prompt enactment of S.J. Res. 180, which is needed to ensure that the Nation's flag is protected in a constitutionally sound manner.

Mr. DOLE. Mr. President, in any event I believe that we were right by the constitutional amendment. And I believe that we will be back in this Chamber voting on a constitutional amendment after the statute has been struck down by the Supreme Court.

I thank the distinguished Senator from Delaware. He did good work. He had several hearings, and I commend him for it. He has worked hard on this issue. He has certainly done his homework. I think he was very fair and I appreciate that very much.

And the American people can give the Senator considerable credit for stopping the flag amendment in its tracks here in the Senate.

I thank my friend from South Carolina, Senator THURMOND, who has proven once again his personal commitment to uphold the cherished ideals that our flag represents.

And, finally, I thank the American Legion, the Veterans of Foreign Wars, the Non Commissioned Officers of America, and the other veteran groups. These groups know what the flag is all about. They do not need to consult a textbook or a legal treatise. And they have worked tirelessly and selflessly on behalf of the amendment. I thank them for their support.

I predict the statute passed last week by Congress is going to be declared unconstitutional and we will soon be back on a constitutional amendment. Maybe it will be slightly changed, maybe not. Maybe the second time around we will be more successful. But that is what this Constitution and the constitutional amendment process is all about. We did what we had a right to do. We had a right to propose a constitutional amendment.

It is a tough test. We did not meet that test. We did not get the 67 votes.

But we will be back, and perhaps the next time around the result will be different.

(Mr. KOHL assumed the chair.)

Mr. BIDEN. Mr. President, I will only take 2 minutes of the Senate's time. Let me say this is one Senator who will be sending out his mail saying two things: That we did good work the last 10 days. We saved the flag and we preserved the Constitution.

On a second point, if the Senator from Kansas is correct and the statute similar to the one the Senator from Delaware drafted is declared unconstitutional, then I agree with him, we will be back here with a constitutional amendment. But the next time, we will be back here with a constitutional amendment, if it is ever necessary, with one that in fact does not do violence to the whole Constitution, as this one did.

So, Mr. President, I will be sending out my mail saying we saved the flag and we also preserved the Constitution.

Mr. CRANSTON. Mr. President, I feel this is a very proud day for the Senate of the United States. Forty-eight Senators cast a very, very courageous vote, a very difficult political vote. But they stood up for what the flag stands for. They protected the Bill of Rights.

I was not elected, and I think others were not elected, to tamper with that Bill of Rights in any frivolous way. I want to pay tribute to our leader, Senator GEORGE MITCHELL; to the chairman of the Judiciary Committee, Senator BIDEN; and to Senator PAT LEAHY, who played a particularly vigorous and great role in protecting the Bill of Rights.

Mr. KENNEDY. Mr. President, I welcome the action of the Senate a few moments ago in rejecting the constitutional amendment, and I will address that issue and what I consider to be the significance of it, briefly, at this time.

Mr. President, I commend the Senate for the dramatic vote earlier today to preserve the first amendment. The words of the amendment are simple and majestic: "Congress shall make no law * * * abridging the freedom of speech."

The proposed constitutional amendment would have undermined that fundamental liberty. For the first time in our 200-year history, it would have created an exception to the freedom of speech our Constitution protects.

For two centuries, nothing—not a brutal civil war, not two world wars, not a devastating depression, not any of the other dramatic changes that have transformed the Nation from a cluster of quarreling colonies to the world power it is today—has caused America to amend the Bill of Rights.

Yet today we were being asked to amend it for the most trivial of reasons—partly because of the obnoxious act of a protester who burned the flag, but largely because of an unseemly effort to use the flag for partisan political advantage.

But this time, Lee Atwater and President Bush overreacted—and miscalculated. The President was using the high power of his office for a low purpose. Tampering with the Constitution in 1989 is an unjustifiable extension of the 1988 Presidential campaign.

This year's debate is the legislative equivalent of last year's visit to the flag factory. Even the President now seems to recognize that he overdid it, as the deafening silence from the White House now makes clear in this debate.

The reason is obvious. The Atwater-Bush amendment would do more violence to the Constitution than Gregory Lee Johnson did to the flag.

All of us condemn flag burning, because the act of desecrating the flag casts contempt on our country, our heritage, and our history. Gregory Lee Johnson's actions were deplorable, and the Supreme Court's decision that he must go free generated an initial firestorm of public concern. But the Court's ruling has provided a fresh lesson to all of us about the basic values of our country.

The Court's opinion shows a deep understanding of the true meaning of the Constitution; in the weeks since the ruling, the American people have come to appreciate that meaning too, and to understand the fundamental values at stake in this debate.

The firestorm has subsided. The initial concern of the people about the flag has been replaced by a new concern about the Constitution. They do not want to see the Constitution used as a political football, and it is wrong for the White House to try to make it one.

We do not respect the flag—indeed, we disrespect the flag—when we diminish the freedoms for which it stands. No freedom is more central to our democracy than freedom of speech. Throughout our history, that freedom has rested on the idea that the Constitution requires us to tolerate even sharply opposing viewpoints—not just those we approve, but those we despise as well. That tolerance is one of the most distinctive American values.

The proposed amendment would put an unacceptable dent in that broad tolerance. The last thing the Constitution needs is an Atwater-Bush asterisk on the Bill of Rights. If we make an exception to the first amendment because of our concern about the flag burners, what will we say the next time the majority is offended by another form of protest?

The Senate was right to reject the Atwater-Bush amendment. We do not protect the flag by desecrating the Constitution. The flag flies highest when we honor the highest values for which it stands. Because this amendment was rejected, the flag is flying higher now. As has happened so often before in the long and distinguished history of the Bill of Rights, our basic freedoms have been vindicated once again.

Mr. SPECTER. Mr. President, I feel constrained to reply, if I might have the attention of the Senator from Massachusetts, to his last comments. I voted with those who opposed the constitutional amendment and I did so because of my conviction that the statute will pass constitutional muster next time around and that the statute provides for expedited court review. I made an extensive statement on this subject by analogy to the New Deal legislation in the 1930's and the Communist legislation in the 1950's and most recently on the situation with respect to the affirmative action matter.

But I do not think it is an accurate characterization to call this the Bush-Atwater amendment. This is an amendment which had widespread Democratic support.

I just hurriedly made a tally on the rollcall, and I find at least 14 Democrats who supported this constitutional amendment. So I think that that is significant support on both sides of the aisle. It seems to this Senator that—I have just been handed a retally and there were 18 Democrats who supported this amendment.

But it seems to this Senator that, while I disagree with the amendment, there is ample room for a good faith representation that this is an important matter, aside from what Lee Atwater may think, aside from what President Bush may think.

The vote was 51 to 48, so that the majority favored the amendment. That is not the two-thirds requirement to have more than a majority test and to have ratification required by three-fourths of the States.

But I do not think, on the face of this record, that it is accurate to say that this is a partisan matter which is being engineered for crass political purposes when 18 Democrats have supported the matter and a majority of the U.S. Senate, albeit short of a two-thirds vote, have supported the amendment.

Mr. KENNEDY. Mr. President, at an earlier time in the discussion, I brought to the attention of the Senate the process by which the President reached his determination to support a constitutional amendment, reviewing the fact of the initial statement that was made by the President prior to the time that he had lunch with Lee Atwater, which basically could be

characterized as an acceptance of the Supreme Court's judgment on the flag burning issue. In remarks he made the day after the Supreme Court's decision, President Bush said the following:

I understand the legal basis for that decision, and I respect the Supreme Court. And as President of the United States, I will see that the law of the land is fully supported. But I have to give you my personal, emotional response. Flag-burning is wrong—dead wrong—and the flag of the United States is very, very special.

After the lunch with Lee Atwater, he issued a statement indicating what was to be his final position in support of the constitutional amendment. In an earlier part of the record, that whole process is explained.

Perhaps my good friend from Pennsylvania remembers the whole process and the influence of Mr. Atwater on that process. I think it is relevant. That factual situation was the way that the President's support for this amendment developed.

Perhaps the Senator from Pennsylvania does not want to address that particular aspect of the history of the development of the President's position. But I think that those who have followed this very closely—I know the Senator from Pennsylvania has—have to recognize that those were the facts. Those were the facts. And I do not think it is stretching the truth to point those facts out.

I am glad, as the Senator from Pennsylvania is, that the Senate has rejected this amendment the way it should be rejected, as prescribed by the Constitution. I think that demonstrates the good judgment of members of my party as well as of the opposite party. That issue is now hopefully behind us.

But I think that it is worthwhile to at least reference that point and that history. That is why I characterized it as the Bush-Atwater amendment for those reasons. It was not just selected out of the blue, but for those very reasons. I think the silence from the White House over the past days on this issue has been deafening. I think that, as I stated earlier, as a result, the American people have recognized that we have not tampered with the first amendment in 200 years of our history, and that the American flag flies the highest when we do not desecrate the first amendment.

So I appreciate what the Senator from Pennsylvania has said, but I also believe that it is worthwhile to reference Mr. Atwater's involvement in the development of the President's position.

Mr. SPECTER. Mr. President, just 30 seconds more. I do not know who the President had lunch with, but I doubt very much that 51 Senators were there, including the 18 Democrats who voted for the amendment. It seems like the President cannot do anything right, either way he goes, pushing the amendment or being silent on it.

But I think the matter really is correct at this point.

OMNIBUS BUDGET RECONCILIATION ACT

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3299, the reconciliation bill.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 3299) entitled "An Act to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following Members be the managers of the conference on the part of the House:

From the Committee on the Budget, for consideration of the House bill (except title XI and sections 10181 through 19191), and the Senate amendment (except title VI), and modifications committed to conference, and as exclusive conferees with respect to any proposal to report in total disagreement: Mr. Panetta, Mr. Gephardt, Mr. Russo, Mr. Leath of Texas, Mr. Schumer, Mrs. Boxer, Mr. Slattery, Mr. Frenzel, Mr. Gradison, Mr. Goodling, and Mr. Denny Smith.

From the Committee on the Budget, for consideration of title XI and sections 10181 through 10191 of the House bill, and title VI of the Senate amendment, and modifications committed to conference: Mr. Panetta, Mr. Gephardt, Mr. Russo, Mr. Jenkins, Mr. Guarini, Mr. Frenzel, Mr. Gradison, and Mr. Thomas of California.

From the Committee on Agriculture, for consideration of title I of the House bill, and title I of the Senate amendment, and modifications committed to conference: Mr. de la Garza, Mr. Glickman, Mr. Stenholm, Mr. Huckaby, Mr. Brown of California, Mr. English, Mr. Condit, Mr. Madigan, Mr. Coleman of Missouri, Mr. Stangeland, and Mr. Schuette.

From the Committee on Agriculture, for consideration of subtitle B of title VI (except section 6131) of the House bill, and modifications committed to conference: Mr. de la Garza, Mr. Huckaby, Mr. Volkmer, Mr. Olin, Mr Stallings, Mr. Harris, Mr. Sarpalius, Mr. Marlenee, Mr. Morrison of Washington, Mr. Robert F. Smith, and Mr. Herger.

From the Committee on Banking, Finance and Urban Affairs, for consideration of title II of the House bill, and title II of the Senate amendment, and modifications committed to conference: Mr. Gonzalez, Mr. Annunzio, Mr. Fauntroy, Mr. Garcia, Mr. Morrison of Connecticut, Mr. Erdreich, Mr. Kanjorski, Mr. Wylie, Mr. Bereuter, Mr. Roth, and Mr. Paxon.

From the Committee on Education and Labor, for consideration of sections 3000 through 3009 of the House bill, and subtitle B of title VIII of the Senate amendment, and modifications committed to conference: Mr. Hawkins, Mr. Williams, Mr. Ford of Michigan, Mr. Owens of New York, Mr. Hayes of Illinois, Mr. Perkins, Mr. Gaydos, Mr. Coleman of Missouri, Mr. Gunderson, Mr. Henry, and Mr. Smith of Vermont.

From the Committee on Education and Labor, for consideration of sections 3051 through 3201 of the House bill, and subtitle A of title VIII of the Senate amendment, and modifications committed to conference: Mr. Hawkins, Mr. Clay, Mr. Ford of Michigan, Mr. Kildee, Mr. Miller of California, Mr. Hayes of Illinois, Mr. Owens of New York, Mrs. Roukema, Mr. Bartlett, Mr. Fawell, and Mr. Ballenger.

From the Committee on Education and Labor, for consideration of subtitles D and E of title III of the House bill, and modifications committed to conference: Mr. Hawkins, Mr. Ford of Michigan, Mr. Kildee, Mr. Williams, Mr. Owens of New York, Mr. Sawyer, Mrs. Lowey of New York, Mr. Tauke, Mr. Petri, Mr. Gunderson, and Mr. Grandy.

From the Committee on Energy and Commerce, for consideration of subtitles A through E of title IV, subtitle B of title X (except sections 10101–10112, 10171, 10181, and 10182), and sections 10003, 10005 (except subsection (c)), 10077(d), 10226, 10233, and 10248 of the House bill, and sections 4001 through 4013, 5201 through 5401, 5501, and 5601 (insofar as it relates to title XIX of the Social Security Act) of the Senate amendment, and modifications committed to conference: Mr. Dingell, Mr. Waxman, Mr. Scheuer, Mr. Wyden, Mr. Bruce, Mr. Rowland of Georgia, Mr. Hall of Texas, Mr. Lent, Mr. Madigan, Mr. Dannemeyer, and Mr. Whittaker: *Provided*, That Mr. Tauke is appointed in place of Mr. Dannemeyer for consideration of sections 4001 and 10123 of the House bill, and Mr. Bilirakis is appointed in place of Mr. Whittaker for consideration of sections 10183 through 10191 of the House bill, and Mr. Nielson of Utah is appointed in place of Mr. Whittaker for consideration of subtitles C and D of title IV and sections 10226, 10233, and 10248 of the House bill and section 5501 of the Senate amendment.

From the Committee on Energy and Commerce, for consideration of subtitle F of title IV and section 6001 of the House bill, and section 4101 of the Senate amendment, and modifications committed to conference: Mr. Dingell, Mr. Sharp, Mr. Walgren, Mr. Tauzin, Mr. Cooper, Mr. Richardson, Mr. Bryant, Mr. Lent, Mr. Moorhead, Mr. Dannemeyer, and Mr. Fields.

From the Committee on Energy and Commerce, for consideration of subtitles G and H of title IV of the House bill and section 301 of the Senate amendment, and modifications committed to conference: Mr. Dingell, Mr. Markey, Mr. Swift, Mrs. Collins, Mr. Eckart, Mr. Boucher, Mr. Manton, Mr. Lent, Mr. Rinaldo, Mr. Tauke, and Mr. Bliley: *Provided*, That Mr. Ritter and Mr. Oxley are appointed in place of Mr. Tauke and Mr. Bliley for consideration of subtitle G of title IV of the House bill.

From the Committee on Government Operations for consideration of title V and section 8001 of the House bill, and section 7001 of the Senate amendment, and modifications committed to conference: Mr. Conyers, Mrs. Collins, Mr. Neal of North Carolina, Mr. Erdreich, Mr. Bustamante, Mr. Kleczka, Mrs. Boxer, Mr. Kyl, Mr. Shays, Mr. Smith of Vermont, and Mr. Clinger.

From the Committee on Interior and Insular Affairs, for consideration of subtitle F of title IV and title VI of the House bill, and section 4101 of the Senate amendment, and

modifications committed to conference: Mr. Udall, Mr. Miller of California, Mr. Markey, Mr. Murphy, Mr. Rahall, Mr. Vento, Mr. Williams, Mr. Young of Alaska, Mr. Craig, Mr. Hansen, and Mrs. Vucanovich.

From the Committee on Interior and Insular Affairs, for consideration of section 4201 of the Senate amendment, and modifications committed to conference: Mr. Udall, Mr. Miller of California, and Mr. Young of Alaska.

From the Committee on Merchant Marine and Fisheries, for consideration of title VII of the House bill, and sections 302(b), 303, and 4201 of the Senate amendment, and modifications committed to conference: Mr. Jones of North Carolina, Mr. Studds, Mr. Hughes, Mr. Tauzin, Mr. Foglietta, Mr. Hertel, Mr. Dyson, Mr. Davis, Mr. Young of Alaska, Mr. Shumway, and Mr. Fields.

From the Committee on Post Office and Civil Service, for consideration of titles V and VIII and sections 10004(a) and 10004(b) of the House bill, and title VII of the Senate amendment, and modifications committed to conference: Mr. Ford of Michigan, Mr. Clay, Mrs. Schroeder, Ms. Oakar, Mr. Sikorski, Mr. McCloskey, Mr. Ackerman, Mr. Gilman, Mr. Horton, Mr. Young of Alaska, and Mr. Ridge.

From the Committee on Public Works and Transportation, for consideration of sections 302(a), 304, and 4301 of the Senate amendment, and modifications committed to conference: Mr. Anderson, Mr. Roe, Mr. Mineta, Mr. Oberstar, Mr. Nowak, Mr. Rahall, Mr. Applegate, Mr. Hammerschmidt, Mr. Shuster, Mr. Stangeland, and Mr. Clinger.

From the Committee on Veterans' Affairs, for consideration of title IX and section 11650 (except subsection (a)) of the House bill, and title IX of the Senate amendment, and modifications committed to conference: Mr. Montgomery, Mr. Edwards of California, Mr. Applegate, Mr. Evans, Mr. Penny, Mr. Staggers, Mr. Rowland of Georgia, Mr. Stump, Mr. Hammerschmidt, Mr. Wylie, and Mr. McEwen.

From the Committee on Ways and Means, for consideration of subtitle B of title III and title XI (except sections 11901 through 11903) of the House bill, and title VI and sections 302, 4004 through 4013, and 8001 of the Senate amendment, and modifications committed to conference: Mr. Rostenkowski, Mr. Gibbons, Mr. Pickle, Mr. Rangel, Mr. Stark, Mr. Ford of Tennessee, Mr. Downey, Mr. Archer, Mr. Vander Jagt, Mr. Crane, and Mr. Schulze.

From the Committee on Ways and Means, for consideration of subtitle A of title IV, sections 4101 (insofar as it relates to section 1142 of the Social Security Act), 4111, and 4121 (insofar as it relates to section 1142 of the Social Security Act), and title X (except sections 10181 through 10191) of the House bill, and title V (except section 5501) of the Senate amendment, and modifications committed to conference: Mr. Rostenkowski, Mr. Gibbons, Mr. Pickle, Mr. Rangel, Mr. Stark, Mr. Jacobs, Mr. Downey, Mr. Crane, Mr. Brown of Colorado, Mr. Chandler, and Mr. Shaw.

From the Committee on Ways and Means, for consideration of sections 10181 through 10191 of the House bill, and modifications committed to conference: Mr. Rostenkowski, Mr. Stark, Mr. Donnelly, Mr. Coyne, Mr. Pickle, Mr. Anthony, Mr. Levin of Michigan, Mr. Archer, Mr. Vander Jagt, Mr. Crane, and Mr. Schulze.

From the Committee on Ways and Means, for consideration of sections 11901 through 11903 of the House bill, and modifications committed to conference: Mr. Rostenkowski, Mr. Downey, Mr. Ford of Tennessee, Mr. Pease, Mr. Matsui, Mrs. Kennelly, Mr. Andrews, Mr. Schulze, Mr. Shaw, Mr. Sundquist, and Mrs. Johnson of Connecticut.

From the Committee on Ways and Means, for consideration of section 304 of the Senate amendment, and modifications committed to conference: Mr. Rostenkowski, Mr. Downey, and Mr. McGrath.

Mr. MITCHELL. Mr. President, I move that the Senate insist on its amendments, agree to the conference requested by the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer appointed the following conferees on the part of the Senate:

From the Committee on the Budget: Mr. SASSER, Mr. RIEGLE, Mr. LAUTENBERG, Mr. SIMON, Mr. SANFORD, Mr. FOWLER, Mr. DODD, Mr. DOMENICI, Mr. ARMSTRONG, Mr. BOSCHWITZ, Mr. GRASSLEY, and Mr. KASTEN.

From the Committee on Armed Services: Mr. NUNN, Mr. EXON, and Mr. WARNER.

From the Committee on Energy and Natural Resources: Mr. JOHNSTON, Mr. BUMPERS, Mr. METZENBAUM, Mr. BINGAMAN, Mr. WIRTH, Mr. MCCLURE, Mr. DOMENICI, Mr. WALLOP, and Mr. MURKOWSKI.

From the Committee on Environment and Public Works: Mr. BURDICK, Mr. MOYNIHAN, Mr. BAUCUS, Mr. BREAUX, Mr. CHAFEE, Mr. SIMPSON, and Mr. DURENBERGER.

From the Committee on Finance: Mr. BENTSEN, Mr. MATSUNAGA, Mr. MOYNIHAN, Mr. BAUCUS, Mr. MITCHELL, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. PACKWOOD, Mr. DOLE, Mr. ROTH, Mr. DANFORTH, Mr. CHAFEE, and Mr. HEINZ.

From the Committee on Labor and Human Resources: Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. DODD, Mr. HATCH, Ms. KASSEBAUM, and Mr. JEFFORDS.

From the Committee on Veterans Affairs: Mr. CRANSTON, Mr. MATSUNAGA, and Mr. MURKOWSKI.

From the Committee on Banking, Housing and Urban Affairs: Mr. RIEGLE, Mr. CRANSTON, Mr. SARBANES, Mr. DODD, Mr. SASSER, Mr. GARN, Mr. HEINZ, Mr. D'AMATO, and Mr. GRAMM.

From the Committee on Governmental Affairs: Mr. GLENN, Mr. PRYOR, Mr. SASSER, Mr. ROTH, and Mr. STEVENS.

From the Committee on Agriculture, Nutrition and Forestry: Mr. LEAHY, Mr. PRYOR, Mr. BOREN, Mr. LUGAR, and Mr. DOLE.

From the Committee on Commerce Science and Transportation: Mr. HOLLINGS, Mr. INOUYE, Mr. FORD, Mr. DANFORTH, and Mr. PACKWOOD.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, if I may, the distinguished Republican leader has informed me that a request has been made for a rollcall vote on the Labor-HHS conference report.

Mr. DOLE. That is correct.

Mr. MITCHELL. It is my understanding that will occur first, prior to going to the amendments. I inquire of the Chair if my understanding of the procedure is correct.

The PRESIDING OFFICER. That is the regular order.

Mr. MITCHELL. Then Senators should be aware that a rollcall vote will occur in a relatively short period of time on the conference report. We hope to go to that next. It will occur in a short time as soon as the managers are prepared to go forward with it. Senators should be aware of that.

I thank the Chair and I thank my colleagues, and I yield the floor.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS, 1990—CONFERENCE REPORT

Mr. HARKIN. Mr. President, I submit a report of the committee of conference on H.R. 2990 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2990) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1990, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 6, 1989.)

Mr. HARKIN. Mr. President, I am pleased to submit a conference report to the Senate on the fiscal year 1990 appropriations for the Departments of Labor, Health and Human Services, Education, and related agencies.

The Members will recall that on September 20 and 21 on the Senate floor we adopted 22 amendments to the bill as reported by the committee, rejected one amendment and had two amendments withdrawn. On October 3, 4, and 5 we met in conference with our colleagues in the House and resolved all items, except the matter re-

lating to federally funded abortions. That item was reported in true disagreement. On October 11 the House receded to the Senate position on federally funded abortions, and there will therefore not be a requirement to have a separate vote on that issue.

The conference agreement provides $156,746,250,000 in total spending with $43,396,810,000 of this total provided for current year discretionary programs. We are well within our 302(b) outlay allocation and in fact have provided a $73 million outlay reserve for child care and for the drug initiative that passed the Senate on September 27. Unlike recent years we have reached these totals without the need to resort to across-the-board cuts.

Mr. President, this is the culmination of a long process which began last February when we started our hearings. We held 19 days of hearings including 6 days when we heard 150 public witnesses. We have heard from all but five of our Senate colleagues totaling over 870 separate requests. The bill before us now protects to a very great extent all the special items of interest to members of the Senate.

In spite of a very restricted 302(b) allocation—a full $390 million in outlays below the amount assumed by the budget resolution—we were able to make a number of significant program expansions.

For AIDS programs we included $1,541,325,000, $318,640,000 more than last year. This includes $130 million for pediatric AIDS, a full $39 million more than last year.

Mental health research was increased by $64,536,000 over last year's level and $29,890,000 more than the President's request.

For drug treatment prevention and education programs we included $1,860,754,000. In the special drug package we are expecting to make an additional increase of $939,750,000, providing a $557,877,000 increase over the President's request for drug programs in the subcommittee's jurisdiction.

Immunization grants are increased by $20,041,000 over the level requested by the President.

For the National Institutes of Health we are $153,953,000 over the administration request and $538,531,000 over last year.

For the 10 programs assisting the homeless we went to the high dollar in conference for a total of $177,598,000 or a 130-percent increase over last year.

Programs for the handicapped gain by $160 million over the President's request.

For the chapter 1 education programs—the special programs that provide education for the disadvantaged—we provided a $855,639,000 increase over last year and $354,336,000 over the President's request.

Mr. President, we have brought back a very good conference agreement. I believe and hope that it will deserve the entire support of the Senate.

Mr. President, I would now like to express my deep appreciation to my colleague, Senator SPECTER from Pennsylvania. We have worked together as a team. His advice and counsel have indeed been invaluable to the smooth functioning of this subcommittee, both in its preliminary discussions and here on the floor and, of course, in conference.

At this time, I yield to my friend and colleague, Senator SPECTER, for any statement he would like to make.

Mr. SPECTER. Mr. President, I thank my colleague, Senator HARKIN, for those generous remarks and say in return that Senator HARKIN has provided excellent leadership for the subcommittee on Labor, Health and Human Services, and Education in what has been a very, very difficult year. As articulated by my colleague, we have worked together and I think, through the conference process with the House, structured a bill, which is a good bill, considering all the problems we have had.

Our subcommittee has had enormous difficulties, as have all the subcommittees, on limitation of funds. I suggest our subcommittee has been at a greater disadvantage when the full Appropriations Committee, early in the process, reallocated $393 million, making our job all the more difficult.

We have some of the toughest items; items of greatest need which this country faces. We have addressed those, Mr. President, and I think we have done so in a way which is balanced and accommodates needs as best possible with the limited funding.

Many were concerned about the low-income home energy assistance, from my State and from the Nation generally, and we have provided for an increase over the 1989 funding. Not a great deal, $10 million, but an increase.

We have taken a look at very critical programs on mental health research, where there have been so many advances in recent times; a very cost-efficient increase. And we have provided a very significant increase, $64.6 million over last year's funding, similarly, on refugee assistance and on the homeless and on the Job Corps and black lung and mine safety and health administrative matters, to mention only a few.

It is not possible, Mr. President, to structure the legislation in this field, in appropriations, to the total satisfaction of everybody. But I think we have come very close.

There is, as I understand it, one amendment to be offered. This is an issue which we have taken up in the Senate when we passed this bill. It is a matter which we considered in conference. There are issues relating to the funding on abortion, which we all know about, but overall, considering the hundreds and hundreds of issues we had to face here, my recommendation to this body is the conference report be adopted by the full Senate. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Mississippi.

Mr. COCHRAN. Mr. President, let me rise to congratulate the distinguished Senators who were the managers on the part of the Senate for the fine work that was done in this conference. We worked very hard over a period of many hours to craft this conference report. There were some serious differences of opinion expressed by the House on a number of issues in this bill.

I was particularly interested, and I know others were, including the managers, in the education programs that are funded by this bill. There are some new programs that are experimental in nature, that are designed to bring to many schoolchildren, learning opportunities and experiences that they would not otherwise have without the use of new and modern technology such as satellite communications and the like.

There is a provision in the conference report, the Senate should know, which supports the action taken here in the Senate to fund the star schools program. This is a program that had not been included in the House bill, but it provides, I think, $15 million of funding to carry this program forward in the next fiscal year. It is a program providing grants to consortia of local schools, State education agencies, colleges and public television authorities to bring to many classrooms courses that would not otherwise be possible because of the lack of qualified teachers in the local communities.

These include foreign language courses, advanced science and mathematics courses, and many other subjects that enhance the learning experience of many of our Nation's students, particularly in rural areas or small communities where the tax base is just not sufficient to support that kind of instructional availability.

So I want to add at this point, again, my thanks and congratulations to those, on the part of the Senate, who stood fast and urged that this be included in the conference report. We were successful in keeping it in the conference report. There are many other items in the conference report that are very important and deserve special mention, but I know others are here to speak to that. I thank those Senators who worked so hard to make sure education programs are adequately funded for this next year.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

Mr. HARKIN. I thank the Senator from Mississippi for his kind remarks. I also want to commend him for his involvement in getting this package this far, through the hearing process, deliberations on the floor, his strong support in conference in working out the disagreements.

The Senator from Mississippi has a long and distinguished record in support of education. His interest in and support of education came through in his fighting so strongly for the education programs that we do fund in this bill. I commend him for his very strong support of education and what he did to make sure the star schools program is off and running and we have a star school program that is going to serve the rural areas of America as well as the urban areas of America. I thank him for that contribution.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida.

Mr. GRAHAM. Mr. President, it is my intention to discuss an issue in this report at greater length at a time when offering an amendment after the vote on the conference report. But I wanted to use this occasion to explain why I am going to vote "no" on the conference committee report.

In the 1986 session of the Congress, one of the most important pieces of legislation considered and adopted was reform to the Nation's immigration law. As part of that legislation, and a particularly vexatious issue, was the status of the large but indeterminate number of illegal aliens who were in the country at the effective date of that law; how they would be treated. That issue had held up, for several sessions of Congress, the passage of a new immigration bill.

The compromise which was contained in the 1986 immigration bill was one that provided for a process of legalization of those persons who had entered the country without legal status prior to the effective date of the law and a very delicately struck compromise with the States, as to who was going to pay the cost for those persons who now, because of their legal status, would be eligible for various forms of public assistance, particularly in the health and education areas.

At that time I happened to have the privilege and responsibility to be chairman of the National Governors Association committee which had jurisdiction over issues of immigration and refugees and therefore was very deeply involved in that negotiation.

It had been the position of the National Governors Association and other State-based associations that since immigration and naturalization was a Federal responsibility under the Constitution, and since it was to be a Federal policy as to how the large number of illegal aliens would be treated under this law, and since it had been essentially a Federal decision of nonenforcement, or at least ineffective enforcement that had resulted in the large number of illegal aliens being in the country in the first place, that it therefore should be a Federal responsibility to assume those costs that were going to be incident to the legalization of these individuals.

The compromise that was arrived at was that there would be, essentially, a division of this cost; that the Federal Government would commit for 4 fiscal years, beginning in 1988, to provide $1 billion in each of those 4 years for a total of $4 billion into a fund which would be available for a 7-year period, beginning after the effective date of the 1986 act and running through 1994. It would be available to those States which could aptly demonstrate that they had numbers of these recently legalized individuals within their State and were incurring costs relevant to their assimilation as they moved toward self-sufficiency.

That was an essential part, and I suggest probably a critical element, that allowed the passage from a political standpoint of the 1986 immigration law. That agreement has been honored for 2 years, in 1988 and in 1989. The Congress appropriated the $1 billion which has been placed in a trust fund and has been available to the States for a spendout between those dates and 1994.

In the 1990 fiscal year budget, which we are currently dealing with, for the first time there has been an effort—and if this conference report is adopted—a successful effort, to raid that fund. Instead of $1 billion being available to the States for the 1990 fiscal year, that amount would be reduced by something in excess of $555 million.

You may recall that this was a matter of major debate on the Senate floor when this appropriations bill was considered. The resolution of that issue on the Senate floor was to provide that there would be a dollar-for-dollar replacement in 1991 of the funds that were taken in 1990 so that over a period of time the States would have the same amount of funds that they had initially planned and contemplated, which is $4 billion, but it would come in a different flow than had been anticipated.

When this legislation went into conference committee, that provision was substantially altered.

First, it was altered by moving the date from 1991 to 1992 for the provision of these additional funds.

Second, it was altered by using language that talks about that Congress shall make available in 1992 the $555 million. That is in contrast to the current method by which the States receive the money, which is through essentially an entitlement program.

The language of the immigration law of 1986 says that from whatever funds are available to the National Treasurer, $1 billion in each of the 4 years beginning in fiscal year 1988 will be made available for this fund for the purposes of assisting the States in the assimilation of these newly legalized—formerly illegal, now to be legal—immigrants.

The language that is in this conference report gives the States much less comfort than the language that is in the basic underlying law or the language which was contained when this legislation passed the Senate.

I will submit for the record at this time a letter signed by the executive director of the National Governors Association on behalf of the association raising the association's concern for the provision that is contained in the conference committee.

Mr. President, I ask unanimous consent that a letter dated October 17 from Ray Scheppach, executive director of the National Governors Association, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, October 17, 1989.

Hon. BOB GRAHAM,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: The National Governors' Association strongly supports full funding of State Legalization Impact Assistance Grants (SLIAG) as authorized by the Immigration Reform and Control Act of 1986 (IRCA). We have opposed all reductions in SLIAG because the states need all of the funding promised by the federal government. A reduction of funds would break the commitment made by Congress and the Administration to state and local governments.

As you know, SLIAG was approved by Congress and the Administration to reimburse state and local governments for costs such as public assistance, public health and education associated with legalization of approximately 3 million aliens. Education costs have been very high because newly legalized aliens are required to participate in education in order to complete the legalization process. Moreover, some state expenditure plans show state costs exceeding the available federal funding even at full federal funding.

In order to restore full funding of SLIAG after the reductions of $555 million, we are supporting your amendment to H.R. 2990, the Labor, Health and Human Services, and Education Appropriations bill. It is important to amend SLIAG through its authorizing language under IRCA to assure, as much as possible, the funds will be restored in fiscal year 1992 as intended by the conferees. An appropriation without an authorization, as is currently in the conference report, would make it more difficult to actually secure the funds.

The nation's Governors appreciate the work you and your colleagues have done and continue to do in this issue. We stand

ready to help you restore full funding for this important program. If we can be of any assistance, please feel free to call me or Susan Green at (202) 624-7723 of the NGA staff.

Sincerely,

RAYMOND C. SCHEPPACH.

Mr. GRAHAM. Mr. President, as I indicated, I will be offering an amendment after the conclusion of the vote on the conference committee report which will attempt to redeem this issue, but I want to underscore the seriousness of what we are about. We not only are talking about substantial sums of money which are critical to providing services for some of the most needy people in our country, people that this Congress in an act of humanity and also in an act of pragmatism, in terms of what were the real options to deal with a large number of illegal aliens who were in the country in the mid-1980's, an act that this Congress very consciously took to enter into an agreement with the States to meet the needs of these newly legalized persons within our country.

I consider the consequences of the action that are embodied in this conference committee report to be a breach of faith with the States. I consider that if this were to become the permanent policy, it would result and should be expected to result in a serious erosion of any future confidence that the States would place in action to this Congress.

We recently passed major drug legislation. Much of that involves a partnership between the States and local communities where we call upon the local communities not only to make a proportionate contribution toward the total cost of the program at various percentage relationships between the Federal and the State and local communities, but we are asking the local communities in many instances to take on substantial initial commitments on the expectation that there will be downstream Federal funding, just as we have done in this program.

We have asked communities to increase their health services in order to meet the needs of this population in anticipation that there would be partial Federal support for those health services. Once you have hired professionals, built facilities, those are committed costs.

We have asked these communities to increase their education programs in order to meet the needs which this legislation has imposed upon them. Once the community has done that, again, they have taken on responsibilities that have an ongoing cost in expectation of an ongoing partner.

Mr. President, I believe this is an issue that is important in terms of its economic impact. It is more important in terms of what it says about the credibility of the Federal Government for this and other similar programs in which it wishes to form a partnership of service with the States and local communities of America.

I recognize, Mr. President, that there are many controversial issues within this legislation, and there will be others who will make their decisions as to whether to vote yes or no on this based on those other factors.

I want the record to be clear as to why I am going to vote no on this conference committee report; why I hope that this conference committee report does not become law without the amendment that I have offered; and why I hope that at the earliest opportunity that this Congress will reverse a course of action which I think is corrosive of the level of confidence necessary for there to be a respectful relationship between the Federal Government and its partners at the State and local level.

Thank you, Mr. President.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mr. CRANSTON. Mr. President, I want to join with my distinguished colleague, Senator GRAHAM, in expressing my outrage at the treatment of the State legalization impact assistance grants, otherwise known as SLIAG, under the fiscal year 1990 Labor-HHS appropriations bills, which is now before us.

Mr. President, I strongly opposed the raid on the impact assistance grants during consideration of the Labor-HHS Education appropriations bill.

I said then, and I repeat now, that the taking of over $555 million is a very huge sum, $555 million from a $1 billion appropriation, was nothing short of unconscionable. By raiding those funds, Congress reneged on its contract with the States and it jeopardized the legalization process of millions of undocumented workers. This matter of who comes in and who stays here is not something the State can do anything about. It is a Federal law enforcement issue. It is a Federal immigration issue, and the States should not be penalized because they happen to be attractive places or near a border and the people who come in to settle in our States, like Florida and like California.

I will say I will be very gratified to see that the conferees agree to an appropriation to the SLIAG Program in fiscal 1992 to replace the reduction of funds for fiscal 1990. I appreciate that very much, and I thank Senator HARKIN, who is handling this bill, for his help on that front.

I do want to say it would have been fairer and wiser if Congress kept its hands on this program in the first place. The action of the conferees, however, at least represents a promise that these moneys have not vanished forever at the whim of Congress.

Let me say that despite my distress over the treatment of this matter in this bill, I will vote for the conference report because there are many important issues in the measure, including substantial funding for AIDS research and services, for education—Lord knows we need a lot more support for education in our country—and other programs for needy Americans, for children, for disabled individuals and for senior citizens.

The conference report also provides for the restoration of Medicaid funding for abortions for victims of rape and incest.

That is a very important part of this bill. Those are provisions that I very strongly support. I congratulate those who engineered them, and I congratulate the Senate on finally taking that position on this issue.

There are other important aspects of the conference report that compel me to vote for it despite my displeasure over the matter of State legalization impact assistance grants.

I would like to ask Senator HARKIN, who is handling the measure and who has done such fine work on it and has been very understanding of my problems and Senator GRAHAM's problems and the problems of other Senators with this particular aspect of it, the impact assistance grants, this question: What is the understanding of the Senator of the future of these funds, and do we have any problem because there is not an authorization bill and the authorization expires before 1992 when these funds would, presumably, under the formula developed, be made available?

Mr. HARKIN. If the Senator from California will yield, I thank him for his comments. I understand his concern as well as the concern of the Senator from Florida on this issue of the State legalization impact assistance grants, otherwise known as SLIAG, because it does affect their States greatly and especially the border States where the immigrants mostly have settled and where this process has to be carried through in accordance with the legislation passed by the Congress a few years ago.

I tried to allay the fears of the Senator from Florida and others when we came to the floor with the bill the first time by pointing out that this year was a rather unusual year. We came in with an extremely low 302(b) allocation—$390 million below the budget resolution that this Senate adopted earlier this year. I might also point out to the Senator that the Senate passed a sense-of-the-Senate resolution, for example, telling me and our subcommittee to go to the highest dollar figure on helping the homeless, which we had to do. I would point out

that we increased homeless funding by 130 percent over the fiscal 1989 enacted level.

Mr. CRANSTON. I congratulate the Senator on that work, too.

Mr. HARKIN. But we were faced with some severe budget problems. We looked at the SLIAG Program, the State legalization impact assistance grants, which I will refer to as SLIAG from now on, and appropriated $1 billion a year for 4 years to be used by the States. It did not say that each year, if you did not use the $1 billion, it went back to the Treasury; it stayed in the fund. We looked at that program, and found that in the first 2 years there were allocated $1.8 billion to the States but only $226 million had been actually used. Therefore, it was the consensus opinion of the subcommittee and the full Appropriations Committee, and later the Senate, that we would use those unexpended funds in that account to make up the differences that we needed in these very important programs which the Senator just talked about, such as the homeless, and low-income home energy assistance. We had an historic increase in chapter 1—an increase of $318 million in AIDS programs, a significant increase in mental health research. We needed to use these moneys to make up for the shortfall we had in our 302(b) allocation this year. Simultaneous with taking this action, we agreed to put that money back in fiscal year 1991. In fact, the Senator from Florida offered an amendment on the floor, which we accepted, which put that total amount of money back in for fiscal year 1991.

In conference, Members of the House from the State of California, in looking at the outlays of money for the SLIAG Program, decided that there would be enough carryover; even with the $555 million reduction, it looked like there would be a total of $1.9 billion available in fiscal 1990, including carryover funds. But what they were concerned about was the entire duration of the program. So an agreement was made on all sides that we would restore the $555 million as an advance appropriation for fiscal year 1992, which could be used to cover costs for any year. It can be used to make up for any shortfall in fiscal year 1990, 1991, or 1992. It does not have to be expended just in that year, and remains available until 1994.

So I want to assure the Senator from California that the total amount has been put back into that account to be used in any one of these 3 years, whichever year it was needed. Again, it was a consensus of those who know more about this program than I that perhaps the biggest bulge in usage of those funds will come later on, and that is why we provided funding for 1992. I can assure the Senator there is no problem with that.

In regards to the authorization question, we have moneys now going out that are appropriated for programs not currently authorized. For example, the refugee resettlement assistance authorization, which is still at the desk, did not prevent us from appropriating funds for unauthorized activities. Such is the way with this. We do not need the authorization to appropriate funds. The appropriations bill, in fact, because the authorization.

So I want to assure the Senator from California and the Senator from Florida this money is there as a SLIAG appropriation for fiscal year 1992.

Mr. CRANSTON. I thank the chairman. That is exceedingly helpful. I appreciate his understanding. I do want to ask two questions: First, am I correct in assuming the Senator will stand fast against further raids for other great purposes when this matter comes up again?

Mr. HARKIN. This Senator cannot foresee any circumstances under which this program would be raided. Now, this Senator cannot speak for other members of the committee who may at some point want to offer an amendment.

Mr. CRANSTON. Of course.

Mr. HARKIN. Or offer something else that would do that. It is the opinion of this Senator, however, from the evidence I have seen, that next year is when the moneys will begin to be used for the SLIAG Program, and it will become quite obvious that this program will need the funding which is in the program right now to meet the program needs, so there will not be that money available as there was this year.

Mr. CRANSTON. I appreciate that very much. One final question. In the past the chairman of the House Appropriations Committee has been reluctant to provide appropriations when an authorization has expired. Is it the Senator's view the House will provide the 1992 appropriation notwithstanding the expiration of the authorization?

Mr. HARKIN. If I can reply to the Senator, the distinguished chairman of the House Appropriations Committee has already agreed to this in our conference. This was fully discussed and debated. The chairman signed off on this, approved it and signed his name to the conference report. He fully supports the fiscal 1992 advance appropriation for SLIAG that is in the bill.

Mr. CRANSTON. I thank the Senator very much. That makes me and those who are concerned about this, I trust, feel a lot better.

Mr. HARKIN. This happened to be an unusual year in which our subcommittee had an unusually large shortfall in its 302(b) allocation, which this Senator does not believe will happen next year, and at the same time an unusually large amount of money left in this account to be carried over. This Senator cannot foresee that happening again any time in the future.

Mr. CRANSTON. I am very grateful for that explanation.

Mr. HARKIN. I thank the Senator.

Mr. SPECTER. Mr. President, I associate myself with the remarks of Senator HARKIN concerning the reasons why these reallocations were made, and I would like to make a comment about the question from the Senator from California to the effect that I do not know that absolute assurances can be given as to any account on any year. I quite agree with what Senator CRANSTON has had to say about the importance of the SLIAG funds.

And they affect my State as well as his, although perhaps not to the same extent. But we are facing a very, very difficult situation on this subcommittee.

When we had our allocation cut beyond what was done in the full Senate on the budget resolution, $393 million, we were looking in many, many directions. I agree with what the distinguished Senator from Florida [Mr. GRAHAM] has had to say and what the distinguished Senator from California [Mr. CRANSTON] has had to say about the importance of this program.

But regrettably in the Congress generally, and in the Senate generally, and in our subcommittee specifically, we have a giant juggling act to undertake. We have to really face that candidly. I think the purpose of the SLIAG fund is very important. I will do what I can to maintain it. But we are going to have to find some way that the limited discretionary funding in Labor, Health and Human Services, and Education is not slighted.

Mr. CRANSTON. It is very helpful to have those assurances from the other side of the aisle, from the distinguished Senator from Pennsylvania, who plays a very important role in these matters. I am very grateful for those comments.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Florida.

Mr. GRAHAM. Mr. President, will the Senator from Iowa yield for a question?

Mr. HARKIN. Yes.

Mr. GRAHAM. When this was being discussed during the Senate consideration, there were some questions raised as to whether the amount of funds that were being provided for this were going to be excessive. I was concerned about where the committee was getting the basis of that apprehension of excessive funding. I wanted to know if there continued to be any ambiguity or uncertainty as to whether the States that are affected by

this—that includes approximately half of the States to same degree and 10 States to a significant degree—will have cause to render the services that they are obligated to provide under the 1986 Immigration Act substantially in excess of the funding which the Congress is now permitted to provide.

Is the chairman of the committee in question as to whether that is a fact?

Mr. HARKIN. I point out that in the President's budget he sent down to us this year there was a cut of $400 million on the SLIAG Program. So I point out to the Senator that the first shot across the bow, so to speak, came in the President's request when he sent it down to us in his original budget proposal this year.

That original budget request was just for a $400 million cut without using any of the fund to finance some of these important programs in this appropriations bill.

Mr. GRAHAM. I am disappointed when the President is in error, is misguided, and is operating off wrong facts. But I am particularly and more distressed if this body is operating from a similar base of misinformation.

My question is: Is it now the opinion of the Senator from Iowa that the cost to the States of rendering the mandated services under the 1986 Immigration Act are greater than the projected Federal support to those States for rendering those same services?

Mr. HARKIN. I must reply that the Senator is in no position to render any kind of judgment on what the cost to the States is going to be. This Senator has to rely upon the data accumulated by the administration. The data that we were given by the administration points out the need to spend less for these activities than earlier anticipated due to the following factors:

No. 1, many of the legalized aliens may not need extensive English language training since they have been in the United States since 1982. The proficiency of English is a requirement in order to qualify for permanent residence.

No. 2, many of the legalized aliens may not require public assistance because they are, by and large in the work force.

No. 3, the law requires qualified aliens to undergo initial Public Health screening and to pass language proficiency and U.S. history tests within a 12-month period following an 18-month period of temporary resident status.

Thus, the major financial impact on the States would be in the earlier years of the legalization processes rather than later years.

I can tell you these are the reasons that were given by the administration for their proposed $400 million cut in the program.

Mr. GRAHAM. That is not a very reassuring answer because it indicates the lingering doubts as to whether there is a serious need, and a serious Federal obligation. To pick a State that I do not think is represented on the floor at the moment, the State of Texas, the estimates submitted by this State and accompanying supporting letter from their Governor indicates that the cost for the State of Texas for this program will be $735,380,000, and that the estimate of what the State of Texas is going to receive—I see the Senator has just been joined by the senior Senator from Texas—is $400,385,000.

So the State of Texas is projected to spend from its own resources some $335 million to carry out a federally mandated responsibility. Now, the Federal Government is proposing to impose even further burdens on Texas if we do not give absolute assurance that the full $4 billion out of which Texas will receive this $400,385,000 is guaranteed.

Mr. HARKIN. The reasons I gave the Senator, I will repeat, were not my reasons. These are the reasons the administration gave for its proposed $400 million cut. Again, I repeat, I have no firsthand knowledge of this program or its operation or how much is needed.

I will repeat for the Senator, for the purpose of this colloquy, what I said to the Senator from California. This Senator is committed to the full funding of the program to ensure that the $4 billion that this Congress committed itself to is indeed available to the States if needed for the operation of this program. That is why this Senator accepted the amendment offered by the Senator from Florida when this bill was on the floor the first time, took it to conference, and was quite willing to agree in conference with those who said it should not be in 1991 but it should be in 1992. We said fine, we will put it in 1992 and make it clear that the money could be used for any year and not just for fiscal year 1992.

That I think indicates my good faith, and also my commitment to this Senator, and to this body to make sure that the money is available for the full funding of this program up to the $4 billion level.

Mr. BENTSEN. Mr. President, Will the Senator yield for a comment?

Mr. GRAHAM. Yes. The Senator from Iowa has the floor. I yield for a question.

Mr. BENTSEN. I say to the Senator from Florida that we share much the same problem—in his State, in mine, and in other States.

We have had a great influx of illegals. I am one who fought very hard for the immigration law because I know it is important for this great country to have integrity of its borders, and we obviously lost control of ours.

It obviously adds to our problems. What we have seen is a situation where the amnesty program was being worked out over a year and a half. Why we did not spend the amount of money that was allocated as quickly as one might have thought we would was partly that. The other part is because HHS did not promulgate the regulations so we know what we could do. Now what we are seeing is all of these people who have become temporary residents but now to be able to advance further along the process, they have to learn English.

We all want them to do that, because that is the common language of our country that puts you into the economic mainstream of our country. It is important that these people be assisted in that regard. There is no way in some of these areas, with our low tax base, that we are able to do that.

I can say insofar as my State, if you take that area along the Rio Grande, where we border with Mexico, that is one of the lowest per capita incomes in the United States. The tax base is such where we are building, supposedly in Brownsville, for example, new schoolrooms every week, with the low tax base to try to accommodate the problem that has been brought on us. So it is important that we lock in this money.

What the States were saying, and what the National Association of County Judges and Commissioners were saying, is cover the costs. We will go along with all of this, but let the Federal Government, which has helped create this problem for us, come in and reimburse us, and we will take on this job; we will do it.

We did not do that. We finally struck a compromise, a deal, put it in. That was not what they said. We made a deal and said we spend this amount of money over this period of time, and it will be available to them.

We have not lived up to the deal. That is what is concerning me. The distinguished Senator from Iowa, I know, wants to try to help in this regard, and I want to be sure it is a locked-in sum of money we are going to be able to use and have available. That is why I so strongly support what the Senator from Florida is talking about.

Mr. GRAHAM. The senior Senator from Texas is absolutely correct. In addition to that statement of truth, the Federal Government went beyond placing this responsibility on the States, because it specifically disqualified from Federal public welfare assistance for 5 years after the adjustment of temporary status, these individuals, with the exception of assistance designed for aged, blind, disabled, emergency services, pregnant women, and children.

So under some basic Federal welfare programs, that otherwise would have been available to these individuals to assist in their adjustment, we specifically precluded their participation. Had they been participating, this very budget, Labor-HHS, would have been higher in order to cover these costs. We shifted that responsibility to the States, struck a bargain that the States would get $4 billion toward paying the cost of that, and it resulted in the State of Texas picking up a $335 million additional responsibility. And now we face the prospect of even that arrangement being diluted.

So I think the concern of the senior Senator from Texas that we do everything possible to give ourselves maximum assurance, that the credibility and the honor of the Federal Government would be maintained, is very much appropriate.

Mr. BENTSEN. If the distinguished Senator will yield for a further comment, he is quiet right on the numbers. It is complicated by another factor. In the State I have the honor to help in representing in this body we have gone through the worse depression we have had since the Great Depression—not a recession, but a depression. The degree of bankruptcies we have not seen since the thirties. Then to add these kinds of burdens to what we are facing in Texas, really, is unjustified and uncalled for.

We want to cooperate and to assist and to help these people become, finally, citizens and productive citizens of our country. I have talked to many of them and listened to them trying to develop the English language and to be able to represent their point of view and pass the examination, and they are having a tough time of it. They cannot get into the classes to do that, to get into the civics classes to understand our form of government. That educational process is not being accomplished.

Therefore, in order to expedite this, it is terribly important that we live up to the deal we made, the contract made with those States, particularly those that are being the most heavily impacted in this area. I congratulate the distinguished Senator and want very much to see him prevail on his point of view.

Mr. HARKIN. Mr. President, if there is no further debate, I urge the adoption of the conference report.

The PRESIDING OFFICER. Does the Senator ask for the yeas and nays?

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have been informed that a Senator on my side of the aisle may wish to speak, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I am going to vote for this conference report. It has a number of things in it I think are very important. I think the committee has done a very commendable job. I feel very strongly on the other point and on this issue. I understand we will have an opportunity to vote on that one at a later point. I will be supporting the conference report.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I rise for the purpose of a colloquy with the chairman on the issue of the eligibility of part time students in the Pell Grant Program.

As my colleagues may or may not be aware, language was proposed during conference on this measure to delay for 1 year the eligibility of students attending college on a less than half-time basis or Pell grants.

I understand that the conferees were constrained to make this change in response to estimates of funding shortfalls in the Pell Grant Program in both fiscal year 1989 and fiscal year 1990—and that this change was needed to avoid a linear reduction in Pell grant awards affecting as many as 1.4 million students. Am I correct?

Mr. HARKIN. My friend from New York is correct. As my friend has pointed out, the conferees were required to include a number of legislative provisions in the conference report as a result of a serious funding shortfall in the Pell Grant Program. One of these provisions was to delay the implementation of the Biaggi amendment to the Higher Education Act of 1986. The Biaggi amendment extended eligibility for Pell grants beginning in 1989 to students attending school on a less than half-time basis—students taking one course. As a result of our actions, I can report to my friend from New York and to the entire Senate that the conferees have ensured that there will not be a reduction of Pell grant awards to currently eligible students in this school year or the 1990-91 school year.

Mr. D'AMATO. Mr. President, I thank the distinguished chairman. Am I also correct that the Comptroller General has been asked to review the administration's estimating procedures, with a report due to the Congress by January 1990, so that fluctuating cost estimates—such as those that resulted in this year's action on Pell grant eligibility—will be avoided in the future?

Mr. HARKIN. My friend from New York is correct that the committee has asked for a report by the Comptroller General to review the accuracy of the administration's budget estimate for the 1990-91 award year. However, I think it is important to point out that the Biaggi amendment is just one of many areas where the authorizing statute has mandated a costly expansion of Pell grant benefits to be phased in over many years. In fact, it is estimated that it could cost as much as $6.6 billion to fully fund the expanded Pell Grant Program anticipated in the authorizing statute for 1990. That would require an increase of more than $2.1 billion over the 1989 level.

While I consider myself a strong advocate for equal educational opportunity, I have to admit that the current funding environment will not allow a 47-percent funding increase for the Pell Grant Program I am also very concerned about many other expensive aspects of the Higher Education Act that have limited our ability to target our scarce Federal dollars on the students that need them most. I believe the difficulty of the situation we face with funding for the student aid programs was captured accurately by an editorial that appeared in the Washington Post this past Sunday. So, Mr. President, I ask unanimous consent that this editorial be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 15, 1989]

REFORMING STUDENT AID

Federal aid to higher education is in serious trouble. Even the normally sympathetic House and Senate appropriations committees have joined the critics, saying that the costly major programs have been bent out of shape—the career and trade school industry now absorbs more than a fourth of the money—and are being ripped off. It used to be mainly the Reagan administration that criticized the programs in often hyperbolic terms, and defenders were able to dismiss the criticisms as ideological outbursts for assults on the poor. That won't wash any more. These important forms of assistance badly need to be reformed for their own protection.

The student-aid programs were greatly expanded in little-remembered legislation in 1978, in part by making them available to the middle class. That legislation and other liberalizations, the related broadening of access to higher education and rising costs mean that about half of all post-secondary students receive some form of federal aid. The annual cost is nearly $10 billion.

The Reagan administration came to office determined to roll back the 1978 expansion, which it saw as a major new federal entitle-

ment that the Carter administration and Congress had sneaked into place without sufficient national debate. In the rather bitter, inconclusive fight that followed, both sides took extreme positions and rational policy was the loser. It still is.

But the appropriations panels are not so easily brushed aside. In the 99th Congress the protective authorizing committees approved extension of the major student grant program to so-called nontraditional students attending classes less than half-time. But conferees on this year's Labor/Health and Human Services appropriations bill have voted to suspend such aid for fear that, to pay for it, they would have to reduce aid proportionately to all students.

The appropriators nearly voted, for similar reasons, to suspend grants to students without the equivalent of high school diplomas. This is a step the authorizing panels have been reluctant to take in the past on grounds that it would restrict access to postsecondary education. Both House and Senate appropriations committees also charge in their reports that the aid programs have been allowed to drift away from their original purpose of producing college graduates, that too much money is now taken up by suspect proprietary schools and that too much—nearly $2 billion a year—is required to cover defaults on student loans.

The government needs to maintain support for higher education. No federal investment is more important; none has a greater equalizing effect. At the same time there is a need, neglected in the past, to make sure that this large amount of money is being usefully spent. That is a difficult balance to achieve in the best of circumstances: the government can never sit comfortably in judgment on higher education. Surely this is not a set of issues that should be dropped on the appropriations committees as they struggle to meet budget targets each year.

A House subcommittee proposed last fall that the major student grant program, like the major loan program, be made a true entitlement not subject to the annual appropriations process. It would be well worth giving the program that protection if in return both programs could be tightened up. But that would require the higher education community and its congressional protectors to give as well as get. The shabbier schools and practices the current programs are supporting have to go.

Mr. HARKIN. So, I must tell my friend from New York that given the funding difficulties we face, this may not be the last year in which the Appropriations Committee will be called on to make some tough decisions regarding the student air programs. Of course, my friend from New York is a member of the Appropriations Committee and a member whose views are well respected. I expect him to be an active participant in those decisions and I look forward to his input.

Mr. D'AMATO. Mr. President, I again thank the distinguished chairman for his comments.

I believe Congress took an important step toward improving access to higher education when it made less than half-time students eligible for Pell grants in the Higher Education Reauthorization Act of 1986.

Although these students have been eligible to apply for Pell grants only since January of this year, the Department of Education has already completed a study assessing the impact of the expanded eligibility.

I think it would be useful for all of us to take a look at who these students are, and what the opportunity to obtain a Pell grant means to them.

The study indicates that there are approximately 154,000 less than half-time students who would be eligible to participate in the Pell Grant Program in the 1989-90 award year. They would receive an average award of about $270. They tend to be somewhat older than average students, independent of their parents, and married. The majority work full time, are enrolled in 2-year public colleges—not proprietary schools—and are working for an associate's or bachelor's degree.

In short, Mr. President, these are serious students who deserve our encouragement and support.

Mr. President, I ask unanimous consent that a portion of the Department's report, along with a cover letter to the chairman of the Senate Labor and Human Resources Committee, be included in the RECORD at this point, so that my colleagues can see for themselves the importance of making Pell grants available to less than half-time students.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF EDUCATION,
September 20, 1989.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am pleased to submit to you the results of the Department of Education's study of Pell Grant eligibility for less-than-half-time students. This study, mandated by Section 1306 of the Higher Education Act of 1986, required the Department to assess the impact of the expansion of Pell Grant eligibility to students enrolled in postsecondary education less than half-time.

We estimate that the expansion of eligibility to the most financially needy students enrolled less than half-time in the 1989-90 award year will cost about $41 million and provide an average of $268 to about 154,000 students. Assuming no increase in the maximum Pell Grant, awards to these students will cost an estimated $43 million for the 1990-91 award years to students who have expected family contributions of $0. In the 1991-92 award year, eligibility may expand to students who have expected family contributions of up to $200, costing a total of about $45 million and serving 166,000 students. As required by statute, eligibility for these students is contingent on full funding for students attending half-time or more. These estimates reflect our analysis of data from the National Postsecondary Student Aid Survey, as well as the current operations and populations served by the Pell Grant program.

In addition to estimating the impact of this eligibility expansion on program costs and recipients, we analyzed the characteristics of students enrolled less than half-time. While similar to other students with respect to sex and race, these students differ from the overall student population in a number of significant ways. Less-than-half-time students tend to be somewhat older, independent of their parents, and married. Somewhat surprisingly, they do not tend to have children. They also tend to work full-time and to enroll in two-year public colleges. They do not usually enroll in proprietary schools since such schools generally require students to attend full-time. Enclosed are a series of tables comparing the characteristics of less-than-half-time students with other postsecondary students.

I am pleased that financially needy less-than-half-time students will be supported through our Pell Grant program. Such students deserve our encouragement and support and should not be denied access to training that may better their job skills or employment opportunities solely because they are unable to enroll for more than one or two classes at a time.

Sincerely,

LAURO F. CAVAZOS.

CHARACTERISTICS OF LESS-THAN-HALF-TIME STUDENTS COMPARED WITH OTHER POSTSECONDARY EDUCATION ATTENDANCE AND EDUCATION ASPIRATIONS

[In percent]

	All students	All part-time students	All less-than-half-time students	Eligible less-than-half-time students		All current Pell recipients
				EFC=0	EFC=200	
Institution Attended:						
Public 4-year	25.2	16.4	17.9	9.0	9.1	22.3
Private 4-year	34.6	25.4	25.7	19.8	19.8	34.1
Public 2-year	33.2	54.6	54.5	70.4	70.1	25.5
Private 2-year	2.2	1.7	1.4	.8	.8	3.7
Proprietary	4.8	1.9	.7	.1	.1	14.4
Level in School:						
Freshman	30.9	29.7	34.4	36.3	36.3	39.5
Sophomore	23.6	22.9	25.0	23.7	24.1	26.4
Junior	14.7	12.0	14.3	14.1	14.5	16.2

CHARACTERISTICS OF LESS-THAN-HALF-TIME STUDENTS COMPARED WITH OTHER POSTSECONDARY EDUCATION ATTENDANCE AND EDUCATION ASPIRATIONS—Continued

[In percent]

	All students	All part-time students	All less-than-half-time students	Eligible less-than-half-time students		All current Pell recipients
				EFC=0	EFC=200	
Senior	11.4	7.6	7.9	6.9	6.7	13.3
Fifth year or more undergraduate	3.7	4.5	5.6	8.1	7.8	3.4
Graduate/unclassified	15.7	23.4	12.9	11.0	10.7	1.2
Degree working toward:						
Certificate/award	5.7	7.3	11.2	9.4	9.7	7.9
Diploma (not high school)	2.5	1.5	1.4	1.9	2.4	6.5
Associate degree	19.6	25.7	34.2	29.6	29.2	22.8
Bachelor's degree	47.6	29.7	33.8	34.2	33.9	54.8
Other	16.1	19.9	12.7	11.4	11.7	4.0
Undecided	3.0	4.2	6.6	13.4	13.1	2.4
Not working toward a degree	5.4	11.7	0	0	0	1.7
Percent enrolled in spring, 1987	79.8	67.2	61.8	53.4	53.3	86.0
Of those enrolled in Spring, 1987:						
Percent enrolled at same school	94.3	92.6	91.6	92.7	90.9	94.9
Of those not enrolled in spring, 1987:						
Percent who plan to return to school	61.5	65.8	73.8	81.0	81.1	57.7

Note:—All data was derived from analyses of the National Postsecondary Student Aid Survey.

Field of study or intended major for less-than-half-time students

Business	25.1
Liberal arts	10.1
Engineering	9.4
Education	8.1
Computers	5.9
Health services	5.3
Secretarial	2.8
Other	25.6
Uncodeable	7.1

Mr. D'AMATO. Mr. President, while I deeply regret the action that conferees were compelled to take this year on less than halftime students, I am hopeful that by the time we take up this bill next year, we will have improved our cost estimating procedures sufficiently to avoid penalizing these serious, hard working and deserving students.

Mr. HARKIN. Mr. President, one of the harshest methods of limiting the health care costs of the elderly is the incomprehensible redtape associated with filing a claim or appealing a denial of benefits under the Medicare Program. Critical medical procedures and services may be foregone by senior citizens who are simply unable to negotiate the complex procedures, exotic terms and procedural delays associated with the system.

The Harvard Medicine project team concluded in their recent book, "Renewing the Promise: Medicare and Its Reform,"

Even young and energetic individuals have trouble sorting through their parents' bills when called on to help. The confusion created among isolated elders with impaired eyesight or hearing can be almost overwhelming.

H.R. 2990 includes an increase in funding for fiscal year 1990 for the Health Care Financing Administration. The Senate committee report specifically urges that a portion of the increase provided for beneficiary communications activities be utilized to establish a demonstration project placing 50 Medicare coordinators in Social Security field offices in 4 States.

The coordinators will assist beneficiaries in filing Medicare benefit reimbursement claims and appeals, provide public information outreach related to Medicare entitlement and identify and recommend changes to eliminate Medicare bureaucratic obstacles and streamline the Medicare claims and appeals process.

Clearly, seniors need help in negotiating this complex system. I hope that this demonstration project will lay the groundwork for a long-term solution by allowing the Department of Health and Human Services to assess the value of such service both in terms of beneficiary satisfaction, health care delivery, and costs.

I want to thank the National Committee to Preserve Social Security and Medicare for consulting with me on a legislative solution to this difficult problem. The national committee president, Martha McSteen, served 36 years in the Social Security Administration before being appointed acting commissioner by President Reagan in 1983. An expert on Social Security and Medicare issues, she was 1 of the 10 original regional Medicare Administrators and helped establish the program. I commend her invaluable insight and leadership on this issue.

I look forward to reviewing the results of this demonstration project and to working with the National Committee to Preserve Social Security and Medicare on a long-term strategy to make the Medicare reimbursement system more compassionate to those who desperately need its benefits.

Mr. HARKIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I intend to vote in favor of the conference report on H.R. 2990.

I opposed this bill when it was before the Senate previously because I had a number of concerns about provisions of the original bill, among others its child care provisions and its total spending level in a time of austerity.

The bill is improved in those respects, but still not perfect, but I will vote for it today because the focus of the debate has so changed.

President Bush intends to veto this bill because he opposes Medicaid funding of abortions even when pregnancies result from rape and incest.

I believe that position to be fundamentally flawed.

I think the proper line for the Federal Government to draw in this question is to include rape and incest in Medicaid funding for abortion, though I oppose general taxpayer funding for abortion because the issue is so divisive, as a result of which I believe that our Government should be neutral, neither prohibiting nor encouraging the practice, except in extraordinary circumstances like these.

This is neither the appropriate legislative vehicle nor the appropriate subject matter on which to debate the subject of abortion.

Mr. ARMSTRONG. Mr. President, the Senate adopted an amendment of mine to the Labor-HHS appropriations bill (H.R. 2990) to require the Secretary of Health and Human Services to conduct a study of the 20 illnesses that are the leading causes of death in the United States. My motive in proposing the amendment was simply this: We now do not know how much money we are spending on research, prevention, and education for these 20 major killers.

The conference struck my amendment, but the conference in its report does say, "The conferees believe * * * that such a report is necessary and direct the Secretary [of HHS] to provide it prior to next year's appropriations hearings." House Report 101-274, to accompany the conference report on H.R. 2990, 101st Congress, 1st Session 32 (1989).

I wish to address a few questions to the managers regarding my amendment:

First, do the managers intend for the Secretary's report to contain the same data that would have been required by my amendment, that is such things as number of deaths, age-specific and age-adjusted death rates, the death rate per 100,000 population, the percent of total deaths for each major illness, as well as relevant spending information?

Mr. SPECTER. Yes, that is our intent.

Mr. ARMSTRONG. Second, when do the conferees expect the Secretary to report?

Mr. SPECTER. The conference statement requires a report by next year's appropriations hearings, which will take place in the spring of 1990.

Mr. ARMSTRONG. Who will the report be addressed to?

Mr. SPECTER. The conference report requires that the Secretary provide the report to the appropriations committees. We would expect the Secretary to deliver copies to other interested parties such as the Senator from Colorado.

Mr. ARMSTRONG. Finally, does the statement of the conferees mean that they would regard a failure to provide such a report as noncompliance with congressional intent and policy?

Mr. SPECTER. That would be our view.

Mr. ARMSTRONG. I thank my friend from Pennsylvania.

Mr. KASTEN. Mr. President, it is with a heavy heart that I rise today to oppose the conference report on H.R. 2990, the fiscal year 1990 Labor-HHS appropriations bill. I know that many of my colleagues have done a lot of good work in crafting this legislation; that's why I voted to pass the Senate version.

When I cast that vote, I had every reason to believe that a certain provision that I found offensive would be deleted in the conference. Today this conference report is before us. It still contains that offensive provision.

Mr. President, there is a lot of good in this bill. But it is my firm conviction that the U.S. Treasury should not be financing the taking of unborn human life. This is important to me; and this is why I will be voting against what is otherwise an unobjectionable and even laudable piece of legislation.

I look forward to voting in favor of the Labor-HHS package we will put together in response to the President's veto of this flawed package.

CANCER CENTER AT THE UNIVERSITY OF COLORADO

Mr. WIRTH. Mr. President, I would like to thank and congratulate the Senator from Iowa [Mr. HARKIN] on his fine work on the Labor, Health and Human Services and Education appropriations bill. He has shown a depth of understanding and concern about addressing the many critical needs in these areas.

I also appreciate his efforts to obtain the final funding needed to complete the construction of the University of Colorado Cancer Center. Funds for cancer construction grants were authorized in fiscal year 1988 and fiscal year 1989, but never appropriated. I am pleased that $15 million for extramural construction was included in the appropriations bill passed today, and that Colorado University may be able to finish its meritorious project.

The Rocky Mountain Region with its 6 million citizens was, until just recently, the largest region of the country, both geographically and by population, not served by a major regional cancer center. Last year, the University of Colorado Cancer Center received from the National Cencer Institute a 3-year cancer center core grant of approximately $4 million. However, efforts to take full advantage of this support have been stalled by a lack of funds to complete construction at the CU-Health Sciences Center.

This is the only cancer center in the Rocky Mountain Region with major clinical, basic research, control and education programs. Its members have more than $19 million in peer-reviewed research support and provide direct care for more than 31 percent of the cancer patients in the region. By allocating funds to complete construction of Colorado University's cancer center, we will provide citizens with state-of-the-art cancer treatment, research, prevention and education on a par with other regions of the country.

DON'T VETO LABOR/HHS APPROPRIATION REPORT

Mr. CRANSTON. Mr. President, the White House has indicated that the President intends to veto the fiscal year 1990 Labor-Health and Human Services appropriations bill because it restores Medicaid funding for poor women who are victims of rape or incest.

I want to urge in the strongest possible terms that the President resist this bad advice.

There has been widespread speculation in the past few days that the movement toward a veto is being driven by pressure from the rightwing who have argued that President Bush needs to look tough.

I strongly urge the President not to yield to this bullying from fanatics on the right.

President Bush can demonstrate his strength by not yielding to this pressure to wreak misery on the most impoverished, vulnerable women in our society.

This is an amazing situation. The President has repeatedly said he is not opposed to allowing women who are the victims of rape or incest to have abortions. Yet, he is willing to veto one of the most important appropriations bills because it allows Medicaid funding for poor women who fall into this category.

What kind of double standard is the President of the United States endorsing? That the only rape or incest victims who can have abortions are the ones who have money? What does that say about the rights of poor women or an indigent foster child—an 11- or 12-year-old who has to rely upon Medicaid to pay for the costs of abortion for a pregnancy that is the result of a rape or incest.

This threatened veto is utterly senseless. It is cruel and inhumane. I hope that the President will find a way to resist the pressure from the right and sign this important bill into law. I urge the President to demonstrate his strength through his compassion for the poor women who will bear the burden of this unconscionable veto.

Mr. BIDEN. Mr. President, I voted for the conference report on the Labor-Health and Human Services-Education fiscal year 1990 appropriations bill because it provides essential funding to carry out many vital and important Federal responsibilities in the areas of education, health, job training, AIDS research, and aid for the homeless.

The conference report provides virtually all Federal funds for education, including more than $5 billion for chapter 1, compensatory education for disadvantaged children, $1.4 billion for Head Start, and over $6 billion for Student Financial Aid. I strongly support the increases in these programs provided by the conference report. In my opinion, we must commit more resources to effective public education programs, if America is to maintain its place as the world's greatest economic power.

Help for the Nation's most vulnerable citizens—the homeless—is provided in this conference report as well. It includes $178 million in fiscal year 1990, more than twice last year's amount. Obviously, this will not solve this terrible problem, but nevertheless, it will help.

In addition, the conference report includes funds for AIDS, mental health, worker retraining after plant closings, the National Institutes of Health, and rural health programs—all important Federal responsibilities.

I would add that although the conference report deals with the question of abortion funding in a different way than I have supported in the past, it has been my practice to vote in favor of appropriations bills if I support most of their provisions, even where I oppose certain provisions.

The Labor-HHS-Education fiscal year 1990 appropriations bill won't solve all of the Nation's social ills. But it will make a significant difference in the lives of many Americans—young

children, college students, the homeless, rural Americans, those living with AIDS—and that is why I support adoption of this conference report.

Mr. LAUTENBERG. Mr. President, I would like to commend the Labor-HHS conference committee for bringing to the floor an agreement that significantly advances the Nation's labor, health, human services, and education. Vital areas of national interest have received deserved attention and support.

In a time of concern for budget deficits, preparing such appropriations legislation and reports requires a keen sense of national priorities and a sensitivity for fiscal restraint. The Labor-HHS Appropriations Act for fiscal year 1990 will fund several specific projects that are especially important for the people of New Jersey and the Nation:

For computer education to provide computer systems for our schools, $5 million. We know that many schools have so little computer hardware that 50 students are forced to share the same equipment. And yet, without a good foundation in computer useage, the odds of graduating and going on to land productive jobs are vastly reduced in many occupational areas.

For lead poisoning screening—at least $500,000 in New Jersey—for cities with a high prevalence of old housing stock, $4 million nationwide. In New Jersey alone 177,000 children have been determined to be at high risk from lead poisoning. However, in 1987 only 59,700 children were screened.

For children with AIDS research for the national pediatrics AIDS resource center, $2.5 million, and $500,000 for planning for an AIDS patient care facility in Newark. Newark is facing one of the highest overall incidence rates of AIDS-HIV-positive patients in the world.

Up to $4 million nationwide for suicide prevention grants—$150,000 for Bergen County, NJ—to tackle a problem that couldn't be more tragic. Fourteen young people die each day from suicide. That's 5,000 to 6,000 per year. Funded demonstration projects should provide new insights and answers to suicide prevention.

And up to $2.5 million for annual identification of labor shortages by occupation and planning to reduce the shortages identified. Labor shortages limit economic growth, increase inflation, and damage U.S. competitiveness. Recent surveys indicate that 80 percent of New Jersey's businesses are feeling the effects of the Nation's labor shortage.

These are forward-thinking allocations that have long-term and positive implications for my State and the Nation.

Mr. SPECTER. Mr. President, a Member on my side of the aisle has decided not to make a presentation at this time.

Mr. DOMENICI. Mr. President, the Senate is now considering the conference agreement accompanying the fiscal year 1990 Labor, Health and Human Services, and Education appropriations bill.

The bill provides a total of $139.1 billion in budget authority and $115.8 billion in new outlays for the programs of the Departments of Labor, Health and Human Services, and Education, and related agencies and commissions for fiscal year 1990.

When outlays from prior-year budget authority and other adjustments are taken into account, the bill totals $153.8 billion in budget authority and $159.6 billion in outlays for fiscal year 1990 to support many programs important to the health and general well-being of the citizens of this Nation.

Mr. President, I want to support this bill. There are many worthy initiatives in the bill for which this Senator fought, and I thank the distinguished chairman and ranking member for their accommodations. However, for all of their sincere efforts, I find several provisions in the bill troublesome.

This subcommittee, and others, are feeling the pressures of the work this body has done to put the Federal deficit on a declining path.

What worries me is the narrow focus we have put onto budgeting; we essentially budget just one year at a time.

The Congress has become so fixated on meeting the deficit reduction targets that we often lose sight of larger budget and policy considerations.

This tendency was clearly in evidence in the VA-HUD appropriations bill that the Senate passed on September 28. There were no less than a dozen instances in the Senate version of the bill in which spending was reclassified from domestic discretionary to defense, or obligations were limited or delayed until fiscal year 1991, or increased premium income from an expansion of the FHA mortgage program was used to mitigate the fiscal year 1990 outlay impact of the bill by $1 billion. That action gets us by for fiscal year 1990, but these outlays will have to be dealt with in fiscal year 1991.

The conferees on the pending bill are playing the same tune. The conference agreement on the Labor-HHS appropriations bill includes a general provision, section 515, that gives a blanket dispensation for purposes of section 202 of the Balanced Budget and Emergency Deficit Control Act (the Gramm-Rudman-Hollings Act) to justify delays of obligations and advance appropriations for several major programs, including:

Training and employment services;

State unemployment insurance and employment service operations;

Health Resources and Services Program operations;

The Alcohol, Drug Abuse, and Mental Health Administration;

Low-income home energy assistance;

Interim assistance to States for legalizaton; and

The community services block grant.

These delays are characterized as, and I quote: "a necessary (but secondary) result of significant policy changes."

I find it difficult to believe that the advance appropriations for several programs providing aid to the homeless under the McKinney Act are a "necessary (but secondary) result of a significant policy change."

In fact, the Senate recognized the need for additional funding for aid to the homeless when it adopted my amendment stating the Sense of the Senate that the conferees recede to the higher House funding levels for the McKinney Act programs.

Yet for fiscal year 1990, the conference report provides $33.6 million less than the House bill for the homeless programs—$148.6 million in the conference report compared to $182.1 million in the House-passed bill. The conferees made up most of the rest of the difference in the form of advance appropriations for fiscal year 1991.

It may be common budgetary practice to include advance appropriations in this bill to support the operations of major entitlement programs, such as Social Security and SSI, Medicare and Medicaid, and programs under the Family Support Administration, in the first quarter of the following fiscal year to avoid any possible disruption in these programs.

However, I do not believe it is prudent action for the homeless programs. The homeless need these funds in fiscal year 1990, not in fiscal year 1991.

I must also express my concern that the conferees approved new budget authority totaling $555.2 million to replenish the State Legalization Impact Assistance Grants fund in fiscal year 1992 after utilizing funding for these mandatory grants to offset domestic discretionary spending in fiscal year 1990.

I will stand here and admit that an offset from the State Legalization Impact Assistance Grant Program was used to allow the subcommittee to increase funding for the cause of mental health research, which I actively champion.

However, $555 million is a sizable amount of funding for mandatory assistance to be tapped to offset domestic discretionary spending. In addition, the conferees modified the Senate amendment to replenish these funds in fiscal year 1991 to instead provide them in fiscal year 1992. Are we confi-

dent that these funds won't be needed in fiscal year 1991?

Finally, I note that the conferees have level funded the Department of Education math and science program at $137.3 million. While the Senate bill increased this program to $154 million in its bill, the House reduced the program to $100 million.

I realize that this is a reasonable conference outcome in view of the differences in the House and Senate bills, however, I take issue that this is good policy.

For the past several years, this Senator has not been alone in trying to advance the excellence of our students and teachers in the fields of math and science. It is absolutely essential if this Nation is to maintain its technological excellence and competitive edge.

Yet within the overall $1.4 billion, or 6 percent, increase in Federal funding for education provided in this conference report, not 1 cent is targeted to the math and science education program. I believe this is extremely shortsighted national policy.

Mr. President, this conference report will pass, and I will vote for it because it is technically consistent with the subcommittee's 302(b) allocation, and I support many of the programs funded in the bill.

I simply want to share with my colleagues my genuine concern for the near-term focus the Congress is taking in its approach to its budgetary and public policy responsibilities. I fear there will be a price to pay for these actions in the not too distant future.

Mr. SPECTER. Mr. President, I think we are prepared to vote on this side.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SPECTER. Mr. President, before we vote, I had another request at the last minute for a delay.

Mr. President, the purpose for a delay is there are people off the Hill. We need a couple of minutes before proceeding to a vote.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

If there is no further debate on the conference report, the question is on agreeing to the conference report.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from California [Mr. WILSON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 67, nays 31, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—67

Adams	Glenn	Moynihan
Baucus	Gore	Murkowski
Bentsen	Gorton	Nunn
Biden	Harkin	Packwood
Bingaman	Hatfield	Pell
Boren	Heinz	Pryor
Bradley	Hollings	Reid
Breaux	Inouye	Riegle
Bryan	Jeffords	Robb
Bumpers	Johnston	Rockefeller
Burdick	Kennedy	Rudman
Byrd	Kerrey	Sanford
Chafee	Kerry	Sarbanes
Cochran	Kohl	Sasser
Cohen	Lautenberg	Shelby
Cranston	Leahy	Simon
D'Amato	Levin	Simpson
Daschle	Lieberman	Specter
DeConcini	Matsunaga	Stevens
Dodd	McConnell	Warner
Domenici	Metzenbaum	Wirth
Exon	Mikulski	
Fowler	Mitchell	

NAYS—31

Armstrong	Garn	Mack
Bond	Graham	McCain
Boschwitz	Gramm	McClure
Burns	Grassley	Nickles
Coats	Hatch	Pressler
Conrad	Heflin	Roth
Danforth	Helms	Symms
Dixon	Humphrey	Thurmond
Dole	Kasten	Wallop
Durenberger	Lott	
Ford	Lugar	

NOT VOTING—2

Kassebaum	Wilson

So the conference report was agreed to.

Mr. ADAMS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ADAMS. Mr. President, I am very sorry to hear that the President has decided to veto the 1990 Labor, HHS, Education appropriations bill. I am sorry because it contains so many important and worthwhile items. This bill contains 47 billion dollars' worth of programs. It has money for maternal and infant care, money for drug programs, for blacklung victims, hospice care for cancer patients, and child care—all the things that make us a kinder and gentler Nation. But the President now tells us that he will veto this bill because he won't accept the language that allows poor rape and incest victims access to abortions. I am sorry that the President of the United States, the most powerful man in the world, has chosen to veto this bill and thereby cause additional enormous suffering for some of the world's most unfortunate and powerless victims. I understand that the President was looking for a way to sign this bill. I wish he had.

But his comments over the past few days tell me and the women of this country that he still doesn't get it. The President says he favors the right to an abortion in cases of rape, incest, and the life of the mother, but not if the Federal Government has to pay for it. So what the President is saying is that he supports abortion in these circumstances for everyone except poor women. He would deny poor women who are victims of rape or incest access to the same legal rights to an abortion as other women in society. For those who would suggest that all women's rights are protected, let me just say that if you are unfortunate enough to be poor, that right can be pretty abstract and hollow. Forcing women and children, because many of these victims are children, to bear a child that is a result of a rape or incest is unconscionable. And by denying these poor women the funds to pay for an abortion, that is exactly what we would be doing.

Mr. President, the provision in this bill affects poor women, but it also affects all women. This is about the right to have a choice regardless of one's financial circumstances. It's about women and children having the opportunity to choose how they will begin rebuilding their lives after they have been victimized. A veto would victimize them a second time. I hope the President will change his mind and sign the bill.

Mr. President, at a later time I will comment on the D.C. appropriations bill, and I hope the President will sign that because I think it is important. I congratulate the chairman of the committee and the others for having passed the HHS appropriations bill. I hope it will be signed and become law.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. What is the will of the Senate?

Mr. HARKIN. Mr. President, I ask unanimous consent that the amendments of the House to the amendments of the Senate in disagreement be considered and agreed to en bloc, with the exception of amendment No. 77 and amendment No. 90.

The PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The amendments in disagreement considered and agreed to en bloc are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 8 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$13,000,000, of which $1,500,000 shall be available for obligation for the period of October 1, 1990 through September 30, 1991,".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 13 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$2,575,200,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 14 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert: ", and of which $19,148,000 of the amount which may be expended from said trust fund shall be available for obligation for the period April 1, 1990, through December 31, 1990, for automation of the State activities under title III of the Social Security Act, as amended (42 U.S.C. 502-504 and 5 U.S.C. 8501-8523)".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 15 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ", and of which $12,500,000 of the amount which may be expended from said trust fund shall be available for obligation for the period October 1, 1990, through June 30, 1991, for automation of the State activities under section 6 of the Act of June 6, 1933, as amended,".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 16 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, on page 64 of the House engrossed bill, after line 5, insert:

SEC. 1515. For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, transfers, if any, in the following accounts are a necessary (but secondary) result of significant policy changes: Training and Employment Services; State Unemployment Insurance and Employment Service Operations; Health Resources and Services Program Operations; Alcohol, Drug Abuse, and Mental Health; Low Income Home Energy Assistance; Interim Assistance to States for Legalization; and Community Services Block Grant.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 26 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 105 (a) Within sixty days after the enactment of this Act, the United States, acting through the Secretary of Labor (or an official of the Department of Labor duly authorized by the Secretary of Labor) shall convey to the State of Oregon without consideration, all rights, title, and interest of the United States, in real property described in subsection (b) (and any improvements thereon).

(b) The real property referred to in subsection (a) is that property commonly known as the "Emerald Heights Housing Complex" located in the city of Astoria, Clatsop County, Oregon.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 27 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, on page 41 of the House engrossed bill, after line 19, insert:

SEC. 220. Notwithstanding any other provision of this Act, AIDS education programs that receive assistance from the Centers for Disease Control and other education curricula dealing with sexual activity that receive assistance under this Act—

(1) shall not be designed to promote or encourage, directly, intravenous drug abuse or sexual activity, homosexual or heterosexual; and

(2) with regard to AIDS education programs and curricula—

(A) shall be designed to reduce exposure to and transmission of the etiologic agent for acquired immune deficiency syndrome of providing accurate information; and

(B) shall provide information on the health risks of promiscuous sexual activity and intravenous drug abuse.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 28 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert "X, XXIV,".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 29 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert: "$1,782,271,000, of which $11,885,000 for health care for the homeless shall be available for obligation for the period October 1, 1990 through September 30, 1991".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 33 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert: ": *Provided further,* That of this amount $30,000,000 is available until expended for grants to States for Human Immunodeficiency Virus drug reimbursement, pursuant to section 319 of the Public Health Service Act: *Provided further,* That user fees authorized by 31 U.S.C. 9701 may be credited to appropriations under this heading, notwithstanding 31 U.S.C. 3302".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 36 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further,* That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the Public Health Service Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality, and employees of the National Center for Health Statistics, who are assisting other Federal organizations on data collection and analysis and whose salaries are fully reimbursed by the organizations requesting the services, shall be treated as non-Federal employees for reporting purposes only;".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 37 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert "and, in addition, for high priority construction projects of the Centers for Disease Control, $5,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 44 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$691,866,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 51 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$354,191,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 57 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further,* That in addition, the Secretary shall transfer $15,000,000 from appropriations available to each of the Institutes which shall be available for extramural facilities construction grants if authorized in law and if awarded competitively including such amount as he may deem appropriate for research animal production facilities".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 59 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$1,934,177,000, of which $7,359,000 for homeless activities shall be available for obligation for the period October 1, 1990 through September 30, 1991, and".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 64 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$77,352,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 71 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$1,917,172,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 75 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$1,393,000,000, of which $60,000,000 shall become available for making payments on September 30, 1990".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 76 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

"REFUGEE AND ENTRANT ASSISTANCE

"For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), $368,822,000, of which $210,000,000 shall be available for State cash and medical assistance."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 78 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$396,680,000, of which $8,041,000 for homeless activities shall be available for obligation for the period October 1, 1990 through September 30, 1991,".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 84 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$2,784,090,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 87 to the aforesaid bill, and concur therein with an amendment as

follows: In lieu of the sum inserted by said amendment, insert "$1,380,048,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 91 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert "except that this section shall not apply to funds made available for fiscal year 1990".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 93 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the words "Conference Center" inserted by said amendment, insert "International House".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 94 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 219. Of the funds appropriated in this Act for the National Institutes of Health, a reduction of $4,000,000 is to be applied to all appropriations as a result of improved procurement practices and a reduction of $10,000,000 is to be applied to all appropriations as a result of savings achieved under section 217 of this title.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 101 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 221. During the 12-month period beginning October 1, 1989, none of the funds made available under this Act may be used to impose any reductions in payment, or to seek repayment from or to withhold any payment to any State pursuant to section 427 or 471 of the Social Security Act, as a result of a disallowance determination made in connection with a compliance review for any Federal fiscal year preceding Federal fiscal year 1990, until all judicial proceedings, including appeals, relating to such disallowance determination have been finally concluded, nor may such funds be used to conduct further compliance reviews with respect to any State which is a party to such judicial proceeding until such proceeding has been finally concluded.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 104 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided,* That $4,427,250,000 shall be available for basic grants under section 1005, $400,000,000 shall be available for concentration grants under section 1006, $285,938,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 108 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert: "following: : *Provided further,* That no State shall receive less than $340,000 from the amounts made available under this appropriation for concentration grants under section 1006: *Provided further,* That no State shall receive less than $375,000 from the amounts made available under this appropriation for State administration grants under section 1404".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 111 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$717,354,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 114 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert: "$14,998,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 119 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert: "; $8,892,000 shall be for national program activities under section 2012 and $128,440,000 shall be for State grants under part A of title II of the Elementary and Secondary Education Act; $3,964,000 shall be for grants for schools and teachers under subpart 1 and $4,500,000 shall be for family school partnerships under subpart 2 of part B of title III of Public Law 100-297; and $31,084,000 shall be for national programs under part B and $461,477,000 shall be for State and local programs under part A of chapter 2 of title I of the Elementary and Secondary Education Act".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 123 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert "including not more than $2,000,000 for the support of not to exceed 200 fellowships under section 7043".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 128 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$1,804,870,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 129 to the aforesaid bill, and occur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$32,674,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 132 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.) and for activities under sec. 311 of the Rehabilitation Act of 1973, $36,553,000, of which $325,000 shall be for the endowment program as authorized under section 408 and shall be available until expended, $482,000 shall be for construction and renovation, to remain available until expended, and $900,000 shall be retained by the Secretary for the purpose of supporting a consortium of institutions to provide education and vocational rehabilitation services for low functioning adults who are deaf.

Resolved. That the House recede from its disagreement to the amendment of the Senate numbered 139 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$6,044,097,000 together with an additional $131,000,000 which shall be available only for unfinanced costs in the 1989-90 award year Pell Grant program: *Provided,* That $286,000,000 shall only be available if such funds are necessary to pay a maximum grant of $2,300 during the 1990-1991 program year. *Provided further,* That notwithstanding section 479A of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), student financial aid administrators shall be authorized, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) and to use supplementary information about the financial status or personal circumstances of eligible applicants only for purposes of selecting recipients and determining the amount of awards under subpart 2 of part A, and parts B, C, and E of title IV of the Act: *Provided further,* That notwithstanding section 411 (b)(6)(B) of the Higher Education Act of 1965 as amended, no basic grant under subpart 1 of part A of title IV of that Act shall be awarded to any student who is attending on a less than half-time basis for a period of enrollment beginning on or after January 1, 1990, except that any such student who received a basic grant for a period of enrollment beginning before January 1, 1990, shall be eligible to receive a basic grant for a period of enrollment beginning on or after such date from funds appropriated for fiscal year 1989: *Provided further,* That notwithstanding section 411(b)(6)(B) of the Higher Education Act of 1965 as amended, no basic grant under subpart 1 of part A of title IV of that Act shall be awarded from funds appropriated for fiscal year 1990 to any student who is attending on a less than half-time basis: *Provided further,* That any institution participating in any loan program authorized under part B of title IV of the Higher Education Act of 1965 as amended, with a default rate, as determined by the Secretary, that exceeds 30 percent shall implement a pro rata refund policy that complies with minimum standards established by the Secretary in regulations, for any title IV aid recipient who withdraws before the earlier of six months from the beginning of the course of study for which the loan was received, or the date on which the student completes one-half of that course and these provisos, except as specifically indicated, shall apply to all fiscal year 1990 funds".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 141 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert "for titles I, II, IV, section 501, 503, and subpart 1 of part D of title V, and titles XII,".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 156 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $176,642,000: *Provided,* That $30,750,000 shall be available for title I of the Act, of which $25,415,000 shall be available for purposes authorized under section 501(d)(1) of the Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 172 to the aforesaid bill, and concur therein with amendments as follow: In lieu of the "$28,643,000" named in said amendment, insert "$26,643,000".

In lieu of the "$91,037,000" named in said amendment, insert "$85,637,000".

In lieu of the "$45,415,000" named in said amendment, insert "$41,565,000".

Resolved, That the House recede from its disagreement to the amendment of the

Senate numbered 176 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 516. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps.

SEC. 517. Notwithstanding any other provision of this Act, funds appropriated for Labor-Management Services, Salaries and Expenses are hereby reduced by $1,000,000 and funds appropriated for Employment Standards Administration, Salaries and Expenses are hereby reduced by $2,000,000.

SEC. 518. Notwithstanding any other provision of this Act, funds appropriated for salaries and expenses of the Department of Health and Human Services are hereby reduced by $15,000,000: *Provided,* That no trust fund limitation shall be reduced.

AMENDMENT IN DISAGREEMENT NO. 77

The PRESIDENT pro tempore. The clerk will report the first amendment in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 77 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

INTERIM ASSISTANCE TO STATES FOR LEGALIZATION

Funds appropriated for fiscal year 1990 under section 204(a)(1) of the Immigration Reform and Control Act of 1986 shall be reduced by $555,244,000: *Provided,* That for fiscal year 1992 $555,244,000 shall be available to States for obligation for the period October 1, 1991 through September 30, 1994 for purposes of section 204 of the Immigration Reform and Control Act of 1986 for unreimbursed costs incurred after September 30, 1989 if these costs would have been eligible for reimbursement under the original appropriation prior to the enactment of this Act.

Mr. GRAHAM. Mr. President, it had been my intention to offer an amendment at this point that would relate to the language governing the conditions under which the funds removed in this year's budget for purposes of the State illegal assistance grants for refugees under the 1986 immigration law would be replaced in fiscal year 1992. Based on an understanding which was reached with our very generous colleague, the floor manager of the bill, it is my intention not to pursue that amendment.

Mr. HARKIN. Mr. President, if I might, I would engage in a colloquy with the Senator from Florida on that point.

It is my understanding that the Senator will withhold the amendment but that it is obvious that the President is going to veto this bill as he has said. I wish he would not. I wish he would reconsider. But the next time the bill comes to the Senate, which we hope will be in the final form, that the Senator from Florida will at that point offer the amendment which is now in a disagreement, amendment No. 77, and that the Senator from Iowa will accept the amendment.

Again, I have to say barring any unforeseen objections made by anyone on the committee, which I do not foresee at this time, it would be my intention to accept the amendment, take it back to the House, and to use my best efforts to get the House to accept the amendment offered by the Senator from Florida, with the full understanding that the Senator from Florida's best efforts, and the Senator from Iowa's best efforts do not always succeed.

Mr. GRAHAM addressed the Chair.

The PRESIDENT pro tempore. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, we accept the statement made by the Senator from Iowa with much appreciation and with full recognition of his persuasive powers, particularly when he is providing those powers in support of an idea which is fundamentally premised on justice.

Mr. HARKIN. Mr. President, I say further to the Senator from Florida, this is a matter of basic justice and fairness. I agree that the moneys should be there for the SLIAG Program. An unhindered amount of $4 billion was agreed to in the previous Congresses to meet the needs of the legalization of the immigrants in this country. It is the intention of this Senator as long as I am in this body or as long as I Chair the subcommittee to make sure those moneys are there and to meet those purposes.

The PRESIDENT pro tempore. The question is on concurring in the House amendment to the Senate amendment.

The motion was agreed to.

AMENDMENT NO. 90 IN DISAGREEMENT

The PRESIDENT pro tempore. The clerk will report the second of the two amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 90 to the aforesaid bill, and concur therein with an amendment as follows:

At the end of the matter inserted by said amendment, insert "If the President does so certify, the General Accounting Office shall conduct a study of programs relating to distribution of sterile needles and report their findings to the Congress and the President within 90 days.".

The PRESIDENT pro tempore. The question is on agreeing to the House amendment to the Senate amendment.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Iowa [Mr. HARKIN], is recognized.

Mr. HARKIN. Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the Senate.

The PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the motion was agreed to. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The point of no quorum having been raised, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

EXECUTIVE CALENDAR

Mr. BENTSEN. As in executive session, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be discharged from further consideration of the nomination of Barry M. Goldwater to be a member of the Board of Directors of the Communications Satellite Corporation; that the Senate proceed to consider the nomination; that the nominee be confirmed; that statements appear in the RECORD as if read; that the motion to reconsider be tabled; and that the President be immediately notified of the Senate's action.

The PRESIDENT pro tempore. Is there objection?

The Chair hears none.

Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

Barry M. Goldwater, Sr., of Arizona, to be a member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1992.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. I thank the Chair.

(The remarks of Mr. JEFFORDS pertaining to the introduction of S. 1770 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

IMPEACHMENT OF JUDGE ALCEE L. HASTINGS

CALL OF THE ROLL

The PRESIDENT pro tempore. The Chair in his capacity as a Senator from the State of West Virginia suggests the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 7]

Byrd	Metzenbaum	Specter
DeConcini	Pressler	
Jeffords	Reid	

The PRESIDENT pro tempore. A quorum is not present. The clerk will call the names of the absentees.

The legislative clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their names:

Burns	Graham	Nickles
Cochran	Grassley	Wallop
Cranston	Heflin	Wirth

The PRESIDENT pro tempore. A quorum is not present.

The legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

Adams	Fowler	McClure
Armstrong	Garn	McConnell
Baucus	Glenn	Metzenbaum
Bentsen	Gore	Mikulski
Biden	Gorton	Mitchell
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boren	Grassley	Nickles
Boschwitz	Harkin	Nunn
Bradley	Hatch	Packwood
Breaux	Hatfield	Pell
Bryan	Heflin	Pressler
Bumpers	Heinz	Pryor
Burdick	Helms	Reid
Burns	Hollings	Riegle
Byrd	Inouye	Robb
Chafee	Jeffords	Rockefeller
Coats	Johnston	Roth
Cochran	Kassebaum	Rudman
Cohen	Kasten	Sanford
Conrad	Kennedy	Sarbanes
Cranston	Kerrey	Sasser
Danforth	Kerry	Shelby
Daschle	Kohl	Simon
DeConcini	Lautenberg	Simpson
Dixon	Leahy	Specter
Dodd	Levin	Stevens
Dole	Lieberman	Symms
Domenici	Lott	Thurmond
Durenberger	Lugar	Wallop
Exon	Matsunaga	Warner
Ford	McCain	Wirth

The PRESIDENT pro tempore. A quorum is present.

May we have order in the Senate. The public address system is not on and it is a little difficult for the Chair to be heard. The Chair would appreciate the cooperation of all members. The Senate will be in order.

The majority leader is recognized.

PRIVILEGE OF THE FLOOR

Mr. MITCHELL. Mr. President, I ask unanimous consent that floor privileges during today's closed impeachment proceedings for Judge Alcee L. Hastings be granted to the individuals listed on the document I now send to the desk.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The document follows:

Michael Davidson, Senate Legal Counsel.
Morgan Frankel, Senate Legal Counsel.
Martha Pope, Chief of Staff, Majority Leader.
Charles Kinney, Democratic Policy Committee.
George Carrenbauer, Democratic Policy Committee.
Anita Jensen, Senator Mitchell.
Rebecca Roberts, Office of President pro tempore.
Roy Greenway, Senator Cranston.
Robert A. Bean, Assistant Secretary for Majority.
Sheila Burke, Chief of Staff, Republican Leader.
Robert Dove, Republican Leader's Staff.
Dennis Shea, Republican Leader's Staff.
Jim Whittinghill, Republican Leader's Staff.
Richard Quinn, Republican Leader's Staff.
Mike Tongour, Assistant Republican Leader's Staff.
John Doney, Assistant Secretary for the Minority.
Elizabeth Greene.
Lorraine Waller, Judiciary Committee Majority.
Thad Strom, Judiciary Committee Minority.
Terry Wooten, Judiciary Committee Minority.
Ron Welch, Judiciary Committee Minority.
Jack Sousa, Rules Committee Majority.
Kevin Kayes, Assistant Parliamentarian.
Jim Weber, 2nd Assistant Parliamentarian.
Jennifer Smith, 3rd Parliamentarian.
David Tinsley, Assistant Journal Clerk.
Scott Bates, Assistant Legislative Clerk.
Scott Sanborn, Assistant Chief Reporter.
Frank A. Smonskey, Official Reporter.
Ronald Kavulick, Official Reporter.
Jerald D. Linnell, Official Reporter.
Raleigh Milton, Official Reporter.
Joel Breitner, Official Reporter.
Mary Jane McCarthy, Official Reporter.
Paul A. Nelson, Official Reporter.
Mark Lacovara, Staff Assistant, Official Reporter.
Kathy Drummond, Staff Assistant, Official Reporter.
Elaine W. Stone, Counsel.
Mark A. Klugheit, Counsel.
Bruce O. McBarnette, Counsel.
Anthony L. Harvey, Administrative Assistant.
P. Casey McGannon, Administrative Assistant.
Isbael T. McVeigh, Administration Assistant.
Patrick Von Bargen, Senator Bingaman.
Mark Gerchick, Senator Leahy.
Edward Garvey, Senator Durenberger.
John Monahan, Senator Pryor.
James D.P. Farrell, Senator Rudman.
Timothy Hay, Senator Bryan.
Chris Leritz, Senator Bond.
William Hoppner, Senator Kerrey.
Anthony Lowe, Senator Gorton.
John Nakahata, Senator Lieberman.
Lori Bass, Senator Burns.
Ron Weich, Senator Specter.

The PRESIDENT pro tempore. Under the order, the Senate will now go into closed session and the Chair, pursuant to rule XXI, now directs the Sergeant at Arms to clear all galleries, close all doors of the Senate Chamber, and exclude from the Chamber and its immediate corridors all employees and officials of the Senate who, under the rule, are not eligible to attend a closed session and who are not sworn to secrecy.

(At 2:05 p.m., the doors of the Chamber were closed. The proceedings of the Senate were held in closed session until 9:20 p.m. at which time, the following occurred.)

OPEN SESSION

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

TRIBUTE TO PAUL RILLING

Mr. HEFLIN. Mr. President, I rise today to pay tribute to one of Alabama's most outstanding journalists who recently retired. Mr. Paul Rilling stepped down as the executive editor of the Anniston Star following his distinguished 41-year career.

Paul Rilling recently retired after 16 years on the staff of the Anniston Star. He had joined the paper in 1973 and rose through the ranks to the position of executive editor in 1985. After his 4-year stint in this position he is retiring to teach political science part time at Talladega College and to travel.

Before joining the Anniston Star, Paul held many varied positions and brought the paper a wealth of experience and knowledge. After graduating from Hiram College in Ohio, he came to the University of Alabama where he received a master's degree in political science. With this background, Paul held various government positions, including the regional civil rights director for the U.S. Department of Health, Education and Welfare's office in Atlanta.

Paul Rilling has held a life-long love of higher education. He has taught at Bradley University in Illinois and the University of Alabama's Mobile branch. He has also taught at Talladega College and it is here that he will renew his teaching career.

Mr. President, I am sure that Paul Rilling's expertise and insight will be greatly missed at the Anniston Star, but look forward to his continued success in the classroom. The insight and understanding he gained at the paper should make him an even more effective professor. Talladega College is indeed fortunate to have a professor with Paul Rilling's talent and abilities. I wish him the best of luck.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform and remind my colleagues that today is the 1,678th day that Terry Anderson has been held in captivity in Beirut. As his 42d birthday approaches next week, I ask that we remain particularly mindful of this continuing ordeal.

NEW YORK POST EDITORIAL SETS THE RECORD STRAIGHT ON SENATOR D'AMATO

Mr. DOLE. Mr. President, those of us in public office expect tough scrutiny from the media. We deserve it. It is the price you pay for the privilege of public service in a democracy with a free press. We voluntarily put ourselves in the spotlight; we have to accept the glare, and expect a few brickbats now and then.

As Harry Truman said: "If you can't take the heat, get out of the kitchen."

But sometimes even a free press can cross the line into unfairness, irresponsibility, and—let us face it—outright falsehood. If anything, it seems we've seen this tendency increasing around here in the last couple of years. Unfairness and chasing after scandal for its own sake are bad enough. Worse, however, is what I would call trial by headline; that is, the constant repetition of irresponsibile rumor and innuendo, by which an individual can have his or her reputation permanently stained without any regard to the facts, like a shadow he cannot shake.

We all remember, painfully, what happened to John Tower. We all remember the rehashed news stories about some ballerina on a piano, and about drinking in a Washington Hotel—except that it turned out that there was no ballerina, no piano, no such party, and that on the dates of the supposed hotel sightings, John Tower was not even in town.

Lately, it seems that my colleague from New York, Senator ALFONSE D'AMATO, has been getting some of the Tower treatment. It is another one of those episodes in which the press creates "news" by writing stories about stories that have been written. Senator D'AMATO's defeated opponent from his last campaign has even filed a complaint with the ethics committee based on these stories. I am not going to comment about that; the committee will handle that appropriately through its own processes.

Now, the Senator from New York has his own style, and I do not think there are too many who would mistake one of us for the other; certainly, although he is my friend, we do not agree on everything. But AL D'AMATO is respected in this body. He is tough, tenacious, and a bulldog when it comes to the best interests of his State.

So I am glad to see that sometimes, although not often, an effort is made by the press to set the record straight. Mr. President, I ask unanimous consent to have reprinted in the RECORD at this point a copy of an editorial appearing in this morning's New York Post. I will not characterize it or paraphrase it, except to suggest the title says it all: "On Al D'Amato—Put Up or Shut Up."

Put up or shut up. That is a pretty good suggestion, one that I would make to the Senator from New York's critics—and to all the other rumor peddlers as well.

As for the Senator from New York, he knows it can be a hot kitchen. But he is not planning on leaving.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Post, Oct. 19, 1989]

ON D'AMATO—PUT UP OR SHUT UP

For many months now, New York's junior U.S. senator, Alfonse D'Amato, has been the subject of vicious rumor buttressed by relentless press accounts implying serious wrongdoing.

No such wrongdoing has been documented, however. No illegality whatsoever.

D'Amato's 1986 Democratic opponent has filed a formal complaint with the Senate Ethics Committee, alleging misconduct on the senator's part. The Ethics Committee has yet to evidence any interest in the charges.

In the meantime, story upon story and editorial upon editorial have appeared in the press, all marked by sly innuendo. The goal, it would seem, is to destroy Al D'Amato's reputation,

Who loses from this effort?

Not just D'Amato, but also the ordinary citizen of the state of New York.

For rarely in recent history has New York been represented by a senator so adept at bringing home the bacon. In the tradition of the great Southern senators and congressmen—the men who chaired the key committees and racked up seniority—D'Amato has turned himself into a powerful force for New York interests in Washington.

Indeed, the fact that he will fight—and fight hard—for projects of concern to his constituents seems to be the source of many of his current difficulties.

D'Amato, for example, is alleged to have battled for federal funds in order to aid projects based in Israel and Puerto Rico. That New Yorkers have a special interest in both Israel and Puerto Rico seems manifest. That federal agencies are under no obligation to assist unworthy endeavors also seems plain.

Yet it is represented as some sort of crime that, say, the Agency for International Development was especially concerned about projects in which D'Amato was known to have an interest.

Would that other senators from New York over the last half century had inspired this sort of respect among Washington bureaucrats—a good deal more federal money would likely have come our way.

As for illegality, we wish the purveyors of innuendo would either put up or shut up.

Let the accused be confronted with his alleged misdeeds—that, in the end, is the American way. And if there's nothing with which to confront him, let's leave Al D'Amato alone.

After all, no one even contends that the senator enriched himself personally. Thus we're left with the notion that he performed favors in exchange for political support.

But D'Amato has had thousands upon thousands of campaign contributors. Some of them subsequently asked for his assistance in pursuing federal grants. Should he refuse to aid anyone who's supported his campaigns, lest quid pro quo charges be aired? Such a policy would make no sense.

As for the allegation that he has aided friends and relatives in improper ways, these claims remain utterly unsubstantiated—and some seem altogether empty.

By way of example, let's look at one of the major allegations—the charge that a D'Amato cousin received a HUD-subsidized house thanks to the senator's intervention.

The story has a couple of problems, not least the fact that the transaction in question took place in the summer of 1980, before D'Amato had been elected to the Senate (before, in fact, he'd even won the Republican primary). Then there's the ancillary fact that D'Amato's cousin earned only $12,500 a year, and was therefore entitled to the federally subsidized home.

Finally, it's also relevant—in view of the implication that this and other HUD-subsidized houses were promptly resold at significantly higher prices—that the senator's cousin still lives in the house.

As for unworthy political appointments, D'Amato—like virtually all public officials—has recommended some folks who haven't performed well in their posts. Seldom is it noted, however, that D'Amato has also recommended the appointment of dozens of stellar federal judges and regional administrators.

Make no mistake about it. The attacks have taken their toll. This campaign has not been without effect. D'Amato's standing in opinion polls has dropped. Those who had hoped to injure him are seeing results.

But New Yorkers are savvy. Eventually, they'll begin to wonder whether there's anything behind the endlessly repeated allegations. They'll wonder about the fairness of the anti-D'Amato effort. And they'll recognize that if D'Amato's Washington effectiveness is blunted, New York itself will suffer most.

PROTECTING THE AMERICAN FLAG

Mr. LAUTENBERG. Mr. President, over the past few months the Congress and the Nation have debated the issue of how best to protect the flag of our Nation. The Supreme Court's decision has forced us to debate very fundamental and very emotional issues. We've already enacted legislation to protect the flag against desecration. Now we are debating a constitutional amendment on this issue.

Clearly, Mr. President, there is no disagreement in this Chamber about our reverence for the flag. Everyone in this Chamber reveres the flag. Many of us, including myself, fought to defend it and the principles for which it stands. It is a symbol of a great democracy, a beacon of freedom.

The issue before us is not whether we love the flag, or whether we want to protect it. The issue is whether we ought to amend the Bill of Rights. This would be an unprecedented step since we first set off on our great experiment with democracy 200 years ago. I do not think we should do this, nor that we need to do this, to stand up for the flag.

The Bill of Rights is our guarantee of basic freedoms that make our Nation so special. It has not been amended in 200 years. We should hesitate before we rewrite it or second guess the Founding Fathers.

As the distinguished chairman of the Judiciary Committee has pointed out, this constitutional amendment is so broadly worded that it would allow States and the Congress itself to write statutes that abridge free speech. And there is nothing more basic to our democracy than the right to free speech.

Mr. President, this is not an issue of respect for the flag. As the son of an immigrant family who fled tyranny for the promise and freedom of America, I stand second to no one in my respect and reverence for our flag. This country has been good to me and my family beyond my wildest expectations, and it has been that way for millions of us. That is why I fought for the flag in World War II and that is why I sought to serve the public in the Senate—to give something back to this country which has been so good to me.

Mr. President, as we have debated this issue as a Nation, the public has tempered its views, and rightfully so. Despite the anger we all feel when the flag is defiled, we should seek other means to protect the flag and not tinker with the Bill of Rights. In this instance, we can feel secure in our patriotism and love of country without amending our Constitution.

ALTERNATIVE SEQUESTER REPORT FOR THE DEPARTMENT OF DEFENSE—MESSAGE FROM THE PRESIDENT—PM 66

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Armed Services:

To the Congress of the United States:

In accordance with section 252(c)(2)(C)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, I hereby transmit an alternative sequester report for the Department of Defense, as recommended by the Secretary of Defense, for Fiscal Year 1990, together with a proposed joint resolution that provides for adoption of the report.

GEORGE BUSH.

THE WHITE HOUSE, *October 19, 1989.*

REPORT ON DEVELOPMENTS WITH RESPECT TO THE NATIONAL EMERGENCY IN PANAMA—MESSAGE FROM THE PRESIDENT—PM 67

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

1. I hereby report to the Congress on developments since the last Presidential report of April 6, 1989, concerning the national emergency with respect to Panama that was declared in Executive Order No. 12635 of April 8, 1988. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

2. Since the last report of April 6, 1989, there has been one amendment to the Panamanian Transactions Regulations, 31 C.F.R. Part 565 (the "Regulations"), administered by the Office of Foreign Assets Control ("FAC") of the Department of the Treasury. On August 31, 1989, FAC added Appendix B to the Regulations, which comprises a list of persons identified with and acting on behalf of the Noriega regime in Panama. No funds or other assets or credits may be transferred to the Noriega regime from the United States or from U.S. persons and their controlled Panamanian entities in Panama. The Panamanian officials named in Appendix B are also subject to this prohibition.

With this report, I am enclosing a copy of the amendment to the Regulations, 54 *Fed. Reg.* 36272 (Aug. 31, 1989).

3. FAC has issued 34 licenses pursuant to section 565.509 of the Regulations, enabling U.S. persons and Panamanian juridical entities controlled by U.S. persons that owe funds to the Government of Panama to credit the funds (with appropriate interest) to a blocked reserve account on their books, or to deposit the funds in a blocked account with a commercial bank. This procedure serves as an alternative to payment of the amounts owed into a blocked account at the Federal Reserve Bank of New York. As of September 20, 1989, the licensed reserve accounts had been credited with $126.3 million in funds denied to the Noriega regime.

4. FAC continues to monitor compliance with the Regulations and to advise affected parties of their obligations under the program. Denial of cash to the Noriega regime and its supporters through strict compliance with the sanctions program by all U.S. persons is the primary objective of the FAC enforcement effort. Several significant enforcement actions have taken place since the last report:

On March 27, 1989, FAC issued a blocking order instructing a U.S. bank to freeze the account of an organization in Houston that had performed unauthorized inspections of Panamanian-flag vessels in the United States and other consular transactions on behalf of the Noriega regime. All fees generated by these activities were determined to contain an interest of the Government of Panama ("GOP"). The Regulations block all property or interests in property of the GOP located in the United States and prohibit all transfers with respect to that property.

In June 1989, an FAC audit of the lock-box arrangement handled for the GOP by a U.S. bank revealed that a number of foreign U.S. dollar items deposited with the bank remained uncollected despite due presentment of the obligations to the correspondent banks in Panama. These intended payments by U.S. companies had never reached GOP Account No. 2 at the Federal Reserve Bank of New York. By August 1989, as the result of FAC compliance efforts, one U.S. firm and its Panamanian affiliate had made replacement payments of $303,000 into Account No. 2; a second U.S. firm and its Panamanian subsidiaries requested and received a Treasury license to open a blocked reserve account for amounts owing; and a third U.S. company agreed to transfer fresh funds to Account No. 2 to cover its outstanding obligations to the GOP.

On June 28, 1989, the U.S. Customs Service in Miami seized a U.S.-origin helicopter blade valued at $30,000 for an attempted exportation to a consignee in Panama who intended to provide the equipment to the Panamanian Defense Forces. The merchandise was seized for a violation of the Regulations as an attempted unlicensed transfer of property in which a GOP interest existed.

In August 1989, an FAC investigation revealed that the New York office of the Directorate of Consular and Maritime Affairs of Panama had engaged in vessel inspections and other unauthorized consular functions on behalf of the Noriega regime. On August 10, 1989, FAC took action that resulted in the blocking of $373,915 held in three accounts of the Directorate at a U.S. bank as property in which there was a GOP interest.

On August 29, 1989, following further investigation, FAC issued another blocking order to a second U.S. bank and initiated other measures resulting

in the freezing of seven organizational accounts of the Directorate of Consular and Maritime Affairs of Panama and several individual accounts containing over $140,000 in which a GOP interest existed. Additionally, FAC notified the Directorate that all tangible assets of the office were considered blocked under the Regulations. Further actions were taken to close the Directorate's office in New York.

On August 31, 1989, FAC published a notice in the Federal Register that listed the names and agencies of 26 ministry-level officials, 17 members of the Strategic Military Council, and 114 senior officials of autonomous agencies of the Noriega regime. Review of these names in consultation with the Department of State had resulted in a determination that the listed individuals act or purport to act on behalf of the regime. Financial transfers to these regime officials from the United States and from U.S. persons and their controlled Panamanian entities in Panama are prohibited.

On September 1, 1989, I announced that, as a consequence of General Noriega's actions to prevent the candidates chosen by the Panamanian people to take office, Panama was as of that date without any legitimate government, and the United States would not recognize any government installed by Noriega. Our Ambassador will not return, and we will not have any diplomatic contact with the Noriega regime. The United States will continue to take other steps, including the tightening of measures to deprive the illegal regime of funds that belong to the Panamanian people, in support of self-determination and democracy, and to counter the threat posed by General Noriega's support for drug trafficking and other forms of subversion.

On September 11, 1989, FAC sent out over 150 letters notifying U.S. businesses in Panama of my September 1 statement announcing the decision to enforce more strictly the prohibitions of the Regulations against the flow of hard currency to the Noriega regime. The letter restated certain requirements of the Regulations, emphasized that U.S. businesses must cease all prohibited payment practices, and warned of potential enforcement actions for violations.

On September 20, 1989, FAC published a notice in the Federal Register listing the names of a prominent Panamanian politician and 13 commercial firms located in Panama that the Noriega regime allows to conduct transactions for or on behalf of Cuba. These 14 names were added to a list of 117 names of Cuban front companies known to be operating in Panama. Any person subject to the jurisdiction of the United States is prohibited from engaging, directly or indirectly, in any transactions involving any property in which there exists an interest of Cuba. The listing of these names as Specially Designated Nationals of Cuba in Panama has the effect of transferring the full force of the U.S. trade embargo against Cuba to the designated persons and firms, and underscores U.S. resolve to counter Cuban commercial activities in Panama that channel funds to the Noriega regime.

On September 22, 1989, FAC sent letters to U.S. companies believed to be in violation of the Regulations, ordering them to cease and desist from the proscribed activities and to bring themselves into full compliance with the sanctions program. U.S. persons who violate the prohibitions on payments to the Noriega regime and its officials are subject to corporate criminal fines of up to $500,000 per count, individual criminal fines of up to $250,000 per count, and imprisonment of willful individual violators for up to 12 years. In addition, FAC may impose administrative civil penalties of up to $10,000 per violation.

To date, FAC enforcement and compliance efforts have denied over $325.8 million to the Noriega regime. As of September 19, 1989, the Federal Reserve Bank of New York held $8.6 million in GOP Account No. 2 and $161.4 million in GOP Account No. 3. The funds contained in GOP Account No. 1, consisting of blocked Panamanian government assets located in the United States on April 8, 1988, have been exhausted to pay expenses of the Panamanian embassy and consulates in the United States until their closure on August 31, 1989, when President Delvalle's term expired. Blocked GOP deposits at 11 domestic banks accounted for $29.2 million denied to Noriega. Blocked tangible property of the GOP on August 28, 1989, totaled $213,000.00. A total of $54.7 million had been paid into blocked reserve accounts, while blocked reserve account licenses issued by FAC to 34 U.S. firms accounted for another $71.7 million in blocked liabilities to the GOP.

5. The objective of Administration policy remains support for a return to civilian constitutional rule and the development of an apolitical military establishment in Panama. In furtherance of our policy, the Administration has imposed economic sanctions against the Noriega regime. Our judgment remains that the root cause of the current crisis is the fact that the Panamanian people have lost confidence in a political system widely perceived as corrupt, repressive, and inept. A genuine Panamanian resolution of the political crisis is necessary to restore confidence in the Panamanian economy, a precondition to the return of economic stability and growth in Panama. Accordingly, our efforts have been directed at supporting Panamanian efforts to resolve the underlying political crisis as rapidly as possible.

6. The expenses incurred by the Federal Government in the 6-month period from April 6, 1989, through September 20, 1989, which are directly attributable to the exercise of powers and authorities conferred by the declaration of the Panamanian national emergency are estimated at $374,500, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the Office of the Assistant Secretary for Enforcement, the Office of the Assistant Secretary for International Affairs, and the Office of the General Counsel), the Department of State, the Federal Reserve Board, the National Security Council, and the Department of Defense.

7. The policies and actions of the Noriega regime in Panama continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. I shall continue to exercise the powers at my disposal to apply economic sanctions against Panama as long as these measures are appropriate, and will continue to report periodically to the Congress on significant developments, pursuant to 50 U.S.C. 1703(c).

GEORGE BUSH.

THE WHITE HOUSE, *October 19, 1989.*

MESSAGES FROM THE HOUSE

A message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3341. An act to amend the Sherman Act to increase the fines that may be imposed for a violation of such act.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3341. An act to amend the Sherman Act to increase the fines that may be imposed for a violation of such act; to the Committee on the Judiciary.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Gene McNary, of Missouri, to be Commissioner of Immigration and Naturalization.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BURDICK, from the Committee on Environment and Public Works:

LaJuana Sue Wilcher, of Kentucky, to be an Assistant Administrator of the Environmental Protection Agency; and

E. Donald Elliott, of Connecticut, to be an Assistant Administrator of the Environmental Protection Agency.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MATSUNAGA:

S. 1769. A bill to amend title XIX of the Social Security Act to require nursing facilities participating in the Medicaid Program to pay, on a phased-in basis nursing personnel at a rate at least equal to the mean rate paid nursing personnel employed outside nursing facilities; to the Committee on Finance.

By Mr. JEFFORDS (for himself, Mr. WARNER, Mr. ROBB, and Mr. LEAHY):

S. 1770. A bill to assess the suitability and feasibility of including certain Shenandoah Valley Civil War sites in the national park system, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. PACKWOOD (for himself, Mr. ROTH, Mr. DOLE, Mr. ARMSTRONG, Mr. BOND, Mr. BOSCHWITZ, Mr. BURNS, Mr. COATS, Mr. COCHRAN, Mr. D'AMATO, Mr. DANFORTH, Mr. DOMENICI, Mr. DURENBERGER, Mr. GARN, Mr. GORTON, Mr. GRAMM, Mr. GRASSLEY, Mr. HATCH, Mr. HATFIELD, Mr. HEINZ, Mr. HELMS, Mr. KASTEN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCLURE, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. RUDMAN, Mr. SIMPSON, Mr. SPECTER, Mr. STEVENS, Mr. SYMMS, Mr. THURMOND, Mr. WALLOP, and Mr. HUMPHREY):

S. 1771. A bill to amend the Internal Revenue Code of 1986 to promote savings and long-term investment through a reduced capital gains tax rate and individual retirement plus accounts; to the Committee on Finance.

By Mr. DECONCINI (for himself and Mr. HATCH):

S. 1772. A bill to amend the Lanham Trademark Act of 1946 to protect the service marks of professional sports organizations from misappropriation by State lotteries; to the Committee on the Judiciary.

By Mr. BENTSEN:

S. 1773. A bill for the relief of Colette Simone Flammang Goldy; to the Committee on the Judiciary.

By Mr. DURENBERGER:

S.J. Res. 216. Joint resolution designating November 12 through 18, 1989, as "Community Foundation Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DECONCINI (for himself, Mr. KASTEN, Mr. D'AMATO, Mr. GRAHAM, Mr. SYMMS, Mr. LIEBERMAN, Mr. HATCH, Mr. WILSON, Mr. SPECTER, and Mr. BOREN):

S. Res. 196. Resolution expressing the sense of the Senate regarding the peace process in Angola; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MATSUNAGA:

S. 1769. A bill to amend title XIX of the Social Security Act to require nursing facilities participating in the Medicaid Program to pay, on a phased-in basis, nursing personnel at a rate at least equal to the mean rate paid nursing personnel employed outside nursing facilities; to the Committee on Finance.

RELATING TO THE SHORTAGE OF NURSING PERSONNEL IN NURSING HOMES

Mr. MATSUNAGA. Mr. President, I am introducing a bill today to address the Nation's shortage of nurses that is plaguing our nursing homes. The nursing shortage problem is not just a transient or cyclical phenomenon for long-term care facilities. Rather, it is a chronic problem that is hampering their ability to provide quality care to nursing home residents. The bill would require Medicaid to pay nursing home staff, who provide or supervise direct patient care, wage and benefits comparable to other nursing personnel in a locality.

There are more nursing homes than hospitals in this country and more nursing home patients than acute hospital patients. However, only 7 percent of all employed registered nurses [RN's] work in long-term care facilities. Traditionally, it has been very difficult to attract RN's into long-term care settings, despite the growing need.

A recent survey of the nursing home industry indicated that 58 percent of nursing homes reported vacancies for RN's. One-third indicated a need for RN's just to meet current minimum standards for staffing. Yet the shortage is not just limited to RN's. Almost 80 percent of long-term care facilities indicated a significant shortage of licensed practical nurses—nursing personnel that provide most of the bedside, hands-on care of nursing home patients.

The shortage of nurses in nursing homes will become even more acute when increased nurse staffing requirements go into effect as a result of major nursing home reform provisions enacted in the Omnibus Budget Reconciliation Act of 1987 [OBRA]. The Senate Finance Committee, of which I am a member, examined closely the need for increased nurse staffing requirements for long-term care facilities, as well as other new standards. Clearly, the presence of trained nurses was determined to be essential for the proper care of our elderly residents in nursing homes and staffing requirements were raised.

At the same time, I believe that Congress must do what it can to help ensure that an adequate supply of nurses will be available for nursing home and other health care facilities. To address this health manpower challenge, the Senate Labor and Human Resources Committee, of which I am also a member, formulated legislation last year to reauthorize the Nurse Education Act, title VIII of the Public Health Service Act. This legislation will help increase the overall supply of nurses and will direct Federal resources to training nurses in shortage areas where they are needed most.

While the cause of the shortage is complex, it is clear that one factor is paramount and must be addressed if nursing homes are to find workable solutions—salaries must be increased. This issue is not easily remedied because State Medicaid rates determine the parameters within which nursing salaries are set, generally through the use of cost centers which fail to recognize prevailing wages for nurses.

Nursing homes are finding it increasingly difficult to compete with hospitals and other health care providers because Medicaid rates do not allow nursing homes to pay competitive salaries. In my State of Hawaii, some nursing homes have stopped admissions because of the lack of nursing personnel—many of whom are taking better paying jobs in hospitals or in the visitor industry.

The Department of Health and Human Services wage statistics indicate that, on average, registered nurses in nursing homes earn 35 percent less than their hospital counterparts. More specifically, RN's working as administrators earn 49 percent less, supervisors earn 34 percent less, head nurses earn 31 percent less and staff nurses earn 23 percent less than comparable hospital-based nurses. Similar salary differentials are found by comparing LPN's, nurse aids, and other nursing personnel in nursing homes and those in hospitals.

Unless reimbursement rates paid to nursing facilities under State Medicaid plans permit these facilities to pay competitive wage and benefit levels, nursing homes will be unable to attract qualified personnel to meet staffing requirements imposed by OBRA. Lack of qualified nursing staff also will impede efforts by nursing homes to meet other new OBRA requirements intended to enhance quality of

care, such as conducting patient assessments and designing care plans.

Under current Medicaid law, reimbursement language for nursing homes directs States to provide reasonable and adequate rates to meet the costs incurred by efficiently and economically operated facilities. However, such broad Federal directives have not proven to be sufficient to keep nurse wages and benefits at a competitive level. Accordingly, the legislation I am introducing would require that a State Medicaid plan provide for payment of the actual costs of salaries paid to nursing personnel providing patient care—nurses, nurses aides, nurse assistants, licensed practical nurses—at the mean rate of prevailing wages paid to nursing personnel in the same locality.

To determine comparable nursing wage rates, States would be required to conduct a survey of health facilities other than nursing homes through a statistically representative sample. Each State would designate appropriate local areas, and States would be required to make annual adjustments to nursing facility rates to assure that those facilities are able to offer nursing wages comparable to those offered by other local health care providers.

This legislation also recognizes that States differ in their Medicaid payment methodologies. My bill would permit a State to utilize the annual data collected to make a retroactive adjustment to the rates that were paid during the period covered by the wage data. Alternatively, a State might take such data and trend it forward in the form of a prospective adjustment to the rates.

Finally, to assure that nursing facilities actually use rate increases for payment of wages and benefits, the legislation requires that the State Medicaid plan contain some mechanism for recoupment of any increase not expended by a facility for nursing personnel wages and benefits.

Mr. President, there is no doubt that the availability of nurses is critical to the ability of nursing homes to provide for the present and future long-term care needs of our elderly. Yet, it is also clear that efforts to attract and retain nurses in nursing homes will not be effective if Medicaid rates are not adequate to allow them to pay competitive salaries. Congress must ensure that the Medicaid payment system allows a decent wage for nursing home nurses—a wage that is high enough to compete with that of their hospital colleagues and commensurate with their skills and knowledge. I hope my colleagues will join in support of my legislation to achieve that goal.

I ask unanimous consent to print the bill in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1769

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MINIMUM WAGE RATE FOR NURSING PERSONNEL IN NURSING FACILITIES.

(a) MINIMUM WAGE RATE REQUIREMENTS.—Section 1902(a)(13) of the Social Security Act (42 U.S.C. 1396a(a)(13)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by inserting "and" at the end of subparagraph (E); and

(3) by adding at the end the following new subparagraph:

"(F)(i) in making payment for nursing facility services under the plan, for payment of the costs (attributable to individuals receiving medical assistance under the State plan) of wages and benefits of the facility's nursing personnel (including nurses' aides) who provide or supervise direct care of residents at a rate that is at least equal to the minimum rate of wages and benefits established under subsection (s)(1) for nursing personnel in a locality in the State;

"(ii) for recovery by the State (through offset or otherwise) from a nursing facility of such amounts as are paid to the facility pursuant to clause (i) but are not expended by the facility for wages and benefits of nursing personnel described in such clause; and

"(iii) that the State shall—

"(I) for the period consisting of the 4 calendar quarters that ends at least 180 days before this subparagraph is effective in the State, conduct a survey to determine, through a statistically representative sample, the mean rate of wages and benefits paid in each locality in the State to nursing personnel (including nurses' aides) who provide, in nursing facilities, nursing services described in clause (i) to individuals receiving medical assistance under the State plan,

"(II) for periods consisting of the 4 calendar quarters that end at least 180 days before each period described in subsection (s)(1), conduct a survey to determine, through a statistically representative sample, the mean rate of wages and benefits paid in each locality in the State to nursing personnel (including nurses' aides) who provide, outside nursing facilities, nursing services comparable to those described in clause (i).

"(III) report to each nursing facility in a locality in the State on the mean rates of wages and benefits determined under subclauses (I) and (II) for that locality, and

"(IV) report to the Secretary on the mean rates of wages and benefits determined under subclauses (I) and (II) for each locality in the State;".

(2) COMPUTATION OF MINIMUM WAGE RATE.—Section 1902 of such Act is further amended by inserting after subsection (r) the following new subsection;

"(s)(1) Except as provided in paragraph (2), for the purposes of subparagraph (F) of subsection (a)(13), the minimum rate of wages and benefits for nursing personnel in a locality in the State—

"(A) for the first 4 calendar quarters in which such subparagraph is effective in the State, is 66.5 percent of the base rate plus 33.5 percent of the adjusted rate,

"(B) for the next 4 calendar quarters in which such subparagraph is effective in the State, is 66.5 percent of the base rate plus 33.5 percent of the adjusted rate,

"(C) for the next 4 calendar quarters in which such subparagraph is effective in the State, is 33.5 percent of the base rate plus 66.5 percent of the adjusted rate,

"(D) for the next 4 calendar quarters in which such subparagraph is effective in the State, is 33.5 percent of the base rate plus 66.5 percent of the adjusted rate, and

"(E) for each succeeding period of 4 calendar quarters in which such subparagraph is effective in the State, is 100 percent of the adjusted rate.

"(2) If during any period described in paragraph (1), the base rate is greater than the adjusted rate, for the purposes of subparagraph (F) of subsection (a)(13), the minimum rate is the base rate.

"(3) As used in this subsection—

"(A) the term 'base rate' means the rate determined for the locality under subsection (a)(13)(F)(iii)(I), and

"(B) the term 'adjusted rate' means the rate determined for the locality for the appropriate period under subsection (a)(13)(F)(iii)(II).".

(c) TRANSITION.—For the purposes of the amendment made by section 1(3), for periods ending before October 1, 1990, any reference to "nursing facility services" shall be deemed a reference to "skilled nursing facility services" and "intermediate care facility services".

SEC. 2. INCORPORATING REQUIREMENTS INTO STATE PLAN.

(a) EFFECTIVE DATE.—The amendment made by section 1(3) applies to payments under title XIX of the Social Security Act for calendar quarters beginning with the first calendar quarter that begins more than 180 days after the date of the enactment of this Act, without regard to whether regulations to implement such amendment are promulgated by such date.

(b) STATE PLAN AMENDMENTS.—If an amendment to a State plan for medical assistance under title XIX of the Social Security Act is necessary for compliance with the requirements of section 1902(a)(13)(F) of such Act (as added by section 1(3) of this Act), then the State shall submit such amendment to the Secretary of Health and Human Services not later than 90 days after the date of the enactment of this Act. The Secretary shall, not later than 180 days after the date of the enactment of this Act, review each such plan amendment for compliance with such requirements and by such date shall approve or disapprove each such amendment. If the Secretary disapproves such amendment, the State shall immediately submit a revised amendment which meets such requirements. The absence of approval of such a plan amendment does not relieve the State or any nursing facility of any obligation or requirement under title XIX of the Social Security Act.

By Mr. JEFFORDS (for himself, Mr. WARNER, Mr. ROBB, and Mr. LEAHY):

S. 1770. A bill to assess the suitability and feasibility of including certain Shenandoah Valley Civil War sites in the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

SHENANDOAH VALLEY CIVIL WAR SITES STUDY ACT

Mr. JEFFORDS. Mr. President, I am joined by the Senators from Virginia, Senators WARNER and ROBB, and the senior Senator from Vermont [Mr. LEAHY] in introducing what I believe

to be an exciting bill relating to the Civil War battlefields in the Shenandoah Valley.

This is a day of significance to Vermont. This is the 125th anniversary of the Battle of Cedar Creek at which the Vermont soldiers greatly distinguished themselves. That battle was one of the turning points of the Civil War. On that same day, members of the Confederacy descended from Canada to St. Albans, VT at 3 o'clock in the afternoon, robbed the banks, took some $200,000 and went to Canada. This was the northernmost intrusion of the Confederacy.

On the anniversary of these events, one a victory for the North, the other a victory for the South, we are introducing legislation beneficial to all Americans.

Let me mention some of the unique aspects of this bill. First, as the identity of the sponsors indicates, we have an opportunity for Northern and Southern Senators to work together to preserve historic battlefields. We thereby commemorate the courage and brilliance of both sides of the conflict.

Second, by acting now, we are seizing this opportunity to preserve our heritage while it is still possible and economically feasible.

Third, we seek to create the opportunity for our citizens to travel from battlefield to battlefield and to relive the brilliant Jackson campaign of 1862, and the successful Union campaign of 1864.

Finally, this can be done while enjoying the beauty of the Shenandoah Valley and providing an important boost to the economy of that area. It is exciting to visit so many sites of Civil War battles in just one area.

I did that this past summer with several Civil War historians and Civil War buffs. We took the time to visit from battlefield to battlefield. We saw those battlefields pretty much as they were during the Civil War. We relived Jackson's battles of the 1862 campaign, one of the most studied campaigns in history.

We also retraced the Union campaign of 1864. At that time, the election was not looking so good for President Lincoln, and the Union was in dire need of battle victories. General Sheridan marched the Union forces up to the valley and won a series of battles culminating in the Battle of Cedar Creek. Many historians believe this was the turning point of the war.

I came away from this trip with the strong feeling that it is my responsibility, as a U.S. Senator, to help preserve this part of our national heritage. Bruce Catton, one of our Nation's most eminent historians has written:

> Any historian who confronts a gap in the record of bygone days knows moments of despair when he complains bitterly that no one took the trouble to dig out and assemble all of the facts while those facts were still available. To use unlimited resources in order to make a record for history, a record as broad and as all-inclusive as it possibly can be, to do it while everything is still fresh, and to do it with no other earthly motive than a desire to establish the full truth—this is the sort of thing that only governments can do, and they almost never dream of doing it.

Mr. Catton's words are more than just an expression of the historian's frustration at not having access to "all of the facts." His words constitute a challenge, a challenge to government to preserve and protect the fragile bits and pieces of our Nation's history that remain to us today, but which tomorrow could vanish forever.

Take, for example, the rolling farm country which lies near the small tributary of the Shenandoah River known as Cedar Creek. If we could travel back in time 125 years ago today, to a special place some 80 miles west of where we now stand, we would find thousands of men under the command of Confederate Gen. Jubal Early. These men are prepared to launch one of the Civil War's most daring and devastating surprise attacks. With that attack begins the last major battle in the Shenandoah Valley and one of the most significant and dramatic encounters of the entire war: the Battle of Cedar Creek.

In "A Stillness At Appomattox," Bruce Catton writes specifically of Cedar Creek:

> Very early on the shivery, misty dawn of October 19, with fog hanging in the low places and the darkness lying thick in the graveyard hour between moonset and dawn, the Confederates rose up out of the gorge and came yelling and shooting on the drowsy flank of Sheridan's army. * * * Then, suddenly, artillery began to pound, the infantry firing became sustained and intense, and a wild uproar came through the dark mist. * * * The surprise could not have been more complete * * * Federals and Confederates met head on and around the regimental battle flags there was furious fighting. A man in the 8th Vermont [Regiment] remembered that "men seemed more like demons than human beings as they struck fiercely at each other with clubbed muskets and bayonets."

As fate decreed, as it had at Gettysburg, the Vermonters were hit with the main force of the attack. Fighting desperately and valiantly to protect the exposed Federal left, and to stem the Confederate onslaught, the 8th Vermont Regiment lost two-thirds of its men in less than an hour. By early morning the Union left had been routed and by midafternoon the panicked Federal army had been driven back 5 miles north of its original position and was in retreat. After regrouping on favorable terrain, the Vermonters refused to cede any further ground. Then, Gen. Philip Sheridan, who the day before had been returning from a meeting here in Washington, made a dramatic appearance on the field. He had awakened that day in Winchester, 20 miles north of Cedar Creek and, grasping the significance of the sounds of artillery coming from the south, had rushed to the battle scene, all the while rallying his retreating men with electrifying effect through the sheer force of his character. Sheridan's ride and his presence at the scene of the conflict reversed the course of the battle and saved the Union army from humiliating defeat. By day's end, what had begun as a stunning Confederate attack was to become a spectacular and decisive Union victory.

Mr. President, I have always believed that the beauty of Vermont is unique, but I will confess that I found the Shenandoah Valley to be as beautiful a region, and not unlike Vermont. In fact, as I toured the battlefield, it occurred to me that perhaps one reason why the Vermonters chose to hold their ground was because they felt somewhat at home. This is the type of inkling of the past you get when you visit a place like Cedar Creek or any other place that, due to chance or design, is much the same today as it was generations or centuries ago. Surely, chance alone has allowed the Civil War battlefields of the Shenandoah Valley to retain their natural beauty and historical integrity for so long. Just as sure is the fact that, if we do nothing to protect them, soon they will be overrun by the forces of our time and lost forever.

I rise today to encourage my colleagues to accept Bruce Catton's challenge. To that end, I am introducing the Shenandoah Valley Civil War Sites Study Act, which would require the Secretary of the Interior to conduct a study to assess the suitability and feasibility of including Shenandoah Valley Civil War sites, such as Cedar Creek, as units administered by or affiliated with the National Park System. The Secretary would designate at least two recognized Civil War historians to participate in the study and would submit the results of the study to Congress within a year of the bill's enactment.

This effort would be a first step only, but a significant first step toward preserving the battlefields of the Shenandoah Valley for future generations of Americans. The goal of the study, in my mind, is to produce a detailed and practical plan to preserve this integral part of our Nation's heritage. When the plan is before us, we will have perhaps the last opportunity to ensure that development in the Shenandoah Valley is not at the expense of that precious heritage. At a minimum, we owe ourselves and our descendants the legacy of that option.

In closing, I have chosen to quote Robert Penn Warren, one of this country's most distinguished men of letters. He wrote:

The Civil War is, for the American imagination, the great single event of our history. Without too much wrenching, it may, in fact be said to be American History.

I thank my distingished colleagues and friends, Senators WARNER and ROBB, for their encouragement and support of this bill. The State of Virginia has a clear and present interest in its passage. But I invite all my colleagues to join us in endorsing the Shenandoah Valley Civil War Sites Study Act. As Robert Penn Warren said, we are talking about American history, in which we all share the same clear and present interest.

For the RECORD, Mr. President, I ask unanimous consent to submit a brief history of the Valley campaigns as described by Mark Mayo Boatner III in his "Civil War Dictionary," New York, 1959, 739-746.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SHENANDOAH VALLEY CAMPAIGN OF JACKSON, MAY-JUNE 1862

One of the most brilliant operations of military history, Jackson's Valley campaign was a strategic diversion to draw strength from McClellan's advance on Richmond (Peninsular campaign).

The Shenandoah Valley was important to the Confederates as a source of provisions and as a route for invading the North. As far as the Federals were concerned, the Valley was not a suitable invasion route; however, it was important that they deny its use to the enemy.

When Joseph E. Johnston left the Valley for the 1st Battle of Bull Run, the defense of the region was left to the Va. State Mil. They were not disturbed until Oct. '61, when Federal forces occupied Romney and threatened Winchester. Stonewall Jackson was then sent to take command of the Valley district. Unimpressed with the quality of militia troops at his disposal, he requested and was given three poorly-disciplined brigades from Loring's Army of the Northwest. This brought his strength to about 10,000.

Union forces in the area consisted of Banks's corps (18,000) and Rosecrans' scattered detachments in W. Va.

Jackson conducted an undistinguished winter campaign into the snow-covered mountains of W. Va. He failed to capture the isolated enemy garrisons at Bath and Romney, but he did get a considerable quantity of supplies, and he damaged the canal and railroad near Bath. He then withdrew, leaving Loring with a detachment at Romney to block communications between Banks and Rosecrans. This outpost was soon withdrawn in connection with the Loring-Jackson incident.

Early in March Banks moved up the Valley and occupied Winchester, which Jackson evacuated on the 11th. Shields's division (9,000) advanced to Strasburg and Williams' (7,000) remained at Winchester. Sedgwick's division (7,000) was at Harper's Ferry. Banks now prepared to leave for the Peninsula, in accordance with McClellan's plan. Williams started to Manassas on 20 Mar.; Shields dropped back from Strasburg and prepared to follow.

Jackson's mission was to hold Banks's troops in the Valley. When he learned that Federal troops were leaving it, he made a forced march and attacked Shields at Kernstown, 23 Mar. This is a remarkable engagement in that Jackson's tactical defeat led the Washington authorities to make mistakes that benefited the Confederates more than if Kernstown had been a victory: Banks was kept from reinforcing McClellan; Blenker's division was withdrawn from McClellan and set to oppose Jackson; McDowell's (I) Corps (40,000) was withheld from McClellan; and a hodgepodge of separate commands was established. The latter contributed largely to Jackson's subsequent success. The organizational changes were as follows. Three separate and independent commands were established: McDowell's Dept. of the Rappahannock; Banks's Dept. of the Shenandoah; and the Mountain Dept. under Frémont, who had succeeded Rosecrans 29 Mar. These separate commands reported direct to Washington, and there was no single general on the scene of action to coordinate their operations.

Faced by superior forces, Jackson withdrew slowly up the Valley. Joseph E. Johnston had dropped back from Manassas to Culpeper on 9 Mar., and had then taken the bulk of Confederate forces to oppose McClellan on the Peninsula, leaving only the division of Ewell (8,000) at Gordonsville. Banks continued his cautious advance; by 26 Apr. his main force was at New Market, and a strong outpost was at Harrisonburg.

Alert to the danger of an advance by Banks through the Massanuttens, Jackson made a forced march to Swift Run Gap. This put him in the Flanking Position, which not only assured him of continued contact with the rest of the army, but which also made it impossible for Banks to advance farther up the Valley without first driving him from this position. Ewell's division was put under Jackson's orders and moved to Swift Run Gap. He was also given authority to use Johnson's small division. This brought Jackson's strength to 17,000.

Frémont, meanwhile, had conceived the ambitious plan of invading East Tenn. As an initial step, Milroy's division was ordered toward Staunton. Johnson withdrew from an untenable position to West View.

A junction of Frémont and Banks would have been disastrous to Jackson. With Lee's authority to formulate his own plan, Jackson decided to strike first at Milroy. Leaving Ewell at Swift Run Gap with orders to prevent Banks's further movement up the Valley, Jackson moved off with his own division and Ashby's cavalry. Keeping his plans secret from even his own subordinates, Jackson marched up the Shenandoah to Port Republic, crossed the mountains to Mechum's River Station where trains were waiting, rode to Staunton, and marched to join up with Johnson's division. In the battle of McDowell, 8 May the Union attack was repulsed, and their troops pursued to Franklin.

On 13 May Jackson returned to McDowell, and the next day he started for Harrisonburg. Banks, in the meantime, had been ordered to dig in at Strasburg with Williams' division and to send Shields's division via Fredericksburg to join McDowell. On 12 May Shields was enroute, and Banks was left in the Valley with only 8,000.

In the second phase of his campaign Jackson screened with Ashby's cavalry to make Banks think he would advance down the North Fork toward Strasburg. Starting his infantry in this direction, Jackson then turned unexpectedly across the Massanuttens, joined forces with Ewell at Luray, and descended with his full 16,000 on the 1,000 Federals at Front Royal, 23 May. This force was driven toward Strasburg and, despite a gallant fight, largely destroyed.

Jackson had to base his next maneuver on four possible Federal courses of action. Banks could stay and defend Strasburg; or he could leave it by any of three directions: west to join Frémont, north to Winchester, or east through Front Royal to Manassas, once Jackson was north of the North Fork. Thinking that Banks would most probably remain at Strasburg or head for Manassas, Jackson moved the bulk of his force toward Middletown. Banks had wanted to defend Strasburg, but Gordon had persuaded him that this would be fatal. Gordon conducted a rear-guard action that enabled the bulk of Banks's forces to reach Winchester the night of 24 May. Jackson's pursuit was hampered not only by lack of adequate maps but also because his troops (the crack La. Zouaves and Ashby's troopers) wasted time looting a Union supply train. One column took six hours to march seven miles, and reached Middletown after Banks's column had passed.

Despite these frustrations, Jackson pushed his weary "foot cavalry" throughout the night. He knew the terrain around Winchester and realized that every hour's delay would give the Federals time to fortify the critical high ground that covered this place. In a skillful attack Jackson won the battle of Winchester, 25 May. Banks retreated to Martinsburg and crossed the Potomac at Williamsport 26 May.

The Confederate pursuit was again ineffective. The foot troops were exhausted. Ashby's cavalry was sent toward Berryville to head off a possible Federal retreat through Snickers Gap (which did not materialize). "Maryland" Steuart refused a direct order from Jackson to pursue because the order had not come through his immediate commander, Ewell. An improvised pursuit on artillery horses was ineffective. After a two-day rest near Winchester, Jackson continued toward Harpers Ferry. On 29 May he was concentrated at Halltown, three miles from there.

The Washington authorities were thrown into a turmoil by Jackson's operations. They soon recovered, however, and became obsessed with the idea of trapping Jackson. Despite objections from McDowell and McClellan, who realized that the only purpose of Jackson's operations was to spoil the Peninsular campaign, the civilian authorities—principally Lincoln and Stanton—started directing military operations. McDowell's corps was ordered to converge with Frémont's on Strasburg, Banks and a hastily-organized force under Saxton were to press Jackson from the rear.

Jackson was interested in maintaining his advanced position to harass the Federals as much as possible and also to give his quartermaster time to accumulate and evacuate his booty, particularly some valuable medical supplies. By 30 May Jackson knew of the movement of Frémont and McDowell. Leaving the Stonewall brigade to check Banks and Saxton, Jackson started 30 May to withdraw. The train on which he was riding ahead of his troops to Winchester was hailed by a courier, who gave him a message that McDowell's advance guard had captured Front Royal. At the time when McDowell and Frémont were closer to Strasburg than Jackson, the head of the Confederate column was 25 miles and the Stonewall brigade 38 miles from Strasburg. Jackson faced this situation with an uncanny

calm, not even communicating the details to his subordinates.

Ashby's cavalry checked Frémont's advance, and an infantry brigade halted Shield's division near Front Royal. By noon on 1 June Jackson's entire force—15,000 troops, 2,000 prisoners, and a double train of wagons seven miles long—had cleared Strasburg. A Federal force of 50,000 had failed to close the trap. McDowell's corps of 40,000 had been withheld from McClellan.

Brilliant as Jackson's operations were, their success was due largely to the blunders into which they led the Federal authorities. Steele says of Stanton, "by his obstinacy and ignorance of the science of war he probably set back the fall of Richmond and the Confederacy just three years" (Steele's *American Campaigns*, 229). The important lesson the Federals learned from their failure to trap Jackson was "unity of command."

The three Federal commanders pursued Jackson up the valley. Frémont followed the Confederates up the North Fork with 15,000 men, including Bayard's cavalry brigade of McDowell's corps. Shield's division moved up the South Fork (Luray Valley) with a view to cutting Jackson off. Jackson had anticipated this maneuver and sent detachments to destroy bridges across the South Fork north of Port Republic so that the two Federal commanders could join forces only by way of Port Republic. He sent a detachment to seize the critical bridge at the latter place to secure his own retreat.

Bayard's cavalry caught up with the retreating Confederates on 2 June between Strasburg and Woodstock and routed their rear guard. Ashby rallied stragglers, hastily organized a defense, and held off the pursuers the next day. Ashby's delaying action and the burning of a bridge across the North Fork delayed the Union pursuit until the morning of the 5th and gave Jackson a 24-hour lead. Contact was regained 6 June, and Ashby was killed in a heated skirmish. Shields, on the east side of the Massanuttens, heard the fighting on Frémont's front, but was unable to go to his assistance because of the bridges Jackson had ordered destroyed. Heavy rains further slowed the Federals and added to their problem of replacing bridges.

At Port Republic Jackson clashed with the advance guard of Shields's division (Carroll's brigade). In a street skirmish Jackson was almost captured. The night of 7 June Jackson was situated between two hostile columns. Rather than withdraw over the Blue Ridge through Browns Gap, Jackson elected to strike a final blow. Since Frémont's force was the larger (15,000), Jackson planned to block this column with Ewell's division (6,500) at Cross Keys, and to overwhelm Shields's two most advanced brigades at Port Republic (5,000; brigades of Tyler and Carroll). After his victory at Cross Keys and Port Republic, 8–9 June (the two battles are covered together), Federal forces were ordered withdrawn. Jackson moved to join Lee on the Peninsula for the Seven Days' Battles.

SHENANDOAH VALLEY CAMPAIGN OF SHERIDAN, 7 AUG. 1864–2 MAR. 1865

As a result of Early's Washington Raid the Federal authorities established the Middle Military Division under Sheridan. On 7 Aug. '64, when he took command, his troops were disposed as follows: at Harpers Ferry were the VI Corps; the 1st Div., XIX Corps; and the two infantry divisions of Crook's West Va. corps. The cavalry divisions of Torbert and Wilson arrived about two days later from Meade's army. When Averell's cavalry division of Crook's command joined the forces at Harpers Ferry the cavalry was organized into a corps under Torbert, and Merritt moved up to head the latter's division. The second division of XIX Corps later arrived, and by the time the first general engagement took place (Winchester), Sheridan's effectives numbered about 48,000.

Early's four infantry divisions and all of his cavalry except the two brigades at Moorefield, W. Va., 7 Aug., were near Bunker Hill. By mid-August he was reinforced with the infantry division of Kershaw and Fitzhugh Lee's cavalry division; under the over-all command of Richard Anderson this force was to support Early by operations east of the Blue Ridge. When the Federals learned of this reinforcement it was thought that Early might have as many as 40,000 troops, and Sheridan was told to act on the defensive. At this time Early's actual strength was about 23,000 (including Kershaw's 4,500 and Fitz Lee's 2,000).

There was a five-week period of maneuvering before the first real battle took place between Sheridan and Early. On 10 Aug. Sheridan advanced from Harpers Ferry toward Berryville; Early fell back to Strasburg to await Anderson's arrival. On the 14th Sheridan started back to Harpers Ferry, destroying military resources as he went. Anderson and Early followed. Anderson with Kershaw's division and one of Lomax's cavalry brigades remained at Charlestown to observe Sheridan, Fitz Lee moved to Williamsport, and Early led the rest of his command to Shepherdstown to threaten another invasion of Md. Lacking the strength for the latter operation, however, Early withdrew on 26 Aug. to Bunker Hill. Anderson withdrew along the railroad to the west side of Opequon Creek. Sheridan started moving south toward Winchester and Berryville.

About 1 Sept. Early was told to return Anderson's force if possible. Since Sheridan's main body appeared to be at Charlestown and did not seem to have any intention of advancing, on 3 Sept. Anderson started east to rejoin Lee. At Berryville he encountered Crook's corps, and Early moved with three infantry divisions to support him. The Confederates then withdrew west behind the Opequon. Since the Federals made no attempt to cross the creek, Anderson started on 14 Sept. for Front Royal to rejoin Lee. Fitz Lee's cavalry remained in the Valley, giving Early a strength of 12,000 infantry and 6,500 cavalry.

In strict compliance with his instructions Sheridan had been waiting for Anderson to rejoin Lee before attacking Early. This lack of aggressiveness had made his opponent overconfident, and on the 17th Early sent two of his divisions north to Bunker Hill.

Grant visited Sheridan and approved his plan of attack. Taking advantage of Early's faulty dispositions, Sheridan intended to feint from the direction of Charlestown (to the northeast) while moving his main force from Berryville against Winchester.

Sheridan defeated Early at Winchester, 19 Sept. '64, and forced him to retreat via Newtown to Fishers Hill, below Strasburg. Although his plan was well conceived, Sheridan's troops were not able to maneuver so fast as Early's veterans and his victory was not so decisive as it could have been. However, his victory did give him confidence in himself, and it gave his troops and the Washington authorities confidence in "Little Phil."

Sheridan took up the pursuit and found Early's new defensive position near Strasburg on 20 Sept. He defeated the Confederates here in the battle of Fishers Hill, 22 Sept., and pursued Early to Mount Jackson. Confederate resistance had been virtually destroyed.

Sheridan had sent most of his cavalry under Torbert up the Luray Valley after Fitz Lee, and expected him to cut Early off at New Market. Torbert was afraid to attack the two brigades under Wickham whom he found blocking his way at Milford. The poor cavalry leadership of Torbert and Averell enabled Early to reach Browns Gap, where Kershaw's division was again ordered to his support. Sheridan advanced as far as Harrisonburg. Early was ordered not to attack until Kershaw arrived.

After the battle of Fishers Hill James Wilson was sent to command Sherman's cavalry. Averell was relieved for lack of aggressiveness. George Custer and Col. Wm. Powell succeeded them as division commanders. Grant now proposed that Sheridan move on Charlottesville and then destroy the Va. Central R. R. as far as Richmond, but Sheridan believed this would require him to scatter his forces too much. Grant then approved Sheridan's plan to retire to Winchester and reinforce Grant with troops made available by this operation.

On 6 Oct. Sheridan began his withdrawal, stripping the country as he went. One brigade crossed the mountains and destroyed the railroad bridge over the Rapidan between Gordonsville and Culpepper. The cavalry divisions of Rosser (who had come with his brigade from Lee's army) and Lomax so harried Sheridan's withdrawal that Torbert was told to attack the Confederates and "either whip the enemy or get whipped yourself." Near Tom's Brook, 9 Oct. the Confederate were whipped.

Thinking he had finally disposed of the threat from the Shenandoah, Sheridan withdrew to Middletown and started the VI Corps to join Grant by way of Alexandria. When Early appeared at Strasburg on 13 Oct. the VI Corps had reached Front Royal and had to be recalled to Middletown. This same day Sheridan was ordered to Washington to discuss with Stanton and Lincoln the previously considered plan of operating along the railroad to Culpepper and Gordonsville. On the 16th he was proceeding along the Manassas Gap. R.R. with Merritt's cavalry division when an intercepted message informed him that Longstreet was coming to reinforce Early. (The message was a ruse, as Sheridan suspected [O'Connor, 377].) Merritt's division, which he had intended to send to Grant, was therefore sent back to the Valley, where Wright was in command.

Although numerically inferior, Early was confident he could beat the Army of the Shenandoah. The battle of Cedar Creek, 19 Oct. '64, drove the Federals back from several successive positions. They had finally rallied when Sheridan arrived after his famous ride from Winchester and organized a counterattack that routed Early.

This final defeat marked the end of major military actions in the Valley. Wright's VI Corps rejoined the Army of the Potomac 6 Dec. '64 and the 2d Div., XIX Corps, was sent to Sherman at Savannah in Jan. Hancock was assigned command of the Middle Mil. Div. late in the same month to free Sheridan for active field operations. The

latter now commanded 10,000 first-rate cavalrymen in the divisions of Devin and Custer.

Early now had only two brigades (Wharton's division of 2,000 men) and two artillery battalions. On 27 Feb. Sheridan moved from Winchester and reached Staunton on 2 Mar. Learning that Early was at Rockfish Gap, Sheridan decided to destroy this Confederate force before proceeding with the operation known as Sheridan's raid in Northern Virginia (1865). At Waynesboro, Va., 2 Mar., Custer annihilated Early's remaining force. Early escaped with Generals Long and Wharton and about 20 others, but this ended his active military career. (See *Lee's Lts.*, III, 636.)

Sheridan's devastation of the Shenandoah Valley has evoked the same emotions as Sherman's March to the Sea. He was acting under the same letter of instructions that Grant had earlier given to Hunter:

In pushing up the Shenandoah Valley . . . it is desirable that nothing should be left to invite the enemy to return. Take all provisions, forage, and stock wanted for the use of your command; such as cannot be consumed, destroy. It is not desirable that buildings should be destroyed—they should rather be protected . . ."

After pursuing Early up the Valley Sheridan had concentrated his main force at Harrisonburg, and from there had sent out raiding parties as far south as Staunton to destroy "crops, mills, etc." When he withdrew down the Valley he methodically ravaged it. He sent this report to Grant:

"I have destroyed over 2,000 barns filled with wheat, hay, and farming implements; over 70 mills filled with flour and wheat; have driven in front of the army over four herd of stock, and have killed and issued to the troops not less than 3,000 sheep. This destruction embraces the Luray Valley and Little Fort Valley, as well as the main Valley. A large number of horses have been obtained, a proper estimate of which I cannot now make.

"Lieutenant John R. Meigs, my engineer officer, was murdered beyond Harrisonburg, near Dayton. For this atrocious act all the houses within an area of five miles were burned."

(Actually, Dayton was not burned, nor had Meigs been "murdered.")

Sheridan later sent Merritt with his cavalry division to devastate Loudoun County. Here is the report of what was seized or destroyed: "3,772 horses; 545 mules; 10,918 beef cattle; 12,000 sheep; 15,000 swine; 250 calves; 435,802 bushels of wheat; 77,176 bushels of corn; 20,397 tons of hay; 20,000 bushels of oats; 10,000 pounds of tobacco; 12,000 pounds of bacon; 2,500 bushels of potatoes; 1,665 pounds of cotton yarn; 874 barrels of flour; 500 tons of fodder; 450 tons of straw; 71 flour mills; one woolen mill; eight sawmills; one powder mill; three saltpeter works; 1,200 barns; seven furnaces; four tanneries; one railroad depot; and 947 miles of rail." (O'Connor, citing O.R., I, XLIII, Part I, 37.)

Summing up his devastation, Sheridan said, "A crow would have had to carry its rations if it had flown across the [Shenandoah] valley."

Mr. President, I would like to submit for the RECORD the resolution passed unanimously by the Vermont General Assembly calling upon the Federal Government to save our Civil War battlefields, and I ask unanimous consent that the text of the resolution and the text of the bill be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas Vermonters served with unsurpassed distinction in the Civil War, and

Whereas 1989 is the 125th anniversary of the Battle of Cedar Creek which is commemorated by the great Julian Scott painting in the State House, and

Whereas Vermonters fought with uncommon valor at Cedar Creek, made their gallant stand in The Wilderness and distinguished themselves at Spotsylvania Court House, Cold Harbor and on other battlefields of 1864, and

Whereas 32,549 Vermonters served in the Union armies, of whom 5,224 gave their lives to preserve the nation and end slavery, Vermonters thus consider as hallowed ground such storied fields as Gettysburg, Antietam, Manassas, Brandy Station, Fredericksburg, Chancellorsville, Salem Church, Petersburg, Lee's Mills and other battlefields of the Peninsula, and

Whereas many battlefields are in private hands and lack protection and are thus being destroyed by commercial development, especially in northern Virginia, and

Whereas the national battlefield parks located on some fields too often lack adequate landholdings to ensure adequate protection of these invaluable components of our national heritage, and

Whereas Vermonters, who have long shown the nation they care deeply about historic preservation and environmental protection, believe these hallowed grounds should be preserved forever, therefore be it

Resolved: That the Vermont General Assembly formally requests that the president of the United States, the Congress and the federal government act without delay to save the national treasures that are our Civil War battlefields.

S. 1770

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Shenandoah Valley Civil War Sites Study Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) there are situated in the Shenandoah Valley in the State of Virginia the sites of Civil War battles and campaigns that deserve consideration as national battlefield and historic sites; and

(2) concerned individuals and non-profit organizations have expressed interest in donating land in the Shenandoah Valley to the United States for the purpose of preserving sites of significant Civil War engagements.

SEC. 3. STUDY AND REPORT.

(a) STUDY.—The Secretary shall conduct a study to assess the suitability and feasibility of including Shenandoah Valley Civil War sites as units administered by or affiliated with the national park system.

(b) INCLUSION OF HISTORIANS IN STUDY TEAM.—The Secretary shall designate at least 2 recognized Civil War historians to participate in the study required by subsection (a).

(c) REPORT.—(1) Not later than 1 year after the date of enactment of this Act the Secretary shall submit a report to Congress describing the manner in which the study required by subsection (a) was conducted and the results of the study.

(2) The report required by paragraph (1) shall include an analysis of the effect that inclusion of Shenandoah Valley Civil War sites as units administered by or affiliated with the national park system would have on the economy in the Shenandoah Valley.

SEC. 4. DEFINITIONS.

For the purposes of this Act—

(1) the term "Secretary" means the Secretary of the Interior; and

(2) the term "Shenandoah Valley Civil War sites" means battlefields, historic sites, landscapes, and their associated structures and properties situated in the Shenandoah Valley in the State of Virginia that are thematically tied with the nationally significant events that occurred in this region in 1862 through 1864, including General Thomas "Stonewall" Jackson's "Valley Campaign" and the campaign of 1864 that culminated in the battle of Cedar Creek on the 19th of October, 1864.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary $150,000 to carry out this Act.

Mr. LEAHY. Mr. President, I am proud to cosponsor a bill introduced by my friend and fellow Vermonter Senator JEFFORDS that seeks to conduct a study of 10 Civil War battle sites in the Shenandoah Valley. This legislation is prompted by the 125th anniversary of the Battle of Cedar Creek, where over 400 Vermonters fell.

Thousands of Vermonters served their country valiantly in the Civil War. Of all the bloody battles of the war, including Gettysburg, no where did Vermonters serve with more distinction and bravery than at the Battle of Cedar Creek.

I would like to include for the RECORD an article that appeared in yesterday's the Burlington Free Press, entitled "Move to Save Battlefield Prompted by Anniversary," and I ask unanimous consent that it be printed at the conclusion of my remarks.

Senator JEFFORDS deserves a great deal of credit for drafting this legislation. As a native Vermonter with a keen sense of history, Senator JEFFORDS knows the importance of preserving those historical landmarks that have helped shape and define us as a nation.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MOVE TO SAVE BATTLEFIELD PROMPTED BY ANNIVERSARY

(By Christopher Graff)

MONTPELIER.—During the past century, thousands of Vermonters have stood in awe of Julian Scott's massive painting, "The Battle of Cedar Creek."

The oil painting is 20 feet by 10 feet and fills a wall in the governor's reception room at the Statehouse. It was commissioned by the Legislature in 1870 to commemorate the role of Vermont's soldiers in the Civil War.

It is just one symbol of the bond Vermont has with the Civil War. Around the corner in the Statehouse, outside of the House chamber, are the tattered flags that were

carried by the Vermont troops in the war. Some of their staffs were scarred by Confederate bullets; some of the flags were stained by the blood of young Vermonters who fought beneath them.

"Vermonters gave unstintingly of their human and economic resources in the Civil War," state archivist Gregory Stanford said.

Vermont lost 5,237 men in the war. In relation to its population, Vermont lost more of its youth in the Union cause than any other state.

So perhaps it is fitting that on Thursday, the 125th anniversary of the Battle of Cedar Creek, a Vermonter will stand on the floor of the U.S. Senate and introduce legislation designed to save the Civil War battlefields threatened by development.

"Vermonters have always been out front in the defense of freedom," U.S. Sen. James Jeffords, R-Vt., said. "The Civil War was a time in which Vermonters did their share and more.

"Today there is a threat to the land on which those battles were fought and we have to do something or lose it forever," the senator said.

Jeffords' bill calls on the U.S. Park Service to conduct a study of the 10 Civil War battle sites that are in the Shenandoah Valley of Virginia.

"The hope and expectation is we would purchase the land or buy development rights at those sites," Jeffords said.

Jeffords became interested in the history of the country's most divisive war this year after the Vermont Legislature passed a resolution urging congessional action to save the Virginia battlefields.

Behind the state resolution and Jeffords' renewed interest in the war is Howard Coffin, a University of Vermont employee whose great-grandfather, Elba Jillson, was a Civil War veteran.

"I am a Civil War buff," Coffin said. "I have been exploring battlefields for 20 years, I love to walk those battlefields and imagine what happened there.

"I have watched many of them get desecrated. I have watched the battlefields disappear into shopping malls," he said.

Coffin, who lives in Montpelier, asked his state representative, Francis Brooks, to introduce the resolution in the state House last January.

Brooks, a teacher whose great-grandfather was a slave who served briefly in the Confederate Army, said "these battlefields are symbols that there is nothing greater than our Constitution. They are symbols that we are indeed one nation under God."

After passage of the Vermont resolution, Jeffords began reading up on the battles of the endangered Shenandoah Valley. Chief among them was the Battle of Cedar Creek, which happened Oct. 19, 1864.

It was one of the most dramatic battles of the war and Vermonters were in the center of the fighting.

'It was a dramatic day for Vermonters," Coffin said. "More than 400 Vermonters were shot that day."

In the predawn of Oct. 19, Confederate forces made a surprise attack on Union troops. The northern troops were forced to retreat for miles, with many killed in the fighting.

Gen. Philip Sheridan, returning from Washington, came across groups of retreating men and ordered them to follow him. He picked up more and more men as he neared the battle.

"It was one of the most dramatic moments of the Civil War, with Sheridan and the troops coming over the hill," Coffin said. "It was a big victory."

This summer, as the temperature hit 92 degrees, Jeffords took a tour of the Cedar Creek area, led by Coffin and the president and vice president of the Association for the Preservation of Civil War sites.

"It was an awesome experience," Jeffords recalled. "I had read Tom Lewis' book that gave exact day by day, hour by hour details of Cedar Creek. Looking at the outlines of trenches that were still visable and looking down the valley, you could really imagine exactly what it was like."

At one point in the tour, Jeffords came across a small monument in a pasture to 110 Vermonters who were killed in a desperate attempt to stop the Confederate troops.

Jeffords said he expects to have both of Virginia's senators as co-sponsors of the legislation and emphasized that the bill was not Vermont telling Virginia what to do with its land. "This is something for the whole country, north and south," he said. "To preserve as parks not only battlefields that were northern victories but ones that were southern victories."

Coffin says 600,000 Americans died in the Civil War. "I think the places where they fought and died are worth preserving.

"They are, as Lincoln said, hallowed grounds."

By Mr. PACKWOOD (for himself, Mr. ROTH, Mr. DOLE, Mr. ARMSTRONG, Mr. BOND, Mr. BOSCHWITZ, Mr. BURNS, Mr. COATS, Mr. COCHRAN, Mr. D'AMATO, Mr. DANFORTH, Mr. DOMENICI, Mr. DURENBERGER, Mr. GARN, Mr. GORTON, Mr. GRAMM, Mr. GRASSLEY, Mr. HATCH, Mr. HATFIELD, Mr. HEINZ, Mr. HELMS, Mr. KASTEN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCLURE, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. RUDMAN, Mr. SIMPSON, Mr. SPECTER, Mr. STEVENS, Mr. SYMMS, Mr. THURMOND, Mr. WALLOP, and Mr. HUMPHREY):

S. 1771. A bill to amend the Internal Revenue Code of 1986 to promote savings and long-term investment through a reduced capital gains tax rate and individual retirement plus accounts; to the Committee on Finance.

CAPITAL GAINS TAX RATE AND INDIVIDUAL RETIREMENT ACCOUNTS

● Mr. PACKWOOD. Mr. President, Senator BILL ROTH and I are introducing a bill today that will cut the capital gains tax rates and create a new retirement savings account the Roth "backloaded" IRA Plus account. We are pleased to report that 37 Senators are sponsoring this bill.

We believe these capital gains and IRA proposals are the best way to promote long-term investment and savings.

Our bill is a simple one. It does three things. First, to encourage long-term investment, the bill permanently cuts the capital gains rate for individuals and corporations on a sliding scale basis so that the longer you own an asset, the lower your rate. This would apply to all assets—except collectibles—whether currently owned or newly purchased.

Individuals will be given a 5-percent exclusion for each year of ownership, up to a maximum exclusion of 35 percent after 7 years. This results in a top capital gains rate of 18.2 percent for assets owned more than 7 years.

Corporations will have their rate cut by 1 percentage point for every 3 years of ownership, up to a maximum cut of 5 percentage points after 15 years of ownership. This results in a top capital gains rate of 29 percent for assets owned more than 15 years.

Second, the bill gives individuals an option to index their gains for inflation, instead of the lower capital gains rate. Indexing applies only to assets owned more than 2 years. The inflation adjustment is made only for inflation occurring after 1990.

Third, the bill creates a new IRA Plus account along the lines of legislation introduced earlier this year by Senator BILL ROTH.

The bill is fiscally responsible. Even under Joint Tax's estimates, which I believe is way off base for capital gains, the bill raises $1.3 billion over the first 5 years.

The capital gains part of the bill has several major advantages over the House capital gains proposal:

First, the bill provides a permanent cut in capital gains rates—rather than a temporary 2-year cut;

Second, the bill covers corporations, which were left out of the House proposal; and

Third, the bill encourages long-term investment by providing a sliding scale benefit, which increases the longer you own the asset.

I am concerned that the House bill may cause distortions in the economy and actually discourage long-term investment because of the 2-year window for lower capital gains rates. For example, Oregon timber growers are concerned that the 2-year window in the House proposal would encourage overcutting, which in turn would flood the market with timber. This could have the effect of lowering of timber prices and endangering timber supplies in future years. However, the timber industry is not alone—many other sectors of the economy would be similarly affected. Everyone will rush to sell assets during the window and our market will be flooded. Our bill would not cause these problems.

I believe we have put together a good bill which deserves strong bipartisian support, and I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF PACKWOOD-ROTH CAPITAL GAINS/IRA PROPOSAL

The proposal is intended to promote long-term investment and savings by permanently cutting capital gains rates for individuals and corporations and by creating a new retirement savings account, the "IRA Plus" account.

CAPITAL GAINS

The proposal calls for a permanent reduction in capital gains tax rates. To encourage long-term investment, the rate cut increases the longer an asset is owned. The proposal applies to all capital assets (except collectibles) which are sold after October 1, 1989.

Individuals can exclude from tax up to 35 percent of their gain:

[In percent]

Assets owned for more than	Gain excluded from tax	Top tax rate
1 year	5	26.6
2 years	10	25.2
3 years	15	23.8
4 years	20	22.4
5 years	25	21.0
6 years	30	19.6
7 years	35	18.2

Example: If an individual sells a business owned for four years for a $10,000 gain, the owner would be able to exclude $2,000 (20%) of the gain from taxation.

Instead of the exclusion shown above, individuals have the option to reduce their gains by an inflation factor. This is known as "indexing" for inflation. The proposal adjusts the original cost of assets owned for more than two years for inflation occurring after 1990.

Corporations will pay a lower capital gains rate based on a sliding scale:

[In percent]

Assets owned for more than:	*Top tax rate*
3 years	33
6 years	32
9 years	31
12 years	30
15 years	29

INDIVIDUAL RETIREMENT ACCOUNTS (IRAS)

The proposal creates a new and innovative "IRA Plus" account intended to boost personal savings in the country.

Workers would be permitted to contribute up to $2,000 annually to an IRA Plus account (increases to $3,000 over the next five years). Non-working spouses can also contribute up to $2,000 annually. Contributions are not deductible.

Unlike current law IRAs, the interest earned on an IRA Plus account is tax-free when withdrawn upon retirement (after age 59½).

Up to 25% of IRA Plus funds may be withdrawn tax-free to purchase a first home, to pay college education expenses of family members (including grandchildren), and to pay catastrophic medical expenses.

Current law IRAs remain intact. Individuals are given the option to choose a current law IRA or an IRA Plus account, or a combination of both.

Current law IRAs may be converted into an IRA Plus account before January 1, 1992. IRA contributions previously deducted will be included in income over a four year period. Interest earned before the conversion will not be taxed unless withdrawn prematurely.

REVENUE EFFECT

According to preliminary estimates by the Joint Committee on Taxation (dated October 18, 1989), the proposal will increase revenues by $1.3 billion over five years:

[By fiscal year, in billions of dollars]

Gain or loss:	
1990	(1)
1991	+1.2
1992	+.6
1993	+.1
1994	−.6
1990–94	+1.3

[1] Gain of less than $5 million.●

● Mr. ROTH. Mr. President, the ultimate goal of including any IRA in this package is to increase personal saving and to provide for retirement for the family. This imperative has both individual and national appeal. Increased saving is necessary for economic growth and competitiveness as well as personal security. Both of these goals are critical as we move into the new century.

Society is facing a growing set of future liabilities. It is clear that the benefits of medical science in combination with improved living standards and social support systems promises many people as many years in retirement as years working. Extended life will require significant financial resources. To prepare, individuals need to begin increasing their personal saving.

Increased saving is important for two reasons: First, our demographically aging society is ill-prepared to support the financial liabilities that awaits it in longer life; second, the United States needs increased personal saving to effectively compete in global markets. The IRA represents a vehicle through which the needs of our society, its economy, and individuals can be accomplished.

THE IRA PLUS

The IRA Plus—sometimes called a back-ended IRA—simply put, allows contributions to be made to IRA's from after-tax income, but allows the saving over time to remain tax free and does not tax permitted distributions—at all.

Some of the advantages of the IRA Plus include:

Deficit reducing: The IRA Plus is a deficit-reducing Federal incentive to stimulate personal saving and encourage retirement planning. In fact, the IRA Plus would raise $11.5 billion over the same period that the Bentsen proposal now in the bill would lose $12.7 billion. In these budget conscious times, we cannot afford to have such a budget buster in a reconciliation bill.

Higher return: The net return of an IRA Plus is greater than that of a deductible IRA. For example, if a couple each contributes $2,000 a year from age 30 to 60 and receives an 8-percent yield on the account, from the age of 60 to 80, they could withdraw $23,076 each year, in after-tax dollars. However, under the Bentsen IRA, the same couple would only be able to withdraw $19,614 each year in after-tax dollars—assuming they are in the 15-percent tax bracket at retirement. If they are in a higher tax bracket, their annual withdrawals are reduced considerably. Arthur Anderson, the big eight accounting firm, and Merrill Lynch have both agreed in their studies of the two IRA proposals that the IRA Plus is more beneficial to the taxpayer.

Higher marginal rates at retirement: Because the number of tax brackets has been reduced from 14 (pre-1986) to 3 (post-1986) the assumption that upon retirement individuals will be in a lower tax bracket may not be true. In addition, because of marginal tax rates and the social security surtax, many retirees are currently in a marginal tax bracket approaching 50 percent—thus taxes at retirement could be higher than the taxes paid during your working years—a real disincentive for a front-loaded IRA like Senator BENTSEN's plan.

Spousal IRA's: The IRA Plus does not discriminate against nonworking spouses the way current law or the Bentsen IRA do. Under the Bentsen proposal, a nonworking spouse would be limited to a contribution of $250, whereas under the IRA Plus, each spouse is able to make a full contribution to an IRA provided the family has earned income at least equal to the contribution. Thus everyone can be assured of having their own retirement savings under the IRA Plus, no matter what circumstances may have changed prior to retirement.

Conversions: Under the IRA Plus, individuals with existing IRA's would be allowed to convert their IRA's to the new account by paying a voluntary conversion tax on their previously deductible contributions. This feature is what allows the Government to reap significant revenues on a voluntary basis without raising taxes. The Joint Committee on Taxation has estimated that the proposal would raise about $11.5 billion over the 5-year revenue window.

The conversions would be limited, however, so that only contributions made to IRA accounts could be rolled over. Funds from a qualified retirement plan could not be rolled over. In addition, the time period for electing to roll over your IRA would be limited so that taxpayers would not take a tax deduction for some IRA's and then later roll them over and take the interest earned in the account out tax free.

Qualified withdrawals: The IRA Plus would allow withdrawals of up to 25 percent of the total amount in the account without the imposition of any tax. This is in sharp contrast to Senator BENTSEN's plan which would allow similar withdrawals from an IRA, but would require the taxpayer to pay the tax on any interest that might have

been earned—a substantial tax that would have to be paid at the time of withdrawal.

Under the IRA Plus, these qualified expenses include: First, the first time purchase of your primary home; second, college education expenses, including those of your children or grandchildren; and third, major medical expenses—those which exceed 7½ percent of AGI. The difference between the IRA Plus and the Bentsen proposal is the major medical provision, which I believe most of us would agree serves an important public purpose.

There are a couple of other differences that I would like to point out that make this withdrawal provision better than the Bentsen plan. First, taxpayers can make withdrawals without the paying any tax, as I discussed above. Second, this IRA remains primarily a retirement vehicle. This is because it limits the amount of the withdrawal to 25 percent of the account balance, thus 75 percent of the account must remain in the IRA to be maintained for retirement. The Bentsen proposal would allow taxpayers to withdraw the entire amount in the account without a penalty, thus encouraging Americans to quit saving for retirement—which should remain the primary objective of an IRA. If everyone were to withdraw all of their savings in order to buy a house, what benefit would the country derive from such a plan to encourage savings? I think that we should make the increase in national savings a priority, and I do not believe that the approach in the Bentsen IRA does that based on these generous withdrawal allowances.

CONCLUSION

Finally, the debate over IRA's has been framed as an either/or situation with respect to a cut in the capital gains tax. The IRA Plus and the capital gains tax cut are both positive steps toward the end result of increasing personal saving. Though not dependent on each other a permanent capital gains cut in combination with a redesigned IRA would net the Treasury significant revenues, as well as put into place effective incentives which are critical to national economic policy.●

By Mr. DECONCINI (for himself and Mr. HATCH):

S. 1772. A bill to amend the Lanham Trademark Act of 1946 to protect the service marks of professional sports organizations from misappropriation by State lotteries; to the Committee on the Judiciary.

SPORTS SERVICE MARK PROTECTION ACT OF 1989

● Mr. DECONCINI. Mr. President, this September, the State of Oregon initiated a lottery based on National Football League games. Bettors pick the outcomes of NFL games, using point spreads established by a Las Vegas bookmaker hired by the State. The State of Kentucky also began a sports betting program based on NFL games in recent weeks. Officials in a number of other States have indicated that they are considering sports betting programs similar to Oregon's. Private lottery firms from all over the country have set up toll-free numbers for placing bets on the lottery in Oregon.

Schemes such as the Oregon lottery effectively misappropriate the good will NFL teams have developed in their service marks. A service mark identifies the source of services provided by the owner of the mark. The services at issue here are the games played by NFL teams. NFL service marks enjoy tremendous public good will by virtue of the honesty with which the games they identify have been conducted and the efforts of the NFL over many years to ensure the wholesomeness and integrity of the games. States should not be allowed to appropriate this good will—to feast at a table laid by others.

Although Federal lottery and gambling laws apply fully to State lotteries involving "the placing or accepting of bets or wagers on sporting events or contests," enforcement is limited to Federal prosecutors, who so far have been reluctant to prosecute State lottery officials under those laws. Federal lottery and gambling laws afford no relief to private parties because Federal law does not permit private parties to sue under them. Additionally, there is currently no adequate legal remedy to enjoin such violations of a service mark owner's property rights.

Relief under the Lanham Act as currently interpreted by the courts is uncertain. This is an emerging area in which there have been very few cases. Because the extent of protection afforded by the Lanham Act to the service marks of sports teams is not absolutely clear, and because the environment in which such cases are decided is highly politicized, it is impossible to predict the outcome of future litigation. What is certain is that any such litigation will be protracted, clogging already overburdened courts and costing the parties substantial sums.

Enacting legislation that would make direct or indirect use of a professional sports organization's service mark a clear violation of the Lanham Act is not a significant extension of the act. Federal district courts have recognized that the public associates the city names and regional designations of NFL teams with the teams themselves. To the public, "Phoenix" means "Phoenix Cardinals" and "Washington" means "Washington Redskins" in a football context. The one Federal district court to consolidate the question, in *National Football League* v. *Governor of State of Delaware,* 435 F. Supp. 1372 (1977), recognized also that use of the city names and regional designations of NFL teams in a State lottery caused substantial public confusion about NFL sponsorship of the lottery. Despite the fact that public confusion is the sole prerequisite for finding infringement under the Lanham Act, the court nonetheless refused to find infringement of the NFL teams' service marks.

The Delaware case demonstrates the need for legislation that clarifies Lanham Act protection of the service marks of professional sports organizations. It demonstrates also that such legislation will work no change in the principles that traditionally have governed trademark law in the United States. The legislation will instead ensure that these principles are applied to professional sports organizations' marks.

For those reasons, I am introducing, along with my colleague, Senator ORRIN HATCH, the Sports Service Mark Protection Act of 1989—legislation that would protect the service marks of professional sports organizations and the integrity of professional sports organizations and the integrity of professional sports—by prohibiting States from sponsoring, operating, advertising, or promoting any lottery, sweepstakes, or other betting or gambling scheme based, directly or indirectly, on games of a professional sports organization.

I ask unanimous consent that the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1772

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Sports Service Mark Protection Act of 1989".

SEC. 2. MISAPPROPRIATION OF SERVICE MARKS OF PROFESSIONAL SPORTS ORGANIZATIONS BY STATE LOTTERIES PROHIBITED.

The Act of July 5, 1946 (60 Stat. 427; 15 U.S.C. 1051-1127; commonly known as the Lanham Trademark Act) is amended by adding the following new section 40 (15 U.S.C. 1122):

"SEC. 40. MISAPPROPRIATION OF SERVICE MARKS OF PROFESSIONAL SPORTS ORGANIZATIONS BY STATE LOTTERIES; PROHIBITION

"(a) No State or other jurisdiction of the United States or any political subdivision or any agency thereof may sponsor, operate, advertise, or promote any lottery, sweepstakes, or other betting or gambling scheme that uses or exploits in any fashion, directly or indirectly, a service mark owned by a professional sports organization.

"(b) For purposes of this section, a lottery, sweepstakes, or other betting or gambling scheme that is based, directly or indirectly, on games of a professional sports organization shall be deemed to use or exploit the service mark owned by the professional sports organization."

SEC. 3. PROFESSIONAL SPORTS ORGANIZATION—DEFINITION.

Section 134 of such Act (15 U.S.C. 1127) is amended by adding after the item defining the term "counterfeit" the following new definition:

"The term 'professional sports organization' means a person that owns and operates a professional sports team engaged in providing entertainment by playing competitive games, and any league or other association of such persons."

SEC. 4. CONFORMING AMENDMENT.

The table of sections for such chapter 22 of Title 15, United States Code, is amended by striking "1122. Repealed." and inserting in lieu thereof—

"1122. Misappropriation of service marks of professional sports organizations by State lotteries; prohibition."●

By Mr. DURENBERGER:

S.J. Res. 216. Joint resolution designating November 12 through 18, 1989, as "Community Foundation Week"; to the Committee on the Judiciary

COMMUNITY FOUNDATION WEEK

● Mr. DURENBERGER. Mr. President, I rise today to introduce a joint resolution to designate November 12 through 18, 1989, as "Community Foundation Week."

It is fitting for the U.S. Government to recognize community foundations on the 75th anniversary of the creation of the first such organization. Although these charitable organizations are 75 years old, the spirit behind them dates back to the beginning of philanthropy in America, when Americans began to steward their resources to provide for the needs of their community.

Community foundations provide the opportunity for large and small donors alike to pool their resources into a central fund, which will be distributed by a board of volunteers knowledgeable about the needs of its community. Programs that might be targeted by these foundations cover a range of community needs—education, minority issues, the environment, the handicapped, teenage pregnancy, immigrants, and countless other community challenges. Community foundations themselves are as diverse as the programs they sponsor, representing small and large communities, and even entire States. The Council on Foundations, the international nonprofit organization that represents these grantmakers, claims that all these diverse foundations have six things in common:

First, a flexible, yet permanent collection of funds supported by a wide range of donors;

Second, the relative independence to determine the best use of those funds to meet community needs;

Third, a governing board of volunteers, knowledgeable of their community and recognized for their personal involvement in civil affairs;

Fourth, an organizational commitment to provide leadership on pervasive community problems;

Fifth, a commitment to assist donors to create funds and distribute proceeds in accordance with the donors' intent; and

Sixth, adherence to sense of "community" that overrides individual interests and objectives.

Currently, there are over 300 community foundations, located in 46 States, having total assets of well over $4 billion. Last year, American community foundations gave over $300 million away to charitable organizations.

Community organizations have become the fastest growing sector of philanthropy today largely because of the dedicated, talented volunteers behind them. One of those people is Paul Verret, the president of the St. Paul Community Foundation back in my home State of Minnesota. Over the last 12 years and under Mr. Verret's leadership, the St. Paul Community Foundation has grown to be 1 of the 10 largest community foundations in the United States. With the help of over 12,000 contributors, its net assets have ballooned from $5 million to over $145 million. With this pool of charitable donations, the St. Paul Foundation is able to direct $7 million a year to worthy community projects. In one such program, the foundation has joined with public schools to improve the academic achievement of low-income minority students, and to promote school curriculums that enhance cultural diversity.

Mr. President, this is just one example of how community foundations are advancing the spirit of American private enterprise to meet the diverse needs of our communities. I hope that my colleagues will join me in commemorating 75 years of selfless service to American communities.●

ADDITIONAL COSPONSORS

S. 346

At the request of Mr. WIRTH, the names of the Senator from Oklahoma [Mr. BOREN] and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of S. 346, a bill to amend the Alaska National Interest Lands Conservation Act, and for other purposes.

S. 619

At the request of Mr. SARBANES, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 619, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 878

At the request of Mr. WILSON, the names of the Senator from Idaho [Mr. MCCLURE], the Senator from Georgia [Mr. NUNN], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of S. 878, a bill to grant a Federal charter to the Michael Jackson International Research Institute.

S. 1207

At the request of Mr. PACKWOOD, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of S. 1207, a bill to amend the Communications Act of 1934 to reform the radio broadcast license renewal process and for other purposes.

S. 1277

At the request of Mr. FORD, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1277, a bill to amend the Federal Aviation Act of 1958 to prohibit the acquisition of a controlling interest in an air carrier unless the Secretary of Transportation has made certain determinations concerning the effect of such acquisition on aviation safety.

S. 1458

At the request of Mr. WALLOP, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Mississippi [Mr. LOTT], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of S. 1458, a bill to amend chapter 6 of title 5, United States Code, relating to regulatory flexibility analysis.

S. 1472

At the request of Mr. WILSON, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1472, a bill to provide equity for consumers by allowing them to receive refunds for certain payments to public utilities made excess by the Tax Reform Act of 1986.

S. 1741

At the request of Mr. MCCAIN, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1741, a bill to amend the Federal Aviation Act of 1958 to increase competition among commercial air carriers at the Nation's major airports and for other purposes.

SENATE JOINT RESOLUTION 79

At the request of Mr. REID, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of Senate Joint Resolution 79, a joint resolution to require display of the POW/MIA flag at Federal buildings.

SENATE JOINT RESOLUTION 194

At the request of Mr. LAUTENBERG, the names of the Senator from Illinois [Mr. SIMON] and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 194, a joint resolution designating November 12-18, 1989 as "National Glaucoma Awareness Week."

SENATE JOINT RESOLUTION 197

At the request of Mr. CRANSTON, the names of the Senator from Washing-

ton [Mr. ADAMS], the Senator from Delaware [Mr. BIDEN], the Senator from North Dakota [Mr. BURDICK], the Senator from New Jersey [Mr. BRADLEY], the Senator from Rhode Island [Mr. CHAFEE], the Senator from New York [Mr. D'AMATO], the Senator from Connecticut [Mr. DODD], the Senator from Ohio [Mr. GLENN], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Maryland [Ms. MIKULSKI], the Senator from New York [Mr. MOYNIHAN], the Senator from Rhode Island [Mr. PELL], the Senator from Arkansas [Mr. PRYOR], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 197, a joint resolution designating the month of October 1989 as "National HIV and AIDS Awareness Month."

SENATE RESOLUTION 196—EXPRESSING THE SENSE OF THE SENATE REGARDING THE PEACE PROCESS IN ANGOLA

Mr. DECONCINI (for himself, Mr. KASTEN, Mr. D'AMATO, Mr. GRAHAM, Mr. SYMMS, Mr. LIEBERMAN, Mr. HATCH, Mr. WILSON, Mr. SPECTER, and Mr. BOREN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 196

Whereas on June 22, 1989, in the presence of 18 African heads of state, the President of the MPLA, Jose Edwardo Dos Santos, and the President of UNITA, Jonas Savimbi, shook hands and agreed to negotiate a peaceful solution to the 14-year Angolan civil war;

Whereas the Agreement, known as the "Gbadolite Declaration", mediated by the President of Zaire, Mobutu Sese Seko, calls for a general cease-fire effective June 24, 1989, and the establishment of a commission comprised of UNITA and the MPLA, under the mediation of Zaire, for the negotiation of peace and national reconciliation in Angola;

Whereas the prospects for peace in Angola have deteriorated because the MPLA has repudiated its Gbadolite commitment to a direct dialogue with UNITA and has reasserted its original posture of exile for President Savimbi and the integration of UNITA members into the existing, one-party, Marxist state;

Whereas UNITA has repeatedly called for direct negotiations with the MPLA with a view towards achieving a monitored cease-fire and a peaceful resolution to the long civil war;

Whereas the MPLA's retreat from the political goals of Gbadolite was followed by an unprovoked, three-pronged, military attack against UNITA forces near Mavinga;

Whereas the Bush administration has rejected the MPLA's demand for internal exile for Dr. Savimbi and the integration of UNITA troops into the MPLA military while supporting a policy of a cease-fire and genuine national reconciliation leading to free and fair elections in Angola; and

Whereas the United States Goverment successfully mediated the Tripartite Agreement of December 1988, and can play a constructive role to resolve the internal Angolan conflict: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the United States should continue its leadership role by encouraging all parties—the MPLA, UNITA, and President Mobutu—to remain committed to the goals enumerated at Gbadolite;

(2) the Congress should support the withdrawal of all foreign forces from Angola, an immediate resumption of the cease-fire, face-to-face negotiations between UNITA and the MPLA, the formation of a government of national unity, and the implementation of free and fair elections;

(3) in pursuit of these goals, the United States should offer its good offices to support President Mobutu Sese Seko in his mediation efforts; and

(4) the United States should continue its policy of appropriate and effective support for UNITA until these objectives are achieved.

● Mr. DECONCINI. Mr. President, I am pleased to be joined today by a number of my colleagues in introducing a sense of the Senate resolution reiterating this body's support for an end to the bloody war in Angola and for a peaceful democratic solution to the strife which has split that country.

We hear today that the changes in the Soviet Union and the preoccupation of the Soviet hierarchy with improving the economy mean an end to the regional conflicts inspired by superpower rivalry. While I hope that this is the case, I remain skeptical about the Soviet Union's commitment to this process while it continues to escalate military shipments to such trouble areas as Afghanistan, Central America, and Southeast Asia. These events seem to indicate that overly optimistic interpretations of future Soviet behavior are simplistic and perhaps premature.

At the same time, we should also be alert to possible opportunities that may become available as a result of changing Soviet attitudes. One such opportunity is in Angola, where an interminable and unwinnable guerrilla war has apparently convinced the Cubans, and their Soviet backers, that an unpopular government cannot be imposed on the Angolan people by force.

Persistent and skilled United States diplomacy has led to the withdrawal of foreign troops from Angola and has created real prospects for the independence of Namibia. It is now time to complete our task of peacemaking in southeastern Africa by bringing about a negotiated settlement to the civil war in Angola and promoting national reconciliation leading to fair and democratic elections.

With the end of direct foreign intervention in the war, the MPLA is showing signs of greater realism in its approach to the conflict, although it is clear that certain hardline factions have forced backsliding on the MPLA's tenuous commitment to negotiations. Still, I believe that the Gbadolite Agreement of June 22, 1989, where MPLA Chief Jose Edwardo dos Santos and UNITA leader, Dr. Jonas Savimbi, shook hands for the first time, is a significant event which carries the hope that 14 years of bloodshed and suffering in Angola may finally be brought to an end.

A solution to this civil war, however, means that the MPLA must be held to the commitments it agreed to at Gbadolite. These include a realistic and monitored ceasefire and face-to-face negotiations with UNITA to lay out a structure for national reconciliation. Those forces within the MPLA who call for continued obstruction and further military action, as well as a reiteration of old, unworkable demands—exile for Savimbi and reintegration of UNITA into the Marxist state—are not realistic ground for a peaceful settlement. The military cannot win at the negotiating table what it was unable to achieve on the battlefield. But, first they must get to that table.

How can we help to bring about an end to the long Angola tragedy? First, we must dissuade the hardliners in the MPLA of the notion that a premature cutoff of U.S. support for UNITA will allow them to crush the rebellion by force and maintain the present regime through military superiority. As President Bush recently told Dr. Savimbi, U.S. support for UNITA will continue.

Second, we should reiterate U.S. support for the Gbadolite accord and for a democratic settlement of the conflict. This would put the United States on record as favoring an effective cease-fire, face-to-face negotiations between UNITA and the MPLA, and a commitment to free and fair, internationally monitored elections.

Finally, we must take a more active diplomatic stance in bringing the two sides together. I am pleased that, under the direction of Assistant Secretary of State for African Affairs, Hank Cohen, we successfully brokered a meeting in France this past weekend between Dr. Savimbi and President Mobutu of Zaire. You will recall that President Mobutu is the African mediator of the talks between UNITA and the MPLA and the one agreed to by both sides. Hopefully, in light of these talks, serious negotiations can again get back on track.

We have already achieved a great deal in nurturing the peace process in Southern Africa. I urge my colleagues to see this effort through by reiterating our policy and our commitment to peace in Angola and by cosponsoring this resolution.●

AMENDMENTS SUBMITTED

FEDERAL ELECTION COMMISSION AUTHORIZATION

GLENN AMENDMENT NOS. 1041 AND 1042

(Ordered to lie on the table.)

Mr. GLENN submitted two amendments intended to be proposed by him to the bill (S. 1074) to authorize appropriations for the Federal Election Commission for fiscal year 1990, and for other purposes, as follows:

AMENDMENT No. 1041

On page 2, strike out lines 5 through 9.

AMENDMENT No. 1042

Amend the title of the bill so as to read: "A bill to authorize appropriations for the Federal Election Commission for fiscal year 1990.".

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a hearing on Friday, October 27, 1989, beginning at 10 a.m., in 485 Russell Senate Office Building on Indian Education.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON CONSUMERS

Mr. HARKIN. Mr. President, I ask unanimous consent that the Consumer Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 19, 1989, to hold a hearing on S. 870, the Consumer Ozone Protection Act of 1989, not to extend beyond 1:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RALPH B. EVERETT, HE HAS ENRICHED US ALL

● Mr. ROBB. Mr. President, I would like to bring to the attention of my colleagues a moving story of a remarkable man, Ralph B. Everett, whose journey from segregation to the senior ranks of service to the U.S. Senate is so eloquently depicted in an article featured in the News and Courier of Charleston, SC.

A resident of Alexandria, VA, I am pleased to say, Ralph joined the ranks of Senator EARNEST F. HOLLINGS' staff in 1977, and in 1986 became the first black American in the history of the U.S. Senate to be appointed chief counsel and staff director of a Senate committee—the Committee on Commerce, Science, and Transportation, chaired by Senator HOLLINGS.

Ralph's tenure in this body has been marked by a sincere and deep interest in serving this Nation. As a member of the Commerce Committee, I have profited from his courtesy and his guidance, and I will miss him personally. I know my colleagues join me in extending best wishes for the future to this outstanding American. We have all been enriched by his 12 years of service in the U.S. Senate.

I ask that the article be printed in its entirety.

The article follows:

[From the Charleston (SC) News and Courier, Oct. 15, 1989]

HOW THE LITTLE BLACK BOY WHO WASN'T ALLOWED INTO THE CIRCUS MADE IT

(By Steve Piacente)

WASHINGTON.—He is five years old, a black child on a street corner in Elloree, S.C. This day in 1956 is special, though he does not yet know why. He can feel the excitement; his nose has been tickled by several odd smells. Animals? Yes, but more than that. Some time later it begins: a wondrous parade unlike any he's ever seen.

The circus has come to town.

Watching from the roadside was as close to the Big Top as Ralph B. Everett ever got that day.

"We could stand on the streets and see them bringing in elephants and clowns and other things that go along with the circus, and then they disappeared behind a fence. Black folks were not allowed to go and see the circus," Everett recalls 33 years later.

Though he may feel anger, anguish or both, Everett tells the story in calm, measured tones, almost as if he were speaking of someone else. This was simply the first experience he can recall that drove home the reality of segregation.

His parents helped. His father was principal of the black school in town, as well as a minister, and his mother taught elementary school. "My parents always encouraged me to strive to be the best," Everett says. "They gave me the assistance, the push, and the courage to do the things I needed to do in order to be successful."

From his teachers, he learned, "In order to go half as far, you had to be twice as good under the system."

"I was always very confident that if I worked hard, and if I were more than equal—not just equal—that somewhere justice would prevail and someone would recognize what my abilities were," Everett said.

That someone turned out to be U.S. Sen. Ernest Hollings, D-S.C., who hired him in 1977. Everett, who had graduated from Morehouse College and Duke University Law School, was working in North Carolina state government at the time.

Everett rose through the ranks to become chief counsel and staff director of the Senate Commerce Committee, which Hollings chairs, in 1983. In so doing, he became the first black in the history of the Senate to head a committee staff.

Now he is leaving. On Oct. 31, Everett will give up his job to join the international law firm of Paul, Hastings, Janofsky & Walker. Hollings is among the sorriest to see him go.

"I have been in the Senate for 23 years and without a doubt, Ralph is the best staff director and lawyer that I've worked with. * * * He is a good friend and has been a tremendous asset * * * I will miss the daily benefit of his humor, wisdom, and counsel."

If there is one discordant note, it is that Everett's replacement will not be a minority. According to Jackie Parker of the Senate Black Legislative Caucus, blacks account for only 64 of the approximately 2,700 senior policy employees in the Senate.

"Although this represents some progress, it is sad that this also represents the highest number of black policy advisors in the history of the Senate," Mr. Parker said.

Everett said he hopes his tenure will open the door for other blacks in the Senate, but, "I don't feel I can stay in the same job forever. The place I'm going—I'm paving the way there too."

Is there racial discrimination in the Senate? Everett answers this way: "I think sometimes black staffers have to prove themselves over and over again."

He added, that, because so few blacks hold high-ranking positions, it is not uncommon for security guards to ask blacks for identification and not challenge white staffers. But, "There are elements of racism everywhere, not just in the Senate," he said.

"It doesn't shatter anything for me. It just makes me work harder, and be more determined to eliminate those types of things so my son doesn't have to go through it. I have never used race as a crutch."

Looking back, Everett does not seem surprised at his achievements. He has always been self-assured, and the nation has changed dramatically since he was denied entry to the circus more than three decades ago.

Still, he wants to make sure the lessons of his experience are passed on to 11-year-old Jason, whose childhood in Alexandria, VA is vastly unlike his father's was in Elloree. Says Everett, "I always tell him that in order to know where you're going, you have to know where you've been."●

THE 25TH ANNIVERSARY OF SAM'S POLKA PARTY ON OCTOBER 29, 1989

● Mr. HEINZ. Mr. President, I rise today to join the citizens of Pittsburgh and surrounding communities in the celebration of the 25th Anniversary of Sam's Polka Party on October 29, 1989.

The citizens of Pennsylvania, particularly in western Pennsylvania, enjoy good polka music and good times. This lighthearted and footmoving music is a trademark and an integral part of the fabric of the community. Mr. Sam Pugliano, the host of Sam's Polka Party on AM radio station WIXS, has earned from his listeners and fans the title of western Pennsylvania's Polka King. In addition to devoting a greater part of his life to sharing polka music with his family, friends, and fellow Pennsylvanians, Mr. Pugliano has been an active and influential member in a variety of volunteer civic associations.

Sam Pugliano started his first polka show on WPSL radio in Monroeville, PA on October 11, 1964. He is a member of Polka Music Clubs United, United Polka Boosters, United Polka

DJ Association and president of the United Musicians Polka Association of Pennsylvania [The UMPAPA] Club.

Mr. President, I urge you as well as my esteemed colleagues to join in recognizing and saluting Mr. Sam Pugliano on the occasion of the 25th Anniversary of Sam's Polka Party.●

NEW CAPITAL GAINS STUDY

● Mr. KASTEN. Mr. President, A capital gains tax reduction—either through lower tax rates or inflation-indexing—would increase economic growth. No one denies this. That's why 239 Members of the House voted for this tax cut and over 50 Senators support it.

Instead, the debate over capital gains has boiled down to one issue: whether or not a tax cut raises or looses revenue in later years.

In opposing a capital gains cut Majority Leader GEORGE MITCHELL claims that a capital gains tax cut would lose $70 billion in tax revenue over the next 10 years. This estimate has been widely quoted in the press.

I respectfully say that Senator MITCHELL and other opponents of a capital gains tax cut are wrong. History and a wealth of academic research suggests that lower capital gains taxes lead to higher revenue.

Today, I am pleased to announce that the National Center for Policy Analysis has produced the first dynamic revenue estimate of a capital gains tax cut.

The NCPA shows that a capital tax cut is a "win-win" situation for both American workers and the Federal Government.

Specifically, the study concludes that a 19.6 percent capital gains tax rate combined with inflation-indexing would:

Raise $61 billion in revenue over the next 10 years.

Increase GNP by $40 billion.

Create 750,000 new jobs by 1995.

This study contradicts Government revenue estimates which show a revenue gain in the first year of a tax cut followed by substantial revenue losses in the outyears.

That is because Government revenue estimators live in the fantasy world of static revenue estimates. These revenue estimates assume away all the main revenue-winning effects of a capital gains tax cut. In the real world, reduced taxes lead to an increase the level investment and capital formation.

If you ignore these real world dynamic effects, you miss the major source of higher revenue from a capital gains tax cut.

The blind acceptance of static revenue estimates tilts the debate in favor of capital gains opponents—and denies the public the benefit of a more accurate analysis.

The NCPA estimate is more in line with historical experience. When we cut capital gains taxes in 1978 and 1971, tax revenues from capital gains rose for 7 consecutive years—from $9.1 billion in 1978 to $24.5 billion in 1985.

I believe this study will bring a new balance to the debate over revenues. It will breathe new life into the capital gains tax cut effort.

I ask that the NCPA study be printed in the RECORD following my remarks.

The study follows:

TAXING CAPITAL GAINS

(By Gary Robbins)

EXECUTIVE SUMMARY

A capital gain is the difference between the sales price and the purchase price of an asset. Under current law, this gain is taxed at the same tax rate as ordinary income. Although the tax code is indexed to prevent recipients of ordinary income from being pushed into higher tax brackets by the effects of inflation, there is no similar protection for people who hold assets for several years. An investor who holds an asset which has increased in value with the rate of inflation is no better or worse off in real terms. Yet, under current tax law, this investor is forced to pay taxes on inflation-created gain.

Almost all serious students of the matter advocate a change in the way we tax capital gains. Some prefer inflation indexing. Others prefer a lower tax rate. Under either change, the federal government will gain revenues. For example,

The Jenkins/Archer proposal would reduce the maximum rate on capital gains to 19.6 percent until 1992, then raise the rate to 28 percent with full inflation indexing.

This proposal would increase federal revenue by $61 billion over the next ten years.

Our conclusion that the federal government would gain revenue from almost any reduction in the capital gains tax rate is consistent with historical experience and almost all scholarly studies. Those few projections which predict a loss of federal revenue err in ignoring how a reduction in taxes on capital gains will lead to a larger U.S. stock of capital.

A lower capital gains tax rate would also have other important economic effects. For example,

The Jenkins/Archer proposal would increase our gross national product (GNP) by $40 billion over the next ten years.

The proposal would create 400,000 permanent new jobs by 1992 and 750,000 new jobs by 1995.

The objection that a reduction in the capital gains tax rate primarily would benefit wealthy taxpayers ignores the importance of capital gains to middle-income families. On the average,

In any five-year period, about one out of every five families with an income of $35,000 will have a capital gain equal to about 6.4 percent of family income.

In any five-year period, more than one-half of families with incomes between $50,000 and $75,000 will have a capital gains equal to about 7.7 percent of family income.

The current tax on capital gains raises the cost of capital in the United States. As a result, it discourages capital accumulation, slows the growth of worker productivity, and lowers the future wages of all U.S. workers. Because other countries we compete with have little or no capital gains tax, this makes the United States less attractive to international investors and encourages the "export of jobs" to other countries.

Many supporters of a capital gains tax believe that, without the tax, investors would unfairly realize untaxed income. Yet this belief is wrong. Most assets have value only because of the future income they produce. If this future income is taxed at a 28 percent income tax rate, assets today will be worth 28 percent less than they otherwise would be. Thus, a 28 percent income tax imposes a 28 percent penalty on holders of assets, even if there is no capital gains tax.

TAXING CAPITAL GAINS: THE NEED FOR REFORM

A capital gains is the difference between the sales price and the original purchase price of an asset. Under current law,[1] capital gains are taxed at the same tax rate as the rate that applies to wage income, interest income, dividend income and other sources of income. Thus, depending on the taxpayer's tax bracket, capital gains are taxed at a rate of 15, 28 or 33 percent. In the case of corporations the rate is as high as 34 percent.

Almost everyone who has thought seriously about the taxation of capital gains agrees that there is a problem with the current system. Calls for reform range the gamut—from the Wall Street Journal to the New York Times, from conservative economist Milton Friedman to liberal economist Alan Blinder. The only differences among serious students of the economics of taxation are differences over which method of reform should be adopted. And these are often differences over what is thought to be politically possible.

The Problem With Taxing Capital Gains: Under the current system, any capital gain realized by an investor is taxed at the same rate—regardless of the type of asset, regardless of how long the asset has been held and regardless of the rate of inflation. To see why this method of taxation is troublesome, consider the effects of inflation:

Since 1971, the price level in the United States has roughly tripled.

This means that an asset purchased in 1971 for $10,000 and sold today for $30,000 would leave its owner no better off or worse off in real terms.

Yet, under current law, the investor would owe as much as $6,600 ($20,000 × 33%) in taxes despite the fact there has been no real economic profit.

Because of inflation indexing, our tax code prevents wage earners from being pushed into a higher tax bracket by the effects of inflation alone. But there is no similar protection from inflation-induced increases in the price of assets held for several years. As a result, our tax law discourages people from holding assets, and thus discourages investment which is essential for economic growth.

An additional problem occurs with an income-producing asset, when the current value of the asset is determined by the future income it is expected to produce. Since the future income generated by the asset will eventually be realized and taxed, taxing the profit from the sale of the asset today is a form of double taxation. This problem will be considered in greater detail below.

Historical Treatment of Capital Gains: Recognition of the fact that capital gains

[1] Footnotes at end of article.

can be very different from ordinary income is not new. In fact, from 1922 to 1986, capital gains always were treated separately from ordinary income in the tax code. This special treatment consisted of a lower tax rate for capital gains or exclusion of part of the gain for tax purposes (which resulted in a lower tax rate).[2]

Proposals for Reform: A proposal by Representative Ed Jenkins (D-GA) and Representative Bill Archer (R-TX) recently passed the House of Representatives. Under the Jenkins/Archer proposal, a maximum capital gains of 28 percent would be established and a 30 percent exclusion would be allowed for capital gains realized before 1992. This establishes a maximum tax rate of 19.6 percent (28% × 70%) for the next two years. Beginning in 1992, the effective rate would rise from 19.6 percent to 28 percent, but capital gains would then be indexed for inflation.

In both houses of Congress, there is also some sentiment for a permanent lowering of the top tax rate, say to 19.6 percent. In the estimates presented in the next section, we consider the effects of both proposals.

Why Indexing May Be More Important Than a Cut in the Tax Rate: In the debate over capital gains tax reform there has been a tendency to identify as the "liberal" reform and a cut in the capital gains tax rate as the "conservative" reform, although the correlation between general political beliefs and preferences for reform are far from perfect. One assumption seems to be that a cut in the capital gains tax rate would benefit investors more than indexing.[3] In fact, the reverse may be true.

With a 4 percent rate of inflation, indexing is more than twice as valuable to investors as a reduction in the maximum rate to 19.6 percent.

At a 2 percent rate of inflation, indexing is 73 percent more valuable than a reduction in the maximum rate.

THE EFFECT ON THE FEDERAL DEFICIT OF A CUT IN THE CAPITAL GAINS TAX RATE

As noted above, under the Jenkins/Archer proposal the top capital gains tax rate would be reduced to 19.6 percent until 1992,[4] and then rise to 28 percent. Capital gains realized in 1992 and beyond would be indexed for inflation. According to a widely reported forecast made by the Congressional Joint Committee on Taxation, this proposal would result in a gain of federal revenue for the next two years, followed by a loss of revenue in all succeeding years. A similar forecast was made for the Bush Administration proposal[5] by the U.S. Department of the Treasury.[6]

In general, there are four ways in which a reduction in the capital gains tax rate affects federal revenues. In what follows, we estimate each of these four effects using the same methodology used by the U.S. Treasury.

The Rate Effect: We begin with projections of a given volume of capital gains expected over the next ten years under current tax law. For this amount of capital gains income, a lowering of the tax rate will lower total federal revenue. Using the U.S. Treasury's estimating techniques, our projections of the loss of revenue over the next ten years is presented in the first row of Tables I and II.

The Volume Effect: A lowering of the capital gains tax rate makes the sale of assets more attractive. For this reason, a lower tax rate will lead to more asset sales which will, in turn, cause federal revenue to increase. Using the U.S. Treasury's estimating techniques, our projection of the revenue gain from this effect is presented in the second row of Tables I and II.

The Conversion Effect: If capital gains are taxed at a lower rate than the rate that applies to ordinary income, investors will have an incentive to convert ordinary income into capital gains. For example, if assets must be held for at least one year in order to qualify for a lower tax rate, more assets will be held for one year. To the degree that taxpayers can convert ordinary income (taxed at a higher rate) to capital gains income (taxed at a lower rate), federal revenue will be reduced. Using the U.S. Treasury's estimating techniques, our projection of the loss of revenue from the conversion effect is presented in the third row of Tables I and II.

The Effect of an Increase in the Stock of Capital: The conversion of ordinary income to capital gains income is an example of a portfolio adjustment. That is, when tax rates change, people adjust their entire portfolio of assets in response to the change. A more important type of portfolio adjustment will lead to an increase in U.S. capital stock. A lower capital gains tax rate makes investment more attractive relative to consumption. It also makes investment in the United States more attractive relative to investment in other countries. For example, in the face of a lower capital gains tax rate, Intel (the computer chip manufacturer) might be convinced to abandon plans to establish a fabrication plant in Ireland and build the plant in the United States instead.

In order to estimate the effect of a reduction in the capital gains tax rate, we calculated the decrease in the service price of capital for a number of different representative types of corporate investments.[7] To calculate the long-term effects, we adopted the same portfolio adjustment pattern used by the U.S. Treasury. These estimates are presented in the fourth row of Tables I and II.

TOTAL EFFECTS ON FEDERAL REVENUE

When all four effects described above are taken into account, we estimate that almost any reduction in the capital gains tax rate will cause federal revenues to increase in all future years. This conclusion applies to the Bush Administration proposal, the Jenkins/Archer proposal and variations on these proposals. For example,

The Jenkins/Archer proposal to reduce the maximum capital gains tax rate to 19.6 percent until 1992 will increase federal revenue by $3.6 billion in 1990 and by $3.3 billion in 1991.

After 1991, the effects of inflation indexing will increase federal revenue by about $6 billion per year, on the average.

Over the next ten years, the Jenkins/Archer proposal will increase total federal revenue by $61 billion.

For the reasons given above, inflation indexing in the long term will have a more powerful effect than a permanent reduction in the capital gains tax rate. Thus,

If instead of indexing, the capital gains tax rate is permanently lowered to 19.6 percent, the annual increase in federal revenue will be about $2.5 billion beyond 1992.

Over the next ten years, a permanent reduction in the maximum capital gains tax rate to 19.6 percent will increase federal revenue by a total of $31 billion.

TABLE I.—EFFECT ON FEDERAL REVENUE OF THE JENKINS/ARCHER PROPOSAL[1]

[In billions of dollars]

	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	1989–99
Rate effect [2]	−1.1	−7.9	−11.7	−12.7	−13.5	−14.0	−14.3	−14.7	−15.0	−15.3	−15.7	−135.9
Volume effect [3]	1.6	11.4	14.5	14.5	14.3	14.9	14.9	15.3	15.6	15.9	16.3	149.3
Conversion effect [4]	0.0	−0.1	−0.4	−2.4	−3.5	−4.6	−4.6	−4.8	−4.8	−5.0	−5.2	−35.1
Effect of increased capital stock	0.0	0.2	0.9	5.5	8.3	10.8	10.8	11.4	11.4	11.6	12.2	83.1
Net revenue effect	0.5	3.6	3.3	4.9	5.6	7.1	6.7	7.2	7.2	7.2	7.7	61.0

[1] A 30 percent capital gains exclusion until 1992. Maximum rate is lowered to 19.6 percent until 1992, then raised to 28 percent with full indexing. Assumes a 4.0 percent annual inflation rate.
[2] Effect of tax rate reduction on existing gains projected for current law realizations. Based on U.S. Treasury estimates of March 14, 1989.
[3] Effect of increased realizations. Based on U.S. Treasury estimates of March 14, 1989.
[4] Effect of conversion of ordinary income to capital gains income. Based on U.S. Treasury estimates of March 14, 1989.

TABLE II.—EFFECT ON FEDERAL REVENUE OF A PERMANENT RATE REDUCTION[1]

[In billions of dollars]

	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	1989–99
Rate effect [2]	−1.1	−7.9	−11.7	−12.7	−13.5	−14.0	−14.3	−14.7	−15.0	−15.3	−15.7	−135.9
Volume effect [3]	1.6	11.4	14.5	14.5	14.3	14.9	14.9	15.3	15.6	15.9	16.3	149.3
Conversion effect [4]	0.0	−0.1	−0.4	−0.9	−1.3	−1.7	−1.7	−1.7	−1.7	−1.8	−1.9	−13.1
Effect of increased capital stock	0.0	0.2	0.9	2.0	3.0	3.9	3.9	4.1	4.1	4.2	4.4	30.7
Net revenue effect	0.5	3.6	3.3	2.9	2.6	3.1	2.8	3.0	3.0	3.0	3.2	31.0

[1] A 30 percent capital gains exclusion. Maximum rate is lowered to 19.6 percent indefinitely.
[2] Effect of tax reduction on existing gains projected for current law realizations. Based on U.S. Treasury estimates of March 14, 1989.

[3] Effect of increased realizations. Based on U.S. Treasury estimates of March 14, 1989.
[4] Effect of conversion of ordinary income to capital gains income. Based on U.S. Treasury estimates of March 14, 1989.

HOW THESE ESTIMATES COMPARE WITH OTHER ESTIMATES

The revenue estimates presented here are consistent with almost all scholarly studies of the revenue effects of a reduction in the capital gains tax rate. They are also consistent with historical experience. They are different from three forecasts made by certain government agencies, however.

Other Scholarly Studies: Harvard economist Larry Lindsay recently reviewed the academic literature on the effects of the increase in the capital gains tax rate as a result of the Tax Reform Act of 1986.[8] Lindsay found that with only one exception, every study predicted that the recent increase in the capital gains tax rate would reduce long-term government revenue.[9] Lindsay's own estimate is that federal revenue would be maximized by a capital gains tax rate of about 15 percent. These findings are also consistent with the findings of the economists at the U.S. Department of the Treasury. Studies produced by the Treasury in 1985 [10] and 1988 [11] and two very recent additional studies [12] all conclude that government revenue will go up when capital gains tax rates go down.

Historical Experience: Even a casual examination of the evidence shows a clear, unmistakable, *inverse* relationship between capital gains tax revenue and the capital gains tax rate: [13]

From 1968 through 1978, a steady rise in the maximum tax rate on capital gains occurred because of the effects of bracket creep. Yet the amount of revenue the federal government collected from the tax was almost one-half its 1968 level by 1970 and did not regain the 1968 level until 1976.

Following a 1978 reduction in the maximum capital gains tax rate, federal capital gains revenues rose steadily from $9.1 billion in 1978 to $12.5 billion in 1980.

Following the 1981 cut in the maximum capital gains tax rate from 26.67 percent to 20 percent, capital gains tax revenue almost doubled in four years—rising from $12.7 billion in 1981 to $24.5 billion in 1985.

Contrary Predictions by Government Agencies: In spite of the overwhelming evidence that a reduction in capital gains tax rates will lead to an increase in federal revenues, at least three forecasts by government agencies point in the opposite direction. These include forecasts by the Congressional Budget Office,[14] the U.S. Department of the Treasury [15] and the widely reported forecasts of the Congressional Joint Committee on Taxation. The central problem is that these forecasts fail to take into account each of the four ways in which a capital gains tax rate change affects government revenue. For example, in his March 14, 1989 presentation to Congress, Dennis Ross of the U.S. Department of the Treasury presented a forecast based on the rate effect, the volume effect and the conversion effect, but ignored the effect on the capital stock. In other words, the Treasury estimate included only those portfolio adjustments which reduce federal revenue and ignored those which increase federal revenue.[16]

THE ECONOMIC EFFECTS OF A REDUCTION IN TAXES ON CAPITAL GAINS

In the current public policy debate over the capital gains tax, most of the attention has focused on the distribution effects of a change in the tax—i.e., how much wealthy families would gain vs. poor families and how much revenue the government would receive. These are arguments over how the nation's income pie should be divided. Yet the capital gains tax is socially important because taxes on capital gains determine the *size* of the income pie, regardless of how it is divided.

Effects on the Cost of Capital: A capital gains tax raises the cost of capital in the United States. As a result, it discourages capital accumulation which is essential to increased worker productivity. To the degree that the capital gains tax lowers future worker productivity, the tax lowers the future wages of all United States workers. In general, the damage done by the capital gains tax is highly sensitive to the rate of inflation. For example,

On a representative investment held for two years with a 3 percent inflation rate, the current capital gains tax raises the service price of capital by 3.95 percentage points.[17]

If the rate of inflation is 6 percent, the capital gains tax raises the service price of capital by 8.7 percentage points.

If the rate of inflation rises to 12 percent, the capital gains tax raises the service price of capital by 16.92 percentage points.

In the estimates that are presented in Table V, we have assumed an average holding period of six years, an inflation rate of 4.0 percent, and a dividend payout rate of 50 percent on corporate earnings—assumptions that are consistent with recent experience. Based on these assumptions, we estimate that the Jenkins/Archer proposal would lower the service price of capital in the United States by 4 percent.

International Competition for Capital: The United States has one of the highest capital gains tax rates among developed countries. As Table III shows,

In Germany, Italy, Belgium and the Netherlands, there is no capital gains tax.

Prior to 1989, Japan has no capital gains tax, and the tax recently adopted is considerably more generous than the United States system.

Moreover, when all taxes are considered, the overall cost of capital in the United States is considerably higher than the cost of capital in countries with which we compete. As Table IV shows,

The cost of capital in the United States for equipment and machinery with a 20-year life is 22 percent higher than in Britain, 56 percent higher than in Japan and 60 percent higher than in Germany.

The cost of capital in the United States for a factory with a 40-year life is 29 percent higher than in Britain, 89 percent higher than in Germany and 104 percent higher than in Japan.

Economic Effects of the Jenkins/Archer Proposal: Because a lowering of taxes on capital gains would encourage capital accumulation and investment, almost any reduction in capital gains taxes would have positive economic effects. In Table V, we present estimates of the economic effects of the Jenkins/Archer proposal. As the table shows,

The Jenkins/Archer proposal would increase real gross national product (GNP) by $30 billion over the next ten years.

In addition, the Jenkins/Archer proposal would lead to the creation of 400,000 permanent new jobs by 1992 and 750,000 new jobs by 1995.

TABLE III.—TAXATION OF LONG-TERM CAPITAL GAINS REALIZED BY INDIVIDUALS

Country	Tax
Germany	0.
Hong Kong	0.
South Korea	0.
Belgium	0.
Netherlands	0.
Italy	0.
Japan	0 until 1989 [1].
Canada	Two-thirds of gain included in net income subject to $100,000 [2] (Canadian) lifetime deduction; rates are 17, 26 and 29 percent.
United Kingdom	Taxed at ordinary rates of 25 or 40 percent, with inflation indexing.

[1] Beginning in 1989 a statutory deduction of 500,000 yen is allowed and 50 percent of the remaining gain is taxed at ordinary income tax rates.
[2] Approximately $83,890 U.S. dollars.

Sources: Price Waterhouse, "Individual Taxes: A Worldwide Summary," 1988; John Georges, "Capital Investment and Competition in the 1990s," Institute for Research on the Economics of Taxation, Policy Bulletin No. 40, July 31, 1989; Congressional Research Service, "Taxation of Individual Capital Gains in Canada, Germany, Japan, the United Kingdom and the United States," March 24, 1989; and the American Council for Capital Formation.

TABLE IV.—COST OF CAPITAL IN VARIOUS COUNTRIES

[In percent]

Country	Equipment and machinery: 20-year life	Factory: 40-year life	R&D: 10-year payoff
United States	11.2	10.2	20.3
United Kingdom	9.2	7.9	23.7
Germany	7.0	5.4	14.8
Japan	7.2	5.0	8.7

Source: Robert N. McCauley and Steven A. Zimmer, "Explaining International Differences in the Cost of Capital," Federal Reserve Bank of New York, Quarterly Review, 14, Summer 1989.

TABLE V.—ECONOMIC IMPACT OF THE JENKINS/ARCHER PROPOSAL [1]

Change In	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	1989–99
Employment (thousands)	0	16	70	400	590	740	750	750	750	750	750	.....
Real GNP (dollars in billions–1989)	0.0	0.6	2.8	16.8	24.6	29.0	30.0	30.0	30.0	30.0	30.0	223.8
Nominal GNP (dollars in billions)	0.0	0.7	3.0	18.3	27.7	33.6	35.8	36.9	38.0	39.1	40.3	273.5

[1] Includes 30 percent capital gains exclusion until 1992. Maximum rate is lowered to 19.6 percent until 1992, then raised to 28 percent with full indexing. Assumes a 4.0 percent annual inflation rate. The estimates presented here are based on the model presented in Appendix C.

Footnotes at end of article.

RETHINKING CAPITAL GAINS [18]

A major impediment to a capital gains policy that encourages investment and capital accumulations is the view that a lower capital gains tax rate is fundamentally unfair. Advocates of a capital gains tax often argue that, in the absence of such a tax, investors would realize untaxed income. It follows that if the capital gains tax rate were lower than the tax rate applied to ordinary income, recipients of capital gains would be receiving perferential treatment under the tax code. In most cases, however, these arguments are wrong.

Most assets have value only because of the future income they are expected to produce. As a result, the present value of the asset today is totally determined by the income stream the asset will generate. Any change in expected future earnings changes the value of the asset today. With respect to these assets, the following propositions hold:

Propositions about income-producing assets [19]

Proposition 1: When there is an income tax, holders of assets pay the income tax indirectly through a lower sales price for these assets.

Proposition 2: When income tax rates change, asset prices immediately change to reflect the change in future taxes on income.

Proposition 3: A tax on capital gains is double taxation, even in the absence of a corporate income tax.

These propositions are illustrated by the hypothetical investment presented in Table VI. In the case of no taxes, an asset produces an annual income (net of production costs) of $100,000 per year. At a rate of interest of 10 percent, this asset has a present value (and, therefore, a current sales price) of $1 million. Note that the value of the asset is totally determined by the expected future income and the discount rate.[20]

Now introduce a 28 percent income tax. This immediately reduces annual aftertax income to $72,000. As a result, the present value (sales price) of the asset is reduced to $720,000. Note that a 28 percent income tax reduces the value of the asset by 28 percent. If the income tax rate had been 33 percent, the value of the asset would be 33 percent lower. The holders of assets, then, do not escape taxation. They pay the income tax indirectly through the reduction in the value of the assets they hold.

Assume the asset is a patent and that there are no deductible costs associated with it. In this case, the sales price of the asset is exactly equal to the owner's capital gain. The existence of a 28 percent income tax, as we have seen, costs the owner $280,000 in terms of a lower sales price. His capital gain, therefore, is $720,000. If this capital gain also is taxed at a rate of 28 percent, the capital gains tax will equal $202,000, leaving the seller with $518,400.

In this example the effective tax rate on income from capital is 48.2 percent of this amount, 28 percentage points are the result of the income tax and 20.2 percentage points are the result of the capital gains tax. Far from creating equity in taxation, the capital gains tax causes the asset holder to pay an effective tax rate that is 72 percent higher than the tax rate on ordinary income. A capital gains tax plus an income tax, therefore, constitutes double taxation. *With a corporate income tax, we have triple taxation.*

In general, asset values change every time expectations about future income change. These gains and losses should not be confused with the production of real income, however, nor should the taxation of capital gains (which is really the taxation of changes in expectations) be confused with the taxation of real income.

TABLE VI.—HOW THE INCOME TAX AFFECTS THE VALUE OF CAPITAL ASSETS

	Without an income tax	With an income tax
Future Earnings from an Investment		
Annual income [1]	$100,000	$100,000
Annual taxes	0	28,000
Income net of taxes	100,000	72,000
Present Value of the Investment (Current Sales Price)		
Present value of income [2]	1,000,000	1,000,000
Present value of taxes	0	280,000
Present value of the asset	1,000,000	720,000

[1] Net of production costs.
[2] Discounted at a 10 percent rate of interest.

EFFECTS ON THE DISTRIBUTION OF INCOME

Critics of a reduction in the tax on capital gains frequently argue that the tax cut would primarily benefit the rich.

Even if true, that is not the right criteria by which to judge an individual component of the tax code. Individual components of the tax code should promote fairness and economic efficiency. Through its overall taxing and spending policies, the federal government has ample opportunity to influence the overall distribution of income.

The objection that a reduction in the capital gains tax rate primarily would benefit wealthy taxpayers also ignores the importance of capital gains to middle-income families. As Tables VII and VIII show, on the average,

In any five year period, about one out of every five families with an income of $35,000 will have a capital gain equal to about 6.4 percent of family income.

In any five year period, more than one-half of families with incomes between $50,000 and $75,000 will have a capital gain equal to about 7.7 percent of family income.

Moreover, there are many reasons why people with very modest incomes experience a very large capital gain. An elderly widow may liquidate her husband's business. A family may sell its farm and move to the city. Parents may cash in assets to finance a child's education. In the year in which the capital gain is realized, reported family income may be quite large because of the capital gain.

TABLE VII.—FREQUENCY OF CAPITAL GAINS FOR MIDDLE-INCOME TAXPAYERS [1]

[1987]

Adjusted gross income	Percent of families with a capital gain each year	Percent of families with a capital gain in 5 years
$0 to $12,500	1	10
$12,500 to $55,000	3	17
$25,000 to $37,500	3	21
$37,500 to $50,000	4	31
$50,000 to $75,000	9	51
$75,000 to $125,000	21	72

[1] Projection based on income tax returns for the period 1971–75, the latest year for which data is publicly available.

Source: "Capital Gains Tax Reductions of 1978," U.S. Department of the Treasury, September 1985, Table 1.7, p. 14.

TABLE VIII.—*The importance of capital gains to middle-income taxpayers*

[1987]

Adjusted gross income	*Capital gains as a percent of income* [1]
$10,000 to $15,000	10.6
$15,000 to $20,000	9.8
$20,000 to $25,000	7.2
$25,000 to $30,000	8.3
$30,000 to $40,000	6.4
$40,000 to $50,000	6.6
$50,000 to $75,000	7.7
$75,000 to $100,000	10.0

[1] For those who have capital gains income.

Source: *SOI Bulletin*, Spring 1989, Table 1, pp. 19–20.

CONCLUSION

The case for a tax on capital gains from the sale of income-earning assets is difficult to make. In the presence of an income tax, the holders of assets indirectly pay that tax through lower sales prices. If the income tax is 28 percent, asset prices will automatically be 28 percent lower.

Because the capital gains tax amounts to a form of double taxation, it discourages capital accumulation. As a result, the tax lowers future worker productivity and reduces the future income of all workers. The capital gains tax also causes the cost of capital in the United States to be higher than in other countries with which we compete in international markets. As a result, the tax encourages capital outflow and the export of jobs from the United States to other countries.

Almost any reduction in the capital gains tax rate would have positive economic effects. For example, the Jenkins/Archer proposal would increase GNP by $40 billion over the next ten years and create 750,000 permanent new jobs by 1995. The proposal also would increase government revenue by $61 billion over the next 10 years.

Far from being unfair, a reduction in taxes on capital gains would partially eliminate a form of double taxation that is present under the current law. The benefits of a reduction in the capital gains tax would not be concentrated among the wealthy, but would instead be shared by all income groups.

NOTE.—Nothing written here should be construed as necessarily reflecting the views of the National Center for Policy Analysis or the views of the Institute for Policy Innovation or as an attempt to aid or hinder the passage of any bill before Congress.

ABOUT THE AUTHOR

Gary Robbins is President of Fiscal Associates and Senior Fellow of the NCPA. Mr. Robbins has developed a general equilibrium model of the U.S. economy that specifically incorporates the effects of taxes and government spending. Before joining the private sector, he was Chief of the Applied Econometrics Staff at the U.S. Treasury Department from 1982 to 1985, Assistant to the Under Secretary for Tax and Economic Affairs from 1981 to 1982, and Assistant to the Director of the Office of Tax Analysis from 1976 to 1981. Recent publications include an article entitled "Encouraging Private Provision for Long-Term Care" (with Aldona Robbins) in *Compensation and Benefits Management;* an *IRET Economic Policy Bulletin* entitled "Mandating Health Insurance" (with Aldona Robbins and John Goodman); an *IRET Op-Ed* entitled "Tax Catastrophes of Medicare Legislation" (with Aldona Robbins and Norman Ture); and two papers prepared for the Congressional Task

Force on Long-Term Health Care Policies entitled "Promoting Long-Term Care Insurance through Existing Retirement Programs" and "Tax Policies to Promote Long-Term Care" (both with Aldona Robbins). Articles entitled "Why the Tax-Reform Numbers Don't Add Up" (with David Brazell); "End IRA Deduction, but Make Withdrawals Tax-Free" (with Paul Craig Robbins); and "Tax Reform Aims at Very Industries Up for Protection" (with Paul Craig Roberts) have appeared in the *Wall Street Journal*. He earned his master's degree in economics from Southern Methodist University.

FOOTNOTES

[1] Current capital gains tax rates are established by the Tax Reform Act of 1986.

[2] A summary of the historical treatment of capital gains under U.S. tax law is contained in Appendix A.

[3] There is also a disagreement about whether current asset holders should be able to receive favorable tax treatment on *past* capital gains. If indexing were adopted prospectively beginning in 1989, it would not help taxpayers who currently hold assets that have appreciated in value because of past inflation.

[4] The lower rate applies to gains realized on the sale or exchange of assets (except for collectibles) for assets held more than one year and disposed of between September 14, 1989 and December 31, 1989.

[5] The original Bush Administration proposal called for a maximum capital gains tax rate of 15 percent. Individuals would have the option of taking a 45 percent exclusion, which would lower the rate to 8.25 percent for persons in the 15 percent income tax bracket.

[6] Testimony of Acting Assistant Secretary (Tax Policy) Dennis E. Ross before the Senate Finance Committee, March 14, 1989.

[7] The method of estimation is presented in Appendix C. Note: Current proposals for reducing the tax rate on capital gains do not apply to corporations. However, since these proposals would reduce the cost of holding shares of stock for the individual investor, they would reduce the overall cost of corporate capital.

[8] The Tax Reform Act of 1986 increased the maximum capital gains tax rate from 20 percent to 33 percent.

[9] Predicted revenue losses for the federal government for the period 1987 through 1991 ranged from $27 billion to $105 billion as a result of the increase in capital gains tax rates. See Lawrence B. Lindsay, "Capital Gains Taxes Under the Tax Reform Act of 1986: Revenue Estimates under Various Assumptions," *National Tax Journal*, Vol. 40, No. 3, September 1987.

[10] "Report to Congress on the Capital Gains Tax Rate Reductions of 1978," U.S. Department of the Treasury, September 1985.

[11] Michael R. Darby, Robert Gillingham and John S. Greenlees, "The Direct Revenue Effects of Capital Gains

[12] Robert Gillingham, John S. Greenlees and Kimberly D. Zieschang, *New Estimates of Capital Gains Realzation Behavior: Evidence From Pooled Cross-Section Data*, May 1989, U.S. Department of the Treasury, Office of Tax Analysis, OTA Paper 66; and Gerald E. Auten, Leonard E. Burman, and William C. Randolph, *Estimation and Interpretation of Capital Gains Realization Behavior: Evidence from Panel Data*, May 1989, U.S. Department of the Treasury, Office of Tax Analysis, OTA Paper 67.

[13] Based on U.S. Department of the Treasury data reprinted in Ronald Utt, "Capital Gains Taxation: The Evidence Calls for a Reduction in Rates, *Heritage Foundation Backgrounder*, No. 704, May 2, 1989, Table 3, p. 10

[14] "How Capital Gains Rates Affect Revenues: The Historical Evidence," Congressional Budget Office, March 1988.

[15] Testimony of Acting Assistant Secretary (Tax Policy) Dennis E. Ross before the Senate Finance Committee, March 14, 1989.

[16] In terms of Tables I and II, the Treasury estimate included rows one, two and three, but ignored row four.

[17] The service price of capital is the return a firm has to pay shareholders to raise capital.

[18] A more technical presentation of the propositions discussed in this section is presented in Appendix B.

[19] Exceptions to these propositions are assets that produce untaxed income. For example the "income" (enjoyment) from collectibles (paintings, coins, etc.) is not taxed. Similarly, the "income" from an owner-occupied house also is untaxed.

[20] The discount rate will reflect risk associated with the income stream as well as the expected rate of inflation.●

AMERICA'S CHANGING GLOBAL ROLE

● Mr. STEVENS. Mr. President, on October 16, Dr. Zbigniew Brzezinski presented an address entitled "America's Changing Global Role" at a dinner in honor of Paul H. Nitze at the Paul H. Nitze School of Advanced International Studies of the Johns Hopkins University in Washington, DC.

In his speech, Dr. Brzezinski describes the evolution of the U.S. role in the world, from isolationism in the early part of the century to active engagement in World War II and the cold war. He then looks forward to America's leading a coalition of democratic states in constructing the post-cold war international order.

Because of the timeliness and vision of Dr. Brzezinski's address, I want to share it with my Senate colleagues.

I ask unanimous consent that the text of Dr. Brzezinski's speech be included in the RECORD.

AMERICA'S CHANGING GLOBAL ROLE

Tonight, as this School celebrates an important event—not only its anniversary but a new and truly distinguished designation—I wish to share with you some reflections on America's global role.

To be sure, since its very inception America has had a global impact—and thus has had a global role, irrespective of its intentions or policies. The very existence of America—from the very start—conveyed an ideological message. With its roots grounded in philosophical ideas and with its novel constitutional system and presidential government, this new state represented a dramatic break from the absolute monarchies of the Old World. Based on the ideas of popular sovereignty, limited government, and unalienable individual rights, the United States became the embodiment of freedom for, and fired the imaginations of, countless Europeans. There was something mystically unique about this new, free society. Its mystique captivated European thought and attracted European immigrants. Thus, despite its proclaimed determination to avoid "foreign entanglements", America exercised an innovative influence on the external world. It was a living idea—and it was idealized as such.

Gradually, the impact of America as a living idea was supplemented with the impact of America as a political/economic power. The combination of the two—the magnetic idea and the growing power—elevated America's global role into an important facet of international affairs, particularly in this century.

As a result, we are justified in asking how that role has changed over the years? Is it declining? On the eve of the third millennium, are we seeing the end not only of the American century but of America's special role?

It is particularly appropriate to ask these questions on this very special occasion, which honors a man whose life has spanned most of this century, whose service to the nation has so much shaped this country's global role, and who—last but certainly not least—has spawned this renowned institution which henceforth is to bear his name.

In looking forward, we should first look back. We can get a sense of where our country is going by first looking at where lately we have been. Let us begin on a specific day, early in this century, a day with some pertinence to tonight. The date is January 16, 1907. What was happening in the world on that day? And what can we infer from that day's news for America's role at that time?

In reading the press of the day, one certainly has the sense that the world's civilizations were so much more self-contained than is the case today. Nations seemed to interact predominantly in terms of trade, and much less so through the interactive flow of communications or the clash of ideas. The headlines on the front page in the London Times focused on troubles in Russia, reporting on a conference dealing with famine relief, while a headline in the New York Times stated flatly, "No Foreign Aid for Russia". There was also a story in the press about growing Japanese competition with the United States and another about troubles in China. If that sounds somehow familiar, let me also add that major press accounts also focused on matters pertaining to U.S. foreign policy. The London Times reported on American-Canadian trade tensions, and featured a major account of the views of the American Secretary of State, Elihu Root, regarding trade and tariffs, as well as on the continued relevance of the Monroe Doctrine.

The fact that a baby, soon to be named Paul, was also born on that day into the family of a French literature professor in Amherst, Massachusetts , alas, did not quite make the front pages.

Behind these news reports, however, there were hints of America's increasingly assertive role as the continental hegemon and of its emerging capacity to influence tangibly world affairs. The Spanish-American war had projected American power far into the Pacific with the annexation of Hawaii and the Philippines. Control over the Caribbean—backed by the Monroe Doctrine and justified by America's alleged "manifest destiny"—was even further enhanced by the decision to build the Panama Canal. American strategists were busy developing doctrines for a two oceans naval presence. Last but by no means least, America's growing industrial might was accounting already for about 33% of the world's GNP. I think it is fair to say that America's physical power was in fact considerably greater than its actual influence.

Twenty years later, when Paul Nitze was attending Harvard University, and focusing his energies on football and rowing, as well as scholarship, the world and America's role in it has been transformed. The headlines in the major Western papers on January 16, 1927, focused on growing troubles in Central Europe and, again, in China. The New York Times front page had, to me at least, a pleasant ring as a headline reported, "Poles Nip Red Plot", and the subsequent story described arrests of Communists planning a revolt. Other items focused on growing problems between the Soviet Union and Latvia and on intensifying tensions within

Czechoslovakia. The London Times focused on the dispatch of British warships to China.

However, of greater significance to Americans were the front-page stories in The Washington Post under the banner headline "Diaz Urges Conference for Peace in Nicaragua; Kellogg asked Publicity". Related stories appeared in The New York Times. One concerned delays in Mexican payments of interest on debts. Another reported accusations by the Cuban press of "bloody" American interventionism, which, in the Cuban view, the Americans were allegedly justifying by claims of communist activity in Nicaragua and Mexico. All of these underlined America's continued preoccupation with the region immediately to the south.

Of course, much had happened in the intervening twenty years. World War I had involved, for the first time, a massive projection of American power across the Atlantic. Just as important, it also resulted in the first major American diplomatic effort to apply American principles to the solution of Europe's international issues, with Wilson's famous Fourteen Points representing the injection into geopolitics of American idealism. That exercise, however, did not produce a lasting American engagement in world affairs. Instead, America soon retreated into a self-gratifying combination of isolationism and idealism. American power thus neither became engaged in world affairs nor did America remain much involved in shaping them.

By the mid-twenties, and early thirties, totalitarianism was gathering strength on the European continent. The headlines that I cited reflected the rise of a more indeological tenor to world events. Yet, the United States did not quite seem to grasp the nature of the transformation. For example, a New York Times article, entitled "Italy Gives Up Play and Sport to Work", seemed to measure the spiritual cost of Mussolini's fascist regime largely in terms of the sparse attendance at cafes and theaters.

Moreover, American power—by now quite considerable—remained disengaged. The American navy was now a powerful two-ocean fleet, no longer outmatched by the British. The American economy accounted for more than 35% of the world's GNP, making the United States the world's unquestioned number one industrial power. But America itself preferred to remain a passive symbol of liberty—essentially a bystander to global politics. The real international players were still the European powers and increasingly also Japan. The American concept of security was largely based on a view of America as a continental island, and the American role in the world was still largely focused on sheltering that continental island.

The next twenty years were historically revolutionary. While Paul Nitze celebrated his fortieth birthday as the deputy director of the Office of International Trade Policy in the State Department, a stepping stone to his role in the Policy Planning Staff during its most creative and influential period of the late 1940s and early 1950s, the United States was now deeply engaged in a transformed but also turbulent world.

It was the start of the cold war. The New York Times headline read, ominously, "Hands off Poland, Molotov's Answer", and it was followed by a report of the American protest over Communist election frauds. Other stories on the front page recounted Communist suppression of the opposition in Poland, a Communist plot in Hungary, Soviet initiatives to strengthen Communists in the Soviet-occupied zone of Germany, and the Soviet denunciation of the Anglo-Soviet Treaty. The London Times also focused on growing economic difficulties in China, and British and Soviet claims and counter-claims to the strategically important Spitsbergen Archipelago.

The headlines mirrored a significantly new reality. America was now not only deeply engaged in the world—in the wake of its participation in World War II—but it emerged from that war as the bulwark of democracy. Europe was shattered and the European era in world affairs was finished. World War II, however, had been not only a geopolitical struggle for global supremacy. It had also been a lethal ideological collision—and the ideological contest persisted, but now with America as one of the two principal protagonists.

America's new and central world role was an expression of its power and of its ideological appeal. America's economy stood apart from all others as the world's largest economy, accounting for more than 50% of the world's GNP. America's military forces even possessed a monopoly of the atomic bomb. Moreover, America's special role was soon to be guided by a defined and articulated global strategy: to defend democracy, first, by denying to its rival, Stalinist Soviet Russia, control over all of Eurasia; and, second, to further the rapid recovery both of Western Europe and, soon thereafter, Japan.

An inherent and ambitious vision of world order stood behind this strategy. Before long, this spawned a host of new institutions of political, military, and economic cooperation. An American-designed world system thus came into being, with the very security of America now organically fused with the security of its allies both on the far western and on the far eastern extremities of Eurasia.

As America looked to the future, policy makers faced several key questions. How long could the special U.S. global role be sustained? Could the challenge to democracy be successfully rebuffed? What kind of world would eventually emerge from the inevitably transitional phase of American tutelage?

These questions became more salient, and even troubling, twenty years later, when Paul Nitze was celebrating his sixtieth birthday on January 16, 1967. The international news stories depicted a more fragmented world, one in which the rigid bipolar alignments of the 1950s no longer held quite so firmly. Instead, conflicts in peripheral areas were the major source of concern. The Washington Post reported that "Thant Sees War Threat in Mideast". China, isolated from East and West, engaged in Mao's ideologically inspired orgy of self-destruction. In reporting the violent struggles for power during the Cultural Revolution, the London Times ran articles headlined "Chou Comes to Fore in Bargaining: Possible Attempt to Avert Collapse" and "Moscow Describes Mao Terror".

Closer to home, the lead stories of the day signalled America's inconclusive involvement in the Vietnamese conflict, itself a reflection of America's imperial burden but also a measure of the limits of America's power. The Washington Post ran a story headlined "U.S. Drive in Triangle Dooms Emptied Town". The New York Times, in a story bylined by its managing editor and headlined "Hanoi Denies Aim is to Annex South; Program of North is Found to Differ from Vietcong's", solemnly assured its readers that the North Vietnamese were seeking "socialism in the north and democracy in the south".

Before too long, much of the American public repudiated that policy of engagement. Moreover, America by the late 1960s had already suffered two major setbacks in the western hemisphere itself. The humiliating outcome of the Bay of Pigs expedition, and then the Cuban missile crisis, which had given America a tactical success on the issue of the missiles, had yielded the Soviets a strategic victory on the question of Communism's survival in the western hemisphere. The Monroe Doctrine was now dead.

At the same time, the economic primacy of America seemed rapidly to be fading. Not only Europe but also Japan were now becoming rivals, with America's share of the global GNP soon to shrink to only about 25%—or half of its proportion just 20 years earlier. More ominous still were the boastful claims of the Kremlin leaders that the Soviet Union would shortly overtake America in industrial production, and even more so the unrelenting Soviet efforts to match and overtake America in strategic weaponry.

America's world role was clearly entering a phase of crisis, self-doubt, and also of reappraisal. In the mid-1960s, Communist leaders started to speak optimistically of the "general crisis of capitalism"—an ideological formulation that allegedly presaged the collapse of the world capitalist system. Over the next decade, American society did indeed become deeply divided over America's world role. Some even urged America "to come home again", echoing the isolationist themes of the mid-1920s.

But such nostalgia for an era long gone proved to be only a passing phase. By January 16, 1987, when Paul Nitze reached an age which would qualify him to be a youthful leader in a large Asian country, worldwide conditions were much more promising for democracy and much more positive for America's role in the world than one had reason to expect even a decade earlier.

Moreover, the world's headlines on that day reflected the rise of a series of new issues. A Washington Post article entitled "Hijacking Suspect Arrested" and a New York Times story headlined "Arms Dealers Linked to U.S. Policy Shift" addressed the problem of state-sponsored terrorism and the Reagan administration's efforts to deal with it. Our honored guest's speciality—arms control—had been in its infancy two decades earlier, but in 1987 had come of age and was addressing issues of central strategic importance. A New York Times article headlined "New Arms Session Begins in Geneva" indicated the Soviet side seemed to want to instill the 22-month-old negotiations with more life.

Behind these headlines three central global realities now stood out sharply:

First, Communism itself was entering the phase of a general, and most probably terminal, crisis. Not only was the Soviet Union embroiled in the hopeless struggle in Afghanistan but, much more important, its economic and political system started to experience a dynamic process of fragmentation. The crisis was even more advanced in East Europe. Soviet military power failed to give the Soviet Union a decisive international edge, while the mediocre performance of the Soviet socioeconomic system stamped the Soviet Union as a historical loser.

Second, the appeal of democracy was now a worldwide phenomenon, buttressed by the pervasive perception that democracy was,

indeed, the wave of the future. The cause of human rights, embraced as its banner by America in the late 1970's, was clearly on the march. Moreover, America's cultural and communications impact on other societies was again on the rise, transforming the outward social appearances even of countries with a highly distinctive cultural profile, such as Japan or France.

Third, America—at home—was in the process of pulling itself together, and perhaps even of undergoing a creative resurgence, while the political bonds spanning the most advanced industrial democracies remained strong. Even America's growing financial indebtedness—admittedly, a very serious problem—provided a pervasive signal of the confidence of Asian and European investors in America's future and, in any case, a reflection of the emerging interdependence of the democratic community, spanning both the Atlantic and the Pacific oceans. Indeed, it was noteworthy that America enjoyed the strongest economic presence in, and the closest trade ties with, the most rapidly growing Asian economies.

In addition, growing signs appeared that America's economic position in the world had stabilized. In fact, its share of the global GNP actually increased to about 28 percent, with its share of the world's manufacturing output holding at slightly more than 30 percent, a level which had been the norm for most of this century, apart from the very exceptional years immediately after World War II. For the future, even more hopeful signs were the indications of some renewal in America's manufacturing, with a shift in emphasis on its innovative branches—such as instrumentation and fabricated metal products.

Finally, worldwide, far from being in a state of "general crisis", democratic systems based on the market principle and on political pluralism were proving themselves to be the decisive locomotives of progress. It was to them that the beleaguered communist systems were increasingly turning with pleas for economic help.

In any case, a decade from the third millenium America is today the world's only comprehensive global power. The Soviet Union is a one-dimensional global power, a major player in the military sphere alone. Japan and Europe are economic powers, but neither is likely to become a major military power in the near future. Europe, unifying economically but still fragmented politically, lacks the necessary coherence for the exercise of global power. Thus America remains destined to play a special global role, whether it wishes to do so or not.

But what kind of a role would now be fitting? We have seen how in the course of this century America shifted its role initially from a globally detached regional hegemon, to that (in the early 1920s) of an idealistic isolationist, to that (in the later 1940s) of the militarily engaged defender of democracy, and—not very long ago—to that of a guilt-ridden self-critic. With that recent phase of inner doubt behind us, it is likely that America will now increasingly define itself as the leading partner in the world's democratic coalition. That wider trans-Atlantic and trans-Pacific coalition represents America's greatest international achievement, and it remains the foundation stone for America's continued global engagement.

The task of that coalition is basically to enhance freedom and prosperity where it already flowers; to facilitate the transition to pluralism and economic free choice in the evolving Communist world; and to assist the poorer nations in their quest of what the richer nations already enjoy.

In that context, as the senior partner of the democratic coalition, to consolidate the vitality and cohesion of that coalition, it will be especially important for the United States to forge in the years ahead a close special relationship with Japan, as well as with some of the other emerging economic and political success stories of Asia. That will require special effort, in some ways reminiscent of our earlier endeavors to create an architecture of relations spanning the Atlantic ocean. With Japan, it may be particularly appropriate—among other joint ventures—for the United States to undertake joint space exploration, thereby giving our special relationship a dramatic, constructive, and technologically innovative content.

In any case, it may soon be possible to speak of the end in the ideological war that has dominated world affairs throughout much of this century. In this regard, too, America has a very special role to play. In many respects, the ideas that America has embodied since its very birth are today in the process of prevailing worldwide. It is this reality that again gives America enhanced status in the eyes of the world, all of our domestic shortcomings and occasional missteps in foreign affairs notwithstanding. It should, therefore, be the special task of the United States to keep global attention focused on human rights—for that idea mobilizes and channels the growing worldwide desire of the world's politically more literate masses for pluralism and democracy.

Quite paradoxically, the appeal of human rights is today nowhere higher than within the communist world, where America is also almost universally perceived as the model and the measure for desperately needed reforms. That special appeal of America creates promising opportunities for an enlightened policy of accommodation, designed to promote the peaceful fading of the once assertive totalitarian ideology. We should not be shy, therefore, in propagating suggestions how to transform the Soviet system into a more open confederation, increasingly pluralistic at home and increasingly involved in multilateral cooperation abroad. A prudent combination of continued defense efforts and arms control agreements, through which it may prove possible to strip the Soviet Union—with its ideology and system now discredited—of its last means for pursuing global expansion, can also play an especially important role in shaping a new East-West relationship.

Indeed, we may be on the brink of achieving the strategic goals outlined as early as 1948 by President Truman in a document in which our distinguished guest no doubt had a hand. This document, "NSC 20/4: U.S. Objectives with Respect to the USSR . . ." called on the United States: "a) to reduce the power and influence of the USSR to limits which no longer constitute a threat to peace, national independence, and stability of the world family of nations; b) to bring about a basic change in the conduct of international relations by the government in power in Russia, to conform with the purposes and principles set forth in the UN charter."

To consummate this historic goal, America must now be willing to take the lead in forging a Western strategy designed to exploit to constructive ends the current crisis in the communist world. This will particularly require a substantial and urgent western effort to make certain that the democratic experiment in Poland and Hungary succeeds, and also spreads throughout Central Europe. Given the stakes involved—nothing less than the successful termination of the Cold War—it behooves America to spearhead the development of a joint framework plan for the peaceful transformation of the communist-type systems into pluralistic societies, capable of participating in wider all-European cooperation. Such a framework plan could provide the needed sense of direction for the unprecedented transformation that East Europe is beginning to undertake and it could help to integrate the required domestic reforms with the necessary western aid.

In brief, a conceptual and a substantive effort is needed to shape a framework for peaceful change in the emerging post-communist era. Just as NATO and the Atlantic alliance were creative responses to the challenge of Stalinism, so now we need to articulate, and to back with positive programs, a new cooperative concept of East-West security and of peaceful political and economic change.

An ambitious initiative along these lines might well undo the political legacy of Yalta: a Europe divided into two hostile camps. Conversely, failure to act could become tragically tantamount, forty-five years after Yalta, to an unintended reaffirmation of Yalta through the collapse of the fragile democratic experiment in East Europe, in all probability with chaotic and retrogressive international consequences.

America thus retains a critically important—and, indeed, a uniquely architectural—role in world affairs. Global power in the years to come, especially given the likelihood that the internal crisis of the Soviet Union will be a prolonged one, is likely to become more dispersed. The proliferation of advanced weaponry and the dynamic spread of national conflicts may enhance international turbulence. The old threat of global domination by a single ideology is thus giving way to the growing risk of global anarchy. The need to contain that danger through wider international cooperation makes even more central the role of the world's democratic coalition, and especially America's pivotal role within that coalition.

Paul Nitze was born at a time when America was becoming the world's key international player. He himself had a major role in defining how America should play on the world scene. In the years ahead, the need to rethink and to conceptualize America's world role will continue to command our best intellectual efforts—and the Nitze School will doubtless be in the forefront of that endeavor. What more can one ask of a lifetime and of an institution?●

HONORING HERMINE B. HANNA FOR ESTABLISHING GRANDPARENTS DAY

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to a very special lady, Hermine B. Hanna. This dynamic lady of a mere 80 years has accomplished more in one lifetime than five people combined could have.

It seems only fitting that this grandmother of 5 and great grandmother of 15 should be so instrumental in establishing a "National Grandparents Day." She has been active in many organizations and was once a good will

ambassador for Florida attractions. Mrs. Hanna felt it was necessary that the elderly not be forgotten. Grandparents Day is meant to be a day where you do something nice for your parents or an elderly citizen. If you do not have any grandparents then she suggests adopting one.

I applaud Hermine Hanna for all her efforts in ensuring that the elder citizens of our country are not forgotten. Mr. President, I urge my colleagues to take Grandparents Day to heart every year and show our appreciation for the senior citizens of our society.●

DEMING PRIZE AWARDED FLORIDA POWER & LIGHT CO.

● Mr. GRAHAM. Mr. President, today I rise to commend the management and employees of Florida Power & Light Co. for winning the prestigious Deming Prize for quality improvement.

Florida Power & Light, based in Miami, is the first non-Japanese company to win the Deming Prize, named in honor of the internationally known advocate for quality advancement.

In winning this award, Florida Power & Light symbolizes American commitment to quality and proves again that American enterprise can compete successfully around the globe.

The Deming Prize is awarded by the Union of Japanese Scientists and Engineers. Initiated in 1951, the Deming competition was opened to non-Japanese companies 3 years ago.

Florida Power & Light has pioneered quality improvement methods throughout this decade. Hundreds of quality improvement teams have worked to keep down costs, reduce consumption of foreign oil, and promote safety on the job.

These teams have:

Devised a way to increase efficiency at an existing powerplant.

Saved millions of dollars by improving maintenance at powerplants.

Solved practical problems. A team of linemen from Florida Power & Light's Callahan Service Center investigated transformer outages, determining that squirrels were causing most of the problems. The linemen devised an insulating cover for the transformer connections that prevented the squirrels from short-circuiting transformers.

The company also has shared its considerable knowledge with the public sector. Florida Power & Light introduced quality improvement techniques to the Florida Department of Transportation, and worked with DOT to save the taxpayers millions of dollars in right-of-way costs.

I am honored to salute this latest achievement by Florida Power & Light.●

TRIBUTE TO MERAB KOSTAVA

● Mr. DECONCINI. Mr. President, on October 13 of this year, the people of Soviet Georgia lost one of their foremost human rights activists when Merab Kostava, a founder of the Georgian Helsinki Monitoring Group died in an automobile accident. According to his associates, Mr. Kostava had been receiving death threats since the summer.

A musicologist by training, Merab Kostava had devoted himself to political activism and had a concern for the rights of the people of the Soviet Union and Eastern Europe. As a student in 1956, his long commitment to these issues began at a demonstration in support of the Hungarian uprising of that year. His views led to his arrest and imprisonment on several occasions. Never did the hardships endured in Soviet camps temper his will or devotion to the cause of religious and political freedom.

Following 2 years of imprisonment in the early 1970's, Merab Kostava joined the Action Group for the Defence of Human Rights which had been founded in Tbilisi in 1974. Two years later, he and a colleague began publishing the Georgia Herald, an underground journal which covered the state of human rights in Soviet Georgia. In 1977, following the signing by the Soviet Government of the Helsinki accords, he helped establish the Georgian Helsinki Group. Arrested that same year, he was sentenced under article 71 of the Georgian Criminal Code to 3 years in labor camps and 2 years in internal exile for anti-Soviet agitation and propaganda.

While serving his exile term in Irkutsk, Mr. Kostava was re-arrested and charged in connection with his continuing human rights activities. Tried in December 1981, he was sentenced to a further 5 years' imprisonment in a labor camp for malicious hooliganism. Again he was rearrested, this time in 1985, and sentenced to 2 additional years for alleged violation of camp regulations. During these years, his health deterioriated, and he spent time in prison hospitals with tuberculosis. Despite the disease, he held a number of hunger strikes protesting inhumane conditions in the camps. In spring 1985, Merab Kostava's son was found hanged in his apartment in a reported suicide. Kostava himself was finally released on April 30, 1987, during one of the recent general releases of political prisoners. Since his freedom from incarceration, he had continued his human rights activities.

Mr. President, as Chairman of the U.S. Commission on Security and Cooperation in Europe, I have had a deep and continuing respect for the late Mr. Kostava and his dedication to the principles of the Helsinki Final Act. His strength of character serves as a paragon for other human rights activists. The greatest possible tribute to Merab Kostava will come the day that the freedoms for which he struggled and sacrificed so much are guaranteed to every Soviet citizen. For all of us involved in the CSCE process, and for all those concerned with human rights, Mr. Kostava's untimely death leaves a great void in the Helsinki process in the Soviet Union. The Commission on Security and Cooperation in Europe extends its deepest sympathy to Mr. Kostava's wife and to all the Georgian people on their tragic loss.●

REAUTHORIZATION OF CHILD NUTRITION PROGRAMS

● Mr. SARBANES. Mr. President, I was pleased to note that the House of Representatives gave final approval last week to legislation reauthorizing a number of child nutrition programs through fiscal year 1994, including the Special Supplemental Program for Women, Infants, and Children [WIC], the Summer Food Program, the Nutrition, Education, and Training Program, the Commodity Distribution Program, and the State Administrative Expenses Program. As you know, the reauthorization measures passed originally by the House and Senate are very similar. Both bills would seek to encourage participation in the WIC program by granting automatic eligibility to anyone at nutritional risk who is already receiving food stamps, welfare, or Medicaid benefits. Both also authorize funds to help school systems with large numbers of low-income students pay startup expenses for school breakfast programs, and both permit nonprofit organization to sponsor summer food programs for low-income children.

Enactment of this legislation is especially important as we continue our effort to restore earlier cuts in child nutrition and other food assistance programs. It is important to remember that until the eighties, food assistance programs had received in large part uninterrupted growth in Federal support. However, the Reagan administration's Omnibus Budget Reconciliation Act of 1981 cut Federal funding for all domestic programs by $35 billion in fiscal year 1982. Legislative changes in child nutrition programs accounted for approximately $1.4 billion of this amount.

The cuts in spending for child nutrition programs amounted to about 25 percent of the amount that would have been spent in fiscal year 1982 had no changes been enacted. The School Lunch Program received the largest dollar amount reduction, losing almost $1 billion in fiscal year 1982. The Special Milk Program was cut by 77 percent, grant funding for the Nutrition, Education, and Training Program was cut from $15 million to $5

million, and the Summer Food Service Program was reduced by 54 percent below the expected fiscal year 1982 level. A commodity reimbursement rate cut lowered fiscal year 1982 spending for commodity distribution by an estimated 42 percent and the Child Care Food Program was cut by 29 percent.

Efforts to restore some of the cutbacks in food assistance programs began in 1983, and achieved some success in 1985 and 1986 with enactment of the food stamp amendments in the 1985 farm bill and the School Lunch and Child Nutrition Amendments of 1986. Food assistance efforts were also supplemented by the creation of the Temporary Emergency Food Assistance Program [TEFAP]. This program was implemented in 1983 as a way to reduce then-existing large inventories of USDA commodities and, at the same time, respond to report of increased hunger, poor economic conditions, unemployment, and reductions in Federal spending for the poor.

In addition, Congress refused the administration's repeated request for an end to all Federal support for meals served to nonpoor children, which would have eliminated the broad-based nutrition support focus of the programs, and rejected other administration proposals to make even further cuts in child nutrition programs.

Further efforts to restore some of the earlier cutbacks in meal programs passed the Congress in 1986, and in 1988, passage of the Hunger Prevention Act restored more funding to child nutrition programs. This important legislation also extended the Temporary Emergency Food Assistance Program through fiscal year 1990, mandated funding for commodity purchases for soup kitchens and food banks, expanded reimbursements and eligibility for the School Breakfast, Child Care Food, and Summer Food Service Programs, and liberalized food stamp benefits and eligibility rules.

Mr. President, I am pleased that in appropriations legislation for fiscal year 1990 we have continued to restore funding to these very important programs. The Senate-passed Agriculture appropriations bill for fiscal year 1990, currently in conference, includes $4.9 billion for child nutrition programs. This amount is $281 million more than the fiscal year 1989 level, $22 million more than the administration's budget request, and $2.24 million more than the level in the House-passed bill. Both the Senate and House also agreed to reject the President's proposal to eliminate funds for the Nutrition, Education, and Training Program.

An appropriation of $2.126 billion is provided for the WIC Program in the House and Senate bills. This amount is $196.6 million more than the 1989 appropriation and $164.6 million more than the budget request. I strongly supported a provision to include an increase of $150 million in spending authority for the WIC Program in the congressional budget resolution and joined a number of my colleagues in a letter to the chairman of the Senate Appropriations Subcommittee on Agriculture urging the subcommittee to appropriate the full $2.158 billion allowed in the resolution for WIC. While we were not able to get the full amount authorized, we did get a substantial increase and I urge my colleagues to continue to fight for full funding of this very effective program.

Mr. President, the importance of restoring Federal support for nutrition and other critical domestic programs is evident when examining the development of critical domestic programs and the history of poverty in our Nation. The first significant authority for Federal food donations was included in legislation enacted in 1935 which made funds available to the Agriculture Department to encourage the domestic consumption of agricultural commodities by diverting them from normal channels of trade.

A significant shift occurred in the purpose of food distribution programs with passage of the National School Lunch Act on June 4, 1946. This act provided for funds to be spent by USDA for agricultural commodities distributed among schools according to needs and preferences of schools. The stated purpose was not only to provide a market for agricultural production, but also to improve the health and well-being of the Nation's youth. A further shift in the primary purpose of food distribution programs from surplus disposal to that of providing nutritious foods to needy households occurred following the issuance of an Executive order in 1961 which mandated that the Agriculture Department increase the quantity and variety of foods donated for needy households.

Congress further expanded food and nutrition programs during the sixties and seventies, increasing reimbursements and expanding program eligibility to cover a wider range of low-income families. Critical new programs were put into effect, including the WIC Program and nutrition programs targeted at the elderly.

The importance of the expansion of Federal support for domestic assistance programs to the well-being of disadvantaged citizens is clear. In 1959, there were approximately 22 million people living in poverty. By 1965, the level of people living at or below the poverty level reached 25 million. Following the shift in the purpose of food distribution programs from surplus disposal to that of providing nutritious foods to needy citizens and an increase in Federal support for other critical domestic programs, the poverty level dropped in 1972 to 24.5 million, the lowest level for the seventies and eighties. In contract, by 1987, the number of individuals in the United States estimated to be living in poverty had risen dramatically to 32.5 million.

As I have indicated in earlier statements, children are the most susceptible to poverty in our society today. According to the U.S. Census Bureau, the number of children living in poverty in this country has increased by 21 percent since 1970. Currently, the rate of child poverty is extraordinarily high—today 1 in every 4 children in this country lives in poverty and the rates are even higher if the child is a member of a minority group.

As Franklin Delano Roosevelt said in his second inaugural address on January 20, 1937, "* * * the test of our progress is not whether we add more to the abundance of those who have much, it is whether we provide enough for those who have too little." Through increased appropriations for critical domestic programs and the reauthorization of important child nutrition programs included in H.R. 24, the legislation approved by the House last week, we are attempting in the Congress to turn around the repeated attempts over the last decade to cut severely Federal programs which are absolutely essential to the well-being of many Americans.

I urge my colleagues to join me in moving quickly to grant final approval to legislation reauthorizing expiring child nutrition programs and to continue our efforts to restore Federal support for other critical domestic programs.●

MARY ANNE GUITAR

● Mr. LIEBERMAN. Mr. President, it is with great pleasure that I bring to the attention of the Senate a very special individual from my home State of Connecticut, Ms. Mary Anne Guitar. In September, the town of Redding celebrated and honored its long-time resident by giving her a roast at the West Redding Fire House.

Mary Anne Guitar, who has been first selectman for the town of Redding for the past 12 years, has decided to relinguish her hard-earned and well-deserved post this year. Mary Anne was not only the first woman ever elected to the board of selectmen in Redding, but the first Democrat elected first selectman in 44 years.

While all of the guests who attended the roast commemorating Mary Anne's achievements poked fun at her style and dedication, nobody made light of her many accomplishments and guiding philosophy. She represented bipartisan government at the highest level. Without a doubt, she

symbolized what good government should be all about, by putting the public's interests first. She was the type of public servant who put a premium on finding solutions to problems facing the community and the envrionment within the financial limitations facing the town. Her name will be synonymous forever with the town of Redding's ambitious drive to keep its community "clean and green."

Mary Ann's nonpartisan approach to her job as first selectman earned her the respect of not only her Democratic and Republican colleagues, but more importantly, she won the praise and affection of the people she represented. And that, Mr. President, is the highest award that any public servant can ever hope to attain.

The residents of Redding have been touched by the efforts and presence of this great woman. Mr. President, I hope that my colleagues will join me in paying tribute to the woman who has played a big part in development and preservation of the town of Redding.●

SKILLS VERSUS JOBS, THE CLASSROOM MISMATCH

● Mr. LAUTENBERG. Mr. President, an excellent series of articles appeared in the New York Times on September 25, 26, and 27, 1989, titled "Skills vs. Jobs, The Classsroom Mismatch" concerning the crisis in our schools. The skills that too many of our graduating seniors possess are not the skills that are in demand in today's work force. Jobs today require technical knowledge and problem solving ability.

The bill I have introduced to establish Community Education Employment Centers (S. 1477) addresses this problem by combining vocational education with a strong emphasis on academic achievement. The article notes that, "America is developing into a nation of educational haves and have-nots, who are fast becoming employment haves and have-nots." We cannot socially or economically afford this trend to continue.

S. 1477 focuses on those that are most affected by our failing educational system; poor, inner-city youth. Roughly half of our inner-city youths fail to graduate from high school, according to the article. My bill would turn this problem-prone group into a resource of skilled labor, through well orchestrated implementation of social, vocational, and academic services delivered under the same roof.

American corporations have attempted to take up where the schools left off in providing elementary instruction to workers before specialized training starts. The article states, "Companies are taking this role largely for self preservation." Unfortunately, employers principally, "train the trainable and the trained." Those most in need still need help.

The article stresses that we must expose our youth to actual work experience to catch their interest and help them see the connection from education to higher paying jobs. In my proposed Community Education Employment Centers, students would be encouraged to work up to 20 hours a week during the usual school year. The New York Times article states, "many dropouts say now that they might have stayed in school if they had more vocational opportunities, more real work experience, while still in high school." Something must be done to redirect our educational system to teach skills that are in demand in industry. My bill is designed to address many of the issues that were raised in the New York Times article.

Mr. President, I ask that the series of articles be printed in the RECORD.

The articles follow:

[From the New York Times, Sept. 25, 1989]

IMPENDING U.S. JOBS "DISASTER": WORK FORCE UNQUALIFIED TO WORK

SCHOOLS LAGGING FAR BEHIND NEEDS OF EMPLOYERS

(By Edward B. Fiske)

David T. Kearns, chairman of the Xerox Corporation, calls it "the makings of a national disaster."

Brad M. Butler, former chairman of the Procter & Gamble Company, fears the creation of "a third world within our own country."

James E. Burke, chief executive officer of Johnson & Johnson, says it is "the American dream turned night-mare."

Corporate America has seen what the nation's schools are producing and it is alarmed.

And many of the students who are most at risk are children from minority groups, the same youngsters who the Labor Department says will fill 56 percent of the new jobs that will open up between 1986 and the year 2000.

UNREADY FOR NOW OR FUTURE

As President Bush prepares to discuss education Wednesday with the nation's governors, population statistics and newly compiled research suggest that American schools are graduating students who lack even the skills needed to fill existing assembly line jobs, let alone the sophisticated new jobs that increasingly dominate the economy.

Research and corporate experience also show that an increasing number of job applicants are among the population groups that are least well served by the nation's schools. "More than a third of tomorrow's work force will be minorities," Mr. Kearns said, "and half of those are kids growing up poor. A fourth drop out and another fourth don't come close to having the skills to survive in an advanced economy."

Evidence suggests that they are unlikely to get those skills, since corporations tend to train the workers who already have mastered basic reading and math.

DEVASTATING EFFECTS SEEN

The result, say leaders in government, business and education, is that America is developing into a nation of educational haves and have-nots, who are fast becoming employment haves and have-nots; that this polorization follows racial lines, and that the effect on the economy and the country could be devastating.

"If we continue to let children who are born in poverty fail to get the kind of education that will allow them to participate in our economy and our society productively," Mr. Butler said, "then some time in the 21st century the nation will cease to be a peaceful, prosperous democracy."

It is not that America's children are not being educated, researchers say. The problem is that they are not being educated fast enough and at sophisticated enough levels to keep pace with the advances and upgrading in jobs.

"Even the telephone operator is now computerized," said John L. Clendenin, chairman of the board of the BellSouth Corporation in Atlanta. "Directory assistance operators search a huge electronic data base to retrieve and deliver information to customers. Similarly, most of our clerical jobs require word processing, computer skills or both," as do craft jobs and both sales and service positions.

But Mr. Clendenin added: "In 1987, fewer than 30 percent of employment candidates met our skill and ability requirements for sales, service and technical jobs. Only 15 percent scored at the proficient level on our typing test, and almost 50 percent of those tested were not qualified for jobs requiring even light typing. Over all, we estimate that fewer than 1 in 10 applicants meets all our qualification standards."

GREATER DEMAND IN THE FUTURE

And the situation is getting worse. "A recent study found that our jobs will require even more technical knowledge and problem-solving abilities, as more and more rote tasks are performed by computers," Mr. Clendenin said. "With technological change coming more rapidly, even craft employees in the year 2000 will have to adapt and acquire new technical skills rapidly. Most craft employees will also have to be better equipped to interact with customers."

At the MCI Communications Corporation in Boston, Joanne M. Ramsey, the residential sales manager, said telephone sales jobs paying $7.10 an hour plus incentives are going begging because the company cannot find enough qualified candidates to fill them. "Now, we have 52 job slots, but only 38 employees," she said.

Diane Capstaff, vice president for corporate services and human resources at the John Hancock Mutual Life Insurance Company in Boston, reports similar hiring problems. "Some applicants don't have the writing skills to prepare a brief letter to a policy holder or simple math and computer skills," she said.

Thomas Bailey, a senior research associate at Columbia University, calls the trend now under way the "upskilling" of American jobs, meaning a change from learning based on observation to learning acquired through symbols, both verbal and mathematical.

"Semiliterate textile workers used to be able to function because they saw how their machines worked." Mr. Bailey said. "Now, new machines have invisible microprocessors and other electronic components. Technicians have to repair by decoding complicated manuals, diagrams and updates from manufacturers.

NEW KINDS OF ASSEMBLY LINES

Literacy requirements have thus risen sharply, he said. So have mathematics re-

quirements, a result of assembly line innovations in which workers must read gauges, printouts and graphs to monitor quality.

"New opportunities for workers with no more than a high school degree are falling sharply," Mr. Bailey said. "In 1987, 54.6 percent of employed workers were in this category; by 2000 it will be down to 46.5 percent."

The shift from low- to high-skill jobs and the widespread increase in skill requirements of existing jobs have been documented by the Hudson Institute, a research organization, in a Labor Department study titled "Workforce 2000: Work and Workers for the 21st Century."

In a subsequent study, not yet published, the authors of "Workforce 2000," William B. Johnston and Arnold H. Packer, have for the first time correlated data on job skill requirements with data on students' educational achievement. Only tests of verbal skills lent themselves to this kind of analysis, but even on this scale, the results were alarming they said.

They found that average young adults, 21 to 25 years old, are reading at a level significantly below that demanded by the average job available in 1984 and are even further below the requirements of jobs expected to be created between 1984 and the year 2000.

The researchers used the standard Labor Department scale of 1 to 6 ranking the language skills required for various jobs. Scientists, lawyers and engineers operate at the highest level, 6, signifying the ability to read scientific and technical journals and write speeches. Manual labor jobs fall into the bottom category, 1, signifying rudimentary reading and communication.

The researchers calculated that the 105 million nonmilitary jobs existing in 1984 required an average language proficiency of 3.0, typical of retail salespeople or skilled construction workers. By contrast, the 26 million jobs expected to be created between 1984 and 2000 will require an average level of 3.6.

These figures were then compared with data on literacy among 3,600 young adults compiled by the National Assessment of Educational Progress, a federally supported project that regularly administers tests to national sample groups. Results showed that the average young adult in this country is reading only at a 2.6 level.

"You're talking about a major mismatch of workers and jobs," Mr. Packer said.

The mismatch is particularly serious among new, rather than current, jobs. In the Hudson Institute study, Labor Department analysis ranked 87 percent of new jobs at the 3 and 4 levels of reading skills, equivalent to the requirements of sales and marketing positions, but concluded that 97 percent of young adults have skills at the 2 and 3 levels, the needs of farming and transportation work.

THE UNSKILLED WILL BE TRAPPED

Evidence strongly indicates that these young workers, who are entering the labor force with inadequate skills, will find themselves in an employment backwater.

"Well educated people are not only the most likely to find employment," Mr. Bailey explained, "but also are the most likely to receive training from their employers. Once trained, their greater productivity earns them more. They switch jobs less frequently and are rarely unemployed. If they change jobs, they find another easily and are more likely to receive further training from new employers."

But those who start without adequate academic and problem-solving skills fall further behind, he said.

"The well educated face a future of expanding job opportunities and rising wages," said Sue E. Berryman, director of the Institute on Education and the Economy at Columbia University's Teachers College, "while those not well educated face a future of contracting opportunities and poverty."

The National Assessment of Educational Progress has found some recent improvements in the reading ability of students still in school. But those gains have come primarily in the lower grades, in the most basic reading tasks and among youngsters from low-income families. Thus, millions of students are still underequipped to participate in the emerging job market.

INVESTMENT IN EDUCATION URGED

"Our least advantaged students are now drowning in 10 feet of water instead of 15 feet of water, but they're still drowning," said Ms. Berryman. "Lots more are drowning in five feet."

Many business executives, like Mr. Kearns of Xerox, have urged the investment of as much economic and political capital as is needed to overhaul and improve American public education, and thus produce a more highly skilled work force.

"We cannot compete in a world-class economy without a world-class work force," Mr. Kearns said, "and we cannot have a world-class work force without world-class schools."

In the absence of improved schools, said Mr. Packer of the Hudson Institute, the alternatives are limited: Industry can send skilled jobs overseas, it can automate to accommodate a low-skilled domestic labor force or it can decide against upgrading its operations and the concommitant skill levels of employees.

"Jobs will get filled," Mr. Packer said, "but you're talking about lower productivity and thus a lower standard of living for everyone."

[From the New York Times, Sept. 26, 1989]

COMPANIES STEP IN WHERE THE SCHOOLS FAIL

(By Joseph Berger)

SCHAUMBURG, IL.—At the huge Motorola Inc. plant here, assembly line workers like Carritha Wells are being paid to learn not about electronic circuit boards or cellular telephones but about how much a pound of grapes would cost if 2⅔ pounds cost $3.25.

The sleek computerized equipment that Motorola is installing requires Mrs. Wells, to do far less manual labor in her job, but a lot more thinking. She must read graphs and change percentages to decimals. Yet, she has not performed such calculations since her high school days in Mound Bayou, Miss., several decades ago.

COMPANIES TEACH BASIC SKILLS

"If you don't need it, you forget it," she said.

So, in a small factory conference room she and a half dozen colleagues are taking a course in grade school arithmetic.

Motorola, Ford, Xerox, Polaroid and Eastman Kodak are a small but growing number of American companies spending millions of dollars a year on basic reading and arithmetical instruction because, they say, America's schools are no longer meeting the companies' needs. Their jobs are becoming more sophisticated each year and many of their workers cannot read and count well enough to fill them.

A growing number of experts believe that this trend will worsen in coming years and that the groups most affected by it are the poor and minorities.

So far, the companies are making do by retraining current workers and casting a much wider net to find competent new workers. But soon, some executives predict, American businesses may not be able to find enough qualified workers and will have to hire tens of thousands of unqualified ones and teach them to read and write.

As a case in point, Frederic V. Salerno, president of New York Telephone Company, recalled that in 1987 the subsidiary of the Nynex Corporation had to test 57,000 people before it couild find 2,100 who were qualified to become operators and repair technicians.

Louis V. Gerstner Jr., chairman of RJR Nabisco Inc., warns that, if current trends continue, American businesses will have to spend $25 billion a year providing elementary instruction to 1 million workers before they can even train them to handle modern equipment.

Like a growing number of executives, Mr. Gerstner has been speaking to audiences urging a shakeup of the country's educational system.

Susan Hooker, Motorola's director of retraining, explained the changes this way: "For many years our factory jobs did not require people to use a lot of brain power. We were really hiring people for their ability to manipulate things and put things together. Now, most of those manipulations can be performed by machinery. It isn't that they've lost skills, but the skills traditionally required have changed."

DIRECT INVOLVEMENT IN SCHOOLS

Major companies are also immersing themselves in local schools in ways that would have seemed astonishing only a decade ago. Some are writing curriculums for special "academies" in certain high schools. These schools within schools are intended to attract students to the sponsoring companies' fields. Other companies are guaranteeing jobs to graduates, deploying executives to act as mentors, lending expensive equipment and providing college scholarships.

Companies are taking this role largely for self-preservation. Forrest P. Chisman, director of the Southport Institute for Policy Analysis in Washington, said that 20 million to 30 million adults cannot read, write or calculate well enough to function effectively at work, a situation he described as "a cancer eating away at the American economy."

Some companies, worried about anemic productivity at home and fiercer competition abroad, are shifting locales just to find larger pools of qualified entry level workers. Some are moving divisions overseas.

The problem, experts say, will not wither away. Motorola officials expect to keep increasing the educational levels of the company's workers just to keep up with changing technology, a trend Ms. Hooker compared to walking up a down escalator just to stay in place. Almost one in every four jobs now requires a college degree. Banks have replaced tellers with cash dispensing machines, but the new generation of tellers must be able to process loan applications.

Moreover, companies eager to energize lackadaisical workers are giving them greater decision-making authority and responsi-

bility. The new duties require workers to reason, to follow written instructions and to articulate their thoughts to teams of coworkers.

"I believe companies are going to have to shoulder a lot of the burden of correcting adult illiteracy because that's where the adults are during the day, not at home," Mr. Gerstner of RJR Nabisco said in a recent interview.

EDUCATORS ARE RESPONDING

For the most part, the education community is not shrugging off the criticism. In early September, the Teachers College Institute on Education and the Economy brought business leaders and educators together for three days on Cape Cod.

P. Michael Timpane, Teachers College president, opened the conference by warning that the shortage of qualified workers "strikes at the sinews of our nation" and "affects our hopes for social integration." Although he did not say so directly, a study by the college shows that black and Hispanic people are heavily represented in precisely those occupations that are lagging in growth.

Some school systems are taking dramatic steps to demonstrate their responsibility to business. The Plymouth-Carver district in Massachusetts has decided to "warranty" the skills of its high school graduates for three years. Bernard Sidman, the superintendent, said that if an employer reports that a graduate cannot make change at a cash register, for example, the district will enroll the student in "evening classes for retooling" free of charge.

Business and education are increasingly linking their worlds. Seven years ago, the American Express Company confronted hiring pools of high-school graduates whose abilities were mediocre and who often did not understand the need for courtesy and punctuality in the workplace. It decided to develop a special program to prepare students for careers in finance and helped set up academies at seven New York City high schools.

At the Academy of Finance within John Dewey High School near Coney Island, 120 students take classes in Wall Street operations, accounting computer business applications and banking, all on top of their regular high school courses. The content was developed with the help of Wall Street executives. Every class plays the stock market with an imaginary portfolio of $100,000.

With 150 companies now participating, the program guarantees all youngsters $6-an-hour summer jobs, and many turn those into permanent jobs after graduation. Ninety percent of the youngsters, though, pass these up and elect to go on to college because they realize that high-earning positions require advanced education.

AN INVESTMENT WHIZ EMERGES

"They want to be the big guys, the guys working in arbitrage, the managers of departments in accounting firms," said Ada Dolch, Dewey's academy coordinator.

One student, she said, has proved to be such a canny broker that Shearson Lehman Brothers International Inc. sends a limousine to pick him up after his classes at St. John's University and drives him to work at the offices of the American Express investment service.

The American Express program is now operating in 42 schools in 18 cities and costs the company $1 million and considerable executive time a year, according to Ida Schmertz, senior vice president for corporate affairs. More than 65 percent of the students are black, Hispanic or Asian.

A similar program has been operating in 10 Philadelphia high schools, preparing 1,200 students for careers in electrical work, business, health and the automotive industry. In 1984, the business academy had a job placement rate of 86 percent, a remarkable figure for students who are often afraid to venture into corporate personnel offices.

The quality of such academies has not been consistent and, in some cases sponsors have urged the recruitment of brighter, more ambitious youngsters rather than the dropout-prone students to which the program is directed.

Perhaps the most far-reaching effort to create a partnership between business and schools is Boston's. In 1982 600 businesses, alarmed by the scarcity of entry-level workers, signed the "Boston compact." If the city's schools would agree to improve attendance dropout and reading rates, businesses would reserve a quota of jobs for high school graduates.

RESULTS ARE MIXED

A 1987 study by Public/Private Ventures, a consulting concern, found that absences dropped to about 15 percent from roughly 25 percent daily and reading scores improved for students in grades 9 and 10, though not those in grade 11. Dropout rates, however, deteriorated. Businesses had generally delivered on the jobs.

Although measurable results were mixed, the study noted that the agreement increased political support for schools, improved teacher morale and physically upgraded many schools. But the Boston experience may also be demonstrating how intractable the welter of family and school problems can be, some participants say.

"We were naive to think that in five years we could have a substantial impact," said Daniel Morley, chairman of the Morley Group in Wayland, Mass. one of compact's founders. "School officials have learned that business just can't solve everything with a check."

The idea that companies should enter the remedial education business is a relatively new approach. Mr. Chisman said that only a small fraction of the $30 billion spent on training each year is devoted to basic skills, and that it is mostly spent by companies with strong unions or severe labor shortages.

Sue E. Berryman, director of the Teachers College's Institute, complains that employers principally "train the trainable and the trained."

Motorola, the multibillion producer of two-way radios, pagers, and electronic parts, has been a pioneer in basic-skills training. The company's assembly-line workers once simply inserted colored resistors and capacitors into reddish circuit boards by copying a diagram. The job did not even require a knowledge of English. Indeed, many workers are immigrants from Poland, Colombia, India and other countries.

FEWER WORKERS, BUT LITERATE ONES

But Motorola has been introducing chip placement machines like the Fuji CP III that assemble 11,000 components an hour with superhuman reliability. Only a third as many employees are needed to operate the robots. But those employees must be able to monitor the robots' precision by reading computer graphs that track the location, rotation and thickness of inserted parts.

This statistical process control method of monitoring has spread through much of American manufacturing, forcing companies to hire workers who are more literate than in the past.

Motorola could have dismissed illiterate employees, but it has prided itself on loyalty to workers, and also sensed that it would not be easy to find replacements. So three years ago it commissioned Harper College, a local community college, to provide instructors to teach basic skills. About 10 percent of the 1,800 production employees at the Schaumburg plant are currently taking the classes. In 1988, Motorola spent $5 million on such training throughout the corporation which has 60,000 employees in the United States.

A recent visit to Motorola's Schaumburg center found a class largely of black and immigrant workers practicing division of fractions. Carritha Wells and her classmates concluded that the grapes cost $1.22 a pound.

Another class, taught by Sue Thompson, discussed the meanings of comparatives like fewer, taller, smaller, fatter and thinner by studying the different sized coffee makers pictured in a catalogue.

Ford Motor Company has established "learning centers" at 11 of its major national sites. Dramatic changes in the automobile business require better educated workers. Ernest J. Savoie, Ford's director of employee development, points out that 15 years ago companies produced 100 models; now they produce 300 different ones. More frequent shifts in machinery demand greater employee resourcefulness.

BENEFITS BEYOND THE JOB

Tennessee Eastman Company in Kingsport, an Eastman Kodak division that makes plastics for soda bottles and fibers for cigarette filters has long trained high-skilled workers, but realized two years ago that it must also train many of its machine operators in reading and calculating.

"Things that used to be monitored by gauges and dials are now monitored by computer screen, and it takes a whole different set of skills to monitor by computer screen," said Jan Stallard, an instructor.

Such training programs have produced benefits for workers that carry beyond the job. Kathy Mitura, a Motorola worker who immigrated from Greece 13 years ago, said Motorola's arithmetic course has made her a better parent to her 12-year-old daughter and 10-year-old son.

"When I sit down with my kids to do homework, I know how to help them," she said.

For decades, students who dropped out of high school had a kind of refuge. At a time when industry needed a steady supply of raw labor, they could usually find work in factories.

But the decline of manufacturing in many urban areas has changed the needs of employers and the fate of uneducated youths. Now a number of pilot projects are springing up in an attempt to redeem some of these young people.

[From the New York Times, Sept. 27, 1989]

SCHOOLS TRYING TO LINK GOOD JOBS AND SKILLS

(By William E. Schmidt)

DETROIT.—Teachers used to tell Gaylon Jefferson he should stay in school if he wanted a good job, but he says he did not see the point then. He knew too many people who had high school diplomas and were still working at McDonald's.

Besides, it was dangerous at Mumford High School here, and he said he was often robbed. "They took my shoes once," said Gaylon, a tall, quiet-spoken 17-year-old. "They got my coat. They stuck a gun in my back and took it from me, on the corner right outside school. It was the middle of winter, and it was freezing."

So Gaylon dropped out, joining more than four million other Americans 16-to-24 years old who have failed to complete high school. Instead of completing his freshman year in 1988, he took on the Detroit job market.

FAILURE, THEN HOPE

It was a mismatch. Armed with junior high skills in math and reading, and no high school diploma, he soon found himself, like tens of thousands of young men and women, most of them black or Hispanic, in large urban areas, out of school and out of work.

"There was nothing but fast-food restaurant jobs," Gaylon said. "Jobs that paid maybe $5 or $6 an hour."

But he turned out to be luckier than most. He was accepted into a machinists' training program run by Focus Hope, a nonprofit community group, and is learning to operate the kind of computer-operated equipment that makes up the city's new factories.

For decades, the students who dropped out and the high school graduates whose diplomas did not necessarily mean they could read, write or do basic arithmetic had a refuge of sorts. They could usually find work in factories in Detroit and many other cities. That was when industry needed a steady supply of raw labor, unskilled workers who, if they just kept showing up, might eventually earn enough to raise a family, buy a car, often even a house, and hope for something better for their children.

But in the last decade, Wayne County, which includes Detroit has lost more than 124,000 manufacturing jobs, most of them for unskilled labor. The remaining factories have trimmed their work forces and invested in automation and new technology, robots and computer-aided machinery that require workers who not only can read, but also can think on their feet.

That is exactly what companies are not getting, at least not nearly enough of it, business executives around the country say.

Of the nearly 14,000 students beginning ninth grade in Detroit's public schools this month, it is estimated that about 40 percent will drop out well before graduation. Nationally, according to a 1986 study on urban dropouts, about 50 percent of inner-city youths never graduate from high school.

But even among those who do finish, only a relatively small number leave school with the kind of academic and social skills that will make them attractive to college recruiters or employers. According to a study by the Business Education Alliance of the Detroit Chamber of Commerce, about 6,000 of 7,000 recent high school graduates had math and reading skills below 11th-grade levels.

School districts, states and the Federal Government use various methods to calculate dropout rates, making direct comparisons difficult, but how ever it is stated, the nation's dropout rate and ways to improve the skills of its graduates are sure to be raised today or tomorrow at the education meeting that President Bush is holding with the nation's Governors in Charlottesville, Va.

"We are at a point where we have to realize the traditional way of educating young people doesn't work for everyone," said Dr. Thomas Steele, an Assistant Superintendent in Detroit who heads the city's dropout prevention program. "How do we motivate these young people to see a direct relationship between reading and math and the jobs on the outside?"

In the last two years educators, community groups, and business people, alarmed about the declining skills of the city's pool of young workers, have started several pilot projects and collaborative programs intended to redeem some of these young people.

One is the Detroit Compact, organized by the Detroit Chamber of Commerce in cooperation with the city's schools. It enrolls sixth graders, who sign an agreement in which they pledge to maintain a C average and at least a 90 percent attendance rate in return for a guaranteed job or a college scholarship when they graduate.

The Detroit Compact is among more than a dozen collaborative projects involving the city's schools and local universities, businesses and community groups. The projects are aimed at providing incentives, counseling, tutoring and other assistance to young people at risk of dropping out. Similar projects exist in many other cities as well.

BUILDING PRIDE AND CONFIDENCE

"The problem is not just academics," said Dr. Steele, who oversaw a new program this summer that offered six weeks of intensive academic and social counseling to 240 elementary and junior high school students who were identified as potential dropouts. "We have got to build pride, self-esteem and confidence."

Charles Grenville, an official with Focus Hope, which recruits students from the Detroit schools to enter job training, said the schools and the community as a whole had failed tens of thousands of youths.

"A lot of teachers, consciously or unconsciously, reinforce the idea that education is pointless unless you are going on to college," he said. "For starters, the schools need to do better representing the new reality of the job market to these kids. We need a kind of cultural change all across the system, to sell young people on the relationship between good jobs and skills."

But to these young people already struggling in the system, the insistent pleas by educators and business people to stay in school in the hope that it will prepare them for a good job often seem badly out of synch with the gritty reality of their day-to-day lives.

Dia DeBoest is a 14-year-old eighth grader at Cleveland Junior High School on the city's West Side. Like his twin brother, Diabate, he says he wants to go to college and become a lawyer. He also recalls how others in his school, in a tough inner-city neighborhood, would dress up at Career Day, wearing doctor's gowns or suits, even carrying briefcases, like the business executives and lawyers they aspired to be.

But for many of Dia's classmates Career Day had little meaning. For them, he said, the job that holds the greatest immediate appeal is selling drugs. "At my school, lots of kids sell drugs. They can make $250 a week right now being a lookout for a crackhouse, or working there," he said. "When the teachers talk about staying in school, they don't pay attention. They are making money already, so why do they need to learn to read?"

Inner-city schools here and around the nation not only reflect the social pathologies of their neighborhoods—the crime, the drugs, the hopelessness—but in many ways also perpetuate them.

Frederick Wallace dropped out of high school when he was 15, not long after he learned he was going to be a father and needed to work to help support the baby. The child's mother dropped out too. Detroit school surveys have found that 42 percent of the young women who drop out do so because they are pregnant.

Like many young people, Mr. Wallace blames the system for not trying to intervene more on his behalf. "I was drinking and smoking and carrying on," he said. "But nobody tried to talk me out of dropping out. They just let me slide."

Others blame themselves. Maurice Moore was expelled from Cooley High School for truancy. "The principal sat me down and told me about life and about jobs," Mr. Moore said. "He said that even the Army wouldn't take me unless I got a degree. But I didn't listen. Maybe I was just stupid."

Many dropouts say now that they might have stayed in school if they had had more vocational opportunities, more real work experience, while still in high school.

For example, Gaylon Jefferson said he had always been interested in electronics. But when he tried to enroll in one of the city's special vocational high schools, he was told he could not, because his grades were too low.

Detroit school officials like Dr. Steele say the city's five vocational schools have not done a good job in dealing with students like Gaylon who are at risk of dropping out. "We have to do a better job of exposing these young people to work experiences, in the hopes of catching their interest and keeping them in school," Dr. Steele said.

STUDENTS' RECOMMENDATIONS

Two years ago, the school system here asked a panel of students to offer advice on what could be done to convey the message that staying in school was necessary for anyone hoping to get a good job.

The students offered a long list of recommendations. Teachers needed to be more caring, they said. The system needed to create more positive role models. Students needed more field trips and better career programs, to give them a clearer picture of the work place.

"A lot of students here just need someone to look up to," said Trina Williams, a 16-year-old junior at Redford High School, where she is a member of the varsity tennis team and a good student. "I went back to my eighth-grade class one day and saw the same thing there. How do you talk about jobs and school when the person they look up to most is a drug dealer?"

To help address the growing shortage of skilled workers in Michigan, the Governor's Commission on Jobs and Economic Development formed a study group of employers last spring, who then composed an inventory of the kinds of skills that businesses say they will require of young people coming into the labor market.

While the foundation of the report involved academic skills, like the ability to read graphs, charts and displays, and to write, read and understand the language in which business is conducted, most of the report addressed the development of better personal management and teamwork skills.

It said schools must do a better job turning out workers who exercise a sense of responsibility, are fair and honest, demonstrate self control, show pride in their work and are able to function well in groups.

BROAD CHANGES MAY BE NEEDED

To develop these kinds of skills better, said Gary R. Bachula, a co-author of the report, public schools may have to make changes that go well beyond tougher academic standards and more time in the classroom.

"We may eventually have to move toward more flexibility, more site-based management in the classroom, the same way the American manufacturing process has changed in recent years," he said.

But among some of the products, and the failures, of the urban public school system, there is a great deal of doubt about how much substantial change is possible. James Snow is 25, a high school dropout who, after four years in the Marines and a succession of jobs as a security guard, is now enrolled in the machinists' training program with Gaylon Jefferson.

"I have a 3-year-old daughter of my own," Mr. Snow said. "I've been in the Detroit public schools, and I think I know what the answer is. I'm going to put my child in Catholic schools. There is no way she will go to the schools I did."●

CHANGES IN CONFEREES TO OMNIBUS BUDGET RECONCILIATION CONFERENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the following changes be made in the conferees for the omnibus budget reconciliation conference, on the part of the Senate Committee on Energy and Natural Resources: That the names of Senators BINGAMAN and DOMENICI be deleted and the names of Senators BRADLEY and GARN be added.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDERS FOR TOMORROW

RECESS UNTIL 9:30 A.M.—RESERVATION OF LEADERSHIP TIME

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:30 a.m. tomorrow, Friday, October 20, and that the time for the two leaders be reserved for their use later in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MITCHELL. Mr. President, I inform all Senators—and I hope that if in each Senate office a member of the staff is now watching and listening they will convey this to Senators—that upon coming in at 9:30, I will suggest the absence of a quorum following the prayer. And when the Chair announces that a quorum is not present, I then will move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I will ask for a rollcall vote on that motion.

ORDER OF PROCEDURE

Mr. MITCHELL. I now ask further unanimous consent that the Senate begin voting on the articles of impeachment immediately following the conclusion of the rollcall vote on the motion to instruct the Sergeant at Arms.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, so all Senators, hopefully, will be contacted by their offices, or by their respective Cloakrooms, should understand that shortly after 9:30 tomorrow morning, the motion will be made to request the attendance of absent Senators. That will be a rollcall vote.

As soon as that rollcall vote is completed, which should be shortly after 9:45 a.m. tomorrow morning, the first vote will occur on the articles of impeachment. I am asking the Senators to be present, and in their seats when the first vote begins on the articles of impeachment so that we may conduct this matter in the manner which it deserves.

There will be additional rollcall votes after the first one. I will request that Senators remain in their seats during all of the rollcall votes so as to reduce the length of time necessary to conduct the rollcall votes and to maintain the decorum of the Senate during the rollcall votes.

If Senators will cooperate in that regard, we should be able to complete voting on these articles tomorrow morning and do it in an orderly and fair way for all concerned.

This will require the cooperation of Senators. I encourage all Senate offices to notify Senators who are not now present in their offices and watching this statement to inform each Senator of what I have just said. And I will repeat this again tomorrow morning.

I have discussed this with the distinguished Republican leader. He concurs in this suggested procedure, and I hope Senators, all Senators, will be cooperative in this regard.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, to restate what I just said, and to make one correction in my statement, after the prayer, I will suggest the absence of a quorum, and when the Chair announces that a quorum is not present I will then move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and will ask for a rollcall vote on that motion.

When a quorum is established, we will then proceed to vote on the articles of impeachment. I expect that to be shortly after 9:45 a.m.

So I request that all Senators be present in their seats by 9:45 a.m. so that we then may proceed to vote on the articles of impeachment, as I stated earlier.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess, under the previous order, until 9:30 a.m. tomorrow, Friday, October 20.

There being no objection, the Senate, at 9:35 p.m., recessed until, Friday, October 20, 1989, at 9:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate October 19, 1989:

COMMUNICATIONS SATELLITE CORPORATION

BARRY M. GOLDWATER, SR., OF ARIZONA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMUNICATIONS SATELLITE CORPORATION UNTIL THE DATE OF THE ANNUAL MEETING OF THE CORPORATION IN 1992?

EXTENSIONS OF REMARKS

MAJOR JAPANESE COMPANY INVESTS IN U.S. EDUCATION

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. HAWKINS. Mr. Speaker, a consensus among business leaders seems to have formed behind the notion that investment in education makes good ecomomic sense. Employers are already feeling the pinch of a shortage of workers with solid basic educational skills who can be trained and retrained to keep pace with ever changing technological advances. All estimates show this situation will only get worse in the years ahead. Bridging the gap between the rhetorical support for education and practical steps that businesses can take to form partnerships with all aspects of education is a slow process, but there are encouraging signs throughout our country that things are beginning to happen.

Among the pace setters of this trend, is the Committee for Economic Development [CED], representing 250 business executives and university presidents. Under the pragmatic and enthusiastic leadership of the Chairman, Owen "Brad" Butler, CED has spent years developing sound and workable policy recommendations for improving the development of young people and in bringing the business community throughout the country to join this effort.

In recognition of Brad Butler's outstanding contributions to the advocacy of quality education for all of America's children, the Japanese firm, Daiwa Securities, Ltd., located in Tokyo, has given the CED a gift of $1 million for the "Owen B. Butler Program in Education Studies." The endowment certainly recognizes the importance of long-term investments in U.S. educational excellence and the significant role the private sector can play in strengthening education. Daiwa's generous contribution will enable the CED to continue the pioneering work they have done in developing innovative education policies, in identifying practical programs and strategies, and in helping American businesses and communities forge effective and lasting partnerships.

Daiwa is a leader in the financial services industry and Daiwa Securities America has been a U.S. corporation for 30 years. This kind of outstanding citizenship by a major Japanese firm should not go unnoticed. I hope it will serve as an inspiration to other companies, especially our own homegrown industries, to forge new and expanding levels of partnerships between education and the private sector. Investing in education reaps broad benefits for our citizens, our communities, and the entire U.S. economy, Daiwa's actions should be applauded and replication should be encouraged.

HOME REPAIRS FOR THE ELDERLY

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Ms. OAKAR. Mr. Speaker, today I join my colleague, Chairman FLORIO of the Select Committee on Aging Subcommittee on Housing and Consumer Interests, in introducing legislation to provide minor home repairs to low-income older Americans. I commend Chairman FLORIO and his competent subcommittee staff for putting together this well considered legislation.

Mr. Speaker, a great deal of research and careful consideration went into this home repair package. Beginning in 1980, the Office of Policy Development and Research at the U.S. Department of Housing and Urban Development developed a demonstration project in seven cities across the Nation in order to test the feasibility and cost effectiveness of home maintenance programs for the elderly. The demonstration essentially provided Government support and guidelines for a concerted effort between local government agencies and existing community outreach groups qualified to provide minor home repair services. An independent study of the demonstration revealed that it was an unequivocal success. The report goes on to state,

There is a very real need for a program of this nature. Over 80 percent of those surveyed would not have been able to make repairs were it not for the home repair program.

Mr. Speaker, this home repair legislation is modeled after the seven cities demonstration project and meets a real need of older Americans who wish to live independently, comfortably, and safely in their own homes for as long as possible. The program would distribute Federal funding to local government agencies in order to provide support for community outreach groups who provide minor home repair services and referral services.

While it is true that several existing Federal programs may provide various levels of home repair services, none are designed specifically to meet this need. Allocation of resources to home weatherization or home repairs under the Community Development Block Grant Program is discretionary at the local level.

To illustrate the need for such legislation, I submit for the record an article which appeared in the Washington Post on October 7, 1989. The article tells the story of a gentleman who was recently evicted from his Washington, DC, home of 40 years because he could not keep up with the needed repairs. Mr. Short and his wife raised their children in this home. He kept a vegetable garden in his small yard and preserved what he couldn't eat. Now Mr. Short is on the streets. Legislation such as the bill that we are introducing today may have prevented this tragedy.

Mr. Speaker, I urge my colleagues to support this important legislation. Older Americans who own their homes have every right to reliable, low-cost home repair services to encourage and enable them to maintain their independence.

[From the Washington Post, Oct. 7, 1989]

AFTER FOUR DECADES IN HIS OWN HOME, ELDERLY D.C. MAN AMONG THE HOMELESS

(By Molly Sinclair)

For 40 years, Jesse Redmon Short has lived in a two-story red brick row house in Northwest Washington. He and his wife, Henrietta, bought the house for $13,995 with what he earned as a plasterer and what she made as an office worker for the U.S. Department of Defense.

Together they raised seven children in the house.

But Henrietta Short died in 1970. The children are scattered. And now Jesse Short's house has been boarded up by city officials who say it is too dangerous to live in.

That put Short 76, among the homeless.

Thousands of people are expected to march on the Mall today to draw attention to the fact that there is a shortage of housing that people can afford. Short seemed not to understand why so many people would do that, but he said he knows "so many people are worse off than me."

The problem for Short, who spent last night in a shelter and who will be on the streets today wondering what is going to happen to him, is that he didn't have enough money to keep up the house that he owns. Short said his monthly income of $344.71 from Social Security is enough to pay his taxes but not enough to cover the cost of the electrical, plumbing and structural repairs that must be made before the house can pass muster with city housing inspectors.

David Harper, director of housing inspection for the city's Department of Consumer and Regulatory Affairs, said that Short's house was ordered closed by the fire department because "the roof, the walls, ceilings and floors had collapsed."

Harper, who helped board up Short's house with plywood, said that he and other officials went to the home at 406 Shepherd St. NW on Aug. 29 because they had received complaints about the condition of his property.

"We went to find out if the complaints were valid," Harper said, declining to identify who complained.

Harper said his agency would have been derelict if it had allowed Short to remain in the house because "if we had allowed him to stay and he got up one night and forget where the safe places were and stepped in the wrong place . . . ."

When Short realized that the officials were closing his home, he called Paula Scott, an attorney with Neighborhood Legal Services, who had helped him once before.

"There are serious problems with the house; there is no dispute about that," said

Scott. "But here is an elderly man who has been living alone taking care of himself in his own house. And without any real notice, he finds he is on the street. They put him out of his house and they haven't referred him to anyplace to live."

The Department of Human Services is now working to find Short an apartment, said Rae Par-Moore, spokeswoman for the department. She said the department also is in contact with community groups and other city officials to see if there is a way to help Short with home repairs and other services.

Meanwhile, Short is living in a shelter at 1436 Irving St. NW.

In an interview yesterday, Short said he wants to move back into his house if it can be repaired. "It is mine and I can raise my garden there and I am comfortable there," he said.

Short converted the small patch of ground behind his house into a vegetable garden when he retired 15 years ago. He grows tomatoes, collard greens, blackeyed peas, onions and beans.

What he can't eat immediately, he preserves for later. "I just put some collard greens in a pan and cook them. Before they get cold, I put them in a jar and put the jar tight and they will keep," he said. "If they get cold, they won't keep."

Short said he normally cooks his meals on a hot plate. Some days he goes to the lunch program for senior citizens at the First Baptist Church, 712 Randolph St. NW.

"The widows give you food, too," Short said.

Born Nov. 27, 1912, in Little Washington, N.C., Short came to the District of Columbia in 1934, "It was the Depression and I was looking for work" he said.

Short said he stopped working when he was in his early sixties and began to lose his eyesight. "I am halfway blind," he said.

When the house began to fall into disrepair, because of his sight problems and his limited income, he asked his sons for help. "They kept saying they were going to fix it next year," he said.

Short said his children don't have room for him in their homes. "My children got married and they have children and they have men. What do they want me hanging around for? I should take care of myself. You never hang around where you aren't wanted."

TRIBUTE TO THE HEBREW ACADEMY

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. BILBRAY. Mr. Speaker, I rise today to recognize and honor the Hebrew Academy of Las Vegas. Founded in 1979, the Hebrew Academy was the first nonprofit, nonparochial elementary school in Las Vegas. On Saturday, October 28, the academy will celebrate its 10th anniversary of dedicated service to the community of southern Nevada.

Housed at Temple Beth Sholom, the school opened with 57 students in kindergarten through sixth grade. During the past 10 years, the academy has more than tripled its student population, doubled its professional staff and expanded its curriculum. In 1983, the school relocated to its current facility on Bracken Avenue and added the seventh, eighth, and ninth grades. The school plans to move to its new campus in the Summerlin development in September 1990 and add a preschool and 10th, 11th, and 12th grades.

The Hebrew Academy is committed to developing in its students a sense of self-worth, a lasting love for learning and the ability to become responsible citizens. The academy is dedicated to cultivating a positive academic attitude and concern and respect for all people and property.

The Hebrew Academy boasts a long list of commendable accomplishments. Its students consistently place higher on national achievement tests than those in public and other private schools. In 1986, the Northwest Association of Schools & Colleges bestowed accreditation on the Hebrew Academy after an extensive review of the school's curriculum, faculty, administration, finances, tests and social atmosphere.

For its numerous contributions the Hebrew Academy has received many commendations and awards. Among its achievements, the Hebrew Academy has been recognized as the 1989 National Geographic Geography Contest State winner, the 1987 and 1988 Institute for Education Excellence Award, and the 1987 and 1988 Presidential Academic Fitness Award for Outstanding Academic Achievement. The Hebrew Academy is a member of the National Association of Independent Schools [NAIS], a founding member of the Association of Private & Parochial Schools of Nevada in 1986, and a founding school of the Jewish Community Day School Network of America in 1987.

Mr. Speaker, I urge my colleagues to join me today in extending congratulations to the Hebrew Academy on its anniversary of commitment to educational excellence. This outstanding institution has been influencing young lives in southern Nevada for 10 years and will continue to serve the Las Vegas community for many years to come.

COUGHLIN SURVEY SHOWS CONSTITUENTS HAVE FAVORABLE RATING FOR PRESIDENT BUSH; FAIR TO POOR RATING FOR CONGRESS

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. COUGHLIN. Mr. Speaker, a majority of residents of the 13th Congressional District of Pennsylvania, in responding to my annual questionnaire, indicated that they are generally pleased with the performance of the Federal Executive under the leadership of President George Bush. An overwhelming majority, however, gave the 101st Congress only a fair or poor rating.

Questionnaires were mailed in July to every home and postal box in the district which includes 28 municipalities in Montgomery County and parts of three wards in the city of Philadelphia. Nearly 11,000 constituents responded to this summer's poll.

Major findings of the survey are:

Over 51 percent gave President Bush a favorable rating of good or excellent when asked to evaluate the President's leadership. Another 37 percent gave the President a fair rating, while only 11 percent issued a poor rating.

Congress, under the current leadership, did not receive such high marks. Only 23 percent of my constituents gave the Congress a favorable rating of good or excellent. Nearly 50 percent thought the 101st Congress was doing a fair job and over 27 percent thought that Congress deserved a poor rating.

To reduce the budget deficit, 56.5 percent favored a cut in spending on national security and defense programs, versus a cut in spending on entitlement and domestic programs—32.25 percent, and raising taxes—11.2 percent.

A majority—53.09 percent—felt that attacking the demand side of the drug problem through education, rehabilitation and punishment was most important in winning the war against drugs. Comparatively, 46.91 percent felt that continuing to attack the supply side of drugs was most important.

An overwhelming majority of 85 percent said that the Federal Government should continue to insure depositors' savings in the Nation's banks and savings and loans, with 14.39 percent in disagreement.

Considering the recent events in Panama, nearly three-quarters of my constituents felt that the United States should consider the Panama Canal Treaties broken, and to seek a United States military presence to remain in Panama after the year 1999.

As I have done in past years, the results of my annual Congressional Questionnaire will be provided to the White House.

QUESTIONNAIRE RESULTS—1989

1. How do you rate the performance of the Federal Executive under President Bush?
   A. Excellent—10.91%.
   B. Good—40.83%.
   C. Fair—37.24%.
   D. Poor—11.02%.
2. How do you rate the performance of the Federal Congress under current leadership?
   A. Excellent—1.06%.
   B. Good—22.29%.
   C. Fair—49.47%.
   D. Poor—27.18%.
3. Which of the following do you favor to reduce the budget deficit? (Choose one or more)
   A. Cut spending on National Security and defense programs—56.55%.
   B. Cut spending on entitlement and domestic programs—32.25%.
   C. Raise personal income taxes—11.20%.
4. Most important in winning the "war against drugs" is to attack: (Choose one)
   A. The supply—foreign production, smuggling, and distribution—46.91%.
   B. The demand—education, rehabilitation, and punishment of offenders—53.09%.
5. Should the Federal Government insure depositor's savings in banks and savings and loans institutions?
   Yes—85.61%.
   No—14.39%.
6. Should Federal Judges and senior government employees receive a substantial pay increase independent of Members of Congress?
   Yes—40.42%.
   No—59.58%.

7. Soviet leader Gorbachev's actions and the reduction of tensions between the U.S.S.R. and the U.S.: (Choose one)

A. Are a permanent improvement—23.82%.

B. May change, but only moderately—55.16%.

C. May change drastically as in China—21.02%.

8. President Bush's decision to restrict military, economic, and technological cooperation with China in reaction to recent events:

A. Too harsh—6.88%.

B. Correct—68.76%.

C. Not harsh enough—24.36%.

9. Considering recent events in Panama, should the U.S. consider the Panama Canal Treaties broken and seek to allow a military presence in Panama after the year 1999.

Yes—73.52%.

No—26.48%.

INDEPENDENCE FOR UKRAINE

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. NOWAK. Mr. Speaker, I rise today to applaud the liberalization movements behind the Iron Curtain. The people under Soviet rule are moving away from the enslavement of the Communist doctrine and pursuing democratic and economic reforms: Poland has a non-Communist Government for the first time since Soviet control, Hungary is implementing market reforms, and the wall between the two Germanies is crumbling under the desires for freedom.

However, the road to total freedom within the Soviet bloc is long and arduous. Many bridges must be crossed. Many obstacles must be overcome. The repression of religion, the gross violation of human rights and the Soviets' continued denial of its satellite nations' rights to self-determination, all underscore the great strides that still must be taken to genuinely and fully emancipate the captive nations of Eastern Europe in their quest for liberty and national independence.

All nations deserve the right to be free and to rule themselves. Recognizing this to be a fundamental truth, Congress passed Public Law 86-90 in 1959 acknowledging the rightful claim to independence of nations that fell into the Communist orbit.

Notwithstanding glasnost and perestroika, much more needs to be done to achieve full freedom for these nations. In that spirit, Mrs. Dasha Procyk, a constituent from Buffalo and the newly reelected national chair of the Women's Association for the Defense of Four Freedoms for Ukraine, Inc., has brought to my attention the following resolution passed by that organization urging independence for Ukraine:

RESOLUTION

Whereas, traditionally women have been a bulwark against forces that thwarted or impeded the quality of life of their immediate families or society at large and throughout centuries have been deeply involved in every facet of life; and

Whereas, the twentieth century is still marked by human degradation, persecution, denial of basic national and human rights, in the Soviet Union in particular; and

Whereas, the quest of Ukrainian women in occupied Ukraine to secure these unalienable rights for themselves and their families have exposed them to loss of freedom by detention, daily harassments, exile and possible untimely death; and

Whereas, notwithstanding the current euphoria surrounding "glasnost and perestroikae", Ukrainian women have been subjected to reprehensible forms of injustice, most notable is guilt by blood or association; and

Whereas, the free exercise of religious faith is still under a heavy cover of governmental control and the recent mass protests in Lviv and elsewhere to secure religious freedom fully attest to the dedication of the Ukrainian people to regain these fundamental rights; and

Whereas, an accurate assessment of the full scope of Soviet Russian transgressions against national and human rights perpetrated against Ukraine and her people is still being compiled and the non-compliance with the Helsinki accords noted; and

Whereas, the massive attempts of the Russian ruling clique to preserve the Russian empire and prevent self-liberation and self-determination of nations as guaranteed by numerous ratified charters, must be countermanded by all those who strongly believe in justice and freedom for all; and

Whereas, women of the free world have an obligation to rally their talents and efforts to cause these problems to be addressed at public forums and diligent searches to implement changes found; Now, therefore,

We Ukrainian-American Women, Assembled here in New York on September 30 and October 1st 1989 for the IXth Convention do hereby appeal to the world to join us in calling for Independence for Ukraine!

As an example of the continuing harassment of individuals, Mrs. Procyk has furnished the following factsheet about Ukrainian poet Stepan Sapelyak:

SAPELYAK CASE

BASIC FACTS

Stepan Sapelyak (age 38), Head of the Ukrainian Helsinki Union-Kharkiv Branch, has informed the Ukrainian Central Information Service (UCIS) in Toronto that on Friday, August 18 he was called into the Lenin Regional Military Commissariat in Kharkiv, USSR where he was told that on August 22 he would begin a 3-month tour in the Soviet Army assigned to cleaning up the to No. 4 Block of the Chernobyl nuclear power plant.

The army draft is the latest in a series of harassments that Sapelyak has faced since his return to Kharkiv following a Spring 1989 visit to the United States and Canada.

LEGALITIES

While it is perfectly legal for the Soviet Army to draft members in reserve up to the age of 45, local authorities in Ukraine (as well as in other republics, i.e. Estonia) have used the draft laws, and in particular—assignment to the Chernobyl facility, both capriciously and punitively. Just last year, the Ukrainian Catholic Press Bureau in Rome reported that Rev. Mikhailo Havryliv, a Uniate priest in his 30's, completed a 6-month tour in Chernobyl, 3-months longer than usually assigned.

Sapelyak claims that the action by the Army is being conducted in conjunction with the efforts of the local militia and KGB. In his phone conversation with UCIS-Toronto, Sapelyak stated that his draft was being used as a way to get him out of Kharkiv so that he could not participate as a candidate in the local republican elections scheduled for this fall.

According to Chernobyl expert Dr. David Marples of the Canadian Institute of Ukrainian Studies, it is highly unusual for someone in the reserves to be drafted to Chernobyl for two reasons. First, most army conscripts in Chernobyl are new recruits ages 18-19, and secondly, since the Chernobyl clean-up is coming to a close, it is unusual that more people are being drafted to that area.

SAPELYAK HISTORY

In 1973 Sapelyak was arrested and sentenced to ten years imprisonment and exile for "writing tendentious and nationalistic poems which go against the Soviet and socio-political order of the USSR" and for "anti-Soviet agitation and propaganda." He served his sentence in the Perm 36 Camp and Vladimir prison—his exile was to Kolyma and Khabarovsk.

SERIES OF HARASSMENTS

Sapelyak has recently faced a series of harassment by Party Officials, the KGB, local militia and the press.

According the Ukrainian Central Information Service—London: CP First Secretary V.P. Mysnychenko, of the Kharkiv Oblast Party Committee, publicly attacked Sapelyak in his address to the July 21 party plenum. In the July 23 issue of *Socialistychnaya Kharkivshchyna* sapelyak was described as an agitator and head of an extremist group.

On July 26 airport authorities at Moscow's Sheremetovo airport notified Sapelyak that they had confiscated all the materials that he had acquired during his trip to the West.

On August 6 the Kharkiv Branch of the Ukrainian Helsinki Union (UHU) organized an ecological demonstration attended by 10,000 participants. As Sapelyak addressed the audience, the police switched off his microphone. Sapelyak was attacked by ten members of the special police who twisted his arms behind his back and injected him with an immobilizing agent.

Further, she also provided the following two proclamations signed, one by the mayor of Buffalo, the other by the county executive of Erie County, naming the week of July 17 to July 22, 1989 as "Captive Nations Week."

Mr. Speaker, continuing to speak out and to focus on the real need for further liberalization behind the Iron Curtain, we send a strong signal of support and inspiration to our freedom loving friends in Eastern Europe.

CITY OF BUFFALO

PROCLAMATION

Whereas, throughout history, mankind has been subjected to various trials and tribulations which tested the foundations of civilizations; and

Whereas, over two centuries ago, the great American experience has laid the foundations to man's highest ideals of freedom and national independence; and

Whereas, this unique role model has served as a beacon for the rest of the world and has proven, by the test of time, its viability, stability and permanence; and

Whereas, thirty years ago, recognizing the grave implication and direct threat to the free world, the United States Congress passed unanimously Public Law 86/90 calling not only to halt further expansionism

but acknowledging the rightful claim to independence to nations that fell into Russian Communist orbit; and

Whereas, the recent upheavals in the Baltic States, Ukraine and China once again proved that people refused to accept the yoke of enslavement and have demonstrated clearly the Achilles' heel of Communist dictatorship; and

Whereas, the Captive Nations Week Law is expressly designed to encourage and support the rightful aspirations of the enslaved nations in their just struggle to regain their national freedom and independence; and

Whereas, the monumental task in defense of freedom requires concentrated efforts, dedicated strength and perseverance, joined in tandem with defense preparedness, ever mindful of the delicate balance now existing, now, therefore, I,

James D. Griffith, Mayor of the City of Buffalo, do hereby proclaim July 17 to July 22, 1989 as "Captive Nations Week" in the City of Buffalo and invite the people of our city to observe this week with appropriate ceremonies to give testimony and reaffirm their dedication to the ideals of freedom, independence, national and human rights.

COUNTY OF ERIE PROCLAMATION

Whereas, the United States has been a symbol of hope for all mankind, and her sons and daughters have fought and died the world over to secure national and individual freedom and liberty in the world; and

Whereas, the cause of freedom is indivisible—its loss anywhere being a loss everywhere, and perils to freedom wherever they arise, imperil the rest of the world; and

Whereas, since the end of hostilities of World War II, many nations lost their independence and these submerged nations look to the United States, as the citadel of freedom, for leadership in bringing about their restoration; and

Whereas, thirty years ago in 1959, the United States Congress recognized the grave implications and direct threat to the world, passed unanimously Public Law 86/90 calling not only a halt to further expansionism but clearly acknowledging the just and rightful claims to independence to all nations that fell into the Russian Communist orbit; and

Whereas, the recent events and upheavals in the Baltic States, Ukraine, the bloodbath in China, once again proved that nations refuse to acquiesce enslavement and have clearly demonstrated the Achilles' heel of Communist dictatorship; and

Whereas, the Captive Nations Week Law is expressly designed to encourage and show support for the rightful aspirations of the enslaved nations in their just struggle to regain their national freedom and independence; and

Whereas, the monumental task in defense of freedom demands concentrated efforts, dedication, strength and preseverance, which must work in tandem with our defense preparedness, being ever mindful of delicate balance now existing; now, therefore, I,

Dennis T. Gorski, Erie County Executive, do hereby proclaim July 17th to July 22nd, 1989 as "Captive Nations Week" in the County of Erie, and invite the people of our County to observe this week with appropriate ceremonies to give adequate testimony and reaffirm our dedication to the ideals of freedom, independence and national and human rights to all.

GEORGE BERLIN: A RECORD OF ACCOMPLISHMENT

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. LEHMAN of Florida. Mr. Speaker, George Berlin has the rare talent and capacity to simultaneously expand and improve both his business and his community.

Under his leadership, the Aventura-Turnberry development has, in quality and size, been the economic and cultural engine for south Florida. In our community, he has led the drive for the beautification of northeast Dade, successfully fought for boating safety, and been a mainstay in our Jewish community leadership.

As has been said, if you want to get the job done, ask the busiest person you know. In northeast Dade, that person is George Berlin, and he always comes through.

Mr. Speaker, I would like to share with my colleagues an article on George Berlin which appeared in the fall edition of Aventura magazine:

GEORGE BERLIN

He's an accomplished developer, community leader, and devoted family man. He's admired by his colleagues and loved by his family and friends. Best of all, George Berlin is a modest, good natured person that would rather spend his time drawing out the good in others rather than reflect upon himself.

"George is one of the most competent and effective men I've worked with in my over 21 years in public office," said Commissioner Harvey Ruvin. "One of the most admirable things you learn about George is that he will always deflect praise and give credit to other people. He's both knowledgeable and gracious at the same time."

"As a boss, George is a gem," comments Debbie Lazar, his secretary for the past thirteen years. He's compassionate, understanding and 'liberated'. He even gets his own coffee and waters his own plants," she says with a smile.

The man who is associated with every project that goes up in Turnberry Isle would have been an architect if he had his way. He aspired to be like his uncle, Henry Sugarman, a prominent architect who designed the New Yorker Hotel and Number One Fifth Avenue.

"When I discovered I didn't have any artistic ability, I took some advice and studied civil engineering. In the Navy, I was with the Civil Engineer Corps, and after the service, I came home to work with my uncle." Following Sugarman's untimely death, Berlin attempted to become a design engineer with another architect. That's when he discovered that his talents lay in the field with the tangible building blocks of construction. "I couldn't design my way out of a paper bag," he says today.

But it turned out all right. There is nothing he would rather be than a builder and developer. "My pride and joy is taking raw land and making something out of it. That's exciting," Berlin says.

He loves to show photographs—big, color aerials that trace Turnberry's development from sand flats to highrises. "You wouldn't be allowed to do this today," he says about developing the original 785 acre mostly wetlands. He concedes Aventura's master planned development code would also seem at odds with today's restrictive climate. Luckily these restrictions weren't a factor 20 years ago, development began and people moved in. "It was like the Sahara then. All you saw was sand. The people who bought here then were real heros."

"I've worked with George Berlin since the inception of Aventura more than 20 years ago. In those days, it was called Biscayne Village," said Robert Swedroe, Turnberry Isle's master architect. "From working with George, I've learned he's one of the most multi faceted individuals I know. He becomes personally involved and dedicated to every project he is affiliated with. He's what you might call a 'good will' ambassador. People truly look up to him for his common sense and good judgement," Swedroe added.

Berlin's obvious love for his profession and dedication to hard work made a big impression on his four children. Today, their occupations range from two who are computer specialists, one a businessman and another a graphic artist and photographer. Three of his children and five grandchildren live within five minutes of their parents' home.

"We're a very close family. Lila, (Berlin's wife of 38 years) and I have been very lucky with the kids," he says. In the Turnberry organization, Berlin is the man who handles the details. In the community, he assumes the same role.

"It seems I'm always approached to assume a leadership role in the community. It's very difficult not to get involved when you care about your community as I do."

Over the years, Berlin has been elected Builder of the Year (1979) by the Builders Association of South Florida. He has also served as president of the Builders Association of South Florida, his temple and Homeowners Association. He has also been actively involved in many government and civic organizations including serving as the founder and board member of the Joint Council of Aventura, former board member of Parkway Regional Medical Center, and member of the Governor's Growth Management Advisory Committee.

SPAIN OFFERS TO HELP IN PANAMA

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. CROCKETT. Mr. Speaker, after all that has happened during the past few days with respect to Panama, the crux of the problem remains. We still say we are determined to get rid of Noriega, and Noriega still says he is determined not to be gotten rid of. We have been in this standoff for some time, and what worries me is the seeming absence of constructive thought in our Government about how to get out of it. We seem to have washed our hands of the OAS when it failed to meet our unrealistic expectations that it could somehow vanquish Noriega after we had failed to do so ourselves. If we have a policy now, I do not know what it is, and it is not apparent in our response to recent events.

So I was heartened to read recently that someone, at least, is making sense on

Panama. The Washington Post reported that Prime Minister Felipe Gonzalez, of Spain, is working on "a dignified way out" for both sides. Commenting on his proposal for new elections followed by Noriega's retirement, Mr. Gonzalez said,

This would be a solution for Panama and would not imply any interference in internal affairs but rather a claim to respect for the sovereignty and freedom of the Panamanian people.

Mr. Speaker, we still need the help of our friends to extricate ourselves from this crisis that is partly of our making. I hope this time we will not do what Eliott Abrams did, and tell those who want to be helpful to go fly a kite. I hope this administration will now see the wisdom of stepping back and letting others seek a solution to the Panama crisis that would protect both our interests and Latin American sensitivities.

I include the Washington Post article for the information of my colleagues:

[From the Washington Post, Oct. 12, 1989]

SPAIN OFFERS TO HELP IN PANAMA

MADRID, October 11.—Prime Minister Felipe Gonzalez of Spain called today for fresh elections in Panama based on agreement between Gen. Manuel Antonio Noriega and his opposition that the new president would have power to name a different army commander but would allow Noriega to remain in the country.

Gonzalez made his proposal in an interview one week before a visit to Washington during which Panama and Central America are scheduled to be at the center of conversations with President Bush and other top U.S. officials. Referring to Spain's historical ties to the area and his own intense interest, he also offered Spanish assistance in setting up the new elections if this is acceptable to all sides in the Panamanian conflict.

Gonzalez's idea, which he called "a dignified way out" of a crisis that has bedeviled Washington and convulsed Panama, seemed to follow a middle road between Noriega's determination to retain power in Panama and the Bush administration's desire to get him to the United States to face indictment on charges related to drug smuggling. The key, Gonzalez explained, lies on dropping the focus on Noriega's personal fate and concentrating instead of transferring power into the hands of an elected civilian government.

"This would be a solution for Panama and would not imply any interference in internal affairs but rather a claim to respect for the sovereignty and freedom of the Panamanian people," he said.

In a tough speech two days after the failed military coup attempt Oct. 3, Noriega said it was "no time to talk democracy," and Gonzalez acknowledged in the interview that his proposal for new elections seems headed in the opposite direction from actions taken by Noriega to tighten his grip on power. But he said the coup attempt, the second in about a year, was more serious than previous challenges and betrays a restiveness in the Panamanian military that Noriega knows he could confront again unless the crisis is resolved.

"It is true that Gen. Noriega is a very adroit man, with a great capacity for maneuver," he added. "But I am certain he must be extremely worried about the internal deterioration of relations within the defense forces."

Gonzalez did not mention widely reported U.S. connections to last week's coup attempt or previous U.S. statements encouraging such a rebellion against Noriega.

Gonzalez, who is seeking a third term in elections scheduled for Oct. 29, has followed Central American affairs closely since he became prime minister in 1982. Against this background, he said, the White House has sought to make consultations on the region an important part of next week's conversations, and since Bush's arrival to the presidency has initiated written or telephoned exchanges on other subjects as well.

"We both think about, worry about Central America," Gonzalez said, referring to Bush.

Gonzalez, 47, has enjoyed particularly close contacts in Panama since as a young Socialist leader he become friendly in the 1970s with Gen. Omar Torrijos, the strongman in power at the time. Shortly before last week's coup attempt, officials here said, he held a long conversation in Madrid with Guillermo Ford, an opposition vice presidential candidate in elections last May that were annulled by Noriega and superseded by an appointed government loyal to the military.

In describing his proposal, Gonzalez went out of his way to emphasize that whatever solution is attempted should be Panamanian and should focus on the election of an effective civilian government. Although he did not say so, this seemed to be an allusion to the discussions in Washington over what the United States should do to push Noriega out of power and capture him.

"Trying to contribute to the search for a way out, rather than being satisfied with making statements, I would venture to say, against the prevailing wisdom, that it is time through dialogue to try to recover a Panamanian solution of the problem," Gonzalez said.

"I don't think we can go back to what happened in the May electoral results," he added, "but I think it would be positive to have an agreement between the provisional government and the opposition to hold elections, with all guarantees, and to respect the results . . . including the consequence that the president of the republic should name the armed forces chief, which means in the final analysis civilian authority over military authority."

Gonzalez did not say to what degree he has tested his idea with Noriega's government in Panama or with U.S. officials. He strongly suggested, however, that the U.S.-backed opposition has encouraged him to play a role in trying to organize the new elections.

"If it was requested by the two sides—I refer to the provisional government and the oppostion, which seems to want it—to help them . . . without a doubt I would give my help," he said.

Gonzalez dismissed fears that Noriega could continue to run Panama from behind the scenes if he remains in the country stripped of his title of armed forces commander. He said the Panamanian leader would become "citizen Noriega" without effective power in the military or the country at large once he lost his command.

In the past, Panama Defense Forces commanders have passed from power once they were replaced, he said.

But to be effective, Gonzalez's proposal would require a radical change in the Panamanian system: making the military commander subservient to the elected president. Since Torrijos, Panamanian presidents have held only as much power as allowed by the commanders of the Panama Defense Forces.

Also implicit in his proposal would be a U.S. decision to drop efforts to bring Noriega to the United States for trial on the drug charges.

AID FOR POLAND: HOW MUCH? WHAT KIND?

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. HYDE. Mr. Speaker, Douglas Seay, a policy analyst for the Heritage Foundation, has some sage advice on our pending legislation to aid Poland. I commend it to my colleagues:

AID FOR POLAND: HOW MUCH? WHAT KIND?

By now, all the world knows of Poland's economic despair, and of the enormous pressure on Poland's new democratic leaders to halt the plunge of Polish living standards. And the world knows, too, of the dilemma faced by Poland's new Prime Minister, former Solidarity leader Tadeusz Mazowiecki. While he moves to dismantle the Communist Party's remaining hold on power and to transform the Polish economy from the failed Stalinist model to a free market system, he faces enormous obstacles that threaten to sweep away him and the democratic movement. The question for the United States, therefore, is not whether it should help Poland. It is clear that it must. The question is how much and what kind of aid will alleviate Poland's immediate suffering while ensuring the survival of Poland's democracy, its economic growth, and its escape from Soviet control.

It is not enough for American aid to make some symbolic point or to provide moral support. Rather, such assistance should be tailored to help Poland use its own resources to grow out of its economic crisis. Otherwise, the economic reforms in Poland will fail and that country will join the ranks of those Third World nations perpetually on the international dole. This must be what guides the White House as it crafts its policy toward Poland and the House of Representatives, which is scheduled to vote this week on a bipartisan bill to assist Poland and Hungary. The Senate has yet to schedule a vote on the bill, which passed the Foreign Relations Committee in late September.

FOOD ASSISTANCE

Many Western countries, including the U.S., are sending surplus food to Poland. The humanitarian impulse behind this is admirable. The problem is that these measures will prolong Poland's food shortages by depressing agricultural prices and reducing incentives for Polish farmers to produce more crops. This is the lesson of three decades of tragic Third World agricultural programs. What Poland needs from the West is vouchers with which the Polish government could purchase food on the domestic and international markets. Food sellers could exchange these vouchers for hard currency from the U.S. and the West. This would create direct incentives to Polish farmers to produce more because they would be paid in a currency that they want. As important, it would bring domestic prices in line with the international market.

DEBT RELIEF

Poland is struggling with a crushing hard currency debt of $41 billion; it cannot pay even the interest. Yet, Poland needs new hard currency to revive its economy and import basic consumer goods. Lending Poland more money and adding to its debt is no answer, as the U.S. and the West frustratingly have learned from wrestling with the Third World debt problem. Instead, the U.S. should help Poland by granting a moratorium on debt payments and encouraging debt write-downs and debt-equity swaps, in which the West's holders of debt obligations exchange them for Polish currency or productive assets. The Polish government is eager to make use of this process, and the fire-sale prices of Polish state-owned enterprises are an attractive alternative to near-worthless loans.

The real value of Poland's debt, in fact, is considerably less than the numbers suggest, as the commercial debt currently trades for a fraction of book value. Approximately $25 billion of the total debt are direct loans from West European governments and loan guarantees. The U.S. government is owed $2.2 billion, most of which is in Commodity Credit and Export-Import Bank credits. The U.S. repeatedly warned the West European governments in the 1970s not to lend Poland more than it would be able to repay. Washington's advice was ignored. Now, the U.S. government should urge the West Europeans to assist Poland by admitting their mistake, accepting their losses, and writing off the loans.

REDUCTION OF TRADE BARRIERS

Poland can grow out of its poverty and earn hard currency by exporting goods. When it tries to do so, however, it slams into tariffs and quotas in such sectors as agricultural products, where Polish potential is greatest. Here the U.S. is a major culprit. U.S. tariffs and quotas on imports from Poland thus should be reduced or abolished.

GUEST WORKERS

The U.S., and West European nations in particular, could help Poland earn hard currency through a guest worker program. With a labor surplus, Poland could send workers to temporary employment in the West. Typically, a major portion of guest worker earnings are sent home. Expanding existing programs would allow more Poles to work in the U.S. A single worker in the West, earning a modest salary, can support an extended family in Poland.

Each of the proposals by the Bush Administration and Congress for assistance to Poland include creation of an "enterprise fund" to provide loans for Poland's emerging private sector. To ensure that the Polish government is taking appropriate action to move its economy toward a free market, the U.S. government should establish criteria to judge Poland's progress toward this goal. These criteria also could serve Poles as guidelines to help them set priorities and maintain direction. These criteria should include:

Establishment of security of property rights and contract, including the right to acquire and dispose of private property in all its forms. Private property is the surest link between effort and reward. These rights can only be enforced by an independent judiciary.

Reforming the state's regulation of the private sector to remove restraints on competition and to permit unhindered entry to, and exit from, the market.

Elimination of wage and price controls.

Creation of a tax system that does not penalize entrepreneurial activity, including reducing the present 50 percent tax on profits.

Removal of such barriers to foreign trade as tariffs and quotas and allowing private businesses to import and export freely.

Elimination of restrictions on investment and the movement of capital, including the repatriation of profits by foreign investors.

Creation of a private banking system.

Privatization of the state sector by selling or leasing state-owned enterprises to Poles or foreign investors. Currently, over 90 percent of Poland's industry is owned by the state.

The U.S. has an opportunity to help ensure the success of democracy in Poland by providing desperately needed assistance. But it must structure this aid carefully so that it alleviates Poland's problems rather than perpetuates or exacerbates them. None of the existing proposals from the White House or congressional committees will render effective assistance to Poland. Congress should seize the opportunity to rethink and correct these proposals.—Douglas Seay, Policy Analyst.

A TRIBUTE TO MILTON I. SCHWARTZ

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. BILBRAY. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to Las Vegas businessman and philanthropist, Milton I. Schwartz. On Saturday, October 28, 1989, the Hebrew Academy will be honoring this generous man for his $500,000 charitable donation to the Academy. Founded in 1979, the Hebrew Academy was the first nonprofit, nonparochial elementary school in Las Vegas.

Milton Schwartz could easily be described as an example of the fulfillment of the American dream. Born in Brooklyn, NY, Mr. Schwartz attended both New York University and the Wharton School of Finance. He came to Las Vegas in 1946, following his honorable discharge from the U.S. Army Signal Corps. He has since applied his knowledge and experience in a variety of areas, most of which have proven to be enormously successful, both in terms of personal financial wealth and in terms of service to the community. A self-described "deal-maker" he has enriched the city that he now calls home.

Mr. Schwartz has owned, in whole or in part, and managed several Las Vegas businesses including Misco, Inc., a cable television company, SMATV Group, Ltd., which has 33 complexes, Valley Group Constructors, and Spring Mountain Business Park. He has acted as president of the Las Vegas Checker Cab Co. and vice president of Star Cab Co.

In addition to his professional accomplishments, Mr. Schwartz is a past director and member of the loan committee of American Bank & Trust Co., and chairman of the Small Business Administration, Region IX Advisory Council. Help Them Walk Foundation, the American Diabetes Association, Bluecoats, Inc., and the Institute of Pastoral Counseling represent only a small portion of the many charitable, civic, and political associations that are proud to list him on their mastheads.

Mr. Speaker, Milton I. Schwartz can truly be described as a renaissance man, whose philanthropy and business acumen—in addition to his wide breadth of knowledge and interest in a multitude of fields—continue to earn him a place as a most valued member of our community. I urge my colleagues to join me in honoring Mr. Schwartz, his contributions to the community of Las Vegas have earned him recognition throughout Nevada as one of the State's finest citizens.

COLOMBIA'S SACRIFICES CONTINUE

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. COUGHLIN. Mr. Speaker, another Colombian judge, Hector Jimenez Rodriguez, was assassinated by the drug traffickers this week in Medellin, Colombia. An anonymous caller boasted that "the extraditables" killed the judge as a "first retaliation" for the recent extradition of four Colombians to the United States to face drug charges.

Over 221 court employees, including 42 judges have been murdered in Colombia during the past 12 years. Additionally, hundreds of law enforcement officials, journalists, politicians, and private citizens have also been killed by the drug cartels. No nation in the world has paid a higher price in its efforts to combat drug trafficking than Colombia.

It has now been 2 months since Luis Carlos Galan, a Colombian senator and politician, was gunned down by the drug traffickers for his antidrug stance. It was this brutal murder which led to the Colombian Government's full-scale crackdown against the traffickers.

Since Senator Galan's murder the Colombian authorities have rounded up over 12,000 drug suspects, seized millions of dollars worth of property and assets belonging to the drug traffickers, and have aggressively gone after Colombian cocaine processing labs and clandestine airstrips.

Perhaps most importantly, on August 19, 1989, President Barco issued an executive decree which effectively revived the extradition process. Thus far four drug trafficking or money laundering suspects have been extradited from Colombia to the United States for prosecution.

The United States has recently provided Colombia with $65 million worth of emergency military equipment to help that beleaguered nation combat the drug traffickers, as well as $2 million to help protect judges. More assistance will follow later this fiscal year as part of the President's $2 billion, 5-year Andean military, law enforcement, and economic assistance package.

The international community must also reach out to help Colombia in its moment of need. The Colombian effort to eliminate cocaine trafficking is manifestly in the interest of all nations and all peoples of the Earth. Every country must realize that Colombia's fight is also their fight and Colombia's brave martyrs

have died not only for Colombia, but also for all who believe that ending the scourge of drugs is a goal worth fighting for.

INTRODUCTION OF THE DESIGN PROTECTION ACT OF 1989

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. MOORHEAD. Mr. Speaker, today we are introducing the Design Protection Act of 1989. I am pleased that the chairman of our subcommittee, Mr. KASTENMEIER, has agreed to cosponsor this legislation at the request of the administration, however, he is reserving judgment on the issue. I have also cosponsored a similar bill, H.R. 3017, with the chairman of the Judiciary Committee, Mr. BROOKS, and the majority leader, Mr. GEPHARDT. I have also sponsored an additional bill, H.R. 902, with the ranking member of the Judiciary Committee, Mr. FISH, the minority leader, Mr. MICHEL, and the gentleman from Illinois, Mr. HYDE. The administration is committed to improving the protection of intellectual property worldwide. It is important, therefore, that we adequately protect all forms of intellectual property at home. Questions about the effectiveness of our design patent law have been raised since at least as far back as the report of the President's Commission on the Patent System in 1966. As recently as 1989, the Supreme Court noted:

> It is for Congress to determine if the present system of design [and utility] patents is ineffectual in promoting the useful arts in the context of industrial design.—(*Bonito Boats* v. *Thunder Crafts Boats*, 109 S. Ct. 971 (1989).

Under the design patent law, designs must meet the ill-suited test of obviousness. Frequently they cannot be secured quickly enough to prevent piracy of short-lived popular designs; they are relatively expensive and are difficult to enforce.

The problem in obtaining design patents and enforcing them in the courts results from difficulty in applying the statutory test of obviousness. This concept, which is a basic part of the U.S. patent law, is ill-suited to designs. A recent study of cases reported from 1975 through 1986 showed that only 42 percent of the litigated design patents were held valid.

The expense of obtaining design patents today results primarily from the fact that the Patent and Trademark Office must examine each application to determine whether it is "new, original, and ornamental" in addition to be nonobvious. Because of examination proceedings, substantial legal assistance is generally required to obtain a design patent. This results in expenses far greater than required for copyright type registration, where no examination other than as to formalities is performed.

At the present time it takes about 22 months to obtain a design patent. Until the patent is granted, the designer or manufacturer markets the design at his peril, subject to its being freely copied. The alternative, withholding the design from the market until the patent issues, is impractical in many industries where styles change rapidly and may even be seasonal.

In addition, statistics indicate that the number of design patents issued in the United States is small in comparison to the number of design registrations issued in other industrially developed countries. For example, in calendar year 1987, the United States granted a total of 5,959 patents, while Japan issued 36,614 registrations, West Germany 85,222, and France 21,861. Many feel that this illustrates the ineffectiveness of our design patent system.

Since the 1954 Supreme Court decision in *Mazer* v. *Stein* (347 U.S. 201), the Copyright Office has accepted certain registrations for designs embodied in useful articles so long as they meet the criterion of the design being separable from the useful article. Thus, copyright protection is now available for designs of such things as printed textiles and jewelry. But under the criterion, copyright protection is not available for designs of such things as furniture, office equipment, household applicances, utensils and containers, photographic equipment, machines, electrical and electronic apparatus, lighting and plumbing fixtures, gymnastic and sports equipment, and luggage, just to name a few. Moreover, some commentators have argued that the length of protection provided by the copyright law is inappropriate for some industrial designs. Also, innocent sellers and distributors of pirated copies of designs can be liable as infringers under the copyright law.

The proposed bill would provide a new form of protection for designs of useful articles—protection having a shorter term than copyright, tailored to protect sellers and distributors, quick, inexpensive, and more reliable than design patents. The bill would have features in common with both the patent law and the copyright law. The term of protection would be 10 years. This term would be similar in length to the 14 years of protection available under the design patent law but much shorter than the life of the author plus 50 years copyright term.

The requirements for obtaining protection are more similar to copyright law than to patent law. The relative ease of securing protection should eliminate many of the problems involved in securing design patents. The bill would provide only protection against copying of the registered design; there would be no exclusive rights in the design of the type available under the design patent law.

Protection would begin either on the date of registration or on the date the design is first made public, whichever occurs first. If the design is not registered within 1 year from the date it is first made public, protection under the bill would be lost. The bill requires that the design be original and fixed in a useful article. This is intended to deny protection to mere paper designs. Protection would also be unavailable for a design which is staple or commonplace or different from a staple or commonplace design only in insignificant details, or for a design dictated solely by a utilitarian function of the article that embodies it. The bill would also exclude protection for designs composed of three dimensional shapes and surfaces with respect to apparel.

The provisions of the bill are intended to establish procedures for obtaining protection quickly and inexpensively. The Administrator would determine whether the design on its face qualifies for protection. It would be unnecessary to conduct a search of existing designs since novelty is not a prerequisite to protection under the bill. To qualify as original, the design need be only the independent creation of a designer who did not copy it from another source. In most cases, the applicant would receive a certificate of registration from the Administrator within a short time after filing his application.

Relief against either infringement or a final refusal by the Administrator to register the design would be by civil action. In order to obtain quick relief, an applicant would have the option of securing a determination on the issues of register ability and infringement in the same action. Any aspect of an infringement dispute could be settled by arbitration.

The bill contains a number of provisions insuring protection of the public. Any person believing he would be damaged by a registration would be permitted to apply to the Administrator for cancellation of the registration on the ground that the design is not entitled to protection under the law. A design owner who omits the required design notice could not be awarded damages for infringement which occurred before the infringer received actual notice that the design is protected. Sellers and distributors of infringing articles would be exempt from liability under the bill, provided they had not induced manufacture of the infringing article or acted in collusion with the manufacturer, and providing that they disclosed the source of the articles being sold or distributed. An illustration or picture of a protected design in an advertisement, newspaper, motion picture and the like would not constitute an infringement. The bill would provide penalties for fraudulently obtaining protection, and for deceptively marking articles with the design notice.

The bill would not affect protection provided by the copyright law, the design patent law, or any other Federal or State law. If a design is novel and not obvious, then it should be entitled to the greater protection provided by a design patent. Prior design protection bills have had a provision requiring that if the design was copyrighted, then registered under the bill, copyright protection for the design with respect to its utilization in useful articles would terminate. As an attempt to reverse the Mazer versus Stein case this may have been appropriate in 1954. But after 35 years of case law following Mazer it is no longer appropriate.

The proposed bill requires the Administrator to set reasonable fees and provides that the Administrator will be the Register of Copyrights.

POLITICAL FLAG-WAVING

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. TALLON. Mr. Speaker, the debate over our national flag continues. This legislature attempts to grapple with an issue that is largely emotional, and has very good arguments on opposing sides. I have an editorial from The State paper in South Carolina. While it criticizes both the President and Congress as being reactionary and too short-sighted, it also makes the most sensible arguments I have yet to hear as to why we should not alter our Constitution—and how our flag stands for a nation that protects its individuals and its individuals' rights. I submit this well-reasoned article for my colleagues review and commend the State paper for its fine editorial.

[From The State, Oct. 17, 1989]

POLITICAL FLAG-WAVING

Congress is a past master at grandstanding before the public. It proved that again last week when the House approved the Senate version of a statutory ban on defacing the U.S. flag and sent the bill to the President for his signature.

Last June the U.S. Supreme Court held that defacing the flag as a form of political protest is protected speech under the First Amendment. In doing so, the court struck down a Texas law making flag burning illegal.

President Bush, patriotic organizations and private citizens screamed "foul." The President, who favors a constitutional amendment to undo what the high court did, said he will allow the bill to become law without his signature.

The statute sets criminal penalties of up to a year in jail and $1,000 fine for anyone who "knowingly mutilates, defaces, physically defiles, burns, maintains on the floor or ground or tramples upon any flag of the United States."

The measure tries lamely to get around the First Amendment by saying the bill's protection of the physical integrity of the flag applies in all cases and is not related to suppression of free speech.

But the reason the President and his men are still pushing for a constitutional amendment is because they don't think a statute will do the job. On that point, they are probably correct, and, in due course, we anticipate that the U.S. Supreme Court will strike the statute down.

No matter. We need neither a law nor an amendment. The debate over this issue has helped thoughtful Americans realize that we revere the flag not only as a symbol of our country but also as a symbol of values we hold dear.

High among those values are the freedoms guaranteed by the First Amendment. The right to dissent—a form of free speech—is essential to our way of life even when the protest of the moment is repugnant to most of us. The flag thus stands for the right to deface the Stars and Stripes as a form of peaceful protest.

EDUCATOR TOUCHES MANY LIVES

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. DARDEN. Mr. Speaker, I would like to pay tribute today to a most remarkable woman who has been sharing her love for education with the young and old for almost all of her 80 years—Mary Hall Swain.

As a high school graduate in 1926, Mary took what was most offered to the young women of her day, and then some. As a teacher, she chose to make a difference. Among her credits are serving as a high school principal during a time when women rarely held such positions of esteem, working as curriculum director for Marietta Schools during the volatile years of integration, and becoming a college professor when most people are ready to begin preparing for retirement. The wife of Fred Swain and the mother of their two grown daughters, Mary continues to work with senior citizens in life enrichment classes and tutor elementary age children. And, she recently managed to complete a book about her life.

I want to share with my colleagues this Marietta Daily Journal article written by Mary's friend and admirer, Nancy Ryle.

[From the Marietta Daily Journal, Oct. 13 1989]

EDUCATOR TOUCHES MANY LIVES

(By Nancy Ryle)

When pretty dark-haired Mary Hall finished high school in Calhoun, in 1926 women had three career choices: to be a nurse, secretary or teacher. The 17-year-old chose to enter "the stone-wall-enclosed world of State Normal School" in Athens to become a teacher. It was a lucky choice for the world. Since then Mary Hall Swain has touched thousands with her love of literature and passion for quality education.

An old photograph of Mary shows a beauty with stylish wavy hair, big brown eyes and winsome smile, wearing a locket and a lace-collared dress. The 1926 Laura Ashley look. But the light in those dark eyes says "Watch out!" This demure young lady has intelligence, shrewdness and humor and she is going to make a difference!

She graduated Magna Cum Laude from the university, married the sweetheart who had courted her five years (I know Mr. Fred as a dear and charming gentleman, so I love his 1930 photo as a handsome young devil with a macho scowl), and taught school at Fair Oaks High School (now Osborne), Smyrna High School, Waterman School and Marietta High.

For eleven years she was principal of MHS. Ruth Crissey, a young teacher then, remembers "she was an outstanding principal, in a time when women rarely held that job in a large school. She enjoyed the students, understood the teachers' problems and was a delightful friend."

In 1959 she became Curriculum Director for Marietta Schools serving during the years of integration, the Cobb population boom, and teacher shortages ("absence of a job description did not help matters").

Mary always felt her "main job" in those years was wife and mother to daughters Ryland (now a psychologist in Washington, D.C.) and Eleanor (Mrs. Bill All—teacher of children with behavior disabilities in Cobb's Pine Mountain School.) But the one year she stayed home to be a fulltime housewife she "felt like a cabbage head." Her passion for education was too strong.

For many years she has also coped with constant pain, using crutches after hip replacement twice failed to correct her problem.

At 57 when many feel burnout, Mary took a risky new step. She became an English professor at the new Kennesaw College, where she taught for eight years. Says Dr. John Greider, her department head, "She was a superb teacher, always concerned about academic progress of her students. She graded them hard (correctly), but was patient, encouraging, always trying to help them improve."

At 80 has Mary retired? Not on your life. She teaches senior citizens in ELM (Life Enrichment) classes, tutors children at Westside School, has just written a book. It's her life story, written for her family and close friends. Mary was reluctant to let me mention it! But it's a book which deserves to be read and a few copies are still for sale at Office Sales and Service in Marietta.

The title of her book, "A Part Of All That I Have Met," comes from Tennyson's poem "Ulysses." Mary chose it because she's always loved the poem. But the similarity between the Greek adventurer-hero and the slender woman on crutches, with a special light in her dark eyes, is striking. Mary Swain too has always "sought a newer world," and on her quest helped many others find it too.

THE TURNING POINT IN UNITED STATES-KOREA RELATIONS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. SOLOMON. Mr. Speaker, the visit to Washington this week by President Roh Tae Woo of the Republic of Korea marked a turning point in the relations between our two countries. From this time forward, our Korean allies must be treated as full-fledged partners, not as clients.

This is also a particularly appropriate time to renew the strategic alliance between the United States and Korea. As China once again becomes unstable, and as all predictions concerning the future course of events in the Soviet Union become more cloudy, the United States Republic of Korea alliance is more important than ever.

This alliance has kept the peace in Northeast Asia for more than a generation. It was especially gratifying to hear, as President Roh said in his address to Congress, that the overwhelming majority of Koreans support the presence of U.S. troops in their country. Even the various opposition parties are united on this issue—U.S. troops must stay.

The most imminent threat to the ROK's security comes, of course, from North Korea. Unfortunately, there has not been even the slightest relaxation of that threat since the armistice was signed in 1953. The Communist dictatorship in the north is bent on the ROK's

destruction, and there has been no deviation from this policy whatsoever.

The achievements of the Korean people are all the mroe remarkable when seen against the background of this immediate threat to their security. And the Korea that President Roh represented in his appearance before Congress yesterday is a vastly different place from the Korea that President Syngman Rhee represented when he appeared before Congress in 1954.

President Roh, and all Koreans, are justifiably proud of the amazing economic and social progress that has transformed their country. Korea is no longer a wasted, devastated country; it is a modern, industrial, and vibrant nation which has become the envy of the entire developing world.

This fact alone would dictate a different kind of relationship with the United States, a new relationship based on shared responsibilities. But it has been the political progress in Korea which is even more promising.

In the political sense, Korea today is a very different place compared to what it was just 2 or 3 years ago. Much of the credit for this change belongs to President Roh.

He singlehandedly broke the debilitating political impasse in 1987 and put Korea on the road to free elections. His Presidency is characterized by unprecedented openness, accessibility, and accountability. There is today greater freedom of expression, and a larger role in government for opposition parties, than ever before in the history of the ROK.

In this connection, President Roh's remarks yesterday were particularly inspirational:

It is my belief that our political development will follow the example of the Western democracies and that the extreme elements in Korea will diminish in influence as the benefits of democracy and prosperity are enjoyed more and more * * * Democracy in Korea has already become an unstoppable force which no one can divert.

In looking at the world as a whole, President Roh said:

The forces of freedom and liberty are eroding the foundations of closed societies, and the efficiency of the market economy and the benefits of an open society have become undeniable. Now, these universal ideals, symbolized by the United States, have begun to undermine the fortresses of repression.

Mr. Speaker, the Republic of Korea has come of age. We can be proud of what our partnership with that nation has accomplished in the past, and we can look forward with anticipation to what we will achieve together in the future.

THE WILLIAM M. HOGE BUILDING

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. SKELTON. Mr. Speaker, Fort Leonard Wood, MO, is the new home for the Army Engineering School. Its administration building is named after a Missouri soldier whose home was Lexington, which is also my hometown. Earlier this week, I had breakfast in the Rayburn Building with a group from Fort Leonard Wood. I spoke to them about our fellow Missourian, Gen. William M. Hoge, and I enclose my remarks herewith for the CONGRESSIONAL RECORD:

REMARKS BY IKE SKELTON

Several days ago, my administrative assistant, Jack Pollard, asked me who I was going to have as the guest speaker for this annual breakfast. As you know, I usually ask another Member of Congress or someone with a lot of stars on his shoulders to speak to you. This year, in keeping with my answer to Jack, I am your speaker. This is because this may be the only opportunity for those of you at Fort Leonard Wood to learn about the man, after which the new engineering school administration building is named, General William M. Hoge, from someone who was once his next door neighbor.

In Lexington, MO, I lived with my parents on Franklin Street next to Dr. and Mrs. Fredendall. One day, while I was in high school, Mrs. Fredendall gave me a used army canteen with the initials WH scratched thereon, and a sheep-lined leather flying jacket, which had evidently been discarded by the soldier who married the Fredendall girl, Nettie. Growing up, I recall the adults talk about Colonel Hoge, which probably meant Lieutenant Colonel Hoge, but it was all the same to me then. On being given the canteen and flying jacket, I was told that the soldier who had owned these items had built the Alcan Higway, the road connecting the northwest Canadian Highway system with our Alaskan bases.

Bill Hoge grew up in Lexington when his father joined the Wentworth Military Academy administrative staff. He was born down river in Boonville. He attended Wentworth from 1906 to 1910, and attended West Point from 1912 to 1916. It is interesting to note that the PMS at Wentworth said that Bill Hoge wouldn't last until Christmas at West Point. An interesting footnote is that there were three Hoge Boys and all three went to Wentworth and to West Point.

Bill Hoge married his Lexington sweetheart, Nettie Fredendall and their marriage produced two sons, both West Point graduates. Nettie spent World War II in Lexington while her soldier husband served overseas.

Second Lieutenant Hoge was assigned initially to duty with the 1st Engineers at Fort Brown, TX, from September 1916 until April 1917, when he went to Washington Barracks, DC, and on May 27, 1917 joined the 7th Engineers at Fort Leavenworth, KS.

As a member of the American Expeditionary Forces, he went to France in March 1918, and participated in the following engagements: St. Die and Gerardmer sectors from June 20 to August 27, 1918; and the Meuse-Argonne from October 6 to November 11, 1918.

Following the armistice, he served in France and Luxembourg with the 2d and 3d Army with the 7th Engineers until July 1919, when he returned to the United States for duty at Camp Gordon, GA. From September until November 1919, he served at Kansas City, MO, in the office of the district engineer.

He was then designated as an instructor at the Virginia Military Institute, Lexington, VA, where he served until June 15, 1921 when he was ordered to duty at the Massachusetts Institute of Technology, Cambridge, MA. He was graduated on June 16, 1922 with the degree of bachelor of science in civil engineering.

His next duty was in the district engineer's office at Rock Island, IL, where he served until January 1924. He was designated as an instructor at the Engineers School, Fort Humphreys, VA, serving there until September 1927, when he was assigned to the Command and General Staff School, Fort Leavenworth, KS. He was graduated on June 16, 1928. He then was assigned as engineer instructor at the Infantry School, Fort Benning, GA.

In July 1931, he was assigned to division engineering work in the Mississippi Valley with headquarters at Vicksburg, MS, and on September 1, 1932, was transferred to the engineer district at Memphis, TN, becoming district engineer there in September 1933. He was assigned to Fort William McKinley, Philippine Islands, to command with 14th Engineers in May 1935. While serving in the Philippine Islands he was assigned to the staff of the military advisor, General MacArthur, in addition to other duties, and on this assignment organized the Corps of Engineers, Philippine Army, and became its first chief. He returned to the United States in January 1938, and became district engineer at Omaha, NB. On November 16, 1940, he was assigned to the engineer replacement training center, Fort Belvoir, VA.

He commanded the engineer units constructing the Alaskan Highway from early in 1942 to September 1942. He then was assigned to the 9th Armored Division and a year later became commanding general of the 4th Engineer Special Brigade at Camp Gordon Johnson, FL. In October 1943 he was assigned to command the 5th Engineer Special Brigade overseas and departed for overseas November 4, 1943. In March 1944 he was assigned to command as commanding general, Provisional Engineer Special Brigade Group, composed of the 5th and 6th Engineer Assault Divisions on Omaha Beach, Normandy, on D-Day and established and operated the beachhead.

In July 1944 he was assigned to headquarters, European Theater of Operations, and in August of the same year he became commanding general of the 16th Major Port, same theater. The 16th Port supported the VIII Corps in its conquest of the Brittany Peninsula and later opened and operated the Port of LeHavre. He served in that capacity until October 1944, when he was assigned to the 12th Army Group. He was made combat commander "B", 9th Armored Division, European Theater of Operations in November 1944, serving as such until March 1945. Combat command B, 9th Armored Division, participated in the Battle of the Bulge in the defense of St. Vith and later was the unit which captured the Remagen Bridge and established the first Allied bridgehead over the Rhine River. It was given the unit citation for this exploit. He became commanding general of the 4th Armored Division March 21, 1945, in the same theater, which command he held until after the surrender of Germany. This division spearheaded the 3rd Army beyond the Rhine, capturing two bridges over the Main River and leading the advance into Czechoslovakia at the time of the surrender. This division also received the unit citation. He returned to the United States June 27, 1945, and was assigned to the office, chief of staff, for duty in the office, assistant chief of staff, Washington, DC. In December 1945 he was named division engineer, New England Division, with headquarters at Boston, MA.

After the war, General Hoge commanded the engineer replacement center at Fort Belvoir and occupation troops in Trieste, Italy. He also was a corps commander in the Korean conflict until 1953, when he became commander of the 7th Army in Europe. He later was promoted to four-star rank and commanded all of the U.S. Army forces in Europe.

On his retirement, in 1955, General Hoge and his wife, Nettie, returned to Lexington, MO and lived for several years next door to me in the old Fredendall home, Dr. and Mrs. Fredendall having died.

Thereafter, General Hoge joined the Interlake Iron Company in Cleveland, OH, as chairman of the board. Several years after retiring from that in 1965, he moved to Easton, KS, to live with his retired Army Colonel son, George Hoge. He died at the age of 85 on October 28, 1979. He is buried in Arlington National Cemetery.

Bill Hoge was an extraordinary soldier, receiving several prestigious decorations. In World War I, as a result of his heroism on the battlefield in France, he was awarded the Distinguished Service Cross and the Silver Star. In World War II he was awarded an Oak Leaf Cluster to the Silver Star for gallantry in action against the enemy in Germany. Other decorations General Hoge received were the Distinguished Service Medal, an Oak Leaf Cluster to the Distinguished Service Medal, and the Bronze Star Medal.

I had the opportunity to know him and to be a guest in his home. He was an officer and a gentleman in the finest sense of the words. Naming the administration building at Fort Leonard Wood after him is a fitting tribute to his contributions as a soldier and engineer.

Those of you who work at Fort Leonard Wood now know that is more than a name on a sign in front of a building. William M. Hoge was a real person—a Missouri soldier—an Army Engineer—and a war hero. And, most important of all, he was from Lexington.

ANOTHER POLISH JOKE?

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. CRANE. Mr. Speaker, although the people of Poland have proven to the world their desire for freedom and democracy, the driving force behind the popularly elected Polish Solidarity movement may have a different agenda. Citing various sources, the following article suggests that members of the KGB-controlled Polish secret police are the driving force behind the Solidarity movement. Time will certainly tell if this is indeed the case. Unfortunately, however, Congress has decided to ignore time in its rush to aid Poland.

I hope that my colleague, especially those who voted in favor of sending aid to Poland, will at least take the time to read the following article.

[From the Washington Dateline]

ANOTHER POLISH JOKE?

(By Robert H. Goldsborough)

Ethnic jokes can be harmless and funny; they can also be hurtful and mean. The Polish, like other nationalities, have been the butt of jokes, both harmless and hurtful.

Washington Dateline has recently received intelligence data indicating that the present Polish political situation is a joke—unfortunately, a very hurtful joke—not only upon the Polish people, but also upon the West.

In July, Washington Dateline's column entitled "Disinformation from Poland and Cuba," (vol. xii, no. 30) revealed that sometime in the early '80s, "the KGB-controlled Polish secret police had successfully infiltrated the Solidarity movement."

As a result of that revelation which came from a highly respected recently retired American intelligence officer, a private meeting was arranged so that members of the Political Council of the Confederacy of Independent Poland (KPN) could further brief Washington Dateline on the situation in that strife-ridden country. Their information confirmed what we had already reported—that the Solidarity movement is now a controlled and manipulated political-front organization, a Trojan Horse, used to deceive the Polish people and elicit U.S. financial aid.

Washington Dateline learned that Lech Walesa, the world renowned heroic leader of the Polish Solidarity movement, is now just a figurehead and that control of Solidarity is in the hands of Adam Michnik, Jacek Kiron and a Professor Geremek. According to KPN, "all three, though they claim to be *former* communists, are still very much Marxist atheists."

The Polish independence leaders continued, "Michnik and Geremek have never been elected by Solidarity members and Kuron was elected only once—years ago in 1981."

Remember that the Polish people fought bravely, albeit briefly, against the overwhelming forces of the Soviet Union and Nazi Germany in the 1939 invasion which triggered World War II. The Stalin-Hitler pact brazenly agreed to partition Poland by force. At the conclusion of World War II, President Franklin Delano Roosevelt (FDR) permitted the bloodiest dictator of all times, Josef Stalin, to keep Poland as a puppet state. FDR's excuse was that Stalin had promised free elections.

Now, after enduring half-a-century of tyranny and hardship, the Polish people, like the East Germans, Balts and Hungarians are demanding real freedom and true democracy. They want a free-enterprise economic system, not more socialism with guaranteed shortages and a history of failure.

In 1989, the communists believe they have a better chance of maintaining control in Poland by using guile rather than force. According to the Polish KPN officials, "the troika of Michnick, Kuron and Geremek, using Lech Walesa, hand-picked all of the Solidarity candidates to run in Polish elections of June 4th and June 18th. The candidates were never democratically elected by solidarity members." Solidarity's present leadership, according to the KPN, favors socialism not free enterprise.

Troika control agent Michnik, is editor of Solidarity's newspaper, a propoganda vehicle used to discredit and silence all legitimate and independent opposition to communism and Solidarity. According to our KPN contacts, "Michnik recently obtained $50,000 from the U.S. Endowment for Democracy (NED) a Congressionally authorized and funded operation to support freedom movements. NED is headed by a Carl Gershman who is a past president of the far left Social Democrats USA."

In spite of the new names and faces, the communists are still very much in control. As the Polish people become aware of the latest attempts to deprive them of their freedom, thousands are quitting the Solidarity movement each month and joining the Confederacy of Independent Poland which vehemently opposes U.S. funding of Solidarity or the Polish government. Polish journalist Andrej Wrobleske, commenting on the Western urge to provide massive economic assistance to Poland, warned, "The one thing the U.S. should not do is repeat the mistake of the 1970's and give cash to a child."

However, with their typical hypocrisy, liberal Democrats in Congress are demanding that President Bush send 3.7 billion dollars to Poland and the Solidarity movement—in the name of "freedom" and "Democracy." Of course, these are the same liberals who have consistently voted against the aid desperately needed for the Contras who are fighting to bring freedom and democracy to Nicaragua, a country that has become an economic wasteland after only ten years of socialism under the communist Sandinista dictatorship.

RAPE, INCEST, AND ABORTION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. DORNAN of California. Mr. Speaker, last week the House engaged in a long and heated debate over the issue of Federal taxpayer funding for abortion in rape, incest, and other cases. This debate has now spilled over into the general public, and it is certain to continue in the weeks and months ahead.

I believe that all Members would therefore be well-advised to read the following article, "Facing the Hard Cases" (Human Life Review, Summer 1983), by the noted writer Mary Meehan. Miss Meehan's article tells us why all innocent preborn human life must be defended—including life conceived in the tragic circumstances of rape and incest—and she warns us as to why society must not compound these crimes with the additional tragedy of aborting the innocent unborn child. Her point, simply, is that our constitutional right to be born should not depend on the circumstances of conception. Her argument is clear, principled, and consistent, and is something that all Members will find informative, and, I hope, persuasive.

FACING THE HARD CASES

(By Mary Meehan)

Debates on ethics have a fearsome way of reaching hard cases in very short order. At times we torture ourselves with excruciating hypotheticals: "Lying is wrong; but how about a lie to save someone's life?" Few ever face that choice. Rather, people tell lies to avoid embarrassment, to avoid hurting someone's feelings, or to gain a psychological or financial advantage.

In the abortion controversy, people ask: "How about abortion in the case of rape or incest? Or when we know the child has Tay-Sachs disease, which is always fatal in the first few years of life? Or when pregancy endangers the mother's life? Yet most abor-

tions are performed for social or economic reasons.

The pro-abortion lobby is skilled in using hard cases to put right-to-life forces on the defensive. If anti-abortionists refuse to accept abortion for the hard cases, they are accused of extremism and insensitivity to wrenching human problems. If they do agree to exceptions, they find that the exceptions are the front end of a battering ram that knocks down the gates to abortion on request.

The recent legal history of the abortion issue in the United States illustrates the problem. Until the 1960's, nearly all states banned abortion except to save the life of the mother. Then advocates of legal abortion started placing other exceptions in many state laws. The exceptions undermined the philosophical position of a right to life, so defenses were weak when abortion proponents made their drive for abortion on request.

A key case was provided by a Georgia statute that permitted abortion in cases where pregnancy would endanger a woman's life or cause serious and permanent damage to her health, where the unborn child apparently had a serious and permanent defect (either mental or physical), and where pregnancy was due to rape. The lawyer who defended the Georgia statute before the U.S. Supreme Court in 1972 had great difficulty explaining the state's commitment to protect the unborn in view of the exceptions allowed. One of the justices underscored the weakness of her case when he asked: "Is there any other statute in Georgia which says under certain conditions you can kill somebody?" The Supreme Court struck down the Georgia law in *Doe* v. *Bolton*, a 1973 decision that allowed abortion for virtually any reason.

In asking his question of the Georgia lawyer, the justice had struck the Achilles heel of exception statutes with a sledge hammer. Most anti-abortion groups have not forgotten that lesson. But they realize that answers to the hard cases are not needed only for legal reasons. If a "pro-life" philosophy is to hold together, it must do so at the points where there is greatest strain. If it holds for the hardest cases, surely it will hold for the easy ones.

They also realize that it is important to consider the hard cases for the sake of those affected by them. The fact that hard cases are infrequent does not make them easier to bear; indeed, it may make them harder to bear because of the feeling that one is isolated in fear and desperation. No one who heard the testimony of a rape victim before a Senate subcommittee in 1981 could fail to be appalled by the facts she related: a brutal rape in the 1950's; her terror at the thought of "giving birth to the offspring of a literal fiend"; and a painful abortion at the hands of an illegal abortionist, an alcoholic "who was drinking throughout the whole procedure." The woman said:

". . . I am not a mean, or uncaring, or immoral person. I have never willfully done anything in my life to hurt another person, and when someone did hurt me, when that cruel and twisted person raped me, and brutalized me, and impregnated me, and sliced open my abdomen, and left me for dead, it should not have been the prerogative of society to compound that crime, to say to me in effect, "All right, you have survived this. No you can go see an alcoholic quack and let him take a whack at you . . .'"

A case like this demands much more than a debater's reply or a slogan. It demands a sharing of the woman's pain, as well as a plea for the new life at stake.

In considering cases of rape, incest, fetal handicap, and danger to the life of the mother, we have occasion to remember that the protection of life sometimes requires great hardship and even heroism. This is an ancient truth, though not a fashionable one. It is well to face it honestly.

RAPE

"Rape" and "abortion" are two of the cruelest words in our language. What should we say when the first is used to justify the second? We can say that relatively few children are conceived through rape and that it is wrong to remedy violence with more violence. Both statements are true, but they are not enough to meet the feelings of fear, disgust, humiliation, and great injustice that rape victims undergo. So deep is the loathing of the crime, and so widely is it shared by non-victims, that many people find it hard to say that abortion should be barred in rape cases. Dr. Mildred Jefferson, a veteran anti-abortion activist, notes that the revulsion people feel for the crime carries over to the rape victim and any child who "may have resulted from the unwelcome union." For some people, she remarks, rape is "an unpardonable sin which taints sinner and victims alike. The child is never thought of as an entity deserving of consideration—only a blot to be removed.

Yet the child is innocent, and should not be punished for the father's crime. Rapists are no longer executed in our country; their children, totally innocent results of crime, should not be executed in their place. Our commitment to equality would be radically compromised if we were to say that children's right to life depends on the circumstances of their conception. Moreover, as Doris Gordon suggests, "Victimization by rape does not release women from the general obligation not to harm innocent people. Children conceived in rape are innocent of causing their mother's situation and are victims, too."

Honesty requires us to say that it is unjust that a woman must carry to term a child conceived through rape, but that it is a far greater injustice to kill the child. This is a rare situation in which injustice cannot be avoided; the best that can be done is to reduce it. The first injustice lasts for nine months of a life that can be relieved, both psychologically and financially. The second injustice ends a life, and there is no remedy for that.

The view of both mother and child as victims is the key to a genuinely compassionate response. Certainly this should hold in cases where the rapist and the woman are of different races. The child may be at greatest risk in such a case, because to many Americans the mixture of rape and race is even more explosive than that of rape and abortion. In short, much of the support for abortion in rape cases is due to racial bigotry. Lobbyists for the Medical Association of Georgia did not hestitate to use it in 1968 when urging then-Governor Lester Maddox to support a bill allowing abortion for rape and other hard cases. They asked him how he would feel "if a white girl got raped by a Negro and then became pregnant."

Abortion proponents are sometimes embarrassed by the way the racial issues surface. The National Abortion Rights Action League (NARAL), at its 1980 convention, showed members a "pro-choice" film that included an appearance by a woman who said that she had been raped by a black man. After the showing, a viewer asked that the reference to the rapist's race be deleted from the film; NARAL president, Robin Chandler Duke, responded, "I couldn't agree with you more." The next year, however, the NARAL newsletter reprinted a column by journalist Tom Braden supporting abortion in the case of pregnancy caused by rape. Braden said that one of his daughters had become pregnant after being gang-raped. She could not identify her assailants adequately for police: "All five assailants were black men and a hysterical white girl's repeated description of them as being 'black' was not definitive." When the Washington Post—a liberal, pro-abortion newspaper in a heavily black city—ran the same column, it deleted the sentence identifying the rapists' race.

Rape is a terrible crime, one of the worst; but it does not become more or less of a crime according to the race of the man who commits. Abortion proponents who appeal to bigotry when speaking of rape undoubtedly pick up support this way, but they should not be proud of it. As Dr. Carolyn Gerster suggests, aborting a child because its father is black amounts to "intrauterine lynching." It might add that most rapes apparently involve two persons of the same race.

All of this, of course, does not answer the feelings of a woman who is pregnant as a result of rape. Besides the usual discomfort and restrictions, she is likely to feel great anger and hatred toward the rapist and may transfer those feelings to the child. She must also worry about the reactions of husband or boyfriend, parents, other family members, and friends. The woman who testified before a Senate subcommittee about her rape was married and the mother of two when she became pregnant by the rapist. Her doctor suggested that she carry the child to term and release it for adoption:

"He didn't suggest, however, how I might explain such action to a frowning society—much less to a frowning mother-in-law: 'Yeh, well, gee, mom, its like this, see, I just decided I didn't want the third kid, so I gave it away."

The women must also confront the financial costs of pregnancy and, if she chooses adoption, whatever time and effort may be involved in that process.

How can we relieve these burdens? The financial ones can be met through restitution provided by the assailant or through state programs of compensation to crime victims. Such programs must, of course, be handled in a way that protects the privacy of rape victims. The psychological problems are more difficult to handle, since they involve the tendency of many (especially men) to "blame the victim" in rape cases. Feminist writing and demonstrating have changed some attitudes, but much remains to be done. And it would be impossible to overstate the importance of psychological support from a woman's family and friends. There is a great need to assure that, no matter what the circumstances of conception, there should never be any embarrassment about bringing a child into the world.

There is also a great need to assure the women that crime is not hereditary and that, in fact, rape is one of the rare instances in which good can come from evil. The classic case is that of the late black singer and actress, Ethel Waters, whose conception resulted from rape when her mother was twelve years old. Waters was born at the turn of the century, out of wedlock and unwanted, to a poor girl in a slum. Yet she contributed far more to the happi-

ness of others, including many foster children, than most of us do. Eventually she even brought happiness to her mother, although this was not easy for either of them. In her autobiography, Waters revealed that she was well into middle age before her mother finally indicated love and approval of "her unwanted one, whom she had borne so long ago in such great pain and sorrow and humiliation."

Another case was described by journalist Jerry Hulse, whose wife had been adopted shortly after birth. When doctors needed a family medical history for his wife, who faced critical surgery related to vascular disease, Hulse started looking for her birth mother. His search led to a woman who had been raped at the age of fifteen and, as a result, had given birth to Hulse's wife, who was released for adoption, and to a twin brother, who was reared by his grandparents. The mother, who had not wanted to give up either child, was happy to be reunited with her daughter, as the twins were to be reunited with each other.

To say that good can come from evil is not to accept the evil itself. As one "pro-lifer" remarked, "The answer to rape is not abortion, it's stopping rape." Yet many people are resigned to rape; they assume that it has always been with humanity and always will be—an attitude remarkably similar to the one many have toward abortion.

While we may never eliminate all rapes, we probably can eliminate most of them if we have the will to do so. This is an area where anti-abortion activists could and should work with feminists. They might concentrate, for example, on changing male attitudes that encourage rape, especially those attitudes promoted by the pornography industry. They might cooperate in training women for self-defense. As that "manly art" becomes more and more a womanly art, fewer rapists will be successful in their missions; fewer, perhaps, will even want to try. Finally, the two groups could work together on the "Take Back The Night" marches that protest pornography strips and rape.

The unborn have a right to life and to freedom from assault. So do women.

INCEST

Sexual intercourse between persons who are closely related by blood or marriage causes revulsion that is both moral and aesthetic. So strongly are we repelled by incest that most of us prefer not to think about it. Those who advocate abortion when pregnancy results from incest subconsciously may hope that, by taking away the most obvious result of incest, they can take away the act itself, make it as though it did not happen. They may also have two conscious reasons: first, that inbreeding multiplies a child's chances of inheriting a genetic defect if there is one in the family; second, the belief that negative effects of incest upon the girl or woman may be intensified if she carries the child to term.

The classic idea of incest is that of intercourse between consenting adults, such as the Roman Emperor Gaius (Caligula) and his sister. Of such cases one observer has noted: "Incest is a monstrous kind of justification for the taking of the life of another human being because the parents of the child were partners in the crime that resulted in his conception."

But incest between two adults appears to be relatively rare. The more typical case involves a teenager (or sub-teenager) who is victimized by her father, stepfather, brother or uncle. Most state laws class incest as a felony, and some may charge a man with statutory rape as well as incest. But there are few indictments and even fewer convictions. The victims usually have no witnesses and are afraid to complain to the police. Many mothers refuse to believe their daughters' complaints or fail to act on them.

Reading the literature on incest is like trudging through a sewer. It is full of cases in which the male offender starts using the girl when she is as young as seven or eight and continues the relationship until she runs away, marries, complains to legal authorities, or becomes pregnant. In this, as in many other cases, abortion is a great convenience for the male; here, it destroys evidence. In a German study of thirteen cases in which incest resulted in pregnancy, three of the male partners suggested abortion and three others actually tried to abort their own daughters or stepdaughters. (Two were successful in doing so.) An ancient precedent was provided by the Roman Emperor Domitian, when his niece was pregnant by him. He forced her to have an abortion, which killed her as well as the child.

The victims of incest, many of whom know nothing about sex until an adult abuses them, generally suffer physical pain at the outset of the relationship. Many are infected with venereal disease, and most undergo great psychological suffering. Even though they have not consented to incest, they are likely to feel guilty, terribly alone and afraid, and unable to find a way out of the situation. Certainly incest is one of the greatest crimes against children. It is one encouraged by the lucrative child pornography industry and by those who say that the incest taboo is prudish and obsolete, one from which we should all be liberated.

When pregnancy results from incest involving a teenager, two children's lives are involved. As in the case of rape, both are victims and need great compassion and aid.

The eugenic argument for abortion has no meaning when the incestuous relation is one of marriage (affinity) rather than of blood (consanguinity). This point is of great importance because the pregnancy cases often involve stepfathers, so that there is no increased risk of genetic defect. But where there is a close relation of blood, and where there is a genetic defect or disease in the family, the chances of the child's inheriting it are much magnified. Three studies reported since 1967—one British, one American, and one Czechoslovakian—indicate that children of father/daughter incest and brother/sister incest are far more likely than other children to suffer mental retardation or physical handicaps (or both). About one-half of the children in the three studies were handicapped and/or died at an early age.

The question of abortion for fetal handicap will be treated separately below. Suffice it to say here that anyone who seriously maintains that all humans have an equal right to life must say that this applies regardless of physical or mental handicap. Part of the evil of incest is that it places the child at great risk of disability. To then kill the child because it is (or may be) handicapped is to compound the evil, to punish one who has committed no offense. It is sometimes argued that the child in this case would be "better off dead." But as Norman St. John-Stevas has said: "No human being has the right to make any such judgment about another human being. Even if one had the right, there would be no guarantee of making a correct decision."

The other rationale for abortion in incest cases is concern for the young mother. "Sometimes the very young teen-age mother is set apart into a high-risk category," writes Dr. Bernard Nathanson, "but this is a social problem rather than a strictly medical one." He says that the "higher rate of difficult pregnancy is not due to the very young mothers' age, but to the fact that they do not consult physicians readily or often enough." Moreover, an incest victim is likely to be far along in pregnancy before her state is discovered, and a late abortion is more dangerous than childbirth. With abortion, as Dr. Mildred Jefferson notes, "one risks compounding both physical and psychological problems." The last thing an incest victim needs is the added trauma of guilt over abortion.

In the German study of thirteen girls who were pregnant by their fathers or stepfathers, it was reported that nine of them "experienced the pregnancy as a psychological burden." Three of the thirteen cases were ended by abortions (with two done by the fathers). In the other cases, "Six of the ten girls adopted an absolutely positive attitude, did not want to be parted from their baby in any way, and tried to cope with their maternal duties as best they could." Children and victims themselves, they were sensitive to the other child-victims involved.

Children of incest who escape major handicaps and who are released for adoption can lead normal and happy lives. One book on adoption relates the story of a middle-aged man who had been reared in a permanent foster home. The man was "a respected, contributing member of his community with an excellent work record, a happy marital relationship, and a healthy active family. He was deeply involved in amateur theater and light-opera productions and enjoyed performing immensely." After deciding to seek the facts of his birth, he found that his maternal grandfather was also his father. The relationship between his mother and her father had occurred when the mother was a teenager.

"The social worker who gave him the facts of his birth was surprised at how accepting he was of the information; how undisturbed he appeared to be. In a later interview, he reflected upon the meeting and his subsequent feelings:

"'I really wanted to hear that my father had money and that someday I would inherit. That would make up for his never being a father to me, and validate my lifelong dream of him. My prop was knocked out from under me, and that was really the hardest thing for me to cope with.'"

". . . At his age and with his self-esteem, his knowledge of his origins was not devastating, but he reflected that at an earlier age, it might have caused him great problems. . . ."

This story had an ending better than anyone could expect, but many other children of incest have not been so fortunate. And their mothers often suffer psychologically throughout life from abuse received at the hands of adults they once trusted. Anyone with human feeling experiences real anguish for the victims whose bodies, minds, trust and innocence have been so cruelly betrayed.

Public education programs, some addressed to offenders and others to potential victims, may help prevent the great evil of incest. One hopes, too, that the prophets of sexual liberation will take another look at the results of their glorification of lust.

FETAL HANDICAPS

There is a tendency to speak of the handicapped unborn as "defective," a cold designation that makes them sound like consumer products. "Is the toaster defective? Can't be fixed? Repairing it would be too expensive, more trouble that it's worth? Then let's just throw it away." This is what happens to "defective" unborn children whose handicaps are detected through amniocentesis, a procedure of withdrawing amniotic fluid and examining it for evidence of fetal handicap.

A bit of modesty, even humility, is needed in facing this issue. We are all defective in one way or another. As the mother of one handicapped child remarked: "I have met few people . . . whom I would consider 'perfect,' and I must ask who has the power to set the requirements that one is acceptable only when able to lay aside crutches, hearing aids, girdles, false teeth, etc." One might add a few items to her list: eyeglasses, makeup, cosmetic surgery, back braces, walkers, inhalers, and so on. How many of us would measure up as perfect throughout our lives without such aids? And where is the person who has achieved moral perfection? Certainly the moral cripples of our century—Adolph Hitler, Joseph Stalin, Idi Amin, to name a few—have caused more misery than have any number of severely handicapped people.

Rev. Daniel Berrigan, S.J., best known as a poet and peace activist, has also worked in a home for the dying. Describing a child in a coma, he suggests a need for humility about our knowledge of life and death:

"A child who has been with us for the past two years came to us comatose. His medical report said he was 'totally unresponsive.' We find that this is simply not true . . . He has a strong sense we are at his side. He has grown physically, very beautifully. He is the darling of the place, not just of the nurses, but of the dying . . . I'm drawing analogies that are very important about all people, including the unborn. When we know so little about life and death we had best not tamper nor limit the possibility of response, survival, and inclusing into life. . . . This child is the nearest thing to the mystery of the silence of the unborn."

Some argue for abortion of the most-severely handicapped, such as children with anencephaly or Tay-Sachs disease, in order to save their parents the expense and emotional devastation of watching their babies die. Perhaps equally devastating, however, are the cases of adults who die of amyotrophic lateral sclerosis (the disease that killed Lou Gehrig) or Huntington's chorea (the one that killed Woody Guthrie) or a long and ultimately hopeless battle with cancer. Few now suggest that adults with terminal disease be killed in order to ease their families' suffering. Instead we try to help patients and families through good medical care, the support of friendship, and the compassion of the hospice movement. We do not say, "Let's kill them now, because they are going to die anyway." All of us are "going to die anyway." But it matters a great deal to us how we die.

Although the case for abortion of the handicapped is often presented in terms of anencephaly or Tay-Sachs, many children are aborted because of handicaps that can be alleviated through surgery, therapy and special training. Dr. C. Everett Koop tells what happened in one case when such a child was not aborted:

"A young man now in graduate school was born without arms below the elbow and missing one leg below the knee. He was the victim of the prescription of Thalidomide to his pregnant mother at the time of limb budding. When his father stood at his bassinette in the hospital where he was born, he said only this: 'This one needs our love more.' With that love and muddling through, it had a happy ending—which is really now only the beginning of this young man's productive life. . . .

"Here is how the young man feels today: 'I am very glad to be alive. I live a full, meaningful life. I have many friends and many things that I want to do in life. I think the secret of living with a handicap is realizing who you are—that you are a human being, somebody who is very special—looking at the things that you can do in spite of your handicap, and maybe even through your handicap.' "

Others are aborted because amniocentesis reveals that they are male and thus in danger of inheriting a parent's sex-linked disease such as hemophilia—even though it is not known whether they have the disease. Some are aborted because amniocentesis shows that, although they are normal, they happen to be girls when their parents would prefer boys.

All of this proves that we humans are not nearly as smart as we would like to think. (The "slippery slope" theory could just as well be called the "we're not so smart" warning.) Distinctions that at first seem clear to us quickly crumble once we agree that some lives are more valuable than others and that we have a right to decide who may live and who must die. We proceed from abortion of children with anencephaly, to abortion of Down's Syndrome and spina bifida children, to abortion of children who are healthy but regarded as social or economic burdens.

Handicapped children need a great deal of care, but so does any child. All of us were burdens to our parents at one time or another, some of us most of the time. Charlie Brown of "Peanuts" fame had a good answer when his little sister suggested that Snoopy "is more trouble than he's worth." Said Charlie Brown: "Most of us are."

LIFE OF THE MOTHER/LIFE OF THE CHILD

Although pregnancy and childbirth are far safer for women than ever before, there are still cases in which a woman's life may be endangered because pregnancy aggravates a pre-existing condition such as heart disease, kidney disease, or advanced hypertensive disease. There are also cases in which medical treatment to save a mother's life may harm or indirectly kill the child. Examples include some cancer treatments, hysterectomy in the case of a cancerous or severely traumatized uterus, and salpingectomy (removal of a fallopian tube) in the case of tubal pregnancy.

Most doctors and ethicists support normal medical treatment urgently needed by the mother even if it poses danger to the unborn child. They reason that the mother's right to life includes a right to medical treatment, including what is sometimes called "indirect abortion." (It should be stressed that this is not a legal term.) Thus a cancerous uterus must be removed to protect the mother's life; when this is done in early pregnancy, the embryo or fetus cannot live outside the womb. But there is no intent to kill the child, and a hysterectomy does not directly attack the child. Nor does removal of a fallopian tube which is about to rupture because the embryo is in the tube instead of the uterus. Yet the embryo cannot, under current medical conditions, live after the removal. This situation will change if an artificial womb is developed or if doctors can devise a way to transfer the embryo from tube to uterus. Possibly medical technology, which has given us so many moral dilemmas, will in this case resolve one.

Although there is general agreement on the indirect cases, there is much dispute on whether direct abortion is justified when the mother's life is endangered. So great is the sympathy for the mother in such a case that the question causes division even within the anti-abortion movement. Dr. Bernard Nathanson, for example, supports direct abortion in such cases, arguing that this is a matter of self-defense. He rejects the contention by some that self-defense does not apply because the unborn child is innocent:

"It is not immoral to defend oneself against a life-threatening person, even if that person is not 'responsible.' One could licitly kill an imbecile who has no understanding of his homicidal assault, or a person in the ocean who unwittingly and desperately grabs at one so wildly that both will drown otherwise. True self-defense is always justified."

Others argue that equality means that we cannot prefer one life over the other when two lives are at stake, that instead we must try to save both. They believe that an automatic preference for the mother's life tends to undercut the entire sanctity-of-life philosophy. On what is that preference based—except that we know the mother, but not the child, and that the mother has legal and financial power while the child does not? They note that abortion in such a case does not always save the mother's life; indeed, the abortion may even hasten her death. And suppose the mother's life cannot be saved (for example, she is dying from injuries sustained in an automobile accident), but the child might be saved by emergency caesarian section: Should not a doctor try to save the child in this case? When it is not possible to save both the mother and child, they say, we should save the one we can—without, however, directly attacking either.

Years of debate on this question finally led, in 1981, to the drafting of a human life amendment to the Constitution which appears to have broad support within anti-abortion movement. It is called the "Unity Amendment," and its key clause reads:

"No unborn person shall be deprived of life by any person: Provided, however, that nothing in this article shall prohibit a law allowing justification to be shown for only those medical procedures required to prevent the death of either the pregnant woman or her unborn offspring, as long as such law requires every reasonable effort be made to preserve the life of each."

Although introduced in both houses of Congress, this proposed amendment has not been the subject of hearings or floor debate. Yet it seems safe to predict that, if hearings and debate are held, they will show that the amendment would allow induced labor or caesarian section to protect mother and/or child and would allow "indirect abortion" in cases such as tubal pregnancy. The amendment might also be said to allow direct abortion in the rare case where, if it is not performed, both mother and child will certainly die—in other words, where the mother can be saved. But the doctor would have an obligation to save both lives if possible, and the burden of proof would be on him.

Some might object that allowing the taking of human life in any way, direct or indirect, or for any reason, constitutes state approval of homicide. This is not necessarily the case. There is a major difference between "approving" an act and "excusing" it. The great English legal authority, Sir William Blackstone, wrote in the 1700's that there is "very little" guilt attached to excusable homicide (self-defense). Two recent commentators noted that Blackstone "sees how the right to defend may be mistaken as the right to kill, and his exhortations on the respect for human life with their Old Testament vigor, are intended to restore to Law a sense of its original moral imperative."

". . . it may be difficult to understand why a man who is defending himself from an apparent threat of death should be faulted in even the slightest way. But from Blackstone's point of view, a homocide, albeit excusable, is still the taking of a life, a violation of the laws of Being, and he recognizes what today might be called psychological value in not permitting an individual to dismiss lightly the killing of one member of society by another."

Others might say that abortion should be permitted whenever there is any threat to a woman's life and that the requirement to try to save both lives is too strict. But if we believe in equality of rights, how can we demand that one of the two persons involved be free of risk and that the other be sacrificed to guarantee such freedom? The protection of innocent life often involves risks. In pregnancy, the unborn child may have to undergo serious risks from medicine or therapy required to treat the mother's illness. And the mother may have to undergo risks from efforts to protect the child. Usually a good doctor can see both of them safely through all dangers.

Pregnant women, it should be noted, are not the only people who must sometimes take risks to protect innocent children. A long-standing rule of warfare, accepted both in natural law theory and in international law, forbids direct attacks on non-combatants. But in guerrilla warfare, young children and other civilians sometimes act against soldiers on the other side. This fact, however, would never justify soldiers entering a village and shooting the children and other civilians so that none of them could set a booby trap or throw a grenade. In other words, the soldiers must risk their lives in order to avoid killing the innocent.

A FINAL WORD

People on all sides of the abortion issue spend much time and energy discussing the hard cases, but sometimes forget to ask how such cases might be avoided. Certainly, as suggested above, the incidence of rape and incest can be greatly reduced. Birth defects due to environmental factors can be prevented through better nutrition and through elimination of hazardous chemicals from food and working environments. Birth defects due to genetic factors can be prevented by the avoidance of intermarriage between members of the most severely affected groups.

When birth defects cannot be avoided, there is much that can be done to alleviate them through surgery, therapy, and "mainstreaming" of the handicapped. Parents of seriously-handicapped children can also be helped by "respite care" made available by public agencies or private volunteers. The adoption alternative can be encouraged for parents who cannot cope with rearing a handicapped child or one whom through no fault of its own, is a constant reminder of an incident of rape or incest.

Doctors can find new ways to reduce the medical risks of difficult pregnancies.

All of these things can be done and should be done. But while they will greatly reduce the number of hard cases, some are bound to remain. A good model for families affected by them is Sir Thomas More, a reluctant but most attractive hero. In Robert Bolt's great play, "A Man For All Seasons," More's daughter Margaret accuses her father of choosing heroism. In prison and in peril of his life for following his conscience, More replies:

"If we lived in a State where virtue was profitable, common sense would make us good, and greed would make us saintly. And we'd live like animals or angels in the happy land that needs no heroes. But since in fact we see that avarice, anger, envy, pride, sloth, lust and stupidity commonly profit far beyond humility, chastity, fortitude, justice and thought, and have to choose, to be human at all . . . why then perhaps we must stand fast a little—even at the risk of being heroes."

With great emotion, Margaret says, "But in reason! Haven't you done as much as God can reasonably want?"

More's response: "Well . . . finally . . . it isn't a matter of reason; finally it's a matter of love."

EMPLOYMENT SERVICE FACES ADMINISTRATIVE FUNDING PROBLEMS

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. PEASE. Mr. Speaker, for some time, I have argued that our Nation's unemployment system is antiquated, inflexible, and unresponsive. The need for reform is evident in a number of areas of the program. Earlier this year, I introduced an extended unemployment insurance reform bill. Today, I am joined by Mr. AUCOIN and Mr. SAWYER in introducing a bill to deal with the administrative funding problem faced by the employment service.

Because an effective employment security system in every State is vital if the United States is going to remain competitive, operational funding for many of these State systems must be improved. It is not a question of raising taxes. The FUTA tax employers already pay on each of their employees generates sufficient revenue to provide adequate funding. Rather, the appropriations from these revenues are inadequate. Too many States, in confronting this dilemma, have reluctantly chosen to cut back services. Others have had to raise revenues of their own, thus resulting in the double—and even triple—taxation of employers.

States recognize that if the Federal allocation formula gave them a reasonable minimum return on the FUTA investment currently paid by each State's employers, services could be not only maintained, but improved. What is more, this objective could be achieved without a tax increase by either States or the Federal Government.

Under the State Employment Security Services Act, the FUTA tax proceeds would be allocated 90 percent to the employment security administration account [ESAA] and 10 percent to the extended unemployment compensation account [EUCA]. A minimum of 90 percent of the amounts allocated to the ESAA would be appropriated annually to the States for the operation of State programs.

Each State would be guaranteed a minimum of the higher of 80 percent of FUTA tax dollars contributed by that State's employers to the ESAA or the State's 1986 allocation compounded for increases in the total funds in the ESAA account. Let me stress that no State will be harmed under my plan, and many will be helped. Roughly half the States get shortchanged under the current program—not because employment isn't a problem in the State but because the Federal program's accounting procedures are flawed. Ohio is one of the States which generally fails to receive a fair return on the unemployment insurance taxes it collects from employers.

In addition to the new funding mechanism, the bill would permit States to make significant operational improvements in their employment security programs. This aspect of the bill is not wholesale operational reform imposed by the Federal Government. It merely makes the system more flexible to allow it to meet the varied and changing needs of individual States. The increased funding which will result from my legislation will allow each State to develop programs which match worker skills with employer needs. This logical approach will help workers adjust to the changes in the local economy and the national economy, resulting in a more flexible, competitive work force.

The bill retains the Federal-State partnership which currently governs the unemployment insurance program. It does not represent a devolution of the program from the Federal to the State level.

Finally, many of us have heard from our State governments about their problems in carrying out Federal mandates without adequate financial support from the Federal Government. My bill would be a welcome change, since it should ease pressures for States to raise their own unemployment taxes.

NATIONAL HISPANIC QUINCENTENNIAL COMMISSION COMMEMORATES HISPANIC HERITAGE

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. TORRES. Mr. Speaker, I rise today to recognize the efforts of the National Hispanic Quincentennial Commission's 500th anniversary commemoration of Christopher Columbus' epochal first voyage to the Americas.

In 1992, the United States will join other nations of the Western Hemisphere and Europe in commemorating this historic event that set in motion the creation of a new world.

In keeping with the magnitude of this event, prominent members of the Hispanic community in the United States founded the National Hispanic Quincentennial Commission in 1983.

The national commission regards the commemoration of 1992 as an important opportunity to educate all Americans on the contributions of Hispanics to the development of the United States over the past 500 years. This process will give Hispanic-Americans, the fastest growing minority in the United States, a new sense of pride in their rich heritage, and it will help all Americans understand and appreciate the outstanding contributions made by those of Hispanic descent to the development and prosperity of our country.

As so many historical myths permeate the American consciousness on the history of Hispanic-Americans, the national commission's objective is to create a working quincentennial commission serving as an educational tool and catalyst for developing meaningful quincentennial programs and events at the national, State, and local level. On this note, it is imperative that we re-tell the history of the Americans so that the general public may acknowledge and appreciate the diversity that permeates the cultural fabric of the United States.

Mr. Speaker, this national undertaking is of such historic magnitude that I wish to submit the organization roster of the many distinguished American citizens who preside on the commission.

I recognize the outstanding contributions Hispanic-Americans have offered to our country and applaud the efforts of the National Hispanic Quincentennial Commission to serve as the official Hispanic Quincentennial Commission for the commemoration of 1992.

Mr. Speaker, I ask my colleagues to join me in saluting the National Hispanic Quincentennial Commission for its notable service to the cultural needs of the Hispanic community in the United States:

Honorary national chairman: Mr. Ricardo Montalban; chairman of the board: Mr. Raul Yzaguirre.

Honorary trustees: Jesse Aguirre, Henry Cisneros, Moctesuma Esparza, Henry Koffler, PhD., Edward James Olmos, Jeno Paulucci, Federico Pena, Angel Roubin, The Honorable Abelardo Valdez, and Jack Valenti.

Board of directors: Alex Armendaris, Patricia Asip, Dr. Pepe Barron, Jose Berrios, Dr. Manuel Luis Carlos, Terry Carter, Gil Chavez, Dorita De Lemos Down, Rita Di Martino, Merci Hernandez, Susan Herrera, Ambassador Joseph Jova, Dr. Jose Garcia-Mazas, Al Montoya, Ed Pena, Victor Rivera, Dick Salvatierra, Pablo Sedillo, Dr. Barbara Tenenbaum, Arcy Torres, and Raul Yzaguirre.

AMERICA SHOULD REJOIN A REFORMED UNESCO

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. EDWARDS of California. Mr. Speaker, 5 years ago, President Reagan ended the U.S. participation in the United Nations Educational, Scientific and Cultural Organization [UNESCO], citing a need for budgetary and management reforms of that organization.

In an article appearing in the Los Angeles Times on October 9, our colleague from California, Congressman ESTEBAN E. TORRES, notes that the conditions are now right for America to resume its participation in UNESCO. Not only have the necessary reforms within UNESCO been achieved, but by not participating, the United States is missing out on a valuable opportunity to influence the direction of this important international organization.

I would like to insert Mr. TORRES' article in the RECORD, and I commend it to the attention of my colleagues.

AMERICA SHOULD REJOIN A REFORMED UNESCO

(By Esteban E. Torres)

When the Reagan Administration took the United States out of the United Nations Educational, Scientific and Cultural Organization (UNESCO) at the end of 1984, it aimed to send a political shock wave throughout the U.N. system. Charging the organization with excessive politicization, lack of budgetary restraint and poor management, the Administration conditioned, the United States' return on operational, management and financial changes at the organization.

The time to make that return is now. Reforms are under way at UNESCO that Americans across the political spectrum agree were needed. And it serves no conceivable interest for our country to sit isolated outside the agency that lies at the center of world's flow of ideas as it promotes literacy, education, science, environmental protection, cultural preservation and the free flow of information.

Recent changes at UNESCO now warrant a reassessment of the complaints that prompted our decision to withdraw. A new director general, Federico Mayor Zaragoza, has steered the organization away from political divisiveness and toward practical programs that enjoy wide support. He has discarded program rhetoric that troubled advocates of freedom of communication in the West. He has produced a new program budget that emphasizes UNESCO's successful core programs in accordance with the tight budgetary restrictions the agency has adopted.

Mayor has drafted a medium-term plan that outlines the organization's directions for 1990-1995. It charts a new path for UNESCO, one that returns to the organization's original vision of direct involvement of the world's intellectual communities in building a peaceful world.

As science, education, communications, humanities and cultural preservation increasingly take on international dimensions, our participation in shaping global activities through UNESCO becomes even more urgent. The American scientific, educational and cultural communities are collectively calling for a U.S. return as they watch missed opportunities to participate in ground-breaking ventures in their fields. UNESCO, too, is feeling the absence of American expertise in these fields.

Meanwhile, the Soviet Union has taken advantage of the United States' absence to assert leadership in many of UNESCO's fields and offer a positive vision for the future of the organization. Foreign Minister Eduard A. Shevardnadze has affirmed the Soviets' desire to be "constructive and trailblazing contributors to UNESCO's activity." UNESCO occupies an important place in Mikhail S. Gorbachev's vision of our changing world. In contrast, by abandoning an important agency for multilateral action, the United States is forfeiting an opportunity to promote Western values in the world's most important sectors for the future.

We also risk paying a high price politically. The United States is going to great lengths to protect our efforts to move the Middle East peace process by fighting the efforts of the Palestine Liberation Organization to gain admission to U.N. specialized agencies and, thus, political legitimacy as a state.

But, as things now stand, we will not be there to fight the PLO's application for membership in UNESCO. At best, we can hope that later this year the UNESCO membership will follow the lead of the World Health Organization, which voted this past spring to defer the PLO's application for one year.

Human creativity and interchange are fostered by the ideals of UNESCO. This, essentially, is why Americans must be a part of the agency. Our country has much to contribute to, and possibly even more to learn from, this forum of intellectual cooperation and collaboration.

"THOMPY" FRIENDS AND POLITICAL COMRADES REMEMBER ONE OF POLITICS' NOBLEMEN

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. FORD of Michigan. Mr. Speaker, on Tuesday, September 11, the AFL-CIO hosted a memorial service for our former colleague, Frank Thompson, who passed away on July 22. The House of Labor was a fitting place to remember Congressman Thompson, because working men and women have never had a better friend in Congress—or anywhere in political life—than "Thompy." He was a tireless fighter for fair labor relations laws and the rights of unions.

But, as several speakers at the memorial service pointed out, Congressman Thompson was not one-dimensional. He was the founder of the National Endowment of the Arts, a champion of civil rights legislation, a war hero, a reformer of Congress, and an advocate of increased educational opportunities for all Americans.

Thompy was also my good friend, Mr. Speaker, so it was a particular pleasure for me to share the role of master of ceremonies at the memorial service with another of his old friends, Al Barkan.

At this time, I would like to request that a newspaper article describing the AFL-CIO's memorial service be printed in the RECORD.

"THOMPY"—FRIENDS AND POLITICAL COMRADES REMEMBER ONE OF POLITICS' NOBLEMEN

(By Charles Rogers)

When Frank Thompson Jr., the former New Jersey congressman, died July 22, the nation's headline writers, not surprisingly, underscored his Abscam conviction and subsequent imprisonment. That is the way of the world and he would have understood, being the son and brother of newspapermen. But it was not the whole story and it hung a cloud over nearly 30 sunburst years

of heavyweight public service—as rare these days as the notion of sacrifice.

Wednesday in the marble lobby of their Washington headquarters, the chief tribunes of organized labor remembered the silver-thatched "Thompy" and all the good he did for a nation and its people. He made the way of the world a little softer and, at the same time, a little truer.

It was as though those who were now to bear witness—AFL-CIO chief Lane Kirkland, "Tip" O'Neill, Ted Kennedy and actor Theodore Bikel—having heard Marc Antony speak over the corpse of Julius Caesar, decided that any evil Frank Thompson might have done would not live after him nor would the good he did be interred with his bones. Not this day and surely not in labor's dwelling, filled with family and 150 friends and comrades-in-political arms.

The tone was contrastingly light in a political city that often takes itself too seriously.

Lane Kirkland led off saying, "Thompy was Washington's most effective rejoinder to the Old Harry Truman saying that 'if you really want a friend in this town, you'd better get a dog.'"

The Wall Street Journal's Al Hunt, who covered Congress for years, called him "wise, witty, caring; patriotic man fond of newspapermen and who leaked like a sieve. If there's a Hall of Fame for great sources in heaven, then Thompy is sitting there comfortably right now."

"Tip," who looks like an old Basset hound and sounds like he'd never left the precincts of Cambridge said, "Frank Thompson was my friend. He was a friend and an advocate of every American who was paid by the hour and who lived from weekly paycheck to weekly paycheck."

Then it was Teddy's turn. Taking note of Thompson's running the voter registration drive for John Kennedy in 1960, he said that in the end it meant his brother's narrowly winning the White House. Calling Thompson "the father of the New Frontier," he hailed him as the author of the bill establishing the Kennedy Center for The Performing Arts and the driving force behind the losing struggle to repeal the federal law banning union membership as a condition of employment.

It was all nostalgia and the bittersweet memories of promising yesterdays, recalling legislative wars over health care, voting rights, federal aid to local schools and to the arts and the humanities—all the major disputes into which Frank Thompson poured his glittering talents and his vision. And then it was over, as Kennedy said, when a shadow fell that many felt was unjust.

In the end though, Thompson caught up with the fugitive peace. He had come finally to that splendid time in life where a man looks for no judge but himself.

SATELLITE TECHNOLOGY AND WORLD FOOD SECURITY

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. HALL of Ohio. Mr. Speaker, the House Select Committee on Hunger this week released a report entitled "Satellite Technology and World Food Security," prepared by the Science Policy Research Division, the Environment and Natural Resources Division and the Office of Senior Specialist of the Congressional Research Service [CRS] of the Library of Congress.

Utilizing the extensive knowledge and broad coordination within CRS, the report covers the development and applications of satellite monitoring systems of the United States, foreign nations, and international agencies. This information is presented with a focus on expanding the world's food production through better management of the environment.

Satellities and remote sensing are the watchful eyes that tell us of the disappearing rain forests or scant rainfall that predicts fewer crops and eventual famine. They guide us to the breeding places of locusts and enable us to wipe out these persistent enemies of man's food supply. They are basic tools for humanity in the search for solutions to hunger. The report provides clear evidence that any loss of our satellite capability will directly affect our ability to avert famine.

The report recognizes that the Earth's fragile environment must be carefully monitored to protect food security for all. As environmental degradation progresses, the world's poorest and hungriest people become both victims of and contributors to impending ecological collapse.

Released in coordination with World Food Day, the report supports this year's theme, "Food, Environment and Development." There is growing awareness among activists and grassroots groups who participate in World Food Day that satellite technology can be an effective tool for improving environmental management and expanded food production. They recognize that proposed space activities, such as Mission to Planet Earth, must also include studies concerned with the earth's capacity to produce sufficient food.

The 55-page document covers the activities of the United States and international agencies concerned with agricultural assessment, monitoring of relevant environmental and natural resource considerations, and with development and applications of satellite monitoring systems. The United States and international satellite systems currently in operation and planned for the future are also described.

The report will enable Members of Congress, as well as individuals and organizations interested in hunger alleviation and environmental protection to understand the support satellite technology that gathers data relevant to those concerns. The National Aeronautics and Space Administration [NASA] plans to use it as a teaching tool in the Teacher in Space Program.

A central issue for the Congress identified in the report is whether the United States is to remain committed to building and operating satellite systems to provide food security data for domestic and international use, or if it will rely more heavily on foreign data. The report makes clear the crucial role of the U.S. satellite Landsat in monitoring food production.

Other issues raised in the report are whether the interagency and international coordination critical to the comprehensive monitoring of Earth systems can be achieved; the capacity of agencies to use remote sensing data; the financing of interagency coordination; international coordination and/or competition in developing and using satellites.

The most serious obstacle to improved monitoring and forecasting of agricultural and environmental conditions in developing countries is a lack of capacity to collect and analyze data on their own food supply conditions accoding to the report. A need for training field staff in the U.S. Department of Agriculture and the Agency for International Development in techniques of assessing crop conditions and estimating supply and demand for food and agricultural products is also indentified.

A TRIBUTE TO AMY HERMAN OF LOUISVILLE—WINNER OF 1989 PRESIDENTIAL AWARD FOR EXCELLENCE IN SCIENCE AND MATHEMATICS TEACHING

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. MAZZOLI. Mr. Speaker, I rise to pay tribute to a Louisvillian who recently received the 1989 Presidential Award for Excellence in Science and Mathematics Teaching.

Teaching is one of the most noble of professions which requires patience and great dedication. Amy Herman of Louisville's Atherton High School is enthusiastic about teaching math, there can be no doubt.

And, in an evermore competitive and technologically dependent world, America will suffer without providing the opportunity and incentive to produce the best and brightest in these disciplines.

The need to improve has been well cited and with her students Ms. Herman has been successful and made important strides in that direction.

I am pleased that the President's award has been established to recognize achievement in the classroom by teachers like Amy Herman.

I commend to all my colleagues' attention the following article from the Louisville Courier-Journal which speaks to Ms. Herman's talents:

INNOVATIVE INSTRUCTION ADDS UP TO $7,500 GRANT FOR ATHERTON MATH TEACHER

(By Robin Epstein)

The mathematics education many high school students receive is worth about $5—the price of a calculator—says Amy Herman.

That's why the Atherton High School math teacher is de-emphasizing computation in her algebra, trigonometry, geometry, calculus and computer classes, and stressing concepts and their industrial applications.

Now that she has won the 1989 Presidential Award for Excellence in Science and Mathematics Teaching—the fourth Atherton teacher to have done so—Herman will be able to bring her classroom one step closer to the real world.

With the $7,500 grant that accompanies the award, she will buy programmable graphic calculators—pocket computers.

These machines will quickly perform computations, freeing up class time for the study of everyday applications of math problems, Herman wrote in her application for the presidential award.

The 112 winners of the award, which was established in 1983 and is administered by

the National Science Foundation, will attend a week of festivities in Washington, D.C., later this month.

(John Ledden, who teaches chemistry and physics at Beechwood High School in Fort Mitchell, Ky., won the award for teaching science.)

When Herman, 37, began teaching 15 years ago she was at a loss to answer students who wanted to know why they were learning a particular concept, she said.

But if students are taught practical applications of math, that question doesn't even come up, she said.

Shortly after the start of third period yesterday, Herman asked the college-bound juniors and seniors in her pre-calculus class to take out a piece of paper and "write a paragraph or two telling me everything you know about vectors and how they relate to complex numbers."

Junior Robert McKiernan said Herman gives such writing assignments "so we can learn how to apply our math to the business world."

"It helps you remember it a lot," said senior Allison Campbell.

Journal entries have become an integral part of her teaching, Herman said, because she wants students to learn to communicate mathematically. Ironically, Herman said she got interested in mathematics because it seemed like a field of rights and wrongs, "a class I didn't have to write in."

Technically adept students are sometimes stymied by the writing requirement at first, she said. But when she explains that there are few careers in which writing is not required, the students begin to understand how important it is.

"Lots of students get an answer, and they don't know where they got it," she said. "If they can't tell anyone else, that information is worthless."

In one of their first assignments this year the students were told to describe their "greatest mathematical failure and their greatest mathematical success," Herman said. Nearly all described the experience of thinking they are the only one in the room who doesn't understand what's going on.

"I think they need to know that everybody feels that way," she said. "It takes time, and practice and lots of examples. In a couple of days it will click."

Herman said she also uses student journals to evaluate their mastery of the subject and to find out how they feel about the class.

They let her know if she's being "too boring, giving them too much busy work, or if the applications are going right over their heads."

Herman also makes students work in groups. In cooperative projects students are graded on process as well as product, she said. They get points for sharing equally and remaining focused on the task. If one student dominates, the group won't get a high score.

Spending time with the students one-on-one is another key component of Herman's teaching method. Her 3-year-old child makes it impossible to grade papers at home, so Herman stays at school until 5 p.m., during which time students are encouraged to come to her for private tutoring.

"She seems to care a lot about how we do as individuals rather than just wanting to get the job done," said junior Amanda Straus.

Janice Fish, Atherton's principal, said Herman is "dedicated to kids and learning. She sets high expectations for students, but she doesn't leave them hanging. She's always there to support them in achieving those expectations."

Herman has taken numerous classes to further her own understanding of mathematics and new teaching strategies. In turn, she has shared her new insights with other math teachers by conducting workshops throughout the district.

"Math is changing fast," Herman said, in part because of the recognition that the math skills of even the best U.S. students don't come close to the average students in other industrialized countries.

The evolving curriculum, and the presidential award, keep the profession exciting, Herman said.

"The reason I'm still teaching is because it is changing. It's still interesting. If it ever stopped, I wouldn't like it."

COMMENTS ON THE INTERNATIONAL DEBT PROVISIONS OF H.R. 2494

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. PEASE. Mr. Speaker, I would like to take this opportunity to comment on the international debt provisions of H.R. 2494, the International Development and Finance Act of 1989, which passed the House yesterday.

The bill recognizes that the Brady plan's emphasis on debt and debt service reduction is a great improvement over the Baker plan's adherence to the status quo. In Mexico, the first Nation to participate in the Brady plan, officials are very pleased with the debt agreement they worked out in July. As a result of the agreement, interest rates are down 20 percent, and some flight capital has returned.

The bill also addresses capital flight, which is both a major symptom of the debt crisis and a major obstacle to resolving it. Attracting some of that capital back to the debtor nations is essential if we are to achieve a long-term solution to the debt issue. Therefore, I am very pleased that H.R. 2494 requests that the Treasury Department commission a study from the IMF on how governments and banks could work together to stem capital flight.

I am also pleased that the bill requires banks with exposure to debtor nations to increase their loan loss reserves. This should make participation in the Brady plan more attractive, since participating banks could maintain a lower level of reserves.

Another issue that the bill addresses is the valuation of debt. Many debt reduction advocates, including myself, believe that the secondary market value of debt, which is often 50 percent of the face value, should be the measure for valuing Third World debt. Using the secondary market value, I would argue, would force banks to recognize the decreased value of their loans, making them more amenable to reducing Third World debt. The bill requires that the banking regulatory agencies report on the feasibility of employing the so-called mark to market accounting method, which incorporates these secondary market values.

I want to congratulate the members of the Banking Committee for continuing to push the administration and commercial banks to provide debtor countries with substantial debt relief. Their moribund economies need it, and, as more and more policymakers are beginning to recognize, it is in our political and economic interest to provide it.

HONORING CAPT. JOHN H. BARNICK, LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. TORRES. Mr. Speaker, I rise today to recognize a very special individual, Capt. John H. Barnick, Commander, Pico Rivera Sheriff's Station, Los Angeles Sheriff's Department. Captain Barnick is retiring from the sheriff's department and will be honored at a special dinner on Friday, November 3, 1989.

Captain Barnick served as commander of the Pico Rivera Station from April 1986 until April 1989. During his 30 year career with the Los Angeles County Sheriff's Department he was also assigned to jail, detective, patrol, and administrative duties, which included an assignment to the Office of Sheriff Sherman Block.

John Barnick was born on May 21, 1939, in Vandalia, IL. When John was 8 years old, his family moved to South Gate, CA. He attended local schools and graduated from Pius X High School in Downey. He is a graduate of the FBI National Academy and is also a proud alumnus of the University of Redlands where he received his B.A. in public management.

John and his wife Donna live in Glendora. They have four children, Elizabeth, Carol, John, and Emilie.

Mr. Speaker, on November 3, 1989, the citizens of Pico Rivera will honor Captain Barnick, a patriotic American and exemplary citizen, for his tremendous contributions to law enforcement and the residents of this community. I ask my colleagues to join me in saluting John Barnick for his outstanding record of service to the county of Los Angeles.

THE DEVASTATION OF THE SOVIET ENVIRONMENT

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, "Glasnost" is now permitting the world to gaze beyond the Iron Curtain of the Soviet Union. However, the world had not been aware of, or prepared for the evidence that reveals the truly perilous environmental situation within the Soviet Union. The fact is, the circumstances are so disastrous that the country could already be beyond help. The effects of unchecked and inefficient industrialization has devastated enormous portions of the country.

For example, when compared to the United States, the Soviet condition is startling. The EPA estimates that the United States emits 2.7 billion pounds of toxic chemicals into the air each year. In the Ukraine alone, 22 billion pounds of toxic materials are annually discharged into the atmosphere by local industries. In fact, in one Ukrainian city, Zaporozhe, industry annually discharges 800 million pounds of toxic garbage into the air. That is one fifth of the U.S. total.

One fifth of the entire Soviet population face severe health risks. Air-pollution levels in 104 Soviet cities are believed to be 10 times above acceptable levels established by the Soviet Government. Believe it or not, gas masks have been issued to thousands living in the Ukrainian city of Khnelnitskii because of unhealthy air. Imagine the National Guard in Middletown, OH, handing out gas masks to the local citizens because the air was not safe.

The Soviet water supply also has not been spared. In the Smolensk district, where a light bulb factory operates on the shores of the Dnieper River, mercury levels rose 140 times above acceptable levels. Local doctors and managers of the factory conspired to cover up this catastrophe. Only when local school children began suffering from loss of eyesight, trembling hands, and various other symptoms that are indicative of mercury poisoning, did this travesty come to light.

The Aral Sea, which at one point was the world's fourth largest inland sea, has lost 60% of its water and most of its fish. Salt from the dry beds blows 200 miles and enters the drinking water of Nukus, capital of the Karakalpak Autonomous Republic of 1.2 million in central Asia.

The cause of the shrinkage was diversion of the Amu-Darya and Syr-Darya rivers to irrigate Uzbekistan's cotton fields. Concerns were expressed in 1962 regarding the risks, but cotton took priority.

The effects of this total neglect of the environment in the Soviet Union is now beginning to take its toll on the population. Estimates as high as 16 percent of all Soviet babies are born with some sort of physical or mental defect. In Moscow, where life expectancy in the past 20 years has dropped by an average of 10 years, people there have 50 percent more birth defects than the national average.

The Soviet forests have also been subjected to this criminal neglect. Of approximately 600,000 square kilometers of forests destroyed each year by natural fires or the timber industry, less than one-third is replanted by the Soviets. The concern is magnified by the fact that in 1988, forestry interests were withdrawn from the consideration of primary Soviet environmental agencies.

And finally, in the city of Sumgait in Azerbaijan, authorities estimate 65 percent of all newborn children are blue babies. The reason is that there is not an adequate amount of oxygen in the mother's womb. The irreversible damage that has already been done to future generations is clear.

In the Soviet Union there is no equivalent to the Environmental Protection Agency. The most recent effort to establish such an agency was doomed to an already infamous Soviet bureaucratic power play. In January 1988, Fydor Morgun was appointed to head the State Committee for the Protection of Environment, known as the Goskompriroda. Morgun was given such broad powers that it appeared the environment was to be the next priority concern, after disarmament, for the Soviet Government. Morgun genuinely seemed to be a go-getter and not an apparatchik. However, Morgun resigned in June 1989, just 6 months after an unsuccessful attempt to reform the Soviet environmental bureaucracy. Since then eight people declined the post before the position was finally filled.

What is responsible for this very disturbing situation? The Socialist system of government is responsible, with its apathy inside of, or on top of, an already top-heavy bureaucracy. Despite accounting for only about 10 percent of the entire Soviet population, the Communist Party, the only political party in the Soviet Union, controls policy throughout the country. That policy is devoutly aligned with the Marxist ideology, which among other things, states that land and water are free goods and accessible to any enterprise.

Since the government owns the means of production, there is no incentive to protect the environment. The ecology is not considered when calculating the cost of producing goods. There is also no compelling need to even monitor the environment. In a market oriented atmosphere, it is profitable for manufacturers to use energy-efficient machinery, equipment, and proficient fuels to run that equipment. The incentive is inherent in the system. In such an economy, political pressure is allowed to have a tremendous impact on the extent to which environmental concerns are addressed. This pressure is applied by various special interest groups which are becoming more powerful and vocal, not only in this country, but in other parts of the world.

In the Soviet Union these groups are emerging. The Green movement is becoming more vocal, but their influence is still minimal. Some have estimated that one-third of the members of the Congress of People's Deputies could be considered a Green. That number will certainly increase with future free elections.

With the deficit gobbling up 12–14 percent of the entire Soviet GNP, and the ruble valued at about 10 cents on the black market (as opposed to $1.60 set artificially by the Communist government), stiff austerity measures seem sure to be implemented. This exemplifies one of the many catch-22 situations facing Soviet leadership.

In the last 4½ years the economic status of the average Soviet citizen has actually deteriorated. Local dissatisfaction is becoming more widespread and vociferous. Many are beginning to remember more fondly the years of Brezhnev. It is fairly accurate to say that Gorbachev is more popular in the United States than in the Soviet Union.

The deadly environmental situation in the Soviet Union has not been addressed, and the likelihood of it being satisfactorily addressed in the future is not good. The estimated price-tag to clean up the Aral Sea alone is over $88 billion. Mr. Gorbachev and his supporters unfortunately have other priorities. Contrary to their rhetoric, the Soviet Union continues to spend billions of dollars, both directly and indirectly, on foreign military affairs, rather than on the health and well-being of the Soviet people.

Between January and May of this year, the Soviet Union made 29 arms shipments to Nicaragua worth approximately $175 million. This was the most expensive investment to the Sandinistas since they came to power. What a waste of money. What a foolish priority.

The average monthly arms shipment by the Soviet Government to the Marxist regime of Najibulla in Afghanistan have been bumped up to $300 million. It is another foolish priority.

Perestroika and Glasnost are visionary initiatives when put in the context of the past 70 years of Communist rule. Gorbachev's effort to reform his country is a monumental chore that should be encouraged. But when one looks beyond their rhetoric, one must question the true intentions and motives of these current Soviet leaders. After almost 5 years, the air is still lethal to breathe and the water is not potable.

These conditions belong to a Third World nation, and should not continue to be ignored by a world class leader, or group of leaders. Soviet ecological policy, or lack thereof, is killing people.

INTRODUCTION OF THE OCEAN DUMPING ENFORCEMENT IMPROVEMENT ACT OF 1989

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Ms. SCHNEIDER. Mr. Speaker, I rise today to introduce the Ocean Dumping Enforcement Improvement Act of 1989. This legislation, which I am introducing on behalf of myself and the Department of Justice, is intended to streamline and strengthen this Nation's enforcement capabilities concerning illegal ocean dumping.

Last year both the House and the Senate passed the Ocean Dumping Ban Act [ODBA] without a single dissenting vote. That legislation outlawed the ocean dumping of sewage sludge and industrial waste after 1991. In order to meet that deadline we must have the ability to adequately enforce the law, and this new bill, which is a joint effort between the Department of Justice, the Environmental Protection Agency, and Congress, will provide the means for the strict and efficient enforcement against all types of illegal ocean dumping.

President Bush has pledged his intention to crack down on ocean polluters, and the tough new provisions of this bill, which contain stiff penalties, will do just that. We will not tolerate a slap on the wrist for those who wantonly pollute our oceans. Our oceans are regularly assaulted by the illegal dumping of sewage sludge, medical waste, toxic chemicals, and a litany of assorted garbage and trash. We must have the means for tough sanctions against these polluters, and we must get the word out that we will no longer tolerate these abuses.

This new bill does not seek to alter what Congress did last year in passing the Ocean Dumping Ban Act. The Ocean Dumping En-

forcement Improvement Act of 1989 amends other aspects of the Marine Protection, Research and Sanctuaries Act [MPRSA], and its primary goal is to deter illegal dumping by expediting the arrest, prosecution, and conviction of illegal dumpers. This will be achieved by updating the MPRSA to provide the same enforcement tools that exist in other environmental laws, as well as by increasing criminal penalties for all knowing violations of the law.

It is clearly not the intent of the administration nor myself to undo any part of the ODBA which Congress passed last year. This new bill, in fact, will complement the ODBA, and better enable Congress to achieve the goals set forth last year. We must have a policy of zero tolerance when it comes to the pollution of our oceans and coastal waters, and the Ocean Dumping Enforcement Improvement Act of 1989 will do just that.

DR. HOWARD TAYLOR—1989 EXCELLENCE IN MATH INSTRUCTION AWARD WINNER

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. LANTOS. Mr. Speaker, we in the United States face our greatest threat not on the battlefields nor on our Nation's automobile showroom floors—but in our Nation's mathematics and science laboratories, and in our classrooms. Our Nation's junior high and senior high school students are slipping farther and farther behind their counterparts worldwide, in Japan, Europe, and the Soviet Union, and we must mobilize to reverse this disturbing trend.

In our national "war" against mathematical and scientific illiteracy, one of our finest officers is Dr. Howard Taylor. For his lifelong efforts, Dr. Taylor will receive the 1989 Presidential Award for Excellence in Mathematics Teaching at a Rose Garden ceremony.

The Presidential Award for Excellence in Mathematics Teaching is an annual program to recognize our Nation's outstanding math and science instructors. Administered by the National Science Foundation, the awards are made by the President to a teacher from each State in the Union.

Dr. Taylor has a long and distinguished commitment to mathematics and education. A 1958 graduate of Southeastern Oklahoma State University, he went on to earn a master's degree in mathematics and doctoral degree in education at the University of Northern Colorado. Dr. Taylor taught, wrote, and served as a school administrator with distinction for 30 years in New Mexico and, to the great benefit of many students in my congressional district, in San Mateo, CA.

Dr. Taylor's contribution to math instruction has had a national impact. He has served on many advisory councils, including the National Science Foundation's planning group on reforms in mathematical education. He is known nationally as a coauthor of such widely used text books "Algebra Book 1," "Algebra Book 2 With Trigonometry," "Basic Computation Series," "So You Think You've Got Math Problems," and "Developing Skills in Algebra One."

Mr. Speaker, as a former educator, I appreciate the positive impact of individuals such as Dr. Howard Taylor. A competitive educational system demands effective teaching, and we as a nation are in great debt to those who care enough to devote their lives to instructing our youth.

Mr. Speaker, our national security and our standard of living depend on a steady supply of highly trained young people. The key to education is dedicated individuals like Dr. Howard Taylor. I urge my colleagues to join me in paying tribute to him and to others who are being honored for their vital contribution to our American educational system.

TRIBUTE TO REV. ALVIN J. GAY

HON. HANK BROWN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. BROWN of Colorado. Mr. Speaker, we hear a lot these days about the horrible urban problems of gangs and drugs. Too often lost in these discussions are community leaders who have taken it upon themselves to deal directly with problems in their neighborhoods.

The Reverend Alvin J. Gay, pastor of King Baptist Church in Denver, CO, for the past 20 years, is such a community leader. Through his spiritual leadership in the church and his commitment to the northeast Denver community, Reverend Gay is making a difference which I wanted to share with my colleagues in the House.

Reverend Gay has organized a very successful effort to remove gang graffiti from neighborhood walls. By cleaning up such unsightly graffiti, Reverend Gay is restoring pride in the community in a very tangible way.

Reverend Gay began his ministry in Denver on April 26, 1969, and the church has prospered tremendously under his leadership. Reverend Gay directed a dedicatorial service in March 1977, at which time the name of the church was officially changed to honor the memory of the late Dr. Martin Luther King, Jr. During that year, a groundbreaking ceremony was held in August to start the building of a new sanctuary, with the men of the church performing most of the labor. The grand opening service was held on June 4, 1978. Today, the King Baptist Church and Reverend Gay also operate a learning center for preschool children.

Reverend Gay has demonstrated his commitment to his church members by going far beyond the physical walls of the church. Nothing manifests this quality more than his efforts to restore his community's pride in itself. For perhaps far more important than restoring the physical surroundings of the community, is the instilling of self-esteem and responsibility in the young people who Reverend Gay enlists for this worthy cause.

Denver, CO, is fortunate to have Reverend Gay as an outstanding leader in the effort to maintain a high quality of life for all of us.

TRIBUTE TO JOHN M. BARROWMAN

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. SANGMEISTER. Mr. Speaker, it is with enthusiasm that I rise today to salute the exemplary works, both professional and private, of John M. Barrowman, a citizen and a friend from my home district.

Mr. Barrowman has ably managed the Joliet, IL plant of Caterpillar, Inc. since 1981. Mr. Barrowman started his career at Caterpillar in 1963, in his native Glasgow, Scotland. In 1971, he came to America to work as the assistant factory manager at the Caterpillar plant in Aurora, IL.

After rising to the challenge of guiding the Joliet Caterpillar plant through the hard times suffered this past decade, John is retiring from the Joliet area, but not from Caterpillar and not from his commitment to see this major employer maintain its competitive edge. He has been promoted to manage Caterpillar's largest manufacturing plant, which is located in East Peoria, IL.

John Barrowman, who became an American citizen in 1985, brought to his new country impressive academic credentials, having graduated from the University of Strathclyde, Glasgow with degrees in mechanical and production engineering as well as business administration.

He brought with him something else, too, something even more rare. He possessed the spirit of community service that earlier American pioneers expressed in building homes for each other in community work parties. Mr. Barrowman has enriched his adopted country. He has been a tireless volunteer, giving of his time and leadership skills to a long list of groups involved in community service and development, including the Will County chapter of the American Cancer Society and the Upper Illinois Valley Association. His active volunteer board of director service include the Lewis University, Silver Cross Hospital and the Joliet YMCA Metropolitan Board. He is a member of the First Presbyterian Church of Joliet, the Rotary Club of Joliet, the Society of Manufacturing Engineers, and Associates of College of St. Francis. In a word, Mr. Speaker, I can say that Mr. Barrowman's relationship to his new homeland can be characterized as one of service.

Mr. Speaker, I must not omit noting that Mr. Barrowman is a devoted family man. His charity has not distracted him from his home life, his wife Marion Butler, his children Carole, Andrew, and John, and his granddaughter Claire.

Mr. Speaker, the residents of our community and the employees of the Joliet Caterpillar plant have been most fortunate to have someone of John Barrowman's ability and quality to lead them. The residents of Joliet will miss John Barrowman, and on their behalf and as his friend, I thank him and wish him well in the future.

CARL OWENS HUGHES, "CITIZEN OF THE YEAR"

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. GAYDOS. Mr. Speaker, there are people who go through life dreaming of doing great things but end up doing nothing. But, I know a man who dreams such dreams—but actually makes them come true.

Consequently, it was no surprise to me to learn that Carl Owens Hughes has been chosen Citizen of the Year by the Duquesne-West Mifflin Chamber of Commerce. He richly deserves the distinction.

As chairman of the board of Kennywood Park Corp. He oversees the operation of three amusement sites in western Pennsylvania: Kennywood Park, the "Roller Coaster Capital of the World" in West Mifflin; Idlewild Park, near Ligonier, and the brandnew water slide park, "Sandcastle", in West Homestead. Those parks provide more than 100 full-time jobs and more than 1,500 seasonal ones with more to come as development continues.

He began negotiating the purchase of the site of an abandoned steel mill. Two years ago, he acquired the 80-acre site and ground for Sandcastle was broken in June 1988. The water slide park opened in July of this year and was an immediate attraction. Currently, only 20 acres of the site are being used but Carl has plans, or should I say dreams for the remainder.

Carl is particularly proud of Sandcastle and also of the fact that Kennywood Park, which opened in 1898, is the lone survivor among approximately 13 amusement parks which once dotted the Pennsylvania landscape. Kennywood, which was declared a national historic landmark by the Department of the Interior in 1987, not only has survived under Carl's leadership, it has prospered.

His community involvement goes beyond the corporation, however. Carl also holds membership on the Mon Valley Commission, a group dedicated to rebuilding the area economically; the board of directors of Goodwill Industries, and the board of trustees for Pittsburgh History & Landmarks Association.

Mr. Speaker, Carl Owens Hughes is a dreamer but also a doer, and I am proud to join in the public recognition of his accomplishments.

THE 100TH ANNIVERSARY OF ST. JOHN'S HOME

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. HENRY. Mr. Speaker, I rise today to proudly recognize this day, October 19, 1989, as the 100th anniversary celebration of St. John's Home in Grand Rapids, MI. For a full century, St. John's Home has been an integral part of the Grand Rapids community and to all of west Michigan as well—committed to the security and well-being of our Nation's most precious resource—its children.

St. John's 100 years of service speaks volumes of the historical contributions made to child welfare throughout west Michigan. Its distinctive style of loving, individualized care for children is second to none.

The following poem, Mr. Speaker, is a result of a joint and loving effort of St. John's staff and board members on the memorable occasion of its 100th anniversary celebration. If all those who have been associated with St. John's Home over the years could communicate with the children who have been there, this is what they like to say:

You never asked to come here,
We know from your cries in the night that you would have chosen a healthier family or a happier one.

We know you never asked to come here.
But you did not come because there was nowhere else.

In the early days you came so quickly and in such numbers that all we had went for you;

There was not time for records and files . . . only your name remains.
Now, we touch the yellowed parchment ledgers, and read your name
And your name is all we know about you. . .

Well, your name and one other thing.
We know you never asked to come here.
About you who've come in recent years, we know much more.
Your files are thick with childhood gone wrong. . .

Almost as painful to read as to have lived.
You too did not ask to come here
But for you, too, there was nowhere else.

To the extent you found love here, in our embrace,
To the degree you felt hope growing within you,

As you sensed your unique worth mirrored in our smiles,
We have succeeded in what we set out to do.
You owe us no thanks in this;
We simply do as our God taught,
And you gave more to us that we ever gave to you.

Besides,
We know you never asked to come here.

As you have done well, we are proud.
As our love for you is reflected now in the eyes of your children and theirs,
We are happy for you.

Consider this a long-lost letter,
A letter of love from home. . .
From your Home.

The Greater Grand Rapids community is truly rich in leaders who genuinely appreciate that an investment in our children is a claim to future success in our Nation. I am proud to represent the individuals who are involved in the extraordinary efforts at St. John's Home. I ask you, Mr. Speaker, and all the Members of Congress to join me in thanking these individuals for sharing their talents, their energy, their leadership and their love for the sake of our children. I also ask you to join me in congratulating them for their 100 years of service.

TRIBUTE TO JULIUS UEHLEIN

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. FOGLIETTA. Mr. Speaker, on October 24, Julius Uehlein, president of the Pennsylvania AFL-CIO, will be honored by the Erie Democrats. I'm sure that this will be the first of many honors paid to him by Democrats and Republicans throughout the State of Pennsylvania.

Certainly, Julius' distinguished labor and civic career is deserving of this recognition. Julius joined his first union in 1936, becoming a member of United Steelworkers of America in Lorain, OH. His desire to see the growth and continued improvement of the labor movement led to his ever increasing involvement. First, he became active in his local, later elected president of his county labor council and in 1948, was selected as a full time international representative of the union.

Julius' broad experience in national negotiations, local bargaining, and arbitration made him a natural candidate for a position on the Pennsylvania Steelworkers Legislative Committee. He held this position for 15 years, directing the organization's legislative program and determining the future course of its activities.

Julius' commitment to furthering the causes of organized labor can only be matched by his dedication to promoting the equal and fair treatment of all workers regardless of their religion, race or sex. He has worked tirelessley in many organizations, such as the National Association for the Advancement of Colored People, the United Way of Pennsylvania and as a leader in many other labor—related agencies.

Mr. Speaker, we are fortunate to have Julius Uehlein's committed and caring leadership. I know I speak for many in expressing our admiration and gratitude for the contributions he continues to make. In his years of service, Julius has served to educate and enlighten, inform and reform, working always to improve the quality of life for all Pennsylvania's workers.

TRIBUTE TO CITIZENS OF OCEAN COUNTY, NJ, IN RECOGNITION OF THEIR ASSISTANCE TO VICTIMS OF HURRICANE HUGO

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. SAXTON. Mr. Speaker, once again, this Nation has experienced a natural disaster. Last Month, Hurricane Hugo struck the east coast with a vengeance. This past Tuesday evening we were awestruck at the reports coming in from San Francisco and Santa Cruz, CA. I want extend my heart and my hand to the citizens of California and to the many heroes who emerged from the rubble.

I also come before the House today to share my thoughts as a proud New Jerseyan and representative of a district whose citizens have taken a role in helping to address one of this Nation's most recent crisis. On September 29, 1989, a large group of citizens from Ocean County, NJ, organized a convoy of over 30 tractor trailers filled with food, water, blankets, and supplies, and headed for South Carolina to assist the victims of Hurricane Hugo.

I remember on January 20, this year, when President Bush took the oath of office and addressed the Nation for the first time as our President. He called upon us as a nation to be involved with our communities, become knowledgeable about its problems, and to help construct solutions to those problems.

For too long our country has become reliant on government agencies to perform humane duties that, less than a century ago, would have been personally addressed by neighbors, in community meetings and church organizations. It goes without question that government attention is necessary and warranted—but not to the extent that we become impervious to the crisis for help because we assume someone else is taking care of it.

The citizens of Ocean County, NJ, were not deaf to the pleas for help and compassion. They were not afraid to get involved. Nor did they assume or wait for a government agency to take care of the problem. In 72 hours, this group of concerned citizens collected over $1 million in goods and supplies and headed south.

I am reminded of a quote from a fictional character who, when asked about his impressions of the human race, responded by saying, "You are at your very best when things are at their very worst."

I am sure my colleagues in the House will want to join with me today in congratulating and thanking these individuals for a job well done.

POST-TRAUMATIC-STRESS DISORDER

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. EVANS. Mr. Speaker, as we have seen by the national Vietnam veterans readjustment study mandated by Congress, at least 1 in 4 Vietnam veterans will have suffered from post-traumatic-stress disorder [PTSD] some time in his or her life. Fifteen percent of male Vietnam theater veterans have diagnosable PTSD, which is a psychological illness that afflicts persons who are exposed to a traumatic event outside the normal human experience. Combat veterans are the largest group associated with the disorder.

As you may know, PTSD has been around for a long time under various names; battle fatigue and shell shock are labels from previous wars for the same disorder. Nightmares, traumatic flashbacks and insomnia are some of the symptoms experienced by Vietnam veterans 20 or so years after they went into battle. Family, friends, and loved ones may in some way or other have to endure the effects of this disorder which impair the lives of these veterans.

It is high time that the Department of Veterans Affairs [DVA] provide assistance to meet the needs of these veterans. Of those veterans suffering from PTSD a third to a quarter have never seen a mental health professional. There are only 195 vet centers around the country and only 16 operational PTSD inpatient units in DVA medical centers. The waiting period for admission to these inpatient units can be as unacceptably long as 18 months.

The DVA needs to make the treatment of PTSD one of its top priorities. That is why I have joined in sponsoring H.R. 3037 which would arrange for an expansion of the services the DVA provides to veterans suffering from PTSD. The legislation would expand both inpatient and outpatient treatment and would also encourage the DVA to recruit qualified professionals to administer PTSD care.

As chairman of the subcommittee on Oversight and Investigations of the House Veterans' Affairs Committee, I along with Representatives JIM JONTZ and JILL LONG held a hearing in Huntington, IN, to examine the benefits, services, and treatment provided by DVA to Indiana veterans suffering from PTSD. At that hearing, we had the opportunity to hear first hand accounts from veterans and their families who together have been battling PTSD.

We need to assure these veterans that they will receive the benefits and services to which they are entitled. Those who served their country in its time of need should not be forgotten in their time of need.

CATASTROPHIC SILLINESS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. PORTER. Mr. Speaker, the Senate says its budget deficit reduction bill should stick to deficit reduction. Anything that doesn't raise revenues or reduce outlays is gone from its reconciliation bill.

On the basis of that thinking, the Senate has decided not to repeal the Medicare Catastrophic Coverage Act. Let's look at the logic of that choice:

To reduce our budget deficit, the Senate reinstated the largest health care entitlement since Medicare.

Mr. Speaker, Gramm-Rudman thinking is killing our budget process. The House wants to get rid of the awful Medicare income surtax. It wants to repeal a huge entitlement that seniors don't want. But the Senate isn't going to do it because catastrophic's front-loaded financing masks deficit spending.

Well, the Senate is wrong. Keeping catastrophic may save money this year, but it's going to add billions of dollars to our deficit in the following years.

Congress ought to be honest with itself and with America. Catastrophic costs too much, and seniors don't want it. Let's repeal it.

ABE CORT TURNS 95

HON. HARRY A. JOHNSTON II

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. JOHNSTON of Florida. Mr. Speaker, next week marks a very special day for Mr. Abe Cort of Boca Raton, FL and many other people throughout the country. On October 22, 1989, Mr. Cort will celebrate his 95th birthday with over 75 of his friends and family at a party being held in his honor.

Since coming to America in 1908, Abe has developed a reputation as a shrewd businessman, compassionate family man, and charitable donor. At the age of 10, Abe and his seven brothers and their parents fled from Russia to settle in Cleveland, OH. He began the third grade in a public school, but quit 3 years later to help his parents support the family and maintain their home.

When he was 13, Abe got a job shining shoes for 5 cents a shine. A few years later when taking a neighborhood girl to the variety show, Abe picked the winning ticket in the War Bond tickets lottery and won $1,000 cash. With his winnings, Abe purchased his first shoe store, and began a prosperous career in the shoe business. By the mid-1950's, Abe and his brothers owned 47 Cort Shoes stores throughout Cleveland and along the east coast.

Mr. Speaker, in a recent letter entitled "The Story of My Life," Abe wrote:

At this time, I want to give thanks to the good old United States for allowing us to come to America and become prosperous. I am proud that this great country gave me the opportunity that through hard work and wheeling and dealing we succeeded in business to the point where we became the talk of Cleveland, OH. When there was a drive for funds for Israel, we had a visit from my Rabbi, namely Rabbi Brickner, asking us to donate freely which we proudly did.

Abe's friends and relatives can attest to the strength, courage, and good will which make Abe a role model for everyone he meets. I wish Abe and his family best wishes for a successful celebration, and for many more happy and healthy years ahead.

TRIBUTE TO STEPHEN PETRO

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Stephen Petro, "The Rock" of Pitt football, who will be celebrating his 75th birthday Sunday, October 21, 1989.

Born the third of 11 children of Eastern European immigrants, Steve was raised amidst the humble surroundings of Johnstown, PA. Forged by the blue-collar toils of work in the Bethlehem Steel mills as a youth, "The Rock" starred as a guard for the Johnstown High School football team. As a result of his size, strength, toughness, and natural ability, Steve

was recruited for the University of Pittsburgh by the legendary "Jock" Sutherland.

A 3-year letter winner for the Pitt Panthers as a two-way guard, Steve was an integral part of two national championship teams and was named second-team All-American. As a player, "The Rock's" work ethic has been immortalized in Panther lore. The story has it that en route to Pasadena by train to play Washington in the 1937 Rose Bowl, Steve worked his way from third-string to starting guard in a week during the teams daily stops to practice.

After graduation in 1939, Steve played football professionally for the Brooklyn Dodgers. His career, however, was cut short by WW II. While serving in the Army's Intelligence Service as a sergeant, Steve married Winifred Wilson in 1944.

In 1949 Steve returned to his first love, Pitt football, when coach Walter Milligan asked him to coach the guards. This marked a new era for Pitt football, the Petro era. It was a union that has lasted 40 years and spanned 11 head coaches. He has had a tremendous impact on many of the young men he has coached by bringing a unique blend of discipline and motivation.

Mr. Speaker, I would like to take this opportunity to congratulate Steve Petro for the outstanding influence he has had on the character of numerous young men. His compassion, knowledge, and understanding are the cornerstone of his coaching success. I am honored to know and be touched by this remarkable individual.

INTRODUCTION OF LEGISLATION TO INCREASE PENALTIES AND FINES FOR THE USE OF MINORS IN THE DRUG TRADE

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. PARRIS. Mr. Speaker, I have today introduced legislation in order to address an issue of enormous concern—the alarming and increasing threat of drug abuse which continues to erode our Nation's social fabric and rob individuals of freedom, prosperity and pursuit of the American dream. Despite our best efforts to coordinate at the Federal, State and local levels, our Nation is still confronted with an unacceptable illicit drug industry.

The misuse of drugs has already taken too great a toll—the most painful of our casualties include children born addicted to drugs; America's youth afflicted with AIDS as a result of drug use; teens turned addict or dealer on neighborhood street corners and schools; and divided families giving rise to economic disparity and homelessness. As a father, as a family man, and as a Member of Congress serving on the House Select Committee on Narcotics Abuse and Control, I believe we must continue to build upon past actions to identify the full scope of the drug problem and to effect policies which would address this intolerable situation.

Already the administration has taken a firm hand in stepping up the effort to fight the war on drugs by allocating greater resources, manpower and commitment to target this problem. The President's plan calls for tougher punishment for drug dealers, stricter penalties for users and emphasizes that the top priority in fighting drugs is to strengthen the criminal justice system. In my judgment, strategies to win the war on drugs will only be effective when we hold users and distributors accountable for their actions, and when we underscore and enforce polices which provide true disincentives to the use and distribution of such substances. I am pleased, therefore, to have the opportunity to expand on the President's initiative.

As my colleagues will remember, during consideration of the 1988 omnibus drug bill, language was included that penalizes any individual found soliciting the help of a minor to transport or distribute drugs in and around our schools. Under current law, any person at least 18 years of age who knowingly employs, hires, or coerces an individual under 18 years of age to distribute narcotics is subject to imprisonment of not less than 1 year and a fine of not more than $50,000. Additionally, in second offender cases where an individual has been previously convicted, criminal and financial penalties can be imposed up to three times the maximum or not more than 5 years if the minor is 14 years old or younger.

While such penalties are a good first step, I believe we need to strengthen the law. For this reason, I am introducing language which would amend the Controlled Substances Act of 1988 to increase existing penalties. Very simply, the legislation I am proposing would mandate that penalties for distribution thru a minor be increased, from not less than 1 year, to not less than 10 years, and that the minimum fine be not less than $50,000. Furthermore, with regard to concurrent sentences, such sentences would be served separate from and in addition to any other sentences imposed for related crimes. This would constitute a predictable, significant and credible deterrent to the use of minors in the conduct of illicit drug trade.

In my judgment we have clearly determined a fighting strategy to win the war on drugs. I am hopeful that as Congress further deliberates this issue, antidrug activities will prevail against an industry which is compromising the individual freedoms of all Americans. In order to satisfy those responsibilities entrusted by the people to us, we should do no less.

TRIBUTE TO MR. JOHNNY CANALES

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. ORTIZ. Mr. Speaker, I rise to pay tribute to a very special individual from my congressional district, Mr. Johnny Canales, host of the widely acclaimed "Johnny Canales Show."

Mr. Canales has hosted this show for 8 years. The program is regularly broadcast out of Brownsville, TX, however, he is known to travel all over the country to such places as Florida, Iowa, New Mexico, Arizona, and California to participate in various programs which benefit worthwhile causes. From very humble beginnings, Johnny grew up in the barrios. Since he could not afford to go to college, a lot of the benefit work he does deals with raising funds for scholarship programs. He is a strong believer in the importance of an education and his message to youths all over is to stay in college, go to school. He also regularly hosts a telethon at Christmas for needy families with an emphasis to helping needy kids.

Johnny began his career playing in a band, then he moved into radio broadcast to finally his present success in hosting the "Johnny Canales Show." He has been hosting this show for 8 years and for the last 1½ years has been broadcasting with the international Univision television network. In his 8-year tenure, he has interviewed famous Hispanic entertainers such as Cantinflas, Lucha Villa, Vicente Fernandez, Cheech Marin, Paul Rodriguez, and Vicki Carr. Through his program, he has promoted many Hispanic bands trying to make their start in the very competitive music industry and by doing so, he has successfully linked Hispanics all over the world through music. This program is viewed by individuals as far away as Alaska, Canada, Mexico, Honduras, Belize, El Salvador, Guatemala, Columbia, and Puerto Rico.

On October 22, 1989, at 5 p.m., Mr. Canales, who will be filming his program at Corpus Christi, TX, will be hosting a telethon to benefit the boys and girls clubs of Corpus Christi. This program will be aired in cooperation with channel 28 and broadcast to the 250 affiliates in the United States on the Univision network. This program will feature the popular Hispanic musical groups such as La Mafia, Los Chamacos de Jaime De Anda, Fito Olivares, Eliseo Robles, Los dos Gilbertos, Nick Villarreal, and Tierra Tejana.

Mr. Speaker, I join my colleagues in commending Mr. Canales for his outstanding work and the tremendous outreach of his program. I applaud his leadership and dedication to helping others which is demonstrated by his participation in events such as this telethon which will benefit the youth of Corpus Christi.

CONGRESSIONAL SALUTE TO JOSEPH E. GIBBS, JR., OF WAYNE, NJ, BOYS CLUB MAN OF THE YEAR

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. ROE. Mr. Speaker, it is with the greatest pride and admiration that I rise today to salute a truly outstanding individual from my Eighth Congressional District of New Jersey whose many professional and civic contributions have truly made his community and his State a better place to live.

I am speaking of Joseph E. Gibbs, Jr., of Wayne, NJ, whose deep involvement in his community for more than two decades has earned him the honor of "Man of the Year" by

the Boys Club of Paterson. For all he has done, Mr. Gibbs will be honored at a dinner-dance at the Wayne Manor in Wayne, NJ, on Thursday, October 26, 1989.

Mr. Speaker, I know this event will be a source of great pride, not only to Joseph Gibbs, but to his devoted wife of 32 years, Rosemary; to their daughter and five grandchildren; to his many friends and colleagues who will be on hand Thursday to honor him, and to Walter W. Porter, chairman of the Paterson Boys Club Annual Man of the Year Dinner.

Mr. Speaker, Joseph E. Gibbs, Jr., began his career with the New Jersey Bell system in 1953, ascending to the post of manager of the external affairs division for Passaic County in 1968, a position he still holds today. Along with 35 years of uninterrupted service to the Bell, Mr. Gibbs is also a long-time member of the Telephone Pioneers of America.

In earning the prestigious honor being accorded him by the Boys Club of Paterson, Mr. Gibbs joins a group of 23 other community leaders whose efforts on behalf of the Boys Club have yielded nearly $1 million. Joseph E. Gibbs, Jr., was selected for this high honor in recognition of his 25 years of outstanding service to the community.

Mr. Speaker, Mr. Gibbs has been vigorously active in a wide range of community groups, including the Red Cross, the Boy Scouts, Junior Achievement, and boys and girls clubs. He is the past and present director of seven area chambers of commerce, serving as an officer on the Clifton-Passaic Regional Chamber of Commerce where he was elected president, and the Wayne area chapter where he served as vice president.

Along with his many other activities, Mr. Gibbs has been a vitally important part of the Rotary Clubs and their charities. He has 20 years of perfect attendance in Rotary and is past president of the Rutherford Club. He is past district governor of Rotary District 749 and chairman of its conference in Puerto Rico this year. Through his involvement of the staff of several district governors, Joseph E. Gibbs, Jr., has demonstrated a deep involvement in the activities of Rotary throughout northern New Jersey.

Mr. Speaker, perhaps the highlight of Mr. Gibbs' numerous community activities has been his great work on behalf of St. Joseph's Medical Center. He has been a trustee, member of the executive board, foundation trustee, and chairman of the St. Joseph's planning board. His long hours of dedicated service have been vital to the hospital and all the people it serves.

Mr. Speaker, I appreciate this opportunity to present a brief profile of a man whose many vigorous and unselfish efforts have truly made his community, his State, and our Nation a better place to live. I invite you and our colleagues to join me in saluting an outstanding individual, Joseph E. Gibbs, Jr., of Wayne, NJ, the 1989 Boys Club of Paterson "Man of the Year."

INTRODUCTION OF THE HOME REPAIRS FOR OLDER AND DISABLED HOMEOWNERS ACT OF 1989

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1989

Mr. FLORIO. Mr. Speaker, today I am introducing with my distinguished colleague from Ohio, Congresswoman MARY ROSE OAKAR, the "Home Repairs for Older and Disabled Homeowners Act of 1989." This important legislation will improve the living environment of older homeowners and disabled homeowners and help them remain in their own homes, while preserving scarce affordable housing stock for future generations.

The program that our legislation creates is desperately needed by older homeowners in every State of this Nation. We know that 75 percent of older Americans are fortunate enough to own their homes, many of whom will "age in place" in these homes. Unfortunately, older homeowners have the highest level of substandard housing compared to other age groups.

Older adults in substandard housing often face deplorable conditions that threaten their health, safety, and emotional well-being. For example, a home repair program in Seattle served a woman and her disabled husband who had been homebound for 12 years due to broken front steps. In Arkansas, an elderly individual paid almost half of her poverty level income for fuel oil to heat her home that had visible daylight around the doors. A 61-year-old man in Washington, DC, disabled by arthritis, must live in the basement of his house because there are no handrails that would allow him to climb stairs.

In my home State of New Jersey, a shocking and true situation illustrates the importance of these services. A 94-year-old woman living alone had her home broken into twice; the second time she was severely beaten and robbed. A repair program focusing on security repairs installed a double cylinder lock on her front door, repaired a broken garage door, installed latches on her windows, and realigned windows in the living room. In addition, she received referral services to obtain food stamps, prescription drugs, and senior housing. Because of the repair program, this woman is able to live in her home today and receive services necessary to supplement her annual income of $4,500. The value of home repair services to an elderly or disabled homeowner obviously extends far beyond the cost of the repairs and affects the dignity and quality of life of the homeowner. Repair services could prevent incidents such as the experience of this homeowner in the future.

Senior citizens often rely on fixed incomes, and skyrocketing health care costs and increases in basic living expenses often leave little funds for routine repairs and modifications. In fact, 86 percent of low-income older homeowners expend 30 percent or more of their incomes for basic housing expenses such as mortgage payments, utilities, taxes, and insurance. It is not surprising then that 59 percent of these owners are unable to devote any funds to routine repairs.

Mr. Speaker, we know from experience that there are effective ways to address these repair needs. The successful use of home repair grants was shown in a demonstration project conducted in seven cities by the Policy Development and Research Department of the Department of Housing and Urban Development [HUD] in 1981 and 1982. Improved housing conditions enhanced the quality of life of homeowners by creating safe, secure, accessible environments, as well as peace of mind to homeowners. Other home repair programs across the country have encountered similar success.

We have combined the best elements of these programs in developing our legislation. The bill establishes 2-year competitive grants through the Department of Housing and Urban Development [HUD] to local governments, nonprofit organizations, and Indian tribes for the purpose of providing home repair services to older and disabled homeowners. Eligible repairs include preventive repairs and modifications, weatherization and energy-related measures, emergency repairs, security-related measures, accessibility and suitability repairs, and general repairs. Grantees are required to serve a minimum number of households based upon the amount of the grant.

An essential aspect of the legislation is local control in administering home repair and modification services. Local governments and nonprofit organizations are best able to evaluate the need for services in the area and of individual homeowners. Successful home repair programs across the country function in a variety of ways. Some programs hire their own employees, others contract out repair work, and still others utilize older and other volunteers. The key element for a Federal perspective is to allow grantees the flexibility to succeed in serving the residents of their community.

Mr. Speaker, this legislation is necessary because the Federal Government to date has failed to adequately address the need for home repairs. Fifteen Federal programs are currently authorized to furnish some form of home repairs; however, only one program the section 504 program of the Farmers Home Administration, focuses exclusively on older homeowners, and this program primarily finances major renovations and repairs. The other programs are ineffective as they do not emphasize home repairs, are underfunded, or have complicated administrative procedures that in effect preclude their use. We need a separate, coherent program to provide repairs and modifications for older and disabled homeowners.

Our bill also addresses the fact that older and disabled individuals may have social service needs in addition to the need for home repair services. Since providers of home repair services have access to the homes of older and disabled adults, they are in a unique position to witness the need for additional services. The legislation requires grantees to supply, upon request of the homeowner, information on assistance in the community such as nutrition, health care, employment, and other services.

To remedy the lack of accurate, comprehensive housing data, the legislation requires the standardized collection of data by grantees, including information on housing quality and conditions, major repairs needed, and the demand for additional services. This data will help paint a clearer picture of the needs of older and disabled homeowners and the condition of our Nation's housing stock.

Mr. Speaker, I believe that housing programs and home repairs can play a key role in the related issue of long-term care. Unfortunately, entitlement programs such as Medicare and Medicaid are focused primarily on institutional medical services rather than on long-term supportive noninstitutional environments that are just as vital and relevant. Our current approach is shortsighted and must be changed. Difficulties associated with the upkeep of homes are a primary reason compelling older adults to move from their current residences. In addition, unsafe environments cause accidents, premature institutionalization, and fatal injuries. This bill aims to prevent such injuries, deaths, and inappropriate institutionalization rather than waiting for the development of an unfortunate situation. I firmly believe that the Federal Government can meet the housing needs and preferences of older and disabled homeowners and that we can accomplish this in the most fiscally responsible manner.

Our bill will also have a positive effect on the shortage of affordable housing. We know that a shortage of safe, decent housing is a significant factor in the complex problem of homelessness. The homeless population in the United States is estimated to be 1 to 3 million persons, and we have seen this problem evolve to include persons from all walks of life—the young, the old, single persons, and families. It only makes sense to preserve and improve the current stock of housing for present and future generations of Americans and especially for those who have no homes. An average inspection in the HUD demonstration found 12 repair needs per client, with one site averaging 26 repair needs per client. Small home repair needs that are neglected lead to major housing difficulties and dilapidation in the long run.

Despite the numerous scandals at the Department of Housing and Urban Development, it is imperative that we continue to address housing issues and problems with equitable and effective initiatives. We must not permit HUD mismanagement and the abuse of housing programs by those in the private sector and others to serve as an excuse for eliminating assistance for those most in need of housing, many of whom are elderly or disabled. My proposal targets those in need—the population of low-income elderly and persons with disabilities, who own their own homes, with particular attention to minority populations. The bill also focuses on those who are vulnerable—those in danger of premature institutionalization or who are endangered by substandard housing.

We would like to incorporate this bill into comprehensive housing legislation to be considered this Congress. Current legislative proposals recognize in part the need for supportive services for senior citizens in federally subsidized housing, but do not address the needs of the elderly and disabled homeowners. Our legislation fills a gap in proposed legislation by confronting the shortage of safe, secure, and decent housing for older Americans, the tragedy of premature institutionalization, and the lack of long-term care alternatives, and by making a determined effort to preserve existing valuable housing stock. I look forward to working with the distinguished chairman of the Subcommittee on Housing and Community Development of the Banking Committee, Mr. GONZALEZ, on this legislation. With his leadership, I believe the House will pass an excellent housing reform bill.

The American Association of Retired Persons [AARP] supports this legislation and has generously assisted in its development. I would like to congratulate my colleague, the Honorable MARY ROSE OAKAR, for her tireless advocacy of the elderly and her effective role as chair of the Subcommittee on Economic Stabilization of the Committee on Banking, Housing, and Urban Affairs and her active leadership on the Select Committee on Aging. Ms. OAKAR has been a great help in developing this bill.

In conclusion, I emphasize the importance of providing a wide range of housing options for older Americans. The Federal Government currently provides many forms of housing assistance, including the building and subsidization of units, insurance of mortgages, and the provision of private sector incentives. As chairman of the Subcommittee on Housing and Consumer Interests of the Select Committee on Aging, I strongly urge my colleagues' support of this bill to fill a gap in Federal assistance—help for low-income, older, and disabled homeowners who sometimes literally have the walls and steps of their homes crumbling in around them.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

SENATE—*Friday, October 20, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

My son, forget not my law; but let thine heart keep my commandments; For length of days, and long life, and peace, shall they add to thee. Let not mercy and truth forsake thee: bind them about thy neck: write them upon the table of thine heart: So shalt thou find favour and good understanding in the sight of God and man.—Proverbs 3:1-4.

Gracious Father in Heaven, Judge of all the Earth, full of mercy and truth, fill this Chamber with Your presence and impart to the Senators godly insight as each, in the awesome pain and loneliness of such a decision, stands alone to pronounce the solemn word—guilty—not guilty. Mighty God, perfect in justice, lead your faithful servants in this irrevocable moment. In the name of Him, who is love incarnate. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, the time for the two leaders has been reserved for their use later today. As I indicated last evening I will shortly suggest the absence of a quorum. When the Chair announces that a quorum is not present, I will move to instruct the Sergeant at Arms to request the attendance of absent Senators and request a rollcall vote on that motion.

Once the quorum has been established, the Senate will begin voting on the first article of impeachment with additional rollcall votes occurring shortly thereafter.

I urge Senators to be present and in their seats prior to the first vote and to remain in their seats during all the rollcall votes so as to reduce the length of time necessary to conduct these votes and maintain the decorum of the Senate during votes.

With the cooperation of all Senators, we should be able to complete voting on these articles of impeachment within a reasonable amount of time and do so in an orderly and fair way for all concerned.

So, Mr. President, I repeat for Senators who may not have heard me make this announcement last evening, that there is going to be a motion to instruct the Sergeant at Arms to request the attendance of absent Senators. Once a quorum has been established and all Senators are in their seats, we will begin voting on the first article of impeachment, and we will continue until we complete the voting.

I ask and urge all Senators to be present and in their seats when we begin the voting and to remain in their seats during the voting, both in the interest of expediting the procedure, permitting the rollcall votes to occur in the shortest possible time so as to enable Senators to meet their other commitments, and also so as to maintain the decorum of the Senate during the voting.

QUORUM CALL

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum having been raised, the clerk will call the roll.

The legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 8]

Adams	Byrd	Mitchell
Biden	Conrad	Pressler
Boschwitz	Daschle	Roth
Bradley	Dole	Stevens
Breaux	Hatfield	Wirth

The PRESIDENT pro tempore. A quorum is not present.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Maine [Mr. MITCHELL] to instruct the Sergeant at Arms to request the attendance of absent Senators.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. DODD] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDENT pro tempore. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 93, nays 2, as follows:

[Rollcall Vote No. 253 Leg.]

(Subject: Motion to instruct Sergeant at Arms)

YEAS—93

Adams	Fowler	McClure
Armstrong	Garn	McConnell
Baucus	Glenn	Metzenbaum
Bentsen	Gore	Mikulski
Biden	Gorton	Mitchell
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boren	Grassley	Nickles
Boschwitz	Harkin	Nunn
Bradley	Hatch	Packwood
Breaux	Hatfield	Pell
Bryan	Heflin	Pressler
Bumpers	Heinz	Pryor
Burdick	Helms	Reid
Burns	Hollings	Riegle
Byrd	Inouye	Robb
Chafee	Johnston	Rockefeller
Cochran	Kassebaum	Roth
Cohen	Kasten	Rudman
Conrad	Kennedy	Sanford
Cranston	Kerrey	Sarbanes
D'Amato	Kerry	Sasser
Danforth	Kohl	Shelby
Daschle	Lautenberg	Simon
DeConcini	Leahy	Simpson
Dixon	Levin	Specter
Dole	Lieberman	Stevens
Domenici	Lugar	Thurmond
Durenberger	Mack	Wallop
Exon	Matsunaga	Warner
Ford	McCain	Wirth

NAYS—2

Humphrey	Symms

NOT VOTING—5

Coats	Jeffords	Wilson
Dodd	Lott	

So the motion was agreed to.

The PRESIDENT pro tempore. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

The Senate will be in order. The Chair will not proceed until Senators have ceased their conversations.

The Senate and the galleries will be in order.

IMPEACHMENT OF JUDGE ALCEE L. HASTINGS

The PRESIDENT pro tempore. Under the previous order, a quorum having been established, the Senate will resume its consideration of the articles of impeachment against Judge Alcee L. Hastings. The Sergeant at Arms will make the proclamation.

The Sergeant at Arms, Henry K. Giugni, made proclamation as follows:

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silence, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against Alcee L. Hastings, U.S. district judge for the southern district of Florida.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, the Senate deliberated yesterday for 7 hours on the articles of impeachment against Judge Alcee L. Hastings. We meet this morning to vote on the articles.

Before proceeding to the voting, I ask unanimous consent that Senators may be permitted, within 7 days from today, to have printed in the RECORD opinions or statements explaining their votes.

The PRESIDENT pro tempore. Hearing no objection, it is so ordered.

The majority leader is recognized.

Mr. MITCHELL. In response to a question from Senator BINGAMAN to the parties in the final argument on yesterday, Representative BRYANT from the House and Mr. Anderson for Judge Hastings stated that neither would object to the recording of an acquittal on articles II through V, and VII through IX without the taking of a vote by the Members of the Senate on those articles, if the Senate votes to acquit Judge Hastings on article I.

Senator BINGAMAN's question and the parties' response was based upon the position taken by the House in its post trial memorandum that it would be inconsistent to acquit Judge Hastings on article I and to convict him on these particular false statement articles.

To implement this agreement between the House and Judge Hastings, I ask unanimous consent that the majority leader be recognized if the Senate votes to acquit Judge Hastings on article I, for the purpose of propounding a unanimous-consent agreement on the recording of an acquittal on articles II through V, and VII through IX.

The PRESIDENT pro tempore. Without objection——

Mr. HEFLIN. I will reserve the right to object. I have some question in my mind as to whether or not article IX would fall into that category. Article IX may be different, and I feel that there ought to be a vote on article IX in that regard.

Mr. MITCHELL. Do I take the Senator's statement as objection to the unanimous-consent request?

Mr. HEFLIN. Well, yes, as in regards to article IX. The others, I think, fall into that category, but I do have some question on article IX.

If the leader wants to change it to a unanimous consent in that regard?

Mr. MITCHELL. Mr. President, I then inquire of counsel for the two parties whether they object to my restating the unanimous-consent request, but modifying it in the manner suggested by Senator HEFLIN.

Mr. BRYANT?

Mr. Manager BRYANT. There will be no objection on the part of the House to that.

Mr. MITCHELL. Mr. Anderson?

Mr. ANDERSON. No objection.

Mr. MITCHELL. Accordingly, Mr. President, I ask unanimous consent that the majority leader be recognized if the Senate votes to acquit Judge Hastings on article I for the purpose of propounding a unanimous-consent agreement on the recording of an acquittal on articles II through V and VII and VIII.

The PRESIDENT pro tempore. Is there objection? The Chair hears no objection. It is so ordered.

Mr. MITCHELL. Mr. President, on March 16, 1989, a unanimous-consent agreement was entered to provide that the voting records of any Senators excused from voting on all questions during the impeachment trial of Judge Alcee Hastings not be calculated to include any rollcall votes during the trial. The four Senators who have been excused from voting are the Senator from Indiana [Mr. COATS]; the Senator from Vermont [Mr. JEFFORDS]; the Senator from Mississippi [Mr. LOTT]; and the Senator from Florida [Mr. MACK].

Mr. DOLE. Mr. President, I want to establish, together with the majority leader, this is a unanimous-consent agreement on voting records; it is not a precedent for calculating voting records on any other occasion.

Mr. MITCHELL. Mr. President, the Republican leader is correct. As was stated on March 16, this agreement was entered for the protection of the Senate, not for the protection of individual Senators. Because these four Members were Members of the House of Representatives when the House deliberated on the Hastings impeachment, some might suggest that an appearance of prejudgment exists. Their excuse from participation is intended to protect against such an appearance.

Because the unanimous-consent agreement serves for this singular purpose and this purpose alone, there is no basis for using this agreement in the future for the protection of the voting records of individual Senators.

Mr. President, I would like to now repeat what I stated last evening and again this morning and request that all Senators remain in their seats during voting on whatever number of votes occur, for three purposes.

The first is to facilitate the handling of this matter in the most fair and appropriate manner for all concerned. That is and should be our overriding objective.

The second is to maintain the decorum of the Senate while these grave proceedings are underway.

And the third is to accommodate the interests of Senators themselves.

We will have possibly as many as 17 votes, possibly less, depending upon the outcome of the first vote. I ask that Senators remain in their seats during all of the votes to permit the calling of the roll just once on each vote so that it can be done in an orderly, proper manner and the shortest time possible will be required to elapse. That will not be possible if Senators, as they do from time to time, get up and walk around the well and go out to the cloakrooms and engage in other conversation during these proceedings. These are serious proceedings. They affect not only Judge Hastings, but they also affect the Senate and our system of Government. So far, the Senate has treated this matter with the significance which it deserves, and I urge upon my colleagues, having come this far in that fashion, let us complete the process in a proper manner.

The Chair will shortly instruct the Members of the Senate on the question to be put and the manner of response. I thank all Senators for their attention and courtesy until now and for what I know will be their continued attention and courtesy for Judge Hastings, to the House managers and to this entire matter.

Mr. BIDEN. Parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state his parliamentary inquiry.

Mr. BIDEN. Mr. President, the Constitution requires that two-thirds of the Senators be present for impeachment.

The PRESIDENT pro tempore. That is correct.

Mr. BIDEN. In light of the fact four Senators may be present but not voting, does that affect in anyway the requisite number of votes required for impeachment?

The PRESIDENT pro tempore. Four Senators have been excused and they will, therefore, not be counted.

Mr. BIDEN. I thank the Chair.

The PRESIDENT pro tempore. The clerk will read the first article.

Mr. NICKLES. Mr. President, parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state his inquiry.

Mr. NICKLES. In response to the question of the Senator from Delaware, if we have four Senators who are not voting, so they will not be counted, what is the number, if two-thirds is required? Is that number 67? Is that number 65?

The PRESIDENT pro tempore. Two-thirds of those present and voting.

Mr. NICKLES. So the number would be 67?

The PRESIDENT pro tempore. No. That would be a constitutional majority. That would be two-thirds of the Senators duly chosen and sworn.

Mr. NICKLES. Two-thirds of the Senators voting?

The PRESIDENT pro tempore. Two-thirds of the Senators who are present and voting.

ARTICLE I

The PRESIDENT pro tempore. The clerk will read the first article of impeachment.

The assistant legislative clerk read as follows:

ARTICLE I

From some time in the first of 1981 and continuing through October 9, 1981, Judge Hastings and William Borders, then a Washington, D.C. attorney, engaged in a corrupt conspiracy to obtain $150,000 from defendants in *United States v. Romano*, a case tried before Judge Hastings, in return for the imposition of sentences which would not require incarceration of the defendants.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

The PRESIDENT pro tempore. The Chair will read, for the benefit of everyone present in the Chamber and in the galleries, paragraph 6 of rule XIX of the standing rules of the Senate which states as follows:

Whenever confusion arises in the Chamber or the galleries, or demonstrations of approval or disapproval are indulged in by the occupants of the galleries, it shall be the duty of the Chair to enforce order on his own initiative and without any point of order being made by a Senator.

The Chair would deeply appreciate the cooperation of everyone in the Chamber and in the gallery in maintenance of order.

VOTE ON ARTICLE I

The PRESIDENT pro tempore. The Chair reminds the Senate that each Senator, when his or her name is called, will stand in his or her place and vote guilty or not guilty. The question is on the first article.

Senators, how say you? Is the respondent, Alcee L. Hastings, guilty or not guilty? The rollcall is automatic. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announced that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDENT pro tempore. Are there any other Senators wishing to vote?

The result was announced—guilty 69, not guilty 26, as follows:

[Rollcall Vote No. 254]

(Subject: Article I—Court of Impeachment—Judge Alcee L. Hastings)

GUILTY—69

Baucus	Fowler	McCain
Bentsen	Garn	McClure
Bond	Glenn	McConnell
Boren	Gore	Mitchell
Boschwitz	Gorton	Murkowski
Breaux	Gramm	Nickles
Bryan	Grassley	Nunn
Bumpers	Hatfield	Pell
Burns	Heinz	Pressler
Byrd	Helms	Reid
Chafee	Hollings	Riegle
Cochran	Humphrey	Robb
Cohen	Inouye	Rockefeller
Conrad	Johnston	Roth
Danforth	Kassebaum	Rudman
Daschle	Kasten	Sarbanes
DeConcini	Kennedy	Simon
Dixon	Kerrey	Simpson
Dole	Kerry	Stevens
Domenici	Kohl	Symms
Durenberger	Lautenberg	Thurmond
Exon	Lugar	Wallop
Ford	Matsunaga	Warner

NOT GUILTY—26

Adams	Graham	Moynihan
Armstrong	Harkin	Packwood
Biden	Hatch	Pryor
Bingaman	Heflin	Sanford
Bradley	Leahy	Sasser
Burdick	Levin	Shelby
Cranston	Lieberman	Specter
D'Amato	Metzenbaum	Wirth
Dodd	Mikulski	

ABSENT, NOT VOTING, OR EXCUSED FROM VOTING—5

Coats	Lott	Wilson
Jeffords	Mack	

The PRESIDENT pro tempore. On this article of impeachment, 69 Senators have voted guilty, 26 Senators have voted not guilty. Two-thirds of the Senators present and voting having voted guilty, the verdict on article I is guilty.

ARTICLE II

The PRESIDENT pro tempore. The Chair now asks the clerk to read the second article.

The legislative clerk read as follows:

ARTICLE II

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that Judge Hastings and William Borders, of Washington, D.C., never made any agreement to solicit a bribe from defendants in United States v. Romano, a case tried before Judge Hastings.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

VOTE ON ARTICLE II

The PRESIDENT pro tempore. The question is on the second article of impeachment.

Senators, how say you, is the respondent Alcee L. Hastings guilty or not guilty?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The result was announced—guilty 68, not guilty 27, as follows:

[Rollcall Vote No. 255]

(Subject: Article II—Court of Impeachment—Judge Alcee L. Hastings)

GUILTY—68

Baucus	Fowler	McCain
Bentsen	Garn	McClure
Bond	Glenn	McConnell
Boren	Gore	Mitchell
Boschwitz	Gorton	Murkowski
Breaux	Gramm	Nickles
Bryan	Grassley	Nunn
Bumpers	Hatfield	Pell
Burns	Heinz	Pressler
Byrd	Helms	Reid
Chafee	Hollings	Riegle
Cochran	Humphrey	Robb
Cohen	Inouye	Rockefeller
Conrad	Johnston	Roth
Danforth	Kassebaum	Rudman
Daschle	Kasten	Sarbanes
DeConcini	Kennedy	Simon
Dixon	Kerrey	Simpson
Dole	Kerry	Symms
Domenici	Kohl	Thurmond
Durenberger	Lautenberg	Wallop
Exon	Lugar	Warner
Ford	Matsunaga	

NOT GUILTY—27

Adams	Graham	Moynihan
Armstrong	Harkin	Packwood
Biden	Hatch	Pryor
Bingaman	Heflin	Sanford
Bradley	Leahy	Sasser
Burdick	Levin	Shelby
Cranston	Lieberman	Specter
D'Amato	Metzenbaum	Stevens
Dodd	Mikulski	Wirth

ABSENT, NOT VOTING, OR EXCUSED FROM VOTING—5

Coats	Lott	Wilson
Jeffords	Mack	

The PRESIDENT pro tempore. On this vote, there are 68 yeas, and 27 nays.

Two-thirds of the Senators present and voting, having voted guilty, the verdict on the second article is guilty.

Mr. MITCHELL addressed the Chair.

The PRESIDENT pro tempore. The majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that Judge Hastings and his counsel be permitted to be excused for the remainder of the votes, if they so desire.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HASTINGS. Thank you, Mr. President.

The PRESIDENT pro tempore. The Chair thanks Judge Hastings and his party.

ARTICLE III

The PRESIDENT pro tempore. The clerk will state the third article. The assistant legislative clerk read as follows:

ARTICLE III

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a

criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that Judge Hastings never agreed with William Borders, of Washington, D.C., to modify the sentences of defendants in *United States* v. *Romano*, a case tried before Judge Hastings, from a term in the Federal penitentiary to probation in return for a bribe from those defendants.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

VOTE ON ARTICLE III

The PRESIDENT pro tempore. The question is on the third article of impeachment. The rollcall is automatic. Senators, how say you? Is the respondent Alcee L. Hastings guilty or not guilty? The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—guilty 69, not guilty 26, as follows:

[Rollcall Vote No. 256]

(Subject: Article III—Court of Impeachment—Judge Alcee L. Hastings)

GUILTY—69

Baucus	Fowler	McCain
Bentsen	Garn	McClure
Bond	Glenn	McConnell
Boren	Gore	Mitchell
Boschwitz	Gorton	Murkowski
Breaux	Gramm	Nickles
Bryan	Grassley	Nunn
Bumpers	Hatfield	Pell
Burns	Heinz	Pressler
Byrd	Helms	Reid
Chafee	Hollings	Riegle
Cochran	Humphrey	Robb
Cohen	Inouye	Rockefeller
Conrad	Johnston	Roth
Danforth	Kassebaum	Rudman
Daschle	Kasten	Sarbanes
DeConcini	Kennedy	Simon
Dixon	Kerrey	Simpson
Dole	Kerry	Stevens
Domenici	Kohl	Symms
Durenberger	Lautenberg	Thurmond
Exon	Lugar	Wallop
Ford	Matsunaga	Warner

NOT GUILTY—26

Adams	Graham	Moynihan
Armstrong	Harkin	Packwood
Biden	Hatch	Pryor
Bingaman	Heflin	Sanford
Bradley	Leahy	Sasser
Burdick	Levin	Shelby
Cranston	Lieberman	Specter
D'Amato	Metzenbaum	Wirth
Dodd	Mikulski	

ABSENT, NOT VOTING, OR EXCUSED FROM VOTING—5

Coats	Lott	Wilson
Jeffords	Mack	

The PRESIDENT pro tempore. Upon this article of impeachment, 69 Senators have voted guilty; 26 Senators have voted not guilty.

Two-thirds of the Members present having voted guilty, the Senate adjudges that the respondent, Alcee L. Hastings, is guilty as charged in this article.

ARTICLE IV

The PRESIDENT pro tempore. The clerk will now read the fourth article of impeachment.

The legislative clerk read as follows:

ARTICLE IV

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that Judge Hastings never agreed with William Borders, of Washington, D.C., in connection with a payment on a bribe, to enter an order returning a substantial amount of property to the defendants in *United States v. Romano*, a case tried before Judge Hastings. Judge Hastings had previously ordered that property forfeited.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

The PRESIDENT pro tempore. The question on article IV is: Is the respondent, Alcee L. Hastings, guilty or not guilty?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—guilty 67, not guilty 28, as follows:

[Rollcall Vote No. 257]

(Subject: Article IV—Court of Impeachment—Judge Alcee L. Hastings)

GUILTY—67

Baucus	Fowler	McClure
Bentsen	Garn	McConnell
Bond	Glenn	Mitchell
Boren	Gore	Murkowski
Boschwitz	Gramm	Nickles
Breaux	Grassley	Nunn
Bryan	Hatfield	Pressler
Bumpers	Heinz	Reid
Burns	Helms	Riegle
Byrd	Hollings	Robb
Chafee	Humphrey	Rockefeller
Cochran	Inouye	Roth
Cohen	Johnston	Rudman
Conrad	Kassebaum	Sarbanes
Danforth	Kasten	Simon
Daschle	Kennedy	Simpson
DeConcini	Kerrey	Stevens
Dixon	Kerry	Symms
Dole	Kohl	Thurmond
Domenici	Lautenberg	Wallop
Durenberger	Lugar	Warner
Exon	Matsunaga	
Ford	McCain	

NOT GUILTY—28

Adams	Graham	Packwood
Armstrong	Harkin	Pell
Biden	Hatch	Pryor
Bingaman	Heflin	Sanford
Bradley	Leahy	Sasser
Burdick	Levin	Shelby
Cranston	Lieberman	Specter
D'Amato	Metzenbaum	Wirth
Dodd	Mikulski	
Gorton	Moynihan	

ABSENT, NOT VOTING, OR EXCUSED FROM VOTING—5

Coats	Lott	Wilson
Jeffords	Mack	

The PRESIDENT pro tempore. Upon this article of impeachment, 67 Senators have voted guilty; 28 Senators have voted not guilty.

Two-thirds of the Senators present having voted guilty, the Senate adjudges the respondent, Alcee L. Hastings, guilty as charged in the fourth article.

ARTICLE V

The PRESIDENT pro tempore. The clerk will now read the fifth article of impeachment.

The bill clerk read as follows:

ARTICLE V

From January 18, 1989, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that Judge Hastings' appearance at the Fontainebleau Hotel in Miami Beach, Florida, on September 16, 1981, was not part of a plan to demonstrate his participation in a bribery scheme with William Borders of Washington, D.C., concerning *United States* v. *Romano*, a case tried before Judge Hastings, and that Judge Hastings expected to meet Mr. Borders at that place and on that occasion.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

VOTE ON ARTICLE V

The PRESIDENT pro tempore. The question is on the fifth article of impeachment. Senators, how say you? Is the respondent, Alcee L. Hastings, guilty or not guilty?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDENT pro tempore. Have all Senators voted?

The result was announced—guilty 67, not guilty 28, as follows:

[Rollcall Vote No. 258]

(Subject: Article V—Court of Impeachment—Judge Alcee L. Hastings)

GUILTY—67

Baucus	Domenici	Kassebaum
Bentsen	Durenberger	Kasten
Bond	Exon	Kennedy
Boren	Ford	Kerrey
Boschwitz	Fowler	Kerry
Breaux	Garn	Kohl
Bryan	Glenn	Lautenberg
Bumpers	Gore	Lugar
Burns	Gorton	Matsunaga
Byrd	Gramm	McCain
Chafee	Grassley	McClure
Cochran	Hatfield	McConnell
Cohen	Heinz	Mitchell
Danforth	Helms	Murkowski
Daschle	Hollings	Nickles
DeConcini	Humphrey	Nunn
Dixon	Inouye	Pressler
Dole	Johnston	Reid

Riegle	Sarbanes	Thurmond
Robb	Simon	Wallop
Rockefeller	Simpson	Warner
Roth	Stevens	
Rudman	Symms	

NOT GUILTY—28

Adams	Graham	Packwood
Armstrong	Harkin	Pell
Biden	Hatch	Pryor
Bingaman	Heflin	Sanford
Bradley	Leahy	Sasser
Burdick	Levin	Shelby
Conrad	Lieberman	Specter
Cranston	Metzenbaum	Wirth
D'Amato	Mikulski	
Dodd	Moynihan	

ABSENT, NOT VOTING, OR EXCUSED FROM VOTING—5

Coats	Lott	Wilson
Jeffords	Mack	

The PRESIDENT pro tempore. On this question, 67 Senators have voted guilty, 28 Senators have voted not guilty. Two-thirds of the Members present having voted guilty the verdict on article V is guilty.

ARTICLE VI

The PRESIDENT pro tempore. The clerk will read the sixth article of impeachment.

The legislative clerk read as follows:

ARTICLE VI

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to his oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that Judge Hastings did not expect William Borders, of Washington, D.C. to appear at Judge Hastings' room in the Sheraton Hotel in Washington, D.C., on September 12, 1981.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting, removal from office.

VOTE ON ARTICLE VI

The PRESIDENT pro tempore. The question is on the sixth article of impeachment. Senators, how say you? Is the respondent, Alcee L. Hastings, guilty or not guilty?

The clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDENT pro tempore. Are there other Senators wishing to vote?

The result was announced—guilty 48, not guilty 47, as follows:

[Rollcall Vote No. 259]

(Subject: Article VI—Court of Impeachment—Judge Alcee L. Hastings)

GUILTY—48

Baucus	DeConcini	Hollings
Bentsen	Dole	Humphrey
Boren	Exon	Inouye
Breaux	Ford	Johnston
Bryan	Fowler	Kassebaum
Burns	Garn	Kasten
Byrd	Glenn	Kerrey
Chafee	Gramm	Lugar
Cochran	Grassley	Matsunaga
Danforth	Hatfield	McClure
Daschle	Helms	Mitchell
Nickles	Rockefeller	Stevens
Pell	Roth	Symms
Pressler	Sarbanes	Thurmond
Reid	Simon	Wallop
Robb	Simpson	Warner

NOT GUILTY—47

Adams	Durenberger	McConnell
Armstrong	Gore	Metzenbaum
Biden	Gorton	Mikulski
Bingaman	Graham	Moynihan
Bond	Harkin	Murkowski
Boschwitz	Hatch	Nunn
Bradley	Heflin	Packwood
Bumpers	Heinz	Pryor
Burdick	Kennedy	Riegle
Cohen	Kerry	Rudman
Conrad	Kohl	Sanford
Cranston	Lautenberg	Sasser
D'Amato	Leahy	Shelby
Dixon	Levin	Specter
Dodd	Lieberman	Wirth
Domenici	McCain	

ABSENT, NOT VOTING, OR EXCUSED FROM VOTING—5

Coats	Lott	Wilson
Jeffords	Mack	

The PRESIDENT pro tempore. On this article of impeachment, 48 Senators have voted guilty; 47 Senators have voted not guilty. Less than two-thirds of the Members present having voted guilty, the Senate judges that the respondent, Alcee L. Hastings, is not guilty as charged in this article.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, under rule XXIII, if the person impeached shall be convicted upon any article by the votes of two-thirds of the Members present, the Senate may proceed to the consideration of such other matters as may be determined to be appropriate prior to pronouncing judgment.

The Rules Committee report accompanying the most recent changes in this rule, in 1986 stated:

Since, under the prevailing view a two-thirds vote to convict on any article operates as an automatic removal from office, the Senate may not wish to vote the other articles.

Accordingly, Mr. President, after reviewing the matter and discussing it with Senate counsel and the distinguished Republican leader, and the House counsel, it is my judgment that the Senate need not vote on every one of the articles of impeachment.

I have reviewed the articles, and I believe it appropriate that we continue voting through article IX, and that we also vote on articles XVI and XVII.

I, therefore, ask unanimous consent that the Senate not vote on articles X through XV inclusive of the articles of impeachment.

The PRESIDENT pro tempore. Is there objection?

The Chair hears none. It is so ordered.

Mr. MITCHELL. Articles X through XV inclusive; not voting on those. We will continue voting through article IX and then to articles XVI and XVII, to conclude voting.

I thank my colleagues.

Mr. LEVIN. Mr. President, reserving the right to object, and I will not object, I had intended to vote guilty on article XV.

Mr. MITCHELL. I thank the Senator.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ARTICLE VII

The PRESIDENT pro tempore. The Clerk will read the seventh article of impeachment.

The bill clerk read as follows:

ARTICLE VII

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to his oath, made a false statement which was intended to mislead the trier of fact.

The false statement concerned Judge Hastings' motive for instructing a law clerk, Jeffrey Miller, to prepare an order on October 5, 1981, in *United States* v. *Romano*, a case tried before Judge Hastings, returning a substantial portion of property previously ordered forfeited by Judge Hastings. Judge Hastings stated in substance that he so instructed Mr. Miller primarily because Judge Hastings was concerned that the order would not be completed before Mr. Miller's scheduled departure, when in fact the instruction on October 5, 1981, to prepare such order was in furtherance of a bribery scheme concerning that case.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

VOTE ON ARTICLE VII

The PRESIDENT pro tempore. The question is on article VII.

Senators, how say you? Is the respondent, Alcee L. Hastings, guilty or not guilty?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—guilty 69, not guilty 26, as follows:

[Rollcall Vote No. 260]

(Subject: Article VII—Court of Impeachment—Judge Alcee L. Hastings)

GUILTY—69

Baucus	Domenici	Kasten
Bentsen	Durenberger	Kennedy
Bond	Exon	Kerrey
Boren	Ford	Kerry
Boschwitz	Fowler	Kohl
Breaux	Garn	Lautenberg
Bryan	Glenn	Lugar
Bumpers	Gore	Matsunaga
Burns	Gorton	McCain
Byrd	Gramm	McClure
Chafee	Grassley	McConnell
Cochran	Hatfield	Mitchell
Cohen	Heinz	Murkowski
Conrad	Helms	Nickles
Danforth	Hollings	Nunn
Daschle	Humphrey	Pell
DeConcini	Inouye	Pressler
Dixon	Johnston	Reid
Dole	Kassebaum	Riegle

Robb	Sarbanes	Symms
Rockefeller	Simon	Thurmond
Roth	Simpson	Wallop
Rudman	Stevens	Warner

NOT GUILTY—26

Adams	Graham	Moynihan
Armstrong	Harkin	Packwood
Biden	Hatch	Pryor
Bingaman	Heflin	Sanford
Bradley	Leahy	Sasser
Burdick	Levin	Shelby
Cranston	Lieberman	Specter
D'Amato	Metzenbaum	Wirth
Dodd	Mikulski	

ABSENT, NOT VOTING, OR EXCUSED FROM VOTING—5

Coats	Lott	Wilson
Jeffords	Mack	

The PRESIDENT pro tempore. On this question, there are 69 guilty, 26 not guilty. Two-thirds of the Senators present having voted guilty, the verdict is guilty on article VII.

ARTICLE VIII

The PRESIDENT pro tempore. The clerk will read article VIII.

The assistant legislative clerk read as follows:

ARTICLE VIII

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to his oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that Judge Hastings' October 5, 1981, telephone conversation with William Borders, of Washington, DC, was in fact about writing letters to solicit assistance for Hemphill Pride of Columbia, South Carolina, when in fact it was a coded conversation in furtherance of a conspiracy with Mr. Borders to solicit a bribe from defendants in *United States* v. *Romano*, a case tried before Judge Hastings.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

VOTE ON ARTICLE VIII

The PRESIDENT pro tempore. The question is on the eighth article. Senators, how say you? Is the respondent, Alcee L. Hastings, guilty or not guilty? The clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDENT pro tempore. Have all Senators in the Chamber voted?

The result was announced—guilty 68, not guilty 27, as follows:

[Rollcall Vote No. 261]

(Subject: Article VIII—Court of Impeachment—Judge Alcee L. Hastings)

GUILTY—68

Baucus	Bumpers	Danforth
Bentsen	Burns	Daschle
Bond	Byrd	DeConcini
Boren	Chafee	Dixon
Boschwitz	Cochran	Dole
Breaux	Cohen	Domenici
Bryan	Conrad	Exon
Ford	Kasten	Pressler
Fowler	Kennedy	Reid
Garn	Kerrey	Riegle
Glenn	Kerry	Robb
Gore	Kohl	Rockefeller
Gorton	Lautenberg	Roth
Gramm	Lugar	Rudman
Grassley	Matsunaga	Sarbanes
Hatfield	McCain	Simon
Heinz	McClure	Simpson
Helms	McConnell	Stevens
Hollings	Mitchell	Symms
Humphrey	Murkowski	Thurmond
Inouye	Nickles	Wallop
Johnston	Nunn	Warner
Kassebaum	Pell	

NOT GUILTY—27

Adams	Durenberger	Mikulski
Armstrong	Graham	Moynihan
Biden	Harkin	Packwood
Bingaman	Hatch	Pryor
Bradley	Heflin	Sanford
Burdick	Leahy	Sasser
Cranston	Levin	Shelby
D'Amato	Lieberman	Specter
Dodd	Metzenbaum	Wirth

ABSENT, NOT VOTING, OR EXCUSED FROM VOTING—5

Coats	Lott	Wilson
Jeffords	Mack	

The PRESIDENT pro tempore. On this question, there are 68 guilty, 27 not guilty. Two-thirds of the number present having voted guilty, the Senate adjudges that the respondent Alcee L. Hastings is guilty as charged on this article.

ARTICLE IX

The PRESIDENT pro tempore. The question now occurs on article IX, which the clerk will read.

The bill clerk read as follows:

ARTICLE IX

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to his oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that three documents that purported to be drafts of letters to assist Hemphill Pride, of Columbia, South Carolina, had been written by Judge Hastings on October 5, 1981, and were the letters referred to by Judge Hastings in his October 5, 1981, telephone conversation with William Borders, of Washington, D.C.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

VOTE ON ARTICLE IX

The PRESIDENT pro tempore. On article IX, Senators, how say you? Is the respondent Alcee L. Hastings guilty or not guilty. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDING OFFICER. Have all Senators in the Chamber voted?

The result was announced—guilty 70, not guilty 25, as follows:

[Rollcall Vote No. 262]

(Subject: Article IX—Court of Impeachment—Judge Alcee L. Hastings)

GUILTY—70

Baucus	Glenn	McClure
Bentsen	Gore	McConnell
Bond	Gorton	Mitchell
Boren	Gramm	Murkowski
Boschwitz	Grassley	Nickles
Breaux	Hatfield	Nunn
Bryan	Heinz	Pell
Bumpers	Helms	Pressler
Burns	Hollings	Reid
Byrd	Humphrey	Riegle
Chafee	Inouye	Robb
Cochran	Johnston	Rockefeller
Cohen	Kassebaum	Roth
Conrad	Kasten	Rudman
Danforth	Kennedy	Sarbanes
Daschle	Kerrey	Simon
DeConcini	Kerry	Simpson
Dixon	Kohl	Stevens
Dole	Lautenberg	Symms
Domenici	Leahy	Thurmond
Exon	Levin	Wallop
Ford	Lugar	Warner
Fowler	Matsunaga	
Garn	McCain	

NOT GUILTY—25

Adams	Durenberger	Packwood
Armstrong	Graham	Pryor
Biden	Harkin	Sanford
Bingaman	Hatch	Sasser
Bradley	Heflin	Shelby
Burdick	Lieberman	Specter
Cranston	Metzenbaum	Wirth
D'Amato	Mikulski	
Dodd	Moynihan	

ABSENT, NOT VOTING, OR EXCUSED FROM VOTING—5

Coats	Lott	Wilson
Jeffords	Mack	

The PRESIDENT pro tempore. On the ninth article of impeachment, 70 Senators voted guilty, and 25 Senators voted not guilty.

Two-thirds of the Members having voted guilty, the verdict is guilty on article number IX.

ARTICLES OF IMPEACHMENT X THROUGH XV

The PRESIDENT pro tempore. Under the previous order, the Senate will not vote on articles X through XV inclusive.

ARTICLE XVI

The PRESIDENT pro tempore. The clerk will read article No. XVI.

The assistant legislative clerk read as follows:

ARTICLE XVI

From July 15, 1985, to September 15, 1985, Judge Hastings was the supervising judge of a wiretap instituted under chapter 119 of title 18, United States Code (added by title III of the Omnibus Crime Control and Safe Streets Act of 1968). The wiretap was part of certain investigations then being conducted by law enforcement agents of the United States.

As supervising judge, Judge Hastings learned highly confidential information obtained through the wiretap. The documents disclosing this information, presented to Judge Hastings as the supervising judge, were Judge Hastings' sole source of the highly confidential information.

On September 6, 1985, Judge Hastings revealed highly confidential information that he learned as the supervising judge of the wiretap, as follows: On the morning of September 6, 1985, Judge Hastings told Stephen Clark, the Mayor of Dade County, Florida,

to stay away from Kevin "Waxy" Gordon, who was "hot" and was using the Mayor's name in Hialeah, Florida.

As a result of this improper disclosure, certain investigations then being conducted by law enforcement agents of the United States were thwarted and ultimately terminated.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

VOTE ON ARTICLE XVI

The PRESIDENT pro tempore. The question is on the 16th article of impeachment. Senators, how say you? Is the respondent, Alcee L. Hastings, guilty or not guilty?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDENT pro tempore. Are there other Senators in the Chamber who desire to vote?

The result was announced—guilty 0, not guilty 95, as follows:

[Rollcall Vote No. 263]

(Subject: Article XVI—Court of Impeachment—Judge Alcee L. Hastings)

GUILTY—0

NOT GUILTY—95

Adams	Fowler	McConnell
Armstrong	Garn	Metzenbaum
Baucus	Glenn	Mikulski
Bentsen	Gore	Mitchell
Biden	Gorton	Moynihan
Bingaman	Graham	Murkowski
Bond	Gramm	Nickles
Boren	Grassley	Nunn
Boschwitz	Harkin	Packwood
Bradley	Hatch	Pell
Breaux	Hatfield	Pressler
Bryan	Heflin	Pryor
Bumpers	Heinz	Reid
Burdick	Helms	Riegle
Burns	Hollings	Robb
Byrd	Humphrey	Rockefeller
Chafee	Inouye	Roth
Cochran	Johnston	Rudman
Cohen	Kassebaum	Sanford
Conrad	Kasten	Sarbanes
Cranston	Kennedy	Sasser
D'Amato	Kerrey	Shelby
Danforth	Kerry	Simon
Daschle	Kohl	Simpson
DeConcini	Lautenberg	Specter
Dixon	Leahy	Stevens
Dodd	Levin	Symms
Dole	Lieberman	Thurmond
Domenici	Lugar	Wallop
Durenberger	Matsunaga	Warner
Exon	McCain	Wirth
Ford	McClure	

ABSENT, NOT VOTING, OR EXCUSED FROM VOTING—5

Coats	Lott	Wilson
Jeffords	Mack	

The PRESIDENT pro tempore. Have all Senators in the Chamber voted?

On this question, no Senators have voted guilty; 95 Senators have voted not guilty. The verdict on article number XVI is not guilty.

RECOGNITION OF MR. BYRD FOR PRESIDING FOR 100 HOURS

The PRESIDENT pro tempore. The majority leader.

Mr. MITCHELL. Mr. President, I have two announcements to make.

First, as of just a few moments ago, the distinguished President pro tempore of the Senate became the first Member of the Senate to have presided over the Senate floor 100 hours this year, thereby earning the Golden Gavel. I think he deserves a round of applause.

[Applause.]

Mr. MITCHELL. I think it is fair to say that rarely in the Senate's history has the majority leader felt more secure than when the President pro tempore is on the floor, than when this majority leader is standing here and that President pro tempore is sitting there.

We are very grateful to the President pro tempore.

SCHEDULE

Mr. MITCHELL. I make the announcement that after this final vote on article XVII, there will be no further rollcall votes today. There will be no rollcall votes on Monday. The Senate will proceed to the Eastern Airlines matter Monday, but there will be no votes on that day.

There will be votes on Tuesday, so Senators are urged to be present on Tuesday. It is possible now to predict when the votes will occur, but they are likely to occur in the morning, as there are a number of matters which will be taken up Tuesday, and we are going to have a very busy week from Tuesday through at least Friday next week.

I thank Senators for the cooperation they have demonstrated on this matter. I believe the Senate conducted itself admirably in the conduct of these proceedings, and I ask Senators to continue the decorum through this final vote.

I thank my colleagues, and I yield the floor, Mr. President.

ARTICLE XVII

The PRESIDENT pro tempore. The question occurs on the 17th and final article, which the clerk will read.

The legislative clerk read as follows:

ARTICLE XVII

Judge Hastings, who as a Federal judge is required to enforce and obey the Constitution and laws of the United States, to uphold the integrity of the judiciary, to avoid impropriety and the appearance of impropriety, and to perform the duties of his office impartially, did, through—

(1) a corrupt relationship with William Borders of Washington, D.C.;

(2) repeated false testimony under oath at Judge Hastings' criminal trial;

(3) fabrication of false documents which were submitted as evidence at his criminal trial; and

(4) improper disclosure of confidential information acquired by him as supervisory judge of a wiretap;

undermine confidence in the integrity and impartiality of the judiciary and betray the trust of the people of the United States, thereby bringing disrepute on the Federal courts and the administration of justice by the Federal courts.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

VOTE ON ARTICLE XVII

The PRESIDENT pro tempore. On the 17th Article of Impeachment, Senators, How say you? Is the respondent, Alcee L. Hastings, guilty or not guilty? The clerk will call the roll.

Mr. CHAFEE addressed the Chair.

The PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. CHAFEE. To find guilty on this article, does one have to agree with each of the four allegations?

The PRESIDENT pro tempore. This is for each Senator to determine in his own mind and in his own conscience and in accordance with his oath that he will do impartial justice under the Constitution and law.

It is the Chair's opinion, if the Senator in his own conscience and based on the facts as he understands them determines that on any one of the paragraphs listed that Judge Alcee L. Hastings has undermined confidence in the integrity and impartiality of the judiciary and betrayed the trust of the people of the United States, he should vote accordingly.

Mr. LEAHY. Mr. President, a further parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from Vermont will State his parliamentary inquiry.

Mr. LEAHY. Is the Senator from Vermont correct in understanding what the distinguished Presiding Officer said earlier that, if a Senator felt that to vote guilty on this he would have to find on each and every one, he would be within his rights to set for himself that as the standard?

The PRESIDENT pro tempore. The Chair has not rendered any such opinion.

Mr. LEAHY. A further parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. LEAHY. Mr. President, would a Senator be within his or her rights to interpret this as saying that a guilty or not guilty verdict would have to be based on a finding on each one of the four items as either guilty or not guilty?

The PRESIDENT pro tempore. The Senator would be within his or her right to so find.

Mr. LEAHY. I thank the Chair.

The PRESIDENT pro tempore. The clerk has read article XVII.

The question is, Senators, how say you? Is the respondent, Alcee L. Hastings, guilty or not guilty,

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDENT pro tempore. Have all Senators voted?

The result was announced—guilty 60, not guilty 35, as follows:

[Rollcall Vote No. 264]

(Subject: Article XVII—Court of Impeachment—Judge Alcee L. Hastings)

GUILTY—60

Baucus	Garn	Lugar
Bond	Glenn	McCain
Boren	Gorton	McClure
Boschwitz	Gramm	McConnell
Bumpers	Grassley	Murkowski
Burns	Hatfield	Nickles
Byrd	Heinz	Nunn
Chafee	Helms	Pressler
Cochran	Hollings	Riegle
Cohen	Humphrey	Robb
Conrad	Inouye	Rockefeller
Danforth	Johnston	Roth
DeConcini	Kassebaum	Rudman
Dixon	Kasten	Sarbanes
Dole	Kennedy	Simpson
Domenici	Kerrey	Stevens
Durenberger	Kerry	Symms
Exon	Kohl	Thurmond
Ford	Lautenberg	Wallop
Fowler	Levin	Warner

NOT GUILTY—35

Adams	Dodd	Moynihan
Armstrong	Gore	Packwood
Bentsen	Graham	Pell
Biden	Harkin	Pryor
Bingaman	Hatch	Reid
Bradley	Heflin	Sanford
Breaux	Leahy	Sasser
Bryan	Lieberman	Shelby
Burdick	Matsunaga	Simon
Cranston	Metzenbaum	Specter
D'Amato	Mikulski	Wirth
Daschle	Mitchell	

ABSENT, NOT VOTING, OR EXCUSED FROM VOTING—5

Coats	Lott	Wilson
Jeffords	Mack	

The PRESIDENT pro tempore. On the 17th article, 60 Senators having voted guilty, 35 Senators having voting not guilty. Less than two-thirds of the Members present having voted guilty, the Senate adjudges that the respondent, Alcee L. Hastings, is not guilty as charged in the article.

May there be order in the Senate? The Senate will be in order.

JUDGMENT

The PRESIDENT pro tempore. The Chair directs the judgment to be entered in accordance with the judgment of the Senate as follows:

The Senate, having tried Alcee L. Hastings, U.S. district judge for the southern district of Florida, upon 17 articles of impeachment exhibited against him by the House of Representatives, and two-thirds of the Senate present having found him guilty of the charges contained in articles I, II, III, IV, V, VII, VIII, and IX of the articles of impeachment: It is therefore,

Ordered and adjudged, That the said Alcee L. Hastings be, and is hereby, removed from office.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, I send an order to the desk and ask that it be stated.

The PRESIDENT pro tempore. The clerk will report the order.

The legislative clerk read as follows:

Ordered, That the Secretary be directed to communicate to the Secretary of State, as provided by Rule XXIII of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, and also to the House of Representatives the judgment of the Senate in the case of Alcee L. Hastings, and transmit a certified copy of the judgment to each.

The PRESIDENT pro tempore. Without objection, the order will be entered.

The majority leader is recognized.

ADJOURNMENT SINE DIE OF COURT OF IMPEACHMENT

Mr. MITCHELL. Mr. President, I move that the Senate, sitting as a court of impeachment for the articles against Alcee L. Hastings, adjourn sine die.

The motion was agreed to; and, at 12:15 p.m., the Senate, sitting as a court of impeachment, adjourned sine die.

LEGISLATIVE SESSION

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein for up to 5 minutes each, to last until the hour of 2 p.m.

The PRESIDENT pro tempore. Without objection, it is so ordered. Accordingly, there will now be a period for the transaction of morning business which will expire at 2 p.m. and each Senator is permitted to speak up to 5 minutes each.

Mr. CRANSTON addressed the Chair.

The PRESIDENT pro tempore. The Senator from California [Mr. CRANSTON].

CIVILIZATION BY THE BAY

Mr. CRANSTON. Mr. President, there have been a number of accolades about how Californians behaved in the stress and the chaos of Tuesday's earthquake. I saw this first-hand when I flew to the bay area yesterday.

No one has better characterized the grace, courage, and altruism California demonstrated than Mary McGrory in yesterday's Washington Post. Mary catches the essence of what I believe is the evolving character of California. This is from Mary McGrory's column, entitled "Civilization by the Bay," which appeared in the Washington Post yesterday.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 19, 1989]

CIVILIZATION BY THE BAY

(By Mary McGrory)

The earthquake has brought good news and bad. The bad is fallen bridges, collapsed freeways, people trapped in wreckage. The good news is that Californians are coping in a manner calculated to make us look at them anew.

We tend to laugh at our most populous, most beautiful state. We envy its inhabitants for their flowers, their sunshine, their long white beaches, and we take it out on them by saying they're ditsy. Their hedonism, their self-absorption, their trendiness—who gave us palimony and the catshrink?—make them the butt of endless gibes.

We laugh at them for "being in touch with their feelings," for putting braces on their teeth when they're 45 and for asking strangers what their sign is. Cartoonist Garry Trudeau summed it up in the strip where Boopsie, his quintessential Southern Californian, is made a member of the state's "self-esteem commission."

We were wrong. They are giving us lessons in how to behave with style under impossible conditions.

From the first moment of the earthquake, with Candlestick Park poised for the third game of the local World Series, Californians showed that they understand the first law of life: Never make a bad situation worse.

The potential for mass death in the stadium was horrendous. Sixty-two thousand people kept their heads, listened to ushers who told them to wait. We know the death toll at European soccer matches, where the panic-stricken trample the small and the weak and suffocate them.

San Francisco's tradition as our most civilized city was upheld. According to sportswriters-turned-disaster-chroniclers, the ballplayers hurried out of the dugout onto the field and summoned their families to join them, while the fans in the stand prepared to file out. After the first shock, the shaken-up survivors, elated to be still there, applauded.

A standing ovation for an earthquake?

Only in California.

Catastrophe does not always bring out the best in people, as we know from Hurricane Hugo. Remember the looting in St. Croix and the suburbs of Charleston, S.C. A tactful meteorologist from St. Croix said on National Public Radio that "while some people behaved very well, others individualized."

Californians did not "individualize." They were too busy pitching in. In a brilliant dispatch from the site of the collapse of the four-lane Oakland freeway, Amy Stevens reported in The Washington Post that nearby residents rushed out with bandages, sheets, ropes, first-aid kits and ladders.

In California, the threat of earthquake hangs over the flowers and the waves. It is so much discussed and prepared for that the California Seismic Safety Commission was constrained to issue a statement calculated to put down soothsayers who wanted to report a sharp change in their poodles' deportment as a sure sign that the earth was about to move:

"Predictions based on clairvoyance, headaches, animal behavior, astrology and other bogus methods have no basis in science and should be categorically disregarded."

But when the real thing came—"a rocker, not a roller," as one philosophical Californian called it—people behaved as if they had been trained from childhood on how to respond. They helped their police and firefighters; they helped their neighbors. As their world literally crumbled around them, they went out and did what they could. No sitting in the ashes, no wailing for the dead, just a fierce concentration on saving the living trapped under the debris.

Public officials, wearing suits and ties and an air of calm, told us on television what they knew. The lieutenant governor, Leo McCarthy, invited people to call his office for information. They were crisis-managing a situation of unfathomed chaos and sorrow.

I remember such a phenomenon in a newsroom when President John F. Kennedy was assassinated. The big room at the late Washington Star fell preternaturally quiet. Editors gave instructions to reporters as if in the presence of the dead. People inquired for each other's welfare, brought them food, urged them to go home, did not argue. It was a tribute of sorts.

Californians have incomparably blue skies, dark trees, white sands, redwoods and a sense of well-being. They know they have to pay for living in a paradise that is almost completely bisected by the San Andreas fault.

Californians may end up convincing Calvinists who live in colder states of the virtue of the good life. From what we've seen of California in adversity so far, being good to themselves can make people good to others, too.

I thank the Senator from New York for his courtesy.

I yield the floor.

The PRESIDENT pro tempore. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I would like to take a few moments. I know I have colleagues who are waiting to speak. I wanted to thank and compliment the staff of our committee, the Impeachment Committee, that considered the articles against Alcee L. Hastings.

First I want to compliment and thank the vice chair, the Senator from Pennsylvania [Mr. SPECTER], for the excellent work that he did on the committee and the leadership he provided. It was a pleasure to work with him, and as always I was extremely impressed with his legal mind and his conscientious approach to the very difficult issue we had.

I also want to thank the other committee members. I believe we had a very attentive and conscientious committee. We worked hard at preparing a good record so the Senate could consider this matter appropriately, and I believe we did so.

I also thank the counsel that helped us. Mike Davidson, of course, who is the Senate counsel, did a superb job, as he always does. I appreciate that.

In addition we had counsel for the Impeachment Committee, Elaine Stone, Mark Klugheit, and Bruce McBarnette, who, all three, helped tremendously with our understanding of the facts and our preparation of the record to present to the Senate, and the preparation of the statements we made to the Senate.

Also I want to thank the staff of the Impeachment Committee, Tony Harvey, from the Rules Committee, Casey McGannon, Angela Muenzer, Marilyn Poker, Isabel McVeigh, and many others who worked with them. I think their work was superb.

As I have indicated in other places, I also believe the House managers and their attorneys did an excellent job, and Judge Hastings and his attorneys certainly did a very professional job presenting their case as well.

Mr. President, I have voted "not guilty" on each of the 17 articles of impeachment presented by the House against Judge Alcee L. Hastings. I will take a few minutes of the Senate's time to explain my reasons.

The charges brought by the House against Judge Hastings are extremely serious. He is accused, in effect, of having sold his office in the hope of financial gain in 1981, of having lied repeatedly from the witness stand when brought to trial on bribery conspiracy charges in 1983, and of having disclosed confidential information presented to him in his capacity as the supervising judge of a Federal wiretap in 1985. In short, he stands accused of a repeated betrayal of the public trust. If guilty of these offenses, he surely has no place on the Federal bench.

However, after listening to nearly 4 weeks of testimony and reading and reviewing both the evidence and the submissions of the parties, I do not find that the evidence presented constitutes adequate proof that Judge Hastings is guilty of the charges against him. That feeling is not the product of any want of diligence on the part of the House managers. They and their counsel have prosecuted this case with skill and with care. Nor is that feeling the product of any notion that the case against Judge Hastings has been pursued for improper purpose. I believe that the judges of the U.S. Court of Appeals for the 11th Circuit who were appointed to serve as an investigating committee into the bribery conspiracy and false statement charges, as well as the House of Representatives, properly concluded that there was sufficient evidence of possible wrongdoing so as to merit the filing of articles of impeachment against Judge Hastings. It is simply my conclusion that the evidence, although furnishing grounds for investigation and trial, does not provide a sound basis upon which I can vote for conviction.

Our system of jurisprudence requires that in any proceeding in which serious charges of wrongdoing are leveled against an individual, two basic principles apply. First, is the bedrock principle that each individual is presumed innocent of charges brought against him unless adequate proof is presented to the contrary.

Here, perhaps due to the particular circumstances of this proceeding, I found that that principle remained, as it should, in the forefront as we considered the evidence. Judge Hastings came before the Senate accused of having conspired to solicit a bribe from two criminal defendants in his court. In 1983, a jury had acquitted him of that same charge. I do not subscribe to the view that that verdict was binding upon the Senate, or that we should deem it conclusive on the question of Judge Hastings' guilt or innocence. Our responsibility was different from that of the jury which heard the criminal charges against Judge Hastings, and I do not believe that its determination that guilt had not been proven beyond a reasonable doubt relieved us of our burden to determine whether Judge Hastings had been shown unfit to hold his high position of public trust. But that jury verdict did serve as an ever-present reminder that Judge Hastings, as any accused, stood before us a presumptively innocent man.

The second fundamental principle, a corollary of the first, is that when the Government accuses an individual of wrongdoing, it must shoulder the burden of proving that the accused is truly guilty of the charge. That is true whether the individual is on trial for the alleged violation of the criminal laws or is before the Senate on articles of impeachment.

Counsel for Judge Hastings has argued that it may be proper to require proof beyond a reasonable doubt in order to remove him from office. But this is not a criminal proceeding in which the prosecutor should be held to proof beyond a reasonable doubt. Judge Hastings is not here in jeopardy of his life or personal liberty.

On the other hand, I am not persuaded by the House managers' contention that we should be guided by a simple preponderance of the evidence standard. That standard would permit removal upon the conclusion that it is more probable than not that Judge Hastings engaged in the wrongdoing with which he is charged. This is not a routine civil case, where, for example, a property dispute between two individuals must be resolved. Extremely important interests, both private and

public, are at stake. For Judge Hastings, his Federal judgeship, his ability to serve in other positions of public service and his reputation are all at risk. For the public, its interests lie not only in seeing that judges who are unworthy of its trust are removed from office, but also, that its judges can make the difficult decisions that are demanded of them, knowing that they cannot lightly be swept from office.

For me, the proper measure in this case falls somewhere between proof beyond a reasonable doubt and a simple weighing of probabilities. Whether that place be called "clear and convincing" or some other legal standard be formulated, it is, at bottom, simply that point along the continuum where we would feel sufficiently convinced that Judge Hastings committed the offense of which he stands accused, so that our duty would lie in favor of his removal. For each of us, that may well be a different place, and I suspect that there will be different judgments made upon this body of evidence. But for me, the proof did not carry me to the necessary degree of certainty.

Article I of the articles of impeachment charges Judge Hastings with having conspired with William Borders to solicit a bribe from Frank and Tom Romano, two brothers whose criminal case was pending before Judge Hastings. The House managers' proof on article I is circumstantial. William Borders has refused to testify in response to the Impeachment Trial Committee's subpoena, choosing incarceration instead. We are left with no testimony from any wintess who claims to have heard any discussion between Judge Hastings and William Borders which, on its face, plainly pertained to the alleged conspiracy. We likewise have no piece of physical evidence which documents any such discussion.

The closest we come to anything that could even be urged as direct evidence of Judge Hasting's involvement in the conspiracy is the conversation between the two on October 5, 1981. The conversation, at face value, concerns Judge Hastings' having drafted letters to assist their mutual friend, Hemphill Pride. It is said by the House, however, to be a coded discussion in which Borders tells Judge Hastings that the bribery deal is still on track, even though the Judge was late in issuing the Romano forfeiture order that Borders had promised. According to the House, Judge Hastings' statement that he has drafted the "letters to Hemp" means that the Romano order has been written, Borders' statement that "he wrote some things down for me," is a reference to the $25,000 downpayment that he received from the undercover agent on September 19, and Borders' comment that "I was supposed to go back and get some more things," is a reference to the arrangement, made on September 19, that he would return for the balance of the bribe money.

I am not persuaded. it seems unlikely to me that Judge Hastings and Borders would have constructed a code as a means of communication with one another and then have used it over their own telephones, particularly in light of evidence that Judge Hastings had some concern that his telephones were tapped and that Borders had a well-developed system of making pay phone to pay phone calls. I also find the House Manager's interpretation of the conversation to be strained. It strikes me as implausible that Borders, in order to deliver the simple message that the deal was still on, would elaborately relay information that was already more than 2 weeks old. Having listened to and examined the words of that conversation, I find it arguably innocuous, and in any event, too ambiguous to be treated as significant evidence of guilt.

What we do have in this case is a array of circumstantial proof from which inferences of guilt could be drawn. We have a pattern of contacts between Judge Hastings and William Borders whose timing appears suspicious when set against both the backdrop of what was transpiring in the Romano case and Borders' corrupt dealings. But the mere fact that these two men, who had a longstanding professional personal relationship, were in contact does not prove Judge Hastings' involvement in the conspiracy. I am particularly troubled by the fact that, as both sides would agree, the evidence does not reveal the totality of the contacts between Judge Hastings and Borders. It is thus possible that the suspiciousness of the timing of the contacts that are documented in this record is more apparent than real.

We also have a number of events and circumstances, such as the three "shows of proof" allegedly made by Judge Hastings to signal his complicity and the fact that Borders obviously had a source which gave him "inside information" about the Romano case, which can be seen as evidence of Judge Hastings' involvement in Borders' corrupt scheme. But for me, those events and circumstances are not sufficiently convincing as proof of guilt.

The "shows of proof," while arguably suspicious, are ambiguous. Judge Hastings continued the Romanos' sentencing in May 1981, as Borders had predicted, but the Romanos' lawyers asked the judge for that relief and there is little, if any, proof that the judge would have known that their lawyer would make such a motion. Judge Hastings did appear at the Fontainebleau as promised by Borders, but that appearance may only signify Borders' skill as a manipulator. Judge Hastings did issue an order returning a substantial portion of the Romanos' forfeited property, as Borders said he would do, but the content of that order was consistent with the law and the delay in its issuance can be explained by other factors. Indeed, the fact that that order was issued a week later than Borders had promised is difficult to reconcile with the picture painted by the House of Judge Hastings and Borders in steady contact to work through the details of the alleged conspiracy. And although Judge Hastings is unable to do more than conjecture as to how Borders came to know detailed information about the case, if not for him, that is not something which, presuming him innocent, he should be expected to know and explain to us.

Judge Hastings' agitated reaction when he learned of Borders' arrest on October 9 is also troubling. But although his response may not be what I would expect of myself in like circumstances, I do not see his hurried return to his home as convincing evidence that he was distraught and guilty, rather than merely distraught.

Set against the foregoing evidence, is evidence from which an inference of innocence could well be drawn. The evidence showed that Judge Hastings was living within his means and had led a life devoted less to financial gain than to community service. There was no evidence of past misdeeds and no evidence that Judge Hastings' character rendered him at all likely to embroil himself in the serious wrongdoing of which he is here accused.

In sum, too often for my satisfaction, House managers take the view that it is sufficient to prove circumstances from which guilt could be inferred, and at that point, they argue the burden shifts to Judge Hastings to establish his innocence. For example, with regard to the May 11 continuance, the House does not prove that Judge Hastings gave Borders information on his intended action. Rather it points to the testimony of the Romanos' lawyer, "Neal Sonnett, members of his firm and staff and the judge's staff" to the effect that they did not provide the information, and then argues that Judge Hastings has failed to demonstrate a reason "why those persons should not be believed." Similarly, the House managers argue that on September 11, Judge Hastings and Borders met at National Airport to discuss their bribery scheme. But there is no proof of such a meeting. The proof is that the meeting could have occurred and then the argument is made that Judge Hastings has failed to adequately demonstrate that it did not happen.

The question before the Senate on article I, and on each of the other arti-

cles as well, is not which version of events—that offered by the House or that offered by Judge Hastings—is more plausible. The question instead is whether the evidence presented by the House satisfied its burden of proof to the satisfaction of two-thirds of the Members of this body. For my part, it does not.

Having concluded that I will vote to acquit on article I, I see no basis for a conviction on any of the false statement articles. The House managers, in their post-trial memorandum, urge that a conviction could be appropriate on article VI and articles X through XV, even after a vote to acquit on article I. However, for each of those articles, I find either insufficient proof that Judge Hastings' testimony was false or, where particular aspects of his testimony were incorrect, insufficient proof that he purposefully lied from the witness stand.

Article XVI contains a charge independent of the 15 articles which precede it. Article XVI charges that in September 1985, Judge Hastings disclosed confidential information to Mayor Stephen Clark, of Dade County, FL, which the judge had learned while supervising a federally authorized wiretap. Mayor Clark so testified. The evidence, however, establishes that Judge Hastings could not have made the disclosure either at the time when, or in the manner which, Mayor Clark claims that that disclosure occurred. That gaping hole in the proof had not been remedied to my satisfaction by the other proof submitted by the House. I am also troubled by the failure of the House to identify any credible motive for the alleged disclosure. In my view, a vote to convict on article XVI would require reliance on speculation, not proof, and I shall accordingly vote to acquit Judge Hastings of this charge.

I will also vote to acquit on article XVII. Having concluded that the proof is insufficient to establish that Judge Hastings is guilty of any of the preceding articles of impeachment, each of which accuses him of a very specific act or wrongdoing, I am unwilling to vote that the whole—embodied in article XVII—somehow equals more than the sum of its parts.

The oath of each Senator in the consideration of impeachment articles is to "do impartial justice according to the Constitution and laws"—rule XXV, Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials. To my mind that means each Senator must consider the evidence, weigh it in light of his own experiences, and determine whether the guilt of the respondent has been established. I conclude that in this case the evidence falls short.

Mr. President, I yield the floor.

Mr. SPECTER. Mr. President, I thank the distinguished Senator from New Mexico [Mr. BINGAMAN] for his kind remarks. I have the utmost admiration for the job which the chairman, Senator BINGAMAN, did, in the discharge of the duties of the impeachment trial.

The full committee attended to its duties with vigor, diligence and commitment. I would like to pay special thanks to the very devoted staff of the committee: Michael Davidson, Senate legal counsel, performed admirably, as did Anthony Harvey; the administrator; Elaine Stone, Counsel; Bruce McBarnette, counsel. I ask, Mr. President, there be printed in the RECORD at this point the list of all of the staff members, each of whom are due accolades for their work on this committee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IMPEACHMENT TRIAL COMMITTEE

Michael Davidson, Senate Legal Counsel.
Anthony L. Harvey, Administrator.
Mark A. Klugheit, Counsel.
Bruce O. McBarnette, Counsel.
P. Casey McGannon, Staff Assistant and Exhibits Clerk.
Isabel T. McVeigh, Staff Assistant and Journal Clerk.
Angela Muenzer, Staff Assistant.
Marilyn Poku, Staff Assistant.

MEMBERS' STAFF REPRESENTATIVES

Senator Bingaman, Chairman, Patrick Von Bargen.
Senator Leahy, Cathy Russell and Mark Gerchick.
Senator Pryor, John Monahan.
Senator Bryan, John Forrest.
Senator Kerrey, William Hoppner.
Senator Lieberman, John Nakahata and Aaron Beyer.
Senator Specter, Vice Chairman, Ron Weich.
Senator Durenberger, Edward Garvey and Joshua Leby.
Senator Rudman, Jim Ferrell and Jonathan Page.
Senator Bond, Chris Leritz.
Senator Gorton, Anthony Lowe.
Senator Burns, Lori Bass.

INTERNS

Troy Oechsner, Jeffrey Rackow, Andrea Wintroub, Marc McCaskill.

PAGES

Michelle Jenner, Johnnie Kaberle.

Mr. SPECTER. I would like to express thanks to Mark Klugheit, a former partner of mine with Dechert, Price & Rhoads, who came to Washington and worked unstintingly and very effectively. He did an outstanding job.

Mr. President, when I undertook this assignment I had a preconception that the impeachment process ought to be delegated to some other body. I though, at that time, that it ought not be the responsibility of the U.S. Congress. We should not take the time of the U.S. House of Representatives to refer articles of impeachment, or should not take the time of the U.S. Senate to hear the matter and make an adjudication.

After participating in this process I have revised my thinking. Obviously the Congress is very busy. We had an enormously busy month in July, in the Senate. But we found time to discharge these duties, and yesterday the Senate went into closed session at 2 and worked until approximately 9:30. The attendance was excellent at the outset. Not unexpectedly, as the hours grew long fewer Senators were in attendance. There was excellent debate and I think the record will show the Senate acquitted itself very well.

We took on many issues of importance. We have oversight responsibilities which we really cannot discharge in depth which we ought to. But the impeachment process gave us a good opportunity to look at many branches of Government, including the 11th circuit proceedings, including the FBI and other agencies.

I will have more extensive comments on the impeachment proceedings which I will insert in the record.

Mr. President, I ask unanimous consent the full text of my statement appear in the RECORD at this point followed by an appendix which is referred to in the body of the statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR ARLEN SPECTER ON THE ARTICLES OF IMPEACHMENT AGAINST JUDGE ALCEE L. HASTINGS, OCTOBER 19, 1989

INTRODUCTION

The impeachment trial of federal Judge Alcee Hastings represents a landmark in our constitutional history. In the 202 years since the adoption of the Constitution, this is the first time that any federal official has been impeached after being tried and acquitted by a jury. In essence, the House's 1988 impeachment of Judge Hastings asks the Senate in 1989—eight years after the events in question, and six years after the jury verdict—to reconsider a jury decision on charges and evidence that, if not identical to those before the jury, certainly are substantially the same. The case thus presents the Senate with unsettled issues touching on the applicability in an impeachment trial of legal concepts such as double jeopardy, collateral estoppel and undue delay.

Moreover, these issues arise here in the *Hastings* case in the context of a factually complicated matter. The 17 Impeachment Articles encompass events that center on Judge Hastings' handling of a criminal trial in 1981; his testimony at his own criminal trial in 1983; and his actions as supervising judge over an FBI wiretap in 1985. To consider fairly all these issues, the Impeachment Trial Committee in the *Hastings* impeachment heard 18 full days of testimony between July 10 and August 3, 1989. It heard 54 live witnesses (including one, William Borders, who was jailed for his refusal to testify), and two videotaped depositions; it had its record supplemented with the testimony of 25 additional witnesses from prior proceedings, including the criminal trials of Judge Hastings and William Borders. The Committee received 365 exhibits and 155 stipulations of uncontested facts into its record. Its full printed record is over 6,000

pages. The very factual complexity of the matter makes the decision that each Senator must make about the appropriate standard of proof a critical issue.

In my view, the factual and legal complexities of the matter render it a case where a just decision can be made only after extensive study and reflection. After having served as Vice Chairman of the Impeachment Trial Committee, having had the opportunity to discuss the evidence and legal issues with my colleagues on the Committee, having reviewed the briefs and considered the arguments of the parties, and with the benefit of time for my own reflection on the issues, I have decided to announce my decision on the matter of Judge Hastings' impeachment at this time with the hope that by doing so now and in this way I may assist my Senate colleagues in the difficult task of judging this historic matter. This Statement sets forth my thinking and analysis of the evidence and issues raised by this case. Recognizing that this is a matter in which significant evidence and substantial arguments may be marshalled on both sides, I have attempted to discuss the case in its entirety, with recognition of the strengths and weaknesses of both sides.

BACKGROUND

The Constitution delegates the trial of impeached federal officials exclusively to the Senate. The impeachment of a federal judge involves an especially significant aspect of this fundamental Constitutional duty because of the importance that our Founders recognized, and our history has confirmed, of an independent federal judiciary. It is essential that federal judges be preserved in office, possessed of freedom to exercise independent judgment without fear of the momentary passions or possible partisanship of either the Executive or the Legislature. But it is equally important, because of the inevitable potential for corruption in those who hold office permanently, that there be a fair and just mechanism to remove judges from office if they become corrupt.

As I have said, this case represents a unique moment in our constitutional history because it is the only occasion when impeachment proceedings were brought against an individual who had been tried by a jury and acquitted. The implications of that fact are a matter for very serious consideration by the Senate. In terms of the public perception of this proceeding, perhaps the most frequently asked question is how can it be fair to try impeachment articles against someone who has already been acquitted by a jury? In that regard, the full Senate last March considered Judge Hastings' contention that the impeachment proceedings should not go forward because they were barred by the constitutional prohibition against double jeopardy. The matter was argued to the full Senate by both Judge Hastings personally and his counsel, and by all six Managers from the House. After deliberation in closed session, the Senate voted 92-1 to deny Judge Hastings' motion to dismiss. At that time, although I voted with the majority, I expressed the opinion that while double jeopardy should not be an absolute bar to impeachment, nonetheless as a matter of fundamental fairness Judge Hastings' prior acquittal might well be entitled to substantial consideration after the evidence had been heard.

After a fifty-year void, from 1936 to 1986, the Senate has in the last three years been required to try the impeachments of three federal judges: Judge Harry Claiborne of Nevada in 1986, and Judges Alcee Hastings and Walter Nixon in this session. Each of these cases has involved a judge subject to impeachment on the basis of matters previously considered by a criminal trial jury. I also note as a matter of interest that there is pending in California another criminal indictment directed against a federal judge, Robert Aguilar. This apparently increased demand on our obligations as senators, posed by the expansion of the federal judiciary and the modern willingness to use sophisticated investigative techniques to ferret out judicial corruption, seems to augur that considering impeachments of federal judges may become a more frequent part of our duty. That prospect has led some of my colleagues to urge consideration of a constitutional amendment to remove that obligation from this body. I myself had leaned in that direction, but my experience as a member of the Hastings Impeachment Trial Committee has convinced me that such an amendment would be an error, both because of the importance of the impeachment task itself, and because of the knowledge we acquire in hearing impeachment trials that relates to important aspects of our oversight responsibilities. My observations on this point will be set forth at more length in an Appendix to this statement.

Each of the recent impeachment cases at some level has forced us to consider the interrelationship between criminal proceedings and impeachment. In the *Claiborne* impeachment, for example, one of the impeachment articles called for Judge Claiborne's impeachment solely by virtue of the fact of his criminal conviction, without an independent judgment by the Senate of guilt or innocence. That article was rejected by the Senate on a vote of 46 guilty; 17 not guilty; 35 present and 2 not voting. (Since a conviction requires the affirmative vote of two-thirds of the senators voting, a vote of "present" is equivalent in effect to a vote of not guilty.)

Thus, in both the *Claiborne* and *Hastings* impeachments, the Senate has expressed the clear view that it will not be bound in impeachment matters by the determinations of the judicial branch. But that is not necessarily the end point of the inquiry here: the novel issue that remains is whether principles of double jeopardy, collateral estoppel, due process or fundamental fairness require that the jury's verdict acquitting Judge Hastings, even if not preclusive of impeachment, nonetheless be given weight or deference. At the same time we should also be mindful that the Judicial Council of the Eleventh Circuit conducted an extensive inquiry, resulting in a 4909-page record, and urged impeachment. Beyond that, the House of Representatives impeached Judge Hastings on 17 Articles by a vote of 413-3.

COMMITTEE PROCEEDINGS

Before turning to a discussion of the evidence and legal principles, I note that the Impeachment Trial Committee has taken its assignment on this matter with a seriousness appropriate to the gravity of the constitutional task before it. Even before the hearings commenced in early July, a number of significant issues required decision. The Committee considered and established procedures to assure evidentiary hearings that would center on important issues on genuine dispute; it guided the parties through a stipulation process and urged their reliance on testimony from prior proceedings where the issues were either marginal or not really in dispute, so that the Committee was able to focus its attention on the heart of the controversy.

After extensive consideration, the Committee also decided to grant Judge Hastings' request for pre-hearing discovery. It authorized three depositions on his behalf over which I as Vice Chairman presided, and one such examination by the House, which did not occur. Although no precedent existed for these examinations, this authorization reflected the Committee's determination that Judge Hastings—and, for that matter, the House—be given ample opportunity to develop all evidence necessary to the case. In that vein, the Committee also directed its staff to work with the Department of Justice and the FBI to assure that no documents in the files of those agencies material to the case were withheld.

My distinguished colleague, Senator Jeff Bingaman of New Mexico, chaired the proceedings with care, courtesy, and deliberateness. There were significant differences of opinions among the 12 senators at various stages, and the Chairman showed patience and consideration in hearing out all points of view before calling for Committee decisions.

The attendance at the hearings was excellent. On only one occasion, the morning of July 20th, did we have serious trouble in securing a quorum. On that occasion, Senator Leahy, a member of this committee who also chairs the Agriculture Committee, recessed an important markup so that senators who were on both the Hastings Committee and the Agriculture Committee could return to establish a quorum. All or almost all of the 12 committee members were in attendance at most sessions.

After the completion of prehearing procedures, on July 10, 1989 our Committee commenced hearing evidence. We received evidence over approximately 120 hours of hearings in the course of 18 hearing days, concluded our proceedings shortly after 10:00 p.m. on August 3. The evidentiary hearings generally ran from 9:00 a.m. to 5:30 p.m. We decided to devote these substantial blocks of time in order to avoid having the case presented in a disjointed or fragmented manner. While the proceedings were interrupted occasionally by votes in the House and Senate, that disruption was held to a minimum because the Senate leadership delayed votes on many days until 5:30 p.m. and because the House members when possible agreed to the continuation of the hearings in their absence with their counsel handling the proceedings.

SUMMARY OF THE ARTICLES

There were 17 articles of impeachment which we considered. Briefly summarized, the articles charged:

That in 1981 Judge Hastings conspired with William Borders, a Washington, D.C. attorney, to solicit a $150,000 bribe from two defendants who were being tried before Judge Hastings on racketeering charges (Article I);

That in his 1983 trial on the bribery conspiracy, Judge Hastings lied repeatedly in securing his acquittal (Articles II-XV);

That in 1985 Judge Hastings revealed secret material to a Miami politician that Judge Hastings had learned in his capacity as supervising judge over an FBI wiretap (Article XVI); and

That by virtue of all of the foregoing, Judge Hastings undermined confidence in the integrity of the judiciary. (Article XVII).

I will now discuss briefly the evidence on these articles. Inamuch as the wiretap disclosure charge, Article XVI, is the simplest and most easily decided, I will discuss it first.

EVIDENCE ON THE WIRETAP DISCLOSURE ARTICLE

Article XVI charged Judge Hastings with ruining an FBI undercover investigation by revealing to one of the subjects, Dade County Mayor Steven Clark, confidential information that Judge Hastings had learned in his capacity as supervising judge of the wiretap. The evidence on this charge was weak, and the charge itself insubstantial. Although Mayor Clark testified that it was Judge Hastings who revealed the wiretap information to him, Mayor Clark's testimony as to where and how this took place was contradicted by a host of witnesses; by photographic evidence; and by the very contents of one of the FBI wiretaps. Judge Hastings also presented evidence that, if not fully persuasive, suggested an at least equally plausible explanation of how the wiretap information might have come to Mayor Clark's attention. I had no trouble reaching the conclusion that the House had not proven its case on this article.

In that context, I note that my colleague, Senator Gorton, observed after the House had completed its presentation on Article XVI that he hoped Judge Hastings would not waste the Committee's time is even bothering to reply to this article:

"If we had greater jurisdiction, I'd have moved to dismiss at the end of the House case. . . . At this point, I can say to the respondent, the only thing they can possibly do by beating this dead horse is cause me to change my mind, which I'm sure that they do not wish to do."

Although Senator Gorton's comment may perhaps have referred as much to his view that Article X did not present a legally sufficient basis for impeachment, I believe it was the prevailing view among members of the Committee that the nature of the charge under this article and the nature of the evidence to support it would not warrant Judge Hastings' removal from office. Evidence presented to the Committee showed that when this matter arose in 1985, the Justice Department did not consider it an appropriate matter for prosecution; and in my view that correct determination leads to the similar conclusion that his article and the evidence in support of it are not an appropriate basis for impeachment.

EVIDENCE ON THE BRIBERY/CONSPIRACY AND PERJURY ARTICLES

As I have said, the central Article in the case involves charges of conspiracy to solicit a bribe and perjury. Judge Hastings was charged with agreeing with a Washington attorney, William Borders, to fix a racketeering case involving two brothers, Tom and Frank Romano, who were to be sentenced by Judge Hastings. In the House's view, soon after the *Romano* case was assigned to Judge Hastings, he in conjunction with Borders began attempting to solicit a bribe from the Romanos. As the House argued, Judge Hastings in May of 1981 continued the Romanos' sentencing solely for the purpose of demonstrating to them the necessity of paying him a bribe; in July of 1981 Judge Hastings sentenced the Romanos, who were elderly, in bad health and had no criminal history, to substantial jail terms in order to coerce them to participate in a bribe; as a further coercion, Judge Hastings throughout the summer of 1981 refused to follow binding precedents of the U.S. Court of Appeals for the Fifth Circuit that would have required him to return over $800,000 of forfeited property to the Romanos. In the House's view, only after Judge Hastings believed that the Romanos were prepared to pay a $150,000 bribe, and after the first $25,000 of that bribe was paid to Borders, did Judge Hastings finally issue the order returning the Romanos' property that the law required.

Judge Hastings denied all of this categorically, as he did in his 1983 trial. He claimed that Borders' efforts were not part of any conspiracy with him, but rather were part of a "scam" run by Borders and others to obtain payments based on a claimed but totally false ability to exercise influence over Judge Hastings. This defense was presented by Judge Hastings to the 1983 trial jury which acquitted him.

In the House's view, as alleged in Articles II-XV, that acquittal was tainted because it was based on perjured testimony and fabricated evidence. For this part, Judge Hastings urges that those same arguments that his testimony was false and his evidence fabricated were presented to, and rejected by, the 1983 trial jury.

THE HOUSE CASE AGAINST JUDGE HASTINGS

The evidence presented by the House against Judge Hastings was circumstantial in the sense that there was no "smoking gun": that is, no admission of guilt by Judge Hastings, and no witness who directly testified that he had paid money to Judge Hastings or saw or heard Judge Hastings agree to accept a bribe or participate in a scheme with Borders. The fact that the case was entirely circumstantial, however, does not necessarily mean that it was weak or insubstantial. The law has consistently recognized that circumstantial evidence—meaning evidence that involves facts from which inferences are drawn rather than direct observation of the fact at issue—may be as good or better than direct evidence; indeed it is possible to convict someone of first-degree murder based entirely on circumstantial evidence.

However, what the fact that the case against Judge Hastings is entirely circumstantial does mean is that a meticulous scrutiny of the record is required. We must be sure that the facts which comprise the circumstantial case have been established; that the inferences which the House seeks to have drawn from those facts are appropriate; that there are not other equally appropriate inferences consistent with innocence to be drawn from those same facts; and that the chain of circumstantial evidence presented is in its entirety sufficient to lead to a conclusion of guilt.

The full body of the circumstantial evidence against Judge Hastings is set forth in the report of the Impeachment Trial Committee, which all members have. I believe that the very difficult presentation of this mass of evidence was well handled by the House managers. Their case was meticulously presented at the hearings by Representatives John Bryant, Hamilton Fish, George Gekas, John Conyers and Mike Synar and neatly summarized on large charts which permitted the entire pattern of circumstantial evidence against Judge Hastings to be grasped and understood. The circumstantial evidence presented by the House raised inferences suggestive of guilt. That evidence included:

A pattern of repeated telephone contacts between Judge Hastings and William Borders, including a pay phone to pay phone telephone call on April 9, 1981, which tie in closely either to key events in the *Romano* case or to contacts between Borders and the government's informant, William Dredge;

Judge Hastings' appearance for dinner at the Fontainebleau Hotel in Miami on September 16, 1981, as Borders had predicted he would, to give proof of his participation in the bribery arrangement;

Borders' apparent possession of inside information about the *Romano* case with no conclusive source other than Judge Hastings;

Judge Hastings' hurried issuance of an order returning the Romanos' property on October 5 and 6, 1981, after Borders had received the $25,000 downpayment on the bribe on September 19, 1981;

A suspicious telephone conversation between Borders and Judge Hastings on October 5, 1981 (tape recorded by the FBI) which the House contends was a coded discussion of the status of the bribery arrangements; and

Judge Hastings abrupt departure from Washington on October 9, 1981 after learning of Borders' arrest and the FBI's desire to speak with him concerning a "bribery in his courtroom."

The recorded October 5 telephone conversation is particularly worthy of discussion. On its face it is literally a conversation about "letters for Hemp": that is, letters which Judge Hastings claims that he had prepared on October 5, 1981 in support of Hemphill Pride, a mutual friend of Judge Hastings and William Borders. The draft "Hemp letters" which Judge Hastings claimed he wrote on October 5, 1981 were introduced in evidence in both the 1983 trial and here.

More of the Committee's attention was focused on the October 5 phone call and the "letters for Hemp" than any other aspect of the case. In the House's view, that phone call could not really have been about help for Hemphill Pride, and those letters could not have been written on October 5, for a variety of reasons. The House argued that the literal text of the telephone call seems to make no sense because Judge Hastings is apparently calling Borders for information yet receives none. The claim that the telephone call was part of a program of support for Hemphill Pride is in the House's view totally disproven by Pride's testimony that he was not aware of, and did not wish any such efforts by Judge Hastings and Borders, and by the lack of any extrinsic evidence to show that Judge Hastings in 1981 had done anything to be helpful to Pride.

In addition, there was evidence directed to establishing that the draft "Hemp letters" were not prepared on October 5, as Judge Hastings claimed, but rather much later. Those letters are at least suspect since they contained not a single edit or correction despite Judge Hastings' testimony that he wrote them while sitting on the bench presiding over a jury trial. Further, there is some reason to question whether the letters were shown to anyone else by Judge Hastings before December, 1982, when they were turned over to the federal prosecutors in pretrial discovery. In the House's view, if those letters were genuine, they should have been produced to prosecutors when Judge Hastings turned over other documentary evidence in February, 1982; and the House further contends that, if they existed, Judge Hastings should have made them available as a matter of defense for Mr. Borders in his March, 1982 trial. It is a stipulated matter that Joel Hirschhorn, for a time

Judge Hastings' principal defense counsel, never saw the letters.

In all, the House urges that the evidence establishes that the October 5 phone call between Borders and Judge Hastings could not have been about help or letters for Hemphill Pride because no help was being offered and no letters had been drafted. Instead, the House urges, the October 5 phone call was a coded confirmation from Borders to Judge Hastings that the bribery arrangement was still on, that the $25,000 downpayment had been received and that the $125,000 balance was to be expected shortly. Thus, in the House's view, when Judge Hastings in that October 5 conversation told Borders that "I'll send the stuff off to Columbia in the morning," what he was really saying was that the Romano forfeiture order would go out the next day. That theory, the House urges, is dramatically confirmed by Judge Hastings' October 5 direction to his law clerk, Jeffrey Miller, to finish the Romano order "that day;" and by the fact that the order was then mailed out the next day special delivery.

SOME GAPS IN THE CIRCUMSTANTIAL EVIDENCE

The chain of circumstances and inferences that the House presented against Judge Hastings was not, however, without gaps—some of them quite significant. For example, in the House's view, the first demonstration of Judge Hastings' participation in the bribery arrangement was to be the fact that he would continue the Romano sentencing from May 11 without being asked to do so by either party. Yet the transcript of the May 11 proceeding shows that when Judge Hastings took the bench, he stated immediately that he was prepared to proceed with the sentencing and continued the matter only after being requested to do so by the Romanos' defense lawyer. Although the House urges that Judge Hastings must somehow have been advised that the defense lawyer was going to move for a continuance, there was no evidence to sustain that position.

I note also that in Judge Hastings' view, as argued by his counsel, the prediction that the sentencing would be put off actually referred to the July sentencing date rather than the May date. Judge Hastings pointed to the very limited evidence of documented phone contacts between Borders and Dredge before May, 1981 as evidence that their dealings regarding the Romano bribe could not have begun in earnest until after the May 11 sentencing date. Thus, Judge Hastings' imposition of sentence on the Romanos on July 8 without a continuance may itself be a substantial refutation of one of the elements of the circumstantial case against him.

Another gap in the circumstantial evidence has to do with the failure to trace any of the bribe payments to Judge Hastings. Twenty-five thousand dollars was paid by an undercover agent to Borders on September 19; the FBI could find no evidence that any of that money went to Judge Hastings and, indeed, conceded that an examination of his personal circumstances and lifestyle were consistent with what one would expect of an individual living on the salary of a federal judge. In this regard I note that Judge Hastings has vigorously assailed the FBI's decision to arrest Borders with the $125,000 balance of the bribe on October 9, 1981 rather than "let the money walk." Had Border been permitted to leave with the money, Judge Hastings argues, that would have been a conclusive demonstration of his innocence since none of the money would have gone to him. Judge Hastings offered testimony supporting his view that the investigation was flawed in this way from both the U.S. Attorney and the Chief of the Criminal Division for the southern District of Florida. However, there was important testimony from other witnesses with significant law enforcement experience that supported the decision to arrest Borders at the scene of the payoff, on the grounds that there would be no way to trace either the money or Borders once he left. Consequently, I do not weigh this factor heavily because of the arguable reasonableness of the FBI action.

Another question left open by the circumstantial evidence proffered by the House has to do with the timing and substance of the telephone conversations intercepted by the FBI on October 5, 1981. As I have noted, in the House's view the call between Borders and Judge Hastings at 5:12 p.m. was the occasion when Judge Hastings in a coded fashion communicated to Borders that the Romano forfeiture order would go out the next day. Yet at 4:22 that afternoon, there was also an intercepted telephone conversation between Borders and the FBI undercover agent, Paul Rico. In that conversation, some 50 minutes before the Borders/Hastings conversation, Borders told Rico that the Romano forfeiture issue had been taken care of and that the order would go out the next day. This is significant evidence supporting the view that Borders knew the status of the *Romano* order well before the conversation with Judge Hastings at 5:12 p.m., and thus that Borders had another source of inside information about the *Romano* case. If that is the case, then of course the 5:12 p.m., conversation had nothing to do with the *Romano* case or a bribe but instead was exactly as it appeared—a discussion of help for Hemphill Pride.

Probably the most significant gap in the House's circumstantial case was the timing of the Romano forfeiture remittance order. Pursuant to the arrangement between Mr. Borders and the udnercover agent, Judge Hastings was supposed to issue an order remitting a sizable portion of the forfeiture within ten days of the $25,000 payment of September 19. That is, it was to be issued by September 29. There is no question about the September 29 date, because these arrangements were made between Borders and Rico on September 19 in a conversation that Rico was tape recording for the FBI. Such an order was issued, but it was issued 17 days later on October 6. There is absolutely no evidence as to why, if Judge Hastings were acting in collusion with Mr. Borders in the scheme as represented by Borders, the order was not issued by the promised date. As to the substance of the remittance order, there was strong reason for Borders to have concluded—as did the Romanos' attorney, Neal Sonnett—that such a remittance would ultimately be ordered no matter what because existing opinions of the Court of Appeals for the Fifth Circuit virtually mandated that result.

JUDGE HASTINGS' TESTIMONY

In the context of this case—where the prosecution's circumstantial evidence raised inferences of guilt, but where those inferences were at least in part offset by gaps in the circumstantial evidence—clearly the most important witness was the Respondent, Judge Hastings. This is particularly true in the absence of testimony from William Borders. Judge Hastings testified, indeed one could almost say exhaustively, before the Committee. He testified on direct examination for a day and one-half; on cross-examination for approximately three hours; and responded to questioning from members of the Committee for more than one full day. In his testimony he avoided no issues and offered explanations for all of the circumstantial evidence of guilt directed against him.

Judge Hastings explained his presence at the Fontainebleau Hotel by stating that Mr. Borders had told him he expected to be there on that evening. Judge Hastings gave testimony, which was corroborated by others, including even Mr. Dredge, that Mr. Borders was a cryptic and mysterious individual who sometimes did not show up as expected, and whose speech often contained more confusion than clarity.

The incriminating implications of the taped conversation of October 5, 1981, were undercut to some extent by Judge Hastings' testimony that he and Mr. Borders knew each other so well, and were talking on a subject so familiar to them, that they could communicate in an unusual, clipped manner. The comments of my colleague, Senator Durenberger, bore on this issue when he noted that it was difficult for him (Senator Durenberger) to put himself in the shoes of Judge Hastings, because the differences in their backgrounds may have limited his understanding of the nuances in Judge Hastings' actions:

". . . [I]t's largely because of a conversation that you had with Senator Specter a little while ago, in which you I imagine appropriately said something to him about the fact that it wasn't really fair for him to try to judge some particular behavior of yours on the basis of the way he might behave or the world that he might have observed. And I think as I have observed the difficulty expressed here in the questions on all of these issues around this table, the difficulty that people are going to have on this committee, to say nothing of the people who are not on this committee, is going to be whether or not and how far they are going to walk in your shoes versus walking in their own when they go through this kind of material."

Judge Hastings also responded to the prosecution's evidence concerning his claimed delay in the production of the "Hemp letters." He testified that he had made them available as early as March, 1982 to John Shorter, William Borders' trial attorney, and pointed out in confirmation of that fact in Shorter's testimony before the Eleventh Circuit Investigating Committee.

Judge Hastings explained the timing of the issuance of the Romano forfeiture order by the fact that the law clerk familiar with the case, Jeffrey Miller, was due to leave his chambers at the end of October, and Judge Hastings wanted to be sure that the Romano order would be completed before Miller's tenure ended. Judge Hastings' position was supported by Miller's own testimony that in early September, 1981—and therefore before the September 19th $25,000 downpayment from the undercover agent to Borders—Judge Hastings had told Miller "not to agonize about it" and just to give the Romanos their property back. Miller was able to date this conversation with some specificity by reference to a Fifth Circuit decision handed down on August 27, 1981 which he brought to Judge Hastings' attention. In Miller's view, had he been more prompt in carrying out his own responsibilities, the timing would not have

created any cause for suspicion against Judge Hastings.

Judge Hastings also explained his precipitous departure from Washington on October 9, 1981 by noting that perhaps his experience with the FBI might not have been the same as that of persons from different backgrounds. Judge Hastings contended that he did not "flee" on October 9 but, as the FBI conceded, went to a place where the FBI would have expected him to be. He went to his girlfriend's home; when the FBI arrived, he invited them in and courteously answered all of their questions.

My own observations on Judge Hastings' testimony were that he carried himself with confidence and is obviously a highly intelligent man. Judge Hastings was impressive and personable. His able counsel, Professor Terrence Anderson, commented in his closing speech that Judge Hastings was "touched with greatness."

Those attributes notwithstanding, I was troubled by Judge Hastings' testimony. There was a disturbing quality to some of what Judge Hastings said in that he seemed more inclined to offer profuse details about matters that were not truly of interest than to respond to very specific questions on particularly relevant points. Perhaps my own "feel" for his testimony has to be qualified in recognition of the eight-year lapse between the events and the Senate hearings, and the circumstances of the relay questioning by senators. After Judge Hastings' direct testimony, he was questioned by counsel for the House of Representatives, and then by the 12 Committee members in several rounds of 10 minutes each. It may be that no witness has been subjected to such extensive examination by so many questioners in any previous impeachment proceeding. Most of the questioners were experienced lawyers with prosecutorial backgrounds. The questioning of Committee members was incisive in pressing Judge Hastings on the key points of his defense.

That questioning was thorough, perhaps even tough, but nonetheless fair. I firmly believe that the forceful questioning of Judge Hastings aided our inquiry by bringing his positions, and his explanations of the chain of circumstantial evidence against him, into sharp focus. Judge Hastings was fully capable of dealing on even terms with all the questioners; and, at the conclusion of the proceedings, said he had been equitably treated:

"Senator DURENBERGER. . . . As you sit here this morning, whether you slept well or not, what are your feelings about the general fairness of the process of the last three-and-a-half weeks, particularly as you reflect on the people on this side of the table?

"Judge HASTINGS. I feel very good about it, Senator, and it gives me an opportunity to thank you all for your attention. I think through my lawyers and myself I expressed my feelings with reference to the impeachment process, and I think we have reached another plateau that I did not think that we would reach. And I still think it's a mistake to have reached this plateau, but not as it pertains to the members of this committee. You are doing what I believe you believe is the proper thing."

* * * * *

"Senator PRYOR. . . . I think this proceeding has been extremely fair. And I hope and we hope that you feel it has been fair.

"Judge HASTINGS. I do, Senator Pryor."

* * * * *

"Judge HASTINGS. Mr. Chairman, just one thing. I thank you especially and Vice Chairman Specter and each Senator for all of your courtesy. I really do appreciate it.

"Earlier on one of the Senators asked me about the process. I have immense respect for the process, and I would—and I don't mean it facetiously—urge upon you that what we have had, regardless of outcome, is a very good impeachment inquiry."

One particular matter in Judge Hastings' testimony which troubled me was the Judge's attitude toward Mr. Borders. Throughout the proceeding, Judge Hastings displayed fiery emotion at many stages, including his denunciation of the FBI, his anger at the Chief Judge of the Eleventh Circuit and his resentment about bearing the burden of testifying on so many stale transactions. Yet at no time did he seem to display emotion or hostility against Mr. Borders who, according to Judge Hastings, betrayed his friendship, subjected him to public humiliation and robbed him of his good name. I asked Judge Hastings why, in the face of his numerous passionate denunciations of many others, he had never complained about Mr. Borders' conduct. Judge Hastings responded matter of factly:

"I resent him, Senator, and that's because no one has asked me the way that you have. Alan just asked me a minute ago about it, and I told him he stole my name. There's nothing for me to do about getting bitter with anybody. The object I have is to try to get better. But if you put the question to me directly and as you are putting it, please know that I resent it highly, what has transpired here insofar as anything that he did."

After that unemotional and bloodless reply, I asked the Judge:

"Judge Hastings, you've expressed yourself about other people. You called his mother, and I can understand his mother is not him. But even in the manner of expressing it as you just did, there isn't the passion in your voice, there isn't the strength, there isn't the outrage. I mean, after all, by your approach to this case, here's a longstanding friend, a trusted friend who has used you to secure $25,000 in cash and to have his hands on another $125,000 in cash, on the representation that he can fix you, based upon a lot of association which a lot of people knew about, a trusted friend betrayed you, subjects you to a criminal prosecution to the Investigating Committee of the Eleventh Circuit, to an impeachment proceeding—where's your real resentment about this man?"

And he replied:

"I just expressed it to you and I'm sorry Senator, If the fire in my belly is not commensurate with your attitude with reference to what it ought be [sic]. Please know this, that I've testified in two proceedings and I don't believe that anybody until you has asked me that question that way, and I just answered you as best I could. But please, sir, know that I don't like what happened to me. Having to go through this orderal has been awsome, and I consider that Bill Borders is responsible for that and I don't know what else you would have me say. I'm not the kind of person who would kill somebody, but if I were I would have that kind of attitude."

The videotape, even better than the printed record, illustrates my concern. Perhaps Judge Hastings' attitude toward Mr. Borders is explained by the saying that he responded more in sorrow than in anger.

I was also not totally satisfied by Judge Hastings' explanation on the controversial "Hemp" letters. It seemed to me that, regardless of Judge Hastings' attitude toward Borders, Judge Hastings would have seen to it that those letters were available for use in Borders' defense. The prosecutor at Borders' trial emphasized the absence of those letters in his closing argument. Had Mr. Borders been acquitted, that certainly would have been of considerable tactical advantage to Judge Hastings.

In all, I had four turns of 10 minutes each to question Judge Hastings about the bribery, conspiracy and perjury aspects of the case. In addition to my concern over his lack of apparent animus toward Mr. Borders, my questioning focused on the peculiar circumstantial timing of the contacts between Judge Hastings and Mr. Borders which was frequently coincidental with key developments in the Romano case; the troubling evidence regarding the so-called "Hemp letters," including the pristine condition of the drafts and the belatedness with which they were made available to the prosecution; and the peculiarities of the October 5 phone call, in which, although Judge Hastings apparently called Mr. Borders seeking information, it seems as though no information was passed on by Mr. Borders to Judge Hastings.

Judge Hastings responded to all my questioning. He vigorously asserted that the "Hemp letters" were drafted on the bench as he had testified, and said that he was blessed with the facility to prepare drafts without interlineations or editing; that the drafts were not produced to the prosecution in his case until December 1982 because of tactical battles over the timing of discovery; that in any event he expected the letters to be subjected to careful scientific analysis which could fix the date of their preparation; and that the language of the October 5 phone call could be explained because he and Mr. Borders knew each other well and were conversing on a subject that was quite familiar to both of them. Those explanations, if not wholly convincing, were at least credible.

THE ABSENCE OF WILLIAM BORDERS AS A WITNESS

No discussion of the evidence in this case would be complete without reference to the lack of testimony from William Borders. As is obvious, only William Borders and Judge Hastings know for an absolute certainty whether they had an agreement to solicit a bribe from the Romanos. I believe our record suffers significantly from the absence of Mr. Borders' testimony.

It became apparent early in the Committee's proceedings that neither party intended to call Mr. Borders as a witness. I was not fully satisfied with the explanations for this decision given either by Judge Hastings or the House. In essence both sides seemed unwilling to vouch for Mr. Borders' credibility or to have his testimony associated with their case. While this attitude is understandable as a matter of trial tactics, I am not sure that it is wholly appropriate for the House of Representatives, which has responsibilities not only as the prosecuting party in this impeachment, but also as a public body of the United States with an obligation to see that justice is done. The House of Representatives serves a dual function in impeachment proceedings. It first considers whether the circumstances warrant impeachment; once impeachment articles are voted, it has the responsibility for their presentation to the Senate. As such, the House may be seen as operating in

a quasi-judicial capacity in which its obligations as "prosecutor" in the Senate are coordinate with its obligations as a legislative and (in impeachment matters) adjudicative body to develop a full and complete factual record.

It is arguable whether Mr. Borders would have testified under any set of circumstances, but certainly given the relatively short time period between his appearance before the Committee and the conclusion of the impeachment inquiry, the civil contempt sanctions facing Mr. Borders for his refusal to testify here seem to be inadequate. Had the House been more aggressive in seeking Mr. Borders' testimony during the investigative phases of its own impeachment inquiry, when it clearly had a duty to develop all evidence and not just evidence that might help convict Judge Hastings—and when (even though it lacks the power of the Senate to invoke civil contempt proceedings) it had available to it the threat of criminal prosecution for contempt of Congress if Mr. Borders refused to testify—it is possible that we might now find ourselves in a position to have the benefit of Mr. Borders' testimony in resolving the question of Judge Hastings' guilt or innocence.

The issue of having the Senate Committee call Mr. Borders as its own witness was raised early in our proceedings and was rejected. The Committee continued to be divided on the subject, but finally decided on July 19 to subpoena Mr. Borders. In anticipation of the possibility of Mr. Borders' testimony, the Committee had on June 27 obtained an immunity order for his testimony. On July 24, and again on July 27, Mr. Borders appeared before the Committee and, notwithstanding the immunity grant, refused to answer any questions. On both occasions, the Committee considered and rejected Mr. Borders' objections to giving testimony; when he persisted in his refusal, the Committee directed Senate Counsel to initiate proceedings to compel Mr. Borders' testimony. A full Senate resolution was adopted unanimously on August 3. On August 17, the United States District Court for the District of Columbia (per Judge Revercomb) issued an order directing Mr. Borders to answer all questions put to him by the Committee and the parties, or else to appear in court "forthwith" and show cause why he should not be held in contempt. Mr. Borders appeared before a session of the Committee over which I presided on August 22 and persisted in his refusal to answer questions notwithstanding my advice that his refusal would subject him to sanctions for civil contempt, and could thereafter result in his prosecution for criminal contempt. Mr. Borders was in fact held in civil contempt on the afternoon of August 22 (per Judge Jackson). Citing personal reasons, he asked for and was given the Committee's agreement to defer commencement of his imprisonment until August 25. He has been continuously incarcerated since that date.

The question of how to factor the absence of Mr. Borders' testimony into the evidence in this case is a difficult one. My colleague, Senator Gorton, asked Judge Hastings whether we should not infer from Borders' refusal to testify—in Borders' words at one point to be a part of the "prosecution" of Judge Hastings—that Borders' reluctance to come forward was motivated by a desire to protect Judge Hastings. Judge Hastings of course denied this. Certainly applying generally accepted principles of law, one could hardly say that Judge Hastings in any way possessed an element of control over Mr. Borders sufficient to permit any adverse inference against Judge Hastings from Borders' failure to give testimony.

My own inclinations tend more toward the opposite point of view. As I have said, I believe the House's obligations here are quasi-judicial, and involve a public responsibility to develop a complete record. The House, I believe, had as much interest, and as much duty to secure Mr. Borders' testimony as did the Senate. The House, no less than the Senate, is fundamental in the Constitutional process of impeachment, and must perform its role in recognition of the gravity of that task. Even in a criminal trial, the law recognizes that the prosecution is not just an advocate for conviction but also for justice. It is often said that the government wins its case whenever justice is done. In that context, it perhaps may be that the lack of vigor with which the House pursued Mr. Borders' testimony during the investigative phase of its proceedings is a factor worthy of some consideration here. Certainly it is the House which has the burden of proof, and to the extent that there are gaps in the circumstantial evidence where Mr. Borders' testimony, whether believed or not, could have helped fill the voids, the consequence of those gaps should perhaps fall on the House as the party which has the burden of proof.

As other members of the Committee are aware, my view throughout these proceedings has been that Mr. Borders was an indispensable witness. I urged the Committee to call him in the face of the unwillingness of either side to do so. The matter of how to weigh the absence of his testimony is an aspect of this case on which I have given considerable reflection. In the end, I have concluded to give Mr. Borders' absence as a witness no weight in my own decision because I believe that there are plausible arguments both ways over which interpretation ought to be given to Borders' refusal to testify; but I do believe the importance of the issue makes it worthy of this rather extensive comment for whatever weight my colleagues may choose to give it in their own consideration.

COMMENTS ON THE OVERALL NATURE OF THE BRIBERY/CONSPIRACY AND PERJURY EVIDENCE

In sum, the evidence against Judge Hastings on the bribery conspiracy and perjury articles has, in my judgment, the following aspects:

No "smoking gun" or direct evidence of guilt;

A significant chain of circumstantial evidence pointing toward guilt;

A number of gaps in the chain of circumtantial evidence; and

A vigorous assertion of innocence by a Respondent subjected to lengthy cross-examination and examination by Committee members.

This case does not come to us on a clean slate. It comes to us after a jury trial six and one-half years ago where much the same allegations and much the same evidence were presented to a jury, and where a jury concluded under the reasonable doubt standard of proof applicable in those proceedings that Judge Hastings was not guilty.

THE DOUBLE JEOPARDY ISSUE

By a vote of 92-1, the Senate denied Judge Hastings' motion to dismiss the Articles of Impeachment related to the bribery charge on grounds of double jeopardy. I voted with the majority because of my view that a motion to dismiss ought to be granted at the outset of the proceeding only if there was a conclusive legal bar to going forward. I noted at that time that the Senate could guarantee fairness by reconsidering the issue at the conclusion of the proceeding.

It seemed to me inappropriate for the Senate to summarily dismiss Articles of Impeachment after the recommendations by the Judicial Council of the Eleventh Circuit and the Judicial Conference of the United States and the 413-3 vote to impeach in the House of Representatives. The underlying policy considerations behind double jeopardy could be best taken into account, in my opinion, in the context of the totality of the circumstances after having heard all the evidence. We would then be in a position to assess the genuineness of Judge Hastings' claims that the Senate trial of his impeachment on Articles I-XV (the bribery conspiracy and perjury Articles) necessarily encompassed matters embraced within the framework of his 1983 trial in a way that invoked double jeopardy protections.

We are now at such a point. The appropriate starting place for our inquiry, it seems to me, is in the historical development of the double jeopardy protection. That doctrine finds expression not in the text of the Constitution as adopted in 1787, but rather in the Fifth Amendment adopted two years later as part of the Bill of Rights.

When the Bill of Rights was considered, James Madison presented a proposed amendment to the House of Representatives on June 8, 1789 with the following text:

"No person shall be subject, *except in cases of impeachment*, to more than one punishment or one trial for the same offence; nor shall be compelled to be a witness against himself; nor be deprived of life, liberty or property without due process of law; nor be obliged to relinquish his property, where it may be necessary for public use, without a just compensation."—1 Annals of Congress 433 (June 8, 1789) (emphasis added). A similar provision appears in the Journal of the House of Representatives of August 1789:

"No person shall be subject, *except in case of impeachment*, to more than one trial, or one punishment for the same offense; nor shall be compelled, in any criminal case, to be witness against himself; nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use, without just compensation."—2 Schwartz, *The Bill of Rights: A Documentary History* (1971) at 1122-23 (emphasis added). But in the form finally enacted, the Fifth Amendment provides:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

Thus, as a beginning point, the textual history of this constitutional provision suggests that "case(s) of impeachment" were not meant to be excluded from the amendment's prohibition against double jeopardy. This would logically account for deletion of the phrase "except in case of impeachment" as a specific exception to the bar on double prosecution.

But that textual construction of the Fifth Amendment is not necessarily conclusive. There is nothing in the *Annals of Congress* or the constitutional histories that sheds significant light on the Framers' intention in modifying the text of the Fifth Amendment to eliminate the referenced exception for cases of impeachment from the double jeopardy protection. It may be that its drafters considered the "except in case of impeachment" language as surplusage in light of the existing language of Article 1, Section 3, Clause 7, which provides:

"Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States; but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment according to Law."

That language describes at least one situation in which it is clear that double jeopardy would not prevent both impeachment and criminal prosecution. The drafters may well have contemplated that impeachment proceedings would invariably occur prior to any criminal prosecution, in which case the interrelationship between double jeopardy and impeachment would be fully established by the text of Article I, sec. 3, cl. 7 allowing criminal prosecution to follow conviction in an impeachment proceeding. This is a logical interpretation in light of the fact that much of the constitutional debate surrounding the creation of an appropriate impeachment mechanism and standard ("Treason, Bribery and other high Crimes and Misdemeanors") centered on the Executive, who it has always been assumed could not be prosecuted prior to impeachment.

That, in fact, has been our historical course. Until the 1973 indictment of Court of Appeals Judge Otto Kerner, no court had ever had occasion to consider whether a sitting federal judge was subject to criminal prosecution. This issue was then decided in *United States* v. *Isaacs*, 493 F.2d 1124, 1140–44 (7th Cir. 1974), *cert. denied* 417 U.S. 976 (1974):

"On the basis of the text of the Constitution, its background, its contemporaneous construction, and the pragmatic consequences of its provisions on impeachment, we are convinced that a federal judge is subject to indictment and trial before impeachment . . ." 493 F.2d at 1144.[1]

The precedent established in the *Isaacs* case can now be seen as having paved the way for the recent impeachment cases against Judges Claiborne, Hastings and Nixon, all of whom were subject to criminal prosecution before impeachment. To be sure, Judges Claiborne and Hastings also challenged the authority of the government to prosecute a sitting federal judge, but in both cases those challenges were rejected by the courts.[2] Accordingly, it may now be accepted as a matter of settled judicial precedent that sitting federal judges are subject to prosecution even before impeachment. But those court decisions do not establish what the relation, if any, shall be between the results of a prior criminal trial and a subsequent impeachment. The difficulties of this issue are presented most directly in a case such as this, where impeachment follows an acquittal at trial.

Thus, the *Hastings* impeachment presents a question of the application of the double jeopardy clause of the Constitution in a way likely not contemplated by the Framers, and in a situation where neither the text of the Constitution nor historical scholarship offer a clear answer. The stark issue of whether an acquittal at trial brings protection against impeachment goes to the heart of the most basic of the protections afforded by the double jeopardy clause: the right to be free from repeated prosecution on the same charge. Within this last decade, the Supreme Court has had occasion to discuss the place of double jeopardy protections in our current jurisprudence. Because of the importance of the principle involved, it is worth repeating the Court's words at some length:

"That the [Double Jeopardy] Clause is important and vital in this day is demonstrated by the host of recent cases. That its application has not proved to be facile or routine is demonstrated by acknowledged changes in direction or in emphasis . . ."

* * * * *

"[T]he following general principles emerge from the Court's double jeopardy decisions and may be regarded as essentially settled: The general design of the Double Jeopardy Clause of the Fifth Amendment is that described in *Green* v. *United States:*

"The constitutional prohibition against 'double jeopardy' was designed to protect an individual from being subjected to the hazards of trial and possible conviction more than once for an alleged offense. . . . The underlying idea, one that is deeply ingrained in at least the Anglo-American system of jurisprudence, is that the State with all its resources and power should not be allowed to make repeated attempts to convict an individual for an alleged offense, thereby subjecting him to embarrassment, expense and ordeal and compelling him to live in a continuing state of anxiety and insecurity, as well as enhancing the possibility that even though innocent he may be found guilty."

* * * * *

"The stated design, in terms of specific purpose, has been expressed in various ways. . . . [I]t has also been said that 'central to the objective of the prohibition against successive trials' is the barrier to 'affording the prosecution another opportunity to supply evidence which it failed to muster in the first proceeding.' Implicit in this is the thought that if the Government may reprosecute, it gains an advantage from what it learns at the first trial about the strengths of the defense case and the weaknesses of its own. . . ."

* * * * *

"An acquittal is accorded special weight. 'The constitutional protection against double jeopardy unequivocally prohibits a second trial following an acquittal,' for the 'public interest in the finality of criminal judgments is so strong that an acquitted defendant may not be retried even though 'the acquittal was based upon an egregiously erroneous foundation.' If the innocence of the accused has been confirmed by a final judgment, the Constitution conclusively presumes that a second trial would be unfair.' The law 'attaches particular significance to an acquittal.' This is justified on the ground that, however, mistaken the acquittal may have been, there would be an unacceptably high risk that the Government, with its superior resource, would wear down a defendant, thereby 'enhancing the possibility that even though innocent he may be found guilty.' '[W]e necessarily afforded absolute finality to the jury's *verdict* of acquittal—no matter how erroneous its decision.' "—*United States* v. *DiFranceso*, 449 U.S. 117, 127–30 (1980) (citations omitted; emphasis in original).

The Court's explication makes clear that in our society an individual's right to be free from successive prosecutions after once being acquitted of criminal charges outweighs any countervailing concern that the verdict may have been a mistake. This principle is a bedrock of our constitutional history, and indeed of the English common law.

But, as powerful as that principle may be, and as fundamental as those protections are, their application is not unlimited. Those protections extend ". . . to every indictment or information charging a party with a known and defined crime or misdemeanor, whether at the common law or by statute" *Ex Parte Lange*, 85 U.S. 163, 169 (1874); they do not, however, necessarily extend to non-criminal proceedings. Even where a non-criminal proceeding is based on the same facts as a prior Criminal case, and even if it involves the imposition of monetary penalties, double jeopardy will not act as an automatic bar. *Helvering* v. *Mitchell*, 303 U.S. 391 (1938). In denying Judge Hastings' application to stay our impeachment trial on double jeopardy grounds, the United States District Court for the District of Columbia observed that double jeopardy would not preclude a Senate trial because "impeachment is not a criminal proceeding." *Hastings* v. *United States Senate*, 716 F.Supp. 38, 41 (D.D.C. 1989). The District Court's opinion concluded, however, by noting that "[a]t trial the Senators themselves may again weigh if they see fit Judge Hastings' claim that he has been wrongly tried because of his earlier acquittal." *Id.* Thus the question of whether and how the Constitution's ban on double jeopardy shall apply to Judge Hastings' impeachment expressly remains an issue for the Senate's consideration.

Recent judicial decisions hold that the question of the applicability of double jeopardy protections to noncriminal proceedings following an acquittal turns on the issue of whether the second action is "punitive." Thus in *One Lot Emerald Cut Stones* v. *United States*, 409 232, 235 (1972), the Supreme Court upheld a civil forfeiture following a criminal acquittal and said:

". . . The forfeiture is not barred by the double jeopardy clause of the Fifth Amendment because it involved neither two criminal trials nor two criminal punishments . . ." And in *United States* v. *One Assortment of 89 Firearms*, 465 U.S. 354, 366 (1984), the Court upheld the forfeiture of the defendant's firearms notwithstanding his prior acquittal on the same issues in a criminal case; the court said that in the absence of evidence that the forfeiture sanction was "punitive," or "an additional sanction for the commission of a criminal act," neither the principle of "collateral estoppel nor the Double Jeopardy Clause affords a doctrinal basis for such a rule of preclusion." [3]

Thus, as a matter of constitutional and legal inquiry, the extent to which double jeopardy protections may apply in an impeachment proceeding following a criminal trial may depend on whether impeachment is viewed as an "additional sanction" for criminal conduct, and thus punitive, or simply remedial. That question, in turn, leads back into an analysis of the Constitution's text and history. Our research has disclosed no conclusive authority. But there are significant references in contemporane-

Footnotes at end of article.

ous debates to suggest that the Framers may well have considered impeachment punitive, and thus within the currently understood scope of the double jeopardy protection.

In the records of the Constitutional Convention, as reported in the Journal of James Madison, a number of relevant references may be noted from the debate on the question "shall the executive be removable on impeachment?"

"Col. MASON. . . . Shall the man who has practised corruption [and] by that means procured his appointment in the first instance, be suffered to escape *punishment*, by repeating his guilt?"

* * * * *

"Doc. FRANKLIN. . . . It would the best way therefore to provide in the Constitution for the regular *punishment* of the Executive where his misconduct should deserve it, and for his honorable acquittal when he should be unjustly accused."

* * * * *

"Mr. RANDOLPH. The propriety of impeachments was a favorite principle with him. Guilt wherever found ought to be *punished*. The Executive will have great opportunities of abusing his power; particularly in time of war when the military force, and in some respects the public money will be in his hands. Should no regular *punishment* be provided it will regularly be inflicted by tumults and insurrections."

* * * * *

"Mr. Govr. MORRIS. . . . The Executive ought therefore to be impeachable for treachery; Corrupting his electors, and incapacity were other causes of impeachment. For the latter, he should be *punished* not as a man but as an officer and *punished only by degradation from his office.*" (Emphasis added).[4]

Additional contemporaneous suggestions that impeachment, although not necessarily criminal, was nonetheless viewed by our Framers as punitive can be found in the comments of James Madison and Elias Boudinot during the debate in the First Congress in 1789 on the establishment of executive departments and the power of removal from office.

"Mr. BOUDINOT. . . . When the committee come to consider the clause respecting the removal by impeachment, *they will find it is intended as a punishment for a crime* and not intended as the ordinary means of rearranging the departments."

* * * * *

"Mr. MADISON. . . . But if the President shall join in a collusion with this officer, and continue a bad man in office, *the case of impeachment will reach the culprit and drag him forth to punishment.*" (Emphasis added).[5]

There is, to be sure, considerable scholarship that also suggests that impeachment should not be viewed as "punitive." A number of factors support this view, perhaps most importantly the American departure from the then-existing English practice under which an impeachment tribunal could impose criminal penalties in addition to removal from office. *See*, 1 Story, *Commentaries on the Constitution*, Section 803 at 586-7 (1905). But in my view, the early references to grounds for impeachment as a "crime" and to the impeachment process as "intended as a punishment" are of special significance because they were made at a time after the text of the Constitution had already limited the penalty on impeachment to removal from office—thus suggesting that such removal may well at that time have been viewed as a "punitive" action.

Under our constitutional system impeachment in fact has both remedial and punitive aspects: remedial in the sense of removing corrupt officials from office; and punitive in the sense that removal from office takes from the officeholder a very valuable position with substantial property interests attendant to it. It subjects the convicted officeholder to public condemnation and ignominy in a way that perhaps exceeds criminal prosecution. From the perspective of the officeholder, impeachment is unquestionably punitive; from the perspective of society, it is punitive and remedial.

The significance of the punitive aspects of the impeachment process are particularly important in light of the Supreme Court's observations this past May (subsequent to our denial of Judge Hastings' motion to dismiss) on the humane and personal aspects of the Constitution's double jeopardy protections:

". . . But while recourse to statutory language, structure, and intent is appropriate in identifying the inherent nature of a proceeding, or in determining the constitutional safeguards that must accompany those proceedings as a general matter, the approach is not well suited to the context of the 'humane interests' safeguarded by the Double Jeopardy Clause's proscription of multiple punishments. . . . This constitutional protection is intrinsically personal. Its violation can be identified only by assessing the character of the actual sanctions imposed on the individual by the machinery of the state.

"In making this assessment, the labels 'criminal' and 'civil' are not of paramount importance. It is commonly understood that civil proceedings may advance punitive as well as remedial goals, and, conversely, that both punitive and remedial goals may be served by criminal penalties. *Ibid.* The notion of punishment, as we commonly understand it, cuts across the division between the civil and the criminal law, and for the purposes of assessing whether a given sanction constitutes multiple punishment barred by the Double Jeopardy Clause, we must follow the notion where it leads . . . Simply put, a civil as well as a criminal sanction constitutes punishment when the sanction as applied in the individual case serves the goals of punishment."—*U.S.* v. *Halper*, *supra*, 109 S.Ct. at 1901-2.

In my analysis of the relationship between double jeopardy protections and the impeachment process, which relies in significant measure on decisions of the court and the opinions of judges, I do not mean to suggest that the Senate's action in impeachment cases is in any way either subject to judicial review or bound by judicial precedents, or indeed by judicial interpretations of particular constitutional provisions. But the decisions and interpretations of the courts should be highly instructive to us. In our system of government it has been the courts that through the years have been called upon to construe, define and apply the provisions of our Constitution and protections of our Bill of Rights. Their decisions reflect our values and our evolving notions of justice. The recent commentaries of the Supreme Court on the scope of the double jeopardy protection occur as the product of a process of reasoning, criticism and reflection about this concept spanning 200 years. Although we are a branch of government coequal with the judiciary, and by the Constitution vested with "sole" power to try impeachments, I believe that the words and reasoning of judges who have struggled with the meaning and application of the Constitution and its provisions ought to be given great heed because that jurisprudence embodies the values of fairness and justice that ought to be the polestar of our own determinations.

As the Supreme Court noted in *Halper*, the double jeopardy clause protects "humane interests" that are "intrinsically personal." I do not believe that those interests may be shunted aside or ignored merely on the basis of a label that impeachment is a "non-criminal" proceeding. In the context of the proceedings against Judge Hastings, where it is now apparent that the evidence and charges on Articles I-XV are coextensive with matters that either were or could have been presented to the trial jury in 1983, I am not prepared to say that we now hear this case on a clean slate, or are free to decide it as we would if it had never been considered by a jury.

I continue to believe that the Senate acted wisely last March in denying Judge Hastings' motion to dismiss the impeachment articles against him outright on the basis of double jeopardy. There are enough non-criminal and non-punitive aspects to an impeachment proceeding that a prior acquittal should not be automatically preclusive of impeachment. Indeed, if the constitutional double jeopardy bar were applied rigidly, we would be precluded from impeaching not only acquitted judges but convicted judges as well. For, as applied to criminal cases, double jeopardy principles preclude not only a second trial after acquittal but also a second trial after conviction—as might occur in an effort by a prosecutor to obtain a more substantial conviction or a longer sentence. Thus if the double jeopardy bar were applied rigidly to impeachment proceedings, we would be foreclosed from impeaching even those judges convicted and sentenced—an obviously undesirable result. We might then find ourselves forced to proceed with inappropriate haste in impeachment matters to reach a judgment before a criminal trial began and double jeopardy protections applied.

But now, having heard the evidence, I believe that the principles of fairness and finality which underlie our constitutional double jeopardy protections, and the related civil law doctrines of collateral estoppel and *res judicata*, require that we recognize that when a public official comes before us impeached on the basis of charges for which a trial jury has already acquitted him, we hear such a case in a way different than we would if the individual had been convicted, or never subject to a criminal prosecution at all. Ultimately, there are aspects of impeachment that touch on "intrinsically personal humane interests," and aspects of punishment in the sanctions flowing from impeachment, to the point that a prior acquittal may not simply be ignored. We are required to act in a way that gives appropriate consideration to such a verdict, and that recognizes that the organs of the state have already failed in one attempt to prove that individual's guilt of the charges against him.

THE DELAY BETWEEN THE EVENTS AND THE IMPEACHMENT TRIAL

Before turning to a discussion of the appropriate standard of proof, one other legal aspect of the case requires comment. The articles of impeachment were returned against Judge Hastings by the House in

August, 1988. Article I charges Judge Hastings with a bribery conspiracy ending in October 1981. Articles II—XV charge him with giving perjured testimony at a trial in February, 1983. Judge Hastings has argued, both prior to and during the Committee proceedings, that the delay between the date of the alleged offenses and the House impeachment and Senate trial should in and of itself act as a bar to his impeachment. While I do not subscribe to that view, nonetheless certain points that Judge Hastings makes in this context are important in considering what deference should be given now, eight years after the fact, to a jury verdict rendered much closer in time to the events at issue.

As a beginning point in this analysis, I note that had a criminal indictment for the first time been returned against Judge Hastings in August 1988 on either the bribery conspiracy or perjury allegations, that indictment would have been barred by the five-year federal statute of limitations. 18 U.S.C. Section 3282. While the criminal statute of limitations is certainly no bar to an impeachment proceeding, the policies behind such statutes have a great deal to do with our views of fairness in adjudicative proceedings. As the Supreme Court observed in *Burnett* v. *New York Central R. Co.*:

"Statutes of limitations are primarily designed to assure fairness to defendants. Such statutes 'promote justice by preventing surprises through the revival of claims that have been allowed to slumber until evidence has been lost, memories have faded and witnesses have disappeared.' "—380 U.S. 424, 428 (1964) (citation omitted).

Indeed, in the criminal law context, it has been recognized that even for indictments returned within the statute of limitations period, lengthy and inappropriate delay in the institution of criminal proceedings could rise to the level of a violation of due process. Such delays, the Supreme Court has said, may require criminal charges to be dismissed where the delay "caused substantial prejudice to [a defendant's right] to a fair trial and . . . the delay was an intentional device to gain tactical advantage." *United States* v. *Marion*, 404 U.S. 307, 324 (1971). These principles were refined but reaffirmed six years later by the Supreme Court in *United States* v. *Lovasco*, 431 U.S. 783 (1977). Applying these principles, in *United States* v. *Barket*, 530 F.2d 189, 192 (8th Cir. 1976) the Court of Appeals for the Eighth Circuit noted that the circumstances of particular cases would require a "delicate judgment" over whether a delay in bringing criminal charges was sufficiently unjustified and sufficiently prejudicial that our basic notions of due process would preclude a criminal prosecution.

In this case, Judge Hastings argues that there has been substantial prejudice to his position from the length of the delay preceding his impeachment. Judge Hastings has pointed out that while telephone and travel records are available today for certain individuals and entities central to the case, they are missing for others; he urges that in those missing records would be proof that his contacts with Borders were not conspiratorial but routine; proof of a more corrupt relationship between Dredge and Borders that the remaining evidence established. Judge Hastings also has pointed out a number of individuals who may well have had significant relevant knowledge about the case who are either dead, missing or currently incompetent to testify: Tom and Frank Romano, "Brother" Moscato, Willie Dara, Santo Trafficante and Joseph Nesline are prime examples. In the situations of Tom Romano and Joseph Nesline, their present unavailability forced us to include in the Committee's record hearsay declarations of their out-of-court statements as testified to by other witnesses, which would possibly have been held to be improper evidence under the federal rules.

Judge Hastings' claims of actual prejudice from this missing or lost evidence have at least some demonstrated substance. In his 1983 trial he was able to contrast the physical appearance of Frank Romano with that of the undercover agent, Paul Rico, and argue to the jury—apparently persuasively—that since he (Judge Hastings) knew Frank Romano well, it was obvious that he could not have been a co-conspirator with Borders because his participation in a conspiracy would have prevented Borders from being duped by an individual who could not be mistaken for Frank Romano.

It should also be noted that the 1983 trial proceedings did not include any evidence from or about the government's informant, William Dredge, or events prior to September 1981. Thus phone and travel records relating to Dredge, as well as to the aspects of the case touching on Joseph Nesline, Santo Trafficante, and the activities of the Romano brothers and "Brother" Moscato in March and April 1981, were not part of the trial proceedings—so Judge Hastings had no occasion in 1983 to be concerned about gathering or preserving that evidence.

Of course, whether any of those records or individuals would in fact have provided evidence favorable to Judge Hastings is an open question, but in my view their absence during our 1989 hearings when they were available for the 1983 trial is another reason why we ought today to exercise extreme care in making the "delicate judgment" referred to by the Court of Appeals of whether a fair trial can now be had on these eight-year-old charges.

When voting against the preliminary motion to dismiss on grounds of double jeopardy, I stated then that the jury verdict should be considered at the conclusion of the hearings on the overall issue of fairness. After studying and reflecting on double jeopardy and delay, I believe those issues may warrant dismissal of these impeachment charges, but I think it preferable not to reach those issues since this matter can be concluded on narrower grounds without establishing an unnecessary precedent.

STANDARDS OF PROOF

In matters tried in the courts, the law generally recognizes three different levels of certainty of proof. The lowest threshold, which is that which must be met by plaintiffs in most civil cases, is proof by the preponderance of the evidence—that is, proof that the conclusion urged is more probable than the contrary conclusion. In a case tried on the preponderance of the evidence standard it is the plaintiff's burden to "tip the scales" and if at the end of the case the evidence weighs evenly for both sides, the jury is required to find against the plaintiff because he is the party with the burden of proof.

For some classes of civil case, however, where the nature and importance of the issues require a greater degree of certainty, the law recognizes a more difficult standard of proof: proof by "clear and convincing evidence." This standard has been held to require proof that a party's position is "highly probable," as opposed to simply more likely than not. The kinds of cases where this elevated standard of proof is invoked vary between jurisdictions, but usually include claims of fraud, claims to enforce non-written contracts and claims of the invalidity of properly recorded patents. This high standard of proof is also required in a libel suit brought by a public official who must show by "clear and convincing evidence" that a defamatory falsehood was published with actual malice.

Finally, for criminal cases, the law imposes an even more rigorous standard of proof, requiring that a conviction may be had only upon "proof beyond a reasonable doubt." The requirement of proof beyond a reasonable doubt is most commonly defined in federal criminal cases as "proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it in the most important of his own affairs." [6] The requirement of proof beyond a reasonable doubt in criminal cases has been said to be evocative of the "deeply held feeling that the combination of all-too-fallible witnesses and serious sanctions requires that the sanctions should be imposed only where guilt seems virtually certain." [7]

The question before us is whether any of these standards is appropriate in the context of this case, where the substantial allegations have already been considered and rejected by a jury under the reasonable doubt standard, and where the passage of time has at least raised a question as to whether a fairer and more complete presentation of the evidence is possible today than it was six years ago when the jury sat.

In the *Claiborne* impeachment, Judge Claiborne offered a motion to establish "beyond a reasonable doubt" as the standard of proof for that impeachment proceeding. That motion was defeated by a vote of 75 to 15. At the same time, however, the chair made clear that in rejecting reasonable doubt as a standard for the full Senate, there was no intention to suggest that reasonable doubt was not an appropriate standard to be applied by individual senators. Indeed, in *Claiborne*, a number of senators explicitly adopted a reasonable doubt standard of proof. My own view in the *Claiborne* matter was that in a case which sought impeachment based directly on charges which constituted violations of federal criminal laws which had already been presented to and accepted by a trial jury, proof beyond a reasonable doubt was an appropriate standard.

Of course, an impeachment proceeding does not fit neatly into any of the categories of "civil" or "criminal" matters for which the law has clearly delineated standards of proof. Certainly a strong argument can be made that where impeachment articles are based on charges that constitute violations of criminal law, the criminal law standard of proof ought to be applicable. The Supreme Court in *In Re Winship*, 39 U.S. 358 (1970), made clear that the Constitution required use of the reasonable doubt standard in juvenile proceedings, notwithstanding the fact that such proceedings are neither criminal nor necessarily punitive. In its opinion, the Court noted the relation of the necessity for proof beyond a reasonable doubt to the stigmatization produced by a criminal conviction and to the necessity that the "moral force" of the law "not be diluted by a standard of proof that leaves people in doubt whether innocent men are being condemned." 397 U.S. at 363–4. These factors seem to me to be equally at work in an impeachment proceeding. When senators are

called upon to vote on an article of impeachment, we do not say "aye" or "nay" as we do on all other occasions. Instead, we articulate our vote by saying "guilty" or "not guilty." I have no doubt that the Senate's vote of guilty in an impeachment is to the officeholder as much a stigma and condemnation as the result in any criminal case, and that consequently such a decision should only be reached based on a standard of proof that does not permit people to have doubt about whether an innocent man has been unjustly condemned or punished. We may recall that when Vice President Agnew pled guilty in 1973 to a criminal charge of tax evasion, he received no jail sentence because, in the view of the prosecutors and the sentencing judge, his resignation from office—in essence his acceptance of the consequence of an impeachment—constituted sufficient punishment.

However, I do not believe it is necessary that we adopt a rigid standard of proof for all impeachments. There is much wisdom in Mr. Justice Brandeis' pronouncement when concurring in *Ashwander* v. *Valley Authority*, 297 U.S. 288, 347 (1936), that Constitutional issues should not be decided ". . . if there is also present some other ground upon which the case may be disposed of." There is no occasion today that requires the determination of the requisite standard of proof for every Senate impeachment trial; indeed, the question of the appropriate standard of proof may well vary with the nature of the allegations or charges. We should remember that, historically, impeachment trials have sometimes dealt not so much with questions like the ones we face here of whether or not a crime was committed, but rather (as in the impeachment trial of President Andrew Johnson) with whether particular conduct constituted an impeachable offense.

In the *Hastings* impeachment proceeding, for the first time in our history the Senate is asked to render judgment on a federal official who already has been acquitted by a jury in a criminal trial. What is the impact of that factor? The Impeachment Committee specifically asked the parties to address that question in their briefs, and I believe this issue has been at the center of much of the public attention to this proceeding. A review of judicial precedents brings little direct help in answering the question because of the application of the double jeopardy principle which I have already discussed: if the subsequent proceeding is "punitive," double jeopardy invokes the prior acquittal as an automatic bar; and if the subsequent proceeding is not punitive, double jeopardy principles do not apply.

Thus, it is necessary to find some judicial analogy which will permit us to apply the principles of fairness that underlie the double jeopardy protection in a context, like impeachment, that has substantial punitive and substantial remedial aspects. Perhaps the most apt analogy in judicial proceedings will be in those situations where a jury's verdict (although not a verdict of acquittal in a criminal case, since that is invariably final) is reviewed by the trial judge, or where a trial judge's factual determinations are reviewed by an appellate court. It is sometimes said that a trial judge "cannot usurp the functions of a jury" and "can only disturb a jury verdict to prevent a miscarriage of justice." [8] What constitutes a miscarriage of justice is not clearly defined in the law, but the concept is commonly applied to mean that a jury's verdict must be sustained unless it is contrary to the "clear" or "great" or even "overwhelming" weight of the evidence.[9]

In a similar vein, the Federal Rules of Civil Procedure say that a district court's findings of fact shall not be set aside by an appellate court unless "clearly erroneous." The Supreme Court of the United States in *United States* v. *United States Gypsum Co.*, 333 U.S. 364 (1948) said this occurred when: ". . . the reviewing court on the entire evidence is left with *the definite and firm conviction that a mistake has been committed.*" 333 U.S. at 395 (emphasis added). Building on that standard, in *Anderson v. Bessemer City*, 470 U.S. 564, 573, the Supreme Court said: "This standard plainly does not entitle a reviewing court to reverse the finding of the trier of fact simply because it is convinced that it would have decided the case differently." 470 U.S. at 573. As the Court went on to say:

"The reviewing court oversteps the bounds of its duty . . . if it undertakes to duplicate the role of the lower court. . . . '[A]ppellate courts must constantly have in mind that their function is not to decide actual issues *de novo*'. . . . If the district court's account of the evidence is plausible in light of the record viewed in its entirety, the court of appeals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently."—*Id.* at 573-4 (emphasis in original; citations omitted).

The Supreme Court in *Anderson* explicitly rejected a line of court of appeals decisions by distinguished judges (including Judges Augustus Hand and Jerome Frank) that appellate courts have the right to substitute their own fact findings for those of the lower court if those determinations did "not rest on credibility determinations, but [were] based instead on physical or documentary evidence or inferences from other facts." *Id.* at 574. Even in that situation, the Supreme Court said, there must be "deference to the original finder of fact;" such deference to the original fact finder is all the more warranted, the Court said, when factual "findings are based on determinations regarding the credibility of witnesses." *Id.* at 574-5.

In this case, of course, a jury had the opportunity to see and hear the same witnesses that the Committee did. Indeed, as I have noted, the jury had the opportunity to hear from a number of witnesses who had become unavailable by the time of our proceedings. The principles of fairness and finality that underlie our double jeopardy protections urge that the jury's response to those witnesses and that evidence ought to be substantially credit by us unless some manifest error is shown. The Court's conclusion in *Anderson*, that where "the parties to a case on appeal have already been forced to concentrate their energies and resources on persuading the trial judge that their account of the facts is the correct one . . . requiring them to persuade three more judges at the appellate level is requiring too much" *id.* at 575, may aptly be invoked here to suggest that where Judge Hastings has already succeeded in the defense of his case before a jury of twelve citizens, it perhaps requires "too much" that years after that fact he undertake the same burden of persuasion before one hundred Senators.

The Senate correctly concluded that it was not "too much" to require Judge Hastings to proceed with his defense on the articles of impeachment. As I believed then, and continue to believe, the mere fact of the House's overwhelming vote for impeachment following upon the recommendations of the Judicial Council of the Eleventh Circuit and the Judicial Conference of the United States required that we hear the case. But, having heard the case, there can be no question that the jury's verdict, rendered much closer in time, and reached after a fair and vigorous trial on both sides, should be given considerable deference in our decision unless it can be shown to have been clearly erroneous, or to have constituted a miscarriage of justice. To simply say that we disagree is not enough.

To sustain a conviction on the articles presented here, the House should be required to prove its case beyond a reasonable doubt; and, for the bribery conspiracy and related perjury articles, must do so in a way that shows that the jury's verdict was clearly in error or constituted a miscarriage of justice.

An appropriate manner to weigh the evidence is with an analysis of the central arguments of the House brief on the charge of conspiracy to obtain a bribe.

EVALUATION OF EVIDENCE SUMMARIZED IN THE HOUSE BRIEF

On key Article I, the corrupt conspiracy to obtain a $150,000 bribe, the House brief argues: [10]

"1. *Pattern of Contacts*"—The House brief refers to contacts between Judge Hastings and William Borders in the same time frame as alleged dealings between William Dredge and Borders. Little, if any, reliance should be placed on Dredge's testimony. There are significant discrepancies between Dredge's testimony at this hearing and the testimony he gave on prior occasions. The existing documentary records for Dredge's phone contacts with Borders tend to confirm his prior testimony that his involvement with Borders did not begin until after his May 1981 arrest. Dredge has a serious criminal record with multiple convictions. At the time of Dredge's contacts with Borders, Dredge has the obvious motivation to extricate himself from pending federal criminal charges on drug violations.

At the time Dredge dealt with Borders, Judge Hastings and Borders had reason to have contacts on other matters, aside from Hemphill Pride or the *Romano*, case, such as the prospective invitations to President Carter and Attorney General Bell to the National Bar Association meetings or the contemporaneous lawsuit which Borders had against President Reagan.

The House brief then argues:

"2. Three Separate Times Borders Offered Proof of Judge Hastings' Involvement. Three Separate Times Judge Hastings Complied." (p. 55)

According to the House contention:

"Borders made three separate 'offers of proof' for the purpose of persuading the Romanos that he could control Judge Hastings. In each instance Judge Hastings took the promised action." (p. 55)

The House assertion is not factually correct.

The first was Borders' prediction that Judge Hastings would continue the Romano brothers' sentencing on his own initiative. The evidence is unequivocal that when Judge Hastings took the bench on May 11, he stated that he was prepared to proceed with the sentencing and continued the sentencing only after a request from defense counsel. The House seeks to rebut this key fact by stating:

"Further, Neal Sonnett (defense counsel) may have orally notified chambers of his

desire for a continuance by the close of business on May 8, 1981 . . ." (p. 58)

What Neal Sonnet "may" have done is obviously pure speculation. There is no evidence that he did so.

A second issue cited in the House brief on the three "offers of proof" refers to the promise that within 10 days of the payment on the bribe, Judge Hastings would issue an order returning to the Romanos a substantial part of the forfeited property.

That admittedly did not happen.

The $25,000 was paid to William Borders on September 19. The order was not issued until October 6. In addition, Judge Hastings' law clerk testified that the Judge had directed a return of the Romanos' forfeited property in late August or early September 1981, a date fixed with reference to the Fifth Circuit Court of Appeals opinion of August 27 mandating that result.

The third "offer of proof" in the House brief refers to the September 16 "show" at the Fontainebleau. Judge Hastings' appearance at the hotel on that date is highly suspicious. Judge Hastings testified that he expected Borders for dinner but there is no evidence of a place setting for Borders or other corroboration of such an expectation by Judge Hastings. However, other evidence demonstrated Borders to be unreliable at fulfilling commitments such as appearing at appointments like dinner; but on one contention out of three "offers of proof," there is some circumstantial evidence.

The House brief then argues:

"3. More examples of Judge Hastings' complicity: the April 9 pay phone call; the October 5 coded conversation; the October 9 flight from Washington; Hastings and Borders' Relationship." (p. 72)

The House introduced evidence of a suspicious telephone call on April 9, 1981 from a pay phone in the Miami federal courthouse to a pay phone in the District of Columbia federal courthouse charged to Judge Hastings' residence. The House contends that the call was made at a suspicious time based on the suspect testimony of William Dredge. This call was not introduced into evidence at Judge Hastings' 1983 trial. Judge Hastings did not deny making the call, did not remember it and could not recall any purpose for it eight years after the fact. Since the call was charged to his home it is likely that he made it but not conclusive. It is at least somewhat speculative that Borders was the recipient.

The House brief then places great reliance on ". . . the coded telephone conversation of October 5." p. 75. The House asserts:

"The evidence that the October 5 conversation is in code is insurmountable." (p. 81) I strongly disagree with the characterization "insurmountable" and I found the testimony of the expert witness, Dr. Roger Shuy, unpersuasive.

Aside from the contention of a coded conversation, the October 5 call, in conjunction with the so-called Hemphill letters, was suspicious, but hardly rising to the level of the House's contention. The House contends the 5:12 call on October 5 contained a coded communication from Judge Hastings to Borders that the order was going out reducing the forfeiture. But that argument is undercut by the earlier telephone call at 4:22 on the same day from Borders to Rico that the order was going out. The House brief seeks to answer that gap by stating:

"The House submits that during the afternoon or evening of Sunday, October 4, Borders finally reached Judge Hastings after leaving a message at his home." (p. 82)

That assertion is wholly speculative because there is no such evidence. Had that call been made, however, there would have been no reason for the October 5 call from Judge Hastings to Borders.

The House contention is further refuted that Borders' coded communication to Judge Hastings on October 5 was that he had gotten the $25,000 down payment from the statement "he wrote some things for me . . . and then I was supposed to go back and get some more things." Had that conversation been the source of information from Borders to Judge Hastings that the $25,000 down payment had been paid, why would Judge Hastings already have issued the instruction for the forfeiture remittance? The House theory of the case was that such information had long since been communicated to Judge Hastings to warrant the remittance order.

The perfect text of Judge Hastings' handwritten letters for Hemphill Pride is curious, perhaps even suspicious, but Judge Hastings may well be able to draft such a perfect text. Had the draft letters been the product of a thoughtfully contrived plan, a careful contriver would probably have inserted some strikeovers.

The House brief then emphasizes Judge Hastings' failure to disclose the Hemphill Pride letters as circumstantial evidence of guilt. That assertion was directly contradicted by Judge Hastings' testimony that he showed those letters to William Borders' attorney, Mr. John Shorter. The House brief then contends:

". . . the letters, if offered at all, were assumed by Borders' attorney to be fabricated." (p. 91)

No evidence was offered to that effect. It is a House assumption that the letters were "assumed" by Borders' attorney to be fabricaed. In proceedings before the Eleventh Circuit, John Shorter confirmed Judge Hastings showed him the draft letters.

The House brief then states "the third compelling indication of Judge Hastings' guilt is the circumstance surrounding his departure from Washington, D.C. on October 9, 1981." Judge Hastings' conduct on that day does show a high state of anxiety and worry, but not necessarily guilt. No matter how sophisticated and poised a lawyer or a judge—or a senator—might be, there would be an understandable sense of concern and anxiety on hearing that the FBI wanted to question that individual, a judge, when a friend had just been arrested for taking a bribe in his courtroom. Anyone would be foolish to respond to that situation by walking into an interrogation without preparation and counsel. Any lawyer worth his salt, as Justice Jackson aptly put it, would insist on reviewing the facts, analyzing the situation and preparing that person, even an experienced judge, before submitting to such questioning.

It is also understandable that a resident of another state would prefer to be in his home area instead of in Washington, D.C. A more reasoned response by Judge Hastings would have been to call the FBI agent and set a convenient date a few days later in his home area for such an interview, but who among us is totally composed and wise at all times under all circumstances? And Judge Hastings did submit to extensive questioning later that day by the FBI at the home of his friend, Ms. Patricia Williams, in Florida.

The final key House contention on the central Article I states:

"d. The Relationship of Judge Hastings and William Borders Since the Conspiracy Accusation Belies Respondent's Innocence." (p. 88)

This contention essentially relies on the inferences between Borders' illegal activities and his contemporaneous contacts with Judge Hastings. There is no question that Judge Hastings and William Borders had an appropriate personal, social and professional relationship prior to these events in 1981. There can be no guilt by association.

The evidence does not support the House assertion at page 91 of its brief about Judge Hastings' "inexplicably solicitous" attitude toward William Borders. I disagree with the House's conclusions on the basis of my examination of Judge Hastings on this issue. After reflection, it is my sense that Judge Hastings' attitude may well be explained by the expression that he acted more in sorrow than in anger.

Beyond an analysis of the House brief, I note the following as key elements of the evidence which raise at least a reasonable doubt and demonstrate that the jury's verdict was neither clearly erroneous nor a miscarriage of justice:

"Testimony from Judge Hastings' law clerk, which was uncontradicted, that Judge Hastings had directed a return of the Romanos' forfeited property in late August or early September, 1981, and thus in advance of the $25,000 payment on September 19—a fact totally at odds with the House's theory that Judge Hastings would only return the forfeited property after the bribe downpayment;

"The undisputed evidence that despite Borders' commitment on September 19 that the forfeiture remittance order would go out by September 29, that did not occur. There is no reason why Judge Hastings could not have gotten that order out within that time frame had he sought to fulfill such a commitment;

"The uncontradicted evidence that in a conversation at 4:22 p.m. on October 5, 1981, Borders told the undercover agent that the forfeiture order would go out the next day, prior to the communication with Judge Hastings in which the House alleges that he learned this fact—thus inferentially corroborating Judge Hastings' claim that he was not the source of Borders' knowledge about the case and that the 5:12 p.m. call was innocent;

"The inconsistency in the House's claimed interpretation of the October 5 Hastings/Borders conversation as a code, in that if Borders' statement to Judge Hastings at 5:12 p.m.—"See, I had, I talked to him and he, he wrote some things down for me"—is meant to be Borders' communication to Judge Hastings that he's received the $25,000 downpayment, there could be no basis for claiming that Judge Hastings' direction to his law clerk much earlier in the day to finish the Romano forfeiture order was based on the $25,000 payment from Rico to Borders on September 19, because Judge Hastings would not have known about it until he spoke with Borders at 5:12 p.m.;

"The fact that it would be most unlikely for Mr. Borders to have been deceived into believing that Paul Rico was really Frank Romano if Judge Hastings, who was quite familiar with Romano's physical appearance and personality, was truly a participant in the scheme;

"The absence of evidence that the $25,000 paid to Borders on September 19 found its way to Judge Hastings;

"The background and circumstances surrounding the informant, William Dredge

(over whose pretrial deposition I presided), including his criminal history, his ever-changing story and his demeanor, which left me unwilling to accept any part of his testimony as a basis on which to convict Judge Hastings;

"The uncontradicted evidence of Judge Hastings' excellent standing in the community; and

"The uncontradicted evidence of Judge Hastings' living a lifestyle that was not lavish, and where financial rewards were not important to him."

On the totality of this record on Article I, weighing the incriminating circumstantial inferences against the exonerating factors and giving due weight to his other unblemished lifetime record, I conclude there is insufficient evidence to convict.

Articles II–IV. For the same reasons that I think the verdict should not be guilty on Article I, I reach the same conclusion with respect to the charges that Judge Hastings lied in his 1983 trial. Virtually all the matters that are contained in Articles II–XV, as allegedly false statement by Judge Hastings, were argued by the prosecution to the trial jury as false. Obviously, the jury did not accept those arguments.

Of course, it is not inevitable that we reach the same determination on these articles, or any of them, as Article I. There is always the theoretical possibility that although Judge Hastings may not have been proven guilty of conspiracy to solicit a bribe, he might have been proven to have lied in his own defense. In my judgment, however, such a verdict would be not only wrong but unseemly. To simply prosecute an acquitted man for perjury because he testified to his own innocence violates principles of fairness which have been emphasized as the underpinnings of our constitutional ban on double jeopardy. The courts have recognized that perjury prosecutions following acquittals can be tainted by prosecutorial vindictiveness and subject to dismissal for that reason.[11] It seems to me that if we are not convinced that Judge Hastings conspired to accept a bribe, for the same reasons we ought not to be convinced of the falsity of his testimony in stating that he did not so conspire; and we also ought to accept his testimony that, to the extent he said anything incorrect in his own trial defense, those mistakes were inadvertent. For those reasons, I will vote to acquit on Articles II–XV.

Article XVI. As discussed above, the case against Judge Hastings on the wiretap disclosure article was neither convincing nor substantial. While there was direct evidence in the testimony of Mayor Clark, a number of factors made Mayor Clark a less than wholly credible witness; and a host of contradictory evidence, much of it undisputed, proved convincingly that what Mayor Clark said happened could not have occurred, certainly not in the way that he said it occurred.

Article XVII. Article XVII contains no independent allegations and has no independent evidence to support it. Inasmuch as I intend to vote against impeaching Judge Hastings on the substantive charges against him, I will vote the same way on a "catch-all" article which reiterates previous charges.

FOOTNOTES

[1] Judge Kerner resigned after conviction rather than face impeachment. In 1929 and 1941, two other federal judges had been subject to indictment, but did not question the jurisdiction of the court to prosecute them before impeachment.

[2] *Claiborne* v. *United States,* 727 F.2d 842 (9th Cir. 1983), *cert. denied* 475 U.S. 1120 (1986); *United States* v. *Hastings,* 681 F.2d 706 (5th Cir. 1982), *cert. denied* 459 U.S. 1203 (1983).

[3] *See also, United States* v. *Ward,* 448 U.S. 242, 248–9 (1980); *Kennedy* v. *Mendoza-Martinez,* 372 U.S. 144, 168–9 (1963); *Rex Trailer Co.* v. *United States,* 350 U.S. 148, 154 (1956). *But cf. United States* v. *Halper,* 109 S.Ct. 1892, 1901–2 (1989), suggesting that at least in the context of punishment, the Supreme Court remains prepared to apply double jeopardy protections to remedies that are on their face clearly civil if the use of those remedies "as applied in the individual case serves to goals of punishment."

[4] Koch, ed., "Notes of Debates in the Federal Convention of 1787 Reported by James Madison" (1984), at 331–35.

[5] Gales and Seaton's "History of Debates in Congress" (1834), 389, 394–5 (May 19, 1789).

[6] *See,* generally, Devitt and Blackmar, "Federal Jury Practice and Instructions," Sections 11.14 (Reasonable Doubt); 71.14 (Preponderance of the Evidence); and Sections 84.08 and 97.06 (Clear and Convincing Evidence); *See also,* McCormick, LAW OF EVIDENCE, Sections 339–41 (1972).

[7] Goldstein, "The State and the Accused: Balance of Advantage in Criminal Procedure," 69 Yale L.J. 1148, 1153 (1960).

[8] *Beckman* v. *Mayo Foundation,* 804 F.2d 435, 439 (8th Cir. 1986). *See also Newmont Mines* v. *Hanover Insurance Co.,* 784 F.2d 127, 132 (2d Cir. 1986); *Payton* v. *Abbott Labs,* 780 F.2d 147, 152 (1st Cir. 1985).

[9] *See, Fireman's Fund Ins. Co.* v. *Aalco Wrecking Co.,* 466 F.2d 179, 187 (8th Cir. 1972), *cert. denied* 410 U.S. 930 (1973), citing *Cities Service Oil Company* v. *Launey,* 403 F.2d 537, 540 (5th Cir. 1968).

[10] I found the oral argument on October 18, 1989, by Congressman John Bryant more persuasive than the House brief, and I shall supplement this analysis when the Senate deliberations occur.

[11] *U.S.* v. *Eddy,* 737 F.2d 564 (6th Cir. 1984); *U.S.* v. *McFadyen-Snider,* 590 F.2d 654 (6th Cir. 1979); *cf. United States* v. *Goodwin,* 457 U.S. 368 (1982).

APPENDIX TO FLOOR STATEMENT OF SENATOR ARLEN SPECTER: THE RELATIONSHIP BETWEEN IMPEACHMENT PROCEEDINGS AND LEGISLATIVE OVERSIGHT FUNCTIONS

After 50 years without an impeachment trial being heard in the Senate, the last three years have seen three impeachment trials: those of federal judges Harry Claiborne of Nevada, Walter Nixon of Mississippi and Alcee Hastings. Some senators, including particularly my distinguished colleague from Alabama, Senator Heflin, have expressed a view that the constitutional mechanism for removal of federal judges established by the Framers is not workable in the context of our contemporary legislative responsibilities, and have urged a constitutional amendment which would remove from the Congress the responsibility for impeachment and trial of inferior federal judges.

In the 202 years since the adoption of the Constitution, as the country has grown and our legal system become more complex, the ranks of the federal judges of the district courts and courts of appeals have expanded from 13 to 741. It may be that with so many federal judges impeachment trials will become more commonplace, placing difficult demands on the already crowded agenda of the House and Senate. For this reason, some argue, the Constitution should be amended so that the Congress would retain responsibility only for impeachment proceedings against members of the executive branch and the Supreme Court—with problems of corruption or disability of all other federal judges assigned to some other tribunal.

Before participating in Judge Hastings' impeachment hearings, I favored such a constitutional amendment. After serving as Vice-Chairman of the Impeachment Trial Committee, I now believe that the issues raised in any judicial impeachment, including judicial integrity and independence of the judiciary, are sufficiently important to require our attention notwithstanding our other workload. Speaking with respect to the Senate, I believe that through the use of Rule XI committees, and with diligent and consistent effort by the members of those committees and of the full membership, we have been able to discharge our constitutional obligations in the *Claiborne, Nixon* and *Hastings* proceedings appropriately, and without detracting from our other responsibilities.

Additionally, my experience as a member of the *Hastings* committee has convinced me of another reason that it is important that the Congress and the Senate remain a part of the impeachment process even at the level of inferior federal judges. As members of the national legislature, both Representatives and Senators have oversight responsibility of many of the organs of our government involved in the criminal justice system. In the three impeachment proceedings recently concluded, the members of the impeachment committees—and indeed the whole Senate—have had an opportunity to hear and observe in a concentrated way matters which ought to raise serious concern over how some of the agencies of the executive branch and the courts for which we have oversight responsibility have operated.

In the *Hastings* impeachment, we had occasion to hear a great deal that was disturbing regarding the functioning of the FBI, the Department of Justice, and even the Eleventh Circuit Investigating Committee operating under the strictures of our recently enacted Judicial Councils Reform and Judicial Conduct and Disability Act of 1980. 28 U.S.C., secs. 331 *et seq.* In the *Hastings* impeachment we heard evidence, among other things, that an FBI agent who was directed to conduct a telephonic interview of Judge Hastings told Judge Hastings that he was "not under investigation" when in fact the FBI was at that very moment urging the Justice Department to target Judge Hastings for indictment; in questioning that I put to him that FBI agent justified his conduct as follows:

Q: Would there be some circumstances where you would feel justified in saying to Judge Hastings that you were not investigating him in response to his question, when in fact you were investigating him?

A: That could be a situation as well.

Q: Well, under what circumstances could that be your approach?

A: Possibly in those circumstances to see if there might be a possibility of soliciting additional information from a subject of a target, you would not want to disclose that that person [was] the subject of an investigation.

Q: Well, would you consider it proper to say to a man under investigation in response

to a direct question by him, that he was not under investigation, when in fact he was?

A: It would depend on the situation, but in certain circumstances I could see where I would not want to disclose the fact that the person is the subject. It just depends.

I for one do not believe that this is appropriate policy for the FBI or the Justice Department.

In addition, testimony in the *Hastings* case revealed what I believe a number of Committee members felt was a significant misuse of the subpoena process. On Friday, October 9, 1981, the day William Borders was arrested, a number of FBI agents arrived at Judge Hastings' chambers in Miami. They were not in possession of a search warrant, but had with them a subpoena *duces tecum* requiring the production of documents before a grand jury the following week. Armed only with that subpoena, they demanded that all the documents called for be delivered to them forthwith; they refused to let people come and go in Judge Hastings' chambers; they separated Judge Hastings' personnel from each other; they told a federal magistrate who had come to Judge Hastings' chambers that he was required to leave; and they used the occasion to look through papers on the top of Judge Hastings' desk. This conduct is particularly troublesome because, it must be remembered, the FBI and Department of Justice are themselves parties to many matters that would be before Judge Hastings. The use of a subpoena *duces tecum* as if it were a search warrant, entitling them to the free run of Judge Hastings' chambers, raises the possibility of the disclosure of the judge's thoughts and work in progress on matters in which the government is a party in a way that could severely prejudice the rights of the parties adverse to the government. We ought to find out if that kind of procedure is accepted by the Department of Justice and the FBI as appropriate and routine behavior in the course of serving a subpoena; if it is, we ought to give serious thought to whether some statutory restraint should be interposed.

In addition, the events in this case revealed that significant portions of the evidence against Judge Hastings, which were subject to grand jury secrecy, appeared in the Miami newspapers almost immediately after Borders' arrest. Despite a massive investigation by the Justice Department, no conclusion was reached as to how that could have occurred.

In the *Hastings* impeachment we also had occasion, possibly for the first time, to have a close examination of the functioning of a judicial investigating committee under the 1980 Judicial Councils Reform and Judicial Conduct and Disability Act. I believe it is safe to say that I and a number of my colleagues were distressed by what we observed. Under the statute, there is no provision giving witnesses who appear before the investigating committees the right to be represented by counsel, and each of the various Judicial Conferences are largely free to establish their own rules of procedure. 28 U.S.C. 372(c)(11).[1] While the investigating committees' procedures may be likened to those of a grand jury, with similar needs for secrecy, at least in the grand jury setting there is opportunity to have any arguably improper or overreaching conduct by the prosecutor reviewed by a supervising judge. Here, by contrast, the supervising judges are themselves the investigators, with the result that, at least based on what we observed in the *Hastings* investigation, the rights of those appearing as witnesses, and those under investigation, may not be fully protected.

For instance, when Joel Hirschhorn appeared as a witness and attempted to assert attorney/client and work product privileges for a memorandum that he had prepared in the course of defending Judge Hastings, the presiding judge, without benefit of brief or argument, simply stated that "the Committee has determined that [Mr. Hirschhorn's memorandum prepared as a checklist of things to do in defending his client] is not privileged or protected under the attorney's work product or that it has been waived."

Similarly, another attorney, Kenneth Robinson, was directed to testify concerning his conversations with an individual who had sought his representation, William Dredge, without any opportunity for Dredge to contest the summary denial of any attorney/client privilege Dredge may have had for his conversations with Robinson.

Finally, I note that the Investigating Committee's questioning of Judge Hastings' former law clerk, Jeffrey Miller—undertaken in a context where Mr. Miller had no counsel or representation of his own—had an offensive quality about it. The Investigating Committee, which had called Miller to testify before it for the third time, simply refused to accept testimony that Miller was giving that was favorable to Judge Hastings. For example, note the following "question" directed to Miller by one of the presiding judges: "Let's get down with it now. How much did the instructions have to do with it?

"You have attempted to explain not by saying, well, if you hadn't followed the instructions, the judge would have signed it anyway, if that is so, why did you change it? Why did you obey his instructions if you thought had you followed your original theory that he would have signed it anyhow?

"This takes a lot of explaining, and we haven't heard yet, Mr. Miller, and we are searching for the truth in this thing."

This questioning, it must be remembered, was directed to a young lawyer, unrepresented by counsel, in a proceeding where the displeasure of the inquiring judges at his testimony was manifest; there is a very real feel of the star-chamber in such an examination. It suggests that the judges may have moved well beyond being inquirers and have become instead inquisitors.

It may be that as a result of our observations in the *Hastings* impeachment proceeding we will now want to give consideration to whether witnesses before judicial investigating committees should be guaranteed the right to be represented by counsel, or whether we will want to take more direct control over the manner in which such investigations will be conducted. It may be that Congress should amend the Judicial Councils Act to establish rules of procedures which will guarantee fairness to witnesses, and to the subjects of investigation, and to provide a mechanism for appropriate review so that the judges conducting such an inquiry are not also themselves the arbiters of the propriety of their own conduct.

I think it is important also to take note that it is not just in the *Hastings* impeachment where the Senate has heard evidence that ought to give us concern about the operations of the criminal justice system and certain aspects of the judiciary. In the recently concluded *Nixon* impeachment hearings, it was a central point of the defense case that the principal witnesses against Judge Nixon had their testimony shaped and coerced by overaggressive prosecutors. Having not myself yet had a chance to consider the evidence in the *Nixon* case, I make no judgment as to the truth of those allegations, but I do note their disquieting similarity to some of the matters that we heard in *Hastings* and in *Claiborne*.

Indeed, in the *Claiborne* case, although we voted to convict Judge Claiborne, I believe many of us left that proceeding with a genuine sense of distress regarding what we had seen presented to us regarding the conduct of the Justice Department and the IRS. We saw disturbing demonstrations of selective targeting of subjects for prosecution, manipulation of evidence and witnesses, and other misconduct. Other than myself, 17 senators had occasion to file floor statements discussing their reaction to the events in *Claiborne*. Of those 17, 8 (or nearly half)—Senators Bingaman, Hatch, Pryor, Heflin, McConnell, Bumpers, Levin, and Gore—had occasion to observe that the prosecutorial and governmental misconduct that they observed in the *Claiborne* case ought to be the subject of further inquiry. As Senator Bingaman put it: "It is clear from the debate which has taken place here in the Senate that many members are concerned not only about the evidence of overreaching by the Government in this case, but other instances of similar overreaching."

Senator Bingaman went on to call for the Judiciary Committee to hold oversight hearings. My other distinguished colleague, Senator Pryor, similarly observed: "There is no responsible doubt in my mind about another aspect of this case, and that is the long arm of the United States government and the abuse of power that ultimately led to Judge Claiborne's conviction."

Similarly, Senator Levin commented: "I was greatly disturbed by the conduct that the government was alleged to have exhibited in this case. The evidence clearly suggests that the Government engaged in a pattern of selective prosecution, prosecutorial overreaching and perhaps intimidation of witnesses and other improprieties. I support a full investigation of those charges as they relate to Mr. Claiborne in particular and other cases as well."

Notwithstanding the views of these senators, no such hearings have as yet been held. I believe with what we have now seen in the *Hastings* and *Nixon* matters, time is past due for such hearings. We have a need to balance zealous and effective law enforcement and judicial administration with respect for the rights of citizens and their constitutional protection.

None of these matters would likely have come to our attention but for the Constitution's requirement that we undertake the obligation to try impeachment cases. I know that four weeks of full hearing days in the *Hastings* impeachment was a considerable burden for me and for my 11 colleagues on the *Hastings* committee. I am sure that the time commitments of the 12 senators on the *Claiborne* and *Nixon* committees represented an equally significant measures of effort and inconvenience for them. I know the difficulties for this entire body of the time that is spent considering and deliberating these matters on the floor.

[1] *See*, Burbank, *Procedural Rulemaking Under the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980*, 131 U. of Pa. L. Rev. 283 (1982).

I know also that impeachments present additional difficulty for us in that most of us have never had the occasion to act as judges where we must call a man guilty or not guilty, and we may perhaps find that role difficult.

For all that, however, I believe that there is an overriding value in the Senate continuing to act as the body that tries the impeachment of all federal officials including federal judges. We enact laws that govern the operations of the FBI, the Justice Department and the IRS, as well as the administrative functioning of the courts. Sitting as judges in an impeachment proceeding we have occasion to see in a closeup and firsthand way how those laws and the agencies they affect operate. That experience, difficult and time-consuming as it may be, makes us wiser in the discharge of our legislative responsibilities.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Idaho is recognized.

Mr. SYMMS. I thank the Chair.

(The remarks of Mr. SYMMS pertaining to the introduction of S. 1775 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

DEATH OF LEONARD C. YASEEN

Mr. MOYNIHAN. Mr. President, I rise to report to the Senate the death of a most distinguished person of our time, Mr. Leonard C. Yaseen, who has been such a faithful and fruitful member of the Board of Trustees of the Hirshhorn Museum and Sculpture Garden. Mr. Yaseen, a businessman and sometime resident of the State of Connecticut, was also, in a most extraordinary way, a lay theologian. There are not many such at any time. His writings on Christian-Judeo relationships truly have added to our understanding. I wish to say that not many men or women have done that.

Those who worked with him in his many and varied pursuits will have a sense of our loss, but so also will any who have read his extraordinary book, "The Jesus Connection." We mourn and honor him.

Mr. President, I ask unanimous consent that an obituary of Leonard C. Yaseen that appeared in the New York Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 9, 1989]

L. YASEEN, REALTY EXPERT, 77, DIES

Leonard C. Yaseen, a real-estate executive who specialized in relocating factories and offices, died of a heart attack early yesterday at the Rhode Island Hospital in Providence, R.I. He was 77 years old and lived in Larchmont, N.Y.

Mr. Yaseen, the longtime head of the Fantus Company, was stricken after attending a theatrical performance.

He started his consulting business in 1934 when he perceived that the heads of many businesses needed information on which to make decisions about moving plants and offices.

Two decades later, before statistics demonstrated that New York City was losing its industrial base, Mr. Yaseen perceived a flight of manufacturing companies from the city.

In the 1970's New York City officials hired Mr. Yaseen to come up with strategies to keep jobs in the city and to attract new businesses. He advised using tax breaks and other incentives to develop industrial sites in the boroughs outside Manhattan.

Mr. Yaseen, born in Chicago Heights, Ill., was a graduate of the University of Illinois and worked for his father-in-law, Felix Fantus, a Chicago industrial realtor who supplied prospective customers gratis information on possible plant locations.

Mr. Yaseen came to New York and prospered selling such information. He became the major owner of Fantus, which he sold to Dun & Bradstreet several years ago.

Mr. Yaseen was a former national chairman of the interreligious affairs commission of the American Jewish Committee and the author of "The Jesus Connection," which deals with the sources of anti-Semitism. He and his wife. Helen, founded the Yaseen Studies in Modern Art at the Metropolitan Museum, and he was a trustee of the Hirshhorn Museum in Washington.

Besides his wife, Mr. Yaseen is survived by a son, Roger, of Manhattan; a daughter, Barbara Tiffany of Philadelphia; a brother, George, of Sarasota, Fla., and three grandchildren.

Mr. MOYNIHAN. Mr. President, I see no other Senator seeking recognition. I, accordingly, suggest the absence of a quorum.

The PRESIDING OFFICER. The distinguished Senator from New York has suggested the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. I ask unanimous consent that the time constraints be eliminated as under the present order so that the Senator from Nebraska may complete his remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

DECLARATION OF ECONOMIC INDEPENDENCE

Mr. EXON. Mr. President, an article appeared in the Journal of Commerce this week which should cause the Congress, the President, and the American people to take pause and review our Nation's economic and fiscal policies.

The article by Mototada Kikkawa, an economics professor at a leading Japanese university, advocates that Japan develop "a bargaining chip against unilateral United States (trade) moves." The professor identifies the U.S. financial markets as the source of that leverage. He writes that Japan should "adjust capital flows in response to United States measures against Japan" and advocates the enactment of legislation in Japan which would trigger a 20-percent reduction in Japan's purchase of U.S. Treasury notes upon the imposition of trade sanctions by the United States.

Mr. President, Professor Kikkawa has finally spoken to what I and many of my fiscally conservative colleagues have warned of for many years. There is a danger to U.S. debt and dependence on foreign capital. That danger is a real loss of American economic and political independence.

Over one Presidency, our Nation has nearly tripled its national debt and has gone from being the world's largest lending nation to the world's largest borrowing nation. Because U.S. savings rates are too low to finance the American budget and trade deficit, the United States has turned to foreigners to finance our spending and consumption habits. This simply must be corrected.

How long will it be before the theories of an economics professor become the policies of the Government? How long before our foreign creditors pull on America's debt chain to command obedience?

There are other warning signs regarding our Nation's increasing dependence on foreign capital. Last year when the U.S. Congress attempted to impose sanctions on Toshiba for transferring technology to the Soviet Union, Toshiba was able to unleash a corps of American company representatives dependent on Toshiba components or in economic relationships with Toshiba, to plead for easy treatment on the company that endangered the lives of Americans on American submarines. To a considerable extent, the lobbying effort resulted in softer sanctions.

As for the author of the Exon-Florio law, which gives the President the power to investigate and, if necessary, stop a foreign purchase of an American company, I am especially concerned about the unrelenting purchases of American firms by foreign interests.

Earlier this year a German firm purchased the last independent American silicon wafer producer. Fifteen years ago the United States unquestionably controlled this sector. Today, 10 of the top 10 independent silicon wafer producers are either German or Japanese. I believe that it is no coincidence that soon after the completion of this transaction, the European Community put forward a domestic content regulation for semiconductors sold in Europe.

The recent sale of Columbia Pictures to Sony Corp. has caught the attention and appropriately raised the concerns of many Americans. Although this transaction will not likely come under the purview of the Exon-Florio law, this largest ever Japanese takeover of an American company is a trans-

action which should raise several cautionary flags at a minimum.

Sony has endangered the free enterprise system throughout the world by this overreaching. Sony has engaged in an aggressive effort to consolidate its electronics hardware empire with a massive supply of software entertainment properties such as CBS Records and now Columbia Pictures. This strategy is significant given the traditional adversarial relationship between home entertainment hardware and software producers, especially on royalty issues. One wonders, how will future American copyright policy be affected by this acquisition? Sony will also now have a leg up in the race to make high definition television, better known as HDTV, commercially available.

The transaction is further evidence that investment and trade policies are unavoidably linked. America risks losing its lead in a myriad of industries, not just from foreign competition, but also from foreign acquisitions.

It is also troubling that a transaction of this nature or magnitude would not be permitted in Japan, yet America is for sale to all buyers.

In a recently published book entitled "The Japan That Can Say No," all of this was outlined and their thoughts were explained very well because this book was written by a member of the Japanese Diet, Shintaro, who, in his book, accompanied and evidently assisted by the Sony chairman, writes as follows: "No matter how much the Americans expand their military, they have come to a point where they can do nothing if Japan were one day to say 'we will no longer sell you our chips'."

He continues to suggest that if Japan would say no to the United States and sell semiconductors to the Soviet Union instead, "It would instantly change the balance of power." I suggest, Mr. President, that that is a pretty sobering statement, and it is a pretty sobering thought.

Mr. President, I am reminded, and I remind the Senate once again, that Japan controls 92 percent of the world's high-powered computer memory chips, an industry created in the United States. One American electronics manufacturer has already indicated that because of Japan's monopoly power in the computer chip industry, his suppliers are now dictating to him what products he can manufacture. Will this power someday stretch from the commercial sector to the military sector as well? We all hope not.

The Exon-Florio amendment was specifically designed with this challenge and with this concern in mind. It is, indeed, ironic and I suggest disappointing that our United States Trade Representative only recently indicated a softening of the United States position on the United States-Japan semiconductor agreement. The musings of Mr. Ishihara underlines how crucial the American semiconductor industry is to our national security.

Certainly I know that the individual occupying the Chair over the Senate at this time, the Senator from Illinois, a very valued member of our Armed Services Committee, knows full well of what this Senator speaks and the concern that we should have at a higher level in the United States of America.

Mr. President, in Japan, it is unspeakable not to push ahead in every area. Previously, it has been a silent undercover strategy. Now, Mr. President, it is being spoken out loud. The United States must take note and try to act positively accordingly. What was once only a theoretical loss of American independence is now inching closer and closer to reality.

Certainly the United States-Japan alliance is one of our most important global relationships. Japan is a valued friend and should remain so. I do not wish to just stand here and bash Japan, but what I am trying to do once again with my voice in the United States Senate is to raise the caution flag, to raise it higher than it ever was before. I hope that my statements here today will begin to do that.

As a former businessman, I understand their good business sense, and they are very good at it. I only ask that Americans take note of the facts and this new and most disturbing current trend and of opinion being spoken very clearly and very publicly in Japan today.

What is the most tragic, I suggest, is that it is America's own actions or inactions, which are ceding American political, economic and military power. There is still time to reverse the policies of reckless Federal spending, huge government, high debt, the high cost of capital, weak trade policies, and low levels of domestic savings.

In this regard, Mr. President, I would like to point out that capital formation is, indeed, a critical part of what we must do to maintain our current economic structure and keep from slipping even further behind. The significant factor I think that is not generally understood, that capital formation today in the United States of America, which is the means by which we create jobs, create factories, enhance our overall economic stability, all of those things are under pressure from a whole series of sources and not the least of which that in Japan today, the interest rates for such capital formation is half that in the United States. In other words, an American businessman wanting to go into a positive, inclusive structure today to add to our well-being and provide additional jobs is faced competitivewise internationally, and that is where the game is being played today, by having to pay twice as much interest on the cost of his borrowing as are his competitors and counterparts in Japan.

The high cost then of capital is certainly one of the problems that we have not begun to overcome; that we seek to be more competitive in international trade. As the Congress considers the President's request to increase the statutory debt ceiling to over $3 trillion, which we will be doing sometime this month, the Congress, the President, and the American people must take a soul-searching look at the Nation's economic policies over the last decade and do something to change them.

The road to preserving America's place in the world should start with serious measures to reduce the Federal budget deficit on a planned and sustained basis. Soon, one precious year of the Bush Presidency will be lost without any serious action on the deficit. I encourage the President to start the new year with an economic declaration of independence, if you will, which will put forward the following tough initiatives and probably some others:

First, an all-out effort to reduce the Federal budget deficit and the eventual reduction of the national debt through an austere policy of shared sacrifice. To freeze the budget, as I have advocated so long and for so many years, would be a good place to start.

Second, a get-tough trade policy to open foreign markets. If our trading partners refuse access to American products, equal measures should be taken to reduce their access to American markets. Now is not the time to go soft. In addition to prying open the Japanese market, Fortress Europe must be prevented and resisted in this area also.

Third, the full and careful use of the Exon-Florio law to protect the national security when foreign industries try to take over key American industries and technologies. There are some industries which are so critical that they must remain under American control.

Fourth, a plan to slow the leveraged buy-out merger mania and transactions churning which prevents long-term sound investment. American companies must adopt a long-term strategy and invest in research and development, and the tax policies of this Government must be more targeted to that end. Without stability of investment, the United States risks destroying its industrial base.

Fifth, added incentives for domestic savings and investment. The President should embrace the Democratic proposal on IRA's.

Sixth, improved marketing of Treasury notes to Americans. We must en-

courage Americans to replace foreign owners of U.S. Treasury securities.

Seventh, a reduction in American interest rates. Our industries cannot compete when interest rates are nearly twice as high as those enjoyed by our trading partners and trading competitors.

Eighth, an initiative to make the American education system, from preschool to the postgraduate level, the best in the world. The United States cannot compete with a 70-percent literacy rate when Japan and Korea, for example, have 99-percent literacy rates.

Mr. President, I challenge the President and the Congress to embrace this ambitious agenda. Americans can and will pull together to make our Nation great.

The man and the woman on the street understand better than most politicians that a nation, like a family or business, faces certain disaster in the long run if it fails to recognize that uncontrolled debt sooner or later is going to cause big problems in a whole series of areas, including the possibility that in the not-too-distant future the United States would begin that slide into a second-rate international economic power.

I say once again, Mr. President, it is a sobering thought that just in the last 10 years this Nation has gone from under a trillion dollars in its national debt to over $3 trillion. By any measuring stick, it is the worst record ever produced by any government.

If that does not bring us to the realization of the course we are on and give us the courage to do something about it, then I suggest, indeed, all might be lost.

It is about time we declare our economic independence and work together, not as Democrats and Republicans but as Americans, to reduce the debt and keep America great.

Mr. President, I ask unanimous consent that the text of the articles "Japan Needs Its Own Super 301" and "See a Dependent and Declining U.S., More Japanese Adopt a Nationalistic Spirit" be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

JAPAN NEEDS ITS OWN SUPER 301

(By Mototada Kikkawa)

Japan should have a tough retaliatory measure ready if the Bush administration invokes sanctions against its products. A Japanese Super 301 that would cut funds to the U.S. Treasury is just the ticket.

In May, U.S. Trade Representative Carla Hills named Japan a country with unfair trading practices under the 1988 U.S. Omnibus Trade and Competitiveness Act. Targeted for corrective action were satellites, supercomputers and wood products.

The law requires Japan to hold talks with the United States on ending these practices over the next 12 to 18 months. If Washington is not satisfied with the results, it may impose sanctions on Japanese companies.

The United States seems irrationally threatened by Japan's economic prowess. One American journalist has even advocated "containment" of Japan, equating this country with the Soviet Union during the height of the Cold War as a menace to the West.

Imbalances and tensions inevitably arise when one country outperforms others in the global marketplace. Japan has accumulated surpluses that might be destabilizing in nature. Yet if your trading partners deny our legitimate presence in world markets, we must reconsider our assumptions about economic rationality.

We should not add to the acrimony by overreacting to such terms as "unfair" and "sanctions." An appeal to the General Agreement on Tariffs and Trade, which the Japanese government is considering in response to Ms. Hills' action, should not be an emotional counterstrike.

Japan needs an effective bargaining chip against unilateral U.S. moves. I think we have it in the financial markets.

Institutional investors in Japan have poured hundreds of billions of dollars into the United States by purchasing U.S. Treasury notes and long-term government bonds. This flow has continued despite the dollar's sharp fall in value against the yen since autumn 1985.

Japanese capital has helped to bankroll the Reagan and Bush administrations, both beset by enormous trade and budget deficits. This money has sustained U.S. economic expansion, warding off a recession.

The continuing purchase of U.S. Treasury bonds by Japanese life insurance firms, trust banks and securities houses, especially in the face of exchange losses on the order of $35 billion due to the dollar's depreciation, is a form of financial aid to Washington. Investors also recognize that the value of dollar-denominated bonds may drop further.

But this is rarely taken into account in bilateral trade talks. The emphasis is always on goods—cars, videocassette recorders, oranges and beef. Yet financial investment is just as important.

To ensure that Washington appreciates this fact and, more importantly, to enhance Japan's bargaining power, Japan should pass an Omnibus Foreign Economic Relations Law.

The key provision would adjust capital flows in response to U.S. measures against Japan. Imposition of trade sanctions, for example, might automatically trigger a 20% slash in Japan's purchase of Treasury notes.

The law would enable Japan to use its funds as leverage in future negotiations. It needs a counterpunch, because the United States apparently is determined to be even more hard-nosed and arbitrary.

Japan lives by trade. A legal shield against Super 301 would be good insurance.

Some Japanese will reject this proposal on the grounds that it violates free market principles and will infuriate the Americans. But a Japanese trade act would be for defense only, a deterrent to give our negotiators more clout at the bargaining table.

We might never have to retaliate, but the law would be available just in case Washington launches its Super 301 missiles.

SEEING A DEPENDENT AND DECLINING U.S., MORE JAPANESE ADOPT A NATIONALISTIC SPIRIT

(By David E. Sanger)

TOKYO, July 31.—In a volume called "The Japan That Can Say No.," selling briskly in Tokyo bookstores these days, a dark-horse candidate to be the next Prime Minister argues forcefully that Japan no longer needs to act like the deferential stepchild of the United States.

When it comes to targeting American nuclear missiles, the candidate, Shintaro Ishihara, wrote, "If one doesn't use Japanese semiconductors, one cannot guarantee precision." He added, "No matter how much the Americans expand their military, they have come to the point that they could do nothing if Japan were one day to say, 'We will no longer sell you chips.'"

If Japan decided to sell its chips to the Soviet Union instead, he speculated in the book, "that would instantly change the balance of military power."

BUBBLING TO THE SURFACE

Until recently, such nationalistic themes have usually been voiced only on the far left and right of Japanese politics. But now, in the midst of Japan's biggest political upheaval in 35 years, a growing impatience with the United States is bubbling to the surface of mainstream political discussion here with increasing frequency.

Often, it seems rooted in a deepening belief that America is an ebbing power that has been slow to recognize its dependency on Japanese technology and financial resources.

"These are the opinions of a minority, but a very substantial minority that is influential," said Masashi Nishihara, a professor of international relations at the National Defense Academy. Political hopefuls, he said, sense that "in the past year Japan has become more annoyed by American demands and more nationalistic."

In fact, the right often sounds these days much like the left. The Japan Socialist Party, which doubled its strength in the upper house of Parliament in the recent elections, has appealed to farmers who believe they are paying the price for concessions to the United States on beef and citrus. Candidates on both left and right complained that Japan is far too beholden to the United States for military protection, though they differ on what can't be done.

And even in the center, where the relationship with the United States is still highly valued, there are occasional signs of unease. Constant disputes over trade and, most recently congressional charges that Japan was trying to "steal" American technology in building its new fighter jet, the FSX, left a bitter taste here. Not surprisingly, arguments that Japan no longer needs the United States now strike a more responsive chord.

What makes "The Japan That Can Say No." unusual is that its authors could scarcely hold more establishment credentials. Mr. Ishihara, a former novelist known for his blunt views, has served in Parliament for 21 years and held two Cabinet posts.

The other author, more conciliatory in tone, is perhaps Japan's best-known entrepreneur: Akio Morita, the chairman of the Sony Corporation and perhaps Japan's best-known entrepreneur. And while they differ on specifics, both men take the position reflected in the title: that Japan should stand up to American demands head-on rather

than suck in its breath and mutter "very difficult."

To some critics here books like "The Japan That Can Say No" amount to America-bashing, the mirror image of the treatment Japanese complain they receive from Capitol Hill, Detroit and Silicon Valley. They point in particular to Mr. Ishihara's arguments that resentment of Japan abroad is based chiefly on American racial prejudice.

In a chapter devoted to the issue, Mr. Ishihara argues that while the United States "bombed Germany indiscriminately, but it did not drop the A-bomb." He adds, "When I ask them, "You dropped it here because this is Japan, didn't you? they say no. But they did drop it on Japan."

Mr. Ishihara argues that Americans are proud that "whites, including Americans, have built the modern era." But he says that "pride is too strong" and ignores high culture in Japan and elsewhere in Asia since the 16th century.

"In short, I wonder if the historical pride has gone to the length to inerasable arrogance. Right now, the modern civilization built by whites is coming close to a period of practical end, and I feel that is adding to the irritation of Americans as the postwar representative of whites."

If such views seem rarely voiced in the polite Japanese-American dialogue, perhaps it is because books like this one have been published only in Japanese. Unlike "Made in Japan," Mr. Morita's best-selling autobiography about the founding of Sony, "The Japan That Can Say No" is "primarily addressed to a Japanese audience," a close aide to Mr. Morita said.

Critics say that is no surprise. "People in Japan are very careful about what they cast into English," said John Stern, who heads the Japan office of the American electronics industry and calls the book "a manifesto for the new Greater East Asian Co-Prosperity Sphere," a reference for Japan's justification for its expansionism in Asia in the 1930's.

Other critics say that while alarmist language is becoming more common in Japanese political tracts, most Japanese are still deeply grateful to the United States for rebuilding the country after World War II. And younger people seem as fascinated by America as ever—for its resources, its military strength, its diversity and particularly for its culture.

But often that fascination seems more focused on jazz, old cars, and James Dean—in short, a nostalgia for the America of the immediate postwar years. That America, in Japanese eyes, was confident and self-sufficient.

AMERICA AND PARANOIA

In contrast, some of the extremist political literature circulating now suggests that America has become paranoid about Japan.

Another book published only in Japanese is titled "Japan as the Enemy, A New Scenario for U.S. Strategy," by Kazuhisa Ogawa, a military strategist. The book argues that American anger at Japan has been increasing on a "subliminal level" and that Japan is now considered "the third ememy," after the Soviet Union and China. "The only people who do not know about this is the Japanese." Mr. Ogawa contends.

Mr. Ishihara and Mr. Morita's book, which has sold about 50,000 copies, makes no such claim. But a recurring theme in their dialogue—they wrote different chapters—is that Japan is being blamed for an America that has become fat and complacent.

"Americans do not manufacture any more," Mr. Morita argues in the book "It is not that America does not have the technology," says the Sony Chairman, who is quick to point out that his own company has benefited greatly from American inventiveness.

ON MASS PRODUCTION

The problem, he says is that America "cannot figure out how to mass produce goods by applying new technology, or how to market them." The problem, he says, lies with men like Lee Iaccoca, the chief executive of the Chrysler Corporation and a harsh critic of Japan.

"I met the head of Chrysler Japan and I asked him how are the sales of Chrysler cars going? But he clearly said he is not in Japan to sell cars, but to buy parts, and engines and finished cars." At home, Mr. Morita says workers are used "just as tools" by profit-hungry management that pays itself too much and lays off its employees at the first hint of trouble.

Mr. Morita is quick to blame Japan as well, however. He says Japanese fail to communicate in terms that Americans can understand, advance into American society "as if aliens have arrived" without sufficient effort to become part of local communities, and contribute too little to the world.

"I think Japanese should reflect upon themselves about whether they are doing what they are supposed to do as the second largest economy in the world." Later he adds: "It hurts to open the so-far closed market, or offer Japanese money to developing countries. But the world would not improve unless we share pain."

Mr. Ishihara gives no ground. He says the West perpetuates a myth that the Japanese are unimaginative mimics of other nation's inventions. But he argues that the United States could not build its new Stealth bomber without Japanese technology—in other words, Japan makes possible the nuclear umbrella that protects it.

Meanwhile, part of inventiveness, he writes, is learning how to make high-quality goods. Japan cannot buy American electronic parts, he argues, "because the ratio of failing products is outrageously high."

"If we complain," he writes, "they respond that only Japan complains, no other countries do. It is so sad I almost start to think America will never recover."

What the two men prescribe is a reordering of the world that would give Japan more influence. Mr. Morita says America should "abandon its super-power consciousness and rebuild its economy quickly." Mr. Ishihara wants a summit conference between the United States and Japan.

In such a conference, he writes, "Japan will have more of a chance to 'say no to the U.S.' "

Mr. EXON. Mr. President, I thank you for your courtesy and attention. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Nebraska suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET RECONCILIATION

Mr. DOLE. Mr. President, ever since last Friday the Senate has been patting itself on the back for cleaning up the reconciliation bill. Much to our surprise, the rest of the country has responded to our great deed not with cheers, but with yawns and gaffaws.

Why? Because the American people are smart enough to recognize the reconciliation bill for what it is—the biggest side show outside of the circus.

Although we claim to make deficit cuts of $13.4 billion in the bill, about $6 billion of these so-called savings are fake. The tricks we have used range from taking programs off budget to taking credit for savings the President has already achieved through administrative changes. Instead of slashing the budget as we should have, Congress went out and bought a fog machine.

POST OFFICE OFF-BUDGET

One of the worst gimmicks in the bill is the off-budget treatment of the Post Office. This simple slip of the wrist saved the Government $1.7 billion. Next year, when the Post Office is expected to actually make money, this so-called reform will increase the deficit by close to $600 million. But knowing Congress, we'll probably decide to put the Post Office back on budget, so we can spend the $600 million somewhere else.

A lot of nay-sayers in Congress are claiming that taking the Post Office off-budget was part of the budget summit agreement signed by the President last spring. Well, this travesty is not what the President agreed to.

What the President did agree to was taking the Post Office off budget in exchange for some very real reforms—making the Postal Service pick up the tab for taxpayer subsidies on such things as mailings by nonprofit groups and postal employee health benefits. Congress, as usual, took credit for the savings, but avoid the tough choices needed to make them real.

THE FINANCE AND THE AGRICULTURE COMMITTEES ARE GUILTY TOO

Although many in Congress complain about these shenanigans, most Members act as though they were out of the room when the crucial decisions were made. Well, I will be the first to tell you that two Committees on

which I serve—Agriculture and Finance—were also guilty of phony budgeting.

Budget experts have estimated that only $300 million of the Agriculture Committee's $1 billion in savings are real. The other $700 million comes from things like capping the Export Enhancement Program—a program that actually saves our country millions by expanding our foreign markets.

Another way the Agriculture Committee has found painless savings is by scoring programs against the January baseline, instead of the more realistic August baseline. In a nutshell, this is equivalent to saying this spring drought never happened. Of course, anyone who even visited a grocery store in the last year can tell the drought happened and it had very real effects on the prices and quantities of food.

Although the Finance Committee did a little better than Agriculture, we still managed to save $240 million by delaying Medicare payment a day. That way the cost of the payments could be counted for 1991 and not 1990. Juggling our Nation's checkbook like this is never going to solve our deficit problem, in fact, in the long run it will make things worse. Next year's Gramm-Rudman target will be $64 billion, and with all the cheating we've done this year, it is going to be even harder to meet this goal.

CONCLUSION

A lot of people have reached the conclusion that a sequester is better than these phony budget savings, and although I am tempted to agree, I can't. The good people of Kansas did not send me to Washington to sit back in my easy chair and watch some automatic sequester process do my job for me. If we are going to continue in conference with the House on the reconciliation bill, I hope the conferees will agree to substitute real lasting savings in place of these "now-you-see-them-now-you-don't" cuts.

ARTICLES OF IMPEACHMENT AGAINST JUDGE ALCEE HASTINGS

Mr. GRASSLEY. Mr. President, Federal judges are, under our Constitution, afforded lifetime tenure during times of good behavior. This provision of article III is the cornerstone of an independent judiciary.

But in exchange, Federal judges must subscribe to the highest ethical and moral standards. Like "Caesar's wife," they must be, simply, beyond reproach, even suspicion. By their actions, judges must not undermine the integrity and impartiality of the judicial branch of Government.

At issue is, quite frankly, the public's trust and confidence in the officials who constitute our judicial branch. Inasmuch as the public cannot remove a Federal judge from office, it is left to the legislature to protect the public trust and confidence in the judiciary. Thankfully, the House and Senate have only rarely been asked to take the ultimate step of removal from office by impeachment.

That this great power is rarely employed does not, however, mean we should retreat from it when appropriate.

By his actions in 1981 and at his subsequent trial, Judge Hastings has gravely damaged the public's trust and confidence. At one time or another, every branch of our Federal Government has called into question the conduct and integrity of Judge Hastings: the executive, when the Justice Department brought the indictment in 1981; the judiciary, by the 11th circuit council recommendation to impeach in 1986; and the legislature, by the House vote of 413 to 3 last year to impeach for various high crimes and misdemeanors, and malfeasance in office. This is unprecedented.

To absolve Judge Hastings of these charges—any one of which, if true, being enough to remove him from office—we are asked to resolve virtually every damaging, though ambiguous, fact situation in his favor.

This I cannot do.

Is the evidence presented by the House unambiguous? Admittedly not. Are there vexing questions still remaining—perhaps answerable only by those who cannot or will not speak? Assuredly yes. Can one, or even a handful, of these events be explained as an innocent coincidence? Yes, again.

But these facts, marshalled by the House—circumstantial as they are—when taken together, overwhelm any standard of proof appropriate for an impeachment. They point toward a corrupt conspiracy for Judge Hastings to trade his high office for personal gain, to fabricate documents to prove his innocence, and to repeatedly lie under oath in order to secure his acquittal at a criminal trial.

An acquittal fraudulently obtained is entitled to no weight in this proceeding. To suggest otherwise is to mock our judicial system. Indeed, this fraud is yet another independent ground on which to remove Judge Hastings from office.

The Senate is a body in which lawyers predominate. And in a proceeding such as this, issues such as the standard of proof, or how to weigh the prior acquittal are most comfortably addressed by my lawyer-colleagues.

Yet there is a danger that proceedings like these can become "overlawyered." Human instinct and common sense ought not to be on holiday here.

In that light, two particular facts—each undisputed—are especially telling for me.

The first is Judge Hastings' inexplicably moderate attitude toward William Borders—a man who for 8 years has been his tormentor. We know Judge Hastings is capable of outrage toward his accusers because, at various times, he has attacked their integrity, motives and credibility. Yet for Mr. Borders, the central accuser in this proceeding, Judge Hastings has only sorrow, not anger. Judge Hastings has never called Mr. Borders to testify on his behalf, even though Mr. Borders holds the key to ending the judge's ordeal. This is, I suggest, implausible; as was, I submit, Judge Hastings' explanation for it before the Impeachment Trial Committee.

Second, we are asked by Judge Hastings to believe that Mr. Borders was conducting a unilateral scam of notorious and dangerous underworld figures, such as Santo Trafficante, without any assistance from the judge. This is, I submit, incredible. Candidly, for Mr. Borders to so unilaterally act could only be explained by his having a death wish.

Accordingly, based on the overwhelming record, I will vote "guilty" on articles I, II, through XV and article XVII.[1]

ARMENIAN GENOCIDE

Mr. PELL. Mr. President, last month, I joined in cosponsoring Senate Joint Resolution 212, which designates April 24, 1990, as a national day of remembrance of the 75th anniversary of the Armenian Genocide. At the beginning of World War I, some 2.5 million Armenians lived in the Ottoman Empire. By 1923, 60 percent of this population—an estimated 1.5 million Armenians—died as a result of policies pursued by the Ottoman rulers. Regarding the Armenian culture as alien and the Armenian demand for tolerance and freedom as unacceptable, the empire embarked upon a deliberate campaign to eliminate the Armenian people through deportation and death.

Mr. HELMS. Mr. President, I share the concern of my friend the distinguished chairman of the Foreign Relations Committee about the massacre of some 1 to 2 million Armenians between 1915 and 1923. As ranking member of the Committee on Foreign Relations, I feel that this historical act of genocide, or any past act of genocide for that matter, should not be forgotten in this modern world in which we live.

Senate Joint Resolution 212, which will shortly be before the Senate, is not intended to criticize the current Government of Turkey. The resolu-

[1] On Article XVI, the alleged disclosure of confidential information charge, I will vote "not guilty". On this article, I find the evidence insufficient and a motive totally lacking.

tion simply seeks to commemorate tragic events which occurred long ago and before the establishment of the modern Republic of Turkey. There has been some misunderstanding on this point and it should be clear to all that Senate Joint Resolution 212 relates to these historical matters and is not intended to interfere with our current relationship with Turkey, which plays an important role in NATO.

I commend the distinguished minority leader [Mr. DOLE] for offering Senate Joint Resolution 212 concerning the Armenian genocide. I am a cosponsor of this resolution. I am somewhat surprised that there has been an effort made to mislead Senators about the history of this murder of over a million innocent men, women, and children.

Mr. PELL. Mr. President, some people have suggested that the events which we have been discussing do not constitute genocide. However, the preponderance of historical evidence suggests otherwise. State Department files and orders issued by the Ottoman government, as well as the observations and records of prominent American and European observers, leave little doubt that the Ottoman rulers launched a coordinated drive to round up and eliminate Armenian men, women, and children. In fact, in July 1915, Henry Morgenthau, our Ambassador to the Ottoman Empire, stated the following in a telegram to the Secretary of State:

Deportation of and excesses against peaceful Armenians is increasing and from harrowing reports of eye witnesses it appears that a campaign of race extermination is in progress under a pretext of reprisal against rebellion.

Mr. HELMS. Mr. President, I agree with my friend from Rhode Island that the historical record shows that the massacre of the Armenians during the World War I ere is a matter of historical fact. I am told that there are tens of thousands of pages of information about this, including photographs, in our National Archives. This matter was addressed on numerous occasions in the Senate as well as in the older body some seven decades ago.

For example, Congressman Hallett Sydney Ward of the First District of North Carolina spoke eloquently to his colleagues about the Armenian question and the massacres back on June 15, 1922. In his speech, which appears in the RECORD, he drew attention to the facts presented in two Senate Documents: Senate Document No. 266, 66th Congress, 2d Session, entitled, "Conditions in the Near East, Report of the American Military Mission to Armenia," and Senate Document No. 281, 66th Congress, 2d Session, entitled, "Mandatory Over Armenia, Report Made to Maj. Gen. James G. Harbord, United States Army, Chief of the American Military Mission, on the Military Problem of a Mandatory over Armenia by Brig. Gen. George Van Horn Moseley."

Congressman Ward also pointed to the message from President Woodrow Wilson which was laid before the Senate and which appears in the RECORD of May 24, 1920. President Wilson was responding positively to an official communication by the Senate in the form of a resolution concerning Armenia. The first paragraph of this communication stated, and I quote,

Whereas the testimony adduced at the hearings conducted by the subcommittee of the Senate Committee on Foreign Relations have clearly established the truth of the reported massacres and other atrocities from which the Armenian people have suffered * * *

The hearings of the Foreign Relations Committee concerning the massacres of Armenians were held on September 27, September 30, October 2, and October 10, 1919, to consider Senate Joint Resolution 106, "For the Maintenance of Peace in Armenia." The hearings were presented on April 13, 1920 and ordered to be printed.

The first paragraph of Senate Joint Resolution 106 begins, and I quote,

Whereas the withdrawal of the British troops from the Caucusus and Armenia will leave the Armenian people helpless against the attacks of the Kurds and the Turks * * *

Mr. President, the chairman of the Committee on Foreign Relations at that time was Senator Henry Cabot Lodge of Massachusetts. The chairman of the subcommittee on Senate Joint Resolution 106 was Senator Warren G. Harding of Ohio. Frankly, I am confident that President Wilson, Senator Lodge, and Senator Harding were well informed on this matter.

The Committee on Foreign Relations, as well as individual Senators, made a considerable effort to investigate the matter of the massacre of Armenians by Kurdish and Turkish forces and concluded that such massacres did indeed occur.

Mr. President, there is a wealth of information on this matter in this committee print which runs to 125 pages. In fact, Assistant Secretary of State William Phillips' testimony specifically notes massacres of Armenians by the Turks. I would encourage Senators to review the proceedings of these hearings to better understand the tragedy which befell the Armenian nation.

In addition to these hearings, we have eloquent and detailed statements of Senator King of Utah and Senator Ashurst of Arizona. For example, on August 1, 1919, in remarks which appear in the RECORD, Senator King spoke on "Affairs in Armenia" stating that, and I quote:

We have been compelled, however, to admit the fact that the Turkish government deliberately sought the extermination of the Armenian race.

Mr. President, the reference of Senator King here is not to the present Turkish Government but to the rulers of Turkey under the Ottomans before the establishment of the present Republic of Turkey.

Senator King again spoke in great detail on this matter on December 21, 1921, in a statement entitled, "Turkish Atrocities In Asia Minor," and I commend his remarks which appear in the RECORD to the attention of our colleagues today.

Senator Ashurst spoke in support of two Senate resolutions concerning Armenia in a statement entitled, "Condition of the Armenian People" which appears in the RECORD on June, 3, 1922. In his statement, the distinguished Senator from Arizona reminded colleagues that the Armenian nation was, and I quote:

* * * evangelized in the year 33 A.D. by Apostles fresh from the company and memory of our Lord * * *

Mr. President, the point that I am making is simply that the massacres of over a million Armenians was a matter before the Senate some seven decades ago. At that time, there was no question about the situation and the essential facts were well known.

As I remember, and perhaps my friend from Rhode Island might comment, about 5 years ago the Committee on Foreign Relations reported out a resolution concerning the genocide of the Armenian nation.

Mr. PELL. Mr. President, the Senator is correct. The Foreign Relations Committee favorably reported Senate Resolution 241 in September 1984. That resolution also referred to the ample documentation of the Armenian genocide not only in our own archives but also in those of Austria, France, Germany, and Great Britain.

Mr. President, I ask unanimous consent that the text of Senate Resolution 241 be printed in the RECORD at this point.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. RES. 241

Whereas the Armenian genocide was conceived by the Turkish Ottoman Government and implemented from 1915 to 1923, resulting in the exterimination of one and one-half million Armenian men, women, and children, the deportation of an additional five hundred thousand survivors, and the elimination of a two-thousand-five-hundred-year Armenian presence in its historic homeland;

Whereas the Armenian genocide is amply documented in the Archives of the United States, as well as of Austria, France, Germany, and Great Britain;

Whereas United States Ambassador to Turkey Henry Morgenthau organized and led protests by all nations, among them Turkey's allies, over Turkey's program of race exterimination;

Whereas an organization known as Near East Relief, chartered by an Act of Con-

gress, contributed some $13,000,000 from 1915 to 1930 to aid the Armenian genocide survivors and, whereas, one hundred and thirty-two thousand orphans became foster children of the American people;

Whereas the fact of the Armenian genocide was confirmed in Senate Resolution 359, dated May 13, 1920, which stated in part, "the testimony adduced at the hearings conducted by the subcommittee of the Senate Committee on Foreign Relations have clearly established the truth of the reported massacres and other atrocities from which the Armenian people have suffered";

Whereas the fact of the Armenian genocide was also confirmed in House Resolution 148 which stated in part, "that April 24, 1975, is hereby designated as 'National Day of Remembrance of Man's Inhumanity to Man', and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day as a day of remerbrance for all victims of genocide, especially those of Armenian ancestry who succumbed to the genocide perpetrated in 1915, and in whose memory this date is commemorated by all Americans and their friends throughout the world";

Whereas former President Jimmy Carter in a May 16, 1978, speech at the White House stated in part, "I feel very deeply that I, as President, ought to make sure that this (Armenian genocide) is never forgotten";

Whereas the United States, during the March 14 and 16, 1979, sessions of the United Nations Commission on Human Rights, voted in support of paragraph 30 in a report entitled, "Study of the Questions of the Prevention and Punishment of the Crime of Genocide" which stated, "Passing to the modern era, one may note the existence of relatively full documentation dealing with the massacres of Armenians.";

Whereas the United States Holocaust Memorial Council, an independent Federal agency, unanimously resolved on April 30, 1981, that, "the Armenian genocide should be included in the Holocaust Museum Memorial";

Whereas President Reagan in Proclamation numbered 4838, dated April 22, 1981, stated in part, "like the genocide of the Armenians before it, and the genocide of the Cambodians which followed it—and like too many other persecutions of too many other peoples—the lessons of the holocaust must never be forgotten"; and

Whereas the fact of the Armenian genocide has been documented, affirmed, and reaffirmed for over six decades; and

Whereas it has been the policy of the United States to acknowledge these historical events: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President and the Secretary of State should, in formulating and carrying out the foreign policy of the United States, recognize and take into account the genocide of the Armenian people.

SEC. 2. It is further the sense of the Senate that the President should direct his representatives, including the Permanent Representative of the United States to the United Nations, to communicate at all appropriate times in international forums the abhorrence of the United States Government to the genocide of the Armenian people.

SEC. 3. The Secretary of the Senate shall transmit a copy of this resolution to the President and the Secretary of State.

Mr. PELL. Mr. President, I think it is important to make the point that the atrocities we are discussing occurred from 1915 to 1923, prior to the establishment of the Republic of Turkey. Many years ago, Kemal Attaturk condemned the massacres of millions by his Ottoman predecesors. In so doing, he acknowledged the tragic events which we have been discussing. I believe that the present Government of Turkey should do no less.

Mr. HELMS. Mr. President, I agree with the distinguished chairman of the Foreign Relations Committee. There is no intention here to blame these massacres on the Republic of Turkey which was established at a later date. There is no intention here to give any encouragement to terrorist groups or anything of that sort. We are simply trying to commemorate this tragic massacre of innocent people.

The fact is that the majority of the masacres of innocent Armenians occurred at the hands of the so-called Young Turks regime led by Enver Pasha. This was well before the establishment of the modern Republic of Turkey.

It was no secret at the time that the Enver Pasha regime had the full backing of the German war machine which itself had encouraged the fanatic pan-Islamic movement as a means to undermine British, French, and Russian interests in the Middle East. German geopolitical doctrine called for the expansion of Imperial German influence from the Baltic Sea to the Persian Gulf. The so-called Berlin to Baghdad railway scheme was part of this strategic plan. The Armenian nation was in the way of the German war machine and its Turish puppet regime so it was targeted for destruction in order to advance German war objectives.

Mr. PELL. Mr. President, I agree that by commemorating the Armenian genocide, we are not condoning violent acts of vengeance against Turkish nationals but rather reaffirming our commitment to human life and dignity by keeping the memory of the Armenian genocide alive.

FBI MUST LEAVE STINGER IN VICTIM

Mr. SANFORD. Mr. President, today, the Senate voted to impeach Judge Alcee L. Hastings. Impeachment requires a two-thirds vote of the Senate and the vote was a close one. I voted "not guilty." The following explains my vote:

An impeachment proceeding puts a Senator in the position of a juror and one has to determine whether the Government has carried its burden of proof. Jurors differ. Senators differ. Voting "not guilty" were the chairman and vice chairman of the Senate Impeachment Trial Committee, Senators BINGAMAN and SPECTER. That committee held 18 days of hearings and split 6 to 6 on guilt. Senator HOWELL HEFLIN of Alabama, whose integrity I greatly admire, former chief justice of the Alabama Supreme Court, voted "not guilty." It was not an idealogical vote; Senator ARMSTRONG, a staunch conservative Republican, voted "not guilty," and Senator KENNEDY voted "guilty." Each had to vote his or her own conscience.

My final determination was based on the burden of proof. The FBI failed to prove its case. It must be noted that this case was a sting operation set up by the FBI. There was no real bribe attempt. It was made by an FBI agent with FBI money. The FBI blew its case. They handed the cash to the supposed accomplice, then panicked and arrested him immediately, not waiting to see whether he would take it to Judge Hastings. The FBI then spent millions of dollars to build a case of circumstantial evidence to prove that Judge Hastings might have taken the money.

Sting cases border on illegal entrapment and are subject to abuse, so the FBI must take every precaution to nail down real evidence.

In this case, the FBI did not obtain real evidence. They could have waited and proved clearly that Judge Hastings would or would not have taken the bribe, but they did not wait. They didn't prove their case.

My message to the FBI is that if you are going to carry out a sting operation, you had better leave the stinger in the victim.

THE IMPEACHMENT OF JUDGE ALCEE L. HASTINGS

Mr. HATCH. Mr. President, today we are at the final stages of one of a handful of unique governmental processes in which a single U.S. citizen can find him or herself battling, essentially alone, against the entire fabric of the Federal Government. There are only a few such procedures, and we do not invoke them very often, but when we do, these activities can produce dire consequences for the individual and his or her family. An independent counsel investigation is one such example. The impeachment before us today is probably the ultimate in such processes.

In Judge Hastings' case, we find an individual who truly has "battled" against the entire Government. He has endured an exhaustive investigation by the executive branch of the Government, and the results of that investigation have been reviewed not once, not twice, but eventually four times by the other two branches of the Government. First there was a jury trial, in which he was acquitted. Then, there was an inquiry by his judi-

cial peers. The judge next appeared before the House of Representatives, and finally he finds himself here for a trial by the Senate. Before we convict him and remove him from office, we need to be convinced he merits that severe sanction.

As has already been noted before this body, this is, in a sense, a case of first impression. While a handful of judges have been impeached in the past, this is the first instance in which the judge has first been acquitted by a jury in a trial based on essentially the same charges. In my review of these earlier impeachments, I am for the most part satisfied that the Senate reached a correct decision. I am, however, concerned that this time, our consideration of this matter may produce the wrong result.

Earlier this year, this body debated charges that this impeachment process should have been barred by the fifth amendment's double jeopardy clause. I am still of the opinion, as I was then, that the double jeopardy clause is irrelevant to impeachment proceedings. I also agree with several of my colleagues who have expressed their opinion that the Senate is not bound by any previous jury or court verdict with respect to a government official facing impeachment. If the Senate were simply to follow the results of a judicial proceeding in reaching a decision on an issue as important as an impeachment, we would be doing a serious disservice to the principles underlying our Constitution and we would severely trample the rights of those facing impeachment. We would also render the impeachment process superfluous in those cases covering charges already adjudicated in the third branch of Government. That seemed to be the prevailing understanding during the Claiborne impeachment, and I think it is equally applicable today.

Nevertheless, I believe that the findings of a jury should be accorded some weight. In Judge Hastings case, the jury heard much of the same evidence that was presented before the Senate Impeachment Committee. That panel reviewed these facts when they were much fresher and when some of the key figures were still available to present testimony. In addition to all of the other information that has been placed before this body, that is a fact that I think we should include in our consideration.

The case against Judge Hastings is based primarily upon circumstantial evidence. The evidence admittedly raises troubling questions and casts suspicion on the Judge's conduct. But for each scenario painted by the House managers with respect to given fact situations, the judge, either through his testimony, or the testimony of other witnesses, has provided a plausible explanation that, in turn, casts doubt on the proper interpretation of the facts.

For example, the House relies heavily on contracts between Judge Hastings and Mr. Borders surrounding significant events in the bribery scheme. While the House managers have urged that their explanation of these facts can be the only explanation, I find many of the judge's explanations to have plausibility. We are, after all, talking about two men who had been close friends for most of their lives. There were undoubtedly many events that brought them into contact or required some form of communication. If we were to rely on some of the impressions left in the record, these key events would be viewed as the only times that they contacted each other. However, if we had a record of every contact that occurred between these two men before, during, and in between these key events, I would not be surprised to find that the frequency of their contacts does not show much fluctuation.

The prosecution also stresses such facts as Mr. Borders' inside knowledge of the Romano brothers' case. While such knowledge may have come from the judge, it is equally plausible to believe that the knowledge came from outside, even underworld, sources, as Judge Hastings has suggested. It is also within reason to believe that the judge was manipulated into making the infamous appearance at the restaurant, once the bribery scheme was under way. The judge's account of that event is not inherently unbelievable.

Also, with respect to the restaurant event, much is made of the exactness of Mr. Border's prediction that the judge would appear. Judge Hastings would like us to focus with equal interest on the fact that Mr. Borders was way off on his prediction as to when the order regarding the forfeited property would be issued. Instead, we are again urged by the House managers to focus on the contacts between the judge and Borders between the predicted date and the actual date of issue of the order. In response, the judge refers us to the explanation that he offered in his testimony, that he was drafting letters, at Mr. Border's request, on behalf of Hemphill Pride. Again, both explanations are believable.

At this point, however, I must express my discomfort with the House manager's heavy reliance on the so-called "coded" telephone conversation regarding the letters. Frankly, I find Judge Hasting's explanation for this recorded phone call as believable as the interpretation expressed by the House managers. It is not unreasonable to believe that the judge and Mr. Borders were talking about actual letters and that Mr. Borders was not exactly truthful when he told the judge that he had spoken to Mr. Pride about the letters or their content. After all, we are talking about a person for whom there was direct evidence that he was involved in the bribery scheme. If he was willing to deceive his friend the judge with respect to the bribery scheme, it is not unreasonable to believe that he may have not been totally truthful with his friend in other matters.

Let me turn to the judge's actions after the arrest of Mr. Borders, which the Judge learned about while in a Washington hotel room. I can only say that again, the House asks us to rely heavily on circumstantial evidence in drawing the conclusion that the judge's actions prove that he was a part of the bribery scheme. I, too, am troubled by his conduct. Judge Hastings has testified that his actions were probably a mistake on his part. But I can understand how a person learning that a close friend had been arrested, that the FBI wanted to talk to him, and suspicious of the FBI, rightly or wrongly, would make a panicky reaction. I think it is fair to say that the FBI has not had a totally spotless record over the years. And the Judge certainly did not seek to hide out from the FBI. We are left with deciding whether to believe the conjecture of the House as to why the judge returned to Florida or to believe the explanation offered by the judge. Since the FBI agents in the case did not "let the money run," we are left with only circumstantial evidence.

Finally, with respect to the charge of the wiretap leak, as best as I can understand, we are left to decide between the testimony of two witnesses—Mayor Clark, to whom the information was supposedly leaked, or Judge Hastings, who maintains that Mayor Clark is simply lying. And again, I would note for my colleagues that we are given two equally plausible explanations as to what actually happened.

Given the degree to which the prosecution relies on circumstantial evidence; and I would also note that there is little, if any, direct evidence; and given the fact that Judge Hastings has provided, in my view, plausible explanations for each of the fact situations presented by the House managers, I believe that the benefit of the doubt must be given to Judge Hastings. I do not believe that the House managers have met their burden of proof, regardless of whatever standard of proof my colleagues might wish to apply.

For me, the circumstantial evidence that exists in this case does not provide the kind of clear and convincing proof which demonstrates that the judge should be removed from the bench.

I would also like to focus on a few other issues that have influenced my decision. First, there is the elapsed time between the events in question and this trial before the Senate. Granted, there are other impeachment cases which have occurred even later from the date of the events than this case. But here we are confronted with the lack of certain key witnesses, such as Mr. Borders and the Romano brothers, and missing evidence, such as conclusive reasons why the Judge and Borders spoke so frequently. As Judge Hasting's counsel noted in his closing remarks, not only are we being asked to look at a part of the donut and assume that there was a whole donut, but we are also asked, in some instances to look at a hole, and assume that there was a donut.

Mr. President, this is a very difficult matter. But just as the jury was not convinced that Judge Hastings was guilty of committing any crime, I am not convinced that Judge Hastings is guilty of committing an impeachable offense. I have carefully followed the Senate proceedings and feel comfortable with this decision. Based solely on the merits of this case, I will vote to acquit on each of the Articles of Impeachment.

THE IMPEACHMENT VERDICT ON JUDGE ALCEE HASTINGS

Mr. DODD. Mr. President, today I voted to find Judge Alcee L. Hastings not guilty on all of the Articles of Impeachment adopted by the House of Representatives.

To participate and vote in an impeachment trial is one of the most difficult and troublesome responsibilities for a Member of the Senate.

I have examined the evidence against Judge Hastings carefully. The evidence on all of the charges against him was circumstantial. Circumstantial evidence, of course, can be very convincing, but not if its elements are themselves subject to serious doubts and possible alternative interpretations as was the case in the trial before us.

In a prior criminal trial Judge Hastings was found not guilty by a jury on the central conspiracy charge of this impeachment process. This acquittal in itself should not be controlling for the Senate, but it is another element in a series, raising questions about the validity of the charges.

While I have found the evidence on articles I through XVI wanting in persuasive power, I am altogether opposed to the idea of an omnibus article, article XVII in this case. In spite of the fact that an omnibus article has usually been part of the charges in the impeachment trials of the 20th century, I am not convinced of either the necessity or the fairness of separately voting on such an article. It seems to me, that an incriminating charge should be able to stand by itself as the basis of an Article of Impeachment. If a charge is too weak, either in the evidence that supports it, or in its relevance in establishing serious misconduct, then that charge should simply be omitted, instead of being repackaged in a so-called catchall article.

I feel reinforced in my doubts by the fact that the 12 members of the Senate Impeachment Trial Committee, those of our colleagues who directly participated in receiving evidence and taking testimony in this matter, split by the narrowest margin, seven of them voting "guilty" and five of them "not guilty" on the articles that formed the core of the charges. The latter five included the chairman of the committee, Senator BINGAMAN, and the vice chairman, Senator SPECTER. I want to take this opportunity to commend them as well as every member of the Trial Committee for the splendid service they provided for the Senate in preparing this difficult case for trial. It was a job of many hours of arduous work and precious few rewards beyond the satisfaction of doing an important service to the Senate and the entire Nation. They are due a large measure of gratitude.

Mr. President, impeachment is a rare and extraordinary procedure under our Constitution. Given this fact and given the numerous uncertainties in the evidence presented, I could not satisfy my own conscience that Judge Hastings is guilty of any of these charges and deserves removal from his office.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise simply to inform my colleagues that today is the 1,679th day that Terry Anderson has been held in captivity in Beirut.

VISIT OF DELEGATION FROM SUPREME SOVIET

Mr. MITCHELL. Mr. President, it gives me great pleasure to announce today that the distinguished Republican leader and I will welcome next week a delegation of members from the Supreme Soviet to the United States.

This distinguished delegation will be led by Yevgeniy M. Primakov, Chairman of the Soviet of the Union of the Supreme Soviet, and will include nine additional members of the Supreme Soviet of the U.S.S.R.

Many of the changes in the Soviet Union today are reflected by the reconstituted Supreme Soviet with its new rules, its internal factions, and its differing points of view. We all welcome those changes, as do the people of the Soviet Union.

Many of us in the Senate have been to the Soviet Union and have found that the experience of being in the country valuable in weighing the policy goals our Nation should pursue.

At no time has it been more important for the members of the Supreme Soviet to begin to visit the United States and to gain for themselves and their government the insight and understanding based on firsthand observation.

Members of the Senate are used to bemoaning the information overload to which we are all subjected.

It often seems hard to have the time to read enough briefing materials, master sufficient facts, and think slowly enough through practical policy alternatives. What we do not lack is the means by which to learn about issues. There is no shortage of information. There is a shortage of time.

The new Supreme Soviet faces both shortages. Not only is the Soviet Union emerging from a period in which information was fragmentary and not always readily available; the economic problems facing the Soviet people demand effective and speedy remedies.

The movement toward a more democratic society in the Soviet Union will prosper in relation to the success of the representative legislature. Our two centuries of experience have shown that with all its shortcomings, a representative legislature remains both the safest and most responsive element of a democratic government.

An elected legislature which ceases to be responsive ceases to be elected. The genius of our Founders gave the United States this institution. The Soviet Union is attempting to build what we hope will be a similar institution under extraordinarily difficult conditions.

Our ultimate goal of a world of peace and cooperation will be enhanced by its success; it risks being delayed by its failure.

I believe that one way we can help the process is to reciprocate the hospitality many of us have enjoyed in the Soviet Union by welcoming to the United States members of the Supreme Soviet.

The distinguished Republican leader and I are therefore looking forward to welcoming a delegation from the Supreme Soviet for a week-long visit, beginning next Wednesday. I invite and encourage all Senators to take the opportunity to meet and exchange views with our visitors. I am certain it will prove to be a mutually beneficial and productive experience.

Mr. President, I am especially pleased that the delegation from the Supreme Soviet will be visiting my home State of Maine during their stay in our country. Our guests will have

the opportunity to sample the beauty of our State and the hospitality of Maine citizens during their visits to Bangor and Portland. I am confident that the people of Maine will give our Soviet guests a warm New England welcome.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, further proceedings under the quorum call are dispensed with.

RECORD TO REMAIN OPEN UNTIL 4 P.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the RECORD remain open until 4 p.m. today for the introduction of bills and statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. I ask unanimous consent that the Senate proceed to executive session to consider the following nominations, calendar items Nos. 447 and 448. I further ask unanimous consent that the nominees be confirmed en bloc, that any statements appear in the RECORD as if read en bloc, that the motions to reconsider be laid upon the table, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

ENVIRONMENTAL PROTECTION AGENCY

LaJuana Sue Wilcher, of Kentucky, to be an Assistant Administrator of the Environmental Protection Agency.

E. Donald Elliott, of Connecticut, to be an Assistant Administrator of the Environmental Protection Agency.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MESSAGE FROM THE HOUSE RECEIVED ON YESTERDAY

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

A message from the House of Representatives received on yesterday, October 19, 1989, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 801. An act to designate the U.S. Court of Appeals Building at 56 Forsyth Street in Atlanta, GA, as the "Elbert P. Tuttle United States Court of Appeals Building";

H.R. 3385. An act to provide assistance for free and fair elections in Nicaragua; and

H.J. Res. 380. Joint resolution designating October 18, 1989, as "Patient Account Management Day."

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore [Mr. BYRD].

MESSAGES FROM THE HOUSE

At 11:38 a.m., a message from the House of Representatives announced that the Speaker makes the following supplemental appointments in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3299) entitled "An act to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990":

As additional conferees for consideration of subtitles D and E of title III of the House bill, and modifications committed to conference: Mr. MILLER of California and Mr. FAWELL.

The second panel appointed from the Committee on Education and Labor is appointed also for consideration of sections 11851 through 11894 of the House bill, and modifications committed to conference.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 2990. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1990, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN from the Committee on the Judiciary without recommendation with amendments:

S. 32: A bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes (Rept. No. 101-170).

By Mr. BIDEN from the Committee on the Judiciary without amendment:

H.R. 972: A bill to amend section 3724 of title 31, United States Code, to increase the authority of the Attorney General to settle claims for damages resulting from law enforcement activities of the Department of Justice.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KASTEN (for himself and Mr. LOTT):

S. 1774. A bill to amend the Internal Revenue Code of 1986 to repeal section 89 nondiscrimination rules; to the Committee on Finance.

By Mr. SYMMS (for himself, Mr. WILSON, Mr. BURDICK, Mr. CHAFEE, and Mr. DOLE):

S. 1775. A bill to amend title 23, United States Code, to provide highway emergency relief for damages resulting from the Northern California earthquake which occurred on October 17, 1989; to the Committee on Environment and Public Works.

By Mr. KOHL:

S. 1776. A bill to amend the Agricultural Act of 1949 to establish a dairy price support and supply management program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KOHL (for himself and Mr. KASTEN):

S. 1777. A bill to amend the Agricultural Adjustment Act to improve the marketing of milk and its products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HARKIN:

S. 1778. A bill to amend the Higher Education Act of 1965 to reduce the student loan default rate, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BENTSEN (for himself, Mr. DIXON, Mr. SIMON, Mr. METZENBAUM, and Mr. HEFLIN):

S. 1779. A bill to change the tariff treatment of certain brooms wholly or in part of broom corn; to the Committee on Finance.

By Mr. DOLE (for Mr. WILSON):

S.J. Res. 217. A joint resolution to designate the period commencing February 4, 1990, and ending February 10, 1990, as "National Burn Awareness Week"; to the Committee on the Judiciary.

By Mr. INOUYE (for himself, Mr. ADAMS, Mr. BINGAMAN, Mr. BOREN, Mr. BUMPERS, Mr. BURDICK, Mr. BURNS, Mr. COCHRAN, Mr. CONRAD, Mr. CRANSTON, Mr. DASCHLE, Mr. DECONCINI, Mr. DODD, Mr. DOMENICI, Mr. GARN, Mr. GORTON, Mr. HOLLINGS, Mr. JOHNSTON, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MATSUNAGA, Mr. MCCAIN, Mr. MCCLURE, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. NUNN, Mr. PACKWOOD, Mr. PRYOR, Mr. REID, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. SASSER, Mr. SHELBY, and Mr. WIRTH):

S.J. Res. 218. A joint resolution to designate the week of December 3, 1989, through December 9, 1989, as "National American Indian Heritage Week"; to the Committee on the Judiciary.

By Mr. MITCHELL:

S.J. Res. 219. A joint resolution approving the report of the President submitted under section 252(c)(2)(C)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended; to the Committee on Appropriations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KASTEN (for himself and Mr. LOTT):

S. 1774. A bill to amend the Internal Revenue Code of 1986 to repeal section 89 nondiscrimination rules; to the Committee on Finance.

REPEAL OF SECTION 89 NONDISCRIMINATION RULES

Mr. KASTEN. Mr. President, last week the Senate passed H.R. 3299, the omnibus budget reconciliation bill, by an overwhelming margin. I supported this stripped-down reconciliation bill, and as a member of the House-Senate conference committee, I will support efforts to craft a conference report free of extraneous provisions.

At the same time, I am very concerned about a number of essential provisions which were stripped from the bill before final passage. Principal among those was the repeal of section 89 of the Internal Revenue Code. Today I am introducing important new legislation to accomplish this goal.

Mr. President, this Congress has come a long way in the debate over section 89. The consensus of this issue has shifted dramatically over the past 6 months, and now I am convinced the Senate is ready to embrace the approach I have advocated all along. That approach is simple and straightforward—repeal section 89 and fully restore the nondiscrimination rules that existed under prior law.

The reason that section 89 is destined to be repealed is that it is a solution in search of a problem. There were nondiscrimination rules under the old tax law that were reasonable and that worked. There is no compelling need for section 89, and I think my colleagues realize that. My bill would repeal section 89, and restore prior law rules. A nondiscrimination safety net will be maintained, without jeopardizing the survival of America's small businesses.

This approach has broad support. Similar language received 390 votes in the House of Representatives, and was unanimously approved by the Senate Finance Committee. My legislation will further improve upon the Finance Committee's bill and provide for an orderly transition to pre-1986 nondiscrimination rules. It has the strong support of both the small business and employee benefit communities, and deserves prompt Senate action.

I would like to thank Senator LOTT for his outstanding leadership on this issue, and for the many hours he and his staff put into the drafting of this bill. The Senator from Mississippi introduced the first section 89 repeal bill, and he joins me in introducing this improved section 89 repeal bill today.

Mr. President, on December 1, which is just 6 short weeks away, every employer in the country must be in compliance with section 89. Congress must act soon to keep this from happening. The results of letting section 89 take effect would be devastating. I urge my colleagues to join in supporting the outright repeal of section 89.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1774

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF SECTION 89.

(a) IN GENERAL.—Section 89 of the Internal Revenue Code of 1986 (relating to benefits provided under certain discriminatory employee benefit plans) is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 89.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 1151 of the Tax Reform Act of 1986.

SEC. 2. REINSTATEMENT OF PRE-1986 ACT NONDISCRIMINATION RULES.

(a) IN GENERAL.—

(1) Each provision of law amended by subsection (b), (c) (other than paragraph (2)), (d)(1), (f), (g), (h) (other than paragraph (3)), or (k)(3) of section 1151 of the Tax Reform Act of 1986 is amended to read as if the amendments made by such subsection had not been enacted.

(2) Each provision of law amended by paragraph (22), (27), or (31) of section 1011B(a) of the Technical and Miscellaneous Revenue Act of 1988 is amended to read as if the amendments made by such paragraph had not been enacted.

(3) Subparagraph (A) of section 125(g)(3) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking "described in subparagraph (B) of section 410(b)(1)" and inserting "who qualify under the classification established by the employer and such classification is found by the Secretary not to be discriminatory in favor of highly compensated individuals".

(4) Section 162(l)(2) of such Code is amended by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(5) Subparagraph (C) of section 401(a)(9) of such Code is amended—

(A) by striking "(as defined in section 89(i)(4))", and

(B) by adding at the end the following: "For purposes of this subparagraph, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B)).".

(6)(A) Subparagraph (C) of section 414(n)(3) of such Code is amended by striking "89,".

(B) Paragraph (1) of section 414(r) of such Code is amended by striking "sections 89 and" and inserting "section".

(C) Paragraph (2) of section 414(t) of such Code is amended by striking "89,".

(7) Paragraph (3) of section 505(b) of such Code is amended by striking "paragraph (1)" and inserting "paragraphs (1) and (7)".

(8) Sections 3021(c) and 6070 of the Technical and Miscellaneous Revenue Act of 1988 are hereby repealed.

(b) EXCEPTIONS.—

(1)(A) Paragraph (7) of section 79(d) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended to read as follows:

"(7) EXEMPTION FOR CHURCH PLANS.—This subsection shall not apply to a church plan maintained by a church for church employees. For purposes of the preceding sentence, the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B)).".

(B) Paragraph (2) of section 223(d) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new subparagraph:

"(D) SECTION 79(d).—Unless the employer elects otherwise, the references to section 79(d) in this paragraph shall be treated as references to such section as in effect on the day before the date of the enactment of the Tax Reform Act of 1986."

(2) Paragraph (2) of section 125(d) of such Code (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended to read as follows:

"(2) DEFERRED COMPENSATION PLANS EXCLUDED.—

"(A) IN GENERAL.—The term 'cafeteria plan' does not include any plan which provides for deferred compensation.

"(B) EXCEPTION FOR CASH AND DEFERRED ARRANGEMENTS.—Subparagraph (A) shall not apply to a profit-sharing or stock bonus plan or rural cooperative plan (within the meaning of section 401(k)(7)) which includes a qualified cash or deferred arrangement (as defined in section 401(k)(2)) to the extent of amounts which a covered employee may elect to have the employer pay as contributions to a trust under such plan on behalf of the employee.

"(C) EXCEPTION FOR CERTAIN PLANS MAINTAINED BY EDUCATIONAL INSTITUTIONS.—Subparagraph (A) shall not apply to a plan maintained by an educational organization described in section 170(b)(1)(A)(ii) to the extent of amounts which a covered employee may elect to have the employer pay as contributions for post-retirement group life insurance if—

"(i) all contributions for such insurance must be made before retirement, and

"(ii) such life insurance does not have a cash surrender value at any time.

For purposes of section 79, any life insurance described in the preceding sentence shall be treated as group-term life insurance."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 1151 of the Tax Reform Act of 1986.

SEC. 3. OTHER PROVISIONS RELATING TO NONTAXABLE BENEFITS.

(a) TREATMENT OF LEASED EMPLOYEES.—

(1) REPLACEMENT OF HISTORICAL TEST WITH CONTROL TEST.—Subparagraph (C) of section 414(n)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

"(C) such services are performed by such person under the control of the recipient."

(2) SERVICES INCIDENTAL TO SALES OR CONSTRUCTION DISREGARDED.—Paragraph (2) of section 414(n) of such Code is amended by adding at the end thereof the following new flush sentence:

"The term 'leased employee' shall not include an individual solely because such individual is performing services incidental to the sale of goods or equipment or incidental to the construction of a facility. Such term shall include the support staff of professional employees."

(b) APPLICATION OF LINE OF BUSINESS TEST FOR PERIOD BEFORE GUIDELINES ISSUED.—In the case of any plan year beginning on or before the date the Secretary of the Treasury or his delegate issues guidelines and begins issuing determinations under section 414(r)(2)(C) of the Internal Revenue Code of 1986, an employer shall be treated as operating separate lines of business if the employer reasonably determines that it meets the requirements of section 414(r) (other than paragraph (2)(C) thereof) of such Code.

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to years beginning after December 31, 1983.

(2) The provisions of subsection (b) shall apply to years beginning after December 31, 1986.

SEC. 4. CONGRESSIONAL INTENT.

In repealing section 89 of the Internal Revenue Code of 1986, the Congress wishes to return to the nondiscrimination standards of prior law. Toward this end, it is intended that prior nondiscrimination standards are to be interpreted and applied by the Secretary of the Treasury in a manner that is consistent with the Secretary's practices before the enactment of the Tax Reform Act of 1986. In addition, the Congress recognizes that the nature of welfare benefits differs from the nature of pension benefits. Therefore, it is specifically intended that the Secretary of the Treasury shall interpret the rules applied to benefits under sections 79 and 125 of the Internal Revenue Code of 1986 in a different manner than the rules applied to qualified retirement plan benefits, even where the statutory requirements with respect to such benefits are similar.

By Mr. SYMMS (for himself, Mr. WILSON, Mr. BURDICK, Mr. CHAFEE, and Mr. DOLE):

S. 1775. A bill to amend title 23, United States Code, to provide highway emergency relief for damages resulting from the northern California earthquake which occurred on October 17, 1989; to the Committee on Environment and Public Works.

HIGHWAY EMERGENCY RELIEF FOR EARTHQUAKE AREA OF NORTHERN CALIFORNIA

Mr. SYMMS. Mr. President, I think all Americans have felt great sympathy and concern for our fellow Americans in the San Francisco Bay area who have suffered greatly this week.

One of the major problems of the area is the transportation system, with the bay bridge being temporarily knocked out, the Nimitz Freeway knocked out, and many other road problems. It has created a great many problems in that area. This is one area where I think it will require some action on the part of this body and the other body to facilitate the expenditures of Federal dollars to take care of those roads.

I have been in consultation with Senator WILSON, who is in California, on this and I have discussed it with people from the Department of Transportation. I have prepared legislation that I am going to send to the desk to be printed in the RECORD and assigned to the appropriate committee.

I do not know what the wishes of the majority leader and minority leader will be next week. We have passed legislation, I might say, of this nature in 1985, when I was privileged to be chairman of the Transportation Subcommittee, for the States of West Virginia, California, and Utah to waive the cap. But I want to give my colleagues a little information.

When I send this bill to the desk, it will be sent on behalf of myself and Mr. WILSON, Mr. BURDICK, Mr. CHAFEE, and Mr. DOLE.

I ask unanimous consent that it remain open throughout the day for other Senators who wish to join in this effort. We would like to have other sponsors. Maybe this bill will move rapidly. I do not believe it will be controversial.

I will give a little update on the situation. This week the President signed an emergency declaration, and the California Transportation Department has notified the Federal Highway Administration of their intent to request emergency relief funds.

For the information of all Senators, there are currently $219 million available in the emergency relief fund which gets an annual authorization of $100 million. Those $219 million currently in the fund include unused funds from previous years.

The $100 million cap is what is allowed for each disaster. I will speak a little more about that in a moment.

There is currently no reliable estimate of how much the cost of the roads will be, but it is very likely it is going to exceed $100 million. I have received estimates of up to $300 million and over $200 million. I think that that is a moving target.

Mr. President, there are other issues addressed in this legislation. The Oakland Bay Bridge is a toll facility. Federal aid funds cannot be used on toll facilities, generally speaking, and the Federal Highway Administration has determined that the bay bridge is ineligible for emergency relief funds. Also, California would lose money in the 85-percent minimum category, which is part of our highway formula allocation, because of the receipt of the emergency relief funds.

In addition, emergency relief funds are reimbursed at 100 percent Federal money for the work done in the first 90 days. State matching funds are required for work done thereafter. I think it is important that this is an issue that may require further action. We did not address this in the bill, but this is an issue that needs to be looked at.

No. 1, this legislation would make the bay bridge eligible for emergency relief funds minus any insurance coverage that may exist. I am told that California has insurance coverage to cover the loss of tolls during the period that the bridge is shut down but not the reconstruction of it.

The legislation holds California's 85-percent fund harmless relative to any emergency relief funds they may receive for this disaster. We did not do anything about the 90-day matching requirements as yet, but it is an issue that I think should be considered as soon as the relevant facts are made available to us and FHWA and State officials can determine what period of time will be required to facilitate these repairs.

Just another little bit of information. I think it is important in asking Senators for support of this legislation so you know the facts.

Mr. President, California received $1.3 billion in Federal highway funds in fiscal year 1988. That is approximately 10 percent of the total annual program, but about 10 percent of the American people live in California. That was about $1 return to the State of California for every dollar contributed to the trust fund by California highway users.

The other question that Senators will ask is, Is the money available? The highway account of the trust fund carries a cash balance of approximately $10 billion. Plenty of funds are available to meet the needs of this disaster.

I emphasized this point last night on a program carried in California, along with Congresswoman BARBARA BOXER. The money will be available for this disaster, but the question people ask, where does the money come from, comes back to a constitutional question. Why is it that we tax people for highways and then spend the money on other Federal programs, whether it be paying attorneys at the Justice Department or National Endowment for the Arts, or buying F-15's for the Air Force? Those funds are spent in a unified budget process for other purposes. But the account does carry a $10 billion surplus, and there is money there to meet this disaster.

Mr. President, I send the bill to the desk, and I hope my distinguished colleague from New York, the chairman of the Infrastructure Subcommittee, will choose this legislation, but I think he wants time to look at it and study it.

I send the bill to the desk, along with a very brief analysis of the bill to be printed in the RECORD.

I ask for other Senators to sponsor this legislation so we can get expeditious action on it, which has been re-

quested by our friend and colleague, Senator WILSON from California, who is in California at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1775

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 125(a) of title 23, United States Code, is amended by adding at the end the following:

"Such sums as may be necessary are authorized to be appropriated from the Highway Account of the Highway Trust Fund to be expended under this section for repair or reconstruction of highways on the Federal-aid systems which the Secretary shall find have suffered serious damage as a result of the Northern California earthquake which occurred on October 17, 1989; such sums are in addition to the sums otherwise provided in this subsection, are not subject to any limitation on expenditure in a fiscal year, are not subject to the proviso in (b)(1) of this section limiting obligations for a single natural disaster, shall be available until expended, are not subject to an obligation limitation for Federal-aid highway and highway safety construction programs, and may be expended on the Bay Bridge notwithstanding the toll provisions of this title. *Provided,* that insurance payments shall be deducted from construction costs.

SEC. 2. Section 157(a)(3) of title 23, United States Code, is amended by adding subparagraph (c) as follows:

"(C) EXCEPTION. The amount allocated to the State of California under this paragraph shall be the amount allocated to such state under this subsection as if 'emergency relief under section 125,' were inserted before 'forest highways' in subparagraph (A)."

ANALYSIS

This bill provides such sums as may be necessary for damages to Federal-aid highways which resulted from the October 17, 1989 Northern California earthquake. The sums are not subject to limitations on expenditure in a fiscal year, are not subject to the proviso limiting obligations for a single natural disaster, are available until expended, and are not subject to any obligation limitation. Under title 23, United States Code, contract authority is provded. The bill also permits the expenditure of the emergency relief funds on the Bay Bridge notwithstanding toll provisions of title 23, United States Code, changes the minimum allocation formula for California.

Mr. SYMMS. Mr. President, I say to the distinguished Senator from New York, I hope there is no feeling that there is any kind of partisanship involved with respect to the highway funding for the State of California. This initiative was my own. I was called by the junior Senator from California. I discussed this with the senior Senator from California yesterday and today. I think there is no effort by the Federal Highway Administration to in any way bypass the chairman or other Senators on this issue. I have not actually talked with anyone other than congressional liaison people from DOT with respect thereto.

Mr. MOYNIHAN. Good. I am glad to hear that.

Mr. SYMMS. I want to make it very clear for the record this is something I knew needed to be done. We had past experience with the disaster in West Virginia and the disaster on Highway 101 in California.

This cap needs to be raised. Senator MOYNIHAN is quite right, Mr. President. The money is there. There is $100 million available. I think we could get into a debate as to where the phantom $10 billion is in the trust fund, but I think most of us in Washington are used to that kind of bookkeeping.

If Senators are asked by reporters where is the money going to come from, do we have to raise taxes to get it, the answer to that is no. There is already $219 million available for this particular project. We have to raise the cap to spend over $100 million.

But I think this makes the point that some of us have been talking about on the Senate floor, that there is a constitutional question about taxing people for a trust fund and spending the money for something else. This, in my opinion, drives home the point that if the $10 billion were in the trust fund, it would be available without any question about its budgetary effects. I thank my colleague.

I do think that we might say—and I made this very clear last night, I say to my good friend, on television—there has been some political dispute raised by the mayor of San Francisco about whether the Vice President did everything he should have done. I made the point that in the Senate there is no partisanship on this issue; that I have been in discussions with Senator MOYNIHAN and Senator CRANSTON about it, and we were just trying to get the job done from this end.

I think we also have to recognize the fact there is a Governor's race going on in the biggest State in the Union, California, and we have one of our colleagues as a candidate for Governor, so obviously there is some interest in both political parties as to who is going to ultimately be Governor. I accept that as a Republican, and I am sure that my senior colleague from New York, the chairman of the subcommittee, accepts that as a Democrat. But I hope we could stay away from the politics in the highway program.

Mr. MOYNIHAN. Mr. President, I thank the distinguished Senator from Idaho and we will proceed in that matter.

Mr. MOYNIHAN. I rise briefly to associate myself with the concerns of the Senator from Idaho who is a friend. We have gone back and forth as chairman of this committee over the last decade. I want to say to him and to say to other Members of the Senate that the Committee on Environment and Public Works will address this matter directly. Senator BURDICK, the distinguished chairman, has assured me this will be done and, of course, it will be.

There is now, as the Senator from Idaho observed, $219 million in the emergency accounts of the Federal Highway Administration.

So there is no question of money being available, to the extent it would be needed. We have a 2- to 3-year enterprise here.

I will want to hold hearings, Mr. President, to ask the necessary question: How is it that 60-story skyscrapers survived in this event in California with no damage of any kind and 2-story highways collapsed? It is a question of engineering, as there was a question when a bridge went out in Connecticut on the Interstate Highway System, as the distinguished Presiding Officer well knows, and as there was a question when a bridge collapsed on the New York State Thruway. In both those cases, we provided responses. The thruway was a toll road and arrangements were made, as the Senator from Idaho indicates he knows.

The Interstate System is now in effect completed. Our last Highway Act of 1987 provided for the end of the construction period, over 40 years. But we also observed that there are portions that fall down more readily than they ought to. They do not withstand shocks. If we can do it for a 60-story skyscraper, we can do it for a 2-story highway. We want to know about that. We will help.

I would like to think that this would be a nonpartisan effort. There are no politics in this. If the Administrator of the Federal Highway Administration is listening or watching, I would hope he might record—he is new on the job—that it would have been thoughtful to let the chairman of the Subcommittee on Water Resources, Transportation, and Infrastructure know of their wishes. If they want a party line vote, please say so.

I do not think they do, but they are acting as if they do. I think the President would be very unhappy. If the Chief of Staff knew, I think he would be unhappy, too. I am not unhappy, I want to say.

The House is also responding, and we will get this money to California, of course. As the Senator from Idaho says, there must be assessed the subject why did the Nimitz Freeway collapse in a situation where other ostensibly much more exposed structures did not. But that is what hearings are for, and we will get right to them.

I thank the Senator from Idaho for bringing this before us, and assure him the same cooperation he will have from me as I always have from him.

Mr. President, I ask unanimous consent that a copy of the joint resolution making further continuing appropriations adding funding to meet the present emergency introduced today in the other body, be printed in the RECORD at this point.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

H.J. RES. 423

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution of September 29, 1989 (Public Law 101-100), is hereby amended by striking out "October 25, 1989" and inserting in lieu thereof "November 15, 1989" in section 102(c), and by adding the following new section:

"SEC. 108. (a) For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), an additional $1,000,000,000 for fiscal year 1990 to meet the present emergency, to remain available until expended.

"(b) For an additional amount to meet the present emergency to the Emergency Fund authorized by 23 U.S.C. 125, $1,000,000,000, to be derived from the Highway Trust Fund: *Provided,* That the provisions of 232 U.S.C. 120(f)(1) and 125(b)(1) shall not apply to amounts available in this Fund: *Provided further,* That obligations made from this Fund shall be in addition to the limitation on obligations established in the Department of Tansportation and Related Agencies Appropriations Act, 1990.

"(c) For additional capital for the "Disaster loan fund", authorized by the Small Business Act, as amended, $500,000,000, to remain available without fiscal year limitation to meet the present emergency of which not to exceed $30,000,000 may be transferred to the "Salaries and expenses" account of the Small Business Administration for disaster loan servicing and disaster loan making activities.

"(d) For an additional amount necessary to enable the President to meet unanticipated needs to meet the present emergency arising from the consequences of the recent natural disasters, there is appropriated $250,000,000, to remain available until expended: *Provided,* That these funds may be transferred to any authorized governmental activity to meet the requirements of the natural disasters.

"(e) Such other amounts will be made available subsequently as required.

"(f) Obligations incurred under this section shall not be a charge against the Budget Act, Gramm-Rudman-Hollings, or other ceilings.

"This section may be cited as the fiscal year 1990 Dire Emergency Supplemental to Meet the Needs of Natural Disasters of National Significance.".

By Mr. KOHL:

S. 1776. A bill to amend the Agricultural Act of 1949 to establish a dairy price support and supply management program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KOHL (for himself and Mr. KASTEN):

S. 1777. A bill to amend the Agricultural Adjustment Act to improve the marketing of milk and its products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

DAIRY EQUITY ACT AND THE MILK MARKETING ORDER EQUITY ACT

Mr. KOHL. Mr. President, next year Congress faces the daunting task of rewriting Federal farm programs in an era of tight budget constraints.

It will be a difficult task. But I rise today to introduce two bills that demonstrate that our Federal dairy policy can be both fiscally responsible and economically advantageous for the dairy sector.

Before developing this legislation, I consulted closely with the dairy industry in Wisconsin. While every dairy producer, farm organization and cooperative in the State may not agree with all provisions, I am confident that most agree with the substantive reforms called for in both bills.

The first of the two, the Dairy Equity Act, is based on one basic tenet: That the freefall we've seen in price supports over the past 5 years must not be allowed to continue.

The price support for milk and milk products should provide price stability. This bill assures that by tying price support adjustments to changes in the all-milk price. This will still allow the price support to move—up in a year of strong markets, or down in a year of surplus—but in small increments.

To keep the dairy program in balance, the bill relies on a stand-by supply management program—one that kicks in for any year that CCC purchases exceed 4 percent of the commercial use of dairy products, calculated on a total solids basis.

To limit Federal outlays, the bill requires that the costs of the supply management program be borne by producers.

If producers are to be asked to shoulder the costs of a supply management program, it follows that producers should be allowed to dictate the program's design. My bill would establish an elected dairy producer board to develop the supply management program—allowing the board discretion to implement two-tiered pricing, target price-deficiency payments, a voluntary diversion or whole-herd buy-out program, or any other program of the board's choosing.

The second bill, Mr. President—the Milk Marketing Order Equity Act—addresses the other half of Federal dairy policy: milk marketing orders. I am pleased that my colleague, the senior Senator from Wisconsin, Senator KASTEN, is joining with me in introducing this legislation today.

While the dairy industry's efficiency has changed dramatically since 1933—when market orders were established—milk orders have unfortunately changed very little.

The effect of these antiquated orders, according to a recent General Accounting Office report, has been not only to promote unnecessary dairy production in certain parts of the country, but to benefit producers in some regions at the expense of others.

Mr. President, the producers being disadvantaged are those in the upper Midwest—producers as efficient as any in the country.

This bill would simply give producers in the upper Midwest an opportunity to compete on an equal footing with producers in all milk markets.

It does so by rewriting the purpose of milk orders—to prohibit discriminatory pricing or other economic disincentives to the sale of fluid milk in any order at competitive prices, and to minimize the overall cost of providing fluid milk to consumers.

It also makes immediate changes in class I differentials—differentials legislated in the 1985 farm bill that gave producers in Florida a $1.03 price increase while offering upper Midwest producers a mere increase of 8 cents.

Many of my colleagues are likely to argue that this bill will cause an economic hardship to dairy farmers in their State.

Mr. President, no producer will be disadvantaged by this bill. Should they think so, however, the bill improves the ability of producers covered by any order to challenge—administratively or legally—the provisions of any order.

Mr. President, by introducing these bills today, I hope to do more than just spark some new discussion. These proposals identify the changes of greatest importance to the Wisconsin dairy industry. They also, however, identify changes which can benefit producers, consumers and taxpayers across the country. I look forward to working with members of the Agriculture Committee, and the distinguished Chairman of the Committee, Senator LEAHY, to incorporate these changes in the dairy title of the 1990 farm bill.

Mr. President, I ask unanimous consent that the text of these two bills appear in the RECORD at this point.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1776

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dairy Equity Act of 1989".

SEC. 2. DAIRY PRICE SUPPORT AND SUPPLY MANAGEMENT PROGRAM.

Effective January 1, 1990, subsection (d) of section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446(d)) is amended to read as follows:

"(d)(1)(A) During the period beginning on January 1, 1990, and ending on December

31, 1995, the price of milk shall be supported as provided in this subsection.

"(B) During the period beginning on January 1, 1990, and ending on December 31, 1990, the price of milk shall be supported at a rate equal to $10.60 per hundredweight for milk containing 3.67 percent milkfat.

"(C) Except as provided for in subparagraph (D), on January 1, 1991, and each January 1 thereafter through January 1, 1994, the Secretary shall adjust the rate of price support for milk (as in effect on such date) by an amount equal to 50 percent of the estimated change in the average all-milk price per hundredweight during the preceding calendar year from the next preceding calendar year.

"(D) Not later than November 1, 1990, and each November 1 thereafter through November 1, 1993, for purposes of carrying out this subsection, the Secretary shall estimate—

"(i) the level of total milk solids contained in milk and products of milk purchased under this subsection; and

"(ii) the level of total commercial use of total milk solids contained in milk and the products of milk.

"(E) The price of milk shall be supported through the purchase of milk and the products of milk.

"(2)(A) If the level of total milk solids contained in milk and products of milk purchased under this subsection for any of the calendar years 1991 through 1995, as estimated by the Secretary by November 1 of the preceding calendar year, will exceed 4 percent of the level of total commercial use of total milk solids contained in milk and the products of milk for such calendar year, the Secretary shall institute on January 1 of such calendar year the supply management program recommended by the Dairy Producer Board established under paragraph (3)(A) in accordance with this paragraph.

"(B) In carrying out the program referred to in subparagraph (A), the Secretary may—

"(i) offer incentive or deficiency payments, administer a nonrecourse loan program for milk and the products of milk, or collect assessments or other forms of payments on all or a part of the milk or products of milk produced by the producers on a farm;

"(ii) establish production histories for such producers;

"(iii) establish payment limitations for participants in such program; or

"(iv) take such other actions as are necessary to carry out such program.

"(C) In developing and carrying out any program under subparagraph (A) involving the making of payments to producers or the collection of assessments from producers, the Dairy Producer Board and Secretary shall ensure that—

"(i) such producers comply with production adjustment objectives;

"(ii) the terms of such payments and assessment are applied equally with respect to all such producers and not on a regional basis;

"(iii) such assessments or other forms of payments are applied in such a way as to constitute a supply management program rather than on a uniform basis, unless a uniform assessment is combined with payments made to producers who comply with production adjustment objectives;

"(iv) such assessments or other forms of payments shall only be used to offset the costs of operating such program; and

"(v) such payments, taken in conjunction with such assessments, do not result in additional costs to the Commodity Credit Corporation in implementing the program established under subparagraph (A).

"(D) In any calendar year in which such program is in effect, the Secretary, not later than November 1 of such calendar year, shall estimate the level of purchases of milk and milk products in the next calendar year if such program were terminated or continued.

"(E) In carrying out subparagraph (D), if the Secretary estimates that—

"(i) on the termination of such program the level of total milk solids contained in milk and products of milk purchased by the Commodity Credit Corporation in the next calendar year will equal 4 percent or less of the total commercial use of total milk solids contained in milk and products of milk in such calendar year, the Secretary shall terminate such program on January 1 of such calendar year;

"(ii) on the termination of such program the level of total milk solids contained in milk and products of milk purchased by the Commodity Credit Corporation in the next calendar year will exceed 4 percent of the total commercial use of total milk solids contained in milk and milk products in such calendar year, the Secretary shall continue such program for such calendar year; or

"(iii) on the continuation of such program the level of total milk solids contained in milk and products of milk purchased by the Commodity Credit Corporation in the next calendar year will exceed 4 percent of the total commercial use of total milk solids contained in milk and products of milk, the Secretary shall continue such program for such calendar year and shall institute such additional changes to such program as are recommended by the Dairy Producer Board established under paragraph (3)(A) that will result in reducing the level of such purchases to less than 4 percent of the total commercial use of total milk solids contained in milk and milk products in the next calendar year.

"(3)(A) Not later than July 1, 1990, the Secretary shall establish a Dairy Producer Board (hereinafter in this paragraph referred to as the 'Board') that shall consist of 18 members elected from 18 geographically contiguous districts of approximately equal volume in the production of milk and the products of milk, as determined by the Secretary.

"(B) Prospective members of the Board for a district shall be nominated by—

"(i) organizations that are certified under section 114 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4505); or

"(ii) the submission of nomination papers bearing signatures of at least 2 percent of the producers of milk within such district.

"(C)(i) The Secretary shall conduct a referendum among producers who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for total commercial use in a district for the purpose of electing a member of the Board for such district.

"(ii) The Secretary shall not permit bloc voting in such referendum by cooperatives of producers of milk and products of milk.

"(D) Each member of the Board shall be elected to serve for a 4-year term.

"(E) Each member of the Board shall serve without compensation, but shall be reimbursed for reasonable expenses incurred in performing duties related to service on the Board, including a per diem allowance as recommended by the Board and approved by the Secretary.

"(F) During the first meeting of the Board, the Board shall elect a Chairperson who shall serve for a 1-year term. The Chairperson may serve for no more than 2 consecutive terms.

"(G) A quorum of the Board shall consist of 11 members of the Board.

"(H) Not later than January 1 of any calendar year for which the Secretary has determined there shall be a supply management program under paragraph (2), subject to paragraph (2)(C), the Board shall provide to the Secretary a description of such program, including a description of—

"(i) whether participation in such program shall be voluntary or mandatory;

"(ii) whether production histories for the producers of milk shall be established and, if so, the method by which such histories shall be established;

"(iii) whether incentive or deficiency payments for the producers of milk shall be offered and, if so, the amount and manner in which such payments shall be offered;

"(iv) whether assessments or other forms of payments on producers of milk shall be collected and, if so, the amount and manner in which such assessments shall be collected; and

"(v) whether payment limitations shall be instituted on participants in such program and, if so, the method by which such payment limitations should be used to target benefits to small- and medium-sized farms.

"(I) If the Secretary estimates under paragraph (2)(E)(iii) that on the continuation of a supply management program the level of total milk solids contained in milk and products of milk purchased by the Commodity Credit Corporation in the next calendar year will exceed 4 percent of the total commercial use of total milk solids contained in milk and products of milk, the Dairy Producer Board shall develop and recommend to the Secretary additional changes to such program that will result in reducing the level of such purchases to less than 4 percent of the total commercial use of total milk solids contained in milk and milk products in the next calendar year.

"(J) The Secretary shall provide such staff of the Department of Agriculture as the Board needs to carry out this subsection.

"(4)(A) Each producer who markets milk and each person required to make payment to the Corporation under this subsection shall keep such records and make such reports, in such manner, as the Secretary determines necessary to carry out this subsection.

"(B) The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this subsection or to determine whether any person subject to this subsection has engaged or is engaged or is about to engage in any act or practice that constitutes or will constitute a violation of this subsection or regulation issued under this subsection. For the purpose of such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or

carries on business, in requiring the attendance and testimony of witnesses and the production of records. Such court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony on the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district of which such person is an inhabitant or wherever such person may be found.

"(5)(A)(i) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, this subsection or any regulation issued under this subsection.

"(ii) Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action, except that the Secretary shall not be required to refer to the Attorney General minor violations of this subsection whenever the Secretary believes that the administration and enforcement of this subsection would be adequately served by suitable written notice or warning to any person committing such violation.

"(B)(i) Each person who fails to remit to the Corporation the funds required to be collected and remitted pursuant to this subsection shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to the support price for milk in effect at the time the failure occurs on the quantity of milk as to which the failure applies.

"(ii) The Secretary may reduce any such marketing penalty in such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

"(iii) Each person who knowingly violates any other provision of this subsection, or any regulation issued under this subsection, shall be liable for a civil penalty of not more than $1,000 for each such violation.

"(iv) Any penalty provided for under this subparagraph shall be assessed by the Secretary after notice and opportunity for a hearing.

"(C)(i) Any person against whom a penalty is assessed under subparagraph (B) may obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than 30 days after such penalty is imposed.

"(ii) The Secretary shall promptly file in such court a certified copy of the record upon which the penalty is based. The findings of the Secretary may be set aside only if found to be unsupported by substantial evidence.

"(D) The district courts of the United States shall have jurisdiction to review and enforce any penalty imposed under subparagraph (B).

"(E) The remedies provided in this paragraph shall be in addition to, and not exclusive of, other remedies that may be available.

"(F) In carrying out this subsection, the Secretary may, as the Secretary considers appropriate—

"(i) use the services of State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)); and

"(ii) enter into agreements to use, on a reimbursable or nonreimbursable basis, the services of administrators of Federal milk marketing orders and State milk marketing programs.

"(6) The Secretary shall carry out this subsection through the Commodity Credit Corporation.

"(7) As used in this subsection:

"(A) The term 'all-milk price' means the all-milk price as calculated and reported by the United States Department of Agriculture on a monthly basis.

"(B) The term 'total commercial use' shall include domestic commercial disappearance and commercial exports.

"(C) The term 'total milk solids' means the aggregate quantity of milkfat and milk solids-not-fat in milk and the products of milk.".

SEC. 3. APPLICATION OF SUPPORT PRICE FOR MILK.

For purposes of supporting the price of milk under section 201(d) of the Agricultural Act of 1949, the Secretary of Agriculture may not take into consideration any market value of whey.

SEC. 4. APPLICATION OF AMENDMENTS.

The amendments made by this Act shall not affect any liability of any individual under section 201(d) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)) as in effect before the date of the enactment of this Act.

S. 1777

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Milk Marketing Order Equity Act of 1989".

SEC. 2. MILK MARKETING ORDERS.

Effective January 1, 1990, section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c((5)) reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in subsection (5)—

(A) in the material preceding paragraph (A), by striking "orders" and inserting the following: "the purpose of orders issued pursuant to this section shall be to provide an efficient milk production, processing, and distribution system that minimizes the overall cost of providing fluid milk to consumers, allows for the efficient production and transportation of milk and its products, provides equitable pricing of milk and its products from all sources within and between orders, and prohibits discriminatory pricing or other economic disincentives to the sale of fluid milk at competitive prices in any production area. Orders"; and

(B) in paragraph (A), by striking "Throughout the 2-year period" and all that follows through the end of the paragraph and inserting "Beginning on the date of enactment of the Milk Marketing Order Equity Act of 1989, unless modified by amendment issued after the date of enactment of such Act to the order involved, the minimum aggregate amount of the adjustments, under clauses (1) and (2) of the preceding sentence, to prices of the highest use classification under orders that are in effect under this section on the date of enactment of such Act, shall be the minimum aggregate amount of such adjustments on December 23, 1985.";

(2) in subsection (15)—

(A) in paragraph (A), by inserting after "in connection therewith" the following: "(or, in the case of a handler who is subject to a milk order, any milk order, any provision of any such milk order, or any obligation imposed in connection therewith)"; and

(B) in paragraph (B), by inserting after "such handler" the following: "(including a handler subject to any milk order, any provision of any such milk order, or any obligation imposed in connection therewith)"; and

(3) in subsection (17), by striking "as defined in a milk order" and all that follows through "nothing in such proviso" and inserting "or at least 10 percent of all producers covered by milk orders apply in writing or are represented through application by one or more cooperative associations of producers as defined in paragraph (12) for a hearing on a proposed amendment of such order, the Secretary shall call such hearing if the proposed amendment is one that may legally be made to such order. Nothing in the foregoing proviso".

By Mr. HARKIN:

S. 1778. A bill to amend the Higher Education Act of 1965 to reduce the student loan default rate, and for other purposes; to the Committee on Labor and Human Resources.

STUDENT LOAN DEFAULT REDUCTION ACT

● Mr. HARKIN. Mr. President, I rise to introduce the Student Loan Default Reduction Act of 1989.

Mr. President, in the course of this session of Congress, the Appropriations Subcommittee on Labor, Health and Human Services, Education, which I chair, has been required to make many difficult funding choices for fiscal year 1990 between many worthwhile education programs. One area where we did not have a choice is in providing $1.9 billion to cover anticipated student loan defaults.

The dollars that will go to pay for student defaults now represent the third largest education program, smaller only than the Pell Grant Program and the entire Chapter 1 Program. Mr. President, as a Senator who has been a long-time champion of educational opportunity, I view these default costs as a tragic waste. Now, more than ever, we need to recapture these wasted dollars and invest them in education programs that work. Too many deserving students and parents are struggling like never before to piece together the cost of tuition. We need to restore the trust of the American people in the student aid programs. Where I come from, people believe that a 1-percent default rate is 100 percent too high. And when it comes to student loan defaults, they are right. We simply cannot accept the $1.9 billion we will pay for defaults as "the cost of doing business" for our student loan programs.

It is difficult to discuss the default rate problem and a solution to that problem without also discussing and understanding proprietary schools. These schools, which provide specialized career training on a for-profit basis, tend to serve large numbers of the most disadvantaged students. Unfortunately, on average, they have default rates of 36 percent compared to 21 percent for 2-year public schools and 8 percent for 4-year private schools. Another way of viewing this situation is that 57 percent of the

schools with default rates over 20 percent are proprietary schools, and 75 percent of the schools with default rates over 50 percent are proprietary schools.

There are a number of reasons why serious default problems persist at such schools and why monitoring and enforcement are not enough to correct the problem. Recent reports from the New York State Board of Regents suggest that the problems relate to the structure and profit incentives built into the student loan programs. According to the regents, the system creates strong incentives for schools to enroll as many students as possible, often with less regard for whether these students actually complete the program or benefit from it. That is not to say that most proprietary schools are not doing a very good job. There are proprietary schools across the country, many of them in my own State of Iowa, with default rates that should be the envy of many major universities. These schools are providing valuable training that is critical to our economic well-being, often with students who start with many economic and educational disadvantages. Nevertheless, improvements must be made to reduce the unacceptably high default rates, not only at proprietary schools, but at all postsecondary institutions.

Mr. President, the legislation I am introducing today would reduce Federal default costs by over $1.3 billion over the next 5 years. It would do so largely by addressing a number of the major structural incentives that have resulted in high default rates in the past. Some provisions of this legislation have been suggested by the Secretary of Education, Cavazos. Some provisions have been proposed by organizations within the postsecondary education community. In some cases, similar but not identical provisions have been considered in the Senate Labor Committee. Still other provisions have been recommended to me by concerned citizens in my State who work with, and believe in, the student aid programs.

A major feature of this legislation would be to require all students who have not obtained a high school diploma or high school equivalency diploma to pass a test developed by an independent organization approved by the Secretary of Education. Currently, these students may receive Federal student loans to attend schools if they demonstrate the "ability to benefit" from their program to the school's satisfaction. Current law absolutely forbids the Secretary from setting even the most basic minimum standards or promulgating any regulations regarding the "ability to benefit" provision. According to the Education Department's inspector general, to some State licensing bodies, and to other observers, this situation has resulted in many poorly qualified students being admitted to programs and dropping out of them very quickly. There has even been evidence of schools evaluationg students' skills in Spanish for courses that are administered in English. My legislation would require that students be tested by an independent organization and achieve a passing grade prior to enrolling in a trade or academic program.

Mr. President, the Government is not doing students any favors by allowing schools to recruit them for programs they can't complete, and loading them up with Federal loans in the process. The great majority of students who default are students who became quickly disillusioned or dissatisfied with their program. Students who leave their program in its early weeks or months often correctly feel they have received little value and therefore have little incentive to repay their loans. This legislation would address the early dropout situation with two provisions: First, loan disbursement for first-time students would be delayed until 30 days after classes have begun. A second feature would require schools with default rates in excess of 25 percent to implement a pro rata refund policy. This would require the institution to refund a share of tuition fees, room and board, and other charges assessed to the student in increments related to the amount of time the student was enrolled. These refunds would be credited directly to reduce the students Federal loan indebtedness. No student with an outstanding Federal loan will get a refund until their loan is paid off.

Mr. President, a very critical part of this legislation is the imposition of a single statutory definition of "default." I can tell my colleagues that if they were to call any institution in their State and ask them for their default rate, the institutions might well ask them "which rate do you want." When Secretary Cavazos released his default reduction regulations earlier this year, he simultaneously released a list of institutional default rates that have resulted in a great deal of confusion and upset among the Nation's schools. For one school in my State, the Secretary showed a default rate that was five times higher than the rate calculated by the Iowa College Aid Commission.

Mr. President, we need to establish a default rate that accurately accounts for all the players in the student loan system. Institutions are not charged with collecting the great majority of Federal student loans. That responsibility is handled by banks and guarantee agencies. While we will appropriate $1.9 billion this coming year to pay for default costs, we will recoup almost $600 million of that amount through the collection efforts of the banks and the guarantee agencies. With a standard definition that takes into account these loan collection efforts, schools facing Federal penalties will have a strong incentive, to the degree that they are able, to work with those banks and guarantee agencies with the strongest collection records. With this standard and fair default rate definition, I believe that we can be even stricter than the Secretary has proposed in penalizing institutions that do not show success in reducing their excessively high default rates.

Mr. President, this legislation, therefore, would require institutions with default rates of over 25 percent to enter into four year default reduction plans. These plans would be developed after reviews by the Secretary and the accrediting body to best determine the contents of such a plan. If after 4 years, the institution has not reduced its default rate or has a rate in excess of 50 percent, the Secretary would be required to initiate limitation, suspension or termination proceedings against the institution.

Mr. President, three additional features of this legislation will help give institutions additional tools to assist in keeping their default rates low. Section 5 of the legislation would give the institution the authority to refuse to certify a student's eligibility for a loan if the institution determines that the student does not actually demonstrate financial need for the loan. Second, students age 21 and over with bad credit histories would not be given a loan unless there was a credit worthy cosigner on the loan. And third, section 12 of the legislation would create a student loan data system which would keep track of the dollar amount loaned to students and those students who have defaulted. This system would protect against making loans in excess of loan ceilings and would protect against making loans to students who have already defaulted.

Mr. President, section 6 of this legislation would give the Secretary the authority to require all guaranty agencies to participate in the IRS Tax Refund Program. Under this program, taxpayers who are due a refund on their income taxes but who have defaulted on their student loan won't get a refund, they get a notice from the IRS that they have paid a portion of their loan debt and that more is due. This program has been extremely useful in the recovery of defaulted student loan funds but participation by the agencies to date has been voluntary.

Mr. President, the legislation I am introducing today includes several other features and I would ask unanimous consent that a section-by-section analysis of this legislation be printed in the RECORD at the end of my statement.

Mr. President, earlier this year the Senate passed student loan default legislation. The features included in that legislation are useful and I support this legislation which was introduced by Senator PELL, chairman of the Education, Arts, and Humanities Subcommittee of Labor and Human Resources. The legislation I am introducing today adds several additional authorities which I believe are needed in order to solve this problem and to recapture the dollars now wasted on defaults.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1778

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Student Loan Default Reduction Act of 1989".

DEFAULT REDUCTION PLANS

SEC. 2. (a) Part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.,* hereinafter referred to as "the Act") is amended by inserting immediately after section 430A the following new section:

"DEFAULT REDUCTION PLANS

"SEC. 430B. (a) DEFAULT REDUCTION PLANS REQUIRED.—Any institution participating in a program under this part that has a default rate, as defined in subsection (e), in excess of 25 percent shall be considered to be in probationary status with regard to its (b)(2), to implement a default reduction plan approved by the Secretary in accordance with this section.

"(b)(1) LENGTH OF PLAN.—A default reduction plan required by this section shall be four years in duration.

"(2) DEFAULT REVIEWS. Once the Secretary has determined that an institution's default rate is in excess of 25 percent, the Secretary and the appropriate accrediting agency shall each conduct an initial review of the institution to make recommendations regarding the contents of the institution's default reduction plan in accordance with subsection (c). The institution shall then be reviewed by the Secretary and the accrediting agency every two years while the institution remains in probationary status, as described in subsection (a), to determine the institution's progress under the default reduction plan and make further recommendations of actions for the institution to take to correct deficiencies found in the course of such reviews.

"(c) CONTENTS OF PLAN.—A default reduction plan approved by the Secretary may include, but shall not be limited to—

"(1) steps the institution shall take, consistent with applicable State law, to revise its admission policies and screening practices to ensure that its students have a reasonable expectation of succeeding in their programs of study;

"(2) steps the institution shall take, in consultation with the appropriate accrediting body, to seek to reduce its withdrawal rate, and improve its job placement rate and licensing examination pass rate, by improving its educational program;

"(3) steps the institution shall take to contact borrowers more frequently, including contact after a borrower has left the institution, and to conduct entrance and exit interviews explaining the nature of the loan obligation and providing personal financial management counseling;

"(4) steps the institution shall take to provide its students additional or improved support services, including academic counseling and enhanced job placement services;

"(5) steps the institution shall take to collect additional information from borrowers;

"(6) provisions requiring that the institutional verification required by section 484(f) on student loan eligibility be increased up to 100 percent of such verification; and

"(7) other measures designed to increase the collection of student loans that are appropriate to the circumstances of the institution implementing the default reduction plan.

"(d) LIMITATION, SUSPENSION, OR TERMINATION.—

(1) REFUSAL TO ENTER INTO PLAN.—If an institution that is required under subsection (a) to enter into a default reduction plan approved by the Secretary refuses to do so, or unreasonably delays the implementation of its default reduction plan, the Secretary may initiate limitation, suspension, or termination proceedings against the institution under section 487(c)(1)(D) with respect to the institution's eligibility to participate in programs under this part.

"(2) FAILURE TO REDUCE DEFAULT RATE.—(A) If, by the end of the fourth year of its default reduction plan, the Secretary determines that an institution has not achieved a reduction in its default rate, as measured from the start of the plan, or that the institution's default rate exceeds 50 percent, the Secretary shall initiate limitation, suspension, or termination proceedings against the institution under section 487(c)(1)(D) with respect to the institution's eligibility to participate in programs under this part, unless the institution demonstrates to the satisfaction of the Secretary that its default rate is substantially due to circumstances beyond its control.".

"(e) DEFAULT RATE.—(1) For purposes of this section, the default rate of an institution for any fiscal year in which 30 or more current and former students at the institution enter repayment on loans made, insured or guaranteed in accordance with section 427, 428, or 428A shall be expressed as the percentage of the current and former students who enter repayment in that fiscal year on such loans received for attendance at that institution who default before the end of the second subsequent fiscal year, except that any such students—

(A) who default and return to repayment status before the end of such subsequent fiscal year, by making at least the last two payments in the last quarter of such second subsequent fiscal year, shall not be considered in default for purposes of calculating the default rate under this subsection; and

(B) who are in a period of deferment or forbearance as of the end of such second subsequent fiscal year shall not be included in calculating the default rate under this section for the first full fiscal year following the date of enactment of this section and succeeding fiscal years.

"(2) The default rate of an institution for any fiscal year in which less than 30 current and former students at the institution enter repayment on loans made, insured or guaranteed in accordance with section 427, 428, or 428A shall be calculated in the manner described in paragraph (1), except that the percentage determined under paragraph (1) for such fiscal year shall be averaged with the percentages calculated in accordance with paragraph (1) for the two subsequent fiscal years to determine such institution's default rate.

"(3) In the case of a student who has attended and borrowed to attend more than one institution, the student and his or her subsequent repayment or default shall be attributed to each institution for attendance at which the student received a loan that entered repayment in such fiscal year.

"(4) A loan on which a payment is made by the institution, its owner, agent, contractor, employees, or any other affiliated entity or individual, in order to avoid default by the borrower, shall be considered to be in default for purposes of this section.

"(5) Whenever the Secretary determines that satisfactory data is unavailable, the Secretary shall make estimates, consistent with the provisions of this subsection, needed to carry out the provisions of this subsection.

DELAYED LOAN DISBURSEMENT

SEC. 3. Section 487(a) of the Act is amended by adding at the end thereof the following new paragraph:

"(11) In the case of an institution participating in a program under part B that is operating under a default reduction plan in accordance with section 430B, the institution shall not disburse a loan made, insured, or guaranteed under section 427, 428, or 428A that is made to a borrower in his or her first period of enrollment at the institution prior to 30 days after classes have begun for the period of enrollment for which the loan is obtained.".

CREDIT CHECKS; CO-SIGNERS

SEC. 4. (a) Section 427(a)(2)(A) of the Act is amended to read as follows:

"(A) is made without security and without endorsement, except that prior to making a loan insurable by the Secretary under the provisions of this part, a lender shall obtain a credit report on any loan applicant who will be at least 21 years of age as of July 1 of the academic year for which assistance is being sought, from at least one national credit bureau organization, for which the lender may charge the applicant an amount not to exceed the lesser of $25 or the actual cost of obtaining the credit report, and an applicant who, in the judgment of the lender in accordance with the regulations of the Secretary, has a negative credit history shall be required to obtain a credit-worthy co-signer in order to obtain the loan, provided that for purposes of this clause, an insufficient or nonexistent credit history may not be considered to be a negative credit history;".

(b) Section 428(b)(1)(N) of the Act is amended—

(1) by inserting "(i)" immediately following the subparagraph designation; and

(2) by adding at the end thereof "and" and the following new clause:

"(ii) provides that, prior to making a loan made, insured, or guaranteed under this part (other than a loan made in accordance with section 428C), a lender shall obtain a credit report on any loan applicant who will be at least 21 years of age as of July 1 of the academic year for which assistance is being sought, from at least one national credit bureau organization, for which the lender may charge the applicant an amount not to exceed the lesser of $25 or the actual cost of obtaining the credit report, and an applicant who, in the judgment of the lender in accordance with the regulations of the Secretary, has a negative credit history shall be required to obtain a credit-worthy co-signer in order to obtain the loan, provided that

for purposes of this clause, an insufficient or nonexistent credit history may not be considered to be a negative credit history;".

(c) Section 428(a) of the Act is amended by striking out paragraph (6).

CERTIFICATION OF ELIGIBILITY

SEC. 5. Section 428(a)(2)(D) of the Act is amended to read as follows:

"(D) An eligible institution, in carrying out the provisions of subparagraph (A) and (B)—

"(i) shall not provide a statement which certifies the eligibility of any student to receive any loan under this part in excess of the maximum amount applicable to such loan; and

"(ii) may, on the basis of adequate documentation and notwithstanding a determination of need under part F of this title, certify the eligibility of any student to receive a loan under this part in a lesser amount, or refuse to certify the eligibility of the student for a loan, if the institution determines that the student does not demonstrate financial need for a loan under this part in an amount determined under part F of this title.".

GUARANTY AGENCY PARTICIPATION IN TAX REFUND OFFSET PROGRAM

SEC. 6. Section 428(c)(8) of the Act is amended—

(1) in the heading, by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "TAX REFUND OFFSETS.";

(2) by inserting the subparagraph designation "(A)" immediately preceding "If the Secretary"; and

(3) by adding at the end thereof the following new subparagraph:

"(B) A guaranty agency shall assign to the Secretary any loan of which it is the holder and for which the Secretary has made a payment pursuant to paragraph (1) of this subsection if the Secretary determines it is appropriate to refer the loan for offset to the Secretary of the Treasury under the tax refund offset procedures authorized by 31 U.S.C. 3720A.".

EMERGENCY ACTIONS

SEC. 7. (a) Section 432 of the Act is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting immediately following subsection (h) the following new subsection:

"(i) AUTHORITY OF THE SECRETARY TO TAKE EMERGENCY ACTIONS AGAINST LENDERS.—

(1) IMPOSITION OF SANCTIONS.—If the Secretary—

"(A) receives information, determined by the Secretary to be reliable, that the lender is violating any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation;

"(B) determines that immediate action is necessary to prevent misuse of Federal funds; and

"(C) determines that the likelihood of loss outweighs the importance of following the limitation, suspension, or termination procedures authorized in subsection (h), the Secretary shall, effective on the date on which notice of the action is mailed to the lender, take emergency action to stop the issuance of guarantee commitments and the payment of interest benefits and special allowance to a lender.

"(2) LENGTH OF EMERGENCY ACTION.—An emergency action under this subsection may not exceed 30 days unless a limitation, suspension, or termination proceeding is begun against the lender under subsection (h) before the expiration of that period.

"(3) OPPORTUNITY TO SHOW CAUSE.—The Secretary shall provide the lender, if it so requests, an opportunity to show cause that the emergency action is unwarranted.".

(b) Section 487(c)(1) of the Act is amended—

(1) in subparagraph (C), by striking out "and" at the end thereof;

(2) in subparagraph (D), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new subparagraph:

"(E) an emergency action against an institution, under which the Secretary shall, effective on the date on which notice of the action is mailed to the institution, withhold funds from the institution or its students and withdraw the institution's authority to obligate funds under any program under this title, if the Secretary (i) receives information, determined by the Secretary to be reliable, that the institution is violating any provisions of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation, (ii) determines that immediate action is necessary to prevent misuse of Federal funds, and (iii) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (D) for limitation, suspension, or termination, except that an emergency action shall not exceed 30 days unless limitation, suspension, or termination proceedings are initiated by the Secretary against the institution within that period of time, and except that the Secretary shall provide the institution an opportunity to show cause, if it so requests, that the emergency action is unwarranted.".

SHARING OF INSTITUTIONAL ELIGIBILITY INFORMATION

SEC. 8. (a) Section 481 of the Act is amended by adding at the end thereof the following new subsection:

"(e) SHARING OF INSTITUTIONAL ELIGIBILITY INFORMATION.—The Secretary, a guaranty agency, an accrediting agency, or a State licensing body may provide any information in its possession that is relevant to an institution's eligibility to participate in programs under this title to another such entity, either on its own initiative, or upon the request of the other such entity.".

(b) Section 487(a) of the Act (as amended by section 3) is further amended by adding at the end thereof the following new subsection:

"(12) The institution will acknowledge the authority of the Secretary, guaranty agencies, accrediting agencies, and State licensing bodies under section 481(e) to share with other such entities information pertaining to the institution's eligibility to participate in programs under this title.".

BRANCH CAMPUS ELIGIBILITY

SEC. 9. Section 481 of the Act (as amended by section 7) is further amended by adding at the end thereof the following new subsection:

"(f) BRANCH CAMPUS ELIGIBILITY.—No later than 240 days after the date of enactment of this Act, the Secretary shall publish proposed regulations concerning the accreditation and eligibility of branch campuses of an eligible institution, and such regulations shall include a prohibition against the establishment of branch campuses which circumvents established procedures concerning accreditation and institutional eligibility to participate in programs under this title.".

ABILITY TO BENEFIT

SEC. 10. (a) Section 484(d) of the Act is amended to read as follows:

"(d) ABILITY TO BENEFIT.—(1) in order for a student who is admitted on the basis of the ability to benefit from the education or training offered to be eligible for any grant, loan, or work assistance under this title, the student shall, prior to enrollment, pass a test developed, administered, and graded by one or more independent organizations in accordance with paragraph (3).

"(2) For purposes of paragraph (1), independent organizations may include, but are not limited to, State agencies and private national or regional organizations, except that an organization that includes one or more institutions of higher education or vocational schools, or their officers or owners, as members shall not be eligible. An organization is eligible to develop, administer, and grade tests for purposes of this section only upon a determination by the Secretary that the organization is independent of the institutions that would be using such tests to determine the ability of their prospective students to benefit from the education or training offered by the institution.

"(3)(A) Any test developed for purposes of this subsection shall measure the student's ability to complete successfully the course of study for which the student has applied for admission. More than one test may be developed for purposes of this subsection in order to measure appropriately a student's ability to complete a particular type of educational program.

"(B)(i) The appropriate accrediting agency shall establish the passing score on any test developed in accordance with subparagraph (A) for any educational program for which the test is used.

"(ii) Notwithstanding clause (i), if the Secretary determines that students who achieved passing scores on any test developed for purposes of this subsection are not achieving substantially the same graduation, job placement, or State licensing examination pass rates as students attending the same institutions who received their high school diplomas (or its recognized equivalent) prior to admission to such institutions, the Secretary is authorized to—

"(I) establish a different passing score, or require a different accrediting agency to establish the passing score on such tests;

"(II) consider this information in reevaluating the recognition by the Secretary of the agency that established the passing score as a reliable authority as to the quality of training offered by the institutions it accredits; and

"(III) require that a different test, developed by another independent organization, be administered to students seeking admission at that institution.

"(4) Notwithstanding paragraph (1), a student who is enrolled in an elementary or a secondary school shall not be eligible for assistance under this title.".

(b) Section 481(b) of the Act is amended in the fourth sentence by striking out "shall not promulgate regulations defining the admissions procedures or remediation programs that must be used by an institution in admitting students on the basis of their ability to benefit from the training offered and".

(c) Section 487(a) of the Act is amended by adding at the end thereof the following new paragraph:

"(11) In the case of an institution that admits students on the basis of ability to

benefit from the training offered, the institution shall provide the Secretary with the information necessary for the Secretary to make the determination described in section 484(d)(3)(B)(ii).".

TUITION REFUNDS

SEC. 11. Section 485(a) of the Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) For purposes of paragraph (1)(F), tuition, fees, room and board, and other charges assessed the student by an institution with a default rate, as defined in Section 430B(e) in excess of 25 percent, shall be considered to be earned by that institution in increments (which shall not be greater than 10 percent) of the enrollment period for which the student has been charged that have elapsed at the time the student withdraws, and the institution shall provide a refund for the portion of the period of enrollment for which the student has been charged that remains (in such increments), except that—

"(i) in the case of a student who withdraws before completion of 10 percent of the enrollment period, the institution may consider 10 percent of the amount of charges assessed for the enrollment period for which the student has been charged to have been earned by the institution, in addition to any amount considered earned under clause (iii);

"(ii) in the case of a student who withdraws on or after completion of 50 percent of the enrollment period, the institution may, under its refund policy, consider the full amount of charges assessed for the enrollment period for which the student has been charged to have been earned by the institution; and

"(iii) the institution shall be considered to have earned its initial administrative expenses, as defined in accordance with the regulations of the Secretary, at the beginning of the enrollment period for which the student has been charged.

"(B) For purposes of subparagraph (A), the portion of the period of enrollment for which the student has been charged that remains shall be determined—

"(i) in the case of a program that is measured in credit hours, by dividing the total number of weeks comprising the period of enrollment for which the student has been charged into the number of weeks remaining in that period as of the last recorded day of attendance by the student;

"(ii) in the case of a program that is measured in clock hours, by dividing the total clock hours comprising the period of enrollment for which the student has been charged into the number of clock hours remaining to be completed by the student in that period as of the last recorded day of attendance by the student; and

"(iii) in the case of a correspondence program, by dividing the total number of lessons comprising the period of enrollment for which the student has been charged into the total number of such lessons not submitted by the student.

"(C) An institution may require that the equipment issued to the student by the institution that the institution would reissue to another student be returned by a student once the institution determines that the borrower has withdrawn, if the institution makes a written request for that return that is received by the student within 10 days of that determination. If the institution notifed the student in writing prior to enrollment that return of the specific equipment involved would be required if the student withdrew, the institution may deduct from the refund owed under this paragraph the documented cost to the institution of that equipment if the student fails to return it within 10 days of the date of the student's receipt of the request from the institution. However, the institution may not delay its payment, in accordance with regulations, of a refund to a lender by reason of this process."

"(D) For purposes of this paragraph, refunds shall be credited against grant, loan, or work assistance awarded under this title in the following order:

"(i) outstanding balances on loans made, insured, or guaranteed in accordance with part B, including origination fees for such loans;

"(ii) outstanding balances on loans made in accordance with part E; and

"(iii) any other grant, loan, or work assistance awarded under this title.".

NATIONAL STUDENT LOAN DATA SYSTEM

SEC. 12. Section 485B(c) of the Act is amended to read as follows:

"(c) VERIFICATION REQUIRED.—(1) With respect to the making, guaranteeing, or certifying of loans under part B or part E of this title for periods of instruction beginning on or after July 1, 1991, the Secretary shall conduct a demonstration project of not less than one academic year in length with lenders, guaranty agencies and institutions of higher education to examine the feasibility and cost-effectiveness of requiring lenders, guaranty agencies, and institutions of higher education to verify information and obtain eligibility or other information through the National Student Loan Data System prior to making, guaranteeing or certifying such loans.

"(2) Upon satisfactory completion of the demonstration project authorized under paragraph (1), the Secretary shall require all lenders, guaranty agencies, and institutions of higher education to verify information and obtain eligibility or other information through the National Student Loan Data System prior to making, guaranteeing or certifying loans under part B or part E of this title.".

CONSUMER INFORMATION

SEC. 13. Section 487(a)(8) of the Act is amended—

(1) by inserting the subparagraph designation "(A)" immediately following the paragraph designation;

(2) by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new subparagraph:

"(B) in the case of an institution that offers undergraduate nonbaccalaureate vocational training programs designed to prepare students for a particular vocational, trade, or career field, the institution shall, in accordance with the regulations of the Secretary, publish and make available to prospective students, at or before the time of application or the signing of a contract with the institution, the most recent available data concerning the institution's retention and graduation statistics and job placement rates in the field for which the training is provided, and, if applicable, the relevant State licensing requirements and the pass rate of the institution's graduates on relevant State licensing examinations.".

CRIMINAL PENALTIES

SEC. 14. Section 490(a) of the Act is amended by inserting a comma and "or attempts to so embezzle, misapply, steal, or obtain, or causes another person to so embezzle, misapply, steal, or obtain," immediately following "under this title".

EFFECTIVE DATES

SEC. 15. (a) The amendments made by sections 2, 7, 9, 12, and 14 shall be effective upon enactment.

(b) The amendments made by sections 3 and 4 shall be effective for loans made, insured, or guaranteed in accordance with section 427, 428, 428A, or 428B of the Act on or after the date of enactment of this Act to cover periods of instruction beginning on or after July 1, 1990.

(c) The amendments made by sections 5, 6, 8, and 11 shall be effective 90 days after enactment of this Act.

(d) The amendments made by section 10 shall be effective for grant, loan, or work assistance awarded for periods of enrollment beginning on or after July 1, 1991.

(e) The amendments made by section 13 shall be effective for institutional participation in programs under title IV of the Act for periods of enrollment beginning on or after July 1, 1990.

THE STUDENT LOAN DEFAULT REDUCTION ACT OF 1989

SECTION-BY-SECTION ANALYSIS

Section 2. Section 2 of the bill would add a new section 430B to part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*, hereinafter referred to as "the Act") that would state that an institution participating in the Stafford Student Loan Program that has a default rate in excess of 25 percent would be considered to be in probationary status in regard to its eligibility to participate in this program and required to enter into a default reduction plan approved by the Secretary.

The default reduction plan would be four years in length. The Secretary and the appropriate accrediting body would conduct a default review of the institution at the outset of the plan. These initial reviews by the Secretary and the accrediting body would determine the contents of the default reduction plan, which would include measures described in proposed section 430B(c) of the Act. Both the Secretary and the appropriate accrediting body would then review the institution every two years while the institution remains in probationary status to determine the institution's progress under the default reduction plan and make further recommendations.

In the fourth year of the plan, the Secretary would review the institution's actions taken under the plan and in response to the Secretary's and the accrediting agency's subsequent reviews. If the Institution's default rate has not been reduced by the end of the fourth year of the plan, or remains above 50 percent, the Secretary shall initiate limitation, suspension, or termination proceedings against the institution, unless the institution demonstrates to the satisfaction of the Secretary that its default rate is substantially due to circumstances beyond its control.

These default reduction plans would impose greater institutional accountability in reducing student loan defaults that may stem from institutional management problems, but would provide adequate safeguards as well as appropriate sanctions. An institution operating under a default reduction plan would be given assistance in developing a plan appropriate to its particular circumstances, and would be monitored closely by the Secretary and the appropri-

ate accrediting agency. If the institution still cannot reduce its default rate sufficiently, the institution still would have the opportunity to demonstrate to the Secretary that its default rate is due to circumstances beyond its control.

Proposed section 430B(e) of the Act would place the default rate applicable for purposes of the default reduction plans in statute, as opposed to relying on a regulatory definition. The default rate would, in general, be calculated based on the percentage of student borrowers of Stafford loans and Supplemental Loans for Students who attended that institution and who default on their loans in the fiscal year in which they enter repayment and the following two fiscal years. Any student borrower who defaults, but subsequently returns to repayment status within that time (by making at least two payments in the last quarter of the final fiscal year in the calculation), would not be considered to be in default for purposes of this calculation, but someone affiliated with the institution could not make payments on a student borrower's loan to avoid the inclusion of the loan in the default rate calculation as a default. The default rate of institutions with smaller numbers of borrowers entering repayment in a given fiscal year would be determined by averaging the percentages calculated for a fiscal year and the two subsequent fiscal years.

Section 3. Section 3 of the bill would amend section 487(a) of the Act to prohibit an institution operating under a default reduction plan (as proposed in section 2 of the bill) from disbursing a Stafford Loan or a Supplemental Loan for Students (SLS loan) to borrower who is in his or her first period of instruction at the institution until 30 days after classes have begun. Students who either fail to attend any classes or who drop out very early in the term very frequently default on their student loans, and this amendment would help minimize this type of default.

Section 4. Section 4 of the bill would amend sections 427(a)(2)(A) and 428(b)(1)(N) of the Act to require that all applicants for Stafford, SLS, and PLUS loans who are age 21 and older undergo credit checks, and that applicants who, in the judgment of the lender (subject to regulatory standards prescribed by the Secretary), have negative credit histories shall be required to obtain a credit-worthy co-signer in order to receive the loan. Lenders would be authorized to charge applicants up to $25 or the actual cost of obtaining the credit report, whichever is less, to defray the cost of the credit checks. Students with very little or no credit history, which would be the majority of applicants, would not be required to have a co-signer, and, consequently, their access to financial assistance and to postsecondary education, would not be limited. By requiring credit checks only of applicants who are at least age 21, this amendment would be more cost-effective than requiring credit checks of all loan applicants, because the students who are least likely to have a credit history would not have to pay for a needless credit check, and the lenders' burden would be minimized. This amendment is targeted at only those loan applicants who have already demonstrated their lack of credit-worthiness, and would reduce defaults by requiring that a financially responsible individual, whether it is the student or the student's co-signer, stand behind the student's loan obligation. A conforming change would be made to section 428(a) of the Act as well.

Section 5. Section 5 of the bill would amend section 428(a)((2)(D) of the Act to permit an institution to certify the student's eligibility for a lesser loan amount under part B of title IV of the Act, or to refuse to certify a student's eligibility for a loan under part B altogether, if the institution determines that, despite a determination of need calculated in accordance with the need analysis provisions of part F of title IV of the Act, the student actually does not demonstrate financial need for the loan. The institution would also be required to provide adequate documentation of the refusal to certify the student's eligibility, or of the certification of a lesser loan amount. The institution may be aware of aspects of the student's financial circumstances that are not reflected in the need analysis calculation.

Section 6. Section 6 of the bill would amend section 428(c)(8) of the Act to require a guaranty agency to assign to the Secretary any defaulted loans that it holds, if the Secretary determines that it would be appropriate to refer those loans to the Secretary of the Treasury for offset under the Tax Refund Offset Program authorized by 37 U.S.C. 3720A. The Secretary would still retain the discretion not to require assignment if tax refund offset would not be the appropriate collection method to use on a particular loan. This program has been extremely useful in the recovery of defaulted student loan funds, but guaranty agency participation in the offset program is only optional at present; by requiring assignment of defaulted student loans for offset, even greater recoveries of funds can be expected.

Section 7. Section 7 of the bill would amend sections 432 and 487(c)(1) of the Act to clarify the Secretary's authority to take emergency actions against participating lenders and institutions. In an emergency action, the Secretary withholds funds from a lender or an institution stops the issuance of guarantee commitments on loans made by a lender; and withdraws the institution's authority to obligate title IV funds for up to 30 days (or longer, if limitation, suspension, or termination proceedings are initiated) in situations where the Secretary has learned that the lender or institution has violated applicable laws, regulations, or agreements; determines that immediate action is necessary to prevent the misuse of Federal funds; and determines that the likelihood of loss outweighs the importance of following limitation, suspension, or termination proceedings.

The Secretary has exercised his inherent authority to take emergency actions for many years, and considers this authority essential to his ability to respond quickly to the known misuse of Federal funds. However, the Secretary's emergency action authority has been challenged successfully in recent litigation. Specifically, in *Ross University School of Medicine* v. *Cavazos*, No. 89-0985-06 (D.D.C. 1989), a United States District Court ruled that the Secretary's emergency action mechanism is unauthorized by current statute or any other authority. Without such authority, lenders and institutions against which the Secretary has initiated limitation, suspension, or termination proceedings would have less incentive to resolve the proceedings quickly—the institution or lender could continue to receive Federal funds throughout the course of protracted legal proceedings, despite the Secretary's knowledge that the institution or lender is misusing Federal funds.

Section 8. Section 8 of the bill would amend section 481 of the Act to permit explicitly the voluntary sharing of information relating to an institution's eligibility to participate in title IV programs among the Secretary, guaranty agencies, accrediting agencies, and State licensing bodies, and would amend section 487(a) of the Act to require that institutions acknowledge, as part of their program participation agreements, the right of these entities to share this information. There is great reluctance among some of these entities to share relevant information regarding an institution for fear of being sued by the institution over the disclosure. This reluctance makes it difficult for these entities to learn about actions on the part of one entity, for example, an accrediting agency, that may have an impact on the actions of other such entities in dealing with a particular institution. This diminished flow of important information impedes the process of correcting problems at an institution, which may result in the wasting of Federal student assistance and the aggravation of the default problem.

Section 9. Section 9 of the bill would require the Secretary to promulgate regulations concerning the accreditation and eligibility of branch campuses of an eligible institution. Branch campuses are sometimes established by unscrupulous school operators to circumvent established procedures for accreditation and title IV eligibility, and the Secretary would be required to prohibit this practice in regulations, as well as address other areas of potential abuse in the establishment of branch campuses.

Section 10. Section 10 of the bill would amend the ability to benefit student eligibility criterion in section 484(d) of the Act. Current law requires that a student who is admitted on the basis of the ability to benefit from the education or training offered must, in order to remain eligible for assistance, (1) receive a General Education Diploma, (2) be counseled and complete an institutionally prescribed remedial education course, or (3) take a standardized test, and pass it or take the institutionally prescribed remedial education course. Unfortunately, these requirements have been insufficient to eliminate abuse of the "ability to benefit" criterion.

Section 10 of the bill would amend section 484(d) of the Act to require that, in order to receive Federal student financial aid, any student admitted on the basis of ability to benefit must, prior to enrollment, pass a test developed, administered, and graded by an independent organization. The Secretary would determine that the organization is truly independent of the institutions that would be using the test to establish their students' ability to benefit.

The test would measure the student's ability to complete successfully the course of study for which the student has applied for admission. Requiring that a student pass a test in order to obtain Federal student financial assistance would significantly reduce the abuse of the ability to benefit criterion by limiting institutions' ability to enroll inadequately prepared students in order to increase the Federal funds flowing to the institution. More than one test could be developed for purposes of this provision in order to measure appropriately a student's ability to complete a particular type of educational program.

The appropriate accrediting agency would determine what constitutes a passing score on the test. However, if the Secretary determines that students who achieved passing scores on the test are not achieving substantially the same graduation, job placement,

or State licensing examination pass rates as students attending the same institutions who received their high school diplomas or GEDs prior to admission to such institutions, the Secretary may establish a different passing score, require a different accrediting agency to establish the passing score on the test, or require that a different test be administered to students seeking admission at that institution. The Secretary could also consider this information in re-evaluating the recognition by the Secretary of the agency that established the passing score as a reliable authority as to the quality of training offered by the institutions it accredits. These amendments would enable the Secretary to ensure that the testing process is objective and that the test truly measures students' ability to benefit from the training offered.

Section 10 of the bill would also make a minor conforming amendment to section 481(d) of the Act to eliminate the prohibition against the Secretary promulgating regulations defining the admissions procedures or remediation programs that must be used by an institution in admitting ability-to-benefit students. This prohibition would no longer be relevant to the terms of section 484(d) of the Act as amended by this section of the bill.

Section 11. Section 11 of the bill would amend section 485(a) of the Act to require that any institution with a default rate (as defined in proposed section 430B(e) of the Act) in excess of 25 percent implement a refund policy that would require the institution to refund a share of tuition fees, room and board, and other charges assessed the student by the institution, in increments related to the amount of time remaining in the enrollment period at the time the student withdraws. Section 10 of the bill would specify how the amount of time remaining in the enrollment period would be calculated for programs measured in credit hours and clock hours and for correspondence programs. If a student withdraws after completing at least 50 percent of the period of enrollment, the institution would be permitted to retain the full amount charged for the enrollment period. The institution would also be permitted to retain its initial administrative expenses, as defined in regulations. A refund would be credited against title IV assistance awarded to the student with Stafford Loans being credited first, followed in order by Perkins Loans and other title IV assistance. These amendments would help to minimize the problem of defaults by students who drop out near the beginning of a program of study.

Section 12. Section 12 of the bill would amend section 485B(c) of the Act to require the Secretary to conduct a demonstration project to examine the feasibility and cost-effectiveness of requiring lenders, guaranty agencies, and institutions of higher education to verify information and obtain eligibility or other information through the National Student Loan Data System prior to making, guaranteeing or certifying loans. Upon satisfactory completion of the demonstration project, the Secretary would require the use of the Data System for such verification, which is prohibited under current section 485B(c) of the Act. The use of the system as a verification tool could save taxpayers millions of dollars annually in erroneously awarded student assistance by providing an effective means of enforcing loan limits and the prohibitions that are in current law against the providing of further aid to loan defaulters.

Section 13. Section 13 of the bill would amend section 487(a)(8) of the Act to require that an institution that offers undergraduate nonbaccalaureate vocational training programs designed to prepare students for a particular career field must publish and make available to prospective students the most recent available data concerning its retention and graduation statistics, job placement rates in the field for which the training is provided, the relevant State licensing requirements and the pass rate of the institution's graduates on relevant State licensing examinations. If students were more informed, they would be better equipped to select an appropriate educational program, and less likely to drop out (and default on their student loans) because the programs failed to meet their expectations. Similarly, students who are aware of an institution's job placement rate and State licensing examination pass rate would have a better idea of their employability after graduation, and, consequently, their ability to repay their student loans.

Section 14. Section 14 of the bill would amend section 490(a) of the Act to authorize the imposition of criminal penalties for attempted fraud, embezzlement, theft, or misapplication of title IV funds, or for causing another person to commit these offenses. The imposition of a criminal penalty should not depend on whether an individual actually commits one of the offenses described, simply attempts to do, or causes another person to commit such an offense. With this amendment, section 490 of the Act would have greater impact on those who would consider defrauding the Government, and the taxpayer, of title IV funds.

Section 15. Section 15 of the bill would provide the effective dates for the amendments made by the bill.●

By Mr. BENTSEN (for himself, Mr. DIXON, Mr. SIMON, Mr. METZENBAUM, and Mr. HEFLIN):

S. 1779. A bill to change the tariff treatment of certain brooms wholly or in part of broom corn; to the Committee on Finance.

TARIFF TREATMENT OF CERTAIN BROOMS

● Mr. BENTSEN. Mr. President, today I introduce a bill to correct an inadvertent change in the tariff treatment of brooms, made in part of broom corn, occasioned by the changeover to the harmonized tariff schedule [HTS]. This bill would cause brooms in essential character of vegetable materials or twigs and containing broom corn to be classified in subheadings 9603.10.10 through 9603.10.60 rather than 9603.70. In so doing, it would restore the tariff treatment these brooms received before the implementation of the HTS. Enactment of this bill would not result in revenue loss.

Due to its traditional practice of employing handicapped people, the broom manufacturing industry has been favored since 1965 by a tariff rate quota. The current quota allows up to 121,478 dozen imported brooms made of broom corn and valued at no more than 96 cents to enter at 8 percent duty; brooms of 96 cents or less in value which exceed the quota are to be assessed 32 cents each, while brooms valued above 96 cents are subject to a 32-percent duty.

The current concern among broom manufacturers stems from the deletion of the words "wholly or in part" from the tariff schedules when the United States implemented the harmonized tariff schedule. The omission of these words resulted in a recent Customs ruling stating that brooms not in essential character of broom corn are not broom corn brooms and, therefore, not classifiable under the subheading which would make them subject to the quota and higher tariff rates. If allowed to stand, this ruling may result in a substantial increase in the number of brooms entering the country at a substantially lower duty rate or duty-free. Major revision of this tariff and quota, if desirable, should be the result of negotiation with our trading partners, not of a unilateral U.S. tariff concession based on an omission.

In sum, Mr. President, I am offering this legislation to correct the inadvertent omission of four words. I am pleased to state that Senators DIXON, SIMON, METZENBAUM, and HEFLIN are cosponsors of this bill. I ask unanimous consent that a copy of the bill be printed following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1779

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BROOMS.

Chapter 96 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended—

(1) by inserting "wholly or in part" after "Whiskbrooms," in the superior article description for subheading 9603.10.10; and

(2) by inserting "wholly or in part" after "brooms," in the superior article description for subheading 9603.10.40.

SEC. 2. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.●

By Mr. DOLE (for Mr. WILSON):

S.J. Res. 217. Joint resolution to designate the period commencing February 4, 1990, and ending February 10, 1990, as "National Burn Awareness Week"; to the Committee on the Judiciary.

NATIONAL BURN AWARENESS WEEK

● Mr. WILSON. Mr. President, I rise today to address a serious problem little noticed in America—except by those who are its victims. I am referring to those persons who are tragically injured in fires, an alarming number of whom are children and older Americans.

To help prevent these injuries, I am introducing a joint resolution designating the week of February 4, 1990, as

"National Burn Awareness Week." This resolution is essential for public awareness in the prevention and treatment of burn victims.

The United States has the worst burn injury problem of any industrialized country. Each year, over 2 million individuals are victims of burn injuries, approximately half of whom are children.

Seventy thousand of these individuals are hospitalized and another 6,000 die from the results of the burns, making burn injuries one of the leading causes of accidental death in the United States.

The survivors of burn injuries must undergo very costly and lengthy medical treatments, and are often subject to deep psychological scars as a result of the ordeal.

One of the most frustrating aspects of these injuries and fatalities, is that so many of the accidents need never have occurred. The majority of these accidents are the result of carelessness or lack of education. Approximately 75 percent of these injuries could have been prevented or minimized by very basic education in burn hazard awareness, prevention, and response to crisis situations.

Executing the "stop, drop, and roll" procedure, for example, can mean the difference between a minor injury and a fatal one. Consider the children that are found every year in the closet, or under the bed, of a house that burned down. In each instance, a life might have been saved by teaching the child that one cannot hide from fire.

While much of this information may appear to be fundamental, America's burn death and injury problem is evidence that this information is not common knowledge. By promoting public awareness and understanding about burns, this resolution provides Congress with an opportunity to make an impact on this very serious problem.

Educating the public to the needless tragedy of burn injuries requires continuing and expanding the efforts already underway. It is my hope that this resolution will help raise public consciousness and for the fifth consecutive year the second week in February will be called "National Burn Awareness Week."

I urge my colleagues to support this joint resolution by cosponsoring the establishment of "National Burn Awareness Week."

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 217

Whereas the burn problem in the United States is one of the worst of any industrialized nation in the world;

Whereas burn injuries are one of the leading causes of accidental death in the United States today;

Whereas every year over 2,000,000 people are victims of some form of burn injury in the United States alone, and children account for between one-third and one-half of this total;

Whereas of these injuries, over 70,000 are hospitalized and account for 9,000,000 disability days and $100,000,000 in costs annually;

Whereas over 6,000 people die from burn injuries annually, and the rehabilitative and psychological impact of burns is devastating;

Whereas young children are in the highest risk group suffering from hot liquid burns and injuries caused by child fire play and fire setting;

Whereas older adults and the disabled are also at great risk and extremely susceptible to burn injuries;

Whereas burn survivors often face years of costly reconstructive surgery and extensive physical and psychological rehabilitation in overcoming disabilities and fears of rejection by family members, friends, coworkers, schoolmates, and the public in general;

Whereas it is estimated that approximately 75 percent of all burn injuries and deaths could be prevented by a comprehensive national educational and awareness campaign and by changes in the design and technology of homes and consumer products;

Whereas a general public awareness of the need for smoke detectors and home fire escape plans, in combination with an understanding of the risk associated with items in the home environment, can cause a reduction of injuries and loss of life; and

Whereas there is a need for an effective national program that deals with all aspects of burn injuries and on the prevention thereof: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing February 4, 1990, and ending February 10, 1990, is designated as "National Burn Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States and all Federal, State, and local government officials to observe that week with appropriate programs and activities.●

By Mr. INOUYE (for himself, Mr. ADAMS, Mr. BINGAMAN, Mr. BOREN, Mr. BUMPERS, Mr. BURDICK, Mr. BURNS, Mr. COCHRAN, Mr. CONRAD, Mr. CRANSTON, Mr. DASCHLE, Mr. DECONCINI, Mr. DODD, Mr. DOMENICI, Mr. GARN, Mr. GORTON, Mr. HOLLINGS, Mr. JOHNSTON, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MATSUNAGA, Mr. MCCAIN, Mr. MCCLURE, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. NUNN, Mr. PACKWOOD, Mr. PRYOR, Mr. REID, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. SASSER, Mr. SHELBY, and Mr. WIRTH):

S.J. Res. 218. Joint resolution to designate the week of December 3, 1989, through December 9, 1989, as "National American Indian Heritage Week"; to the Committee on the Judiciary.

NATIONAL AMERICAN INDIAN HERITAGE WEEK

Mr. INOUYE. Mr. President, I am pleased to introduce a Senate joint resolution designating the week of December 3 to 9, 1989, as the "National American Indian Heritage Week."

For the past 3 years, the Congress has designated a week to recognize the rich cultural heritage of native Americans in the United States and the significant contributions they have made to American society.

During this celebration week, tribes, organizations, communities, educators, and certain Federal agencies observe the American Indian Heritage Week. Activities are planned focusing on native American culture, religion, history, language, and art.

At schools across the country, native American speakers, artists, dancers, crafts people, and Indian elders share their skills and knowledge with the younger generations of Indians and non-Indians. For the Indian students the positive benefits are enhanced self-esteem, pride, and self-awareness. For the non-Indian students, this week fosters an appreciation of the culture and heritage of their Indian friends.

The week designated is during a time when fall harvest ceremonies are conducted in Indian communities to give thanks for a good year's crop.

Mr. President, it is a little known fact that this country's democratic form of government had its origins in the governmental organization of the Iroquois Confederacy, or that without the assistance of the Indian nations, the Revolutionary War would not have been won, and this Nation would still be a colony of England. History records only as a footnote that it was the Indian people who kept General Washington's troops alive over the winter in Valley Forge.

What is more commonly known are the magnificent contributions native Americans have made to the art, music, dance, and fundamental values of this country. Their significant cultural legacy is unequaled in American society, and their contemporary contributions are significant.

Mr. President, I believe that this Nation's first Americans—who protected and cared for the lands that now form the United States in a manner that no custodian since have ever done—and whose culture and traditions and values are alive and well and flourishing deserve the greatest honor. It is, I believe, appropriate, that this week be designated as American Indian Heritage Week so that we might all remember our origins, and how much we owe to the American Indian people.

By Mr. MITCHELL (by request):

S.J. Res. 219. Joint resolution approving the report of the President submitted under section 252(c)(2)(C)(i) of the Balanced Budget and Emergen-

cy Deficit Control Act of 1985, as amended; to the Committee on Appropriations.

AFFIRMING CHANGES IN OUTLAY REDUCTIONS WITHIN THE DEFENSE MAJOR FUNCTION CATEGORY

Mr. MITCHELL. Mr. President, I introduce, at the request of the President, a joint resolution affirming changes in the outlay reductions ordered by the President within the defense major functional category.

To the extent that the President's request complies with the Gramm-Rudman-Hollings law, that law requires the majority leader to introduce this joint resolution. I do so today reserving judgment as to whether the report submitted by the President complies with the requirements for that report set forth in section 252(c)(2) of that law, and I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 219

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the report of the President as submitted on October 19, 1989, under section 252(c)(2)(C)(i) is hereby approved.

ADDITIONAL COSPONSORS

S. 350

At the request of Mr. LOTT, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 350, a bill to repeal section 89 of the Internal Revenue Code of 1986 (relating to rules for coverage and benefits under certain employee benefit plans).

S. 562

At the request of Mr. RIEGLE, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 562, a bill to amend the Social Security Act to provide for improvements in services to applicants and beneficiaries under the old-age, survivors, and disability insurance program and the supplemental security income program.

S. 856

At the request of Mr. MURKOWSKI, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 856, a bill to amend title 13 United States Code and the International Investment and Trade in Services Survey Act to improve the quality of data on foreign investment in the United States.

S. 1277

At the request of Mr. FORD, the names of the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 1277, a bill to amend the Federal Aviation Act of 1958 to prohibit the acquisition of a controlling interest in an air carrier unless the Secretary of Transportation has made certain determinations concerning the effect of such acquisition on aviation safety.

S. 1290

At the request of Mr. SIMON, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 1290, a bill to guarantee a work opportunity for all Americans, and for other purposes.

S. 1381

At the request of Mr. KASTEN, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1381, a bill to amend the Internal Revenue Code of 1986 to increase to 100 percent and make permanent the deduction for health insurance for self employed individuals.

S. 1646

At the request of Mr. LEVIN, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from Illinois [Mr. SIMON], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of S. 1646, a bill to implement key provisions of the Great Lakes Water Quality Agreement to protect and restore the Great Lakes.

S. 1651

At the request of Mr. MCCAIN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1651, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United States Organization.

S. 1653

At the request of Mr. BAUCUS, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1653, a bill to preserve the solvency of the railroad retirement system.

S. 1698

At the request of Mr. GORE, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1698, a bill to amend the Communications Act of 1934 to provide for fair marketing practices for certain encrypted satellite communications.

S. 1752

At the request of Mr. HEINZ, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1752, a bill to exclude the Social Security Trust Funds from the deficit calculation and to extend the target date for Gramm-Rudman-Hollings through fiscal year 1997.

SENATE JOINT RESOLUTION 198

At the request of Mr. SIMON, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Washington [Mr. ADAMS], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 198, a joint resolution designating November 1989 as "An End to Hunger Education Month."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Friday, October 20, beginning at 2 p.m., to hold a hearing to hear Forrest J. Remick, nominated by the President to be a member of the Nuclear Regulatory Commission and David C. Williams, nominated by the President to be Inspector General, Nuclear Regulatory Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 20, 1989, to hold a hearing on the nominations of Dr. James B. Wyngaarden of North Carolina, and Dr. J. Thomas Ratchford of Virginia, to be Associate Directors of the Office of Science and Technology Policy [OSTP].

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Friday, October 20, 1989, at 10 a.m. to conduct a hearing on the HUD section 8 Moderate Rehabilitation Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on October 20, 1989, beginning at 9 a.m., in 485 Russell Senate Office Building, on the National Indian Forest and Woodland Enhancement Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on October 20, 1989, at 2 p.m., to hold a hearing on judicial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

LET THE OSPREY FLY

● Mr. BENTSEN. Mr. President, there are times when old ways of doing things are not good enough, when technological breakthroughs open up almost limitless new opportunities that previously were unthinkable.

In science, sports, even politics, often the most important spur to revolutionary developments is the proof that something can happen. The first splitting of the atom, the first heart transplant, the first 4-minute mile, and maybe now even the first voluntary relinquishment of power by a Communist government.

When radically new technology appears in military weaponry, however, we have been slow to adopt it or to adapt our planning to it. For decades, the U.S. Navy resisted iron-clad, steam-powered ships and later submarines. The U.S. Army was steadfastly defending the viability of horse cavalry even after the German blitzkrieg into Poland demonstrated that tanks were the king of the battlefield.

Now we are witnessing another giant leap forward in aircraft technology—the tilt-rotor V-22 Osprey, which combines the advantages of maneuvering helicopters and fast, long-distance airplanes. But this system is being resisted by Pentagon number crunchers who say it costs too much for a marginal mission.

That is a terribly short-sighted view, Mr. President. It is based on a closed logic that is internally consistent but narrow and incomplete. It also depends upon the accuracy of its assumptions regarding future conflicts.

In Thursday's Washington Post a well-regarded defense analyst criticizes the opponents of the V-22 Osprey precisely for their fixation on outdated scenarios. Dov S. Zackheim, formerly Deputy Undersecretary of Defense, says the V-22 "is an innovative response to the dilemma posed by unforeseen demands for military operations, in scenarios where precise measurement of benefits is impossible."

Mr. Zackheim also notes that our forces will need the kind of flexibility the V-22 provides for contingencies outside of Europe, where the Marines are most likely to be used.

Mr. Zackheim's article underscores the potential value of the V-22 in a world more often turbulent and chaotic rather than neatly ordered and predictable. He answers the systems analysts by dismissing the relevance of their most cherished scenarios. And he strengthens my own belief that the V-22 is necessary—not only for its planned mission for the Marine Corps, but also for many other missions as well.

Mr. President, I hope that we are wise enough to see the possibilities offered by this new technology which are still just beyond the horizon.

I ask that the article by Mr. Zackheim be reprinted in the RECORD.

The acticle follows:

LET THE OSPREY FLY: IT'S EXPENSIVE AND WORTH EVERY DOLLAR IT COSTS—HERE'S WHY

More than a quarter of a century has passed since Robert McNamara introduced cost/benefit and systems analysis to a skeptical Pentagon. Since then, the quantitative approach to weapons program evaluation has become the Defense Department's norn. Nearly all new weapons systems are now justified in terms of what is claimed to be rigorous analysis.

A key element of such analysis has been the presumption of certainty regarding real-world conditions in which the weapons in question might be employed. For example, if one assumed a fixed period in which troops must be moved to Europe before a war ("warning time," in the Pentagon's parlance) one could then employ hard quantitative analysis to choose among competing ways to move the troops within the time required. But if one were not certain of the length of warning time nor, indeed, certain as to where the war might take place, the so-called "measures of effectiveness" that determine the benefits that competing systems offer could not long be defined in precise terms.

For years the Pentagon has attempted to sidestep the analytical dilemma posed by unpredictable scenarios. Systems analysts have postulated a highly stylized sequence of events calling for a Warsaw Pact invasion of Western Europe after NATO had but 10 days in which to prepare its defenses. The benefit of various land and tactical air programs was measured on the basis of their ability to meet requirements generated by this scenario.

Maritime forces were another matter, however. The Navy and Marine Corps have constantly been called upon to intervene in a host of contingencies whose occurrence had not been forecast. In turn, these services have stressed the importance of multipurpose units whose utility would be valuable whatever the contingency. Pentagon programmers, particularly in the Office of the Secretary of Defense, bitterly opposed many maritime programs in no small part because they did not lend themselves to quantitative analysis. As a result, the past 30 years of U.S. military development have witnessed countless battles between OSD and the Navy Department over aircraft carriers, amphibious ships and various fighter planes. In each case, the OSD staff cited high costs and uncertain benefits and preferred other systems.

The long-standing mind-set of Pentagon programmers has led to their opposition to the Marine Corps' V-22 Osprey program virtually since its inception. Osprey is a hybrid fixed-wing aircraft and helicopter. It offers the Marines unusual flexibility in moving troops from ship to shore. It is an innovative response to the dilemma posed by unforeseen demands for military operations, in scenarios where precise measurement of benefits is impossible. But it is extremely costly. It fails the test of precise cost/effectiveness measurement, because its effectiveness does not lend itself to measurement.

Not surprisingly, elements within the Office of the Secretary of Defense have disapproved of Osprey since its inception. After failing to persuade two previous Secretaries of Defense to kill the Osprey, these critics were able to win over Dick Cheney. The Department of Defense has therefore asked Congress to cancel the Osprey. The House Appropriations subcommittee on defense has resisted the Department of Defense's request and funded procurement of the plane. The Senate subcommittee has only funded continued Osprey research and development, an approach that still makes the Osprey's future highly uncertain.

Senate appropriators should ask themselves whether they wish to be aligned with those who will always opt for the familiar and measurable against the revolutionary and unquantifiable. The international climate is changing radically, to the consternation of McNamara's legatees. To be sure, Osprey makes less sense in the Pentagon's favorite NATO/Warsaw Pact scenario. But this vision of the world is losing credibility daily. The Soviets have announced unilateral force cuts in Europe, President Bush has set a one-year timetable for an agreement for mutual withdrawal of forces from Europe and the Warsaw Pact allies seem more intent on feuding among themselves than on mounting a threat to NATO. At the same time, the United States finds itself involved in an unanticipated conflict, a drug war that threatens to consume ever greater defense resources for programs whose effectiveness cannot be measured in the old, conventional ways. Moreover, the potential for military intervention outside Europe has not receded, and the demands for flexibility—to deal with whatever contingency might arise—are likely to grow. The systems analysts have problems. The world is passing them by.

Many senators have continually asserted that there must be a match between resources and strategy and that our strategy must be forward-looking rather than leading us to prepare to fight yesterday's war tomorrow. The Osprey is one of the first opportunities for Congress to make a statement—in concrete terms—about the importance of supporting programs that are relevant to a strategy that accounts for the current flux in the international climate. If the senators believe their own assertions, they can act on them by yielding to their House counterparts so that the Osprey will support the Marines in battles that no one can predict but are certain to materialize.●

PANAMA COUP ATTEMPT

● Mr. COCHRAN. Mr. President, our distinguished colleague from Maine [Mr. COHEN], wrote a very thoughtful and persuasive Op-Ed article for the Washington Post this week on the subject of the Panama coup attempt.

He carefully reviews the facts and concludes that President Bush made the correct decision not to commit U.S. troops to the attempt. I concur.

I invite the attention of the Senate to this helpful discussion of the questions which have been raised about this issue.

[From the Washington Post, Oct. 17, 1989]

NORIEGA: NOT WORTH AMERICAN KILLING

(By William S. Cohen)

The recent attempt to topple Manuel Noriega from power succeeded only in directing a torrent of criticism toward President

Bush. A flock of hawks has been released on Capitol Hill. Liberals and conservatives, now sporting the same plumage, rage over the president's alleged irresoluteness. Where was the firepower to match the heated rhetoric? Why urge others to overthrow Noriega if we were not prepared to help? Why did the tough stand down when the going got tough?

White House and Pentagon officials respond that they were dealing with individuals of questionable reliability under circumstances involving the absence of solid information and sound military planning. Moreover, just to remind everyone that the finger of fault swings in a wide arc—they assert that our intelligence deficiencies were the direct product of congressional micromanagement and intermeddling.

Based upon the facts presented thus far, I believe President Bush made the correct decision not to send American forces into the heart of Panama City. Indeed, had American soldiers walked into a trap or died needlessly because of patent planning gaps or miscalculations, the president's critics would have pilloried him for recklessness or incompetence.

Indulging in recriminations is easy. A more productive exercise requires us to determine whether we should make fundamental changes in how we deal with foreign leaders we deem corrupt or inimical to our national interests. Several key issues need to be addressed:

Should the U.S. rule out the use of force to remove foreign leaders from power if they threaten American interests?

No, provided that such leaders pose a significant threat to interests that are clearly vital to our security.

If covert force is to be used, should guidelines be established that define permissible conduct on the part of U.S. personnel?

Yes. The president has the responsibility to establish a code of conduct for our diplomatic, military and intelligence personnel. Congress should provide advice and oversight, not management.

Were U.S. personnel hindered by unreasonable restraints (or fears) in providing assistance to Major Moises Giroldi's planned coup?

Perhaps. There is little doubt that the coup was poorly planned and executed. Critics of America's failure to provide more aggressive support for the coup suggest that U.S. officers at a minimum should have made sure Giroldi had a secure means to communicate with them, and that they should have advised the Panamanian officer of serious tactical flaws. This seems to be a reasonable enough suggestion, and yet it raises serious legal questions.

If, for example, the rebel officers had every intent of killing Noriega during the coup, then active support of these officers by U.S. personnel might have resulted in charges of their complicity in such assassination.

Should the current prohibition against assassinations be removed?

No. Following congressional disclosures of unsavory CIA activities during the 1950s and '60s, President Gerald Ford signed an executive order that banned all American personnel or agents from participating in assassination plots. Ronald Reagan reaffirmed that policy in 1981. While Executive Order 12333 is simple and unequivocal in its terms, it nonetheless poses significant factual and moral complexities in its application.

For example, what if the target of an attack is a group rather than an individual? Or the attack itself involves not a rifle's silver bullet but a bomb dropped from an FB-111? After all, Executive Order 12333 would appear to ban placing a poison pen in one of Col. Mu'ammar Qadhafi's jump suits, but permit the release of a gravity bomb from several thousand feet onto his desert compound. How is one then to presume? Does the law turn upon whether a bullet or bomb carries a victim's name?

These are not questions reserved for theologians, but practical difficulties confronting those who serve on the front lines of danger. In the killing zone there are many cruel anomalies. Morality there may be measured in meters. Combat soldiers may not slaughter unarmed civilians whom they believe are aiding our enemies. Yet pilots might incidentally vaporize an entire village with impunity if their purpose is to strike enemy strongholds.

The fact that it is difficult to determine the nature of an individual's intent, however, does not mean we should abandon any effort to make that determination.

President Bush intends to seek greater flexibility in dealing with coup-minded Panamanian military officers in the future. The principal problem now, of course, is that given Major Giroldi's fate, it is unlikely that anyone will undertake a coup without first placing a set of cross-hairs on Noriega's forehead. In that case it will be difficult to argue that his death will be incidental to the coup itself.

There is merit for the President and Congress to explore how we might clarify existing legal ambiguities that unwittingly may have reduced our intelligence officers to passive listening posts. Surely the executive can improve interagency communication, contingency planning and crisis management. But it would be a mistake to seize upon Major Giroldi's failed coup as a justification for removing the ban on assassinations.

We have a tendency to take snapshots of today's events and airbrush away unpleasant experiences from our past. But it is important to remember that America reaped no political rewards in the coups that resulted in the deaths of South Vietnam's President Ngo Dinh Diem and Chile's Salvador Allende. And many will always wonder whether our own attempts to murder Fidel Castro played a role in the assassination of President John Kennedy.

Manual Noriega is a brutal and corrupt dictator. Few will weep at his funeral. But we have made far more of him than he deserves. He is a menance to his people, but does not, as yet, pose an imminent threat to our vital interests. If he should threaten the lives of American citizens in Panama or interfere with our rights under the Panaman Canal treaties, we will have ample reason to move directly against him.

As for now, Noriega sits uncomfortably on a "throne of bayonets," and the day is not long when he will be forced to abandon it. The United States does not need to take a coup guide or an assassin's rifle from a locked closet and place it in the hands of surrogates to hasten that day.●

IN OPPOSITION TO LEGALIZING DRUGS

● Mr. LEVIN. Mr. President, in the past few months there have been a spate of articles and op-ed pieces suggesting that we ought to legalize drugs. I rise today to voice my opposition to such a policy.

Proponents of legalization make numerous arguments. All of them specious. One of the most far-fetched of these arguments is that if drugs were legal, fewer people would use them.

This argument flies in the face of the facts. Some of our European allies have experimented with legalization, only to watch as problems of drug abuse and addiction worsen. The New York Times carried an article about drug addiction in Italy, where heroin use is legal and consequently, out of control.

The article points out that there are 300,000 addicts in Italy, a country with a population of 57 million. That means that one out of every 190 persons is a heroin addict.

If the United States had the same per capita rate of addiction, there would be roughly 1.3 million heroin addicts, or two and a half times as many as we have now.

Proponents of legalization insist that, evidence to the contrary, we cannot be sure that if we legalized drugs, more people would abuse them. I disagree.

Examples like that of Italy are persuasive evidence that by legalizing drugs we undermine efforts to persuade children of the dangers of addiction. With the lower price sure to result from legalization, and absent the strong warning implicit in illegality, more people, especially youngsters, will experiment with drugs.

If more people try drugs, more people will become addicted. Is society really ready to write off millions of people to a dangerous and debilitating addiction?

I hope not.

Mr. President, I ask that the article from the New York Times, "Rising Heroin Use and Addict Deaths Alarm Italy, Where Drug is Legal" be printed in the RECORD.

The article follows:

RISING HEROIN USE AND ADDICT DEATHS ALARM ITALY, WHERE DRUG IS LEGAL

(By Marlise Simons)

MILAN, ITALY.—Calm as if on a coffee break, two young couples sat down on a bench in the Piazza della Republica and started shooting heroin into their arms.

"It's what we do," one of the young men said matter-of-factly, barely audible above the traffic din. The group seemed to draw their confidence from a national law that permits narcotics for personal use.

There are 100,000 or so heroin users in Milan, a city that the police now call the European heroin capital.

At a time when cocaine has started pouring into major cities and resorts around the Mediterranean, the police and health workers here bemoan the overwhelming heroin problem. They say that more than all other drugs, heroin still casts the nastier shadow, draws in more addicts, spreads AIDS and claims more and more lives.

"We find bodies in parks, in cars, in cellars," said Stefano Rea, chief of the crime squad of the national police in Milan. "Italy was a few years behind other countries with the drug problem. But like governments everywhere, we are not capable of handling it."

The rapid rise of heroin use in Italy has left the country with the largest number of drug-related deaths in Western Europe. In 1988, the Government said, 809 people died from heroin overdoses, almost three times the numbers in 1986. Health officials say that with people widely sharing needles, more than half the country's estimated 300,000 heroin users have been infected with AIDS.

In Milan, the country's thriving industrial center, the size and growth of the problem have left experts baffled and groping for the motives behind it.

This is Italy, people argue, a country where most young people continue to live with parents until marriage and where even hard liquor could never compete with the moderation of wine. Some look for parallels with American or European cities where heroin is an older problem.

"Northern Italy does not have the poverty of the American inner cities," a foreign drug expert said, "but traffickers have pushed the drug here because this is where the money is."

Social workers say there is no simple profile of the addict. They include factory workers in Turin, students in Padua and Venice and recruits on military bases. In Milan, many users are professionals, some even nurses or doctors.

"These are not the rebels of the 60's or the 70's," said Elena Rosci, who coordinates the 20 municipal drug treatment centers in Milan. "Now the situation is stranger, harder to understand. Many addicts have jobs, and most of them have regular contact with parents or live at home."

Treatment centers have opened mainly in Milan's newer neighborhoods, the vast and drab apartment complexes that sprang from the economic boom of the 1960's, a time when many Italians left their villages and moved to the cities of the north.

"These are neighborhoods of uprooted people," Mrs. Rosci said. "We are finding all the problems are worse here—alcoholism, mental problems and drugs."

Early in the day, sometimes in the evening, well-dressed young people arrive at the centers to see a doctor or a psychologist. Often they are accompanied by a parent or a relative. More than 2,000 users are getting treatment in the city clinics, Mrs. Rosci said. About 2,000 more go to two dozen private clinics, most of which are run by religious groups.

The heroin that is used here comes largely from Turkey and Syria and partly from Bangladesh and India, the police say. It comes overland, stashed away in the huge international trucks that often travel sealed and are inspected only at their final destination. Couriers also bring it in by plane or boat from South Asia.

FIRST ARRIVED 15 YEARS AGO

Heroin first arrived a decade and a half ago when Italy was a transshipment point for Europe and the United States, an American drug agent recalled. "The country is perfect for ports, close to the rest of Europe, and it had very experienced organized crime," he said.

The crime networks from southern Italy then opened a drive to market heroin in Italian cities in the early 1980's, the agent said, adding, "Now the crime families are jockeying for position and carving up the new cocaine business."

Italian courts have begun to tackle major importers, but the police say they have hardly made a dent. The police and social workers are also frustrated over the long debate in Parliament. Legislators have been bickering for more than a year over how to update Italy's 1975 drug laws. The Socialist Party wants to apply tougher punishments for dealers, seize their assets and ban permission to hold small quantities of narcotics for personal use. Others argue that drugs must be liberalized altogether to take the profits out of trafficking.

"We need tough, tough laws, sentences of 30 years," said Police Chief Rea, interrupting to bark orders into telephones in the office where he directs the 300-man crime squad. "What are the deterrents if you can earn huge profits and risk only three, four years in jail?"

Chief Rea and his colleagues insisted that they felt much encouraged by Washington's new drug offensive. But they pondered with clear reluctance the question of whether there was any wisdom in liberalizing drugs to outmaneuver the traffickers.

"It might lead to a drop in the delinquency," Chief Rea said. "But if the state sells or gives out drugs in a pharmacy, it should put the person immediately into a rehabilitation center and scale down use."

Staff members at the treatment centers disagree deeply over another major point in the parliamentary debate. This holds that addicts should be given the choice of going to jail or accepting obligatory rehabilitation.

"Any therapist can tell you that you cannot cure people who do not want to be cured," said Mrs. Rosci, the treatment coordinator.

Others reason that health workers have achieved little in the years of treating the addict as a helpless, sick person. "For a long time therapists were on the side of the sick addict," said Dr. Robert Bergonzi, who works at a large private drug clinic.

But he said he and many other therapists now believe that parents and others who yield influence should put more pressure on the addict.

"We are paying for a long time of tolerance in Italy," he said. "Now we have to go the opposite route."●

AFGHAN POLICY

● Mr. HUMPHREY. Mr. President, when the Soviets completed their withdrawal from Afghanistan last February the State Department proudly predicted that the Kabul regime was on the verge of collapse, and that the Soviets has abandoned any long-term military interests in Afghanistan. Many of the so-called Afghanistan experts around the country openly endorsed that assessment. There was one prominent and outspoken dissenter to that conventional wisdom: Rosanne Klass of Freedom House.

When I first established the Congressional Task Force on Afghanistan in late 1984. Rosanne Klass was one of the first Afghan experts I consulted. Over the years, the task force has relied heavily on her expertise and dedication to this issue. As director of the Afghanistan Information Center in New York, she is without question one of the foremost specialists on Afghanistan.

In her testimony before Congress and numerous articles Rosanne has consistently warned of the pitfalls in U.S. policy. Her writings about Afghanistan have been prophetic. She not only predicted the invasion of Afghanistan in the late seventies, but she accurately predicted the manner in which the Soviets would use the Geneva accords to cement their regime in Kabul. Nobody who read her impressive book "Afghanistan: the Great Game Revisted" should be surprised by what the Soviets are doing today in Afghanistan.

The editorial follows:

[From the Wall Street Journal, Oct. 18, 1989]

UNITED STATES MUST REASSESS AFGHAN POLICY

(By Rosanne Klass)

When the Soviets announced their last soldier has left Afghanistan in February, the voices of skepticism were all but drowned out by an international chorus of euphoria. It was "the Soviets' Vietnam." The Kabul regime would fall. Millions of refugees would rush home. A resistance government would walk into Kabul. Those who bought that illusion are now bewildered. Eight months after Gen. Boris Gromov walked across the bridge into the U.S.S.R., a Soviet-controlled regime remains in Kabul, the refugees sit in their camps, and the restoration of Afghan freedom seems as far off as ever.

But there never was a chance that the Afghan resistance would overthrow the Kabul regime quickly and easily. Sovet leaders said they would support their Kabul clients by all means necessary—and did. The U.S. said it would fully support the resistance—and didn't.

With the February 1987 U.N. accords "relating to Afghanistan," the Soviet Union got everything it needed to consolidate permanent control. The terms of the Geneva accords leave Moscow free to provide its clients in Kabul with assistance of any kind—including the return of Soviet ground forces—while requiring the U.S. and Pakistan to cut off aid. The only fly in the Soviet ointment was the last-minute addition of a unilateral American caveat, that U.S. aid to the resistance would continue as long as Soviet aid to Kabul did. But as soon as the accords were signed, American officials sharply reduced aid. In February 1989, when the Soviets said they had completed their pullout, the U.S. cut it further.

Not so the Soviets. Gen. Gromov himself said Soviet troops expected to leave behind more than $1 billion of military equipment and installations for the Kabul regime. Since the troop withdrawal, Moscow has poured in an additional $200 million to $300 million worth per month—nearly $2 billion since February, equivalent to the total U.S. aid to the resistance in nine years. This includes what Deputy Foreign Minister Yuli Vorontsov fetchingly called "new peaceful long-range weapons," including more than 800 SCUD missiles.

By early May, Moscow has delivered, for example, 1,000 trucks, about 100 tanks, artillery and hundreds of other combat vehicles.

Later that month, it added an entire tank brigade, including 120 T-72 tanks and more than 40 BMP state-of-the-art infantry fighting vehicles. By September, a new Reinforced Motorized Rifle Brigade with an additional 300 combat vehicles, 1,000 more trucks and 10,000 Soviet-trained Afghan troops has arrived in Kandahar. In the last few weeks, Moscow has added FROG-7B missiles, the bomber version of the An-12, MiG-23BN high-altitude aircraft, MiG-29s, which can outfly Pakistan's U.S.-built F-16s, and Sukhoi SU-27 fighter-bombers, which can outfly the MiG-29s.

Moscow claims this is all needed to protect the Kabul regime against the guerrilla resistance. It is well-known that the regular Afghan infantry is filled with reluctant conscripts. But this is not the entire Afghan army, and it is not long Kabul's only military force. Complete units have been trained and indoctrinated in the U.S.S.R. and other East bloc nations; 30,000 to 40,000 of these troops have returned.

In addition, the regime has established well-paid paramilitary forces totaling more than 100,000, including 35,000 Soviet-trained troops of the Interior Ministry (KHAD/WAD), which still is directed by 1,500 Soviet KGB officers. Even if not all these forces are committed to the regime they are now dependent on it. And thousands of Afghan children have been taken to the Soviet Union, where they are hostage for the behavior of their families.

Since 1981, Indian military advisers have been assisting the Kabul regime. In preparation for the withdrawal, Moscow, Kabul and New Delhi signed two agreements for several hundred newly civilian Indian experts to replace some of the more visible Soviet military personnel. Cuban military personnel also have been active in Afghanistan since 1979. The Soviets cut a deal with Iran: a future Iranian role in Afghanistan in exchange for Iranian support of Soviet policy. The deal was symbolized by the restoration of the Shi'ite Sultan Ali Keshtmand to the Afghan prime ministry.

Moreover, serious questions have been raised about the claimed withdrawal of Soviet forces. Before his assassination in 1988, President Zia of Pakistan repeatedly stated that fresh Soviet troops were being inserted into Afghanistan even as others were ostentatiously withdrawn. Rep. Bill McCullum (R., Fla.) reports that these included 20,000 to 30,000 Soviet Central Asian KGB Border Guards, ethnically indistinguishable from Afghans and wearing unmarked uniforms.

Meanwhile, the Kabul regime is increasingly successful at portraying the resistance as bloody-minded fanatics. In this they are aided by years of American, European, Pakistani and Saudi support for the most extreme factions—radical Islamic fanatics with leaders whose policies are anathema to the Afghan public. This heavy outside support for the worst has undermined better, moderate leaders.

In autumn last year, for example, the regime garrison at Kandahar was prepared to surrender the city to resistance moderates. At the last minute, however, Pakistani officials sent in Gulbuddin Hekhmatyar, perhaps the most hated and feared of the extremists, with a demand that the surrender be made to his forces. The deal fell through, and Kandahar remains a major regime base.

The resistance lacks not only air power, armor and expertise but often such essentials as maps, mine detectors, or even winter gloves. Experienced resistance commanders wanted to use guerrilla action and siege tactics to wear down the regime. Instead, they were pressured by Pakistan's ISI, the channel for their support, into attacking Jalalabad. They took more than 25% casualties; journalists report that they faced minefields without mine detectors. The wonder is not that the resistance has failed to topple the Kabul regime, but that it continues to exist and fight at all.

Last summer, in response to congressional criticism, the State Department and the CIA said they had resumed military aid to the resistance months after it was cut off; but it is not clear how much is being sent or when it will arrive. For months the resistance has been defenseless against air attack. Thus far there is no indication it has been re-supplied with Stingers or other anti-aircraft weapons. Indeed, U.S. officials have indicated to the press that the continuation of aid depends on what success the weakened resistance achieves by the end of this year. Moscow and Kabul must have found that information useful.

For a decade U.S. policy has been incoherent, based on miscalculation and the defense of bureaucratic and political turf. No settlement negotiated by others can force the Afghan people to give up their struggle. A cutoff of U.S. military aid would merely abandon them to die in vain. Creation of a new, realistic U.S. policy is long overdue.●

SECRETARY BENNETT'S VISIT TO IOWA

● Mr. GRASSLEY. Mr. President, last week I had the privilege of hosting the National Drug Control Policy Director, Dr. William Bennett, on a tour of my home State of Iowa. Secretary Bennett spent 24 hours seeing firsthand the problem of drugs in rural America. We had the opportunity to visit with Iowans who are involved with the many facets of the drug problem—State and local policymakers; residents of a low-income housing project; law enforcement officials; drug treatment center workers and residents; and students, teachers, and parents at a high school. I know Iowans were glad to have the ear of the President's top adviser for the war on drugs—and he was able to learn more about the problem in America's heartland and witnessed Iowans banding together to solve their drug problems.

While visiting the high school in Ogden, IA, we learned about a drug prevention program that is working. Students, parents, and teachers are all working together to promote drug-free lifestyles and help those who may have already become involved in drug use. I would like to include for the RECORD the speech presented by Mr. Stan Friesen, the principal at Ogden High School, welcoming Dr. Bennett on October 10, 1989.

STATEMENT PRESENTED BY STAN FRIESEN, HIGH SCHOOL PRINCIPAL

Secrtary Bennett, Senator Grassley, Senator Harkin, Congressman Tauke, welcome to Ogden and the Ogden Community Schools. Secretary Bennett, we want to say how pleased we are that you have come to Ogden so that we might share with you what we are doing and some of our needs and concerns.

What we are doing here in Ogden is being done in many schools, large and small, throughout Iowa; it is representative of the many positive things happening in Iowa's schools and communities.

In Ogden we have a program that is continually developing. We have a staff that tries to the best of our ability by offering our time and talents because we are concerned about the choices and decisions that young people face today.

I would first like to touch on some of the problems and concerns we have.

Drugs are readily available even in this small community ranging from alcohol, marijuana, speed, to crack and cocaine. We are not immune.

In a small community like ours, the problems of one student affects many other people, including the other students in the classroom. According to an annual study conducted by the Iowa Department of Education, our percentages of drug use and abuse are the same as in urban areas, but the impact may be greater because these people touch a greater percent of our local population.

If we are to win a War on Drugs, prevention and intervention must address us individually as well as society-wide. Communities and school systems like Ogden are ideal settings for identifying individual abuse and finding help for those abusing since they are not "hidden among the masses."

It is our hope that government resources will be accessible and sensitive to the needs of the smaller, rural areas. Of particular concern to us here in Ogden is a need for personnel to provide after-care for our students who have completed treatment. We do not have enough trained personnel to provide them with the support they need in this area.

Smaller schools and communities do not have enough personnel to complete mounds of paperwork when resources become available. It takes a lot of faith to hand out lots of money without tying excessive restrictions and paperwork to it, but we are asking you to have faith that we will use that support where and how it will do the most good for the young people in our local communities.

Comparisons are made in education between the United States and other countries. It seems we should also be making comparisons in drug law enforcement and making our laws tougher and to allow less judicial discretion, thus more consistency. Our young people need to see adults suffering tough penalties and they need to learn responsibility for their own actions through strong consequences.

We need support for our local law enforcement personnel, and strong county sheriff systems like we have in Boone County.

Alcohol abuse is the number one drug problem among our students. Alcohol commercials need to be taken off television, as was done with tobacco, where they have such a strong impact on our young people. We need positive role models presenting positive drug free messages in the media.

We believe this drug-alcohol is a major threat to our society and that efforts in controlling its use must be as diligent as in fighting nicotine and cocaine. We realize the power of the alcohol lobby and the pressures they bring on those involved in our political system. We need to reach students

nationwide about the effects of alcohol the way Surgeon General Koop did for AIDS, tobacco and his workshop on Drunk Driving.

Now, some of the things we are doing here in Ogden. We are sending materials with Jolene to describe in more detail what we are doing in the Ogden Schools, including personal letters from people who wanted to say something to you. I think it is important to note that our efforts here in Ogden were not brought about as a result of a crisis, a death or tragic accident, but because some of our young people expressed a desire and need for adult support.

We want our students to have the opportunity and knowledge needed to make intelligent choices, and not to be forced into decisions that will adversely affect their futures. We try very hard to recognize the importance education can have on drug usage and the importance of maintaining a positive learning climate, modeling values, and developing positive self-esteem. We must continue to support within our school systems education with a drug-free message, and education in parenting and family skills. We must emphasize positive self-esteem and coping skills so that appropriate choices can be made. We start this at a young age through our Elementary Counseling Program and Health Curriculum.

Our intervention efforts center around a Student Assistance Team of volunteers who have completed intervention training. We discuss concerns and information on students where problems are appearing. We do not diagnose, but we can and do try to recognize symptoms and seek the appropriate resources to help students in need. We maintain a respect for the student's need for confidentiality. Referrals come to the team from other teachers and school staff members, parents, and students' peers. That kind of trust is very important to the team's operation and effectiveness.

Our AKD Program—Activities, Kids, and Drugs—provides drug-free activities for our students, including New Year's Eve and Senior Class Night lock-ins, dances, and "beach" parties on the sand volleyball courts. Students and parents are actively involved in this phase of our program. Positive role models for our students, including Bruce Reimers and Anthony Munoz of the Cincinnati Bengals, have appeared in our classrooms and at meetings required for all students and their parents involved in co-curricular activities. We have taken groups of students of various age levels on retreats to provide educational and attitude-awareness activities.

One of the most important ingredients in any success we have had is the involvement of parents and community leaders. As a school system we cannot do it alone.

We find there is power in working as a group that can sometimes influence students in making choices about their drug use or non-use. Your visit here today gives us even greater integrity, and we appreciate that.

As a school staff and as a community we here in Ogden are doing what we feel we must do, what is our professional responsibility to do. The benefits come when people are willing to confront problems; when there is care and concern for helping these young people make the right choices, or helping them overcome the results of wrong choices.

On a personal note Secretary Bennett, we respect and appreciate the effort you are putting forth in the fight against drugs.

We are doing what we should be doing—caring about our students. Our young people are our nation's primary resource.

Now I am sure you have some questions, so fire away.●

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of calendar Nos. 302, 303, 304, 305, 306, 307, and 308 en bloc, that the committee amendments where appropriate be agreed to, that the resolutions be deemed read a third time and passed, that the preambles be agreed to and motions to reconsider the passage of the resolutions be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

EARTH DAY

The joint resolution (S.J. Res. 159) to designate April 22, 1990, as "Earth Day," and to set aside the day for public activities promoting preservation of the global environment, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 159

Whereas we face an international environmental crisis that demands the attention of the American people and citizens of every nation in the world, and we must build alliances that transcend the boundaries dividing countries, continents, and cultures in order to solve it;

Whereas we need to confront environmental problems of increasing severity, including climate change; depletion of the stratospheric ozone layer; loss of forests, wetlands, and other wildlife habitats; acid rain; air pollution; ocean pollution; and hazardous and solid waste buildup;

Whereas we must educate and encourage individuals to recognize the environmental impact of their daily lives by becoming environmentally responsible consumer, conserving energy, increasing recycling efforts, and promoting environmental responsibilities in their communities;

Whereas it will take major public policy initiatives to cure the causes of environmental degradation, such as phasing out the manufacture and use of chlorofluorocarbons, minimizing and recycling solid wastes, improving energy efficiency, protecting biodiversity, promoting reforestation, and moving toward sustainable development throughout the world;

Whereas almost twenty years ago, millions of Americans joined together on Earth Day to express an unprecedented concern for the environment, and their collective action resulted in the passage of sweeping laws to protect our air, our water, and the lands around us;

Whereas we must make the 1990s an "International Environment Decade", and forge an international alliance to respond to global environmental problems; and

Whereas to inaugurate this environmental decade, we must once again stand up together in cities, towns, and villages around the world for a day of collective action to declare our shared resolve: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 22, 1990, shall be designated and proclaimed as Earth Day, and that the day shall be set aside for public activities promoting preservation of the global environment.

INTERNATIONAL YEAR OF BIBLE READING

The joint resolution (S.J. Res. 164) designating 1990 as the "International Year of Bible Reading," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 164

Whereas the Bible, the Word of God, has made a unique contribution in shaping the United States as a distinctive and blessed Nation and People;

Whereas deeply held religious convictions springing from the Holy Scriptures led to the early settlement of our Nation;

Whereas many of our great national leaders, such as Presidents Washington, Jackson, Lincoln, and Wilson, paid tribute to the important influence the Bible has had in the development of our Nation;

Whereas President Jackson called the Bible "the rock on which our Republic rests";

Whereas the history of our Nation clearly illustrates the value of voluntarily applying the teachings of the Holy Scriptures in the lives of individuals, families, and societies;

Whereas, the Bible has had a profound positive effect in the shaping of individuals, families, and societies in many parts of the world;

Whereas, the Bible provides a major source of hope for the poor and repressed peoples of the world;

Whereas the family of nations now faces great challenges that will test international relationships as they have never been tested before;

Whereas the renewing of knowledge and faith in God through Holy Scripture reading can strenthen the family of nations and their respective people; and

Whereas numerous individuals and organizations around the world are joining hands to encourage international Bible reading in 1990: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1990 is designated as the "International Year of Bible Reading." The President is authorized and requested to issue a proclamation recognizing both the formative influence the Bible has had on many societies of the world and the need for world wide study and application of the teachings of the Holy Scriptures.

FIRE SAFETY AT HOME, CHANGE YOUR CLOCK, CHANGE YOUR BATTERY DAY

The joint resolution (S.J. Res. 177) designating October 29, 1989, as "Fire

Safety At Home, Change Your Clock, Change Your Battery Day," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 177

Whereas every year, 500,000 fires ravage the homes of Americans, resulting in over 6,000 deaths and 300,000 injuries;

Whereas home fires are the leading cause of accidental death and serious injury among children in the United States;

Whereas senior citizens, families in substandard housing, and the physically and mentally disabled are at high risk of becoming victims of fire;

Whereas 3 out of 4 homes have at least 1 smoke detector, but an estimated one-half are inoperable because of worn or missing batteries;

Whereas the International Association of Fire Chiefs estimates that the annual practice of changing batteries in smoke detectors would save thousands of lives and billions of dollars in property damage;

Whereas the Congressional Fire Services Caucus, with its broad-based bipartisan membership, reflects the concern of Congress for fire safety and its dedication to making it an important national priority;

Whereas the designation of a special day to remind Americans to properly maintain their smoke detectors, timed to coincide with the autumnal return to Standard Time, would greatly diminish this human tragedy; and

Whereas October 29, 1989, is the day Americans in jurisdictions on Daylight Savings Time return their clocks to Standard Time: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 29, 1989, is designated as "Fire Safety at Home—Change Your Clock, and Change Your Battery Day", and the President is requested to issue a proclamation calling upon the people of the United States to observe that day by maintaining their homes' first line of defense against fire by changing the batteries in their smoke detectors when they reset their clocks to Standard Time.

YEAR OF CLEAN WATER

The joint resolution (S.J. Res. 181) to establish calendar year 1992 as the "Year of Clean Water," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 181

Whereas, clean water is a natural resource of tremendous value and importance to the Nation;

Whereas, there is resounding public support for protecting and enhancing the quality of this Nation's rivers, streams, lakes, wetlands, and marine waters;

Whereas, maintaining and improving water quality is essential to protect public health, to protect fisheries and wildlife, and to assure abundant opportunities for public recreation;

Whereas, it is a national responsibility to provide clean water as a legacy for future generations;

Whereas, substantial progress has been made in protecting and enhancing water quality since passage of the 1972 Federal Water Pollution Control Act (Clean Water Act) due to concerted efforts by Federal, State, and local governments, the private sector, and the public;

Whereas, serious water pollution problems persist throughout the Nation and significant challenges lie ahead in the effort to protect water resources from point and nonpoint sources of conventional and toxic pollution;

Whereas, further development of water pollution control programs and advancement of water pollution control research, technology, and education are necessary and desirable; and

Whereas, October of 1992 is the 20th anniversary of the enactment into law of the Clean Water Act; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, the Congress of the United States hereby designates calendar year 1992 as the "Year of Clean Water" and the month of October 1992 as "Clean Water Month" in celebration of the Nation's accomplishments under the Clean Water Act, and the firm commitment of the Nation to the goals of that Act.

NATIONAL HOME CARE WEEK

The Senate proceeded to consider the joint resolution (S.J. Res. 184) to designate the periods commencing on November 26, 1989, and ending on December 2, 1989, and commencing on November 28, 1990, and ending on December 2, 1990, as "National Home Care Week," which had been reported from the Committee on the Judiciary, with amendments.

The amendments were agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, as amended, and the preamble, are as follows:

S.J. RES. 184

Whereas organized home care services to the elderly and disabled have existed in the United States since the last quarter of the 18th century;

Whereas home care is an effective and economical alternative to unnecessary institutionalization;

Whereas caring for the ill and disabled in their homes places emphasis on the dignity and independence of the individual receiving these services;

Whereas since the enactment of the medicare home care program, which provides coverage for skilled nursing services, physical therapy, speech therapy, social services, occupational therapy, and home health aide services, the number of home care agencies in the United States providing these services has increased from fewer than 1,275 to more than 12,000; and

Whereas many private and charitable organizations provide these and similar services to millions of individuals each year preventing, postponing, and limiting the need for them to become institutionalized to receive these services: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the periods commencing on November 26, 1989, and ending on December 2, 1989, and commencing on November 25, 1990, and ending on December 1, 1990, as "National Home Care Week" are designated as "National Home Care Week", and the President is authorized and requested to issue proclamations calling upon the people of the United States to observe such weeks with appropriate ceremonies and activities.

The title was amended so as to read: "A joint resolution to designate the periods commencing on November 26, 1989, and ending on December 2, 1989, and commencing on November 25, 1990, and ending on December 1, 1990, as 'National Home Care Week'."

NATIONAL QUARTER HORSE WEEK

The joint resolution (S.J. Res. 186) designating the week of March 1 through March 7, 1990, as "National Quarter Horse Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was greed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 186

Whereas the American Quarter Horse Association was founded on March 15, 1940, to record and preserve the pedigrees of American quarter horses, and continues to serve such purposes;

Whereas the American quarter horse has played a significant role in the development of the United States and contributed to the western heritage of the Nation;

Whereas the American Quarter Horse Association has developed into the largest equine registry in the world, with more than two million eight hundred thousand American quarter horses and two hundred thousand individuals located in the United States and sixty-two foreign countries;

Whereas the American quarter horse industry has become invaluable to the agriculture industry of the Nation, and American quarter horses are enjoyed by more individuals than any other breed of horse in the world; and

Whereas the American Quarter Horse Association celebrates its fiftieth anniversary in March 1990: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of March 1 through March 7, 1990, is designated as "National Quarter Horse Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

NATIONAL GLAUCOMA AWARENESS WEEK

The joint resolution (S.J. Res. 194) designating November 12-18, 1989 as "National Glaucoma Awareness Week," was considered.

Mr. LAUTENBERG. Mr. President, I am pleased to have sponsored with Senator DURENBERGER, and other colleagues, Senate Joint Resolution 194, a resolution to designate the week of November 12-18, 1989, as "National Glaucoma Awareness Week."

Glaucoma is the second leading cause of blindness among Americans and some in our country are at greater risk than others. It is the leading cause of blindness among black people. Glaucoma is also a particularly devastating disease of the elderly, and usually strikes in middle age or later. There is a higher risk of glaucoma among those with diabetes and among those with a family history of the disease.

This resolution will help focus attention on the efforts of those who are working to encourage prevention and early treatment of this crippling disease. Two million Americans are believed to have glaucoma, which must be treated promptly if loss of vision is to be prevented. Glaucoma can be controlled when detected early. Sadly, however, people are often unaware of the disease until their eyes have been permanently damaged.

Glaucoma can be detected by a routine eye examination. A relatively simple procedure can provide early detection and treatment and an opportunity to reduce the tragic costs so often associated with the disease.

Mr. President, it is my hope that "National Glaucoma Awareness Week" will help alert the public to the tragedy of this disease. Early detection and treatment can help to save precious eyesight.

The joint resolution (S.J. Res. 194) was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 194

Whereas glaucoma is the second leading cause of blindness among individuals in the United States;

Whereas glaucoma is the leading cause of blindness among black individuals in the United States;

Whereas the risk of blindness from glaucoma significantly increases in older age groups;

Whereas diabetes increases the risk of developing glaucoma;

Whereas at least two million individuals in the United States have glaucoma and at least 50 per centum of the individuals with glaucoma are unaware of it;

Whereas eighty thousand individuals in the United States are already blind from glaucoma and five million to ten million Americans are believed to have undiagnosed and elevated intraocular pressure, often a silent symptom of glaucoma;

Whereas early detection is critical to preventing blindness from glaucoma; and

Whereas periodic comprehensive eye examinations are the best means of detecting glaucoma and the number of individuals that receive examinations could be increased through greater public understanding, awareness, and education: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 12 through 18, 1989, is designated as "National Glaucoma Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

STAR PRINT—S. 1742

Mr. MITCHELL. Mr. President, I ask unanimous consent that a star print be made of S. 1742, the Federal Information Resources Management Act of 1989, to reflect the changes I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY

RECESS UNTIL 2:30 MONDAY, OCTOBER 23, 1989; MORNING BUSINESS; RESUME CONSIDERATION OF H.R. 1231

Mr. MITCHELL. Mr. President, I ask unanimous consent when the Senate completes its business today it stand in recess until 2:30 p.m. on Monday, October 23, 1989, and that following the time for the two leaders there be a period for morning business until 3 p.m., with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. I further ask unanimous consent that at 3 p.m. the Senate resume consideration of H.R. 1231, the Eastern Airlines bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2:30 P.M., MONDAY, OCTOBER 23, 1989

Mr. MITCHELL. I ask unanimous consent the Senate stand in recess under the previous order until 2:30 p.m. on Monday, October 23, 1989.

There being no objection, the Senate, at 2:42 p.m., recessed until Monday, October 23, 1989, at 2:30 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 20, 1989:

ENVIRONMENTAL PROTECTION AGENCY

LAJUANA SUE WILCHER, OF KENTUCKY, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

E. DONALD ELLIOTT, OF CONNECTICUT, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Friday, October 20, 1989*

The House met at 10 a.m.

The Reverend Charles Mallon, permanent deacon, Holy Family Church, Mitchellville, MD, offered the following prayer:

The earth is the Lord's and the fulness thereof, the world and those who dwell therein; for he has founded it upon the seas, and established it upon the rivers.—Psalm 24:1-2.

Father, secure within this legislative body that same spirit which was set forth within the preamble of our Constitution. Support them in their efforts to establish justice, to insure domestic tranquility specially to those areas experiencing the effects of our recent earthquake, to secure the blessings of liberty to ourselves and our posterity.

We ask this through Christ our Lord, who lives and reigns with You, now and forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from Michigan [Mr. KILDEE] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. KILDEE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3299. An act to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 3299) "An act to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990," disagreed to by the House, and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints: From the Committee on the Budget: Mr. SASSER, Mr. RIEGLE, Mr. LAUTENBERG, Mr. SIMON, Mr. SANFORD, Mr. FOWLER, Mr. DODD, Mr. DOMENICI, Mr. ARMSTRONG, Mr. BOSCHWITZ, Mr. GRASSLEY, and Mr. KASTEN; from the Committee on Agriculture, Nutrition, and Forestry: Mr. LEAHY, Mr. PRYOR, Mr. BOREN, Mr. LUGAR, and Mr. DOLE; from the Committee on Armed Services: Mr. NUNN, Mr. EXON, and Mr. WARNER; from the Committee on Banking, Housing, and Urban Affairs: Mr. RIEGLE, Mr. CRANSTON, Mr. SARBANES, Mr. DODD, Mr. SASSER, Mr. GARN, Mr. HEINZ, Mr. D'AMATO, and Mr. GRAMM; from the Committee on Commerce, Science, and Transportation: Mr. HOLLINGS, Mr. INOUYE, Mr. FORD, Mr. DANFORTH, and Mr. PACKWOOD; from the Committee on Energy and Natural Resources: Mr. JOHNSTON, Mr. BUMPERS, Mr. METZENBAUM, Mr. BRADLEY, Mr. WIRTH, Mr. MCCLURE, Mr. GARN, Mr. WALLOP, and Mr. MURKOWSKI; from the Committee on Environment and Public Works: Mr. BURDICK, Mr. MOYNIHAN, Mr. BAUCUS, Mr. BREAUX, Mr. CHAFEE, Mr. SIMPSON, and Mr. DURENBERGER; from the Committee on Finance: Mr. BENTSEN, Mr. MATSUNAGA, Mr. MOYNIHAN, Mr. BAUCUS, Mr. MITCHELL, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. PACKWOOD, Mr. DOLE, Mr. ROTH, Mr. DANFORTH, Mr. CHAFEE, and Mr. HEINZ; from the Committee on Governmental Affairs: Mr. GLENN, Mr. PRYOR, Mr. SASSER, Mr. ROTH, and Mr. STEVENS; from the Committee on Labor and Human Resources: Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. DODD, Mr. HATCH, Mrs. KASSEBAUM, and Mr. JEFFORDS; from the Committee on Veterans' Affairs: Mr. CRANSTON, Mr. MATSUNAGA, and Mr. MURKOWSKI; to be the conferees on the part of the Senate.

APPOINTMENT OF ADDITIONAL CONFEREES ON H.R. 3299, OMNIBUS BUDGET RECONCILIATION ACT OF 1989

The SPEAKER. Pursuant to the previous order of the House of October 18, 1989, the Chair makes the following supplemental appointment of budget reconciliation conferees:

As additional conferees [child care], for consideration of subtitles D and E of title III of the House bill, and modifications committed to conference: Mr. MILLER of California and Mr. FAWELL.

The second panel appointed from the Committee on Education and Labor is appointed also for consideration of section 11851 through 11894 of the House bill—additional pension provisions—and modifications committed to conference.

The Clerk will notify the Senate of the change in conferees.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

Washington, DC, October 20, 1989.

Hon. THOMAS S. FOLEY,

The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 6:17 p.m. on Thursday, October 19, 1989 and said to contain a message from the President whereby he transmits the Alternative Sequester Plan for Defense required by the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

With great respect, I am

Sincerely yours,

DONNALD K. ANDERSON,

Clerk, House of Representatives.

ALTERNATIVE SEQUESTER REPORT FOR THE DEPARTMENT OF DEFENSE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-101)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

(For message, see proceedings of the Senate of Thursday, October 19, 1989, at page S13752.)

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule 1, the Speaker signed the following enrolled bills and joint resolution on Thursday, October 19, 1989:

H.R. 801. An act to designate the U.S. Court of Appeals Building at 56 Forsyth Street in Atlanta, GA, as the "Elbert P. Tuttle United States Court of Appeals Building";

H.R. 3385. An act to provide assistance for free and fair elections in Nicaragua; and

H.J. Res. 380. Joint resolution designating October 18, 1989, as "Patient Account Management Day."

□ 1010

REPRESENTATIVE RON WYDEN CITES ROADBLOCKS TO COMMERCIALIZATION OF FEDERAL LAB TECHNOLOGIES

The SPEAKER. Under a previous order of the House, the gentleman from Oregon [Mr. WYDEN] is recognized for 30 minutes.

Mr. WYDEN. Mr. Speaker, the taxpayers of this country invest very heavily in both basic and applied scientific research. Last year the Federal Government spent at least $60 billion for scientific investigations ranging from the development of new weapons systems to discoveries which may lead to cures for cancer.

Federal science amounts to 50 cents of every research dollar, public or private, that we spend in this country.

Many of these federally sponsored inventions, discoveries, and findings are absolutely essential to America's ability to compete in global markets. In my view these are indeed the keys to the competitive kingdom, especially with respect to improvements in manufacturing processes and techniques.

Unfortunately, and despite many good efforts by Members of Congress on both sides of the aisle, the lab door of Federal laboratories has been blocked when it comes to American business, large and small, that comes calling for these crucial technologies that have been financed by the Federal taxpayer.

Mr. Speaker, unfortunately the administration has talked a great deal about taking steps to modernize our industrial base so we can better compete in global markets, but they have done very little to energize what ought to be a key element in that effort, and that is to take better advantage of the sprawling Federal laboratory system and its priceless shelf of stock of state-of-the-art technology.

Earlier this month I chaired a hearing investigating this problem in the Small Business Subcommittee on Regulation, Business Opportunities and Energy. That followed a year-long inquiry by the staff of that subcommittee.

We found that a variety of obstacles now face the business persons of this country as they attempt to buy or borrow technologies from Federal labs. In fact, the new evidence shows that only a trickle of the huge Federal technology treasure trove may in fact be reaching U.S. business.

While the taxpayer spends $60 billion for these new scientific investigations in Federal laboratories, the evidence shows that licensing payments to Federal researchers and institutions total less than $4 million, which means for the taxpayer a return on research investment in this country of vastly less than 1 percent.

I would be happy to share a staff memorandum on this issue so important to our global competitiveness with my colleagues, but would like to just briefly describe some of the findings as well as some of the criticisms of the Federal technology transfer process that were raised at that hearing.

First, over the last 10 years Congress has passed a number of pieces of legislation creating mandates and incentives to encourage the transfer of these key technologies from each of the more than 700 labs within the Federal system.

At this point, many labs have not even developed basic guidelines for commercialization of the inventions and findings that have been called for in the statutes. Some labs are actually evading the commercialization process by coming up with new and even more creative arguments that transferring technology would violate national secrecy and security agreements.

Some labs guarantee failure of commercialization efforts by failing to create sufficient administrative and legal systems to sell the patented technologies.

Second, we found that at the agency or department level there is no central repository of information which details the kinds of scientific inquiry being made by the labs or the findings that have taken place.

There is no top down political leadership that operates to ensure technology transfer. Some lab directors apparently feel it is not a major part of their mission, a perspective which may be encouraged by ongoing vacancies in many key administration positions that relate to technology transfer from our Federal labs.

Opportunities for industry-government cooperation in high-technology intensive developments, such as high definition television, have been sidetracked by the administration. Apparently they fear that pinpointing key changes for major leaps in technology development constitutes some kind of industrial policy, and that has been a concept that fails the administration's political litmus test, and again is another reason why we are seeing a real breakdown in the ability to transfer these key technologies from Federal labs to the private sector.

The President's new science adviser, Dr. Allan Bromley, testified at our committee and acknowedged the subcommittee's findings, making it clear that the current process of transferring these technologies from the labs is now fraught with "byzantine complexities."

I am very hopeful that Dr. Bromley is really committed now to permanent major changes in this process. He did tell our subcommittee that early next week he plans to have a new blueprint for technological development for this country's industrial base to circulate among Members of Congress and the administration, and agreed to add a specific section to the report at the subcommittee's request that would outline how the administration plans to improve the way in which key technologies are transferred.

I am very hopeful that we will see some positive results as a result of that proposed plan for technological development for our country and specifically the sections that relate to improving technology transfer, and certainly plan to share the report that will be made available by Dr. Bromley with our colleagues in the Congress.

The last point I want to mention, Mr. Speaker, relates to our high-tech competitors overseas. South Korea and others in Asia are taking great advantage of new technologies.

In Europe, 1992 developments create a unified common market, and that will produce a continental powerhouse for transferring new technologies.

Every one of these economic systems has a common characteristic about it, and that is a superb ability to turn technologies from private and public labs, including their own Federal labs, into marketable products. I think it is high time that our Federal labs helped American business do at least as well.

One of the particularly distressing bits of testimony that was given to our subcommittee revolved around the point that the Japanese and the Europeans are even better at taking advantage of technological innovation in this country than our own industries are.

For example, attorney Robert H. Brumley, former general counsel in the Commerce Department, said that the Japanese are not picking our pockets, the Europeans are not picking our pockets, they are literally picking the new technologies up off the table.

So we have a problem of getting the technology from the Federal labs in this country to private industry, but it is quite clear also that foreign competitors are doing a better job of getting these technologies out of our labs than our own industry is.

So I think, Mr. Speaker, that there is a great deal to do with respect to this vital issue relating to our ability to create good jobs for the future. Our labs are going to have to reexamine their commitment to technology transfer. They are going to have to build a new plan to commercialize these important inventions. It is my view that technology transfer has to be a priority clarified through appointments, programs, and execution at the very highest level of the administration.

Our technology-hungry industries deserve real service, quality service, from our Federal labs, and not lip service. Our subcommittee intends to monitor these proceedings very carefully in the days ahead.

Mr. Speaker, I yield back the balance of my time.

□ 1020

DIRE EMERGENCY DISASTER SUPPLEMENTAL APPROPRIATIONS

(Mr. WHITTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WHITTEN. Mr. Speaker, we all extend our deepest sympathy to the people of California and South Carolina because of the losses and hardships they are encountering because of the terrible tragedies which have hit their States and to the people of other areas affected where the loss of life and property is less. We all wish to extend on a national basis such aid and assistance as is available under existing law.

To that end I have introduced a bill today, for myself and on behalf of the member of the delegations of the State of California and the State of South Carolina and other areas affected by natural disasters of a national scale, House Joint Resolution 423, providing dire emergency supplemental appropriations to meet the needs of natural disasters of national significance. The bill reads as follows:

H.J. RES. 423

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution of September 29, 1989 (Public Law 101-100), is hereby amended by striking out "October 25, 1989" and inserting in lieu thereof "November 15, 1989" in section 102(c), and by adding the following new section:

"SEC. 108. (a) For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), an additional $1,100,000,000 for fiscal year 1990 to meet the present emergency, to remain available until expended.

"(b) For an additional amount to meet the present emergency to the Emergency Fund authorized by 23 U.S.C. 125, $1,000,000,000, to be derived from the Highway Trust Fund: *Provided,* That the provisions of 232 U.S.C. 120(f)(1) and 125(b)(1) shall not apply to amounts available in this Fund: *Provided further,* That obligations made from this Fund shall be in addition to the limitation on obligations established in the Department of Transportation and Related Agencies Appropriations Act, 1990.

"(c) For additional capital for the "Disaster loan fund", authorized by the Small Business Act, as amended, $500,000,000, to remain available without fiscal year limitation to meet the present emergency of which not to exceed $30,000,000 may be transferred to the "Salaries and expenses" account of the Small Business Administration for disaster loan servicing and disaster loan making activities.

"(d) For an additional amount necessary to enable the President to meet unanticipated needs to meet the present emergency arising from the consequences of the recent natural disasters, there is appropriated $250,000,000, to remain available until expended: *Provided,* That these funds may be transferred to any authorized governmental activity to meet the requirements of the natural disasters.

"(e) Such other amounts will be made available subsequently as required.

"(f) Obligations incurred under this section shall not be a charge against the Budget Act, Gramm-Rudman-Hollings, or other ceilings.

"This section may be cited as the fiscal year 1990 Dire Emergency Supplemental to Meet the Needs of Natural Disasters of National Significance.".

CONFERENCE REPORT ON H.R. 2991

Mr. SMITH of Iowa submitted the following conference report and statement on the bill (H.R. 2991) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-299)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2991) "making appropriations for the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies for the fiscal year ending September 30, 1990, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 18, 32, 37, 84, 85, 98, 109, 111, 116, 121, 127, 130, 133, 159, 161, 163, 180, 183, 184, 185, 188, 190, and 192.

That the House recede from its disagreement to the amendments of the Senate numbered 3, 4, 6, 11, 25, 42, 52, 91, 112, 125, 134, 142, and 160, and agree to the same.

Amendment numbered 114:

That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$4,400,000;* and the Senate agree to the same.

Amendment numbered 162:

That the House recede from its disagreement to the amendment of the Senate numbered 162, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$82,000,000;* and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 2, 5, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31, 33, 34, 35, 36, 38, 39, 40, 41, 43, 44, 45, 46, 47, 48, 49, 50, 51, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 86, 87, 88, 89, 90, 92, 93, 94, 95, 96, 97, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 110, 113, 115, 117, 118, 119, 120, 122, 123, 124, 126, 128, 129, 131, 132, 135, 136, 137, 138, 139, 140, 141, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 181, 182, 186, 187, 189, and 191.

NEAL SMITH,
BILL ALEXANDER,
JOSEPH D. EARLY,
BERNARD DWYER,
BOB CARR,
ALAN B. MOLLOHAN,
JAMIE L. WHITTEN,
HAL ROGERS,
RALPH REGULA,
JIM KOLBE
SILVIO O. CONTE,
Managers on the Part of the House.

ERNEST F. HOLLINGS,
DANIEL K. INOUYE,
DALE BUMPERS,
FRANK R. LAUTENBERG,
JIM SASSER,
BROCK ADAMS,
ROBERT C. BYRD,
WARREN B. RUDMAN,
TED STEVENS,
MARK O. HATFIELD,
ROBERT W. KASTEN, Jr.,
PHIL GRAMM,
JAMES A. MCCLURE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2991) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for the fiscal year ending September 30, 1990, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action by the managers and recommended in the accompanying conference report:

FUNDING THE WAR ON DRUGS

Included in this bill are the departments and agencies involved in law enforcement efforts against illegal drug trafficking. The total of the conference agreements for the drug-related accounts in H.R. 2991, when added to total amounts included in Title IV of H.R. 3015 for those accounts, exceeds by $186,000,000 the amounts requested by the Administration for fiscal year 1990, including the budget amendments to combat violent crime and to implement the national drug control strategy. The following table identifies the total amount available for the agencies fighting the war on drugs in the Department of Justice and the Judiciary:

FISCAL YEAR 1990 FUNDING—DRUG-RELATED AGENCIES

[In millions of dollars]

	Budget request	Conference H.R. 2991*	Title IV H.R. 3015	Total available
Department of Justice:				
General administration	$101	$87	$10	$97
General legal activities	304	258	41	299
U.S. attorneys	526	445	81	526
U.S. marshals	241	217	24	241
Support of U.S. prisoners	160	137	23	160
Fees and expenses of witnesses	57	57		57
Assets forfeiture fund	100	75	25	100
Organized crime drug enforcement	215	169	46	215
Federal Bureau of Investigation	1,550	1,453	97	1,550
Drug Enforcement Administration	556	492	64	556
Immigration and Naturalization Service	891	878	17	895
Federal Prison System:				
Salaries and expenses	1,153	1,098	55	1,153

FISCAL YEAR 1990 FUNDING—DRUG-RELATED AGENCIES—Continued

[In millions of dollars]

	Budget request	Conference H.R. 2991*	Title IV H.R. 3015	Total available
National Institute of Corrections	10	10		10
Buildings and facilities	1,401	401	1,000	1,401
Office of Justice Programs	446	330	309	639
Subtotal	7,711	6,107	1,792	7,899
Judiciary:				
Courts of appeals, district courts and other services	1,350	1,288	60	1,348
Defender services	128	87	41	128
Fees of jurors	59	55	4	59
Court security	58	43	15	58
Subtotal	1,595	1,473	120	1,593
Grand total	9,306	7,580	1,912	9,492

* Includes new or increased fees where appropriate.

TITLE I—DEPARTMENT OF COMMERCE

General Administration

SALARIES AND EXPENSES

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts language limiting official entertainment expenses to $2,000. The House bill contained no similar provision.

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment insert the following: *$28,173,000, of which not to exceed $1,467,000 shall be available for the Office of the General Counsel.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $28,173,000 instead of $28,429,000 as proposed by the House and $28,250,000 as proposed by the Senate. The conference agreement also includes a limitation of $2,000 for official entertainment as proposed by the Senate, and a limitation providing that funds available for the Office of General Counsel shall not exceed $1,467,000.

Office of the Inspector General

Amendment No. 3: Appropriates $13,500,000 as proposed by the Senate instead of $14,045,000 as proposed by the House.

Bureau of the Census

SALARIES AND EXPENSES

Amendment No. 4: Appropriates $101,288,000 as proposed by the Senate instead of $101,314,000 as proposed by the House.

The conference agreement appropriates $101,288,000 and provides for the requested adjustments to base and $425,000 requested for the National Trade Data Bank required by the Omnibus Trade and Competitiveness Act and $688,000 for classification of new businesses.

PERIODIC CENSUSES AND PROGRAMS

Amendment No. 5: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate making this appropriation available until expended. The House bill contained no similar provision.

Economic and Statistical Analysis

SALARIES AND EXPENSES

Amendment No. 6: Appropriates $31,150,000 as proposed by the Senate instead of $32,861,000 as proposed by the House.

The conference agreement reflects a net reduction of $1,711,000 from the budget request for requested program increases as follows: $927,000 to maintain the quality of GNP estimates; $450,000 to improve the business cycle of indicators; and $325,000 to improve balance of payment estimates.

Economic Development Administration

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $191,196,000, of which, notwithstanding any other provision of law $11,350,000 shall be used to make or complete each grant designated in P.L. 100-459 in sub-sections (a), (c), (h), (i), (k), and (l) under the heading "Economic Development Assistance Programs" which has not been made and for which pre-application or applications have been filed: Provided, That during fiscal year 1990 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: Provided further, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: Provided further, That the Secretary of Commerce or his designees shall not promulgate or enforce any rule, regulation, or grant agreement provision affecting programs authorized by the Public Works and Economic Development Act of 1965, as amended, unless such rule, regulation, or provision is either required by statute or expressed as the explicit intent of the Congress or is in substantial conformity with those rules, regulations and provisions in effect prior to December 22, 1987.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides certain language provisions proposed by the Senate and $191,196,000 for Economic Development Assistance Programs instead of $194,482,000 as proposed by the Senate. The House bill contained no similar provision.

The conference agreement also includes language not in either the House or Senate bill making funds available to make or complete certain grants for projects described in the FY 1989 Appropriations Act. The conferees understand that the Economic Development Administration did not make all of the grants provided for in the Appropriations Act for fiscal year 1989. The language contained in H.R. 2991 requires the agency to make or complete such grants, which are described in this bill under the heading "Economic Development Assistance Programs." The conferees intend that this provision shall not impede the ability of other applicants for EDA grants in the affected States to compete for such assistance.

The amount in the conference agreement shall be allocated as follows among the various EDA programs:

Fiscal year 1990 EDA program levels

Public works grants	$11,368,000
Planning assistance	22,995,000
Districts	(15,330,000)
Indians	(2,875,000)
States	(1,916,000)
Urban	(2,874,000)
Technical assistance	6,706,000
University centers	(4,790,000)
Research and evaluation	1,210,000
Economic adjustment grants	48,917,000
Sudden and severe projects	(36,714,000)
Revolving loan fund projects	(12,203,000)
Total	$191,196,000

SALARIES AND EXPENSES

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment insert the following: *$25,475,000 of which not to exceed $494,000 shall be available for the Office of Chief Counsel*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $25,475,000 instead of $26,061,000 as proposed by the House and $25,500,000 as proposed by the Senate. The conference agreement also includes a limitation of $494,000 for the Office of Chief Counsel.

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following: *Provided, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief act of 1977: Provided further, That notwithstanding any other provision of law, not to exceed $4,016,618 of the funds appropriated by this Act of "Economic Development Assistance Programs" shall be available for the purpose of paying the Economic Development Administration for any debt that arises due to the expenditure of funds under grant number 06-19-01498 as decribed in Inspector General Final Audit Report No. D-184-8-024 and that none of the funds appropriated by this Act shall delay or otherwise adversely affect any grant application for fiscal year 1990 by the City of Chicago as a result of negotiations on the grant described in such audit report: Provided further, That none of the funds appropriated by this Act shall be available to enable the Economic Development Administration, Department of Commerce, to delay or otherwise adversely affect any grant application for fiscal year 1990 by the State of Oregon, or to which the State of Oregon will contribute funds, on the basis that the contribution by the State of Oregon does not conform with law or regulation. Notwithstanding any other provision of this Act of any other*

law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1990, and such positions shall be maintained in the various States within the approved organizational structure in place on December 1, 1987, and where possible, with those employees who filled those positions on that date: Provided further, That none of the funds may be used to formulate or implement any action, activity, guideline, program, project, policy or regulation which alters the practice of making grants directly to planning and development districts which was in effect on December 31, 1988, or which results in denial of funding to any planning and development district on the basis of the number of years such district has received economic development assistance program funding or on the basis of the geographic area such district encompasses or on the basis of the population situated in the geographic area such district encompasses or a combination of any of these factors.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language proposed by the Senate and carried in prior year acts with regard to monitoring projects of previous appropriations and requiring the maintenance of 49 permanent positions designated as Economic Development Representatives. The conference agreement also includes language proposed by the Senate which prohibits EDA from refusing to allow the State of Oregon to use State funds as a match for public works grants. The House bill contained no similar provision.

The conference agreement also designates not to exceed $4,016,618 to relieve a grantee of adverse financial consequences which are due in part to actions by EDA officials. The conferees believe that it is therefore appropriate that the relief granted should come from the current EDA appropriation. The designation of these funds for this purpose amounts to an accounting transaction which when completed will free these funds for carrying out the purposes of the national economic development assistance program. The Senate provision on this matter would have prohibited the Economic Development Administration from implementing any of the recommendations in the Inspector General's Audit Report on the subject grant. The House bill contained no similar provision.

The conference agreement also includes a provision which was not included in either the House or Senate bills which prohibits the use of funds to formulate or implement any action or policy which alters the practice of making grants directly to planning and development districts which was in effect on December 31, 1988, or which results in denial of funding to any planning and development district on the basis of the number of years a district has received EDA program funds. This prohibition will prevent arbitrary rejection of planning grant applications from such districts on criteria not related to the district's performance and will prevent altering the funding procedure which makes the money available directly to the districts without passing through any intervening, non-federal entity.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

Amendment No. 10: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment providing certain lanugage concerning the use of ITA funds including provisions regarding the U.S.-Canada Free-Trade Agreement. The House bill contained no similar provision.

Amendment No. 11: Appropriates $181,296,000 as proposed by the Senate instead of $179,579,000 as proposed by the House.

The Conference agreement includes the full $6,000,000 increase requested for the U.S. and Foreign Commercial Service; $500,000 for Chapter 18 panels; $3,360,000 for the Tailored Clothing Technology Corporation; $3,000,000 for continuation of a grant for a new materials center; $2,304,000 for adjustments to base; and a total of $10,877,000 for the Trade Adjustment Assistance Program of which $4,605,000 is new budget authority and $6,272,000 is unobligated balances from prior years.

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following: *to remain available until expended, of which $3,000,000 shall be for support costs of a new materials center in Ames, Iowa: Provided, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities; and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment of assessments for services provided as part of these activities.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement inserts certain language contained in the Senate amendment making the appropriation available until expended, and providing for certain activities of the Mutual Educational and Cultural Exchange Act, and new language not in either the House or Senate bills earmarking $3,000,000 for support costs for a new materials center in Ames, Iowa. The House bill contained no similar provisions.

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of matter proposed by said amendment insert the following: *: Provided further, That of the funds provided in this Act or any previous Acts for the International Trade Administration Trade Adjustment Assistance Program including those amounts provided in advance to recipient organizations which remain unexpended or which have been obligated or reserved for fiscal year 1990 expenses, including close out costs, by those organizations as of October 1, 1989, not to exceed $10,877,000 shall be available for the Trade Adjustment Assistance Program during fiscal year 1990. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: Provided further, That the number of Commercial Service officers accorded such diplomatic title at any time shall not exceed eight.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides language which earmarks not less than $10,877,000 for the Trade Adjustment Assistance Program including amounts provided in advance to recipient organizations which remain unexpended or which have been obligated or reserved for FY 1990 expenses, including closeout costs. The Senate provision would have earmarked this amount for the Trade Adjustment Assistance Program including amounts provided in advance to recipient organizations. The House bill contained no smiliar provision.

The conferees direct the Secretary to provide a report identifying the sources of the $10,877,000 required for the Trade Adjustment Assistance Program by January 31, 1990 to the House and Senate Appropriations Subcommittees on Commerce, Justice, and State, the Judiciary and Related Agencies. The report should specify amounts available from unobligated ITA carryover, prior or current year deobligations recovered by ITA, and unexpended balances held by recipient organizations or which have been obligated or reserved by recipient organizations, including close out costs. The conferees intend that reserves held for closeout costs be available for programmatic purposes.

The conference agreement also includes language providing for the designation of the diplomatic title of Minister-Counselor to the senior commercial officer assigned to any United States mission abroad. The House bill contained no similar provision.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

Amendment No. 14: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the sum "$41,800,000" named in said amendment insert the following: *$42,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $42,000,000 for the Export Administration instead of $41,800,000 as proposed by the Senate and provides certain language provisions which were contained in the Senate amendment. The House bill contained no similar provisions.

The conference agreement earmarks $1 million for the establishment of regional offices in the Portland, Oregon, the Boston, Massachusetts/Nashua, New Hampshire, and northern California areas. it is the intent of the conferees that these new offices perform the same services and activities as the Western Regional Office located in Southern California and that these offices be adequately staffed to perform these services. The conferees expect the staffing of these regional offices to reflect the estimated workload in the areas which they serve. The conferees expect the Bureau to act expeditiously to ensure that these offices are open in FY 1990.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

Amendment No. 15: Reported in technical disagreement. The managers on the part of

the House will offer a motion to recede and concur in the Senate amendment which appropriates $39,741,000. The House bill contained no similar provision.

The conference agreement provides $39,741,000 for the Minority Business Development Agency of which $25,321,000 as proposed by the Senate shall be available until expended. The conference agreement also includes language contained in the Senate amendment providing for a limitation of $14,420,000 on funds available for program management in fiscal year 1990. The House bill contained no similar provisions.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 16: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $14,300,000. The House bill contained no similar provision.

The conference agreement provides $14,300,000 as proposed by the Senate for the United States Travel and Tourism Administration and provides certain language proposed by the Senate governing the use of funds. The House bill contained no similar provisions.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

Amendment No. 17: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which inserts language with regard to commissioned officers. The House bill contained no similar provision.

Amendment No. 18: Deletes language proposed by the Senate regarding acquisition of land for facilities. This matter is addressed in Amendment No. 19.

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment insert the following: *$1,214,607,000, to remain available until expended, of which $1,500,000 shall be available for construction and renovation of facilities at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas; and of which $550,000 shall be available for operational expenses at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas; and of which $377,000 shall be available only for a semi-tropical research facility located at Key Largo, Florida; and in addition, $30,000,000 shall be derived from the Airport and Airways Trust Fund as authorized by 49 U.S.C. 2205(d); and in addition, $55,000,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $4,500,000 shall be derived by transfer from the Coastal Energy Impact Fund: Provided, That grants to States pursuant to section 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000: Provided further, That in addition to the sums appropriated elsewhere in this paragraph, not to exceed $500,000 shall be available from the receipts deposited in the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries" for grant management and related activities: Provided further, That for fiscal year 1990 and hereafter funds appropriated under this heading shall be available for acquisition of land for facilities*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $1,214,607,000 instead of $966,932,000 as proposed by the House and $1,216,830,000 as proposed by the Senate.

The conference agreement also includes earmarkings totalling $1,500,000 for construction, renovation and operation of facilities at the Stuttgart Fish Farming Experimental Station, a transfer of $30,000,000 from the Airport and Airways Trust Fund, a transfer of $4,500,000 from the Coastal Energy Impact Fund, each of which was proposed by the Senate. The House bill contained no similar provisions.

The conference agreement also includes a transfer of $55,000,000 from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries", instead of $51,900,000 as proposed by the Senate. The House bill contained no similar provision.

The conference agreement also makes available not to exceed $500,000 from the receipts deposited in the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries" for grant management and not less than $450,000 and not to exceed $2,000,000 for grants to states under the Coastal Zone Management Act, as proposed by the Senate. The House bill contained no similar provisions.

The conference agreement provides $6,400,000 for the coastal ocean initiative of which the conferees expect that $350,000 will be allocated to the University of South Carolina School of Public Health and the Baruch Institute for research to effectively manage small, high-salinity estuaries, in collaboration with the National Marine Fisheries Service Southeastern Fisheries Laboratory in Charleston, SC.

The conference agreement also includes an earmarking not included in either the House or Senate bill of $377,000 to support continuation of work at a semi-tropical research facility located at Key Largo, Florida.

The conference agreement also includes a permanent provision regarding the acquisition of land for facilities. The Senate bill included this language in Amendment No. 18 but did not make this a permanent provision. The House bill contained no similar provision.

The conferees expect that the necessary funds will be made available in fiscal year 1990 for the National Undersea Research Program to continue to conduct important studies off the coast of New Jersey to determine the environmental impact of the 106-mile deepwater municipal sludge site (Deepwater Dumpsite 106).

The conferees direct that the cooperative institute for remote sensing at Dartmouth College shall be funded in FY 1990 at no less than the same level provided in FY 1989.

The conferees have provided $2,500,000 for damage assessment activities, including an examination of the effects on the marine environment of the oil spill in Prince William Sound in Alaska.

The conference agreement provides that $125,000 of the funds provided for ocean services are to be made available to establish scientific support in the Great Lakes area through NOAA's Great Lakes Environmental Research Laboratory in Ann Arbor, Michigan and supporting facilities in Milwaukee and Madison, Wisconsin and $250,000 for the Narragansett, Rhode Island and Beaufort, North Carolina facilities.

The conferees agree that out of the funds provided for Landsat 6, $250,000 shall be available for the University of Oklahoma's Cooperative Institute for Applied Remote Sensing.

The conference agreement provides funding for the Gloucester Lab at the FY 1989 level plus an appropriate adjustment for inflation.

The conference agreement provides the following amounts:

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

[Dollars in thousands]

Activity/Subactivity/Item	Fiscal year 1989 appropriation	Pres. request	House mark	Senate mark	Conference
NATIONAL OCEAN SERVICE					
Mapping, Charting and Geodesy	$44,869	$44,981	$45,834	$47,494	$48,494
Vertical Control Network	3,244	3,044	3,244	3,044	3,044
S.C. Multipurpose Mapping Project	377	0	377	577	577
ANCS II	0	1,660	0	1,660	1,660
Multipurpose Cadastre	1,836	0	1,836	1,836	1,836
Great Lakes Mapping Project	100	0	100	100	100
Tampa Bay Mapping Project					1,000
Observation and Assessment	30,028	40,333	36,823	41,323	40,159
Circulatory Program	777	377	777	577	777
Ocean Services	3,711	3,711	3,711	4,211	4,586
Ocean Assessments	11,298	10,259	11,298	13,759	13,759
California Data Bouys	151	0	151	151	151
Coastal Ocean Initiative	n/a	12,400	6,400	8,139	6,400
Wetland Management Demo Project	900	0	900	900	900
Ocean and Coastal Management	43,313	6,331	41,852	45,531	47,031
306 Grants	33,000	0	33,000	34,000	34,000
309 Grants	942	0	942	400	400

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—Continued

[Dollars in thousands]

Activity/Subactivity/Item	Fiscal year 1989 appropriation	Pres. request	House mark	Senate mark	Conference
Program Management	2,779	1,779	2,779	3,279	3,279
Estuarine Sanctuary Acquistions	2,790	1,190	2,790	3,490	3,490
Marine Sanctuary Management	2,626	2,122	2,626	3,122	3,122
Purchase of Buxton Woods					1,500
Total, NOS	118,210	91,645	124,509	134,348	135,684
NATIONAL MARINE FISHERIES SERVICE					
Information Collection and Analyses	102,674	65,177	8,671	108,151	107,654
Resources Surveys and Technology	18,167	16,167	7,499	18,167	18,167
New England Stock Res.	650	0	0	650	650
Protected Species	2,913	1,713	1,200	2,913	2,913
Habitat Research	12,389	7,256	0	12,389	12,389
Fish Statistics	9,759	6,840	1,072	9,759	9,759
Analyses of Ecosystems	18,912	17,995	0	18,912	18,912
Aquaculture	4,344	0	0	4,775	4,775
Chesapeake Bay Studies	1,600	0	0	1,600	1,600
SEAMAP	942	0	0	942	942
MARFIN	3,000	0	0	4,000	3,000
West Coast Groundfish	847	0	0	847	847
Right Whale Research	235	0	235	235	235
Marine Mammal Research	4,521	3,015	4,521	4,765	4,765
Gear Entanglement	706	0	0	706	706
Habitat Evaluation	471	0	0	471	471
Sub-Arctic Fisheries	753	0	0	0	753
Hawaii Stock Management Plan	400	0	0	400	400
Yukon River Chinook Study	235	0	0	235	235
Japanese Salmon Interception	141	0	0	0	0
Alaska Salmon Enhancement	3,766	0	0	3,766	3,766
Pacific Salmon Treaty	4,708	0	0	4,708	4,708
Antarctic Research	1,300	0	0	1,300	1,300
Lake Mead Limnological Research	400	0	0	0	0
Tiburon Lab Transfer	94	0	0	0	0
Atlantic Salmon Research	250	0	0	500	500
Oyster Disease Research	500	0	500	0	500
PACFIN	n/a	n/a	n/a	1,000	1,000
Bering Sea Pollack Research	n/a	n/a	n/a	750	0
Woods Hole Fisheries Lab-Bulkhead and Dock	n/a	n/a	n/a	2,000	2,000
Alaska Whale Reimbursement	n/a	n/a	n/a	170	170
Conservation and Management Operations	48,564	30,019	5,695	60,610	60,410
Regional Councils	7,233	3,467	0	7,233	7,233
Columbia River Hatcheries	9,300	0	0	9,300	9,300
Manage Georges Bank Fisheries	471	0	0	471	471
Habitat Conservation	5,412	3,529	0	5,412	5,412
Oregon Harbor Seals and Sea Lions	36	0	36	36	36
Endangered Species Recovery Plan	235	0	235	235	235
St. Paul Trust Fund	1,700	0	1,700	1,700	1,600
St. George Trust Fund	n/a	n/a	n/a	1,200	1,100
MMPA Implementation	n/a	n/a	n/a	7,500	7,500
Driftnet Act Implementation	n/a	n/a	n/a	3,000	3,000
Enforcement and Surveillance	n/a	n/a	n/a	1,500	1,500
State and Industry Assistance Program	18,516	4,220	7,155	18,935	18,623
Interjurisdictional Fisheries Grants to States	3,500	0	3,500	3,500	3,500
Anadromous Grants	2,354	0	2,354	2,354	2,354
Striped Bass Research	471	0	471	471	471
Interstate Fisheries Commission	330	0	330	330	330
Fisheries Trade Promotion Activities	1,388	0	0	1,388	1,388
Product, Quality, and Safety Research	8,620	4,220	0	8,620	8,620
Fish Oil Research	942	0	0	942	942
Seafood Inspection Program	330	0	0	330	330
Mahi Mahi Strategy	188	0	0	0	188
Shellfish Water Standards Research	500	0	500	1,000	500
Total, NMFS	169,754	99,416	21,521	187,696	186,687
OCEANIC AND ATMOSPHERIC RESEARCH					
Climate and Air Quality Research	45,819	53,339	48,997	53,389	53,389
TOGA	4,966	4,966	4,966	4,966	4,966
Regional Climate Centers	2,592	1,092	2,592	2,892	2,892
NCPO International Climate Panel	250	0	250	250	250
Climate and Global Change	9,000	20,000	15,000	18,000	18,000
Atmospheric Programs	40,850	40,537	44,533	44,633	44,633
State Weather Modification	2,213	0	2,213	2,213	2,123
PROFS	3,766	1,883	3,766	3,766	3,766
Severe Storm/Mesoscale	5,556	5,600	5,556	5,600	5,600
Ocean and Great Lakes Programs	70,323	11,156	70,514	70,533	74,819
Sea Grant College Program	39,000	0	39,000	41,000	41,000
National Coastal R&D Institute	1,177	0	1,177	1,177	1,177
Asian Aquaculture Exchanges	282	0	0	0	282
NOAA Undersea Research Program (NURP)	14,285	0	14,285	11,600	14,285
Semi-Tropical Key Largo Research Facility	377	0	377	0	377
CLERL	4,772	3,172	4,772	4,772	4,772
VENTS (Newport, Oregon)	1,695	0	1,695	2,000	2,000
FOCI	942	0	942	0	942
Univ. of New Hampshire Marine Research	n/a	n/a	n/a	2,000	2,000
Total, OAR	156,992	105,032	164,044	168,555	172,841
NATIONAL WEATHER SERVICE					
Operations and Research	282,527	252,822	288,959	287,839	287,839
Staff at 8 WSFO's	787	0	787	787	787
Southern Regional Headquarters	12,850	11,998	12,850	12,850	12,850
Pacific and Alaska Regional Headquarters	4,200	3,817	4,200	4,200	4,200
Data Bouy Activities	14,665	13,560	14,665	14,665	14,665
Fire Weather	1,582	1,300	1,582	1,582	1,582
Agriculture and Fruit Frost Warnings	1,335	0	1,335	1,335	1,335
OR and WA Mountain Weather Services	n/a	n/a	n/a	200	200
Susquehanna River Flood Warning System	700	0	700	700	700
Colorado River Basin, Flood Warning System	300	0	300	300	300
Meteorological/hydrological Research	2,576	2,394	2,714	2,394	2,394
MARD	1,000	0	1,000	0	0

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—Continued

[Dollars in thousands]

Activity/Subactivity/Item	Fiscal year 1989 appropriation	Pres. request	House mark	Senate mark	Conference
Base Reductions	n/a	0	29,073	29,073	239,073
Systems Acquisition	61,150	107,792	62,925	101,425	101,425
AWIPS	13,500	5,000	5,000	13,500	13,500
ASOS	6,250	8,725	8,725	8,725	8,725
NEXRAD	41,400	86,267	41,400	71,400	71,400
NMC Computer	n/a	7,800	7,800	7,800	7,800
Total, NWS	343,677	360,614	351,884	389,264	389,264
NATIONAL ENVIRONMENTAL SATELLITE, DATA, AND INFORMATION SERVICE					
Satellite Observing Systems	362,910	262,394	207,040	244,545	245,220
Polar Systems	63,129	21,533	21,533	15,184	15,184
LANDSAT Commercialization	20,400	36,900	0	34,900	34,900
LANDSAT Operations	6,400	19,000	0	9,500	9,500
NOAAPORT	2,000	0	0	0	0
EROS Data Center	3,000	0	0	0	0
Environmental Data Management System	20,399	20,715	20,715	20,715	20,715
Marine Electronics Agenda					675
Total, NESDIS	383,309	283,109	227,755	265,260	265,935
PROGRAM SUPPORT					
Administration and Services	59,509	60,994	60,794	60,994	60,794
Facilities	471	4,082	471	4,082	1,221
Maintenance of Beaufort, NC. Lab					200
Marine Services	59,910	53,635	59,910	60,910	59,910
Aircraft Services	7,260	8,121	7,571	8,121	7,571
Total, PROSUP	126,210	126,832	128,746	134,107	129,696
SUBTOTAL, ORF (TOTAL REQUIREMENTS)	1,298,152	1,066,648	1,018,459	1,279,230	1,280,107
Reduced Adjustments to Base	[1] 0	[2] 0	7,073	[2] 0	0
Total ORF Requirements for FY 1990	1,298,152	1,066,048	1,025,532	1,279,230	1,219,607
Transfer from CEIF	(6,500)	(8,500)	(4,600)	(4,500)	(4,500)
Deobligations	(6,000)	(6,000)	(4,000)	(6,000)	(6,000)
Budget Authority	1,285,652	1,052,148	1,016,932	1,268,730	1,269,607
Transfer S/K	(45,600)	(53,700)	(50,000)	(51,900)	55,000
Appropriation Subtotal (General Fund)	1,240,052	998,448	966,932	1,216,830	1,214,607
Monies set aside for unauthorized programs			171,423		
Appropriations (General Fund)			1,138,355		

[1] $12,378,000 reduction is incorporated into line office totals.
[2] $67,032,000 reduction is incorporated into line office totals.

FISHERIES PROMOTIONAL FUND

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which makes available until expended $2,000,000 of the funds deposited in the Fisheries Promotional Fund as proposed by the Senate. The House bill contained no similar provision.

FISHING VESSEL AND GEAR DAMAGE FUND

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts a provision making the appropriation available until expended. The House bill contained no similar provision.

FISHERMEN'S CONTINGENCY FUND

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts a provision making the appropriation available until expended. The House bill contained no similar provision.

FOREIGN FISHING OBSERVER FUND

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts a provision making the appropriation available until expended. The House bill contained no similar provision.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts language making the appropriation available for defense of suits instituted against the Commissioner of Patents and Trademarks. The House bill contained no similar provision.

Amendment No. 25: Appropriates $85,900,000 as proposed by the Senate instead of $101,912,000 as proposed by the House.

Amendment No. 26: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts a provision making the appropriation available until expended. The House bill contained no similar provision.

TECHNOLOGY ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the sum named in said amendment insert the following: *$3,900,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $3,900,000 for the Technology Administration instead of $4,100,000 as proposed by the Senate. The House bill contained no similar provision.

The conference agreement will provide for 20 of the 26 additional positions requested for FY 1990.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

Amendment No. 28: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the core programs of the National Institute of Standards and Technology, $144,809,000, to remain available until expended, of which not to exceed $3,430,000 may be transferred to the "Working Capital Fund"; and of which not to exceed $1,300,000 shall be available for construction of research facilities; and in addition for grants for regional centers for the transfer of manufacturing technology as authorized by section 5121 of the Omnibus Trade and Competitiveness Act of 1988, $7,500,000, to remain available until expended; and in addition for expenses of the Advanced Technology Program as authorized by section 5131 of the Omnibus Trade and Competitiveness Act of 1988, $10,000,000, to remain available until expended; and in addition for technology transfer extension services pursuant to section 5121 of the Omnibus Trade and Competitiveness Act of 1988, $1,300,000, to remain available until expended.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $163,609,000 for the National Institute of Standards and Technology of which $144,809,000 is for core programs, $7,500,000 is for regional centers for manufacturing technology, $10,000,000 is for the Advanced Technology Program, and $1,300,000 is for technology transfer extension services. The Senate bill would have provided $175,600,000 without any of the designations in the conference agreement. The conference agreement also provides for the transfer of up to $3,430,000 to the Working Capital Fund and provides for $1,300,000 for construction of research facilities as proposed by the Senate. The House bill contained no similar provisions.

The conference agreement provides $144,809,000 for the core programs of NIST including $809,000 for adjustments to base and $4,372,000 for the Centers for Fire Research and Buildings Technology.

The conferees direct NIST to continue and expand its interactions with private and State organizations that have particular expertise in manufacturing and small business, including educational institutions knowledgeable about an incremental approach to industrial technology as well as State technology programs and small business assistance programs.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $14,200,000. The House bill contained no similar provision.

The conference agreement appropriates $14,200,000 for the National Telecommunications and Information Administration of which $700,000 shall remain available until expended as proposed by the Senate.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment insert the following: *$20,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $20,000,000 instead of $20,449,000 as proposed by the House and $20,200,000 as proposed by the Senate.

Amendment No. 31: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *: Provided further, That notwithstanding the provisions of section 391 of the Communications Act of 1934, as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate had proposed language making prior year unobligated balances available for grants for projects for which applications have been submitted and approved during any fiscal year and which earmarked $200,000 for the Pan-Pacific Education and Cultural Experiments by Satellite program (PEACESAT). The conference agreement retains the Senate language concerning prior year unobligated balances and deletes the language earmarking funds for PEACESAT. The House bill contained no similar provision.

NATIONAL ENDOWMENT FOR CHILDREN'S EDUCATIONAL TELEVISION

Amendment No. 32: Deletes language proposed by the Senate which would have provided $2,500,000 for the National Endowment for Children's Education Television. The House bill contained no similar provision.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

Amendment No. 33: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which inserts language making Commerce Department funds in this Act available for advanced payments only upon certification of officials designated by the Secretary that such payments are in the public interest. The House bill contained no similar provision.

Amendment No. 34: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which inserts Sec. 103 prohibiting the use of Commerce Department funds to sell to private interests, except with the consent of the borrower, or to contract with private interests to sell or administer any loans made under the Public Works and Economic Development Act of 1965 or any loans made under section 254 of the Trade Act of 1974. The House bill contained no similar provision.

Amendment No. 35: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which inserts a permanent provision, Sec. 104, authorizing the National Institute of Standards and Technology to accept contributions of funds from any public or private source to construct a facility for cold neutron research on materials, and provides that these funds be made available until expended. The House bill contained no similar provision.

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which inserts Sec. 105 prohibiting the use of funds in this title from being used to reimburse the Commerce Department's Working Capital Fund for programs, projects or activities which had not been performed as a central service out of the Fund before July 1, 1982 unless the House and Senate Appropriations Committees are notified under said Committees' reprogramming procedures. The House bill contained no similar provision.

Amendment No. 37: Deletes language proposed by the Senate requiring the Secretary of Commerce to participate in international efforts with respect to standardized techniques for calculating national income accounts. The House bill contained no similar provision.

The conferees expect that the Secretary of Commerce shall participate fully in international efforts to develop standardized techniques for calculating national income accounts that recognize the negative impact that degradation of natural resources can have on long term economic development. The conferees also agree that the Secretary should seek to adopt the use of such standards and make an annual calculation of Gross Sustainable Productivity in the U.S. to be issued in conjunction with the release of annual Gross National Product figures.

TITLE II—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 38: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the sum named in said amendment insert the following: *$87,439,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $87,439,000 for General Administration, instead of $90,664,000 as proposed by the Senate. The House bill contained no similar provision.

The conference agreement of $87,439,000, when added to the $10,261,000 included in title IV of H.R. 3015, provides a total appropriation of $97,700,000 for General Administration for fiscal year 1990.

The amount available of $97,700,000 provides for requested adjustments to base and built-in changes and program changes, as follows: an increase of 58 positions and $2,164,000 for the Executive Office of Immigration Review (EOIR) to expedite processing of criminal aliens as requested in the President's initiative to combat violent crime; an increase of 9 positions and $2,475,000 for continuation of the Private Counsel for Debt Collection initiative; and the requested program reduction of 4 positions and $170,000 from the Offices of Public Affairs and Legislative Affairs. The conference agreement accepts the Department of Justice's proposal that staffing for the Office of Public Affairs should not exceed 11 full-time permanent positions (12 full-time equivalent workyears) and the Office of Legislative Affairs should not exceed 18 full-time permanent positions (21 full-time equivalent workyears).

The conferees agree that telemarketing fraud is a serious national problem which deserves priority attention by law enforcement agencies. The conferees expect the Justice Department to provide a report, within six months of enactment of this bill, on the number and status of investigations and prosecuted cases of telemarketing fraud within the preceding three years, including a description of the nature and type of scheme, the amount of financial resources expended and personnel committed during this period to investigate and prosecute fraudulent telemarketers. This report should also include a detailed evaluation of existing criminal laws and their adequacy in addressing telemarketing fraud, especially involving the use of credit cards.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

Amendment No. 39: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $20,673,000 and includes language which allows for up to $10,000 to

meet unforeseen emergencies of a confidential character, and allows for acquisition, lease, maintenance and operation of motor vehicles without regard to purchase price limitations. The House bill contained no similar provision.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the sum named in said amendment insert *$10,500,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $10,500,000 for the United States Parole Commission instead of $10,261,000 as proposed by the Senate. The House bill contained no similar provision.

The conference agreement provides an increase of $239,000, 5 full-time positions and 5 FTE above the FY 1990 request.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

Amendment No. 41: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $257,000,000, of which not to exceed $5,751,000 shall be available for the operation of the United States National Central Bureau, INTERPOL; and of which not to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1991: Provided, That of the funds available in this appropriation, not to exceed $12,160,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through Salaries and expenses, General Administration: Provided further, That for fiscal year 1990 and hereafter the Chief, United States National Central Bureau, INTERPOL, may establish and collect fees to process name checks and background records for noncriminal employment, licensing, and humanitarian purposes and, notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: Provided further, That for fiscal year 1990 and hereafter the Attorney General may establish and collect fees to cover the cost of indentifying, copying and distributing copies of tax decisions rendered by the Federal Judiciary and that any such fees shall be credited to this appropriation notwithstanding the provisions of 31 U.S.C. 3302: Provided further, That, notwithstanding any other provision of law, not to exceed $1,000,000 for expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986 shall be reimbursed from the special fund established to pay judgements awarded under the Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $257,000,000, for General Legal Activities, instead of $262,491,000 as proposed by the Senate and inserts new language which provides for the transfer of $1,000,000 from the Vaccine Injury Trust Fund to this account to fund processing of cases. The House bill contained no similar provisions.

The conference agreement also includes language proposed by the Senate, but not in the House bill, which allows up to $6,000,000 for litigation support contracts to remain available until September 30, 1991, provides up to $5,751,000 instead of the $4,882,000 proposed by the Senate for operation of the United States National Central Bureau, INTERPOL, and provides a permanent provision proposed by the Senate allowing INTERPOL to establish and collect fees, and earmarks $12,160,000 instead of the $6,474,000 proposed by the Senate for office automation systems to remain available until expended. Language proposed by the Senate is also included to allow the Attorney General to establish and collect fees for tax decisions. The House bill contained no similar provisions.

The conference agreement of $258,000,000, when added to the $41,476,000 included in Title IV of H.R. 3015 provides a total availability of $299,476,000 for General Legal Activities for fiscal year 1990.

The total amount available of $299,476,000 provides for requested adjustments to base and built-in changes and for program growth as follows: $3,278,000 for financial institution fraud investigations; $5,400,000 for the President's violent crime initiative; $7,852,000 for automated litigation support in the Civil and Lands Divisions, $1,700,000 for the Civil Rights Division for processing claims under the Civil Liberties Act of 1988 (the total amount available for this purpose in FY 1990 is $4,284,000); $869,000 for INTERPOL-USNCB; $5,686,000 for legal activities office automation; $1,000,000 for the Office of Special Counsel; and $1,000,000 for vaccine injury-related claims.

Immigration Related Discrimination.—The Immigration Reform and Control Act of 1986 intended that employers and prospective job applicants be familiar with both worker verification and anti-discrimination requirements of that Act. The conferees believe that one of the most significant tasks of the Office of Special Counsel for Unfair Immigration-related Employment Practices is to inform employers of their obligations and job applicants of their rights under the 1986 Act. Therefore, the conferees intend that of the funds available to the Department of Justice for General Legal Activities, no less than $1,000,000 be available for use by the Office of Special Counsel for publicizing both the obligations of employers and the rights of job applicants under section 102 of the Immigration Reform and Control Act of 1986.

Vaccine Injury Claims.—The Department of Justice has the responsibility for representing the Government in vaccine injury-related claims that are filed under the National Vaccine Injury Compensation Program. The conference agreement includes a transfer of $1,000,000 from the Vaccine Injury Compensation Trust Fund to General Legal Activities to provide sufficient resources for the Department to proceed with their responsibility.

Crittenden County, Ark.—The conferees are aware of the extensive efforts undertaken by the Sheriff of Crittenden County, Arkansas and other county officials to rectify conditions in the county jail which have been the subject of a review by the U.S. Department of Justice pertaining to the safety, protection and welfare of the inmates incarcerated therein. The conferees are gratified to note the progress made to date through the commissioning and completion of a proposal for the planning and feasibility of a joint city of West Memphis and Crittenden County, Arkansas Justice Complex. The conferees encourage the U.S. Department of Justice to assist the Crittenden County Sheriff in identifying the resources necessary to move this facility towards conformance with constitutional and statutory requirements pursuant to the civil rights of institutionalized persons.

CIVIL LIBERTIES PUBLIC EDUCATION FUND

Amendment No. 42: Deletes language proposed by the House appropriating $50,000,000 for redress payments to certain eligible Japanese Americans.

Amendment No. 43: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

Subject to the provision of section 104(e) of the Civil Liberties Act of 1988 (Public Law 100-383; 50 U.S.C. App. 1989-b-3(e)), the maximum amount authorized under such section for any fiscal year is appropriated, from money in the Treasury not otherwise appropriated, for each fiscal year beginning on or after October 1, 1990, to the Civil Liberties Public Education Fund established by section 104(a) of the Civil Liberties Act of 1988, for payments to eligible individuals under section 105 of that Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language proposed by the Senate, with new technical amendments, which provide that beginning on October 1, 1990, and continuing each fiscal year thereafter, such sums as are necessary shall be appropriated for payments to eligible individuals entitled to redress payments. The House bill contained no similar provision. Under the conditions of the Civil Liberties Act, no more than $500,000,000 can be appropriated to the Civil Liberties Public Education Fund in fiscal year 1991.

SALARIES AND EXPENSES, ANTITRUST DIVISION

Amendment No. 44: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the sum named in said amendment insert: *$32,222,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $32,222,000 for the Antitrust Division during fiscal year 1990, instead of $42,222,000 as proposed by the Senate. The House bill contained no similar provision. The conference agreement also assumes the availability of $20,000,000 in premerger notification filing fees created by Section 605 of this Act.

The conference agreement provides for an increase of $5,000,000 over the budget request. These additional resources shall be allocated to the Termination and Prevention of Private Cartel Behavior Program to expand the Antitrust Division's criminal investigation of bid-rigging and price-fixing cases; and care management system; and for the Preservation of Competitive Market Structure Program to open and close additional preliminary inquiries and more merger cases. The House bill contained no similiar provision.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

Amendment No. 45: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $444,862,000. The House bill contained no similar provision.

The conference agreement provides $444,862,000 for the United States Attorneys for fiscal year 1990 as proposed by the Senate. The conference agreement also includes language proposed by the Senate which provides up to $5,000,000 to remain available until September 30, 1991 for training of personnel in debt collection and costs associated with locating and collecting debts and $8,000 for official reception and representation expenses. The House bill contained no similar provisions.

The conference agreement of $444,862,000, when added to the $80,699,000 included in Title IV of H.R. 3015, provides a total of $525,561,000 for U.S. Attorneys for FY 1990. The total amount available of $525,561,000 provides for requested adjustments to base and built-in changes and program increases as follows: $48,078,000 for the President's violent crime initiative; $20,862,000 for financial institution fraud investigations; and $5,000,000 for debt collection.

UNITED STATES TRUSTEE SYSTEM FUND

Amendment No. 46: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $60,729,000 and includes language which allows the Trustees to pay refunds due depositors. The House bill contained no similar provisions.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, $440,000: Provided, That for fiscal year 1990 and hereafter, funds appropriated under this heading shall be available for: allowances and benefits similar to those allowed under the Foreign Service Act of 1980 as determined by the Commission; expenses of packing, shipping, and storing personal effects of personnel assigned abroad; rental or lease, for such period as may be necessary, of office space and living quarters of personnel assigned abroad, maintenance; improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances of funds abroad; advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for field use only; and employment of aliens.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $440,000, as proposed by the Senate, the amount requested for the Commission for fiscal year 1990. The conference agreement also includes a new permanent provision which allows the Commission to provide allowances and benefits for Commission personnel overseas similar to those allowed under the Foreign Service Act of 1980. The House bill contained no similar provisions.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $217,027,000. The conference agreement also includes language proposed by the Senate which provides a permanent provision giving the Director of the U.S. Marshals Service authority to collect fees and credit these fees to this appropriation, provides $6,000 for official reception and representation expenses and allows for acquisition and operations of vehicles and aircraft. The House bill contained no similar provisions.

The conference agreement of $217,027,000, when added to the $23,819,000 included in Title IV of H.R. 3015, provides a total appropriation of $240,846,000 for the Marshals Service for FY 1990.

The total amount available of $240,846,000 provides for adjustments to base and built-in changes and program increases as follows: $10,000,000 for the President's violent crime initiative; $4,200,000 for Judicial Security; $2,080,000 for Handling of Federal Prisoners; and $900,000 for ADP and Telecommunications.

SUPPORT OF UNITED STATES PRISONERS

Amendment No. 49: Reported in tecnical disagreement. The managers on the part of the House will offer a motion to reced and concur in the Senate amendment which appropriates $137,034,000 and includes language earmarking $5,000,000 for the Cooperative Agreement Program. The House bill contained no similar provisions.

The conference agreement of $137,034,000 when added to the $23,000,000 included in title IV of H.R. 3015, provides a total appropriation of $160,034,000 for support of U.S. Prisoners for FY 1990. The total amount available of $160,034,000 provides for requested adjustments to base and built-in changes and program increases of $15,000,000 for the Cooperative Agreement Program and $39,034,000 for care of prisoners.

FEES AND EXPENSES OF WITNESSES

Amendment No. 50: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates the requested $56,784,000 for Fees and Expenses of Witnesses and includes new permanent language allowing the Department to enter into reimbursable agreements to pay private counsel to defend Federal employees and allowing the receipt of reimbursement for the cost of expert witnesses from litigating organizations. The House bill contained no similar provisions.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

Amendment No. 51: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $29,334,000 and limits to $21,500,000 the amount available for the processing, care and placement of Cuban and Haitian entrants. The House bill contained no similar provisions.

ASSETS FORFEITURE FUND

Amendment No. 52: Appropriates $75,000,000 as proposed by the Senate instead of $76,513,000 as proposed by the House.

The conference agreement of $75,000,000, when added tio the $25,000,000 included in Title IV of H.R. 3015, provides a total appropriation of $100,000,000, the full budget request for fiscal year 1990 for expenses from the Assets Forfeiture Fund.

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

Amendment No. 53: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, $168,560,000: Provided, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed in this Act: Provided further, That appropriations under this heading may be used to reimburse agencies for any costs incurred by Organized Crime Drug Enforcement Task Forces between October 1, 1989 and the date of this Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $168,560,000 as proposed by the Senate. The conference agreement also includes language, proposed by the Senate, which provides that funds obligated from this appropriation may be used under authorities available to the organizations receiving those funds, and also inserts language proposed by the Senate which provides for reimbursement of funds for costs incurred between October 1, 1989 and enactment of this bill. The House bill contained no similar provisions. The conference agreement deletes language proposed by the Senate which would have limited reimbursement under this appropriation to Justice Department agencies.

The conference agreement of $168,560,000, when added to the $46,361,000 included in Title IV of H.R. 3015, provides a total appropriation of $214,921,000 for Organized Crime Drug Enforcement for fiscal year 1990—the full budget request.

The total amount available of $214,921,000 provides the requested baseline of $206,886,000 and program growth of 94 positions and $8,045,000 to allow the INS to participate in OCDE investigation.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 2,730 passenger motor vehicles of which 1,850 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,423,340,000, of which not to exceed $25,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1991; of which not to exceed $8,000,000 for research and development related to investigative activities and $15,000,000 for construction of Pod B of the Engineering Research Facility at Quantico, Virginia, shall remain available until expended; and of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism and drug investigations: Provided, That the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records and name checks for noncriminal justice, non-law enforcement employment and licensing purposes and for certain employees of private sector contractors with classified Government contracts, and notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services, and that the Director of the Federal Bureau of Investigation may establish such fees at a level to include an additional amount to establish a fund to remain available until expended to defray expenses for the automation of fingerprint identification services and associated costs: Provided further, That not to exceed $30,000 shall be available for official reception and representation expenses: Provided further, That not to exceed $7,500,000 for a language translation system shall remain available until expended.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $1,423,340,000 as proposed by the Senate for the FBI for fiscal year 1990 and includes language proposed by the Senate which makes up to $25,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations, available until September 30, 1991, and makes up to $8,000,000 for research and development available until expended; and inserts new language not in the House or Senate bill which makes $15,000,000 for construction of Pod B of the Engineering Research Facility at Quantico, Virginia, available until expended; and includes language proposed by the Senate which earmarks up to $500,000 for payments to State and local law enforcement agencies, $70,000 to meet unforeseen emergencies of a confidential character, $30,000 for official reception and representation expenses, and $7,500,000 for a language translation systems. The conference agreement also includes language limiting to 2,730, instead of 2,600 as proposed by the Senate, the number of passenger vehicles to be purchased; and inserts language proposed by the Senate to allow the FBI to establish and collect fees to process fingerprint identifications and name checks. The House bill contained no provision on any of these matters.

The conference agreement of $1,423,340,000, when added to the $97,045,000 included in Title IV of H.R. 3015, and to the estimated collections of $30,000,000 from fees for processing fingerprint identifications and namechecks, provides total fund availability of $1,550,385,000 for the FBI for fiscal year 1990. The conference agreement fully funds the President's amended budget request to include additional resources for the President's violent crime initiative and the financial institution fraud investigations.

The conference agreement includes language providing $15,000,000 for the continued construction of the Engineering Research Facility at the FBI Academy in Quantico, VA. Completion of this facility is critical for research and development of sophisticated surveillance and other technical equipment to support the FBI intelligence related activities and to enhance FBI and DEA drug investigations. The conferees agree that the Department should emphasize completion of this facility in future budget requests.

The conferees support the leadership role the FBI has undertaken in developing DNA profiling as a weapon in the fight against violent crime and expect $819,000 of this increase to be used to (1) establish a national DNA database system to be available to State and local law enforcement authorities; and (2) for the training of State and local examiners in DNA analysis.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 55: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $492,180,000. The House bill contained no similar provision.

The conference agreement includes language proposed by the Senate which makes up to $1,700,000 for purchase of evidence and information, $9,638,000 for ADP and telecommunications, and $2,000,000 for technical and laboratory equipment available until September 30, 1991; makes up to $1,200,000 for research available until expended; and provides $70,000 to meet unforeseen emergencies, and $30,000 for official reception and representation expenses. The conference agreement also includes language proposed by the Senate which limits to 703 the number of passenger vehicles to be purchased, allows for acquisition, lease and maintenance of aircraft, and allows expenses for conducting drug education programs. The House bill contained no similar provisions.

The conference agreement of $492,180,000, when added to the $64,301,000 included in Title IV of H.R. 3015, provides a total appropriation of $556,481,000 for DEA for FY 1990.

The total amount appropriated provides for a revised baseline of $499,521,000 and program increases as follows: $23,683,000 for domestic enforcement; $4,162,000 for State and local task forces; $8,390,000 for intelligence resources; $3,203,000 for DEA laboratory services; $2,500,000 for DEA training; $8,772,000 for DEA Office Automation Systems; $1,000,000 to upgrade the computer system at EPIC; and $5,300,000 to implement the President's Drug Strategy, of which $2,000,000 is for demonstration grants to State and local governments to clean up and safely dispose of substances associated with illegal drug laboratories pursuant to section 2405 of the Anti-drug Abuse Act of 1988.

The conferees believe that regional drug enforcement task forces are vital to the efforts of law enforcement agencies fighting the war on drugs in those regions. The conferees expect the DEA to provide as many additional agents as possible within available resources to these task forces.

The conferees are concerned with the DEA's plans to reduce the level of special agent staffing in the Charleston, SC, resident office. The conferees expect the DEA to maintain positions at not less than the seven special agents on board in this office prior to April 1, 1989.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

Amendment No. 56: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the number "525" named in said amendment insert: *620*, and

In lieu of the sum "$823,486,000" named in said amendment insert *$828,300,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $828,300,000 for the Immigration and Naturalization Service for fiscal year 1990 instead of $823,486,000 as proposed by the Senate and includes earmarks proposed by the Senate of $50,000 to meet unforeseen emergencies, $400,000 for research to remain available until expended and $5,000 for official reception and representation expenses. The conference agreement also limits to 620, instead of 525 proposed by the Senate, the number of passenger vehicles to be purchased, and, as proposed by the Senate, provides for acquisition, lease and operation of aircraft, provides for research related to immigration enforcement, limits the payment of overtime to $25,000, and allows for the purchase of uniforms. The agreement also includes permanent provisions, proposed by the Senate, which remove the requirement to transfer deposits in the amount of $50,000,000 annually from the Immigration Examination Fee account to the general fund of the Treasury; and allow capital assets acquired by the Immigration and Legalization account to be made available for general use by the INS. The House bill contained no similar provisions.

The conference agreement of $828,300,000, when added to the $16,891,000 included in Title IV of H.R. 3015, provides a total appropriation of $845,191,000 for the INS in FY 1990.

The total amount appropriated provides for the requested baseline, less amounts estimated for adjudications and naturalization

programs which are funded through the Examinations Fee Account, and provides for program growth as follows: $9,000,000 and 130 positions to staff two new detention facilities for criminal aliens; $1,000,000 for advanced training for INS personnel; $5,700,000 for the President's violent crime initiative; $9,000,000 for 200 additional border patrol agents above FY 1989 levels of 4,500; $5,000,000 to expand the Machine Readable Visa (MRV) program; and $2,000,000 to expand the Automated Fingerprint Identification System (AFIS) to six sites. The conference agreement does not accept the proposed reduction of $31,200,000 and 1,655 positions included in the request.

The conference agreement provides $2,000,000 to expand the Automated Fingerprint Identification System (AFIS), as demonstrated in a prototype test at one site in the San Diego Border Patrol Sector, to six sites in the San Diego Sector. The INS shall report back to the Committee on Appropriations of the House and Senate by April 15, 1990, on the effectiveness of the expanded prototype as well as its potential for expansion on a southern border-wide basis at Border Patrol sites and port of entry locations.

The conference agreement includes bill language which allows the INS to retain the first $50,000,000 collected in naturalization fees into the Examinations Fee Account. The Department estimates that $90,000,000 will be collected into this fund which is more than enough to handle the base for the Adjudications and Naturalization program of $58,582,000 plus any projected growth in the program. The conferees believe that only those costs directly associated with the adjudications and naturalization program should be reimbursed from the Fund.

The conferees have also been made aware of the fact that the naturalization process could be greatly accelerated by improving the electronic transfer of information between the INS and the Federal courts. The conferees would encourage the INS and the Courts to expedite these improvements. The conferees would be especially supportive of the use of the Fund to finance improved compatibility between INS and Court automation systems.

IMMIGRATION EMERGENCY FUND

Amendment No. 57: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

IMMIGRATION EMERGENCY FUND

For necessary expenses of the immigration emergency fund as authorized by section 404(b) of the Immigration and Nationality Act, $35,000,000 to remain available until expended.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides funds for possible increases in border patrol and other enforcement activities, and for reimbursement to States and localities for assistance in meeting an immigration emergency, subject to Presidential determination as proposed by the Senate and inserts new language making the funds available until expended. The House bill included no similar provisions.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

Amendment No. 58: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which inserts a heading. The House bill contained no similar provision.

Amendment No. 59: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides $1,097,631,000 as proposed by the Senate. The House bill contained no similar provision.

The conference agreement also includes language proposed by the Senate which limits to 159 the number of passenger vehicles to be purchased, allows for the transfer to the Health Resources and Services Administration funds for medical relief of inmates, provides for the purchase of uniforms and allows $3,000 for official reception and representation expenses. The House bill contained no similar provisions.

The conference agreement of $1,097,631,000, when added to the $54,923,000 included in Title IV of H.R. 3015, provides a total appropriation of $1,152,554,000 for the Salaries and Expenses of the Federal Prison System for FY 1990—the full budget request.

The total appropriation of $1,152,554,000 provides for requested adjustments to base and built-in changes and for program increases as follows: $45,379,000 for activation of new facilities; $25,500,000 for improved staffing; $3,200,000 for ADP; $24,535,000 for population adjustments; $10,642,000 for contract confinement; $10,983,000 for equipment and inventory; $6,000,000 for vocational training; and $6,000,000 for inmate performance pay.

The conference agreement also includes $320,000 for Prison MATCH programs. These funds would provide $50,000 for each of the four existing programs (Alderson, West Virginia; Fort Worth, Texas; Pleasanton, California; Lexington, Kentucky) and $30,000 for each of the four other federal institutions (Geiger Correctional Institution, Washington; Marianna, Florida; Danbury, Connecticut; and Phoenix, Arizona) where female prisoners are now housed. Such funds should support inmate parent/child programs, which are contracted to local, non-profit agencies and which include a parent-child visiting center, parent training classes, and social services for the children of inmate parents.

NATIONAL INSTITUTE OF CORRECTIONS

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $10,112,000. The House bill contained no similar provision.

The conferees have been made aware of the proposed move of the National Academy of Corrections and the decision of the Justice Department Site Selection Committee. The conferees believe that the Department should move forward with their plans to consolidate and relocate the Academy.

BUILDINGS AND FACILITIES

Amendment No. 61: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase, leasing and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $401,332,000, to remain available until expended: Provided, That labor of United States Prisoners may be used for work performed under this appropriation: Provided further, That not to exceed 10 per centum of the funds appropriated to "Buildings and Facilities": in this Act or any other Act may be transferred to "Salaries and expenses", Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 606 of this Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $401,332,000 for Buildings and Facilities for fiscal year 1990 as proposed by the Senate. The conference agreement also includes language proposed by the Senate which allows for the use of U.S. prisoners for work performed at prisons, and provides for the transfer of up to 10 percent of the Buildings and Facilities appropriation to the Salaries and Expenses appropriation in the event of an emergency. The House bill contained no similar provisions.

The conference agreement of $401,332,000 when added to the $1,000,000,000 included in Title IV of H.R. 3015 and the $115,000,000 to be transferred from the Special Forfeiture Fund, provides for total fund availability of $1,516,332,000 for the construction and expansion of Federal prisons—the full request for fiscal year 1990. These funds provide for a prison construction program as follows:

	Increased bed space	Funding
New Federal prisons:		
Correctional complexes (7)	13,720	$897,100,000
Federal correctional institutions (3)	3,105	165,000,000
Expansion of existing units	1,015	41,800,000
Detention capacity:		
Metropolitan detention center (1)	700	58,000,000
Detention centers (3)	2,100	214,000,000
Detention units (2)	300	19,900,000
Detention center expansions (2)	500	50,000,000
Holdover unit	150	10,000,000
Military acquisitions	1,250	19,800,000
Modernization and repair		40,732,000
Total	22,840	1,516,332,000

The conference agreement also provides language proposed by the Senate which will allow for the lease of a medium security prison to be staffed and operated by the Bureau of Prisons. The conferees have agreed to allow for the lease of one Federal prison on a test basis to determine the cost effectiveness of such an approach. The conferees expect the Bureau to keep the Committees on Appropriations apprised on a regular basis of the status of this project. The House bill contained no similar provision.

The conference agreement deletes language proposed by the Senate which would have earmarked $14,000,000 for expansion

of Oakdale II to 1,000 beds for the custody of criminal aliens. The House bill contained no similar provision.

The conferees understand that the Bureau of Prisons has determined that one of the facilities to be constructed within amounts appropriated in FY 1990 is the expansion to 1,000 beds at the criminal alien detention center in Oakdale, Louisiana. The conferees believe this to be a wise decision on the part of the Bureau and wholeheartedly support the decision.

FEDERAL PRISON INDUSTRIES, INCORPORATED

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which authorizes Federal Prison Industries to make expenditures necessary to carry out its programs. The House bill contained no similar provision.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Amendment No. 63: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $2,857,000, the amount requested in the budget. The House bill contained no similar provision.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

Amendment No. 64: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum "$80,783,000" named in said amendment insert: *$90,783,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $90,783,000 instead of $81,150,000 as proposed by the House and $80,783,000 as proposed by the Senate.

Amendment Nos. 65 & 66: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendments of the Senate which insert authorization citations. The House bill contained no similar provisions.

Amendment No. 67: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment insert the following: *$64,193,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $64,193,000 instead of $69,693,000 as proposed by the House and $69,193,000 as proposed by the Senate.

Amendment Nos. 68 & 69: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendments of the Senate which add authorization citations. The House bill contained no similar provisions.

Amendment No. 70: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which deletes House language on Mariel Cubans as proposed by the Senate and inserts Senate language on this matter. The Senate language incorporated by the conference agreement provides $5,000,000 for reimbursement to States for costs of incarcerating illegal aliens and certain Cuban nationals, requires that grants be made by April 1, 1990 and limits the amount of reimbursement per prisoner per annum to $12,000.

The following table shows the recommended amounts for fiscal year 1990 for the Office of Justice Programs, to include amounts provided in both H.R. 2991 and Title IV of H.R. 3015:

[In thousands of dollars]

Program/Activity	Fiscal year—		H.R. 2991			Conference, H.R. 3015	Total funding, fiscal year 1990
	1989 enacted	1990 budget	House	Senate	Conference		
National Institute of Justice	$21,000	$24,691	$23,800	$22,933	$22,933	0	$22,933
Bureau of Justice Statistics	19,986	22,449	21,032	21,032	21,032	0	21,032
State and local assistance	3,497	0	0	.....	0	0	0
Emergency assistance	0	0	0	5,000	10,000	0	10,000
(Prior year carryover)	(1,148	(1,148)	(1,148)	(0)	(0)	(0)	(0)
Missing children	4,000	4,200	4,000	4,000	4,000	0	4,000
Regional information sharing system	13,000	0	13,000	13,500	13,500	0	13,500
Management and administration	17,900	18,405	19,318	19,318	19,318	0	19,318
General reduction	0	0	0	−5,000	0	0	0
(Prior year carryover)	(1,200)	(0)	(0)	(0)	(0)	(0)	(0)
Subtotal, new budget authority	79,383	69,745	81,150	80,783	90,783	0	90,783
Juvenile justice programs	64,692	1,508	69,693	69,193	64,193	8,821	73,014
(Prior year carryover)	(2,000)	(0)	(0)	(0)	(0)	(0)	(0)
Mariel Cubans	5,000	0	5,000	5,000	5,000	(0)	5,000
State and local grants	150,000	350,000	150,000	150,000	150,000	300,000	450,000
Total, discretionary; budget authority	299,075	421,253	305,843	304,976	309,976	308,821	618,797
Public safety officers: Benefits program (mandatory)	24,000	25,000	25,000	25,000	25,000	0	25,000
Total	323,075	446,253	330,843	329,976	334,976	308,821	643,797
(Prior year carryover)	(4,348)	(1,148)	(1,148)	(0)	(0)	(0)	(0)

Edward Byrne Memorial State and Local Law Enforcement Assistance Programs.—The conference agreement of $150,000,000, when added to the $300,000,000 included in Title IV of H.R. 3015, provides a total of $450,000,000 for fiscal year 1990 for the State and local drug control and system improvement grant programs.

The conference agreement provides for a total of $50,000,000 for discretionary grants, to include:

Not less than $3,000,000 for innovative neighborhood-oriented policing projects in both urban and rural areas, such as: the National Neighborhood Crime and Drug Abuse Prevention Program of the Eisenhower Foundation; Operation Siege in Houston, Texas; PNOPP in Portland, Oregon; Knock and Talk in Anchorage, Alaska; and the National Association of Town Watch.

Not less than $2,700,000 for the National Crime Prevention Council to administer the National Crime Prevention Campaign.

Not less than $2,000,000 for drug abuse demand reduction programs, specifically not less than $1,000,000 for the Drug Abuse Resistance Education (DARE) program and not less than $1,000,000 for the National Crime Prevention Campaign.

Not less than $1,200,000 for the Structured Sentencing Progam and the Prison Capacity Program in order in provide mechanisms for States to make maximum effective use of their correctional resources.

Not less than $3,000,000 for the Organized Crime Narcotics (OCN) program to support regional organized crime task forces in order to foster Federal, State and local cooperation.

The conferees also support continuation of discretionary grants for comprehensive, coordinated training for state and local law enforcement personnel and for treatment services for incarcerated offenders, including community-based aftercare.

The conference agreement also provides for an increase of $500,000 and 10 full-time positions above FY 1989 levels for Management and Administration by the Bureau of Justice Assistance (BJA) of this grant program. The conferees expect these additional resources to be used to increase both the monitoring and reporting of the formula block grant program. The conferees believe increased monitoring is needed to ensure that funds are being properly spent by grant recipients. The additional monitoring efforts should include the development and implementation of a monitoring plan and checklists. The conferees also believe that current reporting to the results of demonstration projects among local law enforcement agencies should be expanded in order to share the valuable lessons learned. The expanded reporting should include increased travel to review projects and the subjective assessment of programs.

The conferees are aware that up to 10 percent of a State's formula block grant may be spent for management and administration. Considering the large increase in formula

grants for FY 1990, the conferees believe that these costs should be limited to 5 percent and request the BJA to issue guidelines to State agencies to recommend the lower amounts. Also, the conferees expect the BJA to increase monitoring of these management costs to ensure that there is no waste or abuse of this grant authority.

Emergency Assistance.—The Federal government's ability to respond in a timely and effective manner to assist state and local law enforcement agencies facing unprecedented public safety emergencies, such as those faced by the States of South Carolina in the aftermath of Hurricane Hugo and the State of California due to the earthquake of October 17, 1989, must be sufficient to meet the needs of impacted jurisdictions. Therefore, the conferees have included $10,000,000 for grants, cooperative agreements and other assistance authorized by the Emergency Federal Law Enforcement Assistance Program. The conferees intend that of the funds provided $5,000,000 will be allocated to those localities most devastated by Hurricane Hugo and $5,000,000 will be provided to assist localities in California suffering from the impact of the earthquake of October 17, 1989.

Juvenile Justice and Delinquency Prevention Program (JJDPP).—The conference agreement of $64,193,000, when added to the $8,821,000 included in Title IV of H.R. 3015, provides a total of $73,014,000 in fiscal year 1990 for JJDPP, an increase of $6,322,000 over amounts available in fiscal year 1989.

The conference agreement includes: $350,000 to carry out the provisions of section 241(f) of the JJDP Act to provide financial and technical assistance to an organization representing the State Advisory Groups (SAGs); $2,900,000 for the coordinated, Law-Related Education (LRE) program; $3,000,000 to initiate a new program relating to juvenile gangs, drug abuse, and drug trafficking of which $300,000 is for the Teen, Crime and the Community Program; $2,000,000 for the National Council of Juvenile and Family Court Judges; $650,000 for the Court-Appointed Special Advocate (CASA) program; and $250,000 for the training of juvenile corrections personnel in three specific areas—line supervisor training, middle management training, and continued specialty training.

National Institute of Justice.—The conference agreement provides $22,933,000 in fiscal year 1990 for the National Institute of Justice (NIJ).

The conference agreement provides $200,000 for private sector efforts to combat and respond to prejudice and bigotry-related crimes. The conferees believe that organizations primarily devoted to work in the area of prejudice and bigotry-related crime, such as the National Institute Against Prejudice and Violence, would be ideally suited for these efforts.

The conference agreement also provides $400,000 for a grant to the National Criminal Justice Association to study the fiscal and other impacts on States of implementing drug testing programs for targeted classes of arrestees, individuals in jails and prisons, and persons on conditions or supervised release.

Management and Administration.—The conference agreement provides a total of $24,418,000 for management and administration, to be derived as follows:

New budget authority.....	$19,318,000
Juvenile Justice, M&A	3,100,000
State and local grants, M&A.....	2,000,000
Total	24,418,000

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

Amendment No. 71: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which inserts a heading. The House bill contained no similar provision.

Amendment No. 72: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which adds a general provision, Sec. 201, contained in previous appropriations Acts with regard to official reception and representation expenses, but has reduced the amount to $30,000. The House bill contained no similar provision. The conferees agree that these expenses shall not be limited to those incurred abroad.

Amendment No. 73: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which adds a general provision, Sec. 202, contained in previous appropriations Acts which allows use of material produced by Federal convict labor to be used in highway construction. The amendment also makes this a permanent provision. The House bill contained no similar provision.

Amendment No. 74: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which adds a general provision, Sec. 203, contained in previous appropriations Acts which makes appropriations for uniforms and allowances. The amendment also makes this a permanent provision. The House bill contained no similar provision.

Amendment No. 75: Reported in technical disagreement. The managers on that part of the House will offer a motion to recede and concur in the Senate amendment which adds a general provision, Sec. 204, contained in previous appropriations Acts, which continues in FY 1990 the authorities contained in the FY 1980 Department of Justice Authorization Act. The Senate bill also includes language contained in FY 1989 which provides for undercover investigative operations in FY 1990 of the FBI and DEA. The House bill contained no similar provision.

Amendment No. 76: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which adds a general provision, Sec. 205, contained in previous appropriations Acts, which precludes use of appropriated funds to pay for an abortion. The House bill contained no similar provision.

Amendment No. 77: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which adds a general provision, Sec. 206, contained in previous appropriations Acts, which precludes the use of appropriated funds to require anyone to perform or facilitate in any way the performance of any abortion. The House bill contained no similar provision.

Amendment No. 78: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which adds a general provision, Sec. 207, contained in previous appropriations Acts, which requires the Bureau of Prisons to provide escort services for female prisoners seeking abortions. The House bill contained no similar provision.

Amendment No. 79: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

SEC. 208. Section 6077(c) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690, 102 Stat. 4325) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement inserts language to amend section 6077 of P.L. 100-690 to delay until September 30, 1991 the implementation of an amendment to the assets forfeiture law. This delay will give the States and the legislative committees of the Congress time to address this issue without adversely impacting State and local law enforcement. The Senate amendment inserted language which would have repealed section 6077. The House bill contained no similar provision.

Amendment No. 80: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

SEC. 209. (a) The Civil Liberties Act of 1988 (Public Law 100-383; 50 U.S.C. App. 1989b and following) is amended by adding at the end thereof the following new section:

"SEC. 110. ENTITLEMENTS TO ELIGIBLE INDIVIDUALS.

"Subject to Sections 104(e) and 105(g) of this title, beginning on October 1, 1990, the payments to be made to any eligible individual under the provisions of this title shall be an entitlement. As used in this section, the term 'entitlement' means 'spending authority' as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974.".

(b) Section 105 of the Civil Liberties Act of 1988 is amended by adding at the end thereof the following:

"(g) LIABILITY OF UNITED STATES LIMITED TO AMOUNT OF THE FUND.—

"(1) GENERAL RULE.—An eligible individual may be paid under this section only from amounts in the Fund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in this title shall authorize the payment to an eligible individual by the United States Government of any amount authorized by this section from any source other than the Fund.

"(3) ORDER IN WHICH UNPAID CLAIMS TO BE PAID.—If at any time the fund has insufficient funds to pay all eligible individuals at such time, such eligible individuals shall, to the extent permitted under paragraph (1), be paid in full in the order specified in subsection (b).".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language proposed by the Senate, with new technical amendments, which establishes an entitlement for redress payments to Japanese-American internees. The House bill contained no similar provisions. The language provides that eligible individuals are entitled to their $20,000 payment subject to

the availability of funds in the Civil Liberties Public Education Fund. Appropriations to the Fund are capped at $500,000,000 for fiscal year 1991.

Amendment No. 81: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which allows the Department to spend up to $100,000 for rewards for information regarding terrorism. The House bill contained no similar provision.

Amendment No. 82: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the date "1991" named in said amendment, insert: *"1990"*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree that many local community law enforcement agencies would be unable to participate in this program if they were required to provide $1 for every $1 of Federal money. The conferees believe that leaving the matching requirement at $1 for each $3 of Federal money will allow more agencies to participate.

Amendment No. 83: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which amends the Anti-Drug Abuse Act of 1988 to eliminate the fixed amount of $500,000 of drug grants apportioned to States under current law and replace it with a percentage (.4 percent). The House bill contained no similar provision.

Amendment No. 84: Deletes bill language proposed by the Senate to ensure that the President and the Drug Czar give appropriate emphasis and resources to rural areas and small towns.

The conferees ageee that the President and the Drug Czar should direct appropriate emphasis and resources to rural areas and small towns.

Amendment No. 85: Deletes language proposed by the Senate establishing a Religious Issues Oversight Board within the Justice Department to handle Federal inmate grievances. The conferees agree that at this time the need for such a Board has not been demonstrated.

TITLE III—DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

Amendment No. 86: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following:

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945) and expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorties Act of 1956, as amended (22 U.S.C. 2669); telecommunications; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674, except that passenger motor vehicles with additional systems and equipment may be purchased without regard to any price limitation otherwise established by law as authorized by 31 U.S.C. 1343(c), $1,741,239,000, and in addition not to exceed $250,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 38(b)(3)(A) of such Act (section 1255(c) of Public Law 100-204). In addition, not to exceed $51,152,000, to remain available until expended, may be transferred to this appropriation from "Acquisition and Maintenance of Buildings Abroad": Provided, That the level of service provided through the Foreign Affairs Administrative Support System (FAAS) shall be commensurate with the amounts appropriated, or otherwise made available therefor in Appropriations Acts.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $1,741,239,000, transfers $51,152,000, for the Administration of Foreign Affairs Salaries and Expenses account, provides $250,000 in registration fees to be used by the Office of Munitions Control and provides certain language governing the use of funds carried in prior years proposed by the Senate. The Senate bill provided $1,743,967,000, a transfer of $29,152,000 for Administration of Foreign Affairs and $500,000 for the Munitions Control Office and the aforementioned language provisions. The House bill contained no similar provision.

The conference agreement also includes language proposed by the Senate which requires that the level of service provided to other departments and agencies at overseas posts through the Department's Foreign Affairs Administrative Support System (FAAS) shall be commensurate with amounts appropriated or otherwise made available to those departments and agencies in Appropriations Acts. The House bill included no similar provision.

The conference agreement includes language which will permit up to $51,152,000 to be transferred from the "Acquisition and Maintenance of Buildings Abroad" account to the Salaries and Expenses account. The conferees intend that of this amount, $22,000,000 is for the Construction Security Program, which together with the $23,000,000 in new budget authority in this amount will provide a total of $45,000,000 for this program.

The conference agreement also reflects $12,000,000 in anticipated gains in foreign currency purchases above the rates used in the budget estimates.

The conference agreement includes $16,465,000 to continue the modernization of the telecommunications network (DOSTIN); $5,000,000 for the purchase of computing equipment for the Beltsville Information Management Center; $2,000,000 for counterterrorism research and development; $14,000,000 for the second year construction costs of the Foreign Affairs Training Center; and $4,000,000 for continuation of the machine readable visa project.

The conference agreement reflects a transfer of $2,328,000 from the Salaries and Expenses Account to the Office of the Inspector General.

The conferees commend the Consolidated Overseas Schools Assistance program for its continued accomplishments in improving the quality of education for U.S. students living abroad. With funding from the Salaries and Expenses appropriations of the Department of State, the United States Information Agency and the Agency for International Development, this program continues to accomplish the dual objectives of providing educational opportunities for U.S. dependents and of demonstrating the American educational philosophy and practice to local children and educators. The conferees also commend the contribution of the members of the Overseas Schools Advisory Council and its Educational Assistance Program for generating private sector financial support and participation in the activities of American-sponsored overseas schools.

The conferees are pleased with the expanded FAAS system. The conferees expect the Department of State to submit a report by February 1, 1990 to the House and Senate Appropriations Committees on the feasibility of including capital and security costs into the FAAS system. The conferees also expect the Department to examine the feasibility of a per capita cost-sharing program based on the number of other agency personnel stationed at State Department facilities overseas and to include its findings on this matter in the report.

The conferees note the achievements of the Diplomatic Security, Physical Security Division Quality Assurance Program. The conferees recommend that the Quality Assurance Program be sustained and, if possible, expanded to encompass other physical security equipment necessary to the protection of the Department's personnel and property at Diplomatic Missions.

It is the conferees' understanding that the appropriate House and Senate committees may shortly agree on authorizing legislation which would provide for a small, unclassified consulate in Kiev. The conferees and the State Department believe that such a facility would provide a much-needed American presence in the Ukraine, the largest of the Soviet Union's non-Russian republics. Should the appropriate authorizing legislation be signed into law, the conferees will consider a reprogramming request for the resources necessary to open such a facility.

A number of conferees recently visited the embassy in Moscow and are concerned about the lack of security measures and the attitude of our personnel at the Embassy in Moscow. The conferees direct that the Department of State prepare a report, in classified and unclassified form, addressing security procedures at our Embassy in Moscow and submit the report to the House and Senate Committees on Appropriations by January 1, 1990.

The conferees expect the Secretary of State to establish procedures to monitor the recurrent use of language instructors with temporary appointments at the Department's Foreign Service Institute and preclude reliance on granting an unreasonable number of successive temporary appointments to qualified personnel. The conferees expect a report on this matter to be submitted to the House and Senate Appropriations Committees by April 1, 1990.

The conferees instruct the Department to examine the number of FTPs allocated to the Foreign Service Institute to insure it is

commensurate with FSI's requirements. In this regard, FSI should consider arranging training for the occasional student assigned to learn an esoteric language, e.g., Icelandic, via a private language school or training facility, as a possibly more cost effective alternative, rather than attempting to accommodate such a student at FSI.

Finally, the conferees direct FSI to provide a report to the House and Senate Appropriations Committees by February 1, 1990 on the measures it intends to implement, with associated costs, during the next two years, to alleviate the habitability issues endemic to its facilities, notably SA-3.

The conferees note the large backlog of Soviet and Eastern European refugees in Western European awaiting processing and, in some cases, resettlement by the U.S. Government. The conferees note that in processing applications from Polish refugees, the State Department and Immigration and Naturalization Service should be aware that even though there is a new regime in Poland, not all refugees may be able to return safely to localities and establishments still controlled by the same communist apparatus as before. Further, the conferees expect these agencies to take appropriate measures, including increasing personnel, to speed up the processing of all refugees in Europe, with special attention to those refugees who have waited the longest.

OFFICE OF THE INSPECTOR GENERAL

Amendment No. 87: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the sum named in said amendment insert the following: *$21,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $21,000,000, for the Office of Inspector General instead of $18,672,000 as proposed by the Senate. The House bill contained no similar provision. The conference agreement also includes $2,328,000 for the Office of Security Oversight.

REPRESENTATION ALLOWANCES

Amendment No. 88: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $4,600,000 for Representation Allowances. The House bill contained no similar provision.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

Amendment No. 89: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $9,100,000 for Protection of Foreign Missions and Officials. The House bill contained no similar provision.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

Amendment No. 90: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which inserts an authorization citation. The House bill contained no similar provision.

The conferees understand the facility currently housing components of the U.S. consulate general in Istanbul, Turkey, is an historic structure known as the Palazzo Corpi. The Department is currently involved in planning the construction of a new facility that will house the consulate. The conferees also understand that although the Department of State is expected to contribute to the facilities construction program through the sale of surplus properties, the conferees urge the Department to investigate fully all available options that may permit the United States Government to retain ownership of the Palazzo Corpi. The conferees direct that by February 1, 1990 the Department submit a report to the House and Senate Appropriations Committees which outlines objective estimates of the proceeds expected from the division and sale of the Palazzo Corpi and adjacent property and facilities housing U.S. consulate operations. The report also is to include an analysis of the potential for housing functional units of the Istanbul consulate and other U.S. Government agencies, in the Palazzo Corpi. The conferees believe the Department should evaluate the potential for modifications to the perimeter of the Palazzo Corpi such as the addition of barriers, changes in traffic patterns, etc., by the host government and include its findings on this matter in the report.

Amendment No. 91: Appropriates $348,100,000 as proposed by the Senate instead of $129,200,000 as proposed by the House.

The conference agreement of $348,100,000 for Acquisition and Maintenance of Buildings Abroad will fund the following capital projects: $88,484,000 for construction of a new Embassy in Bangkok, Thailand; $11,400,000 for construction of a new Embassy in Papua, New Guinea; $20,000,000 for security construction projects in other agencies; and $9,300,000 for security supervision expenses at ongoing construction projects.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

Amendment No. 92: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $4,700,000 for Emergencies in the Diplomatic and Consular Service. The House bill contained no similar provision.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

Amendment No. 93: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $11,300,000 for Payment to the American Institute in Taiwan. The House bill contained no similar provision.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

Amendment No. 94: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the Senate amendment which inserts a heading.

Amendment No. 95: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment insert the following: *$622,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $622,000,000 for Contributions to International Organizations instead of $668,011,000 as proposed by the Senate. The House bill contained no similiar provision.

The conference agreement reflects $20,000,000 in anticipated exchange rate savings and a general reduction of $27,000,000 from the amounts requested for the U.S. Government's full assessed contribution to 44 international organizations for FY 1990.

The conferees support the provision in the FY 90-91 Foreign Relations Authorization Act as passed the House and Senate directing the Assistant Secretary for Inter-American Affairs to assume direct and complete responsibility for the management of all aspects of U.S. relations with, including the management of U.S. contributions to, the Organization of American States.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

Amendment No. 96: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the sum named in said amendment insert the following: *$81,500,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $81,500,000 for Contributions to International Peacekeeping Activities instead of $111,184,000 as proposed by the Senate. The House bill contained no similar provision.

The conferees regret that the overall allocation for this bill required necessary reductions in a number of significant areas including those dealing with the State Department's contributions to international organizations and peacekeeping. This difficult choice should not be seen as a lessening of the importance which the Congress attaches to seeking to provide for full funding of our current assessments to international organizations or a systematic phased effort to pay US arrearages. Nor is it in any way a denigration of the importance of international peacekeeping.

The conferees share in the sentiments expressed in a recent letter from Secretary of State Baker about these important goals and understand that the President has assigned high priority to United States efforts to work with the UN on continuing budget reform efforts and on other concerns, including peacekeeping, which affect our national interests. In the period ahead the conferees will work with the Administration to encourage the continuation of positive trends in international organizations.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

Amendment No. 97: Reported in technical disagreement. The manager on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $6,340,000 for International Conferences and Contingencies. The House bill contained no similar provision.

INTERNATIONAL COMMISSIONS

Amendment No. 98: Deletes Senate language which would have inserted a heading.

Amendment No. 99: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which inserts a heading and language providing for necessary expenses to meet obligations of the United States arising under treaties, conventions or specific Acts of Congress. The House bill contained no similar provision.

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

Amendment No. 100: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which inserts a heading and language providing for necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico. The House bill contained no similar provision.

SALARIES AND EXPENSES

Amendment No. 101: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $10,460,000 for the International Boundary and Water Commission, Salaries and Expenses account. The House bill contained no similar provision.

The conferees agree that the construction of a low-head hydroelectric power dam along the U.S.-Mexico border, which will double as a border crossing, will help relieve traffic congestion, provide a facility which will offer revenues that can be applied to the Rio Grande pollution problems, and bring much needed recreational facilities to an economically underdeveloped area. Within the funds provided for the International Boundary and Water Commission, the conferees agree that the Commission should provide sufficient funds for a study to determine the engineering, economic and financial feasibility of the project.

CONSTRUCTION

Amendment No. 102: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $11,500,000 for construction projects of the International Boundary and Water Commission. The House bill contained no similar provision.

The conferees are aware of the ongoing joint venture with the Mexican government to rehabilitate the Mexicali treatment system's pumping plants and other systems improvements on the New River in Imperial Valley, California. The conferees understand that the Commission is nearing completion of an agreement to initiate a new joint project to prevent the discharge of toxic waste by Mexican and U.S. owned businesses in Mexicali. The conferees agree that the Commission should consider the allocation of funds to continue the cleanup of the New River and submit a reprogramming request for this purpose to the House and Senate Appropriations Committees.

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

Amendment No. 103: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $4,500,000 for the U.S. share of expenses for International Commissions. The House bill contained no similar provision.

The conference agreement includes $750,000 for the International Boundary Commission and $3,750,000 for the International Joint Commission.

INTERNATIONAL FISHERIES COMMISSIONS

Amendment No. 104: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $12,300,000 for the International Fisheries Commissions. The House bill contained no similar provision.

The conference agreement includes $1,300,000 above the budget request for the purchase of lampricide by the Great Lakes Fishery Commission.

OTHER

U.S. BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

Amendment No. 105: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $4,000,000 for U.S. Bilateral Science and Technology Agreements. The House bill contained no similar provision.

The conference agreement includes $2,500,000 for the U.S. bilateral science and technology agreement with Yugoslavia and $1,5000,000 to reestablish a science and technology program with Poland. The House bill contained no similar provision.

PAYMENT TO THE ASIA FOUNDATION

Amendment No. 106: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the sum named in said amendment insert the following: *$13,900,000.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $13,900,000 for Payment to the Asia Foundation instead of $14,100,000 as proposed by the Senate. The House bill contained no similar provision.

SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

Amendment No. 107: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $4,600,000 for Soviet-East European Research and Training. The House bill contained no similar provision.

FISHERMEN'S GUARANTY FUND

Amendment No. 108: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $900,000 for the Fishermen's Guaranty Fund. The House bill contained no similar provision.

GENERAL PROVISIONS—DEPARTMENT OF STATE

Amendment No. 109: Deletes language proposed by the Senate regarding reprogrammings submitted to the Committees on Appropriations.

The conferees are concerned that the reprogramming requests submitted to the Committees on Appropriations do not provide adequate explanations of the impact that such reprogrammings would have on the programs, projects, activities, subactivities or bureaus from which funds and/or positions are transferred. Therefore, the conferees direct the Department of State to submit to the House and Senate Committees on Appropriations a report by December 1, 1989 which includes a description of the accounting system needed to provide this reprogramming information and the cost and length of time required to establish such a system. If the Department does not submit an adequate report, the Appropriations Committees intend to pursue this matter through appropriate legislative action at the earliest possible opportunity.

Amendment No. 110: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of matter inserted by said amendment insert the following:

SEC. 302. For fiscal year 1992, the Department of State shall submit a budget justification document to the Committees on Appropriations which provides function, subfunction, and object class information for each activity, subactivity, and bureau within the Department.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement inserts a general provision which changes the section number and requires the Department, for Fiscal Year 1992, to submit a budget justification document which provides function, subfunction, and object class information for each activity, subactivity, and bureau within the Department. The Senate had proposed a general provision requiring this information for fiscal year 1991 as well as for each program and project within the Department. The House bill contained no similar provision.

Amendment No. 111: Deletes language proposed by the Senate which would have repealed section 725 of the International Security and Development Cooperation Act of 1981. Section 725 imposed economic sanctions on Argentina. The House bill contained no similar provision.

TITLE IV—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

Amendment No. 112: Appropriates $17,434,000 as proposed by the Senate instead of $17,313,000 as proposed by the House. The conference agreement provides for the full budget request plus an increase of $106,000 to meet the secretarial needs of the Justices and $15,000 for an oil portrait of the former Chief Justice.

Amendment No. 113: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which earmarks $15,000 for the procurement of an oil portrait of former Chief Justice Warren E. Burger to be placed in the Supreme Court Building, and allows for up to $10,000 for official reception and representation expenses. The House bill contained no similar provision.

CARE OF THE BUILDING AND GROUNDS

Amendment No. 114: Appropriates $4,400,000 instead of $3,300,000 as proposed by the House and $5,547,000 as proposed by the Senate.

The conference provides for the full budget request, except for structural repairs to Supreme Court terrace areas and stairs which is funded at only $1,031,000 of the requested $2,400,000. In addition, $70,000 is provided within the base for water and sewage billings from the District of Columbia.

Amendment No. 115: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following: , *of which $2,121,000 shall remain available until expended: Provided, That for fiscal year 1990 and hereafter, funds appropriated under this heading shall be available for improvements, maintenance, repairs, equipment,*

supplies, materials, and appurtenances; special clothing for workmen; and personal and other services (including temporary labor without regard to the Classification and Retirement Acts, as amended); and for snow removal by hire of men and equipment or under contract, and for the replacement of electrical transformers containing polychlorinated biphenyls, both without compliance with section 3709 of the Revised Statutes, as amended (42 U.S.C. 5)

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides a permanent provision as proposed by the Senate which allows the Architect of the Capitol to perform maintenance and repair of the Supreme Court Building and for electrical transformers, and makes $2,121,000 available for major repair projects until expended instead of $3,338,000 for this purpose as proposed by the Senate. The House bill contained no similar provision.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

Amendment No. 116: Appropriates $8,830,000 as proposed by the House instead of $8,600,000 as proposed by the Senate.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

Amendment No. 117: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment insert the following: *$1,287,424,000 (including the purchase of firearms and ammunition)*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $1,287,424,000 instead of $1,349,803,000 as proposed by the House and $1,289,924,000 as proposed by the Senate. The conference agreement includes Senate language contained in previous appropriations Act which allows the Courts to spend funds for the purchase of firearms and ammunition. The House bill contained no similar provision.

This appropriation account will have a total of $1,407,974,000 available for obligation in fiscal year 1990 as follows:

New budget authority, H.R. 2991	$1,287,424,000
New budget authority, H.R. 3015	59,550,000
Fees	61,000,000
Total	1,407,974,000

The $1,407,974,000 provided allows for the full request for adjustments to base and built-in changes and the following program increases:

President's violent crime initiative	$26,936,000
Sentencing guidelines (400 positions)	11,000,000
Magistrates and staff (57 positions)	1,460,000
Circuit executives (27 positions)	790,000
Clerks offices (885 positions)	12,407,000
Probation/Pretrial offices (325 positions)	13,183,000
Library system (50 positions)	1,000,000
Electronic court recording (100 positions)	1,700,000
Pretrial services	850,000
Court automation activities	45,356,000
Training by Federal Judicial Center	1,000,000
Child care, court appointed counsel, videotaping, financial audits, training	850,000

The conference agreement fully funds the Courts' fiscal year 1990 request of $71,376,000 for automation. The conferees expect that this full amount will be deposited into the Judiciary Automation Fund as authorized in section 404 of this Act.

The conferees agree that funds made available in this appropriation may be utilized to reimburse the Federal Judicial Center for any unfunded training costs associated with the new court positions authorized in fiscal year 1990.

Amendment No. 118: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which includes language earmarking $500,000 for acquisition of books and other legal reference materials and $2,500,000 for reimbursement to the claims Court for expenses associated with processing cases under the National Childhood Vaccine Injury Act. The House bill contained no similar provision.

DEFENDER SERVICES

Amendment No. 119: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$86,627,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $86,627,000 instead of $133,260,000 as proposed by the House and $118,787,000 as proposed by the Senate for Defender Services for fiscal year 1990.

The conference agreement of $86,627,000, when added to the $41,373,000 included in Title IV of H.R. 3015, will provide Defender Services with a total appropriation of $128,000,000 for fiscal year 1990, which allows for the full budget request adjusted for the new method of obligating funds.

Amendment No. 120: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides for the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfer from the U.S. to foreign countries with which the U.S. has a treaty for the execution of penal sentences. The House bill contained no similar provision.

FEES OF JURORS AND COMMISSIONERS

Amendment No. 121: Deletes language proposed by the Senate with regard to refreshment of jurors. This matter is addressed in Amendment No. 122.

Amendment No. 122: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In the lieu of the matter stricken and inserted by said amendment, insert: *$54,700,000, to remain available until expended: Provided, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code: Provided further, That for fiscal year 1990 and herafter, funds appropriated under this heading shall be available for refreshment of jurors.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $54,700,000 as proposed by the Senate instead of $58,700,000 as proposed by the House. When the amount in the conference agreement is added to the $4,000,000 included in Title IV of H.R. 3015, a total of $58,700,000 is available for obligation, the full amount requested for fiscal year 1990. The conference agreement also includes language proposed by the Senate which provides for the extended availability of funds and contains prior year language with respect to rates of pay for land commissioners. The conference agreement also includes a permanent provision not contained in either the House or Senate bills which provides for the refreshment of jurors.

COURT SECURITY

Amendment No. 123: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $43,090,000 for Court Security for fiscal year 1990. The House bill contained no similar provision.

The conference agreement also includes language contained in previous appropriations Acts which allows for use of funds for necessary expenses for court security and provides for the transfer of funds to the Marshals Service.

The conference agreement of $43,090,000, when added to the $15,400,000 included in Title IV of H.R. 3015, provides $58,490,000 for fiscal year 1990 for Court Security, the total amount requested.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

Amendment No. 124: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the sum "$34,670,000" named in said amendment, insert the following: *$33,670,000.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $33,670,000 for expenses of the Administrative Office, instead of $32,670,000 as proposed by the House and $34,670,000 as proposed by the Senate. The conference agreement also includes language proposed by the Senate which earmarks $5,000 for official reception and representation expenses, and allows for advertising and rent in the District of Columbia and elswhere. The House bill contained no similar provision.

The conference agreement provides for requested adjustments to base and built-in changes, and program increases of $1,000,000 for the President's violent crime initiative and $875,000 and 37 positions for administrative support of the Courts.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIAL OFFICERS' RETIREMENT FUND

Amendment No. 125: Appropriates $6,500,000 as proposed by the Senate instead of $4,000,000 as proposed by the House. The conference agreement provides $4,000,000 for annuity payments of Bankruptcy Judges and magistrates and

$2,500,000 for the Judicial Survivors Annuity Fund.

GENERAL PROVISIONS—THE JUDICIARY

Amendment No. 126: Reported in technical disagreement. The managers on the part of the House will ofer a motion to recede and concur in the Senate amendment which adds a general provision, Sec. 402, contained in previous appropriations Acts which authorizes appropriations for the Temporary Emergency Court of Appeals and the Special Court established under the Regional Rail Reorganization Act of 1973. The House bill contained no similar provision.

Amendment No. 127: Deletes language proposed by the Senate (Sec. 403) which contained previous language providing that Trustee Coordinator positions not be limited to lawyers. The House bill contained no similar provision. This language is obsolete since this function has been transferred from the U.S. Courts to the United States Trustees.

Amendment No. 128: reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the section designation in said amendment, insert: *403*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language (Senate Sec. 404) contained in previous appropriations Acts which precludes the Administrative Office from restricting to Bankruptcy Court clerks the issuance of notices to creditors. The conference agreement makes this Sec. 403 and also makes this a permanent provision. The House bill contained no similar provision.

Amendment No. 129: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following:

SEC. 404. (a) For fiscal year 1990 and hereafter, such fees as shall be collected for the preparation and mailing of notices in bankruptcy cases as prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. 1930(b) shall be deposited to the "Courts of Appeals, District Courts, and Other Judicial Services, Salaries and Expenses" appropriation to be used for salaries and other expenses incurred in providing these services.

(b) JUDICIARY AUTOMATION FUND.—

(1) ESTABLISHMENT AND USE OF FUND.—Chapter 41 of title 28, United States Code, is amended by adding at the end of the following new section: "Section 612. Judiciary Automation Fund

"(a) ESTABLISHMENT AND AVAILABILITY OF FUND.—There is hereby established in the Treasury of the United States a special fund to be known as the 'Judiciary Automation Fund' (hereafter in this section referred to as the 'Fund'). Moneys in the Fund shall be available to the Director without fiscal year limitation for the procurement (by lease, purchase, exchange, transfer, or otherwise) of automatic data processing equipment for the judicial branch of the United States. The Fund shall also be available for expenses, including personal services and other costs, for the effective management, coordination, operation, and use of automatic data processing equipment in the judicial branch.

"(b) PLAN FOR MEETING AUTOMATIC DATA PROCESSING NEEDS.—

"(1) DEVELOPMENT OF PLAN.—The Director shall develop and annually revise, with the approval of the Judicial Conference of the United States, a long range plan fro meeting the automatic data processing equipment needs of the judicial branch. Such plan and revisions shall be submitted to Congress.

"(2) EXPENDITURES CONSISTENT WITH PLAN.—The Director may use amounts in the Fund to procure automatic data processing equipment for the judicial branch of the United States only in accordance with the plan developed under paragraph (1).

"(c) DEPOSITS INTO FUND.—

"(1) DEPOSITS.—There shall be deposited in the Fund—

"(A) all proceeds resulting from activities conducted under subsection (a), including net proceeds of disposal of excess or surplus property and receipts from carriers and others for loss of or damage to property;

"(B) amounts available for activities described in subsection (a) from funds appropriated to the judiciary; and

"(C) any advances and reimbursements required by paragraph (2).

"(2) ADVANCES AND REIMBURSEMENTS.—Whenever the Director procures automatic data processing equipment for any entity in the judicial branch other than the courts or the Administrative Office, that entity shall advance or reimburse the Fund, whichever the Director considers appropriate, for the costs of the automatic data processing equipment, from appropriations available to that entity.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund for any fiscal year such sums as are required to supplement amounts desposited under subsection (c) in order to conduct activities under subsection (a).

"(e) CONTRACT AUTHORITY.—

"(1) FOR EACH FISCAL YEAR.—(A) In fiscal year 1990, and in each succeeding fiscal year, the Director may enter into contracts for the procurement of automatic data processing equipment in amounts which, in the aggregate, do not exceed $75,000,000 in advance of the availability of amounts in the Fund for such contracts.

"(2) MULTIYEAR CONTRACTS.—In conducting activities under subsection (a), the Director is authorized to enter into multiyear contracts for automatic data processing equipment for periods of not more than five years for any contract, if—

"(A) funds are available and adequate for payment of the costs of such contract for the first fiscal year and for payment of any costs of cancellation or termination of the contract;

"(B) such contract is awarded on a fully competitive basis; and

"(C) the Director determines that—

"(i) the need for the automatic data processing equipment being provided will continue over the period of the contract; and

"(ii) the use of the multi-year contract will yield substantial cost savings when compared with other methods of providing the necessary resources.

"(3) Cancellation Costs of Multiyear Contract.—Any cancellation costs incurred with respect to a contract entered into under paragraph (2) shall be paid from currently available amounts in the Fund.

"(f) APPLICABILITY OF PROCUREMENT STATUTE.—The procurement of automatic data processing equipment under this section shall be conducted in compliance with section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759).

"(g) AUTHORITY OF ADMINISTRATOR OF GENERAL SERVICES.—Nothing in this section shall be construed to limit the authority of the Administrator of General Services under sections 111 and 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 and 759).

"(h) ANNUAL REPORT.—The Director shall submit to the Congress an annual report on the operation of the Fund, including on the inventory, use, and acquisition of automatic data processing equipment from the Fund and the consistency of such acquisition with the plan prepared under subsection (b). The report shall set forth the amounts deposited into the Fund under subsection (c).

"(i) REPROGRAMMING.—The Director of the Administrative Office of the United States Courts, under the supervision of the Judicial Conference of the United States, and upon notification to the Committees on Appropriations of the House of Representatives and the Senate, may use amounts deposited into the Fund under subparagraph (c)(1)(B) for purposes other than those established in subsection (a) only by following reprogramming procedures in compliance with provisions set forth in Section 606 of Public Law 100-459.

"(j) APPROPRIATIONS INTO THE FUND.—If the budget request of the Judiciary is appropriated in full, the amount deposited into the Fund during any fiscal year under the authority of subparagraph (c)(1)(B) will be the same as the amount of funds requested by the Judiciary for activities described in subsection (a). If an amount to be deposited is not specified by Congress and if the full request is not appropriated, the amount to be deposited under (c)(1)(B) will be set by the spending priorities established by the Judicial Conference.

"(k) DEFINITION.—For purposes of this section, the term "automatic data processing equipment" has the meaning given that term in section 111(a)(2)(A) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2)(A)).

"(l) TERMINATION OF AUTHORITY.—The Fund, and the authorities conferred by this section, terminate on September 30, 1994. All unobligated amounts remaining in the Fund on that date shall be deposited into the "Judicial Services Account" to be used to reimburse other appropriations.

"(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 41 of title 28, United States Code, is amended by adding at the end the following new item: "612. Judiciary Automation Fund."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement inserts a general provision, Sec. 404, proposed by the Senate (Sec. 405) which establishes procedures for deposit and use of bankruptcy fees. The conference agreement also adds new language to establish a Judiciary Automation Fund. This Fund will be available to the Judicial branch for purchase of ADP equipment and for expenses related to management, coordination, operation and use of the equipment. The House bill contained no similar provisions.

Amendment No. 130: Deletes language proposed by the Senate (Sec. 406) which provided that comparable cost-of-living increases be given to judges as are provided to other Federal employees.

Amendment No. 131: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the section designation in said amendment, insert: *405*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement inserts a general provision, Sec. 405 proposed by the Senate (Sec. 407), which makes funds appropriated to the Judiciary available for the Judicial Conference of the U.S. to sponsor and host the Fifth International Appellate Judges Conference in the U.S.; permits the Judicial Conference to supplement such funds with other funds made available by other government agencies and private sources; provides for local travel and other expenses of foreign participants; provides that funds for commemorating the bicentiennial or for salaries and expenses of the Judiciary shall not be made available for travel and other expenses of dependents; and does not preclude payments for the travel or other expenses of foreign participants and their dependents by any other department or agency. The House bill contained no similar provision.

Amendment No. 132: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following:

SEC. 406 (a). Section 1930(a)91) of title 28, United States Code, is amended by striking out "$90" and inserting in lieu thereof "$120". Pursuant to section 1930(b) of title 28, the Judicial Conference of the United States shall prescribe a fee of $60 on motions seeking relief from the automatic stay under 11 U.S.C. section 362(b) and motions to compel abandonment of property of the estate. The fees establishment pursuant to the preceding two sentences shall take effect 30 days after the enactment of this Act.

(b) All fees as shall be hereafter collected for any service enumerated after item 18 of the bankruptcy miscellaneous fee schedule prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. section 1930(b) and 25 percent of the fees hereafter collected under 28 U.S.C. section 1930(a)(1) shall be deposited as offsetting receipts to the fund established under 28 U.S.C. section 1931 and shall remain available to the Judiciary until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the Courts of Appeals, District Courts, and Judicial Services and the Administrative Office of the United States Courts. The Judicial Conference shall report to the Committees on Appropriations of the House of Representatives and the Senate on a quarterly basis beginning on the first day of each fiscal year regarding the sums deposited in said fund.

(c) Section 589a(b)(1) of title 28, United States Code, is amended by striking out "one-third" and inserting in lieu thereof "one-fourth".

(d) Section 1931 of title 28, United States Code, is amended by striking out the following before the colon "as provided in annual appropriation acts."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement inserts a general provision, Sec. 406, proposed by the Senate which raises bankruptcy filing fees from $90 to $120; prescribes a fee of $60 on motions seeking relief for the automatic stay under 11 U.S.C. Section 362(b); and provides the Judiciary with authority to reimburse the special fund of the Treasury established under 28 U.S.C., Section 1931 with fees collected for any services added to the current bankruptcy miscellaneous fee schedule by the Judicial Conference of the U.S. The conference agreement also inserts new language which amends 28 U.S.C. 589a(b)(1) in order to allow the U.S. Trustees System Fund to continue to receive $30 of the amount collected for each bankruptcy filing fee. The conference agreement also inserts new language which amends 28 U.S.C. 1931 to allow for the additional expenses associated with the Court Automation Fund. The House bill contained no similar provision.

Amendment No. 133: Deletes language proposed by the Senate which amended title 28 of the United States Code to raise the mandatory retirement age for the Director of the Federal Judicial Center from 70 to 75. The House bill contained no similar provision.

TITLE V—RELATED AGENCIES

MARITIME ADMINISTRATION

Amendment No. 134: Inserts a heading as proposed by the Senate.

OPERATING-DIFFERENTIAL SUBSIDIES

(LIQUIDATION OF CONTRACT AUTHORITY)

Amendment No. 135: Reported in technical disagreement. The managers on the part of the House will move to concur in the amendment of the Senate which appropriates $225,870,000 to liquidate contract obligations incurred for operating-differential subsidies of American flag vessels. The House bill contained no similar provision.

OPERATIONS AND TRAINING

Amendment No. 136: Reported in technical disagreement. The managers on the part of the House will move to concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $65,050,000, to remain available until expended, and in addition $2,250,000 shall be derived from unobligated balances of "Ship Construction": Provided, That reimbursement may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $65,050,000 in new budget authority for operations and training instead of $64,050,000 as proposed by the Senate. The conference agreement also provides that $2,250,000 shall be derived from unobligated balances of "Ship Construction", and allows reimbursements to be made to this appropriation from the Federal Ship Financing Fund for certain administrative expenses as proposed by the Senate. The House bill contained no similar provisions.

READY RESERVE FORCE

Amendment No. 137: Reported in technical disagreement. The managers on the part of the House will move to concur in the amendment of the Senate with an amendment as folllows:

In lieu of the sum named in said amendment insert the following: *$89,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $89,000,000 for the Ready Reserve Force instead of $106,600,000 as proposed by the Senate. The conference agreement also provides that for reimbursements to be made to operations and training appropriation for expenses related to the National Defense Reserve Fleet as proposed by the Senate. The House bill contained no similar provisions.

The conference agreement assumes $59,450,000 for operations and maintenance and $29,550,000 for ship acquisition.

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

Amendment No. 138: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $33,876,000 for the Arms Control and Disarmament Agency and includes language providing up to $55,000 for official reception and repesentation expenses. The House bill contained no similar provision.

The conferees are agreed that up to $750,000 of the appropriation be used for preparatory meetings of the Non-Proliferation Treaty Review Conference and $250,000 be allocated from the Department of State for this purpose.

BOARD FOR INTERNATIONAL BROADCASTING

Amendment No. 139: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which inserts a heading. The House bill contained no similar provision.

GRANTS AND EXPENSES

Amendment No. 140: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the sum "$195,000,000" named in said amendment insert the following: *$190,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $190,000,000 for grants and expenses of the Board for International Broadcasting instead of $195,000,000 as proposed by the Senate. The conference agreement also provides for up to $52,000 for offical reception and repesentation expenses as proposed by the Senate. The House bill contained no similar provisions.

ISRAEL RELAY STATION

Amendment No. 141: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $183,500,000 for the Israel Relay Station. The House bill contained no similar provision.

COMMISSION ON AGRICULTURAL WORKERS

SALARIES AND EXPENSES

Amendment No. 142: Appropriates $300,000 for the Commission on Agricultural Workers as proposed by the Senate instead of $500,000 as proposed by the House. The conference agreement assumes the availability of $200,000 in prior year unobligated balances.

Amendment No. 143: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede

and concur in the Senate amendment which provides for extended availability of funds for the Commission. The House bill contained no similar provision.

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

SALARIES AND EXPENSES

Amendment No. 144: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which extends the availability of funds and authorizes the Commission to enter into contracts, grants or cooperative agreements. The conference agreement also earmarks $705,000 to be available for the purchase of the historic landmark house and surrounding 25 acres to establish the Charles Pinckney National Historic Site as proposed by the Senate. The House bill contained no similar provisions.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

Amendment No. 145: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $5,707,000 for the salaries and expenses of the Civil Rights Commission for FY 1990. The conference agreement also includes earmarks and limitations on use of Commission funds as proposed by the Senate, which are identical to those contained in the fiscal year 1989 Appropriations Act. The House bill contained no similar provisions.

COMMISSION ON THE UKRAINE FAMINE

Amendment No. 146: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $100,000 for close out expenses of the Commission. The House bill contained no similar provision.

COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT

Amendment No. 147: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides for extended availability of funds for the Commission. The House bill contained no similar provision.

COMPETITIVENESS POLICY COUNCIL

SALARIES AND EXPENSES

Amendment No. 148: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$750,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $750,000 for the Competitiveness Policy Council for FY 1990 instead of $1,000,000 as proposed by the Senate. The House bill contained no similar provision.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

Amendment No. 149: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which delays until October 1, 1990, implementation of a rule allowing unsupervised waivers under the Age Discrimination in Employment Act (ADEA) and precludes the EEOC from implementing additional rules regarding unsupervised waivers of ADEA rights. The House bill contained no similar provision. The conference agreement provides $1,000,000 for the Congressionally mandated study on the validity of fitness tests for police and firefighters.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

Amendment No. 150: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the sum "$109,831,000" named in said amendment insert the following: *$109,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $109,000,000 for the Federal Communications Commission for fiscal year 1990 instead of $190,831,000 as proposed by the Senate. The conference agreement also includes certain language provisions governing the use of funds as proposed by the Senate. The House bill included no similar provisions.

The conference agreement includes $30,000 for the FCC to subscribe to the Rutgers University Wireless Information Network Laboratory. The conferees expect the Commission to move expeditiously to subscribe to this important technical information source.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

Amendment No. 151: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which limits funds for official reception and representation expenses to $1,500. The House bill contained no similar provision.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

Amendment No. 152: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the sum "$64,580,000" named in said amendment insert *$54,580,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $54,580,000 and maintains certain restrictions from the Federal Trade Commission Improvements Act of 1980, and allows for up to $2,000 for official reception and representation expenses. The Senate bill contained $64,580,000 and the language restrictions contained in the conference agreement. The House bill contained no similar provisions.

In addition to the funds provided in this amendment for the Commission, the Commission will be authorized to collect and retain $20,000,000 in certain fees under the provisions of Amendment No. 176. Thus, the Commission should have a total of $74,580,000 available for FY 1990, an increase of $5,000,000 above the budget request.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

Amendment No. 153: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $39,000,000 for the International Trade Commission for fiscal year 1990 and includes up to $2,500 for official reception and representation expenses. The House bill contained no similar provision.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

Amendment No. 154: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $321,000,000 of which $274,965,000 is for basic field programs, $7,304,000 is for Native American programs, $10,088,000 is for migrant programs, $1,144,000 is for law school clinics, $1,040,000 is for supplemental field programs, $649,000 is for regional training centers, $7,518,000 is for national support, $8,158,000 is for State support, $900,000 is for the Clearinghouse, $531,000 is for computer assisted legal research regional centers, and $8,703,000 is for Corporation management and administration.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate bill provided $321,000,000 for the Legal Services Corporation and certain earmarkings of the funds for each component of the Corporation's budget. The House bill contained no similar provisions.

The conference agreement retains the $321,000,000 proposed by the Senate and earmarks the funds as follows:

[In thousands of dollars]

	Fiscal year—1989 enacted	Fiscal year—1990 budget	House	Senate	Conference
Basic field programs	$264,349	$275,047		$275,306	$274,965
Native American program	7,002	7,002		7,313	7,304
Migrant programs	9,698			10,100	10,088
Law school clinics	1,100	1,100		1,146	1,144
Supplemental field programs	1,000			1,041	1,040
Regional training centers	624			650	649

[In thousands of dollars]

	Fiscal year—1989 enacted	Fiscal year—1990 budget	House	Senate	Conference
National support	7,228			7,528	7,518
State support	7,843			8,168	8,158
Clearinghouse	865			901	900
Computer Assisted Legal Research (CALR) regional centers	510			531	531
Corporation management and administration	8,316	12,145		8,316	8,703
Total	308,555	295,314		321,000	321,000

The conference agreement also deletes language proposed by the Senate which would have earmarked $5,000,000 for basic field programs to be used to assist public housing authorities, school boards, and others to expel from housing or school areas individuals engaged in drug-related criminal activity. The House bill contained no similar provision. While the conferees strongly support the intent of this provision, the varying needs and demands in different parts of the nation make it desirable to leave some flexibility in addressing this problem at the local level. The conferees, however, believe basic field programs and schools free from drug-related activity. Accordingly, each basic field program shall, during the priority-setting process required by section 1007(a)(2)(C) of the Legal Services Corporation Act, assess the needs of eligible clients for assistance in this area and the program's ability to provide such assistance within existing law, and give such anti-drug efforts a high priority where warranted. In addition, the Corporation is directed to submit a report to the House and Senate Committees on Appropriations describing the ongoing and planned efforts by the local programs to provide such assistance by May 1, 1990.

The conference agreement assumes that $1,700,000 of funds carried over from FY 1989 are available to the Corporation for management and administration. The Corporation is directed to submit a report to the House and Senate Appropriations Committees regarding the source of any carryover funds and, to the extent the total amount exceeds $1,700,000, to submit a reprogramming pursuant to section 606 of this Act regarding any proposed use of such excess amount.

MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

SALARIES AND EXPENSES

Amendment No. 155: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $300,000 for the Commission. The House bill contained no similar provision.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

Amendment No. 156: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the sum "$18,830,000" named in said amendment, insert the following: *$18,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $18,000,000 for the U.S. Trade Representatives for FY 1990 instead of $18,830,000 as proposed by the Senate. The House bill contained no similar provision.

The conferees are concerned that an adequate level of funds be maintained for this important office so that the ability of the United States to combat our massive trade deficit is not impaired. Enactment of the Omnibus Trade Bill last year, of which the implementation of a significant portion is handled by the USTR, has substantially increased the workload of this office. At the same time, the USTR is also involved in the last stages of the Uruguay Round of Multilateral Trade Negotiations, the most ambitious trade talks engaged in by the United States. USTR is also responsible for the implementation and follow up negotiations of the U.S.-Canada Free Trade Agreement. The conferees have provided the fullest amount possible within the overall allocation for this bill. If additional resources are required, suitable financial adjustments will have to be considered.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

Amendment No. 157: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $168,707,000 for the Commission and provides for up to $3,000 for official reception and representation expenses and limits to $10,000 the amount to be used toward funding a permanent secretariat for the International Organizations of Securities Commissions.

The conferees are concerned about the backlog in the processing of the filings of the public utility holding companies. The 1988 backlog was 34, and the SEC projects it to grow to 79 in 1989 and 139 in 1990. The conferees direct that $500,000 and the appropriate additional professional staff positions be added to this area to get and keep current with the backlog.

The conference agreement also includes language proposed by the Senate requiring the SEC to raise the rate of fees under section 6(b) of the Securities Act of 1933 from one-fiftieth to one-fortieth of 1 percent, and provides that the amounts to be collected by this increase are to be deposited in the general fund of the Treasury and are considered offsetting receipts to this appropriation. The House bill contained no similar provisions.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

Amendment No. 158: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment insert the following: *$242,000,000, of which $500,000 shall be made available for a grant to St. Norbert College in De Pere, Wisconsin, for a regional center for rural economic development, and of which $500,000 shall be made available for the establishment of a training program at the East-West Center to assist American businessmen and trade delegations in the Pacific basin, and of which $1,500,000 shall be made available for a grant to the University of Kentucky's Somerset Community College for a regional center for rural economic development with a special emphasis on small business and*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $242,000,000 instead of $240,545,000 as proposed by the House and $239,136,000 as proposed by the Senate. The conference agreement includes new language not included in either the House or Senate bills earmarking funds for grants to St. Norbert College, the East-West Center and the University of Kentucky's Somerset College for certain small business development activities.

The conference agreement includes the following amounts with appropriate comparisons:

[In thousands of dollars]

	House Allowance	Senate Allowance	Conference
Finance and investment	$58,499	$58,499	$58,499
Procurement assistance	17,633	18,633	17,633
Minority small business/cod	26,262	27,030	27,030
7(j)	(8,080)	(8,848)	(8,848)
8(a) Commission	(500)	(500)	(500)
Innovation, research, and technology	1,232	1,232	1,232
Advocacy	5,357	5,357	5,357
Special programs	79,970	74,370	79,470
SBDC	(50,000)	(45,000)	(50,000)
SCORE	(2,500)	(2,500)	(2,500)
International trade	(500)	(2,500)	(1,500)
Veterans outreach	(465)	(465)	(465)
Rural economic development	(1,100)		(1,500)
Women's Business outreach	(3,000)	(2,000)	(2,000)
Women's Council	(500)	(500)	(500)
Other	(21,905)	(21,405)	(21,005)
Management and administration	76,344	78,767	77,531
General Counsel	15,849	15,849	15,849
Hearings and appeals	1,004	1,004	1,004
Public communications	1,251	1,251	1,251
Congressional and legislative affairs	565	565	565
Executive direction & field admin	33,739	33,739	33,739
Disaster assistance	19,000	19,000	19,000
Total	336,705	335,296	338,160
Transfer from Disaster Loan Fund	−96,160	−96,160	−96,160
Appropriation	240,545	239,136	242,000

The conference agreement also provides $400,000 for the Women's Outreach Commission.

The conferees note that at the present time the Small Business Administration serves approximately 1.6 million people through the Buffalo, New York, Branch office and another 1 million people through a post of duty station in Rochester, New York. Both of these offices report to the Syracuse district office, about 200 miles away. Since approval of the district office is required for many actions, the current structure somewhat handicaps the providing of assistance to small businesses in the areas involved. The conferees believe that it

would be beneficial to upgrade the Buffalo and Rochester offices and note that doing so and attaching the Rochester office to Buffalo would be appropriate from a geographic standpoint and would result in a district office serving some 2.6 million people. In terms of population, the new area would be larger than 20 states. Accordingly, the conferees direct the Administration to upgrade the branch office in Buffalo, New York, to a district office, including the territory of Rochester, New York, within its jurisdiction, and upgrade the post of duty station in Rochester to a branch office.

Amendment No. 159: Appropriates $50,000,000 for Small Business Development centers as proposed by the House instead of $45,000,000 as proposed by the Senate.

Amendment No. 160: Deletes $96,100,000 proposed by the House allowing for the transfer of funds from the Disaster Loan Fund for disaster loan making activities and inserts language proposed by the Senate allowing such sums as may be necessary for this purpose.

OFFICE OF INSPECTOR GENERAL

Amendment No. 161: Appropriates $7,400,000 as proposed by the House instead of $7,552,000 as proposed by the Senate.

BUSINESS LOAN AND INVESTMENT FUND

Amendent No. 162: Appropriates $82,000,000 instead of $87,000,000 as proposed by the House and $78,000,000 as proposed by the Senate.

The following table shows the conference agreement with appropriate comparisons:

[In thousands of dollars]

Lending programs	Fiscal year 1989 appropriation	Fiscal year 1990			
		Authorized	House	Senate	Conference
General business 7(a)	$2,621	$2,930	$2,450	$3,200	$3,200
Guaranteed	(2,621)	(2,930)	(2,450)	(3,200)	(3,200)
Handicapped 7(a)(10)	17	23	17	15	12
Direct	(12)	(18)	(12)	(15)	(12)
Guaranteed	(5)	(5)	(5)	(1)	(1)
Economic opportunity 7(a)(11)	57	93	57	15	17
Direct	(17)	(25)	(17)	(15)	(17)
Guaranteed	(40)	(68)	(40)	(1)	(1)
Energy 7(a)(12)	5	62	5		
Guaranteed	(5)	(62)	(5)	(1)	(1)
Veterans Public Law 97–72: Title III	17	22	17	17	17
Direct	(17)	(22)	(17)	(17)	(17)
Development company: SBIA Title V	365	478	415	478	478
Guaranteed	(365)	(478)	(415)	(478)	(478)
Investment company: SBIA Title III	154	324	154	322	
Direct [MESBIC]	(36)	(41)	(36)	(23)	(31)
Guaranteed [SBIC]	(118)	(283)	(118)	(249)	(249)
Guaranteed [MESBIC]				(50)	(50)
Section 8(a): Public Law 100–656	5	10	5	8	8
Direct	(5)		(5)	(8)	(5)
Guaranteed				(1)	(1)
Total business	3,241	[2] 3,942	3,120	4,055	4,059
Direct	(87)	(106)	(87)	(78)	(82)
Guaranteed	(3,154)	(3,826)	(3,033)	(3,977)	(3,977)

[1] These programs are funded out of general business loan guarantees.
[2] Includes $10,000,000 for section 8(a) authorized as both direct and guaranteed.

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND

Amendment No. 163: Restores language proposed by the House but stricken by the Senate which appropriates $13,000,000 for the Pollution control equipment contract guarantee revolving fund and provides for the extended availability of the funds.

ADMINISTRATIVE PROVISIONS

Amendment No. 164: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendnent of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

ADMINISTRATIVE PROVISIONS

(1) Section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) is amended to read as follows:

"(2) In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration, except as provided in paragraph (6), shall be—

"(A) not less than 90 percent of the balance of the financing outstanding at the time of disbursement if such financing does not exceed $155,000: Provided, That the percentage of participation by the Administration may be reduced below 90 percent upon request of the participating lender; and

"(B) subject to the limitation in paragraph (3)—

"(i) not less than 70 percent nor more than 85 percent of the financing outstanding at the time of disbursement if such financing exceeds $155,000: Provided, That the participation by the Administration may be reduced below 70 percent upon request of the participating lender; and

"(ii) not less than 85 percent of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (16); The Administration shall not use the percent of guarantee requested as a criterion for establishing priorities in approving guarantee requests nor shall the Administration reduce the percent guaranteed to less than 85 percent under subparagraph (B) other than by determination made on each application. Notwithstanding subparagraphs (A) and (B), the Administration's participation under the Preferred Lenders Program or any successor thereto shall be not less than 80 pecent, except upon request of the participating lender. As used in this subsection, the term 'Preferred Lenders Program' means a program under which a written agreement between the lender and the Administration delegates to the lender (I) complete authority to make and close loans with a guarantee from the Administration without obtaining the prior specific approval of the Administration, and (II) authority to service and liquidate such loans.".

(2) Section 7(a)(19) of the Small Business Act (15 U.S.C. 636(a)(19) is amended to read as follows:

"(19)(A) In addition to the Preferred Lenders Program authorized by the proviso in section 5(b)(7), the Administration is authorized to establish a Certified Lenders Program for lenders who establish their knowledge of Administration laws and regulations concerning the guaranteed loan program and their proficiency in program requirements. The designation of a lender as a certified lender shall be suspended or revoked at any time that the Administration determines that the lender is not adhering to its rules and regulations or that the loss experience of the lender is excessive as compared to other lenders, but such suspension or revocation shall not effect any outstanding guarantee.

"(B) In order to encourage all lending institutions and other entities making loans authorized under this subsection to provide loans of $50,000 or less in guarantees to eligible small business loan applicants, during fiscal years 1989, 1990, and 1991, the Administration shall (i) develop and allow participating lenders to solely utilize a uniform and simplified loan form for such loans, and (ii) allow such lenders to retain one-half of the fee collected pursuant to section (7)(a)(18) on such loans. A participating lender may not retain any fee pursuant to this paragraph if the amount committed and outstanding to the applicant would exceed $50,000 unless the amount in excess of $50,000 is an amount not approved under the provisions of this paragraph.".

(3) The last sentence of subparagraph (A) of section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)) is amended to read as follows: "In the case of cosponsored activities which include the participation of a Federal, State, or local public official or agency, the Administration shall take such actions as it deems necessary to ensure that the cooperation does not constitute or imply an endorsement by the Administration of or give undue recognition to the public official or agency, and the Administration shall ensure that it receives appropriate recognition in all cosponsored printed materials, whether the participant is a profit making concern or a governmental agency or public official.".

(4) Section 303 of the Small Business Investment Act of 1958 is amended by striking subsection (c) and inserting in lieu thereof the following new subsections:

"(c) Subject to the following conditions, the Administration is authorized to purchase preferred securities, and to purchase, or to guarantee the timely payment of all principal and interest payments as scheduled, on debentures issued by small business investment companies operating under the authority of section 301(d) of this Act. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this subsection.

"(1) The Administration may purchase shares of nonvoting stock (or other corporate securities having similar characteristics), provided—

"(A) dividends are preferred and cumulative to the extent of 3 per centum of par value per annum, except as provided in paragraph (5);

"(B) on liquidation or redemption the Administration is entitled to the preferred payment of the par value of such securities; and prior to any distribution (other than to the Administration) the Administration shall be paid any amounts as may be due pursuant to subparagraph (A) of this paragraph;

"(C) the purchase price shall be at par value and, in any one sale, $50,000 or more;

"(D) the amount of such securities purchased and outstanding at any one time shall not exceed—

"(i) from a company licensed on or before October 13, 1971, 200 per centum of the combined private paid-in capital and paid-in surplus of such company, or

"(ii) from any such company licensed after October 13, 1971, and having a combined paid-in capital and paid-in surplus of less than $500,000, 100 per centum of such capital and surplus, or

"(iii) from any such company licensed after October 13, 1971, and having a combined private paid-in capital and paid-in surplus of $500,000 or more, 200 per centum of such capital and surplus; and

"(E) the amount of such securities purchased by the Administration in excess of 100 per centum of such capital and surplus from any company described in clause (i) or (iii) may not exceed an amount equal to the amount of its funds invested in or legally committed to be invested in equity securities; for the purposes of this subsection, the

term 'equity securities' means stock of any class (including preferred stock) or limited partnership interests, or shares in a syndicate, business trust, joint stock company or association, mutual corporation, cooperative or other joint venture for profit, or unsecured debt instruments which are subordinated by their terms to all other borrowings of the issuer.

"(2) The Administration may purchase or guarantee debentures subordinated pursuant to subsection (b) of this section (other than securities purchased under paragraph (1) of this subsection (c)), provided—

"(A) such debentures are issued for a term of not to exceed fifteen years;

"(B) the interest rate is determined pursuant to this section or section 317; and

"(C) the amount of debentures purchased or guaranteed and outstanding at any one time pursuant to this paragraph (2) from a company having combined private paid-in capital and paid-in surplus of less than $500,000 shall not exceed 300 per centum of its combined private paid-in capital and paid-in surplus less the amount of preferred securities outstanding under paragraph (1) of this subsection, nor from a company having combined private paid-in capital and paid-in surplus of $500,000 or more, 400 per centum of its combined private paid-in capital and paid-in surplus less the amount of such preferred securities.

"(3) Debentures purchased and outstanding pursuant to section 303(b) of this section may be retired simultaneously with the issuance of preferred securities to meet the requirements of subparagraph (2)(C) of this subsection (c).

"(4) The Administration may require, as a condition of the purchase or guarantee of any securities in excess of 300 per centum of the combined private paid-in capital and paid-in surplus of a company, that the company maintain a percentage of its total funds available for investment in small business concerns invested or legally committed in venture capital (as defined in subsection (b) of this section) determined by the Administration to be reasonable and appropriate.

"(5) Notwithstanding the foregoing provisions of this subsection, securities purchased by the Administration on or after the effective date of this Act (A) shall provide that dividends shall be preferred and cumulative to the extent of 4 per centum of par value per annum and (B) shall include a provision requiring the issuer to redeem such securities, including any accrued and unpaid dividends, in 15 years from the date of issuance: Provided, That the Administration may, in its discretion, guarantee debentures in such amounts as will permit the simultaneous redemption of such securities, including such amounts as it deems appropriate to include all or any part of accrued and unpaid dividends: Provided further, That the Administration shall not pay any part of the interest on such debentures except pursuant to its guarantee in the event of default in payment by the issuer.

"(6) In no event shall the Administration purchase or guarantee debentures or securities if the amount of outstanding securities and debentures of a company operating under the authority of section 301(d) would exceed 400 per centum of its combined private paid-in capital and paid-in surplus or $35,000,000, whichever is less.

"(d) If the Administration guarantees debentures issued by a small business investment company, operating under authority of section 301(d) of this Act, it shall make, on behalf of the company payments in such amounts as will reduce the effective rate of interest to be paid by the company during the first five years of the term of such debentures to a rate of interest 3 points below the market rate of interest determined pursuant to section 321. Such payments shall be made by the Administration to the holder of the debenture, its agents or assigns, or to the appropriate central registration agent, if any. The aggregate amount of debentures with interest rate reductions as provided in this subsection or as provided in section 317 which may be outstanding at any time from any such company shall not exceed 200 per centum of the private paid-in capital and paid-in surplus of such company. The authority to reduce interest rates as provided in this subsection shall be limited to amounts provided in advance in appropriations acts, and the total amount shall be reserved within the business loan and investment fund to pay an amount equal to the amount of the reduction as it becomes due.

"(e) In determining the private capital of a small business investment company, Federal, State, or local government funds received from sources other than the Administration shall be included solely for regulatory purposes, and not for the purpose of obtaining financial assistance from the licensing by the Administration, providing such funds were invested prior to the effective date of this Act.

"(f) Notwithstanding the provisions of any other law, rule, or regulation, the Administration is authorized to allow the issuer of any preferred stock heretofore sold to the Administration to redeem or repurchase such stock upon the payment to the Administration of an amount less than the par value of such stock. The Administration, in its sole discretion, shall determine the repurchase price after considering factors including, but not limited to, the market value of the stock, the value of benefits previously provided and anticipated to accrue to the issuer, the amount of dividends previously paid, accrued, and anticipated, and the Administration's estimate of any anticipated redemption. The Administration may guarantee debentures as provided in paragraph (5) of subsection (c) and allow the issuer to use the proceeds to make the payments authorized herein. Any monies received by the Administration from the repurchase of preferred stock shall be deposited in the business loan and investment fund and shall be available solely to provide assistance to companies operating under the authority of section 301(d), to the extent and in the amounts provided in advance in appropriations acts.".

(5) Section 321(a) of the Small Business Investment Act of 1958 is amended by inserting after the word "companies" the following: ", including companies operating under the authority of section 301(d),".

(6) Section 204 of the Small Business Development Center Act of 1980 (Public Law 96-302), as amended, is further amended by striking "October 1, 1990" and by inserting in lieu thereof "October 1, 1991.".

(7) Notwithstanding any other provision of the Act, none of the funds appropriated or made available by this Act or otherwise appropriated or made available to the Small Business Administration shall be used to adopt, implement, or enforce any rule or regulation with respect to the Small Business Development Center program authorized by section 21 of the Small Business Act, as amended (15 U.S.C. 648) nor may any of such funds be used to improve any restrictions, conditions or limitations on such program whether by standard operating procedure, audit guidelines or otherwise, unless such restrictions, conditions or limitations were in effect on October 1, 1987, unless specifically approved by the Committees on Appropriations under reprogramming procedures except that this provision shall not apply to uniform common rules applicable to multiple Federal departments and agencies including the Small Business Administration; nor may any of such funds be used to restrict in any way the right of association or participants in such program.

(8) The funds made available by this Appropriations Act for Small Business Development Centers shall be available for grants for performance in fiscal year 1990 or fiscal year 1991.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment inserted language which would have:

(1) transferred the assets of the Pollution Control Fund to the Business Loan and Investment fund;

(2) provided that continuing expenses of the fund, including payment of additional claims resulting from defaulted bonds guaranteed in prior years, will be paid from the business loan and investment fund;

(3) established a uniform SBA guaranteed percentage of 80 percent for all loans made under the Preferred Lenders Program;

(4) expanded the small loan program by making it applicable to all regular business loans, not just to Preferred and Certified Lenders Program loans;

(5) simplified recently enacted statutory restrictions on SBA's cosponsorship program to require that only appropriate recognition be given to SBA based on the amount of the Agency's participation in the venture; and

(6) allowed minority enterprise small business investment companies, which have previously sold debentures directly to SBA to participate in issuances of guaranteed debentures with other SBIC's. This provision would have permitted $50,000,000 of the $324,000,000 available for the total investment company program level for guarantees of MESBIC debentures.

The conference agreement deletes items (1) and (2), retains items (3), (4), and (5) and modifies (6) as described below.

The two sections dealing with changes in the MESBIC program basically restate existing law and practice except for three changes.

First, it would change the nature of the debenture assistance made available to MESBIC's. Under the current program, SBA purchases about $18 million in debentures and holds them in-house at an interest rate of 3 points below the federal cost of money for the first five years. Instead, the new section 303(d) would permit SBA to guarantee about $50 million per year in debentures which would be sold to private investors. SBA would pay 3 points of the interest for the first five years.

Second, the use of preferred stock purchases to finance MESBICs would be tightened up. Under the current program, SBA purchases about $18 million in preferred stock per year in MESBICs. The stock carries a 3-percent dividend. In the future, the new section 303(c)(5) would increase the dividend rate to 4 percent and would require the MESBIC-issuer to redeem it in 15 years.

Finally, the proposal would recognize that the outstanding preferred stock is not equiv-

alent to its par value because there is very little incentive for the MESBIC-issuer to redeem it, and thus there is no market for it. The new section 303(f) authorizes SBA to set a price at less than its par value, at which the Agency would sell the stock back to the MESBIC which issued it. The proceeds would be deposited in the business loan and investment revolving fund and used to fund future operations of the MESBIC program.

The conference agreement also inserts new language which makes certain technical changes in section 321(a) of the Small Business Investment Act of 1958.

The conference agreement also includes new language which will extend the Small Business Development Center program for one additional year and bring it in line with the other authorizations.

The conference agreement also includes new language which prohibits restrictions on the Small Business Development program which were not in effect on October 1, 1987, except for uniform common rules.

The conference agreement also includes new language which requires that funds appropriated by this appropriations Act for Small Business Development Centers shall be available for grants for performance in fiscal year 1990 or fiscal year 1991.

The House bill did not contain any provision on any of these matters.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

Amendment No. 165: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the sum named in said amendment insert: *$8,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $8,000,000 for the State Justice Institute instead of $11,233,000 as proposed by the House and $12,000,000 as proposed by the Senate. The amount in the conference agreement, when added to the $4,020,000 included in Title IV of H.R. 3015, provides the State Justice Institute with total funding of $12,020,000 for fiscal year 1990.

Amendment No. 166: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides that pursuant to section 7321(a) of Public Law 100-690, appropriations for the Institute are authorized through fiscal year 1991, and shall remain available until expended. The House bill contained no similar provision.

UNITED STATES INFORMATION AGENCY

Amendment No. 167: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which inserts a heading.

SALARIES AND EXPENSES

Amendment No. 168: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.) and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $700,000, of this appropriation), as authorized by 22 U.S.C. 1471, expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 22 U.S.C. 1474(3); $638,569,000, none of which shall be restricted from use for the purposes appropriated herein: Provided, That not less than $32,800,000 shall be available for the Television and Film Service notwithstanding Section 209(e) of Public Law 100-204: Provided further, That not to exceed $1,210,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085: Provided further, That not to exceed $12,902,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: Provided further, That not to exceed $500,000 shall remain available until expended as authorized by 22 U.S.C. 1477(b), for expenses (including those authorized by the Foreign Service Act of 1980) and equipment necessary for maintenance and operation of data processing and administrative services as authorized by 31 U.S.C. 1535-1536: Provided further, That not to exceed $6,000,000 may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, television, and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $638,569,000 instead of $647,875,000 as proposed by the Senate. The conference agreement also includes certain language provisions as proposed by the Senate and new language not included in either the House or Senate bills earmarking not less than $32,800,000 for WORLDNET notwithstanding Section 209(e) of Public Law 100-204. The House bill contained no provisions on any of these matters.

The conference agreement includes the following:

[In thousands of dollars]

	Fiscal year 1989 Enacted	Fiscal year 1990 Budget	House	Senate	Conference
Voice of America	$169,724	$170,235	Defer	$171,224	$171,224
Television and film service	38,500	36,300	Defer	31,000	32,800
Educational & cultural affairs	36,475	36,220	Defer	36,326	36,720
Seville World's Fair	400	5,000	Defer	4,000	
Other S&E (Missions, etc.)	371,751	407,313	Defer	405,325	397,825
Total	616,850	655,068	Defer	647,875	638,569

The conference agreement reflects currency gains in this account of $7,500,000.

OFFICE OF THE INSPECTOR GENERAL

Amendment No. 169: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $3,675,000. The House bill contained no similar provision.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

Amendment No. 170: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the sum "$160,300,000" named in said amendment insert: *$156,506,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $156,506,000 instead of $160,300,000 as proposed by the Senate. The conference agreement also provides $1,500,000 for the Eisenhower Exchange Fellowship program and provides for the extended availability of these funds as proposed by the Senate. The House bill contained no similar provisions.

The conference agreement includes the following amounts with appropriate comparisons:

[In thousands of dollars]

	Fiscal year 1989 Enacted	Fiscal year 1990 Budget	House	Senate	Conference
Academic Exchange Programs:					
Samantha Smith	$2,000	$2,000		$2,000	$2,000
All other academic	87,090	89,947		94,169	92,169
CAMPUS	3,180	3,291		3,291	3,291
Subtotal	92,270	95,238		99,460	97,460
International Visitors Program	40,440	41,817		40,400	41,817
Hubert H. Humphrey fellowships	5,000	5,195		5,500	5,500
Congress Bundestag exchange	2,500	2,500		2,500	2,500
Institute for Representative Government	540			540	540
Private section/citizen exchange:					
Eisenhower fellowships	1,500	1,500		1,500	1,500
Private sector/ citizens	7,790	6,750		7,189	7,189
Youth exchange	(1)	(1)		3,211	
Subtotal	9,290	8,250		11,900	8,689
Total	150,040	153,000	Defer	160,300	156,506

[1] Youth Exchange program included in USIA's S&E account at $3,245,900 in 1989, and $3,210,800 in 1990 estimate. These funds are included in the Salaries and Expenses Account.

The conferees agree that $200,000 shall be available to the Washington Workshops Foundation for administering the Mildred and Claude Pepper Scholarship program, contingent upon authorizing legislation being enacted into law.

Of the total provided, the conferees have included $2,000,000 for the Samantha Smith Memorial Exchange Program, which supports exchanges (including some which may not occur under academic circumstances) involving youth under the age 21 and undergraduate students under the age of 26. If additional funds become available, the conferees urge the USIA to provide up to a total of $3,000,000 for this program. The conferees direct the USIA to promote the program, and solicit and announce grant proposals explicitly under the name of the "Samantha Smith Memorial Exchange Program".

RADIO CONSTRUCTION

Amendment No. 171: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase of installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $85,000,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a), of which not to exceed $16,000,000 may be available for the completion of testing and first-year operations of television broadcasting to Cuba, including, but not limited to the purchase, rent, construction, improvement and equipping of facilities, operations, and staffing: Provided, That such funds for television broadcasting to Cuba may be used to purchase or lease, maintain, and operate such aircraft (including aerostats) as may be required to house and operate necessary television broadcasting equipment: Provided further, That the availability of such funds for television broadcasting to Cuba shall be subject to the provisions of Part B, title II of H.R. 1487 as passed the House of Representatives until such time as legislation authorizing such activity is enacted into law.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $85,000,000 as proposed by the Senate. The agreement also earmarks $16,000,000 to continue the development of television broadcasting to Cuba, including first-year operations as proposed by the Senate but inserts new language that provides that the availability of these funds shall be subject to the provisions of the authorizing legislation as passed the House until such time as such legislation is enacted into law. The House bill contained no similar provisions.

RADIO BROADCASTING TO CUBA

Amendment No. 172: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $12,700,000. The House bill contained no similar provision.

EAST-WEST CENTER

Amendment No. 173: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $20,700,000 for the East-West Center and includes language which limits the base pay of East-West Center executives to the rate of GS-18 of the Classification Act of 1949, as amended, exclusive of any cap on such rate. The House bill contained no similar provision.

The amount provided in the conference agreement will provide for adjustments to base not requested in the budget.

NATIONAL ENDOWMENT FOR DEMOCRACY

Amendment No. 174: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the sum named in said amendment, insert the following: *$17,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $17,000,000 for the National Endowment for Democracy instead of $15,800,000 as proposed by the Senate. The House bill contained no similar provision.

The conferees direct the National Endowment for Democracy to give special emphasis to programs in Hungary and the other countries of Eastern Europe.

TITLE VI—GENERAL PROVISIONS

Amendment No. 175: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides that if any provision of this Act or the application of any provision is held invalid, the remainder of the Act and the application of such provisions to persons or circumstances other than those as to which it is held invalid shall not be affected. The House bill contained no similar provision.

Amendment No. 176: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

SEC. 605. Five working days after enactment of this Act and thereafter, the Federal Trade Commission shall assess and collect filing fees established at $20,000 which shall be paid by persons acquiring voting securities or assets who are required to file premerger notifications by the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18a) and the regulations promulgated thereunder. For purposes of said Act, no notification shall be considered filed until payment of the fee required by this section. Fees collected pursuant to this section shall be divided evenly between and credited to the appropriations, Federal Trade Commission, "Salaries and Expenses" and Department of Justice, "Salaries and Expenses, Antitust Division": Provided, That fees in excess of $40,000,000 in fiscal year 1990 shall be deposited to the credit of the Treasury of the United States.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment provided language which would have established a filing fee for premerger notification reports required by the Hart-Scott-Rodino Antitrust Improvements Act of 1976, and prescribed a temporary fee of one-fiftieth of 1 percent of the value of such transactions pending the establishment of a fee schedule within 180 days of approval of this Act by the Attorney General and the Commissioners of the Federal Trade Commission. The Senate amendment also provided that of the fees collected, up to $30,000,000 shall be divided equally between the FTC and the Antitrust Division and credited to their respective appropriations accounts. Any amounts collected in excess of $30,000,000 shall be deposited in the Treasury.

The conference agreement provides that five working days after enactment of this Act, the Commission shall assess and collect a filing fee of $20,000 for premerger notification reports. The conference agreement also provides that the fees collected which are estimated to be at least $40,000,000 shall be divided equally between the Federal Trade Commission and the Antitrust Division of the Justice Department. Any fee collections above $40,000,000 shall be deposited to the credit of the Treasury of the U.S.

The House bill contained no similar provisions.

Amendment No. 177: Reported in technical disageement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the sum "$250,000" named in said amendment, insert the following: *$500,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement restores prior year language proposed by the Senate concerning the reprogramming of funds within appropriation accounts, but changes the amount subject to reprogramming from $250,000 as proposed by the Senate to $500,000. The House bill contained no similar provisions.

Amendment No. 178: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which requires that FY 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act. The House bill contained no similar provision.

Amendment No. 179: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which continues all legislative provisions relating to the Legal Services Corporation in effect during FY 1989. The FY 1989 provisions prohibit abortion litigation and representation of illegal aliens, restrict lobbying and class action suits, require state and local bar associations to appoint a majority of the members of programs' boards of directors, amend the Legal Services Corporation Act which makes it easier to deny refunding to a grantee, provide a funding formula for the distribution of funds to basic field programs, require the incoming new Board of Directors to develop and implement a system of competitive bidding of grants, require the Corporation to renew grants for the full grant cycle, and restrict the implementation of certain regulatory provisions pending action by a new Board.

The conference agreement also contains language proposed by the Senate prohibiting the Corporation from implementing (but not promulgating) any new regulations prior to October 1, 1990 or until approved by a new Board of Directors. This provision will ensure that a new Board of Directors will have adequate opportunity to review major policy changes made by the existing lame duck board.

The conference agreement also includes language proposed by the Senate requiring any timekeeping requirement, which would represent a major policy shift, be undertaken by regulation if it is to be imposed; reverses the Corporation's decision to defund a grantee in a case where the Independent Hearing Officer selected by the Corporation held that their position was contrary to both the law and the Constitution; clarifies that the boards of national support centers can be appointed by the bar association representing the majority of attorneys practicing law in the locality where the center maintains its principal offices (the manner in which the existing bar association appointment provision has been enforced since 1983), and clarifies that previously adopted

restrictions on certain regulations expire if such action is directed by a new Board.

The House bill contained no provisions on any of these matters.

Amendment No. 180: Deletes language proposed by the Senate which would have limited the obligation or expenditure of funds for procurement of advisory or assistance services by the Commerce, Justice and State Departments and the Small Business Administration. The House bill contained no similar provision. The conferees agreed to delete this provision due to the impact that the drug supplemental appropriations act will have on advisory and assistance services for these departments and agencies.

Amendment No. 181: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

Sec. 609. (a) The Secretary of State, in consultation with the Secretary of Commerce, shall, with respect to those species of sea turtles the conservation of which is the subject of regulations promulgated by the Secretary of Commerce on June 29, 1987—

(1) initiate negotiations as soon as possible for the development of bilateral or multilateral agreements with other nations for the protection and conservation of such species of sea turtles;

(2) initiate negotiations as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, commercial fishing operations which, as determined by the Secretary of Commerce, may affect adversely such species of sea turtles, for the purpose of entering into bilateral and multilateral treaties with such countries to protect such species of sea turtles;

(3) encourage such other agreements to promote the purposes of this section with other nations for the protection of specific ocean and land regions which are of special significance to the health and stability of such species of sea turtles;

(4) initiate the amendment of any existing international treaty for the protection and conservation of such species of sea turtles to which the United States is party in order to make such treaty consistent with the purposes and policies of this section; and

(5) provide to the Congress by not later than on year after the date of enactment of this section—

(A) a list of each nation which conducts commercial shrimp fishing operations within the geographic range of distribution of such sea turtles;

(B) a list of each nation which conducts commercial shrimp fishing operations which may affect adversely such species of sea turtles; and

(C) a full report on—

(i) the results of his efforts under this section; and

(ii) the status of measures taken by each nation listed pursuant to paragraph (A) or (B) to protect and conserve such sea turtles.

(b)(1) IN GENERAL.—The importation of shrimp or products from shrimp which have been harvested with commercial fishing technology which may affect adversely such species of sea turtles shall be prohibited not later than May 1, 1991, except as provided in paragraph (2).

(2) CERTIFICATION PROCEDURE.—The ban on importation of shrimp or products from shrimp pursuant to paragraph (1) shall not apply if the President shall determine and certify to the Congress not later than May 1, 1991, and annually thereafter that—

(A) the government of the harvesting nation has provided documentary evidence of the adoption of a regulatory program governing the incidental taking of such sea turtles in the course of such harvesting that is comparable to that of the United States; and

(B) the average rate of that incidental taking by the vessels of the harvesting nation is comparable to the average rate of incidental taking of sea turtles by United States vessels in the course of such harvesting; or

(C) the particular fishing environment of the harvesting nation does not pose a threat of the incidental taking of such sea turtles in the course of such harvesting.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement changes the section number and includes language which requires the Secretary of State in consultation with the Secretary of Commerce to begin negotiations with other nations to develop agreements concerning the protection and conservation of sea turtles that are covered by Department of Commerce regulations requiring the use of turtle excluder devices. The amendment also requires the Secretary within one year to report to Congress on his efforts to carry out this section and the measures taken by each nation to protect and conserve such sea turtles, and certain other information. In addition the conference agreement requires a ban on importation of shrimp which have been harvested with commercial fishing technology which may adversely affect species of sea turtles subject to the regulations, not later than May 1, 1991, unless the President certifies to Congress that the harvesting nation has adopted regulations governing the incidental taking of sea turtles in the course of shrimp harvesting comparable to regulations adopted by the U.S., that the average rate of the incidental taking by the vessels of the harvesting nation is comparable to the average rate of incidental taking of sea turtles by U.S. vessels in the course of such harvesting or the particular fishing environment of the harvesting nation does not pose a threat of the incidental taking of sea turtles in the course of such harvesting. The Senate amendment included all of these provisions except the last item in the certification process that the fishing environment of the harvesting nation does not pose a threat to the incidental taking of sea turtles. The House bill contained no similar provisions.

Amendment No. 182: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

SEC. 610. (a) No monies appropriated by this Act may be used to reinstate, or approve any export license applications for the launch of United States-built satellites on Soviet- or Chinese-built launch vehicles unless the President makes a report under subsection (b) or (c) of this section.

(b) The restriction on the approval of export licenses for U.S.-built satellites to the People's Republic of China for launch on Chinese-built launch vehicles is terminated if the President makes a report to the Congress that:

(1) the Government of the People's Republic of China has made progress on a program of political reform throughout the entire country which includes—

(A) lifting of martial law;

(B) halting of executions and other reprisals against individuals for the nonviolent expression of their political beliefs;

(C) release of political prisoners;

(D) increased respect for internationally recognized human rights, including freedom of expression, the press, assembly, and association; and

(E) permitting a freer flow of information, including an end to the jamming of Voice of America and greater access for foreign journalists; or

(c) it is the national interest of the United States.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment proposed language which would have prohibited the review or approval of any export license applications for launch of U.S.-built satellites on Soviet- or Chinese-built launch vehicles. The House bill contained no provision on this matter. The conference agreement inserts language which prohibits the reinstatement or approval of export license applications for launch of U.S.-built satellites on Soviet- or Chinese-built launch vehicles unless the President makes a report to the Congress that the People's Republic of China has achieved certain political and human rights reforms or that the reinstatement or approval of such export license applications are in the interest of the United States.

Amendment No. 183: Deletes language proposed by the Senate which would have prohibited all benefits under the generalized system of preferences (GSP) to a country designated by the Secretary of State as falling within section 6(j) of the Export Administration Act of 1979. The House bill contained no similar provision.

Amendment No. 184: Deletes language proposed by the Senate encouraging the Secretary of State to take immediate steps to secure an international ban on the use of driftnets on the high seas, including bringing before the UN a resolution calling for a worldwide moratorium on the use of driftnets until the adverse impact of driftnet fishing can be prevented. The House bill contained no similar provision.

The conferees strongly endorse the intent of the Senate amendment and urge the Secretary of State to take immediate steps to secure an international ban on the use of driftnets on the high seas, including bringing before the UN a resolution calling for a worldwide moratorium on the use of driftnets until the adverse impact of driftnet fishing can be prevented.

Amendment No. 185: Deletes language expressing the sense of the Senate that the conferees on H.R. 2788 should agree on an amendment which prohibits any of the funds appropriated in that Act from being used to promote, disseminate or produce obscene materials. The House bill contained no similar provision.

Amendment No. 186: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the section designation named in said amendment insert: *611*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement changes the section number and includes language proposed by the Senate which is a technical correction to the Immigration and Nationality Act to remove constraints which bar the uniting of orphaned illegitimate children with their adoptive American families. This language was included in last year's bill. The House bill contained no similar provision.

Amendment No. 187: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the Senate amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

SEC. 612.(a)(1) The Federal Building and United States Courthouse located at 707 Florida Avenue in Baton Rouge, Louisiana, shall hereafter be known and designated as the "Russell B. Long Federal Building and United States Courthouse".

(2) Each reference in law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "Russell B. Long Federal Building and United States Courthouse".

(b)(1) There is hereby authorized to be appropriated such sums, not to exceed $5,500,000 to remain available until expended, as may be necessary to establish a clinical law center at Seton Hall University in Newark, New Jersey.

(2) The Secretary of Education shall make such grant in accordance with all of the terms, conditions, and requirements set forth for such a center in Amendment Numbered 70 of Conference Report 99-236 (Public Law 99-88 [99 Stat. 305]) and the Secretary of Education is authorized to receive, review, and certify for payment applications for said grant. Not more than $1,000,000 of such grant shall be devoted to facilities.

(c) There is hereby authorized to be appropriated under Title III of the Higher Education Act of 1965, as amended, $4,500,000 to remain available until expended, for the cost of construction and related costs for a Health and Human Resources Center at Voorhees College in Denmark, South Carolina.

(d)(1) The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, is authorized, in accordance with the provisions of this subsection, to provide a grant for a Bio-science Research Center serving the midwestern States to be established at the University of Kansas in Lawrence, Kansas.

(2) No financial assistance may be made under this subsection unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary of Health and Human Services may reasonably require.

(3) There are authorized to be appropriated not to exceed $5,200,000 to carry out the provisions of this subsection. Funds appropriated pursuant to this section are authorized to remain until expended.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment proposed language designating the Federal building/Courthouse in Baton Rouge, La. as the Russell B. Long Federal Building and United States Courthouse. The House bill contained no provision on this matter. The conference agreement retains the Senate language and adds certain clarifying provisions, and provides new language not included in either the House or Senate bills which authorizes certain appropriations for a clinical law center at Seton Hall University, a health and human resources center at Voorhees College in South Carolina and a bioscience research center at the University of Kansas.

The conferees agree that the Secretary of Education shall make available, under Title III of the Higher Education Act of 1965, as amended, funds appropriated in Public Law 100-436 (Stat. 102-1704) for the cost of constuction and related costs for a Health and Human Resources Center at Voorhees College in Denmark, South Carolina.

Amendment No. 188: Deletes language proposed by the Senate which would have prohibited the Census Bureau from counting illegal aliens in the United States for purposes or reapportionment. The House bill contained no similar provision.

Amendment No. 189: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which reads as follows:

In lieu of the section designation named in said amendment insert: *613*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language proposed by the Senate which expresses the sense of Congress that the international drug summit should include several items on its agenda, including consideration of measures to remove Manuel Noriega from any position of power in Panama. The House bill contained no similar provision.

Amendment No. 190: Deletes language proposed by the Senate which would have expressed the sense of Congress that GAO should report to Congress on the progress on implementation of the agreement between the U.S. and Japan on the development of the FS-X Weapons System. The House bill contained no similar provision.

The conferees agree that the Comptroller General shall submit reports to Congress in accordance with the provisions contained in Senate Amendment No. 190.

Amendment No. 191: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

SEC. 614. Until H.R. 1487, the Foreign Relations Authorization Act for Fiscal Year 1990 is enacted into law, the funds appropriated by this Act for the Department of State and the United States Information Agency may be obligated and expended on or before November 30, 1989, at a rate of operations not exceeding the rate available for fiscal year 1989 or the rate provided in H.R. 2991 as passed the Senate, whichever is lower and under the authority and conditions in applicable appropriations acts for fiscal year 1989, notwithstanding section 15 of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and Educational Exchange Act of 1948: Provided, That if H.R. 1487, the Foreign Relations Authorization Act of Fiscal Year 1990 is not enacted into law by November 30, 1989 funds appropriated by this Act for the Department of State and the United States Information Agency may be obligated and expended at the rate of operations and under the terms and conditions provided by H.R. 2991 as enacted into law, notwithstanding section 15 of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and Educational Exchange Act of 1948.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment proposed language which would have expressed the Senate support for additional designations of new international gateways to foster increased export trade opportunities for nontraditional international gateway cities. The conference agreement provides new language not included in either the House or the Senate bill which provides that until H.R. 1487 the Foreign Relations Authorization Act for Fiscal Year 1990 is enacted, funding for the Department of State and the U.S. Information Agency shall be at the lower of the FY 1989 rate or the rate contained in H.R. 2991 as passed the Senate, until November 30, 1989, at which time, if H.R. 1487 is not enacted into law, the rate shall be at the rate provided in H.R. 2991 as enacted into law under the terms and conditions of H.R. 2991. The conference agreement also contains new language waiving certain provisions of law to permit the obligation of these funds. The House bill did not contain any of these provisions.

Amendment No. 192: Deletes language proposed by the Senate commending the efforts of the Departments of Defense, Justice and State to eliminate anticompetitive bidding practices at U.S. military facilities in Japan. The House bill contained no similar provision.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1990 recommended by the Committee of Conference, with comparisons to the fiscal year 1989 amount, the 1990 budget estimates, and the House and Senate bills for 1990 follow:

New budget (obligational) authority, fiscal year 1989	$15,398,265,000
Budget estimates of new (obligational) authority, fiscal year 1990	19,167,436,000
House bill, fiscal year 1990	5,801,401,000
Senate bill, fiscal year 1990	17,419,689,000
Conference agreement, fiscal year 1990	17,248,903,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1989	+1,850,638,000
Budget estimates of new (obligational) authority, fiscal year 1990	−1,918,533,000
House bill, fiscal year 1990	+11,447,502,000
Senate bill, fiscal year 1990	−170,786,000

NEAL SMITH,
BILL ALEXANDER,
JOSEPH D. EARLY,
BERNARD J. DWYER,
BOB CARR,
ALLAN B. MOLLOHAN,
JAMIE L. WHITTEN,
HAL ROGERS,
RALPH REGULA,
JIM KOLBE,
SILVIO O. CONTE,
Managers on the Part of the House.

ERNEST F. HOLLINGS,
DANIEL K. INOUYE,

DALE BUMPERS,
FRANK R. LAUTENBERG,
JIM SASSER,
BROCK ADAMS,
ROBERT C. BYRD,
WARREN B. RUDMAN,
TED STEVENS,
MARK O. HATFIELD,
ROBERT W. KASTEN, JR.,
PHIL GRAMM,
JAMES A. MCCLURE,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. KILDEE) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. WYDEN, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Member (at the request of Mr. THOMAS of Wyoming) and to include extraneous matter:)

Mr. GINGRICH.

(The following Member (at the request of Mr. KILDEE) and to include extraneous matter:)

Mr. WYDEN.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 801. An act to designate the U.S. Court of Appeals Building at 56 Forsyth Street in Atlanta, GA, as the "Elbert P. Tuttle United States Court of Appeals Building";

H.R. 3385. An act to provide assistance for free and fair elections in Nicaragua; and

H.J. Res. 380. Joint resolution designating October 18, 1989, as "Patient Account Management Day."

ADJOURNMENT

Mr. WHITTEN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 21 minutes a.m.), under its previous order the House adjourned until Monday, October 23, 1989, at noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1865. A letter from the Acting Inspector General, Department of Justice, transmitting their audit of the Department of Justice, Land and Natural Resources Division Superfund financial activities for fiscal year 1988, pursuant to Public Law 95-542, section 8D(a)(3) (102 Stat. 2520); to the Committee on Energy and Commerce.

1866. A letter from the Acting Commissioner, Bureau of Reclamation, Department of the Interior, transmitting a report entitled "Technical Report on Safety of Dams Deficiencies and Recommended Corrective Action," with the associated environmental assessment for Coolidge Dam, pursuant to Public Law 95-578; to the Committee on Interior and Insular Affairs.

1867. A letter from the Director, Office of Personnel Management, transmitting notice of a proposal for a personnel management demonstration project submitted by the Secretary of Agriculture, pursuant to 5 U.S.C. 4703(b)(4)(B), (6); to the Committee on Post Office and Civil Service.

1868. A letter from the Chairman, U.S. Merit Systems Protection Board, transmitting the Board's report titled "The Senior Executive service: Views of Former Federal Executives," pursuant to 5 U.S.C. 1206(b)((5)(A); to the Committee on Post Office and Civil Service.

1869. A letter from the Secretary, Department of the Interior, transmitting a report entitled "The Impact of the Compact of Free Association on the United States Insular Areas," pursuant to Public Law 99-239, section 104(e); jointly to the Committees on Interior and Insular Affairs and Foreign Affairs.

1870. A letter from the Secretary, Department of the Interior, transmitting the 1988 annual report describing the cumulative environmental effects of the Outer Continental Shelf Oil and Gas Program, pursuant to 43 U.S.C. 1346(e); jointly to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SMITH of Iowa: Committee of conference. Conference report on H.R. 2991 (Rept. 101-299). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WHITTEN:

H.J. Res. 423. Joint resolution making further continuous appropriations for the fiscal year 1990, and for other purposes; to the Committee on Appropriations.

By Mr. GEPHARDT:

H.J. Res. 424. Joint resolution approving the report of the President submitted under section 252(c)(2)(C)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended; to the Committee on Appropriations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 941: Mr. BOEHLERT.

H.R. 2489: Mr. JONTZ and Mrs. COLLINS.

H.R. 2972: Mr. MARKEY, Mr. PALLONE, Mr. ESPY, Mr. FOGLIETTA, Mr. FIELDS, Mr. CONDIT, Mr. MFUME, Mr. HAYES of Illinois, Mr. DELLUMS, Mr. BORSKI, Mr. MARTIN of New York, Mr. STUMP, Mr. ROYBAL, Mr. MARLENEE, Mr. CONTE, Mr. BLILEY, Mr. BEVILL, Mr. GOODLING, Mr. YOUNG of Alaska, Mr. SHAYS, and Mr. TAUKE.

H.R. 3037: Mr. PRICE.

H.R. 3164: Mr. LANCASTER, Mr. STANGELAND, Mr. HAMMERSCHMIDT, Mr. SIKORSKI, Mr. HUCKABY, Mr. CHAPMAN, Mr. ANTHONY, Mr. OBERSTAR, Mr. BROWDER, Mr. PAYNE of New Jersey, Mr. RIDGE, Mr. DYSON, and Mr. VALENTINE.

H.R. 3292: Mr. LAUGHLIN, Mr. ENGLISH, Mr. THOMAS of Georgia, Mr. SUNDQUIST, Mr. BARNARD, and Mr. JAMES.

H.J. Res. 146: Mr. HOUGHTON, Mr. CONDIT, Mr. FLAKE, Mr. ORTIZ, Mr. LEWIS of Florida, Mr. TAUZIN, Mr. OXLEY, Mr. SPENCE, and Mr. LEHMAN of California.

H.J. Res. 410: Mr. GEPHARDT, Mr. MURTHA, Mr. MAVROULES, Mr. STALLINGS, Mr. FAUNTROY, Mr. FALEOMAVAEGA, Mr. DONNELLY, Mr. GINGRICH, Mr. HANSEN, Mr. HORTON, Mr. HUTTO, Mr. HYDE, Mr. ORTIZ, Mr. JONES of North Carolina, Ms. LONG, Mr. HAYES of Illinois, Mr. LEWIS of Georgia, Mrs. COLLINS, Mr. SYNAR, Mr. MARTINEZ, Mrs. LOWEY of New York, Mr. SANGMEISTER, Mr. LIPINSKI, Mr. ENGEL, Mr. SARPALIUS, Mr. STENHOLM, Mr. MORRISON of Connecticut, Mr. ANTHONY, Mr. HAYES of Louisiana, Mr. DURBIN, Mr. KLECZKA, Mrs. KENNELLY, Mr. FLIPPO, Mr. HAWKINS, Mr. NEAL of Massachusetts, Mr. SOLARZ, Mr. RICHARDSON, Mr. TANNER, Mr. MADIGAN, Mr. LEACH of Iowa, Mr. PICKETT, and Mr. LEVIN of Michigan.

EXTENSIONS OF REMARKS

STOP THE TAX-AND-SPEND MENTALITY

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 20, 1989

Mr. GINGRICH. Mr. Speaker, I would like my colleagues to be aware of an excellent op-ed piece which appeared in the October 1 edition of the New York Times. The piece, written by our colleague Mr. VANDER JAGT, is especially appropriate in light of recent votes on the House floor.

TAX-AND-SPEND DEMOCRATS NEVER LEARN

(By Guy Vander Jagt)

WASHINGTON.—People like to say the only certainties in life are death and taxes. Medical science is making headway against death, and Democrats in Congress appear to be working hard to retain the certainty of the second.

During President Bush's first eight months in office, he has proposed major domestic programs in areas of critical public concern: the Federal budget, crime, drugs, education and job creation.

A pattern has emerged: Each proposal is well received by the experts in the field and, more importantly, by the public. Each proposal is a step toward delivering on the President's campaign promise of a kinder, gentler America and an agenda for his promise of "no new taxes."

Then, almost each and every proposal meets with Democrats calling for more spending and higher taxes and, when they are in a creative mood, new taxes—even though every White House initiative has included a way to fund the proposal without a tax increase.

Consider Mr. Bush's national drug strategy. He presented the first comprehensive national strategy to turn the tide against the drug invasion—along with the largest one-year funding increase ever to pay for it. His plan will fight every aspect of the drug crisis—from supply to demand, to treatment and education. The plan involves every level of government—Federal, state and local.

The public has heard little criticism of the substance of the drug plan. But, within minutes of the President's presentation on television, liberal Democrats perceived a glaring imperfection: The price tag was too low.

Congressional Democrats have shown us their swift and unchanging reflex for higher taxes and more spending several times this year.

For example, President Bush proposed a new era for education and put forward a plan for encouraging excellence and reform. Included in the $441 million legislative package are programs to reward excellence, expand magnet schools and provide funds for drug abuse prevention.

These funds are over and above President Reagan's $21.9 billion request for 1990. Nonetheless, with Pavlov's dog watching in awe, the Democrats in Congress responded: We need more.

To encourage more investment, Mr. Bush, during his campaign, called for a reduction in the capital gains tax. Economists agree that such a cut stimulates the economy and creates jobs.

Because of the President's patience and leadership, and because a group of traditional Democrats have broken with their liberal leaders, a reduction in the capital gains tax passed the House last Thursday.

Representative Richard Gephardt, the Democrats' majority leader, however, is utterly unhappy with the cut in capital gains, proving that all his talk about competitiveness is—talk. If he really understood how to make the U.S. more competitive against trading partners, he would be delirious in his support for cutting the capital gains rate to bring U.S. rates closer to the rates of our trading partners. (With minor qualifications, West Germany and Japan have virtually no taxes on capital investments.)

This issue shows the key difference between Republican and Democratic policies. Republicans believe, and their policies have confirmed, that lower tax rates benefit every American. Democrats believe that lowering tax rates is wrong. All the talk about a tax break for the rich is political double talk. On principle, liberal Democrats oppose less Government spending and lower taxes.

How has the Democratic leadership responded to the President Bush's campaign pledge, which helped lead him to an electoral landslide? They want to revive some type of individual retirement account and use it as a cover to—you get one guess—raise taxes.

In 1981, Ronald Reagan proposed and won individual income tax rate reductions of 25 percent. His tax cut brought our economy back to life and started the longest peacetime expansion in our history, an expansion that continues today.

A few weeks ago, the Democrats met in Washington to analyze their latest national defeat. But analyzing the last election in isolation could lead to unsound conclusions.

The results of the 1988 elections should be inspected for resemblances to the 1980 and 1984 elections. That type of examination will show strong parallel. Read the public's lips and count their votes: Cut Government waste, redirect funding from ineffective programs and achieve greater efficiency in Government spending. But please, no new taxes.

The distinction between the Republican and Democratic parties on increasing the tax burden are profound. And that distinction will remain deep and lasting.

VETO THREAT TURNS BACK ON VIOLENT CRIME VICTIMS

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, October 20, 1989

Mr. WYDEN. Mr. Speaker, I am appalled at the President's threat to veto a measure that's vital to women who are victims of brutal, violent crime, the victims of rape or incest.

In this country we do not withhold medical treatment for the victims of muggings or assaults because of their inability to pay. To have a separate policy regarding the victims of rape or incest is clearly discriminatory and downright cruel—but this is the situation in our country today and what our President has now said he supports.

The President needs to realize that when you want to be tough on crime, you don't beat up on the victims.

A woman who is pregnant as the result of a rape or incest is entitled to begin her recovery as quickly as possible. She should not be forced to live with the constant reminder of the brutal invasion of her body simply because she did not have the money to pay for an abortion.

A Presidential veto of the 1990 labor-health and human services-education appropriation bill would be a disgraceful denial of human decency to victims of violent crime.

I urge my colleagues to display more courage and compassion than the President and vote to override a veto.

TRIBUTE TO ARTHUR "MR. BERWYN" POLKOW

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 20, 1989

Mr. LIPINSKI. Mr. Speaker, it gives me a great deal of pleasure to pay tribute to an exemplary member of my Fifth Congressional District in Illinois, Mr. Arthur F. Polkow. Mr. Polkow has served for 37 years as office manager, assistant vice president of Savings, and vice president of Savings and Operations at the Household Bank in Berwyn, IL. Not only is he well known in Berwyn for his long association with the former First Federal, but Mr. Polkow is recognized for his commendable participation with the Kiwanis Club of Berwyn and the South Berwyn Business & Financial Institutions. His longtime association with these institutions and his community service work have resulted in Mr. Polkow being fondly known as "Mr. Berwyn."

Raised in Berwyn, IL, Arthur F. Polkow attended Pershing Grade School and Morton High School before receiving his bachelor of science in accounting from the University of Illinois. Mr. Polkow also served as a member of the U.S. Occupation Forces following the conclusion of World War II.

Arthur F. Polkow's commitment to his community and family is impressive and deserving of special recognition and honor. I am sure that my colleagues will join me in expressing congratulations to Arthur F. Polkow for his 37

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

years of selfless dedication, loyalty, professionalism, and priceless contributions to his community. I wish him well in his retirement and hope his life continues to be an adventure full of pleasant memories.

TRIBUTE TO MARY ELLEN WITHROW

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 20, 1989

Mr. TRAFICANT. Mr. Speaker, I rise to pay tribute to Mary Ellen Withrow, State treasurer of Ohio. Treasurer Withrow has been an elected official for 20 years and deserves great recognition for her accomplishments, not only as a public servant, but also for the headway she has made for women in the public arena.

Treasurer Withrow's political career began in 1969 when she was the first woman ever to be elected to the school board of the Elgin local school district in Marion County, OH. She then became Marion County treasurer and served two terms in that position. Ms. Withrow was elected Ohio's treasurer in 1982 and was reelected in 1986. She is currently planning her reelection campaign for her third term in office.

Ms. Withrow has not only been a leader for her fellow citizens, but she has also held positions of leadership in professional organizations. Presently she is the president of the National Association of State Auditors, Comptrollers, and Treasurers. She was the past vice president for the 10-State Midwestern region of the National Association of State Treasurers. Recently she was elected to the executive committee of the Democratic National Committee.

Treasurer Withrow has created a variety of programs to improve Ohio's economy and business environment. One such program is the Withrow Plan of Linked Deposits which sparks economic growth by providing low interest rates for small businesses. Another program she began was the Withrow Agri-Linked Deposits Program, which provides reduced-rate financing for Ohio farmers. As a result of these and other programs implemented by Treasurer Withrow, Ohio has earned more than $1 billion in investments.

Mr. Speaker, I would like to take this opportunity to congratulate Mary Ellen Withrow on her 20 years of public service to the people of Ohio. Treasurer Withrow epitomizes what elected officials should strive to become. The reason for her success is her willingness to go against the odds and face challenges with unyielding determination. She is deserving of great praise and I am proud to represent such an outstanding woman.

CUBAN PLANTADOS STILL IN PRISON

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 20, 1989

Mrs. ROS-LEHTINEN. Mr. Speaker, three political prisoners called plantados remain in prison years after Fidel Castro's regime stated that the Government had released all historic political prisoners.

In July of 1987 the government of Fidel Castro officially announced the liberty of all historic political prisoners still in jail.

Two and half years have elapsed and the following remain confined at the Combinado del Este state prison: Mario Chanes de Armas, Ernesto Diaz Rodriguez, and Alfredo Mustelier Nuevo. Another of the plantados, Alberto Grau Sierra, has been freed but not allowed to leave Cuba.

As we know, plantados are prisoners who are jailed for political reasons and who refuse to cooperate with their captors. For this, the plantados are separated from the other prisoners, are treated in a far more harsh manner, and are routinely harassed by the jailers.

I wish to denounce, Mr. Speaker, the violation of these citizens' human rights by this arbitrary action on the part of Castro's regime.

SENATE—*Monday, October 23, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 2:30 p.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

I exhort therefore, that, first of all, supplications, prayers, intercessions, and giving of thanks, be made for all men; For kings, and for all that are in authority; that we may lead a quiet and peaceable life in all godliness and honesty.—I Timothy 2:1, 2.

Almighty God, "Giver of life and breath and all things," in light of the Apostle Paul's exhortation to pray, we remember the words of Benjamin Franklin at the Constitutional Convention in 1787 addressing Gen. George Washington who presided, he said:

"In the situation of this Assembly, groping as it were in the dark to find political truth, and scarce able to distinguish it when presented to us, how has it happened, Sir, that we have not hitherto once thought of humbly applying to the Father of lights to illuminate our understandings? * * * I have lived, Sir, a long time, and the longer I live, the more convincing the proofs I see of this truth—that God governs in the affairs of men. And if a sparrow cannot fall to the ground without his notice, is it possible that an empire can rise without his aid? * * *"

Gracious, patient God, our Founding Fathers prayed because they needed to—often their lives depended on it. At this critical time in world affairs, so filled with unprecedented opportunity, teach us to pray.

In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this afternoon, following the time reserved for the two leaders, there will be a period for morning business until 3 o'clock, with Senators permitted to speak therein for up to 5 minutes each.

At 3 o'clock, the Senate will begin consideration of H.R. 1231, an Eastern Airlines bill. As I indicated on Friday, there will be no rollcall votes today.

Looking ahead this week in terms of the Senate's schedule, for the information of Senators, the continuing resolution expires at midnight on this Wednesday, October 25. I hope we can complete action on a clean CR in an expeditious manner by Wednesday with the possible exception of the earthquake disaster assistance, if the House acts tomorrow, as expected. It is obvious that all of us in the Senate join in wanting to work to provide what assistance is necessary.

We also anticipate having a number of conference reports available—VA-HUD; Legislative; Transportation; and State, Justice, Commerce. We hope to complete action on those four appropriations conference reports this week.

I also hope that the Senate will consider and approve a program of assistance to Poland and Hungary early this week.

In addition, I have agreed sometime ago to schedule death penalty legislation sponsored by Senator SPECTER, and I hope to do that later this week.

In addition, Mr. President, there will be six mutual legal assistance treaties with other countries, important for many reasons, including our drug fighting effort, and we hope to take them from the Executive Calendar and act on them this week.

Senators should be prepared for lengthy sessions, extending well into the evening, including rollcall votes throughout the week.

CONTRADICTORY GOALS, CONFLICTING ACTIONS: THE BUSH ADMINISTRATION AND CHEMICAL WEAPONS ARMS CONTROL

Mr. MITCHELL. Mr. President, chemical weapons were first widely used on the Western front during World War I. Following that war, shock and abhorrence at the highly lethal nature of chemical weapons and the agony which they inflict on their victims, led to an international effort to prohibit their use.

The result was the Geneva Protocol of 1925, which outlaws the use of chemical weapons in war. The Geneva protocol does not, however, bar the manufacture, possession, or transfer of chemical weapons. In addition, many parties to the protocol, including the United States and the Soviet Union, have reserved the right to retaliate in kind if chemical weapons are used against them in conflict.

For roughly 60 years, due partly to deterrence and partly to the constraints of the Geneva protocol, the use of chemical weapons in combat has been rare. During World War II, despite the possession of vast stocks of chemical weapons by many of the countries involved in that particular conflict, widespread use did not occur. In other conflicts since then, chemicals have largely been avoided.

But the story has not been entirely positive.

The United States and the Soviet Union manufactured stockpiles of chemical weapons. The vast Soviet stockpile created an imbalance in chemical warfare capabilities between NATO and the Warsaw Pact. This situation contributed to the resumption of production of chemical munitions by the United States, following our suspension in production which lasted for more than a decade.

In addition, in recent years the constraints against the use of chemical weapons appear to be eroding. Chemical weapons were used in the war between Iraq and Iran. That conflict appeared to illustrate the military utility of these weapons, at least when used against unprotected troops. An even more savage example of chemical warfare was the use of chemicals by the Iraqi Government against its own Kurdish population, resulting in the deaths of noncombatants, including children. It is in this context—the use against innocent civilians—that chemical weapons can truly become weapons of terror and mass destruction, in Winston Churchill's words, a "hellish poison."

The CIA estimates that as many as 20 nations currently possess the capability to manufacture chemical weapons, and that by the end of the century 15 more nations may acquire that capability.

Finally, the proliferation of the technologies required to produce ballistic missiles has added a new and ominous element. The marriage of ballistic missiles and chemical warheads

presents the specter of a new weapon of terror, with the ability to inflict horrible and random death on large numbers of civilians. As the constraints on use of chemical weapons erode, the temptation to use them will increase. We face the danger that chemical weapons will become again a feature of war.

It is imperative that the talks in Geneva be energized. If we are to succeed in placing meaningful restraints on the production and possession of chemical weapons, we must achieve results soon, before the problem has moved beyond the ability of an arms control agreement to control.

These are the reasons that the effort at the Geneva talks to achieve a total, global, comprehensive ban on the production and possession of chemical weapons is so important.

We should not delude ourselves into thinking that chemical arms control will be simple or easy to achieve. The problems of verification are formidable, the number of countries involved are larger than in any other arms control negotiation, and the diverse interests of the parties will be difficult to reconcile.

Nevertheless, this year there have been some reasons for optimism. President Bush has indicated that chemical weapons arms control is one of his highest priorities. The Soviet Union has indicated a willingness to pursue verification experiments which could add to our confidence in monitoring a treaty. The Soviet Union has also announced a willingness to reduce its stockpile, and it contends that it no longer produces chemical weapons. A major conference on the issue of chemical warfare was held in Paris in January.

Those were positive signs. But recent press reports indicate that the administration has taken a major step backward by deciding that the United States will continue to produce chemical weapons for up to 8 years after signing the multilateral convention banning production of such weapons.

This is an extremely negative development.

This shift in policy can only result in delay and confusion at the Geneva talks, where until now the United States position—indeed, the position of all the Western powers—has been that a global ban on production of chemical weapons would take effect soon after the treaty enters into force.

The resulting delay at Geneva could mean that the opportunity to achieve progress on a global ban on chemical weapons will be lost, perhaps forever. The efforts of other countries to attain this capability will proceed, while the arms control process will be stalled as a result of American indecision and inconsistency.

How can the United States possibly expect other countries to observe a ban on production if we reserve to ourselves the right to ignore the ban? What would our reaction be if the Soviet Union made such a proposal? The answers are obvious. The right to produce chemical weapons, even after a treaty banning production is signed, will undoubtedly be sought by other countries as well. This will mean that verifying a chemical weapons ban, if one can ever then be attained and hard enough under the best of conditions, will become enormously more difficult. That is because, among other reasons, the technical problems in measuring a limited amount of "permitted production" are much more formidable than those needed to monitor a total ban. Once produced and stockpiled, verifying destruction of chemical weapons is also difficult.

Finally, the logic behind this decision to continue production after signing a treaty agreeing not to continue production is not apparent. Presumably, some in the administration believe it would be necessary to continue producing the Bigeye bomb, a weapon which we do not yet possess, even after signing a chemical weapons convention. Why, if the Soviet Union is reducing its stockpile and no longer producing weapons—and has signed the global ban—would the United States then need to continue production? What contingency outside of the NATO area could require that the United States retain a chemical weapons capability—one which we do not possess today—for either retaliation or deterrence?

For these reasons, the reported decision by the administration to change the American negotiating position in the Geneva talks is a wrong decision and one which I hope will soon be reversed. I call upon President Bush to clarify his policy on this issue and to provide us with the justification for the change or, as I hope he will, reaffirm that the United States truly seeks an early and total ban on the production and possession of chemical weapons in the Geneva talks.

RESERVATION OF THE REPUBLICAN LEADER'S TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, if any, and reserve all of the leader time of the distinguished Republican leader.

The PRESIDENT pro tempore. The majority leader's time has expired.

Without objection the time of the Republican leader will be reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. There will now be a period for the transaction of morning business to extend until the hour of 3 p.m. today with Senators being permitted to speak therein for not to exceed 5 minutes each.

EARTHQUAKE ASSISTANCE

Mr. MITCHELL. Mr. President, I note the presence of the distinguished Senator from California on the floor and want to say to him, as I have said to his colleague from California [Mr. CRANSTON], on behalf of all Senators we deeply regret the tragedy which has occurred in California and stand prepared to move as promptly as possible with the disaster relief program that will meet the needs of the people of California so far as it is in our power to do so. I want to provide that assurance to my friend.

The PRESIDENT pro tempore. The junior Senator from California [Mr. WILSON] is recognized for not to exceed 5 minutes.

Mr. WILSON. Thank you, Mr. President.

THE GREAT SAN FRANCISCO EARTHQUAKE

Mr. WILSON. Let me begin by thanking my friend, the distinguished majority leader, for that assurance. That is in fact why I have come to the floor. Having just returned from California, Mr. President, at the time of that disastrous earthquake I was on the 13th floor of a building in downtown San Francisco. Like most Californians, I have experienced quakes before. This was like nothing that I have ever experienced in its magnitude and its intensity. It was truly frightening.

But the great wonder, Mr. President, is really what did not happen. Obviously, we are preoccupied with the tragic loss of life that occurred, but the remarkable thing is that the loss of life was not greater. It is a tribute to two preventive actions on the part of society and on the part of individuals as well as on the part of governmental agencies. The first of these has to do with the efforts that had been made in my State and a number of communities, and specifically within the bay area, to make new construction quake-resistant. The building in which I experienced the quake clearly reflected more than a tremor, but it stood and suffered no real structural damage, at least so far as I was aware at that time.

That is true, Mr. President, of most of the buildings in downtown San Francisco. The loss of life occurred when an old brick wall fell and took several lives. The other casualty occurred in the so-called marina district, an area built upon portions of the bay that had been filled for the 1915 Exposition and thereafter dedicated to residential uses.

What occurred in that instance, Mr. President, was that that fill, probably never adequately compacted, in some instances liquefied, and what had been three- and four-story houses and apartment buildings literally had their foundations shaken from beneath them and four stories suddenly became one. Gas mains were broken. A fire broke out, but a single fire, and tragic as it was, in consuming not only a quarter of the block but seven lives, a greater wonder is that there was not a replication of the terrible tragedy of the 1906 San Francisco earthquake when major damage occurred when, following the quake, the city was swept by fires.

The preventive action that I speak of reflects great credit upon the architectural profession and upon the foresight of those in policymaking roles who have required the adoption of building codes that prevented the greater tragedy.

The second preventive act occurred last August when a major quake simulation exercise was conducted by agencies of government coordinating nine activities of the Federal, State, and local levels of government.

The result was when the real thing came, there was coordination that I think has seldom been seen. I am convinced far greater loss of life would have occurred had it not been for the prompt cooperation between those agencies.

But finally the thing that has taken me to the floor today, Mr. President, is to pay a deserved tribute to all of the many inspired acts of heroism and dedication to their fellow men which were demonstrated in that moment of real test.

Many of these were volunteers, citizens who had come from as far away that first night as the Napa Valley, and wonder of wonders, after 4 days, a 57-year-old stevedore has been taken from the rubble of the collapsed segment of the Nimitz Freeway. He was removed by an Orange County fireman, a volunteer who had traveled some 600 miles to the north to participate in the rescue operation that to many seemed futile.

Another rescue had occurred earlier. When the interval of 20 feet between the decks of that double-decker freeway collapsed to a crawl space of less than 20 inches—in many cases, virtually no crawl space existed at all—those caught in that mile and a quarter segment—Mr. President, I ask for an additional 2 minutes.

The PRESIDENT pro tempore. There being no objection, the Senator is recognized for 2 additional minutes.

Mr. WILSON. When there was an effort made to rescue those trapped in their automobiles in that mile and a quarter segment, and genuinely concerned rescue workers went crawling through that crawl space, there was with no assurance that the 20 inches or less would not collapse upon them, taking their lives as well.

The most dramatic act of heroism came on the part of two young doctors. A doctor crawled through a crawl space that barely permitted him to move, and rescued a young child. He had to do so by first cutting through the dead mother of the child with a chain saw, and then in order to free the child had to amputate the child's mangled foot.

Mr. President, to those dedicated volunteers who had the courage to crawl through that terribly frightening claustrophobic crawl space, to those who came from miles and miles away, and through that first night and many thereafter went sleepless, manning the Red Cross and Salvation Army shelters, I can only say that the tribute to them, the tribute that they deserve, cannot be expressed in words. I think they felt it in the satisfaction of knowing they made a difference in the lives of their fellows, but I will tell you that it was the best of America.

It is ironic that tragedy often seems to be required to invite demonstrations of that kind, but on this instance I felt enormous pride in my fellow Californians, especially the people of the bay area for rallying in a moment of great trial, great stress, and from their performance they passed that test with not just flying colors but with the kind of demonstration of courage and caring that I think demonstrates the best of the American people.

Mr. President, I thank the Chair.

Mr. DOLE. Would the Senator like some of my leader time?

Mr. WILSON. I thank my friend, the Republican leader. I will not take more time. I do not think any other words would permit me to express my gratitude and my admiration for those people. But I am terribly proud.

Thank you, Mr. President.

The PRESIDENT pro tempore. The Republican leader is recognized. His time has been reserved.

Mr. DOLE. Mr. President, I want to commend the distinguished Senator from California not just for the statement, but for the work he has been undertaking in his State in the past several days.

His presence was missed in the Senate, but he was certainly doing precisely what he should have been doing in being on the scene throughout all of last week.

I want to also indicate, as the majority leader has, that we want to be helpful, and we want to do it as quickly as possible insofar as aid is concerned. I assume it may happen this week under the continuing resolution, or some other appropriate vehicle.

I hope my colleagues on both sides will defer any other amendments to some other bill and not clutter up an important earthquake relief bill with other amendments.

Mr. WILSON. Mr. President, I thank my friend, the distinguished Republican leader.

Let me echo the hope that he has expressed. It is really imperative that these people who are hurting get the assistance they need and get it promptly. It is urgently required.

Let me say that the Federal, State, and the local agencies have responded with FEMA in particular setting up agency centers in seven counties that have been declared disaster areas. They have had volunteers from the regional offices of the Department of Health and Human Services, and from the Federal Emergency Management reservists. They have had those from the State social services department. Some 325 volunteers have come in. They have been trained. They are now servicing those centers.

So there is much of which to be proud, but we need that assistance not only for those repairing the bridge and freeway, but obviously to get the assistance to all of those who are in need of shelter because of damage to their homes, their businesses, and of course FEMA is stretched thin. Hugo has sent most of its regulars to South Carolina, St. Croix, and Puerto Rico.

So I thank my friend as well as the distinguished majority leader for their assurances of prompt action. I hope this can come under the continuing resolution. Senator SYMMS, at my request, introduced on Friday morning, with the cosponsorship of the distinguished Republican leader, the kinds of changes in the law that will be necessary for us to realistically respond to the needs.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I also indicate to the majority leader, who sort of outlined some of the matters that we need to dispose of this week—including a number of appropriations conference reports, Eastern Airlines, a continuing resolution, debt ceiling extension, and we have a number of treaties on the Executive Calendar. Then Senator SPECTER, I think, has a time agreement on terrorism; death penalty.

So there are a number of things we need to do this week. I am not certain how quickly the debt limit can be disposed of. There was some indication earlier that there might be another short-term debt extension coming from the House side. I recently talked with the chairman of the Ways and Means Committee who indicated he would not do that.

So I will say as I said before there will be an effort at that time on either a short-term or long-term extension of the debt ceiling to add a capital gains

provision, one that has, particularly on the Senate side, had the support of the Republicans and the Democrats. It is referred to as the Packwood proposal, Packwood-Roth.

There are a number of Democrats who have expressed an interest, including the Senator from Oklahoma [Mr. BOREN], and maybe a dozen others on that side.

So I think we should be forewarned there will be that effort to add amendments to the debt ceiling with reference to capital gains. I assume there are other amendments. At least I have heard of other amendments to the debt ceiling on both sides of the aisle, dealing with Gramm-Rudman-Hollings, Social Security, section 89, and a number of provisions that were in the reconciliation package that were removed by the Senate.

So it could be that the debate on the debt ceiling extension could last for some time. But in any event, I want to indicate to the majority leader that we certainly wish to cooperate in every way possible.

Hopefully, we will complete as many appropriations bills conference reports as we can so that we will not be back with another continuing resolution after this one.

I reserve the remainder of my time.

The PRESIDENT pro tempore. Without objection, the Republican leader reserves the remainder of his time.

Mr. KERREY addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from Nebraska [Mr. KERREY] is recognized for not to exceed 5 minutes.

CHEMICAL WEAPONS

Mr. KERREY. Mr. President, I rise to commend the distinguished majority leader for his earlier remarks concerning chemical weapons. I wish to associate myself with those remarks.

It seems to me that part of the question on chemical weapons is a series of values that the American people have. I believe the case can be made by the Senators that it is American values above all the world's that have had the greatest influence.

That value of freedom and value of free markets and of a free and open political system has begun to be adopted by more and more people throughout the world. Similarly, with chemical weapons, it seems to me there is a question of values. Two weeks ago, the administration and Pentagon officials said that we needed to continue the production of a bomb called the Bigeye bomb after a treaty was signed to phase out such chemical weapons. They argued that this weapon is needed to deter the Soviet Union and Third World nations from staging poison gas attacks.

The PRESIDENT pro tempore. The time for morning business has expired.

Mr. KERREY. Mr. President, I ask unanimous consent to continue as in morning business for a period not to exceed 5 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KERREY. The case for continued production of chemical weapons is not persuasive given our position at Geneva and the Soviet Union's offer to stop production themselves. I am simply not persuaded by arguments about the need for a deterrent against a nation which has agreed to stop production entirely. Nor am I persuaded they are needed against nations who are not deterred by our threat to lower our standards to theirs.

However, I do not want this afternoon to be drawn into the strategic argument first. Before the strategic argument we must consider the moral arguments. The first test of any weapon system must be this: Will it be acceptable to the American people? If a weapons system fails this test, it must be rejected. Period.

The technician with statistics and military experts with convoluted theories should not even be called into the room to give their opinion until this question is answered "Yes." There is too much danger for America in the potential of being intimidated or seduced by the logic of the arguments offered by those who devote their lives to providing us with the security needed to keep America free.

The theories developed within the bowels of the Pentagon proposing to continue production of chemical weapons must be placed within the context of American values and American ideals. Inside the world of the technocrat it is possible to conclude that all manner of terrible weapons are needed in order to maintain the strength of the United States of America. Outside, in the hands of the mother who must send her son or daughter to use these weapons, oral judgments will be made.

It will do us little good to have a weapon which theoretically deters if the way in which the weapon kills is morally unacceptable to the American people. It will not deter if our enemies know we will never use it. I believe such is the case with chemical weapons.

Military leaders who understand how chemical weapons work and who understand that war—particularly for a free and open society like ours—is an extension of politics, will not use chemical weapons. The clean lines of the theory will evaporate in the terrifying reality of the consequences.

Consider the Bigeye bomb which the Pentagon convinced President Bush we need for national security reasons. This is the modern chemical weapon which President Bush says we need to manufacture to deter the Soviet Union or such madmen as Qadhafi.

Here is how it kills people. When the bomb explodes it spreads a cloud of gas that kills by the nerve agent VX. This agent causes paralysis of involuntary muscles and thus blocks breathing.

Imagine that you are a military commander with an enemy who you must engage. The balloon has gone up somewhere in the world, and we have made the decision to attack. Would you consider using the Bigeye bomb? Would you use a weapon that killed in this indiscriminate fashion? Would you risk losing the support of the people of the United States as a result of a televised broadcast of casualties whose respiratory system had been paralyzed by your decision?

Mr. President, I believe you would not. I believe you would then consider the question which I posed at the beginning of this statement: Would the American people tolerate it? Would their support of this action be lost as a consequence of the nature of the killing?

You would answer the first question "no" and the second "yes." Thus, the deterrence arguments and the strategic rationalizations would have been wasted exercises.

Accordingly, the U.S. position should be this: Chemical weapons, quite simply, are wrong. We accept the Soviet offer to stop production of them. We insist on a joint United States-Soviet commission which will not only verify the cessation of production but will do three additional things:

First. Enable us to inventory United States and Soviet stock of chemical weapons and publish the findings. The public needs to know.

Second. To develop an acceptable joint method to destroy the entire inventory.

Third. Upon this example, the United States and the Soviet Union should take forceful actions and institute negative sanctions against any company or nation that does not do likewise.

America's greatest influence upon this world has been, and will continue to be, our willingness to stand for self-evident truths. We must continue to place our values ahead of all other considerations.

I yield the floor.

RECOGNIZING THE ACCOMPLISHMENTS OF THE 169TH TACTICAL FIGHTER GROUP, SOUTH CAROLINA AIR NATIONAL GUARD, IN WINNING THE WORLDWIDE GUNNERY MEET, GUNSMOKE 1989

Mr. THURMOND. Mr. President, I rise today to congratulate the officers

and airmen of the South Carolina Air National Guard's 169th Tactical Fighter Group for winning the Overall Top Team Award for the Air Force's worldwide gunnery meet, Gunsmoke 1989. In winning this world championship of the tactical air command, the team from 169th Tactical Fighter Group defeated 15 teams from U.S. Air Force units around the world.

The Gunsmoke competition tests the skills of the Air Force's best air and ground crews in the air-to-ground mission. It requires aircrews to demonstrate skills in staffing, bombing, navigation, and aircraft maintenance.

By winning this coveted designation of the "Overall Top Team", the pilots from McEntire Air National Guard Base—Maj. George Jernigan, Maj. John Bellinger, both from Columbia, Maj. Waymond Nutt of Sumter, and Capt. Timothy Rush also from Columbia—clearly demonstrated the professionalism and dedication of not only these men and their crews, but the entire South Carolina National Guard commanded by Maj. Gen. Eston Marchant.

Mr. President, not only did the Air National Guard win the top team award, but Capt. Patrick Shay, a Reserve pilot with the 944th Tactical Fighter Group from Luke Air Force Base, Arizona, won the top gun award.

The accomplishments of the South Carolina Air Guard team and those of Captain Shay are a reflection of the skills and preparedness of all our Air National Guard and Air Force Reserve units. The success of these guardsmen and Reserve crews clearly demonstrates that the Reserve components of our total force are equal to the task expected of them.

Mr. President, over the past several years, the Congress has been most supportive of the Reserve components. I believe that the results of the Gunsmoke '89 competition reflect that support.

Mr. President, I ask unanimous consent that the names of the entire 169th Tactical Fighter Group Team be included in the RECORD immediately after my remarks.

There being no objection, the roster was ordered to be printed in the RECORD, as follows:

THE 169TH TACTICAL FIGHTER GROUP, SOUTH CAROLINA AIR NATIONAL GUARD, 169TH GUNSMOKE '89 TEAM ROSTER

MAJ. George R. Jernigan III, Team Chief.
MAJ. John N. Bellinger, Jr.
MAJ. Waymond C. Nutt, Jr.
MAJ. Timothy R. Rush.
MAJ. Charles E. Savage.
CAPT. George C. Ronan IV.
CMSGT. Jimmy F. Joye.
SMSGT. Vitalis G. Viavoda.
SMSGT. Shelton Mincey.
MSGT. Donald D. Hawkins.
MSGT. Kenneth Wood.
MSGT. James R. Bolin.
MSGT. Travis V. Abernathy, Sr.
MSGT. Thomas H. Muller.
MSGT. Charles E. Dickson.
MSGT. Joseph A. Jefferson.
MSGT. Herman E. Warren.
MSGT. Thomas J. Brock.
MSGT. Richard A. Felder.
TSGT. Wallace B. Ward.
TSGT. Raymond F. Brown.
TSGT. Robert L. Hux. Jr.
TSGT. Jewell Lillard.
TSGT. Malcolm R. Rast, Jr.
TSGT. William D. Delevan, Jr.
TSGT. Patrick X. Carr.
TSGT. William H. Dimsdale, Jr.
TSGT. Michael L. Hale.
SSGT. James D. Turner.
SSGT. Claude A. Shealy, Jr.
SSGT. Chris A. Smoak.
SSGT. William B. Gibson.
SSGT. Timothy A. Bodie.
SSGT. Timothy W. Newbert.
SSGT. Keith O. Mullins.
SSGT. Jonathan T. Waters.
SSGT. Robert E. Hudson.
SSGT. Scott A. Robinson.
SSGT. Douglass W. Stewart.
SSGT. Jonathan Brumble.
SSGT. Mark B. Drafts.
SSGT. Daniel D. Shelley.
SGT. Daniel W. Goldie
SGT. Robert B. White, Jr.
SGT. Melissa R. Speas.

TERRY ANDERSON'S CONTINUING CAPTIVITY

Mr. MOYNIHAN. Mr. President, it is now 1,682 days that Terry Anderson has been held in captivity in Beirut.

I ask unanimous consent that the recent Associated Press article on this subject be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FADLALLAH: WASHINGTON STALLING ON HOSTAGES

BEIRUT, LEBANON.— A Shiite Moslem cleric linked to the captors of Western hostages was quoted Wednesday as saying Washington is delaying efforts to gain freedom for eight American captives.

Sheik Mohammed Hussein Fadlallah, spiritual head of the pro-Irananian group Hezbollah, told the pro-Syrian Beirut daily Ash-Sharq: "In my opinion, America is following a plan for freezing the issue of the hostages at the media level."

Hezbollah, or Party of God, is widely believed to be the umbrella for Shiite factions holding most of the 16 foreign hostages in Lebanon.

"America can free its hostages in a very simple way," Fadlallah was quoted as saying.

"Instead, the United States is using the hostages as a blackmail card in its so-called war against terrorism," Fadlallah added, without elaboration.

Eight Americans are among the 16 Western hostages held in Lebanon. The hostage held longest is Terry Anderson, chief Middle East correspondent for The Associated Press, who was kidnapped March 16, 1985.

In Kuwait, the newspaper Al-Qabas reported Thursday that Western hostages in Lebanon could be released soon as a result of recent intensive contacts between Syria and Iran.

Numerous articles speculating on the release of Western hostages have appeared in the Lebanese and Arab press in the past few years, but few have been correct.

Syria and Iran are allies in the 14-year-old Lebanese civil war, backing the Lebanese Moslems against the Christians.

In a London dispatch, Al-Qabas quoted Arab diplomatic sources as saying the release of the foreign hostages was the key topic of talks this week between Iranian officials and Syrian Foreign Minister Farouk al-Sharaa.

The sources were quoted as predicting the hostages would be freed in stages.

EMERGENCY LAW ENFORCEMENT MONEYS

Mr. CRANSTON. Mr. President, I rise to extend my warm thanks and heartfelt appreciation to my colleague, Senator HOLLINGS, for his alacrity in including an additional $5 million in emergency law enforcement moneys for California in the conference on the fiscal year 1990 Commerce, Justice, State, and the Judiciary appropriations bill.

These funds will be invaluable to the State and its law enforcement agents as they work to ensure a safe and quick restoration of Bay area cities. The Senator from South Carolina and his staff, still in the wake of disaster in their own State, have been very helpful to California as it confronts the devastation of the Loma Prieta earthquake.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Morning business has expired.

INVESTIGATION OF EASTERN AIRLINES DISPUTE

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 1231, which the clerk will now report.

The legislative clerk read as follows:

A bill (H.R. 1231) to direct the President to establish an emergency board to investigate and report respecting the dispute between Eastern Airlines and its collective bargaining units.

The Senate resumed the consideration of the bill.

Mr. ADAMS addressed the Chair.

The PRESIDENT pro tempore. The senior Senator from Washington [Mr. ADAMS] is recognized.

Mr. ADAMS. Mr. President, I rise to speak on H.R. 1231, a bill pertaining to the Eastern Airlines' dispute. Cloture to proceed on this bill was reached by the Senate on October 3, 1989. As it presently reads, H.R. 1231 directs the President to appoint an emergency board in accordance with the authority provided under the Railway Labor Act.

I might state, Mr. President, that as a former Secretary of Transportation, I handled a number of matters under the Railway Labor Act, and I want my colleagues to understand that the

Railway Labor Act is a separate type of statutory approach to settling labor disputes, as compared to the National Labor Relations Act. It applies to railroads and airlines specifically.

Though I find the language of this particular bill to be a reasonable and acceptable solution to the ongoing dispute, it is my understanding that the majority leader will be offering a significant compromise over the original concept in an attempt to obtain agreement, a consensus, mind you, between the administration and the Congress on the handling of this very difficult matter which is disrupting America's aviation travel and, as such, its travel in general.

Specifically, we offer the creation of a commission, rather than the provisions of the Railway Labor Act, which will investigate the situation and make findings of fact and recommendations to the Congress and the Secretary of Transportation. The difference with the creation of an emergency board, is that the President does not appoint the membership, but that Congress also participates in the appointments. Let me emphasize the dire need for us to act on this proposal.

Mr. President, though this is a significant compromise, I want to make it perfectly clear that as an ex-Secretary of Transportation for the United States, I find it very hard to understand the position of this administration with regard to this labor dispute.

In fact, I firmly believe that the administration through its nonactions has not only exacerbated the current labor and management relations but is participating in the crippling of a significant portion of the U.S. airline industry.

It is impossible for me to understand why this President of the United States refused to act on the recommendation of the National Mediation Board, which determined that this dispute between labor and management of Eastern Airlines substantially interrupted an essential transportation service of the interstate commerce system.

Contrary to both the National Mediation Board recommendation and the wishes of the Eastern employees, the President of the United States refused to appoint an emergency board to work out a solution. Let me point out that this is the first time in the 62-year-old history of the Railway Labor Act that a President has rejected a National Mediation Board recommendation to establish an emergency board. President Reagan appointed emergency boards on 11 occasions, every time that the board, the NMB, recommended that he act.

It is vitally important that this body take the time to understand and act on this proposal. As the Secretary of Transportation who helped implement airline deregulation in the late 1970's, I have become very concerned since that time. The many protections for the employees that were placed in the bill as part of the compromise for changing the regulatory system have never taken place.

Let me be as specific as possible: Deregulation was not supposed to be a weapon against labor. Deregulation was not supposed to allow the growth of a noncompetitive oligopoly. Deregulation was not developed to allow uncontrolled mergers that sucked capital from the industry by those who are interested only in upstream cash flows and not the development of a strong competitive U.S.-based corporation.

Parenthetically I might state that transportation is different than other industries in its necessity for capital and its necessity to avoid sending money upstream for quick profits. Because of safety issues, the transportation industry requires an accumulation of capital and the spending of that capital in a careful manner, to be certain that the equipment that is being used is inspected and being used by trained people.

Mr. President, to those who argue that Congress should not be involved, they ignore the obvious public policy concerns that this dispute engenders. As a nation we now travel for great distances. In fact, most of our distance traveling is done by air. The rest to a very significant degree is done by automobile.

These are concerns, therefore, that involve more than simple labor-management disputes. The underlying issue represents efforts not only to corner a market and disrupt labor-management relations but, as I said before, if allowed to continue will cripple a significant part of the U.S.-based airline industry.

The affected principal in this case is Texas Air. Within a corporate hierarchy house of mirrors, Texas Air oversees Continental and the remnants of three other airlines later merged into Continental: New York Air, which used to provide a shuttle service; People Express, which used to provide a low-cost service; and Frontier, which used to compete in the western market. They represent now some of the sickest airlines in the industry. The Eastern purchase which was recently implemented made Texas Air move from a small company into the largest airline company in the non-Communist world with 451 planes and 47,000 employees.

At this point, Mr. President, I ask unanimous consent to print in the RECORD a Wall Street Journal article that reflects this house of mirrors and how it is used.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Apr. 7, 1988]

HOUSE OF MIRRORS: LORENZO'S TEXAS AIR KEEPS COLLECTING FEES FROM AIRLINE UNITS THAT HAVE CONTINUING LOSSES

(By Thomas Petzinger, Jr., and Paulette Thomas)

HOUSTON.—Imagine a house of many rooms.

Every room has a paying tenant. A bank can foreclose on an individual room, but not on the whole house. The landlord has many partners, but no one can challenge his management of the property.

This is the house that Frank Lorenzo built.

As the chairman of Texas Air Corp., Mr. Lorenzo presides over some of the nation's sickest airlines—Continental, Eastern, the corporate remnants of People Express, Frontier and New York Air. All are losing money at some of the fastest rates in aviation history and rank as the industry's biggest debtors. As such, they are blocked by their lenders from paying profit to the parent company for years.

Yet thanks to Mr. Lorenzo's masterly corporate architecture, huge losses at subsidiaries don't stop cash from moving to the top. While the airlines' public debt holders anxiously watch the deficits close in on half a billion dollars, the parent company keeps raking in from the airlines an assortment of management fees, airplane rents, airport-gate rents, fuel-purchase commissions and other payments. "Upstreaming" of cash, company officials call this, and it totaled more than $150 million for the parent last year.

Perhaps most remarkable, Mr. Lorenzo has built one of the most leveraged major corporations in the nation while insulating Texas Air—and himself—from most of the cost and much of the risk. As a group, the Texas Air companies have piled up $5.4 billion in debt. Last year they had to pay $623 million simply to service the long-term part of that debt—an interest bill higher than the annual revenue of each of nearly 100 companies at the bottom of the Fortune 500. Yet parent Texas Air paid creditors barely one-tenth that amount.

Now, reports filed with the Securities and Exchange Commission show how far the airlines have to go. The reports, among other things, list some $7 billion in lease-related liabilities that are invisible on the balance sheet, and they show that Texas Air's once-huge cash reserves were dwindling last year at a rate of more than $1 million a day. The situation is not without irony; the entire Texas Air empire, after a year that produced the company's biggest net loss ever—$466 million—has just won its first unqualified auditors' opinion in five years.

All this may make the 47-year-old Mr. Lorenzo the quintessential manager-on-the-edge-a live practioner of the concept that cash flow is more important than profits. Fighting a war of attrition against the losses at his ailing airlines, he buys time with a seemingly foolproof trickle-up system. If he eventually wins the war—curbs Eastern's costs and fixes Continental's service problems—his airlines, with their exceptional size and market dominance, may become for him a kind of mass-production profit machine.

Should he fail, well, the parent company could be hurt, yet it would be almost sure to remain standing. For by financing the operation so piecemeal and by draping it with so many corporate veils, Mr. Lorenzo has left

most of the leverage to himself—and not to airline creditors. Mr. Lorenzo, though his personal investment is virtually nil, preserves voting control with corporate defenses that make poison pills look like penny candy.

SCRIP AND DEBT

Mr. Lorenzo declined to be interviewed, although a Texas Air spokesman responded to a list of written questions. The company has always maintained that it conducts internal transactions at arm's length, and that its overriding goal is to build profitable airlines. Texas Air, however—viewed solely as a parent company, segregated from the consolidated empire that reports financial results—ran a "modest" profit in 1987, the spokesman said.

This is a company in which internal transactions worth hundreds of millions of dollars have been conducted with house money, securities labeled "scrip." At the same time, with 24 issues of publicly traded securities listed on U.S. exchanges, Mr. Lorenzo treats the financing markets like drive-up teller windows. In one of many private placements, Eastern, desperate for $200 million cash, last month agreed to pay 17.25%, or more than twice the prime rate.

Partly by happenstance, partly by design, Mr. Lorenzo has created one of the nation's most complex major corporations. "It took me months to figure this company out," says Richard Bilotti, who worked on Texas Air's first junk-bond issue at Kidder, Peabody & Co. and who now follows the company as a junk-bond analyst for Prudential-Bache Securities Inc. "I've opened Texas Air annual reports and documents and thought, 'I'm going to become a TV repairman.' "

But within the units, crisis seems to follow upon crisis. The reports to the SEC last week—"10K" filings by Texas Air, Continental, Eastern and the surviving corporate shell of People Express—spell out the problems. The parent's reports list six pages of litigation and even a 130-sponsor congressional resolution demanding a federal investigation of Texas Air's affairs.

At Eastern, executives worry that lenders could repossess assets if a threatened strike takes hold. At Continental, officials expect further big losses for the first quarter, partly from the cost of overcoming continuing customer-service problems. The reports tell how New York Air temporarily slipped into default on one lending agreement. And they show how the net worth of the entire enterprise—the largest airline operation in the noncommunist world—sank 38% last year, to just $500 million.

Mr. Lorenzo keeps the enterprise going with techniques that range from the iron fist to the velvet glove. After cutting a deal to acquire People Express in 1986, he twice forced debt holders to accept reduced terms. Yet a few years ago, at a presentation to Standard & Poor Corp., he slipped his arm around the shoulders of a ratings agent, quietly pleaded for a bond rating better than triple-C.

To Mr. Lorenzo's critics, the structure of Texas Air is a blueprint for greed-designed by Mr. Lorenzo and a few close associates "to satisfy their own selfish desire," as the public debt holders of Continental once alleged in a lawsuit; "to destroy trade-union representation," as the machinists union claims in a suit filed this month; or to "loot Eastern for the benefit of Texas Air," as the pilots' union charges in another suit.

But if Mr. Lorenzo is intent on personal enrichment, it isn't evident from his operations to date. He does draw a $1,000-a-day salary, has profited nicely from personal transactions with the company and has traded Texas air shares in the market adroitly. But he has hardly accumulated the kind of wealth available to most executives who personally control $8 billion a year enterprises. Mr. Lorenzo gets his jollies running marathons rather than collecting antique cars or European guest houses.

The exotic structure of the enterprise, has, however, given him the chance to earn a little more than mad money.

Mr. Lorenzo maintains control of the empire through a special class of supervoting stock held by his flyspeck personal holding company, Jet Capital Corp. With only 1% of the equity of Texas Air, it has 34% voting control. The investment company, which shares its headquarters and telephone number with Texas Air's New York office, also invests jointly with Texas Air and conducts other activities in whose spoils Mr. Lorenzo shares as Jet Capital's 52% shareholder.

The way Eastern Airlines has been treated in a few transactions is worth a look. For instance, according to Texas Air's SEC filing last week, Jet Capital arranged a $1.25 million fee for itself for advising Texas Air on its recent plan to shift ownership of Eastern's East Coast shuttle to a new Texas Air subsidiary for $225 million. In exchange for its role in "structuring" the transaction through a chain of five corporations, Jet Capital was also awarded an equity interest in the new unit.

Jet Capital, alas, may receive only part of its fee and may never receive its equity stake. For at the behest of Eastern's union leaders, a federal judge last month put the brakes on Mr. Lorenzo's efforts to continually reconfigure Texas Air, temporarily blocking the shuttle sale as a violation of Eastern's labor agreements.

Ever since acquiring debt-plagued Eastern 16 months ago, Mr. Lorenzo has been carving up the airline to bring Eastern's few profitable operations closer to home. It began with Eastern's computer-reservations subsidiaries, System One Direct Access Inc. and EAL Automation Systems Inc., which in 1986 generated $255 million in cash. The units' profits, however, merely subsidized Eastern's huge overall deficits.

Eastern's own investment bankers had valued part of the system at between $200 million and $320 million. But Texas Air paid Eastern just $100 million for the whole works—and not in cash but in a note bearing interest of only 6.5%, payable in 2001.

CONVERTIBLE INTO STOCK

"If one were creating junk, this would be at the bottom of the barrel," says Farrell Kupersmith, a senior partner in the accounting firm of Touche, Ross & Co. Today, Mr. Kupersmith advises the pilots' union at Eastern, but when Continental went through bankruptcy proceedings in the mid-1980s, he testified against the unions. Explaining his switch in sides, the accounting executive says, "We have a pro-business bias, but the system here is being abused.

Texas Air justified the terms of the transaction with the fairness opinion of an investment-banking firm. These are no mere 6.5% notes, after all. Eastern can convert them into, of all things, the common stock of its parent company; of course, for Eastern to do so profitably, Texas Air's shares would have to be worth more than their all-time high of $51.50 apiece, according to calculations by Touche Ross. They trade at a about $12 now.

Eastern explains the sale of the reservations system by noting that only the parent company had the wherewithal to upgrade its software and set System One on an expansion binge. Texas Air combined the former Eastern unit with CCS Automation System, Inc., a system it had picked up from Continental a year earlier for $15 million. As a direct unit of Texas Air, it has become a third-ranked and fastest-growing reservation system in the all-important travel-agent market.

But today, System One draws funds from Continental and Eastern that the airlines used to pay to themselves. These include a fee of $1.65 for every airline reservation plus other fees, payments that total about $130 million a year in Eastern's case alone. A Texas Air spokesman declines to say what income, if any, the parent company is drawing from this flourishing new unit. But neither do the financial statements reveal any injection of capital by the parent. In the true style of a Texas Air unit. System One has accumulated $64 million of its own debt.

IONOSPHERE CLUB

Other assets and operations have been switched out of Eastern. For instance, it sold 11 gates at Newark International Airport to Continental for $11 million—in a promissory note paying 10% interest. Yet Eastern sold eight gates and related facilities in the smaller market of Charlotte, N.C., to Piedmont Aviation for $25 million. Eastern explains that the gates in Charlotte were especially valuable to Piedmont because its hub is there, and says the price paid Continental squares with other Newark gate sales.

Eastern has suspended nonstop service from its hometown of Miami to London and on more than a dozen other routes; Continental later began service on the same routes. A new unit has been created to hold Eastern's chain of members-only Ionosphere Clubs—a sure sign, Eastern's unions contend, that they, too, will be moved to Continental. Eastern says it merely wanted to segregate the profitable club chain from the airline's problems.

"Eastern's new management team is in the business of running an airline, not dismantling it," the company says in a position paper recently distributed on Capitol Hill. Until labor costs are slashed and losses reversed, the company adds, "it should not surprise anyone that the company is smaller."

If Texas Air's planes and gates and reservation systems are structured like a modular home, with movable walls for maximum flexibility, its finances seem more like a hall of mirrors.

New York Air assumed nearly $50 million of debt in the failed Frontier Airlines subsidiary of the nearly failed People Express—but the debt was also guaranteed by Texas Air. Eastern, though desperate for cash, paid Texas Air $25 million—"for investment purposes"—in exchange for notes in People Express. (The notes yield 20%, a Texas Air spokesman says.)

When Continental bought 50% of Bar Harbor Airways, a commuter that feeds passengers to Eastern, the apparently grateful Eastern paid Continental a fee of $1 million—although the whole sale was worth only $1.5 million.

Then there are the leases. People Express's SEC filing described one of these succinctly, if not necessarily simply: The lease, involving a Boeing 747 worth $30 million, was "sold by the lessor in a sale and

leaseback transaction pursuant to which the aircraft was leased to a special-purpose subsidiary of Texas Air and simultaneously subleased to the airline under an operating lease agreement."

At the operating level, such day-to-day dealings can go over the heads of even top executives. Michael Levine, a Yale Law School professor who served as president of Mr. Lorenzo's once-promising New York Air unit, always tried to make sure that the unit's public shareholders were treated fairly in transactions with Texas Air—as, he says, they were. "Other than that," he adds, "it wasn't a concern of mine how many lawyers it came through."

PAINT JOB

Much of Texas Air's complexity happened by accident—or by circumstance, at least. Though its planes were repainted in Continental colors, People Express remains a separate entity, an arrangement that, among other things, helps shield the rest of the empire from huge litigation claims. Frontier Airlines, though also a Continental unit, remains in Chapter 11 proceedings, which began just before its acquisition by Texas Air. Mr. Lorenzo created Texas Air Leasing so that Continental, which underwent its own bankruptcy reorganization from 1983 to 1986, could launch a feverish expansion—leasing planes from Texas Air rather than trying to acquire them on its own.

Tax matters, too, drive much of Texas Air's complexity, even though as a big money-loser "Texas Air is not a taxpayer on a consolidated basis under any circumstances," as one of the company's investment bankers puts it. The company's $7 billion in off-books liabilities consist of long-term rent payments for planes that Texas Air might otherwise own; renting them enables some profitable owner to take depreciation deductions and share the savings with Texas Air. And because the units have lost such stunning sums, dissolving their corporate identities would forfeit a windfall of future tax benefits, assuming they ever have profits to shelter.

Finally, Texas Air's financing has left Mr. Lorenzo some breathing room to wage his cost war with organized labor and to attack his operating problems. For this year and next, long-term debt will mature at a rate of only about $300 million a year; by 1992, the cost will have climbed to more than $500 million. And while the whole empire's debt-service costs have risen 485% in the past three years, the parent's debt-service cost has remained steady or declined slightly, without giving effect to relatively small preferred-dividend payments.

Thus, in 1988, Texas Air needs only to "upstream" $83.7 million to meet its obligations to debt holders, preferred shareholders and aircraft lessor. And while the company won't disclose how much money it expects to take in from units, it is clear the parent will be well provided for.

Eastern and Continental burned an estimated 2.5 billion gallons of fuel last year. For efficiency's sake, a single unit, Texas Air Fuel Management Inc., supplied the fuel—but it collected a penny a gallon from the airlines for doing so. Continental currently pays Texas Air more than $9 milion a month in rent for 51 aircraft and 21 gates. Management fees and debt-guarantee fees totaled an estimated $32 million last year. The grand total, not counting any income from the plum reservations unit, gains on cash investments or any undisclosed income: about $150 million.

Even that won't be enough when the company, in 1990, has to begin paying off the huge debt issues that financed its pellmell growth. But so far, nobody at Texas Air seems to be panicking.

"At some point," says Robert Snedeker, senior vice president and treasurer, "we would anticipate it would be appropriate to look for something beyond breaking even."

Mr. ADAMS. Looking at this article, Mr. President, you can see that as a group, the Texas Air companies have accumulated up to $5.4 billion in debt. In 1987, they had to pay $623 million simply to service the long-term debt. Yet as this recent article that I have just placed in the RECORD points out, very little of that debt is being paid. While the public debt piles up Texas Air, as the parent company at the top of this hierarchy of this terrible conglomerate, is well insulated from these costs. On the contrary, in fact, Texas Air adds to this burden by periodically billing Eastern and others for its services.

Mr. President, this is what we call upstreaming of cash by Texas Air. It sucks the lifeblood from what was once a strong Eastern Airlines, and its ownership has kept Eastern Airlines from buying equipment, arriving at the size that it should, and becoming competitive.

For instance, Eastern is billed by Texas Air to participate in a reservation system that it once owned, but it has now been stripped from Eastern. Eastern pays approximately $130 million per year to use what was its own system. Similarly, payment of management fees from Eastern to Texas Air averages $6 million a year. In others words, they used to manage themselves but now they pay $6 million for the privilege.

A Texas Air subsidiary now charges Eastern $9 million annually for fuel. They used to buy their own fuel.

Eastern management together with Texas Air have also participated now in stripping Eastern of valuable assets, providing for additional dollars to go upstream in the cash flow. This includes the sale of valuable airplanes, gates, and slots.

Another interesting fact is found in a recent Touche Ross & Co. analysis. Very cruelly, Eastern was forced to finance its own takeover by Texas Air using $108 million of its own cash and issuing about $230 million in new preferred stock. Eastern also made a $34 million loan to Texas Air and paid Texas Air a $20 million inducement fee for purchasing Eastern. In other words, the purchaser in this case did not pay anything. The purchasee paid to be purchased. Texas Air put none of its own cash in this deal.

Let me also say, Mr. President, that in contemplating this analysis, management's assertions that high labor costs are injuring the company appear to lose credibility. This is especially true when faced with the facts that if one compares the annual average labor cost per employee in the airline industry, the average pay in this instance is below the average pay offered by five other major airline companies.

Mr. President, I have outlined this financial history to put the matter in context. There are underlying issues that go to the necessity of considering this bill. There are public policy concerns that need to be dealt with. There exists reasons that Congress should be involved.

I ask my colleagues to study this bill and the compromises that may be offered. It is imperative that we address this longstanding dispute. By moving in this direction, we also begin to address what I see are very ominous danger signals within the airline industry as a whole.

Mr. President, I hope at a later time in this debate to compare the oligopoly that exists now under deregulation with the oligopoly that was alleged to exist before all of this started. There are fewer airlines with more control over the business now than there were in the early days of the airline industry. Over 69 percent is covered by five carriers. The hub operation has gone into the basic fabric of our operation. But it is overdone and it has become a nightmare for passengers.

This is a very important time. I do not know why the President of the United States did not issue an emergency board so that there could be a cooling off period. But now it is up to Congress to do something.

As a bit of history, I might state that when I was in the House of Representatives I was asked by the Speaker of the House to look into a railroad dispute involving West Virginia, Pennsylvania, and the Pennsylvania Railroad. We worked years to make changes to develop a better railroad system.

I hope that the Congress will not shirk its responsibility to see that the airline industry adequately reviews all safety issues. The industry should not be financially manipulated. It is more than a Sears or J.C. Penney. When an airplane is not maintained it falls from the sky, it is not like a pile of sweaters falling on the floor.

I thank you very much, Mr. President, and I suggest the absence of a quorum.

The PRESIDENT pro tempore. The point of no quorum has been raised. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, the order for the quorum call is rescinded.

The senior Senator from Missouri, Mr. DANFORTH, is recognized.

(Mr. KERREY assumed the chair.)

Mr. DANFORTH. Mr. President, although I find myself on the opposite side of the Senator from Washington on this legislation, I do want to say that I think the Senator has performed a service by focusing at least some of his remarks on the general issue of competitiveness in the airline industry and the state of the airline industry today, some 11 years after deregulation.

This is, indeed, a subject which deserves general attention in the U.S. Senate. As I will point out in a few minutes, my basic concern with the efforts of the Senator with the legislation that is now pending before the Senate is that it does not express general concern about the state of the airline industry. Instead, it is very narrowly targeted to one specific instance. And it is an effort by some Senators to weigh in a particular labor-management dispute. I doubt the propriety of doing that. I doubt the wisdom of the U.S. Senate, particularly more than 8 months after a strike has started, of saying, "Here we come," as a kind of Greek chorus, after the fact presenting our answers to all of the problems that have developed in this particular airline with these particular unions.

So I do not think that it is appropriate for us to be airline specific or strike specific. And I do not believe that it is appropriate for the Congress of the United States to act as a kind of court or an adjudicatory body, substituting its wisdom about the equities of a particular disagreement for the views of, say, the bankruptcy court which now has jurisdiction over this matter.

But I do want to say to the Senator from Washington that he has done us a service in directing the attention of the Senate to the more general problem of competitiveness in the airline industry. That is a matter which should be debated before the Congress of the United States. That is an issue of general policy; not a question of the Congress picking sides between two disputing factions in a particular disagreement, but rather a question of policymaking. That is what we are in the business of doing, it seems to me, of determining matters of public policy.

Clearly the circumstances in the airline industry are a matter of our own making, at least in part, because back in 1978, we decided that we were going to deregulate the airline industry. And I was a party to that. I served on the Senate Commerce Committee at the time. I believed that it was a good idea. And I believe at that time, as a matter of fact, the Senator from Washington was Secretary of Transportation. We agree that there are some areas where the Government should effectively get out of the business of regulation and let the marketplace work. And that was the theory in airline deregulation.

But the theory was that, as we did away with the CAB [Civil Aeronautics Board] and as we moved away from Government regulation in airlines, something was going to replace regulation, and that "something" was to be competition.

So, the theory was if we did not have regulation we would have a very competitive industry and that competition would act as the marketplace regulator so prices would be contained and services would be maintained, because of competition. And, in fact, in the early days of deregulation that is precisely what happened. A large number of new entries entered the airline industry. There were some very low-fare entries. People Express comes to mind as an example of a whole new option that was made available to the traveling public.

We thought at that time, for the first few years after deregulation, the theory was correct and it was working out very well. However, Mr. President, shortly after the initial flush of success with deregulation, it became apparent that something was going seriously wrong. What was going seriously wrong were these instant entries into air transportation were going under and they were going out of business. Then, mergers began to take place.

Now we find ourselves, 11 years after deregulation, with 90 percent of the airline transportation in the United States being controlled by just eight airlines. So we have had a reversal of what we saw in the first years of deregulation and we do have a monopoly situation, particularly at the hub airports.

In my native city of St. Louis, for example, 82 percent of the passengers at Lambert Field in St. Louis are TWA passengers. Clearly, when 82 percent of the traveling public is flying on one airplane, that airline is able to do pretty much what it wants to do.

So we asked for a study by the General Accounting Office about the situation at Lambert and the GAO came back with its report. It reported that after the merger of Ozark and TWA the fares at Lambert had gone up at a rate two to three times more rapidly than the increase in fares nationally.

Then there was another GAO study about the hub airports. It turns out where there is a dominant airline the fares go up two to three times. So it is exactly the same situation we found at Lambert, except it is national in scope. It exists in Minneapolis, Memphis, wherever else there is a hub and wherever else there is a dominant airline.

It is proof of an old economic theory. It is proof that competition does work, and where there is no competition serious problems arise.

So we now have the situation in the airline industry where we have the worst of all possible worlds. We do not have regulation and we do not have competition. We have a monopoly situation. We have specific airlines that operate pretty much as they want, especially at the hub airports.

The Commerce Committee has studied this matter. I might say one of the distinguishing features between what we have done in the Commerce Committee and the legislation we now have before us is that the Commerce Committee has worked on this matter. The Commerce Committee has worked on the general question of competitiveness in the airline industry. The Commerce Committee has never worked on this bill.

I do not think it was ever even reported to our committee; never. For reasons I do not understand, this bill, which is not new, has not been referred to the Senate Commerce Committee. Not a single hearing has been held. As far as I know, not a word has been said in the Commerce Committee on the subject of the Eastern Airlines legislation.

But, where we have been very active has been in the area of the general state of the airline industry; the general question of competitiveness.

We have asked for and we have received three different studies from the General Accounting Office. We have asked for and we have received an additional study from the Department of Transportation.

We have held 3 days of hearings about those various studies and on the basis of that information and on the basis of the studies and on the basis of the hearings, we have introduced legislation. We did it just 2 weeks ago.

Senator MCCAIN and I introduced a bill which drew upon the expert advice that was made available to us and it dealt with specific problems such as computerized reservation services; such as majority in interest clauses, which make it possible for dominant airlines to prevent the use of gates by other airlines. And we provided the possibility of a passenger charge so airports could expand and provide more gates with a preference for new entries.

We would, by this legislation, put the Federal Trade Commission back in the business of supervising competitiveness in the airline industry and using the antitrust laws to provide competitiveness in the airline industry. It is a comprehensive bill and hearings are now scheduled before the committee on this legislation: November 1 we will have a hearing on this legislation. The chairman of the Aviation Subcommittee, Senator FORD, has indicated a desire to be very cooperative in working out this legislation. I think we will be able to do the job.

That is what the Congress should be doing. Congress should be studying the large problems and fashioning industrywide solutions. Where there is no competition, we should ask ourselves why there is no competition, and we should fix that problem. And where there is too little capacity we should ask ourselves what are going to be the needs of the traveling public in the decades ahead, and we should provide for such funds as are necessary in order to provide expanded capacity for the future. That is what Congress should be doing.

I submit that what Congress should not be doing is acting as an adjudicatory body as opposed to a legislative body. What Congress should not be doing is waiting for a dispute to arise between constituents and a person who could be labeled the archenemy and then say: "Well, we are going to enter into this dispute on the side of the angels, on the side of public opinion; we are going to be a kind of National Mediation Board or a National Labor Relations Board. We are going to decide as politicians who is right and who is wrong on a specific dispute." That is what we should not be doing, Mr. President. And that is what this legislation would do.

It is said: What is wrong with getting Congress in this act? What is wrong with a Presidential emergency board? Well, there are several things that are wrong with a Presidential emergency board. The first is that the purpose of this legislation is to recreate the situation at Eastern Airlines that existed before early March of this year.

Back in February, the National Mediation Board proposed the creation of a Presidential emergency board. That was before the strike ever happened. I can remember when that strike happened. I believe that the first day was a Saturday because I was very curious as to what was going to happen in air transportation.

We thought that the whole air transportation system in this country was going to be shut down. We had been told that pilots all over the country were going to have slow-down operations; that they were going to fly by the book; that there was going to be this awful congestion; and that the country was going to be brought to its knees.

It was within that context that the suggestion was made by the National Mediation Board that a Presidential emergency board should be created and that the status quo should be maintained.

I went out to the airport by subway on a Saturday. I thought, I should not even drive; it is going to be such a mob scene out there. I got out to National Airport that Saturday afternoon in early March and, guess what? There was not any traffic problem. Cars were driving in and our of National Airport and planes were flying. It was not an emergency.

The purpose of a Presidential emergency board is to deal with a national emergency, not simply to weigh in on one side of a labor-management dispute.

As a matter of fact, it is very uncommon for a Presidential emergency board to be created. Since 1966, the National Mediation Board has not recommended a single Presidential emergency board until this year. There have been 65 strikes in the airline industry since 1966. It is not the common practice. It is not the common practice for Government to barge in in order to solve a strike. We leave that to collective bargaining, unless there is a national emergency.

The fact of the matter is that while there is undoubted hardship for individual pilots and mechanics and people who have invested their lives in Eastern Airlines—that hardship is beyond dispute—it is not what could be called an emergency in public transportation. That is why it is simply wrong to create a Presidential emergency board.

Furthermore, it is impossible under the present circumstances. It is literally impossible to do what this legislation would have us do. It is literally impossible to reestablish the status quo before early March of this year. It cannot be done. The situation has changed too dramatically.

For example, the Eastern shuttle has been sold. How, Mr. President, do we by legislation unscramble that particular egg? How do we reestablish the status quo for Eastern Airlines when the shuttle, including 21 aircraft and nearly 2,000 employees, has been sold; and when $365 million of cash was received for the sale, which became part of a bankruptcy estate? How do we legislate that away? What do we do? Do we rebuy the planes and rebuy the shuttle somehow?

Eastern Airlines is not the airline that it was before last March. How can we recreate it by Government fiat? It now operates 70 percent of its prestrike flights. What do we do? Do we just order it to start flying the additional 30 percent? I do not think that it is possible.

Maybe it would have been possible last February before the strike ever happened. Maybe it would have been possible to freeze the status quo. Maybe it would have even been a good idea at that time. But this is 8 months plus late—8½ months after the fact. And to say we want to go back to last February, mechanically how could that be done?

Then we have the whole question of the bankruptcy court and the fact that this is now a matter that is in litigation. It is before the bankruptcy court. There is no precedent to determine what the relation is, as a legal matter, between the bankruptcy court and a Presidential emergency board. Who is in charge here?

The idea of a bankruptcy court assuming jurisdiction is that that court can make decisions relating to the operation of the airline. Then in addition to the bankruptcy court, we create a Presidential emergency board. What if there is a dispute between them? How do you operate this operation with two heads, with two decisionmakers? Constitutionally, how can this be done?

Once jurisdiction is assumed by the bankruptcy court, then constitutionally can Congress interject itself into this dispute? I do not know the answer to that question. But I do know that the question has never been asked before the Senate Commerce Committee. We have not had any witnesses come in and tell us how we put this thing together.

Mr. President, this bill, if it was ever a good idea, is not a good idea now. If it was ever a good idea for Congress to be not a legislative body but a quasi-judicial body or a mediator between sides, it is too late for that now. It is too late to do it now. It is 8½ months too late. It cannot be done.

We might want to say, oh, we would love to do something for the pilots, for the mechanics, for the other people who have had their lives disrupted. Yes, we would. But I do not think that that is the role of Congress 8½ months after the fact. I do not think it can be done, and I do not think it should be attempted. That specific adjudicatory role is not really what Congress is all about.

Mr. President, I hope that this legislation would be voluntarily laid aside by its sponsors. I hope that we would refocus our attention on the real problem. The real problem is not a specific individual. The real problem is not a specific airline. The real problem is the health of air transportation in the postderegulation United States. That is the real problem.

That is the kind of question that legislators should address. We have introduced legislation to deal with that problem. It is before the Commerce Committee. A hearing will be held on November 1. It is my hope that we can mark it up in short order. It is a good bill.

That is the way to deal with problems, not to pick sides and to muscle into the affairs of a bankruptcy court and to muck around in pending litigation, but to deal with underlying problems of public policy.

Mr. ADAMS. Mr. President, I have listened with great interest to the remarks of my good friend from Missouri [Mr. DANFORTH] on airline deregulation. I might state that I served on the Interstate and Foreign Commerce Committee in the House when this was first being considered, before be-

coming Secretary of Transportation. The reason this issue has not appeared before the Senate Commerce Committee in its particular form is that it involves a labor dispute within the Railway Labor Act. I think we are 11 years late in dealing with the competitive problems of the airline industry, and I am appalled that during the period of time when I did not serve in either the House or the Senate, there was no action to require the Antitrust Division to act upon these oligopolies. There was no action by the SEC to prevent this ladening of debt upon our airlines. Further, thought this had a deadly impact on safety, there was no action by the regulatory agencies to prevent the airline industry from being negatively treated in the so-called junk bond takeover market.

There was a very good reason for regulating the airlines in the original instance, as there were good reasons to regulate trucks and railroads in the 1890's. The airlines are a natural monopoly. I stated this to Mr. Kahn at the time when he argued that airplanes were fungible, that they could fly back and forth, and that we could in the late 1970's deregulate.

We did deregulate airlines at that time under another administration and another Senate and Congress but in a very careful way. That deregulation, which has been eloquently and accurately described by my friend and colleague from Missouri, was directed toward a process by which new entrants would come into choke points in the system, and there then would be protection for those working in the airline industry while this terrible transition occurred.

Airlines are fungible, airports are not. It was obvious to all of us who had studied the industry for many, many years that major airlines with access to capital in this country would soon impact upon the choke points, which were the airports in this country. And furthermore, the airlines would make every effort to dominate those hubs. We turned the existing airlines industry upside down.

I can remember stating again and again during the deregulation debate that some regulation must be maintained in the CAB for a peroid of 4 or 5 years and you must have a very active antitrust division. Otherwise what would occur was that the airlines would long haul, short haul the passengers just as the railroad passenger trains had done in the previous century. By that I mean the airlines would rush to the competitive routes—New York to San Francisco, New York to Los Angeles, New York to Miami. They would be able to offer competitive fares in that instance and competition would work there. We had no doubt about that. You saw the $99 fare. We saw other cheap fares. To this day I can fly to Seattle cheaper than I can to cities closer than from here to Seattle. I pay almost the same price to go coast to coast as I do from here to New England. I pay less to go to San Francisco, which is farther, than I do to Seattle. This is not a money competition system.

I agreed to and supported deregulation to bring in new entries, new aircraft, but on the basis that they would not be allowed to be attacked by the financial interests which had an interest in taking over only the high-density routes and cutting out and destroying not just the small cities, but the medium-sized cities as well.

Executives will not fly and marketeers will not cast their gold upon cities that have no air service or which take several jumps to get there or which are greatly impacted by landing at hubs where the weather will shut them out.

So when we talk about this bill today, there is a reason why it is cast in terms of a labor dispute. This is one of the last of the monopolies, I would say to my friend from Missouri. The original companies are nearly all gone. Nobody stopped their demise, and the big five went in and did just what we were afraid they would do. I am very familiar with what they did with TWA and Ozark in St. Louis, which became a hub. Competition vanished. It pretty well vanished in Minneapolis. It pretty well vanished in Denver, though it is struggling back a little. It is in the process of vanishing in many other medium-sized cities because we have now found we have overcrowded these big airports to an extent where we now use medium-sized cities, and when a hub falls on that, the monopoly falls on it.

Now, the reason, Mr. President, that this bill appears now is that this is our second time round. Mr. Lorenzo with Texas Air took over Continental Airlines through the bankruptcy court once before. The bankruptcy court was used at that time to break the unions and to take over Continental Airlines in such a brutal fashion that the Congress of the United States did act in that labor dispute. The Congress of the United States passed a specific law which prohibited the bankruptcy court from being able to cast aside all labor contracts. I regret that the bankruptcy judge in this chapter 11 proceeding, though it is well within his power and has been cleverly used by the litigants, has left control of this bankruptucy with the management that took it into bankruptcy. The only reason we have not had a repetition of what was done with Continental Airlines in the Texas bankruptcy is that this Congress passed a law which prohibited this type of action. We said you would simply destroy labor contracts by moving into bankruptcy.

But what has happened? Eastern Airlines uses a clever starvation tactic.

The starvation tactic is very simple. It is to sell airline properties to other parties so that, even if you had a union contract, you would not have a property to fly. It has been to buy no new airplanes, and to sell or transfer among the subsidiaries, airplanes that were already owned by Eastern.

Eastern had terrible problems coming into this deregulation period. It owned old equipment. But it had the best route system, probably, in the world if not the best one of the top three.

This internal attach was used to buttress Continental Airlines and used to financially manipulate, an oligopoly system to create the destruction of an airline.

I am glad that the Senator from Missouri and myself and everyone else were able to fly in and out of the South when this collapse started. I am concerned that once this oligopoly has carried out its course—the fares will again rise.

The question has been asked by another Senator regarding the fairness of costs. The question is why should it cost $630 to fly a corpse on an American Airlines flight from New York to Los Angeles when it costs $388 to fly a live passenger on an American flight from New York to Los Angeles? I think the answser to that is the competitive system has not quite worked the way we anticipated.

I might also say that the American public has benefited in ways from some lower prices. These lower prices have gone to the swift of foot and the clever of mind, and in some cases to the friendship of those who know the business. For the life of me I have never understood why it is that I seem to always pay the higher fare when someone else has some unusual type of discount.

It goes to basic economics which again shows that this is a different kind of monopoly. I say to the Senator, a monopoly different from any other monopoly in the world, and that is why some regulation is required. I will give you a personal experience. If you ever decide to fly with a dog or a pet, be certain you take them with you. I made the mistake of shipping a pet for my daughter to Seattle. It went separate from myself. It turned out that the cost for that pet was over $400, whereas my ticket was less than $400.

My only response to the airline was, the poor thing sat for 13 hours in Denver, because they did not put it on the same flight, and did not feed it. I worried if it was ever going to get there. For nearly $600 it should have been in a first-class seat with a bib, and hopefully a first-class meal.

I do not understand what happened. But I certainly received a very abrupt reply from the airlines.

What I am saying is that an airlines can price its product as it wishes. For passengers this is particularly deadly because once the pilot, the gasoline, the slot for the space is bought, it is really your first 90 seats who pay for it. The remaining seats on that airplane, if there are 10 or 20, therefore have a zero cost base. This means that when two planes take off, if one has some empty seats and the other is full—it is completely deregulated—there is no relationship to the cost of the other carrier.

We had rules before in order that the new entrants or the half-filled planes did not automatically create an oligopoly by knocking out the other airlines.

That is what happened in the first few years. Those with capital and power turned around and crushed it. Now you have the frequent flier, or you get a discount on a particular day. But of course you will find that your discount will never apply during the heavy traffic season.

I am hopeful that the bill that the Senator mentioned comes to the floor. I will be very anxious to review it, I will be very hopeful the relevant issues are addressed. But this bill we are discussing today dwells on a specific problem, for a particular reason. It is to prevent the use of the bankruptcy court to attack the structure of the airline industry, and in this case the structure of one of the big five airlines.

We will try to provide some fairness for the people who spent their lives building this airline. We will try to keep the cities that have been on line with service from this airline, to retain some competition. We will not let the financial manipulations of the bankruptcy court, and a house of mirrors now known as Texas Air, leverage and cripple this airline; a crippling action that sucks cash and postpones repairs on essential equipment. We are concerned about the older skilled employees as well. We want to see an airline the American public can be proud of with service it is entitled to.

This is a dispute between labor and management under the Railway Labor Act. Again, I wish the President had appointed an emergency board. I hope now that the Congress and the administration will save what is left of this market. I say to the Senator that Air Florida is gone; People Express is gone; Piedmont is gone.

Let us be hopeful that some new airline moves into the South to compete with Delta. I hope somebody does. Delta is a fine airline, but it would be nice to have others come in and compete. Eastern can and should. Maybe it will have a new name; maybe it will have some new personnel, but the bankruptcy courts were never created to regulate an airline or to understand the manipulations that can take place.

People flying on an airline are entitled to safety. As I stated before, this is not like a mercantile business. Safety is a critical factor. True and proper regulation is necessary.

I hope that we will have an opportunity to review the competitive bill Senator DANFORTH speaks about. But immediately we need to put competition back into the picture and move for a special commission on this matter. We need to take this from the bankruptcy court, where it is entangled. I want it manipulated mechanically with safety, not financially, for dollars and for preferred stocks and for junk bonds, making money for some New York broker.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

AMENDMENT NO. 1043

(Purpose: To make a substitute amendment)

Mr. MITCHELL. Mr. President, I offer a substitute amendment to H.R. 1231.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for himself, Mr. KENNEDY, Mr. GRAHAM, Mr. FORD, Mr. DIXON, Mr. ADAMS, Mr. LIEBERMAN, Mr. METZENBAUM, Mr. KERRY, and Mr. BRADLEY, proposes an amendment numbered 1043.

Mr. MITCHELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. ESTABLISHMENT.

There is established a commission (hereinafter in this Act referred to as "the Commission") to investigate the labor dispute involving Eastern Airlines and the International Association of Machinists and Aerospace Workers, the Airline Pilots Association, and the Transport Workers Union.

SEC. 2. MEMBERSHIP.

(a) COMPOSITION.—The Commission shall consist of four members, of which not later than 10 days after the date of enactment of this Act—

(1) one member of the Commission shall be appointed by the President Pro Tempore of the Senate;

(2) one member of the Commission shall be appointed by the Speaker of the House of Representatives;

(3) one member of the Commission shall be appointed by the Minority Leader of the Senate; and

(4) one member of the Commission shall be appointed by the Minority Leader of the House of Representatives.

(b) VACANCIES.—A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(c) CHAIRPERSON.—The Commission shall elect a Chairperson from among the members of the Commission.

(d) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the Commission.

SEC. 3. DUTIES.

The Commission shall—

(1) investigate and make findings of fact and recommendations regarding the prompt and equitable settlement of the dsipute referred to in section 1;

(2) consider issues arising out of the dispute; and

(3) make policy recommendations to Congress and the Secretary of Transportation concerning—

(A) the powers of the Secretary to intervene on behalf of the public interest to maintain competitiveness in the aviation industry in light of mergers, acquisitions, and bankruptcies of air carriers; and

(B) the adequacy to protect employee collective bargaining rights in bankruptcy proceedings involving air carriers.

SEC. 4. REPORT.

(a) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, the Commission shall submit to Congress and the Secretary of Transportation a written report containing its findings and recommendations.

(b) AVAILABILITY TO PUBLIC.—The Secretary of Transportation shall make the report available to the public.

SEC. 5. ADMINISTRATION.

(a) INFORMATION.—The heads of executive agencies, the General Accounting Office, and the Congressional Budget Office, to the extent permitted by law, shall provide the Commission with such information as the Commission may require in carrying out the duties and functions of the Commission.

(b) COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Commission shall serve without any additional compensation for work performed on the Commission.

(2) TRAVEL EXPENSES.—Such members who are private citizens of the United States may be allowed travel expenses, including a per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service under sections 5701 through 5707 of title 5, United States Code.

(c) STAFF.—Subject to the approval of the Secretary of Transportation and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, the Chairperson of the Commission may hire and fix the compensation of such staff personnel as the Commission determines are necessary to carry out duties and functions of the Commission.

(d) PERSONNEL AND SUPPORT SERVICES.—

(1) DEPARTMENT OF TRANSPORTATION.—On request of the Commission, the Secretary of Transportation shall furnish the Commis-

sion with such personnel and support services as are necessary to assist the Commission in carrying out the duties and functions of the Commission.

(2) OTHER AGENCIES.—On the request of the Commission, the heads of other executive agencies and the General Accounting Office may furnish the Commission with such personnel and support services as the head of the agency or Office and the Chairperson of the Commission agree are necessary to assist the Commission in carrying out the duties and functions of the Commission.

(3) REIMBURSEMENT.—The Commission shall not be required to pay or reimburse an agency or the Office for personnel and support services provided under this section.

(e) RECORD.—

(1) IN GENERAL.—In accordance with section 12 of the Federal Advisory Committee Act (5 U.S.C. App. 2), the Secretary of Transportation shall maintain records of—

(A) the disposition of any funds that may be at the disposal of the Commission; and

(B) the nature and extent of activities of the Commission.

(2) GAO ACCESS.—The Comptroller General of the United States shall have access to such records for the purpose of audit and examination.

(f) EXEMPTION FROM CERTAIN PROVISIONS.—The Commission shall be exempt from sections 7(d), 10(e), 10(f), and 14 of the Federal Advisory Committee Act and sections 4301 through 4308 of title 5 of the United States Code.

SEC. 6. FUNDING.

This Act shall be carried out using funds otherwise available to the Secretary of Transportation for the expenses of advisory committees.

SEC. 7. TERMINATION.

This Act and the Commission shall terminate on the submission of the report required under section 4.

Mr. MITCHELL. Mr. President, this amendment reflects the essence of a preliminary draft that was circulated prior to the earlier cloture vote on the motion to proceed: That is, to establish a commission to investigate the Eastern Airlines dispute.

The Commission would be responsible for making findings of fact and recommendations for possible settlement of the dispute—as well as for considering certain broader policy issues and making possible recommendations to Congress and the Secretary of Transportation.

However, the substitute amendment also now contains modified provisions aimed at accommodating key concerns that have been raised by Republican Senators; namely, that the Commission needed to be more evenly balanced, and that the mandate of the Commission needed to avoid being too broad.

The Democratic sponsors of the amendment have taken these concerns by Republican Senators seriously. In order to make clear the balanced, bipartisan nature of this issue—which was reflected in the cloture vote—we have made the following changes:

First, the composition of the Commission has been increased from three to four. Selection of Commission members would be made by the President pro tem and the minority leader of the Senate; and by the Speaker and minority leader of the House of Representatives.

That is, the size of the Commission is an even number of four. Democrats would pick two of the members, and Republicans would pick two.

The duties of the Commission also have been narrowed to include only those policy issues which are most directly relevant at this time to the Eastern dispute.

These issues include examination of the powers of the Secretary of Transportation to intervene on behalf of the public interest in situations involving mergers, acquisitions, and bankruptcies of air carriers; and examination of the adequacy of protection of collective bargaining rights in bankruptcy proceedings involving air carriers.

What has been dropped from the substitute is the focus on the impact of increased concentrations or increased foreign ownership in the airline industry; or the issue of the use of replacement workers in labor disputes. They have been dropped in order to expedite the work of the Commission, and to make its report more focused and concise.

I will repeat the changes that have been made. The substitute amendment that I am offering provides for a Commission of four members who are to be appointed equally by Democrats and Republicans. The duties of the Commission also are slightly narrower.

The essence of the substitute otherwise is the same as that which previously was announced and debated on the motion to proceed to the bill.

It is an appropriate, balanced, and reasonable proposal for investigating ongoing issues involved in the Eastern Airlines dispute.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BRYAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I rise to urge my colleagues to support the substitute offered by the majority leader, myself, Senator GRAHAM, and others.

In response to concerns raised over the content of the substitute, the sponsors have agreed to several changes, in an effort to accommodate those concerns.

As modified, the substitute will establish a Commission to investigate the labor dispute at Eastern Airlines, which will soon be entering its 9th month.

The Commission will have four members, two selected by the Senate leadership, and two selected by the House leadership.

The Commission is charged with making findings of fact and recommendations for the prompt and equitable settlement of this dispute. The Commission will also make policy recommendations in two areas this dispute has brought to the forefront of attention.

The first area involves the powers of the Secretary of Transportation to intervene on behalf of the public to maintain competitiveness in the aviation industry, in light of recent mergers, acquisitions, and bankruptcies of air carriers.

The second area involves the adequacy of protection of employee collective bargaining rights in airline bankruptcy proceedings.

This legislation should not be necessary. If President Bush had followed the unbroken precedent of naming an emergency board—a precedent that even President Reagan honored—we would have had recommendations for the settlement of this dispute 4 months ago.

Instead, President Bush ignored this time-honored procedure for obtaining objective recommendations. In every instance that the National Mediation Board has recommended a neutral emergency board to find facts and make recommendations, every President has agreed to the recommendation—except President Bush.

Secretary of Transportation Skinner has attempted to explain this decision by the administration to abdicate its responsibility. He claims there was no national emergency. This is the same Samuel Skinner who in September 1988 had called on Congress to intervene in a commuter railroad dispute in Chicago, saying it was Congress' public responsibility.

In the wake of the administration's inaction, the House of Representatives enacted legislation to mandate the creation of an emergency board, and to make the findings of fact and recommendations for the settlement of the dispute. When the Senate attempted to take up that bill, the administration and their allies in the Senate were adamantly opposed to this measure of simple fairness. They threatened to filibuster against any such attempt to establish just procedures to end the strike. The House-passed bill has languished in the Senate ever since, while the strike has continued to fester.

Six months later the strike continues, the employees of Eastern and their families have suffered great hardship, and we still have no neutral findings and recommendations for ending the dispute.

The substitute before the Senate today will create a balanced Commis-

sion, two appointed by Democrat leaders, two appointed by Republican leaders.

I cannot fathom any rational reason for opposing the creating of this neutral panel to report on this dispute, and to make neutral recommendations for its settlement.

What facts are the opponents of this legislation afraid of?

What recommendations for the settlement are they hiding from?

I know Frank Lorenzo does not want the facts of this dispute to be aired. I also strongly suspect he does not want this dispute to be settled, never intended it to be settled, and does not want neutral recommendations made public. But the traveling public, the Eastern employees, and the rest of the airline industry employees have a right to know what could have averted this unprecedented tragedy, and what could still, at this late date, become a basis for settlement if Frank Lorenzo can be convinced to begin dealing in good faith.

We have gone over the facts of this dispute before, but they bear repeating.

From the time of his purchase of Eastern in 1986, Frank Lorenzo has systematically plundered Eastern of its valuable assets. His sharp dealings of Eastern triggered an article in the respected publication Financial World which observed "Eastern appears to be the victim of a corporate version of the battered-child syndrome: it is being mugged by its own parent."

Frank Lorenzo bought Eastern Airlines for $640 million, but he put up only $280 million of his own money. Eastern actually put up $108 million of the cash for its own aquisition.

That was only the beginning. From day one, Frank Lorenzo has systematically siphoned cash and assets away from Eastern. The reservation system was sold for a song—to Texas Air, which is also owned by Frank Lorenzo. Eleven gates were sold at Newark for a pittance—to Continental Airlines, which is also owned by Frank Lorenzo. Eastern was forced to pay $10 million a month to use its former reservation system, and $6 million a year for management fees—which by any measure of truth should be called mismanagement fees.

Before the National Mediation Board declared an impasse in the dispute last February, the Board had offered both parties the opportunity to submit the dispute to arbitration. The union readily agreed—but Frank Lorenzo refused to accept a fair and impartial mediation of the dispute by a neutral arbitrator.

Serious issues were raised by events leading up to the strike, and additional serious issues have been raised by events since the strike.

The bankruptcy proceedings have been abused by Frank Lorenzo again. He did it once before with Continental Airlines. Congress closed one loophole after that abuse, but other loopholes are still large enough for antiworker chief executives to slip through.

Obviously, Congress cannot act now to unscramble the eggs that Frank Lorenzo has scrambled since last March. But there is still time to bring a measure of justice to this irresponsible dispute.

One corporate raider should not be able to sabotage a distinguished airline with 50 years of service, and destroy the hopes and dreams of 30,000 Eastern families.

At every step of the way, the normal process for peaceful settlement of this dispute has been blocked by Frank Lorenzo. In his numerous nefarious antiworker maneuvers, Frank Lorenzo has been aided and abetted every step of the way by the Bush administration. That is wrong, and it is long past time for Congress to act. The traveling public and the workers of America deserve a fair and objective assessment of the issues in this long and endless strike. And the Eastern employees who have suffered so much for so long deserve no less. I urge the Senate to approve the substitute we are proposing.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask that I may proceed as if in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. CHEMICAL WEAPONS ARMS CONTROL POLICY

Mr. DOLE. Mr. President, I have heard a couple of statements today on chemical weapons and arms control generally. I wanted to set the record straight. Last month President Bush announced several new initiatives in the area of chemical weapons arms control. As all of us here in the Senate know this is probably the toughest arms control problem we have. It is tough for two major reasons. Chemical weapons are easy to produce and easy to hide, so that means the verification task is extremely difficult. This administration has not run away from this task. Rather, it has tried to make progress, both bilaterally with the Soviets and multilaterally with the conference on disarmament, also known as the CD.

As part of this effort, the United States offered the Soviets a proposal for early pretreaty data exchanges and trial inspections. The President hoped this would not only help to answer difficult verification questions, but would also help to boost progress at the multilateral talks at the CD in Geneva.

In addition, last month at the United Nations the President announced that as part of a global treaty banning chemical weapons, the United States would reduce its chemical weapons stockpile by 98 percent over 8 years, and would eliminate the remaining 2 percent at the 10th year given worldwide participation.

The United States also challenged the Soviets to asymmetrical reductions to equal levels at 20 percent of the current United States stockpile.

All in all, these are major initiatives that I believe demonstrate the commitment this administration has made to finding a solution to the problem of chemical weapons arms control.

But, despite these efforts, some in this body have criticized the President for seeking to keep a deterrent—a modern and credible deterrent—until we are sure there is worldwide participation in a treaty banning chemical weapons.

It seems to me that this is a reasonable and responsible policy. We need some insurance in case we do not get worldwide participation. Keeping our chemical deterrent credible will provide us with that insurance.

As much as we may want to see arms control progress in the area of chemical weapons and elsewhere, the United States needs to look for action, not words, especially when U.S. national security is involved.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INVESTIGATION OF EASTERN AIRLINES DISPUTE

The Senate continued with the consideration of the bill.

Mr. METZENBAUM. Mr. President, I rise as a cosponsor and strong supporter of the Mitchell-Kennedy amendment to create a blue ribbon Commission to investigate the labor dispute at Eastern Airlines. Unless we take action soon to help resolve this bitter labor dispute, I believe we face the loss of what was once one of America's greatest airlines. One thing is clear, the administration will not lift a finger to help settle this dispute.

For 60 years, under the Railway Labor Act, Presidents have appointed emergency boards to resolve transportation labor disputes. The Reagan-Bush administration created 11 such emergency boards. President Bush could have and should have appointed an emergency board months ago. But he ignored 60 years of precedent. He ignored the recommendation of the National Mediation Board and the result has been a nightmare for workers and consumers as well.

The families of 30,000 Eastern workers continue to suffer. There has been major disruption of commerce and dramatically reduced air service for dozens of cities in this country. American consumers have had to juggle travel plans and must worry about flying on a "new" Eastern, with inexperienced flight and ground crews.

The President has been lavish in his praise for labor unions in Poland and I respect that and I think that is great. They are breaking down totalitarian barriers and I think they deserve our full support. But unfortunately this administration seems more supportive of the foreign unions in Poland than of the needs of American working men and women.

I am proud to say, Mr. President, I walked the picket line with the Eastern employees. These are family people. These are people who are looking for nothing more than a job with a decent wage and are willing to perform a full day's work for that wage.

These men and women have devoted their lives to Eastern. They went on strike rather than participate in the destruction of their airline. And on strike they remain. These workers—machinists, pilots, and flight attendants—want to work if they are treated fairly.

But fairness is not a part of the current Eastern management plan. Likewise, competence also has no place in the Eastern management operation. This once great airline—and it was a great airline in yesteryear—is now led by one of America's worst aviation buccaneers, Frank Lorenzo. Mr. Lorenzo is not interested in running a profitable airline. He is more interested in playing games in the corporate world, shifting one company's assets into his giant holding company and busting unions. According to the Wall Street Journal, Mr. Lorenzo has been transferring assets and cash from Eastern to Continental for years. In transaction after transaction, hundreds of millions of dollars in assets and cash, including a reservation system and airport gates, have been drained from Eastern for the benefit of some other unit in the Lorenzo corporate maze.

I remember the article in the Wall Street Journal. It was unbelievable how Mr. Lorenzo had moved these assets from one place to the other and played games. It was like his own game of monopoly. The only thing is it did not work very well.

The facts are telling. In 1982, Mr. Lorenzo bought Continental Airlines and, within a year, he had forced it into bankruptcy. Under protection of the bankruptcy court, he broke the union and hired low-wage, nonunion replacements. Six years later, Continental has the lowest wage structure in the industry, but it still lags far behind profitable unionized airlines like United, American, and USAir.

In 1986, Mr. Lorenzo bought People Express and Frontier Airlines. I remember People Express. I was going to that airline to get on it, and there was a mob of people, literally a mob, the kind of which I had never seen before, waiting to get on the airline, begging for seats. He should have had a profitable airline. But he bought People and he bought Frontier and he closed them both down and folded the assets into his giant holding company. He does not know how to run a good airline. Mr. Lorenzo is excellent at playing games with airlines, but he does not know how to run a good airline and never has run a good airline.

Unfortunately, history is repeating itself at Eastern. Mr. Lorenzo bought that airline in 1986. He piloted—the only thing he knows how to pilot—he piloted that airline into bankruptcy after he was unwilling to go to binding arbitration to end the dispute. The bankruptcy rules have been changed to prevent the abuses of the Continental bankruptcy. Mr. Lorenzo's high-priced lawyers are trying to manipulate those new rules to reach the same result: Bust the union and hire low-wage replacements.

The new Eastern is a shadow of its former self. Mr. Lorenzo will tell you how he is running so many flights and how they are up to so much capacity, but the fact is that the airline's creditors are unsure the new Eastern will ever really take off. Eastern already was carrying nearly $2 billion in debt, and it is losing millions of dollars per day. Financial advisers for the creditors have predicted that the new Eastern will need to borrow more than a billion dollars in the next 3 years and can anticipate losses exceeding $500 million during that period.

I have grave concerns that we may lose Eastern as a viable airline. That is the last thing we need in this deregulated industry. Mr. Lorenzo is the best example of what is wrong with the deregulated airline industry. Hardly a day goes by without a story about a merger, leveraged buyout, takeover attempt, or bankruptcy in the airline industry. This free-for-all is not good for the industry. It is not good for workers, and it sure as the devil is not good for the passengers of this country.

I was talking with one of my colleagues a few days ago about how much it costs to take a reasonably short flight into some of the communities of Tennessee, Kentucky, Alabama, and other places where you have to make connections, and how much more it costs than to fly from Washington to Los Angeles or New York to Los Angeles. Unfortunately, since deregulation, 78 airlines, including Braniff twice, have filed in bankruptcy court. Ten airlines now control 94 percent of the market, and passengers have never been so dissatisfied. They are worried about safety, and understandably so. They are fed up with poor service. You get a box handed to you when you get on an airplane when you travel a distance—that is your lunch or that is your dinner. They are tired of rising fares and inconvenient schedules.

That is why Congress must show some leadership. The first step is the creation of this blue ribbon Commission. The proposed Commission would be bipartisan and balanced, two members appointed by the House, two by the Senate. Both sides of the aisle will be equally represented. The Secretary of Transportation has indicated that he does not want to participate in the Commission. We have taken him at his word and limited the Commission to congressional appointees. Within 45 days, the Commission will report back recommendations on how to resolve the dispute and how to protect workers and the traveling public from disruptions in airline service. What is reported may be helpful and may bring the parties together. The bipartisan Commission is the least we can do to help workers and to protect the traveling public.

I urge my colleagues to show leadership on this issue by supporting the amendment. Nobody says that the Commission's decision or determination will be the final word. But we owe it to those who have participated and are involved in this strike. They are decent American people. They want nothing more than to have an opportunity to work at a decent wage and decent working conditions. The American people want nothing more than the opportunity to fly the planes of this country and to pay a fair rate, and they want to be able to do so on airlines that are safe.

The Eastern machinists, the Eastern pilots, the Eastern flight attendants are as fine a group of people as you can find anywhere in the country, and they deserve our support. They deserve our support not in saying they are right about this labor dispute or they are wrong, but they deserve our support in seeing to it that there be a bipartisan Commission that has an opportunity to examine the issues, to make the effort to bring the parties together, and, if not that, to make

their recommendations as to how the dispute can be settled.

Mr. President, I think we owe them and we owe the country nothing less. I hope we will see fit to adopt this legislative proposal. I yield the floor.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

EARTHQUAKE RELIEF

Mr. SASSER. Mr. President, in a few days, we will take up a new continuing resolution, and we will also be considering a substantial aid package for earthquake relief in California. We all know the magnitude of this terrible tragedy that occurred on the west coast. We have all seen the devastating film footage coming out of San Francisco and the San Francisco-Oakland area. I do not believe, Mr. President, there will be a single Senator on either side of the aisle who would oppose spending whatever it takes to assist the people of California, who, I might say parenthetically, have responded in their time of crisis with remarkable courage and integrity.

Certainly moments of crisis are exactly the wrong time for us to be bent over our balance sheet calculating the profit or loss of this particular matter. Even the chairman of the Budget Committee occasionally, I say to my friend from Ohio, has to take off the green eyeshade, for the truth of the matter is, I know of no expenditure this year that is more warranted or more necessary, more a direct consequence of what is Government's most fundamental function than what is occurring in California.

But I think, Mr. President, that raises the problem to which I would like to draw the attention of my colleagues.

We are, I think, refusing to respond to these fundamental demands of Government, and they are fundamental in the sense that Government is being asked to restore order out of chaos in the San Francisco-Oakland area, to be of assistance to those people who cannot help themselves.

But we need to respond to this fundamental demand in a responsible way. With the California earthquake relief, we are contemplating some $3.5 billion in total aid.

I heard this morning the distinguished Senator from New York [Mr. MOYNIHAN] indicating over national public radio that actually we were looking at a $5 billion package, and I suspect Senator MOYNIHAN may be close to accurate.

Superimposed on that is relief for Hurricane Hugo, an equally compelling natural disaster. We appropriated $1.1 billion to aid the victims of Hurricane Hugo.

In terms of outlays, we are looking at an addition of $2 billion to 1990 expenditures in cash dollars. Again, I want to say to my colleagues that is entirely justified. We should spend whatever it takes. But the question comes, are we standing up and acknowledging the most urgent responsibilities of this Government? Are we squarely confronting the very necessary demands that are being made on the Federal Treasury? I would say unequivocally, in this Senator's judgment, we are not.

Even in the case of expenditures that are supported by virtually every Member of both Houses of Congress, we play the old Gramm-Rudman "hide-the-spending" games and then we simply resort to larger deficits, increased borrowing, and setting the bill off to future generations, to our children and our grandchildren. It will be they who will pay the cost of Hurricane Hugo and the San Francisco earthquake that occurred in the year 1989, and they will be paying that cost for decades to come.

With Hugo relief, we did not want to fix responsibility for the spending on any particular committee or any particular jurisdiction because under the Gramm-Rudman law that would require some kind of offsetting cut in other programs. So we simply declared the relief aid "mandatory."

Now, simply because it is declared mandatory and circumvents the Gramm-Rudman-Hollings targets does not mean it does not contribute to the deficit. It does not mean that the Treasury has to go out on the open money markets and borrow the money, but it does so in an automatic way rather than a discretionary way, and it saves Congress and it saves the President from having to go to the American people and take the burden of deciding from where the resources are going to come.

With the earthquake relief, we are resorting to a simple method of rules of choice in this budget year. With the earthquake relief, we will waive Gramm-Rudman and declare the expenditure is not subject to the Gramm-Rudman-Hollings restraints. We raise the deficit once again, but still we come in within the overall targets and therefore we do not worry about from where the money is coming.

The President of the United States journeys to California and he tells the gallant people of the San Francisco-Oakland area: Do not worry, relief is on the way; the Federal Government will do its part; there will be no redtape; we will be there when you need us.

I wonder from where the President of the United States thinks this money is coming? Perhaps from the same place that the funds for his education programs are supposed to come; perhaps from the same place that his space money is going to come; perhaps from the same place that his war on drugs funds are going to come; and the list goes on and on.

I would like to applaud my colleague, the senior Senator from New York, who simply said we have to be willing to stand up and say let us pay as we go.

I think the natural disasters of the past 2 months only reconfirm the fact that we have allowed ourselves to be strapped into a budgetary straitjacket. We cannot respond in a meaningful way even to the most pressing and dire needs of the American people without some gimmick to circumvent Gramm-Rudman. If we simply must have a new program, we also have to find a way to pay for it.

I say to you, Mr. President, I see no leadership coming from this administration or from the White House on how we are to deal with the most pressing social and economic needs of our people, and no leadership on how we deal with even the problem of a natural disaster.

After having seen a government operate for over 200 years that did deal with natural disasters, that did come up with the means for dealing with them, we see ourselves, some less than 11 years from the year 2000, promising all of these things but having no idea of how we are going to pay for them other than to go to the window and say, "Let us borrow the money and let us let the American people worry about paying for the San Francisco earthquake in the year 2020 perhaps, or pay for the disaster of Hurricane Hugo some 20 or 30 or 40 or 50 years down the line."

There has to be a more responsible way of dealing with the needs of our Government than that.

I yield the floor.

Mr. METZENBAUM. Mr. President, I heard the remarks of the distinguished chairman of the Budget Committee, and I want to commend him for zeroing in on the issue. I think he reflects the views of many of us that we will do what we have to do with respect to the victims of the earthquake in California, and we will do what we have to do with respect to the victims of the hurricane in South Carolina, Puerto Rico, and the Virgin Islands.

But I think he also makes his point very well. It is time for us to start dealing with reality. The administration must face up to our needs with respect to education, our needs with respect to the homeless, and our needs with respect to the challenge of the drug problem in this country.

The administration keeps telling us about these problems but does not help us by providing any leadership in finding the answers to how to deal with them. We find the money for the earthquake, we find the money for the hurricane, but somehow we do not

find the money for some of the other tragedies that exist in this country. Those people who do not have a place to sleep tonight in other parts of the country beside San Francisco or South Carolina are living a tragedy, too.

When we ask, "Where is the money going to come from?" Some of us have said before it ought to come from some of those European countries where we station our troops and spend millions. They ought to be carrying a fairer share of the burden of those troops in Europe.

The other day some of us heard the President of Korea, when he came before the joint session of Congress, say, "Whatever you do, do not recall your troops. We need your assistance. We need the message it sends to the North Koreans."

But what the President of Korea left unsaid was that "we in Korea now are doing very well financially and, as a matter of fact, we in Korea are having an impact upon your economic success here in this country, and jobs in this country. But we want your troops, and we in Korea are therefore prepared to come forth with our dollars to help pay for the cost of maintaining those troops in Korea. That is our share for the responsibility."

I think on the whole issue of burden sharing, I say to my colleague, and I again want to say that I am proud to work with him, proud of his leadership in this area in the Budget Committee and so many other areas in this Congress, but if we can find the money for the earthquake and the hurricane, we can also find the money for some other needs that exist with respect to tragic problems existing in this country. But we cannot do that unless we have the administration joining with us to help develop a program to solve those problems, to meet those challenges, not based on politics, with a sense of responsibility for all of the people of this country.

Mr. President, I am pleased that the Budget Committee of the U.S. Senate is led by the distinguished Senator from Tennessee, JIM SASSER.

Mr. SASSER. Mr. President, I want to thank my able and distinguished friend from Ohio for his very kind remarks. It has been my pleasure, I might say, to serve with my distinguished friend from Ohio now for almost 13 years. I came to the Senate the first time we were sworn in together; it was his second election to the Senate at that time. I have looked to him with great admiration since the first time I met him. I very much appreciate his leadership in so many areas here in the Senate.

If I can just follow on very briefly, because some of my colleagues are waiting to speak here in just a moment, what we are seeing now I think is virtually unprecedented in American history. That is a sense that there is no tomorrow as far as fiscal affairs are concerned; do not worry, be happy. Tomorrow will take care of itself. There seems to be no sense of responsibility for the generations that are coming. It is just working toward the next election or meeting the next Gramm-Rudman-Hollings targets.

When I say that is virtually unprecedented in the history of this country, I know of no other President or no other administration save the one immediately preceding the present one in office that simply seems to take no responsibility with for what occurred with regard to the budget deficit or fiscal planning.

I am sure my friend from Ohio will recall that the last budget surplus we had in this country was in 1969. Interestingly enough, that came at a time when this country was fighting the third largest war and the second most expensive war in our 200-year history. We had that budget surplus in 1969 simply because the President of the United States at that time, Lyndon Johnson, and the leadership of the Congress realized that if they were going to prosecute this year in Southeast Asia they needed to pay for it. They did pay for it and we had a budget surplus in fiscal year 1969. We have not had one since then.

So I thank my friend from Ohio for his very kind words, and I see our friend from Nevada standing there. I feel like I am impinging upon his time. So I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Nevada [Mr. REID].

Mr. REID. Mr. President, I also would like to comment on the statement made by the chairman of the Budget Committee. I certainly applaud the statement. It reminds me of when I first started practicing law. I had just gone to work. One morning I came to work early. The senior partner was there. He indicated he was a little down in the dumps. I said, "Bill, what is the matter?" He said, "Well, you know, my wife thinks I just come down here every day and shake the tree and the money falls out of it." That is about like the situation the chairman of the Budget Committee finds himself in. The President is making statements as if what we do is shake a tree and the money falls out—statements made about fighting the drug problem, not once, not twice, but three times, none of which had any money connected with it. It was up to the Senate and principally Senator BYRD, chairman of the Appropriations Committee, who said we can no longer talk about fighting the drug problem. We have to do something about it—education, Hugo, the earthquake.

So I really commend and applaud the Budget Committee chairman for talking about a problem that actually exists, not one that does not exist. We do not have a money tree here that can be shaken at will and the money falls out.

EARTHQUAKES IN NEVADA

Mr. REID. Mr. President, the second worst earthquake in U.S. history hit the bay area in California on October 17. The University of California seismologists tell us that the earthquake, which registered 6.9 on the Richter scale, is approximately equal to the one that killed 25,000 people in Armenia last year. All in all, the densely populated bay area was fortunate; fortunate for a couple of reasons. One was there was not a greater loss of life, and we are all happy about that; two, that they had done such a good job, the people in California, of preparing for that earthquake.

Certainly, their being a neighbor of the State of Nevada, we recognize the hardships they are going through, and certainly want to offer our assistance in any way we can. It has been done by the Governor of the State saying in effect that California had a blank check, and Nevada will help in any way they can.

Mr. President, a little-known fact, however, is the potential for an earthquake of the same magnitude in Nevada. Nevada lies in one of the most active earthquake regions in the Nation. This area averages one major tremor measuring 6 on the Richter scale every 27 years, and it has done so since records were maintained in the mid 1800's.

In 1954 alone—1 year—four quakes measuring between 6.6 and 7.2 on the Richter scale caused significant damage in the Lahontan Valley, an area some 75 miles east of Reno. The worst earthquake in the State registered 7.6 on the Richter scale in 1915; fortunately, it occurred in a rural part of Nevada, in an area known as Winnemucca. The ground moved in some areas 10 to 20 feet. There were no deaths because of the remoteness of the area. An engineering geologist for the Nevada Bureau of Mines states "We should anticipate another major earthquake in western Nevada in the near future." The "big one," as it is called, could hit Nevada at any time. Little attention is focused on this fact because the larger earthquakes have occurred in less populated regions of the State, areas literally laced with thousands of fault lines. But where is the famous repository? Where are they attempting to place the nuclear waste repository? It is in a remote area of Nevada, but not as remote as people would think. The sad part about it, Mr. President, is that the proposed high-level nuclear waste repository sits right on one of these faults.

These are not fault lines that will have to be studied and names attached to them some time in the future.

These are actually faults that are in existence now and have been studied for years—faults with the name of Olinghouse, Carson, Walker Lane, Northern Death Valley, Fish Lake Valley, Sierra Nevada Frontal Fault Zone and, Mr. President, these are earthquakes in areas that we have already monitored 6.6 on the Richter scale, 6.7, 7.1, 6.3, 7.3 and on and on, in areas that are near the repository; one of them occurred below Hawthorn, 7.3. That is not far from the repository. You have Tonopah, and then you have Yucca Mountain, an area that you can judge by tens of miles, not hundreds of miles.

State of Nevada scientists have raised concerns in the past about the suitability of licensing the proposed high-level waste repository at Yucca Mountain, which is less than a hundred miles from Las Vegas. Even Department of Energy scientists have questioned the wisdom of the site.

In a report finalized in December of 1987, and made public more recent than that, a Department of Energy scientist by the name of Jerry Szymanski, stated that Yucca Mountain may be "approaching conditions that will result in major fault movement and a rapid rise in groundwater, perhaps to a level at or above that of DOE's repository horizon."

Here is that man that after making this courageous statement, was lucky not to lose his job. Szymanski speculates that the repository could become fractured and flooded during the next 10,000 years, leading to a loss of waste isolation. Future pressures beneath Yucca Mountain could force water into the storage caverns through cracks and rocks.

Future pressures beneath Yucca Mountain could force water into the storage caverns through cracks in rock. In other words, water can eat away at the cannisters allowing release of this deadly waste.

DOE officials tell us that in excess of five earthquakes a day have been recorded in the State of Nevada. Most of these quakes, of course, are relatively minor, but some register in the magnitude of four on the Richter scale.

Headlines across the country have diligently reported the loss of life, injuries and the billions of dollars in structural damage caused by the earthquake in California. Imagine what headlines would say about a similar occurrence at the Nation's repository where at least 70,000 metric tons of poisonous radioactive waste is contemplated to be stored.

Mr. President, in a Las Vegas newspaper on this day, there are some words written by an individual that I think deserve our attention:

What happened in San Francisco is important to Yucca Mountain and the nuclear repository program, because it showed graphically how vulnerable human engineering still is and the vagaries of nature and the discrepancies between design and concrete and steel reality.

Among other things in this Sunday article:

The attempt to put the country's nuclear waste in an old Nevada volcano within an earthquake-prone region is sheer political folly. Let us hope the San Francisco quake has managed to shake some sense into Congress and the Department of Energy.

For those commuters driving home from work on the Nimitz Freeway in Oakland on Tuesday, the chances of being hit and killed by a falling freeway, an engineered structure, at 5:04 p.m. on an otherwise normal and uneventual evening were infinitesimal. Next time DOE begins quoting probabilities and talking about acceptable risks at Yucca Mountain, think about those unsuspecting commuters; for them, those low probabilities became 100 percent certainty in a matter of seconds.

I yield the floor.

The PRESIDING OFFICER. Does any Senator seek recognition?

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida [Mr. GRAHAM].

INVESTIGATION OF EASTERN AIRLINE DISPUTE

The Senate continued with the consideration of the bill.

Mr. GRAHAM. Mr. President, this week we will continue debate on the need of legislative action to assist in the resolution of the dispute at Eastern Airlines, and to utilize lessons of this dispute to reassess public policy applicable to all of this Nation's commercial aviation industry.

In the 7 months since Eastern Airlines filed for bankruptcy, there has been a flurry of activity in the airline industry; including the bankruptcy of another major airline, Braniff Airlines, a major stock market decline precipitated in large part by the inability of the suiters of the United Airlines to secure financing for a highly leveraged acquisition, and the upward pressure on airline tickets resulting from decreased competition.

In 1988, the average cost per mile flown was 24 cents. Thus far in 1989, the cost to airline passengers has soared to 30 cents per mile flown. The Eastern experience has raised a number of questions regarding the effects of deregulation on individual airlines and the industry as a whole.

This amendment proposes an avenue for finding answers to those questions. We know some answers; what we do know is that since deregulation in 1978, dozens of new airlines that originally opened shop have since gone bankrupt or have been taken over by larger airlines.

From 1983 to 1987, the market share of the top eight airlines in America increased from 74 to 91 percent. Fundamental changes in the airline industry have made it more difficult for new airlines to compete with established airlines, and for existing airlines to expand their operation.

The Secretary of Transportation, Samuel Skinner, has acknowledged that "what we know as the airline industry today will be dramatically different 10 to 20 years from now."

Mr. President, we should not wait 10 or 20 years to see what becomes of the competitive airline industry in this Nation. By reviewing the questions raised in the Eastern Airlines situation, we can work now to make adjustments that may be necessary in our aviation policy to assure a competitive airline market tomorrow. This is not a partisan issue.

The amendment we propose would create a balanced board to conduct an independent review of the Eastern situation and the questions it has posed for policymakers. The circumstances of Eastern Airlines presents many of the fundamental issues facing the industry and its users, such as the consequences of exhorbitant debt on an airline's capability to function safely and with service which is convenient to the public, the effects of deregulation on effective supervision of airline operation, and airline labor practices in a deregulated environment.

Mr. President, this is not a rehash of past investigations. To quote from a statement which I entered into the RECORD on October 3:

To date, no entity has taken a comprehensive look at the Eastern situation or its implication for the overall health of the airline industry.

For more than a year, the National Mediation Board focused on labor and management disputes.

The bankruptcy court has focused for 6 months on the economic stability of the company and its responsibilities to its creditors.

The Department of Justice, and Department of Labor, the Department of Transportation, and even the Department of the Treasury have all dealt with the Eastern situation within the boundaries of their particular jurisdiction.

But this piecemeal approach is not efficient or effective for addressing the broader issues at stake.

This amendment proposes an avenue for taking that much-needed comprehensive look.

The amendment specifically limits the independent commission to making recommendations for the prompt and equitable settlement of the Eastern dispute, the powers of the Secretary of Transportation to maintain a competitive aviation industry, and the adequacy of protection of employee collective bargaining rights in airline bankruptcy proceedings.

What this is, Mr. President, is a responsible effort to take a comprehensive look at the structurally vulnerable airline market with the benefit of lessons learned in the Eastern Airlines situation.

Thank you, Mr. President.

The PRESIDING OFFICER. Does any Senator seek recognition?

Mr. GRAHAM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

HASTINGS IMPEACHMENT TRIAL DOCUMENT TO BE PRINTED

Mr. MITCHELL. Mr. President, on behalf of Senator BINGAMAN, I ask unanimous consent that a Senate document relating to the Hastings impeachment trial be printed to include the material contained in the document I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on October 20, 1989, during the recess of the Senate, received a message from the President of the United States transmitting sundry nominations; which were referred to the appropriate committees.

(The nominations received on October 20, 1989, are printed in today's RECORD at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:18 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerk's announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3402. An act to promote political and economic democracy in Poland and Hungary as those countries develop and implement programs of comprehensive economic reform.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3402. An act to promote political and economic democracy in Poland and Hungary as those countries develop and implement programs of comprehensive economic reform.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1810. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the first annual report on long-term agricultural trade strategy; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1811. A communication from the Secretary of Transportation transmitting, pursuant to law, a report on the flight plan and transponder requirements in support of drug interdiction; to the Committee on Commerce, Science, and Transportation.

EC-1812. A communication from the Acting Administrator of the General Services Administration, transmitting an informational copy of a building project survey report for Omaha, NE/Council Bluffs, IA; to the Committee on Environment and Public Works.

EC-1813. A communication from the Assistant Secretary for Legislative Affairs, U.S. Department of State, transmitting a draft of proposed legislaiton to implement the obligations of the United States under the Inter-American Convention on International Commercial Arbitration; to the Committee on Foreign Relations.

EC-1814. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-91 adopted by the council on September 26, 1989; to the Committee on Governmental Affairs.

EC-1815. A communication from the Chairman of the National Advisory Council on Educational Research and Improvement, transmitting, pursuant to law their fiscal year 1988 report; to the Committee on Labor and Human Resources.

EC-1816. A communication from the Chairman of the Intergovernmental Advisory Council on Education, transmitting pursuant to law the annual report of the council for fiscal year 1988; to the Committee on Labor and Human Resources.

EC-1817. A communication from the Chairman of the National Council on Vocational Education, transmitting, pursuant to law, the annual report of the council for fiscal year 1988; to the Committee on Labor and Human Resources.

EC-1818. A communication from the designated Federal official of the National Board, Fund for the Improvement of Postsecondary Education, Department of Education transmitting pursuant to law the annual report of the board for fiscal year 1988; to the Committee on Labor and Human Resources.

EC-1819. A communication from the Presiding Officer of the Advisory Council on Education Statistics, Department of Education, transmitting, pursuant to law the 15th annual report of the council; to the Committee on Labor and Human Resources.

EC-1820. A communication from the Chairman of the Advisory Committee on Student Financial Assistance, transmitting pursuant to law, the first annual report of the committee; to the Committee on Labor and Human Resources.

EC-1821. A communication from the Chairman of the National Advisory Council on Indian Education, transmitting pursuant to law, the 15th annual report for fiscal year 1988; to the Committee on Labor and Human Resources.

EC-1822. A communication from the Chairman of the National Advisory Board for International Education Programs, Department of Education, transmitting pursuant to law, the annual report of the board for fiscal year 1988; to the Committee on Labor and Human Resources.

EC-1823. A communication from the Chairman of the National Advisory Committee on Accreditation and Institutional Eligibility, Department of Education, transmitting pursuant to law, the annual report of the committee for fiscal year 1988; to the Committee on Labor and Human Resources.

EC-1824. A communication from the Secretary of Education, transmitting, pursuant to law, the fiscal year 1988 report of the National Advisory and Coordinating Council on Bilingual Education; to the Committee on Labor and Human Resources.

EC-1825. A communication from the Secretary of Education, transmitting, pursuant to law, the fiscal year 1988 annual report of the National Advisory Council on Adult Education; to the Committee on Labor and Human Resources.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRAHAM (for himself and Mr. MACK):

S. 1780. A bill to authorize issuance of a certificate of a documentation for employment in the coastwise trade of the United States for the vessel Camelot; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE (for himself, Mr. DECONCINI, Mr. DASCHLE, Mr. REID, Mr. CONRAD, Mr. COCHRAN, Mr. MATSUNAGA, Mr. MURKOWSKI, Mr. MCCAIN, and Mr. BURDICK):

S. 1781. A bill to establish as the policy of the United States the preservation, protection, and promotion of the rights of native Americans to use, practice, and develop native American languages, to take steps to foster such use, practice and development, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. ADAMS, Mr. DURENBERGER, Mr. HARKIN, Mr. JEFFORDS, Mr. PELL, Mrs. KASSEBAUM, Mr. SIMON, Mr. MATSUNAGA, Mr. DODD, Mr. METZENBAUM, Ms. MIKULSKI, Mr. BENTSEN, Mr. PACKWOOD, Mr. CRANSTON, Mr. WILSON, Mr. INOUYE, Mr. DOLE, Mr. RIEGLE, Mr. CHAFEE, Mr. MOYNIHAN, Mr. D'AMATO, Mr. BRADLEY, Mr. HATFIELD, Mr. KOHL, Mr. SPECTER, Mr. SANFORD, Mr. GORTON, Mr. GLENN, Mr. SARBANES, Mr. LEAHY, Mr. WIRTH, Mr. LEVIN, Mr. KERRY, Mr. LAUTENBERG, Mr. BIDEN, Mr. LIEBERMAN, Mr. GORE, and Mr. ROBB):

S. 1782. A bill to amend the Public Health Service Act to provide for the establishment

of an AIDS treatment assistance program for low-income individuals, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM (for himself and Mr. MACK):

S. 1780. A bill to authorize issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel *Camelot;* to the Committee on Commerce, Science, and Transportation.

CERTIFICATE OF DOCUMENTATION FOR VESSEL "CAMELOT"

● Mr. GRAHAM. Mr. President, the vessel *Camelot* is one of nine Mayflower 40 ketches, designed by the American team of Angelman and Davies and built by the United States company American Marine, Inc. in Hong Kong in the early 1960's.

The owners, Matt and Gail Taylor, purchased the *Camelot* in November 1988, with the hope of mounting an excursion vessel business. They were told by the previous owner that there would be no problem in receiving the necessary licenses because *Camelot* was built by an American company. They subsequently learned they were misinformed. There was no intent to defraud; the previous owner used the vessel strictly for personal use and had done some research but had not encountered the Jones Act restrictions that certificate of documentation be restricted to vessels actually built in the United States.

Although the vessel was built by an American company, it was done so in Hong Kong and therefore does not meet the United States-built requirement of the Merchant Marine Act of 1920. To use *Camelot* on a commercial basis in U.S. waters, a statutory waiver is needed.

Mr. President, I have reviewed the Taylor's request for a waiver of section 27 of the Merchant Marine Act of 1920. They have demonstrated their sincerity: since purchasing the vessel for $70,000, they have spent an excess of $90,000 in repairs at one of Jacksonville, Florida's boat refurbishing facilities, Huckins Yacht Corp. Moreover, they have made it clear that they plan to mount a viable excursion service and at the same time allow *Camelot* to be used by civic, educational, and charitable groups.

For these reasons, I am introducing legislation authorizing issuance of a certification for employment in the coastwise trade of the United States for the vessel *Camelot.* I am pleased to be joined by my colleague Senator MACK in introducing this bill.●

By Mr. INOUYE (for himself, Mr. DECONCINI, Mr. DASCHLE, Mr. REID, Mr. CONRAD, Mr. COCHRAN, Mr. MATSUNAGA, Mr. MURKOWSKI, Mr. MCCAIN, and Mr. BURDICK):

S. 1781. A bill to establish as the policy of the United States the preservation, protection, and promotion of the rights of native Americans to use, practice, and develop native American languages, to take steps to foster such use, practice, and development, and for other purposes; to the Select Committee on Indian Affairs.

NATIVE AMERICAN LANGUAGE ACT

● Mr. INOUYE. Mr. President, I am pleased to introduce legislation to establish that it is the policy of the United States to preserve, protect, and promote the rights of native Americans to use, practice, and develop native American languages.

Mr. President, as you know, traditional languages are an integral part of native American cultures, heritages, and identities. History, religion, literature, and traditional values are all transmitted through language. When a language is lost, the ability to express concepts in a certain way is also lost. For example, names for objects or events in nature reflect the way people understand those phenomena. When they no longer know the name for something in their own language, they no longer have the same relationship with it, and a part of their culture dies along with this communication loss.

As part of its termination policy, the U.S. Government sought to abolish native languages. Indigenous Americans, including American Indians, Alaska Natives and native Hawaiians were punished for speaking in their native tongues. The purpose of this policy was to mainstream native peoples so that they would no longer be different from nonnative Americans.

Fortunately, this policy has now been repudiated. The Federal Government's policy of self-determination has meant that native Americans can decide for themselves how to manage their own governmental affairs, educate their children, and live their lives. While some native languages had become virtually extinct before native people realized the magnitude of their loss, there are now strong efforts nationwide among native people to recover and perpetuate this part of their cultural heritage.

The bill I am introducing today is similar to the joint resolution which I introduced at the end of the 100th Congress and which passed the Senate. Instead of a joint resolution I am introducing this initiative as a bill to make clear the serious intent that Federal policy supports the use, practice, and development of native languages. This proposal, is based on a resolution adopted by the Native American Languages Issues Institute. I believe that it is appropriate that native people and language practitioners participated in developing this proposal. It is consistent with my policy in dealing with native American issues to have the solutions come from native peoples. Clearly, the initiative for developing and implementing native language use will continue to come from the people who speak their native language. With the explicit support of the U.S. Government for these efforts, we will ensure that the self-determination policy of the Government is carried out and that we in Congress and the Federal Government are continuing to fulfill our responsibility to the native people of this country.●

● Mr. MCCAIN. Mr. President, I rise in strong support of the Native American Language Act, a bill introduced this day by the chairman of the Select Committee on Indian Affairs my esteemed colleague from Hawaii Senator INOUYE. This bill will establish as the policy of the United States the preservation, protection, and promotion of the rights of native Americans to speak, practice, and develop native American languages and to foster the use and practice of native American languages. This bill will provide a basis for the United States and the Bureau of Indian Affairs to begin to reverse the policies of the past which resulted in the erosion of native culture and language by forcibly preventing native American children from speaking their native languages in Bureau of Indian Affairs boarding schools. An entire generation of American Indian children were forcibly deprived of their native language, and in turn their culture, through the policies of the Federal Government.

It is now time for this Government to develop a uniform Federal policy that supports the use of native languages in schools. A policy that will ensure the continued survival of native American cultures, literatures, and histories through native American language. A policy that allows native American children to learn in their own language and a policy that encourages academic success and achievement among native American children. Mr. President, I would like to commend Senator INOUYE for his initiative and fine work on this bill. I am pleased to be a cosponsor of this badly needed legislation.●

ADDITIONAL COSPONSORS

S. 247

At the request of Mr. METZENBAUM, the names of the Senator from Maryland [Mr. SARBANES] and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 247, a bill to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such act, and for other purposes.

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S. 511

At the request of Mr. INOUYE, the name of the Senator from Virginia [Mr. WARNER] was added as cosponsor of S. 511, a bill to recognize the organization known as the National Academies of Practice.

S. 1384

At the request of Mr. DASCHLE, the name of the Senator from Illinois [Mr. SIMON] was added as cosponsor of S. 1384, a bill to amend title XVIII of the Social Security Act to provide direct reimbursement under part B of Medicare for nurse practitioner or clinical nurse specialist services that are provided in rural areas.

S. 1591

At the request of Mr. MOYNIHAN, the names of the Senator from Michigan [Mr. LEVIN] and the Senator from Maine [Mr. COHEN] were added as cosponsors of S. 1591, a bill to amend title XVIII of the Social Security Act to provide coverage of clinical workers, psychiatric nurses, and marriage and family therapists when provided onsite at a community mental health center or offsite as part of a treatment plan.

SENATE JOINT RESOLUTION 53

At the request of Mr. D'AMATO, the names of the Senator from California [Mr. WILSON], the Senator from Wisconsin [Mr. KOHL], the Senator from Maryland [Mr. SARBANES], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of Senate Joint Resolution 53, a joint resolution to designate May 25, 1989, as "National Tap Dance Day."

SENATE JOINT RESOLUTION 205

At the request of Mr. BIDEN, the names of the Senator from Delaware [Mr. ROTH] and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 205, a joint resolution designating December 3 through 9, 1989, as "National Cities Fight Back Against Drugs Week."

SENATE JOINT RESOLUTION 216

At the request of Mr. DURENBERGER, the names of the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Illinois [Mr. SIMON], the Senator from Connecticut [Mr. DODD], the Senator from Washington [Mr. ADAMS], the Senator from Ohio [Mr. GLENN], the Senator from Indiana [Mr. LUGAR], the Senator from Ohio [Mr. METZENBAUM], the Senator from New York [Mr. D'AMATO], the Senator from Indiana [Mr. COATS], the Senator from North Dakota [Mr. BURDICK], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Senate Joint Resolution 216, a joint resolution designating November 12 through 18, 1989, as "Community Foundation Week."

AMENDMENTS SUBMITTED

COMMISSION TO INVESTIGATE EASTERN AIRLINES LABOR DISPUTE

MITCHELL (AND OTHERS) AMENDMENT NO. 1043

Mr. MITCHELL (for himself, Mr. KENNEDY, Mr. GRAHAM, Mr. FORD, Mr. BYRD, Mr. DIXON, Mr. ADAMS, Mr. LIEBERMAN, Mr. METZENBAUM, Mr. KERRY, and Mr. BRADLEY) proposed an amendment to the bill (H.R. 1231) to direct the President to establish an emergency board to investigate and report respecting the dispute between Eastern Airlines and its collective-bargaining units, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. ESTABLISHMENT.

There is established a commission (hereinafter in this Act referred to as "the Commission") to investigate the labor dispute involving Eastern Airlines and the International Association of Machinists and Aerospace Workers, the Airline Pilots Association, and the Transport Workers Union.

SEC. 2. MEMBERSHIP.

(a) COMPOSITION.—The Commission shall consist of four members, of which not later than 10 days after the date of enactment of this Act—

(1) one member of the Commission shall be appointed by the President Pro Tempore of the Senate;

(2) one member of the Commission shall be appointed by the Speaker of the House of Representatives;

(3) one member of the Commission shall be appointed by the Minority Leader of the Senate; and

(4) one member of the Commission shall be appointed by the Minority Leader of the House of Representatives.

(b) VACANCIES.—A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(c) CHAIRPERSON.—The Commission shall elect a Chairperson from among the members of the Commission.

(e) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the Commission.

SEC. 3. DUTIES.

The Commission shall—

(1) investigate and make findings of fact and recommendations regarding the prompt and equitable settlement of the dispute referred to in section 1;

(2) consider issues arising out of the dispute; and

(3) make policy recommendations to Congress and the Secretary of Transportation concerning—

(A) the powers of the Secretary to intervene on behalf of the public interest to maintain competitiveness in the aviation industry in light of mergers, acquisitions, and bankruptcies of air carriers; and

(B) the adequacy of protection of employee collective bargaining rights in bankruptcy proceedings involving air carriers.

SEC. 4. REPORT.

(A) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, the Commission shall submit to Congress and the Secretary of Transportation a written report containing its findings and recommendations.

(b) AVAILABILITY TO PUBLIC.—The Secretary of Transportation shall make the report available to the public.

SEC. 5. ADMINISTRATION.

(a) INFORMATION.—The heads of executive agencies, the General Accounting Office, and the Congressional Budget Office, to the extent permitted by law, shall provide the Commission with such information as the Commission may require in carrying out the duties and functions of the Commission.

(b) COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Commission shall serve without any additional compensation for work performed on the Commission.

(2) TRAVEL EXPENSES.—Such members who are private citizens of the United States may be allowed travel expenses, including a per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service under sections 5701 through 5707 of title 5, United States Code.

(c) STAFF.—Subject to the approval of the Secretary of Transportation and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; the Chairperson of the Commission may hire and fix the compensation of such staff personnel as the Commission determines are necessary to carry out duties and functions of the Commission.

(d) PERSONNEL AND SUPPORT SERVICES.—

(1) DEPARTMENT OF TRANSPORTATION.—On request of the Commission, the Secretary of Transportation shall furnish the Commission with such personnel and support services as are necessary to assist the Commission in carrying out the duties and functions of the Commission.

(2) OTHER AGENCIES.—On the request of the Commission, the heads of other executive agencies and the General Accounting Office may furnish the Commission with such personnel and support services as the head of the agency or Office and the Chairperson of the Commission agree are necessary to assist the Commission in carrying out the duties and functions of the Commission.

(3) REIMBURSEMENT.—The Commission shall not be required to pay or reimburse an agency or the Office for personnel and support services provided under this section.

(e) RECORDS.—

(1) IN GENERAL.—In accordance with section 12 of the Federal Advisory Committee Act (5 U.S.C. App. 2), the Secretary of Transportation shall maintain records of—

(A) the disposition of any funds that may be at the disposal of the Commission; and

(B) the nature and extent of activities of the Commission.

(2) GAO ACCESS.—The Comptroller General of the United States shall have access to such records for the purpose of audit and examination.

(e) EXEMPTION FROM CERTAIN PROVISIONS.—The Commission shall be exempt from sections 7(d), 10(e), 10(f), and 14 of the Federal Advisory Committee Act and sections 4301 through 4308 of title 5 of the United States Code.

SEC. 6. FUNDING.

This Act shall be carried out using funds otherwise available to the Secretary of Transportation for the expenses of advisory committees.

SEC. 7. TERMINATION.

This Act and the Commission shall terminate on the submission of the report required under section 4.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a hearing on Friday, November 3, 1989, beginning at 9:30 a.m., in 485 Russell Senate Office Building on Indian agriculture.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding an oversight hearing on Thursday, November 2, 1989, beginning at 2 p.m., in 485 Russell Senate Office Building on Indian health facilites.

Those wishing additional information should contract the Select Committee on Indian Affairs at 224-2251.

ADDITIONAL STATEMENTS

ENERGY RESEARCH DIRECTOR ROBERT O. HUNTER

● Mr. JOHNSTON. Mr. President, I would like to take a few minutes to comment on the job that Dr. Robert O. Hunter has been doing as Director of the Office of Energy Research of the Department of Energy. Recently, Dr. Hunter has been subjected to criticism by a House committee for his decisions regarding the magnetic fusion program at the Department. I am concerned that this criticism may be leaving an incorrect impression of Members' opinion of Dr. Hunter's performance.

I have worked closely with Dr. Hunter ever since he was confirmed as Director of Energy Research in the previous administration. As chairman of the Committee on Energy and Natural Resources, which is the authorizing committee for the Office of Energy Research, and as chairman of the Subcommittee on Energy and Water Development of the Appropriations Committee, which provides funds for the Office, I have had several opportunities to talk directly with Dr. Hunter and to review his ideas for the programs of the Office in detail.

I must say that I have been very favorably impressed. I am impressed with Dr. Hunter's scientific expertise and with the direct, no-nonsense approach he brings to the direction of the complex fundamental research projects—such as magnetic fusion and the superconducting super collider—for which the Department has responsibility.

In a very real sense, the Department of Energy is the principal Federal agency for funding "big" science. DOE builds and operates most of our large scientific facilities outside the Space Program. In DOE, Dr. Hunter's Office is responsible for these facilities and programs.

These are programs that the Federal Government must fund. There is very little private sector money invested in basic science. There is no private profit to be made from investing in magnetic fusion today, but we need to invest in a research program in magnetic fusion.

There is no private profit to be made from investing in research at the frontier of high-energy physics, and there probably never will be. But we need a vigorous program in high-energy physics, and we probably always will need such a program.

We have to manage a Federal investment in these areas of research without the automatic cost-conscious discipline that private investors bring to research and development in technology that is about to be applied in the marketplace. We need a special breed of manager in the Federal establishment to oversee and direct the funding of this research with the dollars of Federal taxpayers. Without special oversight—oversight with insight into the physics—there is a tremendous potential to waste those dollars. There is no automatic market discipline to control expenditures for basic science.

It is my impression that Dr. Hunter is a Federal research manager who has excellent insight into the physics he is funding. It is my impression that he understands the critical questions that need to be asked. It is my impression that he works very hard to see that these questions are asked and answered before large Federal dollar commitments are made.

As a member of the Appropriations Committee, I appreciate that. As a Senator, I appreciate that. As a taxpayer, I appreciate that. I want my colleagues and Dr. Hunter to know of this appreciation.●

SIXTEEN OF ONE THOUSAND POINTS OF LIGHT

● Mr. DURENBERGER. Mr. President, I wish today to draw to your attention 16 very special points of light in Minnesota—volunteers who have dedicated themselves to the realization of a "kinder and gentler nation." They started their hours of voluntarism, though, long before the President's famous speech was offered at last year's Republican National Convention in New Orleans.

In all fields, from the arts, to education and health, to the more traditional charities, these individuals have assigned themselves a life-long job of serving our communities. For them, the question is never whether to volunteer, but rather how much of their previous time, can be offered. These exemplary figures bring to volunteering all the commitment and priority of professionals—professional care givers.

As ordinary, yet extraordinary citizens, these volunteers are actively involved in maintaining the foundations so vital to society as we know it. Working in those existing institutions and endowed with special insight, they have also observed gaps in services, and have expanded their reach to fill these needs in the most meaningful ways they know.

Minnesota is a better State because of these people, and the thousands of other volunteers they represent. From their individual efforts, we benefit with more cultural performances, greater high school graduation rates, and more care given to the homeless. And from them, even the cynics become neutralized, for these individuals practice and embody the golden rule in its most sincere form.

These selfless individuals of whom I speak often receive no credit and little thanks for their efforts. As a token of Minnesota's great appreciation for their work, I submit today to the CONGRESSIONAL RECORD profiles of these 16 Minnesotans, written by Bette Sack, as they appeared in the premier edition of Twin Citian:

The profiles follow:

In calling the American people to action as volunteers, President George Bush speaks frequently of 1,000 points of light. A metaphor more appropriate for those of us who live along the Mississippi is that of a river. The spirit of caring here flows deep and strong and trickles out to nourish myriad programs and projects.

Selecting the first inductees into the Twin Citian Volunteer Hall of Fame turned out to be a daunting task. Those people chosen were unanimous in one desire: They insisted they not be called the "best" volunteers. Rather, they are representative of the tens of thousnads of others working to maintain the institutions and organizations that prop up and propel our community.

Who can place a value on these efforts? The spirit that moves the executive who spearheads a major United Way fund-raising drive also moves the women who do mending each week for frail residents in a Minneapolis nursing home.

There is no typical volunteer. Judy Russell, volunteer coordinator for Children's Home Society of Minnesota, says the myth persists that the typical volunteer is a full-time homemaker. In fact, two-thirds of all volunteers work outside the home. One out of three retired people volunteers, as does one out of every two teen-agers. Derek Johnson, a seventeen-year-old student at Highland High School in St. Paul, is a prime example of teenage involvement. At age fourteen he began donating his time at the University of Minnesota Hospital, spending six to twelve hours every week working with children confined to the pediatric wards.

Why do they volunteer? Most speak modestly of a wish to get involved, to make a difference. Some speak eloquently of a sense of responsibility, a need to give back to a community that has given them so much. All of them insist that they get back more than they give, that the enrichment to their lives far outweighs what they do for others.

The people we have selected are both unique and ordinary. Beside them and behind them are others—as gifted, dedicated, concerned and caring—who volunteer, often without recognition, because they believe they must.

It is a given that our schools, hospitals, shelters, arts orgnizations, churches, correction facilities, nursing homes, indeed our community, could not survive without them.

In honoring these sixteen, we honor them all.

GEORGE SABLE

When process engineer, George Sable retired from Honeywell in 1974, a friend suggested that he volunteer at Courage Center. Sable has been there ever since, using his engineering and problem-solving skills to create and adapt devices for children and adults with disabilities.

Sable's first project at Courage Center was to equip a tricycle with hand pedals. Over the years he has helped design and modify many devices, primarily in the recreational area—special wheelchairs for athletes to use in marathons and basketball games and an adjustable bow stand so kids can participate in archery.

Sometimes Sable's projects help people move into the working world. One such device is a screen that covers computer keys to allow a disabled person to input without making errors. He even finds ways to modify household devices for the disabled.

Sable has had to adapt to some difficulties himself. Three hip surgeries ("I've got three hips," he says, "two in me and one in a drawer") and a serious cancer operation sidelined him for a time, but at seventy-seven he is back at Courage Center.

Sable, a modest man, says simply, "It keeps me alive."

WALLACE C. DAYTON

Long before the environment and wildlife became front-page topics, Wallace Dayton was working on them. The grandson of Dayton's founder George D. Dayton, Wallace Dayton took his expected place in the family business. He resigned in 1968 to devote his full attention to environmental issues.

A reserved man, Dayton, has worked passionately on behalf of his causes. He has served as a trustee, director and president of such organizations as the Conservation Fund, the Voyageurs National Park Association and the North American Wildlife Foundation. He was instrumental in forming the Minnesota chapter of the Nature Conservancy, an organization devoted to the preservation of natural diversity, whether it is a species or an ecological system.

Currently Dayton serves as president of the Special Projects Foundation of the Big Game Club, which provides funds for the study of large animals. The brilliant study of timber wolves by Minnesotan David Mech is one of the foundation's best-known projects.

Dayton expresses a deep concern about world population, the stresses it makes upon the environment and the resulting pollution. "Yet," he says. "I am hopeful for the future, because more and more people are concerned."

SUE ZELICKSON

Sue Zelickson is one of the Twin Cities' great natural resources. She is perhaps best known for editing two very successful cookbooks for the Minnesota American Cancer Society. *Heritage Cookbook* and the subsequent *Look Who's Cooking Now* together have raised more than $500,000 for the society.

Her talent for food and fund raising has kept her on the most-wanted list for every organization planning an event. When selected in 1989 to be the first woman to receive B'nai B'rith's International Humanitarian Award, Zelickson did not sit on the sidelines basking in glory. She jumped right in to help plan the event, creating a unique menu of Middle Eastern and kosher foods.

The list of volunteer organizations that have benefited from Zelickson's talent is long and impressive, from the Boys and Girls Clubs to the Governor's Residence of Minnesota, from WAMSO to the YWCA. Descriptions of her as warm, caring and a true friend may seem at odds with the other image of the human dynamo who dashes from meeting to meeting and event to event in a marathon twenty-one hour day. Yet it is true. After a big event Zelickson is likely to write everyone a personal note and deliver it with a basket of homemade cookies.

From now on those cookies no doubt will be "Lacey Susans," made from her new gourmet-cookie batter. Proceeds from this new venture will go to the Twin Cities Down Syndrome Association.

KATIE HAMEL

Katie Hamel likes teen-agers, as evidenced by her nineteen years as a volunteer nurse at the Teen Age Medical Service of Minneapolis Children's Medical Center. TAM is a confidential, safe place for teen-agers to come for medical care and information on pregnancy, venereal diseases, contraception and drug-dependency problems.

A mother of six, Hamel began volunteering at TAM when her own children were infants. Sometimes she and other volunteers and staff scrubbed floors and painted walls as the center was getting established in an older home on Chicago Avenue. Now she comes every Monday to give care and treatment and to listen. "I got hooked on teen-agers," Hamel says. "They are full of hope and despair."

TAM does the physicals on children who end up at The Bridge for Runaway Youth in Minneapolis. Hamel, who pulls nursing duty at her physician-husband's office the rest of the week, hears many sad stories and more and more sees kids who have attempted suicides. Many tell Hamel, "I wish I could talk to my mother like I can talk to you." She laughs and says, "I tell them that if I was their mother, maybe they couldn't talk to me either."

She adds softly, seriously, "Sometimes I have to tell them, 'You can make it on your own,' because sometimes that's all they have—themselves."

PAT LUND

At age twelve, Pat Lund wrote a play, cast it, directed it and starred in it. That may not be unique for a creative young girl in a small town with few amusements, but Lund charged admission according to people's ability to pay and donated all the proceeds to her church league.

In retrospect, that may have been the beginning of Lund's volunteer and philanthropic career, one that has enriched many organizations and institutions in the Twin Cities. The Minnesota Opera, Minnesota Orchestra, Plymouth Music Series and Minneapolis College of Art and Design are among the organizations that have benefited from her enthusiastic involvement.

Pat and husband Russell Lund have supported the arts in many ways over the years. Turn to the back cover of most arts and music programs and publications and you will see an ad for Lunds, a policy that began while Pat was marketing director of the grocery stores.

But the Lunds' generosity extends beyond the arts. Their contribution to Gustavus Adolphus College has helped build the Lund Center, a new physical-education center on campus.

Pat Lund remains active on several local boards, and she is on the national advisory board of Chileda, an organization for doubly handicapped children. She believes fervently in volunteering and has done it all her life. "If you don't do anything outside of your paid job and your family," she says, "something is horribly missing from your life."

MARVIN BORMAN

As senior partner in the law firm of Maslon, Edelman, Borman & Brand, Marvin Borman comes in early and stays late. The purpose, he says, is to organize his work so he can devote more time to charitable and cultural organizations.

The list is impressive—a full-page, single-spaced résumé of positions held and honors received from the United Way, the University of Minnesota, the Minneapolis Institute of Arts, Temple Israel, the Boy Scouts and many others.

"There is seldom anything worthwhile happening in this community in which Marvin Borman isn't involved," says friend and fellow volunteer Wheelock Whitney. "His capacity is endless, and he rarely gets publicity."

Borman is a disciple of quiet power. When he becomes involved in an organization, he likes to start at the bottom and work his way up. "By the time I get to the top position," he says, "I know the organization as well as the professionals, and I know what I'm doing and what we can do together.

"I am a strong supporter of the volunteer system. It is one of the rich and unique American experiences. In this country we permit and encourage people of all sectors to participate, whatever their income, age, gender, race, social status or abilities. Each in our own way has a responsibility to help others."

KATHY HARTLEY

Kathy Hartley may be asleep or visiting a friend's home, but when she gets a certain call or hears her beeper, she has twenty minutes to get to Hennepin County Medical Center.

Once she arrives, she works with battered women who have been brought to the hospital by the police, by ambulance or by neighbors or friends. They are afraid, hurt and, Hartley says, "they are embarrassed to be here. Often they won't even look at you. They look down and away."

Hartley helps these women file reports and arrange for child care, safe housing and counseling. She also holds their hands and listens. "These women come from a place where no one cares," she says, "and the one they care about is beating them up."

A secretary at Pillsbury, Harley volunteered nearly 1,200 hours in 1988 and was honored as Volunteer of the Year by the Harriet Tubman Women's Shelter. Calm, caring and nonjudgmental, she sometimes

wonders if she is really helping, especially when she sees the same woman return to the hospital the second or third time. "But," she says, "each time we are giving her something else to grab onto so that maybe next time she will have the strength to break away and permanently end the violence and abuse."

Hartley talks about an unexpected by-product of her volunteer work: "I'm more assertive, self-confident," she says, "I've grown. These women have helped me do that."

MYRNA LUNDBERG

At seventy-three, Myrna Lundberg, a former educator, devotes two days a week to an area in which she is an expert: blindness. Her sight deteriorated over the years, and not long after her husband died several years ago, she completely lost the ability to see. "Within a short period," Lundberg says, "I lost the two loves of my life: my husband and reading."

Her condition led her to the Minneapolis Society for the Blind. After taking courses in homemaking and mobility skills, Lundberg volunteered as a peer counselor to people who are newly blind, helping them cope and become acclimated. She also works in the information and referral area.

Now Lundberg faces her greatest challenge as an educator: Once a week in St. Paul, she teaches English to five blind Hmong women. Most materials available for tutoring in English are printed, so Lundberg is helping to create simplified audio tapes for her newest students.

"We are bridging both a cultural and a language gap," she says. "We ask them to 'pretend' something, and the concept of pretending is totally foreign to them. All they knew in their rural mountain homes was to work in the fields and care for their families. It is our challenge to help them manage in their new land, so they are not just relegated by their families to sit in a corner and hold the babies."

PEARL MITCHELL JACKSON

Pearl Mitchell Jackson is a warm, exuberant woman whose volunteer activites have been national and international in scale. She sees herself as an agent for change, with a knack for identifying a problem and putting people together to solve it.

As administrator of volunteer services for Ramsey County Welfare, Jackson saw a need for a drop-in center at the welfare office so children would be cared for while their parents sought assistance. At the same time, she knew that certain college students need training with children. She put the two groups together.

Young Girl Scouts need grandmothers and vice versa. Jackson put them together at nursing homes and senior residences.

When there was no Big Brother/Big Sister program in St. Paul, Jackson went to work on it. She also helped develop a program for single young adults to "adopt" younger children and help them with reading, math and practical skills.

Jackson, vice-president of international services for Capiz Travel in St. Paul, uses the same people skills and broad community network to match visiting foreign dignitaries with the people and programs they wish to learn about. As the first woman president of the Council of the International Program for Social Workers and Youth Leaders, she has traveled abroad extensively, learning and sharing information and serving as a popular representative for Minnesota and the country.

"I love the idea of a rainbow of the world," Jackson says. "It takes all kinds of people in all colors to make the beauty of the world." To that we say, Amen.

JUDSON BEMIS

Slight traces of his Boston boyhood still can be heard in his voice, but Judson Bemis's commitment and leadership in Minnesota have earned him an unqualified designation as native son.

Now retired from the company that bears his name, "Sandy" Bemis continues his lifelong volunteer efforts. His work for arts organizations has been constant and dedicated: president of the Minnesota Opera Association, board member of the Minnesota Orchestral Association, major fund raiser for the building of the Ordway Music Theatre and member of the Citizens Advisory Committee for the University of Minnesota School of Music.

He also has served long and well with the United Way, starting back when it was the Community Chest. He is the first chairman of the Alpha Center for Public/Private Initiatives, an organization created to promote privatization—shifting some government social services to the private sector.

Bemis believes in service to the community as a responsibility and a privilege. "It brings a lot of satisfaction and sense of accomplishment," Bemis says. "It also gives people a second life beyond retirement, a way to be active and useful in the community."

W. HARRY DAVIS

W. Harry Davis' career has been filled with accomplishments that could not have been predicted for a young black male raised in the 1930s in a tough north-Minneapolis neighborhood. He was the first black mayoral candidate endorsed by a major party, founder and chairman of the Urban Concerns Workshops, president of the Urban Coalition of Minneapolis, United Way board member, assistant vice-president at the *Star Tribune*, chairman of the Minnesota Board of Boxing and a Minneapolis school-board member for twenty-one years.

Davis says he left the school board this year so someone else could bring new energy and ideas to the task. He now will help fulfill the mission of the W. Harry Davis Foundation: to develop black leaders by pairing successful black professionals with ninth graders. He also is working to get major companies to adopt local high schools—as Twin City Federal has done with Henry High School—to provide job training, scholarships, volunteers and money to the schools.

Davis and Charlotte, his wife of forty-seven years, remain deeply spiritual and active in their church, Hennepin Avenue United Methodist. The Reverend David Tyler Scoates says, "Harry wouldn't be Harry without Charlotte. He's in the limelight because she's right beside him, as brilliant, spiritual and compassionate as Harry."

PEGGY PLUIMER

No matter what volunteer work she becomes involved in, Peggy Pluimer says she always ends up in the area of education. Good public schools are the passion of this Kenwood mother who lives in a neighborhood where many parents choose private education for their children.

"We have excellent schools in the city," Pluimer says. "The fears that many have are based upon myths. People have to be told and be shown the excellent teachers and programs that are here at every level."

Pluimer, a former teacher, should know. With three children widely spaced in age, she once served concurrently on the PTA boards of the high school, elementary and pre-school her children were attending. She has been a school volunteer at every level, from room mother to member of the committee that chose current Minneapolis public-schools superintendent Robert Ferrera.

Pluimer also has been active citywide, serving on dozens of committees—chairwoman of the League of Women voters education committee and an active member of People Advocating at the Legislature, which lobbies for greater awareness of the needs of education.

Jan Stevenson, a neighbor and a fellow volunteer, says of Pluimer: "She never says no. She always does what she says she will do, always on time and always very well."

KATHLEEN RIDDER

Kathleen Ridder came to volunteerism both from interest and from expectation. "Due to my position as the wife of a man in the communications business," she says, "it was assumed that I would be involved."

What might not have been expected is that she would become passionate about issues that extend into the area of basic rights. "I was very involved in the civil-rights movement early on and served on the Urban League," Ridder says. "When the women's movement began, I saw many similarities between the struggles that both blacks and women were dealing with in a system controlled by the white establishment."

When the Title 9 amendments were passed in the mid-1970s, the University of Minnesota set up its Advisory Council for Women's Athletics. Ridder joined it and has seen—and tirelessly helped—affect changes in the programs, funding and facilities for women athletes.

In concentrating on what she calls "this critical mass of women," Ridder says, "we can help them reach their goals with support and scholarships. As they move on we are building a constituency, a network to which we can go in the future to help the next generation of women athletes."

To encourage women to enter fields long dominated by men, Kathleen and husband Robert Ridder have set up a U of M scholarship in their names to go to junior and senior women athletes majoring in the sciences.

Ridder says her greatest talent is as a catalyst, whether in her volunteer activities or in her career. She and partner Gladys Brooks are consultants in public affairs and public policy.

"We as women have to learn to make choices about what time means to our own development," she says, "not in relationship to our husbands and children but to ourselves as individuals." Kathleen Ridder has done just that.

IRENE KREIDBERG

All her life, Irene Kreidberg has maintained two career tracks: in corporate management and as a volunteer. She retired in 1973 from Sperry Univac (now Unisys Corporation) after forty-three years in administrative management. She has been a Symphony Ball volunteer in one leadership capacity or another for twenty-two years; she served on the board of the Sister Kenny Institute for ten years and was the dynamic and innovative chairwoman of the Greater Minneapolis Chamber of Commerce Cultur-

al Activities Committee for a decade. And the list goes on.

Kreidberg grew up during an era when women were not expected to be leaders. But her dual careers have proved that someone else's ideas on gender limitations meant nothing to her. Among her many accomplishments she is most proud to be the first woman to be elected to the board of the Greater Minneapolis Chamber of Commerce.

Today, Kreidberg is as active and busy as ever, spearheading a gala for the Sister Kenny Institute, working on the Twin City Opera Guild Candlelight Dinner and keeping her helpful hands in many other organizations.

Fortunately for us, she can't say no.

MEREDITH HART

Meredith Hart says that when she left Indiana for the Twin Cities, people already knew about her volunteer commitment and "met her at the border." She's been busy ever since, working with the aged, women and youth, and serving on committees and commissions ranging from the Governor's Crime Commission to the Ethics Committee of the Minnesota Bar Association.

Hart has served as president of the League of Women Voters, helped start the Edina Youth Action Project and was chairwoman of the Edina Human Relations Committee, which organized churches to deliver Meals on Wheels. She also has been chairwoman of the Minnesota Women's Political Caucus and helped create the Women's Resource Center at Normandale Community College. Suburban women, she says, represent "the last frontier in women's issues."

Currently associate director of the Minnesota Alliance for Health Care Consumers, Hart directs its Consumer Council Program, which encourages nursing-home residents to have a say about the environments in which they live.

"Priorities in this country are all wrong," she says. "We need serious dialogue about issues and we are not doing it. I think it's a selfish time."

DAVID A. KOCH

David Koch, chairman and chief executive officer of Graco, is a firm believer in the American free-enterprise system. But Koch believes just as firmly that companies should not exist solely to make a profit.

As one of the founders of the nationally renowned 5 Percent Club, Koch has become a dedicated missionary for corporate giving, exhorting local firms to donate 5 percent or 2 percent of their pre-tax earnings to community projects of their own choosing. The 5 Percent Club and the 2 Percent Club now are known as the Minnesota Keystone Program and are cosponsored by the chambers of commerce of Greater Minneapolis, St. Paul Area and Minnesota.

In 1976, when Koch was president of the Minneapolis chamber, twenty-three charter members were inducted into the nation's first 5 Percent Club. In 1988, 140 companies from twenty-eight communities made contributions at the 2- to 5-percent level or more; nineteen of them contributed 10 percent or more.

Koch still is not satisfied. "Companies in the Twin Cities have been aggressive and generous," he says. "The companies that were started here have a real commitment to the community. Their families are here. They care. But more and more the expansion of these companies is taking place outside of the state, not in Minnesota."

In addition, Koch says corporations face more stress each year. "The focus is often short term—this quarter's earnings, this year's earnings—so in spite of seeing a community project that needs their help, they don't take up the challenge and he responsibility," he says. Koch believes corporate takeovers are another serious threat to the Keystone program.

Still, he is positive and hopeful. The Minnesota Keystone Program has served as a model in other cities and states, and Koch is its leading advocate, traveling the country to preach its gospel.●

IN RECOGNITION OF JOSEF GINGOLD

● Mr. BOSCHWITZ. Mr. President, I rise today to bring to the attention of my colleagues a great American, teacher and musician, Josef Gingold. Professor Gingold will celebrate his 80th birthday on October 29, 1989.

A distinguished professor emeritus of music at Indiana University, Professor Gingold emigrated to the United States, with his family, after the First World War, beginning his formal musicial education at the Third Street Settlement School in New York. Not only is he a world-renowned violinist and concertmaster, but Professor Gingold has influenced and guided several hundred professional violinists and string players who fill our great American orchestras and concert stages. In fact, the Minnesota Orchestra and the St. Paul Chamber Orchestra boast 18 Gingold students who attended his weekly master classes.

Truly an American treasure, Josef Gingold's influence on music in America as both performer and pedagogque is equaled by few. Year after year, young violinists from as far away as Australia, Asia, Europe, South America, and even from behind the Iron Curtain, travel to Bloomington, IN, for an opportunity to work with the great master. As a guest professor, he has brought the American School of Violin to the Paris Conservatory, the Toho School in Tokyo, and the Britten-Pears School in England. Professor Gingold's three-volume set of orchestral excerpts is the standard text used by students and professional orchestra players the world over.

Concertgoers and music lovers everywhere have been touched by Josef Gingold and his relentless dedication to teaching. He is revered and loved by all who have had the good fortune to know him or hear his music. On behalf of his students and those who love classical music, I thank him for all that he has contributed to the advancement of his art, and wish him the very best in his 81st year.●

S. 1405, DISPLACED HOMEMAKERS AND SINGLE PARENTS HOMEOWNERSHIP ASSISTANCE ACT

● Mr. D'AMATO. Mr. President, I am pleased to support the legislation introduced by Senator KASSEBAUM, S. 1405, the Displaced Homemakers and Single Parents Homeownership Assistance Act. With the rapidly rising cost of housing throughout the Nation, there is a growing need to assist Americans in the pursuit of home ownership. This legislation addresses one group that desperately needs public assistance to find a decent place to live but is too often overlooked—that of single parents and displaced homemakers.

The Displaced Homemakers and Single Parents Homeownership Assistance Act is designed to protect parents who jointly own a home with their spouses, but are unable to finance this home if they become widowed or divorced. Former joint ownership can become a barrier to such individual's ability to receive Federal assistance as first-time homebuyers. This legislation allows displaced homemakers and single parents to qualify as first-time homebuyers when purchasing a home. This is particularly relevant as Congress and the administration assess ways to expand home ownership opportunities for first-time homebuyers.

This legislation defines a displaced homemaker as an adult who has not worked full-time in the labor force for a number of years but has worked primarily to care for the family without remuneration. For such reasons a homemaker's marketable skills will frequently be diminished. A displaced homemaker is also an adult who has been dependent on public assistance or on the income of a spouse but is no longer supported by such income. Someone who has experienced such losses needs to rapidly become self-sufficient, and it is essential that public assistance for obtaining a decent place to live be available if needed.

The inability for many single parents and displaced homemakers to afford first-time home ownership is a problem that affects a vast sector of the Nation's population. The Women and Housing Task Force reports that as many as one third of all single women who maintain a household actually own their homes. Close to one-fourth of these women who own homes are poor; this figure is more than three times the figure of homeowner families with children existing at the poverty level.

The Displaced Homeownership and Assistance Act provides single parents, especially women, with the opportunity to maintain a degree of domestic stability following the loss of someone upon whom they were dependent. During times of emotional crisis and turmoil, these parents desperately need to provide a secure and healthy home environment for their children. I believe this legislation serves this purpose. I am pleased to join my colleague, Senator KASSEBAUM, to address

the special needs of so many single parents around the Nation.●

NOMINATION OF MICHAEL D. McKAY

● Mr. GORTON. Mr. President, the Senate has recently received the nomination of Michael D. McKay for U.S. attorney for the western district of Washington. I rise today in wholehearted support; I unreservedly believe that Mr. McKay is the best candidate for this position. Moreover, I strongly suspect that the creativity and the keen intellect of Mike McKay will in addition to benefiting Washington State, greatly contribute to the work of U.S. attorney's across the Nation.

In my State, Mike McKay is known for his sound legal judgment and unquestioned integrity. Due to his leadership on issues of local, State, and Federal concern, Mr. McKay has overwhelming public and professional support in Washington State for confirmation of his nomination.

Mr. KcKay has served as senior deputy prosecuting attorney of King County. He has met many legal and administrative challenges with great skill, creativity, and dedication. For example, he led the first case to review the constitutionality of a juvenile's right to a jury trial; he represented the Government in the first major litigation involving the Seattle Mariners major league baseball team; he successfully led the investigation and prosecution of a large criminal prostitution ring; and he developed a procedure for pretrial preparation of sexually assaulted children that has received national acclaim.

Mr. President, the recent rise of gang violence and drug-related crime concern me greatly, as I know it does this body. In Mr. McKay, we have a leader who is well-prepared to tackle these problems which now challenge all of the resources of the Federal criminal justice system.

Mr. Michael D. McKay is an outstanding nominee for U.S. attorney, who has shown his deep commitment to public service. I fully endorse him for this post and respectfully urge the Senate to confirm his nomination.●

THE 1988-89 DROUGHT DEVASTATION

Mr. DOLE. Mr. President, many farmers have had a tough year. The drought of 1988 and 1989 brought devastation across the country, especially to the Wheat Belt.

Congress responded to its call for help with the passage of a disaster relief bill which the President signed into law.

Unfortunately, that legislation created problems for some producers—problems for those who moved quickly to plant a new crop on their disaster acres.

As usual, the biggest problem appears to be Congress: Farmers still trying to receive fair compensation on their drought induced second crop are now facing another disaster, this time a political freeze.

This Senator has made repeated efforts to clear new legislation sponsored by the Senators from Kansas, as well as Senators BOREN, BENTSEN, DOMENICI, others, that will deal with the so-called second crop and ghost acre problems, but each time we have been rejected. We can't get clearance even though the demand for action is urgent in Kansas, South Dakota, Texas, and New Mexico.

The Senator from Kansas has been pushing the administration and my Senate colleagues to settle the second crop issue ever since it became clear farmers who planted a new crop on disaster acreage would be unfairly penalized on the relief front.

Senator KASSABAUM and I, without colleagues, have proposed a package that would not reduce disaster payments to second crop producers if their replacement crops failed to produce more than 50 percent of the average yield of their county—crop yield above that threshold would be subject to a 75 percent reduction of the gross value of the second crop.

Our package will also include a so-called equal acre offset—that means the deduction on the replanted acreage would only count against disaster payments from the same acreage, not gross disaster payments.

Farmers have waited long enough. They only want fairness.

Mr. President, I underscore that it is a little complicated, but primarily what has happened in many cases is that farmers lost all their wheat crops. Let us say they had 100 acres. Then they went out and planted 50 acres as a second crop.

But under present law they cannot get paid for their wheat disaster payments, even though they are eligible and have been for weeks and weeks and weeks, until they harvest the second crop, which is not going to happen for a while.

One thing our bill does is to let them go in and get part of their money now. Certainly, this is not a disaster of the magnitude of the ones we have talked about in Hugo and the earthquake in California, but if you are a farmer in Texas or Kansas or Oklahoma or South Dakota and you are virtually wiped out, it is a disaster. We have been trying to get action for 3 weeks. It is being held up because they want to put a lot of baggage on this vehicle that is not related to the disaster. If they are disaster amendments, that is fine, but they are not related to the disaster at all. If we are going to be urging our colleagues not to load up the continuing resolution with amendments unless they are disaster amendments, I hope I can make the same plea to my colleagues on this very small $9 million bill that has been held for 3 weeks. It has meant pain and anguish to a lot of farmers in the States I mentioned. I hope we can have some action on this bill no later than tomorrow evening.

SCHEDULE

Mr. MITCHELL. Mr. President, I have discussed with the distinguished Republican leader the proposed Senate schedule for tomorrow and the following day.

We will at 10:30 be resuming debate on the Eastern Airlines measure. It is my hope that the continuing debate on that tomorrow morning will be for a very brief period of time; that we will then be able to proceed to consideration of six mutual legal assistance treaties between the United States and other countries. We are awaiting clearance on that. It is my hope that we can take that up.

I had previously discussed with the Republican leader my desire to take up the legislation to provide assistance to Poland and Hungary tomorrow, or at the earliest time thereafter. I understand the distinguished Republican leader and a group of Senators on that side are preparing a package with regard to that.

I inquire of the Republican leader, consistent with our prior discussion, at what time we might be in a position to proceed to the legislation regarding aid to Poland, which I would like to do as soon as possible?

Mr. DOLE. It is my understanding that the legislation has been drafted. I think there was a meeting of staff members—in fact, I know there was—this afternoon between 4 p.m. and whenever it ended on that issue.

It is my hope to take it up tomorrow at the policy luncheon to see how many Members on this side have an interest in that legislation and then introduce it. I assume we can also introduce it as a separate bill, but it can also be prepared in the nature of a substitute.

I hope we would be able to go to work on that by Wednesday, but I will let the majority leader know right after our luncheon.

Mr. MITCHELL. I thank the distinguished Republican leader.

ORDER OF PROCEDURE

Mr. MITCHELL. For the benefit of Senators in preparing their schedules, if possible, we will proceed to the Poland-Hungary legislation on Wednesday and also on Wednesday, assuming we will by then have received the continuing resolution from

the House, which I anticipate will include disaster relief for the California earthquake victims, it is my hope and expectation that we will take that legislation up on Wednesday, as well.

That, of course, will be vital in two respects, both with respect to the continuing resolution, which expires midnight, Wednesday, and with respect to the California earthquake relief.

Thereafter, we will be considering, I anticipate, four Appropriations Committee conference reports which we hope to have ready by then, one of which is now ready, and three of which we believe will be ready during this week.

Then, Mr. President, I have made a commitment to Senator SPECTER to take up his death penalty legislation, which we hope will occur sometime on Thursday. That has a 4-hour time limitation. So it is going to be a very busy week for us.

I thank the distinguished Republican leader for his cooperation.

ORDERS FOR TOMORROW

RECESS UNTIL 10 A.M.; MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. tomorrow, Tuesday, October 24, 1989, and that following the time for the two leaders there be a period for morning business until 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS TOMORROW FROM 12:30 P.M. UNTIL 2:15 P.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in recess from 12:30 p.m. to 2:15 p.m. on tomorrow in order to accommodate the party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if the distinguished Republican leader has no further business and if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess, under the previous order, until 10 a.m. on Tuesday morning.

There being no objection, the Senate, at 6:11 p.m., recessed until Tuesday, October 24, 1989, at 10 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate October 20, 1989, under authority of the order of the Senate of January 3, 1989:

DEPARTMENT OF STATE

EDWARD S. WALKER, JR., OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNITED ARAB EMIRATES.

THE JUDICIARY

EDWARD W. NOTTINGHAM, OF COLORADO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLORADO VICE A NEW POSITION CREATED BY P.L. 98-353, APPROVED JULY 10, 1984.

DEPARTMENT OF THE TREASURY

DONALD E. KIRKENDALL, OF MARYLAND, TO BE INSPECTOR GENERAL, DEPARTMENT OF THE TREASURY. (NEW POSITION)

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. JOHNNIE H. CORNS [xxx-xx-xxxx], UNITED STATES ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. CLAUDE M. KICKLIGHTER, [xxx-xx-xxxx], UNITED STATES ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A PROVISION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. JACK D. WOODALL, [xxx-xx-xxxx], UNITED STATES ARMY.

THE UNITED STATES ARMY RESERVE OFFICERS NAMED HEREIN FOR APPOINTMENT AS A RESERVE COMMISSIONED OFFICER OF THE ARMY, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3371 AND 3384:

To be major general

BRIG. GEN. FRENCIS T. DONOHUE, [xxx-xx-xxxx]
BRIG. GEN. THOMAS C. STONES, [xxx-xx-xxxx]
BRIG. GEN. JAMES B. BAYLOR, [xxx-xx-xxxx]
BRIG. GEN. DONALD M. BAGLEY, JR., [xxx-xx-xxxx]
BRIG. GEN. GARY A. STEMLEY, [xxx-xx-xxxx]

To be brigadier general

COL. FRANCIS D. TERRELL, [xxx-xx-xxxx]
COL. JOHN E. MCALLISTER, [xxx-xx-xxxx]
COL. PETER W. CLEGG, [xxx-xx-xxxx]
COL. FRANCIS R. JORDAN, JR., [xxx-xx-xxxx]
COL. HOWARD T. MOONEY, [xxx-xx-xxxx]
COL. GEORGE G. KUNDAHL, [xxx-xx-xxxx]
COL. DONALD F. CAMPBELL, [xxx-xx-xxxx]
COL. ROBERT H.G. WAUDBY, [xxx-xx-xxxx]
COL. LINDSAY M. FREEMAN, [xxx-xx-xxxx]
COL. CHARLES L. WHITLOCK, [xxx-xx-xxxx]
COL. DAVID L. STABENOW, [xxx-xx-xxxx]
COL. RICHARD F. REEDER, [xxx-xx-xxxx]
COL. JOHN COMPERE, [xxx-xx-xxxx]
COL. RICHARD J. DIRGINS, [xxx-xx-xxxx]

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY:

To be lieutenant general

MAJ. GEN. JOHN R. DAILEY, [xxx-xx-xxxx]/9903 USMC.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PERMANENT PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

MEDICAL CORPS

To be colonel

ROBERT P. BELIHAR, [xxx-xx-xxxx]
DJALMA A. BRAGA, [xxx-xx-xxxx]

To be lieutenant colonel

KENNETH P. HART, [xxx-xx-xxxx]

To be major

WILLIAM E. COLLIER, [xxx-xx-xxxx]
JOSEPH D. DYE, [xxx-xx-xxxx]
KENNETH R. KILIAN, [xxx-xx-xxxx]
WAYNE K. LAWSON, [xxx-xx-xxxx]
MICHAEL B. MONTE, [xxx-xx-xxxx]
RACHEL C. PEREZ, [xxx-xx-xxxx]
BRADLEY R. PRESTIDGE, [xxx-xx-xxxx]
JEFFERY V. RUZICH, [xxx-xx-xxxx]
KENNETH E. SANFORD, [xxx-xx-xxxx]
FREDERICK E. STAFFORD, [xxx-xx-xxxx]
RICHARD O. WRIGHT, [xxx-xx-xxxx]

DENTAL CORPS

To be major

CHARLES R. GLOSSON, [xxx-xx-xxxx]

IN THE NAVY

THE FOLLOWING NAMED FORMER U. S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U. S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

JOHN A. BALACKI
RAYMOND J. BETSON
RONAL G. CONNOLY
MICHAEL J. GIACALONE, JR.

THE FOLLOWING NAMED FORMER U. S. ARMY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U. S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

ROBERT M. LYSE

THE FOLLOWING NAMED FORMER U. S. AIR FORCE OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U. S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

STEPHEN M. BLUM

THE FOLLOWING NAMED MEDICAL COLLEGE GRADUATES TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U. S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

PRABHAKAR C. GHOSH
SILLOO KAPADIA
ELEANOR TRAVERS

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR PROMOTION AS RESERVE OF THE AIR FORCE, UNDER THE PROVISIONS OF SECTIONS 593, 8366 AND 8372, OF TITLE 10, UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8372 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE OF 16 JUNE 1989, AND PROMOTIONS MADE UNDER SECTION 8366 SHALL BE EFFECTIVE UPON COMPLETION OF SEVEN YEARS OF PROMOTION SERVICE AND TWENTY-ONE YEARS OF TOTAL SERVICE, UNLESS A LATER PROMOTION EFFECTIVE DATE IS REQUIRED BY SECTION 8372(C), OR THE PROMOTION EFFECTIVE DATE IS DELAYED IN ACCORDANCE WITH SECTION 8380(B) OF TITLE 10.

LINE OF THE AIR FORCE

Major to lieutenant colonel

AARDEMA, ROBERT J., [xxx-xx-xxxx]
ABEND, DAVID A., [xxx-xx-xxxx]
ABNER, CHARLES A., [xxx-xx-xxxx]
ACCURSO, JOSEPH L., [xxx-xx-xxxx]
ADAMS, JONATHAN E. [xxx-xx-xxxx]
ADAMS, MARSHALL V., [xxx-xx-xxxx]
ALBERS, RONALD L. [xxx-xx-xxxx]
ALBERT, EDWARD, V., III, [xxx-xx-xxxx]
ALBERTINI, VICTOR D., [xxx-xx-xxxx]
ALLENDORF, CARL J., [xxx-xx-xxxx]
ALLISON, MARK, J., [xxx-xx-xxxx]
ALPERT, GLENN P., [xxx-xx-xxxx]
ALTIERE, LAWRENCE J., [xxx-xx-xxxx]
ANDERSON, KENNETH R., [xxx-xx-xxxx]
ANDERSON, TIMOTHY L., [xxx-xx-xxxx]
ANDERSON, WILLIAM A., III, [xxx-xx-xxxx]
ANDRESS, STEPHEN M., [xxx-xx-xxxx]
ARBAUGH, DANA C., [xxx-xx-xxxx]
ARDINGER, DON P., [xxx-xx-xxxx]
ARENDT, ROBERT E., [xxx-xx-xxxx]
ARMENTROUT, GARY R., [xxx-xx-xxxx]
ARNOLD, KENNETH, W., [xxx-xx-xxxx]
ASHER, CLIFFORD L., JR., [xxx-xx-xxxx]
ATKINSON, MACK R., [xxx-xx-xxxx]
AULD, GLENN A., [xxx-xx-xxxx]
AVERSMAN, JAMES R., [xxx-xx-xxxx]

BAFARO, VICTOR V., [xxx-xx-xxxx]
BAILEY, LARRY E., [xxx-xx-xxxx]
BAILEY, LAWRENCE S., [xxx-xx-xxxx]
BAKER, JOHN C., [xxx-xx-xxxx]
BALL, NORMAN K., [xxx-xx-xxxx]
BANZ, JAMES R., [xxx-xx-xxxx]
BARANZINI, RICHARD D., [xxx-xx-xxxx]
BARR, ROGER B., [xxx-xx-xxxx]
BARNHART, ROBERT T., [xxx-xx-xxxx]
BARRON, ROBERT A., [xxx-xx-xxxx]
BARRY, LYMAN W., JR., [xxx-xx-xxxx]

BARTON, JOHN W., xxx-xx-xxxx
BATTERSON, EDWARD J., xxx-xx-xxxx
BATTISTA, ARCHER B., xxx-xx-xxxx
BAUER, DAVID, xxx-xx-xxxx
BAUKUS, WILLIAM J., JR., xxx-xx-xxxx
BAXTER, RONALD, xxx-xx-xxxx
BEARD, JAMES D., xxx-xx-xxxx
BEATY, JERALD H., xxx-xx-xxxx
BEATY, RICHARD E., xxx-xx-xxxx
BEAUDETTE, DANIEL C., xxx-xx-xxxx
BEAUMONT, DOUGLAS H., xxx-xx-xxxx
BEEBE, ORIN K., xxx-xx-xxxx
BEERS, DONALD E., xxx-xx-xxxx
BEHRENS, JAMES H., xxx-xx-xxxx
BELLION, HENRY E., xxx-xx-xxxx
BENEDICT, ROBERT H., xxx-xx-xxxx
BENNETT, ROGER V., xxx-xx-xxxx
BENTLEY, JOHN C., xxx-xx-xxxx
BERKEBILE, TAD S., xxx-xx-xxxx
BERLIN, DONALD L., xxx-xx-xxxx
BERTINO, ELLEN B. xxx-xx-xxxx
BETTS, JOHN E., xxx-xx-xxxx
BIELENBERG, ROBERT P., xxx-xx-xxxx
BILIK, ROBERT V., xxx-xx-xxxx
BLACK, JAMES H. JR., xxx-xx-xxxx
BLAIR, CHARLES W., xxx-xx-xxxx
BLAIR, JEFFREY D., xxx-xx-xxxx
BLANCHARD, WILLIAM A., xxx-xx-xxxx
BLANCHETTE, WILFRED, J., JR., xxx-xx-xxxx
BLASCHKE, STEPHEN C., xxx-xx-xxxx
BOLAND, PAUL S., xxx-xx-xxxx
BOLME, GERALD O., xxx-xx-xxxx
BOLOGNA, ROBERT R., xxx-xx-xxxx
BONE, GARY M., xxx-xx-xxxx
BONE, JOHN E., xxx-xx-xxxx
BOOKER, WAYNE J., xxx-xx-xxxx
BORMAN, JOHN G., xxx-xx-xxxx
BORSKI, DAVID A., xxx-xx-xxxx
BOUGHNER, LEE R., xxx-xx-xxxx
BOWCOCK, STEPHEN W., xxx-xx-xxxx
BOWERS, JOHN L., xxx-xx-xxxx
BOWLING, TEMPLE IV, xxx-xx-xxxx
BOWMAN, JOHN T., xxx-xx-xxxx
BOZICH, ANTHONY T., III, xxx-xx-xxxx
BRADLEY, MICHAEL M., xxx-xx-xxxx
BRAGG, JOHN T. JR., xxx-xx-xxxx
BRAMHALL, EVERETT L., JR., xxx-xx-xxxx
BREDEN, CORNELIUS J., xxx-xx-xxxx
BREEN, OWEN J., III, xxx-xx-xxxx
BREGMAN, JONATHAN H., xxx-xx-xxxx
BRICKER, JEFFREY M., xxx-xx-xxxx
BRIGHT, DANIEL J., xxx-xx-xxxx
BRINKS, DANIEL W., xxx-xx-xxxx
BROMMER, CLIFFORD H., xxx-xx-xxxx
BROSIUS, ROBERT C., xxx-xx-xxxx
BROWN, BURYL A., xxx-xx-xxxx
BROWN, CHARLES E., xxx-xx-xxxx
BROWN, DAVID C., JR., xxx-xx-xxxx
BROWN, EVERETT M., xxx-xx-xxxx
BROWN, PAUL M., xxx-xx-xxxx
BROWN, PETER D., xxx-xx-xxxx
BROWN, RICHARD L., xxx-xx-xxxx
BROWNELL, ARTHUR N., JR., xxx-xx-xxxx
BROWNELL, KENNETH W., xxx-xx-xxxx
BRUST, KENNETH E., xxx-xx-xxxx
BRYANT, JOHN P., xxx-xx-xxxx
BUCHWALD, ROBERT W., xxx-xx-xxxx
BUCKHOLTZ, PAUL J., xxx-xx-xxxx
BUCKHOUT, ROBERT R., JR., xxx-xx-xxxx
BUNCH, EDWARD A., xxx-xx-xxxx
BURK, LARRY L., xxx-xx-xxxx
BURKE, CHARLES C., xxx-xx-xxxx
BURKETT, DENNIS C., xxx-xx-xxxx
BURMAN, JAMES W., xxx-xx-xxxx
BURNETT, GERALD R., xxx-xx-xxxx
BURNHAM, RUSSELL C., xxx-xx-xxxx
BYNUM, JOSEPH C., III, xxx-xx-xxxx
BYRUM, JERRY W., xxx-xx-xxxx

CABLE, GARY D., xxx-xx-xxxx
CADMAN, CONRAD H., xxx-xx-xxxx
CAMPBELL, CLINTON D., xxx-xx-xxxx
CAMPBELL, JOHN R., xxx-xx-xxxx
CANNON, GARY D., xxx-xx-xxxx
CARLETON, DAVID L., xxx-xx-xxxx
CASEY, GALEN S., xxx-xx-xxxx
CASH, FRANK J., JR., xxx-xx-xxxx
CASPER, BRUCE W., xxx-xx-xxxx
CASPER, JOHN J., xxx-xx-xxxx
CATHEY, ERNEST M., xxx-xx-xxxx
CESTARI, DONALD, xxx-xx-xxxx
CHALAIRE, JAMES R., xxx-xx-xxxx
CHAMPION, RICHARD W., xxx-xx-xxxx
CHITAMBAR, SHERIDAN JR., xxx-xx-xxxx
CHOATE, ROBERT I., JR., xxx-xx-xxxx
CHOW, MICHAEL Y.M., xxx-xx-xxxx
CHURCH, JOHN S., xxx-xx-xxxx
CIARDELLI, RICHARD D. xxx-xx-xxxx
CLAMPITT, BOBBY G. xxx-xx-xxxx
CLARK, ALBERT L., xxx-xx-xxxx
CLARKE, LESLIE K., III, xxx-xx-xxxx
CLEARY, WILLIAM, J., JR., xxx-xx-xxxx
CLEMONS, GEORGE B., xxx-xx-xxxx
CLEVELAND, GROVER, JR., xxx-xx-xxxx
CLIFFORD, JEROME R. xxx-xx-xxxx
CLIFFORD, MICHAEL S., xxx-xx-xxxx
CLINTON, STEPHEN P., xxx-xx-xxxx
COAKLEY, THOMAS L., xxx-xx-xxxx
COBLEIGH, NELSON E., xxx-xx-xxxx
CODY, ROBERT L., xxx-xx-xxxx
COLEMAN, RONALD P., xxx-xx-xxxx
COLLINS, MICHAEL D., xxx-xx-xxxx
CONEWAY, CHARLES R., JR., xxx-xx-xxxx
CONGISTRE, JOHN H. xxx-xx-xxxx
CORBETT, CHARLES E., JR., xxx-xx-xxxx
CORBIN, JOHNNY L. xxx-xx-xxxx
CORL, WILEY F., III, xxx-xx-xxxx
CORELEY, MONTFORD J., xxx-xx-xxxx
CORNELIUS, CHARLES G., xxx-xx-xxxx
COWGILL, WILLIAM A., xxx-xx-xxxx
CRAGO, DENNIS L., xxx-xx-xxxx
CRANE, CHARLES L., xxx-xx-xxxx
CRANE, STEPHEN W., xxx-xx-xxxx
CREWE, LEONARD C., III, xxx-xx-xxxx
CRONK, DAVID M., xxx-xx-xxxx
CRUM, CURTIS G., xxx-xx-xxxx
CRUM, VIDA A., xxx-xx-xxxx
CULBERTSON, ROBERT K., JR. xxx-xx-xxxx
CULLER, RONALD R., xxx-xx-xxxx
CUMMINGS, GEORGE L. xxx-xx-xxxx
CUMMINGS, JAMES B., xxx-xx-xxxx
CUMMINS, STEVEN J., xxx-xx-xxxx
CURRIE, CHARLES E., xxx-xx-xxxx
CURRY, JAMES R., xxx-xx-xxxx
CURTIS, ADRIAN S., xxx-xx-xxxx
CUSHMAN, MICHAEL A., xxx-xx-xxxx
CZARNIECKI, JOSEPH L., xxx-xx-xxxx

DALTON, JOHN C., xxx-xx-xxxx
DALTON, WARREN E., xxx-xx-xxxx
DANIELS, JANICE C. xxx-xx-xxxx
DANO, DEXTER L. xxx-xx-xxxx
DAVIS, BRIAN W., xxx-xx-xxxx
DAVIS, DONALD M., xxx-xx-xxxx
DAVIS, JACKIE M., xxx-xx-xxxx
DAVIS, JOHN B., xxx-xx-xxxx
DAWSON, DAVID L., xxx-xx-xxxx
DEBUCK, MARVIN E., xxx-xx-xxxx
DECUBELLIS, ROBERT, xxx-xx-xxxx
DEGNAN, JAMES H., JR., xxx-xx-xxxx
DEGROFF, LARRY E., xxx-xx-xxxx
DELAMENARDIERE, RICHARD E., xxx-xx-xxxx
DELANEY, MICHAEL B., xxx-xx-xxxx
DELUCA, BRIAN L. xxx-xx-xxxx
DENNIS, ROBERT D. xxx-xx-xxxx
DESTEFANO, DIANA L., xxx-xx-xxxx
DIJANNI, JOSEPH J., xxx-xx-xxxx
DOBSON, WILLIAM H., JR., xxx-xx-xxxx
DOLEZAL, PATRICIA L., xxx-xx-xxxx
DON, BRUCE W., xxx-xx-xxxx
DONALDSON, MARC H., JR., xxx-xx-xxxx
DOOLITTLE, JOHN B., xxx-xx-xxxx
DOSKOCIL, KENNETH L., xxx-xx-xxxx
DOTZENROD, JAMES A., xxx-xx-xxxx
DOWN, JOHN F., xxx-xx-xxxx
DOWNS, JOHN L., xxx-xx-xxxx
DOYLE, DAVID, J., JR., xxx-xx-xxxx
DOYLE, MICHAEL W., xxx-xx-xxxx
DRAAYER, ROBERT K., xxx-xx-xxxx
DRISCOLL, RICHARD G., xxx-xx-xxxx
DRUWE, PAUL A., xxx-xx-xxxx
DUBSKY, ROBERT A., xxx-xx-xxxx
DUDAS, RICHARD L., xxx-xx-xxxx
DUFF, THOMAS, D., xxx-xx-xxxx
DUGAN, ERNEST S., xxx-xx-xxxx
DUGAN, TIMOTHY J., xxx-xx-xxxx
DUIGNAN, ROBERT E. xxx-xx-xxxx
DUNCAN, WILLIAM T., xxx-xx-xxxx
DUNN, PETER G. xxx-xx-xxxx
DUNNE, RICHARD B., JR., xxx-xx-xxxx
DYER, JAMES J., xxx-xx-xxxx

EASLER, TERRENCE M., xxx-xx-xxxx
EDMONDS, THOMAS N., xxx-xx-xxxx
EGBERT, LYNN J., xxx-xx-xxxx
EKL, JOHN C. xxx-xx-xxxx
ELMERS, GERALD D., xxx-xx-xxxx
EMCH, ALVIN L., xxx-xx-xxxx
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ZUBER, JOHN D., xxx-xx-xxxx

IN THE ARMY NATIONAL GUARD

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTIONS 593(A) AND 3385:

ARMY PROMOTION LIST

To be colonel

STEPHEN A. AIELLO, xxx-xx-xxxx
WALTER W. BUSSART, xxx-xx-xxxx
THEO F. HARDIES, xxx-xx-xxxx
WILLIAM N. HOGAN, xxx-xx-xxxx
JAMES T. MCCANDLESS, xxx-xx-xxxx
JAMES A. MCDONALD, xxx-xx-xxxx
BOBBY R. MERRY, xxx-xx-xxxx
FELIX J. MULLER, xxx-xx-xxxx
ARTHUR J. NATTANS, xxx-xx-xxxx
BROXIE J. NELSON, xxx-xx-xxxx
THOMAS D. NICHOLS, xxx-xx-xxxx
JAMES J. ROSENBERG, xxx-xx-xxxx
VERNON H. TANNER, xxx-xx-xxxx
CHARLES N. WANOSKY, JR, xxx-xx-xxxx

ARMY NURSE CORPS

To be colonel

LORETTA A. DASH, xxx-xx-xxxx

DENTAL CORPS

To be colonel

CHARLES P. BRADSHAW, xxx-xx-xxxx
JERRY P. CARTMEL, xxx-xx-xxxx

MEDICAL CORPS

To be colonel

JOSEPH J. DOBNER, xxx-xx-xxxx
WILFRED GILL, xxx-xx-xxxx
PAULA M. MAIONCHI, xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be colonel

ARIEL E. PLATT, xxx-xx-xxxx

ARMY PROMOTION LIST

To be lieutenant colonel

JAMES O. ASHENHURST, xxx-xx-xxxx
EDWARD P. BANDY, xxx-xx-xxxx
JAMES S. BELLAR, xxx-xx-xxxx
ROBERT W. BERKLEY, xxx-xx-xxxx
HARRY L. BRYAN, JR, xxx-xx-xxxx
JAMES P. COMBS, xxx-xx-xxxx
FRANK J. COOK, III, xxx-xx-xxxx
GARY Q. CVACH, xxx-xx-xxxx
BART O. DAVIS, xxx-xx-xxxx
ROGER P. DECATO, xxx-xx-xxxx
JAMES G. DICKOVICK, xxx-xx-xxxx
RANDY J. DILLON, xxx-xx-xxxx
JAMES J. DOUGHERTY, JR, xxx-xx-xxxx
WAYNE H. ESTVOLD, xxx-xx-xxxx
CARL E. EURE, JR, xxx-xx-xxxx
NEIL M. FORTE, xxx-xx-xxxx
DONALD H. GLOVER, xxx-xx-xxxx
RICHARD E. HALEY, xxx-xx-xxxx
CLAY A. HINDERLITER, xxx-xx-xxxx
JACK D. HOWLE, xxx-xx-xxxx
HARLAN E. JUDD, JR, xxx-xx-xxxx
MICHAEL C. KESSLER, xxx-xx-xxxx

WILLIAM G. KROGER, xxx-xx-xxxx
VERNON C. LINDGREN, xxx-xx-xxxx
FRANCISCO A. MARQUEZ, xxx-xx-xxxx
DARYL K. MCCALL, xxx-xx-xxxx
JIMMIE M. MCDONALD, xxx-xx-xxxx
DAVID D. MCDOUGALL, xxx-xx-xxxx
DONALD B. MELVIN, xxx-xx-xxxx
ALAN L. NYE, xxx-xx-xxxx
JAMES J. PARENTE, xxx-xx-xxxx
GERVIS A. PARKERSON, JR., xxx-xx-xxxx
MICHAEL D. POLANSKY, xxx-xx-xxxx
COLLIN R. QUIGLEY, xxx-xx-xxxx
THOMAS R. RAGLAND, xxx-xx-xxxx
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WILLIAM J. RIDLEY, xxx-xx-xxxx
RICHARD R. RUST, xxx-xx-xxxx
ROBERT S. RYDER, xxx-xx-xxxx
WILLIAM M. SANSING, JR., xxx-xx-xxxx
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JAMES E. SUTTON, xxx-xx-xxxx
MICHAEL F. TREADWELL, xxx-xx-xxxx
CHARLES R. VESSELL, xxx-xx-xxxx
LUTHER R. WOODALL, xxx-xx-xxxx

CHAPLAIN

To be lieutenant colonel

DAVID R. CHANCE, xxx-xx-xxxx
GERALD H. PRYOR, xxx-xx-xxxx

ARMY NURSE CORPS

To be lieutenant colonel

BONNIE J. HEMMING, xxx-xx-xxxx
ALBERT J. KROLL, xxx-xx-xxxx
CAROLYN L. MCCARTNEY, xxx-xx-xxxx
ROSEMARY A. SEDLACEK, xxx-xx-xxxx
EVELYN P. STRACENER, xxx-xx-xxxx

DENTAL CORPS

To be lieutenant colonel

DAVID N. REMINGTON, xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

WILLIAM G. HAAS, xxx-xx-xxxx
ROBERT B. PETTYJOHN, xxx-xx-xxxx
EDWARD W. ZEFF, xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be lieutenant colonel

LEE E. BURROWS, xxx-xx-xxxx
DANIEL P. COFFEY, xxx-xx-xxxx

HOUSE OF REPRESENTATIVES—*Monday, October 23, 1989*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. DE LA GARZA].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 23, 1989.

I hereby designate the Honorable E DE LA GARZA to act as Speaker pro tempore today.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O God, that even as we experience the fears and doubts of our ordinary lives, You will give us a sure glimpse of Your eternal Word; even as we feel inadequate to lead the lives that we know we should lead, we pray for renewed strength to do Your will. May your spirit pardon and protect us this day and every day. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentlewoman from Hawaii [Mrs. SAIKI] will lead Members in the Pledge of Allegiance.

Mrs. SAIKI led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed joint resolutions of the following titles, in which the concurrence of the House is requested:

S.J. Res. 159. Joint resolution to designate April 22, 1990, as Earth Day, and to set aside the day for public activities promoting preservation of the global environment;

S.J. Res. 164. Joint resolution designating 1990 as the "International Year of Bible Reading";

S.J. Res. 177. Joint resolution to designate October 29, 1989, as "Fire Safety At Home—Change Your Clock, Change Your Battery Day";

S.J. Res. 181. Joint resolution to establish calendar year 1992 as the "Year of Clean Water";

S.J. Res. 184. Joint resolution to designate the periods commencing on November 26, 1989, and ending on December 2, 1989, and commencing on November 25, 1990, and ending on December 1, 1990, as "National Home Care Week";

S.J. Res. 186. Joint resolution designating the week of March 1 through March 7, 1990, as "National Quarter Horse Week"; and

S.J. Res. 194. Joint resolution designating November 12 through 18, 1989, as "National Glaucoma Awareness Week."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill on Friday, October 20, 1989:

H.R. 2990. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1990, and for other purposes.

THE 25TH ANNIVERSARY OF THE WILDERNESS ACT

(Mr. CLARKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLARKE. Mr. Speaker, this year marks the 25th anniversary of the Wilderness Act. Since the act became law nearly 91 million acres in the United States have been designated by Congress as wilderness.

There are now 474 separate wilderness areas in our country. Alaska contains nearly two-thirds of all U.S. wilderness. Almost one-third of the wilderness system is in the 11 Western States.

Of the total U.S. wilderness 38.5 million acres are in our national parks, 32.5 million in the national forests, 19.3 in national wildlife refuges, and 0.5 million on lands administered by the Bureau of Land Management.

The process of setting aside wilderness continues. Major wilderness bills for Arizona, California, Idaho, Nevada, and Utah are being considered this year.

Wilderness protects watersheds. It offers a very important habitat for wildlife. It provides beauty and peace and a place for men and women to restore their souls. We owe much to those who passed the Wilderness Act in 1964 which made these achievements possible and which will make possible further valuable additions to the wilderness system this year and in the years ahead.

ALLEGED IMPROPER ACTIVITIES BY THE NATIONAL REPUBLICAN INSTITUTE FOR INTERNATIONAL AFFAIRS IN COSTA RICA

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, in recent days, there have been several newspaper reports containing allegations of improper activities in Costa Rica by the National Republican Institute for International Affairs. Some Members of this body have picked up on these reports and made several 1-minute speeches regarding the Republican Institute's activities.

The Republican Institute's activities in Costa Rica have been public, on the record and clearly within its charter and that of the National Endowment of Democracy. The accusations about the Institute's work suggests a political motivation reflecting the intense presidential campaign occurring in Costa Rica.

Since the allegations made about the Republican Institute's activities in Costa Rica are not true, I am placing in the RECORD today a point-by-point rebuttal. I urge my colleagues to consider carefully the Republican Institute's statements before accusing it of improper actions in Costa Rica.

RICE PADDIES ON THE EAST LAWN OF THE WHITE HOUSE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, former President Reagan is in Japan and the Japanese people are ecstatic. The Japanese people literally love the former President.

Let us think about that. During the Reagan years, the Japanese people made almost $500 billion profit selling TV's, toasters, Toyotas, and chips to America. They had it so good they literally said they were saddened when

he left office and they were quoted as saying that Ronald Reagan was, "the greatest American President Japan ever had."

Mr. Speaker, if that is not enough to frost your pumpkin, now the American taxpayers are being asked to pay for the Secret Service protection of this off-Broadway trip to Japan. I think that tells it all right here. I have to stick with what I honestly believe is a future scenario for the American workers and taxpayers, we will come to see the day when there will be a rice paddy on the East Lawn of the White House.

OVERRIDE ABORTION VETO

(Mr. RAVENEL asked and was given permission to address the House for 1 minute.)

Mr. RAVENEL. Mr. Speaker, in the vernacular of our no-win national dilemma, I am prolife by moral precept, yet prochoice by judicial decree. And now we in this Congress have chosen to fund abortions for those financially unable to pay in situations hazarding the life of the mother or rape or incest timely reported. Accordingly, we have sent our resolve to the President for his approval. But he says this he will not give except in the instance of the mother's life being threatened. How much more, I ask you, can a woman's life be threatened than to force her to bear the child of her rapist or relative just because she is poor and helpless? Who, Mr. Speaker, having searched his heart or talked to his mother, wife or daughters, can vote to sustain such a cruel veto?

OVERRIDE VETO ON LABOR-HHS BILL

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute.)

Mrs. SCHROEDER. Mr. Speaker, I join the gentleman from South Carolina [Mr. RAVENEL] in imploring the Members of this body to override the veto. It is very hard for me to believe that President Bush would deny either his wife or his daughter an abortion if they had been the victim of rape. It is very hard for me to believe that he would deny anyone in his family an abortion if they were a victim of rape or incest.

Yet by his very cruel veto, he is denying this to the less fortunate women, and some very young girls, in America.

I believe we have come way beyond that. I do not think someone who has called himself kinder and gentler should be doing this. I hope all Members in this body think very seriously about what we will be doing if we sustain the President's veto and vote to override.

NATIONAL LAW ENFORCEMENT MEMORIAL DEDICATION

(Mr. BLILEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, I rise here today to commemorate the dedication of the National Law Enforcement Memorial which will take place on October 30 here in our Nation's Capital. All of us need to recognize through this memorial the courage and dedication of our Nation's law enforcement officers. In today's atmosphere of drug abuse and violence, we need to be cognizant of the fact that law enforcement officers are everpresent in our cities, towns, and neighborhoods, 24 hours a day and 7 days a week. Make no mistake about it. They are there on behalf of you and me. At some point, we all become indebted to these courageous individuals.

I hope everyone will visit the new law enforcement memorial commemorating over 30,000 officers lives that have been lost in our Nation's history—not to mention the families that must live with those losses. From this point forward, the memorial will become the focal point of the war against crime and drugs. It should also be a reminder of those who have fought and continue to fight the good fight against crime on a daily basis.

□ 1210

RESOLUTION DENOUNCING EUROPEAN BROADCASTING INITIATIVE

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, I rise in support of the resolution denouncing the European broadcasting initiative. I would also like to commend the gentleman from Florida for his prompt action in bringing this matter to the House floor.

The action by the European Community threatens our ability to work together in the future. The European Community voted to limit one of our fastest growing and most successful exports. The 12 nations of the European Community voted to limit to 50 percent the amount of American produced television programming which could be shown in the European Community. Programming exports have grown from $100 million in 1980 to $630 million last year. This ban applies to American made programming on European broadcast stations, cable systems, and satellite systems. The European Community has voted to discriminate against American films and television programs simply because they are American made, regardless of quality or content.

The European broadcast initiative is a clear indicator that the European Community does not believe in competition, and is willing to limit the choice available to television consumers in order to protect its own industry. Many had previously kept an open mind on the EC-92 initiative. If the broadcast initiative is a sign of things to come I fear we will be facing "Fortress Europe" with respect to trade. Our current trade problems with Japan will pale in comparison if the European Community continues unchecked in this direction. It is time for all branches of our Government to work together in convincing the European Community to reverse its unwise position.

As a result of this blatantly anti-U.S. action I am preparing legislation which would bar public television stations from purchasing television programming from any foreign country which limits U.S.-made programming. Any support from taxpayer supported institutions in furthering the European entertainment industry is unacceptable as long as the European Community broadcast initiative is in effect.

I for one am prepared to take stronger action if the European Community does not reconsider its position.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. (Mr. DE LA GARZA). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules, but not earlier than 4:30 p.m.

DENOUNCING EUROPEAN COMMUNITY BROADCAST DIRECTIVE

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the resolution (H. Res. 257) denouncing the adoption by the European Community of a restrictive broadcasting directive, as amended.

The Clerk read as follows:

H. RES. 257

Whereas the European Community (EC) Council of Ministers adopted on October 3, 1989, a broadcasting directive (entitled "Council Directive on the Coordination of Certain Provisions Laid Down by Law, Regulation or Administrative Action in Member States Concerning the Pursuit of Television Broadcasting Activities") that obliges member states of the EC to take steps to ensure that each broadcaster reserves a majority of programming time for European works;

Whereas such broadcasting directive contains a local content requirement, in the form of both a quota and a minimum floor, that infringes upon the ability of United States broadcasting, film, and related industries to market their goods in the EC;

Whereas such local content requirement violates the General Agreement on Tariffs and Trade (GATT), specifically Article I relating to most-favored-nation treatment and Article III relating to national treatment;

Whereas the adoption of this restrictive and discriminatory broadcasting directive is inconsistent with claims by EC officials that the program to achieve the economic integration of Europe by the end of 1992 is not a program of protectionism and will not deny market access to non-European entities;

Whereas section 301 of the Trade Act of 1974 requires the United States Trade Representative to take action when the Trade Representatives determines that rights of the United States under any trade agreement are being denied, or an act, policy, or practice of a foreign country violates, or is inconsistent with, the provisions of, or otherwise denies benefits to the United States under, any trade agreement, or is unjustifiable and burdens or restricts United States commerce; and

Whereas such section 301 also authorizes the United States Trade Representative to take action in response to an act, policy, or practice of a foreign country that is unreasonable or discriminatory and burdens or restricts United States commerce: Now, therefore, be it

Resolved, That the House of Representatives—

(1) denounces the action taken October 3, 1989, by the EC Council of Ministers in adopting a broadcasting directive that is trade restrictive and in violation of the GATT;

(2) deplores the damage which will be inflicted on United States broadcasting, film, and related industries as a result of the implementation of the GATT-illegal restrictions under the broadcasting directive;

(3) regrets the adverse consequences which the EC action will have on—

(A) the bilateral trade relationship between the United States and the EC, particularly with respect to EC steps to achieve economic integration, and

(B) efforts to strengthen the multilateral trading system and achieve open and fair trade through the GATT Uruguay round of negotiations;

(4) strongly urges the President and the United States Trade Representative to take all appropriate and feasible action under its authority, including possible action under section 301 of the Trade Act of 1974, to protect and maintain United States access to the EC broadcasting market;

(5) requests the United States Trade Representative to consult regularly with the Committee on Ways and Means of the House of Representatives on the status of this dispute and any action which it is considering with respect to the dispute; and

(6) directs the Clerk of the House to transmit a copy of this resolution to appropriate officials in the EC.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Members of the House, this is an important and serious resolution.

A few weeks ago the European Community in its legislative process adopted a resolution directing its member states to have a television frontier, a television doctrine without frontiers, quite a misnomer for what they actually passed.

The "television without frontiers" is a restrictive measure, putting a domestic content requirement on television programs originating in the European Community, in the member states, of about 50 percent of the television time.

This, at first, does not sound serious because it certainly is a generous part of the time of the program, but it is the basis upon which they let this bill pass, made this pass, that is serious to us.

First of all, we in this country do not support and always have opposed any kind of domestic content legislation. Particularly domestic content legislation based upon cultural differences and cultural background.

We cannot permit this to happen in Europe, and we cannot permit it to happen in the rest of the world. Fifty percent, the Europeans say, "Well, you know, you would protest, Mr. GIBBONS, if we had 50 percent of your air time."

I say that is not the issue. The issue is censorship, the issue is restrictive trade practices. We do not seek any limitation on anyone's air time to be used in their television stations. We do seek open access and competitive rates. If we cannot earn the time that is sold over there, it will not be sold.

The greatest control that the Europeans have over whose time or whose television programs control their air is just by exercising their freedom of pushing one dial or another, pushing one button or another to turn off the station.

I am sure that if the programs are not popular, do not earn their way, they will not be used. But to say that any nation is entitled to restrict the issuance of its airways through unfair practices is not going to be accepted in this country.

This is a violation of the General Agreement on Tariffs and Trade, it is a violation of our rights under the General Agreement on Tariffs and Trade. It is an infringement upon the most-favored-nation provision of the General Agreement on Tariffs and Trade. It is an infringement upon other provisions of article III of GATT.

So for this reason I think we should, by a resounding vote, pass this resolution sending this shot across the bow, so to say, to the European Community, telling them that we will not accept this kind of action from them.

Now this is a serious matter because if the European Community is allowed to get away with this, certainly other nations of the world will start the same practice.

Looking at it from the American point of view, I should report to this body that trade in television, trade in pictures, trade in motion pictures is a substantial part of our trade. We have a surplus in this matter right now and we seek to protect it by lawful means.

So let us resolve that we have already warned the Europeans about this, we want them to withdraw their directive that they have passed and we do not want any other nations to adopt a similar type of directive.

□ 1220

I must say that the administration has been very vigorous and supportive in this resolution. Our Trade Representative has started taking the matter up with the Europeans, and we want to show our Trade Representative and the Europeans that we are fully behind our Government in protesting this illegal action.

Mr. Speaker, on October 17, the Committee on Ways and Means reported a resolution denouncing the adoption by the European Community [EC] of a restrictive broadcasting directive, commonly referred to as the "television without frontiers" directive. This directive is part of the European Community 1992 single market initiative, which is an attempt to eliminate all internal trade and economic barriers by January 1, 1993.

Despite these lofty goals, the European Community has taken a step backward by requiring each of the community's 12 member states to ensure that broadcasting reserve a majority of programming time for works of European origin. These local content requirements are thinly disguised protectionist actions which the U.S. Congress will not stand for. Although we strongly support the 1992 efforts to make a more competitive and unified Europe, protectionist rules in the motion picture or film industry—or any industry—are inconsistent with the claims by European Community officials that the 1992 program is not protectionist and will not deny market access for non-European entities on a nondiscriminatory basis. This resolution: Points to article I of the GATT relating to most-favored-nation treatment and article III of the GATT relating to national treatment; expresses the House's regret that the European Community action will have adverse consequences on the United States-European Community bilateral relationship as well as multilateral efforts underway in the Uruguay round of GATT negotiations.

Urges the President and the U.S. Trade Representative to take all appropriate and feasible action under its authority, including possible action under section 301 of the Trade Act of 1974, to protect and maintain

United States access to the European Community market; requests the U.S. Trade Representative to consult regularly with the Committee on Ways and Means on the status of the dispute and any possible action.

Finally, Mr. Speaker, the European Community local content directive is not a matter of cultural sovereignty, as some in Europe claim it is, but simply an attempt to protect European industry from fair competition by foreign producers. The committee, therefore, rejects arguments that such a provision is needed to protect cultural integrity of European culture. At best, this directive is trade protectionism for a single industry; at worst, it is censorship of intellectual property.

I would note that this resolution is also strongly supported by the administration. I urge all Members to support passage of House Resolution 257.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself 4½ minutes.

Mr. Speaker, I rise in support of this timely resolution introduced by Ways and Means Trade Subcommittee Chairman GIBBONS denouncing the recent European Community directive obliging member countries to take steps to ensure that broadcasters reserve a majority of television programming time for European works. This directive reeks of protectionism and discriminatory trade practices.

Over the Columbus Day weekend, I traveled as a congressional arms control talks observer to Geneva, Vienna, and Brussels. While in Belgium, I had the opportunity to discuss many issues with our NATO allies and with European Community ambassadors. The Europeans told me we had nothing to fear from EC-92. These ambassadors claimed they were integrating their markets and solidifying Europe economically and politically. They tried to reassure me that they were not creating "Fortress Europe" or using EC-92 to erect and expand trade barriers.

But, this broadcast directive is a component of the EC-92 Program. And, this directive is a blatant violation of the General Agreement on Tariffs and Trade [GATT]. It is a very discriminatory and protectionist move aimed directly at the United States. With actions like this, how can I truly believe that EC-92 is not a code name for a more protectionist fortress Europe? I raised this very example during my meetings and did not receive any satisfactory answers. While the European Community ambassadors claimed this was an issue of "cultural sovereignty," all the facts indicate it is an economically motivated protectionist measure.

Free trade means greater economic prosperity and more stable American-European relations. We have recognized this and, following the lead of then President Reagan and now President Bush, have continued to make America one of the most free and open markets. Europe must do the same. Actions like this broadcast directive are steps backward, not forward, in our trade relationship.

While I can understand European countries' desire to help their own television and cinema industries develop, protectionism is not the answer—competition is. The fact is American programs are the most popular around the globe. Foreign broadcasters air these American shows because their viewing audiences demand them. During the height of the 1975-76 Lebanese civil war there was a joke circulating that an informal cease-fire would take effect on Tuesdays and Thursdays from 8 to 9 p.m. Because everyone, including the combatants, would stop to watch "Rockford Files." While I don't know if that really happened, it does amplify the fact that American programs are No. 1 around the world, by free choice.

This resolution before us today condemns this shortsighted, anti-American European Community broadcast directive and orders the President and the U.S. Trade Representative to take all appropriate actions necessary to protect and maintain United States access to the European Community market. Our television and cinema industry is economically important both domestically and internationally. It provides for positive exports. We must continue to oppose, in the strongest terms, international actions, like this European Community broadcast directive, that discriminate against American broadcasts. I challenge our European colleagues who claim that EC-92 isn't a threat by realigning their policy to reflect their words. That means, revoke this broadcast directive and allow for free trade in the television and cinema industry. In addition to addressing the serious trade concerns of America, I also believe the European public, which enjoys American programs, will react positively.

I urge my colleagues to support this resolution. It is unfortunate it has to be here, but it is necessary.

Mr. Speaker, I yield the balance of my time to the gentleman from Minnesota [Mr. FRENZEL].

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the resolution currently being considered.

The SPEAKER pro tempore (Mr. DE LA GARZA). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. Mr. Speaker, I rise today in strong support of House Resolution 257, denouncing the adoption by the European Community of a restrictive broadcasting directive.

The broadcasting directive, adopted on October 3, 1989, contains a local content requirement which is not only trade restrictive, but also in violation of articles I and III of the General Agreement on Tariffs and Trade. While some in the European Community have suggested that the directive is based upon cultural sovereignty, the issue is, quite simply, economically motivated. The restrictions adopted by the European Community are based simply on country of origin, not on cultural content.

The establishment of European Community 1992 has generally been viewed as a positive development in economic and political relationships between the United States and European nations. Such a protectionist measure does real harm to the evolving relationships between our countries under the European Community 1992 plan.

The United States must respond quickly and appropriately to the adoption of this directive. The resolution calls upon the President and the U.S. Trade Representative to take every appropriate and feasible measure, including possible action under section 301 of the Trade Act of 1974. I was pleased to see our trade representative, Carla Hills, issue a strong statement critical of the European Community directive, and I hope that Ambassador Hills will pursue this matter vigorously.

Mr. Speaker, I urge my colleagues to support this resolution, and I thank the gentleman for yielding.

Mr. GIBBONS. Mr. Speaker, I yield 5 minutes to a member of the Committee on Foreign Affairs, and the chairman of the American-Canadian delegation, the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, I would like to commend my colleague, the gentleman from Florida [Mr. GIBBONS] for his work on this issue, and commend the Committee on Foreign Affairs, the subcommittee which I chair, which has held a number of hearings on the whole issue of what is happening in Europe with the EC-92 movement.

This resolution today is as if the captain of the *Titanic* was warned there was a small chunk of ice ahead. This is a serious problem. It is an important resolution. However, this is simply the tip of the iceberg as the European Community proceeds to integrate its own economy. However, in that process, the European Community is beginning to raise walls to American products.

The Europeans are doing this at a good economic time. These are economic times where the European economy has grown. There is not the internal pressure as resulting from high unemployment and economic dislocation for severe measures. However, in

these good economic times, we are already seeing the walls built around Europe. In the broadcast industry, a $1.2 billion market for American products, this is the first shot across the bow. However, there are other areas where we find the same threat.

I am somewhat amazed that the Europeans feel that American television might affect the European culture. However, Italians watching British television would not affect the Italian culture. What we see are the walls beginning to close the European market. That advantage will then be used to compete and to beat America in other markets around the world, in Africa, in Asia, and in Central America. Not only is there a wall being prepared for American television and American movie products, but there is the beginning of a process of significant subsidies to European television and European movie making.

Like the broadcast directive, we have the potential for walls to be put up for American auto parts. There are suggestions of a 60 to 70 percent domestic content rule that would squeeze out even American part suppliers, the few small parts that we provide for European or Japanese cars that end up in Europe with American parts.

□ 1230

In semiconductors, corporations have moved their decision to build large plants for chips from the United States to Europe. A diffusion plant that was originally planned for the northeastern part of the United States will now be built in Europe.

Using both local content and other restrictions, America has to be ready. This administration is certainly asleep at the switch. We have seen the last decade where the Japanese economy has begun to dominate the American economy. The European assault will be even greater. We see 20 million of the wealthiest consumers in the world banded together in EC-92, and it is not their fault what is happening. It is our fault. It is the administration that is asleep at the switch. The Commerce Department has yet to get approval to have its few personnel, the three or four people who are trying to get to Brussels, to represent American interests.

If our administration continues to be asleep at the switch, it is going to depend on the gentleman from Florida [Mr. GIBBONS] and others to bring legislation to the floor to have Congress take the lead. The President of the United States and his Cabinet have not done the job. We do not have the kind of aggressive policy to confront what is happening with EC-92 to protect American economic opportunities abroad. This is just the beginning of the battle, and we cannot afford to take the kind of losses that we have had in Asia.

Mr. Speaker, I again commend the gentleman from Florida [Mr. GIBBONS] for his work.

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, let me first extend my commendations to the chairman of the subcommittee, the gentleman from Florida [Mr. GIBBONS], and to the ranking member, the gentleman from Minnesota [Mr. FRENZEL], on this legislation. I commend them for their constancy in dealing with the subject of trade, as they have ever since I have known them. It is an important subject.

Let me say also that I want to thank them for their constant interest in the European Parliament. It is not easy to get Members of Congress to travel, with all the misunderstandings and abuse we have to take, but I want the Members to know that they make a valuable contribution to the meetings with the European Parliament. They are involved also with the British-American Parliament and with the American-Canadian Parliament. These are three very important groups which discuss trade, economics, and politics as they concern the United States.

Mr. Speaker, this issue is not a new issue. We have been debating this issue in other forums, but this is the first time where we have had official action taken on the European side.

I do not think we ought to be driven by fear. I do not think the two distinguished gentlemen who bring this resolution to the floor are concerned about fear of Europe in 1992 and the competition that will come as a result of integration. After all, integration has been the mainstay of our policy for 40 years, and finally here it is. We are not fearful, but we do want to operate on a level playing field, as the gentleman from Florida has said many times, and it is not now level.

But this is symptomatic. The reason this is important is not just because Europe wants to cut us out; it is symptomatic of what is going on around the world, with the tremendous spread of communication and information systems and the fear that exists in other areas about the fact that they are going to be overwhelmed by American ingenuity and American capability and American production in the arts and in communications. That is the real problem.

So we hear this kind of talk in all the international forums about a new international order of communications. This is a different way of saying that they are afraid that they will be behind the eight ball in both the artistic skill and the technical skill of dealing with the problems of communication in the arts and sciences, and, therefore, feel the only way they can protect themselves is to have all these gadget laws that say, "You cannot invade our sovereignty," whether they call it cultural space or airspace.

The SPEAKER pro tempore (Mr. DE LA GARZA). The time of the gentleman from Florida [Mr. FASCELL] has expired.

Mr. FRENZEL. Mr. Speaker, I yield 2 additional minutes to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I thought I would have finished by now, but I got carried away.

Mr. Speaker, this is the concern that I see. This is the reason why a statement of this kind by the Congress has to be made with respect to our European allies and friends. We have been fighting this battle across the world and we cannot afford to let this one go by.

The fact that our friends might be disturbed is beside the point. We are sticking our finger in the dike, but the leak is getting bigger all the time. This is a universal problem affecting the Third World and the industrialized world. We have to take our stand. This resolution indicates our concern in the United States for not only our own rights, which certainly are important, but, more importantly, for what we consider to be the best way that the world can manage matters of trade and information and communication.

Mr. Speaker, I thank both gentlemen for yielding time.

The SPEAKER pro tempore. The Chair wishes to state that the gentleman from Florida [Mr. GIBBONS] has 4 minutes remaining and the gentleman from Minnesota [Mr. FRENZEL] has 13½ minutes remaining.

Mr. FRENZEL. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, when House Resolution 257 was introduced, I chose not to be a sponsor. I was not present when it passed our committee. But, I do intend to vote for it on the floor because I think in general the resolution is an appropriate response to what I consider to be a dangerous action taken by the EC.

On the other hand, one of the reasons that I am not a sponsor is because I want to be sure that the American response to what I consider a bad act of protectionism is not an intemperate response, and I want to invite Members to exercise some care when they are dealing with this particular issue.

The resolution clearly and correctly points out that this TV directive was a serious breach of EC international trade obligations. Most of us in this body believe that that EC has made a serious error. And, of course, our resolution in response to it asks our administration to take all action that it can under the law to see that the directive is modified or repealed.

Mr. Speaker, when we passed our Trade Act of 1986, many of the nations of the world, including the EC,

were upset about it, particularly with the protectionist elements that may be generally described as direct reciprocity, unilateral declarations, and mandatory retaliations. We told those countries at the time, "You really ought to trust us. See how we manage it. Yes, it may look a little fierce, but we are going to try to abide by our international obligations."

In this case the Europeans are telling us the same thing. It is important that we pass the resolution, that we express our concern in the rigorous terms. On the other hand, I think it is also important that these matters be resolved in the appropriate international fora. We must approach the matter with great care.

□ 1240

Mr. Speaker, this resolution is one that deserves the support of the House. I think, however, as we send it on to what we hope is final passage, we do need to thank our administration for really being in step with the Congress, and for taking this matter directly to the Europeans and trying to work the problem out in a careful way.

The administration, by the way, does support this resolution and will be grateful for congressional support for the things that it is trying to do.

I say as a personal thought that we are probably going to increase the level of TV business that we are doing in Europe under any circumsances. Our business won't be immediately affected. The Europeans have articulated a claim, which I reject, that this is a service uncovered by the rules of the GATT. We have two very important objectives in the current GATT Uruguay round, that of intellecutal property rights and that of the extension of GATT rules to services which are going to be affected by our discussions and whatever final decision occurrs on this matter. That is another reason I think that we want to be very careful.

In the end, however, we should never let culture become the last refuge of trade scoundrels because we are seeing again and again that culture, health, and safety, and other items, being used as a masquerade for good old-fashioned trade protectionism. We do not need any more of that.

I hope this resolution will give the EC the proper message of both determination and careful consideration, and I hope it is passed unanimously.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise to express my strong support for House Resolution 257, a resolution to denounce the European Community's broadcast directive, and I commend the distinguished chairman of the Subcommittee on Trade, the gentleman from Florida [Mr. GIBBONS] for his timely and significant work on it.

Last September, the gentleman from Florida, SAM GIBBONS, the gentleman from California, TOM LANTOS, and I cochaired our semiannual interparliamentary exchange between Members of Congress and Members of the European Parliament. During our meetings, we made our European colleagues acutely aware of the fact that this measure is just a poorly camouflaged attempt at old-fashioned protectionism.

The European Community directive obligates member nations to take steps to ensure that broadcasters reserve a majority of their television programming time for European works.

This resolution notes that the EC's action is discriminatory, protectionist, and is in clear violation of the General Agreement on Tariffs and Trade. This resolution not only condemns the EC's action, but it requests the President and the U.S. Trade Representative to take all appropriate action to ensure U.S. access to the EC broadcasting market.

Mr. Speaker, our European friends claim that this measure is designed to facilitate the preservation of cultural identity. But, we all recognize that as a lame excuse to take a protectionist stance against U.S. industry.

I have always been an advocate of the 1992 integrated market plan. This measure impugns all of the good that EC-92 represents. I'm just saying to our good European colleagues: "Just Play Fair." The broadcast directive is unfair, and I am pleased to support this measure.

Mr. FRENZEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield the remainder of my time to the gentleman from New Mexico [Mr. RICHARDSON] to close the debate.

Mr. RICHARDSON. Mr. Speaker, what is significant of this legislation, I think above all, is seeing individuals like the gentleman from Florida [Mr. GIBBONS] and the gentleman from Minnesota [Mr. FRENZEL], the foremost freetraders in the Congress, stating that the European decision was wrong and supporting the resolution. I think that is the most significant aspect of what we are doing today.

Second, let us make no mistakes. What is this decision based on? It is based on fear, and it is based on greed.

What we are talking about very clearly is as follows: This broadcast directive adopted 2 weeks ago confirms fears of a fortress Europe by extending to all 12 EC members the protectionist TV quotas that already exist in France and Great Britain. Let me repeat: France and Great Britain. It obligates EC members to observe a majority that is 51 percent television quota for EC-produced programming while leaving the door open, and I think this is the most damaging aspect, while leaving the door open to any member country for any harsher restrictions.

Mr. Speaker, there are 12 EC countries. Only two countries did not support this resolution: Belgium and Denmark. France wanted to go even further, and there are some people that say, "Well, is this the start of fortress Europe?" Of course it is. Nineteen ninety-two hopefully will not turn out to be fortress Europe, but early indications indicate that they will be.

Now the other argument. We are talking about Hollywood, the entertainment industry, and some may say, "Well, aren't they big enough to take care of themselves?" My colleagues, that is not the issue. Yes, they are powerful interests. But in the same vein I think it is important that we stand up for a level playing field, for equity.

U.S. programming, American television, is open to any access, and I have proposed, and many others have proposed; I remember the gentleman from Florida [Mr. GIBBONS] telling European legislators, "How can we deal with this in a positive way?" Perhaps we would be interested in more joint investments with the Europeans, producing film and programming in Europe. Perhaps we can spur European programming in the United States, more incentives to European film makers in the United States. Well, they are not really interested in that. It is based on greed by individuals like Mr. Maxwell that see the potential for 1992 to create some artificial barriers.

We are we going to do about this issue? Now we are going to pass this resolution, I hope, but then I think it is up to the executive branch, using the tools that we have given it in the trade bill, to retaliate in some kind. Yes, we can pass this resolution. However my hope is that such retaliation be judicious, that it will involve Carla Hills, who I think in this issue has been very responsive. I think she has made our views known.

But then what are we going to do about it?

Mr. Speaker, I think we can retaliate mindlessly, but we can also retaliate in a way that Europe recognizes that we are concerned, that we are sending a message, and there I think I would look, and the Congress would look, to individuals like the gentleman from Florida [Mr. GIBBONS] and the gentleman from Minnesota [Mr. FRENZEL] to devise a way to send a message to the Europeans that what we are doing is really not acceptable.

Mr. Speaker, this was a blatantly protectionist decision. They say it is because they want to preserve their culture. Now that is the most absurd argument from countries in Europe

that have written history for the rest of the world. Is showing "Dallas" on European programming going to disrupt the European culture in Great Britain, for example? In France?

This is something that should be decided by the consumers of the world. Why is it that European consumers watch American programming and they have preference for American programming? Because they like it.

Let it be open. I urge strong support for this very important resolution.

MOTION PICTURE ASSOCIATION OF AMERICA, INC.,
Washington, DC., October 11, 1989.

Hon. SAMUEL GIBBONS,
Chairman, Trade Subcommittee, House Ways and Means Committee, Longworth House Office Bldg., Washington, DC.

DEAR MR. CHAIRMAN: The U.S. motion picture industry strongly supports H. Res. 257 which calls on the President and the United States Trade Representative to take appropriate action to protect and maintain access to the European Community broadcasting market.

The approval by the European Community of an artificial barrier to the free entry of American entertainment programs on television is a sorry way to begin a magnificent adventure in western Europe.

This seamless political web, creating borderless nations, organized as a new commonwealth stripped clean of the old trade hedgerows that disturbed and interrupted the movement of goods and services between 12 countries, puts forth as one of its first decrees, a "not welcome" sign.

The Broadcast Directive adopted by the EC last week confirms fears of a "fortress Europe" by extending to all 12 EC members the protectionist TV quotas already in place in France and the United Kingdom. It obligates EC members to observe a "majority" (51 percent) television quota for EC produced programming, while leaving the door open to any member country to impose even more harsh restrictions.

Despite clear warnings from the Congress and unflagging efforts by the administration to persuade the EC to resist protectionist pressures, the EC has said no to competition and viewers' choice, and yes to trade barriers.

There are two glaring laws to this new EC Broadcast Directive.

First, it is funded by a false theory. That theory declares that if a nation's government can build a fence around the local television industry, exiling or hobbling other creative works that come from beyond their border, that local industry will, by some as yet unexplained miracle, develop an enticement for local audiences. This theory depends for its life on the belief that political leaders can command great films to be made. That this theory has been amply discredited does not seem to shrink the delusion. Creative works directed to the cinema and the television set are not canned goods or machine tools or motor cars. Each creative work is unique, unlike all others. Every time a creative group makes a new program they create an enterprise that never existed before. There is no assembly line to roll out movie after movie, TV program after TV program.

No country, no community of countries as the EC surely is, can invest its future in coarse regulations and artificial restrictions, none of which produce anything. No quota ever made a movie or a television program. Talented people do.

What the European Commission did was to take a step backward in time. It is a decision with no connection to reality. The fact that it is supposed to be a "political decision" in no way suppresses an obvious truth, which is the vacancy between an EC goal of a robust competitive TV programming industry, and the means to achieve that goal.

Which brings me to the second flaw in the decision.

The only way any nation or collection of nations can ever build a cinema and/or a television industry that has endurance is to inspire talented, skilled men and women to create programs that people find entertaining and want to see. Building a wall, however porous, will not increase the supply of talent. Never in any area in the world has a restriction, a quota, or whatever one chooses to call a barrier, ever enlarged the reservoir of creative talent. Never. Anywhere. With all due respect to the dedicated, intelligent men and women who inhabit the Parliaments and legislatures of the world, none of them are capable of ordering good programs to be made, nor do they have the power to force citizens to watch something they don't want to watch.

The U.S. marketplace for movies and TV programs is open to the world. It is true that foreign language programs are not widely distributed in the U.S. But this is not the result of any government mandate. The fact is that U.S. audiences are not attracted to dubbed or subtitled programs. There is no law, no restriction, no barrier to any maker or marketer of foreign language material. Programs made in this country, by American companies, are treated no differently from programs made by others in other lands. The only arbiter is the exhibitor of that material. And the exhibitor's sole "authority" is the response of the audience. In this country, the consumer makes the final decision. No one else.

It is impossible to quantify in precise figures the trade losses that will occur within the EC and in other nations that will be attracted to this precedent. The Directive will stifle growth in existing TV markets, and impose severe limits on emerging markets, including private TV and satellite broadcasters. The real impact may not be felt so much in existing markets as in markets just beginning to develop. One thing is certain. The quota will hurt. Count on it.

So all we are asking is that we are given the same freedom of access to other markets that non-American companies find so alluring in our market. Is that so radical a plea? Isn't that what competition is all about?

You, Chairman Rostenkowski, your colleagues on the Trade Subcommittee and on the full Ways and Means Committee are to be commended for calling on the President and the U.S. Trade Representative to keep competition alive.

Sincerely,

JACK VALENTI.

Mr. EMERSON. Mr. Speaker, on October 3, the Council of Ministers within the European Community adopted a broadcasting directive designed to ensure that "where practicable" a majority of entertainment programs shown on European television be made in Europe. We have been told by the European Community that the broadcasting market will increase therefore enabling U.S. companies to enjoy a larger piece of a much larger pie. While I am very optimistic about the single trading bloc, I view this quota restriction as a protectionist act by the Commission which raises speculation about what we can expect in the future.

Understandably the United States cannot be involved in the decisionmaking process of the Community's directives, but we as Members of Congress do have an obligation to monitor the developments. The feeling within the European Community is that House Resolution 257 is reactionary and totally unnecessary. My feeling is that it sends a clear message to the Commission that we are concerned with the direction EC–92 is taking.

We presently enjoy a good relationship with the European Community; 1992 can afford numerous opportunities for both American and European Community businesses alike, provided we establish an open market policy. The recently adopted broadcasting directive makes one wonder how committed the Community is toward that objective.

Mr. LEVINE of California. Mr. Speaker, as a cosponsor of House Resolution 257, I join Mr. GIBBONS and the other supporters of this resolution in denouncing the European Community's enactment of restrictive quotas on the European importation of American produced television programming. The fact that these quotas are supposedly voluntary makes them hardly less destructive in their intent or their impact on U.S. trade in these products.

European Community leaders have persistently assured Congress and the American people that their efforts to forge a unified market is a purely positive development that will expand world trade and lead to greater benefits for all who trade with European Community nations. The European Community continues to assert that the unified market represents a liberalization of world trade, and not a protectionist trading bloc.

Mr. Speaker, the adoption of the European broadcast directive on October 3, which essentially creates a local content requirement for European programming, is undeniably a protectionist trade barrier against a product in which the United States has a competitive edge. The broadcast directive makes a mockery of the European Communities' "television without frontiers" plan for the European airwaves after unification; it would more appropriately be named "television without competition."

Such discrimination against American television programming and films could have a disastrous effect on the export earnings of American film and television producers. Export earnings are in many cases essential for a television studio merely to break even on the cost of producing a television program.

As European TV stations proliferate, American studios have dramatically increased their foreign sales, because they have a competitive product that Euopean television stations want to buy. It is estimated that European TV stations will pay $1 billion for American program rights this year. There are expanded opportunities for all as total airtime increases, but certain European Community officials feel it necessary to enforce quotas and protect European studios from American competition.

The Gibbons resolution makes clear our firm denunciation of the European Community television quotas, and urges the President and

the USTR to take action against this discriminatory directive, including possibly a section 301 response.

We must respond swiftly and decisively to European Community attempts to restrict and discriminate against one of America's most successful industries. I urge my colleagues to give their full support to this resolution.

Mr. KOLTER. Mr. Speaker, today, we are considering House Resolution 257, a resolution denouncing the European Economic Community's recent directive which limits the amount of U.S. television programs which could be shown in the 12-nation European Economic Community.

Any of my colleagues who are concerned over the future vibrancy and growth of American business should express their strongest opposition to the EEC action. I will not mince any words on this issue. The European Community has thought nothing of erecting a major obstacle to the multibillion dollar American broadcasting industry. It has set up a quota, and thereby engaged in the most flagrant of unfair trade practices.

For years, we have been assured that the upcoming Economic Union of Europe would not hurt American business. This recent action scarcely supports that assertion.

In the preamble of the treaty establishing the European Community, the member nations expressed a "determination to ensure that economic and social progress of their countries by combined action to eliminate the barriers which divide Europe."

Europe may be interested in eliminating barriers among its nations, but the broadcast directive is establishing a clear barrier between Europe and America. How many other barriers to American business will the European Economic Community construct between now and 1992?

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in strong support of House Resolution 257, a resolution unanimously approved by the Committee on Ways and Means on October 17. This resolution denounces the adoption by the European Community [EC] Council of Ministers, on October 3, of a 1992 broadcasting directive called television without frontiers.

This directive obliges European Community member states to take steps to ensure that each of its broadcasters resumes a majority of programming time for works of European origin by the end of 1992. I agreed to cosponsor this resolution, which was introduced by Trade Subcommittee Chairman GIBBONS, because I share his concern over the directive's domestic content requirement.

The directive's local content requirement discriminates against American film and television programs and erects a clear trade barrier to the European market. Such a trade barrier violates the GATT, at a time when both the United States and the European Community are engaged in an effort to strengthen GATT rules and disciplines. It also undermines the credibility of all those who have claimed that the European Community's program to create a single internal market by 1992 will not result in protectionist policies.

I am deeply disturbed by the direction which the broadcast directive takes. It is my hope that passage of this House Resolution will communicate to the European Community the strength and seriousness of our concerns.

Mr. BERMAN. Mr. Speaker, I rise in strong support of House Resolution 257, and commend my colleagues on the Committee on Ways and Means for expeditiously bringing this measure to the floor.

The action on October 3 by the Council of Ministers of the European Community imposing local content quotas on television programming in Europe must be denounced in the strongest terms by this body, and answered by strong action by the President and the U.S. Trade Representative.

I would advise our friends and allies in Europe, as they embark on the grand enterprise of "Europe 1992," that the American experience is instructive.

When the Confederated States of America decided to join together under a new constitution, one of their key purposes was to establish a common market. In the 200 years of our experience under that Constitution, the results have been a resounding success.

By eliminating our own internal barriers, including tariffs, customs requirements and duties which the individual States had imposed on goods from other States, we succeeded in creating the most vibrant economy in the world.

But we also learned that whenever we deviated from an equally free trade policy globally with respect to non-United States goods, the results were disastrous.

I fervently hope that our European allies will learn the lesson of Smoot-Hawley through our mistakes and not condmen the global economy to relive it.

The creation of a true European Common market will bring a better, richer life for Europeans. But there is nothing inherent in a common market which justifies protectionism toward nonmember nations.

And make no mistake about it, the European broadcasting directive is protectionism, plain and simple.

By their action in directing that a majority of television broadcasts in the European Community must be of European origin, the Council of Ministers has targeted one of the most successful of all U.S. exports.

For years, American films and television programming have made a major contribution to the United States balance of trade. And for good reason: Hollywood produces the movies and television the world's viewers want to see.

We have long enjoyed free trade in entertainment. Preeminent foreign stars and directors have for years enriched American films, and the spaghetti westerns are testimony to the efforts of Europeans to replicate a great all-American art form.

This body must not stand by while artificial barriers are imposed on free trade in television programming in the name of cultural sovereignty or for any other purpose.

When actions are taken to inhibit a free market, consumers and the nations of the world alike suffer. I urge my colleagues to support the resolution, and the administration to take heed of it in pursuing a tough response to the European broadcasting directive.

Mr. CRANE. Mr. Speaker, I rise in support of House Resolution 257, denouncing the EC broadcast directive of October 3, 1989, a restrictive broadcasting directive which contains an onerous local content requirement to the detriment of U.S. broadcasting, film, and related industries. Such a protectionist directive cannot be justified merely because it is cloaked in the rhetoric of cultural sovereignty. This new EC directive is blatant economic censorship designed to protect local industry.

The EC broadcasting directive is unjustifiable and discriminatory, and I believe contradicts fair trade principles. By virtue of it's attributes, there is no doubt that this directive is actionable under U.S. trade statutes, and specifically under section 301 which addresses unfair trading practices.

When the Trade Subcommittee met with the French Trade and Industry Minister on September 20, we indicated that we had serious problems with the draft directive, and said that we viewed it as a most provocative action. We have heard much from the Europeans about how the 1992 integration program is not designed to create a "fortress" Europe. In the face of a directive like this, I believe we have reason to question this premise. I had hoped to have our concerns dealt with in a sensible manner, and it hurts me to have to support this resolution since I would like to think that the EC has some regard for a rules based trading system.

Furthermore, I am concerned about the impact that this restrictive action will have on the scope of broadcasting, an industry so fundamentally linked to freedom of speech. If Europeans do not enjoy, or perhaps feel offended by American programming, the choice they always have is to change the channel or turn the broadcast off. The government need not make this choice for its citizens. When the government creates rules that amount to censorship, one has every reason to suspect that the real goal is to prop up an uncompetitive local industry.

The other feature of the EC broadcast directive that disturbs me sufficiently to vote for the adoption of this resolution is that it is trade distorting and affects not only the United States but all non-EC countries; and in doing so undermines the spirit of the current Uruguay round of multilateral trade negotiations. I understand that my concerns also reflect those of the U.S. Trade Representative and the administration.

Generally speaking, I am not enthusiastic about the use of section 301; however, if we do not respond to unfair trade practices, our very reticence may encourage other countries to resort to unilateral measures as a means of solving trade problems outside the multilateral disciplines of the GATT. There is a real need for us to moderate such moves. We are looked up to and closely monitored by other countries to gauge our reaction or acceptance of such trade policies, so we have to give a clear message that this type of unfair trade policy will not be tolerated.

I repudiate the EC claim that their broadcasting directive is a service, which currently falls outside the GATT. I together with the administration and most of my colleagues classify the provision of our material for broadcast

as goods. We should take the EC to the GATT over this directive and their interpretation while at the same time pursuing our interests through the use of section 301. Rather than the EC making a unilateral judgment on the issue we need to obtain a positive and rapid GATT arbitration.

I support House Resolution 257, and I call on my colleagues to fall in with one voice in opposing such seriously discriminatory directives so as to maintain an open post 1992 EC.

Mr. MARKEY. Mr. Speaker, I rise today in support of House Resolution 257, a resolution denouncing the European Community's recently adopted quotas on foreign television programming.

Last summer, the Subcommittee on Telecommunications and Finance, which I chair, held a hearing on this directive and its proposed restrictions. I expressed then and reiterate today my deep disappointment in the European Community for proposing these quotas. This directive—one of the first clear signals we have received on what Europe 1992 may mean for the United States—comes across more like a red flag flying over Fortress Europe than as a friendly invitation to be neighbors in a global telecommunications village.

Those of us who seek fair trade around the world are troubed by the suggestion of quotas in any industry, but quotas in the fast-growing European telecommunications industry are particularly troubling. If the proposed unified European market is achieved in 1992, it will be one of the richest and best educated in the world. It will bring together more than 320 million consumers—slightly more than the North American market—and will have a combined output of goods and services worth $4.5 trillion.

It will, in short, provide vast new opportunities, particularly in telecommunications. Right now, American television and film industries return $2.5 billion in surplus to the American trade balance sheet. Many producers in America and elsewhere see Western Europe as the market with the most potential for growth in the 1990's. The same changes that have radically affected the American television market during the last decade are now transforming the European market and providing tremendous opportunities for producers, braodcasters and consumers.

While all of us favor a more harmonized, less restrictive, and vibrant European television market—and, therefore, applaud the general thrust of the EC's directive—we are concerned that these quotas may just be protectionism masquerading behind cultural patriotism.

What we truly want is television without frontiers, not television without Americans. The EC has claimed this directive does not pose a threat because it is not a legal document, it is a political document. But the United States must allow itself to be deluded; the directive does instruct member countries to establish quotas. During the next several critical months, as the EC begins to interpret the details of the directive, the U.S. Trade Representative and the Commerce Department should remain vigilant on this crucial matter and ensure that U.S. interests are protected.

The SPEAKER pro tempore (Mr. DE LA GARZA). All time has expired.

The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and agree to the resolution, House Resolution 257, as amended.

The question was taken.

Mr. GIBBONS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, I was unexpectedly detained on business in the 19th District of Pennsylvania, and was unable to participate in activities on the floor of the House. Had I been present, however, I would have voted "yea" on House Resolution 257, and "yea" on H.R. 2095.

● 1250

UNITED STATES CONGRESSIONAL "GIFT OF DEMOCRACY" TO POLAND RESOLUTION

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 74) authorizing the "Gift of Democracy" from the United States Congress to the new Senate and Sejm in Poland, as amended.

The Clerk read as follows:

S. CON. RES. 74

Whereas the members of the new Sejm and Senate of Poland are undertaking the historic process of organizing the first parliament in Poland in more than half a century with a majority of democractically elected members;

Whereas these new legislators, citizens from many walks of life, are taking on the tremendous responsibility of such organization without the benefit of previous legislative experience;

Whereas these new legislators are united in their commitment to reform dramatically the social and economic structure of Poland;

Whereas these new legislators are dedicated to permanent establishment of individual freedom and have a renewed hope for, and confidence in, the future of Poland;

Whereas, faced with the need to revive the economy of Poland, these new legislators must create entities to facilitate efficient government;

Whereas, among many other challenges to be met in the coming months, the Sejm and Senate of Poland must confront a lack of training and equipment for legislative systems management, legislative research, parliamentary procedure, and related legislative matters; and

Whereas the Congress has a well established legislative operations capability: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That this resolution may be cited as the "United States Congressional Gift of Democracy to Poland Resolution".

SEC. 2. (a) The Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate, acting jointly, shall establish an ad hoc delegation of employees of the legislative branch, with expertise in legislative systems management, legislative research, parliamentary procedure, and related legislative matters, to travel to Poland.

(b) In order to assist the Polish people in developing an effective parliament, the delegation shall—

(1) assess the training and equipment needs of the Sejm and Senate of Poland in the areas of expertise referred to in subsection (a); and

(2) not more than 30 days after completion of the assessment, submit to the Congress a report of findings derived from the assessment.

(c) Upon receipt of the report, the leadership of the Congress shall endeavor to identify and secure the ways and means to provide an appropriate United States congressional gift of democracy to Poland in the form of training and equipment relating to the areas of expertise referred to in subsection (a). In this endeavor, the leadership is encouraged to coordinate its efforts with appropriate private and public entities such as the National Democratic Institute for International Affairs, the National Republican Institute for International Affairs, and the parliaments of the nations of Western Europe.

SEC. 3. Travel expenses of the delegation shall be paid in accordance with the policies of the House of Representatives or the Senate, as applicable. For purposes of payment of such expenses, employees of the Congressional Research Service shall be treated in the same manner as employees of the Senate.

The SPEAKER pro tempore (Mr. DE LA GARZA). Is a second demanded?

Mr. THOMAS of California. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. ANNUNZIO] will be recognized for 20 minutes, and the gentleman from California [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is another historic moment in the House. We are about to pass a resolution which will help give birth to a democracy. We are about to help the Polish people strengthen their legislature with a gift of training and equipment. Not since World War II, when the Iron Curtain fell across Eastern Europe, has there been such an opportunity. The lights are going on again in these captive nations. The Poles don't need magic, and they don't need empty rhetoric. They need practical help. They need typewriters and copy machines. They need to establish a library. And they need to adopt operating procedures for their legislature.

We have experts in these fields. And lending our expert help is the least this Congress can do to help a sister democracy. What equipment and expertise is in Poland is still in the hands of the Communist Party. This "gift of democracy" of training and equipment will allow all the rest of the people to participate in the building of their new democratic government. I foresee the day when the mortal remains of the great Polish patriot Ignace Jan Paderewski can finally leave his temporary resting place in Arlington Cemetery for a final repatriation in the homeland he so passionately loved.

Mr. THOMAS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, last week we heard much discussion about aid to Poland. I would like to further that discussion by asking your support for Senate Concurrent Resolution 74, as amended, authorizing a "gift of democracy" to Poland. Poland, for the first time in 50 years, has begun the process of rebuilding its parliament on the principles of democracy that have been inherent in our political system for over 200 years. This process will be neither easy nor immediate for the Polish people and Senate Concurrent Resolution 74, as amended to assist them in their efforts.

Senator DOMENICI introduced this resolution in the Senate last month after he and four other respected leaders, Vice-President Mondale, former Senate Majority Leader Howard Baker, former Senator Tom Eagleton and former Member of Congress Jim Jones, returned from a conference in Poland. During that conference, the American attendees witnessed firsthand the glaring lack of resources of the new Polish Parliament. These spirited legislators are attempting to build a new parliament without computers, other basic equipment, or staff trained in parliamentary procedure and legislative research. Returning from the conference, Senator DOMENICI introduced this resolution on behalf of the American team as a practical step in helping Poland build their new, democratic parliament.

The resolution authorizes the joint leadership of the House and Senate to designate a team of staff from the legislative branch with expertise in legislative systems management, parliamentary procedure and other vital skills to assess Poland's equipment and training needs in creating their new parliament. In 30 days, the team will report back to Congress on its findings. Joint leadership will then determine the most effective ways and means of implementing a "gift of democracy" to Poland.

I ask my colleagues to join me in helping Poland's new parliament and urge them to support Senate Concurrent Resolution 74, as amended.

Mr. ANNUNZIO. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. FASCELL], the distinguished chairman of the Foreign Affairs Committee.

Mr. FASCELL. Mr. Speaker, I thank the gentleman for yielding me this time.

The transition that is taking place is monumental. They need all the help they can get, and certainly one of the areas is running a parliamentary body. Hopefully, we can provide real assistance for that.

I would like to make a suggestion for the RECORD. If the group going over there gets around to talking about rules of a parliamentary body, I would hope that one of the things they will dissuade them from doing is adopting some of the rules of the other body and this body. One of them that I have in mind is adopting nongermane amendments to any piece of legislation that the body sends over to the House. The other is putting legislation in an appropriation bill. I would hope that some progress could be made with a new parliamentary body and that some of the rules could be changed.

I want to compliment both gentlemen, the chairman and the ranking member of the committee, for sending this expert help to the fledgling group in Poland. Certainly we wish them well.

Mr. THOMAS of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ANNUNZIO] that the House suspend the rules and concur in the Senate concurrent resolution, Senate Concurrent Resolution 74, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution, as amended, was concurred in.

The title of the Senate concurrent resolution was amended so as to read: "Concurrent resolution authorizing a staff assessment of the legislative operations needs of the new Sejm and Senate of Poland in order to facilitate a gift of democracy to Poland, consisting of training and equipment to meet those needs.".

A motion to reconsider was laid on the table.

REAUTHORIZING AND AMENDING THE DEEP SEABED HARD MINERAL RESEARCH ACT

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2120) to amend the Deep Seabed Hard Mineral Resources Act to authorize appropriations to carry out the provisions of the act for fiscal years 1990, 1991, and 1992, as amended.

The Clerk read as follows:

H.R. 2120

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 310 of the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1470) is amended—

(1) by striking "and" immediately after "September 30, 1986,"; and

(2) by inserting ", and $1,525,000 for each of the fiscal years 1990, 1991, 1992, 1993 and 1994" immediately before the period at the end thereof.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from Idaho [Mr. CRAIG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2120, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 2120, as amended, is to provide for a 5-year reauthorization of the Deep Seabed Hard Mineral Resources Act to continue the Deep Seabed Mining Program under the jurisdiction of the National Oceanic and Atmospheric Administration.

This act regulates U.S. ocean mining of manganese nodules in international waters and establishes a licensing and permitting regime in which U.S. ocean mining consortia must receive a license from NOAA to explore for these minerals and a permit for commercial recovery.

The act establishes a program to encourage and maintain ocean mining industry interest in exploration and commercial production of manganese nodules. It is transitional in nature in the sense that it: First, provides for domestic regulation of U.S. citizens who conduct seabed mining; second, recognizes the rights of foreign miners operating under comparable foreign mining regimes; and third, provides for a progression to a new international system if and when a law of the sea treaty enters into force for the United States.

Under the act, NOAA has funded many research efforts aimed at resolving environmental concerns. The goal

of the NOAA Environmental Research Program is to provide timely and relevant scientific information for Government decisions to be made to ensure that mining of manganese nodules is done in an environmentally sound manner.

The legislation that we are considering today, H.R. 2120, provides for a 5-year reauthorization of the Deep Seabed Hard Mineral Resources Act and authorizes funding at a level of $1,525,000 for each year. This 5-year reauthorization will provide stability and assurance for the continuance and support of the important environmental research conducted under this program.

Mr. Speaker, I wish to applaud the ranking member of the Subcommittee on Mining and Natural Resources, the distinguished gentleman from Idaho, LARRY CRAIG, for his outstanding and exemplary leadership in introducing this important legislation.

Mr. Speaker, I also wish to thank the chairman of the Committee on Merchant Marine and Fisheries, Mr. JONES, and the chairman of the Subcommittee on Oceanography and Great Lakes, Mr. HERTEL, for their cooperation in moving this bill so expeditiously with the 5-year reauthorization. I also want to express my appreciation to the Committee on Foreign Affairs and its chairman, Mr. FASCELL, for their cooperation in bringing this important legislation to the floor.

Mr. Speaker, I reserve the balance of my time.

□ 1300

Mr. CRAIG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2120, a bill that would reauthorize the Deep Seabed Hard Mineral Resources Act for 5 years. Before I address the specifics of H.R. 2120, I would like to thank Chairman FASCELL and Ranking Minority Member BROOMFIELD of the Committee on Foreign Affairs, Chairman JONES and Ranking Minority Member DAVIS of the Committee on Merchant Marine and Fisheries and Chairman UDALL of Committee on Interior and Insular Affairs and Chairman RAHALL of the Subcommittee on Mining and Natural Resources for their interest and assistance in moving this bill.

Mr. Speaker, H.R. 2120, would reauthorize the Deep Seabed Hard Mineral Resources Act for 5 years—fiscal years 1990 through 1994. The reauthorization of H.R. 2120 will allow for the continuation of the Deep Seabed Mining Program under the jurisdiction of the National Oceanic and Atmospheric Administration [NOAA].

The Deep Seabed Hard Mineral Resources Act of 1980 regulates U.S. ocean mining of manganese nodules in deep international waters. The act establishes a licensing/permitting regime in which U.S. ocean mining consortia must receive a license from NOAA to explore for minerals and a permit for commercial recovery.

The wealth and importance of minerals that lie beneath the ocean floor are still unknown. We must remain ready to explore for and to produce the wealth of materials that lie beneath the sea. H.R. 2120 will reauthorize the Deep Seabed Resources Act for 5 years. This authorization will allow for continuity of both ongoing research and the administration of the Deepsea Mining Program by the National Oceanic and Atmospheric Administration.

H.R. 2120 provides for an annual funding level of $1,525,000 during the 5-year authorization for the purposes of carrying out the act. The administration supports the passage of this bill.

Mr. Speaker, I recommend passage of H.R. 2120.

Mr. JONES of North Carolina. Mr. Speaker, I rise in support of H.R. 2120.

First, I would like to thank the gentleman from West Virginia [Mr. RAHALL], the chairman of the Mining and Natural Resources Subcommittee, for bringing this bill to the floor today.

I would also like to congratulate the subcommittee's ranking minority member, Mr. CRAIG, for sponsoring the bill and helping us consider it this afternoon.

I would like to point out that this law—passed in 1980—originally came out of the Committee on Merchant Marine and Fisheries. We have maintained close oversight over the program which has been ably administered by the National Oceanic and Atmospheric Administration [NOAA].

H.R. 2120, as amended, reauthorizes the deep seabed mining program administered by NOAA for 5 years at level funding of $1.525 million per year.

NOAA has been administering the deep seabed mining program since the enactment of the Deep Seabed Hard Mineral Resources Act (Public Law 96-283) in 1980. The act provides a regulatory framework for U.S. companies to conduct exploration and development of manganese nodules on the deep seabed—the area beyond U.S. jurisdiction.

To date, NOAA has issued exploration licenses to four U.S. consortia—Ocean Mining Associates, Ocean Management, Inc., Ocean Minerals Co., and Kennecott Consortium. The timeframe involved in the reauthorization coincides with years numbers 6 through 10 of the licensees' initial 10-year license terms.

According to industry estimates, the four licensees have spent more than one-half billion dollars since the early 1960's on deep ocean mining R&D. Due to the general decline in the worldwide mining industry, U.S. companies are primarily engaged in the refinement of past engineering work and the analysis of data received as a result of settlement agreements with U.S. and foreign consortia.

The United States has concluded agreements to resolve minesite conflicts in the Pacific Ocean with Belgium, Canada, the Federal Republic of Germany [FRG], France, Italy, Japan, The Netherlands, the United Kingdom, and the U.S.S.R. Pursuant to section 118 of the law, NOAA also has designated as "reciprocating states," the FRG, France, Italy, Japan, and the United Kingdom, which have similar mining laws.

In January 1989, NOAA issued final regulations governing the commercial recovery aspects of deep seabed mining. Due to the depressed metals market, no company is expected to apply for a commercial recovery permit for the next 5 years or so.

In the meantime, NOAA is concentrating on environmental research in support of future regulatory decisions. The focus of its studies has been on the nature and significance of mining impacts on sea floor marine life, called benthic fauna. Relatedly, NOAA is working with its licensees to designate stable reference areas within minesites to judge the environmental impacts of seabed mining.

I am pleased that the Committee on Merchant Marine and Fisheries, the Committee on Interior and Insular Affairs, and the Committee on Foreign Affairs have been able to work together to bring this program to the attention of our colleagues.

This is a good bill. It should be passed overwhelmingly.

Mr. CRAIG. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DE LA GARZA). The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 2120, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Deep Seabed Hard Mineral Resources Act to authorize appropriations to carry out the provisions of the Act for fiscal years 1990, 1991, 1992, 1993, and 1994."

A motion to reconsider was laid on the table.

ABANDONED MINE RECLAMATION ACT OF 1989

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2095), to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize the collection of reclamation fees, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2095

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Abandoned Mine Reclamation Act of 1989".

SEC. 2. ABANDONED MINE RECLAMATION FUND.

(a) SOURCES OF DEPOSITS.—Section 401(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231(b)) is amended as follows:

(1) Amend paragraph (1) to read as follows:

"(1) the reclamation fees levied under section 402;".

(2) Strike "and" at the end of paragraph (3); strike the period at the end of paragraph (4) and insert "; and"; and add the following new paragraph at the end:

"(5) interest credited to the fund under subsection (e).".

(b) USE OF MONEYS.—Section 401(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231(c)) is amended as follows:

(1) In paragraph (1), strike "402(g)(2)" and insert "402(g)(1)".

(2) Amend paragraph (2) to read as follows:

"(2) for transfer on an annual basis to the Secretary of Agriculture for use under section 406;".

(3) In paragraph (6), strike "by contract" and insert "conducted in accordance with section 3501 of the Omnibus Budget Reconciliation Act of 1986" after "projects".

(4) Strike "and" at the end of paragraph (9).

(5) Strike paragraph (10) and insert the following:

"(10) for use under section 411;

"(11) for the purpose of section 507(c), except that not more than $10,000,000 shall annually be available for such purpose; and

"(12) all other necessary expenses to accomplish the purposes of this subtitle.".

(c) INTEREST.—Section 401 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) is amended by adding the following new subsection at the end:

"(e) INTEREST.—The Secretary of the Interior shall invest such portion of the fund as is not, in his judgment, required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable for the needs of such fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yield on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to, and form a part of, the fund.".

SEC. 3. RECLAMATION FEES.

(a) RATE.—Section 402(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(a)) is amended by adding the following at the end: "The rate at which such fee is imposed shall be modified as provided in section 411(a) in the case of any state or Indian tribe certified under section 411(a).".

(b) DUE DATE.—Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking "fifteen years after the date of enactment of this Act unless extended by an Act of Congress" and inserting "ending September 30, 2007".

(c) STATEMENT.—Section 402(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(c)) is amended by adding the following at the end thereof: "Such statement shall include an identification of the permittee of the coal mining operation if different from the operator, the owner of the coal, the preparation plant, tipple, or loading point for the coal, and the person purchasing the coal from the operator. The report shall also specify the number of the permit required under section 510 and the mine safety and health identification number. Each quarterly report shall contain a notification of any changes in the information required by this subsection since the date of the preceding quarterly report. The information contained in the quarterly reports under this subsection shall be maintained by the Secretary in a computerized database.".

(d) AUDITS.—Section 402(d) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(d)) is amended by inserting "(1)" after "(d)" and by adding the following at the end thereof:

"(2) The Secretary shall conduct such audits of coal production and the payment of fees under this subtitle as may be necessary to insure full compliance with the provisions of this subtitle. For purposes of performing such audits the Secretary (or any duly designated officer, employee, or representatives of the Secretary) shall, at all reasonable times, upon request, have access to, and may copy, all books, papers, and other documents of any person subject to the provisions of this subtitle. The Secretary may at any time conduct audits of any coal mining and reclamation operation, including without limitation, tipples and preparation plants, as may be necessary in the judgment of the Secretary to insure full and complete payment of the fees under this subtitle.".

(e) NOTICE.—Section 402(f) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(f)) is amended by adding the following at the end thereof: "Whenever the Secretary believes that any person has not paid the full amount of the fee payable under subsection (a) the Secretary shall notify the Federal agency responsible for insuring compliance with the provisions of section 4121 of the Internal Revenue Code of 1986.".

SEC. 4. ALLOCATION OF FUNDS.

Section 402(g) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)) is amended to read as follows:

"(g) ALLOCATION OF FUNDS.—(1) Moneys deposited into the fund shall be allocated by the Secretary to accomplish the purposes of this subtitle as follows:

"(A) 50 percent of the reclamation fees collected annually in any State (other than fees collected with respect to Indian lands) shall be allocated annually by the Secretary to the State, subject to such State having each of the following—

"(i) An approved abandoned mine reclamation program pursuant to section 405.

"(ii) Lands, waters, and facilities which are eligible pursuant to section 404 (in the case of a State not certified under section 411(a)) or pursuant to section 411(b) (in the case of a State certified under section 411(a)).

"(B) 50 percent of the reclamation fees collected annually with respect to Indian lands shall be allocated annually by the Secretary to the Indian tribe having jurisdiction over such lands, subject to such tribe having each of the following—

"(i) An approved abandoned mine reclamation program pursuant to section 405.

"(ii) Lands, waters, and facilities which are eligible pursuant to section 404 (in the case of an Indian tribe not certified under section 411(a)) or pursuant to section 411(b) (in the case of a tribe certified under section 411(a)).

"(C) The funds allocated by the Secretary under this paragraph to States and Indian tribes shall only be used for annual reclamation project construction and program administration grants.

"(D) To the extent not expended within 3 years after the date of any grant award under this paragraph, such grant shall be available for expenditure by the Secretary in any area under paragraph (2), (3), (4), or (5).

"(2) 20 percent of the amounts available in the funds in any fiscal year which are not allocated under paragraph (1) in that fiscal year (including that interest accruing as provided in section 401(e) and including funds available for reallocation pursuant to paragraph (1)(C)), shall be allocated to the Secretary only for the purpose of making the annual transfer to the Secretary of Agriculture under section 401(c)(2).

"(3) Amounts available in the fund which are not allocated to States and Indian tribes under paragraph (1) or allocated under paragraph (2) and paragraph (5) are authorized to be expended by the Secretary for any of the following:

"(A) For the purpose of section 507(c), either directly or through grants to the States, subject to the limitation contained in section 401(c)(11).

"(B) For the purpose of section 410 (relating to emergencies).

"(C) For the purpose of meeting the objectives of the fund set forth in section 403(a) for eligible lands, waters, and facilities pursuant to section 404 in States and on Indian lands where the State or Indian tribe does not have an approved abandoned mine reclamation program pursuant to section 405.

"(D) For the administration of this subtitle by the Secretary.

"(4)(A) Amounts available in the fund which are not allocated under paragraphs (1), (2), and (5) or expended under paragraph (3) in any fiscal year are authorized to be expended by the Secretary under this paragraph for the reclamation or drainage abatement of lands and waters within unreclaimed sites which were mined for coal or which were affected by such mining, wastebanks, coal processing or other coal mining processes and left in an inadequate reclamation status.

"(B) Funds made available under this paragraph may be used for reclamation or drainage abatement at a site referred to in subparagraph (A) if the Secretary makes either of the following findings:

"(i) A finding that the coal mining operation occurred during the period beginning on August 4, 1977, and ending on or before the date on which the Secretary approved a State program pursuant to section 503 for State in which the site is located, and that any funds for reclamation or abatement which are available pursuant to a bond or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site.

"(ii) A finding that the surety of the mining operator became insolvent prior to the date of enactment of this paragraph, and as of such date, funds immediately available from proceedings relating to such insolvency, or from any financial guarantee or other source are not sufficient to provide for adequate reclamation or abatement at the site.

"(C) In determining which sites to reclaim pursuant to this paragraph, the Secretary shall follow the priorities stated in paragraphs (1) and (2) of section 403(a). The Secretary shall ensure that priority is given to those sites which are in the immediate vicinity of a residential area or which have an adverse economic impact upon a local community.

"(D) Amounts collected from the assessment of civil penalties under section 518 are

authorized to be appropriated to carry out this paragraph.

"(E) Any State may expend grants made available under paragraphs (1) and (5) for reclamation and abatement of any site referred to in subparagraph (A) if the State, with the concurrence of the Secretary, makes either of the findings referred to in clause (i) or (ii) of subparagraph (B) and if the State determines that the reclamation priority of the site is the same or more urgent than the reclamation priority for eligible lands and waters pursuant to section 404 under the priorities stated in paragraphs (1) and (2) of section 403(a).

"(F) For the purposes of the certification referred to in section 411(a), sites referred to in subparagraph (A) of this paragraph shall be considered as having the same priorities as those stated in section 403(a) for eligible lands and waters pursuant to section 404. All sites referred to in subparagraph (A) of this paragraph within any State shall be reclaimed prior to such State making the certification referred to in section 411(a).

"(5) The Secretary shall allocate 40 percent of the amount in the fund after making the allocation referred to in paragraph (1) for making additional annual grants to States and Indian tribes which are not certified under section 411(a) to supplement grants received by such States and Indian tribes pursuant to paragraph (1)(C) until the priorities stated in paragraphs (1) and (2) of section 403(a) have been achieved by such State or Indian tribe. The allocation of such funds for the purpose of making such expenditures shall be through a formula based on the amount of coal historically produced in the State or from the Indian lands concerned prior to August 3, 1977. Funds allocated or expended by the Secretary under paragraph (2), (3), or (4) of this subsection for any State or Indian tribe shall not be deducted against any allocation of funds to the State or Indian tribe under paragraph (1) or under this paragraph.

"(6) Any State may receive and retain, without regard to the 3-year limitation referred to in paragraph (1)(D), up to 10 percent of the total of the grants made annually to such State under paragraphs (1) and (5) if such amounts are deposited into either—

"(A) a special trust fund established under State law pursuant to which such amounts (together with all interest earned on such amounts) are expended by the State solely to achieve the priorities stated in section 403(a) after the year 2007, or

"(B) an acid mine drainage abatement and treatment fund established under State law as provided in paragraph (7).

"(7)(A) Any State may establish under State law an acid mine drainage abatement and treatment fund from which amounts (together with all interest earned on such amounts) are expended by the State to implement, in consultation with the Soil Conservation Service, acid mine drainage abatement and treatment plans approved by the Secretary. Such plans shall provide for the comprehensive abatement of the causes and treatment of the effects of acid mine drainage within qualified hydrologic units affected by coal mining practices.

"(B) The plan shall include, but shall not be limited to, each of the following:

"(i) An identification of the qualified hydrologic unit.

"(ii) The extent to which acid mine drainage is affecting the water quality and biological resources within the hydrologic unit.

"(iii) An identification of the sources of acid mine drainage within the hydrologic unit.

"(iv) An identification of individual projects and the measures proposed to be undertaken to abate and treat the causes or effects of acid mine drainage with the hydrologic unit.

"(v) The cost of undertaking the proposed abatement and treatment measures.

"(vi) An identification of existing and proposed sources of funding for such measures.

"(vii) An analysis of the cost-effectiveness and environmental benefits of abatement and treatment measures.

"(C) The Secretary may approve any plan under this paragraph only after determining that such plan meets the requirements of this paragraph. In conducting an analysis of the items referred to in clauses (iv), (v), and (vii) the Director of the Office of Surface Mining shall obtain the comments of the Director of the Bureau of Mines. In approving plans under this paragraph, the Secretary shall give a priority to those plans which will be implemented in coordination with measures undertaken by the Secretary of Agriculture under section 406.

"(D) For purposes of this paragraph the term 'qualified hydrologic unit' means a hydrologic unit—

"(i) in which the water quality has been significantly affected by acid mine drainage from coal mining practices in a manner which adversely impacts biological resources; and

"(ii) which contains lands and waters which are—

"(I) eligible pursuant to section 404 and include any of the priorites stated in section 403(a); and

"(II) proposed to be the subject of the expenditures by the State (from amounts available from the forfeiture of bonds required under section 509 or from other State sources) to mitigate acid mine drainage.

"(8) Of the funds available for expenditure under this subsection in any fiscal year the Secretary shall allocate annually not less than $2,000,000 for expenditure in each State, and for each Indian tribe, having an approved abandoned mine reclamation program pursuant to section 405 and, eligible lands, waters, and facilities pursuant to section 404 so long as an allocation of funds to such State or such tribe is necessary to achieve the priorities stated in paragraphs (1) and (2) of section 403(a).".

SEC. 5. FUND OBJECTIVES.

Section 403 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233) is amended as follows:

(1) Insert "(a) PRIORITIES.—" after "SEC. 403.".

(2) Strike "lands and water" and insert "lands, waters, and facilities".

(3) Insert ", except as provided for under section 411," after "title".

(4) Insert "and" after paragraph (2).

(5) Strike paragraphs (4), (5), and (6).

(6) Add at the end the following new subsections:

"(b) UTILITIES AND OTHER FACILITIES.—(1) Reclamation projects involving the protection, repair, replacement, construction or enhancement of utilities, such as those relating to water supply, roads and such other facilities serving the public adversely affected by coal mining practices shall be deemed part of the objectives set forth, and undertaken as they relate to, the priorities stated in subsection (a).

"(2) Any State or Indian tribe not certified under section 411(a) may expend up to 30 percent of the funds allocated to such State or Indian tribe in any year through the grants made available under paragraphs (1) and (5) of section 402(g) for the purpose of protecting, repairing, replacing, constructing, or enhancing facilities relating to water supply, including water distribution facilities and treatment plants, to replace water supplies adversely affected by coal mining practices.

"(3) If the adverse effect on water supplies referred to in this subsection occurred both prior to and after August 3, 1977, section 404 shall not be construed to prohibit a State or Indian tribe referred to in paragraph (2) from using funds referred to in such paragraph for the purposes of this subsection if the State or Indian tribe determines that such adverse effects occurred predominantly prior to August 3, 1977.

"(c) INVENTORY.—For the purposes of assisting in the planning and evaluation of reclamation projects pursuant to section 405, and assisting in making the certification referred to in section 411(a), the Secretary shall maintain an inventory of eligible lands and waters pursuant to section 404 which meet the priorities stated in paragraphs (1) and (2) of subsection (a). Under standardized procedures established by the Secretary, States and Indian tribes with approved reclamation programs pursuant to section 405 may offer amendments to update the inventory as it applies to eligible lands and waters under the jurisdiction of such States or tribes. The Secretary shall provide such States and tribes with the financial and technical assistance necessary for the purpose of making inventory amendments. The Secretary shall compile and maintain an inventory for States and Indian lands in the case when a State or Indian does not have an approved reclamation program pursuant to section 405. On a regular basis, but not less than annually, the projects completed under this subtitle shall be so noted on the inventory under standardized procedures established by the Secretary.".

SEC. 6. ELIGIBLE LANDS AND WATERS.

Section 404 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1234) is amended by inserting ", except as provided for under section 411" after "processes", and by adding the following at the end thereof: "For other provisions relating to lands and waters eligible for such expenditures, see section 402(g)(4), section 403(b)(2), and section 409.".

SEC. 7. STATE RECLAMATION PROGRAMS.

Section 405 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1235) is amended by adding the following at the end thereof:

"(l) No State shall be liable under any provision of Federal law for any costs or damages as a result of action taken or omitted in the course of carrying out a State abandoned mine reclamation plan approved under this section. This subsection shall not preclude liability for cost or damages as a result of gross negligence or intentional misconduct by the State. For purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence.".

SEC. 8. CLARIFICATION.

Section 406(d) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236(d)) is amended by striking "experimental".

SEC. 9. VOIDS AND TUNNELS.

Section 409 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1239) is amended—

(1) in subsection (a) by striking "chairman of any tribe" and inserting in lieu thereof "the governing body of an Indian tribe";

(2) in subsection (b), by striking "or Indian reservations under the provisions of subsection 402(g)" and inserting "or Indian tribes under the provisions of paragraphs (1) and (5) of section 402(g)"; and

(3) by amending subsection (c) to read as follows:

"(c)(1) The Secretary may make expenditures and carry out the purposes of this section in such States where requests are made by the Governor or governing body of an Indian tribe for those reclamation projects which meet the priorities stated in section 403(a)(1), except that for the purposes of this section the reference to coal in section 403(a)(1) shall not apply.

"(2) The provision of section 404 shall apply to this section, with the exception that such mined lands need not have been mined for coal.

"(3) The Secretary shall not make any expenditures for the purposes of this section in those States which have made the certification referred to in section 411(a).".

SEC. 10. EMERGENCY PROGRAM.

Section 410 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1240) is amended as follows:

(1) in the third sentence of subsection (b), strike "such land and shall" and insert "such land to the extent necessary to".

(2) Add at the end the following new subsection:

"(c) In making expenditures from the fund to undertake reclamation projects for the purposes of this section, the Secretary shall ensure that all adverse effects of coal mining practices meeting the priorities stated in paragraphs (1) and (2) of section 403(a) which exist at such reclamation projects are abated through such expenditure.".

SEC. 11. CERTIFICATION.

Title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 et seq.) is amended as follows:

(1) Redesignate sections 411, 412, and 413 as sections 412, 413, and 414, respectively.

(2) Insert after section 410 the following new section:

"SEC. 411. CERTIFICATION.

"(a) MODIFICATION OF FEES.—Where the Governor of a State, or the head of a governing body of an Indian tribe, with an approved abandoned mine reclamation program under section 405 certifies to the Secretary that all of the priorities stated in section 403(a) for eligible lands, waters, and facilities pursuant to section 404 have been achieved, and the Secretary, after notice in the Federal Register and opportunity for public comment, concurs with such certification, the rate at which the reclamation fees are applicable to such State or tribe under section 402(a) shall be modified. The modified fees shall be at a rate of 18 cents per ton of coal produced by surface coal mining and 8 cents per ton of coal produced by underground coal mining, or 10 percent of the value of the coal at the mine, as determined by the Secretary, whichever is less, except that the reclamation fee for lignite coal shall be at a rate of 2 percent of the value of the coal of the mine, or 5 cents per ton, whichever is less. A certification under this section may be issued by the Secretary on his own motion after consultation with the State or tribe concerned and after notice in the Federal Register and opportunity for public comment. Certification under this subsection as it relates to the modified fees may not take place until after 1992. The Secretary may concur with any certification by a State or Indian tribe in any region or certify any such State or tribe on his own motion, but may not concur with the modified fees or modify such fees on his own motion if, upon a motion made by a State or Indian tribe within the same region, the Secretary determines that such modified fees would result in a significant competitive disadvantage in the production and marketing of coal for the State or tribe which made such motion.

"(b) ELIGIBLE LANDS, WATERS, AND FACILITIES.—If the Secretary has concurred in a State or tribal certification under subsection (a), for purposes of determining the eligibility of lands, waters, and facilities for annual grants under section 402(g)(1), section 404 shall not apply, and eligible lands, waters, and facilities shall be those—

"(1) which were mined or processed for minerals or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status prior to August 3, 1977; and

"(2) for which there is no continuing reclamation responsibility under State or other Federal laws.

In determining the eligibility under this subsection of Federal lands, waters, and facilities under the jurisdiction of the Forest Service or Bureau of Land Management, in lieu of the August 3, 1977, date referred to in paragraph (1) the applicable date shall be August 28, 1974, and November 26, 1980, respectively.

"(c) PRIORITIES.—Expenditures of moneys for lands and waters referred to in subsection (b) shall reflect the following objectives and priorities in the order stated (in lieu of the priorities set forth in section 403):

"(1) The protection of public health, safety, general welfare, and property from extreme danger of adverse effects of mineral mining and processing practices.

"(2) The protection of public health safety, and general welfare, from adverse effects of mineral mining and processing practices.

"(3) The restoration of land and water resources and the environment previously degraded by the adverse effects of mineral mining and processing practices.

"(d) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—Sites and areas designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 and following) or which have been listed for remedial action pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 and following) shall not be eligible for expenditures from the Fund under this section.

"(e) UTILITIES AND OTHER FACILITIES.—Reclamation projects involving the protection, repair, replacement, construction, or enhancement of utilities, such as those relating to water supply, roads, and such other facilities serving the public adversely affected by mineral mining and processing practices, and the construction of public facilities in communities impacted by coal or other mineral mining and processing practices, shall be deemed part of the objectives set forth, and undertaken as they relate to, the priorities states in subsection (c).

"(f) APPLICATION OF OTHER PROVISIONS.—The provisions of sections 407 and 408 shall apply to this section, except that for purposes of this section the references to coal in sections 407 and 408 shall not apply.".

SEC. 12. SMALL OPERATOR ASSISTANCE.

Section 507(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257(c)) is amended by striking "100,000" and inserting "300,000".

SEC. 13. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF CONTENTS.—The table of contents in the first section of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201) is amended as follows:

(1) Redesignate the items relating to sections 411, 412, and 413 as items 412, 413, and 414, respectively.

(2) Insert after the item relating to section 410 the following:

"Sec. 411. Certification.".

(b) REFERENCE.—Section 712(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1302(b)) is amended to read as follows:

"(b) For the implementation and funding of section 507(c), see the provisions of section 401(c)(11).".

(c) REPEAL.—Section 406(i) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236(i)) is repealed.

(d) TECHNICAL CORRECTIONS.—The following provisions of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 and following) are amended as follows:

(1) Section 405(a) is amended by striking out "preparation" and inserting "preparation".

(2) Section 405(h) is amended by striking out "Upon approved" and inserting "Upon approval".

(3) Section 406(a) is amended by striking out "including owners" and inserting "(including owners".

(4) Section 407(a)(4) is amended by striking out the period and inserting a semicolon.

(5) Section 407(a) is amended by striking out "Then" and inserting "then".

(6) Section 407(e) is amended by striking out "paragraph (1), of this subsection" and inserting "paragraph (1) of subsection (c)".

(7) Section 407(g)(2) is amended by striking out "the use of" and inserting "the use or".

SEC. 14. SAVINGS CLAUSE.

Nothing in this Act shall be construed to affect the certification made by the State of Wyoming to the Secretary of the Interior prior to the date of enactment of this Act that such State has completed the reclamation of eligible abandoned coal mine lands, except that for the purposes of the amendments made by this Act, the State of Wyoming shall not be deemed to have made the certification as it relates to the modified fees referred to in subsection (a) of section 411, as added by this Act, until the date referred to in such subsection.

SEC. 15. EFFECTIVE DATE.

The amendments made by this Act shall take effect at the beginning of the first fiscal year immediately following the fiscal year in which this Act is enacted.

SEC. 16. ABANDONED MINERALS AND MINERAL MATERIALS MINE RECLAMATION FUND.

(a) NEW SUBTITLE.—Title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) is amended by inserting

"Subtitle A—Abandoned Mine Reclamation Fund"

immediately before section 401 and by adding the following new subtitle at the end thereof:

"Subtitle B—Abandoned Minerals and Mineral Materials Mine Reclamation Fund

"SEC. 421. ABANDONED MINERALS AND MINERAL MATERIALS MINE RECLAMATION.

"(a) ESTABLISHMENT.—There is established on the books of the Treasury of the United States a trust fund to be known as the Abandoned Minerals and Mineral Materials Mine Reclamation Fund (hereinafter in this subtitle referred to as the 'Fund'). The Fund shall be administered by the Secretary of the Interior acting through the Director, Office of Surface Mining Reclamation and Enforcement.

"(b) AMOUNTS.—The following amounts shall be credited to the Fund for the purposes of this Act:

"(1) All moneys received (after the commencement of the first fiscal year beginning after the enactment of this subtitle) from the disposal of mineral materials pursuant to section 3 of the Act of July 31, 1947 (30 U.S.C. 603) to the extent such moneys are not specifically dedicated to other purposes under other authority of law.

"(2) Donations by persons, corporations, associations, and foundations for the purposes of this subtitle.

"(3) Such other amounts as may be appropriated to the Fund.

"SEC. 422. USE AND OBJECTIVES OF THE FUND.

"(a) IN GENERAL.—The Secretary is authorized to use moneys in the Fund for the reclamation and restoration of land and water resources adversely affected by past minerals and mineral materials mining, including but not limited to, any of the following:

"(1) Reclamation and restoration of abandoned surface mined areas.

"(2) Reclamation and restoration of abandoned milling and processing areas.

"(3) Sealing and filling abandoned deep mine entries.

"(4) Planting of land adversely affected by past mining to prevent erosion and sedimentation.

"(5) Prevention, abatement, treatment and control of water pollution created by abandoned mine drainage.

"(6) Control of surface subsidence due to abandoned deep mines.

"(7) Such expenses as may be necessary to accomplish the purposes of this subtitle.

"(b) PRIORITIES.—Expenditure of moneys from the Fund shall reflect the following priorities in the order stated:

"(1) The protection of public health, safety, general welfare and property from extreme danger from the adverse effects of past minerals and mineral materials mining practices.

"(2) The protection of public health, safety, and general welfare from the adverse effects of past minerals and mineral materials mining practices.

"(3) The restoration of land and water resources previously degraded by the adverse effects of past minerals and mineral materials mining practices.

"(c) UTILITIES AND OTHER FACILITIES.—Reclamation projects involving the protection, repair, replacement, construction, or enhancement of utilities, such as those relating to water supply, roads, and such other facilities serving the public adversely affected by mineral and mineral materials mining and processing practices, and the construction of public facilities in communities impacted by mineral and mineral materials mining and processing practices, shall be deemed part of the objectives set forth, and undertaken as they relate to, the priorities stated in subsection (b).

"SEC. 423. ELIGIBLE AREAS.

"(a) ELIGIBILITY.—Lands, waters, and facilities eligible for reclamation expenditures under this Act shall be those—

"(1) which were mined or processed for minerals and mineral materials or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status prior to the date of enactment of this subtitle; and

"(2) for which there is no continuing reclamation responsibility under State or Federal laws.

In determining the eligibility under this subsection of Federal lands, waters, and facilities under the jurisdiction of the Forest Service or Bureau of Land Management in lieu of the date referred to in paragraph (1), the applicable date shall be August 28, 1974, and November 26, 1980, respectively.

"(b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—Sites and areas designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 and following) or which have been listed for remedial action pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 and following) shall not be eligible for expenditures from the Fund under this subtitle.

"SEC. 424. FUND ALLOCATION AND EXPENDITURES.

"(a) ALLOCATIONS.—(1) Moneys available for expenditure from the Fund shall be allocated on an annual basis by the Secretary in the form of grants to eligible States, or in the form of expenditures under subsection (b), to accomplish the purposes of this subtitle. Such moneys may also be provided pursuant to cooperative agreements between such States and the Bureau of Land Management, the Forest Service, or the National Park Service for such purposes.

"(2) The Secretary shall distribute moneys from the Fund to eligible States and to the entities described under subsection (b) based on the greatest need for such moneys pursuant to the priorities stated in section 422(b). In determining the greatest need for the distribution of moneys from the Fund, the Secretary shall give priority to those eligible States which do not receive grants under subtitle A.

"(b) DIRECT FEDERAL EXPENDITURES.—Where a State is not eligible, or in instances where the purposes of this subtitle may best be accomplished otherwise, moneys available from the Fund may be:

"(1) Expended directly by the Secretary through the Director, Office of Surface Mining Reclamation and Enforcement.

"(2) Expended through grants made by the Secretary through the Director of the Bureau of Land Management.

"(3) Expended through grants made by the Secretary to the Chief of United States Forest Service.

"(4) Expended through grants made by the Secretary through the Director of the National Park Service.

"SEC. 425. STATE RECLAMATION PROGRAMS.

"(a) ELIGIBLE STATES.—For the purpose of section 424(a), an 'eligible State' is one which the Secretary determines to meet each of the following requirements:

"(1) Within the State there are mined lands, waters, and facilities eligible for reclamation pursuant to section 423.

"(2) The State has developed an inventory of such areas following the priorities established under section 422(b).

"(3) The State has established, and the Secretary has approved, a State abandoned minerals and mineral materials mine reclamation program for the purpose of receiving and administering grants under this subtitle. Any State with an approved abandoned mine reclamation program pursuant to section 405 shall be deemed to have met the requirements of this paragraph.

"(b) MONITORING.—The Secretary shall monitor the expenditure of State grants to ensure they are being utilized to accomplish the purposes of this subtitle.

"(c) SUPPLEMENTAL GRANTS.—In the case of any State with an approved abandoned mine reclamation program pursuant to section 405, grants to such State made pursuant to this subtitle may be made as a supplement to grants received by such State pursuant to section 402(g)(1).

"(d) STATE PROGRAMS.—(1) The Secretary shall approve any State abandoned minerals and mineral materials mine reclamation program submitted to the Secretary by a State under this subtitle if the Secretary finds that the State has the ability and necessary State legislation to implement such program and that the program complies with the provisions of this subtitle and the regulations of the Secretary under this subtitle.

"(2) No State shall be liable under any provision of Federal law for any costs or damages as a result of action taken or omitted in the course of carrying out an approved State abandoned minerals and mineral materials mine reclamation program under this section. This paragraph shall not preclude liability for cost or damages as a result of gross negligence or intentional misconduct by the State. For purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence.

"SEC. 426. AUTHORIZATION OF APPROPRIATIONS; TERMINATION.

"(a) AUTHORIZATION OF APPROPRIATIONS.—Amounts credited to the Fund are authorized to be appropriated for the purpose of this subtitle without fiscal year limitations.

"(b) TERMINATION.—The Fund established under this subtitle and the authorities provided in this subtitle shall terminate September 30, 2007.".

(b) RULEMAKING.—The Secretary of the Interior shall promulgate such rules as may be necessary to implement the amendments made by this section within 180 days after the enactment of this Act.

(c) CONFORMING CHANGE.—All references to "this title" in sections 401 through 413 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 and following) are amended to read "this subtitle".

(d) TABLE OF CONTENTS.—The table of contents for title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 and following) is amended by inserting

"Subtitle A—Abandoned Mine Reclamation Fund"

immediately before the item relating to section 401 and by adding the following at the end thereof:

"Subtitle B—Abandoned Minerals and Mineral Materials Mine Reclamation Fund

"Sec. 421. Abandoned minerals and mineral materials mine reclamation.
"Sec. 422. Use and objectives of fund.
"Sec. 423. Eligible areas.
"Sec. 424. Fund allocation and expenditures.

"Sec. 425. State reclamation programs.
"Sec. 426. Authorization of appropriations; termination.".

SEC. 17. ENVIRONMENTAL STANDARDS.

(a) NEW SECTION.—Title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) is amended by adding the following new section after section 414:

"SEC. 415. ENVIRONMENTAL STANDARDS.

"The Secretary shall, within one year after the enactment of this section, establish by regulation reasonable and effective environmental standards for abandoned coal mine reclamation projects funded under this subtitle, and shall develop and implement procedures to ensure that such standards are met. In promulgating the standards, the Secretary shall incorporate the standards set forth in section 515 and section 516 to the extent he deems such standards appropriate for purposes of this subtitle.".

(b) CONFORMING AMENDMENT.—The table of contents in the first section of the Surface Mining Control and Reclamation Act of 1977 is amended by adding the following new item after the item relating to section 414:

"Sec. 415. Environmental standards.".

The SPEAKER pro tempore. Is a second demanded?

Mr. CRAIG. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from Idaho [Mr. CRAIG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on H.R. 2095, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation represents the continuation of a legacy which has its roots in the landmark Surface Mining Control and Reclamation Act of 1977.

This is a legacy of concern over the plight of the people of the Appalachian region, and those in mining regions of the Nation as a whole, whose lives are affected on a daily basis by the health, safety, and environmental hazards associated with abandoned mine lands.

Prior to the enactment of the 1977 act, in the absence of adequate regulation, surface coal mining operations were often undertaken without due regard to the environment.

By the 1970's, it became increasingly clear that the proliferation of acidified streams, highwalls, refuse piles, open mine shafts, and other hazards associated with past coal mining practices could not be ignored.

The 1977 Surface Mining Act imposed new and stringent regulations governing coal mining and reclamation operations. In addition, through the establishment of an abandoned mine reclamation fund financed by a fee assessed on every ton of coal mined, the law sought to foster the reclamation of lands previously left in an abandoned and inadequate reclamation status.

Over the years, many of the scars left over from past mining practices—the moonscapes, the burning refuse piles and old mine shafts—have been reclaimed. Lands are being contoured, revegetated, and brought back to productive uses.

However, as we near the expiration of the current program, the inventory of unreclaimed high-priority abandoned coal mine sites is still overwhelming. In the absence of reauthorizing legislation, billions of dollars worth of health and safety threatening type projects will remain unfunded. In addition, little has been done to address the threats posed by old noncoal hardrock mine workings.

The bill before us today, H.R. 2095, would reauthorize the Abandoned Mine Reclamation Program in order to provide the resources necessary for the reclamation of these sites.

Under the legislation much of the law's basic structure, such as the commitment to State primacy in dealing with abandoned mine problems and the 50-50 split of the fund between State/tribal and secretarial shares would be maintained.

However, H.R. 2095 would make a number of improvements to the existing program. Perhaps the most noteworthy is the legislation's focusing of the program's resources to combating the most high priority problem areas.

The bill seeks to accomplish this goal in a number of ways. It would allocate 40 percent of the secretarial share of the fund to be redistributed to program States and tribes until they complete all of their high-priority abandoned coal mine reclamation projects.

The legislation would also bolster the emergency program by requiring that associated priority 1 and 2 sites be addressed at the same time the emergency project is undertaken.

Further, provision is made to insure that program States which continue to have priority 1 and 2 projects receive a minimum yearly allocation from the fund.

In addition, the secretarial share of the fund would continue to be used for the reclamation of high-priority abandoned coal mine lands in States and on Indian lands where the State or tribe does not have an approved abandoned mine reclamation program.

This legislation also proposes a number of new initiatives.

First, the bill would provide additional resources to combat abandoned coal mine hazards by enabling interest to accrue to unappropriated amounts in the fund, and by strengthening reclamation fee compliance.

Second, the legislation explicitly recognizes the severe public health hazard associated with water supplies contaminated by abandoned coal mine workings.

Third, H.R. 2095 acknowledges the need to engage in the comprehensive abatement and treatment of acid mine drainage.

Fourth, the bill seeks to address high-priority sites abandoned immediately after enactment of the 1977 act, prior to the imposition of Federal reclamation bonding requirements.

Fifth, H.R. 2095 would keep faith with the law's unfulfilled commitment to provide adequate resources for the Rural Abandoned Mine Program.

Finally, through a new subtitle to title IV, the bill would establish an abandoned minerals and mineral materials mine reclamation fund.

This is in recognition of the fact that abandoned noncoal mines can pose the same types of health, safety and environmental hazards as do abandoned coal mines.

With H.R. 2095, the Interior Committee has sought to fashion a bill based upon the premises that there is a continuing need for abandoned mine reclamation efforts, that this must be a national program, and that in light of the diverse and parochial interests of the States there must be some compromises among them.

However, if there is anybody who questions the need for this legislation, who doubts whether these hazards exist, and who fails to understand the threat they present, then I would urge you to travel to the hills and hollows of the Appalachian region.

Visit some of the mining areas of the Midwest and the West.

Inhale the foul fumes from burning refuse piles. Try to drink the water from streams running red. Worry about your children tumbling down an old open mine shaft. Experience the threat to your home from subsidence and landslides.

Simply look upon the faces of the people. You will see what I have on so many occasions.

Mr. Speaker, in closing, I would like to recognize the contribution of a number of my colleagues to this measure.

The bill before us today includes provisions of H.R. 538, introduced by Representative FRANK MCCLOSKEY, providing for the eligibility of certain

post-1977 abandoned mine sites; H.R. 1315 introduced by Representatives CHRIS PERKINS and HAL ROGERS, concerning the treatment of contaminated water supplies; and, H.R. 2604, introduced by Representative BEN NIGHTHORSE CAMPBELL, to establish an abandoned hardrock mine reclamation program.

Further, I would like to recognize Representative AUSTIN MURPHY, who sponsored the amendment during committee consideration of the bill to earmark secretarial share funds for allocation to program States.

Finally, Mr. Speaker, there is one person who deserves our highest esteem. He is the chairman of the Interior Committee, MO UDALL, the author of the 1977 Surface Mining Act, and without whom this bill would not be on the floor today.

Mr. Speaker, we are considering H.R. 2095 today with an amendment. Following is an explanation of the changes that would be made to the version of H.R. 2095, as reported by the Interior Committee, by the amendment at the desk:

Section 4: The amendment substitutes the reported bill language of section 402(g)(4). Under the amendment, after making state/tribal, Rural Abandoned Mine Program, and Secretarial share supplemental grant allocations, and federal program expenditures, the Secretary would be authorized to expend remaining amounts in the Fund for the reclamation of sites affected by surface coal mining operations after August 3, 1977, under two circumstances.

Sites affected by operations that occurred during the interim program period, prior to the date a State received primacy, and which were left in an inadequate reclamation status would be eligible under the provision if funds available from forfeited bonds or other sources are not sufficient to provide for adequate reclamation of the sites. In addition, sites left unreclaimed as a result of a surety company insolvency prior to the date of enactment of the Abandoned Mine Reclamation Act of 1989 would be eligible under the provision if funds are not immediately available from proceedings relating to the insolvency or other sources.

Only "priority 1 and 2" equivalent projects pursuant to section 403(a) of SMCRA, as would be amended by H.R. 2095, would be eligible for reclamation under this provision with the Secretary giving priority to those sites which are in the immediate vicinity of a residential area or which have an adverse economic impact upon a local community. Provision is made for amounts collected from the assessment of civil penalties for violations of the regulatory program pursuant to section 518 of SMCRA would also be authorized to be appropriated to carry out the program.

A State could expend amounts from its State share grants, including amounts available to the State from secretarial share supplemental grants, on eligible sites if the State determines that the reclamation priority of the site is the same or more urgent than eligible "priority 1 and 2" abandoned mine reclamation projects. Provision is made for the State to make the required site eligibility determinations with the concurrence of the Secretary. In addition, all eligible sites under this provision would have to be reclaimed prior to a state being eligible to make the certification referred to in section 411(a) of SMCRA, as would be amended by H.R. 2095.

Under section 4 of the bill, the amendment would delete the requirement contained in section 402(g)(7)(D) of SMCRA, as would be amended by H.R. 2095, that a qualified hydrologic unit contain a site subject to the forfeiture of a bond required under section 509. The amendment also makes a number of technical and conforming changes to section 4 of the bill as reported by the committee.

Section 9: The amendment would make a number of technical and conforming changes to the bill as reported by Committee.

Section 16: The amendment would make a number of technical and conforming changes to the bill as reported by Committee, and would provide for the Secretary to give priority consideration to states which do not receive grants under subtitle A when distributing moneys under section 424(a)(2) of SMCRA as would be amended by H.R. 2095.

Mr. Speaker, I reserve the balance of my time.

Mr. CRAIG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 2095, a bill to amend the Surface Mining Control and Reclamation Act of 1977. This bill would needlessly reauthorize the abandoned mine land reclamation fund until the year 2007. It also expands the authority for the use of fees from surface mined coal by significantly expanding the types of projects for which AML funds may be used. As originally passed in the Surface Mining Control and Reclamation Act of 1977, the abandoned mine land fund was authorized for 15 years. By the end of this authorization in 1992 as called for in SMCRA, reclamation will have been completed in the Western States. Thus, the national objective of reclaiming surface coal mines that were mined and not reclaimed prior to SMCRA will have been completed in these States. Reclamation needs on private lands in the East will remain after 1992, but a vehicle other than a national fee could better accomplish the reclamation of the Eastern and Midwestern coal sites.

H.R. 2095 is extremely premature and has been rushed through committee to the House floor even though 3 years remain prior to the expiration date of the current fund in 1992. Moreover, the Office of Surface Mining will not complete its report to Congress on whether the fund should be reauthorized until late this year. Therefore, the bill has proceeded out of committee without benefit of the views of the agency to be charged with the primary responsibility for implementing the new law, if and when it is enacted. As a result of H.R. 2095's untimely consideration, the administration opposes the passage of H.R. 2095.

H.R. 2095 expands dramatically the obligations of the fund beyond the original law and, if enacted, will cost the national electricity consuming public almost $200 million annually. This expense is inequitable given the fact that current coal industry contributions to the fund—expected to exceed $3 billion by 1992—will have transformed by 1992 a problem formerly national in scope to one localized in a few States.

The current bill to reauthorize the fund is not a fiscally responsible piece of legislation. It has taken a law that was designed initially to address a problem very limited in scope—the reclamation of coal mine sites left abandoned by surface coal mining operators prior to August 3, 1977, the date of SMCRA's enactment—and expanded it.

Such an expansion is easily understandable if the AML fund is viewed a grab bag that can be used to fund a potpourri of projects. Because the AML fund generates such substantial amounts through a levy on coal production—in excess of $200 million per year—it has become an attractive target for various constituencies seeking a funding source for various pubic works projects. The current effort to renew the fund, which is represented by H.R. 2095, has sought to accommodate these interests in an effort to build the consensus needed to secure passage of this legislation by the House. By so doing, however, the bill that comes before us is a bloated version of an AML bill, which unnecessarily adds to the obligations of the fund, and unfairly increases the burden on the coal industry and the rate-paying electricity consumer. Moreover, States having no problem sites that require rehabilitation will bear the brunt of underwriting reclamation costs in a few States.

There are other serious flaws in H.R. 2095, however. The bill expands the AML fund to include provisions requiring the expenditures of funds to reclaim abandoned noncoal sites and construction projects unrelated to abandoned coal mines. Such projects would be funded by coal industry contributions and future, unspecified appropriations by Congress. The Secretary would be authorized to use such funds to reclaim sites adversely affected by past mining activities, without

regard to whether such mining occurred prior to the passage of SMCRA in 1977, as is required in current law. Moreover, H.R. 2095 expands the obligations of the fund beyond its original objectives, even though the sponsors stated that the legislation's purpose was to provide revenues necessary to complete high-priority abandoned coal mine reclamation projects remaining in several States after 1992.

The current legislative effort is premature and ill-suited to insuring the completion of coal mine AML projects remaining on State inventories after 1992. More than 3 years remain prior to the expiration of the fund, and sufficient time certainly remains to discuss the enactment of more responsible and cost-effective alternatives to the current legislation.

The AML fund should be narrowed, not broadened. The costly provisions for the reclamation of hardrock sites, and for construction projects unrelated to coal mines abandoned prior to 1977 should not be passed into law. Congress owes the American taxpayer and the electricity consuming public a fair and responsible solution to the abandoned mine land issue. H.R. 2095 does not accomplish this solution.

The administration, although supportive of the reclamation of abandoned mine land, is opposed to the passage of H.R. 2095, as the bill is premature.

□ 1310

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, how much time remains on my side?

The SPEAKER pro tempore (Mr. DE LA GARZA). The gentleman from West Virginia [Mr. RAHALL] has 13 minutes remaining.

Mr. RAHALL. Mr. Speaker, I yield 4 minutes 20 seconds to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Speaker, first let me thank my subcommittee chairman for recognizing me.

Mr. Speaker, I recognize the subcommittee chairman for the tremendous amount of work he has accomplished during the past several months in attempting to craft a very fair and impartial reauthorization of the abandoned mine lands legislation.

Let me first answer my colleague from Idaho who rose in opposition to this measure by saying it is a matter of local concern and not national concern. I say to all of my colleagues both here and on the floor and those who are in their offices watching the proceedings that this is as much a national concern as if it were a hurricane in South Carolina or an earthquake in California.

I can well remember as well as many of my neighbors and friends in western Pennsylvania the years 1941, 1942, 1943, before I entered the Marine Corps, when, in my community, we were concerned about what was happening in the mining of coal in those days, both by the surface mining method and the underground method.

We gathered in a small church and expressed our concern, but we were soon made aware that that concern could not be a protest, for a protest would have been an unpatriotic act.

We were faced with a massive national struggle at that time that commanded this Nation, rightfully so, to produce all of the coal we could produce, to manufacture all of the steel and products that we could produce, without regard to the consequences, without regard to the environmental consequences; yes, at any cost, we had to produce that coal and did not care about reclamation.

Well, we left scars from that effort. You know, we have repaired scars all over the world that were caused by that worldwide conflict, and yet we see a voice raised in objection to erasing those scars from those mining communities.

Many of the people who were in those communities moved West because we wanted to expand West. In that new West they demanded water power and water resources, and we rightfully responded as a nation.

They demanded foreign subsidies, they demanded the tapping of mineral access lands in the West, they demanded railroad expansion grants, they demanded it in State highways, and rightfully so. We met them as a nation.

□ 1320

However, the scars that they left behind are still there. We do not object to aiding our brethren in the West or the South or the North or the Midwest, in farm subsidies or grazing rights or anything else that we need to expand our Nation's interest. However, prior to 1977, we were left with these scars, even though we did not want them. Half of our goal has been achieved. A reauthorization will reach the other half of that goal before this authorization time expires.

Therefore, I invite all of my colleagues from the North, East, South, and West and say, "Aid Members in repairing the remaining scars from World War II that remain in our country." Support the legislation crafted by the gentleman from West Virginia and espoused by many Members.

We made compromises in this bill, compromises that I did not want to make. We lowered the fees on coal in the West. We allowed it. We made compromises to meet the demands of the West in lowering the fees for Western coal. We made compromises for it to be allowed in noncoal mineral site redevelopment. We urge all Members to join in this effort.

Mr. CRAIG. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Speaker, I rise in support of H.R. 2095. First of all, I want to commend the gentleman from West Virginia [Mr. RAHALL], for the leadership that he has shown, over the years, in addressing what is indeed a national problem. That is, the cleaning up and the reclamation of the abandoned mine sites, where we have no responsible party, and these sites represent a threat to safety and health of thousands of people.

Mr. Speaker, the Abandoned Mine Reclamation Program is a worthy program, and we would show prudence on behalf of the House of Representatives if we were to reauthorize the program today. Simply put, the Abandoned Mine Land Program has been successful by ensuring that dangerous mine lands are reclaimed.

Some of my Western colleagues may disagree with this assessment, but I speak from some experience, as a representative from the State of Pennsylvania, with large numbers of these sites in my district. Since 1980, 14,000 acres of treacherous, life-threatening abandoned mine land have been reclaimed in Pennsylvania alone, and tens of thousands of acres more have been reclaimed throughout this country. Because abandoned mine land projects are taken up on a priority basis with the greater health and safety risks being addressed first, reclaimed sites translate directly into saved lives and fewer serious injuries.

Although I think we all agree on the need to continue this program and to complete the job of cleaning up the remaining abandoned mine land sites around, this bill is not without controversy, as we have heard. There is an objection raised to the imposition of a national fee for what is argued is a more regional problem, and the argument is made that perhaps the States should be made to assess the extent of their problem and assess a fee accordingly. The problem is, it would pit one State against another and create tremendous competitive disadvantages of one State over another. If one determined they would set a low fee for export, or sell their coal, that would penalize a State trying to do a responsible job in terms of cleaning up the site. Therefore, it really is not an adequate solution to say we should allow this to be done State by State.

As I have said, a considerable amount of work has been accomplished, and clearly there is more work to be done. Human health and safety is still being endangered. This bill is a sure-fire means to seeing this program is finally completed.

The benefits of the Abandoned Mine Reclamation Program are not limited to human health considerations. The

environment benefits from the program as well. Cleaning up a site oftentimes eliminates acid mine drainage, a major problem in my State, and recognizes the damage caused by acid mine drainage and provides new opportunities for States to improve water quality.

By enacting this bill, we will be underscoring our continued concern for water quality, meeting the same objectives of our Nation's Clean Water Act by making creeks, streams, and rivers more "swimmable" and more "fishable."

We can only use this fund, as I point out, for noncoal-related reclamation projects.

Mr. Speaker, I urge support of this very vital legislation, and urge my Members to support it.

Mr. RAHALL. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado [Mr. CAMPBELL], a very valued member of the subcommittee and full committee.

Mr. CAMPBELL of Colorado. Mr. Speaker, the bill we are considering today has received much attention since oversight hearings on abandoned coal and hardrock mines began in April 1989.

The authorization, to collect fees from the production of coal to clean up past mining problems, actually does not expire until 1992. The coal industry, however, still owes the people who live near eastern coal fields several billion dollars, money that will only be collected if the Fund is reauthorized.

The bill does not ignore the needs of Western States. We have ensured that the fees collected from the sale of coal will be cut in half in 1992 for Western States that certify they have completed their coal reclamation programs. This will allow Eastern States to continue benefiting from the program and allow Western coal producers to pass along the savings to their customers.

The subcommittee also incorporated several of my amendments, demonstrating Congress and the mining industry have learned a lot about the long-term problems associated with noncoal mining.

One of the provisions is my own measure to reclaim abandoned hardrock mines. Hearings were held on my bill, H.R. 2604, on July 1, 1989, in Grand Junction, CO. Industry representatives, State officials and environmentalists all testified that the legislation was necessary and workable.

Mr. Speaker, I disagree with those who think that the reclamation of abandoned mines is a local concern. It seems to me that the health and public safety of people are of concern to all.

The need for reclaiming and safeguarding abandoned mines was tragically brought into focus by the deaths of three Grand Junction youngsters only 2 weeks after the oversight hearing was held in in that city. In fact, Chairman RAHALL dedicated H.R. 2095 to their memory before the Interior Committee reported the bill.

Other important provisions allow the States to establish an acid mine drainage treatment fund and relieve States from potential Superfund liability if they conduct remedial work at noncoal sites that later are listed as Superfund sites. This provision will encourage the reopening of some mines and will result in environmental improvements at significantly lower costs.

The State of Colorado has long advocated this approach, and I am happy we have legislation to address my State's concerns.

As Congressmen, we are continually asked to fund more work with less money. A program is in place that provides a funding mechanism to pay for necessary facilities, such as water treatment plants, and fund reclamation work that does not handicap the competitiveness of American coal companies.

I urge my colleagues to support this bill.

Mr. CRAIG. Mr. Speaker, I yield 3 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I rise in opposition to the bill before Members.

It seems to me that it is a clear example of the law that there always is a need that arises to fill any available resources. The times have changed since this bill has been in effect, and since this law has been in effect much good has been done. We have completed, for the most part, work that it was designed to do.

What bothers me, it shifts from a user fee to repair those damages that have been made as the result of coal mining, to a general cleanup that goes beyond coal. It is no longer a user fee. It becomes a general fee that has shifted on a general tax.

I need to emphasize that the AML funding has been important and beneficial to our State. I am pleased we had it. I think the reasonable thing to do is look at what we have and make the changes that seem appropriate.

As Members know, the cost of coal has been rather low, $3 to $4 a ton from my State, and we are talking about a 35¢ tax. That is a very substantial tax. I am pleased we are able to, under certain circumstances, reduce the cost. We hope to be able to do that.

I am concerned, also, about the provision of the bill regarding the proposal that provides that States within the region must agree to reductions in the cost. That would keep us, of course, from reducing costs in our State, if we chose to do so, and have finished our work, in order that we would not be overly competitive with our neighbors.

□ 1330

Mr. Speaker, we spend a great deal of time, and I think properly so, talking about being competitive in this country, being able to compete overseas, being able indeed to ship coal overseas. However, we find ourselves adding here in this case a general tax to go far beyond those things that have been a result of coal mining and simply making our coal industry less competitive, increasing the cost to utility and coal users.

Mr. Speaker, I certainly would like to see us defeat this proposal.

Mr. RAHALL. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. Mr. Speaker, I rise today in support of H.R. 2095, the Abandoned Mine Reclamation Act of 1989. This bill will reauthorize the landmark 1977 Surface Mining Control and Reclamation Act. Much has changed since 1977, but much reclamation still needs to be done. Although it is true that substantial SMCRA-related reclamation has been completed in many western States, reclamation of abandoned mines remains a national environmental priority.

I am particularly grateful to Chairman RAHALL for including language similar to H.R. 538, the Interim Abandoned Mines Act of 1989, which I sponsored.

Several years back, an Odon, IN, veterinarian by the name of Dr. Roy Demotte contacted me regarding the unreclaimed farmland of several Amish farmers in the area. Dr. Demotte's contact, and his continued interest, is the impetus behind my work in this arena.

Since that time, I have been working with Chairman RAHALL and other Members of Congress to redress a serious loophole in the original 1977 Surface Mining Control and Reclamation Act.

I am speaking of land mined after the passage of this law and before the individual States assumed primacy for supervision of surface mining operations. Tens of thousands of acres which were mined during this interim period remain unreclaimed due to the dual bankruptcies of the mining companies and their insurers.

The 1977 law stipulates that all mining companies must file a bond which "shall cover that area of land within the permit area upon which the operator will initiate and conduct surface coal mining * * * the amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by the regulatory authority in the event of forfeiture." The bond was meant to guarantee that land would be reclaimed after being mined. However, an unforeseen high level of surety and operator bankruptcies

during the interim period has created a new generation of abandoned mines.

The Federal Office of Surface Mining provides for funding for pre-1977 sites and the States are responsible after they assumed primacy. However, for these interim sites which will not be reclaimed by the mining operators nor the bankrupt bonding companies, there is little hope for relief from Government agencies at this time. In fact SMCRA statutorily prohibits the expenditure of Federal reclamation funds for post-1977 sites.

This is a serious problem in southern Indiana. In my district alone, almost 3,700 acres of land are unreclaimed as a result of bonding and surety companies declaring bankruptcy. But the true scope of this problem is nationwide. According to the Office of Surface Mining in Indianapolis, in February of last year, 11 bonding and surety companies were insolvent nationally. These 11 companies affected 402 mining firms nationwide.

According to the Department of the Interior, in 1987 16 States had over 31,000 acres of unreclaimed land at more than 800 mining sites.

I greatly appreciate the assistance I have obtained from Chairman RAHALL and the Subcommittee on Mining and Natural Resources. Two years ago, I testified on the human impact these unreclaimed lands have had on several of my constituents, especially Amish farmers around Oden, IN.

The Amish have farmed this land in southwestern Indiana for decades. In 1981, individual land holders entered into a contract to have their land mined and then restored to farming quality. But this has not happened. For example, in the Eighth District of Indiana, there is an elderly widow who lives in a small house on what was once 6 acres of rich farmland. Her late husband had entered into a lease with Invesco, which mined all of those 6 acres. Now this woman is ill and her house is sitting on a postage-stamp sized piece of land surrounded by 6 acres of unreclaimed strip mine. Mr. Frank Wagler and his wife, Esther, have had almost all of their land destroyed by the same mining company. Mr. and Mrs. Wagler testified with me before Chairman RAHALL's subcommittee in July 1987 and graphically described how their once rich farm has been converted into a literal wasteland with 40-foot-high walls looming over their small home.

Clearly this land needs to be reclaimed as soon as possible in order to allow these Amish families to return to farming. Currently Federal abandoned mine land [AML] funds cannot be used for reclamation purposes because of the statutory prohibition.

This legislation, and language in the committee's amendment at the desk, provides for the reclamation of these sites by allowing the primary States and the Secretary to expend funds at their discretion on sites which are environmentally dangerous and are hazardous to public health and safety and which will not otherwise be reclaimed.

Paragraph 4 of H.R. 2095, as amended by the committee, provides for a mechanism to reclaim these sites. Any site, mined after the passage of SMCRA in 1977 and before the passage of this legislation and which is unreclaimed due to surety bankruptcy, will be eligible for reclamation. These sites, as well as other sites unreclaimed due to the insufficiency, or lack, or the surety bond can be reclaimed through the Secretary's discretionary fund or through the State shares.

The committee amendment to paragraph 4 will allow reclamation in cases involving bond forfeitures which were insufficient to reclaim the sites, as well as unreclaimed sites due to surety bankruptcies, including a few sites which occurred after primacy. The language provides that Federal funds may be expended only if the bond was not replaced and if "there are no other funds available for such reclamation or abatement from any other source."

The amendment is more expansive than my original legislation but by providing for the reclamation of all post 1977 sites which are not reclaimed due to problems with the bonding requirements, I believe this amendment effectively closes the SMCRA loophole which I referred to earlier. In addition, the legislation includes caveats to ensure that Federal funds will be spent only when there is no other possibility of reclamation.

H.R. 2095 represents a compromise between regional interests and contains an important extension to allow for the reclamation of dangerous coal mines which were mined after 1977. I urge all of my colleagues to support this bill.

Mr. CRAIG. Mr. Speaker, I yield 4 minutes to my colleague, the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Speaker, I rise in support of H.R. 2095, the Abandoned Mine Reclamation Act of 1989 and urge its adoption. I wish to commend the chairman of the Mining and Natural Resources Subcommittee for his initiative in seeking the early reauthorization of this vital program.

This measure addresses several key issues and renews our commitment to the Nation's mining communities in Appalachia and in the western States.

While this bill is a comprehensive measure to improve the abandoned mine lands or AML program, I am particularly pleased that it includes a modified version of legislation which Congressman PERKINS and I introduced along with four of our colleagues from West Virginia. This measure will greatly ease current restrictions on the use of AML funding to help solve water supply problems.

Mr. Speaker, title IV of the Surface Mining Control and Reclamation Act was enacted to correct problems on land mined for coal and abandoned prior to 1977. But, even as the 95th Congress put the finishing touches on the 1977 act, it was obvious that fee collections through 1992, estimated to be about $3.3 billion, would not be sufficient to correct all problems on abandoned mine lands. Consequently, Congress set priorities for reclamation in title IV that emphasizes correcting health and safety problems over environmental or other problems.

Yet, priority programs under the 1977 act have continued to be sources of controversy. To ensure that significant health and safety problems are distinguished from those that are less important, any extension of the 1977 act must address the danger of AML impacted drinking water. I wish to commend the subcommittee chairman for moving us forward to ensure that these most critical needs are met.

Many areas of the United States—especially Kentucky, West Virginia, Pennsylvania—have had water supplies damaged from past coal mining. OSM's interpretation of the law has favored land reclamation over projects to repair and replace damaged water supplies.

Under current procedures, OSM's complex, and at times seemingly contradictory, policies for determining project eligibility have resulted in program rejection for several important water projects in Kentucky.

If I may be parochial for a moment, in Knox County in my district, our county judge executive worked closely with our State natural resources officials to document that pre-1977 mining impacted a water supply and proposed a project to repair the damage. Yet, OSM rejected this project because it argued that the water supply may have also been impacted by post-1977 mining. This impossible standard does not represent the intent of the 1977 act. The act clearly intended that significant health and safety problems be corrected. I cannot comprehend how land reclamation—although important—is more important than ensuring safe water supplies.

The existing law also establishes six priority objectives for the program. For the most part, OSM funds only the two highest priorities and has at times deemed water projects to be a lower priority.

H.R. 2095 addresses this problem in two important ways. First, it clearly establishes that AML funds used to replace water supplies adversely affected by coal mining practices are an appropriate and justifiable use of AML funds. And, second, the bill authorizes

a State to use up to 30 percent of its AML funds for this type of project.

CONCLUSION

For these reasons, I am convinced that this measure provides needed relief for communities where water quality has been adversely impacted by coal mining practices. This legislation addresses the critical needs of the people in my State and mining States throughout the country. It is imperative that the House pass legislation to enhance every State's ability to repair water systems damaged by coal mining.

Mr. RAHALL. Mr. Speaker, I commend the gentleman from Kentucky [Mr. ROGERS], the gentleman from Pennsylvania [Mr. CLINGER], and the gentleman from Kentucky [Mr. PERKINS] for their past efforts and their ongoing efforts to not only pass this legislation but to develop a responsible solution to our remining initiative in this Congress.

Mr. Speaker, I now yield 3 minutes to the gentleman from Kentucky [Mr. PERKINS].

Mr. PERKINS. Mr. Speaker, I rise today in support of H.R. 2095, the Abandoned Mine Reclamation Act of 1989. As you know, this bill ensures the reclamation of lands and waters adversely affected by past mining practices by extending the collection of reclamation fees for an additional 15-year period until September 2007. I want to commend Chairman UDALL and Subcommittee Chairman RAHALL for their fine work in crafting this legislation and getting it onto the House floor.

Mr. Speaker, there is much work to be done in cleaning up our Nation's abandoned mines. While many AML projects have repaired the damage and corrected problems caused by abandoned mines, thousands of areas are still in need of reclamation. The serious and dangerous sliding occurring near abandoned mine sites in eastern Kentucky as a result of the spring's heavy rains further emphasizes the fact that there are substantial health and safety problems that still need to be corrected. Landslides, mine fires, refuse fires, abandoned shafts, and contaminated water continue to threaten the health, safety, and welfare of the people living in abandoned mine areas.

Mining States, like Kentucky, are dependent upon the many programs funded with AML moneys. The Emergency Program, the Rural Abandoned Mine Program, and the Small Operators Assistance Program all perform valuable services in dealing with the persistent problems caused by abandoned mines. Just this past week, as national attention focused on California, eastern Kentucky suffered severe flooding that aggravated the abandoned mine sliding problems we experienced in the spring. Abandoned mine slides occurred in several counties in my district, threatening the health and safety of those who live in these areas. Since Kentucky has no State emergency program, we were and are dependent on the Federal program and the valuable emergency services it provides. And as you can see from last week's flooding, there is an immediate need for this Federal emergency program as well as for other AML authorized programs.

However, the estimated $3.3 billion that will be collected in reclamation fees through 1992 will not be nearly enough to rectify all the problems caused by pre-1977 abandoned mine lands. When the program expires, there will still be over 4 billion dollars' worth of high priority abandoned coal mine reclamation projects left. This reauthorization is just vital. Abandoned mine problems are not going to go away, and they will simply get worse if we don't deal with them now. We must continue the crucial work being accomplished with these AML funds, and I believe that the modifications in Mr. RAHALL's bill concerning procedure in the distribution of AML funds will help ensure that these moneys are allocated in an effective manner that better targets high priority health and safety projects.

The Abandoned Mine Reclamation Act includes an amendment I made with my colleague, HAL ROGERS, which addresses the most serious problem occurring as a result of abandoned mine lands—water contaminated by mine drainage. This provision enables States to use abandoned mine land funds for water line extensions in areas where ground water was contaminated by mining that took place predominantly before 1977.

Water—clean, fresh, and drinkable—is a pressing need in many heavily mined areas. Water contaminated by mine drainage is, in many cases, the same water pumped from wells or other water lines that is often used for household water supply. I know of many communities that must rely on water piped in from 20 or 30 miles away. And they are the more fortunate ones. Others must travel 10 miles to cart back clean water. These communities are desperate for decent water systems. However, in recent years, these communities have had increasing difficulty in getting AML funding because the OSM is demanding a burden of proof virtually impossible to meet.

Quite simply, the bill says that a State may spend up to 30 percent of its AML grants for the purpose of constructing public water distribution facilities, including water treatment plants to replace water supplies adversely affected by coal mining practices.

This provision is badly needed, as is the reauthorization of the Abandoned Mine Lands Acts as a whole. This reclamation is essential for the protection of the health, safety, and environment of these abandoned mine areas. I urge my colleagues to vote in favor of H.R. 2095.

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Mr. CRAIG. Mr. Speaker, I yield the balance of my time to my colleague, the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Speaker, I rise in opposition to H.R. 2095 on the grounds that it is premature and would do more harm than good if passed in its present form.

This legislation broadens the scope of current law to allow funds to be expended on reclamation of noncoal sites and construction projects not related to abandoned coal mines. It is grossly unfair to tax a specific industry and user group to take care of problems they had nothing to do with.

According to my information, the Office of Surface Mining has not given us their report on whether the fund should be reauthorized yet. Why are we moving legislation to do so when we don't know if there is a need for it? It is my understanding that most, if not all, western reclamation will be done by 1992. If the report from OSM shows a continued need in the East, then some type of alternative should be considered.

I also feel that this bill, with substantial minority opposition, should not be on the Suspension Calendar. While the intentions behind this legislation may be good, I cannot support it as written. I would urge my colleagues to defeat this bill and consider a better alternative once all the facts are available.

The SPEAKER pro tempore (Mr. DE LA GARZA). The gentleman from Idaho [Mr. CRAIG] has 1 minute remaining.

Mr. CRAIG. Mr. Speaker, I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I appreciate the gentleman from Idaho [Mr. CRAIG], the distinguished ranking minority member, for yielding me the last minute of his time.

Mr. Speaker, let me say in conclusion that nobody got 100 percent of what they wanted in this particular legislation. As I mentioned and has been pointed out throughout the debate, compromises were made in order to take into account the major concerns of Western States and still satisfy those easterners who did not want to give into those compromises.

I would also say in conclusion, Mr. Speaker, that although philosophically we have differences on this particular legislation, the gentleman from Idaho [Mr. CRAIG], the ranking minority member, has conducted himself in a very gentlemanly manner, and we do agree on a number of pieces of legisla-

tion that come before our subcommittee and full committee. I wish to commend him for his understanding and conduct during this debate, and I ask for final passage of the legislation.

Mr. RICHARDSON. Mr. Speaker, I would like to take this opportunity to thank the chairman of the Subcommittee on Mining and Natural Resources, Mr. RAHALL, and the chairman of the Committee on Interior and Insular Affairs, Mr. UDALL, for their commitment to the important issues of abandoned mine reclamation and for their work on this significant legislation. Abandoned mines pose a significant health and environmental danger in a great number of communities throughout this country. This legislation is certainly both timely and important.

The subcommittee has made a sincere effort to address the concerns of all parties affected by this legislation. The Western States has particular concerns in regards to abandonment coal mines. The West, for numerous reasons, is closer to completing the reclamation of abandoned coal mines as a region than is the East. For this reason, the Western States were concerned that provisions should be included in the bill to adjust the abandoned mine lands fee for those States which had completed reclamation projects. The subcommittee, responding to these concerns, included a reduced fee schedule for those States which certify that their reclamation projects are completed. I commend the chairman for addressing this important concern.

There are, however, two aspects of the legislation over which the Western States continue to express concern. As I noted, section 411 provides for the reduction of fees for certified States. This incentive is commendable. There is concern, however, that the section as written will lead to unnecessary controversy and litigation. The issues of what constitutes a region or a competitive disadvantage is unclear. These ambiguities will make certification a difficult, and possibly, unattainable goal.

The reclamation of abandoned noncoal mines remains a problem throughout the Nation. The subcommittee has made a noteworthy effort to address this matter in H.R. 2095. Under the bill's provisions, revenue for reclaiming abandoned noncoal mines would come from receipts under the 1947 Materials Act and other, unspecified, appropriations. While the reclamation of noncoal mines is of great importance, there is concern that the provisions established under H.R. 2095 will not provide sufficient funds for such projects. This funding mechanism should be examined to assure that noncoal mine reclamation projects receive adequate funding.

Mr. Speaker, I appreciate this opportunity to both commend the subcommittee chairman and the subcommittee for their diligent effort and to address these outstanding issues.

Mrs. LLOYD. Mr. Speaker, I rise today to voice my strong support for the provisions of H.R. 2095, the Abandoned Mine Reclamation Act of 1989. This country is badly pockmarked by the scars from the estimated 13 million acres of mined land, which was abandoned without reclamation prior to the 1977 Surface Mining Control and Reclamation Act. This program which we are voting on today and which will lead to the much needed clean up and recovery of hazardous and ugly areas in Tennessee as well as other States is of supreme importance. Many areas of Appalachia will be helped greatly from extending the Abandoned Mine Land Program and especially the Rural Abandonment Mine Program [RAMP]. In Tennessee alone, there are over 45,000 acres of abandoned mine land, and in the past, rural areas have suffered from the less than adequate fund which have been made available.

I would like to take this opportunity also to publicly extend my thanks to a man who has been a powerful force behind the fight for sufficient funds to deal with our unsightly and dangerous rural abandoned areas. Mr. L.H. Burnett of Tracy City, TN, has taken the task upon himself to fight to clean up what we all have left behind. The rural abandoned mines in this country present not only an eyesore on our beautiful natural heritage, but more importantly a serious health and safety threat to the families who live nearby. All of us in the Third District of Tennessee owe a debt of thank to L.H. Burnett, and we hope that he will continue his work for the betterment of all of Tennessee.

Mr. KANJORSKI. Mr. Speaker, I rise today in strong support of the Abandoned Mine Reclamation Act of 1989, which will extend through the year 2097 valuable Federal programs to recontour and to repair scarred abandoned mine sites that pose environmental, safety, and health threats to communities across my State of Pennsylvania and indeed across the entire Nation.

As we look back over the 12-year history of this program—and recall the thousands of deep open mine shafts that have been closed and the scores of public water systems that are no longer contaminated by acid mine drainage—we can recognize the importance of this legislation.

Our national commitment to return abandoned mine sites to productive use has reaped significant environmental and economic rewards. Clearly, we have made substantial progress: Over 55,000 acres have been reclaimed, 240 underground mine fires have been abated, and 7,600 mine openings have been sealed or filled.

Nevertheless, there is still much to done and it will only occur if we pass this bill before us today. It is necessary to address serious health and safety problems at other abandoned mine sites. There are still many areas that require revegetation and reforestation and unfortunately, acid mine drainage into streams is still occurring at many sites.

Let us not abandon the Abandoned Mine Program and turn our backs on the communities which through no fault of their own still face the hazardous problems associated with past mining activity.

Just this last week, Mr. Speaker, funds from one of the programs we are reauthorizing in this bill were awarded to reclaim a site in my congressional district that posed a serious health and safety threat to local residents.

In Centralia, PA, nearly 1,000 people had to be relocated when it became clear a few years ago that it would be several years at best before an underground mine fire would be extinguished.

We have seen the fruits of this program in northeastern Pennsylvania, but we also know there is an unfinished agenda and a bulging inventory of sites awaiting treatment. This bill will enable us to tackle additional projects to enhance environmental conditions in other communities.

As a strong supporter of making sure the money collected from existing coal operators is in fact invested in this program and does not sit idle in the U.S. Treasury, I am especially pleased that this trust fund will gain interest under the provisions of today's bill. By enabling interest to accrue on unappropriated funds collected through this program, our efforts will be greatly enhanced. Better yet, we should redouble our efforts to ensure that all collected funds are devoted to resolving the problems at abandoned mine sites as quickly as possible.

I urge my colleagues to support the continuation of this program. The job has yet to be completed, and the need is still compelling. The problems exist in a number of States and a strong Federal role is no less essential today than it was in 1977 when this program was originally adopted.

The SPEAKER pro tempore. All time for debate has expired.

The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 2095, as amended.

The question was taken.

Mr. CRAIG. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANTITERRORISM AND ARMS EXPORT AMENDMENTS ACT OF 1989

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 91) to prohibit exports of military equipment to countries supporting international terrorism, and for other purposes, as amended.

The Clerk read as follows:

H.R. 91

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Anti-Terrorism and Arms Export Amendments Act of 1989".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Prohibition on arms transactions with countries supporting terrorism.
Sec. 3. Considerations in issuance of arms export licenses and in arms sales.
Sec. 4. Exports to countries supporting terrorism.
Sec. 5. Prohibition on assistance to countries supporting international terrorism.

Sec. 6. Designation of items on the munitions list.
Sec. 7. Quarterly reports on third country transfers and on DOD transfers to other agencies.
Sec. 8. Special authorities.
Sec. 9. Hostage Act.
Sec. 10. Self-defense in accordance with international law.

SEC. 2. PROHIBITION ON ARMS TRANSACTIONS WITH COUNTRIES SUPPORTING TERRORISM.

(a) PROHIBITION.—Section 40 of the Arms Export Control Act (22 U.S.C. 2780) is amended to read as follows:

"SEC. 40. TRANSACTIONS WITH COUNTRIES SUPPORTING ACTS OF INTERNATIONAL TERRORISM.

"(a) PROHIBITED TRANSACTIONS BY THE UNITED STATES GOVERNMENT.—The following transactions by the United States Government are prohibited:

"(1) Exporting or otherwise providing (by sale, lease or loan, grant, or other means), directly or indirectly, any munitions item to a country described in subsection (d) under the authority of this Act, the Foreign Assistance Act of 1961, or any other law (except as provided in subsection (h)). In implementing this paragraph, the United States Government—

"(A) shall suspend delivery to such country of any such item pursuant to any such transaction which has not been completed at the time the Secretary of State makes the determination described in subsection (d), and

"(B) shall terminate any lease or loan to such country of any such item which is in effect at the time the Secretary of State makes that determination.

"(2) Providing credits, guarantees, or other financial assistance under the authority of this Act, the Foreign Assistance Act of 1961, or any other law (except as provided in subsection (h)), with respect to the acquisition of any munitions item by a country described in subsection (d). In implementing this paragraph, the United States Government shall suspend expenditures pursuant to any such assistance obligated before the Secretary of State makes the determination described in subsection (d). The President may authorize expenditures otherwise required to be suspended pursuant to the preceding sentence if the President has determined, and reported to the Congress, that suspension of those expenditures causes undue financial hardship to a supplier, shipper, or similar person and allowing the expenditure will not result in any munitions item being made available for use by such country.

"(3) Consenting under section 3(a) of this Act, under section 505(a) of the Foreign Assistance Act of 1961, under the regulations issued to carry out section 38 of this Act, or under any other law (except as provided in subsection (h)), to any transfer of any munitions item to a country described in subsection (d). In implementing this paragraph, the United States Government shall withdraw any such consent which is in effect at the time the Secretary of State makes the determination described in subsection (d), except that this sentence does not apply with respect to any item that has already been transferred to such country.

"(4) Providing any license or other approval under section 38 of this Act for any export or other transfer (including by means of a technical assistance agreement, manufacturing licensing agreement, or coproduction agreement) of any munitions item to a country described in subsection (d). In implementing this paragraph, the United States Government shall suspend any such license or other approval which is in effect at the time the Secretary of State makes the determination described in subsection (d), except that this sentence does not apply with respect to any item that has already been exported or otherwise transferred to such country.

"(5) Otherwise facilitating the acquisition of any munitions item by a country described in subsection (d). This paragraph applies with respect to activities undertaken—

"(A) by any department, agency, or other instrumentality of the Government,

"(B) by any officer or employee of the Government (including members of the United States Armed Forces), or

"(C) by any other person at the request or on behalf of the Government.

The Secretary of State may waive the requirements of the second sentence of paragraph (1), the second sentence of paragraph (3), and the second sentence of paragraph (4) to the extent that the Secretary determines, after consultation with the Congress, that unusual and compelling circumstances require that the United States Government not take the actions specified in that sentence.

"(b) PROHIBITED TRANSACTIONS BY UNITED STATES PERSONS.—

"(1) IN GENERAL.—A United States person may not take any of the following actions:

"(A) Exporting any munitions item to any country described in subsection (d).

"(B) Selling, leasing, loaning, granting, or otherwise providing any munitions item to any country described in subsection (d).

"(C) Selling, leasing, loaning, granting, or otherwise providing any munitions item to any recipient which is not the government of or a person in a country described in subsection (d) if the United States person has reason to know that the munitions item will be made available to any country described in subsection (d).

"(D) Taking any other action which would facilitate the acquisition, directly or indirectly, of any munitions item by the government of any country described in subsection (d), or any person acting on behalf of that government, if the United States person has reason to know that that action will facilitate the acquisition of that item by such a government or person.

"(2) LIABILITY FOR ACTIONS OF FOREIGN SUBSIDIARIES, ETC.—A United States person violates this subsection if a corporation or other person that is controlled in fact by that United States person (as determined under regulations, which the President shall issue) takes an action described in paragraph (1) outside the United States.

"(3) APPLICABILITY TO ACTIONS OUTSIDE THE UNITED STATES.—Paragraph (1) applies with respect to actions described in that paragraph which are taken either within or outside the United States by a United States person described in subsection (l)(3) (A) or (B). To the extent provided in regulations issued under subsection (l)(3)(D), paragraph (1) applies with respect to actions described in that paragraph which are taken outside the United States by a person designated as a United States person in those regulations.

"(c) TRANSFERS TO GOVERNMENTS AND PERSONS COVERED.—This section applies with respect to—

"(1) the acquisition of munitions items by the government of a country described in subsection (d); and

"(2) the acquisition of munitions items by any individual, group, or other person within a country described in subsection (d), except to the extent that subparagraph (D) of subsection (b)(1) provides otherwise.

"(d) COUNTRIES COVERED BY PROHIBITION.—The prohibitions contained in this section apply with respect to a country if the Secretary of State determines that the government of that country has repeatedly provided support for acts of international terrorism.

"(e) PUBLICATION OF DETERMINATIONS.—Each determination of the Secretary of State under subsection (d) shall be published in the Federal Register.

"(f) RESCISSION.—A determination made by the Secretary of State under subsection (d) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate—

"(1) before the proposed rescission would take effect, a report certifying that—

"(A) there has been a fundamental change in the leadership and policies of the government of the country concerned;

"(B) that government is not supporting acts of international terrorism; and

"(C) that government has provided assurances that it will not support acts of international terrorism in the future; or

"(2) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

"(A) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

"(B) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

"(g) WAIVER.—The President may waive the prohibitions contained in this section with respect to a specific transaction if—

"(1) the President determines that the transaction is essential to the national security interests of the United States; and

"(2) not less than 15 days prior to the proposed transaction, the President—

"(A) consults with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate; and

"(B) submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing—

"(i) the name of any country involved in the proposed transaction, the identity of any recipient of the items to be provided pursuant to the proposed transaction, and the anticipated use of those items;

"(ii) a description of the munitions items involved in the proposed transaction (including their market value) and the actual sale price at each step in the transaction (or if the items are transferred by other than sale, the manner in which they will be provided);

"(iii) the reasons why the proposed transaction is essential to the national security interests of the United States and the justification for such proposed transaction;

"(iv) the date on which the proposed transaction is expected to occur; and

"(v) the name of every United States Government department, agency, or other entity involved in the proposed transaction, every foreign government involved in the proposed transaction, and every private party with significant participation in the proposed transaction.

To the extent possible, the information specified in subparagraph (B) of paragraph (2)

shall be provided in unclassified form, with any classified information provided in an addendum to the report.

"(h) EXEMPTION FOR TRANSACTIONS SUBJECT TO NATIONAL SECURITY ACT REPORTING REQUIREMENTS.—The prohibitions contained in this section do not apply with respect to any transaction subject to reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.; relating to congressional oversight of intelligence activities).

"(i) RELATION TO OTHER LAWS.—

"(1) IN GENERAL.—The provisions of this section shall apply notwithstanding any other provision of law, other than section 614(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2364(a)).

"(2) SECTION 614(a) WAIVER AUTHORITY.—If the authority of section 614(a) of the Foreign Assistance Act of 1961 is used to permit a transaction under that Act or the Arms Export Control Act which is otherwise prohibited by this section, the written policy justification required by that section shall include the information specified in subsection (g)(2)(B) of this section.

"(j) CRIMINAL PENALTY.—Any person who willfully violates this section shall be fined for each violation not more than $1,000,000, imprisoned not more than 10 years, or both.

"(k) CIVIL PENALTIES; ENFORCEMENT.—In the enforcement of this section, the President is authorized to exercise the same powers concerning violations and enforcement which are conferred upon departments, agencies, and officials by sections 11(c), 11(e), 11(g), and 12(a) of the Export Administration Act of 1979 (subject to the same terms and conditions as are applicable to such powers under that Act), except that, notwithstanding section 11(c) of that Act, the civil penalty for each violation of this section may not exceed $500,000.

"(l) DEFINITIONS.—As used in this section—

"(1) the term 'munitions item' means any item enumerated on the United States Munitions list (without regard to whether the item is imported into or exported from the United States);

"(2) the term 'United States', when used geographically, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States; and

"(3) the term 'United States person' means—

"(A) any citizen or permanent resident alien of the United States;

"(B) any sole proprietorship, partnership, company, association, or corporation having its principal place of business within the United States or organized under the laws of the United States, any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States;

"(C) any other person with respect to that person's actions while in the United States; and

"(D) to the extent provided in regulations issued by the Secretary of State, any person that is not described in subparagraph (A), (B), or (C) but—

"(i) is a foreign subsidiary or affiliate of a United States person described in subparagraph (B) and is controlled in fact by that United States person (as determined in accordance with those regulations), or

"(ii) is otherwise subject to the jurisdiction of the United States,

with respect to that person's actions while outside the United States.".

(b) CONFORMING AMENDMENT.—Section 3(f) of the Arms Export Control Act (22 U.S.C. 2753(f)) is repealed.

SEC. 3. CONSIDERATIONS IN ISSUANCE OF ARMS EXPORT LICENSES AND IN ARMS SALES.

(a) EXPORT LICENSES.—Section 38(a)(2) of the Arms Export Control Act (22 U.S.C. 2778) is amended by inserting "support international terrorism," after "arms race,".

(b) ARMS SALES.—Section 36(b)(1)(D) of that Act (22 U.S.C. 2776(b)(1)(D)) is amended—

(1) by redesignating clauses (ii) through (iv) as clauses (iii) through (v), respectively; and

(2) by inserting the following new clause (ii) after clause (i):

"(ii) support international terrorism;".

SEC. 4. EXPORTS TO COUNTRIES SUPPORTING TERRORISM.

Section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App 2405(j)) is amended to read as follows:

"(j) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—(1) A validated license shall be required for the export of goods or technology to a country if the Secretary of State has made the following determinations:

"(A) The government of such country has repeatedly provided support for acts of international terrorism.

"(B) The export of such goods or technology could make a significant contribution to the military potential of such country, including its military logistics capability, or could enhance the ability of such country to support acts of international terrorism.

"(2) The Secretary and the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate at least 30 days before issuing any validated license required by paragraph (1).

"(3) Each determination of the Secretary of State under paragraph (1)(A), including each determination in effect on the date of the enactment of the Antiterrorism and Arms Export Amendments Act of 1989, shall be published in the Federal Register.

"(4) A determination made by the Secretary of State under paragraph (1)(A) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Banking, Housing, and Urban Affairs and the chairman of the Committee on Foreign Relations of the Senate—

"(A) before the proposed rescission would take effect, a report certifying that—

"(i) there has been a fundamental change in the leadership and policies of the government of the country concerned;

"(ii) that government is not supporting acts of international terrorism; and

"(iii) that government has provided assurances that it will not support acts of international terrorism in the future; or

"(B) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

"(i) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

"(ii) the government concerned has provided assurances that it will not support acts of international terrorism in the future.".

SEC. 5. PROHIBITION ON ASSISTANCE TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.

Section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) is amended to read as follows:

"SEC. 620A. PROHIBITION ON ASSISTANCE TO GOVERNMENTS SUPPORTING INTERNATIONAL TERRORISM.

"(a) PROHIBITION.—The United States shall not provide any assistance under this Act, the Agricultural Trade Development and Assistance Act of 1954, the Peace Corps Act, or the Export-Import Bank Act of 1945 to any country if the Secretary of State determines that the government of that country has repeatedly provided support for acts of international terrorism.

"(b) PUBLICATION OF DETERMINATIONS.—Each determination of the Secretary of State under subsection (a), including each determination in effect on the date of the enactment of the Antiterrorism and Arms Export Amendments Act of 1989, shall be published in the Federal Register.

"(c) RESCISSION.—A determination made by the Secretary of State under subsection (a) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate—

"(1) before the proposed rescission would take effect, a report certifying that—

"(A) there has been a fundamental change in the leadership and policies of the government of the country concerned;

"(B) that government is not supporting acts of international terrorism; and

"(C) that government has provided assurances that it will not support acts of international terrorism in the future; or

"(2) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

"(A) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

"(B) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

"(d) WAIVER.—Assistance prohibited by subsection (a) may be provided to a country described in that subsection if—

"(1) the President determines that national security interests or humanitarian reasons justify a waiver of subsection (a), except that humanitarian reasons may not be used to justify assistance under part II of this Act (including chapter 4, chapter 6, and chapter 8), or the Export-Import Bank Act of 1945; and

"(2) at least 15 days before the waiver takes effect, the President consults with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate regarding the proposed waiver and submits a report to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate containing—

"(A) the name of the recipient country;

"(B) a description of the national security interests or humanitarian reasons which require the waiver;

"(C) the type and amount of and the justification for the assistance to be provided pursuant to the waiver; and

"(D) the period of time during which such waiver will be effective.

The waiver authority granted in this subsection may not be used to provide any assistance under the Foreign Assistance Act of

1961 which is also prohibited by section 40 of the Arms Export Control Act.".

SEC. 6. DESIGNATION OF ITEMS ON THE MUNITIONS LIST.

Section 38 of the Arms Export Control Act (22 U.S.C. 2278) is amended by adding at the end the following:

"(h) The designation by the President (or by an official to whom the President's functions under subsection (a) have been duly delegated), in regulations issued under this section, of items as defense articles or defense services for purposes of this section shall be final and conclusive for purposes of this section and section 40 and shall not be subject to judicial review.".

SEC. 7. QUARTERLY REPORTS ON THIRD COUNTRY TRANSFERS AND ON DOD TRANSFERS TO OTHER AGENCIES.

(a) QUARTERLY REPORTS.—Section 36(a) of the Arms Export Control Act (22 U.S.C. 2776(a)) is amended—

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon; and

(3) by inserting after paragraph (9) the following:

"(10) a listing of the consents to third-party transfers of defense articles or defense services which were granted, during the quarter for which such report is submitted, for purposes of section 3(a)(2) of this Act, the regulations issued under section 38 of this Act, or section 505(a)(1)(B) of the Foreign Assistance Act of 1961, if the value (in terms of original acquisition cost) of the defense articles or defense services to be transferred is $1,000,000 or more; and

"(11) a listing of all munitions items (as defined in section 40(l)(1)) which were sold, leased, or otherwise transferred by the Department of Defense to any other department, agency, or other entity of the United States Government during the quarter for which such report is submitted (including the name of the recipient Government entity and a discussion of what that entity will do with those munitions items) if—

"(A) the value of the munitions items was $250,000 or more; or

"(B) the value of all munitions items transferred to that Government department, agency, or other entity during that quarter was $250,000 or more;

excluding munitions items transferred (i) for disposition or use solely within the United States, or (ii) for use in connection with intelligence activities subject to reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.; relating to congressional oversight of intelligence activities).".

(b) CLASSIFICATION OF REPORTS.—That section is amended in the parenthetical clause in the text preceding paragraph (1) by inserting ", and any information provided under paragraph (11) of this subsection may also be provided in a classified addendum" after "(b)(1) of this section".

SEC. 8. SPECIAL AUTHORITIES.

The second sentence of section 614(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2364(c)) is amended to read as follows: "The President shall fully inform the chairman and ranking minority member of the Committee on Foreign Affairs of the House of Representatives and the chairman and ranking minority member of the Committee on Foreign Relations of the Senate of each use of funds under this subsection prior to the use of such funds.".

SEC. 9. HOSTAGE ACT.

Section 2001 of the Revised Statutes of the United States (22 U.S.C. 1732) is amended by inserting "and not otherwise prohibited by law" after "acts of war".

SEC. 10. SELF-DEFENSE IN ACCORDANCE WITH INTERNATIONAL LAW.

The use by any government of armed force in the exercise of individual or collective self-defense in accordance with applicable international agreements and customary international law shall not be considered an act of international terrorism for purposes of the amendments made by this Act.

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 91, as amended, which prohibits the exports of military equipment to countries supporting international terrorism and for other purposes.

Mr. Speaker, over the last few years this body has considered and approved many different provisions which strengthened our policy to combat international terrorism. The Aviation Security Act of 1989, the Foreign Airport Security Act of 1985 and the Omnibus Diplomatic Security and Antiterrorism Act of 1986 are but a few examples of bipartisan cooperation which has proved to be indispensable for the implementation of an effective antiterrorism policy.

One of the prohibitions the Congress passed in 1986 and the President signed into law is a ban on the export of items on the U.S. munitions list to any country which the Secretary of State determines repeatedly provides support for international terrorism. That prohibition, authorized by Mr. BERMAN and Mr. HYDE, is now section 40 of the Arms Export Control Act. There are currently six countries on the Secretary of State's terrorist list. They are Iran, Syria, Libya, Cuba, South Yemen, and North Korea.

There was some debate during the investigations into the Iran arms transactions over the meaning and intent of section 40 and of other laws which bear upon arms exports to such terrorist countries. The Committee on Foreign Affairs held hearings to examine these laws. In the course of the committee's consideration, the committee recommended a revision and restatement of some of the antiterrorism provisions currently in law. The committee consolidated certain provisions and reporting requirements and included other prohibitions which are intended to clarify and strengthen the effectiveness of the U.S. Government antiterrorism policy, and make such a policy consistent with the arms export control policies of our Government.

Mr. Speaker, my distinguished colleagues on the committee, Mr. BERMAN and Mr. HYDE, have accomplished that task with a strong bipartisan bill H.R. 91. H.R. 91 is similar to H.R. 3651, with some modifications which were made to reflect executive branch concerns and amendments which were made in the Senate during last year's consideration of H.R. 3561.

This measure was considered by the full House and adopted by unanimous votes on two separate occasions. The first time on May 24 and as part of our end of the year effort to enact a catch-all foreign policy measure (H.R. 5550) on October 19. H.R. 91, with the current modifications, has bipartisan support in the Congress and the support of the executive branch. I would like to commend my colleagues for their tireless efforts over the last year and a half to achieve a measure which enjoys such strong bipartisan support and to see to it that this bill is enacted and becomes law.

Briefly, the primary purpose of the bill is to strengthen and clarify the U.S. Government's prohibition on the export of military arms and equipment and the provision of other types of U.S. assistance to countries which have been placed on the Secretary of State's terrorist list. It also requires more detailed reporting by the executive branch on the export of arms.

H.R. 91 is a constructive effort to close potential loopholes and to ensure that there are uniform standards governing arms exports to terrorist countries. H.R. 91 also provides appropriate stiff criminal and civil penalties for those who violate the prohibitions on arms exports to terrorist states similar to those already contained in the Export Administration Act.

Underpinning H.R. 91 has been a remarkable amount of consultation and collaboration between majority and minority staffers, between Members on both sides of the aisle, between the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence, and between Congress and the executive branch and the private sector. I highly commend Mr. BERMAN, and Mr. HYDE for their tireless work on this outstanding piece of legislation.

Mr. Speaker, I strongly support this legislation and urge my colleagues to approve it with an overwhelming vote. Only terrorist governments and international terrorists will mourn the passage of H.R. 91.

□ 1350

At this point, I would ask the gentleman from California, the distinguished chairman of the Intelligence Committee, to engage in a colloquy

concerning that provision of the bill which relates to intelligence activities.

I want to confirm that new section 40(h) of the Arms Export Control Act as proposed in H.R. 91, draws a clear line between overt and covert transactions which involve the transfer of munitions items to a country on the Secretary of State's terrorist list. Therefore, in order to implement an overt transaction, the President would have to exercise his waiver authority under new section 40(g) of the Arms Export Control Act. This may include a transaction for which the President chooses to submit a classified report. In order to implement a covert transaction, the President would be required to use intelligence authorities and comply with the reporting requirements to Congress set forth in title V of the National Security Act. Either way, Congress must be informed of transfers of munitions list items to a country on the Secretary of State's terrorist list.

My concern, with respect to intelligence-related transfers of munitions list items to a foreign country—not just a country on the Secretary of State's terrorist list—is as follows:

Is it possible that intelligence-related transfers of items on the munitions list can be made for any purpose other than for covert actions in foreign countries, namely those significant anticipated intelligence activities which require, under current law, a presidential finding reportable to the intelligence committees before the intelligence activity is implemented? I presume such other purpose would be a transfer of munitions list items solely for intelligence collection purposes. Would such a transfer be reported to the intelligence committees prior to the transfer if it was part of significant anticipated intelligence activity? Would it possibly be reported some time after the transfer has taken place in those cases where the intelligence activity does not rise to the level of a significant anticipated intelligence activity?

Mr. BEILENSON. Mr. Speaker, if the gentleman will yield, my response would be as follows: all covert actions require a finding. All findings must be reported to the intelligence committees prior to activities initiated under such findings. While there is dispute about the circumstances under which prior notice may be deferred by the President, there is agreement that these circumstances will be rare. In any event, decisions of this kind are governed by the provisions of the National Security Act.

However, with respect to other intelligence activities, a different regime applies. Intelligence collection activities which reach the level of significance to be termed "significant anticipated intelligence activities" must be reported, like covert actions, prior to their initiation. Therefore, transfers of items on the munitions list in connection with such activities will be disclosed to the committees before they happen.

Other intelligence activities must, under the law, be reported to the intelligence committees "fully and currently", but not necessarily prior to their initiation. The committees therefore will not necessarily know beforehand of transfers of munitions list items in connection with such other intelligence activities. However, the committees do pay particular attention to the provision of lethal equipment to groups or governments and regularly review them. This is not to say that every transfer of a weapon to an individual is examined.

There is a range of intelligence collection activities which falls into this latter category. For instance, the provision of some personal weapon or piece of surveillance equipment to an intelligence agent usually would not require prior notification to the intelligence committee.

Further, some individuals with whom our intelligence services must deal with for the collection of intelligence will be unsavory. They may have terrorist connections. In many cases, these relationships need not be reported in advance to the intelligence committees.

These examples, however, should be distinguished from an intelligence transfer of munitions list items, for whatever purpose, to a government designated as a terrorist government or to any individual or group acting on behalf of a terrorist government. Such transfers would require prior notification to the intelligence committees as significant anticipated intelligence activities. Further, transfers to other individuals or groups could also be "significant anticipated activities" because of their policy implications, risk, cost or other consideration.

Mr. FASCELL. I thank the gentleman. Let me pose an additional question. Is the Intelligence Committee satisfied that it has in place sufficient procedures and reporting requirements to ensure that it is informed of all transfers of items on the munitions list which require the attention of the committee?

Mr. BEILENSON. If the gentleman will yield further, the intelligence committees and the executive branch have instituted reporting procedures concerning the use of nonappropriated funds. Further, the intelligence committees have other procedures or reporting requirements which they have imposed from time to time to ensure that transfers by the U.S. Government, or even transfers within the U.S. Government, of items on the munitions list, will be reported to the committees. At present, it is my opinion that these procedures and requirements, taken together, are adequate.

Mr. FASCELL. Mr. Speaker, I thank the gentleman.

Mr. BEILENSON. Mr. Speaker, I thank the gentleman for the inquiry.

Mr. FASCELL. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BERMAN], the principal sponsor of the legislation.

Mr. BERMAN. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of H.R. 91, the Anti-Terrorism and Arms Export Amendments Act of 1989, to strengthen laws prohibiting the export of military equipment to countries supporting international terrorism. H.R. 91 is nearly identical to legislation which passed this body three times in the 100th Congress, but which was not acted upon by the Senate. This bill represents a truly bipartisan commitment to the struggle against international terrorism. I would like to thank the distinguished chairman of the Foreign Affairs Committee for his unwavering support for this legislation. He and the distinguished ranking member from Indiana were instrumental to the success of the bill in the last Congress.

I would like to pay particular tribute to my colleague on the Foreign Affairs Committee, the distinguished gentleman from Illinois, HENRY HYDE. Mr. HYDE's sincerity of purpose and his constructive contributions to this bill are the soundest rebuttals to the cynics who profess that bipartisan legislation is no longer possible on Capitol Hill.

Last year, this legislation passed the House on three separate occasions. It was unfortunately held up in the Senate with other foreign affairs legislation in the last few days of the session and thus never became law. The bill before the House today is virtually identical to the legislation last passed by the House in the 100th Congress. The delay in bringing up the bill this Congress is due to our wishing to give the new administration the opportunity to assess the legislation and, in one case, to propose a substantive change. I am pleased to report that the administration supports the bill.

Mr. Speaker, it is an unfortunate state of affairs which brings this legislation before the Congress. We live in a world where sovereign nations promulgate terrorism and support groups who likewise use terror against noncombatants. Against such an enemy, there is all too little even the most powerful country can do to strike at such a nation's ability to conduct terrorism.

The U.S. Government has traditionally seized on one specific mechanism, and that is to deny terrorist countries

weapons with which to perpetrate terrorist acts and to deny dual-use goods which facilitate such acts of terror. This is altogether appropriate.

The events of a few years ago have led me to conclude that the laws were not clear enough or the penalties not harsh enough or the consequences of bypassing their intent not frightening enough, with the result that weapons were provided to a terrorist state.

While it is theoretically possible that an occasion will occur where provision of arms to a terrorist state will be the appropriate policy, it would seem that that eventuality should be circumscribed to maximize careful consideration by the appropriate parties of the potential consequences. It is to define these procedures that I set about to rewrite the arms export and antiterrorism laws in an unequivocal and coherent fashion.

Mr. Speaker, 3 years ago Mr. HYDE and I authored an amendment to the Arms Export Control Act. It read very simply: "[I]tems on the United States Munitions List may not be exported to any country which the Secretary of State has determined * * * has repeatedly provided support for acts of international terrorism." The President may waive this prohibition. But he must determine that the export is important to the national interests of the United States. And he must notify Congress. Mr. Hyde and I introduced this amendment as a logical extension of the administration's antiterrorism policy, particularly as it was reflected in operation staunch against Iran.

The Berman-Hyde amendment became the law of this land, with broad bipartisan support, on August 26, 1986; 2 months later 500 TOW missiles were shipped into Iran without notification to Congress. Ensuing months produced conflicting interpretations of our amendment and of other prohibitions and reporting requirements in the United States Code.

The debate that took place during the investigations into the Iran arms transaction regarding the meaning and intent of arms export and antiterrorism laws required a reexamination of these laws, which include not only section 40 of the Arms Export Control Act but other provisions in three statutes which attempt to regulate exports of arms and certain goods and technology to terrorist countries.

Over the years Federal law has absorbed overlapping standards that can lead to confusion and misinterpretation. There is no single standard in the law for:

First, determining whether a country supports international terrorism; second, identifying which U.S. official should make that determination; third, identifying which arms are subject to restrictions; fourth, identifying the criteria that empower the President to waive statutory restrictions; and fifth, adequately informing Congress of arms exports, including covert exports. The inconsistent provisions do not make good law either for the U.S. Government or for private American citizens who look to the law for guidance.

The Antiterrorism and Arms Export Amendments Act of 1989, which I will hereafter refer to as H.R. 91, reaffirms, strengthens, and clarifies this Nation's prohibition on exports of military weapons and equipment to countries which have been designated by the Secretary of State as supporters of international terrorism. It imposes new criminal and civil penalties on violators of the prohibition. H.R. 91 also requires more detailed and periodic reporting by the executive of arms exports.

H.R. 91 is largely a restatement of existing law. Our intent has been to close potential loopholes and revise certain existing provisions to ensure that uniform standards are present in the United States Code. The bill makes no attempt to reform the personnel or structure of the National Security Council or the State, Commerce or Defense Departments. Nor does it seek to change the manner in which arms exports are approved by the U.S. Government or to impose blanket sanctions on terrorist states. The bill does not impair the President's discretionary authority. In fact, in some cases the bill broadens the President's discretion. But the bill does hold the President to a reasonable standard of accountability to Congress in the exercise of that authority.

A tremendous amount of work went into examining the bill during months of deliberations last Congress. There was close consultation between the majority and minority staff. Numerous meetings were held with the staff of the House Permanent Select Committee on Intelligence, with officials from the State, Commerce, and Defense Departments and from the Central Intelligence Agency, majority and minority in the Senate, and with representatives from the private sector.

Mr. HYDE and I worked closely during that period to incorporate a large number of the recommendations that were made during the review process. I wish to stress that many of the changes reflected in the bill were incorporated at the request of the Reagan administration following our careful consideration. Subsequently, we engaged in a similar, if less far-reaching, review with the Bush administration. We have gone to great lengths to accommodate the legitimate concerns of both administrations and, in some case, have provided the executive with additional authority. Mr. HYDE and I have received a letter of support for the legislation from the White House.

H.R. 91 amends the Arms Export Control Act, the Foreign Assistance Act of 1961, the Export Administration Act of 1979, and the Hostage Act of 1868. Its major provisions amend the following sections of these statutes:

Section 40 of the Arms Export Control Act, which prohibits exports of arms to terrorist states, is significantly reinforced. Prohibited transactions are listed in detail, but with respect to U.S. Government activities and private transactions. The President could waive the prohibitions for specific transactions, but only with prior, detailed reporting to Congress, on a classified basis if necessary. Also, the President may rescind the Secretary of State's determination that the government of a state supports international terrorism, but only in accordance with certain conditions. The President's rescission can become effective immediately if there has been a fundamental change in the leadership and character of a terrorist government and appropriate assurances have been delivered, or 45 calendar days after the President has given Congress a report confirming that the terrorist government has not provided any support for international terrorism during the preceding 6-month period and that appropriate assurances have been delivered by that government. The standard for identifying a government which supports international terrorism is clarified. The requirements for a Presidential rescission and for identifying a terrorist government are repeated in the amendments to the antiterrorism provisions of the Export Administration Act, section 6(j), and the Foreign Assistance Act of 1961, section 620A.

A clear line is drawn in amended section 40 to prohibit overt transfers to terrorist states unless the President exercises his waiver authority, while regulating intelligence transfers which are subject to the reporting requirements of the National Security Act of 1947. The amended section 40 also imposes criminal penalties on public officials and private parties who violate the prohibition.

The language permits the President to use the waiver authority of section 614(a) of the Foreign Assistance Act of 1961 in connection with a section 40 prohibited activity, but requires him to provide in the written policy justification required by that section the information specified in subsection (g)(2)(B) of section 40.

Section 3(f) of the Arms Export Control Act is repealed. This is the original antiterrorism provision of the Arms Export Control Act, and it is superseded by the revised section 40 prohibition.

Section 38(a)(2) of the Arms Export Control Act is amended to further ob-

ligate the Director of the Arms Control and Disarmament Agency, in connection with the issuance of export licenses, to take into account whether the export of a munitions list item will support international terrorism.

Section 36(b)(1)(D) of the Arms Export Control Act is amended to further obligate the Director of the Arms Control and Disarmament Agency, in connection with a sale of munitions items by the Government, to evaluate how, if at all, the proposed sale would support international terrorism.

Section 6(j) of the Export Administration Act, which regulates the export of goods and technology of significant military or of "terrorist" value to terrorist states, is amended;

First, to remove the current $1 million annual threshold amount under which the executive currently does not have to report to Congress exports of such goods and technology to terrorist states, and second, to require validated licenses for all such exports to terrorist states and 30-day prior notification to Congress of the proposed issuance of a validated license. Section 6(j) also is amended to conform the rescission authority under that section with the rescission authority available under new section 40 of the Arms Export Control Act and new section 620A of the Foreign Assistance Act of 1961.

Section 6(j)(1)(B) of the Export Administration Act of 1979 is amended to require that the Secretary of State's second determination be one regarding which the export of the goods and technology could make a significant contribution to the military potential of a terrorist country or could enhance the ability of such country to support acts of international terrorism. I want to emphasize that the reference on page 13 of House Report No. 100-623 to this determination applying to "a wide range of goods and technology" must be read in conjunction with the standard reasonableness which is explained in the same sentence. That standard typically should be applied to target certain types of goods and technology which the Commerce Department reasonably determines could make a significant contribution to the military potential of a terrorist country or could enhance the ability of such country to support acts of international terrorism. I do not interpret it as meaning that a wide, indiscriminate net should be thrown out to capture every conceivable good or technology.

The legislation has simplified the statutory language governing the definition of what is a terrorist state. In so doing, however, there was no intention of narrowing the scope of the criteria which must go into any determination as to whether a country has "repeatedly provided support for acts of international terrorism."

It is clearly the intent of Congress that the Secretary's evaluation include, but not be limited to, the following criteria: allowing the use of its territory as a sanctuary from extradition or prosecution for terrorist activities; furnishing arms, explosives, or lethal substances to individuals, groups, or organizations with the likelihood that they will be used in terrorist activities; providing logistical support, such as transportation, to individuals, groups, or organizations involved with terrorist activities; providing safe houses or headquarters for any individuals, groups, or organizations involved with terrorist activities; planning, directing, providing training for, or assisting in the execution of terrorist activities; providing direct or indirect financial backing for terrorist activities; and providing direct or indirect diplomatic facilities such as support or documentation intended to aid or abet terrorist activities.

Section 620A of the Foreign Assistance Act of 1961, the "antiterrorism" section of that act, is amended to conform it with other changes in the law, particularly the revision of section 40 of the Arms Export Control Act. There is a clarification that the President cannot use humanitarian reasons to justify a waiver of the antiterrorism prohibition for the purpose of providing any security assistance under part II of the Foreign Assistance Act of 1961 or by the Export-Import Bank.

Section 36 of the Arms Export Control Act, which requires certain reports to Congress about commercial and governmental military exports, is amended to add: First, quarterly reports listing all Presidential consents to transfers of munitions list items exceeding $1,000,000 in value from a recipient country to a third country under the authority of sections 3(a) or 38 of the Arms Export Control Act or section 505 of the Foreign Assistance Act of 1961; second, quarterly reports, classified if necessary, of interagency transfers of munitions list items which will not ultimately be disposed of within the United States but excluding from the report those munitions list items which are used solely in connection with intelligence activities and are subject to other reporting requirements under the National Security Act.

Section 614(c) of the Foreign Assistance Act of 1961 is amended to designate the recipients of the Presidential notification under that section as the chairman and ranking minority member of the Committee on Foreign Affairs of the House of Representatives rather than the Speaker, and to require prior notice of the use of the authority under that section.

The Hostage Act of 1868 is amended to clarify that the President's authority to take action to release hostages cannot be carried out in a manner which would otherwise be prohibited by law.

Mr. Speaker, the Antiterrorism and Arms Export Amendments Act of 1988 is a constructive, bipartisan effort to clarify and restate the laws which prohibit arms exports to terrorist states and to strengthen other reporting requirements about arms exports. I strongly urge the House to approve this legislation.

Mr. Speaker, I would also like to thank the committee staff, which invested hundreds of hours last Congress in discussing the details of this legislation with representatives of agencies and departments of the U.S. Government, not to mention private industry.

I would like to commend particularly Mr. HYDE's staff Bill Inglee and Dan Finn and my staff, Lise Hartman, for their honesty and fairness in the difficult and complicated process of achieving consensus on this legislation.

David Scheffer, who has left the Foreign Affairs Committee, invested his talent and time on the committee in making this a sound law, and from the Intelligence Committee, Mike O'Neill and Bernie Rains.

□ 1400

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 91, the Antiterrorism and Arms Export Amendments Act. And I commend the distinguished chairman of our Foreign Affairs committee, the gentleman from Florida [Mr. FASCELL]; the ranking minority member of our committee, the gentleman from Michigan [Mr. BROOMFIELD]; the gentleman from California [Mr. BERMAN]; and the gentleman from Illinois [Mr. HYDE] introducing this bill. This is a comprehensive proposal which reaffirms, strengthens, and clarifies our Nation's policy on exports of military weapons to terrorist states.

The terrorist acts we face today are not based just on some misguided nationalism, nor are they merely physical manifestations of a class struggle directed against those vague forces called "imperialism" and "oppression." Today, we are confronted with the specter of state-supported terrorism. The time has come for our Nation to take direct action against those states supporting terrorism. The acts terrorists perpetrate today are acts of violence, directed at the young, the old, the rich, and the poor. There are no segments of society safe from bullets, explosives and hijackings.

This important act addresses two critical facets of U.S. foreign policy. First, it imposes a prohibition on the export of arms by any method to states which support international terrorism. Second, it obligates the executive branch to inform Congress of all exports of military weapons to foreign governments.

This legislation is an important step in eliminating safe havens for terrorists. A coordinated counterterrorism program must rest upon a consistenly implemented program that includes pressuring states which use or support terrorism as part of their foreign policy.

Mr. Speaker, in this dangerous age in which we live, it is incumbent upon those of us in the Congress to do all in our power to combat international terrorism. According by, I urge full support of this bill.

Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, as a senior member of the Foreign Affairs Committee and in early cosponsor of H.R. 91, I rise in strong support of this bill.

As explained, this legislation is a comprehensive bill reaffirming, strengthening, and clarifying our Nation's policy on exports of military weapons to terrorist states. I cosponsored and voted for identical legislation which unanimously passed the House last Congress. Unfortunately, the Senate was unable to fully consider this important bill during its last days of session.

Basically, the "Antiterrorism and Arms Export Amendments Act of 1989" addresses three principal features of U.S. arms export policy. It prohibits the export of arms—by any method—to states which support international terrorism. It also increases executive branch arms transfer reporting requirements to enhance oversight. This measure also clarifies current law, which is ambiguous, and closes potential loopholes thereby ensuring that uniform standards are present throughout the United States Code.

The bottom line is we need to make sure that no American arms are sold to our enemies—those countries supporting international terrorism. Increasingly, Americans have become the victims of international terrorism. It would be sadly ironic—in fact very upsetting—if American arms and technology were being used by a terrorism-sponsoring nation to either directly help terrorists or protect itself—the sponsoring "host." H.R. 91 helps prevent such a regretable situation.

I believe this measure is carefully crafted to give the President flexibility in determining and meeting specific national security needs as they arise. In this way, we are still able to meet unplanned contingencies without violating this much tougher law.

Combating terrorism requires many different approaches and "weapons." Strengthening our arms export laws and helping reduce the availability of weapons and technology to terrorist nations—and thereby the terrorists themselves—is one method of antiterrorism combat.

I urge my colleagues to support this bipartisan bill and the fight against terrorism.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from California for his supporting remarks.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. HYDE], the senior member of the Committee on Foreign Affairs, one of the chief sponsors of this measure.

Mr. HYDE. Mr. Speaker, first of all, I think it almost goes without saying successful foreign policy requires cooperation, bipartisanship between the Democrats and the Republicans in Congress and the executive department, and we have a prime example of such cooperation on a very difficult and even technical issue, but very significant. I really am proud of this, because it is an example of that rare but necessary cooperation from the congressional and executive branch of government.

Mr. Speaker, I am very pleased to join my colleague, the gentleman from California, in support of H.R. 91. He has provided effective leadership in this difficlt and important area, and I must say has risen above partisanship to craft this legislation. It was a great pleasure to work with Mr. BERMAN and his excellent and expert staff, Lise Hartman, Bill Inglee, Steven Nelson, and Dan Finn.

Mr. Speaker, this legislation deals with a very serious problem, and at the same time offers a measured response to some of the policy problems identified during the Iran-Contra hearings in which I was privileged to participate.

As serious terrorist acts proliferate and the global community struggles to respond effectively, it is now more important than ever that the United States have a consistent, clearly stated terrorist policy. This legislation is designed to help fill this need.

H.R. 91 represents a significant contribution to the statutory underpinnings of our Nation's antiterrorist policy. Current law regarding U.S. antiterrorist policy is spread throughout four main statutes: the Arms Export Control Act, the Export Administration Act, the Foreign Assistance Act, and the Hostage Act.

In many cases, these statutes apply standards, definitions waivers, or determinations which are inconsistent with one another. In response to this problem, the gentleman from California and I have attempted to fashion a bill which would bring together in one single statute all of the principal, statutory elements of our Nation's antiterrorism policy. Section 40 of the Arms Export Control Act now represents the uniform standard needed to effectively administer this policy.

At the heart of H.R. 91 is its prohibition on virtually all arms transactions with a country which supports terrorism. H.R. 91 amends section 40 of the Arms Export Control Act by strengthening its existing prohibitions on arms transfer to nations supporting terrorism, tightening up is current waiver authorities, drawing a clear line between overt and covert aarms transactions, and imposing criminal and civil penalties for violators of these provisions.

H.R. 91 also requires a validated license for the export of goods and technology which could make a significant contribution to the military potential of a terrorist country or could enhance the ability of that same country to support acts of international terrorism. This will help prevent items capable of being used in support of terrorist acts from falling into a terrorist country's hands.

H.R. 91 also specifically prohibits any U.S. foreign assistance to countries supporting international terrorism.

During the course of consideration of H.R. 91, committee staff has met extensively with representatives of all affected executive branch agencies and the private sector. Several changes were subsequently made in H.R. 91 in response to concerns voiced during these meetings. The administration now supports H.R. 91 and this statement of support has been directly transmitted to Mr. Berman and myself in writing by the President's National Security Adviser, Brent Scowcroft, and, the President's Counsel, C. Boyden Gray.

H.R. 91 will allow more effective administration of our antiterrorism policy, knowing that the legislative guideposts are clear and that a strong antiterrorist policy will enjoy the support of both the Congress and the American people. Once again I would like to thank my colleague from California for his constructive and bipartisan approach to fashioning this bill.

Mr. BERMAN. Mr. Speaker, will the gentleman yield for purposes of a colloquy?

Mr. HYDE. I yield to the gentleman from California.

□ 1410

Mr. BERMAN. I would ask the distinguished gentleman from Illinois to describe the circumstances under which the section 614(a) waiver authority can be exercised pursuant to new section 40(i) of the Arms Export Control Act.

Mr. HYDE. If the distinguished gentleman from California will yield back to me, I would respond as follows: New section 40(i) permits the President to use the section 614(a) waiver authority only in exceptional circumstances where time is of the essence.

Specifically, the President should use the section 614(a) waiver authority only when he needs to act under that authority in less than 15 days.

Reflecting our need to be kept informed about munitions transfers to terrorists countries, new section 40(i) also requires a detailed report prior to the exercise of the waiver authority.

I would stress, too, that the President should have a very strong justification for exercising the section 614(A) waiver authority in any case involving transfers to a terrorist country.

Mr. BERMAN. I thank the gentleman. I, too, wish to emphasize that new section 40(i) addresses an extraordinary situation, where the President wishes to provide munitions items to a terrorist country on very short notice, that is, in less than 15 days. The list of such countries is small; the situations which would require such extraordinary action are almost too hypothetical to envisage; and the risk we run in exporting these items to terrorist states—that they might fall into the hands of supporters of terrorists, or terrorists themselves—that the President should use the section 614(a) waiver authority only as a last resort following consultation with the Congress and submission of a report.

I want to emphasize that the consultation requirement does not mean that the President should wait until he exercises the section 614(a) authority to consult with Congress. It means that the consultations begin within the 15-day period at the time the President determines he is going to exercise the authority and begins formulation plans to actually do so.

Mr. HYDE. I would like to engage the gentleman in a short colloquy on whether purely diplomatic activities are covered by the provisions of this bill.

Mr. BERMAN. Surely.

Mr. HYDE. As the gentleman knows, section 40(a) of the bill applies to activities of the U.S. Government. Paragraph (5) of that subsection prohibits "otherwise facilitating the acquisition" of arms by terrorist countries.

I wish to point out that the committee report clarifies the applicability of this section to diplomatic activities undertaken at the request or direction of the President. As the report states:

This provision is not intended to circumscribe the President's constitutional powers to articulate U.S. foreign policy, or to communicate with any foreign country concerning arms transfers that the foreign country intends to make. It is not intended as a limitation on the President's authority to discuss such matters with foreign countries, but rather to deal with specific and concrete actions to assist in a foreign government's plans.

Now, section 40(b) of the bill deals with other actions by U.S. persons. Paragraph (b)(1)(D) of that section contains a parallel provision on facilitating the acquisition of arms by terrorists governments.

Is it the gentleman's understanding that the same principle of interpretation contained in the committee report applies to subsection 40(b)(1)(D) as to subsection 40(a)(5)?

Mr. BERMAN. Yes. The actions of U.S. Government officials and other persons "at the request or on behalf of the Government" were intended to be primarily covered by subsection 40(a).

To the extent that U.S. officials or other persons expressly acting at the request or direction of the President would fall within the purview of subsection 40(b), they would indeed be subject to the same principles cited in the committee report.

On the other hand, arms dealers or other persons who voluntarily become part of a chain of events leading to the acquisition of arms by a terrorist country would be covered by the paragraph 40(b)(1)(D) prohibition. The privilege for actions of U.S. officials and other persons acting at the request or direction of the President does apply if the individual goes beyond the sphere of diplomatic activities and become part of the chain of events leading to acquistion of arms by a terrorist state.

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, once again let me express my appreciation to the two gentlemen and their staffs who worked diligently on this matter, and at the same time commend my own staff on the majority side for the hard work they put in over a long period of years, Toni Verstandig, Bob Boyer, and Beth Ford. I do not want to forget legislative counsel that had to do the rewrites constantly on this and make sure what was being said was translated correctly, and that is Bill Mohrman.

So to all of them and all of the staff, I express my deep appreciation for a matter which has been before this Congress I believe since 1978.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. FASCELL. I am happy to yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, it is always hazardous to start naming staff for their significant contributions. I know we have left some superstars out, among them Dan Finn, and I am sure on the gentleman's side there are many more.

This is indeed the product of a lot of staff work. They do deserve full credit. I will say to the gentleman from Illinois, he is right. This has been a difficult matter over a long period of time. We are doing well to take the time out to congratulate our staff and express our appreciation of them. This has been a very diffficult task.

I started to say we had been at this since 1978. The last time we tried it, I believe we spent 4 years on the definition in the committee and had a terrible time trying to reach an agreement. It is only after the gentleman from Illinois and the gentleman from California managed to get together and decide they wanted to tackle it again that we were able to achieve the kind of success that is set forth in this legislation. I certainly commend everyone who worked diligently to bring this about.

Mr. Speaker, I concluded by saying this is an important piece of legislation. It has probably been the most considered piece of legislation that I know of in a long period of time. It is needed, it is vital, and it deals with a very important problem. I urge my colleagues to overwhelmingly support it.

Mr. BROOMFIELD, Mr. Speaker, I wish to express my support for H.R. 91. This bill improves the statutes used to control the export of arms and other sensitive technology to countries which support international terrorism.

I commend the primary sponsors, Mr. HYDE and Mr. BERMAN, for their work on this measure. This bill is the result of numerous discussions within Congress and with the executive branch.

H.R. 91 is a constructive response to the Iran-Contra affair. Rather than make unrealistic demands on the administration, it attempts to construct a careful framework of restrictions, notification and consultation for transactions involving terrorist states.

The bill would impose new reporting requirements. But these have been carefully crafted to ensure that they will be useful and not unduly burdensome.

Among other things, H.R. 91 addresses the subjects of: prohibited actions by U.S. officials and other persons, reporting of all arms transfers to terrorist countries under either the Arms Export Control Act or as intelligence activities, special reporting of interagency arms transfers or transfers to third countries, and Presidential waiver authority.

The administration's senior advisers support H.R. 91 and recommend its passage.

Mr. Speaker, I wish again to commend the sponsors of this measure, and I yield the remainder of my time to the primary Republican sponsor, Mr. HYDE of Illinois.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. FASCELL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SKAGGS). The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and pass the bill, H.R. 91, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF "WOMEN IN CONGRESS"

Mr. BATES. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the concurrent resolution (H. Con. Res. 167) authorizing the printing of the book entitled "Women in Congress," and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROBERTS. Mr. Speaker, reserving the right to object, I yield to to the gentleman from California [Mr. BATES] so that he might explain the resolution.

Mr. BATES. Mr. Speaker, I thank the gentleman from Kansas for yielding. This resolution authorizes the reprinting of the book "Women in Congress."

Mr. ROBERTS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 167

Resolved by the House of Representatives (the Senate concurring), That the book entitled "Women in Congress" (prepared by the Office for the Bicentennial of the House of Representatives) shall be printed as a House document, with illustrations and suitable binding. In addition to the usual number, 25,000 copies of the book shall be printed for the use of the Office for the Bicentennial of the House of Representatives.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BATES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING PRINTING OF "THE U.S. CAPITOL: A BRIEF ARCHITECTURAL HISTORY"

Mr. BATES. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the concurrent resolution (H. Con. Res. 168) authorizing the printing of the book entitled "The U.S. Capitol: A Brief Architectural History," and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROBERTS. Mr. Speaker, reserving the right to object, would the gentleman from California [Mr. BATES] please explain the resolution?

Mr. BATES. Mr. Speaker, Will the gentleman yield?

Mr. ROBERTS. I am pleased to yield to the gentleman from California.

Mr. BATES. Mr. Speaker, the resolution authorizes the printing of the book, "The U.S. Capitol: A Brief Architectural History."

Mr. ROBERTS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 168

Resolved by the House of Representatives (the Senate concurring), That the book entitled "The U.S. Capitol: A Brief Architectural History" (prepared by the Office of the Architect of the Capitol) shall be printed as a House document, with illustrations and suitable binding. In addition to the usual number, 50,000 copies of the book shall be printed for the use of the Office for the Bicentennial of the House of Representatives.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BATES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING PRINTING OF "ORIGINS OF THE HOUSE OF REPRESENTATIVES: A DOCUMENTARY RECORD"

Mr. BATES. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the concurrent resolution (H. Con. Res. 169) authorizing the printing of the book entitled "Origins of the House of Representatives: A Documentary Record," and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROBERTS. Mr. Speaker, reserving the right to object, I shall not object, and I yield to the gentleman from California [Mr. BATES] so that he may explain the resolution.

Mr. BATES. Mr. Speaker, I thank the gentleman for yielding. This resolution authorizes the printing of the book "Origins of the House of Representatives: A Documentary Record."

Mr. ROBERTS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 169

Resolved by the House of Representatives (the Senate concurring), That the book entitled "Origins of the House of Representatives: A Documentary Record" (prepared by the Office for the Bicentennial of the House of Representatives) shall be printed as a House document, with illustrations and suitable binding. In addition to the usual number, 3,000 copies of the book shall be printed for the use of the Office for the Bicentennial of the House of Representatives.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BATES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING PRINTING OF "BLACK AMERICANS IN CONGRESS"

Mr. BATES. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the concurrent resolution (H. Con. Res. 170) authorizing the printing of the book entitled "Black Americans in Congress," and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore (Mr. SKAGGS). Is there objection to the request of the gentleman from California?

Mr. ROBERTS. Mr. Speaker, reserving the right to object, I yield to the gentleman from California so that he may explain this resolution.

Mr. BATES. I thank my colleague for yielding.

Mr. Speaker, this resolution authorizes the reprinting of the book, "Black Americans in Congress."

Mr. ROBERTS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 170

Resolved by the House of Representatives (the Senate concurring), That the book entitled "Black Americans in Congress" (as revised by the Office for the Bicentennial of the House of Representatives) shall be printed as a House document, with illustrations and suitable binding. In addition to the usual number, 25,000 copies of the book shall be printed for the use of the Office for the Bicentennial of the House of Representatives.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BATES. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the concurrent resolution, House Concurrent Resolution 170, just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING PRINTING OF BROCHURE ENTITLED "HOW OUR LAWS ARE MADE"

Mr. BATES. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the concurrent resolution (H. Con. Res. 193), authorizing printing of the brochure entitled "How Our Laws Are Made" and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROBERTS. Mr. Speaker, reserving the right to object, I yield to the gentleman from California so that he might explain the resolution involving the printing of the book "How Our Laws Are Made," which is indeed a very important subject.

Mr. BATES. Mr. Speaker, this resolution authorizes the reprinting of the book "How Our Laws Are Made."

Mr. ROBERTS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 193

Resolved by the House of Representatives (the Senate concurring), That the revised edition of the brochure entitled "How Our Laws Are Made" shall be printed as a House document, with a suitable paper cover in the style selected by the chairman of the Committee on the Judiciary of the House of Representatives and with a foreword by the Honorable Jack Brooks. In addition to the usual number, there shall be printed two hundred and forty-six thousand copies of the brochure for the use of the House of Representatives (of which twenty-five thousand shall be for the use of the Committee on the Judiciary) and there shall be printed fifty-two thousand copies of the brochure for the use of the Senate.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BATES

Mr. BATES. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk reads as follows:

Amendment in the nature of a substitute offered by Mr. BATES: Strike out all after the resolving clause and insert the following:

That the revised edition of the brochure entitled "How Our Laws Are Made" shall be printed as a House document, with a suitable paper cover in the style selected by the chairman of the Committee on the Judiciary of the House of Representatives and with a foreword by the Honorable Jack Brooks. In addition to the usual number, there shall be printed 246,000 copies of the brochure for the use of the House of Representatives (of which 25,000 copies shall be for the use of the Committee on the Judiciary) and 52,000 copies of the brochure for the use of the Senate.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. BATES].

The amendment in the nature of a substitute was agreed to.

The concurrent resolution as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BATES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 193, the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

GUAM LINEMAN DIES ON ST. CROIX

(Mr. DE LUGO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DE LUGO. Mr. Speaker, after the television has passed over the disasters of Hugo and even the disaster of California, the recovery still goes on, and also the anguish.

On St. Croix, the U.S. Virgin Islands, 85 percent of the people are still without electrical power. Our friends from Alabama, Georgia, and Florida have come to help us rebuild our entire power system.

Our friends from Guam, our sister territory half-way around the world, also have come to help. Gov. Joe Ada made a beautiful gesture by sending 17 of Guam's linesmen, who have valuable experience in working with power distribution systems during disasters caused by typhoons.

This is dangerous work. And tragedy occurred this past Thursday at 5 p.m. when a young Guamanian, Pedro "Pete" Cepeda, just 23 years old, fell to his death. He was cut down in the prime of his life as he worked with the Virgin Islands Water and Power Authority to restore power to Hugo-devastated St. Croix.

I would like to include the full text of this excellent editorial in the Virgin Islands Daily News, entitled "Mourning a Loss," which pays tribute to Pete Cepeda.

On behalf of the Virgin Islands, I would like to extend our heart-felt sympathy and gratitude to the family and friends of Pete Cepeda, as well as to all the people of Guam, who extended their help in this time of disaster.

[From the (VI) Daily News, Oct. 23, 1989]

MOURNING A LOSS

The tragic death last week of Guam lineman Pedro "Pete" Cepeda hit Virgin Islands with a special pain and poignancy.

Here was a young man, just 23-years-old and in the promise of life, who had traveled halfway around the world to help others in need. Here was a young man who willingly left his home and family to risk his life—for that is what his work entailed—to help the people of a fellow U.S. territory return to normalcy after Hurricane Hugo.

Every resident of these islands shares the pain and grief that Pete Cepeda's family and friends are suffering, and every resident realizes the incredible debt of gratitude we owe to this valiant young man.

His death also brings to us the enormous debt we owe to every other emergency worker, both from Guam and from areas across the United States, who came to the Virgin Islands to help us recover from Hugo's devastation.

To the Guamanians and to Pete Cepeda's family, we extend our deepest sympathy. To the other emergency workers who are here to help us, we can only say thank you—a heartfelt, immeasurable thank you.

EASTSIDE ALLIANCE'S SECOND ANNUAL AWARDS DINNER AND DANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. COYNE] is recognized for 5 minutes.

Mr. COYNE. Mr. Speaker, there is an organization in my home town of Pittsburgh whose motto is, "Four Neighborhoods Stronger Together." This organization is called the Eastside Alliance, and it is living proof of how much can be accomplished when ordinary

people in urban neighborhoods pool their energies and talents for the good of the areas where they live.

The neighborhoods where the Eastside Alliance operates are Bloomfield, Garfield, Lawrenceville, and Polish Hill. As one who was born and grew up in Pittsburgh, I have always known these as areas where family values, the work ethic, and neighborhood pride are strong. These are solid neighborhoods. But since the Eastside Alliance was born, it has strengthened the social and economic fabric of this area in a variety of important ways.

In the last year, the Alliance has expanded the Lawrenceville Citizens Council's job bank into a community employment project that serves residents and businesses in all four neighborhoods. From the beginning of the year through last month, the project had placed over 100 area residents in new jobs.

The Alliance is renovating two houses in Polish Hill that had been vacant for about 20 years. They are scheduled for completion by the end of the year, and two prospective buyers have already been lined up. Another development project in Polish Hill is in the works—and meanwhile, the Alliance is helping homeowners in all four neighborhoods to obtain low-interest loans for home repair.

The women and men of the Eastside Alliance know how important it is for voters in the area to understand how local government is affecting them, so they sponsored a very successful candidates' forum in May for District 7 council candidates. Some 250 people attended.

This Friday, the Alliance is having its second annual awards dinner and dance at the Bloomfield Moose. This is a major event for the four neighborhoods. The Alliance will honor a long-time and tireless worker for neighborhood preservation and renovation, Aggie Brose, as the Eastside of the Year, and it will present the special humanitarian award to Dr. William Fronczek.

Also being honored as Volunteers of the Year will be Marie Byrnes, Bloomfield Garfield Corp.; Barbara Schimmel, Bloomfield Lawrenceville Lioness Club; Bob Conrad, Bloomfield Lawrenceville Lions Club; Hilda Smith, Friendship Baptist Church; Garland Walker, Garfield Jubilee Association; Olga Jurkovec, Lawrenceville Bloomfield Meals on Wheels; Pauline Kowach, Lawrenceville Business Association; Mary Moses, Lawrenceville Citizens Council; John Axtell, Lawrenceville Historical Society; Father John Jendzura, Polish Hill Civic Association; Tony Finizio, St. Francis Medical Center; John Conway, St. Mary's Roman Catholic Church; Loretta Davis, Trinity Baptist Church; and Josephine Buzzelli, West Penn Hospital.

Each of these individuals is making a special contribution to their neighborhoods and to Pittsburgh as a whole. I want to congratulate them and everyone else who is making the Eastside Alliance one of the great success stories of Pittsburgh's neighborhoods.

ROSH HASHANAH AND YOM KIPPUR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. NELSON] is recognized for 5 minutes.

Mr. NELSON of Florida. Mr. Speaker, earlier this month, the Jewish people celebrated their two holiest days of the Year—Rosh Hashanah and Yom Kippur. The Jewish New year celebrates 5,750 years of the existence of the Jewish people and recognizes the hardships they have endured by those who have sought to decimate them. Hitler's Germany, the 6-day war in Israel in 1963, and the attack on Israel in 1973 during the celebration of Yom Kippur are just a few examples of efforts to destroy the existence of the Jews. The Jewish people have successfully risen above these attempts at annihilation and have become a stronger nation. It is important for the United States to realize the importance of the holy days to the Jewish people and to recognize that persecution of the Jews still continues and cannot be ignored.

As a free, democratic nation, it is often hard for us to comprehend the trials of Soviet Jews who are prisoners of conscience, living with persecution every day of their lives. We as a free democratic nation are one of their best hopes for survival, and we must assist their cause. Basic human rights are a right that all American citizens demand and deserve. Soviet Jews also demand human rights, they deserve human rights, but they do not receive these basic rights.

We in the United States take for granted our right to exercise free speech and religion. Though we are often frustrated by our government's service to the American people, we must remember that the very government which sometimes disillusions us, offers every American citizen the right to a private and free existence. Likewise, we must realize that Soviet Jews cannot take advantage of the freedoms we are accorded by our Government—freedoms to speak, to quarrel, to change our station in life. We must make sure that Soviet Jews, as well as other prisoners of conscience, are afforded these same opportunities.

We should not let the term glasnost cloud our vision and skew our efforts to wipe out human rights abuses. We must not wane in our dogged determination to free Soviet Jews from persecution because the Soviet Government has created the concept of glasnost. We must maintain our resolve and seize every opportunity to ensure the emigration of persecuted refuseniks from the Soviet Union. Our conscience will not let us stop working toward this end until the Soviet Government realizes that their acts of persecution, not accepted by the free world, must be altered to ensure that all human beings, regardless of heritage, must be free. Until this happens, glasnost is just another word and persecution is just another reality.

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of Thursday, October 19, 1989, the Chair declares the House in recess until 5 p.m.

Accordingly (at 2 o'clock and 26 minutes p.m.), the House stood in recess until 5 p.m.

□ 1700

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. BOXER) at 5 o'clock and 1 minute p.m.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

Washington, DC, October 23, 1989.

Hon. THOMAS S. FOLEY,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 5:24 p.m. on Saturday, October 21, 1989 and said to contain H.R. 2990, the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1990," and a veto message thereon.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

DEPARTMENT OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-102)

The SPEAKER pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.R. 2990 the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1990."

I have informed the Congress on numerous occasions that I would veto legislation if it permitted the use of appropriated funds to pay for abortions other than those in which the life of the mother would be endangered if the fetus were carried to term. Most recently, I reiterated my position and the reasons therefor on October 17, 1989, in a letter to Members of the Senate. The limitation I proposed is identical to the one included in this appropriations bill, by a bipartisan majority, since 1981. This year, regrettably, the Congress has expanded the circumstances in which federally appropriated funds could be used to pay for abortions.

In addition to unacceptable abortion language, this legislation underfunds the Pell grant program, weakening the Nation's commitment to expanding op-

portunity for higher education. At the same time, this legislation provides unnecessary advance funding for State Legalization Impact Assistance Grants.

Further, the Congress has failed to provide needed flexibility in the use of HHS discretionary funds to combat HIV/AIDS—one of America's highest public health priorities.

I am, therefore, compelled to disapprove H.R. 2990.

GEORGE BUSH.

THE WHITE HOUSE, *October 21, 1989.*

The SPEAKER pro tempore. The objections of the President will be spread at large upon the Journal and the message and the bill will be printed as a House document.

Mr. NATCHER. Madam Speaker, I ask unanimous consent that further consideration of the veto message of the President on the bill (H.R. 2990) making appropriations for the Department of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1990, and for other purposes, be postponed until Wednesday, October 25, 1989.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today, in the order in which that motion was entertained.

Votes will be taken in the following order:

H. Res. 257, by the yeas and nays; and

H.R. 2095, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

DENOUNCING EUROPEAN COMMUNITY BROADCAST DIRECTIVE

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution (H.Res. 257) as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and agree to the resolution, House Resolution 257, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 342, nays 0, not voting 90, as follows:

[Roll No. 296]

YEAS—342

Ackerman	Fazio	Martinez
Akaka	Fields	Matsui
Alexander	Flippo	Mavroules
Annunzio	Foglietta	Mazzoli
Applegate	Ford (MI)	McCandless
Archer	Ford (TN)	McCloskey
Armey	Frank	McCrery
Aspin	Frenzel	McCurdy
AuCoin	Gallegly	McDermott
Ballenger	Gallo	McEwen
Barnard	Gaydos	McHugh
Bartlett	Gejdenson	McMillen (MD)
Bateman	Gekas	McNulty
Bates	Geren	Meyers
Beilenson	Gibbons	Mfume
Bennett	Gillmor	Miller (CA)
Bentley	Gilman	Miller (OH)
Bereuter	Glickman	Miller (WA)
Berman	Gonzalez	Mineta
Bevill	Gordon	Moakley
Bilbray	Goss	Montgomery
Bilirakis	Gradison	Moody
Billey	Grandy	Moorhead
Boggs	Grant	Morella
Bonior	Guarini	Morrison (CT)
Borski	Gunderson	Morrison (WA)
Bosco	Hall (OH)	Mrazek
Boucher	Hall (TX)	Murphy
Boxer	Hamilton	Myers
Brennan	Hammerschmidt	Nagle
Broomfield	Hancock	Natcher
Browder	Hansen	Neal (MA)
Brown (CO)	Harris	Neal (NC)
Bruce	Hastert	Nielson
Bunning	Hatcher	Oakar
Burton	Hefley	Oberstar
Bustamante	Hefner	Obey
Byron	Henry	Olin
Callahan	Herger	Ortiz
Campbell (CA)	Hertel	Owens (NY)
Campbell (CO)	Hiler	Oxley
Cardin	Hoagland	Packard
Carper	Hopkins	Pallone
Carr	Houghton	Panetta
Chapman	Hoyer	Parris
Clarke	Hubbard	Pashayan
Clement	Huckaby	Patterson
Clinger	Hughes	Payne (NJ)
Coleman (MO)	Hunter	Payne (VA)
Coleman (TX)	Hutto	Pelosi
Collins	Hyde	Penny
Combest	James	Perkins
Condit	Jenkins	Petri
Conte	Johnson (SD)	Pickett
Cooper	Johnston	Pickle
Costello	Jones (GA)	Porter
Coughlin	Jones (NC)	Poshard
Coyne	Jontz	Price
Craig	Kanjorski	Pursell
Dannemeyer	Kaptur	Rahall
Davis	Kasich	Rangel
de la Garza	Kastenmeier	Ravenel
DeFazio	Kennedy	Ray
Dellums	Kennelly	Regula
Derrick	Kildee	Rhodes
DeWine	Kolter	Richardson
Dickinson	Kostmayer	Ridge
Dingell	Kyl	Rinaldo
Donnelly	Lagomarsino	Ritter
Dorgan (ND)	Lantos	Roberts
Dornan (CA)	Laughlin	Robinson
Douglas	Lehman (CA)	Rogers
Downey	Lehman (FL)	Rohrabacher
Dreier	Levin (MI)	Ros-Lehtinen
Durbin	Lewis (CA)	Rose
Dwyer	Lewis (FL)	Roukema
Dymally	Lewis (GA)	Rowland (CT)
Dyson	Lightfoot	Rowland (GA)
Eckart	Livingston	Roybal
Edwards (CA)	Lloyd	Sabo
Edwards (OK)	Long	Saiki
Emerson	Lowery (CA)	Sangmeister
Engel	Luken, Thomas	Sarpalius
English	Lukens, Donald	Savage
Erdreich	Machtley	Sawyer
Evans	Madigan	Saxton
Fascell	Manton	Schaefer
Fawell	Markey	Scheuer
Schiff	Smith, Robert (OR)	Traficant
Schneider	Snowe	Traxler
Schroeder	Solarz	Udall
Schumer	Solomon	Unsoeld
Sensenbrenner	Spence	Upton
Sharp	Spratt	Vander Jagt
Shaw	Staggers	Vento
Shays	Stallings	Visclosky
Shumway	Stark	Volkmer
Shuster	Stearns	Vucanovich
Sikorski	Stenholm	Walgren
Sisisky	Stokes	Walker
Skaggs	Studds	Watkins
Skeen	Stump	Waxman
Skelton	Sundquist	Weber
Slattery	Swift	Weiss
Slaughter (VA)	Synar	Weldon
Smith (FL)	Tallon	Wheat
Smith (IA)	Tauke	Whittaker
Smith (NE)	Tauzin	Whitten
Smith (NJ)	Thomas (CA)	Wilson
Smith (TX)	Thomas (GA)	Wolf
Smith (VT)	Thomas (WY)	Wolpe
Smith, Denny (OR)	Torres	Wyden
Smith, Robert (NH)	Torricelli	Yates
	Towns	Young (AK)
		Young (FL)

NAYS—0

NOT VOTING—90

Anderson	Frost	McCollum
Andrews	Garcia	McDade
Anthony	Gephardt	McGrath
Atkins	Gingrich	McMillan (NC)
Baker	Goodling	Michel
Barton	Gray	Molinari
Boehlert	Green	Mollohan
Brooks	Hawkins	Murtha
Brown (CA)	Hayes (IL)	Nelson
Bryant	Hayes (LA)	Nowak
Buechner	Hochbrueckner	Owens (UT)
Chandler	Holloway	Parker
Clay	Horton	Paxon
Coble	Inhofe	Pease
Conyers	Ireland	Quillen
Courter	Jacobs	Roe
Cox	Johnson (CT)	Rostenkowski
Crane	Kleczka	Roth
Crockett	Kolbe	Russo
Darden	LaFalce	Schuette
DeLay	Lancaster	Schulze
Dicks	Leach (IA)	Slaughter (NY)
Dixon	Leath (TX)	Stangeland
Duncan	Lent	Tanner
Early	Levine (CA)	Valentine
Espy	Lipinski	Walsh
Feighan	Lowey (NY)	Williams
Fish	Marlenee	Wise
Flake	Martin (IL)	Wylie
Florio	Martin (NY)	Yatron

□ 1725

Mr. SENSENBRENNER changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BOXER). Pursuant to the provisions of clause 5 of rule I, the Chair announces that she will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

ABANDONED MINE RECLAMATION ACT OF 1989

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2095, as amended.

The Clerk read the title of the bill.

The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 2095, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 281, nays 63, not voting 88, as follows:

[Roll No. 297]

YEAS—281

Ackerman	Fascell	Luken, Thomas
Akaka	Fawell	Machtley
Alexander	Fazio	Madigan
Annunzio	Flippo	Manton
Applegate	Foglietta	Markey
Aspin	Ford (MI)	Martinez
AuCoin	Ford (TN)	Matsui
Barnard	Frank	Mavroules
Bartlett	Frenzel	Mazzoli
Bateman	Frost	McCloskey
Bates	Gallo	McCrery
Beilenson	Gaydos	McCurdy
Bennett	Gejdenson	McDermott
Bentley	Gekas	McHugh
Bevill	Geren	McMillen (MD)
Bilbray	Gillmor	McNulty
Bilirakis	Gilman	Mfume
Blliley	Glickman	Miller (CA)
Boggs	Gonzalez	Miller (OH)
Bonior	Gordon	Mineta
Borski	Gradison	Moakley
Bosco	Grandy	Montgomery
Boucher	Grant	Moody
Boxer	Guarini	Morella
Brennan	Hall (OH)	Morrison (CT)
Broomfield	Hall (TX)	Mrazek
Browder	Hamilton	Murphy
Brown (CO)	Harris	Nagle
Bruce	Hastert	Natcher
Bunning	Hatcher	Neal (MA)
Bustamante	Hayes (IL)	Neal (NC)
Byron	Hefner	Oakar
Campbell (CA)	Hertel	Oberstar
Campbell (CO)	Hiler	Obey
Cardin	Hoagland	Olin
Carper	Hopkins	Ortiz
Carr	Houghton	Owens (NY)
Chapman	Hoyer	Oxley
Clarke	Hubbard	Pallone
Clinger	Huckaby	Panetta
Coleman (MO)	Hughes	Parris
Coleman (TX)	Hunter	Pashayan
Collins	Hutto	Patterson
Condit	Hyde	Payne (NJ)
Conte	James	Payne (VA)
Cooper	Jenkins	Pelosi
Costello	Johnson (SD)	Penny
Coughlin	Johnston	Perkins
Coyne	Jones (GA)	Pickett
Dannemeyer	Jones (NC)	Pickle
de la Garza	Jontz	Porter
DeFazio	Kanjorski	Poshard
Dellums	Kaptur	Price
Derrick	Kasich	Rahall
DeWine	Kastenmeier	Rangel
Dingell	Kennedy	Ray
Donnelly	Kennelly	Regula
Dorgan (ND)	Kildee	Richardson
Douglas	Kolter	Ridge
Downey	Kostmayer	Rinaldo
Durbin	Lagomarsino	Ritter
Dwyer	Lantos	Rogers
Dymally	Laughlin	Ros-Lehtinen
Dyson	Lehman (CA)	Rose
Eckart	Lehman (FL)	Rostenkowski
Edwards (CA)	Levin (MI)	Roukema
Emerson	Lewis (GA)	Rowland (CT)
Engel	Lightfoot	Rowland (GA)
English	Livingston	Roybal
Erdreich	Lloyd	Sabo
Evans	Long	Sangmeister
Sarpalius	Smith, Robert (NH)	Towns
Savage	Snowe	Traficant
Sawyer	Solarz	Traxler
Saxton	Solomon	Udall
Scheuer	Spence	Unsoeld
Schiff	Spratt	Vander Jagt
Schneider	Staggers	Vento
Schroeder	Stallings	Visclosky
Schumer	Stark	Volkmer
Sharp	Stenholm	Walgren
Shaw	Stokes	Walker
Shays	Studds	Watkins
Shuster	Sundquist	Waxman
Sikorski	Swift	Weber
Sisisky	Synar	Weiss
Skaggs	Tallon	Weldon
Skelton	Tanner	Wheat
Slattery	Tauke	Whitten
Slaughter (VA)	Tauzin	Wilson
Smith (FL)	Thomas (GA)	Wolf
Smith (IA)	Torres	Wolpe
Smith (NJ)	Torricelli	Wyden
Smith (VT)		Yates

NAYS—63

Archer	Henry	Rohrabacher
Armey	Herger	Saiki
Ballenger	Kyl	Schaefer
Bereuter	Lewis (CA)	Sensenbrenner
Burton	Lewis (FL)	Shumway
Callahan	Lowery (CA)	Skeen
Combest	Lukens, Donald	Smith (NE)
Craig	McCandless	Smith (TX)
Davis	McEwen	Smith, Denny (OR)
Dickinson	Meyers	Smith, Robert (OR)
Dornan (CA)	Miller (WA)	Stearns
Dreier	Moorhead	Stump
Edwards (OK)	Morrison (WA)	Thomas (CA)
Fields	Myers	Thomas (WY)
Gallegly	Nielson	Upton
Gibbons	Packard	Vucanovich
Goss	Petri	Whittaker
Gunderson	Pursell	Young (AK)
Hammerschmidt	Ravenel	Young (FL)
Hancock	Rhodes	
Hansen	Roberts	
Hefley	Robinson	

NOT VOTING—88

Anderson	Flake	McCollum
Andrews	Florio	McDade
Anthony	Garcia	McGrath
Atkins	Gephardt	McMillan (NC)
Baker	Gingrich	Michel
Barton	Goodling	Molinari
Berman	Gray	Mollohan
Boehlert	Green	Murtha
Brooks	Hawkins	Nelson
Brown (CA)	Hayes (LA)	Nowak
Bryant	Hochbrueckner	Owens (UT)
Buechner	Holloway	Parker
Chandler	Horton	Paxon
Clay	Inhofe	Pease
Clement	Ireland	Quillen
Coble	Jacobs	Roe
Conyers	Johnson (CT)	Roth
Courter	Kleczka	Russo
Cox	Kolbe	Schuette
Crane	LaFalce	Schulze
Crockett	Lancaster	Slaughter (NY)
Darden	Leach (IA)	Stangeland
DeLay	Leath (TX)	Valentine
Dicks	Lent	Walsh
Dixon	Levine (CA)	Williams
Duncan	Lipinski	Wise
Early	Lowey (NY)	Wylie
Espy	Marlenee	Yatron
Feighan	Martin (IL)	
Fish	Martin (NY)	

□ 1737

The Clerk announced the following pair:

On this vote:

Mr. Anthony and Mr. Dixon for, with Mr. Quillen against.

Messrs. BARTLETT and DANNEMEYER changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof), the rules were suspended, and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VACATING SPECIAL ORDER AND REQUEST FOR SPECIAL ORDER

Mr. GONZALEZ. Madam Speaker, I ask unanimous consent that my special order of 60 minutes for today be vacated, and in lieu thereof, a 5-minute special order today be granted.

The SPEAKER pro tempore [Mrs. BOXER]. Is there objection to the request of the gentleman from Texas?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 350

Mr. THOMAS A. LUKEN. Madam Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of House Joint Resolution 350. It was put there by mistake.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on the following rollcall numbers:

Rollcall No. 296.

Rollcall No. 297.

□ 1740

MAXIMUM LIABILITY OF THE FDIC

The SPEAKER pro tempore (Mrs. BOXER). Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise as chairman of the Committee on Banking, Finance and Urban Affairs to make the record absolutely clear concerning the intent of subsection 11(i) of the Federal Deposit Insurance Act.

The subsection provides that the maximum liability of the FDIC to any creditor of a failed institution shall not exceed the amount the creditor would have received if the FDIC had liquidated the assets of the failed institution. In other words, a claimant is entitled to his or her pro rata share of the assets belonging to the failed institution, but is not entitled as a matter of law to additional payments from the affected FDIC insurance fund. Nevertheless, the FDIC may, in its discretion, make additional payments to creditors or classes of creditors to minimize its losses without incurring liability to other creditors or classes of creditors.

This commonsense provision tracks the general receivership principle that a creditor's rights are fixed at the amount of insolvency, and that a creditor may not complain of third party payments to other creditors if the assets of the insolvent entity available for distribution to creditors are not diminished thereby. The FDIC follows this practice and, as the ranking minority member of the committee noted prior to enactment of FIRREA, it has been upheld by the courts.

The conference committee report on FIRREA accurately characterized it as a "clarification of existing law." Accordingly, there was no restrictive language included in subsection 11(i) to limit its application to receivership proceedings initiated after enactment. Instead, it was the understanding of the conferees that the subsection would be applied by the courts in the same manner as any other clarification of existing law. In particular, it was contemplated that clarifying subsection 11(i) would be applied to receiverships initiated prior to enactment. Since it merely clarified existing law, there was no need to add specific language providing for retroactive application.

Mr. Speaker, to the extent there was any ambiguity in the prior law, subsection 11(i) clarified the law; it did not change it. I trust this brief explanation will serve to eliminate any confusion on this matter which may have been raised subsequent to passage of the act.

IMPACT OF IMPORTS ON AMERICAN JOBS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, the size of the U.S. trade deficit remains stubbornly high despite the continuing low dollar and many governmental and commercial export initiatives. But, this speech—unlike many of my other speeches—is not going to be about trade. It is about jobs and the impact of imports on the type of jobs available to American workers. Unfortunately, there are several factors at work in the economy which exacerbate the current downgrading of U.S. jobs.

In recent weeks I have heard several firsthand stories about the growing lack of jobs for highly skilled workers. Half of the most recent engineering graduates from Duke University are still unemployed. In the past, this would have been unheard of.

Last week in my district a mid-size 2,600 employee defense contractor laid off 148 persons, 10 in the skilled manufacturing end and 138 engineers.

This is the fourth largest group of engineers laid off in my district in recent months, primarily because of defense cutbacks and/or competition from imports or foreign based companies.

With this roller coaster base of employment, can we expect our bright young people to enter the field of engineering in the near future? With the potential for employment fairly grim, why would a talented young person enter the engineering field?

We wonder then how and why we are not getting our brightest and best into the engineering field, why our industries do not have the competency to compete with the foreign ones.

What are we offering them as a future? I cannot help but recall testimony before the Subcommittee on Investigations and Oversight of the Public Works and Transportation Committee 3 years ago when the then Administrator of the Federal Highway Administration was going out. He said, and this is very much a coincidence in view of the fact of what happened out in California last week, that he had little or no concern about the old bridges from the point of design and the point of construction. There would be normal wear and tear and they would have to be repaired normally. But he did have great concern about the design and construction of the new bridges.

I asked him whether the reason was because they were not getting the kind of confident young people in the civil engineering schools that they used to. He said yes, that there was a very definitely a shortage.

Utilities are reaping the benefit of the shrinkage of engineering jobs in manufacturing. They are reporting the most talented crop of engineering entrants they have ever received. Historically, the best and the brightest in engineering wanted the more creative jobs found in the manufacturing sector. However, with fewer and fewer jobs available in production, the utilities offer employment and stability—conditions fast disappearing from the industrial sector as industry after industry loses market share to foreign products.

The utilities are not happy about the fact they have this great crop of potential engineers and engineers they employ, because they realize that their industrial customer base is shrinking so drastically.

There is another factor at work which gets hidden in statistical manipulation. Government reports on manufacturing jobs are less than accurate since there is no distinction made between assembly line jobs and real manufacturing jobs, though there is a great difference in pay rate and living standard of the workers.

The jobs in Japanese-owned companies in this country—by and large—are assembly line jobs. Most of the manufacturing of parts is done abroad and shipped in here. So the high end of the value added jobs—requiring engineers and machinists—are all done somewhere else.

Interestingly enough, the high end of the managerial jobs are usually held by Japanese nationals. In California, a series of discrimination suits have been filed against Japanese firms charging that United States workers cannot break through into top management purely and simply because they are Americans.

I have been fiercely lobbied by United States workers in Japanese plants protesting my support of a ban against Toshiba for the sale of milling machine to the Soviets.

I have better interject right here that I am also hoping we will boycott Olivetti products inasmuch as they have done the same thing now to hurt our defense.

□ 1750

But we must remember most of them have only been employed by the Japanese in the last 5 years. I wonder how long they will remain supportive of Japanese interests over those of their own country when they discover that no matter how well they work or how smart their sons and daughters are they will never achieve top management jobs.

The long term commitment to keep many Japanese employees in America can be seen in the numbers of Japanese schools being built in this country in the areas of high concentration of Japanese investment. Not only will the companies remain Japanese in leadership, the children of those managers will remain Japanese in outlook no matter how long they live in the United States.

It's rather reminiscent of the old English Colonial overseers as they took over the world in the 1700's and established separate communities for their own elite inside the colony. Sadly, it seems there is nothing new under the Sun and the arrogance of economic supremacy has not changed one whit in 250 years.

The importation of manufactured parts by foreign manufacturers carries a double whammy for our overall trade balance and our current account balances. The imports show up in our balance of trade deficit. And when the profit is made on the products and it is taken back home—it shows up as a deficit (an amount owed to that nation) on our current accounts balance.

Any way you do the figures—we lose. No matter how much we export. No matter how much we "Buy American," the increasing numbers of imports being brought in by foreign manufacturers for assembly only will continue to swell our foreign trade deficit figures. These spurious figures continue

to be used as a rationale to keep our dollars ridiculously low, fueling even greater future outflows of wealth as more and more of our real assets are snapped up by import-dollar rich foreign investors buying at a comparable 25 to 50 cents on the dollar.

The assembly line jobs are great for right now, but in all too many instances, the States have given such tax exemptions to the foreign companies that their own employees and U.S. owned companies will be eventually doubly burdened by local and State taxes to pay for all the services demanded by the new foreign-owned plants.

That is something that many have never thought of.

Many Governors are acting as their own State Departments completely disregarding the constitutional prohibition against anyone save the Executive having treaty-making powers. There is also the old Logan Act dating from the period of the War of 1812 which forbids citizens other than those charged with those specific constitutional powers to treat with foreign governments.

Unfortunately, it is not only the Governors who are parceling away the tax base for a short term gain. A story in Monday's New York Times reports "Foreign Role Rises In Military Goods." The lead paragraph says it all.

The Nation's military contractors are increasingly turning abroad for parts and components to build weapons systems, as the Pentagon puts pressure on them to reduce costs and foreign suppliers become more adept.

The effect of this on our manufacturing base is reported toward the end of the story in figures collected by the Center for Strategic and International Studies. In 1982 there were 138,000 U.S. companies supplying manufactured goods to the Pentagon. By 1987, there were fewer than 40,000. Think of the skilled jobs lost in these figures. Engineering jobs and machinists, tool and die makers a dying breed—so very vital to our national security—managers and accountants, computer specialists and designers.

Think of the taxes lost to all of the States and the municipalities and to the Federal Government. Every U.S. dollar spent in this country has 42 cents returned to the taxing entities. So, every foreign item would have to be at least 42 percent cheaper to be truly competitive with the cost of any American item. And, at no point is there any weighing in against the Socialist countries who underwrite the costs of the bids made by their contractors.

Each year I try to amend the Defense bill to have this reflected in the procurement process. It would be fair. It would help restore some of our faltering industries and it would certainly strengthen America, but it never survives the vote.

It would also provide tremendous opportunities, job opportunities and openings for engineers. Again that is something we lack so drastically.

Yes, short-term gain for the Pentagon but in the long-term a shrinking Federal budget which impacts their spending, and I predict the situation will get worse.

I would just like to point out that I had a discussion with Admiral Crowe before he retired, some 3 years ago, when he wanted to emphasize the importance of voting for the defense budget because of the growing Soviet power.

My question was: What about our industrial base? After World War II the Russians credited our production base with their bring able to win.

The response was that was true, but that today—it was then 1987—we could not buy in this country, the Pentagon could not buy in this country what they had been able to buy in 1941. Among those items was military uniforms.

I responded, yes, that is true, that many of my constituents are being laid off by a boot factory because the boots were being purchased overseas in Korea.

Admiral Crowe said that was true, but they were cheaper over there.

So I chose to remind the admiral that admirals also were cheaper over there.

Now, Madam Speaker, my point about that was not to be smart but to point out that the boot makers in my district paid taxes into our Government so that the Pentagon could continue to function. Those overseas do not. And I just wonder, and I have to say once again, who is going to keep paying for this Government to keep functioning if we put all of our people on the unemployment lines, if we do not have jobs for engineers and machinists and tool-and-die makers.

There is one more point that I will bring out about the story in today's New York Times.

There is another problem which the reporter Richard W. Stevenson, deals with in his excellent article—that is—the growing dependence of the Department of Defense on foreign suppliers for strategic component parts for our military equipment.

Madam Speaker, it is almost as though in our effort to get the most for the least we have completely forgotten what the purpose of the military machine is—to be able to protect the United States in time of war or emergency not to build machines only for the sake of building the machines.

That protection and defense encompasses skilled machinists and engineers, among others, as well as the machines and plants. We need to look at what we are doing to ourselves.

□ 1800

THE CALIFORNIA EARTHQUAKE

The SPEAKER pro tempore (Mrs. BOXER). Under a previous order of the House, the gentlewoman from California [Ms. PELOSI] is recognized for 60 minutes.

Ms. PELOSI. Madam Speaker, I thank you. I wish to begin this special order by thanking my colleagues for the kind messages of condolences to the people of San Francisco and the Bay Area, and for Congress' prompt attention to our earthquake needs. I thank also the Speaker for the reassuring statements for disaster relief for the people of northern California affected by the earthquake. I wish to extend my condolences to my colleagues whose districts suffered death and destruction.

As Members may know, seven counties were affected. The entire country, even the world, rallied to help. Some of the Representatives of these districts are joining me in special orders today, as well as other Members of the California delegation. I am very proud that my colleague representing San Francisco in the Congress, the gentlewoman from California [Mrs. BOXER] is serving as Speaker during this special order.

All citizens were honored by the visit of President Bush to the area, and grateful for his sensitivity and for his commitment to our recovery. His expression of concern was appreciated. Frankly, very well deserved by our communities, where everyone rallied tirelessly to help those in need.

I am particularly proud of San Francisco under the leadership of Mayor Art Agnos, the Red Cross, the Salvation Army, and the Sixth Army at the Presidio, among others.

As everyone knows, and as the world knows, at 5:04 p.m. on Tuesday, minutes before game 3 of the World Series, game 1 at Candlestick Park was about to begin, the Earth shook, and undermined the integrity of the mighty Bay Bridge, of many freeways, and destroyed the Cypress section of the Nimitz Freeway.

According to the Berkeley Seismographic Station, Tuesday's earthquake released as much energy as about 30 million tons of high explosives, nearly 10 times the total of explosive power of all the bombs in World War II, including the two atomic bombs. One mother reported that as the power of the earthquake was heard in her home, her 2-year-old daughter cried, "Mommy, Mommy, the house is so mad."

Much has been said about the spirit of compassion and cooperation demonstrated since the earthquake. Although we do not know the full extent of the damage in the city of San Francisco, it is clear that the Marina Dis-

trict was the hardest hit. I want to talk to my colleagues about the Marina District, and what it means to our city. I have the honor of representing that part of San Francisco in the Congress. First may I say, leave it to the Marina to upstage the World Series. No less a luminary than Joe DiMaggio was one of the 26,000 people waiting in the ballpark for the game to begin. At the time of the earthquake he said the fans cheered, and everybody thought things were all right, "But then I heard about the fires in my neighborhood. That is when I left." Joe DiMaggio, who bought his family a home in the Marina in 1937, his second year in the major leagues, hurried home. Later he was among those standing in line for permission to enter his home. Everyone has said in the media the pictures of the marina and some of the destruction wrought by the quake. What citizens may not know is what the marina means to San Francisco.

I feel particularly close to my constituents in the marina because my husband, Paul, is what is known as a "marina kid." When I first met Paul at Georgetown I asked him what part of California he was from. He responded that he was from the marina District of San Francisco, as if we would know what that meant. He shared a childhood with marina kids, so many marina kids, so loyal to their neighborhood. When I went to San Francisco as a bride, my first exposure to San Francisco was the marina. The marina was home to many Italian Americans who moved there from North Beach in the 1930's. It has been a family neighborhood for the Italian Americans, while actually Leo McCarthy, our Lieutenant Governor, lived there for 10 years. Unfortunately, his house was damaged by the earthquake. The Italian Americans and the young new families moving in who love its physical beauty. The marina has great weather, beautiful gardens, with the glistening bay and the magnificent Golden Gate Bridge in the background, and it also has good food.

Everyone may have read that part of the marina was built on landfill for the 1915 Pan American Exposition. There is some question about the future of some of the homes in the marina. People who live there love the marina, the beautifully kept homes and the warm sense of community command a sense of loyalty from its residents that will ensure its future as a place which maintains its traditions, and renews itself with young people starting out in San Francisco. The marina residents must brace themselves, both literally and figuratively for the future, because the marina is home to them. So while the engineers examine the landfill, be assured that the strength of the marina springs from its residents, from its strong sense of community. Marina residents' contribution to the life of San Francisco is immense. Already the spirit of love and cooperation indicates that the marina, while the most hard-hit, will provide the leadership and inspiration for San Francisco's speedy recovery.

Another place devastated by the earthquake that we all viewed on television or saw in person if you were in California was I-880—the Cypress section of I-880.

Madam Speaker, I yield to the gentleman who represents both Berkeley and Oakland in the Congress, but whose district also includes the Nimitz Freeway at that section, the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Madam Speaker, I thank the gentlewoman for yielding.

Our people have suffered loss: suffered loss of life, injury, public and personal property damage, and in many instances, losses that can never be replaced by money or bricks and mortar. People's lives and memories are caught up in this great tragedy. A number of our people are also suffering pain, and the agony and the discomfort of evacuation and dislocation.

However, I might say that that notwithstanding, I would like very much to associate myself with all of the remarks of my distinguished colleague, the gentlewoman from California [Ms. PELOSI]. In thanking all of our colleagues who have offered messages of condolences, genuine concern, and reaching out to the literally hundreds of telephone calls and messages from around the Nation and around the world, willing to lend some kind of hand, whether it is expertise in going into tight places to try to find life where some have given up hope, to people offering psychiatric services to people who continue and will for months and years into the future feel the psychological scars of what has taken place.

I would like to thank all of those people for reaching out in such a magnificent and extraordinary way. I might also say that in my touring of the area, at this moment I am confident that our various levels of government have acted beyond my wildest imagination in their ability to come together around this extraordinary catastrophe.

Since I am a Federal representative, I was very concerned about the role of the Federal Government. I might say at this moment that the Federal Emergency Management Agency, referred to as FEMA, it seems to me has been extremely forthcoming as of this time, working very diligently in trying to help people. We suffered a great deal of loss in our area with respect to personal property. At this moment I have no sense of the damage.

In terms of the collapsing of the I-880, which is not only in my district but in the neighborhood that this gentleman grew up in, I am very familiar with this particular structure. We have no knowledge at this point of how much damage that that entails in terms of dollars. I do not think that this part of the freeway can ever be repaired. I think it has to all be taken down and has to begin from scratch again, and that will take some great deal of time.

I was born in California, and I would say to my colleagues and distinguished Speaker, I have lived through a number of earthquakes, some of them very powerful.

□ 1810

But in my wildest imaginations I never ever considered the notion of portions of the San Francisco bridge collapsing. It always seemed to me in my mind's eye the Rock of Gibraltar. I never thought of a freeway collapsing, killing scores of people. I always wondered whether or not the building I was in or close to or walking under could survive the stress of earthquakes, but never have I ever considered the integrity of our bridge system or our freeway system. But now I, along with tens of thousands of human beings who travel our bridge system and our freeway system in our area in northern California, question the integrity of our freeway system. We now all question the integrity of our bridge system. This has left psychological scars and fears that will be difficult to overcome.

In this gentleman's humble opinion, whatever it takes, whatever cost is necessary to return people's confidence in the integrity of our bridge system and our freeway system, it must happen. We have a moral obligation to do this.

If I might digress philosophically for a moment, we are the only species on this planet that spends an inordinate amount of time and energy and resources trying to figure out how to kill each other. We are the only species. Madam Speaker, we spend billions trying to figure out how to kill each other, and suddenly nature rears its head and shakes us and kills some of us, injures others and destroys still others, and it lets us know how humble we really are. I would like to hope that maybe it shakes us enough to realize that our priorities are all fouled up, that spending all this money figuring out how to kill each other is a bizarre notion, that what we really need to do is figure out how to aggregate our resources and redirect our priorities so that we, first, can learn how to live in harmony with each other, and second, can learn how to preserve safety for ourselves and for our fellow human beings.

Nature is an extraordinary thing. Our people were not killed by Communists or by the Soviet Union; they

were killed in an earthquake. They were damaged, they were injured in an earthquake. So these are the things it seems to me that we need to direct our priorities to.

Maybe we need to learn the lesson of mass transit and find different ways to go from point A to point B. In California, maybe in the aftermath of this great tragedy, we need to become honest with the people of California. Are we projecting a fraud on California people? We know that earthquakes take place in California. We know that the San Andreas Fault is real. Yet we continue to mount the pricetag for property values.

Even in areas where we know that if earthquakes take place, people are going to lose, we know they will not only lose human life but may lose tens of thousands and hundreds of thousands and millions of dollars, and we play an insurance fraud game on people. They charge high premiums. Earthquakes take place. Well, they say, this is nature, these are disasters, and they say, "We can't now take care of everything."

Maybe it is time for us in California to become very honest; maybe it is time for us to become very educative with our fellow citizens in the State of California and talk about what the realities are and what it means to live with earthquakes. Maybe we ought not to give permits to build in certain areas where we know that if the earth moves, life hangs in the balance and people's fortunes and their lives may go right literally down the tube. Maybe it is time for us in the aftermath of this tragedy to talk about a whole range of things.

If I may make one other comment on the I-880 freeway again, I am not an engineer; I am a simple layperson, but as I understand it, there was a three-phased program to retrofit our freeway system, to reinforce these freeways. In phase I of I-880 that was retrofitted or reinforced, the slabs that you drive across, those of us who went to the site noted that it was interesting to see that they never gave way, but in phase III that they never got to, the pillars collapsed and crumbled. It was the most extraordinary thing that I have ever seen.

The question is this: Was phasing in the reinforcement program a sound engineering idea, or was that the result of politics over budget prioritizing? As policymakers, we need to know the answer to that question, because if the engineers were saying, "Well, phasing in makes sense," then to this lay person who is not an engineer, I raise this question: "If you strengthen part of a structure like a freeway and leave another part weakened or not strengthened and it is hit by such an incredible force, doesn't all the force go to the weakest point?" And if that is the case, then maybe phasing in these repaired approaches does not make good, sound, safe engineering sense, Maybe that is not good policy.

We need to know whether the engineers were giving us what they thought was the best thing or whether we were again guided by the politics of budget prioritizing and having our people assume incredible risks as the result of politics, deciding to spend a dollar here as opposed to spending a dollar there. These questions must be answered in the context of this analysis, in the context of this investigation, because we cannot allow millions of our people in the State of California to assume such risks.

We are the most populous State in the United States. We have more automobiles per capita than any other State in the United States. We travel over bridge and freeway systems all day, every day, 24 hours a day, more than any other group of people in the United States, maybe even in the world, and if we are making decisions about reinforcing freeway systems and bridges based on phasing in programs that are not sound, safe engineering policy but based on mundane, earthbound pedestrian notions of politics of budget prioritizing, then we have a job to do. We have to educate our people to understand that if their safety and welfare is a high priority, then they have to become activists enough to challenge both at the State and the Federal level to make sure this can never happen again.

As I said, I am not an engineer; I am just a layperson standing here asking, "How can this happen?"

So these questions have to be raised. All these questions, it seems to me, should not be lost in the shuffle. We have $75 million worth of damage in the Oakland port that needs to be repaired, $30 million at the Oakland airport for the runway and other kinds of things, and we have damage to the Oakland city hall, the Oakland city annex and other buildings. We have senior citizens who were evacuated from a downtown senior citizens home. Where are they going to live?

The people who live in close proximity to I-880 will now be evacuated because they now do not know whether they can guarantee the integrity of this mile-long stretch of freeway. It may all come down. Where do they go? All of these questions have to be raised.

Finally, Madam Speaker, let me thank all of my colleagues in Congress in general, particularly my colleagues who are from the bay area, because against the backdrop of this tragedy we have only come a little closer to each other. We are comrades in pain and suffering at this point. I have been buoyed and supported and strengthened by your courage and by your strength as well, and I am sure all of us have been encouraged by the tremendous stories of valor of people who risked their lives to save their fellow human beings in San Francisco and Oakland and Berkeley and many other places. I would take note of the thousands of volunteers who stepped forward, even more volunteers than we could ever imagine. These are the things that makes sense.

Madam Speaker, I thank my distinguished colleagues, and I thank the gentlewoman from California, who has been very generous in providing me an opportunity to think out loud and just to give the Members some random thoughts.

My concluding comments are that this has been one hell of a time in all of our lives. The last several months have been marked with great grief, and I guess if there is anything positive out of this, it is that it has brought us closer together with a greater determination to challenge our priorities so that we can in turn return the integrity of our community to our people so that they can feel that they live in safety and in welfare and with the quality of life that is worthy of all of them.

Madam Speaker, with those remarks, I thank my colleague, the gentlewoman from California, [Ms. PELOSI].

□ 1820

Ms. PELOSI. Madam Speaker, I thank the gentleman from California [Mr. DELLUMS] for his remarks and for his commitment to relentlessly challenging the priorities of our system.

Madam Speaker, I would like to just follow up on a couple of his remarks very, very briefly before recognizing another Member, and that is that in California, with our initiative system, we have the attitude that the public is boss, and, if they speak, whether it is proposition 13 or the Gan initiative ceilings of spending, then they are boss. But the fact is, as we learned in the last week, what we should have known all along, is that nature is the boss, and, as strong as the public will may be in any place in this country, it cannot defy the law of gravity. We must, we must as has been said, do those things that are necessary to ensure the public safety.

One of the heroes of all of this is public transit, mass transportation, which has served our communities well in the past week and will bear the brunt of transporting people in the weeks ahead. I hope that we will be able to get a big increase in operating moneys for mass transit in the area.

I would also like to commend the gentleman from California [Mr. DELLUMS] my colleague, for the hard work in his district on the rescue operation at I-880 and the good omen that we all welcomed joyously with the rescue of Mr. Helm from the bridge, the over-

pass. We hope that there will be more survivors, but let his rescue be a symbol to the indomitable spirit of the people of the bay area in the face of adversity.

Madam Speaker, with that I would like to recognize a gentleman from California [Mr. CAMPBELL] whose district received much damage. I do not want to characterize it too pessimistically. I will get an account from him. He is the gentleman from California who represents the Santa Cruz area, Palo Alto area, and I thank him for participating in this special order.

Mr. CAMPBELL. Madam Speaker, I thank the gentlewoman from California [Ms. PELOSI] and I rise tonight to add my voice in a bipartisan effort on behalf of the people who are hurt in our bay area. The people who are hurt in our bay area are not Democrats and Republicans. They are people, and they are in need, and I hope that message echoes from this Chamber to the White House and back, that the people of California are expressing no more than each person in America would if it was their home that was hurt, their business that was closed.

Madam Speaker, I would like to draw particular attention to the argument in favor of lifting the limits presently in force under the SBA loan limits. It is argued that $100,000 for a house might be perfectly adequate, so why does California seek to lift those limits? It is said that $500,000 is perfectly adequate for loss of business elsewhere, so why does California seek to lift those limits?

Let me give my colleagues an answer, and it does not come from the wealthiest part of my district or the wealthiest part of California. Indeed it comes from one of the poorest parts.

Come up to the summit with me. Come up to Loma Prieta, the epicenter of the earthquake, come up to where the people live in the mountain. These people are not well-to-do, and because they were not well-to-do, they could not afford the reinforcement structures in their homes. Because they are not well-to-do, they cannot afford the closing up of businesses for the duration that this earthquake disaster will cause, and because they are not well-to-do, they could not afford earthquake insurance.

A critical aspect lost in much of the debate on the limits is that the Federal Government earthquake disaster assistance through SBA is a supplementary program. It only provides funds in addition to one's own insurance. Yet, if one could not afford earthquake insurance, they need the Federal Government, and thus the limits imposed in other consequences, for flood, for hurricane, for disasters of other cases, does really not apply to the condition of earthquake where that one-time disaster is so cataclysmic that the cost of insurance becomes prohibitive and so many do not carry it.

Madam Speaker, I also raise this distinction on behalf of the people of Santa Cruz. The downtown section of Santa Cruz has been demolished. It is essentially closed. It is questionable whether ever again it will open. People come to Santa Cruz to carry on their business because it was a unique place. It was a charming place. That business center may never be opened again unless we are generous and compassionate in this, their hour of need, bearing in mind that simply to restore Santa Cruz to a mall, much as one might see in another more modern part of the country, is not to restore Santa Cruz. Santa Cruz is a gem. It is a special place, and it deserves to be restored to the status quo ante, and to do that the present SBA limits are quite insufficient.

I raise in final point the need to retrofit to earthquake preparedness standards. The present SBA limits are not adequate because we are intending to rebuild in such a way that, if an earthquake strikes again, and we Californians know the expression is "when an earthquake strikes again," there will not be this level of devastation. So, once again, limits set for the rest of the country in other contexts where the recurrence is not predictable does not apply to the situation we have in California. To build again an area as unique, and as beautiful and as special as Santa Cruz, to take care of the poor people in the Loma Prieta, in the summit, who cannot afford to rebuild their houses up to the abolute top scale, to take care of those who do not have adequate earthquake insurance because it was too expensive, and to restore the business centers in those less well-to-do areas; all of this requires a special consideration which this House will have a chance to vote on tomorrow.

In conclusion, Madam Speaker, I would like to draw attention, as the gentleman from California [Mr. DELLUMS], my colleague, did before, to some of the heroic stories coming out of this disaster. Let me just take a moment to speak about the heroism that we Californians have observed. Let me speak, first of all, of an economic bit of heroism.

In the area I represent the Santa Cruz Sentinel and the San Jose Mercury are competing newspapers. Nevertheless, when the Santa Cruz Sentinel was shut down, the San Jose Mercury printed the Santa Cruz Sentinel.

Another example is in my area of Stanford. As my colleagues know, the Forty-Niners could not play in Candlestick Park last Sunday. Stanford Stadium was open to them instead with about 20,000 extra tickets, and the only stipulation Stanford made was that those tickets be sold and the proceeds donated to the Red Cross.

The Bank of America is offering loans at the cost of money to the Bank of America.

And lastly, and perhaps most dramatically to all of us, consider the heroism of those rescue workers who time and time again went into the rubble of I–880 rescuing individuals, and, thank God, at least one came out alive after almost 90 hours at the risk of their own lives. If ever the heroism of a few could compel the compassion of the many, the Loma Prieta California earthquake of 1989 is such a case.

Finally, I wish to make a point of importance to the bill now pending in the form of an amendment to the continuing resolution offered by our colleague, Mr. FAZIO. Section 134 of that amendment is explicitly provided to block the effect of 44 CFR 205.76(a)(2)ii relative to this disaster, and I would like the legislative history to be clear on that point.

Ms. PELOSI. Madam Speaker, I thank the gentleman from California [Mr. CAMPBELL] for his comments.

Madam Speaker, I would like to address one issue that the gentleman from California [Mr. CAMPBELL] brought up, which was the limit on relief in the form of loans from the Small Business Administration in terms of California, the $100,000 limit. While it sounds like a lot of money, it is not enough in order to replace homes which are damaged by this natural disaster. For that reason and because my district is so overwhelmingly affected by so many homes destroyed in the quake, I have put into the Democratic package a request for lifting of the $100,000 cap to $500,000 cap to be at the same level as the Small Business Administration is able to lend to businesses. Perhaps the business loan should be increased as well, but it is important for us to have people be able to have the dignity of their homes and their lives restored. They probably will not even be able to afford to borrow the whole amount, but certainly the $100,000 does not even give them an opportunity to try to restore and to brace themselves, as I said literally and figuratively, for the future.

Madam Speaker, as the gentleman from California [Mr. CAMPBELL] talked about the acts of heroism and those to be commended, I have to say that in our community, and I know it was duplicated throughout the bay area, that, not only the organizations that were mentioned, and the businesses, et cetera, but the individual support of people, of volunteers who came forward. My children called me the first night, and they had gone down to volunteer at the Marina Middlesex School, which is where the evacuees were, and they said, "Mom, it's like having a couple hundred nanas"; that is how we refer to their grandmother,

"a couple hundred nanas down here, and they have to be attended to during the night, but there are so many people here who want to attend to them that I'm not sure that we're all needed here." But the outpouring of support from the individual volunteers anonymously really was most encouraging and gives us hope and gives us the reality that we will overcome this devastation both of the mind and of the buildings.

Also we have to look to funding for mental health or crisis counseling because so many people, as the gentleman from California [Mr. DELLUMS], our collegue, represented, we question the integrity of the bridges, the infrastructure, et cetera; they question the integrity of their homes. It is a big void in people's lives not to have the confidence, and hopefully we will also have funding for mental health crises.

In any case, I thank the gentleman from California [Mr. CAMPBELL] for his remarks and for his leadership in the rescue in his area.

With that I would like to recognize a colleague from southern California who was not affected by the earthquake directly, but certainly as a Representative of the State of California, and he is a champion of small business for a long, long period of time, the gentleman from California [Mr. TORRES].

□ 1830

Mr. TORRES. Madam Speaker, I thank the gentlewoman from California [Ms. PELOSI] for calling this special order at a very special time in our Nation. I, too, want to echo the comments of my other colleagues in commending all of the Members of the California delegation, especially those from northern California, who those of us who stayed behind here in Washington were able to listen to and see them on national television. Their messages were articulate and compassionate to the tragic events that took place in the bay area.

I want to echo as well the comments by the gentlewoman from California [Ms. PELOSI], the gentleman from California [Mr. DELLUMS], and the gentleman from California [Mr. CAMPBELL] in commending the many residents of the bay area for their comportment of calmness and compassion and the personal acts of bravery that we heard about and read about and have seen.

I, too, want to pay special acknowledgment to the mayors of those two cities, the twin cities of Oakland and San Francisco, Mayor Lionel Wilson and Mayor Art Agnos, who played a very heroic role in all these events.

The comments of my colleagues have well expressed the anguish and the pain that the communities of northern California are undergoing. To be sure, the estimates of loss are incalculable in this very tragic experience. There are some estimates being proposed by various jurisdictions, both local and Federal Government, that will give us a more accurate accounting of what exactly was lost. The destruction to dwelling, to personal and business establishments, is gigantic, to be sure. Much of what people see on television that is on the surface is, of course, graphically representative, but then again there are things that people do not see on a television screen that cannot be measured, the infrastructure, as has been talked about, what happens underground, the thousands and millions of miles of piping and gas lines and wiring that affect not only personal homes and dwellings, but affects the business community, the small businesses and the large businesses that have to continue to work.

As the gentlewoman from California [Ms. PELOSI] has stated, I sit on the Small Business Committee and many of my colleagues there have been working hard to cooperate with other Members of Congress to prepare the appropriate language whereby we might come up with the key elements of helping our small business communities, specifically the Small Business Disaster Loan Fund, which is a revolving fund. The current balance in the Small Business Disaster Loan Fund is not sufficient to take care of both the needs of San Francisco and the bay area, not to speak of what transpired with Hurricane Hugo.

The fund is not capable of sustaining both the incalculable costs that I have mentioned of these two major areas, so therefore the Congress has a responsibility to capitalize the fund as a protection against the losses resulting from future disaster as well.

If I may say, Madam Speaker, the current balance in the loan fund is approximately $1 billion. During fiscal year 1990, $500 million will be paid into the fund from loan payments and investment earnings; however, about $200 million of the 1990 earnings is incumbered in the form of interest to the Treasury and salaries and expenses, leaving a net income of $300 million.

The current balance and net 1990 income equals $1.3 billion.

The Administrator of the SBA estimates that the victims of Hugo will borrow $800 million from the fund, leaving a balance of $500 million.

Property damage resulting from the California earthquake is estimated at this moment to be at least $4.5 billion.

While it is impossible, as I have said, to estimate how much will be drawn from the fund by the earthquake victims, the sheer size of the property damage pales in comparison to the balance of the loan fund. The small business disaster loan fund is a revolving fund which must be immediately available to disaster victims. The Congress, this House, has a responsibility to every future disaster victim anywhere in the United States to make sure that the fund is in sufficient viable shape after Hugo and the earthquake victims have drawn their borrowings. Congress should not allow the fund to be tapped out, as we say, before considering a capital increase, and that is what is taking place here in these Chambers and outside the committee rooms is the putting together of the appropriate language that will be coming forth to us as Members of Congress, including the revisions that the councilwomen from California [Ms. PELOSI] has inserted in there to lift the cap on the housing allowance.

Ms. PELOSI. Madam Speaker, if the gentleman will yield back for just a moment, I wanted to make a clarification following up on what the gentleman has been saying, and the gentleman is right. It should be for every person in America, so we have also a stipulation that the timing on it will be from September 1 so it will cover the victims of Hurricane Hugo as well.

Mr. TORRES. Madam Speaker, I thank the gentlewoman for making that clarification.

We have a tremendous task before us, each and every Member of this House, and indeed I call upon my colleagues in this House of Representatives to make sure that the people, not only the victims of Hugo, but the San Francisco-Oakland Bay area are made whole in this terrible situation that has beset our country.

I thank the gentlewoman from the San Francisco area for allowing me time to speak on this special order today, and I commend her for calling it forth.

Ms. PELOSI. I thank the gentleman for his comments, for his suggestions, and for his hard work on SBA and the committee, working with the SBA. I am confident that we will get the job done with the gentleman's participation, cooperation, and leadership. I thank the gentleman for participating in this special order this evening.

Mr. Speaker, I am happy now to yield to one of our colleagues, the gentleman from California [Mr. MATSUI], fortunately whose district was not damaged by this particular earthquake, but who has helped us enormously on the Ways and Means Committee, and his participation in this special order is particularly appreciated.

Mr. MATSUI. Madam Speaker, I would like to thank the gentlewoman from San Francisco and thank the Members, frankly, that are here participating in this special order, which I consider to be a very important special order.

As the gentlewoman from San Francisco has indicated, my district, Sacra-

mento, CA, was not impacted adversely at all, but I was back in my district this weekend and visited with a number of different agencies, including the Red Cross in Sacramento. It was amazing what I had seen there on a Friday afternoon. They had already raised from Tuesday to Friday some $75,000 in the northern California area. They had volunteers working day and night trying to open up envelopes of contributions of $5, $10, $20.

In addition to that, in another part of the building they had volunteers who were working on trying to come up with rescue operation techniques. I think at that time already 75 to 100 had been moved from Sacramento to San Francisco in the bay area and they expected another 100 or so within the next few days to assist in the rescue effort; so from Sacramento's point of view, our hearts go out to the people in the bay area and we hope that as soon as possible things will come back to normalcy, although we expect it will take quite a lengthy time.

I would like, if I may, to commend the Speaker pro tempore in the chair, the gentlewoman from California [Mrs. BOXER], and obviously the gentlewoman from California [Ms. PELOSI] from the San Francisco area and all my colleagues who have participated over the last few days in trying to bring some sense of understanding to the American people of what happened in the bay area.

The dean of our delegation, the gentleman from California [Mr. EDWARDS], who is here on the floor today has done a tremendous job demonstrating leadership and making sure that all of us are kept informed and are part of the process of healing these wounds; and of course, the gentleman from California [Mr. MOORHEAD] on the other side of the aisle, the counterpart of the gentleman from California [Mr. EDWARDS], has done likewise.

The members of our Appropriations Committee from California have done a tremendous job. The gentleman from California [Mr. FAZIO], the gentleman from California [Mr. LEWIS], obviously the gentleman from California [Mr. ROYBAL] and the gentleman from California [Mr. DIXON], and the gentleman from California [Mr. LOWERY], they have all made this a bipartisan or nonbipartisan effort to try to get some funds for the people of the bay area in the immediate perspective, because those funds are absolutely essential for the purpose of getting people back to some form of normalcy in their own workdays and in their own lives.

So many people have been involved in this effort and, of course, the White House, President Bush, had come to the bay area recently, and I know that was very disruptive for his schedule, but it was extremely important that the President symbolically and substantively come to meet with the people of the region so that there is a knowledge by those people of a Federal commitment that something will and must be done.

I would like to, of course, associate myself with the remarks of the gentleman from California [Mr. TORRES] and the remarks of the gentleman from California [Mr. CAMPBELL], and certainly the remarks of the gentleman from California [Mr. DELLUMS] and the remarks of the gentlewoman from California [Ms. PELOSI], because I think each of them have offered what has actually happened in the bay area at this time.

One of the issues that I think is important that must be addressed, and I think the gentleman from California [Mr. DELLUMS] has raised this issue, is that Gramm-Rudman will work, but Gramm-Rudman will work only if we do not have any war of emergencies or catastrophic events as we have seen with Hurricance Hugo and as we have seen in the bay area over the last few days, and when we do have these catastrophic types of events, obviously a proposal like Gramm-Rudman is just not adequate for a country with a $5 trillion economy such as ours to operate. I think the same could be said for the state of California because of the constraints of Proposition 13 in 1978 and, of course, the Gann initiative.

If things are going well, if we have no recession and the economy is running at 2-3 percent, if unemployment is down and inflation is down, well then, of course, we can deal with these spending constraints that all of us realize are targets and are sometimes necessary, but when we do have problems as we witnessed over the last week, that is when decisionmakers, those who are elected to represent people in a democracy, must come together and begin to move away from those automatic constraints and begin to make decisions based upon our own best judgment.

I think the gentleman from California [Mr. DELLUMS] said it very adequately when he talked about the highway system throughout California and the infrastructure that we have at this particular time and the fact that it was devastated. When you have 880 and, of course, the San Francisco-Oakland Bay Bridge inoperable; the bay bridge alone has over 250,000 people who cross that on a daily basis. If that is inoperable, the fabric of society is actually destroyed, because people are unable to go to work, they are unable to meet their loved ones, they are unable to do the kinds of things that people expect to do on a normal daily basis. That does destroy the fabric of society as we know it.

Here we are in 1989, a wonderful country such as ours, and we see the kind of obvious devastation, and we are somewhat paralyzed to do anything with it because of spending constraints that we impose upon ourselves because we ourselves do not know how to act and do not know how to deal with these kinds of problems.

I think this issue alone should, in the State of California, make decisionmakers begin to reflect and perhaps reexamine their positions on Proposition 13 and the Gann initiative, and certainly those of us in Washington must reexamine those kinds of spending constraints that we have. That is not to say that we should not make tough decisions. I think we have to make tough decisions.

The loss in the bay area alone we estimate to be anywhere from $5 billion to perhaps $10 billion. Hurricane Hugo we are talking about $4 billion, maybe $5 billion. We are talking about enormous sums of money, and that means cutbacks will have to occur in other areas of the Federal, State, and local governments, and at the same time we are going to have to talk about revenues.

In a democracy such as ours, we have to make sure that we are willing to view what kind of society we want and be able to pay for it so we do not burden our future generations.

I think this is an event that should give us, as decisionmakers, an opportunity to reflect and begin to take more individual responsibility as elected officials and not allow automatic mechanisms such as Gramm-Rudman or the Gann initiative or Proposition 13 to make those decisions for us so we can evade our primary responsibility as lawmakers.

Let me make a couple of other comments as well. What I found to be remarkable as I have been viewing both in the media, television and reading in the newspapers and talking to my colleagues who have just come back from the bay area, I find it absolutely remarkable the fact that the people in the bay area have handled this catastrophic event with such calmness, with such understanding and with such deliberateness. I find the strength and the courage that these people have is absolutely overwhelming, to be able to see your home totally destroyed, to see your lives disrupted, to find that you may not be able to get to work and still be able to handle it in a very dignified manner tells me something about the people of the bay area and also about what our country is all about. Because we have a fabric in our society in which all people try to work together, try to bring people together and make sure that there is a greater understanding and a greater need for the overall well-being of our communities.

I would like to just add in conclusion that the people have been absolutely

wonderful in how they have handled this very tragic event, and I would just have to say that all of my colleagues who have suffered through this with their constituents should be very, very pleased. I would say that they are very lucky to represent the people of northern California.

Ms. PELOSI. Madam Speaker, I thank the gentleman for his remarks. Yes, indeed, we are proud, have always been proud, to represent our districts, but, of course, the demonstration of cooperation and love and support for one another gives us all strength and inspires us to do the job that needs to be done to lead the people on these issues of spending.

Further, to the gentleman's point about infrastructure and other amounts that we have or have not committed in the past in San Francisco, our cost is $2 billion not counting Interstate 280, not counting Highway 101, and not counting the Embarcadero Freeway. Not only are these structures undermined, but the area beneath them becomes impassable because you cannot go underneath a cracked overpass. So we are going to have costs that we do not even know yet. We have just begun to tally it up.

Madam Speaker, I would like to ask permission to tell that one structure that escaped all of this, the Golden Gate Bridge, was protected because its integrity was reinforced some years ago when Representative John Burton represented that area, now represented by the gentlewoman from California [Mrs. BOXER] in the Congress of the United States. He got $100 million, which is a lot of money today, but it was an enormous amount of money then, to reinforce the Golden Gate Bridge and, of course, we saw that it did not sustain any damage. It was perfectly fine and is a resource now in terms of transporting people who cannot get across the Bay Bridge to find a way around as well as serving the needs of the Marin-San Francisco community.

It also held a million people who went there to celebrate its 50th birthday. We did not realize what a chance we were taking, all of us who were on the bridge that day, with 1 million people on the bridge. Suffice it to say that the next birthday will not find us all on the bridges by the millions.

I thank the gentleman for his cooperation and participation in this special order today.

We have had over 6,000 people who have already filed claims for grants or loans from FEMA.

There are all of these numbers which represent a very, very sad story to tell in San Francisco. You have heard about the Marina, but we had one building well on the other side of town, 6th and Brannon, which crumbled at the impact of the earthquake, and six people perished in that destruction. At the same time in the Marina, a woman was holding her 3-month-old baby, Scott Dickinson, 3 months old, and at the time of the impact, she held the baby in her arms. Unfortunately the baby did not survive. Can you imagine, imagine the sadness of that one statistic? Not all of them are that sad, but every one of them represents a very sad story.

No colleague in the House is more sensitive to family and children who has worked harder to make life better and the future brighter for children and families than our colleague, the gentleman from California [Mr. MILLER] who represents Contra Costa County, one of the counties declared a disaster by the President.

□ 1850

I would like to thank the gentleman from California [Mr. MILLER] for his participation.

Mr. MILLER of California. Madam Speaker, I would like to thank the gentlewoman from California for taking this time to give us the opportunity to inform our colleagues and others of the tragedy we have witnessed since the earthquake in the San Francisco Bay area.

We were all together when we found out about it and watched those early reports from San Francisco, in the neighborhoods that we have lived in, that we worked in, with people that we knew, about the unfolding of this horrible event on all of our constituents.

We have spent most of the time since then trying to bring not only resources but some rationality to the disaster. It has been very, very difficult.

I think one of the things that is so unnerving about an earthquake is that it does not discriminate very well, and we find structures we have counted on or have become familiar with or institutions we have become familiar with have been victimized in ways we never imagined they would be. To see the bay bridge with a section missing, to see the I-880 freeway collapsed, to see the marina area we have driven through thousands upon thousands of times now to have homes toppling over into the street, and recognizing the tragedy that has been bestowed upon families in our community, is really beyond our comprehension.

I think we all sensed as we traveled throughout our districts over the week and the weekend, we sensed people being somewhat reserved, introspective, people saying they were not going to go to that meeting, they were not going to go to that event. They just wanted to go home. They wanted to be with their families.

All of us feel a sense that we were fortunate, and tragically so, others were not, and the impact has been horrendous on those victims and their friends and families of the quake.

Of course, the bright side is that once again, this time in the San Francisco Bay area, but we have seen it 100 times, 1,000 times, where the American citizens rally to people in need.

We saw it in the Mexican earthquake; we saw it in Hurricane Hugo; we saw it in the Italian earthquake; we saw it in the Armenian earthquake; where people have poured out their money, their souls, their efforts, their time.

When we were watching these events unfold, the gentlewoman's daughter had already begun the process of volunteering on behalf of the people in her city.

The same was true in our country. My district, for the most part, escaped the kind of tragedy that we saw in the districts of my colleagues, Mr. PANETTA, Mrs. BOXER, Ms. PELOSI, Mr. DELLUMS, and Mr. STARK. We had a lot of property damage, but we did not have that kind of tragedy. We were able to immediately start sending people to Santa Cruz to help out in that area.

In that context, I want to say that the coordinating office, the Office of Emergency Services for the State of California, is located just next door to my district office. People showed up there within an hour of the earthquake according to a plan that was devised so they could start bringing together resources and finding out what was going on in the rest of the State and the rest of the area. When I arrived there 48 hours later, some of those people were still there.

The other night I was driving down to one end of my district and I called a gentleman on the phone from my car and I told him there is going to be a very special place for you and your staff, because you have been pulling together the information that has allowed us to go to the Appropriations Committee to start to put some dollar figures on the damage that the people in our districts have suffered.

They really did an outstanding job. A number of disasters were averted because of preparedness. I think one of the things we have all learned from this is that the earthquake drills, the preparedness, the building codes, all saved us from having a much worse disaster.

In my district the earthquake rumbled through a tank farm of very, very large tanks filled with hundreds of thousands of barrels of gasoline. The gasoline breached and was spilled out onto the street into the parking lots. At one point about 60,000 gallons of gasoline were flowing through the streets.

Fortunately, it did not ignite. One of the reasons it did not ignite is that without any questions being asked, every refiner in the area started moving foam products to that Unocal site immediately at the request of the

people from Union Oil. They were able to contain that incident that could have been a tragedy.

Stories are replete around the entire bay area about heroic efforts of individuals and the rescue crews and people that have helped to feed our constituents.

Finally I would like to also mention the visit of the President. There was some speculation in the press that this was going to disrupt efforts and this was a political ploy and what have you.

I think you had to be there at the I-80-880 freeway collapse site to see the look of appreciation of the doctors and nurses and the highway patrolmen and construction workers, the people that had been there from minutes after the freeway came down who were still there 4 days later and who had been working around the clock, some working 12-hour shifts, some working 18-hour shifts, to see them as the President stopped and talked to them, shook their hands, had his picture taken with them, tried to lift their spirits a little bit.

This even got to the point where a group of construction workers, I believe they were from Big E Crane Co., were sitting on a bunch of steel I-beams. The President walked over to shake hands with them and they were calling him by his first name. They were saying George, it is great to see you here; George, it is really nice of you to come by; George, come back any time you want. It just picked their spirits up enough.

There is no question that there was some interruption to the work that was going on, but these are people that were working under incredible stress, incredible fatigue, and that reassurance, that the President of the United States is concerned, has joined with our delegation to try to figure out what kind of package would best suit us, was a very, very exciting thing to see. This was very important to those individuals.

I understand the response was similar from citizens in San Francisco and in Santa Cruz where the President toured the busines area with Congressman PANETTA, in talking to people, in talking to children, in trying to provide some lift in the spirits for those people that had been consumed by this tragedy.

Many of the other speakers tonight have mentioned the need for counseling for these people. I think it is something that one of the construction foreman on the I-880 freeway said, "I never thought of that." He said, "In my business I never thought for a second about that. But when they started talking to my workers, I had not realized how much stress my workers were under in trying to save these people and then being disappointed that they only found another body, that they had not found a survivor, or they could have been there earlier getting help for those individuals."

We have learned a lot. We have suffered a lot. There is much that needs to be done. There are clearly, as others have pointed out, some very very hard questions that have to be asked. Not only about design and construction, but clearly about our responsibility to our citizens, that we cannot postpone a lot of decisions that need to be made about infrastructure, about improvements.

Somebody has said that 50 bridges a day fall down in this country, but the San Francisco Bay Bridge got our attention. So these kinds of tragedies, and we have witnessed them over the past decade, can happen in other areas of this country.

We have got to start thinking about how we can invest in the basic infrastructure of this country. Previous generations did it for us, and we have an obligation to do it for the next generation.

That is a battle that we will fight out, and it will be long term. We have to make sure that our efforts here will shorten the suffering of our constituents, get them back on their feet, get their lives back together to the extent we can, and allow them to get on with their business and their daily lives.

I cannot think of anyone whom I would prefer to represent me than the gentlewoman in the well. If I was one of those constituents in that kind of trouble. No one has spent more hours concerned and involved, not just with the earthquake, but in the plight of her constituents from time to time that strike, than the gentlewoman from California [Ms. PELOSI]. Her taking of this special order is again a symbol of that concern in allowing the rest of us to have a moment to think about what we have been through over the last 5 or 6 days. I thank the gentlewoman very much for this opportunity.

Ms. PELOSI. I thank the gentleman for his comments. Further to the point about the President's visit, it was a boost of morale for the entire area. Not only that, I believe that the response from FEMA, from Mr. Grant Peterson in Washington, Mr. Bob Vickers, head of region 9 in California, Mr. Tom Haemler, who is in charge of the FEMA action now in response to the earthquake, the President's visit in short, ensured that we would have quick response from FEMA, and indeed we did. Just 5 days after the earthquake, disaster assistance centers were established throughout the affected area.

□ 1900

As I say, there were thousands of people who had already submitted claims.

We need to bring comfort, sanity into the lives of these people.

Now, Congress has the will, the President has expressed his interest and FEMA is the link to that and so far so good.

Rest assured, however, we will keep you posted on how well the operation goes. But I think we are off to a very good start.

I thank my colleague, the gentleman from California [Mr. MILLER] for his kind remarks and pointing out some of the human toll and human needs associated with this earthquake.

Unfortunately, my time has expired. I know many of our other colleagues will have statements they will want to enter into the record or to participate in Mr. EDWARDS' special order which follows.

The SPEAKER pro tempore (Mrs. BOXER). The Chair would remind the gentlewoman from California that if she wishes to participate further during the special order of Mr. EDWARDS, she is cordially invited to do so, as well as the gentleman from California [Mr. MILLER] and the gentleman from California [Mr. TORRES]. We would encourage that participation.

MORE ON THE EARTHQUAKE IN CALIFORNIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. EDWARDS] is recognized for 60 minutes.

Mr. EDWARDS of California. I thank the Speaker.

Madam Speaker, I thank the gentlewoman from San Francisco, Ms. PELOSI, for a most eloquent exposition on the tragedy that has hit California. I was also terribly touched and moved by the various statements made by my colleague, the gentleman from Los Angeles, Mr. TORRES, one of the great leaders in the House of Representatives; and my colleague from further north, Congressman TOM CAMPBELL, who is new to this area but is making his mark as a very able Congressman; and, of course, my colleague and friend of many years, GEORGE MILLER, who is always so impressive in his telling us about what our country is all about.

As a matter of fact, Mr. Speaker, I am proud to be the chairman of the Democratic delegation from California, especially today, especially in the last few days since the cataclysmic event occurred in San Francisco and elsewhere in northern California last Tuesday.

I suppose that everybody remembers where he or she was when a tragic event takes place. I had just been here in Washington as a Member of Congress for 11 months when President John F. Kennedy was murdered in

Dallas, TX. I remember exactly, of course, where I was.

I was driving down the street in Georgetown, and I saw crowds of people stopping and listening to radios in stores and putting their heads in windows of cars to listen to car radios.

I stopped and found out about the awful event that had taken place.

Of course, I remember exactly where I was when Robert F. Kennedy was assassinated; I was in a television room in San Jose, channel 11, and I had to watch all of the awful events on 11 screens because that is how many the television office had.

The same when Dr. King was assassinated. I was in San Francisco awaiting a political convention for the campaign of Senator Eugene McCarthy. Of course, we canceled everything. We stopped doing anything that we were doing and mourned when Dr. King was killed.

So I remember and I will remember the rest of my life where I was when I heard what had happened in my beloved part of northern California, the San Francisco Bay area, very possibly one of the most beautiful parts of the world and certainly one of the most intellectually sound, delightful places where the people are really one family.

I was at my apartment here in Washington with my wife and we were just about ready to have dinner when suddenly on the screen one of these special announcements came. Usually they are not much. But, Mr. Speaker, certainly in this case we stopped everything.

I said to my wife, "I have go to get to California." I called the White House, and I was received courteously and I am very grateful for the courtesy extended to me at the White House.

Within 1½ hours I was at the airport and in an airplane, a 13-place airplane going to San Francisco with the vice president's wife, Mrs. Quayle, and the Secretary of Transportation, Mr. Skinner, and of course, my indomitable, indefatigable friend and colleague, NORMAN MINETA.

Mr. Speaker, I would sort of like to clear the air about the trip that the Vice President made. He was there within a very few hours of the tragedy. He was there with Mrs. Quayle.

We are talking about 3 in the morning.

After all, the earthquake took place at 5 or 6 and the Vice President was on the spot in San Francisco, and Mrs. Quayle was there at 3:30 the next morning. It was too dark to do anything, but the airplanes were taking off and the helicopters, as soon as it got light, and a very arduous day was spent.

Invitations were extended to all of the mayors of northern California to come to the naval air station at Alameda, and a very useful meeting was held with the mayors.

Other meetings were held.

We walked through the tragic streets of the beautiful marina, and it was really heart rendering and frightening, too, Mr. Speaker,

One would pass a building, a beautiful old building, obviously 30 or 40 years old, where maybe six or seven families had been living, and they would be teetering. You would not want to walk very close to this building because you knew that a small aftershock or anything would have knocked it down.

Then of course the other buildings that were just rubble with bodies still in there.

I said, "What are they doing now?" I remember how shocked I was when they said, "Well, we are waiting for the dogs to tell us where the bodies are." It was very, very sad.

But my delegation from the bay area, they were on the first airplane that left early the next morning: Ms. PELOSI, Mrs. BOXER, RON DELLUMS, PETE STARK, LEON PANETTA, TOM LANTOS, GEORGE MILLER, and TOM CAMPBELL.

They were there as soon as they could possibly get there and spent the entire next few days industriously, sympathetically, energetically working with their constituents, working with all of the various agencies to make sure that the job was getting done, that help was being offered and at the same time communicating with us.

I was back in Washington by then. We had our teams, Republicans and Democrats. I have never seen such unanimity, such bipartisanship, working all weekend and before and up until early this morning writing a bill that would at least get off to a good start, for the first time in history, to have some money, because strangely enough, Mr. Speaker, these funds we have but there is not enough money in them.

So there does have to be a new appropriation.

By the time we got up this morning we had a bill, we had the outline of a bill. It is very much to the credit of "VIC" FAZIO, a very distinguished subcommittee chairman on the Committee on Appropriations, and BILL LOWERY, the fine Republican from southern California, and of course Republican JERRY LEWIS, who worked very closely with VIC on this package.

□ 1910

I hope that tomorrow it can be enacted. It needs to be enacted. The signal has to go to the folks back home that we are doing what we are supposed to do. That is what we take the oath of office about, taking care of America and America's problems. While America has a big problem right now, affecting one of the most marvelous parts, some of the greatest 5 million people of our country. They deserve help, and they deserve it now. They deserve it yesterday. They deserve it tomorrow. We intend to enact legislation that is going to help out. We are going to do it, I am sure.

Tomorrow, to the credit of the fine members of the California State Legislature, Republicans and Democrats again, they are on an airplane tonight. They got on an airplane probably an hour or two ago. They are going to ride all night to come to Washington, 25 or 30 of them. I am not exactly sure who it will be. I know the distinguished speaker of the assembly, Willie Brown, will lead the Democrats, and the distinguished senator, Senator Campbell, is coming also. As a matter of fact, he was here this afternoon. So, they will be here tomorrow.

We are going to meet at 8 o'clock for breakfast for some doughnuts and coffee, and talk a little bit, and they will be off to the Executive Office Building to talk to the President's people about what the State of California Legislature can do, coordinating their efforts with our efforts. Then they are going to be back to the Senate. They will talk to Senator WILSON and to Senator CRANSTON. They are going to meet with them. Then I hope, Mr. Speaker, that they can come to the floor tomorrow.

Mr. Speaker, I yield to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, I want to thank our distinguished dean of our delegates for taking this second hour, following the special order of the gentlewoman from California [Ms. PELOSI].

I would like to say that the gentleman from Illinois [Mr. DURBIN] has pointed out to me an article in one of the newspapers that he saw that really moved him to get involved in helping the California delegation. I understand he would like to read this into the RECORD.

Mr. EDWARDS of California. Mr. Speaker, I yield to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I appreciate this opportunity to join in this important special order. Several weeks ago I had an opportunity to visit the gentlewoman [Mrs. BOXER], along with the other representatives from the bay area on a trip which honored the U.S. Navy Fleet, which plays such an important part not only in the defense of our country, but also in the bay area. During that time we were given an opportunity to meet with the mayor of the city of San Francisco, Art Agnos, whom I consider to be a good friend and a person whom I have come to admire more in the midst of this crisis, and of course, to work with the city officials interested in pursuing projects which were then of great im-

portance, and I am sure again will be someday. However, the important issue before the bay area, both in San Francisco, Oakland, and the surrounding communities, is of course the devastation that was wrought by the earthquake.

So many citizens were cemented to their chairs, watching the scenes that came through, hour after hour, night after night, about what terrible tragedies had occurred in San Francisco. For those citizens who consider it to be one of the most beautiful places on Earth, it is especially sad to see these things occur. I am certain, as with the spirit of rebuilding after the 1906 earthquake, and the frontier spirit that brought the many people to California, that the State will recover, and of course, all of the community will one day not only be as strong as they were but even stronger because of this devastating experience.

Many have been following the news media on this issue. I would commend to all of my colleagues and to those who are interested, an article that appeared this morning in the Chicago Tribune, written by a reporter whose name is Joan Beck. Ms. Beck wrote an article entitled "From the Bay Area, a Message Written in Bravery, Caring." I would like to, at this point, note some of the observations which Ms. Beck made. I will not read the entire article, but I will enter it in the RECORD following my remarks. I would like to quote from the article, because I think it summarizes the feelings of many people about the acts of heroism which occurred during the course of this terrible tragedy.

Too many gawkers gawked. Too many politicians played politics. A few looters looted. But what has come shining through the San Francisco earthquake experience is that a surprising number of people can turn into heroes when heroes are needed. Exhaustion is setting in. Aftershocks and harsh realities are wearing courage thin. The adrenalin highs have been spent. The long, hard work of cleaning up and rebuilding must now be done.

Ms. Beck goes on to note several of the specific heroes that many across the country have read about, including Dr. Jim Betts and the amazing act of heroism on his part in rescuing a 6-year-old boy with a badly crushed leg in an automobile; about a firefighter, Jerry Shannon, who worked his way through an 18-inch space to tear away debris, and comfort a 58-year-old woman who was trapped in the wreckage. Here is a story I had not heard before, which I would like to quote Ms. Beck again.

Dozens of people—as many as 120 by one count—who live in the low-income neighborhood besides Interstate 880 scrounged for ladders and led disoriented, injured survivors from the perilous upper roadway minutes after its collapse. They round up car jacks, wire cutters, crowbars, whatever tools they could find and risked their own lives to crawl between the sandwiched road levels to free victims from their smashed cars.

She quotes:

"I was scared to death and shaky," Emilio Lopez is quoted as saying. "But I would have wanted someone to come for me."

"We were out there—poor people, neighborhood people, welfare people—doing everything we could," William McElroy told reporters. "Last night, we didn't think about being poor people or black people. We just thought about being there for the people who needed us."

Ms. Beck concludes the wonderful column by saying:

The list could go on and on, most of it private bravery and generosity, unreported by the media, known only to those suddenly and terribly dependent—even for their very lives—on the lives of strangers.

But the heroism, the selfless effort, even the mere neighborliness that followed the earthquake so quickly, needs to be reported and celebrated and emulated—to remind us that we are, indeed, a brave and caring people and as antidote to the usual urban toll of muggings, violence and racial tensions.

Mr. Speaker, I salute my colleagues for this special order. It was my honor to be with them in the moment when there was the greatest anxiety, as the same Members contacted their families to make certain they were safe after the earthquake. I am happy to report that the news was good for all their families and with my colleagues. Mr. EDWARDS and Mr. PANETTA, those who are gathered for the special order, made that harrowing and special trip back to their homes to help in this effort. This special order, I think, will communicate to the American people that that spirit of heroism and caring was not only there in San Francisco but is here today in this Nation, and as we respond to this crisis to help not only the victims of this earthquake but to help the victims of Hurricane Hugo and so many acts of God which can leave citizens so helpless, it is a reminder of a good and caring Nation that can come to the defense of one another.

The text of the entire article is as follows:

FROM THE BAY AREA, A MESSAGE WRITTEN IN BRAVERY, CARING

(By Joan Beck)

Too many gawkers gawked. Too many politicians played politics. A few looters looted. But what has come shining through the San Francisco earthquake experience is that a surprising number of people can turn into heroes when heroes are needed.

Exhaustion is setting in. Aftershocks and harsh realities are wearing courage thin. The adrenalin highs have been spent. The long, hard work of cleaning up and rebuilding must now be done.

But newspapers, which daily chronicle the worst of human behavior, should make a point of seeing that the heroism gets written into the record of the earthquake—along with the lessons on highway construction and disaster planning. People can act with extraordinary bravery and selflessness when others need them to be more brave and selfless—even if they didn't know, before, that they were capable of it.

For example:

Firefighter Jerry Shannon snaked through an 18-inch space to tear away debris and comfort Sierra Cox, 58, trapped under a beam in the wreck of a building, even though he was ordered out by his superiors, who expected further collapse. Even when the building started burning, Shannon stayed on until Cox was finally pulled to safety.

Dr. Jim Betts had to lie on his stomach under chunks of concrete and twisted steel between the decks of Interstate 880, with fires burning on either side. And he had to take desperate measures to rescue a desperately injured 6-year-old with a badly crushed leg who was trapped under the body of his dead mother. The only way to free the child was to anesthetize him, use a chainsaw to cut his mother's body in two to reach the boy's leg, and amputate it below the knee.

While Dorothy Otto, trapped in her rubble-crushed car with a painfully injured foot, waited for help she feared would not come before nearby fires reached her, she wrote a goodbye note to her husband. She tried calling politely, she said, but allowed herself to scream when no one came. When rescuers finally found her and began the agonizing effort to free here, she stuffed a cloth in her mouth to keep from screaming any more, she said, lest it distract those who were risking their lives for her.

Dozens of people—as many as 120 by one count—who live in the low-income neighborhood beside Interstate 880 scrounged for ladders and led disoriented, injured survivors from the perilous upper roadway minutes after its collapse. They rounded up car jacks, wire cutters, crowbars, whatever tools they could find and risked their own lives to crawl between the sandwiched road levels to free victims from their smashed cars.

"I was scared to death and shaky," Emilio Lopez is quoted as saying. "But I would have wanted someone to come for me."

"We were out there—poor people, neighborhood people, welfare people—doing everything we could," William McElroy told reporters. "Last night, we didn't think about being poor people or black people. We just thought about being there for the people who needed us."

Firefighters and police worked 14-hour shifts. Civilians carried the stretchers of the injured when medics were shorthanded. Restaurant owners donated food for thousands of meals to shelters and set up booths to feed disaster workers and the homeless. "It was like the fishes and loaves," one volunteer said.

Volunteers—one young woman had no shoes—stood in the middle of glass-strewn streets and directed traffic where stoplights were out. Bob Turek, who saw his apartment building go up in flames, walked away and went to work as a volunteer at a Red Cross emergency shelter. Community bulletin boards offered rooms for the homeless in private homes. United Parcel drivers from hundreds of miles away offered their help on their days off.

Computer owners relayed personal messages and information around the Bay area and the nation. Dozens of people even took a 45-minute Red Cross course of instruction in disaster relief. Many others made donations to shelters, some thoughtful enough to include dog food and cat food—and teddy bears for children whose own cuddly ani-

mals were lost in the destruction of their homes.

Mark Smith, who won a $15,000 sports car in a radio contest, turned his prize over to the Red Cross for its earthquake fund. Caught by surprise, the radio station's management quickly decided to match Smith's gift and then gave him another car.

The list could go on and on, most of it private bravery and generosity, unreported by the media, known only to those suddenly and terribly dependent—even for their very lives—on the kindness of strangers.

But the heroism, the selfless effort, even the mere neighborliness that followed the earthquake so quickly, needs to be reported and celebrated and emulated—to remind us that we are, indeed, a brave and caring people and as antidote to the usual urban toll of muggings, violence and racial tensions.

Mr. EDWARDS of California. Mr. Speaker, I thank the gentleman from Illinois for his wonderful contribution. The gentleman from Illinois has been one of our leaders for a long time, and the Members from California are very grateful for Midwestern sympathy and affection.

I yield to a new Member that we are very proud of, the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Mr. Speaker, I do appreciate the dean of the California delegation allowing me a few minutes to express myself on this issue.

I am new here, and sometimes we get the feeling that this place moves real slow. I know people out in California and throughout the country think, from time to time, that we move slowly and we should. However, as a new Member, I want to tell my colleagues from California that I am duly impressed with the speed in which they have moved on this issue, that they have really come to grips in short term with the issue of the catastrophe that happened in California.

I live in the San Joaquin Valley in California, about 70 or 80 miles southeast of San Francisco and the bay area, in the area that was affected by the earthquake. Fortunately, we in the San Joaquin Valley did not sustain significant damage or the loss of life. We were very, very fortunate. However, our hearts and our thoughts and our prayers have gone out to our neighbors in the bay area, because this incident brought home a couple of other things, and that is how vulnerable we are here on this Earth, how fragile our life is here on this Earth, and that we need to be thoughtful for each other. Our hearts and our thoughts and our prayers need to go out to each other.

We have done that in the Central Valley, and I am sure that people throughout this country have done that for Californians, as the people around the world have.

□ 1920

But it is time for us in the House of Representatives and in the administration to go beyond those things. It is time for us to help because this is what government for me is all about—that in times of crisis we are there. This crisis is too much and too big for any one city council, any one mayor, or any one State. It needs the help of the Federal Government.

We have a proposal that will be before us in the next few days. It is a proposal that was worked out by my colleagues from the California delegation that I believe will go a long way in assisting the people of California and will help set a standard as to how we should react to these kinds of tragedies. I want to call on all our colleagues from around the country to support this proposal because it is more than just our prayers which are needed, and it is more than just our thoughts and our good wills; it is putting those thoughts and those prayers to action, and hopefully in the next couple of days we will be able to have a vote, and the vote will go a long way in easing the burden of the citizens of California.

Once again, Mr. Speaker, I just want to commend my colleagues from California, including the dean of the delegation, for their leadership. I think we in California are extremely fortunate to have the kind of leadership we have had on this issue. I commend my colleagues for that, and I am delighted, I say to the gentleman from California [Mr. EDWARDS], that he has allowed me a few minutes to express myself on this issue.

Mr. EDWARDS of California. Mr. Speaker, I certainly thank the gentleman from the Central Valley. We are very fortunate to have him as one of our new Members. I think that his eloquent words today have indicated the kind of a Member he is and the kind of leadership he is going to offer in the many, many years to come. We are very grateful for those eloquent remarks.

Mr. Speaker, I now yield to the gentlewoman from California [Mrs. BOXER], whose district was impacted seriously, although perhaps not quite as seriously as some of the others. The gentlewoman has been one of our eloquent and formidable leaders here in the House of Representatives.

Mrs. BOXER. Mr. Speaker, I want to express my thanks to our dean, the gentleman from California [Mr. EDWARDS], and I want to say to the gentleman from California [Mr. CONDIT], before he leaves, how much I appreciate his compassion, his caring, and his concern and how impressed I am with the kind of team player he is. We are so very delighted to have him on our side.

I want to say to my colleagues, the gentlewoman from California [Ms. PELOSI], that I know how hard she has been working since this disaster struck. We have been together since minute one, and several of us were together on that evening. I want to thank the gentlewoman for starting this stream of special orders tonight, because I think it is very important for us to express the way we feel and to speak in behalf of the thousands and thousands of people in the bay area who were so affected.

To my friend, the gentleman from Illinois [Mr. DURBIN], who has been such a friend to all of California, I want to give my thanks. As the dean expressed, we appreciate his compassion, coming from the Midwest. The people there have very clear values, and those values are that when America is hurting, whatever part of America is hurting, we are going to pull together as a team. I want to thank him for his assistance and his help as this bill winds its way through the Congress.

Mr. Speaker, the Sixth Congressional District fared in a miraculous fashion. It is hard to even believe it. When we went up in the helicopter and looked at the devastation, I saw the Golden Gate Bridge district and the Golden Gate standing tall. It is the symbol of my congressional district. I represent either side, the San Francisco side and the northwest portion, about 150,000 people, and, of course, the communities to the north.

As soon as I was able to get to a telephone the next day, I called Assemblyman John Burton on the phone. He had been my predecessor here in this Congress, and I said, "John, I want to thank you."

He said, "Why are you calling me in the middle of all this?"

I said, "Because the Golden Gate Bridge is standing, and you are responsible."

He said, "Well, remind me."

I said, "Do you remember 10 years ago, when you were the Congressman from the Sixth District, you fought for the funds to strengthen that bridge, to make it safe, to fix the roadway, to earthquake-proof that span?"

He said, "That's right, I remember."

He said, "It was really hard to do it because it was a toll bridge, and toll bridges can't get that funding from the Federal Government, but because we made the case that the tolls are used for rapid transit, we were able to get the funds."

I said, "John, I just want you to know that bridge is standing as a symbol of what government can do if we understand what our priorities are, if we look ahead far enough, if we understand that the infrastructure of our country is the responsibility of our elected officials, be they at the local level, the State level, or the national level."

So in the midst of all the devastation, I can look at that bridge and feel so good because it is a lesson to all of us that we cannot neglect the infra-

structure. It would have been very simple for John Burton to say then, "Well, no one wants to spend a hundred thousand dollars. We probably will not have an earthquake for 30 years, so I won't pursue this."

But he did pursue this, and I would urge my colleagues in public life, be they executives, be they in legislative positions, in local government, be they mayors, city councils, boards of supervisors, President, that whether they are Republicans or Democrats, there is a function here for government, and surely it is that when one of our constituents goes over a bridge, that constituent can feel comfortable and confident that it is not probably safe but it is definitely safe.

As we fought through the emotions that we have been feeling since this quake hit, when we feel the relief when we talk to our friends and loved ones and know that they are alive, when we feel the sadness at those who did die—and I did have constituents who died in this tragedy, people who got trapped in the Nimitz, and others we still do not know about—I think we owe something to the memories of our people so that their children and their grandchildren will be able to be comfortable and confident that government in the name of the people will move forward to make our infrastructures safe, and we will do whatever it takes, because as the gentleman from California, Mr. RON DELLUMS, said, "Sure, there was a safety program in place, but it was phased in because somebody said we could not afford to do all of it at once."

That is not true; we have to afford to do it all now. I feel sorry for those legislators who made those decisions. They were bad decisions. We have to stand up and be counted.

I have a call from a reporter who wants to know, do I support a tax? The reporter asks, do I support a tax to come in and do what has to be done to help California? And I said to that reporter, "As I stand here today, I would like to see us do a transfer amendment from the military budget. That budget has gone up over a hundred percent in 10 years while the domestic budget has gone down if you add in inflation."

Fortune magazine said that it is time that we can cut $10 billion a year for 10 years. This is Fortune magazine.

We have to protect our people, and that takes dollars. If we do, we will still have a very strong defense. We would still have a very strong defense because we will have enough weapons. But what about safety for our people?

I believe that whole discussion that the gentleman from California [Mr. DELLUMS] brought into this Chamber on priorities is one that is very timely here. We have a very big responsibility for safety, and I hope that we will not shrink from it. This earthquake has lessons in it for all Americans, and that is why I am so glad to see my colleague, the gentleman from Illinois [Mr. DURBIN] here, because there but for the grace of God goes any one of our constituents from any State in the Union. We have to pull together as one, just as we would pull together for our colleagues elsewhere. The lesson to be learned is that there is a role for Government. Yes, here is a role for Government at the local level where they have very stringent rules for buildings. We know, all of our colleagues here, including Mr. CAMPBELL, Mr. EDWARDS, Ms. PELOSI, Mr. MILLER, myself, Mr. DELLUMS, and others, that we live in earthquake country, but it is nothing to be frightened about. It is a reality, just as there are hurricanes in other areas, and just as there are droughts and typhoons in other areas. We can live with it, but we have to be prepared.

□ 1930

So, when the local government comes in with stringent controls about how to build a building, there is a reason that government is doing that, and it is amazing what happened, I said to my dean, in certain areas of Santa Cruz where there were blocks where certain houses were unscathed simply because the house was bolted to the foundation, and the people were able to do that retrofitting, and it saved their lives, and it saved their homes. It is not that complicated. It can be done. So, when local government says, "As a builder, you must meet certain standards," it is for the good of the community; it is to save lives.

As I understand it, prior to 1971 Caltrans did not have in place the kind of rules and regulations that they needed to have in place, and as of 1971 they changed the way they do things. But this requires this retrofitting, and it must be done. It has to be done in Marin County. It has to be done all over.

We had a problem on Richardson Bay Bridge. Thank goodness it was resolved because, if we shut off Marin County from this commute, we would have a real problem.

Let me say in closing, and I know there are others that would like to participate, that this has been a time for heroes and heroines, and we have seen it among all of our people. I have to make a special comment about Mayor Art Agnos of San Francisco. This is a man who got involved and took charge from minute 1, from second 1. He was at Candlestick Park. There were 62,000 people crammed into Candlestrick Park. I have to thank God for the miracle that we saw, that that park stood tall, and that those people left that park without a panic, and that it was light out because, had it been dark, and no power, and no speaking system, what could have happened? Many of us had loved ones at that park, and our hearts stopped until we found out how well it was handled, and the mayor was there from minute 1.

Mr. Speaker, if the mayor was frustrated at times, that is understandable. I want to make this personal tribute, and I know all of us feel this way to the mayor, as to the way he has handled this sitution. He has an inner peace that comes through in all of this and a true, keen leadership ability that comes through. I saw him at a press conference, and I know that my colleague, the gentlewoman from California [Ms. PELOSI] has been at his side through the whole thing in the Marina district, where the anger starts to come out, people start to say, "Why me? Why did it happen to me" and it is very natural. It is like when there is a death in the family. Denial is the first phase, and then anger comes, and the mayor had to field the questions and field the anger. He stood there, and he took it, and yet he insisted, he insisted, that city officials not allow people in unless it was safe. He knew the danger, and with the rains coming and the winds coming as we stand here, there is more and more structural damage.

To the people of my district who have suffered loss, suffered loss of life, who have suffered property damage, I can tell them the message from this Congress, that all of us, Democrats and Republicans alike, are going to pull together, and we are going to be at their side, and we are going to do whatever it takes working with the private sector, working with State government and local government, to make them whole. We can live as we did before, and we will be back as strong as ever, and maybe even a little bit wiser.

Mr. EDWARDS of California. Mr. Speaker, I thank the gentlewoman from California [Mrs. BOXER], and I want to reemphasize what the gentlewoman said about Mayor Agnos who has been the heart of the resistance to despair, to giving up, and he really has been an inspiration as far down as my town, San Jose, 800,000 people. We have felt his influence there, and certainly the leadership of Mayor Agnos has been felt throughout the State of California.

I yield to the gentleman from California.

Mr. CAMPBELL of California. Mr. Speaker, I thank the gentleman from California [Mr. EDWARDS] for yielding, and I surely am proud to join in the sentiments that he has expressed. I would like to add a comment or two about San Jose, the topic of his most recent comment.

Is it not clear to all of us in the bay area that our splendid mayor there,

Tom McEnery, has done a fine job as well, Let me recount to the House the pride which I felt when I was touring the rubble of Santa Cruz when I observed the policemen who were patrolling the downtown section, and I went up to one and asked for directions, and he smiled and said, "Well, you'll have to ask a Santa Cruz policeman because I'm from San Jose." The donation of services from the city of San Jose in an hour of need felt in Santa Cruz, and in San Francisco, and in Oakland is tremendously heartwarming, and I also wish to identify for special praise the sheriff of Santa Clara County, Mr. Gillingham, and when I visited Santa Cruz once more, I saw in the traffic patrol on patrol of the downtown area Santa Clara sheriff's police donated again outside of the county to try to make a difference. I saw, as well, police and fire officials from as far away as Los Angeles who were there in Santa Cruz with the disaster.

Speaking of the response of governmental officials, I think it is only appropriate as well to mention the remarkable effort of our President, George Bush, who personally came out to visit Santa Cruz, Oakland, San Francisco, and I was proud to be there when he came into Santa Cruz. I visited the area and saw first hand the type of damage that was suffered by that area.

Let me emphasize the importance of a personal view as opposed to merely being informed by staff members in a crisis such as this. President Bush has many other crises on his hands. God knows he has the weight of the Nation and, indeed, the free world on his shoulders, yet by coming out personally he paid the attention that was needed so that he could make the judgments and give directions to the FEMA officials based on personal knowledge.

In particular, when one visits downtown Santa Cruz, they observe the section, the Pacific Grove, Pacific Garden Mall, which preserves the beauty of that area, and to restore that we need to spend far more than simply that which is needed to bring it up to a modern type of mall. President Bush would not have known that had he not made the effort to come there personally, and I think that in distributing the appropriate praise to the mayors of the areas that it is appropriate to do that as well.

Let me mention another mayor, Mayor Glen Calwell of Scott Valley. The day I flew into the bay area, I went immediately to Scott Valley where I maintain a district office, and there was Mayor Calwell in the thick of it orchestrating the disaster relief assistance, and a personal tragedy I just learned is that his own house has had to be destroyed because of the earthquake and rain damage.

Let me speak as well of the heroism of the people of San Lorenzo Valley, and here I would like to single out Annette Markum who runs Valley Churches United. When I visited there just 2 days ago, they were up and running even though their own structure had a crack in it, and at risk to their own security they provided the support, the supplies, the information that that valley so much depends upon. Mr. Speaker, there is a difference between San Lorenzo Valley and the other areas that have been hit by the earthquake, San Francisco, Oakland, and Santa Cruz, and that is it is remote. It is not well-to-do. And the efforts that have been made there by individuals make much more mileage than the efforts of public officials perhaps in other areas percentagewise only because there is so little available.

I want to emphasize as well the Office of Emergency Services in Sacramento. I visited there personally on Saturday, and I went by and said, "I'm the Congressman from the affected area in Loma Prieta. I want to have the name of a person to whom we can personally call rather than take our turn in line or perhaps be bounded from one person to another," and I want to praise the Office of Emergency Services in Sacramento for providing exactly that sort of coverage. I cannot tell my colleagues what a difference it makes in a disaster of this sort to know that there is an individual, a person delegated individually to that region who cares and will respond, and I wish to give them praise because praise is due

□ 1940

As we mentioned earlier in the remarks of the gentleman from California [Mr. EDWARDS], I heard the gentleman mention the importance of allowing the cities to get back to business, and in the comments that my colleague, the gentlewoman from California [Mrs. BOXER], I heard the importance of those governmental officials who made the decision to allow people to go back into their homes.

Let me speak for a moment to legal liability in that context to really emphasize the heroism of that decision. When a city council or a mayor or an individual makes a decision to allow a resident to go back into a house or a business to reclaim items of personal value or business value, that person is undertaking a great risk. I, for one, hope that none of the disaster of the earthquake leads to a sea of litigation, but I am too well-schooled in the ways of the law to know that that will not happen. It will. When a city councilman or a mayor makes a decision allowing someone to go back in, that is a personal risk of legal liability, which I know they undertake with the greatest of difficulty.

I spoke with Mayor Wormhoudt of Santa Cruz on just that topic, and she spoke about what a difficult decision it was, because the merchant men and women of downtown Santa Cruz wanted to go in and rescue their merchandise before the rains came. Now, human compassion says, of course, do, and yet when you see the walls buckling like that, you know that it could happen the moment they go in, and that is a risk that I, for one, would be very reluctant to have to make a decision on. So I applaud the courage of those local officials who made that decision.

Let me speak of Los Gatos, which is in the district of our good colleague, the gentleman from California [Mr. MINETA]; however, through the mastering of gerrymandering, I represent everything but the downtown area. There once again we have merchants and individuals who are afraid to go back into their homes.

I was proud to tour the area with the mayor and see downtown with businesses whose walls had ballooned out and the merchants trying to go in and get the material before the buildings fell, and once again a very difficult decision to be made.

The last observation that I saw in Los Gatos was so many beautiful Victorian homes off their foundations, perhaps not retrievable now, over 60 of the older beautiful historic victorians. These cannot be restored status quo ante by saying, well, we will give you enough assistance for a house. This is not just a house. It is a very special contribution to architecture in our State and in our country. What I saw in the downtown area was fascinating. Those businesses and buildings which had reconstructed reinforcement by those horizontals bolts, you see them, incidentally, in Old Town Alexandria, those star-shaped bolts that go into the floors of houses. They stood, and the brick buildings did not. A little bit of retrofitting shows the tremendous value in a context such as this.

Let me speak of Watsonville, in the district of the gentleman from California [Mr. MINETA], and once again I am proud to represent the immmediate outlying areas of Watsonville.

Mr. Speaker, Watsonville is a tent city. Watsonville has a large number of cannery workers who are not well-to-do, and these cannery workers are without income as their businesses are shut down, the businesses that employ them are shut down.

The importance of the disaster assistance center which provides unemployment insurance to people like the cannery workers cannot be gainsaid. In that particular context, these people are getting assistance from disaster emergency centers offered by the county and city, but very soon the

Federal Government will have to start providing unemployment assistance and assistance with rebuilding their homes. The tent city cannot continue.

If you visit Watsonville, your hearts will go out to the poorest of the poor.

Last, I wish to draw praise to the efforts of FEMA. I want to tell you, Mr. Speaker, that from the very start FEMA has been providing assistance to this area and going the extra mile.

Might I point out to the Speaker and to the House that FEMA delegated an individual, Howard Schmidt, to come out on the plane with us when the delegation came out so that he could brief us even on the plane on the late-breaking developments and give those Members of the California delegation up-to-date information about what FEMA would be able to do, what form of disaster assistance it would take, whether it be assistance to businesses, unemployment insurance, assistance to those who had lost their homes or lost personal property.

I have now been told that FEMA has set up disaster assistance centers in Los Gatos, the town I mentioned before, very hard hit, in Watsonville, where I have seen the tent cities with my own eyes and visited people; Hollister, Ben Lomond. Ben Lomond is also in my district up in the San Lorenzo Valley, Santa Cruz, and Sunnyvale.

This effort in establishing disaster assistance has been speedy and has been well-informed, and I believe that in all the effort that has been made so far, the contribution of FEMA should not be underestimated.

Lastly, I have heard praise given to the mayor of San Francisco, and I am happy to join in it.

I also wish to give a word of praise for our Vice President, as the gentleman has said in a most gracious manner. DAN QUAYLE made the visit. He made the inspection. He informed the President on firsthand basis. and I am convinced as I stand here today, Mr. Speaker, that it was DAN QUAYLE'S advice to the President that brought him, George Bush, out to the district.

So I think it is important to recognize the effort that has been made already by FEMA, by the individual Mayors, by the President and by the Vice President, and say how proud I am to be part of the California delegation in a context such as this.

Mr. EDWARDS of California. Mr. Speaker, certainly the gentleman from California, the district very close to that of the gentleman from California [Mr. MINETA] and mine, deserves much credit for the industrious, indefatigable work that he did in the past few days. I just think it is remarkable that the gentleman from California [Mr. CAMPBELL] moved so rapidly through the district with such care and with such devotion to his job, and I congratulate the gentleman.

Mr. Speaker, I wish that everybody could have heard so many of the remarks that were made tonight, and none in particular, except that the gentleman who represents Oakland, the gentleman from California [Mr. DELLUMS] talked about the larger issues that we hope to know more about as the result of having to face this catastrophic event in our beloved part of California, and certainly the gentlewoman from California [Mrs. BOXER] very eloquently discussed this aspect of the events. I might add to that, in the 26 years that I have been here and had the privilege of serving in this Congress, up until just a few days ago, and I still feel the same in the larger sense, this is the brightest era in my history, indeed in my whole life, because I can see a whole new era opening up in national and international affairs. Unbelievable as it might seem and would have seemed just a year or two ago, world communism is on its knees and going out of style. New vistas of world peace of opening up. New opportunities to reduce the nearly billion dollars a day that we spend, and so often if we do not use it, it is a waste. I am sure it is valuable to have a strong defense, but it is nearly $1 billion a day.

The interest on the national debt is $400 to $500 million a day. I do not think that we deserve very much credit for allowing the interest on the national debt to achieve those obscene heights.

So let us take advantage of this opportunity in this country. Let us wake up, and perhaps we can do the things that we should have been doing all over the United States.

What did the gentleman from California [Mr. MILLER] say, 50 bridges a day fall down in the United States waiting for children to be injured, to be killed, just like ours in northern California were this last week.

The world is waiting for us to take leadership. The American people are waiting for us to show leadership as this new era blossoms, and I think the word is blossoms if we let it blossom and if we encourage it to blossom and take world leadership in this era.

Hanging over our heads like a dark cloud is the menace of the greenhouse effect. Our beautiful bay, San Francisco Bay, one of the great wonders of the world, unless something is reversed in the greenhouse effect, many scientists say that it will triple in size within a hundred years.

□ 1950

What does that mean? That means whole communities are wiped out. That means all of the wetlands and some of the cities. Those are the kinds of events that are challenging to us. Those are the ones that we should have time for. Those are the challenges that we must find the money for, and I hope that what has happened in the last few days made us stop and think a little bit, and having communication like we are having tonight with our dear colleagues.

I yield to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the dean of our delegation for yielding.

Mr. Speaker, I also thank him for his leadership in bringing the delegation together, both Democrats and Republicans, in a strong bipartisan effort on behalf of our State, which is wounded at this time.

The gentleman from California [Mr. EDWARDS] from the San Jose area was the first one on the plane to come to California to view firsthand the gravity of the situation, no pun intended, but also the extent of the damage. The damage assessment that he made and saw there, of course, will serve us well as we seek relief from Congress and at the Federal level for our folks back home.

Further to the gentleman's point about our values and where we spend money and how we have to look out for it, people say from time to time that Congress is a place to tax and spend, which is precisely what the role of Government is, to tax and spend. It seems clear in the review of what went and what stayed up that the Golden Gate Bridge, where the tax dollars were spent to fortify it, was protected. No lives were lost, and it does not require any repair. Where we saved money, where the retrofitting did not occur on the pillars holding up the Cypress section of I-880, as the gentleman from California [Mr. DELLUMS] referred to, we have a cost incalculable in terms of human life and also, secondarily, in terms of the structural cost, probably 500, maybe more millions than that, to repair. So it appears clear in this earthquake that the most expensive maintenance of all was no maintenance, as it ends up.

Mr. EDWARDS of California. I think it is a very interesting point. Is it not the understanding of the gentlewoman from California that the legislation that we hope to enact tomorrow or the next day would include a requirement that the General Accounting Office conduct an investigation, an audit, of the situation and the cause of the toppling of the 880 highway?

Ms. PELOSI. If the gentleman will yield further, that is my understanding, but not knowing what is coming out of Appropriations and the Committee on Rules, it remains to be seen this evening what we will have to vote on.

Mr. EDWARDS of California. Would the gentlewoman not agree that in the event the bill does not have that requirement, that it be part or all of the legislation to be enacted soon? It

seems to me people are crying for an answer to that question. After all, from what I understand now, it might take a year, at least a year, before that stretch of highway could be repaired.

Ms. PELOSI. It would be a year probably before the contract would be granted, and it would be even a longer period of time before the people could use that highway again, so we are talking about the long term, and as the gentleman from California [Mr. MILLER], who is serving as Speaker pro tempore now, has pointed out many times on the floor of this body, there are just some expenditures that are simply good investments. They save us money in the long run, and in addition, of course, first and foremost, of saving lives. If we had made some expenditures, perhaps we would not be paying this high price now.

As I say, the Golden Gate Bridge survived. It was fortified with the money that was spent there, so we do not have that scar on our landscape as we do the just unbelievable, incredible break in the Bay Bridge. So I would hope that the GAO, in reporting in terms of why certain things happened and how they can be prevented in the future, would serve us all well.

I think that we should look a little bit on the brighter side. As sad as it is, and one death is far too many for any of us, and certainly any individual death cannot be measured in terms of grief and the loss of life and the human resource, but the fact is that a 6.9 on the Richter scale in Armenia caused 25,000 deaths. In the San Francisco Bay area, northern California and the affected area, hopefully it will be under 250 deaths, and this is some of what the gentleman was saying earlier, and the gentlewoman from California [Mrs. BOXER] mentioned it, that because there was retrofitting in certain places, because we know how to prepare for an earthquake, that we can cut down on the loss of life and the destruction. It is a decision that we have to make. The money sounds like a lot, but it is not the money. It is the price that we have to consider when we compare the outcome of not spending the money, and that is the people will die, that their personal security will be threatened.

So for us to be called taxers and spenders, that is what we are supposed to be. That is what we get elected to do. How we make those decisions we have to answer for, but I think it was a false economy, and as I said earlier, no maintenance turned out to be the most expensive maintenance when it comes to the I-880.

Mr. EDWARDS of California. I believe the gentlewoman pointed out in her earlier remarks that the shining star of the resources that are transportation, the transportation system known as the Bay Area Transportation Rapid Transit, BART, it has worked.

Ms. PELOSI. Absolutely.

Mr. EDWARDS of California. And we trust that it will continue.

Ms. PELOSI. It has worked. Caltrans, Muni, all of the mass transportation has really served us very well, and it would be a good lesson for us in the future that not only is it necessary building for the future for us to make a strong national commitment to transportation.

Mr. EDWARDS of California. The gentlewoman understands we have a very devil of a time every year getting small amounts of money for institutions and for developments like BART.

Ms. PELOSI. Absolutely. It has been a struggle, and in fact this may be a good argument for it. We would prefer not to have the argument. We have always stressed the efficiency of it, and also the environmental soundness of it, because if we do not make the investment in mass transportation, we will be continuing to deplete our environment beyond return. But this argument, in case of the earthquake, BART served us well, Caltrans, San Francisco Muni, advanced transportation systems, and without them people would not be able to go to work or to go home to even see what the conditions of their homes were. But the gentleman is quite correct. We should not have had to grovel for the small funding that we have had and are grateful to the Transportation Committee of the Committee on Appropriations for recognizing the importance of mass transit to our community, indeed, to the whole country.

One other point I would like to make on the brighter side, and that is many people have said nice things about our mayor, Art Agnos of San Francisco, and, of course, I am a strong supporter of the mayor. I think he has done a remarkable job. I have been at earthquake sites before, sad to say, not only living in an earthquake area, but representing or part of a delegation sent by President Carter in 1980 at that time, and there are two phases of earthquake assistance. One is emergency relief, which happens immediately, search and rescue, food, clothing, shelter, bringing people indoors, and then the next phase of it is longer-term disaster assistance.

So capable was the mayor's program in San Francisco that we were becoming a little impatient with the Federal Government not moving quickly enough into disaster assistance, because they did not really need to help us with emergency relief, it went so quickly. But FEMA recognized this and responded to the mayor and to the State of California, and as I said earlier, deserves a lot of credit for having the disaster assistance centers up so fast.

Also, the mayor told me that he wanted every person whose home was affected by this disaster to think or to feel that that person was the only person that was affected, that each person's well-being was our highest priority, so in saying that, I think I pay tribute to him.

He has said that the ball game will go on next Friday, Saturday, and Sunday. The World Series will resume. The symbol of San Francisco is the phoenix, perhaps the utmost overused bird for a symbol that we can think of, but it really is on the seal of San Francisco, and San Francisco again will rise from the ashes and symbolically this will happen next weekend when the Giants play the Athletics, and whatever team wins, the bay area will be a winner.

Again, I thank the gentleman for taking this special order.

Mr. EDWARDS of California. I thank the gentlewoman.

In closing, I want to once again pay tribute to the congressional Members from California, and especially northern California, who, on a bipartisan, nonpartisan, cooperative attitude, have worked together, back home, back home at night and on holidays, and here today and tomorrow in Washington, in the Nation's Capital, to put together some kind of a package, a legislative package, that will come to the aid of this tragic situation that we find ourselves in.

The people back home, especially the mayors, and Mayor Tom McHenry, and the gentleman from California [Mr. CAMPBELL] mentioned him, of San Jose, has had very little sleep the last few days. He has been everywhere organizing assistance for our sister cities and for the people in the mountains that the gentleman from California [Mr. CAMPBELL] described and all of the victims of this ugly event that overcame our area.

□ 2000

But my colleagues have been indefatigable, have been creative, have been generous. Our colleague Mr. DELLUMS mentioned how many dozens of letters and messages he has received from different parts of the country, from other Congressmen and Congresswomen, and we in California are very grateful to our colleagues here in the House and in the Senate.

I yield back the balance of my time.

THE CALIFORNIA EARTHQUAKE

The SPEAKER pro tempore (Mr. MILLER of California). Under a previous order of the House, the gentleman from California [Mr. MINETA] is recognized for 60 minutes.

Mr. MINETA. Mr. Speaker, let me indicate, as everyone else has, that on Tuesday, October 17, at 5:04 p.m.,

northern California was rocked by one of the most devastating, costly, and generally disruptive natural disasters in the history of the United States; that even though that shake was in the San Francisco Bay area for all of 15 seconds, the repercussions of that shake will be felt for years to come. Without any doubt, from San Francisco to Santa Cruz, from Oakland to Hollister, to Watsonville, individuals have lost their lives, families have lost their businesses, businesses have lost their goods. Community services have been severed, communications were disrupted, and roads, bridges, and mass transit systems were no longer able to meet the needs of the 6 million people who called the bay area home.

Soon after the earthquake struck without warning, I was able to be informed about the devastation that was taking place at that point, and within 3½ hours of the time the earthquake struck, Mrs. Quayle, Secretary Skinner, Congressman DON EDWARDS, and I were on an airplane heading for the west coast.

At that point we really did not have any idea as to where we were going to be able to land, because San Francisco Airport and Oakland were closed because of cracks in the runways. Alameda Naval Air Station closed because of cracks in their runway. In fact, to this day Alameda Naval Air Station is still closed. But on our way out it was then determined that we would be able to land at Moffett Naval Air Station.

In the meantime, Vice President QUAYLE, who was down in San Diego, was then told to come up to Moffett Field. So we were all able to meet at Moffet Naval Air Station at about 3:30 in the morning.

By 6:30 we were being briefed, and by 7:30 or 8 in the morning we were on the helicopters seeing that area.

We have now all had the opportunity to see the images of the damage to San Francisco-Oakland Bay Bridge, the collapsed Nimitz Freeway in Oakland, the downtown sections of Santa Cruz, Watsonville, San Francisco, Los Gatos, which have been turned into rubble, and the Marina district of San Francisco which was the scene of fires and crumbled historic homes.

Yet the story of the earthquake is not a story of buildings nor freeways, it is a story of people.

We have heard of the miraculous rescues, such as that of Buck Helm from beneath the unstable concrete of the I-880 Cypress Avenue area of the Nimitz Freeway.

We have read of 6-year-old Julio Berumen, whose life was saved by an alert volunteer, Patrick Wallace, after hearing a small voice whimper from beneath tons of wreckage.

We have seen the inside of the homes, such as that of Kay Taylor of Los Gatos, who despite the loss of her home, still cherishes her memories, her neighbors, and her survival. Life, she says, goes on.

Frankly, Mr. Speaker, I have been heartened by the response of Americans from across the country who have pitched in to help. Offers of assistance have poured in from coast to coast. These offers of relief are being matched by donations of clothing, food, technical assistance, and money. Throughout the bay area, the vision has been one of neighbor helping neighbor.

I met a man, a cost supervisor for a majority drug chain, who saw the first reports of the disaster on television and knew that he had to leave the safety of his home in Sacramento to help, and he did.

I met a man from Napa Valley, a worker in a winery. As soon as he checked his business and home for damage, he too rushed to the bay area to add to the legion of volunteers.

Some 2,000 aftershocks have since trembled, rocked or otherwise disturbed life in the bay area since 5:04 on Tuesday. The estimates are that 70 percent of downtown Hollister and downtown Watsonville will have to be razed at some point. Downtown Los Gatos has been fenced off and about 70 percent of the downtown is now also going to be razed. The town, because of the requirements of having overtime for police and fire and all city employees, and because of the fact that 70 percent of their income to the town treasury comes from the sales tax revenues, and with all these businesses now being demolished, the town faces near bankruptcy.

Now today we find rain and high winds are adding to the damage, sending more homes into ravines and more people into shelters.

So it is up to us in Congress to help relieve this pain, this suffering, this loss of a way of life.

This afternoon, Mr. Speaker, the California delegation to the House of Representatives, on a bipartisan basis, dropped in legislation to help relieve the victims of the earthquake.

The Appropriations Committee has taken action of its own and will be bringing forth a continuing resolution to this body with many elements of that bill embodied as part of the committee report.

It is my hope that even though what we have suggested does not have the force of law behind it, that this administration will in fact respond to the emergencies that exist.

As I mentioned, today we are trying to deal with the human tragedy. Today we are focusing on our need to respond immediately to get some degree of normalcy back into our bay area life, to get the bay area working again.

As a Member who chairs the House Surface Transportation Subcommittee, I stand here to report to you, Mr. Speaker, and to tell my colleagues that what we have in the bay area in a transportation disaster.

In the legislation that we had introduced we would have been increasing the emergency relief fund from $100 million to $1 billion. We would have eliminated the $100 million per State disaster cap.

We would have taken other kinds of measures to allow the moneys to be spent out of emergency relief funds from the highway trust fund for items to be considered during a 180-day period rather than for the first 90-day period. We would have made the San Francisco-Oakland Bay Bridge eligible to receive emergency relief funds. We would have exempted the State of California from the minimum allocation program.

Mr. Speaker, we will pursue this with the administration, hoping they will be able to see their way clear in order to have these measures that we need so desperately in California accommodated under the provisions of the continuing resolution in the conference report.

□ 2010

The resolve of the bay area to rebuild that which was destroyed is already well in evidence. But the people of San Francisco, Oakland, Santa Cruz, Los Gatos, Hollister, Gadison, San Jose, Watsonville will need the help of the Nation.

Mr. Speaker, in 1948 Senate Chaplain Peter Marshall opened the session with a prayer, and in it he said, "Let us not be content to wait and see what will happen, but give us the determination to make the right things happen."

Mr. Speaker, we need that determination today to help the victims of the California earthquake to restore their lives.

I know that my colleagues here in the House and those in the Senate as well as Americans throughout the country will rise to the need and meet that challenge.

Again I would like to commend the chair of our California delegation, Mr. EDWARDS, also Mr. MOORHEAD of Pasadena, and Mr. FAZIO for their leadership as well as our colleagues in the bay area, Ms. PELOSI, Mrs. BOXER, and others for their efforts on this.

We hope that the House will respond to the needs that exist in California.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 423, MAKING FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-300) on the reso-

lution (H. Res. 271) providing for the consideration of the joint resolution (H.J. Res. 423) making further continuing appropriations for the fiscal year 1990 and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION TO HAVE UNTIL MIDNIGHT TONIGHT TO FILE PRIVILEGED REPORT ON HOUSE JOINT RESOLUTION 423, MAKING FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1990

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the joint resolution (H.J. Res. 423) making further continuing appropriations for the fiscal year 1990 and for other purposes.

The SPEAKER pro tempore (Mr. MILLER of California). It is the understanding of the Chair that this has been cleared with the minority.

Mr. WHITTEN. Mr. Speaker, I know of no opposition on the Republican side. I have advised them of the motion.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HOLLOWAY (at the request of Mr. MICHEL), for today and tomorrow, on account of official business.

Mr. JACOBS (at the request of Mr. GEPHARDT), for today, on account of constituent business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ROBERTS) to revise and extend their remarks and include extraneous material:)

Mr. DANNEMEYER, for 60 minutes each, on October 25, November 1, and November 2.

Mr. DORNAN of California, for 60 minutes each, on November 1 and 2.

(The following Members (at the request of Mr. BATES) to revise and extend their remarks and include extraneous material:)

Mr. COYNE, for 5 minutes, today.

Mr. NELSON of Florida, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Ms. PELOSI, for 60 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. MINETA, for 60 mintues, today.

Mr. EDWARDS of California, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. ROBERTS) and to include extraneous matter:)

Mr. PAXON.

Mr. LAGOMARSINO.

Mr. BALLENGER in two instances.

Mr. GRADISON.

Mr. MACHTLEY.

Mr. DOUGLAS.

Mr. FIELDS.

(The following Members (at the request of Mr. BATES) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. ROE.

Mr. VENTO in two instances.

Mr. MAZZOLI.

Ms. PELOSI.

Mr. BERMAN.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. LANTOS.

Mr. CARDIN.

Mr. MILLER of California.

Mr. ASPIN.

Mr. FORD of Michigan.

Mr. DE LA GARZA.

Mr. GUARINI.

Mr. SOLARZ.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 159. Joint resolution to designate April 22, 1990, as Earth Day, and to set aside the day for public activities promoting preservation of the global environment; to the Committee on Post Office and Civil Service.

S.J. Res. 164. Joint resolution designating 1990 as the "International Year of Bible Reading"; to the Committee on Post Office and Civil Service.

S.J. Res. 177. Joint resolution to designate October 29, 1989, as "Fire Safety At Home—Change Your Clock, Change Your Battery Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 181. Joint resolution to establish calendar year 1992 as the "Year of Clean Water"; to the Committee on Post Office and Civil Service.

S.J. Res. 184. Joint resolution to designate the periods commencing on November 26, 1989, and ending on December 2, 1989, and commencing on November 25, 1990, and ending on December 1, 1990, as "National Home Care Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 186. Joint resolution designating the week of March 1 through March 7, 1990, as "National Quarter Horse Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 194. Joint resolution designating November 12 through 18, 1989, as "National Glaucoma Awareness Week"; to the Committee on Post Office and Civil Service.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2990. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1990, and for other purposes.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and joint resolution of the House of the following titles:

On October 20, 1989:

H.R. 2990. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1990, and for other purposes.

H.R. 801. An act to designate the U.S. Court of Appeals Building at 56 Forsyth Street in Atlanta, GA, as the "Elbert P. Tuttle United States Court of Appeals Building."

H.R. 3385. An act to provide assistance for free and fair elections in Nicaragua.

H.J. Res. 380. Joint resolution designating October 18, 1989, as "Patient Account Management Day."

ADJOURNMENT

Mr. MINETA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 13 minutes p.m.), the House adjourned until tomorrow, Tuesday, October 24, 1989, at noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1871. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a statement with respect to a proposed transaction involving United States exports to the Republic of Colombia, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking, Finance and Urban Affairs.

1872. A letter from the Auditor, District of Columbia, transmitting a copy of the report entitled, "Review of Agency Fund 814—Securities Held by the D.C. Treasurer", pursu-

ant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DERRICK: Committee on Rules. House Resolution 271. Resolution providing for the consideration of House Joint Resolution 423, joint resolution making further continuing appropriations for the fiscal year 1990, and for other purposes (Rept. 101-300). Referred to the House Calendar.

Mr. WHITTEN: Committee on Appropriations. House Joint Resolution 423. Joint resolution making further continuing appropriations for the fiscal year 1990, and for other purposes; with amendments (Rept. 101-301). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSTENKOWSKI (for himself, Mr. JACOBS, Mr. PICKLE, Mr. GIBBONS, Mr. RANGEL, Mr. STARK, Mr. FORD of Tennessee, Mr. JENKINS, Mr. DOWNEY, Mr. GUARINI, Mr. RUSSO, Mr. PEASE, Mr. MATSUI, Mr. ANTHONY, Mr. FLIPPO, Mr. DORGAN of North Dakota, Mrs. KENNELLY, Mr. DONNELLY, Mr. COYNE, Mr. ANDREWS, Mr. LEVIN of Michigan, Mr. MOODY, and Mr. CARDIN):

H.R. 3505. A bill to amend title II of the Social Security Act to assure the continuing financial solvency of the OASDI trust funds, and to require periodic reports by the Board of Trustees of the trust funds regarding the actuarial balance of the trust funds; jointly, to the Committees on Ways and Means and Rules.

By Mr. MOAKLEY:

H.R. 3506. A bill to establish a statutory framework for the Attorney General to afford temporary protected status to nationals of countries subject to extraordinary and temporary conditions, including armed conflicts, to provide for certain studies and for congresssional review of such studies, to provide temporary transition protection for nationals of certain countries, and for other purposes; jointly, to the Committees on the Judiciary and Rules.

By Mr. ANDERSON (for himself, Mr. HAMMERSCHMIDT, Mr. MINETA, Mr. DE LUGO, Mr. BOSCO, Mr. PACKARD, Mr. COX, Mr. VALENTINE, Mr. ROE, Mr. OBERSTAR, Mr. NOWAK, Mr. RAHALL, Mr. APPLEGATE, Mr. SAVAGE, Mr. TOWNS, Mr. TRAFICANT, Mr. LEWIS of Georgia, Mr. CLEMENT, Mr. PAYNE of Virginia, Mr. JONES of Georgia, Mr. LAUGHLIN, Mr. SHUSTER, Mr. STANGELAND, Mr. CLINGER, Mr. MCEWEN, Mr. BOEHLERT, Mr. INHOFE, Mr. EMERSON, and Mr. CRAIG):

H.R. 3507. A bill to provide emergency assistance for making necessary repairs, restorations, relocations, and reconstructions to facilities and equipment damaged or destroyed by Hurricane Hugo and the Loma Prieta Earthquake; to the Committee on Public Works and Transportation.

By Mr. DE LA GARZA (for himself, Mr. JONES of North Carolina, Mr. MADIGAN, Mr. BROWN of California, Mr. ROBERTS, Mr. STENHOLM, Mr. GLICKMAN, Mr. MORRISON of Washington, Mr. ENGLISH, Mr. COLEMAN of Missouri, Mr. HUCKABY, Mr. EMERSON, Mr. STALLINGS, Mr. JONTZ, Mr. OLIN, Mr. ROBERT F. SMITH, Mr. ESPY, Mr. JOHNSON of South Dakota, Mr. SCHUETTE, Mr. HATCHER, Mr. TALLON, Mr. DORGAN of North Dakota, and Mr. LANCASTER):

H.R. 3508. A bill to expand the inspection by the Secretary of Agriculture of the Nation's food supply to ensure the safety and wholesomeness of the Nation's supply of fish, shellfish, and other marine and freshwater aquatic food; jointly, to the Committees on Agriculture and Merchant Marine and Fisheries.

By Mr. VENTO (for himself, Mr. FRENZEL, Mr. COLEMAN of Texas, Ms. OAKAR, Mr. CROCKETT, Mr. GILMAN, and Mrs. KENNELLY):

H.J. Res. 425. Joint resolution designating November 12 through 18, 1989, as "Community Foundation Week"; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

297. The SPEAKER presented a memorial of the Legislature of the State of California, relative to tax exempt status of social clubs; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 215: Mr. PASHAYAN, Mr. CAMPBELL of Colorado, Mr. HUBBARD, Mr. HOYER, and Mr. PORTER.

H.R. 290: Mr. VISCLOSKY and Mr. ENGEL.

H.R. 469: Mr. GEKAS.

H.R. 705: Mr. RICHARDSON.

H.R. 731: Mr. KILDEE, Mr. RAY, Mr. JONTZ, Mr. SCHAEFER, Ms. PELOSI, Mr. STAGGERS, Mr. KASICH, and Mr. KENNEDY.

H.R. 913: Mr. MOLLOHAN.

H.R. 930: Mr. WOLPE, Mr. VISCLOSKY, Mr. OLIN, and Mr. BUSTAMANTE.

H.R. 1095: Mr. CAMPBELL of Colorado and Mrs. SMITH of Nebraska.

H.R. 1130: Mr. WILLIAMS, Mr. KLECZKA, and Mr. MCCLOSKEY.

H.R. 1193: Mr. CLINGER.

H.R. 1239: Mr. KYL and Mr. GINGRICH.

H.R. 1356: Mr. ANDERSON, Mr. ROE, and Mr. WAXMAN.

H.R. 1570: Mr. MOAKLEY, Mr. LEHMAN of Florida, Mr. MURPHY, Mr. DE LUGO, Mr. SHAYS, Mr. BLAZ, Mr. TALLON, Mr. STAGGERS, Mr. HOYER, Mr. ATKINS, Mr. FAZIO, Mr. FRANK, Mr. BATES, Mr. COYNE, Mr. ENGEL, Mrs. BOXER, Mr. BRYANT, Mr. FISH, and Mrs. BOGGS.

H.R. 1574: Mr. SHAYS, Mrs. COLLINS, and Mr. MCCURDY.

H.R. 1602: Mr. BEVILL, and Mr. MORRISON of Connecticut.

H.R. 1649: Mr. HAYES of Louisiana.

H.R. 1733: Mr. THOMAS A. LUKEN and Mr. GEJDENSON.

H.R. 2037: Ms. SNOWE, Mr. STAGGERS, Mr. SPENCE, Mr. BRENNAN, Mr. NAGLE, Mr. NATCHER, Mr. GRAY, Mr. CONTE, Mr. SCHIFF, Mr. REGULA, Mr. HOLLOWAY, Mr. HOYER, Mr. LAFALCE, Mr. LENT, Mr. TOWNS, Ms. KAPTUR, Mr. RICHARDSON, Mr. SMITH of New Hampshire, Mr. YATES, Mr. DONNELLY, Mr. JONTZ, Mr. LIPINSKI, and Mrs. LOWEY of New York.

H.R. 2116: Mr. CRAIG and Mr. COMBEST.

H.R. 2121: Mr. KASICH and Mr. DONALD E. LUKENS.

H.R. 2185: Mr. SKAGGS, Mr. WILLIAMS, Mr. CROCKETT, and Mr. WEISS.

H.R. 2243: Mrs. UNSOELD.

H.R. 2288: Mr. PRICE, Mr. WHEAT, and Mr. SABO.

H.R. 2354: Mr. BRYANT.

H.R. 2870: Mr. HOYER.

H.R. 2974: Mr. HYDE, Mr. EMERSON, Mr. ATKINS, Mr. DORNAN of California, Mr. SHAYS, and Mr. DELLUMS.

H.R. 3020: Mr. HOUGHTON and Mr. DORNAN of California.

H.R. 3120: Mr. ACKERMAN, Mr. DWYER of New Jersey, and Mr. ROWLAND of Connecticut.

H.R. 3155: Mr. THOMAS A. LUKEN, Ms. KAPTUR, and Mr. DELLUMS.

H.R. 3208: Ms. KAPTUR.

H.R. 3221: Mr. BATES, Mr. FAUNTROY, Mr. FORD of Tennessee, Mr. CLAY, Mr. TOWNS, and Mr. WEISS.

H.R. 3270: Mr. BARNARD, Mr. CRAIG, Mr. BAKER, Mrs. VUCANOVICH, Mr. HAYES of Louisiana, Mr. ROGERS, Mr. THOMAS of California, Mr. BILIRAKIS, Mr. BRUCE, Mr. BLILEY, Mr. DUNCAN, Mr. WHITTAKER, Mr. SUNDQUIST, Mr. GORDON, Mr. OBERSTAR, Mr. BEVILL, Mr. MYERS of Indiana, and Mr. LAUGHLIN.

H.R. 3321: Mr. PRICE, Ms. LONG, and Mr. COBLE.

H.R. 3359: Mr. HANSEN, Mr. OWENS of New York, Mr. HEFNER, Mr. BROOMFIELD, Mr. PAYNE of New Jersey, and Mr. CONDIT.

H.R. 3390: Mr. JOHNSON of South Dakota.

H.R. 3430: Mr. CONYERS and Mr. DELLUMS.

H.R. 3440: Mr. EMERSON and Mr. SUNDQUIST.

H.R. 3475: Mr. FROST, Mr. RANGEL, and Mrs. MARTIN of Illinois.

H.R. 3483: Mr. DELLUMS.

H.R. 3502: Mr. WYLIE, Mr. IRELAND, and Mr. LAGOMARSINO.

H.J. Res. 28: Mr. CAMPBELL of California.

H.J. Res. 185: Mr. TALLON, Mr. BOSCO, Mr. MCDERMOTT, Mr. ESPY, Mr. PALLONE, Mr. BRENNAN, Mr. BUECHNER, Mr. WHITTAKER, Mr. ERDREICH, Ms. KAPTUR, Mr. DINGELL, Mr. PANETTA, Mr. CROCKETT, Mr. VOLKMER, Mr. CLARKE, Mr. DIXON, Mr. FALEOMAVAEGA, Mr. LAFALCE, Mr. BOUCHER, Mr. JACOBS, Mr. STUDDS, Mr. BARNARD, Mr. PRICE, Mr. JONTZ, Mr. STALLINGS, Mr. MORRISON of Connecticut, Mr. MARTIN of New York, Mr. MCDADE, Mr. ROE, Mr. SKELTON, Mr. FAUNTROY, Mrs. SAIKI, and Mr. HAYES of Illinois.

H.J. Res. 214: Mr. AKAKA and Mr. SAWYER.

H.J. Res. 223: Mr. RAHALL, Mr. BARTLETT, Mr. SAVAGE, Mr. SISISKY, Mr. DELLUMS, and Mr. DICKS.

H.J. Res. 278: Mr. DOUGLAS.

H.J. Res. 286: Mr. VENTO, Mr. FALEOMAVAEGA, Mr. MOLLOHAN, Mr. ROSTENKOWSKI, Mr. BRUCE, Mr. THOMAS A. LUKEN, Mr. SCHUMER, Mr. BONIOR, Mr. HAMMERSCHMIDT, Mr. DICKS, Mr. RAVENEL, Mr. COSTELLO, Mr. DEFAZIO, Mr. GOODLING, Mr. CROCKETT, Mr. CLARKE, Mr. PAYNE of Virginia, Mr. DELLUMS, Ms. LONG, Mr. BRENNAN, Mr. TAUZIN, Mr. BILIRAKIS, and Mr. HUNTER.

H.J. Res. 350: Mr. DONALD E. LUKENS.

H.J. Res. 367: Mr. DICKS, Mr. GARCIA, Mr. MANTON, Mr. INHOFE, Mr. PAYNE of Virginia, Mr. OLIN, Mr. SKELTON, Mr. NEAL of North Carolina, Mr. KENNEDY, Mr. SCHUMER, Mr.

BUSTAMANTE, Mr. RANGEL, Mr. HORTON, and Mr. GRANT.

H.J. Res. 397: Mr. SAVAGE, Mr. MARKEY, Mr. HERTEL, Mr. HANSEN, Mr. FRANK, Mr. SPENCE, Mr. MAVROULES, Mr. TORRICELLI, Mr. CRANE, Mr. GARCIA, Mr. MARTINEZ, Mrs. COLLINS, Mr. PORTER, Mr. HAYES of Illinois, Mr. STUDDS, Mr. BRUCE, Mr. SMITH of Florida, Mr. RUSSO, Mr. DERRICK, Mr. TALLON, Mr. SABO, Mr. CONTE, Mr. RINALDO, Mr. FASCELL, Mr. TAUKE, Mr. LANCASTER, Mr. OBERSTAR, Mr. OLIN, Mr. RITTER, Mr. WHITTEN, Mr. SANGMEISTER, Mr. TAUZIN, Mr. SARPALIUS, Mr. LIGHTFOOT, Mr. STAGGERS, Mr. SUNDQUIST, Mr. ROYBAL, Mr. SMITH of Texas, Mr. LENT, Mr. STENHOLM, Mr. HYDE, Mr. WYDEN, Mr. BORSKI, Mr. COYNE, Mr. KOLTER, Mr. MURPHY, Mr. YATRON, Mr. DEWINE, Mr. VALENTINE, Mr. CROCKETT, Mr. VENTO, Mr. GEKAS, Mr. MCEWEN, Mr. KOSTMAYER, Mr. COOPER, and Mr. GORDON.

H.J. Res. 416: Mr. INHOFE, Mr. GEJDENSON, Mr. TOWNS, Mr. HORTON, Mr. MCNULTY, Mr. CONYERS, Mr. DENNY SMITH, Ms. PELOSI, Mr. MARTIN of New York, Mr. MAZZOLI, Mr. MCDERMOTT, Mr. FASCELL, Mr. SCHEUER, Mr. CALLAHAN, Mr. HENRY, Mr. BEVILL, Mr. SOLARZ, Mr. DIXON, Mr. BOEHLERT, Mr. OBERSTAR, Mr. LEACH of Iowa, Mr. DONALD E. LUKENS, Mr. VALENTINE, Mr. NEAL of North Carolina, Mr. MOODY, Mr. FLIPPO, Mr. WOLPE, Ms. OAKAR, Mr. WALGREN, Mr. LIPINSKI, Mr. JONES of North Carolina, Mr. MILLER of Washington, Mr. GUARINI, Mr. FAZIO, Mr. NATCHER, Mr. COUGHLIN, Mr. DELLUMS, Mr. TAUZIN, Mr. FALEOMAVAEGA, and Mr. CARPER.

H. Con. Res. 87: Mr. OLIN, Mr. EVANS, Mr. TAUKE, Mr. HERGER, and Mr. FISH.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res. 350: Mr. THOMAS A. LUKEN.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

103. The SPEAKER presented a petition of the Weakley County Commission, TN, relative to the desecration of the American flag; which was referred to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

THRIFT BAILOUT, LACKING A CHIEF AND FLOUNDERING AS OFFICIALS FEUD, SLOWS AND GROWS MORE COSTLY

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. CARDIN. Mr. Speaker, as you know, I have long been concerned with many aspects of the bailout of the Nation's savings and loan industry and continue to be fearful that we have not seen the last of that issue. One of the concerns I examined in depth in an essay I inserted into the CONGRESSIONAL RECORD on May 2, 1989, was my theory that the structure of the reform passed by Congress would ensure administrative chaos.

In the October 11 edition of the Wall Street Journal, Paulette Thomas reported that the complexity of the bureaucracy Congress created in the bailout legislation and the blurred lines of authority are delaying resolution of the bailout and raising its cost. In my view, this is an unfortunate and unnecessary chapter in the saga of S&L reform. The American people deserve to be better served than this.

The article follows:

[From the Wall Street Journal, Oct. 11, 1989]

THRIFT BAILOUT, LACKING A CHIEF AND FLOUNDERING AS OFFICIALS FEUD, SLOWS AND GROWS MORE COSTLY

(By Paulette Thomas)

WASHINGTON.—Good intentions weren't enough.

The overriding aim of the designers of the savings-and-loan bailout was to ensure that the disaster never happened again. But in their caution, the Bush administration and Congress created a structure so sprawling and complex that it makes it difficult for anything to happen. Those structural flaws now appear to be raising the cost and slowing the pace of the bailout.

A dozen agencies and departments were assigned roles in the $166 billion bailout, scrambling the regulatory structure that had governed the industry for more than 50 years. Instead of pulling together to lift the thrift industry out of its financial morass, the bureaucrats running the bailout are feuding over mismatched computers, changing industry standards and their own salaries.

Such problems might be resolved if there were someone clearly in charge of the bailout. But its designers sprinkled responsibility across the government, giving half a dozen top officials a role, but giving no one the final word. The bailout lacks one "czar" to direct the charge, set the pace and resolve conflicts. The zeal to have prudent supervision has instead meant that the buck stops everywhere.

"HEALTHY FRICTION"

Architects of the bailout concede it is behind schedule but say the problems are, in the words of Treasury Secretary Nicholas Brady, the kind of "healthy friction" associated with any start-up. They promise that things will get better with time. Indeed, several multibillion-dollar sales of sick thrifts are expected to finally begin later this week.

But thrift-industry executives and analysts say the problems run deeper than that. "This is bigger than start-up angst," says Daniel Brumbaugh, a Stanford University economist who follows the industry. "This structure leads to artificial, arbitrary outcomes."

For example, the structure put the Resolution Trust Corp., the new agency created to dispose of sick thrifts, in the peculiar position of being forced to spend billions of dollars making deals before it even had figured out how it would raise working capital. Under a congressional budget compromise designed to make the nation's budget deficit appear smaller, $20 billion was dumped on the RTC to be spent in fiscal 1989—just seven weeks before that fiscal year ended on Sept. 30.

In its effort to spend that money arranging thrift sales, the RTC tangled with the comptroller of the currency and the Federal Deposit Insurance Corp. over how much capital it should require of bidders. Next the RTC tussled with its own Oversight Board over what sort of transactions the board would allow. Then the RTC fended off industry complaints about who would be qualified bidders. In the end, it spent just $12 billion, missing a chance to show the bailout was on schedule.

ONE MORE AGENCY

Distracted by those squabbles, the RTC still hasn't determined how it will raise its working capital, the cash it will use to "carry," or finance, assets of failed thrifts until they can be sold. One solution being kicked around would add yet another layer to the bailout structure, conjuring up one more agency to issue debt. The RTC already is funded by one such entity, the Resolution Funding Corp.

Strong and effective leadership might have cut through such bureaucratic snarls. In the eyes of many in Congress, the forthright William Seidman, who was assigned several key roles in the bailout, most notably as chairman of the FDIC, appeared to fit that bill. Congress showed its admiration for Mr. Seidman, until then a regulation only of banks, by making him responsible for selling insolvent S&Ls and overseeing the thrift-insurance fund.

But Congress failed to give Mr. Seidman—or any other single regulator—overarching authority. And while it piled the work on the FDIC, it also piled on additional layers of supervision, hamstringing the agency that had distinguished itself by decisive action. Before the bailout, for example, a small band of FDIC officials put together a deal to sell First Republic Bank Corp. of Dallas in just three days. Now transactions drag on for weeks, partly because they must be cleared by the FDIC, the RTC, their boards and, in some cases, the Oversight Board as well.

Indeed, Mr. Seidman in some areas enjoys less authority than he did under the old regime. Five large thrifts are to be sold this week, but they are the simplest of transactions that leave the bulk of the bad assets with the government, because that's all the Oversight Board will initially approve. In the past an independent regulator, Mr. Seidman now must have his congressional testimony approved by the White House's Office of Management and Budget. Mr. Seidman's own board at the FDIC was expanded to include M. Danny Wall, the thrift regulator who presided over the industry's plummet into billions of dollars in losses.

GROWING NOSTALGIC

"We are not as independent as we used to be," says Mr. Seidman. He says he is growing nostalgic for "the good old days" when the FDIC regulated only banks.

Regulators are finding the structure of the bailout confusing and frustrating. Their efforts to sell off sick thrifts have been delayed in part by differing interpretations across the agencies of basic changes contained in the new law. For example, after months of debate, Congress set explicit commercial capital standards for the thrift industry. But it also ordered that those standards shouldn't fall below those for banks. Then, banking regulators began arguing among themselves about their own capital standards, creating uncertainty among thrifts about which standard to follow. In recent weeks, as the RTC was trying to sell sick thrifts, it couldn't tell bidders which standard to follow.

The structure has exacerbated what would be otherwise commonplace start-up problems. Thousands of employees have yet to be hired or transferred between agencies. Until this week, Mr. Wall was the only official employee of the Office of Thrift Supervision. The Oversight Board has but one employee as well: its president, Daniel Kearney. Everyone else is on loan from the Federal Reserve, the Treasury, and the thrift and banking agencies.

At the RTC, two separate and incompatible computer systems—one for banks, one for thrifts—run side by side. Technical difficulties abound in transferring new records. "It's like trying to merge two nations with different languages and the cars on different sides of the street," says Russ Cherry, acting director of administration for the RTC.

ANOTHER WRINKLE

In another wrinkle, the bureaucrats most directly involved in the thrift disaster, those in the newly created Office of Thrift Supervision, are getting raises in their salaries, even as other regulatory agencies are kept for the present at lower scales. That's because hundreds of former private-sector employees of the Federal Home Loan Banks have been brought into the new OTS, and salaries of others in the agency are being raised to the level of those new employees.

But that disparity has provoked fury in the FDIC, where employees doing the bulk of the bailout work are currently paid on a lower scale. The bailout seeks eventual parity between the agencies, but Mr. Seidman, among others, remains skeptical.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

"Parity, like beauty, is in the eyes of the beholder," he says.

Staff salaries and the like may only cause classic inside-the-Beltway disputes, but they aren't helping calm a chaotic and loss-plagued industry. Jay Mottice, a Florida developer, says he was told his bid to renegotiate loans at an S&L under government management was approved by the thrift. But a week later, he says, he received a foreclosure notice from the RTC. And Ron Miller, an executive at Princeton Business Forms, spent a week of frustration on the telephone to learn when new forms required under the law would be put in use.

"You never know with the government if they think about these laws, or just make them up," he says.

TRIBUTE TO ANN WYNIA

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1989

Mr. VENTO. Mr. Speaker, I recently had the honor to attend an American Medical Association award ceremony in honor of a special friend and effective legislator from St. Paul, MN. Commissioner Ann Wynia of Minnesota's Department of Human Service was one of eight officials nationwide to receive the American Medical Association Award for Outstanding Public Service. I also want to congratulate our colleague Congressman HENRY WAXMAN, chairman of the Health and Environment Subcommittee who was also selected to receive the prestigious award.

Prior to being appointed as commissioner, Ann served as the majority leader of the Minnesota House of Representatives. In that capacity, Ann was a strong guiding force behind efforts to improve the quality of life for all Minnesotans—particularly the young, the poor, and the disabled. Her resignation is a loss to the State legislature, but as we face serious changes in the health care system, it is comforting for the people of Minnesota to know that they have such a strong advocate at the helm of the department of human services.

I would like to bring to my colleagues' attention an article about Ann Wynia which was written by Louis Porter of the St. Paul Pioneer Press Dispatch.

CHILDREN ARE PRIORITY FOR HUMAN SERVICES CHIEF

Ann Wynia, the state's new human services commissioner, rejects single issue labels for herself, but there's no mistaking her commitment to children.

Her proudest moment, the former DFL lawmaker from St Paul recalled in a recent interview, was the passage of the 1987 Children's Health Plan. Wynia was chief House sponsor of the bill, which expanded eligibility for medical care to children of the so-called working poor, people whose incomes were too high to qualify for medical assistance, but who couldn't afford health insurance either.

"Truly, this is my favorite bill," said the former House majority leader, who earlier this month took the helm at the state's largest bureaucracy, the Human Services Department. "I realize there are many different needs that this department has to respond to. This doesn't mean I won't pay attention to other programs."

But she said society's highest responsibility is to children and dependent persons.

"We think of children as resilient," she said. "Well, they don't always recover."

In addition to child welfare, Wynia's agency administers public assistance programs, as well as services for refugees and handicapped people. Eight regional mental health treatment centers and two nursing homes also fall under the department's jurisdiction. Its $2 billion budget includes a payroll of more than 7,000 employees.

"I wouldn't have left the Legislature to run the state lottery, but this job gives me the opportunity to work on some things that are really important," Wynia said.

Voters in House District 63B, the city's northwest corner, first elected Wynia in 1976. She served for 13 years, until her resignation Sept. 8 to accept Gov. Rudy Perpich's appointment to the human services post.

State Rep. Lee Greenfield, DFL-Minneapolis, said Wynia will bring special skills to her new position.

"She has a great deal of knowledge of the Human Services Department and what its goals are and the people it serves," Greenfield said.

Her lack of experience administering a large agency won't be a problem, he predicted.

"Dealing with legislators has got to be at least as hard—if not harder—than working with assistant commissioners and deputy commissioners," Greenfield said.

Wynia said her biggest disappointment in the Legislature was being kicked off all the health and human services committees when Independent-Republicans came to power in 1985.

But she said she kept working anyway on the issues she cared about most, although more indirectly than before.

Wynia said a cadre of strong women preceded her in the Legislature, particularly in 1972, when DFLers Phyllis Kahn, Linda Berglin and Joan Growe, and Independent-Republicans Mary Forsythe and Nancy Brataas were elected.

Because they paved the way, Wynia said, the Legislature in 1976 was probably less sexist than it would have been otherwise.

"Not only were they able legislators, they weren't going to put up with sexism," Wynia said.

But Wynia is accustomed to being around men and working with them. The second eldest of four children, Wynia was the family's only daughter. Her father, who died this summer, ran a car dealership in her Coleman, Texas, hometown. Her mother worked for him as a bookkeeper.

Drought through the 1950s devastated the farm economy, with ripple effects on businesses such as her father's.

"You don't sell cars when farmers are having a tough time," she said, adding that her experiences then helped her empathize with Minnesota farmers who came to the Legislature for help frequently during her time in office.

At the University of Texas at Arlington, Wynia had a government professor who sparked her fascination with Minnesota. Luther Haggard always bragged to his students about his home state of Minnesota, she recalled.

"He always talked enthusiastically about the state, its political system and people," Wynia said. "It intrigued me."

Later, in graduate school at the University of Wisconsin, she met her future husband, Gary. They spent a year in Central America while he did research on his master's thesis. After that, he was offered a teaching position at the University of Minnesota.

"It was like a dream come true when he was offered a job here," Wynia said.

In 1970, she went to work at North Hennepin Community College and continued there until 1986, when she found that being majority leader left her no time for teaching.

Gary Wynia, a specialist in Latin American politics, now teaches at Carleton College in Northfield.

Wynia said it's interesting in her new job to meet with legislators from the other side of the table. Now she's lobbying, trying to gain her former colleagues' support.

Of her many goals, Wynia especially wants to help people work toward independence.

"I want increased opportunities for children, families and people with disabilities to feel more in control of their lives, more able to achieve their dreams," she said.

CONGRATULATING THE NORTH CAROLINA HOUSING FINANCE AGENCY

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. BALLENGER. Mr. Speaker, I would like to take this opportunity to recognize the North Carolina Housing Finance Agency upon being named "most outstanding" home ownership program in the Nation. The National Council of State Housing Finance Agencies presented the award to the North Carolina Housing Financing Agency at its annual meeting held in Oklahoma City in September.

The North Carolina Housing Finance Agency has a challenge fund that helps local governments, nonprofits, and private developers generate affordable housing. The challenge fund offers a package of resources that include low-interest mortgages, downpayment assistance, and monthly mortgage subsidies for homebuyers with low incomes. The local groups are required to contribute funds, land, or services for the housing they develop.

The agency is self sustaining, and is financed by the sale of tax-free bonds, making no tax dollars necessary. In fact, the agency has issued more than $1.6 billion in tax-free bonds and Federal tax credits. Currently, the fund has $20 million available, and has awarded $8.6 million to groups in 15 counties. Through these efforts, the fund has financed homes and apartments for some 42,000 North Carolinians.

One town in my district has taken advantage of the challenge fund. The city of Valdese has been awarded $210,000 from the fund to be used for mortgage financing. The funds will go toward assisting families that will buy five homes being built by the town in a demonstration project using community development block grant [CDBG] funds.

I am proud to have a participant of this award winning program located in the 10th District. I would like to commend and congratulate the town of Valdese, as well as the entire North Carolina Housing Financing

Agency, for its efforts in providing low-income families the opportunity for home ownership.

DR. HOWARD TAYLOR—1989 EXCELLENCE IN MATH INSTRUCTION AWARD WINNER

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. LANTOS. Mr. Speaker, we in the United States face our greatest threat not on the battlefields nor on our Nation's automobile showroom floors—but in our Nation's mathematics and science laboratories, and in our classrooms. Our Nation's junior high and senior high school students are slipping farther and farther behind their counterparts worldwide, in Japan, Europe, and the Soviet Union, and we must mobilize to reverse this disturbing trend.

In our national war against mathematical and scientific illiteracy, one of our finest officers is Dr. Howard Taylor. For his life long efforts, Dr. Taylor will receive the 1989 Presidential Award for Excellence in Mathematics Teaching at a Rose Garden ceremony.

The Presidential Award for Excellence in Mathematics Teaching is an annual program to recognize our Nation's outstanding math and science instructors. Administered by the National Science Foundation, the awards are made by the President to a teacher from each State in the Union.

Dr. Taylor has a long and distinguished commitment to mathematics and education. A 1958 graduate of Southeastern Oklahoma State University, he went on to earn a master's degree in mathematics and a doctoral degree in education at the University of Northern Colorado. Dr. Taylor taught, wrote, and served as a school administrator with distinction for 30 years in New Mexico and, to the great benefit of many students in my congressional district, in San Mateo, CA.

Dr. Taylor's contribution to math instruction has had a national impact. He has served on many advisory councils, including the National Science Foundation's planning group on reforms in mathematical education. He is known nationally as a coauthor of such widely used text books "Algebra Book 1," "Algebra Book 2 with Trigonometry," "Basic Computation Series," "So You Think You've Got Math Problems," and "Developing Skills in Algebra One."

Mr. Speaker, as a former educator, I appreciate the positive impact of individuals such as Dr. Taylor. A competitive educational system demands effective teaching, and we as a nation are in great debt to those who care enough to devote their lives to instructing our youth.

Mr. Speaker, our national security and our standard of living depend on a steady supply of highly trained young people. The key to education is dedicated individuals like Dr. Howard Taylor. I urge my colleagues to join me in paying tribute to him and to others who are being honored for their vital contribution to our American educational system.

A TRIBUTE TO MR. PAUL MELLO

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. MACHTLEY. Mr. Speaker, I rise today to pay tribute to Mr. Paul Mello who was named the 1989 Teacher of the Year for the State of Rhode Island.

Mr. Mello was chosen to represent his State by the Council of Chief State Offices and the National Association of Secondary School Principals in the "In Honor of Excellence" symposium held in Washington, DC, at which he had the opportunity to discuss current education issues with leaders and educators from around the Nation.

Mr. Mello specializes in physics. Since he began teaching at the Middletown High School in 1974, the physics department has witnessed a dramatic increase in enrollment. Mr. Mello constantly strives to make learning fun. One of his most innovative and daring experiments was an egg dropping exercise from the roof of the High School.

Mr. Mello's dedication and devotion to his students is a testimony to his true love for the job of teaching. In times which call for the betterment of society, teachers like Paul Mello create a solid foundation for our youth, allowing them to achieve their goals.

I would like to thank Mr. Mello for his years of service and hope that he continues to inspire his students not to be satisfied with the ordinary.

LEGISLATIVE ACTION NEEDED ON ASSAULT-WEAPONS BAN

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. MAZZOLI. Mr. Speaker, I would like to commend to the attention of my colleagues an editorial which recently appeared in the Louisville Courier-Journal concerning the debate over assault weapons legislation in Louisville and Kentucky since the September 14 shooting at the Standard Gravure plant.

The editorial underscores a point I have long espoused—that waiting period legislation and limits on the availability of semiautomatic assault weapons are a matter of public safety as well as common sense.

I urge my colleagues to act swiftly and favorably on sensible gun legislation before the year is out and ask permission for the editorial to be printed in the RECORD at this point:

WHEN RIGHTS COLLIDE

At one point during Monday night's stormy Plumbline Series debate on gun control, an opponent of such restrictions asked, ". . . who are we to tell somebody he doesn't have the right to purchase the kind of gun he wants?"

Good question.

Assuming the "we" he refers to is we, the American people, acting through our elected representatives in Congress and state legislatures, the answer is that we have already decided that some kinds of firearms—machine guns, for instance—are not to be sold to the general public.

Why? Because such weapons are extremely dangerous and have no legitimate sporting use.

The same argument can be made—presuasively, we believe—against the sale of semiautomatic assault guns, such as the AK-47 used in last month's massacre at Standard Gravure.

Would a ban on the production and sale of such firearms end gun-related crime in America? Of course not. Nor would a waiting period during which police could check on possible criminal records of gun purchasers.

But that's hardly a reason not to impose such restrictions. Traffic lights, speed limits and car seat belts haven't ended fatal accidents on our streets and highways. Is that a reason to do away with them.

The point is that society has a right to impose limits on individual rights in order to protect itself. We do so, as a society, in the case of automobiles, drugs and, yes, guns. And when accidents or crimes occur that indicate the measures we've taken are insufficient, we look for remedies.

The tragedy last month in Louisville, and a similar massacre earlier this year in California, strongly suggests that a new remedy is needed in the case of assault guns. What could be more American than for those who believe this way to work like the dickens for legislative change?

A TRIBUTE TO NICK MARSICANO

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. ASPIN. Mr. Speaker, today I would like to pay tribute to Nick Marsicano who passed away on August 27, 1989. Nick contributed a great deal to his family, country, and community throughout his life and he will be missed by all who knew him.

Nick was born in Oak Park, IL, on November 2, 1927. At the age of 18, Nick joined the U.S. Navy to help fight World War II in the Pacific. A seaman 1st Class on the U.S.S. *Ocklawaha,* Nick earned the Victory Medal and the Asiatic Pacific Area Campaign Medal.

On May 22, 1948, 2 years after returning from the war, Nick married Doris. The Marsicano's made their home in Delavan, WI, where they raised four children, Nicholette, David, Roxanne, and Christopher.

Nick and Doris opened the Village Supper Club in 1966 which has become an extremely successful restaurant business. Today, the Village Supper Club continues to be a place where friends, family, and area residents gather for good food and conversation.

Nick worked for the Delavan Fish and Game Club for many years, which in 1969 became the Delavan Lake Sanitary District. He was elected commissioner of the Delavan Lake Sanitary District in 1971 and president in 1976, a position in which he remained until earlier this year. In 1975, Mr. Marsicano was also elected commissioner of the Walworth County Metropolitan Sewage District [Walcomet].

Nick's involvement in community activities did not end with his public service jobs. He was a member of the Lions Club, the Harvard Moose Lodge, the Walworth Tavern League, and Veterans of Foreign Wars.

Nick Marsicano showed much more than interest and concern in his community, he was a man who got involved. In many ways, it was Nick's efforts that led to the cleanup of Delavan Lake which is currently underway. Cleanup of the polluted waters will once again allow children to swim and fish to breed in Delavan Lake. Actual drainage of Delavan Lake began 1 week after Nick's death. This successful environmental project will serve as a significant and lasting memorial to Nick Marsicano.

It is an honor to pay tribute to an individual who has contributed so much through hard work and dedication to his family, community, and country. Nick will be remembered as a community leader, businessman, and dedicated father—but most of all, a good friend who touched the lives of all those around him. Nick Marsicano will be missed, but not forgotten.

THE MARYLAND SCHOLARSHIP ASSOCIATION

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. CARDIN. Mr. Speaker, I rise today to bring to the attention of my colleagues a recently formed organization working in my home State. The Maryland Scholarship Association is a clearinghouse for information on the approximately $4 billion in grants, scholarships, and loans which are available nationally.

The Maryland Scholarship Association, working through high school guidance offices, determines what aid might be available for any interested student. This determination is made at no cost to the student. The foundation is a nonprofit organization, funded by grants and donations from corporations and individuals.

I commend the founders of this organization, Phillip Deitchman and Sandi Blatt, for their efforts to assist students with the rising cost of education. Through their work, they will help many students who otherwise might be financially unable to further their studies.

TRIBUTE TO BETTY HUBBARD "MOTHER OF SPECIAL EDUCATION IN MINNESOTA"

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. VENTO. Mr. Speaker, Minnesota, the State I am privileged to represent, has been in the forefront of establishing opportunity for citizens with disabilities. This enlightened view has certainly manifested itself in Minnesota's laws and policies. The success of this movement is attributable in large part to the grassroots efforts of numerous advocates, mostly volunteers, who have made public policy affecting the disabled their priority. Elizabeth (Betty) Hubbard was a key leader of such efforts in Minnesota.

Serving as a Minnesota State legislator, I first had the privilege to work with Betty on a host of issues, especially education concerns. As a Member of the U.S. House, I have benefited greatly from her counsel. Betty Hubbard, who recently passed away, left a wonderful legacy of policies and new horizons for our special citizens with disabilities. Because of Betty, attitudes toward the disabled, the specially advantaged, have changed and will continue to change in the future as we struggle to develop the best policies affecting people with various disabilities.

Such advocates are essential to the struggle to achieve equitable treatment for those with disabilities. As Congress moves forward to enhance the civil rights of the disabled, surely we must remember those like Betty Hubbard of Minnesota who have worked so effectivley and diligently for the disabled.

Mr. Speaker, I would like to call my colleagues' atttention to the following article from the Minneapolis Star Tribune which outlines the life of Betty Hubbard the "Mother of Special Education in Minnesota."

SPECIAL-ED ADVOCATE BETTY HUBBARD DIES

Elizabeth H. (Betty) Hubbard, 74, who was known as the "Mother of Special Education in Minnesota" for her work on behalf of handicapped people, died of cancer Friday at Riverside Medical Center.

Hubbard was executive director of the St. Paul Association for Retarded Citizens (ARC) from 1960 to 1966. From 1966 to 1983 she was a consultant for parent and community relations in the St. Paul public schools where she used her advocacy and counseling skills to help parents of handicapped children.

She served as president of ARC/Minnesota twice and had been active in the association since the late 1940s.

Hubbard, a native of St. Paul, graduated from Derham Hall High School and the College of St. Catherine there. She was trained as a writer and social worker and became an important source of information about issues affecting people with disabilities for policy makers.

She was a founding member of the Minnesota Committee for the Handicapped, now called the Minnesota Coalition on Handicap Issues, and served on the Governor's Planning Council on Developmental Disabilities. She also served on committees for the Minnesota Department of Human Services, the state Department of Health and other advocacy organizations.

She was honored for her work by three Minnesota governors, the Minnesota Legislature, the Ramsey County Commissioners, ARC and its various local units, the Parent Advocacy Coalition for Educational Rights and the Twin City Association for Persons with Severe Handicaps. She also received the Woman in Leadership award from the YWCA.

Her husband, Miles, died in 1969. She is survived by daughters Mary Hubbard Linz, of Brooklyn Park, Claudia Tuma, of Lonsdale, Minn., Katherine Hofmeister, of Roseville, and Ann Linz, of Stacy, Minn.; sons Miles Jr., of St. Cloud, Minn., Thomas, of New York City, and Patrick and Robert, both of St. Paul; brothers John Hodgins, of Atlanta, and James Hodgins, of St. Paul, and 12 grandchildren.

Services will be held at 10 a.m., Tuesday at St. Luke's Catholic Church, 1079 Summit Av., St. Paul. Visitation will be from 3 to 8 p.m. Monday at the Willwerscheid & Peters Mortuary, 1167 Grand Av., St. Paul. Memorials to ARC/Minnesota, 3225 Lyndale Av. S., Minneapolis, are suggested.

RECOGNIZING GASTON COUNTY

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. BALLENGER. Mr. Speaker, I would like to take this opportunity to recognize a new program sponsored by the U.S. Department of Housing and Urban Development. The program promotes a drug-free environment in public housing and will make funds available to establish or enhance projects at public housing sites where severe drug problems have been identified. Projects will be approved on a competitive basis and will be funded at a Federal level of up to $25,000, with a required 100-percent match of local or private funds. Applicants must be planning on undertaking active efforts to rid public housing of the drug problem.

The projects that would receive funds would be positive youth programs, such as sports clubs or cultural activities. Funds could be used for the acquisition, rehabilitation, or construction of facilities to be used by the clubs, and for the salaries of instructors and coaches. It is the objective of the program to provide an alternative to participation in the drug environment.

This is a great idea, and I would like to recognize the efforts of several counties in my district in connection with this program. I have received correspondence from Gaston County, that has been working with a local boys club in setting up a sports program in one of the public housing projects. The Gaston Boys Club has the endorsement and involvement—when time permits—of basketball players James Worthy, L.A. Lakers, and J.R. Reid, Charlotte Hornets, two North Carolina natives and basketball greats. In my view, this project will not only provide youth with an alternative activity, but access to positive role models as well.

This program had great potential to help rid public housing of drug abuse and the violence associated with it. I would like to commend Secretary Kemp in his efforts, and express my hope for success in this program.

TRIBUTE TO PATERSON, NJ, BRANCH OF THE NAACP ON ITS 50TH ANNIVERSARY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. ROE. Mr. Speaker, it is with the greatest pride and admiration that I rise today to pay tribute to a truly outstanding organization which, for decades, has fought for the civil rights of all Americans and which, in the proc-

ess, has truly made our entire Nation a far better place to live.

I am speaking of the National Association for the Advancement of Colored People, the NAACP. In my Eighth Congressional District of New Jersey, this is indeed an important year for this great organization, for 1989 marks the 50th anniversary of the founding of the Paterson Branch of the NAACP.

Mr. Speaker, this landmark anniversary will be celebrated on Sunday, October 29, when the Paterson Branch of the NAACP holds its 21st Annual Awards Dinner at the Brownstone House in Paterson. This will truly be an historic event and its success will be a great tribute to program chairman, Mrs. Dorothy Rowe; to the 50th Anniversary Committee, Elease Evans, Arthur Holloway, Travelle Nelson, Rebecca Perry, George Riley, Catherine Sellers, and Mildred Snell, and to this event's guest speaker, my very distinguished colleague in the U.S. House of Representatives, the Hon. WALTER E. FAUNTROY, Delegate from the District of Columbia.

And I know that no one will be more proud at this important event than the officers and board of directors of the Paterson Branch of the NAACP; president, James A. Davis, Jr.; first vice president, John Harris; second vice president, Audrey Hinton; third vice president, Paul Wilson; secretary, Hafeezah K. Sabree; and board members, James Allen, Elaine C. Harrington, Rita Lingham, Shirley Moore, Janet McDaniels, Travelle Nelson, Rebecca Perry, Simmie Pipkin, William Quince, Freddie Robinson, Samuel D. Robinson, Dorothy C. Rowe, Catherine Sellers, Rev. Alfred Steele, Charles Thomas, Esq., Rev. Ernest Thomas, John Tremble, Colin Watson, and Barbara Wilkerson.

Mr. Speaker, I also know that this will be an extremely proud evening for those receiving special awards at this significant event; Mrs. Sylvia Ulmer, retiring city clerk for Paterson, who will receive the Community Service Award; Nicole Lyew, who will receive the Youth Service Award; James A. Davis, Jr., who will receive the in-service award for contributions to the organization, and Fannie Linder, who will receive the President's Award.

Mr. Speaker, the Paterson Branch of the NAACP was born out of the church a half century ago. Its leaders and workers then as now were pastors, church leaders, and church members. St. Augustine Presbyterian Church was the birth place for the branch and nurtured it through its infancy. Later the churches, Calvary Baptist and A.M.E. Zion, played strong roles in its developments. Today, virtually all churches in Paterson subscribe to and support the NAACP and its efforts.

Mr. Speaker, as a means of providing a broad and detailed history of this vital organization, I would like to insert for the RECORD a list of the Paterson Branch NAACP presidents and their many accomplishments which, in itself, provides a rich history of this outstanding organization:

PATERSON BRANCH NAACP HISTORICAL HIGHLIGHTS 1939-89

FANNIE CURTIS—1939-41

Organizing president, wife of a prominent physician, Dr. A.M. Curtis, member of St. Augustine Presbyterian Church, identified the issues and developed strategies for NAACP work to follow.

REV. CHARLES TARTER—1941-49

Second president of the branch, pastor of St. Augustine Presbyterian Church, instrumental in integrating local theaters, instrumental in gaining employment for Negroes in defense industry, entered the Army as a chaplain in 1943 and left for World War II.

HERMAN IRVING—LATE 1940'S

Worked to reestablish the branch in the post-war era, was a member and officer of St. Aidens Episcopal Church, a quiet, conscientious worker.

REV. ROBERT B. DOKES—1949-51

Served as vice president under Rev. Tarter, sought to keep the branch together and alive during the lean post-war years, called together 15 concerned people in the early 1950's to re-activate the branch.

WENDELL WILLIAMS—1952-56

Reconnaissance president, Youth Branch was chartered December, 1954, worked closely with the Committee for Negro Participation in Government, police brutality was challenged, led a successful fight for a swimming pool available to all citizens, gained in the struggle to elect Blacks to public office: Dr. Capers, Virgil Reed, William Kline.

ARTHUR HOLLOWAY—1956-64

Worked to have the roofer's union which was building School No. 28 integrate. Nine Negro roofers were hired, executed a successful rent strike atgainst a Slum Lord, Lobson, instrumental in getting the Grand Jury to hear a police brutality case which involved Willadean Williams, was jailed because of stance against injustice and discrimination.

LUCILLE SUFFERN—1965-66

NAACP office was located at 176 Broadway, the Board of Health Building, Increased voter registration, worked to have more Black people hired in administrative positions in the public school system, greatly increased the life membership rolls of the Branch, Maceo Hurst was chairman.

GILBERT BENSON—1966-68

Began regular publication of the Word, concerted effort forced radio station WPAT to cover news in Paterson, instrumental in forcing IMB, Thomas English Muffin Co., and Nabisco to hire black workers, membership totaled 2,000.

FLOYED HINTON—1969-79

Youth group was reactivated in 1970. Eleanor Yates was the leader, Sat on the Ad Hoc Committee to make Paterson the permanent site for PCCC. joined with the League of Women Voters in an intensive voter registration drive, Maceo Hurst maintained an outstanding record as Life Membership chairman, involved in affirmative-Action campaign on local and county levels, and voiced concern in the selection of a new superintendent of schools, Churches were awarded because of their support of the Mississippi Crisis.

RALPH HINTON—1979-80

Became President upon the death of Floyed Hinton, 1979 Awards Dinner was dedicated to Floyed Hinton, Branch observed 40 years in the struggle for justice equality.

JAMES ADAMS—1981-82

Declared October 31, 1981, Black Clergy Sunday,

1981 Awards Dinner theme: Duality of American Society, worked to educate voters to become wise in their use of their vote, Life Memberships increased under the chairmanship of John Harris, Dr. Gwendolyn Grant addressed the 1982 Awards Dinner.

JOHN HARRIS—1983-84

The publication of The Word was re-instituted, initiated the Golden Heritage membership 1983, with PCCC Benjamin Hooks was brought to Paterson in celebration of Black History month, initiated a city-wide voter registration drive in 1984, the National Political Action chairman was the guest speaker, 1983 Awards Dinner Speaker was Congressman Julian Dixon, the 1984 speaker was Civil Rights Activist, Mal Goode.

ELEASE EVANS—1985-86

Made stepped-up efforts to solve police brutality cases, voter registration rally and campaign netted over 2300 new registrants, conducted successful Candidates' Nights, 1985 Awards Dinner speaker was Hazel Dukes, 1986 Awards Dinner speaker was Assemblyman Willie Brown.

ELAINE C. HARRINGTON—1987-88

Branch participated in the National Association's Campaign 1000 for membership recruitment, Dr. Lenworth Gunther, professor at Essex County Community College, was the speaker for the May 17, 1954 Decision Program, 1987 Awards Dinner speaker was Congressman William Grey, III, 1988 Awards Dinner speaker was Philadelphia Mayor Wilson Goode, the Branch received national recognition of life memberships.

JAMES A. DAVIS, JR.—1989

Called for an increase in memberships to reach 6000, opened the branch offices six days each week.

Mr. Speaker, I appreciate the opportunity to present a profile of this historic and outstanding organization which has truly made its community, the State of New Jersey, our Nation and the world a better place to live, the Paterson Branch of the NAACP, celebrating its 50th anniversary in 1989.

NATIONAL BIBLE WEEK

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. STUMP. Mr. Speaker, in his first President's message for National Bible Week, recently released to the public by Laymen's National Bible Association, sponsors of the annual nonsectarian observance, President Bush asks that we try to imagine Western civilization without the Bible. The President also asserts that our moral tradition is based on ideas found in the pages of the Bible.

The American people are reminded repeatedly that our high moral standards are endangered. Crime is everywhere. White collar offenses are commonplace, in practically every community across the land. Drug trafficking is viewed with apathy and narcotics abuse is regarded as a recreational activity, even by some who consider themselves as upstanding members of their community.

On top of that, we see in American society today a tolerance of ethical backsliding that would not have been endured formerly. Sadly,

Members of Congress are all too aware of this.

President Bush says:

Over the centuries, the teachings of the Bible have challenged and inspired our great philosophers and have shaped our laws and customs. They have also provided inspiration for countless men and women who look to the Bible for guidance in their lives.

Reminding all Americans of the unique place the Bible has in our heritage, and its value as a personal guide, is the commitment of the interfaith Laymen's National Bible Association. The association originated the idea of National Bible Week in 1941, and has sponsored the awareness-raising observance each year since. It has become the Nation's largest interfaith experience annually, as it involves thousands of leaders who conduct local observations in communities large and small all across America, reaching millions.

Corporations have taken up the cause, and National Bible Week is now widely held to be the corporate sector's interfaith response to the moral and ethical dilemmas that confront American society.

National Bible Week is always scheduled to coincide with Thanksgiving, the only nonsectarian religious holiday in the United States. This year, it will be observed November 19 to 26. For the observance, LNBA has prepared a public service advertising campaign and will conduct other educational and promotional activities on the theme, "To Know Where You're Going. Read the Bible."

President Bush's message concludes with this sage advice:

To understand where we have been, to appreciate our history and culture, the Bible is indispensable. To discern where we are going and how we should get there, the Bible offers us a timeless source of wisdom, hope, and inspiration.

Along with Senator HOLLINGS, I am proud to be serving as congressional cochairman for National Bible Week. We ask all Members of Congress to note the observance, and to call upon their constituencies to recall the Psalmist's wisdom, "Thy word is a lamp unto my feet and a light unto my path."

NATIONAL REPUBLICAN INSTITUTE FOR INTERNATIONAL AFFAIRS—A LIST OF ACTIVITIES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. LAGOMARSINO. Mr. Speaker, allegations of improper actions by the National Republican Institute for International Affairs [NRIIA] have been circulated by several Members of this body and, since those allegations are not true, I wish to set the record straight.

The following points must be emphasized regarding NRIIA's activities in Costa Rica:

First, the Republican Institute has never funded any of the political activities or the campaigns of the United Social Christian Party [PUSC] in Costa Rica. All of NRIIA's reports, budgets, proposals, and financial statements have been made public under the Freedom of Information Act. There is no basis whatsoever to charges that the NRIIA was involved in political activities or campaign activities in Costa Rica.

Second, despite the fact that the NRIIA believed its activities in Costa Rica were totally proper and in keeping with its charter, the institute decided in July of this year to suspend the domestic operations with its grantee—the Association for the Defense of Costa Rican Liberty and Democracy. The NRIIA is puzzled that allegations about its activities should be made now after it has withdrawn from Costa Rica.

Third, the accusation that neither the National Endowment for Democracy [NED] nor the NRIIA knew precisely what was happening with the program in Costa Rica is absurd. NRIIA had a full-time professional program officer resident in Costa Rica working with the grantee during the first 6 months of this year when the NRIIA was supporting the project.

Fourth, allegations that the NRIIA was involved in a "grudge match" against Costa Rican President Oscar Arias is equally absurd. In fact, President Arias and several members of his cabinet participated in seminars and meetings sponsored by the NRIIA grantee.

Fifth, some of the allegations imply that neither NED nor the Republican and Democratic Party institutes are permitted to associate with political parties; this is not the case. The clear prohibitions are against activities which support a candidate for public office. The Republican Institute and the Democratic Institute [NDIIA] were established to give NED a capability to work with political parties. As long as the work does not involve campaign activity, it is well with the NED, NRIIA and NDIIA charters.

Sixth, regarding the involvement of the current PUSC presidential candidate Rafael Angel Calderon with the former NRIIA grantee, it must be pointed out that during the period in which he was executive director of the grantee, Calderon was not an active candidate. In fact, Calderon had blessed the candidacy of another individual Miguel Angel Rodriguez, and Calderon had stated he would not be a candidate for the presidency. When he reversed this decision, Calderon immediately resigned from the position of executive director of the grantee association.

Seventh, some of the allegations accuse Calderon of accepting funds from Panamanian strongman Gen. Manuel Noriega. This accusation was made by Jose Blandon and is not substantiated by any other source. Additionally, the period in which the alleged donation took place was 1 year before the NRIIA started its grant program in Costa Rica.

Eighth, finally, the question of why NRIIA chose to work in Costa Rica is often raised in the allegations. The Republican Institute believes that no democratic system can be taken for granted, and that Costa Rica, in particular, is worthy of effort to sustain its democratic system given its difficult geographic location between Nicaragua and Panama. It is not uncommon for officials of both parties in Costa Rica to make reference to threats to Costa Rica's democratic system posed by the international debt crisis, Nicaragua, Panama, and international drug trafficking.

It seems somewhat hypocritical that allegations have been raised against one party in Costa Rica—with the alleged complicity of the NRIIA—when the government party itself has been engaged in much the same thing. The Liberation Party of President Arias maintains a substantial educational and training facility of its own [CEDAL] which is funded from European sources.

This type of training and educational work is the rule, not the exception in Latin America, and support for these types of activities is not considered inappropriate by most reasonable observers and participants. Indeed, the work of the NRIIA in Costa Rica has been public for almost 4 years, and it is only now—in the midst of a presidential election campaign—that these accusations are being raised. NRIIA's work in Costa Rica has been carefully considered and carefully monitored, and it is not—and has not been—in violation of any of the restrictions which govern its activities. The NRIIA has been sensitive to the types of accusations that could be raised and has taken clear and unequivocal steps to address such concerns before they were ever raised. That these charges are being made now, when the information about the institute's work has been public for 4 years suggests a clear political motivation on the part of those making these false allegations reflecting the intense presidential campaign occurring in Costa Rica.

NORTH BERGEN HOUSING AUTHORITY CELEBRATES 50TH ANNIVERSARY

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. GUARINI. Mr. Speaker, on October 28, 1989 a dinner will be held at the Il Galleto Restaurant in North Bergen, NJ, to honor the 50th anniversary of the North Bergen Housing Authority.

The community of North Bergen was among the first to develop affordable housing under the provisions of the 1937 Federal Housing Act. It was under the direction of former Mayor Paul F. Cullum that the North Bergen Housing Authority constructed Meadowville Village, one of New Jersey's first low rent housing developments. Executive Director Gerald Murphy, Chairman James T. Flannery, and Dedication Committee Chairman Peter E. Musto were instrumental in making this first project a reality.

Since the Meadowville Village groundbreaking in 1940, the North Bergen Housing Authority has constructed hundreds of low-income units for families, the elderly, and the handicapped. According to Director Ronald Jeffries, the North Bergen Housing Authority supervises several projects, including: Meadowville Village, 172 units; Lawler Towers, 250 units; and Callum Towers, 309 units.

The authority also oversees 300 units under the Section 8 Rent Subsidy Program and 75 units under the Voucher Rent Subsidy Program.

The North Bergen Housing Authority Commissioners are: Joseph Jialdini, Patricia Bia-

monte, Dennis Mulvihill, William Neff, Nicholas Sacco, and Anthony P. Vanieri, Jr.

Theresa Ferraro is chairperson of the anniversary dinner.

The North Bergen Housing Authority has an excellent track record providing support services for its tenants. The authority offers a variety of recreational, educational, and cultural programs, as well as extensive activities for older Americans.

In many ways, the North Bergen Housing Authority serves as an example of success for our Nation's troubled public housing management. Despite the many obstacles it faces, the authority has done a remarkable job providing safe, affordable housing. And most importantly, the authority has succeeded in developing a sense of community and well-being among its tenants.

I am sure that my colleagues here in the House of Representatives will join me in saluting the North Bergen Housing Authority on its 50th anniversary.

UKRAINIAN NATIONAL ASSOCIATION BRANCH NO. 452 MARKS 50TH ANNIVERSARY

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. VISCLOSKY. Mr. Speaker, I am pleased to inform my colleagues that on October 28, 1989, branch No. 452 of the Ukrainian National Association, will celebrate its 50th anniversary.

Since its founding, America has been a beacon for those fleeing political persecution, economic repression, and social injustice. While many come to escape these ills, they do not wish to leave behind their traditions and customs. The Ukrainian National Association has enabled persons of Ukrainian ancestry to ensure that their culture remains a part of their lives and that it is handed down to the next generation.

Established in 1894, the Ukrainian National Association [UNA] today is comprised of over 450 local groups and has 75,000 members nationwide. In northwest Indiana, the organization has played an impressive role in supporting cultural and sports programs that not only benefit the Ukrainian community, but the whole region overall. Furthermore, the UNA also provides aid to students, operates a summer resort and children's camps, oversees Ukrainian courses in language, history, literature, and art, and maintains a home for senior citizens.

I am fortunate to represent a district that has an active Ukrainian community. They are proud of their heritage, and justly so. They have been an integral part of the ethnic vibrancy of northwest Indiana and I am confident that they will continue to be. I congratulate them on the occasion of their 50th anniversary and wish them continued success in their efforts.

1989 ACHIEVEMENT AWARDS IN WRITING

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. MILLER of California. Mr. Speaker, I have often asserted that the future success of this country relies on our ability to provide young people with the opportunities to succeed and their ability to seize those opportunities. That is why I wish to bring to the attention of this Congress the accomplishments of the winners of the 1989 Achievement Awards in Writing and the efforts of their teachers.

By developing their abilities into skills, David Eyerly, a College Park High School student from Martinez, Dawn C. Frank of De Anza High School from El Sobrante, and Daniel Kingsbury of Northgate High School from Walnut Creek, have distinguished themselves in excellence in writing. Their work, and the volunteer work of the high school English teachers who have participated in this program, deserve the commendation of this Congress.

The Achievement Awards in Writing is an excellent example of dedication to the youth of this country. The achievement awards program has demonstrated its commitment to educational excellence for more than 32 years. Through private sponsorship and the volunteer work of the teachers, this program gives students an opportunity and an incentive to work toward excellence in English.

I am sure all Members join me in saluting the achievements of the winners of the Achievement Awards in Writing.

TRIBUTE TO JOHN AND MAGGIE FERRARO

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to two of Los Angeles' leading citizens. John Ferraro is president of the Los Angeles City Council. Margaret Ferraro was a star of burlesque, stage, and screen and is now an influential community leader. Both are being honored by the United Stroke Foundation as recipients of their prestigious "Quality of Life" award.

John is a native Angeleno. His career of service mirrors the growth of our great city. He was an All-American football player for USC and was elected in 1974 to the National Football Foundation Hall of Fame. He is a distinguished naval veteran of World War II.

Before his election to the city council in 1966, John was a three-term president of the Los Angeles Police Commission. Since his election in 1987 to the presidency of the Los Angeles City Council, he has had a major and positive impact on the council's operations, reorganizing and restructuring committees and setting the legislative and political agenda for a world class city.

Margaret (Maggie) Ferraro is a woman of exception and wide ranging talents. She was born and raised on a Missouri farm and at 15 ran away to Chicago to become a dancer.

Maggie became a renowned burlesque dancer and a stage and motion picture actress of note. After the birth of her first child in 1953, she retired from show business.

Over the past two decades, Maggie has become a civic leader and community activist. As vice president of Screen Smarts, the woman's auxiliary of the Motion Picture and Television Fund, she has been instrumental in developing and expanding the organization's San Fernando Valley hospital.

Four years ago, Maggie suffered a stroke. However, through grit and determination, she has made a remarkable recovery. Although rehabilitation has been slow and tedious, if anything, her illness has spurred Maggie to achieve even greater success in her work.

John and Maggie were married in 1952. They have three children and four grandchildren.

It is a particular privilege for me to ask this House to rise in acclamation of John and Maggie Ferraro—leaders, role models, and exemplary citizens of our country.

GOVERNMENT FUNDING OF THE ARTS

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. FIELDS. Mr. Speaker, Morton Kaplan's editorial in the current issue of The World & I approaches the issue of Government funding of the arts in the most intelligent and lucid way I've seen to date. I recommend it to all Members of the Congress, and especially to members of the so-called arts community or arts establishment.

The critical insight brought forward by Mr. Kaplan is that the only "relevant issue is the right of the Government to control the expenditure of tax dollars raised from the general public," and that it is "not appropriate to use public funds to propagandize the public." If the National Endowment for the Arts is so arrogant as to ignore the most recent shot across the bow, it may one day wish the Helms amendment was all it had to froth over.

[From The World & I, November 1989]

The furor over the cancellation of the exhibition of Robert Mapplethorpe's photographs at the Corcoran Gallery in Washington, D.C., and Sen. Jesse Helms' subsequent amendment is a monument to the ability of the arts establishment to brainwash the media. This issue has nothing to do with First Amendment freedoms or the rights of artists to experiment with new techniques or means of expression. These remain untrammeled no matter how odious the work or how depraved the artist. The only relevant issue is the right of the government to control the expenditure of tax dollars raised from the general public.

If the public becomes outraged over a new missile, it will not be built. If it becomes outraged over a catastrophic health insurance bill, it will be modified. When one dips

into the pork barrel, one is obliged to play by the rules of democracy.

Government support for the arts is inherently problematic. It raises the question of official art, whether that art be the standard of the public, government officials, or a largely self-chosen art establishment. Choices always involve inclusion and exclusion. Private patronage on the whole is a far better protection for diversity and experimentation than any governmental program can be. The moment one has an endowment through committees that dominate large grants, the process of official encouragement of some lines of art and official discouragement of others will have begun to influence artistic directions. The lines of communication quickly become incestuous, and the institutions begin to operate in a vacuum.

There may be exceptions: art forms of merit that would die out without public assistance. Perhaps the support of opera in Italy comes within that category. And WPA art programs in the depths of the Depression may have been salutary.

All public support programs, even those in the field of science, raise serious questions. Senator Proxmire's Golden Fleece awards sometimes were directed at clearly justifiable projects. At least, however, there are some objective standards in science, even though they have not prevented the funding of many bad projects nor stopped the inhibition of meritorious projects. And the major foundations at times have been guilty of causing serious distortions in the academic areas in which they made grants.

Only an arrogant arts establishment, whose lines of communication constituted a closed circle, would have had the temerity to use public funds for the Mapplethorpe exhibit. Let me grant that Mapplethorpe is an artist with the lens. I think that Eric Gibson's reflection in this issue that he was an inferior portraitist is only partly correct. Although Gibson has seen many more pictures of Andy Warhol than I have, I have never seen a more revealing portrait of him. And if many of his studies are "masks," then these masks reveal a portion of reality that other studies occlude. This is not true of the photographs to which I shall come.

Even, however, if Mapplethorpe's studies of homosexual sadism were genuinely artistic, it would have been a mistake to use public funds for the exhibit. The use of public funds constitutes a form of legitimation, and that is inappropriate when this issue at the very least is still unresolved insofar as public opinion is concerned. It is not appropriate to use public funds to propagandize the public.

But there were stronger reasons yet either to exclude these photographs from the exhibit or to forgo public funds. I have marveled at the sensual carvings at Ankor Wat. But Mapplethorpe's photographs of homosexual sadism and masochism are not sensual. They have no artistic purpose. They are designed purely to offend the "straights." They are crude, even brutal, portraits—a crudeness and brutality that stimulates neither empathy nor pity. If the art establishment cannot distinguish between the use and misuse of talent, between art and blatant obscenity, in a case such as this, it calls into question its judgments elsewhere as well.

It may be that the art establishment was deluded by its success to date in misusing public funds. Once twenty-five thousand was spend to photograph two rolls of toilet paper falling from an airplane. A public building in Chicago is the locale of a huge baseball bat built with public funds. (The same artist once was in residence for a year at the University of Chicago. In one performance he had one boy bring in a goldfish bowl with water in it, and another brought in a typewriter. That was a happening that portrayed the Loeb and Leopold case.) One could go on. The day of reckoning was overdue. Instead of complaining, the art establishment should be grateful that the public still does not know how its money is being used by the National Endowment for the Arts. If it did, there would not be a Helms amendment because there would be no appropriation.

Great art surfaces in an environment that is full of the mediocre, the bad, and the unbelievably bad. The standards for determination are far from clear, and in many cases, both honest and knowledgeable people might disagree. But if the art establishment wants continued public funding and tolerance from reasonably literate people, then it should stop praising arrant nonsense. It should show some respect for their opinions. It should not use public funds merely to shock them. That was the Lenny Bruce technique. Lenny Bruce was full of sophomoric ideas that were more his response to his psychological needs than to real world conditions, and much of the art world suffers from the same syndrome.

It may be arguable whether great art should be beautiful or uplifting. But surely great art must catch hold of the world in a way that is beyond the capabilities of an encapsulated and sophomorically intellectualized subculture. Van Gogh's disturbed paintings are revelatory of the human condition in a way in which the intellectualized brutality of Mapplethorpe is not. If that is not the difference between art and nonart, then it is at least one of the differences.

TRIBUTE TO RAYMOND A. DAVIS

HON. BILL PAXON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. PAXON. Mr. Speaker, it is with great sadness that we mourn the death of Mr. Raymond A. Davis of Hamburg, NY. The United States and western New York have lost a loyal, dedicated, and tireless public servant. Mr. Davis proudly served in the U.S. Navy for 20 years, and went on to work at the Federal office building in downtown Buffalo, NY.

After graduating from Hutchinson Technical High School in June 1953, Raymond Davis enlisted in the Navy, where he served on nuclear submarines. During his 20-year naval career, he was cited for outstanding professional performance and devotion to duty on the nuclear submarine U.S.S. *James K. Polk.* By the time he was discharged in 1973, he was a senior chief electrician's mate.

After retiring from the Navy, Mr. Davis returned home to western New York, but his service to the people of the United States did not end. He worked as a chief engineer for the U.S. Government in the Federal building at 111 West Huron Street in Buffalo until his death.

Raymond Davis is survived by his wife, Marie; four daughters: Jeannine Ott, Karen Guizzotti, Susan Hoch, and Michelle Davis; four sisters; Dorothy Duge, Catherine Mauler, Florence Kollatz, and Donna Hoage; and a brother, James Davis.

My heartfelt sympathies go out to his family and friends. Raymond Davis was truly an honorable man, one who faithfully served his family and country.

AN OUTSTANDING PUBLIC SERVANT, JAMES L. LEVLEIT

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. FORD of Michigan. Mr. Speaker, Thomas Jefferson and our Nation's other Founding Fathers knew that self-rule would not be easy. They knew that for democracy to work, a spirit of community and citizenship—of active citizen participation in the Government—would be essential. If people tended to their narrow self-interest and ignored the needs of the community as a whole, self-government would not succeed.

Two hundred years later, our need for active citizen participation in the Government is every bit as great as it was when the Nation was founded. And what is true on the enormous scale of our whole country is also true on the smaller scale of our towns and cities.

It is not just the elected officials who make our Government work. The mayor gets most of the media attention and receives the credit or the blame for everything from potholes and burglaries to the weather and the business climate, but any hope of order, harmony, and efficiency in the life of our cities depends principally on the police officers, the engineers, and the city administrators who care about their community and devote their working lives to it.

We usually don't pay any of these important public servants as much as they deserve. We can, however, let them know how much we value and appreciate their contribution.

And so today, I would like to express my appreciation and that of the people of Saline, MI, for an outstanding public servant, James L. Levleit, a man who has served his community in an extraordinary range of activities in a career spanning 34 years.

Mr. Levleit began his career as a police officer, rose to become the chief of police, director of civil defense, and city traffic engineer, and devoted the past 12 years to the city of Saline as its city administrator and director of staff. If he had worked for the Federal Government, he would have been Secretary of Defense, Director of the FBI, Director of Personnel Management, White House Chief of Staff, Secretary of Commerce, and Secretary of Transportation.

It's no wonder Mayor Mark Hopper thinks Mr. Levleit is unique and irreplaceable. He is.

I have had the pleasure of sharing in the reflected glory of some of Mr. Levleit's achievements for the people of Saline, most notably the creation of the city's industrial parks, for which I helped arrange Federal assistance. There is no doubt that Saline is losing a dynamic and capable administrator.

But anyone who knows Mr. Levleit, his energy, and his community spirit know that he will not disappear when he retires. Whether through the United Fund, the Salvation Army, the Jaycees, or the Rotary Club, Mr. Levleit will be a positive force in the community, as he has been for three and a half decades.

Truly, James Levleit is the kind of citizen Thomas Jefferson and the Founders counted on when they set out on the great experiment in self-government which is 200 years old this year.

INTRODUCTION OF THE FEDERAL INSPECTION FOR SEAFOOD HEALTHFULNESS ACT OF 1989

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. DE LA GARZA. Mr. Speaker, today I am introducing the Federal Inspection for Seafood Healthfulness Act of 1989, legislation which would establish a comprehensive, mandatory seafood inspection program.

This bill is cosponsored by 21 of our colleagues. I am particularly pleased my colleague, the Honorable WALTER B. JONES of North Carolina, chairman of the Committee on Merchant Marine and Fisheries, has joined me as a cosponsor of this important and much-needed legislation.

While some may chuckle at the bill title's acronym, FISH, the circumstances that have led us to introduce this legislation are both very serious and very important.

More and more people are eating fish and shellfish, not only because it tastes good, but because it is an excellent low-fat protein source. Consumption of seafood has risen dramatically during the 1980's.

But the growth in consumption has been accompanied by an increasing awareness of the shortcomings of our current fish and shellfish inspection efforts. Fish is the only flesh food not subject to a comprehensive, mandatory inspection program. Currently, we have a patchwork of Federal and State agencies attempting to address only some limited aspects of seafood safety.

Unfortunately, these shortcomings make it difficult to counter concern about the potential risk consumers face from fish and shellfish products. While some may dispute the seriousness of the problem, recent food safety scares have taught us the need to be more vigilant about ensuring the safety of our food supply.

When the safety of fish and seafood is questioned, consumer confidence falters and sales drop. In fact, many maintain this is exactly what happened last year when per capita seafood consumption dropped after more than 10 years of consistent growth.

As chairman of the House Committee on Agriculture, I am first and foremost concerned about assuring consumers a safe food supply.

In addition, I am also aware that consumer confidence in Government food safety programs is a necessary element to the overall economic vitality of the fish and seafood industry, including our Nation's growing aquaculture enterprises, just as it is with the rest of our food production system.

Assuring the future economic growth of both aquaculture and our traditional fishing industry depends in large measure on our ability to assure consumers of the safety and wholesomeness of their products. Unfortunately, the current system of seafood inspection does not provide that level of assurance.

For these reasons I am today introducing legislation authorizing the establishment of a comprehensive, mandatory seafood inspection program with the U.S. Department of Agriculture [USDA]. USDA, with its nationwide resources, personnel, and experience in inspecting meat and poultry, should be the primary regulatory agency for seafood safety.

Industry organizations and consumer groups have endorsed the concept of a mandatory seafood inspection program administered by USDA. At an October 17 hearing on this issue, the House Committee on Agriculture heard from representatives of both the National Fisheries Institute, an industry organization, and Public Voice for Food and Human Policy, a leading consumer group, who support this approach.

I urge my colleagues to join us in this effort to develop a workable, sensible seafood inspection program.

Mr. Speaker, I ask that a brief summary of the FISH Act of 1989 be included in the RECORD at this point:

MAJOR PROVISIONS OF THE FEDERAL INSPECTION FOR SEAFOOD HEALTHFULNESS ACT OF 1989

ESTABLISH A COMPREHENSIVE INSPECTION PROGRAM WITHIN USDA

Direct the Secretary of Agriculture to develop and administer a mandatory inspection program for seafood and seafood products modeled after the Federal Meat Inspection Act and the Poultry Products Inspection Act.

"Seafood" subject to inspection is defined as any aquatic plant or animal, including amphibians, or part thereof, whether from wild or cultured sources, capable of use as human food.

Base the inspection program on the Hazard Analysis Critical Control Point (HACCP) concept. Under HACCP, resources are focused on specific points in the processing and marketing of a food product where contamination is most likely to occur.

REGISTRATION REQUIREMENTS

Require vessels and establishments (handlers, processors, distributors, etc.) that process seafood or seafood product to apply for registration and meet standards established by the Secretary.

Require marking of each package of seafood with a registration number and an official USDA mark at every stage of processing on vessels or in establishments.

RECORD-KEEPING REQUIREMENTS

Establish record-keeping requirements by registrants deemed necessary by the Secretary to protect the public health.

LABELING REQUIREMENTS

Prior approval must be obtained from USDA for any labeling or package used for seafood or seafood product.

EXEMPTIONS

Vessels that harvest seafood, but do not process it, would be exempt under the bill, subject to the completion by the Secretaries of Agriculture and Commerce of a study to determine whether such an exemption would have an adverse impact on assuring the consumer a safe food supply, based on scientific principles. The bill requires the study to be completed in time to include harvesting vessels when the inspection program begins, if necessary.

Individuals who process fish exclusively for their own use, those who custom process seafood for the owner's use (e.g., fishing charters), retail stores or restaurants that sell normal retail quantities of seafood are exempted as determined by the Secretary, as well as other specified exemptions pertaining to vessels, seafood and other items.

STANDARDS AND INSPECTION OF IMPORTED SEAFOOD

Require imported seafood to meet the same inspection requirements as established by USDA for domestic product.

Direct the Secretary to inspect imported product to ensure that such standards are met.

The Secretary is to certify that each country which desires to export seafood to the United States has established a fish inspection program that is at least equal to that established for domestic seafood.

TREATMENT OF STATE SEAFOOD INSPECTION PROGRAMS

Permit states to establish their own seafood inspection programs for intrastate commerce, as long as the state program is at least equal to that established by USDA. States may not impose inspection requirements that are in addition to, or different from, those established by USDA.

PROTECTION OF PROCESSORS' RIGHTS

Entitles anyone who is adversely affected under the seafood inspection program to a written hearing and prompt and appropriate remedial action should it be deemed necessary.

ENFORCEMENT POWERS

Areas where unhealthful seafood can and may be harvested will be identified, and distribution of seafood harvested or sold from such areas will be restricted or prohibited.

Permit USDA on-site inspections of vessels and establishments registered to process seafood to ensure they meet health and safety standards established by the Secretary.

Provide USDA the authority to revoke or suspend a registration if the vessel or establishment fails to comply with program requirements.

CIVIL AND CRIMINAL PENALTIES

Establish civil and criminal penalties for violations of the inspection program. Civil penalties carry a fine of up to $10,000 per violation. Criminal penalties may include up to $10,000 in fines, or up to 3 years imprisonment, or both.

EDUCATION

Establish a national education program to encourage the safe handling and preparation of seafood.

WHISTLEBLOWER PROTECTION

Protect employees from firing or other discrimination by their employer resulting from actions taken in accordance with the Act.

PROGRAM FUNDING

Authorize such sums as necessary to carry out the program.

TIMETABLE FOR IMPLEMENTATION

Require USDA to develop regulations within one year after enactment, and regu-

lations must be in effect within two years after enactment.

SUPPORT OF THE CSO AND OCEAN DISCHARGE ABATEMENT ACT

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. MANTON. Mr. Speaker, the time has come for Congress to take strong and forthright action to prevent the further degradation of our Nation's estuarine, near coastal, and open ocean waters. One step we must take is to bring discharges from combined storm water and sanitary sewer systems under the regulatory framework of the Clean Water Act. The second step is to ensure the guidelines and regulations pertaining to section 403 discharges—discharges into ocean waters—are strengthened and properly enforced. Legislation I have offered, along with my good friend and colleague, Mr. LENT, would achieve these worthwhile goals.

H.R. 3120, the CSO and Ocean Discharge Abatement Act, consists of three titles designed to protect our coastal waters. Title I, the Estuarine Zone and Marine Waters Combined Sewer Overflow Control Act, establishes a national policy for identifying and controlling combined sewer overflows [CSO's], with the eventual goal of eliminating all dry weather discharges from such systems and minimizing wet weather discharges. The legislation establishes a strict time table for meeting these requirements and seeks to emphasize the importance of preventing further degradation of and mitigating past abuses to effected water bodies.

As many of my colleagues on the Merchant Marine and Fisheries Committee and the Public Works and Transportation Committee may remember, we received voluminous testimony during the past several years that indicates CSO's are a major problem which will require direction and money from the Federal Government. Only last week the Subcommittee on Fisheries and Wildlife Conservation and the Environment heard from several witnesses that CSO's and the pollution which results from these uncontrolled systems are a major source of the degradation of our marine waters.

Title II of the bill, the National Estuary Program Amendment Act, would require the Environmental Protection Agency to identify and report to the Congress on those estuaries of national significance where CSO's constitute a major source of pollution. The Congress has taken the farsighted approach of establishing the National Estuary Program to identify and protect these valuable waters. Therefore, it is important for us to determine what role CSO's may have in the degradation of our estuarine systems.

Title III of the bill, the Marine Pollution Discharge Abatement Act, is designed to improve and expand the scope of coverage of section 403 of the Clean Water Act. Section 403 relates to the establishment of permits for discharges of pollutants into ocean waters.

Mr. Speaker, last year the EPA testified that it really had no handle on these discharges, and was unable to identify the number and location of such discharges throughout the country, and did not know the quantity or quality of these discharges, or whether they are in compliance with existing guidelines and regulations. As my colleagues may recall, during consideration of the Ocean Dumping Ban Act last year, I offered an amendment in committee which required the EPA to report to Congress within 6 months of the date of enactment on all section 403 discharges. Unfortunately, nearly 1 year after the President signed this bill into law, we have still not heard from the administration. Apparently, this report, which was due in May, is working its way through the labyrinth of the Office of Management and Budget.

Mr. Speaker, I encourage my colleagues to examine H.R. 3120, and ask them to join me in cosponsoring this much needed legislation.

TISH AND GUIDO CIANCIOTTA: MR. AND MRS. GREENPOINT

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. SOLARZ. Mr. Speaker, the district I represent encompasses some of this Nation's most diverse and colorful ethnic neighborhoods. One such area which is especially known for its rich cultural flavor is the Greenpoint-Williamsburg community, located in the northernmost portion of my congressional district.

Contrary to popular belief, great neighborhoods don't just happen. They are most often the product of hard work and dedication on the part of community activists. In Greenpoint-Williamsburg such leadership and vision has been amply supplied over many years by my friends and constituents, Tish and Guido Cianciotta. It gives me great pleasure to rise today to pay tribute to these wonderful people who will be honored on November 2 at the Greenpoint YMCA's 1989 Citizens Recognition Dinner. I cannot think of two more worthy recipients of this award.

Lifelong residents of Greenpoint-Williamsburg, Tish and Guido recently celebrated their 35th wedding anniversary and are the proud parents of two lovely children, Gary and Dina. Tish spends her days—and many evenings—as an aide to Assemblyman Joe Lentol, and Guido is retired from the New York City Department of Sanitation where he was a union delegate for 15 years.

Tish and Guido are among those rare human beings whose lives are devoted to the betterment of their community—there has rarely been an issue of concern to Greenpoint-Williamsburg residents on which they have not left their mark.

Most notably, Tish and Guido have spearheaded the fight, spanning many years, to keep the Greenpoint Hospital from becoming a warehouse for the homeless. While the cause often seemed hopeless, Tish and Guido's resolve never faltered and, as a result, they were successful this summer in getting our persistent mayor to commit to reduce the number of residents from 1,000 to 250.

This is just one example of Tish and Guido's good work. Affiliated with nearly every major organization in Greenpoint-Williamsburg—including Concerned Citizens of Withers Street and Area Block Associations, the Greenpoint Renaissance Enterprise Corp., Community Board 1, the Seneca Club and, of course, the Greenpoint YMCA—Tish and Guido's accomplishments are well known. They devote an enormous amount of personal time to these and other community organizations and spend a majority of their evenings attending community meetings. Tish, a member of the board of directors at the "Y" since 1987, has supported youth programs there by soliciting contributions for the Y's annual Invest in Youth Campaign, by acting as spokesperson for the YMCA's Service to Youth, and by serving as chairperson of the program committee. All of this, of course, she has done with Guido at her side.

Tish and Guido have earned my most sincere admiration and deepest respect. Aside from being dedicated community servants, they are true friends and generous humanitarians.

Since Greenpoint-Williamsburg was incorporated into my congressional district following the reapportionment of 1982, Tish and Guido have gone out of their way to help me feel at home in the neighborhood. Besides being my companion at more than one hometown baseball game, Guido has spent numerous days escorting me through crowds and introducing me to his many friends and acquaintances in the neighborhood; and, to her credit, Tish has become like an honorary member of my staff, graciously staying one step ahead of me at many functions to record my escapades with her trusty camera.

In light of such exceptional records of achievement, I am delighted to salute Tish and Guido for their efforts. I have been privileged to know them for close to 10 years and to count on their wise counsel and effective assistance. I consider myself lucky to call them friends and look forward to working with them for many more years to improve Brooklyn.

THE SOCIAL SECURITY SOLVENCY PROTECTION ACT OF 1989

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. ROSTENKOWSKI. Mr. Speaker, today I am introducing H.R. 3505, the Social Security Solvency Protection Act of 1989. This bill would protect the solvency of the Old Age, Survivors, and Disability [OASDI] trust funds by requiring that legislation to increase Social Security benefits or reduce taxes include commensurate changes in Social Security spending and/or revenues. I am pleased that my colleagues Mr. JACOBS, who chairs the Social Security Subcommittee, Mr. PICKLE, Mr. GIBBONS, Mr. RANGEL, Mr. STARK, Mr. FORD of Tennessee, Mr. JENKINS, Mr. DOWNEY, Mr.

GUARINI, Mr. RUSSO, Mr. PEASE, Mr. MATSUI, Mr. ANTHONY, Mr. FLIPPO, Mr. DORGAN, Mrs. KENNELLY, Mr. DONNELLY, Mr. COYNE, Mr. ANDREWS, Mr. LEVIN of Michigan, Mr. MOODY, and Mr. CARDIN have joined me as original cosponsors of the proposal.

The impetus for H.R. 3505 is the growing sentiment among Members of Congress and the general public that the OASDI trust funds should be excluded from the Gramm-Rudman calculation of the Federal budget deficit. Proponents see this change as necessary because the large annual surpluses that are now accumulating in the trust funds serve to mask the true extent of the general fund deficit. These annual surpluses are the result of the Social Security Amendments of 1983, which restored the solvency of the system by expanding coverage, increasing trust fund revenues, and reducing certain current and future benefits. Given these surpluses, the zero deficit presently required in 1993 under Gramm-Rudman would actually represent a deficit of $90 to $100 billion in the general fund, offset by an annual social security surplus of the same amount.

Exclusion of the trust fund surpluses from Gramm-Rudman would give greater visibility to the true extent of the general fund deficit, a change which hopefully will aid in efforts to substantially reduce the Federal budget deficit. However, the exclusion would also mean that proposed changes in social security benefits and payroll taxes would have less public visibility. This loss of visibility could give rise to a relaxation of Social Security budgetary discipline, threatening the solvency of the system.

To prevent this unfortunate result from occurring, any legislation to exclude the trust funds from the Gramm-Rudman calculation should be accompanied by additional protections that assure continuing Social Security budgetary discipline. The bill I am introducing today, H.R. 3505, is intended to meet this objective. It would establish a point of order against any bill that increases Social Security benefits or decreases payroll taxes without providing a commensurate change in expenditures and/or revenues. A de minimis exception is provided for bills with a budgetary effect of less than $100 million over 5 years. The point of order could be waived by the Rules Committee in the House or by a super majority of 60 votes in the Senate.

H.R. 3505 would also require the OASDI Board of Trustees to report annually to Congress on whether the trust funds are in close actuarial balance, as determined by the trustees.

H.R. 3505 embodies a responsible approach to assuring continuing budgetary discipline in Social Security taxation and spending. I introduce it with the hope that it will stimulate discussion of this important issue, and I welcome suggestions for alternative means of assuring that the Social Security system will continue to be able to meet its future obligations.

Mr. Speaker, the Social Security Subcommittee of the Committee on Ways and Means will hold a hearing on H.R. 3505 on Thursday, November 2, 1989, beginning at 10 a.m. in room B-318 of the Rayburn House Office Building.

FEDERAL INSPECTION FOR SEAFOOD HEALTHFULNESS ACT OF 1989

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. STENHOLM. Mr. Speaker, I am pleased to join several of my colleagues, including the distinguished chairman of the House Committee on Agriculture, Congressman E (KIKA) DE LA GARZA, and the distinguished chairman of the House Committee on Merchant Marine and Fisheries, Congressman WALTER B. JONES, in introducing the Federal Inspection for Seafood Healthfulness Act of 1989.

Over the years, the House Committee on Agriculture has garnered great praise for its courage and commitment in exercising both its oversight and legislative responsibilities in the highly complex areas of food safety and public health policy.

Any debate as to whether beef, chicken or seafood causes the most human illness or which currently has the highest incidence rates is not useful. All foods of animal origin and many of plant origin, if consumed raw or unprocessed, have the potential to cause human illness. Surely, we need to continue the search for methods to improve our ability to detect contamination and problem areas. It is clear, however, that the time has come for consideration of the steps needed to ensure the safety of seafood available for public consumption. This complex issue deserves ample study and full debate.

Seafood is virtually the only flesh food in the United States that is not processed under a mandatory Government inspection scheme. Individuals in industry, government, science and in the consumer sector all agree there is need for improvement—and there has been a lot of momentum recently toward legislating an effective program. Many believe the establishment of a mandatory seafood inspection program provides the only way that consumers can be assured of obtaining the same quality products at the fish counter that they now have at the meat market and in the dairy case.

The harvesting and processing of edible fish products is an important business in this country. In 1986, processed seafood items, domestic and imported, were valued at more than $4.9 billion. A recent study conducted by the National Fisheries Education and Research Foundation shows that direct, indirect and induced economic impacts attributable to fish and seafood exceed $80 billion annually. The study shows that consumers pay about $30 billion annually for fish and seafood with about two-thirds being consumed in restaurants and other food service establishments. About 3,000 species of fish and shellfish (10 percent of the roughly 30,000 species known to exist) have significant commercial value. Most of the 129,800 commercial fishing vessels and/or many of the estimated 1,700 processing plants are small, geographically remote, and family-owned.

U.S. landings of edible fish and shellfish rose 15 percent from 1980 to 4.6 billion pounds in 1988. Pollock landings have grown more than 1.1 billion pounds in the last 2 years. Total catfish processed in the United States during 1989 could reach 340 million pounds. Furthermore, global acquaculture production has increased significantly over the past 20 years and is estimated today to be as much as 21 billion pounds. Total U.S. production is now estimated to be almost 400 million pounds, accounting for about 11 percent of the total edibile production of fish and shellfish in this country.

It is important to note that even though dollar sales were up 5 percent, seafood consumption slipped to 15 pounds a person from 15.4 pounds in 1987. Before that, per capita consumption had risen steadily from 12.3 pounds in 1982. While high prices are partly to blame, the drop can be linked equally to safety questions.

Among other factors, trade and marketing concerns are spurring interest in fish inspection. Seafood industry representatives say they believe that a more intensive seafood monitoring system would improve consumer confidence in their products and encourage sales, thereby putting them on a par with meat and poultry, their primary competitors. Under a mandatory scheme, the "honest" segment of the industry would benefit from a likely reduction in the incidence of economic fraud committed by competitors using unacceptable processing and labeling methods. To be sure, any inspection program should not place a financial burden on the resources of certian small producers, all of which tend to be vulnerable to increased costs and fluctuations in sales.

Because the United States is a major producer, importer, and exporter of fish and seafood, any actions taken regarding a national inspection program could have a significant effect on domestic sales and international trade in seafood products. An inspection program that is not cost effective and does not serve to improve the overall safety and quality of seafood products could adversely affect domestic production capability and could serve as an impediment to foreign trade.

The extent to which the consumption of seafood poses a serious threat to public health is unclear, at best. While a variety of State and Federal agencies gather data on food related illnesses, these data are incomplete, inconsistent and subject to question. Because there is no way to estimate seafood illnesses in those States with little or no reporting and there is no way to calibrate the national data to take this fact into account, the natinal statistics are therefore suspect.

There are 128,000 U.S. vessels involved in fish harvesting. In addition, the seasons of production vary. Sixty-three percent of U.S. consumption is made up of imports of seafood from over 120 countries with varying degrees of seafood inspection competence. Currently, an average of 1,200 seafood establishments out of a total of 4,000 are inspected annually at a cost to the Federal Government of approximately $5 million. Today, approximately 24 States classify areas in which shellfish can be harvested, patrol illegal harvesting and oversee the sanitation of shellfish dealers. There have been repeated concerns with nonconformity, however. According to a 1988

FDA report on State shellfish sanitation programs, nine States—which produce over half the U.S. shellfish harvest—had major deficiencies of public health significance.

The lack of a single, unified Federal seafood inspection program is very real. The Food and Drug Administration [FDA] currently samples less than 1 percent of domestic seafood and only 3 percent of imported seafood products. A voluntary seafood inspection program within the National Oceanic and Atmospheric Administration [NOAA] covers only 11 percent of the seafood consumed in the United States. Coastal States hire State inspectors to monitor and inspect seafood establishments in addition to sampling fish products for contaminants.

Growing public awareness and concerns about seafood contamination have raised questions about the adequacy of current programs and prompted calls for a mandatory fish inspection program comparable to those for meat and poultry. Even the seafood processing industry, which has historically been skeptical about the need for inspection, has concluded that such a system is needed to boost consumer confidence.

Since 1907, the Department of Agriculture [USDA] has inspected all meat products, and since 1956 all poultry products sold in the United States through interstate and foreign commerce. Therefore, the experience of incorporating and administering a new inspection program would not be new to USDA.

The USDA has established network of human and physical resources and is effectively conducting the Nation's meat and poultry inspection system. More specifically, the Food Safety and Inspection Service [FSIS] has the administrative structure, trained workforce resources, laboratory capabilities, prior label approval requirements, information network, training facilities, compliance systems, import/export network, and scientific orientation that should make a mandatory seafood inspection program viable and effective. Most importantly, building on existing USDA structure means cost savings and faster start up.

A mandatory Federal fish and seafood inspection program would require interaction with those States that currently have seafood inspection programs. FSIS have invaluable experience in assuming, merging or sharing the responsibilities of inspection with State meat and poultry programs.

Today, USDA has in place a strong import/export system for meat and poultry that utilizes foreign country approvals and onsite monitoring of foreign inspection programs. The fish industry is heavily trade dependent, with 60 to 70 percent of fish and fish products imported, and 30 to 40 percent of the U.S. catch exported. There are approximately 40 agricultural attaches and counselors in different countries that USDA utlizes to facilitate trade.

Building on the existing meat and poultry inspection program structure would provide a faster start up and extensive cost-savings for a fish and seafood inspection program. As I indicated previously, FSIS' field personnel, laboratories, training facility, labeling and compliance programs and trade enhancement networks are already in place.

With an 83-year record of leadership on meat and poultry inspection, I believe USDA would be in the best position to develop and implement a consumer protection program for fish and seafood inspection.

The bill that we are introducing today is bipartisan and includes representatives of coastal States, which have a strong, direct interest in the issue. Under the bill, the Department of Agriculture assumes the massive responsibility for a Federal fish inspection program. The program is funded directly by the Federal Government as a public health and safety program, and not by industry user fees. Moreover, the program is based on the hazard analysis critical control point [HACCP] concept, so that any regulations will be based on reasonable, scientific assessments.

The use of HACCP as opposed to traditional continuous inspection offers a regulatory food protection system based on sound modern technology that can supply consumers with the safe, wholesome, and properly labeled fishery products that they expect. HACCP offers the means for industry to use its knowledge and experience to help design and implement a system by which food safety, wholesomeness, and economic fraud issues can be resolved to the satisfaction of the consumer. Design of such a system necessarily involves participation by the affected industry. This system has proved most effective when accompanied by focused Federal monitoring of in-plant HACCP systems as evidenced by the success of the use of this system in USDA and the food processing industry.

Certainly, there are a variety of issues that need to be addressed when deciding how to implement a seafood inspection program. Consideration should be given to whether seafood inspection system should: First, be based upon HACCP principles and tailored to the needs of particular fish commodities; second, cover problems from the growing waters to the marketplace; third, prohibit or restrict through fisheries management plans, where appropriate, harvesting of fish from certain areas to prevent the processing and marketing of unsafe fishery products; fourth, provide for a system of registration and certification of plants and vessels for basic sanitation; fifth, effectively address issues of economic fraud; sixth, provide similar levels of assurance for fish and seafood products of domestic and foreign origin; and seventh, provide necessary certification of exported products to facilitate trade.

Let me be quick to point out that seafood differs from land-grown protein in that first, there is little or no control on supply; second, there is unusual diversity in the harvest, in the product forms, and in the industry itself; third, seafoods are more perishable; fourth, quality evaluations are more subjective; and fifth, the recreational origin of some seafoods complicates regulatory efforts.

Yes, seafood is somewhat unique when compared to other muscle protein foods. When a consumer orders steak, it seldom if ever crosses the mind of the consumer to ask from what breed of cattle their purchase was derived. Their primary concern is that the steak be cooked to their specifications and that it be acceptable in quality and taste. With respect to seafoods, however, the situation is entirely different, consumers have definite preferences for specific fish. Why? Fish look different and taste different because they are different. While this statement is obvious, its implications for establishment of an effective HACCP based inspection program should be taken into consideration.

Whatever inspection program is created, it must be reasonable and take into account the unique features and needs of different sectors of the seafood industry. I recognize that the move to more intense regulation will not be simple or painless. But, the record shows that the U.S. fish and seafood industry has matured greatly since the subject of inspection was broached more than 20 years ago. In fact, the very introduction of legislation in the past caused a reexamination of practices in the industry with resulting improvements in quality and wholesomeness. These improvements have contributed to the growth the industry has achieved. While inherent differences in the biology, harvest, and processing of fishery products necessitate a type of inspection system that is different from that or red meat and poulty, I believe that a more comprehensive and modernized inspection program merits prompt examination and development.

Mr. Speaker, in concluding my remarks, I encourage all my colleagues to support this important legislation.

TRIBUTE TO THE LATE MELVIN H. PELFREY

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Ms. KAPTUR. Mr. Speaker, I ask that the following remarks be inserted in the RECORD as a tribute to Melvin H. Pelfrey, Great Lakes executive vice president of District 2 Marine Engineers Beneficial Association-Associated Maritime Officers and president of the AFL–CIO Maritime Trades Department's Toledo Port Council, who passed away on October 17, 1989. These remarks record the longstanding affection and respect of District 2 MEBA–AMO president Raymond T. McKay and all District 2 members for Mel Pelfrey and for his tireless efforts on behalf of our Nation's seafarers:

Melvin H. Pelfrey, the seafarer who brought dignity to the U.S. Great Lakes shipboard labor force, died of a heart attack on October 17. He was 59.

Pelfrey, Great Lakes executive vice president of District 2 Marine Engineers Beneficial Association-Associated Maritime Officers and president of the AFL–CIO Maritime Trades Department's Toledo Port Council, set new living and working standards for lakes seamen in a career crossing 35 years.

Pelfrey, a marine engineer and the son of an Ohio steelworker, sailed the former U.S. Steel Corp's. lakes iron ore carriers and led successful union organizing drives among licensed officers and stewards in the U.S. Steel, Bethlehem Steel Corp., and Inland Steel Co. fleets, as well as in the independent

bulk fleets serving steelmakers and utilities in the industrial Midwest.

Known for a low-keyed, easy manner that belied a tough but responsible negotiating style, Pelfrey was credited with steadily improving the earned wages, medical benefits, and pension packages of licensed lakes officers and their families.

But Pelfrey was most proud of his progressive social accomplishments—the first program of guaranteed time off in the lakes fleets, consideration of the human factor in lakes winter navigation, improved safety requirements for lakes ships, and unique training and upgrading opportunities for licensed and unlicensed lakes seafarers.

A political activist, Pelfrey worked with local, State, and Federal officials and industry, labor, and civic leaders to promote United States-flag lakes shipping in national maritime policy development, fair trade for beleagured domestic steel firms, increased American-flag ship participation in the rich United States-Canada interlake and crosslake bulk cargo trade, and regular United States-flag ocean service in Great Lakes ports through the St. Lawrence Seaway. At his death, he was a leading strategist in the political fight for construction of a new large lock at the vital Soo Locks complex linking Lakes Superior and Huron at Sault Ste. Marie, MI.

Pelfrey served successive terms as chairman of the Great Lakes Task Force, a government-labor-industry coalition promoting the industries of the eight-State Great Lakes region, and as a vice president of the National Marine Engineers Beneficial Association.

A resident of Maumee, OH, Pelfrey was a member of the International Ship Masters Association, the International Trade Association, the Toledo Press Club, and the Toledo-Lucas County Labor-Management Committee. He is survived by his wife, Shirley, and three children, Terry, Pamela, and Kim.

District 2 MEBA–AMO president Raymond T. McKay said: "Mel Pelfrey was a good man, a tough man, He was the representative of Great Lakes maritime labor, sought for advice by everyone with a stake in the future of lakes shipping. His work will benefit generations of seafarers on the northern coast. I will miss him very much."

TEACHING OUR CHILDREN TO READ

HON. JOSEPH E. BRENNAN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 1989

Mr. BRENNAN. Mr. Speaker, the fact that 30 million American adults have serious problems with literacy is indeed cause for alarm. These problems—including the inability to read, write, solve fundamental problems, and complete basic arithmetic computations—create barriers to employment, social and health benefits, and recreational and community activities. Mr. Speaker, these problems demand immediate attention for the sake of our Nation's economic, political, and social prosperity.

Charlotte T. Iserbyt, of my home State of Maine, writes, lectures and consults widely on educational issues and reading programs in particular. I would like to share her analysis of our efforts to teach our Nation's children to read and I urge my colleagues to consider her pertinent remarks throughout their efforts to combat illiteracy:

[From the Camden Herald, July 6, 1989]

READING: THE CIVIL-RIGHTS ISSUE OF THE 1990'S

(By Charlotte T. Iserbyt)

Is the failure to teach our children to read and write not the most important civil-rights issue facing our nation today?

How can our children enjoy the fruits of freedom if they are illiterate? Their ability to express themselves, defend themselves, support themselves and their families, to be independent human beings unable to be manipulated by others, all depend upon their ability to read and write.

Shouldn't we attack this civil-rights problem with at least the same vigor we attacked racial discrimination in our society?

The whole-language/look-say method of reading instruction must be stopped dead in its tracks if we truly want to cure the nation's illiteracy problems.

Alarming information has come to light that suggests that the federal government has given the discredited whole-language/look-say method of reading instruction its stamp of approval, thereby taking the most important *first* step toward a national curriculum, since reading is the foundation of literacy.

Professor Marie Carbo, a leading proponent of whole language, told teachers at a conference in Portland last fall that "new tests better suited to whole-language teaching methods are being introduced into the U.S. Department of Education's National Assessment of Educational Progress [NAEP]." Professor Carbo was referring to the expanded NAEP, which will make possible large-scale assessments (national achievement tests in various disciplines) and provide state-by-state comparative data.

That the administrators of the NAEP decided to, in effect, mandate whole-language reading instruction to the exclusion of all other methods of instruction is shocking, especially in light of important "teach to the test" criticism of the recently expanded NAEP by highly qualified educators. A New York Times article dated Dec. 27, 1987, entitled "U.S. Testing of Students Raises Growing Debate," quotes Professor George F. Madeus, director of the Center for the Study of Testing, Evaluation and Educational Policy at Boston College: "Whoever controls those powerful tests will control to a large measure what is taught and learned in American schools." Bernard R. Gifford, dean of education at the University of California at Berkeley and director of the National Commission on Testing and Public Policy, is reported as saying, "If you have national standardized tests, you will end up with a national standardized curriculum."

Chester Finn, assistant secretary in the U.S. Department of Education, in an article entitled "Advocating an Expanded NAEP" (Education Week, Nov. 18, 1987), said, "There is no chance that NAEP will yield a 'national curriculum.' I don't want a national curriculum . . . Nor does Secretary Bennett. But there is no reason to fear that an expanded NAEP would bring one about."

Two years later, Dr. Finn ate his words by telling business leaders that he favored the development of a "national curriculum."

The reason for our nation's illiteracy (60 million Americans cannot read their local newspaper) is that the social engineers and so-called reading specialists in the International Reading Association have, over the past 60 years, been busily at work changing the method of reading instruction from the tried-and-true intensive phonics to look-say/whole language.

Does not the NAEP reading test's alignment to the discredited whole-language reading instruction spell disaster for any hoped-for improvement in our nation's schools and the resulting ability to compete internationally?

The whole-language method of reading being incorporated into the NAEP reading test will replace the present look-say system, but it unfortunately continues the look-say theory by teaching children to read English as a picture-writing system, similar to the Chinese. As far as children know, letters are simply a bunch of squiggles with no particular meaning whatever, arranged in some arbitrary manner to make symbols of meaning, like Chinese ideographs.

Children do not hear the sounds but look at the word or sentence as a picture puzzle, trying to figure out what it "means," and on this basis they are told to guess the meaning. Once trained to treat reading as a guessing-game, children read inaccurately, often substituting words ("pony" for "horse," "daddy" for "father," "Solomon" for "salami"). Children are taught that letter order is not significant as they search for meaning. They will mutilate words (read "delicacy" for "delinquency") or telescope words (read "testing the iron" for "testing the heat of the iron").

This method of teaching reading produces the well-known symptoms of dyslexia, that dreaded reading disability affecting millions of Americans that was nonexistent prior to the introduction of look-say reading instruction in the 1930s.

On the other hand, the intensive phonics approach used prior to 1930 gave us a highly literate population, possibly the most literate in the world.

With true phonics, the child is first taught to recognize the letters of the alphabet and when drilled in the letter sounds, usually in consonant-vowel combinations, so that the child develops an automatic association between letters and sounds. When that is accomplished, the child is given words, sentences and stories to read. To master an alphabetic writing system and become a fluent phonetic reader, the child must develop this automatic association between letters and sounds.

In response to declining test scores and the outcry from parents, taxpayers, corporation presidents and students themselves, the demolition experts who brought us look-say and new math have now jumped on the whole-language bandwagon, ready to hammer the last nail into the literacy/civil-rights coffin and to assure that no student will slip through their illiteracy net. (The attorney for Raymond Poremski, in a lawsuit filed against Poremski's school for his inability to read his high school diploma, argued in district court in Detroit that "school officials violated Poremski's civil rights by failing to make him a literate citizen.")

The Department of Education's alignment of a national reading examination to one specific method of teaching reading will assure that our children will be unable to function as responsible citizens. The educational establishment is already reacting to this unwritten mandate, and the whole-language illiteracy virus is sweeping across the

nation, with many teachers and colleges, including some in Maine, and some states (Arizona), already mandating its use.

Why are desperate parents finding it absolutely impossible to get rid of whole-language reading instruction?

Because, unbeknownst to them, the deindustrialization of America, with its accompanying transfer of millions of American jobs overseas, has allowed the social-change agents to redefine literacy and to call for new teaching methods, such as whole language and the use of elementary students of calculators, better suited to the needs of an information/service-oriented society.

In a 1981 speech before the top 52 executives in Northern Telecom's worldwide corporation, Harvard professor Anthony Oettinger said: "The present 'traditional' concept of literacy has to do with the ability to read and write. But the real question that confronts us today is: How do we help citizens function well in their society? How can they acquire the skills necessary to solve their problems? Do we really want to teach people to do a lot of sums or write in 'a fine round hand' when they have a five-dollar hand-held calculator or a word processor to work with? Or do we really have to have everybody literate—writing and reading in the traditional sense—when we have the means through our technology to achieve a new flowering of oral communication? It is the traditional idea that says certain forms of communication, such as comic books, are 'bad.' But in the modern context of functionalism they may not be all that bad."

Two well-known reading researchers, Harman and Sticht, said in 1987, "Many companies have moved operations to places with cheap, relatively poorly educated labor. What may be crucial, they say, is the dependability of a labor force and how well it can be manged and trained—not its general educational level, although a small cadre of highly educated creative people is essential to innovation and growth. Ending discrimination and changing values are probably more important than reading and moving low-income families into the middle class."

More recently, an article by Bud Sargent in the Marquette, Mich., Mining Journal, entitled "Reading Instruction Redefined," sheds light on the reasons educators refuse to budge on the whole-language issue. Sargent quotes educators at a reading conference in Michigan last February as saying, "Teaching methods will be specifically addressed by the Michigan Education Assessment administered to all fourth-, seventh- and tenth-graders in the state. It's important that teachers and administrators know that the test this fall will not be the same one they've seen in the past."

Since most, if not all, states now have assessments (tests) similar to Michigan's, developed with advice and partial funding from the U.S. Department of Education, it is likely that teachers nationwide are being given the same advice, so that their students will do well on the test and their schools will look good on the nationally publicized wall charts. Of perhaps even more importance, however, from the standpoint of the de-emphasis of basic skills and invasion of privacy, are the following comments made by educators:

"We're looking at the background of students, individual characteristics, the textbooks, everything." In the past reading was taught through learning sounds, letters and groups that letters make. Now the new approach takes into consideration the student's life, interest, everything . . . information on who the students are, their ages, family backgrounds, including income levels."

Professor Marie Carbo, in a Portland lecture to Maine teachers, verified Sargent's information: "State tests in Michigan and Illinois also will be adapted to whole language . . . Previous reading tests have measured specific skills such as finding the main idea and supporting details. The new Michigan and Illinois tests focus instead on students' overall understanding of the critical concepts and ideas in a text."

The "critical concepts and ideas" in the Michigan whole-language reading texts which will probably be reflected in the new NAEP reading test, are controversial enough for the Michigan Department of Education to have had hysterics when the parent of a child taking the reading test got hold of a copy. The parents, both public school teachers, wrote a letter, which they circulated all over Michigan. Their concerns are:

1. Types of questions: value-related and personal evaluations.
2. Personal-opinion answer: no right or wrong.
3. Isolated questions: not asked in relation to particular stories.
4. Ineffective reading test: doesn't test basic skills.
5. Testing of children's psychological areas without parental consent.
6. Confusion: children do not know what is expected of them.

Their letter concludes, "As educators and parents of four children, we implore you to consider assisting in a legal battle against the state of Michigan's experimental test."

How long will we wait to demand action to stop our nation's slide into totalitarian illiteracy? Why don't our media-education moguls, who seem almost to delight in parading uneducated America public school students across our TV screens for all the world to see, ever discuss the real cause of illitracy: the use of look-say/whole-language reading instruction?

A wall of silence, as potentially deadly as the Berlin Wall (if you cannot read, you are not free) has been erected, blocking out the views of prointensive phonics educators, a few of which follow:

Professor Jeanne Chall, who heads Harvard's remedial-reading laboratory, calls the move toward whole language "shocking" and says, "There has been little research to document the method's success in this country. Children are coming into the lab who were in whole-language classes."

Marian Hinds, president of the Reading Reform Foundation in Tacoma, Wash., says, "The professors of reading, aided and abetted by the International Reading Association, are in the process of foisting on American primary schools another form of educational malpractice [whole language] that will guarantee the continued intellectual crippling of American children for years to come."

Samuel Blumenfeld, reading teacher and author of numerous books on American education, says, "Whole-language proponents claim that they teach reading for 'meaning.' What they actually teach is reading for very limited meaning, for it is impossible to develop an extensive, complex reading vocabulary via that method. Once you've mastered the alphabetic system, everything in the library is at your dispsoal. How is it possible that after almost 60 years of failure, such utter nonsense as look-say and whole language can still command the fervent allegiance of so many supposedly intelligent teachers?"

Dr. Kenneth Lexier, former assistant superintendent in a large school district in Maine, says, "The almost total avoidance of the research supporting a code emphasis [intensive phonics] in beginning reading instruction may be one of the most outrageous injustices perpetuated by our preservice training institutions. From small state colleges to major universities, the bias is clear and undeniable—phonics is out and whole language is in . . . this is a conspiracy deserving of a Washington Post expose."

Sigfried Engelmann, a researcher at the University of Oregon, says, "The whole-language argument is a study in fantasy. The argument is simple-minded, as best. Yet in states like California, Washington and Arizona, whole language is the big thing, and the approach is actually treated as a serious approach, even though it doesn't have a shred of evidence to support the notion that it works well, let alone that it is the 'best' approach."

Our nation continues to be a "nation at risk" mainly because we have increasingly become a "nation of sheep," afraid to take a stand for our children and nation in opposition to the mammoth educational establishment which thrives financially on the serious problems associated with illiteracy. The more illiterates, the more social problems and crime. The more social problems and crime, the more courses in drug, alcohol, suicide and sex education and, of course, the greater the need for more teachers and counselors to deal, usually unsuccessfully, with those problems. (Note the push for tax-supported school-based clinics and day-care.)

Can we any longer trust or afford the so-called educational experts and social engineers to solve the problems they caused? According to Education Secretary Lauro Cavazos, the United States will invest more than $199 billion in precollegiate education this year. He said in regard to the Education Department's sixth annual report card on U.S. schools:

"We are already spending more per student than our major foreign competitors, Japan and Germany. And yet our students consistently fall behind the competition in comparative testing. Looking at virtually every qualitative measure—college entrance exams, graduation rates, the National Assessment of Educational Progress and international assessments—we see our students performing minimally, lacking the advanced skills needed to succeed. This deplorable fact further underscores my belief that money alone is not the answer to our education deficit. Since 1982, we've seen per pupil spending rise from $3,165 to $3,977, a 26 percent increase. And that is in real terms, adjusted for inflation. We must do better or perish as the nation we know today."

Write Mrs. Barbara Bush, c/o The White House, and tell her you support her efforts to wipe out our illiteracy. Ask her to have Secretary Cavazos authorize a controlled experiment whereby the following three reading instruction methods can be fairly tested: Designate 10 schools to use intensive phonics, 10 to use a regular basal reading program, and 10 to use whole language. In that way, we shall be able to determine once and for all which method is the most effective.

Write your congressmen and ask them to put a hold on the new NAEP reading test, scheduled for administration in 1990, pending an investigation of its alignment to a

single discredited method of reading instruction: whole language. Tell them that such an investigation must include the views of prominent educators who support intensive phonics reading instruction.

Nonpartisan citizen action on this extremely important civil rights issue is vital to the survival of our free society.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, October 24, 1989, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 25

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings and cable carriage of local broadcast signals.
SR-253

9:30 a.m.
Labor and Human Resources
To resume hearings to examine treatment and prevention measures relating to the drug crisis.
SD-430

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on the condition of the banking system.
SD-538

2:00 p.m.
Agriculture, Nutrition, and Forestry
To hold joint hearings with the Committee on Energy and Natural Resources on issues relating to the national forest planning process as provided in the National Forest Management Act of 1976.
SR-332

Energy and Natural Resources
To hold joint hearings with the Committee on Agriculture, Nutrition, and Forestry on issues relating to the national forest planning process as provided in the National Forest Management Act of 1976.
SR-332

Foreign Relations
To hold hearings on the nomination of R. James Woolsey, of Maryland, for the rank of Ambassador during his tenure of service as U.S. Representative to the Negotiation on Conventional Armed Forces in Europe (CFE).
SD-419

2:30 p.m.
Judiciary
Courts and Administrative Practice Subcommittee
To hold hearings on S. 590, to prohibit injunctive relief or an award of damages against a judicial officer for action taken in a judicial capacity.
SD-226

OCTOBER 26

9:15 a.m.
Judiciary
Business meeting, to consider pending calendar business.
SD-226

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study, on activities of the National Weather Service, National Oceanic and Atmospheric Administration, Department of Commerce.
SR-253

Energy and Natural Resources
To resume hearings on S. 324, to establish a national energy policy to reduce global warming, focusing on provisions relating to the Public Utility Regulatory Policy Act contained in Subtitle B of Title III.
SD-366

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 648, to grant additional authorities to the Securities and Exchange Commission concerning emergency actions, large trade reporting, coordinated clearing mechanisms and other practices in the securities markets, and other related issues.
SD-538

Budget
To resume joint hearings with the Committee on Governmental Affairs on budget reform issues.
SH-216

Environment and Public Works
Environmental Protection Subcommittee
Business meeting, to markup S. 1630, to provide for attainment and maintenance of health protective national ambient air quality standards.
SD-406

Governmental Affairs
To resume joint hearings with the Committee on Budget on budget reform issues.
SH-216

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
Business meeting, to markup S. 1109, to extend through fiscal year 1995 the authorization of the appropriations for programs and activities contained in the Carl D. Perkins Vocational Education Act, and S. 1310, to eliminate illiteracy by the year 2000, and to strengthen and coordinate literacy programs.
SD-430

2:00 p.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings on proposed legislation to promote and encourage travel in the U.S., and to review the National Tourism Policy Act (P.L. 97-63).
SR-253

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

3:00 p.m.
Conferees
On H.R. 1487, to authorize appropriations for fiscal years 1990 and 1991 for the Department of State.
2141 Rayburn Building

OCTOBER 27

9:30 a.m.
Labor and Human Resources
To hold hearings on the nomination of Debra R. Bowland, of Louisiana, to be the Administrator of the Wage and Hour Division, Department of Labor.
SD-430

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of James B. Wyngaarden, of North Carolina, and J. Thomas Ratchford, of Virginia, both to be Associate Directors of the Office of Science and Technology Policy.
SR-253

Foreign Relations
To hold hearings on the nominations of Smith Hempstone, Jr., of Maryland, to be Ambassador to the Republic of Kenya, Francis T. McNamara, of California, to be Ambassador to the Republic of Cape Verde, and Keith L. Wauchope, of Virginia, to be Ambassador to the Gabonese Republic and to serve concurrently as Abassador to the Democratic Republic of Sao Tome and Principe.
SD-419

Governmental Affairs
To hold hearings on the nominations of Kathleen Day Koch, of Virginia, to be General Counsel, and Jean McKee, of the District of Columbia, Tony Armendariz, of Texas, and Pamela Talkin, of California, each to be a Member, all of the Federal Labor Relations Authority, Ronald G. Hein, to be U.S. Marshal for the Superior Court of the District of Columbia, and Bill R. Phillips, of Texas, to be Deputy Director, Office of Personnel Management.
SD-342

Select on Indian Affairs
To hold oversight hearings to examine Indian education programs.
SR-485

1:00 p.m.
Finance
International Trade Subcommittee
To hold hearings on H.R. 3275, to extend the termination date until March 31, 1992, for enforcement of bilateral steel arrangements, and to implement the President's steel trade liberalization program.
SD-215

OCTOBER 31

9:30 a.m.
Energy and Natural Resources
To resume hearings on the Department of Energy's efforts to improve the op-

erations and management of its atomic energy defense activities and its efforts to restore public credibility in the Department's ability to operate its facilities in a safe and environmentally sound manner, and on S. 972, S. 1304, and other related measures with respect to the environment, safety, and health aspects of operation of the Department of Energy's nuclear facilities.
SD-366

Governmental Affairs
To hold hearings on trade and technology issues.
SD-342

10:00 a.m.
Foreign Relations
To hold open and closed hearings on S. 1227, to restrict proliferation of missiles and missile equipment and technology, and S. 1421, to provide for sanctions on persons who export, transfer, or otherwise engage in the trade of certain items in violation of laws and regulations implementing the Military Technology Control Regime (MTCR).
SD-419

NOVEMBER 1

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on proposed legislation authorizing funds for the National Telecommunications and Information Administration, Department of Commerce.
SD-562

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 1741, to increase competition among commercial air carriers at the Nation's major airports.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Governmental Affairs
Government Information and Regulation Subcommittee
To resume hearings to examine the quality of U.S. education information.
SD-342

10:00 a.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold oversight hearings on programs administered by the U.S. and Foreign Commercial Service.
SR-253

NOVEMBER 2

9:30 a.m.
Energy and Natural Resources
To hold hearings on the findings of the study conducted by the Monitored Retrievable Storage (MRS) Commission and the Department of Energy's plans for including MRS in the waste management system.
SD-366

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on wheat production.
SR-332

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings on Indian health facilities.
SR-485

NOVEMBER 3

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider the nomination of Martin L. Allday, of Texas, to be a Member of the Federal Energy Regulatory Commission, Department of Energy.
SD-366

10:00 a.m.
Labor and Human Resources
To hold hearings on S. 1425, to prescribe nutrition labeling for foods.
SD-428

1:00 p.m.
Finance
International Trade Subcommittee
To hold hearings on proposed legislation to extend international trading rules to agriculture in the Uruguay Round of General Agreement on Tariffs and Trade (GATT) negotiations.
SD-215

NOVEMBER 6

2:00 p.m.
Finance
International Trade Subcommittee
To hold hearings on the U.S.-Japan Structural Impediments Initiative (SII).
SD-215

NOVEMBER 7

9:30 a.m.
Energy and Natural Resources
To resume hearings on S. 324, to establish a national energy policy to reduce global warming, focusing on provisions relating to the Public Utility Regulatory Policy Act contained in Subtitle B of Title III.
SD-366

2:00 p.m.
Finance
International Trade Subcommittee
To resume hearings on the U.S.-Japan Structural Impediment Initiative (SII).
SD-215

NOVEMBER 8

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 891, to provide for the modernization of testing of consumer products which contain hazardous or toxic substances.
SR-253

NOVEMBER 9

9:30 a.m.
Energy and Natural Resources
To hold hearings on a proposed committee amendment to S. 406, Competitive Wholesale Electric Generation Act.
SD-366

Governmental Affairs
To hold hearings to examine the current status of science and math education.
SD-342

NOVEMBER 15

9:30 a.m.
Veterans' Affairs
To hold hearings on health care for rural veterans.
SR-418

NOVEMBER 16

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold oversight hearings on the implementation of the Cable Telecommunications Act (P.L. 98-549).
SR-253

NOVEMBER 17

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To continue oversight hearings on the implementation of the Cable Telecommunications Act (P.L. 98-549).
SR-253

NOVEMBER 21

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 1236, to provide for a waiting period before the sale, delivery, or transfer of a handgun.
SD-226

CANCELLATIONS

OCTOBER 27

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 1236, to require a waiting period and certain documentation prior to the sale, delivery, or transfer of a handgun.
SD-226

POSTPONEMENTS

OCTOBER 26

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. Agricultural programs, focusing on cotton.
SR-332

HOUSE OF REPRESENTATIVES—*Tuesday, October 24, 1989*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we think on Your good gifts, O God, we remember with gratitude the gifts of beauty and joy and peace that we see in the lives of people from many places and differing backgrounds. Open our hearts, gracious God, to see in the lives of people about us, the values of goodness, selflessness, sharing, and kindness that we may take their graces even into our own lives. This is our humble prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MONTGOMERY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. MONTGOMERY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 296, nays 105, not voting 31, as follows:

[Roll No. 298]

YEAS—296

Ackerman	Boucher	Cooper
Akaka	Boxer	Costello
Alexander	Brennan	Coyne
Anderson	Broomfield	Crockett
Andrews	Browder	Darden
Annunzio	Bruce	Davis
Anthony	Bryant	de la Garza
Applegate	Bustamante	DeFazio
Archer	Byron	Dellums
Aspin	Callahan	Derrick
Barnard	Campbell (CA)	Dicks
Bartlett	Campbell (CO)	Dingell
Bates	Cardin	Dixon
Beilenson	Carper	Dorgan (ND)
Bennett	Carr	Dornan (CA)
Bereuter	Chapman	Downey
Berman	Clarke	Dreier
Bevill	Clement	Durbin
Bilbray	Clinger	Dwyer
Boggs	Coleman (TX)	Dymally
Bonior	Collins	Eckart
Borski	Combest	Edwards (CA)
Bosco	Conte	Edwards (OK)
Emerson	Lehman (FL)	Roe
Engel	Levin (MI)	Rohrabacher
English	Levine (CA)	Rose
Erdreich	Lewis (GA)	Rostenkowski
Espy	Livingston	Roth
Evans	Lloyd	Rowland (CT)
Fascell	Long	Rowland (GA)
Fazio	Lowey (NY)	Roybal
Fish	Luken, Thomas	Russo
Flake	Madigan	Sabo
Flippo	Manton	Saiki
Foglietta	Markey	Sangmeister
Ford (MI)	Martin (NY)	Sarpalius
Ford (TN)	Matsui	Savage
Frank	Mavroules	Sawyer
Frost	Mazzoli	Saxton
Gallo	McCloskey	Scheuer
Gaydos	McCrery	Schiff
Gejdenson	McCurdy	Schneider
Gephardt	McDade	Schulze
Geren	McDermott	Schumer
Gibbons	McEwen	Sharp
Gillmor	McHugh	Shaw
Gilman	McMillan (NC)	Shumway
Gingrich	McMillen (MD)	Shuster
Glickman	McNulty	Sisisky
Gonzalez	Meyers	Skaggs
Gordon	Miller (WA)	Skeen
Gradison	Mineta	Skelton
Grant	Moakley	Slattery
Gray	Mollohan	Smith (FL)
Green	Montgomery	Smith (IA)
Guarini	Moody	Smith (NE)
Gunderson	Morella	Smith (NJ)
Hall (TX)	Morrison (CT)	Smith (VT)
Hamilton	Morrison (WA)	Snowe
Hammerschmidt	Mrazek	Solarz
Harris	Murtha	Spence
Hatcher	Myers	Spratt
Hayes (IL)	Nagle	Staggers
Hayes (LA)	Natcher	Stallings
Hefner	Neal (MA)	Stark
Henry	Neal (NC)	Stenholm
Hertel	Nelson	Stokes
Hoagland	Nowak	Studds
Hochbrueckner	Oakar	Swift
Horton	Oberstar	Tallon
Houghton	Obey	Tauzin
Hoyer	Olin	Thomas (GA)
Hubbard	Owens (NY)	Torres
Huckaby	Owens (UT)	Torricelli
Hughes	Packard	Towns
Hutto	Pallone	Traficant
Jenkins	Panetta	Traxler
Johnson (CT)	Parker	Udall
Johnson (SD)	Patterson	Unsoeld
Johnston	Payne (NJ)	Valentine
Jones (GA)	Payne (VA)	Vander Jagt
Jones (NC)	Pease	Vento
Jontz	Pelosi	Visclosky
Kanjorski	Penny	Volkmer
Kaptur	Perkins	Walgren
Kasich	Petri	Walsh
Kastenmeier	Pickett	Watkins
Kennedy	Pickle	Waxman
Kennelly	Porter	Weiss
Kildee	Poshard	Weldon
Kleczka	Price	Whitten
Kolter	Pursell	Williams
Kostmayer	Quillen	Wilson
LaFalce	Rahall	Wise
Lancaster	Ravenel	Wolpe
Lantos	Ray	Wyden
Laughlin	Richardson	Wylie
Leath (TX)	Rinaldo	Yates
Lehman (CA)	Robinson	

NAYS—105

Armey	Brown (CO)	Coleman (MO)
Ballenger	Buechner	Coughlin
Barton	Bunning	Cox
Bentley	Burton	Craig
Bilirakis	Chandler	Crane
Bliley	Clay	Dannemeyer
Boehlert	Coble	DeLay
DeWine	Lent	Schuette
Dickinson	Lewis (CA)	Sensenbrenner
Douglas	Lewis (FL)	Shays
Duncan	Lightfoot	Sikorski
Fawell	Lowery (CA)	Slaughter (VA)
Fields	Lukens, Donald	Smith (TX)
Frenzel	Machtley	Smith, Denny (OR)
Gallegly	Marlenee	Smith, Robert (NH)
Gekas	Martin (IL)	Smith, Robert (OR)
Goodling	McCandless	Solomon
Goss	McCollum	Stangeland
Grandy	McGrath	Stearns
Hancock	Michel	Stump
Hansen	Moorhead	Sundquist
Hastert	Murphy	Tauke
Hawkins	Nielson	Thomas (CA)
Hefley	Oxley	Thomas (WY)
Herger	Parris	Upton
Hiler	Pashayan	Vucanovich
Hopkins	Paxon	Walker
Hunter	Regula	Weber
Hyde	Rhodes	Wheat
Inhofe	Ridge	Whittaker
Jacobs	Roberts	Wolf
James	Rogers	Young (AK)
Kolbe	Ros-Lehtinen	Young (FL)
Kyl	Roukema	
Lagomarsino	Schaefer	
Leach (IA)	Schroeder	

NOT VOTING—31

Atkins	Early	Miller (OH)
AuCoin	Feighan	Molinari
Baker	Florio	Ortiz
Bateman	Garcia	Rangel
Brooks	Hall (OH)	Ritter
Brown (CA)	Holloway	Slaughter (NY)
Condit	Ireland	Synar
Conyers	Lipinski	Tanner
Courter	Martinez	Yatron
Donnelly	Mfume	
Dyson	Miller (CA)	

□ 1222

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Mississippi [Mr. PARKER] come forward please and lead us in our Pledge of Allegiance.

Mr. PARKER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Secretary be directed to communicate to the Secretary of State, as provided by rule XXIII of the Rules of Procedure and Practice in the Senate when sitting on impeachment trials, and also to the House of Representatives the judgment of the Senate in the case of Alcee L. Hastings, and transmit a certified copy of the judgment to each.

JUDGMENT

The Senate having tried Alcee L. Hastings, United States district judge for the Southern District of Florida, upon seventeen Articles of Impeachment exhibited against him by the House of Representatives, and two-thirds of the Senators present having found him guilty of the charges contained in Articles I, II, III, IV, V, VII, VIII, and IX of the Articles of Impeachment: It is therefore,

Ordered and adjudged, That the said Alcee L. Hastings be, and he is hereby, removed from office.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
October 24, 1989.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I have the honor to transmit herewith a copy of the Certificate of Election received from the Honorable Dick Molpus, Secretary of State, State of Mississippi certifying that, according to the official returns of the Special Election held on October 17, 1989, the Honorable Gene Taylor was elected to the Office of Representative in Congress, from the Fifth Congressional District, State of Mississippi.

With great respect, I am,

Sincerely yours,

DONNALD K. ANDERSON,
Clerk, House of Representatives.

The SPEAKER. The Clerk will read the certificate.

The Clerk read the certificate, as follows:

CERTIFICATION

I, Dick Molpus, Secretary of State of the State of Mississippi, in accordance with Mississippi Code Annotated, Section 23-15-605 (Supp. 1989), do hereby certify that the attached is an accurate compilation of the whole number of votes cast for each candidate in the October 17, 1989 Runoff Election to fill the unexpired term in the office of United States Representative, Fifth District.

Gene Taylor, having received a majority of the votes cast in the October 17, 1989 Runoff Election, is hereby declared to be duly elected to the office of United States Representative, Fifth District.

Given under my hand and seal of office this the 23rd day of October, 1989.

DICK MOLPUS,
Secretary of State.

CERTIFIED RESULTS, SPECIAL RUNOFF ELECTION, U.S. REPRESENTATIVE, FIFTH DISTRICT, OCTOBER 17, 1989

County	Tom Anderson	Gene Taylor	Total
Forrest	5,883	7,136	13,019
George	1,589	3,079	4,668
Greene	1,234	1,577	2,811
Hancock	2,095	6,936	9,031
Herrison	10,572	28,443	39,015
Jackson	10,936	20,278	31,214
Jones	1,414	1,767	3,181
Lamar	3,121	3,794	6,915
Pearl River	3,652	4,170	7,822
Perry	1,121	1,649	2,770
Stone	880	2,695	3,575
Wayne	1,997	1,772	3,769
Totals	44,494	83,296	127,790

CERTIFIED RESULTS, SPECIAL RUNOFF ELECTION, U.S. REPRESENTATIVE, FIFTH DISTRICT, OCTOBER 17, 1989—Continued

SWEARING IN OF THE HONORABLE GENE TAYLOR OF MISSISSIPPI AS A MEMBER OF THE HOUSE

The SPEAKER. Will the dean of the Mississippi delegation and the delegation please escort the Member-elect from the State of Mississippi before the Chair.

The SPEAKER. Mr. GENE TAYLOR appeared at the bar of the House and took the following oath of office:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations. You are now a Member of the House of Representatives.

PRESENTATION OF THE HONORABLE GENE TAYLOR

(Mr. WHITTEN asked and was given permission to address the House for 1 minute.

Mr. WHITTEN. Mr. Speaker, it is my pleasure to present to my colleagues our newest Member of Congress from Mississippi, Congressman GENE TAYLOR.

In the campaign, his funds were light, but he had the people with him. He was elected by a vote of 65 percent.

He fills the vacancy left by the tragic death of Congressman Larkin Smith, who had served only about 7 months, but who in that short time had made a fine impression.

We are all glad to have GENE with us. He was serving his second term in the Mississippi State Senate, where he had a splendid record of support for economic development, and education reform. He got a magnificant vote in the three counties of his senatorial district.

For the record, GENE is a lifelong resident of the gulf coast region, having worked in sales for the Stone Container Co. in Bay St. Louis, MS. He earned his college degree from Tulane University in New Orleans and did graduate work at the Unviersity of Southern Mississippi.

We welcome to Washington, GENE's wife, Margaret, and their three children, Sarah, Emily, and Gary.

I am confident, Mr. Speaker, that Congressman TAYLOR will be a strong and effective addition to the Congress.

EXPRESSION OF APPRECIATION BY THE HONORABLE GENE TAYLOR

(Mr. TAYLOR asked and was given permission to address the House for 1 minute.)

Mr. TAYLOR. Mr. Speaker, I want to thank my colleagues from Mississippi, the Honorable JAMIE WHITTEN, the Honorable SONNY MONTGOMERY, the Honorable MIKE PARKER, and the Honorable MIKE ESPY, for escorting me here today. I want to thank the people of Mississippi for giving me the opportunity to serve in the greatest legislative body this world has ever known, to serve in the halls that held such great Mississippians as John Stennis, Jim Eastland, William Calmer, Trent Lott, and the late Larkin Smith.

I hope that together we can work for a nation that lives within its means, a nation that respects the senior citizens, the veterans, the very people who made this Nation great, and a nation that respects all human life, a nation that is not ashamed to say, "In God we trust."

It is my privilege to work with the Members. It is my privilege to be here. I thank my colleagues very much.

□ 1230

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore (Mr. VENTO) laid before the House the following communication from the chairman of the Committee on Public Works and Transportation; which was read and, without objection, referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
Washington, DC, October 20, 1989.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, the House Committee on Public Works and Transportation approved the following projects on October 12, 1989:

11(b) RESOLUTIONS

Environmental Protection, Research Triangle Park, North Carolina.

LEASES

National Aeronautics and Space Administration, Washington, D.C.

Environmental Protection Agency, Denver, Colorado.

Department of the Navy, Duval County, Florida.

Federal Aviation Administration, Atlanta, Georgia.

Environmental Protection Agency, Chicago, Illinois.

Environmental Protection Agency, Ann Arbor, Michigan.
Internal Revenue Service, Detroit, Michigan.
Environmental Protection Agency, Research Triangle Park, North Carolina.
Internal Revenue Service, Oklahoma City, Oklahoma.
Corps of Engineers, Tulsa, Oklahoma.
Internal Revenue Service Payment Center, Philadelphia, Pennsylvania.
Internal Revenue Service, Dallas, Texas.
Multiple Agencies, Washington, D.C.
Multiple Agencies, 400 7th Street, S.W., Washington, D.C.
Department of Agriculture, 2121 K Street, N.W., Washington, D.C.
Multiple Agencies, 2120 L Street, N.W., Washington, D.C.
Multiple Agencies, 600 E Street, N.W., Washington, D.C.
Multiple Agencies, 1120 Vermont Avenue, NW., Washington, D.C.
Department of Defense, Multiple Locations, Northern Virginia.
Department of Defense, Army Materiel Command Building, Alexandria, Virginia.
Multiple Agencies, Crystal Plaza 6 Building, Arlington, Virginia.
Department of the Navy, 2511 Jefferson Davis Highway, Arlington, Virginia.
Department of the Navy, 2521 Jefferson Davis Highway, Arlington, Virginia.
Patent and Trademark Office, Arlington, Virginia.
Department of Defense, Derey Engineering Building, Reston, Virginia.
Multiple Agencies, Ballston Center Tower 3 Building, Arlington, Virginia.
The original and one copy of the authorizing resolution is enclosed.

Sincerely,

GLENN M. ANDERSON,
Chairman.

There was no objection.

THE PRESIDENT'S VETO OF THE HHS APPROPRIATIONS BILL

(Mr. DOWNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY. Mr. Speaker, shame on you, Mr. President, for vetoing the HHS appropriations bill.

This Congress spends over $1 trillion a year to build weapons, help earthquake victims, educate children, and care for the elderly. But it can't spend one dime to help a victim of rape or incest.

Shame on you.

Your far right constituency may be satisfied with this sorry attempt at consistency but the rest of this country is appalled by your lack of sensitivity for the most vulnerable women in our land.

Americans will carefully note and long remember lack of leadership.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will note that the Speaker has stated that Members should not refer to the Executive in the second person as such, and the Chair would appreciate it if Members with the 1-minute speeches and other remarks would respect that ruling by the Speaker.

SOVIETS ADMIT ERROR, OFFER CORRECTION

(Mr. McEWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McEWEN. Mr. Speaker, I say to the left in America, shame on you. Shame on you, leftists, who for many years accused our President and our Secretary of Defense and those of us on the Intelligence Committee and the Armed Services Committee when we said that the Krasnoyarsk radar was a violation of the ABM Treaty that the United States had negotiated in good faith.

Shame on you when you did your editorials. Shame on you when you took your trips to the Soviet Union. Shame on you when you repeatedly accused President Reagan of being provocative in pointing out a blatant violation of the Antiballistic Missile Treaty.

Now, Mr. Speaker, we observe on the front page of every American newspaper that Soviet Foreign Minister Shevardnadze yesterday confessed that this was indeed, as pointed out by the New York Times, a severe violation, and that they will attempt to correct it.

Hopefully, those newspaper editors and others will now correct their error by congratulating Shevardnadze on doing what was right.

OVERRIDE THE PRESIDENT'S VETO

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, on Saturday while many of us were out at football games, the President decided to come down off of his kinder and gentler platform and try to sneak a colder, harsher policy past us.

Perhaps he thought that we, like the self-righteous men in the Biblical story of the Good Samaritan, would cross over to the other side of the street and not notice the stunned and battered victims of rape and incest. Perhaps he thought that we would simply salute the flag, recite the Pledge of Allegiance, and continue marching past these victims.

Mr. Speaker, the President is wrong both in his action and in his assumptions about us. We should do as the Good Samaritan did. Not only did he take the beaten traveler to the nearest inn, he left some of his own money to pay for his care.

How can we as a society do less for the women and girls in our midst who have been brutalized by rape or incest? Can you imagine the Good Samaritan leaning over the beaten traveler and asking if he could afford a room at the inn? Apparently that's what the President would do. I say we should override the President's veto.

FORMER PRESIDENT NIXON PLANS TRIP TO PEOPLE'S REPUBLIC OF CHINA

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, former President Nixon leaves today on a trip that could begin the process of rebuilding our relationship with the People's Republic of China.

In a phone call to me yesterday, President Nixon said that the brutal events of last summer will be one of the main topics of discussion during his 3-day visit with China's top leadership.

He said he would be willing to listen to their position. But he also indicated he will make certain they understand America's concerns. And I asked him to convey the depth of concern in Congress as well.

Mr. Speaker, it is time to resume building a relationship with China—one that is based on a clear understanding of what each nation expects of the other.

America clearly can't be expected to shower the People's Republic with economic benefits if the Chinese leadership refuses to extend the most basic political liberties to its own people.

Finally, Mr. Speaker, Richard Nixon intends to convey that message and there are few people who could make a more persuasive case for it.

PROPOSING THE DEATH PENALTY FOR BULK NARCOTICS SMUGGLERS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, in the late 1970's, a Colombian diplomat sold 90 pounds of cocaine to a DEA agent for $90 million cash. They pulled out their badges and busted him. That was the biggest buy bust in American history.

They took this Colombian to court, and they set bond at $3 million. A half hour later slick attorneys reduced the bond to $1 million. A half hour later they delivered $1 million in cash to the court, and this guy walked out of court and left the country. Why should he stay and stand trial?

That leads me to today. Nothing has changed since the late 1970's.

Mr. Speaker, it is time that these bulk drug smugglers suffered the death penalty. This is nothing more than a crapshoot, and these drug smugglers are winning. It is time for Congress to enact the death penalty for people who import bulk amounts of narcotics.

□ 1240

THE PRESIDENT IS MISJUDGING THE AMERICAN PEOPLE

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, President Bush has shown he is out of touch with the overwhelming majority of Americans by vetoing a critical appropriations bill because it contains a very limited amount of Federal funds for abortion in the case of rape and incest. Abortion is a most difficult issue for all of us to deal with in a legislative context, but one thing is clear: Poor women who suffer the horrible indignities of rape and incest deserve a compassionate response from their Government, and the President is clearly misreading the American people when it comes to rape and incest. He is misreading and misjudging young and old, Republican and Democrat, liberal and conservative, all who disagree with him.

Mr. Speaker, George Bush has danced around this issue for nearly 10 years. In 1980, as a private citizen, he said he opposed Federal funds for abortion except in the case of rape, incest, and the mother's life. In 1984, as Vice President, he said he could not recall his earlier statements and that he opposed all exceptions. Last week, he repeated the opposition, but left room for flexibility.

As the New York Times editorial said yesterday, "The man who told America to read his lips on taxes seems to be asking America to read his mind on abortion."

FEDERAL EMERGENCY MANAGEMENT AGENCY UNDERGOING INCREDIBLE STRAIN

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, the *Exxon Valdez* oilspill in Alaska, Hurricane Hugo, Hurricane Jerry and now, last Tuesday, the 1989 earthquake in San Francisco, an incredible strain for the Federal Emergency Management Agency, a very difficult time for them and, of course, all the victims, and friends and family of victims of these disasters.

Mr. Speaker, it is very important for us to recognize that the Federal Emergency Management Agency has done a very good job in dealing with this horrible San Francisco earthquake. I have the perspective of having dealt with one 2 years ago this month when we in the Whittier area suffered a 6.1 earthquake. What we have seen is the difference between night and day. Yes, there are going to continue to be a great many problems. Yes, there are going to be challenges for the victims and elected officials as we attempt to rebuild these devastated areas.

However, Mr. Speaker, I would like to congratulate Grant Peterson, the Associate Director of the Federal Emergency Management Agency, and all those associated with this disaster for working diligently to resolve this crisis.

REAGAN RECEIVES CHRYSANTHEMUMS WHILE WE ARE LEFT WITH FADED FLOWERS

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, the honor and warm greeting that our ex-President has received in Japan is notable. He has received one of Japan's highest honors—the Grand Cordon of the Supreme Order of the Chrysanthemum for promoting free trade and friendship with Japan.

The tab for his trip, $7 million, and his honoraria for two 20-minute speeches, $2 million, has been picked up by a corporate patron—Fujisankei Communications Group.

It is fitting and just that they should receive the ex-President with such fanfare and shower him with gifts. It was his failed trade policy that vaulted Japan to a position of world industrial and financial leadership while making the United States the world's greatest debtor Nation in a mere 8 years—a stunning accomplishment.

Ronald Reagan stubbornly and strangely refused to act against unfair Japanese trade practices while opening our borders to their cheap goods. He consciously halved the dollar in relation to the yen rocketing them to international financial prominence, allowing them to begin an unprecedented buyout of our real estate and productive capacity.

Yes, Ronald Reagan is in Japan to receive chrysanthemums while we are left with the faded flowers of our wilted economy and a trade deficit that threatens to destroy our position as leader of the free world. Congratulations are due to Mr. Reagan for a job well done the Japanese could not have done it better themselves.

SAME ETHICAL STANDARDS FOR ALL GOVERNMENT BRANCHES

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, given the differences in our executive, legislative and judicial branches of Government, the greatest challenge to passing comprehensive ethics reform may be in finding ways to adopt the same standards of conduct for all three branches.

The House bipartisan task force is to be commended for its efforts to this end.

Adopting a single standard does not mean always adopting the same implementing rule for each branch of the Government. When our efforts run up against institutional differences that will not allow a common rule, then we must continue to press on to find a specially tailored rule that will allow us to implement in any given branch a single Governmentwide standard of conduct.

That is the working guideline provided by the President's Governmentwide Ethics Act of 1989. It is one we can continue to work with in adopting an ethics reform bill.

WHERE IS THE PRESIDENT'S COMPASSION FOR WOMEN?

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute.)

Mr. LEWIS of Georgia. Mr. Speaker, well, he did it. Mr. President, say it ain't so.

Where is the compassion? Where is the sense of fairness? How long will we have a President who is not on the side of American women?

My colleagues, we have more than a moral obligation and mandate to override this veto. Somewhere—somebody must stand up for the women in this country. We can do no less.

HUMAN RIGHTS VIOLATIONS IN CUBA

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, last year the United Nations Human Rights Commission finally took the important step of considering abuses in Cuba. U.N. investigators traveled to Cuba to inspect the prisons and interview leading dissidents. This investigation uncovered serious human rights violations—torture, mock executions, and instances where prisoners were forced to dig their own graves before execution. Despite these very serious ongoing abuses, the U.N. Human Rights Commission did no more than

instruct the Secretary General to deal with Cuba in "the appropriate manner." Cuba is not yet even on next year's U.N. human rights agenda.

Since the U.N. Human Rights Commission downgraded its monitoring, the Cuban human rights community has been decimated. Almost 40 human rights activists now sit in jail. Indeed, virtually every Cuban citizen who had the courage to discuss conditions with the U.N. Human Rights Commission has been placed under arrest!

In August, Elizardo Sanchez and several others—leaders of the small independent Cuban Human Rights Commission—were thrown in jail for "spreading false news which might discredit and harm the reputation of the Cuban State."

In September, the leaders of the tiny Green Party was arrested. Cuban security forces then picked up six members of a human rights organization called the Democratic Integration Movement. And just this month one of the few remaining dissidents, Julio Soto Angurel, was grabbed and hustled to Havana's main psychiatric hospital.

Mr. Speaker, these Cuban human rights organizations are extremely small. They post no real threat to the existing regime. Their total numbers are no more than a few dozen brave souls that Fidel Castro has not cowered into submission. But it is now clear that Castro will not tolerate the slightest opposition.

As the ranking minority member of the Human Rights Subcommittee of the House Foreign Affairs Committee will introduce a resolution for that purpose, this member condemns this behavior, and would urge the U.N. Human Rights Commission to reevaluate Cuba's behavior in light of the recent wave of arrests. This member would further urge that U.N. Secretary General Javier Perez de Cuellar make a personal effort to see that the current wave of arrests cease in Cuba and the assure them the improperly imprisoned are released. Given the fact that the Cubans interviewed by the United Nations while conducting its recent investigation now sit in jail, the United Nations can responsibly do no less.

THE PRESIDENT'S VETO OF THE LABOR/HHS BILL

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, shame, shame on George Bush. Last week, the President said he was "not looking for any conflict" over the abortion language in the Labor-HHS bill. Yet now he has vetoed the funding of abortions for poor women in cases of rape and incest. With this action, the President has taken a stand that is both controversial and morally repugnant.

The President's veto clashes with the views of the majority of American people, whose concern was reflected in both the House and Senate votes on the bill. The veto even clashes with the President's own stated belief that a woman has a right to choose abortion if she is the victim of rape or incest.

The President would have us go down in history as overseers of a barbaric and discriminatory policy.

Mr. Speaker, this veto makes no sense. It is a matter of being humane or being inhumane. It is a matter of being just or unjust. We must vote to override Mr. Bush's terrible decision.

NATIONAL AEROSPACE PLANE—PROTECTING OUR LEAD IN THE AEROSPACE INDUSTRY

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, today I rise to express my support for one specific provision in title III of H.R. 2916 that provides up to $60 million for the continued development of the National Aerospace Plane [NASP]. Unfortunately, the Senate's failure to provide any funds prohibited us from funding the program at the House passed level of $127 million. However, I believe that the $60 million will be adequate to at least continue our research.

It is my firm belief that this project should receive priority attention if we wish to protect our lead in the aerospace industry. The NASP affords us the opportunity to advance our commercial and technological—not to mention national security—interests.

During recent House consideration of the FSX project there was a heated debate regarding the subject of Japan's position in the aerospace industry relative to our own. Comparably speaking, the F-16 fighter plane represents technology of the past—technology that will be dwarfed by that gleaned from NASP research.

NASP represents cutting edge technology that will ensure our continued dominance in a field that we pioneered. I take great pride in the fact that much of the developmental work on the Scramjet engine has been done at the Johns Hopkins University in Maryland.

The Japanese and the Europeans are feverishly engaged in developing technology similar to the NASP in order to become world leaders in the field. We had better think twice about taking a back seat on this project.

□ 1250

PRESIDENT BUSH SLAMS VICTIMS OF RAPE AND INCEST WITH STROKE OF PEN

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, President Bush came out to California and stood side by side with the victims of the earthquake who needed his compassion, and we thank him for that, for standing by those victims of the earthquake. But what about the poor innocent victims of rape and incest? George Bush walked away from them.

The President came back from California and he slammed the victims of rape and incest with the stroke of his pen.

President Bush with his veto is walking away from compassion for victims who are suffering, walking away from the American standard of fair play.

Mr. Speaker, I urge all Americans to write their Member of Congress and tell them to override the President's cruel veto when it comes before the House tomorrow.

TIME TO EVALUATE NEED FOR MORE VETERANS SERVICES

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, the Department of Veterans Affairs has announced a reorganizational effort that will entail closing 30 regional and district medical offices. This has been described by the Department as a revamping of the health-care systems field structure. Do not forget that we are talking about the Nation's largest health-care system with 172 medical centers, 231 outpatient clinics, and 119 nursing homes.

By March 31, 1990, the Department plans to close the regional offices in Albany, NY; Durham, NC; Gainesville, FL; and St. Louis—leaving four regional offices for the entire United States.

While I am always supportive of efforts to streamline any program and make it more efficient, I must question the logic of this move. Florida has over 1.5 million veterans and over 2,000 veterans move to Florida every month. While some States are losing populations, Florida is taxing an already loaded system. I would think it is time to evaluate the need for more veterans services in the area and in all the growing States not less.

As a member of the Veterans Affairs Committee, I plan to take a long, hard look at this proposal when it comes before us.

PRESIDENT CHOOSES TO BE PARTISAN ON ABORTION ISSUE

(Mr. NAGLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NAGLE. Mr. Speaker, when legislation which would have allowed Federal funding for abortion to terminate pregnancies caused by the violent crimes of rape or incest, the President had the opportunity to exercise leadership. He chose, instead, to be partisan.

The abortion issue is a troublesome one for all Americans. This Member, too, shares the concern and shifting emotions of this debate. Well intentioned, reasonable people—all trying to do the right thing—can and do disagree. There are dozens of honest arguments for reaching a conclusion on either side of the issue.

But wanting to look tough on abortion because of recent criticisms of timidity in Panama is not among them. Nor is the desire to appease a political issue.

Yet, all indications are that those are precisely the reasons the President adopted his latest position on abortion, and why we now have this veto.

What a deep disappointment.

Vacilating between the extremes of timidity and toughness is not leadership. Leadership and bipartisanship is working together with men and women to find solutions to our most difficult problems.

Problem solving, not politics, should be the preoccupation of any President. Unfortunately, that is not the case, on this occasion, with President Bush. He saw this issue, not as an opportunity for leadership and reconciliation, but only as an opportunity to help solve some of his own short term political troubles.

It is a sad day for our country.

VOTE TO OVERRIDE PRESIDENT'S VETO OF H.R. 2990 TOMORROW

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, would we vote to force a woman to bear a child if the birth of that child might take her life? Of course we wouldn't. And we have long provided her the funds to terminate such a pregnancy if she is poor and helpless.

How then can we—in clear conscience—vote to destroy that same woman's life by denying her the funding to terminate a pregnancy caused by rape or incest reported promptly to a law enforcement agency or public health service? I have thought about it long and hard, and I cannot be a part to inflicting such a cruel tragedy upon a fellow human being.

Fellow Members, please join me in voting to override the President's veto of H.R. 2990 tomorrow.

SIGNIFICANT DEVELOPMENTS IN COLD FUSION RESEARCH

(Mr. OWENS of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of Utah. Mr. Speaker, cold fusion is warming up. There are truly significant developments taking place in cold fusion research, a phenomenon first identified last March by Drs. Stanley Pons and Martin Fleischman at the University of Utah in Salt Lake City. After months of administering ridicule and satire, the scientific community has now taken favorable notice of this phenomenon. In sharp contrast to the pessimistic report of the DOE last July, a workshop in Washington, DC, last week, sponsored in part by the National Science Foundation, has determined that further research into cold fusion is clearly justified. The scientists generally agreed that we are dealing with a nuclear reaction after all. Whether it is cold fusion or some heretofore unknown example of fission is not clear, but nuclear byproducts have consistently been found at several of our Nations leading research institutions.

Dr. Edward Teller, the father of the H-bomb, said "The high-class work yielded surprising results," and recommended "that the efforts be supported."

Whether this "something strange" eventually turns out to be a viable energy source is very much a matter of conjecture. But, as the workshop participants expressed it in a joint press statement, "New, positive results in excess heat production and nuclear product generation have been presented * * * Further research is definitely desirable * * * to unravel the mystery of the observations."

FOREIGN POLICY EXPERTS IN HOUSE MORE LEFT THAN RIGHT

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, yesterday the Foreign Minister of the Soviet Union, Mr. Shevardnadze, made it clear. The Krasnoyarsk radar is a violation of the ABM Treaty, and the Soviets have known all along that it was a violation.

Mr. Speaker, Mr. Shevardnadze must be wrong. Distinguished Members of Congress who regularly parade themselves before us as foreign policy and military experts have told us just the opposite. These distinguished Members of this House and of liberal persuasion have told us quite clearly that the Krasnoyarsk radar posed no threat to this country, was not a violation of ABM, that it was probably just as the Soviets described it, something to do with their space program, and therefore benign.

Mr. Speaker, these experts of ours could not have been so badly misled as to be mere tools of Soviet propaganda on this floor. Mr. Shevardnazde must be wrong. Either that, or some of our experts are more left than they are right.

THE ISSUE OF CHOICE FOR AMERICAN WOMEN

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, there are many in this body who have deeply held religious or moral convictions about the issue of choice, and I respect that. I think every Member of this body repects it; but there are others, of course, who see the issue in shades of gray. One of those has been our President. He had a different position in 1964, a different position in 1980, and a different position today. So I say to the President, that he is not talking about a moral issue, one that he has held deeply in his breast for 20 years. Rather, he is talking about an issue that he has used politics for.

I say to my colleagues that today the trend is the other way. The American people as long as the Supreme Court was there were willing to allow all sorts of taking away of women's rights to happen on this floor, but "the times, they are a 'changing, the times, they are a 'changing," I say to the President and my colleagues. Get with it and pass the override today.

INTRODUCTION OF SHENANDOAH VALLEY CIVIL WAR SITES STUDY ACT

(Mr. SLAUGHTER of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLAUGHTER of Virginia. Mr. Speaker, there are historic lands located in the Shenandoah Valley of Virginia; some of which are in the Seventh Congressional District which I represent. These lands are battlegrounds upon which many men and women sacrificed their lives during the Civil War era.

These lands are important for the sake of history, and I am proud to join my distinguished colleague from the Sixth District of Virginia, Mr. OLIN, in introducing the Shenandoah Valley Civil War Sites Study Act in order to explore the battlegrounds in the west-

ern part of Virginia for their prominence in the war. This legislation will provide the information needed to determine the potential significance of the Battles of Cedar Creek, Fisher's Hill, Toms Brook, Third Winchester, Piedmont, Kernstown, Cross Keys, Port Republic, and McDowell in order for these sites to become protected grounds in the National Park System.

Entitled the "Valley Campaign," Gen. Stonewall Jackson's tour through the Shenandoah Valley—as determined by historian Mark Mayo Boatner III in the "Civil War Dictionary," New York, 1959—became important to the Confederate troops as the Confederates could take advantage of the uninviting terrain, at first unknown and not easily maneuvered by the Union soldiers. In that the Confederates were able to use the fruits of the Shenandoah Valley for their coffers, General Jackson and his troops were able to sustain, among others, victories at the Battles of McDowell, Third Winchester, Cross Keys, and Port Republic. Similarly, as General Sheridan learned of the treasures of the valley, the Union soldiers matched the cunning of Jackson and his armies to alter the tone of the struggle, confiscating stock and barrel through the Union pillage down the valley, leaving the Confederates dazed and weary. Thus, the Shenandoah Valley—its farms and orchards, its fields and mills, its railroads and byways—served both Confederate and Union footsoldier alike, during the 10 major battles that took place in this region.

The battlesites proposed for study in the Shenandoah Valley Civil War Sites Study Act rest on lands that, if determined to be historically significant, may be donated by nonprofit organizations and private landowners interested in the goal of historic protection. I am therefore pleased to be an original cosponsor, today, of legislation providing the necessary funds for a study of these historic sites and the feasibility of their inclusion in the National Park System.

□ 1300

GREENSPAN LENDS STABILITY TO STOCK MARKET

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, one week ago there was great concern that the United States would experience another Black Monday in the stock market.

Thanks to the steady leadership of Chairman Alan Greenspan, the Federal Reserve Board provided just the right mix of liquidity and confidence for the financial system to avert a crisis. We owe a great debt of gratitude to Chairman Greenspan for his cool handling of this challenge.

I would urge every Member to read the editorial by David Gergen in the October 30 issue of U.S. News & World Report captioned "Hands Off the Fed." The Federal Reserve Board is a classic example of the shibboleth, "If it ain't broke, don't fix it."

SUSTAIN PRESIDENTIAL VETO ON ABORTION

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, this is a day with a lot of shame to go around. The Krasnoyarsk radar site has been described as a rotten move by Mr. Shevardnadze. What happened to all the defenders of that site in this House? The Soviets have finally acknowledged that their 9-year genocidal ugly adventure in Afghanistan was wrong and rotten.

There were a lot of Members, although they did not say it on camera in the House, that said that is the Soviet's sphere of influence.

Most of the speeches this morning have been on the President's veto of the HHS/Labor appropriations bill.

Why did the President do this? It was not for political reasons. One thing Members in this House on the other side keep forgetting is this is a man with guts, with the courage of his conviction. When he was shot down and lost four airplanes in 2 months, he was entitled to go home. He begged to go back to his carrier and go back to combat.

The President vetoed this as a gutsy move. Although he believes in abortion for rape and incest, he knows some people consider it murder.

A Los Angeles Times poll said 57 percent of this country still believe abortion is taking an innocent life. The times are not changing. We will have to sustain the veto in this House, and then the ball is back in the hands of the Senate and those that want to have the Senate's language.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 423, FURTHER CONTINUING APPROPRIATIONS, 1990

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 271 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 271

Resolved, That upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to consider in the House the joint resolution (H.J. Res. 423) making further continuing appropriations for the fiscal year 1990, and for other purposes. All points of order against the joint resolution and amendments recommended by the Committee on Appropriations are hereby waived. Debate on the joint resolution and amendments recommended by the Committee on Appropriations thereto shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. It shall be in order to consider the amendment printed in section 2 of this resolution, said amendment shall be debatable for not to exceed thirty minutes, equally divided and controlled by the proponent and a Member opposed thereto. The previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

SEC. 2. In section 108 which is proposed to be added to the joint resolution of September 29, 1989 (Public Law 101-100), strike subsection (f).

The SPEAKER pro tempore (Mr. HEFNER). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 271 provides for the consideration of House Joint Resolution 423, a bill providing for short-term, continuing appropriations for fiscal year 1990 and disaster relief for the victims of recent natural disasters in the United States.

The rule waives all points of order against this joint resolution and against any amendments to the bill recommended by the Committee on Appropriations. The rule also limits general debate on this measure to 1 hour, with the time to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations.

The rule specifically makes one amendment to this joint resolution in order. This amendment is printed in section 2 of House Resolution 271, and seeks to strip from House Joint Resolution 423 a provision that would exempt the natural disaster assistance in this bill from being counted against budget ceilings, including Gramm-Rudman-Hollings targets. The rule provides for 30 minutes of debate on this amendment, with the time to be equally divided and controlled by the proponent and a member opposed to it.

Finally, Mr. Speaker, House Resolution 271 provides for one motion to recommit House Joint Resolution 423.

As I have noted, House Joint Resolution 423 provides for a short-term continuing resolution for fiscal year 1990. While it is regrettable that the Congress is once again behind in its budgeting, this resolution seeks to fill this budget gap responsibly. This joint resolution provides for continued, restric-

tive spending until November 15, and does so without attaching bells and whistles to this short-term financing mechanism.

The bill does, however, provide for additional spending in one important area. It provides $2.85 billion to address recent natural disasters such as those experienced in California and South Carolina.

Mr. Speaker, I am sure that my colleagues share my heartfelt sympathy for the victims of the Loma Prieta earthquake on the west coast and Hurricane Hugo on the east. Few of us have ever had our homes washed away or our highways buckled like ribbons, but it is not hard to imagine the psychological and financial devastation left behind by these events.

The money provided in this bill will help to ensure that aid will be there for the victims of these disasters, even after the television crews turn off their cameras and go home.

Mr. Speaker, House Joint Resolution 423 responsibly addresses our need for a continuing resolution and disaster assistance, and House Resolution 271 provides for the full and reasonable consideration of this measure. I urge my colleagues to support this rule and the underlying bill.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this rule. I do so with regret because we are all mindful of the urgency of the situation in which we find ourselves. We are facing a critical situation, concerning both the budget and the natural calamities that have affected so many people. But we cannot—and should not—use these things as excuses to overthrow what little sense of fiscal responsibility we still are willing to exercise.

This rule makes in order consideration of House Joint Resolution 423. For the second time in less than a month, the House is being asked to consider a continuing resolution which has also become the vehicle for supplemental appropriations. This is an unprecedented development. Never before, since the Congressional Budget Act was enacted in 1974, have supplemental appropriations of this magnitude been attached to a continuing resolution.

Indeed, the whole purpose of continuing resolutions is being rewritten. When short-term, stopgap funding bills become just another supplemental appropriation, we have to wonder if all sense of fiscal discipline has finally broken down.

And as far as what's left of the budget process is concerned, this rule waives all points of order including the budget act itself. Therefore, let the budget process be damned. Rules are evidently made to be broken. And so allocations are evidently made to be broken as well.

The one positive aspect in this proposed rule is a provision making in order an amendment that would strike the exemptions of Gramm-Rudman-Hollings constraints. That will make the reconciliation process all the more difficult, but it is something that must be done if we are to maintain any kind of credibility with the American taxpayer.

In conclusion, Mr. Speaker, I will note that House Joint Resolution 423 contains an appropriation of $250 million for unspecified purposes. Some of us, and I know that includes the gentleman from South Carolina [Mr. DERRICK] wanted this rule to make in order an amendment that would have required all of these supplemental appropriations to be used only—and I stress only—for recovery efforts from Hurricane Hugo and the California earthquake.

But such an amendment was not made in order. And so we have a quarter of a billion dollars in unspecified spending floating around in this bill. It is this kind of horsing around with our system that concerns me so much and precludes me from supporting this rule.

We should have had a clean continuing resolution and we could have had a disaster relief bill brought up separately. We know what the needs are; we know what the suffering is. Mr. Speaker, such a bill could have been put on the fast track very easily. Instead, we continue to corrupt the budget process. And who is going to bail us out of that mess?

And so I must oppose this rule, Mr. Speaker. I do so regretfully.

□ 1310

Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. REGULA], a member of the Committee on Appropriations.

Mr. REGULA. I thank the gentleman for yielding.

Mr. Speaker, I too regret that this rule does not contain the opportunity to offer the amendment proposed by Mr. CONTE in the full Committee on Appropriations.

The objective of that amendment was to narrow the application or the spending as provided herein to the earthquake in California and to the disaster caused by the Hurricane Hugo in the Carolinas.

Unfortunately, that request was rejected by the Committee on Rules.

I know that the gentleman from Massachusetts intends to address it with a motion to recommit. It is in the best interests of the delegations from California and South Carolina to support the motion to recommit because otherwise this money could be spread all over the country for all kinds of disasters. They would have two problems: It would dissipate the sums of money provided which should be targeted to California and South Carolina; second, the agencies involved would be bogged down in applications for aid.

Therefore, it would be difficult for them to process the California requests promptly.

Let me read to you from the Robert T. Stafford Emergency Assistance and Disaster Relief Act, to show you what will be included under this bill:

Emergency means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami—

That is a tidal wave also—

earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion or any other catastrophe in any part of the United States which requires Federal emergency assistance.

Then the second definition is:

"Major disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe.

One other definition:

Notwithstanding any other provision of law, any repair, restoration, reconstruction or replacement of farm fencing damaged or destroyed as a result of any major disaster shall be considered an emergency conservation measure eligible for payments under chapter I of the Third Supplemental Appropriation Act, or any other provision of law.

Now the thrust of all this is that unless the language of the gentleman from Massachusetts, the ranking minority member of the full Committee on Appropriations, is adopted, this money will be spread over a wide area with hundreds and probably thousands of applications that will be considered and probably applicable under the broad language of the bill.

We need the constricting language of the Conte amendment to narrow this to California, the earthquake damage there, and Hurricane Hugo because I think that is the intent of the Members of this body, to support that kind of an effort.

We have great sympathy for the people who are impacted by both the hurricane and the earthquake, therefore, our efforts should be directed strictly at those two disasters.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Michigan.

Mr. TRAXLER. I thank the gentleman for yielding.

Mr. Speaker, I know the gentleman would not want to leave us with the impression that just because there is a rainstorm somewhere and some water in the basement that that situation——

Mr. REGULA. It has to be a disaster area.

Mr. TRAXLER. Designated by the President, yes.

Mr. REGULA. That is correct.

Mr. TRAXLER. The average, I think, would be two or three of those a year, according to recent statistics. This is somewhat of an odd year.

Mr. REGULA. Well, the gentleman makes the point, that an application would have to come out of an area that had been designated by the President as a disaster area. But the point I want to make is that, as presently drawn, it goes substantially beyond California and Hurricane Hugo.

So the Members need to understand that that is what they are voting on.

Mr. TRAXLER. Yes, I certainly do understand, and I am in total accord with exactly the language in the bill. It would be terribly unfair to other parts of the Nation, in my opinion, if they were denied disaster relief because of lack of funds even though they have suffered severe damage—you know, if your basement wall caves in, whether there are 50,000 people or 100,000 or 10,000 is irrelevant. You should be entitled to the moneys if you qualify. This money will be available for every American.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

In responding, before I recognize the ranking member from the Committee on the Budget, I might just say that our concerns being brought up here waiving the Budget Act and waiving the Gramm-Rudman Act. The only reason we are supposed to have this supplemental appropriation before us is because of the national disaster that has happened to those poor people in South Carolina and in California.

If there are other problems—and I have rains and floods and snowstorms in the Adirondacks and Catskill Mountains in New York, and I would like to have them taken care of too—those disasters are not there today. When we do take up that overall allocation, that is when we have to consider Gramm-Rudman and the Budget Act, or else we are not paying attention to any fiscal responsibility around here.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. FRENZEL], the distinguished ranking member of the Committee on the Budget.

Mr. FRENZEL. Mr. Speaker, I rise in objection to the rule. The rule was passed last night quite late, around 9 p.m., I am told, after some of the rest of us had to be home in bed.

It is astonishing that we require unscheduled, late night meetings as emergency procedures for the U.S. Congress when the Legislature of California has not deemed the emergency to be such that it needs to go back into session.

I think an extra bit of time in the committee, on in the Rules Committee, would have given us a chance to review the material in question and have a little better idea of what we are doing.

Most of the Members today are going to be voting in the dark, particularly about the earthquake amendments. They will be doing so even if, like myself, they have made strong efforts to find out what they are voting on.

One of the things we do know is that there is a waiver of the Budget Act. That is the usual misconduct created by the Committee on Rules, and ratified by the House, whenever we get past the beginning of the fiscal year.

There was, insofar as I am aware, no request made of the Committee on the Budget to see whether it was willing to vote for a waiver. The Committee on Rules simply assumed that we needed a waiver.

There has been much discussion about the waiver of Gramm-Rudman-Hollings. I am grateful that the Committee on Rules has made an amendment in order which I understand the gentleman from Massachusetts [Mr. CONTE] will raise. That amendment should be passed.

It is supported by the administration. It is supported by the chairman of the Committee on the Budget and by myself, for as much as the Committee on the Budget we can speak for. It is a very important amendment.

In addition, Mr. Speaker, it looks as though there has been an attempt to waive matching expenditures for certain highways under this particular bill, although as I read the language it seems that the authors accomplished exactly the opposite effect.

That is one of the things a regular hearing in the Committee on Rules would have enabled us to ascertain.

Now we may never know, I suppose, what that language means because it is certainly beyond the comprehension of common folk like myself. Perhaps some brave court will be asked to rule on the question the Members who voted in the law could not answer.

□ 1320

I also believe that the quarter of a billion dollars given for any emergency, the matter discussed by the gentleman from Ohio [Mr. REGULA], is of great importance. The administration, in a paper delivered by the OMB says:

> The disaster assistance provided in the resolution is not limited to helping California recover from the earthquake. The administration believes the disaster assistance provided in the short-term resolution should be limited to assistance related to the earthquake.

It is my understanding that the gentleman from Massachusetts [Mr. CONTE] will offer an amendment to recommit, which will include instructions to make sure that these expenditures appropriated by this bill will exclusively apply to Hurricane Hugo and to the California earthquake, and will not spread beyond that to the diverse purposes of the Stafford Act.

Finally, Mr. Speaker, I oppose the rule because I do not think it is rational to have continuing resolutions forever. I do not believe that it is rational to have continuing resolutions which are clearly the fault or the responsibility of the Congress, and have the Congress pay no penalty for them.

These resolutions are going forward at too high a rate. Congress has dropped the ball. It has not completed the appropriations. It does not look as though it cares if it ever completes its job.

The management of this House is not promoting the orderly process of the budget and appropriations procedure. Nevertheless, it expects Members to go on voting these very large sums of money. This is one Member that is not going to vote for these expenditures.

I hope that the bill is repaired insofar as possible by the adoption of the two motions of the gentleman from Massachusetts. In any case, the bill should be rejected by the House.

Mr. SOLOMON. Mr. Speaker, if I could just briefly have a colloquy perhaps with the gentleman from South Carolina [Mr. DERRICK].

I am looking at two copies of the continuing resolution. The latest copy has some additional language in italic which I did not see at the Committee on Rules last night. I am not necessarily objecting to it, but I am wondering how this got on the floor. It deals with lines 8, 9, and 10 on page 3, concerning the striking of the waiver for the Budget Act and Gramm-Rudman-Hollings. Could the gentleman tell Members how that got in there?

I yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Speaker, I think the gentleman from Michigan [Mr. TRAXLER] offered the amendment. These are amendments that were offered during their markup yesterday.

Mr. SOLOMON. Mr. Speaker, I will be glad to yield to the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Speaker, yes, this is my handiwork. That is one of the things I am most proud of in this bill. My only regret is that it was not as broad as I would have liked it. I would like to waive Gramm-Rudman-Hollings as to all emergency appropriations now and in the future. Unfortunately, this does not do that.

It was done in the full committee, and it only applies to the two disasters that are referred to in the bill.

Mr. SOLOMON. If the gentleman would stay on his feet for a moment, we have a motion made in order by the rule which, it is our understanding, would strike the waivers for both the Budget Act and Gramm-Rudman-Hollings, and other ceilings.

If that amendment were to pass successfully when we debate the bill, does

that mean that there would be no waivers for the Budget Act, too, not just Gramm-Rudman-Hollings?

Mr. TRAXLER. If the gentleman will continue to yield, if the gentleman were to offer such an amendment, if it were adopted, my understanding is the outcome would be as the gentleman described.

Can I take a minute of the gentleman's time and tell him the consequences of that? Knowing the gentleman's keen interest in veterans' matters, let me tell the gentleman that in the bill which we bring to the floor that deals with veterans' matters, we have, in that bill, in the area of $30 to $35 billion in discretionary funding that goes for medical, goes for space, goes for NSF, goes for HUD and ancillary independent agencies. The billions that we are now putting out for disaster relief that this body is committed to expending, will be as a bow wave, and that means that in a year or two to come, the fine people on the Committee on the Budget are going to insist that the committee eat that. That will be about 10 percent of our discretionary funding. I want to tell the gentleman, that will be a blooming disaster.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. PANETTA], the chairman of the Committee on the Budget.

Mr. PANETTA. Mr. Speaker, I want to address my remarks to the chairman of the Subcommittee on VA, HUD, and Independent Agencies.

I have always taken the position when we come to the floor here that we are prepared to waive the budget when we deal with these kinds of disasters. The rule does provide for that kind of waiver. What this other provision does is it goes beyond that, provides a clear exemption from Gramm-Rudman. That we oppose, very frankly. That sets a bad precedent. It sets a bad precedent for the gentleman because the gentleman fought within the limits that were provided him.

I do not think it is fair to provide exemptions to other areas and not be consistent with regards to other committees.

I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Speaker, I wish the gentleman would not try to characterize what is good or bad for me. I will tell the gentleman what is good or bad for me as the chairman of the subcommittee. If we do not get this kind of a waiver, it will be a sad day a year or two from now when Members are all saying, "Why did you have to cut $4 to $5 billion out of your bill in outlays?" The gentleman knows why we will have to.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Speaker, I rise today to express my strong support for this rule and also for this resolution, and for the $2.85 billion in disaster relief funds it contains. The back-to-back disasters of Hurricane Hugo and the Loma Prieta earthquake have seriously drained the budgets of the Federal agencies designated to provide Federal disaster relief. It is imperative that we act now to increase the funds available for appropriate responses to these and future disasters. This legislation and this rule will help to provide these essential resources.

Property damage and the damage to the infrastructure from the earthquake is expensive. Estimates run in excess of $7 billion and are still rising, making this the most costly natural disaster in American history. The collapsed sections of the Nimitz Freeway and the bay bridge were certainly the most dramatic examples of the earthquake's force, but the entire region has sustained extensive damage. The seven counties in the disaster area will require massive amounts of Federal aid to help rebuild.

Passage of this legislation becomes, therefore, critical to rebuilding the devastation in northern California. I urge my colleagues to join with Members in sending a message of concern and of compassion to the victims of the earthquake, and pass this desperately needed appropriation.

There are two other points that I would just like to emphasize. First of all, this is an era, unfortunately, of sometimes rather excessive antigovernment rhetoric. This calamity, this disaster, helps to put in perspective some of the circumstances in which there is something that only Government can provide assistance and relief for. When we have seen the tragedies that have fallen upon the residents of South Carolina and the residents of California, any Member who doubts that we need to turn to Government for prompt, immediate, effective assistance, I think is simply being unrealistic. I want to compliment the committees of covenant jurisdiction, particularly the Committee on Appropriations, for responding as effectively and as quickly as they have.

I do believe that the appropriation that is before Members and will be before Members will not quite be adequate, but I am pleased to hear that the chairman of the committee and other members of the committee leadership have indicated that if additional resources prove to be necessary down the road, that those resources might be available.

□ 1330

Mr. Speaker, I have a personal interest in this in a curious way that goes back generations. My mother was born and raised in San Francisco, and my grandfather arrived in the United States 3 days before the San Francisco earthquate in 1906; in fact he met my grandmother in fighting the fires that were a result of the San Francisco earthquate of 1906. And I still have most of my family from my mother's side in the San Francisco Bay area.

Given the enormously critical and sad role that earthquakes and their resulting devastation have played in the history of the State of California, particularly northern California, it is particularly appropriate that the Appropriations Committee and Congress respond in a bipartisan fashion, with the type of unanimity and consensus that we have seen, bringing Members from around the country from both sides of the aisle together to respond as promptly and as effectively as we will be doing once this rule is adopted and once this legislation is enacted.

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. PORTER], a member of the Committee on Appropriations.

Mr. PORTER. Mr. Speaker, I rise in opposition to this continuing resolution, our second continuing resolution, which further cements in the minds of the American people the castastrophic failure of this Congress to behave responsibly.

It is appropriate at this time to consider what an incredibly poor job we are doing of following the law. All 13 appropriation bills are due under the law to be signed by the President by October 1, the beginning of the new fiscal year. Once one was signed by that time. Now, on October 24, only 2 of the 13 appropriation bills have been signed into law. Two others have been sent to the President very late. He has vetoed one, and he will veto the second, thereby assuring that it will be an even longer time before they are enacted.

The other nine are slowly—oh, so slowly—winding their way through the process. Has anybody seen the Defense appropriation bill? Has anybody seen the Agriculture appropriation bill? Where are they?

On October 1, we said we would need another 25 days to get our job done. That time has now passed, and we say we need another 20 days. In 20 days from now, without a doubt we will need still more time, Mr. Speaker.

Eventually we will take the most controversial of these bills and tie them together into a year-long omnibus continuing resolution, sprinkle them with all kinds of goodies, and send it up to the White House as a nice Christmas present. Little short-term continuing resolutions have a way of growing into larger long-term continuing resolution, and finally they reach their full-fledged adulthood as year-long omnibus continuing resolu-

tions, and, Mr. Speaker, that is exactly where we are heading.

Meanwhile, Gramm-Rudman has been triggered because the Ways and Means Committee has spent most of the year stalling the reconciliation bill, and the debt ceiling extension, sure to be a controversial mess, is also nowhere in sight.

Mr. Speaker, I am against the continuing resolution. I am convinced that the only way we will get the job done is to defeat all continuing resolutions. We are not voting in the dark; we know what is in the continuing resolution. We should vote against it because it is a continuing resolution.

I am convinced that if we pass this short-term measure, we will eventually see an omnibus continuing resolution, and I believe that is wrong. We are buying time for the reconciliation conference, and the more time they have, the poorer the results will be. This game of extending deadlines is not funny. It is a bad game. It is bad for our country, and it is bad for the Congress as an institution.

Mr. Speaker, I urge the Members to oppose this measure.

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding this time to me, and I rise in support of the rule and in support of the continuing resolution. I thank the Rules Committee, and I thank the Appropriations Committee and its leadership under the chairmanship of the gentleman from Mississippi [Mr. WHITTEN] for their fast action in bringing this relief for earthquake victims to the floor of Congress.

On behalf of all my constituents, let me say that I thank the committee chairmen, I thank the Rules Committee, and I thank each and every member of the Appropriations Committee.

Mr. Speaker, in the time allotted to me I would like to focus on one aspect of the disaster relief. I represent the Marina District of San Francisco in the Congress, and in one aspect of the disaster assistance there is a cap on the loans to homeowners for them to reconstruct and rehabilitate their homes. This cap is not reflective of home prices in California, and particularly in San Francisco. In every other respect, in terms of housing assistance, be it rental housing for those renters who have lost their homes or replacing housing assistance to homeowners in the interim period, SBA and FEMA used a median of the rates in the area, but when it comes time to repair houses, it is a fixed figure across the country regardless of the housing cost in any particular area. By statute, the SBA has the authority to change that regulation.

What do we want? So many people have asked, what can we do to help? One thing we can do to help is to urge the Administrator of the Small Business Administration to issue a final interim regulation effective upon publication which would establish a regulation or rule that would be more appropriate for our area.

Mr. Speaker, I am very pleased and grateful to my colleague, the gentleman from California [Mr. FAZIO], for including this appeal in the bill, and I am glad the chairman included it in the report language of the bill. We were hit by ten times of the amount of explosive power of World War II, including atomic bombs, and I ask the Members, please give us a chance to rebuild.

Mr. DERRICK. Mr. Speaker, I have no further requests for time.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, before I move the previous question on the resolution, I do want to take this opportunity to thank the Appropriations Committee and to thank the distinguished chairman of the full committee, the gentleman from Mississippi [Mr. WHITTEN], and the distinguished chairman of the subcommittee, the gentleman from Michigan [Mr. TRAXLER], for getting this bill out as quickly as they have. They have done an excellent job, and I assure them that there is a great need on the part of the people of South Carolina for the relief that this bill provides.

Mr. Speaker, having said that, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore [Mr. HEFNER]. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 255, nays 147, not voting 31, as follows:

[Roll No. 299]

YEAS—255

Ackerman	AuCoin	Borski
Akaka	Barnard	Bosco
Alexander	Bateman	Boucher
Anderson	Bates	Boxer
Andrews	Beilenson	Brennan
Annunzio	Bennett	Browder
Anthony	Berman	Bruce
Applegate	Bevill	Bryant
Aspin	Bilbray	Bustamante
Atkins	Boggs	Byron
Campbell (CA)	Huckaby	Patterson
Campbell (CO)	Hughes	Payne (NJ)
Cardin	Hutto	Payne (VA)
Carper	Hyde	Pelosi
Carr	Jenkins	Penny
Chapman	Johnson (SD)	Perkins
Clarke	Johnston	Pickett
Clay	Jones (GA)	Pickle
Clement	Jones (NC)	Poshard
Coleman (MO)	Jontz	Price
Coleman (TX)	Kanjorski	Rahall
Collins	Kaptur	Rangel
Condit	Kastenmeier	Ravenel
Cooper	Kennedy	Richardson
Costello	Kennelly	Robinson
Coughlin	Kildee	Roe
Coyne	Kleczka	Rose
Crockett	Kolter	Rostenkowski
Darden	Kostmayer	Rowland (CT)
Davis	LaFalce	Rowland (GA)
de la Garza	Lancaster	Roybal
DeFazio	Lantos	Russo
Dellums	Laughlin	Sabo
Derrick	Leath (TX)	Saiki
Dickinson	Lehman (CA)	Sarpalius
Dicks	Lehman (FL)	Savage
Dingell	Lent	Sawyer
Dixon	Levin (MI)	Scheuer
Donnelly	Levine (CA)	Schumer
Dorgan (ND)	Lewis (GA)	Sikorski
Downey	Lloyd	Sisisky
Durbin	Long	Skaggs
Dwyer	Lowey (NY)	Skelton
Dymally	Luken, Thomas	Slattery
Dyson	Machtley	Slaughter (NY)
Eckart	Manton	Smith (FL)
Edwards (CA)	Markey	Smith (IA)
Engel	Martinez	Smith (NJ)
English	Matsui	Solarz
Erdreich	Mavroules	Spence
Espy	Mazzoli	Spratt
Evans	McCloskey	Staggers
Fascell	McCurdy	Stallings
Fazio	McDade	Stark
Feighan	McDermott	Stenholm
Flake	McHugh	Stokes
Flippo	McMillan (NC)	Studds
Foglietta	McMillen (MD)	Swift
Ford (MI)	McNulty	Synar
Ford (TN)	Mfume	Tanner
Frank	Miller (CA)	Taylor
Frost	Mineta	Thomas (CA)
Gaydos	Moakley	Thomas (GA)
Gejdenson	Mollohan	Torres
Gephardt	Montgomery	Torricelli
Geren	Moody	Towns
Gibbons	Moorhead	Traficant
Glickman	Morella	Traxler
Goodling	Morrison (CT)	Udall
Gordon	Mrazek	Unsoeld
Guarini	Murphy	Vento
Hall (OH)	Murtha	Visclosky
Hall (TX)	Natcher	Volkmer
Harris	Neal (MA)	Walgren
Hatcher	Nelson	Watkins
Hawkins	Nowak	Waxman
Hayes (IL)	Oakar	Weiss
Hayes (LA)	Oberstar	Weldon
Hefner	Obey	Wheat
Hertel	Olin	Whitten
Hoagland	Ortiz	Wise
Hochbrueckner	Owens (UT)	Wolf
Horton	Pallone	Wolpe
Hoyer	Panetta	Yates
Hubbard	Parker	Young (AK)

NAYS—147

Archer	Combest	Gallegly
Armey	Conte	Gallo
Ballenger	Cox	Gekas
Bartlett	Craig	Gillmor
Barton	Crane	Gilman
Bentley	Dannemeyer	Gingrich
Bereuter	DeLay	Gonzalez
Bilirakis	DeWine	Gradison
Bliley	Dornan (CA)	Grandy
Broomfield	Douglas	Green
Brown (CO)	Dreier	Gunderson
Buechner	Duncan	Hamilton
Bunning	Edwards (OK)	Hammerschmidt
Burton	Emerson	Hancock
Callahan	Fawell	Hansen
Chandler	Fields	Hastert
Clinger	Fish	Hefley
Coble	Frenzel	Henry

Herger	Neal (NC)	Shumway
Hiler	Nielson	Shuster
Hopkins	Oxley	Slaughter (VA)
Houghton	Parris	Smith (NE)
Inhofe	Pashayan	Smith (TX)
Jacobs	Pease	Smith (VT)
James	Petri	Smith, Denny (OR)
Johnson (CT)	Porter	Smith, Robert (NH)
Kasich	Pursell	Smith, Robert (OR)
Kolbe	Quillen	Snowe
Kyl	Ray	Solomon
Lagomarsino	Regula	Stangeland
Leach (IA)	Rhodes	Stearns
Lewis (CA)	Ridge	Stump
Lewis (FL)	Rinaldo	Sundquist
Lightfoot	Ritter	Tallon
Livingston	Roberts	Tauke
Lowery (CA)	Rogers	Tauzin
Lukens, Donald	Rohrabacher	Thomas (WY)
Madigan	Ros-Lehtinen	Upton
Marlenee	Roth	Valentine
Martin (IL)	Roukema	Vander Jagt
Martin (NY)	Sangmeister	Walker
McCandless	Schaefer	Walsh
McCollum	Schiff	Weber
McCrery	Schroeder	Whittaker
McEwen	Schuette	Wyden
McGrath	Schulze	Wylie
Meyers	Sensenbrenner	Young (FL)
Michel	Sharp	
Miller (WA)	Shaw	
Morrison (WA)	Shays	

NOT VOTING—31

Baker	Grant	Packard
Boehlert	Gray	Paxon
Bonior	Holloway	Saxton
Brooks	Hunter	Schneider
Brown (CA)	Ireland	Skeen
Conyers	Lipinski	Vucanovich
Courter	Miller (OH)	Williams
Early	Molinari	Wilson
Florio	Myers	Yatron
Garcia	Nagle	
Goss	Owens (NY)	

□ 1358

Mr. GILMAN changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 3012, MILITARY CONSTRUCTION APPROPRIATIONS, 1990

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, October 24, 1989, to file a conference report on the bill (H.R. 3012) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes.

The SPEAKER pro tempore (Mr. FASCELL). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

□ 1400

FURTHER CONTINUING APPROPRIATIONS, 1990

Mr. WHITTEN. Mr. Speaker, pursuant to the provisions of House Resolution 271, I call up the joint resolution (H.J. Res. 423) making further continuing appropriations for the fiscal year 1990, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 423, the joint resolution now under consideration, and that I may include extraneous and tabular material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hope I may have the attention of my colleagues.

Mr. Speaker, may I say that there are two or three things that I should address myself to prior to getting into the substance of this resolution.

First, I say to my friends on the right that this condemnation of the House about these continuing resolutions is ill-timed and incorrect. When the President of the United States slammed the fiscal 1988 continuing resolution down up here before television, the House committee and the House had done their jobs. Hearings on the fiscal year 1988 budget began on February 3, 1987. Testimony, taken from over 4,500 witnesses on 237 hearings days, was printed on 92,600 pages in over 90 hearing volumes. That was just the beginning of action which led to the completion of conferences on 13 separate appropriation bills that were packaged into one bill at the request of the President's representatives during the so-called economic summit. The problem is on the other side of the Capitol.

May I say that this year the Committee on Appropriations completed its bills in time. We sent them to the Senate, and all the delay and the cause of this continuing resolution lies on the other side of the Capitol. So, first, to look at our colleagues and point their fingers here, does no good.

Let me tell the Members something else about why this bill is here and why I introduced it. Yesterday on the front of the Capitol, they had a red ribbon and invited us all out there so we could tell the people we were still for doing something about drugs.

When this problem arose in California—the worst earthquake since 1906, so soon after Hurricane Hugo, which was equally as bad, and tornadoes hit the rest of the country, I realized we had to do something and we had to do it fast. The first thing that we had to do was to avoid having 8 or 10 committees with jurisdiction kill a year and a half as they have on drugs trying to get together.

It was on that basis that I came down here early on behalf of the Committee on Appropriations, with various members of all the subcommittees of jurisdiction. It was on that basis that I prepared this bill and on Friday, October 20, I introduced House Joint Resolution 423 for myself and on behalf of the delgations of the State of California and the State of South Carolina and other areas affected by natural disasters of a national scale.

There are two or three other things: I prepared the bill to fit into existing laws that we have which would control how it is operated. If the Members watch pictures on television, as I did, there is no way in God's world to know what the cost is going to be. Also, we all know that we cannot fail to act, and my friends on the righthand side, if they had killed this rule, may I say that they would have killed any help for California and the other areas for a year based on our experience when we get various committees involved in hearings, when they have jurisdiction, in my judgment.

The committee yesterday reported out House Joint Resolution 423 which extends the present continuing resolution (Public Law 101-100) from October 25 to November 15, 1989. It also provides $2,850,000,000 in a new section 108 to provide a dire emergency supplemental to meet the needs of natural disasters of national significance. This includes Hurricane Hugo of September 1989 and the Loma Prieta earthquake of October 17, 1989.

The point I make is we have done the very best we could on short notice. We have held the amount in line with what we can clearly see that it is going to take, but we did not go overboard. There were amendments offered in the committee that would have gone much further for money and legislative exemptions than we do in this bill. We did not agree to those amendments, but we agreed to put it in the report and directed the executive branch to give full consideration to the report language when administering the supplemental and in preparation of any further supplemental bill as required by subsection (e) which states "(e) Such other amounts will be made available subsequently as required."

Someone has suggested that we ought to give a foreign address to these disaster areas and then we would hear no such commotion as we are hearing today. I am sorry to say it looks as if it were a foreign country we would have a whole lot more time and

support for it than we do for our folks here at home.

On that basis, let me repeat again that what we have done here is make money available in the best judgment of the committee to meet the emergency just as fast as we can—to not wait. In the process, we have tried to provide enough to get started on a sound basis but not enough to cover it all. But, again, those who think it will take several times this, we tell them that the President in any recommendation for future supplementals can give consideration to those proposals.

I have a statement of administration policy here from the Budget Director, and he indicates that while it is too much money it should pass the House. Perhaps whoever prepared it has been too busy to watch any television to travel out there with the President. I do not believe that is the President's recommendation. But it is pointed out that it is too much money in some of these areas.

I could talk on and on, but I think when we have the damages that have been done in South and North Carolina, when we have the most terrible earthquake since 1906, it is time we took the unusual position of doing something about it. This is America. These are some of our greatest States, and those people have endured enough hardship, so I make no apologies for offering this bill early so as not to get it divided out among the various jurisdictions of the various legislative committees as we did on drugs and get bogged down for a year and a half.

Let me say again on the need for this continuing resolution, it is not the fault of your committee. It is not the fault of the House. That being true, since we will have to suspend operation by tomorrow night at midnight if this isn't adopted. I hope the Members will go along with us on this.

By including the dire emergency supplemental for natural disasters here it puts the pressure on us to go ahead and for the Senate to go ahead in providing the relief that is so badly needed now—not next year, or not a year and a half from now.

May I say to my friends on the Republican side, that they are my friends, but let us not make the mistake of being opposed to doing for our own country what time and time we have done for foreign countries. I ask them to support this resolution. It is for the right thing. It is conservative, and it does right.

May I say further, my friend, the gentleman from Michigan [Mr. TRAXLER], points out some other things that are necessary, and that is to avoid getting tangled up by the Budget Act, which applies only when some few of our friends want it to apply, unless they make exceptions such as for savings and loans which moves up judgement day. If we are going to tie the Budget Act to this, they will have fallen into the trap and we will end up waiting a year or a year and a half to get this job done.

Mr. Speaker, I ask for the Members' support for the joint resolution as it is independent of any amendment that would delay us moving to meet this desperate need.

It is important that this resolution be considered promptly since the present continuing resolution expires midnight Wednesday, October 25, and it is equally important that action be completed so that disaster relief funds in the bill can be made available to the victims of these tragic disasters soon.

House Joint Resolution 423 amends Public Law 101-100 by:

Extending the date to November 15 as requested by House Leadership;

Providing additional disaster assistance comparable to the 1980 experience in response to Mount St. Helens;

We have been hit with two disasters in rapid succession—Hurricane Hugo and last week's earthquake; and

Provides $2,850,000,000 supplemental funds for:

FEMA	$1,100,000,000
Federal highways	1,000,000,000
Small business disaster assistance	500,000,000
President's contingency fund	250,000,000
Total	$2,850,000,000

Subsection (e) states "such other amounts will be made available subsequently as required."

I did this so we can get started.

This is a good resolution, and I urge it be adopted.

Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let us get one thing straight for the record. No one, no one in this House is against aid for the earthquake, and if the rule had gone down, we might have gotten a better rule, and we would have gotten it today.

Mr. Speaker, welcome to one of the most unpleasant tasks around here, presiding over the continuing resolution parade now running from October 25 to November 15. It is 24 days after the fiscal new year, and we still do not have our 13 bills back in the stall.

□ 1410

Eleven of them are now either finished or in the final conference straightaway. Only two, defense and foreign operations, have not entered the stretch.

But the clock is ticking, the bell is about to ring, and we need to turn the clock back.

So maybe it is divine justice that the last temporary continuing resolution and now this one have attracted disasters. One disaster begets another.

The California earthquake is, of course, real. People have died. People have been injured. People have lost everything they own. They want help, and they ought to get that help. We have to give the people the help they need, and I have no problem with that.

But let us get one thing straight: This is real money. This is $2.85 billion. The earthquake is real. The hurricane is real. And this money is real.

At least it should be. But right now, this bill does not deal in real money, it deals in funny money. Under section 108(f), it does not count toward Gramm-Rudman-Hollings. It does not count toward the Budget Act. Let us strike that section. It has nothing to do with the bill. The bill will go on if it is stricken. The money for the earthquake will go to California.

As I said yesterday in full committee, I wish to say to the gentleman from California [Mr. DELLUMS], if this is not sufficient money, I have crusaded to get more money. I make that pledge. Anybody that knows my 31 years here, my word is my bond.

There is one more thing. We are going to extraordinary lengths to provide this money for two disasters, a hurricane and an earthquake. But there is not one bloody word in this bill restricting the use of these funds to these two disasters.

For all we know, the money in this bill could be used to plug potholes in Kennebunkport. If it doesn't get to the disaster areas, then they will come back and say we need more, and there will be billions more.

Let us cut that one off at the pass. I will be offering a motion to recommit to add a new subsection. It will require that this $2.85 billion be used solely for the purpose of responding to the California earthquake and the Carolina hurricane.

The gentleman from South Carolina was for my amendment. He knows what this is all about. We do not want some shenanigans. Some of this money is going to some other States, and I am not going to mention which ones.

Let us help those in need, but let us also practice good government. The two need not be mutually exclusive. Both of my amendments, if they are adopted, will not slow the bill down, and will not reduce by one penny money for California or for the victims of Hurricane Hugo.

Mr. WHITTEN. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, first let me thank the gentleman from Mississippi and the ranking minority member for fashioning a vehicle to allow us to deal with the issue of disaster relief.

Second, I would like to say to the gentleman from Massachusetts [Mr. CONTE], the ranking minority member, I thank him very much for his generosity and pledge of support. I can underscore for purposes of emphasis that the gentleman's word is his bond, and I thank him very much for that.

Mr. Speaker, our people have suffered loss of life, injury, public and personal property damage, mounting into the tens of millions of dollars, losses in many instances that cannot be calculated, indeed cannot be replaced by money and bricks and mortar. Our people have also suffered the pain of evacuation and dislocation.

All Members in this body are aware of that portion of the freeway known as I-880 that collapsed, resulting in the death and injury of scores of people. That bridge is in this gentleman's congressional district, in fact only a few short blocks from where this gentleman grew up.

This is extremely painful for all of us.

I might say further in the brief time I have the damage in that area and the amount of resources required to replace that part of the freeway at this point cannot be calculated.

I would like to go then to a couple of other areas of great significance and import.

As a result of this disastrous earthquake, Mr. Speaker, the Port of Oakland, including its marine terminal, and the Oakland International Airport, have suffered extensive damage, totaling an estimated $105 million.

One marine terminal has been closed, and the others have suffered widespread damage. The airport has lost 3,000 feet of its main runway, taxiway, and the airport dike and both passenger terminals have been damaged.

As you know, the Port of Oakland is one of the bay area's largest public employers, and it is a major export facility for not only California cargoes but for all American products. Oakland is also the main gateway for the Department of Defense shipments to the Pacific. The port does not rely on the city of Oakland nor the State of California for financing its operations, but rather is financed by its operating revenues and the sale of the port's own revenue bonds and commercial paper. As a result, the port does not have the funds to direct toward the damages incurred, and nearly all of the damage is not covered by insurance. Therefore, it is imperative that the port receive the disaster relief that is needed to quickly make the necessary repairs to its facilities.

In the closing seconds that I have, I want to thank all of my colleagues for their expression of condolence in this very painful period in the lives of our constituents. This is in many ways what our Government is all about, its ability to respond to the concerns, the pain and agony of its people. I thank all of my colleagues for making this vehicle available to us at this time.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, here it is, October 24, 24 days past the time we were supposed to have our budget process in place and all of our appropriation bills done.

Instead, here we are with our second continuing resolution. What a mess.

We have no permanent appropriations for all the agencies of Government. We have sequestration in effect. But we do not even know if that will last.

The agencies that do have appropriations bills do not know what effect sequestration will have on them. They can't know if the cuts be restored or not. Is the sequestration threat going to last?

Tomorrow is the deadline that the Democratic leadership of this body to offer its alternative to sequestration on the floor of the House. Will we see such a sequestration alternative offered here in this body, or are we just going to keep muddling along?

Now, my good friend and distinguished chairman of the Appropriations Committee, the gentleman from Mississippi, [Mr. WHITTEN], suggested this is the problem of the other body. He says it is because of the Senate that we have this problem.

As a member of the Appropriations Committee, I can attest that we did work hard to get the appropriation bill passed. We sent them over to the Senate in a timely fashion.

But, Mr. Speaker, that dosn't mean avoid our responsibility. This is a collective body, and the leadership of these two bodies, the House and the Senate, have to work together to resolve these problems.

In this bill we have, of course, very important legislation for relief of the victims of the California earthquake and Hurricane Hugo, $2.85 billion. As Mr. Conte said, these disasters are real, but the money that we have got in here is not real. We are trying to make this some kind of ephemeral dollars, dollars that we create out of the air as though they do not really exist.

I say the time has come for us to do what happend last year. Let's have a President give us a credible threat that says we are not going to do any more continuing resolutions. Let us go back to that. Then let us pass a carefully constructed relief bill that provides but targeted relief. And let us send a message to the Senate by not passing this kind of continuing resolution.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Speaker, members of the Appropriations Committee worked late into the evening last night in order that we could consider the continuing appropriations resolution before us today. And for that I am grateful. I just wish the content of the resolution were different than the measure before us.

I deeply respect the judgment of the committee and its chairman, the gentleman from Mississippi and the ranking minority member, the gentleman from Massachusetts. In particular, I want to commend the gentleman for including in House Joint Resolution 423 an additional capital increase of $500 million for the Small Business Disaster Loan Fund. Quite frankly, I wish the amount were double the amount in the resolution, but I also understand the constraints under which the committee must operate.

Mr. Speaker, 1 week ago today, a significant earthquake struck northern California, causing an estimated $10 billion in damage to homes, businesses, transportation facilities, and utilities. We may never know the full extent of the damage. To the families and friends of the deceased and injured, I am sure I am joined by every Member in this Chamber in extending our heartfelt sympathies.

Even though my congressional district in southern California was not affected by the earthquake, many of my constituents and most of the members of my staff have family members and friends who live in the bay area. In addition, as a member of the Small Business Committee, I appreciate the support of the committee's chairman, Mr. LAFALCE, in helping us to respond to the earthquake emergency.

In the aftermath of any natural disaster, the Small Business Disaster Loan Fund helps victims to recover their normal lives. Disaster loans are available to homeowners and renters for restoring or replacing a disaster victim's home and personal property as nearly as possible to the predisaster condition. Disaster loans are also available to businesses, including major sources of employment, and other organizations to repair or replace destroyed or damaged business facilities, inventory, machinery, or equipment.

The Small Business Disaster Loan Fund is a revolving fund authorized by the Small Business Act and available to disaster victims at a moments notice. It is not a fund which should be capitalized only to the extent it is needed. Rather, it is a fund which must be maintained in sound financial condition at all times, for the benefit of future disaster victims, anywhere in the United States.

Thus, it is my firm belief, that the resolution before us today, to the extent it contains a capital increase for the Small Business Disaster Loan

Fund, is a resolution that will benefit the entire Nation, not just the victims of the most recent natural disasters. By voting for this resolution, we are, in effect, voting to maintain the viability of the fund for any applicant in any of our congressional districts. The Congress has a responsibility to make sure the fund is available when needed, not tapped out. And this resolution is an example of the Congress living up to its responsibility.

Once again, I commend the Chairman and the members of the Appropriations Committee for their leadership.

□ 1420

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, as a southern Californian who 2 years ago this month suffered a 6.1 earthquake in the Whittier area, the Los Angeles/Whittier area, I would simply like to extend my thanks and appreciation to the distinguished dean of our House, the chairman of the Committee on Appropriations, the gentleman from Mississippi [Mr. WHITTEN], and of course my good friend from Massachusetts [Mr. CONTE], the ranking member, for recognizing this extreme crisis.

It is not easy, I am not one who has had a pattern of supporting continuing resolutions in this House, but we have again an extraordinary circumstance here. This year we have seen the *Exxon Valdez* disaster, we have seen Hurricane Hugo, Hurricane Jerry, and now this devastating 1989 earthquake.

I hope very much that we will be able to work out a package which will be able to address this problem.

I say that, Mr. Speaker, thinking about that unbelievable story of a former Member of this House, Davey Crockett, who responded differently when national disaster hit. Nevertheless, I think it is critical for us to proceed with this package.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Bosco].

Mr. BOSCO. I thank the gentleman for yielding.

Mr. Speaker, I think all of us from the bay area of California owe the chairman of the Committee on Appropriations, the gentleman from Mississippi [Mr. WHITTEN] and the ranking member, the gentleman from Massachusetts [Mr. CONTE], a debt of gratitude.

As Mr. WHITTEN pointed out, we can only imagine what would have happened around here if we had allowed each committee of jurisdiction to have its way with this bill.

This has been difficult for him to put together. We appreciate it.

Mr. Speaker, I want to point out several deficiencies in the measure before us, however, insofar as they relate to a very important part of the disaster relief. That is, highway transportation.

Although this is extraordinary disaster-related relief that we are talking about here today, up to a billion dollars' worth of it, all of which may very well be needed, it is not made clear in the legislation that this appropriation will not come out of California's normal highway allocation. Were that to be the case, the entire State of California would be shut down in terms of its Federal highway program.

We will be asking in the days to come that it be made clear that this disaster relief be exempted from California's normal highway allocation.

Second, the Bay Bridge is not included as an entity eligible to receive this funding. The Bay Bridge is a toll bridge and under ordinary circumstances would not have been eligible for Federal highway allocations.

We will be asking that the Bay Bridge, which suffered greatly from the earthquake, be made eligible for the funds that would be made available today.

Third, ordinarily the highway disaster relief program would give a State 90 days of 100 percent Federal financing under disaster circumstances. Because of an inadvertent technicality in this bill, California would not get 100 percent financing and we will be asking for a change in that regard.

It is understandable that urgency prevented every detail from being accounted for in this resolution, and we are hopeful the legislation can be improved as it progresses through the Congress.

Mr. CONTE. Mr. Speaker, I yield 4 minutes to the ranking member of the Committee on the Budget, the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Speaker, I listened with great interest when the distinguished chairman directed some remarks to people he addressed as friends on his right. I would hope I am one of them. I believe I am. I paid close attention.

In those remarks he indicated that whatever delay there is in passing appropriations bills is the fault of the other body because they have not responded to bills which the House sent over there.

I am not terribly anxious to assign responsibility between either body. I am grateful to the chairman and his committee for the good work that they are doing.

What I am saying is that the leadership of this House and the other body is in default because the bills have not been passed. And if somebody would like to assign it from one body to the other, they can be my guest. The business of deflecting criticism to the next window can only be successful if there is some difference in the management of the two bodies. Currently they both march under the same banner.

All I can say is that the Congress has not met its obligations under the laws that it, itself, has written and, therefore, its leadership has to be judged a failure.

The second point is that however marvelous the continuing resolution is, it goes forward at a greater expense than we were incurring under last year's appropriation.

Therefore, there is no penalty to the House or the Senate for operating under a continuing resolution forever.

If the continuing resolution had responsibility attached to it, that is, if it were going forward at last year's spending rate, then the Congress would have a little stimulus to get out and do the job that it knows it has to do.

Mr. Speaker, I support very strongly the amendment to be offered by the gentleman from Massachusetts to get rid of the Budget Act and Gramm-Rudman waivers.

Unfortunately, the waiver in this bill does not only waive Gramm-Rudman for fiscal year 1990, but in subsequent years as well, when the outlays fall there.

I would be hideously complicated in the operation of the Budget Act and the budget processes to have to deal with this kind of phenomenon. Some of these items would be on budget, some off Gramm-Rudman, some would be neither, some would be both. This is laying an impossible burden on the process.

Therefore, the amendment of the gentleman from Massachusetts is not only the fiscally responsible way to go but probably the only way the House can go with any kind of rational process. So I would hope that that will be passed.

Another anomaly of this bill that bothers me somewhat, Mr. Speaker, is that on page 3 of the committee report it is noted that an amendment was not adopted in the committee. The Fazio amendment was defeated, I am told by the newspapers, by some 26–7 vote.

But that whole amendment appears in the committee report as if to say that after it was defeated, it was later rehabilitated not enough to get in the bill but enough to get in the report. The administration is told it should be guided by that defeated amendment in the execution of its duties should this part of the bill become law.

□ 1430

In addition, we are told that there are further bills coming, under 108(e) on page 3 of the bill, and that additional funding will be made available

as required. Those, too, will be subject to the amendment that failed.

This is a very unusual procedure, Mr. Speaker, which I do not understand. I doubt the courts will either if they are required to interpret it. In the future we will do better if we just give Members an appropriation bill and tell Members what we want instead of talking pig Latin to the House of Representatives.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I mentioned earlier, after discussions with members of the California delegation, I determined to move as fast as possible. We spent all afternoon in committee and we were before the Rules Committee at 8 p.m. last night. We could not anticipate everything. We could not anticipate unusual things that are going to happen. We put $250 million in here for such things as the President of the United States might deem necessary. Surely we can trust him on that.

Furthermore, let me tell Members what we do here. This is limited to disasters declared by the President of the United States. It is limited to existing conditions. Are we going to say if a disaster is not as big as Hurricane Hugo, or as bad as the earthquake that we will shut out the rest of the country? I look at tornadoes and flood and last evening's explosion in Texas—bad things but not as big as an earthquake or as big as Hurricane Hugo. Won't we help with these? Do we not trust the President to declare disasters? I do. There are a whole lot of things I differ with the President on, but I trust him to use $250 million where he thinks it is necessary.

Now, on Friday I came down here before breakfast in order to write this and try to get ahead of all the legislative committees, which still has a drug bill all tied up. I am on one of the committees, too. So is the gentleman on the other side of the aisle, but we just could not afford to let disaster relief get tangled up in view of the suffering.

Therefore, I am speaking in advance of any effort to restrict these funds to these two disasters and say to my colleague, that I thank him for his cooperation not only here but in other areas. However, certainly he does not want to restrict this bill only to earthquakes as big as this one, or hurricanes as big as Hugo, since we already limit it to existing emergencies, as declared by the President of the United States.

Mr. SPEAKER. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, on page 3, lines 6 and 7, the bill says, "Such other amounts will be made available subsequently, as required." What kind of exposure are we getting into, in adopting that language?

Mr. WHITTEN. Mr. Speaker, most of the bills I handle I write myself, and I wrote this provision, knowing that we could not foresee everything that was needed.

We provided the language, and I read it, "Such other amounts will be made available subsequently as required."

"As required," means as proven. It means we, as a Congress, or the President in his recommendation, will have to prove the need. So the word "required" was deliberately written for the purpose of saying it had to be proven that it is required in the future. That is the purpose of subsection (e).

I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, one additional question. Am I correct in understanding that this bill, as written, would be applicable to any, what are defined as "recent natural disasters," as defined in the Roberts-Stafford Disaster and Emergency Act?

Mr. WHITTEN. Mr. Speaker, may I say that each appropriation here is tied to legislation which calls for a determination by the President. I think it makes a most serious mistake to say it has to be as big as the San Francisco earthquake, or as big as Hurricane Hugo, or else a State is out. I am not made that way.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hope that the gentlemen and gentlewomen from California, and the gentlemen and gentlewomen from the Hurricane Hugo disaster are watching television, because of what the chairman just said. I want to offer an amendment to narrow the scope of the bill so that it will apply just to the earthquake and to the Hugo Hurricane.

Listen to this, Mr. Speaker, no one will believe it. In FEMA alone, there are 160 different approved disasters which would have access to the $1,100,000,000 provided by this bill. One hundred sixty disasters. Do Members know what California and South Carolina would get out of this bill if we do not have my restrictive amendment to let this money go to those poor people in the bay area and the Hurricane Hugo area? One hundred sixty more areas out there that have been declared disasters, and they can come in here and grab this money.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, I rise today in order to say that there are not very many people on this Earth watching television in the last few weeks who do not recognize that we have had a huge disaster in California by way of the San Francisco earthquake. Since that time, virtually every day the expected costs of that disaster have been escalating in almost every category. It is extremely difficult to measure what the final cost will be.

However, let me say this: It is critical early on to get money into the pipeline, to begin to provide assistance to those people most dramatically affected. This continuing resolution is by far the best way, the only way, to get that money in line quickly. Therefore, I am here to express my deep appreciation to my colleagues for that effort.

It has been suggested by others that there may be some technical amendments that impact the way this money will be delivered. Indeed, they are, but they can be satisfied quickly by other measures or perhaps in this measure somewhere down the line. In the meantime, the people of California need this assistance.

I urge my colleagues to support this. Once again, I express my appreciation to my chairman and my fellow colleagues.

Mr. Speaker, I yield to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker, the State of California has a $1 billion surplus in the treasury. Has the California Legislature taken any action to expend any of those funds toward this disaster?

Mr. LEWIS of California. The Governor of California has said that they will use all of that billion dollars that is in reserve, and if need be, when the legislature comes back into session before the end of the year they will exercise taxes, if necessary.

Mr. REGULA. If the gentleman will continue to yield, is the legislature in any type of emergency session at this point?

Mr. LEWIS of California. At this point they are not, because the billion dollars will cover the interim period.

However, to say the least, this is a critical item.

Mr. Speaker, I yield to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, I thank my colleague for yielding.

The California State Legislature will be going into extraordinary session to focus upon this issue. So the answer to my colleague is yes on both counts.

Mr. LEWIS of California. They have not met yet, but they will be meeting?

Mr. DELLUMS. If the gentleman will continue yielding, that is correct. They will meet on the 1st of November.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Speaker, first of all I would like to again commend the leadership of the Committee on Appropriations, on both sides of the aisle, for their expeditious movement of this extremely important legislation.

I would like to make a couple of points pertaining to where we appear to be. We know this legislation is ex-

tremely important. It is moving rapidly and is very much appreciated in California. I do think that it is at least as important to emphasize that there is a recognition that there is likely to be a greater need than the dollars that are included in this specific bill. Again, I think it is important that the leadership of the committee has indicated a willingness to review carefully the likelihood that that need may have to be met in the near future.

Beyond this specific measure, Mr. Speaker, it seems to me that a number of people, both in California and beyond, have looked at the devastation of this most recent natural disaster, and have reflected that there but for the grace of God go I, and perhaps have asked themselves whether or not the type of philosophy that seems to have been dictating how government performs services in response to crises, particularly in this decade, is appropriate.

I think, Mr. Speaker, that we ought to be asking ourselves whether a rigid read-my-lips philosophy is the appropriate way to look at how the public ought to be responding to natural disasters and the type of efficacies presented to it. When we see the type of tragedies that are no individual's fault, that are clearly acts of God, that are clearly natural disasters that require the type of immediate response that is being provided here, hopefully this will perhaps be a signal to reevaluate the excessive anti-Government rhetoric and the read-my-lips philosophy that has too frequently dictated the direction of this Government in the last decade.

□ 1440

The SPEAKER pro tempore (Mr. FASCELL). The gentleman from Mississippi [Mr. WHITTEN] has 9 minutes remaining and the gentleman from Massachusetts [Mr. CONTE] has 14 minutes remaining.

Mr. CONTE. Mr. Speaker, I reserve the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO], a member of the Committee on Appropriations.

Mr. FAZIO. Mr. Speaker, I would first like to begin by thanking my chairman, the gentleman from Mississippi [Mr. WHITTEN], and our ranking minority member, the gentleman from Massachusetts [Mr. CONTE] for including such a significant amount of money in this bill on such short notice. They certainly have done as much as they could possibly do to put California in the position, along with the victims of Hurricane Hugo, to be in a position to take advantage of the small business development loans for homeowners and others who have lost livelihoods and lost their dwellings.

They have gone a long way in providing the FEMA funds that we need, and certainly this $1 billion fund will be sufficient, I think, to help our California highway system which has been devastated in the bay area.

There are some areas where we need additional language to make this more flexible and more appropriate for the magnitude of this most expensive natural disaster in American history. Obviously, in the opinion of many, we have an insufficient amount of money available in the small business development funds for disaster relief purposes, but these are problems that can be attended to as this bill moves along, or somewhere down the road when other legislation is introduced by the various committees of jurisdiction.

We do have some problems in California that are uniquely different than those that have occurred in many other disasters, one being the magnitude of the losses of our transportation system, requiring us to operate our transit systems 24 hours a day, change our business hours, and do the things that I think Californians are going to be willing to do to accommodate this disaster.

So we will need some legislation. I think the Committee on Public Works and Transportation and the Committee on Small Business will be directing us and showing us the way.

I also want to say to my colleagues who are concerned about California's own share that our State has a $1 billion surplus. Our Governor is committed to helping make that money available to deal with the earthquake disaster, and frankly, our State legislature will be coming into special session under the Governor's guidance to find other sums. Believe me, California is not asking the Federal Government to bail it out. We will be working effectively together, and we appreciate the help we have had from our colleagues from across the country.

Mr. Speaker, I would like to thank Chairman WHITTEN for including a $2.85 billion disaster relief package in this short-term extension of the continuing resolution.

Our delegation and the entire State of California are very appreciative of the chairman's initiative, and we believe this represents a good beginning for our efforts to address the catastrophic damage caused by the Loma Pieta earthquake.

We are also appreciative that the chairman has included the provisions of our expanded proposal in the report to accompany the measure.

The chairman has indicated that this will give the administration some guidance on how these monies should be allocated, and our delegation hopes that this guidance will be carefully considered and adhered to where possible by the executive branch as well.

The report language, for example, makes it clear that it is our view that the administration should allocate up to $40 million of the $1.1 billion that is made available to FEMA to help offset the huge unexpected additional operating costs associated with providing expanded mass transit services in the bay area.

FORTY MILLION DOLLARS FOR UMTA

The $40 million is desperately needed because of the following costs that have been or will be incurred over the next 3 months. All calculations are based on 3 months:

It is estimated that the Oakland-San Francisco Bay Bridge will be closed for 3 months.

AC Transit which provides shuttle services for BART between Golden Gate Field Park and Ride Lot and North Berkeley BART station. This will cost $7.2 million over 3 months.

Weekly cost of operating BART on a 24-hour service, with added cars and added trains is $755,000 per week. Based on 3 months, this will translate into $9.9 million.

Systemwide repair of BART is estimated at $2.1 million.

Caltrans expects to augment shuttle bus transportation from Fourth and Townsend Streets to CBD in San Francisco at a cost of $40,000.

Contra Costa County ferry feeder services is expected to operate 200 extra hours per weekday at a cost of $600,000 for 3 months.

Golden Gate Transit in Marine County is providing additional ferry service at a cost of $240,000 for 3 months. The State of Washington is lending three publicly owned ferry boats. The cost of renting the ferry boats has not yet been determined. GGT will also run a ferry to Vallejo. This will cost $260,000.

San Francisco MUNI bus service claims that existing levels of service have enough capacity to provide ferry feeder services. The ferry feeder services have not been calculated, but additional bus service will cost $100,000.

Repair of the South Base SamTrans train service in San Mateo County will cost $50,000. Supplemental bus/train service will cost 293,000.

Ferry overflow service in Vallejo will cost $62,000. Additional BART link service will cost $75,000.

In Solano County intercity BART link service will cost $330,000.

The cost of providing additional carpool/vanpool services for RIDES for bay area commuters will be $381,000.

Also $27.7 million is needed for short term operating costs; $2.1 million is needed for short term capital costs; $2.7 million is needed for repair costs; and $33 million is the preliminary cost estimated for postearthquake emergency transportation services.

DISCRETIONARY FUNDING

In addition, the report language gives some guidance to the President on how the discretionary moneys provided to the President should be allocated.

Specifically, of the $250 million allocated to the President, it is our view that some of this funding should go to:

The General Services Administration to repair Federal buildings in California and the Virgin Islands. GSA estimates that total damages to Federal facilities in California alone will reach $80 million. The Court of Appeals in San Francisco will need to be repaired as well as another six Federal buildings in the bay area.

The Veterans' Administration for the repair of two veterans hospitals damaged in the

quake and 150 patients had to be evacuated from the Palo Alto VA Medical Center during the quake, causing an estimated $35 million in damage to the facility, while the veterans hospital at Martinez suffered an additional $15.2 million in damages.

The Federal Aviation Administration for repairs to the San Francisco and Oakland Airports and FAA facilities in the region. As of yesterday, the FAA estimated that these costs could exceed $80 million alone. San Francisco Airport facilities suffered an estimated $8 million in damages and Oakland Airport incurred about $22 million in damages. The remainder were damages to the FAA facilities.

HIGHWAY FUNDING

The $11 billion included in the chairman's bill for the Federal Highway Administration's Emergency Repair Program is the same level which our delegation had sought.

The funding would allow the following highways, bridges, and interstates to be repaired: I–880, removal of collapsed deck and reconstruction, $200 million; Oakland-San Francisco Bay Bridge, removal of collapsed deck and reconstruction, approximately $1 million; I–280, closed northbound at Route 101 to Sixth Street; I–480, Embarcadero freeway closed from Clay Street to I–80; U.S. 101, closed northbound from Feel Street to Golden Gate Avenue, southbound from Turk Street to Oak Street. Also closed northbound to State Route 92; I–980, closed at junction with I–880; State Route 17, restricted traffic of buses and carpools with pilot car escort—three major slides are blocking the roadway; State Route 152, closed to commercial vehicles at Corralitos Creek Bridge in Watsonville; State Route 25, closed between Fourth Street and Nash Road in Hollister; and State Route 35, closed from State Route 9 to Black Road to all but local traffic.

Mr. Speaker, the chairman's package is a sound start to our efforts to address the enormous damages resulting from the Loma Pieta earthquake. In terms of property damage, this is the worst natural disaster to ever hit our Nation with more than $7.1 billion in damages identified at this time. This bill is a start. It will ensure that funding is in the pipeline. And, it reflects the resolve of this body and the chairman to ensure that whatever resources are needed to respond to the earthquake, they will be forthcoming quickly. We will meet our obligations, our responsibilities to the victims of these natural disasters and without hesitation.

Mr. WHITTEN. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, first of all, I want to thank the members of the Committee on Appropriations and our distinguished chairman, the gentleman from Mississippi [Mr. WHITTEN], as well as our ranking Republican, the gentleman from Massachusetts [Mr. CONTE], for their great leadership and assistance.

This bill is without a doubt, as the resolution itself indicates, an excellent first step in responding to the damage caused by the Loma Prieta earthquake. So I would especially like to commend the committee for its actions, especially as they relate to the $1 billion for the Federal Highway Administration's Emergency Relief Program.

However, if I might, I would like to take this opportunity to at least think out loud how some of the program may have to be legislatively changed in order to make sure that we get very effective use of the money for northern California to recover. So if I might beg the indulgence of the Members, Mr. Speaker, I would like to specifically outline some of the ideas that might be considered in order to give California and the victims of Hurricane Hugo the flexibility to respond to these kinds of natural disasters.

First of all, I would like to have some consideration of the lifting of the $100 million cap on the amount that a State can receive from the Federal Highway Emergency Relief Program, because under the present law, each State is limited to $100 million for each disaster. In this instance we feel that the $100 million cap is a severe limitation.

I would like to have consideration that as far as the Federal Highway emergency repair funds are concerned, the moneys that go back to local and State governments, those governments will be able to be reimbursed for permanent as well as temporary repairs. On a lot of these things, we just do not go in and do temporary repairs because we may be able to go in and do them all at one time, and then the temporary repairs might become the permanent repairs. These are all earthquake-related; they have not resulted because of bad maintenance or because of potholes that existed from the past.

We should be able to extend the eligibility for 100 percent funding of emergency relief highway projects from 90 days to 180 days. The problem is that in a typical disaster what we see is what we get. In this instance, we do not know that what we have is permanent damage, because we have had 2,000 aftershocks since Tuesday of last week, and we do not know where that damage is and how much we will see. So we would like to see the period temporarily increased to 180 days.

The San Francisco-Oakland Bay Bridge is a toll facility, and under the emergency relief program, toll facilities are ineligible to receive emergency relief funds, and just as in the case of Connecticut, with the Maines Bridge, and in the case of New York, with the Schoharie Bridge, we should waive that provision in law that says they cannot receive Federal emergency relief funds if they are toll facilities.

There is another area that the gentleman from California [Mr. FAZIO] referred to, the fact that public transit systems are now going to be operating around the clock because the San Francisco-Oakland Bay Bridge is impassible. The kind of impact on the transit system during the 3 months that the bridge is going to be unavailable for use in something that we would like to see made available for FEMA assistance.

We would like to have consideration that the minimum allocation program be changed temporarily in regard to the highway moneys received.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. MINETA] has expired.

Mr. CONTE. Mr. Speaker, I yield 2 additional minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I would also like to ask the U.S. Department of Transportation to study the adequacy of the earthquake standards that we presently have for federally funded highways, airports, and mass transit projects.

Then there is another part that I would like to have considered, and I will cover this in another bill that the Committee on Public Works and Transportation has already introduced. That is to study the circumstances surrounding the collapse of I-880 and the bay bridge so we can prevent this type of disaster anywhere in the country in the future.

Mr. Speaker, the bay area is in the midst of a transportation disaster of national proportions. The State of California and the localities are going to respond to that emergency, and we feel that the strength of our country has been that we are ready, willing and able to respond quickly and with flexibility to serious disasters such as these. We hope that our Congress will consider these in its deliberations at some time in the future, because we have responded in the past to other natural disasters, and I am hoping that the Congress in this instance will do nothing less.

Mr. Speaker, I thank the gentleman very much for yielding me this time, and I thank the Members for their indulgence.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to my good friend, the gentleman from South Carolina [Mr. RAVENEL].

□ 1450

Mr. RAVENEL. Mr. Speaker, I would be remiss if I did not seize upon this opportunity in this legislation which is rapidly going through this Congress to say, "thank you," to the Congress and to the American people who, with their tax moneys, have provided the money for the relief that we have gotten in South Carolina.

As my colleagues know, hardly a year goes by that a hurricane does not hit our coast somewhere. They hit the gulf coast all the time down in Florida, up there at Cape Hatteras in North Carolina, and every now and then we

get one in South Carolina. Those winds are 90 to 110 miles per hour, and they are all about the same. There is some damage, but it is not really immense.

However, my colleagues, what hit South Carolina was a monstrous killer hurricane, and the thing that made it so awful was it hit in the middle of the night at the time of high tide. Winds were clocked in McClellanville, a little fishing village in South Carolina, at 186 miles per hour, almost twice what the usual hurricane winds blow, and we had a wall of water from 15 to 20 feet high, a tidal wave, like those which are seen in horror movies, which came rolling across the coast where the elevation is anywhere from 3 to 5 feet, and it just crashed and hit all those little homes and went as far as 3 miles inland taking the mobile homes in the rural areas and just tumbling them, jumbling them all over the place, just going through the house, ripping the roofs off, knocking them down, scaterring them.

In my county, Charleston County, which is a county of about 250,000 people, we have 1,893 homes completely gone, destroyed, that are going to have to be destroyed.

It has been already 5 weeks now, and of course there has been a lot of criticism from other quarters of the disaster relief efforts, but finally things are settling down. We tried to work with the process, and I want my colleagues to know that, man, if it were not for the Federal assistance down there, I just do not know what in the world we would do.

So, once again let me take this opportunity to say to the Congress and the American people, "thank you all very much."

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, again I want to commend the chairman of the Committee on Appropriations, the gentleman from Mississippi [Mr. WHITTEN] and the full committee for their speedy action in bringing this relief to our constituents from the House of Representatives. I want to address my remarks though to the gentleman from Massachusetts [Mr. CONTE], the ranking member of the Committee on Appropriations.

Mr. Speaker, I want the gentleman from Massachusetts [Mr. CONTE] to know that I was listening when he addressed his remarks, and I appreciate them very much and thank him for them.

I first met the gentleman from Massachusetts [Mr. CONTE], although I had known of him as a legend in the Italian-American community for many years, on a trip to Italy in 1980 when we were representatives of President Carter to the Italian earthquake sites. He demonstrated his concern and compassion and skill in dealing with the victims of the earthquake at that time. His compassion has only grown, and we are most appreciative of his kind remarks to us as far as the earthquake is concerned and, of course, to our fellow Americans who are victims of Hurricane Hugo.

Mr. Speaker, I say to the gentleman from Massachusetts [Mr. CONTE], "I heard you, Mr. CONTE. Every time you speak, I listen, and I liked what I heard."

Further to one point, I would enlist the support of our colleagues on the other side of the aisle to help us in urging President Bush to encourage OMB and the Small Business Administration to issue a final interim regulation which would lift the $100,000 cap on loans to homeowners whose homes are destroyed in the earthquake.

As has been mentioned many times since the earthquake, I represent the marina of San Francisco in Congress, and, if we could save those homes that were affected in the marina, then we could save the neighborhood, and, if we could save the neighborhood, it will have a positive effect on our whole city because of the personal resources that are there and also because it preserves the tax base for the economic health of our city. So, it will have a ripple effect, and, because it is a loan to those who demonstrate an ability to pay and has a positive impact on the economy of our community and, therefore, the country, I believe that it is a reasonable request of the President.

So, Mr. Speaker, again I thank the Committee on Appropriations, and I urge support of the CR. It is a good start.

Mr. WHITTEN. Mr. Speaker, I yield myself the last minute.

Mr. Speaker, I take this time to repeat again that the present continuing resolution expires at midnight tomorrow night. I hope we pass this resolution. I hope our friends on the Senate side recognize the serious situation we have, and let us move ahead in trying to take care of these problems that exist and in order to keep the Government operating.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of House Joint Resolution 423, the short-term continuing resolution for fiscal year 1990. I do this with some reservation and concern about some of its provisions, but this continuing resolution reflects our heartfelt concern for the victims of Hurricane Hugo and the California earthquake, and it contains important funding to address their enormous needs. The Federal Government has an appropriate role to play in providing assistance that will obviously run into the billions of dollars.

Much of the damage to the infrastructure of northern California, South Carolina, and the Virgin Islands involved programs under the jurisdiction of the Public Works and Transportation Committee. Accordingly, we have a strong interest in seeing the rebuilding job started as quickly as possible.

In this regard, I want to especially commend our colleagues, Congressmen NORM MINETA and RON DE LUGO, for their leadership in marshaling support for assistance to those areas hit hard by the earthquake and hurricane. They have provided us with the kind of information needed to develop a strong relief package.

In the resolution before us, we are increasing funding for the highway emergency relief fund by $1 billion and removing the $100 million per State per disaster cap for that relief.

The resolution also makes available $1.1 billion to the Federal Emergency Management Agency for disaster relief, $500 million to the Small Business Administration for small business loans, and $250 million to the President to meet unanticipated disaster needs. These unanticipated needs could include funding for EDA and GSA.

Mr. Speaker, this continuing resolution is the quickest and most effective means at hand to provide the kind of emergency assistance immediately needed. Therefore, I urge its support.

Mr. McCANDLESS. Mr. Speaker, although Halloween isn't until next week, this legislation certainly is in keeping with the "Trick or Treat" budget process we have been following this year. However, if one takes a closer look at the budget resolution, the Reconciliation Act, most of the appropriations bills, and this, our second continuing resolution—one might come to the conclusion that we are long on tricks, and short on treats.

The budget process is very specific as to what Congress must accomplish by a given date. The fiscal year starts on October 1, and by that time we are supposed to have 13 appropriations bills in place. Yet, we, as an institution, seem to be incapable of reading a calendar, and unwilling to take the actions necessary to do what is required by law. Weeks of light legislative scheduling have come back to haunt us, so we merely waive the law, and pass continuing resolutions. Mr. Speaker, that is not acceptable, and I cannot support House Joint Resolution 423.

In late September, we were told that a little more time was needed, and that we had to pass House Joint Resolution 407, a continuing resolution to tide us over until October 25. And now, on October 24, only 5 of the 13 appropriations bills have been sent to the President, and we are told that we must pass another continuing resolution. This one goes to November 15. At this rate, it is not too difficult to predict what legislation we are likely to be considering on November 14.

Congress should not have put itself into a position of having to rely on continuing resolutions, and we should not compound the problem by further inaction and delay. We should reject House Joint Resolution 423, and instead work toward the enactment of the appropriations bills.

With regard to the earthquake assistance that is a part of House Joint Resolution 423, while I am truly concerned about the plight of the residents in the northern part of my State, I have some reservations about nearly instantaneous Federal response of authorizing and appropriating $2.9 billion all in one vote. We must carefully balance our overwhelming

desire to help the victims of the earthquake with our fiscal responsibilities to the Nation as a whole. By waiving the Budget Act, and by exempting the disaster assistance from the Gramm-Rudman deficit reduction targets, this legislation fails to meet that responsibility. The earthquake assistance could, and should be considered independently from the continuing resolution, but the House leadership chose to do otherwise. Consequently, although it has a very noble intention behind it, the disaster assistance does not make a bad bill—and an even worse process—acceptable.

Mr. GALLO. Mr. Speaker, today is October 24. We are 24 days into fiscal year 1990. We got this far on a continuing resolution that expires tomorrow. Now we are being asked to support another continuing resolution through November 15.

This measure includes vital aid for the victims of Hurricane Hugo and the recent earthquake. The importance of this provision will overshadow the fact that we are still without a completed budget for fiscal year 1990.

I join with my colleagues in strong support for quick congressional action to allow much-needed funds to flow to those parts of our country still suffering from the effects of natural disasters. The bay area in California and the area surrounding Charleston, SC, as well as Puerto Rico and the American Virgin Islands, have been hard hit by Hurricane Hugo and the recent earthquake.

Small Business Administration disaster loans, funding from the Federal highway trust fund for damaged infrastructure and additional discretionary funding for specific needs are all a part of the Federal role in disaster relief, and delivery in a timely fashion is necessary. There is general agreement on these provisions.

The real issue today is the continuing resolution also contained in House Joint Resolution 423. The fact is that a continuing resolution is needed only when Congress fails to complete a budget on time. Last year at this time, all 13 appropriations bills were signed into law before October 1 because we had a 2-year budget agreement and we stuck to that agreement. For the first time in 10 years, we made the system work as it was intended.

So far this year, only 1 of the 13 appropriations bills is now law.

There is no good reason, other than politics, to prevent completion of our work on all of these bills by November 15.

Support for these continuing resolutions will erode very quickly, if a third continuing resolution is requested on or about November 15, because there should be no need for one, if we put aside the budget politics and concentrate on budget policy.

I have been on record for quite some time in strong opposition to long-term continuing resolutions and have supported the short-term ones very reluctantly. I believe that we must reform the budget process if it can only work for 1 year out of 11.

Mr. Speaker, we must end this game of musical chairs on November 15. I, for one, believe that it will never end until a majority of my colleagues vote no on the next and future continuing resolutions. When the music stops, the game is over. But in Washington, the music never stops and the game goes on forever.

This is our second continuing resolution this year, and I am willing to predict that it will be our last.

Mr. PORTER. Mr. Speaker, the continuing resolution has a long checkered history. Today it's back again. To understand why I oppose the continuing resolution, you must understand this history

The continuing resolution has been used for hiding spending, settling old scores, and avoiding difficult budgetary decisions.

This is another little continuing resolution. But it will grow into a big one. That's not a wild prediction, that's what history shows.

In fiscal year 1988 we had an omnibus continuing resolution which funded the entire Government for an entire year. That continuing resolution had some insidious features: A Senator used it to get even with Rupert Murdoch; another Senator used it to fund Hebrew Schools in France; a Congressman used it to punish the Defense Intelligence Agency for insulting him by taking two planes away from them; there was a provision changing the Tax Code in the continuing resolution—yes, that's right, a tax provision in a spending bill.

The whole continuing resolution was tied up for weeks while we fought over the fairness doctrine—an extraneous legislative provision which had been jammed into the bill.

After the continuing resolution was enacted, the newspaper articles came. Journalists reported all of these little provisions hidden in the bill, and mocked the Congress as a venal group of very small-minded people who used omnibus legislation to settle personal scores.

It's that type of legislating that destroys the reputation of the Congress with the American people.

That continuing resolution, that fiscal year 1988 omnibus continuing resolution, was the third continuing resolution of fiscal year 1988. Before we passed it, we passed two little short-term continuing resolutions, just like we did yesterday.

Go back another year, to fiscal year 1987, and the story is the same. Two short-term funding measures preceeded an omnibus continuing resolution—all 13 bills in one with $600 billion in spending were foisted on the President at the last minute.

So this is why these short term continuing resolutions bother me. Because history shows that these little ones are followed by the big, uncontrollable ones.

Continuing resolutions result from missing deadlines. In fact, a lot of things—including Gramm-Rudman cuts—result from missing deadlines.

In fiscal year 1987, the House only passed 11 of the 13 spending bills. The 11th passed on September 12. On October 17, the President swallowed a 13-bill continuing resolution.

In fiscal year 1988, the House only passed 10 of the 13 bills. The 10th passed on September 22. On December 22, the President swallowed a 13-bill continuing resolution.

Fiscal 1989 was different. President Reagan warned us in his State of the Union Address. He said he wanted the 13 bills on his desk separately and on time. President Reagan said he would veto a continuing resolution. And he knew he could do it because 147 of us had signed a letter to him promising to uphold such a veto. So in fiscal year 1989, we reported all 13 bills by June 29. And we enacted all 13 as separate, freestanding measures by October 1.

This year, however, we didn't get warned by the President. And while we did pass all 13 bills separately in the House, we didn't do so until August 4—5 weeks late. The Senate didn't pass all 13 bills until September 29.

But, Mr. Speaker, September 29 was almost a month ago. We've had a month—a month which we bought with a short-term continuing resolution—to finish 13 conference reports and we haven't done it.

I am forced to conclude that we are delaying appropriations bills on purpose and this is wrong.

I'm surprised that the Members of this House, who care so much about the programs in these bills are content to let the bills languish in never-never land. Meanwhile, the agencies are cutting back the programs we all allegedly support.

It doesn't make sense, and I'm forced to believe that the only way to stop this is to defeat this short-term measure.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

Mr. CONTE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FASCELL). All time has expired.

The text of the joint resolution is as follows:

H.J. RES. 423

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution of September 29, 1989 (Public Law 101-100), is hereby amended by striking out "October 25, 1989" and inserting in lieu thereof "November 15, 1989" in section 102(c), and by adding the following new section:

"SEC. 108. (a) For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), an additional $1,100,000,000 for fiscal year 1990 to meet the present emergency, to remain available until expended.

"(b) For an additional amount to meet the present emergency to the Emergency Fund authorized by 23 U.S.C. 125, $1,000,000,000, to be derived from the Highway Trust Fund: *Provided,* That the provisions of 23 U.S.C. 120(f)(1) and 125(b)(1) shall not apply to amounts available in this Fund: *Provided further,* That obligations made from this Fund shall be in addition to the limitation on obligations established in the Department of Transportation and Related Agencies Appropriations Act, 1990.

"(c) For additional capital for the 'Disaster loan fund', authorized by the Small Business Act, as amended, $500,000,000, to remain available without fiscal year limitation to meet the present emergency of which not to exceed $30,000,000 may be transferred to the 'Salaries and expenses' account of the Small Business Administration for disaster loan servicing and disaster loan making activities.

"(d) For an additional amount necessary to enable the President to meet unanticipated needs to meet the present emergency arising from the consequences of the recent natural disasters, there is appropriated

$250,000,000, to remain available until expended: *Provided* That these funds may be transferred to any authorized governmental activity to meet the requirements of the natural disasters.

"(e) Such other amounts will be made available subsequently as required.

"(f) Obligations incurred under this section shall not be a charge against the Budget Act, Gramm-Rudman-Hollings, or other ceilings.

"This section may be cited as the fiscal year 1990 Dire Emergency Supplemental to Meet the Needs of Natural Disasters of National Significance.".

COMMITTEE AMENDMENTS

The SPEAKER pro tempore. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: On page 3, line 8, after the word "Obligations" insert "and expenditures", and on page 3, line 9, after the word "section" insert "and section 107".

The SPEAKER pro tempore. Since there is no debate on the amendments, the Chair will put the question.

The question is on the committee amendments.

The committee amendments were agreed to.

The SPEAKER pro tempore. It is now in order to consider the amendment printed in section 2 of House Resolution 271.

AMENDMENT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONTE: In section 108 which is proposed to be added to the joint resolution of September 29, 1989 (Public Law 101-100), strike subsection (f).

The SPEAKER pro tempore. Under the rule, the gentleman from Massachusetts [Mr. CONTE] will be recognized for 15 minutes.

Mr. WHITTEN. Mr. Speaker, I rise in opposition to the amendment.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, the history of Congress for nearly a decade now has revolved around one issue, controlling the Federal deficit. We have promised we would do it. We have legislated we would do it. We have "summiteered" we would do it. But we haven't done it. Nor have we figured out how to do it.

Just as surely as we erect one barrier, we find a way around it. We have the Budget Act, which sets overall targets that sometimes we waive.

We have the budget resolution, something akin to a New Year's resolution. And yes, we have Gramm-Rudman-Hollings, that promise of salvation. Follow the way and we will lead you down the path.

I voted and spoke at this well with everything I had against Gramm-Rudman-Hollings one.

I went to the Supreme Court to have it overturned. And I voted against Gramm-Rudman-Hollings too. But it is the law of the land.

It says you can spend as much as you want, so long as you don't make the deficit bigger. If you pay, you play. If you don't pay, you quit.

We have found many ways around that barrier. We move spending back to previous years. We create borrowing authority, and contract authority and back-door spending. We create Government-sponsored corporations and don't count their spending. We call programs mandatory that are really discretionary. You name it, we do it.

But never in my life have I seen anything like this. Section 108(f) says "Obligations and expenditures incurred under this section and section 107 shall not be a charge against the Budget Act, Gramm-Rudman-Hollings, or other ceilings."

The amount of $3.95 billion wiped off the books. We spend it—ha, ha, ha—but it doesn't count. It's magic. It's voodoo. And it's bogus.

Does this money increase the deficit? Of course it does. We just say it doesn't. Does this money exceed the spending targets? Of course it does. We just say it doesn't.

This provision is an escape hatch to fantasy land. The land of the pretenders. A fantasy land with play dough for currency. A fantasy land with the motto "Is this real or is this Memorex?"

I hope this House will see the wisdom of truth in budgeting and vote to strike the provision waiving Gramm-Rudman, the Budget Act, and all other ceilings. It's the real thing to do. If you want to be honest and put in for a repeal of Gramm-Rudman-Hollings and let us have a vote on it.

□ 1500

Mr. WHITTEN. Mr. Speaker, I rise in opposition to the amendment, and I yield myself such time as I may consume.

May I say that if we start all over again and cut every program and take the actions there that would be required to provide offsets to finance this supplemental, we invite what we have worked so hard to avoid here—needless delay.

Gramm-Rudman-Hollings has been talked about, but it has had so many gaps in it, so many problems avoided—such as the savings and loans—I think that certainly if we are going to waive all the things that the Budget Committee itself has been a party to, we do not need to require it on the disasters that hit North and South Carolina and California. I hope you will defeat the amendment.

I have heard my colleague many times express his opposition to the Gramm-Rudman provisions, and certainly I think we are protecting him if we turn this amendment down and keep it from being applied to the urgent need that we have here.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to my good friend, the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding me this time.

I appeared before the Rules Committee in support of this kind of amendment because I think it is important, and I urge the Members to support it.

I speak here in two capacities. I am a Representative for one of the areas that has been devastated by these quakes. Santa Cruz, Watsonville, and Hollister have been hurt badly. I have 500 homes that have been destroyed, 10,000 people who are homeless, 1,500 businesses that have either been destroyed or seriously damaged. We have a huge job of rebuilding lives in our communities ahead of us; but make no mistake, we have the courage, we have the commitment, and we have the will to rebuild. All we ask is the tools, and the committee here is giving us the tools, allowing us to be entitled to the disaster assistance that is available to everyone else; but I also appear here as chairman of the Budget Committee.

We do not come to this House asking for any kind of a handout, nor do we seek to be treated differently than any other disaster assistance. We are willing to pay, if that is necessary. We are willing to have this reflected on the deficit. We do not intend to have these costs hidden from the American people. For that reason, I support this amendment.

We have never accepted any other kind of disaster assistance from Gramm-Rudman, and we ought not to start now. The worst thing we can do is to send a signal to the American people that somehow we can hide this obligation from them. This Nation is hurting for resources. We need to face up to that. Every time we have a priority in this country, every time we have a need, we are out scrambling around trying to hide things from the American people. Ultimately we have to confront that, whether it is on disasters, whether it is on health care, whether it is on education, whether it is on drugs, whether it is on any priority facing this country. Someday we will have the courage to confront it. I hope that is the case; but for today, if we in the devastated areas are willing to confront this disaster honestly, then so should the Congress.

Mr. Speaker, I urge the House to support this amendment.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

May I say to my colleague, the gentleman from California, we looked for him to give him time as he had asked during general debate, but the gentleman was not on the floor, or if we was, I did not see him.

May I simply reaffirm, I say again, Mr. Speaker, that if we were to take this amendment, we invite a further stretchout getting started to meet this situation.

I realize how seriously the gentleman takes his job. I also know how many times the budget and Gramm-Rudman have been avoided, but I do know that course has been followed. Certainly, these merit a waiver as against cutting every one of them of discretionary appropriations by more than 1 percent.

May I say this. I was chairman of the committee that made the study that recommended the Budget Committee to control backdoor spending and entitlements. Since we did that in 1974, entitlements and binding contracts have increased 4.7 times.

We have tried to cooperate and it has got us down to where it is next to impossible to look after the districts of our friends, because they have tied us down with entitlements and backdoor spending I repeat, 4.7 times.

And may I say, as many times as this provision, has been avoided, certainty, a further waiver for these as disasters should be supported.

Mr. CONTE. Mr. Speaker, I yield myself 1 minute.

I just want to take this opportunity to commend the gentleman in the well, the gentleman from California [Mr. PANETTA]. That was a most courageous statement, a forthright statement, and a very responsible statement. I do not believe as long as I have been here that the gentleman from California [Mr. PANETTA] has ever tried to waive Gramm-Rudman.

I was in the chairman's office with the Director of the Office of Management and Budget yesterday, and he is willing to waive the Budget Act. There will not be any cuts across the board here, no way. He said, "I am willing to waive the Budget Act to move this thing right along." but this goes one step further. It waives Gramm-Rudman-Hollings.

Can you imagine what is going to happen over there when they find out the sky is the limit? It does not waive it just for this year. It waives it for the outyears.

If you do not like Gramm-Rudman-Hollings, as I do not like it, and I want to see it repealed, be bold enough to put in a bill to repeal it.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I take the floor with some pain, because it is always for me a difficult task to argue against two such knowledgeable and dedicated persons as the chairman and the ranking member of the Budget Committee, both of whom I consider exemplary Members of this body and very distinguished gentlemen.

Let me tell you why I am down here, and that is because what you are doing with this amendment in essence is this: You are putting the subcommittee that I chair under the guillotine, because there is no free lunch. If you adopt this amendment, you are simply postponing Gramm-Rudman. We waive it. You are creating a bow wave in front of the *Titanic* as it heads to its rendezvous with the iceberg, and you want me to go down with the *Titanic* and all of the unfortunate committee jurisdiction over which I have the pleasure to preside.

You are postponing the payment. You are increasing spending, but what you are saying is we are going to take the money, we are going to spend it on the disasters, and you guys on appropriations go figure out where it is coming from. It is not new money. Every nickel you are spending here is coming out of some program.

Let me tell you that again, so you do not misunderstand it. Every nickel you are spending will come out of some other program's hide: education, child care, nutrition, the homeless, drugs, defense, you name it. The EPA and the environment, you are taking away from them. When you adopt this amendment, that is what you are doing.

Now, if you want to be accountable in that way, if you want to say that the Nation, because of the acts of God, has to take food out of children's mouths, that is your privilege, that is your vote; but when you are doing it, do not tell me you are acting responsibly. I know better, and so do you. Con is con, but this is too much.

Mr. SMITH of Iowa. Mr. Speaker will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. The way it works, some would merely waive Gramm-Rudman for a year. Then the outlays occur next year and the outlays are almost entirely in the bill the gentleman handles and in the bill I handle, and so two subcommittees are supposed to reduce all other outlays and reduce other outlays to offset the cost of these disasters. That is the way it works, and when the budget resolution comes out a year from now you can bet it will be just like the one we had this year. They had a $4 billion increase in dollars over fiscal year 1989 and they allocated all of that on some so-called leadership priorities, many of which have not even yet been authorized, and so we would have to reduce existing programs, and that means law enforcement and it means in the gentleman's case the VA and those kinds of programs.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

□ 1510

Mr. FRENZEL. Mr. Speaker, I rise in support of the amendment offered by the distinguished vice-chairman of the Committee on Appropriations, the gentleman from Massachusetts [Mr. CONTE].

I do not believe there is anything I can say, or that any of us can say, that will have the effect of the statement of the distinguished chairman of the Committee on the Budget, the gentleman from California [Mr. PANETTA]. He is one of those most affected, or at least whose constituents and whose district is most affected, and yet he is willing to stand up for the integrity of the budget process. I do not think any of us can match that courage, and I congratulate him for it.

The amendment is worthy of support for a number of reasons. In the first place, the last vestige of any discipline we have in the Congress is Gramm-Rudman. Once it was waived, it is violated forever and all time, and then it will be violated again and again and again.

All we need is a good emergency for a precedent, and we can blow Gramm-Rudman out of the water. We will dynamite the dam; the spending river will rush through thereafter.

The gentleman from Massachusetts pointed out that we do not just waive it for a year. We waive it for subsequent years as well. That is clearly a terrible error and one that is going to have great administrative difficulty as well.

Remember that we have fought and died this year over Gramm-Rudman twice. The first battle had to do with the S&L bailout, where the Congress resisted a waiver of Gramm-Rudman. In the second instance, although most Members wanted desperately to repeal catastrophic insurance, we still agreed that we could not waive Gramm-Rudman no matter how intense our desire to repeal catastrophic Medicare insurance.

For a last point, Mr. Speaker, I would say that disaster relief has, insofar as I am aware, always been counted in budget totals for purposes of both the Budget Act and Gramm-Rudman. If we were not to accept the amendment of the gentleman from Massachusetts, we would set a dreadful precedent to replace an existing good precedent.

Mr. Speaker, I hope that the amendment of the gentleman from Massachusetts will be overwhelmingly adopted and that the House will speak out

for this tiny vestige of fiscal conservatism.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. Mr. Speaker, I am happy to yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, the gentleman is the vice chairman of the Committee on the Budget. If Gramm-Rudman is waived, where will the money come from to make this expenditure?

Mr. FRENZEL. If it is waived, the money will come from the taxes of our grandchildren.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DELLUMS].

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. DELLUMS. I am happy to yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Speaker, let me say where the money will come from if Gramm-Rudman is waived is the same place it will come from if it is not waived. It is going to be borrowed.

Mr. DELLUMS. Mr. Speaker and Members of the House, I would just like to rise in response to some of the comments of my distinguished colleague from Michigan.

First, in letting the Members know the political position from which I come, I opposed Gramm-Rudman at the very beginning as a mindless approach to budgeting that lacked both dignity and accountability. I still believe that.

Second, I would like to say to my colleague that he offered some very extraordinary choices, and I know that we often tend to engage in hyperbole in making our points, taking children's milk as opposed to dealing with disasters. But I think that there is another approach, and that is an honest approach to budgeting.

The President of the United States said, "Watch my lips, no taxes."

Twenty-three members of the Congressional Black Caucus several months ago, when we offered a fiscal year 1990 budget, did it with honesty. We did it with integrity, and more than that, I think we did it with courage, because we said that not willing to stand up to the plate on the issue of taxing and addressing the military budget did lack honor, and it did lack courage. We taxed the wealthy in the finest tradition of the Democratic Party. We came up with almost $21 billion in taxes. We cut $18 billion from the military budget. We felt we did not need 135 B-2 bombers at the cost of $700 million a plane. We did not need two mobile missile systems at extraordinary costs.

There were billions and billions of dollars that we saw that we did not need to pour down a rathole as we continued to pursue the principles of war at a time when the world was changing. So we do not have to take milk from children. We can take B-2 bombers that we do not need. We can take missiles that only have the function to destroy human life on this planet. So it is not a question of earthquake disaster relief or Hugo disaster relief or whether a child shall drink, but whether people on this planet shall live and whether we are honest enough to address this issue of taxes.

This gentleman is prepared to stand on the floor of this House in the full light of anyone and say yes, I am willing to tax, tax the wealthy, tax the corporate elite. We can find billions of dollars and add that to the billions of dollars we can take from the military budget. We can have an honest budget that we can present to the American people.

I think in fiscal 1990 members of the Congressional Black Caucus, with other support, did just that, and the tragic reality is one of the best kept secrets in America, because members of the media were more interested in interviewing Members about how they felt about ethical problems than willing to address the fact that 24 members of the Congressional Black Caucus offered a splendid, honest, courageous budget to the American people that both dealt with the deficit, but it did not come down on poor people, the working-class human beings and middle-class people.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, I thank the gentleman from Massachusetts for yielding me this time.

Mr. Speaker, before I moved to Delaware 16 years ago, I was a naval flight officer. My home station was at Moffett Field, CA, located just at the southern edge of the San Francisco Bay. I lived not far from the epicenter of this tragic earthquake. I have traveled the highways and bridges that have been affected, that in some cases have been destroyed. Many of my friends from my Navy days are still living there, and some of their homes have been destroyed in the last 2 weeks. I feel for the people who live in that part of California. I was once one of them.

The question before us at this moment is, however badly we feel for the victims of this earthquake, should we now turn and waive the provisions of Gramm-Rudman in order to speed the provision of aid to those who are affected in California.

Many of us do grieve for those who suffer in the aftermath of this earthquake. But, we also grieve for other Americans who are homeless and have no shelter, for Americans who are in need of health care but cannot afford it, and for Americans who are drug dependent and cannot find treatment.

There are many worthy programs that most of us support, whether that program is Head Start, aid for the homeless, drug rehabilitation assistance, health care for the poor or child nutrition. But while we support those programs and provide money for those programs, we do not waive Gramm-Rudman for them. To the extent that we fund them, we raise the revenue to pay for them or we withhold spending in other areas. We should not treat earthquake relief differently.

I would simply say that if programs like these are important, and I think they are, we should pay for them. We should have the courage to raise revenues to pay for them or reduce spending somewhere else. We should not waive Gramm-Rudman in order to have them without paying for them. The same principle is true in this instance, and I would urge the support of the Conte amendment.

Mr. MICHEL. Mr. Speaker, I rise in support of the Conte amendment. We are confronted with one of those curious legislative hybrids that we seem to breed around here. Part continuing resolution, part supplemental spending measure, it is neither fish nor fowl, a beast with two heads.

Let's look at the continuing resolution part of it.

If we had done our appropriations bill on time, we would not need this resolution. But even if we had done our work on time, the additional funding in the supplemental part of this resolution would have brought about sequestration.

So we are dealing, as usual, with the failure of the House to do what it is supposed to do.

What is demanded from us is not heroic sacrifice or dramatic action but, instead, completion of the ordinary tasks before us.

Now we cannot ignore sequestration. Sequestration is a disciplinary tool. You don't discard it because it is inconvenient. It is supposed to be inconvenient.

That is why I have asked the President not to terminate sequestration until all 13 appropriations bills and the debt limit have been completed.

Now let me turn to the section of this joint resolution providing supplemental spending for disaster relief. Mr. CONTE's motion to recommit will guarantee that all these funds go specifically to disaster-related needs of the victims of Hugo and the earthquake victims in California, and to no one else.

I favor that motion and I am prepared to join my colleagues in providing assistance in a true emergency situation to Americans in need.

However, I object to the manner in which we meet responsibility, on the one hand—providing disaster relief—and act irresponsibly on the other, by waiting to the last minute to fulfill even the most basic of our deficit reduction requirements.

Congress is failing, Mr. Speaker. We are failing to exercise discipline. We are failing to follow our own rules.

We are failing the mandate of the people to address what is to them the No. 1 issue in America, deficit reduction.

I hope this Conte amendment is adopted but more so I certainly hope we can have bipartisan support of his motion to recommit to limit these disaster funds to the two big national disasters of Hurricane Hugo and the San Francisco earthquake.

Mr. CONTE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FASCELL). The question is on the amendment offered by the gentleman from Massachusetts [Mr. CONTE].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WHITTEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 401, nays 18, not voting 14, as follows:

[Roll No. 300]

YEAS—401

Ackerman	Chandler	Espy
Akaka	Clarke	Evans
Anderson	Clay	Fascell
Andrews	Clement	Fawell
Annunzio	Clinger	Fazio
Anthony	Coble	Feighan
Applegate	Coleman (MO)	Fields
Archer	Collins	Fish
Armey	Combest	Flake
Aspin	Condit	Flippo
Atkins	Conte	Foglietta
AuCoin	Conyers	Ford (MI)
Baker	Cooper	Ford (TN)
Ballenger	Costello	Frank
Barnard	Cox	Frenzel
Bartlett	Coyne	Frost
Barton	Craig	Gallegly
Bates	Crane	Gallo
Bellenson	Crockett	Gaydos
Bennett	Dannemeyer	Gejdenson
Bentley	Darden	Gekas
Bereuter	Davis	Gephardt
Berman	de la Garza	Geren
Bevill	DeFazio	Gibbons
Bilbray	DeLay	Gillmor
Bilirakis	Dellums	Gilman
Bliley	Derrick	Gingrich
Boehlert	DeWine	Glickman
Bonior	Dickinson	Gonzalez
Borski	Dicks	Goodling
Bosco	Dingell	Gordon
Boucher	Dixon	Goss
Boxer	Donnelly	Gradison
Brennan	Dorgan (ND)	Grandy
Broomfield	Dornan (CA)	Grant
Browder	Douglas	Green
Brown (CO)	Downey	Guarini
Bruce	Dreier	Gunderson
Bryant	Duncan	Hall (OH)
Buechner	Durbin	Hall (TX)
Bunning	Dymally	Hamilton
Burton	Dyson	Hammerschmidt
Bustamante	Eckart	Hancock
Byron	Edwards (CA)	Hansen
Callahan	Edwards (OK)	Harris
Campbell (CA)	Emerson	Hastert
Campbell (CO)	Engel	Hatcher
Cardin	English	Hayes (IL)
Carper	Erdreich	Hayes (LA)
Hefley	Miller (CA)	Schuette
Henry	Miller (WA)	Schulze
Herger	Mineta	Schumer
Hertel	Moakley	Sensenbrenner
Hiler	Mollohan	Sharp
Hoagland	Montgomery	Shaw
Hochbrueckner	Moody	Shays
Hopkins	Moorhead	Shumway
Horton	Morella	Shuster
Houghton	Morrison (CT)	Sikorski
Hoyer	Morrison (WA)	Sisisky
Hubbard	Mrazek	Skaggs
Huckaby	Murphy	Skeen
Hughes	Murtha	Skelton
Hunter	Myers	Slattery
Hutto	Nagle	Slaughter (NY)
Hyde	Neal (MA)	Slaughter (VA)
Inhofe	Neal (NC)	Smith (FL)
Jacobs	Nelson	Smith (NE)
James	Nielson	Smith (NJ)
Jenkins	Nowak	Smith (TX)
Johnson (SD)	Oakar	Smith (VT)
Johnston	Oberstar	Smith, Denny (OR)
Jones (GA)	Obey	Smith, Robert (NH)
Jones (NC)	Olin	Smith, Robert (OR)
Jontz	Ortiz	Snowe
Kanjorski	Owens (NY)	Solarz
Kaptur	Owens (UT)	Solomon
Kasich	Oxley	Spence
Kastenmeier	Packard	Spratt
Kennelly	Pallone	Staggers
Kildee	Panetta	Stallings
Kleczka	Parker	Stangeland
Kolbe	Parris	Stark
Kolter	Pashayan	Stearns
Kostmayer	Patterson	Stenholm
Kyl	Paxon	Stokes
LaFalce	Payne (NJ)	Studds
Lagomarsino	Payne (VA)	Stump
Lancaster	Pease	Sundquist
Lantos	Pelosi	Swift
Laughlin	Penny	Synar
Leach (IA)	Petri	Tallon
Leath (TX)	Pickett	Tanner
Lehman (CA)	Pickle	Tauke
Lent	Porter	Tauzin
Levin (MI)	Poshard	Taylor
Levine (CA)	Price	Thomas (CA)
Lewis (CA)	Pursell	Thomas (GA)
Lewis (FL)	Quillen	Thomas (WY)
Lewis (GA)	Rahall	Torres
Lightfoot	Rangel	Torricelli
Livingston	Ravenel	Towns
Lloyd	Ray	Traficant
Long	Regula	Udall
Lowery (CA)	Rhodes	Unsoeld
Lowey (NY)	Richardson	Upton
Luken, Thomas	Ridge	Valentine
Lukens, Donald	Rinaldo	Vander Jagt
Machtley	Ritter	Vento
Madigan	Roberts	Visclosky
Manton	Robinson	Volkmer
Markey	Roe	Vucanovich
Marlenee	Rogers	Walgren
Martin (IL)	Rohrabacher	Walker
Martin (NY)	Ros-Lehtinen	Walsh
Martinez	Rose	Watkins
Matsui	Rostenkowski	Waxman
Mavroules	Roth	Weber
Mazzoli	Roukema	Weiss
McCandless	Rowland (CT)	Weldon
McCloskey	Rowland (GA)	Wheat
McCollum	Roybal	Whittaker
McCrery	Russo	Williams
McCurdy	Sabo	Wilson
McDade	Saiki	Wise
McDermott	Sangmeister	Wolf
McEwen	Sarpalius	Wolpe
McGrath	Savage	Wyden
McHugh	Sawyer	Wylie
McMillan (NC)	Saxton	Young (AK)
McMillen (MD)	Schaefer	Young (FL)
McNulty	Scheuer	
Meyers	Schiff	
Mfume	Schneider	
Michel	Schroeder	

NAYS—18

Alexander	Dwyer	Natcher
Bateman	Early	Perkins
Boggs	Hefner	Smith (IA)
Carr	Johnson (CT)	Traxler
Chapman	Kennedy	Whitten
Coleman (TX)	Lehman (FL)	Yates

NOT VOTING—14

Brooks	Garcia	Lipinski
Brown (CA)	Gray	Miller (OH)
Coughlin	Hawkins	Molinari
Courter	Holloway	Yatron
Florio	Ireland	

□ 1542

Mr. CARR, Mrs. BOGGS, and Mr. YATES changed their vote from "yea" to "nay."

Mr. STUMP and Mr. AKAKA changed their vote from "nay" to "yea."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. JOHNSON of Connecticut. Mr. Speaker, on rollcall No. 300, the Conte amendment, I was incorrectly recorded. I wish to be recorded in support of that amendment.

The SPEAKER pro tempore (Mr. FASCELL). Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The bill was ordered to be engrossed and read a third time and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the joint resolution?

Mr. CONTE. Mr. Speaker, I am opposed to the joint resolution.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONTE moves to recommit House Joint Resolution 423 to the Committee on Appropriations, with instructions to that Committee to report the bill back to the House forthwith, with the following amendment: After section 108(f), add the following new subsection:

"(g) Funds made available under this section shall be used for the sole purpose of responding to the damage suffered as a result of the Loma Prieta earthquake of October 17, 1989, or Hurricane Hugo of September, 1989."

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. CONTE] is recognized for 5 minutes in support of his motion to recommit.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to my good friend, the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker, I rise in support of the motion to recommit. I hope all Members understand fully that what the gentleman from Massachusetts is doing is limiting this disaster relief to Hurricane Hugo and the California earthquake.

As was pointed out earlier by the gentleman, there are 160 disaster areas pending, and unless this is limited, it will mean that this money is going to be spread over a broad area,

with thousands of applications. California and South Carolina will have to wait, and wait, and wait until their applications can be processed. If Members believe that they want to help California earthquake victims, and if Members want to help the victims of Hurricane Hugo, vote for the motion to recommit so that the money will be restricted only to those two areas.

A vote yes on this motion to recommit is a vote to help California and vote to help the victims of Hurricane Hugo. I urge the House to vote yes so that we can get the assistance to these desperately needed areas as quickly as possible.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my motion to recommit, if adopted, will come right back into the House for final passage and sent on to the Senate. It makes one simple instruction, an absolutely necessary change in the bill. It adds a provision to ensure that the emergency relief funds are going to be used solely for the purpose of responding to the damages of the Loma Prieta earthquake and Hurricane Hugo, including replenishing those relief accounts which had been drawn down as the result of the disaster.

Mr. Speaker, nowhere in this bill is it specified that the purpose of a disaster assistance is to meet the extraordinary needs resulting from the Loma Prieta earthquake or the Hurricane Hugo. That is an horrendous oversight. Here we are appropriating over $2.8 billion for 2 disasters, yet the essential language directing the relief funds to those disasters is missing.

□ 1550

Mr. Speaker, my motion corrects that omission. It also prevents the emergency money from being dissipated on nonemergency tasks, and unless we clarify that the funds are to be used only for the hurricane and the earthquake emergency, the funds could be used to fill every pothole and every shore and to help every failing business in the United States.

As I said earlier today, there are about 160 disasters, officially declared disasters in the United States, and these people out there in California, in the bay area, are hurting, the people of South Carolina and the people of Puerto Rico and the Virgin Islands are hurting, and all this amendment says is to let this money for the highways and for the small business go to those two places in the United States and not be dissipated around the country.

The SPEAKER pro tempore (Mr. FASCELL). The gentleman from Mississippi [Mr. WHITTEN] is recognized for 5 minutes in opposition to the motion to recommit.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hope my colleagues will listen to this. These are two major disasters that have occurred, and we have done everything we could to look after them.

Let me say that this bill is limited to disasters as declared by the President of the United States. A disaster has to be recommended by the Governor, and the President has to say it is a disaster to qualify. I say to the Members that we cannot afford, as I see it, to limit this to major disasters. We have had tornadoes and other disasters.

To qualify under the provisions of this act, it is required that the President has designated a disaster. That has to come on the request of the Governor of the State. I do not think the people of California or the people of North Carolina and South Carolina wish us to exclude everybody else unless they have an earthquake similar to the one in California or a hurricane as we saw in North and South Carolina.

Mr. Speaker, to repeat, this bill provides that funds are to be made available under this only when the President has declared a disaster, and I cannot believe that my colleagues want to throw everybody else out and just limit it to those things, since under the bill itself we have limited it to include only a disaster certified by the President of the United States.

I hope the Members will vote this amendment down. We ought to treat the rest of the country fairly. Again this is limited to those places where a disaster has been declared by the President. That being true, certainly they should have equal treatment to take care of major disasters.

Mr. Speaker, I hope the Members will turn this motion down.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONTE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 3 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage.

The vote was taken by electronic device, and there were—ayes 188, noes 232, not voting 13, as follows:

[Roll No. 301]

AYES—188

Applegate	Ballenger	Barton
Archer	Barnard	Bennett
Armey	Bartlett	Bentley
Bereuter	Horton	Rhodes
Bilirakis	Houghton	Ridge
Bliley	Hunter	Rinaldo
Boehlert	Hyde	Ritter
Broomfield	Inhofe	Robinson
Brown (CO)	Jacobs	Rogers
Buechner	James	Rohrabacher
Bunning	Johnson (CT)	Ros-Lehtinen
Burton	Johnston	Rose
Byron	Jones (NC)	Roth
Callahan	Kasich	Roukema
Campbell (CA)	Kolbe	Russo
Campbell (CO)	Kyl	Saiki
Carper	Lagomarsino	Saxton
Clinger	Lancaster	Schaefer
Coble	Leach (IA)	Scheuer
Conte	Lent	Schneider
Costello	Lewis (CA)	Schuette
Coughlin	Lewis (FL)	Schulze
Cox	Lightfoot	Sensenbrenner
Craig	Lowery (CA)	Shaw
Crane	Lukens, Donald	Shays
Dannemeyer	Machtley	Shumway
Darden	Madigan	Shuster
Davis	Marlenee	Skeen
DeLay	Martin (IL)	Slaughter (VA)
Derrick	Martin (NY)	Smith (NE)
DeWine	McCandless	Smith (NJ)
Dickinson	McCollum	Smith (TX)
Douglas	McDade	Smith, Denny (OR)
Dreier	McEwen	Smith, Robert (NH)
Duncan	McGrath	Smith, Robert (OR)
Edwards (OK)	McMillan (NC)	Snowe
Emerson	Meyers	Solomon
Fawell	Michel	Spence
Fields	Miller (WA)	Spratt
Fish	Moorhead	Stangeland
Frenzel	Morella	Stearns
Gallegly	Morrison (WA)	Stump
Gallo	Myers	Sundquist
Gekas	Neal (NC)	Tallon
Gibbons	Nielson	Tauke
Gillmor	Olin	Thomas (CA)
Gilman	Oxley	Thomas (WY)
Gingrich	Packard	Udall
Gonzalez	Parris	Upton
Goodling	Pashayan	Valentine
Goss	Patterson	Vander Jagt
Gradison	Paxon	Vucanovich
Grandy	Payne (VA)	Walker
Grant	Pease	Walsh
Green	Penny	Weber
Gunderson	Petri	Weldon
Hammerschmidt	Porter	Wolf
Hancock	Poshard	Wylie
Hastert	Pursell	Young (AK)
Hefley	Quillen	Young (FL)
Henry	Rangel	
Herger	Ravenel	
Hiler	Ray	
Hopkins	Regula	

NOES—232

Ackerman	Clarke	Espy
Akaka	Clay	Evans
Alexander	Clement	Fascell
Anderson	Coleman (MO)	Fazio
Andrews	Coleman (TX)	Feighan
Annunzio	Collins	Flake
Anthony	Combest	Flippo
Aspin	Condit	Foglietta
Atkins	Conyers	Ford (MI)
AuCoin	Cooper	Ford (TN)
Baker	Coyne	Frank
Bateman	Crockett	Frost
Bates	de la Garza	Gaydos
Beilenson	DeFazio	Gejdenson
Berman	Dellums	Geren
Bevill	Dicks	Glickman
Bilbray	Dingell	Gordon
Boggs	Dixon	Guarini
Bonior	Donnelly	Hall (OH)
Borski	Dorgan (ND)	Hall (TX)
Bosco	Dornan (CA)	Hamilton
Boucher	Downey	Hansen
Boxer	Durbin	Harris
Brennan	Dwyer	Hatcher
Browder	Dymally	Hawkins
Bruce	Dyson	Hayes (IL)
Bryant	Early	Hayes (LA)
Bustamante	Eckart	Hefner
Cardin	Edwards (CA)	Hertel
Carr	Engel	Hoagland
Chandler	English	Hochbrueckner
Chapman	Erdreich	Hoyer

Hubbard
Huckaby
Hughes
Hutto
Jenkins
Johnson (SD)
Jones (GA)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Laughlin
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Livingston
Lloyd
Long
Lowey (NY)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Nelson
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Pelosi
Perkins
Pickett
Pickle
Price
Rahall
Richardson
Roberts
Roe
Rostenkowski
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Sangmeister
Sarpalius
Savage
Sawyer
Schiff
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (VT)
Solarz
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tanner
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whittaker
Whitten
Wilson
Wise
Wolpe
Wyden
Yates

NOT VOTING—13

Brooks
Brown (CA)
Courter
Florio
Garcia
Gephardt
Gray
Holloway
Ireland
Lipinski
Miller (OH)
Molinari
Yatron

□ 1612

Messrs. WHITTAKER, LAUGHLIN, LIVINGSTON, McCRERY, BAKER, and BATES changed their vote from "yea" to "nay."

Messrs. THOMAS of California, COX, and CAMPBELL of California changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. FASCELL). The question is on the passage of the joint resolution.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 321, nays 99, not voting 13, as follows:

[Roll No. 302]

YEAS—321

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Broomfield
Browder
Bryant
Bustamante
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clarke
Clay
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Condit
Conyers
Cooper
Coughlin
Cox
Coyne
Crockett
Dannemeyer
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gingrich
Glickman
Gonzalez
Gordon
Gradison
Grandy
Grant
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Herger
Hertel
Hoagland
Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hunter
Hutto
Hyde
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Payne (NJ)
Payne (VA)
Pelosi
Penny
Perkins
Pickle
Poshard
Price
Quillen
Rahall
Rangel
Ravenel
Ray
Rhodes
Richardson
Rinaldo
Roberts
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schulze
Schumer
Sharp
Shaw
Shuster
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (VT)
Smith, Robert (OR)
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Young (AK)

NAYS—99

Archer
Armey
Bartlett
Barton
Bentley
Bilirakis
Billey
Brown (CO)
Bruce
Buechner
Bunning
Burton
Byron
Callahan
Chandler
Combest
Conte
Costello
Craig
Crane
DeLay
DeWine
Dorgan (ND)
Dornan (CA)
Douglas
Duncan
Dyson
Fawell
Fields
Frenzel
Gekas
Gillmor
Gilman
Goodling
Goss
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Henry
Hiler
Hopkins
Hughes
Inhofe
Jacobs
Kasich
Kolbe
Kyl
Lewis (FL)
Lightfoot
Lukens, Donald
Marlenee
Martin (IL)
McCandless
McEwen
Miller (WA)
Murphy
Nielson
Oxley
Paxon
Pease
Petri
Pickett
Porter
Pursell
Regula
Ridge
Ritter
Robinson
Russo
Sangmeister
Sarpalius
Schaefer
Schiff
Schroeder
Schuette
Sensenbrenner
Shays
Shumway
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Snowe
Solomon
Stangeland
Stearns
Stenholm
Stump
Sundquist
Tauke
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Young (FL)

NOT VOTING—13

Brooks
Brown (CA)
Clement
Courter
Florio
Garcia
Gray
Holloway
Ireland
Lipinski
Miller (OH)
Molinari
Yatron

□ 1621

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. WEISS. Mr. Speaker, during the week of October 16, I unavoidably missed a number of rollcall votes. Had I been present, I would have voted as follows: rollcall 289—"aye"; rollcall 290—"aye"; rollcall 291—"aye"; rollcall 292—"nay"; rollcall 293—"aye"; rollcall 294—"nay"; and rollcall 295—"aye."

PERSONAL EXPLANATION

Mr. HAYES of Illinois. Mr. Speaker, I was unavoidably detained in my district yesterday and was unable to make it here in time to cast my vote on rollcall No. 296 in regard to H.R. 257. I would like the RECORD to show that had I been present, I would have voted "yes" on H.R. 257.

CONFERENCE REPORT ON H.R. 2916, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1990

Mr. TRAXLER. Mr. Speaker, I call up the conference report on the bill (H.R. 2916) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1990, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. GLICKMAN). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 18, 1989, at page H7201.)

The SPEAKER pro tempore (Mr. GLICKMAN). The gentleman from Michigan [Mr. TRAXLER] will be recognized for 30 minutes and the gentleman from New York [Mr. GREEN] will be recognized for 30 minutes.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, I would inquire whether or not the managers of the bill are both in favor of the bill.

The SPEAKER pro tempore. Does the gentleman from New York [Mr. GREEN] support the conference report?

Mr. GREEN. Mr. Speaker, I am in support of the conference report.

Mr. WALKER. Mr. Speaker, I would like to claim time in opposition to the bill.

The SPEAKER pro tempore. Under the rule, the time will be divided three ways. The gentleman from Michigan [Mr. TRAXLER] will be recognized for 20 minutes, the gentleman from New York [Mr. GREEN] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. WALKER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. TRAXLER].

GENERAL LEAVE

Mr. TRAXLER. Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 2916, as well as the Senate Amendments reported in disagreement, and that I may include tables, charts and other extraneous materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. TRAXLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have some extensive remarks prepared. However, I understand that it is the wish of the body that we conclude business somewhere between 6:30 and 7 o'clock this evening.

That being the case, I simply want to tell my friends that we did the very best we could under trying circumstances in the conference. I think that each of the agencies has been treated as fairly as they possibly could under the various constraints that we had to operate under, mostly budgetary. In addition to that, some of the language that the Senate put in in various areas we found somewhat contentious. We worked out an agreement on all amendments—not to everyone's satisfaction—but I hope in the course of the debate on various proposals, the Members will listen attentively and do what is right and support the committee on the matters in disagreement.

Mr. Speaker, we bring back to the House today the conference report on the 1990 VA, HUD, and Independent Agencies Appropriations bill.

Mr. Speaker, I do not believe I am exaggerating when I tell you that the 1990 appropriations bill was easily the toughest we have had to deal with. Obviously, not everyone here is going to be pleased with the results. But I think we can honestly say that we have done a credible job of balancing the critical priorities of this Nation's environment, housing, veterans, space, and science programs.

But, my friends, I will be the first to admit that we are not bringing this bill here today without some very creative financing. The fact is that our section 302(b) allocation was at least $1.5 billion short in outlays—if we were going to provide even a marginal level for the programs funded in this bill. And, yes, we were able to close some of that gap by making use of various delayed obligations and transfer authority that are carried in the bill. But if we had not done that—we would be looking at cuts in NASA, for example, of as much as $1 to $2 billion more than we have recommended in this bill.

And, Mr. Speaker, even after employing some creative financing—we still had to take a 1.55 percent across-the-board cut from every program, project, and activity in the VA, HUD, and Independent Agencies 1990 Approprations bill, except medical care where a 1 percent reduction was made.

So as I said, I know this bill is not perfect. But I would challenge anyone on this floor to come up with a better approach in balancing such a wide spectrum of national needs.

With that as background, let me spend a few minutes going over some of the details in the conference agreement. For VA medical care, after the across-the-board cut, we have provided for a total increase of approximately $740 million above the President's request—including $50 million for alcohol and drug abuse that is provided in the comprehensive drug appropriation title of the Transportation bill.

Our recommendation for fiscal year 1990 also preserves the Congress' efforts to retain staffing in our 172 VA hospitals at 194,720 FTE. It is a major achievement and it is one that we are proud of.

We are providing almost $8 billion for the assisted housing program. That represents a very small increase—but still the first real increase in more than 8 years.

In addition, we have made available over $1 billion for section 8 contract renewals. And let me advise the House again that as these section 8 5-year and 15-year contracts come up for renewal—we will see some big jumps in budget authority for assisted housing programs. Next year, for example, the renewal of section 8 contracts may run anywhere from $6 to $8 billion. But unless these renewals are funded, literally hundreds of thousands of low- and moderate-income American families will be stripped of their vital housing subsidy.

For homeless assistance—we are providing about $450 million. That represents an increase of $180 million over the level enacted for homeless assistance in fiscal year 1989.

For community development grants, we have included $2,954 million to continue this vital program that has been used so effectively over the past 15 years in more than 2,000 cities and small towns throughout the country.

And, Mr. Speaker, everyone here who is deeply concerned with the environmental programs of our country should be very pleased with the conference agreements recommendations. We have provided $5,558 million for the programs of the Environmental Protection Agency in this bill. That represents a $403 million increase above last year, or almost 8 percent.

Superfund is up by $125 million over 1989.

Construction grants is up almost $70 million over last year.

And, above all, the operating programs of EPA are up $217 million—an increase of 11 percent above 1989.

And what about NASA? Of all the agencies we deal with in this bill, NASA enjoys as high a priority as any. And that statement is backed up by the fact that we have provided almost $12.4 billion in 1990 for the programs of the National Aeronautics and Space Administration. Mr. Speaker, that represents an increase of $1,702 million above 1989—or 16 percent—the biggest percentage increase in the VA, HUD, and Independent Agencies bill.

We make available a total of almost $1,800 million for the Space Station Program—not bad given the incredible budget problems we faced.

Once again—despite OMB's zeroing it out—we restored $62 million for the advanced communications technology satellite program.

We kicked off a new $1.6 billion unmanned, twin satellite, for comet exploration to take a close look at Saturn and her moon Titan.

We have included almost $250 million for a government-owned, contractor operated Advanced Solid Rocket Motor Program—which should substantially improve the manufacturing efficiency and—most importantly—the payload capacity of the shuttle.

And last—but not least—we have provided up to $60 million in the 1990 NASA confer-

ence agreement for the National Aerospace Plane.

So, Mr. Speaker, the bottom line is that all Members who have a deep and abiding interest in this Nation's space program—should be very happy with the results of this conference.

And finally, we have made available $2,071 million for the programs of the National Science Foundation. This represents an increase of 8 percent or $149 million above 1989. Naturally, we hoped we could do a little better than that—but in the past 8 years funding for the National Science Foundation has more than doubled. Again, I think that is something we can take great pride in.

Now, Mr. Speaker, I know that there is one matter of some controversy that we will have to deal with when we consider the amendments in disagreement. I'm talking, of course, about the conferees including Senate bill language which will raise the FHA mortgage cap to $125,000 in certain high-cost areas. The bottom line for this subcommittee is—that by including that provision—CBO has scored us with an outlay savings of almost $120 million.

Let us face it. As I said at the outset, this was the toughest year we have faced. We were between the rock and a hard place.

If we do not include the increased mortgage cap in this bill—I am going to have to come back and offer an amendment that will raise the across-the-board cut from the current 1.5 percent to approximately 2.5 percent. Now that is going to have a very serious negative impact on many of the programs that we have fought so hard to keep viable.

I know that the chairman and members of the Banking Committee are not happy about this. I am not happy about it. There is not any doubt that this action belongs under the purview and jurisdiction of the Banking Committee.

But I would ask all of you to remember this one simple fact. The raising of the mortgage cap in this bill is a very temporary piece of legislation. Raising the cap to $125,000 will expire next September 30. In the meantime, we expect that both the House and Senate Banking Committees are going to take a close look at this issue and make a recommendation on what should be done with regard to FHA mortgage limits.

Mr. Speaker, I pledge to you and to the chairman and members of the Banking Committee today that we will not make use of this device to save outlays again. If, in your wisdom and this House's wisdom, the FHA mortgage limits should not be raised—then come next September 30 they will revert back to the current level and that will be that.

But I would urge all of you to not put us in the position of having to increase the across-the-board cut in this bill. A 1.55 percent across the board is bad enough. One and a half percent takes about $200 million out of NASA, for example. Another 1 percent will add another $130 million to that toll.

So, Mr. Speaker, I hope that the Members here will understand the problems that we faced—and I urge all of you to support this conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. GREEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to commend the gentleman from Michigan on the extraordinarily talented performance he has given us in the course of his first year as chairman of the Veterans' Affairs, HUD, Independent Agencies Subcommittee. I think as we started our work last spring, few would have thought that we could bring a bill to the floor today after conference with the other body that would meet as many of the needs of the agencies covered by this bill as we have managed to do. It was a very, very difficult task, and I think the gentleman from Michigan has passed his first test as chairman with flying colors, and I really commend the product to the House.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I am happy to yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Speaker, I am embarrassed that in my haste to get on with the business I neglected a very important matter of courtesy. I want to apologize to my colleague for it.

First, let me say that no one could be more fortunate than I have been in having members of the subcommittee who are absolutely outstanding. And I especially want to commend the gentleman from New York [Mr. GREEN]. He is a gentleman, he is knowledgeable, he has dedicated himself to the subject matter of the subcommittee, and he has made most valuable inputs in putting together both the bill and the conference agreement. I extend my appreciation to the members of the subcommittee, both the majority and the minority. I commend the work of the staff, both the majority and the minority staff. They are outstanding. That is one of the things that this body ought to be proud of, and that is the professionalism and dedication of the staff. I can tell the Members that this subcommittee and the full Appropriations Committee has staff that is exceeded nowhere. They are fully professional and provide the institutional memory. Some of them have been with the subcommittee for 20 years. I appreciate the gentleman allowing me to say these words. They were to be incorporated in my remarks, and I appreciate his yielding.

Mr. GREEN. Mr. Speaker, let me join the gentleman from Michigan in his thanks to the staff for their work on this bill. It certainly contributed enormously to the successful outcome of our deliberations and our negotiations with the Senate, and I, too, am deeply appreciative.

In view of the hour, and I know that the Members of the other side have an important engagement later tonight, at this point, let me terminate my own remarks.

Mr. Speaker, I yield 1 minute to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 2916, which makes appropriations for the Department of Veterans Affairs for fiscal year 1990, as well as for HUD and the independent agencies. As ranking member of the Subcommittee on Hospitals and Health Care of the Committee on Veterans' Affairs, I am encouraged to see an increase of $680.2 million over last year's level for the Veterans' Health Service and Research Administration.

I have been seriously concerned for the future of DVA health care delivery for quite sometime. During the debate on the budget resolution earlier this session, I expressed serious reservations about the final amount included for veterans health care programs. I continue to hold my reservations.

However, the amount reflected in the final appropriations conference report will help to alleviate the enormous strains that are being placed on the Department of Veterans Affairs and its ability to provide adequate health care service to our Nation's veterans. The total amount appropriated for the Veterans' Health Services and Research Administration is $11,692 billion. Back in February, the Committee on Veterans' Affairs recommended $12,584 billion as a current services level for health care.

The Congressional Budget Office baseline for fiscal year 1990 is $11,972 billion. Although this conference report appropriates a level close to the CBO estimate, it will still fall short. I want to make that very clear.

Unfortunately, veterans have been living with a straight line budget in terms of inflation for about 10 years. As ranking minority member of the Veterans' Subcommittee on Hospitals and Health Care, I am convinced that we just cannot continue to provide the quantity and quality of health care services that all of my colleagues and the veterans they represent have come to expect, unless there is more money in the budget.

Veterans health care spending has only grown 17 percent since 1985. At the same time Medicaid is up by 55 percent and Medicare 32 percent.

Even a current services budget will not meet the health care needs of our veteran constituencies because their needs are increasing at a rapid rate due to the aging of World War II veterans and other factors, such as the need to increase the competitiveness of the Department of Veterans Affairs in the recruitment and retention of dismally scarce health professionals.

It is important to emphasize the health care crisis which is besieging veterans' health care because continuing the current trend of underfunding is impossible without seriously considering a realignment of the health care system as we know it today, including mission changes and facility consolidations.

I thank my colleagues Chairman MONTGOMERY and ranking minority member, BOB STUMP, for their support and their strong efforts to achieve the best possible funding level for veterans' health care. And I commend the chairman of the HUD and Independent Agencies Subcommittee, Mr. TRAXLER,

who I believe did the best he could do under difficult circumstances. He and the ranking member, Mr. GREEN have been determined advocates on behalf of this Nation's veterans.

I will support this bill. I believe it deserves the support of my colleagues as well, because all in all, this bill provides $680.2 million more than was provided last year. I am hopeful that the amount provided in H.R. 2916 will hold the Department of Veterans Affairs on a steady course. The Secretary has begun to implement some management initiatives which may serve to streamline the agency's functions, and, I say this with a good deal of optimism, make it more cost effective.

Mr. Speaker, I yield back the balance of my time.

CONGRESSIONAL COMMITTEE MARKUP OF FISCAL YEAR 1990 BUDGET

	President's budget request as amended		House floor action July 20, 1989		Senate floor action Sept. 28, 1989		Conference committee action Oct. 17, 1989		Change (+/−) from President's budget	
	Amount	FTEE	Amount	FTEE	Amount	FTEE	Amount	FTEE	Amount	FTEE
Benefit programs:										
Compensation	$11,387,800		$11,225,900		$11,387,800		$11,387,800		$0	
Pensions	3,823,606		3,989,000		3,823,606		3,823,606		0	
Burial benefits	156,100		152,606		152,100		152,100		0	
Subtotal, C&P	15,367,506		15,367,506		15,367,506		15,367,506		0	
Readjustment benefits	501,200		434,100		501,200		501,200		0	
Veterans insurance and indemnities	13,940		13,940		13,940		13,940		0	
Loan guaranty revolving fund	195,500		453,000		313,500		313,500		118,000	
Total benefit programs	16,078,146	0	16,268,546	0	16,196,146	0	16,196,146	0	118,000	
Medical programs:										
Medical care	10,741,431	186,194	11,561,431	194,720	11,514,938	194,720	11,484,092	194,720	742,661	8,526
Medical and prosthetic research	197,310	4,106	211,000	4,331	219,441	4,331	212,652	4,331	15,342	225
MAMOE	48,112	584	48,541	589	48,112	584	45,397	?	(2,715)	(584)
Grants for construction SECF	42,000		42,000		42,000		41,349		(651)	
Grants to Republic of Philippines	500		500		500		492		(8)	
Canteen (nonappropriated)		3,625		3,625		3,625		3,625		0
Total medical programs	11,029,353	194,509	11,863,472	203,265	11,824,991	203,260	11,783,983	202,676	754,630	8,167
Construction programs:										
Construction, major projects	365,849	50	420,249	50	190,267	50	413,735	50	47,886	0
Construction, minor projects	114,699	952	113,699	952	111,596	952	111,937	952	(2,762)	0
Parking garage revolving fund	7,075		29,375		0		28,920		21,845	
Total construction programs	487,623	1,002	563,323	1,002	301,863	1,002	554,591	1,002	66,968	0
General operating expenses and miscellaneous:										
General operating expenses:										
Veterans Benefits Administration	548,829	12,100	553,329	12,600	553,329	12,600	556,566	12,600	7,737	500
National Cemetery System	48,814	1,238	48,814	1,238	48,814	1,238	48,057	1,238	(757)	0
General Administration	206,645	3,459	202,916	3,459	202,145	3,459	199,771	3,459	(6,874)	0
Subtotal, GOE	804,288	16,797	805,059	17,297	804,288	17,297	804,395	17,297	107	500
Office of Inspector General	21,949	397	22,249	397	21,949	397	21,609	397	(340)	0
Grants for State veterans cemeteries	4,356		4,356		4,356		4,288		(68)	
Supply fund (nonappropriated)		610		610		610		610		0
Total GOE and miscellaneous	830,593	17,804	831,664	18,304	830,593	18,304	830,292	18,304	(301)	500
Total appropriations	28,425,716	213,315	29,527,005	222,571	29,153,593	222,566	29,365,012	221,982	939,297	8,667

□ 1630

Mr. WALKER. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, let me say at the outset there are a number of good provisions in this conference report. The members on the conference committee did work very hard and they are to be commended for some of the things they have done. Among them are provisions which strengthen some aspect of our NASA programs and of our National Science Foundation programs.

Among them are a provision that this Member originally authored on the House floor dealing with civil rights demonstrators, where the members of the conference committee took Senate language, which I do think is much clearer language than what we were able to offer on the floor, and will help the urban areas I believe understand their need to deal with legitimate peaceful civil rights demonstrators in appropriate ways.

I do have some concerns about the conference report we have before us, however, and I think those concerns lead me to the conclusion that I must oppose this conference report.

As a member of the authorizing committee dealing with our space and science programs, I am concerned about the direction in which those programs are going, and the fact that there is an attempt to undercut, it seems to me basic things that this administration and I believe those of us who are concerned about our future in space regard as vital.

I am very concerned about some of the allocations within this appropriations bill that I think fail to meet the test of moving this Nation ahead with our space program.

For example, Project Pathfinder is one of the main programs that this administration has outlined as a way of assuring that we move forward and have real leadership on space issues.

This is the program that is doing the work to get us back to the Moon and ultimately take us to Mars. When the administration made a request for this program, and if you look at Public Law 100-685, the House-passed authorization, Members will find that the House-passed authorization said $72 million was needed for this program. The House-passed bill earlier in the year said $22 million, and the Senate-passed said $31 million. They came up with $27 million in the Appropriation Committee.

You say they split the difference between the two appropriations. Yes, they did, except it is way below what is really necessary for this program.

You say that is just the budgetary constraints they have to work with. Well, let us look of some of the places they found all kinds of new money.

For example, in the advanced solid rocket motor program there was originally a determination by the authorization committee that we needed $121 million for that program. The House-passed appropriations bill said we needed $121 million. The Senate said we needed $86 million for that program.

What we end up with is $121 million, plus an add-on of another $125 million that they took out of construction and facilities accounts, $35 million of which goes into the same account as this $121 million that we originally authorized for development of the motors.

Now, that seems to me to be a doubling of the account, when the author-

izers had made it very clear that they did not think we needed to go beyond the $121 million figure.

They have also juggled around moneys here where they have taken money out of the shuttle orbiter that is presently being built. NASA has come before us and told us that we have some money that is left over in that account as a result of some efficiencies they have done. The contractor has done a pretty good job, and NASA said we have $30 million of money in that particular account that can be used for some other things.

The committee evidently agreed with that, but they agreed with it is only to the tune of $30 million, but then added another $45 million to it, and have taken $75 million out of that account, supposedly in cost savings on the orbiter.

I have a hard time understanding that as a matter of priority.

In the Antarctic Program the House-passed appropriation bill was $74 million. The Senate-passed was $73 million. The conference committee has come up with $153 million.

I happen to support Antarctica and I think it is a good program, but I have to wonder how we managed to double the money that was in the House and Senate-passed appropriations.

What I understand is we were counting on the Department of Defense to come up with some money when we originally passed this bill in both Houses and the Department of Defense told us they were not going to come up with that money, so therefore we put it in this account.

But we could not do the same thing with the National Aerospace Plane. We have cut that way down despite the fact the defense committees have indicated that they are going to support that at some level. We have cut way back and juggled around some of these funds.

What I am saying is the sense of priorities here leaves me a little cold. I just point out that there are some questions that I have with regard to the way the funding has been done.

Let me raise one other issue in the bill. Amendment No. 37, which I believe Members will deal with in some detail here in a while, indicates while we were playing with science priorities, we found room to put all kinds of money into some areas here that I think are highly questionable.

Earlier in the year the HUD Secretary, Jack Kemp, said he would eliminate the Secretary's discretionary fund for fiscal year 1990. That was in response to what the inspector general has said, GAO has said, and congressional findings have said about widespread abuse and scandal in the program.

What did Appropriations do? They added $93 million to the program. They added $93 million to something that the HUD Secretary said should be eliminated because of the abuse in it.

Let me read Members a list of places where the money is going to go: Dayton, WA; Salisbury, NC; West Valley City, UT; Roxborough/Logan, PA; Newport, WA; Mackinac Island, MI; Otsego County, MI; Ottumwa, IA; Hawaiian home lands infrastructure; New Orleans Covenant House; National Association for the Southern Poor; Provo, UT and Orem, UT; Omaha, NE; Chattanooga, TN; Charleston, SC; Burlington, VT; Hawaiian sugar mills job retention; Rolling Fork, MS; Seattle, WA; Parshall, ND, and New Town, ND; Holyoke, MA; Toledo, OH; Cuyahoga Metropolitan Housing Authority; East Texas Human Development Corporation; Bay City, MI; Bethlehem House in Highlands, CA; Lazarus House in Lawrence, MA; Norristown, PA; Kemp Street Park in Mount Clemons, MI; and Michigan State University. And that is just the ones that are listed. There are others here listed that are in groups.

I would say that probably quite a few people got taken care of in the conference committee with that $93 million, but maybe it is not money that was very wisely spent. It sounds to me as though it was pretty much divvied up among the Appropriations Committee, and we did not get very much out of the need to do something about fraud, waste, and abuse in HUD.

I suggest that maybe this is a conference report that does have some flaws in it and needs to be looked at somewhat carefully.

Mr. GONZALEZ. Mr. Speaker, would the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Texas, chairman of the committee of jurisdiction on a number of the programs I just mentioned.

Mr. GONZALEZ. The gentleman is absolutely correct. I think it is not only malodorous, but in view of all of the allusions about scandals in HUD and the abuse of the secretary's discretionary fund, that our conferees from the House would allow the Senate to append exactly what the gentleman is talking about.

The gentleman from Pennsylvania knows that during the past sessions, more likely than not, we have not agreed, but we have had agreements, and usually it is because I find in my life's experience that when two or more human beings, no matter what their party alignment is, no matter what their religion is, no matter what their citizenship is, are basically goodwilled, honest-intended, and integral in the discharge of their functions, they are going to find a common ground agreement somewhere. Today I want to join the gentleman from Pennsylvania in exposing this abominable, outrageous action.

If any Member of Congress comes back to me when we start hearing about how the FHA insurance fund was looted, as they have come to cry out about the savings and loans, especially Members that have been Members of Congress for the last 10 years, I am going to say look in the mirror.

The same thing is happening here. But in this one case, not involving FHA mortgage insurance, I think it is an egregious insult to the integrity of the House that in view of the exposure of the scandals involving the secretary's discretionary funding, we should come with this abomination of $93 million.

I would say to the gentleman from Pennsylvania, if GONZALEZ and WALKER can get together, there must be some righteousness in the cause.

Mr. WALKER. Mr. Speaker, I reserve the balance of my time.

□ 1640

Mr. TRAXLER. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DE LA GARZA], chairman of the Committee on Agriculture.

Mr. DE LA GARZA. I thank the gentleman for yielding time to me.

Mr. Speaker, after extending my commendation to the chairman of the subcommittee and the committee, I rise in support of the conference report. A bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for other independent agencies.

Mr. Speaker, of particular interest to me, the conference report includes language to authorize the Governor of Texas, at his discretion, to set aside up to $15 million out of Texas' approximately $80 million in construction grant funding from the Environmental Protection Agency to establish a revolving fund for the sole purpose of making loans to residents of colonias in the counties of Cameron, Hidalgo, Zapata, Starr, Webb, Maverick, Val Verde, Terrell, Brewster, Presidio, Hudspeth, and El Paso.

Loans from the revolving fund must be made for the purposes of connecting residences to sewer collection systems and making plumbing improvements necessary to meet county or city code requirements.

The task of providing adequate housing, clean water, and effective sewage collection and treatment systems in Texas is a daunting one. The elimination of the health problems in the colonias will require a concerted effort on behalf of Federal, State, and local governments.

Earlier this year the State of Texas approved legislation authorizing, subject to a statewide referendum, the sale of up to $100 million in bonds. The proceeds from these bonds would be targeted to fund the construction of desperately needed water and sewer systems in Texas colonias. An amendment to the Texas State constitution must be approved by Texas voters before the bonds may be sold. I have publicly supported this consti-

tutional amendment and would urge Texas voters to approve the amendment on November 7.

At the local level, county governments in Texas have begun to adopt ordinances requiring developers to provide essential services to residents in an effort to prevent the future development of colonias. My home county of Hidalgo has been a leader in this area.

Earlier this year I met personally with Secretary of Agriculture Clayton Yeutter to urge him to use whatever discretionary authority he might have to target Farmers Home Administration funding to water and sewer projects in colonias in States along the United States-Mexico border. This August Secretary Yeutter announced that the Farmers Home Administration would make available $5.5 million in fiscal year 1990 for such projects. This is in addition to the more than $84 million that the Farmers Home Administration has spent for water and waste facilities to alleviate these problems in Texas counties over the last 10 years.

The discretionary authority included in H.R. 2916 will give the Governor of Texas yet another tool to target up to $15 million in grant funds to colonia water and sewer development. Importantly, loans made with these funds would go directly to colonia residents themselves, to help them improve their quality of life. I urge the Governor to take full advantage of this authority.

I would like to take this opportunity to commend my colleagues on the Committee on Appropriations, and especially my colleagues from Texas, Congressman WILSON, Congressman COLEMAN, Congressman CHAPMAN, and Congressman DELAY, for including this amendment in H.R. 2916.

I urge my colleagues to support this legislation.

Mr. TRAXLER. Mr. Speaker, I yield such time as he may consume to the gentleman from Hawaii [Mr. AKAKA].

Mr. AKAKA. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the conference agreement on H.R. 2916, the VA, HUD, and Independent Agencies Appropriations bill for fiscal year 1990, and in opposition to the motion by the gentleman from Texas [Mr. BARTLETT].

I commend the tremendous job done by the chairman of the subcommittee, Mr. TRAXLER, and its ranking member, Mr. GREEN in reaching this well-balanced agreement. Our conferees have served us well in addressing the many priorities within the jurisdiction of the subcommittee.

Mr. Speaker, I strongly support the conference agreement budget request for the community development discretionary fund. The agreement provides funds for Hawaiian home lands infrastructure development and job retention in rural Hawaii. These two programs are of critical importance to native Hawaiians and the people of Hawaii and were included in response to critical needs.

In 1921, Congress passed the Hawaiian Home Commission Act, setting aside approximately 187,000 acres of land in Hawaii for lease to native Hawaiians. The act provides direct benefits to Hawaiians in the form of 99-year agricultural and residential homestead leases. The vast majority of the land to be leased lacks the necessary roads, water, drainage, and electricity to allow its meaningful use by the homesteaders. As I speak, over 19,000 applicants are on waiting lists for homesteads.

H.R. 2916 provides $1.2 million for needed infrastructure development on Hawaiian home lands. The State of Hawaii has already acted to approve over $50 million for infrastructure development. A 1983 Federal-State task force assessment evaluated implementation of the Hawaiian Homes Commission Act, estimated that $250 million was needed to accelerate land distribution, and recommended matching State and Federal commitments to realize this priority goal. Inclusion of this language will further the purposes of the Hawaiian Homes Commission Act and the task force recommendations. It will also address some of the problems identified by a joint House-Senate committee after hearings in Hawaii this summer.

I want to assure my colleagues that the issue of this appropriation has been thoroughly reviewed by the appropriate House and Senate committees. Just this August I participated in joint congressional hearings into the Federal trust responsibility for Hawaiian home lands. In hearings on each island, witnesses before our committee emotionally and forcefully testified about delays caused by the lack of infrastructure development which have left applicants languishing for decades on homestead waiting lists.

The most poignant testimony given to the committee came from a number of native Hawaiians whose legacy from their parents was not a home, but an unfulfilled promise. Their parents had died without receiving a homestead. The conference amendment will help alleviate the delay in homesteading, and permit the establishment of needed infrastructure to fulfill a very small part of the trust responsibility established under the act.

I also want to express my strong support for the action of the House conferees providing $1.3 million to assist Hamakua Coast sugarcane mills. In light of the tremendous importance of this industry to Hawaii, especially the Big Island, I am grateful for the subcommittee's consistent support on this matter.

I would like to familiarize my colleagues with the plight of these mills. As anyone who visits this remote region of Hawaii will quickly recognize, these mills are vital to the economic welfare of the Island of Hawaii. More than 2,000 residents are employed by the two affected mills, and an additional 500 individuals are employed in jobs directly related to the continued cultivation of sugar. Seventy percent of the island's cropland is in cane, and there simply is no substitute employment for sugarcane workers.

Unfortunately, both of the affected mills are in an economically precarious situation. One of the mills was recently forced to lay off 200 workers, a one-quarter reduction in its work force. The assistance recommended in this conference agreement will hopefully forestall the further decline of this important economic base.

I want to assure my colleagues that the State of Hawaii is not idly standing by and permitting this important economic base to erode. During the last two legislative sessions, the Hawaii Legislature has approved over $18 million in low interest loans to the Hamakua mills. There is strong commitment to revitalizing this important economic base throughout all levels of State and local government in Hawaii. Clearly, the State is willing to "put its money where its mouth is." Given the commitment of dollars and resources to this task, the appropriation recommended by the conferees is entirely appropriate.

Regrettably, there is simply no alternative to the cultivation of sugarcane for this remote area of an island State like Hawaii. If this economic development assistance is denied and these mills together with their nearly 2,000 workers are left without Federal support, they will simply wither on the vine. Then, they will have no other alternative than to turn to the Federal Government for unemployment assistance and other forms of public assistance. The cost of such public assistance will far exceed the modest appropriation proposed in this bill.

I thank the chairman for yielding his time and urge my colleagues to support the conference agreement.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. AKAKA. I yield to the gentleman from Texas.

Mr. BARTLETT. I thank the gentleman for yielding.

Mr. Speaker, the gentleman mentioned two projects which his State has in this bill. One is the sugar mills job retention project. I would note that some of the rest of us in the country also have sugar mills in our districts which we would like to compete for those funds for. But on the first project, Hawaiian lands, amendment No. 38 authorizes Hawaiian lands, and I support that, I think they ought to be authorized, that particular project.

I would move to strike amendment No. 37 which requires it be funded over other projects which should be competing for that funding.

So I want the gentleman to have the right to compete for those funds, not to have them written into law but to compete for them. I support his amendment to authorize them but not require that they be funded.

Mr. AKAKA. I thank the gentleman for his remarks, but I would like to stay with the committee report and ask my colleagues to support the conference report.

Mr. TRAXLER. I thank the gentleman for his statement.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. I thank the gentleman for yielding this time.

Mr. Speaker, I rise in strong support of the conference agreement. I want to commend Chairman TRAXLER for his diligent concern over addressing the needs of America.

It is a good bill and deserves our support.

Mr. Speaker, I rise in strong support for the motion to accept the conference agreement on 41 specific projects.

In the case of Chattanooga, TN, a need was identified, efforts were mounted at the local level and only then was assistance requested of the Federal Government.

The people of Chattanooga can be proud of the steps they have taken on their own. The Chattanooga Neighborhood Enterprise was created in 1987 to develop a partnership between the public and private sector to eliminate substandard housing as a major problem in the community.

They carefully evaluated the situation, set out objectives to correct the problems and have moved to eliminate existing substandard housing and stop the problem from growing.

CNE's Homeowner Repair and Emergency Loan Program assists homeowners below 50 percent of medium income with emergency repairs with low-interest home repair loans. The city of Chattanooga's program match provides short-term low or no interest loans to first-time homebuyers below 80 percent of median income. The homeless assistance programs assists with the acquisition and rehabilitation of substandard housing for the homeless through cooperative ventures with direct social service providers and the homeless coalition. And finally, the Rental Housing Improvement Program provides funds to allow CNE to acquire and rehabilitate substandard rental units or to assist in financing the rehabilitation of privately owned units.

The shelter will provide the Room in the Inn with a facility for homeless women, both single and with children. This is a nonprofit, nondenominational outreach organization. It recognizes the special problems faced by homeless women and mothers. For a year now, they have been providing a day shelter where guests can clean up, do laundry, write resumes, and leave their children while they seek employment. Overnight shelter has been provided at seven churches in the area on a daily rotating basis. The only comparable service available in this part of southeast Tennessee is the community kitchen whose clientele is predominately male. The Room in the Inn needs a permanent facility to continue to serve this segment of our population.

I encourage my colleagues to accept the conference agreement.

Mr. GREEN. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Speaker, there is a budget problem with the amendment No. 54, which causes some 302 allocations to be overrun.

I am advised that the committee will seek to remedy what would otherwise be an enforceable point of order by making changes in amendment No. 25 to lower the total amounts of loan money available.

That certainly will obviate the point of order.

But on the other hand I am not sure it is good procedure nor that it is good substance.

In the first place, amendment No. 54 increases the size of the loan that can be covered under the program. So if one allows that to go through, that will provide for bigger loans and probably for customers in that price range who are not necessarily first-time homeowners.

If you reduce the scope of the whole program, you may run up against the ceiling and be back in for a supplemental. That is not very good process either from the standpoint of the budgeteer who does not like supplementals.

The homeowner may find them unreliable.

Finally, it is a case where the Appropriations Committee has usurped the power of the committee with jurisdiction, the Committee on Banking, Finance and Urban Affairs, and in so doing the Committee on Appropriations has decided what the process should be, what the loan limits shall be and so forth.

As a member of the Committee on the Budget, I am interested in maintaining a little order. I am nervous about supplementals. But I know why the Committee on Appropriations did it. It was not because they scorned the jurisdiction of the Committee on Banking; it is that they wanted the $100 million extra that comes from the fees of underwriting the larger mortgages.

This is an appropriations subcommittee that has been forced to squeeze housing and space and other important priorities into too small a bundle.

I am sympathetic with its problems as well. Nevertheless we have to get this straightened out before this bill can go forward.

My own inclination is to go with the committee of jurisdiction and to work the point of order. But it may be that the Committee on Appropriations will solve its own problem.

Mr. WALKER. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, it seems to me that amendment No. 37, which is the amendment that I would be seeking on the floor at the conclusion of this debate to defeat and to replace with a generic motion, is an amendment that while it places 41 particular special-interest projects into this bill by name, thus obviating the entire competitive process, is an amendment that by its nature does put a cloud, a negative cloud, over the entirety of the bill.

□ 1650

I will be seeking on the floor when we get to it, the defeat of amendment No. 37, and thus the defeat of the 41 special interest projects, and to replace it with a motion to replace that funding, with the generic funding for Indian reservation community development block grants, trust CDBG block grants, $20 million for HUD proposed homeless, and $20 million for HUD home ownership, and set out to put back into this bill what the bill should have started with. That is, competitive projects, for projects in which communities all over this country seek to compete for and to seek and take out the idea of micromanagement, and the idea of who a person knows as opposed to what do we need.

Amendment No. 37 goes to the heart of what has been at the heart of the HUD scandals for the last year as this Congress has been dealing with it, and several years during the course of the 1970's and the 1980's. The scandals at HUD have been exactly this: They have been based on the fact that HUD projects have been allocated, on too many occasions, based on who a person knows at HUD, and not on what a person needs if they are low-income family or a low-income recipient. Thus, the conference committee is seeking to replace the HUD discretionary funds which the conference committee discretionary funds do exactly the same process, and continue the scandal.

Now what is the real issue here? The real issue is the 41 special interest projects, of which I have published a list and distributed it to the Congress as a whole. These 41 special interest projects involve some $43 million, of which 6 of them were in the House-passed version, 20 of them were in the Senate-passed version, and 15 were in neither version.

What do the projects have in common? First, none of them were competitively bid. In fact, so far as we have been able to determine by asking HUD, none of these projects were bid at all. That is, none of these projects seem to have any kind of a bid process in which they have applied to HUD or

to ETA or to DOT or any other Federal department for this particular project. None of them, surely, has had any competition or any public hearing or any hearing by the committee, or any hearing by anyone. They just simply have all been designated. Second, each one of these projects deletes from the proper function of this item, which is the Secretary's discretionary fund, No. 107 in the law, which is the emphasis on homeless and home ownership, The purpose of this section of the bill ought to be what can we do to assist people who are on the steam grates, who are homeless, who have no place to live, no place to sleep, or no place to keep their things at night. How do we assist young families to be able to buy their first home? The Secretary proposed $95 million to be spent precisely on homeless and on home ownership programs, and the conference committee report deletes homeless, deletes home ownership, and replaces it with these individual special projects that have nothing more in common other than they have someone on the conference committee who is willing to speak in their favor. Thus, we find in Newark, NJ, a performing arts center taking $1.2 million out of funds that could otherwise go to homeless, and putting it into a performing arts center at a specific location.

Third, thing that they all have in common, none of them necessarily relate to or are targeted to low income families or low income individuals. None of these funds are targeted on a means-tested basis. They are simply targeted, based on who on the conference committee knew about that project, some better than others. Thus we have money coming out of homeless and home ownership programs and going into the Leake County Bridge in Mississippi or into the Mackinaw Island Library. Now, I am sure Leake County does need a bridge and Mackinaw Island, MI, does, in fact, need a library. However, the issue here is do we take those funds away from homeless programs that could help homeless indivduals, or home ownership programs that could help people buy their first home, and then place them into the Leake County Bridge, without regard to what other bridges may need repair in the rest of the country?

Now, we should have learned a few things from this HUD scandal. Let me suggest to the Congress exactly what we have learned. We have learned that there are some ingredients to reform. First, that we ought to provide disclosure, who is asking for the money, why are they asking for it, and who is involved in it. None of these programs have that ingredient. Second, projects ought to be competitively bid. If we want to provide bridges being rebuilt for this country, we ought to provide bridge rebuilding for who can competitively offer the best project for the rebuilding of bridges. Third, it is HUD money, low-income money, and it ought to be targeted to low-income individuals and not broadly spread out just based on who can ask the conference committee at the correct time.

I urge the Congress to reject amendment in disagreement No. 37, reject the 41 special interest projects, reject the "who you know" process that that would engender.

Mr. GREEN. Mr. Speaker, I yield myself such time as I may consume.

Just so there is no misunderstanding about how this subcommittee and this conference dealt with the homeless, I should point out that the homeless programs increased from a fiscal year 1989 amount of $126,500,000 to fiscal year 1990 recommendation in this conference report of $286,491,000, an increase of homeless programs of almost $160 million, certainly one of the largest, if not the largest percentage increase in this bill. So there should be no misunderstanding on that point.

Mr. TRAXLER. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi [Mr. WHITTEN], the chairman of the Committee on Appropriations.

Mr. WHITTEN. Mr. Speaker, today we bring another conference agreement from the Committee on Appropriations. Hearings on the 1990 bills began on January 24, 1989. We took testimony from over 5,300 witnesses on 275 hearing days which was printed on 98,500 pages of 91 volumes of hearings. In markups, we considered over 5,000 requests from our colleagues for programs important to their sections.

I want to thank the gentleman from Michigan and the gentleman from New York. I also want to thank my fellow subcommittee members for the fine job that was done.

Mention was made of homeless. I just call attention to the record that this started with an attack on an area in Mississippi. The situation was terrible for the people in this area, but may I say it was not a case of being able to pay the rent. The housing people could not help. I asked for an investigation of that situation and of the homeless in the cities. To the surprise of many, we found out the homeless situation was very, very serious. We straightened things out, but I am glad to have had a part in trying to bring the attention of the public and the Congress to this situation that we have.

Mr. Speaker, I am glad to call attention to the favorable action on the advanced solid rocket motor facility at Yellow Creek in my State. The facility is to be located at the best location, identified by NASA and making use of land already owned by the Federal Government, next to the Tennessee-Tombigbee Waterway—with the Yellow Creek Port already in existance.

The site is recommended by the President, and by NASA. It will save at least a year's time by reason of prior developments, powerlines, roadways, building and other facilities.

Certainly it is wise to go ahead with this project in view of the rapid developments which the world is going through.

I commend my colleagues on this subcommittee of which I am a member for this action.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. TRAXLER] has 13 minutes remaining, the gentleman from New York [Mr. GREEN] has 13 minutes remaining, and the gentleman from Pennsylvania [Mr. WALKER] has 5 minutes remaining.

Mr. WALKER. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, I would comment on an issue raised by the gentleman from Minnesota [Mr. FRENZEL], a little while ago, dealing with amendment No. 25 and amendment No. 54.

Amendment No. 54 would increase the FHA mortgage limit from $101,250 to $124,875. How they came up with a figure of $124,875 is any Member's guess, but there it is.

I think that the gentleman from Texas [Mr. GONZALEZ], also raised a good point about this, and that goes to the jurisdiction of the Committee on Banking, Finance and Urban Affairs. This should not be an appropriation bill, in my judgment, as to whether the FHA mortgage limit should be raised. The provision in amendment 25 which raises the FHA credit limit by $8 billion from the House provision which was $57 billion to $75 billion, and I understand now will be reduced back to $57 billion in order to meet the requirements of the budget. It seems to me it is a convoluted way to go about determining whether the FHA limits should be increased or not.

I think that the gentleman from Minnesota [Mr. FRENZEL] is absolutely correct when he said that the House must stop the provisions of addressing the issues in appropriation bills which more fundamentally should be addressed by the authorizing committee.

□ 1700

Now, the authorizing committee has asked for a report which is due on November 15. This is a report from GAO which is to study the whole issue of FHA mortgage limits, what the impact is on the mortgage insurance fund which we found out from GAO not very long ago lost almost $1.4 billion last year, fiscal year 1988. For us to be

here and to say we are going to increase those limits and increase the amount of the credit limit is, it seems to me, putting the cart before the horse, and I hope there will be a procedure by which we can delete those two provisions from the bill and instruct the conferees that we want to take it up in the Banking Committee in a timely fashion.

As I say, Mr. Speaker, I think the gentleman from Minnesota [Mr. FRENZEL] does raise a good point, and I think the chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ] raises a good point. I support both gentlemen on this issue.

Mr. TRAXLER. Mr. Speaker, I am very pleased to yield such time as he may consume to the distinguished gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the Committee on Veterans' Affairs, and a Member whom I consider to be one of the foremost champions of America's veterans.

Mr. MONTGOMERY. Mr. Speaker, I certainly thank the chairman of the subcommittee for his very kind remarks and for giving me this brief time. I might say that it has been a pleasure working with the gentleman and working for our veterans' programs. The gentleman from Michigan and the gentleman from New York [Mr. GREEN] have been very, very fair.

Mr. Speaker, I am pleased to support this conference agreement and especially as it relates to veterans programs.

The veterans agreement reached with the other body is very close to the numbers contained in the bill passed by the House. The agreement contains the amounts requested by the administration for veterans compensation, pension, education, and home loan benefits. Funding for these mandatory programs totals over $16.2 billion. Funding for discretionary programs totals almost $13.2 billion.

Mr. Speaker, I want to commend the chairman of the full committee Mr. WHITTEN and the chairman of the subcommittee, Mr. TRAXLER, and the ranking minority member, Mr. GREEN, for their success in the conference plus the subcommittee members—this conference report is very fair to the veterans or his or her dependent or orphans. The agreement contains some $939 million more than was requested by the administration.

While the final total for veterans medical care is almost $11.5 billion, which is $742 million more than the administration requested, it is not enough to restore all of the reductions which took place in 1989 or to meet the rising demand for health care, particularly among aging veterans.

The agreement contains $212.6 million for medical and prosthetic research—some $15.3 million more than the amount contained in the administration's budget.

The agreement contains about $67 million more than the administration requested for construction and $17.3 million more for general operating and miscellaneous expenses.

I also want to thank the subcommittee chairman for his help on another matter. I expressed my concern to the chairman that vital computer modernization efforts would be set back by the subcommittee's recommended funding levels for the Veterans Benefits Administration. The chairman assured me that he understood my concern and that he would work to restore funds for the VBA modernization in conference. The chairman was as good as his word, and it is clear that the conference report would have added $12 million to the total for GOE but for the need to impose the across-the-board cut to make the bill conform with budget allocations. However, the conference agreement authorizes the Secretary of Veterans Affairs to transfer funds from the minor construction account to GOE during fiscal year 1990. I can think of no more important decision for the Secretary to make, and I am optimistic that he will authorize the restoration of the $12.6 million so that a state-of-the-art computer program can be established to enhance service to veterans.

Again, I commend the House conferees for their work on resolving differences between the two bodies on programs for veterans. Under the circumstances, it is a very good agreement and I appreciate the compromise that has been reached.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the chairman of the subcommittee.

Mr. TRAXLER. Mr. Speaker, I am very honored by the gentleman's comments, and I want to express my appreciation to him for his work as chairman of the Committee on Veterans' Affairs. I want to thank him also for the good information and tutelage he has provided me. I am deeply appreciative to him for that. America's veterans owe the gentleman a great debt of gratitude.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman from Michigan [Mr. TRAXLER].

Mr. WALKER. Mr. Speaker, I yield myself the balance of my time.

The PRESIDENT pro tempore (Mr. BRUCE). The gentleman from Pennsylvania [Mr. WALKER] is recognized for 2 minutes.

Mr. WALKER. Mr. Speaker, I would just like to quote from a letter that comes to us from the Secretary of Housing and Urban Development on the subject matter of amendment No. 37. Mr. Kemp has written to our colleagues, as follows:

I am writing to express my deep concern about the decision of the Conferees on H.R. 2916 to delete all funding for two fiscal year 1990 priorities of aid to the homeless and first-time homebuyers.

I am particularly troubled by what apparently was a decision to shift funding away from these two programs—designed to serve national objectives and be subject to a national competition—and to a variety of narrowly drawn, "special purpose" projects which have questionable bearing on the intent of the authorizing statute. It's distressing that at a time when the Department looks to Congress for support in its efforts to reform HUD programs and restore the elements of competition and merit to its funding decisions, we are, instead, forced to oppose this congressional action.

Mr. Speaker, it seems to me that the Secretary of the Department of Housing and Urban Development has given us a very, very clear issue here. He is disturbed at the funding priorities as exhibited in this bill, and he is hopeful that the Congress will reject this special-interest approach in favor of a broader approach aimed at helping the homeless and first-time home buyers.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I note that the Secretary of HUD, as well as the Committee on Government Operations that has been conducting the investigation, is also agreed on a set of principles for the reform of HUD, and the principles generally go in the direction of competitive bidding and targeted funding to low-income individuals and families.

These projects go in the opposite direction. I would note that in addition to the Secretary's objection to these 41 projects, he specifically has offered some reforms that would go in the other direction also.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Texas. I think that is what is clear here, that the Secretary had hoped to move some torts and innovative approaches to provide some help for the homeless and also to provide some help for first-time and predominantly low-income home buyers. This rejects that in favor of these narrowly drawn special-interest programs.

Mr. GREEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I find it very strange that at the same time some Members are criticizing us for poaching on the territory of the authorizing committee, other Members are criticizing us for any appropriating money for two programs which have not been authorized and on which the Secretary has not, as far as I know, sent up the proposed legislation for the programs. So I do not see how we can appropriate money for two programs that do not

exist at the moment. That is what we are talking about here.

Mr. Speaker, I yield back the balance of my time.

Mr. TRAXLER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I want to express my appreciation to the gentleman and to his subcommittee in general for what they did. I do not agree with everything in this, but I think as indicated, they have done an excellent job with what they were given. But that is the problem—"what they were given."

There was reference to the 302 allocations, and to the extent to which they stayed with it, I think, all things considered, they did a superb job in sticking with the 302(b) allocation, which is scandalously low if you have any reasonable sense of priorities and values.

I want to talk for just a minute about the problems we have with the budget process. Many of us will look at the problems in housing, and I regret the fact that some important projects have to be put off against each other. Previously Members have spoken about this project versus that project. My guess is that in many cases both of the above are worth funding.

The problem is that we have a budget process whereby an agreement is reached between the congressional leadership and the administration which put military spending in one pot and domestic spending in another pot, and we then get appropriation bills where it is not in order to make transfers among the different appropriation bills. What we are best at is making large allocations of resources decisions, but we have a combination of a budget act and Gramm-Rudman and a few other things which have locked us into something that we never anticipated at any one time. If we want to put more money into housing, the only thing we can do is to cut space, the environment, or veterans, and if we want to put more money in veterans, we have to go after the homeless or clean water.

If you believe that with the Hungarians having just renounced communism and the Russians having renounced a good deal else, if you believe that we no longer need 300,000-plus troops in Europe, if you believe, as I do, that the likelihood of the Hungarian and Polish armies invading France has substantially diminished to the point where we can probably save a little money, you may agree with me that maybe that would better go to housing Americans, maybe that would better go to cleaning up our harbors, and maybe that would better go to fighting cancer-causing substances in the atmosphere. But we may find out that there is no way to do it.

So I want to express my appreciation to the subcommittee of the Appropriations Committee for the good job they did in an impossible circumstance. But I think we ought to understand the need that this budget gives us for changing the budget process. We had a very anguishing decision for many Members earlier this year when we had to choose between the space station and the homeless. Many of us felt that both of those were important, but we could not get at it because of our budget procedures on other issues. It is not, as I said, something that the subcommittee of the Appropriations Committee can deal with.

So I hope that Members who share my frustration that we are going to be voting for too little money to help clean up the environment and too little money for our veterans will recognize that a good job has been done under the guidance of the gentleman from Mississippi and the subcommittee for the veterans, but it still is not enough. This appropriation, as good a job as the subcommittee does, underlines the need for some changes in the budget procedure, and I hope that next year we will be able to get at the excesses that exist in the military budget so that we will not be in this bind again.

Mr. CONTE. Mr. Speaker, I rise today in support of the conference report on H.R. 2916, the fiscal year 1990 appropriations bill for the Department of Veterans Affairs, the Department of Housing and Urban Development, and independent agencies. Mr. Speaker, spending $67 billion is not always as easy as one might think, especially when you're responsible for meeting needs costing hundreds of billions of dollars. The VA/HUD Subcommittee has the weight of the world on its shoulders, financing America's environmental cleanup, veterans' care, scientific research, affordable housing programs, and our space mission, to name but a few of the subcommittee's many responsibilities.

I applaud the subcommittee's new chairman, the honorable gentleman from Michigan [Mr. TRAXLER], on his successful maiden voyage through the troubled waters of appropriations. He has been steady and fair in his treatment of the many difficult issues facing him. I appreciate his leadership and praise his judgment.

I am also deeply indebted to my dearest friend and colleague, the distinguished ranking minority member of the subcommittee, the Honorable BILL GREEN. Bill has generously offered his guidance and wisdom in leading the subcommittee through a difficult process. He has been an invaluable resource to me and to the other members of the subcommittee, and we are most grateful for his dedicated efforts.

Mr. Speaker, this bill represents painful choices of the conference committee. We all wish that we had more to spend on veterans, housing, and scientific research. But the subcommittee has made responsible choices and has spread out the pain as equitably as possible.

First, I would like to express my strong support for the $11.43 billion appropriation for VA medical care. I know that the chairman of the subcommittee agrees with me that our Nation's veterans, the patriots who have sacrificed life and limb for this country, must to given the medical care that they need and deserve. Furthermore, we will not tolerate having our neediest veterans held hostage to an omnibus supplemental bill in 1990. This bill provides a substantial increase in the VA medical care account to begin the process of rebuilding the VA health care system. I endorse this increase and will continue to fight on behalf of our Nation's veterans for better and expanded medical care.

This bill does not cheat our environment. The $1.55 billion appropriation for the Hazardous Substances Superfund will give the EPA the tools it needs to aggressively attack the scourge of toxic waste during the upcoming fiscal year, I also applaud the conferees for appropriating $1.5 million to the President's Council for Environmental Quality. President Bush has demonstrated his commitment to the environment; and the CEQ will play a critical role in developing and executing environmental policy in the 1990's.

The bill also continues to honor the Federal Government's important commitment to the environmental restoration of Boston Harbor. The bill's appropriation of nearly $20 million for the cleanup effort will keep us on track to provide a total Federal contribution of $100 million to this critical effort by 1992.

I am also pleased that the conferees were able to appropriate $2.85 million for the President's Office of Science and Technology Policy. The appropriation will, among other things, enable OSTP to energetically pursue governmentwide activities pertaining to the Decade of the Brain. With OSTP's leadership, we will doubtless make huge advances in our understanding of the functions and disorders of the human brain during the upcoming decade.

I am also pleased that the conference agreement provides $2.07 billion for the National Science Foundation. This funding is necessary for American education to catch up with the rest of the world in the fields of science, mathematics, and engineering. Included in the NSF total is $19.6 million for renovation and modernization of academic facilities. This new program is an overdue addition to our effort to create the best possible educational environment for our young people.

Mr. Speaker, I am also proud that the conferees have been able to find enough money under the cushions—nearly $450 million—to fully fund the McKinney Act homelessness programs within the jurisdiction of this bill.

On October 7, tens of thousands of advocates for the homeless marched on the capital to draw attention to the national tragedy of homelessness. I am more than pleased that we have been able to respond with an appropriation of nearly one-half billion dollars to finance both short-term and long-range programs to address this crisis.

Mr. Speaker, I appreciate that the subcommittee's limited 302(b) allocation will not fully

permit the subcommittee to satisfy all of the diverse and important demands placed upon it.

But I do not believe we should quit looking under the cushions for extra change. This year, we are appropriating $12.377 billion for the National Aeronautics and Space Administration, an increase of $1.7 billion over last year. Mr. Speaker, at a time when we can't provide shelter for our homeless on Earth, we are spending $1.8 billion to house a few astronauts in space. There is even $11 million in this bill for an alien listening post. If E.T. phones home, NASA wants to eavesdrop on the conversation.

Mr. Speaker, at a time when we are formulating our long-term space goals, it may be unwise to rush headlong into space programs that are guaranteed to cost the taxpayers billions and billions and billions of dollars while the Federal Government strains to balance its checkbook.

Mr. Speaker, this is, on balance, a good bill, and I am proud to offer my support. The entire VA/HUD Subcommittee is to be commended for its hard work and should be rewarded with speedy passage of this conference report.

Mr. Speaker, I urge my colleagues to support the conference report to H.R. 2916.

Mrs. VUCANOVICH. Mr. Speaker, I rise today in support of the provision in the fiscal year 1990 HUD appropriations bill which will increase the maximum FHA limit from its current level of $101,250 to that of $124,875. Each and every American taxpayer is entitled to the services which our Government can provide, including the opportunity to secure a federally insured housing loan. By raising the FHA cap for single family homes, the people who are helped most are those who have a significantly lower average and median income, furthermore, an overwhelming number of these potential homeowners are in fact first time home buyers. Opponents of this measure note that FHA insurance funds have incurred over $4 billion in losses, however, the mutual mortgage insurance fund is financially stable and currently has over $2 billion in equity.

Mr. Speaker, because the FHA has been able to maintain a stable risk premium structure, it has attracted homeowners with widely diversified risk characteristics which includes the low, medium, and high risk borrower. At the present time, the current limit, $101,250, is lower than the medium home sales price in my State of Nevada which is $118,581. Whereby, the opportunities for moderate income and first time home buyers to purchase homes is being greatly restricted by the failure of the FHA to reflect actual home prices. I firmly believe that the FHA cap must be raised in order to assure the solvency of the fund, but more importantly, to assure its availability to all potential home buyers. Mr. Speaker, this measure is right, it is fair and it is long overdue. I urge my colleagues to support this important provision.

Mr. RAHALL. Mr. Speaker, I rise in strong support of the conference report on H.R. 2916, the fiscal year 1990 appropriations bill for VA, HUD, and independent agencies. Many of the programs funded in this $65.1 billion measure are of great importance to my home State of West Virginia, and I would like to take this opportunity to highlight a few of them.

The conference report appropriates $29.3 billion for the Department of Veterans Affairs, including $11.4 billion for veterans' medical care, which is $551 million over the fiscal year 1989 funding level. These funds will allow VA hospitals to treat more patients, purchase much needed supplies and equipment, and provide for homeless programs for veterans as authorized by the McKinney Homeless Assistance Act. This amount specifically provides for $10.5 million in new activation money for clinical addition project at the Huntington, VA facility. The breakdown for these funds is as follows: $5.5 million in equipment, $1.3 million for general expenses such as supplies, and $3.7 million to pay for 51 new medical center staff members. Also, the conference report urges the VA to purchase approximately 13.5 acres of land adjacent to the Beckley VA Medical Center at an estimated cost of $100,000.

In addition, $15.4 billion is appropriated for veterans' service connected compensation payments and pensions. The measure also includes $413.7 million for major construction projects and $111.9 million for minor construction projects. The VA will determine how the money appropriated for minor construction projects will be allocated. Veterans' Affairs Medical Center Hospitals, such as those in Beckley and Huntington, will be eligible to receive funds.

Also of great importance to West Virginia is the $286.5 million contained in the conference report for HUD programs to assist the homeless. This funding level is $160 million, 127 percent more than the fiscal year 1989 level and is money well spent. According to the most recent data, 9,224 homeless individuals received services to meet basic needs in West Virginia, with 2,655 such individuals receiving shelter in fiscal year 1987. While it is difficult to estimate the total number of homeless in this country, or even in West Virginia, it is clear that that number is significant. While it is doubtful that the funds in this bill will solve the homeless problem, they will go far toward alleviating the homelessness in the United States. I am confident that West Virginia and other States will use this increased funding to the fullest extent possible.

Directly related to the efforts to solve the homeless problem are the housing programs contained in the conference report. The agreement provides a total of $11.5 billion for various housing programs which is approximately 20 percent higher than fiscal year 1989 appropriations level, and $1.7 billion more than the level requested by the administration. I think it is very important that we continue to work to see that affordable housing is available for people on low income. This is the best preventive measure the Federal Government can take to stop homelessness before it happens.

The agreement also provides a total of $2.9 billion in fiscal year 1990 for the Community Development Block Grant [CDBG] Program which is approximately equal to the level provided for fiscal year 1989. This program supplies much needed development assistance to towns and cities throughout West Virginia and the Nation. While I am pleased that this program has not suffered drastic cuts in this agreement, it is my hope that we will provide significantly more funding for community development programs in the future. At a time when we should be promoting economic growth to increase our tax base, increase employment, increase our share of the world market, and ultimately working to decrease the dual deficits, it seems to me we should be more strongly supporting programs like CDBG, which help to accomplish these goals.

Finally, also of great importance to West Virginia is the $2 billion appropriated for construction grants under the Environmental Protection Agency [EPA]. This program provides much needed assistance to municipal, State and interstate agencies to aid in the planning, design, and construction of wastewater treatment facilities. I am pleased to note that this is 69 percent more than the administration requested. Adequate funding is especially important this year since this is the last year that funds are authorized for wastewater treatment construction grants. In the future, funding for such construction will be transferred to State revolving funds. These funds are also important because many communities in West Virginia are struggling to comply with the secondary sewage treatment standards mandated by the Clean Water Act. The funding provided by this measure for the sewer grants program is critical for these and other communities throughout the Nation, which simply do not have the financial resources to meet the sewage treatment requirements on their own.

While I generally believe that we should be putting more resources into revitalizing our commitments and enhancing our competitiveness, this agreement provides reasonable increases in such programs over last year's levels. I urge my colleagues to support passage of the agreement.

Mr. PARRIS. Mr. Speaker, I rise in support of the conference report to H.R. 2916, legislation providing appropriations for the independent agencies of the Veterans Administration and the Department of Housing and Urban Development for fiscal year 1990.

I am particularly supportive of the provision in the conference report which would increase the FHA mortgage amount in high cost areas to a maximum of $124,875. While I recognize the objections that the chairman of the Banking Committee has with this provision on jurisdictional grounds, I am compelled to represent the interests of my constituents in northern Virginia and support this provision and the conference report.

FHA mortgage insurance provides real help to families attempting to make the American dream of home ownership a reality. FHA mortgage insurance substantially lowers the upfront cash requirements for the purchase of a home. In fact, in many regions of the United States FHA is often the only mortgage insurance available to moderate-income families.

Unfortunately, FHA insurance is not available in many areas, especially high cost areas where moderate-income and middle-income borrowers have the most difficulty. The current FHA loan cap of $101,250 is too low to finance even modest priced homes in many growing markets. I represent an area which is

a high-cost growing market, and I believe that it is time we addressed this important issue.

According to the Northern Virginia Board of Realtors, in 1988 the median purchase price of a home in my congressional district was $140,000. The result is that my constituents are inadvertently penalized from qualifying for an FHA loan. For example, a policeman buying a home in St. Louis, MO, can get the benefit of FHA insurance; however, FHA cannot help a school teacher in Fairfax, VA, who wants to buy an extremely modest priced home. I believe this is not only wrong, it is simply unfair.

Parochial interests aside, I believe this provision makes good sense. To begin with, the provision sunsets after 1 year. If there are any problems with raising the FHA loan cap to $124,875 the increase will automatically expire after 1 year, and the Congress, in concert with FHA officials, will have an opportunity to review possible problems and concerns.

The FHA provision in H.R. 2916 would not make FHA insurance less available in any State. FHA will continue to serve only the lower half of the housing market in each State and it will still insure the more modest priced homes.

Insurance programs rely on balancing lower risk borrowers with marginal but creditworthy borrowers. Returning FHA to a position of providing insurance to all economic areas, those with strong economies with higher costs as well as those with lower housing costs, will strengthen the overall financial position of the FHA insurance fund.

Moreover, this change will generate additional revenue for FHA at a time when FHA's finances are being hard hit, particularly by losses in the oil producing States. I believe that this moderate increase will also help to spread FHA's risk across an appropriate selection of borrowers and a more diverse selection of markets.

Finally, raising the FHA loan limit will not expose the Government to more potential losses, since the rise in the FHA level will mainly benefit moderate-income families in high-cost, but economically sound regions.

As it was stated by the chairman of the Senate Housing Subcommittee, "For all too many Americans home ownership delayed will be home ownership denied." Let's do the right thing and raise the FHA limit to a level that is realistic with today's real estate markets.

Mr. Speaker, I support the conference report to H.R. 2916 and the provision to increase the FHA loan cap, and I would urge my colleagues to vote in favor of this legislation.

Mr. LEWIS of Florida. Mr. Speaker, I rise today in strong support of this conference report of the VA-HUD-independent agencies appropriations.

I would like to especially thank Chairman TRAXLER for his commitment to upholding the House position with regard to start-up funds for the nursing home care unit of the Palm Beach Veterans Medical Center.

During House consideration of this bill, $400,000 was included for this project as part of a floor amendment. Unfortunately, the Senate version did not contain any funds for the nursing home. I am quite pleased that the House version prevailed and they were included in the final bill.

Mr. Speaker, virtually nobody dares to suggest that the 300,000 veterans in south Florida do not have adequate health care. Current facilities are overcrowded and far away. The medical center will help alleviate this problem.

However, these same veterans are aging rapidly. The Department of Veterans Affairs estimates that nearly 2,700 DVA nursing home beds will be needed in Florida by the turn of the century. There are currently only 810. Obviously, these beds are badly needed if we are to come close to meeting our nursing care needs, and I am pleased that they are on their way to becoming reality.

Again, I would like to thank the members of the House conference committee for insisting on this important provision, and I look forward to working with them next year in an effort to complete this project.

Mr. TRAXLER. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken, and the Speaker pro tempore announced that the noes appeared to have it.

Mr. TRAXLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 363, nays 53, not voting 17, as follows:

[Roll No. 303]

YEAS—363

Ackerman	Byron	Dorgan (ND)
Akaka	Callahan	Downey
Alexander	Campbell (CA)	Durbin
Anderson	Campbell (CO)	Dwyer
Andrews	Cardin	Dymally
Annunzio	Carper	Dyson
Anthony	Carr	Early
Applegate	Chandler	Eckart
Aspin	Chapman	Edwards (CA)
Atkins	Clarke	Edwards (OK)
AuCoin	Clay	Emerson
Baker	Clement	Engel
Ballenger	Clinger	English
Barnard	Coble	Erdreich
Bateman	Coleman (MO)	Espy
Bates	Coleman (TX)	Evans
Bennett	Collins	Fascell
Bentley	Combest	Fazio
Bereuter	Condit	Feighan
Berman	Conte	Fields
Bevill	Conyers	Fish
Bilbray	Cooper	Flake
Bilirakis	Costello	Flippo
Bliley	Coughlin	Frank
Boehlert	Coyne	Frost
Boggs	Crockett	Gallo
Bonior	Darden	Gaydos
Borski	Davis	Gejdenson
Bosco	de la Garza	Gephardt
Boucher	DeFazio	Geren
Boxer	DeLay	Gibbons
Brennan	Dellums	Gillmor
Broomfield	Derrick	Gilman
Browder	Dickinson	Glickman
Bruce	Dicks	Goodling
Bryant	Dingell	Gordon
Buechner	Dixon	Goss
Bustamante	Donnelly	Gradison
Grandy	McDade	Scheuer
Grant	McDermott	Schiff
Green	McGrath	Schneider
Guarini	McHugh	Schroeder
Hall (OH)	McMillan (NC)	Schuette
Hall (TX)	McMillen (MD)	Schulze
Hamilton	McNulty	Schumer
Hammerschmidt	Meyers	Sharp
Harris	Mfume	Shaw
Hastert	Michel	Shuster
Hatcher	Miller (CA)	Sikorski
Hawkins	Miller (WA)	Sisisky
Hayes (IL)	Mineta	Skaggs
Hayes (LA)	Moakley	Skeen
Hefley	Mollohan	Skelton
Hefner	Montgomery	Slattery
Henry	Morella	Slaughter (NY)
Hertel	Morrison (CT)	Slaughter (VA)
Hoagland	Morrison (WA)	Smith (FL)
Hochbrueckner	Mrazek	Smith (IA)
Hopkins	Murtha	Smith (NE)
Horton	Myers	Smith (NJ)
Houghton	Natcher	Smith (TX)
Hoyer	Neal (MA)	Smith (VT)
Hubbard	Neal (NC)	Smith, Robert (OR)
Huckaby	Nelson	Snowe
Hughes	Nowak	Solarz
Hutto	Oakar	Spence
Hyde	Oberstar	Spratt
Inhofe	Obey	Staggers
Jacobs	Olin	Stallings
James	Ortiz	Stangeland
Johnson (CT)	Owens (NY)	Stark
Johnson (SD)	Owens (UT)	Stearns
Johnston	Oxley	Stenholm
Jones (GA)	Packard	Stokes
Jones (NC)	Pallone	Studds
Jontz	Panetta	Sundquist
Kanjorski	Parker	Swift
Kaptur	Parris	Synar
Kastenmeier	Pashayan	Tallon
Kennedy	Patterson	Tanner
Kennelly	Payne (NJ)	Tauke
Kildee	Payne (VA)	Tauzin
Kleczka	Pease	Taylor
Kolbe	Pelosi	Thomas (CA)
Kolter	Penny	Thomas (GA)
Kostmayer	Perkins	Thomas (WY)
LaFalce	Pickett	Torres
Lagomarsino	Pickle	Torricelli
Lancaster	Porter	Towns
Lantos	Poshard	Traficant
Laughlin	Price	Traxler
Leach (IA)	Pursell	Udall
Leath (TX)	Quillen	Unsoeld
Lehman (CA)	Rahall	Upton
Lehman (FL)	Ravenel	Valentine
Lent	Ray	Vander Jagt
Levin (MI)	Regula	Vento
Levine (CA)	Rhodes	Visclosky
Lewis (CA)	Richardson	Volkmer
Lewis (FL)	Ridge	Vucanovich
Lewis (GA)	Rinaldo	Walgren
Lightfoot	Ritter	Walsh
Livingston	Roberts	Watkins
Lloyd	Robinson	Waxman
Long	Roe	Weber
Lowery (CA)	Rogers	Weiss
Lowey (NY)	Ros-Lehtinen	Weldon
Luken, Thomas	Rose	Wheat
Machtley	Rostenkowski	Whittaker
Madigan	Roth	Whitten
Manton	Roukema	Williams
Markey	Rowland (CT)	Wilson
Martin (IL)	Rowland (GA)	Wise
Martin (NY)	Roybal	Wolf
Martinez	Sabo	Wolpe
Matsui	Saiki	Wyden
Mavroules	Sangmeister	Yates
Mazzoli	Sarpalius	Young (AK)
McCloskey	Savage	Young (FL)
McCollum	Sawyer	
McCrery	Saxton	
McCurdy	Schaefer	

NAYS—53

Archer	Craig	Frenzel
Armey	Crane	Gallegly
Bartlett	Dannemeyer	Gekas
Barton	DeWine	Gingrich
Beilenson	Dornan (CA)	Gonzalez
Brown (CO)	Douglas	Gunderson
Bunning	Dreier	Hancock
Burton	Duncan	Hansen
Cox	Fawell	Herger

Hiler	Murphy	Smith, Denny (OR)
Hunter	Nagle	Smith, Robert (NH)
Kasich	Nielson	Solomon
Kyl	Paxon	Stump
Lukens, Donald	Petri	Walker
Marlenee	Rohrabacher	Wylie
McCandless	Russo	
McEwen	Sensenbrenner	
Moody	Shays	
Moorhead	Shumway	

NOT VOTING—17

Brooks	Ford (TN)	Lipinski
Brown (CA)	Garcia	Miller (OH)
Courter	Gray	Molinari
Florio	Holloway	Rangel
Foglietta	Ireland	Yatron
Ford (MI)	Jenkins	

□ 1729

Messrs. HEFLEY, ALEXANDER, INHOFE, and HUGHES changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore (Mr. TORRICELLI). The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 4: Page 5, line 12, strike out all after "ments" down to and including "classifications" in line 14.

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 4, and concur therein with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: "*Provided*, That of the sum appropriated, $7,250,000,000 is available only for expenses in the personnel compensation and benefits object classifications".

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. GONZALEZ. Reserving the right to object, Mr. Speaker, the gentleman is asking that we dispense with the reading of the motion on the amendment?

Mr. GREEN. Amendment No. 4, yes.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Speaker, I appreciate the gentleman yielding to me under his reservation.

I just wish to say to the Membership that in view of the time, and in consultation with the gentleman from New York [Mr. GREEN] and the leadership, it is our intention that further consideration of the amendments in disagreement be concluded prior to amendment No. 25. In other words, we will take up only those amendments before amendment No. 25, and my understanding is that these are all noncontroversial. We would then start with amendment No. 25 tomorrow whenever we come back to this conference report. It would be our intention then tomorrow to conclude all matters, including those that the distinguished chairman of the Committee on Banking, Finance and Urban Affairs is interested in.

Mr. GONZALEZ. Mr. Speaker, I thank the gentleman.

Further reserving the right to object, may I ask the gentleman from New York, about how long is this No. 4?

Mr. GREEN. Mr. Speaker, if the gentleman will yield under his reservation, it is not long. I am simply trying to expedite the procedure as a matter of courtesy to our colleagues on the other side, who I know have a dinner tonight.

Mr. GONZALEZ. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

□ 1730

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Mr. TRAXLER. Mr. Speaker, I ask unanimous consent that the Senate amendments numbered 6, 13, 15, 20, 21, 26, 27, 30, 32, 41, 42, 45, 53, 56, 60, 79, 89, 100, 103, 106, 112, 114, 117, 119, and 121 be considered en bloc and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. GONZALEZ. Mr. Speaker, reserving the right to object, I rise merely to ask a question here of the distinguished chairman. Can the gentleman explain if in any of these amendments from 6 to 121, we have any subject matter that has reference to a budgetary question affecting assisted housing programs or community development programs?

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I am happy to yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Speaker, the answer to the gentleman's question is no. The unanimous-consent request is only to expedite matters that are noncontroversial.

Mr. GONZALEZ. Mr. Speaker, I withdraw my reservation of objection. I have no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman of Michigan?

There was no objection.

The texts of the various Senate amendments referred to in the unanimous-consent request are as follows:

Senate amendment No. 6: Page 5, line 18, after "1990" insert: ", and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change".

Senate amendment No. 13: Page 9, line 25, after "causes" insert: *Provided further*, That not to exceed $200,000 of the funds available shall be used to assist the City of Sturgis, South Dakota, in improving a wastewater treatment plant used by the Department of Veterans Affairs Medical Center, Fort Meade, South Dakota.

Senate amendment No. 15: Page 10, line 2, after "expenses" insert: or "Office of Inspector General".

Senate amendment No. 20: Page 16, line 24, after "1992" insert ": *Provided*, That section 311(d) of the Housing and Community Development Act of 1987 is amended by striking "September 30, 1989" and inserting "September 30, 1991".

Senate amendment No. 21: Page 18, line 8, strike out all after "ernment" down to and including "syndrome" in line 12 and insert ": *Provided further*, That persons disabled as a result of infection with the human immunodeficiency virus shall be considered eligible for assistance under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q).".

Senate amendment No. 26: Page 20, after line 13, insert:

NONPROFIT SPONSOR ASSISTANCE

During fiscal year 1990, within the resources and authority available, gross obligations for the principal amounts of direct loans shall not exceed $1,100,000.

Senate amendment No. 27: Page 20, after line 13, insert:

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES

During fiscal year 1990, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721g), shall not exceed $83,000,000,000 of loan principal.

Senate amendment No. 30: Page 20, line 24, strike out "$105,000,000" and insert: "$130,000,000".

Senate amendment No. 32: Page 21, after line 7, insert:

SECTION 8 MODERATE REHABILITATION

SINGLE ROOM OCCUPANCY

For assistance under the United States Housing Act of 1937, as amended (42 U.S.C. 1437f), for the section 8 moderate rehabilitation program, to be used to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401), $75,000,000 to remain available until expended.

Senate amendment No. 41: Page 23, line 26, after "note)" insert: ": *Provided further*, That $2,000,000 shall be made available from the foregoing $3,000,000,000 to carry out a neighborhood development demonstration under section 123 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181)".

Senate amendment No. 42: Page 24, line 12, strike out "$46,000,000" and insert: "$144,000,000".

Senate amendment No. 45: Page 26, line 10, after "1987" insert: "and the demonstration period authorized in section 561(e) of such Act shall be deemed to be September 30, 1990, except for purposes of construing the last sentence of section 561(c)(2) of such Act".

Senate amendment No. 53: Page 28, after line 14, insert:

Notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall approve, subject to availability of funds in project reserves, the use by the Seattle Housing Authority of up to $450,000 from project reserves of the Bay View Tower Project (No. 127-38044) for a program of health care services for the elderly, as determined by the Seattle Housing Authority.

Senate amendment No. 56: Page 28, after line 18, insert:

Of the funds made available by this Act for Annual Contributions for Assisted Housing, $896,000 shall be for project-based assistance under the section 8 existing housing certificate program (42 U.S.C. 1437f) for the Ganado Acres project.

Senate amendment No. 60: Page 30, line 20, after "$3,000,000" insert: ": *Provided*, That such sum shall be available without regard to section 509 of this Act: Provided further, That, of the funds provided under this heading, there shall be transferred to and merged with sums appropriated for "DEPARTMENT OF VETERANS AFFAIRS, MEDICAL AND PROSTHETIC RESEARCH" such amount, not to exceed $1,000,000, as the Chief Judge of the Court of Veterans Appeals determines on or before July 1, 1990, to be excess to the needs of the Court during fiscal year 1990".

Senate amendment No. 79: Page 34, line 18, after "1990" insert: ": *Provided further*, That section 9611(c)(12) of the Superfund Amendments and Reauthorization Act of 1986, is amended by striking $10,000,000 and inserting $20,000,000".

Senate amendment No. 89: Page 43, after line 5, insert:

INTERAGENCY COUNCIL ON THE HOMELESS

SALARIES AND EXPENSES

For necessary expenses of the Interagency Council on the Homeless, not otherwise provided for, as authorized by title II of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11311-11319), as amended, $1,100,000, to remain available until expended: *Provided*, That the Council shall carry out its duties in the 10 standard Federal regions under section 203(a)(4) of such Act only through detail, on a non-reimbursable basis, of employees of the departments and agencies represented on the Council pursuant to section 202(a) of such Act.

Senate amendment No. 100: Page 48, after line 25, insert:

ADMINISTRATIVE PROVISION

Section 120 of the Federal Credit Union Act (12 U.S.C. 1766) is amended by adding at the end thereof the following new subsection:

"(k) Notwithstanding any other provision of law, the Board may exercise the authority granted it by the Community Development Credit Union Revolving Loan Fund Transfer Act (Public Law 99-609, sec. 1, Nov. 6, 1986, 100 Stat. 3475) subject only to the rules and regulations prescribed by the Board.".

Senate amendment No. 103: Page 49, line 20, after "1991" insert: "of which $900,000,000 shall not be available for obligation until April 1, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change".

Senate amendment No. 106: Page 50, after line 12, insert:

ACADEMIC RESEARCH FACILITIES

For necessary expenses in carrying out an academic research facilities program pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $20,000,000, to remain available until September 20, 1991: *Provided*, That funds made available under this heading shall not be available for obligation until September 1, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change.

Senate amendment No. 112: Page 52, after line 7, insert:

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, $2,600,000, to remain available until September 30, 1991.

Senate amendment No. 114: Page 53, line 4, after "States" insert ": *Provided further*, That notwithstanding the provisions of 50 U.S.C. App. 460(g), none of the funds appropriated by this Act may be obligated for in connection with the preparation of more than one report each year to the Congress covering the operation of the Selective Service System".

Senate amendment No. 117: Page 55, line 4, after "amended" insert, "; to travel performed by the Offices of Inspector General in connection with audits and investigations".

Senate amendment No. 119: Page 57, line 21, after "appropriations" insert ": *Provided*, That this section shall not apply to any part of the appropriations (including transfers) contained in this Act for Offices of Inspector General personnel compensation and benefits".

Senate amendment No. 121: Page 59, line 6, strike out "406" and insert: "506".

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendments of the Senate numbered 6, 13, 15, 20, 21, 26, 27, 30, 32, 41, 42, 45, 53, 56, 60, 79, 89, 100, 103, 106, 112, 114, 117, 119, and 121, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 8: Page 6, line 6, strike out "$48,541,000" and insert: "$48,112,000".

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 8, and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$46,112,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 9: Page 6, line 25, strike out "$805,059,000" and insert: "$804,288,000".

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 9, and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$817,059,000".

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 17: Page 12, after line 2, insert:

GENERAL PROVISION

Section 203(b) of title 38, United States Code, is amended by striking "and the settlement is provided for specifically in an appropriation law" after "Any funds appropriated to the Department of Veterans Affairs may be used for a settlement of more than $1,000,000 on a construction contract only if settlement is audited independently for reasonableness and appropriateness of expenditures" in subsection (b). Also, by inserting "The Secretary shall promptly notify the House and Senate Committees on Appropriations, in writing, of such settlements," after the first sentence of subsection (b).

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 17, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

GENERAL PROVISION

Notwithstanding the earmarking of funds for the Veterans Benefits Administration identified in this Act within the general operating expenses appropriation, $565,329,000 of the $817,059,000 appropriated shall be for the Veterans Benefits Administration.

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 18: Page 12, strike out all after line 7 over to and including line 19 on page 16, and insert:

(INCLUDING RESCISSION AND TRANSFER OF FUNDS)

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $6,001,221,525, to remain available until expended: *Provided*, That of the new budget authority provided herein, $134,373,600 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb), $386,020,500 shall be for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, other than for Indian families; $883,830,000 shall be for assistance under section 8 of the Act for projects developed for the elderly under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q) and $180,000,000 for amendments to section 8 contracts for projects developed for the elderly and handicapped under section 202 of the Housing Act of 1959, as amended; $1,597,732,500 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f), of which $47,302,500 shall be for eligible tenants affected by the demolition or disposition of public housing units (including units occupied by Indian families) and $112,350,000 shall be for certificates to assist in the relocation of other eligible tenants or for project-based section 8 assistance to help implement plans of action approved under title II of the Housing and Community Development Act of 1987; up to $318,545,152 shall be for section 8 assistance for property disposition; and $461,607,273 shall be available for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)); and $1,344,760,000 for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended: *Provided further*, That of that portion of such budget authority under section 8(o) to be used to achieve a net increase in the number of dwelling units for assisted families, highest priority shall be given to assisting families who as a result of rental rehabilitation actions are involuntarily displaced or who are or would be displaced in consequence of increased rents (wherever the level of such rents exceeds 35 percent of the adjusted income of such families, as defined in regulations promulgated by the Department of Housing and Urban Development): *Provided further*, That up to $179,362,500 shall be for loan management under section 8; and, any amounts of budget authority provided herein that are used for loan management activities under section 8(b)(1) (42 U.S.C. 1437f(b)(1)) shall be obligated for a contract term that is less than five years: *Provided further*, That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under sections 8(b) and 8(o), respectively, shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: *Provided further*, That the $6,001,221,525 provided herein, $324,062,500 shall be used to assist handicapped families in accordance with section 202(h) (2), (3), and (4) of the Housing Act of 1959, as amended (12 U.S.C. 1701q) and $50,000,000 shall be for amendments to contracts under section 202(h) (2), (3), and (4) of the Housing Act of 1959, as amended (12 U.S.C. 1701q); and $25,000,000 shall be for assistance under the Nehemiah housing opportunity program pursuant to section 612 of the Housing and Community Development Act of 1987 (Public Law 100-242) and the immediately aforementioned $25,000,000 shall not become available for obligation until July 1, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change; and $50,000,000 shall be used for grants under the Public Housing Drug Elimination Act of 1988 (42 U.S.C. 11901 et seq.): *Provided further*, That amounts equal to all amounts of budget authority (and contract authority) reserved or obligated for the development or acquisition cost of public housing (including public housing for Indian families), for modernization of existing public housing projects (including such projects for Indian families), and except as hereinafter provided, for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1990, shall be rescinded. *Provided further*, That up to 50 percent of the amounts of budget authority, or in lieu thereof up to 50 percent of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 1437f(a)) shall be used by State housing finance agencies for purposes consistent with the United States Housing Act of 1937. The remaining amounts of budget authority, or in lieu thereof the remaining cash amount associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 1437f(a)) shall be rescinded, or in the case of cash, shall be deposited in the General Fund of the Treasury: *Provided further*, That notwithstanding the 20 percent limitation under section 5(j)(2) of the Act, any part of the new budget authority for the development or acquisition costs of public housing other than for Indian families may, in the discretion of the Secretary, based on applications submitted by public housing authorities, be used for new construction or major reconstruction of obsolete public housing projects other than for Indian families: *Provided further*, That up to $5,000,000 of the funds provided under this heading may be transferred and added to sums appropriated for "Salaries and expenses" for housing activities: *Provided further*, That $10,000,000 of the funds provided under this heading may be transferred, added to, and merged with, the amount appropriated under the "Community Development Grants" heading in this Act and earmarked for section 107 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), for grants to States, units of general local government, and private nonprofit organizations to assist in providing homeownership opportunities for lower income persons, in accordance with such terms and conditions as the Secretary shall specify, notwithstanding the limitations on eligible activities set forth in section 105 of such Act (42 U.S.C. 5305).

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 18, and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

(INCLUDING RESCISSION AND TRANSFER OF FUNDS)

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $8,115,221,525, to remain available until expended: *Provided*, That of the new budget authority provided herein, $134,373,600 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb); $457,717,000 shall be for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, other than for Indian families; $2,030,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 14371); $2,500,000 shall be for technical assistance and training under section 20 of the Act (42 U.S.C. 1437r); $883,830,000 shall be for assistance under section 8 of the Act for projects developed for the elderly under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q) and $180,000,000 for amendments to section 8 contracts for projects developed for the elderly and handicapped under section 202 of the Housing Act of 1959, as amended; $1,148,332,500 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f), of which $47,302,500 shall be for eligible tenants affected by the demolition or disposition of public housing units (including units occupied by Indian families) and $112,350,000 shall be for certificates to assist in the relocation of other eligible tenants or for project-based section 8 assistance to help implement plans of action approved under title II of the Housing and Community Development Act of 1987; up to

$318,545,152 shall be for section 8 assistance for property disposition; $782,521,950 shall be available for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)); and $1,373,060,823 for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended: *Provided further,* That of that portion of such budget authority under section 8(o) to be used to achieve a net increase in the number of dwelling units for assisted families, highest priority shall be given to assisting families, who as a result of rental rehabilitation action are involuntarily displaced or who are or would be displaced in consequence of increased rents (wherever the level of such rents exceeds 35 percent of the adjusted income of such families, as defined in regulations promulgated by the Department of Housing and Urban Development): *Provided further,* That up to $143,490,000 shall be for loan management under section 8; and, any amounts of budget authority provided herein that are used for loan management activities under section 8(b)(1) (42 U.S.C. 1437f(b)(1)) shall not be obligated for a contract term that is less than five years: *Provided further,* That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under sections 8(b) and 8(o), respectively, shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: *Provided further,* That of the $8,115,211,525 provided herein, $342,062,500 shall be used to assist handicapped families in accordance with section 202(h) (2), (3), and (4) of the Housing Act of 1959, as amended (12 U.S.C. 1701q) and $50,000,000 shall be for amendments to contracts under section 202(h) (2), (3), and (4) of the Housing Act of 1959, as amended (12 U.S.C. 1701q); and $25,000,000 shall be for assistance under the Nehemiah housing opportunity program pursuant to section 612 of the Housing and Community Development Act of 1987 (Public Law 100-242), but such amount, and the $20,000,000 appropriated under Public Law 100-404 for such program, shall be obligated under title VI of the Housing and Community Development Act of 1987, notwithstanding the sunset provision in section 613 thereof; and $50,000,000 shall be used for grants under the Public Housing Drug Elimination Act of 1988 (42 U.S.C. 11901 et seq.): *Provided further,* That amounts equal to all amounts of budget authority (and contract authority) reserved or obligated for the development or acquisition cost of public housing (including public housing for Indian families), for modernization of existing public housing projects (including such projects for Indian families, and except as hereinafter provided, for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1990, shall be rescinded: *Provided further,* That 50 percent of the amounts of budget authority, or in lieu thereof 50 percent of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628, 102 Stat. 3224, 3268) shall not be rescinded, or in the case of cash, shall not be remitted to the Treasury, and such amounts of budget authority or cash shall be used by State housing finance agencies in accordance with such section: *Provided further,* That notwithstanding the 20 percent limitation under section 5(j)(2) of the Act, any part of the new budget authority for the development or acquisition costs of public housing other than for Indian families may, in the discretion of the Secretary, based on applications submitted by public housing authorities, be used for new construction or major reconstruction of obsolete public housing projects other than for Indian families: *Provided further,* That up to $14,000,000 of the funds provided under this heading may be transferred, merged, and added to sums appropriated for "Salaries and expenses" and any amount or amounts earmarked under this heading may be reduced accordingly.

Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended by inserting after subsection (a) the following new subsection:

"(b)(1) Each contract for loans (other than preliminary loans) or contributions for the development, acquisition, or operation of public housing and public housing for Indians and Alaska Natives in accordance with the Indian Housing Act of 1988 shall provide that the total development cost of the project on which the computation of any annual contributions under this Act may be based may not exceed the amount determined under paragraph (2) (for the appropriate structure type) unless the Secretary provides otherwise, and in any case may not exceed 110 percentum of such amount unless the Secretary for good cause determines otherwise.

"(2) For purposes of paragraph (1), the Secretary shall determine the total development cost by multiplying the construction cost guideline for the project (which shall be determined by averaging the current construction costs, as listed by not less than 2 nationally recognized residential construction cost indices, for publicly bid construction of a good and sound quality) by

"(A) in the case of elevator type structures, 1.6; and

"(B) in the case of nonelevator type structures, 1.75.".

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 19: Page 16, after line 19, insert:

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION SUBSIDY CONTRACTS

For assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) not otherwise provided for, for use in connection with expiring section 8 subsidy contracts, $1,091,978,475 to remain available until expended, of which $517,777,500 shall be for existing certificates, $449,145,000 shall be for housing vouchers and $125,055,975 shall be for loan management under section 8: *Provided,* That funds provided under this section may not be obligated for a contract term that is less than five years.

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 19, and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

For assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) not otherwise provided for, for use in connection with expiring section 8 subsidy contracts, $1,091,978,475, to remain available until expended, of which $517,777,500 shall be for existing certificates, $449,145,000 shall be for housing vouchers and $125,055,975 shall be for loan management under section 8: *Provided,* That funds provided under this paragraph may not be obligated for a contract term that is less than five years: *Provided further,* That to the extent any amount in this paragraph is insufficient for the purpose for which it is earmarked, the Secretary may supplement such amount with up to $90,000,000 from funds otherwise earmarked under this paragraph: *Provided further,* That to the extent such supplement is insufficient, the Secretary may, from the Annual Contributions for Assisted Housing paragraph, transfer to, add to, and merge with the amounts appropriated under this paragraph up to $90,000,000 to fund such insufficiency, and the $1,373,060,823 earmarked for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, in the Annual Contributions for Assisted Housing paragraph, shall be reduced by an amount equal to the amount transferred.

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Chair will state that amendment No. 21 has been disposed of.

The next amendment is amendment No. 25. Is it the gentleman's intention to proceed or to stop?

Mr. TRAXLER. Mr. Speaker, no, per the understanding at this time, we would like to suspend with in amendments in disagreement.

The SPEAKER pro tempore. Is it the intention of the gentleman to proceed with the next amendment tomorrow?

Mr. TRAXLER. That is right.

Mr. Speaker, I ask for this time to proceed with a colloquy with the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, will the gentleman yield?

Mr. TRAXLER. I am happy to yield to the gentlewoman from Ohio.

NEIGHBORHOOD CHALLENGE GRANT REVOLVING FUND IN TOLEDO, OH

Ms. KAPTUR. Mr. Speaker, the report accompanying H.R. 2916 directs the Secretary of HUD to use $600,000 in the Secretarys discretionary fund for a neighborhood challenge grant revolving fund in Toledo, OH. Is the chairman aware of Lucas County's development of small community funding of CDBG's?

Mr. TRAXLER. Yes.

Ms. KAPTUR. And is the chairman further aware of the efforts of the Toledo Local Initiatives Support Corporation [LISC] programs in neighborhood development projects to benefit low and moderate income people?

Mr. TRAXLER. Let me assure the gentlewoman from Ohio that in including this directive to the Secretary of HUD, the committee was fully aware of the special qualifications of the Toledo LISC Program. It has done extensive planning in the community development area and offers a very cost-effective resource to HUD, especially because of the private sector funds and expertise it has leveraged to benefit low and moderate income neighborhoods. I would urge Lucas County, the city of Toledo and HUD to take advantage of its experience.

Ms. KAPTUR. I further urge the chairman to direct these challenge grant funds to Lucas County for LISC initiated community development projects within the city of Toledo where the need is the greatest.

□ 1740

Mr. TRAXLER. I commend the gentlewoman for her leadership in this matter.

Ms. KAPTUR. I thank the gentleman from Michigan for his fine leadership.

Mr. BARTLETT. Mr. Speaker, will the gentelman yield?

Mr. TRAXLER. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, was the colloquy on amendment No. 37 and the Toledo grant that was designated in amendment No. 37?

Mr. TRAXLER. The answer is "yes."

Mr. BARTLETT. I was unclear as to what the colloquy was saying. Was the colloquy saying this amendment would not have to qualify under the low income assistance requirements, or that it would?

Mr. TRAXLER. No. What we are saying is that this is a very fine project for the Secretary's discretionary fund, and we encourage that it be implemented in a manner to take advantage of the special expertise in the Toledo Local Initiatives Support Corporation. We hope HUD will go forward with it as rapidly as possible and extends full cooperation to the community in that regard.

Mr. BARTLETT. If the gentleman would further yield, if amendment No. 37 is not accepted by the Congress tomorrow, would that then obviate this direction that was just made by the colloquy?

Mr. TRAXLER, I must say I cannot foresee that eventuality, but in the event that unfortunate circumstance should occur, the answer would be yes.

Mr. BARTLETT. I thank the gentleman.

REPORT OF RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3443, FEDERAL AVIATION ACT OF 1958 AMENDMENTS

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-304) on the resolution (H. Res. 272) providing for the consideration of the bill (H.R. 3443) to amend the Federal Aviation Act of 1958 to provide for review of certain acquisitions of voting securities of air carriers, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 45, CENTRAL AMERICAN STUDIES AND TEMPORARY RELIEF ACT OF 1989

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-305) on the resolution (H. Res. 273) providing for the consideration of the bill (H.R. 45) to provide for a General Accounting Office investigation and report on conditions of displaced Nicaraguans and Salvadorans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Nicaraguans and Salvadorans, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF CONFERENCE REPORT ON H.R. 2991, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990, AND AGAINST CERTAIN AMENDMENTS IN DISAGREEMENT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-306) on the resolution (H. Res. 274) waiving certain points of order against consideration of the conference report on the bill (H.R. 2991) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and against certain amendments in disagreement, which was referred to the House Calendar and ordered to be printed.

NATIONAL ARAB-AMERICAN DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 241) designating October 25, 1989, as "National Arab-American Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. TORRICELLI). Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so simply to acknowledge the presence and work of my colleague and neighbor the gentleman from Ohio [Mr. TRAFICANT], the chief sponsor of this resolution.

Mr. TRAFICANT. Mr. Speaker, will the gentleman yield?

Mr. RIDGE. I yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Speaker, I rise today to thank the gentleman from Ohio [Mr. SAWYER] and each Member of the House of Representatives that joined me in honoring Arab-Americans by cosponsoring House Joint Resolution 241, designating October 25, 1989 as "National Arab-American Day." As the bill passes through the House of Representatives today, you can be proud to know that you have been instrumental in recognizing a very important group of Americans.

For too long, Arab-Americans suffered the pains of discrimination despite the fact that their contributions to every sector of society—social, cultural, political, and economic—have greatly enriched our Nation. Now, however, through this commemorative, we, in Congress, have taken a first and very important step toward alleviating discrimination, not only toward Arab-Americans, but toward all groups that still suffer from it.

Today is truly a great day in American history. This bill may not become law before the commemoration date but it will still be on record as a day honoring Arab-Americans for their contributions to the United States. Once again, I'd like to thank my colleagues for supporting this legislation, and I send my regards and congratulations to all Arab-Americans on October 25, their national holiday.

Mr. BILIRAKIS. Mr. Speaker, I rise today to bring to the attention of the American public,

and to commend, the many contributions of Arab-Americans.

I am also pleased to note that I cosponsored and supported legislation in the House of Representatives designating today, October 25, 1989, as "Arab-American Day."

Without question, Americans of Arab descent have proved to be a prime ingredient in America's melting pot. Indeed, all of us are familiar with the contributions of well-known Arab-Americans such as Danny Thomas and Dr. Michael Debakey. However, just as important are the millions of others who may be unknown in any wide sense, but who stand shoulder to shoulder with their fellow U.S. citizens in forming the bedrock of our great Nation.

Mr. Speaker, I am an American of Greek descent, and as such I am quite familiar with the formidable obstacles that stood before the first Arab immigrants to America—problems of language and religious differences and of a culture and traditions quite different from those of mainstream America.

Compounding this, the vast majority of these immigrants—like those from Greece—were predominantly poor, and many more were unskilled in ways that would benefit them in their new country.

Unfortunately, as with other minorities, they faced intolerance and discrimination, as well, but these immigrants knew that America nevertheless offered freedom and opportunity—and they were willing to accept the challenges before them.

Today, as I mentioned earlier, Arab-Americans have woven themselves into the fabric of America—as bakers and lawyers, farmworkers and engineers, doctors and businessmen, entertainers and steelworkers. They have contributed and continue to contribute in ways too numerous to mention. Nearly 3 million strong, they are indeed a vital part of "the mosaic of cultures of the United States," as the legislation designating "National Arab-American Day" states.

In closing, Mr. Speaker, I would like to say that it is my heartfelt desire that through legislation such as this, not only may Arab-Americans receive the honor they deserve, but that discrimination and intolerance toward any and all Americans may disappear forever.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objections to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 241

Whereas the rich history and tradition of Arab culture has contributed to western civilization in many fields, including science, medicine, geography, and architecture;

Whereas the contributions made by Arab culture transcend geographic, political, and religious classification;

Whereas Arab-Americans have made, and continue to make, important contributions to the economic prosperity and cultural life of our Nation since October 1854, when the first recorded Arab immigrant arrived in the United States;

Whereas the term "Arab" represents a people who are followers of the 3 great monotheistic religions and are bound by the common language of Arabic;

Whereas Arabs are of one origin, but are citizens of many countries;

Whereas Arab-Americans have worked hard since their arrival and have been productive United States citizens; and

Whereas the people of the United States should always remember that there are almost 3,000,000 Arab-Americans who are a part of the mosaic of cultures of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 25, 1989, is designated as "National Arab-American Day". The President is authorized and requested to issue a proclamation calling on the people of the United States to recognize this day by becoming aware of the rich cultural traditions of Arab-Americans and by participating in appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL ADOPTION WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 278) to designate the period commencing November 20, 1989, and ending on November 26, 1989, as "National Adoption Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so in order to yield to my colleague, the gentleman from New Jersey [Mr. SMITH], the chief sponsor of this resolution.

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am proud to be the sponsor of House Joint Resolution 278, the "National Adoption Week" resolution, which recognizes the important role which adoption plays in our society. This marks the 12th straight year that Thanksgiving week will be commemorated as "National Adoption Week."

Mr. Speaker, today there are 2 million couples and individuals looking to adopt and literally thousands of children—many of them with special needs—looking for a family, hoping for a home. By celebrating "National Adoption Week" we can recognize the importance of the adoptive family and promote adoption at the same time.

According to the National Committee for Adoption, adoptions reached a high point of 89,200 unrelated adoptions in 1970 and have fallen off to about 50,000 annually in the eighties. Clearly the Federal Government, State government, nonprofit PVO's and religious groups must vigorously address the cause of mothers and their children in a more comprehensive way. As Members of Congress, we must do all that we can to help draw national attention to the benefits of adoption.

Unfortunately, adoption has become the near forgotten option for women facing unintended pregnancies. There has been a precipitous decline in the number of adoptions that directly correlates with the rise of unrestricted abortion. I find it alarming that there are about 30 abortions for each adoption today.

Mr. Speaker, since Roe versus Wade of 1973, adoption has been replaced with abortion and nowhere is this more evident than in teenage pregnancies. Only about 5 percent of all teens who experience an unintended pregnancy choose adoption for their child; about 40 percent choose to abort the child, about 45 percent choose to parent the child and the remaining 10 percent suffered spontaneous miscarriages.

Mr. Speaker, the challenge to provide positive alterantives to abortion becomes more compelling in the wake of the Supreme Court's decision in the Webster case. The solution to the challenge we face will necessarily include enactment of new laws on adoption at the Federal and State level and increased funding to facilitate childbirth, adoption, and policies designed to provide better maternal, prenatal and postnatal care.

Mr. Speaker, President Bush recently offered a proposal calling for expanded tax credits for adoption expenses and added incentives for Federal employees who wish to adopt. I applaud the President's efforts to promote adoption instead of abortion, yet still more needs to be done. I am working on comprehensive legislation which will likely include:

Tax credits needed to offset some of the upfront costs associated with adoption;

More rigorous recruitment of adoptive homes for minority children and kids with special needs;

Promotion of adoption in the elementary and secondary levels of education;

Expanded insurance coverage to cover adopted children from the time of placement, including coverage of all preexisting conditions; and,

Pilot programs using HUD funding for rehabilitation of maternal homes and maternal care centers.

Mr. Speaker, adoption is the most positive alternative available for women facing unintended pregnancies. President Bush has stated his desire to promote adoption as an alternative to abortion and I think that this resolution serves to remind us of the joy

which so-called unwanted children can bring to adoptive families.

Mr. Speaker, in about 1 month we will be celebrating Thanksgiving, a time of year when we give thanks for all of our blessings, especially for our families. In my view, Mr. Speaker, nothing is more important, no one more precious, or vulnerable than children. National Adoption Week provides us with the opportunity to reflect on the many benefits of adoption and to renew efforts to bring children and adoptive parents together as a family so they can share the love that each has to offer.

Again, I thank the gentleman for yielding.

Mr. RIDGE. Mr. Speaker, I thank the gentleman for his contribution and his important statement.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 278

Whereas Thanksgiving week has been commemorated as "National Adoption Week" for the past 11 years;

Whereas we in Congress recognize the essential value of belonging to a secure, loving permanent family as every child's basic right;

Whereas approximately fifty thousand children who have special needs—school age, in sibling groups, members of minorities, or children with physical, mental, and emotional handicaps—are now in foster care or institutions financed at public expense and are legally free for adoption;

Whereas the adoption by capable parents of these institutionalized or foster care children into permanent, adoptive homes would ensure the opportunity for their continued happiness and long-range well-being;

Whereas public and private barriers inhibiting the placement of these special needs children must be reviewed and removed where possible to assure these children's adoption;

Whereas the public and prospective parents must be informed of the availability of adoptive children;

Whereas a variety of media, agencies, adoptive parent and advocacy groups, civic and church groups, businesses, and industries will feature publicity and information to heighten community awareness of the crucial needs of waiting children; and

Whereas the recognition of Thanksgiving week as "National Adoption Week" is in the best interest of adoptable children and the public in general: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on November 20, 1989, and ending on November 26, 1989, is designated as "National Adoption Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

□ 1750

GEOGRAPHY AWARENESS WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 120) to designate the period commencing November 12, 1989, and ending November 18, 1989, as "Geography Awareness Week," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore (Mr. TORRICELLI). Is there objection to the request of the gentleman from Ohio?

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so in order to inform the House that the gentleman from California [Mr. PANETTA] is the chief sponsor of House Joint Resolution 142. Mr. Speaker, the minority has no objection to the legislation now being considered.

Mr. PANETTA. Mr. Speaker, land, air, water, energy resources, and plants and animals are the vital elements of our Earth's environment and are the focus for House Joint Resolution 142, designating November 12–18, 1989, as "Geography Awareness Week." I was proud to be the original sponsor of this resolution in the House when it was introduced for the first time and passed in 1987 and for the second time in 1988. I am proud to be joined again this year by my distinguished colleagues, Representative BILL GREEN and Representative KILDEE, and by Senators BRADLEY and KASSEBAUM, who introduced the companion resolution in the Senate, which has already passed.

Geography Awareness Week was commemorated each of the past 2 years with Members of Congress, Governors, State education officials, librarians, students, teachers, and parents participating in numerous exercises designed to improve and promote geographic literacy. Special events conducted by our citizenry during Geography Awareness Week each year serve to draw attention to the criticla need to know where we—and others—are. This year's activities promise to be even more exciting and broad in scope.

One very extensive and special effort this year is being made by the National Geographic Society. They have developed teacher packets entitled "Geography: Key To Our Environment," which have been distributed to 100,000 people including teachers, Governors, Members of Congress, and press across the country. The packets contain lesson plans to be used during the week that highlight the importance of the environment. This effort is being supported by Citibank.

Citibank MasterCard and Visa card are also sponsoring a special national "Mr. World" tour. Mr. World, a newly created character, will travel to elementary schools in support of Geography Awareness Week. The tour began October 23 in San Francisco and continues through to November 13, concluding in our Nation's Capital, Washington, DC.

Also scheduled will be a teleconference called, Using Maps, Globes, and Atlases in the Classroom, designed to provide teachers in grades 4 through 12 with hands-on experience in utilizing geographic materials in their classrooms. It will be delivered via satellite from the California State University, Chico campus to participants throughout the United States. Three areas will be explored by a team of four teachers and lecturers from the State of California.

As we all know, evidence abounds for the need to increase our attention to this fundamental subject. In 1946, only 46 percent of college students tested in a nationwide survey at one top State university could name all the Great Lakes. In 1950, 84 percent of these college students knew that Manila was the capital of the Philippines; by 1984, this number fell to 27 percent.

This ignorance of geography, along with a comparable lack of knowledge of foreign languages and cultures, places the United States at a significant disadvantage with other nations economically, politically, and strategically. One of the key tasks for this Congress is to restore America's competitiveness in a highly complex, rapidly changing world. Improving our knowledge of the geography, language, and culture of other lands in a concrete, attainable and important goal in the context of international trade and our place in the world economy.

I am pleased to have the support of over 200 of my colleagues this year as cosponsors, helping the citizens of this Nation better appreciate and function in this beautiful and diverse world. Congress must continue the commitment to increase our awareness and stimulate interest in geography education in our schools.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. RES. 120

Whereas geography is the study of people, their environments, and their resources;

Whereas the United States of America is a truly unique nation with diverse landscapes, bountiful resources, a distinctive multiethnic population, and a rich cultural heritage, all of which contribute to the status of the United States as a world power;

Whereas, historically, geography has aided Americans in understanding the wholeness of their vast nation and the great abundance of its natural resources;

Whereas geography today offers perspectives and information in understanding ourselves, our relationship to the Earth, and our interdependence with other peoples of the world;

Whereas statistics illustrate that a significant number of American students could not find the United States on a world map, could not identify Alaska and Texas as the Nation's largest States, and could not name the New England States;

Whereas, according to a recent Gallup poll, Americans ranked among the bottom third on an international test of geography knowledge, and those age eighteen to twenty-four came in last;

Whereas geography has been offered to fewer than one in ten United States secondary school students as part of the curriculum;

Whereas departments of geography are being eliminated from American institutes of higher learning, thus endangering the discipline of geography in the United States;

Whereas traditional geography has virtually disappeared from the curricula of American schools while still being taught as a basic subject in other countries, including the United Kingdom, Canada, Japan, and the Soviet Union;

Whereas an ignorance of geopraphy, foreign languages, and cultures places the United States at a disadvantage with other countries in matters of business, politics, and the environment;

Whereas the United States is a nation of worldwide involvements and global influence, the responsibilities of which demand an understanding of the lands, languages, and cultures of the world;

Whereas, one-third of adult Americans can not name four of the sixteen NATO member nations, and another one-third can not name any; and

Whereas national attention must be focused on the integral role that knowledge of world geography plays in preparing citizens of the United States for the future of an increasingly interdependent and interconnected world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing November 12, 1989, and ending November 18, 1989, is designated as "Geography Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FIRE SAFETY AT HOME—CHANGE YOUR CLOCK, CHANGE YOUR BATTERY DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 177) to designate October 29, 1989, as "Fire Safety at Home—Change Your Clock, Change Your Battery Day," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so in order to acknowledge my friend and colleague, the gentleman from Pennsylvania [Mr. WELDON] and yield to him at this time.

Mr. WELDON. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, I rise today in strong support of House Joint Resolution 346, and I do not only for my own interest and concern of this institution but also my good friend and colleague, the gentleman from Pennsylvania, Mr. DOUG WALGREN, who could not be here this evening. He is in fact a prime sponsor of this legislation.

Mr. Speaker, I applaud him for his efforts in this area.

This is one of the few commemoratives that this body passes each year which actually promotes life safety. It is important that we convince the people of America that they should have a smoke detector not only in their home but in their bedroom and sleeping areas. Each home should have at least one and, hopefully, more.

But that is not enough because a smoke detector must not be just there, it must work. Since the multitude, the majority of these smoke detectors are operated by batteries and are not hard-wired in, it is important that the American people must know that they must change the batteries in the detectors at least twice a year.

This novel approach suggested by and sponsored by DOUG WALGREN is consistent with the program put forth by the International Association of Fire Chiefs to change your clock and change your battery at the same time in recognition of the upcoming effort on the east coast to change our clocks because of the change in eastern daylight time.

At the same time this resolution urges the American people to replace the batteries in their smoke detectors.

Statistics indicate that while 75 percent of American homes are equipped with smoke detectors, fewer than 50 percent of those devices are in fact operational. Estimates also indicate that 6,000 lives might have been saved last year if these detectors had in fact worked properly.

So, Mr. Speaker, I rise in support of this resolution. I thank my good friend and colleague from Pennsylvania and my good friend and colleague from Ohio for their support, and I especially want to commend the gentleman from Pennsylvania [Mr. WALGREN] for his leadership on this resolution.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 177

Whereas every year, 500,000 fires ravage the homes of Americans, resulting in over 6,000 deaths and 300,000 injuries;

Whereas home fires are the leading cause of accidental death and serious injury among children in the United States;

Whereas senior citizens, families in substandard housing, and the physically and mentally disabled are at high risk of becoming victims of fire;

Whereas 3 out of 4 homes have at least 1 smoke detector, but an estimated one-half are inoperable because of worn or missing batteries;

Whereas the International Association of Fire Chiefs estimates that the annual practice of changing batteries in smoke detectors would save thousands of lives and billions of dollars in property damage;

Whereas the Congressional Fire Services Caucus, with its broad-based bipartisan membership, reflects the concern of Congress for fire safety and its dedication to making it an important national priority;

Whereas the designation of a special day to remind Americans to properly maintain their smoke detectors, timed to coincide with the autumnal return to Standard Time, would greatly diminish this human tragedy; and

Whereas October 29, 1989, is the day Americans in jurisdictions on Daylight Savings Time return their clocks to Standard Time: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 29, 1989, is designated as "Fire Safety at Home—Change Your Clock, and Change Your Battery Day", and the President is requested to issue a proclamation calling upon the people of the United States to observe that day by maintaining their homes' first line of defense against fire by changing the batteries in their smoke detectors when they reset their clocks to Standard Time.

The Senate joint resolution was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

NATIONAL PHILANTHROPY DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 86) designating November 17, 1989, as "National Philanthropy Day," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to yield to the chief sponsor of the resolution, my friend and colleague, the gentleman from Indiana [Mr BURTON].

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Mr. Speaker, I rise before you today to urge my colleagues to join me and nearly 230 other co-sponsors in support of Senate Joint Resolution 86 which designates November 17 as National Philanthropy Day.

From the 1600's and the founding of America's universities by John Harvard, Elihu Yale, Leland Stanford, and numerous others, to those helping in crises of the modern age, our Nation has always been blessed with individuals who knew the importance of philanthropy, and did something to better their fellow man.

The attitude of giving of oneself, has proven beneficial time and time again. From the catastrophic measures of hurricanes like Hugo and Jerry, to the devastation of the bay area earthquake, without America's volunteers, that is the Red Cross, these tragedies would have been much more severe.

As a way of expressing our appreciation to those citizens who have shown their spirit of generosity, I believe that it is both fitting and appropriate that, as a nation, we set aside a day to recognize those who have unselfishly given their time to aid the elderly, disadvantaged, and the sick. National Philanthropy Day will formally recognize philanthropist's contributions while encouraging them to continue and expand their efforts.

As you know, the accompanying Senate joint resolution introduced by Senator RIEGLE of Michigan, passed the Senate in September.

I find it appropriate that we act upon this measure now, so that these individuals will receive due recognition.

PHILANTHROPIC FACTS

It is only fitting to honor the over 4.5 million volunteers who actively participate in America's 800,000 philanthropic organizations.

Citizens of the United States contribute over $94 billion annually to support nonprofit philanthropic organizations.

These organizations are largely responsible for enhancing the quality of life of Americans, and other people throughout North America and the world.

Philanthropists fill a great void, where the Government is oftentimes unable to venture. In particular, our churches, schools, art and music centers, museums, youth groups, camps, hospitals, and research institutions would be unable to function without volunteers.

I believe that as representatives of the people, we should emphasize our appreciation by honoring the philanthropic organizations for their efforts, skills, and resources.

Again, I urge you to join myself, the Senate and over 225 of our colleagues in support of National Philanthropy Day.

Mr. RIDGE. Mr. Speaker, continuing under my reservation, I yield to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, I thank the gentleman for yielding under his reservation.

Mr. Speaker, I simply rise to congratulate my friend, the gentleman from Indiana [Mr. BURTON] for offering this very important piece of legislation. The reason I think it is particularly important today is that I, for I think about the first time, voted for a continuing resolution specifically to deal with the crisis of the earthquake in California. I did so based on the fact that I, and I hope every other Member of this House, will consider making a voluntary, individual philanthropic contribution to the effort which the Red Cross and other organizations put together to deal with this situation.

I think when we look at the challenge that my State of California is facing with this earthquake, without philanthropy, that spirit of voluntarism which the gentleman referred to, we would not be as successful as we are today.

Mr. Speaker, many challenging days lie ahead as we deal with this crisis, but this spirit of philanthropy which this legislation is designed to foster and to address is a critically important part thereof.

Mr. Speaker, I congratulate the gentleman for his efforts.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 86

Whereas there are more than 800,000 nonprofit philanthropic organizations in the United States;

Whereas such organizations employ more than 10,000,000 individuals, including 4,500,000 volunteers;

Whereas the people of the United States contributed approximately $94,000,000 in 1987 to support such organizations;

Whereas philanthropic organizations are responsible for enhancing the quality of life of people throughout this Nation and the world;

Whereas the people of this Nation owe a great debt to the schools, churches, museums, art and music centers, youth groups, hospitals, research institutions, and community service organizations, and to the institutions and organizations which aid and comfort disadvantaged, sick or elderly individuals; and

Whereas the people of the United States should demonstrate gratitude and support for philanthropic organizations and for the efforts, skills and resources of individuals who carry out the missions of such organizations: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 17, 1989, is designated as "National Philanthropy Day" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CLANDESTINE SHIPMENTS OF ARMS TO EL SALVADOR REPORTED

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extranous matter.)

Mr. LAGOMARSINO. Mr. Speaker, all of us who are interested in promoting a peaceful, political solution in Central America are finding it hard to feel confident the Sandinistas will do what they say.

In the various recent summits of Central American leaders, the Sandinistas pledged their commitment to democratic elections in Nicaragua and electoral reforms that would ensure the process would be free and fair for the opposition.

The Sandinistas also promised that Nicaragua would not support insurgencies in other countries. The report in Friday's Washington Post that Honduras seized a record shipment of weapons being sent from Nicaragua to rebels in El Salvador raises the obvious question:

If the Sandinistas are not going to honor their pledge not to support insurgencies in other countries, how can we feel confident they will honor their commitment for a free and fair electoral process in Nicaragua?

[From the Washington Post, Oct. 20, 1989]

HONDURAS SAYS IT SEIZED ARMS BOUND FOR SALVADORAN REBELS

(By Wilson Ring)

TEGUCIGALPA, HONDURAS.—THE HONDURAN MILITARY SAID TODAY IT HAS SEIZED A RECORD SHIPMENT OF WEAPONS BEING SENT CLANDESTINELY FROM NICARAGUA THROUGH THIS COUNTRY TO REBELS IN EL SALVADOR.

Spokesmen said the shipment was discovered Wednesday during the routine search of a tractor-trailer at the Honduras-Nicaragua border crossing on the Pan American Highway at El Espino, about 70 miles southeast of here.

Col. Manuel Suarez Benavides, the head of public relations for the Honduran military, said in an interview with a Honduran radio station that the weapons were hidden behind false walls in a truck that was carrying furniture from Nicaragua to an undetermined location in El Salvador.

Omar Sierra, a civilian spokesman for the Honduran military, said the seizure was the largest ever. The Honduran truck driver, who was not identified, has been arrested, the sources said.

The seizure came on the same day that the Salvadoran government was winding up three days of peace negotiations in Costa Rica with the guerrilla leaders of the leftist Farabundo Marti National Liberation movement (FMLN).

A preliminary search of the truck found 307 rocket-propelled grenades and an undetermined number of launchers; 74 automatic rifles, including AK-47s and M-16s, with an undetermined amount of ammunition; explosive detonators, radios and urban guerrilla training manuals with "FMLN" stamped on them, the sources said.

One of the sources said sections of the truck remained to be searched today and he expected more weapons to be discovered.

Salvadoran and U.S. officials frequently have charged that the Sandinista government of Nicaragua supplies Salvadoran guerrillas with arms and ammunition, but efforts to prove the charges conclusively have been disputed.

Over the years a number of arms shipments allegedly bound for the FMLN have been captured on Honduras. A large weapons shipment was seized in Comayagua, Honduras, in 1981. Another was discovered in late 1985 when a car packed with arms and ammunition had an accident on the Pan American Highway in Honduras, spilling the contents.

The most recent seizure came last summer, when about 60 AK-47s were discovered in a cache in a rural community about 50 miles north of Tegucigalpa. While the armed forces charged that the shipment came form Nicaragua and was bound for the FMLN, there was speculation it was destined for Honduran guerrillas.

HONORING POW'S MR. DEYBER AND MR. CROWLEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. SHAYS] is recognized for 5 minutes.

Mr. SHAYS. Mr. Speaker, on September 15 we honored our former prisoners of war and remembered our personnel missing in action by declaring it National Prisoner of War and Missing in Action Recognition Day. This November 11 we will once again honor our veterans. In our 213-year history millions of brave young men and women have traveled far from home to risk their lives for our country. Many never returned.

Others returned only after enduring extreme deprivation and hardship as prisoners of war. Many prisoners in many wars suffered. I would like to take this opportunity to highlight one special group—those men who fought bravely against overwhelming odds at Bataan and Corregidor, in the Philippines, during the opening months of the Second World War. These troops not only fought against a better armed and supplied enemy but also against disease and hunger. Virtually abandoned by the high command and with little hope of relief or resupply, these brave Americans, and their Filipino allies, fought on until, finally, they were ordered to surrender.

Daniel Crowley and Robert Deyber, from my district, were there. The reason I speak out now, 2 weeks before Veterans' Day, is because Mr. Deyber lies grievously ill in the hospital. Both Daniel Crowley and Robert Deyber were captured and spent years as prisoners of war. Mr. Crowley describes the ordeal this way:

The United States sent these young men to defend the Philippine Islands back in 1940-1941. Our leadership knew the islands could not be defended against certain Japanese attack. All those in the know at the top were aware of this. The young men were not!

Bob Deyber is now fighting for his life. He is battling against residual diseases from that helpless defense against overwhelming odds of a superior enemy plus the enforced starvation diet as food supplies ran out and the tropical diseases which were epidemic in the "Pest Hole of Bataan."

Massive blunders occurred from day one, December 7, 1941. The aircraft were caught on the ground and destroyed, the bulk of the food supplies were captured, etc. Nothing went right except the unique, gallant actions of a mostly under trained, under gunned, semi-starved, disease ridden bunch of [brave soldiers who dubbed themselves] "The Battling Bastards of Bataan." They were surrounded by land, sea and air. Yet they held out against overwhelming odds until April 9, 1942 when General Edward King surrendered to the Japanese.

Bob and a few hundred others did not surrender. That night they made it across the water to the island of Corregidor where American forces held out for another month when they were ordered to surrender by General Jonathan Wainwright on May 6.

One would think that surrendering would bring much of the hardship to an end. Actually, it was just the beginning. Mr. Crowley continues:

The aftermath of the surrender is the true tale of unspeakable horror that Bob and the other defenders endured! We have all heard of the "Death March" in which about 1,500 American and 10,000 Filipinos died in a few days. Then came Camp O'Donnell and the death of another 2,000 Americans and the "Death Ships" and the death of thousands more.

Food and medicine sent by the Red Cross was deliberately withheld. The enemy refused even a bare minimum of semi life sustaining, wormy, filthy rice to those who could no longer work in the slave labor camps and mines.

So ends Mr. Crowley's description.

About 1,200 survivors of Bataan and Corregidor are alive today. Bob Deyber and many of his contemporaries are still suffering from the psychological and physical effects of their captivity nearly 50 years later.

Our Nation owes a great debt to Mr. Deyber, Mr. Crowley, the other Battling Bastards of Bataan and all the brave men and women who have served to protect our Nation. All have had their lives changed forever as a result of their experiences. To our former prisoners of war, veterans, widows and families of MIA's from all our conflicts, I salute you and thank you for your bravery and for the continued freedom we enjoy as a result of your sacrifice.

Our prayers are with you Mr. Deyber. Thank you for serving your country so faithfully.

COMMENDATION TO SOVIET FOREIGN MINISTER SHEVARDNADZE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

Mr. DRIER of California. Mr. Speaker, I take the well this evening to extend hearty congratulations to the Soviet Foreign Minister, Eduard Shevardnadze. A number of Members have seen that just yesterday, in an address to the Supreme Soviet, he made a couple of very interesting and especially unprecedented statements.

The first one had to do with the construction of that huge radar system in Siberia known as Krasnoyarsk, which many Members in the House have said time and time was clearly a violation of a 1972 Antiballistic Missile Treaty. In fact, the statement made by Foreign Minister Shevardnadze was that the construction of the Krasnoyarsk Radar System, that multistory tower, was a violation of the 1972 Antiballistic Missile Treaty.

Therefore, there were many Members in this House who, in fact, were sorry to see the Soviets violate that agreement, but are pleased that the Foreign Minister would recognize, in an unprecedented way, that a violation of that treaty did, in fact, take place by the Soviets.

The other statement that he made, Mr. Speaker, relates to the issue which has led me to introduce a resolution in the House, and that statement was again unprecedented. I think it was the first time we have ever seen the Soviet Union make a statement similar to this. The Soviet Foreign Minister, Eduard Shevardnadze said, in reference to the 1979 invasion by the Soviet Red Army of their neighbor to the south, Afghanistan, he said that was "the most serious violation of our own legislation of party and civic norms and ethical standards of the time." That is the direct translation of what he said, Mr. Speaker. To me, it was such a breath of fresh air, because many Members have, time and time again, stood here and talked about the fact that the Soviets on December 27, 1979, rolled 125,000 of their troops into Afghanistan. There are about 30 million land mines on the ground in Afghanistan, toy bombs designed to maim children, and many Members have called on the Soviets to take strong action here. Mr. Speaker, I cannot tell Members how gratified I

am, first, that we have seen the Soviets on February 15 of this year, withdraw their 115,000 to 125,000 combat troops from Afghanistan; and second, that the Foreign Minister would recognize that the entire escapade by the Soviets was, in fact, a violation of civic norms.

□ 1810

Mr. Speaker, the resolution which I plan to be introducing, and I hope every Member of this House will join me as a cosponsor, congratulates the Foreign Minister for his statement, congratulates the Soviets for their combat troop withdrawal on February 15 of this year, and, Mr. Speaker, it calls on the Soviets to end their expenditure of $250 to $300 million a month which is continuing to flow into Afghanistan to prop up the puppet government of Dr. Najibullah. The government in Afghanistan is clearly an illegitimate one. The Soviets pulled out their combat troops on February 15, and just yesterday the Foreign Minister recognized that the escapade has been an incorrect one now, and what this resolution calls for, Mr. Speaker, the Soviets must put behind those great words of Foreign Minister Shevardnadze yesterday the action of bringing an end to this multibillion-dollar genocide which they have imposed on the people of Afghanistan.

It is a very difficult struggle, putting together a government which will allow the people to choose the kind of representation they have as the goal which we and the Free World have for Afghanistan. Many people have argued that the United States of America imposes its form of government on others. Well, Mr. Speaker, the terms "imposition" and "democracy" are contradictory. Democracy cannot be imposed on the people of another country.

Mr. Speaker, what we simply want with our policy here is to allow the people to choose their representation in government. This resolution calls for ultimately bringing that about, but, before it can take place, we must, Mr. Speaker, see the Soviets bring an end to this $250 to $300 million per month escapade they are on.

I hope very much that all of our colleagues will join, Mr. Speaker, in cosponsoring this resolution, and once again I extend hearty congratulations to Foreign Minister Shevardnadze for his statement and look forward to the final resolution of this decade-long problem.

HOW CORPORATE RAIDS ARE AFFECTING OUR AIRLINES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. INHOFE] is recognized for 60 minutes.

Mr. INHOFE. Mr. Speaker, I appreciate the time very much to air a problem that has become a very serious problem here in the United States insofar as the corporate communities are concerned. We have been watching leveraged buyout after leveraged buyout take over a number of industries, and I would like to read from the opening paragraph of an article in the current Forbes magazine to kind of set the tone for this special order for today. Here is what it says:

> American shoppers may be wondering why the price of Ritz crackers has recently jumped 30 percent, or why a round-trip New York-Los Angeles plane ticket is now 8 percent higher than a few months ago, or why a queen-sized Sealey Century medium-firm mattress and box spring that cost $479 less than a year ago now runs $520. The answer: To help pay their heavy debts, leveraged companies like RJR Nabisco, Trans World Airlines and Ohio Mattress are raising prices on groceries, airline tickets, and mattresses.

Mr. Speaker, I think we have to ask the question as to whether or not a public interest is being served by all of this rage of corporate bandits taking over various American corporations. I am particularly concerned with the raid on various airline companies throughout America.

For that reason, Mr. Speaker, H.R. 3443 has been introduced, has passed out of the Committee on Public Works and Transportation and will be considered on the floor of the House of Representatives on Thursday. This deals with corporate raids insofar as how they are affecting the airlines of America.

Mr. Speaker, when we talk about the public interest being served, I think we have to carry it one step further when we talk about how it is affecting airlines because the public interest in airlines is that of safety.

I have been a Republican for a number of years. Generally I want less intrusion of government into business. But when I see what has been happening, when I see the crash of the stock market and the problems that exist right now in the corporate world and the takeovers that are taking place, I feel that I must deviate from that and realize that the public interest and the public trust must be served.

The weekend before last there was a meeting at Hot Springs, VA, of the CEO's of the 100 largest companies in America, and without exception they blame the crash of the stock market on the previous Friday on the LBO's. Individuals such as Roger Smith, CEO of General Motors Co., said, "I think it was a reaction to the LBO's."

Ron Esgog, chairman of ITT, said, "The whole thing is crazy. Everybody knows it, but nobody stops it."

Mr. Speaker the only ones that can stop it are government. They are the only ones legally allowed to do so. Friday's selloff was largely concentrated in stocks that had been perceived as takeover targets, and that is where we, as Members of Congress, Mr. Speaker and my colleagues, really had the responsibility, and that is to look and see if we are the only ones that can intervene at this time.

My colleagues are going to hear a lot of arguments about this and a lot of discussions in what is coming up on this coming Thursday, and many of us are concerned about it.

Mr. Speaker, we have several members, I notice, of the Committee on Public Works and Transportation here today. I yield at this time to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Speaker, I rise today to urge my colleagues to support H.R. 3443, a bill to provide the Secretary of Transportation up to 50 days to review and disapprove buyouts of major airlines.

I commend the distinguished gentleman from Oklahoma, JAMES INHOFE, for calling this special order to discuss the need to give the Secretary of Transportation the necessary authority to protect the public interest when major U.S. airlines are acquired through leveraged financing or by foreign owners.

Recently there has been a great deal of concern over the increasing frequency of takeovers, and takeover attempts, of U.S. airlines involving leveraged financing.

Last month there was a $3.65 billion leveraged buyout of NWA, Inc., the parent company of Northwest Airlines. Donald Trump recently dropped his $7.5 billion bid to take over AMR, parent company of American Airlines; however, Trump may yet come back with another proposal to take over American.

During hearings before the Public Works and Transportation Subcommittee on Aviation, of which I serve, concerns were expressed about an airline's ability to service the large debt that results from a leverage buyout. High costs of servicing debt may put pressure on the company to cut corners on safety, prevent companies from acquiring new aircraft, and force companies unable to service their debt to dismantle the air carrier.

To understand how a leveraged buyout can affect an airline I think it would be beneficial to explain what a leveraged buyout is. A leveraged buyout is used to describe an acquisition of control in which the acquiring group buys existing shares, and funds the purchase of stock primarily by having the airline borrow the money and take on substantial new debt. To make it work, company managers usually cut costs to increase profitability to ensure that the company can meet

the payment on its swollen debt. Managers may lay off employees, close divisions, and even cut spending on research, new plants, and equipment. LBO's work best for companies in stable, recession proof industries that can support large amounts of debt.

However, Mr. Speaker, the airline industry is not the typical stable, recession-proof industry. According to Philip Baggaley, airline analyst at Standard & Poor's, LBO's in the airline industry, one, increase the risk of bankruptcy, two, cause even greater concentration, and three, will likely slow the modernization of the industry's aircraft. Even Transportation Secretary Skinner has said that "debt ridden airlines, forced to adopt austerity measures, may unwittingly threaten the safety on the traveling public."

In addition to the concerns I have mentioned, leveraged buyouts also affect an airline's growth and expansion plans. In testimony presented before the Aviation Subcommittee, Timothy Pettee, first vice president of Merrill Lynch Capital Markets, stated: "The most significant byproduct of leveraged transactions in the airline industry is the possible curtailment, deferral and/or abandonment of significant growth and capital spending plans by the airline industry."

In a community like Nashville, leveraged buyouts spells uncertainty and quite possibly economic disaster. In 1982, the Metropolitan Nashville Airport Authority began work on a new terminal and selected a spot for a new parallel runway in an effort to attract American Airlines to expand its service. In 1985, American Airlines agreed to bring a major hub to Nashville if the airport would build additional gates in the new terminal and finish the second runway by 1989. The runway will be dedicated next month.

Currently, American Airlines has 1,000 employees based in Nashville and more employees are planned. Last fall the airline built a crew base for 75 flight attendants. Finally, American Airlines is considering whether to build a reservation center and maintenance facility in Nashville. It is estimated that for every aviation dollar spent locally, an additional $1.50 is injected into the economy. And, every airport related job is supported by another job in the private sector.

When we discuss leveraged buyouts of major air carriers we must consider the possible ramifications a buyout could have on communities like Nashville. For example, if Donald Trump had purchased American Airlines through a leveraged buyout, Nashville stood to lose jobs, future airline expansions, and millions of dollars of economic benefits.

The legislation which we will consider on Thursday, H.R. 3443, will allow the Department of Transportation to reject a buyout if it is found to financially weaken the carrier, cause a deterioration in safety, or lessen their ability to compete. I urge my colleagues to support the legislation.

□ 1820

Mr. Speaker, I want to congratulate the gentleman from Oklahoma [Mr. INHOFE] again for setting aside this special order this evening on LBO's, which is a critical matter for all of us.

Mr. INHOFE. Mr. Speaker, I appreciate the comments of the gentleman from Tennessee. I think that we should zero in on something he said. The gentleman talks about, in describing the leveraged buyouts, the very fact that it is leveraged means you are using the assets of that corporation you are buying out in order to accommodate the purchase.

And what goes first when that happens? Those things that are intangible, those things that are long-range plans.

And what is the thing of most concern to us in the airline industry, not just those of us who are on the Public Works and Transportation Committee and the Aviation Subcommittee, but those of us who are the traveling public, and that is safety. Safety is not something that you can regulate by law. Safety is something that an airline builds up by its proud tradition and heritage and record of safety. Those things, those expenditures that you are going to be spending on safety, in my opinion, would be among the first to go.

Mr. CLEMENT. Mr. Speaker, if the gentleman will yield further, I might also add, being from Nashville, TN, where we do have an American hub, and I know the gentleman from Oklahoma [Mr. INHOFE] has many employees who work for the airlines in this great State and in his community, many long-range plans have been set in motion. It devastates families. It devastates communities, employees. It affects safety. It affects the price that we all pay for airline tickets, and here you have some people in the industry who have not had but 90 days in the industry, and yet now think they can take over the No. 1 airline in terms of American being the largest today and knowing how to operate it.

I was chairman of the Tennessee Public Service Commission in Tennessee where I worked with regulated industries. We are talking about private investor-owned utilities, and when you talk about the airline industry you are talking about a utility.

What the gentleman said awhile ago is so true. We are not just talking about free enterprise. None of us like to see infringements on free enterprise by government, but we also want regulated industries to have the opportunity to make a profit, but they also need to be in a position to provide a service and make sure that these airlines are safe, because it is a must for us to travel today. It is a necessity of life for us to travel, because we live in such a mobile society today.

Mr. INHOFE. Mr. Speaker, the gentleman from Tennessee is correct. I would like to elaborate on one thing. The gentleman mentioned the proposed party, Donald Trump in this case, who has made an application to take over a controlling interest in American Airlines. Even though he has dropped that, the door is still open.

When the gentleman said that somebody who would be taking it over only has a total of some 90 days experience, I can contrast that to the present management. The management of the Board of Directors of American Airlines average 9.6 years experience apiece, or 145 years experience, and those skilled workers that the gentleman has in his district, and that the gentleman from Texas [Mr. GEREN] has in his district that we are so concerned about, those skilled workers number 77,000 with an average of 8 years experience apiece. That is over 600,000 years of experience that we are talking about at stake here, when someone who does not have the best interests of the company necessarily at stake can come and take it over, so I think that is a very good point.

Mr. Speaker, I yield to the gentleman from Texas [Mr. GEREN].

Mr. GEREN. Mr. Speaker, I thank the gentleman for yielding to me.

I rise also in support of H.R. 3443 and I would like to discuss further the recent attempt by Donald Trump to acquire American Airlines.

On Monday, October 16, the Aviation Subcommittee of the Public Works Committee held a hearing on H.R. 3443, a bill that does provide for the review of acquisitions of voting securities of air carriers. It gives authority to the Secretary of the Department of Transportation to review such a takeover. With strong bipartisan support, the bill was reported out favorably by the full committee on Tuesday, October 17, and will soon be considered by the full House. I hope that the bill will move quickly through the Congress and be signed into law by the President.

Mr. Speaker, the bill will grant additional authority to the Secretary of Transportation to review any proposed acquisition of a major air carrier before the acquisition is completed. After a brief waiting period, the Secretary may disapprove the acquisition if he finds that the acquisition is likely to weaken the acquired company financially to such an extent that it will affect the company's ability to operate with the highest degree of safety; that the intent of the acquiring person is to make a major reduction in the size of the air carrier by disposing of aviation-

related assets; or that the acquisition would result in a person who is not a citizen of the United States having power to exercise control over the air carrier; or that the acquiring person is not providing in a timely manner the documentary material and information required by the Secretary to make a decision regarding the acquisition. These are certainly reasonable restrictions to make on anybody who is attempting to make an acquisition in the airline industry.

Mr. Speaker, I support H.R. 3443 because I am very concerned that leveraged buyouts of airlines, financed with junk bonds and other forms of so-called creative financing, creating huge debt burdens, threaten the health and safety of our transportation industry.

Approximately 2 weeks ago, Donald Trump submitted a takeover bid for American Airlines. Mr. Trump offered $7.5 billion to acquire the American Airline parent company, the AMR Corp. It proposed to put up $1 billion and borrow $6.5 billion.

Ten years ago American Airlines moved into my home county, Tarrant County in Texas, and has become the Nation's largest air carrier. American reached this position because of the hard working men and women who have dedicated themselves to providing the best service in the industry. Its management is recognized as the best in the industry, and American is financially strong and one of the most dynamic companies not only in the country, but in the world today.

Mr. INHOFE. Mr. Speaker, if I may reclaim my time on that point, I would like to read a paragraph from the current issue of Business Week magazine I think that would pretty much elaborate on what the gentleman is talking about.

Robert L. Crandall, AMR Corporation's Chairman, is going to have to do the unthinkable. After spending 9 years building AMR's American Airlines Incorporated into its biggest and best run carrier, he will now have to perform radical surgery if he wants to keep it independent. New York real estate mogul Donald Trump insured that scenario on October 5th by bidding $7.5 billion for AMR.

Now, I think that when we get national publications agreeing with what the gentleman just now said, when admittedly the gentleman from Texas and I are probably somewhat prejudiced because we feel so strongly about our own local industry and what it means to our economy, when we find that the major industrial publications of the Nation agree with that and are talking about the best run airline in the country being perhaps taken over in a hostile takeover by someone who does not have the best interest of that airline, this is what the gentleman is talking about and I think it makes a very good point.

Mr. GEREN. Mr. Speaker, if the gentleman will yield further, unquestionably if it were only a provincial issue, one that just concerned the gentleman from Oklahoma or just concerned me, because this company is such an important part of our local economy, that would not be enough, but it is so much more than that.

We have the leading member of the air transportatoin industry that is threatened with a takeover that can make it unable to meet its expansion plans, make it unable to meet its plans to better serve the needs of the traveling public, and also potentialy compromise its safety. There is a national interest there. There is a public interest there, and it is very reasonable to give the Secretary the authority that we are asking to give. It is very minimal.

Mr. INHOFE. I am glad the gentleman said the Secretary can review this. He can review a takeover. It does not mean it is automatically going to be cut back. It does not mean that the Government is going to say no, this is not going to happen, but he can at least review it and in the absence of this law being passed, there is no review.

Mr. GEREN. Absolutely not.

To go on further with what American Airlines plans are, this dynamic company currently employs in Tarrant County, TX, over 21,000 workers.

Recently, Gene Sement of American announced that it had selected the New Alliance Airport, an industrial airport in Tarrant County, as a site to build its second maintenance and engineering center at an investment of nearly a billion dollars over the coming decade. They would invest over $220 million over the next 2 years, and when this is completed they would add over 4,500 people to the employment base in Tarrant County and have an impact throughout the transportation industry. This new facility will meet the maintenance requirements of American's rapidly growing fleet and help American become a more important part of the national and international airline industry.

I would like to quote from Business Week as well. Chairman Crandall, chairman of AMR Corporation, had been planning to grow, as he has done ever since he took over American Airlines.

□ 1830

He hoped to pick up routes in Asia and Europe. That is important for this country. It is important for this country that is saddled with a terrible trade deficit, and companies like American are planning to do something about it. He has guaranteed that American would have enough planes and gates for the expansion he planned by ordering $8 billion in new aircraft and planning $1 billion in expansion at BFW Airport. The article concludes that if Trump were to saddle American with $6.5 billion worth of debt, Crandall's plans to expand overseas, expand at BFW Airport and buy new aircraft, this billion-dollar plan to build new aircraft would probably all be scuttled with the cash needs of this company shifted to paying debt. That is a situation that we just cannot afford in this country.

Mr. INHOFE. I believe that is right, and I understand that American currently has the second-most modern fleet, and after the current plans for purchase take place, it will be the most modern fleet, so we are both very proud and justly proud of our corporate citizens and the highly skilled laborers who reside in our districts. I have 10,000 in my district, so I am more than just passively concerned. They are my largest corporate employer, so we are naturally selfishly concerned, and I hope people realize what is happening in Fort Worth, TX, what is affecting Tulsa, OK, and other places could also happen in every district represented in this House of Representatives. It is not just American Airlines. It is not just United. It is not just Nabisco. It can happen to any corporation.

This is a mania that is taking over this country. People without the best interest in heart of the corporations they are taking over are doing so.

Mr. GEREN. I agree with the gentleman. How many times have we seen this lately where we have a healthy company, it becomes the victim of a leveraged buyout with resulting debilitating debt, and servicing the debt becomes the top priority, and the No. 1 concern becomes the fight to keep the wolf at bay, keep the wolf away from the door and meet the interest payments. All else becomes secondary.

The examples, unfortunately, are too numerous to mention and are scattered like ticking time bombs throughout the American industry.

If American had been forced to take on a huge amount of debt to fight this takeover by Donald Trump, all plans by American to expand would have been placed on the back burner. Mr. Speaker, this would be devastating to American Airlines and a blow to the health of the growing transportation industry of the United States.

As soon as possible the House will have an opportunity to vote on H.R. 3443 and send a message that we are not only concerned but are going to do something about passenger safety and health of the national transportation system. We are going to stand up for the hard-working men and women of our companies such as American Airlines who dedicate their working lives to being a constructive part of our economy in contrast to the corporate raiders who are going about this country saddling so many important indus-

tries with debt that just does not make sense in this economic climate.

Mr. Speaker, H.R. 3443 will address this problem in the airline industry, and I hope my colleagues will support this important bill.

Mr. INHOFE. Mr. Speaker, I appreciate the gentleman from Texas coming forth and presenting his views. I would like to have him stay and wait for a minute, because I am going to yield to the other gentleman from Texas [Mr. LAUGHLIN], and I would like to elaborate just a little bit on what is happening as far as the specific American Airlines scene is concerned if the gentleman has just a little bit longer.

I yield to the gentleman from Texas [Mr. LAUGHLIN].

Mr. LAUGHLIN. Mr. Speaker, I thank the gentleman from Oklahoma.

Mr. Speaker, I want to thank the gentleman from Oklahoma for taking this special order out today. It is an opportunity for us to discuss an extremely important issue to America, to public transportation, and I thank the gentleman for taking these special orders.

I, along with the gentleman and the other members on the Aviation Subcommittee of the Committee on Public Works and Transportation of the Congress, sat for several days listening to testimony regarding the potential negative impact that H.R. 3443 will have on the airline industry, and while we listened to that, recurring phrases continued to be heard in our hearing room, and those phrases were competitive implications, importance of cashflow, financial fitness, control concerns, industry earnings, and recent earning trends. I am certain that all of these Wall Street phrases mean a great deal to the brokers who live off the airline transactions that they make each day, but trading the billion-dollar pension funds that would hold the retirement benefits of tens of thousands of workers every day are at risk, and on that point, I would say to the gentlemen, both of them since they have so many American employees in their districts, that we could go Friday on an American flight to Dallas-Fort Worth Airport, and when the crew found out that I was a member of the Aviation Subcommittee, they spent the rest of the flight lobbying me and expressing genuine concern about their pension funds. It was not so much who ran the company as it was concern over people like Donald Trump, and they expressed him by name, taking control of the airline which they said was very well managed, and these were people who were workers or employees talking about their management, and they said,

We are happy to work here, but we are concerned that if leveraged buyouts and Donald Trumps of the world are permitted to take over our airline, there will not be a pension fund for us to live on when we retire, and our concern is that if the Donald Trumps of the world are able to take over our airline, we will not be able to retire, because there will not be a pension fund.

And they pled with me to spread the word among my colleagues that they had a good company, they had a company that they enjoyed working for, and that they had good management and, in fact, touted their management as being the best in the industry.

Mr. INHOFE. When the gentleman talks about competition for those dollars, when there is a leveraged buyout, there is debt service that has to be paid out of the assets of that healthy company and the one that is making such a great contribution.

I had an experience that I will share with the gentleman. I do not think I have done it before. But back when I was mayor of Tulsa, and in our form of government, the mayor also appoints the airport authority, so I have been very active for three terms that I was mayor of that city, and during that time we worked with American.

American first came in as more of a small satellite. They had not really built to the point where they are today, and they continued to build, as we assisted them in their growth plans, right now they have on the drawing board growth plans for the future that include not just enhancing the employment in my district and in the districts of the gentlemen, but also they have recognized that there is not a sufficient supply of trained people even though we have Spartan, for example, School of Aviation in my district, which is one of the largest in the world, training people all over the world in aviation, A&P's, A&E's, pilots, and the rest of the industry, but that is not even adequate to take care of their needs, so they have planned to start their own school and their own training for their own employees to develop more skilled people in this country to take up the slack.

No one can tell me that if some guy, and I do not care if it is Donald Trump or anybody else comes in is going to have that interest in protecting that plan for the future when we have time and time again heard comments where they treat it so lightly.

I am going to read a comment. This is a quote that was attributed to him, commenting on his various acquisitions and cameo appearances in film and TV, and Trump said, "It's a part of the game I have to play. It's all a game." Really I think it is.

Before I yield, I want to show the Members the game. This is the Trump game. This is a game that this gentleman, and he is a very handsome individual, and he is one who has been extremely successful at the art of takeover, but he said himself it is a game, and when ones reads the instructions of the game on the back, it says, "The real dealmaking begins after all the properties are purchased. Just about everything in the game can be bought or sold. If you are clever and quick, you can earn millions, even billions of dollars. When all the dealing is done, count up your cash. The players with the most money win."

I can assure the Members the part that grabbed my eye more than anything else is, "After the properties are purchased, and just about anything in the game can be bought or sold," and I suggest that the safety for the future and the development of American Airlines in my district and those of the gentlemen would certainly be jeopardized in an individual with that attitude who would want to come in and take it over.

Mr. GEREN. Mr. Speaker, there are so many facets of a great company like American Airlines. Certainly its role in the transportation industry, and the record speaks for itself, it is a growing and dynamic part of the industry. Its commitment to its employees and its employees to the airline industry, the tens of thousands of people who work for American Airlines and have made it into the great airline that it is today and the important part of the airline industry that it is today, but there is one other side of American that needs to be mentioned when one considers what they mean to the community and what perhaps a corporate raider such as Donald Trump would mean to a community.

□ 1840

In Fort Worth and Tarrant County we are proud to have American Airlines as one of our corporate citizens. When United Way needs help, American Airlines is there; when our city needs help, American Airlines is there. When we need people to take leadership roles in the community, American Airlines is there.

American Airlines is a corporate citizen, not in it for the fast buck, for the overnight play, to win the game. They are in it for the long haul. They are committed to serving the airline industry, they are committed to serving their employees, and they are committed to being a constructive and valuable part of the community in which they are located, as I am sure they are in your community as well.

That is an important part of corporate America, that kind of commitment to the community. When you have a good citizen like American Airlines is, the thought of losing it to a corporate takeover that is just part of somebody's game, the thought of moving it to who knows where, it would be a great loss, not only to our community in terms of jobs, but we would lose one of our great corporate citizens.

Mr. INHOFE. It would also be a loss to the United States of America for the flying public who depend on the safety of a proven record of an airline that is second to none anywhere in the world. I certainly agree with the gentleman from Texas.

Mr. LAUGHLIN. Mr. Speaker, will the gentleman yield?

Mr. INHOFE. I yield to the gentleman from Texas.

Mr. LAUGHLIN. It should also be pointed out that during the aviation subcommittee hearings, no one bothered to mention the impact that leveraged buyouts could have on the general public, and in particular those smaller airports that provide commuter service to many of the people of small rural communities and rural congressional districts such as mine.

I would point out to the gentleman from Oklahoma that there is not a commercial airport in my congressional district of 22 counties in the gulf and central part of Texas. While it is a large rambling district, it bumps up against several of our large cities, and there are five major airports within 30 miles of my district, but we rely upon the commuter service to the largest city in my district, Victoria.

I was disturbed by some of the Wall Street witnesses who testified that leveraged buyouts were desirable. In fact, they went on to talk about the focus.

This was something that concerned me. The focus would be on the bottom line and profit margins of smaller airports. It really disturbed me when one talked about Memphis, TN, being a small airport and a marginally operated airport.

This disturbed me to the point where I had to question him about it, because of the 250 communities in my congressional district, none are as large as Memphis, TN. He responded there were some other smaller cities, but he still did not name any as small as the largest city in my district.

So we have small communities served by commuter air services that need these hubs. In fact, and the gentleman from Oklahoma may know this, at one time in my State we hung horse thieves, and we did for a good reason, because the horse was the only mode of transportation.

As I listened to the witnesses from Wall Street brag and tout the benefits of leveraged buyouts, I got the concern that the leveraged buyout artists are going to be the horse thieves of the 1980's and 1990's, and we would have a hard time finding the horse thieves of the 1980's and 1990's to hang when they take a very important mode of transportation from us.

In fact, in major parts of my State you can travel for at least a day's time and not get out of the State unless you have commercial air. I think that points out that commercial air is more than profits and losses and bottom lines at Wall Street. It is a matter of the public being able to travel around our great country, from the rural parts in the South where I come from, to the great cities in the North and the east coast and the west coast, and from some of the great cities in my State, large cities, to other parts of the country.

So when you listen to those artists who are bragging about the leveraged buyouts, it is disturbing when you consider what their world is, and their world is subways, mass transportation, financed in part by the taxes of those from rural America who dutifully pay their taxes, often without the benefit of tax packages to skirt those taxes that I read in the Wall Street Journal and other national publications that people on Wall Street are more skillful at because they have current up-to-the-instant financial news that is available out in much of America, particularly in rural America.

So I just want to make the point that there seemed to be no concern, or at least no expressed concern, on the part of these Wall Street witnesses before our committee about public transportation in rural America.

Mr. INHOFE. Mr. Speaker, I appreciate that. I did have a comment on something the gentleman said, but I will withhold that for right now.

Mrs. BENTLEY. Mr. Speaker, will the gentleman yield?

Mr. INHOFE. I yield to the gentlewoman from Maryland.

Mrs. BENTLEY. Mr. Speaker, I want to commend the gentleman from Oklahoma for bringing up this very important subject of leveraged buyouts. I think it has put on a whole new corporate structure, what is happening in our country, something that I do not think we really like.

In my own district there are two major employers who are still suffering the consequences of trying to defend themselves in leveraged buyouts. One was successfully able to do that. They were able to keep from being bought out, but they are still very much in debt.

Mr. INHOFE. I do not know what type of corporation the gentlewoman from Maryland is referring to, but I am sure they had to use a lot of their resources to defend themselves in that case. The statistics we see on LBO's and what they cost corporations is one thing, but those who successfully fend off the hostile takeovers spend a lot of the resources that otherwise would go, in the case of airlines, into safety and planning for the future employment of more people.

Mrs. BENTLEY. Absolutely, and modernization of their facilities. They do not have the money to do it now because they had to spend that money fighting off people whom they were afraid if they were taken over by, the hostile people, that the company would be torn and ripped apart, and probably would have happened.

One of them, and I do not mind telling the name, was Martin Marietta. They successfully fended off a hostile takeover, but they are still in debt, and that interest was high when they did it.

The other one involved was Bendix, which was involved in a three- or four-way struggle several years ago. Allied-Signal finally won. That was a very very bitter battle. There is a lot of money yet to pay back, and they do not have, again, the resources to be investing in other things that would be improving the plant structure and hiring more people.

One of the suggestions that I think all Members should think about is stop the write-off of the interest on all the borrowed money that is used by the speculators. I think we need to look into that. I think Congress has the responsibility in this arena.

Mr. INHOFE. I had three people today tell me when we were talking about that issue that that is one thing to look at, one way to approach it.

In the case of this particular legislation, even though it only deals with the airline industry, and with the gentlewoman's background on the Public Works and Transportation Committee, she has a concern for the safety of the flying public, it goes beyond that.

As I mentioned when I first started, in the meeting of the CEO's of the 100 largest corporations less than 2 weeks ago, they said the stock market crash was definitely a result of the LBO problem.

Mrs. BENTLEY. Of the junk bonds, and the junk bonds going where they should be, out the window. Unfortunately, they have been used to destroy more of our industry than they have to help it. I think if you stop and think, if a lot of this money used in these battles had been invested in modernization of facilities, how competitive this country's industry could be with the rest of the world.

Mr. INHOFE. We are competing with the rest of the world at this time. That is incredibly important.

Mr. LAUGHLIN. Mr. Speaker, if the gentleman would yield, I know from serving on the Merchant Marine and Fisheries Committee with the gentlewoman from Maryland, she is one of the leaders in the maritime field. I just wonder if she has that same observation about our maritime transportation that the gentleman from Oklahoma has called the special order to discuss, the impact of leveraged buyouts on air transportation?

Mrs. BENTLEY. Unfortunately, the maritime industry of this country has been allowed to sink so low that not many people want to get into it, so we have not had to fend off would-be

speculators. However, there have been one or two instances where there was speculation and there were leveraged buyouts. This goes back several years.

□ 1850

This goes back several years. In those instances the companies were destroyed.

Mr. LAUGHLIN. That is an example that I knew from the gentlewoman's history and experience that she could cite to us.

Mrs. BENTLEY. Yes. I do want to again commend the gentleman from Oklahoma [Mr. INHOFE] for his efforts in this and the gentleman from Texas [Mr. LAUGHLIN] for joining with him and giving an insight to the people that we in Congress do care and that we are looking at some of these matters.

Mr. INHOFE. That brings up something that is extremely important because we are the only ones who can do anything about it, as the chairman of the board of IT&T had said. You probably noticed in Sunday's Outlook section of the Washington Post this article that I will read one paragraph from which I think is very important. The heading is, "While on Capitol Hill, Lobbyists and Loopholes Keep Congress in Line."

The article reads:

Washington, not just Wall Street, must share the blame for the latest panic in the stock market. It had its chance to do something decisive about the market's speculative orgy, in the guise of leveraged buyouts, but so far has backed off.

A key reason: the growing political clout of what might be called the LBO lobby. Buyout artists are using a portion of their lucre to make investments in key politicians. Inaction on Capitol Hill is the buyout artists' prized commodity, and so far their investment is paying good dividends.

That is us they are talking about there.

I suggest everyone read this article. The article documents the amount of money being spent to buy themselves into a position to control, to keep us from messing up their deals.

Mrs. BENTLEY. We are going to look to the two gentlemen here on the floor, the gentleman from Oklahoma, [Mr. INHOFE] and the gentleman from Texas, [Mr. LAUGHLIN] to lead us in this, and I know something has to be done.

Mr. INHOFE. I thank the gentlewoman from Maryland for participating in this special order.

Mr. Speaker, I yield to the gentleman from Texas.

Mr. LAUGHLIN. It is always refreshing to hear comments from the gentlewoman from Maryland, having served with her on the Committee on Merchant Marine and Fisheries. I understand, if memory serves me correcly, she was chairman of the Federal Maritime Commission and brings a world of transportation experience to this body.

I would point out to the gentleman that, when we are talking about transportation, many of us go around the country talking about foreign competition. I will tell the gentleman that I have talked and had occasion, as the gentleman probably has had also, to talk to foreign investors, very substantial foreign investors who are putting a petrochemical plant in my district.

In visiting with those people, they always, early in the conversation, say, "Tell us about your transportation. We want to know about water transportation in and around the area that you are trying to entice us to invest money." Fortunately, in my area we have the intercoastal canal and the Gulf of Mexico.

But they also want to know about railroads, about air transportation, about highways, and the concern I have is that some of these people will start reading of some of the infrastructure problems that we have.

Recently I saw a Federal highway study that referred to 40 percent of our bridges in the Nation, 20 feet in length or longer, that are functionally obsolete or structurally deficient.

When you get concerned about that and then start looking at actions against our airlines, which more and more are providing not only passenger travel and passenger miles and seats on airplanes, but the statistics increase substantially each year and the industrial transportation of raw products and finished products is growing each year. In fact, I read about airports being built just to handle nonpassenger loads on airplanes.

Then you look at the studies that indicate that 60 percent of our paved highways need some sort of surface rehabilitation. This demonstrates that we cannot ignore our transportation needs whether we are talking about highways or waterways, and particularly our air transportation, which is even more vital in foreign competition.

Mr. INHOFE. I think the gentleman from Texas is, like I am, more concerned and aware of this problem in that the gentlewoman from Maryland [Mrs. BENTLEY], and the gentleman from Texas and I serve not only on the Committee on Public Works and Transportation but the Committee on Merchant Marine and Fisheries. This is one of the major things we are concerned about. If something happens to our transportation system, everything else stops.

It gets back to this: As I understand, the gentleman really does not have—so that this is not necessarily just a Donald Trump-bashing session; I think that we are using American Air Lines as an example right now. I think it is the clearest, most extreme example of somebody coming in and taking over a well-run airline to the detriment of the general public, but in the gentleman's district he does not have very many American Air Lines employees because I believe his district is to the south of that area.

Mr. LAUGHLIN. The gentleman is exactly right. There is no commercial airport in my district. If there are any commercial airline employees in my district, they have not identified themselves to me. I am sure in the population base we have a few, but commercial air is not a big employer in my district.

Certainly this is not intended to be a Donald Trump-bashing session, it is just the latest example of the problem facing transportation.

American Air Lines is well recognized within the air industry and in the business community as being a well-managed company. Then when you hear the employees of a company brag about the company, about how well-managed it is, how the employees are happy to work there and want to stay there and work until they retire, it goes to the point of this being another transportation problem that we should try to avoid, instead of letting it deteriorate like 60 percent of our road surfaces and 40 percent of our bridges.

We have catastrophes like bridges collapsing in recent months in Tennessee and Kentucky, New York earlier.

Mr. INHOFE. And in California.

Mr. LAUGHLIN. And the California earthquake collapse.

This points out that we have ignored as a Nation much of our transportation and we should not continue to ignore it to the benefit of a few investors who are going to make big money.

No one is against making profits because American Airlines today, as it operates, is a very profitable airline. It pays its employees wages. They all pay taxes wherever they may be working.

So it is not an instance of Congress' being asked to reach down and repave or rebuild American Airlines or some of the other airlines such as Delta Air Lines which comes to mind as a very well-managed and profitable company.

I think all of us here, and the gentleman from Oklahoma I know from prior conversations, want to see these airlines make profits.

Mr. INHOFE. I wanted to bring that out because I did not want people to think—I do have that prejudiced interest at heart because our largest employer in my district is American Airlines, and for as many years as I can remember, back before I was in Congress, when I was mayor of Tulsa and in the State legislature, I had gone through their plants so many times and had seen these dedicated, skilled technicians, 10,000 of them in my district, that are there helping to make American Airlines what is called in

Newsweek one of the best-run airlines in the world.

When I see that, I have to hasten to say also that as a general rule we would not want to have more intrusion of government into it. All we want is to have the flying public and the public's interest served as well as a fine-run company that we have in American Airlines, the opportunity to continue to grow, continue to train more skilled people, continue to pay those taxes, continue to generate and circulate the economy certainly in my district and throughout the country.

This country would have a very serious problem in the event that became in jeopardy.

I yield further to the gentleman from Texas.

Mr. LAUGHLIN. First I would say it would not offend anyone in my district, certainly not this person from Texas, that we got some of those American Airlines employees to the 14th District of Texas. But I would point out that this legislation is not to prevent someone coming along and purchasing American or Delta or Continental or USAir or any of the other U.S. airline carriers. This legislation is to ask the Secretary of Transportation to review, for the public interest, to look to see if the debt is going to be so substantial that this airline would not stand the light of day and be able to survive as a major employer. All of us, mayors, State senators, businessmen, we run around America spending millions of dollars trying to attract a new employer to our town, to our State, to our region, to our congressional districts.

Just today I talked to people in my district who, of all things, are trying to attract a State penitentiary to the community.

□ 1900

Years ago, no one wanted a State penitentiary full of convicts and murderers and rapists, even in their county, especially in their community, but it pointed out the need to have good employers who pay wages to their employees. That is what the airline companies are doing.

What we have asked in this legislation is that the Secretary of Transportation give a review.

Mr. INHOFE. That is so important. I did not know the gentleman from Texas at the time, so I am not sure where he stood on the issue. I was for the deregulation of the airlines when it took place. I was mayor of Tulsa when it took place, and we ended up with fares being cut, twice as many people flying as were flying before, and it has served our community well.

I am not interested in reregulating the industry. The deregulation came in in order to stop, to make it competitive, to make rates competitive, to make scheduling and routes competitive. It had nothing to do with safety. Safety has never been deregulated. I see this as just the opposite.

They say they are for reregulation. I am not. As a matter of fact, if the corporate bandits are allowed to continue to go in and take over well-run companies and force them to shelve the efforts that they are making toward future hiring, future training, future safety of their own airlines, then that is just the opposite of reregulating.

Mr. LAUGHLIN. If the gentleman will continue to yield, when we talk about safety, I want to bring up something that I read today, I believe in the New York Times or one of the magazines from one of the larger cities, one of the newspapers in the larger cities, where they talked about they have not seen anything that indicates debt makes the airlines more unsafe for the traveling public.

While we probably have not had a plane crash or any catastrophic event that an investigator could point to, because they were short on money and did not fix anything. I think common, everyday horse sense experience dictates we pay attention to that because we can go out here and sit on the corner, not only in Washington, DC, but in any community, and we can find a fellow that is down and out, been without work or been laid off and got a part-time job, and nickels and dimes are short around the house. If we take a look at the tires on his car, we will see he is putting money in the grocery store to feed his children and his wife and himself. He may spend an extra dollar every now and then for a beer, or ignore his family, but the tires on the car will get ignored first. They will be the last thing to get replaced. Yet when we read the highway statistics, more wrecks are caused by slick tires and defective tires, along with speeding. It just points out that people who are out of money and trying to pay the banker for the airplanes are going to wait an extra day, drive on those slick tires an extra month, "because I am not going far," and that is the mentality of a human being. We are like that, and that will transfer to the airline management. It cannot help, because they want to keep the banks, or Wall Street investment buyer, or whoever is carrying the notes and the debt. At some time it is going to be inexcusable to let people who have the responsibility for safety of the traveling public to ignore necessary maintenance because they are short of money.

Mr. INHOFE. That is an excellent analogy to draw, because that is human nature. This is a case where the wheel that is squeaking the loudest is the one that will get the attention. If a person is in position where they do not have the dollars to go all around, let those things go that will provide your safety. I think your split tire analogy is very good.

Mr. LAUGHLIN. If the gentleman will continue to yield, we had the FAA investigator witnesses testifying about their hands-on investigation. I read in the national newspaper that the FAA has inspectors that go out and check. They would not let an airline in the air that was unsafe and did not meet the maintenance. Yet if those news writers had been sitting in that hearing room, they would have been shocked and surprised when they heard the investigators, those witnesses from the FAA, say that they need more on-hands investigations because they are finding many undocumented defects in the airplanes when they have gone out and done the hands-on investigations.

What really surprised this Member from Texas was sitting in and hearing that testimony that day and finding out that most FAA inspections take place in the office when they look at the reports from the airlines. That was a great surprise to me, and maybe some of those writers that write would not be surprised. Maybe they would. It gets to be a concern when people go out, get on an airplane and find that most of the safety inspections they talk about take place in the office, by reviewing some reports.

Mr. INHOFE. Even worse, and I do not want to get into other subjects, the go-around we are having right now with what I call the takeover of the foreign repair stations, trying to get more and more of the work on certified U.S. airlines and aircraft.

As we went over there with our committee and found out that they do not have a capability of inspecting to the exacting standards that they do in this country. We found out that they had signed blank inspection certificates, so a person can do work, yellow-tag it, and have his signature on it as if they inspected it. They did not look at it.

Mr. LAUGHLIN. If the gentleman will continue to yield, I am sure the gentleman remembers the hearing where someone produced some of those documents.

Mr. INHOFE. The gentleman was me.

Mr. LAUGHLIN. If the gentleman will continue to yield, I did not remember who it was, but I remembered some of the safety inspection documents for our airplanes that American citizens are going to fly on, were already filled out, missing the name.

Mr. INHOFE. Yes, they were blank. The date was blank, and to make it worse, some of the foreign repair stations do not have the equivalent of A&D and A&P. They can hire who they want. It could be a shade tree mechanic who comes in, does work on a reciprocal engine, puts the cylinder back in, hangs the inspection tag on

each of the works I described, and all were signed in advance, maybe a month in advance. They date them themselves, put them out, we drive that vehicle off into the air, with American lives at stake, and never even know the difference.

How we can relate to this problem, which is a different problem than we are here to discuss today, is that companies like American Airlines and many other of our fine run airlines in the United States do not just hold the safety standards to what the FAA forces them to do. I have talked to FAA examiners who have gone in three times in 1 week, to one department on the night shift at American Airlines, never finding anything wrong. Everything is done to the exacting standards. However, we do not produce a good safety record just by complying with the bare minimums.

What would happen if Mr. Trump were to take over American Airlines, and we will assume that he has an interest in keeping and maintaining the safety record that they have developed over the years with American Airlines. If he incurs, in spite of the billions of dollars he has and he controls, each investment has to stand on its own. If he has to pay off a tremendous debt, he is going to continue to comply with those mandates of the FAA. However, I would suspect that he would not necessarily go beyond that, and that in planning for the future, the training of future employees, the building of a company, the enhancing of a company, and keep in mind, American Airlines is a growth company. They have not made heavy dividends because they have put it back in the company to grow and grow and grow. I think we would see a decided radical change in how they look at the safety and the future of the airlines, if he were to take it over. It is a game. It is the Trump game.

Mr. LAUGHLIN. If the gentleman will continue to yield, those are the concerns that I think more and more people ought to address in the media. I am at a loss, sometimes, how to convey those things to the media, and ask them to get involved because here we are talking about the American dream. Not the American airline dream, but the American dream where people go to work for an employer that makes the future better, is committed to the long term, and not committed to the short-term bottom line, quick fix, quick profit. Therein lies the American dream, that for many American citizens is getting an education, providing a home for their family, and having a job that enables them to educate their children and put a decent roof over their head, and provide medical benefits. They do that by working for a corporation or a company that has a long-term view called the American dream, that the gentleman indicates American Airlines has. They have that reputation.

□ 1910

Mr. INHOFE. Mr. Speaker, I tell the gentleman from Texas [Mr. LAUGHLIN] that I have just heard from the Chair that our 1 hour is up, but I want to thank him very much for his contribution which he has made to something that I consider to be so significant now.

Mr. Speaker, I think we have to leave it on the line that we are not talking about Government coming in and taking over various industries. We are talking about one particular industry where the public's interest must be served, and safety is the greatest service that we can provide.

Second, look at any of the publications recently. There will not be found anyone saying anything really good about LBO's particularly in the aviation industry and the airline industry.

We have a responsibility, as was said 2 days ago in the Washington Post, that, if we do not stop it here in Congress, if we do not at least give the Secretary of Transportation a chance to look at and review these proposed takeovers with the idea of safety in mind, then we are not doing our job, and we are the last ones who can stop it.

Mr. Speaker, I appreciate all the Members who joined us in this special order.

Mr. LAUGHLIN. And, Mr. Speaker, I thank the gentleman from Oklahoma [Mr. INHOFE] for allowing me to participate in this very special message.

REPORT ON AIDS AND THE UNFAIRNESS OF JAPANESE CORPORATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I want to tell the folks at the front desk and those who are still here in the Chamber that I am not going to take 60 minutes. I am going to take about 10 minutes, so they can be happy that they will be able to go home a little earlier then they anticipated tonight.

Let me just start off by saying that each week I try to bring to the attention of the House the increase in the number of people who have come down with AIDS because this pandemic threatens the very existence of this Nation, and, according to the Centers for Disease Control, the estimated number of people who will get active AIDS this year is about 49,000 to 50,000, and next year it is going to be at least 60,000.

So, Mr. Speaker, since I last talked to my colleagues about this another thousand people approximately came down with AIDS and are either dead or dying from the disease, and only the good Lord knows how many people are infected because we still are not doing what is necessary; that is, conducting a comprehensive program to deal with this pandemic; that is, testing, routine testing, for the entire American population or those in the susceptible ages, say from age 10 to 60. We have not been doing contact tracing. We have not been reporting those with AIDS. We have not been conducting the proper amount of education and scientific research.

So, Mr. Speaker, we need a comprehensive program to deal with AIDS, and the keystone of that program should be testing so we know where it spreading, how it is spreading and who is spreading it. But unfortunately this body, and the Centers for Disease Control and Health and Human Services continue to go around with their heads in a sack not looking at what really is going on in this country, and more and more people each day are condemned to die because of this inaction.

So, Mr. Speaker, that is my report for the week. Another thousand people in all probability are dead or dying because of our lack of action, and only the good Lord knows how many people have been infected since we last talked.

Now it has been brought to my attention in the past week that our good friends, the Japanese, are being very, very unfair to American business. Most Americans are aware that the Japanese have erected trade barriers and other obstacles to products from the United States of America, while at the same time we have allowed them almost complete access to our markets. As a result the Japanese enjoy approximately a $60 billion trade surplus. That means 60 billion American dollars, more than 60 billion American dollars, are going over to Japan that are not coming back to our country. They have a surplus of American dollars of about 60 billion.

Mr. Speaker, that has caused us a lot of problems with our deficit here in Washington and our entire economy. It was brought to my attention this past week that this opposition to American products goes beyond just American products, and it goes to corporate America. Mr. T. Boone Pickens, who is a fairly controversial person here in the United States in the corporate area bought about 25 percent of a major Japanese corporation. The name of the corporation is Koito, and he is the largest stockholders of that corporation. The next largest stockholder of that corporation is Toyota. Toyota owns approximately 19 percent of that corporation.

Mr. Speaker, Mr. Pickens, as the chief corporate investor in that corporation, went to the Koito stockholders meeting recently, and he and his colleagues who are the major stockholders in that corporation were at first denied even to attend the meeting. They were not even going to let him attend the meeting along with other people in his corporation who own the majority of stock in that company. Mr. Pickens finally was able to get a meeting with the CEO of that corporation in Japan, and he asked that because of his corporate ownership in that company that he get three members on the board of directors.

Mr. Speaker, Koito's board of directors consists of 20 people, and he owns 25 percent of the stock, one-fourth of the stock, and, instead of asking for one-fourth of the members of the board, which would have been five, he asked for three. That is not going to control the board of directors. Nevertheless, they denied him, not three seats on the board not two seats on the board, not one seat on the board, but any votes on the board even though he is the biggest stockholder of that corporation.

Mr. Speaker, the reason I bring this up is because the Japanese corporations have been making major investments in America. Approximately 25 percent of the banking in California is controlled by the Japanese. They own more buildings in Los Angeles, and Chicago, and New York, and Washington, DC, than any other country. They own the majority of the office buildings in those areas. They are now the biggest direct or indirect owner of corporate America outside of this country. They are bigger now even than Great Britain who had a great interest in our corporate America.

Mr. Speaker, the Sony Corp. recently spent $3.4 billion to acquire Columbia Pictures. They control Columbia Pictures. They run that corporation. Yet because Mr. Pickens invested 1.2 billion and owns controlling interest of Koito, the largest stockholder, 25 percent, he has been denied the right to even sit on that corporate board.

Mr. Speaker, I do not understand that. How is it that the Japanese can deny Americans access to their markets, deny corporate America a right to sit on the board of directors of their major corporations when they have complete freedom in this country, and they have been taking advantage of it?

Mr. Speaker, I want to read to my colleagues just a few remarks by some of the people in some of the editorials around the country regarding the problems that Mr. Pickens has had with Koito.

Mr. Pickens has made clear that he does not expect special treatment in Japan, but he does expect fair treatment.

Mr. Speaker, I do not see how anyone can think that is wrong, even the Japanese. While Mr. Pickens, who owns 25 percent of that corporation wanted three people on the board, which is only fair since Toyota has three members on the board, and they only own 19 percent of that corporation, Matsushita Corp., which only owns 5 percent, one-fifth of what Mr. Pickens owns, they did get a member on that board of directors. That is because it is a Japanese firm.

Mr. Speaker, the Japanese have a policy, as I understand it, called karitzu, which means that a multitude of corporations get together, Japanese corporations get together in a sweetheart arrangement, to control who gets on the board and who controls these various corporations.

□ 1920

I want to read to you from an article exactly how that works:

In a typical Japanese public company, 60 to 80 percent of its shares are held by what is known as Kuritzo, a web of stable stockholders, most of whom either do business directly with the company or with one of the companies major holders. Koito is a classic case. Toyota Motor Corporation owns 19 percent of Koito shares and at the same time is Koito's largest customer, buying almost half its products. Another 40 percent is held by Koito's other customers, banks, insurance companies and suppliers. These stockholders do not expect to make money through the stock, but through the business relationships that come with being a member of the club.

So they are in effect controlling the value of that stock to the detriment of other stockholders, and they even keep people who are major stockholders off the board of directors.

Now, an article in the Chicago, IL, Tribune, I would like to quote briefly from that. The Japanese are indignant over Mr. Pickens coming over there and buying 25 percent of their company and asking to be on the board of directors. The Chicago Tribune says this:

This indignation is a little hard to stomach. After all, Japanese investors, flush with surplus cash, spent more than $15 billion last year buying overseas companies. They have flocked to the United States and are now the third largest direct investor in America, behind the British and the Dutch.

And if you consider direct and indirect investment in this country, they are the largest investor.

Japanese apologists will say we just don't understand Japan. Unfortunately, we're beginning to understand all too well. When it benefits them, the Japanese are all in favor of open markets and unfettered competition. But when it comes to any reciprocity that threatens their closed society, their sense of uniqueness and home market, they band together to keep out foreigners. It's ugly, even when their target is a T. Boone Pickens.

We have an obligation to America, to all the Americans in this country, to make sure that this economy remains strong and free. The Japanese are a welcome investor in our society. They have provided a lot of investment and a lot of jobs. In Indiana, a couple Japanese companies have come in and built some auto manufacturing plants and they have provided jobs for Hoosiers. I do not think anybody takes issue with that. But while they are investing in America and buying corporations and providing jobs to benefit their profit and loss statements and their corporations back home, because the profits are all going back to Japan, we think it only fair that they open up their markets to our products and allow corporate America to invest in their country and in their companies and to have a voice in the way those companies are run.

I would like to quote now from the Dallas Morning News, which says, speaking of the Japanese:

Fine. What is good for the goose should be good for the gander. The United States should consider a law requiring that any stock owned by a Japanese company or citizen in a U.S. company must be held in trust by a U.S. agent for two years—and that no Japanese stockholder be allowed to vote that stock or to sit on any board or management committee for a two-year period. We certainly want assurances that Japanese investors are here for the long haul and are fully acquainted with the intricacies of a company's workings.

The Japanese suggest that they have their way of doing things and that it is different there than in Texas.

OK. Let's do things their way.

If they are going to keep our people who are their major investors off their boards of directors over there so that they can control those companies to the detriment of American investors, if they are going to close their markets to our products, then we should consider doing the same thing.

President Reagan when he was President said that all we want is a level playing field. We are free traders in America. We believe in free trade, but we also believe in fair trade. The Japanese talk a good game. They talk about free trade, but they are not being fair. They are closing their markets to many American products and now they are closing their boards of directors to American investors. That is wrong. It should be ended.

One of the things that bothers me right now is that we had a great President, Ronald Reagan, he is in Japan right now. Some Japanese industrialists have paid him I believe $2 million for spending $8 million for his total trip. It is a great advertising boon and publicity boon for Japan. While he is over there doing a good deed for Japan and providing some good publicity for them, I think it is important that the people of this country know that while that publicity is going over the airways showing what a great country that is and what a great trading partner they are, that all the facts are not coming out. The markets are closed. Many of their markets are

closed to American industry. Their boards of directors are closed to American investors, while at the same time they are making major capital investments over here, taking over many major American companies and they are dumping a lot of their products here and their balance of trade, their trade surplus, is well over $60 billion.

We in this country, if we are to survive economically and not become subservient to another industrial power, that is, Japan, are going to have to make sure that there is a fair and free playing field for all of us to compete on. If we are not going to get that, we are going to lose.

So I would just like to say to my colleagues who may be paying attention to this special order tonight, we may have to come up with legislation that may appear to be protectionist in the short run to force the Japanese to lower their trade barriers and also to lower their barriers that are keeping American investors off their corporate boards. If we do not do that we are going to come out second best. We are going to lose.

I will be back with more special orders on this subject in the future, but I hope my friends in the Japanese community who are watching tonight or my colleagues who are paying attention to this will tell their friends in the Japanese community that we want fairness and we are not going to quit until we get it.

CONFERENCE REPORT ON H.R. 3012

Mr. HEFNER submitted the following conference (H.R. 3012) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-307)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3012) "making appropriations for the military construction for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 9, 14, 18, 19, 29, 30, 31, 32, 33, 34, and 35.

That the House recede from its disagreement to the amendments of the Senate numbered 2, and 12, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$819,129,000*; and the Senate agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$82,000,000*; and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$99,000,000*; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$86,300,000*; and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$223,490,000*; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$238,330,000*; and the Senate agree to the same.

Amendment numbered 17:

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$97,460,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,375,000,000*; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$174,621,000*; and the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$623,700,000*; and the Senate agree to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$798,321,000*; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$200,071,000*; and the Senate agree to the same.

Amendment numbered 28:

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$941,879,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 3, 5, 6, 8, 10, 13, 20, 22, 27, and 36.

BILL HEFNER,
BILL ALEXANDER,
LINDSAY THOMAS,
RONALD D. COLEMAN,
TOM BEVILL,
NORMAN D. DICKS,
JULIAN C. DIXON,
VIC FAZIO,
JAMIE L. WHITTEN,
BILL LOWERY,
MICKEY EDWARDS,
JIM KOLBE,
TOM DELAY,
SILVIO O. CONTE,
Managers on the Part of the House.

JIM SASSER,
DANIEL K. INOUYE,
HARRY REID,
WYCHE FOWLER, JR.,
ROBERT C. BYRD,
CHARLES GRASSLEY,
JAKE GARN,
TED STEVENS,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3012) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

ITEMS OF GENERAL INTEREST

Natural Disasters.—The conferees understand that Department of Defense facilities sustained considerable damage caused by Hurricane Hugo and the Loma Prieta earthquake in northern California. Further, the conferees understand that it will take some time to fully assess this damage. Therefore, the conferees have not addressed these needs in this bill, but rather, encourage the Department to submit reprogramming requests at the earliest possible date.

Contract Execution.—The conferees direct the Department to notify the Committees on Appropriations 21 days prior to awarding any contract for a project that has not achieved 100 percent design status, or any contract that is other than firm fixed price. The notifications must include specific justification for proceeding with project execution. Projects may not be executed until the 21-day interval has elapsed, or the Committees grant specific approval for proceeding prior to the 21-day interval.

Homeowners Assistance Program.—The conferees expect the budget request for fiscal year 1991 will include sufficient funds to assure that the Homeowners Assistance Program will meet actual program requirements, including those related to base closure and realignment. In addition, the conferees direct the Department to utilize the

private sector in the administration of the program in those instances where it is demonstrated to be a more cost-effective alternative.

Third Party Financing.—The conferees are concerned about the magnitude of third party financing for construction that is financed through the Operation and Maintenance Account. Accordingly, the conferees direct that all such projects be identified by type, target location, proposed scope and estimated annual lease costs. This information is to be included in the annual budget justification material submitted to the Appropriations Committees, in the section titled "Construction funded in other than Military Construction". Any proposed out-of-cycle project must be submitted to the House and Senate Appropriations Committees for approval prior to project initiation.

Life Cycle Project Management System.—The conferees understand that the U.S. Army Corps of Engineers may implement a life cycle project management system for the military construction execution process. The conferees do not object to efforts to improve efficiencies. However, some concern exists that this may increase management costs. Therefore, the conferees direct that a report detailing the basic management principles, benefits, and anticipated savings be provided to each Committee by March 1, 1990. In the interim, the conferees expect that the Corps of Engineers will limit implementation to the field level for only selected high cost/high visibility projects until the Committees have received and reviewed the report.

Philippines.—The conferees remain concerned for the security of U.S. personnel stationed in the Philippines. Therefore, the conferees direct the Department to proceed with planning and design of family housing and barracks projects at Clark Air Base and at Subic Bay Naval Base so that construction funding can be requested upon completion of successful base rights negotiations.

Various Locations, West Virginia.—The Senate report lists $49,433,000 for 37 projects in West Virginia for the reserve components, and directs that these projects be included in the fiscal year 1991 budget request. The conferees note that none of those projects are included in the biennial budget request previously submitted for 1991, which totals $380,400,000 for the reserve components. Therefore, the conferees expect that these projects will not displace other projects that have already been proposed for funding next year.

Matters addressed by only one Committee.—The language and allocations set forth in House Report 101-176 and Senate Report 101-130 should be complied with unless specifically addressed to the contrary in this conference report and statement of the managers. Report language included by the House which is not changed by the report of the Senate or the conference, and Senate report language which is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. In cases in which the House or the Senate have directed the submission of a report from the Department of Defense, such report is to be submitted to both House and Senate Committees on Appropriations.

Program, Project and Activity.—For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), the term "Program, Project and Activity" will continue to be defined as the appropriation account, consistent with the definition as stated in the fiscal year 1988 conference agreement, with the addition of the Base Realignment and Closure Account.

MILITARY CONSTRUCTION, ARMY

Amendment No. 1. Appropriates $819,129,000 for Military Construction, Army, instead of $834,222,000 as proposed by the House and $726,075,000 as proposed by the Senate. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

Alaska—Fort J.M. Wainwright: Physical fitness training center	+$14,800,000
District of Columbia—Walter Reed Army Medical Center: Parking structure	+11,000,000
Florida—Key West: SOF-special forces training facility	+2,400,000
Georgia—Fort Benning: Barracks revitalization	+2,000,000
Illinois—Mel Price Support Center: Alter dormitory	+3,750,000
Kansas—Forth Leavenworth: Child development/religious education facility	+2,500,000
Kentucky—Fort Knox: M1 tank driver training facility	+5,900,000
Maryland—Fort Detrick: Chapel center/child development center	+1,000,000
New York—U.S. Military Academy: Electromagnetic science lab renovation	−3,450,000
Oklahoma—Fort Sill: Child development/religious education facility	+2,150,000
South Carolina—Fort Jackson: Consolidated field maintenance facility	+23,000,000
Texas—Fort Hood: Vehicle wash facility	−400,000
Classified Locations:	
Classified project	+3,400,000
Land acquisition	+600,000
Operational Facility	+7,500,000
Germany—Various Sites: Wartime Host Nation Support	+4,150,000
Germany—Vilseck: Chapel center/child development center	−3,320,000
Korea—Camp Casey:	
Barracks	−21,000,000
Tactical equipment shop	−3,200,000
Korea—Camp Gary Owen:	
Barracks	−2,450,000
Tactical equipment shop	−1,750,000
Korea—Camp Hovey:	
Tactical equipment shop	−8,200,000
Tactical equipment shop	−7,100,000
Korea—Eastern Corridor: Unaccompanied officer housing	−4,050,000
Unspecified Worldwide Locations:	
JSOC—Planning and Design	+5,000,000
Foreign Currency Fluctuation	−49,323,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Colorado—Fitzsimmons Army Medical Center: Child development center	$2,100,000
Illinois—Savanna Army Depot: Function test range	850,000
Maryland—Aberdeen Proving Ground: ADP facility addition	1,700,000
North Carolina—Fort Bragg:	
Child development centers	5,300,000
Maintenance facility (phase I)	7,000,000
SOF—special operations CMD headquarters	21,100,000
Oklahoma—Fort Sill: Unit chapel	0
Pennsylvania—Tobyhanna Depot: Access road	3,200,000
Texas—Fort Bliss:	
Barracks modernization	6,400,000
Barracks modernization	6,800,000
Texas—Fort Hood: Barracks modernization	11,200,000
Texas—Fort Sam Houston: Medical systems equipment training complex	0
Virginia—Fort Lee: petroleum training facility	8,300,000
Germany—Ansbach: Child development center	2,900,000
Germany—Augsburg: Electrical power system upgrade	600,000
Germany—Grafenwoehr: Multi-purpose training range	6,500,000
Germany—Hanau: Aircraft parking apron refueling facility	8,300,000
Germany—Hofenfels: Hardstand and maintenance sheds	0
Germany—Mainz: Aviation unit maintenance hangar	12,000,000
Germany—Vilseck:	
Hardstand/tactical equipment shop and sheds	0
Post office	1,300,000
Germany—Wuerzburg: Ammunition storage	1,400,000
Unspecified Worldwide Locations: RDT&E construction	0

Louisiana—Fort Polk: Headquarters Facility.—The conferees direct the Army to expedite design of a replacement for the current World War II—vintage headquarters facility at Fort Polk, Louisiana, and to include construction funds for the project in the fiscal year 1991 budget.

Pennsylvania—Tobyhanna Army Depot: Access Road.—The conferees agree to funding $3,200,000 for an access road subject to authorization and contingent upon certification by the Secretary of Defense as required by Section 103 of this bill.

CONUS Classified Location—Operational Facility.—The conferees have provided funding of $7,500,000 for this high priority project. The Department is directed to utilize emergency authority provided in 10 U.S.C. 2803 for this project.

Germany—Various Sites: Wartime Host Nation Support.—The conferees have

agreed to fund $4,150,000 for Wartime Host Nation Support facilities. The conferees have agreed to such funding with the understanding that a newly negotiated agreement with the Federal Republic of Germany will reduce the United States' cost share for this program through cost efficiencies and more NATO participation in this program. The Army is directed to insure that project does not exceed U.S. and NATO standards in order to qualify for NATO funding.

Child Development Centers/Religious Education Facilities.—The conferees approve three projects for combined child development centers/religious education facilities as requested at Fort Leavenworth, Kansas; Fort Detrick, Maryland; and Fort Sill, Oklahoma. The conferees recommend the full scope of these projects, subject to authorization, in order to make the most economical and effective use of these facilities.

Amendment No. 2. Earmarks $79,420,000 for study, planning, design, architect and engineer services as proposed by the Senate instead of $74,420,000 as proposed by the House. The conferees agree to an appropriation of $5,000,000 for Army planning and design (using prior year authorizations), to be utilized exclusively for design of projects for the Joint Special Operations Command. The conferees also agree that these funds shall be available for design of JSOC projects for any military service.

MILITARY CONSTRUCTION, NAVY

Amendment No. 3. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$1,139,250,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $1,139,250,000 for Military Construction, Navy instead of $1,167,750,000 as proposed by the House and $1,151,783,000 as proposed by the Senate. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

California—Monterey	
Fleet Numerical Oceanography Center: Computer center	−$6,010,000
California—San Diego Naval Hospital: Regional medical center-support facilities	+5,000,000
Georgia—Albany Marine Corps Logistics Base: Calibration laboratory	+3,250,000
Indiana—Crane Naval Weapons Support Center: Lithium battery test facility	+800,000
Mississippi—Pascagoula Naval Station:	
BEQ	+3,940,000
Magazines	+3,140,000
Warehouse	+1,110,000
Missouri—Kansas City MC Support Activity: Finance and data processing center, phase I	+10,000,000
Pennsylvania—Philadelphia Naval Shipyard: Hazardous and flammable storage warehouse	+300,000
Virginia—Dam Neck Marine Environmental Systems Facility: Operations and maintenance facilities	+500,000
Virginia—Quantico Marine Corps Combat Dev Command: Communication officers school addition	+3,450,000
Guam—Fleet Surveillance Support Command; Electronic installation	−27,000,000
Japan—Atsugi Naval Air Facility: Maintenance hangar	−14,900,000
Spain—Naval Station Rota: Child development center	+1,020,000
United Kingdom—London Naval Activities:	
Automotive vehicle maintenance shop	−730,000
Bachelor enlisted quarters and mess hall	−9,400,000
Unspecified Worldwide Locations: Planning and design	−2,970,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

California—Monterey Naval Postgraduate School:	
Academic library addition	$5,000,000
Child development center	2,000,000
Classroom and applied laboratory facility	11,960,000
California—San Diego Naval Hospital: Parking garage	7,500,000
California—San Diego Naval Training Center: Child development center	2,350,000
California—Vallejo Mare Island Naval Shipyard: Dredged material handling facility	2,700,000
Florida—Mayport Naval Station: Industrial berthing wharf	20,000,000
Maryland—U.S. Naval Academy: Bancroft Hall expansion	0
North Carolina—Camp Lejeune Marine Corps Base:	
Access road	5,500,000
Operations center	0
North Carolina—New River Marine Corps Air Station: Physical fitness center	0
Rhode Island—Newport Naval Education and Training Center: Parking lot	290,000
Virginia—Virginia Beach: Land purchase	1,300,000
Washington—Keyport Naval Undersea Warfare Engineering Station: Undersea warfare engineering center	10,400,000
Bahamas—Andros Island Naval Underwater Systems Center: Physical security improvements	0
Japan—Okinawa Camp Butler Marine Corps Base: Combined arms staff trainer facility	3,200,000
Japan—Okinawa Futenma Marine Corps Air Station:	
Maintenance hangar addition	1,950,000
Tactical support van pads	5,500,000
Unspecified Worldwide Locations:	
Unspecified minor construction	14,000,000
RDT&E construction	0

California—Miramar NAS: Child Care Center.—The conferees direct the Navy to initiate design and include a child care center for Miramar NAS in the fiscal year 1991 budget request.

California—San Diego Naval Hospital: Pediatric Health Care.—The Navy is directed to study specialized pediatric health care services in the San Diego region to determine if existing facilities and capabilities are sufficient to meet dependents' needs into the next century. The Navy is to comment on recent efforts to address these needs, including the newly agreed upon Memorandum of Understanding with San Diego Children's Hospital, and report to the Committees by March 1, 1990.

New Jersey—Earle Naval Weapons Station.—The conferees agree with Senate report language that no construction funds for the Naval Ship Fuel Replenishment System can be spent during fiscal year 1990.

North Carolina—Camp Lejeune: Access Road.—The conferees agree to funding $5,500,000 to replace the Broad Creek and Gales Creek bridges subject to authorization and contingent upon certification by the Secretary of Defense as required by Section 103 of this bill.

Guam—Fleet Surveillance Support Command: Electronic Installation.—The conferees have deferred funding $27,000,000 for this project because of delays in completing the environmental process, together with the uncertainty that the proposed site will be environmentally acceptable.

Italy—Naples Naval Support Activity: Command, Control Communications and Intelligence Complex (Increment II).—The conferees have agreed with Senate report language which directs that $46,600,000 provided for Increment II shall be transferred to the "Foreign Currency Fluctuation, Construction, Defense" account if the Navy fails to secure local government jurisdiction approvals and is unable to obligate last year's funds for Increment I by March 31, 1990.

Japan—Marine Corps Projects.—The conferees have provided funding of $10,650,000 for three high priority projects in Japan as follows:

Okinawa-Camp Butler Marine Corps Base: Combined arms staff trainer facility	$3,200,000
Okinawa-Futenma Marine Corps Air Station:	
Maintenance hangar addition	1,950,000
Tactical support van pads	5,500,000

The conferees direct the Department to request authorization for these projects.

Amendment No. 4. Earmarks $82,000,000 for study, planning, design, architect and engineer services instead of $84,970,000 as proposed by the House and $79,970,000 as proposed by the Senate.

Amendment No. 5. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and

concur in the amendment of the Senate which prohibits the use of funds to initiate agricultural leases of more than one year's duration on land in or around Naval Air Station Fallon, Nevada.

MILITARY CONSTRUCTION, AIR FORCE

Amendment No. 6. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$1,227,296,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $1,227,296,000 for Military Construction, Air Force, instead of $1,208,136,000 as proposed by the House and $1,122,249,000 as proposed by the Senate. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

Alaska—Eielson AFB: Supply complex	+$10,000,000
Alaska—Elmendorf AFB: Combat arms training and maintenance facility	+2,400,000
Arizona—Davis-Monthan AFB: Traffic management complex facility	+4,000,000
Arkansas—Eaker AFB: Military vehicle service station	−600,000
Arkansas—Little Rock AFB: Add/alter dormitories	−1,500,000
Personnel processing center	−7,000,000
California—Castle AFB: Combat arms training and maintenance facility	−730,000
Security police operations facility	−2,950,000
Tanker ramp safety lighting	−5,000,000
California—McClellan AFB: Child development center	+1,200,000
California—Vandenberg AFB: Emergency electrical backup power plant	+5,400,000
Georgia—Robins AFB: Add/alter child care center	+1,100,000
Illinois—Scott AFB: Dormitory	+8,400,000
Louisiana—England AFB: Alter dormitories	+3,200,000
Base supply complex	+4,100,000
Michigan—K.I. Sawyer AFB: Fitness center	+4,300,000
Missouri—Whitman AFB: B2-General Reduction	−15,000,000
Ohio—Newark AFB: Child care center	+680,000
Ohio—Wright-Patterson AFB: Child Care Center	+1,950,000
Lab fuel storage facility	+5,500,000
Add/alter optical system lab	+3,700,000
Oklahoma—Tinker AFB: Child development center	+1,550,000
Tennessee—Arnold Engineering Development Center: Large Rocket Test Facility (J-6) Phase II	+66,000,000
Texas—Kelly AFB: Child care center	+730,000
Utah—Hill AFB: Child development center	+1,300,000
CONUS Various: Central OTH-B real estate acquisition	−5,000,000
Various Locations—Canada: Forward operating locations	−12,000,000
Germany—Hahn AB: Upgrade water storage and distribution system	−3,800,000
Germany—Ramstein AB: Add to and alter vehicle maintenance facility	−2,800,000
Germany—Sembach AB: Security policy operations facility	−1,800,000
Germany—Spangdahlem AB: Add to and alter water storage/distribution system	−4,700,000
Italy—Aviano AB: Transient dormitory	−3,800,000
Japan—Kadena AB: KC135—Add to and alter flight sim tng fac	−2,300,000
KC135—Fire protection maintenance facs	−2,000,000
Japan—Yokota AB: Jet fuel storage	−4,700,000
Korea—Kunsan AB: Aircraft fuel systems repair dock	−3,000,000
ECM Pod shop and storage facility	−1,400,000
War readiness materiel veh storage fac	−840,000
Korea—Osan AB: Aircraft parts distribution facility	−3,000,000
Alter avionics facility	−510,000
F16-Add to engine inspection and repair fac	−800,000
Security police operations facility	−2,400,000
War readiness materiel veh storage fac	−840,000
Oman—Seeb AB: War readiness materiel warehouse	+2,200,000
Oman—Thumrait AB: Airfield improvements	+17,000,000
War readiness materiel warehouse	+6,600,000
Philippines—Clark AB: Dormitories	−6,100,000
Spain—Zaragoza AB: Aerospace support equipment shop	−1,950,000
Turkey—Ankara: Combat readiness center	−4,200,000
Turkey—Incirlik AB: CW protection-avionics facility	−3,850,000
Water distribution mains	−960,000
United Kingdom—High Wycombe AS: Dormitory	−4,100,000
United Kingdom—RAF Alconbury: Add to and alter physical fitness center	−2,900,000
United Kingdom—RAF Bentwaters: Central post office	−1,100,000
Youth center	−1,850,000
United Kingdom—RAF Fairford: Jet fuel storage/hydrant refueling system	−6,900,000
Upgrade water storage and distribution system	−2,700,000
United Kingdom—RAF Lakenheath: Chem warfare protection-squad ops fac	−2,200,000
Storm drainage disposal	−860,000
United Kingdom—RAF Mildenhall: Jet fuel storage	−3,400,000
United Kingdom—RAF Upper Heyford: Alter munitions storage facility	−4,350,000
Overseas Classified—F15E—Add to and alter flight sim fac	+740,000
Unspecified Worldwide Locations: Planning and Design	−7,000,000
Deficiency Allowance	+10,000,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Alabama—Maxwell AFB: Add/alter consolidated support complex	$700,000
Visiting officers quarters	820,000
Arkansas—Eaker AFB: Civil engineer shop facility	2,700,000
Convoy road	500,000
Water well and elevated storage	850,000
California—Beale AFB: Dormitory	5,600,000
California—Edwards AFB: Corrosion control facility	0
California—McClellan AFB: Upgrade electrical distribution system	9,500,000
Vehicle maintenance facility	5,000,000
California—Vandenberg AFB: Child development center	2,050,000
Colorado—Lowry AFB: Computer operations center	15,500,000
Precision measurement equipment lab	2,200,000
Colorado—Peterson AFB: Supply warehouse	0
Space operations training center	0
Delaware—Dover AFB: Operations command post	4,200,000
Florida—Homestead AFB: Add to transient dormitory	1,950,000
Florida—MacDill AFB: Fuels mobility support equipment warehouse	940,000
Wing operations building	0
Florida—Patrick AFB: Dining facility	3,800,000
Florida—Tyndall AFB: Add to and alter child development center	1,200,000
Georgia—Robins AFB: C-141 Depot maintenance hangar	13,700,000
Indiana—Grissom AFB: Wastewater treatment plant modernization	4,650,000
Kansas—McConnell AFB: Add/alter physical fitness center	5,200,000
New York—Griffiss AFB: SAC rebasing-hydrant fueling system	7,400,000

New York—Plattsburgh AFB: Noise suppressor support facility	1,000,000
North Dakota—Grand Forks AFB: Child care facility	1,900,000
Texas—Bergstrom AFB: Add to child development center	2,400,000
Texas—Kelly AFB: Air Force service info and news center facility	0
Texas—Laughlin AFB: Base engineer complex	3,750,000
Utah—Hill AFB:	
Procurement facility consolidation	3,700,000
Missile maintenance shop	0
Germany—Hahn AB: Training/software maintenance facility	1,400,000
Germany—Zwiebrucken AB: Passive defense equipment storage facility	1,150,000
Guam—Andersen AFB: Alter dormitory	6,500,000
Italy—San Vito AS: Transient dormitory	2,750,000
Korea—Kunsan AB:	
Alter munitions storage facility	3,200,000
Avionics facility	4,700,000
Korea—Osan AB: F16—Aircraft maintenance unit facility	3,450,000
Portugal—Lajes Field:	
Combat repair equipment storage facility	1,600,000
Hydrant fueling system	6,100,000
United Kingdom—RAF Bentwaters: Add to/upgrade fire station	1,250,000
United Kingdom—RAF Mildenhall: Upgrade sewage treatment plant	1,650,000
Unspecified Worldwide Locations: RDT&E construction	0

Arkansas—Eaker AFB: Military Vehicle Service Station.—The conferees direct the Air Force to construct this project utilizing unspecified minor construction funds.

California—Vandenberg AFB: Space Launch Complex 7 (SLC-7).—The conferees direct that any future budget request for construction of Space Launch Complex 7 shall be funded in the Military Construction account.

Florida—Patrick AFB: Dining Facility.—The conferees agree to funding $3,800,000 for this facility. For future projects at Patrick AFB, the Air Force is cautioned about funding projects that are not consistent with the base master plan.

Louisiana—England AFB: Flightline Fence and Lights.—The conferees direct the Air Force to use $300,000 in minor construction funds for this project.

Tennessee—Arnold Engineering Development Center: Large Rocket Test Facility (J-6)—Phase II.—The conferees note that the total cost of this project has risen from the original programmed cost of $183.3 million to the current estimate of $226 million, about a $43 million increase. The conferees are concerned with this increase and direct that measures be taken to assure that the total cost of $226 million will not be exceeded. Therefore, prior to obligation of any construction funds for this project, the Secretary of Defense must certify to the Committees how the Department intends to stay within the programmed costs in providing a complete and usable facility.

Washington—Makah Air Force Station.—The conferees agree to utilizing unspecified minor construction funds to provide for repair and upgrading of utility systems at the former Makah Air Force Station. However, any transfer of funds should be made through the Bureau of Indian Affairs rather than a direct grant to the Makah Indian Tribe.

Wyoming—F.E. Warren AFB: Peacekeeper Projects.—The conferees agree to funding $104,850,000 for various Peacekeeper Rail Garrison projects subject to authorization.

Child Care Centers.—The conferees note that the Air Force proposes to implement a new policy of allowing dependents of civilian employees to utilize child care facilities at certain installations. In this regard, the conferees have agreed to provide funds for seven child care centers at the following locations:

McClellan AFB, California	$1,200,000
Robins AFB, Georgia	1,100,000
Newark AFB, Ohio	680,000
Wright-Patterson AFB, Ohio	1,950,000
Tinker AFB, Oklahoma	1,550,000
Kelly AFB, Texas	730,000
Hill AFB, Utah	1,300,000

Funds for these projects cannot be obligated until the Secretary of Defense certifies that the Air Force Logistic Center's plan is in the best interest of the Department of Defense and represents no precedent for establishing a new program of providing child care to civilian DOD employees' dependents.

CONUS Various—Central OTH-B Real Estate Acquisition.—The conferees have deferred funding of this land acquisition.

Canada—Various Locations: Forward Operating Locations.—The conferees agree to initial funding of $12,000,000 for this program provided that no U.S. funds may be obligated until the Secretary of Defense certifies that Canada is sharing in the incremental costs at a 50-50 matching share.

Germany—Mehlingen Annex: Operations Facility.—The conferees direct the Department to submit a reprogramming request for this project in the amount of $1,100,000. The Department is directed to utilize emergency authority under 10 U.S.C. 2803.

Germany—Ramstein AB: Add to Combat Operations Intelligence Center.—The conferees agree to consider a reprogramming request for this project in the amount of $11,600,000. The Department is directed to utilize emergency authority under 10 U.S.C. 2803.

Philippines—Clark AB: Dormitories.—The conferees have deferred funding of $6,100,000 without prejudice because of lack of authorization. The conferees note that this project would provide the added increment to house all unaccompanied personnel on base. Therefore, the Department is directed to submit a reprogramming request utilizing emergency authority under 10 U.S.C. 2803.

United Kingdom—RAF Upper Heyford: Alter Munitions Storage Facility.—The conferees agree to funding $1,000,000 for this project. The conferees direct that the additional $4,350,000 needed to construct this project to full scope be reprogrammed from savings.

Deficiency Allowance.—The conferees agree to provide $10,000,000 in deficiency allowance to be used as a source of funding for reprogramming requests.

Amendment No. 7. Earmarks $99,000,000 for study, planning, design, architect and designer services instead of $106,000,000 as proposed by the House and $86,000,000 as proposed by the Senate.

Amendment No. 8. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which rescinds $18,500,000 appropriated under Public Law 100-447. This action rescinds funds appropriated in fiscal year 1989 for an Aerospace Data Facility at Buckley Air National Guard Base in Colorado. This project is being accomplished by cross-year funding with fiscal year 1988 savings, and therefore fiscal year 1989 funds are no longer required.

Amendment No. 9. Deletes language proposed by the Senate requiring the Air Force to provide 250 acres at Arnold Engineering Development Center, Tennessee, for a landfill to be utilized by The Elk Regional Resources Authority. The conferees however, direct the Air Force to excess sufficient land of less than 250 acres at Arnold Engineering Development Center for purposes of conveyance of such land to The Elk Regional Resource Authority (TERRA) for use as a landfill. The conferees understand that this conveyance will be compatible with the current agreement between TERRA and the Air Force in resolving the solid waste disposal problem.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

(INCLUDING RESCISSIONS)

Amendment No. 10. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$537,440,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $537,440,000 for Military Construction, Defense Agencies, instead of $531,320,000 as proposed by the House and $468,332,000 as proposed by the Senate. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

Alaska—Adak Naval Air Station: Fleet hospital facility 123	+$18,000
California—Defense Language Institute—Monterey: General instructional facility phase III	−10,600,000
Maine—DFSP Searsport: Terminal automation	+2,700,000
Virginia—Pentagon Complex: Incinerator	−3,500,000
Germany—Augsburg: High School addition	−6,300,000
Unspecified Worldwide Locations:	
Planning and Design—Washington Hqtrs Services	−1,180,000
Planning and Design—DMFO	+1,000,000
Planning and Design—Defense Level Activities	+6,000,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

California—Defense Depot Tracy: Subsistence warehouse	$24,000,000
Colorado—Fitzsimmons Army Medical Center: Life safety upgrade	5,200,000
Colorado—Falcon Air Station: SDI National Test Bed (final phase)	0
Nevada—Nellis AFB: Misty Zephyr testsite	6,542,000
Bermuda—Roger B. Chafee Elementary School	4,810,000
Germany—Frankfurt: Edwards Elementary School	7,101,000
Korea—Camp Carroll: Frozen blood facility	1,500,000
Puerto Rico—Roosevelt Roads: High School	3,280,000
United Kingdom—Bicester: Elementary school	6,275,000
Unspecified Worldwide Locations:	
Planning and Design—SDIO	2,000,000
Planning and Design (as a single lump-sum amount)	0
Unspecified Minor Construction—DMFO	2,100,000
Unspecified Minor Construction—SDIO	2,000,000
Unspecified Minor Construction—Defense Level Activities	2,000,000
Unspecified Minor Construction (as a single lump-sum amount)	0

California—Defense Depot Tracy: Subsistence Warehouse.—The conferees direct that any land vacated by the Defense Logistics Agency at the Alameda Annex Facility shall be used exclusively for military family housing or for family housing support.

Colorado—Fitzsimmons Army Medical Center.—The conferees approve $5,200,000 for Life Safety Upgrade in order to meet current standards and to maintain accreditation. This action is necessary to correct critical deficiencies so that the serviceable life of the existing hospital will be extended.

Colorado—Strategic Defense Initiative Organization (SDIO): National Test Bed (Final Phase).—The conferees have denied funding the cost overrun of $23,000,000 for this project. However, consideration will be given to reprogramming of certain features that are of an emergency nature in order to provide a usable research facility. With regard to the consolidated support facility, the SDIO should consider utilizing existing space where available including the Air Force's Consolidated Space Operations Center. The SDIO is cautioned against utilizing RDT&E funds to any portion of this project.

North Carolina—Fort Bragg: Hospital Replacement.—The conferees direct the Department to continue with planning and design to replace the existing hospital at Fort Bragg, and further direct that initial construction funds for this project shall be included in the fiscal year 1992 budget request.

Virginia—Pentagon Complex: Incinerator.—The conferees have deferred funding of $3,500,000 for this project. The Department should re-evaluate the need for this project and, if appropriate, submit a reprogramming request or include the project in the fiscal year 1991 budget.

Overseas Dependent Schools.—The conferees agree to provide funding for all overseas schools as requested, except a high school addition in Augsburg, Germany. No funds may be obligated for any fiscal year 1990 projects in the United Kingdom and Germany, until the Department certifies that the need will be compatible with future stationing. The conferees have denied funding for the Augsburg school because of uncertainty regarding future stationing at Augsburg. The Department is directed to review future stationing at Augsburg and if the need for a high school addition is justified, the conferees expect this project to be requested in a future budget.

Amendment No. 1. Earmarks $86,300,000 for study, planning, design, architect and engineer services instead of $90,480,000 as proposed by the House and $55,000,000 as proposed by the Senate.

Defense Agencies: Planning and Design.—The conferees agree to provide $86,300,000 for planning and design for various Defense Agencies as follows:

	Thousands
Washington Headquarters Services	$4,000
Defense Medical Facilities Office	44,600
Strategic Defense Initiative Office	2,000
Defense Level Activities	35,700

With regard to Washington Headquarters Services allowance, the conferees have provided for design of a replacement power plant for the Pentagon Complex. The conferees have denied the request for $1,180,000 to design the renovation of the Pentagon concourse. Design funds for the concourse will be considered at a later time in conjunction with the Department's plan to renovate the entire Pentagon.

The conferees agree to include funds for the Defense Nuclear Agency under the Defense Level Activities as requested in the RDT&E budget for design of a large blast and thermal simulator at White Sands Missile Range, New Mexico. In addition, funds are provided for design of a building expansion for the Defense Intelligence Agency in southeast Washington, D.C.

Amendment No. 12. Rescinds $11,800,000 appropriated under Public Law 100-447 as proposed by the Senate instead of $20,000,000 as proposed by the House.

Amendment No. 13. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter inserted by said amendment, insert: *: Provided further, That, effective February 1, 1990, none of the unobligated funds appropriated in this Act for Defense Medical Facilities Office planning and design may be obligated until the Defense Medical Facilities Office initiates design of the aerospace medicine facility as required by the conference report accompanying Public Law 100-447.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have modified the Senate proposed language by prohibiting the use of Defense Medical Facilities Office unobligated planning and design funds if planning and design of the Aerospace Medicine Facility has not begun by February 1, 1990. The February 1, 1990 date would permit sufficient time to award an Architect-Engineer contract for design which normally requires 90 days. In addition, the conferees have provided $1,000,000 for such design rather than require the Defense Medical Facilities Office to absorb the costs within available funds.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Amendment No. 14. Appropriates $424,714,000 for the North Atlantic Treaty Organization Infrastructure program as proposed by the House instead of $462,300,000 as proposed by the Senate.

The conferees note that the appropriated amount is $77,186,000 below the amount requested. However, the conferees believe there are sufficient funds within current and prior unobligated funds to begin construction of facilities at Crotone, Italy for the 401st Tactical Fighter Wing. The conferees also believe there is sufficient flexibility within the NATO Infrastructure fund to make project substitutes in order to begin construction at Crotone, Italy.

The conferees agree with the Senate report language which proposed repayment of housing costs to NATO through individuals' housing allowances. Since any repayment is not scheduled to occur prior to fiscal year 1992, the Department should first advise the Committees on Appropriations whether they and NATO support such a reimbursement arrangement and secondly how it will be programmed. That report should be submitted by March 1, 1990.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

Amendment No. 15. Appropriates $223,490,000 for Military Construction, Army National Guard, instead of $192,533,000 as proposed by the House and $246,830,000 as proposed by the Senate. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

Arizona—Show Low: Organizational maintenance sub shop	+$500,000
Arkansas—Camp Robinson:	
Professional education center quarters	−6,950,000
Training site, troop complex	−4,025,000
Florida—St. Augustine: Armory	+2,332,000
Illinois—Urbana: Armory	+865,000
Michigan—Camp Grayling:	
Range, MPRC (rets)	−7,483,000
Waste water treatment facility	+3,283,000
Minnesota—Camp Ripley: Training facilities, troop area 7	+800,000
Mississippi—Camp Shelby:	
Bachelor officer quarters	+700,000
M-16 firing range	+300,000
Alter engineering building	+400,000
Nebraska—Lincoln:	
Combined support maintenance shop	+3,438,000
Add to aircraft parking ramp	+597,000
New Mexico—Clovis: Organizational maintenance shop	+714,000
New Mexico—Springer: Organizational maintenance shop	+714,000
South Carolina—Lexington: Armory	+2,175,000
South Carolina—Eastover: Armory	+1,500,000

Tennessee—Clinton: Armory	+1,160,000
Tennessee—Humboldt: Armory	+1,453,000
Tennessee—Jackson: Aviation support facility	+1,636,000
Virginia—Arlington Hall Station: NGB Center, Phase III	+8,630,000
West Virginia—Buckhannon: USP and FO	+1,500,000
West Virginia—Wheeling: Aviation support facility/armory	+5,326,000
Wisconsin—New Richmond: Armory	+1,241,000
Wyoming—Cheyenne: Armory annex	+2,351,000
Unspecified Worldwide Locations:	
Planning and design	+6,800,000
Deficiency allowance	+1,000,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Illinois—Decatur:	
Armory and maintenance shop	$3,304,000
Organizational maintenance shop	0
Illinois—Machesney Park:	
Armory	2,920,000
Organizational maintenance shop	586,000
Illinois—Marseilles:	
Small arms ammunition storage facility	307,000
Surfaced roadway	325,000
Iowa—Camp Dodge: Land acquisition-training area.	6,857,000
Kentucky—Ashland: Armory	2,464,000
Michigan—Berrien County: Armory	1,250,000
Mississippi—Ackerman: Armory	735,000
Mississippi—Amory: Armory	310,000
Mississippi—Camp McCain: Land acquisition	4,000,000
Mississippi—Flowood: U.S. property and fiscal office	1,300,000
Mississippi—Luka: Armory	710,000
Mississippi—Louisville: Organizational maintenance shop	600,000
Mississippi—Philadelphia: Organizational maintenance shop	400,000
Pennsylvania—Fort Indiantown Gap: Fire suppression system	1,200,000
Texas—Camp Bowie (Brownwood):	
Cantonement facility	1,341,000
Land acquisition	1,750,000
Texas—Laredo: Armory	2,263,000
Texas—Rosenberg: Armory	943,000
Texas—Temple: Armory and maintenance shop	3,792,000
Wisconsin—Whitewater: Armory, maintenance shop and vehicle storage.	2,251,000
Unspecified Worldwide Locations:	
Unspecified Minor Construction	7,500,000
Armory Storage Buildings	0
Indoor Range Modernization	0

Iowa—Denison: Armory.—The conferees direct the Army National Guard to include construction funds for an armory project at Denison, Iowa in the fiscal year 1991 budget, or to submit a reprogramming request for this project during fiscal year 1990.

Mississippi.—The conferees direct the Army National Guard to continue to maintain a balanced distribution of projects throughout the State of Mississippi, and to report by February 1, 1990 on how equitable distribution is being assured.

Nevada—Stead: Aviation Support Facility.—The conferees agree to provide $1,000,000 as a deficiency allowance for the Department to submit a reprogramming request for this project.

Virginia—Arlington Hall Station National Guard Center, Phase III.—The conferees agree to provide $8,630,000 for the final funding increment for the National Guard Center instead of $11,000,000 as provided by the Senate. These funds will provide for a complete and usable facility for the Guard's planned consolidation of personnel. The conferees note that the requested amount represents a 39 percent increase in cost over the original programmed amount which illustrates the problems created by phase funding in advance of design. Therefore, the National Guard is urged to stay within the programmed amounts by controlling construction costs through bid options. For fiscal years 1988 and 1989, the conferees prohibited the use of funds for the purpose of transferring personnel from the Edgewood Arsenal, Maryland to the Arlington Hall Station, Virginia. This year, the conferees remain concerned with unnecessary interim moves and direct the Bureau to avoid any such movement during fiscal year 1990.

Virgin Islands, St. Croix—Reprogramming Request.—The conferees understand that Army National Guard leased facilities on the island of St. Croix have been destroyed by Hurricane Hugo. Therefore, the conferees will consider a reprogramming request for replacement projects.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

Amendment No. 16. Appropriates $238,330,000 for Military Construction, Air National Guard, instead of $190,890,000 as proposed by the House and $251,480,000 as proposed by the Senate. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

Colorado—Buckley ANGB: Joint operations and training facility	+$7,700,000
Iowa—Sioux Gateway Airport (Sioux City):	
Land acquisition	+550,000
Base supply warehouse	+2,550,000
Add to ECM shop	+390,000
Kansas—McConnell AFB: Operation and training facility	+3,700,000
Massachusetts—Otis ANGB: Fuel distribution center	+5,200,000
Oregon—Portland IAP: Add/alter taxiway	+6,000,000
Tennessee—Memphis:	
Add/alter aircraft hangar	+4,900,000
Aircraft apron/fuel storage	+11,800,000
Unspecified Worldwide Locations:	
Planning and Design	+4,150,000
Unspecified Minor Construction	+500,000
Mississippi—Key Field (Meridian): Composite maintenance hangar	$12,000,000
Unspecified Worldwide Locations: Deficiency Allowance	0

Colorado—Buckley ANGB: Reserve Forces Operations and Training Facility.—The conferees approve $7,700,000 for a Joint Army National Guard/Air National Guard Reserve Forces Facility. Planning funds and construction funds are included in the sum provided for the Air National Guard.

North Carolina—Stanly County Airport: Runway Upgrade.—The Stanly county airport at Albemarle, NC is being extended to 5,500 feet using funds from the Federal Aviation Administration and the State of North Carolina. The National Guard is directed to design an upgrade to this runway to ensure that it can be used by Air National Guard aircraft.

Oregon—Portland IAP: Add/Alter Taxiway.—The conferees approve $6,000,000 for a jointly financed project (equally matched by funds from the Federal Aviation Administration and/or the Portland Port Authority) to construct and upgrade taxiways at the Portland International Airport, Oregon. The Port of Portland and the federal government shall continue to work toward a mutual agreement that will allow the military to realize its mission at Portland International Airport. The conferees recommend extending the joint use agreement as necessary, with the annual use fee to be not greater than the actual use of the airfield facilities by the Military.

West Virginia—Yeager ANGB (Charleston): Land Acquisition.—The conferees direct the Department to use $300,000 from Unspecified Minor Construction for land acquisition at Yeager ANGB.

MILITARY CONSTRUCTION, ARMY RESERVE

Amendment No. 17. Appropriates $97,460,000 for Military Construction, Army Reserve, instead of $80,505,000 as proposed by the House and $104,000,000 as proposed by the Senate. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

New Mexico—Santa Fe: Army Reserve Center	+2,955,000
West Virginia—Beckley: Army Reserve Center	+3,200,000
West Virginia—Kingwood: Army Reserve Center	+1,400,000
West Virginia—Elkins: Army Reserve Center	+1,400,000
West Virginia—Morgantown: Army Reserve Center	+1,900,000
West Virginia—Rainelle: Army Reserve Center	+2,200,000
Unspecified Worldwide Locations:	
Land Acquisitions	+900,000
Planning and Design	+3,000,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Pennsylvania—Johnstown: Reserve Center and maintenance shop	$3,605,000
Unspecified Worldwide Locations:	
Unspecified Minor Construction	1,751,000
Deficiency Allowance	0

California—Camp Parks: Regional Training Site-Medical.—The conferees approve $2,777,000 for this subject, but no funds are

to be obligated until the Department determines the long-term viability for training at this location and reports to the Committees accordingly.

Land Acquisition.—The conferees to provide $4,314,000 to the Army Reserve for land acquisitions, instead of $3,414,000 as proposed by the House and $4,414,000 as proposed by the Senate. The increase above the amount by the House is for land acquisition at the Reserve Center in Charleston, West Virginia.

MILITARY CONSTRUCTION, NAVAL RESERVE

Amendment No. 18. Appropriates $56,600,000 for Military Construction, Naval Reserve as proposed by the House, instead of $62,400,000 as proposed by the Senate. The conferees agree to fund all items in conference at the level proposed by the House, as shown below:

New York—Stewart Airport (ANG) (Newburgh): Fuel Systems maintenance hangar/corrosion facility	$5,700,000
Unspecified Worldwide Locations:	
Planning and Design	4,224,000
Unspecified Minor Construction	1,579,000
Deficiency Allowance	0

MILITARY CONSTRUCTION, AIR FORCE RESERVE

Amendment No. 19. Appropriates $46,200,000 for Military Construction, Air Force Reserve, as proposed by the House, instead of $53,200,000 as proposed by the Senate. The conferees agree to fund both items in conference at the level proposed by the House, as shown below:

Unspecified Worldwide Locations:	
Unspecified Minor Construction	$3,109,000
Deficiency Allowance	0

FAMILY HOUSING, ARMY

Amendment No. 20. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$78,982,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $78,982,000 for Construction, Family Housing, Army, instead of $143,810,000 as proposed by the House and $91,171,000 as proposed by the Senate.

The conferees agree to the following reductions to the amounts and line items as proposed by the House:

Alabama—Fort Rucker (2 units)	−$100,000
Hawaii—Oahu unspecified (180 units)	−12,000,000
Virginia—Fort Lee (1 unit)	−50,000
Construction Improvements	−49,329,000
Planning	−3,349,000

General and Flag Officer Quarters.—The conferees recommend the following amounts for construction of general and flag officer quarters:

Location	Authorized amount	Conference agreement
Alabama—Fort Rucker (2 units)	$400,00	$300,00
Virginia—Fort Lee (1 unit)	210,000	160,000

It is the intention of the conferees that each of these units will be limited to 2,100 square feet, or 2,300 for units designated as the residence of the installation commander, as required by section 2826 of Title 10 of the United States Code.

Construction Improvements.—The conferees direct that the following projects be accomplished within the funds provided for construction improvements:

	Number of Units	Cost
Kansas—Fort Riley	112	$4,350,000
Washington—Fort Lewis	38	2,150,000

Amendment No. 21. Appropriates $1,375,000,000 for Operation and maintenance, Family Housing, Army instead of $1,380,600,000 as proposed by the House and $1,368,600,000 as proposed by the Senate. The conferees agree to provide $554,120,000 for maintenance of real property, instead of $559,720,000 as proposed by the House and $547,720,000 as proposed by the Senate. The conference agreement includes a reduction of $2,400,000 for contract cleaning of family housing units, which is addressed in connection with amendment number 30.

Amendment No. 22. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$1,453,982,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates a total of $1,453,982,000 for Family Housing, Army, instead of $1,524,410,000 as proposed by the House and $1,459,771,000 as proposed by the Senate. This sum is derived from the conference agreement on amendments number 20 and 21.

FAMILY HOUSING, NAVY AND MARINE CORPS

Amendment No. 23. Appropriates $174,621,000 for Construction, Family Housing, Navy and Marine Corps, instead of $264,769,000 as proposed by the House and $123,873,000 as proposed by the Senate. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

California—Marine Corps Base Camp Pendleton: 183 units	−$10,000,000
California—Naval Complex San Diego: Warehouse	−1,855,000
California—Naval Station Long Beach: Office	−592,000
California—Public Works Center San Francisco: 250 units	−22,400,000
Illinois—Glenview NAS: 140 units	+15,300,000
New York—Naval Nuclear Power Training Ballston Spa: 100 units	−7,900,000
Virginia—PWC Norfolk: Community center	−332,000
Cuba—Naval Station Guantanamo: 120 units	−16,669,000
Philippines—Navy Public Works Center Subic Bay: 216 units	−19,000,000
Construction Improvements	−23,700,000
Planning	−3,000,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

California—Marine Corps Air Station El Torro: 200 units	$15,000,000
California—Naval Air Station Moffett Field: 74 units	6,600,000
Iceland—Naval Air Station Keflavik: 112 units	23,213,000

Texas—Kingsville NAS: Base Commander's Quarters.—The conferees direct the Navy to submit a reprogramming request for one unit of family housing, subject to the space limitations required by section 2826 of Title 10 of the United States Code, financed by savings.

Cuba—Guantanamo NS: (120 units).—The conferees agree to provide $15,000,000 for 120 family housing units, and direct the Navy to include the remaining 134 authorized units in the fiscal year 1991 budget request.

Amendment No. 24. Appropriates $623,700,000 for Operation and maintenance, Family Housing, Navy and Marine Corps, instead of $653,816,000 as proposed by the House and $816,200,000 as proposed by the Senate. The conferees agree to provide $18,688,000 for furnishings as proposed by the Senate instead of $28,000,000 as proposed by the House. The conferees agree to provide $300,048,000 for maintenance of real property, instead of $320,852,000 as proposed by the House and $294,548,000 as proposed by the Senate. The conference agreement includes a reduction of $1,100,000 for contract cleaning of family housing units, which is addressed in connection with amendment number 30.

Amendment No. 25. Appropriates a total of $798,321,000 for family housing, Navy and Marine Corps, instead of $918,585,000 as proposed by the House and $742,073,000 as proposed by the Senate. This sum is derived from the conference agreement on amendments number 23 and 24.

FAMILY HOUSING, AIR FORCE

Amendment No. 26. Appropriates $200,071,000 for Construction, Family Housing, Air Force, instead of $252,735,000 as proposed by the House and $105,000,000 as proposed by the Senate. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

California—Beale AFB: Office	−$295,000
California—Edwards AFB: Office	−327,000
Illinois—Scott AFB: Office	−407,000
Louisiana—England AFB: Maintenance facility	−226,000
Oklahoma—Tinker AFB: Office	−291,000
South Carolina—Myrtle Beach AFB: Maintenance facility	−382,000
Texas—Kelly AFB: 11 units	−1,619,000
Germany—Ramstein AB: 200 units	−1,938,000
Korea—Osan AB: 1 unit	−117,000
Construction Improvements	−47,062,000

The conferees agree to fund the other item in conference at the level proposed by the House, as shown below:

Planning	$8,000,000

Montana—Malmstrom AFB: General Officer Quarters.—The conferees direct the Air

Force to submit a reprogramming request for construction of one General Officer Quarters, if this project is authorized. It is the intention of the conferees that this family housing unit will be subject to the space limtations contained in section 2826 of Title 10, United States Code.

Construction Improvements.—The conferees direct that the following projects be accomplished within the funds provided for construction improvements:

	No. of units	Cost
Arkansas—Eaker AFB	188	$11,500,000
California—Travis AFB	144	7,560,000

Amendment No. 27. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$741,808,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $741,808,000 for Operation and maintenance, Family Housing, Air Force, instead of $773,300,000 as proposed by the House and $765,800,000 as proposed by the Senate.

The conferees agree to provide $51,436,000 for furnishings, instead of $55,536,000 as proposed by the House and the Senate. This amount conforms with the full amount authorized.

The conferees agree to provide $96,000,000 for leasing, instead of $101,592,000 as proposed by the House and the Senate. This amount conforms with the full amount authorized.

The conferees agree to provide $286,049,000 for maintenance of real property, instead of $307,849,000 as proposed by the House and $300,349,000 as proposed by the Senate. This amount conforms with the full amount authorized, reduced by $1,500,000 for contract cleaning of family housing units, which is addressed in connection with amendment number 30.

Amendment No. 28. Appropriates a total of $941,879,000 for family housing, Air Force, instead of $1,026,035,000 as proposed by the House and $870,800,000 as proposed by the Senate. This sum is derived from the conference agreement on amendments number 26 and 27.

BASE REALIGNMENT AND CLOSURE ACCOUNT

Amendment No. 29. Restores House language stricken by the Senate, which appropriates $500,000,000 with the provision that none of these funds may be obligated for base realignment and closure activities which would cause the Department's $2,400,000,000 cost estimate for Military Construction and Family Housing related to the Base Realignment and Closure Program to be exceeded.

The conferees emphasize that the Department must comply with the directives pertaining to base realignment and closure as contained in the House reports.

GENERAL PROVISIONS

Amendment No. 30. Restores House language stricken by the Senate, which limits contract cleaning of family housing quarters to $25,000,000 for fiscal year 1990. Consistent with the limitation, the conferees have reduced the Family Housing Maintenance account for each of the Services by the following amounts:

Army	−$2,400,000
Navy	−1,100,000
Air Force	−1,500,000
Total	−5,000,000

The conferees direct that the average cost for contract cleaning will be maintained at $220 or less per unit, and that the maximum amount for cleaning any family housing unit in the continental United States shall not exceed $300.

The conferees also direct that the fiscal year 1991 budget request will separately identify the amount requested by each Service for contract cleaning, together with the number of units for which funds are requested.

It is the intention of the conferees to consider continuation of this program only in those cases where net savings can be documented, and the Services should plan accordingly.

Amendment No. 31. Restores section number proposed by the House.

Amendment No. 32. Restores section number proposed by the House.

Amendment No. 33. Restores section number proposed by the House.

Amendment No. 34. Restores section number proposed by the House.

Amendment No. 35. Deletes language proposed by the Senate which would have required the Secretary of the Army to convey lands at the Kapalama Military Reservation to the State of Hawaii.

Amendment No. 36. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 127. (a) SALE OF LANDS.—Notwithstanding any other provision of law, and subject to subsections (b) through (h), the Secretary of the Navy (hereinafter the "Secretary") may sell the following real property together with improvements thereon:

(1) Approximately 108 acres in Pearl City, Oahu, Hawaii, known as the Manana Storage Area; and

(2) Approximately 14 acres in Pearl City, Oahu, Hawaii, known as Pearl City Junction.

(b) CONDITIONS OF SALE.—

(1) MANANA STORAGE AREA.—The State of Hawaii shall have the right to acquire and the Secretary shall have the authority to sell to the State of Hawaii this property by meeting the terms and conditions set forth in subsection (c);

(2) PEARL CITY JUNCTION.—The State of Hawaii shall have the first right to acquire and the Secretary shall have the authority to sell to the State of Hawaii this property by meeting the terms and conditions set forth in subsection (d). Should the State and the Secretary fail to consummate an agreement, the Secretary shall have authority to sell this property through competitive procedures;

(3) Consideration for each sale shall not be less than the fair market value of the property, as determined by the Secretary; and

(4) Payment may be by cash or as specified in subsections (c) and (d), as determined by the Secretary.

(c) SALE OF MANANA STORAGE AREA.—

(1) As consideration for any transfer to the State of Hawaii of the Manana Storage Area, the Secretary shall receive:

(a) At a site or sites to be determined by the Secretary, design and construction to reasonable specifications to the Secretary's satisfaction: (1) an openable causeway from mainside Pearl Harbor Naval Base to Ford Island; and (2) replacement facilities for those Navy facilities presently on Manana Storage Area; and actually relocate on Oahu, to the satisfaction of the Secretary, the functions presently on Manana Storage Area; or

(b) Funds to allow the Secretary to perform the design, construction and relocation specified in subsection (c)(1)(a); or

(c) Any combination of the consideration enumerated in subsections (c)(1)(a) and (c)(1)(b) above that accomplishes the design, construction, and relocation, at the discretion of, and to the satisfaction of, the Secretary.

(2) If the State of Hawaii constructs the causeway or replacement facilities or any portion thereof, upon the acceptance by the Secretary, the State shall transfer complete title to those facilities to the Secretary free of any liens or encumbrances.

(d) SALE OF PEARL CITY JUNCTION.—As consideration for the sale of Pearl City Junction, the Navy shall receive either funds, or actual design and construction of facilities plus relocation, or a combination thereof, as determined by the Secretary, to accommodate consolidation and relocation of the functions on the sale property to other Navy and Marine Corps property. This may include:

(1) Relocation and consolidation of functions at Manana Storage Area and Pearl City Junction to common replacement facilities; and

(2) Relocation of Marine Corps functions that would be displaced by such consolidation to replacement facilities to be designed and constructed at Marine Corps Air Station, Kaneohe Bay.

(e) USE OF FUNDS:

(1) The Secretary may use the funds derived from any sale of land under this section to accomplish any of the purposes described in subsections (c) and (d) including any related expenses;

(2) Funds received from the sales of lands under this section may be placed in an interest bearing account by the Secretary until expended and the accrued interest therefrom may be used in the same manner as the sale proceeds; and

(3) Any funds which are unexpended after all the actions described in subsections (c) and (d) have been accomplished, shall be available for design and construction of additional support facilities for Naval Supply Center, Pearl Harbor.

(f) LEGAL DESCRIPTIONS OF LANDS.—The exact acreages and legal descriptions of the properties to be transferred to the State of Hawaii or sold under this section shall be in accordance with surveys that are satisfactory to the Secretary.

(g) NOTIFICATION.—The Secretary may not enter into any contract under this section to:

(1) Convey title to real property;

(2) Provide for design or construction of a causeway to Ford Island, replacement facilities or other support facilities; and

(3) Provide for relocation of functions from the properties to be sold until:

(a) The Secretary has transmitted to the appropriate Committees of Congress a report of the details of the proposed transaction; and

(b) A period of 21 days has expired from the date such report has been received by the Committees.

(h) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in agreements entered into under this section as the Secretary considers appropri-

ate to protect the interests of the United States.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1990 recommended by the Committee of Conference, with comparisons to the fiscal year 1989 amount, the 1990 budget estimates, and the House and Senate bills for 1990 follow:

New budget (obligational) authority, fiscal year 1989	$8,960,700,000
Budget estimates of new (obligational) authority, fiscal year 1990	8,554,900,000
House bill, fiscal year 1990	8,698,000,000
Senate bill, fiscal year 1990	7,707,093,000
Conference agreement, fiscal year 1990	[1] 8,489,891,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1989	−470,809,000
Budget estimates of new (obligational) authority, fiscal year 1990	−65,009,000
House bill, fiscal year 1990	−208,109,000
Senate bill, fiscal year 1990	+782,798,000

[1] Excludes $10,000,000 scorekeeping adjustment for the conference agreement on amendment number 36 (section 127).

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
ALABAMA				
ARMY				
ANNISTON ARMY DEPOT				
M-1 ENGINE REBUILD FACILITY ADDITION	2,300	2,300	2,300	2,300
FORT MCCLELLAN				
APPLIED INSTRUCTION FACILITY	2,750	2,750	2,750	2,750
REDSTONE ARSENAL				
LABORATORY FACILITY ADDITION	17,500	17,500	17,500	17,500
SCIENTIFIC LIBRARY	890	890	890	890
FORT RUCKER				
AUTOMATED RECORD FIRE RANGE	1,150	1,150	1,150	1,150
TRAINING SUPPORT CENTER	2,450	2,450	2,450	2,450
NAVY				
MOBILE NAVAL STATION				
MESS HALL	880	880	880	880
PHYSICAL FITNESS FACILITY	2,220	2,220	2,220	2,220
SITE IMPROVEMENT MITIGATION	865	865	865	865
AIR FORCE				
GUNTER AFB				
ADD TO SOFTWARE DEVELOPMENT FAC-PH III	6,400	6,400	6,400	6,400
BASE ENGINEER/VEHICLE MAINTENANCE COMPLEX	4,800	4,800	4,800	4,800
FIRE STATION	900	900	900	900
MAXWELL AFB				
ADD/ALTER CONSOLIDATED SUPPORT COMPLEX	---	700	---	700
VISITING OFFICERS QUARTERS	---	820	---	820
DEFENSE AGENCIES				
MAXWELL AIR FORCE BASE				
HOSPITAL LIFE SAFETY UPGRADE	1,600	1,600	1,600	1,600
MOBILE NAVAL STATION				
MEDICAL/DENTAL CLINIC	3,000	3,000	3,000	3,000
ARMY NATIONAL GUARD				
ALICEVILLE				
ARMORY	---	709	709	709
BIRMINGHAM				
AVIATION FUEL STORAGE COMPLEX (W/AIR NAT'L GUARD)	400	400	400	400
CITRONELLE				
ARMORY	932	932	932	932
HUNTSVILLE				
ARMORY	886	886	886	886
AIR NATIONAL GUARD				
BIRMINGHAM MAP				
AVIATION FUEL STORAGE COMPLEX (W/ARMY NAT'L GUARD)	3,000	3,000	3,000	3,000
MARTIN ANGS (GADSDEN)				
BASE SUPPLY AND EQUIPMENT WAREHOUSE	---	900	900	900
VEHICLE MAINTENANCE SHOP	---	2,100	2,100	2,100
NAVY RESERVE				
NRC HUNTSVILLE				
RESERVE CENTER ACQUISITION	1,052	1,052	1,052	1,052
AIR FORCE RESERVE				
MAXWELL AFB				
COMPOSITE TRAINING FACILITY	1,770	1,770	1,770	1,770
TOTAL, ALABAMA	55,745	60,974	59,454	60,974
ALASKA				
ARMY				
FT J M WAINWRIGHT				
PHYSICAL FITNESS TRAINING CENTER	14,800	---	14,800	14,800
FORT RICHARDSON				
COMMUNICATIONS FACILITY	3,350	3,350	3,350	3,350
NAVY				
ADAK NAVAL AIR STATION				
AIRCRAFT DIRECT FUELING STATION	2,300	2,300	2,300	2,300
BACHELOR ENLISTED QUARTERS ADDITION	8,700	8,700	8,700	8,700
HARPOON MISSILE MAGAZINE & INERT STOREHSE	3,500	3,500	3,500	3,500
ORDNANCE HANDLING PAD	4,370	4,370	4,370	4,370
AIR FORCE				
CLEAR AFS				
ALTER DORMITORY-PHASE I	5,000	5,000	5,000	5,000
EIELSON AFB				
ADD TO AND ALTER VEHICLE MAINT COMPLEX	11,000	11,000	11,000	11,000
SUPPLY COMPLEX	---	---	10,000	10,000
ELMENDORF AFB				
COMBAT ARMS TRAINING AND MAINTENANCE FAC	2,400	---	2,400	2,400
KING SALMON AFB				
EXPAND PARKING APRON	6,000	6,000	6,000	6,000
FIRE PROTECTION	2,000	2,000	2,000	2,000

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
SHEMYA AFB				
COLD STORAGE AND SUBSISTENCE WAREHOUSE	8,100	8,100	8,100	8,100
CONSOLIDATED COMMUNICATIONS FACILITY	4,550	4,550	4,550	4,550
POL OPERATIONS FACILITY	4,750	4,750	4,750	4,750
UPGRADE POL SYSTEM	3,800	3,800	3,800	3,800
UPGRADE WATER SYSTEM-PHASE II	1,500	1,500	1,500	1,500
DEFENSE AGENCIES				
ADAK NAVAL AIR STATION				
FLEET HOSPITAL FACILITY 23	18,000	---	18,000	18,000
ARMY NATIONAL GUARD				
NOORVIK				
ARMORY, SCOUT, EXPANSION	267	267	267	267
TUNUNAK				
ARMORY, SCOUT, EXPANSION	267	267	267	267
WAINWRIGHT				
ARMORY, SCOUT, EXPANSION	267	267	267	267
AIR NATIONAL GUARD				
EIELSON AFB				
ALTER COMPOSITE SQUAD OPS AND TNG FAC	2,300	2,300	2,300	2,300
NAVY RESERVE				
NRF ANCHORAGE				
RESERVE CENTER ACQUISITION	1,200	1,200	1,200	1,200
AIR FORCE RESERVE				
ELMENDORF AFB				
CIVIL ENGINEERING TRAINING FACILITY	1,400	1,400	1,400	1,400
TOTAL, ALASKA	109,821	74,621	119,821	119,821
ARIZONA				
ARMY				
FORT HUACHUCA				
BARRACKS	9,900	9,900	9,900	9,900
YUMA PROVING GROUND				
AIR CARGO TEST PREPARATION COMPLEX	11,400	11,400	11,400	11,400
NAVY				
YUMA MARINE CORPS AIR STATION				
AIRCRAFT POWER CHECK PADS	900	900	900	900
AIR FORCE				
DAVIS-MONTHAN AFB				
A10-ADD TO AND ALTER AIRCRAFT ENGINE SHOP	2,000	2,000	2,000	2,000
AIRCRAFT MAINTENANCE DOCK	2,200	2,200	2,200	2,200
TRAFFIC MANAGEMENT COMPLEX FAC	---	---	4,000	4,000
LUKE AFB				
DORMITORY	3,200	3,200	3,200	3,200
MUNITIONS STORAGE IGLOOS	770	770	770	770
WILLIAMS AFB				
WATER SUPPLY COMPLEX	1,850	1,850	1,850	1,850
ARMY NATIONAL GUARD				
PHOENIX				
ARMORY, ADDITION/ALTERATION	2,097	2,097	2,097	2,097
SHOW LOW				
ORGANIZATIONAL MAINTENANCE SUB SHOP	---	---	500	500
AIR NATIONAL GUARD				
FORT HUACHUCA				
COMPOSITE DEPLOYMENT SUPPORT FACILITY	---	2,350	2,350	2,350
AIR FORCE RESERVE				
LUKE AFB				
ADD FIRE PROTECTION-AIRCRAFT HANGAR	650	650	650	650
TOTAL, ARIZONA	34,967	37,317	41,817	41,817
ARKANSAS				
AIR FORCE				
EAKER AFB				
CIVIL ENGINEER SHOP FACILITY	---	2,700	---	2,700
CONVOY ROAD	---	500	---	500
MILITARY VEHICLE SERVICE STATION	---	600	---	---
WATER WELL AND ELEVATED STORAGE	---	850	---	850
LITTLE ROCK AFB				
ADD/ALTER DORMITORIES	---	1,500	---	---
PERSONNEL PROCESSING CENTER	---	7,000	---	---
ARMY NATIONAL GUARD				
CAMDEN				

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
ARMORY	647	647	647	647
CAMP ROBINSON				
PROFESSIONAL EDUCATION CENTER QUARTERS	---	6,950	---	---
TRAINING SITE, TROOP COMPLEX	---	4,025	---	---
ARMY RESERVE				
FORT CHAFFEE				
REGIONAL TRAINING SITE-MEDICAL	2,097	2,097	2,097	2,097
TOTAL, ARKANSAS	2,744	26,869	2,744	6,794
CALIFORNIA				
ARMY				
FT IRWIN				
DINING FACILITY	3,350	3,350	3,350	3,350
ELECTRICAL SWITCHGEAR/DISTRIBUTION	1,600	1,600	1,600	1,600
FORT ORD				
AUTOMATED RECORD FIRE RANGE	2,450	2,450	2,450	2,450
SACRAMENTO ARMY DEPOT				
MICROWAVE/RADAR MAINTENANCE FACILITY	3,900	3,900	3,900	3,900
NAVY				
CAMP PENDLETON MARINE CORPS AIR STATION				
FLIGHT LINE SECURITY IMPROVEMENTS	2,100	2,100	2,100	2,100
CAMP PENDLETON MARINE CORPS BASE				
AIR DEFENSE OPERATIONS CENTER	7,300	7,300	7,300	7,300
BACHELOR ENLISTED QUARTERS	24,500	24,500	24,500	24,500
COMBINED ARMS STAFF TRAINER FACILITY	2,800	2,800	2,800	2,800
OPERATIONS SUPPORT FACILITY	3,250	3,250	3,250	3,250
TACTICAL COMPONENTS STORAGE FACILITY	850	850	850	850
TACTICAL SYSTEMS TEST AND SUPPORT CENTER	5,000	5,000	5,000	5,000
TACTICAL VEHICLE MAINTENANCE FACILITY	13,900	13,900	13,900	13,900
CHINA LAKE NAVAL WEAPONS CENTER				
MISSILE ENGAGEMENT SIMULATION ARENA	17,500	17,500	17,500	17,500
CONCORD NAVAL WEAPONS STATION				
MISSILE INTEGRATION FACILITY	2,440	2,440	2,440	2,440
POTABLE WATER SYSTEM IMPROVEMENTS	3,200	3,200	3,200	3,200
CORONADO NAVAL AMPHIBIOUS BASE				
OPERATIONAL STORAGE WAREHOUSE	4,370	4,370	4,370	4,370
SPECIAL WARFARE COMMAND HEADQUARTERS	3,400	3,400	3,400	3,400
CORONADO SURFACE WARFARE OFF SCOL CMD DET				
SURFACE WARFARE INSTRUCTION BUILDING	4,360	4,360	4,360	4,360
EL CENTRO NAVAL AIR FACILITY				
BACHELOR ENLISTED QUARTERS	7,200	7,200	7,200	7,200
LEMOORE NAVAL AIR STATION				
CENTRIFUGE TRAINER FACILITY	2,100	2,100	2,100	2,100
MOFFETT FIELD NAVAL AIR STATION				
CHILD CARE CENTER	1,000	1,000	1,000	1,000
MONTEREY FLEET NUMERICAL OCEANOGRAPHY CTR				
COMPUTER CENTER	---	6,010	---	---
METEOROLOGICAL BUILDING ADDITION	750	750	750	750
MONTEREY NAVAL POSTGRADUATE SCHOOL				
ACADEMIC LIBRARY ADDITION	5,000	5,000	---	5,000
CHILD DEVELOPMENT CENTER	---	2,000	---	2,000
CLASSROOM AND APPLIED LABORATORY FACILITY	11,690	11,690	---	11,690
NORTH ISLAND NAVAL AIR STATION				
PIER ELECTRIC POWER UPGRADE	6,160	6,160	6,160	6,160
SAN DIEGO FLEET ANTI-SUB WAR TRNG CTR PAC				
CHILLED WATER PLANT UPGRADE	820	820	820	820
SAN DIEGO FLEET COMBAT TRNG CTR PACIFIC				
SECURITY UPGRADE	3,670	3,670	3,670	3,670
SAN DIEGO FLEET INTELLIGENCE TRNG CTR PAC				
INTELLIGENCE TRAINING BUILDING ADDITION	2,500	2,500	2,500	2,500
SAN DIEGO FLEET TRAINING CENTER				
FIRE FIGHTING TRAINER FACILITY	12,800	12,800	12,800	12,800
SAN DIEGO INTEGRATED COMBAT SYS TEST FAC				
ELECTRONICS SYSTEMS INTEGRATION LABORATORY	4,100	4,100	4,100	4,100
SAN DIEGO MARINE CORPS RECRUIT DEPOT				
CHILD CARE CENTER	540	540	540	540
MESS HALL ADDITION	2,530	2,530	2,530	2,530
SAN DIEGO NAVAL HOSPITAL				
PARKING GARAGE	---	7,500	---	7,500
REGIONAL MEDICAL CENTER-SUPPORT FACILITIES	5,000	---	---	5,000
SAN DIEGO NAVAL OCEAN SYSTEMS CENTER				
PHYSICS LABORATORY SAFETY IMPROVEMENTS	1,300	1,300	1,300	1,300
SAN DIEGO NAVAL STATION				
CHILD CARE CENTER	1,000	1,000	1,000	1,000
SAN DIEGO NAVAL SUBMARINE BASE				
WATERFRONT INDUSTRIAL FACILITY	10,800	10,800	10,800	10,800
SAN DIEGO NAVAL TRAINING CENTER				
BRIDGE	4,800	4,800	4,800	4,800
CHILD DEVELOPMENT CENTER	---	2,350	---	2,350

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
SAN DIEGO NAVY PUBLIC WORKS CENTER				
HAZARDOUS WASTE STORAGE FACILITIES	2,900	2,900	2,900	2,900
MUNICIPAL SEWER CONNECTION	1,500	1,500	1,500	1,500
SAN FRANCISCO NAVY PUBLIC WORKS CENTER				
HANDICAPPED ACCESS IMPROVEMENTS	360	360	360	360
WATER SUPPLY SYSTEM IMPROVEMENTS	3,550	3,550	3,550	3,550
SEAL BEACH NAVAL WEAPONS STATION				
MISSILE MAGAZINES	9,000	9,000	9,000	9,000
TUSTIN MARINE CORPS AIR STATION				
FLIGHT LINE SECURITY IMPROVEMENTS	2,350	2,350	2,350	2,350
HAZARDOUS AND FLAMMABLE STOREHOUSE	640	640	640	640
TWENTYNINE PALMS MARCORP AIR-GRND COMB CTR				
ELECTRONICS COMMUNICATIONS MAINT SHOP	1,550	1,550	1,550	1,550
SMALL ARMS RANGE IMPROVEMENTS	1,590	1,590	1,590	1,590
VALLEJO MARE ISLAND NAVAL SHIPYARD				
CONTROLLED INDUSTRIAL BUILDING ADDITION	6,300	6,300	6,300	6,300
DREDGED MATERIAL HANDLING FACILITY	---	2,700	---	2,700
AIR FORCE				
BEALE AFB				
ALERT CREW FACILITY	3,100	3,100	3,100	3,100
DORMITORY	5,600	5,600	---	5,600
U2R-WEATHER SHELTER	3,522	3,522	3,522	3,522
UPGRADE ALERT COMPLEX	1,250	1,250	1,250	1,250
CASTLE AFB				
COMBAT ARMS TRAINING AND MAINTENANCE FACILITY	---	730	---	---
DINING FACILITY	3,900	3,900	3,900	3,900
SECURITY POLICE OPERATIONS FACILITY	---	2,950	---	---
TANKER RAMP SAFETY LIGHTING	---	5,000	---	---
EDWARDS AFB				
FLIGHT TEST ENGINEERING AND MGMT FAC	12,400	12,400	12,400	12,400
CORROSION CONTROL FACILITY	---	---	6,500	---
MCCLELLAN AFB				
ADD TO AND ALTER CHILD DEVELOPMENT CTR	630	630	630	630
ADD TO AND ALTER DEPOT HYDRAULIC FACILITY	7,400	7,400	7,400	7,400
CHILD DEVELOPMENT CENTER	---	---	---	1,200
JET FUEL STORAGE COMPLEX	4,000	4,000	4,000	4,000
UPGRADE ELECTRICAL DISTRIBUTION SYSTEM	---	9,500	---	9,500
VEHICLE MAINTENANCE FACILITY	5,000	5,000	---	5,000
ONIZUKA AFS				
UPGRADE POWER DISTRIBUTION SYSTEM	14,800	14,800	14,800	14,800
TRAVIS AFB				
ALTER SUPPORT CENTER	9,000	9,000	9,000	9,000
VANDENBERG AFB				
CHILD DEVELOPMENT CENTER	---	2,050	---	2,050
EMERGENCY ELECTRIC BACKUP POWER PLANT	5,400	---	5,400	5,400
VEHICLE MAINTENANCE COMPLEX	6,100	6,100	6,100	6,100
DEFENSE AGENCIES				
DEFENSE DEPOT TRACY				
SUBSISTENCE WAREHOUSE	24,000	24,000	---	24,000
DEFENSE LANGUAGE INSTITUTE - MONTEREY				
ACADEMIC AUDITORIUM	6,100	---	---	---
GENERAL INSTRUCTIONAL FACILITY PH III	10,600	10,600	---	---
TWENTYNINE PALMS				
HOSPITAL/DENTAL CLINIC REPLACEMENT	38,000	38,000	38,000	38,000
ARMY NATIONAL GUARD				
CAMP ROBERTS				
MATES ADDITION/ALTERATION	6,014	6,014	6,014	6,014
TRNG SITE, HQ BUILDING	765	765	765	765
CAMP SAN LUIS OBISPO				
RANGE, MAC	842	842	842	842
LONG BEACH				
PAINT SHOP VENTILATION	250	250	250	250
LOS ALAMITOS AFRC				
ARMY AVIATION SUPPORT FACILITY ADD/ALT	1,212	1,212	1,212	1,212
PITTSBURGH				
ORGANIZATIONAL MAINTENANCE SHOP 29 ALT	324	324	324	324
SACRAMENTO				
ARMORY	2,146	2,146	2,146	2,146
AVN AASF C-12 AIRCRAFT HANGAR	498	498	498	498
AIR NATIONAL GUARD				
CHANNEL ISLANDS ANGB				
FUEL CELL AND CORROSION CONTROL DOCK	3,800	3,800	3,800	3,800
JET FUEL STORAGE COMPLEX	3,100	3,100	3,100	3,100
FRESNO ANGB				
ADD TO/ALTER COMPOSITE AVIONICS/ENG SHOP	1,100	1,100	1,100	1,100
SEPULVEDA ANG ANNEX				
COMPOSITE VEHICLE MAINT AND AGE FACILITY	1,700	1,700	1,700	1,700

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
ARMY RESERVE				
CAMP PARKS				
REGIONAL TRAINING SITE-MEDICAL	2,777	2,777	2,777	2,777
LOS ALAMITOS				
AVIATION FLIGHT ACTIVITY	9,792	9,792	9,792	9,792
NAVY RESERVE				
NMCRC BAKERSFIELD				
LAND ACQUISITION	1,000	1,000	1,000	1,000
NMCRC SAN BERNADINO				
RESERVE TRAINING BUILDING	5,350	5,350	5,350	5,350
NMCRC SAN DIEGO				
AIRCRAFT MAINTENANCE HANGAR	6,700	6,700	6,700	6,700
TOTAL, CALIFORNIA	427,942	452,232	361,452	438,542
COLORADO				
ARMY				
FITZSIMMONS ARMY MEDICAL CENTER				
CHILD DEVELOPMENT CENTER	---	2,100	---	2,100
FORT CARSON				
AUTOMATED RECORD FIRE RANGE	2,250	2,250	2,250	2,250
COLD STORAGE FACILITY	2,450	2,450	2,450	2,450
AIR FORCE				
LOWRY AFB				
COMPUTER OPERATIONS CENTER	---	15,500	---	15,500
LOGISTICS SUPPORT FACILITY	3,550	3,550	3,550	3,550
PRECISION MEASUREMENT EQUIPMENT LAB	---	2,200	---	2,200
PETERSON AFB				
SUPPLY WAREHOUSE	---	---	4,000	---
SPACE OPERATIONS TRAINING CENTER	---	---	12,200	---
DEFENSE AGENCIES				
FITZSIMMONS ARMY MEDICAL CENTER				
LIFE SAFETY UPGRADE	---	5,200	---	5,200
FALCON AIR STATION				
SDI NATIONAL TEST BED (FINAL PHASE)	---	---	23,000	---
ARMY NATIONAL GUARD				
DURANGO				
ARMORY	---	906	906	906
MONTROSE				
ARMORY	---	1,698	1,698	1,698
AIR NATIONAL GUARD				
BUCKLEY ANGB				
JOINT OPERATIONS AND TRAINING FACILITY	---	---	---	7,700
MEDICAL TRAINING FACILITY	1,200	1,200	1,200	1,200
SQUADRON OPERATIONS FACILITY	1,600	1,600	1,600	1,600
TOTAL, COLORADO	11,050	38,654	52,854	46,354
CONNECTICUT				
NAVY				
NEW LONDON NAVAL SUBMARINE BASE				
BACHELOR ENLISTED QUARTERS	11,900	11,900	11,900	11,900
BOILER PLANT MODIFICATIONS	2,750	2,750	2,750	2,750
CHILD CARE CENTER	1,000	1,000	1,000	1,000
MUNICIPAL SEWER CONNECTION	3,700	3,700	3,700	3,700
WEAPONS FACILITY (INCREMENT II)	1,400	1,400	1,400	1,400
WEAPONS STORAGE IMPROVEMENTS	3,500	3,500	3,500	3,500
NEW LONDON NAVAL SUBMARINE SCHOOL				
OPERATIONAL TRAINER FACILITY	8,200	8,200	8,200	8,200
NEW LONDON NAVAL UNDERWATER SYSTEMS CENTER				
ELECTROMAGNETIC SYSTEMS LABORATORY	12,600	12,600	12,600	12,600
TOTAL, CONNECTICUT	45,050	45,050	45,050	45,050
DELAWARE				
AIR FORCE				
DOVER AFB				
ADD TO APRON	4,100	4,100	4,100	4,100
OPERATIONS COMMAND POST	4,200	4,200	---	4,200
AIR FORCE RESERVE				
DOVER AFB				
ADD/ALTER OPERATIONAL TRAINING FACILITY	1,600	1,600	1,600	1,600
TOTAL, DELAWARE	9,900	9,900	5,700	9,900

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
DISTRICT OF COLUMBIA				
ARMY				
WALTER REED AMC				
PARKING STRUCTURE	---	---	11,000	11,000
NAVY				
WASHINGTON COMMANDANT NAVAL DISTRICT				
STEAM PLANT SYSTEM MODERNIZATION	420	420	420	420
WASHINGTON NAVAL OBSERVATORY				
LABORATORY EXPANSION	2,500	2,500	2,500	2,500
AIR FORCE				
BOLLING AIR FORCE BASE				
NATIONAL CAPITAL MUSIC CENTER	5,900	---	---	---
TOTAL, DISTRICT OF COLUMBIA	8,820	2,920	13,920	13,920
FLORIDA				
ARMY				
KEY WEST				
SOF-SPECIAL FORCES TRAINING FACILITY	6,100	6,100	8,500	8,500
NAVY				
CECIL FIELD NAVAL AIR STATION				
ENGINE MAINTENANCE SHOP	1,070	1,070	1,070	1,070
STRIKE FIGHTER WEAPONS SCHOOL	900	900	900	900
JACKSONVILLE NAVAL HOSPITAL				
BACHELOR ENLISTED QUARTERS	2,080	2,080	2,080	2,080
MAYPORT NAVAL STATION				
INDUSTRIAL BERTHING WHARF	---	20,000	---	20,000
ORLANDO NAVAL TRAINING CENTER				
ELECTRONIC TECHNICIAN SCHOOL	14,190	14,190	14,190	14,190
FIRE FIGHTING TRAINING FACILITIES	4,210	4,210	4,210	4,210
PANAMA CITY NAVAL DIV & SALVAGE TRNG CTR				
DIVER TRAINING BUILDING ADDITION	4,300	4,300	4,300	4,300
PANAMA CITY NAVY EXPERIMENTAL DIVING UNIT				
UNDERWATER EQUIPMENT SUPPORT COMPLEX	2,900	2,900	2,900	2,900
PENSACOLA NAVY PUBLIC WORKS CENTER				
WASTEWATER TRANSFER SYSTEM	2,100	2,100	2,100	2,100
AIR FORCE				
CAPE CANAVERAL AFS				
SOLID ROCKET MOTOR ASSEMBLY FACILITY	89,000	89,000	89,000	89,000
EGLIN AFB				
ADD TO COMPUTER SERVICES CENTER	9,900	9,900	9,900	9,900
CONTROL TOWER	2,200	2,200	2,200	2,200
EGLIN AFB AUXILIARY FIELD 9				
SOF-ADD TO INTELLIGENCE FACILITY	660	660	660	660
SOF-APRON ADDITION	2,000	2,000	2,000	2,000
SOF-BASE ENGINEER COMPLEX	4,600	4,600	4,600	4,600
SOF-DINING FACILITY	2,300	2,300	2,300	2,300
SOF-ELECTRIC SUBSTATION	2,500	2,500	2,500	2,500
SOF-EXPAND SEWAGE TREATMENT PLANT	2,000	2,000	2,000	2,000
SOF-EXPLOSIVE ORDNANCE DISPOSAL FACILITY	690	690	690	690
SOF-FUEL SYSTEMS MAINTENANCE DOCK	3,550	3,550	3,550	3,550
SOF-SUPPLY COMPLEX	3,600	3,600	3,600	3,600
HOMESTEAD AFB				
ADD TO TRANSIENT DORMITORY	1,950	1,950	---	1,950
ALTER DORMITORIES	5,400	5,400	5,400	5,400
MACDILL AFB				
F16-AVIONICS SHOP	3,550	3,550	3,550	3,550
FUELS MOBILITY SUPPORT EQUIPMENT WHSE	940	940	---	940
WING OPERATIONS BUILDING	---	---	3,050	---
PATRICK AFB				
DINING FACILITY	3,800	3,800	---	3,800
TYNDALL AFB				
ADD TO AND ALTER CHILD DEVELOPMENT CENTER	---	1,200	---	1,200
COMBAT SUPPORT TRAINING COMPLEX-PHASE II	5,800	5,800	5,800	5,800
F15-TACTICAL TRAINING FACILITY	1,500	1,500	1,500	1,500
DEFENSE AGENCIES				
DEF REUTIL AND MARKTNG OFC EGLIN AFB				
COVERED STORAGE	2,750	2,750	2,750	2,750
HURLBURT FIELD				
MEDICAL/DENTAL CLINIC REPLACEMENT	6,000	6,000	6,000	6,000
JACKSONVILLE NAVAL AIR STATION				
HOSPITAL FIRE PROTECTION	2,400	2,400	2,400	2,400
PATRICK AIR FORCE BASE				
DENTAL CLINIC REPLACEMENT	2,700	2,700	2,700	2,700

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
ARMY NATIONAL GUARD				
CAMP BLANDING				
STATE MILITARY ACADEMY	1,276	1,276	1,276	1,276
ST. AUGUSTINE				
ARMORY	---	---	2,500	2,332
TAMPA				
ORGANIZATIONAL MAINTENANCE SHOP	604	604	604	604
AIR FORCE RESERVE				
HOMESTEAD AFB				
CIVIL ENGINEERING TRAINING FACILITY	800	800	800	800
TOTAL, FLORIDA	200,320	221,520	201,580	226,252
GEORGIA				
ARMY				
FORT BENNING				
CHILD CARE FACILITIES (2)	---	2,600	2,600	2,600
FUEL STORAGE FACILITY	3,650	3,650	3,650	3,650
TACTICAL EQUIPMENT SHOP	2,600	2,600	2,600	2,600
URBAN TERRAIN ASSAULT COURSE	1,250	1,250	1,250	1,250
BARRACKS REVITALIZATION	---	---	2,000	2,000
FORT GORDON				
APPLIED INSTRUCTION FACILITY	4,000	4,000	4,000	4,000
FT STEWART/HUNTER AAF				
MODERNIZE SEWAGE TREATMENT PLANT	2,500	2,500	2,500	2,500
PAVE TANK TRAILS	2,700	2,700	2,700	2,700
NAVY				
ALBANY MARINE CORPS LOGISTICS BASE				
COMBAT VEHICLE MAINTENANCE SHOP	1,300	1,300	1,300	1,300
CALIBRATION LABORATORY	---	---	3,250	3,250
ATHENS NAVY SUPPLY CORPS SCHOOL				
CHILD CARE CENTER	1,000	1,000	1,000	1,000
KINGS BAY NAVAL SUBMARINE BASE				
BACHELOR ENLISTED QUARTERS	13,600	13,600	13,600	13,600
COMMUNITY IMPACT ASSISTANCE	3,770	11,550	11,550	11,550
DREDGING DIKES	6,870	6,870	6,870	6,870
MAGNETIC SILENCING FACILITY	18,020	18,020	18,020	18,020
ORDNANCE OPERATIONS	5,330	5,330	5,330	5,330
STRATEGIC WEAPONS MAGAZINES	7,600	7,600	7,600	7,600
UTILITIES AND SITE IMPROVEMENTS	3,720	3,720	3,720	3,720
AIR FORCE				
ROBINS AFB				
ADD/ALTER CHILD CARE CENTER	---	---	---	1,100
C-141 DEPOT MAINTENANCE HANGAR	---	13,700	14,400	13,700
F15-WING REPAIR FACILITY	8,200	8,200	8,200	8,200
LOGISTICS COMPLEX	9,300	9,300	9,300	9,300
MILSTAR COMMUNICATIONS GROUND TERMINAL	330	330	330	330
UPGRADE AIR CONDITIONING FOR DEPOT LABS	720	720	720	720
ARMY NATIONAL GUARD				
WINDER				
ARMORY, ADDITION/ALTERATION	958	958	958	958
ORGANIZATIONAL MAINTENANCE SHOP 8 ADD	284	284	284	284
AIR NATIONAL GUARD				
DOBBINS AFB				
ADD TO MEDICAL TRAINING FAC (JOINT W/AFR)	725	725	725	725
MUNITIONS MAINTENANCE AND STORAGE FAC	2,400	2,400	2,400	2,400
WEAPONS RELEASE SHOP	1,200	1,200	1,200	1,200
ARMY RESERVE				
FORT GILLEM				
MILITARY INTELL CONSOLIDATED TRAINING FAC	1,952	1,952	1,952	1,952
FORT GORDON				
REGIONAL TRAINING SITE-MEDICAL	2,236	2,236	2,236	2,236
AIR FORCE RESERVE				
DOBBINS AFB				
ADD/ALTER MEDICAL TRAINING (JOINT W/ANG)	725	725	725	725
TOTAL, GEORGIA	106,940	131,020	136,970	137,370
HAWAII				
ARMY				
SCHOFIELD BARRACKS				
MILITARY OPERATIONS ON URBANIZED TERRAIN	5,600	5,600	5,600	5,600
MULTI-PURPOSE MACHINE GUN RANGE	4,400	4,400	4,400	4,400
FORT SHAFTER				
BARRACKS WITH DINING FACILITY	9,300	9,300	9,300	9,300
NAVY				
KANEOHE BAY MARINE CORPS AIR STATION				
MAINTENANCE HANGARS MODIFICATIONS	7,950	7,950	7,950	7,950
SPECIALIZED COMPARTMENTED INFORMATION FAC	5,200	5,200	5,200	5,200

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
LUALUALEI NAVAL MAGAZINE				
TOMAHAWK MISSILE MAGAZINES	4,600	4,600	4,600	4,600
PEARL HARBOR NAVAL SUBMARINE BASE				
GENERAL PURPOSE BERTHING WHARF	18,600	18,600	18,600	18,600
PEARL HARBOR NAVAL SUBMARINE TRNG CTR PAC				
FIRE FIGHTING & DAMAGE CTRL TRNR FACS	5,550	5,550	5,550	5,550
PEARL HARBOR NAVY PUBLIC WORKS CENTER				
SANITARY WASTEWATER SYSTEM	750	750	750	750
WAHIAWA NAV COMMS AREA MASTER STA EASTPAC				
COMMUNICATIONS CTR SECURITY IMPROVEMENTS	8,000	8,000	8,000	8,000
AIR FORCE				
HICKAM AFB				
FIRE PROTECTION-INTELLIGENCE FACILITY	530	530	530	530
AIR NATIONAL GUARD				
HICKAM AFB				
ALTER AIRCRAFT ENGINE SHOP	570	570	570	570
APRON ADDITION	3,300	3,300	3,300	3,300
TOTAL, HAWAII	74,350	74,350	74,350	74,350
IDAHO				
AIR FORCE				
MOUNTAIN HOME AFB				
F111-ADD TO AND ALTER SQUADRON OPS FAC	720	---	---	---
F111-ALTER CORROSION CONTROL FACILITY	1,900	---	---	---
F111-ALTER FUEL SYSTEM MAINTENANCE DOCK	1,300	---	---	---
ARMY NATIONAL GUARD				
GOWEN FIELD				
MATES SPT & WASH FACI	3,429	3,429	3,429	3,429
MOBILIZATION AND TRAINING EQUIPMENT SITE	7,618	7,618	7,618	7,618
AIR NATIONAL GUARD				
BOISE AIRPORT				
ADD TO/ALTER VEHICLE MAINTENANCE FACILITY	1,450	1,450	1,450	1,450
TOTAL, IDAHO	16,417	12,497	12,497	12,497
ILLINOIS				
ARMY				
SAVANNA ARMY DEPOT				
FUNCTION TEST RANGE	---	850	---	850
MEL PRICE SUPPORT CENTER				
ALTER DORMITORY	---	---	3,750	3,750
NAVY				
GREAT LAKES NAVAL HOSPITAL				
BACHELOR ENLISTED QUARTERS	10,470	10,470	10,470	10,470
HOSPITAL CORPS SCHOOL ADDITION	1,800	1,800	1,800	1,800
GREAT LAKES NAVAL TRAINING CENTER				
CHILD CARE CENTER	2,300	2,300	2,300	2,300
ELECTRICIANS & COMMUNICATIONS TRNG BLDG	13,600	13,600	13,600	13,600
AIR FORCE				
SCOTT AFB				
DORMITORY	---	---	8,400	8,400
ARMY NATIONAL GUARD				
DECATUR				
ARMORY AND MAINTENANCE SHOP	---	3,304	2,660	3,304
ORGANIZATIONAL MAINTENANCE SHOP	---	---	460	---
FREEPORT				
ARMORY ADDITION/ALTERATION	375	375	375	375
MACHESNEY PARK				
ARMORY	---	2,920	---	2,920
ORGANIZATIONAL MAINTENANCE SHOP	---	586	---	586
MARSEILLES				
SMALL ARMS AMMUNITION STORAGE FACILITY	---	307	---	307
SURFACED ROADWAY	---	325	---	325
SPRINGFIELD				
FACILITIES ENGINEER AND STORAGE BUILDING	386	386	386	386
WILLIAMSON				
ARMORY AND MAINTENANCE SHOP	---	2,592	2,592	2,592
URBANA				
ARMORY	---	---	865	865
AIR NATIONAL GUARD				
GREATER PEORIA AIRPORT				
BASE SUPPLIES AND EQUIPMENT WAREHOUSE	2,600	2,600	2,600	2,600
JET FUEL STORAGE COMPLEX	2,800	2,800	2,800	2,800
SUPPORT EQUIPMENT SHOP	950	950	950	950

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
NAVY RESERVE				
NAS GLENVIEW				
BACHELOR ENLISTED QUARTERS	4,700	4,700	4,700	4,700
TACTICAL AIR COMMAND CENTER	600	600	600	600
NRC DECATUR				
RESERVE CENTER ACQUISITION	1,000	1,000	1,000	1,000
AIR FORCE RESERVE				
CHANUTE AFB				
CIVIL ENGINEERING TRAINING FACILITY	1,000	1,000	1,000	1,000
TOTAL, ILLINOIS	42,581	53,465	61,308	66,480
INDIANA				
ARMY				
FORT BENJAMIN HARRISON				
WASTEWATER TREATMENT FACILITY	---	359	359	359
NAVY				
CRANE NAVAL WEAPONS SUPPORT CENTER				
LITHIUM BATTERY TEST FACILITY	---	3,200	4,000	4,000
INDIANAPOLIS NAVAL AVIONICS CENTER				
INDUSTRIAL PARTS FACILITY	8,000	8,000	8,000	8,000
AIR FORCE				
GRISSOM AFB				
WASTEWATER TREATMENT PLANT MODERNIZATION	---	4,650	---	4,650
WING HEADQUARTERS AND COMMAND POST	---	2,150	2,150	2,150
ARMY NATIONAL GUARD				
STOUT FIELD (INDIANAPOLIS)				
DLOG ADDITION	742	742	742	742
AIR NATIONAL GUARD				
HULMAN FIELD				
ADD TO AND ALTER BASE SUPPLY WAREHOUSE	1,750	1,750	1,750	1,750
FT WAYNE MAP				
MUNITIONS MAINT/STORAGE COMPLEX	1,950	1,950	1,950	1,950
ARMY RESERVE				
KINGSBURY				
ARMY RESERVE CENTER W/MAINTENANCE FACILITY	3,435	3,435	3,435	3,435
TOTAL, INDIANA	15,877	26,236	22,386	27,036
IOWA				
ARMY NATIONAL GUARD				
ALGONA				
ARMORY	868	868	868	868
CAMP DODGE				
LAND ACQUISITION - TRAINING AREA	---	6,857	---	6,857
CENTERVILLE				
ARMORY	995	995	995	995
AIR NATIONAL GUARD				
SIOUX GATEWAY AIRPORT (SIOUX CITY)				
LAND ACQUISITION	---	---	550	550
BASE SUPPLY WAREHOUSE	---	---	2,550	2,550
ADD TO ECM SHOP	---	---	390	390
TOTAL, IOWA	1,863	8,720	5,353	12,210
KANSAS				
ARMY				
FORT LEAVENWORTH				
CHILD DEVELOPMENT/RELIGIOUS EDUCATION FAC	5,500	3,000	5,500	5,500
FORT RILEY				
CHILD DEVELOPMENT CENTER	1,500	1,500	1,500	1,500
STANDBY EMERGENCY GENERATORS	580	580	580	580
WATER TREATMENT PLANT	10,600	10,600	10,600	10,600
AIR FORCE				
MCCONNELL AFB				
ADD/ALTER PHYSICAL FITNESS CENTER	---	5,200	---	5,200
ARMY NATIONAL GUARD				
TOPEKA				
UNITED STATES PROPERTY & FISCAL FACILITY	1,400	1,400	1,400	1,400
AIR NATIONAL GUARD				
MCCONNELL AFB				
CONSTRUCT ARM/DISARM APRON	520	520	520	520
LAND ACQUISITION	---	5,200	5,200	5,200
OPERATION AND TRAINING FAC	---	---	3,700	3,700
ARMY RESERVE				
FORT RILEY				
ADD/ALT MAINTENANCE FACILITY/NEW WAREHOUSE	4,028	4,028	4,028	4,028
TOTAL, KANSAS	24,128	32,028	33,028	38,228

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
KENTUCKY				
ARMY				
FORT CAMPBELL				
CHILD DEVELOPMENT CENTER	5,500	5,500	5,500	5,500
SOF-FLIGHT SIMULATOR BUILDING	2,550	2,550	2,550	2,550
SPECIAL OPNS AIRCRAFT MAINTENANCE HANGAR	8,200	8,200	8,200	8,200
TACTICAL EQUIPMENT SHOP	14,200	14,200	14,200	14,200
FORT KNOX				
M1 TANK DRIVER TRAINING FAC	---	---	6,500	5,900
PHYSICAL FITNESS CENTER	---	5,420	5,420	5,420
PORTER RIVER ROAD BRIDGE	2,200	2,200	2,200	2,200
ARMY NATIONAL GUARD				
ASHLAND				
ARMORY	---	2,464	---	2,464
TOTAL, KENTUCKY	32,650	40,534	44,570	46,434
LOUISIANA				
ARMY				
FORT POLK				
GENERAL PURPOSE WAREHOUSE	1,150	1,150	1,150	1,150
GENERAL PURPOSE WAREHOUSES	12,600	12,600	12,600	12,600
RANGE MODERNIZATION	9,600	9,600	9,600	9,600
AIR FORCE				
BARKSDALE AFB				
DORMITORIES	7,700	7,700	7,700	7,700
ENGLAND AFB				
ADD TO AND ALTER ACFT CORROSION CTRL FAC	2,700	2,700	2,700	2,700
ALTER DORMITORIES	---	---	3,200	3,200
BASE SUPPLY COMPLEX	---	---	4,100	4,100
ARMY NATIONAL GUARD				
FORT POLK (LEESVILLE)				
MOBILIZATION AND TRAINING EQUIPMENT EXP	3,306	3,306	3,306	3,306
AIR NATIONAL GUARD				
HAMMOND				
COMM-ELECTRONICS TRAINING COMPLEX	650	650	650	650
NEW ORLEANS NAS				
POWER CHECK PAD WITH SOUND SUPPRESSOR	900	900	900	900
NAVY RESERVE				
NAVAL AIR STATION NEW ORLEANS				
AIRCRAFT POWER CHECK PAD	520	520	520	520
NAVAL SUPPORT ACTIVITY NEW ORLEANS				
COMPUTER FACILITY	305	305	305	305
NMCRC SHREVEPORT				
RESERVE TRAINING BUILDING	3,200	3,200	3,200	3,200
AIR FORCE RESERVE				
BARKSDALE AFB				
ADD/ALTER OPERATIONAL TRAINING FACILITY	1,600	1,600	1,600	1,600
TOTAL, LOUISIANA	44,231	44,231	51,531	51,531
MAINE				
NAVY				
BRUNSWICK NAVAL AIR STATION				
CHILD CARE CENTER	1,000	1,000	1,000	1,000
BRUNSWICK NAVAL BRANCH MEDICAL CLINIC				
AVIATION PHYSIOLOGY TRAINING FACILITY	2,650	2,650	2,650	2,650
KITTERY PORTSMOUTH NAVAL SHIPYARD				
CHILD CARE CENTER	1,000	1,000	1,000	1,000
AIR FORCE				
LORING AFB				
DORMITORY	8,500	8,500	8,500	8,500
DEFENSE AGENCIES				
DFSP SEARSPORT				
TERMINAL AUTOMATION	2,700	---	2,700	2,700
AIR NATIONAL GUARD				
BANGOR IAP				
AIRCRAFT ARRESTING SYSTEMS	760	760	760	760
COMPOSITE AIRCRAFT ENGINE AND NDI SHOP	1,300	1,300	1,300	1,300
TOTAL, MAINE	17,910	15,210	17,910	17,910

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
MARYLAND				
ARMY				
ABERDEEN PROVING GROUND				
ADP FACILITY ADDITION	---	1,700	---	1,700
FORT DETRICK				
CHAPEL CENTER/CHILD DEVELOPMENT CENTER	2,300	1,300	2,300	2,300
FORT GEORGE G MEADE				
CHILD DEVELOPMENT CENTER	6,200	6,200	6,200	6,200
FORT RITCHIE				
CHILD DEVELOPMENT CENTER ADDITION	630	630	630	630
NAVY				
ANNAPOLIS NAVAL ACADEMY				
BANCROFT HALL EXPANSION	24,000	---	24,000	---
INDIAN HEAD NAVAL EXPLOSIVE ORD TECH CTR				
ORDNANCE COUNTERMEASURES LABORATORY	7,700	7,700	7,700	7,700
INDIAN HEAD NAVAL ORDNANCE STATION				
MIX, CAST, CURE FACILITY	10,670	10,670	10,670	10,670
PATUXENT RIVER NAVAL AIR TEST CENTER				
AIRCRAFT FLIGHT SYSTEMS EQUIPMENT LAB	2,000	2,000	2,000	2,000
FLIGHT TEST HANGAR	15,000	15,000	15,000	15,000
ST INIGOES NAVAL ELECTRONIC SYS ENGR ACT				
UTILITIES IMPROVEMENTS (INCREMENT II)	2,950	2,950	2,950	2,950
AIR FORCE				
ANDREWS AFB				
PRECISION MEASUREMENT EQUIPMENT LAB	1,350	1,350	1,350	1,350
VEHICLE MAINTENANCE/OPERATION COMPLEX	4,200	4,200	4,200	4,200
DEFENSE AGENCIES				
ANDREWS AIR FORCE BASE				
CLINIC ANNEX ADDITION/ALTERATION	2,900	2,900	2,900	2,900
ARMED FCS RADIOBIOLOGY RES INST BETHESDA				
RESEARCH FACILITY ADDITION	900	900	900	900
FORT MEADE				
CHILLER PLANT	14,000	14,000	14,000	14,000
ELECT DIST UPGRADE	2,323	2,323	2,323	2,323
SPRINKLERS OPS BLDG	5,121	5,121	5,121	5,121
UNIFORMED SVCS UNIV OF THE HEALTH SCIENCES, BETHESDA				
ALTERATIONS GROUND FLOOR, BUILDING 70	600	600	600	600
ARMY NATIONAL GUARD				
CHESTERTOWN				
ARMORY, REHAB/ADD	1,129	1,129	1,129	1,129
AIR NATIONAL GUARD				
GLENN L MARTIN AIRPORT (BALTIMORE)				
BASE ENGINEER MAINTENANCE FACILITY	1,700	1,700	1,700	1,700
COMPOSITE SUPPORT FACILITY	2,150	2,150	2,150	2,150
TOTAL, MARYLAND	107,823	84,523	107,823	85,523
MASSACHUSETTS				
ARMY				
FORT DEVENS				
ELECTRICAL SUBSTATIONS	3,550	3,550	3,550	3,550
AIR FORCE				
HANSCOM AFB				
UPGRADE GEOPHYSICS LABORATORY	5,600	5,600	5,600	5,600
AIR NATIONAL GUARD				
BARNES MAP (WESTFIELD)				
COMPOSITE BASE ENGR/FIRE STATION FACILITY	2,200	2,200	2,200	2,200
FORT DEVENS ANNEX				
COMM-ELECTRONICS TRAINING COMPLEX	7,100	7,100	7,100	7,100
OTIS ANGB				
ADD TO/ALTER MUNITIONS MAINT/STORAGE FAC	2,700	2,700	2,700	2,700
FUEL DISTRIBUTION CENTER	---	---	5,200	5,200
ARMY RESERVE				
FORT DEVENS				
REGIONAL TRAINING SITE-MAINTENANCE	2,705	2,705	2,705	2,705
NAVY RESERVE				
NAVAL AIR STATION SOUTH WEYMOUTH				
CONTROL TOWER FACILITY	2,350	2,350	2,350	2,350
TOTAL, MASSACHUSETTS	26,205	26,205	31,405	31,405

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
MICHIGAN				
AIR FORCE				
K.I. SAWYER AFB				
FITNESS CENTER	---	---	4,300	4,300
ARMY NATIONAL GUARD				
BERRIEN COUNTY				
ARMORY	---	1,250	1,206	1,250
CAMP GRAYLING				
RANGE, MPRC (RETS)	14,483	14,483	7,000	7,000
WASTE WATER TREATMENT FAC	---	---	3,283	3,283
MENOMINEE COUNTY				
ARMORY	---	1,167	1,167	1,167
SHIAWASSEE COUNTY				
ARMORY	---	1,450	1,450	1,450
AIR NATIONAL GUARD				
SELFRIDGE ANGB				
ADD TO MUNITIONS MAINTENANCE COMPLEX	1,050	1,050	1,050	1,050
ADD TO/ALTER COMP AVIONICS/MAINT SHOPS	1,750	1,750	1,750	1,750
AMMUNITION STORAGE IGLOO	700	700	700	700
POWER CHECK PAD WITH SOUND SUPPRESSORS	700	700	700	700
WK KELLOGG REGIONAL AIRPORT				
JET FUEL STORAGE COMPLEX	2,600	2,600	2,600	2,600
ARMY RESERVE				
BAY CITY				
ADD/ALT ARMY RESERVE CTR W/MAINTENANCE FAC	3,631	3,631	3,631	3,631
NAVY RESERVE				
NAF DETROIT				
RESERVE CENTER REHABILITATION	1,000	1,000	1,000	1,000
AIR FORCE RESERVE				
SELFRIDGE ANGB				
AVIONICS SHOP	1,250	1,250	1,250	1,250
TOTAL, MICHIGAN	27,164	31,031	31,087	31,131
MINNESOTA				
ARMY NATIONAL GUARD				
CAMP RIPLEY				
ARMORY	4,219	4,219	4,219	4,219
TRAINING FACILITIES, TROOP AREA 7	---	8,000	---	8,800
AIR NATIONAL GUARD				
DULUTH ANGB				
ADD TO/ALT MUNITIONS MAINT/STORAGE CPLX	720	720	720	720
ADD TO/ALTER COMPOSITE SUPPORT FACILITY	2,700	2,700	2,700	2,700
POWER CHECK PAD WITH SOUND SUPPRESSOR	750	750	750	750
ARMY RESERVE				
ARDEN HILLS				
ARMY RESERVE CENTER W/MAINTENANCE FACILITY	14,160	14,160	14,160	14,160
AIR FORCE RESERVE				
MINN-ST PAUL IAP				
ALTER AIRCRAFT MAINTENANCE FACILITY	370	370	370	370
TOTAL, MINNESOTA	22,919	30,919	22,919	31,719
MISSISSIPPI				
NAVY				
MERIDIAN NAVAL AIR STATION				
AIRCRAFT MAINTENANCE FACILITIES	11,800	11,800	11,800	11,800
PASCAGOULA NAVAL STATION				
BEQ	---	---	3,940	3,940
MAGAZINES	---	---	3,140	3,140
PHYSICAL FITNESS FACILITY	2,220	2,220	2,220	2,220
WAREHOUSE	---	---	1,110	1,110
AIR FORCE				
COLUMBUS AFB				
BASE FLIGHT OPERATIONS	1,200	1,200	1,200	1,200
DEFENSE AGENCIES				
PASCAGOULA NAVAL STATION				
MEDICAL/DENTAL CLINIC	2,548	2,548	2,548	2,548
ARMY NATIONAL GUARD				
ACKERMAN				
ARMORY	---	735	---	735
AMORY				
ARMORY	---	310	---	310
CAMP MCCAIN				
LAND ACQUISITION	---	4,000	---	4,000
FLOWOOD				
U.S. PROPERTY AND FISCAL OFFICE	---	1,300	---	1,300
IUKA				
ARMORY	---	710	---	710

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
LOUISVILLE				
ORGANIZATIONAL MAINTENANCE SHOP	---	600	---	600
PHILADELPHIA				
ORGANIZATIONAL MAINTENANCE SHOP	---	400	---	400
CAMP SHELBY				
BACHELOR OFFICE QUARTERS	---	---	700	700
M-16 FIRING RANGE	---	---	300	300
ALTER ENGINEERING BUILDING	---	---	400	400
AIR NATIONAL GUARD				
ALLEN C THOMPSON FIELD (JACKSON)				
ADD TO AND ALTER BASE SUPPLY WAREHOUSE	2,000	2,000	2,000	2,000
KEY FIELD (MERIDIAN)				
ADD TO BASE SUPPLY WAREHOUSE	300	300	300	300
COMPOSITE MAINTENANCE HANGAR	---	12,000	---	12,000
TOTAL, MISSISSIPPI	20,068	40,123	29,658	49,713
MISSOURI				
ARMY				
FORT LEONARD WOOD				
AUTOMATED RECORD FIRE RANGES	2,150	2,150	2,150	2,150
INSTRUCTIONAL MEDIA CENTER	8,300	8,300	8,300	8,300
NAVY				
KANSAS CITY MC SUPPORT ACTIVITY				
FINANCE AND DATA PROCESSING CENTER, PHASE I	---	---	10,000	10,000
AIR FORCE				
WHITEMAN AFB				
B2-ADD TO AND ALTER UTILITIES	7,900	7,900	7,900	7,900
B2-AIRCRAFT APRON AND TAXIWAY UPGRADE	7,500	7,500	7,500	7,500
B2-AIRCRAFT MAINTENANCE DOCKS (4)	19,000	19,000	19,000	19,000
B2-AREA SECURITY IMPROVEMENTS	3,500	3,500	3,500	3,500
B2-CONTROL TOWER	2,900	2,900	2,900	2,900
B2-DEFENSE ACCESS ROADS	3,000	3,000	3,000	3,000
B2-DORMITORY	5,900	5,900	5,900	5,900
B2-ENGINE MAINTENANCE SHOP	2,600	2,600	2,600	2,600
B2-HYDRANT FUEL/AIRCRAFT SUPPORT SYSTEMS	24,800	24,800	24,800	24,800
B2-MAINTENANCE CONTROL COMPLEX	4,300	4,300	4,300	4,300
B2-MISSION OPERATIONS CENTER	5,000	5,000	5,000	5,000
B2-TEMPORARY LODGING FACILITY	3,200	3,200	3,200	3,200
B2-TRANSIENT DORMITORY	6,200	6,200	6,200	6,200
B2-UPGRADE AIRFIELD LIGHTING SYSTEM	2,300	2,300	2,300	2,300
B2-WEAPONS STORAGE IGLOOS	2,400	2,400	2,400	2,400
B2-GENERAL REDUCTION	---	-20,000	-50,000	-35,000
ARMY NATIONAL GUARD				
AURORA				
ARMORY	1,182	1,182	1,182	1,182
FORT CROWDER				
POST/ENG SUPPLY BUILD	357	357	357	357
JEFFERSON CITY				
REGIONAL MAINTENANCE TRAINING SITE	2,395	2,395	2,395	2,395
AIR NATIONAL GUARD				
ROSECRANS MEMORIAL AIRPORT (ELWOOD)				
AVIONICS FACILITY	680	680	680	680
COMPOSITE SUPPORT FACILITY	2,300	2,300	2,300	2,300
ST LOUIS-LAMBERT FIELD				
ADD TO AND ALTER DINING HALL	350	350	350	350
ADD TO/ALTER WEAPONS RELEASE AND AGE SHOP	1,150	1,150	1,150	1,150
NAVY RESERVE				
NMCRC SPRINGFIELD				
RESERVE CENTER ADDITION	1,900	1,900	1,900	1,900
NMCRC ST LOUIS				
RESERVE CENTER ADDITION	2,200	2,200	2,200	2,200
AIR FORCE RESERVE				
RICHARDS-GEBAUR (BELTON)				
JET FUEL STORAGE COMPLEX	2,350	2,350	2,350	2,350
TOTAL, MISSOURI	125,814	105,814	85,814	100,814
MONTANA				
AIR FORCE				
MALMSTROM AFB				
KC135R REBASING-ACFT PARKING APRON LIGHTS	240	240	240	240
KC135R REBASING-ADD TO SPT EQ SHP/STG FAC	1,300	1,300	1,300	1,300
KC135R REBASING-ADD/ALTER ALERT CREW FAC	1,300	1,300	1,300	1,300
KC135R REBASING-ALERT AREA SEC & BLST FEN	510	510	510	510
KC135R REBASING-FLIGHT SIM TNG FACILITY	1,700	1,700	1,700	1,700
KC135R REBASING-JET FUEL STG & DISP FACS	5,700	5,700	5,700	5,700
KC135R REBASING-PERSONNEL SUPPORT FACS	1,200	1,200	1,200	1,200
KC135R REBASING-PUBLICATION DIST FAC	650	650	650	650
KC135R REBASING-THREE BAY ACFT MAINT HGR	15,400	15,400	15,400	15,400
KC135R REBASING-UPGR/EXP ALERT ACFT PKG	4,100	4,100	4,100	4,100

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
ARMY NATIONAL GUARD				
LIBBY				
ARMORY	827	827	827	827
TOTAL, MONTANA	32,927	32,927	32,927	32,927
NEBRASKA				
AIR FORCE				
OFFUTT AFB				
EXPAND COMMUNICATIONS DUCTWORK	1,150	1,150	1,150	1,150
ARMY NATIONAL GUARD				
HASTINGS				
RANGE MULTIPURPOSE INDOOR	336	336	336	336
LINCOLN				
ARMORY	4,984	4,984	4,984	4,984
COMBINED SUPPORT MAINTENANCE SHOP	---	---	3,438	3,438
ADD TO AIRCRAFT PARKING RAMP	---	---	597	597
TOTAL, NEBRASKA	6,470	6,470	10,505	10,505
NEVADA				
NAVY				
FALLON NAVAL AIR STATION				
CHILD CARE CENTER	1,000	1,000	1,000	1,000
AIR FORCE				
NELLIS AFB				
EXTEND PARALLEL TAXIWAY	4,250	4,250	4,250	4,250
LANTIRN MAINTENANCE FACILITY	550	550	550	550
DEFENSE AGENCIES				
NELLIS AFB				
CONSOLIDATED MED FACILITY REPLACEMENT (PHASE I)	---	10,000	10,000	10,000
MISTY ZEPHYR TEST SITE	6,542	6,542	---	6,542
AIR NATIONAL GUARD				
RENO IAP				
ADD TO AVIONICS AND ECM SHOP	600	600	600	600
TOTAL, NEVADA	12,942	22,942	16,400	22,942
NEW HAMPSHIRE				
AIR NATIONAL GUARD				
PEASE AFB				
ADD TO AIRCRAFT MAINTENANCE HANGAR	1,600	1,600	1,600	1,600
ALTER COMP CIV ENGINEERING/AVIONICS SHOP	1,600	1,600	1,600	1,600
ALTER FUEL SYSTEMS MAINTENANCE DOCK	1,200	1,200	1,200	1,200
TOTAL, NEW HAMPSHIRE	4,400	4,400	4,400	4,400
NEW JERSEY				
ARMY				
FORT MONMOUTH				
IMPROVE ELECTRICAL DISTRIBUTION	8,600	8,600	8,600	8,600
PICATINNY ARSENAL				
ARMAMENT TECHNOLOGY LABORATORY	11,800	11,800	11,800	11,800
NAVY				
BAYONNE NAVY PUBS & PRINTING SERV DET OFF				
PRINTING PLANT	1,000	1,000	1,000	1,000
EARLE NAVAL WEAPONS STATION				
FAMILY SERVICES CENTER	570	570	570	570
PROJECTILE MAGAZINES	13,700	13,700	13,700	13,700
AIR FORCE				
MCGUIRE AFB				
ALTER DORMITORIES	4,900	4,900	4,900	4,900
ARMY NATIONAL GUARD				
NEWTON				
RANGE, MINI TANK	251	251	251	251
VINELAND				
RANGE, MINI TANK	214	214	214	214
WASHINGTON				
RANGE, MINI TANK	188	188	188	188
AIR NATIONAL GUARD				
ATLANTIC CITY				
COMP BASE ENGINEERING AND VEH MAINT FAC	2,200	2,200	2,200	2,200
MCGUIRE AFB				
ALTER AVIONICS SHOP	1,200	1,200	1,200	1,200
COMPOSITE AIRCRAFT MAINTENANCE FACILITY	1,600	1,600	1,600	1,600
AIR FORCE RESERVE				
MCGUIRE AFB				
ADD/ALTER OPERATIONAL TRAINING FACILITY	1,050	1,050	1,050	1,050
TOTAL, NEW JERSEY	47,273	47,273	47,273	47,273

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
NEW MEXICO				
NAVY				
ELEPHANT BUTTE NAVAL SPACE SURV FIELD STA				
SPACE SURVEILLANCE ANTENNA MODERNIZATION	4,700	4,700	4,700	4,700
AIR FORCE				
HOLLOMAN AFB				
ADD TO AND ALTER COMMUNICATIONS MNT FACS	7,700	7,700	7,700	7,700
ALTER DORMITORIES	4,800	4,800	4,800	4,800
WAR READINESS MATERIEL STORAGE DEPOT	4,850	4,850	4,850	4,850
KIRTLAND AFB				
ALTER DORMITORY	5,000	5,000	5,000	5,000
SOF-ALTER MAINTENANCE HANGAR	1,850	1,850	1,850	1,850
SOF-AVIONICS SHOP	4,400	4,400	4,400	4,400
SOF-FIELD TRAINING DETACHMENT FACILITY	2,100	2,100	2,100	2,100
SOF-FLIGHT SIMULATOR TRAINING FACILITY	5,000	5,000	5,000	5,000
ARMY NATIONAL GUARD				
BELEN				
ARMORY	---	1,397	1,397	1,397
CLOVIS				
ARMORY	---	1,603	1,603	1,603
ORGANIZATIONAL MAINTENANCE SHOP	---	---	714	714
FARMINGTON				
ARMORY	---	1,163	1,163	1,163
ROSWELL				
ORGANIZATIONAL MAINTENANCE SHOP	714	714	714	714
SANTA FE				
COMBINED SUPPORT MAINTENANCE SHOP	---	3,092	3,092	3,092
US PROPERTY AND FISCAL OFFICE WAREHOUSE	---	905	905	905
SPRINGER				
ORGANIZATIONAL MAINTENANCE SHOP	---	---	714	714
AIR NATIONAL GUARD				
KIRTLAND AFB				
MEDICAL TRAINING FACILITY	1,300	1,300	1,300	1,300
ARMY RESERVE				
SANTA FE				
ARMY RESERVE CENTER	---	---	3,000	2,955
TOTAL, NEW MEXICO	42,414	50,574	55,002	54,957
NEW YORK				
ARMY				
FORT DRUM				
AIRCRAFT FUEL FACILITIES	3,400	3,400	3,400	3,400
AIRCRAFT HANGARS	31,000	31,000	31,000	31,000
AIRCRAFT PARKING APRON	22,000	22,000	22,000	22,000
AIRFIELD OPERATIONS FACILITIES	14,200	14,200	14,200	14,200
U S MILITARY ACADEMY				
ELECTROMAGNETIC SCIENCE LAB RENOVATION	---	3,450	---	---
NAVY				
NEW YORK NAVAL STATION				
BACHELOR ENLISTED QUARTERS	4,600	4,600	4,600	4,600
CHILD CARE CENTER	3,000	3,000	3,000	3,000
UTILITIES AND SITE IMPROVEMENTS	18,040	18,040	18,040	18,040
AIR FORCE				
GRIFFISS AFB				
SAC REBASING-ADD/ALT INTEGRATED MAINT FAC	2,350	---	---	---
SAC REBASING-HYDRANT FUELING SYSTEM	7,400	7,400	---	7,400
SAC REBASING-MUNITIONS STORAGE IGLOOS	2,200	---	---	---
PLATTSBURGH AFB				
ALTER DORMITORIES	8,900	8,900	8,900	8,900
NOISE SUPPRESSOR SUPPORT FACILITY	1,000	1,000	---	1,000
AIR NATIONAL GUARD				
HANCOCK FIELD (SYRACUSE)				
ADD TO AND ALTER VEHICLE MAINT SHOP	2,100	2,100	2,100	2,100
ADD TO/ALT MUNITIONS MAINT AND STORAGE	1,250	1,250	1,250	1,250
ALTER AIRCRAFT MAINT HANGAR AND SHOPS	2,000	2,000	2,000	2,000
NIAGARA FALLS IAP				
ADD TO AND ALTER BASE SUPPLY WAREHOUSE	1,800	1,800	1,800	1,800
AIRCRAFT ENGINE SHOP	1,600	1,600	1,600	1,600
PETROLEUM OPERATIONS FACILITY	520	520	520	520
POWER CHECK PAD WITH SOUND SUPPRESSOR	750	750	750	750
SCHENECTADY COUNTY AIRPORT				
FIRE SUPPRESSION SYSTEM	950	950	950	950
VEHICLE MAINTENANCE COMPLEX	1,800	1,800	1,800	1,800
STEWART AIRPORT (NEWBURGH)				
AERIAL PORT TRAINING FACILITY	2,100	2,100	2,100	2,100

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
NAVY RESERVE				
STEWART AIRPORT (ANG) (NEWBURGH)				
BACHELOR ENLISTED QUARTERS	3,800	3,800	3,800	3,800
FUEL SYS MAINT HANGAR/CORROSION CONTROL FACILITY	---	5,700	---	5,700
SUPPLY SUPPORT FACILITY	1,820	1,820	1,820	1,820
TOTAL, NEW YORK	138,580	143,180	125,630	139,730
NORTH CAROLINA				
ARMY				
FORT BRAGG				
AVIATION UNIT MAINTENANCE HANGARS	32,000	32,000	32,000	32,000
CHILD DEVELOPMENT CENTERS	---	5,300	---	5,300
MAINTENANCE FACILITY (PHASE I)	---	7,000	---	7,000
SOF-SPECIAL OPERATIONS CMD HEADQUARTERS	---	21,100	---	21,100
NAVY				
CAMP LEJEUNE MARINE CORPS BASE				
ACCESS ROAD	---	5,500	---	5,500
ELECTRONICS COMMUNICATIONS MAINT SHOP	4,200	4,200	4,200	4,200
ELECTRONICS COMMUNICATIONS MAINT SHOP	7,200	7,200	7,200	7,200
MECHANICS TRAINING BUILDING (INCREMENT II)	4,400	4,400	4,400	4,400
MESS HALL	5,410	5,410	5,410	5,410
OPERATIONS CENTER	---	---	7,000	---
CHERRY POINT MARINE CORPS AIR STATION				
AIRCRAFT BOMBING RNGE MODIFICATIONS-INC II	1,800	1,800	1,800	1,800
APPLIED INSTRUCTION FACILITIES	5,350	5,350	5,350	5,350
BACHELOR ENLISTED QUARTERS	13,070	---	---	---
FLIGHT LINE SECURITY IMPROVEMENTS	3,600	3,600	3,600	3,600
NEW RIVER MARINE CORPS AIR STATION				
AVIATION MAINTENANCE TRAINING BUILDING	6,000	6,000	6,000	6,000
FLIGHT LINE SECURITY IMPROVEMENTS	2,500	2,500	2,500	2,500
MAINTENANCE HANGAR ADDITIONS	5,200	5,200	5,200	5,200
OPERATIONAL TRAINER FACILITY	7,400	7,400	7,400	7,400
PHYSICAL FITNESS CENTER	---	---	2,450	---
AIR FORCE				
SEYMOUR JOHNSON AFB				
ADD TO AND ALTER CONVENTIONAL MUN MNT FAC	1,350	1,350	1,350	1,350
ADD TO AND ALTER FUEL SYS MAINT DOCK	2,200	2,200	2,200	2,200
WAREHOUSE	950	950	950	950
ARMY RESERVE				
ROCKY MOUNT				
ADD/ALT ARMY RESERVE CTR/MAINTENANCE FAC	1,247	1,247	1,247	1,247
NAVY RESERVE				
NMCRC CHARLOTTE				
RESERVE CENTER ACQUISITION	4,170	4,170	4,170	4,170
TOTAL, NORTH CAROLINA	108,047	133,877	104,427	133,877
NORTH DAKOTA				
AIR FORCE				
GRAND FORKS AFB				
CHILD CARE FACILITY	---	1,900	---	1,900
ARMY NATIONAL GUARD				
BISMARCK				
UNITED STATES PROPERTY WAREHOUSE	1,011	1,011	1,011	1,011
AIR NATIONAL GUARD				
HECTOR FIELD (FARGO)				
ALTER AVIONICS SHOP	550	550	550	550
COMPOSITE SUPPORT FACILITIES	1,800	1,800	1,800	1,800
TOTAL, NORTH DAKOTA	3,361	5,261	3,361	5,261
OHIO				
AIR FORCE				
NEWARK AFB				
CHILD CARE CENTER	---	---	---	680
UPGRADE FIRE PROTECTION SYSTEM	2,300	2,300	2,300	2,300
WRIGHT-PATTERSON AFB				
CHILD CARE CENTER	---	---	---	1,950
DEFENSE COURIER STATION	610	610	610	610
LAB FUEL STORAGE FAC	---	---	5,500	5,500
ADD/ALTER OPTICAL SYSTEM LAB	---	---	3,700	3,700
DEFENSE AGENCIES				
DEFENSE CONSTRUCTION SUPPLY CENTER - COLUMBUS				
AUTOMATED DATA PROCESSING FACILITY	13,600	13,600	13,600	13,600
BULK STORAGE WAREHOUSE	13,000	13,000	13,000	13,000
AIR NATIONAL GUARD				
MANSFIELD LAHM AIRPORT				
AERIAL PORT TRAINING FACILITY	1,600	1,600	1,600	1,600

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
AIR FORCE RESERVE				
RICKENBACKER ANGB				
ADD/ALTER FACILITIES FOR CONVERSION	1,450	1,450	1,450	1,450
ADD/ALTER HANGAR	6,800	6,800	6,800	6,800
TOTAL, OHIO	39,360	39,360	48,560	51,190
OKLAHOMA				
ARMY				
MCALESTER				
AMMUNITION SURVEILLANCE FACILITY	2,200	2,200	2,200	2,200
FORT SILL				
CHILD DEVELOPMENT/RELIGIOUS EDUCATION FAC	4,850	2,700	4,850	4,850
FIREFINDER CLASSROOM ADDITION	970	970	970	970
INFANTRY REMOTE TARGET SYSTEM RANGE	3,400	3,400	3,400	3,400
TACTICAL EQUIPMENT SHOP	6,100	6,100	6,100	6,100
UNIT CHAPEL	2,000	---	2,000	---
NAVY				
TINKER AIR FORCE BASE NAVAL AIR DETACHMENT				
AIRCRAFT SUPPORT FACILITIES (INCR III)	21,500	21,500	21,500	21,500
AIR FORCE				
ALTUS AFB				
COMMUNITY ACTIVITIES CENTER	2,000	2,000	2,000	2,000
PHYSICAL FITNESS CENTER	3,200	3,200	3,200	3,200
TINKER AFB				
ADD TO AND ALTER DEPOT MAT PROC FACILITY	7,000	7,000	7,000	7,000
ADD/ALTER INDUSTRIAL WASTE TRTMNT PLANT	1,700	1,700	1,700	1,700
AWACS-SUPPLY WAREHOUSE	3,450	3,450	3,450	3,450
B1B-RADAR SOFTWARE TEST FACILITY	2,000	2,000	2,000	2,000
B2-AVIONICS FACILITY/LAND ACQUISITION	9,600	9,600	9,600	9,600
B2-INTEGRATION SUPPORT FACILITY	17,000	17,000	17,000	17,000
B2-SECURE STORAGE FACILITY	5,200	5,200	5,200	5,200
CHILD DEVELOPMENT CENTER	---	---	---	1,550
ELECTROMAGNETIC PULSE TEST FAC/LAND ACQ	9,300	9,300	9,300	9,300
DEFENSE AGENCIES				
FORT SILL				
HOSPITAL REPLACEMENT PART II	27,000	27,000	27,000	27,000
ARMY NATIONAL GUARD				
BROKEN ARROW				
ARMORY	1,045	1,045	1,045	1,045
CAMP GRUBER				
RANGE MODIFIED RECORD FIRE(RETS)	356	356	356	356
RANGE, KNOWN DISTANCE	427	427	427	427
TRNG SITE, BKS/MS UTIL PH III	3,752	---	---	---
TRNG SITE, POST HEADQUARTERS	265	265	265	265
TRNG SITE, SEWAGE LAGOON SYS	763	763	763	763
TRNG SITE, WAREHOUSE	320	320	320	320
TROOP SUPPORT FACILTY (PHASE IV)	---	3,752	3,752	3,752
SAND SPRINGS (TULSA)				
ORGANIZATIONAL MAINTENANCE SHOP 6	400	400	400	400
TOTAL, OKLAHOMA	135,798	131,648	135,798	135,348
OREGON				
ARMY NATIONAL GUARD				
KLEIVER (PORTLAND)				
ARMORY	---	1,444	1,444	1,444
MEDFORD				
ARMORY	---	832	832	832
AIR NATIONAL GUARD				
KINGSLEY FIELD (KLAMATH FALLS)				
ALERT CREW FACILITY	550	550	550	550
POWER CHECK PAD WITH SOUND SUPPRESSOR	760	760	760	760
PORTLAND IAP				
ADD TO/ALT FUEL SYSTEMS MAINT DOCK	1,200	1,200	1,200	1,200
ADD/ALTER TAXIWAY	---	---	6,000	6,000
TOTAL, OREGON	2,510	4,786	10,786	10,786
PENNSYLVANIA				
ARMY				
NEW CUMBERLAND AD				
HAZARDOUS MATERIAL STORAGE FACILITY	14,000	14,000	14,000	14,000
TOBYHANNA ARMY DEPOT				
ACCESS ROAD	---	3,200	---	3,200
NAVY				
PHILADELPHIA NAVAL SHIPYARD				
HAZARDOUS AND FLAMMABLE STORAGE WAREHOUSE	---	9,700	10,000	10,000

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
DEFENSE AGENCIES				
DEFENSE PERSONNEL SUPPORT CENTER - PHILADELPHIA				
DEMOLISH BUILDING M5/PARKING AREA	3,800	3,800	3,800	3,800
ARMY NATIONAL GUARD				
FT INDIANTOWN GAP				
FIRE SUPPRESSION SYSTEM	---	1,200	---	1,200
TRNG SITE, REG MED TNG FACIL	1,551	1,551	1,551	1,551
AIR NATIONAL GUARD				
GREATER PITTSBURGH IAP				
ACCESS ROAD	5,000	5,000	5,000	5,000
WILLOW GROVE NAS				
ADD TO/ALTER AIRCRAFT MAINT COMPLEX	3,000	3,000	3,000	3,000
MUNITIONS MAINTENANCE AND STORAGE	2,000	2,000	2,000	2,000
UNSUPPRESSED POWER CHECK PAD	700	700	700	700
UPGRADE ELECTRICAL DIST SYS (JOINT W/AFR)	1,400	1,400	1,400	1,400
WEAPONS RELEASE SHOP	1,800	1,800	1,800	1,800
ARMY RESERVE				
FT INDIANTOWN GAP (ANNVILLE)				
REGIONAL TRAINING SITE-MAINTENANCE	2,600	2,600	2,600	2,600
JOHNSTOWN				
RESERVE CENTER AND MAINTENANCE SHOP	---	3,605	---	3,605
NAVY RESERVE				
NMCRC READING				
HOWITZER SHED	330	330	330	330
AIR FORCE RESERVE				
GREATER PITTSBURGH IAP				
WATER STORAGE TANK	1,200	1,200	1,200	1,200
WILLOW GROVE ARF				
UPGRADE ELECTRICAL DIST SYS (JOINT W/ANG)	1,400	1,400	1,400	1,400
SECURITY POLICE/COMBAT ARMS TRAINING	1,800	1,800	1,800	1,800
TOTAL, PENNSYLVANIA	40,581	58,286	50,581	58,586
RHODE ISLAND				
NAVY				
NEWPORT NAVAL EDUCATION & TRAINING CENTER				
ELECTRICAL DISTRIBUTION SYSTEM	8,000	8,000	8,000	8,000
PARKING LOT	---	290	---	290
AIR NATIONAL GUARD				
NORTH SMITHFIELD ANGS				
ADD TO BASE SUPPLY WAREHOUSE FACILITY	600	600	600	600
COMM-ELECTRONICS TRAINING FACILITY	2,750	2,750	2,750	2,750
TOTAL, RHODE ISLAND	11,350	11,640	11,350	11,640
SOUTH CAROLINA				
ARMY				
FT. JACKSON				
CONSOLIDATED FIELD MAINTENANCE FAC	---	---	23,000	23,000
NAVY				
BEAUFORT MARINE CORPS AIR STATION				
AVIATION ARMAMENT SHOP	3,950	3,950	3,950	3,950
CHILD CARE CENTER	970	970	970	970
CHARLESTON NAVAL SUPPLY CENTER				
EMERGENCY GENERATORS	700	700	700	700
CHARLESTON NAVAL WEAPONS STATION				
ALTERNATE ACCESS ROAD	---	4,600	4,600	4,600
AIR FORCE				
CHARLESTON AFB				
C17-ADD TO AND ALTER FIELD TRAINING FAC	1,900	1,900	1,900	1,900
C17-SHORTFIELD ASSAULT STRIP	2,750	2,750	2,750	2,750
MYRTLE BEACH AFB				
ADD TO AND ALTER ACFT MAINT UNIT FACS	2,350	2,350	2,350	2,350
SHAW AFB				
ALTER DORMITORIES	5,700	5,700	5,700	5,700
ARMY NATIONAL GUARD				
LEXINGTON				
ARMORY	---	---	2,400	2,175
EASTOVER				
ARMORY	---	---	1,500	1,500
AIR NATIONAL GUARD				
MCENTIRE				
COMM-ELECTRONICS TRAINING FACILITY	2,000	2,000	2,000	2,000
NAVY RESERVE				
MCRC FT. JACKSON				
RESERVE TRAINING BUILDING	1,900	1,900	1,900	1,900
AIR FORCE RESERVE				
CHARLESTON AFB				
ADD/ALTER OPERATIONAL TRAINING FACILITY	1,650	1,650	1,650	1,650
TOTAL, SOUTH CAROLINA	23,870	28,470	55,370	55,145

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
SOUTH DAKOTA				
AIR FORCE				
ELLSWORTH AFB				
ADD TO PHYSICAL FITNESS CENTER	4,100	4,100	4,100	4,100
SCHOOL	---	7,250	7,250	7,250
ARMY NATIONAL GUARD				
PIERRE				
RANGE M16/PISTOL BAFFLED	350	350	350	350
RAPID CITY				
TRNG SITE, BOQ/BEQ FACILITY	438	438	438	438
SIOUX FALLS				
ARMORY	1,836	1,836	1,836	1,836
WATERTOWN				
RANGE, M-16/PISTOL BAFFLED	350	350	350	350
AIR NATIONAL GUARD				
JOE FOSS FIELD (SIOUX FALLS)				
WEAPONS RELEASE SHOP	870	870	870	870
TOTAL, SOUTH DAKOTA	7,944	15,194	15,194	15,194
TENNESSEE				
NAVY				
MEMPHIS NAVAL AIR STATION				
BARRACKS	10,000	10,000	10,000	10,000
AIR FORCE				
ARNOLD ENGINEERING DEV CENTER				
LARGE ROCKET TEST FACILITY (J-6)-PHASE II	66,000	---	66,000	66,000
ARMY NATIONAL GUARD				
BROWNSVILLE				
ARMORY	---	992	992	992
CARTHAGE				
ARMORY	997	997	997	997
CLINTON				
ARMORY	---	---	1,160	1,160
HUMBOLT				
ARMORY	---	---	1,453	1,453
JACKSON				
AVIATION SUPPORT FAC	---	---	1,636	1,636
JACKSBORO				
ARMORY	1,106	1,106	1,106	1,106
SELMER				
ARMORY	751	751	751	751
SMYRNA				
STATE MILITARY ACADEMY	856	856	856	856
AIR NATIONAL GUARD				
MCGHEE-TYSON AIRPORT (ALCOA)				
COMPOSITE MED TNG AND DINING HALL FAC	3,400	3,400	3,400	3,400
PROFESSIONAL MILITARY EDUC CTR SUPPORT FACILITY	4,200	4,200	4,200	4,200
MEMPHIS				
ADD/ALTER AIRCRAFT HANGER	---	---	4,900	4,900
AIRCRAFT APRON/FUEL STORAGE	---	---	11,800	11,800
TOTAL, TENNESSEE	87,310	22,302	109,251	109,251
TEXAS				
ARMY				
FORT BLISS				
AMMUNITION SUPPLY POINT IMPROVEMENT	3,400	3,400	3,400	3,400
BARRACKS MODERNIZATION	---	6,400	---	6,400
BARRACKS MODERNIZATION	---	6,800	---	6,800
CORPUS CHRISTI ARMY DEPOT				
AIRCRAFT INSTRUMENT CALIBRATION FACILITY	5,200	5,200	5,200	5,200
FORT HOOD				
BARRACKS MODERNIZATION	---	11,200	---	11,200
BATTALION HEADQUARTERS	2,800	2,800	2,800	2,800
VEHICLE WASH FACILITY	---	7,400	---	7,000
RED RIVER ARMY DEPOT				
CENTRAL DISTRIBUTION CENTER - PHASE III	39,000	39,000	39,000	39,000
FORT SAM HOUSTON				
MEDICAL SYSTEMS EQUIPMENT TRAINING COMPLEX	---	---	3,550	---
NAVY				
INGLESIDE NAVAL STATION				
BACHELOR ENLISTED QUARTERS	6,200	6,200	6,200	6,200
EXPLOSIVE ORDNANCE DISPOSAL FACILITY	1,000	1,000	1,000	1,000
GENERAL WAREHOUSE	4,300	4,300	4,300	4,300
MAGAZINES	910	910	910	910
PHYSICAL FITNESS FACILITY	4,870	4,870	4,870	4,870
PUBLIC WORKS COMPLEX	2,440	2,440	2,440	2,440
LACKLAND AFB NAVAL TECHNICAL TRNG CTR DET				
SECURITY TRAINING CENTER (JOINT W/AIR FORCE)	4,500	4,500	4,500	4,500

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
AIR FORCE				
BERGSTROM AFB				
ADD TO CHILD DEVELOPMENT CENTER	---	2,400	---	2,400
CARSWELL AFB				
NOISE SUPPRESSOR SUPPORT FACILITY	650	650	650	650
GOODFELLOW AFB				
FIRE STATION	1,150	1,150	1,150	1,150
PRECISION IMAGERY COMPLEX	2,150	2,150	2,150	2,150
KELLY AFB				
ADD TO AND ALTER LOGISTICAL SYS OPS CTR	3,200	3,200	3,200	3,200
AIR FORCE SERVICE INFO AND NEWS CTR FAC	4,100	---	4,100	---
CHILD CARE CENTER	---	---	---	730
GAS TURBINE ENGINE REPAIR FACILITY	14,000	14,000	14,000	14,000
LACKLAND AFB				
ADD TO WATER STORAGE AND DIST SYSTEM	3,200	3,200	3,200	3,200
DLI-DINING FACILITY	3,550	3,550	3,550	3,550
DLI-STUDENT DORMITORY	11,200	11,200	11,200	11,200
LOGISTICS COMPLEX	8,000	8,000	8,000	8,000
SECURITY POLICE TRAINING FACILITY (JOINT W/NAVY)	4,500	4,500	4,500	4,500
UPGRADE ELECTRIC DISTRIBUTION SYSTEM	3,800	3,800	3,800	3,800
LACKLAND TRAINING ANNEX				
ADD TO AND ALTER OPERATIONS FACILITY	1,994	1,994	1,994	1,994
LAUGHLIN AFB				
BASE ENGINEER COMPLEX	3,750	3,750	---	3,750
WATER STORAGE AND TREATMENT SYSTEM	1,600	1,600	1,600	1,600
RANDOLPH AFB				
PETROLEUM OPERATIONS FACILITY	630	630	630	630
REESE AFB				
ADD TO AND ALTER FLIGHT SIMULATOR	400	400	400	400
PETROLEUM OPERATIONS FACILITY	830	830	830	830
SPECIALIZED UPT MAINTENANCE SUPPORT	3,400	3,400	3,400	3,400
DEFENSE AGENCIES				
INGLESIDE NAVAL STATION				
MEDICAL/DENTAL CLINIC	2,300	2,300	2,300	2,300
LACKLAND AIR FORCE BASE				
MEDICAL CLINIC ADDITION/ALTERATION	6,000	6,000	6,000	6,000
FORT SAM HOUSTON				
HOSPITAL REPLACEMENT PHASE III	53,000	53,000	53,000	53,000
ARMY NATIONAL GUARD				
CAMP BOWIE (BROWNWOOD)				
CANTONEMENT FACILITY	---	1,341	---	1,341
LAND ACQUISITION	---	1,750	---	1,750
DALLAS NAS				
ARMORY, ADD/ALT	2,562	2,562	2,562	2,562
ORGANIZATIONAL MAINTENANCE SHOP	479	479	479	479
LAREDO				
ARMORY	---	2,263	---	2,263
ROSENBERG				
ARMORY	---	943	---	943
SAN ANTONIO				
ARMORY, ADD/ALT	2,228	2,228	2,228	2,228
ORGANIZATIONAL MAINTENANCE SHOP	481	481	481	481
TEMPLE				
ARMORY AND MAINTENANCE SHOP	---	3,792	---	3,792
AIR NATIONAL GUARD				
DALLAS NAS				
ADD TO/ALT COMPOSITE DINING AND TNG FAC	540	540	540	540
ELLINGTON ANGB				
ALTER BASE SUPPLY AND EQUIPMENT WAREHOUSE	460	460	460	460
AVIONICS SHOP	1,550	1,550	1,550	1,550
SHEPPARD AFB				
AERIAL PORT TRAINING FACILITY	1,050	1,050	1,050	1,050
AIR FORCE RESERVE				
BERGSTROM AFB				
ADD/ALTER AIRCRAFT SHOPS	3,700	3,700	3,700	3,700
TOTAL, TEXAS	221,074	261,263	220,874	261,593
UTAH				
ARMY				
DUGWAY PROVING GROUND				
CENTRAL SECURITY OFFICE	1,000	1,000	1,000	1,000
VEHICLE MAINTENANCE FACILITY	1,400	1,400	1,400	1,400
AIR FORCE				
HILL AFB				
CHILD DEVELOPMENT CENTER	---	---	---	1,300
CONSOLIDATED TELECOMMUNICATIONS FACILITY	7,300	7,300	7,300	7,300
ELECTRONIC COMBAT TEST RANGE THREAT SITES	2,500	2,500	2,500	2,500
EXPLOSIVE ORDINANCE DISPOSAL FACILITY	2,150	2,150	2,150	2,150
PROCUREMENT FACILITY CONSOLIDATION	---	3,700	---	3,700
MISSILE MAINTENANCE SHOP	---	---	2,350	---

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
ARMY NATIONAL GUARD				
WEST JORDAN				
AVN C-12 AIRCRAFT HANGAR	400	400	400	400
AIR NATIONAL GUARD				
SALT LAKE CITY IAP				
COMPOSITE VEHICLE AND AGE MAINT FACILITY	2,850	2,850	2,850	2,850
FIRE SUPPRESSION AND DETECTION SYSTEM	900	900	900	900
TAXIWAY	270	270	270	270
TOTAL, UTAH	18,770	22,470	21,120	23,770
VERMONT				
ARMY NATIONAL GUARD				
ETHAN ALLEN				
RANGE, MULTIPURPOSE TANK (RETS)	2,398	2,398	2,398	2,398
AIR NATIONAL GUARD				
BURLINGTON IAP				
ALERT AIRCRAFT SHELTER COMPLEX	3,550	3,550	3,550	3,550
MUNITIONS MAINTENANCE AND STORAGE CPLX	3,250	3,250	3,250	3,250
TOTAL, VERMONT	9,198	9,198	9,198	9,198
VIRGINIA				
ARMY				
FORT BELVOIR				
OLD ENGINEER SCHOOL BUILDINGS RENOVATION	23,000	23,000	23,000	23,000
FORT LEE				
CHILD DEVELOPMENT CENTER	1,750	1,750	1,750	1,750
PETROLEUM TRAINING FACILITY	---	8,300	---	8,300
FORT MONROE				
CHILD DEVELOPMENT CENTER	1,100	1,100	1,100	1,100
FORT STORY				
UPGRADE WATER DISTRIBUTION SYSTEM	3,350	3,350	3,350	3,350
NAVY				
CHESAPEAKE NAVAL SECURITY GROUP ACT NW				
BACHELOR ENLISTED QUARTERS ADDITION	1,300	1,300	1,300	1,300
DAHLGREN NAVAL SURFACE WARFARE CENTER				
CHILD CARE CENTER	1,000	1,000	1,000	1,000
DAM NECK MARINE ENVIRONMENTAL SYSTEMS FAC				
OPERATIONS AND MAINTENANCE FACILITIES	8,000	8,000	8,500	8,500
LITTLE CREEK NAVAL AMPHIBIOUS BASE				
BERTHING PIERS EXTENSION	3,800	3,800	3,800	3,800
FIRE STATION	1,400	1,400	1,400	1,400
NORFOLK NAVAL AIR STATION				
AVIATION MAINTENANCE TRAINING FACILITY ADD	4,400	4,400	4,400	4,400
NORFOLK NAVAL EASTERN OCEANOGRAPHY CENTER				
OCEANOGRAPHIC CENTER ADDITION	680	680	680	680
NORFOLK NAVAL SUPPLY CENTER				
GENERAL WAREHOUSE	6,200	6,200	6,200	6,200
STAND-BY GENERATOR PLANT	300	300	300	300
OCEANA NAVAL AIR STATION				
AVIONICS MAINTENANCE TRAINING FACS ADDN	1,480	1,480	1,480	1,480
CONSOLIDATED AUTOMATED SPT SYS TRNG BLDG	2,200	2,200	2,200	2,200
MEDIUM ATTACK WEAPONS SCHOOL	6,025	6,025	6,025	6,025
WEAPONS SYSTEMS TRAINING FACILITY	2,850	2,850	2,850	2,850
PORTSMOUTH NORFOLK NAVAL SHIPYARD				
ELECTRICAL DISTRIBUTION SYSTEM IMPROVEMENT	9,700	9,700	9,700	9,700
QUANTICO MARINE CORPS COMBAT DEV COMMAND				
COMMUNICATION OFFICERS SCHOOL ADDITION	3,450	---	3,450	3,450
VIRGINIA BEACH				
LAND PURCHASE	---	1,300	---	1,300
WILLIAMSBURG CHEATHAM ANX NAVAL SUPPLY CTR				
SURVEY SUPPORT FACILITY	18,500	18,500	18,500	18,500
YORKTOWN NAVAL WEAPONS STATION				
HARM MISSILE MAGAZINE	2,900	2,900	2,900	2,900
MISSILE FACILITY	11,100	11,100	11,100	11,100
MISSILE MAGAZINES	4,920	4,920	4,920	4,920
TACIT RAINBOW MISSILE MAGAZINES	2,500	2,500	2,500	2,500
AIR FORCE				
LANGLEY AFB				
BASE EDUCATION CENTER	3,300	3,300	3,300	3,300
DEFENSE AGENCIES				
DEFENSE GENERAL SUPPLY CENTER (RICHMOND)				
HAZARDOUS MATERIAL WAREHOUSE	6,066	6,066	6,066	6,066
PENTAGON COMPLEX				
INCINERATOR	3,500	3,500	---	---
PORTSMOUTH NAVAL HOSPITAL				
HOSPITAL REPLACEMENT PHASE I	8,500	8,500	8,500	8,500

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
ARMY NATIONAL GUARD				
ARLINGTON HALL STATION				
NGB CENTER, PHASE III	---	---	11,000	8,630
AIR NATIONAL GUARD				
CAMP PENDLETON ANGB (VIRGINIA BEACH)				
SITE DEVELOPMENT	780	780	780	780
RICHARD E BYRD IAP (SANDSTON)				
ADD TO AND ALTER AIRCRAFT ENGINE SHOP	850	850	850	850
TOTAL, VIRGINIA	144,901	151,051	152,901	160,131
WASHINGTON				
ARMY				
FORT LEWIS				
RESERVOIR PROTECTION	770	770	770	770
NAVY				
BREMERTON NAVAL HOSPITAL				
BACHELOR ENLISTED QUARTERS	1,000	1,000	1,000	1,000
BREMERTON PUGET SOUND NAVAL SHIPYARD				
CHILD CARE CENTER	1,000	1,000	1,000	1,000
INDUSTRIAL SUPPORT COMPLEX (INCREMENT I)	18,933	18,900	18,900	18,900
BREMERTON PUGET SOUND NAVAL SUPPLY CENTER				
EMERGENCY GENERATORS	690	690	690	690
EVERETT NAVAL STATION				
CARRIER PIER (PHASE II)	11,200	11,200	11,200	11,200
KEYPORT NAVAL UNDERSEA WARFARE ENGR STA				
BACHELOR ENLISTED QUARTERS MODERNIZATION	1,850	1,850	1,850	1,850
UNDERSEA WARFARE ENGINEERING CENTER	---	10,400	10,000	10,400
OSO JIM CREEK NAVAL RADIO STATION				
STAND-BY GENERATOR PLANT	1,200	1,200	1,200	1,200
AIR FORCE				
FAIRCHILD AFB				
COMMAND POST	---	2,700	2,700	2,700
SURVIVAL SCHOOL DORMITORY	---	10,000	10,000	10,000
TEMPORARY LODGING FACILITY	1,500	1,500	1,500	1,500
DEFENSE AGENCIES				
DEF FUEL SUPPORT POINT MANCHESTER				
FUEL PIER	22,600	22,600	22,600	22,600
FORT LEWIS				
HOSPITAL REPLACEMENT PHASE VI	16,000	16,000	16,000	16,000
ARMY NATIONAL GUARD				
YAKIMA				
ARMORY	2,182	2,182	2,182	2,182
ORGANIZATIONAL MAINTENANCE SHOP 8	333	333	333	333
TOTAL, WASHINGTON	79,258	102,325	101,925	102,325
WEST VIRGINIA				
ARMY NATIONAL GUARD				
BUCKHANNON				
USP AND FO	---	---	1,500	1,500
HUNTINGTON				
ARMORY, ADD/ALT	546	546	546	546
WHEELING				
AVIATION SUPPORT FACILITY/ARMORY	---	---	5,326	5,326
AIR NATIONAL GUARD				
E WV REGIONAL APT (MARTINSBURG)				
ALTER OPERATIONS AND TRAINING FACILITIES	480	480	480	480
JET FUEL STORAGE COMPLEX	3,300	3,300	3,300	3,300
YEAGER AIRPORT (CHARLESTON)				
ADD TO SECURITY POLICE OPERATIONS	245	245	245	245
ARMY RESERVE				
BECKLEY				
ARMY RESERVE CENTER	---	---	3,200	3,200
KINGWOOD				
ARMY RESERVE CENTER	---	---	1,400	1,400
ELKINS				
ARMY RESERVE CENTER	---	---	1,400	1,400
MORGANTOWN				
ARMY RESERVE CENTER	---	---	1,900	1,900
RAINELLE				
ARMY RESERVE CENTER	---	---	2,200	2,200
TOTAL, WEST VIRGINIA	4,571	4,571	21,497	21,497
WISCONSIN				
ARMY NATIONAL GUARD				
NEW RICHMOND				
ARMORY	---	---	---	1,241
WHITEWATER				
ARMORY, MAINTENANCE SHOP, AND VEHICLE STORAGE	---	2,251	---	2,251

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
AIR NATIONAL GUARD				
TRUAX FIELD (MADISON)				
ALTER VEHICLE MAINTENANCE SHOP	---	950	950	950
ALTER WEAPONS SECURITY AND MISSION SUPPORT	---	990	990	990
ARMY RESERVE				
FORT MCCOY				
ARMY RESERVE REGIONAL TRAINING SITE	12,089	12,089	12,089	12,089
REGIONAL TRAINING SITE-MAINTENANCE	2,641	2,641	2,641	2,641
TOTAL, WISCONSIN	14,730	18,921	16,670	20,162
WYOMING				
AIR FORCE				
FE WARREN AFB				
PEACEKEEPER-ADD TO AND ALTER COMM FAC	720	720	720	720
PEACEKEEPER-ADD TO AND ALTER MSL OPS FAC	2,050	2,050	2,050	2,050
PEACEKEEPER-GARRISON FACILITIES	52,000	52,000	52,000	52,000
PEACEKEEPER-LAND ACQUISITION	780	780	780	780
PEACEKEEPER-MAINTENANCE FACILITY	1,550	1,550	1,550	1,550
PEACEKEEPER-MISSILE ASSEMBLY FACILITY	24,000	24,000	24,000	24,000
PEACEKEEPER-MISSILE RAIL TRAINER FACILITY	4,000	4,000	4,000	4,000
PEACEKEEPER-ROAD/RAILROAD AND UTILITIES	14,600	14,600	14,600	14,600
PEACEKEEPER-TRAINING FACILITY	2,950	2,950	2,950	2,950
PEACEKEEPER-TRAINING TRAIN SHELTER	2,200	2,200	2,200	2,200
ARMY NATIONAL GUARD				
CAMP GUERNSEY				
RANGE, MRF (RETS)	810	810	810	810
CHEYENNE				
AVIATION PARKING IMPROVEMENTS	340	340	340	340
ARMORY ANNEX	---	---	2,351	2,351
DOUGLAS				
ARMORY	1,033	1,033	1,033	1,033
TOTAL, WYOMING	107,033	107,033	109,384	109,384
CONUS CLASSIFIED				
ARMY				
CLASSIFIED LOCATIONS				
CLASSIFIED PROJECT	3,900	3,900	3,900	3,900
CLASSIFIED PROJECT	---	---	3,400	3,400
LAND ACQUISITION	---	---	600	600
OPERATIONAL FACILITY	---	---	7,500	7,500
DEFENSE AGENCIES				
CLASSIFIED LOCATION				
CHILLED WATER PLANT	4,500	4,500	4,500	4,500
RESCISSION, FISCAL YEAR 1988	---	-10,000	-10,000	-10,000
RESCISSION, FISCAL YEAR 1989	---	-20,000	-11,800	-11,800
TOTAL, CONUS CLASSIFIED	8,400	-21,600	-1,900	-1,900
CONUS VARIOUS				
AIR FORCE				
CONUS VARIOUS				
CENTRAL OTH-B REAL ESTATE ACQUISITION	5,000	5,000	5,000	---
RESCISSION, FISCAL YEAR 1989	---	---	-18,500	-18,500
ASCENSION ISLAND				
NAVY				
NAVAL COMMUNICATION DETACHMENT				
UTILITIES SUPPORT UPGRADE	3,500	3,500	3,500	3,500
AUSTRALIA				
NAVY				
EXMOUTH HAROLD E HOLD NAVAL COMM STATION				
FIRE PROTECTION SYSTEM	610	610	610	610
BAHAMAS				
NAVY				
ANDROS ISLAND NAVAL UNDERWATER SYSTEMS CTR				
PHYSICAL SECURITY IMPROVEMENTS	4,140	---	4,140	---
BERMUDA				
DEFENSE AGENCIES				
BERMUDA				
ROGER B. CHAFFEE ELEM SCHOOL	4,810	4,810	---	4,810
CANADA				
AIR FORCE				
VARIOUS LOCATIONS-CANADA				
FORWARD OPERATING LOCATIONS	24,000	24,000	---	12,000

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
GERMANY				
ARMY				
ANSBACH				
CHILD DEVELOPMENT CENTER	---	2,900	---	2,900
AUGSBURG				
ELECTRICAL POWER SYSTEM UPGRADE	600	600	---	600
BAUMHOLDER				
VEHICLE MAINTENANCE SHEDS	6,400	---	---	---
GRAFENWOEHR				
MULTI-PURPOSE TRAINING RANGE	6,500	6,500	---	6,500
HANAU				
AIRCRAFT PARKING APRON REFUELING FACILITY	8,300	8,300	---	8,300
HARDSTAND	1,750	---	---	---
HELICOPTER PARKING APRON	6,500	6,500	6,500	6,500
HEILBRONN				
HARDSTAND & WASH FACILITY	5,400	---	---	---
HOHENFELS				
CLASS I WAREHOUSE ADDITION/MODERNIZATION	3,550	3,550	3,550	3,550
FUEL STORAGE FACILITY	1,800	1,800	1,800	1,800
HARDSTAND AND MAINTENANCE SHEDS	4,250	---	4,250	---
TRAINING SUPPORT CENTER	1,450	1,450	1,450	1,450
UNACCOMPANIED OFFICER HOUSING	3,150	3,150	3,150	3,150
MAINZ				
AVIATION UNIT MAINTENANCE HANGAR	12,000	12,000	---	12,000
AVIATION UNIT MAINTENANCE HANGAR	14,400	14,400	14,400	14,400
MANNHEIM				
VEHICLE MAINTENANCE SHEDS	8,000	---	---	---
STUTTGART				
COMMAND CENTER MODERNIZATION	9,400	9,400	9,400	9,400
VARIOUS SITES				
WARTIME HOST NATION SUPPORT	4,150	---	4,150	4,150
VILSECK				
BATTALION HEADQUARTERS	1,900	1,900	1,900	1,900
CHAPEL CENTER/CHILD DEVELOPMENT CENTER	---	3,320	---	---
HARDSTAND/TACTICAL EQUIPMENT SHOP AND SHEDS	8,800	---	8,800	---
POST OFFICE	1,300	1,300	---	1,300
WUERZBURG				
AMMUNITION STORAGE	1,400	1,400	---	1,400
HELICOPTER PARKING APRON	10,600	10,600	10,600	10,600
AIR FORCE				
HAHN AB				
ANTENNA SUPPORT STRUCTURE	2,500	2,500	2,500	2,500
LANTIRN MAINTENANCE FACILITY	220	220	220	220
TRAINING/SOFTWARE MAINTENANCE FACILITY	1,400	1,400	---	1,400
UPGRADE WATER STORAGE & DIST SYSTEM	3,800	3,800	---	---
VEHICLE MAINTENANCE FACILITY	3,200	---	---	---
MEHLINGEN ANNEX				
OPERATIONS FACILITY	1,100	---	---	---
RAMSTEIN AB				
ADD TO AND ALTER NCO ACADEMY (KAPAUN)	2,500	---	---	---
ADD TO AND ALTER VEHICLE MAINT FACILITY	2,800	2,800	---	---
ADD TO COMBAT OPERATIONS INTELLIGENCE CTR	11,600	---	---	---
RHEIN-MAIN AB				
ADD TO COMBAT CONTROL FACILITY	980	---	---	---
OPERATIONS COMMAND POST	2,900	---	---	---
REFUELING VEHICLE SHELTER	280	---	---	---
SEMBACH AB				
COMBAT REPAIR EQUIPMENT STORAGE FACILITY	1,250	1,250	1,250	1,250
SECURITY POLICE OPERATIONS FACILITY	1,800	1,800	---	---
SPANGDAHLEM AB				
ADD TO AND ALTER WATER STORAGE/DIST SYS	4,700	4,700	---	---
COMBAT REPAIR EQUIPMENT STORAGE FACILITY	1,250	1,250	1,250	1,250
F16-WEAPON SYSTEM MAINTENANCE CONTROL	5,200	---	---	---
ZWEIBRUCKEN AB				
ADD TO AND ALTER SEWAGE TREATMENT SYSTEM	4,950	4,950	4,950	4,950
PASSIVE DEFENSE EQUIPMENT STORAGE FAC	1,150	1,150	---	1,150
DEFENSE AGENCIES				
AUGSBURG				
HIGH SCHOOL ADDITION	6,300	6,300	---	---
FRANKFURT				
EDWARDS ELEMENTARY SCHOOL	7,101	7,101	---	7,101
GRAFENWOEHR				
ELEMENTARY SCHOOL ADDITION	4,186	4,186	4,186	4,186
HOHENFELS				
ELEMENTARY SCHOOL ADDITION	7,177	7,177	7,177	7,177
MIDDLE/HIGH SCHOOL ADDITION	9,902	9,902	9,902	9,902
TOTAL, GERMANY	209,846	149,556	101,385	130,986

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
GUAM				
NAVY				
CAMP COVINGTON MOBILE CONSTR BATTALION				
MESS HALL	4,300	4,300	4,300	4,300
FLEET SURVEILLANCE SUPPORT COMMAND				
ELECTRONIC INSTALLATION	27,000	27,000	27,000	---
NAVY PUBLIC WORKS CENTER				
MUNICIPAL SEWER CONNECTION	4,150	4,150	4,150	4,150
AIR FORCE				
ANDERSEN AFB				
ALTER DORMITORY	6,500	6,500	---	6,500
ARMY RESERVE				
APRA HEIGHTS				
ADD/ALT ARMY RESERVE CTR/NEW STORAGE BLDG	957	957	957	957
TOTAL, GUAM	42,907	42,907	36,407	15,907
HONDURAS				
AIR FORCE				
LA MESA AB				
UPGRADE AIRFIELD PAVEMENTS	10,200	---	---	---
SAN LORENZO AB				
AIRFIELD IMPROVEMENTS	4,900	---	---	---
TOTAL, HONDURAS	15,100	---	---	---
ICELAND				
NAVY				
KEFLAVIK NAVAL AIR STATION				
FUEL FACILITIES	7,500	7,500	7,500	7,500
KEFLAVIK NAVAL COMMUNICATION STATION				
COMMUNICATIONS ANTENNA	7,760	7,760	7,760	7,760
TRANSMITTER BUILDING ADDITION	690	690	690	690
AIR FORCE				
KEFLAVIK NAVAL AIR STATION				
CW PROTECTION-AVIONICS FACILITY	8,900	---	---	---
F15-FUEL SYSTEMS MAINTENANCE DOCK	7,400	7,400	7,400	7,400
TOTAL, ICELAND	32,250	23,350	23,350	23,350
ITALY				
NAVY				
NAPLES NAVAL SUPPORT ACTIVITY				
CMD CTRL COMMS & INTEL COMPLEX (INC II)	46,600	46,600	46,600	46,600
AIR FORCE				
AVIANO AB				
ALTER MUNITIONS STORAGE FACILITY	1,300	1,300	1,300	1,300
MUNITIONS STORAGE IGLOOS	950	950	950	950
TRANSIENT DORMITORY	3,800	3,800	---	---
CROTONE AB				
BASE THEATER	1,950	---	---	---
MORALE/WELFARE/RECREATION SUPPLY	450	---	---	---
MULTI-PURPOSE SPORTS FIELDS	1,250	---	---	---
RANGE FACILITIES	7,000	---	---	---
RECREATION CENTER/LIBRARY	3,500	---	---	---
YOUTH CENTER	1,250	---	---	---
SAN VITO AS				
TRANSIENT DORMITORY	2,750	2,750	---	2,750
TOTAL, ITALY	70,800	55,400	48,850	51,600
JAPAN				
NAVY				
ATSUGI NAVAL AIR FACILITY				
MAINTENANCE HANGAR	14,900	14,900	---	---
OKINAWA CAMP BUTLER MARINE CORPS BASE				
COMBINED ARMS STAFF TRAINER FACILITY	3,200	3,200	---	3,200
OKINAWA FUTENMA MARINE CORPS AIR STATION				
MAINTENANCE HANGAR ADDITION	1,950	1,950	---	1,950
TACTICAL SUPPORT VAN PADS	5,500	5,500	---	5,500
AIR FORCE				
KADENA AB				
KC135-ADD TO AND ALTER FLIGHT SIM TNG FAC	2,300	2,300	---	---
KC135-FIRE PROTECTION MAINTENANCE FACS	2,000	2,000	---	---
MISAWA AB				
PROTECTIVE CONSTRUCTION	3,700	---	---	---
YOKOTA AB				
JET FUEL STORAGE	4,700	4,700	---	---
TOTAL, JAPAN	38,250	34,550	---	10,650

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
JOHNSTON ISLAND				
DEFENSE AGENCIES				
DNA HDQTRS FIELD COMMAND				
ALTER POWER PLANT PHASE I	4,500	4,500	4,500	4,500
SHORE LINE PROTECTION PHASE I	1,668	1,668	1,668	1,668
TOTAL, JOHNSTON ISLAND	6,168	6,168	6,168	6,168
KOREA				
ARMY				
CAMP CASEY				
BARRACKS	21,000	21,000	---	---
TACTICAL EQUIPMENT SHOP	3,200	3,200	---	---
CAMP GARY OWEN				
BARRACKS	2,450	2,450	---	---
TACTICAL EQUIPMENT SHOP	1,750	1,750	---	---
CAMP HOVEY				
TACTICAL EQUIPMENT SHOP	8,200	8,200	---	---
TACTICAL EQUIPMENT SHOP	7,100	7,100	---	---
EASTERN CORRIDOR				
UNACCOMPANIED OFFICER HOUSING	4,050	4,050	---	---
AIR FORCE				
KUNSAN AB				
AIRCRAFT FUEL SYSTEMS REPAIR DOCK	3,000	3,000	---	---
ALTER MUNITIONS STORAGE FACILITY	3,200	3,200	---	3,200
AVIONICS FACILITY	4,700	4,700	---	4,700
ECM POD SHOP AND STORAGE FACILITY	1,400	1,400	---	---
WAR READINESS MATERIEL VEH STORAGE FAC	840	840	---	---
OSAN AB				
AIRCRAFT PARTS DISTRIBUTION FACILITY	3,000	3,000	---	---
AIRCRAFT SUPPORT EQ SHOP/STORAGE FACILITY	1,450	---	---	---
ALTER AVIONICS FACILITY	510	510	---	---
CHAPEL CENTER	2,600	---	---	---
F16-ADD TO ENGINE INSPECTION & REPAIR FAC	800	800	---	---
F16-AIRCRAFT MAINTENANCE UNIT FACILITY	3,450	3,450	---	3,450
SECURITY POLICE OPERATIONS FACILITY	2,400	2,400	---	---
SQUADRON OPS/SENSOR MAINTENANCE FACS	1,650	---	---	---
WAR READINESS MATERIEL VEH STORAGE FAC	840	840	---	---
DEFENSE AGENCIES				
CAMP CARROLL				
FLEET HOSPITAL FACILITY 18	6,400	---	---	---
FROZEN BLOOD FACILITY	1,500	1,500	---	1,500
CAMP GARRY OWEN				
TROOP MEDICAL CLINIC REPLACEMENT	800	800	800	800
TOTAL, KOREA	86,290	74,190	800	13,650
KWAJALEIN				
ARMY				
KWAJALEIN				
DOCUMENT CONTROL FACILITY ADDITION	1,650	1,650	1,650	1,650
FRESH WATER PRODUCTION FACILITY	4,600	4,600	4,600	4,600
SEWAGE TREATMENT PLANT	3,250	3,250	3,250	3,250
TOTAL, KWAJALEIN	9,500	9,500	9,500	9,500
LUXEMBOURG				
DEFENSE AGENCIES				
ECHTERNACH AIR BASE				
CONTINGENCY HOSPITAL	19,000	---	---	---
OMAN				
AIR FORCE				
SEEB AB				
WAR READINESS MATERIEL WAREHOUSE	2,200	---	2,200	2,200
THUMRAIT AB				
AIRFIELD IMPROVEMENTS	17,000	---	17,000	17,000
WAR READINESS MATERIEL WAREHOUSE	6,600	---	6,600	6,600
TOTAL, OMAN	25,800	---	25,800	25,800

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
PANAMA				
ARMY				
FORT KOBBE				
AIRCRAFT PARKING APRON EXTENSION	7,200	---	---	---
AIR FORCE				
HOWARD AFB				
STOL-ADD TO APRON	4,100	---	---	---
STOL-ADD TO FREIGHT TERMINAL	1,250	---	---	---
STOL-AIRCRAFT ORGANIZATIONAL MAINT FACS	710	---	---	---
STOL-SQUADRON OPERATIONS FACILITY	1,150	---	---	---
TOTAL, PANAMA	14,410	---	---	---
PHILIPPINES				
AIR FORCE				
CLARK AB				
ADD TO AND ALTER PASSENGER TERMINAL	4,050	---	---	---
ADD TO/UPGRADE MAINTENANCE MANAGEMENT FAC	910	---	---	---
AIRCRAFT OPERATIONAL APRON-PHASE II	3,200	---	---	---
DORMITORIES	6,100	6,100	---	---
F15E-AIRCRAFT CORROSION CONTROL FACILITY	2,000	---	---	---
F15E-AIRCRAFT ENGINE MAINTENANCE SHOP	3,200	---	---	---
F15E-AIRCRAFT MAINTENANCE DOCK	1,300	---	---	---
F15E-AVIONICS INTERMEDIATE MAINT SHOP	1,700	---	---	---
F15E-AVIONICS MAINTENANCE SHOP	920	---	---	---
F15E-EXTERNAL TANK MAINT AND STORAGE FAC	1,000	---	---	---
F15E-FLIGHT SIMULATOR TRAINING FACILITY	2,050	---	---	---
FLIGHTLINE SECURITY IMPROVEMENTS	440	---	---	---
MUNITIONS OPERATIONAL COMPLEX-PHASE I	2,400	---	---	---
SOF-HELICOPTER APRON	2,000	---	---	---
SOF-WEAPON SYSTEMS MAINTENANCE MGMT FAC	1,200	---	---	---
VEHICLE MAINTENANCE COMPLEX-PHASE I	4,200	---	---	---
WALLACE AIR STATION				
ADD TO/ALTER RADAR OPERATIONS FACILITY	550	---	---	---
DRONE SUPPORT	3,600	---	---	---
TOTAL, PHILIPPINES	40,820	6,100	---	---
PORTUGAL				
AIR FORCE				
LAJES FIELD				
COMBAT REPAIR EQUIPMENT STORAGE FACILITY	1,600	1,600	---	1,600
HYDRANT FUELING SYSTEM	6,100	6,100	---	6,100
TOTAL, PORTUGAL	7,700	7,700	---	7,700
PUERTO RICO				
ARMY				
FORT BUCHANAN				
UPGRADE WATER DISTRIBUTION SYSTEM	690	690	690	690
NAVY				
ROOSEVELT RDS NAVAL COMMUNICATION STATION				
TRANSMITTER COOLING SYSTEM	1,300	1,300	1,300	1,300
DEFENSE AGENCIES				
FORT BUCHANAN				
HIGH SCHOOL	1,155	1,155	1,155	1,155
ROOSEVELT ROADS				
ELEMENTARY SCHOOL	3,261	3,261	3,261	3,261
HIGH SCHOOL	3,280	3,280	---	3,280
TOTAL, PUERTO RICO	9,686	9,686	6,406	9,686
SCOTLAND				
NAVY				
EDZELL NAVAL SECURITY GROUP ACTIVITY				
OPERATIONS BUILDING ADDITION	5,820	5,820	5,820	5,820
MACHRIHANISH NAVAL ACTIVITY				
SEAL TEAM OPERATIONS FACS (INCR II)	5,800	5,800	5,800	5,800
TOTAL, SCOTLAND	11,620	11,620	11,620	11,620
SOMALIA				
AIR FORCE				
BERBERA				
AIRCRAFT APRON-PHASE I	7,000	---	---	---
TAXIWAY	8,000	---	---	---
TOTAL, SOMALIA	15,000	---	---	---

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
SPAIN				
NAVY				
NAVAL STATION ROTA				
CHILD DEVELOPMENT CENTER	---	880	---	1,900
AIR FORCE				
ZARAGOZA AB				
AEROSPACE SUPPORT EQUIPMENT SHOP	1,950	1,950	---	---
DEFENSE AGENCIES				
ZARAGOZA AIR BASE				
SECOND ECHELON MEDICAL LOGISTICS STORAGE	680	---	---	---
TOTAL, SPAIN	2,630	2,830	---	1,900
TURKEY				
ARMY				
LOCATION 276				
RECREATION CENTER	1,950	1,950	1,950	1,950
AIR FORCE				
ANKARA AS				
COMBAT READINESS CENTER	4,200	4,200	---	---
BALIKESIR RADIO RELAY STATION				
DORMITORY	3,600	3,600	3,600	3,600
ERHAC AB				
DORMITORY	2,750	2,750	2,750	2,750
INCIRLIK AB				
COMBAT REPAIR EQUIPMENT STORAGE FACILITY	1,100	1,100	1,100	1,100
CW PROTECTION-AVIONICS FACILITY	3,850	3,850	---	---
WATER DISTRIBUTION MAINS	960	960	---	---
TOTAL, TURKEY	18,410	18,410	9,400	9,400
UNITED KINGDOM				
NAVY				
LONDON NAVAL ACTIVITIES				
AUTOMOTIVE VEHICLE MAINTENANCE SHOP	730	730	---	---
BACHELOR ENLISTED QUARTERS AND MESS HALL	9,400	9,400	---	---
AIR FORCE				
BOVINGDON RADIO RELAY SITE				
DCS SITE SECURITY	400	400	400	400
HIGH WYCOMBE AS				
DORMITORY	4,100	4,100	---	---
RAF ALCONBURY				
ADD TO AND ALTER PHYSICAL FITNESS CENTER	2,900	2,900	---	---
CONVENTIONAL MUNITIONS SHOP	1,300	1,300	1,300	1,300
RAF BARFORD ST JOHN				
PHYSICAL PROTECTION	490	490	490	490
RAF BENTWATERS				
ADD TO/UPGRADE FIRE STATION	1,250	1,250	---	1,250
ALTER MUNITIONS STORAGE FACILITY	2,450	2,450	2,450	2,450
CENTRAL POST OFFICE	1,100	1,100	---	---
CHAPEL	1,400	---	---	---
YOUTH CENTER	1,850	1,850	---	---
RAF CHRISTMAS COMMON				
DCS SITE SECURITY	210	210	210	210
RAF FAIRFORD				
DIGITAL EUROPEAN BACKBONE FACILITY	1,350	1,350	1,350	1,350
JET FUEL STORAGE/HYDRANT REFUELING SYS	6,900	6,900	---	---
UPGRADE WATER STORAGE AND DIST SYSTEM	2,700	2,700	---	---
RAF LAKENHEATH				
CHEM WARFARE PROTECTION-SQUAD OPS FAC	2,200	2,200	---	---
STORM DRAINAGE DISPOSAL	860	860	---	---
RAF MILDENHALL				
JET FUEL STORAGE	3,400	3,400	---	---
UPGRADE SEWAGE TREATMENT PLANT	1,650	1,650	---	1,650
RAF UPPER HEYFORD				
ALTER MUNITIONS STORAGE FACILITY	5,350	5,350	1,000	1,000
COMBAT READINESS CENTER	7,840	---	---	---
CW PROTECTION-SQUADRON OPERATIONS FAC	2,050	---	---	---
F111-ADD TO AND ALTER FLIGHT SIM FAC	2,200	---	---	---
F111-ADD TO AVIONICS MAINTENANCE SHOP	3,350	---	---	---
F111-ADD TO ENGINE SHOP	3,380	---	---	---
DEFENSE AGENCIES				
BICESTER				
ELEMENTARY SCHOOL	6,275	6,275	---	6,275
ROYAL AIR FORCE CHESSINGTON				
CONTINGENCY HOSPITAL	12,200	---	---	---
ROYAL AIR FORCE LANARK				
FLEET HOSPITAL FACILITY 14	15,000	---	---	---
UPWOOD				
ELEMENTARY SCHOOL ADDITION	4,175	4,175	4,175	4,175
TOTAL, UNITED KINGDOM	108,460	61,040	11,375	20,550

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
OVERSEAS CLASSIFIED				
ARMY				
VARIOUS LOCATIONS				
WAR RESERVE STORAGE	6,100	6,100	6,100	6,100
AIR FORCE				
OVERSEAS CLASSIFIED				
F15E-ADD TO AND ALTER FLIGHT SIM FAC	740	---	740	740
DEFENSE AGENCIES				
CLASSIFIED OVERSEAS LOCATIONS				
CLASSIFIED PROJECT	23,000	23,000	23,000	23,000
TOTAL, OVERSEAS CLASSIFIED	29,840	29,100	29,840	29,840
OVERSEAS VARIOUS				
DEFENSE AGENCIES				
VARIOUS LOCATIONS				
HOT LUNCH FACILITIES (DOD DEPENDENT SCHOOLS)	6,600	6,600	6,600	6,600
NATO				
NATO INFRASTRUCTURE	501,900	424,714	462,300	424,714
WORLDWIDE UNSPECIFIED				
ARMY				
UNSPECIFIED WORLDWIDE LOCATIONS				
PLANNING AND DESIGN	74,420	74,420	74,420	74,420
JSOC - PLANNING & DESIGN	---	---	5,000	5,000
UNSPECIFIED MINOR CONSTRUCTION	11,000	11,000	11,000	11,000
FOREIGN CURRENCY FLUCTUATION	---	57,923	---	8,600
RDT&E CONSTRUCTION	---	---	10,296	---
NAVY				
UNSPECIFIED WORLDWIDE LOCATIONS				
ACCESS ROADS	5,810	5,810	5,810	5,810
PLANNING AND DESIGN	84,937	84,970	79,970	82,000
UNSPECIFIED MINOR CONSTRUCTION	14,000	14,000	11,000	14,000
RDT&E CONSTRUCTION	---	---	23,753	---
AIR FORCE				
UNSPECIFIED WORLDWIDE LOCATIONS				
PLANNING AND DESIGN	106,094	106,000	86,000	99,000
UNSPECIFIED MINOR CONSTRUCTION	7,000	7,000	7,000	7,000
RDT&E CONSTRUCTION	---	---	36,823	---
DEFICIENCY ALLOWANCE	---	---	---	10,000
DEFENSE AGENCIES				
UNSPECIFIED WORLDWIDE LOCATIONS				
CONTINGENCY CONSTRUCTION	10,000	10,000	10,000	10,000
PLANNING & DESIGN - WASHINGTON HQTRS SERVICES	5,180	5,180	---	4,000
PLANNING & DESIGN - DMFO	43,600	43,600	---	44,600
PLANNING & DESIGN - SDIO	2,000	2,000	---	2,000
PLANNING & DESIGN - DEFENSE LEVEL ACTIVITIES	29,700	29,700	---	35,700
PLANNING & DESIGN	---	---	55,000	---
SUBTOTAL, PLANNING & DESIGN	80,480	80,480	55,000	86,300
UNSPECIFIED MINOR CONSTRUCTION - DMFO	2,100	2,100	---	2,100
UNSPECIFIED MINOR CONSTRUCTION - SDIO	2,000	2,000	---	2,000
UNSPECIFIED MINOR CONSTRUCTION - DEFENSE LEVEL ACT	2,000	2,000	---	2,000
UNSPECIFIED MINOR CONSTRUCTION (DEFENSE AGENCIES)	---	---	4,000	---
UNSPECIFIED MINOR CONSTRUCTION - JCS EXERCISES	7,000	7,000	7,000	7,000
SUBTOTAL, UNSPECIFIED MINOR CONSTRUCTION	13,100	13,100	11,000	13,100
ARMY NATIONAL GUARD				
UNSPECIFIED WORLDWIDE LOCATIONS				
PLANNING AND DESIGN	4,800	4,800	15,000	11,600
UNSPECIFIED MINOR CONSTRUCTION	7,500	7,500	11,000	7,500
DEFICIENCY ALLOWANCE	---	---	40,000	1,000
ARMORY STORAGE BUILDINGS	---	---	10,000	---
INDOOR RANGE MODERNIZATION	---	---	10,000	---
AIR NATIONAL GUARD				
UNSPECIFIED WORLDWIDE LOCATIONS				
PLANNING AND DESIGN	6,450	8,250	14,250	12,400
UNSPECIFIED MINOR CONSTRUCTION	2,500	2,500	9,000	3,000
DEFICIENCY ALLOWANCE	---	---	25,000	---
ARMY RESERVE				
UNSPECIFIED WORLDWIDE LOCATIONS				
LAND ACQUISITIONS	3,414	3,414	4,414	4,314
PLANNING AND DESIGN	5,388	5,388	8,388	8,388
UNSPECIFIED MINOR CONSTRUCTION	1,751	1,751	7,251	1,751
DEFICIENCY ALLOWANCE	---	---	4,500	---

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
NAVY RESERVE				
UNSPECIFIED WORLDWIDE LOCATIONS				
PLANNING AND DESIGN	4,224	4,224	5,724	4,224
UNSPECIFIED MINOR CONSTRUCTION	1,579	1,579	4,079	1,579
DEFICIENCY ALLOWANCE	---	---	7,500	---
AIR FORCE RESERVE				
UNSPECIFIED WORLDWIDE LOCATIONS				
PLANNING AND DESIGN	10,526	10,526	10,526	10,526
UNSPECIFIED MINOR CONSTRUCTION	3,109	3,109	5,109	3,109
DEFICIENCY ALLOWANCE	---	---	5,000	---
TOTAL, WORLDWIDE UNSPECIFIED	458,082	517,744	623,813	495,621
WORLDWIDE VARIOUS				
NAVY				
VARIOUS LOCATIONS				
LAND ACQUISITION	21,000	21,000	21,000	21,000
VARIOUS LOCATIONS				
HOST NATION INFRASTRUCTURE SUPPORT	1,000	1,000	1,000	1,000
DEFENSE AGENCIES				
VARIOUS LOCATIONS				
CONFORMING STORAGE FACILITIES	11,000	11,000	11,000	11,000
TOTAL, WORLDWIDE VARIOUS	33,000	33,000	33,000	33,000
FAMILY HOUSING, ARMY				
ALABAMA				
FORT RUCKER (2 UNITS)	---	400	---	300
HAWAII				
HELEMANO (90 UNITS)	10,322	10,322	10,322	10,322
HICKAM AFB (20 UNITS)	2,500	2,500	2,500	2,500
KANEOHE MCAS (40 UNITS)	4,700	4,700	4,700	4,700
OAHU UNSPECIFIED (180 UNITS)	---	30,000	---	18,000
VIRGINIA				
FORT LEE (1 UNIT)	---	210	---	160
CONSTRUCTION IMPROVEMENTS	36,329	89,329	72,300	40,000
PLANNING	1,349	6,349	1,349	3,000
SUBTOTAL, CONSTRUCTION	55,200	143,810	91,171	78,982
OPERATION AND MAINTENANCE				
FURNISHINGS ACCOUNT	75,530	75,530	75,530	75,530
MANAGEMENT ACCOUNT	71,862	71,862	71,862	71,862
MISCELLANEOUS ACCOUNT	1,617	1,617	1,617	1,617
SERVICES ACCOUNT	55,587	55,587	55,587	55,587
UTILITIES ACCOUNT	296,784	296,784	296,784	296,784
LEASING	319,142	319,142	319,142	319,142
MAINTENANCE OF REAL PROPERTY	562,120	559,720	547,720	554,120
INTEREST PAYMENTS	37	37	37	37
MORTGAGE INSURANCE PREMIUMS	21	21	21	21
SUBTOTAL, OPERATION AND MAINTENANCE	1,382,700	1,380,300	1,368,300	1,374,700
PLUS APPROPRIATION FOR DEBT REDUCTION	300	300	300	300
TOTAL, FAMILY HOUSING, ARMY	1,438,200	1,524,410	1,459,771	1,453,982
FAMILY HOUSING, NAVY				
CALIFORNIA				
MARINE CORPS AIR STATION EL TORO (200 UNITS)	---	15,000	---	15,000
MARINE CORPS BASE CAMP PENDLETON (112 UNITS)	10,150	10,150	10,150	10,150
MARINE CORPS BASE CAMP PENDLETON (183 UNITS)	---	25,000	---	15,000
NAVAL AIR STATION MOFFETT FIELD (74 UNITS)	---	6,600	---	6,600
NAVAL COMPLEX SAN DIEGO (WAREHOUSE)	1,855	1,855	---	---
NAVAL STATION LONG BEACH (OFFICE)	592	592	---	---
PUBLIC WORKS CENTER SAN FRANCISCO (344 UNITS)	28,350	28,350	28,350	28,350
PUBLIC WORKS CENTER SAN FRANCISCO (250 UNITS)	---	22,400	---	---
ILLINOIS				
GLENVIEW NAS (140 UNITS)	---	---	15,300	15,300
MARYLAND				
NAVAL SUPPORT FACILITY - THURMONT (11 UNITS)	1,160	1,160	1,160	1,160
NEW YORK				
NAVAL NUCLEAR POWER TRNG BALLSTON SPA (100 UNITS)	---	7,900	---	---

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
VIRGINIA				
PWC NORFOLK (COMMUNITY CENTER)	332	332	---	---
CUBA				
NAVAL STATION GUANTANAMO (120 UNITS)	---	31,669	---	15,000
ICELAND				
NAVAL AIR STATION KEFLAVIK (112 UNITS)	23,213	23,213	22,913	23,213
PHILIPPINES				
NAVY PUBLIC WORKS CENTER SUBIC BAY (216 UNITS)	19,000	19,000	---	---
CONSTRUCTION IMPROVEMENTS	41,748	65,448	45,000	41,748
PLANNING	1,000	6,100	1,000	3,100
SUBTOTAL, CONSTRUCTION	127,400	264,769	123,873	174,621
OPERATION AND MAINTENANCE				
FURNISHINGS ACCOUNT	18,688	28,000	18,688	18,688
MANAGEMENT ACCOUNT	51,018	51,018	51,018	51,018
MISCELLANEOUS ACCOUNT	787	787	787	787
SERVICES ACCOUNT	35,367	35,367	35,367	35,367
UTILITIES ACCOUNT	176,096	176,096	176,096	176,096
LEASING	41,488	41,488	41,488	41,488
MAINTENANCE OF REAL PROPERTY	301,148	320,852	294,548	300,048
MORTGAGE INSURANCE PREMIUMS	208	208	208	208
SUBTOTAL, OPERATION AND MAINTENANCE	624,800	653,816	618,200	623,700
TOTAL, FAMILY HOUSING, NAVY	752,200	918,585	742,073	798,321
FAMILY HOUSING, AIR FORCE				
CALIFORNIA				
BEALE AFB (OFFICE)	295	295	---	---
EDWARDS AFB (OFFICE)	327	327	---	---
ILLINOIS				
SCOTT AFB (OFFICE)	407	407	---	---
LOUISIANA				
ENGLAND AFB (MAINTENANCE FACILITY)	226	226	---	---
OKLAHOMA				
TINKER AFB (OFFICE)	291	291	---	---
SOUTH CAROLINA				
MYRTLE BEACH AFB (MAINTENANCE FACILITY)	382	382	---	---
TEXAS				
KELLY AFB (11 UNITS)	1,619	1,619	---	---
GERMANY				
RAMSTEIN AB (200 UNITS)	20,660	20,660	---	18,722
KOREA				
OSAN AB (1 UNIT)	117	117	---	---
PHILIPPINES				
CLARK AB (450 UNITS)	35,427	---	---	---
CONSTRUCTION IMPROVEMENTS	173,349	220,411	101,000	173,349
PLANNING	8,000	8,000	4,000	8,000
SUBTOTAL, CONSTRUCTION	241,100	252,735	105,000	200,071
OPERATION AND MAINTENANCE				
FURNISHINGS ACCOUNT	55,536	55,536	55,536	51,436
MANAGEMENT ACCOUNT	37,499	37,499	37,499	37,499
MISCELLANEOUS ACCOUNT	6,649	6,649	6,649	6,649
SERVICES ACCOUNT	27,115	27,115	27,115	27,115
UTILITIES ACCOUNT	236,970	236,970	236,970	236,970
LEASING	101,592	101,592	101,592	96,000
MAINTENANCE OF REAL PROPERTY	309,349	307,849	300,349	286,049
MORTGAGE INSURANCE PREMIUMS	90	90	90	90
SUBTOTAL, OPERATION AND MAINTENANCE	774,800	773,300	765,800	741,808
TOTAL, FAMILY HOUSING, AIR FORCE	1,015,900	1,026,035	870,800	941,879

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
FAMILY HOUSING, DEFENSE AGENCIES				
NEW CONSTRUCTION				
OVERSEAS CLASSIFIED (3 UNITS)	400	400	400	400
CONSTRUCTION IMPROVEMENTS	200	200	200	200
SUBTOTAL, CONSTRUCTION	600	600	600	600
OPERATION AND MAINTENANCE				
FURNISHINGS ACCOUNT	1,334	1,334	1,334	1,334
MANAGEMENT ACCOUNT	85	85	85	85
MISCELLANEOUS ACCOUNT	1	1	1	1
SERVICES ACCOUNT	376	376	376	376
UTILITIES ACCOUNT	469	469	469	469
LEASING	17,825	17,825	17,825	17,825
MAINTENANCE OF REAL PROPERTY	610	610	610	610
SUBTOTAL, OPERATION AND MAINTENANCE	20,700	20,700	20,700	20,700
TOTAL, FAMILY HOUSING, DEFENSE AGENCIES	21,300	21,300	21,300	21,300
HOMEOWNERS ASSISTANCE FUND				
OPERATING EXPENSES	5,100	5,100	5,100	5,100
BASE REALIGNMENT AND CLOSURE ACCOUNT				
BASE REALIGNMENT AND CLOSURE ACCOUNT	500,000	500,000	---	500,000

* INDICATES PREVIOUSLY OR PERMANENTLY AUTHORIZED.

BILL HEFNER,
BILL ALEXANDER,
LINDSAY THOMAS,
RONALD D. COLEMAN,
TOM BEVILL,
NORMAN D. DICKS,
JULIAN C. DIXON,
VIC FAZIO,
JAMIE L. WHITTEN,
BILL LOWERY,
MICKEY EDWARDS,
JIM KOLBE,
TOM DELAY,
SILVIO O. CONTE,
Managers on the Part of the House.

JIM SASSER,
DANIEL K. INOUYE,
HARRY REID,
WYCHE FOWLER, Jr.,
ROBERT C. BYRD,
CHARLES GRASSLEY,
JAKE GARN,
TED STEVENS,
MARK O. HATFIELD,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MILLER of Ohio (at the request of Mr. MICHEL), for today, on account of official business.

Mr. LIPINSKI (at the request of Mr. GEPHARDT), for today, on account of family matters.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BURTON of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. SHAYS, for 5 minutes, today.

Mr. BURTON of Indiana, for 60 minutes, each day on October 30 and 31, and November 1 and 2.

Mr. MCEWEN, for 5 minutes, today.

Mr. DREIER of California, for 5 minutes, today.

Mr. RITTER, for 5 minutes, today.

(The following Members (at the request of Mr. LAUGHLIN) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, each day on October 27 and 30.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BURTON of Indiana) and to include extraneous matter:)

Mr. FRENZEL.
Mr. COURTER.
Mr. BROOMFIELD.
Mr. OXLEY.
Mr. GEKAS.
Mr. YOUNG of Alaska.
Mr. BEREUTER.
Mr. DORNAN of California.
Mr. SPENCE.
Mr. GALLO in two instances.
Mr. LENT.
Mr. SNOWE.
Mr. VUCANOVICH.
Mr. BLAZ.
Mr. GOODLING.

(The following Members (at the request of Mr. LAUGHLIN) and to include extraneous matter:)

Mr. SKELTON.
Mr. BERMAN.
Mr. NELSON of Florida.
Mr. RICHARDSON.
Mr. BONIOR.
Mr. RAHALL.
Mr. HAMILTON.
Mr. TRAFICANT.
Mr. MAVROULES.
Mr. DORGAN of North Dakota.
Mr. ECKART.
Mr. WILLIAMS.
Mr. DONNELLY.
Mr. DELLUMS.
Mr. MORRISON of Connecticut.

Mr. HAMILTON.
Mr. TRAFICANT.
Mr. MAVROULES.
Mr. DORGAN of North Dakota.
Mr. ECKART.
Mr. WILLIAMS.
Mr. DONNELLY.
Mr. DELLUMS.
Mr. MORRISON of Connecticut.

ADJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 26 minutes p.m.), the House adjourned until tomorrow, Wednesday, October 25, 1989, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications where taken from the Speaker's table and referred as follows:

1873. A letter from the Administrator, National Aeronautics and Space Administration, transmitting reports on the proposed use of $6,500,000 of fiscal year 1989 construction of facilities funds for modifications to the heavy gas reclamation system of the transonic dynamics tunnel at Langley Research Center, Hampton, VA, pursuant to Public Law 100-685, section 203 (102 Stat. 4089); to the Committee on Science, Space, and Technology.

1874. A letter from the Secretary of Health and Human Services, transmitting reports on State law regarding HIV-related confidentiality and discrimination (1983 to 1988), pursuant to Public Law, section 256(d); to the Committee on Energy and Commerce.

1875. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions for Edward S. Walker, Jr., of Maryland, Ambassador Extraordinary and Plenipotentiary to the United Arab Emirates, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1876. A letter from the National Commander, American Ex-Prisoners of War, transmitting a copy of the 1989 report and financial audit as of August 31, 1989, pursuant to 36 U.S.C. 1101(57), 1103; to the Committee on the Judiciary.

1877. A letter from the Adjutant General, Veterans of Foreign Wars of the U.S., transmitting the financial audit for the fiscal year ended August 31, 1989, together with the auditor's opinion, pursuant to 36 U.S.C. 1101(47), 1103; to the Committee on the Judiciary.

1878. A letter from the Director, Office of Management and Budget, transmitting the administration's proposal to finance the stabilization grants for Poland's economic reform program with $200 million in stabilization grants in fiscal year 1990 through a transfer of funds from three sources: (1) $140 million from funds available to the Department of Defense in fiscal year 1990: (2) $30 million from the economic support fund and from development assistance in the foreign assistance and related agencies' appropriations bill; and (3) a $30 million reduction from funds made available for the nuclear waste disposal fund in Public Law 101-101; jointly, to the Committees on Foreign Affairs and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WHITTEN: Committee on Appropriations. Revised allocations of subdivision of budget totals for fiscal year 1990, pursuant to section 302(e) of the Congressional Budget Act of 1974, as amended (Rept. 101-302). Referred to the Committee of the Whole House on the State of the Union

Mr. ANDERSON: Committee Public Works and Transportation. H.R. 3443. A bill to amend the Federal Aviation Act of 1958 to provide for review of certain acquisitions of voting securities of air carriers, and for other purposes; with an amendment (Rept. 101-303). Referred to the Committee of the Whole House on the State of the Union.

Mr. FROST: Committee on Rules. House Resolution 272. Resolution providing for the consideration of H.R. 3443, a bill to amend the Federal Aviation Act of 1958 to provide for review of certain acquisitions of voting securities of air carriers, and for other purposes (Rept. 101-304). Referred to the House Calendar.

Mr. MOAKLEY: Committee Rules. House Resolution 273. Resolution providing for the consideration of H.R. 45, a bill to provide for a General Accounting Office investigation and report on conditions of displaced Nicaraguans and Salvadorans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Nicaraguans and Salvadorans, and for other purposes (Rept. 101-305). Referred to the House Calendar.

Ms. SLAUGHTER of New York. Committee on Rules. House Resolution 274. Resolution waiving certain points of order against consideration of the conference report on H.R. 2991 and against certain amendments in disagreement (Rept. 101-306). Referred to the House Calendar.

Mr. HEFNER: Committee of Conference. Conference report on H.R. 3012 (Rept. 101-307). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BRUCE:

H.R. 3509. A bill to change the tariff treatment of certain brooms wholly or in part of broom corn; to the Committee on Ways and Means.

By Mr. APPLEGATE:

H.R. 3510. A bill to suspend temporarily the duty on Diaphone V; to the Committee on Ways and Means.

By Mr. DONNELLY:

H.R. 3511. A bill to revise and extend for 5 years the "NP-5" Nonpreference Immigrant Program; to the Committee on the Judiciary.

By Mr. DORGAN of North Dakota (for himself and Mr. HAMILTON):

H.R. 3512. A bill to modernize the Federal Reserve System and to provide for prompt disclosure of certain decisions of the Federal Open Market Committee; jointly, to the Committees on Banking, Finance and Urban Affairs and Government Operations.

By Mr. OLIN (for himself, Mr. SLAUGHTER of Virginia, and Mr. MRAZEK):

H.R. 3513. A bill to assess the suitability and feasibility of including certain Shenandoah Valley Civil War sites in the National Park System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PASHAYAN (for himself, Mr. STENHOLM, Mr. MORRISON of Washington, and Mr. VENTO):

H.R. 3514. A bill to establish within the Department of Agriculture an Office of Integrated Pest Management, and for other purposes; to the Committee on Agriculture.

By Mr. ROSE:

H.R. 3515. A bill to provide for accountability with regard to environmental compliance with respect to, and to provide notice and an opportunity to comment on, designations of special use airspace; jointly, to the Committees on Armed Services and Public Works and Transportation.

By Mr. SUNDQUIST:

H.R. 3516. A bill to amend the Internal Revenue Code of 1954 to provide a refundable income tax credit for the recycling of hazardous wastes; to the Committee on Ways and Means.

By Mr. WILLIAMS (for himself, Mr. HAWKINS, Mr. CLAY, Mr. MILLER of California, Mr. KILDEE, Mr. MARTINEZ, Mr. FUSTER, Mr. FAZIO, and Mr. DE LUGO):

H.R. 3517. A bill to amend the Job Training Partnership Act to provide emergency disaster relief employment for the reconstruction of areas affected by natural disasters, and for other purposes; to the Committee on Education and Labor.

By Mr. YOUNG of Alaska:

H.R. 3518. A bill to amend the Internal Revenue Code of 1986 to clarify the tax treatment of discharges of indebtedness under certain student loans; to the Committee on Ways and Means.

By Mr. BERMAN:

H.J. Res. 426. Joint resolution to designate the period commencing February 4, 1990, and ending February 10, 1990, as "National Burn Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. DREIER of California:

H. Con. Res. 215. Concurrent Resolution expressing the sense of the Congress that the Soviet Union should immediately cease its military and logistical assistance to the illegitimate Afghan Government; to the Committee on Foreign Affairs.

By Mr. SUNDQUIST:

H. Con. Res. 216. Concurrent resolution urging the reduction of barriers to Americans trading with or investing in Japanese companies; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

298. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to

the commercial sale of bovine somatotropin to the Committee on Agriculture.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 150: Ms. SLAUGHTER of New York, Mr. BRENNAN, and Mr. ENGEL.

H.R. 156: Mr. ROWLAND of Connecticut.

H.R. 245: Mr. ANDERSON.

H.R. 425: Mr. BLILEY.

H.R. 509: Mr. BATEMAN, Mr. BORSKI, Mr. COYNE, Mr. DICKS, Mr. FAUNTROY, Mr. GARCIA, Mr. IRELAND, Mr. JAMES, Mr. JENKINS, Ms. KAPTUR, Mr. MCCOLLUM, Mr. MAVROULES, Mr. MICHEL, Mr. NELSON of Florida, Mrs. ROS-LEHTINEN, Mr. SAVAGE, Mr. SISISKY, Mr. SMITH of Texas, Mr. TRAXLER, Mr. WOLF, Mrs. LLOYD, Mr. MCDADE, Mr. PAXON, and Mrs. UNSOELD.

H.R. 525: Mr. GINGRICH and Mr. KOLBE.

H.R. 529: Mr. GINGRICH and Mr. HERTEL.

H.R. 530: Mr. HERTEL.

H.R. 572: Mr. LAGOMARSINO.

H.R. 586: Mrs. BENTLEY, Mr. RITTER, Mr. BRENNAN, Mr. SAVAGE, Ms. SLAUGHTER of New York, Mrs. COLLINS, Mr. FALEOMAVAEGA, and Mr. MCDADE.

H.R. 675: Mr. GLICKMAN.

H.R. 717: Mr. LEHMAN of California, Mr. MRAZEK, Mr. GUARINI, Mr. RANGEL, Mr. VISCLOSKY, and Mrs. ROS-LEHTINEN.

H.R. 718: Mr. OWENS of Utah and Mr. WILSON.

H.R. 913: Mrs. JOHNSON of Connecticut.

H.R. 956: Mr. BLILEY.

H.R. 993: Mr. GARCIA.

H.R. 1059: Mrs. LOWEY of New York and Mr. GOODLING.

H.R. 1109: Mr. MURPHY and Mrs. BYRON.

H.R. 1180: Mr. MARTINEZ.

H.R. 1500: Mr. SHAYS, Mr. LANTOS, Ms. SLAUGHTER of New York, Mr. LEHMAN of Florida, Mr. POSHARD, Mr. VALENTINE, Mr. SMITH of Florida, Mr. ROSE, Mr. ROBINSON, Mr. HAYES of Illinois, and Mr. BOUCHER.

H.R. 1632: Mr. ENGEL.

H.R. 1863: Ms. KAPTUR.

H.R. 2188: Mrs. LOWEY of New York, Mr. LANTOS, and Mr. GLICKMAN.

H.R. 2277: Mr. LAGOMARSINO.

H.R. 2300: Mr. LAGOMARSINO.

H.R. 2388: Mr. DE LUGO, Mr. ROGERS, and Mr. ECKART.

H.R. 2418: Mr. PARKER, Mr. SCHUETTE, Mr. GINGRICH, Mr. VENTO, Mr. PACKARD, Mr. HENRY, and Mr. LAFALCE.

H.R. 2632: Mr. WEISS, Mr. ATKINS, and Mr. KOSTMAYER.

H.R. 2665: Mr. STARK, Mr. WYDEN, Mr. AKAKA, Mr. CROCKETT, Mr. NAGLE, Mr. MOODY, Mr. KLECZKA, Mr. DURBIN, Ms. LONG, Mr. CAMPBELL of Colorado, Mr. KOSTMAYER, Mr. MARKEY, Mr. BROWN of California, Mr. HYDE, Mr. BERMAN, Mr. YATES, and Mr. CAMPBELL of California.

H.R. 2700: Mr. YATRON and Mr. DENNY SMITH.

H.R. 2754: Mr. WYLIE, Mr. APPLEGATE, Mr. ATKINS, Mr. BARNARD, Mr. BENNETT, Mr. BLILEY, Mrs. BOGGS, Mr. BOSCO, Mr. BUSTAMANTE, Mr. CLARKE, Mr. DICKS, Mr. DYMALLY, Mr. GORDON, Mr. JAMES, Mr. JONES of North Carolina, Mr. KOLBE, Mr. MANTON, Mr. MOLINARI, Mr. MURPHY, Mr. NATCHER, Mr. OWENS of New York, Mr. OWENS of Utah, Mr. RAY, Mr. RITTER, Mr. ROYBAL, Mr. RUSSO, Mr. SAWYER, Mr. SCHEUER, Mr. SOLARZ, Mr. SMITH of New Hampshire, Mr. ROBERT F. SMITH, Mr. STOKES, Mr. TAUZIN, Mr. TORRES, Mr. VALENTINE, Mr. VANDER JAGT, Mr. VENTO, Mr. WOLPE, Mr. YATES, and Mr. PAYNE of Virginia.

H.R. 2761: Mr. SPENCE, Mr. VOLKMER, Mr. PALLONE, Mr. BURTON of Indiana, Mr. COLEMAN of Texas, Mr. MCDERMOTT, Mr. SWIFT, Mrs. COLLINS, Mr. DEWINE, Mr. CONDIT, Mr. VANDER JAGT, Mr. HAYES of Louisiana, Mr. SMITH of Texas, Mrs. UNSOELD, Mr. FALEOMAVAEGA, Mr. BOSCO, Mr. RAY, Mrs. BENTLEY, and Mr. BRENNAN.

H.R. 2840: Mr. BORSKI.

H.R. 2996: Mr. HOYER.

H.R. 3093: Mr. WEISS.

H.R. 3098: Mr. MILLER of Washington.

H.R. 3143: Mr. DELLUMS.

H.R. 3182: Mr. ATKINS, Mr. BARTLETT, Mr. BENNETT, Mr. CLEMENT, Mr. DWYER of New Jersey, Mr. EVANS, Mr. HASTERT, Mr. HERTEL, Mr. MINETA, Mr. PANETTA, Mr. STARK, Mr. TALLON, Mr. TORRES, Mr. TRAFICANT, Mr. TRAXLER, Mr. ROSE, Mr. BONIOR, Mr. BRYANT, Mr. BUNNING, Mr. CHANDLER, Mr. ENGEL, Mr. JONTZ, Mr. KILDEE, Mr. SHUMWAY, Mr. VALENTINE, Mr. WEBER, Mr. WEISS, Mr. EDWARDS of California, Mr. JOHNSON of South Dakota, Mr. REGULA, Mr. FALEOMAVAEGA, Mr. WAXMAN, Mr. MARTINEZ, Mr. DYMALLY, Mr. BROWN of Califorina, Mrs. MEYERS of Kansas, Mr. LEVINE of California, Mr. UDALL, Mr. RAVENEL, Mr. NAGLE, Mr. MCHUGH, Mr. BILBRAY, Mr. DE LA GARZA, Mr. HAYES of Illinois, and Mr. VENTO.

H.R. 3209: Mr. MCCLOSKEY.

H.R. 3223: Mr. DORNAN of California.

H.R. 3234: Mr. NEAL of North Carolina and Mr. VENTO.

H.R. 3323: Mr. FALEOMAVAEGA.

H.R. 3325: Mrs. COLLINS, Mr. COURTER, and Mr. FASCELL.

H.R. 3343: Mr. NAGEL, Mr. COLEMAN of Texas, Mr. BATES, Mr. ROYBAL, Mr. RANGEL, Mr. NEAL of Massachusetts, Mr. KILDEE, Mr. DIXON, Mr. MANTON, Mr. STARK, Mr. PENNY, Mr. STAGGERS, Mr. BRUCE, and Mr. CROCKETT.

H.R. 3380: Mr. FROST, Mr. TOWNS, Mr. HERTEL, Mr. CALLAHAN, Mr. BROWDER, Mr. VISCLOSKY, Mr. SWIFT, Mr. KOSTMAYER, Mr. ROE, Mrs. SCHROEDER, Mr. AUCOIN, Mr. DANNEMEYER, Mr. WILSON, Mr. ORTIZ, Mr. LAGOMARSINO, Mr. GONZALEZ, Mr. SMITH of Texas, Mr. WELDON, Mr. CRAIG, Mr. RANGEL, Mr. MATSUI, Mr. DYMALLY, and Mr. DERRICK.

H.R. 3409: Mr. BENNETT, Mr. SANGMEISTER, Mr. JOHNSON of South Dakota, Mr. HORTON, Mr. YOUNG of Alaska, Mrs. BENTLEY, Mr. STARK, Mr. CONDIT, Mr. FROST, and Mr. MACHTLEY.

H.R. 3421: Mr. STARK and Mrs. BYRON.

H.R. 3443: Mr. DARDEN.

H.R. 3475: Mrs. MORELLA, Mr. DENNY SMITH, and Mr. APPLEGATE.

H.R. 3483: Mr. BROWN of California, Mrs. COLLINS, and Mr. DWYER of New Jersey.

H.R. 3502: Mr. FALEOMAVAEGA.

H.J. Res. 82: Mr. DERRICK.

H.J. Res. 224: Mr. APPLEGATE, Mr. PAYNE of New Jersey, Mr. NEAL of Massachusetts, Mr. MONTGOMERY, Ms. PELOSI, Mr. STOKES, Mr. KANJORSKI, Mr. COUGHLIN, Mr. HUTTO, Mr. PARRIS, Mr. SLATTERY, Mr. SKELTON, Mr. INHOFE, Mr. WYDEN, Mr. JONTZ, Mr. MINETA, Mr. NELSON of Florida, Mr. LEHMAN of California, Mr. IRELAND, Mr. GRAY, Mr. JONES of North Carolina, Mr. ROHRABACHER, Mr. STALLINGS, Mr. BROWDER, Mr. DELLUMS, Mr. WEBER, Mr. BRENNAN, Mr. SABO, Mr. OXLEY, Mr. PAXON, Mr. FRANK, Mr. SOLARZ, Mr. ROBERT F. SMITH, Mrs. BOGGS, Mr. MCHUGH, Mrs. UNSOELD, Mr. SCHEUER, Mr. WALSH, Mr. JONES of Georgia, Mr. BARTON of Texas, Mr. CONYERS, Mr. FLORIO, Mr. FUSTER, Mr. HENRY, Mr. GORDON, Mr. MATSUI, Mr. HUNTER, Mr. JOHNSON of South Dakota, Mr. LEWIS of Georgia, Mr. RAHALL, Mr. SANGMEISTER, Mr. EDWARDS of Oklahoma, Mr. STUDDS, Mr. MFUME, Mr. OBERSTAR, Mr. ROSE, Mr. GRANDY, Mr. MILLER of Washington, Ms. LONG, Mr. GRANT, Mr. BROOKS, Mr. HYDE, Mr. BOUCHER, Mr. BILIRAKIS, Mr. EDWARDS of California Mr. PAYNE of Virginia, Mr. BONIOR, Mr. ORTIZ, Mr. BENNETT, Mr. TORRES, Mr. LEVINE of California, Mr. DYSON, and Mr. BUECHNER.

H.J. Res. 226: Mr. OLIN, Mr. FLORIO, Mr. BEREUTER, Mr. SAWYER, Mr. GEJDENSON, Ms. SLAUGHTER of New York, Mrs. KENNELLY, Mr. TOWNS, Mr. FLIPPO, Mr. WILSON, Ms. SNOWE, Mr. VISCLOSKY, and Mr. ENGLISH.

H.J. Res. 230: Mr. BRENNAN, Mr. LEHMAN of Florida, Mr. BILBRAY, Mr. ROBERT F. SMITH, Mr. ACKERMAN, Mr. DELLUMS, Mr. DANNEMEYER, Mr. BALLENGER, Mr. HILER, Mr. BATES, Mr. ENGLISH, Mrs. SMITH of Nebraska, Mr. WHEAT, Mrs. VUCANOVICH, Mr. DUNCAN, Mr. GILMAN, Mr. MCHUGH, and Mr. RAHALL.

H.J. Res. 255: Mr. GALLO, Mr. MOLINARI, Mr. HEFLEY, Mr. ROBERT C. SMITH, of New Hampshire, Mr. HANCOCK, Mr. MCDERMOTT, and Mr. MANTON.

H.J. Res. 278: Mr. MFUME.

H.J. Res. 398: Mr. ATKINS, Mr. BARTLETT, Mr. BENNETT, Mr. CLEMENT, Mr. DWYER of New Jersey, Mr. EVANS, Mr. HASTERT, Mr. HERTEL, Mr. MINETA, Mr. PANETTA, Mr. STARK, Mr. TALLON, Mr. TORRES, Mr. TRAFICANT, Mr. TRAXLER, Mr. ROSE, Mr. BONIOR, Mr. SPENCE, Mr. BUNNING, Mr. CHANDLERS, Mr. ENGEL, Mr. JONTZ, Mr. KILDEE Mr. SHUMWAY, Mr. VALENTINE, Mr. WEBER, Mr. WEISS, Mr. EDWARDS of California, Mr. JOHNSON of South Dakota, Mr. REGULA, Mr. FALEOMAVAEGA, Mr. WAXMAN, Mr. MARTINEZ, Mr. DYMALLY, Mr. BROWN of California, Mrs. MEYERS of Kansas, Mr. LEVINE of California, Mr. UDALL, Mr. RAVENEL, Mr. NAGLE, Mr. MCHUGH, Mr. BILBRAY, Mr. DE LA GARZA, Mr. HAYES of Illinois, Mr. VENTO, Mr. LIPINSKI, Mr. BORSKI, Mr. DICKS, Mr. MANTON, and Mr. WALGREN.

H.J. Res. 409: Mr. BATES.

H.J. Res. 410: Mr. HALL of Texas, Mr. MCEWEN, Mr. MCGRATH, Mrs. MARTIN of Illinois, Mr. LEHMAN of California, Mr. MFUME, Mr. WALGREN, Mr. LANTOS, Mr. NATCHER, Ms. SLAUGHTER of New York, Mr. WISE, Mr. KILDEE, Mr. KASTENMEIER, Mr. FRANK, Mr. FEIGHAN, Mr. NIELSON of Utah, Mr. MOLINARI, Mr. SCHAEFER, Mr. GREEN, Mr. INHOFE, Mr. ACKERMAN, Mr. ALEXANDER, Mr. ANDERSON, Mr. ANDREWS, Mr. ASPIN, Mr. ATKINS, Mr. BARNARD, Mr. BENNETT, Mr. BERMAN, Mr. BILBRAY, Mr. BOEHLERT, Mrs. BOGGS, Mr. BONIOR, Mr. BORSKI, Mr. BOSCO, Mr. BOUCHER, Mr. BROOKS, Mr. BROWDER, Mr. BRYANT, Mrs. BYRON, Mr. CAMPBELL of Colorado, Mr. CARR, Mr. CHAPMAN, Mr. CLAY, Mr. CLEMENT, Mr. COOPER, Mr. COYNE, Mr. CROCKETT, Mr. DARDEN, Mr. DE LA GARZA, Mr. DELLUMS, Mr. DE LUGO, Mr. DINGELL, Mr. DIXON, Mr. DORGAN of North Dakota, Mr. DOWNEY, Mr. DUNCAN, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. DYSON, Mr. EARLY, Mr. ECKART, Mr. ENGLISH, Mr. FASCELL, Mr. FLAKE, Mr. FOGLIETTA, Mr. FUSTER, Mr. GAYDOS, Mr. GEJDENSON, Mr. GLICKMAN, Mr. GONZALEZ, Mr. GORDON, Mr. GRANDY, Mr. GRANT, Mr. GUARINI, Mr. HAMILTON, Mr. HARRIS, Mr. HATCHER, Mr. HEFNER, Mr. HENRY, Mr. HERTEL, Mr. HOYER, Mr. HUBBARD, Mr. HUCKABY, Mr. HUGHES, Mr. JENKINS, Mr. JOHNSON of South Dakota, Ms. KAPTUR, Mr. KOLBE, Mr. LAGOMARSINO, Mr. MARLENEE, Mrs. MORELLA, Mr. OXLEY, Mr. RIDGE, Mr. ROBERTS, Mr. ROGERS, Mr. SKEEN, Mr. SUNDQUIST, Mr. THOMAS of California, Mrs. VUCANOVICH, Mr. WEBER, Mr. YOUNG of

Alaska, Mrs. BOXER, Mr. ARCHER, Mr. SPENCE, Mr. PURSELL, Mr. REGULA, Mrs. SAIKI, Mr. ROYBAL, Mr. BRENNAN, Mr. HALL of Ohio, Mr. LAFALCE, Mr. CONTE, Mr. MOAKLEY, Mr. SAWYER, Mr. SCHUMER, and Mr. SAXTON.

H.J. Res. 418: Mr. STARK, Mr. KLECZKA, Ms. PELOSI, Mr. MORRISON of Connecticut, Mrs. COLLINS, Mr. BROWN of California, Mr. CONDIT, and Mr. KOSTMAYER.

H.J. Res. 425: Mr. FRANK, Mr. FAUNTROY, Mr. LEHMAN of Florida, Mr. FUSTER, Mr. TRAXLER, Mr. HORTON, Mr. NEAL of North Carolina, Mr. GUNDERSON, Mr. HALL of Ohio, Mr. WYLIE, Mr. TOWNS, Mr. SABO, Mr. VANDER JAGT, Mr. SCHAEFER, Mr. NEAL of Massachusetts, Mr. PETRI, Mr. GEKAS, Mr. BLILEY, and Mr. WALSH.

H. Con. Res. 85: Mr. MCDERMOTT and Mr. LEVINE of California.

H. Con. Res. 213: Mr. BERMAN, Mr. NEAL of Massachusetts, Mr. CAMPBELL of California, Mr. UDALL, Mr. EDWARDS of California, Mr. FEIGHAN, Mr. DICKS, and Mr. NEAL of North Carolina.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

104. By the SPEAKER: Petition of city of Lakewood, OH, relative to the Clean Air Act of 1977; to the Committee on Energy and Commerce.

105. Also, petition of city of Lakewood, OH, relative to the Americans With Disabilities Act; jointly to the Committees on Education and Labor, Energy and Commerce, the Judiciary, and Public Works and Transportation.

SENATE—*Tuesday, October 24, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

The fear of the Lord is the beginning of wisdom: and the knowledge of the holy is understanding.—Proverbs 9:10.

*In the fear of the Lord is strong confidence * * *. The fear of the Lord is a fountain of life * * *.*—Proverbs 14:26, 27.

Let us hear the conclusion of the whole matter: Fear God, and keep his commandments: for this is the whole duty of man.—Ecclesiastes 12:13.

Holy God, full of grace and mercy, make us to see that the fear of the Lord is the key to life in all its potential. To fear man is to demean ourselves—to diminish our humanness. To fear God is to elevate ourselves—to enter into total manhood with all its God-likeness and profound possibilities. In the name of Jesus whose full humanity was in His total submission to His Father in Heaven. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, following the time reserved for the two leaders, there will be a period for morning business until 10:30 a.m. this morning, with Senators permitted to speak therein for up to 5 minutes each.

At 10:30, the Senate will resume consideration of H.R. 1231, with my substitute amendment pending. It is my hope that discussion on this matter, which was extensive yesterday, can be relatively brief this morning, and that as soon as possible, I will be able to obtain consent to proceed to consider, from the Executive Calendar, six mutual legal assistance treaties; if consent is granted, then the Senate will lay aside the Eastern matter to consider these treaties.

The Senate will recess from 12:30 to 2:15 for the party conferences. It is my understanding that the House of Representatives will consider the continuing resolution late this afternoon. That resolution will contain emergency assistance for the victims of the California earthquake.

Therefore, Mr. President, it is my intention to move promptly on that matter prior to the expiration of the continuing resolution currently in force, now scheduled for tomorrow midnight.

In addition, I discussed with the distinguished Republican leader yesterday, both privately and in a public exchange here on the Senate floor, my desire to proceed to the legislation providing assistance to Poland and Hungary, and I understand that an alternative package is to be presented today by the distinguished Republican leader and several of his colleagues, and that thereafter, hopefully either later today or tomorrow morning, we will be able to proceed to that legislation as well.

In addition, Mr. President, Senators should be aware that we hope to act promptly this week on several of the appropriations conference reports. We will not be able to complete action on all of them prior to the expiration of the current continuing resolution, but it is my hope that we can do as many as possible this week.

In addition, I committed myself to bring to the Senate, and it probably will be later this week, hopefully sometime on Thursday, legislation by Senator SPECTER regarding the death penalty. That is under a 4-hour time limitation, and it is my intention to honor that commitment sometime during this week.

So there are going to be several matters which we will have to act on, which will take some time this week. Senators should expect several votes and continuing sessions throughout the week.

RESERVATION OF LEADERS' TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my time, and I reserve the time of the distinguished Republican leader.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. Without objection, the time of the two leaders will be reserved. The point of no quorum having been raised, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Minnesota [Mr. DURENBERGER] is recognized for not to exceed 5 minutes.

THE INTERNATIONAL TRANS-ANTARCTICA EXPEDITION

Mr. DURENBERGER. Mr. President, today is day 90 of the international trans-Antarctica expedition. The 6 men from 6 different countries have traveled over 1,000 miles, and are over a quarter into their 4,000-mile trek across the frozen Antarctic Continent.

After several weeks of terrible weather—100-mile winds, deep snow, and very low temperatures—that made travel very difficult, the weather, in the last 2 weeks, has improved allowing the team to move almost 23 miles a day last week.

Beside delaying the trek—they are over a week behind schedule—the weather took its toll on the dogs and men. It sapped the dogs' strength forcing the team to send some to the base camp and use two sleds instead of three. The bad weather also affected the men. In fact, last Friday, when the temperature was 37 degrees below zero with a 30-mile-per-hour head wind, the team's coleader Jean-Louis Etienne commented that the weather was so bad "that you couldn't think and walk at the same time under these conditions or else you'd start to ask yourself how you ever got in this mess."

The team is now near the U.S. scientific research station at Siple where their eighth food cache is. Luckily it was not buried under snow like before, so they were able to find it easily.

They are now moving off of the Antarctic Peninsula onto the main part of the continent of Antarctica. But while the dangers on the peninsula were storms and crevasses, the danger now becomes the wind and the severe cold. Each team member and each dog has specially made clothing to protect them from the harsh elements. Team

members use a variety of mix-and-match garments, including thermal underwear, pile jackets and pants, wind suits, insulated jump suits, and jackets.

This layering process allows the men to adjust their clothing to meet the weather conditions so that they can stay warm yet avoid the dangers of overheating. On days that have 50 degrees below zero or when they rest, the men wear specially insulated parkas as well. On their feet the team wear moosehide mukluks especially designed by the Minnesotan who is the team leader, Will Steger.

The mukluks are comfortable enough for daily 25 mile hikes, yet they withstand cold and the razor-sharp ice that the feet come in contact with.

The dogs have their fur, but even they need protection against the harsh Antarctic. So on bitter cold days the dogs also wear special outfits designed to break the wind and booties to protect their paws from ice crystals.

The person who represents the country of Japan on this trip, Keizo Funatsu, was invited to join the expedition by its leader, Will Steger. He is there as a dog handler. Will noticed the way in which Mr. Funatsu was able to apply his Zen-like ability in handling dogs. He has mushed in some of the most famous dogsled races, including the famous one in Alaska, the Iditarod. He is a bicyclist. He graduated from Kobe University, in Japan, and bicycled all over the United States and North America all by himself.

Mr. President, this is my fourth update, and the more I know about the Antarctic expedition the more interested I became in this particular adventure. The adversity that the six men are facing is without parallel in the history of mankind. Yet, their spirit has not waned. They are doing it on purpose, and the dogs keep pulling.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The PRESIDENT pro tempore. The Senator from Nevada [Mr. REID] is recognized for not to exceed 5 minutes.

CAMPAIGN CONTRIBUTIONS

Mr. REID. Mr. President, I have a letter that was sent to me by one of my constituents. I am going to read the letter or parts thereof.

It starts out addressed to the individual in question. The top of the letter has the words, "urgent, urgent, urgent, urgent, urgent, urgent, urgent" written across the top. This letter was written to a senior citizen and, by the way, I might mention a Republican senior citizen.

The letter says:

Drug abuse is up an alarming 55%! Violent suburban drug-related offenses are increasing by 20% a year!

Drug-related murders have doubled in the past 5 years and 60% of the killers test positive for drugs. In fact 62% to 82% of all serious crimes—murders, rapes and robberies—are committed by drug users.

And now drug kingpins have declared war on Colombia and the United States. They've even threatened to assassinate President Bush and hard-line Senators!

You, me, President Bush and every member of the Senatorial Committee must intensify our war against drugs.

We must help President Bush stop the tidal wave of drugs washing over our borders. We must help him end drug-related crime, murder and terror in our neighborhoods, schools and playgrounds.

All that stands in our way is the liberal Senate Democrat majority.

They refuse to support our war on drugs unless we let them force a major tax increase on the American people.

It disgusts me how the liberal Democrats will use any excuse—even something as serious and as devastating as the drug plague—to call for new taxes.

You and I know that the answer lies in the strong and determined leadership that only a Republican Senate majority can provide.

Only with a Republican Senate majority can we terminate costly Democrat special interest giveaways and use that money to educate our children to the evils of drugs, build prisons and beef-up police forces in our towns and communities.

And only a Republican Senate majority will appoint tough-on-crime Federal judges who will hand down stiff sentences on drug kingpins and drug users.

Every Senatorial Committee member has a moral and civic duty to aid President Bush in the war on drugs by helping to elect a Republican Senate majority in 1990.

For that reason, I must ask you to make a special emergency contribution of $25 or $50 to the Senatorial Committee today.

The tax-and-spend Democrats have had their chance.

While we want to come down hard on drug users, they talk about legalizing drugs. When we needed prisons they threw our tax dollars away.

They go on and on ending this here by saying:

Send your special contribution of $25 or, hopefully $50, to the senatorial committee today.

Thank you for taking immediate action.

Sincerely,

RICHARD DEARBORN,
Executive Director.

Mr. President, here is a response from a frightened old woman. Let me read her response written to me by hand. She does not want her name used but any Member of the Senate who wants to see this letter can see it.

"Dear sir," addressed to me.

Sorry to start a letter to you like this but to tell you the truth it is a pretty tough situation in which I have been placed. Really hard to explain it as it is due to no fault of mine. I am so unhappy and so distressed I do not know what to do.

I have enclosed this one letter as it is so hard to write in detail. I do not feel I take a chance in sending a letter to you. I do sincerely pray you won't let anyone see it that could hurt me.

It happens President Bush and Reagan have the idea they can force me (for what reason) to sign a consent petition to help them build up the Senate with their chosen, and I have been billed for membership and regular routine contributions to build up the Senate with the election fund with it so they can follow up with it and fill their commitments to their constituents.

I have enclosed postage so you can send this letter back to me. I cannot turn traitor on my choice of my party but I do not have the guts to write it to them. They write some pretty positive and demeaning remarks, but some of those people show how they treat other people. I hope that this is a constructive way to do but I have never heard of a President telling I must pay money on our national deficit. I do not understand how he expects me to be all excited and wanting to sign up accepting this task force. "Charter membership and match President Reagan's commitment with your own $120 membership contribution today."

Thank you kindly. I will be anxious to learn your thoughts on all these unpredictable goings on.

Mr. President, I cannot believe anything as cynical as this letter, a letter that is preying upon the fears of the American public, and this is directed to a senior citizen to even complicate the cynicism. This turns a drug war into a fundraising effort for a political party.

We all know in this body that the funding for the drug war did not come from the Republicans. It came from the chairman of the Senate Appropriations Committee, Senator ROBERT BYRD of West Virginia. It was his idea that we take a percentage from each appropriation bill and put it into the fight on drugs. It did not call for increased taxes. But it put the money of this body where our mouths have been.

We have all heard the speeches that President Bush gave. I went down to the west front of the Mall in May and stood in the rain to listen to the President with a constituent from Nevada who had lost a husband in the drug war. There were people from all over the country there that day who had lost brothers or sons or fathers in that drug war. The President stated at that time we were going to hire more policemen to fight the drug war. He called for a bipartisan effort to fight the drug criminals.

Mr. President, I ask unanimous consent that I be given an extra 4 minutes under morning business.

The PRESIDENT pro tempore. Without objection, the Senator from Nevada [Mr. REID] will be recognized for an additional 4 minutes.

Mr. REID. Mr. President, again I ask "how cynical is this letter?" How cynical are the people who wrote it? Drugs affect the lives of the children of this country. To use the fear of drugs to raise money for a political campaign fund to elect people of a particular party persuasion is very cynical. Worse it is hypocritical when the proposal for actually funding these programs rather than just talking about it, came from the chairman of the Appropriations Committee. It was the chairman of the Appropriations Committee who said, why do we not actually start spending some money. Let us put our money where our mouths have been. And it was done without raising taxes. It was accomplished by taking a specific amount, less than one-half of 1 percent out of each appropriations bill, and putting this money into the drug war.

The author of this letter, Mr. President, should be ashamed of himself. Richard Dearborn, the executive director of the National Republican Senatorial Committee, should be ashamed of himself.

The President of the United States should repudiate this letter. It is a sick letter. Any money raised from this should be refunded to the poor people who sent it in because they are people who are afraid as this woman here.

This, Mr. President, should be repudiated by Senate Republicans. They should be ashamed of this letter.

I would also say that the press should look at this letter. I think they should expose this abuse for what it is—a cynical attempt to use the problems we are having with this country relating to drugs in an attempt to raise money. Scare tactics, that is all it is.

I think, Mr. President, that this is an abuse of the good faith of this country in all agreeing that we need to do something about the drug war, but certainly not frightening people into sending money to a particular political party.

The people that are injured as a result of the problems we have in this country with drugs are not Democrats or Republicans. The people shot and killed in the streets of our cities throughout this country are not Democrats or Republicans. They are involved because it is a problem that relates to everybody. And the innocent bystanders that have been killed—and there have been scores and scores of them—those bullets do not head toward Democrats or Republicans. The gangs are not Democratic or Republican, and certainly this battle against drugs should not be.

The children of this country are too important. I repeat, Mr. President, I am turned off by this letter. I think it is a sick, sick cynical view of the world. It is not a view that is shared by the American public.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, the order for the quorum call will be rescinded.

BIRTHDAY TRIBUTE TO RAMSAY DOUGLAS POTTS (MGEN, USAF, RET.)

Mr. WARNER. Mr. President, I rise today, October 24, to pay tribute to a remarkable American on the occasion of his 73d birthday.

Ramsay Douglas Potts was born and raised in Memphis, TN, the eldest of six children. A crack athlete, he graduated from the University of North Carolina in 1941 where he played No. 1 on the varsity tennis team and was a starter on the varsity basketball team. Having volunteered for aviation cadet training in the U.S. Army Air Force, he completed flight training and was commissioned on December 12, 1941.

Throughout 1942, 1943, and 1944 Ramsay flew B-24 Liberator bombers of the 8th Air Force against Nazi held targets in Germany, occupied France, Austria, Romania, and North Africa. He led one of the Liberator units on the famous low-level attack on the Ploesti oil refineries. After serving as commanding officer of two separate bomb groups, the 453d and the 389th, he became director of bomber operations for the 8th Air Force in January 1945.

In May 1945 Ramsay was appointed chief of staff of the Military Analysis Division of the U.S. Strategic Bombing Survey and interrogated Goering, Doenitz, Kesselring, Galland, and Speer. His decorations include the Distinguished Service Cross, the Silver Star, the Distinguished Flying Cross, the Bronze Star, the British Distinguished Flying Cross, and the French Croix de Guerre.

In the postwar years, Ramsay graduated from the Harvard Law School and turned his attention to law. He continued to serve the Air Force and our military in various capacities, retiring as a major general.

Ramsay is now counsel to Shaw, Pittman, Potts & Trowbridge, a major Washington, DC, law firm of over 240 lawyers that he helped found in the 1950's. He has authored and published many articles, and is publisher of "Air Power History."

Ramsey and his wife, Ray, now live in northern Virginia. I am privileged that he is one of my constituents. We are all indebted to Ramsay for his distinguished and varied service to our country over many years. He is modest and gracious. We wish him many more happy birthdays.

THE 1,683D DAY OF TERRY ANDERSON'S CAPTIVITY

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,683d day that Terry Anderson has been held captive in Beirut.

Each day that this ordeal continues, it does so also for the families of the hostages.

I ask unanimous consent that a recent profile of Terry Anderson's sister, Peggy Say, be printed in the RECORD.

There being no objection, the profile was ordered to be printed in the RECORD, as follows:

PEGGY SAY'S ONE-WOMAN CRUSADE

(By William Bole)

During the summer, when the political situation in Iran became fluid after the death of Ayatollah Khomeini, the Israeli kidnapping of Shiite Moslem Sheik Obeid, and the execution by terrorists of U.S. Marine Lt. Col. William Higgins, few people followed the news as intently as Peggy Say. Would the fanatics who have ruled Iran for more than a decade finally take a back seat? Would moderates step in and free the American hostages held by pro-Iranian, Moslem extremists in Lebanon? These were not just idle questions for Say, whose younger brother is Associated Press correspondent Terry A. Anderson, the longest-held American hostage. In October, Anderson turns 42, his fifth birthday in captivity.

"With everything that's happened in Iran, we've been holding our breath and saying 'Dear God, let it come down on our side for a change,'" said Say—before the Obeid and Higgins events of the summer—who now lives in southwest Kentucky with her husband, David.

Fortunately for Anderson and the eight other American hostages in Lebanon, Say has not just been sitting around and waiting for good news. The 48-year-old housewife, who never travelled outside the United States before her brother's kidnapping, has become a one-woman diplomatic unit working on behalf of the hostages. She has crossed the country many times, speaking to church congregations and American Legion posts about the hostages' plight, and has met with Middle East generals and religious leaders to ask their help. Most of all, the persistent, red-haired woman has rattled the cages of the United States government, which prefers quiet diplomacy.

Peggy Say's life as a hostage sister began on March 16, 1985, when the telephone rang at her home early one Saturday morning. Say, who lived in Florida at the time, says she knew the call was bringing bad news. One hostage, newsman Jeremy Levin of Cable News Network, had escaped a month earlier, and Say had feared the kidnappers would want to take another journalist. "I just couldn't shake the feeling that Terry would be next," she recalls. When Say picked up the phone that morning, it was AP on the other end, calling to say Anderson was kidnapped off the streets of West Beirut.

At first, she heeded the advice of State Department officials about keeping quiet

while they did the work. She also took the Reagan Administration at its word when it said the United States did not negotiate with terrorists. But Say felt betrayed when the United States negotiated for the release of 39 American hostages whose Trans World Airlines flight was hijacked to Beirut International Airport in July 1985.

"They told me that I better not even try to connect Terry and the other hostages in Lebanon to the TWA passengers—because it would complicate matters and lengthen the captivity of the TWA hostages," Say recalls of her conversations with officials in Washington. "That's when I said this isn't right. I knew the TWA passengers would come home regardless of what we had to do to get them out of there. So with the other families, we went screaming to the media, saying the hostages in Lebanon should be part of the deal. And I don't think I looked back too much after that."

The responsibility of family spokesperson fell to Say, partly because, as she recalls, the other siblings, "found it hard to deal with the media." (When abducted, Anderson was in the final stages of a divorce; his Lebanese girlfriend, Madeleine Bassil, gave birth to their daughter, Sulome, three months after his capture.) Soon after Anderson was seized, Peggy and David, a self-employed general contractor, moved back to their hometown of Batavia, N.Y. For Peggy, the emotional support of friends and family—including a son and daughter by a former marriage—has been indispensable during her one-woman campaign. But sometimes people have been less than kind, even cruel, to Peggy Say.

When it was revealed in November 1986 that the United States had tried to trade arms for hostages with Iran, Say began receiving hate mail. Some letters-writers accused her and other hostage relatives of leading President Reagan into the foreign-policy debacle. Some wrote that her brother should be killed. Say replied to these letters. "Obviously you don't think I have enough pain in my life," she would write. "Thank you for taking the time to add a little bit more.

For a long time afterwards, Say was frozen out of high-level government contacts. It was not until March 1989, at the time of ceremonies marking Anderson's fifth year in captivity, that the hostage families were allowed back into the corridors of power for a meeting with State Department officials. "They said we could just forget about a meeting with President Bush—that it was Ronald Reagan's concern for the hostages that drove him to do what he did," Say recounts. "I said, 'Ronald Reagan's concern for the hostages was as it should be. We're not responsible for his bad judgment in what he chose to do about it.' They should be embarrassed to continue to blame that whole fiasco on the families."

For its part, the State Department argues that publicity only prolongs the captivity of hostages. "There may be justified sympathy for Peggy but that is not parallel to supporting her," Michael Mahoney, director of the Citizens Emergency Center at the State Department, asserted in a recently published interview. But Say points to ex-hostages who maintain that international attention kept them alive, and former captives like the Rev Lawrence Jenco, a Roman Catholic priest, have told her that Anderson is aware of what she's doing and wants her to carry on. Not long ago, Say joined with the Journalists' Committee to Free Terry Anderson—which counts Dan Rather, Peter Jennings and Tom Brokaw among its members—in launching a nationwide postcard campaign to get the White House moving on the hostage issue. She also gets help from No Greater Love a Washington-based humanitarian organization, as well as The Associated Press, which covers her travel expenses.

While devoting her days to gaining Anderson's release, the hostage sister is already preparing for her brother's return. She and David Say recently moved to Cadiz, Kentucky, with Anderson in mind. The house they picked is located on Lake Barkley, where Anderson can enjoy his favorite sport, fishing, his sister says it is the home he'll come back to. Yet even on that day of reunion, there will be sadness. Say doesn't think her brother knows that his father, Glenn, and his older brother, Glenn Jr., died—both of cancer, within four months of each other in 1986.

As Anderson nears another birthday, Say is hopeful. She looks upon every day "as the day it could be over. That has been my salvation," she says. "Every night I go to bed thinking this could be the night the phone rings."

SOVIETS ADMIT KRASNOYARSK RADAR VIOLATION

Mr. DOLE. Mr. President, yesterday, Soviet Foreign Minister Shevardnadze admitted—what we all knew—that the Krasnoyarsk radar is a clear violation of the 1972 ABM Treaty, and announced that the Soviet Union had decided "to put a full stop to the violation" and dismantle the radar.

While this admission by the Soviets is a positive move and I look forward to seeing the Krasnoyarsk radar dismantled, we need to remember how we got here.

We should give ourselves credit because this change in the Soviet position is clearly and unquestionably the result of a successful United States compliance policy, a tough policy that should demand nothing less than full treaty compliance, especially when United States national security is involved.

This policy is not only characterized by toughness, and the highest standards across the board, but it is also characterized by patience and persistence.

This success took a long time in coming. The Krasnoyarsk radar was detected 6 years ago and was first reported to the Congress in January 1984 as almost certainly a violation of the ABM Treaty.

At that time, some criticized President Reagan for raising questions of noncompliance. Some accused him of using violations to sour United States-Soviet relations, not thinking that it is the Soviets who sour relations when they do not live up to their treaty obligations.

Some encouraged President Reagan to consider Soviet proposals to convert the radar to a space-research center, or an international space center. Some pressed President Bush to accept Gorbachev's offer to dismantle the Krasnoyarsk radar in exchange for United States acceptance of Soviet negotiating proposals in Geneva.

But success came because the United States has been patient and persistent—and would not settle for half-measures, quick fixes or public relations gimmicks.

Success also came because Congress supported the President in demanding compliance on the Krasnoyarsk radar. The Soviets tried to divide us, but we remained united. The Soviets had to take us seriously; they knew we would not back down.

Mr. President, this policy of demanding full compliance has proven itself. I hope that the United States will continue this policy since in my view, it best serves our interests. Treaties are meaningless unless all parties fully live up to their obligations.

ELLEN McCULLOCH-LOVELL, DELIVERS COMMENCEMENT ADDRESS AT BENNINGTON COLLEGE

Mr. LEAHY. Mr. President, throughout my 15 years in the Senate, I have felt that one of the great pleasures of being here was to be associated with the people who help make the Senate the great body it is—the hundreds of men and women who bring such diverse and welcome talents to this place. Those of us who truly want to use our talents as Senators are well advised to take advantage of the opportunity for knowledge and growth they provide.

Several years before the end of my last term I invited Ellen McCulloch-Lovell of Vermont to come to my office as my chief of staff. It was a leap of faith on both our parts for many reasons, but I have never doubted the choice. Recently, Ms. McCulloch-Lovell gave the graduation address at her alma mater and the address, itself, speaks eloquently to why she has been so valuable to Vermont, to the Senate and to me. I am proud to know this talented and committed woman is associated with the U.S. Senate.

I ask unanimous consent to put the text of her address in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

BENNINGTON COLLEGE COMMENCEMENT ADDRESS, JUNE 9, 1989

(By Ellen McCulloch-Lovell '69)

Note: Ellen McCulloch-Lovell is Chief of Staff for U.S. Senator Patrick J. Leahy, D-Vermont, in Washington, D.C. After graduating from Bennington College in 1969, she worked for the Vermont Council on the Arts for thirteen years, serving as its director for eight of those years.

I have this special vantage point from which to see the world, called the United States Senate. All the world's problems

seem to troop through daily: the Iran-contra scandal, arms control agreements, acid rain, and the budget deficit.

One of the exciting things about my job is that I get to think about the world a lot. But I usually don't make speeches about what I see! I review the speeches, not give them. If I'm effective, then I'm invisible. Tonight, I get to say what's on my mind—it's been a work in progress, as world events have changed daily.

For we are all living in an incredible time. Through the hot medium of satellite TV, we've watched the Chinese student democracy movement grow, symbolized by a statue—the Goddess of Democracy—on Tiananmen Square where I stood a year ago. And we watched in horror as tanks rumbled, crushing unarmed students on bicycles. The world is in wrenching change at the very moment we celebrate your transition.

Twenty years ago I sat where you are—and listened to Denise Levertov read a long poem. It was a Bennington ritual, without banners or benedictions, but as I listened to that poem I dimly knew this was ceremony of change. Truthfully I did not know whether my life was just beginning or had just ended. I wondered what I would do next and held equally in my heart dread and joy. I had left friends and family before, but now I was alone, now I had to be my own parent, my own home. There was of course the sense of immanence: to know the real, to exercise mastery in something, find a place to live, to plant a garden.

Twenty years ago I wanted two things more than anything else: I wanted to be competent at something—anything—making pots or understanding Plato. And I wanted to know myself, and what I believed. My father said: "I'm not going to spend $6,000 a year so you can make pots!" So I stuck with philosophy. But it didn't tell me what the years would prove: that "the Self is not something ready made, but something in continuous formation through choice of action," as John Dewey said. There is no state at which one says: now I am ready, now I know what to do. My father next asked me what I was going to do with philosophy. I replied flippantly that the question was not what I would do but what I would become. We are both on the right track. I still am becoming in the course of doing.

My report from twenty years out is: that the Self is a work-in-progress, in an age where all our fates are interconnected, where we can no longer separate people's actions from the future of the planet. Of course, as you have, I darted into autonomy and back to protection. I worked one NRT for the American Friends Service Committee protesting a Nike missile site, then returned to Bennington to sort out my experiences, back to the place where you could paint with Pat Adams and write with Bernard Malamud.

I remember first arriving on campus—the dancers leapt across the green; the potters were covered with clay, the musicians looked about abstractly as if counting something invisible; the social scientists read thick books in Commons with titles like *Being and Nothingness.* I also remember the loneliness. I learned I could live through the loneliness and find out what I was thinking about, separate from all the other voices; what I cared about, apart from what moved others. And here I began to see art as an act of courage, a way to order the chaos, to turn the real stuff of life—movement, sound, clay—into ideas that can be felt. I graduated believing art could change lives.

This College is a virtual greenhouse for cultivating the Self, so much so that it became the focus of a study by Theodore Newcomb, who surveyed the 50th reunion classmates here tonight. In the mid-thirties, students spoke of the creativity, unconventionality, and tolerance of Bennington. Twenty-five years later in the follow-up study, they told how it influenced them long after they left. By then, some sixty percent of them were involved in some political activity. True to form, my recent alumni survey asks a modest question: "In what ways do you see yourself bettering life on the planet?" As the question implies, we become selves by extending into "fellowship in the human community." It seems that at the same time we discover "the ground of our being," we yearn to transcend it.

Who it is that chooses and what is chosen are answered together in life. One will not become a painter, then parent, then a voter. The worker, the friend, the parent, the citizen—all are intertwined, simultaneous selves. Part of your rite of passage tonight is becoming the citizen-self. In many ways you are born a citizen by virtue of growing up in this country, born into the secular religion called democracy, based on some fantastic ideas still new to the human race—that all men and women are created equal and are treated as equals by their elected government.

You have already exercised the citizen by living in a community. You've had to compromise your desires, or even ostracize someone destructive, to achieve social peace. You lobbied student government for funds to take a bus to the pro-choice rally in Washington, and considered the rightness of using everyone's student fees to express the will of the majority over the opinion of the small minority. You grew up in the American political culture, and whether you actively choose it or not, if your government doesn't bump into you, you will bump into your government your whole life. Where you go to school, how good that school is, how much taxes you pay, whether your taxes are spent on missiles or education, all depend on your government, depend on that messy and discredited process called politics.

In 1969, we who heard the poem, already had watched a President blown from matter into spirit; we saw that complex ritual of democracy, the party convention, spill into the streets of Chicago where voters were clubbed by the Mayor's police; we saw the preacher who had a dream of racial equality die on a motel balcony; the nightly news still intoned the body count from Vietnam and women still died getting illegal abortions. We were going to make our way in an unjust society.

No, I am not going to contrast the activist sixties with the greed of the eighties. I didn't march on Washington. Most of my friends got deferments, not body bags. My husband and I retreated to northern Vermont to sixty acres of overgrown pasture and a woodlot, and a house we built ourselves. We grew our asparagus roots, but we also worked off the land: Christopher to teach school and I to work at the new state arts council.

There I learned to persuade governors and state legislators for money to put poets into classrooms and brass quintets on town greens. I argued that giving the people artistic experience was a right, like learning to read. What began with Plato and pots had arrived at politics.

In 1980 politics bumped into me and it made me mad. My radio alarm went off the morning after the election to tell me that Ronald Reagan was elected President and Vermont's senator Patrick Leahy was hanging on by a few thousands votes. I was shocked—for the first time I felt totally out of the mainstream. I had thought of working for Leahy, someone I associated with good government and arms control, but thought he was a shoo-in. So I voted, nothing more. By then I was Director of the state arts council with a budget large enough to award hundreds of grants each year to artists and arts councils.

I watched the new political order move in. In the first State of the Union address, the second item of the federal budget to be cut was the National Endowment for the Arts. Believe me, that galvanized the arts community. We organized and used its powers of expression to persuade the Congress at hearings; we compared our whole arts budget to the cost of just one foot of a nuclear submarine.

As part of the new arts lobbying campaign, Bernard Malamud journeyed from Bennington, to Washington, D.C. When I asked him why, in his 60s, a famous writer whose work reached millions, he went to sit in Congressmen's offices and to wait outside the hearing rooms to have a word with them, he said: "Because the work is no longer enough."

The arts budget was nibbled, not cut. But I could see a larger system was controlling my work; what I cared about was assaulted by political actions I did not understand, but which I wanted to change. My work was no longer enough.

A few years later, Patrick Leahy asked me to go to Washington as his chief of staff. I would be a very unconventional choice for a senator to make. I loved the arts and found I cared about more: about kids going hungry in America and the threat of nuclear war. A Senator was offering me the chance to do something about it. While he decided whether to take the risk, I went home and dug my potatoes. It was October. The leaves had fallen and the sky gone leaden. The cold dirt hurt under my fingernails. I lifted my eyes to Hunger Mountain to see a brief orange sunset burn out over the Worcester Range. I knew that to put my conviction into action I would be leaving my garden, my mountain and even, for a while, my family.

And here I am asking you to answer your own call to the citizen self. I know you have a lot to do tonight and tomorrow: say goodbye to this place and these friends, find a job, find an apartment, find your true work.

You may be saying to yourself: if I'm a kind, generous friend, won't that make a difference? If I act compellingly in a play that helps people embrace their humanity, won't they then act more humanely? If I write a check to the Wilderness Society, aren't I helping to save Mother Earth?

Yes, yes, and yet "the work is no longer enough." Understand that the search for personal love and satisfying work are connected to but not the same as social responsibility. When you push love beyond the people you can see and touch, it dissolves barriers and becomes something larger. Love for humanity is love of justice.

Yet the world seems full of injustice. One quarter of a million Sudanese starved to death last year because the factions fighting in their civil war would not allow international food aid to be delivered. In the Amazonia of Brazil, 54 acres a minute of prime-

val rain forest, the home of half the world's species, are cut and burned daily; due largely to the inexorable pressure of poor Brazilians, who are trying to survive in a country where 4 percent of the people own 80 percent of the land. In Washington, D.C., men with assault rifles battle it out nightly to carve up the drug territory. Today, in America, one-fifth of our children live in poverty—and the society you now enter will support them in hospitals, in prisons, and in the social welfare system. There are too many images, too much demanding our caring. And I think that when we no longer feel, our ability to act is stunted. Faced with such overwhelming problems, we ask; what can one person do?

How can I as a citizen find out about, much less care about an abstraction like Third World Debt. But let's explore that dense issue together a moment—to show how it has a very human face and affects our lives. As John Muir, the 19th century American conservationist wrote: "When we try to pick out anything by itself, we find it hitched to everything else in the universe."

In the early 1970's, driven by population growth and the need to expand their economies, many of the poorest countries from Tanzania to Brazil sought loans from the big banks. But when that debt became due, they couldn't pay. World prices had plunged for their raw materials—their main source of cash. Many countries negotiated what's know as an "economic adjustment" in exchange for new terms. And that means the government cuts its spending by no longer subsidizing food and fuel, devaluating currency so that it buys less, and by making deep cuts in government programs. The trouble is that when the cuts get made, those who influence the political system protect their interests. The national airlines and the military do not get cut as much as rural health service and public education.

The rich get the loans but the poor get the debt. And the poor have the least fat to absorb the blow of recession. That's why Argentineans rioted, looting their grocery stores last week. Three-quarters of the income of the very poor is spent on food, and what remains on housing and clothes, bus fares and medicine. Losing an income or buying power means going without the basic necessities. And most of those going without are children, children without nutrition to grow, vaccines to protect them or education to uplift them. The human faces of third world debt are the half-million children who died in 1988 as a consequence of economic decline. The human voice is the Tanzanian President asking; "Must we starve our children to pay our debts?"

Today one-third of Latin America's people live in dire poverty. Such poverty is the seedbed of hopelessness, revolution and war. Countries trying to get cash for their exports exploit their natural resources. The pressure for growth in South America, Southeast Asia and Africa means that 40 percent of the tropical rain forests are gone from the earth.

The rain forests are far away, but they are linked to our lives, because their massive destruction contributes to the greatest environmental and political challenge of our day—global warming. The fossil fuels combusted in cars and factories in the industrialized north are destroying the ozone layer and warming up the earth's atmosphere. Burning the tropical forests dumps another one billion tons of carbon dioxide into the air each year, making a serious situation into a dire one. At this rate, the world's temperature could rise 2 to 8 degrees over the next 60 years. This means not only unbearably hot summers like last year's; it means climate change that wipes out crops that feed the world.

Our world is one where the sheer number of people and the availability of information through technology links us together directly. If the pervasive image of my childhood was the mushroom cloud billowing over the Nevada testing ground, surely the symbol of your age in NASA's photo of our island earth, cloud swaddled, floating in space. When John Donne wrote nearly four centuries ago that "No man is an island, entire of its self." he predicted the practical reality of today; anything by itself is hitched to everything else.

When the nuclear reactor in Chernobyl melted down, the radiation was measured in Sweden. When the company buried its toxic wastes the people in Love Canal got cancer. When the rain forests burn, we not only lose the magnificence of creation, we lose the very atmosphere that sustains life.

Can governments solve these problems? Americans are deeply cynical about their government's ability to do so. Just two weeks ago the Washington Post and ABC news reported a poll in which 75 percent of Americans thought that politicians care more about the special interests than people like them. Three-quarters also thought that a politician will lie if he or she thinks the truth will hurt them politically. Voters are lethargic. In the Presidential election just over half the eligible voters went to the polls. Only 36 percent of voters between 18 and 22 years old who could vote, did vote.

However, Congress is probably less corrupt today than it was when no less a man than Daniel Webster collected fat fees from a bank while serving as Chairman of the Senate Finance Committee. Government is more accessible than in the days before the sunshine laws and the Freedom of Information Act, less beholding to the special interests than before the campaign finance reform laws that were enacted after the Watergate scandal in 1974, when CREEP passed out money in brown paper bags.

If you are from Vermont you are less cynical. Here a person and a carload of friends can take over a town caucus and get elected to the party convention. Here you bump into the town planning commissioner in the grocery store and can discuss whether or not the new shopping center will be built on prime farmland. Here a few years ago there was a Speaker of the Vermont House, who loved the game of politics, yet each morning he and his friend, the Chairman of the Appropriations Committee, asked each other: "What are we going to do for the People today?"

Still, I realize that government itself often teaches us to be cynical. Long, negative, and expensive campaigns make us suspicious of the messages manufactured for the 30-second spots. Politicians who themselves are responsible for making the democracy work, run against "those people" in Washington. When a President says that people on the street are homeless by choice, and when we step over them at night and hear their ravings and pleading, we know it's not true and we end up disbelieving our leaders.

The 101st Congress has been in session five months and what do people think we've done? We've maneuvered over the pay raise, fought over confirming John Tower as Secretary of Defense, conducted an ethics investigation of Speaker Jim Wright and failed to raise the minimum wage. What do people perceive? Greed, power and sleaze.

But we cannot care about everything, and our own problems, our luxurious problems of too much freedom or too little love, are real to us. Lacking caring, or perhaps sensing that we need to protect our feelings for what is closer to home, we lack real engagement. What does one person do?

You will find your own answer to what one person can do. You do not have to spend all your efforts to get fed, like the Sudanese. You have time to be conscious. Acknowledge what moves you. Find out about it. Develop a point of view. And choose an action that springs from your values. Be a mentor to a deprived child. Find out about the candidate and go fill a phone bank. Drive voters to the polls on election day. Write a letter. People say to me—oh, that doesn't make a difference. Letters do. In the senate office one of the first questions we ask of an issue is: what are we hearing from Vermonters?

Here's a more dramatic example. Amnesty International was founded on an idea called "one of the larger lunacies of our time; the idea that ordinary people could set free or save from torture or death, men and women they had never met, in countries not their own, by writing polite letters to the government involved. It works."

Or you may ask the question another way; what can one person, linked with another person, linked with another person do? And that, friends, is the process called politics. That process we so mistrust is reshaping the world.

Item: A new Soviet leader is declaring an end to the Cold War, building four months of political pressure before President Bush proposed major cuts in weapons and troops in Europe.

Item: In Poland, two generations voted for the first time in 40 years, and had a choice between the Communist party and true opposition candidates for positions in the new Senate.

Item: For seven weeks tens of thousands of Chinese students and workers held Tiananmen Square, essentially demanding our Bills of Rights: freedom of speech, freedom to assemble, the freedom to participate in their own government. Soldiers twice defied orders to clear the Square by force; they cried and said, "The People's Army will not fire upon the people." And we cried when they finally did. A Chinese student leader said, "As an intellectual, politics is my responsibility."

Are the Chinese students reading Jefferson when we have forgotten him? "A little rebellion now and then is a good thing, as necessary in the political world as storms in the physical," he said, though I am sure Jefferson wanted ballots not bullets. "The people are not always well-informed, but it is better that they have misconceptions that make them restless than that they be lethargic—for lethargy in the people means death for republics." When the Chinese die for rights we take for granted, we can respond by reaffirming those rights at home.

You are a citizen by virtue of leading a life in this country; and because of that you have a voice in the affairs of that country. Is your voice raised? Did you vote last year? Did you consent to be governed? If you didn't, then those who voted made the decision for you.

Government can be wrong, it can be corrupt. Yet in a democracy, politics is self-correcting. In 1973 when you were probably in first grade, a President told a nation, "I am not a crook," only to resign before he was impeached. When Nixon flew away in his

helicopter, the country stayed behind, intact. America has faced problems as intractable as today's and submitted them to concerted action.

If world poverty and environmental pollution seem insoluble, take the long view for a moment and look back at our struggle for civil rights. In 1787 when the Constitution was written, black Americans each counted as three-fifths of a person. They didn't get the right to vote until 1870. It took until 1920 to pass the 19th Amendment to give women the vote. The Armed Forces were integrated in WWII, but it took until 1954, in the Brown vs the Board of Education decision, for the Supreme Court to declare school segregation unconstitutional.

Other struggles will emerge as the system continues to correct itself, a work in progress. Some times demand great leaders to articulate human yearning and coalesce its will. Some eras—and I believe this is one—progress because the people already glimpse the future cycle and are moving there ahead of the politicians. But even leaders do not make movements happen without the people who bear witness to: what one person can do.

Rosa Parks knew what to do. On Thursday, December 1, 1955, she left her job as a seamstress and took a seat in the front section of a Montgomery, Alabama bus for the 15-minute ride home. Soon the bus filled and one white passenger was left standing. The driver ordered the sections cleared so he could sit. Three people moved; Rosa Parks did not. She was tired and she quietly refused. The driver called the police. When they arrested her, she called E.D. Nixon, a local labor leader who paid her bail. Nixon called local religious leaders, including the 29 year old new pastor of Dextor Avenue Baptist Church—Dr. Martin Luther King. Five thousand people attended a mass meeting four days later and organized a bus boycott that lasted over a year. On December 21, 1956 the Supreme Court declared segregation on city buses unconstitutional.

Rosa Parks was modest about her choice. She said, "I was a worker—nothing more." She wasn't naive or unconscious; she was an ordinary person. She was a member of the NAACP when she refused to give up her seat, but she wasn't planted there.

She was a woman who maintained her dignity as a human being; she became a symbol of racial equality by acting as an equal. She is a reminder of the ordinary people who, after Rosa Parks decided she was too tired to give up her seat, decided they were not too tired to walk to and from their jobs for a year . . . A black minister asked an old woman during the boycott whether she was tired, to which she replied, "My soul has been tired for a long time. Now my feet are tired and my soul is resting."

Thinking tonight about the heroes who inspired me to move from Spruce Mountain to Capitol Hill I realized they were all dead. When I thought of what hope I could offer you that your choice-making is needed and will make a difference, I kept thinking about Rosa Parks, because, acting out of her self-worth, she claimed the rights she was entitled to as a citizen. Because her actions prompted thousands of others to say: what can we people together do?

Faced with so many choices in a world full of emergencies, people respond differently. Some feel more secure by turning away. Some believe that cultivating the Self will change the world. We've all seen the bumper sticker that says; "Visualize World Peace"—all those shiny souls meditating together to eliminate nuclear weapons.

Others will become what we sarcastically call "Cause People"—with no personal identity outside the political outrage of the moment. Somewhere between meditation and militancy, the citizens of the next millennium will find their way. And the way likely will not be lead by heroes in any mythic sense. The heroes will have 1,000 faces—and they will be yours and yours and hers. We seem to be redefining who a leader is. We want our leaders not only to DO good, we want them to BE good. We want them to symbolize our own search for integrity—as we seek to integrate Self with service to others—to join belief with action.

To act, to serve, your motives do not have to be pure. You can do the right thing and at the same time like being powerful, or being recognized or getting a paycheck. Human ambition and moral action are not mutually exclusive. It's alright to have idealistic visions and realistic actions. Woody Allen said that "80 percent of life is just showing up." Sometimes that's all you can do—just show up.

Why be a citizen of the world? Why show up? Because through choice of action you will form a self that is either a spectator, a victim or a participant. Because "for those to whom much is given, much is required." Even facing the possibility that we may not make much of a difference, we act anyway—because it is a requirement of our humanity; because "all real living is meeting;" because it is the only thing between us and evil; because it is the only thing between life and death.

To me and perhaps to you the world seems no less and no more chaotic, threatening and bloody than it did twenty years ago. Yet, I know you are as hopeful as I was. And whether you face the decisions you will make with dread or hope, you inevitably will make them, intuitively or consciously, imperfectly, with brave thrusts and healing retreats. So I want to say from 20 years out, simply, that there is compassion and kindness. Forgiveness and reconciliation are real. Love exists.

Two years ago the graduation speaker told the Bennington class to "follow your passion." I ask you to find your compassion. From compassion grows conviction, from conviction arises action. Your work alone is not enough. Your feet will be tired but your soul will be at rest.

UNITED NATIONS DAY

Mr. KENNEDY. Mr. President, all friends of peace join together to celebrate United Nations Day. Forty-one years ago today, the United Nations Charter entered into force and ever since it has stood as a guiding light for justice and peace across the world.

The United Nations' lasting and impressive contributions to world peace were recognized last year when its peacekeeping forces were awarded the Nobel Peace Prize. Across the globe, the United Nations has been at the forefront of efforts to resolve regional conflicts such as in Afghanistan, in the war between Iran and Iraq, in efforts to ensure free elections in Namibia, and in ensuring peace in Nicaragua.

Many regions of the world still embroiled in conflict, places like Cambodia and Cyprus, need the continued commitment, prestige, and international influence of the United Nations to bring a lasting and just peace to their troubled lands. And many of the greatest threats to our planet—pollution, AIDS and drug abuse—respect no national borders and can only be overcome through coordinated, international efforts led by the United Nations. It is essential that the United Nations continue to play a leading role if we are to rid the world of these scourges.

Despite the United Nations' recent successes, the United States continues to be the United Nations' greatest debtor with arrears amounting to about a half billion dollars. I hope that my colleagues will use this occasion to reflect on the importance of the United Nations in U.S. foreign policy objectives and in the resolution of many critical global problems. It is time for the United States to abide by our treaty obligation to pay our annual assessment and it is time that we begin to pay back the arrears we shamefully have allowed to accumulate.

In his statement on today's anniversary, Secretary General Perez de Cuellar reminds us that "as we approach the final decade of the century, we have the immense responsibility and also the possibility of ensuring that future generations live in a peaceful and secure planet" and "the United Nations can and will make a vital contribution to this common endeavour."

I urge my colleagues to read the insightful statement of the Secretary-General on the importance of the United Nations and ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SECRETARY-GENERAL'S MESSAGE ON OCCASION OF UNITED NATIONS DAY

As we observe United Nations Day this year, there are growing signs that international relations may be entering a new and more positive era. As rarely before, nations are now recognizing that they must address international problems multilaterally, through consultation and compromise. And, increasingly, they are turning to the United Nations.

At such a time, it is encouraging that the search for the bases of peace between the most powerful nations is also finding practical expression within the world Organization. There is a growing determination on their part to work together with the other members of the Security Council and, indeed, with the membership of the Organization as a whole, for the resolution of certain long-standing disputes. Moreover, the dangers of the new generation of global problems, such as the degradation of the environment and drug abuse, have compelled all nations to realize that solutions can only be found through collective action.

There is, however, no reason for complacency. Conflicts still persist in many parts of the globe. The build-up of arms has not

ceased. Far too many people still live in absolute poverty without adequate food or shelter and face discrimination on grounds of race, religion, sex or political belief. We are a long way from achieving universal respect for human rights. All this demands our commitment and our action.

As we approach the final decade of the century, we have the immense responsibility and also the possibility of ensuring that future generations live in a peaceful and secure planet. I see signs of a new commitment on the part of the people of the world to act together towards this goal. The United Nations can and will make a vital contribution to this common endeavour.

For all the dangers and difficulties, the time is therefore full of hope. Let the ideals and vision of the Charter guide us as we transform hope into commitment and commitment into the achievement of peace, dignity and economic and social progress for every man, woman and child on earth.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Morning business is closed under the order.

INVESTIGATION OF EASTERN AIRLINES DISPUTE

The PRESIDENT pro tempore. Under the order, the Senate will now resume consideration of the H.R. 1231, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1231) to direct the President to establish an emergency board to investigate and report respecting the dispute between Eastern Airlines and its collective bargaining units.

Pending:

Mitchell amendment No. 1043, in the nature of a substitute.

The Senate resumed consideration of the bill.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The point of no quorum having been raised, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I rise in opposition to this amendment offered by the distinguished majority leader. What is being proposed here today is really quite remarkable. In lieu of a Presidential emergency board under the Railway Labor Act, which is pretty much where we started more than 7 months ago, we now have a request for a Commission with broad jurisdiction to examine not only the Eastern Airlines dispute, but also what seems a limitless array of items.

Some 7 months ago, the President correctly decided not to create a Presidential emergency board. It was apparent to the President at that time, and subsequent events have certainly proven him correct, that this dispute did not threaten to deprive this country of essential transportation service, thereby substantially interrupting interstate commerce.

Now, many months later, and notwithstanding that this amendment omits the immediate status quo restoration requirement of H.R. 1231, Congress is still really trying to turn the clock back. This simply cannot and should not be done.

The future of Eastern Airlines has been under the careful watch and in the hands of the Bankruptcy Court for months. That is where it has been placed by the bankruptcy laws of this country. Those laws have been carefully crafted by Congress to protect the interests of all affected parties, including labor.

The Commission proposed here today is given authority to make recommendations regarding not only the dispute between Eastern and its machinists, but also Eastern and its other two unions. The contracts between Eastern and these unions, I understand, are currently in effect. What on earth are we doing imposing a Commission on these parties at this juncture in the collective bargaining process?

Even more importantly, it just will not work. As we all know, the strike in March forced Eastern into bankruptcy. Eastern is in the process of reorganizing and rebuilding a smaller but strong and viable airline. Furthermore, the Bankruptcy Court is carefully overseeing and approving its actions every step of the way. It is simply too late to roll the clock back with respect to Eastern and its machinist union. And, to try and do so would likely impede the orderly operation of the Bankruptcy Court's proceedings at the expense of parties with an interest in that proceeding, thousands of Eastern employees, and the flying public.

Further, the Commission is given broad authority to "consider issues arising out of the dispute." I can only speculate how far such limitless authority would take them.

And finally, this bill would charge the four individuals on the Commission with a mandate to make policy recommendations on two far-reaching issues involving the aviation industry within a 45-day timeframe. This type of mandate is simply unrealistic and unjustifiable.

Mr. President, I, for one, do not know of any employer or corporation that has been the subject of more exhaustive scrutiny, review and Government involvement than Eastern Airlines has been in recent months and years. The process of examining Eastern's financial transactions continues as we speak. I think that the last thing we need right now is a Commission at taxpayer expense, with such an undefined and open-ended mandate.

The Bankruptcy Court has appointed Mr. David Shapiro as a bankruptcy examiner and given him extremely broad powers. His investigation includes, for example, asset sales as well as numerous transactions between Eastern Airlines and Texas Air.

Just as of June 30, Mr. Shapiro and attorneys at his firm have spent over 4,500 hours investigating this matter. Hundreds of thousands of documents are being filed and reviewed. Over a hundred depositions are being taken.

Creation of this Commission would, at best, therefore, be duplicative and a totally unwarranted Government expense. Even more problematic, however, is the possibility for its interference with and delay of the bankruptcy proceeding.

When Mr. Shapiro, the bankruptcy examiner was called to testify before the House Public Works Committee in June, he observed the following:

These past months have left me with the reluctant but firm conviction that only two practical alternatives remain in this case. The first is a plan for recovery premised on a smaller Eastern Airlines; the second is liquidation.

Mr. President, Eastern is currently engaged in an effort to rebuild a competitive airline. It currently provides 17,000 or more jobs and is offering about 700 daily flights.

I recognize and appreciate that some may be unhappy or dissatisfied with the outcome of this dispute, and that individuals and families have suffered hardships, not only in recent months but in times beyond that. I am sympathetic to those concerns. This has clearly been a bitter and hard fought dispute.

I do not believe, however, that this Commission presents a realistic or viable option at this stage of the game. And I believe that it may well do more harm than good by jeopardizing the prospects for rebuilding this airline and maintaining thousands of jobs for its current employees.

This is not a Frank Lorenzo popularity vote. The U.S. Senate cannot decide this issue on that basis. We have to vote on the basis of what is good law and what is good public policy—not on the basis of personalities.

We owe it to all American workers, consumers, and taxpayers to look at the real issues here. And I believe if we do that, we cannot help but recognize that congressional interference in this dispute at this time would be highly improper and counterproductive.

Mr. President, I really am concerned about the precedent that this would establish of a congressional enactment

that would interfere with an ongoing bankruptcy proceeding.

Frankly, bankruptcy courts sometimes have to perform their functions in the context of labor disputes. They may have to consider related issues. But their concern is trying to keep those employees going, keeping the company viable, and making sure that the creditors are treated properly in the long term.

I think thus far the bankruptcy proceeding in this case has been functioning as intended and has been doing a pretty good job. If we look at Eastern's current employees and the current flights they are making, they seem to be doing a fairly decent job of becoming a small but efficient and good airline.

To have us impose a commission on top of them at this particular point would just add to their difficulties to such a degree that it might lead to their demise.

I am concerned about this. I think it is bad policy. It is something we should not do. It is something that, regardless of how irritated and upset people are, we really ought to be very careful of considering.

So I hope our colleagues will vote against this particular approach, even though it is put forth by the majority leader, who I am sure is trying to resolve these problems in the best way he can. I think we should vote against this type of approach in the best interests of, not only labor law, but in the best interests of precedent, precedent that will benefit people for years and years to come under our country's bankruptcy laws.

The PRESIDENT pro tempore. The senior Senator from Massachusetts [Mr. KENNEDY] is recognized.

Mr. KENNEDY. Mr. President, I listened with interest to my friend and colleague, who is the ranking member of our Labor and Human Resources Committee. He suggests to the Senate that we not take favorable action on this proposal, which has been advanced by the majority leader, myself, Senator GRAHAM, and a number of others, because it would interfere with the Bankruptcy Court; and that this was not really an appropriate role for the Congress, to be involved in this kind of legislation.

Mr. President, as my friend knows, we established, going back to 1926, a procedure set up by the Railway Labor Act. That dealt with disputes in the areas of transportation, whether they involved railroads or airlines, so the action of Congress would be minimized and collective bargaining would take place.

That legislation has worked exceedingly well over a period of some 50 years. It has really minimized the adverse impact, the inconvenience and the economic loss, quite frankly—to many different communities. It has minimized the disruption to business and to many human lives of those who have been employed in those industries.

That legislation sets up a mediation procedure. Following this period of mediation, the Railway Labor Act provides that the National Mediation Board may make a recommendation of a further follow-on Emergency Board, if it determines such a board would help resolve the dispute in a fair and equitable way. Those procedures were followed by many Presidents, including President Reagan.

There were 11 different times that the National Mediation Board recommended there be an emergency board during the Reagan administration, and President Reagan followed those recommendations and established boards each and every time.

In a number of instances, those disputes were resolved while the Emergency Board process was ongoing.

In 1986 and in 1988, Congress had to legislate the recommendations of the Board itself. In 1986, for example, there was an establishment of an emergency board. They made the recommendations. One of the parties, Guilford Railroad, said they thought they were not going to be treated fairly, so Congress established a Congressional Advisory Board. It then made the recommendations to us. And those recommendations were actually legislated by unanimous consent, as the actual agreement binding on the parties.

There was the establishment of an advisory board at public expense, but it was then the judgment of Republicans and Democrats alike that we would try to find out if there could not be one last time to see if these matters could be resolved. And they were resolved by unanimous consent. Any single member, Republican or Democrat, could have said: Well, we object to their recommendations. But they were accepted. And that issue was resolved.

The Reagan administration supported those procedures that were followed here. A dispute which would have provided dislocation, inconvenience and economic disruption to a region of our country was avoided.

In 1988, in the Chicago Northwest Railroad strike, the Congress again, by unanimous consent, actually imposed what the board recommended. Not a Republican or Democrat objected to it. That was following the long-established procedures which had been in place since 1926.

This is the first time involving a Railway Labor Act dispute where the recommendations of the National Mediation Board have not been followed by any administration. Unlike any other situation, this dispute has continued now for over 8 months, and it still continues.

Now we hear the argument: Well, it is really not a national dispute. It is a regional dispute; it is Eastern Airlines.

Six different times, Mr. President, when there have been disputes involving Eastern Airlines, this process has been followed. Always in the past, going back to the early 1950's, except when? Except with this particular dispute.

This President said: No, we are not going to follow the past procedures. No, we are not going to do it. This is at a time when, if we look at the record of those who have been in charge of Eastern Airlines, we see the actions that have been taken to deplete the assets, and we see the cross-ownership issues with other airlines, as with Continental. Those really put at serious risk not only the economic future of the Eastern airline but put at a very serious risk the conditions of all of its employees.

What are we asking for? We are not asking for the Congress to impose its judgment on what would be a fair outcome. Oh, no, we are not asking that. We are not even asking that we legislate an emergency board, because certain transactions have been taken, as the Senator has pointed out, since this strike began. We are not even asking for that.

We are asking for four members, four individuals to be chosen to make up the membership of this commission: one by the President pro tem, one by the minority leader in the Senate, one by the Speaker, one by the minority leader in the House; two Democrats and two Republicans—to do what? To make findings—and recommendations—not to impose by congressional action—to make recommendations of how this dispute can best be resolved in a fair and equitable way to all parties.

Then the other provisions deal with current safeguards to maintain competitiveness in the airlines industry and also on collective bargaining rights in bankruptcy proceeding. But the essence of this is to make findings and recommendations for a prompt and equitable resolution of this dispute.

I find it extremely difficult to understand our friends and colleagues on the other side of the aisle who had not objected when this body has actually imposed conditions of settlement in the past and who did not object when President Reagan went ahead and appointed previous emergency boards. There was no chorus of objections as to interference in collective bargaining. Now they are objecting when this substitute just tries to appoint four individuals—two Republicans, two Democrats—to point out what could be fair and just in terms of the settlement of this dispute.

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If we were talking about the imposition of the actual terms of an agreement, treated perhaps in some kind of isolation, maybe there might be argument there. I do not find it convincing myself. But there is no argument, when we put it in terms of what has been the previous history. The previous unbroken precedent in cases involving Eastern Airlines, and all airlines and all railroads show us the way. When we look at what the previous administration, under President Reagan, had done and what past Presidents, Democrat and Republican alike, have done, it just seems to me, Mr. President, that this substitute is an extremely modest action by this body.

I hope that our friends on the other side of the aisle who have expressed some reservations about this process will look back over the course of the history of the action and what has been taken to try to resolve this, and recognize that this is a dispute which is being treated differently than any previous similar dispute. This one, in spite of all of the precedent, is really being singled out for unique treatment and it is affecting tens of thousands of people's lives and families' lives. It is disrupting a large number of the areas that have been underserved, inadequately served, during this dispute. The public is entitled, and the families, most important, and entitled to have these issues of fairness and equity spelled out so that we really know whether we are getting true collective bargaining or whether we are just finding what I believe has been the case of a corporate raider who has been, I think, repeatedly exhibited callous indifference to the well-being of the lives of the employees of that great airline which has a very proud tradition and which has served this country well.

Mr. President, I hope that we would be able to at least move forward on this bill. We have many important pieces of legislation pending in the Senate. We heard eloquent statements about the importance of our taking action on the continuing resolution and on the other matters which are of great urgency. Quite frankly, we had yesterday, I believe, a number of Senators who spoke in favor of this legislation. There are a number of others who are prepared to do so. I am, quite frankly, rather deafened by the silence of those who are opposed to it and by their unwillingness to come to grips with this particular issue. I am hopeful that my good friend will have a change of heart and might reconsider his position.

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield the floor?

Mr. KENNEDY. I yield.

The PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Mr. President, I was intrigued by the arguments and the eloquence of my colleague. I was interested in his criticism of the current President for not having invoked the Presidential emergency board after the National Mediation Board recommended it. There are many people, however, who would say that this would be an inappropriate circumstance to have a Presidential emergency board.

First of all, I think the point was made that the President recognized and it was apparent to him at the time, and I think that this intervening 6 or 7 months has proven him to be correct, that this dispute did not, to borrow the actual language of the act, did not "threaten substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service." That is the standard under the Railway Labor Act.

Second, some feel that the airline industry is not really the appropriate industry where that standard ought to be applied anyway. Over the last 23 years, if my history is correct, I think a Presidential emergency board has only been convened once in the airline industry. That was when Congress itself imposed it upon the airline industry. I believe that most, if not all, of the instances cited by the distinguished Senator from Massachusetts where a Presidential emergency board was recommended by the National Mediation Board involved the railroad industry and not the airline industry.

Furthermore, no emergency board has been convened for any of the five major airline strikes since the industry was deregulated in 1978, even though they involved carriers, such as United, which are larger than Eastern.

There is a difference, in this regard, in my view, between the railroad industry and the airline industry. First, trains obviously travel only on tracks; thus, effectively closing a single railroad line could halt all traffic. A rail strike involving a single carrier, particularly a commuter rail line might, in certain circumstances, paralyze a major city. This is particularly true where a strike may leave commuters with no alternative means of transportation. Further, major railroads bargain jointly through an industry association. A nationwide strike against all major rail carriers is thus at least possible.

I really do not believe the same can be said of many or most airline disputes. Clearly, it cannot be said of the strike against Eastern Airlines. That strike may have caused some inconvenience among travelers, but to my knowledge, it did not disrupt interstate commerce in any section of the country. In fact, I believe that every city served by Eastern Airlines as of March 1989, was also serviced by another airline. Eastern obviously bargains independently from other carriers and this strike did not affect operation of the other airlines.

As much as I would like, as the distinguished Senator from Massachusetts wants to do, to satisfy members of organized labor who are up in arms about the way Eastern has been handled, and I would like to satisfy them on this issue as well, I cannot, under the circumstances or the facts.

Irrespective of what happened in March, we are here today with Eastern in the middle of a bankruptcy proceeding. I certainly don't know of any circumstance in which a PEB was imposed on a bankrupt rail or air carrier. The Bankruptcy Court is performing the function that it is empowered to perform under current law; a very experienced bankruptcy examiner, in attorney David Shapiro, has been appointed; and he has been given extremely broad powers. His investigation include asset sales, as well as all of the numerous transactions between Eastern Airlines and Texas Air, the very things that has our friends in organized labor so upset about. An extraordinary comprehensive and detailed examination of this airlines has been underway for months and, as I understand it, is nearing completion.

This airline is being examined. It is being examined fairly; it is being examined adequately; and it is being examined in a way that will not result in the demise of what is left of Eastern Airlines, which still employs 17,000 employees. Many of these employees continue to be represented by one of Eastern's three labor unions. Many working pursuant to collective-bargaining agreements that have been entered into.

What really happened here is that this dispute has not worked out as striking employees had hoped it would. The fact of the matter is, I do not want to see them without jobs; but they chose to strike, they chose to handle it this way, and Eastern has gone into bankruptcy, which it probably had no other alternative but to do. Eastern now has a reorganization going on that is basically to a smaller airline. Its efforts at reestablishing this airline appears to look pretty good right now. Yes, it still is employing only a portion of the employees it employed before. Nevertheless, it is employing a lot of employees and flying 700 flights a day, which is certainly a big company compared to what many would have thought the outcome months ago.

We ought to be interested in what can be done to keep the best situation going that we can, instead of inserting another group of people into this matter that cannot do any more or any better than Mr. Shapiro himself. Frankly, to set the precedent of imposing this congressional commission

after Eastern has gone into bankruptcy, would set an intolerable precedent that would be very difficult to all future bankruptcies and I think would be very detrimental to our country.

So I have to raise these points. I have to admit I understand both sides, and I think both sides have their meritorious points and both sides have their points that are not so meritorious.

As I've noted, this has been an extremely difficult situation. But this airline, at least, is starting to come out of its difficulties. Why interfere with that when you have 17,000 working people every day who need those jobs and 700 flights being made?

I have to say that Mr. Lorenzo is not one of the most lovable characters in the country and most people who know him know he is a tough, hard negotiator and bargainer, but he also has had a tough, difficult business that Mr. Borman and others had difficulty keeping alive. It takes a tough person to handle these matters.

I am not going to argue or debate whether he has been is right or not in all of the actions he has taken. I understand the situation. I understand the feelings of organized labor and its irritation with Mr. Lorenzo and the current management of Eastern.

What I cannot understand is why Congress should, notwithstanding the current bankruptcy proceeding, wish to take the chance of losing these 17,000 jobs by jeopardizing the ongoing efforts to rebuild this airline.

But the unions clearly had a right to strike as they did back in March. And I would uphold that right. But now they should not have the concomitant right of coming in and saying we should interfere with this bankruptcy proceeding and give them what they want in spite of the fact there is no justification in the law to do so. That is really what it comes down to.

All of us would like to resolve this matter so everybody is happy, but there is no way to do that. And this Commission clearly does not offer a means to achieve that result.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I wish to make a few points. Since the establishment of the Railway Labor Act, in 1926 on every occasion that the National Mediation Board has recommended an emergency board to be established, the President has followed that recommendation—with the exception of this Eastern Airlines dispute.

My good friend says that we have not had an emergency board in an airline dispute since 1966. In fact, Congress legislated an emergency board in 1978 in Wien Air Alaska.

That is because the NMB has not recommended an emergency board in an airline dispute—until now. In every instance the National Mediation Board has recommended one, the President has gone ahead with it: With the exception of Eastern.

Some observation is made, is this really a national dispute.

Mr. President, as I mentioned earlier, on the six other occasions where Eastern has been involved over the history of that airlines, it was recognized a dispute involving Eastern meet the requisite statutory test.

Some questions might come up whether the Maine Central Railroad, which serves important communities in Maine and even a few in my own State of Massachusetts, or whether the railroad system in Chicago met that test, but nonetheless the National Mediation Board and the President of the United States recognized that they did. That was under President Reagan. Clearly it falls in that definition.

Just a final point in this part of the debate. The point is made, well, 14,000 workers are working today and a lot more would be working if they had desired to do so, but nonetheless the strike continues, so it is really their loss and Eastern moves merrily ahead.

That, Mr. President, I think is somewhat of a cavalier attitude to have with regard to the 14,000 who are working.

The Wall Street Journal on October 18 pointed out that the creditors committee disagrees to the optimistic predictions with regard to Eastern Airlines, and the creditors committee hired additional outside experts who have found that the Eastern reorganization plan will not work.

So we are basically playing roulette with those 14,000 that are working, let alone the 17,000 who are not working.

All this particular measure does, Mr. President, two Republicans and two Democrats make recommendations, with no requirement that we are going to have to follow it, no requirement whatsoever, but it is just to point out those measures which would ultimately demonstrate what would be a fair and just settlement.

Mr. DANFORTH. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I will in a moment.

I quite frankly can see why Mr. Lorenzo does not want that, given what he has done in terms of the sale of assets from Eastern Airlines, the most modern computer reservation system, and selling that off and then leasing it from himself at Texas Air at an outrageous amount. I can see that, and I can see the sale of certain gates and other assets for really a pittance in terms of the airline industry evaluations.

I can see he might not want to see those matters raised. I can understand why he may not want to, but nonetheless this is a dispute that falls right within the existing provisions of the Railway Labor Act. We are looking at a longstanding tradition about how recommendations by the Mediation Board have been followed. This is the one exception.

We refuse to see appointment of a four-man committee just to raise the questions of fairness and equity. I find that difficult to understand and to support.

I will be glad to yield.

Mr. DANFORTH. I was just curious about the reason for this study commission, if it has no binding effect at all. How would the Senator envision it? What is the point of having it, if it is just going to be a study group without any purpose or without any binding effect?

Is it the idea that this is to have some sort of moral suasion or some sort of political clout on Congress? Why are we talking about it if all it is is a study group?

Mr. KENNEDY. First of all, I find it interesting that my good friend spoke against congressional action to establish a board. He did not want that when the measure came up before the Senate in a timely fashion. He did not want that board established which could have been established a number of months ago and really, hopefully, could have helped resolve this in a constructive positive way. Now he says, well, now, what is the point of even doing this commission or study? He was against the board that could have made some difference, and now appears to be against even a study that will permit, hopefully, an examination of what would be the fair and equitable settlement.

Then the Congress either may or may not want to, as it has in 1986 and 1988, impose those conditions which it did with Republican and Democratic support alike. It may just be able to do that. I can gather from the Senator that he probably does not believe that can be the case, but they may just be able to do that. That happened in 1986 and 1988, and it was done by unanimous consent. So I think we at least should explore that possibility, and then we can make whatever judgment. We all preserve our rights. As the Senator knows full well the Board's recommendations themselves are not binding. They are not binding. The Board recommendations are not. But they do serve as guidance, and there have been important times in the past whereas those various issues are raised and brought in terms of the public consideration the parties have found it was in their best interest to settle. That has happened. The Senator knows those occasions.

So even with the Board it is not binding. We have accepted those recommendations on occasions, and by congressional action actually imposed them unanimously.

So as the recommendations of the Board would not be binding, these are not binding. But the Board itself, or the Mediation Board itself, thought that the circumstances surrounding this particular situation were sufficiently compelling as to make a recommendation to the President that they set up that Board. Evidently, those who looked through this whole negotiation—the mediators—who on many occasions in the past have refused to recommend a board, felt that the establishment of the Board, even though its recommendations would not be, could not be, imposed, may very well have raised the kinds of issues of fairness and justice to both sides that could have ended the dispute.

So that is really why I believe that this still is of value and of benefit.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. I thank the Chair.

(The remarks of Mr. McCAIN pertaining to the introduction of S. 1783 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I have reviewed with great interest the amendment that has been offered by the distinguished majority leader, and to me, the same problem exists with respect to his amendment as existed with respect to the bill itself. That is, this is an amendment, this is legislation, which is aimed at a specific labor-management dispute. It is aimed at an attempt to resolve the Eastern Airlines strike.

Now, this is a strike which has been going on now for close to 8 months. It started in early March of this year, and much has happened since that strike began. For example, the Eastern shuttle was sold, and about 70 percent of the planes are now back in the air. So this is no longer the emergency situation that the country believed it was facing in February and the first week in March of last year.

This is a much more subtle situation now. The question that we have before us is not whether Congress is going to intervene to create order in a chaotic situation affecting air transportation in the United States, but rather, the issue is whether Congress is going to intervene in trying to provide some mechanism for resolving a specific dispute between a specific airline and its unions.

Now, in another context, in March of last year, Senator MITCHELL said as follows, and this was a statement on the floor of the Senate:

> Along with labor and management generally, it is my position that political intervention in labor disputes is inappropriate, serving only to undermine the collective bargaining process. Nothing in my statements should be construed in any way as a desire for congressional intervention in any particular dispute. I will not do so. I do not encourage any other member of Congress to do so.

That was the principle that was articulated on March 30, 1988, on the floor of the Senate by Senator MITCHELL, who of course is now the majority leader and who has authored the amendment that is now before us.

I believe that his original position was correct. I believe that the original position was a matter of basic principle and basic policy which we should adhere to in the U.S. Senate.

We are legislators. Our purpose is to try to establish sound national policy. We are not a board. We are not a court. We do not exist to pick sides in specific disputes.

Mr. President, I would say that we should not pick sides in particular disputes after those disputes are well underway. Eight months after the fact is too late to act. It is one thing to have a board making recommendations for the settlement of a potential dispute. It is quite another thing to try to pick up the pieces and put them back together again 8 months after the fact.

How do we address the specific problem of Eastern Airlines while the controversy is even now under way? I do not know the answer to that. As a legal matter I do not know how this proposal would fit with the jurisdiction of the Bankruptcy Court.

What possible recommendation could be made by an advisory board which could be converted into law without having that law come into conflict with the work of the Bankruptcy Court?

Eastern Airlines is now in bankruptcy. It is within the jurisdiction of a bankruptcy court and under our law the Bankruptcy Court has authority to determine what happens within Eastern Airlines.

Who is going to be the quarterback on this team? Is Congress or is the Bankruptcy Court?

That is a matter which I think has not only been unresolved but in an effort to resolve it if we were to pass legislation it would involve Eastern Airlines in litigation which would go on for an indefinite period of time.

The fact of the matter is that should this board be created and should it undertake a period of 45 days of reviewing this situation and then should it report to Congress that would then set in motion another process where Congress would be addressing possible litigation and 45 days from right now would be some time in December. Does any Senator believe that Congress is going to enact legislation in December which addresses the Eastern Airlines situation?

And if we do not do it in December we are not going to be around here in January. So, starting from today we would have created a period of perhaps 3 months of total confusion as to the future of Eastern Airlines.

And then, of course, if we were to pass legislation, and if the President were to sign legislation, and if it were to become law then we get into litigation.

And every American knows that once a matter gets gummed up in our court system it can stay there forever. What happens to Eastern Airlines during this period of uncertainty? Can it conceivably be a good thing for the employees of an airline? Who would want to book a flight on Eastern Airlines with this kind of cloud of uncertainty existing?

So as a very practical matter, Mr. President, legislation which is designed to intervene in a specific labor-management controversy is not simply wrong as a matter of principle, it is mischievous as a matter of fact.

The Mitchell amendment also goes into the general matter of the Secretary of Transportation intervening on behalf of the public interest to maintain competitiveness in light of mergers, acquisitions, and bankruptcies.

I pointed out on the floor yesterday that I want to elaborate somewhat, although not at great length today, on what I think we should be doing. I have said what I do not think we should be doing. I do not think we should be interjecting ourselves as a kind of board of last resort in arbitrating a labor-management dispute. But what we should be doing is the kind of thing that is at least touched on by part of the Mitchell amendment. We should be addressing the policy issues relating to competitiveness in air transportation in the United States.

I am happy to say that Senator McCAIN and I are sending out a "Dear Colleague" letter today on S. 1741, and that a hearing has been scheduled by Senator FORD on S. 1741 for November 1.

What is S. 1741 and what is its background? This bill grows out of concern about the competitive status of the airline industry after deregulation. The Senate Commerce Committee has received three separate reports of the General Accounting Office analyzing the competitive status of the U.S. airline industry.

After deregulation which occurred in 1978 there was a surge of new entries into air transportation. Very affordable fares were offered to the American people. People Express was an example. But those airlines after their

initial entry into the industry began to go out of business.

Now we have a situation where only eight airlines control 90 percent of the air transportation in the United States. And at certain hub airports—including, for example, Lambert Airport in St. Louis; including Memphis, TN; including Minneapolis, and other cities—dominant airlines have a total lock on air transportation. And the GAO studies have indicated that at those airports the fares have gone up two to three times the national average increase.

We have had three GAO reports. We have had an additional report from the Department of Transportation. We have had three hearings in the Senate Commerce Committee, Senator MCCAIN and I have introduced legislation, not legislation designed to barge into a particular dispute, not legislation designed to pick sides between those who are locked in combat on a labor—management matter, but legislation designed to create a competitive atmosphere for air transportation. Because the only alternative to a regulated airline system is a competitive airline system, and today we have neither regulation nor competition.

Our bill has several features. First, it would divest the airlines of computer reservation systems. The evidence that has been presented to the Commerce Committee states that where airlines own computer reservation systems, they have an enormous advantage over their competition. One specific advantage they have is that approximately $300 million per year is transferred—through booking fees charged by CRS owners—from the weaker airlines to the airlines that own the CRS.

But, more important than the transfer of money for the purpose of using the CRS, the owning airline benefits from what is known as the halo effect. It is able to update the information on the computer. It is able to reduce fares very rapidly to meet competition. It is able to inform travel agents of the availability of seats and so on. It is a competitive advantage for an airline to own the CRS. And one of the recommendations of the General Accounting Office is that we deal with this problem. And we do. We would force divestiture of the CRS system in S. 1741.

We would also prohibit what is known as code sharing. Let me describe by example what code sharing means.

Suppose a resident of Columbia, MO, wants to come to Washington, DC. That resident of Columbia goes to a travel agent, and the travel agent consults the computer, and the computer will say that an airline with the code TW will fly from Columbia to St. Louis, and from St. Louis to Washington.

Now that code, TW, stands for TWA. But, in fact, the plane that goes from Columbia to St. Louis is not a TWA plane. It is owned by another company, but they share the code. This gives that commuter airline an advantage in competing within the central Missouri market, and it also gives TWA an advantage over any other airline because it creates the idea that TWA flies directly from Columbia to Washington. And that, we believe, is unfair, and our legislation would prohibit code sharing.

We would remove the existing exemption of the airline industry from the Federal Trade Commission Act. It is really an anomaly that the FTC Act does not apply to airlines. It goes back to the days of regulation. But now that the Civil Aeronautics Board is not in business any longer and the airlines are not regulated, then competition should be applied and it should be enforced. And yet we are existing under the old law where the FTC Act does not apply to airlines. We say we should fix that and we should remove that exemption.

Similarly, we believe and state in the legislation that the Secretary of Transportation's authority to prevent unfair practices in the case of dominant airlines should be enhanced and strengthened; that certain presumptions of predatory practices should exist in the case of an airline dominating a market.

These two changes, the enhanced role of the Secretary of Transportation and the applicability of the Federal Trade Commission Act, would permit the Government to get at anticompetitive practices, such as the locking up of gates by dominant airlines for long periods of time; such as what are known as majority in interest clauses. Those are clauses and contracts that exist between airlines and airports. And if there is a dominant airline, such as, for example, TWA in St. Louis, it can have a veto power over airport construction, over the creation of new gates, and over the availability of gates to competing airlines. If we were to make the FTC Act applicable and strengthen the Secretary of Transportation's authority, then there would be two forums which would be created for addressing the question of predatory anticompetitive practices.

We would allow in this legislation local airport authorities to levy passenger facility charges. Now passenger facility charges are simply head taxes—taxes on flying, ticket taxes. We would allow the airport authority to do that. Why? Because it is absolutely clear, as this country faces the 21st century, that we are going to have to provide adequate airports, runways, and facilities to handle the increased needs and the expanding population and travel requirements of the American people. And the funds have to be made available to do that.

We would say in the legislation that the airport commission would have to get the approval of the Secretary of Transportation to do this because it is important to have a national air transportation policy. We do not want to fragment policy, but we do want to make it possible for airports to be able to expand and to have new facilities. Why is this important from a competitive standpoint? It is important because it is necessary to provide additional gates so that competing airlines would have an opportunity to use those gates.

Finally, the legislation would direct the Department of Transportation to reallocate slots so that new entrants have a chance at slot-constrained airports. There are four airports in the United States where takeoff and landing privileges are allotted. They are called slots. Those airports include National, here in Washington; LaGuardia, and Kennedy in New York; and O'Hare in Chicago. The studies that have been done for the Commerce Committee indicate that the ownership of slots, even though those slots exist in only four airports, give the airlines that own the slots a tremendous competitive advantage, not only at those airports but throughout the country.

Now, how did those airlines get those slots? The answer is back in 1985 the Department of Transportation gave the slots away free. They did not cost a penny. Airlines were able to gobble up the slots and then they were able to sell the slots, if they wanted to, or in effect mortgage the slots.

Some airlines have borrowed because the slots are viewed as an asset; and they have sold the slots for up to $1 million. And they were giveaways by the Federal Government and they were giveaways which gave the airlines which got the slots the power to control air transportation. We would say in this legislation that the Department of Transportation should take back those slots and reallocate them with a preference given to new entries and to competition.

Mr. President, I have spelled out the details of S. 1741 for two reasons. One is a selfish reason, and that is I want cosponsors. I want this legislation to pass. A "Dear Colleague" is going out today on S. 1741. But, in addition to that, I wanted to describe how I believe legislation should be done in this changing time of air transportation.

I do not believe that legislation should be passed so politicians can somehow take over labor-management disputes. I do not believe that legislation should be passed so politicians can muscle their way to the bargaining table. I do not believe that the Congress of the United States should act as some kind of an adjudicatory board, determining who wins and who

loses in a specific labor-management dispute. And I believe that is what the legislation before us would do.

I do believe Congress should focus on industrywide problems; that Congress should identify what has gone wrong since deregulation; that Congress should determine what could be done to create a more competitive industry, better serving the traveling public. And, in that general policymaking way, Congress should act and it should act expeditiously.

What a great difference there is between the Airline Competition Enhancement Act, S. 1741, and the legislation that is before us now. I restate what Senator MITCHELL said on March 30, 1988. He said:

> Along with labor and management generally, it is my position that political intervention in labor disputes is inappropriate—serving only to undermine the collective-bargaining process. Nothing in my statements should be construed in any way as a desire for congressional intervention in any particular dispute. I will not do so. I do not encourage any other Member of Congress to do so.

That statement was wise and true on March 30, 1988, and it is just as wise and just as true today.

The PRESIDING OFFICER. The Chair recognizes Senator KENNEDY.

Mr. KENNEDY. Mr. President, I listened with great interest to the comments of my friend and colleague who spoke very well, eloquently, about the airline industry. There are many features of his presentation with which I could hardly agree more.

I hope we will have a chance, that the committee will give us an opportunity to consider the legislation. But I hope the Department of Transportation has heard his message today. Maybe we have to wait until the FTC gets a change in the statute to permit their involvement and activity. But no one should miss the important powers that the Department of Transportation has today even under the 1978 act, in terms of mergers and competition. And no one should miss the responsibility of what used to be an antitrust division in the Justice Department, which has all but evaporated under recent administrations. They have very substantial powers to deal with some of the points that have been raised.

As we look down the road to the future of competition, at whatever action is going to be taken by the Senate to enhance a competitive circumstance, I think it is important to understand these powers are in existence today. The powers exist both within the Justice Department and in the Department of Transportation to deal with many of these measures, providing a more competitive climate and atmosphere for the airlines.

There has been extraordinary silence by those agencies since 1978. It has even led the Department of Transportation to the kind of action which has been outlined by the Senator in 1985, with the resulting conditions.

I think that is at least a point that is useful to make.

I listened with great interest to the Senator talk about the interference in this labor dispute. Now that we are into this dispute some 8 months, he spoke in opposition to the establishment of a board, when it was timely some 7 months ago, and now is in opposition to even trying to get the establishment of a panel to make recommendations within 45 days; not binding—recommendations. They would spell the way for fair and equitable judgment.

That is a long way from putting the Congress into a dispute, legislating a dispute. It does not, certainly, go as far as my good friend and colleague himself urged the Senate to go in 1986 when he and my good friend, Senator Eagleton, had an amendment which would effectively provide equitable integration in the work rules between TWA and Ozark, in their merger.

This was to be not only prospective, but was to be retrospective on the TWA/Ozark merger which had already been accepted. I think the phrase "A surgical strike" was a term used to describe the amendment at that particular time, as he urged the Senate to take action to provide protection for workers. And I applauded that action and I supported it. It failed on a tie vote.

That would have superimposed even arbitration if there could not be a successful resolution of this issue between those two airlines that had merged. You talk about interfering in a merger. You talk about legislating and interfering from a public policy point of view. That is it.

That is, obviously, dramatically different than what we are proposing here, which is to try to follow what even the mediation board has suggested. They believe that the establishment of a board may very well have spelled out the issues in a sufficient way so that there could have been a fair and just and equitable solution. People dismiss that lightly. There are those who have dismissed that even on the floor this morning.

But the fact remains, Mr. President, that where these boards, which have been nonbinding boards and which have been created in the airlines industry 34 times, 26 times have resulted in an agreement. The parties were able to work. The industry continued. There was an agreement, whether at the conclusion or prior to the conclusion of the Emergency Board's proceedings.

Mr. President, those of us who are supporting this proposal recognize that the four individuals, two Republicans and two Democrats, obviously are going to be sensitive to the fact that action has been taken within the bankruptcy court—obviously, Mr. President—not superimposing congressional action on what has happened in the bankruptcy case. Obviously, we understand that.

The legislative record is very clear. But we are also mindful that only a few days ago that the Creditors Committee of the existing Eastern Airlines has serious questions as to whether Eastern's plan for reorganization would even work.

I remember when the senior Senator from Missouri stood up at a time when Peter Ueberroth was going to buy Eastern, saying it has worked; we are going to give some assurance of both the continuation of the airlines and the future of those employees.

I believe that would have happened, Mr. President. I believe that would have happened, but it has not. Now the Creditors Committee has serious questions about what is going to be the work conditions of Eastern's employees.

Mr. President, maybe the Senator is completely satisfied with that economic condition and this issue has evaporated, as far as he is concerned, but our good friend from Florida, who represents many of those workers, does not believe that to be the case. Many others who have followed this closely recognize that not to be the case.

Finally, Mr. President, the majority leader can speak as to what he was intending with the statement quoted by the Senator from Missouri. If I recall correctly, the distinguished majority leader was referring to an NLRA dispute involving his own State, in Jay, ME. That is the National Labor Relations Act which, as the good Senator knows, is entirely different from the Railway Labor Act which sets up the procedures for mediation, Presidential, and congressional intervention. I do not hear anyone on this floor suggesting we repeal that role for the Government, which has worked well and has significantly reduced the number and duration of disruptive transportation work stoppages. There is a role, but that is an entirely different condition than exists under the National Labor Relations Act.

I know the majority leader can speak to that issue, but having some familiarity with that dispute in Maine and having some familiarity with what the leader had intended, I daresay applying his statements with regard to the National Labor Relations Act and transferring them to the Railway Labor Act provisions involved in this legislation ought to be put in a context which really reflects the leader's intention.

Finally, I hope, Mr. President, that we will be able to move this legislation. Maybe, as the Senator points out, when these reports come back in, it

will be December and we may very well be out. Many of us hope that that will be the case, but nonetheless, we may very well be here as well. Those findings may be sufficiently compelling that this institution, as it has in 1986 and 1988, with a unanimous-consent vote, implemented recommendations that were made because they were so compelling and the conditions of the institutions at that time demanded it.

Mr. President, I still hope that we will be able to take action. Perhaps there would not be successful findings. I do not believe that to be the case. I think all the reasons and conditions the mediation panel itself recommended that a board be created still exist. I think the bipartisan nature of such a panel, having distinguished individuals who have a wealth of expertise and knowledge of these kinds of disputes, would help to illuminate the factual situation that I am afraid, in too many instances, certainly involving Eastern Airlines, has been smothered under a cloud of smoke.

The PRESIDING OFFICER (Mr. KERRY). The Senator from New Hampshire is recognized.

Mr. HUMPHREY. Mr. President, this obviously is a thorny issue. It is a strike which this Senator has watched for months with concern, with a certain sense of frustration because, on the one hand, I share the views so well expressed by the Senator from Missouri that politicians should stay out of labor/management disputes. That is my basic inclination.

On the other hand, there has been a question in my mind about the adequacy of existing law and regulations and procedures given the advent of something new since the enactment of that statute and the promulgation of those regulations; namely, the advent of a new style of management; namely, the advent of the Lorenzo style of corporate management.

It is not my purpose, Mr. President, to analyze that style of management for my colleagues, but what concerns me about that style of management, and we see it elsewhere, is that it seems to take into account only the welfare of the shareholders. It seems not to take into account, to any degree, perhaps not at all in this case, the welfare of others who have a stake in the company, apart from the shareholders.

What disturbs this Senator is that in the case before us, there are people who have invested, not their money perhaps, but years, decades of their lives in serving Eastern Airlines and building that company. Whether they own stock or not—one would hope that they would—but whether they own stock or not, they are still stakeholders, if you will, in that company.

Under the Lorenzo style of management, as I have observed it, those stakeholders count for nothing. That can be a pretty crushing eventuality for someone who has served 20 or 30 years and who is no longer in a position to easily transfer his or her service to a new employer. It is a fact of life that many people become locked into their employment as they reach middle age, particularly airline pilots, for example, although I want to emphasize that there are many sorts of jobs at stake—mechanics, administrative personnel—in the Eastern strike. I do not know what to make of it or what to do about it, frankly.

I voted against cloture because the way the board was to be constituted, it appeared to this Senator that it was not likely to be objective, but now I understand there is a compromise before us which, while not guaranteeing objectivity, to be sure at least it is more encouraging in that respect.

I am still not sure after having wondered about this matter for months just what we ought to do about it. I agree with the Senator from Missouri that we politicians ought not to interject ourselves into labor/management disputes, nor should we legislate hastily. The Senator raises that point as well, and it is a good point.

But at the same time there is the nagging doubt about the sufficiency, the adequacy, the applicability of the existing statute and regulations given the advent of the Lorenzo style of management, selling off assets and eliminating jobs. That is the problem. That seems to me to be the crux of it.

I regret that the Senator from Missouri has left. I will have to pursue him privately to see what he thinks about these questions because I think it is on these questions that the matter turns. If the laws and the regulations are now inadequate, given the new circumstances, then should we wait for the regular process, as the Senator from Missouri urges that we wait? How many months more delay does that entail? Should the employees of Eastern, who are subject to these new circumstances, to which perhaps the laws no longer apply and for which they are perhaps no longer adequate, suffer in the meantime? That is really the question. It is a very tough one, indeed, to decide.

Mr. President, unless the Senator from Ohio wishes the floor, I am going to suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I ask unanimous consent that I may be allowed to speak as if in morning business.

The PRESIDING OFFICER. Is there objection. The Chair hears none, and it is so ordered.

(The remarks of Mr. PRYOR pertaining to the introduction of S. 1784 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. METZENBAUM. Mr. President, I ask unanimous consent that under the previous order the Senate stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:29, recessed until 2:15; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

INVESTIGATION OF EASTERN AIRLINES DISPUTE

The Senate continued with the consideration of the bill.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I ask unanimous consent that I be allowed to address the Senate for not more than 3 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Thank you, Mr. President.

EXXON SUES ALASKA

Mr. LIEBERMAN. Mr. President, I have been a lawyer now for more than 20 years. It is a profession that I believe deeply can and does do a lot for our society. Generally speaking, I am proud to be associated with the legal profession.

Once in a while there comes a story about lawyers that makes me cringe. One such time was in the wake of the Bhopal disaster in India, when we were treated to scenes of pinstriped attorneys arriving by the planeload to sign up clients amidst that ruins of that disaster.

I was attorney general of Connecticut at that time, and I remember being deeply troubled by that sight and referring to my fellow attorneys as "jet set ambulance chasers." Well, to that embarrassing legacy, we may now add a new category, and we might

call them "oil tanker chasers." It seems that the lawyers at Exxon recently had a brainstorm. "Let us sue the State of Alaska over the oilspill and get money back for the cleanup." Amazingly, the leadership of Exxon agreed, and just yesterday a lawsuit was filed in Anchorage Superior Court by Exxon against Alaska. To me that is turning the world on its head.

Alaska's Commissioner of Environmental Conservation, Dennis Kelso, reportedly said, Exxon is "trying to rewrite the history of the spill and make it appear that someone else was the problem."

What is next? Will Exxon sue Mother Nature for putting Bligh Reef in Prince William Sound? The fact is that our society is too often lawsuit crazy with children suing parents, teenagers suing their prom dates for being stood up, and burglars suing homeowners for injuries they sustained while robbing them. Those are cases that have been actually filed.

In this case, I cannot judge the validity, from a technical legal point of view, of Exxon's claim, but this much I do know: This is one case that is likely to further tarnish Exxon's image, as well as the public image of the law.

All that time and money that is being spent on prosecuting and defending this lawsuit would be better spent on cleaning up the coastline of Alaska, where the visible evidence of Exxon's negligence remains very clear.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent to proceed to executive session to consider Treaty Calendar Item No. 1.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TREATY WITH THE UNITED KINGDOM CONCERNING THE CAYMAN ISLANDS RELATING TO MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

Mr. KERRY. Mr. President, it is my understanding that the clerk must report at this point.

The PRESIDING OFFICER. For the information of the Senate, the clerk will report the treaty.

The legislative clerk read as follows:

Treaty Document No. 100-8, a Treaty with the United Kingdom Concerning the Cayman Islands Relating to Mutual Legal Assistance, in Criminal Matters.

Mr. KERRY. Mr. President, before proceeding on these treaties, which we will do momentarily, it is my understanding the distinguished Senator from New Mexico would like to proceed as if in morning business.

I ask unanimous consent that we temporarily set aside proceeding on the treaty so that the Senator may address the Senate as if in morning business for a period not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

BUDGET DEFICIT AND SEQUESTRATION

Mr. DOMENICI. Mr. President, I first want to indicate that I am pleased that the distinguished majority leader is on the floor. I just wanted to say that I intended to talk about the logjam we are in and how I think the leadership in the U.S. Senate and the U.S. House could get us out of that logjam. With that, I thank the distinguished Senator from Massachusetts for asking that I might have a bit of time.

First, let me suggest to my fellow Senators that out in the United States, in the hinterland among our people, one thing is obvious. First, they do not think Congress is doing its job very well. Yet, they believe individual Senators and individual U.S. Representatives are doing their job very well. It is not customary for this Senator to play on that. It is not normal for me to bash the institution, the U.S. Senate, or the Congress, of which the Senate is a part. But, Mr. President, I submit that if we do not do something, and do it quick, we are entitled to the anger that the American people seem to have toward Congress and our failure to do our business.

Mr. President, I submit that the leadership—and by that I mean the Democratic leadership of the U.S. Senate and the U.S. House—have a very serious responsibility in the next 5 or 6 days and for the remainder of this year in Congress. I would like very much to suggest today that things need not be as they are.

First, Mr. President, we have already entered the fiscal year, and we have not yet passed the bills that are supposed to fix this budget deficit and avoid an automatic cut in the programs of this Government, which is an abdication of our authority in permitting a planned train wreck to occur when we could avoid it.

Second, one need not look very far to find out why that has happened. It is very simple. Today in the U.S. Senate and U.S. House there are four proposals, four ideas, four legislative initiatives that an overwhelming majority of both Houses support. Let me list them.

Capital gains. A change in the tax laws to provide capital investment in these United States with a slight tax incentive advantage. I repeat, Mr. President, a majority of the U.S. House supports that. A majority of the U.S. Senate obviously supports that. I ask what is wrong with letting the U.S. Senate and U.S. House vote on that issue? The House has already done it, and I submit, and actually, I importune the leadership of the U.S. Senate to permit the U.S. Senate, at some time before this year is out, to debate and vote on that.

Mr. President, what has happened to the idea of letting the majority be the majority? That is No. 1.

Second, catastrophic health insurance has reached a pitch in the United States where both Houses have decided to significantly alter catastrophic health insurance as passed last year. Mr. President, I ask what is wrong with leadership providing an opportunity for both Houses to get the job done on catastrophic health insurance, and get it done quickly? I think the answer is that there is no justification for that.

Third, section 89 of the Tax Code, which most American business men and women, whether they are from small companies or large ones, say is absolutely ridiculous. We have reached the point, after months of debate, when both Houses want to effectively repeal it. Mr. President, I ask what is wrong with leadership providing a way of getting that done? Nothing. That can be done. If the leadership here and the leadership in the other body desire to do that, it can be done.

Fourth, child care: This body voted out a child care bill. The House has its version and instead of providing a way to vote on that and go to conference and decide the issues, it languishes in a 300-item reconciliation deficit reduction bill in the U.S. House of Representatives.

Mr. President, I ask why cannot leadership in the U.S. House of Representatives and the U.S. Senate find a way to accommodate to the obvious will of the majority and have an effective vote on that and go to conference and decide whether we can produce

something that the President will sign or not?

Mr. President, I do not think there is anything standing in the way of that other than the leadership has not decided to do that.

Mr. President, next week we are going to have the annual occurrence of extending the debt limit, and if people wonder why I am here, it is because when that debt limit comes to the floor of the U.S. Senate, if we do not pass it and get it to the President on time, we will not be paying checks to Social Security recipients, pensioners, and many other people in the United States. I thought that perhaps it was a slight responsibility of someone to remind the people of this country and to exhort and beg the leadership of this country and of the U.S. Senate and U.S. House of Representatives not to put the people of this country through that event again.

Do not stop Government because we cannot get our work done because it would be easy for the leadership to decide that we are going to produce a clean debt limit bill that we need not have all of these issues, which I have just raised, raised as part of that bill.

Mr. President, I might suggest all those issues that I just raised, capital gains which a majority in both Houses want, at least they want an opportunity to vote and debate it; catastrophic health insurance; section 89; and child care are tied up in what some choose to call reconciliation, a deficit reduction package.

The U.S. Senate did a good thing and they did it in the name of good government and took everything out of that bill other than that which was deficit reduction. Now we have people playing games, kind of games of chicken with the American people. Maybe it is Halloween next week and perhaps we have involved in our minds that we are going to perform some kind of trickery.

But the facts are very, very simple. We can pass a clean reconciliation deficit reduction bill, and if the leadership will just commit themselves to sit down and talk common sense, they can provide a way to let us here and the House vote on those four issues in such a manner that we can all agree that we can reduce the deficit, avoid the sequester, that we can pass the debt limit bill and avoid scaring and frightening millions of Americans about whether they are going to get their check or not and, yes, at the same time do our job of voting yes or no on issues that we already know the result.

I ask for 3 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 additional minutes.

Mr. DOMENICI. Those issues that I have just talked about on the floor are no longer controversial. They are political. There are still some who say all of this is the President's fault. What does the President have to do with what I have just described?

He told the American people he was for capital gains. He won in the House. Is there anything wrong with that? There are some who will say we are going to work that capital gains right up to the debt limit so we can tell the American people it is capital gains that is denying passage of the debt limit bill, Mr. President. It should be obvious to everyone that is not the case.

Anytime this year before this Senate recesses, the leadership of the U.S. Senate and the U.S. House of Representatives can do that very simply by exercising their leadership and getting rid of their predispositions of bagging it, packaging it all up in one way so there is some advantage or insisting it is going to be one way or not another on issues that are already rather conclusive.

Who will deny that we should put section 89 and catastrophic health insurance on a House bill and go to conference? Who will deny that a majority in both Houses have already spoken on the issue? How about child care? Why does it have to be hidden in a reconciliation bill with 350 issues? Is there something wrong with it?

Send the bill to the U.S. Senate and go to conference like we do or like we used to do when we did the public's business with amendments and full debate in the U.S. Senate.

And last but not least, this approach will get the deficit where it ought to be for this year, will get a debt limit potentially clean, and the majority can be the majority.

I urge that those who would like it otherwise, truly think of the consequences. The consequence is more of precisely what the American people think we are all about—that we cannot get our job done, that we want to blame someone. It is right here in our hands to get it done—in an orderly manner, no gimmickry, nothing cute about it, very simple and forthright.

So, Mr. President, I say to the Senate, it is not for this Senator in the years that I have been here, 17, to be as concerned about Congress as I am today, but I am. And I do not think the American people are being fooled by its complexity and these big words, "reconciliation and sequester," and who is for and against capital gains, and who is for the rich and who is for the poor. The proof is in the pudding here. This can be done and done forthrightly if those who are leading will lead and let the majority be the majority within the rules of these two, the U.S. House of Representatives and the U.S. Senate.

I yield the floor.

EXECUTIVE SESSION

TREATY WITH THE UNITED KINGDOM CONCERNING THE CAYMAN ISLANDS RELATING TO MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

The Senate continued with the consideration of the treaty.

The PRESIDING OFFICER. The Chair recognizes the Senate is currently in executive session for the consideration of Treaty No. 1.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, at this point it is my intention to try to get us moving on these treaties if I may. I know that the Senator from New York is seeking recognition.

Mr. D'AMATO. I might make the request, Mr. President, I had intended to ask unanimous consent that I might be permitted to proceed for no more than 8 minutes as if in morning business.

I assure my distinguished colleague I intend not to occupy more than that. It would be appreciated.

Mr. KERRY. I will ask the distinguished Senator from New York, given that the majority leader has been trying to move forward on these treaties, and I obviously do not want to make it difficult, would it be possible to do it in the course of 5 minutes?

Mr. D'AMATO. I will attempt to do that, yes, I certainly will. I think I can do it in less than 5 minutes.

Mr. KERRY. Mr. President, I ask unanimous consent, with the understanding that this will be the last request before we proceed to the treaties, that we temporarily set aside the treaties and proceed as if in morning business so the Senator from New York can speak for a period no less than 5 minutes.

The PRESIDING OFFICER. Hearing no objection, the Senator from New York is recognized for 5 minutes.

Mr. D'AMATO. I thank my colleague.

UTILITY EXCESS DEFERRED TAX RESERVES

Mr. D'AMATO. Mr. President, I rise today in support of S. 1472, the Consumer Equity Act of 1989, that was introduced by my colleague from California [Mr. WILSON]. This bill will repeal a serious mistake which was written into the Tax Act of 1986 and allow utilities companies to retain the benefit of $19 billion of consumer overpayment. That is right, Mr. President, $19 billion.

One would say how did this take place? As of the end of 1986, Americans had paid utilities companies $19 billion more than they should have in advanced tax payments. In my own

State of New York alone that figure is over $1 billion.

In 1986, the utilities tax rate went down—from 46 percent to 34 percent. They did not need that money for Federal taxes. So the logical course, Mr. President, would have been to refund the money to consumers.

Instead of permitting State utility regulators to order a refund of this money to the consumers who paid it, Congress allowed the utilities to refund the $19 billion over a period that can be 30 years or more.

Mr. President, to put it simply, that is a $19 billion heist—money that was paid to utility companies for the purpose of paying their taxes that the consumers were charged that was not paid to the Federal Government because the tax rate was reduced and it was retained by the utility companies.

Mr. President, the utilities are not even required to use this enormous tax windfall to give their customers better service. With only limited regulatory scrutiny, some utilities have invested these funds in areas that have absolutely nothing to do with the utility business. Let me give you some examples of what we are dealing with.

There are a number of utilities which have used these overpayments to invest in drug stores, insurance companies and real estate. Broad investment of a tax windfall is not consistent with the utilities companies public service function.

The National Association of Regulatory Utility Commissioners informs me that one utility, Florida Power Corp., even invested in the Orlando sports stadium—and tried to buy a baseball team.

The New York Public Service Commission gives me still wilder examples: Pacific Corp. has investments in financial services and in gold and silver production; FPL Group, Inc., a holding company which owns Florida Power & Light, also owns a radio station and a cable television company; and, last but not least, Mr. President, this past Monday's Wall Street Journal reports that Pinnacle West Capital Corp., the parent of Arizona Public Service Co., has suspended its dividend because of losses in Merabank, a thrift which it owns.

I do not think that is right. Why, Mr. President, should we determine as a matter of Federal tax law, that money which rightfully belongs to our citizens should be invested according to the wishes of utilities companies?

This legislation that we are proposing will allow the State public utilities regulators to make a proper determination as to when this $19 billion should be refunded and how. I personally believe that all should be refunded immediately, but I do recognize that case-by-case determinations will be best for all concerned.

At any rate, it is clear to me that State commissions, whose mandate it is to regulate utilities rates in the best interest of consumers, is a far better forum for dealing with the excess of $19 billion than any blanket Federal pronouncement. After all, Mr. President, it is not our money. It belongs to the utilities customers who paid too much.

That is why I am supporting this sound legislation, permitting State regulators to help get the consumers' money back in a time period that accurately reflects the real public interest.

Mr. President, I have been hearing from some of the utilities. They say, "My gosh, if you order us to give back this $19 billion, we will have to go out and borrow money" et cetera.

Let me say that for 3 years they have had the use of $19 billion of consumers' money and they have not paid one penny of interest. Now, if that is not a $19 billion heist, I do not know what is.

I certainly was not aware in 1986—and I do not think many Members of Congress were—that we were going to permit these moneys which were intended to pay Federal taxes and which, as a result of the reduction of the tax rate, were never turned over to the Treasury, but somehow we allowed to be retained by these utilities without benefit of public service review in their various States to the detriment of the consumers and with no explicit mandate to improve service or do anything else.

Mr. President, I think it is wrong. I hope my colleagues will join in supporting this bill so that we can correct this deficiency and correct this abuse.

I yield the floor.

EXECUTIVE SESSION

TREATY WITH THE UNITED KINGDOM CONCERNING THE CAYMAN ISLANDS RELATING TO MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

The PRESIDING OFFICER. The Senate will now return to executive session in consideration of Treaty No. 1.

The Senate continued with the consideration of the treaty.

Mr. KERRY. Mr. President, the distinguished Senator from North Carolina, who is managing for the other side, and I have almost reached an agreement which will preclude the number of votes which we thought we were going to face on this matter. There are two amendments which the distinguished Senator has, one of which we are definitely agreed upon to accept and the second of which we are currently discussing further and it is my understanding we have agreed on, at least in principle. Therefore, hopefully we will be able to adopt both of those en banc and then proceed to a series of sequential votes on the six treaties. We will wait to request the time for the sequence of votes until the majority leader has advised us.

Mr. President, it is our hope that we will be able to have one vote for the six treaties and that we will be able to accept both of the amendments and do that by voice vote, therefore necessitating only one vote on this matter. Again, we will know very, very shortly as to the outcome of the discussion on the second amendment.

Mr. President, again, let me pick up. It is our hope that we will be able to have one vote for the six treaties and that we will be able to accept both of the amendments and do that by a voice vote, therefore necessitating only one vote on this matter.

Again, we will know very, very shortly as to the outcome of the discussion on the second amendment.

Let me explain, if I may, very briefly, while we are waiting for this agreement to gel, precisely what it is that we will be voting on and what these treaties are about.

There are six mutual legal assistance treaties or MLAT's as they have come to be known. We will take them in the order in which they would have been filed with the Senate, which is the Cayman Islands, Mexico, Canada, Belgium, The Bahamas, and Thailand.

These pending treaties, Mr. President, are really essential tools in the fight against international drug trafficking and other serious transnational crimes. These MLAT's do not open up any new rights. What they do is create a wide variety of assistance mechanisms which are tools for carrying out investigations in the prosecutions of crime.

Specifically, they are agreements between each of these countries, the six named, and ourselves to provide for service of process, for provision of records, location of persons, the taking of testimony or statements of persons, the production of documents, the execution of requests for search and seizure, assistance relating to forfeiture of criminally obtained assets and transfer of persons who are in custody for the purpose of taking testimony either before a grand jury or for other testimonial purposes.

The negotiation of these mutual legal assistance treaties, Mr. President, represents a relatively new and important development in the area of international law enforcement. Since 1977, MLAT's with Switzerland, The Netherlands, Turkey, and Italy have entered into force.

Perhaps the most dramatic example of how effective mutual legal assistance treaties are to aid in the successful prosecution of narcotics cases is the so-called pizza connection case

tried in the southern district of New York. After an 18-month trial that was based on a multiyear investigation, this case resulted in the conviction of 17 of the 18 defendants. It is one of the most significant organized crime heroin-trafficking and money-laundering cases ever prosecuted. Its relevance to the matter before us today is that the Pizza connection case could not have been effectively investigated much less prosecuted were it not for the MLAT's that were in place.

A number of requests were made under our MLAT with Switzerland to obtain critically important bank records in a series of depositions for use at the trial. Because of our MLAT with Italy, the prosecution obtained additional depositions, recordings of intercepted telephone conversations, and appearances as witnesses of Italian police officers. The U.S. MLAT with Turkey was used to obtain witness interviews.

So, Mr. President, we have three different MLAT's working with three different countries, all of which contributed to the capacity of the U.S. attorney in the southern district of New York to put together a very intricate network of criminal activity and wind up with successful prosecution.

These six treaties before us now have been a long time in the making, Mr. President. They were passed by the Senate Foreign Relations Committee previously and they come to the floor with a near unanimous vote of the committee.

The law enforcement agencies of a number of nations are waiting for the United States to put these MLAT's in place and in fact, regrettably, Mr. President, we have been criticized ourselves for our lack of having moved forward on them until this moment. Other countries have watched us go through our certification process, where we have pointed the finger with respect to cooperation in the drug war, and we ourselves have been, perhaps, not as fast as we might have been in passing these.

Mr. President, I do not want to belabor this. The distinguished Senator from North Carolina and I are anxious to expedite the process. But I want to make it clear that this is wholeheartedly sought by and supported by the administration. I ask unanimous consent that a letter from Secretary of State Baker, a letter to the chairman of the Foreign Relations Committee from the Attorney General, Dick Thornburgh, and a letter from the attorneys general of the four American States and six Mexican States at their semiannual meeting, all of whom endorsed this, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, July 25, 1989.

Hon. CLAIBORNE PELL,
Chairman, Foreign Relations Committee, U.S. Senate.

DEAR CLAIBORNE: I understand that on July 25 your Committee will again consider the six Mutual Legal Assistance Treaties (MLATs) pending Senate advice and consent. I would like to take this occasion to reiterate the Administration's full support for these treaties. As mentioned in my April 5 and 18 letters, I urge you and your Committee to vote favorably on these treaties and to encourage their prompt consideration by the full Senate.

We need all six MLAT's, including those with Mexico and The Bahamas. They are essential tools in the fight against drug trafficking and other serious, transnational crimes. Their ratification and implementation would certainly benefit our national interests and enhance our efforts against drug traffickers. Moreover, any continued delay in their ratification could cause other Governments to question the seriousness of our resolve against narcotics trafficking and other serious crimes.

I urge you and your Committee to vote favorably on these treaties and to encourage the full Senate to give its advice and consent as soon as possible.

Sincerely yours,

JAMES A. BAKER III.

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, March 2, 1989.

Hon. CLAIBORNE PELL,
Chairman, Foreign Relations Committee, U.S. Senate, Washington, DC.

DEAR SENATOR PELL: As you know, six Mutual Legal Assistance Treaties (MLATs) have been pending before the Senate Foreign Relations Committee for sometime. The countries involved, Canada, Mexico, the Bahamas, the Cayman Islands, Belgium and Thailand, are important sources of law enforcement cooperation with the United States and are significant sources, transit or money laundering centers for drugs.

Extensive hearings were held on these treaties, on April 20 and June 14 of last year, and government and private witnesses testified and supplied lengthy written presentations on the treaties. All these witnesses urged ratification of the six MLATs. The Foreign Relations Committee reported them out of the committee with a favorable recommendation on September 30, 1988.

Unfortunately, because of the press of other matters, the full Senate was unable to vote on them before the adjournment of the 100th Congress.

These treaties will provide local, state and federal prosecutors and law enforcement agencies with effective new means of obtaining evidence from abroad in important criminal cases, particularly narcotics cases.

Moreover, section 4605 of the 1988 Anti-drug law mandates the negotiation of more MLATs with drug production transit and money laundering countries. This process is greatly complicated by the fact that the six MLATs we have signed in the last four years have not yet been ratified by the U.S. Against this backdrop, other nations may be less than enthusiastic about entering into MLAT negotiations with us.

I realize that many important matters demand your attention and time in the new Congress. However, I would urge you to support these treaties in view of their vital importance as an aid to all levels of law enforcement in the fight against drugs.

Sincerely,

DICK THORNBURGH,
Attorney General.

ATTORNEY GENERAL,
Phoenix, AZ, August 11, 1989.

Hon. JOHN F. KERRY,
U.S. Senate, Washington, DC.

DEAR SENATOR KERRY: This is to advise you that the Attorneys General of the four American states and the six Mexican states at their semi-annual meeting in Phoenix, Arizona, on May 19, 1989, voted unanimously to urge the United States to ratify the Mutual Legal Assistance Cooperation Treaty which has already been approved and ratified by the Country of Mexico.

Furthermore, the American Attorneys General specifically praised the administration of President Carlos Salinas de Gortari for the efforts that his administration has made to combat drug trafficking since he came into office. The efforts of his drug czar, Lic. Javier Coello Trejo, were specifically praised.

Sincerely,

BOB CORBIN,
Attorney General.

Mr. KERRY. Mr. President, I am not going to explain in the detail I might have had there been some contentiousness here, the way in which each of these treaties work, except to say it is the judgment of the members of the committee and indeed of the Attorney General and the Secretary of State and the President, who are seeking this treaty, that the national security interests of the United States and the justice interests of the United States are well met through these treaties.

Each of the treaties has an escape clause which permits our chief law enforcement official, the Attorney General, to make a determination, if at any time there is some reason to believe the treaties might be abused, that somehow the criminal justice process might be diverted by virtue of corrupt officials in another country or some other possible barrier to the appropriate use of these treaties, indeed the United States has the right not to provide information, not to cooperate under the treaty, as do other countries, similarly, if they think we are on a fishing expedition.

The fact is, Mr. President, the record of these treaties and their use up until now is so replete with success and so minus abuse that it would really be wrong at this point to set up any barriers to their passage. Indeed, I believe that is why there are none at this moment in time.

I reserve any further comment pending the additional comments of the distinguished ranking member of the Foreign Relations Committee.

I understand wholeheartedly the interests that motivate the distinguished Senator from North Carolina. He has not sought changes in these treaties because he objects to the concept of

cooperating or fighting the war on drugs. He has had legitimate concerns about the interests of the United States and the application of our own Constitution.

I think those concerns have been met in the amendments we are poised to accept, and I want to thank the distinguished Senator for his cooperation in helping us to reach this point.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the distinguished manager, my friend from Massachusetts [Mr. KERRY].

I am tempted to call or describe the two understandings, which I will offer and which I understand will be accepted, the Sam Ervin understandings.

Down through the years, beginning in 1973 when I came to the Senate, until the time of Senator Ervin's death in 1984, the two of us must have discussed this business of treaties 3 dozen times.

Senator Ervin had grave reservations about the Genocide Treaty, for example. He said the concept of the Genocide Treaty was all right. But the potential infringement on the constitutional rights of American citizens presented too much risk for him to accept.

We talked about it and talked about it, and this carried over into my thinking on the MLAT discussion. I have insisted for months and months on end to the State Department that if clarifications such as I am offering today were incorporated into the MLAT's, there would be no problem for me. But I took an oath right here on the floor, three times, to protect the constitutional rights of the American people. I do not intend to surrender those rights, even inadvertently.

I am pleased we can finally move forward with these six MLAT treaties. Again, I thank the distinguished manager, Mr. KERRY, for his cooperation and help in bringing these treaties to the floor.

As he has indicated, I am going to offer the two understandings to which I have just alluded. These will alleviate the concerns which many distinguished constitutional authorities, Sam Ervin being among them, have raised about treaties.

I never will forget the deep understanding and concern which Senator Ervin had for the Constitution. He decribed himself as a country lawyer but he was, in fact, a brilliant constitutional authority. He always admonished me, as I said earlier, to take great care never to violate my oath to uphold the Constitution of the United States. I have never done it, and for however long I may remain in the Senate, I never will.

Senator Ervin was always concerned that the Constitution remain supreme over any interpretation of treaties or international law, and I share that concern.

During the debate on the Genocide Treaty, I called Senator Ervin a number of times. He was then retired. He lived in Morganton, NC, his home. I think it was the last time I talked with him before his death that he reiterated firmly his counsel to me about protecting the constitutional rights of the American people.

As a result, I offered a reservation to the Genocide Treaty that protected the supremacy of the U.S. Constitution. It was accepted.

Here again, the Genocide Treaty could have been approved earlier, much earlier than was the case, had there not been so much intransigence on the part of the State Department and the Justice Department.

"Oh, no," they said. "You cannot do that. It might offend somebody overseas."

I said, "Baloney; I do not mind offending them. I want to protect American people without peradventure."

So the constitutional understandings that I offer to these six MLAT's now pending are offered in the same spirit.

I say again, if we could have worked this out earlier, the MLAT's would have been approved a long time ago.

Mr. President, I send the first of the two understandings to the desk and ask it be stated.

The PRESIDING OFFICER. The Senator from North Carolina is advised that the treaty is pending, not the resolution of ratification.

Mr. HELMS. Mr. President, to save time, I ask unanimous consent we proceed to the resolution of ratification.

The PRESIDING OFFICER. Proceed with the resolution?

Mr. HELMS. Yes. Yes. Temporarily.

The PRESIDING OFFICER. The clerk will first report the resolution of ratification .

The legislative clerk read as follows:

Resolved, two-thirds of the Senators present concurring therein, That the Senate advise and consent to the ratification of the Treaty Between the United States of America and the United Kingdom of Great Britain and Northern Ireland concerning the Cayman Islands relating to Mutual Legal Assistance in Criminal Matters, with Protocol, signed at Grand Cayman, Cayman Islands on July 3, 1986, together with related notes exchanged at London the same day.

AMENDMENT NO. 1044

(Purpose: To add an understanding that nothing in this treaty requires or authorizes legislation or other action by the United States of America prohibited by the Constitution of the United States)

The PRESIDING OFFICER. The clerk will report the understanding in the form of an amendment to the resolution.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1044. Re: Treaty Doc. No. 100-8 (Cayman Islands).

Insert before the period in the resolution consenting to ratification the following Treaty condition: "subject, however, to the inclusion in the instruments of ratification of the following understanding:

'Understanding. Nothing in this Treaty requires or authorizes legislation or other action by the United States of America prohibited by the Constitution of the United States.'.".

Mr. HELMS. Mr. President, I had the distinguished clerk read the entire amendment so it would be part of the RECORD and might be of interest to Senators who are watching the proceedings of the Senate on their television sets in their offices.

Mr. President, all six of these treaties may end up denying American citizens their basic constitutional rights. That may not be what the State Department or Justice Department intends. But without action on the part of the Senate—that is what may occur.

One of the many things which makes our country different from all others—which has made our country the envy of the world and an enduring magnet to peoples in all lands—is our steadfast adherence to the Constitution and the protections it provides to all citizens.

Despite this fact, these treaties obligate the United States to undertake legal actions—such as searches and seizures—against Americans without excepting those actions which may be in contravention to the Constitution.

The committee report and the administration's witnesses both insist that the MLAT's are an effective means of obtaining legal assistance. That effectiveness comes in part from streamlining the process of obtaining justice. That is also the major problem associated with these treaties. The MLAT's change and challenge constitutional processes as they relate to individual rights under the Constitution.

No other country in the world protects the rights and freedoms of U.S. citizens in the way that the U.S. Constitution does. The major protections are found in the Bill of Rights. These protections deal with process rather than with substantive law.

It is for this reason that I am offering an understanding almost identical to the Lugar-Helms Reservation on the Genocide Convention which was approved by 93 Senators in February 1986. This understanding reads as follows:

Nothing in this Treaty requires or authorizes legislation or other action by the United States prohibited by the U.S. Constitution.

This amendment, if accepted, would be included in the instruments of ratification submitted to the other ratifying countries. Thus, the constitutional rights of Americans would remain secure.

The essential reason for such a proviso is the still unanswered question of

whether the Constitution supercedes a treaty or whether a treaty can be held to be equal to the Constitution with respect to its provisions.

Without such a proviso, if requested by a party to the treaty to undertake an unconstitutional action, the State or Justice Departments could be left in the position of either violating the constitutional rights of an American if the request is honored, or violating its obligations under international law if the request is refused.

The U.S. should not be, and need not be, left to choose between these options. To assure that it is not, I offer this understanding to each treaty to clarify that no actions in contravention of the Constitution will be taken under these treaties.

Mr. President, there is no doubt in my mind that these treaties are well intentioned. However, Senators exercise perhaps their most important responsibility when providing their advice and consent on treaties. Once ratified, treaties are not easily undone. They bind the United States for years and years, and in fact, are often permanent.

That is why, Mr. President, the Senate must take precautions here and now to assure that these treaties do not inadvertently result in a denial of basic constitutional rights to Americans.

Mr. President, this proposed understanding to each of the mutual legal assistance treaties essentially parallels a reservation attached to the International Convention on the Prevention and Punishment of the Crime of Genocide. The understanding states that:

Nothing in this Treaty requires or authorizes legislation or other action by the United States of America prohibited by the Constitution of the United States.

The purpose of the understanding is to emphasize and clarify that if any aspect of the treaty, or its subsequent implementation, is construed to require the United States to act in a way barred by the U.S. Constitution, the understanding will excuse the United States from the obligation.

The determination of what action is prohibited by the Constitution is to be made according to U.S. law. In each case, the understanding puts responsibility for making the decision on the officials of the appropriate branch of the U.S. Government. The understanding assures that no extra-constitutional requirements can be imposed. Legal interpretations of the U.S. obligations would be litigated exclusively through the U.S. judicial system—possibly reaching the U.S. Supreme Court.

The U.S. judicial system will be the ultimate arbiter in terms of interpreting the understanding and guaranteeing the rights of Americans under the Constitution. In my judgment, it is important to emphasize the U.S. sovereignty remains supreme and that the treaties cannot be construed as permitting the International Court of Justice, or some other tribunal, to determine, using its own standards, what is and is not permitted by U.S. constitutional law.

The U.S. should preserve to itself a comprehensive and unrestricted right for the United States to excuse itself at any time in the future from otherwise applicable treaty requirements by invoking a contingency ultimately dependent upon a unilateral and continually developing process of domestic constitutional intepretation. While the preservation of such a right introduces a certain degree of legal uncertainty regarding the precise nature and scope of the obligations which the United States assumes under the treaties, such is the nature of U.S. constitutional law. For these reasons, Mr. President, the Senate should adopt the understanding now before the Senate.

Mr. KERRY. Mr. President, this amendment from the distinguished Senator from North Carolina is different from the amendment that he offered in committee, which was at that time objected to by the committee and which has been a source of disagreement. It is different specifically because it is an understanding and not a reservation. Inasmuch as it is an understanding and not a reservation, it has a different effect with respect to these treaties. An understanding is an interpretive statement for the purpose of clarifying or elaborating rather than changing an obligation under the agreement. For that reason, on behalf of the chairman of the Foreign Relations Committee, the committee is prepared to accept this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1044) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I send a second amendment——

Mr. KERRY. Is the amendment the Senator now sends to the desk as we previously agreed upon, or is it changed?

Mr. HELMS. It has been agreed upon by both sides, I believe.

The PRESIDING OFFICER. The clerk will report.

Mr. KERRY. Mr. President, I ask unanimous consent that we be permitted to proceed to the resolution of ratification with respect to the Cayman——

The PRESIDING OFFICER. We are currently considering the resolution of ratification. The Chair inquires if the amendment is an amendment to the resolution of ratification?

Mr. HELMS. The Chair is absolutely right.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. HELMS. Mr. President, I ask unanimous consent, inasmuch as we want each of these two amendments which are, in fact, understandings, to be included in each of the six MLAT treaties, that it be in order for me to request now, and I do request, that the staff be allowed to make technical adjustments in order to accomplish this.

Mr. KERRY. Mr. President, reserving the right to object, I simply inquire of my colleague if it is our understanding at this point that the technical adjustments refer to the term "essential public interest" and "public interests;" is that correct?

Mr. HELMS. That is correct.

Mr. KERRY. Reserving the right to object, Mr. President, I am informed that I should preserve the right of the Secretary of the Senate, who is the only person who has the right to make those changes. I remember, indeed, from a few nights ago when we were dealing with the reconciliation that we placed in the request for the technical changes the right that the Secretary of the Senate have that authority. If my distinguished colleague wants to give that right to the Secretary of the Senate, whose right it is, I will not object, but I must object otherwise.

Mr. HELMS. Of course, the distinguished manager is right, Mr. President. I will substitute "Secretary of the Senate," but the staff will still do the work.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request by the Senator from North Carolina? Without objection, it is so ordered.

AMENDMENT NO. 1045

(Purpose: To prevent the granting of assistance to foreign officials who engage in, encourage, or facilitate the production or distribution of illegal drugs.)

The PRESIDING OFFICER. The clerk will report the second amendment to the resolution of ratification.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1045.

Insert before the period in the resolution consenting to ratification the following Treaty condition: "subject, however, to the inclusion in the instruments of ratification of the following understanding:

'Understanding. Pursuant to the rights of the United States under this treaty to deny requests which prejudice its public interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this treaty is engaged in or facilitates the production or distribution of illegal drugs.' "

Mr. HELMS. Mr. President, as I have said before, the State and Justice Departments have made the assertion that these treaties will aid efforts to prosecute drug traffickers. But, without the amendment I am offering, these MLAT's might actually encourage the drug trade. That is especially the case with those MLAT's with Mexico and the Bahamas.

That is because under this treaty, the United States is required to give all sorts of legal assistance—including sensitive information regarding drug trafficking—to countries regardless of whether the officials who will receive this assistance are themselves involved in drug trafficking.

The amendment I offer today will relieve the United States of the obligation to provide assistance to corrupt officials in these countries, and at the same time permit the treaty to enter into force.

Specifically, this amendment adds an understanding to the resolution of ratification which states:

Pursuant to the rights of the United States under this treaty to deny requests which prejudice its public interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this treaty is engaged in or facilitates the production or distribution of illegal drugs.

Under this amendment, whenever a request for assistance is received by the central authority—that is, the Attorney General of the United States—he would have to determine, with assistance from the requesting party, which officials would have access to information provided pursuant to the request.

The Attorney General would have to consult with the appropriate intelligence, antinarcotic, and foreign policy agencies to obtain all information such agencies have regarding each such official. Included among such agencies are the Department of Justice, the Drug Enforcement Agency, the Customs Service, the State Department, the Central Intelligence Agency, the Defense Intelligence Agency, other intelligence agencies, and Mr. Bennett's Office of Drug Policy.

In the event that any of these or the other agencies referred to in the amendment had specific information that an official was involved in drug trafficking, the request would have to be denied.

This amendment, then, will assure that the United States will interpret its "essential public interests" to require that assistance be denied to foreign officials who are involved in drug trafficking.

That is what the Senate will vote upon: Should the United States deny assistance to foreign officials who are involved in drug trafficking—pure and simple.

My understanding is that the Senate will shortly vote to deny assistance to such officials.

The amendment I offer today is an understanding. In no way does it prevent the treaty from entering into force. The understanding does not require renegotiation with the countries with which the United States will be obligated under these treaties. It simply puts these countries on notice as to how the United States will interpret a section of the treaty.

If the public interest of the United States is to be protected under this treaty, we must prevent foreign officials from receiving assistance under this treaty. And that is just what could occur without the understanding I will offer. That is particularly the case with Mexico.

On February 23, 1988, Mr. William von Raab, then Commissioner of the U.S. Customs Service, wrote to Ms. Ann Wrobleski, the Assistant Secretary of State for International Narcotics Matters. In that letter, Commissioner von Raab said:

There is corruption among senior level Mexican law enforcement officials, and corruption is pervasive throughout the law enforcement and military system.

Mr. President, that is precisely the problem. It is these very same corrupt officials who could be enforcing the treaty for the Mexican Government. And it is these same corrupt officials who would be in a position to receive sensitive narcotics information from the U.S. Government.

Rather than using such information to stop drug trafficking and arrest the traffickers, corrupt Mexican officials would be able to assist criminal elements, avoid detection and escape prosecution. Indeed, this is already happening, according to former Commissioner von Raab.

The Commissioner wrote:

This corruption has effectively precluded our working with Mexican authorities on narcotics interdiction * * *. The law enforcement information available to us suggests that at best Mexico is making merely a token attempt to address the issue of narcotics trafficking * * *.

Mr. von Raab continued:

Powerful Mexican officials are providing safe havens to drug traffickers and making it possible for narcotics to be smuggled into and out of Mexico with impunity.

Mr. President, these are the people to whom we would be obligated to assist under this treaty. The understanding I am offering today clarifies that the United States will exercise its right not to assist foreign officials involved in drug trafficking. I urge Senators to support it.

The PRESIDING OFFICER. Is there further debate?

Mr. KERRY. Mr. President, the amendment does indeed speak for itself. I think the Senator has been correct, and, based on the experience in a number of countries with corruption, I think it is appropriate for the Senator to have sought to try to frame at least a concern which will guide our decisionmaking with respect to the implementation of this treaty. It think it does so in a way so that this point does not tie the hands or abuse the breadth of the treaty itself. Therefore, we are willing to accept this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1045) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KERRY. Mr. President, it will shortly be my intention on behalf of the majority leader to propound a unanimous-consent request that will permit the actions that we just took with respect to these two amendments as to one treaty each, to permit those amendments to apply to all of the treaties as appropriate with the technical corrections as appropriate that that may be done in one vote. I will wait, however, for the majority leader to submit to us that appropriate request. In addition, we will simultaneously propound a request for a single vote on all six treaties following the process of amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NUMBERED 1046 THROUGH 1050 TO TREATY DOCUMENTS NUMBERED 100-13 (MEXICO), 100-14 (CANADA), 100-16 (BELGIUM), 100-17 (THE BAHAMAS), AND 100-18 (THAILAND)

Mr. KERRY. Mr. President, on behalf of the Senator from North Carolina, I send the following five amendments to the desk, and I ask unanimous consent that these five amendments relating to the standards for denial of the assistance be considered as having been adopted to the resolution of ratification on executive calendar items Nos. 2 through 6 inclusive.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Massachusetts? Hearing none, it is so ordered.

The amendments are as follows:

AMENDMENT No. 1046

Insert before the period in the resolution consenting to ratification the following Treaty condition: "subject, however, to the inclusion in the instruments of ratification of the following understanding:

'Understanding. Pursuant to the rights of the United States under this treaty to deny requests which prejudice its essential public policy or interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this treaty is engaged in or facilitates the production or distribution of illegal drugs.'".

AMENDMENT No. 1047

Insert before the period in the resolution consenting to ratification the following Treaty condition: "subject, however, to the inclusion in the understanding:

'Understanding. Pursuant to the rights of the United States under this treaty to deny requests which prejudice its public interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this treaty is engaged in or facilitates the production or distribution of illegal drugs.'".

AMENDMENT No. 1048

Insert before the period in the resolution consenting to ratification the following Treaty condition: "subject, however, to the inclusion in the instruments of ratification of the following understanding:

'Understanding. Pursuant to the rights of the United States under this treaty to deny requests which prejudice its essential public interests, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this treaty is engaged in or facilitates the production or distribution of illegal drugs.'".

AMENDMENT No. 1049

Insert before the period in the resolution consenting to ratification the following Treaty condition: "subject, however, to the inclusion in the instruments of ratification of the following understanding:

'Understanding. Pursuant to the rights of the United States under this treaty to deny requests which prejudice its essential public interests, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this treaty is engaged in or facilitates the production or distribution of illegal drugs.'".

AMENDMENT No. 1050

Insert before the period in the resolution consenting to ratification the following Treaty condition: "subject, however, to the inclusion in the instruments of ratification of the following understanding:

'Understanding. Pursuant to the rights of the United States under this treaty to deny requests which prejudice its essential public interests, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this treaty is engaged in or facilitates the production or distribution of illegal drugs.'".

AMENDMENT NO. 1046 TO THE MUTUAL LEGAL ASSISTANCE TREATY WITH MEXICO

Mr. HELMS. Mr. President, the Senate has just proceeded to approve an understanding to six MLAT's which will prevent any assistance from being provided under these treaties to foreign officials who may be involved in drug trafficking.

In no other MLAT is such an amendment as necessary as it is with Mexico.

Mr. President, during the Senate's consideration of the State Department authorizations bill this past July, I joined with the distinguished Senator from Arizona [Mr. DECONCINI] in sponsoring a resolution supporting President Salinas for his expressed willingness to end narcotics related corruption. However, the Sense of the Senate resolution stated that Mexico should demonstrate its commitment to cooperating fully in antinarcotics activities by entering into negotiations with the United States on the following issues:

First, joint overflight and hot-pursuit operations;

Second, participation of U.S. law-enforcement agencies in air surveillance flights for interdiction efforts;

Third, U.S. requests for access to bank records related to narcotics investigations; and

Fourth, U.S. requests for verification of eradication statistics.

The DeConcini-Helms resolution stated that "the people of Mexico should be supported in their efforts to rid their country of illicit narcotics, bribery and corruption, and electoral fraud."

On this resolution, two-thirds of the Senate found that Mexico had not cooperated fully with the United States in antinarcotics efforts by refusing to table the resolution. Mexico's lack of cooperation is one of the reasons the ratification of the Treaty has been delayed for so long.

Mr. President, in March 1988 the State Department released its second annual International Narcotics Control Strategy Report. In the chapter on Mexico, the State Department reported:

> In the opinion of the U.S. Customs Service, the single most important factor which undermines effective and meaningful narcotics cooperation with Mexico is the level of official corruption within the Mexican Government. Documented violations by Mexican law enforcement officials are becoming more prevalent. * * * Information gathered to date indicates significant levels of narcotics corruption on the part of Mexican officials.

Now the State Department is asking the Senate to consent to ratification of a treaty with this same government—a government which the report said had significant levels of narcotics corruption in its officials—for the express purpose of fighting drug trafficking. Before the Senate provides its consent, it is essential that this understanding be included to prevent such officials from obtaining assistance from the United States under this treaty.

Mexico's situation parallels that of Panama's only a few years ago. There is a great deal of evidence that Gen. Manuel Antonio Noriega has assisted the drug trade for many years. The U.S. relationship with Panama has deteriorated precisely because of the drug issue and the State Department's failure to deal with the crisis over 10 years ago.

We cannot fight drugs by bestowing legitimacy on governments which are full of corrupt officials.

Neither can we fight drugs by giving corrupt governments the right to receive legal evidence and assistance from the U.S. Government.

But, Mr. President, if the Senate wants to be serious about fighting drugs, the Senate should demand assurances that the senior government officials in Mexico who might be involved in drug trafficking will not receive under the treaty information about prosecutions for drug trafficking.

Mr. President, in March 1988, the U.S. Senate voted 62 to 27 in favor of a resolution of disapproval of the narcotics certification for Mexico under the omnibus drug bill of 1986. The Senate took this significant action because Mexico simply had not cooperated in the past year with the United States to halt drug production, trafficking, or money laundering. Inas-

much as the Senate concluded that the Mexicans have refused to cooperate up until now, why should we believe that the situation would be any different if this treaty goes into effect?

On February 23, 1988, Mr. William von Raab, then-Commissioner of the U.S. Customs Service, wrote to Miss Ann Wrobleski, the Assistant Secretary of State for International Narcotics Matters. In that letter, Commissioner von Raab said: "There is corruption among senior level Mexican law enforcement officials, and corruption is pervasive throughout the law enforcement and military system."

Mr. President, that is precisely the problem. These very corrupt officials might be the officials enforcing the treaty for the Mexican Government. And it is these same corrupt officials who would be in a position to receive sensitive narcotics information from the U.S. Government. That is why my reservation is necessary.

Rather than using such information to stop drug trafficking and arrest the traffickers, corrupt Mexican officials would be able to assist criminal elements, avoid detection and prosecution. Indeed, this is already happening, according to former-Commissioner von Raab.

The Commissioner wrote:

> This corruption has effectively precluded our working with Mexican authorities on narcotics interdiction * * *. The law enforcement information available to us suggests that at best Mexico is making merely a token attempt to address the issue of narcotics trafficking * * *.

Mr. von Raab continued:

> Powerful Mexican officials are providing safe havens to drug traffickers and making it possible for narcotics to be smuggled into and out of Mexico with impunity.

The Commissioner further stated that:

> The Mexican officials were so unresponsive to requests for narcotic related financial information that out of frustration Customs officials have ceased working with the Mexicans.

Mr. President, I submit that the lack of cooperation by the Mexican Government in the war against drugs is well known and well documented.

On March 16, 1988, at a hearing of the Senate Drug Caucus, Senator D'AMATO asked then-Commissioner William von Raab: "Do you know of any major drug traffickers who have been tried, convicted and sentenced in Mexico?" Mr. von Raab answered, "I do not know of a single one."

Since that time, I am able to determine that only two major drug traffickers—Ernesto Fonseca and Rafael Caro Quintero—have been tried, convicted, and sentenced. However, both of these traffickers were convicted on minor drug charges, and both have several pending indictments in U.S. courts.

However, both Fonseca and Quintero, two of the biggest drug kingpins in Mexico, have been convicted in Mexico for murdering U.S. DEA Agent Erique Camarena. But to this date, neither one has been sentenced. It is expected that if they are sentenced, they would receive a sentence of no more than 40 years for this brutal murder. Just last week, Caro Quintero was indicted in the United States for two more murders, bringing his grand total to four.

Another Mexican drug kingpin, Felix Gallardo, is allegedly in jail in Mexico on drug charges. However, we have all heard about the luxurious jail cells owned and operated by the Mexican drug traffickers. So I am sure that Felix Gallardo is not suffering. And to this date, Mr. Gallardo has not even been tried, much less convicted.

Mr. President, a U.S. official recently informed me that, notwithstanding the arrest of these three traffickers, the major crime and drug organizations in Mexicio are continuing full speed ahead. So, I reiterate that Mexico has a long way to go to come close to "full cooperation."

Mr. President, in August 1987, a Honduran citizen, planted a bomb in a restaurant in Honduras which wounded five American servicemen. One suspect in this crime, Alfonso Guerrero, sought, and was granted asylum in the Embassy of Mexico in Honduras.

Mr. Guerrero was formally charged with this crime, and the Government of Honduras requested that he be turned over so that he could be brought to justice. The Mexican Government refused to release Guerrero to the Honduran authorities.

Once again, the Government of Mexico slapped the United States in the face by refusing to cooperate in bringing to justice a terrorist—a case which involved U.S. servicemen serving abroad.

If the U.S. Government requests evidence to try a terrorist in a U.S. court, what assurances do we have—given their past record—that Mexico would provide us with all relevant information?

Mr. President, as recently as June of 1988, Mexico again showed its contempt for the United States, and for the law, by refusing to extradite to the United States a convicted Puerto Rican terrorist. The terrorist, William Morales, was arrested in New York in 1978 on explosives and weapons charges. He was named as a leader of the Puerto Rican FALN, a terrorist organization responsible for 110 bombings in the United States and Puerto Rico. Morales was convicted in Federal court and sentenced to 99 years.

In 1979, while Morales was in Bellevue Hospital in New York, where he was being fitted for a pair of artificial hands, Morales escaped by cutting through a wire mesh window and lowering himself down a 40-foot rope made out of artificial bandages.

Two New York policemen were killed while trying to apprehend Morales. He escaped to Mexico, where he was arrested on May 28, 1983, after a shootout in the state of Puebla. He confessed that he was planning to bomb the site where U.S. and Mexican Congressmen where holding a conference. After serving several years in a Mexican prison, Morales was released and given safe passage to Havana, Cuba, under the protection of the DGI—the Cuban intelligence service.

After Mexico's refusal to extradite Morales to the United States, the United States recalled its Ambassador from Mexico for a week, and denounced the action of the Mexican Government as "outrageous" and added that it "undercuts the fight of international terrorism by legal means."

The Mutual Legal Assistance Treaty with Mexico provides for a central authority in each state which is responsible for complying with requests or transmitting them to the competent authorities to do so. For the United States, the Department of Justice will be the central authority. For the United Mexican States, the Procuraduria General de la Republica; that is, the Attorney General; will be the central authority.

There have been many allegations that high level officials in the Office of the Mexican Attorney General, and those under his control (such as the Mexican Federal Judicial Police), are involved in one way or another in narcotics corruption, and in the protection of major drug traffickers.

Another major problem with the Mexico MLAT is the requirement—at the heart of the treaty—to exchange information and legal documents with respect to the investigation of specific criminal activities. Although mutual cooperation is technically discretionary, the MLAT treaties have as their fundamental purpose mutual cooperation in criminal matters.

Therefore, it is not inconceivable that at some time officials in the Mexican Government, under the color of an alleged criminal investigation by that Government, might seek United States Government documents relating to counternarcotics or countermoney laundering activities.

In other words, Mr. President, corrupt Mexican Government officials could use the MLAT Treaty to discover the measures and information used by the United States Government against certain persons in Mexico. In turn, these corrupt officials would be able to tip off certain criminals as to what information the United States has about their alleged criminal activities.

Under article 1, section 4(d) of this treaty, the United States would be required to "immobilize, secure or forfeit assets" on behalf of the Mexican Government. Given that we have already established that officials in the Mexican Government have been suborned by the drug traffickers or are themselves drug traffickers, it is not unlikely that the United States Government would be asked to attach the assets of criminal competitors of the very officials asking the request under provision of the MLAT.

Under article 1, section 4(g) of the MLAT, the United States would be required to "locate persons" for the Mexican Government. This provision might enable corrupt Mexican officials to cooperate with criminal elements to "locate" informers who have provided the United States Government with important information regarding criminality between the two countries.

Mr. President, that is why I have proposed this amendment making it clear that information can be withheld when these concerns are present.

Mr. KERRY. I thank the President.

I suggest the absent of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RECONCILIATION BILL

Mr. SASSER. Mr. President, I noted with interest a debate or a speech made on the floor of this Chamber just a short time ago by the distinguished ranking member of the Senate Budget Committee, my good and able friend, Senator DOMENICI. Just let me say that I could not agree more with the sentiments expressed by the distinguished Senator from New Mexico that we should move forward with a clean reconciliation bill and move forward with a reconciliation bill that addresses itself first and foremost to deficit reduction.

This body, I think, has expressed itself overwhelmingly in favor of a clean reconciliation bill. If memory serves me correctly, the vote here was 87 to 7 to strip all extraneous material off of the reconciliation bill and to have that bill reflect only that for which it was created, and that is deficit reduction.

It was 3 weeks ago, approximately, that the majority leader, Senator MITCHELL; myself; the distinguished Senator from Texas and the chairman of the Finance Committee, Senator BENTSEN; and the distinguished President pro tempore, Senator BYRD, proposed the idea to the Republican leadership that we move forward with a stripped-down reconciliation bill.

There was quite a bit of discussion back and forth over the next 8 days. The sticking point, it appeared, to stripping down the reconciliation bill revolved principally around the White House's desire that the capital gains provision be established or be appended to the reconciliation bill.

Finally, at the end of 8 days, to its everlasting credit, the leadership of the minority agreed that it was in the best interest of all concerned that we move forward with a stripped-down reconciliation bill.

In my view, the distinguished minority leader and the ranking member of the Senate Budget Committee in making that decision struck a blow that will be heard for some time for deficit reduction and I think exhibited good judgment and, I might even say, statesmanship on their behalf.

ORDER OF PROCEDURE

Mr. KERRY. Will the distinguished Senator yield for 1 moment?

Mr. SASSER. I yield to my friend from Massachusetts.

Mr. KERRY. I ask the distinguished chairman of the Budget Committee—and I hate to interrupt him in the course of an important statement—if I could take 1 minute on behalf of the majority leader to make a unanimous-consent request because he is anxious to let other Senators know.

Mr. SASSER. I yield to the Senator from Massachusetts for that purpose.

Mr. KERRY. I thank the Senator from Tennessee.

EXECUTIVE SESSION

SENATE CONSIDERATION OF TREATY DOCUMENT 100-8

The Senate continued with the consideration of the treaty.

UNANIMOUS-CONSENT AGREEMENT

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate may proceed to the consideration en bloc of the following treaties: Executive Calendar No. 1, Treaty with the United Kingdom Concerning the Cayman Islands Relating to Mutual Legal Assistance in Criminal Matters; Executive Calendar No. 2, Mutual Legal Assistance Cooperation Treaty with Mexico; Executive Calendar No. 3, Treaty with Canada on Mutual Legal Assistance in Criminal Matters; Executive Calendar No. 4, Treaty with Belgium on Mutual Legal Assistance in Criminal Matters; Executive Calendar No. 5, Treaty with The Bahamas on Mutual Assistance in Criminal Matters; and Executive Calendar No. 6, Treaty with Thailand on Mutual Assistance in Criminal Matters.

I further ask unanimous consent that no amendments or motions to recommit be in order; provided further that a 30-minute vote occur at 5:15 p.m. and that the vote count as six votes; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session following the vote.

I further ask unanimous consent that these six treaties be considered as having passed through their various parliamentary stages up to and including the presentation of the resolutions of ratification.

Mr. President, I ask for the yeas and nays and state that this agreement has been cleared by the majority leader and by the Republican leader.

The PRESIDING OFFICER. First of all, is there objection to the unanimous-consent request of the Senator from Massachusetts? Hearing none, it is so ordered.

TREATY WITH THE UNITED KINGDOM CONCERNING THE CAYMAN ISLANDS RELATING TO MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

The PRESIDING OFFICER. Without objection, the first treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the United States of America and the United Kingdom of Great Britain and Northern Ireland concerning the Cayman Islands relating to Mutual Legal Assistance in Criminal Matters, with Protocol, signed at Grand Cayman, Cayman Islands on July 3, 1986, together with related notes exchanged at London the same day.

MUTUAL LEGAL ASSISTANCE CO-OPERATION TREATY WITH MEXICO

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty on cooperation between the United States of America and the United Mexican States for Mutual Legal Assistance, signed at Mexico City on December 9, 1987.

TREATY WITH CANADA ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

The PRESIDING OFFICER. Without objection, the next treaty will be

considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty between the Government of the United States of America and the Government of Canada on Mutual Legal Assistance in Criminal Matters, with Annex, signed at Quebec City on March 18, 1985.

TREATY WITH BELGIUM ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty between the United States of America and the Kingdom of Belgium on Mutual Legal Assistance in Criminal Matters, signed at Washington on January 28, 1988.

TREATY WITH THE BAHAMAS ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty between the United States of America and the Commonwealth of the Bahamas on Mutual Assistance in Criminal Matters, signed at Nassau on June 12 and August 18, 1987, with related notes.

TREATY WITH THAILAND ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty between The Government of the United States of America and the Government of the Kingdom of Thailand on Mutual Assistance in Criminal Matters, signed at Bangkok on March 19, 1986.

The PRESIDING OFFICER. On the request for the yeas and nays, is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KERRY. Mr. President, I thank the Chair and I thank the distinguished chairman of the Budget Committee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

THE RECONCILIATION BILL

Mr. SASSER. Mr. President, we have arrived at the position where we have a clean reconciliation bill here on the Senate side. We have gone to conference with the House of Representatives. Our colleagues in the House saw fit to place a number of extraneous matters on their reconciliation bill that are still present.

The distinguished chairman of the House Ways and Means Committee, Mr. ROSTENKOWSKI, made the observation—and I think it has considerable validity—that it makes no sense to pull all of the excess baggage off of the House reconciliation bill if they are simply to face the same excess baggage when the Senate passes the debt limit here some week or 10 days later. It makes no sense to strip the Senate reconciliation bill, as I understand the logic of the distinguished chairman of the Ways and Means Committee, if the Senate is simply going to load the same baggage back onto the debt limit bill within a few days of their action.

I pointed out in the conference committee meeting that I agreed with the distinguished chairman of the Ways and Means Committee that we should agree to our endeavor to have a stripped down debt limit here in the Senate in exchange for the House greeting us with a stripped down reconciliation bill at some juncture on further down in the conference, and I hope that that will come very shortly in the conference.

My friend from New Mexico seemed to be taking the position that we ought to have a separate vehicle here for the capital gains provision. He seemed to be putting capital gains in the same category with matters as crucial as catastrophic health care, what is to be done about the repeal or modification of that statute; section 89, what is to be done about the repeal or modification of that statute; or the child care provisions that have been passed by both the Senate and the House of Representatives. These three items—catastrophic health care, child care, and section 89—have a number of things in common, but perhaps the most striking thing they have in common is that all three had been passed, in whole or in part, by both Houses.

No capital gains provision has been passed by the U.S. Senate. In fact, the last vote we had on capital gains in this body was in 1986 and the Senate voted by a substantial margin to cut and do away with the special capital gains treatment. The last action by this body on the capital gains differential was an overwhelming agreement in 1986 that that differential could be eliminated in exchange for lower tax brackets for higher income taxpayers.

I submit that the leadership of the U.S. Senate owes no special treatment to an effort being made to reduce taxes for the wealthiest segment of this population and, I submit, an effort being made to reduce taxes in clear contravention of the spirit, if not the letter of the 1986 Tax Reform Act. It is simply unacceptable to expect special treatment to this capital gains tax proposal or any other proposal for that matter, or any other proposal of that kind.

Any Senator has the option to introduce a capital gains amendment on any appropriate vehicle that comes before this body. There is no necessity to get a special dispensation from the leadership to do that and, as I said earlier, the leadership owes no obligation to guarantee any Senator that a vehicle will be produced that will be an appropriate carrier for capital gains and will come up at a time that is appropriate or convenient to any Senator in this body.

But any Senator may attach a capital gains amendment to any appropriate vehicle. And any other Senator has the option of using all the resources of the Senate rules to oppose that capital gains amendment should it would be proposed. Now that is the way we function here. I can see no reason why this so-called capital gains provision, which, in my view, simply amounts in its present configuration to a tax bonanza for the privileged few at the very top of the income structure in this country, should be given privileged treatment here on the floor of the U.S. Senate. I think that simply turns logic on its head.

I will say that my friend and distinguished ranking member is quite correct, I will reiterate, in saying that we ought to move with the stripped-down reconciliation. I could not agree with him more completely on that. I agree with the view that if we are to expect the House, or demand that the House come with a stripped-down reconciliation, that there is some logic to their proposal that we ought to greet them with a stripped down deficit reduction bill and not loaded up with the same extraneous material that we took off the reconciliation bill on our side.

I do agree that there is some reason for treating child care, catastrophic health care, and section 89 in a special way because all three of those items that are attached to the reconciliation bill on the House side have been

passed in whole or in part by both bodies. But I must disagree most strongly that a capital gains proposal that has not even been acted upon or debated in this body, that a capital gains amendment that has not even been introduced here to my knowledge, should be given the same standing and the same treatment as these three vital measures—child care, catastrophic, and section 89—would be given.

So, Mr. President, I hope we can move forward, that our colleagues in the House will see the merit of a stripped-down reconciliation, that we can quickly conclude the reconciliation conference, pass the reconciliation conference reports, and stop this sequester from running.

Conversely, as far as this Senator is concerned, I can see the House's case in asking for a stripped-down debt ceiling. I agree with my friend from New Mexico, that would be a wise policy, given the posture that we find ourselves in now.

I cannot agree that our leadership should be expected to give any kind of special, privileged status to a capital gains treatment on this side, since it has not been entertained or passed in any way by the United States Senate.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FOWLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER [Mr. CONRAD]. Without objection, it is so ordered.

EXECUTIVE SESSION

SENATE CONSIDERATION OF TREATY DOCUMENTS NUMBERED 100-8, 100-13, 100-14, 100-16, 100-17, AND 100-18.

The Senate continued with the consideration of the treaties.

Mr. McCAIN. Mr. President, I am happy to support the ratification of the Mutual Legal Assistance Treaty with Mexico. My support should come as no surprise to other Members. In the 2 years since the treaty was signed, I have spoken on several occasions of my great desire to see it ratified. I am very gratified that at long last I have the opportunity to cast my vote for this welcome addition to our crime-fighting arsenal. The treaty's ratification will be the strongest measure to date of our two countries' mutual devotion to combating cross-border criminal activity. For more than anything we have ever done before, this treaty dramatically and directly increases the cooperation between Mexico and the United States in the prevention, investigation and prosecution of crimes.

Mr. President, here are the tools that will enable our two great nations to stand together and fight international criminals in all their endeavors. The treaty represents nothing less than joint determination of two great nations to work as equal partners to expose all classes of modern criminals to the majesty of the law. The treaty affirms that together Mexico and the United States will defend ourselves from the dark malice of modern terrorists and from the consuming greed of drug traffickers. Together we can wage a relentless war against violent criminals and a sophisticated war against white collar criminals. Together we can stay the course in the long war against organized crime and in the newer, bloodier battles with the narco-terrorists.

Mr. President, many Members of Congress and other public officials throughout this city have frequently decried the lack of international cooperation in the war against international crime. Here, Mr. President, is the opportunity to put up or shut up. In this treaty are the recognized tools and tactics to advance our civilizations together a further step beyond the grasping pursuits of criminals.

In this treaty are the mechanisms to upset the criminals' plans, to uncover his misdeeds and to deny him his blood-soaked profits. Among the provisions of this treaty are the mechanisms to obtain evidence for investigations and prosecutions—the taking of testimony; the exchange of documents and records; the execution of requests for searches and seizures. In this treaty are the provisions to make the pursuit of their trade a riskier and more costly venture for criminals. For here are agreed-upon procedures for the immobilizing, securing and forfeiture of the proceeds, fruits and instrumentalities of crime.

Mr. President, there are some Senators who are concerned that this treaty and the other mutual legal assistance treaties pending before this body may somehow authorize actions that are prohibited by our Constitution. These concerns are unfounded and unnecessary.

None of the treaties contemplate or sanction legislation or actions which would conflict with the Constitution of the United States. Furthermore, Mr. President, should I be misinformed in this opinion—and I am confident that this is not the case—the United States Supreme Court has regularly and uniformly recognized the supremacy of the Constitution over a treaty. I would hope that the concerned Senators are reassured by the consistency with which the court has recognized our Constitution's supremacy.

Mr. President, I believe that this treaty is the best answer to all who criticized in the past Mexico's dedication to standing with us in the fight against crime—from the informed skeptic to the uninformed Mexico basher. Many critics felt that Mexico did not deserve the distinction of being an equal partner with the United States. Many critics did not believe that Mexico could be trusted with the authority and responsibility that such a distinction includes. I would hope that all Members would concede that by signing and ratifying this treaty. Almost 2 years in advance of the United States, Mexico has demonstrated that her crime-fighting credentials are no less impressive than those of the United States. Both the United States and Mexico have law enforcement records to be proud of and law enforcement records that could be improved. The treaty before us will enable us to take even greater pride in our records.

But most important among the benefits of this treaty will be a greater recognition of the importance of our southern neighbor to the well-being of the United States. That recognition is long overdue, Mr. President, and essential if both countries are to resolve the modern problems that afflict nations in an increasingly interrelated world. If the ratification of this treaty were to do nothing more than recognize that Mexico is a great and sovereign nation whose equal partnership with the United States is of infinitely greater value to us than its subservience, then our work here today will have been extremely well done.

Mr. President, I urge the Senate to ratify the Mutual Legal Assistance Treaty with Mexico. For not only is this an opportunity to demonstrate our devotion to fight crime wherever it threatens us, but ratification will also reflect the maturity which governs our relations with other countries as we seek together a better world.

The PRESIDING OFFICER. Under the previous order, the hour of 5:15 having arrived, the question occurs on the resolution of ratification, as amended, to Executive Calendar No. 1, the treaty between the United States and the United Kingdom concerning the Cayman Islands.

Pursuant to the previous order, the vote on this resolution of ratification will count as a vote on resolutions of ratification, as previously amended, for the treaties listed on the Executive Calendar, Nos. 2 through 6.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Rhode Island [Mr. PELL] is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Votes Nos. 265, 266, 267, 268, 269, 270 Ex.]

(Subject: Treaty Doc. Nos. 100-8, 100-13, 100-14, 100-16, 100-17, 100-18)

YEAS—99

Adams	Fowler	McCain
Armstrong	Garn	McClure
Baucus	Glenn	McConnell
Bentsen	Gore	Metzenbaum
Biden	Gorton	Mikulski
Bingaman	Graham	Mitchell
Bond	Gramm	Moynihan
Boren	Grassley	Murkowski
Boschwitz	Harkin	Nickles
Bradley	Hatch	Nunn
Breaux	Hatfield	Packwood
Bryan	Heflin	Pressler
Bumpers	Heinz	Pryor
Burdick	Helms	Reid
Burns	Hollings	Riegle
Byrd	Humphrey	Robb
Chafee	Inouye	Rockefeller
Coats	Jeffords	Roth
Cochran	Johnston	Rudman
Cohen	Kassebaum	Sanford
Conrad	Kasten	Sarbanes
Cranston	Kennedy	Sasser
D'Amato	Kerrey	Shelby
Danforth	Kerry	Simon
Daschle	Kohl	Simpson
DeConcini	Lautenberg	Specter
Dixon	Leahy	Stevens
Dodd	Levin	Symms
Dole	Lieberman	Thurmond
Domenici	Lott	Wallop
Durenberger	Lugar	Warner
Exon	Mack	Wilson
Ford	Matsunaga	Wirth

NOT VOTING—1

Pell

The PRESIDING OFFICER. On this vote, the yeas are 99, the nays are 0. Two-thirds of the Senators present and voting having voted in the affirmative, the resolutions of ratification are agreed to.

The resolutions of the ratification agreed to, as amended, are as follows:

TREATY DOCUMENT No. 100-8

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty between the United States of America and the United Kingdom of Great Britain and Northern Ireland concerning the Cayman Islands relating to Mutual Legal Assistance in Criminal Matters, with protocol, signed at Grand Cayman, Cayman Islands on July 3, 1986, together with related notes exchanged at London the same day, subject, however, to the inclusion in the instruments of ratification of the following understandings:

(1) Understanding. Nothing in this Treaty requires or authorizes legislation or other action by the United States of America prohibited by the Constitution of the United States.

(2) Understanding. Pursuant to the rights of the United States under this Treaty to deny requests which prejudice its public interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this treaty is engaged in or facilitates the production or distribution of illegal drugs.

TREATY DOCUMENT No. 100-13

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty on Cooperation between the United States of America and the United Mexican States for Mutual Legal Assistance, signed at Mexico City on December 9, 1987, subject, however, to the inclusion in the instruments of ratification of the following understandings:

(1) Understanding. Nothing in this Treaty requires or authorizes legislation or other action by the United States of America prohibited by the Constitution of the United States.

(2) Understanding. Pursuant to the rights of the United States under this Treaty to deny requests which prejudice its essential public policy or interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this treaty is engaged in or facilitates the production or distribution of illegal drugs.

TREATY DOCUMENT No. 100-14

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty between the Government of the United States of America and the Government of Canada on Mutual Legal Assistance in Criminal Matters, with Annex, signed at Quebec City on March 18, 1985, subject, however, to the inclusion in the instruments of ratification of the following understandings:

(1) Understanding. Nothing in this Treaty requires or authorizes legislation or other action by the United States of America prohibited by the Constitution of the United States.

(2) Understanding. Pursuant to the rights of the United States under this Treaty to deny requests which prejudice its public interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this treaty is engaged in or facilitates the production or distribution of illegal drugs.

TREATY DOCUMENT No. 100-16

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty between the United States of America and the Kingdom of Belgium on Mutual Legal Assistance in Criminal Matters, signed at Washington on January 28, 1988, subject, however, to the inclusion in the instruments of ratification of the following understandings:

(1) Understanding. Nothing in this Treaty requires or authorizes legislation or other action by the United States of America prohibited by the Constitution of the United States.

(2) Understanding. Pursuant to the rights of the United States under this Treaty to deny requests which prejudice its essential public interests, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this treaty is engaged in or facilitates the production or distribution of illegal drugs.

TREATY DOCUMENT No. 100-17

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty between the United States of America and the Commonwealth of The Bahamas on Mutual Assistance in Criminal Matters, signed at Nassau on June 12 and August 18, 1987, with related notes, subject, however, to the inclusion in the instruments of ratification of the following understandings:

(1) Understanding. Nothing in this Treaty requires or authorizes legislation or other action by the United States of America prohibited by the Constitution of the United States.

(2) Understanding. Pursuant to the rights of the United States under this Treaty to deny requests which prejudice its essential public interests, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this treaty is engaged in or facilitates the production or distribution of illegal drugs.

TREATY DOCUMENT No. 100-18

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty between the Government of the United States of America and the Government of the Kingdom of Thailand on Mutual Assistance in Criminal Matters, signed at Bangkok on March 19, 1986, subject, however, to the inclusion in the instruments of ratification of the following understandings:

(1) Understanding. Nothing in this Treaty requires or authorizes legislation or other action by the United States of America prohibited by the Constitution of the United States.

(2) Understanding. Pursuant to the rights of the United States under this Treaty to deny requests which prejudice its essential public interests, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this treaty is engaged in or facilitates the production or distribution of illegal drugs.

Mr. KERRY. Mr. President, I move to reconsider the vote by which the resolutions of ratification were agreed to and ask unanimous consent that all be considered en bloc as to each treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. I move to lay that motion to reconsider on the table.

The motion to lay on the table was agreed to.

Mr. KERRY. Mr. President, I ask unanimous consent that the President be immediately notified of the resolutions of ratification having been agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I ask to proceed for 5 minutes as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. DURENBERGER relating to amendment No. 1051 are printed in today's RECORD under "Amendments Submitted.")

Mr. DURENBERGER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, I ask to address the Senate for 12 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. In 2 weeks, Mr. President, there will be convened in the Netherlands a meeting of 70 environmental ministers from around the globe to discuss what the developed countries, and other countries, ought to be doing about the severe and growing issue of global warming. Unfortunately, the United States is absolutely in a quandary, this administration, in a complete quandary about what its response is going to be.

The administration cannot decide who to send, cannot decide what our policy is going to be; this, after being in office for almost a year and after a whole series of false starts from the administration.

The reason I bring this up tonight, Mr. President, is to not only outline, with a significant amount of indignation, the fact that this administration has no policy, continues to have no policy, and that we have no leadership at all on this issue of global warming at a time at which we have asked, again and again, that there be some kind of policy; also, not only to express that indignation, but also to outline the history of this, Mr. President.

Let me go through a chronology of administration statements and actions on global warming since this administration came in. When I say statements and actions, I also mean, Mr. President, promises made and promises unkept. Let us start right at the beginning of the administration.

In his first policy speech as Secretary of State, Secretary of State James Baker addressed the first meeting of the IPPC's Response Strategies Working Group in Washington. The Secretary said, and this was welcomed very, very much by all environmental and world groups, "We can probably not afford to wait until all of the uncertainties have been resolved before we act. Time will not make the problem go away."

Secretary Baker went on to say that we should focus on prudent steps to prevent global warming that are justified on grounds other than climate change. He cited CFC emissions, energy efficiency, and reforestation as examples of those present steps we ought to be taking anyway, and he was absolutely right.

However, on all three of those issues outlined in January by Secretary Baker, the administration has done nothing. On the most basic of these issues the administration has not put forward any proposal to encourage the phaseout of chlorofluorocarbons.

On the issue of energy efficiency, the administration proposed significant cuts in the energy research and development budget, doing just the opposite of what the Secretary said in his welcome statement in January, what we ought to do. And, certainly, as we all know, no reforestation policy has been developed. That is the history of January.

In February 1989, Margaret Thatcher hosted a conference on CFC's. The European community announced at the beginning of the conference its intention to phase out CFC's by the year 2000. This had been endorsed by the previous administration, Lee Thomas, but we were in a situation in which the United States, which should have been out in front of this, was following along behind. The European community took the lead on this. We followed. We responded afterwards, agreeing to what the European community decided to do. Once again, the United States was left without leadership and without a clear policy.

In March 1989, President Mitterand and the Dutch held a meeting in The Hague. The United States was quite irked about this. President Bush complained about it to the Japanese Prime Minister Takeshita because Bush had pledged during the 1988 campaign to host a conference himself on the global warming issue, and he had not done so. So the Dutch said we are going to do it ourselves.

In May 1989, OMB, you will remember, forced the very able climatologist, James Hansen, from NASA, to alter his testimony about computer predictions on global warming. The Presiding Officer remembers as well as I do, George Bush promised we were going to have the White House effect. What we have had seems more like the white wash effect with the White House coming in and effectively changing the testimony by Mr. Hansen, changing a scientist's testimony; appalling.

At the same time, the United States, which chairs the IPCC's Response Strategy Working Group, heads off to a meeting in Geneva with specific plans to reject calls for a Framework Climate Change Convention which would outline the broad objectives of a global warming treaty. Reeling from the public outrage about the Hansen episode and stung by congressional criticism of the administration's policy on a framework convention, Chief of Staff Sununu issued new instructions to the U.S. delegation calling for a workshop to be held in the United States in the fall of 1989 to discuss the legal and institutional impediments to a framework convention.

The instructions from the Chief of Staff, Mr. Sununu, were to "make every effort to obtain agreement on a global warming workshop this fall hosted by the United States." Again, this was a response. But the administration's prized workshop, Mr. President, proposed by the Chief of Staff and obviously endorsed by the administration, was not held in the United States. We had made a major initiative out of the fact we were going to have this workshop in the United States. It was not held here. It was held in Geneva with almost no attention at all.

Once again the administration was rudderless on the issue. It appears to me it broke its word about having that important meeting here in the United States, and certainly, once again, failed to establish a leadership position for the United States.

On May 30, 1989, Secretary of Energy James Watkins, a welcome addition to the Department of Energy, addressed an international meeting of energy ministers. In this address, a

very good address, Secretary Watkins said of the global climate change issue:

Improper or ill-advised actions could have enormous unintended consequences. This does not mean that we must wait until all the uncertainties are resolved and all the analytical work is completed. Our efforts here today will demonstrate that there are a number of prudent and cost-effective energy responses already justified on economic and national security grounds which must be implemented now.

Unfortunately, nothing has been implemented. No policy has been developed to implement the responses that Secretary Watkins said are justified now.

In June 1989, at the G–7 economic summit in Paris, the heads of state of the leading industrialized nations issued a communique which contained numerous references to environmental concerns. On global climate change the leaders stated:

Decisive action is urgently needed to understand and protect the Earth's ecological balance. . . . We strongly advocate common efforts to limit emissions of carbon dioxide and other greenhouse gases, which threaten to induce climate change, endangering the environment and ultimately the economy.

A fine statement coming out of the G–7 economic summit.

Despite these strong endorsements, of "decisive action" and efforts to limit emissions of CO_2 and other greenhouse gases, no plan has been developed by the United States to limit CO_2 emissions and no policy objectives have been outlined for international consideration.

We signed up to the G–7 statement, but have done nothing about it.

In September 1989, just last month, Scripps-Howard reported that the administration's delegation to a workshop in Geneva had been told to oppose proposals for emissions reductions and timelines for actions.

In October 1989, this month, in preparation for an international meeting of more than 70 environmental ministers to be held in the Netherlands, we have had now a great deal of confusion about who is going to go and represent the United States. We are so at sea, Mr. President, that the administration cannot even decide who is going to go and represent us.

Presumably, I think all of us would think it ought to be Mr. Reilly. But we know Mr. Reilly is an activist; we know that Mr. Reilly would probably advocate a strong position that I think most people in the country believe ought to be pursued. Unfortunately, there is a great deal of discussion going on that we cannot even get out act together in the United States well enough to decide that our lead person in the lead environmental agency, with the lead policy responsibility, is going to lead our delegation to go over here.

This is the next opportunity, Mr. President, for the United States to establish our leadership role in the effort to protect the global environment. Two weeks from today, the Dutch are hosting this major environmental meeting for more than 70 environmental ministers from all over the globe.

The United States must go to that meeting with a strong, coherent policy. It is time for us to draw a map for our environmental future and the United States should be, as it has been until recently, at the forefront of the effort to make the world a more peaceful and habitable place. But I am not optimistic about that happening.

Throughout the year, the administration's position on global warming, as I have pointed out, has been responding to initiatives from other nations. While virtually every scientist in the world agrees that we have a serious problem to address, this administration has been dragging its feet, mired in stale questions about whether or not the greenhouse effect is a threat to this or other nations. A pattern is emerging in which the administration makes bold pronouncements about the urgency of the problem but fails over and over again to offer a policy for international consideration.

Responses have not in any way, Mr. President, matched the rhetoric. Now we are approaching this further opportunity for the assertion of leadership and the administration is in this quandry.

There are some indications that this state of disarray has led to some question, as I pointed out, as to whether or not our very capable EPA administrator should attend the Dutch meeting at all.

That, Mr. President, would be a disaster if Mr. Reilly did not go as the leader of our delegation. It is clear to this Senator that the rest of the world is waiting for the United States to make the first move to lead other nations into the common battle to protect our shared environmental systems. If we do not send our chief person, what would they think about our commitment? You know what they would think and I know what they would think. They would think we are backing off.

If the leader of the world, particularly the Western industrialized world, is backing off, what kind of a terrible example does that set? I have recounted, Mr. President, a history of the unfortunate steps not taken by this administration over the last 9 months. We are getting the wool pulled over our eyes by a group who has its head in the sand on this issue. It clearly is time for us to change and change very significantly.

We have to ask the White House, and again if I express a good deal of indignation, Mr. President, I feel it. This issue is very clear. It is not a question any more of whether or not the globe will warm. It is how much, how fast. It is not a question of should we respond. It is when are we going to respond?

Unfortunately, we are mired in—I do not know what we are mired in. It is very difficult to figure out why the administration, whose rhetoric is one way, has not pronounced any policy directions whatsoever. It is time for this to be cleared up and it is time for all of us in the U.S. Congress to once again say to this administration: Let us get with it, take the lead; that is what you were elected to do.

The PRESIDING OFFICER (Mr. BRYAN). The majority leader is recognized.

WHAT HAS HAPPENED TO THE IDEA OF FAIRNESS?

Mr. MITCHELL. Mr. President, earlier today the President's spokesman at a White House press briefing was asked about the controversy over the capital gains issue. In response to a question, Mr. Fitzwater stated:

They didn't let it come to a vote. They adopted the rules change that stripped it down and took it out of the bill. What we wanted was a vote, and that is what we still want.

A short time later, the distinguished Senator from New Mexico, the ranking member of the Budget Committee on the Senate floor, addressed the same subject, and he asked this question: "What has happened to the idea of letting the majority be the majority?"

Mr. President, I will have a further response on this subject tomorrow, but I think it important to set the record straight and to make clear that once again on this issue Mr. Fitzwater has misspoken. He is factually wrong. There was no rules change in the Senate. The stripping down of the bill was an action taken by the Senate within the existing rules, and was passed unanimously with the strong and public support of the entire Republican leadership in the Senate, including that of the Senator from New Mexico.

As to the question raised by the Senator from New Mexico, "What has happened to the idea of letting the majority be the majority?" and the drumbeat from the White House suggesting that there ought to be a vote on this in which a simple majority decides, I would like to remind both Mr. Fitzwater and my colleague from New Mexico that on September 13 of this year, 66 Senators voted in opposition to the President's position on the FSX fighter agreement. Thirty-four voted with the President, and the President's position prevailed. Even though 66 Senators voted contrary to the President's position, the President's position prevailed. Neither Mr. Fitz-

water nor the Senator from New Mexico on that day rose and asked, "What happened to the idea of letting the majority be the majority?"

On August 3 of this year, 54 Senators voted to place the savings and loan reform bill on the budget; 46 Senators voted to the contrary. The President's position was that of the 46. They prevailed even though 54 Senators, a clear majority, voted to the contrary. Neither Mr. Fitzwater, nor the Senator from New Mexico, rose on the Senate floor that day to ask, "What has happened to the idea of letting the majority be the majority?"

Those were the most recent 2 of 34 times since January 1987 when the President's position, the Republican position, has prevailed although it gained the support of only a minority of Senators. Thirty-four times a majority of Senators voted in a manner contrary to the President's position; 34 times that majority did not prevail. And not once, not once on any of those occasions did Mr. Fitzwater or any person at the White House, or the Senator from New Mexico, or any Republican Senator, rise and ask, "What has happened to the idea of letting the majority be the majority?"

Mr. President, as the majority leader, I would welcome the opportunity for the Senate to vote under rules in which 51 Members of the Senate could decide every issue, in which the majority would determine it, because on those 34 occasions when the President's position prevailed in the past 2 years, it would not have prevailed because it was the minority position.

Every Member of the Senate understands that. The reality is that the question really should be, what has happened to the idea of fairness? When one side takes advantage of the existing Senate rules to prevail on numerous occasions even though they are in the minority and then, when the tables are turned, suggest that there is unfairness in those rules, they are applying a double standard of unfairness that is unworthy of this Senate. Fairness means that the rules apply evenly; the rules apply to all Senators; the rules apply to all issues in the same way. We do no justice to the Senate or to a particular cause which we seek to advance when we attempt to adopt a double standard, as is clearly being proposed here that says, when the rules are in my favor, I want to exercise my rights under them to the fullest, but when the rules are in your favor, it is unfair for you to do the same thing.

Mr. President, so long as I am majority leader of the Senate, the Senate rules are going to be applied fairly and evenly to all concerned. Neither Democrat nor Republican will obtain from me agreement to exempt themselves or their issue or their bill from the rules, especially when those very same persons have utilized those rules to their political advantage.

So let us be clear about what is occurring. The capital gains tax cut has become the Holy Grail of this administration. It has cast aside any concern for the deficit. It has cast aside any concern for the budget process. It has now cast aside any concern for fairness. And it has now cast aside any concern for relations with the Congress in the pursuit of this Holy Grail. It has caused delay in the budget process. It has caused delay in the reconciliation process. It has caused delay in the functioning of the Senate. And now, having been unable to secure victory under the same rules which they have so often utilized to their advantage, they have the audacity to suggest that the rules be waived for them in this one instance.

Mr. President, the rules are not going to be waived in this or any other instance, and it especially ill-becomes those in the minority to suggest changing the rules that are primarily protective of minority views. The rules of the Senate do not just protect minorities; they are solicitous of minorities, down to the tiniest minority of one Senator. I submit to my Republican colleagues and I submit to the White House that an assault on these rules, an effort to undermine these rules, an effort to say, in the words of the distinguished Senator from New Mexico, what has happened to the idea of letting the majority be the majority, will in the long run, if attained, be far more harmful to them than any outcome on capital gains. I hope very much that they will think carefully about the implications of their suggestion. Every Member of the Senate reveres this institution, understands its unique role in our constitutional system of Government, and is aware of the fact that the rules are intended to protect the rights of minorities, however small.

Thirty-four times we have been in the majority and we have not prevailed, and we accepted our defeats because we accept the fundamental principles beneath the Senate rules.

So I urge my colleagues to do the same, to pursue as vigorously as anyone wants their position, but do not begin to suggest that we change the Senate's rules in a way that will extinguish or severely impair the rights of minorities, and that we not seek to apply double standards in this Senate. There are not going to be any double standards in the Senate now or so long as I serve as majority leader.

Mr. President, I yield the floor.

Mr. WIRTH. Will the majority leader yield?

Mr. MITCHELL. Yes. I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado [Mr. WIRTH] is recognized.

MINORITY PREVAILS ON CAMPAIGN FINANCE REFORM

Mr. WIRTH. Mr. President, I thank the Chair. I will be brief.

I commend the distinguished majority leader on an absolutely superb statement. I had the privilege of being in the chair this afternoon at the time of the speech referenced by the majority leader and found myself listening with a good deal of bemusement, remembering the first set of votes and the first major issue that occurred when I was newly in the Senate, and that was campaign finance reform. Campaign finance reform, S. 2, was a major initiative pushed by the then majority leader BYRD in the Byrd-Boren legislation to try to cure a fundamental problem that exists in the way in which our political system runs, and that is the poison of money. The Boren-Byrd bill was an attempt at reform. We had a filibuster on the other side, Mr. President. This is the first issue when I was a Member of the Senate in 1987. We had a filibuster, not one but a number of filibusters by those not wanting to approve that legislation. We had at one point 52 votes, 51, 53, 51, 53 on campaign finance reform—nothing more fundamental than the way in which our system operates, making sure that we have clean, unpaid-for elections. And on that issue it was a minority that was able to thwart the majority—no clearer example.

I cite that, Mr. President, only because I was this afternoon sitting where you are and I was thinking to myself, good lord, I remember, this is where we came in. What is good for the goose is good for the gander and would, had we been able to operate on the important issue of campaign finance reform.

Again, I commend the majority leader on a first-rate presentation. I yield the floor.

Mr. GORE addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee [Mr. GORE] is recognized.

WORLD DIALOG ON GLOBAL CLIMATE CHANGE

Mr. GORE. Mr. President, on October 11, I took the floor to discuss the approach by the Bush administration to the international dialog now underway with respect to global climate change and suggested on that occasion the commitments made last May to a forthcoming position of U.S. leadership in addressing these issues in a straightforward manner, were not being kept.

Last Friday, I had an opportunity to meet with the Dutch Minister of Environment, Ed Nijpels, and talk with him and others about the upcoming

Dutch ministerial meeting on November 6 and 7.

It is increasingly apparent, Mr. President, that this administration, while coming to office with a stated commitment to U.S. leadership in confronting the greenhouse effect with what was called the "White House effect" and with a commitment stated on numerous occasions, both before the election and after the election, to adopt positions that would have meaning and substance as the world attempts to find U.S. leadership in meeting this issue, in spite of all those claims and in spite of all those promises, the leadership is simply not forthcoming. It is not there. It is not visible. It is not apparent. It is not to be found.

The meetings on November 6 and 7 are shaping up as extremely significant and important. How ironic that Holland would be offering leadership to the world on this issue in a vacuum created by the decision on the part of this administration to withdraw from the field.

The position that is being taken is that more study is needed. Mr. President, the world is rapidly coming to the shared consensus that the global climate change now underway represents by far the most serious environmental problem ever faced by humankind.

There is uncertainty about when the worst effects will take place, yes. That is true. There is uncertainty about how high the temperatures will go. Yes, that is true. But there is no longer any uncertainty of any kind about the fact that this problem is real, that it must be faced, and that if the world is going to be successful in facing it the United States must step forward and offer leadership.

Yet the dialog within the administration is distressing in that with each passing day it becomes more clear that those who understand the issue and are seeking meaningful action are not prevailing in the internal dialog. I do not know whether it is the Chief of Staff, Mr. Sununu, or whether it is the President's own personal view, or others in the administration who have somehow managed to pollute the views of Mr. Reilly, the head of the EPA, and Secretary Baker, the Secretary of State, and others who have been outspoken with views that I think are quite responsible, and put those views in the background, force them into a back seat position while affording the leadership role to individuals and viewpoints that are really out of tune with what this issue demands.

Mr. President, there is still time for the administration to change its approach to the meetings of November 6 and 7. I hope they will change. I hope that they will reconsider the apparent decision to go and stall, to go and pretend the problem is going to go away, to go and pretend that the only responsible action is to call for more research.

There is time for them to reconsider that stand pat, foot-dragging position. And I really hope they will because it is embarrassing to have the United States be seen in the world as one of those standing in the way of a global commitment to meet this most serious challenge that we have ever faced.

So I call upon the administration to adopt a forthcoming and meaningful position in advance of the Dutch ministerial meeting of November 6 and 7.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Is there any Senator seeking recognition?

Mr. GORE. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the substitute amendment offered by the Senator from Maine [Mr. MITCHELL] for H.R. 1231, an act to direct the President to establish an emergency board to investigate and report respecting the dispute between Eastern Airlines and its collective bargaining units.

George Mitchell, Alan Cranston, Wendell Ford, Tom Daschle, John Breaux, Max Baucus, Harry Reid, Claiborne Pell, Frank Lautenberg, Jim Sasser, Patrick Leahy, Daniel P. Moynihan, Daniel K. Inouye, John D. Rockefeller, Bob Graham, Edward M. Kennedy, and Howard Metzenbaum.

ORDERS FOR THURSDAY, OCTOBER 26, 1989

RECESS UNTIL 10 A.M.; MORNING BUSINESS; VOTE ON MOTION TO INVOKE CLOTURE ON PROCEED TO DEATH PENALTY LEGISLATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business on Wednesday, October 25, it stand in recess until 10 a.m. on Thursday, October 26, and that following the time for the two leaders, there be a period for morning business until 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each.

I further ask unanimous consent that at 10:30 a.m., the Senate vote on the motion to invoke cloture on the Mitchell substitute amendment to H.R. 1231, the Eastern Airlines labor dispute bill with the live quorum required by rule XXII being waived.

I further ask unanimous consent that immediately following the completion of the cloture vote, the Senate proceed to the consideration of the bill relating to the imposition of the death penalty for terrorists, to be introduced by Senator SPECTER, pursuant to a consent agreement reached on July 20 and notwithstanding the provisions of rule XXII.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Reserving the right to object and I shall not object, but I wanted to raise one question. I would assume the majority leader hopes that by that time we will have completed the continuing resolution and Poland and if for some reason we had not completed either one of those, would this still be the wish of the majority leader?

Mr. MITCHELL. Mr. President, it is my hope that tomorrow we will begin with the continuing resolution, and upon completion of that move to the aid to Poland-Hungary package. If we do not complete that tomorrow, then I intend to seek consent on Thursday to return to that following the disposition of the Specter bill, to complete action on that before we resume on Eastern. That is my present intention.

It is my understanding that in the final statement to be made this evening, we will be seeking consent to move to the continuing resolution tomorrow morning, so we will be on that tomorrow morning.

Do I understand from my discussions with the distinguished Republican leader that by tomorrow he would be in a position to permit consent to go to the Poland aid package?

Mr. DOLE. I think that is correct, and I hope by tomorrow morning we will have agreement on this side there will be only one amendment to the continuing resolution. I know Mr. WILSON, the Senator from California, has been contacting a few Members on this side who indicated they might offer amendments. Hopefully, he will be able to persuade those three or four Members it is not a good thing to do, or appropriate, not at this time.

The PRESIDING OFFICER. Without objection, the unanimous-consent request propounded by the majority leader is agreed to.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a

period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 3:39 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the concurrent resolution (S. Con. Res. 74) authorizing the "Gift of Democracy" from the United States Congress to the new Senate and Sejm in Poland. This gift is comprised of equipment and training that is determined to be most useful in helping Poland establish an effective parliamentary system; with amendments in which it requests the concurrence of the Senate.

At 5 p.m., a message from the House of Representatives announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 423. Joint resolution making further continuing appropriations for the fiscal year 1990, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3287. An act to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of District of Columbia revenue bonds.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment and with a preamble:

S.J. Res. 207. A joint resolution approving the location of the Memorial to the Women who served in Vietnam (Rept. No. 101-171).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry:

James E. Cason, of Virginia, to be an Assistant Secretary of Agriculture.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCAIN (for himself, Mr. DECONCINI, Mr. BURDICK, Mr. COCHRAN, and Mr. INOUYE):

S. 1783. A bill to regulate Indian child protection and prevent child abuse on Indian reservations; to the Select Committee on Indian Affairs.

By Mr. PRYOR:

S. 1784. A bill to amend the Internal Revenue Code of 1986 to revise various civil penalties; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 1785. A bill to exclude the Social Security trust funds from the deficit calculation and to extend the target date for Gramm-Rudman-Hollings until fiscal year 1997, and to establish a point of order for the protection of the trust funds; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee has 30 days of continuous session to report or be discharged.

By Mr. COATS:

S. 1786. A bill to protect the rights of victims of child abuse, and for other purposes; to the Committee on the Judiciary.

By Mr. DECONCINI (for himself, Mr. THURMOND, Mr. HEFLIN, Mr. GRASSLEY, and Mr. HATCH):

S. 1787. A bill to restore the recordkeeping requirement of the Child Protection and Obscenity Enforcement Act of 1988; to the Committee on the Judiciary.

By Mr. BURDICK:

S. 1788. A bill for the relief of Luis Gil Jain, Nevadita Garcia Jain, Louie Anthony Garcia Jain, and Liza Antoinette Garcia Jain; to the Committee on the Judiciary.

By Mr. JOHNSTON (for himself and Mr. MCCLURE) (by request):

S. 1789. A bill to make certain improvements with respect to judicial proceedings relating to American Samoa, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JOHNSTON:

S. 1790. A bill to expand the Bogue Chitto National Wildlife Refuge; to the Committee on Environment and Public Works.

By Mr. DOLE:

S.J. Res. 220. Joint resolution to designate the week of December 3, 1989, through December 9, 1989, as National Autism Week and 1990 as National Silver Anniversary Year for the Autism Society of America; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCAIN (for himself, Mr. DECONCINI, Mr. BURDICK, Mr. COCHRAN, and Mr. INOUYE):

S. 1783. A bill to regulate Indian child protection and prevent child abuse on Indian reservations; to the Select Committee on Indian Affairs.

INDIAN CHILD ABUSE PREVENTION AND TREATMENT ACT

Mr. McCAIN. Mr. President, I rise today to introduce with Senator DECONCINI the Indian Child Abuse Prevention and Treatment Act. This bill would address one of the most devastating problems in Indian country by establishing mandatory reporting requirements for child abuse and neglect in Indian country. In February of 1989, the Special Committee on Investigations, a subcommittee of the Select Committee on Indian Affairs, held hearings which exposed many problems in the Bureau of Indian Affairs and the failure of the Federal Government to maintain its trust responsibility to American Indians. The most tragic example of the Federal Government's failures is the growing problem of child sexual abuse on Indian reservations. As cochairman of the Special Committee on Investigations I heard the heart-rending stories of the parents and families of these Indian children who were victimized by BIA teachers.

Child abuse is not unique to Indian reservations, by any means. National data collected by the American Humane Association reports an increase of 158 percent in all reported child abuse and neglect cases from 1976 to 1984, nationwide. The Federal Government's trust relationship with native American children is unique, however. This trust relationship is doubly important when it involves Indian children since these children cannot protect themselves. Each year hundreds of children are scarred by sexual abuse at the hands of those whom they trust—both in governmental facilities, such as schools and foster homes, and in the community. Little assistance has been provided by either the BIA or the Indian Health Service to treat the scars that result. These scars do not fade easily. An entire generation of children on the Hopi Reservation has been deeply scarred by the actions of one BIA teacher. Just last Friday, a young Hopi man, 18 years of age, committed suicide because of the burdens and guilt he had to shoulder after having been sexually abused by the teacher years earlier. Before shooting himself in the head, this victim told his mother that he could not live with the shame. The injury to these children does not end with the end of the abuse. The children cannot forget. The community cannot forget. Countless other victims have felt the same pain and have been left to twist in the wind by a system that did not care. This cannot be tolerated. Sexual abuse not only destroys the lives of Indian children, it devastates the child's family and in close knit Indian tribes, it affects the entire community.

In the hearing of the Special Committee on Investigations we have heard stories from across the country—from Arizona to North Carolina—of parents whose children have been abused in BIA schools. Many of these parents attempted to report these cases to Federal officials, but were met with deaf ears. The anguish felt by these parents is compounded by the fact that the abuse occurred in set-

tings where they had believed their children were safe.

The most appalling part of this tragedy is that BIA school officials had been aware of the allegations of abuse made by parents, counselors, and others years before the perpetrator was eventually arrested. The governmental response to these reports of abuse has often been delayed or insensitive. In many of these cases, BIA officials were never disciplined or reprimanded for failing to report these complaints. The principal who refused to take action against the teacher in the Cherokee case was promoted to the central office in Washington. And the BIA superintendent with overall responsibility was transferred to the Hopi Reservation, where—again after repeated complaints—another teacher was arrested after having molested 142 Indian children.

For 8 years these school officials did nothing to prevent this teacher from having continued contact with children despite the continued reports of abuse; 142 children fell victim to this individual while he was in the employ of the BIA and while the BIA school officials ignored the allegations. In an Arizona Republic article of October 17, 1989, it was reported that a Navajo County deputy sheriff had initiated an investigation into the allegations of sexual abuse 6 years before the teacher was finally arrested and during that time the BIA never took any action against this individual. The principal of this school was apparently aware of this investigation and failed to take any action. This principal was apparently never disciplined, nor reprimanded for his inaction. Even with all the attention focused on this case by the special committee's investigations, the principal is still working in the BIA school system and the BIA has again failed to address this issue. We have stood silent for too long. To fail to address this problem is to ignore it. To ignore this problem is to tolerate it. This cannot happen.

I have heard stories of BIA schools that have teachers who had histories of abuse at other schools, which were known to school officials, but were allowed to merely leave rather than face exposure or prosecution. This allowed the problem of abuse to spread under the surface like an infection moving unchecked. In one incident, a teacher at the Luchachukai School on the Navajo Reservation was arrested for abuse that occurred on another part of the reservation 2 years before. According to the reports, it was discovered that he had been abusing the children there. Rather than reporting this case to law enforcement authorities so that the abuse would end, the school authorities agreed not to prosecute him and to provide him with good recommendations if he would merely leave. For the past 2 years, he has continued to teach. Whether he has continued to abuse children is still unknown.

We in Congress must accept part of the blame. Congress long ago mandated that all 50 States must have mandatory child abuse reporting laws, yet there is no such requirement for BIA schools. Because of our failure to correct this gap in the law, tremendous pain and suffering has been inflicted on Indian children and their families. That is why I am introducing the Indian Child Abuse Prevention and Treatment Act. This bill would establish mandatory reporting requirements for child abuse and neglect in Indian country. A violation of these requirements could result in a fine of up to $1,000. If a supervisor of a reporting party in any way inhibits or prevents them from making a report of child abuse or neglect they could also be fined up to $1,000. Any person who makes a report of child abuse and neglect in good faith shall be immune from civil and criminal liability. The bill would create a central registry in the Bureau of Indian Affairs for reports of child abuse and neglect. It requires the BIA and IHS to investigate the moral character of individuals to be employed in those professions that would have regular contact with or control over Indian children. It would establish minimum standards of moral character for individuals to be employed in positions which have regular contact with or control over Indian children. Finally, the bill would amend the Victims of Crime Act to provide $10 million in grants to Indian tribes for the development of treatment programs for the victims of child sexual abuse on reservations.

I am appalled that the BIA has been unable or unwilling to address this issue. It is now clear to me, that the Congress must direct the BIA, through comprehensive legislation, to take the appropriate steps to end the sexual abuse of Indian children by BIA employees.

I am pleased that Senators DECONCINI, BURDICK, and COCHRAN have joined me in this effort as original cosponsors. I also want to especially acknowledge the leadership which Senator DECONCINI has provided on this issue as the chairman of the Special Committee on Investigations. I am looking forward to working closely with him on this bill.

Mr. President, I ask unanimous consent that a copy of the section-by-section analysis be included in the RECORD and printed immediately following the Indian Child Abuse Prevention and Treatment Act.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Indian Child Abuse Prevention and Treatment Act".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress, after careful review of the problem of child abuse on Indian reservations, and the historical and special relationship of the Federal Government with Indian people—

(1) finds that—

(A) incidents of abuse and neglect of children on Indian reservations are grossly underreported;

(B) underreporting is a direct result of the lack of a mandatory, Federal reporting law;

(C) multiple incidents of sexual abuse of children on Indian reservations have been perpetrated by Federal employees;

(D) Federal Government investigations of the backgrounds of adults who care for, or teach, Indian children is deficient;

(E) funds spent by the United States on Indian reservations or otherwise spent for the benefit of Indians who are the victims of child sexual abuse are inadequate to meet the growing needs for mental health treatment and counseling for victims of child sexual abuse and their families; and

(F) there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and the United States has a direct interest, as trustee, in protecting Indian children who are members of, or are eligible for membership in, an Indian tribe; and

(2) declares that—

(A) a major national goal of the United States is to identify the scope of incidents of abuse and neglect of children on Indian reservations and to reduce such incidents; and

(B) a secondary but essential goal is to provide funds for mental health treatment for Indian victims of child sexual abuse in Indian country.

(b) The purposes of this Act are to—

(1) require that reports of abused and neglected Indian children are made to the appropriate authorities in an effort to prevent further abuse or neglect;

(2) establish a reliable data base for statistical purposes and establish a central registry for reported incidents of abuse and neglect;

(3) authorize such other actions as are necessary to ensure effective child protection on Indian reservations; and

(4) establish the Indian Child Abuse Prevention and Treatment Grant Program to provide funds for the establishment on Indian reservations of treatment programs for victims of child sexual abuse.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "abuse or neglect" includes—

(A) any case in which—

(i) a child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, and

(ii) such condition is not justifiably explained or may not be the product of an accidental occurrence;

(B) any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, or prostitution; and

(C) any case in which the parents, legal guardians, or custodians of a child fail to take actions to provide adequate food, clothing, shelter, medical care, or supervision that a prudent parent would take.

(2) The term "child" means an individual who—

(A) is not married, and

(B) has not attained 18 years of age.

(3) The term "Indian child" has the meaning given to such term by section 4(4) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(4)).

(4) The term "Indian country" has the meaning given to such term by section 1151 of title 18, United States Code.

(5) The term "local child protective services agency" means the agency of the Federal Government, of a State, or of an Indian tribe, that has responsibility for child protection in Indian country.

(6) The term "local law enforcement agency" means the agency of the Federal Government, of a State, or of an Indian tribe, that has responsibility for law enforcement in Indian country.

(7) The term "Indian" means any individual who is a member of an Indian tribe.

(8) The terms "Indian tribe" and "tribal organization" have the respective meaning given to each of such terms under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(9) The term "Indian reservation" has the same meaning given to the term "reservation" under section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452).

(10) The term "inter-tribal consortium" means a partnership between—

(A) an Indian tribe or tribal organization of an Indian tribe, and

(B) one or more other Indian tribes or tribal organizations of one or more other Indian tribes.

REPORTING PROCEDURES

SEC. 4. (a)(1) Chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1169. Reporting of child abuse and neglect

"(a) Any person who—

"(1) is a—

"(A) physician, surgeon, dentist, podiatrist, chiropractor, nurse, dental hygienist, optometrist, medical examiner, emergency medical technician, paramedic, or health care provider,

"(B) teacher, school counselor, instructional aide, teacher's aide, or teacher's assistant employed by any public or private school,

"(C) administrative officer, supervisor of child welfare and attendance, or truancy officer, of any private or public school,

"(D) child day care worker, headstart teacher, public assistance worker, worker in a group home or of a residential care facilities, or social worker,

"(E) psychiatrist, psychologist, or psychological assistant,

"(F) licensed or unlicensed marriage, family, or child counselor,

"(G) person employed in the mental health profession, or

"(H) law enforcement officer, probation officer, worker in a juvenile rehabilitation or detention facility, or person employed in a public agency who is responsible for enforcing statutes and judicial orders,

"(2) knows, or has reasonable cause to know or suspect that—

"(A) a child was abused or neglected in Indian country, or

"(B) actions are being taken, or are going to be taken, that would reasonably be expected to result in abuse or neglect of a child in Indian country, and

"(3) fails to immediately report such abuse or neglect or actions described in paragraph (2)(B) to the local child protective services agency or local law enforcement agency,

shall be fined not more than $1,000.

"(b) Any person who—

"(1) supervises, or has authority over, a person described in subsection (a)(1), and

"(2) inhibits or prevents that person from making the report described in subsection (a)(3),

shall be fined not more than $1,000.

"(c) For purposes of this section—

"(1) The term 'abuse or neglect' includes—

"(A) any case in which—

"(i) a child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, and

"(ii) such condition is not justifiably explained or may not be the product of an accidental occurrence;

"(B) any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, or prostitution; and

"(C) any case in which the parents, legal guardians, or custodians of a child fail to take actions to provide adequate food, clothing, shelter, medical care, or supervision that a prudent parent would take.

"(2) The term 'child' means an individual who—

"(A) is not married, and

"(B) has not attained 18 years of age.

"(3) The term 'local child protective services agency' means the agency of the Federal Government, of a State, or of an Indian tribe, that has responsibility for child protection in Indian country.

"(4) The term 'local law enforcement agency' means the agency of the Federal Government, of a State, or of an Indian tribe, that has responsibility for law enforcement in Indian country.

"(d)(1) Any provision of law that protects or requires confidentiality between physicians and patients, psychotherapists and patients, or any other health care provider and patients, or between husband and wife, shall not apply with respect to information regarding abuse or neglect of a child in Indian country, or actions described in subsection (a)(2)(B), and such provisions of law shall not be a defense to offenses committed under subsection (a) or (b).

"(2) Any person making a report described in subsection (a)(3) which is based upon their reasonable belief and which is made in good faith shall be immune from civil and criminal liability for making that report.".

(2) The table of contents for chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1169. Reporting of child abuse and neglect.".

(b)(1) If any person reports—

(A) the abuse or neglect of a child in Indian country, or

(B) actions which would reasonably be expected to result in abuse or neglect of a child in Indian country,

to a local law enforcement agency, the local law enforcement agency shall immediately notify the local child protective services agency of such report and shall submit a copy of the written reports required under subsection (c) to the local child protective services agency.

(2) If any person makes a report described in paragraph (1) to a local child protective services agency, the local child protective services agency shall immediately notify the local law enforcement agency of such report and shall submit a copy of the written reports required under subsection (c) to the local law enforcement agency.

(c)(1) Within 36 hours after receiving a report described in subsection (b)(1), other than notice or a written report that is required to be made to the agency by another agency under subsection (b), the local law enforcement agency or local child protective services agency that initially received such report shall prepare an initial written report. This initial written report shall include—

(A) the name, address, age, sex of the child that is the subject of the report;

(B) the grade and the school in which the child is currently enrolled;

(C) the name and address of the child's parents or other person responsible for the child's care;

(D) the name and address of the alleged offender;

(E) the name and address of the person who made the report to the agency;

(F) a brief narrative as to the nature and extent of the child's injuries or neglect, including any previously known or suspected abuse or neglect of the child or the child's siblings and the suspected date of the abuse or neglect; and

(G) any other information the agency or the person who made the report to the agency believes to be important to the investigation and disposition of the alleged abuse or neglect.

(2) Any local enforcement agency, or local child protective services agency, that receives a report (other than notice or a written report that is required to be made to the agency by another agency under subsection (b)) alleging abuse described in subparagraph (A) or (B) of section 3(1) shall initiate an investigation of such allegations within 36 hours after receiving such report.

(3) Upon completion of the investigation of any report of alleged abuse or neglect that is made to a local law enforcement agency or local child protection services agency, the agency shall prepare a final written report on such allegations.

(4) The written reports an agency is required to prepare under paragraph (1) shall be transmitted by that agency to the central registry on child abuse and neglect in Indian country of the Department of the Interior within 36 hours after the report is completed.

(d) The identity of any person making a report described in subsection (b)(1) shall not be disclosed, without the consent of the individual, to any person other than a court of competent jurisdiction or an employee of an Indian tribe, a State, or the Federal Government, who needs to know the information in performance of his duties.

CENTRAL REGISTRY

SEC. 5. (a) The Secretary of the Interior shall establish within the Department of the Interior a central registry of reports of abuse and neglect of children in Indian country.

(b) The central registry that is required to be established under subsection (a) shall contain (but shall not be limited to)—

(1) all information in any written report prepared under section 4(c),

(2) the status of the investigation of, or prosecution in Federal, State, or tribal courts of, any allegations of abuse or neglect of a child in Indian country, and whether such prosecution has resulted in a conviction,

(3) any credible evidence to support the allegations of abuse or neglect of a child in Indian country, and

(4) any determination that such allegations of abuse or neglect are unfounded.

(c)(1) If any report of alleged abuse or neglect is determined to be unfounded, the Secretary of the Interior shall expunge the report from the central registry established under subsection (a) after the date that is 3 years after the date such determination is made.

(2)(A) Upon application of any person who is alleged in a report to have committed abuse or neglect, the Secretary of the Interior may amend information contained in the central registry established under subsection (a) to correct any error or false statement in such report.

(B) Any decision by the Secretary of the Interior regarding an application described in subparagraph (A) shall be final and shall not be subject to review by any court.

(d) Access to reports of alleged abuse or neglect of a child that are in the central registry established under subsection (a) shall be limited to the reporting medical practitioner, the custodian of such child, the guardian ad litem of such child, the courts, the appropriate departments of social services and law enforcement, attorneys for the United States, and the person alleged to have committed the abuse or neglect. The reports, to the extent that they do not identify the child or any information which may assist in identifying the child, may also be assessed by employers seeking information about potential or current employees.

(e) The Secretary of the Interior shall submit to the Congress an annual report on the number and status of reports of abuse and neglect in the central registry established under subsection (a).

CONFIDENTIALITY

SEC. 6. Notwithstanding section 552a of title 5, United States Code, the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g), or any other provision of law, agencies of any Indian tribe, of any State, or of the Federal Government, that investigate and treat incidents of abuse and neglect of children may provide information and records to those agencies of any Indian tribe, any State, or the Federal Government that need to know the information in performance of their duties.

PARENTAL CONSENT

SEC. 7. (a) Photographs and x-rays of a child shall be allowed without parental consent if local child protective services or local law enforcement officials have reason to believe the child has been subjected to abuse or neglect.

(b) In any case in which officials of the local law enforcement agency or local child protective agency have reason to believe that a child has been subjected to abuse or neglect, the officials of the local law enforcement agency or local child protective agency shall be allowed to interview the child without first obtaining the consent of the parent, guardian, or legal custodian.

CHARACTER INVESTIGATIONS

SEC. 8. (a) The Secretary of the Interior shall—

(1) conduct an investigation of the moral character of each individual who is being considered for appointment by the Secretary to a position that involves regular contact with, or control over, Indian children, and

(2) prescribe by regulations minimum standards of moral character that each of such individuals must meet to be appointed to those positions.

(b) The Secretary of Health and Human Services shall—

(1) conduct an investigation of the moral character of each individual who is being considered for appointment by the Secretary to a position that involves regular contact with, or control over, Indian children, and

(2) prescribe by regulations minimum standards of moral character that each of such individuals must meet to be appointed to those positions.

(c) The minimum standards of character that are to be prescribed under this section shall ensure that none of the individuals appointed to positions described in subsections (a)(1) or (b)(1) have been found guilty of, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of title 18, United States Code, or under similar statutes of other jurisdictions:

(1) section 1111, relating to murder;

(2) section 1112, relating to manslaughter;

(3) section 113, relating to assault with intent to murder, assault with a dangerous weapon, assault with intent to commit rape;

(4) section 81, relating to arson;

(5) section 2031, relating to rape;

(6) section 2032, relating to statutory rape;

(7) sections 2241 and 2242, relating to aggravated sexual abuse;

(8) section 2243, relating to sexual abuse of a minor;

(9) section 2244, relating to sexual contact;

(10) section 2111, relating to robbery;

(11) section 1201, relating to kidnapping; or

(12) section 114, relating to mayhem.

(d) Each Indian tribe, or tribal organization, that receives funds under the Indian Self-Determination and Education Assistance Act shall—

(1) conduct an investigation of the moral character of each individual employed by the Indian tribe or tribal organization in a position that involves regular contact with, or control over, Indian children, and

(2) employ individuals in those positions only if the individuals meet such minimum standards of moral character, comparable to the standards prescribed under subsections (a)(2) and (b)(2), as the Indian tribe or tribal organization shall establish.

CRIME VICTIMS FUND

SEC. 9. (a) Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601), as amended by Public Law 100-690, is further amended—

(1) by striking out "$125,000,000" in subsection (c)(1)(B)(i) and inserting in lieu thereof "$135,000,000",

(2) by striking out "$150,000,000" in subsection (c)(1)(B)(ii) and inserting in lieu thereof "$160,000,000",

(3) by inserting ", but not in excess of $125,000,000," after "$110,000,000" in subsection (d)(2)(D), and

(4) by adding at the end of paragraph (2) of subsection (d) the following new subparagraph:

"(E) Any deposits into the Fund in any fiscal year in excess of $125,000,000, but not in excess of $135,000,000, shall be available for grants as provided in section 1404B.".

(b) The Victims of Crime Act of 1984 is amended by inserting after section 1404A (42 U.S.C. 10603a) the following new section:

"INDIAN CHILD ABUSE PREVENTION AND TREATMENT GRANTS

"SEC. 1404B. Amounts made available by section 1402(d)(2)(E) shall be obligated and expended by the Secretary of Health and Human Services for grants under section 10 of the Indian Child Abuse Prevention and Treatment Act. Any portion of such amounts which is not obligated by the Secretary by the end of the fiscal year in which the funds are first made available shall remain available for grants under section 10 of such Act, without fiscal year limitation, until expended.".

INDIAN CHILD ABUSE PREVENTION AND TREATMENT GRANT PROGRAM

SEC. 10. (a) The Secretary of Health and Human Services, through the Indian Health Service, shall establish an Indian Child Abuse Prevention and Treatment Grant Program that provides grants to any Indian tribe, or inter-tribal consortium, for the establishment on Indian reservations of treatment programs for Indians who have been victims of child sexual abuse.

(b)(1) Any Indian tribe or inter-tribal consortium may submit to the Secretary of Health and Human Services an application for a grant under subsection (a).

(2) Any application submitted under paragraph (1)—

(A) shall be in such form as the Secretary of Health and Human Services may prescribe,

(B) shall be submitted to the Secretary on or before the date designated by the Secretary,

(C) shall specify—

(i) the nature of the program proposed by the applicant,

(ii) the data and information on which the program is based,

(iii) the extent to which the program plans to use or incorporate existing services available on the reservation, and

(iv) the specific treatment concepts to be used under the program.

(c) The maximum amount of any grant awarded under subsection (a) shall not exceed $500,000.

(d) Each recipient of a grant awarded under subsection (a) shall—

(1) furnish the Secretary of Health and Human Services with such information as the Secretary may require to—

(A) evaluate the program for which the grant is made, and

(B) ensure that the grant funds are expended for the purposes for which the grant was made, and

(2) submit to the Secretary at the close of the term of the grant a final report which shall include such information as the Secretary may require.

SECTION-BY-SECTION SUMMARY ANALYSIS

SECTION 1

Section 1 cites the short title of the Act as the "Indian Child Abuse Prevention and Treament Act."

SECTION 2

Section 2 sets out the findings of the Congress and the purposes of the Act. This section provides that it is a major national goal of the United States to identify and reduce incidents of child abuse and neglect on Indian reservations.

SECTION 3

Section 3 sets out the definitions of several terms used in the Act.

SECTION 4

Section 4(a)(1) sets out the reporting procedures for cases of child abuse and neglect in Indian country. This section would amend title 18 of the United States Code to include a section 1169, which would establish mandatory reporting requirements.

Under subsection (a) of § 1169, if a person who is a physician, teacher, administrative officer of any public or private school, social worker, psychiatrist, child counselor, mental health professional, law enforcement officer, or other identified person, knows or has reasonable cause to know or suspect that a child was abused or neglected in Indian country and fails to immediately report such abuse or neglect to a local child protective services agency or local law enforcement agency that person shall be subject to a fine of up to $1,000.

Subsection (b) of § 1169 provides that any person who supervises or has authority over a person described in subsection (a) and inhibits or prevents that person from reporting a case of abuse or neglect shall be subject to a fine of up to $1,000.

Subsection (d)(1) of § 1169 provides that the physician-patient, psychotherapist-patient, or other health care provider-patient privileges and the husband-wife privilege shall not apply with respect to the reporting requirements of this Act and shall not constitute a defense to an action under subsection (a) or (b).

Subsection (d)(2) of § 1169 provides that any person making a report of child abuse or neglect based upon their reasonable belief and which is made in good faith shall be immune from civil and criminal liability for making that report.

Section 4(b)(1) provides that any local law enforcement agency shall immediately notify the local child protective services agency and shall submit copies of the written reports required under subsection (c) to said agency. Section 4(b)(2) provides that any local child protective services agency shall immediately notify the local law enforcement agency and shall submit copies of the written reports required under subsection (c) to said agency.

Subsection (c)(1) provides that within 36 hours after receiving a report of child abuse or neglect the agency that initially received the report shall prepare an initial written report. Subsection (c)(1) further provides a description of the information that shall be included in the initial report.

Subsection (c)(2) requires any law enforcement agency or child protective agency that receives a report of child abuse or child sexual abuse as defined in this Act shall initiate an investigation of the allegations of abuse within 36 hours after receiving such report.

Subsection (c)(3) states that upon the completion of an investigation of any report of alleged abuse or neglect the local law enforcement agency and the local child protective services agency shall prepare a final written report.

Subsection (c)(4) provides that the initial written report prepared pursuant to subparagraph (1) shall be transmitted by that agency to the central registry on child abuse and neglect in Indian country located within the Department of Interior within 36 hours after the report is completed.

SECTION 5

Subsection (a) authorizes the Secretary to establish within the Department of Interior a central registry of reports of child abuse and neglect of children in Indian country.

Subsection (b) describes the information that shall be recorded in the central registry on child abuse and neglect in Indian country, which shall include a status report on the investigation or prosecution of any allegations of abuse or neglect of a child in Indian country.

Subsection (c)(1) provides that any report that is found by the Secretary to be unfounded shall be expunged from the central registry after the date that is 3 years after the date that such determination is made.

Subsection (c)(2) provides that any person who is alleged in a report to have committed abuse or neglect may apply to the Secretary to have the records in the central registry amended to correct any error or false statement in such report. The decision of the Secretary shall be final and shall not be subject to judicial review.

Subsection (d) provides that access to information contained in the records in the central registry shall be limited to the reporting medical practitioner, the custodian of the child, the guardian ad litem of the child, the courts, the appropriate departments of social services and law enforcement, U.S. Attorneys, and the person alleged to have committed the abuse or neglect. Employers may seek information about potential or current employees from the reports in the central registry to the extent that the information does not identify the child or assist in identifying the child.

Subsection (e) provides that the Secretary shall prepare and submit an annual report to the Congress that describes the number and status of reports of abuse and neglect in the central registry.

SECTION 6

Section 6 provides that agencies of any Indian tribe, State, or the Federal government that investigate incidents of abuse and neglect may provide information or records to those agencies of any Indian tribe, State, or the Federal Government that need to know the information in the performance of their duties.

SECTION 7

Section 7 provides that local child protective services and local law enforcement services shall be allowed to receive copies of photographs and x-rays of a child believed to have been subjected to abuse or neglect without parental consent. It further provides that if local law enforcement officials or local child protective services have reason to believe that a child has been subjected to abuse or neglect the officials of said agency shall be allowed to interview the child without first obtaining the consent of the parent, guardian, or legal custodian.

SECTION 8

Section 8 provides that the Secretary of Interior and the Secretary of Health and Human Services shall conduct an investigation of the moral character of each individual who is being considered for a position that involves regular contact with, or control over, Indian children. It further provides that the Secretary of Interior and the Secretary of Health and Human Services shall prescribe by regulations minimum standards of moral character for any individual who is employed in a position that involves regular contact with, or control over, Indian children.

Subsection (c) provides that the minimum standards to be developed under subsections (a) and (b) shall at a minimum ensure that no one appointed to a position that involves regular contact with, or control over, Indian children shall have been found guilty of, or entered a plea of nolo contendere or guilty to, the following offenses under title 18 of the United States Code or under similar statutes of other jurisdictions: murder, manslaughter, assault with intent to murder, assault with a dangerous weapon, assault with intent to commit rape, arson, rape, statutory rape, aggravated sexual abuse, sexual abuse of a minor, sexual contact, robbery, kidnaping, or mayhem.

Subsection (d) requires that any Indian tribe receiving funds under the Indian Self-Determination and Education Assistance Act shall conduct an investigation of the moral character of any individual employed by the Indian tribe in a position that involves regular contact with, or control over, Indian children. It also requires that the Indian tribe establish minimum standards of moral character comparable to the standards prescribed under subsections (a) and (b).

SECTION 9

Section 9 amends the Victims of Crime Act of 1984, as amended, to increase the ceilings of the Crime Victims Fund by $10 million from $125 million to $135 million and from $150 million to $160 million. The Victims of Crime Act of 1984 is further amended by creating section 1402 (d)(2)(E) which establishes the Indian Child Abuse Prevention and Treatment Grant Program which shall be administered by the Secretary of Health and Human Services. These additional funds in the Crime Victims Fund shall be available for Indian Child Abuse Prevention and Treatment Grants under section 1402 (d)(2)(E) of the Victims of Crime Act of 1984.

SECTION 10

Section 10 provides that the Secretary of Health and Human Services through the Indian Health Service shall establish the Indian Child Abuse Prevention and Treatment Grant Program which shall provide grants to any Indian tribe or inter-tribal consortium for the establishment on Indian reservations of treatment programs for Indians who have been victims of child sexual abuse. The maximum amount of any grant awarded under this section shall be $500,000.

This section also provides that a recipient of a grant awarded under this section shall provide such information as the Secretary may require to evaluate the program and ensure the grant funds were expended properly. The recipient of a grant under this section shall also submit a final report to the Secretary at the close of the term of the grant.

Mr. DECONCINI. Mr. President, the Special Committee on Investigations of the Select Committee on Indian Affairs was authorized by the Senate in 1988 to conduct an investigation into fraud, corruption, and mismanagement in Indian affairs. As chairman of this committee, I presided over two rounds of hearings in the winter and spring of 1989 which included over 20 investigative hearings. The special committee received testimony from hundreds of Federal and tribal government witnesses and individual American Indian citizens.

Among other issues, in February 1989, the Special Committee on Investigations of the Select Committee on

Indian Affairs held hearings on the problems of child sexual abuse in BIA schools. The special committee heard testimony which, for the first time, identified the breakdown in the Bureau of Indian Affairs identification and reporting of child sexual abuse in its schools. Witnesses before the committee noted that the omission in the Child Abuse Prevention and Treatment Act of mandatory reporting requirements on Federal lands allowed BIA officials to shield its teachers from investigations of abuse. Tragically, in the cases of Paul Price, a BIA teacher in North Carolina, and John Boone, a BIA teacher in Arizona, the failure of BIA officials to report these pedophiles to law enforcement authorities, even after they were identified as child sexual abuse perpetrators by the parents of their Indian victims, led to numerous cases of molestation.

During the special committee's hearings, I requested that the Department of the Interior provide the special committee's staff with a model mandatory child abuse reporting bill. The Department of the Interior has provided our staff with such a model, which with our revisions serves as the basis for the reporting bill that I am now cosponsoring with Senator McCain. Our most important addition to the bill is a provision for the funding of treatment for child abuse victims.

The bill would establish mandatory reporting requirements for child abuse and neglect in Indian country. A violation of these requirements could result in a fine of up to $1,000. If a supervisor of a reporting party in any way inhibits or prevents them from making a report of child abuse or neglect they could be fined up to $1,000. Any person who makes a report of child abuse and neglect in "good faith" shall be immune from civil and criminal liability. The bill would create a central registry in the Bureau of Indian Affairs for reports of child abuse and neglect. It requires the BIA and IHS to investigate the moral character of individuals to be employed in those professions that would have regular contact with or control over Indian children. It would establish minimum standards of moral character for individuals to be employed in positions which have regular contact with or control over Indian children. Finally, the bill would amend the Victims of Crime Act, 42 U.S.C. 10601, to provide $10 million in grants to Indian tribes for the development of treatment programs for the victims of child sexual abuse on reservations.

I am very pleased to have worked with Senator McCain in developing this important legislation and I urge my colleagues to support it so that we can attempt to put an end to the tragedy of sexual abuse of Indian children on reservations.

By Mr. PRYOR:

S. 1784. A bill to amend the Internal Revenue Code of 1986 to revise various civil penalties; to the Committee on Finance.

INTERNAL REVENUE CODE PENALTY REFORM ACT

Mr. PRYOR. Mr. President, I stand today to introduce the Internal Revenue Code Penalty Reform Act.

In 1975 the Administrative Conference of the United States issued a report on the 64 penalties of the Internal Revenue Code. The report characterized the penalty structure of that day as "mind numbing." Fourteen years have gone by, and that mind numbing array of 64 penalties has now grown to over 150. If it was mind numbing in 1975, it has become mind boggling in 1989.

The present structure is a morass of inconsistency and irrationality that often discourages rather than encourages compliance in our tax system.

Under this system, a hapless taxpayer can find himself, or herself, confronting the Internal Revenue Code over a tax deficiency, where the penalties and interest have been piled on to the extent that they are twice the amount of tax in dispute. This sort of leverage has a highly negative effect over the tax process.

Last year on March 14, Congress began the long process of reforming the IRS penalty structure with a hearing before the Private Retirement Plans and Oversight of the Internal Revenue Service Subcommittee of the Senate Finance Committee.

At the same time the Senate Finance Committee began its work, the Oversight Subcommittee of the Ways and Means Committee began hearings on the subject of reforming the penalties of the Internal Revenue Code under the leadership of Chairman J.J. Pickle. Additionally, the Internal Revenue Service, the General Accounting Office, the American Bar Association, and the American Institute of Certified Public Accountants all began independent studies of how to improve the penalty structure administered by the Internal Revenue Service.

In addition to these groups, I created a private sector task force representing many associations and perspectives. This group was cochaired by two very able individuals, Mr. Ken Gideon, now with the Treasury Department, and Mr. Jarold Cohen. The Senate owes these two gentlemen, as well as the entire task force, a debt of gratitude for the time they committed to this project. Mr. President, I ask unanimous consent to print a list of the members of the task force in the Record at the end of my statement.

A lot of very thoughtful people have spent a good deal of time thinking about this problem over the last 2 years. After 2 years of study and debate the various groups, task forces, and committees have developed a surprisingly similar philosophy on Internal Revenue Code penalty reform. This philosophy can be summarized in a number of short, simple rules for reform:

The amount of the penalty should be proportional to the culpability of the taxpayer. Under the present system, a taxpayer who is 1 day late pays the same penalty as a taxpayer who decides to never deposit payroll taxes.

The law should not allow the Internal Revenue Service to stack penalties for the same act of noncompliance. The IRS can now pick and choose among a host of penalties, or simply pile all available penalties on a taxpayer hoping to persuade him to negotiate.

Penalties should not discourage compliance with the tax laws. If a penalty is the same if a taxpayer is a little bit late or a lot late, taxpayers will always choose to be a lot late.

Whenever possible, waiver requirements should be standardized. The Internal Revenue Code presently contains many different standards for waiving penalties. The result is taxpayer confusion.

Similarly situated taxpayers should be treated similarly. Taxpayers are often confused to find they owe different penalty amounts for what are basically the same act of noncompliance.

Overlapping or redundant penalties should be eliminated. Rather than making changes to existing penalties that might not be working correctly, Congress has too often simply created an additional, redundant penalty for the same act.

Although a particular penalty may be correct in theory, if the Internal Revenue Service is unable to administer the penalty, it should not be in the Internal Revenue Code.

Penalties should be written clearly enough for taxpayers to understand the consequences of noncompliance. Because penalties have evolved over time, they are often difficult to understand. As a consequence of this vagueness, it is often difficult for taxpayers to know exactly what is the proper behavior.

Penalties should be tough enough to discourage noncompliance and to encourage noncompliant taxpayers to correct their actions.

The Internal Revenue Code Penalty Reform Act incorporates these simple premises into a rational penalty system, that is fairer and easier to administer. The bill consolidates all the various information requirements under one penalty. The new penalty is time sensitive: Penalizing a taxpayer who is 1 day late at a lower level than one who is 6 months late. It also creates a standard penalty waiver criteria, so a taxpayer does not have to learn

many different standards to waive various penalties.

Most importantly, the bill repeals the ability of the IRS to stack penalties for the same offense. It also creates a rational three level accuracy penalty structure, that will punish noncompliant taxpayers based on the culpability of their actions.

The penalty structure created by this bill will make a fairer system. It will ensure that big time tax cheats will be punished. But at the same time it will protect the first time offenders who have made a mistake with our often complex tax laws. I look forward to working with Chairman PICKLE on this important issue, and I commend him for his leadership on this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRIVATE SECTOR PENALTY TASK FORCE

CHAIRMAN

N. Jerold Cohen, Esquire, Southerland, Asbill and Brennan, Atlanta, GA.

MEMBERS

Mr. Jonathan Allen, Representing the American Banking Association, First Wachovia Corp., Winston-Salem, NC.

Ms. Patricia Burton, Representing the National Association of Enrolled Agents, Gles Ferry, Connecticut.

Tom Courtway, Esquire, Wright, Lindsey & Jennings, Little Rock, Arkansas.

Marvin J. Garbis, Esquire, Melnicove, Kaufman, Weiner, Smouse & Garbis, P.A., Baltimore, Maryland.

Micheal J. Graetz, Esquire, Yale Law School, New Haven, Connecticut.

McGee Grigsby, Esquire, Latham & Watkins, Washington, DC.

James Henhold, Esquire, BP America Inc., Cleveland, Ohio.

Donald Hull, Hull Company, Westminster, MD.

Jerome Kurtz, Esquire, Paul, Weiss, Rifkind, Wharton & Garrison, Washington, DC.

Herbert J. Lerner, Esquire, Chairman of AICPA Tax Division Executive Committee, Ernst & Whinney, Washington, DC.

Mr. Ed Pendergast, Representing the National Federation of Independent Businesses, Chairman, Kennedy and Lehan, P.C., Quincy, Massachusetts.

Mr. Leonard Podolin, Arthur Anderson Company, Chicago, IL.

Gerald G. Portney, Esquire, Peat Marwick, Washington, DC.

Mr. Charles W. Rau, Representing the Tax Executive Institute, Inc., MCI Communications Corporation, Washington, DC.

John Riordan, Esquire, The New England, Boston, Mass.

Michael I. Saltzman, Esquire, Representing the American Bar Association, Saltzman & Holloran, New York, NY.

Glenn White, Esquire, Chairman of NAM Compliance, Audit, and Dow Chemical Company, Midland, MI.

Dale W. Wickham, Esquire, Wickham & Geske, Washington, DC.

Mr. PRYOR. Mr. President, I ask unanimous consent that a short outline of the bill and a copy of the bill be printed in the RECORD explaining the various provisions of the legislation.

Mr. President, finally, I send to the desk the legislation which I mentioned which will become, hopefully, a very, very constructive addition to our Tax Code relative to penalty reform.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTERNAL REVENUE CODE PENALTY REFORM ACT

A. INFORMATION REPORTING PENALTIES

Failure to file correct information returns

The bill would modify the information return penalties provided under present law in order to encourage persons to file correct information returns even though such returns are filed after the prescribed filing date.

Under the bill, any person who fails to file a correct information return with the Internal Revenue Service (IRS) on or before the prescribed filing date would be subject to a penalty that varies based on when, if at all, a correct information return is filed. If a person files a correct return after the prescribed filing date but on or before the date that is 30 days after the prescribed filing date, the amount of the penalty would be $15 per return, with a maximum penalty of $75,000 per calendar year. If a person files a correct information return after the date that is 30 days after the prescribed filing date but on or before August 1, the amount of the penalty would be $30 per return, with a maximum penalty of $150,000 per calendar year. If a correct return is not filed on or before August 1 of any year, the amount of the penalty would be $50 per return, with a maximum penalty of $250,000 per calendar year.

The bill requires the Secretary of the Treasury to establish guidelines for self-correcting of returns by payors similar to the present regulations governing self-correcting.

The Penalty Reform Act creates lower maximum penalties for small businesses. Small businesses would be defined as firms having gross receipts of less than $5 million. The maximum penalty for small businesses would be $25,000 (instead of $75,000) if the returns are filed on or before 30 days after the prescribed filing date, $50,000 (instead of $150,000) if the returns are filed after August 1.

Failure to furnish correct payee statements

Like the Failure to File a Correct Information Returns penalty, the Failure to Furnish Correct Payee Statements penalty would vary based on when, if at all, a correct information return is sent to the payee. Additionally, the new penalty provides special small business caps.

The bill provides that in the event the reporting (or nonreporting) of one item of information results in failures penalized by both the Failure to File a Correct Information Return penalty and the Failure to File Correct Payee Statements penalty, only one failure shall be subject to penalty under these provisions.

Failure to comply with other information reporting requirements

The bill creates a standard $50 penalty with a $100,000 annual cap for failures to comply with other information reporting requirements.

Waiver, definitions and special rules

The bill would provide that any of the information reporting penalties may be waived if it is shown that the failure to comply is due to reasonable cause and not to willful neglect. Reasonable cause exists if significant mitigating factors are present, such as when a person has a history of complying with the information reporting requirements and when the payor is given incorrect information by the payee. Other examples would be key employee turnover, software malfunction, fire, sabotage, and equipment failure.

The bill also would repeal the special information reporting requirements that apply to payments of interest and dividends; the bill would make those payments subject to the same general rules applicable to other types of information returns.

The bill clarifies that a payor shall not be subject to penalty if the payor has solicited a TIN from the taxpayer within 15 calendar months and has withheld income taxes from payments beginning 60 days after payments begin. Additionally, no penalty shall be imposed if the payor adheres to guidelines on self-correction of TINs established by the Secretary.

Uniform requirements for returns on magnetic media

The bill would provide uniform magnetic media requirements that apply to all information returns filed during any calendar year. Taxpayers who file more than 250 information returns a year would be required to file on magnetic media. The bill clarifies that penalties for noncompliance shall not apply to the first 250 information returns.

B. ACCURACY PENALTIES

The bill would reorganize the accuracy penalties into a comprehensive structure that eliminates any overlap of the penalties.

Substantial understatement penalty

The penalty that applies to the portion of an underpayment that would be attributable to a substantial understatement of income tax would be the same as the substantial understatement penalty provided under present law with three principal modifications. First, the bill would lower the rate of the penalty to 15 percent. Second, the list of authorities upon which taxpayers may rely would be expanded. Third, the substantial understatement penalty would not apply to any portion of an understatement subject to negligence or to fraud penalties. Additionally, the Substantial Understatement penalty would not apply to the remaining understatement not subject to negligence or fraud penalties unless such understatement independently met the threshold requirements (the greater of 10 percent of the tax required to be shown for a taxable year or $5,000, $10,000 for corporations) of the Substantial Understatement penalty.

Negligence

Under the bill, the negligence penalty would be 25 percent. If an underpayment of tax is attributable to negligence, however, the negligence penalty would apply only to the portion of the underpayment that is attributable to negligence rather than, as under present law, to the entire underpayment of tax. In addition, the bill would repeal the present-law presumption under which an underpayment is treated as attributable to negligence if the underpayment is due to a failure to include on an income tax return an amount shown on an information return.

Fraud penalty

The bill would retain the present-law fraud penalty at a rate of 100 percent. The

penalty would apply only to the portion of any underpayment that is attributable to fraud. The bill provides that the burden of proof is with the Secretary to prove fraud and the portion of the understatement attributable to fraud.

Definitions and special rules

The bill would provide special rules that apply to each of the penalties imposed under this structure. First, the bill would provide that no penalty is to be imposed if it is shown that there was reasonable cause for an underpayment and the taxpayer criteria is designed to permit the courts to review the assertion of penalties under the same standards that apply in reviewing additional tax that the Internal Revenue Service asserts is due.

Second, the bill also would provide that an accuracy penalty be imposed only if a return has been filed. Under present law, a negligence or fraud penalty may be imposed in the case of a failure to file a return.

Finally, the bill would repeal the higher interest rate that applies to substantial underpayments that are attributable to tax-motivated transactions.

C. PREPARER, PROMOTER, AND PROTESTER PENALTIES

Return preparer penalties

The bill would revise the present-law penalties that apply in the case of an understatement of tax that is caused by an income tax return preparer. The bill would provide that if any part of an understatement of tax on a return or claim for refund is attributable to a position for which there was not a realistic possibility of being sustained on its merits, and if any person who is an income tax return preparer with respect to such return or claim for refund knew (or reasonably should have known) of such position and such position was not disclosed, then that return preparer is subject to a penalty of $250. A reasonable cause exception is also provided.

Other penalties

The bill would modify the penalty for promoting abusive tax shelters, the penalty for aiding and abetting the understatement of tax liability, the frivolous income tax return penalty, and sanctions and costs awarded by courts.

D. DELINQUENCY PENALTIES

Failure to file

The bill establishes a minimum $50 penalty for failure to file. However, the bill ensures that low income taxpayers will not be subject to the penalty by providing an exception for taxpayers with gross income not exceeding the taxpayer's standard deduction and personal exemptions.

Failure to make timely deposits of tax

The bill also would modify the penalty of the failure to make timely deposits of tax, in order to encourge depositors to correct their failures. Under the bill, a depositor would be subject to a penalty equal to two percent of the amount of the underpayment if the failure is corrected on or before the date that is five days after the prescribed due date. A depositor would be subject to a penalty equal to five percent of the amount of the underpayment if the failure is corrected after the date that is five days after the date that is five days after the prescribed due date, but on or before the date that is 15 days after the prescribed due date. A depositor would be subject to a penalty equal to 10 percent of the amount of the underpayment if the failure is not corrected on or before the date that is 15 days after the due date. Finally, the depositor shall be subject to a penalty equal to 15 percent of the amount of the underpayment if the failure is not corrected before the IRS issues the final 30 day notice of demand as provided under the Internal Revenue Code.

As under present law, no penalty would be imposed if the failure to make a timely deposit is due to reasonable cause, and not willful neglect. The bill also would repeal the present-law 25-percent penalty on overstated deposit claims.

S. 1784

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Internal Revenue Code Penalty Reform Act".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—DOCUMENT AND INFORMATION RETURN PENALTIES

SEC. 101. UNIFORM PENALTIES FOR FAILURES TO COMPLY WITH CERTAIN INFORMATION REPORTING REQUIREMENTS.

(a) GENERAL RULE.—Part II of subchapter B of chapter 68 (relating to failure to file certain information returns or statements) is amended to read as follows:

"PART II—FAILURE TO COMPLY WITH CERTAIN INFORMATION REPORTING REQUIREMENTS

"Sec. 6721. Failure to file correct information returns.
"Sec. 6722. Failure to furnish correct payee statements.
"Sec. 6723. Failure to comply with other information reporting requirements.
"Sec. 6724. Waiver; definitions and special rules.

"SEC. 6721. FAILURE TO FILE CORRECT INFORMATION RETURNS.

"(a) IMPOSITION OF PENALTY.—

"(1) IN GENERAL.—In the case of a failure described in paragraph (2) by any person with respect to an information return, such person shall pay a penalty of $50 for each return with respect to which such a failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $250,000.

"(2) FAILURES SUBJECT TO PENALTY.—For purposes of paragraph (1), the failures described in this paragraph are—

"(A) any failure to file an information return with the Secretary on or before the required filing date, and

"(B) any failure to include all of the information required to be shown on the return or the inclusion of incorrect information.

"(b) REDUCTION WHERE CORRECTION IN SPECIFIED PERIOD.—

"(1) CORRECTION WITHIN 30 DAYS.—If any failure described in subsection (a)(2) is corrected on or before the day 30 days after the required filing date—

"(A) the penalty imposed by subsection (a) shall be $15 in lieu of $50, and

"(B) the total amount imposed on the person for all such failures during any calendar year which are so corrected shall not exceed $75,000.

"(2) FAILURES CORRECTED ON OR BEFORE AUGUST 1.—If any failure described in subsection (a)(2) is corrected after the 30th day referred to in paragraph (1) but on or before August 1 of the calendar year in which the required filing date occurs—

"(A) the penalty imposed by subsection (a) shall be $30 in lieu of $50, and

"(B) the total amount imposed on the person for all such failures during the calendar year which are so corrected shall not exceed $150,000.

"(c) EXCEPTION FOR CERTAIN FAILURES TO INCLUDE ALL REQUIRED INFORMATION.—If—

"(1) an information return is filed with the Secretary,

"(2) there is a failure described in subsection (a)(2)(B) with respect to such return, and

"(3) such failure is corrected on or before the date which shall be established by the Secretary pursuant self-correction guidelines,

for purposes of this section, such return shall be treated as having been filed with all of the correct required information.

"(d) LOWER LIMITATIONS FOR PERSONS WITH GROSS RECEIPTS OF NOT MORE THAN $5,000,000.—

"(1) IN GENERAL.—If any person meets the gross receipts test of paragraph (2) with respect to any calendar year, with respect to failures during such taxable year—

"(A) subsection (a)(1) shall be applied by substituting '$100,000' for '$250,000',

"(B) subsection (b)(1)(B) shall be applied by substituting '$25,000' for '$75,000', and

"(C) subsection (b)(2)(B) shall be applied by substituting '$50,000' for '$150,000'.

"(2) GROSS RECEIPTS TEST.—

"(A) IN GENERAL.—A person meets the gross receipts test of this paragraph for any calendar year if the average annual gross receipts of such person for the most recent 3 taxable years ending before such calendar year do not exceed $5,000,000.

"(B) CERTAIN RULES MADE APPLICABLE.—For purposes of subparagraph (A), the rules of paragraphs (2) and (3) of section 448(c) shall apply.

"(e) PENALTY IN CASE OF INTENTIONAL DISREGARD.—If 1 or more failures described in subsection (a)(2) are due to intentional disregard of the filing requirement (or the correct information reporting requirement), then, with respect to each such failure—

"(1) subsections (b), (c), and (d) shall not apply,

"(2) the penalty imposed under subsection (a) shall be $100, or, if greater—

"(A) in the case of a return other than a return required under section 6045(a), 6041A(b), 6050H, 6050J, 6050K, or 6050L, 10 percent of the aggregate amount of the items required to be reported correctly, or

"(B) in the case of a return required to be filed by section 6045(a), 6050K, or 6050L, 5 percent of the aggregate amount of the items required to be reported correctly, and

"(3) in the case of any penalty determined under paragraph (2)—

"(A) the $250,000 limitation under subsection (a) shall not apply, and

"(B) such penalty shall not be taken into account in applying such limitation (or any similar limitation under subsection (b)) to penalties not determined under paragraph (2).

"SEC. 6722. FAILURE TO FURNISH CORRECT PAYEE STATEMENTS.

"(a) IMPOSITION OF PENALTY.—

"(1) IN GENERAL.—In the case of each failure described in paragraph (2) by any person with respect to a payee statement, such person shall pay a penalty of $50 for each statement with respect to which such a failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $100,000.

"(2) FAILURES SUBJECT TO PENALTY.—For purposes of paragraph (1), the failures described in this paragraph are—

"(A) any failure to furnish a payee statement on or before the date prescribed therefor to the person to whom such statement is required to be furnished, and

"(B) any failure to include all of the information required to be shown on a payee statement or the inclusion of incorrect information.

"(b) REDUCTION WHERE CORRECTION IN SPECIFIED PERIOD.—

"(1) CORRECTION WITHIN 30 DAYS.—If any failure described in subsection (a)(2) is corrected on or before the day 30 days after the required filing date—

"(A) the penalty imposed by subsection (a) shall be $15 in lieu of $50, and

"(B) the total amount imposed on the person for all such failures during any calendar year which are so corrected shall not exceed $30,000.

"(2) FAILURES CORRECTED ON OR BEFORE AUGUST 1.—If any failure described in subsection (a)(2) is corrected after the 30th day referred to in paragraph (1) but on or before August 1 of the calendar year in which the required filing date occurs—

"(A) the penalty imposed by subsection (a) shall be $30 in lieu of $50, and

"(B) the total amount imposed on the person for all such failures during the calendar year which are so corrected shall not exceed $60,000.

"(c) LOWER LIMITATIONS FOR PERSONS WITH GROSS RECEIPTS OF NOT MORE THAN $5,000,000.—

"(1) IN GENERAL.—If any person meets the gross receipts test of paragraph (2) with respect to any calendar year, with respect to failures during such taxable year—

"(A) subsection (a)(1) shall be applied by substituting '$40,000' for '$100,000',

"(B) subsection (b)(1)(B) shall be applied by substituting '$10,000' for '$30,000', and

"(C) subsection (b)(2)(B) shall be applied by substituting '$20,000' for '$60,000'.

"(2) GROSS RECEIPTS TEST.—

"(A) IN GENERAL.—A person meets the gross receipts test of this paragraph for any calendar year if the average annual gross receipts of such person for the most recent 3 taxable years ending before such calendar year do not exceed $5,000,000.

"(B) CERTAIN RULES MADE APPLICABLE.—For purposes of subparagraph (A), the rules of paragraphs (2) and (3) of section 448(c) shall apply.

"(d) PENALTY IN CASE OF INTENTIONAL DISREGARD.—If 1 or more failures to which subsection (a) applies are due to intentional disregard of the requirement to furnish a payee statement (or the correct information reporting requirement), then, with respect to each failure—

"(1) the penalty imposed under subsection (a) shall be $100, or, if greater—

"(A) in the case of a payee statement other than a statement required under section 6045(b), 6041A(e) (in respect of a return required under section 6041A(b)), 6050H(d), 6050J(e), 6050K(b), or 6050L(c), 10 percent of the aggregate amount of the items required to be reported correctly, or

"(B) in the case of a payee statement required under section 6045(b), 6050K(b), or 6050L(c), 5 percent of the aggregate amount of the items required to be reported correctly, and

"(2) in the case of any penalty determined under paragraph (1)—

"(A) the $100,000 limitation under subsection (a) shall not apply, and

"(B) such penalty shall not be taken into account in applying such limitation to penalties not determined under paragraph (1).

"SEC. 6723. FAILURE TO COMPLY WITH OTHER INFORMATION REPORTING REQUIREMENTS.

In the case of a failure by any person to comply with a specified information reporting requirement on or before the time prescribed therefor, such person shall pay a penalty of $50 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $100,000.

"SEC. 6724. WAIVER; DEFINITIONS AND SPECIAL RULES.

"(a) REASONABLE CAUSE WAIVER.—No penalty shall be imposed under this part with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.

"(b) COORDINATION OF PENALTIES.—In the event the reporting (or nonreporting) of one item of information results in failures described in sections 6721(a)(2)(B) and 6722(a)(2)(B), only 1 failure shall be subject to penalty under such sections.

"(c) PAYMENT OF PENALTY.—Any penalty imposed by this part shall be paid on notice and demand by the Secretary and in the same manner as tax.

"(d) SPECIAL RULE FOR FAILURE TO MEET MAGNETIC MEDIA REQUIREMENTS.—No penalty shall be imposed under section 6721 solely by reason of any failure to comply with the requirements of the regulations prescribed under section 6011(e), if such a failure occurs with respect to no more than 250 information returns.

"(e) SPECIAL RULE FOR FAILURE TO INCLUDE CORRECT TIN ON INFORMATION RETURN.—No penalty shall be imposed under section 6723 solely by reason of any failure to include on any information return made with respect to another person the TIN of such person, if—

"(1) the person preparing the return—

"(A) solicited a TIN from the other person within 15 calendar months preceding the calendar month in which the required filing date occurs, and

"(B) the reported item on such return constitutes payments of income to the other person and the person preparing the return has withheld income taxes from such payments (if required) beginning—

"(i) 60 days after such payments begin, or

"(ii) January 1, 1984,

whichever is later, or

"(2) the person preparing the return corrected such failure pursuant to section 6721(c).

"(f) DEFINITIONS.—For purposes of this part—

"(1) INFORMATION RETURN.—The term 'information return' means—

"(A) any statement of the amount of payments to another person required by—

"(i) section 408(i) or (l) (relating to individual retirement account and simplified employee pension reports),

"(ii) section 6041(a) or (b) (relating to certain information at source),

"(iii) section 6042(a)(1) (relating to payments of dividends),

"(iv) section 6044(a)(1) (relating to payments of patronage dividends),

"(v) section 6047(d) (relating to reports by employers, plan administrators, etc.),

"(vi) section 6049(a) (relating to payments of interest),

"(vii) section 6050A(a) (relating to reporting requirements of certain fishing boat operators),

"(viii) section 6050N(a) (relating to payments of royalties), or

"(ix) section 6051(d) (relating to information returns with respect to income tax withheld), and

"(B) any return required by—

"(i) section 6041A(a) or (b) (relating to returns of direct sellers),

"(ii) section 6045(a) or (d) (relating to returns of brokers),

"(iii) section 6050H(a) (relating to mortgage interest received in trade or business from individuals),

"(iv) section 6050I(a) (relating to cash received in trade or business),

"(v) section 6050J(a) (relating to foreclosures and abandonments of security),

"(vi) section 6050K(a) (relating to exchanges of certain partnership interests),

"(vii) section 6050L(a) (relating to returns relating to certain dispositions of donated property),

"(viii) section 6052(a) (relating to reporting payment of wages in the form of group-life insurance),

"(ix) section 6053(c)(1) (relating to reporting with respect to certain tips),

"(x) section 1060(b) (relating to reporting requirements of transferors and transferees in certain asset acquisitions), or

"(xi) subparagraph (A) or (C) of subsection (c)(4), or subsection (e), of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuels).

Such term also includes any form, statement, or schedule required to be filed with the Secretary with respect to any amount from which tax was required to be deducted and withheld under chapter 3 (or from which tax would be required to be so deducted and withheld but for an exemption under this title or any treaty obligation of the United States). For purposes of clauses (i) and (v) of subparagraph (A), references to such sections are only with respect to reports filed with the Secretary, with respect to information required to be supplied to both the Secretary and the beneficiary.

"(2) PAYEE STATEMENT.—The term 'payee statement' means any statement required to be furnished under—

"(A) section 408(i) or (l) (relating to individual retirement account and simplified employee pension reports),

"(B) section 6031(b) or (c), 6034A, or 6037(b) (relating to statements furnished by certain pass-thru entities),

"(C) section 6039(a) (relating to information required in connection with certain options),

"(D) section 6041(d) (relating to information at source),

"(E) section 6041A(e) (relating to returns regarding payments of remuneration for services and direct sales),

"(F) section 6042(c) (relating to returns regarding payments of dividends and corporate earnings and profits),

"(G) section 6044(e) (relating to returns regarding payments of patronage dividends),

"(H) section 6045(b) or (d) (relating to returns of brokers),

"(I) section 6047(d) (relating to reports by employers, plan administrators, etc.),

"(J) section 6049(c) (relating to returns regarding payments of interest),

"(K) section 6050A(b) (relating to reporting requirements of certain fishing boat operators),

"(L) section 6050H(d) relating to returns relating to mortgage interest received in trade or business from individuals),

"(M) section 6050I(e) (relating to returns relating to cash received in trade or business),

"(N) section 6050J(e) (relating to returns relating to foreclosures and abandonments of security),

"(O) section 6050K(b) (relating to returns relating to exchanges of certain partnership interests),

"(P) section 6050L(c) (relating to returns relating to certain dispositions of donated property),

"(Q) section 6050N(b) (relating to returns regarding payments of royalties),

"(R) section 6051 (relating to receipts for employees),

"(S) section 6052(b) (relating to returns regarding payment of wages in the form of group-term life insurance),

"(T) section 6053 (b) or (c) (relating to reports of tips), or

"(U) section 4093(c)(4)(B) (relating to certain purchasers of diesel and aviation fuels).

Such term also includes any form, statement, or schedule required to be furnished to the recipient of any amount from which tax was required to be deducted and withheld under chapter 3 (or from which tax would be required to be so deducted and withheld but for an exemption under this title or any treaty obligation of the United States). For purposes of subparagraphs (A) and (I), references to such sections are only with respect to reports furnished to the beneficiary, with respect to information required to be supplied to both the Secretary and the beneficiary.

"(3) SPECIFIED INFORMATION REPORTING REQUIREMENT.—The term 'specified information reporting requirement' means—

"(A) the notice required by section 6050K(c)(1) (relating to requirement that transferor notify partnership of exchange),

"(B) any requirement contained in the regulations prescribed under section 6109 that a person—

"(i) include his TIN on any return, statement, or other document (other than an information return or payee statement),

"(ii) furnish his TIN to another person, or

"(iii) include on any return, statement, or other document (other than an information return or payee statement) made with respect to another person the TIN of such person,

"(C) any requirement contained in the regulations prescribed under section 215 that a person—

"(i) furnish his TIN to another person, or

"(ii) include on his return the TIN of another person, and

"(D) the requirement of section 6109(e) that a person include the TIN of any dependent on his return.

"(4) REQUIRED FILING DATE.—The term 'required filing date' means the date prescribed for filing an information return with the Secretary (determined with regard to any extension of time for filing)."

(b) MODIFICATION OF REPORTABLE DESIGNATED DISTRIBUTIONS.—

(1) SECTION 408.—

(A) Subsection (i) of section 408 (relating to individual retirement account reports) is amended by inserting "aggregrating $10 or more" after "distributions".

(B) Subsection (l) of section 408 (relating to simplified employee pension reports) is amended by inserting "aggregrating $10 or more" after "contribution".

(2) SECTION 6047.—Subsection (d)(1) of section 6047 (relating to reports by employers, plan administrators, etc.) is amended—

(A) by inserting "aggregating $10 or more" after "designated distributions" in subparagraph (A), and

(B) by inserting "such" before "designated distributions" in subparagraph (B).

(c) TECHNICAL AMENDMENTS.—

(1) Sections 6017A, 6676, and 6687 are hereby repealed.

(2) Paragraph (1) of section 6047(e) is amended by striking "section 6652(e)" and inserting "sections 6652(e), 6721, and 6722".

(3) Section 6652(e) is amended by inserting "(other than reports described in section 6724(d)(1)(A)(v) and (2)(I))" after "6047".

(4) Section 6693(a) is amended by inserting "(other than reports described in section 6724(d) (1)(A)(i) and (2)(A)" after "annuity".

(5) Subsection (b) of section 7205 is amended to read as follows:

"(b) BACKUP WITHHOLDING ON INTEREST AND DIVIDENDS.—If any individual willfully makes a false certification under paragraph (1) or (2)(C) of section 3406(d), then such individual shall, in addition to any other penalty provided by law, upon conviction thereof, be fined not more than $1,000, or imprisoned not more than 1 year, or both."

(6) The table of sections for subpart B of part II of subchapter A of chapter 61 is amended by striking the item relating to section 6017A.

(7) The table of sections for part I of subchapter B of chapter 68 is amended by striking the items relating to sections 6676 and 6687.

(8) The table of parts for subchapter B of chapter 68 is amended by striking the item relating to part II and inserting the following:

"Part II. Failure to comply with certain information reporting requirements."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which (determined without regard to extensions) is after December 31, 1989.

SEC. 102. INFORMATION REQUIRED WITH RESPECT TO CERTAIN FOREIGN CORPORATIONS.

(a) CLARIFICATION OF REPORTING REQUIREMENTS UNDER SECTION 6038.—

(1) Subsection (a) of section 6038 (relating to information with respect to certain foreign corporations) is amended by adding at the end thereof the following new paragraph:

"(4) INFORMATION REQUIRED FROM CERTAIN SHAREHOLDERS IN CERTAIN CASES.—If any foreign corporation is treated as a controlled foreign corporation for any purpose under subpart F of part III of subchapter N of chapter 1, the Secretary may require any United States person treated as a United States shareholder of such corporation for any purpose under subpart F to furnish the information required under paragraph (1)."

(2) Paragraph (1) of section 6038(a) is amended by inserting before the period at the end of the second sentence the following: "or which the Secretary determines to be appropriate to carry out the provisions of this title."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to returns and statements the due date for which (determined without regard to extensions) is after December 31, 1989.

SEC. 103. UNIFORM REQUIREMENTS FOR RETURNS ON MAGNETIC MEDIA.

(a) GENERAL RULE.—Subsection (e) of section 6011 (relating to regulations requiring returns on magnetic tape, etc.) is amended to read as follows:

"(e) REGULATIONS REQUIRING RETURNS ON MAGNETIC MEDIA, ETC.—

"(1) IN GENERAL.—The Secretary shall prescribe regulations providing standards for determining which returns must be filed on magnetic media or in other machine-readable form. The Secretary may not require returns of any tax imposed by subtitle A on individuals, estates, and trusts to be other than on paper forms supplied by the Secretary.

"(2) REQUIREMENTS OF REGULATIONS.—In prescribing regulations under paragraph (1), the Secretary—

"(A) shall not require any person to file returns on magnetic media unless such person is required to file at least 250 returns during the calendar year, and

"(B) shall take into account (among other relevant factors) the ability of the taxpayer to comply at reasonable cost with the requirements of such regulations."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1989.

SEC. 104. STUDY OF PROCEDURES TO PREVENT MISMATCHING.

(a) GENERAL RULE.—The Comptroller General (in consultation with the Secretary of the Treasury or his delegate) shall conduct a study on procedures to resolve, with the least disclosure of return information possible, discrepancies between taxpayer-identity information shown on information returns and such information in the records of the Internal Revenue Service.

(b) REPORT.—Not later than June 1, 1990, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

TITLE II—REVISION OF SUBSTANTIAL UNDERSTATEMENT OF LIABILITY PENALTIES

SEC. 201. REVISION OF SUBSTANTIAL UNDERSTATEMENT OF LIABILITY PENALTIES.

(a) GENERAL RULE.—Subchapter A of chapter 68 (relating to additions to the tax and additional amounts) is amended by striking sections 6661 and 6662 and inserting the following:

"PART II—SUBSTANTIAL UNDERSTATEMENT OF LIABILITY PENALTIES

"Sec. 6662. Substantial understatement of liability.

"Sec. 6663. Imposition of negligence penalty.

"Sec. 6664. Imposition of fraud penalty.

"Sec. 6665. Coordination of penalties.

"Sec. 6666. Reasonable cause exception.

"SEC. 6662. SUBSTANTIAL UNDERSTATEMENT OF LIABILITY.

"(a) IMPOSITION OF PENALTY.—If there is a substantial understatement of income tax for any taxable year, there shall be added to

the tax an amount equal to 15 percent of the amount of any underpayment attributable to such understatement.

"(b) DEFINITIONS AND SPECIAL RULES.—

"(1) SUBSTANTIAL UNDERSTATEMENT.—

"(A) IN GENERAL.—For purposes of this section, there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year, or

"(ii) $5,000.

"(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), paragraph (1) shall be applied by substituting "$10,000" for "$5,000".

"(2) UNDERSTATEMENT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'understatement' means the excess of—

"(i) the amount of the tax required to be shown on the return for the taxable year, over

"(ii) the amount of the tax imposed which is shown on the return, reduced by any rebate (within the meaning of section 6211(b)(2)).

"(B) REDUCTION FOR UNDERSTATEMENT DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—The amount of the understatement under subparagraph (A) shall be reduced by that portion of the understatement which is attributable to—

"(i) the tax treatment of any item by the taxpayer if there is or was substantial authority for such treatment, or

"(ii) any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return.

"(C) SPECIAL RULES IN CASES INVOLVING TAX SHELTERS.—

"(i) IN GENERAL.—In the case of any item attributable to a tax shelter—

"(I) subparagraph (B)(ii) shall not apply, and

"(II) subparagraph (B)(i) shall not apply unless (in addition to meeting the requirements of such subparagraph) the taxpayer reasonably believed that the tax treatment of such item by the taxpayer was more likely than not the proper treatment.

"(ii) TAX SHELTER.—For purposes of clause (i), the term 'tax shelter' means—

"(I) a partnership or other entity,

"(II) any investment plan or arrangement, or

"(III) any other plan or arrangement,

if the principal purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.

"SEC. 6663. IMPOSITION OF NEGLIGENCE PENALTY.

"(a) IN GENERAL.—If any part of any understatement (as defined in section 6662(b)(2)) of tax required to be shown on a return is due to negligence (or disregard of rules or regulations), there shall be added to tax an amount equal to 25 percent of the portion of the understatement which is attributable to negligence.

"(b) NEGLIGENCE; ETC.—For purposes of this subsection, the term 'negligence' includes any failure to make a reasonable attempt to comply with the provisions of this title, and the term 'disregard' includes any careless, reckless, or intentional disregard.

"SEC. 6664. IMPOSITION OF FRAUD PENALTY.

"(a) IMPOSITION OF PENALTY.—If any part of any understatement (as defined in section 6662(b)(2)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 100 percent of the portion of the understatement which is attributable to fraud.

"(b) SPECIAL RULE FOR JOINT RETURNS.—In the case of a joint return, this section shall not apply with respect to a spouse unless some part of the understatement is due to the fraud of such spouse.

"SEC. 6665. COORDINATION OF PENALTIES.

"With respect to any portion of understatement (as defined in section 6662(b)(2)) of tax, only 1 section in this part shall apply.

"SEC. 6666. REASONABLE CAUSE EXCEPTION.

"No penalty shall be imposed under this part with respect to any portion of an understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion."

"PART III—APPLICABLE RULES

"Sec. 6667. Applicable rules.

"SEC. 6667. APPLICABLE RULES.

"(a) ADDITIONS TREATED AS TAX.—Except as otherwise provided in this title—

"(1) the additions to the tax, additional amounts, and penalties provided by this chapter shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as taxes; and

"(2) any reference in this title to 'tax' imposed by this title shall be deemed also to refer to the additions to the tax, additional amounts, and penalties provided by this chapter.

"(b) PROCEDURE FOR ASSESSING CERTAIN ADDITIONS TO TAX.—For purposes of subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes), subsection (a) shall not apply to any addition to tax under section 6651, 6654, or 6655; except that it shall apply—

"(1) in the case of an addition described in section 6651, to that portion of such addition which is attributable to a deficiency in tax described in section 6211; or

"(2) to an addition described in section 6654 or 6655, if no return is filed for the taxable year."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 6653 is amended to read as follows:

"SEC. 6653. FAILURE TO PAY STAMP TAX.

"Any person (as defined in section 6671(b)) who—

"(1) willfully fails to pay any tax imposed by this title which is payable by stamp, coupons, tickets, books, or other devices or methods prescribed by this title or by regulations under the authority of this title, or

"(2) willfully attempts in any manner to evade or defeat any such tax or the payment thereof,

shall, in addition to other penalties provided by law, be liable for a penalty of 50 percent of the total amount of the underpayment of the tax."

(2) Sections 6659 and 6660 are hereby repealed.

(3) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6661(b)(2)(C)(ii)" and inserting "section 6662(b)(2)(C)(ii)".

(4) Clause (i) of section 1274(b)(3)(B) is amended by striking "section 6661(b)(2)(C)(ii)" and inserting "section 6662(b)(2)(C)(ii)".

(5) Subsection (b) of section 5684 is amended—

(A) by striking "6662(a)" and inserting "6667(a)", and

(B) by striking "6662" in the subsection heading and inserting "6667".

(6) Subsection (a) of section 5761 is amended by striking "or 6653" and inserting "or 6653 or part II of subchapter A of chapter 68".

(7) Subsection (c) of section 5761 is amended—

(A) by striking "6662(a)" and inserting "6667(a)", and

(B) by striking "6662" in the subsection heading and inserting "6667".

(8) Subparagraph (A) of section 6013(b)(5) is amended—

(A) by striking "section 6653" and inserting "part II of subchapter A of chapter 68", and

(B) by striking "SECTION 6653" in the subparagraph heading and inserting "PART II OF SUBCHAPTER A OF CHAPTER 68".

(9) Paragraph (3) of section 6013(e) is amended by striking "section 6661(b)(2)(A)" and inserting "section 6662(b)(2)(A)".

(10) Subsection (d) of section 6222 is amended by striking "section 6653(a)" and inserting "part II of subchapter A of chapter 68".

(11) Paragraph (2) of section 6601(e) is amended by striking "section 6651(a)(1), 6653, 6659, 6660, or 6661" each place it appears and inserting "section 6651(a)(1) or 6653 or under part II of subchapter A of chapter 63".

(12) Subparagraph (A) of section 6621(c)(3) is amended by striking clause (i) and by redesignating clauses (ii) through (v) as clauses (i) through (iv), respectively.

(13) Subsection (a) of section 6672 is amended by striking "under section 6653" and inserting "under section 6653 or part II of subchapter A of chapter 68".

(14) Subparagraph (B) of section 7519(f)(4) is amended by striking "section 6653" and inserting "part II of subchapter A of chapter 68".

(15) Subchapter A of chapter 68 is amended by inserting after the subchapter heading the following:

"Part I. General provisions.

"Part II. Substantial understatement of liability penalties.

"Part III. Applicable rules.

"PART I—GENERAL PROVISIONS".

(16) The table of sections for part I of subchapter A of chapter 68 (as amended by paragraph (15)) is amended—

(A) by striking out the items relating to sections 6659, 6660, 6661, and 6662, and

(B) by striking the item relating to section 6653 and inserting:

"Sec. 6653. Failure to pay stamp tax."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1989.

TITLE III—PREPARER, PROMOTER, AND PROTESTER PENALTIES

SEC. 301. PENALTY FOR INSTITUTING PROCEEDINGS BEFORE TAX COURT PRIMARILY FOR DELAY, ETC.

(a) GENERAL RULE.—Section 6673 (relating to damages assessable for instituting proceedings before the Tax Court primarily for delay, etc.) is amended to read as follows:

"SEC. 6673. SANCTIONS AND COSTS AWARDED BY COURTS.

"(a) TAX COURT PROCEEDINGS.—

"(1) PROCEDURES INSTITUTED PRIMARILY FOR DELAY, ETC.—Whenever it appears to the Tax Court that—

"(A) proceedings before it have been instituted or maintained by the taxpayer primarily for delay,

"(B) the taxpayer's position in such proceeding is frivolous or groundless, or

"(C) the taxpayer unreasonably failed to pursue available administrative remedies,

the Tax Court, in its decision, may require the taxpayer to pay to the United States a penalty not in excess of $25,000.

"(2) COUNSEL'S LIABILITY FOR EXCESSIVE COSTS.—Whenever it appears to the Tax Court that any attorney or other person admitted to practice before the Tax Court has multiplied the proceedings in any case unreasonably and vexatiously, the Tax Court may require—

"(A) that such attorney or other person pay personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct, or

"(B) if such attorney is appearing on behalf of the Commissioner of Internal Revenue, that the United States pay such excess costs, expenses, and attorneys' fees in the same manner as such an award by a district court.

"(b) PROCEEDINGS IN OTHER COURTS.—

"(1) CLAIMS UNDER SECTION 7433.—Whenever it appears to the court that the taxpayer's position in the proceedings before the court instituted or maintained by such taxpayer under section 7433 is frivolous or groundless, the court may require the taxpayer to pay to the United States a penalty not in excess of $10,000.

"(2) COLLECTION OF SANCTIONS AND COSTS.—In any civil proceeding before any court (other than the Tax Court) which is brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty under this title, any monetary sanctions, penalties, or costs awarded by the court to the United States may be assessed by the Secretary and, upon notice and demand, may be collected in the same manner as a tax.

"(3) SANCTIONS AND COSTS AWARDED BY A COURT OF APPEALS.—In connection with any appeal from a proceeding in the Tax Court or a civil proceeding described in paragraph (2), an order of a United States Court of Appeals or the Supreme Court awarding monetary sanctions, penalties or court costs to the United States may be registered in a district court upon filing a certified copy of such order and shall be enforceable as other district court judgments."

(b) CLARIFICATION OF AUTHORITY TO IMPOSE PENALTIES BY APPELLATE COURTS.—Paragraph (4) of section 7482(c) (relating to power to impose damages) is amended to read as follows:

"(4) TO IMPOSE PENALTIES.—The United States Court of Appeals and the Supreme Court shall have the power to require the taxpayer to pay to the United States a penalty in any case where the decision of the Tax Court is affirmed and it appears that the appeal was instituted or maintained primarily for delay or that the taxpayer's position in the appeal is frivolous or groundless."

(c) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6673 and inserting the following:

"Sec. 6673. Sanctions and costs awarded by courts."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to positions taken after December 31, 1989, in proceedings which are pending on, or commenced after such date.

SEC. 302. MODIFICATIONS TO PENALTIES ON RETURN PREPARERS FOR CERTAIN UNDERSTATEMENTS.

(a) GENERAL RULE.—Subsections (a) and (b) of section 6694 (relating to understatement of taxpayer's liability by income tax return preparer) are amended to read as follows:

"(a) UNDERSTATEMENTS DUE TO UNREALISTIC POSITIONS.—If—

"(1) any part of any understatement of liability with respect to any return or claim for refund is due to a position for which there was not a realistic possibility of being sustained on its merits,

"(2) any person who is an income tax return preparer with respect to such return or claim knew (or reasonably should have known) of such position, and

"(3) such position was not disclosed as provided in section 6662(b)(2)(B)(ii) or was frivolous,

such person shall pay a penalty of $250 with respect to such return or claim unless it is shown that there is reasonable cause for the understatement and such person acted in good faith.

"(b) WILLFUL OR RECKLESS CONDUCT.—If any part of any understatement of liability with respect to any return or claim for refund is due—

"(1) to a willful attempt in any manner to understate the liability for tax by a person who is an income tax return preparer with respect to such return or claim, or

"(2) to any reckless or intentional disregard of rules or regulations by any such person,

such person shall pay a penalty of $1,000 with respect to such return or claim. With respect to any return or claim, the amount of the penalty payable by any person by reason of this subsection shall be reduced by the amount of the penalty paid by such person by reason of subsection (a)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to documents prepared after December 31, 1989.

SEC. 303. MODIFICATIONS TO OTHER ASSESSABLE PENALTIES WITH RESPECT TO RETURN PREPARERS.

(a) FAILURE TO FURNISH COPY TO TAXPAYER.—Subsection (a) of section 6695 is amended—

(1) by striking "$25" and inserting "$50", and

(2) by adding at the end thereof the following new sentence: "The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed $25,000."

(b) FAILURE TO SIGN RETURN.—Subsection (b) of section 6695 is amended—

(1) by striking "$25" and inserting "$50", and

(2) by adding at the end thereof the following new sentence: "The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed $25,000."

(c) FAILURE TO FURNISH IDENTIFYING NUMBER.—Subsection (c) of section 6695 is amended—

(1) by striking "$25" and inserting "$50", and

(2) by adding at the end thereof the following new sentence: "The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed $25,000."

(d) FAILURE TO FILE CORRECT INFORMATION RETURNS.—Subsection (e) of section 6695 is amended to read as follows:

"(e) FAILURE TO FILE CORRECT INFORMATION RETURNS.—Any person required to make a return under section 6060 who fails to comply with the requirements of such section shall pay a penalty of $50 for—

"(1) each failure to file a return as required under such section, and

"(2) each failure to set forth an item in the return as required under section,

unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed $25,000."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to documents prepared after December 31, 1989.

SEC. 304. MODIFICATIONS TO PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS, ETC.

(a) GENERAL RULE.—Subsection (a) of section 6700 is amended—

(1) by inserting "(directly or indirectly)" after "participates" in paragraph (1)(B),

(2) by inserting "or causes another person to make or furnish" after "makes or furnishes" in paragraph (2), and

(3) by striking the material following paragraph (2) and inserting the following:

"shall pay, with respect to each activity described in paragraph (1), a penalty equal to the $1,000 or, if the person establishes that it is lesser, 100 percent of the gross income derived (or to be derived) by such person from such activity. For purposes of the preceding sentence, activities described in paragraph (1)(A) with respect to each entity or arrangement shall be treated as a separate activity and participation in each sale described in paragraph (1)(B) shall be so treated."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after December 31, 1989.

SEC. 305. MODIFICATIONS TO PENALTIES FOR AIDING AND ABETTING UNDERSTATEMENT OF TAX LIABILITY.

(a) GENERAL RULE.—Subsection (a) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended—

(1) by striking "in connection with any matter arising under the internal revenue laws" in paragraph (1),

(2) by striking "who knows" in paragraph (2) and inserting "who knows (or has reason to believe)", and

(3) by striking "will result" in paragraph (3) and inserting "would result".

(b) COORDINATION WITH PENALTY UNDER SECTION 6700.—

(1) IN GENERAL.—Subsection (f) of section 6701 is amended by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH SECTION 6700.—No penalty shall be assessed under section 6700 on any person with respect to any document for which a penalty is assessed on such person under subsection (a)."

(2) TECHNICAL AMENDMENT.—Paragraph (1) of section 6701(f) is amended by striking "paragraph (2)" and inserting "paragraphs (2) and (3)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 31, 1989.

SEC. 306. MODIFICATION TO PENALTY FOR FRIVOLOUS INCOME TAX RETURN.

(a) REQUIREMENT OF FULL PAYMENT OF PENALTY.—Subsection (c) of section 6703 is amended by striking "section 6700, 6701, or 6702" each place it appears and inserting "section 6700 or 6701".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to returns filed after December 31, 1989.

SEC. 307. AUTHORITY TO COUNTERCLAIM FOR BALANCE OF PENALTY IN PARTIAL REFUND SUITS.

(a) GENERAL RULE.—Sections 6672(b)(1), 6694(c)(1), and 6703(c)(1) are each amended by adding at the end thereof the following new sentence: "Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 308. REPEAL OF BONDING REQUIREMENT UNDER SECTION 7407.

(a) GENERAL RULE.—Subsection (c) of section 7407 (relating to bond to stay injunction) is hereby repealed.

(b) CONFORMING AMENDMENT.—Subsection (a) of section 7407 is amended by striking "Except as provided in subsection (c), a civil" and inserting "A civil".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions commenced after December 31, 1989.

SEC. 309. CERTAIN DISCLOSURES OF INFORMATION BY PREPARERS PERMITTED.

(a) GENERAL RULE.—Paragraph (3) of section 7216(b) (relating to exceptions) is amended by adding at the end thereof the following new sentence: "Such regulations shall permit (subject to such conditions as such regulations shall provide) the disclosure or use of information for quality or peer reviews."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

TITLE IV—FAILURES TO FILE OR PAY

SEC. 401. INCREASE IN PENALTY FOR FAILURE TO FILE.

(a) IN GENERAL.—Section 6651 (relating to failure to file tax return or to pay tax) is amended—

(1) by striking paragraph (1) of subsection (a) and inserting the following new paragraph:

"(1) to file any return required under authority of subchapter A of chapter 61 (other than part III thereof), subchapter A of chapter 51 (relating to distilled spirits, wines, and beer), or of subchapter A of chapter 52 (relating to tobacco, cigars, cigarettes, and cigarette papers and tubes), or of subchapter A of chapter 53 (relating to machine guns and certain other firearms), on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on such return—

"(A) $50 for such failure, plus

"(B) 5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate;

(2) by striking the second sentence of subsection (a),

(3) by striking "subsection (a)(1)" in subsection (b)(1) and inserting "subsection (a)(1)(B)",

(5) by striking "paragraphs (1)" in subsection (c)(1) and inserting "paragraphs (1)(B)",

(6) by striking the second sentence in subsection (c)(1), and

(7) by adding at the end the following new subsection:

"(f) EXCEPTION FOR CERTAIN LOW-INCOME TAXPAYERS.—No addition to tax shall be imposed under subsection (a)(1)(A) for any taxable year if the failure to file the return for such year is by a taxpayer whose gross income for such year does not exceed the taxpayer's standard deduction (as defined in section 63(c)) and deduction for personal exemptions provided in section 151 for such year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of failures to file returns the due date for which (determined without regard to extensions) is after December 31, 1989.

SEC. 402. FAILURE TO MAKE DEPOSIT OF TAXES.

(a) GENERAL RULE.—Section 6656 (relating to failure to make deposit of taxes or overstatement of deposits) is amended to read as follows:

"SEC. 6656. FAILURE TO MAKE DEPOSIT OF TAXES.

"(a) UNDERPAYMENT OF DEPOSITS.—In the case of any failure by any person to deposit (as required by this title or by regulations of the Secretary under this title) on the date prescribed therefor any amount of tax imposed by this title in such government depository as is authorized under section 6302(c) to receive such deposit, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be imposed upon such person a penalty equal to the applicable percentage of the amount of the underpayment.

"(b) DEFINITIONS.—For purposes of subsection (a)—

"(1) APPLICABLE PERCENTAGE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'applicable percentage' means—

"(i) 2 percent if the failure is for not more than 5 days,

"(ii) 5 percent if the failure is for more than 5 days but not more than 15 days, and

"(iii) 10 percent if the failure is for more than 15 days.

"(B) SPECIAL RULE.—In any case where the tax is not deposited on or before the earlier of—

"(i) the date of the notice to the taxpayer described in section 6331(d), or

"(ii) the day on which notice and demand for immediate payment is given under section 6861 or 6862 or the last sentence of section 6331(a),

the applicable percentage shall be 15 percent.

"(2) UNDERPAYMENT.—The term 'underpayment' means the excess of the amount of the tax required to be deposited over the amount, if any, thereof deposited on or before the date prescribed therefor."

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter A of chapter 68 (as amended by title II) is amended by striking the item relating to section 6656 and inserting the following:

"Sec. 6656. Failure to make deposit of taxes."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to deposits required to be made after December 31, 1990.

SEC. 403. EFFECT OF PAYMENT OF TAX BY RECIPIENT ON CERTAIN PENALTIES.

(a) GENERAL RULE.—Section 1463 (relating to tax paid by recipient of income) is amended to read as follows:

"SEC. 1463. TAX PAID BY RECIPIENT OF INCOME.

"If—

"(1) any person, in violation of the provisions of this chapter, fails to deduct and withhold any tax under this chapter, and

"(2) thereafter the tax against which such tax may be credited is paid,

the tax so required to be deducted and withheld shall not be collected from such person; but this subsection shall in no case relieve such person from liability for interest or any penalties or additions to the tax otherwise applicable in respect of such failure to deduct and withhold."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to failures after December 31, 1989.

Mr. METZENBAUM. Mr. President, I would like to rise to commend the distinguished Senator from Arkansas for his thoughtful and concise suggestions and analysis in connection with the problem that disturbs millions of Americans.

I listened intently as he spoke and realized that he has taken on a problem that disturbs so many Americans for which there is no answer for them; there is no recourse. Their Congresspersons or Senators can do nothing about it. And the bureaucracy is so difficult to deal with.

The Senator from Arkansas has seen this problem just as he has seen many other problems in this body, and has created a task force to examine it. Obviously that task force is well led, and has devoted much of its time selflessly to examine the problem.

I think he has come forward with a number of excellent suggestions. I rise to commend him and say that the Senate is indeed thankful that a person such as he addresses himself to these problems on such a regular basis. The people of Arkansas are well represented.

Mr. PRYOR. Mr. President, I thank very much my good friend, Senator METZENBAUM, for those kind words and hope I can live up to those fine remarks.

Mr. President, I thank the Senator and I yield the floor.

By Mr. COATS:

S. 1786. A bill to protect the rights of victims of child abuse, and for other purposes; to the Committee on the Judiciary.

CHILD PROTECTION ACT

● Mr. COATS. Mr. President, there is nothing more distrubing than the sexual abuse and exploitation of children. And there is no higher purpose of Government than the protection of the innocent. Today this unspeakable crime has become more than an individual tragedy. It has become a productive and very lucrative business. We have seen the development of a

growth industry in exploitation, controlled by organized crime.

The emotional destruction that results from the production and distribution of child pornography is well documented. Congress has strengthened laws forbidding it. The courts have recognized that the sexual abuse of children cannot be shielded by the first amendment. But even with all this, the Government still lacks some essential weapons it needs to wage the fight against child pronography and sexual exploitation. The young victims of these crimes still lack effective Federal remedies against those who exploit them.

One problem arises from the fact that current FBI files lack sufficient information on crimes involving the abuse of children, including background data on child sex molesters. As a consequence, it is difficult to prevent people with a record of child abuse from finding employment in positions which give them easy access to their victims.

Federal law must be strengthened to allow prosecutors and investigators to track down and prosecute child molesters and pornographers. Mandatory sentences for child kidnaping are needed to provide a more effective deterrent for offenses involving child abuse and to reduce recidivism. Federal rules of evidence, criminal and civil procedure and other courtroom, investigative and prosecutorial procedures need to be changed to encourage the young victims of child abuse to come forward to testify. The lack of testimony by victims, as well as the damage to their credibility created by the courtroom experience, has impaired the prosecution of child exploitation offenders.

I have long been concerned over the extent of involvement of organized crime in the production and distribution of pornography. While there are a number of Federal statutes aimed at the criminal elements involved in this activity, it is incomprehensible that the sexual exploitation of children is not specifically included in the definition of racketeering activity contained in the major statute aimed at organized crime, the Racketeering Influenced and Corrupt Organizations Act, or RICO.

The legislation I am introducing today, the Child Protection Act of 1989, is designed to address the persistent problems of sexual exploitation of children and child abuse in this country. My bill adds the sexual exploitation of children as an offense under the racketeer influenced and corrupt organization statute. This will enable investigators and prosecutors to use wiretaps, special grand juries and expanded subpoena authority to arrest, prosecute and convict child molesters and pornographers.

Child prostitution is the kind of crime of violence and racketeering activity that RICO was enacted to stop. Adding the sexual exploitation of minors to the list of Federal offenses covered under RICO will subject the child molester to both criminal and civil liability. This will strengthen the statute as an effective law enforcement tool and as a deterrent to pedophiles and pornographers. It will enable those minors and young children who have been the innocent victims of sexual crime and abuse to win compensation for the terrible harm they've suffered, recovering treble damages, costs and attorney's fees. Professor G. Robert Blakey of Notre Dame Law School, the godfather of the RICO law, supports the inclusion of the sexual exploitation of children as a predicate act under RICO.

Section 4 of the bill allows any person injured personally or in his business or property by such violations to bring a civil suit for treble damages plus reasonable attorney's fees. This makes clear that the victims of sexual exploitation can sue to recover for the injuries they sustain from the child molester or pornographer.

Section 5 imposes a mandatory life sentence for kidnaping offenses involving the murder of a minor. Morever, the offender will not be eligible for probation, a suspended sentence or parole.

Section 6 increases the mandatory minimum sentence for a person with a prior conviction of sexual exploitation of children from 2 years to 5 years. The repeat offender will not be eligible for probation, a suspended sentence or parole until he or she has served 5 years.

Under section 7 the staute of limitations for prosecuting offenses involving the sexual exploitation of children is extended until the minor reaches his or her 18th birthday.

Section 8 of the bill requires the Attorney General to report to Congress on possible changes in the Federal rules of evidence, the Federal rules of criminal procedure and of civil procedure, and other courtroom, prosecutorial and investigative proceedings which would facilitate the testimony of child victims of sexual abuse and exploitation. Among the changes to be studied are consideration of closed-circuit cameras, two-way mirrors, and out-of-court statements; judicial discretion to limit the use of harassing and confusing questions against child witnesses; the use of videotape and other devices to improve investigative procedures; and improved training of prosecutorial and investigative staff where child witnesses are involved.

Section 9 would require the Attorney General to modify the classification system used by the National Crime Information Center and the FBI with respect to offenses involving the sexual exploitation of children by: First, including the age of the victim and the relationship of the victim to the offender; and second, using a uniform definition of a child. Current Federal files contain insufficient information to identify sexual molesters already convicted of crimes involving the aubse of children. This will allow background checks of people who seek to be engaged in the work of supervising children.

An identical bill has been introduced in the House by Representatives DORNAN and STENHOLM, with a bipartisan coalition of almost 50 cosponsors. Mr. President, I ask unanimous consent that my legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1786

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Protection Act of 1989".

SEC. 2. FINDINGS.

Congress finds that—

(1) child exploitation has become a multimillion dollar industry, infiltrated and operated by elements of organized crime, and by a nationwide network of individuals openly advertising their desire to exploit children;

(2) Congress has recognized the physiological, psychological, and emotional harm caused by the production, distribution, and display of child pornography by strengthening laws proscribing such activity;

(3) the Federal government lacks sufficient enforcement tools to combat concerted efforts to exploit children proscribed by Federal law, and exploitation victims lack effective remedies under Federal law;

(4) child molesters and others who prey on children frequently seek employment in or volunteer for positions that give them ready exposure to children;

(5) Congress has encouraged background checks to prevent individuals with a record of child abuse from attaining such positions, even though current Federal files contain insufficient information to identify crimes involving abuse of children;

(6) mandatory sentences for kidnaping of children would provide an effective deterrent for such offenses and reduce recidivism; and

(7) current rules of evidence, criminal procedure, and civil procedure and other courtroom and investigative procedures inhibit the participation of child victims as witnesses and damage their credibility when they do testify, impairing the prosecution of child exploitation offenses.

SEC. 3. INCLUSION OF SEXUAL EXPLOITATION OF CHILDREN UNDER RICO.

Section 1961(1)(B) of title 18, United States Code, is amended by inserting after "section 1955 (relating to the prohibition of illegal gambling businesses)," the following: "sections 2251 and 2252 (relating to sexual exploitation of children),".

SEC. 4. AUTHORIZATION OF CIVIL SUITS UNDER RICO FOR PERSONAL INJURY.

Subsection (c) of section 1964 of title 18, United States Code, is amended to read as follows—

"(c) Any person injured—

"(1) personally by reason of a violation of section 1962 if such injury results from an act indictable under sections 2251 and 2252 (relating to sexual exploitation of children); or

"(2) in the business or property of such person by reason of any violation of section 1962,

may bring suit therefor in any appropriate United States district court and shall recover threefold the damages such person sustains and the cost of the suit, including a reasonable attorney's fee.".

SEC. 5. MANDATORY LIFE IN KIDNAPING OFFENSES INVOLVING THE MURDER OF A MINOR.

Section 1201 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting ", except as provided in subsection (g) of this section," before "be punished"; and

(2) by adding at the end thereof the following new subsection:

"(g) If the victim of an offense under subsection (a) is a person who has not attained the age of 18 years, the punishment shall be imprisonment for life. Notwithstanding any other provision of law, the court, in imposing a life sentence under this subsection, shall not sentence the defendant to probation, nor suspend such sentence, and the defendant shall not be eligible for release on parole.".

SEC. 6. MANDATORY MINIMUM SENTENCE.

(a) SECTION 2251 AMENDMENT.—Section 2251(c) of title 18, United States Code, is amended—

(1) by striking out ", such individual" and all that follows through the first period, and inserting in lieu thereof ", such person shall be imprisoned not less than 5 years nor more than 25 years, and may also be fined under this title"; and

(2) by adding at the end thereof the following new sentence: "Notwithstanding any other provision of law, the court, in imposing sentence for a person with a prior conviction under this section, shall not sentence the defendant to probation, nor suspend such sentence, and the defendant shall not be eligible for release on parole until such defendant has served 5 years in prison.".

(b) SECTION 2252 AMENDMENT.—Section 2252(b) of title 18, United States Code, is amended—

(1) by striking out ", such individual" and all that follows through the first period, and inserting in lieu thereof ", such person shall be imprisoned not less than 5 years nor more than 25 years, and may also be fined under this title"; and

(2) by adding at the end thereof the following new sentence: "Notwithstanding any other provision of law, the court, in imposing sentence for a person with a prior conviction under this section, shall not sentence the defendant to probation, nor suspend such sentence, and the defendant shall not be eligible for release on parole until he has served not less than 5 years.".

SEC. 7. EXTENSION OF STATUTE OF LIMITATIONS FOR CERTAIN OFFENSES INVOLVING SEXUAL EXPLOITATION OF CHILDREN.

(a) SECTION 2251 AMENDMENT.—Section 2251 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) The period of any applicable limitation for the commencment of prosecution under this section shall not begin until the minor has reached the age of 18 years.".

(b) SECTION 2252 AMENDMENT.—Section 2252 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The period of any applicable limitation for the commencement of prosecution under this section shall not begin until the minor has reached the age of 18 years.".

SEC. 8. ATTORNEY GENERAL REPORT.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall prepare and submit, to the appropriate Committees of Congress, a report that details possible changes in the Federal Rules of Evidence, the Federal Rules of Criminal Procedure, the Federal Rules of Civil Procedure, and other Federal courtroom, prosecutorial, and investigative procedures that would facilitate the participation of child witnesses in cases involving child abuse and sexual exploitation.

(b) CHANGES TO BE CONSIDERED.—In preparing the report required under subsection (a), the Attorney General shall consider changes such as—

(1) use of closed-circuit cameras, two-way mirrors, and other out-of-court statements;

(2) judicial discretion to circumscribe use of harassing, overly complex, and confusing questions against child witnesses;

(3) use of videotape in investigations to reduce repetitions of interviews;

(4) streamlining investigative procedures; and

(5) improved training of prosecutorial and investigative staff in special problems of child witnesses.

SEC. 9. REQUIREMENT OF DETAILED FBI OFFENSE CLASSIFICATION SYSTEM.

The Attorney General shall modify the classification system used by the National Crime Information Center in its Interstate Identification Index, and by the Identification Division of the Federal Bureau of Investigation in its Criminal File, with respect to offenses invovling sexual exploitation of children by—

(1) including in the description of such offenses, the age of the victim, and the relationship of the victim to the offenders; and

(2) classifying such offenses by using a uniform definition of a child.

By Mr. DECONCINI (for himself, Mr. THURMOND, Mr. HEFLIN, Mr. GRASSLEY, and Mr. HATCH):

S. 1787. A bill to restore the recordkeeping requirement of the Child Protection and Obscenity Enforcement Act of 1988; to the Committee on the Judiciary.

CHILD PROTECTION AND OBSCENITY ENFORCEMENT ACT AMENDMENTS

● Mr. DECONCINI. Mr. President, I rise today to introduce legislation which restores the recordkeeping provisions to the Child Protection and Obscenity Enforcement Act of 1988. The original legislation, introduced by Senator THURMOND, of which I was an original cosponsor, required that anyone producing sexually explicit material, keep records as to the identity and age of individuals depicted in such material. This requirement was designed as a protection against sexual exploitation of our Nation's children. The recordkeeping provision provided a necessary tool for prosecutors to prove that child pornographers intended to sexually exploit young children. The original legislation, including the recordkeeping requirements, became law when passed overwhelmingly by this body as part of the Anti-Drug Abuse Act of 1988.

Despite its importance to the enforcement of our child pornography laws, the recordkeeping requirement was struck down earlier this year in the case of American Library Association versus Thornburgh. In that decision, Judge Revercomb of the Federal District Court of the District of Columbia found that the recordkeeping requirement cut too deeply into first amendment rights. Consequently, the multimillion dollar pornography industry continues to prey on our young people through reprehensible sexual exploitation. Forced or coerced sexual activity for the benefit of a pornographer's pocketbook etches scars into the impressionable personalities of children. The victims of sexual exploitation are often defenseless runaways. Surprisingly, young victims are also often introduced to the pornographer by trusted parents or guardians.

This continued victimization of children cannot be tolerated in a just society. It is critical that we stem this tide of filth and oppression, and that we do so now. I recognize that any actions taken must be taken within the constitutional limits expressed by the court, and for that reason I am introducing this legislation today. The provisions of this bill have been carefully tailored to meet the concerns raised by the court in the American Library case. I urge my colleagues to once more act on behalf of future generations and move quickly to pass this legislation restoring the recordkeeping requirement to the Child Protection and Obscenity Enforcement Act.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1787

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RECORDKEEPING REQUIREMENTS.

Section 2257 of title 18, United States Code, is amended by striking subsections (d) and (e) and inserting the following:

"(d)(1) No information or evidence obtained from records required to be created or maintained by this section shall, except as provided in paragraph (2), be used, directly or indirectly, as evidence against any person with respect to any violation of law.

"(2) Paragraph (1) of this subsection shall not preclude the use of such information or evidence in a prosecution or other action for a violation of this section or for a violation of any applicable provision of law with respect to the furnishing of false information.

"(e)(1) Any person to whom subsection (a) applies shall cause to be affixed to every

copy of any matter described in paragraph (1) of subsection (a) of this section, in such manner and in such form as the Attorney General shall by regulations prescribe, a statement describing where the records required by this section with respect to all performers depicted in that copy of the matter may be located.

"(2) If the person to whom subsection (a) of this section applies is an organization the statement required by this subsection shall include the name, title, and business address of the individual employed by such organization responsible for maintaining the records required by this section.

"(f) It shall be unlawful—

"(1) for any person to whom subsection (a) applies to fail to create or maintain the records as required by subsections (a) and (c) or by any regulation promulgated under this section;

"(2) for any person to whom subsection (a) applies knowingly to make any false entry in or knowingly to fail to make an appropriate entry in, any record required by subsection (b) of this section or any regulation promulgated under this section;

"(3) for any person to whom subsection (a) applies knowingly to fail to comply with the provisions of subsection (e) or any regulation promulgated pursuant to that subsection; and

"(4) for any person knowingly to sell or otherwise transfer, or offer for sale or transfer, any book, magazine, periodical, film, video, or other matter, produce in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce or which is intended for shipment in interstate or foreign commerce, which—

"(A) contains one or more visual depictions made after the effective date of this subsection of actual sexually explicit conduct; and

"(B) is produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce;

which does not have affixed thereto, in a manner prescribed as set forth in subsection (e)(1), a statement describing where the records required by this section may be located, but such person shall have no duty to determine the accuracy of the contents of the statement or the records required to be kept.

"(g) The Attorney General shall issue appropriate regulations to carry out this section.

"(h) As used in this section—

"(1) the term 'actual sexually explicit conduct' means actual but not simulated conduct as defined in subparagraphs (A) through (D) of paragraph (2) of section 2256 of this title;

"(2) 'identification document' has the meaning given that term in section 1028(d) of this title;

"(3) the term 'produces' means to produce, manufacture, or publish any book, magazine, periodical, film, video tape or other similar matter and includes the duplication, reproduction, or reissuing of any such matter, but does not include mere distribution; and

"(4) the term 'performer' includes any person portrayed in a visual depiction engaging in, or assisting another person to engage in, actual sexually explicit conduct.

"(i) Whoever violates this section shall be imprisoned for not more than 2 years, and fined in accordance with the provisions of this title, or both. Whoever violates this section after having been convicted of a violation punishable under this section shall be imprisoned for any period of years not more than 5 years but not less than 2 years, and fined in accordance with the provisions of this title, or both.".

SEC. 2. EFFECTIVE DATE.

Subsections (d), (f), (g), (h), and (i) of section 2257 of title 18, United States Code, as added by this section shall take effect 90 days after the date of the enactment of this Act except—

(1) the Attorney General shall prepare the initial set of regulations required or authorized by subsections (d), (f), (g), (h), and (i) of section 2257 within 60 days of the date of the enactment of this Act; and

(2) subsection (e) of section 2257 and of any regulation issued pursuant thereto shall take effect 90 days after the date of the enactment of this Act.●

Mr. THURMOND. Mr. President, today, I join with Senator DECONCINI in introducing legislation which will amend key provisions of the Child Protection and Obscenity Enforcement Act of 1988 so that the constitutionality of the act can be insured.

In the 100th Congress, the Senate passed the Child Protection and Obscenity Enforcement Act of 1988 by a unanimous vote of 97 to 0 and shortly thereafter it was enacted into law. This important legislation, which I introduced, was carefully drafted to give government a strong weapon for fighting child pornography and obscenity. However, on May 16, 1989, in the case of American Library Association versus Dick Thornburgh, Attorney General of the United States, a Federal district court struck down key provisions of that legislation.

Regarding the decision, the court declared unconstitutional and enjoined enforcement of certain recordkeeping provisions. These provisions were strong, effective ones, useful in the fight against pornography. For this reason, I find the decision troubling. The strong public policy against, and the evils associated with, child pornography and obscenity justify the burdens this legislation places upon the pornography industry.

Despite the justification for these requirements, Congress must act to remedy the act so that it is in compliance with the decision of the court. Althought this is only the decision of one Federal court, it operates as a precedent for other courts since the American Library decision regarding these provisions has been permitted to stand.

For these reasons, Senator DECONCINI and I have introduced this legislation. This bill would require producers of pornography to maintain individually identifiable records of every performer's name and age to insure that those performers are not minors. Anyone who fails to keep such records, falsifies such records, or knowingly transfers pornography which does not contain a statement describing where such records can be found will be subject to up to 2 years imprisonment.

The information contained in these records, or the failure to keep such records, cannot be used as evidence of child pornography or related offenses but only to prosecute individuals for a violation of this section. In addition, this legislation is prospective and does not apply to pornography which is produced prior to enactment of this statute. This legislation complies with the recommendations of the district court in the American Library case.

In summary, this legislation unquestionably passes constitutional muster and it will help assure that minors are not used in the production of pornography. It is narrowly tailored to serve the legitimate governmental interest of protecting children from sexual exploitation without burdening heavily upon first amendment rights.

In closing, our Nation must take every reasonable step necessary to ensure the protection of our society and our most precious resource—our children. Unless we continue to strengthen our laws, the progress we have made in recent years could be easily eroded. The interests of our children and those who are the victims of child pornography and obscenity demand our sincere attention and endless efforts. For these reasons, I strongly urge my colleagues to review this bill and cosponsor this worthwhile measure.

By Mr. BURDICK.

S. 1788. A bill for the relief of Luis Gil Jain, Nevadita Garcia Jain, Louie Anthony Garcia Jain, and Liza Antoinette Garcia Jain; to the Committee on the Judiciary.

RELIEF OF JAIN FAMILY

● Mr. BURDICK. Mr. President, today I am submitting a private immigration bill for Dr. Luis Jain, his wife and three young children. This family is in a unique situation. Dr. Jain is from the Marshall Islands and does not need a visa to enter the United States. His wife and children are citizens of the Philippines. Mrs. Jain is here on a tourist visa which has been renewed twice. Her most recent request for renewal has been denied and her visa is due to expire on December 12, 1989. Their three children are here on student visas and are allowed to stay until 1992 and 1993. If Mrs. Jain is forced to leave the country, the family will be separated while Dr. Luis finishes medical school.

Dr. Jain is a second-year medical resident in the University of North Dakota's Family Practice Program. He was a surgeon in the Marshall Islands and is working toward family practice certification. He plans to stay in North Dakota to practice after he completes his residency. He already has a job

offer from a regional clinic to practice at several small community hospitals and clinics.

North Dakota has had a chronic physician shortage, especially in the rural areas. A physician with Dr. Jain's credentials would be extremely valuable to rural areas, where many of our small hospitals are struggling to survive. Having a physician on staff who could do Caesarean sections and other surgeries would allow those rural hospitals to meet many more patients' needs locally. As chairman of the Senate Rural Health Caucus, I believe our Government should do everything possible to encourage doctors who have expressed an interest in practicing in rural areas.

This bill would enable the Jain family to stay together as Dr. Jain helps meet the health needs of rural residents of my State. I realize that private immigration bills are difficult to get approved, but I believe this situation warrants special consideration. I respectfully ask my colleagues to support this private immigration bill.●

By Mr. JOHNSTON (for himself and Mr. McCLURE) (by request):

S. 1789. A bill to make certain improvements with respect to judicial proceedings relating to American Samoa, and for other purposes; to the Committee on Energy and Natural Resources.

IMPROVEMENTS WITH RESPECT TO JUDICIAL PROCEEDINGS INVOLVING AMERICAN SAMOA

● Mr. JOHNSTON. Mr. President, I rise today to introduce legislation at the request of the delegate from Samoa, F.H. ENI FALEOMAVAEGA, and the Administrative Office of the U.S. Courts. This legislation is designed to improve judicial proceedings relating to American Samoa.

This bill has two principal provisions. First, it would provide for Federal court review of decisions of the courts of American Samoa by the U.S. Court of Appeals for the Ninth Circuit and the Supreme Court, and second, it would further provide that actions brought against the Secretary of the Interior in the nature of mandamus regarding the Secretary's responsibilities in relation to American Samoa shall be brought in the District Court for the District of Hawaii.

Under existing law, there is no mechanism for article III courts to review the decisions of the courts of American Samoa. Litigants wishing to appeal decisions of the territorial courts now file applications for writs of mandamus against the Secretary of the Interior in the U.S. District Court for the District of Columbia. Litigants and representatives of the Samoan Government have had to travel to Washington, DC, to defend such suits. This legislation would extend to the U.S. court of appeals the jurisdiction to review all final decisions of the highest court of American Samoa, other than rulings on questions of local law. The Federal court now has that jurisdiction in all other U.S. territories. This measure would also provide that the proper venue for these actions shall be the U.S. District Court for the District of Hawaii.

Mr. President, as with all legislation relating to matters in the insular areas, I look forward to working with the Governor, and the delegate in the House of Representatives, to help assure that the views of the people of the islands will be fully considered.●

ADDITIONAL COSPONSORS

S. 734

At the request of Mr. REID, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 734, a bill to authorize and direct the General Accounting Office to audit the Federal Reserve Board, the Federal Advisory Council, the Federal Open Market Committee, and Federal Banks and their branches.

S. 814

At the request of Mr. DOMENICI, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 814, a bill to provide for the minting and circulation of $1 coins, and for other purposes.

S. 1005

At the request of Mr. HARKIN, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1005, a bill relating to the sale, purchase, or other acquisition of certain railroads.

S. 1062

At the request of Mr. GORE, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1062, a bill to amend the Earthquake Hazards Reduction Act of 1977 to improve the Federal effort to reduce earthquake hazards, and for other purposes.

S. 1119

At the request of Mr. MITCHELL, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 1119, a bill to amend the Internal Revenue Code of 1986 to provide that unearned income of a child attributable to damages received on account of personal injuries or sickness of the child not be taxed at the marginal rate of such child's parents.

S. 1405

At the request of Mrs. KASSEBAUM, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1405, a bill to ensure the eligibility of displaced homemakers and single parents for Federal assistance for first-time homebuyers.

S. 1651

At the request of Mr. MCCAIN, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1651, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United Services Organization.

S. 1653

At the request of Mr. HEINZ, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1653, a bill to preserve the solvency of the railroad retirement system.

S. 1661

At the request of Mr. PRYOR, the names of the Senator from Arkansas [Mr. BUMPERS] and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 1661, a bill to amend the Internal Revenue Code of 1986 to provide for a tax credit for qualifying disability expenses.

S. 1678

At the request of Mr. COCHRAN, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1678, a bill to provide for the establishment of the Margaret Walker Alexander National African American Research Center.

S. 1692

At the request of Mr. NUNN, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1692, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain timber activities under passive loss rules.

S. 1701

At the request of Mr. PACKWOOD, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 1701, a bill to implement the steel trade liberalization program.

S. 1708

At the request of Mr. ROCKEFELLER, the names of the Senator from Connecticut [Mr. LIEBERMAN] and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 1708, a bill to provide for stabilization of the process of providing coal industry health benefits, to clarify Federal tax treatment of the transfer of excess coal pension plan assets to coal health plans, and for other purposes.

S. 1732

At the request of Mr. BOSCHWITZ, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1732, a bill to amend the Internal Revenue Code of 1986 to allow monthly deposits of payroll taxes for employers with monthly payroll tax payments under $10,000, and for other purposes.

S. 1737

At the request of Mr. BOSCHWITZ, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 1737, a bill

to extend the Small Business Development Center Program.

S. 1771

At the request of Mr. PACKWOOD, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1771, a bill to amend the Internal Revenue Code of 1986 to promote savings and long-term investment through a reduced capital gains tax rate and individual retirement plus accounts.

SENATE JOINT RESOLUTION 1

At the request of Mr. KENNEDY, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of Senate Joint Resolution 1, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men.

SENATE JOINT RESOLUTION 53

At the request of Mr. D'AMATO, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of Senate Joint Resolution 53, a joint resolution to designate May 25, 1989, as "National Tap Dance Day."

SENATE JOINT RESOLUTION 159

At the request of Mr. GORE, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of Senate Joint Resolution 159, a joint resolution to designate April 22, 1990, as Earth Day, and to set aside the day for public activities promoting preservation of the global environment.

SENATE JOINT RESOLUTION 210

At the request of Mr. DOLE, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mr. BURDICK], the Senator from North Dakota [Mr. CONRAD], the Senator from Mississippi [Mr. COCHRAN], the Senator from Illinois [Mr. DIXON], the Senator from New York [Mr. D'AMATO], the Senator from California [Mr. CRANSTON], the Senator from Connecticut [Mr. DODD], the Senator from Minnesota [Mr. DURENBERGER], the Senator from New Mexico [Mr. DOMENICI], the Senator from Tennessee [Mr. GORE], the Senator from Washington [Mr. GORTON], the Senator from Utah [Mr. HATCH], the Senator from Alabama [Mr. HEFLIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Vermont [Mr. JEFFORDS], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Wisconsin [Mr. KASTEN], the Senator from Massachusetts [Mr. KERRY], the Senator from Nebraska [Mr. KERREY], the Senator from Wisconsin [Mr. KOHL], the Senator from Florida [Mr. MACK], the Senator from Michigan [Mr. LEVIN], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Idaho [Mr. MCCLURE], the Senator from Ohio [Mr. METZENBAUM], the Senator from Maryland [Ms. MIKULSKI], the Senator from Maine [Mr. MITCHELL], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Georgia [Mr. NUNN], the Senator from Oregon [Mr. PACKWOOD], the Senator from South Dakota [Mr. PRESSLER], the Senator from Arkansas [Mr. PRYOR], the Senator from Virginia [Mr. ROBB], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Wyoming [Mr. SIMPSON], the Senator from South Carolina [Mr. THURMOND], the Senator from Virginia [Mr. WARNER], the Senator from California [Mr. WILSON], the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Joint Resolution 210, a joint resolution to designate the month of October 1989 as "National Spina Bifida Month."

SENATE JOINT RESOLUTION 216

At the request of Mr. DURENBERGER, the names of the Senator from Louisiana [Mr. JOHNSTON], the Senator from Georgia [Mr. FOWLER], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Georgia [Mr. NUNN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Michigan [Mr. LEVIN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Tennessee [Mr. SASSER], the Senator from Idaho [Mr. MCCLURE], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from South Carolina [Mr. THURMOND], the Senator from Oregon [Mr. PACKWOOD], the Senator from Illinois [Mr. DIXON], the Senator from Hawaii [Mr. INOUYE], and the Senator from Utah [Mr. GARN] were added as cosponsors of Senate Joint Resolution 216, a joint resolution designating November 12 through 18, 1989, as "Community Foundation Week."

SENATE CONCURRENT RESOLUTION 55

At the request of Mr. DOLE, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mr. BURDICK], the Senator from North Dakota [Mr. CONRAD], the Senator from California [Mr. CRANSTON], the Senator from Connecticut [Mr. DODD], the Senator from Minnesota [Mr. DURENBERGER], the Senator from New Mexico [Mr. DOMENICI], the Senator from Tennessee [Mr. GORE], the Senator from Washington [Mr. GORTON], the Senator from Utah [Mr. HATCH], the Senator from Alabama [Mr. HEFLIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Vermont [Mr. JEFFORDS], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Wisconsin [Mr. KASTEN], the Senator from Massachusetts [Mr. KERRY], the Senator from Nebraska [Mr. KERREY], the Senator from Wisconsin [Mr. KOHL], the Senator from Florida [Mr. MACK], the Senator from Michigan [Mr. LEVIN], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Idaho [Mr. MCCLURE], the Senator from Ohio [Mr. METZENBAUM], the Senator from Maryland [Ms. MIKULSKI], the Senator from Maine [Mr. MITCHELL], the Senator from Alaska (Mr. MURKOWSKI], the Senator from Georgia [Mr. NUNN], the Senator from Oregon [Mr. PACKWOOD], the Senator from South Dakota [Mr. PRESSLER], the Senator from Arkansas [Mr. PRYOR], the Senator from Virginia [Mr. ROBB], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Wyoming [Mr. SIMPSON], the Senator from South Carolina [Mr. THURMOND], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Concurrent Resolution 55, a concurrent resolution to commemorate the volunteers of the United States and the Hugh O'Brian Youth Foundation.

SENATE CONCURRENT RESOLUTION 62

At the request of Mr. DODD, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of Senate Concurrent Resolution 62, a concurrent resolution commending the decision of the Board of Immigration appeals to allow Joseph Patrick Doherty to apply for political asylum, expressing concern at the Attorney General's June 30, 1989, decision to deny Joseph Patrick Doherty a political asylum hearing, and asking the Attorney General to respect the BIA decision on political asylum and immediately to release Joseph Patrick Doherty on bond pending final completion of the immigration proceedings.

SENATE CONCURRENT RESOLUTION 63

At the request of Mr. BREAUX, the names of the Senator from Kentucky [Mr. FORD], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of Senate Concurrent Resolution 63, a concurrent resolution to recognize the uniqueness of and express strong support for the maritime policy of the United States, and to urge the President in the strongest possible terms to ensure that the United States does not propose maritime transportation services for inclusion in the General Agreement on Tariffs and Trade discussions, and that any proposal that would consider maritime transportation as an area for negotiation is actively opposed by the United States.

SENATE CONCURRENT RESOLUTION 73

At the request of Mr. MOYNIHAN, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from North Dakota [Mr. CONRAD], the Senator from Connecticut [Mr. LIEBER-

MAN], the Senator from Arizona [Mr. DECONCINI], the Senator from Delaware [Mr. BIDEN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Rhode Island [Mr. PELL], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Concurrent Resolution 73, a concurrent resolution to express the support of the Congress for the courageous people of Colombia.

AMENDMENTS SUBMITTED

MUTUAL LEGAL ASSISTANCE TREATY CONCERNING THE CAYMAN ISLANDS

HELMS AMENDMENT NO. 1044

Mr. HELMS proposed an amendment to the resolution of ratification to Treaty Doc. 100-8, the Treaty With the United Kingdom Concerning the Cayman Islands Relating to Mutual Legal Assistance in Criminal Matters, as follows:

Insert before the period in the resolution consenting to ratification the following Treaty condition: "subject, however, to the inclusion in the instruments of ratification of the following understanding:

" 'Understanding. Nothing in this Treaty requires or authorizes legislation or other action by the United States of America prohibited by the Constitution of the United States.'.".

HELMS AMENDMENT NO. 1045

Mr. HELMS proposed an amendment to the resolution of ratification to Treaty Doc. 100-18, supra, as follows:

Insert before the period in the resolution consenting to ratification the following Treaty condition: "subject, however, to the inclusion in the instruments of ratification of the following understanding:

" 'Understanding. Pursuant to the rights of the United States under this treaty to deny requests which prejudice its public interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this treaty is engaged in or facilitates the production or distribution of illegal drugs' ".

MUTUAL LEGAL ASSISTANCE COOPERATION TREATY WITH MEXICO

HELMS AMENDMENT NO. 1046

Mr. KERRY (for Mr. HELMS) proposed an amendment to the resolution of ratification to Treaty Doc. 100-13, Mutual Legal Assistance Cooperation Treaty With Mexico, as follows:

Insert before the period in the resolution consenting to ratification the following Treaty condition: "subject, however, to the inclusion in the instruments of ratification of the following understanding:

" 'Understanding. Pursuant to the rights of the United States under this treaty to deny requests which prejudice its essential public policy or interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this treaty is engaged in or facilitates the production or distribution of illegal drugs.' "

TREATY WITH CANADA ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

HELMS AMENDMENT NO. 1047

Mr. KERRY (for Mr. HELMS) proposed an amendment to the resolution of ratification to Treaty Doc. 100-14, Treaty With Canada on Mutual Legal Assistance in Criminal Matters, as follows:

Insert before the period in the resolution consenting to ratification the following Treaty condition: "subject, however, to the inclusion in the instruments of ratification of the following understanding:

Understanding. Pursuant to the rights of the United States under this treaty to deny requests which prejudice its public interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this treaty is engaged in or facilitates the production or distribution of illegal drugs.

TREATY WITH BELGIUM ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

HELMS AMENDMENT NO. 1048

Mr. KERRY (for Mr. HELMS) proposed an amendment to Treaty Doc. 100-16, Treaty With Belgium on Mutual Legal Assistance in Criminal Matters, as follows:

Insert before the period in the resolution consenting to ratification the following Treaty condition: "subject, however, to the inclusion in the instruments of ratification of the following understanding: 'Understanding. Pursuant to the rights of the United States under this treaty to deny requests which prejudice its essential public interests, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this treaty is engaged in or facilitates the production or distribution of illegal drugs.

TREATY WITH THE BAHAMAS ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS

HELMS AMENDMENT NO. 1049

Mr. KERRY (for Mr. HELMS) proposed an amendment to the resolution of ratification to Treaty Doc. 100-17, the Treaty With The Bahamas on Mutual Assistance in Criminal Matters, as follows:

Insert before the period in the resolution consenting to ratification the following Treaty condition: "subject, however, to the inclusion in the instruments of ratification of the following understanding:

'Understanding. Pursuant to the rights of the United States under this treaty to deny requests which prejudice its essential public interests, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this treaty is engaged in or facilitates the production or distribution of illegal drugs.

TREATY WITH THAILAND ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS

HELMS AMENDMENT NO. 1050

Mr. KERRY (for Mr. HELMS) proposed an amendment to the resolution of ratification to Treaty Doc. 100-18, the Treaty With Thailand on Mutual Assistance in Criminal Matters, as follows:

Insert before the period in the resolution consenting to ratification the following Treaty condition: "subject, however, to the inclusion in the instruments of ratification of the following understanding: Pursuant to the rights of the United States under this treaty to deny requests which prejudice its essential public interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this treaty is engaged in or facilitates the production or distribution of illegal drugs.

INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT

DURENBERGER AMENDMENT NO. 1051

(Ordered to lie on the table.)

Mr. DURENBERGER submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 280) increasing the statutory limit on the public debt, as follows:

At the end of the joint resolution, add the following:

TITLE I—SOCIAL SECURITY PROVISIONS

SEC. 1000. AMENDMENT OF THE SOCIAL SECURITY ACT; TABLE OF CONTENTS.

(a) AMENDMENT OF THE SOCIAL SECURITY ACT.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

(b) TABLE OF CONTENTS.—

TITLE I—NON-REVENUE PROVISIONS OF THE COMMITTEE ON FINANCE

Sec. 1000. Amendment of the Social Security Act; table of contents.

Subtitle A—Income Security

PART I—SUPPLEMENTAL SECURITY INCOME

Sec. 1001. Commission on childhood disability.
Sec. 1002. Review of childhood disability determinations.
Sec. 1003. Outreach program for disabled children.
Sec. 1004. Rule for deeming income and resources of parents to children waived for disabled children receiving benefits under State home care plan.
Sec. 1005. Eligibility for benefits of children of armed forces personnel residing overseas.
Sec. 1006. Treatment of royalties and honoraria as earned income.
Sec. 1007. Benefits for persons who lose social security disability benefits.
Sec. 1008. Impairment-related work expenses.
Sec. 1009. Reimbursement for vocational rehabilitation services furnished during certain months of nonpayment of supplemental security income benefits.
Sec. 1010. Establishment and conduct of SSI outreach program for adults.
Sec. 1011. Exclusion from income of domestic commercial transportation tickets received as gifts.
Sec. 1012. Exclusion of accrued income with respect to purchase of certain burial spaces.
Sec. 1013. Reduction in time during which income and resources of separated couples must be treated as jointly available.
Sec. 1014. Concurrent SSI and food stamp applications by institutionalized persons.
Sec. 1015. Valuation of certain in-kind support and maintenance.
Sec. 1016. Agent orange settlement payments excluded from countable income and resources under Federal means tested program.

PART II—AID TO FAMILIES WITH DEPENDENT CHILDREN

Sec. 1021. Emergency assistance and AFDC special needs.
Sec. 1022. Demonstration of effectiveness of Minnesota family investment plan.
Sec. 1023. Penalty for failure to implement jobs in a timely manner and exemption of JOBS program.

PART III—CHILD WELFARE AND FOSTER CARE

Sec. 1031. Studies relating to foster care.
Sec. 1032. Extension and increase in foster care ceiling; extension of authority to transfer foster care funds to child welfare services.
Sec. 1033. Increase in authorization for child welfare services under title 4-b.
Sec. 1034. Increase in reimbursement for foster and adoptive parent training.
Sec. 1035. Case plans to include health and education records and to be reviewed and updated at the time of each placement.
Sec. 1036. Revision and extension of independent living initiatives program.
Sec. 1037. Improvement of data collection.

PART IV—CHILD SUPPORT ENFORCEMENT

Sec. 1041. Extension of authority of States to request the withholding of Federal tax refunds from persons owing past due child support.
Sec. 1042. Expansion of State use of IRS offset for non-AFDC families.
Sec. 1043. Withholding of Federal tax refunds and collection of past due child support on behalf of disabled child of any age.
Sec. 1044. IRS offset for spousal support when combined with child support in same order for non-AFDC families.
Sec. 1045. Good cause exception to required cooperation for transitional child care benefits.

PART V—UNEMPLOYMENT COMPENSATION

Sec. 1051. Self-employment demonstration projects.
Sec. 1052. Proposed amendments to authorize the offset of unpaid contributions from unemployment compensation (with technical amendments).

Subtitle B—Medicare

PART I—PROVISIONS RELATING TO PART A OF MEDICARE

SUBPART A—PAYMENT FOR INPATIENT HOSPITAL SERVICES

Sec. 1101. Prospective payment hospitals.
Sec. 1102. Reduction in indirect medical education payments.
Sec. 1103. Reduction in payments for capital-related costs of inpatient hospital services for fiscal year 1990.
Sec. 1104. Pass through payment for hemophilia inpatients.
Sec. 1105. Exemption of cancer hospitals from prospective payment system.
Sec. 1106. Treatment of certain hospitals redesignated as urban or affected by redesignation.
Sec. 1107. Provisions relating to wage index.
Sec. 1108. Extension of Finger Lakes waiver.
Sec. 1109. Provisions relating to target amount adjustments.
Sec. 1110. Corrected determinations of erroneously determined wage index.
Sec. 1111. Rural health provisions related to part A.
Sec. 1112. Permitting medicare buy-in for continued benefits.

SUBPART B—OTHER PROVISIONS

Sec. 1121. Payment to skilled nursing facilities for routine service costs.
Sec. 1122. "Buy-in" under part A for "Qualified Medicare Beneficiaries".
Sec. 1123. Intermediate sanctions for psychiatric hospitals under Medicare.
Sec. 1124. Payments for hospice care.
Sec. 1125. Allowing certifications and recertifications by nurse practitioners and clinical nurse specialists for certain services.
Sec. 1126. Prohibition on nursing home balance billing.
Sec. 1127. Classification of sole community hospitals.
Sec. 1128. Permitting dentist to serve as hospital medical director.

PART II—PROVISIONS RELATING TO PART B OF MEDICARE

SUBPART A—PAYMENT FOR PHYSICIANS' SERVICES

Sec. 1201. Freeze on physician payments for non-primary services.
Sec. 1202. Reduction in payments for certain overvalued procedures.
Sec. 1203. Reduction in payments for radiology services.
Sec. 1204. Anesthesia services.
Sec. 1205. Miscellaneous provisions relating to payment for physicians' services.
Sec. 1206. Three-part plan for physician payment reform.
Sec. 1207. Rural health intitiatives related to part B.

SUBPART B—PAYMENT FOR OTHER SERVICES

Sec. 1221. Clinical diagnostic laboratory tests.
Sec. 1222. Physician office labs.
Sec. 1223. Trip fees for clinical labs.
Sec. 1224. Moratorium on laboratory demonstration extended.
Sec. 1225. Durable medical equipment.
Sec. 1226. Study of registered nurses as assistants at surgery.
Sec. 1227. Clarifying coverage of certified nurse-midwife services.
Sec. 1228. Coverage of erythropoietin when self administered.
Sec. 1229. Modification of payment for therapeutic shoes for individuals with severe diabetic foot disease.
Sec. 1230. Reduction in payments for capital-related costs of inpatient hospital services for fiscal year 1990.
Sec. 1231. Payments for hospital outpatient services.
Sec. 1232. Payments for capital for hospital outpatient services.
Sec. 1233. Mental health services.
Sec. 1234. Nurse practitioner services.
Sec. 1235. PPOPAC study on hospital outpatient services.
Sec. 1236. Extension of municipal health service demonstration projects.
Sec. 1237. Clinical social workers.
Sec. 1238. Review of new technologies.

PART III—PROVISIONS RELATING TO PARTS A AND B OF MEDICARE

Sec. 1301. Provisions relating to health maintenance organizations.
Sec. 1302. End stage renal disease services.
Sec. 1303. Provider and practitioner right to reconsideration of pro determination before notice to beneficiary.
Sec. 1304. Delay in payments in fiscal year 1990.
Sec. 1305. Medicare as secondary payer.
Sec. 1306. Costs of nursing and allied health education.
Sec. 1307. Treatment of certain hospitals with respect to payments for graduate medical education costs.

Sec. 1308. Studies and reports on graduate medical education.
Sec. 1309. Continued use of home health wage index in effect prior to July 1, 1989, until after July 1, 1990.
Sec. 1310. GAO study of home health paperwork.
Sec. 1311. Advisory committee on Medicare home health claims.
Sec. 1312. Establishment of demonstration program for development of essential care hospitals.
Sec. 1313. Rural health expansions related to parts A and B.
Sec. 1314. End stage renal disease networks.
PART IV—MEDICARE PART B BASIC PREMIUM
Sec. 1401. One year extension of part B premium minimum.
PART V—PHYSICIAN REFERRAL
Sec. 1501. Physician referral.
Subtitle C—Medicaid and Maternal and Child Health Block Grant
Sec. 1601. Delay in counting Social Security cola increases until new poverty guidelines published.
Sec. 1602. Day habilitation and related services.
Sec. 1603. Home and community-based waivers.
Sec. 1604. State matching payments through voluntary contributions and State taxes.
Sec. 1605. Excluding as countable income certain veterans benefits.
Sec. 1606. Medicaid long-term care insurance demonstration project.
Sec. 1607. Deemed status under Medicaid program.
Sec. 1608. Minnesota prepaid Medicaid demonstration project extended.
Sec. 1609. New Jersey prepaid Medicaid respite demonstration extended.
Sec. 1610. Medicaid provisions relating to demonstration of effectiveness of Minnesota Family Investment Plan.
Sec. 1611. Medicaid demonstration program in Oregon.
Sec. 1612. Temporary retroactive benefits caused by delay in implementation.
Sec. 1613. Extension of waiver.
Sec. 1614. Hospice coverage.
Sec. 1615. Rural health provisions related to Medicaid.
Sec. 1616. Mandatory coverage of certain low-income pregnant women and children.
Sec. 1617. Optional coverage of certain low-income children.
Sec. 1618. Mandatory eligibility, continuity of care and temporary extension of medicaid eligibility.
Sec. 1619. Adjustment in payment for hospital services furnished to low-income children.
Sec. 1620. Required coverage of nurse practitioner services.
Sec. 1621. Optional State coverage of home or community based services to certain children.
Sec. 1622. Optional State coverage of home visitor services.
Sec. 1623. Limit on number of individuals allowed to participate in home and community based programs under waivers increased.
Sec. 1624. Allocation of payments and requirements related to such payments under the maternal and child health services block grant modified.
Sec. 1625. Annual report on health status of children.
Sec. 1626. Model Medicaid application.
Sec. 1627. Requirements of the Secretary.
Sec. 1628. Early and periodic screening, diagnostic, and treatment services.
Sec. 1629. Section 209(b) States prohibited from denying medical assistance to children 18 years of age or younger receiving benefits under SSI.
Sec. 1630. Payment for obstetrical and pediatric services.
Sec. 1631. Health care plans for foster care children.
Sec. 1632. Use of most recent data in calculation of Federal matching percentage.
Sec. 1633. Optional coverage of outreach services for pregnant women and infants.
Sec. 1634. Required medicaid notice and coordination with special supplemental food program for women, infants, and children (WIC).
Sec. 1635. Maternal and child health handbook.
Sec. 1636. Demonstration projects to improve access to needed physician services by pregnant women, infants, and children.
Sec. 1637. Medicaid coverage of community health clinic services.
Sec. 1638. Demonstration projects to study the effect of allowing States to extend Medicaid to pregnant women and children not otherwise qualified to receive Medicaid benefits.
Sec. 1639. Demonstration projects to study the effect of allowing States to extend Medicaid to certain low-income families not otherwise qualified to receive Medicaid benefits.
Sec. 1640. Clarification of termination when no child in household.
Sec. 1641. Institutions for mental diseases.
Sec. 1642. Requiring Medicaid payment for Medicare premiums for poor, disabled individuals, enrolling in Medicare.
Sec. 1643. Amendments relating to nursing home reform.
Sec. 1644. Disproportionate share hospitals.
Sec. 1645. Intermediate sanctions for psychiatric hospitals under Medicaid.
Subtitle D—Miscellaneous Provisions
Sec. 1701. Use of return information to verify income for purposes of needs-based benefits and services of department of veterans affairs.
Sec. 1702. Collection of overpayments of black lung benefits.
Sec. 1703. Technical modifications with respect to the national commission on children.
Sec. 1704. Technical modifications with respect to the Commission on Comprehensive Health Care.
Sec. 1705. HCFA personnel study.
Sec. 1706. OTA study of closed captioning.

PART I—SUPPLEMENTAL SECURITY INCOME

SEC. 1001. COMMISSION ON CHILDHOOD DISABILITY.

(a) ESTABLISHMENT OF COMMISSION.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall appoint a Commission on the Evaluation of Disability in Children (hereafter in this section referred to as the "Commission").

(b) APPOINTMENT OF MEMBERS.—(1) The Secretary shall appoint 15 members to the Commission, including—

(A) recognized experts in the field of medicine, whose work involves—

(i) the evaluation and treatment of disability in children,

(ii) the study of congenital, genetic, or perinatal disorders in children, or

(iii) the measurement of developmental milestones and developmental deficits in children; and

(B) recognized experts in the fields of—

(i) psychology,

(ii) education and rehabilitation,

(iii) law, or

(iv) the administration of disability programs, and

(v) other fields of expertise that the Secretary determines to be appropriate.

(2) Members shall be appointed within 90 days after the date of the enactment of this Act, without regard to the provisions of title 5, United States Code, governing appointments to competitive service.

(3) Members appointed under this subsection shall serve for a term equivalent to the duration of the Commission.

(4) The Secretary shall designate a member of the Commission to serve as Chairman of the Commission for a term equivalent to the duration of the Commission.

(c) ADMINISTRATIVE PROVISIONS.—(1) Service as a member of the Commission by an individual who is not otherwise a Federal employee shall not be considered service in an appointive or elective position in the Federal Government for the purposes of any provision of title 5, United States Code.

(2) Each member of the Commission who is not a full-time Federal employee shall be paid compensation at a rate equal to the daily equivalent of the rate of basic pay in effect for level IV of the Executive Schedule for each day (including travel time) the member attends meetings or otherwise performs the duties of the Commission.

(3) While away from their homes or regular places of business on the business of the Commission, each member who is not a full-time Federal employee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(c) ASSISTANCE TO COMMISSION.—The Commission may engage such technical assistance from individuals skilled in medical and other aspects of childhood disability as may be necessary to carry out the functions of the Commission. The Secretary shall make available to the Commission such secretarial, clerical, and other assistance as the Commission may require to carry out the functions of the Commission.

(d) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—Except as otherwise provided in this section, the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Commission.

(e) STUDY BY THE COMMISSION.—(1) The Commission shall conduct a study, in consultation with the National Academy of Sciences, of the meaning of the term "disability" under title XVI of the Social Security Act (42 U.S.C. 1382 et seq.) as it applies to determining whether a child under the age of 18 is eligible to receive benefits under

such title XVI, including the appropriateness of the application of such term for such purpose, and of any method of assessment used in such determination.

(2) The study described in paragraph (1) shall include issues of—

(A) whether individualized functional assessments of children can appropriately be used in determining disability, and if a determination of appropriateness is made, the types of assessment and criteria to be employed;

(B) recommendations for revision of the Childhood Listing of Impairments under regulations promulgated under Part B of Appendix 1 to Subpart P, 20 CFR 404, as in effect on the date of the enactment of this Act; including the degree to which age-appropriate medical and functional criteria can validly be included in such Childhood Listing of Impairments;

(E) the validity of a presumption of disability for children under age 4 with a genetic, congenital, or perinatal disorder;

(F) whether the need by families for assistance in meeting high costs of medical care for children with physical or mental impairments might appropriately be met through expansion of Federal health assistance programs (including Medical Assistance under title XIX of this Act); and

(G) such other issues that the Secretary determines to be appropriate.

(f) REPORT.—Not later than September 1, 1991, the Commission shall prepare a report and submit such report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance in the Senate which shall summarize the results of the study described in subsection (e) and include any recommendations that the Commission determines to be appropriate.

(g) TERMINATION OF COMMISSION.—The Commission shall terminate on September 1, 1991.

SEC. 1002. REVIEW OF CHILDHOOD DISABILITY DETERMINATIONS.

" (a) IN GENERAL.—Section 1614 (42 U.S.C. 1382c) is amended by adding at the end the following new subsection:

"(g)(1) The Secretary shall, as required under paragraphs (2) and (3), review any determination made by a State agency under this section with respect to an initial claim, reconsideration, or continuing disability investigation, that a child under the age of 18 is or is not eligible to receive benefits under this title on the basis of a determination of a disability, and may modify such determination of such agency.

"(2) Beginning with determinations made on or after January 1, 1990, in carrying out the provisions of paragraph (1), the Secretary shall review at least 50 percent of all determinations resulting in denials of eligibility made by State agencies.

"(3) Beginning with determinations made on or after September 1, 1990 (or an earlier date, if the Secretary determines that such date is practicable), and prior to October 1, 1992, in carrying out the provisions of paragraph (1), the Secretary shall review at least 50 percent of all determinations made by State agencies. Any review by the Secretary of a State agency determination under this paragraph shall be made before any action is taken to implement such determination.

"(5) In conducting reviews pursuant to paragraph (1), the Secretary shall, to the extent feasible, select for review those determinations which the Secretary determines are most likely to be incorrect.".

(b) EVALUATION BY PEDIATRICIAN OR OTHER SPECIALIST.—Section 1614 is further amended by adding the following new subparagraph at the end of subsection (a)(3):

"(H) In making determinations with respect to disability of a child under the age of 18 under this title, the Secretary shall make reasonable efforts to ensure that a qualified pediatrician or other individual who specializes in a field of medicine appropriate to the disability of such child (as determined by the Secretary) evaluates the case of such child.

(c) SCHEDULE FOR UPDATING AND REVISING LISTINGS OF IMPAIRMENTS FOR CHILDREN.—Within 45 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a schedule to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives for the updating and revision of the childhood listings of impairments under Part B of Appendix 1 to Subpart P, 20 CFR 404, as in effect on the date of the enactment of this Act.

SEC. 1003. OUTREACH PROGRAM FOR DISABLED CHILDREN.

Part B of title XVI (42 U.S.C. 1383 et seq.) is amended by adding at the end the following:

"OUTREACH PROGRAM FOR CHILDREN

"SEC. 1635. (a) ESTABLISHMENT.—As soon as is practicable after the date of the enactment of this section, the Secretary of Health and Human Services shall establish and conduct an ongoing program of outreach to children who are potentially eligible for benefits under this title by reason of disability or blindness.

"(b) REQUIREMENTS.—Under this program, the Secretary shall—

"(1) aim outreach efforts at populations for whom such efforts would be most effective; and

"(2) work in cooperation with other Federal, State, and private agencies, and nonprofit organizations, which serve blind or disabled individuals and have knowledge of potential recipients of supplemental security income benefits, and with agencies and organizations (including school systems and public and private social service agencies) which focus on the needs of children.".

SEC. 1004. RULE FOR DEEMING INCOME AND RESOURCES OF PARENTS TO CHILDREN WAIVED FOR DISABLED CHILDREN RECEIVING BENEFITS UNDER STATE HOME CARE PLAN.

(a) IN GENERAL.—Section 1614(f)(2) (42 U.S.C. 1382c(f)(2)) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end the following:

"(B) Subparagraph (A) shall not apply in the case of any child under age 18 who—

"(i) is disabled;

"(ii) received benefits under this title, pursuant to section 1611(e)(1)(B), while in an institution described in section 1611(e)(1)(B);

"(iii) is eligible for medical assistance under a State home care plan approved by the Secretary under the provisions of section 1915(c) relating to waivers, or authorized under section 1902(e)(3); and

"(iv) but for this subparagraph, would not be eligible for benefits under this title.".

(b) PERSONAL NEEDS ALLOWANCE.—Section 1611(e)(1)(B) (42 U.S.C. 1382(e)(1)(B)) is amended in the matter preceding clause (i) by inserting "or an eligible individual is a child described in section 1614(f)(2)(B)," before "the benefit under this title".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect beginning with the sixth month after the month of the date of the enactment of this Act.

SEC. 1005. ELIGIBILITY FOR BENEFITS OF CHILDREN OF ARMED FORCES PERSONNEL RESIDING OVERSEAS.

(a) IN GENERAL.—Section 1611(f) is amended by inserting "(other than a child described in section 1614(a)(1)(B)(ii))" after "no individual".

(b) CONFORMING AMENDMENT.—Section 1614(a)(1) (42 U.S.C. 1382c(a)(1)) is amended—

(1) in subparagraph (b)—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(B) by inserting "(i)" after "(B)"; and

(C) by striking the period and inserting ", or"; and

(2) by adding after and below subparagraph (B) the following new clause:

"(ii) is a child who is a citizen of the United States, and is living with a parent of such child who is a member of the Armed Forces of the United States assigned to permanent duty ashore outside the United States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States, and who during the month before the parent reported for such assignment was receiving benefits under this title as a disabled child.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to benefits for months after March 1, 1990.

SEC. 1006. TREATMENT OF ROYALTIES AND HONORARIA AS EARNED INCOME.

(a) IN GENERAL.—Section 1612(a) (42 U.S.C. 1382a(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (C), by striking "; and" at the end of the subparagraph and inserting a semicolon; and

(B) by inserting after subparagraph (D) the following new subparagraph:

"(E) any royalty which is earned in connection with any publication of the work of an individual or any portion of any honorarium which is received for services rendered; and"; and

(2) in subparagraph (F) of paragraph (2), by inserting before the period ", other than royalties described in paragraph (1)(E) of this subsection".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for months beginning on or after the first day of the 18th calendar month following the month in which this Act is enacted.

SEC. 1007. BENEFITS FOR PERSONS WHO LOSE SOCIAL SECURITY DISABILITY BENEFITS.

(a) IN GENERAL.—Part A of title XVI (42 U.S.C. 1382 et. seq.) is amended by inserting after section 1619 the following new section:

"1619A. BENEFITS FOR PERSONS WHO LOSE SOCIAL SECURITY DISABILITY BENEFITS.

"Each individual—

"(1) who received benefits under subsection (d), (e), or (f) of section 202 based on disability, or disability insurance benefits under section 223;

"(2) whose benefits, as described in paragraph (1), are not payable for any month by reason of the performance of substantial gainful activity; and

"(3) who files an application for benefits under this title during the 12-month period beginning with the first month in any period of months in which a benefit described in paragraph (1) is not payable be-

cause of the performance of substantial gainful activity,

shall be deemed to have been eligible for benefits under section 1611 in the month immediately preceding such 12-month period for the purpose of meeting the requirement under section 1619 that an individual have a prior month of eligibility for benefits under section 1611, and the application of such individual shall be deemed to have been filed in the month immediately preceding such 12-month period.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to benefits under section 1619 of the Social Security Act for months beginning on or after July 1, 1990.".

SEC. 1008. IMPAIRMENT-RELATED WORK EXPENSES.

(a) EXCLUSIONS FROM INCOME.—Section 1612(b)(4)(B)(ii) (42 U.S.C. 1382a(b)(4)(B)(ii)) is amended by striking "(for purposes of determining the amount of his or her benefits under this title and of determining his or her eligibility for such benefits for consecutive months of eligibility after the initial month of such eligibility)".

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective with respect to benefits payable for months following the month in which this Act is enacted.

SEC. 1009. REIMBURSEMENT FOR VOCATIONAL REHABILITATION SERVICES FURNISHED DURING CERTAIN MONTHS OF NONPAYMENT OF SUPPLEMENTAL SECURITY INCOME BENEFITS.

(a) IN GENERAL.—(1) Section 1615(d) is amended by inserting immediately after the first sentence the following: "In such cases the reimbursement may include costs incurred for any month for which the individual received a benefit under this title (including assistance pursuant to section 1619(b)), received a Federally administered State supplementary payment, or was ineligible (for a reason other than cessation of disability or blindness) to receive a benefit pursuant to section 1611, an agreement under section 1616(a), section 1619, and an agreement under section 212(b) of Public Law 93-66, but only for such month or months prior to the thirteenth consecutive month of ineligibility.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective upon the date of the enactment of this Act and shall apply to claims for reimbursement pending on or after such date.

SEC. 1010. ESTABLISHMENT AND CONDUCT OF SSI OUTREACH PROGRAM FOR ADULTS.

Part B of title XVI (42 U.S.C. 1383 et seq.) (as amended by this Act) is further amended by adding at the end the following new section:

"SSI OUTREACH PROGRAM FOR ADULTS

"SEC. 1636. (a)(1)(A) The Secretary shall establish and conduct an ongoing program to provide information about the supplementary security income benefits under this title, and Federally and State-administered State supplementary benefits to low-income aged, blind, and disabled individuals who are not recipients of such benefits.

"(B) Beginning not later than July 7, 1990, and prior to July 1, 1991, in conducting the program under subparagraph (A), the Secretary shall notify recipients of—

"(i) widow's insurance benefits and widower's insurance benefits under section 202,

"(ii) child's insurance benefits under section 202, by reason of a disability, and

"(iii) benefits under title II who are age 75 and over and who are likely to be eligible for supplemental security income benefits under this title, and Federally and State-administered State supplementary benefits,

of the benefits available under the supplemental security income program, and the Secretary shall encourage such individuals to contact an office of the Social Security Administration.

"(2) In conducting the program described in paragraph (1), the Secretary shall—

"(A) consult with other Federal, State, and private agencies and departments which serve aged, blind, or disabled individuals and possess information concerning potential recipients of supplemental security benefits, for the purpose of cooperating with such agencies and departments;

"(B) develop outreach techniques and activities in addition to such techniques and activities employed immediately preceding the date of the enactment of this section;

"(C) evaluate the effectiveness of any other project which would target a group of individuals who are potentially eligible to receive supplementary security income benefits under this title, any implement as many of such projects as is feasible; and

"(D) establish a system of accountability for supplemental security income outreach programs conducted in field offices of the Social Security Administration.

"(b) Not more than one year after the Secretary establishes the program required under paragraph (1) the Secretary shall send a report on the activities required under such paragraph (1) to the Congress, under the report requirements under section 704.".

SEC. 1011. EXCLUSION FROM INCOME OF DOMESTIC COMMERCIAL TRANSPORTATION TICKETS RECEIVED AS GIFTS.

(a) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(1) by striking "and" at the end of paragraph (13);

(2) by striking the period at the end of paragraph (14) and inserting "; and"; and

(3) by adding at the end the following:

"(15) the value of any commercial transportation ticket, for travel by such individual (or such spouse) among the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands, which is received as a gift by such individual (or such spouse) and is not converted to cash.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the fourth month beginning after the date of enactment of this Act.

SEC. 1012. EXCLUSION OF ACCRUED INCOME WITH RESPECT TO PURCHASE OF CERTAIN BURIAL SPACES.

(a) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C. 1382a(b))(as amended by this Act) is further amended—

(1) by striking "and" at the end of paragraph (14);

(2) by striking the period at the end of paragraph (15) and inserting "; and"; and

(3) by adding at the end the following:

"(16) interest accrued on the value of an agreement entered into by such individual (or such spouse) representing the purchase of a burial space excluded under section 1613(a)(2)(B), and left to accumulate.".

(b) EXCLUSION FROM RESOURCES.—Section 1613(a)(2)(B) (42 U.S.C. 1382b(a)(2)(B)) is amended by inserting after "the value of any burial space" the following phrase: "or agreement (including any interest accumulated thereon) representing the purchase of a burial space".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the first day of the fourth month beginning after the date of enactment of this Act.

SEC. 1013. REDUCTION IN TIME DURING WHICH INCOME AND RESOURCES OF SEPARATED COUPLES MUST BE TREATED AS JOINTLY AVAILABLE.

(a) IN GENERAL.—Section 1614(b) (42 U.S.C. 1382c(b)) is amended by striking the first sentence and inserting "For purposes of this title, the term 'eligible spouse' means, an aged, blind, or disabled individual who is the husband or wife of another aged, blind, or disabled individual, and who, in a month, is living with such aged, blind, or disabled individual on the first day of such month or, in any case in which either spouse files an application for benefits or requests restoration of eligibility under this title during the month, at the time such application or request is filed.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1990.

SEC. 1014. CONCURRENT SSI AND FOOD STAMP APPLICATIONS BY INSTITUTIONALIZED PERSONS.

Section 1631(m) (42 U.S.C. 1383(m)) is amended by striking the second sentence and inserting the following new sentence: "The Secretary and the Secretary of Agriculture shall develop a procedure under which an individual who applies for supplemental security income benefits under this subsection shall also be permitted to apply at the same time for participation in the food stamp program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.).".

SEC. 1015. VALUATION OF CERTAIN IN-KIND SUPPORT AND MAINTENANCE.

(a) PERIOD FOR DETERMINATION OF BENEFITS.—Section 1611(c) (42 U.S.C. 1382(c)) is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) For purposes of this subsection, if—

"(A) the dollar amount in effect under subsection (b) for determining the benefit payable for a month under this title to an individual is increased (over the dollar amount in effect for determining the benefit payable to such individual for the preceding month, or, at the election of the Secretary, for the second preceding month), and

"(B) such individual received in the preceding month (or at the election of the Secretary, for the second preceding month) income that is in-kind support and maintenance, the value of which is calculated as a percentage of the dollar amount in effect under subsection (b), then the dollar amount in effect under subsection (b) as so increased shall be used to determine the value of such income received in the preceding month (or, at the election of the Secretary, for the second preceding month) for the purpose of determining the amount of the benefit payable to such individual.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply beginning with benefits payable for the months after December 1989.

SEC. 1016. AGENT ORANGE SETTLEMENT PAYMENTS EXCLUDED FROM COUNTABLE INCOME AND RESOURCES UNDER FEDERAL MEANS-TESTED PROGRAMS.

(a) IN GENERAL.—(1) The payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.), shall not be considered income or resources in determining eligibility for or the amount of benefits under any Federal or federally assisted program described in paragraph (2).

(2) The program benefits described in this paragraph are—

(A) benefits under the supplemental security income program under title XVI of the Social Security Act;

(B) aid to families with dependent children under a State plan approved under section 402(a) of the Social Security Act;

(C) medical assistance under a State plan approved under section 1902(a) of the Social Security Act;

(D) benefits under title XX of the Social Security Act;

(E) benefits under the food stamp program (as defined in section 3(h) of the Food Stamp Act of 1977);

(F) benefits under the special supplemental food program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966;

(G) benefits under section 336 of the Older Americans Act;

(H) benefits under the National School Lunch Act;

(I) benefits under any housing assistance program for lower income families or elderly or handicapped persons which is administered by the Secretary of Housing and Urban Development or the Secretary of Agriculture;

(J) benefits under the Low-Income Home Energy Assistance Act of 1981;

(K) benefits under part A of the Energy Conservation in Existing Buildings Act of 1976;

(L) benefits under any educational assistance grant or loan program which is administered by the Secretary of Education; and

(M) benefits under a state plan approved under title I, X,XIV, or XVI of the Social Security Act.

(b) EFFECTIVE DATE.—The provisions of this section shall become effective on January 1, 1989.

PART II—AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 1021. EMERGENCY ASSISTANCE AND AFDC SPECIAL NEEDS.

(a) IMPLEMENTATION OF PROPOSED REGULATIONS PROHIBITED.—Except as provided in subsection (b), the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall not—

(1) implement in whole or in part the proposed regulation published in the Federal Register on December 14, 1987, (52 F.R. 47420), with respect to emergency assistance and the need for and amount of assistance under the program of aid to families with dependent children, or

(2) prior to April 1, 1991, change any policy in effect on the date of the enactment of this Act with respect to any of the matters addressed in such proposed regulation.

(b) REVISED PROPOSED REGULATION.—Notwithstanding subsection (a), the Secretary may issue a revised proposed regulation concerning the use of emergency assistance under the program of aid to families with dependent children under title IV of the Social Security Act (42 U.S.C. 601 et seq.) that incorporates the recommendations included in the report entitled "Use of the Emergency Assistance and AFDC Programs to Provide Shelter to Families"that the Secretary submitted to the Congress on July 3, 1989.

(c) ESTABLISHMENT OF EFFECTIVE DATES FOR PROPOSED RULES.—The Secretary shall not establish an effective date occurring before April 1, 1991, for any final regulations that would change current policy regarding the use of emergency assistance or special needs funds under the program of aid to families with dependent children.

(d) REPORTING REQUIREMENTS.— With respect to any calendar quarter beginning on or after January 1, 1990, a financial report by a State submitted to the Secretary in fulfillment of reporting requirements under the program of aid to families with dependent children under title IV of the Social Security Act shall identify any emergency assistance and special needs funds expended by the State under such program and used to pay for housing in hotels or similar temporary living arrangements (as defined by the Secretary of Health and Human Services) that house welfare recipients.

SEC. 1022. DEMONSTRATION OF EFFECTIVENESS OF MINNESOTA FAMILY INVESTMENT PLAN.

(a) IN GENERAL.—Upon written application of the State of Minnesota (in this section referred to as the "State") within 24 months after the date of the enactment of this Act, and after the approval that such application meets the criteria described in this section by the Secretary of Health and Human Services, the State may conduct a demonstration project to determine whether the State family investment plan helps families to become self-supporting and enhances the ability of families to care for their children more effectively than does the State program of aid to families with dependent children under part A of title IV of the Social Security Act.

(b) PROJECT REQUIREMENTS.—In an application submitted under subsection (a), the State shall provide that the following terms and conditions shall be in effect under the demonstration project:

(1) FIELD TRIALS.—The project will consist of 2 field trials, conducted as follows:

(A) URBAN FIELD TRIAL.—1 field trial will be conducted in 1 or more of the following counties in the State:

(i) Anoka.

(ii) Carver.

(iii) Dakota.

(iv) Hennepin.

(v) Scott.

(vi) Washington.

(B) RURAL FIELD TRIAL.—1 field trial will be conducted in 1 or more counties in the State not specified in subparagraph (A).

(C) NUMBER OF FAMILIES INVOLVED.—The field trials will not involve more than a total of 6,000 families at any one time, excluding families whose sole involvement is as members of control groups needed to evaluate the project.

(2) AUTHORITY TO IMPLEMENT FIELD TRIALS DIFFERENTLY.—The implementation of the family investment plan in 1 field trial may be different from the implementation of such plan in the other field trial.

(3) WAIVERS REQUIRED BEFORE PROJECT BEGINS.—The project will not begin before all waivers required as described in subsection (e) have been granted.

(4) BEGINNING OF PROJECT.—

(A) IN GENERAL.—The project will begin during the first month of a calendar quarter.

(B) BEGIN DEFINED.—For purposes of this section, the project begins when the first family receives assistance under the project.

(5) PROJECT TO BE OPERATED IN ACCORDANCE WITH CERTAIN MINNESOTA LAWS.—The project will be operated in accordance with the 1989 Minnesota Laws, sections 6 through 11, 13, 130, and 132 of article 5 of chapter 282, and all amendments to the Laws of Minnesota, to the extent that such laws and amendments are consistent with the goals of the project and this subsection.

(6) PROJECT PARTICIPANTS INELIGIBLE FOR AFDC.—Each family which participates in the project will not be eligible for aid under the State plan approved under section 402(a) of the Social Security Act.

(7) MEDICAID ELIGIBILITY RULES APPLICABLE TO PROJECT.—

(A) ELIGIBILITY OF PARTICIPANTS.—

(i) IN GENERAL.—Each family which participates in the project and would (but for such participation) be eligible for aid under the State plan approved under section 402(a) of the Social Security Act will be treated as receiving such aid for purposes of the State plan approved under section 1902(a) of such Act.

(ii) ELIGIBILITY EXTENDED FOR PROJECT PARTICIPANTS WITH INCREASED EMPLOYMENT INCOME.—Each family which participates in the project and, during such participation, would (but for such participation) become ineligible for aid under the State plan approved section 402(a) of the Social Security Act by reason of increased income from employment will, for purposes of section 1925 of such Act, be treated as a family that has become ineligible for such aid.

(B) ELIGIBILITY EXTENDED FOR PERSONS LEAVING PROJECT BECAUSE OF INCREASED RECEIPT OF CHILD SUPPORT.—Each family whose participation in the project is terminated by reason of the collection or increased collection of child support under part D of title IV of the Social Security Act will be treated as a recipient of aid to families with dependent children for purposes of title XIX of such Act for an additional 12 calendar months beginning with the month in which such termination occurs.

(8) AFDC RULES TO APPLY GENERALLY.—

(A) IN GENERAL.—Except where inconsistent with this subsection, the requirements of the State plan approved under section 402(a) of the Social Security Act will apply to the project, unless waived by the Secretary of Health and Human Services in accordance with subsection (d).

(B) RULES RELATING TO PARTICIPATION IN EDUCATION, EMPLOYMENT, AND TRAINING ACTIVITIES.—

(i) PARTICIPATION GENERALLY NOT REQUIRED.—Except as provided in clause (ii), the State will not require any individual who applies for or receives assistance under the project to comply with any education, employment, or training requirement of title IV of the Social Security Act, unless required to do so under a contract entered into under the project.

(ii) AUTHORITY TO REQUIRE PARTICIPATION OF PARENT OF CHILD AGE 1 OR OLDER.—The State may require any individual to comply with any education, employment, or training requirement imposed under the project if the State plan approved under section 402(a) of the Social Security Act does not prohibit the State from requiring such compliance, and the individual—

(I) receives assistance under the project;

(II) is the parent or relative of a child who has attained the age of 1 year; and

(III) is personally providing care for such child.

(9) AVAILABILITY OF EDUCATION, EMPLOYMENT, AND TRAINING SERVICES.—The education, employment, and training services available under the State plan approved under part F of title IV of the Social Security Act will be made available to each family required to enter into a contract with a county agency under the 1989 Minnesota Laws, section 10 of article 5 of chapter 282.

(10) ASSISTANCE UNDER PROJECT NOT LESS THAN UNDER AFDC AND FOOD STAMP PROGRAM.—

(A) ESTABLISHMENT OF POLICIES AND STANDARDS.—The State will establish policies and standards to ensure that families participating in the project receive cash assistance under the project in an amount not less than the aggregate value of the assistance that such families would have received under the State plan approved under section 402(a) of such Act and under the food stamp program established under the Food Stamp Act of 1977 in the absence of the project.

(B) IDENTIFICATION OF CHARACTERISTICS OF PARTICIPANTS WHO MIGHT RECEIVE LESS BENEFITS THAN UNDER AFDC AND FOOD STAMP PROGRAM.—The State will identify the set or sets of characteristics of families that (but for this paragraph) might receive benefits under the project in an amount less than the amount required under subparagraph (A) to be provided to such family.

(C) DETERMINATION OF BENEFIT LEVEL FOR PARTICIPANTS WITH IDENTIFIED CHARACTERISTICS.—The State will establish a mechanism to determine, for each family with any set of characteristics identified under subparagraph (B), whether the family would (but for this paragraph) receive benefits under the project in an amount less than the amount required under subparagraph (A) to be provided to such family.

(D) ASSISTANCE UNDER PROJECT INCREASED WHERE NECESSARY.—The State will, for each family which would (but for this paragraph) receive benefits under the project in an amount less than the amount required under subparagraph (A) to be provided to such family, increase the amount of such benefits to such family to the amount so required.

(11) TERMINATION OF PROJECT.—The project will terminate at the end of the 5-year period beginning on the first day of the month during which the project begins, or, if earlier—

(A) 180 days after the State notifies the Secretary of Health and Human Services that the State intends to terminate the project;

(B) 180 days after the Secretary of Health and Human Services, after 30 days written notice to the State and opportunity for a hearing, determines that the State has materially failed to comply with this section; or

(C) on agreement by the State and the Secretary of Health and Human Services.

(c) FUNDING.—

(1) IN GENERAL.—If an application submitted under subsection (a) by the State complies with the requirements specified in subsection (b) and contains an evaluation plan which meets the requirements of subsection (g), and the Secretary of Health and Human Services approves such application, then the Secretary shall, from amounts made available under parts A and F of title IV of the Social Security Act—

(A) pay the State for each calendar quarter, pursuant to section 403 of such Act, the amounts that would have been payable to the State during such calendar quarter, in the absence of the demonstration project, for cash assistance, child care, education, employment and training, and administrative expenses under the State plan approved under section 402(a) of such Act;

(B) reimburse the State at the rate of 50 percent, for expenses of evaluating the effects of the project.

(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed to prevent the State from claiming and receiving reimbursement for additional persons who would qualify for assistance under the State plan approved under section 402(a) of the Social Security Act, for costs attributable to increases in the State's payment standard under such plan, or for any other benefits and services for which Federal matching funds are available under part A of title IV of such Act.

(d) WAIVERS.—

(1) AUTHORITY.—Except as provided in paragraph (2), the Secretary of Health and Human Services shall, with respect to the demonstration project under this section, waive any requirement of part A or F of title IV of the Social Security Act that, if applied, would prevent the State from (i) carrying out the project in accordance with subsection (b), or (ii) effectively achieving its purposes, but only to the extent necessary to enable the State to carry out the project.

(2) LIMITATIONS.—The Secretary of Health and Human Services may not, with respect to the demonstration project under this section—

(A) waive any requirement of section 402(a)(4) or 482(h) of the Social Security Act;

(B) permit the State to provide cash assistance to any family under the project in an amount less than the aggregate value of the assistance that would have been provided to such family under the State plan approved under section 402(a) of such Act and under the food stamp program established under the Food Stamp Act of 1977 in the absence of the project; or

(C) waive any requirement of section 402(a)(19)(C) of such Act.

(e) DEFINITIONS OF CERTAIN TERMS.—As used in this section, the terms "family" and "contract" shall have the meaning given such terms by the 1989 Minnesota Laws, sections 6 through 11, 13, 130, and 132 of article 5 of chapter 282.

(f) QUALITY CONTROL.—Cases participating in the demonstration project under this section during a fiscal year shall be excluded from any sample taken for purposes of determining under section 403(i) of the Social Security Act the rate at which the State made overpayments under part A of title IV of such Act for such fiscal year. For purposes of such section 403(i), payments made by the State under the project shall be treated as payments made under the State plan approved under section 402(a) of such Act.

(g) EVALUATION OF PROJECT.—

(1) EVALUATION PLAN.—The State shall develop and implement an evaluation plan designed to provide reliable information on the impact and implementation of the demonstration project. The evaluation plan shall include groups of project participants and control groups assigned at random in the field trial conducted in accordance with subsection (b)(1)(A).

(2) EVALUATION.—The evaluation conducted under the evaluation plan shall measure the extent to which the project increases family employment and income, prevents long-term dependency, moves families toward self-support, reduces total assistance payments, and simplifies the welfare system.

(3) REPORTS.—The State shall issue an interim report and a final report on the results of the evaluation described in paragraph (2) to the Secretary of Health and Human Services at such times as the Secretary shall require.

(h) REPORT TO CONGRESS.—Within 3 months after receipt of the final report issued pursuant to subsection (g)(3), the Secretary of Health and Human Services shall report to the Congress the results of the evaluation described in subsection (g)(2).

SEC. 1023. PENALTY FOR FAILURE TO IMPLEMENT JOBS IN A TIMELY MANNER AND EXEMPTION OF JOBS PROGRAM.

(a) PENALTY FOR FAILURE TO IMPLEMENT JOBS IN A TIMELY MANNER.—Section 404 (42 U.S.C. 604) is amended by adding at the end the following new subsection:

"(e) Notwithstanding the provisions of subsection (a), if the Secretary finds that, as of October 1, 1990, a State did not submit, or submitted, but was not operating under, an approvable plan that meets the requirements of section 402(a)(19) and part F of this title, the Secretary shall make no further payments to such State under this part with respect to a program—

"(1) under this part, or

"(2) part F of this title, and,

notwithstanding any procedural requirements under subsection (a) or section 1116, the Secretary shall not make any such payments until after such State submits an approvable plan and satisfactory evidence that such State is operating and will continue to operate in compliance with such plan.".

PART III—CHILD WELFARE AND FOSTER CARE

SEC. 1031. STUDIES RELATING TO FOSTER CARE.

(a) FOSTER CARE STUDY BY THE INSPECTOR GENERAL.—(1) The Inspector General in the Department of Health and Human Services shall conduct a study of administrative costs of States in the implementation of the foster care maintenance payments program described in section 472 of the Social Security Act (42 U.S.C. 672). Such study shall include an examination of—

(A) the types of activities that qualify for Federal matching funds under the foster care maintenance payments program, and the types of activities for which such funds are expended;

(B) the extent to which the funding for specific types of activities is related to foster care requirements that States must fulfill under section 427 of the Social Security Act (42 U.S.C. 627);

(C) whether States have received any Federal reimbursement under such foster care maintenance payments program as payment for claims for which such States were not entitled to reimbursement, and if any such payments have been made, the amount of such payments;

(D) reasons for increases in State administrative costs for such foster care maintenance payments program in recent years, and reasons for State-specific variations in such cost increases;

(E) the extent to which States have made claims for receiving Federal reimbursement under such foster care maintenance payments program for activities that serve children who are not eligible for assistance under such program;

(F) the extent to which States are making in-kind payments in lieu of cash payments to match Federal funds under such foster care maintenance payments program, and the nature of such payments.

(2) REPORT BY THE INSPECTOR GENERAL.—Upon completion of the study described in paragraph (1), the Inspector General shall report the findings of such study to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(b) STUDY BY THE COMPTROLLER GENERAL.—(1) The Comptroller General of the United States shall conduct a study of the possible alternatives for imposing limits on Federal matching funding for administrative costs incurred by States under the foster care maintenance payments program described in section 472 of the Social Security Act (42 U.S.C. 672) and the effects of such alternatives, including an examination of the effect of limiting administrative costs to no more than a specified percentage of maintenance payments. Such study shall examine the effects of such alternative limits on—

(A) the quality and availability of foster care services to eligible children under such foster care maintenance payment program; and

(B) estimated costs to States and to the Federal Government.

(2) REPORT BY THE COMPTROLLER GENERAL.—Upon completion of the study described in paragraph (1), the Comptroller General of the United States shall report the findings of such study to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(c) MAINTENANCE OF EFFORT.—Section 474(c)(4) is amended by adding at the end thereof the following new subparagraphs:

"(D) For any fiscal year after 1989, no State may claim an amount as reimbursement for expenses relating to foster care under subsection (a) of this section that exceeds the amount claimed by such State for the fiscal year immediately preceding such fiscal year, unless the expenditures by such State for child welfare services, as defined in section 425(a), other than expenditures for child welfare services claimed by such State under subsection (a) of this section, exceed the expenditures for such child welfare services for the fiscal year immediately preceding such fiscal year.

"(E) For the purposes of calculating expenditures for child welfare services under subparagraph (D)—

"(i) expenditures made from funds made available to such State under part B of this title and title XX of this Act,

"(ii) expenditures by any State agency of such State that participated in the administration of a plan under section 471 or under part B of this title, and

"(iii) expenditures by any political subdivision of such State that participated in the administration of a plan under section 471 or under part B of this title,

shall be deemed expenditures for child welfare services.".

SEC. 1032. EXTENSION AND INCREASE IN FOSTER CARE CEILING; EXTENSION OF AUTHORITY TO TRANSFER FOSTER CARE FUNDS TO CHILD WELFARE SERVICES.

(a) 3-YEAR EXTENSION.—Subsections (b)(1), (b)(2)(B), (b)(4)(B), (b)(5)(A) (in the matter preceding clause (i)), (b)(5)(A)(ii), (c)(1), and (c)(2) of section 474 (42 U.S.C. 674) are each amended by striking "1989" and inserting "1992".

(b) PERMANENT INCREASE IN APPROPRIATIONS LEVEL WHICH TRIGGERS FOSTER CARE CEILING.—Section 474(b)(2)(A) (42 U.S.C. 674(b)(2)(A)) is amended—

(1) by striking "and" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(iv) with respect to each fiscal year succeeding the fiscal year 1989, only if $325,000,000 is appropriated under section 420 for such succeeding fiscal year.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1989.

SEC. 1033. INCREASE IN AUTHORIZATION FOR CHILD WELFARE SERVICES UNDER TITLE 4-B.

(a) IN GENERAL.—Section 420(a) (42 U.S.C. 620(a)) is amended by striking "$266,000,000" and inserting "$325,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1989.

SEC. 1034. INCREASE IN REIMBURSEMENT FOR FOSTER AND ADOPTIVE PARENT TRAINING.

(a) IN GENERAL.—Section 474(a) (42 U.S.C. 674(a)) is amended in paragraph (3)—

(1) by striking "and" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) with respect to fiscal years 1990, 1991, and 1992, 75 percent of so much of such expenditures (including travel and per diem expenses) as are for the short-term training of current or prospective foster or adoptive parents in ways that increase their ability to provide support and assistance to foster and adopted children, whether incurred directly by the State or by contract, and".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to expenditures made on or after October 1, 1989.

SEC. 1035. CASE PLANS TO INCLUDE HEALTH AND EDUCATION RECORDS AND TO BE REVIEWED AND UPDATED AT THE TIME OF EACH PLACEMENT.

(a) INCLUSION OF HEALTH AND EDUCATION RECORDS.—Section 475(1) (42 U.S.C. 675(1)) is amended—

(1) by inserting "(A)" before "A description";

(2) by striking "472(a)(1); and a" and inserting "472(a)(1). (B) A";

(3) by indenting subparagraphs (A) and (B) (as so amended by paragraphs (1) and (2) of this subsection) 4 ems to the right of the left margin;

(4) by setting the last sentence flush with the left margin of the paragraph.

(5) by inserting after and below subparagraph (B) (as so amended and indented) the following:

"(C) To the extent available and accessible, the health and education records of the child, including—

"(i) the names and addresses of the child's health and educational providers;

"(ii) the child's grade level performance;

"(iii) the child's school record;

"(iv) assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement;

"(v) a record of the child's immunizations;

"(vi) the child's known medical problems;

"(vii) the child's medications; and

"(viii) any other relevant health and education information concerning the child determined to be appropriate by the State agency.".

(b) REVIEW AND UPDATE OF HEALTH AND EDUCATION RECORD AT TIME OF PLACEMENT.—Section 475(5) (42 U.S.C. 675(5)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) a child's health and education record (as described in paragraph (1)(C)) is reviewed and updated, and supplied to the foster parent or foster care provider with whom such child is placed, at the time of each placement of the child in foster care.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on April 1, 1990.

SEC. 1036. EXTENSION OF INDEPENDENT LIVING INITIATIVES PROGRAM.

(a) PROGRAM EXTENDED FOR 3 YEARS.—Section 477 (42 U.S.C. 677) is amended—

(1) in subsections (a)(1) and (e)(1), by striking ", 1988, and 1989" and inserting "through 1992"; and

(2) in subsection (c), by striking "the fiscal year 1988 or 1989" and inserting "any of the fiscal years 1988 through 1992".

(b) CONTINUATION DURING PERIOD OF INELIGIBILITY.—Section 477(a)(2)(C) (42 U.S.C. 677(a)(2)(C)), is amended by striking "6-month period" and inserting "one-year period".

(c) ENTITLEMENT INCREASED.—Section 477(e)(1) (42 U.S.C. 677(e)(1)) is amended—

(1) by striking "The amount" and inserting "The basic amount"; and

(2) by adding at the end thereof the following new sentence: "The maximum additional amount to which a state shall be entitled under section 474(a)(4) for each of the fiscal years 1990 through 1992 shall be an amount which bears the same ratio to $15,000,000 as the basic amount of such State bears to $45,000,000.".

(d) PAYMENTS TO STATES.—Section 474(a)(4) (42 U.S.C. 674(a)(4)) is amended to read as follows:

"(4) an amount equal to the sum of—

"(A) so much of the amounts expended by such State for transitional independent living program as provided in section 477 as do not exceed the basic amount for such State determined under section 477(e)(1); and

"(B) the lesser of—

"(i) one-half of any additional amounts expended by such state for such programs, or

"(ii) the maximum additional amount for such State under such section 477(e)(1).".

(e) REPORT BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States shall study the transitional independent living programs authorized under section 477 of the Social Security Act (42 U.S.C. 677) for the purposes of evaluating the effectiveness of such program. Such study shall include a comparison of outcomes of children who participated in such independent living program and a comparable group of children who did not participate in such program. Upon completion of such study, the Comptroller General shall issue a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 1037. IMPROVEMENT OF DATA COLLECTION.

(a) REGULATIONS FOR IMPLEMENTATION OF DATA COLLECTION SYSTEM.—Section

479(b)(2) (42 U.S.C. 679(b)(2)) is amended to read as follows:

"(2) REGULATIONS FOR IMPLEMENTATION OF DATA COLLECTION SYSTEM.—

"(A) PROPOSED REGULATIONS.—Not later than December 1, 1989, the Secretary shall issue proposed regulations providing for—

"(i) the implementation of the system described in subsection (a)(1), based on the recommendations made concerning the establishment of such a system included in the report by the Advisory Committee under subsection (a)(3), with regard to collecting data—

(I) with respect to foster care, on children to whom section 427 applies (including children placed under the auspices of a public child welfare agency, children placed by a private agency under contract to a public agency, and, to the extent feasible, children placed by a licensed private child welfare agency), and

(II) with respect to adoption, on all legalized adoptions, including all such adoptions by relatives and non-relatives, and all such adoptions carried out by public and private entities; and

"(ii) the full implementation of the system not later than October 1, 1992.

"(B) COMMENT PERIOD.—During the 60-day period beginning on the day after the Secretary issues proposed regulations under subparagraph (A), the Secretary shall accept comments on such proposed regulations.

"(C) FINAL REGULATIONS.—Not later than May 1, 1990, the Secretary shall prescribe final regulations, in accordance with this paragraph, providing for the implementation of the system described in subsection (a)(1).".

(b) FUNDING.—Section 479 (42 U.S.C. 679) is amended by adding at the end the following new subsections:

"(d) States may use amounts from the allotments of such States under part B of this title, or may claim matching payments under section 474 (a)(3)(C), for any fiscal year for the cost of implementing (pursuant to regulations promulgated by the Secretary under subsection (b)(2)) the system described in subsection (a)(1) with respect to children under the age of 18 (including children who are not eligible for payments under this part).

"(e) The Secretary shall provide technical assistance to any State in implementing a system described in subsection (a)."

PART IV—CHILD SUPPORT ENFORCEMENT

SEC. 1041. EXTENSION OF AUTHORITY OF STATES TO REQUEST THE WITHHOLDING OF FEDERAL TAX REFUNDS FROM PERSONS OWING PAST DUE CHILD SUPPORT.

Section 464(a)(2)(B) (42 U.S.C. 664(a)(2)(B)) is amended by striking "January 1, 1991" and inserting "January 10, 1996".

SEC. 1042. EXPANSION OF STATE USE OF IRS OFFSET FOR NON-AFDC FAMILIES.

Subparagraph (A) of section 464(b)(2) (42 U.S.C. 664(b)(2)) is amended to read as follows:

"(A) The State may limit the application of the withholding to past-due support amounts equal to or greater than the threshold amount applied by the State on withholding on behalf of families receiving assistance under part A of this title. The State may also limit the application of the withholding by taking into account for purposes of the threshold amount described in the preceding sentence only amounts of past-due support accrued since the time the State first began to enforce the child support order involved under the State plan.".

SEC. 1043. WITHHOLDING OF FEDERAL TAX REFUNDS AND COLLECTION OF PAST DUE CHILD SUPPORT ON BEHALF OF DISABLED CHILD OF ANY AGE.

(a) IN GENERAL.—Section 464(c)(2) (42 U.S.C. 664(c)(2)) is amended by inserting ", or an individual who, at the time such individual was a minor, was determined to be disabled under title II or XVI, and for whom an order of support is in force" before the period.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1990.

SEC. 1044. IRS OFFSET FOR SPOUSAL SUPPORT WHEN COMBINED WITH CHILD SUPPORT IN SAME ORDER FOR NON-AFDC FAMILIES.

Paragraph (2) of section 464(c) (42 U.S.C. 664(c)) is amended to read as follows:

"(2) For purposes of subsection (a)(2), the term 'past-due support' only means past-due support owed to or on behalf of a minor or disabled child, (or of a minor or disabled child and the parent with whom the child is living when the same order includes both the support for the child and the parent).".

SEC. 1045. GOOD CAUSE EXCEPTION TO REQUIRED COOPERATION FOR TRANSITIONAL CHILD CARE BENEFITS.

Section 402(g)(1)(A)(vi)(II) (42 U.S.C. 602(g)(1)(A)(vi)(II)) is amended by inserting "without good cause," before "failed".

PART V—UNEMPLOYMENT COMPENSATION

SEC. 1051. SELF-EMPLOYMENT DEMONSTRATION PROJECTS.

(a) EXCESS COST.—Subparagraph (B) of paragraph (5) of section 9152(c) of the Omnibus Budget Reconciliation Act of 1987 is amended by inserting "which is more than "$600,000" before "in excess of".

(b) REPAYMENT OF EXCESS COST.—Suparagraph (A) of paragraph (6) of section 9152(c) of the Omnibus Budget Reconciliation Act of 1987 is amended to read as follows:

"repay to the Unemployment Trust Fund such excess cost described in paragraph (5)(B); and".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 9152 of the Omnibus Budget Reconciliation Act.

SEC. 1052. PROPOSED AMENDMENTS TO AUTHORIZE THE OFFSET OF UNPAID CONTRIBUTIONS FROM UNEMPLOYMENT COMPENSATION (WITH TECHNICAL AMENDMENTS).

(a) IN GENERAL.—Section 303 is amended by adding at the end the following new subsection:

"(j)(1) The State agency charged with administration of the State law may deduct and withhold from the unemployment compensation otherwise payable to an individual an amount equal to the unpaid contributions, as defined in section 3306(g) of the Federal Unemployment Tax Act (26 U.S.C. 3306(g)), owed by the individual to the State's unemployment fund.

"(2) Any amount deducted and withheld under this subsection shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the State's unemployment fund in satisfaction of the contributions owed.

"(3) For purposes of this subsection, the term 'unemployment compensation' means any unemployment compensation payable under the State law (including amounts payable pursuant to an agreement under a Federal unemployment compensation law).".

(b) DEDUCTIONS FROM BENEFITS.—Section 303(a)(5) is amended by striking out the last proviso and inserting in lieu thereof the following:

"*Provided further*, That amounts may be deducted from unemployment benefits and otherwise payable to an individual and used in payment of obligations owed by the individual solely as provided in subsections (d), (e), (g), and (j) of this section.".

(c) FEDERAL UNEMPLOYMENT TAX.—Section 3304(a)(4) of the Federal Unemployment Tax Act is amended by amending subparagraph (D) thereof to read as follows:

"(D) amounts may be deducted from unemployment benefits and used in payment of obligations owed by the individual solely as provided in subsections (d), (e), (g), and (j) of section 303 of the Social Security Act."

Subtitle B—Medicare

PART I—PROVISIONS RELATING TO PART A OF MEDICARE

Subpart A—Payment for Inpatient Hospital Services

SEC. 1101. PROSPECTIVE PAYMENT HOSPITALS.

(a) HOSPITAL UPDATE FACTORS.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) by striking "and" at the end of subclause (IV);

(2) in subclause (V), by striking "1990" and inserting in lieu thereof "1991" and redesignating such subclause as subclause (VI); and

(3) by inserting after subclause (IV) the following new subclause:

"(V) for fiscal year 1990, the market basket percentage increase plus 2 percentage points for hospitals located in a rural area, the market basket percentage increase minus 1.25 percentage points for hospitals located in a large urban area, and the market basket percentage increase minus 2 percentage points for hospitals located in other urban areas, and".

(b) ANNUAL RECALIBRATION OF DRG WEIGHTS ON BUDGET NEUTRAL BASIS.—Section 1886(d)(4)(C) of such Act (42 U.S.C. 1395ww(d)(4)(C)) is amended by adding at the end the following: "Any such adjustment for discharges in a fiscal year (beginning with fiscal year 1990) shall be made in a manner that assures that the aggregate payments under this subsection in the fiscal year are not greater or less than those that would otherwise have been made in the year without such adjustment.".

SEC. 1102. REDUCTION IN INDIRECT MEDICAL EDUCATION PAYMENTS.

(a) INDIRECT MEDICAL EDUCATION PAYMENTS REDUCED.—

(1) Section 1886(d)(5)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(A) in subclause (I), by striking "1.89" and inserting in lieu thereof "1.63"; and

(B) in subclause (II), by striking "1.43" and inserting in lieu thereof "1.24".

(2) Section 1886(d)(3)(C)(ii) of such Act (42 U.S.C. 1395ww(d)(3)(C)(ii)) is amended—

(A) in subclause (I)—

(i) by striking "1985 and" and inserting in lieu thereof "1985,", and

(ii) by inserting "and by section 5102 of the Omnibus Budget Reconciliation Act of 1989" after "1987"; and

(B) in subclause (II)—

(i) by striking "1985 and" and inserting in lieu thereof "1985,", and

(ii) by inserting "and by section 5102 of the Omnibus Budget Reconciliation Act of 1989" after "1987".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for discharges occurring on or after October 1, 1990.

SEC. 1103. REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS OF INPATIENT HOSPITAL SERVICES FOR FISCAL YEAR 1990.

(a) REDUCTION IN PAYMENTS FOR FISCAL YEAR 1990.—Section 1886(g)(3)(A) of the Social Security Act (42 U.S.C. 1395ww(g)(3)(A)) is amended—

(1) in clause (iii), by striking "and";

(2) in clause (iv), by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(v) 18 percent for payments attributable to portions of cost reporting periods or discharges (as the case may be) occurring during fiscal year 1990 (excluding such payments for such fiscal year for hospitals described in section 1815(e)(1)(B)).".

(b) STUDY AND REPORT ON CAPITAL RELATED COSTS.—

(1) IN GENERAL.—The Prospective Payment Assessment Commission (hereinafter referred to as the "Commission") shall conduct a study and report to Congress on the effect of payment under title XVIII of the Social Security Act for capital related costs of hospitals. Such study shall examine the effect of such payment on—

(A) access to capital financing;

(B) trends in capital spending; and

(C) the proportion of total hospital spending for capital among different types of institutions.

(2) STUDY FOCUS.—The study provided for in this subsection shall focus on the impact of the definition of reasonable capital costs provided for in title XVIII of the Social Security Act and recent reductions in capital payments under such title. In assessing the effects of capital payments under title XVIII of the Social Security Act on hospitals receiving payments under such title, the Commission shall consider account factors such as—

(A) overall hospital financial status;

(B) hospital capacity utilization;

(C) hospitals' nonprofit status;

(D) the degree to which hospitals are dependent on payments made under title XVIII of the Social Security Act;

(E) hospital location (rural, other urban area, or large urban area);

(F) the mix of operating and capital costs;

(G) the relationship between operating costs and PPS revenues;

(H) the nature of investments being made (new construction, renovation, or other investments);

(I) types of capital financing including new or innovative financing arrangements; and

(J) the relationship between payments for capital-related costs under title XVIII of the Social Security Act and hospital capital cash needs (principal and interest).

(3) INTERIM REPORT.—By not later than May 1, 1990, the Commission shall submit an interim report to Congress on the study described in this subsection.

(4) FINAL REPORT.—By not later than March 1, 1991, the Commission shall submit a final report to Congress on the study described in this subsection and shall include in its report an examination of whether small or isolated hospitals located in rural areas have particular difficulty in obtaining financing for capital projects.

SEC. 1104. PASS THROUGH PAYMENT FOR HEMOPHILIA INPATIENTS.

(a) PASS THROUGH FOR CERTAIN FACTORS.—Section 1886(a)(4) (42 U.S.C. 1395ww(d)(4)) is amended by striking "October 1, 1987)" and inserting in lieu thereof "October 1, 1987) or blood clotting factors administered to hemophilia inpatients".

(b) DETERMINING PAYMENT AMOUNT.—The Secretary of Health and Human Services shall set payment for blood clotting factors administered to Medicare beneficiaries with hemophilia being treated on an inpatient basis at a predetermined price per unit (determined in consultation with the Prospective Payment Assessment Commission) multiplied by the number of units consumed by the patient.

(c) RECOMMENDATIONS ON PAYMENTS.—The Prospective Payment Assessment Commission and the Health Care Financing Administration shall develop and submit to Congress recommendations on payment for blood clotting factors provided to Medicare beneficiaries with hemophilia and shall submit such recommendations to Congress no later than 18 months after the date of enactment of this Act.

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to items furnished six months after the date of enactment of this Act and shall expire 2 years after the date of enactment of this Act.

SEC. 1105. EXEMPTION OF CANCER HOSPITALS FROM PROSPECTIVE PAYMENT SYSTEM.

(a) CANCER HOSPITALS EXEMPTED FROM PPS.—Section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) is amended—

(1) in clause (iii), by striking "or";

(2) in clause (iv), by striking the semicolon at the end and inserting ", or"; and

(3) by inserting after clause (iv) the following new clause:

"(v) a hospital that the Secretary has classified, at any time on or before December 31, 1990, for purposes of applying exceptions and adjustments to payment amounts under this subsection, as a hospital involved extensively in treatment for or research on cancer, and any hospital so involved which is located in a state operating a demonstration project under section 1814(b) and which applies to the Secretary for such classification by September 30, 1991".

(b) CONFORMING AMENDMENT.—Section 1886(d)(5)(H) of such Act (as redesignated by section 10102(f)(1)(B)) is amended by striking "(including" and all that follows through "cancer)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to cost reporting periods beginning on or after October 1, 1989, except that—

(1) in the case of a hospital classified by the Secretary of Health and Human Services as a hospital involved extensively in treatment for or research on cancer under section 1886(d)(5)(H) of the Social Security Act (as redesignated by section 10102(f)(1)(A)) after the date of the enactment of this Act, such amendments shall apply with respect to cost reporting periods beginning on or after the date of such classification,

(2) such amendments shall apply with respect to portions of cost reporting periods or discharges occurring during and after fiscal year 1987, for purposes of section 1886(g) of the Social Security Act, and

(3) such amendments shall take effect 30 days after the date of the enactment of this Act for purposes of determining the eligibility of a hospital to receive periodic interim payments under section 1815(e)(2) of the Social Security Act.

SEC. 1106. TREATMENT OF CERTAIN HOSPITALS REDESIGNATED AS URBAN OR AFFECTED BY REDESIGNATION.

(a) IN GENERAL.—Section 1886(d)(8)(C)(i) (42 U.S.C. 1395ww(d)(8)(C)(i)) is amended to read as follows:

"(C)(i) If the application of subparagraph (B), by treating hospitals located in a rural county or counties as being located in an urban area, reduces the wage index for that urban area (as applied under this subsection), the Secretary shall calculate and apply such wage index for all hospitals located in (or treated as being located in that urban area under this subsection) excluding all hospitals treated as being located in that urban area under subparagraph (B). If the application of subparagraph (B), by treating hospitals located in a rural county or counties as not being located in the rural area in a State, reduces the wage index for that rural area (as applied under this subsection), the Secretary shall calculate and apply such wage index under this subsection as if the hospitals so treated had not been excluded from calculation of the wage index for that rural area.".

(b) EXTENDING TREATMENT.—Section 1886(d)(8)(C)(ii) (42 U.S.C. 1395uw(d)(8)(C)(ii)) is amended by striking "and before October 1, 1991".

SEC. 1107. PROVISIONS RELATING TO WAGE INDEX.

(a) SURVEY ANNUAL UPDATE.—Section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)) is amended by striking "October 1, 1990 (and at least every 36 months thereafter)" and inserting in lieu thereof "October 1, 1991 (and at least every 12 months thereafter)".

(b) ANNUAL ADJUSTMENT ON BUDGET-NEUTRAL BASIS.—Section 1886(d)(3)(E) of such Act (42 U.S.C. 1395ww(d)(4)(E)) is further amended by adding at the end the following: "Any such adjustment of the proportion of a hospital's costs which are attributable to wages and wage-related costs (beginning with fiscal year 1991) shall be made in a manner that assures that the aggregate payments under this subsection in the fiscal year are not greater or less than those that would have been made in the year without such adjustment.".

(c) ADJUSTMENT TO REFLECT DIFFERENCES IN STATE HOSPITAL CODES.—Section 1886(d)(3)(E) of such Act (42 U.S.C. 1395ww(d)(4)(E)), as amended by subsection (b), is further amended by adding at the end the following: "In making the adjustment to the proportion of hospitals' costs which are attributable to wages and wage-related costs under this subparagraph, the Secretary shall take into account to the extent feasible the differences in State hospital codes and requirements.".

SEC. 1108. EXTENSION OF FINGER LAKES WAIVER.

(a) IN GENERAL.—Section 1886(c)(4) is amended in the second section by striking "the aggregate payment or payments" and all that follows and inserting in lieu thereof "the aggregate rate of increase from October 1, 1984 to the most recent date for which annual data are available.".

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall apply until October 1, 1991, after which such waivers shall be treated in the same manner as under other waivers.

(c) REPORT.—By October 1, 1991, the General Accounting Office shall report to Congress on the status of the waiver described

in subsection (a) and whether it should be further extended.

SEC. 1109. PROVISIONS RELATING TO TARGET AMOUNT ADJUSTMENTS.

(a) INCLUDING NEW BASE PERIOD IN TARGET ADJUSTMENTS.—Section 1886(b)(4)(A) of the Social Security Act (42 U.S.C. 1395ww(b)(4)(A)) is amended by striking "deems appropriate," and inserting in lieu thereof "deems appropriate, including the assignment of a new base period which is more representative of the reasonable and necessary cost of inpatient services and".

(b) PUBLICATION OF INSTRUCTIONS RELATING TO EXCEPTIONS AND ADJUSTMENTS IN TARGET AMOUNTS.—By not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall publish instructions specifying the application process to be used in providing exceptions and adjustments under section 1886(b)(4)(A) of the Social Security Act.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to cost reporting periods beginning on or after October 1, 1989.

SEC. 1110. CORRECTED DETERMINATIONS OF ERRONEOUSLY DETERMINED WAGE INDEX.

(a) IN GENERAL.—Section 1886(d) (42 U.S.C. 1395ww(d)) is amended by adding at the end the following new paragraph:

"(10)(A)(i) In the case of a 'corrected determination' (as defined in subparagraph (B)), the Secretary shall, pursuant to clause (ii), give effect to such 'corrected determination' on both a retrospective and prospective basis.

"(ii) For any situation where clause (i) applies, the effective date for such 'corrected determination' shall be the date on which the original erroneous determination became effective.

"(B) For purpose of subparagraph (A), a 'corrected determination' is any determination, adjustment, computation or other decision, made by the Secretary pursuant to this subsection, which affects the area wage index established under paragraph (3)(E) for any specific hospital, and which is corrected as a result of the discovery by, or disclosure to, the Secretary of one or more of the following:

"(i) an arithmetic error;

"(ii) submission of erroneous data;

"(iii) incorrect classification of data; or

"(iv) incorrect manipulation of data.".

(b) EFFECTIVE DATE.—Subsection (a) shall become effective with respect to all discharges occurring on or after October 1, 1987.

SEC. 1111. RURAL HEALTH PROVISIONS RELATED TO PART A.

(a) ELIMINATION OF AVERAGE STANDARDIZED AMOUNTS FOR HOSPITALS IN DIFFERENT AREAS AND CREATION OF SEVERITY ADJUSTMENT.—(1) The Secretary of Health and Human Services (hereinafter referred to as the "Secretary") or the designee of the Secretary shall design a legislative proposal to eliminate the system of determining separate average standardized amounts for subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act) classified as being located in large urban, other urban, or rural areas under section 1886(d)(2)(D) of such Act. Such proposal shall include—

(A) a transition period from the current system of determining separate average standardized amounts to a system based on one single rate beginning in fiscal year 1992, with such single rate to be completely in effect by fiscal year 1995;

(B) recommendations, where appropriate, for modifying, or maintaining additional payments or adjustments for teaching hospitals, rural referral centers, sole community hospitals, disproportionate share hospitals, and outlier cases under title XVIII of the Social Security Act; and for creating additional payments or adjustments where deemed appropriate by the Secretary;

(C) recommendations with respect to recalculating standardized amounts to reflect information from a more recent cost reporting period or periods;

(D) recommendations, where appropriate, for modifying reimbursement for hospitals other than subsection (d) hospitals;

(E) a recommendation for a methodology to reflect the severity of illness of different patients within the same diagnosis related group (as determined in section 1886(d)(4)(B) of the Social Security Act); and

(F) an impact analysis of the proposed elimination of separate average standardized amounts on hospitals according to the following characteristics: urban or rural (as defined in section 1886(d)(2)(D) of the Social Security Act), teaching, disproportionate share, bed size, medicare volume, sole community status, region, and such other characteristics that the Secretary deems significant.

(2)(A) The Secretary shall submit a report (on the proposal described in subsection (a)) to the Congress no later than October 1, 1990.

(B) The report described in paragraph (1) shall be reviewed by the Prospective Payment Assessment Commission and the Congressional Budget Office. The Prospective Payment Assessment Commission and the Congressional Budget Office shall each submit a report including an impact analysis as described in subsection (a)(6) containing the results of their study to the Congress no later than April 1, 1991.

(b) EXTENSION OF REGIONAL REFERRAL CENTER CLASSIFICATION.—Any hospital that is classified as a regional referral center under section 1886(d)(5)(C)(i) of the Social Security Act as of September 30, 1989, including a hospital so classified as a result of section 9320(d)(2) of the Omnibus Budget Reconciliation Act of 1986, shall continue to be classified as a regional referral center for cost reporting periods beginning on or after October 1, 1989, and before October 1, 1992.

(c) ESTABLISHMENT OF MEDICARE GEOGRAPHICAL CLASSIFICATION REVIEW BOARD.—Section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) is amended by adding at the end thereof the following new paragraph:

"(10)(A) There is hereby established the 'Medicare Geographical Classification Review Board' (hereinafter in this paragraph referred to as the 'Board').

"(B)(i) The Board shall be composed of 5 members appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Two of such members shall be representatives of subsection (d) hospitals classified as located in a rural area under paragraph (2)(D). At least 1 member shall be a member of the Prospective Payment Assessment Commission, and at least 1 member shall be knowledgeable in the field of analyzing costs with respect to the provision of inpatient hospital services.

"(ii) The Secretary shall make all appointments to the Board as provided in this paragraph within 60 days after the date of the enactment of this Act.

"(C)(i) The Board shall consider the application of—

"(I) any subsection (d) hospital, or

"(II) any subsection (d) Puerto Rico hospital,

requesting that the Board classify such hospital as a hospital located in a urban area, a large urban area or a rural area other than the area in which it is located for purposes of determining the hospital's average standardized amount under paragraph (2)(D). Such application shall specify which Metropolitan Statistical Area or rural area the requesting hospital would like to be classified in, and shall be submitted no later than January 31, of the year in which such hospital requests reclassification.

"(ii)(I) The Board shall render a decision either accepting or denying the application of a hospital described in clause (i) to be reclassified as a hospital located in a urban area, large urban area or rural area by June 1, of the year in which such applying hospital submits an application as described in this paragraph. The Board in rendering such decision shall take into consideration and make specific findings on the record regarding the criteria published by the Secretary as described in subparagraph (D).

"(II) A decision of the Board shall be final unless the unsuccessful applicant appeals such decision to the Secretary by July 1, of the year in which such applicant unsuccessfully applied for reclassification pursuant to this paragraph. The Secretary in considering the appeal of an applicant shall receive no new evidence but shall consider the record as a whole as such record appeared before the Board. The Secretary shall issue a decision either affirming or reversing the decision of the Board by September 1, of the year in which such unsuccessful applicant appeals a decision of the Board pursuant to this section. The decision of the Secretary in either affirming or reversing the decision of the Board shall be final and shall not be subject to judicial review.

"(iii) A decision of the Board or a decision of the Secretary, if a decision of the Board is appealed to the Secretary, shall become effective on October 1 of the year in which such decision is rendered, and if such decision is in favor of the applying hospital, such hospital shall be reclassified by the Secretary as being located in an urban area for purposes of subsection (d) and section 1815 (e)(1).

"(D)(i) The Secretary shall publish guidelines to be utilized by the Board in rendering decisions on the applications of applying hospitals. Such criteria to be published by the Secretary shall include the following:

"(I) A comparison of wages, taking into account occupational mix, between a hospital located in a rural area or urban area applying for reclassification as a hospital located in a urban area or large urban area, and hospitals located in the urban area or large urban area into which such applying hospital would be reclassified.

"(II) An examination of whether the applying hospital is located in a county that, on the basis of the most recent data published by the Bureau of the Census, meets requirements of the Office of Management and Budget for inclusion as an outlying county of a Metropolitan Statistical Area, without regard to any requirement by the Office of Management and Budget that certain data for qualification be from the decennial census.

"(III) Consideration of the effects on access to inpatient hospital services by med-

icare beneficiaries should an applying hospital not be reclassified as urban.

"(IV) Consideration of the appropriateness of the criteria used to define New England County Metropolitan Areas.

"(ii) The Secretary shall publish the criteria described in clause (i) by January 1, 1990.

"(E)(i) The Board shall have full power and authority to make rules and establish procedures, not inconsistent with the provisions of this title or regulations of the Secretary, which are necessary or appropriate to carry out the provisions of this paragraph. In the course of any hearing the Board may administer oaths and affirmations. The provisions of subsections (d) and (e) of section 205 with respect to subpoenas shall apply to the Board to the same extent as such provisions apply to the Secretary with respect to title II.

"(ii) The Board is authorized to engage such technical assistance and to receive such information as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Board such secretarial, clerical, and other assistance as the Board may require to carry out its functions.

"(F)(i) Each member of the Board who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Board. All members of the Board who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

"(ii) The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.".

(d) MODIFICATION IN GRANT PROGRAM FOR RURAL HEALTH CARE TRANSITION.—Section 4005(e) of the Omnibus Budget Reconciliation Act of 1987 is amended—

(1) in paragraphs (1), by striking "methods may include" and inserting in lieu thereof "methods may include shared service arrangements,";

(2) in paragraph (3)(A), by inserting "to the Administrator and a copy of such application" after "an application";

(3) in paragraph 3(b), by striking "any application" and all that follows through "accompanied by" and inserting in lieu thereof "to the Secretary";

(4) in paragraph (6), by striking "A grant" and all that follows through "2 years" and inserting in lieu thereof the following: "A grant to a hospital under this subsection may not exceed $50,000 a year, unless the Secretary determines that an amount in excess of $50,000 a year is necessary to assist a hospital receiving such a grant in implementing a project as described in paragraph (1). A grant to a hospital under this subsection may not exceed 3 years"; and

(5) in paragraph (9), by striking "$15,000,000 for each of the fiscal years 1989 and 1990" and inserting in lieu thereof "$25,000,000 for each of the fiscal years 1990, 1991, and 1992".

(e) TELECOMMUNICATIONS DEMONSTRATION PROJECTS FOR MANPOWER SHORTAGE AREAS.—(1) The Secretary of Health and Human Services (hereinafter referred to as the "Secretary") shall enter into agreements with not less than 5 or more than 10 hospitals submitting applications under this section (in such form as the Secretary may provide) for the purpose of conducting demonstration projects to provide instruction and consultation (and such other services as the Secretary determines appropriate) via telecommunications to physicians in such rural areas (within the meaning of section 1886(d)(2)(D)) as are designated either class 1 or class 2 health manpower shortage areas under section 332(a)(1)(A) of the Public Health Service Act.

(2)(A) Subject to paragraph (2), the Secretary shall make grants to each hospital with an agreement under this section to assist each such hospital in carrying out its demonstration project under this section.

(B) No funds made available to a hospital under this section shall be used by a hospital for the acquisition of capital items (including computer hardware).

(3) A demonstration project conducted under this section shall be commenced not later than July 1, 1990, and shall be conducted for a three-year period unless the Secretary determines that the hospital conducting the project is not in substantial compliance with the terms of the agreement entered into under this section.

(4)(A) Each hospital with an agreement under this section shall furnish the Secretary with such information as the Secretary determines to be necessary to evaluate the results of the demonstration project conducted by the hospital.

(B)(i) Not later than January 1, 1992, the Secretary shall submit an interim report to the Congress on the progress of the demonstration projects conducted under this section.

(ii) Not later than January 1, 1993, the Secretary shall submit a final report to the Congress that describes the results of the demonstration projects conducted under this section and contains such recommendations as the Secretary determines are appropriate.

(5) There are authorized to be appropriated from the Federal Hospital Insurance and Supplementary Medical Insurance Trust Fund such sums as may be necessary to carry out the demonstration projects under this section.

(f) INTERIM PROVISION TO ENSURE ADEQUATE PAYMENTS FOR INPATIENT HOSPITAL SERVICES FURNISHED BY MEDICARE-DEPENDENT, SMALL, RURAL HOSPITALS.—Section 1886(d)(5) of the Social Security Act (42 U.S.C. 1395ww(d)(5)) is amended by adding at the end the following new subparagraph:

"(G)(i) For cost reporting periods beginning after September 30, 1989, and ending before October 1, 1991, the Secretary shall provide for an additional payment amount for each medicare-dependent, small, rural hospital (as defined in clause (ii)) to ensure that the total of the payments made to the hospital under this section (including this clause) for any such cost reporting period is at least equal to the reasonable costs associated with the hospital's operating costs of inpatient hospital services for medicare beneficiaries for that period. In determining the reasonable costs of a hospital under the previous sentence, the Secretary may not apply limits which would limit reimbursement based on average costs incurred by hospitals. In the case of a hospital receiving payments on a periodic interim basis under section 1815(e)(1) and entitled to additional payment amounts under this subparagraph, such additional payment amounts shall be included in the payments made under section 1815(e)(1).

"(ii) In clause (i), the term 'medicare-dependent, small, rural hospital' means, for a cost reporting period with respect to which such clause applies, a subsection (d) hospital—

"(I) that is receiving payments based on the rural standardized amount and has no more than 100 beds; and

"(II) for which period at least 60 percent of inpatient hospital services (determined, at the hospital's option, on an inpatient day or on a discharge basis) are attributable to inpatients who are entitled to benefits under part A.".

(g) STUDY ON RURAL WAGE INDEX.—

(1) IN GENERAL.—The Secretary of Health and Human Services (hereinafter referred to as the "Secretary") shall by no later than January 1, 1991, conduct a study and report to Congress on the feasibility and advisability of modifying the hospital wage index (as used for purposes of payment to hospitals under title XVIII of the Social Security Act) to reflect alternative definitions of labor markets on a regional, rather than on an urban or rural basis. Such study shall further assess—

(A) the possibility of dividing rural areas into urbanized and non-urbanized areas;

(B) dividing urban areas into inner city and suburban areas; and

(C) the effect on the level of the hospital wage index of including data from hospital-based nursing homes in determining such index.

(2) PROPAC REPORT.—The Prospective Payment Assessment Commission shall review the Secretary's report (as described in paragraph (1) and provide to Congress by no later than July 1, 1991, an analysis of such report.

(h) RURAL DISPROPORTIONATE SHARE HOSPITALS.—

Section 1886(d)(4)(F) (42 U.S.C. 139ww(d)(5)(f)) is amended—

(1) in clause (iv)(III), by inserting before "is located in a rural area" the following "except as provided in subclause (IV)";

(2) by striking the period at the end of clause (iv)(III) and by inserting in lieu thereof "; or";

(3) by inserting at the end of clause (iv), the following new subclause:

"(IV) is designated as a sole community hospital under this subsection and is not described in the second sentence of clause (v), is equal to 10 percent";

(4) in clause (v), by inserting before "45 percent" the following "except as provided in subclause (IV)";

(5) by striking the period at the end of clause (v)(III) and inserting in lieu thereof "; or"; and

(6) by inserting at the end of clause (v) the following new subclause "(IV) 20 percent, if the hospital is located in a rural area and has more than 100 beds, or is designated as a sole community hospital under this subsection.".

SEC. 1112. PERMITTING MEDICARE BUY-IN FOR CONTINUED BENEFITS.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1818 the following new section:

"HOSPITAL INSURANCE AND MEDICAL BENEFITS FOR DISABLED INDIVIDUALS WHO HAVE EXHAUSTED OTHER ENTITLEMENT

"SEC. 1818A. (a) Every individual who—

"(1) has not attained the age of 65,

"(2)(A) would be entitled to benefits under this part under section 226(b), but for the 48-month limitation specified in the fifth sentence of such section, or (B) is blind (within the meaning of section 216(i)(1)) and would be entitled to benefits under this part under section 226(b), but for the 24-month limitation specified in the third sentence of such section, an

"(3) is not otherwise entitled to benefits under this part,

shall be eligible to enroll in the insurance program established by this part.

"(b) An individual may enroll under this section only in such manner and form as may be prescribed in regulations, and only during an enrollment period prescribed in or under this section.

"(c) The provisions of section 1837 (except subsections (f), (g) and (i) thereof), section 1838 (other than subsections (c) and (e) thereof), and section 1840 shall apply to individuals authorized to enroll under this section, except that—

"(1) the initial enrollment period shall begin on the first day of the third month before the month in which the individual first becomes eligible and shall end 7 months later; and

"(2) an individual's eligibility to enroll under this section shall terminate with the month before the first month in which the individual becomes eligible for hospital insurance benefits under section 226(a) (including, in the case of an individual described in subsection (a)(2)(B), such eligibility under section 226(b) through the application of section 223(d)(1)(b)) and upon such termination such individual shall be deemed, solely for purposes of hospital insurance entitlement, to have filed in such first month the application required to establish such entitlement.

"(d) The provisions of subsections (d) through (f) of section 1818 shall apply to individuals enrolled under this section .".

(b) MEDICARE AS SECONDARY PAYOR TO EMPLOYER PLANS.—Section 1862(b)(4)(A)(i) (42 U.S.C. 1395y(b)(4)(A)(i)) is amended by inserting "or any other individual is eligible for or receives benefits under this title due to enrollment under section 1818A" after "226(b)".

Subpart B—Other Provisions

SEC. 1121. PAYMENT TO SKILLED NURSING FACILITIES FOR ROUTINE SERVICE COSTS.

Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall—

(1) study the differences between the limits applicable to routine service costs of extended care services (as described in section 1888(a) of the Social Security Act (42 U.S.C. 1395xx(a)) for—

(A) hospital-based skilled nursing facilities; and

(B) freestanding skilled nursing facilities; and

(2) report to the Congress on the appropriateness of the differences in such limits.

SEC. 1122. "BUY-IN" UNDER PART A FOR "QUALIFIED MEDICARE BENEFICIARIES".

(a) IN GENERAL.—Section 1818 of the Social Security Act (42 U.S.C. 1395i(2) is amended by adding at the end thereof the following:

"(g)(1) The Secretary shall, at the request of a State made after 1989, enter into a modification of an agreement entered into with the State pursuant to section 1843(a) under which the agreement provides for enrollment in the program established by this part of qualified medicare beneficiaries (as defined in section 1905(p)(1)).

"(2)(A) Except as provided in subparagraph (B), the provisions of subsections (c), (d), (e), and (f) of section 1843 shall apply to qualified medicare beneficiaries enrolled, pursuant to such agreement, in the program established by this part in the same manner and to the same extent as they apply to qualified medicare beneficiaries enrolled, pursuant to such agreement, in part B.

"(B) For purposes of this subsection, section 1843(d)(1) shall be applied by substituting "section 1818" for "section 1839" and "subsection (c) (with reference to subsection (b) of section 1839" for "subsection (b).".

(b) CONFORMING AMENDMENT.—Section 1843 of such Act (42 U.S.C. 1395v) is amended by adding at the end the following:

"(i) For provisions relating to enrollment of qualified medicare beneficiaries under part A, see section 1818(g).".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective January 1, 1990.

SEC. 1123. INTERMEDIATE SANCTIONS FOR PSYCHIATRIC HOSPITALS UNDER MEDICARE.

Section 1866 of such Act (42 U.S.C. 1395cc) is amended by adding at the end the following new subsection:

"(i)(1) If the Secretary determines that a psychiatric hospital which has an agreement in effect under this section no longer meets the requirements for a psychiatric hospital under this title and further finds that the hospital's deficiencies—

"(A) immediately jeopardize the health and safety of its patients, the Secretary shall terminate such agreement; or

"(B) do not immediately jeopardize the health and safety of its patients, the Secretary may terminate such agreement, or provide that no payment will be made under this title with respect to any individual admitted to such hospital after the effective date of the finding, or both.

"(2) If a psychiatric hospital, found to have deficiencies described in paragraph (1)(B), has not complied with the requirements of this title—

"(A) within 3 months after the date the hospital is found to be out of compliance with such requirements, the Secretary shall provide that no payment will be made under this title with respect to any individual admitted to such hospital after the end of such 3-month period, or

"(B) within 6 months after the date the hospital is found to be out of compliance with such requirements, no payment may be made under this title with respect to any individual in the hospital until the Secretary finds that the hospital is in compliance with the requirements of this title.".

SEC. 1124. PAYMENTS FOR HOSPICE CARE.

(a) INCREASE IN CURRENT RATES.—Section 1814(i)(1) of the Social Security Act (42 U.S.C. 1395f(i)(1)) is amended—

(A) in subparagraph (A), by inserting "and except as otherwise provided in this paragraph" after "1813(a)(4)", and

(B) by striking subparagraph (C) and inserting the following:

"(C)(i) With respect to routine home care and other services included in hospice care furnished during fiscal year 1990, the payment rates for such care and services shall be 120 percent of such rates in effect as of September 30, 1989.

"(ii) With respect to routine home care and other services included in hospice care furnished during a subsequent fiscal year, the payment rates for such care and services shall be the payment rates in effect under this subparagraph during the previous fiscal year increased by the market basket percentage increase (as defined in section 1886(b)(3)(B)(iii)) otherwise applicable to discharges occurring in the fiscal year.".

(b) STUDY OF METHODS TO COMPENSATE HOSPICES FOR HIGH-COST CARE.—

(1) STUDY.—The Secretary of Health and Human Services shall—

(A) conduct a study of high-cost hospice care provided to medicare beneficiaries under the medicare program, and evaluate the ability of hospice programs participating in the medicare program to provide such high-cost care to such patients, and

(B) based on such study, develop methods to compensate such programs for providing such high-cost care.

(2) REPORT TO CONGRESS.—Not later than October 1, 1990, the Secretary shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the study conducted under paragraph (1) and shall include in the report any recommendations developed by the Secretary to compensate hospice programs for providing high-cost hospice care to medicare beneficiaries.

(c) CERTAIN SERVICES EXEMPTED FROM WAIVER UNLESS INCLUDED IN HOSPICE PROGRAM.—Section 1812(d)(2) of such Act (42 U.S.C. 1395d(d)(2)) is amended—

(1) in subparagraph (A) by striking "subparagraphs (B) and (C)" and inserting in lieu thereof "subparagraphs (B), (C) and (E)"; and

(2) by adding at the end the following new subparagraph:

"(E) With respect to an individual who elects to receive hospice care under a particular hospice program as described in paragraph (1), such individual shall not be deemed to have waived such individual's rights to have payment made under this part for home intravenous drug therapy services described in section 1861(jj), or in home care described in section 1861(ll), unless such services are included in the hospice plan of care (described in section 1861(dd)) elected by such individual.".

(d) REQUIREMENT OF CERTIFICATION OF TERMINAL ILLNESS MODIFIED.—Section 1814(a)(7) of such Act (42 U.S.C. 1395f(a)(7)) is amended by striking "not later than two days after hospice care is initiated" and inserting in lieu thereof "not later than eight days (but verbally not later than two days) after hospice care is initiated".

(e) EFFECTIVE DATE.—The amendments made by subsections (c) and (d) shall become effective with respect to care and services furnished on or after January 1, 1990.

SEC. 1125. ALLOWING CERTIFICATIONS AND RECERTIFICATIONS BY NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS FOR CERTAIN SERVICES.

(a) CERTIFICATIONS AND RECERTIFICATIONS FOR SERVICES.—Section 1814(a) (42 U.S.C. 1395f(a)) is amended—

(1) in paragraph (2) by striking "(2) a physician" and inserting in lieu thereof "(2) a physician, or, in the case of services described in subparagraph (B), a physician, or a nurse practitioner or clinical nurse specialist who does not have a direct or indirect employment relationship with the facility but is working in collaboration with a physician,", and

(2) in the matter following paragraph (7) by striking "a physician makes" and inserting in lieu thereof "a physician, nurse practitioner, or clinical nurse specialist (as the case may be) makes".

(b) DEFINITION PROVIDED.—

(1) Section 1861 (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"NURSE PRACTITIONER AND CLINICAL NURSE SPECIALIST

"(mm)(1) An individual shall be treated as a nurse practitioner or clinical nurse specialist if the individual—

"(A) is licensed to practice professional nursing;

"(B) perform such services as such individual is legally authorized to perform (in the State in which the individual performs such services) in accordance with State law (or the State regulatory mechanism provided by State law); and

"(C)(i) is master's prepared in nursing; or

"(ii) holds a master's degree in a related field and is certified or certified eligible by a national professional organization; or

"(iii) has completed a nurse practitioner continuing education program and is certified or certified eligible.

"(2) A nurse practitioner or clinical nurse specialist works in collaboration with a physician where the nurse and physician act pursuant to an agreement that allocates responsibility for decisions and actions, but allows each professional to retain responsibility for their respective actions and engage in such actions independently.".

(2) Section 1861(aa) of such Act (42 U.S.C. 1395x(aa)) is amended in paragraph (3)—

(A) by striking "and the term 'nurse practitioner' " and "or nurse practitioner", and

(B) by striking "mean" and inserting in lieu thereof "means".

(3) Section 1861(s)(2)(H) of such Act (42 U.S.C. 1395x(s)(2)(H)) is amended in clause (i) by striking "physician assistant or by a nurse practitioner (as defined in subsection (aa)(3))" and inserting in lieu thereof "physician assistant (as defined in subsection (aa)(3)) or by a nurse practitioner (as defined in subsection (mm)(1))".

(c) BUDGET NEUTRALITY.—The Secretary of Health and Human Services shall issue such rules and regulations which will ensure that this Act is implemented in a budget neutral manner. The Secretary of Health and Human Services is authorized to reduce the levels of payments that would otherwise be paid to ensure budget neutral implementation of this Act.

SEC. 1126. PROHIBITION ON NURSING HOME BALANCE BILLING.

(a) PROHIBITION.—Section 1866(a)(2)(B) (42 U.S.C. 1395ww(a)(2)(B)) is amended by striking clause (ii).

(b) LEGISLATIVE PROPOSAL.—Not later than June 30, 1990, the Secretary of Health and Human Services shall transmit to the Congress a legislative proposal for paying for skilled nursing facility services and home health services under prospective payment systems.

SEC. 1127. CLASSIFICATION OF SOLE COMMUNITY HOSPITALS.

(a) CRITERIA FOR CLASSIFICATION.—Section 1886(d)(5)(C) (42 U.S.C. 1395ww(d)(5)(C)) is amended—

(1) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively;

(2) by redesignating the last sentence of clause (ii) as clause (iii) and realigning it accordingly;

(3) in clause (iii), as redesignated, by striking "this subparagraph" and inserting in lieu thereof "clause (ii)";

(4) by inserting "(I)" after the designation of clause (iii), as redesignated; and

(5) by adding at the end of clause (iii), as redesignated, the following:

"(II) In making determinations pursuant to subclause (I), the Secretary shall treat a subsection (d) hospital as a sole community hospital if the hospital is located more than 35 miles from other hospitals furnishing short-term, acute care.

"(III) In making determinations pursuant to subclause (I), the Secretary shall treat a subsection (d) hospital as a sole community hospital if the hospital is located at least 25 miles (but not more than 35 miles) from other hospitals furnishing short-term, acute care and not more than 50 percent of the individuals entitled to benefits under part A who become hospital inpatients in the service area of the hospital are admitted to other hospitals furnishing such care within a 35-mile radius of the hospital, or if the service area of the hospital is larger, within the service area of the hospital. For purposes of the preceding sentence, a hospital with fewer than 50 beds shall be treated as meeting the requirement relating to the percentage of individuals becoming inpatients of other hospitals if the appropriate agency or organization with an agreement under section 1816 certifies that the hospital would have met the requirement were it not for the fact that some individuals were forced to seek care outside the service area of the hospital due to the unavailability of necessary specialty services at the hospital.

"(IV) In making determinations pursuant to subclause (I), the Secretary shall treat a subsection (d) hospital as a sole community hospital if the hospital is located at least 15 miles (but not more than 35 miles) from other hospitals furnishing short-term, acute care and such other hospitals are inaccessible for at least one month in each 2 out of 3 years because of local topography or severe weather conditions.

"(V) In making determinations pursuant to subclause (I), the Secretary shall consider—

"(aa) the time needed to travel to the nearest alternative source of appropriate inpatient care;

"(bb) in those cases where the Secretary determines a hospital's eligibility for sole community hospital status using criteria related to such hospital's share of beneficiaries eligible for benefits under this title or total population of such beneficiaries in the area served by the hospital, the Secretary shall then take into account the total number of patients (whether or not such patients are eligible for benefits under this title) who seek health services unavailable in the area served by such hospital, without regard to the number of beds in such hospital; and

"(cc) such other factors that the Secretary considers relevant.".

(b) DURATION OF CLASSIFICATION.—For purposes of section 1886(d)(5)(C)(ii) (42 U.S.C. 1395ww(d)(5)(C)(ii)), any hospital that is classified as a sole community hospital on the date of the enactment of this Act shall continue to be so classified until—

(1) there is a change in the circumstances under which the classification was approved, or

(2) the hospital requests cancellation of such classification and such cancellation becomes effective.

(c) PAYMENTS TO SOLE COMMUNITY HOSPITALS.—Section 1886(d)(5)(C)(ii) (42 U.S.C. 1395ww(d)(5)(C)(ii)), as amended by section 2(a) of this Act, is further amended by striking the first sentence and inserting in lieu thereof the following new sentences: "With respect to a subsection (d) hospital which is a 'sole community hospital', payment under paragraph (1)(A) for any cost reporting period of fiscal year beginning on or after October 1, 1989, shall be equal to the sum of (I) 75 percent of the greater of (at the option of the hospital) the hospitals target amount considered in subsection (b)(3)(A), but determined without the application of subsection (a)), or a target amount determined by the Secretary in the same manner, but using information from the most recent cost reporting period or periods available, and (II) 25 percent of the greater of the applicable regional or national DRG prospective payment rate determined under subsection (d)(3). For cost reporting periods beginning on or after October 1, 1989, the Secretary shall provide for an appropriate adjustment to ensure that the total amount paid to a sole community hospital (that is at least 35 miles from other hospitals furnishing short-term acute care) for the operating costs of inpatient hospital services for Medicare beneficiaries in that cost reporting period are not less than the reasonable costs incurred by the hospital in furnishing such services (determined without regard to the limits imposed by subsections (a) and (b)).".

(d) EXTENSION OF ADJUSTMENT FOR VOLUME DECLINE.—Section 1886(d)(5)(C)(ii) (42 U.S.C. 1395ww(d)(5)(C)(ii)), as amended by section 2(a) of this Act, is further amended by striking "and before October 1, 1990" in the second sentence.

(e) TREATMENT OF CAPITAL-RELATED COSTS.—Section 1886(g)(3)(B) (42 U.S.C. 1395ww(g)(3)(B)) is amended by inserting before the period the following: "or that is a subsection (d) hospital that meets the criteria for classification as a sole community hospital but is not so classified".

SEC. 1128. PERMITTING DENTIST TO SERVE AS HOSPITAL MEDICAL DIRECTOR.

Notwithstanding the requirement that the responsibility for organization and conduct of the medical staff of an institution be assigned only to a doctor of medicine or osteopathy in order for the institution to participate as a hospital under the medicare program, an institution that has a doctor of dental surgery or of dental medicine serving as its medical director shall be considered to meet such requirement if the laws of the State in which the institution is located permit a doctor of dental surgery or of dental medicine to serve as the medical staff director of a hospital.

PART II—PROVISIONS RELATING TO PART B OF MEDICARE

Subpart A—Payment for Physicians' Services

SEC. 1201. FREEZE ON PHYSICIAN PAYMENTS FOR NON-PRIMARY SERVICES.

(a) DELAYING MEI UPDATE UNTIL APRIL 1.—

(1) IN GENERAL.—Subject to the amendments made by this section, any increase or adjustment in prevailing or customary charges, fee schedule amounts, maximum allowable actual charges, and other limits on actual charges with respect to physicians' services and other items and services described in paragraph (2) under part B of title XVIII of the Social Security Act which would otherwise occur as of January 1, 1990, shall be delayed so as to occur as of April 1, 1990, and, notwithstanding any other provision of law, the amount of payment under such part for such items and services which are furnished during the period beginning on January 1, 1990, and ending on March 31, 1990, shall be determined on the same basis as the amount of payment for such services furnished on December 31, 1989.

(2) ITEMS AND SERVICES COVERED.—The items and services described in this paragraph are items and services (other than ambulance services) for which payment is made under part B of title XVIII of the Social Security Act on the basis of reasonable charge or on the basis of a fee schedule if the fee schedule is subject to an annual adjustment based on the percentage increase in the MEI (as defined in section 1842(i)(3) of such Act).

(3) EXTENSION OF PARTICIPATION AGREEMENTS AND RELATED PROVISIONS.—Notwithstanding any other provision of law—

(A) subject to the last sentence of this paragraph, each participation agreement in effect on December 31, 1989, under section 1842(h)(1) of the Social Security Act shall remain in effect for the 3-month period beginning on January 1, 1990;

(B) the effective period for such agreements under such section entered into for 1990 shall be the 9-month period beginning on April 1, 1990, and the Secretary shall provide an opportunity for physicians and suppliers to enroll as participating physicians and suppliers before April 1, 1990;

(C) instead of publishing, under section 1842(h)(4) of the Social Security Act, at the beginning of 1990, directories of participating physicians and suppliers for 1990, the Secretary shall provide for such publication, at the beginning of the 9-month period beginning on April 1, 1990, of such directories of participating physicians and suppliers for such period; and

(D) instead of providing to nonparticipating physicians under section 1842(b)(3)(G) of the Social Security Act at the beginning of 1990, a list of maximum allowable actual charges for 1990, the Secretary shall provide such physicians, at the beginning of the 9-month period beginning on April 1, 1990, with such a list for such 9-month period.

An agreement with a participating physician or supplier described in subparagraph (A) in effect on December 31, 1989, under section 1842(h)(1) of the Social Security Act shall not remain in effect for the period described in subparagraph (A) if the participating physician or supplier requests on or before December 31, 1989, that the agreement be terminated.

(b) FREEZE.—Section 1842(b)(4)(E) (42 U.S.C. 1395u(b)(4)(E)) is amended by adding at the end thereof the following new clause:

"(iv) For purposes of this part for physicians' services furnished in 1990, after March 31, 1990, the percentage increase in the MEI is—

"(I) for primary care services, the full percentage increase in the medicare economic index referred to in the fourth sentence of subsection (b)(3), and

"(II) for other physicians' services, 0 percent.".

SEC. 1202. REDUCTION IN PAYMENTS FOR CERTAIN OVERVALUED PROCEDURES.

(a) REDUCTION IN PAYMENTS FOR IDENTIFIED OVERVALUED PROCEDURES.—

(1) IN GENERAL.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(14)(A) In determining the reasonable charge for a physicians' service specified in subparagraph (C)(i) and furnished during the 9-month period beginning on April 1, 1990, the prevailing charge for such service shall be the prevailing charge otherwise recognized for such service for 1989 reduced by 15 percent or, if less, ⅓ of the percent (if any) by which the prevailing charge otherwise applied in the locality in 1989 exceeds the locally-adjusted reduced prevailing amount (as determined under subparagraph (B)(i)) for the service.

"(B) For purposes of this paragraph:

"(i) The 'locally-adjusted reduced prevailing amount' for a locality for a physicians' service is equal to the product of (I) the reduced national weighted average prevailing charge for the service (specified under clause (ii)) and (II) the adjustment factor (specified under clause (iii)) for the locality.

"(ii) The 'reduced national weighted average prevailing charge' for a physicians' service is equal to the national weighted average prevailing charge for the service (specified under subparagraph (C)(ii)) reduced by the percentage change (specified under subparagraph (C)(iii)) for the service.

"(iii) The 'adjustment factor' for a locality is .54 plus the product of .46 and the geographic practice cost index value (specified under subparagraph (C)(iv)) for the locality.

"(C) For purposes of this paragraph:

"(i) The physicians' services specified in this clause are the physicians' services specified in Appendices A and B to accompany title V (Committee on Finance) contained in the report of the Committee on the Budget, United States Senate, to accompany S. ——— (the 'Omnibus Budget Reconciliation Act of 1989'), 101st Congress, which specification is of physicians' services that have been identified as overpriced by at least 10 percent based on a comparison of payments for such services under a resource-based relative value scale and of the national average prevailing charges under this part.

"(ii) The 'national weighted average prevailing charge' specified in this clause, for a physicians' service specified in clause (i), is the national weighted average prevailing charge for the service in 1989 as determined by the Secretary using the best data available.

"(iii) The 'percent change' specified in this clause, for a physicians' service specified in clause (i), is the percent change specified for the service in the Appendix referred in clause (i).

"(iv) The geographic practice cost index value specified in this clause for a locality is such value specified for the locality in the Appendix referred to in clause (i).

"(D) In the case of a reduction in the prevailing charge for a physicians' service under subparagraph (A), if a nonparticipating physician furnishes the service to an individual entitled to benefits under this part, after the effective date of such reduction, the physician's actual charge is subject to a limit under subsection (j)(1)(D).".

(2) SPECIAL LIMITS ON ACTUAL CHARGES.—Section 1842(j)(1)(D) of such Act is amended—

(A) in clause (ii)(II), by inserting "or (b)(14)(A)" after "(b)(10)(A)", and

(B) in clause (iii)(II), by striking "or (b)(11)(C)(i)" and inserting "(b)(11)(C)(i), or (b)(14)(A)".

SEC. 1203. REDUCTION IN PAYMENTS FOR RADIOLOGY SERVICES.

(a) FEE SCHEDULES FOR RADIOLOGIST SERVICES REDUCED.—Section 1834(b)(4) (42 U.S.C. 1395m(b)(4)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) 1990 FEE SCHEDULES.—(i) For radiology services furnished under this part during 1990, after March 31 of such year, the fee schedules under this subsection shall be 93 percent of the amounts permitted under the fee schedules developed for 1989 under subparagraph (A).

"(ii) For portable X-ray services furnished under this part during 1990, after March 31 of such year, clause (i) shall be applied by substituting '97' for '93'.".

(b) REDUCTION IN PREVAILING CHARGES FOR RADIOLOGY SERVICES.—(1) Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end thereof the following new paragraph:

"(15) The prevailing charge levels for radiology services furnished during 1990, after March 31 of such year, shall be 97 percent of the prevailing charge levels for such services furnished during 1989.".

(2) Section 1842(j)(1)(D) of such Act, as amended by subsection (a)(2) of this section, is further amended—

(i) in clause (ii)(IV), by inserting "or (b)(15)" before the comma at the end, and

(ii) in clause (iii)(II), by striking "or (b)(14)(A)(i)" and inserting "(b)(14)(A), or (b)(15)".

(c) 1-YEAR EXEMPTION OF NUCLEAR PHYSICIANS.—In applying section 1834(b)(6) of the Social Security Act with respect to services furnished during 1990, after March 31, of such year, the term "radiologist services" does not include nuclear medicine services performed by, or under the direct supervision of, a physician who is certified by the American Board of Nuclear Medicine or by the American Board of Radiology (with Special Competence in Nuclear Radiology).

(d) INTERVENTIONAL RADIOLOGISTS.—In applying section 1834(b) of the Social Security Act to radiology services furnished in 1990, the exception for "split billing" set forth at section 5262J of the Medicare Carriers Manual shall apply to services furnished in 1990 in the same manner and to the same extent as the exception applied to services furnished in 1989.

(e) STUDY OF PAYMENT FOR PORTABLE X-RAY SERVICES.—The Secretary of Health and Human Services shall conduct a study of the costs of furnishing, and payments for, portable x-ray services under part B of title XVIII of the Social Security Act. Not later than 6 months after the date of the enactment of this Act, the Secretary shall report to Congress on the results of such study and shall include a recommendation respecting whether payment for such services should be made in the same manner as for radiologists' services or on the basis of a separate fee schedule.

SEC. 1204. ANESTHESIA SERVICES.

(a) REDUCTION IN TIME UNITS.—For purposes of payment for anesthesia services (whether furnished by a physician or by a certified registered nurse anesthetist) furnished under part B of title XVIII of the Social Security Act on or after April 1, 1990, the time units shall be counted based on actual time rather than rounded to full time units.

(b) MODIFICATION OF CONVERSION FACTORS USED FOR CRNAS.—Section 1833(l)(3) (42 U.S.C. 1395l(l)(3)) is amended by striking "and 1990" in subparagraph (B) and by adding at the end the following new subparagraph:

"(C)(i) In establishing fee schedules under this subsection for services furnished on or after April 1, 1990, subject to clause (ii), the Secretary shall establish a uniform national conversion factor which shall be $14 for services furnished under the medical direction of a physician and $21 for services that are not medically directed.

"(ii) The conversion factor described in clause (i) for 1990 (and the conversion factor computed under the second sentence of paragraph (2) for any year thereafter) as applied to services furnished in any locality shall not exceed the conversion factor applied to anesthesiologists' services furnished in the same locality.".

(c) NO PAYMENT FOR MEDICAL DIRECTION OF CRNAs BY SURGEONS.—

(1) IN GENERAL.—Section 1862(a)(15) (42 U.S.C. 1395y(a)(15)) is amended by inserting "(A)" after "(15)" and by inserting before the semicolon at the end the following: ", or (B) which are for medical direction of a certified registered nurse anesthetist by a surgeon".

(2) NO BILLING PERMITTED.—Section 1842(k) (42 U.S.C. 1395u(k)) is amended—

(A) by striking "1862(a)(15)" each place it appears and inserting "1862(a)(15)(A)",

(B) in paragraph (1), by inserting "(A)" after "(k)(1)", and

(C) by adding at the end of paragraph (1) the following:

"(B) If a physician knowingly and willfully presents or causes to be presented a claim or bills an individual enrolled under this part for charges for medical direction of a certified registered nurse anesthetist by a surgeon for which payment may not be made by reason of section 1862(a)(15)(B), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2).".

(d) EFFECTIVE DATE.—The amendments made by subsection (c) shall apply to services furnished on or after April 1, 1990.

SEC. 1205. MISCELLANEOUS PROVISIONS RELATING TO PAYMENT FOR PHYSICIANS' SERVICES.

(a) CUSTOMARY CHARGE FOR NEW PHYSICIANS.—

(1) PHASE-IN TO PREVAILING CHARGE LEVEL.—Section 1842(b)(4)(F) (42 U.S.C. 1395u(b)(4)(F)) is amended—

(A) by inserting "furnished during a calendar year" after "physicians' services", and

(B) by adding at the end the following: "For the first calendar year during which the preceding sentence no longer applies, the Secretary shall set the customary charge at a level no higher than 85 percent of the prevailing charge for the service.".

(2) EFFECTIVE DATE.—(A) Subject to subparagraph (B), the amendments made by paragraph (1) apply to services furnished in 1990 which were subject to the first sentence of section 1842(b)(4)(F) of the Social Security Act in 1989.

(B) The amendments made by paragraph (1) shall not apply to services furnished in 1990 before the date the percentage increase in the MEI is applied to physicians' services under part B of title XVIII of the Social Security Act. With respect to physicians' services furnished during 1990 on and after such date, such amendments shall be applied as though any reference, in the matter inserted by such amendments, to the "first calendar year during which the preceding sentence no longer applies" were deemed a reference to the remainder of 1990.

(b) LIMITATION ON AMOUNTS FOR CERTAIN SERVICES FURNISHED BY MORE THAN ONE SPECIALTY.—

(1) IN GENERAL.—Section 1842(b) (42 U.S.C. 1395u(b)), is amended by adding at the end the following:

"(16)(A) In determining the reasonable charge for physicians' services which the Secretary shall designate (based on their high volume of expenditures under this part) and for which the prevailing charge (but for this paragraph) differs by physician specialty, the prevailing charge for such a service may not exceed the prevailing charge (or fee schedule amount) for that specialty of physicians that furnish the service most frequently nationally.

"(B) In the case of a reduction in the prevailing charge for a physician's service under subparagraph (A), if a nonparticipating physician furnishes the service to an individual entitled to benefits under this part, after the effective date of the reduction, the physician's actual charge is subject to a limit under subsection (j)(1)(D).".

(2) SPECIAL LIMITS ON ACTUAL CHARGES.—Section 1842(j)(1)(D) is amended—

(A) in clause (ii)(IV), by striking "or (b)(15)" and inserting "(b)(15), or (b)(16)(A)", and

(B) in clause (iii)(II), by striking out "or (b)(15)" and inserting "(b)(15), or (b)(16)(A)".

(3) EFFECTIVE DATE.—The amendments made by this subsection apply to procedures performed after March 31, 1990.

SEC. 1206. THREE-PART PLAN FOR PHYSICIAN PAYMENT REFORM.

(a) IN GENERAL.—Part B of title XVIII of the Social Security Act is amended by adding at the end the following new section:

"PAYMENT FOR PHYSICIANS' SERVICES

"SEC. 1848. (a) PAYMENT BASED ON FEE SCHEDULE.—

"(1) IN GENERAL.—Effective for all physicians' services (as defined in subsection (j)(2)) furnished under this part during a year (beginning with 1992) for which payment is otherwise made on the basis of a reasonable charge or on the basis of a fee schedule under section 1834(b), payment under this part shall instead be based on the lesser of—

"(A) the actual charge for the service, or

"(B) subject to paragraphs (2) and (3), the amount determined under the fee schedule established under subsection (b) for services furnished for any period during that year (in this subsection referred to as the 'fee schedule amount').

"(2) TRANSITION TO FEE SCHEDULE.—

"(A) PAYMENT BASED ON ADJUSTED PREVAILING CHARGE IN 1991.—For physicians' services furnished in 1991, the Secretary shall determine an adjusted prevailing charge (as defined in subparagraph (D)(i)) for each service in a locality. For purposes of determining payment amounts for services furnished in 1991 and thereafter, the adjusted prevailing charge determined under this subparagraph for 1991 shall be treated as the prevailing charge for such year.

"(B) DETERMINATION OF BLENDED FEE SCHEDULE AMOUNTS IN 1992-1995.—For physicians' services furnished on or after January 1, 1992, and before January 1, 1996, the blended fee schedule amount shall be equal to the sum of—

"(i) the applicable percentage of the prevailing charge (as determined under subparagraph (C)) for the service involved; and

"(ii) the applicable percentage of the fee schedule amount (as determined under subparagraph (C)) for such service.

"(C) APPLICABLE PERCENTAGES.—For purposes of subparagraph (B)—

"(i) in 1992, the applicable percentage of the prevailing charge is 80 percent and the applicable percentage of the fee schedule amount is 20 percent;

"(ii) in 1993, the applicable percentage of the prevailing charge is 60 percent and the applicable percentage of the fee schedule amount is 40 percent;

"(iii) in 1994, the applicable percentage of the prevailing charge is 40 percent and the applicable percentage of the fee schedule amount is 60 percent; and

"(iv) in 1995, the applicable percentage of the prevailing charge is 20 percent and the applicable percentage of the fee schedule amount is 80 percent.

"(D) DEFINITIONS.—In this section:

"(i) ADJUSTED PREVAILING CHARGE.—The term 'adjusted prevailing charge' means, with respect to a physicians' service (as defined in subsection (j)(2)) furnished in a locality (as defined in clause (ii)) the weighted average prevailing charge applicable in the locality for the service for 1991 (as determined by the Secretary without regard to physician specialty) and as adjusted to reflect payments for services with customary charges below the prevailing charge or other payment limitations imposed by law or regulation.

"(ii) LOCALITY.—The term 'locality' means an area established under section 1842(b), as of the date of the enactment of this section, for purposes of payment for physicians' services under this part.

"(3) INCENTIVES FOR PARTICIPATING PHYSICIANS.—In applying paragraphs (1)(B) and (2) in the case of a nonparticipating physician, payment under this part shall be determined on the basis of 95 percent of the fee schedule amount or the applied instead of such amount pursuant to paragraph (2)).

"(b) ESTABLISHMENT OF FEE SCHEDULES.—

"(1) IN GENERAL.—Before January 1 of each year beginning with 1992, the Secretary shall establish, by regulation, fee schedules for payment of physicians' services furnished in all localities (as defined in subsection (a)(2)(C)(ii)) or payment areas (established pursuant to subsection (e)(2)). Except as provided in subsection (a)(3) and section 1833(m), payment under such fee schedule shall be equal to the product of the conversion factor established under subsection (d) for the year for all physicians' services or for each category of physicians' services (as defined in subsection (j)(1)) and a relative value for each service as determined in subsection (c)(2)(B).

"(2) TREATMENT OF RADIOLOGIST SERVICES AND ANESTHESIA SERVICES.—

"(A) With respect to anesthesia services for which a relative value guide has been established under section 4048(b) of the Omnibus Budget Reconciliation Act of 1987, the Secretary may modify the current relative value guide or conversion factors in a manner the Secretary determines to be appropriate to be compatible with implementation of the resource-based fee schedule provided for in this section.

"(B) With respect to radiologist services for which payment would (but for this section) be made under section 1834(b), the Secretary shall base the relative values on the relative value scale developed under section 1834(b)(1)(A), with appropriate modifications of the relative values to assure that the relative values established for radiology services which are similar or related to other physicians' services are consistent with the relative values established for those similar or related services. Any adjustment shall ensure that aggregate expenditures for radiologist services for which the adjustment is made are not greater or less than aggregate expenditures for such services would have been if payment for such services were determined under the resource-based relative value methodology applicable to other physicians' services under this section.

"(C) The Secretary shall consult with the Physician Payment Review Commission (hereinafter referred to as the "Commission"), and organizations representing physicians or suppliers who furnish radiologist services and anesthesiologist services in making changes under subparagraphs (A) and (B).

"(c) DETERMINATION OF RELATIVE VALUE UNITS FOR PHYSICIANS' SERVICES.—

"(1) DIVISION OF PHYSICIANS' SERVICES INTO COMPONENTS.—In this section, with respect to a physicians' service:

"(A) WORK COMPONENT DEFINED.—The term 'work component' means the portion of the resources used in furnishing the service that reflects physician time and intensity in furnishing the service. Such portion shall—

"(i) include activities before and after direct patient contact, and

"(ii) be defined, with respect to surgical procedures, to reflect a global definition including pre-operative and post-operative physicians' services.

"(B) OVERHEAD COMPONENT DEFINED.—The term 'overhead component' means the portion of the resources used in furnishing the service that reflects the overhead (as defined by the Secretary), other than overhead associated with malpractice expenses, in furnishing the service.

"(C) MALPRACTICE COMPONENT DEFINED.—The term 'malpractice component' means the portion of the resources used in furnishing the service that reflects malpractice expenses in furnishing the service.

"(2) DETERMINATION OF RELATIVE VALUE UNITS.—

"(A) IN GENERAL.—Subject to paragraph (3), for purposes of this section for each physicians' service—

"(i) WORK RELATIVE VALUE UNITS.—The Secretary shall determine a number of work relative value units for the service based on the relative resources incorporating physician time and intensity required in furnishing the service.

"(ii) OVERHEAD RELATIVE VALUE UNITS.—The number of overhead relative value units is equal to the product of—

"(I) the base allowed charges (as defined in subparagraph (E)) for the service,

"(II) the overhead percentage for the service (as determined under paragraph (4)(A)), and

"(III) multiplied by the geographic practice cost index value or the geographic overhead cost index value (established under subsection (e)) for services furnished in the locality or payment area.

"(iii) MALPRACTICE RELATIVE VALUE UNITS.—The number of malpractice relative value units is equal to the product of—

"(I) the base allowed charges (as defined in subparagraph (E)) for the service,

"(II) the malpractice percentage for the service (as determined under paragraph (4)(A)), and

"(III) multiplied by the geographic practice cost index value or the geographic overhead cost index value (established under subsection (e)) for services furnished in the locality or payment area.

"(B) DETERMINATION OF RELATIVE VALUE UNITS FOR EACH SERVICE IN EACH LOCALITY OR PAYMENT AREA.—In determining the relative value units for each service in each locality or payment area, the Secretary shall develop a methodology to add the work, overhead, and malpractice relative value units together in such a manner that they produce a single relative value for each service in each locality.

"(C) EXTRAPOLATION.—The Secretary may use extrapolation and other techniques to determine the number of relative value units for low volume services and other services for which adequate data are not available, and to determine practice costs for specialties for which adequate practice cost data are not available.

"(D) ANCILLARY POLICIES.—The Secretary may establish ancillary policies (with respect to the use of modifiers, local codes, and other matters) as may be necessary to implement this subsection.

"(E) BASE ALLOWED CHARGES DEFINED.—In this paragraph, the term 'base allowed charges' means, with respect to a physician's service, the national average allowed charges for the service under this part for services furnished during 1991, as estimated by the Secretary using the most recent data available.

"(3) ADJUSTMENTS IN RELATIVE VALUE UNITS.—

"(A) IN GENERAL.—The Secretary shall annually provide for the inclusion of new procedures into the fee schedule and, subject to subparagraph (C), shall periodically but no less often than every 5 years provide by regulation for the adjustment of the relative value units established under paragraph (2) to take into account changes in medical practice, coding changes, new data on relative value components, or the addition of new procedures.

"(B) CONSULTATION.—The Secretary, in making adjustments under subparagraph (A), shall consult with the Commission and organizations representing physicians and shall publish his methodology for making such adjustments.

"(C) LIMITATION ON ANNUAL ADJUSTMENTS.—The adjustments under subparagraph (A) for a year may not cause expenditures for the year to vary by more than $50,000,000 from what they would have been in the absence of such adjustments.

"(4) COMPONENT PERCENTAGES.—For purposes of paragraph (2), the Secretary shall determine a work percentage, an overhead percentage, and a malpractice percentage for a physician's service as follows:

"(A) ESTIMATING AVERAGES.—The Secretary, using the best data available, shall estimate the average work percentage, overhead percentage, and malpractice percentage for all physicians' services.

"(B) ALLOCATION OF PRACTICE COSTS BY SPECIALTY AND PROCEDURE.—The Secretary may by regulation provide for—

"(i) the determination of component percentages for specific procedures or classes of procedures using a weighted average of specialty specific practice cost data, and

"(ii) the application of such percentages instead of the percentages determined under subparagraph (A).

"(C) PERIODIC RECOMPUTATION.—The Secretary shall, from time to time, provide for the recomputation of work percentages, overhead percentages, and malpractice percentages determined under this paragraph.

"(5) CODING.—The Secretary shall establish a uniform procedure coding system for the coding of all physicians' services. The Secretary shall provide for an appropriate coding structure for visits and consultations. The Secretary may incorporate the use of time in the coding for visits and consultations after the Secretary completes the study provided for in subsection (f)(6) of section 5206 of the Omnibus Budget Reconciliation Act of 1989. The Secretary, in establishing such coding system, shall consult with the Commission and other organizations representing physicians.

"(6) NO VARIATION FOR SPECIALISTS.—The Secretary may not vary the conversion factor or the number of relative value units for a physician's service based on whether the physician furnishing the service is a specialist or based on the type of specialty of the physician.

"(d) ESTABLISHMENT OF CONVERSION FACTOR.—

"(1) INITIAL BUDGET NEUTRAL CONVERSION FACTOR FOR 1992.—Before January 1, 1992, the Secretary shall by regulation establish the conversion factor to be applied under subsection (b) for physicians' services furnished on or after January 1, 1992. The conversion factor shall be established in a manner so that the aggregate amount of payments under this part for all physicians' services subject to subsection (a) during 1992 will not be greater than or less than the aggregate amount of payments that would have been made for such services if this section had not applied. Unless Congress otherwise provides, in establishing such conversion factor, the Secretary shall assume that the percentage increase for the MEI for 1992 equals the MEI percentage increase minus 2 percentage points.

"(2) UPDATE IN CONVERSION FACTOR OR FACTORS FOR 1993 AND SUBSEQUENT YEARS.—

"(A) SECRETARY'S RECOMMENDATION.—

"(i) IN GENERAL.—Not later than May 1 of each year (beginning with 1992), the Secretary shall transmit to the Congress a recommendation on the appropriate update in the conversion factor (and for 1992, 1993, 1994, and 1995 to the prevailing charge for) all physicians' services or for each category of physicians' services to be applied in the following year. In making the recommendation, the Secretary shall consider—

"(I) the percentage change in the MEI (as defined under the fourth sentence of section 1842(b)(3)) for that year;

"(II) the percentage by which actual expenditures for all physicians' services or for each category of physicians' services under this part for the fiscal year preceding the year in which such recommendation is made was less or greater than actual expenditures for all physicians' services or for each category of such services in the second preceding fiscal year;

"(III) the relationship between the percentage determined under subclause (II) for a fiscal year and the volume performance standard (as defined in subsection (f)) for that year;

"(IV) changes in volume, or intensity, or access to services; and

"(V) other factors that may contribute to changes in volume, or intensity, or access to services.

"(ii) ADJUSTMENT.—For purposes of making the comparison under subclause (III), the Secretary shall adjust the volume performance standard for a fiscal year to reflect changes in the actual proportion of HMO enrollees (as defined in subsection (f)(6)(B)) in that fiscal year compared with such proportion for the previous fiscal year.

"(iii) SPECIAL RULE FOR 1991.—In 1991, the Secretary shall make a separate determination of the type described in subclauses (II) and (III) of clause (i) with respect to the category of surgical services (as such category is defined by the Secretary).

"(iv) RECOMMENDING UPDATES.—

"(I) The Secretary may recommend a single update to the conversion factor or factors for all services subject to the fee schedule. This update may not be less than zero or greater than the MEI percentage increase plus 2 percentage points.

"(II) The Secretary may also recommend differential updates to the conversion factor

or factors by procedure or groups of procedures. Each such update may not be less than zero or greater than the MEI percentage increase plus 2 percentage points.

"(III) The Secretary shall consider evidence of changes in volume, intensity, and access to services in determining such updates, as well as other factors that the Secretary determines may contribute to changes in volume, intensity, or access to services.

"(v) EXPLANATION OF UPDATE.—Whether or not differential updates are recommended by the Secretary under clause (iv), the Secretary shall report, as part of his recommendation to Congress under this subparagraph—

"(I) the update amount for each category of physicians' services and for the categories of physicians' services for nonsurgical services, visits, consultations, and emergency room services;

"(II) the rationale for the application of the update to each category described in subclause (I) (whether or not the updates for such services differ); and

"(III) the data underlying the update amounts including an analysis of the data.

"(vi) RELATIONSHIP OF UPDATE TO TRANSITION.—Nothing in this subsection shall be construed as limiting the increases or decreases in fee schedule amounts for individual procedures in a locality or payment area which occur as a result of the transition to the fee schedules established under subsection (b).

"(B) ADDITIONAL RECOMMENDATIONS.—The Secretary may make further recommendations, by May 1 of each year, for additional adjustments to the conversion factor or factors other than those indicated by the performance standard process based on such factors as—

"(i) unexpected changes by physicians in response to the implementation of fee schedule;

"(ii) unexpected changes in outlay projections;

"(iii) changes in access of beneficiaries to care;

"(iv) change in the quality or appropriateness of care; and

"(v) any other relevant factors not measured in the resource-based payment methodology.

"(C) COMMISSION REVIEW.—The Commission shall review the recommendation submitted under subparagraphs (A) and (B) in a year and shall make its recommendation to Congress, by not later than June 1 of the year, respecting the changes in the conversion factor or factors for the following year.

"(D) PUBLICATION OF CONVERSION FACTOR OR FACTORS.—

"(i) IN GENERAL.—The Secretary shall cause to have published in the Federal Register, by October 20 of each year (beginning with 1992), the conversion factor or factors which will apply under subsection (b)(1) in the following year for all physicians' services or for each category of physicians' services.

"(ii) GENERAL RULE.—Unless Congress otherwise provides, except as provided in paragraph (1), such factor or factors for a year after 1995 for all physicians' services or for a category of physicians' services shall be the conversion factor or factors established under this subsection for the previous year increased by the percentage increase in the MEI (as defined under the fourth sentence of section 1842(b)(3)), reduced by 2 percentage points.

"(iii) SPECIAL RULE FOR 1992-1995.—With respect to physicians' services furnished in a year after 1991 and before 1996—

"(I) the prevailing charge for a service for a year shall be equal to the prevailing charge for the service for the preceding year, increased by the applicable percentage, and

"(II) except as provided in paragraph (1) for 1992, the conversion factor or factors for the year for a service or category of services shall equal the conversion factor for the preceding year, as adjusted under clause (iv), increased by the applicable percentage. For purposes of this clause, unless Congress otherwise provides, the 'applicable percentage' shall equal the percentage increase in the MEI (as defined in the fourth sentence of section 1842(b)(3)) reduced by 2 percentage points.

"(iv) BUDGET NEUTRALITY ADJUSTMENT.—For years beginning after 1991 and before 1996, the Secretary shall make such adjustment to the conversion factor or factors for the year as may be necessary to assure that aggregate expenditures for physicians' services for that year under this section do not exceed or fall below the amount determined under clause (v) for the year by more than 1 percent. Such adjustment shall be made by a regulation that becomes final after the third week in October and before the first week of November of the year preceding the year to which the adjustment applies.

"(v) DETERMINATION OF BASELINE.—In determining the amount under this clause for physicians' services for a year, the Secretary shall adjust aggregate expenditures for the second preceding year (utilizing data contained in the most recent annual report of the Board of Trustees of the Federal Supplementary Insurance Trust Fund, pursuant to section 1841(b)(2)), adjusted to reflect the update for the previous calendar year, changes in enrollment in the previous fiscal year, the average annual volume and intensity growth over the five-year period ending in the second preceding fiscal year, and changes in the scope of benefits provided under this part.

"(e) GEOGRAPHIC PRACTICE-COST INDEX (GPCI) VALUES FOR OVERHEAD AND MALPRACTICE.—

"(1) IN GENERAL.—The Secretary shall establish for physicians' services furnished in a calendar year—

"(A) a geographic practice cost index which establishes a numerical relationship between the costs of goods and services composing the overhead and malpractice components in each physician payment area or locality compared to the national average cost of such goods and services.

"(B) SPECIAL RULE.—When the Secretary determines it is technically feasible he may apply in lieu of the index described in paragraph (1)—

"(i) a geographic overhead index which establishes a numerical relationship between the costs of goods and services composing the overhead and malpractice components in each physician payment area or locality compared to the national average costs of such goods and services; and

"(ii) a geographic malpractice index which establishes a numerical relationship between the costs of professional liability insurance in each physician payment area or locality compared to the national average costs of professional liability insurance.

"(2) MODIFICATION IN PAYMENT AREAS.—The Secretary, if he deems appropriate, may modify payment areas from the current locality areas after completion of the study (described in subsection (f)(5)).

"(3) CHANGES IN INDEX.—Any changes made by the Secretary in the indexes described in paragraph (1), shall become effective at the beginning of the next calendar year.

"(f) MEDICARE VOLUME PERFORMANCE STANDARD RATES.—

"(1) PROCESS FOR ESTABLISHING MEDICARE VOLUME PERFORMANCE STANDARD.—

"(A) SECRETARY'S RECOMMENDATION.—By not later than May 1 of each year (beginning with 1990), the Secretary shall establish and transmit to the Congress a recommendation on performance standard rates for all physicians' services and for each category of such services for the fiscal year beginning in such year. In making the recommendation, the Secretary shall confer with associations representing the major physician medical and surgical specialties and shall consider—

"(i) inflation,

"(ii) changes in numbers of enrollees (other than HMO enrollees) under this part,

"(iii) changes in the age composition of enrollees (other than HMO enrollees) under this part,

"(iv) changes in technology,

"(v) evidence of inappropriate utilization of services,

"(vi) evidence of lack of access to necessary physicians' services,

"(vii) projected effects of specific guidelines, and

"(viii) such other similar factors as the Secretary considers appropriate.

"(B) COMMISSION REVIEW.—The Commission shall review the recommendation submitted during a year under subparagraph (A) and shall make its recommendation to Congress, by not later than June 1 of the year, respecting the performance standard rates for the fiscal year beginning in that year.

"(C) PUBLICATION OF PERFORMANCE STANDARD RATES.—The Secretary shall cause to have published in the Federal Register, by October 20 of each year (beginning with 1990), the performance standard rates for a category of physicians' services for the fiscal year beginning in that year.

"(D) PERFORMANCE STANDARD RATE.—For fiscal year 1991 and thereafter, unless Congress otherwise provides, each such rate shall be equal to the sum of—

"(i) the Secretary's estimate of the percentage increase or decrease, respectively, in the MEI,

"(ii) the Secretary's estimate of the percentage increase or decrease, respectively, in the average number of enrollees (other than HMO enrollees) under this part from the previous fiscal year to the fiscal year involved, and

"(iii) the average annual volume and intensity growth (expressed as a percentage) over the previous five year period;

reduced by two percentage points.

"(E) PERFORMANCE STANDARD RATE FOR 1990.—

"(i) IN GENERAL.—Subject to subparagraph (B), for purposes of this section, the 'performance standard rate' for a category of services for fiscal year 1990 is equal to the Secretary's estimate of the current baseline percentage increase (as defined in subparagraph (C)(i)), reduced by the OBRA-1989 percentage savings (as defined in subparagraph (iii)(II)), and further reduced by ½ percentage point.

"(ii) ADJUSTMENT FOR HMO ENROLLMENT.—The Secretary shall adjust the performance standard rate under clause (i) so as to reflect differences in the actual proportion of

HMO enrollees in fiscal year 1990 compared to such proportion in fiscal year 1989.

"(iii) DEFINITIONS.—In clause (i):

"(I) CURRENT BASELINE PERCENTAGE INCREASE.—The term 'current baseline percentage increase' means, for a category of services, the Secretary's estimate (based on the law in effect before the enactment of the Omnibus Budget Reconciliation Act of 1989) of the percentage by which the total actual expenditures under this part for such category of services furnished during fiscal year 1990, will exceed the total actual expenditures under this part for such category of services furnished during fiscal year 1989.

"(II) OBRA-1989 PERCENTAGE SAVINGS.—The term 'OBRA percentage savings' means, for a category of services, the Secretary's estimate of the percentage by which the current baseline percentage increase (as defined in subclause (I)) exceeds such an increase if it were determined instead based on the law in effect after the enactment of the Omnibus Budget Reconciliation Act of 1989.

"(2) COMPUTATION OF PERFORMANCE STANDARD RATES FOR CATEGORIES OF PHYSICIANS' SERVICES.—The Secretary shall, using the best data available, by May 1, 1990 and by May 1 each year thereafter, recommend a performance standard rate separately for the category of surgical services and for the category of other physicians' services (or for such other categories of such other services as the Secretary deems appropriate). The Secretary shall define surgical services and publish such definitions in the Federal Register no later than May 1, 1990 after consultation with appropriate physician groups.

"(3) MONTHLY REPORTING.—The Secretary shall establish procedures for providing, on a monthly basis to the Commission, the Congressional Budget Office, the Congressional Research Service, the Committees on Ways and Means and Energy and Commerce of the House of Representatives, and the Committee on Finance of the Senate, information on performance standard compliance (including expenditures and service volume by procedure, category of service and specialty within payment areas).

"(4) SEPARATE GROUP SPECIFIC PERFORMANCE STANDARD RATES.—

"(A) IMPLEMENTATION OF PLAN.—Subject to paragraph (B), the Secretary shall after completion of the study described in subsection (f)(2), but not before October 1, 1991, implement a plan under which qualified physician groups would annually elect separate performance standard rates other than the performance standard rate established for the year by the Secretary under paragraph (1) for such physicians. The Secretary shall develop criteria to determine which physician groups are eligible to elect to have applied to such groups separate performance standard rates and the methods by which such group specific performance standards would be accomplished. He shall report on his criteria and methods by May 1, 1991. The Commission shall review and comment on such recommendations by June 1, 1991. Before implementing group specific performance standards, the Secretary shall provide for notice and comment in the Federal Register and consult with the appropriate organizations representing physicians.

"(B) APPROVAL.—The Secretary may not implement the plan described in subparagraph (A), unless Congress specifically approves the plan.

"(5) DEFINITIONS.—In this subsection:

"(A) SERVICES INCLUDED IN PHYSICIANS' SERVICES.—The term 'physicians' services' includes all services paid on a reasonable charge or fee schedule basis by carriers under this part (and part B hospital outpatient services paid by intermediaries if the Secretary deems it appropriate), but does not include services furnished to an HMO enrollee under a risk-sharing contract under section 1876.

"(B) HMO ENROLLEE.—The term 'HMO enrollee' means, with respect to a fiscal year, an individual enrolled under this part who is enrolled with an entity with a risk-sharing contract under section 1876 in the fiscal year.

"(g) BENEFICIARY PROTECTION.—

"(1) LIMITATION ON ACTUAL CHARGES FOR UNASSIGNED CLAIMS.—If a nonparticipating physician knowingly and willfully bills on a repeated basis for physicians' services (furnished with respect to an individual enrolled under this part on or after January 1, 1992) an actual charge in excess of the balance billing limit described in paragraph (2) and for which payment is not made on an assignment-related basis under this part, the Secretary may apply sanctions against such physician in accordance with section 1842(j)(2).

"(2) BALANCE BILLING LIMIT DEFINED.—

"(A) FOR 1992.—For physicians' services furnished during 1992, the balance billing limit shall be 125 percent of the blended fee schedule amount (as determined under subsection (a)(2)(B)) for such services for such year.

"(B) FOR 1993.—For physicians' services furnished during 1993, the balance billing limit shall be 120 percent of the blended fee schedule amount for such services for such year.

"(C) FOR 1994 AND YEARS THEREAFTER.—For physicians' services furnished during 1994 and years thereafter, the balance billing limit shall be 115 percent of the blended fee schedule amount or the fee schedule amount otherwise determined for such services for such year.

"(3) LIMITATION ON CHARGES FOR MEDICARE BENEFICIARIES ELIGIBLE FOR MEDICAID BENEFITS.—

"(A) IN GENERAL.—Payment for physicians' services furnished to an individual who is enrolled under this part and eligible for any medical assistance (including as a qualified medicare beneficiary, as defined in section 1905(p)(1)) with respect to such services under a State plan approved under title XIX may only be made on an assignment-related basis.

"(B) PENALTY.—A person may not bill for physicians' services subject to subparagraph (A) other than on an assignment-related basis. If a person knowingly and willfully bills for physicians' services in violation of the previous sentence, the Secretary may apply sanctions against the person in accordance with section 1842(j)(2).

"(4) PHYSICIAN SUBMISSION OF CLAIMS.—

"(A) IN GENERAL.—For services rendered on or after September 1, 1990, within 365 days of providing a service for which payment is made under this part on a reasonable charge or fee schedule basis, a physician, supplier, or other person (or an employer or facility in the cases described in section 1842(b)(6)(A)) shall complete and submit a claim for such service on a standard claim form specified by the Secretary to the carrier on behalf of a beneficiary.

"(B) PENALTY.—(i) With respect to an assigned claim wherever a physician, provider, supplier or other person (or an employer or facility in the cases described in section 1842(b)(6)(A)) fails to submit such a claim as described in subparagraph (A), the Secretary shall reduce by 10 percent the amount that would otherwise be paid for such claim under this part.

"(ii) With respect to an unassigned claim wherever a physician, supplier, or other person (or an employer or facility in the cases described in section 1842(b)(6)(A)) fails to submit such a claim as described in subparagraph (A), the Secretary shall apply the sanction for such claim in the same manner as is applied in section 1842(p)(3).

"(5) ELECTRONIC BILLING, DIRECT DEPOSIT.—The Secretary shall encourage and develop a system providing for expedited payment for claims submitted electronically. The Secretary shall also encourage and provide incentives allowing for direct deposit as payments for services furnished by participating physicians. The Secretary shall provide physicians with such technical information as necessary to enable such physicians to submit claims electronically. The Secretary shall submit a plan to Congress on this paragraph by May 1, 1990.

"(6) MONITORING OF CHARGES.—

"(A) IN GENERAL.—The Secretary shall monitor—

"(i) the actual charges of nonparticipating physicians for physicians' services furnished on or after January 1, 1991, to individuals enrolled under this part, and

"(ii) changes (by specialty, type of service, and geographic area) in (I) the proportion of expenditures for physicians' services provided under this part by participating physicians, (II) the proportion of expenditures for such services for which payment is made under this part on an assignment-related basis, and (III) the amounts charged above the blended fee schedule amounts under this part.

"(B) REPORT.—The Secretary shall, by not later than May 1, beginning in 1992, report annually to the Congress regarding the changes described in subparagraph (A)(ii).

"(C) PLAN.—If the Secretary finds that there has been a significant decrease in the proportions described in subclauses (I) and (II) of subparagraph (A)(ii) or an increase in the amounts described in subclause (III) of that subparagraph, the Secretary shall develop a plan to address such a problem and transmit to Congress recommendations regarding the plan. The Commission shall review the Secretary's plan and recommendations and transmit to Congress its comments regarding such plan and recommendations.

"(7) MONITORING OF UTILIZATION AND ACCESS.—

"(A) IN GENERAL.—The Secretary shall monitor—

"(i) changes in the utilization of and access to services furnished under this part within geographic, population, and service related categories,

"(ii) possible sources of inappropriate utilization of services furnished under this part which contribute to the overall level of expenditures under this part, and

"(iii) factors underlying these changes and their interrelationships.

"(B) REPORT.—The Secretary shall by not later than May 1, beginning in 1991, report annually to the Congress on the changes described in subparagraph (A)(i) and shall include in his report an examination of the factors listed in subparagraph (C) which may contribute to such changes.

"(C) FACTORS.—The Secretary shall include in his annual report (described in subparagraph (B)) an analysis of the following

factors which may contribute to the changes described in subparagraph (A):

"(i) Utilization of services (under this part) by State.

"(ii) Utilization of services in health manpower shortages areas.

"(iii) Visits.

"(iv) Surgical procedures.

"(v) Non-surgical procedures.

"(vi) Emergency services.

"(vii) Mental health services.

"(viii) Specific services which are most frequently performed on beneficiaries under this part.

"(ix) Specific services for which medical practice guidelines are available.

"(x) Appropriateness of services delivered.

"(xi) Other categories or specific services which the Secretary determines appropriate.

"(D) RECOMMENDATIONS.—The Secretary shall include in his annual report (described in subparagraph (B)) recommendations—

"(i) addressing any identified patterns of inappropriate utilization,

"(ii) on utilization review,

"(iii) on physician education or patient education,

"(iv) addressing any problems of beneficiary access to care made evident by the monitoring process, and

"(v) on such other factors as the Secretary deems appropriate.

The Commission shall comment on the Secretary's recommendations and in developing its comments, the Commission shall convene and consult a panel of physician experts to evaluate the implications of medical utilization patterns for the quality of and access to patient care.

"(h) SENDING INFORMATION TO PHYSICIANS.—Prior to the beginning of a year (beginning in 1992), the Secretary shall send to each physician furnishing physicians' services under this part, for services commonly performed by the physician, information on fee schedule or blended fee schedule amounts that apply for the year in the locality or payment area for participating and non-participating physicians, and the amount that may be charged under the balance billing limit on unassigned claims. Such information shall be transmitted in conjunction with notices to physicians under section 1842(h) relating to the participating physician program for a year.

"(i) MISCELLANEOUS PROVISIONS.—

"(1) RESTRICTION ON ADMINISTRATIVE AND JUDICIAL REVIEW.—There shall be no administrative or judicial review under section 1869 or otherwise of—

"(A) the determination of the adjusted prevailing charge (as defined in subsection (a)(2)(D)(i)),

"(B) the determination of relative value units under subsection (c),

"(C) the determination of conversion factors under subsection (d),

"(D) the establishment of values in the geographic practice cost index, the values in the geographic overhead index and the values in the geographic malpractice index under subsection (e), and

"(E) the establishment of the system for the coding of physicians' services under this section.

"(j) DEFINITIONS.—In this section:

"(1) CATEGORY.—The term 'category' means, with respect to physicians' services, surgical services, and all physicians' services other than surgical services, and such other category or categories of physicians' services as the Secretary, from time to time, defines in regulation.

"(2) PHYSICIANS' SERVICES.—The term 'physicians' services' does not include physicians' services of a physician not described in section 1861(r), but includes items and services described in paragraphs (1), (2) (A) and (D), (3), and (4) of section 1861(s) (other than clinical diagnostic laboratory tests and such other items and services as the Secretary may specify).".

(b) RURAL AND INNER-CITY ACCESS ADJUSTMENTS.—

(1) ADJUSTMENTS.—Section 1833(m) (42 U.S.C. 1395l(m)) of such Act is amended—

(A) by striking "class 1 or class 2"; and

(B) by striking "5 percent" and inserting in lieu thereof "10 percent".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall become effective with respect to services furnished on or after January 1, 1991.

(c) REQUIREMENTS FOR CARRIERS TO PROFILE PHYSICIANS.—Section 1842(b)(3) of such Act (42 U.S.C. 1395u(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (J),

(2) by inserting "and" at the end of subparagraph (K), and

(3) by adding after subparagraph (K) the following new subparagraph:

"(L) will monitor and profile physicians' billing patterns within each payment area or locality and provide comparative data to physicians whose utilization patterns vary significantly from other physicians in the same payment area or locality;".

(d) PUBLIC AND BENEFICIARY EDUCATION.—The Secretary of Health and Human Services shall provide for public and part B medicare beneficiary education initiatives to inform such individuals of (1) performance standards for physicians' services, (2) practice guidelines, and (3) changes in payments for physicians' services furnished under part B of medicare as provided in this Act.

(e) CONFORMING AMENDMENTS.—

(1) PAYMENT FOR RADIOLOGIST SERVICES.—Section 1833(a)(1)(J) of such Act (42 U.S.C. 13951(a)(1)(J)) is amended by inserting "subject to section 1848," after "1834(b)(6),".

(2) PAYMENT FOR PHYSICIANS' SERVICES.—Section 1833(a)(1) of such Act (42 U.S.C. 13951(a)(1)) is amended by—

(A) striking "and" before subparagraph (M), and

(B) inserting before the period the following new subparagraph: "and (N) with respect to expenses incurred for physicians' services (as defined in section 1848(j)(2)) other than for radiologist services (as defined in section 1834(b)(6)), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or the amount provided under the fee schedule or blended fee schedule established under section 1848."

(3) SUNSET OF MAACS.—Section 1842(j)(1) of such Act (42 U.S.C. 1395u(j)(1)) is amended—

(A) in subparagraph (B)(ii), by striking "the earlier of" and all that follows through the end and inserting "December 31, 1991."; and

(B) in subparagraph (D)(v), by striking "the earlier of" and all that follows through the end and inserting "December 31, 1991.".

(4) SUNSET OF SENDING MAAC INFORMATION TO PHYSICIANS.—Effective for services furnished on or after January 1, 1992, section 1842(b)(3) of such Act (as amended by subsection (c) of this Act) is amended by—

(A) striking subparagraph (G); and

(B) redesignating subparagraphs (H), (I), (J), (K) and (L) as subparagraphs (G), (H), (I), (J) and (K).

(f) STUDIES.—

(1) GAO STUDY OF ALTERNATIVE PAYMENT METHODOLOGY FOR MALPRACTICE COMPONENT.—

(A) The Comptroller General shall provide for a study of alternative ways of paying, under section 1848 of the Social Security Act, for the malpractice component for physicians' services, in a manner that would assure, to the extent practicable, payment for medicare's share of malpractice insurance premiums.

(B) The study shall further examine alternative malpractice claims resolution procedures for medicare beneficiaries, including arbitration and no-fault procedures.

(C) By not later than April 1, 1991, the Comptroller General shall submit a report to Congress on the results of the study.

(2) HHS STUDY OF SEPARATE GROUP VOLUME PERFORMANCE STANDARDS.—The Secretary of Health and Human Services (hereafter in this subsection referred to as the "Secretary") shall report to Congress on the standards which a qualified physician group must meet to be eligible for an annual election of separate group performance standards under section 1848 of the Social Security Act. Such report shall include the methods by which separate group performance standards would be established and the standards against which qualified physician groups would be evaluated. Such study shall consider—

(A) alternative definitions of such organizations,

(B) means to assure that such organizations do not underserve their patients or shift care outside the organization (in order to exceed the performance standard rates of increase in expenditures),

(C) whether physicians who are sole community providers should be exempt from the performance evaluation system, or alternatively, what evaluation standards should be applied to such physicians' and

(D) the feasibility of developing an index or other method of the mix of procedures performed by physician groups and of developing adjustments for changes in the case-mix of patients served by the group.

By not later than March 1, 1991, the Secretary shall submit a report to Congress on the study and shall include in the report a description of the impact of such a method on the amount of expenditures and services furnished under the medicare program.

(3) HHS STUDY OF VOLUME PERFORMANCE STANDARD RATES BY GEOGRAPHY, SPECIALTY, AND TYPE OF SERVICE.—

(A) IN GENERAL.—The Secretary shall conduct a study of the feasibility of establishing, under section 1848(f) of the Social Security Act, separate performance standard rates for services furnished by or within each of the following (including combinations of the following):

(i) Geographic area (such as a region, State, or other area).

(ii) Specialty or group of specialties of physicians.

(iii) Type of services (such as primary care, services of hospital-based physicians, and other inpatient services).

(B) REPORT.—Such study shall also include the scope of services included within, or excluded from, the performance standard rate system. By not later than July 1, 1990, the Secretary shall submit a report to Congress on such study and shall include in the report such recommendations respecting the feasibility of establishing separate performance standard rates as he deems appro-

priate. Such report shall also contain information on—

(i) the need to adjust local performance standards for referral patterns or border crossing,

(ii) whether performance standards need to be adjusted depending upon an area's past utilization,

(iii) whether the definition of services subject to performance standards should be modified, and

(iv) HCFA's ability to track expenditures by geographic area, and within geographic areas, by specialty and by type of service.

(4) COMMISSION STUDY OF PAYMENT FOR OVERHEAD.—The Commission shall conduct a study of—

(A) the extent to which practice costs and malpractice costs vary by geographic locality (including region, State, Metropolitan Statistical Areas, or other areas and by specialty,

(B) the extent to which available geographic practice-cost index's accurately reflect practice costs and malpractice costs in rural areas,

(C) which geographic units would be most appropriate to use in measuring and adjusting practice costs and malpractice costs,

(D) the desirability and feasibility of using a separate malpractice cost index,

(E) appropriate methods for allocating malpractice expenses to particular procedures which could be incorporated into the determination of relative values for particular procedures using a consensus panel and other appropriate methodologies,

(F) the effect of alternative methods of allocating malpractice expenses on Medicare expenditures by specialty, type of service, and by geographic area, and

(G) the special circumstances of rural independent laboratories in determining the geographic practice cost index.

By not later than July 1, 1991, the Commission shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on the study and shall include in the report such recommendations as it deems appropriate.

(5) COMMISSION STUDY OF GEOGRAPHIC PAYMENT AREAS.—The Commission shall conduct a study of the feasibility and desirability of using Metropolitan Statistical Areas or other payment areas for purposes of payment under part B of medicare. By not later than July 1, 1991, the Commission shall submit a report to Congress on such study and shall include in the report recommendations on the desirability of retaining current carrier-wide localities, changing to a system of statewide localities, or adopting Metropolitan Statistical Areas or other payment areas for purposes of payment under part B of medicare.

(6) HHS VISIT CODE MODIFICATION STUDY.—The Secretary shall conduct a study of the desirability of including time as a factor in establishing visit codes. By not later than July 1, 1991, the Secretary shall consult with the Commission, and submit a report to Congress on such study and shall include in the report recommendations respecting the desirability of modifying the number of visit codes, whether greater coding uniformity would result from including time in visit codes when compared with clarifying the clinical descriptions of existing codes, and the ability to audit physician time accurately.

(7) HHS STUDY OF ECONOMIES OF SCALE FOR HIGH VOLUME PROVIDERS OF CERTAIN PROCEDURES.—The Secretary shall conduct a study to determine whether economies of scale result when a provider performs a certain procedure in excess of a high volume threshold number of times per year. If the Secretary determines that economies of scale do result from certain high volume procedures by provider the Secretary shall make recommendations to Congress for making adjustments to the medicare payment amounts for such high volume procedures to reflect any savings resulting from such economies of scale. By no later than July 1, 1991, the Secretary shall submit a report to Congress on such study and shall include in the report any recommendations as described in this paragraph.

(8) COMMISSION STUDY OF PHYSICIAN FEES UNDER MEDICAID.—The Commission shall conduct a study on physician fees under State programs established under title XIX of the Social Security Act (hereinafter referred to as "medicaid"). The Commission shall specifically examine in such study the adequacy of physician reimbursement under medicaid, physician participation in medicaid, and access to care by medicaid beneficiaries. By no later than July 1, 1991, the Commission shall submit a report to Congress on such study and shall include recommendations as the Commission deems appropriate.

(9) GAO STUDY ON PHYSICIAN ANTI-TRUST ISSUES.—The Comptroller General shall conduct a study of the effect of anti-trust laws on the ability of physicians to act in groups to educate and discipline peers of such physicians in order to reduce and eliminate ineffective practice patterns and inappropriate utilization. The study shall further address anti-trust issues as they relate to the adoption of practice guidelines by third-party payers and the role that practice guidelines might play as a defense in malpractice cases. By no later than July 1, 1991, the Comptroller General shall submit a report to Congress on such study and shall make such recommendations as the Comptroller General deems appropriate.

(10) COMMISSION STUDY OF PAYMENT FOR NON-PHYSICIAN PROVIDERS OF MEDICARE SERVICES.—The Commission will undertake a study of the implications of a resource-based value scale for physicians' services for non-physician practitioners such as physician assistants, clinical psychologists, nurse midwives, and other health practitioners whose services can be billed to medicare on a fee-for-service basis under the statute. The study should address (A) what the proper level of payment should be for these practitioners; (B) whether or not adjustments to their payments should be subject to the medicare volume performance standard process; and (C) what update to use for services outside the medicare volume performance standard. The study shall also examine the cost of furnishing and payments for portable x-ray services and shall examine whether payment for such services should be made in the same manner as for radiologists' services or on the basis of a separate fee schedule. Such study shall be completed by July 1, 1991.

(g) EFFECTIVE DATES.—(1) Except as provided in subsection (b), subsection (c)(2), and subsection (e)(4), this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsection (c)(2) shall apply to contracts entered into on or after the date of the enactment of this Act.

(h) PATIENT OUTCOMES ASSESSMENT RESEARCH PROGRAM.—

(1) IN GENERAL.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by inserting after section 1875 the following new section:

"PATIENT OUTCOMES ASSESSMENT RESEARCH AND EDUCATION PROGRAM AND PRACTICE PARAMETERS DEVELOPMENT PROGRAM

"SEC. 1875A. (a)(1) The Secretary, acting through the Assistant Secretary for Health (hereafter in this section referred to as the 'Assistant Secretary'), shall establish a patient outcomes assessment research and education program (hereafter in this section referred to as the 'research program'). The research program shall be broad-based and largely patient centered and include studies of—

"(A) patient survival;

"(B) clinical endpoints, such as—

"(i) biochemical changes,

"(ii) physiological changes, and

"(iii) changes in physical and emotional health;

"(C) complications;

"(D) morbidity;

"(E) the effect of medical treatment and its implementation on symptoms; and

"(F) the effect of medical treatment on health status and quality of life, such as—

"(i) functional status and well-being, and

"(ii) patient satisfaction.

"(2) The mission of the research program shall include—

"(A) the generation of information concerning the best methods of managing selected health conditions, taking into account research that assesses the quality, appropriateness, necessity, and effectiveness of management methods;

"(B) the dissemination of the findings of the research program in a manner that maximizes such findings' use in health care education and delivery of services. At a minimum, the findings should be disseminated to—

"(i) health care providers, consumers, and peer review organizations;

"(ii) health care accrediting bodies;

"(iii) appropriate health professions educational institutions;

"(iv) State and local governments; and

"(v) other entities that the Assistant Secretary determines to be appropriate; and

"(C) periodic evaluation of the effectiveness of dissemination activities and their influence on health services delivery.

"(3) The research program shall primarily focus on and give priority to the study of the management of health conditions, rather than the study of individual treatments, technologies, or surgical procedures. The research program shall include—

"(A) evaluation of all relevant medical and surgical treatments for health conditions determined to be priority health conditions under such program;

"(B) evaluation of alternative levels of health care, such as hospital and ambulatory care, for such priority health conditions;

"(C) evaluation of unproven remedies used by consumers and a determination of the risks associated with not pursuing traditional remedies and therapies;

"(D) reorganization of data relating to claims under parts A and B of this subchapter in a manner that facilitates research with respect to patient outcomes;

"(E) assessments of the appropriateness of admissions and discharges;

"(F) assessments of the extent of professional uncertainty regarding effectiveness;

"(G) development of improved methods for measuring patient outcomes, including improved methods for measuring the effects described in paragraph (1)(F);

"(H) evaluations of patient outcomes;

"(I) development of improved methods for measuring professional performance;

"(J) evaluation of the effect on the practice patterns of health care professionals of the dissemination of the findings of the research conducted under subparagraphs (D) through (I) of this paragraph; and

"(K) other assessments of patient outcomes and professional performance that the Assistant Secretary determines to be appropriate after reviewing the reports of studies conducted by the Institute of Medicine described in subsection (i), and after consulting with the Independent Advisory Committee.

"(4) In selecting for study health conditions and the associated management methods for such conditions, the Assistant Secretary shall give priority to those health conditions—

"(A) for which data indicate a high (or potentially high) variable pattern of utilization or quality of management methods among patients in different geographic locations and in different clinical settings, including the following management methods:

"(i) diagnostic tests,

"(ii) medical treatment,

"(iii) surgical procedures,

"(iv) the use of hospital care, as opposed to ambulatory care,

"(v) the use of intensive care services, as opposed to other inpatient care, and

"(vi) other procedures that the Assistant Secretary determines to be appropriate;

"(B) which are significant (or potentially significant) for the purposes of this title in terms of one or more of the following:

"(i) the frequency of occurrence of such conditions in the population,

"(ii) the utilization of specific management methods,

"(iii) the cost to the population,

"(iv) the preventability,

"(v) the incidence of hospitalization associated with specific management methods,

"(vi) the length of hospitalization associated with specific management methods,

"(vii) the frequency of health care professional visits at any location outside of a hospital as well as outpatient visits in a hospital associated with specific management methods,

"(viii) the cost to the research program, and

"(ix) the risk posed to a patient; and

"(C) that the Assistant Secretary determines to be otherwise appropriate, after consultation with the Independent Advisory Committee and the Institute of Medicine.

"(5) The Assistant Secretary shall continually reevaluate the research program under this section to ensure that the program reflects new research findings and innovations in medicine.

"(b)(1) The Secretary, acting through the Assistant Secretary, shall establish a practice parameters development program. Such program shall provide for the development of patient management parameters regarding the quality, appropriateness, and relative effectiveness of alternate approaches to detecting and managing health conditions.

"(2) The mission of the practice parameters program shall be to improve the quality of health care through the generation of patient management information to be used to inform, educate, and encourage health care professionals to adopt those practices determined under such program to be most effective. In carrying out the mission of the practice parameters program, the Assistant Secretary shall ensure that—

"(A) a health care professional shall retain the ability to exercise professional judgment to deviate for good cause, in any given case, from any guideline developed under such program; and

"(B) the data base of the program and the resultant parameters of such program shall be continually reevaluated to ensure that such parameters are updated to accommodate new research findings and innovations in medicine.

"(3) The practice parameters program shall include—

"(A) the generation of practice parameters that—

"(i) specify the best means of detecting and managing selected health conditions (taking into account research that assesses the quality, appropriateness, necessity, and effectiveness of alternate methods);

"(ii) identify the most appropriate uses of specific diagnostic and therapeutic modalities; and

"(iii) identify practitioner performance and patient milestones;

"(B) the determination of what constitutes appropriate and inappropriate application of practice parameters in medical education, public and private utilization and peer review programs, national accrediting programs, consumer education and other applications, observed in practice or as determined by the Assistant Secretary after consultation with the Administrator of the Health Care Financing Administration;

"(C) the dissemination of practice parameters (in a manner that maximizes the assimilation of such guidelines into health professional education and professional health care) to the following:

"(i) health care providers, consumers, peer review and accrediting organizations,

"(ii) appropriate health professions educational institutions, and

"(iii) other entities that the Assistant Secretary determines to be appropriate; and

"(D) the evaluation of the effect on the practice patterns of health care professionals of the dissemination of practice parameters developed under this subsection.

"(4) The Assistant Secretary shall oversee the development of practice guidelines. Such guidelines shall be developed by any of the following:

"(A) organizations or groups of practicing academic health care professionals;

"(B) practicing private health care professionals;

"(C) clinical specialists; or

"(D) national accrediting bodies with a demonstrated ability to convene panels of individuals described above and others.

"(5) In developing practice parameters under the parameters program, the Assistant Secretary shall focus primarily on, and give priority to, the management of health conditions.

"(6) Notwithstanding paragraph (5), practice parameters for the use of specific diagnostic tests, treatments, technologies, or procedures may be developed under the parameters program.

"(7) In selecting health conditions and the associated management methods for such conditions for which practice parameters should be developed, the Assistant Secretary shall give priority to such conditions and methods which have one or more of the following characteristics:

"(A) a sufficient and valid base of scientific research data consistent with professional research standards;

"(B) a highly variable pattern of practice across different geographic locations;

"(C) significance to patients or consumers because of one or more of the following:

"(i) the frequency of occurrence of such conditions in the population,

"(ii) the utilization of specific management methods,

"(iii) the cost to the population,

"(iv) preventability,

"(v) the incidence of hospitalization associated with specific management methods,

"(vi) the length of hospitalization associated with specific management methods,

"(vii) the frequency of health care professional visits at any location outside of a hospital as well as outpatient visits in a hospital associated with specific management methods, and

"(viii) the risk posed to a patient; or

"(D) other indicators that the Assistant Secretary determines to be appropriate.

"(8) The practice parameters developed under this subsection shall be based on the findings of available scientific research data, including such data generated by the research program.

"(9) The Assistant Secretary shall provide for immediate development of practice parameters for procedures and services for which reliable information is known about such parameters' appropriate application. The Assistant Secretary shall ensure the timely development of practice parameters for procedures and services subject to—

"(A) significant reductions in payment as a result of the Secretary's implementation of the Resource Based Relative Value Scale under section 1848 of this title; and

"(B) significant increases in payment as a result of the Secretary's implementation of the Resource Based Relative Value Scale under section 1848 of this title.

"(10) In order to carry out the development of practice parameters under this subsection, the Assistant Secretary may employ any appropriate direct or indirect method for the development of such parameters by any entity listed under paragraph (4). The Secretary, acting through the Assistant Secretary, shall make available matching funds for any grant, contract, or cooperative agreement that the Center may authorize under subsection (d) with any such entity at a rate of 2 dollars for each dollar expended from non-Federal sources.

"(c)(1) For purposes of carrying out the research program and the guidelines program there are authorized to be appropriated—

"(A) from the general fund of the Treasury—

"(i) $24,000,000 for fiscal year 1990,

"(ii) $30,000,000 for fiscal year 1991, and

"(iii) $55,000,000 for fiscal year 1992;

"(B) from the Federal Hospital Insurance Trust Fund, two-thirds of the amount specified in paragraph (2); and

"(C) from the Federal Supplementary Medical Insurance Trust Fund, one-third of the amount specified in paragraph (2).

"(2) The amounts specified in this paragraph are—

"(A) $30,000,000 for fiscal year 1990,

"(B) $45,000,000 for fiscal year 1991, and

"(C) $55,000,000 for fiscal year 1992.

"(3) Of the funds authorized to be appropriated under this subsection, not more than $100,000 shall be available for the staffing and functions of the Independent

Advisory Committee established under subsection (h).

"(4) Not less than 70 percent of the amount appropriated for any fiscal year to carry out the research program and the guidelines program shall be used to fund grants to, contracts with, and cooperative agreements with, non-Federal entities. The remainder may be used by the Assistant Secretary to provide such research by Federal entities and for administrative costs. Not more than 10 percent of the amount used to fund research or guidelines development in non-Federal entities may be used to fund contracts with such entities.

"(5) With respect to the funds appropriated under subparagraphs (B) and (C), of paragraph (1), such funds may only be used to fund activities under this section which relate to individuals participating in or receiving benefits under titles XVIII and XIX of the Social Security Act.

"(d) The National Center for Health Services Research and Health Care Technology Assessment, established under section 305 of the Public Health Services Act (42 U.S.C. 242c), (hereafter in this section referred to as the 'Center') shall carry out the administration and disbursement of funds appropriated for grants to, contracts with, and cooperative agreements with non-Federal entities under subsection (c)(4). The Center shall establish peer review panels to review applications from non-Federal entities for funds disbursed under subsection (c)(4) and to review research findings of and practice guidelines developed by the non-Federal entities which receive such funding.

"(e) The Secretary shall make available data derived from the programs under this title and other programs administered by the Secretary for use in the research program and the guidelines program. In order to promote the long-term objectives of the research and practice parameters programs, the Secretary shall consider the establishment of a national database that focuses on the appropriate management of patient care. Not later than October 1, 1990, the Secretary shall report to Congress on the—

"(1) desirability and feasibility of a single, uniform clinical data set to be used in health outcomes research and practice parameter development, including its associated costs;

"(2) feasibility of integrating all health claims or clinical data sets used by other Federal departments;

"(3) development of uniform standards for the accurate collection and maintenance of information (whether by the Secretary or by others);

"(4) establishment of uniform definitions of information collected and used in describing a patient's clinical condition, including severity-of-illness, and health and functional status;

"(5) establishment of standards to ensure the confidentiality and security of information;

"(6) establishment of mechanisms for the continuous evaluation and modification of the data set to reflect changing clinical practices and other technologies;

"(7) establishment of mechanisms to ensure the utility of the data set for all users;

"(8) evaluation of the appropriate entities for the development and maintenance of a national data base; and

"(9) other issues deemed appropriate to the establishment of a national data base.

"(f) The Assistant Secretary shall require that each component in the Department that performs patient outcomes research or participates in practice parameters development submit, on at least an annual basis, a report to the Assistant Secretary. Such report shall outline the participation of such component in the research program and the practice parameters program and summarize the results of such participation. The Assistant Secretary shall review such reports and shall also—

"(1) develop the scope and priorities for the research program and the guidelines program for the Department;

"(2) update the scope and priorities developed under paragraph (1) on at least an annual basis;

"(3) review the results of the patient outcomes assessment research and the guidelines program conducted or coordinated by the Department;

"(4) coordinate patient outcomes assessment research and the development of practice guidelines in the Department to meet the objective of maximizing the efficiency of the research program and the guidelines program;

"(5) supervise the administration of grants to, contracts with, and cooperative agreements with non-Federal entities by the Center;

"(6) consult with the following officials or the representatives of such officials concerning the research program and the guidelines program in the Department:

"(A) the Assistant Secretary for Planning and Evaluation,

"(B) the Administrator of the Health Care Financing Administration,

"(C) the Director of the Center,

"(D) the Director of the National Institutes of Health,

"(E) the Director of the Centers for Disease Control,

"(F) the Administrator of the Health Resources and Services Administration,

"(G) the Commissioner of Food and Drugs,

"(H) representatives in the fields of epidemiology and biostatistics, and

"(I) other individuals whom the Assistant Secretary determines to be appropriate; and

"(7) consult with the following Federal officials or representatives of such officials concerning the research program and guidelines program:

"(A) the Chief Medical Director of the Veterans' Health Services and Research Administration of the Department of Veterans Affairs, and

"(B) the Assistant Secretary of Defense for Health Affairs.

"(g)(1) The Secretary shall report to the Committees on Finance, Labor and Human Resources, and Appropriations of the Senate and the Committees on Ways and Means, Energy and Commerce, and Appropriations of the House of Representatives—

"(A) not later than 90 days after the date of enactment of this section regarding—

"(i) the procedures or protocols for—

"(I) setting research priorities,

"(II) determining the most appropriate and cost effective research strategy within a given research priority, and

"(III) developing practice guidelines; and

"(ii) the proposed level and distribution of funding of the research program and guidelines program for the first fiscal year under this section; and

"(B) not later than 12 months after the date of enactment of this section, and annually thereafter regarding—

"(i) the establishment and updating of strategic and tactical plans for implementing the research program and the practice parameters program;

"(ii) the findings under the research program;

"(iii) the findings and results of the practice parameters program;

"(iv) the proposed level of funding of the research program and the practice parameters program for the subsequent fiscal year; and

"(v) the expected impact of the research program and the practice parameters program on—

"(I) the quality of health care,

"(II) the expenditure of medicare trust funds,

"(III) the total expenditures for health care in the United States, and

"(IV) innovation and the development of new treatments, procedures, and technologies.

"(h)(1) The Secretary shall establish, not later than February 1, 1990, the Independent Advisory Committee on Managing Patient Outcomes (hereafter in this subsection referred to as the 'Independent Advisory Committee').

"(2) The Secretary shall appoint from among individuals whose names are obtained by a national search and who are not officers or employees of the United States Government not more than 12 voting members of the Independent Advisory Committee as follows:

"(A) at least 1 recognized expert for each of the following subjects:

"(i) biostatistics,

"(ii) epidemiology,

"(iii) clinical trial methodology,

"(iv) health services research in the field of patient outcomes,

"(v) peer quality review, and

"(vi) practice guidelines development;

"(B) representatives of health care providers, including—

"(i) at least 1 member who is engaged in the practice of medicine,

"(ii) at least 1 member who is engaged in the practice of surgery, and

"(iii) at least 1 member who is actively employed in hospital function; and

"(C) other individuals whom the Secretary determines to be appropriate (including individuals representing medical device and product manufacturing, health care information systems, and health care accreditation).

"(3) Any officer or employee of the United States Government serving on the Independent Advisory Committee shall serve as a nonvoting, ex officio member. The nonvoting, ex officio members of the Committee shall consist of—

"(A) the Director of the Center or the representative of such individual; and

"(B) not more than 3 other officers or employees whom the Assistant Secretary determines to be appropriate.

"(4) The voting members of the Independent Advisory Committee shall appoint a chairman from among such members.

"(5) A vacancy occurring on the Independent Advisory Committee shall be filled in the same manner as that in which the original appointment is made.

"(6) The Secretary shall make available to the Independent Advisory Committee such office facilities, personnel, technical assistance and such funds authorized under subsection (c)(3), as are necessary to enable such Committee to carry out effectively its functions.

"(7) The Independent Advisory Committee shall meet not less than 2 times each

calendar year. The chairman of such Committee may call additional special meetings as such chairman determines to be necessary.

"(8) Members of the Committee who are not regular full-time employees of the United States Government shall, while attending meetings and conferences of the Committee or otherwise engaging in the business of the Committee (including traveltime), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

"(9) While away from their homes or regular places of business on the business of the Independent Advisory Committee, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

"(10) The Secretary shall ensure that the Independent Advisory Committee is established and operated in accordance with the Federal Advisory Committee Act.

"(11) The Independent Advisory Committee shall—

"(A) review the reports of the results of patient outcomes assessment research required under subsection (f) and (g);

"(B) advise the Secretary on the establishment of tactical research priorities and on the implementation of such research priorities by the Department;

"(C) review applications for patient outcomes assessment research grants, cooperative agreements, and contracts in excess of $100,000 in direct costs, which a Center peer review panel, established under subsection (d), rates as having a sufficient level of priority to allow funding;

"(D) advise the Secretary on the development of condition-specific or procedure-specific practice parameters, on the dissemination of research findings and practice guidelines, and on the application of practice guidelines; and

"(E) provide reports of all meetings to the Secretary and to the Institute of Medicine, and make such reports available to the public.

"(12) The Independent Advisory Committee shall receive the annual status reports prepared by the Institute of Medicine under subsection (i).

"(13) Individual members of the Independent Advisory Committee shall be available to the following on an ad hoc basis, as necessary, for consultation:

"(A) the Center;

"(B) the Assistant Secretary;

"(C) the Administrator of the Health Care Financing Administration; and

"(D) other agencies of the Department.

"(i)(1) To the extent appropriate, the Secretary shall utilize the information and practice parameters developed under this section to enhance the quality of care and fiduciary responsibilities under this title and title XIX of this Act.

"(2) As appropriate, the Secretary shall assimilate the research findings, practice parameters and other information generated under this section in a manner that enhances the efficiency and effectiveness of sections under this title and title XIX concerned with—

"(A) peer review and review of medical necessity;

"(B) quality of care standards and certification;

"(C) payment determinations; and

"(D) other utilization review activities.

"(3) The Secretary, in carrying out this section, shall ensure that a health care professional shall retain the ability to exercise professional judgment to deviate for good cause, in any given case, from any guideline developed under such program.

"(j)(1) Within 60 days after the date of enactment of appropriation Acts authorized under paragraph (1) of subsection (c) and paragraph (6) of this subsection, the Assistant Secretary shall enter into a contract with the President of the National Academy of Sciences (hereafter in this section referred to as the 'Academy') under which the Academy, acting through the Institute of Medicine, shall—

"(A) conduct studies which shall—

"(i) annually review the available information and findings of the research program, and

"(ii) advise the Department on the conduct of the research program and practice parameters program; and

"(B) publish the reports described under paragraphs (4) and (5).

"(2) If the President of the Academy does not agree to enter into a contract described under paragraph (1), the Secretary shall enter into a contract with another appropriate public or private nonprofit entity to conduct the studies and to prepare and publish the reports described under paragraphs (4) and (5).

"(3) In carrying out the contract described under paragraph (1), the President of the Academy (acting through the Institute of Medicine) or the appropriate official of another public or private nonprofit entity shall solicit, through a national search, the assistance of individuals who are capable of carrying out the requirements of such contract and who—

"(A) are involved in a broad spectrum of health care interests, such as—

"(i) professional health care, including medical and surgical practice and hospital function,

"(ii) health organization affairs,

"(iii) consumer concerns,

"(iv) health provider peer review,

"(v) health care organization and accreditation;

"(vi) health care insurance;

"(vii) medical device and diagnostic product manufacturing; and

"(viii) health care information systems;

"(B) are recognized experts in such areas as—

"(i) computer data bases,

"(ii) health services research in the field of patient outcomes,

"(iii) health professions education,

"(iv) epidemiology, and

"(v) social work, nursing practice, and medical ethics; and

"(C) are involved in such other related fields, as the President of the Academy or such official determines to be appropriate.

"(4) The Academy (acting through the Institute of Medicine) or another public or private nonprofit entity (hereafter in this subsection referred to as the 'Institute of Medicine') shall annually review the available information, findings, and recommendations of the research program conducted under this section. The Institute of Medicine, as part of the review process, shall be provided, in a timely fashion, with summaries of the research program and practice parameters program through periodic status reports produced by components of the Department involved in patient outcomes assessment research or the development of practice parameters, and the reports by the Independent Advisory Committee specified under subsection (h)(11)(E), and shall—

"(A) recommend strategic priorities for the research and practice parameters programs to the Secretary, and advise the Secretary concerning—

"(i) the best classes of research studies and suggested directions for such research,

"(ii) the best means of disseminating the findings of the research program,

"(iii) procedures for identifying priorities in, or setting protocols for, developing practice guidelines, and

"(iv) appropriate and inappropriate applications of practice parameters; and

"(B) evaluate the success of the research program in meeting the following missions:

"(i) the generation of necessary and appropriate patient outcomes assessment research findings and practice guidelines, and

"(ii) the dissemination of patient outcomes assessment research findings and practice guidelines in such a manner as such findings and practice guidelines are assimilated into health care professional education and into professional health care.

"(5) The Institute of Medicine shall issue a report to the Congress, to the Assistant Secretary, to the Independent Advisory Committee, and to the public which summarizes the findings under paragraph (4) and includes suggested legislative and other recommendations for improving the research program and guidelines program. The Institute of Medicine shall issue an initial preliminary report not later than 120 days after the date of execution of the contract under paragraph (1) or (2), and complete reports not later than January 31 of each subsequent year. In carrying out the review and in issuing the report described in this paragraph, the Institute of Medicine shall—

"(A) develop and recommend strategic priorities for future research and the guidelines program;

"(B) examine reports of research findings and practice parameters development derived from the participation in the research program and the guidelines program by the Center and other Federal entities;

"(C) comment on the findings of the research program and the results of the guidelines program, and the relevance and importance of such findings and results with respect to the Congress, providers, and consumers; and

"(D) prepare criteria to select research focal points and practice guidelines indicators that meet the requirements of subsections (a)(4) and (b)(7), respectively.

"(6)(A) For the purposes of carrying out the research program and guidelines program review and reports provided for in this paragraph and in paragraphs (4) and (5) there are authorized to be appropriated—

"(i) from the general fund of the Treasury, one-half of the amount specified in subparagraph (B);

"(ii) from the Federal Hospital Insurance Trust Fund, one-third of the amount specified in subparagraph (B); and

"(iii) from the Federal Supplementary Medical Insurance Trust Fund, one-sixth of the amount specified in subparagraph (B).

"(B) The amounts specified in this subparagraph are—

"(i) $200,000 for fiscal year 1990,

"(ii) $200,000 for fiscal year 1991, and

"(iii) $300,000 for fiscal year 1992.".

(2) CONFORMING AMENDMENT.—Section 1875 of the Social Security Act (42 U.S.C. 1395ll) is amended by striking out subsection (c).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall become effective on the date of enactment of this Act.

SEC. 1207. RURAL HEALTH INITIATIVES RELATED TO PART B.

(a) INCLUSION OF CERTIFIED NURSE-MIDWIFE SERVICES AS COVERED SERVICES IN RURAL HEALTH CLINICS AND QUALIFICATION AS A RURAL HEALTH CLINIC.—Section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)) is amended—

(1) in paragraph (1)(B) by striking "or by a clinical psychologist (as defined by the Secretary)," and inserting in lieu thereof "or a clinical psychologist (as defined by the Secretary), or by a certified nurse-midwife (as defined in section 1861(gg), or by a clinical social worker (as defined in subsection (hh)),";

(2) in paragraph (2)(B) by striking "physician assistants and nurse practitioners," each place it appears and inserting in lieu thereof "physician assistants, nurse practitioners, and certified nurse-midwives,";

(3) in paragraph (2)(E) by striking "or nurse practitioners," and inserting in lieu thereof ", nurse practitioners or certified nurse-midwives,";

(4) in paragraph (2)(F) by striking "or nurse practitioner" and inserting in lieu thereof "nurse practitioner or certified nurse-midwife";

(5) in paragraph (2)(J) by striking the period and inserting in lieu thereof "; or";

(6) by adding after paragraph (2)(J) the following new subparagraph:

"(K) is determined by the Secretary, based on the recommendation of the Health Resources Service Administration within the public health service to meet the requirements as in effect on September 1, 1989, for funding as a health center under sections 329 or 330 or 340 of the Public Health Service Act.";

(7) in the matter following paragraph (2) by striking clause (iii) and inserting in lieu thereof the following new clause:

"(iii) employs a physician assistant, nurse practitioner, or certified nurse-midwife to furnish patient care services at least 50 percent of the time the clinic operates (unless the Secretary waives such requirement as provided in paragraph (4)),";

(8) in paragraph (3)—

(A) by striking "and the term "nurse practitioner" " and inserting in lieu thereof ", the term "nurse practitioner" and the term "certified nurse-midwife" "; and

(B) by striking "or nurse practitioner" and inserting in lieu thereof ", nurse practitioner or certified nurse-midwife"; and

(9) by adding at the end thereof the following new paragraph:

"(4)(A) The Secretary shall waive for a 1-year period the requirements that a rural health clinic employ a physician assistant, nurse practitioner or certified nurse midwife or that such clinic require such providers to furnish services at least 50 percent of the time that the clinic operates as described in clause (iii) of paragraph (2) to any rural health clinic that requests such waiver if such requesting clinic demonstrates that the clinic has been unable, despite reasonable efforts, to hire a physician assistant, nurse practitioner, or certified nurse-midwife in the previous 90-day period.

"(B) The Secretary shall grant waivers under this subsection for a one-year period. The Secretary shall not grant such a waiver to a clinic which has previously been granted a waiver which expired less than 6 months previous to the date of application for a new waiver.

"(C) A waiver which is requested under this paragraph shall be deemed granted unless such request is denied by the Secretary within 60 days after the date such request is received.".

(b) AREAS IN WHICH A RURAL HEALTH CLINIC MAY OPERATE EXPANDED.—Section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)), as amended by this Act, is further amended in the matter following paragraph (2)—

(1) by striking "or" at the end of subclause (I) and inserting in lieu thereof a comma;

(2) by inserting at the end of clause (i) the following new subclause:

"or (III) as an area with a medically underserved population designated under section 330 of the Public Health Service Act,";

(3) by striking "and" at the end of clause (iii); and

(4) by striking the period at the end of clause (iv) and inserting in lieu thereof the following:

", (v) is located in an area designated by the Governor of the State and approved by the Secretary as an area with a shortage of personal health services.".

(c) COVERAGE OF NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST SERVICES PROVIDED IN RURAL AREAS UNDER PART B OF MEDICARE.—

(1) COVERAGE OF SERVICES.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(A) by striking "and" at the end of subparagraph (L);

(B) by adding "and" at the end of subparagraph (M); and

(C) by adding at the end thereof the following new subparagraph:

"(N) nurse practitioner or clinical nurse specialist services;".

(2) SERVICES DEFINED.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST SERVICES

"(mm)(1) The term 'nurse practitioner or clinical nurse specialist services' means services provided in a rural area (as defined in paragraph (3)) performed by a nurse practitioner or clinical nurse specialist (as defined in paragraph (2)) which the nurse practitioner or clinical nurse specialist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed.

"(2) The term 'nurse practitioner or clinical nurse specialist' means an individual who—

"(A) is a registered nurse and is licensed to practice nursing in the State in which the nurse practitioner or clinical nurse specialist services are performed; and

"(B)(i) holds a master's degree in nursing or a related field from an accredited educational institution, or

"(ii) is certified as a nurse practitioner or clinical nurse specialist by a duly recognized professional nurses association.

"(3) The term 'rural area' means any area outside a metropolitan statistical area (as defined by the Office of Management and Budget).".

(3) DIRECT PAYMENT FOR SERVICES.—Section 1832(a)(2)(B) (42 U.S.C. 1395k(a)(2)(B)) is amended—

(A) by striking "and" at the end of clause (ii); and

(B) by adding at the end of clause (iii) the following new clause:

"(iv) nurse practitioner or clinical nurse specialist services;".

(4) AMOUNT OF PAYMENT FOR SERVICES.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking "and" at the end of subparagraph (L);

(B) by adding "and" at the end of subparagraph (M); and

(C) by adding at the end thereof the following new subparagraph:

"(N) in the case of nurse practitioner or clinical specialist services under section 1861(s)(2)(N), the amounts paid shall be an amount equal to 80 percent of 75 percent of the prevailing charge in area for the service for participating physicians and such payment shall be made on an assignment-related basis only."

Subpart B—Payment for Other Services

SEC. 1221. CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) SETTING FEE SCHEDULE UPDATE FOR 1990 AT 2 PERCENT.—Paragraph (2)(A)(ii) of section 1833(h) (42 U.S.C. 1395l(h)) is amended—

(1) by striking "and" at the end of subclause (I);

(2) in subclause (II), by striking "1988." and inserting "1988, and"; and

(3) by adding at the end the following new subclause:

"(III) the annual adjustment under clause (i) to become effective on April 1, 1990, shall be an increase of 2 percent.".

(b) REDUCTION OF LIMITATION AMOUNT ON PAYMENT AMOUNT.—Paragraph (4)(B) of such section is amended—

(1) in clause (i), by striking "or" at the end;

(2) in clause (ii)—

(A) by striking "and so long as a fee schedule for the test has not been established on a nationwide basis," and inserting "and before January 1, 1990,", and

(B) by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(iii) after December 31, 1989, and so long as a fee schedule for the test has not been established on a nationwide basis, is equal to 95 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

SEC. 1222. PHYSICIAN OFFICE LABS.

(a) IN GENERAL.—Section 1861(s) (42 U.S.C. 1395x(s)) is amended in the matter following paragraph (13), by striking "that has a volume of clinical diagnostic laboratory tests exceeding 5,000 per year,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

SEC. 1223. TRIP FEES FOR CLINICAL LABS.

(a) CLARIFICATION OF TERM NURSING FACILITY.—Section 1833(h)(3) (42 U.S.C. 1395l(h)(3)) is amended by striking "nursing facilities representing" and inserting in lieu thereof "nursing facilities (not limited to skilled nursing facilities) representing".

(b) COMBINING LABORATORIES TO DETERMINE PERCENT OF FACILITIES SERVED.—Section 1833(h)(3) (42 U.S.C. 1395l(h)(3)) is further amended by adding at the end thereof the following new sentence: "Two or more laboratories under common ownership may be considered a single laboratory for purposes of meeting the 20 percent requirement described in the preceding sentence.".

(c) COLLECTION OF SPECIMENS.—Section 1833(h)(3) is further amended—

(1) by striking "trained" and inserting "appropriate"; and

(2) by inserting "or specimen" after "sample" each place it appears.

SEC. 1224. MORATORIUM ON LABORATORY DEMONSTRATION EXTENDED.

(a) EXTENSION.—Section 9204(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking "January 1, 1990" and inserting in lieu thereof "January 1, 1991".

(b) REPORT.—Not later than May 1, 1990, the Secretary of Health and Human Services shall report to the Congress on a proposed methodology for implementing a demonstration project relating to competitive bidding as a method of purchasing laboratory services under title XVIII of the Social Security Act.

SEC. 1225. DURABLE MEDICAL EQUIPMENT.

(a) DELAY IN AND REDUCTION OF UPDATE FOR 1990.—

(1) INEXPENSIVE AND ROUTINELY PURCHASED DURABLE MEDICAL EQUIPMENT AND ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—Paragraphs (2)(B) and (3)(B) of section 1834(a) of such Act (42 U.S.C. 1395m(a)) are each amended—

(A) in clause (i), by striking "in 1989" and inserting "in 1989 and the first 3 months of 1990",

(B) in clause (i), by striking "or" at the end,

(C) in clause (ii), by striking "for the preceding year" and inserting "for the last day of the preceding year",

(D) by redesignating clause (ii) as clause (iii), and

(E) by inserting after clause (i) the following new clause:

"(ii) in the remaining months of 1990, is the amount specified in clause (i) increased by 2 percent, or".

(2) MISCELLANEOUS DEVICES AND ITEMS AND OTHER COVERED ITEMS.—Paragraph (8)(A)(ii) of such section is amended—

(A) in subclause (I), by striking "1989" and inserting "1989 and the first 3 months of 1990",

(B) in subclause (I), by striking "or" at the end,

(C) in subclause (II), by striking "1990, 1991," and inserting "1991",

(D) in subclause (II), by striking "for the previous year" and inserting "for the last day of the previous year",

(E) by redesignating subclause (II) as subclause (III), and

(F) by inserting after subclause (I) the following new subclause:

"(II) in the remaining months of 1990, is the amount specified in subclause (I) increased by 2 percent, or".

(3) OXYGEN AND OXYGEN EQUIPMENT.—Paragraph (9)(A)(ii) of such section is amended—

(A) in subclause (I), by striking "1989" and inserting "1989 and the first 3 months of 1990",

(B) in subclause (I), by striking "or" at the end,

(C) in subclause (II), by striking "1990, 1991," and inserting "1991",

(D) in subclause (II), by striking "for the previous year" and inserting "for the last day of the previous year",

(E) by redesignating subclause (II) as subclause (III), and

(F) by inserting after subclause (I) the following new subclause:

"(II) to the remaining months of 1990, is the amount specified in subclause (I) increased by 2 percent, or".

(4) CONFORMING AMENDMENTS.—Such section is further amended—

(A) in paragraph (7)(A)(i), by striking "this subparagraph" and inserting "this clause";

(B) in paragraph (8)(C)(i), by striking "(A)(ii)(I)" and inserting "(A)(ii)"; and

(C) in paragraphs (8) and (9)—

(i) in subparagraph (B)(i), by striking "(A)(ii)(II)" and inserting "(A)(ii)(III)"; and

(ii) in clauses (ii) and (iii) of subparagraph (C), by striking "(A)(ii)(II)" and inserting "(A)(ii)(III)".

(b) NATIONAL CAP ON FEE SCHEDULES.—

(1) INEXPENSIVE AND ROUTINELY PURCHASED DURABLE MEDICAL EQUIPMENT AND ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—Paragraphs (2)(B) and (3)(B) of section 1834(a) (42 U.S.C. 1395m(a)) are each amended in clause (ii), as inserted by subsection (b)(1)(F), by striking ", or" and inserting ", except that the amount for an item under this clause may not exceed 95 percent of the median of the amounts otherwise determined under this clause for such an item, or".

(2) MISCELLANEOUS DEVICES AND ITEMS, OTHER COVERED ITEMS, AND OXYGEN AND OXYGEN EQUIPMENT.—Paragraphs (8)(A)(ii) and (9)(A)(ii) of such section are each amended in subclause (II), as inserted by paragraphs (2)(F) and (3)(F) of subsection (b), by striking ", or" and inserting ", except that the amount specified under this subclause for an item may not exceed 95 percent of the median of the amounts specified in this subclause for such item, or".

(3) ELIMINATION OF REGIONAL FEE SCHEDULES.—Paragraphs (8) and (9) of section 1834(a) are each amended—

(A) in subparagraph (A)(ii)(II), by striking "or 1992" and inserting "and thereafter", and

(B) by striking subparagraphs (B), (C), and (D).

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to items furnished on or after April 1, 1990.

(c) ADJUSTMENT BY SECRETARY FOR OVERPRICED ITEMS.—Paragraph (1) of section 1834(a) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new subparagraph:

"(D) REDUCTION IN FEE SCHEDULES FOR CERTAIN ITEMS.—With respect to a seat-lift chair or transcutaneous electrical nerve stimulator furnished on or after April 1, 1990, the Secretary shall reduce the payment amount applied under subparagraph (B)(ii) for such an item by 15 percent.".

(d) TREATMENT OF POWER DRIVEN WHEELCHAIRS.—

(1) AS ROUTINELY PURCHASED.—Section 1834(a)(2)(A) (42 U.S.C. 1395m(a)(2)(A)) is amended—

(A) by striking "or" at the end of clause (i),

(B) by adding "or" at the end of clause (ii), and

(C) by inserting after clause (ii) the following new clause:

"(iii) which is a power-driven wheelchair (other than a customized wheelchair that is classified as a customized item under paragraph (4) pursuant to criteria specified by the Secretary),".

(2) AS CUSTOMIZED ITEM.—The Secretary of Health and Human Services (hereafter in this subsection referred to as the "Secretary") shall by regulation specify criteria to be used by carriers in making determinations on a case by case basis as whether to classify power-driven wheelchairs as a customized item (as described in section 1834(a)(4) of the Social Security Act) for purposes of reimbursement under title XVIII of the Social Security Act.

(e) OSTOMY SUPPLIES EXCLUDED FROM FEE SCHEDULES.—

(1) Section 1861(m)(5) (42 U.S.C. 1395x(m)(5)) is amended by striking "other than" and inserting in lieu thereof "including ostomy supplies, but excluding".

(2) Section 1834(a)(13)(A) (42 U.S.C. 1395m(a)(13)(A)) is amended by inserting "but excluding ostomy supplies" after "1861(m)(5)".

SEC. 1226. STUDY OF REGISTERED NURSES AS ASSISTANTS AT SURGERY.

Not later than June 1, 1990, the Secretary of Health and Human Services shall report, to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives, with respect to—

(1) the effect of the amendments made by section 9338 of the Omnibus Budget Reconciliation Act of 1986 on the employment of registered nurses as assistants at surgery, and

(2) whether or not the reductions described in subsection (d) of such section have been implemented.

SEC. 1227. CLARIFYING COVERAGE OF CERTIFIED NURSE-MIDWIFE SERVICES.

(a) CLARIFYING COVERAGE OF SERVICES.—Section 1861(gg)(2) (42 U.S.C. 1395x(gg)(2)) is amended by striking all beginning with "services" through "cycle" and inserting in lieu thereof "certified nurse midwife services".

(b) CONFORMING CHANGE.—Section 1905 (42 U.S.C. 1396d) is amended by adding at the end the following:

"(o) The term 'nurse-midwife' means a registered nurse who has successfully completed a program of study and clinical experience meeting guidelines prescribed by the Secretary, or has been certified by an organization recognized by the Secretary, and performs services in the area of management of the care of mothers and babies (throughout the maternity cycle) which the nurse is legally authorized to perform in the State in which he performs such services.".

SEC. 1228. COVERAGE OF ERYTHROPOIETIN WHEN SELF ADMINISTERED.

(a) IN GENERAL.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (L);

(2) by adding "and" at the end of subparagraph (M); and

(3) by adding at the end thereof the following new subparagraph:

"(N) erythropoietin, for home dialysis patients competent to use such drug without medical or other supervision, and items related to the administration of such drug, subject to methods and standards established by the Secretary by regulation for the safe and effective use of such drug;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to items and services furnished on or after July 1, 1990.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to services furnished on or after January 1, 1990.

SEC. 1229. MODIFICATION OF PAYMENT FOR THERAPEUTIC SHOES FOR INDIVIDUALS WITH SEVERE DIABETIC FOOT DISEASE.

(a) PERMITTING ADDITIONAL INSERTS.—

(1) IN GENERAL.—Section 1833(o) of the Social Security Act (42 U.S.C. 1395l(o)) is amended—

(A) by amending subparagraph (A) of paragraph (1) to read as follows:

"(A) no payment may be made under this part, with respect to any individual for any year, for the furnishing of—

"(i) more than one pair of custom molded shoes (including inserts provided with such shoes) and 2 additional pairs of inserts for such shoes, or

"(ii) more than one pair of extra-depth shoes (not including inserts provided with such shoes) and 3 pairs of inserts for such shoes, and";

(B) in paragraphs (1)(B) and (2)(A), by striking "limit" and inserting "limits";

(C) in the second sentence of paragraph (1), by inserting "(or inserts)" after "shoes" each place it appears;

(D) by amending clause (i) of paragraph (2)(A) to read as follows:

"(i) for the furnishing of—

"(I) one pair of custom molded shoes (including any inserts that are provided initially with the shoes) is $300, and

"(II) any additional pair of inserts with respect to such shoes is $50; and"; and

(E) in paragraph (2)(A)(ii)(II), by inserting "any pairs of" after "$50 for".

(2) CONFORMING AMENDMENT.—Section 1861(s)(12) of such Act (42 U.S.C. 1395x(s)(12)) is amended by inserting "with inserts" after "custom molded shoes".

(b) PERMITTING SUBSTITUTION OF SHOE MODIFICATIONS FOR INSERTS.—Section 1833(o)(2) of such Act is amended by adding at the end the following new subparagraph:

"(D) In accordance with procedures established by the Secretary, an individual entitled to benefits with respect to shoes described in section 1861(s)(12) may substitute modification of such shoes instead of obtaining one (or more, as specified by the Secretary) pairs of inserts (other than the original pair of inserts with respect to such shoes). In such case, the Secretary shall substitute, for the limits established under subparagraph (A), such limits as the Secretary estimates will assure that there is no net increase in expenditures under this subsection as a result of this subparagraph.".

(c) EFFECTIVE DATE.—

(1) The amendments made by this section shall apply with respect to therapeutic shoes and inserts furnished on or after January 1, 1990.

(2) In applying the amendments made by this section, the increase under subparagraph (C) of section 1833(o)(2) of the Social Security Act shall apply to the dollar amounts specified under subparagraph (A) of such section (as amended by this section) in the same manner as the increase would have applied to the dollar amounts specified under subparagraph (A) of such section (as in effect before the date of the enactment of this Act).

SEC. 1231. PAYMENTS FOR HOSPITAL OUTPATIENT SERVICES.

Section 1861(v)(1)(S) (42 U.S.C. 1395x(v)(1)(S)) as amended by this Act is further amended by adding at the end the following new clause:

"(iii) Such regulation shall further provide that, in determining the amount of the payments that may be made under this title with respect to costs of out patient hospital services (excluding capital-related costs of such services), the Secretary shall reduce the amounts of such payments otherwise established under this title by 2 percent for portions of cost reporting periods occurring, or services furnished, during fiscal year 1990.".

SEC. 1232. PAYMENTS FOR CAPITAL FOR HOSPITAL OUTPATIENT SERVICES.

Section 1861(v)(1)(S) (42 U.S.C. 1395x(v)(1)(S)) is amended—

(1) by inserting "(i)" after "(S)", and

(2) by adding at the end the following new clause:

"(ii)(I) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of outpatient hospital services, the Secretary shall reduce the amounts of such payments otherwise established under this title by 18 percent for services provided in cost reporting periods beginning during fiscal year 1990.

"(II) Subclause (I) shall not apply to payments with respect to the capital-related costs of any hospital for a cost reporting period if the hospital is a sole community hospital (as defined in section 1886(d)(5)) or is eligible to be paid as a sole community hospital for the period.

"(III) Subclause (I) shall not apply to payments with respect to the capital-related costs of any hospital for a cost reporting period if the hospital is a hospital (described in section 1815(e)(1)(B)) for the period.

"(IV) The Secretary shall apply the reduction described in subclause (I) to services for which payment may be based on a blended rate under section 1833(n) or 1833(i)(3); however, the reduction shall be applied only to that portion of the payment based on hospital costs.".

SEC. 1233. MENTAL HEALTH SERVICES.

(a) PSYCHOLOGISTS.—Section 1861(ii) of the Social Security Act (42 U.S.C. 1395x(ii)), is amended by striking "at a community mental health center (as such term is used in the Public Health Service Act)".

(b) PROVIDING FOR PAYMENT ON A REASONABLE CHARGE BASIS.—Section 1833(a)(1) of such Act (42 U.S.C. 1395l(a)(1)) is amended by striking "(L) with respect to qualified psychologist services under section 1861(s)(2)(M),".

(c) PSYCHOLOGIST DEFINED.—For purposes of this section the term "psychologist" or "qualified psychologist services" means an individual who or services delivered by an individual who—

(1) is licensed or certified at the independent practice level of psychology by the State in which such individual so practices,

(2) possesses a doctorate degree in psychology from a regionally accredited educational institution, or in the case of an individual licensed or certified prior to January 1, 1978, possesses a master's degree in psychology and is listed in a national register of mental health service providers in psychology approved by the Secretary, and

(3) possesses at least two years of supervised experience in health service, at least one year of which is postdegree.

(d) ELIMINATING DOLLAR LIMITATION ON MENTAL HEALTH SERVICES.—Section 1833(d)(1) of the Social Security Act (42 U.S.C. 1395l(d)(1)) is amended by striking "whichever" and all that follows and inserting "62½ percent of such expenses.".

(e) EFFECTIVE DATE.—The amendments made by this section, and the provisions of subsection (d), shall apply to services performed on or after January 1, 1990, and the amendments made by subsection (e) shall apply to expenses incurred in a year beginning with 1990.

(f) STUDY ON ELIMINATING 190-DAY LIMIT FOR INPATIENT PSYCHIATRIC CARE.—

(1) STUDY.—The Secretary of Health and Human Services (hereinafter referred to as the "Secretary") shall conduct a study on the advisability of eliminating the 190-day lifetime limit for inpatient psychiatric hospital care under title XVII of the Social Security Act that shall include an analysis and assessment of—

(A) the current utilization and furnishing by States and programs under the Social Security Act of inpatient psychiatric services in private psychiatric hospitals, State psychiatric hospitals, and general hospitals; and

(B) alternatives to a lifetime limit, including an annual limit on inpatient psychiatric care and the costs of such alternatives.

(2) REPORT.—The Secretary shall submit the results of the study and legislative recommendations for changes in such limits to the Senate Finance Committee no later than April 1, 1990.

SEC. 1234. NURSE PRACTITIONER SERVICES.

(a) SERVICES COVERED.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (J),

(2) in subparagraph (K)(i) by striking "(as defined in subsection (aa)(3))" and inserting in lieu thereof "(as defined in subsection (aa)(3)) and in the case of a skilled nursing facility, a nurse practitioner (as defined in subsection (aa)(5)) working in collaboration (as defined in subsection (aa)(6)) with a physician (as defined in subsection (r)(1))", and

(3) in subparagraph (K)(i), by inserting "or nurse practitioner" after "physician assistant" the second place it appears.

(b) DETERMINATION OF PAYMENT AMOUNT.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended by striking "physician assistant acting under the supervision of a physician" and inserting "physician assistants and in skilled nursing facilities, nurse practitioners, acting under the supervision of a physician.

(c) PAYMENT TO EMPLOYER; PAYMENT FOR ROUTINE VISITS BY MEMBERS OF A TEAM.—Section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended—

(1) in clause (C) of the first sentence, by inserting "or nurse practitioner" after "physician assistant", and

(2) by adding at the end the following new sentence:

"In the case of residents of nursing facilities who receive services described in section 1861(s)(2)(K)(i) performed by a member of a team, the Secretary shall instruct carriers to develop mechanisms which permit routine payment under this part for up to 1.5 visits per month per resident. In the previous sentence, the term 'team' refers to a physician and includes a physician assistant acting under the supervision of the physician or a nurse practitioner working in collaboration with that physician, or both.".

(d) REDUCTION IN PAYMENT TO AVOID DUPLICATE PAYMENT.—Notwithstanding any other provision of law, the Secretary of Health and Human Services may reduce the amount of payments otherwise made to hospitals and skilled nursing facilities under title XVIII of the Social Security Act, so as to eliminate estimated duplicate payments for historical or current costs attributable to services described in section 1861(s)(2)(K) of such Act (for which payment may be made under the amendments made by this section).

(e) DEFINITION OF COLLABORATION.—Section 1861(aa) of the Social Security Act (42

U.S.C. 1395x(aa)), as amended by section 4014(b) of this subtitle, is amended by adding at the end the following new paragraph:

"(6) The term 'collaboration' means a process in which a nurse practitioner works with a physician to deliver health care services within the scope of the practitioner's professional expertise, with medical direction and appropriate supervision as provided for in jointly developed guidelines or other mechanisms as defined by the law of the State in which the services are performed.".

(f) STATE DEMONSTRATION PROJECTS ON APPLICATION OF LIMITATION ON VISITS PER MONTH PER RESIDENT ON AGGREGATE BASIS FOR A TEAM.—The Secretary of Health and Human Services shall provide for at least one demonstration project under which, in the application of the next-to-last sentence of section 1842(b)(6) of the Social Security Act (as added by subsection (c)(2) of this section) in one or more States, the limitation on the number of visits per month per resident would be applied on an average basis over the aggregate total of residents receiving services from members of the team.

SEC. 1235. PPOPAC STUDY ON HOSPITAL OUTPATIENT SERVICES.

The Prospective Payment Assessment Commission shall conduct a study and submit a report to Congress by no later than July 1, 1990, on payment under title XVIII of the Social Security Act for hospital outpatient services. Such study shall include an examination of—

(1) the sources of growth in spending for hospital outpatient services; and

(2) the differences between the costs of delivering services in a hospital outpatient department as opposed to providing similar services in other appropriate settings (including ambulatory surgery centers and physician offices).

SEC. 1236. EXTENSION OF MUNICIPAL HEALTH SERVICE DEMONSTRATION PROJECTS.

Section 9215 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended—

(a) by striking ", for a period of three additional years," and inserting "six months after the Secretary submits the report described in the last sentence,", and

(b) by adding at the end the following: "The Secretary shall submit a report to Congress on the waiver program with respect to the quality of health care, beneficiary costs, and such other factors as may be appropriate.".

SEC. 1237. CLINICAL SOCIAL WORKERS.

(a) COVERAGE OF SERVICES.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (L);

(2) by adding "and" at the end of subparagraph (M); and

(3) by adding at the end the following new subparagraph:

"(N) clinical social worker services;".

(b) DEFINITIONS.—Section 1861 of such Act (42 U.S.C. 1395x) is amended—

(1) in subsection (s)(2)(H)(ii), by striking "(hh)" and inserting "(hh)(2)", and

(2) in subsection (hh)—

(A) by amending the heading to read as follows:

"Clinical Social Worker; Clinical Social Worker Services",

(B) by redesignating clauses (i) and (ii) of paragraph (3)(B) as subclauses (I) and (II), respectively,

(C) by redesignating subparagraphs (A) and (B) of paragraph (3) as clauses (i) and (ii), respectively,

(D) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively,

(E) by striking "(hh)" and inserting "(hh)(1)", and

(F) by adding at the end the following new paragraph:

"(c) The term 'clinical social worker services' means services performed by a clinical social worker (as defined in paragraph (1)) for the diagnosis and treatment of mental illnesses which the clinical social worker is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed as would otherwise be covered if furnished by a physician or as an incident to a physician's service.".

SEC. 1238. REVIEW OF NEW TECHNOLOGIES.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall develop and implement a process under which interested parties may request review by the Secretary of the appropriate reimbursement under section 1635(i)(2)(A)(iii) of the Social Security Act with respect to a class of new technology intraocular lenses. For purposes of the preceding sentence, an intraocular lens may not be treated as a new technology lens unless it has been approved by the Food and Drug Administration.

(b) NOTICE AND COMMENTS.—

(1) NOTICE.—The Secretary shall publish notice in the Federal Register from time to time (but no less often than 2 times each year) a list of the requests that the Secretary has received for review under this section.

(2) COMMENT.—The Secretary shall provide for a 60-day comment period on requests under this section. The Secretary shall publish a notice of his determination with respect to intraocular lenses specified in the notice within 120 days after the close of the comment period.

Assessment Commission has direct practical exposure to, or experience with, the problems of providing health care to rural America.

(2) Therefore, it is the sense of the Senate that a minimum of four additional members with demonstrated experience in providing or developing health care services in rural America should be appointed to the Prospective Payment Assessment Commission, and that in the future a minimum of 25 percent of the Commissioners should have such experience.

PART III—PROVISIONS RELATING TO PARTS A AND B OF MEDICARE

SEC. 5301. PROVISIONS RELATING TO HEALTH MAINTENANCE ORGANIZATIONS.

(a) ADJUSTMENT TO AVERAGE PER CAPITA COSTS.—Section 1876(a)(1)(C) (42 U.S.C. 1395mm(a)(1)(C)) is amended—

(1) by striking "payment" and inserting in lieu thereof "payment (subject to the requirements contained in section 5301 of the Omnibus Budget Reconciliation Act of 1989)"; and

(2) by striking "95 percent" and all that follows through the period and inserting in lieu thereof the following:

"(i) 98 percent for months beginning on or after January 1, 1990, and ending on or before December 31, 1990;

"(ii) 99 percent for months beginning on or after January 1, 1991, and ending on or before December 31, 1991;

"(iii) 99 percent for months beginning on or after January 1, 1992, and ending on or before December 31, 1992; and

"(iv) 100 percent for months beginning on or after January 1, 1993;

of the adjusted average per capita cost (as defined in paragraph (4)) for that class.".

(b) DISCLOSURE OF AAPCC ASSUMPTIONS.—Section 1876(a)(1) (42 U.S.C. 1395mm(a)(1)) is amended by adding at the end the following new subparagraph:

"(F) At least 45 days before making the announcement under subparagraph (A) for 1991, the Secretary shall provide for notice to eligible organizations of the data and assumptions underlying this announcement, including determination of the United States Per Capita costs (USPCC) and for each year beginning in 1991 any proposed changes to be made in the methodology or assumptions (including any benefit or coverage changes resulting from legislation, regulation, or administrative action) from the methodology and assumptions used in the previous announcement. The notice shall provide such organizations an opportunity to comment on such proposed changes.".

(c) REQUIREMENTS WITH RESPECT TO ACTUARIAL EQUIVALENCE OF AAPCC.—

(1) CERTIFICATION OF EQUIVALENCE.—With respect to the annual per capita rate of payment increases described in section 1876(a)(1)(C) of the Social Security Act, such increases in payment shall not become effective above the level specified for 1990, until the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") certifies in a report to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives that the methodology utilized to determine the adjusted average per capita cost under section 1876(a)(4) of the Social Security Act is being implemented in such a way as to assure actuarial equivalence with the amount that would have been spent under title XVIII of the Social Security Act for beneficiaries under such Act if they had not been enrolled in organizations with risk-sharing contracts entered into under section 1876(g) of the Social Security Act.

(2) RECOMMENDATIONS ON PAYMENT.—(A) With respect to the annual per capita rate of payment increases described in section 1876(a)(1)(C) of the Social Security Act, such increases in payments shall not become effective above the level specified for 1990, until the Secretary submits a proposal to Congress which provides—

(i) a modified payment method to organizations with a risk-sharing contract under section 1876(g) of the Social Security Act which more accurately predicts the future actual service utilization and annual medical expenditures of the beneficiary population enrolled in a specific organization than the current payment methodology;

(ii)(I) recommendations on modifying the current adjusted average per capita cost formula, by adding predictors of medical utilization such as health status adjustors or prior utilization measures; or

(II) recommendations on a new payment methodology as an alternative to the adjusted average per capita cost;

(iii) data to support any recommended changes in payment methodology for organizations with risk-sharing contracts under section 1876(g) of the Social Security Act; and

(iv) data demonstrating that any proposed or revised payment methodology under this section is effective in explaining 15 percent of the variation in health care utilization and costs (as certified by the American Academy of Actuaries) among individuals receiving benefits under title XVIII of the Social Security Act.

(B) The General Accounting Office shall review any recommended changes in the payment methodology described in subparagraph (A), and shall make a recommendation to Congress no later than December 31, 1990, on appropriate modification in such payment methodology.

(d) WAIVER OF 50-50 REQUIREMENT WITH RESPECT TO CERTAIN ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary may waive the requirement relating to levels of enrollment of individuals not entitled to benefits under titles XVIII and XIX of the Social Security Act (described in section 1876(f) of the Social Security Act) with respect to organizations that have entered into a risk-sharing contract (as described in section 1876(g) of the Social Security Act) and which—

(A)(i) along with such organization's parent company have demonstrated profitability for the 3 most recent consecutive years; or

(ii) if such organization is a new organization the parent company of such organization has established a reserve fund to insure the solvency of such new organization;

(B)(i) has had a risk-sharing contract in effect under section 1876(g) of the Social Security Act for at least 3 years; or

(ii) if such organization is a new organization the parent company of such organization must have at least 5 years of experience in operating a health maintenance organization and two years experience in operating an organization with a risk-sharing contract under section 1876(g) of the Social Security Act in two or more States;

(C) have a total enrollment of at least 100,000 enrollees;

(D)(i) have agreed to the intensified level of review by a Peer Review Organization (PRO) or Quality Review Organization; or

(ii) if such an organization is currently under intensified review by a Peer Review Organization the Secretary is satisfied with such organization's performance;

(E) have agreed to fund an annual membership satisfaction survey to be conducted by an independent survey firm which—

(i) measures satisfaction of enrollees of such organization drawn from 3 population groups including—

(I) the enrolled membership;

(II) members who have been discharged from a hospital within a pervious 30-day period; and

(III) former members; and

(ii) reports such surveys to the Secretary;

(F) has agreed to, within the amount charged the beneficiary under section 1876(e), provide special services that are uniquely targeted towards elderly individuals receiving benefits under title XVIII of the Social Security Act and which are not routinely provided to such individuals and which include—

(i) a multi-disciplinary geriatric assessment (performed by a social worker, physician and a nurse, each who have either a specialty in geriatrics or have completed a geriatric training program) that provides for each new beneficiary enrolled after the date the waiver is approved—

(I) a plan to manage specific medical conditions;

(II) objective criteria that measure—

(aa) impairment of activities of daily living (including toileting, eating, mobility, bathing, continence, and dressing); and

(bb) cognitive impairment; and

(ii) with respect to individuals who are determined to be dependent in 3 or more areas related to activities of daily living for at least 3 months (as described in clause (i)(II)) home and community based long-term care services (nonmedical services provided to prevent or delay an individual entitled to benefits under title XVIII of the Social Security Act from entering a nursing facility) that provide at least one of the following:

(I) Homemaker or chore services.

(II) Personal care services.

(III) Adult day health care.

(IV) Meals on wheels.

(V) Lifeline telephone assistance.

(VI) Transportation.

(VII) Geriatric case management.

(VIII) Rehabilitation and home adaptation.

(IX) Special health education programs targeted to the elderly.

(X) Geriatric mental health services.

(2) DURATION OF WAIVER.—A waiver under this subsection shall be approved for a 3-year period. The additional benefits (described in paragraph (1)) shall be made available to eligible enrollees of an organization (described in paragraph (1)) for a period of at least 3 years and may extend beyond the waiver period.

(3) REVIEW AND WITHDRAW BY THE SECRETARY.—The Secretary shall review an organization's compliance with the terms of the waiver described in this subsection, including the results of the intensified quality review and the membership satisfaction surveys (described in paragraph (1)), on an annual basis. The Secretary may withdraw any waiver for an organization which the Secretary finds fails to comply with the provisions of this subsection.

(4) EVALUATION AND REPORT.—The Secretary shall evaluate the cost and impact of any waiver granted under this subsection, including any impact on the financial viability of an organization granted such a waiver, and shall report to Congress, no later than 2 years after the date of enactment of this section on whether any changes should be made to the enrollment requirement described in section 1876(f) of the Social Security Act.

(e) PHYSICIAN INCENTIVE PAYMENTS.—

(1) INCENTIVE PAYMENT PLANS.—Section 1128A(b)(1) (42 U.S.C. 1320a-7a(b)(1)) is amended—

(A) by striking ", an eligible organization with a risk-sharing contract under section 1876, or an entity with a contract under section 1903(m)";

(B) by inserting "and" at the end of subparagraph (A), by striking subparagraph (B), and redesignating subparagraph (C) as subparagraph (B); and

(C) by striking "or organization".

(2) PENALTY FOR INDUCEMENT UNDER MEDICARE.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end of subparagraph (B) the following new subparagraph:

"(C) If an eligible organization with a risk-sharing contract under section 1876(g) knowingly makes a direct and specific individual payment to a physician as an inducement to withhold or limit a specific medically necessary service to an identifiable patient, the organization shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $25,000 for each determination.".

(3) PENALTY FOR INDUCEMENT UNDER MEDICAID.—Section 1903(m)(5) is amended by adding at the end of subparagraph (B) the following new subparagraph:

"(C) If an organization with a risk-sharing contract under section 1903(m) knowingly makes a direct and specific individual payment to a physician as an inducement to withhold or limit a specific medically necessary service to an identifiable patient, the organization shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $25,000 for each determination.".

(f) TEMPORARY WAIVER FOR WATTS HEALTH FOUNDATION.—Section 9312(c)(3)(D) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 4018(d) of the Omnibus Budget Reconciliation Act of 1987, is amended—

(1) in clause (i), by striking "January 1, 1990" and inserting "January 1, 1994"; and

(2) by amending clauses (ii) and (iii) to read as follows:

"(ii) beginning on January 1, 1990, the Secretary of Health and Human Services shall conduct an annual review of the organization to determine the organization's compliance with the quality assurance requirements of section 1876(c)(6) of such Act; and

"(iii) after January 1, 1990, if the organization receives an unfavorable review under clause (ii), the Secretary, after notice to the organization of the unfavorable review and an opportunity to correct any deficiencies identified during the review, may provide for the sanction described in section 1876(f)(3) of such Act effective with respect to individuals enrolling with the organization after the date the Secretary notifies the organization that the organization is not in compliance with the requirements of section 1876(c)(6) of such Act.".

(g) MAKING AUTHORITY FOR BENEFIT STABILIZATION FUND PERMANENT.—

(1) REPEAL ON LIMITATION ON ESTABLISHMENT OF A FUND.—Section 2350(b) of the Deficit Reduction Act of 1984 (Public Law 98-369) is amended by striking paragraphs (3) and (4).

(2) REPEAL ON LIMITING PERIOD OF USE.—Section 1876(g)(5) of the Social Security Act (42 U.S.C. 1395mm(g)(5)) is amended by striking "and during a period of not longer than 4 years".

(h) MEDICAID ENROLLMENT WAIVER EXTENSION.—

(1) EXTENSION OF WAIVER.—The Secretary of Health and Human Services shall continue to waive, through June 30, 1992, the application of section 1903(m)(2)(A)(ii) of the Social Security Act to the Tennessee Primary Care Network, Inc., under the same terms and conditions as applied to such waiver as of July 1, 1989.

(2) CONDITIONS OF WAIVER EXTENSION.—Beginning on January 1, 1990, the Secretary of Health and Human Services shall—

(A) conduct an annual review of the organization described in paragraph (1) to determine the organization's compliance with the quality assurance requirements of section 1902(a)(30)(C) of such Act; and

(B) after January 1, 1990, if the organization receives an unfavorable review under clause (i), the Secretary, after notice to the organization of the unfavorable review and an opportunity to correct any deficiencies identified during the review, may suspend Federal financial participation payments under such Act effective with respect to in-

dividuals enrolling with the organization after the date the Secretary notifies the organization that the organization is not in compliance with the requirements of section 1903(m)(2)(F) of such Act.".

(3) GENERAL WAIVER AUTHORITY.—(A) The Secretary shall approve waivers of the 75 percent enrollment requirement (described in section 1903(m)(2)(A)(i) of the Social Security Act) after the Secretary provides for—

(i) a study of situations where the 75-25 percent enrollment requirement (described in section 1903(m)(2)(A)(i) of the Social Security Act) is not practical or where alternative safeguards or procedures to private enrollment and oversight could be used to assure that prepaid health care organizations provide quality care and are fiscally sound;

(ii) publication in the Federal Register by April 1, 1990, for review and comment a set of minimum standards that prepaid organizations must meet to be considered eligible for the waiver described in this paragraph and the terms under which such waivers will be approved; and

(iii) publication of revised standards and terms as a final notice.

(B) A waiver under this section shall initially be approved for three years; the Secretary shall provide terms for the renewal of such waivers.

(i) WAIVER OF CERTAIN HMO REQUIREMENTS WITH RESPECT TO CHP.—

(1) IN GENERAL.—With respect to CHP, the medical group affiliated with Long Island Jewish Medical Center, such group may include the enrollees of a State licensed health maintenance organization for whom CHP has agreed to assume full financial risk for provision of hospital and physician services for purposes of meeting the risk contracting requirements that at least one-half of the enrolled membership of an eligible organization consists of individuals who are not entitled to benefits under titles XVIII or XIX of the Social Security Act (as described in section 1876(f)(1) of the Social Security Act) and the requirement that such organizations have an enrollment of at least 5,000 members (as described in section 1876(g)(1) of such Act). The members of the health maintenance organization with whom CHP has an agreement may not be considered for purposes of meeting any such requirements with respect to any other risk contract described in section 1876 of the Social Security Act.

(2) DURATION.—The waiver granted under this subsection shall expire 2 years after the date of enactment of this Act.

(j) LIMIT ON CHARGES FOR EMERGENCY SERVICES AND OUT-OF-AREA COVERAGE.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

"(j)(1)(A) In the case of physicians' services described in paragraph (2) which are furnished by a participating physician to an individual enrolled with an eligible organization under this section and enrolled under part B, the participation agreement under section 1842(h)(1) is deemed to provide that the physician will accept as payment in full from the eligible organization the amount that would be payable to the physician under part B and from the individual under such part, if the individual were not enrolled with an eligible organization under this section.

"(B) In the case of physicians' services described in paragraph (2) which are furnished by a nonparticipating physician, the limitations on actual charges for such services otherwise applicable under part B (to services furnished by individuals not enrolled with an eligible organization under this section) shall apply in the same manner as such limitations apply to services furnished to individuals not enrolled with such an organization.

"(2) The physicians' services described in this paragraph are physicians' services which—

"(A) are rendered under the circumstances described in subsection (c)(4)(B); and

"(B) are furnished to an enrollee of an eligible organization under this section by a person who is not under a contract with the organization.".

(k) TEMPORARY WAIVER FOR RELATED ENTITIES.—

(1) For purposes of section 1876(f), the Secretary may combine the enrolled membership of an organization that meets the requirements described in paragraph (2) with the enrollment of an HMO or CMP that has a contract under section 1876 of the Social Security Act for 2 years.

(2) An organization described in this paragraph must—

(A) be related to the organization contracting under this section through common ownership and control;

(B) provide services in the same geographic area through essentially the same physicians and providers as the contracting organization;

(C) utilize a functionally integrated quality assurance program; and

(D) use common grievance procedures, claims, processing systems, common management, and administrative services.

SEC. 1302. END STAGE RENAL DISEASE SERVICES.

(a) MAINTENANCE OF CURRENT COMPOSITE RATE.—

(1) IN GENERAL.—Section 9335(a)(1) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "and before October 1, 1988" and inserting "and before October 1, 1991".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

(b) PROPAC STUDY ON ESRD COMPOSITE RATES.—

(1) IN GENERAL.—

(A) STUDY.—The Prospective Payment Assessment Commission (hereafter in this section referred to as the "Commission") shall conduct a study to determine the costs and services and profits associated with various modalities of dialysis treatments provided to end stage renal disease patients provided under Method I and Method II under title XVIII of the Social Security Act.

(B) RECOMMENDATIONS.—Based on information collected for the study described in subparagraph (A), the Commission shall make recommendations to Congress regarding the method or methods and the levels at which the payments made for the facility component of dialysis services by providers of service and renal dialysis facilities under title XVIII of the Social Security Act should be established for dialysis services furnished during fiscal year 1992 and the methodology to be used to update such payments under Methods I and II for subsequent fiscal years. In making recommendations concerning the appropriate methodology and payment under Methods I and II the Commission shall consider—

(i) hemodialysis and other modalities of treatment,

(ii) the appropriate services to be included in such payments,

(iii) the adjustment factors to be incorporated including facility characteristics, such as hospital versus free-standing facilities, urban versus rural, size and mix of services,

(iv) adjustments for labor and nonlabor costs,

(v) comparative profit margins for all types of renal dialysis providers of service and renal dialysis facilities,

(vi) adjustments for patient complexity, such as age, diagnosis, case mix, and pediatric services,

(vii) disproportionate share adjustment,

(viii) educational cost adjustment, and

(ix) efficient costs related to high quality of care and positive outcomes for all treatment modalities.

(2) REPORT TO COMMITTEE ON FINANCE.—Not later than June 1, 1991, the Commission shall submit a report to the Committee on Finance of the Senate, and the Committees on Ways and Means and Energy and Commerce of the House of Representatives on the study conducted under paragraph (1)(A) and shall include in the report the recommendations described in paragraph (1)(B), taking into account the factors described in paragraph (1)(B).

(3) ANNUAL REPORT.—The Commission, not later than March 1 before the beginning of each fiscal year (beginning with fiscal year 1993) shall report its recommendations to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives on an appropriate change factor which should be used for updating Method I and Method II payments for services rendered in that fiscal year. The Commission in making such report to Congress shall consider conclusions and recommendations available from the Institute of Medicine.

SEC. 1303. PROVIDER AND PRACTITIONER RIGHT TO RECONSIDERATION OF PRO DETERMINATION BEFORE NOTICE TO BENEFICIARY.

(a) IN GENERAL.—Section 1154(a)(3) of the Social Security Act (42 U.S.C. 1320c-3(a)(3)) is amended—

(1) in subparagraph (A), by striking "subparagraph (B)" and inserting "subparagraphs (B) and (D)", and

(2) by adding at the end the following new subparagraphs:

"(D) The notification under subparagraph (A) with respect to services or items disapproved by reason of paragraph (1)(B) shall not occur until after—

"(i) the preliminary process under subparagraph (B) has been completed,

"(ii) the organization has notified the practitioner or provider involved of the determination and of the practitioner's or provider's right to a formal reconsideration of the determination under section 1155, and

"(iii) if the provider or practitioner requests such a reconsideration, the organization has made such a reconsideration.

If a provider or practitioner is provided a reconsideration, such reconsideration shall be in lieu of any subsequent reconsideration to which the provider or practitioner may be otherwise entitled under section 1155, but shall not affect the right of a beneficiary from seeking reconsideration under such section of the organization's determination (after any reconsideration requested by the provider or physician under clause (ii)).

"(E) In the case of services and items disapproved by reason of paragraph (1)(B), the

notice to the patient shall state the following: 'In the judgment of the peer review organization, the medical care received was not acceptable under the medicare program. The reasons for the denial have been discussed with your physician and hospital.'.".

(b) CONFORMING AMENDMENT.—Section 1155 of such Act (42 U.S.C. 1320c-5) is amended by inserting ", subject to section 1154(a)(3)(D)," before "any practitioner or provider".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to determinations by utilization and quality control peer review organizations with respect to which preliminary notifications were made under section 1154(a)(3)(B) of the Social Security Act more than 30 days after the date of the enactment of this Act.

(d) PEER REVIEW OF NON-PHYSICIAN SERVICES.—

(1) IN GENERAL.—Section 1154(a)(1) of the Social Security Act (42 U.S.C. 1320c-3(a)(1)) is amended by adding at the end the following:

"If the organization performs such reviews with respect to a type of health care practitioner other than medical doctors, the organization shall establish procedures for the involvement of health care practitioners of that type in such reviews.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contracts entered into after the date of the enactment of this Act.

SEC. 1304. DELAY IN PAYMENTS IN FISCAL YEAR 1990.

(a) PART A.—Section 1816(c) (42 U.S.C. 1395h(c)) is amended—

(1) in paragraph (2)(B)(ii)(IV), by striking "24" and inserting "26"; and

(2) in paragraph (3)(B)—

(A) by striking "and" at the end of clause (i),

(B) by striking the period at the end of clause (ii) and inserting ", and", and

(C) by adding at the end the following new clause:

"(iii) with respect to claims received in the 12-month period beginning October 1, 1989, 16 days.".

(b) PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended—

(1) in paragraph (2)(B)(ii)(IV), by striking "24" and "17" and inserting "26" and "21", respectively; and

(2) in paragraph (3)(B)—

(A) by striking "and" at the end of clause (i),

(B) by striking the period at the end of clause (ii) and inserting ", and", and

(C) by adding at the end the following new clause:

"(iii) with respect to claims received in the 12-month period beginning October 1, 1989, 16 days.".

(c) CLARIFICATION.—Any transfer of outlays, receipts, or revenues pursuant to this section, is a necessary (but secondary) result of a significant policy change for purposes of section 202 of Public Law 100-119.

SEC. 1305. MEDICARE AS SECONDARY PAYER.

(a) IDENTIFICATION OF MEDICARE SECONDARY PAYER SITUATIONS.—

(1) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION FOR VERIFICATION OF EMPLOYMENT STATUS OF MEDICARE BENEFICIARY AND SPOUSE OF MEDICARE BENEFICIARY.—

(A) IN GENERAL.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end thereof the following new paragraph:

"(12) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION FOR VERIFICATION OF EMPLOYMENT STATUS OF MEDICARE BENEFICIARY AND SPOUSE OF MEDICARE BENEFICIARY.—

"(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary shall, upon written request from the Commissioner of Social Security, disclose to the Commissioner available filing status and taxpayer identity information from the individual master files of the Internal Revenue Service relating to whether any medicare beneficiary identified by the Commissioner was a married individual (as defined in section 7703) for any specified year after 1986, and, if so, the name of the spouse of such individual and such spouse's TIN.

"(B) RETURN INFORMATION FROM SOCIAL SECURITY ADMINISTRATION.—The Commissioner of Social Security shall, upon written request from the Administrator of the Health Care Financing Administration, disclose to the Administrator the following information:

"(i) The name and TIN of each medicare beneficiary who is identified as having received wages (as defined in section 3401(a)) from a qualified employer in a previous year.

"(ii) For each medicare beneficiary who was identified as married under subparagraph (A) and whose spouse is identified as having received wages from a qualified employer in a previous year—

"(I) the name and TIN of the medicare beneficiary, and

"(II) the name and TIN of the spouse.

"(iii) With respect to each such qualified employer, the name, address, and TIN of the employer and the number of individuals with respect to whom written statements were furnished under section 6051 by the employer with respect to such previous year.

"(C) DISCLOSURE BY HEALTH CARE FINANCING ADMINISTRATION.—With respect to the information disclosed under subparagraph (B), the Administrator of the Health Care Financing Administration may disclose—

"(i) to the qualified employer referred to in such subparagraph the name and TIN of each individual identified under such subparagraph as having received wages from the employer (hereinafter in this subparagraph referred to as the 'employee') for purposes of determining during what period such employee or the employee's spouse may be (or have been) covered under a group health plan of the employer and what benefits are or were covered under the plan (including the name, address, and identifying number of the plan),

"(ii) to any group health plan which provides or provided coverage to such an employee or spouse, the name of such employee and the employee's spouse (if the spouse is a medicare beneficiary) and the name and address of the employer, and, for the purpose of presenting a claim to the plan—

"(I) the TIN of such employee if benefits were paid under title XVIII of the Social Security Act with respect to the employee during a period in which the plan was a primary plan (as defined in section 1862(b)(2)(A) of the Social Security Act), and

"(II) the TIN of such spouse if benefits were paid under such title with respect to the spouse during such period, and

"(iii) to any agent of such Administrator the information referred to in subparagraph (B) for purposes of carrying out clauses (i) and (ii) on behalf of such Administrator.

"(D) SPECIAL RULES.—

"(i) RESTRICTIONS ON DISCLOSURE.—Information may be disclosed under this paragraph only for purposes of, and to the extent necessary in, determining the extent to which any medicare beneficiary is covered under any group health plan.

"(ii) TIMELY RESPONSE TO REQUESTS.—Any request made under subparagraph (A) or (B) shall be complied with as soon as possible but in no event later than 120 days after the date the request was made.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) MEDICARE BENEFICIARY.—The term 'medicare beneficiary' means an individual entitled to benefits under part A, or enrolled under part B, of title XVIII of the Social Security Act, but does not include such an individual enrolled in part A under section 1818 or section 1818A.

"(ii) GROUP HEALTH PLAN.—The term 'group health plan' means—

"(I) any group health plan (as defined in section 5000(b)(1)), and

"(II) any large group health plan (as defined in section 5000(b)(2)).

"(iii) QUALIFIED EMPLOYER.—The term 'qualified employer' means, for a calendar year, an employer which has furnished written statements under section 6051 with respect to at least 20 individuals for wages paid in the year.

"(F) TERMINATION.—Subparagraphs (A) and (B) shall not apply to—

"(i) any request made after September 30, 1991, and

"(ii) any request made before such date for information relating to—

"(I) 1990 or thereafter in the case of subparagraph (A), or

"(II) 1991 or thereafter in the case of subparagraph (B)."

(B) SAFEGUARDS.—

(i) Paragraph (3) of section 6103(a) of such Code is amended by inserting "(l)(12)," after "(e)(1)(D)(iii),".

(ii) Subparagraph (A) of section 6103(p)(3) of such Code is amended by striking "or (11)" and inserting "(11), or (12)".

(iii) Paragraph (4) of section 6103(p) of such Code is amended in the material preceding subparagraph (A) by striking "or (9) shall" and inserting "(9), or (12) shall".

(iv) Clause (ii) of section 6103(p)(4)(F) of such Code is amended by striking "or (11)" and inserting "(11), or (12)".

(v) The next to the last sentence of paragraph (4) of section 6103(p) of such Code is amended by inserting "or which receives any information under subsection (l)(12)(B) and which discloses any such information to any agent" before ", this paragraph".

(C) PENALTY.—Paragraph (2) of section 7213(a) of such Code is amended by striking "or (10)" and inserting "(10), or (12)".

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect on October 1, 1989.

(2) RESPONSIBILITIES OF HCFA.—

(A) IN GENERAL.—Section 1862(b) (42 U.S.C. 1395y(b)), as amended by subsection (b)(1) of this section, is amended by inserting after paragraph (4) the following new paragraph:

"(5) IDENTIFICATION OF SECONDARY PAYER SITUATIONS.—

"(A) REQUESTING MATCHING INFORMATION.—

"(i) COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security shall, not less often than annually, transmit to the Secretary of the Treasury a list of the names and TINs of medicare beneficiaries (as defined in section 6103(l)(12) of the Internal Revenue Code of 1986) and request

that the Secretary disclose to the Commissioner the information described in subparagraph (A) of such section.

"(ii) ADMINISTRATOR.—The Administrator of the Health Care Financing Administration shall request, not less often than annually, the Commissioner of the Social Security Administration to disclose to the Administrator the information described in subparagraph (B) of section 6103(l)(12) of the Internal Revenue Code of 1986.

"(C) DISCLOSURE TO FISCAL INTERMEDIARIES AND CARRIERS.—In addition to any other information provided under this title to fiscal intermediaries and carriers, the Administrator shall disclose to such intermediaries and carriers the information received under subparagraph (B) for the purposes of carrying out this subsection.

"(D) CONTACTING EMPLOYERS.—

"(i) IN GENERAL.—With respect to each individual (in this subparagraph referred to as an 'employee') who was furnished a written statement under section 6051 of the Internal Revenue Code of 1986 by a qualified employer (as defined in section 6103(l)(12)(D)(iii) of such Code), as disclosed under subparagraph (C), the appropriate fiscal intermediary or carrier shall contact the employer in order to determine during what period the employee or employee's spouse may be (or have been) covered under a group health plan of the employer and the nature of the coverage that is or was provided under the plan (including the name, address, and identifying number of the plan).

"(ii) EMPLOYER RESPONSE.—Within 30 days of the date of receipt of the inquiry, the employer shall notify the intermediary or carrier making the inquiry as to the determinations described in clause (i). An employer (other than a Federal or other governmental entity) who willfully or repeatedly fails to provide timely and accurate notice in accordance with the previous sentence shall be subject to a civil money penalty of not to exceed $1,000 for each individual with respect to which such an inquiry is made. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(iii) SUNSET ON REQUIREMENT.—Clause (ii) shall not apply to inquiries made after September 30, 1991.".

(B) DEADLINE FOR FIRST REQUEST.—The Commissioner of Social Security shall first—

(i) transmit to the Secretary of the Treasury information under paragraph (5)(A)(i) of section 1862(b) of the Social Security Act (as inserted by subparagraph (A)), and

(ii) request from the Secretary disclosure of information described in section 6013(l)(12)(A) of the Internal Revenue Code of 1986,

by not later than October 15, 1989.

(b) UNIFORM ENFORCEMENT AND COORDINATION OF BENEFITS.—

(1) IN GENERAL.—Section 1862 (42 U.S.C. 1395y) is amended—

(A) in the heading, by adding at the end the following: "AND MEDICARE AS SECONDARY PAYER"; and

(B) by amending subsection (b) to read as follows:

"(b) MEDICARE AS SECONDARY PAYER.—

"(1) REQUIREMENTS OF GROUP HEALTH PLANS.—

"(A) WORKING AGED UNDER GROUP HEALTH PLANS.—

"(i) IN GENERAL.—A group health plan—

"(I) may not take into account, for any item or service furnished to an individual 65 years of age or older at the time the individual is covered under the plan by reason of the current employment of the individual (or the individual's spouse), that the individual is entitled to benefits under this title under section 226(a), and

"(II) shall provide that any employee aged 65 or older, and any employee's spouse age 65 or older, shall be entitled to the same benefits under the plan under the same conditions as any employee, and the spouse of such employee, under age 65.

"(ii) EXCLUSION OF GROUP HEALTH PLAN OF A SMALL EMPLOYER.—Clause (i) shall not apply to a group health plan unless the plan is sponsored by or contributed to by an employer that has 20 or more employees for each working day in each of 20 or more calendar weeks in the current calendar year or the preceding calendar year.

"(iii) EXCEPTION FOR SMALL EMPLOYERS IN MULTIEMPLOYER OR MULTIPLE EMPLOYER GROUP HEALTH PLANS.—Clause (i) also shall not apply with respect to individuals enrolled in a multiemployer or multiple employer group health plan if the coverage of the individuals under the plan is by virtue of employment with an employer not described in clause (ii); except that the exception provided in this clause shall only apply if the plan elects treatment under this clause.

"(iv) EXCEPTION FOR INDIVIDUALS WITH END STAGE RENAL DISEASE.—Clause (i) shall not apply to an item or service furnished in a month to an individual if for the month the individual is, or would upon application be, entitled to benefits under section 226A.

"(v) GROUP HEALTH PLAN DEFINED.—In this subparagraph, and subparagraph (C), the term 'group health plan' has the meaning given such term in section 5000(b)(1) of the Internal Revenue Code of 1986.

"(B) DISABLED ACTIVE INDIVIDUALS IN LARGE GROUP HEALTH PLANS.—

"(i) IN GENERAL.—A large group health plan (as defined in clause (iv)(II)) may not take into account that an active individual (as defined in clause (iv)(I)) is entitled to benefits under this title under section 226(b).

"(ii) EXCEPTION FOR INDIVIDUALS WITH END STAGE RENAL DISEASE.—Clause (i) shall not apply to an item or service furnished in a month to an individual if for the month the individual is, or would upon application be, entitled to benefits under section 226A.

"(iii) SUNSET.—Clause (i) shall only apply to items and services furnished on or after January 1, 1987, and before January 1, 1992.

"(iv) DEFINITIONS.—In this subparagraph:

"(I) ACTIVE INDIVIDUAL.—The term 'active individual' means an employee (as may be defined in regulations), the employer, self-employed individual (such as the employer), an individual associated with the employer in a business relationship, or a member of the family of any of such persons.

"(II) LARGE GROUP HEALTH PLAN.—The term 'large group health plan' has the meaning given such term in section 5000(b)(2) of the Internal Revenue Code of 1986.

"(C) INDIVIDUALS WITH END STAGE RENAL DISEASE.—A group health plan (as defined in subparagraph (A)(v))—

"(i) may not take into account that an individual is entitled to benefits under this title solely by reason of section 226A during the 12-month period which begins with the earlier of—

"(I) the month in which a regular course of renal dialysis is initiated, or

"(II) in the case of an individual who receives a kidney transplant, the first month in which he would be eligible for benefits under part A (if he had filed an application for such benefits) under the provisions of section 226A(b)(1)(B); and

"(ii) may not differentiate in the benefits it provides between individuals having end stage renal disease and other individuals covered by such plan on the basis of the existence of end stage renal disease, the need for renal dialysis, or in any other manner;

except that clause (ii) shall not prohibit a plan from taking into account that an individual is entitled to benefits under this title solely by reason of section 226A after the end of the 12-month period described in clause (i).

"(2) MEDICARE SECONDARY PAYER.—

"(A) IN GENERAL.—Payment under this title may not be made, except as provided in subparagraph (B), with respect to any item or service to the extent that—

"(i) payment has been made, or can reasonably be expected to be made, with respect to the item or service as required under paragraph (1), or

"(ii) payment has been made, or can reasonably be expected to be made promptly (as determined in accordance with regulations) under a workmen's compensation law or plan of the United States or a State or under an automobile or liability insurance policy or plan (including a self-insured plan) or under no fault insurance.

In this subsection, the term 'primary plan' means a group health plan or large group health plan, to the extent that clause (i) applies, and a workmen's compensation law or plan, an automobile or liability insurance policy or plan (including a self-insured plan) or under no fault insurance, to the extent that clause (ii) applies.

"(B) CONDITIONAL PAYMENT.—

"(i) PRIMARY PLANS.—Any payment under this title with respect to any item or service to which subparagraph (A) applies shall be conditioned on reimbursement to the appropriate Trust Fund established by this title when notice or other information is received that payment for such item or service has been or could be made under such subparagraph.

"(ii) ACTION BY UNITED STATES.—In order to recover payment under this title for such an item or service, the United States may bring an action against any entity which is required or responsible under this subsection to pay with respect to such item or service (or any portion thereof) under a primary plan (and may, in accordance with paragraph (3)(A) collect double damages against that entity), or against any other entity (including any physician or provider) that has received payment from that entity with respect to the item or service, and may join or intervene in any action related to the events that gave rise to the need for the item or service.

"(iii) SUBROGATION RIGHTS.—The United States shall be subrogated (to the extent of payment made under this title for such an item or service) to any right under this subsection of an individual or any other entity to payment with respect to such item or service under a primary plan.

"(iv) WAIVER OF RIGHTS.—The Secretary may waive (in whole or in part) the provisions of this subparagraph in the case of an individual claim if the Secretary determines that the waiver is in the best interests of the program established under this title.

"(3) ENFORCEMENT.—

"(A) PRIVATE CAUSE OF ACTION.—There is established a private cause of action for damages (which shall be in an amount double the amount otherwise provided) in the case of a primary plan which fails to provide for primary payment (or appropriate reimbursement) in accordance with such paragraphs (1) and (2)(A).

"(B) REFERENCE TO EXCISE TAX ON NONCONFORMING GROUP HEALTH PLANS.—For provision imposing an excise tax on nonconforming group health plans, see section 5000 of the Internal Revenue Code of 1986.

"(4) COORDINATION OF BENEFITS.—Where payment for an item or service by a primary plan is less than the amount of the charge for such item or service and is not payment in full, payment may be made under this title (without regard to deductibles and coinsurance under this title) for the remainder of such charge, but—

"(A) payment under this title may not exceed an amount which would be payable under this title for such item or service if paragraph (2)(A) did not apply; and

"(B) payment under this title, when combined with the amount payable under the primary plan, may not exceed—

"(i) in the case of an item or service payment for which is determined under this title on the basis or reasonable cost (or other cost-related basis) or under section 1886, the amount which would be payable under this title on such basis, and

"(ii) in the case of an item or service for which payment is authorized under this title on another basis—

"(I) the amount which would be payable under the primary plan (without regard to deductibles and coinsurance under such plan), or

"(II) the reasonable charge or other amount which would be payable under this title (without regard to deductibles and coinsurance under this title), whichever is greater.".

(2) ENFORCEMENT THROUGH EXCISE TAX.—Section 5000 of the Internal Revenue Code of 1986 is amended—

(A) by striking "LARGE" in the heading;

(B) in subsection (a), by striking "large" each place it appears; and

(C) by amending subsections (b) and (c) to read as follows:

"(b) GROUP HEALTH PLAN AND LARGE GROUP HEALTH PLAN.—For purposes of this section—

"(1) GROUP HEALTH PLAN.—The term 'group health plan' means any plan of, or contributed to by, an employer (including a self-insured plan) to provide health care (directly or otherwise) to the employer's employees, former employees, or the families of such employees or former employees.

"(2) LARGE GROUP HEALTH PLAN.—The term 'large group health plan' means a plan of, or contributed to by, an employer or employee organization (including a self-insured plan) to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families, that covers employees of at least one employer that normally employed at least 100 employees on a typical business day during the previous calendar year.

"(c) NONCONFORMING GROUP HEALTH PLAN.—For purposes of this section, the term 'nonconforming group health plan' means a group health plan or large group health plan that at any time during a calendar year does not comply with the requirements of subparagraphs (A) and (C) or subparagraph (B), respectively, of section 1862(b)(1) of the Social Security Act.".

(3) REPEAL OF CERTAIN ALTERNATIVE ENFORCEMENT PROVISIONS.—

(A) DENIAL OF DEDUCTION FOR GROUP HEALTH PLANS.—Subsection (i) of section 162 of such Code (relating to group health plans) is repealed.

(B) AGE DISCRIMINATION IN EMPLOYMENT ACT.—The Age Discrimination in Employment Act of 1967 is amended—

(i) by striking subsection (g) of section 4, and

(ii) in section 12(a), by striking "(except the provisions of section 4(g))".

(4) CLERICAL AND CONFORMING AMENDMENTS.—

(A) Chapter 47 of the Internal Revenue Code of 1986 is amended—

(i) in the heading, by striking "LARGE", and

(ii) in the table of sections, by striking "large".

(B) The item in the table of chapters of subtitle D of such Code relating to chapter 47 is amended by striking "large".

(C) Sections 1837(i) and 1839(b) (42 U.S.C. 1395p(i), 1395r(b)) are each amended by striking "1862(b)(3)(A)(iv)" and "1862(b)(4)(B)" each place each appears and inserting "1862(b)(1)(A)(vi)" and "1862(b)(1)(B)(iv)", respectively.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items and services furnished after the date of the enactment of this Act.

(c) SPECIAL ENROLLMENT PERIOD FOR DISABLED EMPLOYEES.—

(1) IN GENERAL.—Section 1837(i) (42 U.S.C. 1395p(i)) is amended—

(A) in paragraph (1)—

(i) by striking subparagraph (A), and

(ii) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(iii) in the second sentence, by inserting "not described in the previous sentence" after "In the case of an individual"; and

(B) in paragraph (2)—

(i) in subparagraph (B)(i), by striking "(1)(B)" and inserting "(1)(A)",

(ii) by striking subparagraph (A),

(iii) by redesignating subparagraphs (B) through (D) as subparagraphs (A) and (C), respectively, and

(iv) in the second sentence, by inserting "not described in the previous sentence" after "In the case of an individual".

(2) CONFORMING AMENDMENT.—The second sentence of section 1839(b) of such Act (42 U.S.C. 1395r(b)) is amended by striking "during which the individual has attained the age of 65 and".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to enrollments occurring after, and premiums for months after, the second calendar quarter beginning after the date of the enactment of this Act.

(d) NO MATCHING BASED ON PRIVATE ACTIVITIES REQUIRED IN FISCAL INTERMEDIARY AGREEMENTS AND CARRIER CONTRACTS.—

(1) FISCAL INTERMEDIARY AGREEMENTS.—Section 1816(c)(1) (42 U.S.C. 1395h(c)(1)) is amended by adding at the end the following: "The Secretary may not require, as a condition of entering into or renewing an agreement under this section or under section 1871, that a fiscal intermediary match data obtained other than in its activities under this part with data used in the administration of this part for purposes of identifying situations in which the provisions of section 1862(b) may apply.".

(2) CARRIER CONTRACTS.—Section 1842(b)(2)(A) (42 U.S.C. 1395u(b)(2)(A)) is amended by adding at the end the following: "The Secretary may not require, as a condition of entering into or renewing a contract under this section or under section 1871, that a carrier match data obtained other than in its activities under this part with data used in the administration of this part for purposes of identifying situations in which section 1862(b) may apply.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to agreements and contracts entered into or renewed on or after the date of the enactment of this Act.

(e) TREATMENT OF EMPLOYMENT AS A MEMBER OF A RELIGIOUS ORDER.—

(1) IN GENERAL.—Section 1862(b)(1) (42 U.S.C. 1395y(b)(1)), as amended by subsection (b)(1) of this section, is amended by adding at the end the following new subparagraph:

"(D) TREATMENT OF CERTAIN MEMBERS OF RELIGIOUS ORDERS.—In this subsection, an individual shall not be considered to be employed, or an employee, with respect to the performance of services as a member of a religious order which are considered employment only by virtue of an election made by the religious order under section 3121(r) of the Internal Revenue Code of 1986.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items and services furnished on or after October 1, 1989.

(f) STUDY OF MEDICARE SECONDARY PAYER BENEFICIARY PROTECTIONS.—

(1) IN GENERAL.—The Comptroller General of the Government Accounting Office (hereinafter referred to as the "Comptroller") shall conduct a study and issue a report to Congress no later than August 1, 1990, on issues related to protection of beneficiaries' rights in cases where medicare is the secondary payer as provided under section 1862(b) of the Social Security Act. Such study shall specifically examine—

(A) the Health Care Financing Administration's policy with regard to the amount of recoveries from beneficiaries under section 1862(b) of the Social Security Act;

(B) how such policy interacts with State laws governing structured settlements;

(C) whether changes in such policy are needed; and

(D) which procedures used by the Health Care Financing Administration to identify beneficiaries with insurance coverage which may be primary to Medicare result in erroneous determinations and result in beneficiary liability for payment.

(2) REPORT.—The Comptroller shall issue a report to Congress by the date specified in paragraph (1), summarizing the findings of such study along with recommendations about whether Congress should broaden the circumstances under which the Secretary may waive recovery from beneficiaries.

(g) MEDICARE AS SECONDARY PAYER FOR DRUG CLAIMS.—

The Secretary of Health and Human Services may delay application of the provisions of section 1862(b) of the Social Security Act with respect to claims submitted in payment for payment for covered outpatient drugs (as defined in section 1861(t)(2) of the Social Security Act), until the Secretary determines that it is feasible and cost effective to apply such provisions.

SEC. 1306. COSTS OF NURSING AND ALLIED HEALTH EDUCATION.

(a) The Secretary of Health and Human Services (hereafter in this section referred to as the Secretary) shall not, before September 30, 1990, recoup from, or otherwise reduce or adjust payments under title XVIII of the Social Security Act to hospitals because of alleged overpayments to such hospitals with respect to whether—

(1) costs reported by a hospital on its Medicare cost reports relating to approved nursing and allied health education programs are allowable costs pursuant to section 1861(v) of such Act; and

(2) those costs are included or excluded form the definition of "operating costs of inpatient hospital services" pursuant to section 1886(a)(4) of such Act.

(b) Notwithstanding subsection (a), on or before June 30, 1990, the Secretary shall issue regulations addressing the issues described in paragraphs (1) and (2) of subsection (a) and in subsection (c); provided, however, that—

(1) he allows a comment period of not less than 60 days;

(2) he consults with the Prospective Payment Assessment Commission on the matter;

(3) any final rule not be effective prior to October 1, 1990, or 30 days after publication of the final rule in the Federal Register, whichever is later.

(c) In issuing regulations under subsection (b), the Secretary shall issue criteria regarding—

(1) the degree to which an approved nursing or allied health education program must be "hospital operated" and the definition of this term, including (A) the degree of common ownership, control, or board membership between the hospital, an educational institution, an academic medical center, a corporation or a related organization, (B) the degree to which instruction is provided in the immediate vicinity of the hospital, (C) the existence of a written agreement with an educational institution providing for joint activities in which the hospital incurs costs directly related to the operation of the program, (D) reporting relationships or other affiliations between the educational institution, the hospital, and, if applicable, an academic medical center, and (E) the responsibility and control of the hospital for administering the approved educational program;

(2) the types of costs related to nursing or allied health education programs that are allowable by Medicare under current law, such as (but not limited to) clinical costs, operating costs, classroom costs, appropriately allocated overhead, faculty supervision;

(3) the distinction between costs of approved educational activities as recognized under section 1886(a)(3) and educational costs treated as operating costs of inpatient hospital services;

(4) the treatment of other funding sources for the program, including State or local funding and costs redistributed from nonprovider sources; and

(5) evaluation of the benefits to patient care of the program and the cost that would be incurred under Medicare if the program were hospital-owned and operated.

SEC. 1307. TREATMENT OF CERTAIN HOSPITALS WITH RESPECT TO PAYMENTS FOR GRADUATE MEDICAL EDUCATION COSTS.

(a) IN GENERAL.—Section 1886(h)(2) (42 U.S.C. 1395ww(h)(2)) is amended—

(1) by inserting "(i)" after "(E)"; and

(2) by adding at the end of subparagraph (E) the following new clause:

"(ii) In the case of a hospital which did have an approved medical residency training program for a cost reporting period beginning during fiscal year 1984, but which made a commitment to substantially expand its program that was not fully reflected in costs incurred during cost reporting periods beginning in such fiscal year, such hospital may request the use of an alternative cost reporting period other than that which began during fiscal year 1984 for purposes of determining the average amount recognized as reasonable medical education costs of the hospital for each full-time equivalent resident. The Secretary shall review each such request and determine whether it would be appropriate to provide for an FTE resident amount based on an alternative cost reporting period, based on approved FTE resident amounts for comparable programs. If the Secretary approves a request under this clause, payments based on alternative cost reporting periods for a hospital described under this clause, shall begin for the first cost reporting period for which the Secretary determines the hospital has substantially implemented its program expansion.".

SEC. 1308. STUDIES AND REPORTS ON GRADUATE MEDICAL EDUCATION.

(a) STUDIES AND REPORTS.—The Prospective Payment Assessment Commission and the Physician Payment Review Commission shall each conduct a study and submit a report summarizing each such study to the Senate Committee on Finance and the House Committees on Ways and Means and Energy and Commerce no later than October 1, 1990, on recommended reforms in payments under title XVIII of the Social Security Act (hereinafter referred to as the Act) for indirect and direct costs of medical education to identify and encourage graduate medical residencies and fellowships in priority practices and practice locations.

(b) ADDITIONAL PROVISIONS.—Such studies and reports shall make recommendations with respect to priority practices (described in subsection (c)(1)) and practice locations (described in subsection (c)(2)) identified by such studies and shall make further specific recommendations with respect to—

(1) creating separate, higher adjustments in payments under title XVIII of the Act for the indirect costs of medical education for residencies in practices identified as high priority practices and rural areas;

(2) eliminating the adjustment in payments under title XVIII of the Act for direct costs of medical education by percentage of inpatient days for geriatric residencies;

(3) limiting reimbursement under title XVIII of the Act for direct costs of medical education for overhead costs to practices identified as priority practices by such studies;

(4) adjusting weighting of payment under title XVIII of the Act for direct costs of medical education to increase payment for residencies in practices identified as priority practices under such studies;

(5) permitting payments under title XVIII of the Act for direct costs of medical education to residency training programs in ambulatory settings and to increase such payments for such programs in rural areas; and

(6) substituting or augmenting payments under title XVIII of the Act for direct costs of medical education to hospitals with direct reimbursement to physicians for supervision of residents in locations or practices identified by such studies as priority practice locations or practices.

(c)(1) For purposes of this section the term "priority practices" means—

(A) geriatric medicine;

(B) primary care;

(C) family practice;

(D) general internal medicine; and

(E) preventive medicine.

(2) For purposes of this section the term "priority locations" means—

(A) rural areas;

(B) ambulatory care settings; and

(C) long-term care settings.

SEC. 1309. CONTINUED USE OF HOME HEALTH WAGE INDEX IN EFFECT PRIOR TO JULY 1, 1989, UNTIL AFTER JULY 1, 1990.

Notwithstanding the requirement of section 1861(v)(1)(L)(iii) of the Social Security Act, the Secretary of Health and Human Services shall in determining the limits of or reasonable costs under title XVIII of the Social Security Act with respect to services furnished by home health agencies, continue to utilize the wage index that was in effect for cost reporting periods beginning before July 1, 1989, until cost reporting periods beginning on or after July 1, 1990.

SEC. 1310. GAO STUDY OF HOME HEALTH PAPERWORK.

The Government Accounting Office shall conduct a study and submit a report to Congress by no later than June 1, 1990, on information collection and paperwork required of home health agencies receiving payments under title XVIII of the Social Security Act. Such report submitted to Congress by the GAO under this section shall include recommendations with regard to the feasibility of eliminating the requirements for dual reporting for purposes of receiving payments under titles XVIII and XIX of the Social Security Act. Such study shall focus on—

(1) information requirements relating to coverage, reimbursement, and certification; and

(2) the degree to which unnecessary duplication exists.

SEC. 1311. ADVISORY COMMITTEE ON MEDICARE HOME HEALTH CLAIMS.

(a) IN GENERAL.—Section 427 of the Medicare Catastrophic Coverage Act of 1988 is amended—

(1) in subsection (c)—

(A) by inserting "(1)" after "DUTIES.—"; and

(B) by adding at the end the following new paragraph:

"(2) After submitting its report under subsection (d)(1), the Advisory Committee shall evaluate the implementation of—

"(A) its recommendations and the effectiveness of changes in the process for denials of claims for home health services; and

"(B) the revised Medicare home health coverage policies which have been published as HCFA Publications No. 11 and 13.";

(2) in subsection (d)—

(A) by striking "REPORT.—" and inserting "REPORTS.—(1)";

(B) by striking "subsection (c)" and inserting "subsection (c)(1)"; and

(C) by adding at the end the following new paragraphs:

"(2) The Advisory Committee also shall report, to the Administrator and the Committees described in paragraph (1), not later than October 1, 1990, on its evaluation under subsection (c)(2); and

"(3) To assist the Secretary in preparing the report required under paragraph (4), the Secretary shall, within 30 days of the re-

ceipt of the report referred to in paragraph (1), publish the executive summary of the report and the recommendations in the Federal Register for public notice and comment. A comment period of not less than 30 days shall be provided.

"(4) The Secretary shall review the report referred to in paragraph (1) and the comments received pursuant to the notice referred to in paragraph (3) and shall, not later than January 31, 1990, submit to the Committees described in paragraph (1) and to the Advisory Committee—

"(A) his appraisal of each recommendation contained in such report;

"(B) a statement of the actions that he has taken and that he intends to take to implement such recommendations; and

"(C) the rationale for such actions and proposed actions.";

(3) in subsection (e)(2)(B), by adding at the end the following new sentence: "The Chairman shall provide for at least 3 meetings of the Advisory Committee after July 1, 1989."; and

(4) by adding at the end the following new subsection:

"(g) TERMINATION OF ADVISORY COMMITTEE.—The Advisory Committee shall continue through, and terminate on, October 1, 1990.".

(b) RETENTION OF COMMITTEE MEMBERS.—The Secretary in carrying out the provisions of this Act shall to the extent practicable ensure that the current members of the Advisory Committee on Medicare Home Health Claims are retained as members of such committee during the extension period provided for in this Act.

SEC. 1312. ESTABLISHMENT OF DEMONSTRATION PROGRAM FOR DEVELOPMENT OF ESSENTIAL CARE HOSPITALS.

(a) IN GENERAL.—

(1) LIMITATIONS.—Not later than 9 months after the date of the enactment of this Act, the Secretary of Health and Human Services, acting through the Administrator of the Health Care Financing Administration (hereafter in this section referred to as the "Administrator") shall make 4-year grants to not more than 15 or fewer than 10 hospitals for providing 90 percent of the costs planning, implementing, and evaluating the transformation of a rural hospital into an essential care hospital (as defined in subsection (d)).

(2) AMOUNT OF FUNDS.—The amount of funds provided in a single year under each grant awarded under paragraph (1) may not exceed $100,000 and shall be in addition to amounts paid under subsection (e).

(b) AUTHORIZATION OF FUNDS FOR GRANT PROGRAM.—There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund (described in section 1817(a) of the Social Security Act) and the Federal Supplementary Medical Insurance Trust Fund (described in section 1841(a) of the Social Security Act) such sums as may be necessary to carry out the purposes of this Act.

(c) ELIGIBILITY; APPLICATION.—(1) ELIGIBILITY.—The Administrator shall provide technical assistance to hospitals receiving grants under subsection (a) during the course of the grant program.

(2) APPLICATION.—A hospital applying for a grant under this subsection shall submit to the Governor of the State in which such hospital is located, and the chief public health officer of such State a copy of such application.

(d) DESCRIPTION OF ESSENTIAL CARE HOSPITAL AND SERVICES.—

(1) SERVICES DEFINED.—For purposes of this section an essential care hospital (as defined in paragraph (2)) receiving a grant under this section shall provide or under arrangement with another essential care hospital provide—

(A) inpatient care, except that obstetric services shall not be considered inpatient care under this subparagraph unless such services are performed in accordance with protocols developed by the Secretary;

(B) emergency visits;

(C) ambulatory care provided in accordance with standards to be established by the Secretary, in consultation with appropriate provider and consumer organizations and State public health officers;

(D) outpatient surgical care provided in accordance with protocols to be established by the Secretary;

(E) stabilization care for transfer to another hospital; and

(F) such services and supplies furnished as an incident to services provided by an essential care hospital which the hospital is legally authorized to provide and which would otherwise be covered if furnished by a physician or as an incident to physicians' services.

(2) ESSENTIAL CARE HOSPITAL DEFINED.—For purposes of this section an essential care hospital means a hospital which—

(A)(i) is located in a rural area (as defined in section 1886(d)(2)(D) of the Social Security Act,

(ii) is located not less than 30 miles from another hospital, and

(iii) has less than 50 beds;

(B) provides emergency care, stabilization care, and basic inpatient care for limited periods of time. The Secretary may issue criteria for determining an appropriate period of time under this subparagraph, or alternatively may limit the period of time for which discharges classified into specific diagnosis-related groups may be cared for;

(C) if it provides obstetric services, provides such services in accordance with the protocols described in paragraph (1)(A);

(D) provides ambulatory care in accordance with the standards described in paragraph (1)(C);

(E) if it provides outpatient surgical care, provides such services in accordance with the protocols described in paragraph (1)(D);

(F)(i) has a written quality assurance plan approved by the Secretary (hereafter in this section referred to as the "Secretary") under which the Secretary shall conduct regular evaluations of the facility in accordance with a quality assurance protocol to be developed by the Secretary, and (ii) has entered into a contract with a hospital or with a utilization and quality control peer review organization with a contract in effect title XI of the Social Security Act for the performance of utilization review with respect to services provided by the facility;

(G) has a board of directors and a medical director (who shall be a doctor of medicine or osteopathy) responsible for its operation, the members of which shall include representatives of physicians, nurses, and other health care providers;

(H) has in effect a transfer agreement (meeting such terms as the Secretary may specify) and an agreement regarding discharge planning between the hospital and appropriate referral hospital or hospitals;

(I) has in effect an affiliation agreement with a hospital or teaching hospital for providing continuing education services to the facility's physicians, nurse practitioners, and physician assistants; and

(J) meets the additional requirements specified in paragraph (3) (relating to inpatient care).

An essential care hospital may meet the requirements of this paragraph with respect to provision of medical care (including pharmacy services) through a contract that assures, in a manner satisfactory to the Secretary of Health and Human Services, the availability of such care.

(3) INPATIENT CARE.—The additional requirements of this paragraph (relating to inpatient care) are as follows:

(A) To the extent inpatient services are actually being provided, the hospital must meet such staffing requirements as would apply under section 1861(e) of the Social Security Act to a hospital located in a rural area, except that care may be provided by nurse practitioners and physician assistants for the purpose of providing flexibility for such facilities in meeting physician "on-call" requirements.

(B) The hospital must have an on-site director (who may be a nurse practitioner) present at all times during which the facility is open.

(C)(i) Except as provided in this subparagraph, the hospital must meet the same standards as apply with respect to the provision of inpatient hospital services under title XVIII of the Social Security Act with respect to a hospital located in a rural area.

(ii) The hospital need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the hospital must be open.

(iii) The hospital, instead of having a full-time, on-site dietician, pharmacist, laboratory technician, medical technologist, and radiological technologist, may provide for quality control of services provided by such individuals through such individuals on a part-time, off-site basis.

(e) PAYMENT.—

(1) INPATIENT SERVICES.—(A)(i) Except as provided in clauses (ii) and (iii), the amount paid to an essential care hospital with respect to inpatient care for which payment may be made under title XVIII of the Social Security Act shall be an amount equal to the payment amount that would be established under section 1886(d) of the Social Security Act if such care were deemed to be inpatient hospital services provided by a subsection (d) hospital.

(ii) The amount paid to an essential care hospital with respect to inpatient care for which payment may be made under title XVIII of the Social Security Act may, in the case of discharges occurring on or after the expiration of the 365-day period that begins on the date of the enactment of this subsection, be determined under any new methodology which the Secretary, in consultation with the Office of Rural Health Policy, may develop for determining the amount of such payments.

(iii) The provisions of section 1886(g)(1) of the Social Security Act shall not apply to payments with respect to the capital-related costs of inpatient hospital services of an essential care hospital.

(B) In the case of an individual who receives inpatient hospital services after receiving inpatient care in an essential care hospital, the payment otherwise provided under section 1886 of the Social Security Act shall be reduced by such amount as is necessary to reflect the payments made for the inpatient care under this subsection. The Secretary shall periodically review the allocation of payments for inpatient services

between essential care hospitals and other hospitals under this paragraph.

(2) OTHER SERVICES.—The amount of payments for health services (other than inpatient care) provided in an essential care hospital under title XVIII of the Social Security Act shall be the amounts determined by the Secretary under a payment system established by the Secretary which may take into account the relative value of the services furnished compared to other professional services.

(f) WAIVERS.—The Secretary shall waive such provisions of titles XVIII and XIX of the Social Security Act as may be necessary to carry out the provisions of this section and to allow payment under title 19 of the costs of Essential Community Hospital Services.

(g) SWING BEDS.—Upon application to the Secretary, an essential care hospital shall be deemed to meet the requirements of section 1833(b) of the Social Security Act.

(h) REPORTS.—

(1) INTERIM.—Not later than March 1, 1993, the Secretary shall submit to Congress a report analyzing the grant program described in this section and the effect of the establishment of essential care hospitals on the availability and quality of cost-effective health care for individuals in rural areas, including a summary of quality assurance reviews conducted pursuant to subsection (d)(2)(F).

(2) FINAL.—Not later than March 1, 1995, the Secretary shall submit a final report to Congress updating the report submitted under paragraph (1) and including recommendations regarding the feasibility of establishing a long-term program of assistance for essential care hospitals.

SEC. 1313. RURAL HEALTH EXPANSIONS RELATED TO PARTS A AND B.

(a) INCREASE IN RURAL HEALTH MEDICAL EDUCATION DEMONSTRATION PROJECTS.—Section 4038 of the Omnibus Budget Reconciliation Act of 1987 is amended—

(1) in subsection (a) by striking "enter into agreements with four sponsoring" and all that follows through "rural areas" and inserting in lieu thereof the following: "enter into agreements—

"(1) with 4 sponsoring hospitals submitting applications under this subsection; and

"(2) with 6 sponsoring hospitals submitting applications under this subsection without regard to the requirements contained in subsection (c),

to conduct demonstration projects to assist resident physicians in developing field clinical experience in rural areas.";

(2) in subsection (c) by striking "subsection (a)" and inserting in lieu thereof "subsection (a)(1)"; and

(3) in subsection (e) by striking "Each demonstration project" and all that follows through "three years" and inserting in lieu thereof the following: "Each demonstration project under—

"(1) subsection (a)(1) shall be commenced not later than 6 months after the date of enactment of this Act, and

"(2) subsection (a)(2) shall be commenced not later than 6 months after the date of this Act, and

shall be conducted for a period of 3 years.".

(b) GRANT PROGRAM TO ESTABLISH AND SUPPORT RURAL HEALTH CENTERS.—Section 711 of the Social Security Act (42 U.S.C. 912) is further amended by adding at the end thereof the following subsections:

"(c) The Secretary shall implement a grant program to establish and support rural health research centers located at public and not for profit entities which will provide an information base and policy analysis capacity on issues of rural health. Such centers shall—

"(1) collect, develop, analyze, and disseminate current data and information on rural health, including—

"(A) mental health,

"(B) infant mortality,

"(C) occupational safety,

"(D) health promotion, and

"(E) disease prevention;

"(2) conduct applied research, case studies, demonstration projects, and policy analyses that focus on the delivery, financing, organization, and management of health care services in rural areas; and

"(3) provide technical assistance to rural health care delivery organizations.

"(d) There are authorized to be appropriated $13,000,000 for each of the fiscal years 1990, 1991, and 1992 for carrying out the purposes of this section. Of the $13,000,000 appropriated for each fiscal year $10,000,000 shall be devoted to funding the rural health research centers described in subsection (c), and $3,000,000 shall be devoted to the Office of Rural Health Policy".

(c) NATIONAL ADVISORY COMMITTEE ON RURAL HEALTH.—

(1) ESTABLISHMENT OF COMMITTEE.—There is established the National Advisory Committee on Rural Health (hereinafter referred to as the "Committee").

(2) FUNCTIONS OF THE COMMITTEE.—The Committee shall advise the Secretary of Health and Human Services (hereinafter referred to as "Secretary") and Congress concerning the provision and financing of health care services in rural areas.

(3) STRUCTURE AND MEMBERSHIP OF THE COMMITTEE.—The Committee shall consist of 18 members, including the chair, selected by the Secretary from authorities knowledgable in the fields of delivery, financing, research, development, medical and nursing education (including allopathic and osteopathic medical education), and administration of health care services including nursing services, in rural areas. Such authorities shall include representatives from State and local governments, foundations, provider associations, schools of allopathic and osteopathic medical education, and other rural interest groups.

(4) TERMS OF MEMBERSHIP.—Members shall be invited to serve for overlapping 3-year terms.

(5) MEETINGS OF THE COMMITTEE.—Meetings shall be held approximately 3 times per year at the call of the chair, who shall approve the agenda. All meetings shall be open to the public and notice of all meetings shall be given to the public.

(6) COMPENSATION OF MEMBERS.—Members who are not full-time Federal employees shall be paid at a rate not to exceed $150 per day, plus per diem and travel expenses at rates authorized for persons serving intermittently in the Government services under subchapter I of chapter 57 of title 5, United States Code.

(7) ANNUAL REPORT OF THE COMMITTEE.—The National Advisory Committee shall submit an annual report to the Secretary and the Congress not later than October 10 of each year. Such report shall contain at a minimum a list of the members and such members' business addresses, the Committee's functions, dates and places of meetings, and a summary of Committee activities and recommendations made during the previous year.

(8) TERMINATION OF THE COMMITTEE.—The Committee established by this subsection shall terminate 3 years from the date of enactment of this subsection, unless renewed by appropriate administrative action as provided in section 222 of the Public Health Service Act.

(d) MATCHING GRANTS TO STATES TO ENCOURAGE ESTABLISHMENT OF STATE OFFICES OF RURAL HEALTH.—Section 711 of the Social Security Act (42 U.S.C. 912) is amended—

(1) in subsection (b)—

(A) in paragraph (3), by striking "and";

(B) in paragraph (4), by striking the period and inserting a comma; and

(C) by adding at the end the following:

"(5) carry out the matching grant program set forth in subsection (c)."; and

(2) by adding at the end the following:

"(c) MATCHING GRANT PROGRAM.—

"(1) IN GENERAL.—The Director, through the Office, shall make grants to States in accordance with this subsection to establish State Offices of Rural Health to engage in the activities described in subsection (d)(2).

"(2) AMOUNT OF GRANT.—Subject to paragraph (3), the Director shall make grants to any State for any fiscal year in an amount equal to the amount obligated by the State for such fiscal year to establish and operate a State Office of Rural Health in accordance with subsection (d).

"(3) MAXIMUM AMOUNT OF GRANT.—The Director may not make grants to a single State for a fiscal year under this subsection in an amount aggregating more than 2 percent of the aggregate of the amounts appropriated pursuant to paragraph (5) for such fiscal year.

"(4) LIMITATION ON USE OF GRANT FOR RESEARCH ACTIVITIES.—Each State receiving a grant under this subsection may not use more than 20 percent of the amounts granted for research activities.

"(5) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—For grants under this section, there are authorized to be appropriated to the Secretary not to exceed—

"(A) $3,750,000, for fiscal year 1990;

"(B) $2,500,000, for fiscal year 1991; and

"(C) $1,250,000, for fiscal year 1992.

Such sums shall remain available until expended.

"(d) STATE OFFICES OF RURAL HEALTH.—

"(1) ESTABLISHMENT.—Each State which receives a grant under subsection (c) may establish the State Office of Rural Health in a State agency, or through contract with a public or private educational institution or other organization, or any combination of the preceding entities, as determined by the State.

"(2) ACTIVITIES.—

"(A) DUTIES.—Each State Office of Rural Health established through a grant made under subsection (c) shall—

"(i) coordinate its activities with the rural development activities of, and cooperate with, the Agricultural Extension Service;

"(ii) examine and make recommendations on improving quality and cost effectiveness in the delivery of rural health care;

"(iii) report periodically to the Office of Rural Health Policy on the activities of the office;

"(iv) communicate and cooperate with the rural health research centers established under subsection (c); and

"(v) provide leadership and advocacy for rural residents with regard to rural health.

"(B) OPTIONAL ACTIVITIES.—Each State Office of Rural Health established through a grant made under subsection (c) may—

"(i) develop and implement plans to enable community health care systems to

respond to various changes in their circumstances;

"(ii) plan and assist in professional recruitment and retention of medical professionals and assistants;

"(iii) improve community involvement in health care delivery through means including the conduct of leadership development programs for the members of the community;

"(iv) improve rural emergency medical plans;

"(v) develop innovative transportation and communications technology plans with regard to access to health care;

"(vi) engage in policy analysis, policy development, and economic impact studies with regard to rural health issues;

"(vii) establish information clearinghouses, including computer 'bulletin boards' for easy access to, and sharing of rural health care information; and

"(viii) collect and evaluate data on rural health conditions and needs.

"(3) ANNUAL MEETINGS BETWEEN STATE OFFICES AND OFFICE OF RURAL HEALTH POLICY.—Representatives from each State Office of Rural Health established through a grant made under subsection (c) shall meet annually with representatives from the Office of Rural Health Policy to share information and coordinate strategies for improving quality and cost effectiveness in the delivery of rural health care.

"(e) STATE DEFINED.—As used in subsections (c) and (d), the term 'State' means the 50 States.".

(e) EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO THE PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.—

(1) The Senate finds that—

(A) the Prospective Payment Assessment Commission was established to advise the Secretary of Health and Human Services on ways to update and improve the Medicare Prospective Payment System;

(B) the Commission, by its own admission, has been "slow to anticipate the extent to which rural hospitals would have major problems under the system";

(C) the Commission's inattention to the severity of the impact of the Medicare Prospective Payment System on rural hospitals has contributed to the closure and threatened closure of hospitals that provide critical access to health care for Medicare's beneficiaries;

(D) 30 percent of Medicare beneficiaries live in rural America; and

(E) only one (or 6 percent) of the 17 Commissioners appointed to the Prospective Payment Assessment Commission has direct practical exposure to, or experience with, the problems of providing health care to rural America.

(2) Therefore, it is the sense of the Senate that a minimum of four additional members with demonstrated experience in providing or developing health care services in rural America should be appointed to the Prospective Payment Assessment Commission, and that in the future a minimum of 25 percent of the Commissioners should have such experience.

SEC. 1314. END STAGE RENAL DISEASE NETWORKS.

(a) FLEXIBILITY IN FUNDING ESRD NETWORK ORGANIZATIONS.—Section 1881(b)(7) (42 U.S.C. 1395rr(b)(7)) is amended by striking "network administrative" and all that follows and inserting in lieu thereof the following: "organizations (designated under subsection (c)(1)(A)) for such organizations necessary and proper administrative costs incurred to the extent necessary to allow such organizations to carry out the responsibilities described in subsection (c)(2). The Secretary shall provide that any amounts remaining after such payments shall be distributed to the organizations described in subsection (c)(1)(A) to ensure equitable treatment of all such organization networks. The Secretary in distributing any such remaining amounts to organization networks shall take into account—

"(A) the geographic size of the network area;

"(B) the number of providers of end stage renal disease services in the network area;

"(C) the number of individuals who are entitled to end stage renal disease services in the network area; and

"(D) the proportion of the aggregate administrative funds collected in the network area.".

(b) LIABILITY PROTECTION FOR ESRD NETWORK ORGANIZATIONS AND PROHIBITION AGAINST DISCLOSURE OF INFORMATION.—Section 1881(c) (42 U.S.C. 1395rr(c)) is amended by adding at the end thereof the following:

"(8) The provisions of sections 1157 and 1160 shall apply with respect to network administrative organizations (including such organizations as medical review boards) with which the Secretary has entered into agreements under this subsection.".

certified nurse-midwife (as defined in section 1861(gg), or by a clinical social worker (as defined in subsection (hh)),";

(2) in paragraph (2)(B) by striking "physician assistants and nurse practitioners," each place it appears and inserting in lieu thereof "physician assistants, nurse practitioners, and certified nurse-midwives,";

(3) in paragraph (2)(E) by striking "or nurse practitioners," and inserting in lieu thereof ", nurse practitioners or certified nurse-midwives,";

(4) in paragraph (2)(F) by striking "or nurse practitioner" and inserting in lieu thereof "nurse practitioner or certified nurse-midwife";

(5) in paragraph (2)(J) by striking the period and inserting in lieu thereof "; or";

(6) by adding after paragraph (2)(J) the following new subparagraph:

"(K) is determined by the Secretary, based on the recommendation of the Health Resources Service Administration within the public health service to meet the requirements as in effect on September 1, 1989, for funding as a health center under sections 329 or 330 or 340 of the Public Health Service Act.";

(7) in the matter following paragraph (2) by striking clause (iii) and inserting in lieu thereof the following new clause:

"(iii) employs a physician assistant, nurse practitioner, or certified nurse-midwife to furnish patient care services at least 50 percent of the time the clinic operates (unless the Secretary waives such requirement as provided in paragraph (4)),";

(8) in paragraph (3)—

(A) by striking "and the term "nurse practitioner" " and inserting in lieu thereof ", the term "nurse practitioner" and the term "certified nurse-midwife" "; and

(B) by striking "or nurse practitioner" and inserting in lieu thereof ", nurse practitioner or certified nurse-midwife"; and

(9) by adding at the end thereof the following new paragraph:

"(4)(A) The Secretary shall waive for a 1-year period the requirements that a rural health clinic employ a physician assistant, nurse practitioner or certified nurse midwife or that such clinic require such providers to furnish services at least 50 percent of the time that the clinic operates as described in clause (iii) of paragraph (2) to any rural health clinic that requests such waiver if such requesting clinic demonstrates that the clinic has been unable, despite reasonable efforts, to hire a physician assistant, nurse practitioner, or certified nurse-midwife in the previous 90-day period.

"(B) The Secretary shall grant waivers under this subsection for a one-year period. The Secretary shall not grant such a waiver to a clinic which has previously been granted a waiver which expired less than 6 months previous to the date of application for a new waiver.

"(C) A waiver which is requested under this paragraph shall be deemed granted unless such request is denied by the Secretary within 60 days after the date such request is received.".

(b) AREAS IN WHICH A RURAL HEALTH CLINIC MAY OPERATE EXPANDED.—Section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)), as amended by this Act, is further amended in the matter following paragraph (2)—

(1) by striking "or" at the end of subclause (I) and inserting in lieu thereof a comma;

(2) by inserting at the end of clause (i) the following new subclause:

"or (III) as an area with a medically underserved population designated under section 330 of the Public Health Service Act,";

(3) by striking "and" at the end of clause (iii); and

(4) by striking the period at the end of clause (iv) and inserting in lieu thereof the following:

", (v) is located in an area designated by the Governor of the State and approved by the Secretary as an area with a shortage of personal health services.".

(c) COVERAGE OF NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST SERVICES PROVIDED IN RURAL AREAS UNDER PART B OF MEDICARE.—

(1) COVERAGE OF SERVICES.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(A) by striking "and" at the end of subparagraph (L);

(B) by adding "and" at the end of subparagraph (M); and

(C) by adding at the end thereof the following new subparagraph:

"(N) nurse practitioner or clinical nurse specialist services;".

(2) SERVICES DEFINED.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST SERVICES

"(mm)(1) The term 'nurse practitioner or clinical nurse specialist services' means services provided in a rural area (as defined in paragraph (3)) performed by a nurse practitioner or clinical nurse specialist (as defined in paragraph (2)) which the nurse practitioner or clinical nurse specialist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed.

"(2) The term 'nurse practitioner or clinical nurse specialist' means an individual who—

"(A) is a registered nurse and is licensed to practice nursing in the State in which the nurse practitioner or clinical nurse specialist services are performed; and

"(B)(i) holds a master's degree in nursing or a related field from an accredited educational institution, or

"(ii) is certified as a nurse practitioner or clinical nurse specialist by a duly recognized professional nurses association.

"(3) The term 'rural area' means any area outside a metropolitan statistical area (as defined by the Office of Management and Budget).".

(3) DIRECT PAYMENT FOR SERVICES.—Section 1832(a)(2)(B) (42 U.S.C. 1395k(a)(2)(B)) is amended—

(A) by striking "and" at the end of clause (ii); and

(B) by adding at the end of clause (iii) the following new clause:

"(iv) nurse practitioner or clinical nurse specialist services;".

(4) AMOUNT OF PAYMENT FOR SERVICES.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking "and" at the end of subparagraph (L);

(B) by adding "and" at the end of subparagraph (M); and

(C) by adding at the end thereof the following new subparagraph:

"(N) in the case of nurse practitioner or clinical specialist services under section 1861(s)(2)(N), the amounts paid shall be an amount equal to 80 percent of 75 percent of the prevailing charge in area for the service for participating physicians and such payment shall be made on an assignment-related basis only."

PART IV—MEDICARE PART B BASIC PREMIUM

SEC. 1401. ONE-YEAR EXTENSION OF PART B PREMIUM MINIMUM.

Section 1839(e) (42 U.S.C. 1395q(e)) is amended by striking "1990" each place it appears and inserting in lieu thereof "1991".

PART V—PHYSICIAN REFERRALS

SEC. 1501. PHYSICIAN REFERRALS.

(a) REQUIRING REQUESTS FOR PAYMENT TO INCLUDE INFORMATION ON REFERRING PHYSICIAN.—Section 1833 (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(q) Each request for payment, or bill submitted, for an item or service (other than a physicians' service) for which payment may be made under this part shall include the name and provider number of the physician who ordered or prescribed the item or service.".

(b) REQUIRING ENTITIES CLAIMING PAYMENT TO INCLUDE INFORMATION ON PHYSICIANS WITH AN OWNERSHIP INTEREST IN SUCH ENTITIES.—The Secretary of Health and Human Services shall require any entity making a claim for payment under part B of title XVIII of the Social Security Act to provide the name and provider number for each physician with an ownership or investment interest in such entity.

(c) REQUIRING CARRIERS TO MONITOR AND REPORT OVERUTILIZATION.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (J);

(2) by adding "and" at the end of subparagraph (K);

(3) by adding at the end thereof the following new subparagraph:

"(L) will monitor and report to the appropriate peer review organization, any suspected instances of overutilization of services under this part with respect to physicians with an ownership or investment interest in an entity.".

(d) RESTRICTION ON PAYMENT TO REFERRING LABORATORY.—

(1) IN GENERAL.—Section 1833(h)(5)(A)(ii) is amended by striking "referring laboratory, and" and inserting "referring laboratory but only if—

"(I) the referring laboratory is located in, or is part of, a rural hospital, or

"(II) not more than 30 percent of the clinical diagnostic laboratory tests for which such referring laboratory submits bills or requests for payment in any year are performed by another laboratory, and".

Subtitle C—Medicaid and Maternal and Child Health Block Grant

SEC. 1601. DELAY IN COUNTING SOCIAL SECURITY COLA INCREASES UNTIL NEW POVERTY GUIDELINES PUBLISHED.

(a) IN GENERAL.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)) is amended—

(1) in subparagraph (B) of paragraph (1), by inserting ", except as provided in paragraph (2)(D) of this subsection," after "supplementary security income program"; and

(2) by adding at the end of paragraph (2) the following new subparagraph:

"(D)(i) In making a determination of income under this subsection for an individual who is eligible to receive insurance benefits under title II, for a transition month (as defined in clause ii) of this Act such determination shall exclude any amount of income attributable to a cost-of-living increase in the level of monthly insurance benefits payable under title II, as described in section 215(i), for such benefits payable for months beginning with December of the year immediately preceding such determination.

"(ii) For purposes of this subparagraph, the term 'transition month' means each month in a calendar year through the month following the month in which the annual revision of the official poverty line, as described in subparagraph (A), is published.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply for determinations of income for months beginning on or after January 1, 1990.

SEC. 1602. DAY HABILITATION AND RELATED SERVICES.

(a) PROHIBITION OF DISALLOWANCE PENDING ISSUANCE OF REGULATIONS.—Except as specifically permitted under subsection (c), the Secretary of Health and Human Services may not—

(1) withhold, suspend, disallow, or deny Federal financial participation under section 1903(a) of the Social Security Act by a State for day habilitation and related services provided under paragraph (9) or (13) of section 1905(a) of such Act on behalf of an individual with mental retardation or a related condition who is eligible for medical assistance under its State plan pursuant to a State plan provision approved on or before June 30, 1989, or

(2) withdraw Federal approval of any such State plan provision.

(b) REQUIREMENTS FOR REGULATION.—A final regulation described in this paragraph is a regulation, promulgated after a notice of proposed rule-making and a period of at least 60 days for public comment, that—

(1) specifies the types of day habilitation and related services that a State may cover under paragraph (9) or (13) of section 1905(a) of the Social Security Act on behalf of persons with mental retardation or with related conditions, and

(2) any requirements respecting such coverage.

(c) PROSPECTIVE APPLICATION OF REGULATION.—If the Secretary promulgates a final regulation described in subsection (b) and the Secretary determines that a State plan under title XIX of the Social Security Act does not comply with such regulation, the Secretary shall notify the State of the determination and its basis, and such determination shall not apply to day habilitation and related services furnished before the first day of the first calendar quarter beginning after the date of the notice to the State.

SEC. 1603. HOME AND COMMUNITY-BASED WAIVERS.

(a) HOME AND COMMUNITY-BASED SERVICES WAIVERS.—Subsections (c)(1) and (d)(1) of section 1915 of the Social Security Act (42 U.S.C. 1396n) are each amended by adding at the end the following: "For purposes of this subsection, the term 'room and board' shall not include the portion of costs of rent and food attributable to an unrelated personal caregiver who is residing in the same household with an individual who, but for the assistance of such caregiver, would require admission to a hospital, nursing facility, or intermediate care facility for the mentally retarded.".

(b) TREATMENT OF DECERTIFIED FACILITIES.—Notwithstanding any other provision of law, an intermediate care facility for the mentally retarded that has been decertified or excluded from participation in the medical assistance program established under title XIX of the Social Security Act shall be treated as a facility providing care "the cost of which could be reimbursed" under a State plan for purposes of determining whether to approve a waiver under section 1915(c)(1) of such Act and whether an individual is eligible for care under such a waiver.

(c) HABILITATION SERVICES.—Section 1915(c)(5) is amended by striking all beginning with ", with respect to" through "facility" the second place it appears.

(d) RESPITE CARE.—Notwithstanding any other provision of law, the Secretary of Health and Human Services may not issue in final form any regulation that limits the number of days of respite care that may be provided to an individual under a waiver approved under section 1915(c) of the Social Security Act.

(e) PLANS OF CORRECTION.—Section 1922 (42 U.S.C. 1396r(4)) is amended by striking subsection (f).

(f)(1) SUBSTATE PROVIDERS.—Notwithstanding section 1902(a)(32), medical assistance shall include home and community-based services and case management services provided under a waiver approved under subsection (c), (d), or (g) section 1915 of such Act provided through a substate provider when the provision of such services through such provider is required by State law or regulation.

(2) The Secretary of Health and Human Services may not disapprove a waiver under subsection (c), (d), or (g) of section 1915 of such Act solely on the basis that the services described in subparagraph (A) are provided in the manner described in such subparagraph.

SEC. 1604. STATE MATCHING PAYMENTS THROUGH VOLUNTARY CONTRIBUTIONS AND STATE TAXES.

(a) VOLUNTARY CONTRIBUTIONS.—Section 1902 of the Social Security Act (42 U.S.C. 1396a), as amended by section 4217(a)(3) of this title, is amended by adding at the end the following new subsection:

"(t)(1)(A) Subject to subparagraphs (B) and (C), financial participation described in subsection (a)(2) may include the application of private funds donated by hospitals to, and subject to the unrestricted control of, the State.

"(B) Financial participation may not include—

"(i) donations to the extent their aggregate amount exceeds in any Federal fiscal year 10 percent of the non-Federal portion of expenditures under the plan in the year, or

"(ii) donations made by, or on behalf of, or with respect to, any particular hospital, to the extent that their aggregate amount in an annual cost reporting period exceeds 10 percent of the gross revenues of the hospital (not taking into account any Federal revenues under this title or under title V or title XVIII).

"(C) For purposes of this paragraph, the fact that a hospital may receive some benefit from a transfer of funds to a State shall not prevent the transfer from being treated as the donation of funds, unless the amount of benefit to the hospital is directly related, in timing and amount, to the timing and amount of the transfer.".

(b) DELAY IN ISSUANCE OF FINAL REGULATIONS CONCERNING THE USE OF PROVIDER-PAID TAXES.—Section 8431 of the Technical and Miscellaneous Revenue Act of 1988 is amended—

(1) by striking "voluntary contributions or", and

(2) by striking "May 1, 1989" and inserting in lieu thereof "May 1, 1991".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to funds donated on or after May 1, 1989.

SEC. 1605. EXCLUDING AS COUNTABLE INCOME CERTAIN VETERANS BENEFITS.

Section 1903(f) (42 U.S.C. 1396b(f)) is amended—

(1) in paragraph (1)(A), by striking "paragraph (4)," and inserting in lieu thereof "paragraphs (4), and (5)"; and

(2) by adding at the end thereof the following new paragraph:

"(5) For purposes of determining the applicable income limitation described in paragraph (1), any income received by an individual pursuant to an adjustment for unreimbursed medical expenses pursuant to 38 United States Code 503(a)(8) shall not be counted as income for such purposes.".

SEC. 1606. MEDICAID LONG-TERM CARE INSURANCE DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall provide for a demonstration project in the State of New York. Such project shall allow individuals with income and resources above eligibility levels for receipt of medical assistance under title XIX of the Social Security Act to receive long-term care benefits under the State plan for medical assistance if such an individual purchases a State approved long-term care insurance policy covering long-term care for a period preceding such an individual's eligibility for medical assistance under title XIX of the Social Security Act.

(b) WAIVER OF CERTAIN REQUIREMENTS.—The Secretary in providing for the demonstration project described in subsection (a), shall waive the following requirements in title XIX of the Social Security Act with respect to such projects:

(1) Sections 1901, 1902(a)(10) (A) and (C), 1903(a)(1), and 1903(f), relating to categorical and income eligibility limits.

(2) Sections 1902(a)(10) (A) and (D), relating to amount, duration, and scope of services; and to diagnosis, type of illness, or condition.

(3) Section 1902(a)(23), relating to freedom of choice.

(4) Section 1902(a)(1), relating to statewideness.

(5) Sections 1902(a)(10), matter following (E) and 1902(a)(17), relating to comparability.

(6) Section 1902(a)(14), relating to premiums.

(7) Section 1902(a)(18), relating to liens and recovery of assets.

(8) Sections 1902 (50) and (51), relating to personal needs allowance, protection of community spouse, and transfer of assets.

(c) STATE ASSURANCES.—The State shall provide assurances to the Secretary that—

(1) the estimated average per capita and aggregate expenditures for long-term care services for individuals under the waiver will not exceed estimated average per capita and aggregate expenditures for such services for such individuals under the State plan in the absence of the waiver;

(2) it will continue to make long-term care services available under the plan to any individual who would be entitled to long-term care services under the plan as in effect before the waiver (except to the extent that subsequent Federal legislation specifically requires changes in eligibility for such services under the plan); and

(3) it will not approve a long-term care insurance policy unless it meets standards at least as stringent as those set forth in the National Association of Insurance Commissioners (NAIC) Long-Term Care Insurance Model Act as of June 1989.

(d) APPLICATION, DURATION, AND ELIGIBILITY.—

(1) The Secretary shall either approve or disapprove the application of the State to participate in a demonstration project described in this section within 90 days of receipt of such application. The Secretary shall award the demonstration project in a budget-neutral manner.

(2) The demonstration project under this section shall be for an initial period of 5 years. The Secretary shall provide for renewal of those demonstration projects for an additional 5 years which the Secretary determines have met the requirements of this section.

(3) An individual who participates in a demonstration project under this section shall remain eligible for long-term care services under the State plan after the expiration of such project.

(e) ANNUAL STATE REPORTS.—The State shall annually (during the duration of such project) report to the Secretary on—

(1) the number of individuals enrolled in the demonstration project in such State;

(2) the number of enrollees actually receiving long-term care services under such demonstration project (whether through long-term care insurance or medical assistance under title XIX of the Social Security Act);

(3) the number of enrollees actually receiving long-term care in the form of medical assistance;

(4) the average income, age, and assets of each enrollee; and

(5) the number and characteristics of private insurers with policies approved by the State under the demonstration project.

(f) SECRETARY'S REPORT.—The Secretary shall report to Congress on the demonstration project established under this section not later than 4 years after the date of enactment of this section. Such report shall summarize and analyze information reported by the State under subsection (e), and shall evaluate the cost effectiveness of the demonstration project and make recommendations with respect to the desirability and appropriateness of authorizing any State to make long-term care services available on a similar basis.

SEC. 1607. DEEMED STATUS UNDER MEDICAID PROGRAM.

(a) The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall establish, in consultation with the Joint Commission on Accreditation of Healthcare Organizations, the Commission on Accreditation of Rehabilitation Facilities, the Council on Accreditation of Services for Families and Children, the Association of Health Facilities Licensure and Certification Directors, the National Governors Association, the National Association of State Mental Health Program Directors, Protection and Advocacy Systems, organizations representing consumers and recipients of services under title XIX of the Social Security Act, and other interested parties, a 10-State, 3-year demonstration program in which "deemed status", as defined in section 1905(r) of the Social Security Act, may be granted to mental health facilities (excluding ICF/MRs) based upon a finding by accrediting bodies that a mental health facility is in compliance with standards established or authorized under title XIX of the Social Security Act.

(b)(1) Prior to initiating such demonstration program, the Secretary shall establish criteria defining appropriate and effective quality assurance by accrediting bodies. The criteria shall ensure, at a minimum, that—

(A) inspections by accreditation teams are unannounced;

(B) the public and State licensure and certification officials have prompt access to all documents describing the findings of inspections by accreditation teams, provided that confidential information pertaining to client or patient names has been deleted prior to release of these documents to the public;

(C) deficiencies affecting health and safety shall be documented sufficiently to support civil penalties and enforcement actions as needed, and shall be reported to State licensure and certification authorities immediately upon being discovered;

(D) complaints filed by recipients of mental health services under this title, or their advocates, will be promptly investigated and the findings reported to State licensure and certification officials and made available upon request to the public; and

(E) periodic unannounced inspections by State licensing and certification officials take place to facilitate evaluation of accrediting teams' judgements relating to quality of care and reporting of deficiencies.

(2) The Secretary shall, in developing criteria, also address the types of standards, reporting requirements, duration of accreditation, and other considerations.

(c) The Secretary shall publish proposed criteria developed pursuant to subsection (b) in the Federal Register not later than 270 days from the date of enactment of this Act, and shall provide not less than 90 days for public comment on the proposed criteria.

(d) Not later than one year from the termination of the demonstration projects established in subsection (a), the Secretary shall submit a report to the Committee on

Finance of the Senate evaluating the accreditation process including—

(1) the extent to which—

(A) accrediting bodies and providers have participated in the program;

(B) provider compliance with standards;

(C) there has been an impact on quality of care and access to services; and

(D) problems with, and prospects for, collaboration between accreditation bodies and State survey and certification officials where quality problems have been documented and in facilities where complaints have been filed by consumers or their advocates.

(2) Such recommendations as the Secretary deems appropriate.

(e) Section 1905 (42 U.S.C. 1396d) is amended by inserting after paragraph (q) the following new paragraph:

"(r) The term 'deemed status' shall refer to an agreement between the Secretary and any accrediting body which, by the nature of the accrediting body's compliance with criteria specified by the Secretary, authorizes the accrediting body to determine any institution or facility's compliance with conditions of participation and a State Plan required under this title.".

SEC. 1608. MINNESOTA PREPAID MEDICAID DEMONSTRATION PROJECT EXTENDED.

(a) EXTENSION.—Section 507 of the Family Support Act of 1988 is amended by striking "1990" and inserting in lieu thereof "1995".

(b) CAPITATED CARE OPTION.—Section 1903(m)(6)(A) (42 U.S.C. 1396b(m)(6)(A)) is amended by inserting "and the State of Minnesota" after "New Jersey".

SEC. 1609. NEW JERSEY MEDICAID RESPITE DEMONSTRATION EXTENDED.

Section 9414 of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) by amending subsection (e) to read as follows:

"(e) DURATION.—The project under this section may continue until April 1, 1992."; and

(2) in subsection (d), by striking the last sentence and inserting in lieu thereof the following new sentence: "For the period beginning October 1, 1990, and ending April 1, 1997, Federal payments for the project shall not exceed amounts not expended under the project in the preceding fiscal year.".

SEC. 1610. MEDICAID PROVISIONS RELATING TO DEMONSTRATION OF EFFECTIVENESS OF MINNESOTA FAMILY INVESTMENT PLAN.

If, under section 5022 of the Omnibus Budget Reconciliation Act of 1989, the Secretary of Health and Human Services approves an application by the State of Minnesota to conduct a demonstration project relating to the State family investment plan, the Secretary of Health and Human Services shall, in order to enable the State to implement such demonstration project—

(1)(A) require that the State treat each family participating in the project as individuals eligible for medical assistance under section 1902(a)(10)(A) of the Social Security Act,

(B) require that the State treat, for purposes of section 1925 of such Act, each family whose participation in the project is terminated by reason of increased income from employment as a family that has become ineligible for aid under the State plan approved under part A of title IV of such Act, and

(C) require that the State treat each family whose participation in the project is terminated by reason of the collection or increased collection of child support under part D of title IV of the Social Security Act as a recipient of aid to families with dependent children for purposes of title XIX of such Act for an additional 12 calendar months beginning with the month in which such termination occurs; and

(2) make payment, under section 1903 of such Act, for medical assistance and administrative expenses for families participating in the project in the same manner as such payments may be made for medical assistance and administrative expenses for individuals entitled to benefits under title XIX of such Act, except that the aggregate amount of such payments may not exceed the aggregate amount of payments that would have been made for those families in the absence of such project.

SEC. 1611. MEDICAID DEMONSTRATION PROGRAM IN OREGON.

(a) IN GENERAL.—Upon application of the State of Oregon (hereafter in this section referred to as the "State") and approval by the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary"), the State may conduct a demonstration under its medical assistance program under title XIX of the Social Security Act, in accordance with this section and with Oregon Senate Bill 27, for the purpose of testing the effectiveness of expansion of eligibility and modification of benefits under Oregon Senate Bill 27 in meeting the health care needs of low-income individuals.

(b) WAIVERS.—The Secretary shall (with respect to the project under this section) waive compliance with any requirements contained in title XIX of the Social Security Act (other than provisions concerning rates of Federal financial assistance) which, if applied, would prevent the State from carrying out the project or effectively achieving its purpose.

(c) FUNDING; MAINTENANCE OF EFFORT.—(1) Subject to paragraph (2), costs of the project under this section which would not otherwise be included as expenditures under section 1903 of the Social Security Act shall be regarded as expenditures for medical assistance under the State plan under title XIX of that Act, or for administration of such State plan, as appropriate.

(2) Costs of the project approved under this section for any State fiscal year shall be included as expenditures under section 1903 only to the extent that they exceed the amount of expenditures under Oregon's State-Only Medical Assistance Program (General Assistance medical program) for the period July 1, 1989, through June 30, 1990.

(d) EVALUATION.—As part of its application to conduct a demonstration project under this section, the State must assure the Secretary that the project will be conducted in a manner that will permit the obtaining of measurable results during and after completion of the demonstration, and that the project will be evaluated using a reasonable methodology.

(e) APPLICATION AND APPROVAL.—(1) The Secretary shall approve or disapprove the application of the State to conduct a project under this section not later than 60 days after the date of its submission. If the application is disapproved, the Secretary shall provide to the State along with such disapproval a statement of the reasons for such disapproval, and of the changes needed to obtain approval.

(2) The Secretary shall, subject to the provisions of this section, approve an application by the State which carries out the provisions of Oregon Senate Bill 27.

(f) DURATION.—(1) The initial period of the project under this section shall begin upon approval of the State's application by the Secretary (but no earlier than July 1, 1990) and run for three years.

(2) At the option of the State, the project under this section may be extended for two additional years.

SEC. 1612. TEMPORARY RETROACTIVE BENEFITS CAUSED BY DELAY IN IMPLEMENTATION.

Notwithstanding sections 1902(e)(8) and 1905(a) of the Social Security Act, in the case of an individual who—

(1) is a resident of a State which began determinations with respect to qualified medicare beneficiaries (under title XIX of such Act) in a month after December 1988, and

(2) was determined to be a qualified medicare beneficiary (as defined in section 1905(p)(1) of such Act) in a month in 1989 before October,

such State may elect to treat such an individual as a qualified medicare beneficiary under the plan of such State under such title XIX for each month in 1989 before October in which the individual would have been such a qualified medicare beneficiary if the individual had applied in the previous month.

SEC. 1613. EXTENSION OF WAIVER.

Section 9523(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking " 'January 1, 1990' " and inserting in lieu thereof " 'January 1, 1993'.".

SEC. 1614. HOSPICE COVERAGE.

(a) MEDICAID CLARIFYING EFFECT OF HOSPICE ELECTION.—Section 1905(o)(1)(A) of the Social Security Act (42 U.S.C. 1396d(o)(1)(A)) is amended by inserting "and for which payment may otherwise may be made under title XVIII" after "described in section 1812(d)(2)(A)".

(b) PAYMENT.—Section 1902(a)(13)(D) of such Act (42 U.S.C. 1396a(a)(13)(D)) is amended—

(1) by striking "in the same amounts, and using the same methodology, as used" and inserting "in amounts no lower than the amounts, using the same methodology, used", and

(2) by striking "a separate rate may be paid for" and inserting "in the case of", and

(3) by striking "to take into account the room and board furnished by such facility" and inserting "there shall be paid an additional amount, to take into account the room and board furnished by the facility, equal to at least 95 percent of the rate that would have been paid by the State under the plan for facility services in that facility for that individual".

(c) CONFORMING AMENDMENT.—Section 1905(o)(3) of such Act (42 U.S.C. 1396d(o)(3)) is amended—

(1) by striking "the amounts allocated under the plan for room and board in the facility, in accordance with the rates established under section 1902(a)(13)," and inserting "the additional amount described in section 1902(a)(13)(D)", and

(2) by striking the last sentence.

SEC. 1615. RURAL HEALTH PROVISIONS RELATED TO MEDICAID.

(a) MODIFICATION OF REIMBURSEMENT METHOD WITH RESPECT TO RURAL HEALTH CLINICS FOR SERVICES PROVIDED UNDER MEDICAID.—Section 1902(a)(13) of the Social Security Act (42 U.S.C. 1396a(13)) is amended by striking subparagraph (E) and inserting in lieu thereof the following new subparagraph:

"(E) for payment for services described in section 1905(a)(2)(B) provided by a rural health clinic under the plan of 100 percent of costs which are reasonable and related to the cost of furnishing such services as determined by the fiscal intermediary determining such costs under title XVIII pursuant to such standards as the Secretary may prescribe,".

(b) AUTOMATIC CERTIFICATION FOR CERTAIN CENTERS WHICH MEET THE STANDARDS FOR CERTIFICATION AS A RURAL HEALTH CLINIC.—Section 1910(a)(1) of the Social Security Act (42 U.S.C. 1396i(a)(2)) is amended by striking "qualified" and all that follows through the comma and inserting in lieu thereof the following: "qualified (i) as a rural health clinic under title XVIII or (ii) as a clinic under section 329, 330 or 340 of the Public Health Service Act,".

SEC. 1616. MANDATORY COVERAGE OF CERTAIN LOW-INCOME PREGNANT WOMEN AND CHILDREN.

(a) MANDATORY COVERAGE.—Section 1902(l) of the Social Security Act (42 U.S.C. 1396a(l)) is amended—

(1) in paragraph (1), by striking subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(B) children who have not attained 6 years of age, and"; and

(2) in paragraph (2), by striking subparagraph (A) and inserting in lieu thereof the following new subparagraph:

"(A) For purposes of paragraph (1), with respect to individuals described in subparagraphs (A) and (B) of that paragraph, the State shall establish an income level which is a percentage equal to 133 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.".

(b) CONFORMING AMENDMENTS.—(1) Section 1902(l)(4) of such Act (42 U.S.C. 1396a(l)(4)) is amended—

(A) in subparagraph (A) by striking "infants under age 1" and inserting in lieu thereof "children under the age of 6", and

(B) in subparagraph (B) by striking "provided under clause (ii) of such paragraph" and inserting in lieu thereof "provided under such paragraph".

(2) Section 1902(a)(10)(A)(i)(IV) of such Act (42 U.S.C. 1396a(a)(10)(A)(i)(IV)) is amended by striking "minimum".

(c) EFFECTIVE DATE.—Except as provided in paragraph (2), the amendments made by subsection (a) shall become effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning on or after April 1, 1990.

SEC. 1617. OPTIONAL COVERAGE OF CERTAIN LOW-INCOME CHILDREN.

(a) OPTIONAL COVERAGE.—Section 1902(l) of the Social Security Act (42 U.S.C. 1396a(l)) is further amended—

(1) in paragraph (1), by striking subparagraph (C) and inserting in lieu thereof the following new subparagraph:

"(C) at the option of the State, children who have attained 6 years of age but have not attained 19 years of age,"; and

(2) in paragraph (2)(B), by striking ", or if less, the percentage established under subparagraph (A)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning on or after April 1, 1990.

SEC. 1618. MANDATORY ELIGIBILITY, CONTINUITY OF CARE AND TEMPORARY EXTENSION OF MEDICAID ELIGIBILITY.

(a) CONTINUOUS ELIGIBILITY FOR PREGNANT WOMEN.—Section 1902(e)(6) of the Social Security Act (42 U.S.C. 1396a(e)(6)) is amended—

(1) by striking "At the option of the State, in" and inserting in lieu thereof "In"; and

(2) by striking "the State plan may nonetheless treat" and inserting in lieu thereof "the State plan shall treat".

(b) CONTINUOUS ELIGIBILITY FOR CERTAIN CHILDREN.—Section 1902(e) of such Act (42 U.S.C. 1396a(e)) is amended by adding at the end thereof the following new paragraph:

"(11)(A) In the case of a child who has not attained 3 years of age and who is determined eligible for medical assistance under this title (other than a child eligible for such assistance because such child is receiving aid under part A or E of title IV or under title XVI), such child shall remain eligible for medical assistance under this title after each determination of eligibility for a period of 6 months and no redetermination of such child's eligibility shall take place for a period of 6 months from the determination of eligibility of such child, regardless of any change in income or resources of the family of which such child is a member.

"(B) With respect to a child who has not attained 6 years of age and who is receiving aid under part A or E of title IV or under title XVI and who is determined to be no longer eligible for such aid, the State may not discontinue medical assistance under this title for such child until the State has determined that such child is not eligible for medical assistance under this title on a basis other than the receipt of aid under such parts or title.".

(c) EXTENSION OF MEDICAID ELIGIBILITY.—Section 20(b) of the Child Support Enforcement Amendments of 1984 is amended by striking "and before October 1, 1989".

(d) EFFECTIVE DATE.—(1) The amendments made by subsections (a) and (b) shall become effective with respect to eligibility determinations for medical assistance under title XIX of the Social Security Act on or after January 1, 1990.

(2) The amendment made by subsection (c) shall become effective upon the date of enactment of this Act.

SEC. 1619. ADJUSTMENT IN PAYMENT FOR HOSPITAL SERVICES FURNISHED TO LOW-INCOME CHILDREN.

(a) IN GENERAL.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end thereof the following new subsection:

"(s) In order to meet the requirements of subsection (a)(53), the State plan must provide that payments to hospitals under the plan—

"(1) for inpatient hospital services furnished to infants who have not attained the age of 1 year, and to children who have not attained the age of 6 years and who receive such services in a disproportionate share hospital described in section 1923(b)(1) or a childrens' hospital, shall—

"(A) if made on a prospective basis (whether per diem, per case, or otherwise) provide for an outlier adjustment in payment amounts for medically necessary inpatient hospital services involving exceptionally high costs or exceptionally long lengths of stay,

"(B) not be limited by the imposition of day limits with respect to the delivery of such services to such individuals, and

"(C) not be limited by the imposition of dollar limits with respect to the delivery of such services to any such individual who has not attained their first birthday (or in the case of such an individual who is an inpatient on his first birthday until such individual is discharged); and

"(2) shall be made to a hospital in another State for inpatient hospital services furnished by such hospital to children (covered under the State plan) who have not attained the age of 19 years at the rates paid for such services in the State in which the hospital is located, unless the States involved have entered into an agreement providing for payment on another basis or rate.".

(b) CONFORMING AMENDMENT.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (51);

(2) by striking the period at the end of paragraph (52) and by inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(53) provide, in accordance with subsection (s), for adjusted payments for certain inpatient hospital services.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1990.

SEC. 1620. REQUIRED COVERAGE OF NURSE PRACTITIONER SERVICES.

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(1) in paragraph (20), by striking "and";

(2) by redesignating paragraph (21) as paragraph (22); and

(3) by inserting at the end of paragraph (20) the following new paragraph:

"(21) services furnished by a certified pediatric nurse practitioner or certified family nurse practitioner (as defined by the Secretary) which the certified pediatric nurse practitioner or certified family nurse practitioner is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), whether or not the certified pediatric nurse practitioner or certified family nurse practitioner is under the supervision of, or associated with, a physician or other health care provider;".

(b) CONFORMING AMENDMENT.—Section 1902 (a)(10)(A) of such Act (42 U.S.C. 1396a(a)(10)(A)) is amended by striking "(1) through (5) and (17)" and by inserting in lieu thereof "(1) through (5), (17) and (21)".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to services furnished by a certified pediatric nurse practitioner or certified family nurse practitioner on or after January 1, 1990.

SEC. 1621. OPTIONAL STATE COVERAGE OF HOME OR COMMUNITY BASED SERVICES TO CERTAIN CHILDREN.

(a) STATE OPTION PROVIDED.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) as amended by this Act, is further amended—

(1) by redesignating paragraph (22) as paragraph (23); and

(2) by inserting at the end of paragraph (21) the following new paragraph:

"(22) home or community based services (as described in section 1915(c)(1)) for children—

"(A) who have not attained the age of 18 years; and

"(B)(i) who have acquired immune deficiency syndrome, or

"(ii) who are medically dependent on a ventilator for life support;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective with respect to services furnished on or after January 1, 1990.

SEC. 1622. OPTIONAL STATE COVERAGE OF HOME VISITOR SERVICES.

(a) STATE OPTION PROVIDED.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) as amended by this Act, is further amended—

(1) by redesignating paragraph (23) as paragraph (24); and

(2) by inserting at the end of paragraph (22) the following new paragraph:

"(23) home visitor services as prescribed by a physician and furnished by a registered nurse to medically fragile pregnant women, or infants during their first 6 months of life who have medical conditions which require treatment with life sustaining medications or equipment or technologically assisted feeding; and".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective with respect to services furnished on or after January 1, 1990.

SEC. 1623. LIMIT ON NUMBER OF INDIVIDUALS ALLOWED TO PARTICIPATE IN HOME AND COMMUNITY BASED PROGRAMS UNDER WAIVERS INCREASED.

(a) IN GENERAL.—Section 1915(c)(10) of the Social Security Act (42 U.S.C. 1396n(c)(10)) is amended by striking "200" and inserting in lieu thereof "350".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to waivers granted or renewed under section 1915(c) of the Social Security Act on or after January 1, 1990.

SEC. 1624. ALLOCATION OF PAYMENTS AND REQUIREMENTS RELATED TO SUCH PAYMENTS UNDER THE MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT MODIFIED.

(a) INCREASED AUTHORIZATION.—Subsection (a) of section 501 of the Social Security Act (42 U.S.C. 701) is amended by striking "$553,000,000" and all that follows through "fiscal year 1989" and inserting in lieu thereof "$561,000,000 for fiscal year 1989, and $711,000,000 for fiscal year 1990".

(b) REALLOCATION OF PAYMENTS.—Title V of such Act (42 U.S.C. 701 et seq.) is amended by striking section 502 and inserting in lieu thereof the following new section:

"ALLOTMENTS TO STATES AND FEDERAL SET-ASIDE

"SEC. 502. (a)(1) Of the amounts appropriated under section 501(a) for a fiscal year the Secretary shall retain an amount equal to 15 percent thereof for the purpose of carrying out (through grants, contracts, or otherwise) the projects and programs described in this subsection, including—

"(A) special projects of regional and national significance, training, and research;

"(B) the funding of genetic disease testing, counseling, and information development and dissemination programs; and

"(C) comprehensive hemophilia diagnostic and treatment centers.

The authority of the Secretary to enter into any contracts under this title is effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

"(2) For purposes of paragraph (1)—

"(A) amounts retained by the Secretary for training shall be used to make grants to public or nonprofit private institutions of higher learning for training personnel for health care and related services for mothers and children;

"(B) amounts retained by the Secretary for research shall be used to make grants to, contracts with, or jointly financed cooperative agreements with, public or nonprofit institutions of higher learning and public or nonprofit private agencies and organizations engaged in research or in maternal and child health or programs for children with special health care needs for research projects relating to maternal and child health services or services for children with special health care needs which show promise of substantial contribution to the advancement thereof; and

"(C) amounts retained by the Secretary for special projects of regional and national significance may be used to make grants, contracts with, or jointly financed cooperative agreements with, public or private organizations for projects—

"(i) for the screening of infants for sickle-cell anemia and other genetic disorders,

"(ii) to promote access to primary health services for children and community based service networks and case management services for children with special health care needs,

"(iii) promoting the use of outpatient and community based services (including day care) for children with special health care needs who utilize substantial amounts of inpatient hospital care,

"(iv) described in paragraph (3),

"(v) to achieve the purposes set forth in section 501 (a), based on priorities established by the Secretary, and

"(vi) demonstrations in 5 States of programs offering home visiting services to high risk pregnant women and infants, for a period of 3 years.

"(3)(A) The Secretary shall conduct demonstration projects to evaluate and extend basic health insurance coverage to children under the age of 19 who are not covered by other public or private programs. The Secretary may enter into agreements (subject to the provisions of subparagraph (B)) to provide such coverage through public and private cooperative arrangements sponsored by organizations such as (but not limited to) (i) school based plans; (ii) plans operated under the auspices of nonprofit entities offering health insurance; and (iii) plans operated by nonprofit hospitals.

"(B) The agreements entered into between the Secretary and organizations under subparagraph (A)(ii) shall provide—

"(i) that such agreements will be in effect for a period of 3 years subject to the provisions of this paragraph;

"(ii) for non-Federal sources to fund such projects at a level not less than—

"(I) 50 percent in the first year of such agreement,

"(II) 65 percent in the second year of such agreement, and

"(III) 80 percent in the third year of such agreement;

"(iii) that with respect to an organization which at the time of entering into such agreement is conducting a project similar to the one described in this paragraph that such organization must maintain its current level of non-Federal funding at such current level unless such level is less than the applicable level described in clause (ii); and

"(iv) that organizations may not with respect to the health care plan provided by such organizations under this paragraph—

"(I) restrict enrollment in such plan on the basis of a child's medical condition, and

"(II) impose waiting periods or exclusions for preexisting conditions.

"(C) The Secretary in conducting demonstration projects under this paragraph shall provide in his agreements that all such organizations described in subparagraph (A) may charge a premium to individuals enrolling in the health care plan provided by such organizations.

"(D) The demonstration projects conducted under this paragraph shall evaluate the effects of such coverage on—

"(i) the access to health services,

"(ii) the availability of insurance coverage to participating children and their families,

"(iii) the characteristics of participating children and their families, and

"(iv) health care costs.

"(E) The Secretary shall publish no later than March 1, 1990, criteria governing the eligibility and participation of organizations in the demonstration projects conducted under this paragraph.

"(4) No funds may be made available by the Secretary under this subsection unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain and be accompanied by such information as the Secretary may specify. No such application may be approved unless it contains assurances that the applicant will use the funds provided only for the purposes specified in the approved application and will establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting of Federal funds paid to the applicant under this title.

"(b) From the remaining amounts appropriated under section 501(a), the Secretary shall allot to each State which has transmitted a description of intended activities and statement of assurances for the fiscal year under section 505, an amount determined as follows:

"(1) The Secretary shall determine, for each State—

"(A)(i) the amount provided or allotted by the Secretary to the State and to entities in the State under the provisions of the consolidated health programs (as defined in section 501(b)(1)), other than for any of the projects or programs described in subsection (a), from appropriations for fiscal year 1981,

"(ii) the proportion that such amount for that State bears to the total of such amounts for all the States, and

"(B)(i) the number of low-income children in the State, and

"(ii) the proportion that such number of children for that State bears to the total of such numbers of children for all the States.

"(2) Each State beginning on or after January 1, 1990, must use not less than 30 percent of its allotment for services for children with special health care needs, including family centered community based coordinated care, as defined by the Secretary.

"(3) Each State beginning on or after January 1, 1990, must use not less than 5 percent of its allotment for any or all of the following: primary health services demonstration projects and programs for children, the development of community based service networks and case management services for children with special health care needs, and projects for the screening of infants for sickle-cell anemia and other genetic disorders.

"(c)(1) To the extent that all the funds appropriated under this title for a fiscal

year are not otherwise allotted to States either because all the States have not qualified for such allotments under section 505 for the fiscal year or because some States have indicated in their descriptions of activities under section 505 that they do not intend to use the full amount of such allotments, such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.

"(2) To the extent that all the funds appropriated under this title for a fiscal year are not otherwise allotted to States because some State allotments are offset under section 506(b)(2), such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.".

(c) STATEWIDE NEEDS ASSESSMENT REQUIRED.—Section 505 of such Act (42 U.S.C. 705) is amended—

(1) in paragraph (1)—

(A) by striking "and (D)" and inserting in lieu thereof "(D)"; and

(B) by striking "such payments" and inserting in lieu thereof "such payments, and (E) a Statewide needs assessment as described in paragraph (3);" and

(2) by inserting at the end of paragraph (2) the following new paragraph:

"(3) A statewide needs assessment described in this paragraph shall include—

"(A) a needs assessment on maternity and infant care, preventive and primary care for children, and services for children with special health care needs;

"(B) a plan for meeting the needs identified by the assessment; and

"(C) a description of how the funds received under this title will be utilized for the coordination and direct provision of services under the plan.".

(d) ADDITIONAL STATE ASSURANCES REQUIRED.—Section 505(2) of such Act (42 U.S.C. 705(2)) is amended—

(1) in subparagraph (D), by striking "and" at the end thereof;

(2) in subparagraph (E), by striking the period, and inserting in lieu thereof a semicolon; and

(3) by inserting after subparagraph (E) the following new subparagraphs:

"(F) the State will develop the annual report described in paragraph (1) with a State maternal child health advisory board appointed by the State official responsible for administering the State's program under this title and such board shall—

"(i) include representatives of families, State Medicaid and other related State agencies, health care providers, voluntary health and disability groups, and other appropriate participants;

"(ii) conduct public hearings;

"(iii) provide an annual written review and comments on the administration of the State's program under this title along with suggestions on improving the delivery of maternal and child health services under such program, to be included as part of such annual report;

"(iv) participate in the planning and development of services provided under this title, including family centered community based coordinated care for children with special health care needs described in subparagraph (G); and

"(v) planning for one stop shopping (defined as an integrated maternal and child health delivery system and focusing on colocation of services);

"(G) the State for fiscal years 1990, 1991, and 1992 in administering the State's program under this title will—

"(i) plan and develop a system of family centered community based coordinated care for children with special health care needs in collaboration with other programs, including—

"(I) programs receiving funds under title XIX,

"(II) Federal special education programs,

"(III) voluntary health service agencies,

"(IV) practicing health care professionals; and

"(V) parent groups; and

"(ii) designate a coordinator of services to children with special health care needs; and

"(H) the State will—

"(i) provide for the development and maintenance of a consolidated data base containing information describing medical and support service providers operating and available in the State to meet the needs of chronically ill children;

"(ii) provide for a toll-free telephone number for the use of parents with chronically ill children to access the information described in clause (i); and

"(iii) annually update and ensure the accuracy of the data base described in clause (i).".

(e) ANNUAL REPORTS EXPANDED.—Section 506(a) of such Act (42 U.S.C. 706(a)) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) Each State shall include as part of the annual reports prepared and submitted under paragraph (1), information on—

"(A) the extent to which the State has met or not met the needs of individuals with respect to specific services;

"(B) the specific services provided by the State under this title, including—

"(i) the number of women, infants, and children served,

"(ii) the characteristics of the persons served,

"(iii) discharge planning, and

"(iv) family centered community based coordinated care for children with chronic illnesses;

"(C) information related to health status outcomes, including infant morbidity and mortality; and

"(D) the amount of funds allotted by the State for the purpose of developing the family centered community based coordinated care described in section 505(2)(G).".

(f) FEDERAL ADMINISTRATION AND ASSISTANCE.—Section 509(a) of such Act (42 U.S.C. 709(a)) is amended—

(1) in paragraph (5) by striking "and" at the end thereof;

(2) in paragraph (6) by striking the period and inserting in lieu thereof "; and" and

(3) by adding at the end thereof the following new paragraphs:

"(7) assisting States in the development of care coordination systems;

"(8) promulgating regulations to require consistent and accurate reporting formats to assure accountability in the use of funds under this title; and

"(9) developing and distributing to the State agency (or agencies) designated by each State a national directory listing by State the toll-free telephone numbers described in section 505(2)(H).".

(g) STATE FUNDING REQUIREMENT.—A State receiving funds for maternal and child health services under title V of the Social Security Act shall maintain the level of funds being provided solely by such State for maternal and child health programs at a level at least equal to the level that such State provided for such programs in 1989.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning and annual reports made after the date of enactment of this Act.

SEC. 1625. ANNUAL REPORT ON HEALTH STATUS OF CHILDREN.

Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end thereof:

"ANNUAL REPORT ON HEALTH STATUS OF CHILDREN

"SEC. 1142. The Secretary shall, not later than January 1, 1991 and for every 12-month period thereafter, publish an annual report on the health status of the children of the United States. Such report shall include—

"(1) information summarizing the States' annual reports prepared and submitted to the Secretary pursuant to section 506(a)(1);

"(2) statistics on infant mortality (including annual percentages of decrease or increase in such) by State and population group;

"(3) information on and statistics related to the number of children, by State, participating in early and periodic screening, diagnostic, and treatment services as defined in section 1905(r);

"(4) information and statistics with respect to the increase or decrease, by State, in the delivery of maternity and prenatal care services;

"(5) information and statistics with respect to child morbidity, infectious diseases, and mortality;

"(6) information on the sources and extent of health insurance (both private and public) provided to children;

"(7) information on the utilization and costs of health services provided to children;

"(8) information and statistics on catastrophic illnesses among children; and

"(9) information and statistics on immunization rates with respect to children.".

SEC. 1626. MODEL MEDICAID APPLICATION.

The Secretary of Health and Human Services shall not later than January 1, 1991, develop and make available to States a model uniform application for benefits under title XIX of the Social Security Act for individuals who are not receiving cash assistance under part A of title IV of the Social Security Act, and who are not institutionalized. The model application developed under this section shall be made available to States as specified in the preceding sentence, but, such model shall not be required to be adopted by States as part of their State plan.

SEC. 1627. REQUIREMENTS OF THE SECRETARY.

(a) DEFINITION OF MEDICALLY HIGH RISK PREGNANCY AND CHILDREN TO BE DEVELOPED.—(1) The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall in consultation with appropriate professional health care related groups develop definitions of medically high risk pregnancy and children at a high risk of medical problems. In developing such a definition the Secretary shall consider, among other factors, low birthweight and placement in foster care.

(2) The Secretary shall report to Congress on the definition developed under paragraph (1) along with such further information or comments as the Secretary may deem relevant not later than March 1, 1990.

(b) DEFINITION OF MEDICALLY UNINSURABLE CHILDREN TO BE DEVELOPED.—(1) The Secretary shall in consultation with appropriate professional health care groups and health insurers develop alternative definitions of medically uninsurable children.

(2) The Secretary shall report to Congress on the definition developed under paragraph (1) along with such further information or comments as the Secretary may deem relevant not later than March 1, 1990.

(c) REPORT ON IMPROVING PUBLIC HEALTH COORDINATION.—(1) The Secretary shall study different methodologies to improve the coordination between various public health programs, in particular the coordination of benefits provided under titles V and XIX of the Social Security Act, and the special supplemental food program (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(2) The Secretary shall report to Congress on the findings of the study conducted by the Secretary under paragraph (1) not later than March 1, 1990.

(3) The Secretary in conducting the study under paragraph (1) shall consult with the Governors of the various States and the Secretary of Agriculture.

SEC. 1628. EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT SERVICES.

(a) DEFINED.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by adding at the end thereof the following new subsection:

"(r) The term 'early and periodic screening, diagnostic, and treatment services' means:

"(1) Screening services—

"(A) which are provided—

"(i) at intervals which meet reasonable standards of medical and dental practice, as determined by the State after consultation with recognized medical and dental organizations involved in child health care; and

"(ii) at such other intervals indicated as medically necessary to determine the existence of suspected physical or mental illnesses or conditions, without any requirement for prior authorization by the State; and

"(B) which shall at a minimum include—

"(i) a comprehensive health and developmental history, including assessments of physical and mental health and development and nutritional status;

"(ii) a comprehensive unclothed physical exam;

"(iii) appropriate immunizations according to age and health history;

"(iv) laboratory tests (including lead blood level assessment appropriate for age and risk factors); and

"(v) health education including anticipatory guidance.

"(2) Vision services—

"(A) which are provided—

"(i) at intervals which meet reasonable standards of medical practice, as determined by the State after consultation with recognized medical organizations involved in child health care; and

"(ii) at such other intervals, indicated as medically necessary to determine the existence of suspected physical or mental illnesses or conditions, without any requirement for prior authorization by the State; and

"(B) which shall at a minimum include diagnosis and treatment for defects in vision including eyeglasses.

"(3) Dental services—

"(A) which are provided—

"(i) at intervals which meet reasonable standards of dental practice, as determined by the State after consultation with recognized dental organizations involved in child health care; and

"(ii) at such other intervals, indicated as medically necessary to determine the existence of suspected physical or mental illnesses or conditions, without any requirement for prior authorization by the State; and

"(B) which shall at a minimum include relief of pain and infections, restoration of teeth, and maintenance of dental health.

"(4) Hearing services—

"(A) which are provided—

"(i) at intervals which meet reasonable standards of medical practice, as determined by the State after consultation with recognized medical organizations involved in child health care; and

"(ii) at such other intervals indicated as medically necessary to determine the existence of suspected physical or mental illnesses or conditions, without any requirement for prior authorization by the State; and

"(B) which shall at a minimum include diagnosis and treatment for defects in hearing, including hearing aids.

"(5) Such other necessary health care, diagnostic services, treatment, and other measures to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the State plan.".

(b) CONFORMING AMENDMENTS.—(1) Section 1902(a)(43)(A) of such Act (42 U.S.C. 1396a(a)(43)(A)) is amended by striking "and treatment services as described in section 1905(a)(4)(B)" and inserting in lieu thereof "and treatment services as described in section 1905(r)".

(2) Section 1905(a)(4) of such Act (42 U.S.C. 1396d(a)(4)) is amended by striking subparagraph (B) and inserting in lieu thereof the following:

"(B) early and periodic screening and diagnostic services (as defined in subsection (r)) for individuals who are eligible under the plan and are under the age of 21; and".

(c) ANNUAL PARTICIPATION GOALS.—The Secretary shall, not later than July 1, 1990 and every 12 months thereafter, develop and set annual participation goals for each State for participation of individuals who are covered under the State plan under title XIX of the Social Security Act in early and periodic screening and diagnostic services. Such goals shall along with statistics on each State's results in attaining such goals be included in the Secretary's annual report on the health status of children as provided in section 1140 of the Social Security Act, as amended by this Act.

SEC. 1629. SECTION 209(b) STATES PROHIBITED FROM DENYING MEDICAL ASSISTANCE TO CHILDREN 18 YEARS OF AGE OR YOUNGER RECEIVING BENEFITS UNDER SSI.

(a) IN GENERAL.—Section 1902(f) of the Social Security Act (42 U.S.C. 1396a(f)) is amended—

(1) by striking "and section 1619(b)(3)," and inserting in lieu thereof ", section 1619(b)(3) and paragraph (2) of this subsection,";

(2) by striking "(1)" and inserting in lieu thereof "(A)";

(3) by striking "(2)" and inserting in lieu thereof "(B)";

(4) by inserting "(1)" after "(f)"; and

(5) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of paragraph (1), a State shall provide medical assistance to any individual who is eligible for and receiving benefits under title XVI and who has not attained the age of 18 years.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to medical assistance provided on or after January 1, 1990.

SEC. 1630. PAYMENT FOR OBSTETRICAL AND PEDIATRIC SERVICES.

(a) CODIFICATION OF ADEQUATE PAYMENT LEVEL PROVISIONS.—Section 1902(a)(30)(A) of the Social Security Act (42 U.S.C. 1396a(a)(30)(A)) is amended by inserting before the semicolon at the end the following: "and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population".

(b) REPORT OF SECRETARY ON STATE PAYMENT FOR OBSTETRICAL AND PEDIATRIC SERVICES.—The Secretary of Health and Human Services shall, not later than January 1, 1990, issue a report to Congress on current State practices with regard to the adequacy and timeliness of payment by States for obstetrical and pediatric services covered under the State plan and on factors influencing the number of days within which payment is made by States to providers of obstetrical and pediatric services.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall become effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1990.

SEC. 1631. HEALTH CARE PLANS FOR FOSTER CARE CHILDREN.

(a) IN GENERAL.—Section 475(1) of the Social Security Act (42 U.S.C. 675(1)) is amended—

(1) by inserting "(A)" before "The term"; and

(2) by adding at the end the following new subparagraph:

"(B) The case plan must also include a health care record for the child involved which includes information obtained from the child's parents, the foster care provider responsible for the daily care of the child, the child's health care providers, and other providers of care to the child, including the following:

"(i) A copy of a preplacement health care record that has been completed before the placement of the child in foster care (or within 30 days, in the case of emergency placement in foster care) and provided to the child's foster care provider to ensure that the provider is immediately made aware of the child's health and developmental needs that require continuing attention and services. The preplacement health care record shall, at a minimum, include the following:

"(I) A record of the child's health, mental health, and dental history, including allergies, current medications, immunizations, and any known health and mental health problems.

"(II) Other information about matters concerning the child that may require emergency attention.

"(III) The names and addresses of the child's physician, dentist, and other providers of medical, mental health, developmental, and rehabilitation services.

"(ii) A record indicating that the child's foster care provider was advised of the child's eligibility under the early and periodic screening, diagnosis, and treatment program under title XIX.

"(iii) A health care plan for the child that is maintained by the agency indicating that the ongoing health, mental health, and dental needs of the child are being met. At a minimum, the health care plan shall include a record of the following:

"(I) Periodic health and dental examinations of the child.

"(II) Other diagnoses and treatment received by the child (including the dates of such examinations and treatments and the names and addresses of the health care providers).

"(III) Immunizations received by the child with a schedule of needed future immunizations.

"(IV) Known allergies of the child and prescribed treatment, if any.

"(V) Medications currently being taken by the child.

"(VI) Names and addresses of all health care providers, including those providing mental health, developmental, and rehabilitation services who have information regarding the child's current health care status.

"(iv) A record indicating that—

"(I) the foster care provider has been informed of its responsibilities related to maintaining and updating an abbreviated summary of the child's health care plan documenting the health, mental health, and dental services rendered to the child while in the care of the foster care provider;

"(II) the foster care provider and caseworkers assigned to the child clearly understand their responsibilities with respect to meeting the health care needs of the child; and

"(III) the agency has periodically reviewed the abbreviated summary of the child's health care plan which is maintained by the foster care provider to ensure that the child's health care plan is being adhered to and updated.".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on January 1, 1990.

SEC. 1632. USE OF MOST RECENT DATA IN CALCULATION OF FEDERAL MATCHING PERCENTAGE.

(a) IN GENERAL.—Section 1101(a)(8)(B) of the Social Security Act (42 U.S.C. 1301(a)(8)(B)) is amended—

(1) by striking "between October 1 and November 30" and inserting in lieu thereof "between April 1 and May 31"; and

(2) by striking "promulgation: *Provided*" and all that follows, and inserting in lieu thereof "promulgation. The Secretary shall publish in the Federal Register in October of each year a preliminary estimate for each State of the Federal percentage that will become effective in the following October.".

(b) EFFECTIVE DATE AND TRANSITION.—(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall apply to payments for quarters beginning on or after October 1, 1990.

(2) In July 1989 the Secretary of Health and Human Services shall promulgate the Federal percentage in accordance with section 1101(a)(8)(B) of the Social Security Act as amended by subsection (a), using the most recent data that was available as of May 31, 1989. For quarters beginning on April 1, 1990 and on July 1, 1990, the Federal percentage for each State shall be the higher of the Federal percentage that became effective on October 1, 1989, or the Federal percentage calculated under this paragraph.

SEC. 1633. OPTIONAL COVERAGE OF OUTREACH SERVICES FOR PREGNANT WOMEN AND INFANTS.

(a) PERMITTING PAYMENT FOR OUTREACH SERVICES FOR PREGNANT WOMEN AND INFANTS AT FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—Section 1903(a)(1) of the Social Security Act (42 U.S.C. 1396b(a)(1)) is amended by inserting "for outreach services for pregnant women and infants described in section 1902(l)(5) or" after "total amount expended during such quarter".

(b) OUTREACH SERVICES FOR PREGNANT WOMEN AND INFANTS DEFINED.—Section 1902(l) of such Act is amended by adding at the end the following new paragraph:

"(5) For purposes of section 1903(a), the term 'outreach services for pregnant women and infants' means, with respect to pregnant women and infants, services to identify individuals described in subparagraph (A) or (B), respectively, of paragraph (1) and, once identified, to assist them in applying for medical assistance under this title.".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) and (b) shall become effective with respect to services furnished on or after January 1, 1990.

SEC. 1634. REQUIRED MEDICAID NOTICE AND COORDINATION WITH SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC).

(a) STATE PLAN REQUIREMENTS OF NOTICE AND COORDINATION.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (11), by striking "and" before "(B)" and by inserting before the semicolon at the end the following: ", and (C) provide for coordination of the operations under this title with the State's operations under the special supplemental food program for women, infants, and children under section 17 of the Child Nutrition Act of 1966";

(2) by striking "and" at the end of paragraph (51);

(3) by striking the period at the end of paragraph (52) and inserting "; and"; and

(4) by inserting after paragraph (52) the following new paragraph:

"(53) provide—

"(A) for notifying in a timely manner all individuals in the State who are determined to be eligible for medical assistance and who are pregnant women, breastfeeding or postpartum women (as defined in section 17 of the Child Nutrition Act of 1966), or children below the age of 5, of the availability of benefits furnished by the special supplemental food program under such section, and

"(B) for referring any such individual to the State agency responsible for administering such program.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1990, without regard to whether regulations to carry out such amendments have been promulgated by such date.

SEC. 1635. MATERNAL AND CHILD HEALTH HANDBOOK.

(a) IN GENERAL.—(1) The Secretary shall develop a maternal and child health handbook in consultation with the National Commission to Prevent Infant Mortality and public and private organizations interested in the health and welfare of mothers and children.

(2) Publication for field testing shall be completed by July 1, 1990, and field testing and evaluation shall be completed by June 1, 1991. The handbook will be distributed nationwide to all pregnant women and new families with young children. The Secretary shall coordinate distribution with State Maternal and Child Health Departments, State and local public health clinics, private providers of obstetric and pediatric care, and community groups where applicable.

(3) The Secretary shall promote private sector involvement related to the distribution of the handbook.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000, for each of fiscal years 1991, 1992, and 1993, for carrying out the purposes of this section.

SEC. 1636. DEMONSTRATION PROJECTS TO IMPROVE ACCESS TO NEEDED PHYSICIAN SERVICES BY PREGNANT WOMEN, INFANTS, AND CHILDREN.

(a) IN GENERAL.—The Secretary of Health and Human Services shall provide for demonstration projects by States to reduce infant mortality and childhood morbidity through improving the access of eligible pregnant women, infants, and children under the medicaid program to obstetricians and pediatricians.

(b) NATURE OF PROJECTS.—Demonstration projects under this section shall incorporate innovative approaches to increasing participation (including participation in a back-up capacity for health centers and public health clinics) of obstetricians, pediatricians, or family practitioners under the medicaid program, by means (other than payment rate adjustments under section 4) such as—

(1) expediting reimbursement and using innovative payment mechanisms, including global fees for maternity and pediatric services (with guaranteed periodic payments);

(2) assisting in securing, or paying for, medical malpractice insurance or otherwise sharing in the risk of liability for medical malpractice;

(3) decreasing unnecessary administrative burdens in submitting claims or securing authorization for treatment; and

(4) covering medical services to meet the needs of high-risk pregnant women and infants.

(c) WAIVER AUTHORITY.—(1) Except as provided under paragraphs (2) and (3), the Secretary is authorized to waive the requirements of title XIX of the Social Security Act to the extent necessary to implement demonstration projects under this section.

(2) Except as permitted under section 1915(b)(1) of the Social Security Act, the Secretary may not waive under paragraph (1) the requirements of sections 1902(a)(23) and 1916 of such Act.

(3) The Secretary may not approve a demonstration project under this section, or a waiver under paragraph (1), that reduces the amount, duration, or scope of medical assistance made available under title XIX of the Social Security Act or that results in a loss of eligibility for individuals otherwise eligible for such assistance.

(e) REPORT.—The Secretary shall report to Congress, not later than March 1, 1992, on the demonstration projects carried out under this section and on how the results of such projects may be used to lower infant mortality and morbidity through improving the access of indigent pregnant women and infants to needed physician services.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1990, 1991, and 1992, $10,000,000 for carrying out the purposes of this section.

SEC. 1637. MEDICAID COVERAGE OF COMMUNITY HEALTH CLINIC SERVICES.

(a) INCLUSION OF PAYMENT FOR SERVICES IN STATE PLAN.—Section 1902(a)(13) of the Social Security Act (42 U.S.C. 1396a(a)(13)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by inserting "and" at the end of subparagraph (F); and

(3) by adding at the end thereof the following new subparagraph:

"(F) for payment for services described in section 1905(a)(2)(C) provided by a community health clinic under the plan of 100 percent of costs which are reasonable and related to the cost of furnishing such services as determined by the fiscal intermediary determining such costs under title XVIII pursuant to such standards as the Secretary may prescribe;".

(b) MEDICAID COVERAGE PROVIDED FOR COMMUNITY HEALTH CLINIC SERVICES.—Section 1905(a)(2) of such Act (42 U.S.C. 1396d(a)(2)) is amended—

(1) by striking "and (B)" and inserting in lieu thereof "(B)"; and

(2) by adding before the semicolon at the end thereof the following new subparagraph: ", and (C) community health clinic services (as defined in subsection (l)(2)) and any other ambulatory services which are offered by a community health clinic (as defined in section 1861(mm)) and which are otherwise included in the State plan".

(c) SERVICES DEFINED.—Section 1905(l) of such Act (42 U.S.C. 1396d(l)) is amended—

(1) by inserting "(1)" after "(l)";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(3) by adding at the end thereof the following new paragraph:

"(2) The term 'community health clinic services' means services furnished by an entity described in section 1861(mm) which are either covered under the State's plan or otherwise described in section 1861(mm).".

(d) EFFECTIVE DATE.—(1) The amendments made by this section apply (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1990, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet the additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(b) SERVICES DEFINED.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"COMMUNITY HEALTH CLINIC SERVICES

"(mm)(1) The term 'community health clinic services' means—

"(A) physicians' services and such services and supplies as are covered under section 1861(s)(2)(A) if furnished as an incident to a physician's professional service and items and services described in section 1861(s)(10),

"(B) such services furnished by a physician assistant, nurse practitioner or certified nurse-midwife and such services and supplies furnished as an incident to his service as would otherwise be covered if furnished by a physician or as an incident to a physician's service,

"(C) in the case of a community health clinic located in an area in which there exists a shortage of home health agencies, part-time or intermittent nursing care and related medical supplies (other than drugs and biologicals) furnished by a registered professional nurse or licensed practical nurse to a homebound individual under a written plan of treatment (i) established and periodically reviewed by a community health clinic physician, or (ii) established by a nurse practitioner or physician assistant and periodically reviewed and approved by a community health clinic physician, when furnished to an individual as an outpatient of a community health clinic.

"(2) The term 'community health clinic' means an entity or facility which—

"(A) is receiving a grant or subgrant under section 329, 330, or 340 of the Public Health Service Act (42 U.S.C. 201 et seq.), or

"(B) based on the recommendation of the Health Resources and Services Administration within the Public Health Service, is determined by the Secretary to meet the requirements as in effect on September 30, 1989, for receiving a grant under section 329 or 330 of the Public Health Service Act which are set forth in section 329(f)(3) or 330(e)(3), respectively, whether or not such entity or facility is actually receiving such a grant, provided that any such requirement may be waived by the Secretary for up to 2 years for good cause shown, and further provided that the Secretary shall, at a minimum of every 2 years, review whether such entity or facility still qualifies as a community health clinic in accordance with this subparagraph.

"(3) The terms 'physician assistant,' 'nurse practitioner' and 'certified nurse-midwife,' for the purpose of paragraphs (1) and (2), have the same meaning as set forth in section 1861(aa)(3).".

SEC. 1638. DEMONSTRATION PROJECTS TO STUDY THE EFFECT OF ALLOWING STATES TO EXTEND MEDICAID TO PREGNANT WOMEN AND CHILDREN NOT OTHERWISE QUALIFIED TO RECEIVE MEDICAID BENEFITS.

(a) IN GENERAL.—In order to allow States to develop and carry out innovative programs to extend health insurance coverage to pregnant women and children under age 20 who lack insurance and to encourage workers to obtain health insurance for themselves and their children, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall enter into agreements with several States submitting applications in accordance with subsection (b) for the purpose of conducting demonstration projects to study the effect on access to health care, private insurance coverage, and costs of health care when such States are allowed to extend benefits under title XIX of the Social Security Act, either directly or in the same manner as alternative assistance authorized in section 1925(b)(4)(D) of the Social Security Act, to pregnant women and children under 20 who are not otherwise qualified to receive benefits under such section.

(b) PROJECT REQUIREMENTS.—(1) State demonstration options may include, but are not limited to, those outlined under section 1925(b)(4)(D) of the Social Security Act.

(2) Each State applying to participate in the demonstration project under subsection (a)(2) shall assure the Secretary that eligibility shall be limited to pregnant women and children who have not attained 20 years of age who are in families with income below 185 percent of the income official poverty line (as described in subsection (c)(1)).

(3) The Secretary shall further provide in conducting demonstration projects under this section that if one or more of such demonstration projects utilizes employer coverage as allowed under section 1925(b)(4)(D) of the Social Security Act that such project shall require an employer contribution.

(c) PREMIUMS.—Pregnant women and children eligible to participate in such demonstration projects whose family income level is—

(1) below 100 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved shall pay no premium; and

(2) between 100 and 185 percent of the income official poverty line (as described in paragraph (1)) shall pay a premium equal to the lesser of—

(A) an amount based on a sliding scale, or

(B) 3 percent of the family's average gross monthly earnings.

(d) DURATION.—A demonstration project conducted under this section shall be commenced not later than July 1, 1990, and shall be conducted for a 3-year period unless the Secretary determines that a State conducting a project under this section is not in substantial compliance with the requirements contained in subsection (b).

(e) WAIVER.—The Secretary where he deems appropriate may waive the statewideness requirement described in section 1902(a)(1).

(f) LIMIT ON EXPENDITURES.—The Secretary in conducting the demonstration projects described in this section shall limit the amount of the Federal share of benefits paid and expenses incurred under title XIX of the Social Security Act to no more than—

(1) $10,000,000 in fiscal year 1990;

(2) $45,000,000 in fiscal year 1991;

(3) $55,000,000 in fiscal year 1992; and

(4) $8,000,000 in fiscal year 1993.

(g) EVALUATION AND REPORT.—(1) For each demonstration project conducted under this section, the Secretary shall assure that an evaluation is conducted on the effect of the project with respect to—

(A) access to health care;

(B) private health care insurance coverage;

(C) costs with respect to health care; and

(D) developing feasible premium and cost-sharing policies.

(2) The Secretary shall prepare and submit to the Congress an interim report containing a summary of the evaluations conducted under paragraph (1) not later than January 1, 1992, and a final report containing such summary together with such further recommendations as the Secretary may determine appropriate not later than January 1, 1994.

SEC. 1639. DEMONSTRATION PROJECTS TO STUDY THE EFFECT OF ALLOWING STATES TO EXTEND MEDICAID TO CERTAIN LOW-INCOME FAMILIES NOT OTHERWISE QUALIFIED TO RECEIVE MEDICAID BENEFITS.

(a) IN GENERAL.—(1) The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall enter into agreements with 2 States submitting applications in accordance with subsection (b) for the purposes of conducting demonstration projects to (A) study the effect on access to health care, and costs of health care and (B) demonstrate the effect of eliminating categorical eligibility for Medicaid benefits, when such States are allowed to extend benefits under title XIX of the Social Security Act, either directly or in the same manner as alternative assistance authorized in section 1925(b)(4)(D), to certain individuals including individuals who because of a preexisting medical condition or who having exhausted health benefits available under private insurance can be considered to be medically uninsurable (as defined by the Secretary) and who are not otherwise qualified to receive benefits under such title.

(b) PROJECT REQUIREMENTS.—(1) Each State applying to participate in a demonstration project under subsection (a)(1) shall assure the Secretary that the demonstration can reasonably be expected to improve access to health insurance coverage for the uninsured and the underinsured.

(2) Each State applying to participate in the demonstration project under subsection (a) shall assure the Secretary that eligibility shall be limited to—

(A) individuals in families with income below 150 percent of the income official poverty line (as described in subsection (c)(1)); and

(B) if the Secretary so determines, persons meeting an asset limit, taking into account treatment of assets in other Federal medical programs.

(3) The Secretary shall further provide in conducting demonstration projects under this section that if he determines it is cost-effective for one or more of such demonstration projects to utilize employer coverage as allowed under section 1925(b)(4)(D) of the Social Security Act that—

(A) such project shall require an employer contribution; and

(B) benefits available under the State's plan under title XIX not available under the employer's plan will continue to be available under the State plan.

(c) PREMIUMS AND COINSURANCE.—Individuals eligible to participate in such demonstration projects whose family income level is—

(1) below 100 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved shall pay no premium or coinsurance;

(2) between 100 and 150 percent of the income official poverty line (as described in paragraph (1)) shall pay a coinsurance if so required by the Secretary and premiums equal to the lesser of—

(A) amount based on a sliding scale,

(B) 3 percent of the family's average gross monthly earnings;

(d) DURATION.—A demonstration project conducted under this section shall be commenced not later than July 1, 1990, and shall be conducted for a 3-year period unless the Secretary determines that a State conducting a project under this section is not in substantial compliance with the requirements contained in subsection (b).

(e) WAIVER.—The Secretary where he deems appropriate may waive the statewideness requirement described in section 1902(a)(1).

(f) LIMIT ON EXPENDITURES.—The Secretary in conducting the demonstration projects described in this section shall limit the amount of the Federal share of benefits paid and expenses incurred under title XIX of the Social Security Act to no more than—

(1) $5,000,000 in fiscal year 1990;

(2) $5,000,000 in each of fiscal years 1991 and 1992; and

(3) $2,000,000 in fiscal year 1993.

(g) EVALUATION AND REPORT.—(1) For each demonstration project conducted under this section, the Secretary shall assure that an evaluation is conducted on the effect of the project with respect to—

(A) access to health care;

(B) private health care insurance coverage; and

(C) costs with respect to health care.

(D) developing feasible premium and cost-sharing policies.

(2) The Secretary shall prepare and submit to the Congress an interim report containing a summary of the evaluations conducted under paragraph (1) not later than January 1, 1992, and a final report containing such summary together with such further recommendations as the Secretary may determine appropriate not later than January 1, 1994.

(h) EFFECTIVE DATE.—The provisions of this section shall become effective upon the date of enactment of this Act.

SEC. 1640. CLARIFICATION OF TERMINATION WHEN NO CHILD IN HOUSEHOLD.

(a) IN GENERAL.—Subsections (a)(3)(A) and (b)(3)(A)(i) of section 1925 (42 U.S.C. 1396r-6 (a)(3)(A) and (b)(3)(A(i)) are each amended by striking "who is" and inserting ", whether or not the child is".

(b) EFFECTIVE DATES.—The amendments made by subsection (a) shall be effective as if included in the enactment of the Family Support Act of 1988.

SEC. 1641. INSTITUTIONS FOR MENTAL DISEASES.

(a) STUDY ON EXCLUSION OF COVERAGE OF SERVICES TO CERTAIN INDIVIDUALS.—The Secretary of Health and Human Services shall conduct a study of the implementation, under current provisions, regulations, guidelines, and regulatory practices under title XIX of the Social Security Act, of the exclusion of coverage of services to certain individuals residing in institutions for mental diseases. By not later than October 1, 1990, the Secretary shall submit a report to Congress on the study and shall include in the report recommendations respecting modifications in such provisions, regulations, guidelines, and practices, if any, that may be appropriate to accommodate changes that may have occurred since 1972 in the delivery of psychiatric and other mental health services on an inpatient basis to such individuals.

SEC. 1642. AMENDMENTS RELATING TO NURSING HOME REFORM.

(a) MORATORIUM ON IMPLEMENTATION OF FEBRUARY 2, 1989 REGULATION.—The regulations promulgated by the Secretary of Health and Human Services on February 2, 1989 (54 Federal Register 5315 et seq., relating to requirements for long-term care facilities) shall not be effective before October 1, 1990, insofar as such regulations apply to skilled nursing facilities and intermediate care facilities under title XVIII or XIX of the Social Security Act.

(b) NURSE AIDE TRAINING.—

(1) DELAY IN REQUIREMENT.—Section 1919(b)(5) (42 U.S.C. 1396r(b)(5)) is amended—

(A) in subparagraph (A), by striking "January 1, 1990" and inserting "October 1, 1990", and

(B) in subparagraph (B), by striking "July 1, 1989" and "January 1, 1990" and inserting "January 1, 1990" and "October 1, 1990", respectively.

(2) NO COMPLIANCE ACTIONS BEFORE EFFECTIVE DATE OF GUIDELINES.—The Secretary of Health and Human Services shall not take (and shall not continue) any action against a State under section 1904 of the Social Security Act on the basis of the State's failure to meet the requirement of section 1919(e)(1)(A) of such Act before the effective date of final regulations, issued by the Secretary, establishing requirements under section 1919(f)(2)(A)(ii)(I) of such Act, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirement before such effective date.

(3) PUBLICATION OF PROPOSED REGULATIONS.—The Secretary of Health and Human Services shall issue proposed regulations to establish the requirements described in section 1919(f)(2) of the Social Security Act by not later than 90 days after the date of the enactment of this Act.

(4) WAIVERS AND GRACE PERIOD FOR CERTAIN NURSE AIDES.—Section 1919(b)(5) (42 U.S.C. 1396r(b)(5)) is further amended—

(A) in subparagraph (A), by striking "any individual" and inserting in lieu thereof "any individual (except an individual described in subparagraph (H))", and

(B) by inserting at the end thereof the following new subparagraph:

"(H) EXCEPTIONS TO GENERAL RULE OF REQUIRED TRAINING OF NURSE AIDES.—

"(i) 4-MONTH PERIOD.—With respect to a nurse aide who is used by a skilled nursing facility on a temporary or per diem basis under arrangement with a nurse aid pool or agency, such aide must have completed the training described in subparagraph (A) prior to use of such aide by such facility.

"(ii) WAIVERS.—With respect to the nurse aide training and competency requirements described in subparagraph (A), a State shall waive such requirements with respect to an individual who—

"(I) was hired as a nurse aide by an employer before January 1, 1990,

"(II) can demonstrate to the satisfaction of the State that such individual has served as a nurse aide at one or more facilities of the same employer in the State for at least 24 consecutive months, and

"(III) has completed a 15-hour course of instruction in basic skills developed by the State.

"(iii) WAIVERS.— With respect to the nurse aide training and competency requirements described in subparagraph (a), a State shall waive such requirements with respect to an individual who—

"(I) was employed as a nurse aide before January 1, 1990,

"(II) can demonstrate to the satisfaction of the State that he or she has served as a nurse aide in the State in the preceding 24 month period, and

"(III) has completed a nurse aide training program that was required by the State and established before December 22, 1987.".

(5) REQUIREMENTS FOR TRAINING AND EVALUATION PROGRAMS.—Section 1919(f)(2)(A) (42 U.S.C. 1396r(f)(2)(A)) is amended—

(A) in clause (i)(I), by inserting "care of cognitively impaired residents," after "social service needs,";

(B) in clause (ii), by striking "cognitive, behavioral and social care" and by inserting "recognition of mental health and social service needs, care of cognitively impaired residents";

(C) by striking the period at the end of clause (iii) and inserting "; and"; and

(D) by adding at the end the following new clause:

"(iv) requirements, under both such programs, that—

"(I) provide procedures for determining competency that permit a nurse aide, at the nurse aide's option, to establish competency through procedures or methods other than the passing of a written examination and to have the competency evaluation conducted at the nursing facility at which the aide is (or will be) employed (unless the facility is described in subparagraph (B)(iii)(I)), and

"(II) prohibit the imposition on a nurse aide of any charges (including any charges for textbooks and other required course materials and any charges for the competency evaluation) for either such program.".

(6) Section 4211(d)(2) of the Omnibus Budget Reconciliation Act of 1987 is amended by striking "and 1989" and inserting in lieu thereof," 1989, and 1990".

(c) CLARIFICATION OF STATE RESPONSIBILITY TO DETERMINE COMPETENCY.—Section 1919(f)(2)(B) (42 U.S.C. 1396r(f)(2)(B)) is amended, in the second sentence, by inserting "(through subcontract or otherwise)" after "may not delegate".

(d) RESIDENTS' RIGHTS TO REFUSE INTRAFACILITY TRANSFERS TO MOVE THE RESIDENT TO A MEDICARE-QUALIFIED PORTION.—Section 1919(c)(1)(A) (42 U.S.C. 1396r(c)(1)(A)) is amended—

(1) by redesignating clause (x) as clause (xi) and by inserting after clause (ix) the following new clause:

"(x) REFUSAL OF CERTAIN TRANSFERS.—The right to refuse a transfer to another room within the facility, if a purpose of the transfer is to relocate the resident from a portion of the facility that is not a skilled nursing facility (for purposes of title XVIII) to a portion of the facility that is such a skilled nursing facility, unless the facility can demonstrate that it is unable to provide appropriate care for the individual without such transfer."; and

(2) by adding at the end the following: "A resident's exercise of a right to refuse transfer under clause (x) shall not affect the resident's eligibility or entitlement to medical assistance under this title or a State's entitlement to Federal medical assistance under this title with respect to services furnished to such a resident.".

(f) RESIDENT ACCESS TO CLINICAL RECORDS.—Section 1919(c)(1)(A)(iv) of such Act (42 U.S.C. 1396r(c)(1)(A)(iv)) is amended by inserting before the period at the end the following: "and access to current clinical records of the resident promptly upon reasonable request by the resident (as defined by the Secretary)".

(g) NO DELEGATION OF AUTHORITY TO CONDUCT SCREENING AND REVIEWS.—Section 1919 of such Act is further amended—

(1) in subsection (b)(3)(F), by adding at the end the following:

"A State mental health authority and a State mental retardation or developmental disability authority may not delegate (by subcontract or otherwise) their responsibilities under this subparagraph to a nursing facility (or to an entity that has a direct or indirect affiliation or relationship with such a facility).''; and

(2) in subsection (e)(7)(B), as amended by paragraph (5)(A)(i) of this subsection, by adding at the end the following new clause:

"(v) PROHIBITION OF DELEGATION.—A State mental health authority, a State mental retardation or developmental disability authority, and a State may not delegate (by subcontract or otherwise) their responsibilities under this subparagraph to a nursing facility (or to an entity that has a direct or indirect affiliation or relationship with such a facility).".

(h) PUBLICATION OF PROPOSED REGULATIONS.—The Secretary of Health and Human Services shall issue proposed regulations to establish the criteria described in section 1919(f)(8)(A) of the Social Security Act by not later than 90 days after the date of the enactment of this Act.

(i) NO COMPLIANCE ACTIONS BEFORE EFFECTIVE DATE OF GUIDELINES.—The Secretary of Health and Human Services shall not take (and shall not continue) any action against a State under section 1904 or section 1919(e)(7)(D) of the Social Security Act on the basis of the State's failure to meet the requirement of section 1919(e)(7)(A) of such Act before the effective date of guidelines, issued by the Secretary, establishing minimum criteria under section 1919(f)(8)(A) of such Act, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirement before such effective date.

(j) REVISION OF ALTERNATIVE DISPOSITION PLANS.—Section 1919(e)(7)(E) of such Act (42 U.S.C. 1396r(e)(7)(E)) is amended by adding at the end the following: "The State may revise such an agreement, subject to the approval of the Secretary, before October 1, 1990, but only if, under the revised agreement, all residents subject to the agreement who do not require the level of services of such a facility are discharged from the facility by not later than April 1, 1994.".

(k) STATE REPORTS.—Section 1919(e)(7)(C) of such Act (42 U.S.C. 1396r(e)(7)(C)) is amended by adding at the end the following new clause:

"(iv) ANNUAL REPORT.—Each State shall report to the Secretary annually concerning the number and disposition of residents described in each of clauses (ii) and (iii).".

(l) DEFINITION OF MENTALLY ILL.—Section 1919(e)(7)(G)(i) of such Act (42 U.S.C. 1396r(e)(7)(G)(i)) is amended

(1) by striking "primary or secondary" and all that follows through "3rd edition)" and inserting "serious mental illness (as defined by the Secretary)",

(2) by inserting before the period "or a diagnosis (other than a primary diagnosis) of dementia and a primary diagnosis that is not a serious mental illness"

(m) CLARIFICATION WITH RESPECT TO ADMISSIONS AND READMISSION FROM A HOSPITAL.—Section 1919 of the Social Security Act (42 U.S.C. 1396r) is amended—

(1) in subsection (b)(3)(F), by striking "A nursing facility" and by inserting "Except as provided in clauses (ii) and (iii) of subsection (e)(7)(A), a nursing facility"; and

(2) in subsection (e)(7)(A)—

(A) by redesignating the first 2 sentences as clause (i) with the following heading (and appropriate indentation):

"(i) IN GENERAL.—", and

(B) by adding at the end the following:

"(ii) CLARIFICATION WITH RESPECT TO CERTAIN READMISSIONS.—The preadmission screening program under clause (i) need not provide for determinations in the case of the readmission to a nursing facility of an individual who, after being admitted to the nursing facility, was transferred for care in a hospital.

"(iii) EXCEPTION FOR CERTAIN HOSPITAL DISCHARGES.—The preadmission screening program under clause (i) shall not apply to the admission to a nursing facility of an individual—

"(I) who is admitted to the facility directly from a hospital after receiving acute inpatient care at the hospital,

"(II) who requires nursing facility services for the condition for which the individual received care in the hospital, and

"(III) whose attending physician has certified, before admission to the facility, that the individual is likely to require less than 30 days of nursing facility services.".

(n) SUBSTITUTION OF "SPECIALIZED SERVICES" FOR "ACTIVE TREATMENT".—Sections 1919(b)(3)(F) and 1919(e)(7) of such Act (42 U.S.C. 1396r(b)(3)(F), 1396r(e)(7)) is amended by striking "active treatment" and "ACTIVE TREATMENT" each place either appears and inserting "specialized services" and "SPECIALIZED SERVICES", respectively.

(o) MAINTAINING REGULATORY STANDARDS FOR CERTAIN NURSING AND RELATED SERVICES.—The Secretary of Health and Human Services shall provide that any regulations promulgated by the Secretary with respect to nursing and related services described in clauses (ii), (iv), (v) sections 1819(b)(4)(A) and 1919(b)(4)(A) of the Social Security Act, are comparable or more strict in terms of requirements for such services than such regulations for such services were prior to the enactment of the Omnibus Budget Reconciliation Act of 1987.

(p) ADDITIONAL REQUIREMENTS WITH RESPECT TO MEDICAID NURSE STAFFING WAIVERS.—Section 1919(b)(4)(C)(ii) (42 U.S.C. 1369r(b)(4)(C)(ii)) is amended—

(1) by striking "and" at the end of subclause (II);

(2) by striking the period at the end of subclause (III) and by inserting in lieu thereof a comma; and

(3) by adding at the end thereof the following new subclauses:

"(IV) the State agency granting a waiver of such requirement provide notice of the waiver to the appropriate State and substate long-term care ombudsman, to the protection and advocacy system and other appropriate State and private agencies; and

"(V) a nursing facility that is granted such a waiver by a State is required to make reasonable efforts to notify present and prospective residents of the facility (or a guardian or legal representative of such residents) of the waiver.".

(q) STUDY ON STAFFING REQUIREMENTS IN NURSING FACILITIES.—The Secretary of Health and Human Services (hereinafter in this subsection referred to as the "Secretary") shall conduct a study and report to Congress no later than January 1, 1991, on the appropriateness of establishing minimum caregiver to resident ratios and minimum supervisor to caregiver ratios for nursing facilities receiving payments under a State plan under title XIX of the Social Security Act. If the Secretary determines that the establishment of such minimum ratios is advisable, the Secretary shall specify in the report provided for in this subsection appropriate ratios or standards.

(r) CLARIFICATION OF APPLICABILITY OF ENFORCEMENT RULES TO DUALLY-CERTIFIED FACILITIES.—Section 1919(h)(8) (42 U.S.C. 1396r(h)(8)) is amended by adding at the end the following: "The provisions of this subsection shall apply to a nursing facility (or portion thereof) notwithstanding that the facility (or portion thereof) also is a skilled nursing facility for purposes of title XVIII.".

(s) DELAY IN REQUIREMENT FOR REMEDIES.—Section 1919(h)(2)(E)(i) (42 U.S.C. 1396r(h)(2)(B)(i)) is amended by striking "October 1, 1989" and inserting in lieu thereof "April 1, 1991".

(t) NURSE AIDE REGISTRY.—

(1) MEDICARE.—Section 1819(b)(5)(C) (42 U.S.C. 1395i-3(b)(5)(C)) is amended by adding at the end thereof the following new sentence: "In the case of an individual who a skilled nursing facility is considering employing as a nurse aide and who the facility has reason to believe is from a State other than the State in which the facility is located, such a facility shall not use such an individual as a nurse aide unless the facility has inquired concerning such individual of the State registry established under subsection (e)(2)(A) of the State from which such facility has reason to believe such individual most recently resided.".

(2) MEDICAID.—Section 1919(b)(5)(C) (42 U.S.C. 1396r(b)(5)(C)) is amended by adding at the end thereof the following new sentence: "In the case of an individual who a skilled nursing facility is considering employing as a nurse aide and who the facility has reason to believe is from a State other than the State in which the facility is located, such a facility shall not use such an individual as a nurse aide unless the facility has inquired concerning such individual of the State registry established under subsection (e)(2)(A) of the State from which such facility has reason to believe such individual most recently resided.".

(u) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this section shall take effect as if they were included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

(2) EXCEPTION.—The amendments made by paragraph (5) shall apply to nurse aide training and competency evaluation programs, and nurse aide competency evaluation programs, offered on or after the end of the 90-day period beginning on the date of the enactment of this Act, but shall not affect competency evaluations conducted under programs offered before the end of such period.

SEC. 1644. DISPROPORTIONATE SHARE HOSPITALS.

(a) NEW JERSEY UNCOMPENSATED CARE TRUST FUND.—Section 1923(e)(1) (42 U.S.C. 1396r-4(e)(1)) is amended—

(1) by inserting "(A)(i)" after "without regard to the requirement of subsection (a) if", and

(2) by striking "and if" and inserting "or (ii) the plan as of January 1, 197, provided for payment adjustments based on a statewide pooling arrangement involving all acute care hospitals and the arrangement provides for reimbursement in proportion to the amount of uncompensated care provided by each participating hospital, and (3)".

(b) CONFORMING AMENDMENT.—Section 1915(b)(4) (42 U.S.C.1396n(b)(4)) is amended by inserting "shall be consistent with the requirements of section 1923 and" after "which standards".

(c) TRANSITION RULE.—The State of Missouri shall be treated as having met the requirement of section 1902(a)(13)(A) of the Social Security Act (insofar as it requires payments to hospitals to take into account the situation of hospitals that serve a disproportionate number of low-income patients with special needs) for the period beginning with July 1, 1988, and ending with (and including) June 30, 1990, if the total amount of such payments for such period is not less than the total of such payments otherwise required by law for such period.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall be effective as if included in the enactment of the Omnibus Reconciliation Act of 1987.

SEC. 1645. INTERMEDIATE SANCTIONS FOR PSYCHIATRIC HOSPITALS UNDER MEDICAID.

Subsection (i) of section 1902 of such Act (42 U.S.C. 1396a) is amended to read as follows:

"(i)(1) In addition to any other authority under State law, where a State determines that a psychiatric hospital which is certified for participation under its plan no longer meets the requirements for a psychiatric hospital (referred to in section 1905(h)) and further finds that the hospital's deficiencies—

"(A) immediately jeopardize the health and safety of its patients, the State shall terminate the hospital's participation under the State plan; or

"(B) do not immediately jeopardize the health and safety of its patients, the State may terminate the hospital's participation under the State plan, or provide that no payment will be made under the State plan with respect to any individual admitted to such hospital after the effective date of the finding, or both.

"(2) Except as provided in paragraph (3), if a psychiatric hospital described in paragraph (1)(B) has not complied with the requirements for a psychiatric hospital under this title—

"(A) within 3 months after the date the hospital is found to be out of compliance with such requirements, the State shall provide that no payment will be made under the State plan with respect to any individual admitted to such hospital after the end of such 3-month period, or

"(B) within 6 months after the date the hospital is found to be out of compliance with such requirements, no Federal financial participation shall be provided under section 1903(a) with respect to further services provided in the hospital until the State finds that the hospital is in compliance with the requirements of this title.

"(3) The Secretary may continue payments, over a period of not longer than 6 months from the date the hospital is found to be out of compliance with such requirements, if—

"(A) the State finds that it is more appropriate to take alternative action to assure compliance of the hospital with the requirements than to terminate the certification of the hospital.

"(B) the State has submitted a plan and timetable for corrective action to the Secretary for approval and the Secretary approves the plan of corrective action, and

"(C) the State agrees to repay to the Federal Government payments received under this paragraph if the corrective action is not taken in accordance with the approved plan and timetable.".

1396(a)(10)(E)) is amended—

(1) by inserting "(i)" after "(E)",

(2) by striking the semicolon at the end and inserting ", and", and

(3) by adding at the end the following new clause:

"(ii) for making medical assistance available for payment of Medicare cost-sharing described in section 1905(p)(3)(A)(i) for qualified disabled and working individuals described in section 1905(r);".

(b) ELIGIBILITY.—Section 1905 of such Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

"(r) The term 'qualified disabled and working individual' means an individual—

"(1) who is entitled to enroll for hospital insurance benefits under part A of title XVIII under section 1818A;

"(2) whose income (as determined under section 1612 for purposes of the supplemental security income program) does not exceed 250 percent (or at the State's option 350 percent) of the income official poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved;

"(3) whose resources (as determined under section 1613 for purposes of the supplemental security income program) do not exceed twice the maximum amount of resources that an individual or a couple (in the case of an individual with a spouse) have and obtain benefits for supplemental security income benefits under title XVI; and

"(4) who is not otherwise eligible for medical assistance under this title.".

(c) PREMIUM PAYMENTS REQUIRED FOR CERTAIN INDIVIDUALS.—Section 1916 of such Act (42 U.S.C. 1396) is amended—

(1) in subsection (a), by striking "(E)" and inserting "(E)(i)";

(2) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(3) by inserting after subsection (c) the following new subsection:

"(d)(1) With respect to a qualified disabled and working individual described in section 1905(r) whose amount of income (as it would be determined as if such individual was applying for benefits under title XVI of this Act) exceeds 150 percent of the income official poverty line for an unrelated individual under the age of 65 (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981), the State plan of a State may provide for the charging of a premium (expressed as a percentage of the Medicare cost-sharing described in section 1905(p)(3)(A)(i) provided with respect to the individual) according to a sliding scale under which such percentage increases from 0 percent to 100 percent, in reasonable increments as the individual's income increases from 150 percent of such poverty line to 250 percent of such poverty line.

"(2) With respect to a qualified disabled and working individual described in section 1905(r) whose amount of income (as it would be determined as if such individual was applying for benefits under title XVI of this Act) exceeds 250 percent but is less than 350 percent of the income official poverty line for an unrelated individual under the age of 65 (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981), the State plan of a State shall provide for the charging of a premium (expressed as a percentage of the Medicare cost-sharing described in section 1905(p)(3)(A)(i) provided with respect to the

individual) according to a sliding scale as provided in paragraph (1), if applicable.

"(3) A State shall not require prepayment of a premium imposed under this subsection and shall not terminate eligibility of an individual for medical assistance under this title on the basis of such individual's failure to pay any such premium until such failure continues for a period of not less than 60 days.".

(e) CONFORMING AMENDMENTS.—(1) Section 1905(p)(3) (42 U.S.C. 1396(p)(3)) is amended to read as follows:

"(A)(i) premiums under section 1818, and

"(ii) premiums under section 1839,".

(2) Section 1905(p)(1)(A) (42 U.S.C. 1396d(p)(5)) is amended by inserting "but not including an individual entitled to such benefits only pursuant to an enrollment under section 1818A"; and

(3) Section 1902(f) (42 U.S.C. 1396a(f)) is amended by inserting "and except with respect to qualified disabled and working individuals (described in section 1905(r)" after "1619(b)(3)".

(f) EFFECTIVE DATE.—(1) The amendments made by this title apply (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after the first day of the 13th calendar month following the month in which the date of enactment of this Act occurs.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the rest of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the state legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a state that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

Subtitle D—Miscellaneous Provisions

SEC. 1701. USE OF RETURN INFORMATION TO VERIFY INCOME FOR PURPOSES OF NEEDS-BASED BENEFITS AND SERVICES OF DEPARTMENT OF VETERANS AFFAIRS.

(a) DISCLOSURE OF TAX INFORMATION TO DVA.—

(1) IN GENERAL.—Subparagraph (D) of section 6103(l)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended—

(A) by striking "and" at the end of clause (vi),

(B) by striking the period at the end of clause (vii) and inserting "; and", and

(C) by adding at the end the following new clause:

"(viii)(I) any needs-based pension provided under chapter 15 of title 38, United States Code, or any other needs-based pension administered by the Secretary of Veterans Affairs and affected by section 306 of Public Law 95-588;

"(II) parents' dependency and indemnity compensation provided under section 415 of title 38, United States Code;

"(III) health-care services furnished under sections 610(a)(1)(I), 610(a)(2)(A), 610(b), and 612(a)(2)(B) of such title; and

"(IV) compensation paid under chapter 11 of title 38, United States Code, at the 100 percent rate based solely on unemployability and without regard to the fact that the disability or disabilities are not rated as 100 percent disabling under the rating schedule. Only return information from returns with respect to net earnings from self-employment and wages may be disclosed under this paragraph for use with respect to any program described in clause (viii)(IV)."

(2) CLERICAL AMENDMENT.—The heading of paragraph (7) of section 6103(l) is amended by striking "OR THE FOOD STAMP ACT OF 1977" and inserting ", THE FOOD STAMP ACT OF 1977, OR TITLE 38, UNITED STATES CODE".

(b) USE OF INCOME INFORMATION.—

(1) USE FOR NEEDS-BASED PROGRAMS.—Chapter 53 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 3117. Use of income information from other agencies: notice and verification

"(a) The Secretary shall notify each applicant for a benefit or service described in subsection (c) of this section that income information furnished by the applicant to the Secretary may be compared with information obtained by the Secretary from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986.

"(b) The Secretary may not, by reason of information obtained from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986, terminate, deny, suspend, or reduce any benefit or service described in subsection (c) of this section until the Secretary takes appropriate steps to verify independently information relating to the following:

"(1) The amount of the asset or income involved.

"(2) Whether such individual actually has (or had) access to such asset or income for the individual's own use.

"(3) The period or periods when the individual actually had such asset or income.

"(c) The benefits and services described in this subsection are the following:

"(1) Needs-based pension benefits provided under chapter 15 of this title or any other law administered by the Secretary.

"(2) Parents' dependency and indemnity compensation provided under section 415 of this title.

"(3) Health-care services furnished under sections 610(a)(1)(I), 602(a)(2)(A), 610(b), and 612(a)(2)(B) of this title.

"(4) Compensation paid under chapter 11 of title 38, United States Code, at the 100 percent rate based solely on unemployability and without regard to the fact that the disability or disabilities are not rated as 100 percent disabling under the rating schedule.

"(d) In the case of compensation described in subsection (c)(4) of this section, the Secretary may independently verify or otherwise act upon wage or self-employment information referred to in subsection (b) of this section only if the Secretary finds that the amount and duration of the earnings reported in that information clearly indicate that the individual may no longer be qualified for a rating of total disability.

"(e) The Secretary shall inform the individual of the findings made by the Secretary on the basis of verified information under subsection (b) of this section, and shall give the individual an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility for the benefit or service involved."

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3117. Use of income information from other agencies: notice and verification.".

(c) NOTICE TO CURRENT BENEFICIARIES.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall notify individuals who (as of the enactment of this Act) are applicants for or recipients of the benefits described in subsection (b) (other than paragraph (3)) of section 3117 of title 38, United States Code (as added by subsection (b)), that income information furnished to the Secretary by such applicants and recipients may be compared with information obtained by the Secretary from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 (as added by subsection (a)).

(2) DEADLINE FOR NOTICE.—Notification under paragraph (1) shall be made not later than 90 days after the date of the enactment of this Act.

(3) LIMITATION UNTIL NOTICE MADE.—The Secretary of Veterans Affairs may not obtain information from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 (as added by subsection (a)) until such notification under paragraph (1) is made.

(d) PAYMENT OF ADMINISTRATIVE COSTS.—The costs incurred by the Secretary of Veterans Affairs in obtaining, verifying, and using information disclosed pursuant to the amendments made by subsection (a) shall be paid for out of the Department of Veterans Affairs' compensation and pension account, and amounts collected as a result of such actions shall be paid into such account.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, but information disclosed pursuant to the amendment made by subsection (a) may not be used to reduce, deny, or otherwise affect any benefit provided before such date.

SEC. 1702. COLLECTION OF OVERPAYMENTS OF BLACK LUNG BENEFITS.

Any overpayment of black lung benefits paid pursuant to the Black Lung Benefits Act (30 U.S.C. 901 et seq.) shall not be considered a past-due legally enforceable debt for purposes of section 6402(d) of the Internal Revenue Code of 1986 (relating to offset of tax refunds for debts owed to Federal agencies).

SEC. 1703. TECHNICAL MODIFICATIONS WITH RESPECT TO THE NATIONAL COMMISSION ON CHILDREN.

Section 1139 (42 U.S.C. 1320b-9) is amended—

(1) in subsection (d)—

(A) by striking "September 30, 1988" and inserting in lieu thereof "March 31, 1990"; and

(B) by striking "March 31, 1989" and inserting in lieu thereof "March 31, 1991";

(2) in subsection (e), by striking "March 31, 1989" and inserting in lieu thereof "March 31, 1991";

(3) in subsection (j), by striking "such sums" and inserting in lieu thereof "through fiscal year 1991, such sums"; and

(4) by adding at the end thereof the following new subsections:

"(k)(1) The Commission is authorized to accept donations of money, property, or personal services. Funds received from donations shall be deposited in the Treasury in a separate fund created for this purpose. Funds appropriated for the Commission and donated funds may be expended for such purposes as official reception and representation expenses, public surveys, public service announcements, preparation of special papers, analyses, and documentaries, and for such other purposes as determined by the Commission to be in furtherance of its mission to review national issues affecting children.

"(2) For purposes of Federal income, estate, and gift taxation, money and other property accepted under paragraph (1) of this subsection shall be considered as a gift or bequest to or for the use of the United States.

"(3) Expenditure of appropriated and donated funds shall be subject to such rules and regulations as may be adopted by the Commission and shall not be subject to Federal procurement requirements.

"(l) The Commission is authorized to conduct such public surveys as it deems necessary in support of its review of national issues affecting children and, in conducting such surveys, the Commission shall not be deemed to be an "agency" for the purpose of 44 U.S.C. 3502.".

SEC. 1704. TECHNICAL MODIFICATIONS WITH RESPECT TO THE COMMISSION ON COMPREHENSIVE HEALTH CARE.

Title IV of the Medicare Catastrophic Coverage Act of 1988 is amended—

(1) in subtitle A by striking "**United States**" and inserting in lieu thereof "**The Claude Pepper**"; and

(2) in section 406(b), by striking "1 year after the date of enactment of this Act" and inserting in lieu thereof "March 1, 1990".

SEC. 1705. HCFA PERSONNEL STUDY.

(a) IN GENERAL.—The Secretary of Health and Human Services shall (subject to subsection (c)) enter into an agreement with the National Academy of Public Administration (hereafter in this subsection referred to as the "Academy") to—

(1) study personnel administration at the Health Care Financing Administration (hereafter in this section referred to as "HCFA");

(2) assess the adequacy of HCFA staffing; and

(3) recommend any needed changes with respect to HCFA staffing to the Secretary of Health and Human Services and the Congress.

(b) REQUIREMENTS OF STUDY.—In conducting the study, the Academy shall interview management officials at HCFA and other appropriate agencies. The study shall include consideration of—

(1) the average years in service, years to retirement and average age of various categories of HCFA personnel;

(2) the adequacy of HCFA practices to recruit personnel to replace persons who retire or resign and train new employees in the intricacies of HCFA programs;

(3) the grade structure of various categories of HCFA personnel, and the need for additional nonsupervisory positions at the GS 13, 14, and 15 levels for particularly skilled and expert personnel needed for HCFA to carry out its missions;

(4) the grade structure at HCFA with Federal agencies of similar size and responsibilities;

(5) whether bonus payments or other incentives are needed for HCFA to recruit and retain specialized personnel;

(6) particular problems in hiring personnel that may prevent recruitment and retention of qualified staff;

(7) Office of Personnel Management rules that may be burdensome to the hiring process; and

(8) how HCFA can more appropriately address the priorities of both Congress and the executive branch of Government.

(c) ARRANGEMENTS FOR STUDY.—The Secretary shall request the National Academy of Sciences, acting through appropriate units, to submit an application to conduct the study described in this subsection. If the Academy submits an acceptable application, the Secretary shall enter into an appropriate arrangement with the Academy for the conduct of the study. If the Academy does not submit an acceptable application to conduct the study, the Secretary may request one or more appropriate nonprofit private entities to submit an application to conduct the study and may enter into an appropriate arrangement for the conduct of the study by the entity which submits the best acceptable application.

(d) DATE OF REPORT.—The results of the study shall be reported to Congress and the Secretary of Health and Human Services no later than December 31, 1990.

SEC. 1706. OTA STUDY OF CLOSED CAPTIONING.

(a) STUDY.—The Office of Technology Assessment shall conduct a study and submit a report to Congress no later than January 1, 1991, on the advisability of requiring hospitals and nursing homes receiving payments under title XVIII of the Social Security Act or financial participation under a State plan under title XIX of the Social Security Act to provide items and services necessary to allow closed captioning for televisions in such hospitals or facilities.

(b) REPORT.—The Office of Technology Assessment shall submit a report to Congress summarizing the findings of the study described in subsection (a) no later than the date specified in such subsection.

TITLE II

SECTION 2000. REPEAL OF MEDICARE CATASTROPHIC COVERAGE PROVISIONS EFFECTIVE IN YEARS AFTER 1989 AND SUPPLEMENTAL MEDICARE PREMIUM.

(a) GENERAL REPEAL.—

(1) IN GENERAL.—The following provisions of the Medicare Catastrophic Coverage Act of 1988, as amended by the Technical and Miscellaneous Revenue Act of 1988, are hereby repealed, and the Social Security Act shall be applied and administered as if such provisions (and the amendments made by such provisions) had not been enacted:

(A) Section 201.

(B) Subsections (i), (j), and (k) of section 202.

(C) Section 211(c)(3).

(D) Section 212 (other than subsection (b)(2)).

(E) Section 213.

(2) EFFECTIVE DATE.—The repeals made by this subsection shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

(b) GENERAL DELAY.—

(1) Section 1834(d)(2) of the Social Security Act, as added by section 203(c)(1)(F) of the Medicare Catastrophic Coverage Act, is amended by striking "1990" and inserting "1991".

(2) Section 203(c)(2) of the Medicare Catastrophic Coverage Act is amended by striking "1991" and inserting "1992".

(3) Section 1835(a)(2)(G) of the Social Security Act, as inserted on section 203(d)(1)(C) of the Medicare Catastrophic Coverage Act, is amended by striking "1993" and inserting "1994".

(4) Section 1154(a)(16) of the Social Security Act, as amended by section 203(d)(2) of the Medicare Catastrophic Coverage Act, is amended by striking "1993" and inserting "1994".

(5) Section 203(g) of the Medicare Catastrophic Coverage Act is amended by striking "1990" and inserting "1991".

(6) Section 1834(e)) of the Social Security Act, as added by section 204(b)(2) of the Medicare Catastrophic Coverage Act, is amended—

(A) in paragraph (2)(B)(ii), by striking "1992" and inserting "1993",

(B) in paragraph (4)(A)(i), by striking "1990" and inserting "1991",

(C) in paragraph (4)(B), by striking "1991" and inserting "1992", and

(D) in paragraph (5), by striking "1990" and "1991" each place each appears and inserting "1991" and "1992", respectively.

(7) Section 204(3) of the Medicare Catastrophic Coverage Act is amended by striking "1990" and inserting "1991".

(c) SUPPLEMENTAL MEDICARE PREMIUM REPEAL.—

(1) GENERAL REPEAL.—Section 111 of the Medicare Catastrophic Coverage Act of 1988, as amended by the Technical and Miscellaneous Revenue Act of 1988, is hereby repealed, and the Internal Revenue Code of 1986 shall be applied and administered as if such provisions (and the amendments made by such provisions) had not been enacted:

(2) CONFORMING AMENDMENTS RELATING TO TRUST FUNDS.—

(A) FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.—Section 1817A of the Social Security Act (42 U.S.C. 1395i-1a) is amended by adding at the end thereof the following new subsection:

"(d) On November 1, 1989, the Secretary shall transfer any amount remaining in the Trust Fund (including interest) to the general fund.".

(B) SMI TRUST FUND.—Section 1841(a) of the Social Security Act (42 U.S.C. 1395t(a)) is amended by striking "which are attributable to the catastrophic coverage rate and which are not otherwise appropriated under section 1817A(a)(2) to the Federal Hospital Insurance Catastrophic Coverage Reserve Fund".

(3) EFFECTIVE DATES.—The repeal and amendments made by this subsection shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

(d) MODIFICATION OF EXTENDED CARE SERVICES.—

(1) DURATION OF EXTENDED CARE SERVICES REDUCED TO 100 DAYS PER YEAR.—Section 1812 of the Social Security Act (42 U.S.C. 1395d) is amended by striking "150 days" in subsections (a)(2) and (b)(1) and inserting "100 days".

(2) POST-HOSPITALIZATION REQUIREMENT REINSTATED.—

(A) IN GENERAL.—Section 1812 of the Social Security Act (42 U.S.C. 1395d) is amended—

(i) in subsection (a)(2), as amended by paragraph (1), by striking "extended care services for up to 100 days during any calendar year" and inserting in lieu thereof "(A) post-hospital extended care services for up to 100 days, and (B), to the extent provided in subsection (f), extended care services that are not post-hospital extended care services";

(ii) in subsection (b)(1), by inserting "post-hospital" before "extended care";

(iii) in subsection (e), by inserting "post-hospital" before "extended care"; and

(iv) by adding at the end thereof the following new subsections:

"(f)(1) The Secretary shall provide for coverage under clause (B) of subsection (a)(2) of this section, of extended care services which are not post-hospital extended care services at such time and for so long as the Secretary determines, under such terms and conditions (described in paragraph (2)) as the Secretary finds appropriate, that the inclusion of such services will not result in any increase in the total of payments made under this subchapter and will not alter the acute care nature of the benefit described in subsection (a)(2) of this subsection.

"(2) The Secretary shall provide—

"(A) for such limitations on the scope and extent of such services described in subsection (a)(2)(B) of this section, and on the categories of individuals who may be eligible to receive such services, and

"(B) notwithstanding sections 1814, 1861(v), and 1886 of this title for such restrictions and alternatives on the amount and methods of payment described in such subsection,

as may be necessary to carry out paragraph (1).

"(g) For a definition of 'post-hospital extended care services' and definitions of other terms used in this part, see section 1861 of this title.".

(B) MISCELLANEOUS AND CONFORMING AMENDMENTS.—

(i) Section 1811 of such Act (42 U.S.C. 1395c) is amended by inserting "post-hospital" before "extended care".

(ii) Paragraphs (2)(B) and (6) of section 1814(a) of such Act (42 U.S.C. 1395f(a)) are each amended by inserting "post-hospital" before "extended care" each place it appears.

(iii) Section 1861(e) of such Act (42 U.S.C. 1395x(e)) is amended—

(I) in the matter before paragraph (1), by inserting "and, subsection (i) of this subsection," after "and paragraph (7) of this subsection";

(II) in the second sentence, by inserting ", and subsection (i) of this section" after "and section 1814(f)(2)";

(III) in the fourth sentence, by inserting "except for purposes of subsection (a)(2)" after ", such term shall not"; and

(IV) by inserting after the first sentence the following new sentence: "For purposes of subsection (a)(2) of this section, such term includes any institution which meets the requirements of paragraph (1) of this section.".

(iv) Section 1861 of such Act (42 U.S.C. 1395x) is amended by inserting after subsection (h) the following new subsection:

"(i) The term 'post-hospital extended care services' means extended care services furnished an individual after transfer from a hospital in which such individual was an inpatient for not less than 3 consecutive days before his discharge from the hospital in connection with such transfer. For purposes of the preceding sentences, items and services shall be deemed to have been furnished to an individual after transfer from a hospital, and such individual shall be deemed to have been an inpatient in the hospital immediately before transfer therefrom, if such individual is admitted to the skilled nursing facility—

"(A) within 30 days after discharge from such hospital, or

"(B) within such time as it would be medically appropriate to begin an active course of treatment, in the case of an individual whose condition is such that skilled nursing care would not be medically appropriate within 30 days after discharge from a hospital;

and an individual shall be deemed not to have been discharged from a skilled nursing facility if, within 30 days after discharge therefrom, such individual is admitted to such facility or any other skilled nursing facility.".

(v) Subsections (v)(1)(G)(i), (v)(2)(A), and (v)(3) of section 1861 of such Act (42 U.S.C. 1395x) are each amended by inserting "post-hospital" before "extended care" each place it appears.

(vi) Section 1861(y) of such Act (42 U.S.C. 1395x(y)) is amended—

(I) by inserting "Post-Hospital" before "Extended Care" in the heading and by inserting "post-hospital" before "extended care" each place it appears, and

(II) in paragraph (1), by inserting "(except for purposes of subsection (a)(2))" after "Boston, Massachusetts, but only".

(vii) Section 1866(d) of such Act (42 U.S.C. 1395cc(d)) is amended by inserting "post-hospital" before "extended care".

(viii) Subsections (d)(1) and (f) of section 1883 of such Act (42 U.S.C. 1395tt) are amended by inserting "post-hospital" before "extended care" each place it appears.

(3) COINSURANCE MODIFIED.—

(A) AMOUNT.—Paragraph (3) of section 1813(a) of such Act (42 U.S.C. 1395e(a)) is amended to read as follows:

"(3) The amount payable for post-hospital extended care services furnished an individual shall be reduced by a coinsurance amount equal to one-eighth of the inpatient hospital deductible for each day (before the 101st day) on which he is furnished such services after such services have been furnished to him for 20 days.

(4) USE OF EXCESS PREMIUM REVENUES.—Nothwithstanding any other provision of law, the Secretary of Health and Human Services shall use any excess revenues resulting from the amendments made by this section to—

(A) first, reimburse the Federal Hospital Insurance Trust Fund for any costs resulting from the provision of extended care services to individuals admitted before November 1, 1989, and

(B) second, to further reduce premiums imposed under section 1839 of the Social Security Act.

(5) STUDY.—The Secretary of Health and Human Services, or the Secretary's delegate, shall study the reasons for the unexpected increase in cost estimates of the extended care services benefit under title XVIII of the Social Security Act. The Secretary shall report to the Congress no later than February 1, 1990 the results of the study, including any recommendations for further modifications to such benefit appropriate during the consideration of the provision of long-term care benefits.

(6) EFFECTIVE DATE.—The amendments made by this subsection shall apply to admissions occurring after October 31, 1989, and shall apply to care and services furnished on or after such date.

(e) LIMITATION OF DRUG BENEFITS TO IMMUNOSUPPRESSANTS AND HOME IV DRUGS.—

(1) IN GENERAL.—Subparagraph (B) of section 1861(t)(3) of the Social Security Act (42 U.S.C. 1395x(t)(3)) is amended by striking "in 1990" and inserting "in years after 1989".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

(f) ADJUSTMENT IN MEDICARE PART B PREMIUM.—

(1) IN GENERAL.—Section 1839(a) of the Social Security Act (42 U.S.C. 1395r(a)) is amended—

(A) in paragraph (1) by striking all after "(a)(1)" and inserting the following: "(A) The Secretary shall, during September of 1989 and of each year thereafter, determine the monthly actuarial basic rate and the monthly actuarial catastrophic illness rate for enrollees age 65 and over which shall be applicable for the succeeding calendar year.

"(B) The monthly actuarial basic rate determined under this paragraph for a calendar year shall be the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to those enrollees age 65 and over will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees (excluding benefits payable under section 1833(c)).

"(C) The monthly actuarial catastrophic illness rate determined under this paragraph for a calendar year shall be equal to the sum of—

"(i) the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to those enrollees age 65 and over will equal the total of the benefits and administrative costs which he estimates will be payable from—

"(I) the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative services costs incurred in such calendar year with respect to such enrollees under section 1833(c), and

"(II) the Federal Hospital Insurance Trust Fund, which are attributable to the Medicare Catastrophic Coverage Act of 1988, as amended, and

"(ii) the amount (if any) that the Secretary estimates to be necessary to offset any amount—

"(I) by which the monthly premiums otherwise payable under this section with respect to such enrollees for such calendar year (disregarding subsections (b) and (f)) are reduced by reason of the limitation imposed by subsection (f), and

"(II) that are attributable (as determined by the Secretary) to the portion of such monthly premiums that is determined under paragraph (3)(A).

"(D) In calculating the monthly actuarial rates under this paragraph, the Secretary shall include appropriate amounts for a contingency margin.",

(B) in paragraph (2) by striking "1983" and inserting "1989",

(C) in paragraph (3)—

(i) by striking "1983" in the first sentence and inserting "1989",

(ii) by striking the second sentence and inserting the following: "The monthly premium shall (except as otherwise provided in subsection (e)) be equal to the sum of—

"(A) a weighted average of the monthly actuarial catastrophic illness rate for enrollees age 65 and over, determined under paragraph (1) of this subsection, and that rate for disabled enrollees under age 65, determined under paragraph (4) of this subsection, for that calendar year, and

"(B) the smaller of—

"(i) the monthly actuarial basic rate for enrollees age 65 and over, determined according to paragraph (1) of this subsection, for that calendar year, or

"(ii) the monthly payment rate most recently promulgated by the Secretary under this paragraph, increased by a percentage determined as follows: The Secretary shall ascertain the primary insurance amount computed under section 215(a)(1), based upon average indexed monthly earnings of $900, that applied to individuals who became eligible for and entitled to old-age insurance benefits on November 1 of the year before the year of the promulgation. He shall increase the monthly premium rate by the same percentage by which that primary insurance amount is increased when, by reason of the law in effect at the time the promulgation is made, it is so computed to apply to those individuals for the following November 1.", and

(iii) by striking "amount of an adequate actuarial rate for enrollees age 65 and over as provided in paragraph (1)" in the third sentence and inserting "amounts of adequate actuarial rates for enrollees as provided in paragraphs (1) and (4)", and

(D) by striking paragraph (4) and inserting the following:

"(4)(A) The Secretary shall also, during September of 1989 and of each year thereafter, determine the monthly actuarial basic rate and the monthly actuarial catastrophic illness rate for disabled enrollees under age 65 which shall be applicable for the succeeding calendar year.

"(B) The monthly actuarial basic rate determined under this paragraph for a calendar year shall be for the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to disabled enrollees under age 65 will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees (excluding benefits payable under section 1833(c)).

"(C) The monthly actuarial catastrophic illness rate determined under this paragraph for a calendar year shall be equal to the sum of—

"(i) the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to disabled enrollees under age 65 will equal the total of the benefits and administrative costs which he estimates will be payable from—

"(I) the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative services costs incurred in such calendar year with respect to such enrollees under section 1833(c), and

"(II) the Federal Hospital Insurance Trust Fund, which are attributable to the Medicare Catastrophic Coverage Act of 1988, as amended, and

"(ii) the amount (if any) that the Secretary estimates to be necessary to offset any amounts—

"(I) by which the monthly premiums otherwise payable under this section with respect to such enrollees for such calendar year (disregarding subsections (b) and (f)) are reduced by reason of the limitation imposed by subsection (f), and

"(II) that are attributable to the portion of such monthly premiums that is determined under paragraph (3)(A) (as determined by the Secretary).

"(D) In calculating the monthly actuarial rates under this paragraph, the Secretary shall include appropriate amounts for a contingency margin.".

(2) CONFORMING AMENDMENTS.—

(A) Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended—

(i) by striking "the Medicare Catastrophic Coverage Account) in the last sentence of subsections (a)(1) and (a)(4) and inserting "the amendments made by the Medicare Catastrophic Coverage Act of 1988",

(ii) by striking "(b), (e), and (g)" in subsection (a)(2) and inserting "(b) and (e)",

(iii) by striking "subsections (f) and (g)(6)" in subsection (b) and inserting "subsection (f)",

(iv) by striking "monthly premium" in subsection (e)(1) and inserting "portion of the monthly premium otherwise determined under subsection (a)(3)(B)",

(v) by inserting "basic" in subsection (e)(1) after "actuarial", and

(vi) by striking subsection (g).

(B) Section 1840 of such Act (42 U.S.C. 1395s) is amended by adding at the end thereof the following new subsection:

"(i) Notwithstanding the previous provisions of this subsection, premiums collected under this part which are attributable to the monthly actuarial catastrophic illness rate established under subsections (a)(1)(C)(i)(II) and (a)(4)(C)(i)(II) of section 1839 shall, instead of being transferred to (or being deposited to the credit of) the Federal Supplemental Medical Insurance Trust Fund, be transferred to (or deposited to the credit of) the Federal Hospital Insurance Trust Fund.".

(C) Subsection (a) of section 1844 of such Act (42 U.S.C. 1395w) is amended by striking the last sentence.

(D) Subsections (a)(1)(A)(i) and (a)(1)(B)(i) of section 1844 of such Act (42 U.S.C. 1395w) are each amended by striking "twice the dollar amount of the actuarially adequate rate" and inserting "the sum of the dollar amount of the actuarially adequate catastrophic illness rate and twice the dollar amount of the actuarially adequate basic rate".

(E) Section 1876(a)(5) of such Act (42 U.S.C. 1395mm(a)(5)) is amended—

(i) in the matter preceding subparagraph (A), by striking "200 percent of", and

(ii) in subparagraphs (A)(ii) and (B)(ii), by striking "monthly actuarial rate" and inserting "the sum of the monthly actuarial catastrophic illness rate and twice the monthly actuarial basic rate".

(3) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) of this subsection shall apply to monthly premiums for months beginning after October 1989.

(B) The amendments made by paragraph (2) of this subsection shall take effect on or after November 1, 1989.

(g) REVISION OF MEDIGAP REGULATIONS.—(1) Section 1882 of the Social Security Act (42 U.S.C. 1395ss), as amended by section 221(d) of the Medicare Catastrophic Coverage Act of 1988, is amended—

(A) in the third sentence of subsection (a) and in subsection (b)(1), by striking "subsection (k)(3)" and inserting "subsections (k)(3), (k)(4), and (m);

(B) in subsection (k)—

(i) in paragraph (1)(A), by inserting "except as provided in subsection (m)," before "subsection (g)(2)(A)", and

(ii) in paragraph (3), by striking "subsection (l)" and inserting "subsections (l), (m)"; and

(C) by adding at the end the following new subsections:

"(m) In the case of an insurer which had in effect, as of December 31, 1988, a medicare supplemental policy with respect to an individual, for which the individual terminated coverage as of January 1, 1989 (or the earliest renewal date thereafter), no medicare supplemental policy of the insurer shall be deemed to meet the standards in subsection (c) unless the insurer—

"(1) provides written notice, by January 15, 1990, to the individual (at the most recent available address) of the offer described in paragraph (2), and

"(2) offers to the individual, during the period beginning on January 1, 1990, and ending on March 1, 1990, continuation of coverage under such a medicare supplemental policy (with coverage effective as of January 1, 1990), under the terms respecting treatment of pre-existing conditions and group rating of premium which are at least favorable to the individual as such terms as existed with respect to the policy as of December 31, 1988.".

(2) SENSE OF CONGRESS.—It is the sense of Congress that States should respond, at the earliest practicable date after the date of enactment of this Act, to requests by insurers for review and approval of riders and premium adjustments for medicare supplemental policies in order to comply with the amendments made by paragraph (1).

(3) ADJUSTMENT OF CONTRACTS WITH PREPAID HEALTH PLANS.—Section 222 of the Medicare Catastrophic Coverage Act of 1988 is amended by inserting "and before January 1, 1990," after "December 31, 1988," each place it appears.

(4) NOTICE OF CHANGES.—The Secretary of Health and Human Services shall provide, in the notice of medicare benefits provided under section 1804 of the Social Security Act of 1990, for a description of the changes in benefits under title XVIII of such Act made by the amendments made by this section.

(5) MISCELLANEOUS TECHNICAL CORRECTION.—Section 221(g)(3) of Medicare Catastrophic Coverage Act of 1988 is amended by striking "subsection (f)" and inserting "subsection (e)".

(6) EFFECTIVE DATE.—The provisions of this subsection shall take effect January 1, 1990, except that the amendment made by paragraph (5) shall be effective as if included in the enactment of Medicare Catastrophic Coverage Act of 1988.

(h) SPELL OF ILLNESS REINSTATED FOR SNFF.—

(1) IN GENERAL.—Section 1813 of the Social Security Act is amended by striking "in any calendar year" and "during the year" in subsection (a)(3)(A) and inserting "during any spell of illness".

(2) CONFORMING AMENDMENTS.—

(A) Section 1832(b) of such Act is amended by inserting " 'spell of illness'," after "For definitions of".

(B) Section 1861 of such Act is amended by inserting before subsection (b) the following new section:

"(a) The term 'spell of illness' with respect to any individual means a period of consecutive days—

"(1) beginning with the first day (not included in a previous spell of illness (A) on which such individual is furnished extended care services, and (B) which occurs in a

month for which he is entitled to benefits under part A, and

"(2) ending with the close of the first period of 60 consecutive days thereafter on which he is not an inpatient of a skilled nursing facility.".

(i) ADJUSTMENT TO AVERAGE PER CAPITA COSTS.—The Secretary of Health and Human Services shall adjust the per capita rate payment announced on September 7, 1989, pursuant to section 1876(a)(1)(A) of the Social Security Act (42 U.S.C. 1395mm(a)(1)(C)) to delete payment for catastrophic benefits modified by this bill. These adjusted rates shall be announced in a manner intended to provide notice to interested parties as soon as possible prior to the beginning of the calendar year.

(j) ADJUSTMENT TO THE ADJUSTED COMMUNITY RATE.—Organizations with a contract under section 1876(g) of the Social Security Act shall revise their proposed adjusted community rates submitted pursuant to section 1876(e)(3) of such Act to reflect the payment adjustments in subsection (i) as soon as possible prior to the beginning of the calendar year.

TITLE III—REVENUE MEASURES

SEC. 3001. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Revenue Act of 1989".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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SEC. 3101. EXTENSION OF EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "December 31, 1988" and inserting "December 31, 1991".

(b) CERTAIN OTHERWISE TAXABLE EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE MAY BE EXCLUDABLE AS WORKING CONDITION FRINGE.—Subsection (h) of section 132 (relating to certain fringe benefits) is amended by adding at the end thereof the following new paragraph:

"(9) APPLICATION OF SECTION TO OTHERWISE TAXABLE EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.—Amounts which would be excludable from gross income under section 127 but for subsection (a)(2) thereof or the last sentence of subsection (c)(1) thereof shall be excluded from gross income under this section if (and only if) such amounts are a working condition fringe."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

SEC. 3102. EXTENSION OF EMPLOYER-PROVIDED GROUP LEGAL SERVICES.

(a) IN GENERAL.—Subsection (e) of section 120 (relating to group legal services plans) is amended by striking "ending after December 31, 1988" and inserting "beginning after December 31, 1991".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after December 31, 1988.

SEC. 3103. EXTENSION AND MODIFICATION OF TARGETED JOBS CREDIT.

(a) 2-YEAR EXTENSION.—Paragraph (4) of section 51(c) (relating to termination) is amended by striking "December 31, 1989" and inserting "December 31, 1991".

(b) EXTENSION OF AUTHORIZATION.—Paragraph (2) of section 261(f) of the Economic Recovery Tax Act of 1981 is amended by striking "and 1989" and inserting "1989, 1990, and 1991".

(c) MODIFICATION OF REQUEST FOR CERTIFICATION.—

(1) IN GENERAL.—Paragraph (16) of section 51(d) is amended by adding at the end thereof the following new subparagraph:

"(C) EMPLOYER REQUEST MUST SPECIFY POTENTIAL BASIS FOR ELIGIBILITY.—In any request for a certification of an individual as a member of a targeted group, the employer shall—

"(i) specify each subparagraph (but not more than 2) of paragraph (1) by reason of which the employer believes that such individual is such a member, and

"(ii) certify that a good faith effort was made to determine that such individual is such a member."

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to individuals who begin work for the employer after December 31, 1989.

SEC. 3104. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

Section 864 (relating to definitions and special rule) is amended by adding at the end thereof the following new subsection:

"(f) ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.—

"(1) IN GENERAL.—For purposes of sections 861(b), 862(b), and 863(b), qualified research and experimental expenditures shall be allocated and apportioned as follows:

"(A) Any qualified research and experimental expenditures expended solely to meet legal requirements imposed by a political entity with respect to the improvement or marketing of specific products or processes for purposes not reasonably expected to generate gross income (beyond de minimis amounts) outside the jurisdiction of the political entity shall be allocated only to gross income from sources within such jurisdiction.

"(B) In the case of any qualified research and experimental expenditures (not allocated under subparagraph (A)) to the extent—

"(i) that such expenditures are attributable to activities conducted in the United

States, 64 percent of such expenditures shall be allocated and apportioned to income from sources within the United States and deducted from such income in determining the amount of taxable income from sources within the United States, and

"(ii) that such expenditures are attributable to activities conducted outside the United States, 64 percent of such expenditures shall be allocated and apportioned to income from sources outside the United States and deducted from such income in determining the amount of taxable income from sources outside the United States.

"(C) The remaining portion of qualified research and experimental expenditures (not allocated under subparagraphs (A) and (B)) shall be apportioned, at the annual election of the taxpayer, on the basis of gross sales or gross income, except that, if the taxpayer elects to apportion on the basis of gross income, the amount apportioned to income from sources outside the United States shall at least be 30 percent of the amount which would be so apportioned on the basis of gross sales.

"(2) QUALIFIED RESEARCH AND EXPERIMENTAL EXPENDITURES.—For purposes of this section, the term 'qualified research and experimental expenditures' means amounts which are research and experimental expenditures within the meaning of section 174. For purposes of this paragraph, rules similar to the rules of subsection (c) of section 174 shall apply. Any qualified research and experimental expenditures treated as deferred expenses under subsection (b) of section 174 shall be taken into account under this subsection for the taxable year for which such expenditures are allowed as a deduction under such subsection.

"(3) SPECIAL RULES FOR EXPENDITURES ATTRIBUTABLE TO ACTIVITIES CONDUCTED IN SPACE, ETC.—

"(A) IN GENERAL.—Any qualified research and experimental expenditures described in subparagraph (B)—

"(i) if incurred by a United States person, shall be allocated and apportioned under this section in the same manner as if they were attributable to activities conducted in the United States, and

"(ii) if incurred by a person other than a United States person, shall be allocated and apportioned under this section in the same manner as if they were attributable to activities conducted outside the United States.

"(B) DESCRIPTION OF EXPENDITURES.—For purposes of subparagraph (A), qualified research and experimental expenditures are described in this subparagraph if such expenditures are attributable to activities conducted—

"(i) in space,

"(ii) on or under water not within the jurisdiction (as recognized by the United States) of a foreign country, possession of the United States, or the United States, or

"(iii) in Antarctica.

"(4) AFFILIATED GROUP.—

"(A) Except as provided in subparagraph (B), the allocation and apportionment required by paragraph (1) shall be determined as if all members of the affiliated group (as defined in subsection (e)(5)) were a single corporation.

"(B) For purposes of the allocation and apportionment required by paragraph (1)—

"(i) sales and gross income from products produced in whole or in part in a possession by an electing corporation (within the meaning of section 936(h)(5)(E)), and

"(ii) dividends from an electing corporation,

shall not be taken into account, except that this subparagraph shall not apply to sales of (and gross income and dividends attributable to sales of) products with respect to which an election under section 936(h)(5)(F) is not in effect.

"(C) The qualified research and experimental expenditures taken into account for purposes of paragraph (1) shall be adjusted to reflect the amount of such expenditures included in computing the cost-sharing amount (determined under section 936(h)(5)(C)(i)(I)).

"(D) The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this paragraph, including regulations providing for the source of gross income and the allocation and apportionment of deductions to take into account the adjustments required by subparagraph (C).

"(E) Paragraph (6) of subsection (e) shall not apply to qualified research and experimental expenditures.

"(5) APPLICATION OF SUBSECTION.—This subsection shall apply to taxable years beginning after August 1, 1989, and beginning before August 2, 1991."

SEC. 3105. EXTENSION OF QUALIFIED SMALL ISSUE BONDS.

Subparagraph (B) of section 144(a)(12) is amended by striking "1989" and inserting "1991".

SEC. 3106. EXTENSION OF SPECIAL RULES FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) GENERAL RULE.—Paragraph (5) of section 162(1) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "December 31, 1989" and inserting "December 31, 1991".

(b) SPECIAL RULE FOR CERTAIN S CORPORATION SHAREHOLDERS.—Subsection (1) of section 162 (as amended by subsection (a)) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) TREATMENT OF CERTAIN S CORPORATION SHAREHOLDERS.—This subsection shall apply in the case of any individual treated as a partner under section 1372(a), except that—

"(A) for purposes of this subsection, such individual's wages (as defined in section 3121) from the S corporation shall be treated as such individual's earned income (within the meaning of section 401(c)(1)), and

"(B) there shall be such adjustments in the application of this subsection as the Secretary may by regulations prescribe."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 3107. EXTENSION OF WAIVER OF EARLY WITHDRAWAL TAX FOR ESOPS.

Subparagraph (C) of section 72(t)(2) is amended by striking "January 1, 1990" and inserting "January 1, 1992".

SEC. 3108. EXTENSION OF IRS ASSISTANCE IN UNDERCOVER OPERATIONS.

Paragraph (3) of section 7601(c) of the Anti-Drug Abuse Act of 1988 is amended by striking "December 31, 1989" and "January 1, 1990" and inserting "December 31, 1991" and "January 1, 1992", respectively.

SEC. 3109. EXTENSION OF TRANSFER TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983, as amended by section 9034 of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "1989" and inserting "1991".

SEC. 3110. EXTENSION AND MODIFICATION OF CREDIT FOR NONCONVENTIONAL FUELS.

(a) 2-YEAR EXTENSION.—Subparagraph (A) of section 29(f)(1) (relating to application of section) is amended by striking "January 1, 1991" each place it appears and inserting "January 1, 1993".

(b) APPLICATION OF CREDIT TO TIGHT SANDS FORMATION PRODUCTION.—

(1) IN GENERAL.—Paragraph (2) of section 29(c) (relating to definition of qualified fuels) is amended to read as follows:

"(2) GAS FROM GEOPRESSURED BRINE, ETC.—The determination of whether any gas is produced from geopressured brine, Devonian shale, coal seams, or a tight formation shall be made in accordance with section 503 of the Natural Gas Policy Act of 1978."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to gas from wells drilled after December 31, 1989.

PART II—PERMANENT EXTENSIONS

SEC. 3111. LOW-INCOME HOUSING CREDIT MADE PERMANENT; MODIFICATIONS TO CREDIT.

(a) CREDIT MADE PERMANENT.—Subsection (n) of section 42 (relating to low-income housing credit) is hereby repealed.

(b) 1-YEAR CARRYOVER OF UNUSED CREDIT AUTHORITY.—

(1) IN GENERAL.—Section 42(h)(3) (relating to housing credit dollar amount for agencies) is amended by redesignating subparagraphs (D), (E), and (F) as subparagraphs (E), (F), and (G), respectively, and by striking subparagraph (C) and inserting the following new subparagraphs:

"(C) STATE HOUSING CREDIT CEILING.—The State housing credit ceiling applicable to any State for any calendar year shall be an amount equal to the sum of—

"(i) $1.25 multiplied by the State population,

"(ii) the unused State housing credit ceiling (if any) of such State for the preceding calendar year,

"(iii) the amount of State housing credit ceiling returned in the calendar year, plus

"(iv) the amount (if any) allocated under subparagraph (D) to such State by the Secretary.

For purposes of clause (ii), the unused State housing credit ceiling for any calendar year is the excess (if any) of the amount described in clause (i) over the aggregate housing credit dollar amount allocated for such year. For purposes of clause (iii), the amount of State housing credit ceiling returned in the calendar year equals the housing credit dollar amount previously allocated within the State to any project which does not become a qualified low-income housing project within the period required by this section or the terms of the allocation or to any project with respect to which an allocation is cancelled by mutual consent of the housing credit agency and the allocation recipient.

"(D) UNUSED HOUSING CREDIT CARRYOVERS ALLOCATED AMONG CERTAIN STATES.—

"(i) IN GENERAL.—The unused housing credit carryover of a State for any calendar year shall be assigned to the Secretary for allocation among qualified States for the succeeding calendar year.

"(ii) UNUSED HOUSING CREDIT CARRYOVER.—For purposes of this subparagraph, the unused housing credit carryover of a State for any calendar year is the excess (if any) of the unused State housing credit ceiling for such year (as defined in subparagraph (C)(ii)) over the excess (if any) of—

"(I) the aggregate housing credit dollar amount allocated for such year, over

"(II) the amount described in clause (i) of subparagraph (C).

"(iii) FORMULA FOR ALLOCATION OF UNUSED HOUSING CREDIT CARRYOVERS AMONG QUALIFIED STATES.—The amount allocated under this subparagraph to a qualified State for any calendar year shall be the amount determined by the Secretary to bear the same ratio to the aggregate unused housing credit carryovers of all States for the preceding calendar year as such State's population for the calendar year bears to the population of all qualified States for the calendar year. For purposes of the preceding sentence, population shall be determined in accordance with section 146(j).

"(iv) QUALIFIED STATE.—For purposes of this subparagraph, the term 'qualified State' means, with respect to a calendar year, any State—

"(I) which allocated its entire State housing credit ceiling for the preceding calendar year, and

"(II) for which a request is made (not later than May 1 of the calendar year) to receive an allocation under clause (iii)."

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (E) of section 42(h)(5) is amended by striking "subparagraph (E)" and inserting "subparagraph (F)".

(B) Paragraph (6) of section 42(h) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(c) BUILDINGS ELIGIBLE FOR CREDIT ONLY IF MINIMUM LONG-TERM COMMITMENT TO LOW-INCOME HOUSING.—

(1) IN GENERAL.—Section 42(h) (relating to limitation on aggregate credit allowable with respect to projects located in a State) is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (10), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) BUILDINGS ELIGIBLE FOR CREDIT ONLY IF MINIMUM LONG-TERM COMMITMENT TO LOW-INCOME HOUSING.—

"(A) IN GENERAL.—No credit shall be allowed by reason of this section with respect to any building for the taxable year unless an extended low-income housing commitment is in effect as of the end of such taxable year.

"(B) EXTENDED LOW-INCOME HOUSING COMMITMENT.—For purposes of this paragraph, the term 'extended low-income housing commitment' means any agreement between the taxpayer and the housing credit agency—

"(i) which requires that the applicable fraction (as defined in subsection (c)(1)) for the building for each taxable year in the extended use period will not be less than the applicable fraction specified in such agreement,

"(ii) which allows individuals who meet the income limitation applicable to the building under subsection (g) (whether prospective, present, or former occupants of the building) the right to enforce in any State court the requirement of clause (i),

"(iii) which is binding on all successors of the taxpayer, and

"(iv) which, with respect to the property, is recorded pursuant to State law as a restrictive covenant.

"(C) ALLOCATION OF CREDIT MAY NOT EXCEED AMOUNT NECESSARY TO SUPPORT COMMITMENT.—

"(i) IN GENERAL.—The housing credit dollar amount allocated to any building may not exceed the amount necessary to support the applicable fraction specified in the extended low-income housing commitment for such building, including any increase in such fraction pursuant to the application of subsection (f)(3) if such increase is reflected in an amended low-income housing commitment.

"(ii) BUILDINGS FINANCED BY TAX-EXEMPT BONDS.—If paragraph (4) applies to any building the amount of credit allowed in any taxable year may not exceed the amount necessary to support the applicable fraction specified in the extended low-income housing commitment for such building. Such commitment may be amended to increase such fraction.

"(D) EXTENDED USE PERIOD.—For purposes of this paragraph, the term 'extended use period' means the period—

"(i) beginning on the 1st day in the compliance period on which such building is part of a qualified low-income housing project, and

"(ii) ending on the later of—

"(I) the date specified by such agency in such agreement, or

"(II) the date which is 15 years after the close of the compliance period.

"(E) EXCEPTIONS IF FORECLOSURE OR IF NO BUYER WILLING TO MAINTAIN LOW-INCOME STATUS.—

"(i) IN GENERAL.—The extended use period for any building shall terminate—

"(I) on the date the building is acquired by foreclosure (or instrument in lieu of foreclosure), or

"(II) on the last day of the period specified in subparagraph (I) if the housing credit agency is unable to present during such period a qualified contract for the acquisition of the low-income portion of the building by any person who will continue to operate such portion as a qualified low-income building.

Subclause (II) shall not apply to the extent more stringent requirements are provided in the agreement or in State law.

"(ii) EVICTION, ETC. OF EXISTING LOW-INCOME TENANTS NOT PERMITTED.—The termination of an extended use period under clause (i) shall not be construed to permit—

"(I) the eviction or the termination of tenancy (other than for good cause) of an existing tenant of any low-income unit, or

"(II) any increase in the gross rent with respect to such unit, except if such tenant's income exceeds 100 percent of the income limitation under subsection (g)(1), then only to the extent such increase does not exceed 30 percent of such tenant's income.

"(F) QUALIFIED CONTRACT.—For purposes of subparagraph (E), the term 'qualified contract' means a bona fide contract to acquire (within a reasonable period after the contract is entered into) the low-income portion of the building for an amount not less than the applicable fraction (specified in the extended low-income housing commitment) of—

"(i) the sum of—

"(I) the outstanding indebtedness secured by, or with respect to, the building,

"(II) the adjusted investor equity in the building, plus

"(III) other capital contributions not reflected in the amounts described in subclause (I) or (II), reduced by

"(ii) cash distributions from (or available for distribution from) the project.

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this paragraph, including regulations to prevent the manipulation of the amount determined under the preceding sentence.

"(G) ADJUSTED INVESTOR EQUITY.—

"(i) IN GENERAL.—For purposes of subparagraph (E), the term 'adjusted investor equity' means, with respect to any calendar year, the aggregate amount of cash taxpayers invested with respect to the project increased by the amount equal to—

"(I) such amount, multiplied by

"(II) the cost-of-living adjustment for such calendar year, determined under section 1(f)(3) by substituting the base calendar year for 'calendar year 1987'.

An amount shall be taken into account as an investment in the project only to the extent there was an obligation to invest such amount as of the beginning of the credit period and to the extent such amount is reflected in the adjusted basis of the project.

"(ii) COST-OF-LIVING INCREASES IN EXCESS OF 5 PERCENT NOT TAKEN INTO ACCOUNT.—Under regulations prescribed by the Secretary, if the CPI for any calendar year (as defined in section 1(f)(4)) exceeds the CPI for the preceding calendar year by more than 5 percent, the CPI for the base calendar year shall be increased such that such excess shall never be taken into account under clause (i).

"(iii) BASE CALENDAR YEAR.—For purposes of this subparagraph, the term 'base calendar year' means the calendar year with or within which the 1st taxable year of the credit period ends.

"(H) LOW-INCOME PORTION.—For purposes of this paragraph, the low-income portion of a building is the portion of such building equal to the applicable fraction specified in the extended low-income housing commitment for the building.

"(I) PERIOD FOR FINDING BUYER.—The period referred to in this subparagraph is the 1-year period beginning on the date (after the 14th year of the compliance period) the taxpayer submits a written request to the housing credit agency to find a person to acquire the taxpayer's interest in the low-income portion of the building.

"(J) SALES OF LESS THAN LOW-INCOME PORTION OF BUILDING.—In the case of a sale or exchange of only a portion of the low-income portion of the building, only the same portion (as the portion sold or exchanged) of the amount determined under subparagraph (F) shall be taken into account thereunder.

"(K) EFFECT OF NONCOMPLIANCE.—If, during a taxable year, there is a determination that an extended low-income housing agreement was not in effect as of the beginning of such year, such determination shall not apply to any period before such year and subparagraph (A) shall be applied without regard to such determination if the failure is corrected within 1 year from the date of the determination.

"(L) PROJECTS WHICH CONSIST OF MORE THAN 1 BUILDING.—The application of this paragraph to projects which consist of more than 1 building shall be made under regulations prescribed by the Secretary."

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 42(b)(3) is amended by striking "subsection (h)(6))" and inserting "subsection "(h)(7)".

(d) CREDIT FOR ACQUISITION OF EXISTING BUILDING TO APPLY ONLY IF BUILDING TO BE REHABILITATED; INCREASE IN REQUIRED REHABILITATION EXPENDITURES.—

(1) IN GENERAL.—Subparagraph (B) of section 42(d)(2) (relating to eligible basis of ex-

isting buildings) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end thereof the following new clause:

"(iv) a credit is allowable under subsection (a) by reason of subsection (e) with respect to the building."

(2) CREDIT PERIOD FOR EXISTING BUILDINGS NOT TO BEGIN BEFORE REHABILITATION CREDIT ALLOWED.—Section 42(f) (relating to definition and special rules relating to credit period) is amended by adding at the end thereof the following new paragraph:

"(4) CREDIT PERIOD FOR EXISTING BUILDINGS NOT TO BEGIN BEFORE REHABILITATION CREDIT ALLOWED.—The credit period for an existing building (other than a federally-assisted building with respect to which a waiver is granted under subsection (d)((6)(C)) shall not begin before the 1st taxable year of the credit period for rehabilitation expenditures with respect to the building."

(3) INCREASE IN REQUIRED REHABILITATION EXPENDITURES.—Paragraph (3) of section 42(e) (relating to rehabilitation expenditures treated as separate new building) is amended—

(A) by striking "$2,000" in the text of subparagraph (A) and inserting "$3,000", and

(B) by striking "$2,000" in the heading and inserting "$3,000".

(e) RENT RESTRICTION DETERMINED ON BASIS OF NUMBER OF BEDROOMS, ETC.—

(1) Section 42(g)(2) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) IMPUTED INCOME LIMITATION APPLICABLE TO UNIT.—For purposes of this paragraph, the imputed income limitation applicable to a unit is the income limitation which would apply under paragraph (1) to individuals occupying the unit if the number of individuals occupying the unit were as follows:

"(i) In the case of a unit which does not have a separate bedroom, 1 individual.

"(ii) In the case of a unit which has 1 or more separate bedrooms, 1.5 individuals for each separate bedroom.

In the case of a project with respect to which a credit is allowable by reason of this section and for which financing is provided by a bond described in section 142(a)(7), the imputed income limitation shall apply in lieu of the otherwise applicable income limitation for purposes of applying section 142(d)(4)(B)(ii)."

(B) Subparagraph (A) of section 42(g)(2), as amended by paragraph (1), is further amended by striking "the income limitation under paragraph (1) applicable to individuals occupying such unit" and inserting "the imputed income limitation applicable to such unit".

(f) ADDITIONAL BUILDINGS ELIGIBLE FOR WAIVER OF 10-YEAR PERIOD APPLICABLE TO ACQUISITIONS OF EXISTING BUILDINGS.—

(1) IN GENERAL.—Subparagraph (A) of section 42(d)(6) (relating to credit allowable for certain federally-assisted buildings acquired during 10-year period described in paragraph (2)(B)(ii)) is amended by striking "or" at the end of clause (i), by striking the period at the end of clause (ii) and inserting a comma and "or", and by adding at the end thereof the following new clause:

"(iii) to facilitate the sale of the building if—

"(I) the mortgage loan on the building is held by the Department of Housing and Urban Development,

"(II) the building is owned by such Department following its acquisition (by such Department or the mortgage loan lender) by foreclosure (or by instrument in lieu of foreclosure), or

"(III) the building is owned by the Farmers Home Administration."

(2) LOW-INCOME BUILDINGS WHERE MORTGAGE MAY BE PREPAID.—Section 42(d)(6) is amended by adding at the end thereof the following new subparagraphs:

"(C) LOW-INCOME BUILDINGS WHERE MORTGAGE MAY BE PREPAID.—A waiver may be granted under subparagraph (A) (without regard to any clause thereof) with respect to a federally-assisted building described in clause (ii) or (iii) of subparagraph (B) if—

"(i) at any time within 1 year after the date of the application by the taxpayer for such a waiver, the mortgage on such building is eligible for prepayment under subtitle B of the Emergency Low Income Housing Preservation Act of 1987 or under section 502(c) of the Housing Act of 1949, and

"(ii) the appropriate Federal official certifies to the Secretary that it is reasonable to expect that if the waiver is not granted such building will cease complying with its low-income occupancy requirements.

If a waiver is granted under subparagraph (A) with respect to such building, no person shall be eligible to prepay such mortgage without the approval of the appropriate Federal official."

"(D) BUILDINGS ACQUIRED FROM INSURED DEPOSITORY INSTITUTIONS IN DEFAULT.—A waiver may be granted under subparagraph (A) (without regard to any clause thereof) with respect to any building acquired from an insured depository institution in default (as defined in section 3 of the Federal Deposit Insurance Act) or from a receiver or conservator of such an institution."

(3) CERTAIN MULTI-FAMILY HOUSING.—Subparagraph (B) of section 42(d)(6) is amended by adding at the end thereof the following new sentence: "Such term also includes any building which has more than 4 residential rental units and the mortgage on which was originated by, or is insured or guaranteed by, the Federal Government."

(g) INCREASE IN CREDIT FOR BUILDINGS IN HIGH COST AREAS.—Paragraph (5) of section 42(d) (relating to eligible basis) is amended by adding at the end thereof the following new subparagraph:

"(D) INCREASE IN CREDIT FOR BUILDINGS IN HIGH COST AREAS.—

"(i) IN GENERAL.—In the case of any building located in a qualified census tract or difficult development area which is designated for purposes of this subparagraph—

"(I) in the case of a new building, the eligible basis of such building shall be 130 percent of such basis determined without regard to this subparagraph, and

"(II) in the case of an existing building, the rehabilitation expenditures taken into account under subsection (e) shall be 130 percent of such expenditures determined without regard to this subparagraph.

"(ii) QUALIFIED CENSUS TRACT.—

"(I) IN GENERAL.—The term 'qualified census tract' means any census tract in which 50 percent or more of the households have an income which is less than 60 percent of the area median gross income.

"(II) LIMIT ON MSA's DESIGNATED.—The portion of a metropolitan statistical area which may be designated for purposes of this subparagraph shall not exceed an area having 20 percent of the population of such metropolitan statistical area.

"(III) DETERMINATION OF AREAS.—For purposes of this clause, each metropolitan statistical area shall be treated as a separate area and all nonmetropolitan areas in a State shall be treated as one area.

"(iii) DIFFICULT DEVELOPMENT AREAS.—

"(I) IN GENERAL.—The term 'difficult development areas' means any area designated by the Secretary of Housing and Urban Development as an area which has high construction, land, and utility costs relative to area median gross income.

"(II) LIMIT ON AREAS DESIGNATED.—Only 20 percent of the metropolitan statistical areas in the United States may be designated for purposes of this subparagraph and only 20 percent of nonmetropolitan areas in the United States may be so designated.

"(iv) SPECIAL RULES AND DEFINITIONS.—For purposes of this subparagraph—

"(I) population shall be determined on the basis of the most recent decennial census for which data are available,

"(II) area median gross income shall be determined in accordance with subsection (g)(4),

"(III) the term 'metropolitan statistical area' has the same meaning as when used in section 143(k)(2)(B), and

"(IV) the term 'nonmetropolitan area' means any county (or portion thereof) which is not within a metropolitan statistical area."

(h) CHANGES IN RULES RELATING TO BUILDINGS FOR WHICH CREDIT MAY BE ALLOWED.—

(1) SINGLE-ROOM OCCUPANCY UNITS RENTED ON A MONTHLY BASIS.—Subparagraph (B) of section 42(i)(3) (relating to low income unit) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, a single-room occupancy unit shall not be treated as used on a transient basis merely because it is rented on a month-by-month basis."

(2) SPECIAL NEEDS HOUSING.—

(A) CONSIDERATION OF REQUIRED FEES FOR SUPPORTIVE SERVICES IN CALCULATION OF GROSS RENT.—Subparagraph (B) of section 42(g)(2) (relating to gross rent) is amended—

(i) in clause (i), by striking "and" at the end,

(ii) in clause (ii), by striking the period at the end and inserting ", and", and

(iii) by adding at the end the following:

"(iii) includes any fee assessed for a supportive service (as defined in paragraph (8)) if payment of the fee is required as a condition of occupancy, unless the fee is paid to the owner of the unit by any governmental program of assistance in which the amount of assistance provided for rent is not separable from the amount of assistance provided for supportive services.

If the fee described in clause (iii) is included in gross rent, the gross rent limitation under subparagraph (A) shall be increased by 20 percent."

(B) ELIGIBILITY OF SPECIAL NEEDS HOUSING.—Section 42(g) (relating to qualified low-income housing project) is amended by adding at the end the following new paragraph:

"(8) ELIGIBILITY OF SPECIAL NEEDS HOUSING.—

"(A) IN GENERAL.—A residential rental property shall not be treated as failing to be a qualified low-income housing project for purposes of this section solely because individuals occupying residential units in the property are provided supportive services. The preceding sentence shall not apply if section 7872 does not apply to any individual occupying a residential unit in the property (or such individual spouse) by reason of subsection (g) thereof.

"(B) SUPPORTIVE SERVICE.—For purposes of this paragraph, the term 'supportive service' means any service provided under a planned program of services designed to enable residents of a residential rental property to remain independent and avoid placement in a hospital, nursing home, or intermediate care facility for the mentally or physically handicapped."

(3) SCATTERED SITE PROJECTS.—Section 42(g) (relating to qualified low-income housing project) is further amended by adding at the end thereof the following new paragraph:

"(9) SCATTERED SITE PROJECTS.—Buildings which would (but for their lack of proximity) be treated as a project for purposes of this section shall be so treated if all of the dwelling units in each of the buildings are rent-restricted (within the meaning of paragraph (2)) residential rental units."

(4) OWNER-OCCUPIED BUILDINGS HAVING 4 OR FEWER UNITS ELIGIBLE FOR CREDIT WHERE DEVELOPMENT PLAN.—Section 42(i)(3) (defining low-income unit) is amended by adding at the end thereof the following new subparagraph:

"(D) OWNER-OCCUPIED BUILDINGS HAVING 4 OR FEWER UNITS ELIGIBLE FOR CREDIT WHERE DEVELOPMENT PLAN.—

"(i) IN GENERAL.—Subparagraph (C) shall not apply to the acquisition or rehabilitation of a building pursuant to a development plan of action sponsored by a State or local government or a qualified nonprofit organization (as defined in subsection (h)(5)(C)).

"(ii) LIMITATION ON CREDIT.—In the case of a building to which clause (i) applies, the applicable fraction shall not exceed 80 percent of the unit fraction.

"(iii) CERTAIN UNRENTED UNITS TREATED AS OWNER-OCCUPIED.—In the case of a building to which clause (i) applies, any unit which is not rented for 90 days or more shall be treated as occupied by the owner of the building as of the 1st day it is not rented."

(5) BUILDINGS RECEIVING SECTION 8 MODERATE REHABILITATION ASSISTANCE OR SIMILAR ASSISTANCE NOT ELIGIBLE FOR CREDIT.—Section 42(b)(1) (relating to applicable percentage for buildings placed in service during 1987) is amended by adding at the end thereof the following new flush sentence:

"A building shall not be treated as described in subparagraph (B) if, at any time during the credit period, moderate rehabilitation assistance is provided with respect to such building under section 8(e)(2) of the United States Housing Act of 1937."

(i) ELIGIBLE BASIS FOR NEW BUILDINGS TO INCLUDE EXPENDITURES BEFORE CLOSE OF 1ST YEAR OF CREDIT PERIOD.—

(1) NEW BUILDINGS.—Paragraph (1) of section 42(d) (relating to eligible basis for new buildings) is amended by inserting before the period "as of the close of the 1st taxable year of the credit period".

(2) EXISTING BUILDINGS.—Subparagraph (A) of section 42(d)(2) (relating to eligible basis for existing buildings) is amended by striking "subparagraph (B)" and all that follows through the end of clause (i) and inserting "subparagraph (B), its adjusted basis as of the close of the 1st taxable year of the credit period, and".

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 42(d)(2) is amended by striking "ACQUISITION COST" in the heading and inserting "ADJUSTED BASIS" and by striking "cost" in the text and inserting "adjusted basis".

(B) Paragraph (5) of section 42(d), as amended by subsection (g), is further amended by striking subparagraph (A), by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively, and by striking the paragraph heading and inserting the following:

"(5) SPECIAL RULES FOR DETERMINING ELIGIBLE BASIS.—".

(C) Paragraph (5) of section 42(e) is amended by striking "subsection (d)(2)(A)(i)(II)" and inserting "subsection (d)(2)(A)(i)".

(j) HOUSING CREDIT MAY BE ALLOCATED ON PROJECT BASIS.—

(1) IN GENERAL.—Section 42(h)(1) (relating to credit may not exceed credit amount allocated to building) is amended by adding at the end thereof the following new subparagraph:

"(F) ALLOCATION OF CREDIT ON A PROJECT BASIS.—

"(i) IN GENERAL.—In the case of a project which includes (or will include) more than 1 building, an allocation meets the requirements of this subparagraph if—

"(I) the allocation is made to the project for a calendar year during the project period,

"(II) the allocation only applies to buildings placed in service during or after the calendar year for which the allocation is made, and

"(III) the portion of such allocation which is allocated to any building in such project is specified not later than the close of the calendar year in which the building is placed in service.

"(ii) PROJECT PERIOD.—For purposes of clause (i), the term 'project period' means the period—

"(I) beginning with the 1st calendar year for which an allocation may be made for the 1st building placed in service as part of such project, and

"(II) ending with the calendar year the last building is placed in service as part of such project."

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 42(h)(1) is amended by striking "or (E)" and inserting "(E), or (F)".

(3) PROJECTS WITH MORE THAN 1 BUILDING MUST BE IDENTIFIED.—Section 42(g)(3) (relating to date for meeting requirements) is amended by adding at the end thereof the following new subparagraph:

"(D) PROJECTS WITH MORE THAN 1 BUILDING MUST BE IDENTIFIED.—For purposes of this section, a project shall be treated as consisting of only 1 building unless, before the close of the 1st calendar year in the project period (as defined in subsection (h)(1)(F)(ii)), each building which is (or will be) part of such project is identified in such form and manner as the Secretary may provide."

(k) CHANGES IN RULES RELATED TO DEEP RENT SKEWED PROJECTS.—

(1) Clause (iii) of section 142(d)(4)(B) (relating to deep rent skewed project) is amended by striking "⅓" and inserting "½".

(2) Section 42(g)(4) (relating to certain rules made applicable) is amended by striking "(other than section 142(d)(4)(B)(iii))".

(l) HOUSING CREDIT AGENCIES MUST ADOPT PLANS FOR ALLOCATION OF CREDIT AMONG PROJECTS.—Subsection (h) of section 42 (relating to limitation on aggregate credit allowable with respect to projects located in a State), as amended by subsection (c), is further amended by inserting after paragraph (7) the following new paragraph:

"(8) HOUSING CREDIT AGENCIES MUST ADOPT PLANS FOR ALLOCATION OF CREDIT AMONG PROJECTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, the housing credit dollar amount with respect to any building shall be zero unless such amount was allocated pursuant to a qualified allocation plan of the housing credit agency which is approved by the governmental unit (in accordance with rules similar to the rules of section 147(f)(2) (other than subparagraph (B)(ii) thereof)) of which such agency is a part.

"(B) QUALIFIED ALLOCATION PLAN.—For purposes of this paragraph, the term 'qualified allocation plan' means any plan—

"(i) which sets forth selection criteria to be used to determine housing priorities of the housing credit agency which are appropriate to local conditions, and

"(ii) which gives preference in allocating housing credit dollar amounts among selected projects to—

"(I) projects serving the lowest income tenants, and

"(II) projects obligated to serve qualified tenants for the longest periods.

"(C) CERTAIN SELECTION CRITERIA MUST BE USED.—The selection criteria set forth in a qualified allocation plan must include—

"(i) project location,

"(ii) housing needs characteristics,

"(iii) project characteristics,

"(iv) sponsor characteristics,

"(v) participation of local tax-exempt organizations,

"(vi) encouragement of mixed-use housing,

"(vii) tenant populations with special housing needs, and

"(viii) project financial feasibility and viability as described in paragraph (9).

"(D) APPLICATION TO BOND FINANCED PROJECTS.—Paragraph (4) shall not apply to any project unless the project satisfies the requirements for allocation of a housing credit dollar amount under the qualified allocation plan applicable to the area in which the project is located."

(m) CREDIT ALLOCATED NOT TO EXCEED AMOUNT NECESSARY TO ASSURE PROJECT FEASIBILITY.—Subsection (h) of section 42 is further amended by inserting after paragraph (8) the following new paragraph:

"(9) CREDIT ALLOCATED TO BUILDING NOT TO EXCEED AMOUNT NECESSARY TO ASSURE PROJECT FEASIBILITY.—

"(A) IN GENERAL.—The housing credit dollar amount allocated to a project shall not exceed the amount the housing credit agency determines and certifies is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the compliance period or such longer period as such agency determines to be appropriate.

"(B) AGENCY EVALUATION.—In making the determination under subparagraph (A), the housing credit agency shall consider—

"(i) the sources and uses of funds and the total financing planned for the project, and

"(ii) any proceeds or receipts expected to be generated by reason of tax benefits.

Such a determination shall not be construed to be a representation or warranty as to the feasibility or viability of the project.

"(C) DETERMINATION MADE WHEN CREDIT AMOUNT APPLIED FOR AND WHEN BUILDING PLACED IN SERVICE.—

"(i) IN GENERAL.—A determination under subparagraph (A) shall be made as of each of the following times:

"(I) The application for the housing credit dollar amount.

"(II) The allocation of the housing credit dollar amount.

"(III) The date the building is placed in service.

"(ii) CERTIFICATION AS TO AMOUNT OF OTHER SUBSIDIES.—Prior to each determination under clause (i), the taxpayer shall certify to the housing credit agency the full extent of all Federal, State, and local subsidies which apply (or which the taxpayer expects to apply) with respect to the building.

"(D) APPLICATION TO BOND FINANCED PROJECTS.—Paragraph (4) shall not apply to any project unless the governmental unit which issued the bonds (or on behalf of which the bonds were issued) makes a determination under rules similar to the rules of subparagraphs (A) and (B)."

(n) APPLICATION OF AT-RISK RULES WITH RESPECT TO CERTAIN FINANCING PROVIDED BY QUALIFIED NONPROFIT ORGANIZATIONS.—Subparagraph (D) of section 42(k)(2) (relating to application of at-risk rules) is amended by adding at the end thereof the following new flush sentence:

"In the case of a qualified nonprofit organization which is not described in section 46(c)(8)(D)(iv)(II) with respect to a building, clause (ii) of this subparagraph shall be applied as if the date described therein were the 90th day after the earlier of the date the building ceases to be a qualified low-income building or the date which is 15 years after the close of a compliance period with respect thereto."

(o) TIME FOR CERTIFICATION.—Section 42(l)(1) (relating to certification with respect to 1st year of credit period) is amended—

(1) by striking "Not later than the 90th day following" and inserting "Following", and

(2) by inserting "at such time and" before "in such form".

(p) CERTAIN PURCHASE OPTIONS DISREGARDED.—Section 42(i) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(7) CERTAIN PURCHASE OPTIONS DISREGARDED.—

"(A) IN GENERAL.—For purposes of this title, the determination of whether any qualified low-income building is owned by the taxpayer shall be made without regard to any qualified purchase option by a qualified nonprofit organization (as defined in subsection (h)(5)(C)) or a limited equity cooperative or resident management group recognized by the Department of Housing and Urban Development to acquire such building at less than fair market value after the close of the compliance period if no financing with respect to such building is provided during such period by such organization (or a related person (as defined in subsection (d)(2)(D)(iii)) to such organization) or such cooperative group.

"(B) QUALIFIED PURCHASE OPTION.—For purposes of subparagraph (A), the term 'qualified purchase option' means an option exercisable at the price which equals or exceeds an amount equal to the sum of—

"(i) the principal amount of outstanding indebtedness secured by the building (other than indebtedness incurred within the 5-year period ending on the date of the sale), and

"(ii) all Federal, State, and local taxes attributable to such sale.

Except in the case of Federal income taxes, there shall not be taken into account under clause (ii) any additional tax attributable to the application of clause (ii)."

(q) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to determinations under section 42 of the Internal Revenue Code of 1986 with respect to housing credit dollar amounts allocated from State housing credit ceilings for calendar years after 1989.

(2) BUILDINGS NOT SUBJECT TO ALLOCATION LIMITS.—Except as otherwise provided in this subsection, to the extent paragraph (1) of section 42(h) of such Code does not apply to any building by reason of paragraph (4) thereof, the amendments made by this section shall apply to buildings placed in service after December 31, 1989.

(3) 1-YEAR CARRYOVER OF UNUSED CREDIT AUTHORITY.—The amendments made by subsection (b) shall apply to calendar years after 1989, but clauses (ii), (iii), and (iv) of section 42(h)(3)(C) of such Code (as added by this section) shall not apply to unused allocations for 1989 or any preceding year.

(4) ADDITIONAL BUILDINGS ELIGIBLE FOR WAIVER OF 10-YEAR RULE.—The amendments made by subsection (f) shall take effect on the date of the enactment of this Act.

(5) CERTIFICATIONS WITH RESPECT TO 1ST YEAR OF CREDIT PERIOD.—The amendment made by subsection (o) shall apply to taxable years ending on or after December 31, 1989.

(6) CERTAIN RULES WHICH APPLY TO BONDS.—Paragraphs (8)(D) and (9)(D) of section 42(h) of such Code, as added by this section, shall apply to obligations issued December 31, 1989.

(7) CLARIFICATIONS.—The following amendments shall apply as if included in the amendments made by section 252 of the Tax Reform Act of 1986:

(A) Paragraph (1) of subsection (h) (relating to units rented on a monthly basis).

(B) Subsection (i) (relating to eligible basis for new buildings to include expenditures before close of 1st year of credit period).

(8) REGULATIONS ON DIFFICULT DEVELOPMENT AREAS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall prescribe initial regulations on the designation of difficult development areas under section 42(d)(5)(C) of such Code, as added by this section.

SEC. 3112. LOW-INCOME HOUSING CREDIT AND REHABILITATION CREDIT EXEMPT FROM INCOME PHASEOUT OF $25,000 EXEMPTION FROM PASSIVE LOSS RULES.

(a) IN GENERAL.—Subparagraph (B) of section 469(i)(3) (relating to phase-out of exemption) is amended to read as follows:

"(B) EXCEPTION FOR LOW-INCOME HOUSING AND REHABILITATION CREDITS.—Subparagraph (A) shall not apply to any portion of the passive activity credit for any taxable year which is attributable to any credit to which paragraph (6)(B) applies."

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 469(i)(5) is amended by striking clause (iii), by striking ", and" at the end of clause (ii) and inserting a period, and by adding "and" at the end of clause (i).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 1989, in taxable years ending after such date.

(2) SPECIAL RULE WHERE INTEREST HELD IN PASS-THRU ENTITY.—In the case of a taxpayer who holds an indirect interest in property described in paragraph (1), the amendments made by this section shall apply only if such interest is acquired after December 31, 1989.

SEC. 3113. RESEARCH CREDIT MADE PERMANENT; MODIFICATIONS TO CREDIT.

(a) CREDIT MADE PERMANENT.—

(1) IN GENERAL.—Section 41 is amended by striking subsection (i) (relating to termination).

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 28(b) is amended by striking subparagraph (D).

(b) CHANGES IN COMPUTATION OF INCREMENTAL CREDIT.—

(1) IN GENERAL.—Subsection (c) of section 41 is amended to read as follows:

"(c) BASE AMOUNT.—

"(1) IN GENERAL.—The term 'base amount' means the product of—

"(A) the fixed-base percentage, and

"(B) the average annual gross receipts of the taxpayer for the 4 taxable years preceding the taxable year for which the credit is being determined (hereinafter in this subsection referred to as the 'credit year').

"(2) MINIMUM BASE AMOUNT.—In no event shall the base amount be less than the applicable percentage (determined in accordance with the following table) of the qualified research expenses for the credit year.

"If the credit year begins during—	The applicable percentage is—
1990	50
1991	55
1992	60
1993	65
1994	70
1995 or thereafter	75.

"(3) FIXED-BASE PERCENTAGE.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the fixed-base percentage is the percentage which the aggregate qualified research expenses of the taxpayer for taxable years beginning after December 31, 1983, and before January 1, 1989, is of the aggregate gross receipts of the taxpayer for such taxable years.

"(B) START-UP COMPANIES.—

"(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The fixed-base percentage shall be determined under this subparagraph if there are fewer than 3 taxable years beginning after December 31, 1983, and before January 1, 1989, in which the taxpayer had both gross receipts and qualified research expenses.

"(ii) FIXED-BASE PERCENTAGE.—In a case to which this subparagraph applies, the fixed-base percentage is—

"(I) 3 percent for each of the taxpayer's 1st 5 taxable years beginning after December 31, 1989, for which the taxpayer has qualified research expenses,

"(II) in the case of the taxpayer's 6th such taxable year, ⅙ of the percentage which the aggregate qualified research expenses of the taxpayer for the 4th and 5th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(III) in the case of the taxpayer's 7th such taxable year, ⅓ of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th and 6th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(IV) in the case of the taxpayer's 8th such taxable year, ½ of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, and 7th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(V) in the case of the taxpayer's 9th such taxable year, ⅔ of the percentage which the

aggregate qualified research expenses of the taxpayer for the 5th, 6th, 7th, and 8th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(VI) in the case of the taxpayer's 10th such taxable year, ⅝ of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, 7th, 8th, and 9th such taxable years is of the aggregate gross receipts of the taxpayer for such years, and

"(VII) for taxable years thereafter, the percentage which the aggregate qualified research expenses for 5 taxable years selected by the taxpayer from the 5th through the 10th such taxable years is of the aggregate gross receipts of the taxpayer for such years.

"(iii) TREATMENT OF DE MINIMIS AMOUNTS OF GROSS RECEIPTS AND QUALIFIED RESEARCH EXPENSES.—The Secretary may prescribe regulations providing that de minimis amounts of gross receipts and qualified research expenses shall be disregarded under clauses (i) and (ii).

"(C) MAXIMUM FIXED-BASE PERCENTAGE.—In no event shall the fixed-base percentage exceed 16 percent.

"(D) ROUNDING.—The percentages determined under subparagraphs (A) and (B)(ii) shall be rounded to the nearest 1/100th of 1 percent.

"(4) CONSISTENT TREATMENT OF EXPENSES REQUIRED.—

"(A) IN GENERAL.—Notwithstanding whether the period for filing a claim for credit or refund has expired for any taxable year taken into account in determining the fixed-base percentage, the qualified research expenses taken into account in computing such percentage shall be determined on a basis consistent with the determination of qualified research expenses for the credit year.

"(B) PREVENTION OF DISTORTIONS.—The Secretary may prescribe regulations to prevent distortions in calculating a taxpayer's qualified research expenses or gross receipts caused by a change in accounting methods used by such taxpayer between the current year and a year taken into account in computing such taxpayer's fixed-base percentage.

"(5) GROSS RECEIPTS.—For purposes of this subsection, gross receipts for any taxable year shall be reduced by returns and allowances made during the taxable year. In the case of a foreign corporation, there shall be taken into account only gross receipts which are effectively connected with the conduct of a trade or business within the United States."

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 41(a)(1) is amended to read as follows:

"(B) the base amount, and".

(B) Clause (ii) of section 41(e)(7)(C) is amended by striking "base period research expenses" and inserting "base amount".

(C) Paragraph (1) of section 41(f) (relating to aggregation of expenditures) is amended by striking "proportionate share of the increase in qualified research expenses" each place it appears and inserting "proportionate shares of the qualified research expenses and basic research payments".

(D) Subparagraph (A) of section 41(f)(3) is amended—

(i) by striking "June 30, 1980" and inserting "December 31, 1983", and

(ii) by inserting before the period ", and the gross receipts of the taxpayer for such periods shall be increased by so much of the gross receipts of such predecessor with respect to the acquired trade or business as is attributable to such portion".

(E) Subparagraph (B) of section 41(f)(3) is amended—

(i) by striking "June 30, 1980" and inserting "December 31, 1983", and

(ii) by inserting before the period ", and the gross receipts of the taxpayer for such periods shall be decreased by so much of the gross receipts as is attributable to such portion".

(F)(i) Subparagraph (C) of section 41(f)(3) is amended by striking "for the base period" and all that follows and inserting "for the taxable years taken into account in computing the fixed-base percentage shall be increased by the lesser of—

"(i) the amount of the decrease under subparagraph (B) which is allocable to taxable years so taken into account, or

"(ii) the product of the number of taxable years so taken into account, multiplied by the amount of the reimbursement described in this subparagraph."

(ii) The heading for such subparagraph (C) is amended to read as follows:

"(C) CERTAIN REIMBURSEMENTS TAKEN INTO ACCOUNT IN DETERMINING FIXED-BASE PERCENTAGE.—".

(G) Paragraph (4) of section 41(f) is amended by inserting "and gross receipts" after "qualified research expenses".

(b) TRADE OR BUSINESS REQUIREMENT DISREGARDED FOR IN-HOUSE RESEARCH EXPENSES OF CERTAIN STARTUP VENTURES.—Subsection (b) of section 41 (defining qualified research expenses) is amended by adding at the end thereof the following new paragraph:

"(4) TRADE OR BUSINESS REQUIREMENT DISREGARDED FOR IN-HOUSE RESEARCH EXPENSES OF CERTAIN STARTUP VENTURES.—In the case of in-house research expenses, a taxpayer shall be treated as meeting the trade or business requirement of paragraph (1) if, at the time such in-house research expenses are paid or incurred, the principal purpose of the taxpayer in making such expenditures is to use the results of the research in the active conduct of a future trade or business—

"(A) of the taxpayer, or

"(B) of 1 or more other persons who with the taxpayer are treated as a single taxpayer under subsection (f)(1)."

(c) FULL DISALLOWANCE OF DEDUCTION FOR QUALIFIED RESEARCH EXPENSES.—

(1) Subsection (c) of section 280C, as amended by subtitle H, is further amended by striking "50 percent of" each place it appears.

(2) Paragraph (2) of section 196(d) is amended by inserting before the period "for a taxable year beginning before January 1, 1990".

(d) ONLY REASONABLE RESEARCH EXPENDITURES ELIGIBLE FOR SECTION 174.—Section 174 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ONLY REASONABLE RESEARCH EXPENDITURES ELIGIBLE.—This section shall apply to a research or experimental expenditure only to the extent that the amount thereof is reasonable under the circumstances."

(e) EFFECTIVE DATE.—The amendments made by this section (other than subsection (a)) shall apply to taxable years beginning after December 31, 1989.

(f) TREASURY STUDY.—The Secretary of the Treasury or his delegate shall conduct a study with respect to the 5-year period beginning on January 1, 1990, and each 5-year period thereafter—

(1) comparing the projected revenue loss resulting from section 41 of the Internal Revenue Code of 1986 (relating to research credit) for the period and the actual revenue loss resulting from such section for the period,

(2) analyzing the effectiveness of such credit in promoting research during such period, and

(3) evaluating whether the rules for computing the fixed-base percentage for start-up firms are appropriate in view of actual trends in the qualified research expenditures and gross receipts of those firms.

The results of such study for each such period shall be submitted, not later than the close of such period, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 3114. ENERGY INVESTMENT CREDIT FOR SOLAR, GEOTHERMAL, AND OCEAN THERMAL PROPERTY MADE PERMANENT.

The table contained in section 46(b)(2)(A) (relating to energy percentage) is amended by striking "Dec. 31, 1989" in clauses (viii), (ix), and (x).

SEC. 3115. QUALIFIED MORTGAGE BONDS MADE PERMANENT.

(a) IN GENERAL.—Paragraph (1) of section 143(a) (defining qualified mortgage bond) is amended to read as follows:

"(1) QUALIFIED MORTGAGE BOND DEFINED.—For purposes of this title, the term 'qualified mortgage bond' means a bond which is issued as part of a qualified mortgage issue."

(b) MORTGAGE CREDIT CERTIFICATES.—Section 25 is amended by striking subsection (h) and by redesignating subsection (i) as subsection (h).

(c) SUSPENSION OF MORTGAGE CREDIT CERTIFICATES TIME LIMIT.—With respect to bond authority exchanged before August 15, 1986, but not issued as of such date, the 2-year period under section 25(e)(3)(B) of the Internal Revenue Code of 1986 shall begin on the date of the enactment of this subsection.

SEC. 3201. SMALL CORPORATION EXCEPTION TO GAIN RECOGNITION ON CERTAIN DISTRIBUTIONS IN COMPLETE LIQUIDATION.

(a) GENERAL RULE.—Section 336 (relating to gain or loss recognized on property distributed in complete liquidation) is amended by adding at the end thereof the following new subsection:

"(f) EXCEPTION FOR LIQUIDATIONS OF SMALL CORPORATIONS.—

"(1) GENERAL RULE.—In the case of any distribution in complete liquidation of a qualified asset by a qualified corporation, in determining whether the applicable percentage of gain or loss on such qualified asset is recognized, the following provisions shall be applied as in effect on the day before the date of the enactment of the Tax Reform Act of 1986:

"(A) Section 311.

"(B) Section 333.

"(C) Section 336.

"(D) Section 337.

"(E) Section 338.

"(F) Section 341.

"(G) Section 1374.

"(H) Any other provision of this title relating to the preceding provisions.

"(2) QUALIFIED ASSET.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified asset' means any asset the gain or loss on which, in the hands of the qualified corporation, is treated as long-term capital gain

or long-term capital loss (determined without regard to section 1239).

"(B) CERTAIN ASSETS EXCLUDED.—The term 'qualified asset' shall not include an asset acquired by the qualified corporation if—

"(i) the basis of such asset in the hands of the qualified corporation is determined (in whole or in part) by reference to the basis of such asset in the hands of the person from whom acquired, and

"(ii) a principal purpose for the transfer of such asset to the qualified corporation was to secure the benefits of this subsection.

"(3) APPLICABLE PERCENTAGE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable percentage' means 100 percent reduced (but not below zero) by an amount which bears the same ratio to 100 percent as—

"(i) the excess of the applicable value of the corporation over $5,000,000, bears to

"(ii) $5,000,000.

"(B) APPLICABLE VALUE.—The term 'applicable value' means the fair market value of all of the stock of the corporation on the plan adoption date.

"(4) QUALIFIED CORPORATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified corporation' means any corporation 50 percent or more (by value) of the stock in which on the plan adoption date is qualified stock.

"(B) QUALIFIED STOCK.—The term 'qualified stock' means stock held by a group of 10 or fewer qualified persons each of whom owned (or are treated as owning under paragraph (5)) the stock held by such person on the plan adoption date at all times during the 5-year period ending on such date (or, if shorter, the period ending on such date during which such corporation or any predecessor was in existence).

"(C) QUALIFIED PERSON.—The term 'qualified person' means—

"(i) an individual,

"(ii) an estate, or

"(iii) any trust described in clause (i) or (iii) of section 1361(c)(2)(A).

"(5) ATTRIBUTION RULES.—For purposes of this subsection—

"(A) IN GENERAL.—Any stock owned by a corporation, trust (other than a trust referred to in paragraph (4)(C)(iii)), or partnership shall be treated as owned proportionately by its shareholders, beneficiaries, or partners, and shall not be treated as owned by such corporation, trust, or partnership. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(B) FAMILY MEMBERS.—Stock owned (or treated as owned) by members of the same family (within the meaning of section 318(a)(1)) shall be treated as owned by 1 person, and shall be treated as owned by such 1 person for any period during which it was owned (or treated as owned) by any such member.

"(C) TREATMENT OF CERTAIN TRUSTS.—Stock owned (or treated as owned) by the estate of any decedent or by any trust referred to in paragraph (4)(C)(iii) with respect to such decedent shall be treated as owned by 1 person and shall be treated as owned by such 1 person for the period during which it was owned (or treated as owned) by such estate or any such trust or by the decedent.

"(D) SPECIAL HOLDING PERIOD RULES.—Any property acquired by reason of the death of an individual shall be treated as owned at all times during which such property was owned (or treated as owned) by the decedent.

"(E) CONTROLLED GROUP OF CORPORATIONS.—All members of the same controlled group (as defined in section 267(f)(1)) shall be treated as 1 corporation for purposes of determining the applicable percentage with respect to any of such corporations. For purposes of the preceding sentence, an S corporation shall not be treated as a member of a controlled group unless such corporation was a C corporation during any taxable year ending during the 5-year period described in paragraph (4)(B), or it was not described for any such taxable year in paragraph (1) or (2) of section 1374(c) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986).

"(6) APPLICATION TO OTHER DISTRIBUTIONS.—Rules similar to the rules of this subsection shall apply—

"(A) to any distribution (not in complete liquidation) made by a qualified corporation,

"(B) to a transaction described in section 338, and

"(C) for purposes of applying section 1374 in the case of a qualifying corporation which makes an election to become an S corporation.

"(7) PLAN ADOPTION DATE.—For purposes of this subsection, the term 'plan adoption date' means the date of adoption of the plan of complete liquidation.

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this subsection, including regulations providing for the increase in the value of the stock of a corporation on the plan adoption date to reflect any decrease in such value by reason of redemptions, contractions, and extraordinary distributions during the 5-year period ending on such date."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to distributions—

(A) pursuant to a complete liquidation occurring after December 31, 1988,

(B) pursuant to a transaction described in section 338 of the Internal Revenue Code of 1986 where the acquisition date occurs after December 31, 1988, and

(C) made by a corporation after December 31, 1988, without regard to whether the corporation is completely liquidated.

(2) S corporations.—The amendments made by this section shall apply for purposes of applying section 1374 of such Code in the case of a corporation which makes an election to be an S corporation under section 1362 of such Code after December 31, 1988.

SEC. 3202. TREATMENT OF CERTAIN LEASES BY RURAL ELECTRIC COOPERATIVES.

In the case of a rural electric cooperative described in section 1381(a)(2)(C) of the Internal Revenue Code of 1986, any interest income in connection with a transaction involving qualified leased property which was treated as a lease under section 168(i) of the Internal Revenue Code of 1954 (as in effect before the amendments made by the Tax Reform Act of 1986) or any corresponding prior provision of law shall be offset by any rental expense in connection with such transaction before allocation of such income or expense to members and nonmembers of such cooperative for purposes of such Code.

Subtitle C—Employee Benefit Provisions

PART I—REPEAL OF SECTION 89 NONDISCRIMINATION RULES

SEC. 3301. REPEAL OF SECTION 89.

(a) IN GENERAL.—Section 89 (relating to benefits provided under certain discriminatory employee benefit plans) is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by striking the item relating to section 89.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 1151 of the Tax Reform Act of 1986.

SEC. 3302. REINSTATEMENT OF PRE-1986 ACT NONDISCRIMINATION RULES.

(a) IN GENERAL.—

(1) Each provision of law amended by subsection (b), (c), (d)(1), or (g) of section 1151 of the Tax Reform Act of 1986 is amended to read as if the amendments made by such subsection had not been enacted.

(2) Each provision of law amended by paragraph (22), (27), or (31) of section 1011B(a) of the Technical and Miscellaneous Revenue Act of 1988 is amended to read as if the amendments made by such paragraph had not been enacted.

(3) Subparagraph (A) of section 125(g)(3) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking "subparagraph (B) of section 410(b)(1)" and inserting "section 410(b)(2)(A)(i)".

(4) Section 162(l)(2) is amended by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(5) Subparagraph (C) of section 401(a)(9) is amended—

(A) by striking "(as defined in section 89(i)(4))", and

(B) by adding at the end the following: "For purposes of this subparagraph, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B))."

(6)(A) Subparagraph (C) of section 414(n)(3) is amended by striking "89,".

(B) Paragraph (1) of section 414(r) is amended by striking "sections 89 and" and inserting "section".

(C) Paragraph (2) of section 414(t) is amended by striking "89,".

(7) Sections 3021(c) and 6070 of the Technical and Miscellaneous Revenue Act of 1988 are hereby repealed.

(b) EXCEPTIONS.—

(1)(A) Paragraph (7) of section 79(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended to read as follows:

"(7) EXEMPTION FOR CHURCH PLANS.—

"(A) IN GENERAL.—This subsection shall not apply to a church plan maintained for church employees.

"(B) DEFINITIONS.—For purposes of subparagraph (A), the terms 'church employee' and 'church plan' have the meaning given such terms by paragraphs (3)(B) and (1) of section 414(e), respectively, except that—

"(i) section 414(e) shall be applied by substituting 'section 501(c)(3)' for 'section 501' each place it appears, and

"(ii) the term 'church employee' shall not include an employee of—

"(I) an organization described in section 170(b)(1)(A)(ii) above the secondary school level (other than a school for religious training),

"(II) an organization described in section 170(b)(1)(A)(iii), and

"(III) an organization described in section 501(c)(3), the basis of the exemption for which is substantially similar to the basis

for exemption of an organization described in subclause (II)."

(2) Paragraph (2) of section 125(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended to read as follows:

"(2) DEFERRED COMPENSATION PLANS EXCLUDED.—

"(A) IN GENERAL.—The term 'cafeteria plan' does not include any plan which provides for deferred compensation.

"(B) EXCEPTION FOR CASH AND DEFERRED ARRANGEMENTS.—Subparagraph (A) shall not apply to a profit-sharing or stock bonus plan or rural cooperative plan (within the meaning of section 401(k)(7)) which includes a qualified cash or deferred arrangement (as defined in section 401(k)(2)) to the extent of amounts which a covered employee may elect to have the employer pay as contributions to a trust under such plan on behalf of the employee.

"(C) EXCEPTION FOR CERTAIN PLANS MAINTAINED BY EDUCATIONAL INSTITUTIONS.—Subparagraph (A) shall not apply to a plan maintained by an educational organization described in section 170(b)(1)(A)(ii) to the extent of amounts which a covered employee may elect to have the employer pay as contributions for post-retirement group life insurance if—

"(i) all contributions for such insurance must be made before retirement, and

"(ii) such life insurance does not have a cash surrender value at any time.

For purposes of section 79, any life insurance described in the preceding sentence shall be treated as group-term life insurance."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 1151 of the Tax Reform Act of 1986.

SEC. 3303. OTHER PROVISIONS RELATING TO NONTAXABLE BENEFITS.

(a) TREATMENT OF LEASED EMPLOYEES.—

(1) REPLACEMENT OF HISTORICAL TEST WITH CONTROL TEST.—Subparagraph (C) of section 414(n)(2) is amended to read as follows:

"(C) such services are performed by such person under the control of the recipient."

(2) SERVICES INCIDENTAL TO SALES OR CONSTRUCTION DISREGARDED.—Paragraph (2) of section 414(n) is amended by adding at the end thereof the following new flush sentence:

"The term 'leased employee' shall not include an individual solely because such individual is performing services incidental to the sale of goods or equipment or incidental to the construction of a facility. Such term shall include the support staff of professional service organizations."

(b) DEPENDENT CARE ASSISTANCE.—

(1) INCLUSION IN INCOME OF EXCESS BENEFITS.—Paragraph (7) of section 129(d) is amended by adding at the end thereof the following new paragraph:

"(C) FAILURE TO MEET REQUIREMENTS.—

"(i) IN GENERAL.—If a plan fails to meet the requirements of this paragraph for any plan year—

"(I) such plan shall be treated as a plan which is a dependent care assistance program to which subsection (a) applies, but

"(II) there shall be included in the gross income of each highly compensated employee for the taxable year of such employee with or within which the plan year ends an amount equal to such employee's excess benefit.

"(ii) EXCESS BENEFIT.—For purposes of this subparagraph, the excess benefit of any employee is the excess of the employee's employer-provided benefit under the plan over the highest permitted benefit.

"(iii) HIGHEST PERMITTED BENEFIT.—For purposes of clause (ii), the highest permitted benefit under any plan shall be determined by reducing the nontaxable benefits of highly compensated employees (beginning with employees with the greatest nontaxable benefits) until such plan would be treated as meeting the requirements of subparagraph (A) if such reduced benefits were taken into account."

(2) INFORMATION REPORTING.—Paragraph (9) of section 6051(a) of such Code is amended by inserting "and the amount of such assistance required to be included in gross income by reason of section 129(d)(7)(C)" after "section 129(d)".

(c) LINE OF BUSINESS TEST.—

(1) APPLICATION OF LINE OF BUSINESS TEST FOR PERIOD BEFORE GUIDELINES ISSUED.—In the case of any plan year beginning on or before the date the Secretary of the Treasury or his delegate issues guidelines and begins issuing determinations under section 414(r)(2)(C) of the Internal Revenue Code of 1986, an employer shall be treated as operating separate lines of business if the employer reasonably determines that it meets the requirements of section 414(r) (other than paragraph (2)(C) thereof) of such Code.

(2) DEPENDENT CARE.—Paragraph (1) of section 414(r) is amended by striking "section 410(b)" and inserting "sections 129(d)(7) and 410(b)".

(d) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to years beginning after December 31, 1983.

(2) The amendments made by subsections (b) and (c)(2) shall apply to years beginning after December 31, 1988.

(3) The provisions of subsection (c)(1) shall apply to years beginning after December 31, 1986.

PART II—TAX TREATMENT OF RETIREE HEALTH ACCOUNTS

Subpart A—General Rules

SEC. 3311. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) IN GENERAL.—Part I of subchapter D of chapter 1 (relating to pension, profit-sharing, and stock bonus plans) is amended by adding at the end thereof the following new subpart:

"Subpart E—Treatment of Transfers to Retiree Health Accounts

"Sec. 420. Transfers of excess pension assets to retiree health accounts.

"SEC. 420. TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

"(a) GENERAL RULE.—If there is a qualified transfer of any excess pension assets of a defined benefit plan to a health benefits account which is part of such plan—

"(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of subsection (a) or (h) of section 401 solely by reason of such transfer (or any other action authorized under this section),

"(2) no amount shall be includible in the gross income of the employer maintaining the plan solely by reason of such transfer, and such transfer shall not be treated as an employer reversion for purposes of section 4980, and

"(3) the limitations of subsection (d) shall apply to such employer.

"(b) QUALIFIED TRANSFER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer of excess pension assets by a defined benefit plan to a health benefits account in a taxable year beginning after December 31, 1989, with respect to which the plan meets—

"(A) the use requirements of subsection (c)(1),

"(B) the vesting requirements of subsection (c)(2), and

"(C) the minimum benefit requirements of subsection (c)(3).

"(2) ONLY 1 TRANSFER PER YEAR.—

"(A) IN GENERAL.—No more than 1 transfer with respect to any plan during a taxable year may be treated as a qualified transfer for purposes of this section.

"(B) EXCEPTION.—A transfer described in paragraph (4) shall not be taken into account for purposes of subparagraph (A).

"(3) LIMITATION ON AMOUNT TRANSFERRED.—The amount of excess pension assets which may be transferred in a qualified transfer shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay out of such account under such plan during the taxable year of the transfer for qualified current retiree health liabilities.

"(4) SPECIAL RULE FOR 1989.—

"(A) IN GENERAL.—Subject to the provisions of subsection (c), a transfer shall be treated as a qualified transfer if such transfer—

"(i) is made after the close of the taxable year preceding the employer's first taxable year beginning after December 31, 1989, and before the due date (including extensions) for the filing of the return of tax for such preceding taxable year, and

"(ii) does not exceed the expenditures of the employer for qualified current retiree health liabilities for such preceding year.

"(B) INCLUSION WITH 1990 TRANSFER.—An employer may elect to include the transfer described in subparagraph (A) as part of the qualified transfer for the employer's first taxable year beginning after December 31, 1989. If an election is made under this subparagraph, the limitation under paragraph (3) for the taxable year shall be increased by the amount determined under subparagraph (A)(ii).

"(C) COORDINATION WITH REDUCTION RULE.—Subsection (e)(1)(B) shall not apply to a transfer described in subparagraph (A) with respect to contributions to a welfare benefit fund.

"(5) TERMINATION.—No transfer in any taxable year beginning after December 31, 1994, shall be treated as a qualified transfer.

"(c) REQUIREMENTS OF PLANS TRANSFERRING ASSETS.—

"(1) USE OF TRANSFERRED ASSETS.—

"(A) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) shall be used only to pay qualified current retiree health liabilities (whether directly or through reimbursement).

"(B) AMOUNTS NOT USED TO PAY FOR HEALTH BENEFITS.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) which are not used as provided in subparagraph (A) for the taxable year of such transfer—

"(i) shall be transferred out of the account to the transferor plan, but

"(ii) shall not be includible in the gross income of the employer for such taxable year, and shall not be treated, for purposes of section 4980, as an employer reversion.

"(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the year before the transfer, immediately before such separation).

"(B) SPECIAL RULE FOR 1989.—In the case of a qualified transfer described in subsection (b)(4), the requirements of this paragraph are met with respect to any participant who separated from service during 1989 by recomputing such participant's benefits as if subparagraph (A) had applied immediately before such separation.

"(3) MINIMUM BENEFIT REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the applicable employer cost for each year during the benefit maintenance period is not less than the highest applicable employer cost for the 2 taxable years immediately preceding the taxable year of the qualified transfer.

"(B) APPLICABLE EMPLOYER COST.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable employer cost' means the average employer cost per covered employee in providing applicable health benefits to covered employees.

"(ii) COVERED EMPLOYEE.—The term 'covered employee' means any employee who is taken into account in determining the qualified current retiree health liabilities with respect to any qualified transfer.

"(C) BENEFIT MAINTENANCE PERIOD.—For purposes of this paragraph, the term 'benefit maintenance period' means the 5-taxable-year period beginning with the taxable year in which the qualified transfer occurs. If there is more than 1 qualified transfer applicable to any taxable year, this paragraph shall be applied by taking into account the highest applicable employer cost.

"(D) MULTIPLE PLANS.—If applicable health benefits are provided through more than 1 plan, such plans shall be treated as 1 plan for determining the applicable employer cost.

"(d) LIMITATIONS ON EMPLOYER.—For purposes of this title—

"(1) DEDUCTION LIMITATIONS.—No deduction shall be allowed—

"(A) for the transfer of any amount to a health benefits account in a qualified transfer (or any retransfer to the plan under subsection (c)(1)(B)),

"(B) for qualified current retiree health liabilities paid out of the assets (and income) described in subsection (c)(1), or

"(C) for any amounts to which subparagraph (B) does not apply and which are paid for qualified current retiree health liabilities for the taxable year to the extent such amounts are not greater than the excess (if any) of—

"(i) the amount determined under subparagraph (A) (and income allocable thereto), over

"(ii) the amount determined under subparagraph (B).

"(2) NO CONTRIBUTIONS ALLOWED.—An employer may not contribute after December 31, 1989, any amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to qualified current retiree health liabilities for which transferred assets are required to be used under subsection (c)(1).

"(e) DEFINITION AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED CURRENT RETIREE HEALTH LIABILITIES.—For purposes of this section—

(A) IN GENERAL.—The term "qualified current retiree health liabilities" means, with respect to any taxable year, the aggregate amounts (including administrative expenses) which would have been allowable as a deduction to the employer for such taxable year with respect to applicable health benefits provided during such taxable year if—

"(i) such benefits were provided directly by the employer, and

"(ii) the employer used the cash receipts and disbursements method of accounting.

For purposes of the preceding sentence, the rule of section 419(c)(3)(B) of such Code shall apply.

"(B) REDUCTIONS FOR AMOUNTS PREVIOUSLY SET ASIDE.—The amount determined under subparagraph (A) shall be reduced by any amount previously contributed to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) to pay for the qualified current retiree health liabilities.

"(C) APPLICABLE HEALTH BENEFITS.—The term 'applicable health benefits' means health benefits which are provided through the health benefits account maintained by the employer to employees of such employer who—

"(i) are eligible for pension benefits under the defined benefit plan maintaining the health benefits account, and

"(ii) have retired on or before the date of the qualified transfer.

"(D) KEY EMPLOYEES EXCLUDED.—If an employee is a key employee (within the meaning of section 416(i)(1)) with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing qualified current retiree health liabilities for such taxable year.

"(2) EXCESS PENSION ASSETS.—The term 'excess pension assets' means the excess (if any) of—

"(A) the amount determined under section 412(c)(7)(A)(ii), over

"(B) the amount determined under section 412(c)(7)(A)(i).

"(3) HEALTH BENEFITS ACCOUNT.—The term "health benefits account" means an account established and maintained under section 401(h).

"(4) COORDINATION WITH FULL-FUNDING LIMITATION.—For purposes of determining the full-funding limitation of any plan under paragraph (7) or (12) of section 412(c), the assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) shall be treated as assets of such plan."

(b) CONFORMING AMENDMENT.—Section 401(h) is amended by inserting ", and subject to the provisions of section 420" after "Secretary".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

Subpart B—Coal Industry Plans

SEC. 3312. SHORT TITLE.

This subpart may be cited as the "Coal Industry Health Benefit Stabilization Act of 1989".

SEC. 3313. AUTHORIZATION OF TRANSFER OF SURPLUS ASSETS FROM COAL PENSION PLAN TO COAL HEALTH PLANS.

(a) IN GENERAL.—Notwithstanding any other provision of law, a plan described in subsection (c) shall transfer surplus assets to a plan described in subsection (d) whenever—

(1) the actuary for a plan described in subsection (c) notifies the joint board of trustees of the plan and the settlors in writing that the plan contains surplus assets;

(2) the actuary's determination is accepted by the trustees; and

(3) both settlors direct the board of trustees to transfer all (or any portion of) such surplus assets from a plan described in subsection (c) to a plan described in subsection (d).

(b) TAX TREATMENT OF TRANSFER.—

(1) DEDUCTIBILITY OF CONTRIBUTIONS.—No deduction shall be allowed under the Internal Revenue Code of 1986 with respect to a transfer of surplus assets pursuant to subsection (a), but such transfer shall not adversely affect the deductibility (under applicable provisions of such Code) of contributions previously made by employers or amounts hereafter contributed by employers to a plan described in subsection (c) or (d).

(2) EMPLOYER TREATMENT.—A transfer of surplus assets pursuant to subsection (a)—

(A) shall not be treated as an employer reversion from a qualified plan for purposes of section 4980 of the Internal Revenue Code of 1986, and

(B) shall not be includible in the gross income of any employer maintaining a plan described in subsection (c).

(c) PLAN FROM WHICH ASSETS TRANSFERRED.—A plan is described in this subsection if—

(1) it is a plan described in section 404(c) of the Internal Revenue Code of 1986 or a continuation thereof; and

(2) participation in the plan is substantially limited to individuals who retired prior to January 1, 1976.

(d) PLANS TO WHICH ASSETS TRANSFERRED.—A plan is described in this subsection if—

(1) it is a plan described in section 404(c) of the Internal Revenue Code of 1986 or a continuation thereof, and

(2) it provides health benefits to retirees and beneficiaries of the industry which maintained the plan described in subsection (c).

SEC. 3314. CONTINUING OBLIGATION TO CONTRIBUTE TO MULTIEMPLOYER PLANS.

(a) IN GENERAL.—Any employer that had an obligation to contribute to a plan described in section 6324(d) on January 1, 1988 (including a contingent obligation to contribute), shall have a continuing obligation to contribute to the plan in the amount and form determined in subsection (b). This obligation to contribute shall only continue for any period during which there exists a collective bargaining agreement between the settlors which establishes a contribution rate for the plan. Any continuation of the obligation to contribute under this section shall be effective with respect to the first month for which contributions to the plan are required under the new collective bargaining agreement between the settlors.

(b) AMOUNT OF OBLIGATION.—

(1) IN GENERAL.—An employer's continuing obligation shall be determined under the following subparagraphs:

(A) An employer subject to this section shall be liable to a plan described in section 6324(d) for hourly contributions based on all hours worked by its employees engaged in the production of coal. Contributions shall be paid to the plan by the 10th day of each month for all hours worked during the preceding month. The hourly contribution rate applicable under this paragraph shall

be identical to the rate established for the plan in the collective bargaining agreement then in effect between the settlors, and shall increase or decrease at any time, and to the same extent, that the rate established pursuant to the collective bargaining agreement increases or decreases.

(B) If an employer subject to this section would make no contributions to a plan described in section 6324(d) pursuant to subparagraph (A) for any month, or if, for any month, such employer's contributions required pursuant to subparagraph (A) would not at least equal 70 percent of the product of the hourly contribution rate applicable under subparagraph (A) and the employer's highest average monthly reported hours, then the employer shall be required to contribute to the plan for that month contributions equal to 70 percent of the product of the hourly contribution rate applicable under subparagraph (A) and the employer's highest average monthly reported hours. The employer's highest average monthly reported hours is the average number of hours reported monthly by the employer to any plan described in section 6324(d) or, if higher, to any related pension plan, for the 60 consecutive months for which the employer's reported hours were the highest within the 120 months immediately preceding the application of this section.

(C)(i) With respect to a plan described in section 6324(d), participation in which is substantially limited to individuals who retired on or after January 1, 1976, an employer's continuing obligation under subparagraphs (A) and (B) shall be increased in the amount determined by the joint board of trustees of the plan under clauses (ii) and (iii), for each month during which any participant or beneficiary described in clause (iii)(II) is eligible for health benefits from the plan.

(ii) The board of trustees shall once during each plan year set a monthly premium rate which shall be equal to a reasonable estimate of the full cost to the plan of providing benefits coverage during the plan year for one participant or beneficiary.

(iii) The board of trustees shall increase an employer's continuing obligation each month by an amount equal to the product of—

(I) the premium rate set under clause (ii); and

(II) the total number of participants and beneficiaries eligible for benefits from the plan during that month who were previously eligible for health benefits under a welfare plan (other than a multiemployer plan) maintained by the employer, or who would have been eligible for such health benefits if the employer had continued to maintain its welfare plan for the same categories of participants and beneficiaries as were originally covered thereunder.

(2) CHANGES IN METHOD OF FUNDING.—In the event that the cents per hour method of funding of a plan is converted to a different method of funding, an employer's continuing obligation as determined under subparagraphs (A) and (B) of paragraph (1) shall be converted to an equivalent contribution obligation determined pursuant to the revised method of funding.

(c) CERTAIN EMPLOYERS EXCLUDED.—With respect to any plan described in section 6324(d), this section shall not apply to any employer so long as the employer is bound by and in compliance with either—

(1) all of the terms and conditions (relating to the plan) of the collective bargaining agreement then in effect between the settlors; or

(2) all of the terms and conditions (relating to the plan) of any other collective bargaining agreement entered into prior to September 29, 1989 (but excluding any renewal, extension or modification of such collective bargaining agreement entered into after September 29, 1989), between the employer and the labor organization which is a settlor of the plan.

(d) TREATMENT OF EMPLOYERS IN PARTIAL COMPLIANCE.—Except as provided in subsection (c)(2), with respect to any plan described in section 6324(d), this section shall apply to any employer which contributes to the plan, but not in accordance with all of the terms and conditions (relating to the plan) of the collective bargaining agreement then in effect between the settlors. However, such employer shall be credited with the amount of any contributions made to the plan pursuant to any other collective bargaining agreement entered into by the employer and the labor organization which is a settlor of the plan, to the extent that such contributions are based on the same hours or other equivalent for which contributions are required under subsection (b)(1).

(e) LIABILITY FOR PAYMENT.—Persons responsible for paying to a plan described in section 6324(d) the amount of an employer's continuing obligation determined under this section shall include the employer and, only to the extent provided in this subsection, all trades or businesses (whether or not incorporated) which—

(1) are under common control with such employer; and

(2) are or were at any time on or after January 1, 1988, obligated to contribute to the plan (including a contingent obligation to contribute) under a collective bargaining agreement with the labor organization which is a settlor of the plan.

A plan may initiate legal action against such trade or business simultaneously with its pursuit of any remedy against the employer, but collection must first be pursued against the employer. The determination of whether such trades or businesses are under common control with an employer shall be made by the joint board of trustees of the plan, under rules which are consistent and coextensive with regulations prescribed by the Secretary of the Treasury or his delegate under section 414(c) of the Internal Revenue Code of 1986.

(f) SALES OF ASSETS.—An employer shall not be liable for a continuing obligation under this section with respect to operations sold to an unrelated party (hereinafter referred to as the "purchaser") in a bona fide, arms-length sale of assets, provided that the terms and conditions of subsections (a) and (d) of section 4204 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1384 (a) and (d)) have been met, treating a continuing obligation to a plan under this Act as if it were withdrawal liability within the meaning of section 4201 of such Act (29 U.S.C. 1381). In such event, the employer shall be subject only to secondary liability for a continuing obligation with respect to the operations purchased, under the terms referred to in subsection (a)(1)(C) of section 4204 of such Act (29 U.S.C. 1384(a)(1)(C)), and the purchaser shall, for all purposes under this Act, be treated as if it had made all contributions and reported all hours as were made or reported by the employer with respect to the operations purchased.

(g) RECORDS.—An employer that has a continuing obligation to contribute to a plan described in section 6324(d) shall keep such records and render such statements as the joint board of trustees of the plan may from time to time prescribe. The board of trustees shall have the right to audit the books and records of the employer for the purpose of enforcing the provisions of this section. In connection with any such audit, the board of trustees (or its duly designated employee or representative) shall, at all reasonable times, upon request, have access to, and be permitted to copy, all books, papers, and other documents of the employer which are necessary to verify the accuracy of payments made under this Act. In any case in which an audit establishes that an employer has not paid to a plan described in section 6324(d) the full amount of the continuing obligation determined pursuant to subsection (b), the employer, at the discretion of the board of trustees, shall be liable to the plan for the full cost of the audit, in addition to any amounts owed under subsection (b).

(h) ACTIONS OF TRUSTEES.—The joint board of trustees of any plan described in section 6324(d) shall determine an employer's continuing obligation under this section, notify the employer of such determination, and collect the continuing obligation of the employer. The continuing obligation (including arrearages which arose prior to the assessment of the obligation) shall be payable beginning no later than 60 days after the date of the notification to the employer of the determination of the board of trustees, notwithstanding the pendency of any proceeding to contest the assessment of liability. Such past arrearages may be amortized over 12 equal monthly payments. Any dispute between an employer and a board of trustees concerning a determination shall be resolved through arbitration. The provisions of sections 4221 and 4301 (a) through (f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1401 and 1451 (a)-(f)) shall be applicable to this section, treating an employer's continuing obligation to a plan as if it were withdrawal liability within the meaning of section 4201 of such Act (29 U.S.C. 1381).

SEC. 3315. DEFINITIONS.

(a) For purposes of this subpart, the term—

(1) "employee engaged in the production of coal" means any individual employed by an employer in a job classification at any operation which is or was at any time on or after January 1, 1988, covered by a collective bargaining agreement with the United Mine Workers of America (or a local affiliate thereof) requiring contributions to a plan described in section 6324(d);

(2) "employer" means a person which is or was required to make contributions to a plan described in section 6324(d) on behalf of employees engaged in the production of coal;

(3) "plan year" means with respect to a plan described in section 6324(d), the calendar year or fiscal year on which the records of the plan are kept;

(4) "related pension plan" means any pension plan described in section 404(c) of the Internal Revenue Code of 1986 or a continuation thereof;

(5) "settlors" means the United Mine Workers of America (hereinafter referred to as the "UMWA") and the Bituminous Coal Operators' Association, Inc. (hereinafter referred to as the "BCOA"), except that if the BCOA ceases to exist, members of the BCOA representing more than 50 percent of the tonnage membership of BCOA on the

date of enactment of this subpart shall collectively be considered a settlor, and in such event, the uniform contribution rate, terms and conditions relating to a plan described in section 6324(d), which are set forth in collective bargaining agreements then in effect between such members and the UMWA shall constitute the rate, terms, and conditions of the collective bargaining agreement between the settlors for purposes of this Act; and

(6) "surplus assets" means the excess of the current value of plan assets (as defined in section 3(26) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(26))) over the actuarial present value of all benefits for all plan participants, determined as of the first day of the plan year in accordance with actuarial assumptions and methods which reflect the actuary's best estimate of anticipated experience under the plan.

SEC. 3316. RELATIONSHIP TO COLLECTIVE BARGAINING AGREEMENTS.

Nothing in this subpart is intended to diminish or adversely affect in any manner any cause of action of a plan described in section _____(d), or of its board of trustees, against an employer for contributions based on a collective bargaining agreement between the employer and a labor organization which is a settlor of the plan.

SEC. 3317. REPORT.

The settlors shall prepare a report on or before February 1, 1994, analyzing the effect of this subpart on the delivery of retiree health benefits in the bituminous coal industry.

SEC. 3318. SEVERABILITY.

If any provision of this subpart is declared invalid, all other provisions of this subpart shall remain in full force and effect.

SEC. 3319. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this subpart shall take effect on the date of enactment.

(b) OBLIGATION TO CONTRIBUTE.—The provisions of this subpart relating to an employer's continuing obligation to contribute to multiemployer plans shall take effect on January 1, 1988.

PART III—ALTERNATIVE FULL-FUNDING LIMITATION

SEC. 3321. ALTERNATIVE FULL-FUNDING LIMITATION.

(a) IN GENERAL.—Subsection (c) of section 412 (relating to minimum funding standards) is amended by adding at the end thereof the following new paragraph:

"(12) ALTERNATIVE FULL-FUNDING LIMITATION.—

"(A) GENERAL RULE.—An employer may elect the full-funding limitation under this paragraph with respect to any defined benefit plan of the employer in lieu of the full-funding limitation determined under paragraph (7) if the requirements of subparagraphs (C) and (D) are met.

"(B) ALTERNATIVE FULL-FUNDING LIMITATION.—The full-funding limitation under this paragraph is the full-funding limitation determined under paragraph (7) without regard to 'the lesser of (I) 150 percent of current liability, or (II)'.

"(C) REQUIREMENTS RELATING TO PLAN ELIGIBILITY.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to a defined benefit plan if—

"(I) as of the 1st day of the election period, the accrued liability of participants accruing benefits under the plan is at least 90 percent of the plan's total accrued liability,

"(II) the plan is not a top-heavy plan (as defined in section 416(g)) for the 1st plan year of the election period or either of the 2 preceding plan years,

"(III) the plan is described in section 404(a)(1)(D) for the plan year and 2 preceding plan years, and

"(IV) each defined benefit plan of the employer (and each defined benefit plan of each employer who is a member of any controlled group which includes such employer) meets the requirements of subclauses (I), (II), and (III).

"(ii) FAILURE TO CONTINUE TO MEET REQUIREMENTS.—

"(I) If any plan fails to meet the requirement of clause (i)(I) for any plan year during an election period, the benefits of the election under this paragraph shall be phased out under regulations prescribed by the Secretary.

"(II) If any plan fails to meet the requirement of clause (i) (II) or (III) for any plan year during an election period, such plan shall be treated as not meeting the requirements of clause (i) for the remainder of the election period.

If there is a failure described in subclause (I), (II), or (III) with respect to any plan, such plan (and each plan described in clause (i)(IV) with respect to such plan) shall be treated as not meeting the requirements of clause (i) for any of the 10 plan years beginning after the election period.

"(D) REQUIREMENTS RELATING TO ELECTION.—The requirements of this subparagraph are met if—

"(i) FILING DATE.—Notice of such election is filed with the Secretary (in such form and manner and containing such information as the Secretary may provide) at least 425 days before the 1st day of the election period.

"(ii) CONSISTENT ELECTION.—Such an election is made for all defined benefit plans maintained by the employer or by any member of a controlled group which includes the employer.

"(E) TERM OF ELECTION.—Any election made under this paragraph shall apply for the election period.

"(F) OTHER CONSEQUENCES OF ELECTION.—

"(i) NO FUNDING WAIVERS.—In the case of a plan with respect to which an election is made under this paragraph, no waiver may be granted under subsection (d) for any plan year beginning after the date the election was made and ending at the close of the election period with respect thereto.

"(ii) FAILURE TO MAKE SUCCESSIVE ELECTIONS.—If an election is made under this paragraph with respect to any plan and such an election does not apply for each successive plan year of such plan, such plan shall be treated as not meeting the requirements of subparagraph (C) for the period of 10 plan years beginning after the close of the last election period for such plan.

"(G) DEFINITIONS.—For purposes of this paragraph—

"(i) ELECTION PERIOD.—The term 'election period' means the period of 5 consecutive plan years beginning with the 1st plan year for which the election is effective.

"(ii) CONTROLLED GROUP.—The term 'controlled group' means all persons who are treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

"(H) PROCEDURES IF ALTERNATIVE FUNDING LIMITATION REDUCES NET FEDERAL REVENUES.—

"(i) IN GENERAL.—At least once with respect to each fiscal year, the Secretary shall estimate whether the application of this paragraph will result in a net reduction in Federal revenues for such fiscal year.

"(ii) ADJUSTMENT OF FULL-FUNDING LIMITATION IF REVENUE SHORTFALL.—If the Secretary estimates that the application of this paragraph will result in a more than insubstantial net reduction in Federal revenues for any fiscal year, the Secretary—

"(I) shall make the adjustment described in clause (iii), and

"(II) to the extent such adjustment is not sufficient to reduce such reduction to an insubstantial amount, shall make the adjustment described in clause (iv).

Such adjustments shall apply only to defined benefit plans with respect to which an election under this paragraph is not in effect.

"(iii) REDUCTION IN LIMITATION BASED ON 150 PERCENT OF CURRENT LIABILITY.—The adjustment described in this clause is an adjustment which—

"(I) applies paragraph (7) separately with respect to participants who are not accruing benefits under the plan and to participants who are so accruing, and

"(II) reduces the percentage described in paragraph (7)(A)(i)(I) (not below 140 percent) with respect to such participants who are not so accruing.

"(iv) REDUCTION IN LIMITATION BASED ON ACCRUED LIABILITY.—The adjustment described in this clause is an adjustment which reduces the percentage of accrued liability taken into account under paragraph (7)(A)(i)(II). In no event may the amount of accrued liability taken into account under such paragraph after the adjustment be less than current liability under paragraph (7)(A)(i)(I) (determined by substituting '140' for '150')."

(b) REPEAL OF DISCRETIONARY REGULATORY AUTHORITY.—Section 412(c)(7) is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

PART IV—OTHER PROVISIONS

SEC. 3331. TAX-EXEMPT ORGANIZATIONS ELIGIBLE FOR SECTION 401(k) PLANS.

(a) IN GENERAL.—Subparagraph (B) of section 401(k)(4) is amended to read as follows:

"(B) STATE AND LOCAL GOVERNMENTS NOT ELIGIBLE.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is a part of a plan maintained by a State or local government, or political subdivision thereof, or any agency or instrumentality thereof. This subparagraph shall not apply to a rural cooperative plan."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1989.

SEC. 3332. VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATIONS.

(a) IN GENERAL.—Paragraph (9) of section 501(c) is amended by inserting "and if the members of such association have an employment-related common bond" after "individual".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after October 3, 1989.

SEC. 3333. INCREASE IN EMPLOYER REVERSION TAX.

(a) IN GENERAL.—Section 4980(a) is amended by striking "15 percent" and inserting "20 percent".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to reversions occurring after October 3, 1989.

(2) EXCEPTIONS.—The amendment made by subsection (a) shall not apply to any reversion after October 3, 1989, pursuant to a plan termination if—

(A) with respect to plans subject to title IV of the Employee Retirement Income Security Act of 1974, a notice of intent to terminate required under such title was provided to participants (or if no participants, to the Pension Benefit Guaranty Corporation) before October 4, 1989, or

(B) with respect to plans subject to title I of such Act, a notice of intent to reduce future accruals required under section 204(h) of such Act was provided to participants in connection with the termination before October 4, 1989.

SEC. 3334. QUALIFIED TRANSPORTATION FRINGE BENEFIT.

(a) EXCLUSION.—Section 132(a) is amended by striking "or" at the end of paragraph (3), by striking the comma at the end of paragraph (4) and inserting ", or", and by adding at the end thereof the following new paragraph:

"(5) qualified transportation fringe."

(b) QUALIFIED TRANSPORTATION FRINGE.—Section 132 is amended by adding at the end thereof the following new subsection:

"(i) QUALIFIED TRANSPORTATION FRINGE.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified transportation fringe' means—

"(A) transportation in a commuter highway vehicle between the employee's residence and place of employment, and

"(B) any transit pass.

"(2) LIMITATION ON EXCLUSION FOR TRANSIT PASSES.—In the case of a qualified transportation fringe described in paragraph (1)(B), the amount excluded from gross income under subsection (a)(5) shall not exceed $15 per month.

"(3) ADDITIONAL REQUIREMENTS.—Paragraph (1) shall not apply to any qualified transportation fringe unless—

"(A) such benefit is provided under a separate written plan of the employer, and

"(B) the plan provides that such benefit is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) TRANSIT PASS.—The term 'transit pass' means any pass, token, farecard, voucher, or similar item entitling a person to transportation on mass transit facilities (whether or not publicly owned).

"(B) COMMUTER HIGHWAY VEHICLE.—The term 'commuter highway vehicle' means any highway vehicle—

"(i) the seating capacity of which is at least seven adults (not including the driver), and

"(ii) at least 80 percent of the mileage use of which can reasonably be expected to be—

"(I) for purposes of transporting employees between their residences and their place of employment, and

"(II) on trips during which the number of employees transported for such purposes is at least ½ of the adult seating capacity of such vehicle (not including the driver).

"(C) TRANSPORTATION PROVIDED BY EMPLOYER.—Transportation referred to in paragraph (1)(A) shall be considered to be provided by an employer if such transportation is furnished in a commuter highway vehicle operated by or for the employer.

"(D) EMPLOYEE.—The term 'employee' does not include an individual who is an employee within the meaning of section 401(c)(1).".

(c) CONFORMING AMENDMENT.—Section 132(h)(1) is amended by striking "and (2)" and inserting ", (2), and (5)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 3335. PERSONAL USE OF AIRPLANES.

In applying Treasury Regulation § 1.61-21(g)(12) for taxable years beginning after December 31, 1989, the determination of the value of a flight by an individual who is not flying primarily for an employer's business shall be determined on the basis of the percentage of occupied seats (other than crew) which are occupied by individuals whose flights are primarily for the employer's business rather than the percentage of seating capacity.

Subtitle D—Foreign Provisions

SEC. 3401. TREATMENT OF NONRESIDENT ALIENS RECEIVING CERTAIN EDUCATIONAL AND TRAINING GRANTS.

(a) GENERAL RULE.—Section 873 (relating to definitions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) TREATMENT OF NONRESIDENT ALIENS RECEIVING CERTAIN SCHOLARSHIP OR FELLOWSHIP GRANTS.—

"(1) IN GENERAL.—In the case of a qualified nonresident alien individual—

"(A) section 63(c)(6)(B) (relating to disallowance of standard deduction) shall not apply,

"(B) notwithstanding subsection (b)(3), the deduction for personal exemptions allowed by section 151 shall not be limited to 1 exemption,

"(C) section 152(b)(3) shall not exclude from the definition of 'dependent' any individual who is a member of the taxpayer's household in the United States, and

"(D) no exemption shall be allowed under section 151(b) for the spouse of the taxpayer unless such spouse is a member of the taxpayer's household in the United States.

Any deduction allowed by reason of the preceding sentence shall be allowed whether or not such deduction is connected with income which is effectively connected with the conduct of a trade or business within the United States.

"(2) LIMITATION.—The amount allowed as a deduction by reason of paragraph (1) for any taxable year shall not exceed the amount of the qualified scholarship or fellowship grants includible in gross income for such taxable year.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED NONRESIDENT ALIEN INDIVIDUAL.—The term 'qualified nonresident alien individual' means any individual—

"(i) who is temporarily present in the United States as a nonimmigrant under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act, and

"(ii) who receives or accrues any qualified scholarship or fellowship grant during the taxable year.

"(B) QUALIFIED SCHOLARSHIP OR FELLOWSHIP GRANT.—The term 'qualified scholarship or fellowship grant' means any amount—

"(i) which is includible in the gross income of the nonresident alien for the taxable year, and

"(ii) which is granted (directly or indirectly) by—

"(I) the United States (or an agency or instrumentality thereof),

"(II) a State, a possession of the United States, or any political subdivision of a State or a possession, or

"(III) any organization created or organized in the United States which is described in section 501(c)(3) and exempt from tax under section 501(a),

as a scholarship or fellowship for study, training, teaching, research, or career development in the United States.

"(4) REDUCTION IN WITHHOLDING.—The Secretary may by regulations provide for a reduction in the amount required to be deducted and withheld under section 1441 from any qualified scholarship or fellowship grant to take into account the provisions of this subsection."

(b) CONFORMING AMENDMENT.—Subsection (a) of section 873 is amended by striking "subsection (b)" and inserting "subsections (b) and (c)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 3402. MISCELLANEOUS FOREIGN PROVISIONS.

(a) TREATMENT OF EXPORT TRADE CORPORATIONS UNDER PASSIVE FOREIGN INVESTMENT COMPANY RULES.—

(1) IN GENERAL.—Subsection (b) of section 1296 (defining passive income) is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF EXPORT TRADE CORPORATIONS.—

"(A) IN GENERAL.—In the case of an export trade corporation (as defined in section 971), the term 'passive income' does not include any export trade income (as defined in section 971(b)).

"(B) LIMITATION.—The amount treated as not being passive income by reason of subparagraph (A) for any taxable year shall not exceed the excess (if any) of—

"(i) the reduction in the subpart F income of the export trade corporation under section 970(a), over

"(ii) the amount which would have been such reduction if any export trade income which would (but for this paragraph) be passive income were not taken into account under section 970(a)."

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 1296(b) is amended by striking "paragraph (2)" and inserting "paragraphs (2) and (3)".

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to taxable years of foreign corporations beginning after December 31, 1988.

(B) EXTENSION OF TIME FOR MAKING CERTAIN ELECTIONS.—In the case of any export trade corporation which was a passive foreign investment company for any taxable year beginning after December 31, 1986, and before January 1, 1989, the time for making an election under section 1294 or 1295 of the Internal Revenue Code of 1986 with respect to any such taxable year for which it was a passive foreign investment company shall not expire before the date 60 days after the date of the enactment of this Act. The period for assessing or collecting any underpayment of tax resulting from such an election shall in no event expire before the day 3 years after the date on which such election is made.

(b) TREATMENT OF CERTAIN LEASED PROPERTY UNDER PASSIVE FOREIGN INVESTMENT COMPANY RULES.—

(1) IN GENERAL.—Section 1296 (defining passive foreign investment company) is

amended by adding at the end thereof the following new subsection:

"(e) TREATMENT OF CERTAIN LEASED PROPERTY.—

"(1) IN GENERAL.—For purposes of subsection (a)(2), any computer or peripheral equipment with respect to which the foreign corporation is the lessee under a lease with a term of at least 6 months shall be treated as an asset actually held by such corporation.

"(2) COMPUTER OR PERIPHERAL EQUIPMENT.—The term 'computer or peripheral equipment' has the meaning given to such term by section 168(i)(2)(B).

"(3) EXCEPTIONS.—This subsection shall not apply in any case where—

"(A) the lessor is a related person (as defined in the last sentence of subsection (b)(2)) with respect to the foreign corporation,

"(B) the foreign corporation is a sublessor of the property, or

"(C) a principal purpose of leasing the equipment was to avoid the provisions of this part."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years of foreign corporations beginning after December 31, 1988.

(c) TREATMENT OF CERTAIN HOLDINGS OF CONTROLLED FOREIGN CORPORATIONS.—

(1) IN GENERAL.—Section 958 is amended by adding at the end thereof the following new subsection:

"(c) CERTAIN HOLDINGS DISREGARDED.—Solely for purposes of this subpart, the Secretary may by regulations provide that the stock of an investment company shall not be treated as owned by a controlled foreign corporation to the extent such stock is held solely for the benefit of foreign persons that are the owners of variable contracts issued by such controlled foreign corporation."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years of foreign corporations beginning after December 31, 1989.

SEC. 3403. EXCLUSION FOR CERTAIN OVERSEAS ALLOWANCES RECEIVED BY PERSONNEL OF DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—Paragraph (1) of section 912 (relating to foreign area allowances) is amended by striking "or" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting a comma, and by adding at the end the following new subparagraphs:

"(E) section 9(b) of the National Security Agency Act of 1959, if the amount would be excluded from gross income if received under a law referred to in subparagraph (A) or (B) of this paragraph, or

"(F) section 1605(a) of title 10, United States Code, if the amount would be excluded from gross income if received under the law referred to in subparagraph (A) of this paragraph."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to allowances received after December 31, 1988, in taxable years ending after such date.

Subtitle E—Excise Tax Provisions

SEC. 3501. ACCELERATION OF DEPOSIT REQUIREMENTS FOR TELEPHONE EXCISE TAX AND AIRLINE TICKET TAX; TELEPHONE EXCISE TAX EXEMPTION CERTIFICATES.

(a) ACCELERATION OF DEPOSIT REQUIREMENTS.—

(1) IN GENERAL.—Section 6302 (relating to mode or time of collection) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) TIME FOR DEPOSIT OF TAXES ON COMMUNICATIONS SERVICES AND AIRLINE TICKETS.—If, under regulations prescribed by the Secretary, a person is required to make deposits of any tax imposed by section 4251 or subsection (a) or (b) of section 4261 with respect to amounts considered collected by such person during any semimonthly period, such deposits shall be made not later than the 3rd day (not including Saturdays, Sundays, or legal holidays) after the close of the 1st week of the 2nd semimonthly period following the period to which such amounts relate.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to payments of taxes considered collected for semimonthly periods beginning after June 30, 1990.

(b) ONE-TIME FILING OF TELEPHONE EXCISE TAX EXEMPTION CERTIFICATES.—

(1) IN GENERAL.—Section 4253 is amended by adding at the end thereof the following new subsection:

"(k) FILING OF EXEMPTION CERTIFICATES.—

"(1) IN GENERAL.—In order to claim an exemption under subsection (c), (h), (i), or (j), a person shall provide to the provider of communications services a statement (in such form and manner as the Secretary may provide) certifying that such person is entitled to such exemption.

"(2) DURATION OF CERTIFICATE.—Any statement provided under paragraph (1) shall remain in effect until—

"(A) the provider of communications services has actual knowledge that the information provided in such statement is false, or

"(B) such provider is notified by the Secretary that the provider of the statement is no longer entitled to an exemption described in paragraph (1).

If any information provided in such statement is no longer accurate, the person providing such statement shall inform the provider of communications services within 30 days of any change of information."

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply to any claim for exemption made after the date of the enactment of this Act.

(B) DURATION OF EXISTING CERTIFICATES.—Any annual certificate of exemption effective on the date of the enactment of this Act shall remain effective until the end of the annual period.

SEC. 3502. EXCISE TAX FOR WETLANDS TRUST FUND.

(a) IN GENERAL.—Chapter 38 (relating to environmental taxes), as amended by section 6507, is further amended by adding at the end thereof the following new subchapter:

"Subchapter E—Offshore Oil and Natural Gas

"Sec. 4691. Imposition of tax.

"Sec. 4692. Definitions.

"SEC. 4691. IMPOSITION OF TAX.

"(a) IN GENERAL.—There is hereby imposed a tax at the rate specified in subsection (b) on—

"(1) offshore oil, and

"(2) offshore natural gas.

"(b) RATE OF TAX.—The rate of tax imposed by—

"(1) subsection (a)(1) is 3 cents a barrel, and

"(2) subsection (a)(2) is 2 cents per thousand cubic feet.

"(c) PAID BY WHOM.—The tax imposed by this section shall be paid by the person who owns the offshore oil or offshore natural gas when such oil or natural gas is produced.

"(d) APPLICATION OF TAX.—The tax imposed by this section shall apply after December 31, 1989, and before January 1, 1995.

"SEC. 4692. DEFINITIONS.

"For purposes of this subchapter—

"(1) OFFSHORE OIL.—The term 'offshore oil' means crude oil (as defined in section 4612(a)(1)) produced from the outer Continental Shelf.

"(2) OFFSHORE NATURAL GAS.—The term 'offshore natural gas' means natural gas produced from the outer Continental Shelf.

"(3) OUTER CONTINENTAL SHELF.—The term 'outer Continental Shelf' has the meaning given such term by section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

"(4) BARREL.—The term 'barrel' means 42 United States gallons.

"(5) FRACTIONAL PART OF BARREL; CUBIC FOOT.—In the case of a fraction of a barrel or cubic foot, the tax imposed by section 4691 shall be the same fraction of the amount of such tax imposed on a whole barrel or cubic foot."

(b) WETLANDS TRUST FUND CREATED.—Subchapter A of chapter 98 (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9511. WETLANDS TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Wetlands Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFER TO TRUST FUND.—There are hereby appropriated to the Wetlands Trust Fund amounts equivalent to the taxes received in the Treasury under section 4691 (relating to offshore oil and natural gas tax).

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Wetlands Trust Fund shall be available for making expenditures to carry out the creation, restoration, protection, enhancement, and conservation of wetlands upon enactment of and as provided in qualified authorizing legislation substantially similar to S. 1731 of the 101st Congress, as introduced in the Senate, and, if necessary, any appropriations Acts."

(c) CLERICAL AMENDMENTS.—

(1) The table of subchapters for chapter 38, as amended by section 6507(b), is further amended by adding at the end thereof the following new item.

"SUBCHAPTER E. Offshore oil and natural gas."

(2) The table of sections for subchapter A of chapter 98 is amended by adding at the end thereof the following new item:

"Sec. 9511. Wetlands Trust Fund."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1990.

(2) NO DEPOSITS REQUIRED BEFORE APRIL 1, 1990.—No deposit of any tax imposed by subchapter E of chapter 38 of the Internal Revenue Code of 1986, as added by this section, shall be required to be made before April 1, 1990.

SEC. 3503. APPLICATION OF SECTION 4091 OF THE 1986 CODE TO CERTAIN DISTRIBUTORS OF DIESEL AND AVIATION FUEL.

(a) IN GENERAL.—The tax under section 4091 of the Internal Revenue Code of 1986 shall not be imposed on the sale by a producer (as defined in section 4092(b)(1)(A)) of taxable fuel (as defined in section 4092(a)(1)) to a qualified person.

(b) TAXABLE SALES BY QUALIFIED PERSONS.—The tax under section 4091 of such Code shall be imposed on sales by a qualified person of taxable fuel (as so defined) for uses not described in section 4093(c) of such Code (as if such section was in effect on April 1, 1988) and section 4093(d) of such Code.

(c) QUALIFIED PERSON.—The term 'qualified person' means any person who—

(1) elects the provisions of this section,

(2) is not subject to the requirements of section 4101 of the Internal Revenue Code of 1986, and

(3) meets the definition of wholesale distributor for purposes of section 4092(b)(2) of such Code as in effect on January 1, 1989.

SEC. 3504. REDUCTION IN OCCUPATIONAL TAX ON SMALL RETAIL ALCOHOLIC BEVERAGE DISTRIBUTORS.

(a) IN GENERAL.—Section 5121 (imposing occupational tax on retail dealers) is amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULE FOR SMALL RETAIL DEALERS.—In the case of a small retail dealers, subsections (a) and (b) shall be applied by substituting '$150' for '$250'."

(b) SMALL RETAIL DEALERS DEFINED.—Section 5122 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(d) SMALL RETAIL DEALERS.—For purposes of this chapter—

"(1) IN GENERAL.—The term 'small retail dealer' means a retail dealer in liquors or beer who had gross receipts from retail sales of distilled spirits, wine, and beer of less than $250,000 for the preceding taxable period and derived at at least ⅓ of such gross receipts from such sales which were consumed on the premises of such dealer.

"(2) AGGREGATION RULES.—All persons treated as 1 person under section 5061(e)(3) shall be treated as 1 person for purposes of paragraph (1)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable periods beginning after December 31, 1989.

SEC. 3505. PROHIBITION ON ASSESSMENTS OR COLLECTIONS OF OCCUPATIONAL TAX FOR PERIODS BEGINNING BEFORE JULY 1, 1985.

(a) IN GENERAL.—Notwithstanding any other provision of law—

(1) the amount of any tax imposed by section 5121 of the Internal Revenue Code of 1986 (or any corresponding provision of prior law) for any taxable period beginning before July 1, 1985, and any interest or penalty thereon, shall not be assessed at any time after the date of the enactment of this Act;

(2) no proceeding in court without assessment for the collection of such tax (and any interest or penalty thereon) for such period shall be begun or continued after such date;

(3) if such tax for such period (and any interest or penalty thereon) was assessed after June 30, 1988, and on or before such date of enactment, such assessment shall be abated; and

(4) if such tax for such period (and any interest or penalty thereon) was collected after June 30, 1988, and on or before such date of enactment, the amount so collected shall be credited or refunded (without interest) as an overpayment of tax.

(b) EXCEPTION FOR WILLFUL FAILURE TO PAY TAX.—Subsection (a) shall not apply to any tax which the taxpayer willfully fails to pay without reasonable cause.

SEC. 3506. EXPENDITURES FROM THE AIRPORT AND AIRWAY TRUST FUND FOR ESSENTIAL AIR SERVICES.

(a) IN GENERAL.—Section 9502(d)(1) (relating to expenditures from airport and airway trust fund) is amended—

(1) by striking "or" at the end of subparagraph (B),

(2) by redesignating subparagraph (C) as subparagraph (D),

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) incurred for the essential air services program authorized under section 419 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1389); or", and

(4) by striking "subparagraph (A) or (B)" in subparagraph (D) (as so redesignated) and inserting "subparagraph (A), (B), or (C)".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations of the United States incurred in fiscal years beginning after September 30, 1989.

SEC. 3507. PROVIDING TOLERANCE LIMITS FOR BLENDING OF GASOHOL.

(a) IN GENERAL.—Paragraph (1) of section 4081(c) (relating to gasoline mixed with alcohol at refinery, etc.) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the requirement of a 10 percent mixture shall be considered satisfied by applying a tolerance of plus or minus ⅒ of 1 percent in the case of any person who establishes to the satisfaction of the Secretary an average 10 percent mixture in all gasohol produced over a reasonable period of time."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on and after January 1, 1990.

SEC. 3508. GASOLINE USED ON FARMS BY CROPDUSTERS.

(a) IN GENERAL.—Section 6420(c)(4)(B) (relating to gasoline used on farms) is amended to read as follows:

"(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to gasoline purchased after December 31, 1989.

SEC. 3509. ALCOHOL FUELS CREDIT EXTENDED TO PRODUCTION OF ETBE.

(a) IN GENERAL.—Subparagraph (A) of section 40(b)(2) (relating to alcohol credit) is amended—

(1) by striking out "or" at the end of clause (i),

(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new clause:

"(iii) is used to produce ethyl tertiary butyl ether (ETBE).".

(b) ETBE NOT CONSIDERED AN ALCOHOL.—Subparagraph (A) of section 40(d)(1) (defining alcohol) is amended—

(1) by striking out "or" at the end of clause (i),

(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new clause:

"(iii) ethyl tertiary butyl ether (ETBE).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1989.

SEC. 3510. AMENDMENTS RELATED TO EXCISE TAX ON VACCINES AND VACCINE INJURY COMPENSATION TRUST FUND.

(a) INACTIVATED POLIO VIRUS VACCINE EXEMPT FROM TAX.—Paragraph (5) of section 4132(a) (defining polio vaccine) is amended by adding at the end thereof the following new sentence: "Such term shall not include any inactivated polio vaccine sold by the manufacturer, producer, or importer after the last day on which any injury or death resulting from the administration of such vaccine on such day is eligible for compensation from the Vaccine Injury Compensation Trust Fund."

(b) AUTHORITY TO PAY ADMINISTRATIVE EXPENSES FROM TRUST FUND.—

(1) IN GENERAL.—Paragraph (1) of section 9510(c) (relating to expenditures from Vaccine Injury Compensation Trust Fund) is amended by inserting before the period at the end thereof the following: ", or for the payment of all expenses of administration (but not in excess of $6,000,000 for any fiscal year) incurred by the Federal Government in administering such subtitle".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to fiscal years beginning after September 30, 1989.

Subtitle F—Miscellaneous Provisions

PART I—MINIMUM TAX PROVISIONS

SEC. 3601. MODIFICATIONS OF MINIMUM TAX.

(a) TREATMENT OF CERTAIN DIVIDENDS.—

(1) IN GENERAL.—Clause (ii) of section 56(g)(4)(C) is amended to read as follows:

"(ii) SPECIAL RULE FOR CERTAIN DIVIDENDS.—

"(I) IN GENERAL.—Clause (i) shall not apply to any deduction allowable under section 243 or 245 for any dividend which is a 100-percent dividend or which is received from a 20-percent owned corporation (as defined in section 243(c)(2)), but only to the extent such dividend is attributable to income of the paying corporation which is subject to tax under this chapter (determined after the application of sections 936 and 921).

"(II) EXCEPTION.—Subclause (I) shall not apply to any 100-percent dividend if the corporation paying such dividend and the corporation receiving such dividend are members of an affiliated group of corporations which may file a consolidated return but does not.

"(III) 100-PERCENT DIVIDEND.—For purposes of the subclause (I), the term '100 percent dividend' means any dividend if the percentage used for purposes of determining the amount allowable as a deduction under section 243 or 245 with respect to such dividend is 100 percent."

(2) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1989.

(b) MODIFICATION TO CORPORATE MINIMUM TAX CREDIT.—

(1) IN GENERAL.—Subparagraph (B) of section 53(d)(1) (relating to credit not allowed for exclusion preferences) is amended by adding at the end thereof the following new clause:

"(iv) CREDIT ALLOWABLE FOR EXCLUSION PREFERENCES OF CORPORATIONS.—In the case of a corporation—

"(I) the preceding provisions of this subparagraph shall not apply, and

"(II) the adjusted net minimum tax for any taxable year is the amount of the net minimum tax for such year increased by the amount of any credit not allowed under section 29 solely by reason of the application of section 29(b)(5)(B)."

(2) CONFORMING AMENDMENT.—Clause (ii) of section 53(d)(1)(B) is amended—

(A) by striking "subsections (b)(1) and (c)(3)" and inserting "subsection (b)(1)", and

(B) by striking the last sentence.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply for purposes of determining the adjusted net minimum tax for taxable years beginning after December 31, 1989.

(c) INSTALLMENT SALES.—

(1) IN GENERAL.—Section 56(g)(4)(D) is amended by adding at the end thereof the following new clause:

"(iii) INSTALLMENT SALES ON WHICH INTEREST CHARGED.—Subclause (III) of clause (i) shall not apply to the applicable percentage (as defined in section 453A(c)(4)) of the gain from any installment sale with respect to which section 453A(a)(1) applies."

(2) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1989.

(d) APPRECIATED PROPERTY CHARITABLE DEDUCTION.—Paragraph (6) of section 57(a) is amended by adding at the end thereof the following new subparagraph:

"(C) PARAGRAPH INAPPLICABLE DURING 1990.—This paragraph shall not apply to any contribution made during any taxable year beginning during 1990."

PART II—ACCOUNTING PROVISIONS

SEC. 3611. REPEAL OF COMPLETED CONTRACT METHOD OF ACCOUNTING FOR LONG-TERM CONTRACTS.

(a) IN GENERAL.—Subsection (a) of section 460 (relating to special rules for long-term contracts) is amended to read as follows:

"(a) REQUIREMENT THAT PERCENTAGE OF COMPLETION METHOD BE USED.—In the case of any long-term contract, the taxable income from such contract shall be determined under the percentage of completion method (as modified by subsection (b))."

(b) ELECTION TO USE MODIFIED PERCENTAGE OF COMPLETION METHOD.—Subsection (b) of section 460 is amended by adding at the end thereof the following new paragraph:

"(5) ELECTION TO USE 15-PERCENT METHOD.—

"(A) GENERAL RULE.—In the case of any long-term contract with respect to which an election under this paragraph is in effect, the 15-percent method shall apply in determining the taxable income from such contract.

"(B) 15-PERCENT METHOD.—For purposes of this paragraph—

"(i) IN GENERAL.—The 15-percent method is the percentage of completion method, modified so that any item which would otherwise be taken into account in computing taxable income with respect to a contract for any taxable year before the 15-percent year is taken into account in the 15-percent year.

"(ii) 15-PERCENT YEAR.—The term '15-percent year' means the 1st taxable year as of the close of which at least 15 percent of the estimated total contract costs have been incurred.

"(C) ELECTION.—An election under this paragraph shall apply to all long-term contracts of the taxpayer which are entered into during the taxable year in which the election is made and any subsequent taxable year.

"(D) COORDINATION WITH OTHER PROVISIONS.—

"(i) SIMPLIFIED METHOD OF COST ALLOCATION.—This paragraph shall not apply to any taxpayer which uses a simplified procedure for allocation of costs under paragraph (3)(A).

"(ii) LOOK-BACK METHOD.—The 15-percent method shall be taken into account for purposes of applying the look-back method of paragraph (2) to any taxpayer making an election under this paragraph."

(c) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 460 is amended by striking paragraph (1) and by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(2) Paragraph (1) of section 460(b), as redesignated by paragraph (1), is amended—

(A) by striking "paragraph (4)" and inserting "paragraph (3)", and

(B) by striking "paragraph (3)" and inserting "paragraph (2)".

(3) Paragraph (3) of section 460(b), as redesignated by paragraph (1), is amended by striking "Paragraph (2)(B) and subsection (a)(2)" and inserting "Paragraph (1)(B)".

(4) Subparagraph (A) of section 460(b)(4), as redesignated by paragraph (1), is amended—

(A) by striking "paragraph (3)" each place it appears and inserting "paragraph (2)",

(B) by striking "paragraph (3)(B)" and inserting "paragraph (2)(B)", and

(C) by striking "paragraph (3)(A)" and inserting "paragraph (2)(A)".

(5) Paragraph (5) of section 460(e) is amended by striking so much of such paragraph as precedes subparagraph (A) and inserting the following:

"(5) SPECIAL RULE FOR RESIDENTIAL CONSTRUCTION CONTRACTS WHICH ARE NOT HOME CONSTRUCTION CONTRACTS.—In the case of any residential construction contract which is not a home construction contract, subsection (a) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1989) shall apply except that such subsection shall be applied—".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to contracts entered into on or after July 11, 1989.

(2) BINDING BIDS.—The amendments made by this section shall not apply to any contract resulting from the acceptance of a bid made before July 11, 1989. The preceding sentence shall apply only if the bid could not have been revoked or altered at any time on or after July 11, 1989.

(3) SPECIAL RULE FOR CERTAIN SHIP CONTRACTS.—The amendment made by this section shall not apply in the case of a qualified ship contract (as defined in section 10203(b)(2)(B) of the Revenue Act of 1987).

(4) 15-PERCENT METHOD.—The amendment made by subsection (b) shall apply to contracts entered into after December 31, 1989.

(e) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study of the revenue realization method of accounting for long-term contracts and of improvements to the percentage of completion method of accounting for such contracts. No later than February 28, 1990, the Secretary shall submit a report on such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 3612. 1989 DISASTER ASSISTANCE ACT PAYMENTS INCLUDED IN SPECIAL RULE FOR TAXABLE YEAR OF INCLUSION.

(a) IN GENERAL.—The second sentence of section 451(d) is amended—

(1) by striking "or" before "title II", and

(2) by inserting "or the Disaster Assistance Act of 1989," after "1988,".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments received before, on, or after the date of the enactment of this Act.

SEC. 3613. EXCLUSION OF DISCHARGE OF QUALIFIED FARM INDEBTEDNESS FROM GROSS INCOME INCREASED FOR CERTAIN SOLVENT FARMERS.

(a) IN GENERAL.—Section 108(g) (relating to special rules for discharge of qualified farm indebtedness) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL LIMITATIONS FOR CERTAIN FARMERS.—

"(A) IN GENERAL.—With respect to a taxpayer who is described in subparagraph (C) of this paragraph—

"(i) the amount excluded under subparagraph (C) of subsection (a)(1) shall not exceed $350,000, and

"(ii) paragraph (2) of this subsection shall be applied without regard to subparagraph (B) thereof.

"(B) PRIOR DISCHARGES OF INDEBTEDNESS TAKEN INTO ACCOUNT.—If for any prior year a discharge of qualified farm indebtedness is excluded from the taxpayer's gross income under this subsection, subparagraph (A) shall be applied for the taxable year with respect to such discharge by reducing the dollar amount contained in such subparagraph by the amount of such excluded prior year discharges.

"(C) TAXPAYER DESCRIBED IN THIS SUBPARAGRAPH.—A taxpayer is described in this subparagraph if—

"(i) such taxpayer's modified adjusted gross income for 6 of the 10 taxable years preceding the taxable year in which the discharge of qualified farm indebtedness occurs is less than 100 percent of the national median adjusted gross income,

"(ii) more than 50 percent of the gross receipts of the taxpayer for 6 of the 10 taxable years preceding such taxable year are attributable to—

"(I) the trade or business of farming (within the meaning of section 2032A(e)(5)), or

"(II) the sale or lease of assets used in such trade or business, or

"(III) both,

"(iii) such taxpayer materially participated (within the meaning of section 2032A(e)(6)) in the trade or business described in clause (ii)(I) at the time the qualified farm indebtedness was incurred,

"(iv) the indebtedness of the taxpayer both before and after such discharge is equal to 70 percent or more of the equity in all property held by such taxpayer,

"(v) equity in all property held by the taxpayer after such discharge is less than the greater of—

"(I) $25,000, or

"(II) 150 percent of the excess (if any) of the tax imposed by this chapter determined as if this section did not apply to the transfer, over the tax imposed by this chapter determined with regard to this section, and

"(vi) such taxpayer, in transferring property in connection with the discharge of qualified farm indebtedness, transfers only farm property or other property acquired, produced, or held in connection with the taxpayer's trade or business of farming.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) FARM PROPERTY.—The term 'farm property' means real and personal property

used by the taxpayer in the trade or business of farming (within the meaning of section 2032A(e)(5)).

"(ii) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income—

"(I) determined with regard to this section, and

"(II) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

"(iii) EQUITY.—The term 'equity' means, with respect to any property, an amount equal to—

"(I) the fair market value of such property, minus

"(II) any indebtedness relating to such property."

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 108(g)(3) is amended by striking out "The amount" and inserting in lieu thereof "Except as provided in paragraph (4), the amount".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness occurring after December 31, 1986 in taxable years ending after such date.

SEC. 3614. CERTAIN GOVERNMENTAL CONTRIBUTIONS IN AID OF CONSTRUCTION NOT INCLUDED IN GROSS INCOME.

(a) IN GENERAL.—Subsection (b) of section 118 is amended to read as follows:

"(b) CONTRIBUTIONS IN AID OF CONSTRUCTION, ETC.—For purposes of subsection (a)—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'contribution to the capital of the taxpayer' does not include any contribution in aid of construction or any other contribution as a customer or potential customer.

"(2) EXCEPTION FOR CERTAIN GOVERNMENTAL CONTRIBUTIONS IN AID OF CONSTRUCTION OF WATER SUPPLIES.—

"(A) IN GENERAL.—In the case of a qualified governmental contribution—

"(i) paragraph (1) shall not apply, and

"(ii) such contribution shall be treated as a contribution to the capital of the taxpayer.

"(B) QUALIFIED GOVERNMENTAL CONTRIBUTION.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified governmental contribution' means a contribution of money or other property by a Federal, State, or local government, or political subdivision thereof, to a regulated public utility which provides water or sewage disposal services if—

"(I) such contribution relates to a contribution in aid of construction of property described in clause (ii), and

"(II) such contribution (or any property acquired or constructed with such contribution) is not included in the taxpayer's rate base for ratemaking purposes.

"(ii) PROPERTY TO WHICH EXCEPTION APPLIES.—Property described in this clause is property which is used predominantly in furnishing alternate water supply systems for the purposes of—

"(I) remedying environmental contamination, or

"(II) protecting the health of individuals threatened by environmental contamination.

"(C) OTHER RULES.—Subparagraph (A) shall not apply to a contribution unless—

"(i) the contribution is used for the purposes described in subparagraph (B) before the end of the 2nd taxable year after the year in which the contribution was received, and

"(ii) accurate records are kept of the amounts contributed and expenditures made on the basis of the project for which the contribution was made and on the basis of the taxable year of contribution or expenditure.

"(D) DISALLOWANCE OF DOUBLE TAX BENEFIT.—Notwithstanding any other provision of this subtitle—

"(i) no deduction or credit shall be allowed for, or by reason of, any expenditure which constitutes a contribution in aid of construction to which this paragraph applies, and

"(ii) the adjusted basis of any property acquired with such expenditure shall be zero.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) CONTRIBUTIONS IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary; except that such term shall not include amounts paid as customer connection fees (including amounts paid to connect the customer's line to a main water or sewer line and amounts paid as service charges for starting or stopping services).

"(ii) PREDOMINANTLY.—The term 'predominantly' means 80 percent or more.

"(iii) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33); except that such term shall not include any such utility which is not required to provide water or sewerage disposal services to members of the general public in its service area."

(b) CONFORMING AMENDMENT.—Section 362(c) is amended by adding after paragraph (2) the following new paragraph:

"(3) CONTRIBUTIONS IN AID OF CONSTRUCTION.—This subsection shall not apply to contributions in aid of construction to which section 118(b)(2) applies."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in the amendments made by section 824 of the Tax Reform Act of 1986.

SEC. 3615. MODIFICATION OF PASSIVE LOSS MATERIAL PARTICIPATION RULES FOR TIMBER ACTIVITIES.

(a) GENERAL RULE.—In the case of any taxable year beginning after December 31, 1989, Internal Revenue Service Temporary Regulations § 1.469-5T (or any corresponding similar regulation or ruling) shall be applied to any timber activity without regard to paragraph (b)(2)(iii) thereof (or any similar provision requiring an individual to participate more than a minimum number of hours in an activity in order to determine material participation under a facts and circumstances test).

(b) TIMBER ACTIVITY.—For purposes of subsection (a), the term "timber activity" means any activity which consists predominantly of the holding of qualified timber property (as defined in section 194(c)(1)) of the Internal Revenue Code of 1986.

SEC. 3616. ANNUAL ACCRUAL ACCOUNTING METHOD.

(a) IN GENERAL.—Subparagraph (B) of section 447(g)(4) is amended by striking "sugar cane" and inserting "any crop with respect to which the taxpayer properly used the annual accrual method of accounting for its last taxable year ending before January 1, 1987".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in the amendments made by the Tax Reform Act of 1986.

SEC. 3617. MODIFICATIONS TO PROVISIONS REQUIRING INTEREST ON INSTALLMENT SALES OF TIMESHARES AND RESIDENTIAL LOTS.

(a) GENERAL RULE.—Section 453A (relating to special rules for nondealers) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULES FOR INSTALLMENT SALES OF TIMESHARES AND RESIDENTIAL LOTS.—

"(1) IN GENERAL.—Notwithstanding subsection (b)—

"(A) in the case of a disposition described in section 453(1)(2)(B) by a C corporation—

"(i) this section shall apply to any installment obligation arising from such disposition for purposes of subsection (a)(1), but not for purposes of subsection (a)(2), and

"(ii) any such installment obligation shall not be taken into account for purposes of applying this section to other obligations, and

"(B) in the case of any disposition described in section 453(l)(2)(B) by any other taxpayer, this section shall not apply to any installment obligation arising from such disposition but the provisions of section 453(l)(2)(B) shall apply to such obligation.

"(2) MODIFICATION OF INTEREST RULES.—In the case of any installment obligation arising from a disposition described in paragraph (1)(A), interest on the deferred tax liability shall be computed as follows:

"(A) APPLICABLE PERCENTAGE.—The applicable percentage for purposes of subsection (c) shall be 100 percent.

"(B) DEFERRED TAX LIABILITY.—At the election of the taxpayer, deferred tax liability shall be computed under subsection (c)(3) with respect to all such obligations, except that—

"(i) the amount determined under subsection (c)(3)(A) for any taxable year shall be reduced by the excess (if any) of the total allowable deductions for the taxable year over the total income for such taxable year, and

"(ii) the amount determined under subsection (c)(3) (after application of clause (i)) shall be reduced by the excess (if any) of—

"(I) the credits allowable under part IV of subchapter A (other than subpart (C)) for such taxable year, over

"(II) the regular tax liability (as defined in section 26(b)) for such taxable year.

"(3) TIME FOR INCREASE IN TAX.—

"(A) IN GENERAL.—Notwithstanding subsection (c)(1), and except as provided in this paragraph, the amount of interest determined under this section with respect to any installment obligation arising from a disposition described in paragraph (1)(A) shall be an addition to the tax imposed by this chapter for the taxable year following the taxable year for which such interest is determined.

"(B) OBLIGATIONS HELD FOR LESS THAN 2 YEARS OR IN DEFAULT.—No increase in tax shall be made under subparagraph (A) with respect to an obligation to which subparagraph (A) applies—

"(i) for any taxable year ending before the date 2 years after the date of such disposition, or

"(ii) for any succeeding taxable year if such obligation is in default as of the close of such taxable year.

"(C) RECAPTURE.—If an obligation described in subparagraph (B)(ii) is not in default as of the close of any taxable year ending after the close of the 2-year period referred to in subparagraph (B)(i), the tax imposed by this chapter for the taxable

year following such taxable year shall be increased by—

"(i) the excess (if any) of—

"(I) any increase which would have resulted under subparagraph (A) for any prior taxable year but for subparagraph (B), over

"(II) any portion of such increase previously recaptured under this subparagraph, and

"(ii) interest on the amount under clause (i) at the underpayment rate for the taxable years to which subparagraph (A) did not apply to such amount by reason of subparagraph (B)."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 453(l)(3) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply in the case of any obligation arising from a disposition by a C corporation."

(2) Subsection (b) of section 453A is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(3) The section heading for section 453A is amended by inserting "; **CERTAIN SALES OF TIMESHARES AND RESIDENTIAL LOTS**" before the period at the end thereof.

(4) The table of sections for subpart B of part II of subchapter E of chapter 1 is amended by inserting "; certain sales of timeshares and residential lots" before the period at the end of the item relating to section 453A.

(5) Section 6655(g)(1)(A) is amended by striking "plus" at the end of clause (iii), by striking "over" at the end of clause (iv) and inserting "plus," and by inserting after clause (iv) the following new clause:

"(v) any addition to tax under section 453A(e), over".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to installment sales in taxable years beginning after December 31, 1989.

SEC. 3618. FAMILY CORPORATIONS MAY ELECT NOT TO HAVE SECTION 447 SUSPENSE ACCOUNT RULES APPLY.

(a) ELECTION.—Paragraph (1) of section 447(i) (relating to suspense account for family corporations) is amended by inserting ", and such family corporation does not elect on its return of tax for such taxable year to have subsection (f) apply in lieu of this subsection" before ", notwithstanding".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 10205(b) of the Revenue Act of 1987.

SEC. 3619. TREATMENT OF ASSET SALES BY COOPERATIVES.

(a) IN GENERAL.—Section 1388 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) TREATMENT OF GAINS OR LOSSES ON THE DISPOSITION OF CERTAIN ASSETS.—

"(1) IN GENERAL.—For purposes of this title, if gain or loss from the disposition of any asset by an organization to which part I of this subchapter applies, would (without regard to this subsection) be treated as gain or loss from the sale or exchange of a capital asset, such organization may elect to treat the allocable portion of such gain or loss as ordinary income or loss and to include such gain or loss in net earnings of the organization from business done with or for patrons.

"(2) ALLOCABLE PORTION.—For purposes of paragraph (1), the term 'allocable portion' means the portion which bears the same ratio to the gain or loss from the sale or exchange of an asset as—

"(A) the extent to which the asset was used by an organization to facilitate the conduct of business done with or for patrons, bears to

"(B) the total use of the asset.

For purposes of subparagraph (A), the extent of use for such purpose shall be determined on the basis of any reasonable method for making allocations of income or expense between patronage and nonpatronage operations.

"(3) ELECTION.—An election made under this subsection shall be made at such time and in such manner as the Secretary may prescribe. Such election shall apply for the taxable year for which it is made and the 2 succeeding taxable years."

(b) EFFECTIVE DATES.—

(1) GENERAL RULE.—Subject to paragraph (2), the amendments made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

(2) APPLICATION TO PRIOR YEARS.—An election filed pursuant to section 1388(k) of the Internal Revenue Code of 1986 with a return for the first taxable year beginning on or before the date of enactment of this Act and ending after such date, shall apply to taxable years beginning before such date.

SEC. 3620. QUALIFYING INCOME OF REAL ESTATE INVESTMENT TRUSTS.

(a) IN GENERAL.—Subparagraph (G) of section 856(c)(6) is amended by—

(1) by inserting ", or other similar arrangement," after "agreement" in clause (i),

(2) by inserting "or arrangement" after "agreement" in clause (ii), and

(3) by adding at the end thereof the following new sentence: "For purposes of clauses (i) and (ii) of this subparagraph, a real estate investment trust shall be treated as holding directly its proportionate share of the assets of a REMIC in which it owns a residual interest and a proportionate share of the regular interests of such REMIC shall be treated as direct indebtedness of such trust."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 3621. RESTORATION OF INCOME AVERAGING FOR QUALIFIED FARMERS.

(a) RESTORATION OF INCOME AVERAGING.—

(1) IN GENERAL.—Section 141 of the Tax Reform Act of 1986 is hereby repealed.

(2) APPLICATION OF THE INTERNAL REVENUE CODE OF 1986.—The Internal Revenue Code of 1986 shall be applied and administered without regard to section 141 of the Tax Reform Act of 1986 (and the amendments made by such section).

(b) INCOME AVERAGING ALLOWED FOR QUALIFIED FARMERS.—

(1) IN GENERAL.—Subsection (a) of section 1303 of the Internal Revenue Code of 1986 (defining eligible individual) is amended by inserting "and who is a qualified farmer" after "United States".

(2) QUALIFIED FARMER.—Section 1303 of such Code (defining eligible individuals) is amended by adding at the end thereof the following new subsection:

"(e) QUALIFIED FARMER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified farmer' means a taxpayer—

"(A) who is an individual who materially participated (within the meaning of section 469(h)) in the trade or business of farming for each of the 3 preceding taxable years, and

"(B) whose gross receipts for the taxable year and each of the 3 preceding taxable years from the trade or business of farming does not exceed $5,000,000 ($2,500,000 in the case of a married individual filing a separate return).

"(2) FARMING.—For purposes of paragraph (1), activities constituting farming shall be determined under the principles of paragraphs (4) and (5) of section 2032A(e)."

(3) CONFORMING AMENDMENTS.—

(A) The heading of part I of subchapter Q of chapter 1 of such Code is amended by inserting "**FOR FARMERS**" after "**AVERAGING**".

(B) The table of parts for subchapter Q of chapter 1 of such Code is amended by inserting "for farmers" after "averaging" in the item relating to part I.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

PART IV—TAX-EXEMPT BOND PROVISIONS

SEC. 3621. TAX TREATMENT OF 501(c)(3) BONDS SIMILAR TO GOVERNMENTAL BONDS.

(a) IN GENERAL.—Subsection (a) of section 150 (relating to definitions and special rules) is amended by striking paragraphs (2) and (4), by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) EXEMPT PERSON.—

"(A) IN GENERAL.—The term 'exempt person' means—

"(i) a governmental unit, or

"(ii) a 501(c)(3) organization, but only with respect to its activities which do not constitute unrelated trades or businesses as determined by applying section 513(a).

"(B) GOVERNMENTAL UNIT NOT TO INCLUDE FEDERAL GOVERNMENT.—The term 'governmental unit' does not include the United States or any agency or instrumentality thereof.

"(C) 501(c)(3) ORGANIZATION.—The term '501(c)(3) organization' means any organization described in section 501(c)(3) and exempt from tax under section 501(a)."

(b) REPEAL OF QUALIFIED 501(c)(3) BOND DESIGNATION.—Section 145 (relating to qualified 501(c)(3) bonds) is repealed.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 141(b) is amended—

(A) by striking "government use" in subparagraph (A)(ii)(I) and subparagraph (B)(ii) and inserting "exempt person use",

(B) by striking "a government use" in subparagraph (B) and inserting "an exempt person use",

(C) by striking "related business use" in subparagraph (A)(ii)(II) and subparagraph (B) and inserting "related private business use",

(D) by striking "RELATED BUSINESS USE" in the heading of subparagraph (B) and inserting "RELATED PRIVATE BUSINESS USE", and

(E) by striking "GOVERNMENT USE" in the heading thereof and inserting "EXEMPT PERSON USE".

(2) Subparagraph (A) of section 141(b)(6) is amended by striking "a governmental unit" and inserting "an exempt person".

(3) Paragraph (7) of section 141(b) is amended—

(A) by striking "government use" and inserting "exempt person use", and

(B) by striking "GOVERNMENT USE" in the heading thereof and inserting "EXEMPT PERSON USE".

(4) Section 141(b) is amended by striking paragraph (9).

(5) Paragraph (1) of section 141(c) is amended by striking "governmental units" and inserting "exempt persons".

(6) Section 141 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) CERTAIN ISSUES USED TO PROVIDE RESIDENTIAL RENTAL HOUSING FOR FAMILY UNITS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of this title, the term 'private activity bond' includes any bond issued as part of an issue if any portion of the net proceeds of the issue are to be used (directly or indirectly) by an exempt person described in section 150(a)(2)(A)(ii) to provide residential rental property for family units.

"(2) EXCEPTION FOR BONDS USED TO PROVIDE QUALIFIED RESIDENTIAL RENTAL PROJECTS.—Paragraph (1) shall not apply to any bond issued as part of an issue if the portion of such issue which is to be used as described in paragraph (1) is to be used to provide—

"(A) a residential rental property for family units if the first use of such property is pursuant to such issue,

"(B) qualified residential rental projects (as defined in section 142(d)), or

"(C) property which is to be substantially rehabilitated in a rehabilitation beginning within the 2-year period ending 1 year after the date of the acquisition of such property.

"(3) SUBSTANTIAL REHABILITATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), rules similar to the rules of section 48(g)(1)(C) shall apply in determining for purposes of paragraph (2)(C) whether property is substantially rehabilitated.

"(B) EXCEPTION.—For purposes of subparagraph (A), clause (ii) of section 48(g)(1)(C) shall not apply, but the Secretary may extend the 24-month period in section 48(g)(1)(C)(i) where appropriate due to circumstances not within the control of the owner."

(7) Section 141(f), as redesignated by paragraph (6), is amended—

(A) by adding "or" at the end of subparagraph (E),

(B) by striking ", or" at the end of subparagraph (F), and inserting in lieu thereof a period, and

(C) by striking subparagraph (G).

(8) The last sentence of section 144(b)(1) is amended by striking "(determined" and all that follows to the period.

(9) Clause (ii) of section 144(c)(2)(C) is amended by striking "governmental unit" and inserting "exempt person".

(10) Section 146(g) is amended—

(A) by striking paragraph (2), and

(B) by redesignating the remaining paragraphs after paragraph (1) as paragraphs (2) and (3), respectively.

(11) The heading of section 146(k)(3) is amended by striking "GOVERNMENTAL" and inserting "EXEMPT PERSON".

(12) The heading of section 146(m) is amended by striking "GOVERNMENT" and inserting "EXEMPT PERSON".

(13) Subsection (h) of section 147 is amended to read as follows:

"(h) CERTAIN RULES NOT TO APPLY TO MORTGAGE REVENUE BONDS AND QUALIFIED STUDENT LOAN BONDS.—Subsections (a), (b), (c), and (d) shall not apply to any qualified mortgage bond, qualified veterans' mortgage bond, or qualified student loan bond."

(14) Section 147 is amended by striking paragraph (4) of subsection (b) and redesignating paragraph (5) of such subsection as paragraph (4).

(15) Subparagraph (F) of section 148(d)(3) is amended—

(A) by striking "or which is a qualified 501(c)(3) bond", and

(B) by striking "GOVERNMENTAL USE BONDS AND QUALIFIED 501(C)(3)" in the heading thereof and inserting "EXEMPT PERSON".

(16) Subclause (II) of section 148(f)(4)(B)(ii) is amended by striking "(other than a qualified 501(c)(3) bond)".

(17) Subparagraph (A) of section 148(f)(7) is amended by striking "(other than a qualified 501(c)(3) bond)".

(18) Paragraph (2) of section 149(d) is amended—

(A) by striking "(other than a qualified 501(c)(3) bond)", and

(B) by striking "CERTAIN PRIVATE" in the heading thereof and inserting in lieu thereof "PRIVATE".

(19) Section 149(e)(2) is amended—

(A) by striking "which is not a private activity bond" in the second sentence and inserting "which is a bond issued for an exempt person described in section 150(a)(2)(A)(i)", and

(B) by adding at the end thereof the following new sentence: "Subparagraph (D) shall not apply to any bond which is not a private activity bond but which would be such a bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person."

(20) The heading of subsection (b) of section 150 is amended by striking "TAX-EXEMPT PRIVATE ACTIVITY BONDS" and inserting "CERTAIN TAX-EXEMPT BONDS".

(21) Paragraph (3) of section 150(b) is amended—

(A) by inserting "owned by a 501(c)(3) organization" after "any facility" in subparagraph (A),

(B) by striking "any private activity bond which, when issued, purported to be a tax-exempt qualified 501(c)(3) bond" in subparagraph (A) and inserting "any bond which, when issued, purported to be a tax-exempt bond, and which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person", and

(C) by striking the heading thereof and inserting "BONDS FOR EXEMPT PERSONS OTHER THAN GOVERNMENTAL UNITS.—".

(22) Paragraph (5) of section 150(b) is amended—

(A) by striking "private activity" in subparagraph (A),

(B) by inserting "and which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person" after "tax-exempt bond" in subparagraph (A),

(C) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) such facility is required to be owned by an exempt person, and", and

(D) by striking "GOVERNMENTAL UNITS OR 501(C)(3) ORGANIZATIONS" in the heading thereof and inserting "EXEMPT PERSONS".

(23) Section 150 is amended by adding at the end thereof the following new subsection:

"(f) CERTAIN RULES TO APPLY TO BONDS FOR EXEMPT PERSONS OTHER THAN GOVERNMENTAL UNITS.—

"(1) IN GENERAL.—Nothing in section 103(a) or any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any bond which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person unless such bond satisfies the requirements of subsections (b) and (f) of section 147.

"(2) SPECIAL RULE FOR POOLED FINANCING OF 501(C)(3) ORGANIZATION.—

"(A) IN GENERAL.—At the election of the issuer, a bond described in paragraph (1) shall be treated as meeting the requirements of section 147(b) if such bond meets the requirements of subparagraph (B).

"(B) REQUIREMENTS.—A bond meets the requirements of this subparagraph if—

"(i) 95 percent or more of the net proceeds of the issue of which such bond is a part are to be used to make or finance loans to 2 or more 501(c)(3) organizations or governmental units for acquisition of property to be used by such organizations,

"(ii) each loan described in clause (i) satisfies the requirements of section 147(b) (determined by treating each loan as a separate issue),

"(iii) before such bond is issued, a demand survey was conducted which shows a demand for financing greater than an amount equal to 120 percent of the lendable proceeds of such issue, and

"(iv) 95 percent or more of the net proceeds of such issue are to be loaned to 501(c)(3) organizations or governmental units within 1 year of issuance and, to the extent there are any unspent proceeds after such 1-year period, bonds issued as part of such issue are to be redeemed as soon as possible thereafter (and in no event later than 18 months after issuance).

A bond shall not meet the requirements of this subparagraph if the maturity date of any bond issued as part of such issue is more than 30 years after the date on which the bond was issued (or, in the case of a refunding or series of refundings, the date on which the original bond was issued)."

(24) Section 1302 of the Tax Reform Act of 1986 is repealed.

(25) Subparagraph (C) of section 57(a)(5) is amended by striking clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(26) Paragraph (3) of section 103(b) is amended by inserting "and section 150(f)" after "section 149".

(27) Paragraph (3) of section 265(b) is amended—

(A) by striking clause (ii) of subparagraph (B) and inserting the following:

"(ii) CERTAIN BONDS NOT TREATED AS PRIVATE ACTIVITY BONDS.—For purposes of clause (i)(II), there shall not be treated as a private activity bond any obligation issued to refund (or which is part of a series of obligations issued to refund) an obligation issued before August 8, 1986, which was not an industrial development bond (as defined in section 103(b)(2) as in effect on the day before the date of the enactment of the Tax Reform Act of 1986 (or a private loan bond (as defined in section 103(o)(2)(A), as so in effect, but without regard to any exemption from such definition other than section 103(o)(2)(A))."; and

(B) by striking "(other than a qualified 501(c)(3) bond, as defined in section 145)" in subparagraph (C)(ii)(I).

(f) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 1989.

(2) SPECIAL RULE FOR CERTAIN BONDS ISSUED AFTER DECEMBER 31, 1989.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any bond which—

(i) is issued after December 31, 1989, and

(ii) is part of an issue which is subject to any transitional rule under subtitle B of title XIII of the Tax Reform Act of 1986.

(B) ELECTION OUT.—This paragraph shall not apply to any issue with respect to which the issuer elects not to have this paragraph apply.

SEC. 3622. REFINANCINGS OF CERTAIN BOND ISSUES.

(a) IN GENERAL.—Section 141(c) of the Internal Revenue Code of 1986 shall not apply to any bond (or series of bonds) issued by a qualified issuer, the proceeds of which are used exclusively to refund (other than to advance refund) another bond if—

(1) the amount of such refunding bond does not exceed the outstanding amount of the refunded bond,

(2) the final maturity date of the refunding bond is not later than 6 months following the scheduled final maturity date of the issue of which the refunded bond is a part, and

(3) any financial benefit accruing as a result of a refunding under this provision will inure solely to the benefit of a State or local government, or an agency or political subdivision thereof.

(b) QUALIFIED ISSUER.—For purposes of this section, the term "qualified issuer" means any issuer who originally issued the bond to be refunded which was issued to alleviate the risk of default on the obligations of a financially troubled issuer which is a separate political subdivision.

(c) EFFECTIVE DATE.—This section shall apply to bonds issued on or after the date of the enactment of this Act.

SEC. 3623. TAX-EXEMPT FINANCING FOR SPORTS FACILITIES.

(a) IN GENERAL.—Subsection (a) of section 142 (defining exempt facility bonds) is amended—

(1) by striking "or" at the end of paragraph (10),

(2) by striking the period at the end of paragraph (11) and inserting ", or", and

(3) by adding at the end thereof the following new paragraph:

"(12) Sports facilities."

(b) GOVERNMENTALLY OWNED.—Subparagraph (A) of section 142(b)(1) (relating to facilities must be governmentally owned) is amended by striking "or (3)" and inserting (3), or (12)".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after December 31, 1989.

PART V—INSURANCE PROVISIONS

SEC. 3631. STUDY RELATING TO SECTION 833 DEDUCTION.

(a) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study of the eligibility for, and operation of, the deduction provided under section 833 of the Internal Revenue Code of 1986. The study shall include an examination of whether organizations in existence on August 16, 1986, which are similar to Blue Cross and Blue Shield organizations should also be eligible for the section 833 deduction.

(b) REPORT.—Not later than March 15, 1990, the Secretary shall submit to the Finance Committee of the Senate and the Committee on Ways and Means of the House of Representatives a report on the study conducted under this section, together with such recommendations as he may deem advisable.

SEC. 3632. RESERVES ON MINIMUM PREMIUM PLANS.

(a) IN GENERAL.—For purposes of section 832(b)(4) of the Internal Revenue Code of 1986 (or any corresponding provision of prior law), the term "unearned premiums" shall include any reserve maintained pursuant to State law (or any rules or regulations thereunder) by such insurance company for future claims payments upon the termination of any minimum premium plan to the extent a premium or other consideration corresponding to such reserve has been included in the gross income of such company.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

PART VI—COMPLIANCE

SEC. 3641. NOTICE OF UNDERREPORTING OF AMOUNTS WITHHELD.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7523. NOTICE OF UNDERREPORTING OF AMOUNTS WITHHELD.

"(a) IN GENERAL.—If, in connection with 1 or more information return matching programs, the Secretary determines that with respect to information returns examined under such programs—

"(1) the amount shown on information returns as deducted and withheld as tax for any taxable year, exceeds by $5 or more,

"(2) the amount shown on the return of tax for such taxable year as deducted and withheld as tax,

the Secretary shall notify the taxpayer of such excess.

"(b) INFORMATION RETURN.—For purposes of subsection (a), the term 'information return' has the meaning given such term by section 6724(d)(1). The Secretary may prescribe other returns which are to be treated as information returns for purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of such Code is amended by adding at the end thereof the following new item:

"Sec. 7523. Notice of underreporting of amounts withheld.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to information return matching occurring after the date of the enactment of this Act.

SEC. 3642. STATUTE OF LIMITATIONS FOR CERTAIN REFUND CLAIMS.

Notwithstanding section 6511 of the Internal Revenue Code of 1986, if a claim for credit or refund of overpayment of the tax imposed under chapter 1 of such Code relates to an overpayment of tax attributable to the taxpayer's failure to take proper credit for amounts of tax withheld by the payor of any income included in such taxpayer's gross income for the taxable year ending December 31, 1985, such credit or refund may be allowed if claim therefor is filed on or before April 15, 1990.

SEC. 3643. INCREASE IN THRESHOLD FOR JOINT COMMITTEE REFUND REVIEW.

(a) GENERAL RULE.—Subsections (a) and (b) of section 6405 (relating to reports of refunds and credits) are each amended by striking "$200,000" and inserting "$1,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, except that such amendment shall not apply with respect to any refund or credit with respect to which a report has been made before the date of the enactment of this Act under subsection (a) or (b) of section 6405 of the Internal Revenue Code of 1986.

PART VII—EXEMPT ORGANIZATIONS

SEC. 3651. COOPERATIVE SERVICE ORGANIZATIONS FOR CERTAIN FOUNDATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) COOPERATIVE SERVICE ORGANIZATIONS FOR CERTAIN FOUNDATIONS.—

"(1) IN GENERAL.—For purposes of this title, if an organization—

"(A) is organized and operated solely for purposes referred to in subsection (f)(1),

"(B) is comprised exclusively of members which are exempt from taxation under subsection (a) and are—

"(i) private foundations, or

"(ii) community foundations as to which section 170(b)(1)(A)(vi) applies,

"(C) has at least 20 members,

"(D) does not have a member which holds more than 10 percent (by value) of the interests in the organization,

"(E) is not controlled by any 1 member and does not have a member which controls another member of the organization, and

"(F) permits members of the organization to dismiss the organization's investment advisor, following reasonable notice, upon a vote of the members holding a majority of interest in the organization,

then such organization shall be treated as an organization organized and operated exclusively for charitable purposes.

"(2) TREATMENT OF INCOME OF MEMBERS.—If any member of an organization described in paragraph (1) is a private foundation (other than an exempt operating foundation, as defined in section 4940(d)), such private foundation's proportionate share of the net income of the organization (including capital gains) for any taxable year of the organization shall be treated, for purposes of section 4940, as net investment income of such private foundation (whether or not distributed to such foundation) for the taxable year of such private foundation in which the taxable year of the organization described in paragraph (1) ends.

"(3) APPLICABLE EXCISE TAXES.—Subchapter A of chapter 42 (other than sections 4940 and 4942) shall apply to any organization described in paragraph (1)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1989.

SEC. 3652. CERTAIN EXISTING ARRANGEMENTS EXEMPT FROM EXCISE TAX ON SELF-DEALING INVOLVING PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Section 4941(d) (defining self-dealing) is amended by adding at the end thereof the following new paragraph:

"(3) EXCEPTION FOR EXISTING ARRANGEMENTS OF ORGANIZATIONS BECOMING PRIVATE FOUNDATIONS.—

"(A) GENERAL RULE.—If—

"(i) an organization becomes a private foundation with respect to any taxable year, and

"(ii) such organization is an organization described in section 501(c)(3) which met the requirements of section 509(a)(2) during at least 3 taxable years preceding the taxable year described in clause (i) (hereinafter referred to as the 'qualification period'),

then any act pursuant to a qualified existing arrangement shall not be treated as an act of self-dealing for purposes of this section for the period provided by an existing

binding contract entered into more than 2 years before the beginning of the taxable year described in clause (i) or a 5-year period beginning with such year, whichever is longer.

"(B) QUALIFIED EXISTING ARRANGEMENT.—For purposes of subparagraph (A), the term 'qualified existing arrangement' means any of the following arrangements if such arrangements are the result of arm's-length transactions:

"(i) The leasing by a disqualified person to the private foundation of office space in a building with other tenants who are not disqualified persons if the leasing is pursuant to a binding lease in effect during the qualification period, or pursuant to a renewal of such lease.

"(ii) The furnishing of goods, services (including banking services), or facilities by a disqualified person to the private foundation pursuant to an arrangement in effect during the qualification period (or any renewal thereof).

"(iii) The sale of property from the private foundation to a disqualified person pursuant to a binding contract in effect during the qualification period.

"(iv) To the extent provided by regulation, any other arrangement which was in effect between a private foundation and a disqualified person during the qualification period.

"(C) RENEWALS OR MODIFICATIONS.—Any renewal or modification of a qualified existing arrangement may not substantially modify such arrangement.

"(D) EXCEPTION FOR SUBSTANTIAL CONTRIBUTORS.—Subparagraph (A) shall not apply to any qualified existing arrangement between a private foundation and a disqualified person who is a substantial contributor to the foundation."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

PART VII—OTHER PROVISIONS

SEC. 3661. ADOPTION EXPENSES.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 is amended by redesignating section 221 as section 222 and by inserting after section 221 the following new section:

"SEC. 221. SPECIAL NEEDS ADOPTION EXPENSES DEDUCTION.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction for the taxable year the amount of the qualified adoption expenses paid or incurred by the individual for such taxable year.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The aggregate amount of adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $3,000.

"(2) DENIAL OF DOUBLE BENEFIT.—

"(A) IN GENERAL.—No deduction shall be allowable under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.

"(B) REIMBURSEMENTS.—If a taxpayer is reimbursed for any qualified adoption expenses for which a deduction was allowed under subsection (a), the amount of such reimbursement shall be includible in the gross income of the taxpayer in the taxable year in which such reimbursement was received.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ADOPTION EXPENSES.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees, court costs, attorneys fees, and other expenses which—

"(A) are directly related to the legal adoption of a child with special needs by the taxpayer,

"(B) are not incurred in violation of State or Federal law, and

"(C) are of a type eligible for reimbursement under the adoption assistance program under part E of title IV of the Social Security Act.

"(2) CHILD WITH SPECIAL NEEDS.—The term 'child with special needs' means any child determined by the State to be a child described in paragraphs (1) and (2) of section 473(c) of the Social Security Act."

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting after paragraph (13) the following new paragraph:

"(14) ADOPTION EXPENSES.—The deduction allowed by section 221 (relating to deduction for expenses of adopting a child with special needs)."

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the item relating to section 221 and by inserting the following new items:

"Sec. 221. Special needs adoption expenses deduction.

"Sec. 222. cross reference."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 3662. REPEAL NET INCOME LIMITATION FOR PERCENTAGE DEPLETION ON MARGINAL OIL AND GAS PRODUCTION.

(a) IN GENERAL.—Subsection (c) of section 613A (relating to limitations on percentage depletion in the case of oil and gas wells) is amended by adding at the end thereof the following new paragraph:

"(14) MARGINAL PRODUCTION.—

"(A) IN GENERAL.—In the case of marginal production the second sentence of section 613(a) shall not apply.

"(B) MARGINAL PRODUCTION.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'marginal production' means—

"(I) crude oil and natural gas which is from a stripper well, or

"(II) crude oil which is heavy oil.

"(ii) STRIPPER WELL.—The term 'stripper well' means any oil or gas well which produced at its maximum efficient rate of flow (as determined in accordance with recognized conservation practices designed to maximize the ultimate recovery of petroleum products) an average of 15 or less equivalent barrels per production day during any 6-month period beginning after December 31, 1985.

"(iii) EQUIVALENT BARRELS.—The term 'equivalent barrels' means the sum of—

"(I) the number of barrels of crude oil produced, and

"(II) the number of cubic feet of natural gas produced divided by 6,000.

"(iv) HEAVY OIL.—The term 'heavy oil' means domestic crude oil produced from any property if such crude oil had a weighted average gravity of 20 degrees API or less (corrected to 60 degrees Fahrenheit).

"(v) SPECIAL RULE.—

"(I) UNITIZATIONS OR POOLINGS.—In the case of unitizations or poolings involving multiple wells, production shall be allocated to all unitized wells (including injection wells) on the basis of sound engineering principles.

"(II) PRODUCTION IN EXCESS OF STRIPPER AMOUNTS.—If an oil or gas well is classified as a stripper well under this paragraph for any period, such well shall continue to be treated as a stripper well even if production exceeds the limit under clause (ii), except that this paragraph shall only apply to production not in excess of such limit."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 3663. TREATMENT OF TUXEDOS HELD FOR RENTAL.

(a) TUXEDOS TREATED AS 3-YEAR PROPERTY.—Section 168(e)(3)(A) (relating to 3-year property) is amended—

(1) by striking "and" at the end of clause (i),

(2) by striking the period at the end of clause (ii) and inserting a comma and "and", and

(3) by adding at the end the following new clause:

"(iii) any tuxedo held for rental."

(b) RULES FOR DETERMINING CLASS LIFE.—The table in subparagraph (B) of section 168(g)(3) of such Code is amended by inserting above the item relating to subparagraph (B)(ii) the following new item:

"(A)(iii) ..... 2".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to rental tuxedos placed in service after December 31, 1989.

SEC. 3664. EXPENSING OF CERTAIN CAPITAL EXPENDITURES TO ASSIST DISABLED.

(a) ADDITIONAL ITEMS ELIGIBLE FOR EXPENSING.—Section 190(b) (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(4) CERTAIN ITEMS INCLUDED.—

"(A) IN GENERAL.—The term 'qualified architectural and transportation barrier removal expense' shall include any of the following expenses in connection with a trade or business which are chargeable to capital account:

"(i) Expenses for auxiliary aids and services.

"(ii) Expenses in connection with providing reasonable accommodations to individuals with disabilities.

"(B) AUXILIARY AIDS AND SERVICES.—The term 'auxiliary aids and services' includes—

"(i) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

"(ii) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

"(iii) acquisition or modification of equipment or devices; and

"(iv) other similar services and actions.

"(C) REASONABLE ACCOMMODATION.—The term 'reasonable accommodation' includes—

"(i) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

"(ii) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities."

(b) DECREASE IN MAXIMUM AMOUNT WHICH MAY BE EXPENDED.—Section 190(c) is

amended by striking "$35,000" and inserting "$25,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 3665. TAX EXEMPTION FOR OVERSEAS PRIVATE INVESTMENT CORPORATION.

(a) GENERAL RULE.—Subsection (l) of section 501 (relating to government corporations exempt under subsection (c)(1)) is amended by adding at the end thereof the following new paragraph:

"(4) The Overseas Private Investment Corporation established under the Foreign Assistance Act of 1961."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 3666. UNEARNED INCOME ATTRIBUTABLE TO PERSONAL INJURY AWARDS.

(a) IN GENERAL.—Paragraph (4) of section 1(i) (defining net unearned income) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) EXCEPTION FOR UNEARNED INCOME ATTRIBUTABLE TO PERSONAL INJURY AWARDS.—

"(i) IN GENERAL.—There shall not be taken into account under clause (i) of subparagraph (A) any qualified injury award income.

"(ii) QUALIFIED INJURY AWARD INCOME.—For purposes of clause (i), the term 'qualified injury award income' means income attributable to an amount excluded from the gross income of the child by reason of section 104(a)(2) if—

"(I) such excluded amount is received by the child in a lump sum, and

"(II) such income accrues on such excluded amount while in a custodial account (other than a trust) the amounts in which are prohibited under State law from being used to satisfy any person's obligation to support or maintain such child."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

PART VIII—ESTATE AND GIFT TAX PROVISIONS

SEC. 3671. REPEAL OF SECTION 2036(c).

(a) GENERAL RULE.—Section 2036 (relating to transfers with retained life estate) is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(b) CONFORMING AMENDMENTS.—

(1) Section 2207B is hereby repealed.

(2) The table of sections for subchapter C of chapter 11 is amended by striking the item relating to section 2207B.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of property transferred after December 17, 1987.

SEC. 3672. EXEMPTION FROM GENERATION-SKIPPING TAX FOR CERTAIN TRANSFERS TO GRANDCHILDREN.

(a) GENERAL RULE.—Subsection (c) of section 2612 (defining direct skip) is amended by adding at the end thereof the following new paragraph:

"(4) TREATMENT OF CERTAIN TRANSFERS TO GRANDCHILDREN.—

"(A) IN GENERAL.—The term 'direct skip' shall not include any transfer from a transferor to a grandchild of the transferor to the extent the aggregate transfers from such transferor to such grandchild do not exceed $2,000,000. Paragraph (2) shall not apply in determining whether an individual is a grandchild of the transferor.

"(B) TREATMENT OF TRANSFERS IN TRUST.—For purposes of subparagraph (A), a transfer in trust for the benefit of a grandchild shall be treated as a transfer to such grandchild if (and only if)—

"(i) during the life of the grandchild, no portion of the corpus or income of the trust may be distributed to (or for the benefit of) any person other than such grandchild, and

"(ii) the assets of the trust will be includible in the gross estate of the grandchild if the grandchild dies before the trust is terminated.

"(C) COORDINATION WITH SECTION 2653(a).—In the case of any transfer which would be a generating-skipping transfer but for subparagraph (A), the rules of section 2653(a) shall apply as if such transfer were a generation-skipping transfer.

"(D) COORDINATION WITH TAXABLE TERMINATIONS AND TAXABLE DISTRIBUTIONS.—The terms 'taxable termination' and 'taxable distribution' shall not include any transfer which would be a direct skip but for subparagraph (A)."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to transfers after October 3, 1989.

(2) PRIOR TRANSFERS TAKEN INTO ACCOUNT.—In determining whether any transfer is not a direct skip by reason of the amendment made by subsection (a), transfers by the transferor which were not treated as direct skips by reason of section 1433(b)(3) of the Tax Reform Act of 1986 shall be taken into account.

SEC. 3673. DISALLOWANCE OF DEPRECIATION FOR CERTAIN TERM INTERESTS.

(a) GENERAL RULE—Section 167 (as amended by section 6622) is amended by inserting after subsection (q) the following new subsection:

"(r) CERTAIN TERM INTERESTS NOT DEPRECIABLE.—

"(1) IN GENERAL.—No depreciation deduction shall be allowed under this section (and no depreciation or amortization deduction shall be allowed under any other provision of this subtitle) to the taxpayer for any term interest in property for any period during which the remainder interest in such property is held (directly or indirectly) by a related person.

"(2) LOSS WHEN TERM INTEREST TERMINATES.—If any term interest to which paragraph (1) applied terminates, for the taxable year in which such termination occurs, the taxpayer shall be treated as having a loss from the sale or exchange of such interest in an amount no greater than the aggregate amount disallowed to the taxpayer under paragraph (1) with respect to such interest.

"(3) COORDINATION WITH SECTION 273.—This subsection shall not apply to any interest to which section 273 applies.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) TERM INTEREST IN PROPERTY.—The term 'term interest in property' has the meaning given such term by section 1001(e)(2).

"(B) RELATED PERSON.—The term 'related person' means any person bearing a relationship to the taxpayer described in subsection (b) or (e) of section 267.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations preventing avoidance of this subsection through cross-ownership arrangements or otherwise."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to interests acquired after July 27, 1989, in taxable years ending after such date.

SEC. 3674. CLARIFICATION OF WAIVER OF RIGHT OF RECOVERY IN CASE OF CERTAIN MARITAL DEDUCTION PROPERTY.

(a) GENERAL RULE.—Paragraph (2) of section 2207A(a) (relating to right of recovery with respect to estate tax) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT BY WILL.—Paragraph (1) shall not apply if the decedent otherwise directs in a provision of his will (or a revocable trust) specifically referring to this section."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 3675. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF DECEDENT'S DEATH.

(a) GENERAL RULE.—Section 2035 is amended to read as follows:

"SEC. 2035. ADJUSTMENTS FOR GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.

"(a) INCLUSION OF CERTAIN PROPERTY IN GROSS ESTATE.—If—

"(1) the decedent made a transfer (by trust or otherwise) of an interest in any property during the 3-year period ending on the date of the decedent's death, and

"(2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under section 2036, 2037, 2038, or 2042 if such transferred interest had been retained by the decedent on the date of his death,

the value of the gross estate shall include the value of any property (or interest therein) which would have been so included. The preceding sentence shall not apply to any transfer from a trust with respect to which the decedent retained the right to revoke unless such sentence would apply to such transfer if made directly by the decedent.

"(b) INCLUSION OF GIFT TAX ON GIFTS MADE DURING 3 YEARS BEFORE DECEDENT'S DEATH.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse during the 3-year period ending on the date of the decedent's death.

"(c) OTHER RULES RELATING TO TRANSFERS WITHIN 3 YEARS OF DEATH.—

"(1) IN GENERAL.—For purposes of—

"(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),

"(B) section 2032A (relating to special valuation of certain farms, etc., real property), and

"(C) subchapter C of chapter 64 (relating to lien for taxes),

the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

"(2) COORDINATION WITH SECTION 6166.—An estate shall be treated as meeting the 35 percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1).

"(3) SMALL TRANSFERS.—Paragraphs (1) and (2) shall not apply to any transfer (other than a transfer with respect to a life insurance policy) made during a calendar year to any donee if the decedent was not required by section 6019 (other than by reason of section 6019(a)(2)) to file any gift

tax return for such year with respect to transfers to such donee.

"(d) EXCEPTION.—Subsection (a) shall not apply to any bona fide sale for an adequate and full consideration in money or money's worth."

(b) TREATMENT OF CERTAIN RELINQUISHMENTS UNDER SECTION 2038.—Paragraph (1) of section 2038(a), and the first sentence of section 2038(a)(2), are each amended by inserting before the period at the end thereof the following: "(except that such a relinquishment shall not be treated as occurring merely by reason of a transfer from a trust with respect to which the decedent had reserved the right to revoke)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 3676. CLARIFICATION OF QUALIFIED TERMINABLE INTEREST RULES.

(a) GENERAL RULE.—

(1) ESTATE TAX.—Subparagraph (B) of section 2056(b)(7) (defining qualified terminable interest property) is amended by adding at the end thereof the following new clause:

"(vi) TREATMENT OF CERTAIN INCOME DISTRIBUTIONS.—An income interest shall not fail to qualify as a qualified income interest for life solely because income for the period after the last distribution date and on or before the date of the surviving spouse's death is not required to be distributed to the surviving spouse or the estate of the surviving spouse."

(2) GIFT TAX.—Paragraph (3) of section 2523(f) is amended by striking "and (iv)" and inserting ", (iv), and (vi)".

(b) CLARIFICATION OF SUBSEQUENT INCLUSION.—Section 2044 is amended by adding at the end thereof the following new subsection:

"(d) CLARIFICATION OF CERTAIN INCOME.—The amount included in the gross estate under subsection (a) shall include the amount of any income from the property to which this section applies for the period after the last distribution date and on or before the date of the decedent's death if such income is not otherwise included in the decedent's gross estate."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to the estates of decedents dying, and gifts made, after October 3, 1989,

(2) APPLICATION OF SECTION 2044 TO TRANSFER BEFORE OCTOBER 4, 1989.—In the case of the estate of any decedent dying after October 3, 1989, if there was a transfer of property before October 4, 1989—

(A) such property shall not be included in the gross estate of the decedent under section 2044 of the Internal Revenue Code of 1986 if no prior martial deduction was claimed by a spouse of the decedent, but

(B) such property shall be so included if such a deduction was allowed.

Subtitle G—Revision of Civil Penalties

PART I—DOCUMENT AND INFORMATION RETURN PENALTIES

SEC. 3711. UNIFORM PENALTIES FOR FAILURES TO COMPLY WITH CERTAIN INFORMATION REPORTING REQUIREMENTS.

(a) GENERAL RULE.—Part II of subchapter B of chapter 68 (relating to failure to file certain information returns or statements) is amended to read as follows:

"PART II—FAILURE TO COMPLY WITH CERTAIN INFORMATION REPORTING REQUIREMENTS

"Sec. 6721. Failure to file correct information returns.
"Sec. 6722. Failure to furnish correct payee statements.
"Sec. 6723. Failure to comply with other information reporting requirements.
"Sec. 6724. Waiver; definitions and special rules.

"SEC. 6721. FAILURE TO FILE CORRECT INFORMATION RETURNS.

"(a) IMPOSITION OF PENALTY.—

"(1) IN GENERAL.—In the case of a failure described in paragraph (2) by any person with respect to an information return, such person shall pay a penalty of $50 for each return with respect to which such a failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $250,000.

"(2) FAILURES SUBJECT TO PENALTY.—For purposes of paragraph (1), the failures described in this paragraph are—

"(A) any failure to file an information return with the Secretary on or before the required filing date, and

"(B) any faiiure to include all of the information required to be shown on the return or the inclusion of incorrect information.

"(b) REDUCTION WHERE CORRECTION IN SPECIFIED PERIOD.—

"(1) CORRECTION WITHIN 30 DAYS.—If any failure described in subsection (a)(2) is corrected on or before the day 30 days after the required filing date—

"(A) the penalty imposed by subsection (a) shall be $15 in lieu of $50, and

"(B) the total amount imposed on the person for all such failures during any calendar year which are so corrected shall not exceed $75,000.

"(2) FAILURES CORRECTED ON OR BEFORE AUGUST 1.—If any failure described in subsection (a)(2) is corrected after the 30th day referred to in paragraph (1) but on or before August 1 of the calendar year in which the required filing date occurs—

"(A) the penalty imposed by subsection (a) shall be $30 in lieu of $50, and

"(B) the total amount imposed on the person for all such failures during the calendar year which are so corrected shall not exceed $150,000.

"(c) EXCEPTION FOR DE MINIMIS FAILURES TO INCLUDE ALL REQUIRED INFORMATION.—

"(1) IN GENERAL.—If—

"(A) an information return is filed with the Secretary,

"(B) there is a failure described in subsection (a)(2)(B) (determined after application of section 6724(a)) with respect to such return, and

"(C) such failure is corrected on or before August 1 of the calendar year in which the required filing date occurs,

for purposes of this section, such return shall be treated as having been filed with all of the correct required information.

"(2) LIMITATION.—The number of information returns to which paragraph (1) applies for any calendar year shall not exceed the greater of—

"(A) 10, or

"(B) one-half of 1 percent of the total number of information returns required to be filed by the person during the calendar year.

"(d) LOWER LIMITATIONS FOR PERSONS WITH GROSS RECEIPTS OF NOT MORE THAN $5,000,000.—

"(1) IN GENERAL.—If any person meets the gross receipts test of paragraph (2) with respect to any calendar year, with respect to failures during such taxable year—

"(A) subsection (a)(1) shall be applied by substituting '$100,000' for '$250,000',

"(B) subsection (b)(1)(B) shall be applied by substituting '$25,000' for '$75,000', and

"(C) subsection (b)(2)(B) shall be applied by substituting '$50,000' for '$150,000'.

"(2) GROSS RECEIPTS TEST.—

"(A) IN GENERAL.—A person meets the gross receipts test of this paragraph for any calendar year if the average annual gross receipts of such person for the most recent 3 taxable years ending before such calendar year do not exceed $5,000,000.

"(B) CERTAIN RULES MADE APPLICABLE.—For purposes of subparagraph (A), the rules of paragraphs (2) and (3) of section 448(c) shall apply.

"(e) PENALTY IN CASE OF INTENTIONAL DISREGARD.—If 1 or more failures described in subsection (a)(2) are due to intentional disregard of the filing requirement (or the correct information reporting requirement), then, with respect to each such failure—

"(1) subsections (b), (c), and (d) shall not apply,

"(2) the penalty imposed under subsection (a) shall be $100, or, if greater—

"(A) in the case of a return other than a return required under section 6045(a), 6041A(b), 6050H, 6050J, 6050K, or 6050L, 10 percent of the aggregate amount of the items required to be reported correctly, or

"(B) in the case of a return required to be filed by section 6045(a), 6050K, or 6050L, 5 percent of the aggregate amount of the items required to be reported correctly, and

"(3) in the case of any penalty determined under paragraph (2)—

"(A) the $250,000 limitation under subsection (a) shall not apply, and

"(B) such penalty shall not be taken into account in applying such limitation (or any similar limitation under subsection (b)) to penalties not determined under paragraph (2).

"SEC. 6722. FAILURE TO FURNISH CORRECT PAYEE STATEMENTS.

"(a) GENERAL RULE.—In the case of each failure described in subsection (b) by any person with respect to a payee statement, such person shall pay a penalty of $50 for each statement with respect to which such a failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $100,000.

"(b) FAILURES SUBJECT TO PENALTY.—For purposes of subsection (a), the failures described in this subsection are—

"(1) any failure to furnish a payee statement on or before the date prescribed therefor to the person to whom such statement is required to be furnished, and

"(2) any failure to include all of the information required to be shown on a payee statement or the inclusion of incorrect information.

"(c) PENALTY IN CASE OF INTENTIONAL DISREGARD.—If 1 or more failures to which subsection (a) applies are due to intentional disregard of the requirement to furnish a payee statement (or the correct information reporting requirement), then, with respect to each failure—

"(1) the penalty imposed under subsection (a) shall be $100, or, if greater—

"(A) in the case of a payee statement other than a statement required under section 6045(b), 6041A(e) (in respect of a return required under section 6041A(b)), 6050H(d), 6050J(e), 6050K(b), or 6050L(c), 10 percent of the aggregate amount of the items required to be reported correctly, or

"(B) in the case of a payee statement required under section 6045(b), 6050K(b), or

6050L(c), 5 percent of the aggregate amount of the items required to be reported correctly, and

"(2) in the case of any penalty determined under paragraph (1)—

"(A) the $100,000 limitation under subsection (a) shall not apply, and

"(B) such penalty shall not be taken into account in applying such limitation to penalties not determined under paragraph (1).

"SEC. 6723. FAILURE TO COMPLY WITH OTHER INFORMATION REPORTING REQUIREMENTS.

"In the case of a failure by any person to comply with a specified information reporting requirement on or before the time prescribed therefor, such person shall pay a penalty of $50 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $100,000.

"SEC. 6724. WAIVER; DEFINITIONS AND SPECIAL RULES.

"(a) REASONABLE CAUSE WAIVER.—

"(1) IN GENERAL.—No penalty shall be imposed under this part with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.

"(2) APPLICATION TO PROVISION OF INCORRECT INFORMATION TO REPORTER.—Any person who is required to include on an information return information given to such person by another shall not be treated as providing incorrect information if such person provides the information given to such person and had no reason to believe such information was incorrect.

"(b) PAYMENT OF PENALTY.—Any penalty imposed by this part shall be paid on notice and demand by the Secretary and in the same manner as tax.

"(c) SPECIAL RULE FOR FAILURE TO MEET MAGNETIC MEDIA REQUIREMENTS.—No penalty shall be imposed under section 6721 solely by reason of any failure to comply with the requirements of the regulations prescribed under section 6011(e), except to the extent that such a failure occurs with respect to more than 250 information returns.

"(d) DEFINITIONS.—For purposes of this part—

"(1) INFORMATION RETURN.—The term 'information return' means—

"(A) any statement of the amount of payments to another person required by—

"(i) section 408(i) (relating to individual retirement account reports),

"(ii) section 6041(a) or (b) (relating to certain information at source),

"(iii) section 6042(a)(1) (relating to payments of dividends),

"(iv) section 6044(a)(1) (relating to payments of patronage dividends),

"(v) section 6047(d) (relating to reports by employers, plan administrators, etc.),

"(vi) section 6049(a) (relating to payments of interest),

"(vii) section 6050A(a) (relating to reporting requirements of certain fishing boat operators),

"(viii) section 6050N(a) (relating to payments of royalties), or

"(ix) section 6051(d) (relating to information returns with respect to income tax withheld), and

"(B) any return required by—

"(i) section 6041A(a) or (b) (relating to returns of direct sellers),

"(ii) section 6045(a) or (d) (relating to returns of brokers),

"(iii) section 6050H(a) (relating to mortgage interest received in trade or business from individuals),

"(iv) section 6050I(a) (relating to cash received in trade or business),

"(v) section 6050J(a) (relating to foreclosures and abandonments of security),

"(vi) section 6050K(a) (relating to exchanges of certain partnership interests),

"(vii) section 6050L(a) (relating to returns relating to certain dispositions of donated property),

"(viii) section 6052(a) (relating to reporting payment of wages in the form of group-life insurance),

"(ix) section 6053(c)(1) (relating to reporting with respect to certain tips),

"(x) section 1060(b) (relating to reporting requirements of transferors and transferees in certain asset acquisitions), or

"(xi) subparagraph (A) or (C) of subsection (c)(4), or subsection (e), of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuels).

Such term also includes any form, statement, or schedule required to be filed with the Secretary with respect to any amount from which tax was required to be deducted and withheld under chapter 3 (or from which tax would be required to be so deducted and withheld but for an exemption under this title or any treaty obligation of the United States). For purposes of clauses (i) and (v) of subparagraph (A), references to such sections are only with respect to reports filed with the Secretary, with respect to information required to be supplied to both the Secretary and the beneficiary.

"(2) PAYEE STATEMENT.—The term 'payee statement' means any statement required to be furnished under—

"(A) section 408(i) (relating to individual retirement account reports),

"(B) section 6031(b) or (c), 6034A, or 6037(b) (relating to statements furnished by certain pass-thru entities),

"(C) section 6039(a) (relating to information required in connection with certain options),

"(D) section 6041(d) (relating to information at source),

"(E) section 6041A(e) (relating to returns regarding payments of remuneration for services and direct sales),

"(F) section 6042(c) (relating to returns regarding payments of dividends and corporate earnings and profits),

"(G) section 6044(e) (relating to returns regarding payments of patronage dividends),

"(H) section 6045 (b) or (d) (relating to returns of brokers),

"(I) section 6047(d) (relating to reports by employers, plan administrators, etc.),

"(J) section 6049(c) (relating to returns regarding payments of interest),

"(K) section 6050A(b) (relating to reporting requirements of certain fishing boat operators),

"(L) section 6050H(d) relating to returns relating to mortgage interest received in trade or business from individuals),

"(M) section 6050I(e) (relating to returns relating to cash received in trade or business),

"(N) section 6050J(e) (relating to returns relating to foreclosures and abandonments of security),

"(O) section 6050K(b) (relating to returns relating to exchanges of certain partnership interests),

"(P) section 6050L(c) (relating to returns relating to certain dispositions of donated property),

"(Q) section 6050N(b) (relating to returns regarding payments of royalties),

"(R) section 6051 (relating to receipts for employees),

"(S) section 6052(b) (relating to returns regarding payment of wages in the form of group-term life insurance),

"(T) section 6053 (b) or (c) (relating to reports of tips), or

"(U) section 4093(c)(4)(B) (relating to certain purchasers of diesel and aviation fuels).

Such term also includes any form, statement, or schedule required to be furnished to the recipient of any amount from which tax was required to be deducted and withheld under chapter 3 (or from which tax would be required to be so deducted and withheld but for an exemption under this title or any treaty obligation of the United States). For purposes of subparagraphs (A) and (I), references to such sections are only with respect to reports furnished to the beneficiary, with respect to information required to be supplied to both the Secretary and the beneficiary.

"(3) SPECIFIED INFORMATION REPORTING REQUIREMENT.—The term 'specified information reporting requirement' means—

"(A) the notice required by section 6050K(c)(1) (relating to requirement that transferor notify partnership of exchange),

"(B) any requirement contained in the regulations prescribed under section 6109 that a person—

"(i) include his TIN on any return, statement, or other document (other than an information return or payee statement),

"(ii) furnish his TIN to another person, or

"(iii) include on any return, statement, or other document (other than an information return or payee statement) made with respect to another person the TIN of such person,

"(C) any requirement contained in the regulations prescribed under section 215 that a person—

"(i) furnish his TIN to another person, or

"(ii) include on his return the TIN of another person, and

"(D) the requirement of section 6109(e) that a person include the TIN of any dependent on his return.

"(4) REQUIRED FILING DATE.—The term 'required filing date' means the date prescribed for filing an information return with the Secretary (determined with regard to any extension of time for filing)."

(b) MODIFICATION OF REPORTABLE DESIGNATED DISTRIBUTIONS.—

(1) SECTION 408.—Subsection (i) of section 408 (relating to individual retirement account reports) is amended by inserting "aggregating $10 or more" after "distributions".

(2) SECTION 6047.—Subsection (d)(1) of section 6047 (relating to reports by employers, plan administrators, etc.) is amended—

(A) by inserting "aggregating $10 or more" after "designated distributions" in subparagraph (A), and

(B) by inserting "such" before "designated distributions" in subparagraph (B).

(c) TECHNICAL AMENDMENTS.—

(1) Sections 6017A, 6676, and 6687 are hereby repealed.

(2) Paragraph (1) of section 6047(e) is amended by striking "section 6652(e)" and inserting "sections 6652(e), 6721, and 6722".

(3) Section 6652(e) is amended by inserting "(other than reports described in section 6724(d)(1)(A)(v) and (2)(I))" after "6047".

(4) Section 6693(a) is amended by inserting "(other than reports described in section 6724(d) (1)(A)(i) and (2)(A))" after "annuity".

(5) Subsection (b) of section 7205 is amended to read as follows:

"(b) BACKUP WITHHOLDING ON INTEREST AND DIVIDENDS.—If any individual willfully makes a false certification under paragraph (1) or (2)(C) of section 3406(d), then such individual shall, in addition to any other penalty provided by law, upon conviction thereof, be fined not more than $1,000, or imprisoned not more than 1 year, or both."

(6) The table of sections for subpart B of part II of subchapter A of chapter 61 is amended by striking the item relating to section 6017A.

(7) The table of sections for part I of subchapter B of chapter 68 is amended by striking the items relating to sections 6676 and 6687.

(8) The table of parts for subchapter B of chapter 68 is amended by striking the item relating to part II and inserting the following:

"Part II. Failure to comply with certain information reporting requirements."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which (determined without regard to extensions) is after December 31, 1989.

SEC. 3712. INFORMATION REQUIRED WITH RESPECT TO CERTAIN FOREIGN CORPORATIONS.

(a) CLARIFICATION OF REPORTING REQUIREMENTS UNDER SECTION 6038.—

(1) Subsection (a) of section 6038 (relating to information with respect to certain foreign corporations) is amended by adding at the end thereof the following new paragraph:

"(4) INFORMATION REQUIRED FROM CERTAIN SHAREHOLDERS IN CERTAIN CASES.—If any foreign corporation is treated as a controlled foreign corporation for any purpose under subpart F of part III of subchapter N of chapter 1, the Secretary may require any United States person treated as a United States shareholder of such corporation for any purpose under subpart F to furnish the information required under paragraph (1)."

(2) Paragraph (1) of section 6038(a) is amended by inserting before the period at the end of the second sentence the following: "or which the Secretary determines to be appropriate to carry out the provisions of this title."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to returns and statements the due date for which (determined without regard to extensions) is after December 31, 1989.

SEC. 3713. UNIFORM REQUIREMENTS FOR RETURNS ON MAGNETIC MEDIA.

(a) GENERAL RULE.—Subsection (e) of section 6011 (relating to regulations requiring returns on magnetic tape, etc.) is amended to read as follows:

"(e) REGULATIONS REQUIRING RETURNS ON MAGNETIC MEDIA, ETC.—

"(1) IN GENERAL.—The Secretary shall prescribe regulations providing standards for determining which returns must be filed on magnetic media or in other machine-readable form. The Secretary may not require returns of any tax imposed by subtitle A on individuals, estates, and trusts to be other than on paper forms supplied by the Secretary.

"(2) REQUIREMENTS OF REGULATIONS.—In prescribing regulations under paragraph (1), the Secretary—

"(A) shall not require any person to file returns on magnetic media unless such person is required to file at least 250 returns during the calendar year, and

"(B) shall take into account (among other relevant factors) the ability of the taxpayer to comply at reasonable cost with the requirements of such regulations."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1989.

SEC. 3714. STUDY OF PROCEDURES TO PREVENT MISMATCHING.

(a) GENERAL RULE.—The Comptroller General (in consultation with the Secretary of the Treasury or his delegate) shall conduct a study on procedures to resolve, with the least disclosure of return information possible, discrepancies between taxpayer-identity information shown on information returns and such information in the records of the Internal Revenue Service.

(b) REPORT.—Not later than June 1, 1990, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

SEC. 3715. STUDY OF SERVICE BUREAUS.

(a) GENERAL RULE.—The Comptroller General (in consultation with the Secretary of the Treasury or his delegate) shall conduct a study of whether persons engaged in the business of transmitting information returns or other documents to the Internal Revenue Service on behalf of other persons should be subject to registration or other regulation.

(b) REPORT.—Not later than July 1, 1990, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

PART II—REVISION OF ACCURACY-RELATED PENALTIES

SEC. 3721. REVISION OF ACCURACY-RELATED PENALTIES.

(a) GENERAL RULE.—Subchapter A of chapter 68 (relating to additions to the tax and additional amounts) is amended by striking section 6662 and inserting the following:

"PART II—ACCURACY-RELATED AND FRAUD PENALTIES

"Sec. 6662. Imposition of accuracy-related penalty.

"Sec. 6663. Imposition of fraud penalty.

"Sec. 6664. Definitions and special rules.

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY.

"(a) IMPOSITION OF PENALTY.—If this section applies to any portion of an underpayment of tax required to be shown on a return, there shall be added to the tax an amount equal to 20 percent of the portion of the underpayment to which this section applies.

"(b) PORTION OF UNDERPAYMENT TO WHICH SECTION APPLIES.—This section shall apply to the portion of any underpayment which is attributable to 1 or more of the following:

"(1) Negligence or disregard of rules or regulations.

"(2) Any substantial understatement of income tax.

"(3) Any substantial valuation overstatement under chapter 1.

"(4) Any substantial overstatement of pension liabilities.

"(5) Any substantial estate or gift tax valuation understatement.

This section shall not apply to any portion of an underpayment on which a penalty is imposed under section 6663.

"(c) NEGLIGENCE.—For purposes of this section, the term 'negligence' includes any failure to make a reasonable attempt to comply with the provisions of this title, and the term 'disregard' includes any careless, reckless, or intentional disregard.

"(d) SUBSTANTIAL UNDERSTATEMENT OF INCOME TAX.—

"(1) SUBSTANTIAL UNDERSTATEMENT.—

"(A) IN GENERAL.—For purposes of this section, there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year, or

"(ii) $5,000.

"(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), paragraph (1) shall be applied by substituting "$10,000" for "$5,000".

"(2) UNDERSTATEMENT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'understatement' means the excess of—

"(i) the amount of the tax required to be shown on the return for the taxable year, over

"(ii) the amount of the tax imposed which is shown on the return, reduced by any rebate (within the meaning of section 6211(b)(2)).

"(B) REDUCTION FOR UNDERSTATEMENT DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—The amount of the understatement under subparagraph (A) shall be reduced by that portion of the understatement which is attributable to—

"(i) the tax treatment of any item by the taxpayer if there is or was substantial authority for such treatment, or

"(ii) any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return.

"(C) SPECIAL RULES IN CASES INVOLVING TAX SHELTERS.—

"(i) IN GENERAL.—In the case of any item attributable to a tax shelter—

"(I) subparagraph (B)(ii) shall not apply, and

"(II) subparagraph (B)(i) shall not apply unless (in addition to meeting the requirements of such subparagraph) the taxpayer reasonably believed that the tax treatment of such item by the taxpayer was more likely than not the proper treatment.

"(ii) TAX SHELTER.—For purposes of clause (i), the term 'tax shelter' means—

"(I) a partnership or other entity,

"(II) any investment plan or arrangement, or

"(III) any other plan or arrangement,

if the principal purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.

"(D) SECRETARIAL LIST.—The Secretary shall prescribe (and revise not less frequently than annually) a list of positions—

"(i) for which the Secretary believes there is not substantial authority, and

"(ii) which affect a significant number of taxpayers.

Such list (and any revision thereof) shall be published in the Federal Register.

"(e) SUBSTANTIAL VALUATION OVERSTATEMENT UNDER CHAPTER 1.—

"(1) IN GENERAL.—For purposes of this section, there is a substantial valuation overstatement under chapter 1 if the value of any property (or the adjusted basis of any property) claimed on any return of tax imposed by chapter 1 is 200 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be).

"(2) LIMITATION.—No penalty shall be imposed by reason of subsection (b)(3) unless the portion of the underpayment for the taxable year attributable to substantial valuation overstatements under chapter 1 exceeds $5,000 ($10,000 in the case of a corporation other than an S corporation or a personal holding company (as defined in section 542)).

"(f) SUBSTANTIAL OVERSTATEMENT OF PENSION LIABILITIES.—

"(1) IN GENERAL.—For purposes of this section, there is a substantial overstatement of pension liabilities if the actuarial determination of the liabilities taken into account for purposes of computing the deduction under paragraph (1) or (2) of section 404(a) is 200 percent or more of the amount determined to be the correct amount of such liabilities.

"(2) LIMITATION.—No penalty shall be imposed by reason of subsection (b)(4) unless the portion of the underpayment for the taxable year attributable to substantial overstatements of pension liabilities exceeds $1,000.

"(g) SUBSTANTIAL ESTATE OR GIFT TAX VALUATION UNDERSTATEMENT.—

"(1) IN GENERAL.—For purposes of this section, there is a substantial estate or gift tax valuation understatement if the value of any property claimed on any return of tax imposed by subtitle B is 50 percent or less of the amount determined to be the correct amount of such valuation.

"(2) LIMITATION.—No penalty shall be imposed by reason of subsection (b)(5) unless the portion of the underpayment attributable to substantial estate or gift tax valuation understatements for the taxable period (or, in the case of the tax imposed by chapter 11, with respect to the estate of the decedent) exceeds $5,000.

"(h) INCREASE IN PENALTY IN CASE OF GROSS VALUATION MISSTATEMENTS.—

"(1) IN GENERAL.—To the extent that a portion of the underpayment to which this section applies is attributable to one or more gross valuation misstatements, subsection (a) shall be applied with respect to such portion by substituting '40 percent' for '20 percent'.

"(2) GROSS VALUATION MISSTATEMENTS.—The term 'gross valuation misstatements' means—

"(A) any substantial valuation overstatement under chapter 1 as determined under subsection (e) by substituting '400 percent' for '200 percent',

"(B) any substantial overstatement of pension liabilities as determined under subsection (f) by substituting '400 percent' for '200 percent', and

"(C) any substantial estate or gift tax valuation understatement as determined under subsection (g) by substituting '25 percent' for '50 percent'.

"SEC. 6663. IMPOSITION OF FRAUD PENALTY.

"(a) IMPOSITION OF PENALTY.—If any part of any underpayment of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 75 percent of the portion of the underpayment which is attributable to fraud.

"(b) DETERMINATION OF PORTION ATTRIBUTABLE TO FRAUD.—If the Secretary establishes that any portion of an underpayment is attributable to fraud, the entire underpayment shall be treated as attributable to fraud, except with respect to any portion of the underpayment which the taxpayer establishes (by a preponderance of the evidence) is not attributable to fraud.

"(c) SPECIAL RULE FOR JOINT RETURNS.—In the case of a joint return, this section shall not apply with respect to a spouse unless some part of the underpayment is due to the fraud of such spouse.

"SEC. 6664. DEFINITIONS AND SPECIAL RULES.

"(a) UNDERPAYMENT.—For purposes of this part, the term 'underpayment' means the amount by which any tax imposed by this title exceeds the excess of—

"(1) the sum of—

"(A) the amount shown as the tax by the taxpayer on his return, plus

"(B) amounts not so shown previously assessed (or collected without assessment), over

"(2) the amount of rebates made.

For purposes of paragraph (2), the term 'rebate' means so much of an abatement, credit, refund, or other repayment, as was made on the ground that the tax imposed was less than the excess of the amount specified in paragraph (1) over the rebates previously made.

"(b) PENALTIES APPLICABLE ONLY WHERE RETURN FILED.—The penalties provided in this part shall apply only in cases where a return of tax is filed (other than a return prepared by the Secretary under the authority of section 6020(b)).

"(c) REASONABLE CAUSE EXCEPTION.—

"(1) IN GENERAL.—No penalty shall be imposed under this part with respect to any portion of an underpayment if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

"(2) SPECIAL RULE FOR CERTAIN VALUATION OVERSTATEMENTS.—In the case of any underpayment attributable to a substantial or gross valuation overstatement under chapter 1 with respect to charitable deduction property, paragraph (1) shall not apply unless—

"(A) the claimed value of the property was based on a qualified appraisal made by a qualified appraiser, and

"(B) in addition to obtaining such appraisal, the taxpayer made a good faith investigation of the value of the contributed property.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) CHARITABLE DEDUCTION PROPERTY.—The term 'charitable deduction property' means any property contributed by the taxpayer in a contribution for which a deduction was claimed under section 170. For purposes of paragraph (2), such term shall not include any securities for which (as of the date of the contribution) market quotations are readily available on an established securities market.

"(B) QUALIFIED APPRAISER.—The term 'qualified appraiser' means any appraiser meeting the requirements of the regulations prescribed under section 170(a)(1).

"(C) QUALIFIED APPRAISAL.—The term 'qualified appraisal' means any appraisal meeting the requirements of the regulations prescribed under section 170(a)(1).

"PART III—APPLICABLE RULES

"Sec. 6665. Applicable rules.

"SEC. 6665. APPLICABLE RULES.

"(a) ADDITIONS TREATED AS TAX.—Except as otherwise provided in this title—

"(1) the additions to the tax, additional amounts, and penalties provided by this chapter shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as taxes; and

"(2) any reference in this title to 'tax' imposed by this title shall be deemed also to refer to the additions to the tax, additional amounts, and penalties provided by this chapter.

"(b) PROCEDURE FOR ASSESSING CERTAIN ADDITIONS TO TAX.—For purposes of subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes), subsection (a) shall not apply to any addition to tax under section 6651, 6654, or 6655; except that it shall apply—

"(1) in the case of an addition described in section 6651, to that portion of such addition which is attributable to a deficiency in tax described in section 6211; or

"(2) to an addition described in section 6654 or 6655, if no return is filed for the taxable year."

(b) REPEAL OF INCREASE IN INTEREST ON CERTAIN SUBSTANTIAL UNDERPAYMENTS.—Subsection (c) of section 6621 (relating to interest on substantial underpayments attributable to tax motivated transactions) is hereby repealed.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 6653 is amended to read as follows:

"SEC. 6653. FAILURE TO PAY STAMP TAX.

"Any person (as defined in section 6671(b)) who—

"(1) willfully fails to pay any tax imposed by this title which is payable by stamp, coupons, tickets, books, or other devices or methods prescribed by this title or by regulations under the authority of this title, or

"(2) willfully attempts in any manner to evade or defeat any such tax or the payment thereof,

shall, in addition to other penalties provided by law, be liable for a penalty of 50 percent of the total amount of the underpayment of the tax."

(2) Sections 6659, 6659A, 6660, and 6661 are hereby repealed.

(3) Subsection (b) of section 5684 is amended—

(A) by striking "6662(a)" and inserting "6665(a)", and

(B) by striking "6662" in the subsection heading and inserting "6665".

(4) Subsection (a) of section 5761 is amended by striking "or 6653" and inserting "or 6653 or part II of subchapter A of chapter 68".

(5) Subsection (c) of section 5761 is amended—

(A) by striking "6662(a)" and inserting "6665(a)", and

(B) by striking "6662" in the subsection heading and inserting "6665".

(6) Subparagraph (A) of section 6013(b)(5) is amended—

(A) by striking "section 6653" and inserting "part II of subchapter A of chapter 68", and

(B) by striking "section 6653" in the subparagraph heading and inserting "part ii of subchapter a of chapter 68".

(7) Subsection (d) of section 6222 is amended by striking "section 6653(a)" and

inserting "part II of subchapter A of chapter 68".

(8) Paragraph (2) of section 6601(e) is amended by striking "section 6651(a)(1), 6653, 6659, 6660, or 6661" each place it appears and inserting "section 6651(a)(1) or 6653 or under part II of subchapter A of chapter 68".

(9) Subsection (a) of section 6672 is amended by striking "under section 6653" and inserting "under section 6653 or part II of subchapter A of chapter 68".

(10) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(b)(2)(C)(ii)" and inserting "section 6662(d)(2)(C)(ii)".

(11) Clause (i) of section 1274(b)(3)(B) is amended by striking "section 6661(b)(2)(C)(ii)" and inserting "section 6662(d)(2)(C)(ii)".

(12) Subparagraph (B) of section 7519(f)(4) is amended by striking "section 6653" and inserting "part II of subchapter A of chapter 68".

(13) Subchapter A of chapter 68 is amended by inserting after the subchapter heading the following:

"Part I. General provisions.
"Part II. Accuracy-related and fraud penalties.
"Part III. Applicable rules.

"PART I—GENERAL PROVISIONS".

(14) The table of sections for part I of subchapter A of chapter 68 (as amended by paragraph (1)) is amended—

(A) by striking out the items relating to sections 6659, 6659A, 6660, and 6661, and

(B) by striking the item relating to section 6653 and inserting:

"Sec. 6653. Failure to pay stamp tax."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1989.

PART III—PREPARER, PROMOTER, AND PROTESTER PENALTIES

SEC. 3731. PENALTY FOR INSTITUTING PROCEEDINGS BEFORE TAX COURT PRIMARILY FOR DELAY, ETC.

(a) GENERAL RULE.—Section 6673 (relating to damages assessable for instituting proceedings before the Tax Court primarily for delay, etc.) is amended to read as follows:

"SEC. 6673. SANCTIONS AND COSTS AWARDED BY COURTS.

"(a) TAX COURT PROCEEDINGS.—

"(1) PROCEDURES INSTITUTED PRIMARILY FOR DELAY, ETC.—Whenever it appears to the Tax Court that—

"(A) proceedings before it have been instituted or maintained by the taxpayer primarily for delay,

"(B) the taxpayer's position in such proceeding is frivolous or groundless, or

"(C) the taxpayer unreasonably failed to pursue available administrative remedies,

the Tax Court, in its decision, may require the taxpayer to pay to the United States a penalty not in excess of $25,000.

"(2) COUNSEL'S LIABILITY FOR EXCESSIVE COSTS.—Whenever it appears to the Tax Court that any attorney or other person admitted to practice before the Tax Court has multiplied the proceedings in any case unreasonably and vexatiously, the Tax Court may require—

"(A) that such attorney or other person pay personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct, or

"(B) if such attorney is appearing on behalf of the Commissioner of Internal Revenue, that the United States pay such excess costs, expenses, and attorneys' fees in the same manner as such an award by a district court.

"(b) PROCEEDINGS IN OTHER COURTS.—

"(1) CLAIMS UNDER SECTION 7433.—Whenever it appears to the court that the taxpayer's position in the proceedings before the court instituted or maintained by such taxpayer under section 7433 is frivolous or groundless, the court may require the taxpayer to pay to the United States a penalty not in excess of $10,000.

"(2) COLLECTION OF SANCTIONS AND COSTS.—In any civil proceeding before any court (other than the Tax Court) which is brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty under this title, any monetary sanctions, penalties, or costs awarded by the court to the United States may be assessed by the Secretary and, upon notice and demand, may be collected in the same manner as a tax.

"(3) SANCTIONS AND COSTS AWARDED BY A COURT OF APPEALS.—In connection with any appeal from a proceeding in the Tax Court or a civil proceeding described in paragraph (2), an order of a United States Court of Appeals or the Supreme Court awarding monetary sanctions, penalties or court costs to the United States may be registered in a district court upon filing a certified copy of such order and shall be enforceable as other district court judgments."

(b) CLARIFICATION OF AUTHORITY TO IMPOSE PENALTIES BY APPELLATE COURTS.—Paragraph (4) of section 7482(c) (relating to power to impose damages) is amended to read as follows:

"(4) TO IMPOSE PENALTIES.—The United States Court of Appeals and the Supreme Court shall have the power to require the taxpayer to pay to the United States a penalty in any case where the decision of the Tax Court is affirmed and it appears that the appeal was instituted or maintained primarily for delay or that the taxpayer's position in the appeal is frivolous or groundless."

(c) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6673 and inserting the following:

"Sec. 6673. Sanctions and costs awarded by courts."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to positions taken after December 31, 1989, in proceedings which are pending on, or commenced after such date.

SEC. 3732. MODIFICATIONS TO OTHER ASSESSABLE PENALTIES WITH RESPECT TO RETURN PREPARERS.

(a) FAILURE TO FURNISH COPY TO TAXPAYER.—Subsection (a) of section 6695 is amended—

(1) by striking "$25" and inserting "$50", and

(2) by adding at the end thereof the following new sentence: "The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed $25,000."

(b) FAILURE TO SIGN RETURN.—Subsection (b) of section 6695 is amended—

(1) by striking "$25" and inserting "$50", and

(2) by adding at the end thereof the following new sentence: "The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed $25,000."

(c) FAILURE TO FURNISH IDENTIFYING NUMBER.—Subsection (c) of section 6695 is amended—

(1) by striking "$25" and inserting "$50", and

(2) by adding at the end thereof the following new sentence: "The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed $25,000."

(d) FAILURE TO FILE CORRECT INFORMATION RETURNS.—Subsection (e) of section 6695 is amended to read as follows:

"(e) FAILURE TO FILE CORRECT INFORMATION RETURNS.—Any person required to make a return under section 6060 who fails to comply with the requirements of such section shall pay a penalty of $50 for—

"(1) each failure to file a return as required under such section, and

"(2) each failure to set forth an item in the return as required under section,

unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed $25,000."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to documents prepared after December 31, 1989.

SEC. 3733. MODIFICATIONS TO PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS, ETC.

(a) GENERAL RULE.—Subsection (a) of section 6700 is amended—

(1) by inserting "(directly or indirectly)" after "participates" in paragraph (1)(B),

(2) by inserting "or causes another person to make or furnish" after "makes or furnishes" in paragraph (2), and

(3) by striking the material following paragraph (2) and inserting the following:

"shall pay, with respect to each activity described in paragraph (1), a penalty equal to the $1,000 or, if the person establishes that it is lesser, 100 percent of the gross income derived (or to be derived) by such person from such activity. For purposes of the preceding sentence, activities described in paragraph (1)(A) with respect to each entity or arrangement shall be treated as a separate activity and participation in each sale described in paragraph (1)(B) shall be so treated."

(b) STATUTE OF LIMITATIONS.—Section 6700 is amended by adding at the end thereof the following new subsection:

"(d) STATUTE OF LIMITATIONS.—The period for assessing any penalty imposed by this section shall not expire before the date 6 years after the occurrence of the activity described in subsection (a)."

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after December 31, 1989.

SEC. 3734. MODIFICATIONS TO PENALTIES FOR AIDING AND ABETTING UNDERSTATEMENT OF TAX LIABILITY.

(a) GENERAL RULE.—Subsection (a) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended—

(1) by striking "in connection with any matter arising under the internal revenue laws" in paragraph (1),

(2) by striking "who knows" in paragraph (2) and inserting "who knows (or has reason to believe)", and

(3) by striking "will result" in paragraph (3) and inserting "would result".

(b) COORDINATION WITH PENALTY UNDER SECTION 6700.—

(1) IN GENERAL.—Subsection (f) of section 6701 is amended by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH SECTION 6700.—No penalty shall be assessed under section 6700 on any person with respect to any document for which a penalty is assessed on such person under subsection (a)."

(2) TECHNICAL AMENDMENT.—Paragraph (1) of section 6701(f) is amended by striking "paragraph (2)" and inserting "paragraphs (2) and (3)".

(c) STATUTE OF LIMITATIONS.—Section 6701 is amended by adding at the end thereof the following new subsection:

"(g) STATUTE OF LIMITATIONS.—The period for assessing any penalty imposed by this section shall not expire before the date 6 years after the occurrence of the activity described in subsection (a)."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 31, 1989.

SEC. 3735. MODIFICATION TO PENALTY FOR FRIVOLOUS INCOME TAX RETURN.

(a) REQUIREMENT OF FULL PAYMENT OF PENALTY.—Subsection (c) of section 6703 is amended by striking "section 6700, 6701, or 6702" each place it appears and inserting "section 6700 or 6701".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to returns filed after December 31, 1989.

SEC. 3736. AUTHORITY TO COUNTERCLAIM FOR BALANCE OF PENALTY IN PARTIAL REFUND SUITS.

(a) GENERAL RULE.—Sections 6672(b)(1), 6694(c)(1), and 6703(c)(1) are each amended by adding at the end thereof the following new sentence: "Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 3737. REPEAL OF BONDING REQUIREMENT UNDER SECTION 7407.

(a) GENERAL RULE.—Subsection (c) of section 7407 (relating to bond to stay injunction) is hereby repealed.

(b) CONFORMING AMENDMENT.—Subsection (a) of section 7407 is amended by striking "Except as provided in subsection (c), a civil" and inserting "A civil".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions commenced after December 31, 1989.

SEC. 3738. CERTAIN DISCLOSURES OF INFORMATION BY PREPARERS PERMITTED.

(a) GENERAL RULE.—Paragraph (3) of section 7216(b) (relating to exceptions) is amended by adding at the end thereof the following new sentence: "Such regulations shall permit (subject to such conditions as such regulations shall provide) the disclosure or use of information for quality or peer reviews."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

PART IV—FAILURES TO FILE OR PAY

SEC. 3741. INCREASE IN PENALTY FOR FRAUDULENT FAILURE TO FILE.

(a) GENERAL RULE.—Section 6651 (relating to failure to file tax return or pay tax) is amended by adding at the end thereof the following new subsection:

"(f) INCREASE IN PENALTY FOR FRAUDULENT FAILURE TO FILE.—If any failure to file any return is fraudulent, paragraph (1) of subsection (a) shall be applied—

"(1) by substituting '15 percent' for '5 percent' each place it appears, and

"(2) by substituting '75 percent' for '25 percent'."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of failures to file returns the due date for which (determined without regard to extensions) is after December 31, 1989.

SEC. 3742. FAILURE TO MAKE DEPOSIT OF TAXES.

(a) GENERAL RULE.—Section 6656 (relating to failure to make deposit of taxes or overstatement of deposits) is amended to read as follows:

"SEC. 6656. FAILURE TO MAKE DEPOSIT OF TAXES.

"(a) UNDERPAYMENT OF DEPOSITS.—In the case of any failure by any person to deposit (as required by this title or by regulations of the Secretary under this title) on the date prescribed therefor any amount of tax imposed by this title in such government depository as is authorized under section 6302(c) to receive such deposit, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be imposed upon such person a penalty equal to the applicable percentage of the amount of the underpayment.

"(b) DEFINITIONS.—For purposes of subsection (a)—

"(1) APPLICABLE PERCENTAGE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'applicable percentage' means—

"(i) 2 percent if the failure is for not more than 5 days,

"(ii) 5 percent if the failure is for more than 5 days but not more than 15 days, and

"(iii) 10 percent if the failure is for more than 15 days.

"(B) SPECIAL RULE.—In any case where the tax is not deposited on or before the earlier of—

"(i) the day 10 days after the date of the first delinquency notice to the taxpayer under section 6303, or

"(ii) the day on which notice and demand for immediate payment is given under section 6861 or 6862 or the last sentence of section 6331(a),

the applicable percentage shall be 15 percent.

"(2) UNDERPAYMENT.—The term 'underpayment' means the excess of the amount of the tax required to be deposited over the amount, if any, thereof deposited on or before the date prescribed therefor."

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter A of chapter 68 (as amended by title II) is amended by striking the item relating to section 6656 and inserting the following:

"Sec. 6656. Failure to make deposit of taxes."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to deposits required to be made after December 31, 1989.

SEC. 3743. EFFECT OF PAYMENT OF TAX BY RECIPIENT ON CERTAIN PENALTIES.

(a) GENERAL RULE.—Section 1463 (relating to tax paid by recipient of income) is amended to read as follows:

"SEC. 1463. TAX PAID BY RECIPIENT OF INCOME.

"If—

"(1) any person, in violation of the provisions of this chapter, fails to deduct and withhold any tax under this chapter, and

"(2) thereafter the tax against which such tax may be credited is paid,

the tax so required to be deducted and withheld shall not be collected from such person; but this subsection shall in no case relieve such person from liability for interest or any penalties or additions to the tax otherwise applicable in respect of such failure to deduct and withhold."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to failures after December 31, 1989.

Subtitle H—Technical Corrections

SEC. 3801. DEFINITIONS; COORDINATION WITH OTHER SUBTITLES.

(a) DEFINITIONS.—For purposes of this subtitle—

(1) 1988 ACT.—The term "1988 Act" means the Technical and Miscellaneous Revenue Act of 1988.

(2) 1987 ACT.—The term "1987 Act" means the Revenue Act of 1987.

(b) COORDINATION WITH OTHER SUBTITLES.—For purposes of applying the amendments made by any subtitle of this title other than this subtitle, the provisions of this subtitle shall be treated as having been enacted immediately before the provisions of such other subtitles.

PART I—AMENDMENTS RELATED TO TECHNICAL AND MISCELLANEOUS REVENUE ACT OF 1988

SEC. 3811. AMENDMENTS RELATED TO TITLE I OF THE 1988 ACT.

(a) AMENDMENTS RELATED TO SECTION 1003 OF THE 1988 ACT.—

(1) Subparagraph (C) of section 643(a)(6) is amended by striking "(i)" and by striking ", and (ii)" and all that follows and inserting a period.

(2) Paragraph (6) of section 643(a) is amended by striking subparagraph (D).

(b) AMENDMENTS RELATED TO SECTION 1006 OF THE 1988 ACT.—

(1) Subparagraphs (C) and (D) of section 26(b)(2) are amended to read as follows:

"(C) subsection (m)(5)(B), (q), (t), or (v) of section 72 (relating to additional taxes on certain distributions),

"(D) section 143(m) (relating to recapture of proration of Federal subsidy from use of mortgage bonds and mortgage credit certificates),".

(2) Paragraph (2) of section 26(b) is amended by striking subparagraph (K) and all that follows and inserting the following new subparagraphs:

"(K) sections 871(a) and 881 (relating to certain income of nonresident aliens and foreign corporations),

"(L) section 860E(e) (relating to taxes with respect to certain residual interests), and

"(M) section 884 (relating to branch profits tax).".

(3) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (viii) and all that follows and inserting the following:

"(viii) section 6052(a) (relating to reporting payment of wages in the form of group-term life insurance),

"(ix) section 6053(c)(1) (relating to reporting with respect to certain tips),

"(x) section 1060(b) (relating to reporting requirements of transferors and transferees in certain asset acquisitions), or

"(xi) subparagraph (A) or (C) of subsection (c)(4), or subsection (e), of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuel).".

(4) Clause (i) of section 1374(d)(2)(A) is amended by striking "(except as provided in subsection (b)(2))".

(5)(A) Paragraph (6) of section 382(h) is amended—

(i) by striking "during the recognition period" in subparagraph (B) and inserting "during the recognition period (determined without regard to any carryover)", and

(ii) by striking "treated as recognized built-in gains or losses under this paragraph" in subparagraph (C) and inserting "which would be treated as recognized built-in gains or losses under this paragraph if such amounts were properly taken into account (or allowable as a deduction) during the recognition period".

(B) Paragraph (5) of section 1374(d) is amended—

(i) by striking "during the recognition period" in subparagraph (B) and inserting "during the recognition period (determined without regard to any carryover)", and

(ii) by striking "treated as recognized built-in gains or losses under this paragraph" in subparagraph (C) and inserting "which would be treated as recognized built-in gains or losses under this paragraph if such amounts were properly taken into account (or allowable as a deduction) during the recognition period".

(6) Subparagraph (B) of section 1361(b)(2) is amended to read as follows:

"(B) a financial institution to which section 585 applies (or would apply but for subsection (c) thereof) or to which section 593 applies,".

(7) Paragraph (2) of section 1366(f) is amended to read as follows:

"(2) TREATMENT OF TAX IMPOSED ON BUILT-IN GAINS.—If any tax is imposed under section 1374 for any taxable year on an S corporation, for purposes of subsection (a), the amount so imposed shall be treated as a loss sustained by the S corporation during such taxable year. The character of such loss shall be determined by allocating the loss proportionately among the recognized built-in gains giving rise to such tax."

(8) Subparagraph (B) of section 1374(b)(3) is amended by adding at the end thereof the following new sentence: "A similar rule shall apply in the case of the minimum tax credit under section 53 to the extent attributable to taxable years for which the corporation was a C corporation.".

(c) AMENDMENTS RELATED TO SECTION 1007 OF THE 1988 ACT.—

(1)(A) Subsection (g) of section 59 is amended by striking "for any taxable year" and inserting "for the taxable year for which the item is taken into account or for any other taxable year".

(B) The provisions of section 58(h) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) shall apply to the determination of tax liability for taxable years beginning after December 31, 1986, with respect to items of tax preferences arising in taxable years beginning before January 1, 1987.

(2) Subclause (II) of section 53(d)(1)(B)(i) is amended by inserting before the period at the end thereof the following: "and if section 59(a)(2) did not apply".

(3) Paragraph (3) of section 56(b) is amended—

(A) by inserting after the first sentence the following new sentence: "Section 422A(c)(2) shall apply in any case where the disposition and the inclusion for purposes of this part are within the same taxable year and such section shall not apply in any other case.", and

(B) by striking "the preceding sentence" and inserting "this paragraph".

(d) AMENDMENTS RELATED TO SECTION 1008 OF THE 1988 ACT.—

(1) Paragraph (2) of section 460(a) is amended by inserting "(or, with respect to any amount properly taken into account after completion of the contract, when such amount is so properly taken into account)" after "any long-term contract".

(2) Subparagraph (B) of section 460(b)(2) is amended—

(A) by striking "any amount received or accrued" and inserting "any amount properly taken into account", and

(B) by striking "is so received or accrued" and inserting "is so properly taken into account".

(3) Paragraph (3) of section 460(b) is amended—

(A) by striking "any amount received or accrued" in the second sentence and inserting "any amount properly taken into account", and

(B) by striking "such amount was received or accrued" in the second sentence and inserting "such amount was properly taken into account".

(4) Paragraph (2) of section 460(b) is amended by adding at the end thereof the following new sentence:

"In the case of any long-term contract with respect to which the percentage of completion method is used, except for purposes of applying the look-back method of paragraph (3), any income under the contract (to the extent not previously includible in gross income) shall be included in gross income for the taxable year following the taxable year in which the contract was completed.".

(5) Paragraph (2) of section 460(e) is amended by striking "and" at the end of subparagraph (A), by inserting "and" at the end of subparagraph (B), and by inserting after subparagraph (B) the following new subparagraph:

"(C) any predecessor of the taxpayer or a person described in subparagraph (A) or (B),".

(6) Paragraph (2) of section 460(b) is amended by adding at the end thereof the following new sentence:

"For purposes of subtitle F (other than sections 6654 and 6655), any interest required to be paid by the taxpayer under subparagraph (B) shall be treated as an increase in the tax imposed by this chapter for the taxable year in which the contract is completed (or, in the case of interest payable with respect to any amount properly taken into account after completion of the contract, for the taxable year in which the amount is so properly taken into account).".

(e) AMENDMENTS RELATED TO SECTION 1009 OF THE 1988 ACT.—

(1) Subparagraph (A) of section 643(a)(6) is amended by striking "section 265(1)" and inserting "section 265(a)(1)".

(2) Subparagraph (B) of section 1009(b)(3) of the 1988 Act is amended by striking "section 265(b)(3)(B)(iii)" and inserting "section 265(b)(3)(B)(i)(III)".

(f) AMENDMENT RELATED TO SECTION 1011 OF THE 1988 ACT.—

(1) Subsection (a) of section 401 is amended by moving paragraph (30) from the end thereof and inserting it after paragraph (29).

(2) The last sentence of section 402(g)(3) is amended by inserting "involving a one-time irrevocable election" after "similar arrangement".

(g) AMENDMENT RELATED TO SECTION 1011B OF THE 1988 ACT.—Paragraph (5) of section 409(l) is amended by striking "the last sentence" and inserting "the second sentence".

(h) AMENDMENTS RELATED TO SECTION 1012 OF THE 1988 ACT.—

(1) Subparagraph (H) of section 904(d)(1) is amended by striking "qualified interest and carrying charges (as defined in section 245(c))" and inserting "interest or carrying charges (as defined in section 927(d)(1)) derived from a transaction which results in foreign trade income (as defined in section 923(b))".

(2) Sections 861(a)(6), 862(a)(6), 863(b)(2), and 863(b)(3) are each amended by striking "865(h)(1)" and inserting "865(i)(1)".

(3) Subparagraph (A) of section 954(c)(3) is amended—

(A) by striking "is created" in clause (i) and inserting "is a corporation created", and

(B) by striking "from a related person" in clause (ii) and inserting "from a corporation which is a related person".

(4) Paragraph (5) of section 1297(b) is amended—

(A) by inserting "STOCK" after "WHERE" in the paragraph heading,

(B) by striking "any disposition of" in subparagraph (A)(ii) and inserting "any distribution of", and

(C) by striking "treated as a disposition to" in subparagraph (A) and inserting "treated as a disposition by, or distribution to".

(5) Subparagraph (B) of section 1012(q)(1) of the 1988 Act is amended—

(A) by striking "1021(e)(2)(C)" and inserting "1021(c)(2)(C)", and

(B) by striking "823(b)(4)(C)" and inserting "832(b)(4)(C)".

(6)(A) Subparagraph (B) of section 1446(b)(2) is amended by striking "section 11(b)" and inserting "section 11(b)(1)".

(B) Paragraph (2) of section 1446(d) is amended to read as follows:

"(2) CREDIT TREATED AS DISTRIBUTED TO PARTNER.—Except as provided in regulations, a foreign partner's share of any withholding tax paid by the partnership under this section shall be treated as distributed to such partner by such partnership on the earlier of—

"(A) the day on which such tax was paid by the partnership, or

"(B) the last day of the partnership's taxable year for which such tax was paid.".

(C) Subsection (f) of section 1446 is amended to read as follows:

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including—

"(1) regulations providing for the application of this section in the case of publicly traded partnerships, and

"(2) regulations providing—

"(A) that, for purposes of section 6655, the withholding tax imposed under this section shall be treated as a tax imposed by section 11 and any partnership required to pay such tax shall be treated as a corporation, and

"(B) appropriate adjustments in applying section 6655 with respect to such withholding tax.".

(7) Subsection (a) of section 988 is amended by inserting after the subsection heading the following: "Notwithstanding any other provision of this chapter—".

(8)(A) Subsection (b) of section 887 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) EXCEPTION FOR CERTAIN INCOME TAXABLE IN POSSESSIONS.—The term 'United States source gross transportation income' does not include any income taxable in a possession of the United States under the provisions of this title as made applicable in such possession.".

(B) Paragraph (1) of section 887(b) is amended by striking "paragraph (2)" and inserting "paragraphs (2) and (3)".

(C) Subsection (b) of section 872 is amended by adding at the end thereof the following new paragraph:

"(7) TREATMENT OF POSSESSIONS.—To the extent provided in regulations, a possession of the United States shall be treated as a foreign country for purposes of this subsection.".

(D) Paragraph (4) of section 883(a) is amended by striking "(5) and (6)" and inserting "(5), (6), and (7)".

(9) Paragraph (4) of section 887(b) (as redesignated by paragraph (8) is amended by striking "transportation income" the first two places it appears and inserting "United States source gross transportation income".

(10) Subsection (a) of section 883 is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR COUNTRIES WHICH TAX ON RESIDENCE BASIS.—For purposes of this subsection, there shall not be taken into account any failure of a foreign country to grant an exemption to a corporation organized in the United States if such corporation is subject to tax by such foreign country on a residence basis pursuant to provisions of foreign law which meets such standards (if any) as the Secretary may prescribe.".

(11) Paragraph (2) of section 4371 is amended by striking ", unless the insurer is subject to tax under section 842(b)".

(12) Subsection (g) of section 995 is amended by striking "section 511" and inserting "section 511 (or any other person otherwise subject to tax under section 511)".

(i) AMENDMENTS RELATED TO SECTION 1014 OF THE 1988 ACT.—

(1) The subparagraph (C) of section 1(i)(3) added by section 1014(e)(7) of the 1988 Act is redesignated as subparagraph (D).

(2) Paragraph (1) of section 2654(a) is amended by adding at the end thereof the following new sentence: "The preceding shall be applied after any basis adjustment under section 1015 with respect to the transfer.".

(3) Subsection (g) of section 642 is amended by inserting after the first sentence the following new sentence: "Rules similar to the rules of the preceding sentence shall apply to amounts which may be taken into account under 2621(a)(2) or 2622(b).".

(4) Paragraphs (1) and (3) of section 2642(b) are each amended by striking "a timely filed gift tax return required by section 6019" and inserting "a gift tax return filed on or before the date prescribed by section 6075(b)".

(5) Paragraph (1) of section 6654(l) is amended by striking "this subsection shall" and inserting "this section shall".

(6) Clause (ii) of section 6654(l)(2)(B) is amended by inserting before the period at the end thereof the following: "(or, if no will is admitted to probate, which is the trust primarily responsible for paying debts, taxes, and expenses of administration)".

(j) AMENDMENTS RELATED TO SECTION 1015 OF THE 1988 ACT.—

(1) Paragraph (3) of section 1015(r) of the 1988 Act is amended by striking "section 6211" and inserting "section 6213".

(2) The last sentence of section 6502(a) is amended by striking "enforceable" and inserting "unenforceable".

(k) AMENDMENT RELATED TO SECTION 1016 OF THE 1988 ACT.—The subparagraph (E) of section 514(c)(9) added by section 1016 of the 1988 Act is redesignated as subparagraph (F).

(l) AMENDMENTS RELATED TO SECTION 1018 OF THE 1988 ACT.—

(1) The subsection (f) of section 2503 added by section 1018 of the 1988 Act is redesignated as subsection (g).

(2) Paragraph (4) of section 1018(d) of the 1988 Act is amended by inserting "the first place it appears" before "and inserting".

(3) Paragraph (20) of section 1018(u) of the 1988 Act is amended by striking "section 9507(b)" and inserting "section 9509(b)".

SEC. 3812. AMENDMENT RELATED TO TITLE II OF THE 1988 ACT.

Section 2005(e) of the 1988 Act is amended by inserting ", except that the amendment made by subsection (a)(1) shall take effect as if included in the amendment made by section 1131(c) of the Tax Reform Act of 1986".

SEC. 3813. AMENDMENTS RELATED TO TITLE III OF THE 1988 ACT.

(a) AMENDMENT RELATED TO SECTION 3001 OF THE 1988 ACT.—Paragraph (2) of section 6724(d) is amended by redesignating subparagraph (U) as subparagraph (S), by striking "or" at the end of subparagraph (Q), and by striking the period at the end of subparagraph (R) and inserting ", or".

(b) AMENDMENTS RELATED TO SECTION 3011 OF THE 1988 ACT.—Paragraphs (4) and (5) of section 3011(b) of the 1988 Act are each amended—

(1) by striking "111B(a)" and inserting "1011B(a)", and

(2) by striking "162(k)(2)" and inserting "162(k)".

(c) AMENDMENT RELATED TO SECTION 3021 OF THE 1988 ACT.—Clause (ii) of section 89(g)(3)(D) is amended—

(1) by striking "SUBSECTION (d)(1)(a)(ii)" in the heading and inserting "SUBSECTION (d)(1)(A)(ii)", and

(2) by striking "shall treated as" in the material preceding subclause (I) and inserting "shall be treated as".

SEC. 3814. AMENDMENTS RELATED TO TITLE IV OF THE 1988 ACT.

(a) AMENDMENT RELATED TO SECTION 4001 OF THE 1988 ACT.—Subsection (c) of section 127 is amended by striking paragraph (8).

(b) AMENDMENTS RELATED TO SECTION 4005 OF THE 1988 ACT.—

(1) The paragraph (3) of section 6045(e) added by section 4005 of the 1988 Act is redesignated as paragraph (4).

(2) Clause (ii) of section 148(d)(3)(E) is amended by striking "a qualified mortgage bond or".

(c) AMENDMENT RELATED TO SECTION 4006 OF THE 1988 ACT.—Section 4006 of the 1988 Act is amended—

(1) by striking "December 31, 1988" and inserting "Dec. 31, 1988", and

(2) by striking "December 31, 1989" and inserting "Dec. 31, 1989".

(d) AMENDMENTS RELATED TO SECTION 4008 OF THE 1988 ACT.—

(1) Subsection (d) of section 196 is amended by striking "substituting" and all that follows through "in the case of—" and inserting "substituting 'an amount equal to 50 percent of' for 'an amount equal to' in the case of—".

(2)(A) Subsection (c) of section 280C is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) ELECTION OF REDUCED CREDIT.—

"(A) IN GENERAL.—In the case of any taxable year for which an election is made under this paragraph—

"(i) paragraphs (1) and (2) shall not apply, and

"(ii) the amount of the credit under section 41(a) shall be the amount determined under subparagraph (B).

"(B) AMOUNT OF REDUCED CREDIT.—The amount of credit determined under this subparagraph for any taxable year shall be the amount equal to the excess of—

"(i) the amount of credit determined under section 41(a) without regard to this paragraph, over

"(ii) the product of—

"(I) 50 percent of the amount described in clause (i), and

"(II) the maximum rate of tax under section 11(b)(1).

"(C) ELECTION.—An election under this paragraph for any taxable year shall be made not later than the time for filing the return of tax for such year (including extensions), shall be made on such return, and shall be made in such manner as the Secretary may prescribe. Such an election, once made, shall be irrevocable.".

(B) In the case of a taxable year for which the last date for making the election under section 280C(c)(3) of the Internal Revenue Code of 1986 (as added by subparagraph (A)) is on or before the date which is 75 days after the date of the enactment of this Act, such an election for such year may be made—

(i) at any time before the date which is 75 days after such date of enactment, and

(ii) in such form and manner as the Secretary of the Treasury or his delegate may prescribe.

(C) Section 41 is amended by striking subsection (h) and by redesignating subsection (i) as subsection (h).

(D) Paragraph (4) of section 196(c) is amended by inserting "(other than such credit determined under section 280C(c)(3))" after "section 41(a)".

(E) Subsection (n) of section 6501 is amended by striking ", 41(h),".

SEC. 3815. AMENDMENTS RELATED TO TITLE V OF THE 1988 ACT.

(a) AMENDMENTS RELATED TO SECTION 5012 OF THE 1988 ACT.—

(1) Subparagraph (B) of section 7702A(c)(3) is amended to read as follows:

"(B) TREATMENT OF CERTAIN BENEFIT INCREASES.—For purposes of subparagraph (A), the term 'material change' includes any increase in the death benefit under the contract or any increase in, or addition of, a qualified additional benefit under the contract. Such term shall not include—

"(i) any increase which is attributable to the payment of premiums necessary to fund the lowest level of the death benefit and qualified additional benefits payable in the 1st 7 contract years (determined after taking into account death benefit increases described in subparagraph (A) or (B) of section 7702(e)(2)) or to crediting of interest or

other earnings (including policyholder dividends) in respect of such premiums, and

"(ii) to the extent provided in regulations, any cost-of-living increase based on an established broad-based index if such increase is funded ratably over the remaining period during which premiums are required to be paid under the contract.".

(2) Paragraph (2) of section 5012(e) of the 1988 Act is amended by striking "continues to make level annual premium payments over the life of the contract" and inserting "makes at least 7 level annual premium payments".

(3) Subparagraph (A) of section 72(e)(11) is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply to any contract described in paragraph (5)(D).".

(4) Paragraph (4) of section 7702A(c) is amended—

(A) by striking "UNDER $10,000" in the paragraph heading and inserting "OF $10,000 OR LESS", and

(B) by striking "the same insurer" and inserting "the same policyholder".

(5) Section 72(e)(11)(A) is amended by striking "12-month period" and inserting "calendar year".

(b) AMENDMENT RELATED TO SECTION 5021 OF THE 1988 ACT.—Subsection (e) of section 5021 of the 1988 Act is amended by striking "no provision in any law (whether enacted before, on, or after the date of the enactment of this Act)" and inserting "no provision in any law enacted after the date of the enactment of this Act".

(c) AMENDMENT RELATED TO SECTION 5032 OF THE 1988 ACT.—Subsection (b) of section 2101 is amended by adding at the end thereof the following new sentence:

"For purposes of the preceding sentence, there shall be appropriate adjustments in the application of section 2001(c)(3) to reflect the difference between the amount of the credit provided under section 2102(c) and the amount of the credit provided under section 2010.".

(d) AMENDMENTS RELATED TO SECTION 5033 OF THE 1988 ACT.—

(1)(A) Paragraph (2) of section 2523(i) is amended by striking "made by the donor to such spouse" and inserting "which are made by the donor to such spouse and with respect to which a deduction would be allowable under this section but for paragraph (1)".

(B) The amendment made by subparagraph (A) shall apply with respect to gifts made after June 29, 1989.

(2) Subsection (a) of section 2523 is amended by striking "who is a citizen or resident".

(3) Paragraph (3) of section 2106(a) is amended by striking "ALLOWED WHERE SPOUSE IS CITIZEN".

(4)(A) Subparagraph (B) of section 2056(d)(2) is amended to read as follows:

"(B) SPECIAL RULE.—If any property passes from the decedent to the surviving spouse of the decedent, for purposes of subparagraph (A), such property shall be treated as passing to such spouse in a qualified domestic trust if—

"(i) such property is transferred to such a trust before the date on which the return of the tax imposed by this chapter is made, or

"(ii) such property is irrevocably assigned to such a trust under an irrevocable assignment made on or before such date which is enforceable under local law.".

(B) In the case of the estate of a decedent dying before the date of the enactment of this Act, the period during which the transfer (or irrevocable assignment) referred to in section 2056(d)(2)(B) of the Internal Revenue Code of 1986 (as amended by subparagraph (A)) may be made shall not expire before the date 1 year after such date of enactment.

(5) Subsection (d) of section 2056 is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE WHERE RESIDENT SPOUSE BECOMES CITIZEN.—Paragraph (1) shall not apply if—

"(A) the surviving spouse of the decedent becomes a citizen of the United States before the day on which the return of the tax imposed by this chapter is made, and

"(B) such spouse was a resident of the United States at all times after the date of the death of the decedent and before becoming a citizen of the United States.".

(6) Paragraph (3) of section 2056(d) is amended—

(A) by striking "section 2001" and inserting "this chapter", and

(B) by inserting before the period at the end thereof the following: "and without regard to subsection (d)(3) of such section".

(7)(A) Subsection (a) of section 2056A is amended—

(i) by amending paragraph (1) to read as follows:

"(1) the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation and that no distribution from the trust may be made without the approval of such a trustee,", and

(ii) by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(B) Subsection (b) of section 2056A is amended by redesignating paragraphs (3) through (8) as paragraphs (4) through (9), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) CERTAIN LIFETIME DISTRIBUTIONS EXEMPT FROM TAX.—

"(A) INCOME DISTRIBUTIONS.—No tax shall be imposed by paragraph (1)(A) on any distribution of income to the surviving spouse.

"(B) HARDSHIP EXEMPTION.—No tax shall be imposed by paragraph (1)(A) on any distribution to the surviving spouse on account of hardship."

(C) Subparagraph (A) of section 2056A(b)(1) is amended by striking "other than a distribution of income required under subsection (a)(2)".

(D) Paragraph (4) of section 2056A(b) (as redesignated by subparagraph (B)) is amended to read as follows:

"(4) TAX WHERE TRUST CEASES TO QUALIFY.—If any qualified domestic trust ceases to meet the requirements of paragraphs (1) and (2) of subsection (a), the tax imposed by paragraph (1) shall apply as if the surviving spouse died on the date of such cessation.".

(8) Subsection (d) of section 2056 is amended by adding at the end thereof the following new paragraph:

"(4) REFORMATIONS PERMITTED.—

"(A) IN GENERAL.—In the case of any property with respect to which a deduction would be allowable under subsection (a) but for this subsection, the determination of whether a trust is a qualified domestic trust shall be made—

"(i) as of the date on which the return of the tax imposed by this chapter is made, or

"(ii) if a judicial proceeding is commenced on or before the due date (determined with regard to extensions) for filing such return to change such trust into a trust which is a qualified domestic trust, as of the time when the changes pursuant to such proceeding are made.

"(B) STATUTE OF LIMITATIONS.—If a judicial proceeding described in subparagraph (A)(ii) is commenced with respect to any trust, the period for assessing any deficiency of tax attributable to any failure of such trust to be a qualified domestic trust shall not expire before the date 1 year after the date on which the Secretary is notified that the trust has been changed pursuant to such judicial proceeding or that such proceeding has been terminated.".

(9) Subsection (b) of section 2056A is amended by adding at the end thereof the following new paragraphs:

"(10) CERTAIN BENEFITS ALLOWED.—

"(A) IN GENERAL.—If any property remaining in the qualified domestic trust on the date of the death of the surviving spouse is includible in the gross estate of such spouse for purposes of this chapter (or would be includible if such spouse were a citizen or resident of the United States), any benefit which is allowable (or would be allowable if such spouse were a citizen or resident of the United States) with respect to such property to the estate of such spouse under section 2032, 2032A, 2055, 2056, or 6166 shall be allowed for purposes of the tax imposed by paragraph (1)(B).

"(B) SECTION 303.—If the estate of the surviving spouse meets the requirements of section 303 with respect to any property described in subparagraph (A), for purposes of section 303, the tax imposed by paragraph (1)(B) with respect to such property shall be treated as a Federal estate tax payable with respect to the estate of the surviving spouse.

"(C) SECTION 6161(a)(2).—The provisions of section 6161(a)(2) shall apply with respect to the tax imposed by paragraph (1)(B), and the reference in such section to the executor shall be treated as a reference to the trustees of the trust.

"(11) SPECIAL RULE WHERE DISTRIBUTION TAX PAID OUT OF TRUST.—For purposes of this subsection, if any portion of the tax imposed by paragraph (1)(A) with respect to any distribution is paid out of the trust, an amount equal to the portion so paid shall be treated as a distribution described in paragraph (1)(A).

"(12) SPECIAL RULE WHERE SPOUSE BECOMES CITIZEN.—If the surviving spouse of the decedent becomes a citizen of the United States and if—

"(A) such spouse was a resident of the United States at all times after the date of the death of the decedent and before such spouse becomes a citizen of the United States,

"(B) no tax was imposed by paragraph (1)(A) with respect to any distribution before such spouse becomes such a citizen, or

"(C) such spouse elects—

"(i) to treat any distribution on which tax was imposed by paragraph (1)(A) as a taxable gift made by such spouse for purposes of—

"(I) section 2001, and

"(II) determining the amount of the tax imposed by section 2501 on actual taxable gifts made by such spouse during the year in which the spouse becomes a citizen or any subsequent year, and

"(ii) to treat any reduction in the tax imposed by paragraph (1)(A) by reason of the credit allowable under section 2010 with respect to the decedent as a credit allowable to such surviving spouse under section 2505 for purposes of determining the amount of

the credit allowable under section 2505 with respect to taxable gifts made by the surviving spouse during the year in which the spouse becomes a citizen or any subsequent year, paragraph (1)(A) shall not apply to any distributions after such spouse becomes such a citizen (and paragraph (1)(B) shall not apply).

"(13) COORDINATION WITH SECTION 1015.—For purposes of section 1015, any distribution on which tax is imposed by paragraph (1)(A) shall be treated as a transfer by gift, and any tax paid under paragraph (1)(A) shall be treated as a gift tax.".

(10) Paragraph (2) of section 2056A(c) is amended by striking "The term" and inserting "Except as provided in regulations, the term".

(11) Clause (ii) of section 2056A(b)(2)(B) is amended by striking "as a credit or refund" and inserting "as a credit or refund (with interest)".

(12) Paragraph (2) of section 2056A(b) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE WHERE DECEDENT HAS MORE THAN 1 QUALIFIED DOMESTIC TRUST.—If there is more than 1 qualified domestic trust with respect to any decedent, the amount of the tax imposed by paragraph (1) with respect to such trusts shall be determined by using the highest rate of tax in effect under section 2001 as of the date of the decedent's death (and the provisions of paragraph (3)(B) shall not apply) unless, pursuant to a designation made by the decedent's executor, there is 1 person—

"(i) who is an individual citizen of the United States or a domestic corporation and is responsible for filing all returns of tax imposed under paragraph (1) with respect to such trusts and for paying all tax so imposed, and

"(ii) who meets such requirements as the Secretary may by regulations prescribe.".

(13) Section 2056A is amended by adding at the end thereof the following new subsection:

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations under which an annuity includible in the decedent's gross estate under section 2039 may be treated as a qualified domestic trust.".

(14) In the case of the estate of, or gift by, an individual who was not a citizen or resident of the United States but was a resident of a foreign country with which the United States has a tax treaty with respect to estate, inheritance, or gift taxes, the amendments made by section 5033 of the 1988 Act shall not apply to the extent such amendments would be inconsistent with the provisions of such treaty relating to estate, inheritance, or gift tax marital deductions.

(15) Paragraph (5) of section 2056A(b) (as redesignated by paragraph (7)(B) of this subsection) is amended to read as follows:

"(5) DUE DATE.—

"(A) TAX ON DISTRIBUTIONS.—The estate tax imposed by paragraph (1)(A) shall be due and payable on the 15th day of the 4th month following the calendar year in which the taxable event occurs; except that the estate tax imposed by paragraph (1)(A) on distributions during the calendar year in which the surviving spouse dies shall be due and payable not later than the date on which the estate tax imposed by paragraph (1)(B) is due and payable.

"(B) TAX AT DEATH OF SPOUSE.—The estate tax imposed by paragraph (1)(B) shall be due and payable on the date 9 months after the date of such death.".

(16) For purposes of applying section 2040(a) of the Internal Revenue Code of 1986 with respect to any joint interest to which section 2040(b) of such Code does not apply solely by reason of section 2056(d)(1)(B) of such Code, any consideration furnished before July 14, 1988, by the decedent for such interest to the extent treated as a gift to the spouse of the decedent for purposes of chapter 12 of such Code shall be treated as consideration originally belonging to such spouse and never acquired by such spouse from the decedent.

(e) AMENDMENTS RELATED TO SECTION 5041 OF THE 1988 ACT.—

(1) Subparagraph (A) of section 460(e)(6) is amended—

(A) by striking "the building, construction, reconstruction, or rehabilitation of" and inserting "activities referred to in paragraph (4) with respect to", and

(B) by striking clause (i) and inserting the following:

"(i) dwelling units (as defined in section 167(k)) contained in buildings containing 4 or fewer dwelling units (as so defined), and".

(2)(A) Paragraph (4) of section 5041(b) of the 1988 Act is amended by inserting ", as amended by title I of this Act," after "1986 Code".

(B) Paragraph (3) of section 56(a) is amended by striking "The preceding sentence shall not" and inserting "The first sentence of this paragraph shall not".

(3) Subparagraph (C) of section 5041(e)(1) of 1988 Act is amended by striking "subsections (a), (b), and (c)" and inserting "subsections (a) and (b)".

(4) Clause (i) of section 56(g)(4)(D) is amended by adding "and" at the end of subclause (III) and by striking subclauses (IV) and (V) and inserting the following new subclause:

"(IV) paragraphs (6), (7), and (8) shall not apply.".

(f) AMENDMENT RELATED TO SECTION 5053 OF THE 1988 ACT.—Subsection (d) of section 145 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) CERTAIN PROPERTY TREATED AS NEW PROPERTY.—Solely for purposes of determining under paragraph (2)(A) whether the 1st use of property is pursuant to tax-exempt financing—

"(A) IN GENERAL.—If—

"(i) the 1st use of property is pursuant to taxable financing,

"(ii) there was a reasonable expectation (at the time such taxable financing was provided) that such financing would be replaced by tax-exempt financing, and

"(iii) the taxable financing is in fact so replaced within a reasonable period after the taxable financing was provided, then the 1st use of such property shall be treated as being pursuant to the tax-exempt financing.

"(B) SPECIAL RULE WHERE STATE LAW INITIALLY PROHIBITED TAX-EXEMPT FINANCING.—If, at the time of the 1st use of property, State law prohibited tax-exempt financing of the property, the 1st use of the property shall be treated as pursuant to the 1st tax-exempt financing of the property.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) TAX-EXEMPT FINANCING.—The term 'tax-exempt financing' means financing provided by tax-exempt bonds.

"(ii) TAXABLE FINANCING.—The term 'taxable financing' means financing which is not tax-exempt financing."

(g) AMENDMENT RELATED TO SECTION 5076 OF THE 1988 ACT.—Paragraph (3) of section 453A(b) is amended to read as follows:

"(3) EXCEPTION FOR PERSONAL USE AND FARM PROPERTY.—An installment obligation shall not be treated as described in paragraph (1) if it arises from the disposition—

"(A) by an individual of personal use property (within the meaning of section 1275(b)(3)), or

"(B) of any property used or produced in the trade or business of farming (within the meaning of section 2032A(e) (4) or (5)).".

(h) AMENDMENT RELATED TO SECTION 5077 OF THE 1988 ACT.—Clause (ii) of section 382(l)(3)(C) is amended by striking "for purposes of subclause (III)," and inserting "For purposes of subclause (III),".

SEC. 3816. AMENDMENTS RELATED TO TITLE VI OF THE 1988 ACT.

(a) AMENDMENT RELATED TO SECTION 6006 OF THE 1988 ACT.—Subparagraph (A) of section 1(i)(7) is amended by inserting "(other than for purposes of this paragraph)" after "shall be treated".

(b) AMENDMENTS RELATED TO SECTION 6026 OF THE 1988 ACT.—

(1) Subparagraph (D) of section 263A(h)(3) is amended to read as follows:

"(D) TREATMENT OF CERTAIN CORPORATIONS.—

"(i) IN GENERAL.—If—

"(I) substantially all of the stock of a corporation is owned by a qualified employee-owner and members of his family (as defined in section 267(c)(4)), and

"(II) the principal activity of such corporation is performance of personal services directly related to the activities of the qualified employee-owner and such services are substantially performed by the qualified employee-owner,

this subsection shall apply to any expense of such corporation which directly relates to the activities of such employee-owner in the same manner as if such expense were incurred by such employee-owner.

"(ii) QUALIFIED EMPLOYEE-OWNER.—For purposes of this subparagraph, the term 'qualified employee-owner' means any individual who is an employee-owner of the corporation (as defined in section 269A(b)(2)) and who is a writer, photographer, or artist.".

(2) Subparagraph (B) of section 6026(d)(2) of the 1988 Act is amended by striking "the taxpayer made" and inserting "a taxpayer engaged in a farming business involving the production of animals having a preproductive period of more than 2 years made".

(c) AMENDMENTS RELATED TO SECTION 6028 OF THE 1988 ACT.—

(1) Paragraph (5) of section 168(b) is amended by striking "paragraph (2)(B)" and inserting "paragraph (2)(C)".

(2) Paragraph (2) of section 168(c) is amended by striking "subsection (b)(2)(B)" and inserting "subsection (b)(2)(C)".

(d) AMENDMENT RELATED TO SECTION 6029 OF THE 1988 ACT.—The subparagraph (D) of section 168(b)(3) added by section 6029 of the 1988 Act is redesignated as subparagraph (E).

(e) AMENDMENT RELATED TO SECTION 6061 OF THE 1988 ACT.—Section 6061 of the 1988 Act is amended—

(1) by striking "section 111B(h)(5)(A)" and inserting "section 1011B(h)(5)(A)", and

(2) by striking "section 111B(h)" and inserting "section 1011B(h)".

(f) AMENDMENT RELATED TO SECTION 6064 OF THE 1988 ACT.—Paragraph (13) of section 457(e) is amended to read as follows:

"(13) SPECIAL RULE FOR CHURCHES.—The term 'eligible employer' shall not include a church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B)).".

(g) AMENDMENT RELATED TO SECTION 6067 OF THE 1988 ACT.—Subsection (c) of section 6067 of the 1988 Act is amended by striking "section 205(c)" and inserting "section 2005(c)".

(h) PROVISION RELATED TO SECTION 6076 OF THE 1988 ACT.—If, for the 1st taxable year beginning on or after January 1, 1987, a qualified group self-insurers' fund changes its treatment of policyholder dividends to take into account such dividends no earlier than the date that the State regulatory authority determines the amount of the policyholder dividend that may be paid, then such change shall be treated as a change in a method of accounting and no adjustment under section 481(a) of the Internal Revenue Code of 1986 shall be made with respect to such change in method of accounting.

(i) AMENDMENTS RELATED TO SECTION 6077 OF THE 1988 ACT.—

(1) Paragraph (1) of section 847 is amended—

(A) by striking "separate estimated tax" and inserting "special estimated tax", and

(B) by striking "after December 31, 1986" and inserting "in taxable years beginning after December 31, 1986".

(2) The first sentence of section 847(2) is amended to read as follows: "The deduction under paragraph (1) shall be allowed only to the extent that such deduction would result in a tax benefit for the taxable year for which such deduction is allowed or any carryback year and only to the extent that special estimated tax payments are made in an amount equal to the tax benefit attributable to such deduction on or before the due date (determined without regard to extensions) for filing the return for the taxable year for which the deduction is allowed.".

(3) Paragraph (5) of section 847 is amended by adding at the end thereof the following new sentence:

"To the extent that any amount added to the special loss discount account is not subtracted from such account before the 15th year after the year for which the amount was so added, such amount shall be subtracted from such account for such 15th year and included in gross income for such 15th year.".

(4) Paragraph (9) of section 847 is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end thereof the following new subparagraph:

"(C) providing for the application of this section in cases where the deduction allowed under paragraph (1) for any taxable year is less than the excess referred to in paragraph (1) for such year.".

(5) Section 847 (as amended by paragraph (4)) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

"(9) EFFECT ON EARNINGS AND PROFITS.—In determining the earnings and profits.—

"(A) any special estimated tax payment made for any taxable year shall be treated as a payment of income tax imposed by this title for such taxable year, and

"(B) any deduction or inclusion under this section shall not be taken into account.

Nothing in the preceding sentence shall be construed to affect the application of section 56(g) (relating to adjustments based on adjusted current earnings)."

(6) Paragraph (8) of section 847 is amended by adding at the end thereof the following new sentence: "The limitations on consolidation contained in section 1503(c) shall not apply to the deduction allowed under paragraph (1)."

(j) AMENDMENTS RELATED TO SECTION 6105 OF THE 1988 ACT.—

(1) The subsection (c) of section 5276 added by section 6105 of the 1988 Act is amended—

(A) by striking "(c) EXEMPTION" and inserting "(d) EXCEPTION",

(B) by striking "section 5271(a)(2)" in paragraph (1) and inserting "section 5271", and

(C) by striking "specially denatured distilled spirits" in paragraph (2) and inserting "distilled spirits free of tax".

(2) Subsection (a) of section 5276 is amended by striking "Except as provided in subsection (c)," and inserting "Except as otherwise provided in this section,".

(k) AMENDMENT RELATED TO SECTION 6135 OF THE 1988 ACT.—Paragraph (3) of section 953(d) is amended by striking "(as defined in section 1503(d))" and inserting "for purposes of section 1503(d) without regard to paragraph (2)(B) thereof".

(l) AMENDMENT RELATED TO SECTION 6152 OF THE 1988 ACT.—Subparagraph (C) of section 2056(b)(7) is amended by striking "an annuity" and inserting "an annuity included in the gross estate of the decedent under section 2039".

(m) AMENDMENTS RELATED TO SECTION 6180 OF THE 1988 ACT.—

(1) Paragraph (1) of section 142(i) is amended by inserting "IN GENERAL.—" after "(1)".

(2) The paragraph (3) of section 146(g) added by section 6180 of the 1988 Act is redesignated as paragraph (4).

(3) Paragraph (3) of section 147(c) is amended by inserting a comma after "mass commuting facility" each place it appears.

(n) AMENDMENTS RELATED TO SECTION 6183 OF THE 1988 ACT.—Subclause (II) of section 148(f)(4)(C)(ii) is amended by striking "on behalf of" and inserting "to make loans to".

(o) AMENDMENTS RELATED TO SECTION 6228 OF THE 1988 ACT.—

(1) The section 7520 added by section 6228 of the 1988 Act is redesignated as section 7521.

(2) The table of sections for chapter 77 is amended by striking the item added by section 6228 of the 1988 Act and inserting the following:

"Sec. 7521. Procedures involving taxpayer interviews.".

(p) AMENDMENTS RELATED TO SECTION 6242 OF THE 1988 ACT.—

(1) The section 6712 added by section 6242 of the 1988 Act is redesignated as section 6713.

(2) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item added by section 6242 of the 1988 Act and inserting the following:

"Sec. 6713. Disclosure or use of information by preparers of returns.".

(q) AMENDMENT RELATED TO SECTION 6253 OF THE 1988 ACT.—Section 6253 of the 1988 Act is amended by inserting ", as amended by title I of this Act," after "1986 Code".

SEC. 3817. EFFECTIVE DATE.

Except as otherwise provided in this part, any amendment made by this part shall take effect as if included in the provision of the 1988 Act to which such amendment relates.

PART II—AMENDMENTS RELATED TO REVENUE ACT OF 1987

SEC. 3821. AMENDMENTS RELATED TO SUBTITLE B.

(a) AMENDMENTS RELATED TO SECTION 10202 OF THE 1987 ACT.—

(1) Subparagraph (B) of section 453A(b)(2) is amended by striking "all obligations of the taxpayer described in paragraph (1)" and inserting "all such obligations held by the taxpayer".

(2) Subparagraph (B) of section 453A(d)(2) is amended by striking "before such secured indebtedness was incurred" and inserting "before the later of the times referred to in subparagraph (A) or (B) of paragraph (1)".

(3) Subparagraph (B) of section 453A(d)(1) is amended by inserting "the time" before the "the proceeds".

(4)(A) Paragraph (2) of section 26(b) (as amended by section 11811) is amended by striking "and" at the end of subparagraph (L), by striking the period at the end of subparagraph (M) and inserting ", and", and by adding at the end thereof the following new subparagraph:

"(N) sections 453(l)(3) and 453A(c) (relating to interest on certain deferred tax liabilities).".

(B) Subsection (c) of section 453A is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) TREATMENT AS INTEREST.—Any amount payable under this subsection shall be taken into account in computing the amount of any deduction allowable to the taxpayer for interest paid or accrued during the taxable year.".

(5) In the case of taxable years beginning in 1987, the reference to section 453 contained in section 56(a)(6) of the Internal Revenue Code of 1986 shall be treated as including a reference to section 453A.

(b) AMENDMENTS RELATED TO SECTION 10206 OF THE 1987 ACT.—Effective with respect to taxable years beginning after 1988, the last sentence of section 7519(d)(4) is amended—

(1) by striking "for taxable years beginning after 1987,",

(2) by striking "if more than 50 percent" and inserting "unless more than 50 percent", and

(3) by striking "who would not have been entitled" and inserting "who would have been entitled".

(c) AMENDMENT RELATED TO SECTION 10222 OF THE 1987 ACT.—Clause (ii) of section 1503(e)(2)(A) is amended by striking "another member" and inserting "another corporation which is or was a member".

(d) AMENDMENTS RELATED TO SECTION 10242 OF THE 1987 ACT.—

(1) The item relating to section 842 in the table of sections for part III of subchapter L of chapter 1 is amended by striking "corporations" and inserting "companies".

(2) The heading for paragraph (4) of section 842(c) is amended by striking "YEILDS" and inserting "YIELDS".

SEC. 3822. AMENDMENT RELATED TO SUBTITLE C AND FOLLOWING SUBTITLES.

(a) AMENDMENT RELATED TO SECTION 10301 OF THE 1987 ACT.—Paragraph (1) of section 6655(e) is amended by striking "section (d)(1)" and inserting "subsection (d)(1)".

(b) AMENDMENTS RELATED TO SECTION 10502 OF THE 1987 ACT.—

(1) Paragraph (1) of section 6427(i) is amended by striking "subsection (a)" and all

that follows through "by any person" and inserting "subsection (a), (b), (d), (e), (g), (h), (l), or (p) by any person".

(2) Clause (i) of section 6427(i)(2)(A) is amended to read as follows:

"(i) $1,000 or more is payable under subsections (a), (b), (d), (e), (g), (h), and (p), or".

(3) Subparagraph (B) of section 6427(i)(2) is amended to read as follows:

"(B) SPECIAL RULE.—If the requirements of subparagraph (A)(ii) are met by any person for any quarter but the requirements of subparagraph (A)(i) are not met by such person for such quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts referred to in subparagraph (A)(ii).".

(4) The subsection of section 6427 relating to payments for taxes imposed by section 4041(d) is redesignated as subsection (p).

(5) Paragraph (3) of section 9502(b) is amended by striking ", and" and inserting "; and".

(6) Subparagraph (A) of section 9503(b)(4) is amended by striking "sections 4041(d)" and inserting "section 4041(d)".

(7) Subsections (b)(3) and (c)(2)(A) of section 9508 are each amended by striking "Storage Trust Fund" and inserting "Storage Tank Trust Fund".

(c) AMENDMENT RELATED TO SECTION 10611 OF THE 1987 ACT.—The table of sections for part II of subchapter B of chapter 1 is amended by inserting "Illegal" before "Federal" in the item relating to section 90.

(d) AMENDMENTS RELATED TO SECTION 10713 OF THE 1987 ACT.—

(1) Subparagraph (G) of section 10713(b)(2) of the 1987 Act is amended to read as follows:

"(G) Paragraph (3) of section 7611(i) is amended by striking all that follows 'income tax)' and inserting ', section 6852 (relating to termination assessments in case of flagrant political expenditures of section 501(c)(3) organizations), or section 6861 (relating to jeopardy assessments of income taxes, etc.),'.".

(2) Clause (iii) of section 10713(b)(2)(E) of the 1987 Act is amended to read as follows:

"(iii) by striking '6851(a) nor 6861(a)' in subsection (b)(3)(A)(iii) and inserting '6851(a), 6852(a), nor 6861(a)'.".

SEC. 3823. EFFECTIVE DATE.

Except as otherwise provided in this part, any amendment made by this part shall take effect as if included in the provision of the 1987 Act to which such amendment relates.

PART III—AMENDMENTS RELATED TO TAX REFORM ACT OF 1986

SEC. 3831. AMENDMENTS RELATED TO TAX REFORM ACT OF 1986.

(a) AMENDMENT RELATED TO SECTION 201 OF THE 1986 ACT.—Paragraph (5) of section 1250(b) is amended—

(1) by striking "in the case of recovery property" in subparagraph (A) and inserting "in the case of property to which section 168 applies", and

(2) by striking "in the case of any property which is not recovery property" in subparagraph (B) and inserting "in the case any property to which section 168 does not apply".

(b) AMENDMENTS RELATED TO SECTION 252 OF THE 1986 ACT.—

(1) Subparagraph (B) of section 42(i)(3) (defining low-income unit) is amended by inserting "(as determined under regulations prescribed by the Secretary taking into account local health, safety, and building codes)" after "suitable for occupancy".

(2) Paragraph (3) of section 42(i) is amended by adding at the end thereof the following new subparagraph:

"(D) STUDENTS IN GOVERNMENT-SUPPORTED JOB TRAINING PROGRAMS NOT TO DISQUALIFY UNIT.—A unit shall not fail to be treated as a low-income unit merely because it is occupied by an individual who is enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws."

(3) Subsection (i) of section 42 (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(6) APPLICATION TO ESTATES AND TRUSTS.—In the case of an estate or trust, the amount of the credit determined under subsection (a) and any increase in tax under subsection (j) shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each."

(4) Subsection (f) of section 42 is amended by adding at the end thereof the following new paragraph:

"(4) DISPOSITIONS OF PROPERTY.—If a building (or an interest therein) is disposed of during any year for which credit is allowable under subsection (a), such credit shall be allocated between the parties on the basis of the number of days during such year the building (or interest) was held by each."

(5) Subsection (m) of section 42 (relating to regulations) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(4) providing the opportunity for housing credit agencies to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after their discovery, taking into account the availability of regulations and other administrative guidance from the Secretary."

(6) Subparagraph (A) of section 42(d)(7) is amended by inserting "(or interest therein)" after "a building described in subparagraph (B)".

(c) AMENDMENTS RELATED TO SECTION 803 OF THE 1986 ACT.—

(1) Subparagraph (A) of section 803(d)(4) of the Tax Reform Act of 1986 is amended by striking so much of such subparagraph as precedes clause (i) thereof and inserting the following:

"(A) TRANSITION PROPERTY EXEMPTED FROM INTEREST CAPITALIZATION.—Section 263A of the Internal Revenue Code of 1986 (as added by this section) and the amendment made by subsection (b)(1) shall not apply to interest costs which are allocable to any property—".

(2) If any interest costs incurred after December 31, 1986, are attributable to costs incurred before January 1, 1987, the amendments made by section 803 of the Tax Reform Act of 1986 shall apply to such interest costs only to the extent such interest costs are attributable to costs which were required to be capitalized under section 263 of the Internal Revenue Code of 1954 and which would have been taken into account in applying section 189 of the Internal Revenue Code of 1954 (as in effect before its repeal by section 803 of the Tax Reform Act of 1986) or, if applicable, section 266 of such Code.

(d) APPLICATION OF FUTURE LEGISLATION TO TRANSITIONED BONDS.—Section 1318 of the Tax Reform Act of 1986 is amended by adding at the end thereof the following new paragraph:

"(8) APPLICATION OF FUTURE LEGISLATION TO TRANSITIONED BONDS.—In the case of any bond to which the amendments made by section 1301 do not apply by reason of a provision of this Act, any amendment of the 1986 Code (and any other provision applicable to such Code) included in any law enacted after October 22, 1986, shall be treated as included in section 103 and section 103A (as appropriate) of the 1954 Code with respect to such bond unless—

"(A) such law expressly provides that such amendment (or other provision) shall not apply to such bond, or

"(B) such amendment (or other provision) applies to a provision of the 1986 Code—

"(i) for which there is no corresponding provision in section 103 and section 103A (as appropriate) of the 1954 Code, and

"(ii) which is not otherwise treated as included in such sections 103 and 103A with respect to such bond.".

(e) EFFECTIVE DATE.—Any amendment made by this section shall take effect as if included in the provision of the Tax Reform Act of 1986 to which such amendment relates.

PART IV—MISCELLANEOUS CHANGES

SEC. 3841. MISCELLANEOUS CHANGES.

(a) AMENDMENT RELATED TO TRANSFERS INCIDENT TO DIVORCE OR SEPARATION.—

(1) Paragraph (6) of section 408(d) is amended by striking "his former spouse under a divorce decree or under a written instrument incident to such divorce" and inserting "his spouse or former spouse under a divorce or separation instrument described in subparagraph (A) of section 71(b)(2)".

(2) Subsection (p) of section 414 is amended by redesignating paragraph (11) as paragraph (12) and by inserting after paragraph (10) the following new paragraph:

"(11) APPLICATION OF RULES TO GOVERNMENTAL AND CHURCH PLANS.—For purposes of this title, a distribution or payment from a governmental plan (as defined in subsection (d)) or a church plan (as described in subsection (e)) shall be treated as made pursuant to a qualified domestic relations order if it is made pursuant to a domestic relations order which meets the requirement of clause (i) of paragraph (1)(A)."

(3) The amendments made by this subsection shall apply to transfers after the date of the enactment of this Act in taxable years ending after such date.

(b) AMENDMENT RELATED TO SINGLE-EMPLOYER PENSION PLAN AMENDMENTS ACT OF 1986.—

(1) Section 404(g)(1) is amended by inserting "4041(b)," before "4062".

(2) The amendment made by paragraph (1) shall apply to payments made after January 1, 1986, in taxable years ending after such date.

(c) DEFINITION OF COMPENSATION.—

(1) Paragraph (1) of section 219(f) (defining compensation) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, section 401(c)(2) shall be applied as if the term trade or business for purposes of section 1402 included service described in subsection (c)(6).

(2) The amendment made by paragraph (1) shall apply to contributions after the date of the enactment of this Act in taxable years ending after such date.

(d) MISCELLANEOUS CLERICAL CHANGES.—

(1) Paragraph (1) of section 6103(d) is amended by striking "45,".

(2) Section 6871 is amended by striking "44, or 45" each place it appears and inserting "or 44".

(3) Paragraph (5) of section 691(c) is amended by striking "paragraph (1)(D)" and inserting "paragraph (1)(C)".

(4) The table of chapters for subtitle D is amended by striking the comma in the item relating to chapter 42 and inserting a semicolon.

(5) Section 6652 is amended—

(A) by redesignating the subsection relating to information with respect to includible employee benefits as subsection (k), and

(B) by redesignating the subsection relating to alcohol and tobacco taxes as subsection (l).

(6) Paragraph (2) of section 410(a) is amended by striking the comma before the period.

(7) The heading of paragraph (1) of section 132(h) is amended by striking "OFFICERS, ETC.," and inserting "HIGHLY COMPENSATED EMPLOYEES".

(8) Paragraph (1) of section 66(d) is amended by striking "section 911(b)" and inserting "section 911(d)(2)".

(9) Subsection (e) of section 861 is amended by striking "section 826(a)" and inserting "section 862(a)".

(10) Paragraph (27) of section 381(a) (relating to credit under section 53) is redesignated as paragraph (26).

(11) Subclause (III) of section 382(l)(3)(B)(i) is amended by striking "divorce," and inserting "divorce),".

(12) The last sentence of section 6157(a) is amended by striking "subsections (c) and (d)" and inserting "subsection (c)".

(13) Clause (i) of section 42(d)(6)(A) is amended by striking "Farmers' Home Administration" and inserting "Farmers Home Administration".

(14) Clause (ii) of section 42(d)(7)(A) is amended by striking "sebsection (a)" and inserting "subsection (a)".

(15) Subparagraph (A) of section 42(e)(2) is amended by striking "captial account" and inserting "capital account".

(16) Paragraph (2) of section 844(a) is amended by striking "for the taxable year" and inserting "for a prior taxable year".

(17) Subsection (c) of section 4221 is amended by striking "or 4083".

(18) Clause (i) of section 274(n)(2)(F) is amended by inserting "any" before "Federal".

PART V—AMENDMENTS RELATED TO PENSION PROVISIONS

SEC. 3851. DEFINITIONS.

For purposes of this part—

(1) REFORM ACT.—Except where incompatible with the intent, the term "Reform Act" means the Tax Reform Act of 1986.

(2) ERISA.—The term "ERISA" means the Employee Retirement Income Security Act of 1974.

Subpart A—Amendments Related To Tax Reform Act of 1986

SEC. 3861. AMENDMENTS RELATED TO TITLE XI OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1113 OF THE REFORM ACT.—

(1) Section 203(a)(2) of ERISA is amended—

(A) by striking "following" the first place it appears, and

(B) by striking "414(f)(1)(B)" in subparagraph (C)(ii)(I) and inserting "3(37)(A)(ii)".

(2) Section 1113(e)(3) of the Reform Act is amended by striking "Section 202(B)(i)" and inserting "Section 202(a)(1)(B)(i)".

(3) The second subsection (e) of section 1113 of the Reform Act is redesignated as subsection (f).

(4) Section 1113(f) of the Reform Act, as redesignated by paragraph (3), is amended by adding at the end thereof the following new paragraph:

"(4) REPEAL OF CLASS YEAR VESTING.—If a plan amendment repealing class year vesting is adopted after October 22, 1986, such amendment shall not apply to any employee for the 1st plan year to which the amendments made by subsections (b) and (e)(2) apply (and any subsequent plan year) if—

"(A) such plan amendment would reduce the nonforfeitable right of such employee for such year, and

"(B) such employee has at least 1 hour of service before the adoption of such plan amendment and after the beginning of such 1st plan year.

This paragraph shall not apply to an employee who has 5 consecutive 1-year breaks in service (as defined in section 411(a)(6)(A) of the Internal Revenue Code of 1986) which include the 1st day of the 1st plan year to which the amendments made by subsection (b) and (e)(2) apply. A plan shall not be treated as failing to meet the requirements of section 401(a)(26) of such Code by reason of complying with the provisions of this paragraph."

(5)(A) Section 411(a)(3) is amended by adding at the end thereof the following new subparagraph:

"(G) TREATMENT OF MATCHING CONTRIBUTIONS FORFEITED BY REASON OF EXCESS DEFERRAL OR CONTRIBUTION.—A matching contribution (within the meaning of section 401(m)) shall not be treated as forfeitable merely because such contribution is forfeitable if the contribution to which the matching contribution relates is treated as an excess contribution under section 401(k)(8)(B), an excess deferral under section 402(g)(2)(A), or an excess aggregate contribution under section 401(m)(6)(B).".

(B) Paragraph (3) of section 203(a) of ERISA is amended by adding at the end thereof the following new subparagraph:

"(F) A matching contribution (within the meaning of section 401(m) of the Internal Revenue Code of 1986) shall not be treated as forfeitable merely because such contribution is forfeitable if the contribution to which the matching contribution relates is treated as an excess contribution under section 401(k)(8)(B) of such Code, an excess deferral under section 402(g)(2)(A) of such Code, or an excess aggregate contribution under section 401(m)(6)(B) of such Code.".

(6)(A) Section 411(a)(4)(A) is amended to read as follows:

"(A) years of service before age 18,".

(B) Subparagraph (A) of section 203(b)(1) of ERISA is amended to read as follows:

"(A) years of service before age 18,".

(b) AMENDMENTS RELATED TO SECTION 1140 OF THE REFORM ACT.—

(1)(A) Subsection (a) of section 1140 of the Reform Act is amended by striking "January 1, 1989" each place it appears and inserting "January 1, 1990".

(B) Section 1140(c) of the Reform Act is amended by striking all after "the first plan year beginning" and inserting "after the later of—

"(1) December 31, 1989, or

"(2) the earlier of—

"(A) December 31, 1990, or

"(B) the date on which the last of such collective bargaining agreements terminate (without regard to any extension after February 28, 1986)."

(2) Subsection (a) of section 1140 of the Reform Act is amended by striking "or subtitle C" and inserting ", subtitle C, or title XVIII of this Act".

(3) Section 1140(c) of the Reform Act is amended by inserting "on or" after "beginning" the second place it appears.

(4) Section 1140(c) is amended by adding at the end thereof the following new flush sentence:

"For purposes of paragraph (1)(B) and any other provision of this title, an agreement shall not be treated as terminated merely because the plan is amended pursuant to such agreement to meet the requirements of any amendment made by this title or title XVIII of this Act.".

(c) AMENDMENTS RELATED TO SECTION 1145 OF THE REFORM ACT.—

(1) Subsection (f) of section 303 of the Retirement Equity Act of 1984 is amended by striking "July 24, 1984" and inserting "July 17, 1984".

(2) Paragraph (3) of section 205(b) of ERISA, as added by section 1145(b) of the Reform Act, is redesignated as paragraph (4).

SEC. 3862. AMENDMENTS RELATED TO TITLE XVIII OF THE REFORM ACT.

(a) AMENDMENT RELATED TO SECTION 1852 OF THE REFORM ACT.—Paragraph (1) of section 4402(h) of ERISA is amended by striking "January 12, 1982" the second place it appears and inserting "January 16, 1982".

(b) AMENDMENT RELATED TO SECTION 1879 OF THE REFORM ACT.—Subsection (u) of section 1879 of the Reform Act is amended—

(1) by striking "206(h)" each place it appears in paragraphs (1) and (4)(B) and inserting "204(h)",

(2) by redesignating paragraph (4) as paragraph (5), and

(3) by inserting after paragraph (3) the following:

"(4) CORRECTION OF CROSS REFERENCE.—Section 4218(1)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1398(1)(A)) is amended by striking 'section 4062(d)' and inserting 'section 4069(b)'."

(c) AMENDMENTS RELATED TO SECTION 1895 OF THE REFORM ACT.—

(1)(A) Section 106(b)(2) (relating to exception to certain plans) is amended by striking the last sentence thereof.

(B) Sections 601(b) of ERISA and 2201(b) of the Public Health Service Act are each amended by striking the last sentence thereof.

(C) The amendments made by this paragraph shall apply to years beginning after December 31, 1986.

(2)(A) Sections 607(2) of ERISA and 2208(2) of the Public Health Service Act are each amended by striking "the individual's employment or previous employment with an employer" and inserting "the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1) of the Internal Revenue Code of 1986)".

(B) Section 4980B(f)(7), as added by the Technical and Miscellaneous Revenue Act of 1988, is amended by striking "the individual's employment or previous employment with an employer" and inserting "the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1))".

(C) The amendments made by this paragraph shall apply to plan years beginning after December 31, 1989.

(3)(A) Clause (iv) of section 162(k)(2)(B) of the 1986 Code (as in effect before the amendments made by the Technical and Miscellaneous Revenue Act of 1988) is amended to read as follows:

"(iv) MEDICARE ENTITLEMENT.—In the case of a qualified beneficiary other than a qualified beneficiary described in paragraph (7)(B)(iv), the date on which the qualified beneficiary first becomes, after the date of the election, entitled to benefits under title XVIII of the Social Security Act."

(B) Section 602(2)(D) of ERISA is amended to read as follows:

"(D) MEDICARE ENTITLEMENT.—In the case of a qualified beneficiary other than a qualified beneficiary described in section 607(3)(D), the date on which the qualified beneficiary first becomes, after the date of the election, entitled to benefits under title XVIII of the Social Security Act."

(C) Clause (iv) of section 4980B(f)(2)(B) of the 1986 Code, as added by the Technical and Miscellaneous Revenue Act of 1988, is amended to read as follows:

"(iv) MEDICARE ENTITLEMENT.—In the case of a qualified beneficiary other than a qualified beneficiary described in subsection (g)(1)(D), the date on which the qualified beneficiary first becomes, after the date of the election, entitled to benefits under title XVIII of the Social Security Act."

(D) Section 2202(2)(D) of the Public Health Service Act is amended to read as follows:

"(D) MEDICARE ENTITLEMENT.—In the case of a qualified beneficiary other than a qualified beneficiary described in section 2207(3)(D), the date on which the qualified beneficiary first becomes, after the date of the election, entitled to benefits under title XVIII of the Social Security Act."

(E) The amendments made by this paragraph shall apply to—

(i) events occurring after December 31, 1989, in plan years ending after such date, and

(ii) with respect to qualified beneficiaries—

(I) who elected continuation coverage during 1989, but

(II) only with respect to periods for which timely payment of the premium was made.

(4)(A) The last sentence of sections 602(3) of ERISA and 2202(3) of the Public Health Service Act are each amended to read as follows:

"In no event may the plan require the payment of any premium before the day which is 45 days after the day on which the qualified beneficiary made the initial election for continuation coverage.".

(B) The last sentence of section 4980B(f)(2)(C), as added by the Technical and Miscellaneous Revenue Act of 1988, is amended to read as follows:

"In no event may the plan require the payment of any premium before the day which is 45 days after the day on which the qualified beneficiary made the initial election for continuation coverage.".

(C) The amendments made by this paragraph shall apply to plan years beginning after December 31, 1989.

(5)(A) Subclause (II) of section 4980B(f)(2)(B)(i) of the 1986 Code is amended by striking out "paragraph (3)(F)" and inserting in lieu thereof "paragraph (3)(B) or (3)(F)".

(B) Clause (ii) of section 602(2)(A) of ERISA is amended by striking out "section 603(6)" and inserting in lieu thereof "section 603(2) or 603(6)".

(C) Clause (ii) of section 2202(2)(A) of the Public Health Service Act is amended by striking out "section 2303(6)" and inserting in lieu thereof "section 2303(2) or 2303(6)".

(D) The amendments made by this paragraph shall apply to plan years beginning after December 31, 1989.

(6)(A) Clause (i) of section 4980B(f)(2)(B) is amended by adding at the end thereof the following new subclause:

"(V) QUALIFYING EVENT FOLLOWING MEDICARE ENTITLEMENT.—If a qualifying event described in paragraph (3)(B) occurs within 18 months after an event described in paragraph (3)(D) which did not result in a loss of coverage, with respect to qualified beneficiaries other than the covered employee, the date which is 36 months after the date of the qualifying event."

(B) Section 602(2)(A) of ERISA is amended by adding at the end thereof the following new clause:

"(v) QUALIFYING EVENT FOLLOWING MEDICARE ENTITLEMENT.—If a qualifying event described in section 603(2) occurs within 18 months after an event described in section 603(4) which did not result in a loss of coverage, with respect to qualified beneficiaries other than the covered employee, the date which is 36 months after the date of the qualifying event."

(C) Section 2202(2)(A) of the Public Health Service Act is amended by adding at the end thereof the following new clause:

"(v) QUALIFYING EVENT FOLLOWING MEDICARE ENTITLEMENT.—If a qualifying event described in section 2203(2) occurs within 18 months after an event described in section 2203(4) which did not result in a loss of coverage, with respect to qualified beneficiaries other than the covered employee, the date which is 36 months after the date of the qualifying event."

(D) The amendments made by this paragraph shall apply to plan years beginning after December 31, 1989.

(d) AMENDMENTS RELATED TO SECTION 1898 OF THE REFORM ACT.—

(1)(A) Clause (ii) of section 417(a)(3)(B) (defining applicable period) is amended by striking subclause (V) and inserting at the end thereof the following new flush sentence:

"In the case of a participant who separates from service before attaining age 35, the applicable period shall be a reasonable period after separation.".

(B) Clause (ii) of section 205(c)(3)(B) of ERISA is amended by striking subclause (V) and inserting at the end thereof the following new flush sentence:

"In the case of a participant who separates from service before attaining age 35, the applicable period shall be a reasonable period after separation.".

(2) Section 1898(b)(8) of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to distributions after the date of the enactment of this Act.".

(3) Paragraph (12) of section 1898(b) of the Reform Act is amended by striking all of subparagraph (B) from "(B) AMENDMENT" through "follows:" and inserting the following:

"(B) AMENDMENT TO ERISA.—Section 205(h) of the Employee Retirement Income Security Act of 1974 is amended—

"(i) by striking 'the term' in paragraphs (1) and (3) and inserting 'The term',

"(ii) by striking the comma in paragraph (1) and inserting a period, and

"(iii) by striking paragraph (2) and inserting the following:".

(4) Subparagraph (B) of section 1898(d)(1) of the Reform Act is amended by striking "Paragraph (1)" and inserting "Subsection (e)(1)".

(5) Subsection (e)(1) of section 203 of ERISA is amended—

(A) by inserting "(e)" before "(1)", and

(B) by striking "vested" and inserting "nonforfeitable".

(6) Subclause (IV) of section 205(c)(3)(B)(ii) of ERISA is amended by striking "401(a)(11)" and inserting "205".

(7) Subparagraph (B) of section 1898(b)(7) of the Reform Act is amended by striking "Subparagraph (C) of section 205(b)(1)" and inserting "Clause (i) of section 205(b)(1)(C)".

(8) Section 205(e)(2) of ERISA is amended by striking "nonforfeitable accrued benefit" and inserting "nonforfeitable right (within the meaning of section 203)".

SEC. 3863. EFFECTIVE DATE.

Except as otherwise provided in this subpart, any amendment made by this subpart shall take effect as if included in the provision of the Reform Act to which such amendment relates.

Subpart B—Amendments Related to Omnibus Budget Reconciliation Act of 1986

SEC. 3871. AMENDMENTS RELATED TO OMNIBUS BUDGET RECONCILIATION ACT OF 1986.

(a) AMENDMENTS RELATED TO SECTION 9202 OF THE ACT.—

(1)(A) Section 411(b)(2) of the Internal Revenue Code of 1986 is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(B) Section 204(b)(2) of ERISA is amended by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(2) Section 411(b)(2)(C), as redesignated by paragraph (1), is amended by striking "subparagraph" and inserting "paragraph".

(3) Section 204(b)(2)(C) of ERISA, as redesignated by paragraph (1), is amended by striking "(C) and (D)" and inserting "(B) and (C)".

(4) The amendments made by this subsection shall take effect as if included in the amendments made by section 9202 of the Omnibus Budget Reconciliation Act of 1986.

(b) AMENDMENTS RELATED TO SECTION 9203 OF THE ACT.—

(1) Sections 411(a)(8)(B) of the Internal Revenue Code of 1986 and 3(24)(B) of ERISA are each amended to read as follows:

"(B) the later of—

"(i) the time a plan participant attains age 65, or

"(ii) the 5th anniversary of the time a plan participant commenced participation in the plan.".

(2) The amendments made by this subsection shall take effect as if included in the amendments made by section 9203 of the Omnibus Budget Reconciliation Act of 1986.

Subpart C—Amendments Related to Pension Protection Act

SEC. 3881. AMENDMENTS RELATED TO PENSION PROTECTION ACT.

(a) AMENDMENTS RELATED TO SECTION 9303.—

(1)(A) Subclause (II) of section 412(l)(3)(C)(ii) is amended by inserting "(but not below zero)" after "reducing".

(B) Subclause (II) of section 302(d)(3)(C)(ii) of ERISA is amended by inserting "(but not below zero)" after "reducing".

(2)(A) Clause (i) of section 412(l)(4)(B) is amended by inserting "and the unamortized portion of the unfunded existing benefit increase liability" after "liability".

(B) Clause (i) of section 302(d)(4)(B) of ERISA is amended by inserting "and the unamortized portion of the unfunded existing benefit increase liability" after "liability".

(3)(A) Section 412(l)(5)(C) is amended by striking "October 17, 1987" and inserting "the first plan year beginning after December 31, 1988".

(B) Section 302(d)(5)(C) of ERISA is amended by striking "October 17, 1987" and inserting "the first plan year beginning after December 31, 1988".

(4)(A) Section 412(l)(7)(D) is amended—

(i) by striking "and" at the end of clause (iii)(I), by striking the period at the end of clause (iii)(II) and inserting ", and", and by adding at the end of clause (iii) the following new subclause:

"(III) has years of service greater than the minimum years of service necessary for eligibility to participate in the plan.", and

(ii) by adding at the end thereof the following new clause:

"(iv) ELECTION.—An employer may elect not to have this subparagraph apply. Such an election, once made, may be revoked only with the consent of the Secretary.".

(B) Section 302(d)(7)(D) of ERISA is amended—

(i) by striking "and" at the end of clause (iii)(I), by striking the period at the end of clause (iii)(II) and inserting ", and", and by adding at the end of clause (iii) the following new subclause:

"(III) has years of service greater than the minimum years of service necessary for eligibility to participate in the plan.", and

(ii) by adding at the end thereof the following new clause:

"(iv) ELECTION.—An employer may elect not to have this subparagraph apply. Such an election, once made, may be revoked only with the consent of the Secretary of the Treasury.".

(5)(A) Section 412(l)(8) is amended—

(i) by striking "reduced by any credit balance in the funding standard account" in subparagraph (A)(ii), and

(ii) by adding at the end thereof the following new subparagraph:

"(E) DEDUCTION FOR CREDIT BALANCES.—For purposes of this subsection, the amount determined under subparagraph (A)(ii) shall be reduced by any credit balance in the funding standard account. The Secretary may provide for such reduction for purposes of any other provision which references this subsection.".

(B) Section 302(d)(8) of ERISA is amended—

(i) by striking "reduced by any credit balance in the funding standard account" in subparagraph (A)(ii), and

(ii) by adding at the end thereof the following new subparagraph:

"(E) DEDUCTION FOR CREDIT BALANCES.—For purposes of this subsection, the amount determined under subparagraph (A)(ii) shall be reduced by any credit balance in the funding standard account. The Secretary of the Treasury may provide for such reduction for purposes of any other provision which references this subsection.".

(6)(A) Section 412(c)(9) is amended—

(i) by striking "3 years" and inserting "year", and

(ii) by striking "3-YEAR" in the heading and inserting "ANNUAL".

(B) Section 302(c)(9) of ERISA is amended by striking "3 years" and inserting "year".

(7) Subclause (II) of section 9303(e)(3)(C)(ii) of the Pension Protection Act is amended by inserting "(and any income allocable to such amount)" after "clause (i)".

(b) AMENDMENTS RELATED TO SECTION 9304.—

(1)(A) Subparagraph (A) of section 412(c)(10) is amended—

(i) by inserting "defined benefit" before "plan other", and

(ii) by striking "PLANS" in the heading and inserting "DEFINED BENEFIT PLANS".

(B) Subparagraph (A) of section 302(c)(10) of ERISA is amended by inserting "defined benefit" before "plan other".

(2)(A) Subparagraph (B) of section 412(c)(10) is amended—

(i) by striking "multiemployer plan" and inserting "plan not described in subparagraph (A)", and

(ii) by striking "MULTIEMPLOYER" in the heading and inserting "OTHER".

(B) Subparagraph (B) of section 302(c)(10) of ERISA is amended by striking "multiemployer plan" and inserting "plan not described in subparagraph (A)".

(3)(A) Section 412(m)(1) is amended by inserting "defined benefit" before "plan (other".

(B) Section 302(e)(1) is amended by inserting "defined benefit" before "plan (other".

(4)(A) Subparagraph (D) of section 412(m)(4) is amended to read as follows:

"(D) SPECIAL RULES FOR UNPREDICTABLE CONTINGENT EVENT BENEFITS.—In the case of a plan to which subsection (1) applies for any calendar year and which has any unpredictable contingent event benefit liabilities—

"(i) LIABILITIES NOT TAKEN INTO ACCOUNT.—Such liabilities shall not be taken into account in computing the required annual payment under subparagraph (B).

"(ii) INCREASE IN INSTALLMENTS.—Each required installment shall be increased by the greater of—

"(I) the unfunded percentage of the amount of benefits described in subsection (d)(5)(A)(i) paid during the 3-month period preceding the month in which the due date for such installment occurs, or

"(II) 25 percent of the amount determined under subsection (l)(5)(A)(ii) for the plan year.

"(iii) UNFUNDED PERCENTAGE.—For purposes of clause (ii)(I), the term 'unfunded percentage' means the percentage determined under subsection (l)(5)(A)(i)(I) for the plan year.

"(iv) LIMITATION ON INCREASE.—In no event shall the increases under clause (ii) exceed the amount necessary to increase the funded current liability percentage (within the meaning of subsection (l)(8)(B)) for the plan year to 100 percent.".

(B) Subparagraph (D) of section 302(e)(4) of ERISA is amended to read as follows:

"(D) SPECIAL RULES FOR UNPREDICTABLE CONTINGENT EVENT BENEFITS.—In the case of a plan to which subsection (d) applies for any calendar year and which has any unpredictable contingent event benefit liabilities—

"(i) LIABILITIES NOT TAKEN INTO ACCOUNT.—Such liabilities shall not be taken into account in computing the required annual payment under subparagraph (B).

"(ii) INCREASE IN INSTALLMENTS.—Each required installment shall be increased by the greater of—

"(I) the unfunded percentage of the amount of benefits described in subsection (d)(5)(A)(i) paid during the 3-month period preceding the month in which the due date for such installment occurs, or

"(II) 25 percent of the amount determined under subsection (d)(5)(A)(ii) for the plan year.

"(iii) UNFUNDED PERCENTAGE.—For purposes of clause (ii)(I), the term 'unfunded percentage' means the percentage determined under subsection (d)(5)(A)(i)(I) for the plan year.

"(iv) LIMITATION ON INCREASE.—In no event shall the increases under clause (ii) exceed the amount necessary to increase the funded current liability percentage (within the meaning of subsection (d)(8)(B)) for the plan year to 100 percent.".

(5)(A) Section 101(d)(1) of ERISA is amended by striking "an employer of a plan" and inserting "an employer maintaining a plan".

(B) Section 502(c) of ERISA is amended by adding at the end thereof the following new paragraph:

"(3) Any employer maintaining a plan who fails to meet the notice requirement of section 101(d) with respect to any participant or beneficiary may in the court's discretion be liable to such participant or beneficiary in the amount of up to $100 a day from the date of such failure, and the court may in its discretion order such other relief as it deems proper.".

(C) Section 9304(d) of the Pension Protection Act is amended by striking "Section" and inserting "Effective with respect to plan years beginning after December 31, 1987, section".

(6)(A)(i) Subparagraph (B) of section 412(m)(1) is amended to read as follows:

"(B) the rate of interest used under the plan in determining costs (including adjustments under subsection (b)(5)(B)).".

(ii) Clause (ii) of section 412(d)(1)(A) is amended by inserting "(including adjustments under subsection (b)(5)(B))" after "costs".

(B)(i) Subparagraph (B) of section 302(e)(1) of ERISA is amended to read as follows:

"(B) the rate of interest used under the plan in determining costs (including adjustments under subsection (b)(5)(B)).".

(ii) Section 303(a) of ERISA is amended—

(I) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2),

(II) by redesignating clauses (i) and (ii) of paragraph (1) (as so redesignated) as subparagraphs (A) and (B), and

(III) by inserting "(including adjustments under section 302(b)(5)(B))" after "costs" in paragraph (1)(B) (as so redesignated).

(c) AMENDMENTS RELATED TO SECTION 9306.—

(1) The last sentence of section 412(f)(4)(A) is amended by striking "the benefit liabilities" and inserting "for benefit liabilities".

(2) The last sentence of section 303(e)(1) of ERISA is amended by striking "the benefit liabilities" and inserting "for benefit liabilities".

(3) Section 9306(f)(3) of the Pension Protection Act is amended to read as follows:

"(3) SUBSECTION (b).—The amendments made by subsection (b) shall apply to waivers for plan years beginning after December 31, 1987. For purposes of applying such amendments, the number of waivers which may be granted for plan years after December 31, 1987, shall be determined without

regard to any waivers granted for plan years beginning before January 1, 1988.".

(d) AMENDMENTS RELATED TO SECTION 9307.—

(1)(A) Clause (iii) of section 412(b)(5)(B) is amended by striking "for purposes of this section and for purposes of determining current liability,".

(B) Clause (iii) of section 302(b)(5)(B) of ERISA is amended by striking "for purposes of this section and for purposes of determining current liability,".

(2)(A) Section 302(b)(5)(B) of ERISA is amended by inserting the following matter after the heading and before clause (i): "For purposes of determining a plan's current liability and for purposes of determining a plan's required contribution under section 302(d) for any plan year—".

(B) Section 302(b)(5) of ERISA is amended by striking the matter following the heading thereof and preceding subparagraph (A).

(C) Subclause (I) of section 302(b)(5)(B)(ii) of ERISA is amended by striking "average rate" and inserting "the weighted average of the rates".

(3) Section 9307(f) of the Pension Protection Act is amended to read as follows:

"(f) EFFECTIVE DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1987.

"(2) AMORTIZATION OF GAINS AND LOSSES.—Sections 412(b)(2)(B)(iv) and 412(b)(3)(B)(ii) of the Internal Revenue Code of 1986 and sections 302(b)(2)(B)(iv) and 302(b)(3)(B)(ii) of the Employee Retirement Income Security Act of 1974 (as amended by paragraphs (1)(A) and (2)(A) of subsection (a)) shall apply to gains and losses established in years beginning after December 31, 1987. For purposes of the preceding sentence, any gain or loss determined by a valuation occurring as of January 1, 1988, shall be treated as established in years beginning before 1988 or, at the election of the employer, shall be amortized in accordance with Internal Revenue Service Notice 89-52.".

(e) AMENDMENTS RELATED TO SECTION 9311.—

(1) Section 9311(a)(2) of the Pension Protection Act is amended by striking "plan assets to the employer for purposes of section 4044(d)(1)(C) of the Employee Retirement Income Security Act of 1974" and inserting "residual plan assets upon termination".

(2) Section 9311(d) of the Pension Protection Act is amended—

(A) by striking "section 4041(c)" and inserting "section 4041" in paragraph (1), and

(B) by adding at the end thereof the following new flush sentence:

"Except as provided in subsection (a)(2), the amendments made by subsection (a) shall apply to any provision of the plan or plan amendment adopted after December 17, 1987."

(3) Section 9311(a)(2) of the Pension Protection Act is amended by striking the last sentence.

(f) AMENDMENTS RELATED TO SECTION 9312.—

(1) Section 9312(b)(3)(B)(i) of the Pension Protection Act is amended—

(A) by striking "section 4022(c)(1)" in subclause (I) and inserting "section 4022(c)(3)", and

(B) by striking "subparagraph (B) of section 4022(c)(1)" and inserting "subparagraph (C) of section 4022(c)(3)".

(2) Section 4062(a) of ERISA is amended—

(A) by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2), and

(B) by striking "subsection (d)" in paragraph (2) (as so redesignated) and by inserting "subsection (c)".

(3)(A) Section 4064(b) of ERISA is amended by striking "and clauses (i)(II) and (ii) of section 4062(b)(1)(A)" and inserting "and section 4068(a)".

(B) Section 4068(a) of ERISA is amended by striking the last sentence.

(4) Section 4022(c)(1) of ERISA is amended by striking "(or in the case of a deceased participant)".

(5) Section 4022(c)(3)(B)(ii) of ERISA is amended by inserting ", and during the 5-Federal fiscal year period ending with the fiscal year preceding the fiscal year in which occurs the date of the notice of intent to terminate with respect to the plan termination for which the recovery ratio is being determined" after "1987".

(6) Section 9312(b)(3)(B) of the Pension Protection Act is amended by striking clause (ii).

(7) Section 4041(c) of ERISA is amended—

(A) by striking "(or its designee under section 4049(b))" in paragraph (2)(A)(iii)(II),

(B) by striking "section 4049" in paragraph (2)(A)(iii)(II) and inserting "section 4022(c)", and

(C) by striking the last sentence of paragraph (3)(C)(i).

(8) Section 4070(a) of ERISA is amended by striking "4049,".

(9) Section 9312(d)(1) of the Pension Reform Act is amended by striking "section 4041(c)" and inserting "section 4041".

(g) AMENDMENTS RELATED TO SECTION 9313.—

(1) Section 4041(d)(1) of ERISA is amended by striking "sufficient for benefit commitments" and inserting "sufficient for benefit liabilities".

(2) Section 4041(c)(2)(B) of ERISA is amended by inserting "proposed" before "termination" in the parenthetical in the second sentence.

(3) Clause (ii) of section 4041(c)(2)(A) of ERISA is amended—

(A) by inserting "unless the corporation determines the information is not necessary for purposes of paragraph (3)(A) or section 4062," before "certification",

(B) by inserting "and, if applicable, the proposed distribution date" after "termination date" in subclause (I), and

(C) by striking "date" and inserting "dates" in subclauses (II) through (V).

(h) AMENDMENT RELATED TO SECTION 9331.—Subparagraph (E) of section 4006(a)(3) of ERISA is amended by adding at the end thereof the following new clause:

"(v) No premium shall be determined under this subparagraph for any plan year if, as of the close of the preceding plan year, contributions to the plan for the preceding plan year were not less than the full funding limitation for the preceding plan year under section 412(c)(7) of the Internal Revenue Code of 1986.".

(i) AMENDMENTS RELATED TO SECTION 9341.—

(1)(A) Section 401(a)(29)(C)(i)(II) is amended by inserting "and any other plan amendments adopted after December 22, 1987, and before such plan amendment" after "amendment".

(B) Section 307(c)(1)(B) of ERISA is amended by inserting "and any other plan amendments adopted after December 22, 1987, and before such plan amendment".

(2) Section 307(d) of ERISA is amended by inserting "of the Treasury" after "Secretary".

(3)(A) Section 307 of ERISA is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) NOTICE.—A contributing sponsor which is required to provide security under subsection (a) shall notify the Corporation within 30 days after the amendment requiring such security takes effect. Such notice shall contain such information as the Corporation may require.".

(B) Section 4071 of ERISA is amended—

(i) by striking "or subtitle A, B, or C" and inserting ", subtitle A, B, or C, as section 302(f)(4) or 307(e)", and

(ii) by inserting "or such section" after "such subtitle".

(4)(A) Clause (i) of section 401(a)(29)(A) is amended by inserting "to which the requirements of section 412 apply" after "multiemployer plan)".

(B) Section 307(a)(1) of ERISA is amended by inserting "to which the requirements of section 302 apply" after "multiemployer plan)".

(5) Section 9341(c) of the Pension Protection Act is amended by inserting "(without regard to any extension, amendment, or modification of such agreements on or after such date of enactment)" after "ratified before the date of enactment".

(j) AMENDMENTS RELATED TO SECTION 9342.—

(1) Paragraph (11) of section 103(d) of ERISA is amended—

(A) by striking "60 percent" and inserting "70 percent", and

(B) by striking "such percentage" and inserting "the percentage which such value is of such liability".

(2) Section 502(a)(6) of ERISA is amended by striking "subsection (i)" and inserting "subsection (c)(2) or (i)".

(3) Section 502(c)(2) of ERISA is amended—

(A) by inserting "against any plan administrator" after "civil penalty", and

(B) by striking "a plan administrator's" and inserting "such plan administrator's".

(k) AMENDMENT RELATED TO SECTION 9343.—Section 403(c) of ERISA is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(l) AMENDMENTS RELATED TO SECTION 9345.—

(1) Section 407(d)(9) of ERISA is amended by striking "such arrangement" and inserting "such individual account plan".

(2) Section 407(f) of ERISA is amended by striking paragraph (3).

(m) AMENDMENTS RELATED TO SECTION 9346.—

(1)(A) Clause (iii) of section 411(c)(2)(C) is amended to read as follows:

"(iii) interest on the sum of the amounts determined under clauses (i) and (ii) compounded annually—

"(I) at the rate of 120 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of a plan year) for the period beginning with the 1st plan year to which subsection (a)(2) applies (by reason of the applicable effective date) and ending with the date on which the determination is being made, and

"(II) at the interest rate which would be used under the plan under section 417(e)(3) (as of the determination date) for the period beginning with the determination date and ending on the date on which the employee attains normal retirement age.".

(B) Subparagraph (B) of section 411(c)(2) is amended to read as follows:

"(B) DEFINED BENEFIT PLANS.—In the case of a defined benefit plan, the accrued benefit derived from contributions made by an employee as of any applicable date is the amount equal to the employee's accumulated contributions expressed as an annual benefit commencing at normal retirement age, using an interest rate which would be used under the plan under section 417(e)(3) (as of the determination date).".

(C) Section 411(c)(2) is amended by striking subparagraph (E).

(D) Section 411(a)(7) is amended by adding at the end thereof the following new subparagraph:

"(D) ACCRUED BENEFIT ATTRIBUTABLE TO EMPLOYEE CONTRIBUTIONS.—The accrued benefit of an employee shall not be less than the amount determined under subsection (c)(2)(B) with respect to the employee's accumulated contributions.".

(2)(A) Clause (iii) of section 204(c)(2)(C) of ERISA is amended to read as follows:

"(iii) interest on the sum of the amounts determined under clauses (i) and (ii) compounded annually—

"(I) at the rate of 120 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of a plan year for the period beginning with the 1st plan year to which subsection (a)(2) applies by reason of the applicable effective date) and ending with the date on which the determination is being made, and

"(II) at the interest rate which would be used under the plan under section 205(g)(3) (as of the determination date) for the period beginning with the determination date and ending on the date on which the employee attains normal retirement age.".

(B) Subparagraph (B) of section 204(c)(2) of ERISA is amended to read as follows:

"(B) DEFINED BENEFIT PLANS.—In the case of a defined benefit plan, the accrued benefit derived from contributions made by an employee as of any applicable date is the amount equal to the employee's accumulated contributions expressed as an annual benefit commencing at normal retirement age, using an interest rate which would be used under the plan under section 205(g)(3) (as of the determination date).".

(C) Section 204(c)(2) of ERISA is amended by striking subparagraph (E).

(D) Paragraph (23) of section 3 of ERISA is amended by adding at the end thereof the following new flush sentence: "The accrued benefit of an employee shall not be less than the amount determined under section 204(c)(2)(B) with respect to the employee's accumulated contribution."

(3) If—

(A) during the period beginning December 22, 1987, and ending June 21, 1988, a plan was amended to reflect the amendments made by section 9346 of the Pension Protection Act, and

(B) such plan is amended to reflect the amendments made by this subsection,

any plan amendment described in subparagraph (B) shall not be treated as reducing accrued benefits for purposes of section 411(d)(6) of the Internal Revenue Code of 1986 or section 204(g) of ERISA.

SEC. 3882. EFFECTIVE DATE.

Except as otherwise provided in this subpart, any amendment made by this subpart shall take effect as if included in the provision of the Pension Protection Act to which such amendment relates.

Subtitle I—Tax Credit for Certain Health Insurance Premiums and Child Care and Supplemental Earned Income Credit for Families With Young Children

SEC. 3901. CREDIT FOR HEALTH INSURANCE PREMIUM COSTS.

(a) ALLOWANCE OF CREDIT.—Paragraph (1) of section 21(a) (relating to credit for expenses for household and dependent care services necessary for gainful employment) is amended to read as follows:

"(1) IN GENERAL.—In the case of an individual who maintains a household which includes as a member 1 or more qualifying individuals, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(A) the applicable percentage of the employment-related expenses paid by such individual during the taxable year, plus

"(B) the credit percentage of the qualified health insurance expenses paid by such individual during the taxable year."

(b) CREDIT PERCENTAGE.—Section 21(a) is amended by adding at the end thereof the following new paragraph:

"(3) CREDIT PERCENTAGE.—For purposes of paragraph (1), the term 'credit percentage' means 50 percent reduced (but not below zero) by 5 percentage points for each $1,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $12,000."

(c) LIMITATIONS.—

(1) DOLLAR LIMITATION.—Section 21(c) is amended to read as follows:

"(c) LIMITATIONS.—

"(1) DOLLAR LIMIT ON EMPLOYMENT-RELATED EXPENSES.—The amount of the employment-related expenses paid during any taxable year which may be taken into account under subsection (a)(1)(A) shall not exceed—

"(A) $2,400 if there is 1 qualifying individual with respect to the taxpayer for such taxable year, or

"(B) $4,800 if there are 2 or more such qualifying individuals.

The amount determined under subparagraph (A) or (B) (whichever is applicable) shall be reduced by the aggregate amount excludable from gross income under section 129 for the taxable year.

"(2) QUALIFIED HEALTH INSURANCE EXPENSES.—The amount of the qualified health insurance expenses paid during any taxable year which may be taken into account under subsection (a)(1)(B) shall not exceed $1,000."

(2) EARNED INCOME LIMITATION.—

(A) IN GENERAL.—Section 21(d) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR QUALIFIED HEALTH INSURANCE EXPENSES.—The amount of the qualified health insurance expenses paid during any taxable year which may be taken into account under subsection (a)(1)(B) shall not exceed the excess (if any) of—

"(A) the earned income of the taxpayer for the taxable year, over

"(B) the amount of employment-related expenses taken into account under subsection (a)(1)(A)."

(B) CONFORMING AMENDMENT.—Paragraph (1) of section 21(d) is amended by striking "subsection (a)" and inserting "subsection (a)(1)(A)".

(d) DEFINITIONS AND RULES.—

(1) QUALIFIED HEALTH INSURANCE EXPENSES.—Section 21(b) is amended by adding at the end thereof the following new paragraph:

"(3) QUALIFIED HEALTH INSURANCE EXPENSES.—

"(A) IN GENERAL.—The term 'qualified health insurance expenses' means amounts paid during the taxable year for insurance—

"(i) which constitutes medical care (within the meaning of section 213(d)(1)(C)), and

"(ii) under which coverage includes at least 1 qualifying individual.

For purposes of this subparagraph, the rules of section 213(d)(6) shall apply.

"(B) QUALIFYING INDIVIDUAL.—For purposes of this paragraph and subsection (a)(1)(B), the term 'qualifying individual' means an individual described in paragraph (1)(A), except that such paragraph shall be applied by substituting 'age of 19' for 'age of 13'.

"(C) ELECTION NOT TO TAKE CREDIT.—A taxpayer may elect for any taxable year to have amounts described in subparagraph (A) not treated as qualified health insurance expenses."

(2) IDENTIFYING INFORMATION REQUIRED.—Section 21(e)(9) is amended by adding at the end thereof the following new sentence: "In the case of the credit allowable under subsection (a)(1)(B) for qualified health insurance expenses, the Secretary may require an insurance policy number in addition to (or in lieu of) the taxpayer identification number."

(e) COORDINATION WITH DEDUCTION FOR SELF-EMPLOYED INDIVIDUALS.—Section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) COORDINATION WITH HEALTH INSURANCE PREMIUM CREDIT.—Paragraph (1) shall not apply to any amount taken into account in computing the amount of the credit allowed under section 21."

(f) CONFORMING AMENDMENTS.—

(1) The heading for section 21 is amended by inserting "; HEALTH INSURANCE EXPENSES" after "EMPLOYMENT".

(2) The item relating to section 21 in the table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting "; health insurance expenses" after "employment".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 3902. DEPENDENT CARE AND HEALTH INSURANCE PREMIUM CREDIT MADE REFUNDABLE.

(a) CREDIT MADE REFUNDABLE.—Section 21 (relating to credit for household and dependent care services) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) CREDIT REFUNDABLE FOR LOW AND MODERATE INCOME TAXPAYERS.—

"(1) IN GENERAL.—Except as provided in section 6401(b)(1), for purposes of this title, in the case of an applicable taxpayer, the credit allowable under subsection (a) for any taxable year shall be treated as a credit allowable under subpart C of this part.

"(2) APPLICABLE TAXPAYER.—For purposes of this subsection, the term 'applicable taxpayer' means a taxpayer whose adjusted gross income for the taxable year does not exceed $28,000.

"(3) COORDINATION WITH ADVANCE PAYMENTS AND MINIMUM TAX.—Rules similar to the rules of subsections (g) and (h) of sec-

tion 32 shall apply with respect to the portion of any credit to which this subsection applies."

(b) LIMITATION ON REFUNDABLE DEPENDENT CARE PORTION OF CREDIT.—Subsection (b) of section 6401 (relating to excessive credits) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR SECTION 21(f).—

"(A) IN GENERAL.—The amount of the overpayment determined under paragraph (1) shall be reduced by 10 percent of the portion of such overpayment attributable to the credit allowed under section 21(a)(1)(A) and treated as allowable under subpart C of part IV of subchapter A of chapter 1 by reason of section 21(f).

"(B) ORDERING RULE.—For purposes of subparagraph (A), paragraph (1) shall be treated as having been applied as if the amount of tax described in such paragraph (if any) was first reduced by the portion of the credit allowed under section 21(a)(1)(A) and treated as allowable under subpart C of part IV of subchapter A of chapter 1 by reason of section 21(f)."

(c) CERTAIN SUBSIDIZED EXPENSES NOT ELIGIBLE FOR CREDIT.—Section 21(e) is amended by adding at the end thereof the following new paragraph:

"(10) SUBSIDIZED EXPENSES.—No expense shall be treated as an employment-related expense or qualified health insurance expense to the extent—

"(A) such expense is paid, reimbursed, or subsidized (whether by being disregarded for purposes of another program or otherwise) by the Federal Government, a State or local government, or any agency or instrumentality thereof, and

"(B) the payment, reimbursement, or subsidy of such expense is not includible in the gross income of the recipient."

(d) ADVANCE PAYMENT OF CREDIT.—

(1) IN GENERAL.—Chapter 25 is amended by inserting after section 3507 the following new section:

"SEC. 3507A. ADVANCE PAYMENT OF DEPENDENT CARE CREDIT.

"(a) GENERAL RULE.—Except as otherwise provided in this section, every employer making payment of wages with respect to whom a dependent care eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment equal to such employee's dependent care advance amount.

"(b) DEPENDENT CARE ELIGIBILITY CERTIFICATE.—For purposes of this title, a dependent care eligibility certificate is a statement furnished by an employee to the employer which—

"(1) certifies that the employee will be eligible to receive the credit provided by section 21 for the taxable year,

"(2) certifies that the employee reasonably expects to be an applicable taxpayer for the taxable year,

"(3) certifies that the employee does not have a dependent care eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer,

"(4) states whether or not the employee's spouse has a dependent care eligibility certificate in effect,

"(5) states the number of qualifying individuals in the household maintained by the employee, and

"(6) estimates the amount of employment-related expenses and qualified health insurance expenses for the calendar year.

For purposes of this section, a certificate shall be treated as being in effect with respect to a spouse if such a certificate will be in effect on the first status determination date following the date on which the employee furnishes the statement in question.

"(c) DEPENDENT CARE ADVANCE AMOUNT.—

"(1) IN GENERAL.—For purposes of this title, the term 'dependent care advance amount' means, with respect to any payroll period, the amount determined—

"(A) on the basis of the employee's wages from the employer for such period,

"(B) on the basis of the number of qualifying individuals in the household maintained by the employee,

"(C) on the basis of the employee's estimated employment-related expenses and qualified health insurance expenses included in the dependent care eligibility certificate, and

"(D) in accordance with tables provided by the Secretary.

"(2) ADVANCE AMOUNT TABLES.—The tables referred to in paragraph (1)(D) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables and the tables prescribed under section 3507(c).

"(d) DEFINITIONS.—For purposes of this section, any term which is used in this section and in section 21, where appropriate, shall have the meaning given to such term by section 21.

"(e) OTHER RULES.—For purposes of this section, rules similar to the rules of subsections (d) and (e) of section 3507 shall apply.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(2) CONFORMING AMENDMENT.—The table of sections for chapter 25 is amended by adding after the item relating to section 3507 the following new item:

"Sec. 3507A. Advance payment of dependent care credit."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1990.

(2) ADVANCE PAYMENT OF CREDIT.—The amendments made by subsection (d) shall apply to taxable years beginning after December 31, 1991.

SEC. 3903. SUPPLEMENTAL EARNED INCOME CREDIT FOR FAMILIES WITH YOUNG CHILDREN.

(a) IN GENERAL.—Subsections (a) and (b) of section 32 (relating to earned income credit) are amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—There is allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the sum of the following amounts:

"(1) GENERAL CREDIT.—In the case of an eligible individual, an amount equal to 14 percent of so much of the earned income for the taxable year as does not exceed $5,714.

"(2) SUPPLEMENT FOR YOUNG CHILDREN.—

"(A) IN GENERAL.—In the case of an eligible individual with 1 or more qualifying children, an amount equal to the lesser of—

"(i) the applicable percentage of so much of the earned income for the taxable year as does not exceed $5,714, or

"(ii) $750 ($500 for an eligible individual with only 1 qualifying child).

"(B) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means 10 percent (7 percent for an eligible individual with only 1 qualifying child).

"(b) LIMITATIONS.—

"(1) GENERAL CREDIT.—The amount of the credit allowable to a taxpayer under subsection (a)(1) for any taxable year shall be reduced (but not below zero) by 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $9,000.

"(2) SUPPLEMENT FOR YOUNG CHILDREN.—The amount of the credit allowable to a taxpayer under subsection (a)(2) for any taxable year shall be reduced (but not below zero) by 15 percent (10 percent for an eligible individual with only 1 qualifying child) of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the lesser of—

"(i) $10,000, as adjusted under subsection (i), or

"(ii) $12,000."

(b) QUALIFYING CHILD DEFINED.—Subsection (c) of section 32 is amended by adding at the end thereof the following new paragraph:

"(3) QUALIFYING CHILD.—The term 'qualifying child' means, for the taxable year, an individual—

"(A) with respect to whom the taxpayer qualifies as an eligible individual, and

"(B) who, as of the end of such taxable year, has not attained the age of 4."

(c) COORDINATION WITH HOUSING PROGRAMS.—Section 32 is amended by adding at the end the following new subsection:

"(j) DETERMINATION OF INCOME FOR PURPOSES OF HOUSING PROGRAMS.—For purposes of—

"(1) the United States Housing Act of 1937,

"(2) section 101 of the Housing and Urban Development Act of 1965, and

"(3) sections 235 and 236 of the National Housing Act,

the term 'income' does not include the amount of any individual's earned income tax credit under this section."

(d) CONFORMING AMENDMENTS.—

(1) Subsection (f)(1) of section 32 is amended by inserting "(including separate tables for individuals with qualifying children)" after "Secretary".

(2) Subsection (i) of section 32 is amended—

(A) by inserting "('calendar year 1990' for 'calendar year 1987' in the case of the dollar amount referred to in clause (iii) of paragraph (2)(B))" before the period at the end of paragraph (1)(B), and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) DEFINITIONS, ETC.—For purposes of paragraph (1)—

"(A) APPLICABLE CALENDAR YEAR.—The term 'applicable calendar year' means—

"(i) 1986 in the case of the dollar amount referred to in clause (i) of subparagraph (B),

"(ii) 1987 in the case of the dollar amount referred to in clause (ii) of subparagraph (B), and

"(iii) 1991 in the case of the dollar amount referred to in clause (iii) of subparagraph (B).

"(B) DOLLAR AMOUNTS.—The dollar amounts referred to in this subparagraph are—

"(i) the $5,714 amount contained in paragraphs (1) and (2)(A)(i) of subsection (a),

"(ii) the $9,000 amount contained in subsection (b)(1), and

"(iii) the $10,000 amount contained in subsection (b)(2)(A)."

(3) Subsection (b) of section 3507 (relating to advance payment of earned income credit) is amended by striking "and" at the

end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by inserting after paragraph (3) the following new paragraph:

"(4) states the number of qualifying children (as defined in section 32(c)(3)) of the employee for the taxable year.".

(4) Paragraph (1) of section 3507(c) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by redesignating subparagraph (B) as subparagraph (C), and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) on the basis of the number of qualifying children (as defined in section 32(c)(3)) of the employee for such period, and".

(5) Paragraph (2) of section 3507(c) of such Code is amended—

(A) by striking "paragraph (1)(B)" and inserting "paragraph (1)(C)",

(B) by striking "by section 32" in subparagraphs (B) and (C) and inserting "by section 32(a)(1)",

(C) by striking "under section 32" in subparagraph (B)(ii) and inserting "under section 32(a)(1)",

(D) by striking "section 32(a)" in subparagraphs (B)(i) and (C)(i) and inserting "section 32(a)(1)",

(E) by striking "subsection (b)" in subparagraph (B)(ii) and inserting "subsection (b)(1)", and

(F) by adding at the end thereof the following new flush sentence:

"A separate advance amount table shall be prescribed for the credit under section 32(a)(2) in the same manner as provided under the preceding sentence, except that the applicable percentage under section 32(a)(2)(B) shall be substituted for 14 percent."

(6) Section 3507 is amended by adding at the end thereof the following new subsection:

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1990.

(2) INCOME DETERMINATIONS.—The amendment made by subsection (c) shall apply to determinations made after December 31, 1989.

SEC. 3904. STUDY OF ADVANCE PAYMENTS.

(a) IN GENERAL.—The Comptroller General of the United States shall, in consultation with the Secretary of the Treasury, conduct a study of advance payments required by section 3507A of the Internal Revenue Code of 1986 (as added by section 6(b)(1)) to determine—

(1) the effectiveness of the advance payment system, and

(2) the manner in which such system can be implemented to alleviate administrative complexity, if any, for small business.

(b) REPORT.—Not later than 1 year after the date of the enactment of this title, the Comptroller shall report the results of the study conducted under subsection (a), together with any recommendations, to the Committee on Finance of the United States Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 3905. PROGRAM TO INCREASE PUBLIC AWARENESS.

Not later than the first day of the first calendar year following the date of the enactment of this title, the Secretary of the Treasury, or the Secretary's delegate, shall establish a taxpayer awareness program to inform the taxpaying public of the availability of the credit for dependent care and health insurance premiums allowed under section 21 of the Internal Revenue Code of 1986 (as amended by this subtitle). Such public awareness program shall be designed to assure that individuals who may be eligible are informed of the availability of such credit and filing procedures. The Secretary shall use public service and paid commercial advertising, direct-mail contact, and any other appropriate means of communication to carry out the provisions of this section.

SEC. 3906. DEMONSTRATION PROJECTS TO EXTEND HEALTH INSURANCE TO CHILDREN NOT COVERED BY PUBLIC OR PRIVATE HEALTH PROGRAMS.

Section 1115 of the Social Security Act (42 U.S.C. 1315) is amended by adding at the end thereof the following new subsection:

"(d)(1)(A) The Secretary shall conduct demonstration projects to evaluate and extend the provision of health insurance to—

"(i) children under the age of 19 who are not covered by other public or private health programs, and

"(ii) at the option of the organization described in subparagraph (B), the parents of such children who are not so covered.

"(B) Subject to the provisions of paragraph (2), the Secretary may enter into agreements to provide coverage described in subparagraph (A) through public and private cooperative arrangements sponsored by organizations, including (but not limited to)—

"(i) school based programs;

"(ii) programs operated under the auspices of nonprofit entities offering health insurance; and

"(iii) programs operated by nonprofit hospitals.

"(2) Any agreement entered into between the Secretary and any organization under paragraph (1)(B)(ii) shall provide—

"(A) that such agreement will be in effect for a period of 5 years, except that such agreement shall be terminated for failure to meet the requirements of this paragraph;

"(B) that the portion of the costs of any coverage program under the agreement to be funded from amounts provided by non-Federal sources shall not be less than the greater of—

"(i) the percentage (not less than 50 percent) specified by the Secretary, or

"(ii) if, at the time the agreement is entered into, such organization is conducting a program similar to the program covered by the agreement, the portion of such similar program funded by such non-Federal sources; and

"(C) that the coverage program provided by such organization shall not—

"(i) restrict enrollment in such program on the basis of a child's medical condition, or

"(ii) impose waiting periods or exclusions for preexisting conditions.

"(3) The Secretary in conducting demonstration projects under this subsection shall provide in any agreement that any organization described in paragraph (1)(B) may charge a premium to individuals enrolling in the coverage program provided by such organization.

"(4) The demonstration projects conducted under this subsection shall evaluate the effects of program coverage under any agreement on—

"(A) access to health services,

"(B) availability of insurance coverage to participating children and their families,

"(C) characteristics of participating children and their families, and

"(D) health care costs.

"(5) The Secretary shall publish no later than January 1, 1990, criteria governing the eligibility and participation of organizations in the demonstration projects conducted under this subsection.

"(6) For purposes of carrying out the demonstration projects described in this subsection there are authorized to be appropriated $25,000,000 for each of the fiscal years 1990, 1991, 1992, 1993, and 1994."

Subtitle J—Amendments Related to Financial Institutions Reform, Recovery, and Enforcement Act of 1989

SEC. 3921. TREATMENT OF TRANSACTIONS IN WHICH FEDERAL FINANCIAL ASSISTANCE PROVIDED.

(a) IN GENERAL.—Section 597(b)(2) is amended by striking "to reflect such treatment" and inserting "in connection with such assistance".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as if included in the amendments made by section 1401 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

SEC. 3922. QUALIFIED STATE HOUSING AGENCY BONDS.

(a) IN GENERAL.—Section 141(f) (defining qualified bond), as redesignated and amended by section 6641, is further amended—

(1) by striking "or" at the end of subparagraph (E),

(2) by striking the period at the end of subparagraph (F) and inserting ", or", and

(3) by adding at the end thereof the following new subparagraph:

"(G) a qualified State housing agency bond."

(b) QUALIFIED STATE HOUSING AGENCY BOND DEFINED.—Subpart A of part IV of subchapter B of chapter 1, as amended by section 6641, is further amended by inserting after section 144 the following new section:

"SEC. 145. QUALIFIED STATE HOUSING AGENCY BONDS.

"(a) IN GENERAL.—For purposes of this part, the term 'qualified State housing agency bond' means any bond issued by a State housing agency as part of an issue, but only if—

"(1) 95 percent or more of the net proceeds of such issue are to be used—

"(A) to acquire single-family residences or residential rental projects from—

"(i) the Resolution Trust Corporation,

"(ii) the Federal Deposit Insurance Corporation,

"(iii) the Federal Housing Authority,

"(iv) the Department of Veterans Affairs, or

"(v) any other agency of the Federal Government, or

"(B) to finance the disposition of single-family residence or residential rental projects owned by any entity described in paragraph (1), and

"(2) such issue meets the requirements of—

"(A) subsection (b), and

"(B) subsection (c) or (d), whichever is applicable.

"(b) LOCATION REQUIREMENTS.—An issue meets the requirements of this subsection only if the single-family residence or residential rental project, the acquisition or disposition of which is provided by such issue, is located within the jurisdiction of the State housing agency issuing the bond.

"(c) RESIDENCE REQUIREMENTS.—An issue meets the requirements of this subsection only if the disposition of a single-family residence provided by such issue meets the requirements of subsections (d), (e), and (f) of section 143.

"(d) PROJECT REQUIREMENTS.—An issue meets the requirements of this subsection only if the disposition of a residential rental project provided by such issue is to a purchaser with respect to whom the project is a qualified residential rental project as defined in section 142(d).

"(e) STATE HOUSING AGENCY.—The term 'State housing agency' means any agency authorized to carry out this subsection."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter B of chapter 1, as amended by section 6641, is further amended by inserting after the item relating to section 144 the following new item:

"Sec. 145. Qualified State housing agency bond."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

Subtitle L—Coordination With Budget Act

SEC. 3931. COORDINATION WITH BUDGET ACT.

Any transfer of outlays, receipts, or revenues pursuant to this title (including section 3501) is a necessary (but secondary) result of a significant policy change for purposes of section 202 of the joint resolution entitled "Increasing the statutory limit on the public debt" (Public Law 100-119), approved September 29, 1987.

Mr. DURENBERGER. Mr. President, I rise to submit for printing an amendment to Calendar Order No. 172 (H.J. Res. 280), a joint resolution increasing the statutory limit on the public debt.

For the information of my colleagues, the amendment I have submitted today includes consensus and high priority items agreed to in this body and in the Committee on Finance. The package I lay before the Senate for its consideration includes the reconciliation package of the Finance Committee, most of which was stripped out of H.R. 3299, with one significant addition and two deletions. The amendment does not contain the IRA provisions which passed the committee nor the extension of the telephone excise tax; it does include the McCain catastrophic care bill that was agreed to in the Senate by a 99- to -0 vote on October 6.

My objective in submitting this amendment is straightforward. I want the Senate to have an opportunity to consider a number of key issues before the year is completed, and this legislation represents the last opportunity to do so. The Senate has voted 99 to 0 to make the changes Senator MCCAIN has suggested in Medicare catastrophic; I think that since the will of the Senate has been established, we should go forward. The House and Senate are clearly on record in support of the repeal of section 89, dealing with employee health plans; that change should become law. The Finance Committee has reported a number of wise and necessary changes in Medicare as part of its reconciliation bill, along with numerous technical corrections and extensions of revenue provisions which are noncontroversial. These provisions should become law.

Mr. President, one of the major policy and budgetary savings items stripped from the bill was the physician payment reform developed by Senator ROCKEFELLER and myself. This is an extremely important change in our Medicare Program; without its passage, significant inequities and health care cost inflation will continue. I ask that a brief summary of this proposal be included at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DURENBERGER. Mr. President, for obvious reasons I have decided not to include the IRA expansion proposed by Senator BENTSEN in this package. Clearly that issue is linked to the capital gains reduction proposed by the President. Both issues deserve a full debate and consideration, but I do not believe it will occur on this bill.

There are certainly provisions in the Finance Committee's reconciliation package which I do not fully support. Earlier this month, I made a concerted effort to make very different changes in the Medicare catastrophic benefit than the McCain language contained in this amendment. However, I have tried to assemble a package that a majority of my colleagues can support, without setting off political alarms which would prolong debate on the debt limit bill. So I have elected not to pick and choose among the items in the Finance Committee bill, even though my own preferences as articulated here on the floor might differ from those adopted by this body. With the one exception I have discussed, and the related telephone excise tax financing component, the amendment I will offer includes the Finance Committee's package in its entirety.

For the information of my colleagues, the amendment goes beyond simple deficit neutrality: it would create a substantial savings. It has been estimated, using CBO cost figures, that the amendment would reduce the deficit by more than $2.5 billion.

On last Friday the 13th we were informed that matters stripped from reconciliation would quickly appear on an amendment to another bill. As each day passes it appears, Mr. President, that the majority leadership may have decided to engage in budgetary brinkmanship yet again. Rather than doing the Nation's business, we apparently are going to use the calendar and an impending fiscal crisis to frustrate overwhelming majorities in this body. That is why I have taken the floor today to make clear that I intend to offer this amendment to the debt limit bill, whenever it comes up.

I do not bear the responsibility for the timing difficulties that might be present to the leadership. This bill has been on the Calendar of the Senate for 91 days. I see absolutely no reason why six noncontroversial treaties and a resolution on the already protracted Eastern strike are more urgent or essential to the American people than catastrophic insurance reform, repeal of section 89, physician payment reform and a long list of other matters in my amendment.

Mr. President, these problems are not going away. I urge the majority leader to bring up the debt limit extension before the Senate without delay, so that the Senate can work its will, and America's seniors and other beneficiaries of Federal programs can get their checks on time.

[EXHIBIT 1]

SUMMARY OF PHYSICIAN PAYMENT REFORM PROPOSAL

Physician fees would be determined on the basis of a national fee schedule, rather than on the basis of the "reasonable charge" payment method, which reflects historical charges for a service in an area.

The amount to be paid for a particular service under the fee schedule would be determined by multiplying a budget-neutral "conversion factor" by the number of relative value units assigned to the procedure.

The number of relative value units for a service would reflect the physician work required for that service, as well as the overhead and malpractice costs attributable to that service.

The overhead and malpractice components of the fee schedule amount (approximately 46 percent) would be adjusted for geographic variations in these costs. The physician work component would not be adjusted for geographic differences in a physicians's cost of living.

Initially, the geographic units used for this adjustment would be the payment localities currently used by part B carriers. The Secretary would be permitted to apply different geographical units after conducting a study to determine the appropriateness of alternative approaches.

The transition to a fee schedule would begin in 1991, when the Secretary would eliminate customary charge limits, as well as speciality differentials. The Secretary would be required to adjust prevailing charge limits in order to assure that these changes do not increase or decrease total payments for physicians' services.

From 1992 through 1995, actual payment amounts would equal a blend of the adjusted prevailing charge and the fee schedule amount. The percentage of payment based upon the old payment system would decline from 80 percent to 20 percent during that period, while the percentage derived from

the new fee schedule would increase from 20 percent to 80 percent. In 1996, payment for a service would be based upon 100 percent of the fee schedule amount.

The current 5 percent differential between participating and nonparticipating physicians would be retained.

A 10 percent bonus payment would be implemented for all services provided in a health manpower shortage area (HMSA).

The current limits on actual charges or nonparticipating physicians would be replaced with limits based upon a specified percentage of the fee schedule amount. This percentage would decline from 125 percent in 1992 to 115 percent in 1995 and thereafter.

Physician fees would be updated annually in accordance with the update enacted by Congress, or in the absence of Congressional action, the update recommended by the Secretary. The Secretary could not cut fees, and the maximum increase he could recommend is MEI plus 2 percentage points.

In determining that update to recommend for a year, the Secretary would consider whether expenditures for physicians and related services in a previous fiscal year fell below or exceeded the volume performance standard for that fiscal year.

EXAMPLE

In May of 1991, the Secretary will recommend an update for physicians services for calendar year 1992. In making the recommendation, he will:

Determine the percentage by which actual expenditures for FY 1990 exceeded actual expenditures for FY 1989, and

Compare this percentage with the volume performance standard for FY 1990.

In recommending an update, the Secretary would also be required to consider changes in inflation, beneficiary population, and utilization.

The Secretary would be permitted to recommend differential updates, by procedure or group procedure.

The volume performance standard would be set by Congress. In the absence of Congressional action, it would equal actual expenditures for the preceding year, increased by 2 percentage points less than the sum of the increases in the MEI, the increase in the number of part B enrollees, and the 5-year average increase in services per beneficiary.

The Secretary would be authorized to recommend separate volume performance standards for surgical and other services, as well as to establish a mechanism under which physician groups could opt to have separate standards to measure their performance.

In addition to providing for reform of the physician payment system, the bill would also:

Mandate assignment on claims for all qualified Medicare beneficiaries; and

Provide enhanced funding for outcomes research and the development of practice guidelines for use in the Medicare Program.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a nomination hearing has been scheduled before the full Committee on Energy and Natural Resources.

The hearing will take place Friday, November 3, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to consider the nomination of Martin L. Allday to be a member of the Federal Energy Regulatory Commission.

For further information, please contact Nancy Blush at (202) 224-3606.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON CONSERVATION AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Conservation and Forestry of the Committee on Agriculture, Nutrition, and Forestry be authorized to hold a hearing on water quality protection during the session of the Senate on Tuesday, October 24, at 9 a.m., in room 332 of the Senate Russell Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Tuesday, October 24, 1989, at 2:30 p.m., to hold a hearing on fish inspection: pending legislation regarding mandatory seafood inspection programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSUMER AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Affairs of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Tuesday, October 24, 1989, at 10 a.m., to conduct an oversight hearing on discrimination in home mortgage lending.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PATENTS, TRADEMARKS, AND COPYRIGHTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, October 24, 1989, at 10 a.m., to hold an oversight hearing on copyright moral rights in films, television, and other performing arts.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on October 24, 1989, at 2:30 p.m., to receive testimony on S. 1046, a bill to study the Merrimack River in New Hampshire for inclusion in the Wild and Scenic Rivers System; S. 1302, the Big Thicket National Preserve Addition Act of 1989; S. 1524, a bill to study segments of the Pemigewasset River in New Hampshire for inclusion in the National Wild and Scenic Rivers System; S. 1559, a bill to expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park; S. 1594, a bill to revise the boundary of Gettysburg National Military Park; and H.R. 1472, an act to establish the Grand Island National Recreation Area in Michigan.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on October 24, 1989, at 2 p.m., to hold a hearing on the nomination of Jennifer Joy Wilson, of Virginia, to be Assistant Secretary of Commerce for Oceans and Atmosphere and Deputy Administrator of the National Oceanic and Atmospheric Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on October 24, 1989, at 10 a.m., to hold a hearing on the nomination of Jerry R. Curry, of Virginia, to be Administrator of the National Highway Traffic Safety Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

A YOUNG SOUTH CAROLINIAN RECALLS HURRICANE HUGO

● Mr. HOLLINGS. Mr. President, I rise to share with my colleagues a recollection in verse of the destruction wrought by Hurricane Hugo. This poem was written by a precocious young man, Stuart Edge, of Conway, SC. It is an eyewitness account not just of the destructive force of Hugo, but also of the powerful spirit of helping and sharing that has been kindled in people's hearts in the wake of this tragedy. I request that this poem be printed in the RECORD so that all Americans might have an opportunity to read it.

The poem follows:

HUGO

(By Stuart Edge)

It was late one night
or was it early one morning

whichever you want to say
it was the night that all of South Carolina tried
to wonder if they would live or die
if they would even get to see the light of day.
You see we were hit by a Hurricane
Hugo was his name
the one that caused so much sorrow
he's the one that caused so much pain
the one that caused so much destruction
I will never forget his name
he tore up and down the coast
the inland he didn't spare.
It's hard to say where he hurt the most
as his winds ripped through the state
even North Carolina couldn't escape Hugo's fate
he ripped apart houses, families and souls
he flooded the place with rubble
leaving waste everywhere he went.
You see he had so much power
he ripped apart the piers
and tore down our electric poles
he had us all in tears
and when it was over
when he was through
we found when it came to power
that we had none
for when it was light enough to see
all the trees he broke, twisted or bent
I also saw we had power
I found that I was wrong.
It's true
we didn't have lights, water or ice
but with the help of my neighbors, family and friends
I saw the power we have within
and as I speak of friends
I thought I had just a few
But after the storm
I found the number grew
I found myself some friends
that once I never knew.
I didn't have to ask for favors
for they asked what I needed
it was then I began to realize
with all I thought I had lost
how much I really gained
and I hope that all the Yankees
learn where the words
Southern hospitality came from
and yes we may be down right now
but we will stand once again
stronger than we ever were
thanks to all our friends.
So if you are ever in South Carolina
we would like for you to be our Guest
but give us a little time
to clean up Hugo's mess
we'll show you our Southern Pride
and thank you for your help
for with your help
I can tell
God knows
We are blessed.●

HISTORIC CHANGE IN POLAND, KEEN INTEREST IN AMERICA

● Mr. SIMON. Mr. President, the Senate soon will consider a package of assistance to the Solidarity-led Government of Poland.

This is potentially one of the most important national security issues that this body will confront in the 101st Congress.

Poland faces an historic opportunity to begin to move out of its Soviet orbit and toward democracy and free enterprise and a more constructive relationship with the West. We in this country and we in this body have the opportunity—and in some measure, the obligation—to strengthen Solidarity's hand in achieving this.

The United States has compelling security interests at stake in the Polish experiment. We also have strong cultural ties to Poland that make Poland's struggle all the more tangible to the American people.

The Chicago Sun-Times recently published a series of reports on the historic changes underway in Poland and on the special significance of these changes to millions of Polish-Americans. In the days to come, I will be submitting excerpts of these articles for the information of my colleagues.

I ask that the first of these articles be reprinted in the RECORD in its entirety.

The article follows:

THE POLAND CONNECTION; EERIE QUIETNESS, PATIENCE MARK THE WAIT FOR CHANGE

(By P.J. Bednarski)

WARSAW.—She was a frail old woman, standing alone in a passageway, her eyes downcast, her hands clasped in a knot. Before her was a withering houseplant she wanted to sell.

Around here, other men and women were selling sweaters, shoes, pantyhose, garlands of garlic.

At a place called Bazar Rozyckiego, Poles gather daily to sell a strange assortment of household goods, and food. Hundreds of them form single-file lines, many of them there to sell just one item—a water pipe fitting, a pair of tennis shoes, wristwatch batteries—that will give them extra money to survive in Poland.

Beyond the deprivation of Poland, what is eerily apparent to a visitor is a strange quietness, and the maddening patience of the peddlers in the market and the shoppers in the lines.

Poles now wait for their lives to change the same way—quietly, as Eastern Europe's first non-communist government, led by a Solidarity prime minister, attempts to rebuild a bankrupt economy and introduce political and social reforms without stirring public unrest.

"We have a small hope," said a woman standing in line for meat in the Polish capital. "Now, at least, we will have more truth."

Since Sept. 12, when Tadeusz Mazowiecki's new coalition government was approved, the world has watched to determine how—and if—a Soviet client state can turn its back on nearly 45 years of failed communism. The coalition includes Communists and other minor parties, all pledging to work with each other. For the nation's 37 million people, it is the closest they've come to independence since 1939.

The task for reforming Poland's economy is made more difficult by inflation, racing at nearly 200 percent, that makes the Polish currency, the zloty, almost worthless. At conversion rates that fluctuate wildly, a U.S. dollar—a "buck" in the most popular Polish parlance—will buy about 10,000 zloty

Add to that a disaffected work force, antiquated production methods and a plodding distribution system that make scarcity a bigger problem than affordability.

Top it off with a $39 billion foreign debt that in interest payments alone will siphon $5 billion from the economy this year.

Mazowiecki himself has joked wanly about Poland's problems. On the day he took office, fatigued from grueling 20 hour days spent fashioning the coalition, the 62-year-old Solidarity veteran and onetime political prisoner called for a recess of parliament, then returned 45 minutes later and said, "I am terribly sorry. This is the result of a few weeks' strenuous work. I have reached the same state as the Polish economy."

For all of these reasons, there isn't much visible excitement about the changes. The day the new government was affirmed, there were no celebrations, parades or demonstrations. And although Solidarity—born as a federation of labor unions in the Baltic port city of Gdansk a decade ago—still has the overwhelming support of the people, Poles know a quick fix isn't likely.

"It's easy to spoil something in 50 years," said one farmer, who along with his family in this deeply Roman Catholic nation believes Mazowiecki is a gift from God. "It is not as easy to mend."

In this climate of uncertainty, most Poles survive by enduring hardships that manifest themseleves most clearly in lines that form daily in front of food markets, bread stores, butcher shops, vodka stores and, generally, anywhere state trucks are seen unloading goods of any kind.

Shortly after dawn on a Saturday in Katowice, in the southern region of Poland, a line of men and women stood in a light rain patiently waiting for a bread store to open an hour later.

Not many miles away, a motorist who had risen at 5 a.m. was just halfway through a line for gasoline when the pumps ran dry. Eventually, he said, it would take him four gas stations and as many hours to fill his gas tank.

Gasoline lines are so bad here that motorists often leave their cars in lines at closed stations, anticipating a tanker's arrival in a day or so.

Unbelievable to a Westerner, lines of 100 people wait to buy packs of matches in Warsaw. On many days, at small kiosks that serve as newstands and variety stores, signs inform passersby there are no matches to be had.

But how could that be? In Poland's Tarnobrzeg region, a huge sulfur plant is one of the largest in the world and easily has the capacity to provide the major ingredient for matches.

"Yes, that's true," said a Communist Party official when asked to explain how even the most rudimentary manufacturing operations fail to produce. "We have sulfur, but that is just one of the ingredients in a match. We also need glue to make matches, and we don't have glue, and we don't have the money to buy it."

On Warsaw's Ludwika Warynskiego Street, a fashionable furniture outlet about the size of the Crate & Barrel store on North Michigan Avenue was crowded with customers and, seemingly, merchandise.

But a placard on the furniture read, *"Ekspozycja staka"*—For exhibition only." Another sign at the entrance listed just two types of cabinets that were in stock.

A customer nonetheless admired one of the display pieces and asked a clerk, "When can I buy it?"

"I don't know," she replied.

"When will you know?" he asked.

"I don't know," the clerk responded with nonchalance. "We have mostly 'permanent exhibitions.'"

At least the furniture store has that.

In stores that sell the staples of life, the shelves are often bare, or nearly so.

"You should not come here," an elderly woman lectured a reporter who arrived at a line outside a Warsaw meat shop with a photographer in tow.

"You shouldn't show people how we have to stand in line. It's embarrassing to the world. We are not living. We are dying a slow death."●

IMPEACHMENT OF JUDGE ALCEE L. HASTINGS

● Mr. LEVIN. Mr. President, I am satisfied that Judge Hastings acted jointly with William Borders in the furtherance of a corrupt scheme as set forth in article 17 and that he lied and fabricated documents. So I will vote to remove him from office.

I do not believe that it has been satisfactorily proven that Judge Hastings conspired to obtain a bribe by agreeing to cut the sentence of the Romanos. Therefore I will not vote to convict under article 1. What I am satisfied Judge Hastings did was to act, at least to the extent of timing his order for the return of the Romano property, to assist Borders in Borders' corrupt scheme to obtain money from the Romanos.

I cannot believe that the phone conversation of October 5 between Judge Hastings and Borders was really an innocent one about getting some letters written to help their friend Hemphill Pride. I believe it was a signal relative to Borders' scheme to obtain money from the Romanos.

Judge Hastings would have us believe that Borders had been pressing him for months to write these "letters for Hemp" and that he had been resisting. Yet, when Judge Hastings says, in his version of the October 5 conversation, that he has finally changed his mind and drafted the "letters for Hemp," Borders simply says "um hum."

Borders does not thank Judge Hastings for finally agreeing to what he had been asking for months. He does not say that this is going to be a big help to Hemphill Pride. He does not ask why Judge Hastings has changed his mind and Judge Hastings does not explain. In fact, there is no further discussion of the letters at all, except for Judge Hastings' statement that he will "send the stuff off" in the morning—which he did not do.

It is just not plausible that this conversation is the culmination of months of discussion in which Borders pressed Judge Hastings to write the letters and Judge Hastings resisted on the grounds that it would be a violation of the canons of judicial ethics.

Hemphill Pride denied that he knew anything about any letters being written for him and stated that he would not have had anything to do with such an effort.

In support of his innocent view of the October 5 phone conversation, Judge Hastings argues that he and Borders were obtaining letters for Hemp without Hemp's knowledge. Judge Hastings produced draft letters for Hemp that he claims he wrote for Hemp while on the bench conducting a trial—but which letters were never sent because he changed his mind.

I find that implausible because the letters are so perfect, given the circumstances under which they were handwritten, and those letters did not surface for Borders' trial, although, if they were authentic, they were also very exculpatory of his close friend Borders.

The letters surfaced just in time for Judge Hastings' trial. That strains credulity beyond acceptable limits.

As I supposed in my question to the House on Wednesday, I would have preferred if they had called Mr. Borders' attorney, John Shorter, as an additional witness relative to the authenticity of the "letters to Hemp." Nonetheless, I am satisfied on the basis of the evidence presented that these letters were not in fact authentic.

The innocent view of the October 5 conversation, the view that it really was about letters for Hemp, strains the imagination for another important reason.

During the October 5 conversation, Borders said that: First, he "heard from" Hemp; second, he had "talked to" Hemp; and third, Hemp "wrote some things down" for him. Hemp testified that none of those things had happened. That means that Borders was lying to Judge Hastings in that conversation if one credits Hemp's testimony—and just about everyone found Hemp's testimony convincing.

So one can argue that Judge Hastings could have written his "letters for Hemp" without Hemp's knowledge and still credit Hemp's testimony. But if one credits Hemp's testimony and also adopts Judge Hastings' innocent view of the October 5 conversation, it still means that Borders was lying to Judge Hastings in that conversation.

I have not heard any plausible explanation for why Borders might have lied to Judge Hastings about his contacts with Hemp.

For a number of reasons then, I conclude that the conversation of October 5 was not innocent.

My conclusion about Judge Hastings' participation in a corrupt scheme and fabrication of documents is reinforced by Judge Hastings' precipitous flight from Washington after Borders was arrested. I do not believe that his explanation of that departure, including his decision to go to BWI rather than National Airport, is credible and I believe this is further evidence of his guilt.

Because I believe Judge Hastings had a corrupt relationship with Borders, lied under oath and falsified documents for his criminal trial, I will vote to convict him under article 17 as well as vote to convict him of a number of counts of lying under oath and fabrication of documents.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Mr. Peter Galbraith, a member of the Foreign Relations Committee staff, to participate in a program in France, sponsored by the Institut Kurde from October 14 to 16, 1989.

The committee has determined that participation by Mr. Galbraith in the program in France, at the expense of the Institut Kurde, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Jonathan M. Winer, a member of the staff of Senator KERRY, to participate in a program in West Germany, sponsored by the Konrad Adenauer Stiftung, from November 12 to 18, 1989.

The committee has determined that participation by Mr. Winer in the program in West Germany, at the expense of the Konrad Adenauer Stiftung, is in the interest of the Senate and the United States.

The select committee has received a request for a detemination under rule 35 for Mr. Christopher McLean, a member of the staff of Senator EXON, to participate in a program in Tokyo, Japan, sponsored by the Association for International Investment, the Council for Better Investment and the KEIDANREN from October 9 to 14, 1989.

The committee has determined that participation by Mr. McLean in the program in Japan, at the expense of the KEIDANREN, is in the interest of the Senate and the United States.●

CELEBRATION OF PASTORAL CARE WEEK

● Mr. SIMON. Mr. President, across our Nation thousands of dedicated pastoral people of all faith groups labor in congregations and various other settings bringing spiritual healing to millions of Americans. These spiritual workers will be honored in the Celebration of Pastoral Care Week, October 23-29, 1989.

Pastoral Care Week was established in 1984, by the National Association of Catholic Chaplains. This observance celebrates pastoral care and affirms its mission, expresses appreciation to appropriate institutions, and provides continuing education, among other objectives.

The theme of this year's celebration will be "Pastoral Care: A Ministry of Healing." The primary focus will be the identification of what constitutes healing within their ministries and work.

I ask my colleagues to join me in commending these pastoral caregivers for their hard work and dedication to such worthy objectives.●

MINNESOTA'S LEADERSHIP ON EDUCATIONAL CHOICE

● Mr. DURENBERGER. Mr. President, I am very pleased to report that, last night and today, the Twin Cities of Minneapolis and St. Paul are hosting the second in a series of regional conferences on educational choice conducted by U.S. Secretary of Education Lauro Cavazos.

At these conferences, Governors, legislators, school board members, business leaders, teachers, parents, and students are discussing the role of choice in reinvigorating our schools.

Because Minnesota has taken the lead among States in using choice to improve education, the Twin Cities is an ideal place for Secretary Cavazos to host one of these regional meetings.

Thanks to the leadership being taken by Minnesota and other States, choice is rapidly becoming one of many tools that American educators, parents, and students are using to help our educational system meet the increasing challenges we face in a competitive world economy.

Mr. President, much of the credit for elevating choice on our national political agenda must also go to Secretary Cavazos and to his boss, President George Bush.

As the President declared earlier this year:

> It's time for a second great wave of educational reform. And, the single most promising of the ideas for reform is choice. Any school reform that can boast such success deserves our attention and effort.

We did not invent choice in education in Minnesota, Mr. President, but it is now widely accepted that Minnesota has taken choice further than any other State.

Beginning next fall, Minnesota students and parents can choose any public school in the State with exceptions allowed only to meet State and court-ordered desegregation guidelines. Students' home districts must release them if they wish to transfer. And, State funding flows with the student to his or her new district.

This program of open enrollment actually began 2 years ago and for its first 2 years both the sending and receiving districts had to approve the transfer.

But beginning this fall, school districts with more than 1,000 students lost the power to prevent students from leaving unless the movement has a negative impact on desegregation plans. And, beginning next school year, all districts lose the right to prevent students from leaving.

Already, the majority of students in Minnesota live in districts that have opted to participate in the State's open enrollment program on a voluntary basis. Last year, 435 students exercised that option—a number that has swelled this year to approximately 3,700.

Leading up to this revolutionary change in the rules, Minnesota took several other steps to expand parent and student choice in other ways.

Those steps began in 1985 when the State legislature began allowing 11th and 12th graders to attend colleges, universities and vocational schools at State expense.

About 6,000 students are now participating in this postsecondary options program. And, perhaps even more important, dozens of school districts have started or expanded new programs for students who might otherwise have left high school to attend a postsecondary institution.

A third choice option in Minnesota permits students ages 12-21 who have not succeeded in one public school to attend another public school outside their home district. Last year, about 1,400 students enrolled in this high school graduation incentives program, a number that has increased to approximately 1,800 this year. Many are former dropouts who were convinced to return to school, albeit in a different setting.

Finally, a fourth choice option provides year-round high school education in nontraditional settings. According to the Minnesota Department of Education, approximately 6,000 Minnesota students are attending school in these area learning centers in the 1989-90 school year.

Altogether, then, more than 15,000 Minnesota students are participating in one of these four choice programs this year.

That number, of course, does not count students who exercise choice within a school district. And it does not count an estimated 5,000 additional students who are in an older interdistrict transfer program that allows students to switch districts if both superintendents sign the form.

This program has been an option for a number of years in which special circumstances suggest that the child would benefit from a transfer. One such circumstance might occur when a family lives just inside the border of one school district, but the parents both work in another district in which it would make more sense to enroll the student.

While Minnesota is leading the way in expanding parent and student choice, Mr. President, dozens of other States are not far behind. At last count, approximately 30 States have either implemented some type of choice plan or had choice on their 1989 legislative agenda. Two of the latest States to join Minnesota in passing comprehensive public school choice programs were Nebraska and Arkansas.

Each of these plans and proposals is different. That is good. Our States and local school districts have always been laboratories for trying new and better ways of educating students.

So, we should encourage States and local school districts to experiment with choice. That is a job for an education President and an education secretary. At this week's regional conference on choice being held in Minneapolis and St. Paul, that is just what Secretary Cavasos is doing. I am pleased to support his efforts.●

A TRIBUTE TO BECKY PETTISS

● Mr. SHELBY. Mr. President, it is with a great deal of pleasure that I ask my colleagues in the Senate to join me in recognizing an outstanding Alabamian. Becky Pettiss of Mobile has been selected as an alternate for Alabama Teacher of the Year and will be honored here, in Washington, next week.

Becky is special because her selection for this award brings recognition not only to herself and to the Palmer Pillans Middle School, but to all the teachers of Alabama, who like her, are striving to make a difference.

Qualified, motivated, dedicated—these are the words that can best describe many of Alabama's teachers. I would like to thank Becky and the countless other teachers in Alabama and across the country for their efforts to improve the quality of education in this country.

Becky Pettiss has pursued excellence throughout her life. At age 15 Becky was stricken with a mysterious condition which caused her to be paralyzed. Despite her handicap, Becky received a bachelor of science degree and a masters degree in special education

from the University of South Alabama. Becky is currently working on her doctorate from that same university.

Becky has left a remarkable legacy in education that has helped to pave the way for the handicapped in Alabama. She was instrumental in developing a program in Mobile County that would enable special education students to attend classes with their peers in regular classes. Since that time, more than 300 students labeled as mentally retarded, learning disabled, and handicapped have been able to take physical education classes, electives, and many academic subjects. About one-third of the special education students in Mobile transfer to the Palmer Pillans Middle School because of this program.

In addition to her unparalleled career in education, Becky's commitment to her community extends into the realm of civic and charitable endeavors. The Junior League of Mobile, the advisory board of the office of development on accessibility and educational services for the handicapped at the University of South Alabama, the St. Paul's Episcopal Church, and the Southwest Regional Planning Commission are just a few organizations that have benefited from her participation.

Becky embodies many of the characteristics that identify our American spirit—faith, courage, and determination. She is a most fitting selection as an alternate for the Alabama Teacher of the Year Award and a source of great pride for the State of Alabama. I am honored to serve as one of her representatives in Washington.●

THE IMPEACHMENT OF JUDGE ALCEE L. HASTINGS—THE OPINION OF SENATOR SLADE GORTON

● Mr. GORTON. Mr. President, the impeachment trial of Federal District Judge Alcee L. Hastings of the southern district of Florida was not the case that some made it out to be. This case was not about complicated principles of law. It was not a case about the definition of double jeopardy. It was not about the staleness or ripeness of evidence. It was not about the degree of burden of proof. It was not about the effect of a jury decision. It was about facts, facts which are not substantially in dispute, though certainly some of the inferences to be taken from those facts were arguable.

I tried to deal with this case as a reasonable human being by the use of intelligence and experience. I tried to view this serious allegation in the way a normal person would, observing and inferring logical consequences from what was said and done.

Seventeen articles of impeachment were before the Senate. Yet, only one fundamental question needed to be answered "yes" or "no." That question: Was Judge Alceee Hastings a conscious participant in a proven plan or conspiracy by William Borders to extort $150,000 from two Mafia chieftains in return for unlawful interference in their sentencing proceedings?

Those who answered that question in the affirmative voted to convict Judge Hastings on most of the articles of impeachment, save No. XVI. For those who answered in the negative the answer to that question found Judge Hastings to be not guilty.

Of all of the witnesses who appeared before us, three were particularly important, as a matter of fact, were absolutely key to our decision. The judge, Alcee Hastings; the alleged coconspirator, William Borders a prominent District of Columbia lawyer and President Carter appointee who was president of the National Bar Association and a very sophisticated individual; and Hemphill Pride, who was Judge Hastings' best friend and a good friend of William Borders.

Mr. Borders and Mr. Pride were both long-time friends and associates of Judge Alcee Hastings. Transactions among these three were not arm's length transactions involving strangers. They were the dealings and relationships of close friends, allies and associates.

Hemphill Pride did not have firsthand knowledge of whether a conspiracy existed between Judge Hastings and Borders, nevertheless for all practical purposes Mr. Pride destroyed Judge Hastings' alibi that the transactions between Borders and Hastings were on his, that is to say, Pride's behalf. In spite of Pride's close friendship with the judge, in spite of the fact that they were godfathers of one another's children, Hemphill Pride destroyed the alibi presented to us by Judge Hastings on several of the central issues in this case.

In early 1982, in Columbia, SC, Judge Hastings in preparation for his upcoming criminal trial spoke with Hemphill Pride. Mr. Pride insisted on driving Judge Hastings to the airport after the interview. Both before the 11th circuit investigating committee and the Senate Impeachment Committee, Hemphill Pride testified that in the car the judge had said to him that it was important for him to remember that Hastings and Borders were trying to draft letters to help him, when in fact, Mr. Pride knew nothing about such letters, and wanted no such letters. Mr. Pride states:

> I don't take that, that Al was asking me to lie. But he certainly was trying to convince me that his efforts were legitimate.

Impeachment committee members questioned Mr. Pride on whether he thought Judge Hastings was trying to obtain his cooperation in presenting an alibi. Mr. Pride explained:

> [I]t didn't make me no difference in the car, I wanted him to understand, first of all, that if he did write them, he had no business writing them and if he did [not] write them and wanted to use them as an alibi, he couldn't count on me because I was't going to do that.

The other major witness, William Borders, refused to testify, not only at his own trial, when that was highly understandable as he had been caught with the money in hand, but long after his trial was over in other proceedings, resulting in his being jailed for contempt. Finally, his failure to testify before our Senate committee, though he was given immunity, also resulted in his imprisonment that continued until the end of these impeachment proceedings. William Borders refused to testify when, if honest testimony would have helped his friend, Judge Hastings would almost certainly have been exonerated. That honest testimony could have had no adverse consequences to Borders whatsoever, while his refusal to testify sent him back in jail. He is, of course, the only other person with firsthand knowledge of the key facts in this case.

I noted something else while Bill Borders was before the impeachment committee. Unlike the earlier proceedings, here, when Borders was called to testify, flanked by two lawyers, he asked the chairman, as we were going through the prescribed process which was inevitably leading to his going to jail, whether or not he could be permitted to make a statement. The chairman allowed him to make that statement. The statement was written in his own handwriting on lined legal length tablet paper. And unlike Judge Hasting's impassive answer when asked his opinion of Borders and what he had done to him, Bill Borders' statement was high with passion.

William Borders was bitter and angered at being in front of the impeachment committee. His frustration and his bitterness at having lost his career and his reputation were palpable and filled that room. And in the course of his statement, this man, who was a lawyer and a political figure and a former president of the National Bar Association, referred to his appearance before us as having been called as a witness for the prosecution.

> The committee has decided to call me even though they're allegedly not serving as a prosecutor but, rather, as the chief adjudicatory body. I had always thought that prosecution and judgment are two quite separate functions in the administration of any justice. Consequently, the two should not merge. Mr. Justice Frankfurter put the matter somewhat differently but toward the same point in *Johnson* v. *U.S.*, a 1948 case, wherein he declared that "there was no disputing the fact that counsel for each party are better able to determine the importance of witnesses, thus the natural result of preparation by both parties in the production by one side or the other of all vital witnesses."

However, this committee has apparently sought to ignore such a natural course of events in favor and embrace of a marriage between prosecution and judgment.

Now, a moment's reflection would have established that he was not called by the impeachment committee as a witness for the prosecution. He was called by a group which was attempting to determine the truth. But in his frame of reference, he was called as a prosecution witness. Why did he feel that way? Because the truth was that he and the judge were both partners of this conspiracy to extort. William Borders' testimony could only further implicate Judge Hastings' involvement in this conspiracy scheme, as it did.

In my opinion, Bill Borders did, in fact, testify as eloqently as if he had answered the questions which we put to him that went unanswered. He had no motivation whatsoever for refusing to testify other than to protect his friend, the judge, which so far he had successfully accomplished.

Some attach a certain deficiency to this case because it rests on circumstantial evidence. There is nothing inherently more or less believable when a case is circumstantial, than there is when it is presented through direct evidence. Circumstantial evidence simply requires a determination about matters of fact.

More than 3,000 pages of testimony and 5,000 documents make up the record of this case. But as in almost every other case, even one which took this long, the key facts are relatively few in number.

The House in its prosecution depended on six major incidents: First, the repeated, documented contacts between Borders and Judge Hastings at significant junctures of the Romano case; second, the detailed inside information about the events in the Romano case which Borders possessed and passed to Rico, a retired Federal Bureau of Investigations agent posing as Frank Romano—Rico/Romano—and Dredge, information which could only have come from Judge Hastings; third, Judge Hastings' appearance and conduct at the Fontainebleau Hotel on September 16; fourth, the "letters for Hemp" telephone conversation between Judge Hastings and Borders on October 5; fifth, the hurried issuance on October 6 of the order returning the Romanos' forfeited property, after months of inactivity in the Romano case, at a time shortly after Borders had promised that the order would issue; and sixth, Judge Hastings' flight on learning of Borders' arrest.

The first of these is the overwhelming coincidence of documented contacts between Judge Hastings and Bill Borders which always seemed to peak around proceedings in the Romano case in the judge's court room.

First, February 20, 1981, the Romano forfeiture hearing: Judge Hastings calls Borders at 7:30 a.m. in Washington, DC.

Second, March, Borders asks underworld figure and informant, William Dredge, about the Romanos' willingness to pay a bribe for Borders' help in their case before Judge Hastings.

Third, April 8, the Romano brief on forfeiture is submitted: Hastings calls Borders and leaves a message, and then calls again at 12:15 p.m. from a Miami courthouse pay phone to a pay phone in Washington, DC, charging it to his own home phone.

Fourth, May 4, the Romano forfeiture order is issued: Hastings calls Borders and leaves a message that it is "urgent"; the next day both Hastings and Borders are scheduled to leave at the same time from Miami to different destinations; this same day William Dredge calls Borders at Madeline Petty's at 12:07 a.m. May 7, Borders calls Dredge at 7:47 a.m.: Hastings leaves message for Borders at 4:30 p.m. May 10, Dredge is arrested: Borders calls Dredge.

Fifth, May 11, Hastings calls Borders' home at 6:27 a.m., then calls Borders at Petty's home at 6:28 a.m.; the Romano hearing is scheduled at 1 p.m. that afternoon and the forfeiture and sentencing is postponed.

Sixth, July 5, Dredge calls Borders at 6:36 p.m. and Hastings calls Borders at 8:53 p.m.; July 7, Hastings calls Borders at 11:56 a.m.; July 8, the Romano sentencing hearing results in both sentence and forfeiture.

Seventh, September 10, Dredge calls Borders at 1:29 p.m. about a meeting with Rico/Romano; Borders calls Hastings at 5:34 p.m. September 11, Hastings and Borders have the opportunity to meet at National Airport for 90 minutes. September 12, Rico/Romano meets Borders in Miami and Borders arranges for Hastings to be at the Fontainebleau on Wednesday the 16th at 8 p.m.; Borders meets Judge Hastings by showing up at the Sheraton Hotel in Washington, DC.

Eighth, September 16, dinner at the Fontainebleau Hotel; Hastings dines with Essie Thompson; Hastings supposedly looks for Borders to show at dinner; Borders is in Nevada at the Leonard/Hearns fight.

Ninth, September 19, Borders meets Rico/Romano who pays him a $25,000 down payment on the bribe. This meeting occurs in Miami at 10 a.m., and Borders tells Rico/Romano that the order will be issued in 10 days. October 2, Rico/Romano calls Borders at 3:11 p.m., asking "where's the order"; Borders calls Judge Hastings' chambers at 4:50 p.m. October 4, Rico calls Borders at 9:38 a.m.; Borders leaves message for Hastings at 4 p.m. October 5, Hastings tells his law clerk, Jeffrey Miller, to "finish the Romano order today"; Rico/Romano calls Borders at 4:22 p.m., Borders says that the order will go out "today or first thing in the morning"; Hastings calls Borders at 5:12 p.m., the "letters for Hemp" conversation.

Tenth, October 6, the Romano order is issued. October 7, Rico/Romano calls Borders who tells him that the order "went out yesterday."

This series of contacts is strong evidence, but I do not believe that it is clearly conclusive, taken alone. It could be a series of coincidences. Judge Hastings says that these contacts can be accounted for by National Bar Association activities, Hemphill Pride's release from prison and his efforts to regain admission to the bar, Borders' suit against President Reagan, and American Bar Association activities. I am unconvinced that these excuses explain away Judge Hastings incessant contacts with William Borders during this period, but I am not certain.

Next, the detailed knowledge William Borders had about the proceedings in the Romano case, without any identification that they came from anyone other than the judge himself, also constitute strong evidence, but I think not conclusive standing alone.

But then there is the incident at the Fontainebleau Hotel. This is where we get to that point at which each of us as human beings, whether a U.S. Senator, a lawyer, psychologist or whatever, has every bit as much ability to draw inferences as anyone else. On September 12, when Rico/Romano asked Borders for a "show of proof" to demonstrate that he really controlled the judge, Bill Borders instantly replied: Where and when do you want to see the judge? He did not check back and say we will try to do something tomorrow or anything of that sort. "Eight o'clock Wednesday evening at the Fontainebleu Hotel." And at 8 on Wednesday the judge and a date were at the Fontainebleu Hotel.

The judge told us he thought he would meet Bill Borders there. But if you were going to take a date and meet another friend with perhaps a date at the Fontainebleau Hotel, would you make a reservation for just two people? That is what Judge Hastings did. He made a reservation for two. And when he was seated at a table for four and the waiter took the other two place settings away, he said nothing. Would you say nothing, under those circumstances? He never told his date that they were meeting Borders and perhaps someone else there. Wouldn't you tell your date if you were meeting someone else, under circumstances like that?

In addition, the Fontainebleau Hotel was not a regular dinner place for the judge. The excuses which the judge makes for that appearance just do not wash. Judge Hastings says that Bor-

ders had contacted him 2 days before the scheduled meeting to reiterate that he, Borders, would be there; that he—Hastings—made reservations for two because that is all "I was going to pay for"; that Borders had stood him up before; and that he did not know Borders was going to the fight in Las Vegas, though Borders was an avid fight fan. These excuses are not true. He was lying.

Further, the October, 5, 1981, recorded telephone conversation between Judge Hastings and Bill Borders deals with letters for Hemphill Pride that did not exist and contact with Hemphill Pride that did not take place.

Hemphill Pride did not want any such letters. To the contrary of Borders' statement in this telephone conversation, Hemphill Pride had not talked to Borders about the subject; and to the contrary of Judge Hastings statement during the call, Mr. Pride did not talk to Judge Hastings about such letters that day or the next day or at any other time. Clearly, there were no communications on that subject between either of these conspirators and Hemphill Pride. This conversation is simply not about "letters for Hemp."

Finally, Judge Hastings abruptly left Washington, DC, after learning of Borders' arrest from Hemphill Pride: He failed to check out of his hotel or even to pick up his suit from the hotel cleaners; he took a $50 cab ride through Friday afternoon traffic to the Baltimore-Washington Airport [BWA], when he already had flight reservations at Washington National Airport; Judge Hastings flew to Fort Lauderdale as opposed to flying into Miami where his car was parked; and finally, switched from pay phone to pay phone at BWA, and requested one of those he was calling to do the same. Even so, standing alone, I would not take this panicked activity as anything near absolute proof of guilt.

But there is another inference, which individuals can and do take from the experiences of their lives every day. That inference is the relationship among a whole series of obviously related activities or actions. And, even though in isolation you might say that not one of these incidents would be sufficient for you to find guilt standing alone, they relate powerfully to one another. Two of them seem to me to be overwhelming, and several others simply add to the strength of those two, and, for that matter, to the others as well.

Obviously, I would have voted not guilty, if I were convinced simply that Bill Borders was engaged in rainmaking and name dropping without any knowledge on the part of the judge; all of us have been subject of name dropping.

Clearly, that is not the case, it seems to me, because in addition to the conspiracy that Borders entered with Rico/Romano, we have this long series of contacts between Bill Borders and Judge Hastings, including the telephone conversation to which I referred.

Many of us have questioned the wisdom of the FBI in not "letting the money run" or, in other words, seeing if the money went to Judge Hastings. We questioned whether the $125,000 could have been traced, although the original $25,000 downpayment was not traced. But we must deal with the evidence that we had, not what we would have liked to have had.

Finally, it has troubled me that, on the assumption that this conspiracy went on, why this judge would sell out for part of $150,000? That does not seem particularly rational.

There is an alternative explanation, though I believe that it is less likely than not. It seems to me at least conceivable that the judge, in his own mind, was not going to take any of this money, but was simply helping out a friend, and may very well have told Borders what he was going to do as far as court orders in the Romano case were concerned, and told him that if you can make some money out of that, fine, go ahead and do it; it was perfectly all right with the judge.

But even if one decides that that was the case, Judge Hastings is just as guilty as if he were going to take the $150,000 because he was a part of a conspiracy or a scheme to subvert the administration of justice. I myself do not think that is the case, but it is at least plausible that all of the money was going to stay with Borders.

I do not feel that it is possible to conclude that Judge Hastings did not know what was going on; that he did not go to the Fontainebleau Hotel in order to help Borders obtain the money; that the October 5 conversation was not on a subject other than Hemphill Pride, Under those circumstances, he is guilty as charged.

Even if one were to find that the two were working together, but that either they were working together only for the return of the forfeited goods or so that Borders, not Hastings, would get money, in my option, the judge would nevertheless be guilty of artice XVII and several of the perjury articles, but not of article I.

With respect to article XVI, the wiretap article, my conclusion is that, in all probability, the judge did let slip the fact of that investigation, but that he did so inadvertently or to be a "big" guy; he had nothing to gain; that no evil intention was present.

As a result, I determined long ago to vote not guilty on article XVI. But even if it was an inadvertent slip, in my opinion, it is still an appropriate gound for finding guilt on article XVII. That accumulative article, the thrust of which is that the judge engaged in activities which were inconsistent with remaining a Federal judge; the heart of this impeachment.

Based on the foregoing, I voted to impeach Judge Hastings from office on articles I, II, III, V, VII, VIII, IX, and XVII. I voted Judge Hastings not guilty on articles IV, VI, and XVI. The Senate did not vote on articles X to XV.●

POLES SPURN COMMUNIST RULE

● Mr. SIMON. Mr. President, the dramatic events that led the Communists to hand over many of the controls of government to Solidarity in Poland happened only months ago.

As the Senate debates assistance to the Solidarity-led Government of Poland, it is constructive to review these events, though many are still fresh in our minds, so we can appreciate how dramatic these changes have been, and how unique an opportunity this is for Poland's own people to move their nation away from the Soviet orbit and toward freedom.

I commend to my colleagues' attention an article, printed by the Chicago Sun-Times, as part of the paper's recent in depth coverage of the changes in Poland and their special significance to Chicago's Polish-Americans.

I ask that the article "Communists Admit the System Flopped," be printed in full.

The article follows:

[From the Chicago Sun-Times, Oct. 16, 1989]

COMMUNISTS ADMIT THE SYSTEM FLOPPED

(By P.J. Bednarski)

WARSAW.—Marian Orzechowski tells this story on himself:

"When I bring my paycheck home, and mine is much bigger than the average Pole's, the first thing my wife says is, 'How can we spend this money in a hurry?' And I know what she means because the money here loses its value so quickly, it's not worth as much in even a week."

Details of Orzechowski's personal finances would not be newsworthy except that he is one of Poland's top-ranking Communists, a parliamentary leader of the now-minority Poland United Workers Party.

Until last month when a Solidarity-inspired parliament and a coalition government led by a Solidarity prime minister took power, PUWP ran Poland, and is largely responsible for the financial morass that the country, even the Orzechowski family, is in.

Now, remarkably, Orzechowski and many more Communists are admitting that not only did their party fail, so did their system. They now vow to help Prime Minister Tadeusz Mazowiecki revive Poland; at the same time, they virtually damn the society they helped mold.

For Poles these Communist mea culpas and promises are hard to believe.

"I fully agree with them," Orzechowski said. "If I were in Solidarity's place, or in the place of many people in Polish society, I would find us hard to believe. Society has

no reason to trust this party, and we must admit this. None of our declarations should be trusted. But our declarations are promises."

It is incorrect to suggest that the Communists are not without power still. When a reporter showed Orzechowski the cover of a recent Newsweek that trumpeted, "The Party's Over" in Poland, Orzechowski sniffed, "Wishful thinking, perhaps."

Indeed, to many Poles the fact that the coalition government keeps the Communists in charge of the army and the police and the powerful presidency means that the government is still heavily checkmated by the Soviet system. Giving up those extremely powerful ministries was a political compromise by Solidarity.

But admissions of failure like Orzechowski's are part of the remarkable Alice in Wonderland quality of Polish life here that leaves even the ordinary Pole stunned. On television here in September, a news program profiled Jerzy Urban, once the government spokesman, and described him in black terms as a manipulator, a liar, a bad boss. Until recently he ran the state television system.

The week before, unbelievable to some, Jan Nowak-Jezioranski strode to the podium at the Sejm, the lower house of parliament, to speak. What was unprecedented was the fact that in 1945, Nowak-Jezioranski fled Poland and eventually became the Polish voice of Radio Free Europe.

"Throughout the whole postwar period, he was the state's No. 1 enemy," one newspaper said. "He called himself a committed enemy of communism. . . . To millions of Poles he was the head of a radio station to which one tuned to hear something other than official propaganda."

Since June, when Solidarity candidates won 99 out of 100 seats in the Senate, and 161 in the Sejm, the Communists have been humiliated in Poland. In August, when Solidarity legislators teamed with two minority parties that formerly sided with PUWP, the new coalition was about to force the resignation of Czeslaw Kiszczak, who briefly was the prime minister. He is now the minister of internal affairs, the man who runs the police in Poland.

But Kiszczak, like other Communists, has pledged to cooperate, and even tried to defuse one Polish fear head on. In a well-publicized newspaper article titled "A Coup Is Impossible," Kiszczak assured Poles that he wouldn't, even couldn't direct a military-led insurrection against the new regime.

"The roles have been reversed, really, said Orzechowski, "because until now, the ministries have 'taken care' of the opposition. We were fighting it [Solidarity] and watching it and so on. Now, we are declaring we want to provide the government with favorable conditions."

But it is odd, indeed, that Communists have to share power with Solidarity, the very party it tried to crush. For instance, the new labor minister is Solidarity's Jacek Kuron, the same person who organized labor strikes against the Communists previously, and the person who holds the dubious record as the most-arrested Solidarity leader.

Orzechowski sees all of this and knows that what Poles have done was something bigger than turning out the party in power. Poles are repudiating much of socialism itself, thumbing their noses at it. And right now, the Communists are taking the pasting, many believe, because it is the only political alternative open to them.

"Today, the relationship and attitude toward the party, and socialism, is really defined by the lines [for food]," Orzechowski said. "The lines are where the opinions were formed. Whoever doesn't want to accept the fact that those lines exist and that people say certain things about us in those lines is simply walking in the clouds. That is the basic issue." ●

HERBERT J. SOLOMON RECEIVES CARL ESENOFF AWARD

● Mr. WILSON. Mr. President, it is with great pleasure and admiration for my good friend and fellow Californian, Herbert J. Solomon, that I rise today to publicly commend his sterling civic philanthropy which has earned him the 1989 Carl Esenoff Award from Congregation Beth Israel in San Diego.

This coveted award for extraordinary community service will be given to Herb on November 12, 1989, and with it will be established the Herbert J. Solomon Endowment Fund for Jewish Education. Such honor is fitting tribute to this distinguished San Diegan whose life has been devoted to his family, his civic community, and his Jewish community.

In addition to a highly successful law practice as partner in the firm of Solomon, Ward, Seidenwurn & Smith, Herb Solomon has seen fit to give back a generous portion of that success to many civic and charitable orgainzations spanning the cultural, political, and religious sectors of his city. He was the youngest man to serve as president of the San Diego United Jewish Federation; he recently completed tenure as president of the San Diego Symphony Orchestra; he was vice president of the United Jewish Appeal; and the first chairman of San Diego's Housing Commission, to name but a few of his civic commitments.

It is my privilege to publically acclaim the exceptional civic service of Herbert Solomon in this Chamber of the U.S. Senate and to congratulate him on his receipt of the Carl Esenoff Award. He is a man of proud accomplishment, inspirational leadership, and uncommon devotion to his fellow man.●

RICO AND THE FIRST AMENDMENT

● Mr. HUMPHREY. Mr. President, the Senate Judiciary Committee will soon be taking action on S. 438, a bill to reform the Racketeer Influenced and Corrupt Organizations Act, known as RICO. While the RICO statute provides an important law enforcement tool for prosecuting organized crime racketeers, RICO's civil action provisions have increasingly been used for purposes having nothing to do with the law's original purpose. It has now reached the point where commonplace business disputes are being presented to the courts in the form of treble damage racketeering lawsuits, even though Congress never intended RICO to apply to such garden variety civil actions. S. 438 represents an important effort to reduce this abuse of RICO civil suits.

Perhaps the most alarming abuse of RICO has been the threat it is presenting to freedom of speech. There has recently been a rash of civil RICO actions being used to suppress demonstrations and public protests which have nothing at all to do with racketeering activity. Although these cases have largely involved protests by prolife demonstrators, it is clear that RICO's draconian remedies can just as readily be used to suppress demonstrations and protests on a wide range of political issues. It is now reported that antinuclear protesters may be the next targets of RICO lawsuits. The mere filing of these multimillion-dollar treble damage suits can have an enormous chilling effect on political protest groups, which simply do not have the financial and legal resources to cope with such suits.

Fortunately, diverse voices across the political spectrum have recognized that this abuse of RICO presents a significant threat to legitimate first amendment interests. Prolife organizations and the American Civil Liberties Union—which are at loggerheads on the abortion issue—are in firm agreement that civil RICO actions are being used to suppress freedom of expression.

The need for congressional action to remove the RICO threat to the first amendment was well stated in a recent article by Prof. Alan Dershowitz of Harvard Law School, a recognized expert on civil liberties issues. After demonstrating how RICO suits have been abused against prolife demonstrators, Professor Dershowitz wrote that,

> Congress can no longer remain silent in the face of this dangerous misapplication of a statute intended to address an entirely different sort of criminal conduct.

Mr. President, I ask that a copy of Professor Dershowtiz's article, entitled "Dangerous Misuse of RICO Statute?," be inserted in the RECORD.

I agree that Congress must act to stop this threat to free speech, and will be working with my colleagues in the Judiciary Committee to assure that S. 438 includes appropriate language to remove legitimate first amendment activity from the threat of RICO suits.

The article follows:

DANGEROUS MISUSE OF RICO STATUTE?

(By Alan Dershowitz)

Whatever else you can call anti-abortion zealots who invade abortion clinics in an effort to prevent what they regard as "murder," the one word that does not seem to fit is "racketeer".

Yet under a vaguely worded 1970 federal statute called the Racketeer Influenced and Corrupt Organizations Act, or "RICO," several courts have ruled that anti-abortion protesters who engage in civil disobedience may be declared "racketeers" and subjected to the Draconian provisions of the RICO law. Now the Supreme Court has given this approach an apparent green light.

When Congress enacted RICO, with its criminal as well as civil provisions, it was plainly targeting "organized crime" committed for profit by "mobsters." Indeed, the major purpose behind the statute's harsh financial penalties, including multiple damages and forfeiture of assets, was to try to take the profit out of organized crime. In 1981, the Supreme Court recognized that the declared purpose of Congress in enacting the RICO statute was "to seek the eradication of organized crime in the United States."

But it is not easy to define "organized crime," "mobster" or "racketeer" with precision, and what the late Justice Potter Stewart once said about pornography is applicable: "Perhaps I could never succeed in [defining it]. But I know it when I see it, and the activity involved in this case is not that."

Congress, unable to define the evil it had in mind, drafted the RICO statute overbroadly to assure that no "racketeers" or "mobsters" escaped its remedies. It used terms such as "enterprise," "pattern of racketeering activity" and "extortion."

Over the years, the terms took on definitions that expanded like an accordion to cover conduct never contemplated by the drafters of the original law. Corporations brought RICO suits against their competitors, including respected and legitimate businesses. Prosecutors used it to prosecute petty criminals, Wall Street traders and corrupt politicians.

By 1985, the Supreme Court acknowledged that RICO was being used primarily against defendants other than the archetypal intimidating mobster, and that it was evolving into something quite different from the original conception of its enactors. But the court declared itself helpless to remedy the situation, saying that any correction must lie with Congress.

But Congress has not acted, and the problem has gotten out of hand. Several months after the Supreme Court abdicated responsibility for narrowing the scope of RICO, the Northeast Women's Center, a Philadelphia abortion clinic, filed a RICO action against various anti-abortion activists who had unlawfully entered the center, strewn medical supplies on the floor, harassed patients, blocked access to rooms, and shoved some employees.

There can be no reasonable dispute that these violent actions were criminal in nature and were appropriately punishable under local trespass and assault statutes. They also caused damages to persons and property that could form the basis for a tort action. The real question—and one that had not been definitively decided by any federal court—was whether these criminal actions could be interpreted as "a pattern of racketeering" under the RICO statute.

Earlier this year, following a jury verdict against the anti-abortion activists, a panel of the U.S. Court of Appeals for the 3rd Circuit ruled that the RICO statute was fully applicable to disruptive conduct that is motivated by political beliefs rather than economic gain. It upheld the $108,000 verdict against the activists despite their claim that "civil disobedience" does not constitute racketeering.

More important than the monetary verdict, the decision invites other victims of politically motivated civil disobedience to unleash the nuclear weapon of RICO against their opponents, so as to bankrupt them and their adherents.

This decision set the stage for a possible confrontation before the Supreme Court. The defendants retained as their lawyer none other than the draftsman of the original RICO law, Professor G. Robert Blakey of Notre Dame Law School. If anyone could know what sort of conduct the law was supposed to cover and not cover, surely Mr. Blakey would. Mr. Blakey argued that under the court of appeals' extension of the law to politically motivated civil disobedience, "Martin Luther King was a racketeer when he trespassed on private property."

He might have added that antiwar protesters of the later 1960s who damaged draft offices and war-related businesses were also racketeers. And most pointedly, if abortion ever becomes illegal—and I fervently hope it won't—those women and men who will inevitably engage in unlawful civil disobedience to protest their lack of choice will see the seed they planted bear a poisonous fruit that will be used against them.

Last week the Supreme Court declined to review the Philadelphia case. It gave no reason, but it is fair to assume that it has once again placed the ball squarely in Congress' court. Congress can no longer remain silent in the face of this dangerous misapplication of a statute intended to address an entirely different sort of criminal conduct.●

ELIZABETH MURPHY BURNS

● Mr. HEINZ. Mr. President, in a few weeks Elizabeth Murphy Burns will step down as chairwoman of the Northeast-Midwest Institute's board of directors. I would like to commend her for a job well done.

I became acquainted with Liz in my capacity as cochairman of the Northeast-Midwest Senate Coalition. The Senate coalition and its House counterpart depend on the institute for timely, high quality research, analysis, and data on public policy issues important to the region.

The institute meets its mandate in large part because of Liz' skillful management. She has enhanced its stature and improved its finances. Today, the institute and its resources are the envy of policymakers from other parts of the country who seek to create similar entities for their parochial needs. Imitation, it seems, is indeed the sincerest form of flattery.

Liz' successful stewardship of the institute should come as no surprise. She owned and operated a radio station—KKAR-AM, in Pomona, CA—when she was 25. Today she is president of Morgan Murphy Stations, which owns radio and television stations in Wisconsin, Washington, and North Dakota. She is vice president and joint owner of the Evening Telegram Co., Morgan Murphy Stations' parent company.

Liz' innovative spirit is, apparently, a family characteristic. Her grandfather left Boston for Superior, WI, in the 1890's. Her father established the first FM radio station in the country, in Hibbing, MN. Liz has established production houses—RW Video, Inc. and RXL Communications—specializing in business communications and the production and distribution of broadcast-quality, satellite-delivered secondary educational programs designed primarily for rural school districts.

Mr. President, Liz has done an outstanding job during her tenure as chairwoman of the institute's board of directors. Fortunately, she will remain on the board so that we may continue to tap her savvy, wit, and indefatigable commitment to promoting economic revitalization in the Nation's industrial heartland.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar items 438, 439, 440, 441, 442, 443, 444, 445, and 446.

I further ask unanimous consent that the nominees be confirmed en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Conrad K. Cyr, of Maine, to be U.S. circuit judge for the first circuit.

Marvin J. Garbis, of Maryland, to be U.S. district judge for the District of Maryland.

Rebecca Beach Smith, of Virginia, to be U.S. district judge for the Eastern District of Virginia.

DEPARTMENT OF JUSTICE

Stuart M. Gerson, of Maryland, to be an Assistant Attorney General.

Jeffrey R. Howard, of New Hampshire, to be U.S. attorney for the District of New Hampshire for the term of 4 years.

Michael D. McKay, of Washington, to be U.S. attorney for the Western District of Washington for the term of 4 years.

Robert W. Genzman, of Florida, to be U.S. attorney for the Middle District of Florida for the term of 4 years.

Herbert M. Rutherford III, of the District of Columbia, to be U.S. Marshal for the District of Columbia for the term of 4 years.

Gene McNary, of Missouri, to be Commissioner of Immigration and Naturalization.

STATEMENT ON THE NOMINATION OF CONRAD K. CYR

Mr. MITCHELL. Mr. President, if I might digress for a moment to comment briefly on Calendar item No. 438, that is the nomination of Conrad K.

Cyr to be U.S. circuit judge for the First Circuit. Conrad Cyr is currently a U.S. district judge in Maine and replaced me in that position when I resigned to enter the Senate.

Judge Cyr is an outstanding person and jurist. He has served the people of Maine as a district court judge since assuming that position 8 years ago and will, I am confident, be a valuable addition to the U.S. Circuit Court for the First Circuit, which includes Maine as well as other New England States and Puerto Rico.

STATEMENT ON THE NOMINATION OF REBECCA BEACH SMITH

Mr. WARNER. Mr. President, I rise today to support the confirmation of Rebecca Beach Smith, President Bush's nominee to fill the vacancy on the U.S. District Court for the Eastern District of Virginia.

I recommended Magistrate Smith to fill the vacancy because of her strong educational and professional background. She graduated Phi Beta Kappa from the College of William and Mary and received a master's degree in city planning and public administration from the University of Virginia where she ranked first in her class.

She also graduated at the head of her class at the Marshall-Wythe School of Law at the College of William and Mary. She is a former clerk to U.S. District Judge J. Clavitt Clarke, Jr., in the Eastern District of Virginia and she is a former member of the Norfolk, VA, law firm of Wilcox & Savage.

She has served as a U.S. magistrate since 1985.

Mr. President, in the 11 years that I have been providing Presidents with recommendations for the Federal judiciary, I have never experienced a candidate who garnered wider or more genuine endorsements from his or her professional peers.

Mr. President, this vacancy in the Eastern District of Virginia was created over 2 years ago. I urge my fellow colleagues to act swiftly and positively on this nomination.

STATEMENTS ON THE NOMINATION OF GENE MC NARY

Mr. SIMPSON. Mr. President, I rise in strong support of the nomination of Gene McNary to be Commissioner of the Immigration and Naturalization Service.

Mr. McNary has had a long record of public service of which he should be very proud. He has been a county prosecutor, a public defender, and then for 16 years he held the elective office of county executive for St. Louis County in Missouri. He successfully handled some of those tough, "no excuses allowed" local issues such as roads, schools, health services, and housing. He was reelected to his position more than once, and I believe that that demonstrates the approval his constituents had of the job he did.

When Mr. McNary was nominated to be Commissioner, there was criticism of him by some that he lacked a proper "sensitivity to minorities and to the poor." However, Mr. McNary thoroughly rebutted those charges in his hearing before the Senate Judiciary Committee on October 3, 1989. He testified for a significant portion of the afternoon, and thoughtfully answered the questions of many of my colleagues on the committee. He also remained in the hearing room after completing his testimony to listen to the concerns of some private interest groups about the role of the Immigration Service. I believe that his willingness to listen will be carried forward when he becomes Commissioner.

Mr. McNary comes to us with high marks as an administrator of large bureaucracies. His skills will certainly be put to the full test at the INS. A recent story in the Washington Post alleges that mismanagement is rampant at that agency. I do not know whether that story is accurate, but I must say clearly that I have the very highest regard, and admiration for the former Commissioner, Alan Nelson, and I have been impressed with most of the INS personnel that I have personally dealt with.

The difficulty of the task will be matched by the quality of the person we now assign that task. The INS faces continual insurmountable challenges in law enforcement and service provision, and I believe most INS employees do their job exceedingly well. I am pleased, however, that we will finally have a permanent Commissioner in place, in order that the INS may resume running on all cylinders.

Mr. President, I congratulate Gene McNary on his nomination and his challenging job ahead, and I urge my colleagues to vote to confirm him.

Mr. KENNEDY. Mr. President, among the most important nominations which the committee will consider for the Justice Department in this administration is the Commissioner of the Immigration and Naturalization Service. What was a backwater office of the Department only a few years ago is today its second largest agency—second only to the FBI—with an annual budget of over $1 billion and over 14,000 employees.

The INS has an important and complex mission involving both enforcement of our Nation's immigration laws and public service for those seeking to come here.

Given these immense responsibilities, I believe the Judiciary Committee had a special obligation to review carefully the President's nominee for INS Commissioner, Mr. Gene McNary. And I believe the committee has executed this duty responsibly.

The Senate received the nomination on August 4. The Judiciary Committee conducted a full investigation of the nominee. We held a complete hearing on October 3, in which public witnesses presented their views of the nominee. And any lingering questions on the part of committee members were promptly addressed in writing by the nominee.

Mr. President, I will support this nomination, and it is my expectation that Gene McNary will be confirmed. It is my hope that he will go on to become a successful Commissioner, and, as chairman of the Subcommittee on Immigration and Refugee Affairs, I plan to support him in any way I can, once he is confirmed.

However, my support for his nomination is not without some reservation. Mr. McNary has a record of good management during his 14 years as county executive of St. Louis County, and, prior to that, as both a prosecutor for the county and a public defender. These skills are a definite asset for any Commissioner.

But, at the same time, many point to incidents over his political career which suggest an insensitivity to minorities and the disadvantaged. Given that the weight of INS activity tends to be most keenly evident in America's minority communities, I believe these allegations must be taken seriously.

Some of the more serious criticisms of Mr. McNary concern his handling of public housing and school desegregation issues, as well as his actions on community health and mass transit.

Mr. McNary responded to these during his confirmation hearing, and, in a letter to me, he agreed to consult regularly with representatives of affected communities in carrying out the INS mission. Mr. President, I would request that this letter be included in the RECORD.

The commitments which Mr. McNary has made on the record to the Judiciary Committee are ones of consequence. While I remain troubled by elements of his past, I intend to look to the future.

There is much work to be done at the Immigration Service, and it is time to move on. I look forward to working with Mr. McNary in the days ahead.

CLAYTON, MO, *September 26, 1989.*

Hon. TED KENNEDY,
Chairman, Subcommittee on Immigration and Refugee Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I wanted to take this opportunity to thank you for taking the time to meet with me last week regarding my nomination as Commissioner of the Immigration and Naturalization Service (INS) currently pending before the Judiciary Committee.

I share your concern that the views, however divergent, of those groups affected by the work of the INS be given full consideration by the Commissioner in fashioning the policies of the Service. Toward that end

I want to assure you, as I have other Members of the Committee, that if confirmed by the Senate, I will seek out and solicit on a regular basis input from those groups interested in our immigration process. I look forward to meeting with them and with interested Members of Congress as soon as possible after taking office.

Again, I want to thank you for your time and I look forward to developing an ongoing working relationship with the Members of your Subcommittee and other Members of Congress concerned with immigration.

Sincerely,

GENE MCNARY.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

EXTENSION OF EXPIRATION DATE OF DEFENSE PRODUCTION ACT

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3281.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 3281) entitled "An Act to extend the expiration date of the Defense Production Act of 1950," with the following amendments: In lieu of the matter inserted by said amendment, insert:

SECTION 1. EXTENSION OF FLOOD INSURANCE PROGRAM.

(a) IN GENERAL.—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026(a) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(b) EMERGENCY IMPLEMENTATION.—Section 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4056(a)) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(c) STRUCTURES ON LAND SUBJECT TO IMMINENT COLLAPSE OR SUBSIDENCE.—Section 1306(c)(7) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(7)) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(d) LIMITATION ON PREMIUMS.—Section 541(d) of the Housing and Community Development Act of 1987 (42 U.S.C. 4015 note) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

SEC. 2. FLOOD ZONE DATA.

Section 1360(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(a)) is amended by striking paragraph (2) and inserting the following:

"(2) establish or update flood-risk zone data in all such areas, and make estimates with respect to the rates of probable flood caused loss for the various flood risk zones for each of these areas until the date specified in section 1319.".

SEC. 3. REPORT ON FEDERAL ASSUMPTION OF FLOOD INSURANCE PROGRAM.

Section 1340(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4071(b)) is amended to read as follows:

"(b) Upon making the determination referred to in subsection (a), the Director shall make a report to the Congress and, at the same time, to the private insurance companies participating in the National Flood Insurance Program pursuant to section 1310 of this Act. Such report shall—

"(1) state the reason for such determinations,

"(2) be supported by pertinent findings,

"(3) indicate the extent to which it is anticipated that the insurance industry will be utilized in providing flood insurance coverage under the program, and

"(4) contain such recommendations as the Director deems advisable.

The Director shall not implement the program of flood insurance authorized under chapter I through the facilities of the Federal Government until 9 months after the date of submission of the report under this subsection unless it would be impossible to continue to effectively carry out the National Flood Insurance Program operations during this time.".

SEC. 4. AUTHORIZATION FOR STUDIES.

Section 1376(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4127(c)) is amended by striking the first sentence and inserting the following: "There are authorized to be appropriated for studies under this title not to exceed $36,283,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991".

SEC. 5. SEA LEVEL RISE STUDY.

The Director of the Federal Emergency Management Agency shall conduct a study to determine the impact of relative sea level rise on the flood insurance rate maps. This study shall also project the economic losses associated with estimated sea level rise and aggregate such data for the United States as a whole and by region. The Director shall report the results of this study to the Congress not later than one year after the date of enactment of this Act. Funds for such study shall be made available from amounts appropriated under section 1376(c) of the National Flood Insurance Act of 1968.

SEC. 6. CRIME INSURANCE PROGRAM.

(a) EXTENSION OF GENERAL AUTHORITY.—Section 1201(b) of the National Housing Act (12 U.S.C. 1749bbb(b)) is amended by striking "September 30, 1989" in the matter preceding paragraph (1) and inserting "September 30, 1991".

(b) CONTINUATION OF EXISTING CONTRACTS.—Section 1201(b)(1) of the National Housing Act (12 U.S.C. 1749bbb(b)(1) is amended by striking "September 30, 1990" and inserting "September 30, 1991".

(c) LIMITATION ON PREMIUMS.—Section 542(c) of the Housing and Community Development Act of 1987 (12 U.S.C. 1749bbb-10c note) is amended—

(1) by striking "September 30, 1989" and inserting "September 30, 1991"; and

(2) by striking "5 percent" and inserting "15 percent".

(d) ANNUAL REPORT.—Section 1234 of the National Housing Act (12 U.S.C. 1749bbb-10d) is amended to read as follows:

REPORTS ON OPERATIONS

"SEC. 1234. The Director shall report to the Congress not less than annually on the program authorized by this title. The reports under this section shall include—

"(1) full and complete information on the operations and activities of the Director under this part, together with such recommendations with respect thereto as the Director may deem appropriate; and

"(2) a detailed justification of any increase in premium rates charged for crime insurance made during the period for which the report is submitted.".

SEC. 7. EXTENSION OF RURAL HOUSING AUTHORITIES.

(a) RENTAL HOUSING LOAN AUTHORITY.—Section 515(b)(4) of the Housing Act of 1949 is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

(b) RURAL AREA CLASSIFICATION.—Section 520 of the Housing Act of 1949 is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

(c) MUTUAL AND SELF-HELP HOUSING GRANT AND LOAN AUTHORITY.—Section 523(f) of the Housing Act of 1949 is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

(d) RURAL RENTAL REHABILITATION DEMONSTRATION.—Section 311(d) of the Housing and Community Development Act of 1987 is amended by striking "September 30, 1989" and inserting "September 30, 1990".

SEC. 8. EXTENSION OF EMERGENCY HOMEOWNERSHIP COUNSELING PROGRAM.

Section 106(c)(9) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(9)) is amended by striking "September 30, 1989" and inserting "September 30, 1990".

SEC. 9. DEFENSE PRODUCTION ACT OF 1950.

(a) EXTENSION OF PROGRAMS.—The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "September 30, 1989" and inserting "August 10, 1990".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 711(a)(4) of the Defense Production Act of 1950 (50 U.S.C. 2161(a)(4)) is amended to read as follows:

"(4)(A) There are authorized to be appropriated for fiscal year 1990, not to exceed $50,000,000 to carry out the provisions of section 303.

"(B) The aggregate amount of loans, guarantees, purchase agreements, and other actions under section 301, 302, and 303 during fiscal year 1990 may not exceed $50,000,000.".

Amend the title so as to read: "An Act to reauthorize the National Flood Insurance Program, the Federal Crime Insurance Program, and the Defense Production Act of 1950 to extend certain housing programs, and for other purposes.".

Mr. MOYNIHAN. Mr. President, I rise in support of this bill. In particular I would like to address one section of the bill—the reauthorization of the Federal Crime Insurance Program. This program, which began in 1971, makes available robbery and burglary insurance for residents and small businesses in high crime areas. This program makes a vital contribution to our national efforts to help victims of crime and to stabilize our inner cities. A recent study found that 65 percent of all serious crime recorded by the New York Police Department from 1984 to 1987 were burglaries of commercial establishments. The growing epidemic of crack cocaine has made robbery and burglary of residences and small businesses an all too common occurrence in our inner cities. This program provides some protection for those who confront this scourge on a daily basis. In New York alone this program assists over 15,000

residents and small businesses in high crime areas.

Without crime insurance many small businesses could not afford to stay in the inner cities. These small businesses need this program to stay in business because without crime insurance their suppliers will not give them credit. Those businesses would not only be forced to take their services from the area, but also badly needed jobs. Crime insurance is one essential step in the process of reviving the Nation's much neglected inner cities.

Unfortunately, Mr. President, this program was inappropriately deleted from a Senate bill passed on September 25. As a result, the program was forced to briefly expire. Despite efforts of some Members to terminate the Crime Insurance Program, I have worked hard to keep it alive. It is important for us to support those who live and work in our Nation's inner cities.

I do, however, have some serious questions regarding the administration of the program. I believe the Federal Crime Insurance Program is both vital, but also poorly managed. I intend to call for a GAO study to investigate the efficiency of the program's administration and FEMA's efforts to market the program to those who most require it.

Mr. President, I urge my colleagues to support this bill.

Mr. GARN. Mr. President, I rise in support of H.R. 3281, a bill to extend the authorities of the Defense Production Act, the National Flood Insurance Program, and several other programs. The Senate has previously enacted extensions of DPA and flood insurance but both programs lapsed because the House tied their passage to extension of the Federal Crime Insurance Program.

I strongly favored Senate passage of both DPA and flood insurance, because both are critical pieces of legislation that address important national priorities. Our defense preparedness requires that the Government be able to give priority to defense contracts and allocate critical materials, authorities provided by the DPA. Flood insurance is a requirement for any person or business seeking disaster relief assistance. With the program lapsed, some victims of Hurricane Hugo would be unable to qualify for Federal help.

The Senate did not pass a crime insurance extension and I believe this was appropriate because the program does not address an issue of national consequence. It is a small but very costly program that deals with crime problems of a limited number of major metropolitan areas. This matter is more appropriately addressed by State government without any Federal role.

Despite my reservations about crime insurance, however, I am now willing to support this bill because of changes that the House made to its crime insurance proposal. The 5-percent statutory limit on annual premium increases in current law has been increased to 15 percent. I would have favored no cap on premium increases, but this change makes a good start at reducing the Federal subsidy in the program.

The bill also calls for a detailed annual report on the program and a justification for increases in premium rates. I favor closer scrutiny of this costly program because I believe it will not stand the light of day. However, nothing in this reporting requirement represents an impediment to FEMA imposing the full 15-percent annual premium increase allowed by this amendment. There should be little difficulty in justifying a 15-percent premium increase for a program whose operating expenses and debt service costs are double its program level.

With these changes, a reasonable compromise has been struck on crime insurance. I urge adoption of the bill by the Senate so that the DPA and flood insurance programs can be put back into operation.

Mr. MITCHELL. Mr. President, I move that the Senate concur in the House amendments to the Senate amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the majority leader.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHILD NUTRITION AND WIC REAUTHORIZATION ACT

Mr. MITCHELL. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 24.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 24) to amend the Child Nutrition Act of 1966 and the National School Lunch Act to revise and extend certain authorities contained in such acts, and for other purposes.

(The amendment of the House is printed in the RECORD of October 10, 1989, beginning at page H6847.)

THE CHILD NUTRITION AND WIC REAUTHORIZATION ACT OF 1989

Mr. DOLE. Mr. President, I rise in support of the Child Nutrition and WIC Reauthorization Act of 1989. This legislation revises and extends the Special Supplemental Food Program for Women, Infants, and Children [WIC], the Summer Food Service Program [SFSP], the Commodity Distribution Program, State Administrative Expenses, and the Nutrition Education and Training Program. The bill also makes a number of changes in those child nutrition programs which are permanently authorized.

Our commitment to meeting the nutrition needs of the Nation's children has grown dramatically during my 20 years in the Senate. Study after study has shown that this investment in our children's well-being has paid off.

The measure before us today will strengthen our ability to help our children get a healthy, productive start on life. Among the bill's most important provisions are those which make improvements to the WIC Program, one of our most successful domestic assistance programs. H.R. 24 increases WIC's coordination with other public assistance programs, including AFDC, Medicaid, and food stamps. It also encourages breastfeeding promotion activities and simplifies procedures for determining the funding of administrative and nutrition services.

Another major provision of the bill would reopen the Summer Food Service Program to private nonprofit sponsors. Congress in 1981 prohibited these organizations from participating in the program, largely out of concern over documented abuses by certain large vendors. We have since discovered that, in certain parts of the country, once private sponsors pulled out of the program they were not replaced by public sponsors. As a result, many eligible children do not have access to the program, especially in rural areas.

In order to protect SFSP from the kinds of abuses that occurred in the 1970's, both the Senate and House bills included a number of safeguards, such as restrictions on the number of sites and children served by private sponsors. However, the preliminary results of a demonstration program on private sponsors which the Department of Agriculture recently released strongly suggest that even stronger protections are needed. Consequently, we have included additional requirements and restrictions in this legislation. I believe these safeguards will protect the integrity of the program, although Congress will clearly want to exercise diligent oversight in this area.

Other important provisions relating to meal service programs would encourage the startup and expansion of school breakfast programs, reduce the administrative burden on school food service personnel, and improve the coordination of Federal and State auditing of school lunch claims.

Mr. President, in closing I want to thank the distinguished chairman of the Agriculture Committee, the distinguished chairman of the Nutrition Subcommittee, Senator LUGAR, Senator BOSCHWITZ, Senator MCCONNELL, Senator COCHRAN, their staffs, and

other members of the Senate Agriculture Committee for their hard work on this legislation. This measure represents a truly bipartisan consensus on what needs to be done to ensure the continued effectiveness of our child nutrition programs. I urge my colleagues to give it their support.

THE CHILD NUTRITION REAUTHORIZATION

Mr. LUGAR. Mr. President, I rise today to urge my colleagues to support H.R. 24, the Child Nutrition and WIC Reauthorization Act of 1989.

This bill reauthorizes the Special Supplemental Food Program for Women, Infants, and Children, the Summer Food Service Program, State Administrative Expenses, the Commodity Distribution Program, and the Nutrition Education and Training Program through fiscal year 1994.

The Senate passed its version of child nutrition reauthorization on August 3, following passage of the House version on July 31. The House and Senate versions of the bill were similar and the bill before the Senate today represents an informal compromise worked out between the members of the Senate Agriculture Committee and the House Education and Labor Committee and the House Agriculture Committee.

This bill improves implementation of the Summer Food Service Program which funds meals and snacks for children in needy areas when school is not in session. In effect the program replaces the School Lunch Program during the summer.

Several years ago, private nonprofit organizations were prevented from participating in the program due to documented fraud and abuse by some private nonprofits. This prohibition left gaps in the areas covered by the summer program, and thus poor children went unserved. This bill attempts to close those gaps by allowing established community organizations that serve manageable numbers of poor children and meet other requirements to participate in the program. We have included a number of new safeguards recommended by the Department of Agriculture to prevent past abuses from reoccurring.

Another important provision in the bill provides startup funds for the initiation of school breakfast programs. This bill provides competitive grants to State educational agencies to provide needy schools with financial assistance to cover nonrecurring expenses in starting a breakfast program.

The bill authorizes a $3 million program for Federal monitoring of State and local operations to ensure that local school food authorities comply with the provisions of the National School Lunch Act. It requires USDA to issue final regulations to implement this provision by July 1, 1990. Of course, until the regulations are final, USDA could continue to monitor compliance under its existing authority.

The bill contains several other important provisions which: improve the Child Care Food Program; provide for demonstration projects to provide food to children under age 6 in emergency shelters; attempt to reduce the paperwork requirements of child nutrition programs; authorize a food service management institute to train food service professionals involved with the school lunch, breakfast, and other appropriate nutrition programs; require the Secretary of Agriculture and the Secretary of Health and Human Services to jointly develop nutrition guidance for child nutrition to provide generalized guidance regarding food served in appropriate child nutrition programs; and, make important reforms in the State Administrative Expenses Program.

The bill also makes several important improvements and other changes in the WIC Program including: providing WIC applicants and adult participants with information regarding other assistance programs including child support enforcement; creating a new WIC administrative funding approach; and, creating new WIC cost containment requirements that should make WIC available to thousands of new recipients at no additional cost to the taxpayer.

Mr. President, this is a bipartisan bill which was cosponsored by every member of the Agriculture Committee. I again urge its adoption.

Mr. LEAHY. Mr. President, to aid the Department in interpreting this bill, I am submitting, along with Senator LUGAR, the ranking minority member, Senator HARKIN, chairman of the Nutrition Subcommittee, Senator DOLE, and Senator BOSCHWITZ, ranking minority member of that subcommittee, a detailed analysis of the final bill which begins with the next paragraph.

First, the bill reauthorizes five important child nutrition programs until the end of fiscal year 1994. The programs are: WIC [Special Supplemental Food Program for Women, Infants, and Children], the Summer Food Service Program, the Nutrition Education and Training [NET] Program, the Commodity Distribution Program, and the State Administrative Expense [SAE] Program.

These program extensions will help millions of children: 24 million children a year participate in the School Lunch Program, 3.7 million participate in the School Breakfast Program, 1.3 million in the Child Care Food Program, 1.8 million in WIC, and 1.6 million in the Summer Food Program.

A major component of this bill is the expansion of the Summer Food Program for low-income children.

Only 13 percent of low-income children receiving free or reduced price school lunches during the regular school year are now served by the Summer Food Program.

Thus, 10 million low-income children are not reached by the Summer Food Service Program. In 15 rural States only 5.7 percent of these low-income children are reached by the Summer Food Program.

The bill will allow private nonprofit organizations to receive a Federal reimbursement for meals served to low-income children if they serve no more than 2,500 children per day. In urban areas the same sponsor could not serve meals at more than 5 sites, whereas in rural areas not more than 20 sites could be served by the same sponsor. In either case, not more than 300 children by the same sponsor. In either case, not more than 300 children could be served at any single site unless the Secretary provided a waiver for up to 500 children.

This legislation will greatly help in rural areas where public schools traditionally close for the summer.

The newly eligible private nonprofit groups—such as churches, YMCA's, boys clubs and girls clubs—will be able to operate in areas where public groups—schools, local, city or county governments—are not operating a Summer Food Program.

In addition to expanding the Summer Food Program, the bill also will increase the number of children reached by the School Breakfast Program.

Almost 90 percent of school breakfast participants are children from low-income families. However, over 50,000 schools that participate in the School Lunch Program do not participate in the Breakfast Program. The school participation rates are especially low in rural areas.

These participation rates are low in many rural States. Under current law, schools might not be able to afford the extra expenses involved in initiating a Breakfast Program. This bill will help schools throughout the Nation by helping with these costs.

The bill will provide financial assistance to cover nonrecurring expenses in starting a Breakfast Program.

The costs of expanding both the Summer Food and School Breakfast Programs, over the next 3 years, is about $50 million. However, spending this money on needy poor children is money well spent.

Also, the bill requires State educational agencies to provide information to school boards and public officials about the benefits of the School Breakfast Program and to target additional informational efforts each year on selected nonparticipating schools.

The bill also extends a one-State pilot project, in Minnesota, designed to test the nutritional need to provide an additional meal or snack to chil-

dren staying in day care homes 8 hours a day or longer. This will give Congress an opportunity to get more information to determine the appropriateness of expanding this program nationwide.

The bill also expands the Family Day Care Food Program by financially assisting Child Care Food Program sponsors to expand operations into low income or rural areas.

In addition, the bill requires the Secretaries of Agriculture and Health and Human Services to jointly develop nutrition guidance for the Child Nutrition Programs. The Secretary of Agriculture shall follow such guidance in administering the Child Nutrition Programs.

Breastfeeding rates among WIC participants are low. However, studies have shown that breastfeeding counseling and followup efforts can increase the percentage of women that breastfeed. The testimony and support of Minda Lazarov, special projects director of the Tennessee WIC Program, were extremely helpful in bringing these matters to the attention of the committee.

The then Surgeon General of the United States, Mr. C. Everett Koop, advised the committee that the immunologic advantages of human milk, which "cannot be duplicated in infant formula," make it clear that effective breastfeeding promotion programs represent a "decisive way to promote child health in the United States."

To remedy this situation, the bill requires additional efforts on the part of States to conduct breastfeeding promotion efforts. The bill earmarks an additional $8 million per year to be used by States, based on the number of pregnant and breastfeeding women in each State in relation to the national numbers, to encourage breastfeeding among WIC participants.

Other provisions in the bill correct WIC administrative funding and cash-flow problems.

At the request of the National Association of WIC Directors, the bill provides for Federal funding for State medical assessments and other nutrition services and administrative costs on a per participant basis. The current system provides that States can use 20 percent of Federal funds for nutrition and medical services and administrative costs. However, the rebate systems have enabled more participants to be served so that the 20 percent available for administration and nutrition services has decreased on a per capita basis. The guaranteed per participants administrative funding provided in this bill corrects this imbalance.

Also, the bill further improves the system of allocating funds during the course of each year which should alleviate cash-flow problems experienced by some States.

I would now like to discuss in more detail some of the provisions of this bill.

SUMMER FOOD PROGRAM EXPANSION

The Summer Food Program is designed to continue the School Lunch Program for poor children during summer months when school is not in session. Many poor children are not reached by the program. In rural areas few summer feeding programs are found. According to a recent USDA study, only 13 percent of the low-income children receiving free or reduced price school lunches during the regular school year are now reached by the Summer Food Program.

One reason for such low participation is that only schools, public agencies, or residential camps are permitted to operate the program. All charitable and voluntary organizations—such as churches, most community action agencies, YMCA's, boys clubs and girls clubs, settlement houses, and the like—are excluded.

Thus, the types of organizations that often operate emergency food pantries or soup kitchens, and that are frequently praised for their voluntary efforts, are prohibited from operating summer food programs.

These organizations are precluded from operating a Summer Food Program even if no school or public entity in the area is willing to run the program, and poor children are left unserved as a result.

When the program was initially established, such organizations were allowed to operate summer food service programs. In some large cities, nonprofit organizations developed that served tens of thousands of children. They would contract with private food service companies for the delivery of the meals. Collusive arrangements and kickbacks between private sponsors and private vendors became a serious problem in some high volume urban areas.

Some of these organizations were not ongoing community organizations, but rather were operations whose sole function was to operate summer food programs. In a number of these large urban operations, fraud, and abuse were found.

The need to clean up this problem came at the same time as the large budget reductions of 1981. The result was that all agencies other than public agencies, schools, and residential camps were removed from the program.

The hope at the time was that this action would not disadvantage low-income children, and that schools and public agencies would step forward to fill the gaps in areas where nonprofit, charitable, or religious organizations had been carrying the load.

In some areas, this did occur. But in many other areas, it did not. The greatest gaps were created in rural areas.

USDA's recent study of the program found that in 39 States, the number of low-income children served through the Summer Food Program is less than 15 percent of the number of low-income children who receive free and reduced-price school meals during the regular school year.

For the Nation as a whole, the number of low-income children served in the Summer Food Program equals just 13 percent of the number of children receiving free or reduced-price school meals.

The study found especially low participation in rural areas. The study found that while 31 percent of the children with incomes below 175 percent of the poverty line lived in rural areas, only around 20 percent of the children in the Summer Food Program were residents of rural areas. Rural areas were thus found to be heavily underrepresented in the summer program.

This is further shown by an examination of the participation levels in rural States. In every 1 of the 15 most rural States, the number of children served by the summer program was less than 15 percent of the number of children receiving free or reduced-price school lunches during the school year.

In fact, in 12 of the 15 most rural States, the number of children reached in the Summer Food Program equaled less than 10 percent of the number of children receiving free or reduced-price school meals.

Participation is also especially low in certain regions of the country. In the Plains and Rocky Mountain States and in the Southwest, the Summer Food Service Program reaches fewer than 6 percent of the children receiving free and reduced-price school meals during the school year. In the Midwest, the figure is 11.5 percent. In the West and the Southeast, it is 13 percent. In the Mid-Atlantic region, it stands at 16 percent.

In a report issued last year on rural health and nutritional issues, "Patterns of Risk: The Nutritional Status of the Rural Poor," Public Voice for Food and Health Policy examined barriers to participation in the Summer Food Program in rural areas. Part of the study consisted of surveying State child nutrition directors throughout the country.

The survey results showed that the restrictions barring all private charitable organizations from operating summer food programs resulted in "a built-in bias against rural areas. Prior to 1981, rural programs in particular depended heavily on community action agencies and nonprofit organizations such as churches, boys' clubs

and girls' clubs to sponsor summer food programs."

The Public Voice study found that rural schools are generally reluctant to open during summer months in order to run the program. "The costs of opening [rural school] facilities and preparing food onside with only limited reimbursement are disproportionately prohibitive in rural areas," the study reported. "Overhead and indirect costs of the program including lighting and kitchen facilities are spread over many fewer participants in rural areas. Without nonprofit sponsors, the program is not cost effective in rural areas and the children suffer as a result."

The study also noted an anomaly: Those community action agencies that are officially part of the county government are permitted to operate the program—while those community action agencies that have independent nonprofit status are not, even though they generally have comparable resources and staff.

The Public Voice study observed:

> The prohibition of private nonprofit organizations from the Summer Feeding Program contrasts sharply with their involvement in other critical government programs. For example, private nonprofit organizations deliver commodities through the Temporary Emergency Food Assistance Program and are praised for these efforts.

Helping to fill these gaps is desirable—we were faced with the problem of how to do this and not invite back the abuses of the 1970's. Indeed, a preliminary report from the Department of Agriculture on the five-State pilot project allowing private nonprofit organizations to set up summer food service programs, authorized under the Hunger Prevention Act of 1988, raised additional concerns which I will discuss later.

In an attempt to limit the potential for abuses, while responding to the needs of America's children, the bill addresses the point that nearly all the serious fraud or abuse cases from the 1970's included private nonprofits that contracted with commercial vendors for the preparation and delivery of meals. Usually, these were nonprofit organizations serving meals to large numbers of children at large numbers of feeding sites in urban areas. On some occasions, these were organizations that performed no other community function except serving summer meals.

The USDA inspector general repeatedly noted in the late 1970's that such organizations were the source of the program's serious problems. In a semiannual report to Congress in November 1979, the inspector general stated:

> We remain convinced that the greatest obstacle to the successful operation of the Summer Feeding Program is the continued participation of large private sponsor/private vendor combinations. They are the source of the worst abuses, and we continue to support legislation to remove them.

In the next semiannual report to Congress, in May 1980, the inspector general reiterated this point.

> It is our view that schools and sponsors that prepare meals on site have had the best programs, and large private sponsors using meals prepared by a commercial vendor have had the most problems.

This information was used in drafting the bill. To help fill the gaps in the program and reach more poor children, certain nonprofit charitable organizations would be permitted to operate the program, while all others would remain barred. The organizations allowed into the program would be those that meet all of the following criteria.

They must either prepare their own meals or obain meals from a school or other public facility. No nonprofits obtaining meals from private vendors would be allowed in the program.

They are small-scale operations only, serving no more than 2,500 children per day.

They serve only areas in which neither a school nor a public agency will operate a program.

They are organizations that provide ongoing, year-round services for children or families.

They demonstrate adequate management and fiscal capacity and exercise full control and authority over the operation of the program at all sites under their sponsorship. In addition, the bill requires that they meet all applicable State and local health, safety, and sanitation standards.

I would note that under this legislation nonprofit organizations can serve an average of up to 2,500 children a day at no more than 5 urban sites, or an average of up to 2,500 children a day at no more than 20 rural sites. It is conceivable, of course, that a nonprofit organization could operate in an area along the demarcation line between a rural and an urban area. The legislation is not intended to limit such an organization either to the urban area only or to the rural area only. However, the organization would be limited to 2,500 children for its urban and rural sites combined.

On top of these safeguards, the final bill contains additional safeguards based on the Department's preliminary report on the five States where private nonprofits operated summer food service programs last summer.

The Department was concerned that public sponsors (school food authorities or local governments) currently administering these programs would drop out of the program if private nonprofits could immediately take over running the programs.

The bill addresses this matter by not allowing public sponsors to immediately transfer the program over to private sponsors, if the public entity stopped operating the program just so that the private nonprofits could take over.

The bill thus imposes a 1-year delay on that type of transfer. This should be adequate because public sponsors typically would not want to ignore the needs of these poor children for the 1-year period.

Of course, if the public sponsor dropped out of the program for an unrelated reason, then private nonprofits meeting all other requirements could operate a summer food service program in that area. For example, private nonprofit sponsors would not have to wait 1 year if a school operating a summer program were to close down to achieve consolidation with another school district.

The bill also requires the Secretary to carefully monitor compliance by private nonprofits with program rules. This is no idle monitoring requirement. The bill provides around $800,000 to the Department annually, on top of funds already available for monitoring, to carry out these intensified monitoring programs as well as provide training and technical assistance.

It is also important that these newly eligible sponsors are kept informed about program requirements. The bill requires States to implement ongoing training and technical assistance programs for private nonprofits.

The Department should terminate the participation of private nonprofit organizations under regulatory procedures where fraud is involved or that continue to commit serious program violations after they are advised of such violations but fail to promptly correct the deficiencies.

One critical point needs to be made regarding these heightened monitoring and enforcement activities. Many of the Summer Food Service Program requirements are technical. Terminating program participation for these types of violations serves no useful purpose. Before beginning program operations, newly eligible private nonprofit sponsors should attend available State-sponsored training and States should direct technical assistance efforts, as necessary, toward nonprofit private sponsors.

For example, suppose a site prepares meals for 80 children. Suppose 73 show up on time, but seven of the children show up 10 minutes late. If the site serves those eligible children on their arrival neither the State nor the Department should consider this a serious violation of program rules.

Similarly, serving eligible children a few minutes early should not be considered a serious program violation. Also, if a few eligible children take some of their lunch across the street, technically away from the site, the State and the Department should not try to disqualify the sponsor for that

reason. In this same vein, violations of some of the technical provisions of subpart D, of part 225, of current program regulations should not lead to disqualification efforts—although the problems would need to be corrected.

In addition, since many new nonprofit sponsors might not know all the program requirements, States should notify sponsors of any serious violations and give them a short time to fix the problem before taking actions to end their participation.

As a final protection, current law contains tough criminal penalties for program fraud. These criminal prosecutions should be aggressively pursued where appropriate.

The bill allows the Department to implement these new summer food service provisions without benefit of prior public comment. This was allowed because of the need to get program rules in place sufficiently ahead of the summer so that new sponsors could begin operations this fiscal year. Subsequent public input should, of course, be solicited regarding such interim final rules so that public input is taken into account for rule changes to be issued well in advance of the summer of 1991.

NATIONAL YOUTH SPORTS PROGRAM

The bill also assists the National Youth Sports Program in support of their community outreach activities for disadvantaged youth, including their drug counselling and rehabilitation efforts, these excellent provisions were included at the request of the Senator from Arkansas [Mr. PRYOR] and I appreciate his leadership on this issue.

Colleges and universities participating in the National Youth Sports Program [NYSP] currently are eligible to serve as feeding sites under the Summer Food Service Program for Children [SFSP].

However, section 13(c) of the National School Lunch Act, 42 U.S.C. 1761(c), limits payments under the SFSP to meals served during the months of May through September, "except in the case of service institutions that operate food service programs for children on school vacation at any time under a continuous school calendar."

Last year, Congress appropriated funds under the Anti-Drug Abuse Act of 1988 for enhanced NYSP drug abuse prevention activities. As part of that effort participating institutions will operate extended NYSP projects during the 1989-90 academic year, in order to maintain contact with the at-risk disadvantaged youths served by the program. The bill amends the Summer Food Service Program to allow these institutions to provide meals to NYSP participants during the extended program. Note that these provisions are effective October 1, 1989, because this special program will operate year-round beginning this year.

SCHOOL BREAKFAST

Regarding the School Breakfast Program, I would like to point out that the bill requires States to provide information to school boards and public officials concerning the benefits and availability of the program.

Twice in recent years, Congress raised school breakfast reimbursement rates to improve the nutritional quality of breakfasts and to facilitate the entry of more schools into the program. We are not sure, however, if many school boards are aware of these enhanced reimbursement rates for which some schools can qualify.

We also are not sure if these school boards and officials know of other relevant changes made in the Breakfast Program in recent years, such as the "offer versus serve" provision. And we want to be sure information is provided on the availability of startup funds in some States, which are also provided for under this bill. Finally, it is important that local school and other relevant public officials know of the benefits of the program to children.

Accordingly, we are directing that State agencies provide this information.

In addition, the bill requires special targeted informational efforts on the Breakfast Program to be conducted by each State and aimed at schools in which a substantial portion of the children are eligible for free or reduced-price meals. Each year, the State would select schools that would be targeted that year for information efforts.

CHILD CARE FOOD PROGRAM

The legislation also contains several improvements in the Child Care Food Program. It provides for family and group day care sponsoring organizations to receive startup funds to expand into low-income or rural areas. It also directs the Secretary to conduct demonstration projects to test innovative approaches to removing or reducing barriers to participation faced by family or group day care homes that operate in low-income areas or that serve primarily low-income children.

As part of these demonstration projects, the Secretary may test the effect of providing grant funds to sponsoring organizations. The Secretary may also test the effect of modifying the administrative reimbursement rate structure for sponsoring organizations. The goal, which it is the purpose of the projects to attain, is to find approaches that result in the program reaching more low-income children who receive care in group or family day care homes.

The difficulty with conducting a pilot project in which the administrative reimbursement rate is reduced is that these sponsors would be adversely affected. Using grant money to conduct these pilot projects would avoid this problem.

IOWA AND KENTUCKY DEMONSTRATION PROJECTS

The bill requires the Secretary to carry out two statewide demonstration projects to assist the Congress in drafting future legislation. We want to examine ways to encourage private for-profit organizations, providing nonresidential day care, to care for more low-income children and provide them with nutritious meals.

The need for day care services is fast becoming a National crisis. Low-income families, needing day care for their children so they can work, all too often can not find affordable day care in the areas in which they live.

The language was specifically drafted with two States in mind—Kentucky and Iowa. It is these two States that will provide us with useful information so that the Congress can determine if additional legislation is needed.

EXTENSION OF MINNESOTA PROJECT

The bill also extends, until September 30, 1990, the Minnesota demonstration project providing an extra meal or snack for children in day care homes who stay more than 8 hours. Senator BOSCHWITZ originally added this project to the Hunger Prevention Act of 1988, in full committee markup, and urged this extension to obtain additional information on the effectiveness of this program in improving the nutritional health of the affected children.

I should point out that this provision is effective October 1, 1989. The bill was drafted that way to ensure that no gap in coverage occurs regarding the Federal reimbursement of these day care providers.

HOMELESS PRESCHOOLERS FEEDING PROGRAM

The U.S. Catholic Conference suggested an excellent idea to feed hungry homeless children under the age of 6. Many people worked on this proposal. I would like to especially thank Walt Grazer of the office of domestic social development, U.S. Catholic Conference, for his work on this issue.

The bill language requiring the Secretary to establish these projects was written with the Philadelphia site specifically in mind. The nutritional development services of the archdiocese of Philadelphia is already a school food authority providing over 50 schools with various combinations of school lunch, school breakfast, and special milk programs.

They are also an umbrella sponsor for the Child Care Food Program serving about 20 day care centers with breakfast, lunch, and snacks. In addition, they are a sponsor of the Summer Food Service Program.

The Catholic archdiocese of Philadelphia estimates that "there are

more than 1,000 homeless children in shelters in Philadelphia alone." Indeed, they have operated the summer food program for homeless children at six shelter sites—feeding hundreds of children wholesome breakfasts and lunches.

Projects operated under this bill will be able to provide homeless children under age 6 with wholesome meals year-round. Under the bill language, during the summer months each project would be eligible to participate in the Summer Food Service Program. Each such participating project would receive reimbursements for meals served under the Summer Food Service Program. During nonsummer months they would then participate in this new homeless project. We expect Philadelphia will be the site of the first of these projects.

TRAINING, TECHNICAL ASSISTANCE, AND FOOD SERVICE MANAGEMENT INSTITUTE

The bill authorizes funds so that the Secretary can conduct training activities and provide technical assistance to improve the skills of school food service personnel. In addition, a food service management institute is authorized to conduct research, provide training and technical assistance, develop training materials, and establish a national network of trained professionals, to help school food service personnel and others in providing nutritious and healthy meals to children.

I would like to emphasize one point regarding this section of the bill. It is extremely important that this training and assistance, as provided by the Secretary or the institute, be readily available to food service personnel throughout the Nation.

For example, it would be very inefficient to require most of the school food service personnel to travel great distances to the institute to receive this training. Training some food personnel in distant States to train others in their State would be much more efficient and reach many more persons. These comments also apply to the training efforts of the Secretary.

I would like to recognize the important efforts of Senator COCHRAN regarding the creation of this Food Service Management Institute.

SCHOOL LUNCH PROGRAM COMPLIANCE

I would like to briefly discuss one aspect of the "unified accountability system" language regarding the school lunch program.

The bill requires notice and comment rulemaking, and the issuance of final regulations by July 1, 1990, to establish such a unified system. However, the bill also authorizes $3 million for each of fiscal years 1990 through 1994 to carry out these unified compliance and accountability activities.

Thus, for most if not all of fiscal year 1990 the Department would be authorized to conduct such compliance and accountability activities under current authorities and regulations.

NUTRITION GUIDANCE FOR CHILD NUTRITION PROGRAMS

I would like to mention a couple of points regarding the new requirement for nutrition guidance. Under the bill language either the Secretary of Agriculture or the Secretary of Health and Human Services would be able to veto any proposed nutrition guidance. The bill requires that this guidance be jointly issued.

The second point is that we certainly do not intend that this guidance be quantitative in nature. Nor do we intend that specific standards will be published.

The committee recognizes that child nutrition programs provide essential nutrients for many of America's growing children. This practical, qualitative nutrition guidance for child nutrition programs will assist food service professionals in providing sound nutrition to America's children. This provision is not intended to authorize onerous regulatory requirements for child nutrition programs.

NUTRITION EDUCATION AND TRAINING

The bill increases the authorization levels for the Nutrition Education and Training Program, to up to $25 million per year starting in 1993. One problem with the current language is that small States receive very little of this money under the formula.

This bill addresses that concern by increasing the minimum State grant based on the total amount appropriated in each year. Thus, smaller States that would have only received the minimum $50,000 grant could receive up to, at a minimum, $75,000 per year. The actual minimum amount is based on the total amount appropriated in any given year.

WIC

I would also like to comment on several of the WIC provisions in the bill. These provisions are designed to foster more effective program operation.

First, I would like to note that under current law and regulations, States may set WIC income eligibility limits no lower than the poverty level and no higher than 185 percent of the poverty line. Nothing in the bill is intended to change this requirement. The small number of States that now elect to set WIC income levels below 185 percent of the poverty line could continue to do so.

Second, the bill calls for WIC State agencies to provide local agencies with materials—a simple fact-sheet should suffice—showing the State's Medicaid income limits for pregnant women, infants, and children up to age 5. Individuals applying or being recertified for WIC would be given information about Medicaid and referred to that program if they aren't currently participating in Medicaid and appear to have income below the Medicaid income limits.

I would emphasize that we do not intend that USDA require WIC agencies to document in each WIC participant's or applicant's file whether a Medicaid referral was made. That would be unduly burdensome. I would also note that the Medicaid screening-and-referral system now in place in WIC agencies in North Carolina provides one model for implementation of this provision.

Similarly, the bill calls for providing information on food stamps, child support enforcement availability, and AFDC to adult participants and applicants. This could be achieved simply by providing, at a certification interview, a fact sheet with basic program information and the address and phone number of the local welfare office. It is not intended that WIC caseworkers be required to discuss these programs or to document in case-files whether these factsheets were distributed. Simply having the fact sheets and handing them out at the interview would be sufficient. This applies as well to the provision of the bill calling for the provision of information about other sources of food assistance to people who come to the local WIC agency to apply but cannot be served because the local program is not certifying people in their priority category.

I would also note that the provision governing followup of pregnant women who miss appointments applies at the initial certification interview only. It does not apply to missed appointments for picking up WIC vouchers or to missed appointments at recertification. The purpose is to help get pregnant women into WIC as early as possible in their pregnancies, since medical research shows that WIC has a much greater effect on pregnancy outcomes when WIC begins to be provided at least 6 months before delivery.

The bill contains a number of provisions dealing with administrative funding for WIC. The bill provides for administrative funds to be based on a national average per participant grant that is adjusted for inflation each year. The bill uses the fiscal year 1987 national average per participant grant as a base. Use of that year as the base provides approximately another $8 million to States to operate the program.

The bill also provides for an $8 million breast-feeding promotion program which I mentioned earlier. I want to discuss one change we made from the original Senate version. Some States were concerned that the Senate language would lead to an unintended result.

They raised the point that some States already had aggressive and ef-

fective breast-feeding promotion programs for WIC mothers, sometimes using State or local resources. We agree that current effective and significant efforts should be considered in this equation. Requiring these States to spend their proportionate share of the newly earmarked $8 million, on top of current breast-feeding promotion efforts, could be cost inefficient.

Under the final bill, States that demonstrate that their promotion program is at a level commensurate with their proportionate share of $8 million may use any "additional" funds for nutrition education.

Another part of the administrative cost provisions in the bill allows the Secretary to reduce a State's administrative funding if the State's per participant expenditure on administrative costs for a fiscal year is more than 15-percent higher, without good cause, than its established per participant grant for the year. This adjustment would be made only after the fiscal year is over.

Still another administrative cost provision allows States to convert food to administrative dollars in certain circumstances. The bill also notes that there are circumstances in which the Secretary could disallow such conversion of funds. These are circumstances in which a State increases its participation level through measures not in the nutritional interest of participants.

An example would be an across-the-board reduction in the quantities of WIC foods provided to participants without regard to whether some participants need the full WIC food package.

The bill also directs the Department to report on the appropriateness of foods eligible for purchase in the WIC program. In particular, the bill directs that the Department address how effectively WIC provides foods that are rich in protein, calcium, and iron. Those are foods of particular importance to the WIC target population. The bill also directs that the Department address nutrient density in its review of the appropriateness of WIC foods.

Furthermore, the Department should report on the appropriateness of WIC foods in providing nutrients for which the target population is most vulnerable to deficiencies. Evidence has been presented to the committee that thiamin, riboflavin, vitamin A, and zinc are nutrients that the target populations tend to consume at levels well below the recommended dietary allowance.

The Department should look beyond the nutrient composition of foods. Bioavailability of such nutrients should be considered. For example, testimony delivered to the committee indicates that bioavailability may greatly influence the effectiveness of various options for addressing the iron needs of the WIC population.

Furthermore, testimony delivered to the committee indicates that the delivery of bioavailable nutrients through the WIC commodity package may be enhanced through the addition to certain commodities such as lean red meats. The Department should address these issues in its report.

On another front, the bill calls for USDA to review how different nutritional risk factors affect the assignment of WIC applicants to the program's priority categories. Recently, concern has been expressed by some State and local agencies about USDA guidance in this area, especially as it affects pregnant women. This review of the relationship between nutrition risk and the priority system should examine the need for greater consistency in program eligibility determinations. Accordingly, the bill calls for the department to conduct a review of this matter.

The review would be conducted during the coming 2 years. Consultation with State and local WIC directors and public health experts is called for in the conduct of the review.

The results of the review are to be presented to Congress. We would note that this is not intended to require USDA to present us with a formal, printed study.

We would expect that the results of the review would be used by USDA in developing any policy changes on this matter. We would expect that any changes the Department did make would be made after comment and rulemaking.

Finally, the bill includes an important provision designed to strengthen infant formula cost containment systems so that they result in even larger savings than at present.

I would note that the States have done an oustanding job in the past 2 years in implementing cost containment systems. I wish program administrators in other programs would do as well. Now we have an opportunity to build on the States' efforts and take a logical next step.

The provision has two parts. First, it basically codifies in the authorizing statute Senator BURDICK's amendment to the fiscal year 1989 agriculture appropriations bill. That provision requires States to implement a cost containment system for purchasing WIC infant formula, unless such measures are infeasible, would not lower costs, or would interfere with the provision of WIC foods. Under that amendment, States have been required to submit feasibility plans to USDA indicating their plans to comply with the amendment.

Most States have already satisfied this part of the provision and will not need to take further action under it. I would note that there are a few States, however, which have not implemented any cost containment system by the start of fiscal year 1990. These States will need to move very expeditiously to undertake cost containment or they will be out of compliance with these provisions.

The second part of the provision affects States with a retail purchasing system for infant formula. It requires States to use either competitive bidding—under which a State uses a sealed bid process to select the single company offering the lowest price as the primary distributor of WIC infant formula in the State—or use the system first developed by Florida under which a single invitation to bid is issued seeking bids under both a competitive bidding system and an alternative cost containment system—and the system yielding the greatest savings is selected.

If a State uses the Florida model, the comparison of the savings generated by the differing cost containment systems should include more than just a comparison of the initial rebate offers. First, the provision requires that expected rebate levels over the full term of the contract would be compared, including anticipated changes in rebate levels as wholesale prices rise.

The comparison of the savings that various cost containment systems would produce may also include other factors: the proportion of WIC infant formula that is reasonably expected to be noncontract brand under a competitive bidding system; the proportion of WIC infant formula for which no rebate is anticipated under an open market or other multiple-provider system; the costs of converting a computer system to initiate or switch to a new cost containment system; and the costs of preparing participants for initiation of or conversion to a new cost containment system.

The costs that may be included in the savings comparisons are costs in implementing a cost containment system, rather than permanent or ongoing costs in operating such a system. There should not be significant differences in ongoing costs after a system has been implemented.

The Secretary will issue regulations covering these savings comparisons. We expect the Secretary to examine the most current data on the percentage of infants who receive noncontract brand formula in States with competitive bidding systems and to prescribe regulations based on these data that reflect the percentage of WIC infant formula that can reasonably be expected to be noncontract brand.

I would note that the proportion of infant formula that is noncontract brand in competitive bidding systems now appears to be quite low. In most competitive bidding States, less than 4

percent of the WIC infant formula is now noncontract brand.

It should be emphasized that this cost containment provision affects States in which WIC foods are purchased at retail stores. In States in which retail stores are used to deliver WIC foods in one part of the State and another delivery system is used in another part of the State, the provision aapplies only in the part of the State with a retail system.

I would note that this provision would not affect contracts currently in effect. The provision would take effect only as current contract terms expire and the contracts came up for renewal, extension or renegotiaton. The earliest date at which any such contracts expire is March 31, 1990. Thus, all States will have significant lead time.

I would also note that in a few States with more than one contract, the current contracts expire at different times. In these States, the provision becomes effective on the latest expiration date of a contract in effect on the date of enactment of this legislation. The State would be able to renew those contracts expiring at an earlier date until the last date on which any of its contracts expire.

The provision also contains waiver authority under which a State could seek exemption from these requirements. It stipulates that the Secretary shall waive these requirements if a State demonstrates to the satisfaction of the Secretary that compliance with the provision would interfere with efficient or effective operation of the program or would have such a minimal effect that the difference in savings would not be significant. The Secretary would prescribe the terms under which waivers could be considered and granted.

I would note that we do not intend that the waiver clause be used by the Department to weaken or dilute this legislation. In the 20 States that have competitive bidding this system has improved the efficiency and effectiveness of the program by enabling more participants to be served for the same amount of dollars. The arguments we heard in past years against competitive bidding have not been borne out in actual experience. Those same arguments should not be the basis for granting a waiver.

We will carefully follow the Secretary's handling of the waiver provision.

I would also note that the legislation contains a provision stipulating that the provisions in section 123—the WIC section—may not result in new USDA requirements to place more paperwork in individual participant files. For example, while we regard the requirements governing referral of WIC participants to Medicaid as very important, a Medicaid referral slip need not be filled out and placed in each participant's file.

There are other, less onerous ways to monitor compliance with this provision, including checking to see whether the provisions are properly reflected in the State procedures manual that is provided to all local WIC agencies, determining whether the State has provided the Medicaid income eligibility fact sheets to local agencies, whether local agencies have distributed the fact sheets to caseworkers, and whether training has been provided to caseworkers in this area. These items can generally be monitored as part of the normal State review of local agencies and normal USDA management evaluations of State agencies.

I also note that the provision in the bill precluding new casefile documentation requirements would affect the provision regarding the content of certain notices of termination. The requirement for the notice is not new, has been in WIC regulations for years, and is a basic due process requirement under the Constitution. The provision included here merely clarifies what information needs to be included in the notice in certain circumstances. Whatever the current requirements are regarding these notices, and their relationship to casefiles, would remain unchanged.

As mentioned earlier, the bill is being handled without a conference. The following is a detailed statement of explanation which we and our colleagues in the other body have agreed upon.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL SCHOOL LUNCH ACT

TYPES OF MILK INCLUDED IN SCHOOL LUNCH

The Committee action requires that fluid whole milk and unflavored lowfat milk be offered as a component of lunches served through the National School Lunch Program. School food authorities are not limited to offering these forms of milk but may continue to offer flavored and other forms of milk that provide maximum choice to meet student preferences.

SUMMER FOOD SERVICE PROGRAMS FOR CHILDREN

H.R. 24 permits private nonprofit organizations to sponsor the Summer Food Service Program in areas where public sponsors are not operating the program. Under the legislation, such sponsors may serve no more than a total of 2,500 children with no more than 300 children at one site (or 500 children with a waiver from the Secretary). In urban areas, a private nonprofit sponsor may operate a total of five sites; in rural areas, such sponsors may operate no more than 20 sites. The Committee intends that the Department continue to use the definition of "rural area" that is currently utilized in the Summer Food Service Program.

The Hunger Prevention Act of 1988 (P.L. 100-435) authorized the Secretary to institute Statewide demonstration projects in five States in which private nonprofit organizations would participate in the Summer Food Service Program. These demonstration projects have now been completed. USDA has apprised the Committee of its preliminary findings regarding the 1989 summer feeding demonstration activities.

The Committee is concerned that USDA's preliminary findings indicate that all of the requirements of the Summer Food Service Program were not fully met by a number of the private nonprofit organizations that participated in this summer's demonstration projects. Accordingly, the Committee will review the Department's final evaluation and any recommendations contained therein and may wish to make further modifications in the tems under which private nonprofit organizations may participate in the program.

The Committee believes that USDA and the State agencies should devote additional resources to monitoring all phases of future summer feeding program activities to ensure that local participants are fully apprised of and in compliance with all program requirements. Accordingly, H.R. 24 reserves one-half of one percent of Summer Food funds for the Secretary to develop and implement a State and federal monitoring system of private-nonprofit organizations.

The legislation also requires that there be a one-year period between when a public agency stops sponsoring a program in an area and when a private nonprofit agency can start meal service to children in that area. This provision does not apply if it can be determined, after consultation with the public agency involved that such agency discontinued participation for reasons other than that a private nonprofit organization was available to sponsor the program in that area.

The Committee also anticipates requesting the General Accounting Office to monitor future summer feeding activities conducted by private nonprofit organizations.

H.R. 24 includes a provision that requires the Secretary and State agencies to disseminate information in fiscal years 1990 and 1991 to private nonprofit organizations that are potentially eligible to participate as Summer Food sponsors. The Committee intends that a reasonable effort be made to provide information to private nonprofit organizations on the new provision in the Summer Food Program. The Committee does not intend for USDA to issue regulations that would unduly increase the administrative requirements of State agencies.

EXTENSION OF COMMODITY DISTRIBUTION PROGRAM

H.R. 24 extends the Commodity Distribution Program through fiscal year 1994. It also extends, for an additional year, the time period when school districts participating in a Cash/CLOC pilot project can make claims for losses they sustained in the 1982-1983 school year because of changes in the methodology of the pilot project. The bill also makes technical corrections to the language governing how losses are to be computed. These technical corrections are not in any way intended to change the method by which losses are to be computed or to affect the amounts school districts are eligible to claim and receive.

CHILD CARE FOOD PROGRAM

H.R. 24 has resumed the section in the National School Lunch Act that authorizes the Child Care Food Program and the Adult Care Food Program as the "Child and Adult Care Food Programs". The Committee believes that this title is a more appropriate designation of the section since the two programs serve very different populations. The

Committee intends that the Child Care Food Program and the Adult Care Food Program, respectively, shall continue to be referred to as such.

H.R. 24 requires that the lunches served under the Adult Care Food Program meet one-third of the recommended daily allowance for adults as established by the National Academy of Sciences and allows the Governor of a State to designate a State agency, other than the one administering the Child Care Food Program, to operate the Adult Care Food Program.

The Committee is concerned about the frequency of monitoring of school-sponsored after-school care programs participating in the Child Care Food Program. Under current regulations, these after-school care programs are monitored six times a year. Because most of these programs operate only nine months of the year, the monitoring visits take place at nearly monthly intervals. The committee believes that participating school-sponsored care programs should only be subject to monitoring three times a year and directs the Secretary to remedy this situation through the regulatory process.

HOMELESS CHILDREN

Homeless children living in temporary shelters often have limited access to an adequate and healthy diet. The Federal child nutrition programs, while designed to help meet the nutritional needs of poor children, do not in fact reach many children in homeless shelters. This is especially true for children under the age of 6. Shelters do not meet the eligibility requirements of the year-round child nutrition programs. While the summer Food Service Program for children can partially meet the need during the summer months, these children are deprived of assistance the rest of the year.

The estimates of the number of homeless children vary but it appears that they number in the thousands. The lack of an adequate diet can make these children vulnerable to disease and illness. Young children are most at risk, since school-children can at least secure meals through school food programs.

Accordingly, this legislation mandates that the Secretary institute demonstration projects to provide year-round food service to homeless children under age 6 in emergency shelters. Under the demonstration projects the Secretary shall enter into agreements with private non-profit organizations to conduct the project at shelters. The Secretary would be authorized to set the criteria for eligible non-profit organizations, except that no such organization could apply to operate the demonstration project at more than five sites, to serve more than 300 children at one site, or to operate a site that did not meet applicable State and local health, safety, and sanitation standards. We should note that we do not expect the criteria for eligible organizations to be set so rigidly that few such organizations would qualify. We expect the project to be carried out and the funds provided by this legislation to be fully expended for this purpose.

The demonstration projects would begin during the latter part of fiscal year 1990 and continue through September 30, 1994, at which time they would expire. The Secretary shall use $50,000 for the project in fiscal year 1990 and the sum of $350,000 in each fiscal year from 1991 through 1994. Also, for fiscal years 1992-94, additional funds may be made available for the demonstration projects by the recapture of unspent State Administrative Expenses dollars. Funds provided for the demonstration projects are to be used to carry out the projects at the nonprofit organization sites selected, and are not to be diverted for evaluation costs the Secretary may incur. The Secretary already receives an appropriation of several million dollars a year for studies and evaluations of child nutrition programs, and any evaluation costs should come from that source.

Under the demonstration, children shall be eligible to receive the same meals as may be provided under the Child Care Food Program, and at the same reimbursement rates. All children served in the projects would be deemed eligible to receive free meals without the collection of free and reduced-price meal applications, as is the practice in the Summer Food Service Program.

The purpose of the proposed demonstration projects is to determine the best means of providing food assistance to homeless preschool children in shelters. It is specifically designed to extend meal services year round to homeless children under the age of 6, to develop appropriate meal patterns for these children, and to determine the best method of food service delivery. What is needed is the flexibility in the demonstration project to utilize appropriate parts of various existing Federal child nutrition assistance programs to test the most effective way to deliver meals to homeless children in shelters.

These demonstration projects should in no way affect the participation of private nonprofit organizations serving homeless children in the Summer Food Service Program.

NATIONAL YOUTH SPORTS PROGRAM

H.R. 24 authorizes Federal reimbursements for meals and/or meal supplements served to low income children participating in the National Youth Sports Programs (NYSP) operated by colleges and universities during the academic year. Under this provision, colleges and universities that operate NYSPs, during the summer months and receive reimbursement under the Summer Food Service Program are automatically eligible to receive additional reimbursements if they operate NYSPs, that offer meal service during the academic year.

As is generally the case for the Summer Program, reimbursements under the academic year program are limited to two meals or one meal and a meal supplement per day for each child served, and there is no individual income test required for participating children. However, the total number of days for which reimbursements may be provided during the academic year is limited to 30, and reimbursement rates differ from those provided under the Summer Program. Lunches or suppers served under the academic year program will be reimbursed at the same rates as free lunches offered under the National School Lunch Program, and must meet the nutritional and meal pattern requirements of the School Lunch Program. Breakfasts and meal supplements served under the new program will be reimbursed at the severe need rate provided for free breakfasts under the School Breakfast Program. Breakfasts served during the normal breakfast period must meet the nutritional and meal pattern requirements of the School Breakfast Program. If served outside the normal breakfast time as meal supplements, the Secretary may require that such supplements meet the same nutritional and meal pattern requirements as those required for the School Breakfast Program, or may establish separate nutritional requirements and patterns for meal supplements.

To limit the amount of disruption in meal service and operations that might be caused by switching from the Summer Food Service Program to this new academic year program, the same State agency administering the NYSP Summer Food Program will administer the academic year NYSP. Additionally, no separate application to the State agency for participation in the academic year NYSP is required in cases where a college or university participates in the Summer Food Service Program. Moreover, the new provision specifies that requirements for implementing, operating and monitoring the academic year program be comparable to those required for colleges and universities participating in the Summer Food Service Program.

FAMILY OR GROUP DAY CARE HOME DEMONSTRATION

H.R. 24 extends through September 30, 1990, the one-State demonstration project that permits family and group day care homes to receive Federal reimbursement for one additional meal or snack per day for each child in care for more than eight hours.

FOR-PROFIT CHILD CARE CENTERS

H.R. 24 requires the Secretary to conduct statewide demonstration programs that permit private, for-profit day care organizations to participate in the Child Care Food Programs if no less than 25 percent of the children in their care have incomes at or below 185 percent of the poverty level. Under current law, for-profit child care centers are eligible to participate in the Child Care Food Program if the proprietary center receives compensation for at least 25 percent of enrolled children through Title XX of the Social Security Act. The purpose of the pilot is to examine the budgetary impact of the change in eligibility that is being tested; to examine the extent to which additional low-income children can be reached; and to determine which outreach methods are most effective.

MEAL SUPPLEMENTS FOR AFTER SCHOOL CARE

H.R. 24 permits schools that have after-school care programs and are offering a snack through the Child Care Food Program as of May 15, 1989, to instead offer the snack through the National School Lunch Program. This provision was included in order to alleviate the paperwork burden that is generated by participation in the two programs.

CASH/CLOC

H.R. 24 extends the Cash/CLOC pilot programs through September 30, 1992. During the consideration of the extension of the authority to continue existing Cash and CLOC site operations, concerns were raised that the procedures governing the Cash and CLOC sites' operations may not respond adequately to USDA's mandate to support American agriculture markets and prices.

Therefore, the Committee encourages the Secretary to review current procedures and make modifications that may be appropriate to assist the Department in meeting its mandate to support domestic agricultural markets. The Secretary may wish to review the kinds of foods that can be purchased and the timing of purchases.

The Committee does not envision the pilot sites being overburdened with new complex procedures or rules or modifications that negate the major benefits that the school

food service directors operating Cash and CLOC programs believe are offered by these alternative programs. These sites recognize the commodity program fulfills a dual purpose and are willing to cooperate with USDA in utilizing commodity letter of credit purchasing power in a manner that parallels USDA's commodity purchase activities. The Committee expects USDA to include representatives from school districts now operating Cash and CLOC programs in the development of any modifications USDA deems appropriate.

PAPERWORK REDUCTION

The legislation requires the Secretary to reduce the level of paperwork involved in administering programs under the National School Lunch and Child Nutrition Acts. Under this provision, the Secretary must convene at least one meeting of State and local administrators of the programs to solicit ideas for reducing paperwork; publish a notice in the Federal Register inviting others to suggest ideas for reducing paperwork; and report back to Congress within one year after the date of enactment of this Act on the extent to which the level of paperwork has been reduced. The report shall reflect the paperwork reduction that has been achieved beyond the provisions contained in H.R. 24.

TRAINING AND TECHNICAL ASSISTANCE AND FOOD SERVICE MANAGEMENT INSTITUTE

The Committee believes that an essential part of the Secretary's administration of the child nutrition programs is to provide adequate training and technical assistance to State and local administrators of the child nutrition programs. It is through such activities that State agencies and local schools can meet the compliance and accountability demands of the programs. Under H.R. 24, the Secretary is authorized, at a minimum, to conduct training and technical assistance regarding menu planning, implementation of regulations and guidelines, and compliance with program requirements.

The Committee fully expects that, for each year in which funds are appropriated for this purpose, the Secretary will conduct such training and technical assistance. It is important that such training, which may be contracted out by the Secretary or handled by the USDA regional office staff, be conducted at regional locations so as to provide convenient access by State and local school food service personnel.

H.R. 24 authorizes a Food Service Management Institute, to be established by the Secretary. The Institute is authorized to conduct research and training activities designed to improve the operation and quality of child nutrition programs. The Institute will provide assistance to schools and school food service personnel in developing cost effective methods to deliver nutritious meals to students. The Institute will be a national center for the research and development of effective and efficient management principles. The Institute will also provide education and training assistance to food service managers and personnel and engage in research to improve the efficiency of food service deliverers. Additionally, the Institute will serve as a clearinghouse for information retrieval and dissemination.

Emphasis should be placed on the collection of primary data on specific training needs for all levels of school food service practitioners and related personnel, and the development of training materials and resources. The Committee anticipates that a national network of trained professionals throughout the United States will be established to present training programs and workshops utilizing training materials developed by the Institute.

Initially the target population will be individuals responsible for training school food service practitioners at the State, district and local levels. This population will be utilized to enhance the quality of currently available training programs while new programs are being developed by the Institute. Much of the research on and activities regarding the Lunch Program are easily transferable to other child nutrition programs, especially the School Breakfast Program. As the Institute's expertise in the Lunch and Breakfast Programs grows, the Committee believes that the Institute's activities will contribute to improving the quality of other feeding programs such as the Child Care Food Program, the Summer Food Service Program and the Elderly Feeding Program.

COMPLIANCE AND ACCOUNTABILITY

The Committee has included language in H.R. 24 outlining a "unified system prescribed and administered by the Secretary for ensuring that local food service authorities . . . comply with the provisions of this Act." The Committee requires States to coordinate all compliance and accountability activities so that the burden on schools is minimized. H.R. 24 requires the Secretary, when establishing this system, to do so through the publication of regulations, thereby allowing for public comment.

The role of the Secretary shall be to assist the States in monitoring schools and to monitor the compliance of States and local food service authorities through USDA's management evaluations. The Secretary and the State shall work cooperatively in monitoring the compliance of local food service authorities. The Committee intends for the Secretary to target management evaluations primarily on local food service authorities where there has been demonstrated significant noncompliance with program requirements. The Committee expects the Secretary to conduct management evaluations based on standards established through federal regulatory procedures which allow for public comment and to ensure that all current standards in use have been made available for public comment.

INFORMATION ON INCOME ELIGIBILITY

H.R. 24 requires the Secretary to provide information to States concerning the types of income counted in determining eligibility for free or reduced price meals, particularly with respect to how reimbursements provided under the Child Care Food Program to family day care providers are counted. Also, information must be provided concerning the consideration of applications for free or reduced price meals from households in which the head of household is less than 21 years of age. It is the intent of the Committee that information on any changes to the prototype application or letters to the parents be provided to the State agency prior to two months before the end of the preceding school year.

NUTRITION GUIDANCE FOR CHILD NUTRITION PROGRAMS

H.R. 24 requires the Secretaries of Agriculture and Health and Human Services to develop a publication entitled "Nutrition Guidance for Child Nutrition Programs". The Committee believes that this publication should give schools, institutions and organizations participating in the National School Lunch, Breakfast, Child Care Food and Summer Food Programs basic guidance on preparing meals that are nutritionally appropriate for children. The Committee strongly emphasizes that the Secretaries develop the publication within the two year deadline that is provided in H.R. 24.

H.R. 24 requires the Secretary to revise the menu planning guides as necessary to reflect the Nutrition Guidance. The Committee, however, strongly encourages USDA to reprint the menu planning guides. We have heard from State and local program administrators who have informed us that there is a shortage of the current menu planning guides.

The Committee intends that the Nutrition Guidance publication be distributed to child care centers and family and group day care homes through the Child Care Food Program sponsors or State agencies.

CHILD NUTRITION ACT OF 1966

EXPANSION OF SCHOOL BREAKFAST

H.R. 24 provides funds for the initiation of School Breakfast Programs. The expansion funds will be provided to States on a competitive basis. The Secretary shall give preference in the grant awards process to states that 1) submit to the Secretary a plan to expand school breakfast programs conducted in the State, including a description of the manner in which the agency will provide technical assistance and funding to schools in the State to expand such programs or a description of State laws that require the expansion of such program during such year; 2) do not have a breakfast program available to large number of low-income children in the State or serve a low percentage of free and reduced price breakfasts under the school breakfast program when the number of such breakfast is measured as a percentage of the number of free and reduced price lunches served in such State under the school lunch program carried out under the National School Lunch Act; or 3) have assembled significant public or private resources to expand the school breakfast program within the State in such year.

H.R. 24 requires State education agencies to provide information to school boards and public officials concerning the benefits and availability of the school breakfast program. The Committee believes that this informational effort should be primarily directed at school boards and to appropriate public officials. In addition, each State educational agency shall select each year, for additional informational efforts, schools in the State that do not participate in the breakfast program and in which a substantial portion of school enrollment consists of children from low-income families.

In addition to the regular entitlement for meal reimbursements in the Breakfast Program, the Committee has created a new mandatory spending program for the expansion of breakfast programs in fiscal year 1990.

STATE ADMINISTRATIVE EXPENSES

H.R. 24 limits the amount of State Administrative Expenses (SAE) funds that a State may carry over to 25% of the FY 1991 funds and 20% of the funds in each subsequent year. Any SAE funds that are returned to the Secretary shall be dedicated to the Homeless Children Demonstration Program authorized in H.R. 24. any funds remaining after allocating to the Homeless Children Demonstration shall be reallocated among

States that demonstrate need for additional administrative funds.

The legislation also requires that State agencies other than the State education agency that administer any of the programs eligible for SAE funds receive the amount made available to the State for administration of such programs.

H.R. 24 also requires States to ensure that an appropriate amount of SAE funds received by the State are provided to State agencies administering the distribution of commodities to child nutrition programs. With any allocation of funds under this provision, the Committee would expect State commodity distribution agencies that currently levy fees on local school food authorities for the provision of commodities to reduce the amount of or eliminate such fees whenever possible.

In ensuring, through the regulatory process, the adequacy of funds for the administrative costs of distributing commodities, the Secretary shall consider the effect on the State educational agencies of the shifting of funds from the current discretionary or nondiscretionary SAE allocations to States under the National School Lunch or Child Nutrition Acts. Additional funds required for the distribution of commodities may however be allocated from SAE funds voluntarily released by State agencies.

20 PERCENT COMMODITY REFUSAL

The Committee has retained the provision in current law that allows schools participating in the school lunch program to refuse up to 20 percent of the value of commodities that they are entitled to receive each year, and if other commodities are available to the State, to receive commodities in lieu of the commodities that were refused. Although most school food service authorities do not opt to exercise this option, it has been retained to provide flexibility to those schools that may not be able to utilize certain commodities that may be offered. The Committee is aware of the fact that USDA is in the process of implementing the extensive reforms mandated by the Commodity Distribution Reform Act and WIC Amendments of 1987. At such time as all of the changes authorized under this Act are fully implemented, the Committee intends to reconsider the need for the 20% refusal option.

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

PROGRAM ELIGIBILITY

H.R. 24 includes an amendment requiring that an individual at nutritional risk who receives benefits from Food Stamps, AFDC or Medicaid or who is a member of a family in which a pregnant woman or infant receives Medicaid benefits be deemed automatically to meet the WIC income test.

COUNTABLE INCOME

H.R. 24 permits State agencies to not count basic allowance for quarters received by military service personnel residing off military installations as income for the purpose of determining income eligibility for WIC.

STATE AGENCY REQUIREMENTS

State agencies are required to ensure that written information is provided to adult participants and applicants regarding AFDC, Food Stamps, and the child support enforcement program under the Social Security Act. A WIC agency could satisfy this requirement by providing a fact sheet that contains basic information about these programs and the addresses and phone numbers of local offices where low income families can apply. The agency would not be required to provide this information more than once to any individual participant or applicant. The agency must make certain that all current and future applicants and participants receive this information. It is not intended that WIC agencies will have to document in each WIC participant's or applicant's file that the fact sheet was handed out, as this would unnecessarily increase paperwork burdens.

Local agencies must refer to the Medicaid Program WIC participants and applicants who appear to meet the appropriate income criteria. State agencies must provide local agencies with information necessary to conduct such referrals, including the Medicaid income guidelines and the appropriate agency where the participant or applicant could apply for Medicaid. It is not intended that USDA require WIC agencies to document in each WIC participant's or applicant's file whether a Medicaid referral was made.

STATE PLAN AND OTHER REQUIREMENTS

The legislation contains a series of new provisions designed to inform potentially eligible pregnant women about WIC, to make every effort to keep pregnant women enrolled through follow up calls and clinic hours that are convenient to working participants, and to provide applicants who cannot be certified for WIC information about other food assistance programs. WIC agencies must maintain and make available to clients information on local resources for substance abuse counseling and treatment.

Research on the medical impact of the WIC Program demonstrates that WIC has its greatest effects on pregnancy outcomes when a pregnant woman begins receiving WIC benefits at least six months before she gives birth. It is therefore important that pregnant women enroll in WIC as early in pregnancy as possible.

Accordingly, the legislation provides that if a pregnant woman not enrolled in WIC schedules an initial appointment to apply for the program, but then misses the appointment, the local WIC agency shall contact her to reschedule the appointment. The legislation does not envision local agencies having to undertake elaborate efforts—a brief phone conversation or the mailing of a post card would suffice. Also, the provision does not contemplate that an effort be made to locate a pregnant woman if the local agency does not have her phone number of address. However, such agency should get her phone number (and/or the address) when a pregnant woman makes an appointment. This should become a routine part of making appointments for pregnant women, if it is not already.

Breastfeeding promotion materials and instruction must be in a language that the participant can understand. It is the intent of the Committee that State agencies need not expend public funds on the production of these materials in cases where private agencies have donated a sufficient supply of materials which include correct, complete and up-to-date information. It is also the intent of the Committee that any printed information provided to participants reflect, where possible, the reading level of the participants.

WIC FOR INCARCERATED WOMEN

Recent studies have found that women in prison and the their babies comprise a population at risk for poor prenatal outcome. Because some penal healthcare systems do not meet what are nationally accepted as minimal standards in maternal and child health care, children born to mothers in prison, especially to those with alcohol and drug abuse problems, often have severe and chronic health problems which often require very specialized and expensive treatment.

The provisions adopted by the Committee would permit states, at their option, to expand WIC coverage to pregnant women and their infants in State and local prisons and juvenile detention facilities. States are permitted to adopt methods for the delivery of services and to change the form and/or distribution of WIC food packages to meet the needs of incarcerated women and the needs of the State agency administering the program related to these institutions.

While the Committee expects that States may target selected facilities to serve, and will tailor the administration of the program accordingly, it is the intent of the Committee that the educational and nutrition components of WIC program be maintained.

Should future legislation comprehensively address the health and nutrition needs of incarcerated women, it is expected that correctional facilities participating in such a program would be ineligible to utilize this WIC provision.

WIC AUTHORIZATION

H.R. 24 reauthorizes the WIC Program through fiscal year 1994 with an FY 1990 authorization level of $2,158,000,000. The legislation also authorizes the Appropriations Committees to appropriate funds for WIC one year in advance of the fiscal year for which the funds are to be distributed. Forward funding would greatly assist State and local WIC agencies in administering the program because they would know exactly how much money they are going to receive and could plan accordingly.

PROGRAM EVALUATION/TECHNICAL ASSISTANCE

H.R. 24 increases from $3 million to $5 million the maximum amount of funds available to the Secretary for evaluating program performance, making biennial reports on program characteristics to Congress, providing training and technical assistance to improve state agency administrative systems, and administering pilot projects.

TECHNICAL/ADMINISTRATIVE AMENDMENTS

H.R. 24 contains many provisions that are designed to improve the Federal and State administration of the program. For example, the Secretary is required under H.R. 24 to issue first quarter letters-of-credit within 15 days of the enactment of appropriations legislation. Also, the bill requires the Secretary to issue an initial allocation of funds to States that covers no less than one-third of the State's fiscal year allocation. This provision is needed because many States are facing cash-flow problems due to the implementation of cost-containment measures.

The bill provides an annual inflation adjustment for the amount of Federal funds that will be available each year for the costs of nutrition services and administration. It does this by establishing a national average per participant grant amount for nutrition services and administration, and annually revising this amount to respond to changes in the implicit price index for State and local government services, published by the Bureau of Economic Analysis of the Department of Commerce. The bill requires the USDA to use the best data that is available

on this index when computing the inflation adjustment.

The Commerce Department provides an advance estimate of price changes in a quarter within one month of the end of a quarter; a preliminary estimate within 2 months of the quarter's end and a final estimate within 3 months of the quarter's end. Additionally, the Commerce Department revises its final estimates each July for the previous three year period. In calling for use of the best estimate available, the Committee assumes that USDA will use the most recently available (final) estimates for the last quarter, and the most accurate (final or revised final estimates) for the preceding measurement period.

The 20 percent/80 percent split between nutrition services/administration and food is no longer viable. The use of infant formula cost containment measures makes it imperative to redesign the nutrition services/administration cost provisions in WIC.

State agencies are permitted under H.R. 24 to advance any amount of funding for nutrition services and administration to local agencies for significant expansion of program operations, as well as for commencement of program operations.

COST CONTAINMENT

The legislation requires State WIC agencies to institute the infant formula cost containment system that yields the most savings. The goal of the provision is to increase cost containment savings and to serve substantial numbers of additional low income pregnant women, infants, and children who are eligible for WIC but are currently left out of the program due to funding limitations.

The provision has two components. The first component essentially codifies, in the authorizing statute, and makes permanant, the language included in the fiscal year 1989 Agriculture Appropriations bill. That language requires States to implement a cost containment system for purchasing WIC infant formula unless a State demonstrates that such measures would not lower costs or would interfere with the delivery of WIC foods to participants.

The second component requires States to use the form of cost containment that saves the most money. The provision requires a State distributing WIC foods through retail stores either to use a competitive bidding system (under which a State uses a sealed bid process to select the single company offering the lowest price as the primary distributor of WIC infant formula in the State) or to use another cost estimate system that is found, after the State secures bids under both systems, through a single bid invitation, and compares these bids, to yield equal or greater savings. Over the past year and a half, first Florida and then a number of other States have issued an RFP or invitation to bid seeking bids under two different cost containment systems, compared the bids they received, and selected the cost containment system producing the most savings.

In comparing savings under different cost containment systems, States would have to compare rebate levels for the full term of the contract (including procedures for adjusting rebate levels when wholesale prices rise during the contract term). In addition, a State could, in accordance with regulations issued by the Secretary, take other factors into account. These other factors include: the proportion of infants who, based on the experiences of other States, would not reasonably be expected to use contract brand formula under a competitive bidding system; the amount of formula for which no rebate would be provided under an open market system (because one or more companies declined to provide rebates on their products); and differences in administrative costs relating to intitiating a cost containment system (such as the cost of converting a computer system for the purpose of operating a cost containment system and costs of preparing participants for conversion to a new or alternate cost containment system).

The Secretary should issue regulations that cover issues involved in comparing savings from different cost containment systems. In developing the regulations, the Secretary would be expected to examine the most up-to-date information available on the actual experiences, with regard to these cost factors, of States that have implemented various forms of cost containment. This should provide information on the levels of costs that can reasonably be expected to be incurred.

The provision would not interfere with cost containment contracts in effect on the date of enactment. In a State that has a contract in effect on the date of enactment of this legislation, the provision would take effect when the current contract term expires and the contract comes up for renewal, extension, or negotiation. It should be noted that in such a circumstance, the date of expiration of the contract term would be the expiration date specified in the contract at the time of enactment of this legislation.

The provision also stipulates that if a State has more than one contract in effect on the date of enactment, and the contracts expire on different dates, the provision would take effect on the latest date that a contract expires. A State would be allowed to extend a contract with an earlier expiration date for the period up until the date of expiration of the contract with the latest expiration date.

The provision affects States in which WIC foods are purchased at retail stores. If a State uses retail stores to deliver WIC foods in one part of the State and another delivery system is used in another part of the State, the provision applies only in the part of the State with a retail system.

The provision also includes a waiver procedure. The Secretary is required to waive the requirement that a State use the cost containment system generating the largest savings if a State demonstrates to the satisfaction of the Secretary that compliance with this requirement would interfere with efficient or effective operation of the program or would have such a minimal effect that the difference would not be significant. The Secretary shall prescribe the terms and criteria under which a waiver could be granted.

The Committee notes that the provision for granting waivers when compliance with the cost containment requirements "would be inconsistent with efficient or effective operation of the program" is to be used only in circumstances in which the Secretary finds that there is strong evidence that the program, and the needy population it serves, would be harmed by compliance with this provision. It is not intended that the waiver authority be used to weaken or dilute the cost containment provisions of this bill, which Members of Congress have worked so hard to design.

Some 20 States currently use competitive bidding in their WIC programs, and these States have not experienced problems that interfere with efficient and effective program operation. Instead, efficiency and effectiveness have been enhanced through reduced prices for infant formula and resulting expansion of the program to more eligible women, infants and children. The legislation includes a waiver authority so that if a new circumstance should arise in the future under which compliance with these requirements would actually have an adverse effect on the program in a State, the Secretary would be able to grant an exception.

One other issue regarding waivers merits some mention. One or two States that have not yet instituted a cost containment system may be ready to sign contracts before the regulations for the new cost containment provisions are issued. If such circumstance should occur, it would seem reasonable for the Secretary to grant a waiver, but only for a limited period of time (such as up to one year) so that a State can institute some cost containment measures in the interim.

The legisiation also provides that the Secretary shall provide information to Congress at six month intervals on waivers that have been granted. For these purposes, a letter would suffice; a formal report is not necessary.

This provision contains several other features as well. First, it requires that the Secretary provide technical assistance to certain Indian State agencies to assist these agencies in achieving the maximum cost containment savings feasible. In addition, it authorizes the Secretary to exempt certain Indian agencies from the requirement to institute the cost containment system that would yield the greatest savings if the Secretary finds that compliance with the requirement would not be feasible for these agencies. If the Secretary issued such an exemption, certain Indian agencies would be exempt from further cost containment activities other than the implementation of the feasibility plans they have already submitted under the fiscal year 1989 Agriculture Appropriations Act.

The provision also requires the Secretary to provide technical assistance, on request, to States that desire to consider a cost containment system covering more thant one State WIC agency. Recently, Maryland, Delaware, and the District of Columbia instituted a joint cost containment system and achieved savings greater than those they would have been likely to achieve if each of these States acted independently.

Finally, the provision requires that a State agency may not enter into a contract under which an infant formula company could cancel the contract, reduce rebate levels, or otherwise reduce savings before the scheduled expiration of contract in retaliation for the State soliciting or securing bids or signing a contract for another cost containment system for the period after the current contract expires. This provision will enable (and will require) States to reject any pressures to include provisions in contracts allowing companies to cancel or reduce rebates prematurely.

Regulations implementing these provisions shall be promulgated no later than 120 days after the date of enactment of this legislation. Prompt promulgation and implementation of the regulations is essential, since several States have contracts that expire next spring.

The Committee does not intend to preclude States from converting nutrition services/administrative funds to food benefit funds.

CENSUS INFORMATION

H.R. 24 requires the Secretary, in coordination with the Secretary of Commerce, to make available an estimate of the number of women, infants, and children by State and county (or equivalent political subdivion) who are income eligible for WIC. This estimate should be made upon the completion of the 1990 decennial census.

BREASTFEEDING PROMOTION

This legislation requires that States spend at least their proportionate share of $8 million on breastfeeding promotion activities. H.R. 24 requires the State agency to provide training on breastfeeding promotion to staff of local agencies. The Committee wants to make clear that does not mean that the State must provide such training to every staff person of each local agency.

Health experts world-wide acknowledge breastfeeding is the optimal way to feed and nurture infants and should be practiced whenever possible. The immunological benefits of breastfeeding are not available through breast-milk substitutes. However, due to numerous nutritional, psychological, cultural and other barriers to breastfeeding, WIC women breastfeed at rates much lower than more affluent American women. Studies funded through the U.S. Departments of Agriculture and Health and Human Services have found when thoughtful, coordinated breastfeeding promotion and support programs are implemented to address these barriers, more women choose to breastfeed and to breastfeed longer. Successful programs include prenatal counseling and group discussions addressing individual concerns and lack of knowledge, early postpartum hospital, clinic, and phone support, positive peer influence, coordination with other Federal maternal and child health programs and community health care providers, and designation of breastfeeding promotion coordinator.

In carrying out the breastfeeding promotion activities, States are to provide clients with information based on the most up-to-date medical findings on the effect of alcohol, illicit drugs, prescription drugs, nicotine, over-the-counter drugs and other items they may consume on the health of their child. Information on how infants react when a breastfeeding mother consumes such substances is changing on a frequent basis. Materials and information provided to mothers should contain the most recent information available from the medical community and reflect a consensus among experts in the field. We believe the updating of pertinent information will assure infants receive the maximum benefit possible from breastfeeding.

In documenting funding spent on breastfeeding promotion, it is the intention of the Committee that States may include any funding used to purchase materials or breastfeeding equipment. The State can also include State expended funds used to train staff in breastfeeding promotion and counseling. Part of the State's funding may include documentation on the time that nutrition counselors or medical professionals spend counseling WIC participants on breastfeeding. It is not the intention of the Committee to require States to hire specialists to promote breastfeeding if trained staff and medical professionals are available and currently promoting and counseling on breastfeeding.

DEMONSTRATION PROGRAM IN COMMUNITY COLLEGES

H.R. 24 authorizes $1 million for the Secretary to carry out demonstration programs in community colleges that offer nursing education programs and operate clinics that are accessible to WIC eligible persons in nontraditional hours.

UPDATING CENSUS DATA

The Committee believes that the Secretary, in consultation with the Secretary of Commerce, should investigate the use of systems to update census data more frequently than every 10 years for use in allocating WIC funds. Updated census data would ensure that States are receiving the correct amount of funds to adequately serve their populations.

INFORMATION AND DATA SYSTEMS

H.R. 24 authorizes $2 million for the Secretary to make grants to State agencies to improve and update the information and data systems that they use in carrying out WIC programs.

REPORT ON MIGRANT PARTICIPATION

H.R. 24 requires that the Secretary submit a report on interstate migrant participation in the WIC program every other October 1. Current law requires that the report be submitted annually.

NATIONAL ADVISORY COUNCIL ON MATERNAL, INFANT, AND FETAL DEVELOPMENT

H.R. 24 increases the membership on this advisory council in order to include a person who is an expert in the promotion of breastfeeding.

REVIEW OF PRIORITY SYSTEM

H.R. 24 requires the Secretary to conduct a review of the relationship between nutritional risk criteria and the priority system used to enroll WIC program participants.

REPORT ON WIC FOOD PACKAGES

H.R. 24 directs USDA to report on the appropriateness of foods eligible for purchase in the WIC Program. In particular, the Department will address how well the statutory objectives of providing foods that are rich in protein, calcium and iron are achieved, since those are foods of particular importance to the target population. The Department will also address nutrient density in its review of the appropriateness of WIC foods in providing nutrients for which the target population is most vulnerable to deficiencies. We note that iron, Vitamin A and zinc are nutrients that the target population tends to consume at levels well below the Recommended Dietary Allowance.

There is concern that the Department look beyond the nutrient composition of foods. Bioavailability of such nutrients should be considered. For example, testimony delivered to the Senate Committee on Agriculture indicates that bioavailability may greatly influence the effectiveness of various options for addressing the iron needs of the WIC population. The need for foods rich in heme iron needs to be considered and addressed. The Department should examine whether iron consumed in the present WIC food packages has poor bioavailability unless ingested at the same time as certain other foods which will enhance iron absorption. The assumption that these foods are consumed simultaneously so that bioavailability is enhanced requires empirical support and investigation.

REPORT ON COST OF ADMINISTRATION AND NUTRITION SERVICES

H.R. 24 requires the Secretary to review the effects of the WIC requirements in this Act upon State and local agency costs for administration and nutrition services.

RESTRICTIONS ON ADDED PAPERWORK FOR CASEWORK FILES

H.R. 24 specifies that except in the case of the provisions providing automatic income eligibility for persons who receive food stamps, AFDC or Medicaid, the Secretary is not to impose any new requirement on State and local agencies to place additional paperwork in, or otherwise additionally document, a case file maintained by an agency.

HEMATOLOGICAL TESTING

The Committee expects the Secretary, in coordination with the Secretary of Health and Human Services and interested national medical organizations, to determine when hematological testing of infants is appropriate and at what intervals such testing should be required for purposes of the WIC program.

CERTIFICATION PERIODS

The Committee expects the Secretary, within one year after the date of enactment, to report to the House Education and Labor Committee and the Senate Agriculture Committee on the actions that have been taken to ensure that regulations governing certification periods for participants provide a consistent method for determining when the certification period will expire. The Committee also expects the Secretary and to issue any regulations necessary to achieve this goal within one year after enactment.

NUTRITION EDUCATION AND TRAINING

H.R. 24 reauthorizes the Nutrition Education and Training Program through 1994 and authorizes the following amounts for program funding: $10 million in FY 1990; $15 million in FY 1991; $20 million in FY 1992; and $25 million in FY 1993 and 1994. The legislation also increases the amount of the minimum grant to a State when the actual appropriation increases.

PAPERWORK REDUCTION

H.R. 24 contains a series of provisions that are aimed at reducing the level of paperwork involved in administering programs under the National School Lunch and Child Nutrition Acts. The Committee believes that program accountability is very important and should not be compromised; however, it appears that the level of paperwork involved can be considerably reduced. The Committee expects the Secretary to consider carefully the paperwork burdens that new requirements may create and to consider whether some existing paperwork requirements may be eased.

SOCIAL SECURITY NUMBERS

This legislation requires schools and child care centers to collect the Social Security number of only that parent or guardian responsible for the child who is the principal wage earner or of another appropriate person as designated by the Secretary, instead of all adult household members, on the initial application for free or reduced price meals. The Committee is concerned that accountability be maintained in the National School Lunch Program while avoiding excessive administrative burdens for schools that are encouraging legitimate participation in the program. In order to avoid the unnecessary administrative burdens, the requirement for collection of the Social Security number of a parent or guardian shall not be construed as requiring schools to determine whether the individual

providing the number is the child's parent or guardian.

Concerns have been expressed that the use of Social Security numbers for student participation in the program may have deterred the participation of otherwise eligible children. The record has shown that while useful, Social Security numbers may be of limited utility in detecting abuse in the National School Lunch Program. While regulations provide some flexibility in providing meals to students whose applications are not complete, school officials are often reluctant to provide such flexibility for fear of an audit exception.

The importance of nutrition for learning is firmly established. It is not the intent of the Committee to allow the required use of Social Security numbers to prevent otherwise qualifying students from participating in child nutrition programs. The Committee urges the Secretary to routinely notify participating schools of the policy regarding Social Security numbers on applications. In particular, schools should be made aware that if an applicant states that he or she does not have a Social Security number, that the statement shall suffice in lieu of providing such number. The Committee also requests that the Secretary ensure through the regulatory process that these problems of deterring participation by otherwise eligible students are resolved.

DIRECT CERTIFICATION OF ELIGIBILITY

Schools that can obtain information directly from local Food Stamp or AFDC offices regarding which children are from families that participate in these programs will have the authority to certify these children as eligible for a free meal without further application. Schools shall use the information obtained from the Food Stamp or AFDC office only for the purpose of determining a child's eligibility for a free meal under the National School Lunch or Breakfast Program. The information could be used for no other purpose.

It is the Committee's intent that the Secretary develop regulations on this provision requiring school officials to notify parents of their child's eligibility for a free meal, and give the parents the opportunity to determine whether or not their child should partake of the free meal(s) for which he or she is eligible. This requirement should pose the least burden on the school by requiring that a letter be sent to parents asking them to inform the school if they do not want their child to receive a free lunch. If the school does not hear from the parents within a certain number of days, specified by the Secretary, it is assumed that the parent has given consent for the child to receive a free meal.

Mr. LEAHY. Mr. President, I have worked out these comments with several of my colleagues. Senator LUGAR, do these comments reflect your understanding of this bill?

Mr. LUGAR. Yes, that is correct.

Mr. LEAHY. Senator HARKIN, do these comments also reflect your understanding of this bill?

Mr. HARKIN. Yes, they do.

Mr. LEAHY. Senator BOSCHWITZ, do these comments indicate your understanding of the bill?

Mr. BOSCHWITZ. Yes, that is correct.

Mr. LEAHY. Senator DOLE, do these comments represent your understanding of the bill?

Mr. DOLE. Yes, Senator LEAHY, that is correct.

Mr. HARKIN. Mr. President, as the Senate sponsor of S. 1484, the Child Nutrition and WIC Reauthorization Act of 1989, I am pleased to see this legislation before us for final passage. The programs addressed in this reauthorization legislation are vital to the nutritional well being of millions of Americans daily. They include the Special Supplemental Feeding Program for Women, Infants and Children [WIC] Program, the School Lunch and Breakfast Programs, the Child Care Food Program, the Summer Feeding Program and the Nutrition Education and Training Program. These programs represent the nutritional safety net for millions of our most vulnerable population. The child nutrition programs will help to preserve a most precious natural resource—the good health and well-being of our Nation's youth. At the same time by reauthorizing the Commodity Distribution Program, we are strengthening our farm sector by purchasing surplus commodities to support these nutrition programs.

In any legislative package there are important decisions and many compromises that need to be addressed. This measure is no exception. It required many painful decisions and hard choices concerning the best use of scarce resources to meet the tremendous needs these programs seek to address. These programs represent one of the best investments the Federal Government makes because they are an investment in human growth and development. Many of these programs are cost-sharing programs, others not only represent cost-shared arrangements, they accomplish multiple objectives at relatively modest cost to the Government.

The WIC Program, for example, costs only $40 per month per participant. It does not pay for nutritional supplements to women, infants, or children unless they are both needy and at nutritional risk. When these criteria are met, it does not pay for all of the recipient's food bill. It only provides those additional nutritional supplements necessary to ensure good health and nutritional well-being. For every dollar spent on the WIC Program, the Federal Government saves $3 by avoiding medical costs at a later time.

This bill does more than reauthorize WIC and the other child nutrition programs for another 4 years. It strengthens and improves these programs. It makes our tax dollars work harder than ever by getting more goods and services for less money. WIC cost containment procedures implemented several years ago are now recognized as the means by which millions of dollars have been saved and hundreds of thousands of additional needy women, infants, and children can recieve WIC benefits at no addtional cost to the Federal Government. As the Senator who introduced these initial cost containment procedures several years ago, I am pleased with their results and proud to be associated with the cost containment efforts contained in this bill we are discussing today.

The School Lunch Program is one of our most effective Federal programs. This program was designed to guarantee a nutritious meal for school children. The Federal Government requires that participating schools offer a nutritious meal, as defined by USDA standards, to school children. In return the USDA provides the school 26 cents per meal served. About half of this is a cash grant and the other half is USDA commodities. This 26 cents generally represents only 20 percent of the lunch cost. The student pays the rest. For poor students, of which there are 11 million, the contribution increases based on relative need. Again the Federal Government has only paid the minimum amount necessary to accomplish its objectives. In the process it has saved subsequent medical expenses and invested in an enhanced future for our children. Research shows that hungry children do not learn as well as healthy children. In this respect the School Lunch Program pays for itself.

This legislation also includes a requirement that low-fat and skim milk be offered to school children in addition to the whole milk currently required. In most schools this will create no change in their current activities. This provision will correct any misimpressions that may have existed that only one form of milk is preferred or required. This is not to be viewed as a provision favoring or mandating consumption of one type of milk. It is intended to ensure that students are able to choose what type of milk they will consume.

This bill has a provision requiring the development and implementation of nutritional guidance for children. Again this is not an attempt to favor one industry sector or type of food over another but merely an effort to establish sound nutritional policies for our school children. It does not require or call for the quantification of the types and amount of nutrients a school lunch ought to provide a child. Rather it seeks to establish sound nutritional guidelines that school lunch personnel can use in planning and preparing nutritions meals for school children.

Another benefit of the School Lunch Program is that the commodities by USDA are commodities that USDA has purchased from American farmers in an effort to stabilize farm prices. This may mean Iowa corn, Michigan cherries, or Idaho potatoes are pur-

chased directly from the farmer and then distributed through the Commodity Distribution Program to the schools. Hence this program accomplishes several important objectives at modest cost. Many of us who represent agricultural interests realize the importance of this kind of support in the market place. Moreover, as report langauge for this bill emphasizes, the School Lunch Programs, including school districts receiving cash-lieu-of commodities [CASH] and commodity letters of credit [CLOC], purchase American produced commodities. These child nutrition and related programs are the kind of programs we can all be proud to be associated with.

With regard to the CASH and CLOC Program, let me note that the extension of these pilot projects is for a limited time only because, when compared to the Commodity Distribution Program, they are more costly to administer, generally do not ensure as nutritious a meal and do not support USDA's program of utilizing surplus agricultural commodities from the market place. These programs are therefore intentionally set to expire several years before the next reauthorization of the child nutrition programs.

This bill contains a breast-feeding initiative within the WIC Program allocating an additional $8 million for the promotion and training of breast feeding among prenatal mothers. Prenatal mothers need to be educated concerning the many benefits of breast feeding especially those that will improve the health of their infants. Research shows that WIC mothers breast feed at about half the rate of their low-income peers. Research also shows that the United States has some of the highest infant mortality and morbidity rates among industrialized countries in the world. We could take a significant step in improving these statistics if we could improve breast-feeding rates among WIC mothers. It is expected that the Secretary will ensure that these funds are used in the most efficient way possible consistent with the objectives of this provision. namely to expand the number of breast-feeding mothers and the length of time that mothers breast feed their infants. It is also expected that the health and well-being of the infant as well as its mother will be considered in preparing departmental guidelines.

The issue of direct advertising of infant formula to mothers is a matter of serious concern to me. These same concerns were expressed by the Surgeon General in testimony before the subcommittee. This $8 million breast-feeding initiative will have little if any effect, if consumers are deluged by tens of millions of dollars' worth of direct advertising extolling the convenience and value of various infant formulas. This is an issue that I intend to address in greater detail.

There is provision contained in the final bill that allows States the option of extending WIC benefits to incarcerated mothers. There is another provision that allows States to exclude the off-base housing allowance of military personnel from income for purposes of determining WIC eligibility. The Secretary should ensure that hungry poor children are not excluded from WIC Program participation due to the inclusion of marginally qualified military personnel. This provision is intended to permit States the option of extending WIC Program benefits to these persons who qualify for the WIC Program on the basis of established need—but not at the expense of poor hungry children. This is a military pay problem that should be addressed by the Defense Department; WIC should not become a means of subsidizing military pay. The subcommittee expects to monitor effects of this change to ensure that those most in need are helped first.

The adequacy and appropriateness of the WIC commodity package will be studied and reviewed under this legislation. While it is preferable to allow USDA to use its expertise to establish specific commodities and their quantities that can and should be included in the WIC commodity package, the subcommittee did determine that more could be accomplished in providing adequate amounts of high quality protein, iron, and other required nutrients to WIC participants than is currently being done. The assumption, for example that foods containing nutrients such as iron are consumed simultaneously with absorption enhancers such as vitamin C, needs to be validated by empirical evidence. The report language refers to the need for foods rich in heme iron; this, according to witnesses at the subcommittee hearing, means red meats. Although red meat is made available to WIC participants in certain cases, it is not included in any of the standard commodity packages. The flexibility on the part of WIC directors to provide red meat is therefore greatly restricted. It is possible to address this problem by including some amount of red meat in at least one of the commodity packages. The report language directs the Secretary to not only study these concerns but to take remedial action where appropriate.

I want to make special note of the cooperation and support received in crafting and negotiating the various provisions of this bill. I want to thank Senators BOSCHWITZ, LUGAR, and DOLE and their staffs. I am especially grateful to Chairman LEAHY and his fine staff. Apart from his role as the chairman of our Agriculture Committee, he is a wise and true leader whose friendship I value greatly. All of the Nutrition Subcommittee and full Agriculture Committee members were original cosponsors of this bill. The House Education and Labor Committee has offered additional amendments to the Senate passed bill which the Senate staff has reviewed and differences have been worked out so that this bill is acceptable to all concerned.

I would like to pay special tribute to our Senate staff who have crafted and guided this bill to its conclusion. I want to especially thank Chuck Reimenschneider, Janet Breslin, Ed Barron, Mark Halverson, Laura Madden, and Bob Andros for their efforts in getting this bill drafted, organizing hearings, negotiating compromises, and preparing this bill for final passage. I want to thank Chuck Conner, Dave Johnson, Terri Nintemenn, Stacy Hoffhaus, Cheryl Howie, LeeAnn Jerome, Jeff Hall, Tamara Sommerville, Suzy Johnson of the minority staff for their cooperation and diligence. I want to note the cheerful attitudes and hard work of Miles Goggans, Chris Sarcone, Cynthia Neuwalder, and Mary Kinzer of the majority staff. Finally I want to thank the General Accounting Office, especially Mr. Bowsher and Mr. Peach for their invaluable assistance to the subcommittee throughout this process. By making their staff resources available to the subcommittee and committee, they helped assure a timely and quality product.

Again, Mr. President, let me extend my sincere appreciation to all those who participated in this effort on both sides of the aisle and especially our leadership for their wholehearted support and encouragement.

Mr. LEAHY. Mr. President, this bill is a victory for the children of Vermont, and the Nation.

There are 13 million children living in poverty in America.

We all know that children in rural America, and children in urban America, share common dreams. But despite the economic gains of the 1980's we have an ever increasing number of children who live in poverty.

Too many children face a life defined by poor diet, illness, and learning difficulties—their dreams may never be realized.

Millions of children from poor families depend on school food service programs to get enought to eat. When the summer recess bell rings, 10 million low-income children can't get those meals.

This problem is at its worst in rural States, including Vermont. Less than 1 percent of the children from low-income families in Vermont are in a school-run Summer Food Program. Rural schools are more likely to close during the summer months. They are not able to operate these feeding programs for children.

The bill assists churches, community action agencies, YMCA's, and other local nonprofit groups in their efforts to fill this gap to feed hungry children during the summer.

The bill also helps during the school year. It helps children who come to school hungry. The bill assists local school districts set up school breakfast programs for needy children.

Vermont has a low participation rate in that breakfast program. It is not because they do not recognize the problem. The high costs of setting up a school breakfast program kept many schools out of the program.

This bill will make it easier for schools in Vermont, and in the Nation, to set up breakfast programs.

Other provisions in the bill will help the children of the working poor. The bill helps poor children in child care centers and homes get decent meals.

I am especially excited about a new program we are creating for homeless children under age 6. The growing problem of hungry children in homeless shelters is distressing.

The Department of Housing and Urban Development reports that there are 5,400 homeless shelters across the Nation—three times the number in 1984. And the number of homeless families with children keeps growing.

These children do not get adequate, or even regular, meals. The school-age children in shelters are at least fed in school. But what about the preschoolers?

The Department of Social Development and World Peace of the United States Catholic Conference came to us with a great idea. They, working with the Catholic Archdiocese of Philadelphia, pointed out that there are more than 1,000 homeless children in shelters in Philadelphia alone.

That archdiocese has become a food service provider because of the needs of children in that city.

They point out that "food stamps, WIC, and school or day care meals are difficult to obtain or use in a shelter situation. Most of the shelters have inadequate or no cooking facilities, thus preventing these families from using food stamps, WIC, or even TEFAP."

The bill addresses this need. It requires the Department to conduct demonstration projects to feed needy preschoolers in homeless shelters. During the summer months these shelters would be eligible for assistance under the Summer Food Service Program. In nonsummer months they would be eligible for assistance under this new pilot project authority. This will enable participating shelters to provide year-round assistance to children under 6.

This bill helps in many other ways. It will put an estimated 80,000 more pregnant women, infants, and children on the WIC Program without costing taxpayers a penny. The bill requires States to purchase infant formula for the WIC Program under cost-savings procedures—borrowing a cost-saving method used in Vermont for the WIC Program.

Another important provision sets up a special breast-feeding promotion program to encourage WIC mothers to breast-feed their infants. I greatly appreciate the assistance I received on this provision from Dr. Narkewicz of Vermont who is the past president of the American Academy of Pediatrics.

We know how well WIC works. It is widely praised as one of the Nation's most effective social programs. Study after study shows that WIC helps ensure larger, healthier babies from birth on through the first vulnerable years. Study after study shows each WIC dollar savings multiple dollars in health-care and hospitalization costs.

Our children are our Nation's future. They are the resource that will take America far into the 21st century.

That is why we must take action now. We need action, not just talk.

This legislation enjoys wide bipartisan support. It keeps with my own conviction that hunger is not a partisan issue, but is rather a moral challenge.

This bill reflects the hard work and commitment of both Republicans and Democrats on the Agriculture, Nutrition, and Forestry Committee.

First, I want to thank TOM HARKIN, the chairman of the Nutrition Subcommittee, for his work, determination and drive, in getting this legislation through Congress.

Tom is a fighter. He fights to help children in Iowa. He fights to help the children of America.

His ranking subcommittee Republican member, RUDY BOSCHWITZ, is also a hard worker. He takes the time to carefully review the nutrition programs and make useful suggestions.

The ranking Republican member on the full committee, Senator DICK LUGAR, has been extremely helpful in bringing a true bipartisan spirit to the committee's activities in assisting America's children.

Indeed, both Senators LUGAR and BOSCHWITZ have recently received well-deserved praise for their history of support for nutrition programs in "Living Hungry in America," a book documenting America's continuing struggle with hunger.

The past ranking member of the subcommittee, BOB DOLE, is always a leader on all of these issues. We worked together well when we both served on the Nutrition Subcommittee and I am glad that this good relationship continues to this day.

I also want to thank Senator MITCH MCCONNELL who is emerging as a new leader regarding the nutrition programs. Earlier this year he introduced three bills on child nutrition. As I said when this bill was introduced, we have incorporated many of his ideas in this legislation. I personally appreciate his efforts on this and other legislation before our committee.

Senator PRYOR has also been very helpful regarding this legislation. It is through his efforts that there will be Federal funding for meals served to children in the extended National Youth Sports Program. His concern for nutrition assistance, especially in rural areas, is always appreciated.

Mr. President, all of the members of the committee support these child nutrition programs. Every member of the committee was a sponsor of this bill at introduction. The committee members are supported by a dedicated staff that has put in endless hours on this legislation.

This bill is over 100 pages long, it creates several new programs to help needy children, and improves on existing programs benefiting over 25 million children.

I want to thank the minority staff who have worked so hard on this bill: Dave Johnson with Senator LUGAR, Terri Nintemann, with Seantor BOSCHWITZ, Stacy Hoffhaus with Senator DOLE, Cheryl Howie with Senator COCHRAN, LeeAnn Jerome with Senator BOND, and Tamara Somerville, Jeff Hall, and Suzy Johnson all with Senator MCCONNELL.

On the majority side, I want to thank Bob Andros and Mark Halverson with Senator HARKIN. In addition, Miles Goggans with Senator PRYOR was most helpful regarding setting up the extended National Youth Sports Program.

I especially want to thank my own staff on the Agriculture Committee. Janet Breslin, the deputy staff director, provides me with invaluable policy advice on these important programs. Ed Barron, the deputy chief counsel of the committee, brings years of experience regarding the nutrition programs to bear on this, and related, legislation. Ed, formerly with the Office of the General Counsel of the Department, has helped craft many of the provisions of this bill. Laura Madden, of my staff, has also worked hard on this legislation.

Many others on the full committee have helped on this important legislation including Chris Sarcone, Mary Kinzer, and Valerie Callands.

Mr. President, the bill we have before us today reflects the unanimous bipartisan support of the entire Agriculture Committee. This broad-based support itself is a major achievement and reflects, as I said before, the commitment of the committee to all of our child nutrition programs.

Mr. President, I would like to briefly summarize some of the key provisions of this bill. Before I begin, however, I need to point out the legislative histo-

ry of this bill for the benefit of those who will implement its provisions.

After months of work, meetings, drafting sessions, and discussions, the bill was introduced on August 2 and passed the following day. Since committee markup was unnecessary, the floor statements representing the Members' intentions in effect substitute for the bill report. For example, I provided a detailed analysis of the Senate bill, S. 1484, in the August 3, 1989, CONGRESSIONAL RECORD. In addition, Senator LUGAR and myself on that same day, provided a statement of committee views on the intent of S. 1484. Senator HARKIN submitted a detailed section-by-section analysis of the bill.

This final version of the bill was passed by both houses without the need for a conference. Thus the floor statements of committee members working on the bill become critically important.

CHILD NUTRITION AND WIC REAUTHORIZATION ACT OF 1989

Mr. BOSCHWITZ. Mr. President, I rise today in support of the Child Nutrition and WIC Reauthorization Act of 1989.

The Federal child nutrition programs provide vital nutritional assistance to our Nation's children. The School Lunch Program serves 4 billion school lunches annually to 24 million children. Last year 3.9 million children received breakfast through the School Breakfast Program. The Child Care Food Program provides nutritious meals and snacks to over 1.2 million children care for in child care centers and day care homes. The Summer Food Service Program provides meals to 1.6 million children in low-income areas during the summer when school is not in session.

Our bipartisan bill reauthorizes five expiring child nutrition programs through fiscal year 1994. These programs are: the Special Supplemental Food Program for Women, Infants, and Children, better known as WIC; the Summer Food Service Program; the State Administrative Expense Program; the Commodity Distribution Program; and the Nutrition Education and Training Program. The School Lunch Program, the School Breakfast Program, and the Child Care Food Program are permanently authorized.

Let me just briefly review several of the highlights of this bill. The Summer Food Service Program is expanded to allow certain nonprofit organizations to take part in this program. Currently, public entities like schools or local governments can provide meals to children in low-income areas during the summer. Nonprofits were able to participate in the Summer Food Service Program but were excluded by Congress in 1981 because of problems with fraud and abuse. Our bill contains restrictions and additional monitoring of nonprofits to guard against these problems in the future. We are hopeful that these changes will be advantageous for rural areas where many nonprofits are eager to participate.

Our bill also provides funding to schools for one-time expenses in starting up a School Breakfast Program. These funds will be awarded to States on a competitive basis. Education of our country's children cannot begin without good health and nutrition. As many teachers have told me, hungry children do not learn. I have been a promoter of the School Breakfast Program and have strongly encouraged more schools to offer breakfast to their students.

As a strong supporter of the Child Care Food Program, I'm pleased our bill allows Child Care Food Program sponsors to use startup funds to encourage day care homes to locate in low-income or rural areas. I firmly believe that we need to further encourage and expand the day care home provider system. Once again, I must register my disappointment that our bill does not allow for reimbursement for an extra meal or snack for day care homes nationwide. Legislation enacted last year provided the additional payment for child care centers but not all day care homes. I will continue to push for this change in the future.

Our bill requires the Department of Agriculture and the Department of Health and Human Services to prepare a nutrition guidance publication for distribution to institutions and organizations participating in the school lunch and breakfast programs, the Summer Food Service Program, and the Child Care Food Program. This publication should be helpful in guiding these institutions and organizations in serving nutritious meals and ensuring that these meals contribute to overall healthy eating patterns for children.

We have included several provisions in our bill which are important to school food service directors and workers. I've heard concerns from many food service directors about Federal reviews. Our bill is designed to simplify and better coordinate the system between the Federal Government, the States, and the local schools for auditing school lunch claims.

Because more attention is being focused on the relationship between proper nutrition and good health, our bill increases the authorization for the Nutrition Education and Training [NET] Program. This will enable the NET Program to continue to provide valuable information and training on nutrition. The earlier in life that nutrition education is provided to children, the more impact it will have down the road.

We have also made several improvements to the WIC Program. Over 4 million low-income women, infants, and children who have nutrition-related health problems receive food and nutrition education through WIC. The effectiveness of WIC has been well-documented. Because of WIC, we've seen higher birthweights, fewer premature births, better diets for infants and WIC moms, and less anemia in low-income children. I am committed to working to reach more of those eligible for WIC.

Our bill better coordinates WIC with food stamps, AFDC, and Medicaid. I have long believed that we should work to better coordinate and simplify the myriad of assistance programs that are available to low-income families and individuals. In the long run, this will benefit both the recipient and the caseworker. Our bill also simplifies the procedure for determining the funding of nutrition services and administration for WIC. As many State WIC directors have said, the current system for allocating this funding can be unnecessarily cumbersome and complex.

As the ranking minority member of the Nutrition Subcommittee, I intend to keep working hard to improve programs that provide nutritional assistance to our Nation's children. Our bill strengthens the existing child nutrition programs and provides modest increases for school breakfast promotion and expansion of the Summer Food Service Program.

On a final note, I want to thank my colleagues on the Agriculture Committee and their staff for their cooperation and hard work on this bill. Thanks go to Senator PAT LEAHY, chairman of the Agriculture Committee; Senator DICK LUGAR, ranking minority member of the Agriculture Committee; and Senator TOM HARKIN, chairman of the Nutrition Subcommittee. Senator BOB DOLE has been a leader in nutrition legislation in the past and continues to provide valuable leadership on this issue. Senator MITCH MCCONNELL also deserves special commendation for his interest in nutrition programs and efforts to expand the School Breakfast Program and the Child Care Food Program.

I urge my colleagues to strongly support this important child nutrition bill.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate concur in the House amendment to the Senate amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPORT OF BASIC HUMAN RIGHTS AND DEMOCRACY IN BURMA

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of

Representatives on Senate Concurrent Resolution 61.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S. Con. Res. 61) entitled "Concurrent resolution in support of basic human rights and democracy in Burma", do pass with the following amendments:

In the sixth whereas clause of the preamble, strike out "hundreds", and insert "thousands".

At the end of the penultimate whereas clause of the preamble, strike out "and".

Strike out the last whereas clause of the preamble, and insert:

Whereas the United States Department of State and independent human rights monitors report that severe mistreatment of political prisoners (including burnings, beatings, and use of electric shock) is commonplace in Burma and in some cases has led to death; and

Whereas the United States Government has condemned gross violations of human rights by the Government of Burma and called for the lifting of restrictions on freedom of expression, assembly, and association: Now, therefore, be it

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—H.R. 3287

Mr. MITCHELL. Mr. President, I ask unanimous consent that H.R. 3287, the D.C. revenue bonds bill, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

RECESS; MORNING BUSINESS; CONSIDERATION OF HOUSE JOINT RESOLUTION 423

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 a.m. tomorrow, Wednesday, October 25; that, following the time for the two leaders, there be a period for morning business until 11 a.m. with Senators permitted to speak therein for up to 5 minutes each. I further ask unanimous consent that at 11 a.m. the Senate begin consideration of House Joint Resolution 423, the continuing resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MITCHELL. Mr. President, for the information of Senators, rollcall votes are possible during the day on tomorrow in relation to the continuing resolution, and with respect to the Poland-Hungary assistance bill which it is my hope and intention to proceed to upon completion of the continuing resolution.

RECESS UNTIL 10 A.M. TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in recess under the previous order until 10 a.m., on Wednesday, October 25.

There being no objection, the Senate, at 7:39 p.m. recessed until Wednesday, October 25, 1989, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 24, 1989:

DEPARTMENT OF JUSTICE

STUART M. GERSON, OF MARYLAND, TO BE AN ASSISTANT ATTORNEY GENERAL.

GENE MCNARY, OF MISSOURI, TO BE COMMISSIONER OF IMMIGRATION AND NATURALIZATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

CONRAD K. CYR, OF MAINE, TO BE U.S. CIRCUIT JUDGE FOR THE FIRST CIRCUIT.

MARVIN J. GARBIS, OF MARYLAND, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND.

REBECCA BEACH SMITH, OF VIRGINIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF VIRGINIA.

DEPARTMENT OF JUSTICE

JEFFREY R. HOWARD, OF NEW HAMPSHIRE, TO BE U.S. ATTORNEY FOR THE DISTRICT OF NEW HAMPSHIRE FOR THE TERM OF 4 YEARS.

MICHAEL D. MCKAY, OF WASHINGTON, TO BE U.S. ATTORNEY FOR THE WESTERN DISTRICT OF WASHINGTON FOR THE TERM OF 4 YEARS.

ROBERT W. GENZMAN, OF FLORIDA, TO BE U.S. ATTORNEY FOR THE MIDDLE DISTRICT OF FLORIDA FOR THE TERM OF 4 YEARS.

HERBERT M. RUTHERFORD III, OF THE DISTRICT OF COLUMBIA, TO BE U.S. MARSHAL FOR THE DISTRICT OF COLUMBIA FOR THE TERM OF 4 YEARS.

EXTENSIONS OF REMARKS

KEYNOTE SPEAKER AT THE U.S. HISTORICAL SOCIETY MEETING

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. FRENZEL. Mr. Speaker, the following keynote address was delivered at this year's annual meeting of the U.S. Historical Society by the noted historian James M. Banner, Jr. I find his observations worthwhile reading for all Members of the Congress and submit it for their edification:

ADDRESS BY JAMES M. BANNER, JR.

Ladies and gentleman, the latest in a long line of speakers before annual meetings of the Society, I feel a bit like Elizabeth Taylor's fifth husband. I know what I'm supposed to do. But how do I make it seem interesting?

Mark Twain once declared that the ideal audience is intelligent, interested in the subject, and thoroughly drunk. I beg your attention, if not your indulgence.

I shall try to keep in mind Thomas Aquinas's admonition to young scholars: "Be brief. Be clear. Be gone."

To those of us who pursue history as a craft, a duty, and a pleasure, the world about us often seems to care little for the past or for those who take a serious interest in it. Evidence of a heedlessness of history and of disrespect for its presence in our lives lies all about it. Historic sites—to some hallowed by sacrifice of life (like Manassas Battlefield) or by surpassing vision (like the Seneca Falls meeting house)—are threatened by development or lack of funds. Bicentennial commissions trivialize the Revolution and Constitution by licensing their insignia for application on goods and services. Men who break law are saluted as patriotic heroes and likened to statesmen like Washington and Lincoln. Even a president of the United States complains that universities are "subsidizing intellectual curiosity." Is it any wonder that we worry that the future may not have a past to recall and that the past may not have a future? "Out of our conception of the past," Thomas Hobbes remarked somewhere, "we make a future." That is, without an accurate conception of the past, we venture toward the future unprepared and unmoored.

It often seems, too, that the house of history is itself divided from within, or that others try to make us so or to so define us, into two distinct, if not antagonistic, camps. Members of these camps, it is said, seek to understand and convey the past from diametric perspectives and with totally different intent. There are, we are told, scholars on the one hand and story-tellers, spread-eagle zealots, and amateurs on the other, and a chasm separates them both. The one—or so the stereotype has it—are overly serious, analytical, critical, ideological, and little concerned with the general, reading, and educated public. The others, so this belief has it, are insouciant toward facts and the truth and seek principally the confirmation of filiopietistic and patriotic convention, not the freshening of knowledge.

Yet if evidence to the contrary is needed about the health of history and about the ability of people of different interests, talents, and intentions to inhabit the same house, then in this, its 27th year, the United States Capitol Historical Society bears witness that we need not despair on either count. Indeed, we can reach back to the two great, classic founders of history in the western world, namely Herodotus and Thucydides, for confirmation of the Society's twinned approaches to the past. It was Herodotus, traditionally considered the father of history, who approached historical knowledge as the story of a people; it was Thucydides, his great successor, who approached the same kind of knowledge as a challenge of analysis and substantiation. These two approaches, always in tension, have by genius and intention been brought into happy marriage by this organization. I would like to celebrate this fact before you tonight by putting this distinctive, perhaps unique, institution in the context of its time and by taking the liberty to make some modest proposals about its future.

When the society was born of the vision of Fred Schwengel in 1962, it is doubtful that either the difficulties that attend an initiative of this sort or the opportunities that would open before it could have been envisaged. Historical studies in the United States had not yet emerged from their prosperous post-war condition and were not yet, as we like to say, "in crisis." History was considered to serve its traditional functions. As a subject, it was required in schools and popular in colleges. The GI Bill had attracted to historical scholarship thousands of men who in earlier days would have taken up other pursuits. Our great historical societies, like the Massachusetts Historical Society and the New York Historical Society, were sound if not rich and continued to preserve traditional archival materials and confirm traditional social conventions. History among the general public, though often amateurish, had a secure place as confirmer of old values, as vehicle of patriotic lore. And that ancient form, the narrative, continued to be a favorite of the serious reading public.

Within a decade—under the spurs of war, the civil rights and women's movements, the demographic revolution of the era, and fresh intellectual currents—all of these traditional features of history were being called into question. Historical studies in schools and colleges were taken at a discount; history, it was said by some, was no longer "relevant," by others too "trendy;" and, assailed from both sides, scholars and teachers of history saw enrollments in history classes begin to fall off. Young people no longer envisaged a future for themselves upon college and university faculties. Economic difficulties born of inflation and cultural pressures deriving from racial, sexual, ethnic, and other factors cast traditional historical institutions into the shadow and, really for the first time, gave them competition from other organizations that begun to erode their memberships. Popular history came sometimes to be seen as reactionary and ideological. Patriotism was called into question. At least among academic historians the narrative fell under suspicion, while for the first time since the 1930s the great historical storytellers began to get a hearing, not just for their narratives, but for their attacks upon newer modes of scholarly historical analysis.

Into this sea of conflicting cultural, intellectual, economic, and institutional currents the United States Capitol Historical Society was launched. It's a nice question whether its pilot would have taken the helm had he known of the whirlpools and rips. Yet, needless to say, this ship has passed through its heavy swells and, after 27 years, sails proudly in calmer waters. Why is this so?

No doubt, it has to do with its privileged place within the Capitol and with the energy and clarity of its helmsman and those others who have shared his vision for all these years. However, the Society has endured and prospered for other, less remarked, reasons as well.

That kind of history whose impulses are purely patriotic or partisan is not history at all but romance and myth. The basis of myth is ignorance, wish, exclusion, certainty, opinion. The foundations of historical knowledge are evidence, assessment, judgment, discrimination, inclusion, ambiguity, and uncertainty. In every nation, much that passes for history is really an endeavor to create or sustain a mythic idea of the past, not of its substance or reality; and nothing attaches more easily and with greater injury to the great symbols of a nation or its people—symbols like the Capitol and the Constitution of which it is the living embodiment—than an idea of the past that rouses and gladdens the heart without reference to fact.

This Society has refused to build itself upon such sand. It has answered the desires of the millions of Americans who visit the Capitol for a captivating introduction to its history without flinching from the need to present that history faithfully. As result, our fellow citizens are introduced—by tour, book, and film—to aspects of the history of the Captiol, the Constitution, and the Congress with fidelity to evidence while in no manner being denied the grandeur and enchantment of the place or diminished in their feelings for the country and what it represents.

History has also to do with more than the presentation of knowledge of the past. It has to do with the discovery, analysis, and assessment of that knowledge—that is, with scholarship. History without scholarship is history without life, just as history without effective presentation is history without audience.

It would have been easy, and not at all surprising, for this Society to have simply ignored scholarly dimension of historical pursuits—or at least to have done no more than to depend upon others' research and writing. Instead, it has actively underwritten the production and presentation of fresh historical thinking since 1978. Its scholarly symposia have earned for the Society that rarest of tributes: praise of its

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

work from the scholarly community. As many attest, the conferences which Ron Hoffman has organized and the resulting books that he has edited have greatly enriched historical studies of the early nation in this country and have given the Society a footing in the scholarly world enjoyed by few others of its kind.

For still another reason, this society, by endeavoring something unusual, has endured for 27 years. It has held to the conviction that the celebration of a people's history is neither frivolous nor a one-time thing. History is deadly serious and, being so, most be pursued consistently, repeatedly, independently. One had only to compare the Society's work to the two bicentennial endeavors of the past 15 years—those surrounding the Revolution and the Constitution—to understand the advantages of clarity and continuity of purpose and act. Both were irrelevant to the national welfare, not for providing entertainment but for being marginal in most of their elements; not for celebrating the nation's heritage, but for doing so in a narrow and ideological fashion; not for distributing wares that bore the Commission's imprimatur but for cheapening the venerable history of this nation through rank commercialization; not for distributing copies of the U.S. Constitution but for making too few other enduring contributions to the preservation and understanding of the nation's past.

Four years age, in his address before this annual meeting, Ron Hofman expressed his hopes that the Bicentennial Commission would avoid sponsoring an "embarrassingly trivial and impermanent celebration" and that it would, among other things, "choose to invest a meaningful portion of [Its funding] in the work of preserving and making widely available the records of our past." By example, he singled out the letterpress editions of the papers of the founding fathers and of the great events surrounding the Constitution, the first federal elections, and the meeting of the first Congress. Unfortunately, commission support for these grand ventures was never forthcoming nor, despite some solid ventures in support of instruction, have similar projects of lasting import benefitted substantially from the national bicentennial body. It is a great misfortune.

Finally, the Society has prospered by avoiding a narrow focus. It has tried to make contributions to a variety of history's dimensions by undertaking a broad range of activities. It publishes books, leads tours, maintains a department of historical research—whose latest work, a history of the House Ways and Means Committee, is a major contribution to historical knowledge—sponsors scholarly meetings, offers fellowships to scholars, preserves and adds to the brilliant beauty of the Capitol, and always seems to prepare to add something new to its programs.

The Society is now assessing its next departures. How can it make additional contributions to historical understanding? Within its resources, what should it continue to do and what add? I am not privy to the Society's deliberations, and it would be presumptuous of me to make proposals for an organization in which I play no part. I do, however, wish to suggest some issues for your consideration by emphasizing some programs that you now support and by alerting you to some matters that might fall within the Society's compass.

I emphasize immediately that I see nothing extraneous in what the Society already does. Its publications about the Capitol, its tours, its visitors' information center, its films, medals, and calendar, its custodianship of and additions to the Capitol's art, furnishings, and archives—these are all central to is mission and the crown of its achievements. It is unimaginable that they would not continue.

Growing naturally from these core programs are others that, I understand, are now contemplated—a sound and light program on the Capitol's west front and films about various moments in the nation's collective history. Both continue the Society's efforts to carry historical knowledge to all citizens while providing entertainment to them. They are likely to succeed.

I understand, too, that thought is being given to an extension of the symposia series beyond the years of the Constitution. As a scholar, I welcome that news; as a historian of the early republic, I find it particularly promising. Yet what, some may ask, is an organization devoted to the history of the Capitol and emerging from its special patronage doing supporting analytical scholarship, some of which, as represented by the topics of these symposia, appears to have little to do with the Capitol and its history, and much of which is not likely to find its way into the hands of the general public? These are good questions, and they deserve answers.

The principal value of these symposia has not lain in their subject matter, which has been, and will always be, pursued by scholars—although the papers given at these symposia have made important, occasionally signal, contributions to knowledge and understanding. The chief benefits have lain elsewhere. First, the audiences, increasingly large, have been composed principally of teachers and interested citizens—brought together by the Society to enlarge their knowledge of the nation's history. There are few occasions in which scholars are presented to a room full of informed readers and teachers and asked to speak to them, not to each other. It does a world of good for us all.

Second is the regularity of occurrence of the symposia. That regularity, enhanced by the consistent application and accumulated experience of Ron Hoffman and his associates, makes the annual gatherings widely anticipated events among scholars and teachers who attend. It also means that the contributions of each symposium, made tangible in book form, possess a consistency of appearance, editing, and direction that is rare among books of this sort.

Third, these symposia have for many years focused on the same large subject—the era of the Revolution and Constitution—from different perspectives but always with the same concentration. As a result, a single, though complex, subject of inquiry has gotten repeated scrutiny and has gained immeasurably from this approach.

Fourth and finally, the symposia have produced enduring works of scholarship—not proceedings volumes, not occasional essays, but lasting contributions to knowledge. When the last in this initial series of symposia has been held in 1991, fourteen gatherings will have been convened; well over 100 scholars will have contributed papers, many of them genuine additions to knowledge and understanding; and fourteen volumes of lasting value to historians and others will have been published from them by the University Press of Virginia. This is a grand achievement.

The continuance of these symposia and the extension of their subject beyond the early 1790s is greatly to be desired. Part of their initial success having resided in their focus, it would do well to spend some years on an equally well-defined, yet intellectually rich, period of our history—namely the era from roughly 1790 to 1828, the years of the young republic, bounded on the one hand by the Constitutional Convention and on the other by the emergence of genuinely democratic politics and the settlement of the lingering international issues of the revolutionary era. I hope that the Society will extend this wonderful program in this way.

I would like to turn now to a few other matters where I beg your indulgence for some modest presumptuousness. I would like to offer two or three proposals.

First, I commend to your attention opportunities to commission additional works—both scholarly and popular—on the history of the Capitol, its buildings, its institutions, and its inhabitants—especially lesser known ones.

As you may know, the historical study of this city has greatly matured in the last few years. The principal sponsor of this effort has been The George Washington University, through its history and American studies departments. Now, more is in the wind. The Historical Society of Washington, formerly the Columbia Historical Society, is undergoing a major physical and intellectual revitalization. It might be a partner with this Society in some of its endeavors. In addition, other institutions, such as the American Institute of Architects, are contributing fresh knowledge to the city's history. For instance, the Institute recently mounted a major exhibition and published a major study of the work of Robert Mills, the great architect of the Washington Monument, the Central Post Office Building, and the Old Patent Office Building. I can also point to an effort, which I am now trying to get underway, to produce a one-volume historical encyclopedia of the District of Columbia, which will be published by the Johns Hopkins University Press.

All of these initiatives add up to a major advance in knowledge about the seat of government. Yet much more could be done. And given the energy of this Society, its epicentral location at the Capitol, its sharp focus upon this great national institution, I urge that the Society, in its own distinctive way, consider how it might provide incentives for the creation of better scholarly history about the Capitol.

I also offer for your consideration some initiatives for the schools. Indirectly, through payments for teachers, its publications, and its forthcoming films, the Society already serves the students of the nation. The question is whether it can do so in more ways, while remaining faithful to its charter mission. I believe that it can.

There is no need to rehearse here the problems of the schools. Their afflictions are great, sometimes seemingly irremediable. Solutions to those problems lie not with the schools and their teachers and administrators alone, but also with families, churches, public leaders, corporate officers, media figures—that it, with all of us. What, if any, contribution could the Society make to remedying the schools' problems?

I would suggest two initiatives—both building upon the Society's existing secondary school program.

The first has to do with teachers. One of the proven ways to teach and revitalize classroom instructors is through subject-intensive workshops—programs, whether they be of weekly meetings or of concentrated

periods during the summer, that immerse teachers in a field of inquiry, be it Renaissance art, plant biology, or social psychology. Ideal subjects for such an approach are the history and operations of institutions of government. External funds can be raised for such an endeavor. No more ideal sponsor for such programs could be found than the Society.

What I have in mind is this: the creation of a continuing program of intensive, graduate-level instruction for Washington, D.C., junior and senior high school teachers somewhere in the Capitol Building, sponsored by the Society, and led by senior scholars from the area in subjects related to the Society's interests and mission.

The second initiative has to do with school students themselves. Here, again, I would use the resources of the Society' glorious home, the Capitol itself—not just for tours, not just for films, not just for visits to Congress at work—all of these being useful activities of demonstrated value. Rather, in addition, I would try to develop programs both more extensive and lasting for this city's high school students. Perhaps the Society could host entire classes of students from single schools for up to two weeks in some space in the Capitol in order to immerse them in instruction in the workings of government, or the history of the Constitution, or civic responsibility in a democratic republic.

In any event, my concern would be, not to provide time off from study or internships and days of pleasant diversion, but rather serious, on-site instruction in those matters that are the Society's principal concerns. Such activities would supplement the offerings of hard pressed schools and at the same time draw to the Society by formal association those people in the community whom it wishes to reach.

I cannot resist concluding what I fear is a more serious and programmatic reflection than you bargained for tonight without taxing you for one more moment to speak about the great missing element in this city's collection of active historical societies, of which this one is a leader.

Washington is the greatest repository in the country of resources about the history of the nation. One has only to mention the Library of Congress, the Smithsonian Institution, and the National Archives to make the point. No other location can rival this one; no other institutions, not even our greatest universities, can match these three for their richness in American history. Yet where is the center for advanced study, the research center, to promote the pursuit of knowledge in American history in this city? We have a center for the study of Byzantium and pre-Columbian art—Dumbarton Oaks. We have a center for the interpretation of ancient culture—the Center for Hellenic Studies. We have an institution for the study of English drama and letters—the Folger Shakespeare Library. And in the National Gallery of Art we have the Center for the Advanced Study of the Visual Arts. But where is the National Center for American History and Culture? We don't have one. And we don't have one anywhere in the country.

We should. And it should be in Washington.

Such an endeavor may not be for the Capitol Historical Society to pursue. It probably is not. But its absence affects the Society by leaving it, almost single-handedly, through its annual symposia and the other activities it sponsors, to offer the principal programs in pursuit of fresh knowledge of our history as a people in this city. In a nation as old, as powerful, and as wealthy as ours, that should not be.

This nation was born out of respect for the past. It will be fully seasoned only when it learns to accept its past in all its dimensions, unworthy as well as worthy. Only then will be able "to disenthrall ourselves," as Abraham Lincoln would have had us do. Only then will we be able to say, "This is our past. It has made us what we are. We are Americans because of it."

I know that it is common, as the Society does in its own general brochure and as the National Archives does above its entrance, to cite the celebrated words of Shakespeare to the effect that "the past is prologue." Well, it just so happens that Shakespeare, in this instance at least, was wrong—dead wrong. The past is not prologue. It is part of the present, the very warp and woof of our lives. Without the past, we have no present; without a memory of the past, we have no capacity to think and to dream. Fortunately, the United States Capitol Historical Society does not act on these words. It has always, as it continues to do, celebrated the existence of the past, attempted to illuminate it for all American citizens, and sought to make the past integral to life on-going. I salute the Society as it marks another year of its own history of doing so.

(James M. Banner, Jr., formerly a member of the history faculty of Princeton University, was founder of the American Association for the Advancement of the Humanities and served as a member of the board of directors of the American Council of Learned Societies. Among other things, he is director of the Washington Seminar on American History and Culture.)

NATIONAL BURN AWARENESS WEEK

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. BERMAN. Mr. Speaker, I rise today to address one of the leading causes of accidental death in the United States. I refer to burn injuries, which are suffered by more than 2 million Americans each year. An alarming percentage of these victims are children and older Americans. Tragically, many of these injuries are preventable.

To help prevent these injuries, I am introducing a resolution designating the week of February 4, 1990, as "National Burn Awareness Week." This designation will raise public awareness about the prevention and treatment of burn victims.

The United States has the worst burn injury problem of any industrialized country. Each year, of the 2 million victims of burn injuries, 70,000 individuals are hospitalized and another 6,000 die from the results of their burns. Approximately half of these victims are children.

The survivors of burn injuries must undergo expensive, lengthy, and excruciatingly painful medical treatments. In addition to the psychological toll of suffering, burn injuries cost our Nation over $100 million each year in extended hospital care, rehabilitation and associated measures.

Many of these injuries and fatalities need never have occurred. The majority of burn accidents are the result of carelessness or lack of education. Approximately 75 percent could have been prevented or minimized by very basic education in burn hazard awareness, prevention and response to crisis situations.

The "stop, drop, and roll" procedure, for example, can mean the difference between a minor injury and a fatal one. Consider the children that are found every year in the closet, or under the bed of a house that burned. In each instance, a life might have been saved by teaching the child that one cannot hide from fire.

America's burn death and injury problem tragically demonstrates that this information is not common knowledge. By promoting public awareness and understanding about burns, this resolution provides Congress with an opportunity to make an impact on this very serious problem.

Mr. Speaker, efforts to educate the public about the needless tragedy of burn injuries are already underway. We must encourage these efforts. I urge my colleagues to support this resolution, which for the fifth consecutive year will designate the second week in February as "National Burn Awareness Week."

Mr. Speaker, I insert the text of the resolution in the RECORD.

H.J. RES. —

Whereas the burn problem in the United States is one of the worst of any industrialized nation in the world;

Whereas burn injuries are one of the leading causes of accidental death in the United States today;

Whereas every year over 2,000,000 people are victims of some form of burn injury in the United States alone, and children account for between one-third and one-half of this total;

Whereas of these injuries, over 70,000 are hospitalized and account for 9,000,000 disability days and $100,000,000 in costs annually;

Whereas over 6,000 people die from burn injuries annually, and the rehabilitative and psychological impact of burns is devastating;

Whereas young children are in the highest risk group suffering from hot liquid burns and injuries caused by child fire play and fire setting;

Whereas older adults and the disabled are also at great risk and extremely susceptible to burn injuries;

Whereas burn survivors often face years of costly reconstructive surgery and extensive physical and psychological rehabilitation in overcoming disabilities and fears of rejection by family members, friends, coworkers, schoolmates, and the public in general;

Whereas it is estimated that approximately 75 percent of all burn injuries and deaths could be prevented by a comprehensive national educational and awareness campaign and by changes in the design and technology of homes and consumer products;

Whereas a general public awareness of the need for smoke detectors and home fire escape plans, in combination with an understanding of the risk associated with items in the home environment, can cause a reduction of injuries and loss of life; and

Whereas there is a need for an effective national program that deals with all aspects

of burn injuries and on the prevention thereof: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing February 4, 1990, and ending February 10, 1990, is designated as "National Burn Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States and all Federal, State, and local government officials to observe that week with appropriate programs and activities.

GROWTH AT LINCOLN

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. SKELTON. Mr. Speaker, in a year when many colleges and universities are suffering from decreasing enrollment, Lincoln University in Jefferson City, MO, is experiencing a time of growth and development. The following editorial recently appeared in the Jefferson City Daily Capital News, and I submit it for consideration by my colleagues:

GROWTH AT LINCOLN

In another step forward, a critical one, enrollment at Lincoln University has reached the second-highest level ever at the school.

With possibly more to enroll, the student body at L.U. has reached 3,063, including both full- and part-time students. This represents an increase of 11.7 percent over the 1988-89 figure. That's a noteworthy statistic—no other four-year college in Missouri saw enrollment rise by 10 percent.

The university has suffered from falling student numbers in recent years. Just two years ago the enrollment had sunk to its lowest in recent years. The plunge coincided with the school's lamentable financial crisis.

The quick turnaround marks the confidence of the public in the university's new administration. Dr. Wendell Rayburn and his staff have responded effectively and positively to the problems that plagued the school.

University officials credited a large measure of the enrollment success to the two full-time recruiters hired; one focuses on Missouri's urban and out-state areas and the other on Mid-Missouri.

We still see a sizable number of potential students who remain in our area despite the new recruiter and a $30,000 advertising campaign that focused primarily on Mid-Missouri. We hope that L.U. officials track student response to the campaign carefully since they plan another blitz for this fall. Continued emphasis on Mid-Missouri recruitment will pay far greater benefits in both the long and short runs than will urban and out-state efforts.

Still Lincoln appears to be on the right track.

ARMS CONTINUE TO FLOW FROM NICARAGUA TO THE FMLN

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. BEREUTER. Mr. Speaker, when the Central American leaders reached common agreement this summer at Tela, there was a glimmer of hope that peace and stability might return to that war ravaged region. At that time, Nicaraguan President Daniel Ortega pledged not to interfere with the democratic process in El Salvador and not to assist the Marxist FMLN guerrillas who have been engaged in a bloody attempt to seize power. Increasingly the FMLN has turned to urban terrorism and a wave of assassinations of governmental and military leaders and their families.

In the intervening months since Tela it has become painfully clear that the Sandinista leadership in Nicaragua is not going to reduce its aid to the FMLN. On the contrary, the evidence would suggest that massive amounts of military hardware continue to be shipped from Nicaragua to the guerrillas. In May, before Tela, an arms cache of Soviet bloc weaponry was uncovered in El Salvador that contained 350 rifles and machine guns, a quarter million rounds of ammunition, and enough explosives to cripple the nation's highway and power grid.

Last week yet another supply of arms was uncovered. The Honduran police detained a tractor-trailer traveling from Nicaragua to El Salvador when it found 307 rocket-propelled grenades, an unknown number of grenade launchers, 74 automatic rifles, and a large supply of ammunition, explosive detonators, radios, and urban guerrilla training manuals with "FMLN" stamped upon them. This is but a partial listing of the seized weapons—a complete accounting will have to wait while the hidden panels on the trailer are slowly pried open.

This seizure comes at a time when the Salvadoran Government is engaging in negotiations with the FMLN. It is indeed ironic that the weapons were found at the same time that the Christiani government was responding to the FMLN's call for a permanent end of hostilities.

Because of the continued aggression of the Sandinista government and the FMLN guerrillas, we should recognize that prospects for lasting peace in Central America are not good. It is becoming increasingly clear that Daniel Ortega and the Sandinista government remain committed to assisting Marxist revolutions beyond their own borders, and this means that El Salvador will continue to be under seige. Likewise, it is becoming clear that, regardless of their protests to the contrary, the FMLN is willing to accept nothing less than the violent overthrow of the constitutionally elected government of El Salvador. This Member sincerely hopes that the democratic nations of Central America and the Western Hemisphere will recognize and respond to this challenge.

Mr. Speaker, this Member would like to insert into the RECORD a recent Washington Post article outlining the size of the recently discovered arms cache. It makes for most disturbing reading.

[From the Washington Post, Oct. 20, 1989]

HONDURAS SAYS IT SEIZED ARMS BOUND FOR SALVADORAN REBELS

(By Wilson Ring)

TEGUCIGALPA, HONDURAS, October 20, 1989. The Honduran military said today it has seized a record shipment of weapons being sent clandestinely from Nicaragua through this country to rebels in El Salvador.

Spokesmen said the shipment was discovered Wednesday during the routine search of a tractor-trailer at the Honduras-Nicaragua border crossing on the Pan American Highway at El Espino, about 70 miles southeast of here.

Col. Manuel Suarez Benavides, the head of public relations for the Honduran military, said in an interview with a Honduran radio station that the weapons were hidden behind false walls in a truck that was carrying furniture from Nicaragua to an undetermined location in El Salvador.

Omar Sierra, a civilian spokesman for the Honduran military, said the seizure was the largest ever. The Honduran truck driver, who was not identified, has been arrested, the sources said.

The seizure came on the same day that the Salvadoran government was winding up three days of peace negotiations in Costa Rica with the guerrilla leaders of the leftist Farabundo Marti National Liberation movement (FMLN).

A preliminary search of the truck found 307 rocket-propelled grenades and an undetermined number of launchers; 74 automatic rifles, including AK-47s and M-16s with an undetermined amount of ammunition; explosive detonators, radios and urban guerrilla training manuals with "FMLN" stamped on them, the sources said.

One of the sources said sections of the truck remained to be searched today and he expected more weapons to be discovered.

Salvadoran and U.S. officials frequently have charged that the Sandinista government of Nicaragua supplies Salvadoran guerrillas with arms and ammunition, but efforts to prove the charges conclusively have been disputed.

Over the years a number of arms shipments allegedly bound for the FMLN have been captured in Honduras. A large weapons shipment was seized in Comayagua, Honduras, in 1981. Another was discovered in late 1985 when a car packed with arms and ammunition had an accident on the Pan American Highway in Honduras, spilling the contents.

The most recent seizure came last summer, when about 60 AK-47s were discovered in a cache in a rural community about 50 miles north of Tegucigalpa. While the armed forces charged that the shipment came from Nicaragua and was bound for the FMLN, there was speculation it was destined for Honduran guerrillas.

THRIFT BAILOUT, LACKING A CHIEF AND FLOUNDERING AS OFFICIALS FEUD, SLOWS AND GROWS MORE COSTLY

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. GRADISON. Mr. Speaker, as you know, I have long been concerned with many aspects of the bailout of the Nation's savings and loan industry and continue to be fearful that we have not seen the last of that issue. One of the concerns I examined in depth in an essay I inserted into the CONGRESSIONAL RECORD on May 2, 1989, was my theory that the structure of the reform passed by Congress would ensure administrative chaos.

In the October 11 edition of the Wall Street Journal, Paulette Thomas reported that the complexity of the bureaucracy Congress created in the bailout legislation and the blurred lines of authority are delaying resolution of the bailout and raising its cost. In my view, this is an unfortunate and unnecessary chapter in the saga of S&L reform. The American people deserve to be better served than this.

The article follows:

[From the Wall Street Journal, Oct. 11, 1989]

THRIFT BAILOUT, LACKING A CHIEF AND FLOUNDERING AS OFFICIALS FEUD, SLOWS AND GROWS MORE COSTLY

(By Paulette Thomas)

WASHINGTON.—Good intentions weren't enough.

The overriding aim of the designers of the savings-and-loan bailout was to ensure that the disaster never happened again. But in their caution, the Bush administration and Congress created a structure so sprawling and complex that it makes it difficult for anything to happen. Those structural flaws now appear to be raising the cost and slowing the pace of the bailout.

A dozen agencies and departments were assigned roles in the $166 billion bailout, scrambling the regulatory structure that had governed the industry for more than 50 years. Instead of pulling together to lift the thrift industry out of its financial morass, the bureaucrats running the bailout are feuding over mismatched computers, changing industry standards and their own salaries.

Such problems might be resolved if there were someone clearly in charge of the bailout. But its designers sprinkled responsibility across the government, giving half a dozen top officials a role, but giving no one the final word. The bailout lacks one "czar" to direct the charge, set the pace and resolve conflicts. The zeal to have prudent supervision has instead meant that the buck stops everywhere.

"HEALTHY FRICTION"

Architects of the bailout concede it is behind schedule but say the problems are, in the words of Treasury Secretary Nicholas Brady, the kind of "healthy friction" associated with any start-up. They promise that things will get better with time. Indeed, several multibillion-dollar sales of sick thrifts are expected to finally begin later this week.

But thrift-industry executives and analysts say the problems run deeper than that. "This is bigger than start-up angst," says Daniel Brumbaugh, a Stanford University economist who follows the industry. "This structure leads to artificial, arbitrary outcomes."

For example, the structure put the Resolution Trust Corp., the new agency created to dispose of sick thrifts, in the peculiar position of being forced to spend billions of dollars making deals before it even had figured out how it would raise working capital. Under a congressional budget compromise designed to make the nation's budget deficit appear smaller, $20 billion was dumped on the RTC to be spent in fiscal 1989—just seven weeks before that fiscal year ended on Sept. 30.

In its effort to spend that money arranging thrift sales, the RTC tangled with the comptroller of the currency and the Federal Deposit Insurance Corp. over how much capital it should require of bidders. Next the RTC tussled with its own Oversight Board over what sort of transactions the board would allow. Then the RTC fended off industry complaints about who would be qualified bidders. In the end, it spent just $12 billion, missing a chance to show the bailout was on schedule.

ONE MORE AGENCY

Distracted by those squabbles, the RTC still hasn't determined how it will raise its working capital, the cash it will use to "carry," or finance, assets of failed thrifts until they can be sold. One solution being kicked around would add yet another layer to the bailout structure, conjuring up one more agency to issue debt. The RTC already is funded by one such entity, the Resolution Funding Corp.

Strong and effective leadership might have cut through such bureaucratic snarls. In the eyes of many in Congress, the forthright William Seidman, who was assigned several key roles in the bailout, most notably as chairman of the FDIC, appeared to fit that bill. Congress showed its admiration for Mr. Seidman, until then a regulation only of banks, by making him responsible for selling insolvent S&Ls and overseeing the thrift-insurance fund.

But Congress failed to give Mr. Seidman—or any other single regulator—overarching authority. And while it piled the work on the FDIC, it also piled on additional layers of supervision, hamstringing the agency that had distinguished itself by decisive action. Before the bailout, for example, a small band of FDIC officials put together a deal to sell First Republic Bank Corp. of Dallas in just three days. Now transactions drag on for weeks, partly because they must be cleared by the FDIC, the RTC, their boards and, in some cases, the Oversight Board as well.

Indeed, Mr. Seidman in some areas enjoys less authority than he did under the old regime. Five large thrifts are to be sold this week, but they are the simplest of transactions that leave the bulk of the bad assets with the government, because that's all the Oversight Board will initially approve. In the past an independent regulator, Mr. Seidman now must have his congressional testimony approved by the White House's Office of Management and Budget. Mr. Seidman's own board at the FDIC was expanded to include M. Danny Wall, the thrift regulator who presided over the industry's plummet into billions of dollars in losses.

GROWING NOSTALGIC

"We are not as independent as we used to be," says Mr. Seidman. He says he is growing nostalgic for "the good old days" when the FDIC regulated only banks.

Regulators are finding the structure of the bailout confusing and frustrating. Their efforts to sell off sick thrifts have been delayed in part by differing interpretations across the agencies of basic changes contained in the new law. For example, after months of debate, Congress set explicit commercial capital standards for the thrift industry. But it also ordered that those standards shouldn't fall below those for banks. Then, banking regulators began arguing among themselves about their own capital standards, creating uncertainty among thrifts about which standard to follow. In recent weeks, as the RTC was trying to sell sick thrifts, it couldn't tell bidders which standard to follow.

The structure has exacerbated what would be otherwise commonplace start-up problems. Thousands of employees have yet to be hired or transferred between agencies. Until this week, Mr. Wall was the only official employee of the Office of Thrift Supervision. The Oversight Board has but one employee as well: its president, Daniel Kearney. Everyone else is on loan from the Federal Reserve, the Treasury, and the thrift and banking agencies.

At the RTC, two separate and incompatible computer systems—one for banks, one for thrifts—run side by side. Technical difficulties abound in transferring new records. "It's like trying to merge two nations with different languages and the cars on different sides of the street," says Russ Cherry, acting director of administration for the RTC.

ANOTHER WRINKLE

In another wrinkle, the bureaucrats most directly involved in the thrift disaster, those in the newly created Office of Thrift Supervision, are getting raises in their salaries, even as other regulatory agencies are kept for the present at lower scales. That's because hundreds of former private-sector employees of the Federal Home Loan Banks have been brought into the new OTS, and salaries of others in the agency are being raised to the level of those new employees.

But that disparity has provoked fury in the FDIC, where employees doing the bulk of the bailout work are currently paid on a lower scale. The bailout seeks eventual parity between the agencies, but Mr. Seidman, among others, remains skeptical. "Parity, like beauty, is in the eyes of the beholder," he says.

Staff salaries and the like may only cause classic inside-the-Beltway disputes, but they aren't helping calm a chaotic and loss-plagued industry. Jay Mottice, a Florida developer, says he was told his bid to renegotiate loans at an S&L under government management was approved by the thrift. But a week later, he says, he received a foreclosure notice from the RTC. And Ron Miller, an executive at Princeton Business Forms, spent a week of frustration on the telephone to learn when new forms required under the law would be put in use.

"You never know with the government if they think about these laws, or just make them up," he says.

SO HUNGRY FOR OIL

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. OXLEY. Mr. Speaker, for the benefit of Members who may not have seen it, I would like to have entered in the RECORD an editorial by James Schlesinger, which appeared in today's Washington Post. Mr. Schlesinger is right on target with his point that we are once again becoming too dependent on foreign oil. It has been a slow but sure process, but we have lost ground in our quest for energy independence. I recommend the piece to my colleagues:

[From the Washington Post, Oct. 24, 1989]

SO HUNGRY FOR OIL—OPEC'S BEST FRIEND? IT'S US

(By James Schlesinger)

America's appetite for oil is once again steadily growing. In four years time it has rebounded by some 15 percent from the comparatively low level of 15 million barrels a day in 1985 now approaching the peak reached before the second Oil Shock. At the same time America's ability to satisfy that appetite from her domestic resources has been shrinking. The result has been a growth in imports that has recently accelerated. By the end of 1990 they will have grown by some 4.5 million barrels a day—roughly doubling in the five-year period. Demand continues to rise. Production continues to fall—though the volume of the decline must diminish with time. Nonetheless, by the mid-'90s imports will again have grown by a similar volume.

There is nothing that compels import growth to occur at this pace. Yet despite the persistent political rhetoric, not to say handwringing, regarding national security, nothing has been done to arrest the growth of imports—and precious little is likely to be done in the foreseeable future. In this era the United States appears wedded to reliance upon "free market forces." Despite a deep-seated public myth or conceit regarding the robustness of America's energy industry (a conceit not significantly extending into the energy industry itself), America has in Ricardian terms virtually no comparative advantage in the production of crude oil. Indeed, it has an impressively high-cost oil industry, getting higher as depletion proceeds.

To be sure, there exist the usual possibilities of enhancing domestic oil production or achieving fuel substitution and limiting oil consumption through a variety of fiscal or regulatory measures. But fiscal options are drastically limited by the budgetary stalemate and by the political constraints that have led to that stalemate. Discouraging oil consumption or directing usage to other fuels through regulatory devices is highly suspect at this time—save for motives of environmental protection. Thus, in brief, imports will continue to grow and to grow rapidly—because the measures required to restrain such growth are not in accord with the prevailing national psyche.

Despite the continuing declamations regarding the villainy of the OPEC cartel—which curiously enough reached their peak at precisely the moment of the cartel's greatest weakness—the United States has now unquestionably become the best ally that OPEC has. The growth in U.S. import requirements (followed by a corresponding rise in OPEC production) has done far more to remove excess slack from the market than any other force. Though it will have much outside assistance, all by itself the United States will dissipate much of the remaining surplus capacity and make the market quite snug by the middle 1990s.

The United States has become the main engine for the restoration of OPEC power. From the perspective of the cartel, actions should speak louder than words. A friend in need is a friend indeed. The United States has been such a friend.

It is not my primary purpose today to speculate on the rate at which prices might be pushed up. If OPEC has learned a lesson from its overreaching at the end of the '70s, it will exhibit restraint and will allow the price to rise sufficiently gradually that it attracts only minimal public attention. Nor is it my purpose to delve deeply into the financial repercussions of the growing oil trade for the balance of payments of importing nations. Suffice it to say that the strong will survive and the weak will be hurt. The main point is to emphasize the steadily growing dependency on OPEC and upon the Persian Gulf, a region of the world not noted for its political stability.

As the outside world becomes increasingly dependent upon the gulf, the principal nations of the region will become far more influential than today—with its (temporarily) slack supply conditions and low prices. Their financial difficulties will rapidly or gradually come to an end. Their place in the sun will be restored—along with their self-esteem. They will become increasingly cocky. They will also become more tempting as a target.

What I have outlined, I believe, are the major forces that will be at work. No one can precisely gauge the strength—or the interactions—of these specific forces. That will vary with time and circumstance. No one can predict the future with any confidence. The uncertainties are simply staggering. But where does this all lead us?

We can foresee a world that has grown increasingly and perhaps excessively dependent on the gulf region for its energy resources and for the performance of its economies. The Middle East will thus become the cockpit of contending world forces—a potential tinder box. If there is a major conflict, the Middle East is likely to be its vortex. "If there ever is a World War III," as one oil industry analyst has hyperbolically observed, "it will be fought over the Middle Eastern oil reserves."

A TRIBUTE TO LYLE HALL

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. BERMAN. Mr. Speaker, it is my pleasure and privilege to rise today to honor one of the San Fernando Valley's leading citizens, Lyle Hall. He is a labor leader and community activist and is being honored by the Valley Labor and Political Education Council for his contributions to our community.

Lyle is a distinguished member of the Los Angeles Fire Department. He has been a firefighter since 1962, occupying senior positions in the department throughout the city. He has received a number of valor awards for bravery and declared "Fireman of the Year" in 1984. Lyle is currently task force captain at Mission Hills Fire Station 75.

For almost two decades Lyle has been a key leader of the United Firefighters of Los Angeles, [UFLAC]. He was a member of the negotiating team that established the first memorandum of understanding between Los Angeles City and the United Firefighters. He was State representative of the International Association of Firefighters and from 1976 to 1984 was president of the UFLAC. He was recognized by the Valley News as one of the 10 most influential citizens in the San Fernando Valley.

Lyle donates his time to numerous organizations and groups in our city. These include the American Heart Association, the L.A. Jr. Chamber of Commerce, California State University and the Los Angeles Trade-Tech College, where he serves on the faculty.

Lyle is married to Kitty Hall and has six children.

I ask my colleagues to salute Lyle Hall, an exemplary citizen, a role model and distinguished community leader.

PLEA TO END THE ARMENIAN BLOCKADE

HON. CHARLES PASHAYAN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. PASHAYAN. Mr. Speaker, The Aremenian earthquake, itself a tragedy, is more tragic because the Government of the Azerbaijan Soviet Socialist Republic for 3 long months has refused to allow relief supplies of food, medicines, fuel, and other essential items to pass through the Armenian Republic's borders.

The Azerbaijan Soviet's act is unthinkable, inhuman, and devoid of reason. Armenia must suffer no more. The Azerbaijanis must set aside their differences, their arguments, their hatreds for now and let supplies flow unhindered into all stricken areas. Any less action is unacceptable.

Should the Azerbaijanis prove unwilling to relent, there is another option to ponder. When the Union of Soviet Socialist Republics felt threatened by the recent civil unrest in Nagorno-Karabakh, a largely Armenian administrative enclave surrounded by the Azerbaijan Republic, they wasted no time in placing the enclave under Moscow's direct control. If the central government can insist upon such a measure for internal security, it can likewise demand that the Azerbaijanis open their borders for essential relief supplies.

The Armenian Assembly of America, Armenian General Benevolent Union, Armenian Missionary Society of America, Armenian Relief Society, Diocese of the Armenian Church, and Prelacy of the Armenian Apostolic Church all have petitioned high Soviet officials for help in this urgent matter. I include their eloquent pleas in the RECORD.

OCTOBER 12, 1989.

President MIKHAIL S. GORBACHEV,
The Kremlin,
Moscow, U.S.S.R.

DEAR PRESIDENT GORBACHEV: The Armenian-American community is alarmed by continuing reports of Azerbaijan's blockade of Armenia and Nagorno-Karabagh. The human suffering and material losses caused by this illegal and inhuman action are incalculable. Virtually every earthquake relief project undertaken by Armenian and non-Armenian organizations from the United States has been affected.

The Azerbaijani government and Popular Front, while announcing the lifting of the blockade for sixty days, have indicated that it will be reinstated if authorities in Moscow do not return the Nagorno Karabagh Autonomous Oblast to Azerbaijani jurisdiction. This is unacceptable.

We urge that immediate steps be taken to insure that the blockade has, in fact, been lifted and that the cargo destined for Armenia and Nagorno-Karabagh is safeguarded. We further urge that administrative control of Nagorno-Karabagh not be returned to Azerbaijan. Your government's decision to assume control over this oblast was a correct response to Azerbaijani misrule. Returning Nagorno-Karabagh to Azerbaijan at this time would seal the fate of the minority Armenian population.

The overwhelming majority of the citizens of the Nagorno-Karabagh Autonomous Oblast have clearly and consistently expressed their view that they no longer wish to be under the jurisdiction of Azerbaijan. Further delay in responding to this legitimate and lawful expression of the people of Nagorno-Karabagh inadvertently encourages illegal acts such as the blockade.

Sincerely,

Armenian Assembly of America, Armenian General Benevolent Union, Armenian Missionary Association of America, Armenian Relief Society, Diocese of the Armenian Church, Prelacy of the Armenian Apostolic Church.

OCTOBER 13, 1989.

His Excellency YURI V. DUBININ,
Embassy of the U.S.S.R.,
Washington, DC.

DEAR MR. AMBASSADOR: Thank you for extending an invitation to representatives of Armenian-American organizations active in earthquake relief. I believe that the exchange of views and information was quite valuable. All who participated look forward to your government's response to our requests for prompt, specific action.

To reiterate our primary concerns, we believe that it is imperative to end the blockade, to ensure that it is not reinstated, to provide additional relief flights to Armenia and Nagorno-Karabakh, and to allow western nations and non-governmental organizations to augment this increased Soviet airlift of critically needed food and supplies. Ultimately, we feel that the situation will not be resolved until appropriate Soviet authorities clearly affirm the status of Nagorno-Karabakh in response to the legitimate aspirations of the majority of that oblast. At a minimum, your government must continue the present special administrative rule and insist that the Azerbaijani government and Popular Front respect that judgment. Finally, we appreciate your willingness to convey and support our request to meet with the delegation of the Supreme Soviet while in Washington.

Sincerely,

HIRAIR HOVNANIAN,
Chairman, Board of Trustees,
Armenian Assembly of America.

Why must the grief multiply? Why is stubbornness winning as people continue to go homeless and die? I call upon my colleagues, and compassionate people everywhere, to insist that the Azerbaijan-Soviet Government lift their senseless blockade immediately.

INTRODUCTION OF THE HIGHER EDUCATION TAX EQUITY ACT OF 1989

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. YOUNG of Alaska. Mr. Speaker, I rise today to introduce the Higher Education Tax Equity Act of 1989. This bill is designed to correct an inequitable situation that has evolved in my State.

In 1972, the State of Alaska instituted a debt forgiveness clause in its State-funded student loan program to encourage Alaskans who received an education outside the State, or who remained in the State, to reside and work in Alaska once their schooling was complete. Prior to the enactment of this clause, Alaska was experiencing a "brain drain," with many of our bright young people leaving the State for higher education and not returning. Since the forgiveness clause was introduced, many Alaskans have chosen to return to our State and contribute to its economic development.

For the past 17 years, the sum of the debt forgiven by the State of Alaska has not been subject to Federal taxation. Just recently, however, the Internal Revenue Service decided that it had overlooked the Alaska student loan program. The IRS determined that 1987 and 1988 loan beneficiaries as well as future beneficiaries must pay Fedeal tax on the forgiven portion of their loans.

Mr. Speaker, the State of Alaska offered debt forgiveness as an incentive to keep its youth in Alaska. The program is State-funded; not one dime is contributed by the Federal Government. I think it is wrong to allow the IRS to waltz in and institute a retroactive tax against thousands of students, many of whom are struggling to begin their careers. My legislation will simply make the forgiven debt nontaxable, which is how the IRS treated it for the past 17 years.

Remember, these students never received a penny of income. A portion of their debt was simply forgiven by the State as a strong inducement for them to return to Alaska and put their new found talents to work.

The legislation which I introduce today amends section 108(f) of the Internal Revenue Code of 1986 to include debt forgiveness of State-funded student loan programs as nontaxable income. This section already provides exemptions for "individuals [who] worked for a certain period of time in certain professions for any of a broad class of employers." It appears that the only problem with Alaska's forgiveness program is that it did not dictate to the students what professions they should pursue to receive State funds.

Mr. Speaker, the IRS should not be allowed to change the rules in the middle of the game. Alaska is now only forgiving debt for students who received loans prior to July 1, 1987. These students relied on the fact that the forgiven debt was not taxable. Now, they have to dig into their bank accounts to feed the insatiable hunger of the tax man. I say that is wrong, and my legislation is designed to set things straight.

TRIBUTE TO SHERWOOD BENNETT

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to a giant in the history of Macomb County, MI, Mr. Sherwood Bennett. Mr. Bennett is being honored by the Richmond Rotary Club for 50 years of dedicated service.

Mr. Bennett first came to Mount Clemens in 1927 to audit Macomb county financial records for a large Detroit accounting firm. By October of that same year, the job was finished. Mr. Bennett made a presentation of his work and his recommendations to the Macomb County Board. He was then asked to stay on for 6 months to help the board put a new system in place. Those 6 months turned into 42 years of dedicated service to Macomb County.

Described as "Mr. Macomb County," Mr. Bennett has wisely guided the county through good times and bad. Few people know as much about Macomb County or possess such a wide scope of knowledge about subjects related to the operation of the county as Mr. Sherwood Bennett.

Mr. Bennett's contribution to Macomb County extends far beyond his work as Macomb County controller. His unselfish commitment to our community personifies his reputation as "Mr. Macomb County." His 50 years of service to the Richmond Rotary Club exemplifies his commitment to his community and to his fellow citizens.

Mr. Sherwood Bennett's impact on Macomb County is immeasurable. His legacy and accomplishments are an inspiration to us all. He will long be remembered as the man who helped build Macomb County.

A TRIBUTE TO CAMILLE MAAS

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. COURTER. Mr. Speaker, today I would like to recognize the outstanding achievements, strong commitment, and esteemed leadership of Ms. Camille Maas.

Ms. Maas, a lifelong resident of Essex County, has served as past secretary of the Essex County Republican Committee, is a

member of the Nutley Chamber of Commerce, and of the Essex County Board of Chosen Freeholders. She has served on the executive campaign committee of many top Republicans, and has had an outstanding commitment to the Republican Party.

A recipient of many honors and commendations, Ms. Mass' outstanding leadership and commitment to public service are to be highly commended. She has demonstrated an unselfish commitment to the community and has gained the honor and respect of all those she has worked with.

CLUB 60 CELEBRATES ITS 40TH ANNIVERSARY

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. FISH. Mr. Speaker, it is a great pleasure for me to extend my congratulations to Club 60, a senior citizen's group located in Newburgh, NY, on the occasion of its 40th anniversary.

Club 60 was established, on February 17, 1949, through the efforts of the Junior League of Newburgh, NY. The late State Senator Thomas C. Desmond urged the Junior League to create an organization which would help keep the minds, spirits, and bodies of the community's senior citizens active. In 1959, the club became officially sponsored by the city of Newburgh, under the direction of the recreation department. Today Club 60 meets at the city of Newburgh Activity Center, and boasts a membership of over 250 members.

Throughout its existence, Club 60 has been providing the elderly in the community with many social services and activities. The members are invited to participate in a variety of weekly events, including exercise classes, craft classes, and blood pressure checks. Additionally, the club sponsors a number of special programs, such as a crime prevention class taught by Newburgh police officers, and group trips.

As an increasing number of Americans enter into their golden years, it is important that our communities provide services which keep our elderly active.

I take pride in bringing Club 60 to the attention of the House of Representatives. Hopefully, local governments will look to the city of Newburgh, and Club 60, as an example of how to enhance the lives of our Nation's senior citizens.

PRINCIPAL OF THE YEAR

HON. FREDERICK S. UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. UPTON. Mr. Speaker, I rise today to congratulate a resident of the Fourth District of Michigan, Mr. Stanley Bushouse, for being named a Principal of the Year by the Association of Secondary School Principals.

Mr. Bushouse currently serves as the principal of Coldwater High School, a position he has held for 13 years. Throughout his tenure at Coldwater High School he has worked diligently to prepare students for the challenges they will face after graduation from high school.

America has entered a new era in the arena of education. President Bush has declared himself "the Education President". Because he has placed such vital importance on the state of education in America, he recently gathered our Nation's Governors in Charlottesville, VA, for an "Education Summit." I am pleased that at this historic summit, the President recognized the significant role that our teachers and school administrators play, and I am proud to represent Mr. Bushouse in Congress. As a high school principal, Mr. Bushouse serves in the front lines of this campaign, fighting for our students and for our country.

If Americans are to be competitive in the future, we must look at the present. Who we will be tomorrow on the farms and in the factories depends on who is teaching our children today in the classrooms. I applaud Mr. Bushouse, and all of our country's educators, for their contribution and dedication to shaping America's children into productive, competitive, and reliable citizens.

CAROLYN MORSE WINS AWARD FOR TEACHING EXCELLENCE

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. PRICE. Mr. Speaker, I rise today to commend Carolyn Morse, a Chapel Hill, NC, high school teacher, for her outstanding efforts in science education.

Ms. Morse is 1 of 112 teachers across the country selected by the National Science Foundation and the Office of Science and Technology Policy to receive the 1989 Presidential Award for Excellence in Science and Mathematics Teaching. The award is designed to recognize outstanding junior and senior high school teachers who serve as models for their colleagues in science and math education. Our House Subcommittee on Science, Research, and Technology has just held a special session to honor these winners.

Carolyn Morse has been recognized for performing one of the most valuable duties in our community—bringing the sciences into the classrooms and lives of our children. Ms. Morse has developed an innovative program called "Chemistry Through Toys and Magic." She developed this new curriculum for teaching chemistry concepts to engage students and increase their interest in the sciences. Ms. Morse now conducts workshops for other science teachers to encourage them to incorporate new ideas and teaching techniques.

Carolyn Morse's dedication goes beyond the classrooms. She devotes much of her time to the school's science club as their adviser. Under her leadership the science club has won the State science olympiad for the last 3 years. This is an excellent indication of her successful teaching methods and of the support and encouragement she has given science students.

I congratulate Carolyn Morse and the other recipients of this award for the difference they are making for our young people and for their contribution to our country's future.

RECOGNITION OF EAGLE SCOUT

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. GEKAS. Mr. Speaker, I ask my colleagues to join me in recognition of a young man from Pennsylvania who represents many of the finest qualities in America's youth.

Timothy Kratzer, of Selinsgrove, PA, will be receiving his Eagle Scout Award this Sunday, October 29. He has been involved in Scouting since 1982. Throughout these years, he has demonstrated his leadership as a patrol leader, assistant patrol leader, and as a member of the Leadership Corps. He is a brotherhood member of the Order of the Arrow, and worked as part of the staff of Camp Karoondihna in 1986.

Tim has been active in the Scouting Outdoor Program. He attended summer camp for 4 years, hiked many of Pennsylvania's scenic trails, and was a crew member of the troop 419 contingent to Philmont Scout Ranch in New Mexico in 1987.

Timothy's leadership has been evident in the community as well. He organized the white Christmas decorating in downtown Selinsgrove for his eagle project. This entailed rallying volunteers to help decorate in the business section of downtown Selinsgrove. This kind of community spirit is vital to any thriving downtown.

In addition, Tim who is currently a freshman at Bucknell University in my district, was active in high school athletics, National Honor Society, chorus, and the French Club.

This young man's commitment to his community and the values on which our Nation is based, is a sterling example of America's best.

"HEAT'S ON" PROGRAM

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. GEPHARDT. Mr. Speaker, on October 21, 1989, a very special event was repeated, for the third consecutive year, when the "Heat's On" Program took place in the Greater St. Louis area.

In order to help make sure that when the cold weather comes the "heat's on," the members of the Pipefitters Local 562 and the Mechanical Contractors Association of St. Louis sent 125 working vans, each with two trained tradesmen, to over 400 homes.

The residents, who had to be elderly, disabled, or poor in order to qualify, received free services that included new filters, fan belts, smoke alarm installations, complete testing of heating units, and identification of dangerous conditions.

The provision of these important services to people in need was made possible by the hard work and cooperation of St. Louis Mayor Vincent C. Schoemehl, Jr. and Deputy Mayor Jack Keane; Business Manager Don Devitt and Business Representative Jim O'Mara of Pipefitters Local Union 562; Executive Director Herb Millard and President James Cunningham of the Mechanical Contractors Association; Director Dennis Kelley of Energycare; John Vincenzo and Debbie Sabourin of Senior Home Security; Sister Anne Roddy of the St. Louis Department of Human Services; Neil Svetanics, fire chief of the city of St. Louis; Firefighter Adam Long; and Ken Otto, president of the Handy Man True Value Hardware Stores.

I know my colleagues will join with me in saluting the many fine people of St. Louis who joined together in the spirit of community service for the third annual "Heat's On" Program to help their neighbors stay warm and safe through the winter.

NEW JERSEY PRIDE: KEY CLUB DEDICATED TO SERVICE

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. GALLO. Mr. Speaker, key clubs across America will celebrate National Key Club Week November 5–12. Key clubs have long been associated with efforts to instill in our young people the meaning of the core American value of voluntary service to community and country.

Key clubs help our young people to understand the importance of service through participation in volunteer community activities. Key clubs also promote the values of teamwork, the joys of accomplishment and the true meaning of leadership. In special celebration of National Key Club Week, representatives of the Livingston High School Key Club of Livingston, NJ, will visit our Nation's Capital to learn more about national issues and to perform several service projects.

They will visit the White House to meet with Robert Grady, a former vice president of the Livingston High School Key Club, who is now an official of the Office of Management and Budget.

They also will visit a shelter for homeless families, where they will bring food and clothing collected by students in New Jersey.

They will hold a vigil outside the Soviet Embassy, demonstrating their support for human rights. They will meet with members of the Alexandria, VA, Key Club for a joint project between the two States.

The Livingston High School Key Club has achieved the honor of being voted the No. 1 key club in New Jersey 16 of the last 19 years, and has been voted the No. 1 key club in the world three times. Last year, the Livingston High School Key Club raised $20,000 to benefit the Make-A-Wish Foundation, which grants wishes to terminally ill children.

The key club has more than 215 active members, each of whom volunteer several hours each week to perform some type of community service, making the club the largest volunteer service organization in the township of Livingston.

Although there are a great many individuals who have contributed to the success of the Livingston High School Key Club, I would like to recognize student members of this year's board of directors: President Lauren Dermer, Vice President Jeanne Joyce, Secretary Amy Ruderfer, Treasurer Jennifer Shue, Senior Director Alison Schwartz, Junior Director Jessica Borg, Sophomore Director Kerry Klein, Freshman Directors Adam Balkin and Jared Shapiro, and Editor Jessica Kleiman.

Mr. Speaker, I am very proud of the accomplishments of all young people who serve as members of key clubs throughout the 11th Congressional District and in the State of New Jersey.

In particular, I ask my colleagues to join with me today in salute of the Livingston High School Key Club for its consistent commitment to leadership, hard work, and public service.

INTRODUCTION OF NP-5 PROGRAM ACT AMENDMENTS OF 1989

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. DONNELLY. Mr. Speaker, I am intoducing legislation today to extend and make modifications to the highly successful NP-5 Visa Program enacted as part of the 1986 Immigration Reform and Control Act.

Mr. Speaker, in 1986, I offered an amendment to the 1986 immigration legislation to deal with the serious problems faced by residents of the traditional "seed" countries of immigration to the United States. These countries—primarily from Western Europe—have suffered a precipitous decline in immigration since 1965, when Congress last dealt with the issue of legal immigration.

The problem stems from the current focus of our immigration laws on family reunification. Although I support the concept of family reunification in our immigration laws, it's equally important that the laws don't discriminate against people who have no immediate relatives in the United States.

The NP-5 Program, then, was designed to address this problem on a temporary basis until Congress can deal with legal immigration issues. The NP-5 Program required the Secretary of State to come up with a list of countries determined to be "adversely affected" from the 1965 law. The Secretary published a list of 37 countries, residents of which qualified for 5,000 NP-5 visas in 1987 and again in 1988. Last November, President Reagan signed an extension of the NP-5 Visa Program through 1990. That legislation increased the number of visas available to 15,000 per year.

Mr. Speaker, Congress has still not addressed the issue of legal immigration in any comprehensive fashion. Although the Senate has passed legislation which balances the need for family reunification with a recognition of the special problems of the adversely affected countries, that legislation has not been acted on by the House. This makes the need for another extension of the NP-5 Program all the more pressing.

My legislation extends the NP-5 Program for 5 years, with 15,000 visas available in each year through 1995. It authorizes a new lottery pool because I believe the existing pool may be outdated. In addition, it codifies a definition of "adversely affected" country and makes needed technical corrections to the implementation of the program. I would urge the House Judiciary Committee to act promptly on this legislation.

FEDERAL RESERVE REFORM ACT OF 1989

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. DORGAN of North Dakota. Mr. Speaker, today Mr. HAMILTON and I are reintroducing the Federal Reserve Reform Act of 1989 in modified form. Since originally introducing the bill in June, we have received some comments expressing concern over the effect the legislation might have on the independence of the Fed. Today's version of the bill responds to these concerns, making it clear that the bill does not reduce the independence of the Fed or inject politics into the making of monetary policy.

One half of this country's economic policy—monetary policy—is made by the Fed. As a result, the Fed has enormous power over the economy and, accordingly, enormous power over the lives of every American. This legislation is intended to generally increase the Fed's accountability to the American people, to coordinate the making of fiscal and monetary policy by establishing a formal channel of communication between policymakers, and to make the workings of the Fed more open by providing Congress and the public more information about the Fed's policies and procedures. The bill does not impose congressional or other outside controls on Fed policy.

Five changes would be made in the current structure and procedures of the Fed:

First. The President's top economic advisers—the Secretary of the Treasury, the Chairman of the Council of Economic Advisers, and the Director of the Office of Management and Budget—would be required to meet three times a year with the Federal Open Market Committee.

Second. The President would be allowed to appoint a new Fed Chairman near the beginning of his term rather than toward the end, making the Fed Chairman's term of office coterminous with that of the President.

Third. Instead of waiting 6 weeks to disclose decisions concerning monetary policy, the Fed would be required to disclose immediately any changes in monetary policy targets or objectives. All investors, large and small, would therefore be provided with equal and timely information.

Fourth. The Comptroller General would be permitted to conduct more thorough audits of Fed operations.

Fifth. The Fed would become subject to the congressional budget process by requiring that the Fed's budget be published in the budget of the U.S. Government.

These modest steps will inject fresh air and light into the making of monetary policy without impairing, in my view, the independence of the Fed and will help facilitate the coordination of fiscal and monetary policy by establishing a formal line of communication between the Fed and the administration. I urge my colleagues to support this very important initiative by cosponsoring the Federal Reserve Reform Act of 1989.

The full text of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Reserve Reform Act of 1989".

SEC. 2. CONSULTATION BETWEEN FEDERAL OPEN MARKET COMMITTEE AND THE SECRETARY OF THE TREASURY, THE DIRECTOR OF THE OMB, AND THE CHAIRMAN OF THE CEA.

Section 2A of the Federal Reserve Act (12 U.S.C. 225a) is amended—

(1) by striking "The Board of Governors" and inserting "(a) IN GENERAL.—The Board of Governors"; and

(2) by adding at the end the following mew subsection:

"(b) CONSULTATION REQUIRED.—The Federal Open Market Committee shall meet and consult with the Secretary of the Treasury, the Director of the Office of Management and Budget, and the chairman of the Council of Economic Advisors during the 30-day period—

"(1) ending on the date each report required under the second sentence of subsection (a) is submitted to the Congress by the Board of Govenors; and

"(2) beginning on the date which is 100 days before the date by which the President is required to submit the budget udner section 1105(a) of title 31, United States Code.".

SEC. 3. APPOINTMENT OF THE CHAIRMAN AND VICE CHAIRMAN.

(a) APPOINTMENT OF THE CHAIRMAN AND VICE CHAIRMAN.—The second paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 242) is amended by striking out the third sentence and inserting in lieu thereof the following: "The President shall appoint, by and with the advice and consent of the Senate, one member of the Board to serve as Chairman. The term of such member as Chairman shall expire on January 31 of the first calendar year beginning after the end of the term of the President who appointed such member as Chairman. If a member appointed as Chairman does not complete the term of such office as established in the proceding sentence, the President shall appoint, by and with the advice and consent of the Senate, another member to complete the unexpired portion of such term. The President shall also appoint, by and with the advice and consent of the Senate, one member of the Board to serve as Vice Chairmean for a term of four years. The Chairman and the Vice Chairman may each serve after the end of their respective terms until a successor has taken office.".

(b) PERFORMANCE OF DUTIES.—The second paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 242) is amended by inserting the following new sentences before the sentence which prior to the amendment made by subsection (a) of this section was the fourth sentence of such paragraph: "In the event of the absence or unavailability of the Chairman, the Vice Chariman or (in the Vice Chairman's absence) another member of the Board may be designated by the Chairman to perform the duties of the office of the Chairman. If a vacancy occurs in the office of the Chairman, the Vice Chariman shall perform the duties of the Chairman until a successor takes office. If a vacancy occurs in the office of the Vice Chairman while the office of the Chairman is vacant, the member of the Board with the most years of service on the Board shall perform the duties of the Chairman until a successor takes office.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) CURRENT CHAIRMAN TO COMPLETE TERM.—Notwithstanding the amendment made by subsection (a), any member who holds the office of Chairman on the date of the enactment of this Act shall continue in such office during the remainder of the term to which such member was appointed.

SEC. 4. DISCLOSURE OF INTERMEDIATE TARGETS.

Section 12A(b) of the Federal Reserve Act (12 U.S.C. 263(b)) is amended by adding at the end thereof the following new sentences: "Notwithstanding any other provision of law, each change, of any nature whatsoever, in the intermediate targets for monetary policy which is adopted by the Committee shall be disclosed to the public on the date on which such change is adopted. For purposes of this subsection, the term 'intermediate targets' means any policy objectives regarding monetary aggregates, credit aggregates, prices, interest rates, or bank reserves.".

SEC. 5. AUDIT OF FINANCIAL TRANSACTIONS BY COMPTROLLER GENERAL.

Subsection (b) of section 714 of title 31, United States Code (relating to audits by the Comptroller General) is amended—

(1) by inserting "and" after the semicolon at the end of paragraph (1);

(2) by striking out paragraphs (2) and (3); and

(3) by amending paragraph (4) to read as follows:

"(2) memoranda, letters, or other written communications between or among members of the Board of Governors of the Federal Reserve System or officers or employees of the Federal Reserve System relating to any transaction described in paragraph (1).".

SEC. 6. BOARD SUBJECT TO BUDGET PROCESS.

Section 1105 of title 31, United States Code (relating to budget contents and submission to Congress) is amended by adding at the end thereof the following new subsection:

"(g) FEDERAL RESERVE BOARD BUDGET TREATMENT.—The estimated receipts and proposed expenditures of the Board of Governors of the Federal Reserve System and all Federal Reserve Banks for the current year and the 2 succeeding years shall be—

"(1) transmitted by the Board to the President before October 16 of each year; and

"(2) transmitted by the President, without change, with the budget transmitted to the Congress under subsection (a).".

FEDERAL RESERVE REFORM ACT OF 1989

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. HAMILTON. Mr. Speaker, today Representatives BYRON DORGAN and I are reintroducing the Federal Reserve Reform Act of 1989.

We originally introduced this bill at the end of June to stimulate a discussion of the current structure and practices of the Federal Reserve and how well they conform to the normal standards of government accountability in a democracy. During the ensuing weeks, we have received numerous comments on the bill. Many were positive, but some expressed concern for how it would affect the independence of the Fed and the conduct of monetary policy and many offered suggestions for improvements. Today, we are responding to the discussion our bill evoked by introducing a modified version that will accomplish our goals while alleviating the concerns that were expressed about our original bill.

The changes that Representatives DORGAN and I have made should make it clear that the bill does not reduce the independence of the Fed or inject politics into monetary policy. The bill does not impose congressional or other outside controls on Fed policy. Nor will it end policy mistakes.

The purpose of our bill is to increase the accountability of the Federal Reserve to the American people by making the workings of the Fed more open and by establishing a formal channel of communication between policymakers responsible for monetary and fiscal policy. The bill would make five changes in the current structure and procedures of the Federal Reserve:

It would establish a formal channel of communication between the Federal Reserve and the President by requiring the President's top economic advisers—the Secretary of the Treasury, the Chairman of the Council of Economic Advisers, and the Director of the Office of Management and Budget—to meet three times a year with the Federal Open Market Committee [FOMC], the arm of the Fed which actually sets monetary policy. Two of the meetings would occur just before the February and July FOMC meetings, at which the FOMC determines its money growth targets as required by the Full Employment and Balanced Growth Act of 1978—the Humphrey-Hawkins Act. A third meeting would occur in the fall, when the administration is drafting its proposed budget. The President's economic advisers would not have a vote on the FOMC and they would not be present at FOMC meetings.

It would allow the President to appoint a Chairman of the Federal Reserve Board—with the advice and consent of the Senate—1 year after taking office, at the time when the first regular opening would occur on the Federal

Reserve Board. This would make the Fed Chairman's term basically coterminous with the term of office of the President of the United States. With the current system, President Bush will not have the opportunity to name a Fed Chairman until 1991, when Alan Greenspan's term expires.

It would require the Fed to disclose immediately any changes in intermediate targets of monetary policy, including policy objectives regarding monetary aggregates, credit aggregates, prices, interest rates, or bank reserves. The Fed now waits 6 weeks before disclosing this information. This would provide all investors, large and small, equal and timely information about monetary policy decisions.

It would permit the Comptroller General to conduct more thorough audits of Fed operations. Under the International Lending Supervision Act of 1983, GAO audits of the Fed and Fed Banks may not include deliberations, decisions or actions on monetary policy matters—FOMC policy decisions and open market operations, or transactions made under the direction of the FOMC. These prohibitions would be eliminated by our bill, thus allowing the GAO to evaluate policy procedures and processes. The bill would maintain the prohibition against GAO audits of U.S. transactions with foreign central banks, to protect the confidentiality of these transactions.

It would require the Fed's budget to be published in the Budget of the U.S. Government, for the current year and 2 succeeding years. Only a small fraction of spending, the 6 percent incurred by the Board of Governors, is currently published in the appendix to the U.S. Government Budget. Excluding the Federal Reserve from the U.S. Budget violates a basic principle of democracy—that no government agency should take in and spend billions of dollars without having its budget open to the public.

This bill will address at least three ways in which the Federal Reserve currently fails to conform to the norms of government accountability in a democracy.

I. ACCOUNTABILITY TO THE AMERICAN PEOPLE

Unlike other Government agencies, the Federal Reserve is not directly accountable to either the President or Congress and through them to the American people.

The Federal Reserve is an immensely powerful Government agency because of its responsibility for monetary policy. With fiscal policy now immobilized, monetary policy is the primary avenue by which the Government exercises its responsibility for the overall performance of the economy. Because monetary policy operates through interest rates, the Fed has a powerful effect on the lives of all Americans through its influence on the level of investment and the health of interest-sensitive industries, as well as the inflation rate.

Yet, the Federal Reserve is an independent agency. The normal channels of accountability that apply to other government agencies do not apply to the Fed. Voters feel they have little influence on the Fed and no way of communicating with the Fed.

The problem is how to make the Federal Reserve more accountable without impairing the independence of the Fed or injecting politics into monetary policy.

The most important step would be to establish a formal channel of communication between the Federal Reserve and the rest of the administration. Informal channels of communication do exist; for example, the Fed Chairman and Treasury Secretary currently are reported to meet about once a week. However, the success of informal methods depends on the personalities involved, and the discussions are off the record. This ad hoc approach to making decisions which affect the economic well-being of all Americans is not the best way for a great economic power to conduct business.

A formal channel of communication would serve two purposes:

First, it would allow the administration to convey its goals for the economy to the Federal Reserve, which the Fed could take into account when setting monetary policy. In addition, the policymakers at the Fed would have a way of communicating their concerns to the President.

Second, it would help improve coordination of monetary and fiscal policies, since the administration and the Federal Reserve would be fully informed of each other's goals and proposals.

II. SECRECY

The Federal Reserve currently does not release policy decisions for 6 weeks. Most other government agencies must not only publish decisions in the Federal Register before they can take effect, most must publish proposed decisions for public comment before they can be issued in final form.

While secrecy may help insulate the Federal Reserve from criticism and allow it some extra flexibility in tailoring monetary policy to short-term changes in the economy, secrecy has two economic costs.

First, it makes capital markets operate less efficiently. One of the major conclusions of microeconomic theory is that information makes markets work more efficiently. This applies to financial markets as well as to markets for goods and services.

Second, it is unfair to small investors. When the Federal Reserve makes a policy change, large investors and Wall Street market experts catch it easily enough through their ability to monitor the Federal Reserve. This gives them an advantage over small investors, borrowers, and others who do not have resources for employing experts to interpret and anticipate Fed policy changes.

The solution is immediate release of Federal Reserve policy decisions.

Immediate release would improve both the efficiency and fairness of the capital markets. According to an editorial in the September 9, 1989, New York Times, "Most monetary experts agree with Alan Blinder of Princeton and William Poole of Brown University that Fed policy will work better with immediate disclosure."

III. BUDGET

The Federal Reserve does not publish its budget in the annual Budget of the U.S. Government.

Each year, the Federal Reserve System incurs approximately $1.6 billion in operating expenses. Almost $1 billion of this is for personnel costs. The rest is for supplies, travel expenses, telephone and postage, printing money, maintenance of equipment, amortization of buildings, and so forth.

Only a small fraction of these operating expenses appears in the U.S. Government Budget—the $90 million of expenses incurred by the Board of Governors in Washington. This part of the Fed's budget, less than 6 percent of the total, appears in part IV of the Budget appendix, in a section on "Government -Sponsored Enterprises."

Under pressure from Congress, the Federal Reserve began publishing budget data for the entire system in 1986 in an annual document entitled "Annual Report: Budget Review." While an improvement over prior practice, the Federal Reserve's annual Budget Review still has shortcomings:

There are no estimates or projections of future expenditures. The Budget Review only presents actual or estimated expenditures for the previous 2 calendar years and the budget for the current calendar year. There is no estimate of receipts either for the current year or for future years. By contrast, the Government budget presents estimated receipts and expenditures for government agencies not only for the current fiscal year, but for the two succeeding fiscal years.

The Federal Reserve presents its budget data in a different format from that used by the rest of the Government. The Fed uses the calendar year and private-sector accounting practices for presenting its budget.

Because of these two problems, there is no way a Member of Congress or the public can integrate the Federal Reserve's budget with the U.S. Government Budget or trace the effect of Federal Reserve spending practices on the Federal deficit.

The bill that Representative DORGAN and I are introducing today will not eliminate policy mistakes at the Federal Reserve, or mistakes in fiscal policy. There will invariably be both successes and failures under any set of structures or procedures. What we can do is reduce the risk of miscommunication and establish a formal channel by which the FOMC and the administration can discuss the needs of the economy and the appropriate combination of monetary and fiscal policy.

In a great Nation like the United States, the Government must be accountable to the people. The Federal Reserve, with its enormous power over the economy and the well-being of the American people, does not meet the normal standards of accountability in a democracy. The bill Representative DORGAN and I have introduced today will make the Fed more accountable without impairing its ability to conduct monetary policy, by establishing a formal channel of communication between the FOMC and the administration and by shedding more light on its practices and procedures.

THE B-2 IS VITAL FOR DETERRENCE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. DORNAN of California. Mr. Speaker, I would like to share with my colleagues an ex-

cellent editorial published in the October/November edition of Defense World. I urge my colleagues to consider the points that are made therein and support the administration by supporting President Bush and Secretary of Defense Cheney on this critical national security issue.

THE B-2 BOTTOM LINE

Last summer, Retired Gen. William Odom, a top national-security specialist in the Carter Administration, warned the House Armed Services Committee that Soviet President Michail Gorbachev's strategy "is not at all defensive." He cited, as an example, the growing gap in Soviet versus U.S. long-range offensive missile production.

After Gen. Odom finished testifying on the defense spending bill, commmittee members listened attentively as Gorbachev's top military adviser Marshal Sergei Akhromeyev, who made an unprecedented appearance in the halls of the U.S. Congress, contradicted the former head of the U.S.'s National Security Agency. The committee gave Akhromeyev a standing ovation after he insisted that defense has become the key element of Soviet military strategy.

With the ascendancy of such pacifism on Capitol Hill, it is hardly surprising that the U.S. Air Force's B-2 Advanced Technology Bomber is in jeopardy—or that lawmakers are having a difficult time grasping what the "stealth" bomber program represents in terms of technology and nuclear deterrence for the 1990s and beyond.

It is clear that the U.S. is in an era of constrained resources. And no one can deny that dramatic changes in world politics are forcing equally dramatic changes in military strategy. Clearly, tough choices are unavoidable. But it would be a grave miscalculation for the U.S. Congress to leap to the conclusion that the Soviet threat has dissolved. It would be an even graver mistake to use this as a justification for canceling the B-2 program or putting it on hold by denying the funding that President Bush and Defense Secretary Richard Cheney have requested.

Virtually invisible to radar, the stealth bomber is designed to penetrate the most heavily defended areas of the Soviet Union without being detected. In the interests of long-term national security and to advance future arms control negotiations, the B-2 must be continued—even though it will be the most expensive aircraft ever built.

While critics have tended to focus mostly on the enormous cost of the B-2 and the political debate that will determine its future, more attention should be paid to what the money is actually buying, materially and otherwise.

The projected $530-million price tag for each bomber covers all program costs, including research and development funding for "low observable" or stealth technology that will be used in many future weapon systems. It also includes the cost of training pilots and support teams, special B-2 basing requirements and the vast B-2 support infrastructure. The individual unit, or "flyaway," cost of each B-2 is $274 million.

The B-2 also will play a crucial role if a strategic arms reduction treaty (START) is concluded with the Soviet Union. Under a START agreement, one-third of all nuclear weapons would be allocated to penetrating bombers, compared with one-fourth of all weapons without an agreement.

Critics who question the *strategic value* of the B-2, suggesting that standoff weapons make more sense, are questioning the value of the manned-bomber leg of the U.S. nuclear triad—land-based missiles and ballistic-missile submarines being the other two. At best, they are misinformed.

Over the past 20 years, the Soviet Union has spent an estimated $350 billion on air defense. If there were no bombers to defend against, much of that money would have gone to offensive weapons and greater numbers of conventional armaments. The overall effectiveness of a new generation penetrating bomber, such as the B-2, appears to have eluded the B-2's opponents in their euphoria over Gorbachev's peace initiatives. But, the advantages that are unique to this class of strategic weapon have not been lost on Soviet military strategists.

Bombers are too slow for first strikes, but they can carry out devastating retaliatory attacks. In a crisis, they can be dispersed or sent aloft to loiter invulnerably in the skies. They also can be recalled after launch. The B-2 will be able to find and attack at least some mobile targets—weapons on which the Soviet Union is placing greater reliance. And, as abhorrent as the thought may be, bomber crews can determine whether a target has been destroyed by a previous attack, or moved or evacuated.

The Soviet Union will continue to improve its air defenses as long as the U.S. maintains a strategic bomber force. The B-1B's ability to penetrate the most heavily defended areas of the Soviet Union will likely end by mid-to-late 1990s. On the other hand, because of its revolutionary technology, the B-2 will render obsolete thousands of the Soviet Union's air-defense radars and radar-guided missiles.

If and when the Soviets achieve a breakthrough in their ability to detect the B-2, then what? Another penetrating bomber? Absolutely, if that is what it takes to maintain a credible and modern strategic defense.

In the political debate that has surrounded the B-2 program thus far, the critics on Capitol Hill seem to have forgotten an important tenet of nuclear deterrence: not whether the U.S. actually will ever use a penetrating bomber—or any other strategic weapon—but whether would-be adversaries *perceive* the U.S. as having the capability and the will to do so.

The B-2 will help preserve that all-important balance of peaceful coexistence between the superpowers well into the next century—no matter what unexpected turns the Soviet leadership takes in the years ahead. And what do you figure the dollar value of that is worth?

NEW JERSEY HONOR ROLL: PETER A. CAVICCHIA, FORMER MEMBER OF CONGRESS

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. GALLO. Mr. Speaker, recently, a Bradford pear tree on the Grounds of the U.S. Capitol was dedicated to the memory of the late Peter Angelo Cavicchia, who served as a Member of the U.S. Congress from New Jersey as part of the national garden project.

The Honorable Peter A. Cavicchia was elected to the U.S. Congress from the New Jersey district now designated the 11th Congressional District in the 72d, 73d, and 74th Congresses, and served as a Member of this House from 1931 to 1937.

Mr. Cavicchia, a Republican, was the second Member of Congress born in Italy to serve in the U.S. House and the first Italian-American to be elected from a New Jersey district.

He advanced quickly in Washington and soon became a member of the House Banking Committee. As a committee member, he was instrumental in developing the law creating the Federal Deposit Insurance Corporation.

Born in Roccamandolfi, Campobasso, Italy, May 22, 1879, Mr. Cavicchia came to America in 1888. He received a B.A. from American International College in 1906 and completed his LL.B. studies at New York University in 1908. Two years later, he established a law practice and clerked in the law office of Gov. John Franklin Fort.

His career of public service spanned 40 years within Essex County, including 13 years as member of the board of education in Newark and former board president and 40 years as county inheritance tax supervisor. His lifelong commitment to education as professor of law and trustee at the University of Newark, now Rutgers University, and trustee of American International College was significant indeed.

He founded the Iron Bound Republican Club, which remains today a strong voice within the party.

Mr. Cavicchia was also provided significant leadership within the Italian-American community as a member and officer of many civic and fraternal community organizations.

The tree was dedicated at the request of his son, Paul G. Cavicchia, with the approval of our colleague, Representative FRANK ANNUNZIO, chairman of the Committee on House Administration, and his counterpart in the U.S. Senate, WENDELL FORD, chairman of the Senate Rules Committee.

Mr. Speaker, in memory of the Honorable Peter Angelo Cavicchia and on behalf of his son, Paul G. Cavicchia, and his grandson, Peter A. Cavicchia II, I ask my colleagues to join with me today in recognition of this honor.

LEGALIZE THE UKRAINIAN CATHOLIC CHURCH

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. DONNELLY. Mr. Speaker, I rise today to join my colleagues in urging General Secretary Mikhail Gorbachev to legalize the Ukrainian Catholic Church in the Soviet Union.

Mr. Speaker, the Catholic church has been a fundamental part of life in the Ukraine for hundreds of years. Prior to its forcible liquidation and incorporation into the Russian Orthodox Church by Stalin in 1946, the Ukrainian Catholic Church was not only the center of religious activity, but also of social and cultural development.

Today, the vast majority of Ukrainians are still members of the Catholic church. Daily they face harassment, beatings, and even im-

prisonment for their religious beliefs. While the Soviet Constitution guarantees the separation of church and state, the Ukrainian Catholic Church remains outlawed and unrecognized by the Soviet Government.

The persecution of Ukrainian Catholics continues despite Secretary Gorbachev's assurances of freedom of religion, and his efforts to promote his policy of glasnost, or openness in the West. Religious freedom is a fundamental human right, and is essential in a truly open society. Not only would legalization of the Ukrainian Catholic Church serve as an excellent example of Secretary Gorbachev's commitment to change in the Soviet Union, it must happen if glasnost is to succeed.

The meeting between Pope John Paul II and Secretary Gorbachev, scheduled for November, provides the perfect backdrop for Mr Gorbachev to recognize the Ukrainian Catholic Church. I am hopeful that the General Secretary will take this opportunity to end the persecution of a people whose only wish is to pursue their religious beliefs in their own way.

Mr. Speaker, I want to thank my friend and colleague, Congressman LIPINSKI, for providing us with this chance to express our support for continued change in the Soviet Union. I urge my colleagues to join us in this effort to bring true religious freedom to the Ukrainian people.

PEDRO CEPEDA—HERO

HON. BEN GARRIDO BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. BLAZ. Mr. Speaker, a young man from Guam died recently in the Virgin Islands. Pedro Guerrero Cepeda II was working there with 19 other linemen from the Guam Power Authority to help restore the power system devastated by Hurricane Hugo.

The simple fact is he didn't have to be there. He had volunteered. At the age of 24, he knew what many others much older have not learned—we are all in this together, we all depend upon each other, and without that dependence we are frail and helpless against the forces which surround us. He saw that there was suffering, and he knew he had the necessary skills to help relieve it. And he acted. In doing so Pedro Cepeda epitomized the spirit of the new Guamanian-American.

In the past few weeks, multiple natural disasters have struck the United states. California was jarred by a major earthquake. South Carolina was devastated by Hurricane Hugo as was Puerto Rico and, of course, the Virgin Islands.

The people of Guam are familiar with the adversity that nature can wreak. Isolated in the Pacific on the edge of the Marianas Trench, we know the anxiety caused by the Earth's jolts and the fear instilled by the unrelenting ferocity of the typhoons that regularly pass over the island. We have come to understand that in the face of such natural hostility, our only hope is found in standing together. We have known this so long that it has become a part of our nature.

When the Governor of Guam asked for volunteers to help in the Virgin Islands and when Pedro Cepeda so willingly heeded that call, they were both responding to this inner spirit of the Guamanian people. It is the spirit of generosity for those who are suffering. It is the spirit of unselfishness for those in need. People of Guam respond like that.

In a battle of man versus man, the outcome can be predicted. But in the battle against nature, the outcome is always in dispute. That is what makes them the more awful.

Were Pedro G. Cepeda a soldier in battle, his death would have been declared heroic and he would have been granted a medal in recognition of that heroism. Unfortunately, we have no medals to give to Mr. Cepeda. But that does not make his death any less heroic. Nor does it mean that he should go without recognition.

A hero is one who sacrifices much in the cause of mankind. Pedro G. Cepeda sacrificed his all to alleviate the suffering of his fellowmen, strangers to him but his fellowmen nonetheless. Such heroism demands recognition, and in a very real sense we have all extended it already, because whether we knew of Pedro Cepeda or not, we have all been diminished by his loss.

Pedro G. Cepeda is a credit to himself, to his family, and to the people of Guam. We salute his parents—Pedro G. and Serafina T. Cepeda—the rest of his family, and his friends in the quiet dignity with which they are bearing his loss. And we say thank you to Pedro Cepeda for exhibiting those qualities we all hope we possess but which very few of us are called upon to demonstrate.

THE DISASTER RELIEF EMPLOYMENT ASSISTANCE ACT OF 1989

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. WILLIAMS. Mr. Speaker, I rise today with my Chairman AUGUSTUS HAWKINS of California to introduce the Disaster Relief Employment Assistance Act of 1989.

Once a disaster is declared by the President under section 102(2) of the Disaster Relief Act of 1974 (42 USC 5122(2)), this legislation will provide employment on projects to provide food, clothing, shelter, and other humanitarian assistance for disaster victims and on projects of demolition, cleanup, repair, rescue, renovation, and reconstruction of damaged and destroyed structures, facilities, and lands located within the disaster area.

Eligible participants include individuals who are (1) eligible to participate or enroll, or who are participants or enrolled, in any program under the Job Training Partnership Act other than individuals who are actively engaged in a training program or (2) unemployed as a consequence of the disaster. No individual shall be employed under this act for more than 6 months in work related to recovery from a single natural disaster.

Not less than 80 percent of the funds made available to any Governor under this act shall be allocated to units of general local government located, in whole or in part, within such disaster area. The remainder of such funds may be reserved by the Governor for use in concert with State agencies.

This act creates a new part H of title IV of the Job Training Partnership Act and authorizes such sums as necessary for fiscal 1990 and for each succeeding fiscal year.

A TRIBUTE TO BATH IRON WORKS

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Ms. SNOWE. Mr. Speaker, I rise today to call the attention of my colleagues to an exemplary performance by Bath Iron Works, a shipbuilder in my native State of Maine.

At a time when all of us in Congress are rightly concerned by reports of cost overruns, production delays and performance problems by our Nation's defense contractors, I am proud to note that Bath Iron Works has completed the repair of the damaged frigate U.S.S. *Samuel B. Roberts* ahead of schedule and $3.5 million below cost.

This frigate, damaged by a mine in the Persian Gulf last year, also represented an extraordinarily difficult task for BIW in that it was severely damaged just below that water line. Nevertheless, Bath Iron Works rose to the challenge by applying innovative and impressive engineering skills to complete a first-class repair to the hull.

Clearly, Bath's many decades of shipbuilding expertise were ideally suited to the job of returning the *Roberts* promptly, efficiently and cost-effectively to its duties protecting our Nation's interests on the high seas. I add my congratulations to the Navy's on a job well done by BIW, and I ask that the following Associated Press story from the Kennebec Journal on BIW's accomplishment be included in the CONGRESSIONAL RECORD:

U.S.S. "ROBERTS" LEAVES PORTLAND

PORTLAND (AP).—The USS Samuel B. Roberts sailed out of Portland Harbor on Monday, after Bath Iron Works completed more than a year of repairs on the guided-missile frigate damaged by a mine in the Persian Gulf.

The ship was returned several weeks ahead of schedule to the Navy, which planned to have it back in its home port of Newport, R.I., by Friday, according to BIW spokesman Jim McGregor.

BIW, which had also built the ship, completed the repair work about $3.5 million cheaper than originally planned, McGregor said. The company had been allowed $41 million for the job, but it cost just $37.5 million, he said.

BIW called the job one of its most challenging, because the portion of the hull that was damaged right under the water line was perhaps the worst possible place from a repair standpoint.

"This repair job taught us a great deal about the devastating effects of battle damage," Capt. Paul Robinson, Navy supervisor of shipbuilding at BIW, said in a statement. "I congratulate the men and women of the Navy repair office in Bath, the dedicated workers of BIW, and the officers and men of the Samuel B. Roberts for their ex-

traordinary accomplishments in making this ship better than new."

After striking the mine on April 14, 1988, the ship underwent some repairs in the Mideast before it was brought back to the BIW yard in Portland on Sept. 25, 1988.

To complete its repairs, BIW built a 312-ton modular unit that contained a main engine room, which was moved under the hull and jacked into a 45-foot hole.

"Restoration of this ship required engineering skills and shipbuilding expertise on a level not previously seen or experienced," said Rear Adm. Robert Reimann. "Many of the techniques used, such as preconstruction of the main engine room assembly, had never before been utilized in a battle-damage situation."

THE ADMINISTRATION'S POSITION ON H.R. 2095, ABANDONED MINE RECLAMATION ACT OF 1989

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. RAHALL. Mr. Speaker, yesterday, the House approved H.R. 2095, the "Abandoned Mine Reclamation Act of 1989," by a vote of 281 to 63. As evidenced by the 74 Republican Members voting in favor of the bill, with only 62 Republican votes opposed, this legislation enjoys broad bipartisan support.

The administration, for its part, chose to send up a statement of administration policy yesterday which, while stating support for the reclamation of abandoned mine lands, opposed the enactment of H.R. 2095 "because its reauthorizations are premature." According to the administration, "studies are underway to develop recommendations for the future of the AML program. Program changes should be postponed until the results of these studies can be assessed."

Upon returning to my office after yesterday's vote, to my surprise, I found a copy of this momentous study sitting on my desk, having been sent by the Office of Surface Mining. With bated breath, I eagerly flipped through the study to see what type of assessment it made and whether its recommendation comported with the action we had just taken on the House floor. Following is the study's summary:

SUMMARY

This presentation provided an analysis of possible modifications to the fee structure and the AMLR program including eligibility, Fund management and the Federal/State split. The large number of possible combination of modifications makes a true comparison of all the alternatives beyond the scope of this study. However, this study does assist to qualitatively weigh the many options and various approaches to the questions surrounding the reclamation fee and the use of the Fund.

Mr. Speaker, all I can say is that if Congress waited to obtain such decisive and hard-hitting administration study recommendations such as this, no legislation whatsoever would ever be considered, let alone enacted.

IN MEMORY OF EUGENE MICHELOTTI OF CHICAGO'S "GENE AND GEORGETTI'S" RESTAURANT

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. ROSTENKOWSKI. Mr. Speaker, the city of Chicago recently lost one of its great entrepreneurs and personalities with the death of Eugene Michelotti, the "Gene" in Gene and Georgetti's Restaurant on North Franklin Street. Gene died on October 18 at the age of 73. He was a great Chicagoan, a great restauranteur, and a great friend of mine and my family.

Starting from literally nothing as an immigrant from Italy in 1930, Gene began as a dishwasher at the restaurant which was later to bear his name. From those humble beginnings, he rose to become a pioneer restauranteur—a model for the great steak houses in the greatest beef market in the world.

His insistence on perfection became a legend, but there was nothing mysterious about his success—few will ever match the work he put into doing things the right way. Never satisfied to rely on the judgment of someone not directly responsible to his customers, Gene was a regular, daily figure in Chicago's best meat markets, personally selecting the cuts for that day's menu.

Likewise, when it came to making the customer feel welcome and important, Gene was matchless. A warm handshake, a question about the family, a comment on the steaks of the day—Gene brought an enthusiasm to "working the room" as only a man who loved his work, and his customers, could.

Not surprisingly, Gene and Georgetti's was a very popular place—among politicians, theater people, neighbors and visitors brought in by the regulars. When things really were crowded, or for a special group, Gene would lead the way up to a special room on the second floor.

It was crowded and loud, but the room had its own bar, Gene would bring other people in and out to brag about the Bears or complain about the Cubs, and the "L" would go rumbling by just outside the window. Let me tell you, Mr. Speaker, there was no question that you were living the Chicago life at its best.

In his later years, Gene chose not to go along with the changes being made to the neighborhood of his beloved life-long business. After repeated offers and attempts, the developers gave up. Today, Gene & Georgetti's is completely surrounded by modern high rises, but it sits there defiantly loyal to its traditions and to its customers.

Gene Michelotti, and his late partner Alfredo "Georgetti" Federighi, were great friends of my family. My father introduced them to me when I was just a boy. It was in their presence that I met many of the people I know and work with today.

I extend my sympathies and those of my wife and daughters to Gene's wife Ida and his entire family. At the same time, I applaud Ida's decision to carry on with the honorable business of making people feel welcome, well fed, and happy to be together.

I thank my colleagues for this opportunity to note the passing of this outstanding American life in the permanent history of this body. It is a great privilege.

INTERIOR APPROPRIATIONS

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. ECKART. Mr. Speaker, both the House and the Senate passed the Interior appropriations conference report which will breathe life into hundreds of projects across the country that rely on Federal support. In the 11th District of Ohio, the James A. Garfield National Historic Site will be able to continue efforts to preserve the memory of our 20th President as a result of a $500,000 appropriation included in the measure.

The project, commonly referred to as Lawnfield, includes Mr. Garfield's residence, a portion of his farm, various outbuildings and a number of artifacts that were associated with the man and his family. The artifacts and grounds capture the rich spirit and strong character of Mr. Garfield and his times.

The National Park Service is in the midst of a four-phase restoration process involving architects and preservation experts from around the country. In 1987 an initial appropriation of $495,000 allowed for substantial work to be done on the exterior of the main house including scraping, caulking, and painting. Also, the foundation of the house, which had not been touched for 100 years, the large south porch and the side porch are being restored.

The $500,000 appropriation for fiscal year 1990 will allow for emergency roof and gutter repairs, climate controls, rewiring, and substantial plaster work on the main house. In addition, the outbuildings, including the original campaign office where President Garfield learned of the election results, are in need of a great deal of foundation work and painting.

I thank my colleagues, in particular Mr. YATES and MR. REGULA, for their work on behalf of Lawnfield and other similar projects across the country that attempt to preserve American history and culture for future generations.

ARCHBISHOP IAKOVOS

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. MAVROULES. Mr. Speaker, on the occasion of his 30th anniversary as the primate of the Greek Orthodox Archdiocese of North and South America, I would like to pay special recognition to Archbishop Iakovos. The spiritual leader of over 2 million Greek Orthodox in both of the Americas, Archbishop Iakovos has been an inspiration to all in his pursuit of human rights and the ecumenical movement. For his efforts, he received the Presidential

Medal of Honor from Jimmy Carter in 1980, and the Ellis Island Medal of Honor in 1986. Archbishop Iakovos has always been at the forefront of civil rights. For all which His Eminence has done over the past three decades to bring greater vitality and unity to the Eastern Orthodox Church, and bring greater warmth and understanding to the world, I extend my warmest congratulations on this most auspicious occasion. Congratulations, Archbishop Iakovos, and I wish you the very best in your continuing struggle for peace and for the church.

INTRODUCING LEGISLATION TO AMEND THE HARMONIZED TARIFF AGREEMENT REGARDING BROOM IMPORTATION

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. BRUCE. Mr. Speaker, the U.S. harmonized tariff schedule which took effect on January 1 of this year contained a small change relating to broom corn brooms. Previously the tariff schedule referred to brooms which were "wholly or in part of broom corn." Now it contains the simple phrase "of broom corn." This small change threatens a U.S. industry.

Officials at the International Trade Commission acknowledge that the impact on this broom industry was inadvertent. The letter, dated October 13, said that "* * * there was no intention in the Commission's part to change the tariff treatment of whisk brooms and other brooms containing broom corn * * * in fact, every effort was made to make the conversion rate neutral for all imported products." They were seeking a change in words, not a change in trade policy. Regardless of the reason for the change, it will have an absolutely devastating impact on the domestic broom industry.

If action is not taken, lower quality brooms will begin to enter this country duty free. This is contrary to the policy that has been in place for many years. It will be impossible for the domestic broom industry to compete with those brooms that come from countries that pay much lower wages. Furthermore, because of the nature of broom production, it has been an industry that has provided jobs for many blind individuals. It would be wrong to have companies that have been in business for nearly a century ruined because of a careless change in language.

Today I am introducing legislation that will prevent this unfortunate and unnecessary result. My bill will simply restore the original language in the tariff schedule. By doing so, the broom industry can regain the secure place it had enjoyed domestically as well as continue healthy relationships the industry has developed with our trading partners.

IN TRIBUTE TO MS. JOSIE CAMACHO

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. DELLUMS. Mr. Speaker, I rise to call to the attention of my colleagues the considerable accomplishments of one of my constituents, Ms. Josie Camacho.

I salute Ms. Camacho for her consistent and effective work as a city of Oakland employee since 1979. She is particularly recognized as the conscientious union steward of the Office of Personnel Resource and Management, the chief steward and vice chair of the Oakland City Hall chapter, and as a member of the city hall health and safety committee.

Additionally, she is a member of local 790's negotiating team, and the coconvenor for the comparable worth committee, which is now local 790's women's caucus.

Through her stewardship, she has assumed responsibilities as a member of the COPE committee and has directed local voter registration drives and support of statewide ballot propositions.

Ms. Camacho should also be recognized for her major work in the 1984 and 1988 Jackson for President campaigns. She was the cochair of the 1984 Jackson campaign in the Eighth Congressional District and has carried out the commitment of those two campaigns by continued work with the Oakland/Berkeley Rainbow Coalition, which she is cochair.

Ms. Camacho has also helped to organize the East Asian AIDS Coordinating Committee on which she now serves. I wish to take this opportunity to thank her for the assistance that she has given me as a member of my executive committee which advises me on issues of local concern.

For the event on October 23 in honor of Josie Camacho, a survey had been taken which revealed that the personnel department of the city of Oakland has many competent workers, but that Ms. Camacho is particularly outstanding in the execution of her work, and that she is well liked by management and by workers.

Obviously, tribute must be paid to her supportive children, Atanacio and Amando, and to her understanding and supportive husband, Victor Uno.

I take great pleasure in joining those who honor this stalwart, capable, and honorable woman. Ms. Josie Camacho, for her consistent and effective work to create a society where workers are honored for their contributions and are treated justly.

30TH ANNIVERSARY CELEBRATION OF ARCHBISHOP IAKOVOS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. BROOMFIELD. Mr. Speaker, this year, millions of Greek-Americans throughout this country and countless admirers of Archbishop Iakovos around the world are celebrating the 30th anniversary of the elevation of the archbishop to the highest position of authority in the Greek Orthodox Archdiocese of North and South America. The archbishop has shown great leadership in both the spiritual arena in this country and on the international scene as an advocate of human rights. He deserves our recognition on this special occasion.

We honor his eminence as he celebrates his anniversary as archbishop and spiritual leader of over 2 million Greek Orthodox. He also serves as dean of all religious leaders in this country. The archbishop has diligently labored to bring unity and inspiration to the Greek Orthodox Church. His energetic approach to his community has resulted in the significant growth of eastern orthodoxy in this hemisphere. I have met the archbishop on many occasions and I respect his great intelligence, his spiritual vision and his devotion to his calling. He is also well known beyond our borders.

Archbishop Iakovos is internationally recognized as an advocate for human and civil rights. He was particularly active in this Nation's civil rights movement and marched in 1965 with Martin Luther King, Jr. in Selma, AL. He has also spoken out against the injustice of the Turkish invasion of Cyprus in 1974 and initiated a campaign to assist Greek Cypriot refugees on that island.

As a friend of Archbishop Iakovos, I am honored to recognize his 30th year of dedicated service to Greek orthodoxy in this area of the world as well as his international contributions on behalf of human rights. I believe that my colleagues will agree that this is the anniversary of a man that all of us can honor and be proud of. I extend to the archbishop my best wishes for many more years of success.

HUDSON COUNTY CYO CELEBRATES GOLDEN JUBILEE

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. GUARINI. Mr. Speaker, an outstanding organization that serves the needs of young people in my district is celebrating its 50th anniversary on October 29, 1989, Catholic Youth Sunday.

The Catholic Youth Organization [CYO] was founded by the Archdiocese of Newark in 1939. Under the leadership of Archbishop Theodore E. McCarrick, the CYO has given guidance and purpose to thousands of area youngsters and become the prototype for

parish youth programs throughout the United States.

The Hudson County committee putting this celebration together under the leadership of Most Rev. Theodore E. McCarrick, Ph.D., Archbishop of Newark includes: Most Rev. Jerome A. Pechillo, T.O.R., D.D., vicar for Hudson County; Rev. Robert J. Harrington, executive director; Rev. James S. Choma, associate director; Rev. Thomas F. Olsen, administrator; Joanne Traina, director; Marie Ingenito, associate; and Thomas Hart, chairman, 50th anniversary.

The committee is hoping to capture the spirit inspired by our Holy Father Pope John Paul II in his September 1987 address at the Louisiana Superdome in New Orleans:

You young people must change society by your lives of justice and fraternal love. But in order to change the world in the name of Jesus, you yourselves must actually be living according to your own identity—according to God's plan for your lives.

This year's celebration is a tribute to the many people who have dedicated their lives to teaching our young to pursue justice, fraternal love, and peace. In Hudson County, hundreds deserve our applause, including Monsignor Murphy, Father Tom Olsen, Father Vincent Ward, Father Larry Miller, Father Walter Diebold, Bill Martin, Chris Henschel, Joe Ward, Bob Rushnak, and Bob Conroy. These are people who have dedicated themselves to helping our children become happy, productive citizens.

Father Bob Meyer, from the Church of the Immaculate Conception in Secaucus, and Father Thomas Choma, acting director of CYO youth ministries, have done a tremendous amount of work planning the event.

This year's highlight will be the Torch of Youth Celebration. A torch will be carried from parish to parish throughout Hudson County until it finishes its journey at the open Mass on World Day of Youth, October 29, at 3 p.m. at the Cathedral of the Sacred Heart in Newark.

The torch program calls for delivery of the torch beginning at the Youth Center in Kearny on October 25. Torch ceremonies will then be conducted in Kearny at St. Joseph's, St. Cecilia's, and Our Lady of Sorrows Churches, in East Newark at St. Anthony's, and in Harrison at Holy Cross and Our Lady of Czestochowa.

In Bayonne, torch ceremonies will be held at St. Andrew's, St. Mary Star of the Sea, Mount Carmel, St. Michael's, St. Joseph's, Assumption, and St. Henry's Church. The last stop in Bayonne will be St. Vincent's Church, where the torch will remain following a prayer service conducted by Father Jack Cryan.

The next day, Thursday, October 26, the torchbearers will visit the following churches in Jersey City: Our Lady of Mercy, St. Paul's Sacred Heart, Our Lady of Sorrows, Christ the King, St. Patrick's, Assumption/All Saints, Our Lady of Victories, and St. Aloysius, where a supper has been arranged by associate pastor Father Alex Santora.

In Jersey City, the torch will proceed to St. Aedan's, Our Lady of Czestochowa, St. Bridget's, and St. Peter's. The torch will continue on to Jersey City churches St. Boniface, St. Mary's, St. Anthony's, St. Michael's, and Holy Rosary, where Father Paul Bochicchio, pastor, will arrange a prayer service and for the torch to remain overnight.

On Friday, October 27, the torch will continue to travel in Jersey City, beginning with St. Joseph's.

The next stop will be the United Way of Hudson County, where United Way executive director William Martin will be honored for his organization's contribution to CYO.

The torch will then journey to Hoboken, where it will stop at St. Joseph's, St. Ann's, and Our Lady of Grace Churches.

The Hoboken tour will continue to St. Peter and Paul Church and end at St. Francis Church, where there will be a prayer service and Angelo Valente will arrange for the torch to remain overnight.

On Saturday, October 28, the group will visit St. Lawrence Church in Weehawken. The torch will then travel to Union City to visit St. Anthony's Church, St. Joseph/Michael Church, Holy Family Church, St. Augustine's Church, and St. Rocco's Church.

St. Brigid's in North Bergen is the next stop, followed by visits to St. Mary's, St. Joseph's, and Our Lady of Libera Churches in West New York, where a special greeting will be rendered to Msgr. Eugene. A. Fanelli, the oldest active priest in Hudson County. The torch will then travel to St. John's in Guttenberg and Our Lady of Fatima and Sacred Heart in North Bergen.

The torch's last stop will be at Immaculate Conception Church in Secaucus where the Most Reverend Jerome A. Pechillo, Bishop of Hudson County, will be the main celebrant of the Mass.

Mayor Dennis Collins, Mayor Gerald McCann, Mayor Patrick Pasculli, Mayor Robert Menendez, Mayor Leo Gattoni, and County Executive Robert Janiszewski will all participate in the celebration.

Several other events are planned during this month, including a dinner cruise on the *Spirit of New Jersey,* and the CYO Hall of Fame basketball game.

The CYO is also planning its annual awards night in 1990 and continuing a number of programs in the arts, athletics, the outdoors, leadership, and community involvement.

Thousands of Hudson County residents have benefited enormously from their experiences with the CYO and used the knowledge and understanding they gained to give something back to society. Many made the supreme sacrifice on the battlefields of World War II, Korea, and Vietnam. Many have been elected to office. Many teach at schools, colleges, and universities. Some have devoted their career to the church. And all became honest, productive citizens.

I asked one young man, who now teaches in a New Jersey college, what his experiences with the CYO meant to him. He quoted Epicurus:

Let no one be slow to seek wisdom when he is young nor wary in the search thereof when he is grown old. For no age is too early or too late for the health of the soul. . . . Both old and young ought to seek wisdom, the former in order that as age comes over him, he may be young in good things because of the grace of what has been, and the latter in order that, while he is young, he may at the same time be old, because he has no fear of the things which are to come.

A young couple, parents to a family of six children, said: "The CYO has taught us how to count" and quoted the following:

HOW TO COUNT

Count your blessings instead of your crosses,
Count your gains instead of your losses,
Count your joys instead of your woes,
Count your friends instead of your foes,
Count your smiles instead of your tears,
Count your courage instead of your fears,
Count your full years instead of your lean,
Count your kind deeds instead of your mean,
Count your health instead of your wealth,
Count on God instead of yourself.

I am certain that my colleagues here in the House of Representatives wish to join me in this well-deserved salute to the CYO which has played an important part in challenging our young people to participate and contribute to their community.

TRIBUTE TO SOUTH CAROLINA NATIONAL GUARD AND THE 169TH TACTICAL FIGHTER GROUP

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. SPENCE. Mr. Speaker, throughout its proud and illustrious history, the South Carolina National Guard has been recognized as the model for National Guard organizations all over America.

Just recently, the South Carolina Air National Guard added to its numerous achievements by flying away with top honors at the Tactical Air Command Worldwide Gunnery Meet, referred to as Gunsmoke '89. This prestigious flying and tactical maneuvering competition involves active, reserve, and guard components. The 169th Tactical Fighter Group from McEntire Air National Guard Base truly showed the right stuff, and won out over the entire field, proving once again that America takes its Reserve and Guard forces seriously.

To the entire 169th Tactical Fighter Group, I would like to add my congratulations and commendations on the occasion of their tremendous display of air power as a vital component in the Nation's defense. While the distinguished senior Senator of the great State of South Carolina, Senator STROM THURMOND, and our colleague from Mississippi, the Honorable SONNY MONTGOMERY, have already listed the names of some of the principals involved in this great accomplishment, I also want to single out for praise the legendary adjutant general of the South Carolina National Guard, Maj. Gen. T. Eston Marchant; the assistant adjutant general for the Air National Guard, Brig. Gen. James H. Tuten; the commander of the South Carolina Air National Guard, Brig. Gen. Frank Rogers; and the commander of the 169th Tactical Fighter Group, Col. Frank C. Khare.

The outstanding pilots who flew with great precision and technical know-how on the win-

ning F-16 team were Maj. Tim Rush, Maj. George Jernigan, Maj. Waymond Nutt, Maj. John Bellinger, and Capt. George Ronan. The all-important maintenance officer was Maj. Charles Savage who, together with his crew including M. Sgt. Richard Felder and S. Sgt. Dan Goldie, performed in an outstanding manner.

As part of my remarks I submit for the RECORD an account of this event from the State newspaper, a news release listing the various Air Force participating teams, and a letter from my friend and colleague, the Honorable SONNY MONTGOMERY, praising members of the 169th Tactical Fighter Group, as well as other units:

MCENTIRE PILOTS ARE "TOP GUNS"

(By Bill Higgins)

In what has been called the World Series of the wild blue yonder, the South Carolina Air National Guard has won top honors in a competition against the U.S. Air Force's best.

The South Carolina Guard, based at McEntire Air National Guard Base, defeated 15 teams from U.S. Air Force bases around the world at the Tactical Air Command Worldwide Gunnery Meet. Commonly called Gunsmoke, the competition is held every two years at Nellis Air Force Base near Las Vegas.

The winner was determined Thursday after six days of competition.

"We're calling ourselves the world champs," said Lt. Les Carroll, public affairs officer at McEntire Air National Guard Base. "It means a great deal to the Air National Guard. It shows our ability to compete with the active duty."

The 169th Tactical Fighter Group from McEntire was the Overall Top Team and the best F-16 team.

At Gunsmoke, the 16 teams—who had to win preliminary competitions to qualify for the event—are made up of five pilots and 40 maintenance workers. Air crews are judged in basic weapons delivery, tactical bomb delivery and navigation/attack. In all events, the air crews get two opportunities to complete their mission. The highest score is used to compute final standings.

Each day, four planes from McEntire flew into the blue desert skies to compete, Rush said. In one event, the planes dropped six small practice bombs on a target, while in the strafe competition, they fired a 20-millimeter gun at a 25-foot cloth square.

The navigational event involved planning and following a route to a target, where two practice bombs were dropped.

Maintenance crews were judged on their upkeep of the aircraft, and munitions crews competed in a "Loadeo," a munitions loading exercise where precision, technical expertise and safety weighed as much as speed.

"There's a lot of pressure," pilot Maj. Tim "Demo" Rush of Columbia said. "It's like winning the World Series. It's like the Super Bowl."

Rush, a USAir commercial pilot in civilian life, also took part in the 1981 and 1987 Gunsmokes.

The other pilots were team captain Maj. George "Jet" Jernigan of Columbia, Maj. Waymond "Hawk" Nutt of Sumter, Maj. John "Bullet" Bellinger of Columbia and alternate pilot Capt. George "Conan" Ronan of Columbia. Nutt won two competitions: the low angle high drag bomb and the level bomb competitions.

Trophies will be presented at a banquet tonight and on Saturday morning. The top 10 individual pilots will be announced Saturday morning.

"We had a super good team this time," said Master Sgt. Richard Felder of Columbia, who has worked at McEntire for 23 years.

"We spent many hours overtime at work, starting in June," said Staff Sgt. Dan Goldie, another member of the maintenance crew." It was a team effort. We had the support of the whole base, from the top brass to supply to base security."

GUNSMOKE '89 WINNERS ANNOUNCED

NELLIS AIR FORCE BASE, NEVADA.—The smoke has settled around Nellis AFB and the 169th Tactical Fighter Group, McEntire Air National Guard Base, S.C. has been named the Overall Top Team for the Air Force's world-wide gunnery meet, Gunsmoke, '89. The Top Gun for the contest is Capt. Patrick Shay from the 944th Tactical Fighter Group, Luke AFB, Ariz.

The Overall Top Team and Top Gun awards are given for the team and the pilot that had the highest total score from the contest, which required aircrews to demonstrate skills in strafing, bombing (from several different dive angles and altitudes) and navigation.

The 944th TFG was named the Overall Top Maintenance Team Winner with an outstanding performance. They scored a perfect 1,000 points during four of the six days of their competition.

The 944th also earned the Overall Weapons Load Team award through near flawless static weapons load and integrated combat turn competitions. The integrated combat turn is one of the most difficult tasks because it requires people from several different specialties to refuel, reload weapons and launch a jet as quickly as possible after landing.

This year's competition resulted in one of the most outstanding individual performances ever seen at such an event. Capt. Angus Simpson, of the 343rd Tactical Fighter Wing, Eielson AFB, Alaska became the first man ever to shoot a perfect score in Gunsmoke. In two separate missions, the A-10 pilot fired a total of 200 out of 200 rounds into the cloth target on the Nellis range. The A-10 carries one of the largest cannons of any fixed wing aircraft in the world.

The Top finishers in other categories included:

INDIVIDUAL EVENT TOP GUN WINNERS

Dive Bomb: Lt. Col. Gail Jones, 388th TFW, Hill AFB, Utah.

Low Angle Low Drag Bomb: Maj. Lawrence Wells, 432nd TFW, Misawa AB, Japan.

Low Angle High Drag Bomb: Maj. Waymond Nutt, 169th TFG, McEntire ANGB, S.C.

Level Bomb: Maj. Waymond Nutt, 169th TFG, McEntire ANGB, S.C.

Low Angle Strafe: Capt. Angus Simpson, 363rd TFW, Eielson AFB, Alaska.

Navigation Attack: Capt. Michael France, 388th TFW, Hill AFB, Utah.

CATEGORY BEST TEAM WINNERS

F-16 Top Team: 169th TFG, McEntire ANGB, S.C.

A-10 Top Team: 23rd TFW, England AFB, La.

F-4 Top Team: 3rd TFW, Clark AFB, Philippines.

A-7 Top Team: 150th TFG, Kirkland AFB, N.M.

CATEGORY BEST AIRCREW

F-16 Top Gun: Capt. Patrick Shay, 944th TFG, Luke AFB, Ariz.

A-10 Top Gun: Capt. Michael Mangus, 81st TFW, FAR Bentwaters, U.K.

F-4 Top Gun: Capt. Jeff Thompson and Mark Houlzer, 3rd TFW, Clark AB, Philippines.

A-7 Top Gun: Col. Thomas Wittman, 150th TFG, Kirkland AFB, N.M.

CATEGORY BEST MAINTENANCE WINNERS

Top F-16 Maintenance Team: 944th TFG, Luke AFB, Ariz.

Top A-10 Maintenance Team: 930th TFG, Grissom AFB, Ind.

Top F-4 Maintenance Team: 3rd TFW, Clark AFB, Philippines.

Top A-7 Maintenance Team: 185th TFG, Sioux City, Iowa.

CATEGORY BEST LOAD TEAM WINNERS

Top F-16 Munitions Team: 944th TFG, Luke AFB, Ariz.

Top A-10 Munitions Team: 81st TFW, RAF Bentwaters, U.K.

Top F-4 Munitions Team: 3rd TFW, Clark AB, Philippines.

Top A-7 Munitions Team: 150th TFG, Kirkland AFB, N.M.

TIME OF ARRIVAL WINNER

347th TFW, Moody AFB, Ga.

Award winners will be recognized in a ceremony at the base Saturday. Gunsmoke '89 involved 80 aircraft and more than 1,000 people from bases throughout the world. The competition is used to demonstrate the skills of the Air Force's best air ground crew in the air-to-ground mission. It exploits the unique capabilities of fighter and attack weapons systems, enhances military esprit de corps, increases unit training effectiveness and validates the tactical forces' readiness to defend the nation and its allies if and when required.

HOUSE OF REPRESENTATIVES,
Washington, DC, October 13, 1989.

Hon. FLOYD SPENCE,
2113 Rayburn Building, Washington, DC.

DEAR FLOYD: It has just been brought to my attention that an Air National Guard unit has again won "Gunsmoke", the Air Force's worldwide air-to-ground gunnery competition. The unit is the 169th Tactical Fighter Group stationed at McEntire Air National Guard Base at Eastover, South Carolina.

Gunsmoke includes unit and/or individual competition in the areas of bombing, strafing, navigation, maintenance and weapons loading. The 169th Tactical Fighter Group captured the overall title flying in the oldest "A" model F-16 fighter aircraft.

The "Top Gun" was Captain Patrick Shay, an Air Force Reservist with the 944th Tactical Fighter Group from Luke Air Force Base, Arizona. The runner up to Captain Shay was Major Waymond Nutt with the 169th Tactical Fighter Group from South Carolina. Both men in their civilian jobs fly for a commercial airline.

I wanted to share this news with you as another example of the skill, readiness and professionalism of our Air National Guard and Air Force Reserve. Attached is a copy of an Air Force press release concerning this event.

Sincerely,

GILLESPIE V. MONTGOMERY,
Member of Congress.

A TRIBUTE TO THE NEW HAVEN DEPARTMENT OF POLICE SERVICE STREET CRIME NARCOTICS UNIT

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. MORRISON of Connecticut. Mr. Speaker, I rise to salute the New Haven Department of Police Service Street Crime Narcotics Unit. This unit is charged with the identification, detection, and suppression of drug activity in the city of New Haven, CT. It focuses its enforcement efforts on all levels, on both the supply and demand side, from the major distributor to the casual user. Under the command of Capt. Rafael Garcia since September 1986, the unit of 20 police officers has become a recognized leader in the suppression of narcotic activity.

The unit is well known for its innovative sting operations which were brought to New Haven by Captain Garcia. The objective of a sting is to deter potential narcotic purchasers and to deter blatant street level sales in neighborhoods in which narcotic sales are of primary concern to the residents. A further goal is to deter the casual purchaser who is not yet completely addicted. Since March 15, 1988, 27 stings have been conducted throughout New Haven resulting in more than 1,100 arrests. On 1 day, there were 102 arrests made in a sting at the rate of approximately 1 arrest every 3 minutes. There is nearly a 100-percent conviction rate in the stings. Due to the success of the stings, the unit has been asked to train other police departments who wish to employ this tactic in their municipalities.

One way of eliminating street level dealers is the buy-bust operations in which dealers are first identified and then arrested after a contingent of undercover officers go from neighborhood to neighborhood buying narcotics from street level dealers with marked moneys. The buy-bust operations also have close to a 100-percent conviction rate.

A third tactic in the war against drugs in video surveillance operations in which the street crime narcotics unit identifies and targets locations from which narcotics are being sold. The undercover officers place themselves in vacant homes or surveillance type vans, and using video cameras, monitor the activity at a specific location. Through this type of surveillance, the unit has been able to identify buyers, the key players involved in narcotics operations, delivery times, and methods used. During these surveillances, undercover officers are sent into the area to purchase narcotics in order to confirm the narcotic activity that is being videotaped. Once the video surveillance is complete, the unit identifies the persons videotaped, and applies for arrest and search warrants which are then executed. Through this type of surveillance the street crime unit recently was able to shut down one of the major cocaine distributors in New Haven who controlled a $60,000-per-day operation.

The unit has been very successful in identifying homes from which narcotics are being sold or kept. In September 1989, the unit confiscated 60 pounds of marijuana, the largest single amount in New Haven's history. In 1988, 89 search and seizure warrants were executed. The street value of narcotics seized in 1988 was $861,285. As of August 31, 1989, 147 search and seizure warrants have been executed, with the street value of narcotics seized to date equaling $931,116. The amount of money seized in 1988 by the unit from search warrants and on arrestees was $235,170. As of August 31, 1989, the amount of money seized from search warrants and on arrestees is $182,589.

The number of narcotic arrests in New Haven more than doubled between 1987 and 1988. This year, there have been 1,648 narcotic arrests through August 31, 1989. Working with its representatives on the Statewide Narcotics Task Force, three times as many people were arrested for narcotics violations in New Haven in 1987–88 as in any other Connecticut city. Utilizing the Federal Forfeiture Act, the unit has applied for the forfeiture of two homes and has seized, under the Federal Forfeiture Act, money and property with a total value of $255,000. The number of vehicles seized under the Federal Forfeiture Act is nine, with seven pending.

I salute the New Haven Department of Police Service Street Crime Narcotics Unit for their exemplary efforts to end drug activity in the city of New Haven.

A SALUTE TO GWENDOLYN ESTERS: RETIRING AFTER 30 YEARS

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Mr. DYMALLY. Mr. Speaker, I rise today to salute Gwendolyn F. Esters, a nurse residing in Hawthorne, for her 30 years of dedication to the nursing profession and service to the community.

On October 21, 1989, at its Fourth Annual Reunion/Scholarship Awards Dinner, Los Angeles Southwest College Nurses Alumni Association, Inc., honored Mrs. Esters as its "Alumnus of the Year." I would like to take this opportunity to honor her and express my appreciation for her many years of hard work and dedication.

Mrs. Gwendolyn F. Esters, R.N., began as a licensed vocational nurse [LVN] after completing training at Henry Ford Hospital and landing a position at Sinai Hospital in Detroit, MI.

When her family relocated in Los Angeles in 1960, she began a 12-year appointment as LVN on the staff at Kaiser Permanente Hospital. However, being an LVN was not enough for Gwen. With her husband's encouragement, she continued her quest for knowledge and returned to school. Gwen enrolled in the nursing program at Los Angeles Southwest College [LASC] where she was the vice president of her nursing class and an honor student. She was the second class of registered nurses to graduate from LASC.

As a professional nurse, Gwen was employed in 1972 by Martin Luther King, Jr., Hospital—now known as King-Drew Medical Center—where she helped to open the obstetrics-gynecology clinic and taught family planning. By 1973 her teaching skills earned her a position as health educator at Charles R. Drew Postgraduate Medical School where she developed and implemented classes in prenatal, family planning, prepared childbirth, and was instructor/trainer for the American Red Cross.

Since 1977, Gwen has been employed at King-Drew Medical Center where she has expanded the prenatal classes to include instruction for Spanish-speaking pregnant mothers. She initiated certification in parenthood for the American Red Cross and helped to train nurse midwives, registered nurses, student paramedics, Magnet High School students, baccalaureate student nurses, medical students at the University of California, Los Angeles, and the Los Angeles Unified School District Adult Teachers. She is especailly proud of initiating the parenting program for King-Drew Medical Center. Additionally, she developed a film strip on "Breast Feeding for Professionals" and helped to implement the adolescent clinic.

Because of her vast knowledge of parenting and prenatal care, Gwen is frequently asked to volunteer her services as speaker or workshop facilitator. Her volunteer contributions have won her numerous awards, including the most prestigious Clara Barton Award, which is the highest honor the American Red Cross bestows on registered nurses for volunteer services. For 5 straight years, Mrs. Esters was recipient of the American Red Cross Spotlight Award for her contributions to the community. She was awarded the Celebrity Teacher Award by the Compton Unified School District for her work with the Teen Mothers Program in 1988.

Mrs. Esters has always had compassion for nursing students and displayed a sincere commitment to LASC. She was involved in four attempts to organize an alumni association. When, in October 1985, the alumni was reborn, Mrs. Esters immediately became an active member. She has served as treasurer since its reorganization and cochaired the reunion committee for 2 years. She helps the alumni by providing expertise and support in all its fund-raising endeavors.

Mrs. Gwendolyn F. Esters, former homecoming queen and salutatorian of McConogh High School, New Orleans, LA, truly exemplifies the motto of Los Angeles Southwest College Nurses Alumni Association, Inc., "Remembering Our Roots and Giving Back."

Mr. Speaker, I am honored to join with LASC Nurses Alumni Association in extending our congratulations to Mrs. Esters who has devoted these many years to help others and the community. We wish her the very best of luck in her retirement years.

NO LONGER A LONE VOICE

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1989

Ms. OAKAR. Mr. Speaker, my wonderful friend DALE KILDEE recently moderated a

forum on peace in the Middle East. For those of who know DALE, we know that he has always been interested in promoting peace, both here and abroad.

The following are Congressman KILDEE's remarks and an article by Mary McGrory.

NO LONGER A LONE VOICE

(By Mary McGrory)

At a recent Capitol Hill forum on the Palestine question, there was a conspicuous absentee. Jim Abourezk, the raffish, rebellious former senator from South Dakota, should have been there—to hear a roomful of people saying what he almost alone used to say, and to see the enthusiastic reception of the standing-room only audience. Another former Democratic senator from South Dakota, George McGovern, spoke for Palestinian rights, but it was not quite the same.

The occasion was sponsored by the American Arab Anti-Discrimination Committee. What made it notable is that the speakers all said emphatically that there had to be a recognition of a two-state policy as the only answer; that the Palestinian uprising, the intifada, is not going to go away and that Israel must negotiate with the PLO.

The unanimity on those basic questions was not the most striking thing; more so was the optimism of the speakers. And eight House members turned up, which is eight more than formerly dared show up at an Arab-sponsored event in the days when Abourezk was speaking up for the PLO and doing ferocious battle with the Israeli lobby. Abourezk—a burly individualist of whom his erstwhile colleague Sen. John Glenn (D-Ohio) said, he "could start a riot in an empty hall"—was out flogging his memoirs, "Advise and Dissent," which tell, among other things, about a trip to the Palestinian refugee camps that caused him to put the PLO at the top of his list of underdogs.

Abourezk served one term in the Senate, from 1972 to 1978. His constituency were the down and out, Indians, small farmers, the dispossessed. He served in a Senate that had, he admits, some aspects of frat-house hijinks. He tells of being in a phone booth listening to Jimmy Carter plead for support of the Panama Canal Treaty, and having his colleague former senator John Culver (D-Iowa) push a lighted paper through the crack. He draws hilarious sketched, cartoons, really, of some of the Senate gods of the time. After he quit the Senate, he became chairman of the American Arab Anti-Discrimination Committee.

He is, of course, not surprised that 68 senators recently signed a letter to Secretary of State James A. Baker III, bidding him deny a visa to Yasser Arafat.

In his book, he writes, "I came to learn early on in the Senate that any manifestations of support for a Palestinian state or conversely any sign of dissension from U.S. Middle East policy makes one a pariah of sorts." And: ". . . Most politicians care very little for Arabs or Jews, it becomes for them simply a matter of who can contribute the most money to their campaigns."

The deadlock in the Israeli government has eased. The militancy of the far right, the Likud party, has not diminished. Arab children are throwing stones and Israeli soldiers are breaking bones; the death toll is 700 and rising.

Why hope then? Philip Klutznick, a distinguished lifelong Zionist (he was chairman of the Iowa chapter at 22) says that "peace is a process" and the process has begun with the U.S.-PLO dialogue. At 82, Klutznick, a past president of the American Jewish Congress and B'nai B'rith, is extremely spirited. He briskly put down the session's only hostile question, from a young man who asked why Israel should accept "a terrorist state on its border." The assumption should not be made that anyone who is not an Israeli or an American is a murderer, said Klutznick, and "a modern state has to learn to live with its neighbors." He was much applauded.

Edward Said, a professor at Columbia University and a member of the Palestine National Council, spoke emotionally of "the glaringly awful" Israeli policy of punishment on the West Bank and in Gaza.

One young woman, who identified herself as a member of a Jewish peace group, got up and in a choking voice asked rhetorically "what it will take" to rouse Congress against the Israeli policy. Rep. Dale E. Kildee (D-Mich.), who had bravely served as moderator of the gathering, finally stepped forward.

Kildee was the first member of Congress to speak out on the intifada when Capitol Hill was wrapped in deep silence on the subject. He has been a friend to Israel, and when AIPAC, the most aggressive arm of the Israeli lobby, learned of his involvement with the forum, it called up to find out what he was up to. He believes that "both morality and practicality demand a just solution," and that Israel will feel the pull of current events. "Democracy and self-determination are breaking out all over—Israel cannot be isolated."

After all, everyone agrees, it wouldn't do for Israel to lag behind the Russians in the granting of political rights to a minority under its control.

Kildee paraphrases Churchill for a description of the state of affairs: "Not even the beginning of the end, but perhaps the end of the beginning."

PANEL DISCUSSION SEEKING PEACE IN THE MIDDLE EAST

Introduction by Congressman Dale E. Kildee

Shalom.

As-Aslaam Alai-Kum.

Peace be with you.

I am pleased to open this panel discussion on peace in the Middle East.

As the only superpower which has direct contact with all the players in this game, the United States must remain actively engaged in the Middle East peace process.

Moreover, the American people have an unshakeable commitment to the security and well-being of Israel.

And as the leader of the free world, we also have a strong moral commitment to justice for the Palestinian people.

Personally, I have dedicated my life to the promotion of peace, both domestic and international.

And the longer I live, the more I realize that the only sure foundation for peace is justice.

In the Middle East: justice for the Israeli people means the right to live in peace and prosperity with their neighbors; justice for the Palestinian people means the right of self-determination.

But the United States has more than an altruistic interest in Middle East peace.

At least once a decade since World War Two, the continuing conflict in the Middle East has brought the superpowers into some degree of direct competition—1948, 1956, 1967, 1973, and 1982.

Indeed, we know that during the 1973 Yom Kippur War the United States and The Soviet Union placed their strategic nuclear arsenals on a much heightened state of alert.

Clearly, we cannot ignore the global implications of any regional conflict in the Middle East.

With the Middle East, we constantly seem to be delicately perched either on the brink of war or the pinnacle of peace.

More often than not we are in both positions at the same time.

We are now in that contradictory position today.

The almost two-year-old Palestinian uprising in the occupied territories has simultaneously—raised Israeli and Palestinian hopes for a peaceful resolution and their fears of total annihilation. It has raised the stature of moderates who would negotiate peace and strengthened the hand of extremists who seek to spoil any such talks, and it has created both openings for peace and possibilities for renewed and intensified conflict.

What gives us hope for peace today is that the main players in this conflict are, to a certain extent, all actively engaged in the peace process.

I am pleased that Secretary Baker is currently working with the governments of Israel and Egypt to establish a framework for a dialogue between the Israelis and Palestinians.

And as a result of American efforts, the Israelis and Palestinians are now closer than ever before to direct talks.

At least now, the major stumbling block is how to get the Israelis and Palestinians together, not whether they should talk.

At the heart of the Arab-Israeli conflict lies the fact that the fate of the Israelis and Palestinians is inextricably bound together.

The security and well-being of Israel cannot be guaranteed until the Palestinians' right of self determination is recognized.

And the Palestinians cannot fully exercise their right of self determination until Israel's peace and prosperity is assured.

Today, our four very distinguished panelists will focus their remarks on what steps the United States can take to begin the face-to-face dialogue between the Israelis and Palestinians need to reconcile these two elements of justice—Israel's security and Palestinian self determination.

I hope and pray that the string of Middle East conflicts I mentioned at the beginning of my comments will be broken in the 1990s.

I was present at the signing of the Egyptian and Israeli peace treaty. All three participants, Anwar Sadat, Menachem Begin and Jimmy Carter, quoted these words from Isaiah:

"They shall beat their swords into plowshares, and their spears into pruninghooks; nation shall not lift up sword against nation, neither shall they learn war any more." (2:4)

Let that be our hope and our prayer.

I look forward to hearing the views of the panelists on this very timely and crucial issue.

HOUSE OF REPRESENTATIVES—*Wednesday, October 25, 1989*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

At the beginning of each day, we are conscious of all our responsibilities of occupations and relationships with others, of the many concerns before us. Yet, above all else, we pray, O God, that we will be aware, in every activity of the glory of new life, of the marvel of a new day, of the joy of a new spirit. May this blessing be upon us this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mrs. BOXER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mrs. BOXER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 294, nays 109, not voting 30, as follows:

[Roll No. 304]

YEAS—294

Ackerman	Boxer	Darden
Akaka	Brennan	Davis
Alexander	Broomfield	DeFazio
Anderson	Browder	Dellums
Andrews	Bruce	Derrick
Annunzio	Bryant	Dicks
Anthony	Bustamante	Dingell
Applegate	Byron	Donnelly
Archer	Callahan	Dorgan (ND)
Aspin	Campbell (CA)	Downey
Atkins	Campbell (CO)	Dreier
AuCoin	Cardin	Durbin
Barnard	Carper	Dwyer
Bartlett	Clarke	Dymally
Bateman	Clement	Eckart
Bates	Clinger	Edwards (CA)
Beilenson	Coleman (TX)	Emerson
Bennett	Collins	Engel
Bereuter	Combest	English
Berman	Condit	Erdreich
Bevill	Conte	Espy
Bilbray	Conyers	Evans
Bonior	Cooper	Fascell
Borski	Costello	Fazio
Bosco	Coyne	Feighan
Boucher	Crockett	Fish
Flake	Long	Roe
Flippo	Lowey (NY)	Rose
Foglietta	Luken, Thomas	Rostenkowski
Ford (MI)	Madigan	Roth
Ford (TN)	Manton	Rowland (CT)
Frank	Markey	Rowland (GA)
Frost	Martinez	Roybal
Gallo	Matsui	Russo
Gaydos	Mavroules	Sabo
Gejdenson	Mazzoli	Saiki
Gephardt	McCloskey	Sangmeister
Geren	McCollum	Sarpalius
Gibbons	McCurdy	Savage
Gillmor	McDade	Sawyer
Gilman	McDermott	Saxton
Gingrich	McEwen	Scheuer
Glickman	McHugh	Schiff
Gonzalez	McMillen (MD)	Schneider
Gordon	McNulty	Schulze
Gradison	Meyers	Schumer
Grant	Miller (CA)	Sharp
Gray	Miller (WA)	Shaw
Green	Mineta	Shumway
Guarini	Moakley	Shuster
Gunderson	Mollohan	Sisisky
Hall (OH)	Montgomery	Skaggs
Hall (TX)	Moody	Skeen
Hamilton	Morrison (CT)	Skelton
Hammerschmidt	Morrison (WA)	Slattery
Harris	Mrazek	Slaughter (NY)
Hatcher	Murtha	Smith (IA)
Hayes (IL)	Myers	Smith (NE)
Hayes (LA)	Nagle	Smith (NJ)
Hefner	Natcher	Smith (VT)
Hertel	Neal (NC)	Snowe
Hoagland	Nelson	Solarz
Hochbrueckner	Nielson	Spence
Horton	Nowak	Spratt
Houghton	Oakar	Staggers
Hoyer	Oberstar	Stallings
Hubbard	Obey	Stark
Huckaby	Olin	Stenholm
Hughes	Ortiz	Stokes
Hutto	Owens (NY)	Studds
Johnson (CT)	Owens (UT)	Swift
Johnson (SD)	Packard	Synar
Johnston	Pallone	Tallon
Jones (GA)	Panetta	Tanner
Jontz	Parker	Tauzin
Kanjorski	Patterson	Taylor
Kasich	Payne (NJ)	Thomas (GA)
Kastenmeier	Payne (VA)	Torres
Kennedy	Pease	Torricelli
Kennelly	Pelosi	Traficant
Kildee	Penny	Traxler
Kleczka	Perkins	Unsoeld
Kolter	Petri	Valentine
Kostmayer	Pickett	Vander Jagt
LaFalce	Pickle	Vento
Lancaster	Porter	Visclosky
Lantos	Poshard	Volkmer
Laughlin	Price	Walgren
Leath (TX)	Quillen	Walsh
Lehman (CA)	Rahall	Watkins
Lehman (FL)	Rangel	Waxman
Lent	Ravenel	Weldon
Levin (MI)	Ray	Wilson
Levine (CA)	Regula	Wise
Lewis (GA)	Richardson	Wolpe
Lipinski	Rinaldo	Wyden
Livingston	Ritter	Wylie
Lloyd	Robinson	Yates

NAYS—109

Armey	Burton	DeWine
Baker	Chandler	Dickinson
Ballenger	Clay	Dornan (CA)
Barton	Coble	Douglas
Bentley	Coleman (MO)	Duncan
Billirakis	Coughlin	Edwards (OK)
Billey	Cox	Fawell
Boehlert	Craig	Fields
Brown (CO)	Crane	Frenzel
Buechner	Dannemeyer	Gallegly
Bunning	DeLay	Gekas
Goodling	Martin (IL)	Sikorski
Goss	Martin (NY)	Slaughter (VA)
Grandy	McCandless	Smith, Denny (OR)
Hancock	McCrery	Smith, Robert (NH)
Hansen	McGrath	Smith, Robert (OR)
Hastert	McMillan (NC)	Solomon
Hawkins	Michel	Stangeland
Hefley	Miller (OH)	Stearns
Henry	Moorhead	Stump
Herger	Morella	Sundquist
Hiler	Murphy	Tauke
Hopkins	Oxley	Thomas (CA)
Hunter	Parris	Thomas (WY)
Hyde	Pashayan	Upton
Inhofe	Paxon	Vucanovich
Jacobs	Pursell	Walker
James	Rhodes	Weber
Kolbe	Roberts	Wheat
Kyl	Rogers	Whittaker
Lagomarsino	Rohrabacher	Wolf
Leach (IA)	Ros-Lehtinen	Young (AK)
Lewis (CA)	Roukema	Young (FL)
Lewis (FL)	Schaefer	
Lightfoot	Schroeder	
Lukens, Donald	Schuette	
Machtley	Sensenbrenner	
Marlenee	Shays	

NOT VOTING—30

Boggs	Florio	Neal (MA)
Brooks	Garcia	Ridge
Brown (CA)	Holloway	Smith (FL)
Carr	Ireland	Smith (TX)
Chapman	Jenkins	Towns
Courter	Jones (NC)	Udall
de la Garza	Kaptur	Weiss
Dixon	Lowery (CA)	Whitten
Dyson	Mfume	Williams
Early	Molinari	Yatron

□ 1024

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from California [Mr. Cox] come forward and lead the House in the pledge of allegiance.

Mr. COX led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT AS MEMBERS OF BOARD OF TRUSTEES OF AMERICAN FOLKLIFE CENTER IN THE LIBRARY OF CONGRESS

The SPEAKER. Pursuant to the provisions of section 4(b), Public Law 94-201, the Chair appoints to the Board of Trustees of the American Folklife Center in the Library of Congress the following members from private life on the part of the House:

Mrs. Nina M. Archabal, St. Paul, MN, to fill the existing vacancy thereon; and

Mr. John Penn Fix III, Spokane, WA, for a 6-year term.

SUPPLEMENTAL APPOINTMENT OF CONFEREES ON H.R. 3299, OMNIBUS BUDGET RECONCILIATION ACT OF 1989

The SPEAKER. Pursuant to the previous order of the House of October 18, 1989, the Chair makes the following supplemental appointment of budget reconciliation conferees:

The first panel from the Committee on Ways and Means—revenues-pensions-fees—is appointed also for consideration of the third item listed under miscellaneous charges in the fee schedules set forth in section 301(a)(1) of the Senate amendment, and modifications committed to conference.

The Clerk will notify the Senate of the Change in conferees.

MAKING IN ORDER ON THURSDAY, OCTOBER 26, 1989, CONSIDERATION OF CONFERENCE REPORT AND AMENDMENTS IN DISAGREEMENT ON H.R. 3012, MILITARY CONSTRUCTION APPROPRIATIONS, 1990

Mr. HEFNER. Mr. Speaker, I ask unanimous consent that notwithstanding the provisions of clause 2 of rule XXVIII, it be in order on Thursday, October 26, 1989 to consider the conference report and amendments in disagreement to the bill (H.R. 3012) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes, and that the conference report and the Senate amendments be considered as read when called up for consideration.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do not intend to object. I just want to ask the gentleman from North Carolina whether there is anything in the conference report which would, in any way, undermine the base closing legislation passed by this Congress last year?

Mr. Speaker, I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Speaker, the House position on base closure is upheld, and there is nothing in there that would jeopardize the House position on base closure.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, I thought Members would like to know the schedule for the day, and the prospects for when we might leave tonight. We do face the prospect of going later than usual this evening because of the flow of business that we have today.

We will first be taking up the vote on overriding the President's veto on the Labor-HHS appropriations; following that, we will take up H.R. 45, the Temporary Suspension for Deportation of Chinese, Salvadorans, and Nicaraguans; we will then go to the conference report on H.R. 2916, the VA-HUD appropriations for 1990; and finally, we will be finishing work on the continuing resolution which runs until November 15. It is that last piece of business that could keep Members here beyond 6 o'clock. There are some differences with the Senate that could take some time to work out.

That is the way the business will go today. I just wanted Members to be on notice that we could go into the evening. We hope not late, but we have to put Members on notice that we could do that.

ANOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that he will entertain 1-minute statements for 20 minutes only.

TIMID DEFINITION

(Mr. ECKART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ECKART. Mr. Speaker, in today's New York Times, the President made the following complaint. "Democrats on Capitol Hill have been calling me timid," he said. "I have other words, like cautious, diplomatic, and prudent."

Well, Mr. Speaker, this is more than a semantic debate. It is about action versus inaction, about decisiveness versus indecision.

President Bush declared war on Noriega, but squandered his best opportunity.

□ 1030

He declared a war on drugs but surrendered the fight to the bureaucrats.

Since this President likes to consult so much, I thought we would consult Webster's Thesaurus and see exactly what "timid" means. It lists words like "unassertive," "milquetoast," "cautious," "jumpy," "nervous," "skittish," "hesitant," and, yes, my favorite allegory to "timid"—"quailing."

Mr. Speaker, when Vice President Bush told us that if he was elected, he would hit the ground running, what he did not tell us was that we would be running in place.

NATIONAL HOSTAGE AWARENESS DAY

(Mr. HENRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENRY. Mr. Speaker, Friday, October 27, is journalist Terry Anderson's 42d birthday. It will mark his fifth birthday in captivity as an American held hostage by extremist groups in Lebanon.

Congress has established Terry Anderson's birthday as "National Hostage Awareness Day," calling upon all Americans to remember Terry Anderson and the seven other Americans still held hostage in Lebanon: Thomas Sutherland, Frank Reed, Joseph Cicippio, Edward Tracy, Jessee Turner, Alann Steen, and Robert Polhill.

Congress asks that all Americans mark this day of remembrance with the ringing of church bells, the wearing of yellow ribbons, the offering of prayers, burning porch lights in the evening hours, and other appropriate symbols of support so that our fellow Americans will know they have not been forgotten.

Please join in marking Friday, October 27, as "National Hostage Awareness Day" as a way of demonstrating to the hostages and their families that we, the American people, have not forgotten their plight.

VETO OVERRIDE OF LABOR-HHS APPROPRIATIONS BILL—"A VOTE FOR COMPASSION"

(Mr. BRENNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRENNAN. Mr. Speaker, today we will decide whether poor women who have been raped or are the victims of incest may be forced to bring into the world the child of their criminal attacker.

Poor women, in such desperate circumstances, should be helped by a caring and sensitive government.

To refuse to help these very desperate women who have been criminally violated would, in effect, punish the victim twice.

We are better people than that. We care more about victims of crime than that.

Most of us in Congress are very lucky in life, and it is probably close to impossible for some of us to imagine what it would be like to be hopelessly poor, to be scared, to be trapped—like the victims of rape or incest.

But we should try to imagine ourselves in that condition before we vote today.

For if we do, I think we will show compassion and concern and respect and, yes, give financial help to those victims. I urge you to override the President's veto and help the victims of rape and incest.

INNOVATIVE PROGRAM FOR POTENTIAL DROPOUTS

(Mrs. ROS-LEHTINEN asked and was given permission to address the House for 1 minute.)

Mrs. ROS-LEHTINEN. Mr. Speaker, I wish to speak in favor of the authorization for a pilot program for a Junior Reserve Officer Training Program which is part of the Maritime and Science Technology Academy administered by the Dade County Public School System.

This program will carry the name of our beloved Claude Pepper and will provide students with instructions in subject areas relating to the Coast Guard.

Some of the instructors will be retired or Reserve Coast Guard personnel, which will reduce the cost of the program. The Coast Guard will also provide assistance in developing the curriculum and course material.

Innovative programs such as this one will help reduce Dade County's high dropout rate. Many students who turn off to a regular, structured, traditional curriculum will now stay in school because of creative educational programs such as this one.

Mr. Speaker, I congratulate the Coast Guard and the Dade County Public School System for cooperating in an imaginative approach to a complex problem.

SOME VIOLENT OFFENDERS ESCAPE PRISON—BUT NOT BAKKER AND GABOR

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Zsa Zsa Gabor and Jimmy Bakker are going to the slammer. This infamous pair, now known as the Illegal Lethal Weapons of the Dark Side, reputed to have heavy bank ties and their own SS numbers—that is, social security, folks—are going to lock up.

Think about it. While rapists and armed robbers are getting early release because of jail overcrowding, Zsa Zsa Gabor is going to jail. Why not put the wrist band on Zsa Zsa, send her to the zoo, and let her pick up some zebra pancakes? Would that not be more of a punishment? And they could let her pay a very big fine. Just think of the fine Jimmy Bakker could pay.

I say here today to the Members of Congress that jail should be for violent offenders, and Zsa Zsa Gabor is more a threat to sobriety than she is to society.

BAKKER SENTENCED FOR USING TRUST FUND MONEY FOR GENERAL FUND PURPOSES

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute.)

Mr. DANNEMEYER. Mr. Speaker, I notice by the morning paper that the evangelist, Mr. Bakker, has been sentenced to jail for 45 years. His crime is that he took trust fund money for general fund purposes—over $100 million.

This year the Congress of the United States is scheduled to take approximately $147 billion of trust fund money for general fund purposes. I wonder how many of us will be going to jail as a result of that sentencing in November of 1990.

One of the members of the Federal Reserve Board, Mr. Angell, went to the Soviet Union last month and advised the Soviet leadership as to how they could resurrect their economy. He said, "Back your rubles with gold and sell bonds backed by gold at 3 percent interest rates."

Mr. Speaker, we can do the same in this country. When we reform our monetary system, we can stop taking trust fund money for general fund purposes and begin lowering the cost of interest all over this country.

MEDICARE FUNDING FOR ABORTION IN CASES OF RAPE OR INCEST

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, after much thought and consideration I changed my position regarding Medicaid funding for abortion in the case of rape or incest. Statistics from the Bureau of Justice indicate that in 1988 there were 127,000 reported cases of rape and attempted rape in the United States. According to the National Center on Child Abuse and Neglect at least 155,000 children suffered sexual abuse, including incest, in 1986.

Under current law, any woman or girl who has been impregnated against her will is free to choose whether to bear that pregnancy to full term—but only if she can afford it. The luckless, poor woman who has been forcibly impregnated and whose unhappy situation is aggravated by her economic status, should not be given that same choice according to President Bush.

Mr. Speaker, it's not our place nor the President's to make such a decision. I trust the women of America—poor and wealthy alike—to act wisely. It's too bad that President Bush doesn't.

COMMENTS ON THE AFGHAN SITUATION

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks)

Mr. RITTER. Mr. Speaker, in yesterday's New York Times and in the Washington Post, the lead stories were headlines about Mr. Shevardnadze's calling attention to the Afghan adventure as "illegal and immoral," and condemning the Afghan invasion.

I want to commend the Soviet Foreign Minister for his honesty but, I say to Mr. Shevardnadze: "Your comments are hypocritical in the extreme. Your government, Mr. Shevardnadze—since the troop pullout in February—has been conducting the largest airlift in the history of the Soviet Union, averaging some $250 million to $300 million in mostly military supplies per month to your Najibullah-led puppet regime in Afghanistan. We have recent intelligence estimates that bring that figure up to $400 million—with some 80 percent of the supplies being military in nature.

We also have intelligence reports that there are some 300 Soviet troops working the ACUD missile batteries.

We have eyewitness reports of Soviet planes coming down over the border from the airbase at Kushka in the U.S.S.R., dropping bombs on the resistance groups around Herat, Afghanistan—and then flying back to the U.S.S.R.

Soviet citizens, Mr. Speaker, are standing in bread lines while the Soviet Government is spending their hard-earned money on foreign adventures like Afghanistan—but also Angola, Cambodia, Vietnam, Nicaragua, Ethiopia, and the list goes on.

Also, it is unseemly, and again hypocritical to be asking the Western nations—including the United States—for loans, credits, joint ventures, and most favored nation status [MFN], while the Soviet economy remains on a wartime footing; while your best treasure goes for guns, planes, tanks, and so forth.

Mr. Shevardnadze, you cannot have it both ways. Perestroika cannot work unless your country redefines its basic priorities at home and makes the necessary investments in your civilian economy.

No amount of Western financial assistance can make up for the Soviet economy that chooses guns over butter.

Our bottom line should be: no United States bank loans or credits to the Soviet Union, no most favored

nation [MFN] status, and no joint ventures capitalizing Soviet industry while your economy remains on a wartime footing.

Mr. Speaker, I and others will soon introduce legislation on this matter and we will be asking for our colleagues' support.

INTRODUCTION OF BILL TO AUTHORIZE OFFICE OF ENVIRONMENTAL HEALTH AND SAFETY

(Mr. SCHEUER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, I am pleased today to introduce a bill that addresses one of the most serious environmental threats to our Nation; namely, the unparalleled toxic contamination and the continued lax safety precautions that typify the Department of Energy's operations and that threaten each and every one of us.

The legislation I offered would establish by statute an office of environmental health and safety with the Department of Energy.

Mr. Speaker, Adm. Jim Watkins, the Secretary of Energy, is a proven forthright and effective leader in our country and has served all of us brilliantly in several capacities before he assumed his present position.

□ 1040

Mr. Speaker, he now faces a monumental challenge, and the time has come for Congress to match his sense of responsibility and commitment. We must join with Secretary Watkins and support his efforts to change the Department of Energy's attitudes and practices on environment, safety, and health from the ground up.

The time to act is now, and I urge my colleagues to join me in this endeavor.

A GROSS ABUSE OF OUR FRANKING PRIVILEGES

(Mr. LEWIS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of California. Mr. Speaker and my colleagues, we all know that politics is the toughest of businesses, and, as we do battle on this floor and over the years of fighting and working together, we develop friendships.

Today, I received in the mail a gross abuse of our franking process that comes under the frank of Tony Coelho. To suggest that our colleague, Tony Coelho, would have been stupid enough to do this would be to know him not at all. My colleagues will find it in their mail.

Mr. Speaker, I am referring this obnoxious item to the franking commission. I am urging that we pursue the source of this material and prosecute the individual responsible to the fullest extent of our rules, as well as our law.

IN SUPPORT OF THE VETO OVERRIDE OF H.R. 2990

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, today we have the opportunity to do for the poor women of America what the President has been unwilling to do. And that is to be compassionate and allow the use of Medicaid funds to pay for abortions in cases of rape and incest.

Our governmental policy should not be to force a woman who has been sexually assaulted to bear the child of her assailant. These women are entitled to our compassion and our care, regardless of their income. It is unconscionable that the President favors abortions for rape and incest victims only if the victim can afford to pay for it.

If your spouse or child were raped and became pregnant, would you deny them the right to choose whether to terminate that pregnancy? Of course not. Yet we're being asked to deny the poor women of this country that same right to chosse.

Two weeks ago the House mustered the courage to do the right thing. We have that opportunity to do it again today. No matter where you stood on that vote 2 weeks ago, I urge you to join me today in overturning this great injustice and vote to override the President's veto what the gentleman from Kentucky [Mr. NATCHER] calls "the people" bill for Health and Education.

RED RIBBON WEEK

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, I rise today to take this opportunity to share my enthusiasm for Red Ribbon Week—a national celebration of community involvement and commitment to a Drug Free America.

In 1988 our Nation lost nearly $100 billion in the social and economic costs of drug abuse, prevention, treatment, drug-related crime, violence, death, property destruction, lost productivity, and drug enforcement. In that same year we spent $3.76 billion Federal taxpayer dollars to wrestle with those problems. Yet the narcotics problem rages still.

It is clear that this problem is too big to be micromanaged from Washington, DC. We must turn to our people at home—in our hometowns and in our neighborhoods.

In Broward County, one of the driving forces behind the local campaign has been the Broward Informed Parents. The president of Broward Informed Parents, Ms. Robin Burns, and the chairperson of Red Ribbon Week, Ms. Janyce Becker, have been crucial in motivating a diverse group into fighting narcotics at the community level.

Doug Hughes, drug czar for Florida, kicked off Red Ribbon Week with a breakfast appearance in Broward County last Monday morning. Through the Fort Lauderdale Chamber of Commerce, businesses are displaying red ribbons in support of their commitment to battle drugs in their community. Florida Atlantic University will add their support with a 10-by-30-foot banner "FAU Says No to Drugs." The week will end with a candlelight procession in downtown Fort Lauderdale of citizens committed to fighting drugs, and I am honored to lead the procession as grand marshal.

Mr. Speaker, this year's Red Ribbon Week in Broward County is a shining example of community cooperation, involvement, and commitment. We have taken a stance and proclaim to Florida and the Nation, "Broward's Choice—Drug Free."

SURPRISE—THE PRESS TOOK SOMETHING OUT OF CONTEXT

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, yesterday the House spoke very eloquently to the earthquake victims in California, and I am here to say, "thank you."

Mr. Speaker, it is clear that to solve our problem we have to have cooperation between the White House and Congress in a solution that is bipartisan and bicameral.

It is also clear, Mr. Speaker, and this is part of the miracle of the earthquake, that we even have complete cooperation between northern and southern California, but why I rise today, Mr. Speaker, is to clarify something that happened on the floor yesterday.

In my city of San Francisco today, which was hard hit by the earthquake, and this will come as a surprise to many Members of the House, but the press took a statement made on the floor out of context. I know that surprises many of my colleagues. The statement was made by the gentleman from Michigan [Mr. TRAXLER] who is an ardent supporter of earthquake assistance to San Francisco. Mr. Speaker, the debate on the floor was about how the expenditure would be scored. In San Francisco now, all over the air-

waves, we are asking that that statement of the gentleman from Michigan [Mr. TRAXLER] be put in context.

I say to my friends in San Francisco that the gentleman from Michigan [Mr. TRAXLER] is our friend. He supported earthquake relief. Please do not take his remarks out of context. He has been our friend and fought for this relief.

PLEASE DON'T PAY FOR MURDER WITH FEDERAL TAX DOLLARS

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, we are going to revisit the life/abortion issue again today. Mr. Speaker, I believe the President's veto will be easily sustained.

This is the 33d anniversary of the Hungarian struggle, those nightmarish 10 or 11 days when 50,000 people were killed by Russian tanks and soldiers. It took 33 years to gain their freedom.

Mr. Speaker, one of the heroes of that revolution was Cardinal Mindszenty. I have carried in my wallet for at least 15 years a statement of the late great Cardinal Mindszenty, and I would like to read it to my colleagues on this abortion issue.

The most Important Person on earth is a mother. . . . Mothers are closer to God the Creator than any other creature; God joins forces with mothers in performing this act of creation. . . .

Mr. Speaker, these are created children in their mothers' wombs that we are killing. Not everybody in this Chamber believes that, but do not try to make us who believe it is killing and murder pay for it with Federal tax dollars.

Please.

OVERRIDE THE PRESIDENT'S VETO

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, the President had the chance to be a bold and generous leader. Instead he hesitated and waffled and chose to place conservative rhetoric above the lives of impoverished women.

The President has summoned all the power and prestige, all the aura and majesty of the highest office of the greatest country in the world—in a fight to what? To prevent our Government from helping victims of rape and incest.

For a President who said he would be tough on crime, he is being awfully tough on victims. Where is the compassion? Who is more deserving of our help than women who have been assaulted? What are we doing here if we cannot help the weakest among us?

The President has told the most powerless members of our society that they cannot turn to the most powerful Nation in the world for help. I can think of no message more outdated, more un-American, and more destructive to an individual and to a society than that.

GOLDEN WASTEBASKET AWARDED TO DOE—THE ROCKY FLATS CLEANUP COST: A BAILOUT THAT SHOULD HAVE NEVER HAPPENED

(Mr. DOUGLAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOUGLAS. Mr. Speaker, the cost is staggering: $150 billion to clean up and rebuild the Rocky Flats nuclear weapons plant in Colorado. This is as costly as the bailout of our Nation's failing savings and loans. That is why I am awarding my Golden Wastebasket to the Department of Energy, for its mismanagement and mishandling in overseeing their 17 nuclear plants.

In fact, while the operators of Rocky Flats received $27 million in award fees for running the plant between 1986 and 1988, the General Accounting Office now reports that the seriousness of environmental and safety problems at Rocky Flats were "never conveyed in the evaluations of the plant's performance." DOE oversite of this plant was handled with reckless abandon. It was handled with all the care of a free roaming pig in an acre of slop.

I want to wish Admiral Watkins a lot of luck in trying to steer the good ship DOE, away from incompetence and toward reliability and control regarding its 17 nuclear plants. In the meantime the Agency's waste of tax dollars deserves this award.

A DOUBLE STANDARD ON ABORTION

(Mr. ATKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ATKINS. Mr. Speaker, the President had a choice to make when Congress sent him the Labor-HHS appropriations bill. He could have been fair; and he could have been caring. But, he chose differently.

In the maelstrom following the Webster decision, the President had to prove his bona fides with the right on the question of abortion. Sadly, this meant sacrificing the needs of poor women in this country—the one group least able to fight back against this travesty.

Of all those who endure the pain of unwanted pregnancies, the most vulnerable in our society are those with no economic resources who have been the victims of rape or incest. Yet, the President would have this Nation break trust with them for his own narrowly drawn political gain.

There ought to be no entrance fee for equal protection under the law. The President should not be denying poor women access to health care when they need it most, effectively making economic status the litmus test for enfranchisement.

This will not be the first or last double standard this Government will promulgate. But, it will be among the most deplorable.

I urge my colleagues not to let this happen; vote to override the President's veto.

□ 1050

VOTE TO SUSTAIN THE PRESIDENT'S VETO

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, notwithstanding some post-Webster jitters around the country, the Pennsylvania House yesterday adopted the most restrictive antiabortion bill in the country. Indeed, the pendulum is starting to swing.

The so-called prochoice lobby underscored their extremism by opposing every section of the bill, including the provision to outlaw abortions after the 24th week of pregnancy. They opposed the ban on abortions for the purpose of sex selection, and they opposed the ban on abortions for the purpose of a 24-hour period, and spousal notification.

Mr. Speaker, today this House has the opportunity to protect innocent human life. The poorly crafted language of the HHS appropriations bill, if enacted into law, would likely open the floodgates for abortion funding.

The President did the right thing. Vote to sustain the President's veto.

WHY VICTIMIZE WOMEN TWICE?

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, why does anyone want to victimize a woman twice? Being low-income is tough enough, then made pregnant by rape or incest compounds misery. Yet the President has vetoed an important bill simply because a small part will permit Medicaid to pay for abortions in the case of rape or incest.

The debate is not over whether a woman victimized by rape or incest is

permitted to choose whether to have an abortion. She already can. The issue is whether the Federal Government will assist low-income women to receive proper medical treatment.

So with the stroke of his veto pen, the President said that if you are an upper-income woman, you can choose. If you are lower-income, you cannot.

I know that the President understands this issue, since in the baseball game of politics he has covered every base during his career. What I hope this House remembers is that a low-income woman already has two strikes against her; one is being low-income, two is being traumatized by rape or incest. I hope the Congress does not throw the third strike, but overrides the President's veto.

APPROPRIATIONS AND BUDGET PROCESS PLAGUED BY CONTINUING PROBLEMS

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, our appropriations and budget process is a mess. The House has passed 13 spending bills and we have passed a reconciliation bill. But only two appropriation bills have been signed into law.

Now we are into sequestration. Dire predictions are being made about programs that are going to be cut, about services that will be lost. But let us be clear about where the responsibility for this sad state of affairs lies. It lies with the Democrat leadership of the House and of the Senate. If we had passed appropriation bills that met the Gramm-Rudman targets and sent them to the President in time, we would not have sequestration.

If we had enacted a reconciliation bill in time we would not have sequestration.

And today marks the final day that the Democrat leadership can bring its own alternative sequestration plan to the House. Rather than complain about the unfair, the uneven impacts of sequestration, why does not the leadership of this House offer its own plan for sequestration?

Better yet, why not get 13 bills passed that the President can sign? Why not pass a reconciliation bill that makes real reductions in the deficit?

Is this too much to ask of this Congress?

COSPONSOR LEGISLATION TO RESTRICT IMPORTS OF DRIFT-NET-CAUGHT FISHERIES PRODUCTS

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, this is a drift net, and this is one of its unintended victims, a dead dolphin. Every night the Japanese and Taiwanese fishermen set 30,000 miles of this drift net in the Pacific, the North and South Pacific portion, enough net to entirely encircle the Earth. An estimated 22 million U.S. salmon were illegally caught in these nets last year.

The albacore fisheries have fallen 86 percent on the west coast of the United States in the last 2 years.

They are strip mining our oceans of fish, mammals, and even sea birds.

The Bush administration says they need more time to study the problem. If we wait, the Pacific will be a shimmering biological desert

Cosponsor my legislation to restrict the import of drift-net-caught fisheries prducts and join the boycott on drift-net-caught fisheries products.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-102)

The SPEAKER pro tempore (Mr. HUGHES). The unfinished business is the further consideration of the veto message of the President of the United States on the bill (H.R. 2990) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1990, and for other purposes.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The gentleman from Kentucky [Mr. NATCHER] is recognized for 1 hour.

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the veto of the bill, H.R. 2990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. NATCHER. Mr. Speaker, I yield 30 minutes to the gentleman from Massachusetts [Mr. CONTE] for the purpose of debate only, and I ask unanimous consent that he be permitted to yield time to other Members.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky.

There was no objection.

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. NATCHER] will be recognized for 30 minutes, and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. NATCHER].

Mr. NATCHER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I have never voted for an amendment on a bill that legalized abortion. I have served here for a long time, Mr. Speaker. I have served with eight Presidents. I like George Bush. I knew George Bush a long time before he was elected President. I personally like him. I hope he makes a great President; but, Mr. Speaker, he is wrong this time. I intend to vote to override the veto of President Bush on the bill, H.R. 2990.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Speaker, I thank the gentleman for yielding this time to me.

Hearings before the Labor and Education Committee and the Joint Economic Committee reveal that we are falling behind the rest of the industrialized world in promoting literacy, job skills and educational achievement, threatening our security and costing us billions of dollars in lost revenues, productivity, GNP, and increasing welfare and crime and social instability. Militarily and economically speaking, our competitors overseas need not worry as long as we engage in some of the nonsense that we engage in sometimes. They can just be patient, for we are losing ground in the educational infrastructure of the Nation as a result of our own unilateral disarmament of our intellectual capability. Already our schools cannot compete, and even our great research institutions are being eroded. Our top 5 percent students rank last in international comparisons. Some 25 million Americans are illiterate, and another 40 million are functionally illiterate. The dropout rate is increasing, and we face serious teacher shortages.

The bill before us represents a reversal of these dangerous trends. Therefore, we have no choice. This bill in its educational aspects is needed to sustain the cost-effective successful programs that we ourselves have authorized, Head Start, chapter 1, compensatory education, adult literacy, bilingualism, student aid, and drug-free schools. It supports the Higher Education Act, the School Improvement Act of 1988 and the Job Training Act.

Perhaps we can continue into the future to debate abortion, but education cannot be so continued because it is a lifetime struggle.

The President has wisely said that we cannot be a first-class nation with second-class schools. I think we should support him, because our preeminence

in education, our survival is at stake and we should override the veto.

□ 1100

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in opposition to the President's veto and in support of the bill. Our last debate challenged a deep rethinking of this issue amongst us, and I am confident that that rethinking is proceeding and eventually all woman when victims will be justly and equitably treated under our laws.

My point of last week is one I stand by. The acts of sexual violence perpetrated by men against women known as rape and incest are acts condemned by both the laws of man and the laws of God.

Further, rape is a crime of such physical violence, involving such an intimate violation of person, that to then punish the victim, the girl child or the woman, of this heinous crime by denying her access to legal medical care, solely because she is poor, is deeply, profoundly inhumane and unjust.

I would remind Members that the last time these very words were the law of our land, only 72 of 3,000 Medicaid abortions qualified for public funding. We are not opening the floodgates for abortion. We are providing justice for victims of terrible crimes.

I strongly urge a yes vote on the motion to override.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentlewoman from Maine, Ms. OLYMPIA SNOWE.

Ms. SNOWE. Mr. Speaker, I rise to support overriding the President's veto of the Labor/HHS bill. I regret deeply his decision, for it is a veto characterized by its indiscriminate nature: It fails to make the crucial distinction that should be part of Federal policy.

Women who are victims of rape or incest find themselves in a situation not of their own making; these are instances far beyond their own control. They have become pregnant unwillingly in the most devastating of circumstances.

Opponents to this exemption, however, are effectively saying that a pregnancy resulting from rape or incest is no different from any other pregnancy. Reality, though, is quite to the contrary: These situations are a far cry from so-called abortion as birth control.

Mr. Speaker, the trauma of rape and incest is overwhelming in and of itself. Should we not as a Government, then, have the decency to allow poor women the chance to repair their shattered lives? It is a cruel irony that not only are these women poor, not only have they been brutalized, but the Government, as a matter of policy, will not help them.

Such a policy bespeaks a glaring lack of compassion; the lack of any sense of empathy for the low-income woman who has been put in a horrid position.

Instead, in their darkest hour, poor women should have some personal choices available to them. It is a distinction worth making in our policy, and I urge my colleagues to make this distinction by voting to override.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Speaker, this President cannot stop Noriega. He cannot decide what to do to promote the rollback of communism in Poland or Hungary, but boy can he show poor women of America who's boss.

If you are a poor woman, George Bush is telling you: "Just say no to rape. Just say no to incest."

What a leader.

This is a political veto, made by a timid President whose political handlers are telling him he's got to start showing some resolve.

But this is not resolve. It is a sellout to the extreme right.

I urge my colleagues to override this cruel, cowardly, punitive veto that makes a female victim incubate and produce a child of a rapist.

Those of you who are the President's friends: Do not make the same mistake he did.

This may not make George Bush a one-term President. But if you support him, over rape victims, this could be your last term.

That is because America is prochoice and the prochoice movement is going to vote in the next election.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentlemoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, today, the House will vote on whether to override President Bush's veto of the Labor/HHS appropriations bill. Unquestionably, there is much at stake here today. Those who support the President have made a good argument against the use of Federal funds for abortions in cases of rape and incest and certainly there are ambiguities regarding the Boxer language which we must address.

However, I suggest that this body concern itself less with exceptions which forswear life and concern itselt more with the exceptional who bear life.

To bear a child, even a child who is the product of rape or incest, is a loving and positive response to a horrific situation. The meeting may not be precious but the child is. Scorn the act but not the child.

I rise to urge you to sustain the President's veto.

As we continue to debate the issue of abortion and what exceptions we will or will not allow, I cannot help but to think of my twin granddaughters who are exceptional for just being alive.

Seven years ago, Casey and Heather were delivered, prematurely, after being carried by their mother for under 26 weeks. At birth, Casey weighted 4 pounds and Heather weighed 1 pound and 6 ounces. Heather was so small that my husband, George, could hold her in his one hand. The flesh may have been weak but the spirit was willing. And willed it was. My palm-sized granddaughter, who the nurses affectionately called Heather the Feather, was hospitalized for 9 months.

Heather has since blossomed into a loving and energetic first-grader, just like her sister, Casey. Clearly, a life cannot be measured in weeks or pounds, but by spirit and love.

She may have been "Heather the Feather," but what began as a feather has emerged into wings, and I have no doubt that she will fly.

Mr. Speaker, I urge my colleagues to sustain the President's veto and give a life a chance.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, this is the first time I have ever spoken on this issue. First of all, let me say the reason Members should override this veto is because it is a good bill.

I would like to address my remarks to the Members who are saying to me I would like to vote for this bill, for this override, but I do not want to take the static from the people that are going to be yelling and screaming at me.

This is not a vote for or against abortion. The President himself says he favors abortion in cases of life of the mother, rape, or incest. This is not the question.

The question is: Are Members going to let the Government help those that cannot help themselves?

I have never lived in a ghetto. I was raised very poor on a farm in Alabama. I have never been faced with this.

But for Members who are out there that say they would like to vote for this but they do not want to take the heat from it, that is not a good excuse.

I do not want to put my vote in a position where I have to live with it, where there is some poor woman in the ghetto or living in circumstances that I cannot even fathom that would have to go through the anguish of bearing a child from rape or incest. I do not want to put myself in that position, and I do not want to cast my vote in that mode.

I want to talk to you folks that are saying today:

I would like to vote with you, I would like to vote to override the President, but I don't want to take the heat and I don't want to get the criticism from folks that are going to criticize me.

Today is a good day to do something that is right. If we were living in a perfect world where we did not have to have abortions and all things were perfect, and if everybody was rich and had all the health care they needed, that would be one thing. But this is a time to stand up for something that is right.

This is a situation where we do not have to see the victims of rape or incest, those of us that have good homes to go to, those of us that have good salaries. We do not have to see these people.

We can make this vote today and walk away from it. But those who are going to be affected by it have to live with it for the rest of their lives, and I have got to live for the rest of my life with this vote that I cast today.

I hope Members will vote to override the President.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would like to advise the House and caution the House against any references to acts of the President that would reflect upon his integrity. That would not be in order. In fact, it would be out of order. The Chair would hope that my colleagues could keep the debate on a higher plane.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Speaker, I urge my colleagues to vote to override this veto.

President Bush must be uncomfortable with this veto. Our President opposes abortion, making exceptions for rape, incest, and the life of the mother.

But the President opposes Medicaid funding for abortions in cases of rape and incest.

I like and admire President Bush. But he's wrong on this one.

I admit to you I've voted wrong on this issue in the past years.

Obviously, the use of taxpayer dollars is the rub, a double standard and class distinction many Americans find hypocritical.

Yes, for many years, Kentucky's delegation has voted 7 out of 7 the prolife position.

I broke ranks the first time in 1987, refusing to discriminate against poor women in the District of Columbia.

The prolife advocates, who reject compromise and are so blatantly unfair to women who are victims of rape and incest have lost a long held majority here in the House.

It is only fair that poor women—poor victims of violence—be afforded the same treatment as affluent women in the same circumstances.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

□ 1110

Mr. HOYER. I thank the chairman for yielding.

Mr. Speaker, there are two reasons to override the veto of this bill. First, substantively it is a bill that takes care of the needs of the people of this country: with respect to health, with respect to education, with respect to medical research, with respect to low-income energy assistance, and with respect to student loans so that young people can go to college. For all those substantive reasons, the President should have signed this bill.

The framers of our Constitution have provided a mechanism whereby the representatives of the people can correct the other branch when it makes a mistake. That is the checks-and-balances system that we have.

So on substantive grounds this bill ought to be enacted into law and we can make the difference today.

Second, it was in my State, the State of Maryland, to which Willie Horton—listen to me now, those of you who feared Willie Horton so much, those who said we ought not to allow the Willie Hortons of this Nation to terrorize people—it was in Maryland, it was in Maryland that Willie Horton raped that innocent woman. God was gracious. And Willie Horton did not impregnate that woman that he raped in Maryland.

But if he had, colleagues, if he had, which one of us would have stood before her and said, "Carry Willie Horton's baby to term"?

Vote to override this unwise veto.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, why has President Bush put us here today, jeopardizing the future of this critically important bill to fund health education and services to our elderly?

How could a kinder, gentler man, and President Bush is a man of great moral character and truly seeks a kinder, gentler America. How could such a leader make such a harsh choice and throw the gauntlet down to Congress on an indefensible position; namely, that we vote, yet again, to deny to the poor victims of rape and incest a legal right to an abortion, a right open to all other women in our society.

I would have hoped that the President would have consulted with those of us in his own party who voted to extend this right. Those of us who wrote to him requesting his reconsideration.

We would have helped him understand the violence this position does to sound Republican principles. This is a profound moral decision—one which Government has no right to dictate to anyone, much less the poorest victims of our society. This is not kinder and gentler. This is grossly discriminatory.

None of us likes abortion. We do not favor abortion. But how can we have an intrusive Government dictate to poor women—victims of sexual violence—what their decision should be? Again, I stress, this is a legal right to a medical procedure available to all other women in this country.

Mr. Speaker, I say to my colleagues we must override this veto. We must be consistent. There is no way to justify waffling on this issue. You can't split hairs on this one. The consistent vote is the vote to override. Let us get this issue behind us and approve money for these many critically important health programs.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. I thank the gentleman for yielding.

Mr. Speaker, I certainly hope everybody votes to override this. One of the things we have talked about so much in this country is children and what has happened to children. And I think what we have to realize is what we are doing today really is going to impact on children. These are children that are subject to incest, children. And there are people here saying, "Well, then they should bear the fruit of that terrible crime."

Incest, which goes right to the root and the fabric of the family. They should bear the fruit in that family unit?

Listen, what are we doing to our children when we put those kinds of crazy, crazy requirements on it? I know of no religion in America, no religion in the world that condones incest or rape. And yet here we are, the Federal Government, saying we are not going to take a position and if they are unfortunate enough not to be wealthy, then they have to go through with this.

Please, please vote to override.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentlewoman from Rhode Island [Ms. SCHNEIDER].

Ms. SCHNEIDER. Mr. Speaker, a victim of rape or incest is a victim of a crime that lasts a lifetime. Forcing a woman to carry to term the result of an incestuous relationship is abhorrent. Denying a poor woman access to a medical procedure to terminate an unwanted pregnancy resulting from rape or incest is unconscionable.

The law of the land guarantees a woman the choice to make the most basic and personal decision regarding reproduction without undue Government interference. It is wrong to deny this right to a woman just because she is poor. It is doubly wrong to deny this right to a woman who is poor and is also the victim of a brutal crime.

Mr. Speaker, those who oppose abortion under any circumstances are not likely to be swayed by anything that is

said on the floor today. I appeal instead to my colleagues who feel that a right should not be denied to a person simply because that person is poor. We are not talking about an expansion of abortion. We are talking about women who have no choice in their economic status, women who have no choice in being born into abusive and assaultive families, women who have no choice in being the victim of a violent crime. Who will deny that such women deserve at least the same degree of choice that would be given to the wives or daughters of my colleagues were they the victim of a sexual crime that resulted in pregnancy?

I urge my colleagues to support the language that the House passed in the Labor-HHS Appropriations and to overturn the President's veto. The language of the Boxer amendment is not political language, it is humanitarian language. Retention of this language will affect an extremely small number of women, but it will affect them in a tremendously important way.

Mr. NATCHER. Mr. Speaker, will the Chair advise us as to the time remaining?

The SPEAKER pro tempore (Mr. HUGHES). The Chair would advise the gentleman from Kentucky [Mr. NATCHER] that he has 20½ minutes remaining, and the gentleman from Massachusetts [Mr. CONTE] has 24 minutes remaining.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. MICHEL], the minority leader.

Mr. MICHEL. Mr. Speaker, I regret here again we are with a bill that carries $157 billion in appropriations, frankly well crafted by both sides, and it gets hung up on this issue. But that is not unique for this body.

Mr. Speaker, I am opposed to Federal funding for abortion. I have never cosponsored an amendment to ban abortions. I therefore speak as one who has been criticized by prolifers and by prochoicers.

So I have no hidden agenda in calling for support of the President's veto. Like many of you I am just trying to find some way to address the complex issues and, at the same time, get the people's business done.

As ranking member on the House Appropriations Committee at one time where Mr. CONTE sits, and then as Republican leader, I have seen the abortion issue emerge in the 1970's, grow in the 1980's, and finally come to dominate so many of our proceedings.

When it comes to debating abortion, the House is like the builders of the Tower of Babel, talking in different tongues.

Each side claims it is the voice of compassion and caring, each side blames the other for insensitivity and inhumanity. Each side believes it is absolutely right and the other is absolutely wrong.

We have no common language, no ethical vocabulary on the issue. We cannot talk to each other because we cannot agree on the facts and values we seek to debate.

President Bush, in vetoing this bill, is acting out of conscience, his conscience, just as those who support abortion on demand and Federal funding in these cases are acting out of their conscience.

The American people can accept just about any position on abortion. What they cannot take is waffling, running away from the issue.

I believe that most Americans, no matter what side they may take on this issue, understand that the President is acting out of a principle. They recognize he is doing what he believes is right.

When so many Americans over so many years feel a violation of conscience when tax dollars go for abortion, the most prudent and wisest course is to provide no tax dollars except for the exception of the life of the mother, and a bipartisan majority since 1981 has reflected that consensus.

Now maybe that consensus has somewhat changed, I do not know. But we took some time getting to it. I remember those days arguing over rape and incest, and what is prompt reporting. "Is it 48 hours? No, let us wait until the first period, 30 days." And all that agonizing thing we were arguing over.

Oh, I will tell you, maybe we will have to have a time when we discuss it once again, maybe there has been enough of a change in this body to change that, I am not sure, but today, for today I have got to honor my President's commitment to the issue and vote to sustain his veto of this bill.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Ms. SLAUGHTER].

□ 1120

Ms. SLAUGHTER of New York. Mr. Speaker, is it fair to sentence the victim as well as the perpetrator?

Is it morally right to tell a poor women who becomes pregnant by violence that she must pay for a crime she did not commit? Or to tell a frightened, confused child—victimized by a member of her own family—that she must endure yet another cruelty?

For that is precisely what we will be doing if we fail to override the President's veto.

This is not just a question of whether or not to fund abortions. It is a question of compassion.

The poor in our society start out at a disadvantage. By denying victims of rape or incest the right to abort an unwanted pregnancy simply because they cannot afford to pay, we would be adding yet another obstacle.

My heart goes out to the young girls—still children themselves—whose futures would be stolen from them by a single, heinous act. We often speak of the promise of youth, but for those young victims, the future holds no promise.

Many of those who uphold the President's veto object to abortion on moral grounds.

By failing to allow Medicaid-funded abortions for the victims of rape and incest, we would be sending a message to poor victims of crime that their suffering does not touch us, that we will do nothing to help them.

Is that moral? Is that justice? We must show compassion for the victims of crime, no matter what their economic status. We must show them that we care.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Speaker, I address my remarks to those who have been on the other side of this issue and who voted against choice. I ask them if they really want to vote to sustain this veto and support the President's position on this issue. The President's position is not your position. The President's position is that it is perfectly all right for a woman who is a victim of rape or incest to get an abortion if she can afford to pay for it, that it is only wrong if she cannot afford to pay for it, that we should not give her money if she is poor to make the same choice that the rich woman may make, and that the President thinks the rich woman ought to have the right to make.

I would suggest that those Members who are against choice do not want to substain that position. Therefore, I would ask all Members, regardless of their positions on choice, to join in overriding the Presidential veto.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I rise in support of a vote to override the President's veto of our appropriations legislation.

The bill is agreed by all to be a well-crafted piece of legislation. It contains vital program improvements for education, labor, and health and human services.

The President has exercised his veto, not in opposition to the substance of this bill, but in deference to a small, vocal minority of voters who would impose their beliefs on the whole Nation, and, in particular, on poor women. Denying Medicaid coverage for a procedure which is available to women who can afford it blatantly discriminates against those who cannot. It is particularly abhorrent to deny

this coverage in cases where the woman is not responsible for her pregnancy. If a woman is raped, or if a young girl is the victim of incest, how can we compound her victimization by denying her the right to abortion?

Cases of rape and incest make the most convincing argument for keeping abortion legal. Denying an abortion in such cases surely violates the most basic, inalienable right with which we are endowed, that is the right of privacy.

Liberty, justice, rule of law all words so familiar to Americans. Individual, separation of church and state, words that go to the very fabric of our democracy. Words that have kept this country a beacon of hope, a land at peace with itself. The issue before us today, the right to privacy, the right to choose your destiny, is under very basic attack. This issue is not comfortable in a Government setting. But it is before us—we accept that.

As a result, we must again define ourself as a nation that recognizes fairness. The right vote today is a vote to override so the basic tenants of our Government can continue to be our basis of democracy.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, in vetoing this defective Senate proabortion language, the President acted honorably, responsibly, and decisively to protect human life to the maximum extent possible.

Make no mistake about it. The language in the bill is vague, imprecise, and if enacted into law might open the floodgates for abortion funding. I trust even those who consider rape and incest acceptable exceptions were unaware of the potential to expand abortion subsidies beyond what might have been intended.

For example, the term "rape" is not defined. Unless the term "forcible rape" were substituted, a district court judge could easily rule that any girl who becomes pregnant while she is under the statutory age of consent, is eligible for a Medicaid financed abortion.

The language also says an alleged rape does not necessarily have to be reported to a law enforcement agency—only to a "public health service"—whatever that is. Perhaps after this section is litigated a public health service will be construed to be an abortion clinic. The fact of the matter is we just don't know what the courts will do—the language again is vague. And more importantly, Mr. Speaker, I believe a crime so outrageous, so repugnant as forced rape must necessarily be reported to the police, to protect women, to rid the street of rapists, and to punish those who commit these cruel acts against women.

It seems to me that society must have zero tolerance for the crime of rape and writing into law an option of reporting this crime to an ill-defined "health service" may actually hamper law enforcement.

And then there is the serious omission of language that permits States "not to fund" abortions to the extent they deem appropriate. Without this language, which was in the law a decade ago, the 30 States that ban abortion funding except to save the life of the mother could be invalidated by a Federal court.

There is an ominous precedent for this. In 1980, the U.S. Court of Appeals for the Third Circuit, in Roe verus Casey, struck a Pennsylvania antiabortion funding law in its entirety because of its inconsistency with the Federal statute. Pennsylvania then funded "abortion on demand." From my conversations with Members, I am certain that few, if any, knew the Boxer language might have this consequence.

Mr. Speaker, some have falsely accused the President of vetoing this bill for political reasons. It's a false charge. It is an insult. The President's deep reverene for innocent life should not be underestimated.

To be sure, over the course of the decade his position on abortion has evolved, just as I believe the American public's view of abortion will evolve in the 1990's.

I know that one of the facts about abortion that deeply affected the President were pictures of children slaughtered by abortionists. When the President saw these pictures in the early 1980's, he was moved with compassion, and no small measure of disgust.

The President saw babies who's bodies were mutilated by the abortionist's scalpel and other kids who were ripped to pieces by a currette attached to a suction machine.

The President saw the chemically burned corpses of babies killed by salt solution and other poisons and this too moved him further toward seeking protection for these vulnerable children.

The President is acting on principle, not expedience. I deeply respect him for that.

Mr. Speaker, the multimillion-dollar abortion industry is slick—4,000 dead babies per day is stark testimony to their marketing ability.

The abortion lobby is extreme, as well.

Yesterday, so-called prochoicers vigorously opposed a bill in the Pennsylvania House to outlaw abortion after the 24th week—over there were exceptions to severe cases—they opposed a ban on abortion for the purpose of sex selection and they opposed a 24-hour waiting period and spousal notification.

Finally, Mr. Speaker, I believe that in the not too distant future in the 1990's, Americans will regard our present day abortion culture with sorrow, incredulity, and contempt.

They will wonder how a society that paid so much attention to civil rights at home—and human rights abroad would have allowed—even promoted—the violent destruction of over 24 million children under the guise of "women's rights" and preserving the "right to privacy."

They will weigh the fashionable cliches, slogans, and euphemisims of our day proffered by the abortion lobby against the brutal reality of abortion and wonder—wonder how an ostensibly sane, compassionate society could have been so thoroughly fooled.

Vote "no" on the motion to override the President.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Speaker, I thank the gentleman from Kentucky for yielding.

This appropriations bill responds to the most basic needs of Americans—health care, education, the war on drugs. It also allows poor victims of rape and incest to deal with the outcomes of these tragic violent crimes. If we fail to help those women and children respond to this crisis, we are adding to the burdens that keep them locked in the cycle of poverty and reliance on Government support.

I want to see every member of our society contribute to our national strength and vitality. The Government—the programs in this bill should serve to give Americans the means, the skills, the tools, to earn their own way, to be contributors to our society. We should not shackle these poor women and children by denying the poorest, the victims of the most tragic and personal crimes, the right or the ability to put their own lives in order again and move forward.

I urge my colleagues to support the motion to override.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I have a 1 hour special order first up today at the conclusion of legislative business, and I intend to use it in its entirety as a postmortem. That is an interesting Latin word, with 1,600,000 abortions a year in this country. I am going to use it as a postmortem on this veto today.

Members may recall during the hostage crisis when that strange Ambassador from Iran would be a guest on "Nightline." He would begin the show my asking God's blessing on his words in Farsi. It used to give me a moment of pause because Ted Kopell would sit

there and respect his prayerful opening.

The only time I have come to this well, I guess we should all the time, and literally start praying to God that the Holy Spirit gives me the right words not to anger somebody, to move somebody's heart, is when I come into the well to speak on this issue. We are described as an age devoid of heroes. Well, I have some heroes, one of them is in the Chamber, who speaks on this issue with eloquence, born of the fire of conviction, in defending life. The Holy Father in Rome is a father in Rome as is Mother Teresa, fighting for her earthly life at this moment.

The Pope had a mass on this lawn, and he said, "Stand up for life." When I mentioned that on the floor a few days later, there were boos and hisses on this side of the aisle. I think they regretted that.

Mother Teresa once said the greatest crime on this Earth is the crime of abortion. I guess today I just want to speak to my brother and sister Catholics in this Chamber, those who are proud enough to put it in their bio and have it in CQ, what do these people know that 10 cardinals, 97 retired bishops, and 352 active duty bishops, in our church, know? What kind of hubris and chutzpah does someone have who says, "I know more than all the doctors and fathers and leaders of my church?"

"I am a Catholic." I have heard him say it in the well at the podium, "I am a Catholic and I am for abortion." Beyond that, I am going to discuss it in depth tonight for an hour.

□ 1130

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, it is very, very tough to be poor in America—very tough. But now the President of the United States has decided that not only is it going to be tough, it is going to hurt.

I have probably spent more time with the victims of incest and rape than almost anybody else in this Chamber. I think we have really got to understand what happens to these women. I think we have got to understand what it means to have your father crawl into bed alongside of you and threaten to kill you unless you give yourself up to him, and then, when he crawls back out of that bed, again threaten to kill you if you should disclose this to anyone.

Our colleague, the gentleman from New Jersey, would say, "Run to the police and report this."

When we talk to the mothers of these victims, we ask, "What were you thinking when your children were victimized?" They have very often turned to alcohol. They very often were so badly beaten by the husband the rest of the time that they were afraid to say anything.

Mr. Speaker, we cannot come down on the side of the perpetrators of these crimes. We must help these victims, whether they are rich or whether they are poor. It is fair, it is just, and it is the right thing for us to do.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Speaker, I rise in opposition to the motion to override the veto.

We have been over the arguments on abortion for victims of rape and incest—the equity arguments, the physiological arguments, the emotional arguments, the moral arguments. We ran through all of these arguments when we passed the conference report 2 weeks ago and we are repeating them again today.

I do not intend to revisit them now, other than to observe that they are, in a sense, irrelevant to the debate this morning. If you want a rape and incest exception, fine, let us debate it. But the language that prompted the President's veto goes far beyond that. The ambiguity of the Senate language would transform what is being sold here today as a simple rape and incest exception into something approaching public financing of abortion on demand.

Specifically, the Senate amendments first requirement that the rape or incest be, quote "promptly reported" is undefined. It has no meaning in the law. What, under this language, is to prevent a woman from obtaining a publicly financed abortion 3 months into her pregnancy? Why is the language not more exact?

Second, the Senate language allows the rape or incest to be reported to a, quote "public health service." Again, what does this mean? Abortion clinics routinely call themselves public health services. Rape and incest is a crime—a violent, abhorent crime—and it should be reported to a law enforcement agency.

Mr. Speaker, if we are really debating a rape and incest exception, let us define it as such. Let us debate such an amendment. But let us first reject this language that prompted the President's veto, this language that is nothing more than an open door to public financing of abortion on demand.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. WILSON].

Mr. WILSON. Mr. Speaker, it is difficult to take the floor on an issue about which so many of our colleagues feel so passionately and so differently. If your objection to abortion is based on personally held religious of moral beliefs than you may disregard what I say.

If, however, your support of the veto is based on a general conservative philosphy or political consideration, then I would speak to you. The obvious conservative position is that of restricting government intrusion on personal privacy at any level, certainly at a level as personal as this one.

I do not think that anybody is doing President Bush any favor by sustaining this veto. I have known him since 1966. I have always known him to be reasonable, compassionate, and fair. I have known him to be the very antithesis of a zealot. This veto is out of character for him in all aspects of his history.

Finally, Mr. Speaker, and most of all, there is something that is simply obscene in the people of this upper middle class body denying to poor young girls a privilege that we would give to our own daughters, sisters, or nieces in a heartbeat.

Mr. CONTE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I rise in support of overriding the veto of this very important bill which would prevent discrimination against the poor.

Mr. Speaker, I rise in support of the Labor-Health and Human Services-Education appropriations bill for fiscal year 1990, and I urge my colleagues to override the veto.

This bill provides a total of $156.7 billion in vital funding for the Labor, Health and Human Services, and Education Departments and related agencies. The total includes more than $1.5 billion for AIDS related research and education efforts. It appropriates $7.7 billion for the National Institutes of Health, to provide critically needed medical research funding; $1.9 billion is allocated for alcohol, drug abuse, and mental health programs, so vital to our substance abuse prevention efforts. A total of $30.1 billion is included for the Federal share of Medicaid costs, providing our low-income families with necessary medical assistance. We must not discriminate against the poor by denying access to abortion to victims of rape and incest.

The legislation appropriates $24.2 billion for education, including funding for critical programs, such as Head Start, Education for the Handicapped, Student Aid, and Compensatory Education Programs. And, the bill provides $6.7 billion for the Labor Department, including funding for Job Training and Employment Programs, so important to our competitiveness as a nation.

Mr. Speaker, we are already almost 1 month into the new fiscal year. We cannot afford to further delay the final passage of this important appropriations bill. When the House approved this conference report only 2 weeks ago, it did so by a vote of 364 to 56. Clearly, Members recognize the vital importance of these programs, and I urge my colleagues to vote again to approve this bill and override the veto.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong opposition of the motion to override the President's veto of the Labor-HHS-Education appropriations bill. I firmly believe that the Hyde amendment, prohibiting the use of taxpayers' hard-earned money for abortions, is good public policy and should be maintained.

Rape is terrible. Incest is an atrocity. But abortion, the taking of an innocent life, is worse. Abortion kills. Victims of rape and incest need our compassion, our love, and our comfort. We need to help these women, and offer them everything we can give. But we cannot offer compassion, love, or comfort to victims of abortion. They're dead.

Abortion is an irrevocable decision. We cannot undo an abortion and bring that baby back to life. And abortion can and does leave terrible, terrible scars on the mothers. As a man, I cannot and do not purport to speak from experience. Instead, I will let the words of a woman who has suffered the triple trauma of rape, incest, and abortion speak for me:

> The abortion which was to "be in my best interest" just has not been. * * * My daughter, how I miss her. I miss her regardless of the reason for her conception.
>
> You see she was a part of me, an innocent human being, sentenced to death because of the selfish, sexual gratification of [my stepfather] and the need to "save reputations." She was a unique individual whose life was exterminated. * * * [The abortion] has had a greater impact on my life than the rape/incest. (Edith Young, in "Aborted Women: Silent No More," David C. Reardon, Loyola University Press, Chicago 1987, pp. 212ff.)

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I thank the chairman of the subcommittee for his generous yielding of time.

Mr. Speaker, there are many ways to address this issue. One is on the merits. There are deeply held moral views on both sides. I think we all respect those.

To me, this issue, though, is one of addressing those who are the most downtrodden in society. I find it difficult to believe that some are saying to me that one who is the victim of incest should have the child because later she might regret it. Is it not she who should make that decision rather than we sitting here saying, "5 or 10 years from now you might regret it"?

The odds are 90 percent that her life will be ruined, gone, but because somebody thinks that maybe in the distant future there might be some regret and we should impose our decision on that person, that is wrong.

Mr. Speaker, the President has said to a woman, if she is poor and the victim of rape or incest, just one thing: "Tough luck." This body can say to that poor woman, "We will help you simply by giving you your freedom, your independence, and your rights."

Mr. CONTE. Mr. Speaker, I yield 2½ minutes to my good friend, the gentleman from Iowa [Mr. LIGHTFOOT].

Mr. LIGHTFOOT. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, this is probably more difficult than when I took the floor last week, because I try to not make this be a personal issue but it is difficult to stay away from that.

We have heard all the talk of compassion, we have heard all the talk of looking out for people who have been victimized, and I view this as a nasty divorce, a mom and dad who are fighting over what is good for them, and they are not asking the children about what they think about this situation.

For those Members who were not here last week, I repeat that I am adopted and I am damned proud of it. I thank my mother who gave me life rather than condemining me to death.

We should not even be having this debate here today. If the Supreme Court of this country and the clerics and the doctors would get together and decide at what point life actually begins, there would be no debate over abortion because no one in this Chamber favors terminating the lives of innocent people.

□ 1140

But yet we have that gray area that exists, Mr. Speaker, that people are using to satisfy their own personnel problems, trying to.

As Donahue said, "We can remedy this problem by aborting this child."

Since when is killing a child a way to remedy any problem?

Mr. Speaker, I do not care what caused that. I am here today and my colleagues are here today because they were conceived. Absolutely on one in this Chamber, no one in this gallery, had any control over why they were brought into this world. It would be my hope that it was out of love between two people, but quite possible there are a number of us here because of other reasons. We may have been an inconvenience. We may have been the wrong sex. It may have been that during the pregnancy they determined there might be something wrong with us physically or mentally. But our mothers decided to give us the opportunity to live, and that is what we are talking about.

A birth, a conception, the child is innocent, and now we want to make them a victim and have Uncle Sam pay for it.

So, Mr. Speaker, I would say to my colleagues who I know some are set in concrete on this, and we are not going to move them, but for those of them vacillating on this particular issue take this into consideration:

The issue we are debating today is whether Federal funds are used to pay for an abortion in the case of rape or incest, so what we are saying to that woman or girl, as the case might be, is that, "Ma'am, your Federal Government is here to help you. We're going to pay for killing your baby, and that should remedy the situation."

What we should be saying to that young woman or to that lady is that we are here to help them, and we should be debating about what we are going to do to give her good medical care, good psychological care, and I do not think anybody is this House would vote against that in order to give her the opportunity to live and give her child the opportunity to live.

None of us, and keep this in mind, none of us have any control over why we are conceived or why we are here, and I would suggest that all the Members in this Chamber at the end of this day should go home, and get down on their knees and pray to whatever god they pray to and thank their mother that she did not think they were inconvenient, they were the wrong sex or that they needed to be aborted to remedy her problems.

Mr. NATCHER. Mr. Speaker, I yield 1 mimute to the gentleman from New Jersey [Mr. FLORIO].

Mr. FLORIO, Mr. Speaker, we must vote to override the President's veto of the Labor-HHS appropriations bill. We should not be cutting off funds to women who have decided to exercise their right to choose. That right is a hollow right if it exists for women who have money, but not for those who do not.

A vote to override is a vote against an unfair double standard.

The people of this country do not want to roll back the clock. They do not want to go back to a time when there was no right to choose—a time when the sensitive, personal decision to terminate a pregnancy was a criminal act. I fear that recent events are moving us back in that direction.

The Webster ruling in July was a first step in that direction. The President's veto was another step.

Funding for poor women who have been the victims of rape or incest is the absolute minimum of human decency. Those of us who support a woman's right to choose must send a clear signal today. I strongly urge my colleagues to vote to override the President's veto.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. WEBER].

Mr. WEBER. Mr. Speaker, I do not have much time. This debate on this very emotional issue has been conducted with a great deal of civility, and that is to the credit of the Members

because we all stated again and again how much we respect one another's position despite how deeply we disagree with each other.

However, Mr. Speaker, someone has been maligned on the floor of the House today. It is the President of the United States, Mr. Speaker.

Mr. Speaker, I want to say that I am proud of the stand that our President took. I do not think it was a stand of timidity. I think it was a stand of tremendous courage.

There are millions and millions of taxpayers around this country, including this one, who would find their consciences deeply violated by being forced to pay for a procedure that they consider to be the killing of an innocent, defenseless human being. There is no one who has suggested on this floor today that abortions have been denied to people during the time that the Hyde amendment has been in practice. Private funds have been used to pay for most of those abortions, but at least those of us who believe it to be a great sin have not been forced to finance that procedure. It was for us that the President was standing up and vetoing this bill.

Mr. Speaker, the President had the courage of his convictions, and I want to thank him for it.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Speaker, during the presidential campaign and the debates President Bush, when asked the practical effect of his position on abortion, said he could not quite figure that out. Unfortunately his veto shows that he still has not figured it out. He says he is for the right to choose in the case of rape and incest, the right of the woman to choose. His veto says that that choice is to be denied the weakest and the poorest, the most vulnerable.

Mr. Speaker, what principle does that embody? Where does equal justice under law get worked out in that kind of a result? That is cruel. It is unfair. And it is sad for the President of the United States to veto a bill, $157 billion of assistance in health and education, for life and choice for all, and to say that he would deny these poor women the choice he would give to all.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, President Bush is playing politics with American lives.

Through his veto of this bill, President Bush has told poor women who are victims of rape and incest that politics is more important than simple human decency.

He has told poor women that his administration presumes to know what is best for them.

He's told them, don't worry—be happy.

Mr. Speaker, Americans from coast to coast and from all walks of life are not happy with what the President has done.

Congress took a significant step toward ensuring that poor women are not denied the same peace of mind, the same rights as women who can afford to protect their health without public assistance. But, Mr. Speaker, rather than embrace the will of the American people, the President chose instead to apply a standard to those least empowered to defend themselves.

We must override the President's veto.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, President Bush has held many positions on abortion, but his current one makes no sense from any perspective. On the one hand he says that it is OK for a woman to seek an abortion if she is a victim of rape or incest. He wants that to be a right in the Constitution of the United States. A right, but only if one has the money to pay for it, only a right if they have a credit card, only a right if they have a checking account, only a right if they have the cash.

□ 1150

And if you do not, you have a victim standing alone, a victim of one of the most vicious, violent, cruel and disgusting acts that could be perpetrated on a woman. And where is your Government? Nowhere.

We read off the record that our President could not nab Noriega, so he has to get tough with poor 13-year-old girls, poor victims of rape or incest. It is pathetic. The President will bring down this very important bill, a bill that educates our kids, a bill that funds drug abuse programs, it brings sustenance to AIDS patients and cancer patients and it has research in it for Alzheimer's. He will bring down this bill because he says—and listen to this—he says a woman will lie and she will say she was raped when she was not, and girls will lie and they will say that they are victims of incest when they really were not.

Well, rape and incest are two of the most under reported crimes in the United States. They are humiliating acts and devastating acts, and yet our President's opinion of women is so low that he thinks they will lie about such a horrible thing.

In the name of compassion, in the name of fairness, please vote to override this veto. Respect the majority will of this House on this issue of rape and incest, and most of all respect the women of this country, and they will respect you.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, I urge an override of the Presidential veto.

Mr. Speaker, economically disadvantaged women—the poorest of poor—should have the same right as affluent women—the richest of rich—to choose to terminate a pregnancy resulting from a sexual crime. It is that basic, I say to the President.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding to me.

Dr. Bernard Nathanson, a New York obstetrician-gynecologist was a founder of the National Abortion Rights League. He was a militant abortion rights advocate long before the Supreme Court decision. He founded and served as the director of the largest abortion clinic in America, which performed over 60,000 abortions a year. A year-and-a-half after founding that clinic, he resigned from it with the statement:

> I am deeply troubled by my own increasing certainty that I have presided over 60,000 deaths. There is no longer serious doubt in my mind that human life exists within the womb from the very onset of pregnancy. The infinitely agonizing truth is that in abortion we are taking human life.

Rape is a violent crime against an innocent victim, but destroying human life does not erase the crime or ease its pain. Abortion adds a further wrong to the one already committed.

The rape-incest exception language in this bill goes much further than in the past. What we should do is return at least to the narrow definition of what is meant by abortion in the case of rape and incest, "promptly reported" at least as it was phrased in law 8 or 9 years ago.

When you vote to sustain the veto you will be voting to narrow the range of circumstances within which this destruction of unborn human life will take place; so I urge support of the President's veto.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina [Mr. RAVENEL].

Mr. RAVENEL. Mr. Speaker, I thank the gentleman from Kentucky for yielding this time to me.

Mr. Speaker, would we vote to force a woman to bear a child if the birth of that child might take her life? Of course we would not. And we have long provided her the funds to terminate such a pregnancy if she is poor and helpless.

How then can we, in clear conscience, vote to destroy that same woman's life by denying her the funding to terminate a pregnancy caused by rape or incest "reported promptly."

I have thought about it long and hard, and though I am prolife, I cannot be a party to inflicting such a cruel tragedy upon a fellow human being.

So, Mr. Speaker, I am going to vote to override the President's veto.

Mr. CONTE. Mr. Speaker, I yield 4½ minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I just want to respond briefly to some of the statements made. The right wing is not driving this dispute. Two hundred six votes of the members of the Democratic Party and the Republican Party supported the defenseless preborn. That is not the right wing.

This is not a political issue. It is a moral issue. It is a philosophical issue, and efforts to politicize it today are unworthy of this dispute.

Now, an abortionist could not make a living out of rape and incest. There are so few rape pregnancies, and you have heard no statistics, there are fewer incest pregnancies, and you have heard no statistics, because they are minuscule. They are so few as to be not compiled. They are tragic events but they are minuscule insofar as the numbers are concerned, so this debate is not about forcing people to have children, but it is forcing taxpayers to pay for extermination of unborn children.

Now, there is nobody poorer than an unborn child. I do not care what the financial circumstances of that child's mother is, that baby has no bank account in the womb, no assets. The preborn cannot rise up in the streets, cannot escape, cannot vote, cannot defend themselves, nobody to defend that little life.

This is a question about love and vengeance. Do we hate the rapist so much, are we so intent on wreaking vengence that we go beyond the criminal and we will impose on the child of the criminal capital punishment? That is what this is about. Are we so bereft of moral imagination that we must talk about the rape and the incest and the woman exclusively, and we bleed for that person, but ignore the second victim?

Vengeance, vengeance, we must extirpate, eliminate, not only the criminal—oh, but the court will not let you do that, 20 years tops for a rapist, but the child of the rapist, execute.

Have we no imagination, have we no compassion for that child?

You know, capital punishment, we are told, brutalizes society. It reduces us to the level of the criminal. It is legal murder. That is what we are told by people who will oppose killing a convicted murderer, but not give a second thought to exterminating an innocent unborn child.

Well, I tell you, this brutalizes and desensitizes America. You cannot imagine in the womb of that woman, there is a little, defenseless member of the human family, which our Declaration of Independence says is endowed by the Creator with an inalienable right to life. Does that mean nothing? Is that to be brushed aside?

Compassion for the poor woman, of course. I have letters here from women who have been raped who say, "Thank God I didn't get an abortion."

I am telling you, heroic love is called for. Has a doctor ever told you that you have cancer? Has a policeman ever told you that your child has been killed in an automobile accident? And what do you say? You say, "Why me, God?"

Life is that way and we do not have the answer, and a woman who is raped has a right to say, "Why me, God?" It is tragic, but you cannot unrape someone who has been raped. What do you do about that?

Compassion, concern, support, nurture, love, but do we not have enough love to extend to the second innocent victim? That is what we are talking about. Nobody is forcing anybody to have a baby.

□ 1200

But we are saying do not force death upon an innocent victim or at least don't coerce the consciences those taxpayers who recognize what an abortion really is and reject it.

If the Members do not believe that that is a child, then I have nothing to say to them, but this far we have advanced in this debate: We have finally personalized the unborn. It is not a tumor, it is not a diseased appendix; it is a child. It is a child of the rapist, and we must wreak our vengeance not on the rapist, he will get a jail term, but we will execute his child.

Can you not see what this is about? It is not about a cruel President, It is about a principled President who is willing to take the heat for extending his compassion to the innocent unborn. How badly we need people in public life who believe in something and will stand up for that belief.

Watch the board. Some of your chairmen of your committees are going to vote to support the President, and they are not rightwing, they are outstanding Democrats.

Support the President, support the preborn. Vote for life.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I was one of the 206 who cast a vote against this legislation, but after careful reflection, I have decided to vote in favor of an override.

Mr. Speaker, I have consistently been prolife throughout my legislative career, and I also happen to be a Roman Catholic, but the whole issue of rape and incest really crystallized my point of view on the issue.

I do not have a wife. I do not have any sisters. My mother happens to be adopted, and she is staunchly antiabortion. However, I really do not feel that it is my position as an elected official, as a Congressman, to tell a woman who is a victim of rape or incest what she should do, whether or not she should bring that child to term.

I have thought about it a lot, and the bottom line is that I do not feel that I have been elected to come down here and make those individual decisions for women. Women should be able to decide that on their own, and certainly if we, as a matter of law, say that women can make that decision on their own if they can afford to pay for it, then I think it is befitting us to say that if they cannot afford to pay for it that the Government should make that possible for them.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from the State of Washington [Mr. MCDERMOTT].

Mr. McDERMOTT. Mr. Speaker, we all come to this well today talking about what we feel as human beings.

In the fall of 1963 I was an intern in the Buffalo General Hospital before all of these issues had come before the courts. I took care of two minority women, one with eight children, one with six, both of whom for their own reasons, in decisions they made with their God, felt they had to abort the child that they were carrying. It was not legal in New York at that time.

They got septic abortions. They both died. They left 14 children in the city of Buffalo without a mother because society said, "We will not support you having adequate medical care."

I cannot believe, standing here, that the President of the United States would use all of the power of his office to say to women like that in this country, "We will not give you the opportunity to make your own choice, to make what you believe is the right decision."

This country has got to be more humane than that. I urge the Members to override this veto.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, there is no doubt in my mind that hyprocrisy is being served here at a greater level than I have seen on this floor in many years. People are standing up supporting the President of the United States who is telling the poorest of the poor, the most maligned, the most set upon among us, victims of rape and incest, children 11 and 12 years old, "You mean nothing to us. You carry that child to term. We don't care what happened to you. Sanctity of life is important."

This is the same President who voted to break a tie to keep chemical weapons to kill millions of people funded and has insisted that even if we take out all chemical weapons that we still keep 2 percent so we can kill a few by gas.

"But you, you 12-year-old whose father crawled into bed with you, it means nothing to us. We believe it is wrong. We believe you have a right to have that child aborted if you wish, and there is no mandatory language in this bill, but do not ask us to pay for it. We are too busy paying for MX missiles, we are too busy paying for chemical weapons. We do not have any time or money for you."

But we do. Members, vote to override this veto. Tell American women and young children that they count for something in this country, because they do.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the chairman of the subcommittee for yielding me this time, and I commend him on his fine bill, which I urge passage of today and support for the override.

I am a Roman Catholic. I have five children, and I have received 13 years of Roman Catholic education. My religion means a great deal to me, and I want to tell the Members why I support the override. Because my religion means so much to me and the respect that I have for it, and what we were taught, at least I thought, in all those 13 years, was to respect the beliefs of others, respect the belief that they, too, can pray and reflect and understand, that they have intelligence, and I think we, as a Congress, should respect the intelligence of the women of America, that we should respect their ability to take responsibility for their actions.

But we cannot ask them to take responsibility for other people's actions. Congress has an opportunity to end the hypocrisy of abortions OK for the haves, but not for the have nots in cases of rape and incest.

A vote for the President today perpetuates that hypocrisy, and the President's history on this suggests that he knows that.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Speaker, I come from a Roman Catholic family. My mother is Roman Catholic, bitterly opposed to abortion.

One day about 10 years ago we were talking about this very subject, rape and incest, and she mused, "But I really, I really do not see that that girl should be forced to carry that baby." I had not given a lot of thought to it, because I had always been antiabortion, I still am, abortion on demand. I am a vegetarian. I do not believe in killing anything.

But then I asked my mother, "Well, if you think it is murder, though, how do you reconcile it?" She said, "Well, maybe it is justifiable homicide." But whatever it is, that ought to be the law, and I am not, in good conscience, capable of forcing any woman to have Rosemary's baby.

Mr. CONTE. Mr. Speaker, I yield myself the remainder of my time.

Mr. CONTE. Mr. Speaker, I rise to sustain the President's veto on this appropriation bill. It is a very, very difficult choice for all of us, there is no doubt about that.

I am sorry that there has been a lot of demagoguery here today. I agree with the gentleman from Illinois [Mr. MICHEL] when he said that this issue is a matter of conscience, and I respect everyone.

I have had to live with this issue since 1976, when we were deadlocked for 12 solid weeks with the Senate on the Hyde amendment, and finally I put the amendment in to allow an exception to the funding prohibition for abortions where the mother's life would be endangered if the fetus were carried to term.

I think that if I allowed myself to get carried away with the fiery rhetoric of the kind that we've heard here on both sides today, we would never have come to a resolution. Let me say a word about what I hope will happen now.

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I might say I have worked with the gentleman from Illinois, HENRY HYDE, for years, as well as others, on both sides of this issue, to find a way to keep this important bill intact.

Since 1981 the House and Senate agreed on the Hyde amendment, as amended by Conte language, that addressed the abortion issue. This year, of course, the House voted to change that language, a change that has embroiled this bill in unfortunate controversy.

This is a good bill. It would have funded vital services needed across the country: Medical research, energy assistance, education, help for the homeless, and many other programs. The gentleman from Kentucky, BILL NATCHER, and I and the other members of the subcommittee worked for months to bring out this bill.

I sometimes wish that the Democratic leadership would change the Rules of the House to say none of these controversial limitations can be tacked on to appropriations bills. Let the House vote on those limitations at the beginning of the year on a separate bill. Do not tack them on to bills that provide vital funding and hold them up.

We have worked so hard on these bills, and then everybody who has a problem comes along and tries to tack it onto an appropriations bill.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. CONTE. Just briefly, I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I want to rise and take the same position and support the President's veto.

Mr. CONTE. I thank the gentleman.

All along, the President has said he had some reservations about the Senate language as being too vague and leaving too much potential for being circumvented. This is an important concern that we must address in the coming days and perhaps weeks. We have a lot of work ahead of us. I will be working with chairman BILL NATCHER, as I have for 31 years on that committee, and all those concerned about this difficult, this very painful problem, to find a workable solution.

I want to underscore my point that it is truly unfortunate that this contentious issue must be dealt with on an appropriations bill. If we are to keep the appropriation process running smoothly, performing the job it was designed to do, we should avoid adding year after year language that only serves to engulf my entire bill in controversy and to prevent these important programs from coming to realization. If the veto is sustained, I will work with BILL NATCHER, as I did 13 years ago, without a lot of rhetoric, to try to find the language, the refinements, that might bring, against all hope and against all odds, people together, instead of apart, and to find what it is that makes us one, instead of many.

Mr. NATCHER. Mr. Speaker, I yield the balance of our time to the gentleman from Wisconsin [Mr. OBEY].

The PRESIDENT pro tempore (Mr. GEPHARDT). The gentleman from Wisconsin [Mr. OBEY] is recognized for 3½ minutes.

Mr. OBEY. Mr. Speaker, the issue here today is reasonableness. I need no lectures from anyone about the value of human life. My wife and I lost a child at birth, and we would give anything to have that child back.

I despise abortion. I think that in almost all cases it simply represents a tragic human failure. But all this bill says is that in the case of rape or incest that the victim, the woman, and not the Government, will make the choice about whether that fetus will be carried to full term.

We say that we will not require the victim of one of the most vicious crimes in humanity to suffer the consequences simply because she is poor.

Now, a phony argument has been raised here about the ambiguity of the statute. The fact is the President has the authority to write any rules and regulations he wants. He can impose

whatever limitations, whatever reporting requirements, he desires. That is the right of the President under his administrative rulemaking authority, and every Member here knows it.

Mr. Speaker, I am more proud of my service on this subcommitte than on any other, because this bill, more than any other, defines the true American agenda.

In the area of education this is the bill that provides for student loans; it provides for the vocational education; it provides for the education of handicapped kids; it provides for Head Start; it provides for chapter I, it provides job training; it provides veterans' employment opportunity and training; it provides the administrative funds for the Social Security Program.

In the area of health it provides the delivery of programs to rural America to enable them to get the needed doctors and nurses in their areas; it provides programs for alcohol and drug assistance; it provides for public health programs and childhood immunizations; at NIH it provides for medical research on virtually every disease known to man. Immeasurable numbers of lives will be saved or put back together by the programs in this bill.

We ought not abandon this bill today. This bill represents the heart of our society's efforts to grapple with the real problems faced by American families. This bill is key to providing American families, especially kids, with the kind of opportunity they have a right to expect in this society.

This bill is the expression of our determination to care for our friends and our neighbors and their families and their kids. Do not let these programs, do not let these ideals, do not let these initiatives, be held hostage to the President's unbounded unreasonableness. Please vote to override.

Mr. BEREUTER. Mr. Speaker, today this Member is casting his vote in support of the President's veto of the Labor-HHS appropriation. The President vetoed the measure because of the expansion of abortion-related language to include exceptions for rape and incest.

My position and this vote are consistent with my entire voting record on the abortion issue. On the question of public funding for abortions, I believe it is wrong to permit taxpayer funding for a procedure that is considered fundamentally and morally objectionable to so many citizens. Therefore, I believe the only exception should be for an abortion to save the life of the mother.

That position has always guided my thinking on taxpayer-financed abortions. It does so today when I cast my vote in support of the President's veto.

Despite what has been said on the House floor today, let's be perfectly clear: This is not a vote to prohibit abortion in cases of rape and incest. It's a vote against the public expenditure of funds in those instances.

Mr. BRYANT. Mr. Speaker, whether or not to have an abortion is a decision that must be left to the woman. It is not a decision for the Government. No one has the right to interfere with the woman's right to choose in a matter so intimate and personal.

Pending before the House today is the question of whether or not to override the President's veto of a provision permitting poor women who are the victims of rape or incest to obtain an abortion paid for by their publicly funded health benefits. Surely even those who do not agree with the frank endorsement of a woman's right to choose, a position which I believe the majority of Americans support in spite of the opposition of a vocal minority, would agree that it is plainly cruel to deny the victim of rape or incest the option of obtaining an abortion simply because that victim is too poor to pay for the procedure.

Most of you who oppose the woman's right to choose and oppose paying for an abortion for an impoverished victim of rape or incest speak often of your support for the family. Do you believe that if a young mother is the victim of rape and becomes pregnant it is good for the family, for her and her husband and children, to force her to carry this pregnancy to term simply because they are too poor to afford an abortion?

I suggest to you that your position that it is up to the Government to decide for a woman whether or not she can have an abortion is wrong and impractical. But to tell a poor woman who has been once victimized by rape or incest that she must be victimized again by your decision to deny her the choice of a federally funded abortion would be an outrage.

I strongly urge you to join us in voting to override the President's veto.

Mr. DEFAZIO. Mr. Speaker, I rise today in support of the override of the President's veto.

In spite of the campaign rhetoric, promising a kinder gentler nation, in his first 10 months in office, President Bush has vetoed only three bills. Two of those bills would have directly benefited the Nation's lowest income individuals. All this while the President has actively fought for a 2-year capital gains tax break for the Nation's wealthiest individuals. That's President Bush's idea of a kinder gentler America.

President Bush wants to force poor women, who lack the financial means to obtain an abortion, who usually also lack access to prenatal health care, adequate food and housing, and who may live in an abusive or even life threatening environment to carry to term the child of their rapist or relative—just because they're poor. That's not my idea of a kinder gentler nation, Mr. President.

Forcing poor women to carry those children to term is not going to punish the men who violated and brutalized those women. It will only force those women to resort to desperate and tragic means to remedy their situation or force them to live with a daily reminder of their abuse. Wealthy women have other options. Poor women deserve to have other options too.

I urge my colleagues to support the override.

Mr. LEVINE of California. Mr. Speaker, abortion is one of the most emotional and controversial issues to come before Congress. Members on both sides of this issue have strong opinions on both sides of this issue. In this, Congress merely reflections the public at large.

Since my election to the House of Representatives, I have consistently fought to protect the rights of all women to choose to have an abortion.

One of the reasons the equal rights amendment was the first bill I cosponsored as a Member of Congress was my strong and unwavering belief in the rights of women to choose to have an abortion.

Today we find ourselves faced with President Bush's veto of legislation which would provide funds for abortions for poor women in cases of rape and incest.

I still find it very hard to believe that the President actually vetoed this legislation. After all, he has himself said that he does not oppose abortion in such instances. Judging by his actions he apparently opposes abortions only for poor women in cases of rape or incest.

This is a particularly mean spirited veto. How can this President say that it is acceptable for a wealthy woman who is the victim of a violent crime like rape to obtain an abortion, but not acceptable for a woman, or a young girl, who is not wealthy enough to be able to pay for an abortion? Why should it be the responsibility of poor women to resort to back alley abortions or to bear an unwanted child? The President's action doubly victimizes women in these circumstances.

This is not what America is all about. It does violence to our national traditions of protecting the rights of all Americans. While I support public funding of abortions for any woman who wants one and cannot otherwise afford one, it is particularly critical in cases of rape and incest that our society provide the means to obtain a therapeutic abortion for poor girls and women.

It is important to remember that when we speak of the victims of rape and incest in many cases we are referring to very young girls. How can this President and his supporters in Congress force a girl, who has already been the victim of a heinous crime, to bear a child they never wanted and which could scar their lives irretrievably?

The right to choose to have an abortion should be a basic right available to every woman in this country. Those who can afford to pay for an abortion should do so. For those women who cannot afford one, our society has a responsibility to provide funding for them just as we would other basic medical care.

I urge my colleagues to join with me in voting to override the President's veto and protecting the rights of women in this country. Today we have the opportunity to cast a vote which will have a major impact on one of the most important debates of our time.

Mr. FRENZEL. Mr. Speaker, the vote today poses a special problem for me. I voted against this appropriation bill because it raises spending by an unacceptable figure of 10 percent. I don't want the bill to become law.

The veto, however, is based on another matter, abortion. The vote to sustain or override the veto centers on whether abortions for

poor women, victims of rape or incest, may be paid for with taxpayers funds.

If I vote to sustain the veto, I vote against the bill, and I am against the bill. But when the veto is sustained, as I believe it will be, it will be speedily repassed at the same profligate spending levels and with poor women unprotected.

If I vote to override, I will be, technically, supporting a bill I oppose, but as noted above, it will be passed anyway, and I have voted against it often enough to be thoroughly identified in opposition.

Because this vote is perceived as an abortion vote, and because I am already recorded as opposing the bill on spending grounds, I will vote to override the President.

I regret the veto. I wish the President had signed the bill, or vetoed it on the grounds that it is fiscally irresponsible. He felt he had given a promise, and most of us believe in honoring promises.

However I've given a promise on this issue, too. I believe the mother's rights are preeminent, especially in cases of rape and incest. I will keep that promise by voting to override.

Mr. LEWIS of Florida. Mr. Speaker, I would like to take this opportunity to discuss some very critical flaws with the fiscal year 1990 Labor-HHS-Education appropriations legislation.

I will vote today to sustain the President's veto of the Labor-HHS-Education appropriations bill, legislation that I previously voted against. I oppose this legislation for four reasons.

First, SLIAG [State legalization interim assistance grants] funds have been shifted from fiscal year 1990 appropriations to fiscal year 1992. These grants are used to refund State and local governments money that they have spent in order to comply with the current Federal immigration policy. In fiscal year 1990, $555 million was targeted to be rescinded and an advance appropriation of $555 million will be provided for in fiscal year 1992. This is money that is needed by the State of Florida now and we have no guarantee that the advance appropriation will be included in the fiscal year 1992 budget.

Second, the bill underfunds the Pell Grant Program, which will experience a shortfall in the 1989–90 academic year. Third, the bill does not give the Administration the necessary flexibility in dealing with the AIDS epidemic. Instead of consolidating all AIDS moneys into one fund, to be used when and where needs arise, the bill spreads the moneys among various agencies. In the case of the National Insitutes of Health and the Alcohol, Drug Abuse and Mental Health Administration, funds are not even specifically earmarked for AIDS; their use for whatever purpose is left to the discretion of these agencies. Finally, the overall spending levels in the bill are too high, exceeding the President's request by $5.9 billion.

Given my concerns and the adverse effect this legislation would have on the State of Florida, I find no other choice but to sustain the President's veto of this legislation.

Mr. SMITH of Vermont. Mr. Speaker, there are very few issues that divide this Congress and the American people more than that of abortion, for obvious and understandable reasons. As a government, however, we have an absolute obligation not to discriminate against one segment of society—and refusing Medicaid dollars for abortions or any other legal operation is exactly that: economic discrimination.

I joined recently with the House majority in supporting the legislation allowing Medicaid funding of abortion for poor women who are victims of rape or incest. At a subsequent press conference, I strongly urged President Bush not to veto that legislation, despite his personal sentiments on this issue.

Unfortunately, he did veto the bill, and once again we are grappling with this difficult issue.

As a matter of public debate, abortion clearly is one of the toughest we all face. But it is an issue of personal liberty, and because of that, neither the Congress nor the administration—nor any level of government—should interfere.

We have absolutely no right to deny access to competent medical care to anyone because they are poor. And to risk the lives of women who are denied competent, legal abortions because they are poor is both economic discrimination at its worst and a national disgrace.

I would urge this Congress to override the veto so that we can eliminate that discrimination and disgrace.

Mr. TOWNS. Mr. Speaker, I rise in strong support of the vote to override the President's veto of the Labor-HHS-Education appropritions bill, which contains a provision for broadening assistance for federally funded abortions. By extending Federal funding of abortion to victims of rape and incest, we can ensure that poor women are not denied the right of choice should they become pregnant under such tragic circumstances.

The expansion of Federal funding to low income women is particularly important at this juncture, when so many States are considering new restrictions on access to safe, legal abortions in the wake of the Supreme Court's Webster decision. Should this measure fail to become law, the consequences of restrictions on choice will weigh most heavily on those lacking the economic power to choose. Funding of choice through Medicaid will give poor women an alternative to unsupervised back-alley or "self-help" abortion procedures, should their home States limit or restrict choice within State boundaries.

I urge my colleagues to protect poor women who have been victimized by rape or incest from suffering further violations solely due to their economic status.

Mr. WOLPE. Mr. Speaker, I rise in support of the motion to override the President's veto of the Labor-HHS appropriations bill. The issue which we face here is very simple: Are we going to tolerate a double standard which denies the ability of poor women to choose an abortion when they have been the victims of rape or incest or when their lives are in danger. Clearly more affluent women have the right to choose. Why should poor women have any less?

The President's decision is unconscionable and cruelly insensitive. All of us have every right to our own beliefs and our own judgments as it relates to matters as personal and private as abortion. But we have no right, in my view, to impose our judgments in such matters on others. The President will not have to live with the consequences of his decision. The woman who has been raped or has been the victim of incest will.

The President's veto must be over-ridden.

Mrs. UNSOELD. Mr. Speaker, we will vote shortly on an important issue. The issue is not whether we should support or oppose the President; the issue is not whether we are Republicans or Democrats; the issue is whether the poor victims of rape and incest should have the ability to end a pregnancy caused by these violent crimes.

The President's veto denies any choice to the most vulnerable among us—poor women who are the victims of violent crimes. It denies them the opportunity to decide whether to continue pregnancies that can destroy their lives.

This veto is cruel. It demonstrates a callous disregard for the physical and emotional health of rape and incest victims who are too poor to pay for an abortion.

This veto is divisive. It pits victims who can afford to pay for medical care against those victims who can not.

If Congress fails to override the veto, we will be taking away from the poor victims of rape and incest a recourse that the American public believes they should have. This outcome would deny these victims the ability to make their own decision, and that would be unjust and unreasonable.

I urge my colleagues to vote to override this veto.

Mr. McCANDLESS. Mr. Speaker, the issue before us is whether the House should override the President's veto of H.R. 2990. Some have attempted to characterize this as an abortion vote; however, that is not entirely accurate, nor is it reflective of my approach.

The legislation before us appropriates $156.7 billion in fiscal year 1990 for the Departments of Labor, Health, and Human Services, Education, and Related Agencies. This is nearly a $15 billion increase over the fiscal year 1989 level, and $3 billion in excess of what the President requested.

While most of the programs included in H.R. 2990 are worthy of support, the problem is the funding level. The overall approach of the bill is indicative of Congress' inability to control Federal spending. Instead of setting priorities and making tough decisions, H.R. 2990 represents business as usual.

Specifically, the funding levels include:

For the Department of Labor, $6.7 billion, which is $152.7 million more than the President requested, and $171.3 million more than fiscal year 1989.

For the Department of Education $24.1 billion, which is $1.7 billion above the requested level, and $1.4 billion more than last year.

For the Department of Health and Human Services $123.8 billion, which is $2.7 billion more than the request, and $12.1 billion over the fiscal year 1989 level.

For the National Institute of Health programs $7.7 billion, which is $149.2 million above the President's request, and an increase of $533.8 million from last year.

The $1 billion for 14 related agencies, including $327.3 million for the Corporation for

Public Broadcasting, which is $283.4 million more than the President's recommendation, and $194.5 million more than fiscal year 1989.

During the consideration of H.R. 2990 in early August, I voted against passage of the bill. I also voted against the final passage of the conference report on October 11. In short, I am opposed to this legislation in its current form, and until the spending priorities are set, I will continue to oppose it. Unfortunately, nothing in the legislation has changed since October 11.

With regard to abortion, when the issue was directly before the House on October 11, I voted to allow the States to have the option to provide Medicaid funding for abortions for victims of rape and incest. That continues to be my position, and were that the issue directly before the House, I would vote accordingly. However, the question before the House is this: "Shall the House, upon reconsideration, pass the bill H.R. 2990, the objections of the President to the contrary notwithstanding?" Just as I have done on two occasions, I will again vote against the passage of H.R. 2990.

I would suggest to my colleagues that this situation could be avoided if we gave the President the same power enjoyed by the Governors of 43 States—namely, the line-item veto. Lacking that power, the President must veto an entire bill. As a result, a vote to override or sustain the President's veto must be based on the entire bill. For the reasons I have outlined, I find H.R. 2990, as a whole, objectionable, and will vote to sustain the President's veto.

Mr. MATSUI. Mr. Chairman, I rise today in support of the motion to override the President's veto of the Labor-HHS-Education appropriations bill. This spending bill, which provides a total of $156.7 billion in funds for these agencies, should not be held hostage because the President of the United States does not want to guarantee to poor women their right to an abortion in the case of rape or incest.

How can we tell poor women, who have so little else, that we are now going to take their dignity and their control of their bodies away from them. Victims of rape and incest have already experienced the ultimate indignity. Shouldn't poor Americans be guaranteed the same rights as wealthier one's?

Rape and incest are crimes of violence against women. The U.S. Congress should not become a coconspirator to this violence by preventing poor women from exercising their right to an abortion. No one's rights should be abridged because of their economic status.

Our opponents claim this is a human rights issue. They are correct—this fight is about protecting the human rights of poor women whose rights have been violated by a rapist or an incestuous father. There is no human right more basic than the freedom of choosing one's destiny.

The President claims he wants to compromise with the Congress on this issue. I don't believe there is a compromise on this issue. Allowing a poor woman to receive an abortion in the case of rape or incest only if she reports the crime within 48 hours is no compromise. Rape and incest are not acts that are easily spoken about by their victims, particularly if the victim is a young girl. Many of these women and girls may never report the crime and will be forced to bear the child of their attackers. Often victims of rape and incest blame themselves. Why should we compound this misplaced guilt by forcing them to live with the results of this crime for the rest of their lives?

I urge my colleagues to vote to override the President's veto of the Labor-HHS-Education appropriations bill. A vote to override is a vote to protect the rights of poor women.

Mr. HANCOCK. Mr. Speaker, in the debate on whether or not to provide Federal funds for abortion I wish to voice the concerns of a specific constituent of mine who has a unique perspective on this issue and had the courage to write to me about it.

The following is from a letter from a young woman who had an abortion, the person our proabortion opponents claim they are trying to protect. She says:

I am writing to ask that you continue to promote prolife legislation. To torture and kill unborn children for any reason but the endangering of the mother's life is nothing short of barbaric. I had an abortion 11 years ago and regret every day of my life that I killed my baby. I was never told the effect of the abortion on the baby or the possible ill-effects to myself. If abortion had been unlawful, I never would have gotten one and a life—a precious child—would have experienced sunshine and love.

Mr. Speaker, this constituent of mine is correct. We must save our unborn children and their mothers from abortion. I support the President's veto.

Mrs. COLLINS. Mr. Speaker, I rise in strong support of the veto override of President Bush's objection to the funding of abortion for low-income women in cases of rape and incest.

The leader of this great Nation says that he does not object to the right of a woman violated by such forced sexual encounters to have an abortion, but the fine print in his statement reads that "its okay as long as the Federal Government does not foot the bill."

In my view, the notion that women have the power to make decisions over their bodies and over whether or not they will bear children, is not an extraordinarily radical proposition, but a constitutional right which should be upheld and supported on both the Federal and State and local governmental levels.

Mr. Speaker, women of color suffer disproportionately from a variety of serious health conditions and have unfortunately on too many occasions suffered a far greater incidence of rape and incest due to their social and economic conditions.

I say to you Mr. Bush, how can one seemingly of reasonable intelligence state to poor black women, white women, hispanic women, that they have to give birth to babies conceived in the tragedy and moral injustice of rape and incest.

If you, Mr. President, were the bread winner of a family surviving day-to-day in an humble background and came home to the shock of your wife or daughter falling victim to a rapist would your conviction against federally supported abortions in such cases be the same. I think not.

You see, my friends, this issue of abortion has to do with more than just a right to life, but the inalienable rights of the haves versus the have nots. I think you will agree.

Imagine for one moment the emotional and physical trauma that a young female child, having reach teenage maturity, has experienced due to years of sexual intrusions that were just too embarrassing to expose to mother or someone—too frightening, for fear of a brutal attack—and too painful to maintain a sense of self-pride and dignity.

Mr. Speaker, the executive and legislative branches of government are not tribunals of roman gods and goddesses bequeathed with the power to dictate by an order of decree that women from all walks of life, but particularly, women from disadvantaged backgrounds have no say-so in determining the outcome of a pregnancy which resulted from rape or incest.

Its easy for those in places and positions of power to speak in theoretical terms and to adopt a stand on this issue, because, like it or not, when the purse strings stretch far and wide due to economic prosperity you have very few limitations to the best that life has to offer. This hasn't been and continues not to be the case for low-income women. Mr. President, if this is what you consider reflective of a kinder gentler Nation, than I shudder to think what the future holds for some of our most vulnerable American citizens under your leadership.

I ask my colleagues today, to view the world on this issue in realistic terms and not through the imagery of rose colored glasses.

Mr. WEISS. Mr. Speaker, it is terribly unfair to play politics with the well-being of women who have suffered the invasive, violent experience of rape or incest. That is just what we have witnessed over the past 2 weeks, as the President, has chosen the abortion language on the Labor-HHS bill as a means for gaining a more secure foothold with his vocal right wing supporters.

The President is using poor women who have suffered some of the most horrifying violations imaginable as bargaining chips in a scary game of political balancing. He believes that women should have the right to choose abortions in cases of rape and incest, yet, by vetoing the funding of abortions in these cases, he would allow only wealthier women this right. This logic is inconsistent at best, classist at worst.

None of us in this House need to make such barbaric and discriminatory compromises. The issues surrounding the veto are straighforward. We can be humane or inhumane; we can be just or unjust. We must override the President's terrible decision.

Mr. BROWN of Colorado. Mr. Speaker, I rise today regarding H.R. 2990, the Departments of Labor, Health and Human Services, and Education fiscal year 1990 appropriations. The measure was passed by the House October 11 but vetoed by the administration on October 21.

I voted against original passage of H.R. 2990. My concern was that the spending levels involved in the bill will break our budget. While the conference report indicated the measure meets the 302(b) budget allocation, my own view is that the budget assumptions

used in that analysis are inaccurate and that outlays will significantly exceed the estimates.

I voted to restrict Federal funding for abortion to indigent women to the very limited circumstances of promptly reported cases of rape, incest, or endangerment of the mother's life.

My objections to the budget level in the bill remain. But that is not the reason the bill was vetoed. The President has vetoed this bill because of his objections to the funding of abortions for indigent rape and incest vicitms—not out of overall budgetary considerations. There appears to be no prospect that overall spending levels will be reduced if the veto is sustained.

Because the issue presented in the veto is focused solely on the rape and incest victim exceptions, I will vote to override this veto.

Mr. NATCHER. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 231, nays 191, not voting 11, as follows:

[Roll No. 305]

YEAS—231

Ackerman	Dicks	Houghton
Akaka	Dingell	Hoyer
Alexander	Dixon	Hubbard
Anderson	Dorgan (ND)	Hughes
Andrews	Downey	Jacobs
Anthony	Duncan	Johnson (CT)
Applegate	Durbin	Johnson (SD)
Aspin	Dwyer	Johnston
Atkins	Dymally	Jones (GA)
AuCoin	Eckart	Jones (NC)
Baker	Edwards (CA)	Jontz
Ballenger	Engel	Kastenmeier
Bates	Erdreich	Kennedy
Beilenson	Espy	Kennelly
Bennett	Evans	Kleczka
Berman	Fascell	Kolbe
Bilbray	Fawell	Kostmayer
Boehlert	Fazio	Lancaster
Bosco	Feighan	Lantos
Boucher	Flake	Leach (IA)
Boxer	Flippo	Lehman (CA)
Brennan	Florio	Lehman (FL)
Broomfield	Foglietta	Levin (MI)
Browder	Ford (MI)	Levine (CA)
Brown (CA)	Ford (TN)	Lewis (GA)
Brown (CO)	Frank	Long
Bryant	Frenzel	Lowey (NY)
Bustamante	Frost	Machtley
Campbell (CA)	Gallo	Markey
Campbell (CO)	Gejdenson	Martin (IL)
Cardin	Gekas	Martinez
Carper	Gephardt	Matsui
Carr	Geren	McCloskey
Chandler	Gibbons	McCurdy
Chapman	Gilman	McDermott
Clarke	Glickman	McHugh
Clay	Gonzalez	McMillen (MD)
Coleman (TX)	Gordon	McNulty
Collins	Gray	Meyers
Condit	Green	Miller (CA)
Conyers	Guarini	Miller (WA)
Cooper	Hamilton	Mineta
Coughlin	Harris	Moody
Coyne	Hatcher	Morella
Crockett	Hawkins	Morrison (CT)
Darden	Hayes (IL)	Morrison (WA)
DeFazio	Hefner	Mrazek
Dellums	Hoagland	Nagle
Derrick	Hochbrueckner	Natcher
Dickinson	Horton	Neal (NC)
Nelson	Rowland (GA)	Synar
Obey	Roybal	Tanner
Olin	Sabo	Thomas (CA)
Ortiz	Saiki	Thomas (GA)
Owens (NY)	Sangmeister	Thomas (WY)
Owens (UT)	Savage	Torres
Pallone	Sawyer	Torricelli
Panetta	Scheuer	Traficant
Pashayan	Schneider	Udall
Patterson	Schroeder	Unsoeld
Payne (NJ)	Schumer	Upton
Payne (VA)	Sharp	Valentine
Pease	Shays	Vento
Pelosi	Sikorski	Visclosky
Perkins	Sisisky	Walgren
Pickett	Skaggs	Watkins
Pickle	Slaughter (NY)	Waxman
Price	Smith (FL)	Weiss
Pursell	Smith (IA)	Wheat
Rahall	Smith (VT)	Whittaker
Rangel	Snowe	Whitten
Ravenel	Solarz	Williams
Richardson	Spratt	Wilson
Ridge	Stark	Wise
Rose	Stokes	Wolpe
Roukema	Studds	Wyden
Rowland (CT)	Swift	Yates

NAYS—191

Annunzio	Hertel	Porter
Archer	Hiler	Poshard
Armey	Holloway	Quillen
Barnard	Hopkins	Ray
Bartlett	Huckaby	Regula
Barton	Hunter	Rhodes
Bateman	Hutto	Rinaldo
Bentley	Hyde	Ritter
Bereuter	Inhofe	Roberts
Bevill	Ireland	Robinson
Bilirakis	James	Roe
Bliley	Jenkins	Rogers
Boggs	Kanjorski	Rohrabacher
Bonior	Kasich	Ros-Lehtinen
Borski	Kildee	Rostenkowski
Bruce	Kolter	Roth
Buechner	Kyl	Russo
Bunning	LaFalce	Sarpalius
Burton	Lagomarsino	Saxton
Byron	Laughlin	Schaefer
Callahan	Leath (TX)	Schiff
Clement	Lent	Schuette
Clinger	Lewis (CA)	Schulze
Coble	Lewis (FL)	Sensenbrenner
Coleman (MO)	Lightfoot	Shaw
Combest	Lipinski	Shumway
Conte	Livingston	Shuster
Costello	Lloyd	Skeen
Cox	Lowery (CA)	Skelton
Craig	Luken, Thomas	Slattery
Crane	Lukens, Donald	Slaughter (VA)
Dannemeyer	Madigan	Smith (NE)
Davis	Manton	Smith (NJ)
DeLay	Marlenee	Smith, Denny (OR)
DeWine	Martin (NY)	Smith, Robert (NH)
Donnelly	Mavroules	Smith, Robert (OR)
Dornan (CA)	Mazzoli	Solomon
Douglas	McCandless	Spence
Dreier	McCollum	Staggers
Dyson	McCrery	Stallings
Edwards (OK)	McDade	Stangeland
Emerson	McEwen	Stearns
English	McGrath	Stenholm
Fields	McMillan (NC)	Stump
Fish	Michel	Sundquist
Gallegly	Miller (OH)	Tallon
Gaydos	Moakley	Tauke
Gillmor	Molinari	Tauzin
Gingrich	Mollohan	Taylor
Goodling	Montgomery	Traxler
Goss	Moorhead	Vander Jagt
Gradison	Murphy	Volkmer
Grandy	Murtha	Vucanovich
Grant	Myers	Walker
Gunderson	Nielson	Walsh
Hall (OH)	Nowak	Weber
Hall (TX)	Oakar	Weldon
Hammerschmidt	Oberstar	Wolf
Hancock	Oxley	Wylie
Hansen	Packard	Young (AK)
Hastert	Parker	Young (FL)
Hayes (LA)	Parris	
Hefley	Paxon	
Henry	Penny	
Herger	Petri	

NOT VOTING—11

Brooks	Garcia	Smith (TX)
Courter	Kaptur	Towns
de la Garza	Mfume	Yatron
Early	Neal (MA)	

□ 1235

The Clerk announced the following pair:

On this vote:

Mr. Mfume and Mr. Towns for, with Mr. Smith of Texas against.

So, two-thirds not having voted in favor thereof, the veto of the President was sustained and the bill was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. GEPHARDT). The message and the bill are referred to the Committee on Appropriations.

The Clerk will notify the Senate of the action of the House.

PERSONAL EXPLANATION

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. SMITH of Texas. Mr. Speaker, earlier today I was out of Washington in order to honor a longstanding commitment, and therefore was unable to vote on the motion to override the President's veto of H.R. 2990, the fiscal year 1990 Labor, Health and Human Services appropriations bill.

Had I been present, I would have voted to sustain the veto. While I do believe that there are circumstances under which individuals should be able to make this very personal decision for themselves, I also believe that taxpayer dollars should pay for this procedure only in the most limited circumstances, such as when the life of the mother is in danger.

PROVIDING FOR CONSIDERATION OF H.R. 45, CENTRAL AMERICAN STUDIES AND TEMPORARY RELIEF ACT OF 1989

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 273 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 273

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 45) to provide for a General Accounting Office investigation and report on conditions of displaced Nicaraguans and Salvadorans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Nicaraguans and Salvadorans, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and the amend-

ments made in order by this resolution, and which shall not exceed two hours, with one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, and with one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill (H.R. 3506) as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. No amendment to said substitute shall be in order. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. KOSTMAYER). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

□ 1240

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON] and pending that, I yield myself such time as I may use.

Mr. Speaker, House Resolution 273 is a closed rule providing for the consideration of the bill, H.R. 45, the Central American Studies and Temporary Relief Act of 1989.

The rule provides for 2 hours of general debate with 1 hour equally divided between the chairman and ranking minority member of the Committee on the Judiciary and 1 hour equally divided between the chairman and ranking minority member of the Committee on Rules.

The rule also makes in order an amendment in the nature of a substitute consisting of the text of H.R. 3506, and the substitute shall be considered as having been read.

Mr. Speaker, the rule further provides that all points of order against the substitute are waived for failure to comply with the provisions of clause 7 of rule 16, which prohibits nongermane amendments.

Mr. Speaker, this rule combines two bills, H.R. 45, which provides for temporary protection for Salvadorans and Nicaraguans and H.R. 2929, which provides temporary protection for nationals from the People's Republic of China.

Both of these bills were subject to congressional hearings in the Judiciary Committee and both were reported favorably from the Committee on the Judiciary and H.R. 45 from the Committee on Rules. Because the rule is combining Salvadoran and Nicaraguan nationals with Chinese Nationals, this causes a technical violation in the germaneness rule.

Finally, Mr. Speaker, the rule provides that no amendments to the substitute are in order and allows for one motion to recommit.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my good friend, the distinguished chairman of the Rules Committee, has done an able job explaining this rule. It makes in order the consideration of H.R. 45, a bill to provide temporary protected status to Salvadorans and Nicaraguans presently living in the United States. The rule further makes in order an amendment-in-the-nature-of-a-substitute as an original text of this legislation.

This amendment, to which I just referred, will extend temporary protected status to Chinese citizens presently living in the United States. I think this is of concern to all of us in this chamber. This is part of a continuing effort here in Congress to have our country respond in a necessary and appropriate way to the ongoing repression and tyranny in mainland China.

As the chairman has stated, this is a closed rule. There are numerous Members of the House, on both sides of the aisle, who would have liked to offer amendments affecting the status, one way or another, of many different foreign nationality groups currently in our country, by deleting or adding countries.

I would point out, however, that H.R. 45 represents the culmination of a 7-year effort by Chairman MOAKLEY. Seven years worth of hearings and other deliberations have produced this bill.

Very few issues ever come before this House that have been studied more exhaustively than this one. And so far as the Chinese citizens are concerned, several votes taken since the June 4 massacre in Beijing indicate that there is overwhelming—in fact, unanimous—support in both Houses of Congress for our Government to do all it can to help those poor Chinese citizens here in America and to encourage the development of democracy and respect for human rights within China itself—something that is lacking right now.

All of that said, Mr. Speaker, I do have to sound a couple of notes of caution. Aside from my own reluctance to support closed rules, especially when those rules have not been the result of a bipartisan agreement, the fact remains that the administration is opposed to this bill.

And, frankly, I find the arguments presented by the Members from this side of the aisle on the Judiciary Committee who will be speaking later on today to be compelling. H.R. 45 may well, in fact, represent a significant departure from the orderly procedures and policies our Government has tried to implement in dealing with the tidal wave of immigration—legal and illegal—which has washed across our shores.

Not many countries are faced with a problem like this, but this is part of the price we pay as a free society, and as leaders of the free world.

And so I reserve judgment on the bill at this time until we see the final outcome. I respect the Chairman; I admire his sincerity and tenacity on this issue. As I noted a moment ago, his efforts go back 7 years. But the point must also be made that other efforts go back more than 10 years—all the way back to the Carter administration—to impose some kind of rational process on handling immigration and refugee cases. I must question whether congressionally mandated exemptions on a very complicated process will actually serve the purposes we all seek.

So, Mr. Speaker, I am going to reserve my decision on the bill, but I commend Chairman MOAKLEY on a job well done.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. MCCOLLUM], an able member of the Committee on the Judiciary.

Mr. MCCOLLUM. Mr. Speaker, I oppose this resolution because it provides for a closed rule on a bill that I just do not think should have a closed rule.

By considering together the issues of the question of Salvadorans and Nicaraguans and Chinese, we mix all these countries together, we mix all of their problems together. There are Members of this body who certainly feel as strongly as I do about the Chinese student situation. Certainly, no matter what happens with this particular rule and this bill, we already have the bill of the gentlewoman from California [Ms. PELOSI] in conference to aid the Chinese students.

But with regard to the Salvadorans and Nicaraguans, they are completely different. We have a situation in Nicaragua where the fact is that we see enormous political unrest. We have a Communist totalitarian regime that has clearly been oppressive. We have lots of Nicaraguans who, I am convinced, could meet the standard of political asylum, and certainly it is difficult to want to oppose their being granted a broader and more sweeping opportunity to stay here than they may now have.

On the other hand, we have the Salvadorans locked into this. I respect the views of the gentleman from Massachusetts [Mr. MOAKLEY]. We have talked about this considerably, and he is the author of these provisions. But I have studied the Salvadoran question extensively, and I have spent a lot of time in El Salvador. I have spent time looking at the people who are being

returned by the Immigration Service, and the fact of the matter is simply that by and large the Salvadorans who are in this country are here for economic reasons. They are not in fear of political or religious persecution or any other form of persecution upon being returned to that country, and as important as it may be to some people to see Salvadorans stay here for economic reasons, that is not the policy that has guided our Immigration Service in this country in the past. It is not the policy we should be setting here now, and it completely guts the immigration law and the Refugee Act of 1980. Those of us who are involved would have liked to have been able to divide these questions a little bit and to have had amendments to the bill that is coming forward today instead of having a closed rule like this. Unfortunately, we do not have that opportunity.

This is a bad rule, under those circumstances. There is no reason why we could not have had amendments made in order. There would not have been many amendments. There would not have been protracted debate. There is only limited interest involved in these matters by a few of the Members. We are still waiting around, messing around, if you will, with the budgetary issues that are going to consume us for several more weeks. I think this is a bad rule. It should not be closed to those who want to offer amendments and separate out the issues.

Mr. Speaker, I would encourage my colleagues to vote down this rule and allow the Rules Committee to craft one that is open and that allows amendments.

Mr. Speaker, I thank the gentleman from New York for yielding this time to me.

□ 1250

Mr. MOAKLEY. Mr. Speaker, I yield myself the balance of my time to close the debate on the resolution.

Mr. Speaker, 7 years ago, I met with a group of Salvadoran refugees in Boston. That meeting, in large part, resulted in my introducing legislation to offer them temporary safe haven.

Their testimony, along with the testimonies of other Salvadoran, Nicaraguan, and Chinese nationals have weighted heavily on my conscience. I believe then, as I do now, that they need and deserve temporary protection.

The purpose of this bill is not to make a political statement. Indeed, in the wars that have engulfed El Salvador and Nicaragua, all sides have been guilty of atrocities. And the victims largely have been the innocent.

The rule that is before you represents a merger of a H.R. 45, which provides for the temporary protection of Salvadorans and Nicaraguans and H.R. 2929 a bill, introduced by Representative BRUCE MORRISON, which provides temporary protection to nationals from China—as well as a statutory frame work for the Attorney General to afford temporary protected status to nationals of countries subject to extraordinary and temporary conditions.

I should add that the concept of a "generic bill on safe haven" was first brought to the attention of the House in the last Congress by Mr. FISH of New York and Mr. MAZZOLI of Kentucky. H.R. 45, as it now stands, incorporates much of the original Mazzoli-Fish language. It is my hope that if H.R. 45 becomes law it will eliminate the need for Congress to act on national-specific safe haven bills.

Mr. Speaker, in anticipation of this legislation coming to the floor, many Members have approached me about offering amendments to add other nationalities to the bill. My heart tells me that I should accommodate them, but my political sense tells me I would destroy any chances H.R. 45 has of becoming law. Quite frankly, without any restrictions on amendments, I can envision at least three or four other nationalities winning approval in this House—and, in the end, none of the groups we want to help would be protected. I have been advised that the only way to protect this bill from additions is to close the rule.

Again, I should add that both H.R. 45 and H.R. 2929 have been the subject of extensive hearings. Both bills were favorably reported by the Judiciary Committee. And, as my colleagues may recall, similar legislation to H.R. 45, protecting Salvadorans and Nicaraguans, has passed the House on two separate occasions. In addition, a generic safe haven of this bill passed the House under suspension during the last session.

I would also like to point out that this legislation has a wide variety of supporters including: Salvadoran Archbishop River y Damas, Lutheran Bishop Medardo Gomez, Salvadoran President Cristiani, former Salvadoran President Jose Napoleon Duarte; Adolfo Calero, Violetta Chamorro, the National Coordination Committee of Chinese Student Affairs, Elie Weisel, and hundreds of American organizations and leaders from all sectors of society.

I am sensitive to views of my colleagues on the other side of the aisle—who dislike restrictive rules. I, too, dislike such rules.

However, in this legislation, I feel that we have achieved a delicate and workable balance, that has support on both sides of the aisle.

So, I urge Members to support this rule. It is the only way we can provide the necessary protections to Nicaraguans, Chinese, and Salvadoran nationals. If we open this bill up, I fear we may end up with something that will look more like a Christmas tree rather than a bill.

Before I close, Mr. Speaker, I want to thank the gentleman from New York [Mr. SOLOMON], the minority leader, for his graciousness on this issue. The gentleman has extended to me every courtesy, and I want him to know that I am very grateful.

Mr. PASHAYAN. Mr. Speaker, House Resolution 273 is the rule under which the House will consider a humanitarian response to the problems of legal status faced by Nicaraguans, Salvadorans and Chinese who are displaced from their home nations and are living in the United States.

The rule, which I support, makes in order a substitute for H.R. 45. That substitute has been introduced as H.R. 3506 by the gentleman from Massachusetts [Mr. MOAKLEY], the chairman of the Committee on Rules.

Mr. Speaker, the substitute is a compromise supported by both the leadership of the Committee on Rules and the Committee on the Judiciary. Due to the unique nature of the subject matter, the substitute will not be open to amendments.

Mr. Speaker, the substitute melds together the provisions of two bills, H.R. 45 and H.R. 2929, both of which have been favorably reported by the Committee on the Judiciary. H.R. 45 was reported from the Judiciary Committee on July 29 and H.R. 2929 was reported from the Judiciary Committee on September 19.

Mr. Speaker, Chairman MOAKLEY and several Members of the Committee on Rules have worked long and hard toward enactment of this legislation, and it has been a pleasure for me to be of assistance to the gentleman from Massachusetts.

The Subcommittee on Rules of the House has spent 7 years crafting a humanitarian response to a problem that overwhelms displaced people from Nicaragua and El Salvador.

The bill provides a legal way these displaced people can stay in the United States temporarily, while the General Accounting Office conducts a congressionally mandated study of the living conditions and circumstances in Nicaragua and El Salvador.

Mr. Speaker, I want to commend the gentleman from Massachusetts [Mr. MOAKLEY] for his tenacity and diligence in dealing with this issue. His bill has undergone several changes over the past 7 years. The changes made this year by the Committee on the Judiciary refine some of the procedures in the bill to spell out more clearly the rights and responsibilities of the aliens covered by the bill.

Mr. Speaker, the gentleman from Massachusetts [Mr. MOAKLEY] has been remarkably adept in reaching a compromise with the Members of the Committee on the Judiciary.

The chairman of the Committee on Rules worked closely with the new chairman of the Judiciary Committee, the gentleman from Texas [Mr. BROOKS], the two of them have done an admirable job.

The legislation made in order by this rule would also extend temporary protected status to individuals from the People's Republic of China.

Mr. Speaker, the world watched in horror early this summer when the Chinese Government brutally repressed pro-democracy demonstrations in Tiananmen Square in Beijing.

The legislation made in order by this rule provides a congressional response to the problems faced by Chinese students who were in the United States at the time of the democracy demonstrations and who, because of their association with the United States, would be in danger if forced to return to China.

The legislation made in order by this rule provides temporary protected status to both the Chinese and the two Central American groups.

Mr. Speaker, I support this rule and the substitute it makes on order.

GENERAL LEAVE

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 273.

The SPEAKER pro tempore (Mr. HUGHES). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McCOLLUM. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 263, nays 146, answered, not voting 24, as follows:

[Roll No. 306]

YEAS—263

Ackerman	Browder	Davis
Akaka	Brown (CA)	DeFazio
Alexander	Bruce	Dellums
Anderson	Bryant	Derrick
Andrews	Bustamante	Dicks
Annunzio	Byron	Dingell
Anthony	Campbell (CA)	Dixon
Applegate	Campbell (CO)	Donnelly
Aspin	Cardin	Dorgan (ND)
Atkins	Carper	Downey
AuCoin	Carr	Durbin
Barnard	Chapman	Dwyer
Bates	Clarke	Dymally
Beilenson	Clay	Dyson
Bennett	Clement	Eckart
Berman	Clinger	Edwards (CA)
Bevill	Coleman (TX)	Engel
Bilbray	Collins	English
Boggs	Condit	Erdreich
Bonior	Conte	Espy
Borski	Conyers	Evans
Bosco	Cooper	Fascell
Boucher	Costello	Fazio
Boxer	Coyne	Feighan
Brennan	Crockett	Fish
Broomfield	Darden	Flake
Flippo	Manton	Rowland (CT)
Foglietta	Markey	Rowland (GA)
Ford (MI)	Martinez	Roybal
Ford (TN)	Matsui	Russo
Frank	Mavroules	Sabo
Frost	Mazzoli	Saiki
Gaydos	McCloskey	Sangmeister
Gejdenson	McCurdy	Sarpalius
Gephardt	McDermott	Savage
Geren	McGrath	Sawyer
Gilman	McHugh	Scheuer
Glickman	McMillen (MD)	Schroeder
Gonzalez	McNulty	Schumer
Gordon	Miller (CA)	Sharp
Gray	Mineta	Sikorski
Guarini	Moakley	Sisisky
Hall (OH)	Molinari	Skaggs
Hamilton	Mollohan	Skelton
Harris	Montgomery	Slattery
Hawkins	Moody	Slaughter (NY)
Hayes (IL)	Morella	Smith (FL)
Hayes (LA)	Morrison (CT)	Smith (IA)
Hefner	Morrison (WA)	Smith (NJ)
Hertel	Mrazek	Spence
Hoagland	Murphy	Spratt
Hochbrueckner	Murtha	Staggers
Horton	Myers	Stallings
Hoyer	Nagle	Stark
Hubbard	Natcher	Stenholm
Huckaby	Neal (NC)	Stokes
Hughes	Nelson	Studds
Hyde	Nowak	Swift
Jenkins	Oakar	Synar
Johnson (SD)	Oberstar	Tallon
Jones (GA)	Obey	Tanner
Jones (NC)	Olin	Tauzin
Jontz	Ortiz	Taylor
Kanjorski	Owens (NY)	Thomas (GA)
Kastenmeier	Pallone	Torres
Kennedy	Panetta	Torricelli
Kennelly	Parker	Traficant
Kildee	Pashayan	Traxler
Kleczka	Patterson	Udall
Kolter	Payne (NJ)	Unsoeld
Kostmayer	Payne (VA)	Valentine
LaFalce	Pelosi	Vento
Lancaster	Penny	Visclosky
Lantos	Perkins	Volkmer
Laughlin	Pickett	Walgren
Leath (TX)	Pickle	Walsh
Lehman (CA)	Poshard	Watkins
Lehman (FL)	Price	Waxman
Levin (MI)	Quillen	Weiss
Levine (CA)	Rahall	Wheat
Lewis (GA)	Rangel	Whitten
Lipinski	Ravenel	Williams
Livingston	Ray	Wilson
Lloyd	Regula	Wise
Long	Richardson	Wolpe
Lowey (NY)	Rinaldo	Wyden
Luken, Thomas	Roe	Yates
Machtley	Rose	

NAYS—146

Archer	Edwards (OK)	Ireland
Armey	Emerson	Jacobs
Baker	Fawell	James
Ballenger	Fields	Johnson (CT)
Bartlett	Gallegly	Johnston
Barton	Gallo	Kolbe
Bateman	Gekas	Kyl
Bentley	Gillmor	Lagomarsino
Bereuter	Gingrich	Leach (IA)
Bilirakis	Goodling	Lent
Billey	Goss	Lewis (FL)
Boehlert	Gradison	Lightfoot
Brown (CO)	Grandy	Lowery (CA)
Buechner	Grant	Lukens, Donald
Bunning	Green	Madigan
Burton	Gunderson	Marlenee
Callahan	Hall (TX)	Martin (IL)
Chandler	Hammerschmidt	Martin (NY)
Coble	Hancock	McCandless
Coleman (MO)	Hansen	McCollum
Combest	Hastert	McCrery
Coughlin	Hefley	McDade
Cox	Henry	McEwen
Craig	Herger	McMillan (NC)
Dannemeyer	Hiler	Meyers
DeLay	Holloway	Michel
DeWine	Hopkins	Miller (OH)
Dornan (CA)	Houghton	Moorhead
Douglas	Hunter	Nielson
Dreier	Hutto	Oxley
Duncan	Inhofe	Packard
Parris	Schuette	Stangeland
Paxon	Schulze	Stearns
Petri	Sensenbrenner	Stump
Porter	Shaw	Sundquist
Pursell	Shays	Tauke
Rhodes	Shumway	Thomas (CA)
Ridge	Shuster	Thomas (WY)
Ritter	Skeen	Upton
Roberts	Slaughter (VA)	Vander Jagt
Robinson	Smith (NE)	Vucanovich
Rogers	Smith (VT)	Walker
Rohrabacher	Smith, Denny (OR)	Weber
Ros-Lehtinen	Smith, Robert (NH)	Weldon
Roth	Smith, Robert (OR)	Whittaker
Roukema	Snowe	Wolf
Saxton	Solomon	Wylie
Schaefer		Young (AK)
Schiff		Young (FL)
Schneider		

NOT VOTING—24

Brooks	Garcia	Neal (MA)
Courter	Gibbons	Owens (UT)
Crane	Hatcher	Pease
de la Garza	Kaptur	Rostenkowski
Dickinson	Kasich	Smith (TX)
Early	Lewis (CA)	Solarz
Florio	Mfume	Towns
Frenzel	Miller (WA)	Yatron

□ 1313

Mr. MARTIN of New York changed his vote from "yea" to "nay."

Mrs. SAIKI changed her vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 24) an act to amend the Child Nutrition Act of 1966 and the National School Lunch Act to revise and extend certain authorities contained in such acts, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate to the bill (H.R. 3281) an act to extend the expiration date of the Defense Production Act of 1950.

The message also announced that the Senate agrees to the amendments of the House to the concurrent resolution (S. Con. Res. 61) concurrent resolution in support of basic human rights and democracy in Burma.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1792. An act to amend the Disaster Assistance Act of 1989 to avoid penalizing producers who planted a replacement crop on disaster-affected acreage, and for other purposes; and

S. 1793. An act to make technical and correcting changes in agriculture programs.

CENTRAL AMERICAN STUDIES AND TEMPORARY RELIEF ACT OF 1989

The SPEAKER pro tempore. Pursuant to House Resolution 273 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 45.

□ 1314

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 45) to provide for a General Accounting Office investigation and report on conditions of displaced Nicaraguans and Salvadorans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Nicaraguans and Salvadorans, and for other purposes, with Mr. HUTTO in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Connecticut [Mr. MORRISON] will be recognized for 30 minutes; the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 30 minutes; the gentleman from Massachusetts [Mr. MOAKLEY] will be recognized for 30 minutes; and the gentleman from New York [Mr. SOLOMON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the House today considers H.R. 45, a bill that has been known in this Congress in the past as the Moakley-DeConcini bill.

The genesis of this legislation has been to respond to a problem that we know exists in our country, hundreds of thousands of individuals who have fled war, earthquake, suffering in El Salvador and Nicaragua, and who are here in the United States. During the past several years there have been intense debates over which of these individuals are entitled to be treated as refugees or asylees, in other words, which of them have individual fear of persecution, and whether the system by which these determinations are being made has been fair and equitable with respect to the individuals from these two countries.

At the same time, legislation has been considered and twice before passed in the House of Representatives to allow these individuals a temporary stauts to remain in the United States while the facts in these countries from which they come would be clarified.

Earlier this year another event occurred which raised similar issues in this country, and that is with the brutal murders in Tiananmen Square of Chinese students and workers demonstrating in support of democracy. When that event occurred, thousands of Chinese students and other Chinese nationals found themselves here in the United States fearful of returning home to China but not necessarily seeking any kind of permanent-resident status in the United States through asylum or otherwise.

The Immigration Subcommittee of the Committee on the Judiciary in hearings as well as in subsequent markups considered this set of facts and the applicability of our existing immigration law to these circumstances. The legislation that we are considering on the floor today is a result of that process. It is a marriage of three separate legislative initiatives that have been considered in this year and in the past. It is a marriage of the Moakley-DeConcini legislation directed at providing a temporary status in the United States, a protected status for Salvadorans and Nicaraguans who are here. It is the modification of the President's order providing a temporary protected status to Chinese nationals which was issued on a 1-year basis and without clear statutory basis in June of this year, and a general concern that what has been called extended voluntary departure or delayed enforced departure, various administrative actions that create the ability of someone whose country is in turmoil, to stay here in the United States ought to be replaced with a comprehensive statutory scheme under which these decisions could be made and where the rights and responsibilities of the individuals involved would be clear.

Mr. Chairman, it is those three provisions which are served by this legislation, and I believe we have managed to put together through the leadership of the chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY], a very effective vehicle that answers those three concerns, and that is the bill that the House will be voting on.

We have the statutory framework that creates temporary protected status for such individuals and defines the conditions under which that status will be available.

It requires that individuals who will have such a status not just be here, but be registered for that status, so that they are identifiable.

□ 1320

It allows such individuals who have basic rights in terms of the right to work and the right to travel. It sees to it that such individuals are not part of an underground economy nor underground society, but can function legally and properly in this society.

We are dealing with individuals in circumstances where it is our judgment that they are not here permanently, but we are not going to be sending them home in the short term either.

This statutory framework allows us to recognize that nonimmigrant temporary status for the humantarian relief of these individuals whose return home would be dangerous.

In addition to setting forth the statutory framework to do this, the legislation designates three nationalities in order to have this status conferred upon them by the action of Congress rather than awaiting action by the executive branch. Some Members might say why not merely pass this legislation with the generic language and leave it to the executive branch?

The answer to that question is they have had the opportunity to make these decisions with respect to these groups, and they have failed or refused to do so. The will of many in Congress is clear that they should do so with respect to these particular nationalities.

With respect to the Salvadorans and Nicaraguans, the House has twice before voted by a majority that they should have a temporary protected status in the United States.

With respect to the Chinese, since the President's order creating a temporary protected status for these individuals, we have had nothing but questions and complaints about the specifics of that status and the other problems that that status might cause if we do not get a clear set of statutory rules under which it may be operated.

For that reason we have taken the generic language and also added the three specific nationalities to be included.

I believe this is a very effective piece of legislation which would do the job that many in this House want to see done. It will create a category of immigration law where there has been a gap, where there has only been administrative discretion. It will create humanitarian relief in an organized and fair way for three nationalities of individuals who are here in the United States and for whom there is no will to send them back, to deport them at this time, but who are not to be admitted as permanent residents of the United States, but rather to be in this temporary status, and be identified so that when a decision is made a few years down the road as to whether they can safely return home, we know who they are, we can direct them to return, and we can enforce the laws with respect to them.

I believe that with the leadership of the chairman of the Rules Committee we have been able to craft every effec-

tive legislation here and I hope it will have the strong support on both sides of the aisle that it deserves.

Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to oppose this bill. I do so somewhat reluctantly because I understand the concerns that many have with the affected nationals who are here in this country. Many are here illegally though, and this is the wrong approach. This is the wrong way to go about it.

First of all, it is not necessary for Members to have this legislation in order to protect the Chinese students who are here. The fact of the matter is that there is a bill already passed that is in conference with the Senate today that would give the necessary waivers for residency requirements for those who are students here and would give them the opportunity to work.

The fact of the matter is that the Attorney General already has the power to grant what we call extended voluntary departure for any nation that he so sees fit to designate. That has only occurred once, with Poland.

Beyond that we have a special law for this problem on the books, and this is maybe the most important point I want to make, the law on the books we passed in 1980, the Refugee Act of 1980.

This law set up a procedure whereby anybody who is here illegally or otherwise does not have permission to be here can seek political asylum to stay here. It does not make sense to me to go forward with legislation that would fly in the face of what we have done and give a special privilege to a handful of countries—to people who already have a process to seek asylum.

The administration has consistently opposed this bill. The bill favors a particular nation or two. It encourages one-nation or nation-specific type of selectivity in our immigration laws. We really should not be doing it. It undermines our refugee and asylum laws. It limits the President's foreign policy and other discretionary prerogatives.

By singling out El Salvador and Nicaragua because of their civil strife, H.R. 3506 ignores other countries and people who may qualify for assistance for the same reasons.

We are forced to select some and not others. Or shall we let in all who have civil unrest in their homelands? How many countries would then qualify? Most of the Middle East, South Africa and several other African countries, most of Central America, much of Southeast Asia, and many in South America might well qualify if we applied the same kind of liberal standard.

That would be literally billions of people we would allow to stay in this country, or if they have come here and are here in some form or fashion and otherwise would be subject to deportation.

The United States is a generous country. It allows twice the number of immigrants as the rest of the world combined. We have a legal immigration program. We allow refugees to come in. We do all kinds of things.

Although I objected to it, we passed a legislation issue a few years ago that allowed all sorts of folks to come forward if they wanted to do so and stay here.

We cannot accept all of those who seek to come to this country. Most of them want to come here for economic reasons, and that is not good enough, unfortunately.

We have to have orderly migration to make our system work and not impose too much stress on our basic system and undermine the good economic conditions we have here for our citizens.

We are not ignoring the Salvadorans and the Nicaraguans. They have the opportunity to apply for asylum under the Refugee Act. Our immigration system provides for individual review of every asylum application. It allows the Attorney General to grant asylum status and even to stay the deportation of those who can prove a well-founded fear of persecution should they be returned to the country of their origin.

In addition to that, the Attorney General, as I said earlier, can do a specific country waiver if he wants to, which has occurred on one occasion in the past.

Those truly seeking refuge from violence and political persecution have the opportunity to apply and stay in this country, and that indeed is occurring every day through our immigration laws.

As we have seen in south Texas and other places along our border, the slightest favorable change in immigration policy encourages further illegal immigration. That is the magnet effect.

I debated on the floor of the House hard and long that effect during the debate over the bill where legalization was passed a couple of years back. It is true, it is real, it happens.

Every time we pass a law like this that breaks down that border and breaks down that barrier, we are going to encourage more people to come across illegally. Not only would it encourage the illegal entry of other Salvadorans and Nicaraguans located in countries near the United States, it would encourage further mass immigration from El Salvador, Nicaragua, and other Central American countries.

What happens if the Mexican economy slides and civil strife occurs? What happens then? All Members hope things are happening with President Salinas for the better. It looks like they are.

The fact of the matter is Members do not need to be encouraging more people to come here by passing this law. Are those Members who plan to vote in favor of H.R. 3506 really ready for what might happen next? I do not think most Members are.

H.R. 3506 undermines the Immigration Reform and Control Act of 1986 that we worked hard to pass.

The major provisions of that bill make it illegal to knowingly hire an illegal alien. The idea was to discourage people from coming here.

The fact of the matter is we have gone a long way from that bill now. We have it well underway. It is being implanted. We do not need to go around and do what we are doing with this bill.

All Members empathize with the plight of the Chinese students here in the United States that have exercised their first amendment right to speak out and support their fellow students at home. We Americans watched the events in China and forever have those thoughts and scenes etched in our minds. But this bill is not necessary. It is not our only chance to provide protection to those students.

We have a bill already passed on the floor, already in conference committee, that will provide the kind of relief necessary. It is the more responsible piece of legislation.

I commend the gentlewoman from California for creating that legislation and working so hard to pass it. This legislation is not necessary on any count. This is a bad bill from the standpoint of providing an incentive, a magnet, for other people that want to come here. It is a bill that we should not adopt.

I am looking at the numbers here. There are about 800,000 Salvadorans that would be affected according to the figures I have gotten from the Immigration Service. There are about 200,000 Nicaraguans, and perhaps 45,000 Chinese, many of whom, as I said earlier, would be affected by the already passed legislation.

So this just does not make sense. As well-intentioned as I know the gentleman from Connecticut and the gentleman from Massachusetts are, this bill is just bad policy, and it is not necessary to provide the relief that they seek for the individuals involved.

If there are truly people who are in fear of prosecution upon being returned to El Salvador, Nicaragua, and China, they can either go through the asylum process, or the Attorney General has the discretion, and he has granted it in the case of the Chinese, he can stay the deportation for what-

ever period is a reasonable period in his view, and that is being done.

□ 1330

So I encourage my colleagues to defeat this legislation.

Mr. BERMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. McCOLLUM. I would be glad to yield to the gentleman from California.

Mr. BERMAN. I thank the gentleman for yielding.

Mr. Chairman, I simply want a point of clarification here. The gentleman makes reference to the legislation now in conference committee sponsored by the gentlewoman from California [Ms. PELOSI]. The fact is that that legislation, I think the gentleman on further thought might agree, does not protect all classifications of Chinese now in this country from deportation upon the expiration of their visas. It only protects the holders of the J-1 visa from the obligation to return to their homeland for at least a 2-year period after the expiration of their J-1 visa. It is a limited bill protecting one classification of student visas.

There are many other students.

Mr. McCOLLUM. I reclaim my time and say that I would agree with the gentleman it affects specifically the Chinese students, it was needed so they could have employment opportunities and it was needed in order to make sure they did not have to return to their country of origin. However, after that legislation is passed with respect to all the Chinese, the Attorney General has the discretion, either on a case-by-case basis through the asylum laws or the Refugee Act of 1980 or simply through what he is doing now by simply withholding any deportation proceedings, to allow those Chinese to stay here, from all walks of life.

That is what is happening here. We are taking away his discretion by this legislation. I am opposed to doing that because I think it is a very bad precedent and I think it is going to cause us problems down the road when we start eroding that Refugee Act we passed in 1980. I think it is wrong to do that. I think it presents a magnet for others to come here. It is just bad policy.

Mr. BERMAN. Mr. Chairman, I just want to correct any mistaken assumption that the bill in conference committee provides statutory protection to all the Chinese students or all the Chinese residents who are now here on other visas. It only protects legislatively students here on a J-1 visa.

Mr. McCOLLUM. Reclaiming my time, I will say it is not only protecting those here on a J-1 visa but there are several other categories of visas who are given work opportunities by that bill, and it is indeed a sufficient protection for those that are involved in the issue, confronted with the Attorney General's existing powers that we are going to usurp and dictate and take away from him. That is the objection that I have.

Mr. Chairman, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Chairman, I yield myself such time as I may consume in order to address the gentleman from Florida on a couple of remarks he has made.

First, I think it is simply incorrect to assert that EVD has only been granted once since the passage of the Refugee Act of 1980. In fact, I think the Reagan administration granted EVD to Poles, but also affirmatively extended grants of EVD for Ugandans, Lebanese, Ethiopians, and Afghans. So it has been used on five or six occasions.

Also with reference to the assertion that we do not need this for the Chinese students, I have a letter in my hand signed by Haiching Zhao, chairman of national coordination committee on Chinese student affairs. I will read the last paragraph:

> We are looking forward to the swift passage of H.R. 2712, and to working closely with you and Representative Morrison on the "Chinese and Central American Temporary Protected Status Act of 1989." The combination of both measures provides the complete relief we so badly need.

I want to emphasize the words "the combination of both measures provides the complete relief we so badly need."

Mr. Chairman, I yield 4 minutes to the gentlewoman from California [Ms. PELOSI], the sponsor of the Chinese students bill.

Ms. PELOSI. Mr. Chairman, I rise today in strong support of H.R. 45, a bill to grant temporary refuge to Chinese and Central American refugees. This measure would grant safe haven to certain Chinese and Central American nationals in the United States. This bill is significant because it would also establish a comprehensive framework for temporary protected status for citizens of countries experiencing internal emergencies. I commend the gentleman from Connecticut [Mr. MORRISON] and the gentleman from Massachusetts [Mr. MOAKLEY] for their work on this comprehensive humanitarian measure.

As the author of H.R. 2712, the Chinese students bill, I would like to say that this bill that is before us today is absolutely necessary if Congress is going to take actions to match our rhetoric in protecting the Chinese student nationals who are in this country, and the rhetoric in support of democracy.

This measure would offer some sense of certainty to refugees whose future is uncertain. I believe we have a moral obligation to do everything within our power to insure that foreign nationals in the United States are protected from the internal strife in their countries.

With this bill we have the opportunity, within the framework established for the temporary protected status, the bill focusing specifically on Chinese, Salvadorans, and Nicaraguans.

Thousands of Nicaraguans and Salvadorans have been driven from their homes by civil war and politically motivated violence. Salvadoran refugees and international observers report profound increases in human rights violations in El Salvador. Civilian deaths attributable to the civil war there now number approximately 70,000. The State Department reports that human rights in Nicaragua are also constantly in peril.

I have been working closely with, as has been mentioned, Chinese nationals in this country since the crackdown on dissent in Tiananmen Square on June 4, to clarify their legal status in the United States.

My bill, H.R. 2712, is an important but only a first step in addressing the immediate needs of Chinese students and nationals in this country.

H.R. 45 is the next step toward offering Chinese nationals full protection. It is clear that the continuing repression and denial of human rights by the Chinese Government make it unsafe for Chinese nationals to return home.

Most of the Chinese citizens currently in the United States are students and scholars who are particularly vulnerable to the policies of their government. History has taught us that the Chinese Government singles out intellectuals for persecution in times of internal conflict.

During the purges of the cultural revolution, China lost a significant percentage of its most highly educated and capable scholars. We know that only China's best and brightest are given the opportunity to study in the United States, and can be certain that most of them would be subject to some form of repression upon their return home.

To Mr. McCOLLUM again I would say that I thank him for his support of H.R. 2712, that it does, as Mr. BERMAN pointed out, just address the needs of the J-1 visa holders.

The framework for tougher protected status is a significant movement toward establishing a fair and comprehensive response to nationals of countries undergoing civil strife. In the interpretive releases of June 26, 1989, the Immigration and Naturalization Service recognizes the adverse effects of the current extended voluntary departure program on foreign nationals and their ability to make adjustments or changes for which they are otherwise qualified. This framework will not grant foreign nationals permanent resident status. It merely removes

some of the legal obstacles that stand in the way of foreign nationals to regularize their status.

Again I commend Chairman MOAKLEY and the gentleman from Connecticut [Mr. MORRISON] for their leadership on this important matter. I urge my colleagues to support H.R. 45. Without it, H.R. 2712 is incomplete and the Temporary Refuge for Chinese and Central Americans Act would be incomplete.

In closing, I would like to recognize the work of the chairman of the full Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS] for his leadership in moving toward regularizing the status of foreign nationals in this country.

Mr. BROOKS is in the hospital, we miss him, and we send him best wishes for his speedy recovery and thank him for his hard work on this measure.

Please vote "yes" on H.R. 45.

□ 1340

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. MRAZEK) assumed the chair.

The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

CENTRAL AMERICAN STUDIES AND TEMPORARY RELIEF ACT OF 1989

The Committee resumed its sitting.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Chairman, I yield myself such time as I may consume.

A couple of years ago, through negotiations between our Government and the People's Republic of China, I led a congressional delegation to mainland China. Our mission in going there was to let the Chinese Government know that if they wanted cooperation from this Government and from this Congress and the American people, they were going to have to stop selling Silkworm missiles to North Korea which were then being forwarded on to Iran during the height of the Iran-Iraq war; and they were going to have to stop their human rights abuse in Tibet.

By the same token, the Chinese wanted the opportunity to tell conservatives like me in that delegation, and we were all conservatives, that they were moving toward democracy, that they were moving toward human rights in their own country, and freedom for the Chinese people to live where they wanted to live, to move where they wanted to move, to work where they wanted to work.

As we traveled through China at that time, the rank-and-file Chinese people were so upbeat the Members could feel it. The Chinese people really thought there was hope, that they would be able to throw off the shackles of this deadly philosophy called communism, and that they could enjoy what other citizens have. People like myself, who had opposed the "China card" policy for so many years, began to say to ourselves that maybe they were right, maybe the "China card" was working, maybe this really was bringing democracy to those 1 billion Chinese people.

I came home and I reported back to President Reagan about our trip that things were going so well. Then to see what has happened at Tiananmen Square, back on that fateful day in June, was so disheartening.

I, like the gentleman from Massachusetts [Mr. MOAKLEY] and the gentlewoman from California [Ms. PELOSI] have met with many, many Chinese students here in our country. I traveled in August to Hong Kong and to Taiwan, where I met with students and workers and people who were there at the massacre when the Chinese Army was ordered to murder, in cold blood, innocent people. It is just a terrible thing to see what has happened in so short a time, where so much hope has now been replaced by despair.

I have mixed emotions about this bill. I voted against the Simpson-Mazzoli bill 3 years ago, which legalized illegal aliens in this country, because I did not think that was the proper way to go. I may vote against this bill today, although I have not made up my mind. I will say to the gentleman from Massachusetts [Mr. MOAKLEY] and to the gentlewoman from California [Ms. PELOSI], I thank you so much on behalf of those people in China who are suffering today.

In conclusion, Mr. Chairman, I would note that just last week, the House passed H.R. 2494, the "International Development and Finance Act of 1989." That bill contained some very powerful language concerning the present situation in China.

The bill noted that China is engaging in "a pattern of gross violations of internationally recognized human rights * * * such as flagrant denial to life, liberty, and the security of person." It noted that the Chinese Government uses the term "rioters" to describe peaceful demonstrators and that there has been a "pattern of continuing repression and reprisals against citizens throughout China" since the massacre in Beijing on June 4.

But I do have a problem, Mr. Chairman, in lumping Chinese citizens who are in America legally with Salvadorans and Nicaraguans who are here illegally. That is a major problem with this bill, H.R. 45, which, regretfully, makes it very difficult for me to support.

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Speaker, I rise today to express my strong opposition to H.R. 45. Like the Immigration Reform and Control Act of 1986, we are once again setting Federal policy and forcing State and local governments to carry the burden of the program costs. H.R. 45 does not address the immigration crisis that is currently plaguing my home State of Florida. This is a short-sighted solution to a problem that will increase tenfold in the next year.

In response to the gentleman from Texas [Mr. BROOKS] regarding H.R. 45, CBO states "In general, the nationals would be ineligible for Federal public assistance but would receive State and local public assistance."

CBO also estimates that the cost of H.R. 45 to State and local governments will be $35 to $70 million in fiscal year 1990, and between $75 and $150 million in 1991 and 1992.

Our current immigration program has cost Florida an estimated $20 million over the past 12 months.

I ask Members, why are we once again setting a Federal policy without supplying State and local governments the Federal money needed to fund the policy? I will not support legislation that will literally start to bankrupt the State of Florida. For this reason, I urge Members to oppose H.R. 45.

We continue in this body in these ivory towers of Washington, forcing our policies upon these States, and making them pay for it, and then we do not cough up any of the money. I say that is wrong.

Mr. McCOLLUM. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. FISH], the ranking member on the full Committee on the Judiciary.

Mr. FISH. Mr. Chairman, this legislation fills an important gap in our immigration and refugee laws by making temporary protected status available to certain persons who cannot safely return home because of armed conflict, natural disaster, or "extraordinary and temporary conditions."

Our immigration law generally permits immigration based on family ties or employment related criteria—and our refugee law recognizes claims to asylum based on persecution or a well-

founded fear of persecution. But, Mr. Chairman, there is no clear statutory relief available to the individual who needs temporary protection for reasons unrelated to persecution. We all know the administrative relief of extended voluntary departure lacks statutory standards. This bill would provide these needed standards.

Humanitarian considerations require us to offer temporary refuge to people already in our country who cannot return home safely. The threat to human life posed by war or natural disaster can be as great—or even greater—than the risk to life posed by the threat of persecution.

Also, our willingness to provide temporary protected status sets a positive example to other nations to respond compassionately to crises situations outside their borders.

The United States can contribute to an elevation of international protection standards by demonstrating our readiness to offer temporary protected status. Our efforts to urge compassionate treatment of displaced persons temporarily residing in other lands are undermined when we forcibly return people to places where they face danger.

Most Salvadorans and Nicaraguans in the United States illegally are not likely to be deported to their home countries. We neither have the desire nor the manpower to enforce deportation. Aliens who register for temporary protected status, however, will become more identifiable. This is far better than the present situation where we do not know the identity or whereabouts of hundreds of thousands. They will be more likely to leave the country if conditions at home improve and their temporary status terminates. In the meantime, it is in our national interest to have Salvadorans and Nicaraguans living in the open rather than maintaining an underground existence.

Temporary protected status for Salvadorans and Nicaraguans enjoys the support of proponents of democracy in those two countries. The Ambassador from El Salvador, on behalf of President Cristiani, and Adolfo Calero of the Nicaraguan Resistance are among those who have urged enactment of such legislation benefiting nationals of El Salvador and Nicaragua. Former President Jose Napoleon Duarte of El Salvador made a similar plea last year.

Many colleagues have made the point that Chinese Nationals in the United States need temporary protected status. Their very presence in this country at the time the events in Tiananmen Square surely subjects them to grave risk.

Mr. Chairman, I urge support of H.R. 3506.

□ 1350

Mr. MORRISON of Connecticut. Mr. Chairman, I yield 4 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, this bill is the right thing to do. What are we doing here? We are establishing safe haven for Chinese, Nicaraguans, and Salvadorans who have been uprooted for political reasons, who have been escaping tragedy.

Are we going to stand behind them? That is the question today. Are we going to stand behind those Chinese students in Tiananmen Square and those who represent democracy in that troubled land?

The two strongest arguments in favor of this bill are that it is going to establish an orderly, systematic procedure for providing temporary protected status for nationals of countries undergoing civil war or extreme tragedy, because we need to replace the current ad hoc, haphazard regulations and procedures that exist today; and, second, the bill will also provide immediate relief to three groups of aliens whose lives would be in danger if they were forced to return home. I repeat the words, "in danger."

By specifying the Chinese, Nicaraguans and Salvadorans in the bill, we are simply following the general criteria of the bill; that is, we are providing that kind of protection for those who have been uprooted by violence and violations of civil rights.

In the past 10 years, 70,000 Salvadorans and 30,000 Nicaraguan civilians have been killed, and more than 10,000 participants in the Chinese democracy demonstrations have been jailed. All three groups need safe haven status. The current bureaucratic procedure is not only arbitrary but it is so discretionary that aliens currently under temporary stays are never certain that they are truly protected. It is unclear what the aliens' rights are, how the Justice Department determines what countries merit EVD status or how long they will be able to stay. This bill remedies each of those problems by specifying who is eligible and what registration process they must go through, as well as the duration of their stay.

Again the bill does not provide grant refugee status or asylum to these people but simply temporary protected status under very limited circumstances. The suspension of deportation is not the same as the granting of political asylum, because the deferral of deportation is only temporary.

The bill is not granting Chinese, Nicaraguan, or Salvadoran aliens permanent resident status. They would be required to obtain work permits. The United States has suspended the deportation of illegal immigrants from specific countries some 14 times during the past 25 years. In fact, in the last 29 years only 2 months have gone by during which there was not at least one group of aliens in the United States under EVD status. Deportation has been suspended for citizens of friendly nations such as Lebanon, as well as communist countries, on the basis of political instability and internal strife. Suspending the deportation for Central Americans will not undermine the Immigration Act that was enacted last year. In fact, the registration required by the bill would provide the Government with the means of keeping track of and controlling the influx of these people. Concerns that the bill will thwart the intent of the Refugee Act which eliminated preferential treatment of persons seeking political asylum from specific countries are equally groundless.

Mr. Chairman, this is an important bill. It is in the traditions of the United States that we grant safe haven on a temporary basis for thousands of Chinese, Salvadorans, and Nicaraguans.

Mr. MOAKLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I rise in support of this legislation.

Mr. Chairman, as a cosponsor of H.R. 45, I strongly support the legislation before us today to grant temporary refuge for Chinese and Central Americans currently in the United States.

The unique situation of these refugees is clear; the politically-motivated violence that rages in El Salvador and Nicaragua, and the on-going crackdown on pro-democracy demonstrations in China make it impossible for many of these expatriates to return to their homelands at this time. It would be cruel and contrary to the fundamental principles of our Nation to push these immigrants from our shores under these conditions.

Many of the Nicaraguan and Salvadoran immigrants have essentially been displaced by war in their countries. Even if as individuals they may not all be the specific targets of political repression in their native lands at this time, the very fact they fled the violence to come to the United States makes them suspect if they are forced to return home. The ongoing civil strife in Central America makes it difficult to predict if, when, and against whom the next crackdown will occur.

In the People's Republic of China the situation is even more self-evident. Nearly 5 months after the Tiananmen Square massacre, the repression shows no signs of lifting. An estimated 10,000 pro-democracy demonstrators are in prison, and we have reason to believe that Chinese officials in the United States are keeping track of dissidents residing here for possible retaliation when they return to China.

Speaking out against repression is in the finest tradition of our Nation. Yet the students who have spoken out may now be in real danger if they return to their own country.

Every standard of humanity requires that our Nations offer these students refuge here until their safety is assured at home.

Perhaps the most important aspect of this bill is that it will standardize the procedure for granting temporary stays of deportation. Refugees, spawned by the sad and tragic forces of warfare, should not be subject to the vagaries of our domestic politics as well. By establishing identifiable conditions—such as armed conflict or natural disaster—which create unsafe conditions for returning refugees, we will be using objective factors to formulate our deportation policy. Nothing less than common decency demands that we be fair and objective when determining the fate of immigrants and refugees. Our recent domestic political squabble over the relative merits of Salvadorans and Nicaraguans as political refugees should never be repeated.

It is also critically important that we codify the deportation suspension for Chinese as well. I am pleased that INS has ceased enforcing departure for Chinese who were in the United States on June 6, but it is vital that we give the Chinese residents the additional long-term protection that this bill provides.

Unfortunately, this legislation does not confront all the problems facing Chinese students in this country. I am concerned that the registration of Chinese Nationals to indicate their unwillingness to return home at this time will place them in additional danger by possibly aiding the Chinese authorities in their attempts to keep lists of Chinese dissidents in this country. I would strongly urge the Department of Justice to maintain the strictest standards of confidentiality in protecting this information.

It is also necessary to grant further protection to Chinese students on j-visas than that which is afforded by this legislation. Specifically, I urge the conferees to the Pelosi bill, H.R. 2712, to act quickly in bringing the conference report to the floor. It is vital that we grant a waiver of the 2-year home residency requirement for j-visa holders, so that some of the most active pro-democracy demonstrators in the United States will have the additional security of knowing they will not be forced home to face possible retaliation by their government.

I am pleased that we will be voting on this urgent and important legislation today, and I urge my colleagues to lend their strongest support to this measure.

Mr. MOAKLEY. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Chairman, I thank the gentleman from Massachusetts for yielding this time to me.

Mr. Chairman, we sometimes routinely praise each other when we get to the floor. This is one case when the praise should be much more than routine, because we have three Members here in particular who have worked very hard to produce a piece of legislation of which I think we should be very proud.

The gentleman from Massachusetts [Mr. MOAKLEY], chairman of the Rules Committee, has been carrying this torch for several years now, motivated by a very strong sense of compassion. This began with a bill to deal with the problems in El Salvador. I suppose it is a mark of how long he has been working on this that El Salvador was a hot country at the time in terms of these problems.

The bill has been expanded. We expanded it several years ago in the Judiciary Committee to also include Nicaraguans when the situation in that country began to be comparable in terms of the degree of strife and danger within. Then the gentlewoman from California [Ms. PELOSI] came forward on behalf of the Chinese students. The gentleman from Connecticut [Mr. MORRISON] then in his capacity, as chairman of the Immigration Subcommittee, has done an excellent job of melding several important concepts together.

I think we ought to be very clear on this. People have said that Congress is once again legislating ad hoc. That simply is not true. This is a very thoughtful, very careful, very well structured piece of legislation. What it says is that we continue to be a country which prides itself on offering refuge to people who are beleaguered, oppressed, and endangered.

The gentleman from New York [Mr. FISH], who is the ranking Republican on the Judiciary Committee and a very experienced Member in terms of immigration matters, pointed out that there is no existing category into which all these people fit. My own view is that the administration, had it wanted to, could have done more to accommodate some of these people. Ideally, we did try in the earlier part of the eighties and before to get Congress out of making specific decisions on countries and leave it all to the administration. But we found out, with the best of interpretations that we might want to put on it, that honorable people will differ about who ought to be where, and the right of Congress as the law-making body of this country is to look at these situations, not to make individual determinations but to look at these situations and say, "Here is a whole category that we want to take care of, and here is a country where we think it applies." That, it seems to me, is an undeniably sensible thing to do, and we are showing by this piece of legislation, I believe, that we can do it well. It we want to disagree with anyone, we would disagree with those who suggest, as some people have, that this is somehow just an ad hoc response.

The Subcommittee on Immigration of the Judiciary Committee has worked hard on this, and the gentleman from Massachusetts in the Rules Committee has worked hard on this. This, I think, is the only reasonable answer to the problem, and the problem is this: in parts of the world there are people who find it unsafe to live where they are living. What we are saying is not that we can take everybody, not that this country is big enough or has the resources to absorb everybody, but in cases where there has been a particular tie between the United States and the country involved, in some cases where the United States is very directly involved in policy or where the people are already here in some cases, the compassionate thing for us to do is to welcome those people for an indefinite period.

One thing was made very clear, because I have asked this question in hearing after hearing. These, of course, are people who might be in trouble, and we are not just putting ourselves out. We too often, when we deal with an immigration situation in this way, act as if we are undertaking some enormous burden out of a sense of compassion. I hope we are motivated by compassion, but I think we all should be proud to see that the tradition of this country, which is to be a refuge for people who are in trouble, is being reaffirmed very loudly today.

These are the people who are the beneficiaries of this bill. They are people who, through no fault of their own, find themselves in extraordinarily difficult circumstances back home, and we say, "OK, we will take you in here."

But I want to be clear about this. We have asked these questions with regard to Nicaraguans and Salvadorans, and it is true of the Chinese as well. These are not people who have been problems for us. We are not talking here about populations that have contributed to difficulties in this country, but to the contrary. We are talking about people who on the whole are enormously courageous, people who have initiative, people who work very hard. If there is any criticism made of these people, it is that they have been too willing to work at low wages on lousy jobs.

Mr. Chairman, we ought to be proud to reaffirm our position of openness today, and I congratulate those Members who put this bill together.

Mr. SOLOMON. Mr. Chairman, I yield 4 minutes to the gentleman from Nebraska [Mr. BEREUTER], a distinguished member of the Foreign Affairs Committee.

Mr. BEREUTER. Mr. Chairman, this Member rises in strong opposition to this H.R. 45. I regret opposing the initiative of the distinguished sponsor of this legislation. However, this bill, which suspends deportation of illegal immigrants from El Salvador, Nicaragua, and China for 3 years, I believe will inadvertently, I am sure, do irreparable harm to our existing refugee and immigration laws and sets numerous bad precedents. I realize this is not a popular position, but I feel compelled to take it.

The Refugee Act of 1980 was a bipartisan effort to deal with the very thorny question of refugees. It establishes procedures whereby any person, regardless of origin, can apply for and receive consideration based on the merits of his or her case. By circumventing the exisiting mechanisms, H.R. 45 would in essence establish special privileged classes of illegal aliens. These privileged classes would then be able to remain in the United States for 3 years while the General Accounting Office completes a report on political conditions in their home countries. Let us be straightforward about what will almost certainly happen if we pass this legislation. These illegal aliens as a large category will be started down the path to naturalization. That will be the next step.

Mr. Chairman, this body has already addressed the plight of the Chinese students in the legislation of the gentlewoman from California [Ms. PELOSI]. Fair treatment and refugee status for the students from the PRC can be established by the Pelosi bill or by administrative action. Chinese refugees are not at issue here; the Chinese are undoubtedly added to this legislation to make it more palatable and attractive today. The plight of Chinese students should not be the excuse for this action. By including the Chinese students with illegal migrants from Nicaragua and El Salvador, H.R. 45 would mix individuals who are truly deserving of refugee status with those who have illegally entered this country for purposes of economic betterment.

For example, evidence indicates that the vast majority of Salvadorans who have illegally entered this country are not refugees under the strict United States and United Nation definition. On the contrary, the reasons why the vast majority are coming to the United States are economic. For decades literally hundreds of thousands of Salvadorans, for example, have migrated illegally to the United States in search of economic opportunity. This is a pattern that in part long precedes the Communist insurgency in Central America. And they continue to come to the United States for the same reason many others seek to come to the United States—for jobs. The same motivations that brought many of our ancestors legally to America. Of course, some Salvadorans and Nicaraguans are properly here as refugees from violence and political repression and should remain here until those threats are eliminated.

While it is laudable and perfectly understandable that such individuals would want to better their lives, they are doing so in violation of U.S. law. H.R. 45 rewards them for doing so and it will unintentionally encourage further illegal immigration.

Mr. Chairman, this bill undermines Central America's already shaky respect for United States immigration law, and does nothing to resolve the very real economic problems in El Salvador and Nicaragua. This Member would urge his colleagues to vote no on H.R. 45.

□ 1400

Mr. MORRISON of Connecticut. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. BERMAN], a member of the Subcommittee on Immigration, Refugees, and International Law and of the Committee on the Judiciary.

Mr. BERMAN. Mr. Chairman, I would hope the time will permit me to address some of the comments of the gentleman from Nebraska [Mr. BEREUTER], my friend, at the end of my statement because I think there is a response to some of those comments. However, I think initially I would just like to lay out the fact that this legislation has four components. It creates a statutory frame work which sets up the whole guidelines for granting safe haven status or temporary protective status, as it is referred to in the legislation. That is a proposal that the gentleman from Kentucky [Mr. MAZZOLI] and the gentleman from New York [Mr. FISH] have proposed several years ago. It passed this House with literally no opposition by a voice vote. It sets up the guidelines by which we would expect the Attorney General to review the situation involving nationals of different countries around the world and determines whether that status is to be granted or not. There are no such guidelines, as the gentleman form New York [Mr. FISH] pointed out earlier. This legislation deals with that issue.

Second, Mr. Chairman, it recognizes the very dangerous situation in which thousands of citizens of the People's Republic of China, who now reside in the United States, face in the wake of the Tiananmen Square June 4 snuffing out of the prodemocracy movement and their forces and their subsequent persecution.

Third, Mr. Chairman, it provides temporary protected status for the Nicaraguan people who are now in this country who fled from the Sandinista repression and from the civil war which we played such a critical role in financing and sustaining until very recently, and I think it is appropriate to point out the words of our colleague, the gentleman from Illinois [Mr. HYDE], on this subject in a recent dear colleague letter when he pointed out that, quote, "More than a decade of Marxist Sandinista oppression has left more than 150,000 Nicaraguans in the United States in uncertain legal status. Please join with me," he says, "in supporting this measure so that we can provide this short-term protection to the families of these brave freedom fighters," end of quote.

Finally, Mr. Chairman, it deals with the problem of hundreds of thousands of Salvadorans, people who have fled from a country which has already seen 65,000 people killed in that civil war, a country which still faces the assassination and bombing efforts of the FMLN, the torture and repression of elements of the army and the death squads that still exist in Salvador to this very day, reports which we get in our offices all the time that continue.

Mr. Chairman, all of these proposals together help to focus on a fundamental principle that has always been an ideal of this country. We do not deport people to countries where this kind of civil war or this kind of repression faces them. That is not the American way. That ideal has not always been lived up to. I would like to think of how many people might have been saved if this country and other countries had opened arms to the Jewish victims and other minority victims of the Nazi Holocaust in the forties, if we had a different attitude. I do not want to see that legacy continued in the case of the nationals of these particular countries.

Several points have been made. The gentleman from Florida [Mr. MCCOLLUM] talks about the case-by-case approach. But why was he not, and the gentleman from Nebraska [Mr. BEREUTER] not, down here railing when this administration and its predecessor administration gave and accorded blanket protective status to Ugandans, to the Polish, to the Ethiopians, to the Afghanistans? Is there something so different about the situation in the People's Republic of China, or the situation in El Salvador or in Nicaragua that says we cannot do it here? We should only do it there?

There is an argument that this will be a magnet. The fact is the terms of this bill limit that temporary protected status only to people who arrived in the United States before July 1, 1989. This is not an open invitation to come to the United States to protect their legal status. These people are here. These people will not go back where their lives and liberties are in jeopardy. We should give them the status to allow the processes to work through a period of time to pass, a chance to resolve the conflicts which have caused this threat to their existence.

Mr. Chairman, I support the bill.

Mr. SOLOMON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Indiana [Mr. BURTON], a member of the Committee on Foreign Affairs.

Mr. BURTON of Indiana. Mr. Chairman, I was not going to speak on this, but I heard the comments of the previous speaker, the gentleman from California [Mr. BERMAN], and he was

talking about the death squad in El Salvador.

Mr. Chairman, I had the opportunity yesterday to meet with the Salvadoran Ambassador, and the Salvadoran Ambassador told me that there have been 87, I believe, mayors who have been forced to resign because they get a letter in the dark of the night tacked on their front door saying that, "If you don't resign, the FMLN is going to kill you and your family within 4 hours."

□ 1410

So they resign. There have been 12 mayors down there who have actually been killed. The attorney general was blown up just recently by the Communists down there.

Mr. BERMAN. Mr. Chairman, will the gentleman yield on that point?

Mr. BURTON of Indiana. Very briefly, I yield to the gentleman from California.

Mr. BERMAN. My comments made specific and primary reference to the assassinations, the bombings, the threats by the FLMN guerrillas against citizens of El Salvador as the context for why this legislation is needed.

The gentleman has eloquently made the case for why people from El Salvador are truly deserving of temporary protective status.

Mr. BURTON of Indiana. When I walked in, I heard the gentleman talking about the right-wing death squads in El Salvador. That is what sparked my interest.

Mr. BERMAN. That was my second comment.

Mr. BURTON of Indiana. The point I want to make is that we as a nation open our arms to those who are fleeing oppression, and I think we should continue to do so. The young people fleeing China because of Tiananmen Square we should embrace and bring into this country and try to protect, and I think that policy should be universal where people are fleeing oppression, but if we have people who are fleeing the duly elected governments of those countries trying to protect its people from Communists——

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. SOLOMON. Mr. Chairman, I yield 1 additional minute to the gentleman from Indiana.

Mr. BURTON of Indiana. But if we are going to be incorporating into that policy people who are Communists or leftists who have been tearing up Jack in a country like El Salvador because the duly elected government down there is putting pressure on them, and they say, "We've got to get the heck out of here and go to the United States," those people in my view should not be granted asylum in the United States of America.

Mr. BERMAN. Mr. Chairman, will the gentleman yield on that point?

Mr. BURTON of Indiana. I will yield very briefly to the gentleman. I have only about 30 seconds.

Mr. BERMAN. This legislation is supported by the President of El Salvador, by the well-known Nicaraguan Resistance leader, Mr. Calero.

Mr. BURTON of Indiana. I get the drift of the gentleman's comments.

Let me just say, though, I think it is extremely important in a debate like this that we do not get into the right-wing death squads again, because we have been beating on that issue long and hard in the past. I do not think it does the gentleman's case or the gentleman's argument any good when we start raising that up again. We have a duly-elected government in El Salvador that the people support. They are against communism. We are against communism, and to raise that issue in this debate I think is improper.

Mr. MOAKLEY. Mr. Chairman, before I yield time to the next speaker, I just would like to call to the attention of the gentleman who just left the microphone a letter I have from the Salvadoran Ambassador, Miguel Salaverria, so I would hope that when the gentleman talked to the Ambassador yesterday, the Ambassador told him how necessary this bill was.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, as an original cosponsor of H.R. 45, I rise today to urge my colleagues to join me in supporting this important and urgently needed legislation. I also join with many of my colleagues in applauding the persistance shown by the gentleman from Massachusetts in his commitment to this human rights issue, and I commend the gentleman from Connecticut [Mr. MORRISON] for his leadership the Immigration Subcommittee.

The Chinese and Central American Temporary Protected Status Act of 1989 would provide Salvadorans, Nicaraguans, and Chinese currently residing in this country in irregular status with temporary protected status for the next 3 years. The legislation is supported by a broad range of groups, including major religious organizations, refugee groups, lawyers' groups, Chinese student associations, Salvadoran organizations and Nicaraguan opposition groups, and private voluntary organizations and labor unions.

Who among us would stand by while Chinese students, who so bravely spoke out on behalf of democracy and human rights last spring, were forced to return to a land whose government, if it does not have photographs of them protesting outside its Embassy and consulates in this country, will regardless look upon them with utmost suspicion simply because they were in the United States at the time of the demonstrations?

In regard to Nicaraguans, the U.S. Catholic Conference, representing all of the Catholic bishops of this country, notes that temporary protected status would offer them "the opportunity to be productive members of this society while waiting for conditions to improve in their homeland." Other supporters include Nicaraguan opposition leader and presidential candidate Violeta Chamorro and Contra leader Adolfo Calero, who calls enactment of H.R. 45 "essential to enable us to continue together the struggle for democracy in Central America."

Among those in support of extending temporary protection to Salvadoran nationals are President Alfredo Cristiani and Roman Catholic Archbishop Arturo Rivera y Damas. The U.S. Catholic Conference observes that with passage of H.R. 45, the violence which has inspired so many Salvadorans to flee their homeland "can be resolved without the increased social pressures brought by a mass return of Salvadoran nationals." In addition, imagine the possible consequences for Salvadoran democracy and United States national security should dollar remittances, which comprise El Salvador's second largest source of foreign exchange and play a vital role in keeping the precarious Salvadoran economy afloat, be severely diminished. I have visited that country and viewed firsthand the hardships and courage of the people—and vast human rights abuses.

Most importantly, H.R. 45 reflects one of our Nation's most widely respected and basic principles, that this country should provide safe haven to those individuals fleeing political persecution in their country of origin. I urge my colleagues to join me in supporting this important legislation.

Mr. MORRISON of Connecticut. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. WEISS].

[Mr. WEISS addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

Mr. McCOLLUM. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding this time to me.

You know, several years ago I was in El Salvador and there were copies of the papers down there with page after page of ads from people who had a business of bringing El Salvadorans to the United States, promising them work. Most of that was being done legally, or illegally from the standpoint of our laws, but the idea was not that they were escaping anything political, the fact is that what they were doing was coming here in hopes of finding

economic opportunity. No one should doubt that some of the people in countries which are poor seek economic opportunity in the United States.

What fascinates me is as I go through this bill I find no difference with those people who came here purely to find jobs in this country at the expense of American workers, and those who came here because of political problems.

It appears to me that what we are going to do, we are going to grant a permanent status to people who came here, not for any political reasons, but for economic reasons, depriving American workers of jobs.

□ 1420

The question becomes: Just what are we doing? If we have an immigration bill and we have somebody who wants to legally immigrate to this country, we make them go through hell to come to this country. We have to be assured that the job that they want to take in this country is a job that no American is qualified to do. We have put them through a torture test, and yet in this bill what we are saying is virtually everybody who came across the border for purposes of finding work is now going to be granted a brand new status in this country. I have problems with that.

It may well be in the case of the Chinese students who are here who have real political problems we ought to find a solution. I am not certain that this is the right solution to even their problems, but I know it is not a right thing to do to say to American workers, "We are going to put you out of a job because we are granting new status to people who came here to take your job away from you in the first place," and then if I read this bill correctly, it sounds to me as though those same people, having gotten the status to be here, will be counted in the new census for congressional representation. So that now we have created not only a problem because we are counting illegal aliens, we are now also going to have a new group of people here, thousands of whom have come into this country who are now going to be counted in the census for purposes of making up the House of Representatives in the next Congress. Does that make sense?

Does it make sense that we bring a bill to the floor that takes people's work away from them and then also takes their representation away from them? I have a real problem with this bill, and it seems to me to bring it out here under a closed rule so we do not have a chance to amend it, so we do not have any chance to deal with some of these issues, where it might have been a logical amendment, for example, to have an amendment to the bill that says that they at least have to be here for the purposes of real political problems and not to take American workers' jobs away from them, and then there ought to be an amendment in the bill that says they cannot be counted for purposes of representation in the Congress. But we are not able to do any of that, because it is a closed rule.

I would suggest to the people before they vote for this bill to look at it very carefully. They are going to find some things that disturb them.

Mr. McCOLLUM. Mr. Chairman, I yield 3 minutes to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Chairman, I strongly urge the rejection of H.R. 3506 because it is as an all-or-nothing proposition. This bill is significantly different from H.R. 45 and H.R. 2929.

For those of us who witnessed the Chinese Government's ruthless elimination of the prodemocracy movement, none of us can deny the importance of allowing the Chinese students safe haven in the United States. However, linking the Chinese with more than 1 million Salvadorans and Nicaraguans who came to this country illegally is wrong. And as a matter of fact, provision for the Chinese students is being made under a bill now in conference and introduced by the very able gentlewoman from California [Ms. PELOSI].

The cost of this bill will be enormous. The original proposal in H.R. 45 said aliens shall not be eligible for any program of public assistance under Federal law, but H.R. 3506 says aliens will not be eligible for any cash assistance, that is a big difference—they can qualify for State assistance. CBO estimates the cost of this could run as high as $260 million in the first 2 years. Mr. Chairman, I can tell the Members that my constituents will not abide by it.

We have heard too many times the word "temporarily" only to see it become permanent later on down the road.

Further, the Attorney General will be granted authority to grant temporary extended voluntary departure status to aliens of other nations. This power should be retained in Congress for the truly extraordinary situation that do on occasion happen, such as the Chinese students.

I want to remind my colleagues, as did the gentleman from Pennsylvania [Mr. WALKER], that passage of this bill means you are legalizing in excess of 1 million people and, for the purposes of the census, you are including enough people for two congressional seats. This means 48 States are going to suffer in the allocation formulas of the distribution of moneys due under Federal programs.

I urge a vote against this well-meaning but ill-advised measure.

Mr. MORRISON of Connecticut. Mr. Chairman, I yield 3 minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I want to rise in strong support of this bill. It requires the Justice Department to designate nationals of other countries, if the country is part of a situation where the people are experiencing armed conflict or disaster or unsafe conditions. It also extends or replaces the extended voluntary departure—deferred departure programs related to people from China, El Salvador, or Nicaragua who are in the United States so they can become a participant in this program.

Mr. Chairman, I know that the gentleman has worked very, very hard on this bill, and I want to compliment him and the chairman, the gentleman from Massachusetts [Mr. MOAKLEY], who has worked about 8 years trying to get the situation straightened out with those individuals from El Salvador and other Central American areas so they can have a certain degree of harmony in their lives and remain in the United States in their quest for freedom and human rights.

I did want to say, though, that I am hoping that the bill does cover, and as the Members know, I wanted to offer an amendment, for those Lebanese nationals which I and the gentleman from Kansas [Mr. GLICKMAN] have tried to assist, those individuals who cannot return to Lebanon because of the conflict that they are experiencing in that poor, troubled country, and that we could provide a temporary haven for the nationals of countries that are experiencing such great tragedy. I was hoping we could specify Lebanese nationals, but we were not able to get the rule, and that is all right, because I did not want to do anything to jeopardize this bill.

I am hoping that in the caveat in the bill that relates to other nationals that the immigration authorities, that the Justice Department and the immigration authorities will frankly not be prejudiced toward those individuals who are from that troubled country.

The fact is that many of them have their visas that are expiring, and if they go back and we can document some of the anecdotes that have happened, that if they go back, some of them really are in great straits concerning their safety and have experienced violence. They are decent people, and they care about this country, and they love their roots. Ultimately they want to go back, but it is unsafe for them, so I am hoping by putting this statement in the RECORD in supporting this legislation that we can assist those individuals from Lebanon as well.

Mr. SOLOMON. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. GILMAN], a distin-

guished member of the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Chairman, I rise in support of this legislation designed to protect displaced aliens from certain foreign nations currently experiencing intense violence and extraordinary human rights violations (H.R. 45). Permit me to commend the gentleman from Massachusetts, [Mr. MOAKLEY], the chairman of the Committee on Rules and the sponsor of this bill, as well as the gentleman from Connecticut, [Mr. MORRISON], the chairman of the Judiciary Subcommittee on Immigration, Refugees, and International Law, for his leadership on this and so many other important issues before the subcommittee's jurisdiction.

Mr. Chairman, this legislation represents an important effort to reaffirm our Nation's longstanding call to those seeking freedom around the globe. We need only look to the origins of our Nation to wonder whether we need support this measure. America has long sent out a beacon of hope and opportunity to oppressed peoples throughout the world.

This legislation would reaffirm that commitment to our human brethren who face the threat of slaughter or the strife of civil war in their own native lands. China, Nicaragua, and El Salvador certainly stand out as compelling examples of nations ravaged by extreme civil strife and unsettled conditions. We are well aware of the disgraceful human rights violations which have taken place and still currently persist in these three nations. It is therefore past time that we grant Chinese, Nicaraguan, and Salvadoran foreign nationals residing in the United States with 3 years temporary protected status, as H.R. 45 will require.

Accordingly, Mr. Chairman, I urge my colleagues to join in supporting the Chinese and Central American Temporary Protected Stability Act of 1989.

□ 1430

Mr. MOAKLEY. Mr. Chairman, I yield myself 1 minute to answer some of the questions. The gentleman from Pennsylvania talked about people coming here to take jobs away. I would just like to announce to him and others that this bill is endorsed by a variety of unions, including the AFL-CIO. Therefore, the largest unions in this country are not afraid of anybody taking their jobs away.

Second, the gentleman from Florida [Mr. LEWIS] said that we should not be putting this yoke onto cities and towns and States without their participation.

I have a letter from the mayor of Miami, Xavier Suarez, who says:

As one of the mayors of the cities affected by the present Salvadoran and Nicaraguan nationals who have fled the wars and destruction which have devastated their homelands, we are writing to urge your support for the Moakley-DeConcini bill, H.R. 45.

So, we do have someone on the home front, who is right in the middle of it, writing to accept his share of the burden.

Mr. Chairman, I yield 2 minutes to the gentleman from Maine [Mr. BRENNAN].

Mr. BRENNAN. Mr. Chairman, I rise today in strong support of Mr. MOAKLEY's legislation which addresses the plight of those displaced nationals from China, Nicaragua, and El Salvador who have good reasons to fear returning to their native countries.

During this decade, the combined violence in these three countries has claimed the lives of an estimated 100,000 people, and has prompted the exodus of over 1½ million more. The Central American refugees who have come to the United States to escape the constant threats that war poses are presently subject to deportation unless they can establish a "well founded fear of persecution."

This kind of individually based test is simply inadequate to the situation we face. Citizens of war-torn nations rarely have the ability to demonstrate that they have been singled out by forces in their native countries. Rather, in places where civilian lives are routinely taken, the United States should be more helpful as a nation to these refugees.

Overall, we need to address current inconsistencies regarding who may find temporary refuge in our country, for how long, and with what privileges and restrictions. At best, the present process of extended voluntary departure is ambiguous. As a nation, we cannot afford to send the kind of mixed messages which result from a vague or arbitrary policy. As we Americans witness and applaud the great rush of East Germans to gain freedom in the West, we must carefully consider how our country will be viewed by turning away these needy refugees from China, Nicaragua, and El Salvador.

It is for these basic reasons that I am a consponsor of this measure, and it is for these reasons that I urge my colleagues to vote for its passage.

Mr. SOLOMON. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana. [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, the legislation is going to cause a lot of problems as respects unemployment in this country. The legislation says the people from these three countries can come in if the Attorney General finds that there is an ongoing armed conflict within the state and due to such conflict requiring the return of aliens who are nationals of the state to the state would pose a substantial threat to their personal safety.

It is my belief there are 3 million people left in Nicaragua and about 3 million people in El Salvador. What the legislation is doing is opening up the floodgates to the people. Anybody that wants to come up here fleeing that country can do so.

Mr. MORRISON of Connecticut. Mr. Chairman, would the gentleman yield on that point?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. The gentleman from Indiana is mistaken. The legislation is clear. No one in entitled to the status who came to the United States after July 1, 1989. Beyond that the legislation is specific that this does not grant anyone a right to enter the United States in this status. So the gentleman is just mistaken.

Mr. BURTON of Indiana. The gentleman does not believe that this is setting a precedent that is going to lead to that? How are we going to keep people out who make the same claim with their families?

For each 1 percent of unemployment in this country, it costs the taxpayers $42 billion—$42 billion. If we get 2 million people coming into this country as a result of conflicts in those areas, and I might add some of the decisions this body made prior to this time have led to a migration of people from there, but if we get 2 million people coming into this country, it is going to increase unemployment 2 to 3 percent. That adds about $126 billion to the deficit that we face.

The supporters of this legislation say this is not going to happen because there is a date in here. But I will say it is setting a precedent, and that precedent will be followed in the future if we pass this legislation.

The point is, we have in place an immigration procedure that can be followed and has been followed to take care of people who are fleeing oppression. For this body to set this new precedent, to pass legislation like this, is going to exacerbate a very bad situation. We have a tidal wave of people trying to get into this country all the time, and in my view this legislation is going to exacerbate the situation.

Mr. MOAKLEY. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding. Again I want to commend the chairman of the Judiciary Committee and the chairman of the subcommittee for their hard work bringing this legislation to the floor, and to reiterate my support for it.

I thank my colleagues on the other side of the aisle for their kind com-

ments about my legislation, H.R. 2712. But it is not complete. It is a good first step. This legislation is necessary.

It is a particular pleasure for me today to participate in the debate on this bill, because when I came to Congress the first speech that I made was in support of the then so-called Moakley-DeConcini bill, elements of which are contained in this bill today.

At that time I said the violence in those countries, for whatever reason, placing no blame right or left, we do not want violence from the right or from the left, but for whatever reason they were in this country. An important reason to pass that bill and this bill is so that the Americans ministering to the needs of the Salvadorans, the Nicaraguans, and now the Chinese in this country, can do so without being in violation of United States law.

So I urge my colleagues to support this legislation.

Mr. SOLOMON. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I just wanted to respond to the gentleman from Massachusetts who pointed out that the labor unions are supporting this bill.

Somehow that does not surprise me. The jobs these people are coming up and taking are not jobs that come from labor unions. The fact they are here in an illegal status at the present time probably means that they would have a hard time joining a union. So there are not union jobs they are taking.

But union jobs only represent 15 to 20 percent of the jobs in this country. The jobs these people are coming in and taking are the jobs from the poorset of the poor in this country. They are jobs at the bottom end of the economic scale. So the people they are forcing out are people they are forcing onto our welfare rolls for the most part.

It seen to me this is a real tragedy, that what we have is people coming in, taking jobs away from the people at the very bottom of the economic scale.

Of course, the unions are not particularly worried about that. They are more worried about making political points with this particular bill.

I have got a real problem with the idea that there are people in the poverty status in this country who are being adversely impacted and will continue to be adversely impacted. The gentleman from Indiana is absolutely right. Once we send a signal that if you get here at some point the U.S. Congress may protect you, we are certainly going to send a signal throughout Central America that it is worth the risk, whatever risk that involves, in getting to the United States, it is worth it because ultimately the U.S. Congress may declare you a political refugee and therefore give you protected status in the country.

I think that bodes ill for the future employment patterns in the United States.

□ 1440

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Nebraska.

Mr. BEREUTER. I thank the gentleman for yielding.

Mr. Chairman, I think there may be one other point we ought of clarify at this point. Of course, the Salvadoran president, President Cristiani, supports this bill. He has enough problems down there already. Of course, the Salvadorans in this country are the largest single source of hard currency coming into El Salvador as they send money back to their families, understandably.

Also, we could expect support from the Nicaraguans. After all they are happy to have a lot of the people who have left Nicaragua here in the United States as opposed to Nicaragua.

Mr. WALKER. I thank the gentleman for his statement. I would like to make the point that if in fact there is hard currency coming back from the United States going into El Salvador, the fact is that it shows that there is money being earned in this country that is coming out of the hide of some American worker. I mean you just cannot have it both ways. So if in fact that is the hard currency flow that helps make the case, that that is exactly what is taking place as these people come here. They are not here as political refugees. They are here for the economics of taking a job that is much better than anything they can get back in El Salvador and they are sending the money home.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

I would like to make one point as to this July 1 date: It is very hard to determine how long a person has been in this country illegally because in many parts of the country they get jobs where the income is not reported by the employer, there is no social security tax or income tax withheld, and they live in coldwater flats, four, five, six, seven people to a room. They could say they have been here since before July 1 when, in fact, they just arrived in this country.

There is no way to be accurate about the date that they arrived.

I submit to you that you are opening the floodgates to a lot of people who come up here to find employment, knowing that they are going to get refugee status. There will be no way to determine when they got here.

Mr. WALKER. I thank the gentleman further. I do not think we are going to find very much in the way of immigration records at the border as to when they came across. So the fact is that the July 1 date may be fairly meaningless in its application.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

At the proper time I will ask to include a statement from Congressman SMITH of Texas, who is the ranking member on this subcommittee who is unavoidably absent.

Mr. Chairman, we have heard a lot of discussion today on this bill. I would like to make a couple of points trying to drive this home and in wrapping it up: One of them is that the Salvadoran President might be for this bill but our President is against it. I think the comments made make it abundantly clear why.

We cannot as a nation go around giving economic relief in this fashion to every country that happens to be an ally of ours.

I have great respect for the country of El Salvador and its President. I have often stood on the floor of this House and argued cases for them, in fact one earlier this year. And I will continue to do so.

But we just simply do not have the resources here in this country to be able to spread it around and provide that kind of economic assistance.

Second, I would like to make the point that with regard to the Chinese, the fact of the matter is that I have a letter in my hand from the Attorney General directing the immigration commissioner last June to defer all of the deportations of the Chinese for at least 1 year. That discretion clearly is in the hands of the administration now.

The Committee on Rules' report even in its body acknowledges that fact that the Attorney General has the power to do everything not only for the Chinese but for El Salvadorans, if he wants, and for the Nicaraguans.

The issue is whether we are going to dictate today, whether we are going to order the administration to do something it does not choose to do, whether we are going to violate the existing rules we set up in 1980, less than 10 years ago, as to how we handle such matters.

There is no reason to do that. I am sympathetic with the Chinese students and with the Chinese people just as you are. We have a bill that is over in the Senate today that removes the little difficulties, technically, that are there. The gentlewoman from California produced it, and, as I said and as she said earlier, I supported that wholly. It ought to become law, and it will be shortly.

One of those difficulties was the residence requirements that said that J-visa students over here had to return to China. They do not have to return anymore once that bill is passed.

There also is the working question, whether or not the M-visas, the J-visas, the F-visa holders could work in this country if they stayed here, and they were Chinese. That bill corrects that problem.

Now it is true that her bill does not go as far as this bill does for Salvadorans and Nicaraguans, as the Chinese. But I do not think any bill, whether it is the Nicaraguans, the Salvadorans, Chinese, Hungarians, Norwegians, whoever, ought to go as far as this bill does.

The bill before us today is bad policy.

The bill before us today is designed primarily to make country-specific exceptions to the Refugee Act of 1980. It is going to impose it for the first time we have ever done that statutorily. We are going to say, if we pass this bill today, that the three countries, El Salvador, Nicaragua, and China, the Attorney General is ordered regardless of any questions of whether a person is in fear of persecution because of religious or political or other benefits if he is returned to his homeland, regardless of that question, the Attorney General must indeed keep these people here for the 3-year period specified. And presumably we will hear about lots of people here before the 3 years are up asking for us to keep them here a lot longer and given them permanent resident status, so on and so forth.

This bill breaks down that fabric that we set up before. That procedure is real clear. Under the Immigration and Refugee Act of 1980, if you want to seek political asylum, if you are in fear of persecution, if you are from an oppressed nation where war is going on or there are problems over there, you have a process. Each case is reviewed individually, case by case by the Attorney General's representative, in this case the Immigration and Naturalization Service, with all the rights of appeal and everything else that we put out here on the floor in the past.

If that is not enough, we have given the power, the Attorney General in fact has exercised the power in the case of the Chinese, for the Attorney General or the President to go ahead and defer the deportation and not deport people from whole nationalities, if indeed that helps. That is precisely already in the law.

What this bill would do, though, is to say that 800,000-plus Salvadorans, 200,000 Nicaraguans, about 45,000 Chinese or so, are going to have special treatment, by law, by statute, regardless of existing law and regardless of their condition, whether they're here legally or illegally or otherwise; we cannot deport them under this bill. That is wrong. It is not necessary. It is wrong.

The main thrust of this bill has always been the Salvadoran question. It arose out of debate that has gone on on this floor for years and years and years; a very high percentage, somewhere around 20 percent of the Salvadoran population is currently in this country. That is the engine that is driving this bill, not the Chinese, not the Nicaraguans, there should be no mistake about it.

We have no business going about granting a special provision of amnesty for about 20 percent of the people of El Salvador in this country.

We have a lot of business helping the people and it's economy and helping that president of that country and making democracy survive down there, but we have no business breaking our immigration laws, breaching the kind of structure we set up and providing for special relief under very exceptional laws for almost a million Salvadorans to stay here, plus whatever relatives eventually come here and so on. It is wrong.

The human rights violations of years ago are not taking place now. I submit to my colleagues that what we ought to be doing is to pass no bill here today, to go with the Senate and the House conference committee report on the Chinese students, support the administration. It opposes this legislation.

We should defeat with an unequivocal "no" vote H.R. 45. I urge my colleagues in the name of common sense and responsible immigration laws not to open the doors to more illegal immigration and the magnet effect that we tried to close down, but to close that door by voting "no" today on H.R. 45.

Mr. Chairman, I yield back the balance of my time.

Mr. SOLOMON. Mr. Chairman, I yield back the balance of my time.

Mr. SCHEUER. Mr. Chairman, I would like to address myself to the 70,000 Chinese students who are earning higher education degrees in the United States and carving out the foundation for productive careers in advanced and emerging industries.

I am proud to represent a large Chinese community centered in and around Flushing, Queens. I have been privileged to meet with the members of our Chinese community again and again since the tragedy at Tiananmen Square.

My constituents know first hand that the Chinese students studying in the United States are trapped by cataclysmic events utterly beyond their control If they were forced to return to China many of them would join the 10,000 activists who have already been jailed, and some of them may yet be executed.

Many of these young people have been in the forefront of the student struggle for democracy movement when in China, before the June 4 massacre, and across the length and breadth of America after the June 4 massacre.

The prospects which may await them are horrifying. It would be unconscionable, unthinkable and horrifying to force the students to return to China under these circumstances or to let them linger in uncertainty, fearing that they may soon be forced to return.

Most of the Chinese students in the United States are already making a unique contribution to our college campuses and American society as they excel in their studies of science, math and engineering, and the performing arts.

Mr. Speaker, if China will not welcome their students, who will help lay the foundation for the 21st century, then we should and must.

Mr. MORRISON of Connecticut. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this legislation in no way undermines our existing immigration laws. It, in fact, gives codification and legal standard to the idea that some individuals need to be here temporarily for their own protection, not because they will individually be subject to persecution because they are a member of a particular group, politically, religiously or socially, but because their country is torn by war or because the situation in their country in terms of national disaster requires that protection.

Their House unanimously approved by voice vote just this kind of legal structure in the last Congress.

I do not see how anybody can be against the creation of that kind of legal structure.

The extended voluntary departure power is created of whole cloth by the administration; it says that it is a matter of prosecutorial discretion. That is an inadequate basis for this kind of temporary protected status.

There ought to be a statutory structure. This bill creates that kind of statutory structure.

The students who are here from China and other Chinese Nationals will get relief from the 2-year return requirement by the Pelosi bill, and that bill, I hope, will be on the floor in the form of a conference report by next week. But they will not get any right to remain in this country by virtue of that waiver.

□ 1450

All that removes is the right of the Chinese to require them to come back. Whether they can stay in this country depends on this legislation.

As for other countries besides those enumerated in this legislation, if there are other worthy countries, then those countries will be able to be denominated in accordance with the standards of this legislation by the Attorney General.

Some have suggested that asylum is the answer. Asylum is not the answer for two reasons. No. 1, this is a differ-

ent program. This is a program of temporary residence, and it is not individuals who have necessarily faced individual persecution, but they face generalized risk to life and limb by returning to their country. Second, we have a 90,000 backup in applications for asylum in this country. These people are going to stay here, awaiting asylum determination. In what status will they remain here? Some have suggested that these people ought not to be here, some of them, that they may have come illegally. That does not answer the question as to whether or not they are going to be sent back.

The fact is that we have a substantial problem in this country that the INS is not deporting criminal aliens. There are criminal aliens in the prisons, and they are released from prison here in the United States, and are not being deported. Now, I wonder where the resources are, if we do not have the resources to deport convicted criminals, that we are going to deport these tens of thousands of individuals? If we are not for designating these individuals to stay here in a legal status, then we must be for deporting them. I would like to see those who are so strong in their statements about not giving these people a legal structure in which to survive in this country, to stand up to be counted for the resources in the programs to deport these individuals. Then maybe their arguments can be taken seriously. If we are not willing to step up to that plate, then they are not really talking about common sense. The fact is that the continued presence of these individuals in this country outside of the legal framework, outside of registration, work authorization, that is the circumstance that undercuts the economic conditions of American workers. It is the underclass worker, and it is the lack of registration and work authorization that undercuts enforcement of IRCA.

We know that we are going to have these large numbers of individuals in our country for an extended period of time, because it is unsafe for them to return home. This legislation gives Members an opportunity to regularize their status, and to actually set a time limit on their continued presence in the United States and to have their names, and to know their addresses by the registration provisions, so that as the period expires, we can then take the necessary steps to send these individuals home.

The fact is that this is creating a better and stronger system of legal immigration. This is not an undermining of the Refugee Act or the immigration laws. It is a strengthening. It is taking responsibility in the Congress for doing what the administration has failed to do, to recognize that for Salvadorans, Nicaraguans, and Chinese, to return home at this time is to take into one's hands the risk of losing one's life, or being seriously injured. We should not allow the administration to make that mistake, because we can prevent it. The fact that we are legislating about those three nationalities is just the kind of power that resides in this body to do justice when it is required. I think this legislation does all of that. Once again, I thank the chairman of the Committee on Rules for putting it together in a form that accomplishes so much in one piece of legislation.

Mr. MOAKLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank all those who participated in the debate, this fine debate. We do have some differences of opinion, but I think the debate was worthy of the matter before Members. I also would like to thank the chairman of the subcommittee, the gentleman from Connecticut [Mr. MORRISON] for his untiring work on this effort. He has made a great contribution.

Mr. Chairman, America has long stood proud as a beacon of freedom for oppressed peoples throughout the world. However, there have been dark times in our own recent history when we have turned our backs on those in need of safe haven. The enactment of this legislation today will help us regain our traditions and strengthen our leadership for freedom and democracy in the eyes of the international community.

Many Members of this body, like me, have met with men, women and children who have been victims of repression and civil war—individuals who have suffered serious injury, lost family and friends, or escaped from violence. Most of these people are the innocent. They need and deserve the modest protection which H.R. 45 would accord them.

They don't ask for much. This is the least we can do.

To the opponents of this bill, I ask you to reconsider your position. Let me be clear that my intent is humanitarian and practical—not political or partisan. We have occasionally had our differences on U.S. foreign policies toward Central America. But let us put those aside in the name of the national interest.

The people this bill would cover are mainly common people. They are citizens of China or Nicaragua or El Salvador who seek the generosity of our country. They hold many political views—as do our people. They share a need for temporary protection. There is no partisan objective in responding to their appeal.

To those of you who argue that this bill will simply create illegal or uncontrolled migration—I say you've got your facts backwards. It is war and oppression which create exiles and refugees—not this bill. And I hope that we can work together to help resolve the root causes of flight.

This bill recognizes the current reality that perhaps 750,000 exiles are already here in the United States. Many are underground. Very few have benefited from political asylum—which has not been fairly administered. Most are afraid that they will be forcibly returned to the hostilities in their homeland.

I believe it is in our national self interest to bring these refugees out of the shadows and to give them an opportunity to remain temporarily—as well as a reason to present themselves to the appropriate authorities. Enactment of H.R. 45 will help us regulate and control the presence of these people.

Our current policies have failed—it's time for a change.

We've spent $30 million on detention facilities to imprison Central Americans whose only crime has been to seek political asylum. This policy has solved nothing—it has only swept this tragic human reality under the rug. These failed policies may sound tough and look tough, but in truth are ineffective and inhumane.

This bill will not be a magnet. It only applies to people here before July 1, 1989. And I'll see to it that everybody understands that fact—including the governments of the region.

So, we have a choice. We can maintain the status quo by defeating this bill and seek to deport 750,000 refugees. We all know what that will mean: more human suffering; more taxpayer money wasted, less dignity in the eyes of the world, and the same of future generations. Or we can make the right decision and provide leadership. Enactment of this legislation does honor to our refugee traditions and it establishes our ability to enact wise policies on tough issues.

I have heard it said that if we enact this bill, the people covered will stay here forever. Well, I don't know about all of you, but I have had long conversations with these exiles from China, Nicaragua, and El Salvador. Over the years, I've come to know these people very well. They are patriots; they love their countries; they cherish their heritage; they value their culture; and they believe in democracy. I am certain that many, if not most, dreams of the day that they can return to the land where they were born, with the hope of building a better life.

And yes, the United States is a great country, and sure, some people who have come here in fear will hope to remain. But I believe a substantial majority will return voluntarily and this bill provides a mechanism to ensure this result.

Mr. Chairman, we are talking about human beings—men, women, and chil-

dren. This bill is not about cargo; it's not about arms; It's not about foreign policy; it's not about anything except human beings. These are people who need our help and we are in a position to help them. It's about men and women who don't ask for much—and this bill really doesn't give them much. It's about men and women who simply ask us to do unto them as we would want them to do unto us if our families had been uprooted by war or if our children had watched 3,000 of their fellow students gunned down on a dark night in June.

Mr. Chairman, El Salvador is about the size of Massachusetts. 70,000 civilians have died there in 10 years of war and violence. I know that the people of Massachusetts would be spread throughout New England if my State had endured 10 years of war.

The people of my district, like the people of yours, have great compassion and understanding when they know the facts, and when they see the faces and hear the voices which lie behind the facts.

A vote for this bill is good immigration policy. A vote for this bill is in the humanitarian interests of those it seeks to protect. And a vote for this bill honors our values and our traditions.

Support H.R. 45.

Mr. Chairman, the text of the bill before the House today represents a "merger" of two bills, H.R. 45 and H.R. 2929—both of which the House Judiciary Committee approved on July 28, 1989. The Judiciary Committee ordered H.R. 45 favorably reported, with an amendment in the nature of a substitute, by a recorded vote of 20 to 14; it ordered H.R. 2929 favorably reported, with an amendment in the nature of a substitute, by a voice vote without objection.

PURPOSE OF LEGISLATION

The purpose of H.R. 45, as amended, is to establish a statutory framework governing the sole and exclusive authority of the Attorney General to grant "temporary protected status" to aliens in the United States who the Attorney General determines should be allowed to remain temporarily because of generalized violence, civil strife, natural disasters, or other unsettled conditions in their home country. The bill estabishes a statutory framework governing under what circumstances the Attorney General is authorized to grant temporary protected status and the identification, processing, rights, and responsibilities of aliens protected.

The bill also provides temporary protected status for 3 years to nationals of China, Nicaragua, and El Salvador who register with the Immigration and Naturalization Service, prove that they have resided continuously in the United States before July 1, 1989, have not been convicted of a felony or two misdemeanors, and are not otherwise excludable from the United States on specified grounds.

HISTORY OF LEGISLATION

The basis structure of H.R. 45, as amended, derives from a bill H.R. 2922, which passed the House on the suspension calendar in the 100th Congress. This measure, introduced by Representatives MAZZOLI and Mr. FISH, "would have established a mechanism to allow the Attorney General to authorize aliens whose homelands are undergoing crises to remain in the United States temporarily." (Report 101-245, 101st Congress, first session). The Senate did not act.

This Fish-Mazzoli bill provided the basis for Mr. MORRISON'S introduction this Congress of H.R. 2929; whose cosponsors include Congressmen FRANK, BERMAN, FISH, SMITH of Texas and BARTON.

Like the Fish-Mazzoli proposal, H.R. 2929 establishes a generic legal framework authorizing the Attorney General to grant temporary protected status under certain prescribed conditions. In addition, H.R. 2929 grants such temporary protected status to Chinese nationals currently in the United States. See generally Report 101-245, 101st Congress, first session.

H.R. 45, as amended, incorporates many of the provisions of H.R. 2929 regarding a mechanism to confer temporary protected status and application for 3 years of this temporary status to Chinese nationals. H.R. 45 also applies a 3-year temporary protected status to Nicaraguans and Salvadorans who register with the INS and establish they have been here before July 1, 1989.

This program would end 3 years from date of enactment. The GAO would be mandated to prepare reports regarding conditions in China, Nicaragua, and El Salvador relevant to the purpose of the legislation.

As set forth in the report of the Committee on the Judiciary, 101st session, report 101-244 (pp. 5-6), H.R. 45, as introduced, was a successor bill to H.R. 4447 in the 98th Congress, H.R. 822 in the 99th Congress, and H.R. 618 in the 100th. H.R. 618, which provided 2 years of relief from deportation to Nicaraguans and Salvadorans passed the House on July 28, 1987 by a record vote of 237 to 181. H.R. 45, which I introduced this Congress, was favorably reported on July 28, 1989 by the full Judiciary Committee.

NEED FOR LEGISLATION

The reports of the Committee on the Judiciary which accompany H.R. 2929 and H.R. 45 set forth in detail the need for the legislation. These reports detail the conditions of war, human rights abuses, destruction, and fear which confront the peoples of El Salvador and Nicaragua. The reports retell the tragedy and massacre of Tiananmen Square and repression which continues in China. The reports also explain the history since 1960 of the granting of the administrative equivalent of temporary protected status to nationals of over 14 countries, and the central need for legislative reform of this heretofore purely administrative power.

Taking account of the strong legislative record and bipartisan support for the several proposals in H.R. 2929 and H.R. 45, the Rules Committee has allowed for the various legislative initiatives to be merged into one text for floor consideration. H.R. 45, as considered by the House, contains the basic provisions of both H.R. 45 and H.R. 2929. It addresses each of the purposes of predecessor bills as set forth in Judiciary Committee reports 101-244 and 101-245, and Rules Committee report 101-244, part 2.

Analysis of H.R. 45, as Considered by Full House

I. TEMPORARY PROTECTED STATUS IN GENERAL

H.R. 45, as considered, sets forth the circumstances under which a grant of temporary protected status [TPS] would be appropriate, imposes certain notice and publication requirements on the Attorney General concerning TPS decisions, and describes the rights and responsibilities of aliens from countries whose nationals have been accorded TPS. The bill in no way modifies the refugee, asylum, or withholding of deportation laws of the United States, nor does the bill itself provide TPS to any particular groups of aliens, other than to Chinese, Nicaraguan, and Salvadoran nationals.

H.R. 45, as considered, vests the authority to grant TPS in the Attorney General, after consultation with appropriate agencies of the Federal Government. The Department of State would be one such agency, though other agencies may also be appropriate, depending on the circumstances.

TPS may be granted to aliens of a foreign country if the Attorney General finds that, first, there is an ongoing armed conflict within the aliens' home country and the return of aliens to that country would pose a substantial threat to their physical safety; or, second, there has been an environmental disaster—whether natural or man-made—in the aliens' home country that has resulted in a temporary but substantial disruption of living conditions in the affected area, and the home country would be unable to handle adequately the return of those aliens, and the home country has officially asked the United States to grant TPS to its nationals; or, third, other extraordinary and temporary conditions exist in the aliens' home country that endanger physical safety, unless permitting nationals of that country to remain here temporarily would, for clearly articulable reasons, be contrary to the national interest of the United States.

H.R. 45, as amended, does not create an admissions program. It is designed to protect individuals already in the United States and gives no alien any right to come to the United States.

The bill requires the Attorney General to publish notice and findings of fact in the Federal Register whenever he decides to, first, grant TPS; second, extend a previous grant; or, third, terminate TPS. In the Attorney General's discretion, TPS may be granted for as few as 6 months or as many as 18 months, and extensions may be made in 6-month, 12-month, or 18-month increments. Moreover, the bill gives the Attorney General authority to decide that only those aliens in the United States as of a specified date shall be eligible for TPS. The Attorney General may terminate TPS at any time, but under no circumstances can a termination of TPS become effective prior to 60 days from the date of the announced termination or through inaction on the part of the Attorney General. TPS, however, can be withdrawn immediately in individual cases if the Attorney General finds that a par-

ticular individual was not, or is no longer, eligible.

The legislation also makes clear that an individual need not relinquish any other immigration status the individual may have in order to receive TPS, nor shall the request for TPS or its conferral be considered inconsistent with any other immigration status. In the case of an alien who receives TPS while also maintaining some other status it is the committee's intent that the alien remain subject to the terms and conditions of that status but only insofar as those terms and conditions do not impinge upon rights conferred by TPS.

Once a country has been designated, aliens in the United States from that country, whether here legally or illegally, who wish to receive TPS will be required to register and pay a one-time registration fee of up to $50 to defray adjudication costs. They will also be required to reregister annually. No alien will be granted TPS if he or she is found excludable under those provisions of existing law related to criminals—paragraphs (9) and (10) of 8 U.S.C. 1152(a)—drug offenses—paragraph (23)—national security—paragraph (33). In addition, no alien who has been convicted of a felony or two misdemeanors in the United States is eligible for TPS. Regarding medical screening for dangerous contagious diseases, H.R. 45 establishes a general principle that medical screening should be performed, although this requirement may be waived by the Attorney General.

Aliens who have received TPS are to be provided work authorization documents. With limited exceptions, however, they will not be eligible to participate in programs of public assistance furnished under Federal law. There shall be no judicial review of the Attorney General's determination with respect to the designation or termination or extension of a designation, of a foreign state under section 101(b)(2). Judicial review of applications by individuals seeking to register for TPS shall be consistent with section 101(b)(7)(B).

The bill specifies that this legislation is intended to supplant section 242(b) of the Immigration and Nationality Act—the basis for EVD—as the sole and exclusive authority under which safe haven may be provided. Moreover, the legislation does not permit the Attorney General to craft a different safe haven program for an entire class of people on the basis of any alleged prosecutorial discretion. And finally, in the event that the Attorney General is compelled to parole temporarily into the United States a significant number of arriving undocumented aliens—as occurred, for example, during the 1980 Mariel Cuban episode and during the Haitian influx of the late 1970's and 1980's—the arriving aliens shall be treated as applicants for TPS and not as parolees.

H.R. 45 requires the Attorney General to notify aliens potentially entitled to TPS of their rights and responsibilities under this bill, including eligible persons subject to a deportation order or deportation proceedings. Aliens who establish in their registration application a prima facie eligibility for TPS shall be accorded work authorization and shall not be detained or deported pending a final INS determination on their eligibility for TPS. The Attorney General shall establish a fair and expeditious system for administrative review of denied applications for TPS and eligibility for TPS may be raised as a defense to a deportation order.

The Attorney General shall conduct an effective public education and outreach campaign to inform eligible persons of their rights and responsibilities under this legislation. The Attorney General is encouraged to cooperate with local governments, employers, and community agencies in implementing this outreach campaign.

It is the intent of the authors of this legislation that in determining eligibility for TPS the Attorney General shall instruct the INS to establish fair and expeditious procedures, impose reasonable documentation requirements, and help applicants prepare their own applications. It is expected that the Community Relations Services and other relevant Federal agencies will cooperate in the implementation of the TPS Program.

II. TEMPORARY PROTECTION OF CHINESE, NICARAGUAN, AND SALVADORAN NATIONALS

H.R. 45, as amended, directs the Attorney General to grant TPS to nationals of the People's Republic of China, El Salvador, and Nicaragua who, first, have been continuously physically present in the United States since the date of enactment of this legislation; second, have continuously resided in the United States since July 1, 1989; third, register within the 270-day registration period; and, fourth, are not excludable from TPS under the terms of the bill. The bill specifies that such status shall remain in effect for 3 years from the date of enactment. After 3 years, the decision whether to extend the designation will rest with the Attorney General, but in either event the Attorney General will be required to publish findings of fact beforehand.

III. GENERAL ACCOUNTING OFFICE REPORT

H.R. 45 requires the General Accounting Office [GAO] to conduct an investigation, beginning within 60 days of enactment, concerning a variety of issues concerning conditions facing nationals from China, El Salvador, and Nicaragua in and out of their homelands:

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, October 23, 1989.

Re: Chinese and Central American Temporary Protected Status Act (H.R. 45).

House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE: In the next few days you will be asked to consider H.R. 45, the bill sponsored by Reps. Joe Moakley (D-MA) and Bruce Morrison (D-CN) to temporarily suspend the deportation of Salvadoran, Nicaraguan, and Chinese nationals in the United States for three years; and to establish a statutory framework for determining other appropriate circumstances in which our nation would provide "temporary protected status" to nationals from countries experiencing ongoing armed conflict, generalized violence, natural disaster, or other unsettled conditions.

The American Civil Liberties Union strongly supports H.R. 45. For the reasons set forth below, we urge you to support the bill and to oppose all weakening amendments which may be offered when H.R. 45 is considered by the House of Representatives:

(1) H.R. 45 addresses a compelling need for legislation to protect foreign nationals in the United States whose home countries are severely strife torn, but who can not be adequately protected under current law. These are persons in a bona fide "refugee-like circumstance" who fail to meet the appropriately narrow statutory definition of a refugee.

The Immigration and Nationality Act, as amended by the Refugee Act of 1980, defines a "refugee" as a person who is unable or unwilling to return to his native country because of "persecution, or a well-founded fear of persecution on account of race, religion, nationality, member in a particular social group, or a political opinion." 8 U.S.C., 1101(a)(42)(A). Although there is no universally accepted definition of the term "persecution", danger to an individual resulting from the existence of a generalized state of violence within a country does not, in itself, constitute persecution. Similarly, the definition rules out victims of famine or natural disaster.

The Attorney General is presently vested with discretionary authority to grant Extended Voluntary Departure (EVD) to nationals of certain countries when various conditions like those described above are present. This has normally been done upon the recommendation of the Secretary of State.

There is no specific authority for EVD nor is it a term that appears in the Immigration and Nationality Act. Yet EVD actions have been taken at least since 1960. The Judiciary Committee Report on the bill found that "the simple fact that during the past 29 years only two months have gone by (March and April, 1989) during which there was not at least one group of aliens present in the United States under EVD status demonstrates unequivocally the continuing and compelling need for a "temporary protected status" program.[1]

(2) Salvadoran, Nicaraguan and Chinese nationals need the "temporary protected status" called for in H.R. 45.

There are approximately 750,000 undocumented Salvadoran and Nicaraguan nationals residing in the United States. Most came to this country since January 1, 1982 and were not included in the legalization program of the Immigration Reform and Control Act. Many were victims of the generalized violence caused by the civil wars in their respective countries.

In El Salvador, for example, the civil war reflects a startling degree of violence and brutality directed against or randomly inflicted upon the civilian population. Civilian deaths attributable to the civil war now number approximately 70,000. Although there had been a marked decline in some kinds of human rights abuse during the mid 1980's, conditions in El Salvador appear to be deteriorating.[2]

The State Department Country Reports for 1988 establish that human rights in Nicaragua are in constant peril. The report on Nicaragua documents dozens of political killings, thousands of kidnappings, and the common use of arbitrary arrest, torture, and denial of the right to a fair trial.[3]

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[1] H.R. Rep. No. 245, 101st Cong., 1st Sess., at 12 (1989).

[2] See Norton, "Spector of Terror in El Salvador", Christian Science Monitor, April 21, 1989, at 1. See also New York Times, June 10, 1989, at p.1, col.2.

[3] Department of State, 100th Cong. 2d Sess., Country Reports on Human Rights Practices for 1988 (Joint Comm. Print 1989) at 643-647.

The random violence in both El Salvador and Nicaragua is devoid of ideological boundaries. It originates from both the political left and the right, from both the governments and the insurgents.

Because they are undocumented and seek to avoid deportation for many complex reasons, many Salvadoran and Nicaraguan exiles are subject to well-documented exploitation in the workplace, and in other areas of their lives, as they seek to survive here in the United States. For the most part they are individuals who are outside of the scope and protection of the law.

The current political crisis in the People's Republic of China clearly amounts to an extraordinary circumstance that prevents Chinese nationals who fear for their personal safety from returning to their homeland at the present time.

All three groups are truly in need of the temporary protected status called for in H.R. 45. In the case of undocumented Salvadorans and Nicaraguans, the national interest would benefit immensely from a program governing the identification, processing, rights, and responsibilities of aliens in this circumstance.

H.R. 45 is a modest but necessary measure to accomplish an essential humanitarian purpose. The ACLU respectfully urges prompt, favorable action on H.R. 45.

Sincerely,

MORTON H. HALPERIN,
Director.
WADE J. HENDERSON,
Associate Director.

RESISTENCIA NICARAGÜENSE,
October 16, 1989.

DEAR REPRESENTATIVE: I am writing to request your support for HR.45/S.458, the Moakley-DeConcini Central American Temporary Protection Act of 1989. Enactment of this legislation is critical to achieve peace, with democracy, in Nicaragua and El Salvador.

In this appeal I join with President Alfredo Cristiani, former President Napoleon Duarte and presidential candidate Violeta Chamorro, as well as hundreds of American organizations and leaders who share a commitment to peace with democracy in Central America.

I appeal especially to members of Congress who have been steadfast in their support for the Nicaraguan Democratic Resistance, and for the democratically elected government of El Salvador. Allow me please to assure you that enactment of this legislation is essential to enable us to continue together the struggle for democracy in Central America. In this judgment I note that the government of El Salvador also consistently has supported the Moakley-DeConcini bill as key to peace with democracy in their country.

With regard to Nicaragua, we are at a crossroads. Driven out of their country by 10 years of Sandinista oppression, there are perhaps 150,000 Nicaraguans now living in the U.S. without clear legal status. They have no confidence in the "promises" of the Sandinista Marxist regime. They are afraid to return at this time. They feel increasingly abandoned. The political asylum process here has helped only a small number, thousands of claims have been denied.

The fears and uncertain legal status of Nicaraguans in the U.S. make it difficult if not impossible for them to even participate in the February "elections". The Sandinistas' "election laws" prevent exiles from voting. Although Poland allowed registration and voting at its consultates abroad, Nicaragua does not. Enactment of Moakley-DeConcini now could provide a short-term solution to the fears of our people who are now here, and may enable some to be organized to protest their continuing disenfranchisement.

The United States has asserted its commitment to democracy in Nicaragua. Democracy has not been achieved. The February elections in Nicaragua will not be fair. Enactment of Moakley-DeConcini will be an act of the American people that can keep alive the hope and determination of our people to maintain the struggle for democracy until the day when we can return to a free and democratic Nicaragua, and rebuild our nation.

Sincerely,

ADOLFO CALERO.

NATIONAL COUNCIL OF LA RAZA,
NATIONAL OFFICE,
Washington, DC, October 20, 1989.

DEAR CONGRESSMEMBER: I am writing to urge your support for H.R. 45, the Temporary Protection Act of 1989 sponsored by Re. Joe Moakley (D-MA). This Legislation would provide temporary safe haven to Salvadoran, Nicaraguan, and Chinese nationals who are in the United States because of war and human rights abuses in their home countries. The National Council of La Raza believes that H.R. 45 both preserves the nation's traditional commitment to protecting those fleeing civil war and unrest, and serve the national interest by regulating the presence of a large number of individuals who have fled to the U.S.

During the last decade it has become increasingly clear that the flight of individuals and families from El Salvador and Nicaragua cannot be simply explained as economic migration. These people are fleeing the consequences of war which has devastated their homelands. The fact that their numbers have grown in recent years despite the passage of immigration laws designed to control our borders only attests to the urgency of their situation. Similarly, the recent repression in China places potentially thousands of Chinese nationals in jeopardy should they return to their homeland. Faced with this possibility, many of these individuals are likely to remain in the United States as an exploitable subclass.

The National Council of La Raza believes that H.R. 45 provides a humane way of protecting these individuals while the U.S. investigates the situations in their home countries. The legislation would apply only to those persons who register during a 180 day period with the Immigration and Naturalization Service, and would apply retroactively only to persons who can prove they have resided in the U.S. since before March 1, 1989. Because the legislation contains a firm "cutoff" date, crticism that it would act as a "magnet" to encourage illegal entry is unfounded. H.R. 45 clearly only applies to individuals who are already in the United States.

The Moakley Temporary Protection Act is consistent with the nation's tradition of opening our doors to those in greatest need without providing inducements for illegal immigration. NCLR urges that you oppose any amendments which would weaken the legislation, and that you lend strong support to HR. 45.

Sincerely,

RAUL YZAGUIRRE,
President.

NICARAGUAN AMERICAN CHAMBER OF COMMERCE, INC.,
October 12, 1989.

Hon. JOHN JOSEPH MOAKLEY,
U.S. Representative, Washington, DC.

DEAR REPRESENTATIVE MOAKLEY: On behalf of the Nicaraguan American Chamber of Commerce, I am hereby thanking you for the proposed Moakley-DeConcini bill. This bill will bring nothing but political, social and economic benefits to all parties involved.

You can be sure that the more than six hundred Nicaraguan businesses established and producing in Florida stand behind you and fully support you in this endeavor.

Thank you again and let us know if any special task is required from us to help you get approved this bill.

Yours sincerely,

FRANCISCO A. ORTEGA, R.Ph., M.B.A.,
President, Nicaraguan American Chamber of Commerce.

THE AMERICAN JEWISH COMMITTEE,
OFFICE OF THE WASHINGTON REPRESENTATIVE,
Washington, DC, October 19, 1989.

Hon. JOE MOAKLEY,
Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN MOAKLEY: The American Jewish Committee urges you to vote for H.R. 45, the Moakley-Morrison Chinese and Central American Temporary Protection Act of 1989, when it comes up for a vote on the floor next week, and oppose any weakening amendments.

H.R. 45 is more vital than ever for the development of humane policy toward both Central Americans and Chinese who are in need of temporary protection from war or oppression. The bill would allow Salvadorans, Nicaraguans and Chinese who are in the United States prior to July 1 to remain in this country for a limited time while the Government Accounting Office investigates whether they would be safe if they were to return to their homelands.

It seems to us that this measure is the least the United States can do to respond in a fair manner to the crises facing these populations and to uphold humanitarian norms and our obligations under international law. In Central America, violence from forces allied with both the right and left wings remains a critical concern. Furthermore, the recent repression of the democracy movement in China merits special consideration for the Chinese in this country.

We cannot in good conscience send people back to Nicaragua, El Salvador and China until their safety is guaranteed. A vote for the Moakley-Morrison bill would uphold our traditional concern for human rights and provide safety to people who desperately need a safe haven. Importantly, the bill also would allow the government to establish the numbers of Central Americans in this country and to better insure that they are aware of and comply with the requirements of this legislation and other laws which regulate their presence.

Thank you for your attention to our views.

Sincerely,

SHOLOM D. COMAY,
President.

LUTHERAN IMMIGRATION AND REFUGEE SERVICE,
Washington, DC, October 19, 1989.

DEAR CONGRESSMAN: On October 25, 1989, the House of Representatives will consider

H.R. 45, the Chinese and Central American Temporary Protected Status of 1989. We urge your support for this measure as a modest attempt to resolve the fate of many Chinese, Nicaraguan and Salvadoran nationals in the U.S. who cannot return home due to the violence and political strife in their countries.

In the past 25 years the United States has extended temporary protected status to 15 nationalities fleeing civil war, such as Poles, Afghans and Ethiopians. We strongly believe that the same gesture should be extended to Chinese, Salvadorans and Nicaraguans who have been in the U.S. since before July 1, 1989.

H.R. 45, a bill sponsored by Congressman Joe Moakley (D-MA) plus an additional 113 co-sponsors, would authorize the General Accounting Office to investigate the conditions of Salvadorans, Nicaraguans and Chinese who have been displaced by civil war and government repression. It is estimated that as many as 1.5 million persons have been displaced from El Salvador and Nicaragua, and an untold number of Chinese have faced repression after the crack-down on the dissident movement. Persons who are members of these three nationalities and currently reside in the U.S. in an irregular status would also obtain a Temporary Protected Status for a period of three years.

This legislation has the full support of a broad spectrum of persons and organizations in the United States. From major religious organizations, refugee groups, lawyers' groups, Chinese student associations, Salvadoran organizations and Nicaraguan resistance groups, to private voluntary organizations and labor unions, all agree that this legislation must be enacted now. Other supporters include Salvadoran President Alfredo Cristiani, Nicaraguan resistance leader Adolfo Calero and Presidential candidate Violeta Chamorro, Salvadoran Archbishop Arturo Rivera y Damas, Lutheran Bishop Medardo Gomez and many others.

Lutheran Immigration and Refugee Service urges you to vote in favor of this bill, and to oppose any weakening amendments that would delete any of these nationalities from the legislation. We are ready to work with you to ensure that these persons are treated fairly and humanely in the U.S. until they can return home safely.

Sincerely,

JOHN FREDRIKSSON,
Associate of Governmental Relations.

AFL-CIO,
Washington, DC, October 24, 1989.

DEAR REPRESENTATIVE. On behalf of the AFL-CIO, I urge your support for H.R. 45, a bill to provide temporary protected status for Salvadorans, Nicaraguans, and Chinese which the House is scheduled to consider on Wednesday, October 25th.

This legislation would suspend for three years the deportation from the United States of persons from China, El Salvador and Nicaragua. To be eligible for this protected status the bill would require these nationals to register with the Immigration and Naturalization Service (INS). The bill also requires the General Accounting Office (GAO) to study and report to the Congress on the circumstances of these persons in this country and conditions in their home country. And, finally, the bill establishes specific criteria and a comprehensive procedure for granting temporary stays of deportation to nationals of any other countries experiencing armed conflict, natural disaster or other unsafe conditions.

H.R. 45 is a temporary, humanitarian response to the circumstances of persons from China, El Salvador and Nicaragua who would find it dangerous at this time to return to the Civil disruption of their home countries. Until we know more about the changing conditions in these countries, their nationals in the U.S. should be granted temporary protection.

Sincerely,

ROBERT MCGLOTTEN,
Director, Department of Legislation.

BOSTON UNIVERSITY,
UNIVERSITY PROFESSORS,
Boston, MA, October 24, 1989.

Congressman JOHN JOSEPH MOAKLEY,
U.S. House of Representatives, Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN MOAKLEY. I am writing to express my appreciation to you for continuing your efforts, reflected in H.R. 45, to provide protection for displaced Salvadorans, Nicaraguans, and Chinese Nationals seeking shelter in these United States. The Congress should indeed accept your proposals for a stay of detention and deportation of these refugees.

I am persuaded that such action is needed if we are to continue America's leadership role in rescuing refugees fleeing persecution in their homelands. Until ambiguities about current law and the situation faced by returnees in El Salvador, Nicaragua, and now China, are clarified, we have a human and moral obligation to provide refuge to these displaced men, women, and children.

Those of us who are committed to the memory of those who died in the Holocaust because no refuge had been provided them are committed also to providing refuge to today's victims of oppression. It is that commitment that makes us feel grateful to you for your efforts.

Sincerly, yours,

ELIE WIESEL.

UNITED STATES CATHOLIC CONFERENCE,
Washington, DC, October 23, 1989.

DEAR CONGRESSMAN: I am writing to urge you to support H.R. 45, the Moakley-DeConcini-Morrison Chinese and Central American Temporary Protected Status Act of 1989 and to oppose any amendments that would weaken the bill. H.R. 45 offers temporary protected status to Chinese, Salvadoran and Nicaraguan nationals for whom return to their countries of origin would pose a substantial threat to their personal safety.

This bill is a much needed response to the situation facing so many persons who have fled their countries of origin because of the situations there. Many young Chinese studing in the U.S. who supported the democracy movement, and others who have fled the suppression of that movement, are in precarious situations as they contemplate their futures. H.R. 45 offers an alternative to those who are hesitant to return to China now, but would want to do so in the future.

Moakley-DeConcini-Morrison also offers relief to Nicaraguans already in the U.S. These individuals have fled the ongoing civil war and are now awaiting the success of the Peace Plan before they risk returning home. Temporary protected status would offer them the opportunity to be productive members of this society while waiting for conditions to improve in their homeland.

Finally, as it has since Congressman Moakley introduced the first version of this bill, H.R. 45 offers protected status to Salvadoran nationals. In so doing, it promises an end to the legal limbo in which these individuals have been living in the U.S. and provides the dignity of working legally in this country for three years. The violent turmoil in El Salvador which served as an impetus for their flight can then be resolved without the increased social pressures brought by a mass return of Salvadoran nationals.

On behalf of the U.S. Catholic Bishops, I urge you to vote yes when this important measure comes before you and to oppose any weakening amendments.

Sincerely,

Rev. Msgr. ROBERT N. LYNCH,
General Secretary.

OCTOBER 20, 1989.

DEAR REPRESENTATIVE: We the undersigned wish to convey our strong support for H.R. 45 to grant temporary protected status to Salvadorans and Nicaraguans now in the United States. *We urge that you vote for H.R. 45, the Moakley bill, when it comes before the House in the next few days.*

In this fiscal year alone, 3,048 Salvadorans and 87 Nicaraguans have been forced to leave the United states and return to their countries of origin. We strongly object to the forcible return of people to countries at war. This bill would provide temporary protection for thousands of Salvadorans and Nicaraguans who live in daily fear of being thrust back into their conflicted homelands.

H.R. 45 is based on the concept of Extended Voluntary Departure, which has been used fifteen times in the past to protect nationals whose homelands were experiencing extreme civil strife. Salvadorans and Nicaraguans would certainly meet the standards that have been applied to these other nationalities.

65,000 Saladorans have been killed in the nine-year war which has engulfed that country. Conflict has been pervasive throughout thirteen of El Salvador's fourteen departments. We are encouraged by the recent talks between the Salvadoran government and the Farabundo Marti National Liberation Front (FMLN) rebels, and are hopeful that the two sides will engage in substantive negotiations at future meetings. But the war has not ended. Within the past few weeks there has been intense fighting in at least nine of El Salvador's departments.

In Nicaragua about 30,000 people have been killed during the period of the contra war. While the U.S. is giving only non-lethal aid to the contras, the violence has not stopped. Since the Bipartisan Accord was signed in April, U.S. religious workers have documented the killing of 22 civilians and the kidnapping of 59 others in contra attacks. The actual number of victims is undoubtedly much higher.

Chairman Moakley has indicated that his bill, H.R. 45, will be merged with Representative Bruce Morrison's bill, H.R. 2929 to provide temporary protected status to Chinese nationals in the wake of the crackdown on pro-democracy demonstrators. *We respectfully request that you vote in favor of the merged Moakley bill, H.R. 45 and oppose any amendments to weaken the bill.* Your support for this urgent legislation could offer protection and a respite from fear for many.

Sincerely,

Robert Z. Alpern, Director, Washington Office, Unitarian Universalist Association of Congregations.
Cindy M. Buhl, Legislative Director, Pax Americas.

Mary Anderson Cooper, Acting Director, Washington Office, National Council of Churches.
Julius Davis, Vice President, United States Student Association.
Kay Dowhower, Director, Lutheran Office for Governmental Affairs, Evangelical Lutheran Church in America.
Sarah Fahy, S.N.D., Justice and Peace Office, Sisters of Notre Dame de Namur.
Ruth Flower, Legislative Secretary, Friends Committee on National Legislation.
Heather Foote, Washington Representative, Unitarian Universalist Service Committee.
Isabel Guy, Legislative Director, Women's International Legal for Peace and Freedom.
Mark W. Harrison, Legislative Coordinator, SANE/FREEZE: Campaign for Global Security.
Melva B. Jimerson, Acting Director, Washington Office, Church of the Brethren.
Jay Lintner, Director, Washington Office, United Church of Christ, Office for Church in Society.
Shelley Moskowitz, Legislative Director, Neighbor to Neighbor.
Carlos Neuschwander, Assistant Director, Immigration and Refugee Program, Mennonite Central Committee.
Mary Jane Patterson, Washington Office, Presbyterian Church, U.S.A.
Meredith Sommers, Co-Director, Quest for Peace/Quixote Center.
Margaret Swedish, Co-Director, Religious Task Force on Central America.
Nancy Sylvester, I.H.M., National Coordinator, NETWORK: National Catholic Social Justice Lobby.
Geoff Thale, Executive Director, National Agenda for Peace in El Salvador.
Robert W. Tiller, Director, Office of Governmental Relations, American Baptist Churches, U.S.A.
Edith Villastrigo, National Legislative Coordinator, Women Strike for Peace.
Alex Wilde, Director, Washington Office on Latin America.

AMERICAN BAPTIST CHURCHES, USA,
Washington, DC, October 25, 1989.

DEAR REPRESENTATIVE: Today you will vote on H.R. 45 (the Moakley bill), which provides "temporary protected status" for Salvadorans, Nicaraguan and Chinese nationals in the U.S.

On behalf of American Baptist Churches USA, in denomination of 1.6 million members, I urge you to vote for H.R. 45. It is crucial that refugees from violence in those countries not be sent back to the danger of their homelands at this time.

I also urge you to vote for the rule on H.R. 45. Some will oppose the rule because they want to Christmas-tree the bill. I urge you to support the rule because it will limit consideration to three nationalities on which there is widespread agreement about the need for protection.

Sincerely,

ROBERT W. TILLER.

SUPPORTERS OF S. 458, THE DECONCINI CENTRAL AMERICAN TEMPORARY RELIEF ACT OF 1989,

July 26, 1989.

Senator JOSEPH BIDEN,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR BIDEN: The undersigned organizations represent a broad crosssection of the American people. We are writing to urge your support for S. 458, the DeConcini Central American Temporary Relief Act of 1989.

We are convinced that it is in the interest of the United States to accord temporary legal status to nationals of El Salvador and Nicaragua who arrived here before March, and who have abided by our laws. The DeConcini bill is a carefully crafted, temporary response to the humanitarian needs of these people, and to the needs of the communities in which they reside.

Ten years of war, violence, destruction, hopelessness and suffering have displaced an estimated two million Central Americans. The reality of the presence of perhaps 750,000 now residing in the U.S., some for six years or more, requires a new approach. The DeConcini bill will give many now here an incentive to come forward for this program.

By its terms, within approximately two years this program would end if conditions in El Salvador and Nicaregua warrant safe and orderly return.

Many of our organizations are experienced and prepared to help implement the provisions of S. 458. We urge you to vote yes when this important measure comes before you.

Sincerely,

NATIONAL ORGANIZATIONS

American Civil Liberties Union.
American Council for Nationalities Services (ACNS).
American Friends Service Committee.
American Immigration Lawyers Association.
American Jewish Committee.
American Jewish Congress.
Amnesty International USA.
Asian Pacific American Legal Center.
Church World Service of the National Council of Churches.
Council of Jewish Federations.
Cuban American National Council.
Hebrew Immigrant Aid Society.
International Ladies' Garment Workers Union.
Luthern Immigration and Refugee Services.
Mexican American Legal Defense and Educational Fund.
National Association of Latino Elected Officials.
National Center for Immigrants Rights, Inc.
National Council of La Raza.
National Jewish Community Relations Advisory Council.
National Lawyers Guild.
National Network on Immigrants & Refugee Rights.
Nicaraguan American National Foundation.
Office of Governmental Relations American Baptist Churches, USA.
Organization of Chinese Americans.
Oxfam America.
Religious Action Center.
Service Employees International Union.
Unitarian Universalist Service Committee.
United States Catholic Conference.
U.S. Committee for Refugees.
World Relief of the National Association of Evangelicals.

LOCAL AND REGIONAL ORGANIZATIONS/PROJECTS OF NATIONAL ORGANIZATIONS

Advocacy/Justice/Service Department of the Rhode Island Council of Churches.
AFL-CIO Immigration Assistance Project, Los Angeles, CA.
AFSC/US Mexican Border Program.
All Cultures Friendship Center, Los Angeles, CA.
American Civil Liberties Union of Southern California.
American Refugee Committee, Chicago, IL.
American Refugee Committee Amnesty International USA.
Amos House.
Archdiocesan Task Force on Legalization, Los Angeles, CA.
Arkansas Presbytery Peacemaking Task Force.
Arkansas Peace Center.
California Pacific Conference, United Methodist Church, Board of Church & Society, Central, South America and Caribbean Committee, Los Angeles, CA.
Cambodian Association of Illinois.
C.A.S.A. of Maryland.
Catholic Community Services, Archdiocese of Newark, NJ.
Catholic Social Ministries in Oklahoma City, OK.
Center for Central American Refugees, Plainfield, NJ.
Center for Immigrants Rights, NY.
Central American Peace Campaign, Seattle, WA.
Central American Refugee Center, CARECEN-Los Angeles, CA.
Central American Refugee Center, CARECEN—New York, NY.
Central American Refugee Center, CARECEN—San Francisco, CA.
Central American Refugee Center, CARECEN—Washington, DC.
Centro Presente, Boston, MA.
Chicago Commission on Human Relations.
Chicago Coalition on Immigrant & Refugee Protection.
Chicago Metropolitan Sanctuary Alliance.
Chinese Mutual Aid, Chicago, IL.
Citizens for Political Participation in Action, CPPAX-MA.
CISPES, Los Angeles, CA.
Coalition for Humane Immigration Rights of Los Angeles, CA.
Coalition for Immigrant Refugee Rights and Services, San Francisco, CA.
Coalition for Justice in Central America, Blacksburg, VA.
Community Affairs Vicariate Diocese of Providence, RI.
CSJ Justice Office, Los Angeles, CA.
Dolores Mission, Los Angeles, CA.
East Central Illinois Mutual Assistance Association.
East Los Angeles Legalization Project.
Ecumenical Immigration Services, New Orleans, LA.
El Rescate, Los Angeles, CA.
El Rescate, San Francisco, CA.
Episcopal Diocese of Washington, Refugee Committee.
Episcopal Service Alliances, Los Angeles, CA.
Ethiopian Community Association, Chicago, IL.
Ethiopian Family Center of Boston, MA.
Exodus World Service, Chicago, IL.
Faculty Concerned for Human Rights in El Salvador, Los Angeles, CA.
Friends Committee on National Legislation.
Holy Spirit Parish, Los Angeles, CA.

Hospital and Service Employees Union Local 339, S.E.I.U., AFL-CIO.
Illinois Conference of Churches.
Immigration Policy Network, NJ.
Interfaith Project for Refugee Children (New Mexico Conference of Churches), Albuquerque, NM.
International Institute of Los Angeles, CA.
International Institute of Rhode Island.
International Ladies' Garment Workers Union, Los Angeles, CA.
Inter-Religious Task Force on Central America, Burlington, VT.
Iranian Rescue Committee.
Jewish Federation of Chicago, IL.
Jewish Labor Committee, Los Angeles, CA.
Jewish Sanctuary Network, Boston, MA.
Joint Legal Task Force on Central American Refugees, Washington.
Lao Service Center, Chicago, IL.
La Placita—Our Lady Queen of Angels Church, Los Angeles, CA.
Las Americas Refugee Asylum Project, El Paso, TX.
Los Angeles City Attorney's Office.
Lutheran Children & Family Services, Chicago, IL.
Lutheran Social Services of Southern California.
Massachusetts Immigrant and Refugee Advocacy Coalition.
Medical Aid for El Salvador, Los Angeles, CA.
Methodist Downtown Social Service Center, Los Angeles, CA.
Midwest Immigrants' Rights Center, Chicago, IL.
Neighbor to Neighbor, Midwest Regional Office, Chicago, IL.
Neighbor to Neighbor, New England Office.
New Hampshire Central American Network, Concord, NH.
New York Association for New Americans.
New York City Office of Immigrant Affairs.
North Coast People in Solidarity with Central Americans, Astoria, OR.
Office of Justice and Peace, Sisters of Saint Joseph, Boston, MA.
Orange County Coalition on Immigrants' Rights.
Progresso Latino, RI.
Providence-Niquinohomo Sister City Project, RI.
Proyecto Libertad, Harlingen, TX.
Proyecto Pastoral, Los Angeles, CA.
Refugee and Immigration Committee, California Pacific Annual Conference, United Methodist Church.
Refugee Immigration Services of Lutheran Social Services of Minnesota.
Refugee Services of Lutheran Child and Family Services of Massachusetts.
Rhode Island Central America Coordinating Committee.
Rhode Island Peace Mission.
Rhode Island Network.
Robert F. Kennedy Memorial Center for Human Rights, Boston, MA.
San Francisco Lawyers' Committee for Urban Affairs.
School Sisters of St. Francis United States Province, RI.
Search to Involve Filipino Americans.
Sisters of Saint Francis of Assisi, Milwaukee, WI.
Southern California Ecumenical Council.
Southern California Interfaith Task Force on Central America.
Southside Presbyterian Church, AZ.
St. Joseph Center, Los Angeles, CA.
Synod of Southern California & Hawaii.
The National Immigration Project of the National Lawyers Guild, Inc.
Travelers & Immigrants Aid, Chicago, IL.
Truman College Refugee Program, Chicago, IL.
Tucson Ecumenical Council Legal Assistance, AZ.
Tucson Ecumenical Task Force on Central America, AZ.
United Auto Workers, Los Angeles, CA.
United Electrical Radio & Machine Workers of America, Los Angeles, CA.
United Food and Commercial Workers, Local 770, Los Angeles, CA.
United Methodist Refugee Sponsorship Developer, Los Angeles, CA.
United Neighborhood Organization, Los Angeles, CA.
U.S. Baha'i Resettlement Office, Chicago, IL.
Vermont Central American Non-Intervention Network.
Vermont Refugee Assistance.
Vietnamese Association of Illinois.
World Relief of Illinois.
World Relief, Los Angeles, CA.

SEPTEMBER 9, 1989.

Senator JOE BIDEN,
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR SENATOR BIDEN: The undersigned organizations represent a cross-section of the Nicaraguan exile community residing in Miami, Florida. We are writing you to urge your support for S. 458 (H.R. 45) the Moakley-DeConcini Central American Temporary Relief Act of 1989.

Ten years of war, violence, harassment, destruction, hopelessness and suffering have displaced an estimated 10 percent of El Salvador's population and 20 percent of Nicaragua's population. Migration in the past 10 years has been caused by war and all its consequences: consequences which are violent, human psychological and economic.

War conditions and human rights violations are prevalent in both Nicaragua and El Salvador. The civil war in Nicaragua has brought death and destruction, leaving thousands homeless. Human rights abuses are common. The Sandinistas systematically repress those who oppose their Marxist regime. The United States has been deeply involved in both countries, arming the "contras", as well as heavily subsiding El Salvador's defense of its democratic government. It is therefore appropriate for the United States to give haven to the victims of these wars in Nicaragua and in El Salvador.

The Moakley-DeConcini bill (H.R. 45, S. 485) would grant temporary safe haven to Salvadorans and Nicaraguans in the United States who have come in search of safety and survival until it is safe to return home. The bill would authorize the General Accounting Office to assess the feasibility of repatriating displaced nationals from Nicaragua and El Salvador In the meantime, deportations of Nicaraguans and Salvadorans living here would be suspended for about two years.

For years the Administration's policy toward Nicaraguans seeking asylum has been disjointed. The Reagan administration armed the "contra" rebels while decrying the Sandinista regime's domestic repression and ties to Cuba and the Soviet Union. Yet the State Department and the Immigration and Naturalization Service insist that Nicaraguans fleeing their country are not doing so for political reasons and thus are not entitled to political asylum. In a study conducted by Congress' GAO, it was found that in political asylum applications filed by Nicaraguans and Salvadorans, when compared with those filed by Poles and Iranians, the Central Americans were much likelier to be denied political asylum than applicants from other parts of the world—even when all claims were similar.

We would like to point out the fact that Congress moved rapidly to enact legislation to provide safe haven and other relief to Chinese nationals in the United States on humanitarian grounds. Why should it be different for Central Americans? They also deserve to be granted temporary protected status and work authorizations. This would be a way of showing America's partial responsibility for their plight without compromising the goals of the U.S. refugee and immigration laws. It is necessary to regulate the presence of the estimated million Salvadorans and Nicaraguans now residing in undocumented status in the United States.

In the past 25 years U.S. administrations have granted "Extended Voluntary Departure" (EVD) to 15 different national groups whose homelands were in the midst of extreme civil strife. We believe that the long-term solution must address the forces that create refugees, which means political settlement of wars and an assistance program to rebuild the region's shattered economy.

We urge you to say yes to the passage of the Moakley-DeConcini bill, which is of critical importance to more than one million Central American refugees. For humanitarian reasons, this bill deserves your approval.

We hope we can count on you.

Sincerely,

NICARAGUAN ORGANIZATIONS IN EXILE

Maritza Herrera, Executive Director, Nicaraguan-American Foundation (NAF).
Henry Benavides, Coordinator, Nicaraguan Solidarity in Exile (USNE).
Dr. Norma Toruno, Director, Nicaraguan Pharmacists Association.
Zoila M. Torres, Director, Committee for the Freedom of Nicaraguan Political Prisoners.
Pedro Joaquin Chamorro, Journalist, Member of Incae Alumni Association.
Nadia L. Pallais, Director, Nicaraguan Task Force.
Gaye Llanes, President, Americans for Freedom in the Americas.
Rosario S. Roman, President, Nicaraguan American Women Civic Assoc.
Francisco A. Ortega, President, Nicaraguan-American Chamber of Commerce.
R. Rolando Lacayo, Director, La Prensa Centroamericana Newspaper.
Emilio Hernandez C., President, Association of Nicaraguan Teachers in Exile.
William J. Rocha, President, Nicaraguan Accountants Association.
Edgard Marcias, President, New Exodus, Inc.
Rev. Leon Pallais, S.J., Nicaraguan Assistance Center.

[From the Charleston Gazette, June 7, 1988]

SALVADORAN TRAGEDY

The tiny Central American nation of El Salvador is a tragic contradiction: Its name means "the Savior," but it is the murder capital of the world.

Since civil war erupted a decade ago, around 50,000 civilians have been killed—most of them tortured and murdered by right-wing death squads or massacred in army raids on villages in rebel territory.

Some have been assassinated by leftist terrorists.

One-fourth of El Salvador's people have been displaced. Many villagers moved into squalid refugee camps. Thousands of Salvadorans fled through Mexico into the United States. Many of them ran after death squads had come to their homes, seeking them.

The Reagan adminstration is playing a cruel political game with the latter refugees. Because El Salvador is a "democratic" U.S. ally, the White House pooh-poohs claims by these refugees that they're afraid to return home. Their applications for political asylum are overwhelmingly rejected; only 2.7 percent have been approved in the past four years.

In contrast, the administration approved 84 percent of such applications by Nicaraguan refugees last year. It suits the president's political purposes to make it seem that Nicaraguans are fleeing persecution in the little Marxist nation that Reagan has branded a nearby "evil empire."

What a cynical and cold-blooded policy—to try to send 97.3 percent of Salvadoran refugees back to the land of death squads, while granting asylum to Nicaraguans because it makes good propaganda.

To halt this injustice, at least for a while, Congress is working on a "temporary safe haven" bill that would delay deportations of both Salvadorans and Nicaraguans. Most major religious faiths back this legislation, the Moakley-DeConcini bill. It passed the House and was approved by the Senate Judiciary Committee.

The American Civil Liberties Union, another supporter of the safe haven plan, says Senate Majority Leader Robert C. Byrd, D-W.Va., holds the bill's fate in his hands.

Therefore we implore Byrd to let the whole Senate vote on the Moakley-DeConcini bill—and perhaps save thousands of lives.

During the past few years, with middle-of-the-road President Napoleon Duarte nominally in command, El Salvador's bloodshed decreased. But now Duarte is stricken with cancer, his moderate party lost the congressional election in March, hard-right leaders are regaining control—and the murder pace is rising again.

Under these circumstances, the safe haven bill takes on greater urgency. It should be rushed through the Senate to halt hundreds of deportations now in progress.

[From the Miami Herald, June 26, 1988]

MERCY FOR REFUGEES

Nicaragua and El Salvador have long since stopped being places to live. This is true even for people not involved in politics or in the civil wars that have cost tens of thousands of lives of innocent civilians in both countries.

Thousands of Nicaraguans and Salvadorans have fled to the United States, seeking temporary haven from these inherent dangers. It has not been easy, however, for these people to receive political asylum and work permits here. Their life has been uncertain. Fear of deportation dogs them constantly.

A new Senate bill would ease these people's situation. Sponsored by Sen. Dennis DeConcini, Democrat of Arizona, it seeks temporary relief from deportation for Nicaraguans and Salvadorans on humanitarian grounds. It is backed by, among others, the American Civil Liberties Union and noted Holocaust scholar and Nobel Peace Prize winner Elie Wiesel.

War conditions and human-rights violations are prevalent in both Nicaragua and El Salvador. In Nicaragua, the Sandinistas systematically repress those who oppose their Marxist regime. The civil war there has brought death and destruction to the country's rural areas, leaving thousands homeless. Human-rights abuses are common, both by the Sandinistas and by the contras.

In El Salvador more than 61,000 people have died in the war, most of them innocent civilians. Though democracy has been restored, the Right-wing death squads seem to have made a bloody comeback. On the other side, leftist guerrillas continue their political assassinations and terrorism. Recent human-rights reports on El Salvador indicate violations by both sides.

The United States is deeply involved in both wars, arming the contras in Nicaragua and, in El Salvador, heavily subsidizing President Jose Napoleon Duarte's defense of his democratic government. It's therefore appropriate for the United States to give haven to the victims of these wars in Central America.

Senator DeConcini rightly is asking that these Nicaraguans and Salvadorans in the United States be granted "extended voluntary departure" status. That would let them stay until conditions improve at home and they can return. This status offers only temporary relief from detention and deportation. It would not make anyone eligible for public assistance. For humanitarian reasons, the DeConcini bill deserves Congress' and the President's approval.

[From the Los Angeles Times, Sept. 16, 1988]

IT GETS WORSE FOR SALVADORANS

White House officials, and the presidential campaign of Vice President George Bush, like to describe the civil war in El Salvador as being on the verge of a successful resolution in favor of the U.S.-backed government of President Jose Napoleon Duarte. But reports from that country are rarely so upbeat. Now even the seriously ill Duarte has come forward with a divergent view.

In a letter to Senate Majority Leader Robert C. Byrd, Duarte urged the Senate to approve a measure granting special refugee status to an estimated 500,000 Salvadorans living illegally in the United States. Despite billions of dollars in U.S. military and economic aid that his nation receives, Duarte's letter says that granting "temporary safe haven" to Salvadoran refugees is "the single most important initiative the United States can now take to help my nation."

The measure that Duarte's letter refers to is coauthored by U.S. Sen. Dennis DeConcini (D-Ariz.) and U.S. Rep. Joe Moakley (D-Mass.). It would grant Salvadorans in this country a special immigration status known as "extended voluntary departure." This status requires that U.S. immigration officials temporarily suspend deportations of illegal immigrants from a particular nation because of serious turmoil in their homeland.

The Reagan Administration has consistently opposed the DeConcini-Moakley bill and several other attempts to grant Salvadorans and other Central American refugees this special status. Immigration and Naturalization Service officials insist that most Salvadorans in this country are here because they want to work, not because they fear political persecution. But Duarte's letter disputes this argument, saying that roughly 10% of El Salvador's population has fled the country because of the violence and turmoil caused by the civil war. Duarte's letter even warns that if large numbers of refugees are forcibly returned to El Salvador their discontent could make them sympathetic to the guerrillas fighting to overthrow his government.

This is the second time that Duarte has personally tried to convince U.S. officials to grant Salvadorans special refugee status. He wrote a similar letter to President Reagan early last year, before a new immigration law went into effect. Reagan turned down that request, and it is likely that he will veto the DeConcini-Moakley bill if it is enacted by Congress.

That would be a mistake, for Duarte knows his country better than the White House does. Not only is the Salvadoran civil war still stalemated, but there has been a frightening upsurge in violence in recent months. Battlefield encounters between security forces and guerrillas are more frequent, and the number of casualties has been high. There has also been an increase in the number of assassinations blamed on death squads.

Most analysis say that this upsurge in violence is the inevitable result of the power vacuum that was created when Duarte was diagnosed as having only months to live because of cancer. Both sides in the long civil war are trying to seize the initiative before a new president is elected in 1989. Whatever the cause of this accelerated bloodshed, El Salvador is clearly still a very dangerous place. Duarte's letter makes a strong case for the Senate to approve the DeConcini-Moakley bill, as the House of Representatives has already done. It should also prompt Reagan to reconsider his stubborn refusal to grant Central American refugees extended-voluntary-departure status.

[From the Atlanta (GA) Journal-Constitution, June 4, 1988]

A RESPITE FOR CENTRAL AMERICAN REFUGEES

That a seriously ill President Jose Napoleon Duarte can consider an indefinite stay in the United States for cancer treatment is hardly a measure of his confidence in his regime's stability while he is away.

A better gauge of Duarte's own gloomy assessment of El Salvador's turmoil is his support of a bill before the U.S. Senate to protect Salvadoran refugees in this country from hasty deportations back to an uncertain and maybe menacing future in his land.

Violence from the left and from the right, sad to say, is much on the increase. Catholic church sources say nearly as many Salvadoran civilians were murdered by death squads during the first three months of this year, 21, as in all of 1987.

With Duarte's government coming unstuck, it is mystifying how its Washington ally can hope to nurture El Salvador's political center, especially with his party's rival factions engaged in mindless fratricidal strife. But at least the United States can take one major step to relieve the suffering of innocents by extending asylum indefinitely to the nearly half-million Salvadorans who have sought refuge in this country from harassment, torture and murder.

A bill sponsored by Sen. Dennis DeConcini (D-Ariz.) recognizes as genuine the threat to Salvadorans here and to the more than 100,000 Nicaraguan refugees, as well. Persons covered by the legislation could stay until the Government Accounting Office devised a timetable for safe returns. Refugees

would not be entitled to public assistance, but they could seek employment. Like a companion measure already passed in the House, it offers limited and temporary relief. That's all the refugees ask.

The bill's supporters are certain it has the votes for passage if and when it reaches the Senate floor later this month, but they worry about the possibility of a filibuster. The votes of Georgia's senators, Sam Nunn and Wyche Fowler, both uncommitted, are needed for resounding approval. The two of them should see the measure as a humane remedy fully in keeping with the government's policies on immigration and asylum.

[From the Arkansas Gazette, June 6, 1988]

COMING TO THE AID OF ENDANGERED REFUGEES

Both El Salvador and Nicaragua have known brutal civil wars and human rights violations. Not surprisingly, both have also seen thousands of their citizens flee. Many came to the United States, entering illegally.

Congress now is considering legislation that would at least temporarily protect Salvadoran and Nicaraguan refugees from deportation to the strife of their homelands. Supporters, including many human rights, religious and labor organizations, believe that the refugees face serious danger if they are forcibly deported to conditions of civil war and the threat of persecution.

The legislation would provide a temporary suspension of detention and deportation for most Salvadoran and Nicaraguan nationals in the U. S., pending a General Accounting office study to determine a safe time for the refugees to be returned to their countries of origin.

The legislation also contains certain safeguards for the American taxpayer. It would generally exclude from public assistance programs those persons whose deportation is stayed. And it would apply only to Salvadorans and Nicaraguans in the U. S. prior to the legislation's enactment, so as not to invite a subsequent wave of new refugees. In other words, it recognizes that a line must be drawn.

The Senate version of the legislation, sponsored by Senator Dennis DeConcini of Arizona, will come to a vote in a few days. Passage of the legislation, though creating an exception in the U. S. immigration laws, will be consistent with this country's noble traditions of succoring the oppressed.

[From the New York Times, May 6, 1988]

SALVADORANS DESERVE A WELCOME, TOO

Two faces of United States immigration policy: On Wednesday, the deadline passed for undocumented aliens who have lived here since 1982 to apply for amnesty under the 1986 Immigration Reform and Control Act. But as this warmhearted program was winding up, the Administration was in court pursuing narrow-minded efforts to force Salvadorans who seek political asylum here to leave.

A Federal judge in California has now rebuffed these efforts, and rightly so. The judge understood that the Salvadorans deserve the same generosity expressed by the amnesty program. It's past time for the Administration to understand as well.

American laws have tried to strike the proper balance between welcoming immigrants who face persecution in their homeland and resisting those who merely seek a better standard of living.

Making such distinctions is the duty of the Immigration and Naturalization Service. But too often, its determinations are clouded by foreign policy judgments, especially in the case of illegal aliens from El Salvador. As long as the Reagan Administration supported the political regime there, it insisted that Salvadorans who came here were fleeing poverty, not persecution. It consistently granted political asylum to less than 5 percent.

In 1982, Salvadorans in the U.S. filed a lawsuit claiming discrimination. Federal District Judge David Kenyon has now ruled in favor of the claim. He cited evidence of political oppression and human rights abuses in El Salvador, and he found that the I.N.S. routinely refused to notify Salvadorans of their right to apply for political asylum or otherwise discouraged them from seeking it.

Judge Kenyon also found that Salvadorans were coerced into signing voluntary departure forms on a regular basis, thus short-circuiting the deportation hearing process where political asylum claims might be raised. And I.N.S. agents denied the Salvadorans access to lawyers, telephones, even writing materials.

The U.S. knows how to be generous in its treatment of illegal aliens, as the extraordinary amnesty program demonstrates. Judge Kenyon's ruling affirms that Salvadorans who seek political refuge merit the same welcoming spirit.

THE SHOUT FROM CENTRAL AMERICA

THERE: PROGRESS, DESPITE THE U.S. POLICY GAP

Whenever Washington stops paying attention to Central America, one or more of the warring parties always seems to take a big step toward peace. Now it has happened again, this time with the Bush Administration barely functioning in foreign affairs. Political and guerrilla leaders have outdone themselves with promising new proposals.

The essence of the deals in Nicaragua and El Salvador is this: Rebel leaders are to lay down their arms in return for assurances of a fair chance in free elections. The new element, particularly in El Salvador, is the willingness of guerrilla forces to disarm themselves in exchange for the necessary guarantees of safety.

The Bush Administration can't do much to help the process along now, it will take the White House at least another month to put together a team to manage hemisphere affairs. But President Bush and Secretary of State Baker could do great damage by continuing to throw mud at the regional initiatives. If they can't be constructive now, silence would be the best course—especially since Washington has pressed for electoral solutions all along.

Sandinistas were told by Latin and European leaders at a Feb. 2 meeting in Venezuela that a genuine democratic opening was the only way to end Nicaragua's isolation. Two weeks later, President Daniel Ortega came up with an offer that four other regional presidents could not refuse: monitored elections in February 1990; a new law guaranteeing press freedom; and an amnesty for some 1,800 former Somoza National Guardsmen still in jail. In return, he demanded the disbanding of camps in Honduras that hold 11,000 or so contras.

The risks are plain—a history of broken promises, the difficulty in reviving the contras, a presidential election that Sandinistas could win with a mere plurality. But rebel leaders like Alfredo César see no real alternative, speak for the deal and insist that what nearly all contras will choose to do is to return home and join the political opposition. To check the Sandinistas, he would phase in contra demobilization over six months while Washington judged Sandinista compliance.

El Salvador's guerrillas offer a similar proposal to the U.S.-backed Government: Postpone elections now set for March, stop fighting and lay down arms on both sides. This represents a sharp shift from the previous insistence that a powersharing arrangement come first, then a vote. The proposal has led to direct talks among the parties, a breakthrough. Salvadorans for once seem to be trying to shape their own future.

Only hard-liners in Central America and Washington fail to recognize that the contras are finished as a viable military force. And only those blinded by hate fail to realize that military solutions in El Salvador can bring only further devastation. The leaders of the region have been trying to tell Washington for over a year now that they recognize these realities, and are prepared to take their chances on political settlement.

The Reagan Administration never listened. Now the regional shout grows louder. Mr. Bush and Mr. Baker can't help but hear it. They need to stand up to the hard-liners who insist that negotiations with leftists and communists can never be acceptable. Of course Washington would insist that the bargaining be hard. But beyond that, the way to preserve core United States interests is to focus on commitments to keep the area free of Soviet and Cuban military presence.

HERE: MIGRANTS AND THE NEED FOR SAFE HAVEN

The long lines of undocumented aliens applying for political asylum at an immigration office on the border in south Texas attest to the reverberating effect of United States policies in Central America. So many Central American aliens have applied for asylum in recent months that immigration officials have finally felt compelled to devise a get-tough policy to deter other migrants, trying to escape poverty, not persecution.

But in Central America it's often hard to draw a line between politics and economics, especially when U.S. policies have contributed to destabilization. That strengthens the case for generosity in granting asylum. Yet immigration officials fear encouraging a tidal flow that would overwhelm the proper, careful definitions of "refugees" and "asylum." Hence the decision to enlarge a detention camp on the border.

There's a warmer way to respond—create a new entry status: temporary safe haven. Giving such status to some number of Central Americans would recognize America's partial responsibility for their plight without compromising the goals of U.S. refugee and immigration laws.

Even a generous nation cannot admit everyone. That's why economic migrants are required to apply for immgration according to criteria that encompass regions of the world, family relationship to people already here and specially needed skills. But political migrants, those with a "well-founded fear of persecution" in their homeland, may win sanctuary under the 1980 Refugee Act. It's the duty of immigration officials to determine, fairly and expeditiously, who is a refugee.

Too often, however, foreign policy considerations distort the decision-making process. Officials have been reluctant to recognize political persecution under the U.S.-supported regime in El Salvador; they granted asylum to only 3 percent of Salvadoran ap-

plicants last year. By contrast, 65 percent of Nicaraguans fleeing the Sandinistas were granted asylum.

Growing numbers of asylum applicants caused a recent crackdown. Aliens used to be allowed to work temporarily during the lengthy application process. Last week, officials announced plans to detain them instead. As many as 6,000 aliens will be held in a tent city in south Texas. Only those prejudged to present valid claims for asylum will be allowed to work and travel in the U.S.

Massive detention camps may effectively discourage economic migrants. A better remedy would be the certainty of timely and fair asylum decisions. Both certainty and fairness are now often missing. In Miami, for example, Nicaraguans rejected for asylum have been granted a de facto safe haven because immigration officials have proceeded so slowly with deportation hearings.

It would not be hard to formalize the safe haven status and restore integrity to the asylum process. Representative Joe Moakley of Massachusetts proposes a bill to do just that for Nicaraguans and Salvadorans. It would authorize the General Accounting Office to assess the feasibility of repatriating displaced nationals from Nicaragua and El Salvador. In the meantime, deportations of Nicaraguans and Salvadorans living here would be suspended for about two years.

The impulse to help aliens from Nicaragua and El Salvador is understandable, but the focus remains very narrow. Congress would do well to enact a safe-haven law with general application to aliens from other countries.

All political migrants seeking admission to the U.S. deserve fair, consistent and timely consideration of their claims. Some economic migrants who would abuse the process may deserve detention. But for aliens who simply need temporary resettlement until their homelands conquer the ravages of war, the idea of temporary safe haven satisfies the head and the heart.

Salvadoran Refugees Appeal for Protection While House Votes on Moakley-DeConcini Bill

Salvadoran refugees accompanied by religious leaders and other supporters in a last-minute effort to address Congress on the need for refugee protection and legal status for Salvadorans, are holding a press conference and a vigil today, at 10:00 am on the West steps of the Capitol. The Moakley-DeConcini bill, if approved by Congress and signed by President George Bush, will temporarily suspend the detention and deportation of Salvadoran, Nicaraguan and Chinese refugees. The bill is scheduled to be on the House floor for a vote today.

The press conference and the 2-hour vigil is being organized by the No Human Being is Illegal Campaign—which is sponsored by the Central American Refugee Committees (CRECEN) Network and the Central American Refugee Center (CARECEN). Salvadoran and religious leaders participating at the press conference and vigil will speak about the conditions of Salvadoran refugees, both in the U.S. and in Central America.

Speakers include Ruth Fitzpatrick, National Coordinator of the Women Orderation Conference, Rabbi David Saperstein, Co-Director of the Religious Action Center of the Union of American Hebrew Congregations; Fr. Richard Ryscavage, Assistant Director of Migration and Refugee Services of the U.S. Catholic Conference; Sr. Janet Roesener, CSJ, Executive Director of the Leadership Conference of Women Religious; Rev. Charlie Gilchrist, Chair of the Refugee Committee of the Episcopal Diocese of Washington; a representative of the Metro-Washington Lutheran Synod; America Sosa, U.S. Representatives of COMADRES; and Carmen Monico, National Coordinator of the CRECEN Network.

The H.R. 45/S. 458 bill, introduced by Congressman Joe Moakely (D-MA) and Senator Dennis DeConcini (D-AZ), would suspend the detention and deportation of Salvadoran, Nicaraguan, and Chinese refugees for a period of 3 years while a General Accounting Office (GAO) investigation is completed on the human rights conditions in the countries from which these refugees fled and to which their deportation is threated. This bill is currently being cosponsored by 113 Representatives and 27 Senators and would provide temporary protections to many of the 750,000 Salvadorans who have fled military and paramilitary persecution by the government of El Salvador. Salvadoran refugees and several international observers agree that under the ARENA government, human rights violations have increased and that it is not safe for refugees in the U.S. to be deported to their homeland.

Statement of the Salvadoran Refugee Community to the Congress of the United States

Today we, Salvadoran refugees, accompanied by religious leaders and other supporters call on the House of Representatives to pass the Moakley (H.R. 45) bill. Our experience has shown that under the ARENA government, human rights violations have increased and if we were deported, our lives would be in jeopardy. We believe that with the Moakley-DeConcini bill, members of Congress have the chance to make an important humanitarian gesture to address the needs of the victims of the war maintained by the U.S. government in our homeland.

For almost 10 years we have been seeking safe haven in the U.S. and have been struggling for recognition of official refugee status. This status has been continuously denied by Congress and the Immigration and Naturalization Services (INS) continues deporting us to our war-torn country. In addition, the 1986 Immigration Reform and Control Act (IRCA) has created more opportunities for discrimination and has worsened the living conditions of our community at large.

At the steps of the Capitol today we challenge Congress to apply the democratic principles of this country toward refugees from El Salvador.

Statement of Rabbi David Saperstein, Union of American Hebrew Congregations

For every year of the Salvadoran civil war, the government of the United States has been supporting the government of El Salvador. We have bought them weapons, too often turned a blind eye to immoral policies, and propped up their economy. In short, we bear responsibility for the perpetuation of the tragedy of that land.

And we know what that money has bought: eleven years of civil war, over 70,000 dead Salvadorans, and another 1.5 million Salvadoran refugees—over 30% of the population.

Not all of this can be blamed on the government nor on U.S. policy. But to those who are the victims of terror and violence, whether its source is from the right or from the left matters little. Safety matters a lot.

So long as continuing violence plagues El Salvador, the 750,000 Salvadorans currently residing in the United States are understandably fearful of being persecuted or even killed if they return home. At a time when human rights monitoring groups report the increase of right-wing terrorism, some of it state sanctioned, the continuation of the Bush Administration's policies, which have led to the expedited deportations of 97.4% of the Salvadorans who apply for asylum, is simply unconscionable. For our government, including the Immigration and Naturalization Service (INS), to refuse to acknowledge that Salvadoran refugees face a "well-founded fear of persecution" when returning home ignores the facts and represents a cruel indifference to suffering which is irreconcilable with our national values.

The time has come to support the victims of this war, not the parties who perpetuate it. So long as devastating violence rocks El Salvador, and Salvadorans remain targets of their own government, it is clear that we must listen when Salvadorans ask for asylum.

The Jewish community has a special stake in this issue, for we know too well the devastation caused by a world that will not give asylum to the persecuted. In 1939, no government was willing to accept our stories of persecution and murder. Six million of our brothers and sisters died.

Can we who condemned the world for standing silent while millions died, dare stand silent now when others are threatened to be cast out from safety to peril?

Can we, for whom the gates of freedom were so tragically closed, do less than ensure that there is a temporary haven for the persecuted today?

Can we who were sent back on the ship St. Louis from the shores of this land to uncertain fates that meant death to most, do less than temporarily suspend the deportation of Salvadoran refugees while the fate of those Salvadorans who have been deported is determined?

If we are to honor the tragic loss of those who need not have died in the past, we can do nothing less than everything in our power to ensure the passage of the Moakley-DeConcini Central American Relief Bill.

Statement of the Leadership Conference of Women Religious

Since the early 1980's the Catholic sisters in the Leadership Conference of Women Religious (LCWR) have been interested in and working for the freedom and self-determination of the people of Latin America. Until all people there can live in peace and security, the refugees from militarized areas need our protection and help. This current bill (Moakley-DeConcini) is needed now particularly for refugees from El Salvador until progress on the peace negotiations assure freedom for the Salvadoran people.

We have and will continue to educate our membership across the country on these issues dealing with immigration and safety for all refugees. Until every person can be assured of safe relocation in their own country we have a responsibility to protect their human rights in our land.

SALVADORANS DESERVE AND STILL NEED TEMPORARY REFUGE IN THE U.S.A.

(By Ruth McDonough Fitzpatrick, National Coordinator, Women's Ordination Conference)

Salvadoran refugees need to be able to have temporary refuge in U.S. especially in this time of ARENA presidency. More refugees than ever are arriving in the U.S. at a time when those refugees in the Mesa Grande and Colomoncagua camps in Honduras are bravely returning to their homeland as organized communities.

To pass the Moakley-DeConcini Bill is only a small measure, but a needed one. I ask members of Congress to vote their informed conscience. Now, let me do a little informed consciousness-raising here.

We U.S. citizens have a moral responsibility to speak up against our government's funding this war in El Salvador. We have an ethical obligation and a moral duty to stop the deportations back to a low intensity warfare in El Salvador.

The ARENA party was declared the winner of El Salvador's presidential elections. The death squads are more active than they have been for a number of years. ARENA is the party of the death squads. People are killed every day. Death squad victims' bodies are found every day.

Six refugee members of the Central American Refugee Committee received a death threat letter this year in Los Angeles. The letter said, "We won the elections and now we are reinforcing our forces of justice here in El Salvador and outside of the country. We have you on the black list. . . . Death to the terrorists." The threat followed the recent victory of the ARENA party in the Salvadoran elections. The U.S. Embassy, while not changing its policies, has now become a moderate force in El Salvador in comparison to the extreme right of D'Aubisson's ARENA party.

For these reasons, three of us Catholic religious women recently sat in solidarity in the INS office on March 28th, the day they detained Co-Madres Salvadoran human rights activist and U.S. Representative of CO-MADRES, America Sosa. We followed our conscience. We could not look the other way while she was being detained and deported to El Salvador. Congress must not look the other way, either.

When three of us were sitting in solidarity at the INS, some of the members of INS came out into the reception room when they realized what we were doing. One man shook hands with each of us and told us that he was honored to meet us. What does that mean? It means even in the INS there were different positions on whether people should be picked up and sent back to El Salvador; that some people were glad to see us there highlighting the situation.

Nine years since the assassination of Archbishop Oscar Romero, there have been more than 70,000 assassinations and 7,800 disappearances (CO-Madres bulletin, March 1, 1989).

In 1981, I visited the refugee camp of La Virtud in Honduras, not that long a time after thousands of refugees fled from the Salvadoran military. At the River Lempa between Honduras and El Salvador, they were fired upon by an American helicopter sent as non-lethal aid by the Carter Administration. The homeless refugees I saw down there were in better physical shape than the internal refugees I met last year in San Salvador who are homeless from the time of the great earthquake several years ago. Dehumanizing poverty and death are constant companions. A slow death or a fast death. The poor do not live to a ripe old age in El Salvador.

I was brought up to believe that the U.S. constitution supports the individual right of every person to a life free from oppression, not only in our own country, but throughout the world. The men in my family have fought and died in wars they thought were protecting that freedom. I prefer ballots to bullets. Voting is much more humane.

I grew up in World War Two with my father, a Colonel in the U.S. Army overseas fighting the Japanese in the Pacific "theater". My family was "homeless" because there was a great wartime housing shortage. As we house-hunted and finally found a home, we read in Life Magazine that some people were living in chicken coops for lack of shelter. At the same time the Japanese in California were being interred in concentration camps. Go down to the Museum of American History to see a life-like display of life in a concentration camp here in the U.S. The display is masterful in highlighting our Constitutional rights.

The U.S. government has finally admitted that shame over forty years later. Our government must take responsibility now and pass the Moakley-DeConcini bill that will let refugees from El Salvador stay a while here in the U.S. Don't wait for our next generation to correct the mistakes of this generation. History will judge what you vote right now.

When I was a child in Minneapolis, my favorite book was one called, "Marta Finds the Golden Door". It was the story of a little Jewish refugee girl from Amsterdam, Holland and how she and her family came to the United States. At the first glimpse of the Statue of Liberty, the refugees crowding the rails of the refugee boat set up a cry of freedom and joy.

Years later, I myself, thrilled to remember that book as I returned by ship with my family from living in Europe. It is awe-inspiring, to get a first glimpse of that magnificent symbol of freedom that was so demeaned by the Reagan administration's callousness and inhumanity to refugees. They took our symbol of freedom and they tried to smash it.

The administration spent all that money refurbishing the actual statue while destroying the meaning of the words inscribed: "Send me your tired and your poor; your huddled masses yearning to be free. I lift my lamp beside the golden door."

This is a redemptive moment. Congress has a chance to start setting a few things right now. Let us not take another forty years to right the wrongs like it did with the Japanese we deprived of life, liberty and the pursuit of happiness.

A year ago, I was in El Salvador on an important fact-finding trip, examining the situation of returning refugees. The last time I visited El Salvador was the last time I will visit El Salvador for a long, long time. I have made numerous human rights fact-finding trips to Central America and Latin America. But I cannot now obtain a visa to go to El Salvador.

Why? I am one of the over 1,000 people, including a number of bishops, who Salvadoran President Christiani does not want in "his" country. How can our government send refugees back to El Salvador if we Human Right's monitors are not allowed into El Salvador to check on their human rights conditions once they are returned?

In God's name and in the name of the suffering people of El Salvador, pass the Moakley-Conference DeConcini bill and show a little humanity. We must re-claim the Statue of Liberty and the freedom from oppression it stands for. Send us your tired and your poor, we lift our lamps beside the golden door and we will not send anyone back to become once more victims of war—either economic war, low intensity military conflict, or a war of a right-wing government against its own people struggling to be free.

OCTOBER 20, 1989.

Hon. JOE MOAKLEY,
Cannon House Office Building,
U.S. Congress, Washington, DC.

DEAR CONGRESSMAN MOAKLEY: On behalf of the 40,000 Chinese students and scholars in the United States, we applaud your decision to include H.R. 2929 (Rep. Morrison's bill) into your bill, H.R. 45. The "Chinese and Central American Temporary Protected Status Act of 1989" provides temporary protected status, work authorization and other important protection to nationals of China, El Salvador, Nicaragua, and other designated foreign countries. As you know, in spite of the unique circumstances faced by Chinese students, who found themselves stranded here by our Government's sudden repression and massacre of fellow students, we fully support this "generic" legislative approach. We realize that for nationals of other countries, the danger of returning to their home country may not be due to activities in the United States nor due to the same kind of repression, but the dangers are certainly just as real.

We also want to take this opportunity to thank you for your support of H.R. 2712, which is now in conference. H.R. 2712 waives the two-year home country residence requirement for Chinese J visa students and scholars. Waiver of the two-year home country residence requirement is very crucial for our protection. Without the waiver, we will remain frightened and extremely vulnerable to our Government's efforts to intimidate us into keeping silent. As a matter of fact, right now, some Chinese students have been silenced by the recent escalation of threats and intimidation from the Chinese Embassy, and are unwilling to come to speak to the Congress due to the fear that H.R. 2712 may not become law. Our efforts in urging the passage of H.R. 2712 is consistent with our strong support in your bill. Without your bill, the Chinese nationals here in the U.S. cannot be fully protected, and vice versa.

We are looking forward to the swift passage of H.R. 2712, and to working closely with you and Rep. Morrison on the "Chinese and Central American Temporary Protected Status Act of 1989." The combination of both measures provides the complete relief we so badly need.

Sincerely,

HAICHING ZHAO,
Chairman, The National Coordination Committee on Chinese Students Affairs.

EMBASSY OF THE REPUBLIC OF EL SALVADOR,
Washington, DC, September 27, 1989.

Hon. JOE MOAKLEY,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN MOAKLEY: On behalf of President Alfredo F. Christiani and the people of El Salvador, I am writing to urge your support for the Moakley-DeConcini Central American Temporary Protection Act of 1989 (HR45/S 458).

Enactment of this humanitarian legislation is essential to achieve peace with democracy in El Salvador. Ten years of war and insurrection has caused the displacement of over one million Salvadorans, or 20% of our population. Perhaps 500,000 are now residing in the United States. Another 500,000 or more are residing in other countries in the region or are internally displaced within El Salvador.

We long for the day when all our people can safely return to rebuild our country. We are determined to achieve peace with democracy and speed the day when our people can be reunited.

When they return to El Salvador, our people who Moakley-DeConcini will cover, will bring back skills, experiences, education and a deep commitment to democratic values. In other words, you will be making better citizens for our country.

Enactment of Moakley-DeConcini is necessary to enable us to achieve these goals. The bill's provision of three year temporary protected status for Salvadoran (and Nicaraguan) nationals who have resided in the U.S. since before March of 1989 will provide security and hope to our people. The registration process which the bill requires will enable the U.S. Immigration Service to better regulate and manage the presence of Salvadorans in the United States, and better enable my government to plan and prepare for orderly repatriation in the future.

My government is determined to cooperate with the government of the United States to regain control over the migration of our people. Enactment of Moakley-DeConcini, coupled with new initiatives to assist displaced people who remain within Central America, are necessary elements to achieve this objective.

Peace with democracy is a fervent hope shared by the people of El Salvador and the people of the United States. Providing a temporary protective status to Salvadorans now in the U.S. will promote peace and strengthen the bonds of good will between our people. It will strengthen the democratic aspirations and respect for the United States of all Salvadorans.

In 1988 President Napoleón Duarte wrote Senator Robert Byrd to urge enactment of Moakley-DeConcini. President Duarte's letter, which is attached, expresses his strong belief that providing temporary legal status to Salvadorans in the United States is a critical initiative. I know that President Duarte continued to hope that the American people, through their government, would extend this act of generosity and grace to our people.

Thank you for your continued support and consideration of this important measure which the Salvadoran people urgently need.

Sincerely,

MIGUEL A. SALAVERRÍA,
Ambassador.

JULY 26, 1988.

Hon. ROBERT C. BYRD,
U.S. Senate,
Washington, DC.

DEAR SENATOR BYRD: I wish to address a subject that is very close to my heart: my people. In this case those who are far away from their homes, not by choice, but for the pain of a divided country, a country at war. I wish to ask for your assistance to obtain the greatest privilege the people of your nation can bestow on the people of El Salvador: a temporary safe haven for so many who have fled from the insurrection, and who now reside in the United States.

My fundamental objective has been to introduce democracy and restore peace to my country. As I begin my last year in office, all my energy is directed to this goal. I am convinced that temporary safe haven is the single most important initiative the United States can now take to help my nation achieve this aspiration, which the people of El Salvador and the United States have shared for so long.

Since 1979 the conflict in my country has resulted in much death and suffering. Over 500,000 of our citizens have been displaced from their homes. Another 200,000 have fled the conflict seeking temporary safe haven in neighboring countries, especially Honduras, Costa Rica, and Mexico. And since 1979, perhaps as many as 500,000 have fled to the U.S.

The enemies of democracy seek now to exploit the hardships and uncertainty of thousands uprooted in spirit and place by nine long years of insurrection. Just one month ago the commander of the marxist FMLN, Joaquin Villalobos, stated that his forces would find recruits for the guerrillas among Salvadorans who may soon be forced to return to their country. He added that the returnees will be an important factor to deepen the socio-political crisis which prevails today.

I reject this analysis but not its implications. The marxist forces which prey upon the hopeless, look now to renew the conflict and stir discontent among the thousands they soon expect to return. I am determined to defeat this cynical, anti-democratic concept.

It is my fervent hope that someday soon we will achieve peace, with democracy, so that all of my people can return safely to their homeland. We are committed to this purpose, as evidenced by the welcome and assistance we provided some 4,500 displaced who returned this spring from the camps of Mesa Grande in Honduras.

We are grateful that, for now, our neighbors in the region continue to welcome those citizens of my country who have sought their hospitality. We recognize that our Central American neighbors have received our people at a time of difficulty throughout the region. As we seek peace together, so too we continue together to provide relief to those who need it. In this endeavor we in Central America take our example from the people and history of the United States, and the teachings of our shared Judeo-Christian tradition.

It is in this spirit that I ask that the United States Senate join with the House of Representatives to enact Legislation to provide temporary safe haven to nationals of El Salvador now in the United States. I understand that S. 332, sponsored by a friend of El Salvador, Senator Dennis DeConcini of Arizona, would achieve this important objective for my countrymen, as well as those displaced by the war in Nicaragua. I hope that this measure may soon come before the Senate.

I ask for your support to Senator DeConcini's proposal. I do so mindful of the right and duty of any sovereign nation to determine who may lawfully enter and remain within its territory. I am mindful too, of the important and generous immigration reforms the United States recently implemented, and respect the legitimate objectives of those laws.

We pray and work for peace in El Salvador and hope for a day soon when our people may return to peace. I am convinced that an extension of temporary safe haven to those already in the United States will speed the day when this dream becomes a reality.

Finally I wish to note two tragic, but important realities. War can destroy hope and values, as well as lives and property. To achieve peace with democracy, our people must find new hope. The continued humanitarian concern of the people of the United States can restore the hope of my people, and build upon the goodwill that exists and grows between us.

Yours sincerely,

JOSE NAPOLEON DUARTE.

Mr. PORTER. Mr. Chairman, I strongly support H.R. 45, a bill that will provide temporary protected status for 3 years to nationals of China, Nicaragua, and El Salvador. I commend our colleague BRUCE MORRISON for crafting such a timely and important bill.

Since June 4, when the Chinese Government turned tanks and guns against its own citizens, killing hundreds if not thousands, the world was put on notice that Beijing was being ruled by individuals out of touch with international norms of decency. Millions marched around the world to protest this brutality—many of them here in the United States.

Clearly, the United States had to take steps to protect those it could, and send as strong a message as possible to the Chinese Government that their actions were unconscionable and would come at a cost.

One step that is easy is to protect those students and other Chinese nationals that are currently in the United States from being forced back to the People's Republic of China. Particularly, those students who supported their brethren in Tiananmen Square by marching in U.S. cities to protest Lee Peng's type of rule, these students and Chinese nationals must be provided temporary protection. There clearly is no guarantee that they will be unharmed if forced to return to their motherland.

In China, the situation remains oppressive and the crackdown continues unabated. The Beijing government shows no signs of living up to its guarantees under international law nor of halting its ongoing denials of any true guarantees of human rights.

The United States must stand firmly with those who seek change in China. It is not a matter of China's "internal affairs" as Deng Xioping so arrogantly claims. Rather, it is a matter of morality and responsibility for the United States.

Today we can help Chinese students in our own country. Tomorrow we may have to take steps to help the many Hong Kong citizens who fear the day that they will come under Chinese rule. I look forward to working with Chairman MORRISON in crafting additional U.S. immigration policy that can respond to the terribly troubling state of Chinese oppression.

Passage of H.R. 45, will hopefully send a message to Beijing that the United States can and will take steps to protect those threatened by the current regime. I urge members to strongly support this bill.

Mr. SMITH of Texas. Mr. Chairman, I oppose H.R. 3506, which will stay the deportation of Salvadorans, Nicaraguans, and Chinese, as well as the closed rule which prohibits the separate consideration of these countries.

H.R. 3506 combines the provisions of H.R. 45, which gives blanket stays of deportation to Nicaraguans and Salvadorans, with those of H.R. 2929, which grants temporary protected status to Chinese nationals, primarily students participating in the pro-Democracy movement. While I support H.R. 2929, I oppose H.R. 45.

The closed rule forces many of my colleagues and me to choose between supporting provisions which we oppose in order to save those in which we believe, or instead, to oppose all provisions, including those we support. Given the closed rule, I oppose H.R. 3506.

I urge my colleagues to join in my opposition to H.R. 3506. Its blanket, preferential treatment undermines the comprehensive and fair asylum system established by the Refugee Act of 1980, by focusing on the nationality of the alien rather than on the merits of the individual's circumstances.

Congress passed the Refugee Act of 1980 to replace piecemeal and nation-specific legislation for refugees. The act established a system whereby any person—regardless of origin—can apply for admission to the United States based on fear of persecution. H.R. 3506 directly circumvents this case-by-case system of review on the merits.

The administration opposes H.R. 3506 because it undermines the Refugee Act of 1980 by favoring blanket suspension of the immigration laws, it is nation-specific and thereby encourages further nation-specific legislation, it limits the President's foreign policy prerogatives, and because it inappropriately directs the GAO to investigate treatment of certain foreign nationals.

By staying the deportation of possibly hundreds of thousands of persons, the legislation undermines the Immigration Reform and Control Act of 1986. Under IRCA, in order to obtain amnesty, illegal aliens had to prove that they have continuously resided in the United States since before 1982.

A grant of EVD would extend special privileges to Salvadorans and Nicaraguans, regardless of when they came or why. The 1986 act granted a one-time amnesty program which passed the House by only 5 votes. To allow Salvadorans and Nicaraguans to remain here violates this program and undermines the purpose of the IRCA—to deter future illegal migration to the United States.

H.R. 3506 also sets a bad precedent. To give special treatment to just a few countries is unfair to other countries and their peoples who also face hardship. Already we have heard from other countries who want the same special treatment provided by H.R. 3506.

We know from the experience of South Texas that even a rumor of leniency on asylum-seekers will act as a magnet for the future migration of massive numbers of people. If we allow H.R. 3506 to pass, we are sending a message to others that we do not take our immigration laws seriously and that we will make exceptions for many others to come.

As generous as the United States is, we cannot possibly accept all who wish to better their economic situation.

All Americans are sympathetic to the plight of the Chinese students. Currently, H.R. 2712, initiated by my colleague Ms. PELOSI, is in conference and is close to final approval. This legislation will temporarily protect those students in the United States.

By voting against H.R. 3506, we will not be abandoning our Chinese friends. We will be opposing a bill which sets a bad precedent and circumvents our current system of asylum review.

I ask that my colleagues join me in opposing H.R. 3506.

Mr. FEIGHAN. Mr. Chairman, I rise in strong support of H.R. 45, which would offer temporary protected status for the next 3 years to Chinese, Salvadorans, and Nicaraguans who have been in the United States prior to July of this year—while the General Accounting Office investigates whether it would be safe for them to return home.

Last summer, the world watched in horror as the Chinese Government massacred thousands of unarmed people demonstrating for democracy in Tiananmen Square. Students who begged for their lives were shot down at close range in cold blood. Hunts were carried out for students hiding throughout China. Following the crackdown, at least 29 people were executed and more than 10,000 others were imprisoned. Since June, we've heard of widespread cases of beatings, torture, arrests, and imprisonment, as well as the continued denial of freedom of expression and assembly.

Mr. Chairman, the Chinese Government reportedly has kept blacklists of pro-democracy students living in the United States. Many of the Chinese students here are clearly terrified to return to China. Thousands of these students have worked hard to bring their fears to our attention. I have personally heard from hundreds of students—both Chinese and American—studying at universities throughout my home State of Ohio.

There can be little question about what would happen to those Chinese students living in the United States who protested the Tiananmen Square massacre—if they were to return to China at this time. We've seen that the Chinese Government is capable of murdering its brightest children when they call for democracy and basic liberties.

The U.S. Congress must allow these students to remain here until they can return home safely. This bill will allow them to do that. It's the very least that we can do.

In El Salvador, this legislation is desperately needed to protect those who have fled the civil war and human carnage that has occurred in that country. After a decade of civil war, 70,000 Salvadorans have died and 750,000 more have been displaced. To a lesser extent, the conflict in Nicaragua has caused displacement of civilians who would be helped by this measure. This bill addresses the consequences of a misguided policy in the region—a policy that has failed to recognize that the economic and social divisions within these societies cannot and will not be resolved through military means. The result of that policy is a growing refugee population, in the United States and in Central America, now struggling just to keep themselves alive.

By passing this legislation, we provide a humanitarian response to an increasingly desperate situation. We send a message to those who fear returning to their country because of the persecution they may face by the regimes now in power. And particularly in the case of China, we send a clear signal to that government that its brutal massacre has not been forgotten or covered up. That we will not turn our back on the 40,000 Chinese students living here among us. And that if the Chinese Government continues to repress its people, it will pay a heavy price in its relationship with the United States.

I urge my colleagues to support this legislation.

Mr. CONTE. Mr. Chairman, I rise in strong support of H.R. 45. This bill will protect some of the most vulnerable people in the United States—undocumented citizens of Nicaragua, El Salvador, and the People's Republic of China—from deportation to countries where they may suffer persecution, imprisonment or even death.

Wars and political persecution in Nicaragua and El Salvador have been going on for over a decade now. The violence has come from people of radically different political views. Many of us have disagreed about how best the United States can work to end that violence, and bring freedom, justice, and prosperity to those suffering lands. Our disagreements are at times embittered and passionate.

But Mr. Chairman, we can all agree that the innocent victims of war, the people who flee from the violence of governments or guerrillas, deserve some protection and some help. Until the wars end and the refugees can return to rebuild their homes and their countries, we should and we must allow them to find shelter.

That is just as true for the Chinese citizens who have been stranded here by the brutal actions of their government. After the first terrible attack on the demonstrators in Tiananmen Square, the Chinese Government moved to eliminate all dissent. The brave leaders of the democracy movement—people like Wang Dan, and thousands of other students and workers whose names are unknown to us—joined earlier democracy activists in prison. Supporters of political and economic reform within the government are reviled and purged. Anyone who has studied or lived abroad is in danger.

Through this bill, we can spare them all the fear of deportation to face persecution or even death. The bill is a guarantee of their life and freedom—the Chinese who dream of a strong, free, and democratic homeland; the Nicaraguans who have survived earthquakes, storms and war to pray for a free election and a reconciliation; and the Salvadorans who hope so deeply for an end to an old and cruel war.

It is a good, just, and humane bill. It makes no great changes in our immigration laws. It does not grant citizenship or permanent residence or even legal refugee status. It simply protects some people who are in danger. It is the right thing to do, and I urge the Members of the House to adopt it.

□ 1500

The CHAIRMAN. All time has expired.

Pursuant to the rule, an amendment in the nature of a substitute consisting

of the text of H.R. 3506 is considered as an original bill for the purpose of amendment under the 5-minute rule and be considered as having been read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 3506

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chinese and Central American Temporary Protected Status Act of 1989".

TITLE I—TEMPORARY PROTECTED STATUS

SEC. 101. TEMPORARY PROTECTED STATUS FOR NATIONALS OF CHINA, EL SALVADOR, NICARAGUA, AND OTHER DESIGNATED FOREIGN STATES.

(a) IN GENERAL—The Immigration and Nationality Act is amended by inserting after section 244 the following new section:

"TEMPORARY PROTECTED STATUS

"SEC. 244A. (a) GRANTING OF STATUS.—

"(1) IN GENERAL.—In the case of an alien who is a national of a foreign state designated under subsection (b) and who meets the requirements of subsection (c), the Attorney General, in accordance with this section—

"(A) shall grant the alien temporary protected status in the United States and shall not deport the alien from the United States during the period in which such status is in effect, and

"(B) shall authorize the alien to engage in employment in the United States and provide the alien with an 'employment authorized' endorsement or other appropriate work permit.

"(2) DURATION OF WORK AUTHORIZATION.—Work authorization provided under this section shall be effective throughout the period the alien is in temporary protected status under this section.

"(3) NOTICE OF RIGHTS.—

"(A) Upon the granting of temporary protected status under this section, the Attorney General shall notify the alien of the alien's rights and responsibilities under this section.

"(B) If, at the time of initiation of a deportation proceeding against an alien, the foreign state (of which the alien is a national) is designated under subsection (b), the Attorney General shall promptly notify the alien of the alien's potential rights and responsibilities under this section.

"(C) If, at the time of designation of a foreign state under subsection (b), an alien (who is a national of such state) is in a deportation proceeding under this title, the Attorney General shall promptly notify the alien of the alien's potential rights and responsibilities under this section.

"(D) Notices under this paragraph shall be provided in a form and language that the alien can understand.

"(4) TEMPORARY RIGHTS FOR ELIGIBLE ALIENS.—

"(A) In the case of an alien who can establish a prima facie case of eligibility for rights under paragraph (1), but for the fact that the period of registration under subsection (c)(1)(A)(iv) has not begun, until the alien has had a reasonable opportunity to register during the first 30 days of such period, the Attorney General shall provide for the rights described in paragraph (1).

"(B) In the case of an alien who establishes a prima facie case of eligibility for rights under paragraph (1), until a final determination with respect to the alien's eligibility for rights under paragraph (1) has been made, the alien shall be provided such rights.

"(5) CLARIFICATION.—Nothing in this section shall be construed as authorizing the Attorney General to deny temporary protected status to an alien based on the alien's immigration status or to require any alien, as a condition of being granted such status, either to relinquish nonimmigrant or other status the alien may have or to execute any waiver of other rights under this Act. The granting of temporary protected status under this section shall not be considered to be inconsistent with the granting of nonimmigrant status under this Act.

"(b) DESIGNATIONS OF CHINA, EL SALVADOR, NICARAGUA, AND FOREIGN STATES IN GENERAL.—

"(1) DESIGNATION OF CHINA, EL SALVADOR, AND NICARAGUA.—The People's Republic of China (in this section referred to as 'China'), El Salvador, and Nicaragua are hereby designated under this subsection.

"(2) DESIGNATION OF FOREIGN STATES IN GENERAL.—The Attorney General, after consultation with appropriate agencies of the Government, shall designate any foreign state (or, in the case of a finding under subparagraph (B), all or any part of such foreign state) under this subsection only if—

"(A) the Attorney General finds that there is an ongoing armed conflict within the state and, due to such conflict, requiring the return of aliens who are nationals of that state to that state would pose a substantial threat to their personal safety;

"(B) the Attorney General finds that—

"(i) there has been an earthquake, flood, drought, epidemic, or other environmental disaster in the state resulting in a substantial, but temporary, disruption of living conditions in the area affected,

"(ii) the foreign state is unable, temporarily, to handle adequately the return to the state of aliens who are nationals of the state, and

"(iii) the foreign state officially has requested designation under this subparagraph; or

"(C) the Attorney General finds that there exist extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety, unless the Attorney General finds that permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States.

A designation of a foreign state (or, in the case of a determination under subparagraph (B), all or any part of such foreign state) under this paragraph shall not become effective unless notice of the designation (including a statement of the findings under this paragraph and the effective date of the designation) is published in the Federal Register. In such notice, the Attorney General shall also state an estimate of the number of nationals of the foreign state designated who are (or within the effective period of the designation are likely to become) eligible for temporary protected status under this section and their immigration status in the United States.

"(3) EFFECTIVE PERIOD OF DESIGNATION FOR CHINA, EL SALVADOR, AND NICARAGUA.—The designation of China, El Salvador, and Nicaragua under paragraph (1) shall take effect upon the date of the enactment of this section and shall remain in effect until the effective date of the termination of the respective designation under paragraph (5)(B). For purposes of applying the succeeding provisions of this section, China shall be considered to have been designated based upon a finding described in paragraph (2)(C) and El Salvador and Nicaragua shall be considered to have been designated based upon findings described in subparagraphs (A) and (C) of paragraph (2). For purposes of this section, the initial period of designation for China, El Salvador, and Nicaragua under paragraph (1) is 3 years.

"(4) EFFECTIVE PERIOD OF DESIGNATION FOR OTHER FOREIGN STATES.—The designation of a foreign state (or, in the case of a determination under paragraph (2)(B), all or any part of such foreign state) under paragraph (2) shall—

"(A) take effect upon the date of publication of the designation under such paragraph, or such later date as the Attorney may specify in the notice published under such paragraph, and

"(B) shall remain in effect until the effective date of the termination of the designation under paragraph (5)(B).

For purposes of this section, the initial period of designation of a foreign state (or part thereof) under paragraph (2) is the period, specified by Attorney General, of not less than 6 months and not more than 18 months.

"(5) PERIODIC REVIEW, TERMINATIONS, AND EXTENSIONS OF DESIGNATIONS.—

"(A) PERIODIC REVIEW.—At least 60 days before end of the initial period of designation, and any extended period of designation, of a foreign state (or part thereof) under this section the Attorney General, after consultation with appropriate agencies of the Government, shall review the conditions in the foreign state (or, in the case of a determination under paragraph (2)(B), all or any part of such foreign state) for which a designation is in effect under this subsection and shall determine whether the conditions for such designation under this subsection continue to be met. The Attorney General shall provide on a timely basis for the publication of notice of each such determination (including the basis for the determination, and, in the case of an affirmative determination, the period of extension of designation under subparagraph (C)) in the Federal Register.

"(B) TERMINATION OF DESIGNATION.—If the Attorney General determines under subparagraph (A) that a foreign state (or, in the case of a determination under paragraph (2)(B), all or any part of such foreign state) no longer continues to meet the conditions for designation under paragraph (2), the Attorney General shall terminate the designation by publishing notice in the Federal Register of the determination under this subparagraph (including the basis for the determination). Such termination is effective in accordance with subsection (d)(3), but shall not be effective earlier than 60 days after the date the notice is published or, if later, the expiration of the most recent previous extension under subparagraph (C) and, with respect to the designation of China, El Salvador, and Nicaragua under paragraph (1), shall not be effective before the end of the 3-year period beginning on the date of the enactment of this section.

"(C) EXTENSION OF DESIGNATION.—If the Attorney General does not determine under subparagraph (A) that a foreign state (or, in the case of a determination under paragraph (2)(B), all or any part of such foreign state) no longer meets the conditions for designation under paragraph (2), the period

of designation of the foreign state is extended for an additional period of 6 months (or, in the discretion of the Attorney General, a period of 12 or 18 months).

"(6) INFORMATION CONCERNING PROTECTED STATUS AT TIME OF DESIGNATIONS.—Within the amounts otherwise appropriated to carry out this Act, at the time of a designation of a foreign state under this subsection (including the designation of China, El Salvador, and Nicaragua under paragraph (1)), the Attorney General shall make available information respecting the temporary protected status made available to aliens who are nationals of such designated foreign state.

"(7) REVIEW.—

"(A) DESIGNATIONS.—There is no judicial review of any determination of the Attorney General with respect to the designation, or termination or extension of a designation, of a foreign state under this subsection.

"(B) APPLICATION TO INDIVIDUALS.—The Attorney General shall establish an administrative procedure for the review of the denial of rights to aliens under this subsection; except that such procedure shall not prevent an alien from asserting rights under this section in deportation proceedings.

"(c) ALIENS ELIGIBLE FOR TEMPORARY PROTECTED STATUS.—

"(1) IN GENERAL.—

"(A) CHINESE, SALVADORAN, AND NICARAGUAN NATIONALS.—Subject to paragraph (3), an alien who is a national of China, El Salvador, or Nicaragua (for the period such respective state is designated under subsection (b)(1)) meets the requirements of this paragraph only if—

"(i) the alien has been continuously physically present in the United States since the date of the enactment of this section;

"(ii) the alien has continuously resided in the United States since July 1, 1989;

"(iii) the alien is admissible as an immigrant, except as otherwise provided under paragraph (2)(A), and is not ineligible for temporary protected status under paragraph (2)(B); and

"(iv) the alien registers under this section within the 270-day registration period (established by the Attorney General) beginning not later than 60 days after the date of the enactment of this section.

"(B) NATIONALS OF DESIGNATED FOREIGN STATES IN GENERAL.—Subject to paragraph (3), an alien, who is a national of a state designated under subsection (b)(2), meets the requirements of this paragraph only if—

"(i) the alien has been continuously physically present in the United States since the effective date of the most recent designation of that state;

"(ii) the alien has continuously resided in the United States since such date as the Attorney General may designate;

"(iii) the alien is admissible as an immigrant, except as otherwise provided under paragraph (2)(A), and is not ineligible for temporary protected status under paragraph (2)(B); and

"(iv) to the extent and in a manner which the Attorney General establishes, the alien registers for the temporary protected status under this section during a registration period of not less than 180 days.

"(C) REGISTRATION FEE.—The Attorney General may require payment of a reasonable fee as a condition of registering an alien under subparagraph (A)(iv) or (B)(iv) (including providing an alien with an 'employment authorized' endorsement or other appropriate work permit under this section). The amount of any such fee shall not exceed $50.

"(2) ELIGIBILITY STANDARDS.—

"(A) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—In the determination of an alien's admissibility for purposes of subparagraphs (A)(iii) and (B)(iii) of paragraph (1)—

"(i) the provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) shall not apply;

"(ii) except as provided in clause (iii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest; but

"(iii) the Attorney General may not waive—

"(I) paragraphs (9) and (10) (relating to criminals) of such section;

"(II) paragraph (23) of such section (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marijuana;

"(III) paragraphs (27) and (29) of such section (relating to national security); or

"(IV) paragraph (33) of such section (relating to those who assisted in the Nazi persecution).

"(B) ALIENS INELIGIBLE.—An alien shall not be eligible for temporary protected status under this section if the Attorney General finds that—

"(i) the alien has been convicted of any felony or 2 or more misdemeanors committed in the United States; or

"(ii) the alien is described in section 243(h)(2).

"(3) WITHDRAWAL OF TEMPORARY PROTECTED STATUS.—The Attorney General shall withdraw temporary protected status granted to an alien under this section if—

"(A) the Attorney General finds that the alien was not in fact eligible for such status under this section,

"(B) except as provided in paragraph (4) and permitted in subsection (f)(4), the alien has not remained continuously physically present in the United States from the date the alien first was granted temporary protected status under this section, or

"(C) the alien fails, without good cause, to register with the Attorney General annually, at the end of each 12-month period after the granting of such status, in a form and manner specified by the Attorney General.

"(4) TREATMENT OF BRIEF, CASUAL, AND INNOCENT DEPARTURES AND CERTAIN OTHER ABSENCES.—

"(A) For purposes of paragraphs (1)(A)(i), (1)(B)(i), and (3)(B), an alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences from the United States, without regard as to whether such absences were authorized by the Attorney General.

"(B) For purposes of paragraphs (1)(A)(ii) and (1)(B)(ii), an alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual, and innocent absence described in subparagraph (A) or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

"(5) CONSTRUCTION.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to apply for temporary protected status under this section.

"(6) RESTRICTION ON DISCLOSURE OF INFORMATION.—The provisions of section 245A(c)(5) shall apply to information furnished by an alien in order to be granted temporary protected status under this section in the same manner as such provisions apply with respect to information furnished pursuant to an application section 245A.

"(d) DOCUMENTATION.—

"(1) INITIAL ISSUANCE.—Upon the granting of temporary protected status to an alien under this section, the Attorney General shall provide for the issuance of such temporary documentation and authorization as may be necessary to carry out the purposes of this section.

"(2) PERIOD OF VALIDITY.—Subject to paragraph (3), such documentation shall be valid during the initial period of designation of the foreign state (or part thereof) involved and any extension of such period. The Attorney General may stagger the periods of validity of the documentation and authorization in order to provide for an orderly renewal of such documentation and authorization and for an orderly transition (under paragraph (3)) upon the termination of a designation of a foreign state (or, in the case of a determination under subsection (b)(2)(B), all or any part of such foreign state).

"(3) EFFECTIVE DATE OF TERMINATIONS.—If the Attorney General terminates the designation of a foreign state (or, in the case of a determination under subsection (b)(2)(B), all or any part of such foreign state) under subsection (b)(4)(B), such termination shall only apply to documentation and authorization issued or renewed after the effective date of the publication of notice of the determination under that subsection (or, at the Attorney General's option, after such period after the effective date of the determination as the Attorney General determines to be appropriate in order to provide for an orderly transition).

"(4) DETENTION OF THE ALIEN.—Nothing in this section shall be construed to authorize the detention of any alien who is eligible for temporary protected status under this section. An alien provided temporary protected status under this section shall not be determined by the Attorney General on the basis of the alien's immigration status in the United States.

"(e) RELATION OF PERIOD OF TEMPORARY PROTECTED STATUS TO SUSPENSION OF DEPORTATION.—With respect to an alien granted temporary protected status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 244(a), unless the Attorney General determines that extreme hardship exists. Such period shall not cause a break in the continuity of residence of the period before and after such period for purposes of such section.

"(f) BENEFITS AND STATUS DURING PERIOD OF TEMPORARY PROTECTED STATUS.—During a period in which an alien is granted temporary protected status under this section—

"(1) the alien shall not be considered to be permanently residing in the United States under color of law;

"(2) the alien shall not be eligible for any program of cash assistance (furnished directly or through reimbursement) under Federal law, except for treatment for an emergency medical condition as described in section 1903(v) of the Social Security Act;

"(3) the alien may be deemed eligible for public assistance by a State (as defined in section 101(a)(36)) or any political subdivision thereof which furnishes such assistance;

"(4) the alien may travel abroad with the prior consent of the Attorney General; and

"(5) for purposes of adjustment of status under section 245 and change of status under section 248, the alien shall be considered as being in, and maintaining, lawful status as a nonimmigrant.

"(g) EXCLUSIVE REMEDY.—Except as otherwise specifically provided, this section shall constitute the exclusive authority of the Attorney General under law to permit aliens who are or may become otherwise deportable or have been paroled into the United States to remain in the United States temporarily because of their particular nationality or region of foreign state of nationality.

"(h) ANNUAL REPORT.—Not later than March 1 of each year (beginning with 1990), the Attorney General, after consultation with the appropriate agencies of the Government, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the operation of this section during the previous year. Each report shall include—

"(1) a listing of the foreign states or parts thereof designated under this section,

"(2) the number of nationals of each such state who have been granted temporary protected status under this section and their immigration status before being granted such status, and

"(3) an explanation of the reasons why foreign states or parts thereof were designated under subsection (b)(2) and, with respect to foreign states or parts thereof previously designated, why the designation was terminated or extended under such subsection.".

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 244 the following new item:

"Sec. 244A. Temporary protected status.".

SEC. 102. EFFECTIVE DATE; TRANSITION.

(a) EFFECTIVE DATE.—The amendments made by this title shall take effect on the date of the enactment of this Act.

(b) TRANSITION FOR CHINESE NATIONALS.—For purposes of adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1225) and change of status under section 248 of such Act (8 U.S.C. 1228) in the case of an alien who is a national of the People's Republic of China, who, as of June 5, 1989, was present in the United States in the lawful status of a nonimmigrant, and who elects or has elected to request the Immigration and Naturalization Service to defer the enforcement of departure (under instructions transmitted on or after June 7, 1989), such an alien shall be considered as having continued to maintain lawful status as such a nonimmigrant (and to have maintained continuously a lawful status) during the period of such deferral of the enforcement of departure.

TITLE II—GAO INVESTIGATION AND REPORT AND CONGRESSIONAL REVIEW

SEC. 201. GAO INVESTIGATION AND REPORT.

(a) REQUIRING GAO INVESTIGATION ON DISPLACED NICARAGUANS AND SALVADORANS AND CHINESE OUTSIDE CHINA.—Within 60 days after the date of the enactment of this Act, the Comptroller General shall begin an investigation concerning displaced nationals of Nicaragua and El Salvador and concerning Chinese nationals who are outside of the People's Republic of China (in this title referred to as "China").

(b) DETERMINATIONS ON DISPLACED NICARAGUANS AND SALVADORANS AND IN CENTRAL AMERICA.—The investigation shall determine the following, separately, with respect to displaced Nicaraguans and with respect to displaced Salvadorans who are present in either El Salvador, Nicaragua, Honduras, Guatemala, Costa Rica, Belize, or Mexico, regardless of whether or not they are registered with providers of humanitarian assistance:

(1) The number of these displaced persons and their current locations.

(2) Their place of origin in Nicaragua or El Salvador and the period of, and reason for, their displacement.

(3) Their current living conditions, with particular attention to (A) their personal safety and the personal safety of those providing assistance to them, and (B) the availability of food, housing, and medical assistance.

(4) An assessment of (A) current efforts to provide food, medical assistance, housing, and other necessities and to secure personal safety for these persons, and (B) policies and procedures that reasonably could be implemented to assure more efficient and equitable distribution of this assistance.

(5) The impact of the ongoing armed conflicts in Nicaragua and El Salvador, respectively, and of the reaction to such conflicts by relevant entities and individuals, including the officers of the government or political parties in Nicaragua or El Salvador, respectively, on the matters described in the previous paragraphs.

(6) The impact of the enactment of the Immigration Reform and Control Act of 1986 (Public Law 99-603) on Nicaragua and El Salvador, including the number of Nicaraguans and El Salvadorans returning to their respective countries, and the possible impact of such conduct on the capabilities of such countries to address adequately the returnees' employment, housing, and other needs.

In making such investigation, the Comptroller General may use information available from United States Government sources, or information developed by private organizations recognized by the United States Government in the countries named herein (to the extent he determines that such information is reliable and useful). The Comptroller General shall use discretion in assigning personnel employed by the General Accounting Office to foreign countries in which their personal safety might be at risk.

(c) DETERMINATIONS ON NICARAGUANS, SALVADORANS, AND CHINESE RETURNED FROM THE UNITED STATES.—In the case of nationals of Nicaragua, nationals of El Salvador, and nationals of China who have been required (whether through deportation, voluntary departure proceeding, or otherwise) to depart from the United States and who return to Nicaragua, El Salvador, or China, the investigation shall assess—

(1) their condition and circumstances in Nicaragua, El Salvador, or China upon return from the United States, with particular attention to any violations of fundamental human rights that have occurred upon their return to Nicaragua, El Salvador, or China, and

(2) the extent to which these nationals of Nicaragua or El Salvador, upon their return, have become displaced persons with Nicaragua or El Salvador, the conditions of the camps in which such persons live, and the prospects for resettlement of such persons.

(d) DETERMINATIONS ON NICARAGUANS, SALVADORANS, AND CHINESE IN THE UNITED STATES IN AN UNLAWFUL STATUS.—In the case of nationals of Nicaragua, nationals of El Salvador, and nationals of China, respectively, who are present in the United States in an unlawful status, the investigation shall—

(1) compare the situation in Nicaragua, El Salvador, and China with the situation in other countries during periods when nationals of those countries have been provided administrative grants of extended voluntary departure under the immigration laws;

(2) describe the policies and procedures of the United States respecting the treatment of aliens (other than Nicaraguans, Salvadorans, and Chinese nationals) in the United States in similar circumstances;

(3) describe the policies of all other countries in which Nicaraguans, Salvadorans, or Chinese nationals have sought refuge as these policies concern the return of Nicaraguans to Nicaragua, Salvadorans to El Salvador, and Chinese nationals to China; and

(4) assess their conditions and circumstances in the United States, with particular attention to the impact of unlawful status upon their treatment.

(e) REPORT.—The Comptroller General shall submit to the Speaker of the House of Representatives and the President of the Senate, not later than 2 years after the date of the initiation of the study under this section, a report on such study, including detailed findings concerning the items described in subsections (b), (c), and (d).

SEC. 202. CONGRESSIONAL REVIEW OF REPORT.

(a) REFERRAL OF REPORT.—The report, when submitted under section 201(e), shall be referred, in accordance with the rules of the respective House of Congress, to the standing committee or committees having jurisdiction over the subjects of the report, and the report shall be printed as a document of the House of Representatives.

(b) COMMITTEE HEARINGS.—No later than 90 days of continuous session of Congress after the date of the referral of the report to a committee, in accordance with the rules of the respective House, the committee shall initiate hearings, insofar as such committee has legislative or oversight jurisdiction, to consider—

(1) the findings of the report;

(2) the appropriate steps that should be taken to provide assurances of personal safety and adequate, efficient, and equitable distribution of assistance with respect to Nicaraguans and Salvadorans who are displaced within their countries or who have fled to other countries in Central America and with respect to Chinese nationals who are outside of China and in need of protection;

(3) treaty obligations of the United States, humanitarian considerations, and previous practice of the United States respecting the treatment of aliens in similar circumstances; and

(4) whether it is appropriate to extend, remove, or alter the restrictions contained in title III.

(c) COMMITTEE REPORT.—No later than 270 days of continuous session of the Congress after the date of the referral of the report to a committee, in accordance with the rules of the respective House, the committee shall report to its respective House its oversight findings and any legislation it deems appropriate.

(d) TREATMENT OF CONTINUITY OF SESSION.—For purposes of this section, continuity of session of Congress is broken only by an adjournment sine die at the end of the second regular session of a Congress, and days on which either House of Congress is

not in session because of an adjournment of more than 10 days to a date certain are excluded from the computation of the periods of continuous session of Congress.

The CHAIRMAN. No amendments to said substitute are in order.

The question is on the amendment in the nature of a substitute.

The amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCCLOSKEY) having assumed the chair, Mr. HUTTO, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 45) to provide for a General Accounting Office investigation and report on conditions of displaced Nicaraguans and Salvadorans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Nicaraguans and Salvadorans, and for other purposes, pursuant to House Resolution 273, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MORRISON of Connecticut. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 258, nays 162, not voting 13, as follows:

[Roll No. 307]

YEAS—258

Ackerman	Berman	Bruce
Akaka	Bilbray	Bryant
Alexander	Boehlert	Bustamante
Anderson	Boggs	Byron
Andrews	Bonior	Campbell (CA)
Annunzio	Borski	Campbell (CO)
Anthony	Bosco	Cardin
Aspin	Boucher	Carper
Atkins	Boxer	Carr
AuCoin	Brennan	Clarke
Bartlett	Broomfield	Clay
Barton	Browder	Clinger
Bates	Brown (CA)	Coleman (TX)
Collins	Jenkins	Pickle
Condit	Jones (GA)	Porter
Conte	Jones (NC)	Poshard
Conyers	Jontz	Price
Cooper	Kanjorski	Quillen
Costello	Kastenmeier	Rahall
Coughlin	Kennedy	Rangel
Coyne	Kennelly	Ravenel
Crane	Kildee	Regula
Crockett	Kleczka	Richardson
Darden	Kolter	Rinaldo
DeFazio	Kostmayer	Roe
Dellums	LaFalce	Rohrabacher
Derrick	Lancaster	Ros-Lehtinen
Dicks	Lantos	Rose
Dingell	Leach (IA)	Rostenkowski
Dixon	Lehman (CA)	Rowland (CT)
Donnelly	Lehman (FL)	Rowland (GA)
Dorgan (ND)	Lent	Roybal
Douglas	Levin (MI)	Sabo
Downey	Levine (CA)	Saiki
Durbin	Lewis (GA)	Sangmeister
Dwyer	Lipinski	Sarpalius
Dymally	Lloyd	Savage
Dyson	Lowey (NY)	Sawyer
Eckart	Luken, Thomas	Scheuer
Edwards (CA)	Machtley	Schiff
Engel	Manton	Schneider
Erdreich	Markey	Schroeder
Espy	Martinez	Schumer
Evans	Matsui	Sharp
Fascell	Mavroules	Shays
Fawell	Mazzoli	Sikorski
Fazio	McCloskey	Skaggs
Feighan	McCurdy	Skelton
Fish	McDade	Slattery
Flake	McDermott	Slaughter (NY)
Flippo	McEwen	Smith (FL)
Foglietta	McGrath	Smith (IA)
Ford (MI)	McHugh	Smith (NJ)
Ford (TN)	McMillen (MD)	Smith (VT)
Frank	McNulty	Snowe
Frost	Mfume	Solarz
Gaydos	Miller (CA)	Spence
Gejdenson	Miller (WA)	Spratt
Gephardt	Mineta	Staggers
Geren	Moakley	Stallings
Gibbons	Moody	Stark
Gilman	Morella	Stokes
Glickman	Morrison (CT)	Studds
Gonzalez	Morrison (WA)	Swift
Gordon	Mrazek	Synar
Grant	Myers	Tauke
Gray	Nagle	Torres
Green	Natcher	Traxler
Guarini	Neal (NC)	Udall
Gunderson	Nelson	Unsoeld
Hall (OH)	Nowak	Vento
Hamilton	Oakar	Visclosky
Harris	Oberstar	Volkmer
Hawkins	Obey	Walgren
Hayes (IL)	Olin	Walsh
Hefner	Owens (NY)	Waxman
Hertel	Pallone	Weiss
Hoagland	Panetta	Weldon
Hochbrueckner	Pashayan	Wheat
Horton	Patterson	Whitten
Hoyer	Payne (NJ)	Williams
Hubbard	Pease	Wilson
Hughes	Pelosi	Wise
Hunter	Penny	Wolpe
Hyde	Perkins	Wyden
Jacobs	Pickett	Yates

NAYS—162

Applegate	Chapman	Gallo
Archer	Clement	Gekas
Armey	Coble	Gillmor
Baker	Coleman (MO)	Gingrich
Ballenger	Combest	Goodling
Barnard	Cox	Goss
Bateman	Craig	Gradison
Bellenson	Dannemeyer	Grandy
Bennett	Davis	Hall (TX)
Bentley	DeLay	Hammerschmidt
Bereuter	DeWine	Hancock
Bevill	Dickinson	Hansen
Bilirakis	Dornan (CA)	Hastert
Bliley	Dreier	Hatcher
Brown (CO)	Duncan	Hayes (LA)
Buechner	Edwards (OK)	Hefley
Bunning	English	Henry
Burton	Fields	Herger
Callahan	Frenzel	Hiler
Chandler	Gallegly	Holloway
Hopkins	Mollohan	Slaughter (VA)
Houghton	Montgomery	Smith (NE)
Huckaby	Moorhead	Smith, Denny (OR)
Hutto	Murphy	Smith, Robert (NH)
Inhofe	Murtha	Smith, Robert (OR)
Ireland	Nielson	Solomon
James	Ortiz	Stangeland
Johnson (CT)	Oxley	Stearns
Johnson (SD)	Packard	Stenholm
Johnston	Parker	Stump
Kasich	Parris	Sundquist
Kolbe	Paxon	Tallon
Kyl	Payne (VA)	Tanner
Lagomarsino	Petri	Tauzin
Laughlin	Pursell	Taylor
Leath (TX)	Ray	Thomas (CA)
Lewis (CA)	Rhodes	Thomas (GA)
Lewis (FL)	Ridge	Thomas (WY)
Lightfoot	Ritter	Torricelli
Livingston	Roberts	Traficant
Long	Robinson	Upton
Lowery (CA)	Rogers	Valentine
Lukens, Donald	Roth	Vander Jagt
Madigan	Roukema	Vucanovich
Marlenee	Russo	Walker
Martin (IL)	Saxton	Watkins
Martin (NY)	Schaefer	Weber
McCandless	Schuette	Whittaker
McCollum	Schulze	Wolf
McCrery	Sensenbrenner	Wylie
McMillan (NC)	Shaw	Young (AK)
Meyers	Shumway	Young (FL)
Michel	Shuster	
Miller (OH)	Sisisky	
Molinari	Skeen	

NOT VOTING—13

Brooks	Florio	Smith (TX)
Courter	Garcia	Towns
de la Garza	Kaptur	Yatron
Early	Neal (MA)	
Emerson	Owens (UT)	

□ 1527

Messrs. PARRIS, JOHNSON of South Dakota, and GOODLING changed their vote from "yea" to "nay."

Mr. RINALDO and Mr. HEFNER changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to establish a statutory framework for the Attorney General to afford temporary protected status to nationals of countries subject to extraordinary and temporary conditions, including armed conflicts, to provide for certain studies and for congressional review of such studies, to provide temporary transition protection for nationals of certain countries, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 45, the bill just passed.

The SPEAKER pro tempore (Mr. MCCLOSKEY). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERSONAL EXPLANATION

Mr. EMERSON. Mr. Speaker, I was unavoidably detained in reaching the House floor to record my vote on rollcall No. 307. Had I been present I would have voted "no" on H.R. 3506.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 423. Joint resolution making further continuing appropriations for the fiscal year 1990, and for other purposes.

INACCURATE REPORTING BY NATIONAL PUBLIC RADIO

(Mr. TRAXLER asked and was given permission to address the House for 1 minute.)

Mr. TRAXLER. Mr. Speaker, I rise today to express my keen disappointment with some of the people in the news division of National Public Radio, an organization which I have strongly supported. In fact, I played a minor role recently in bringing public radio to a community college station in my area. As a listener of public radio, I have had the utmost confidence in the accuracy of their news reporting. That confidence was shaken today.

NPR's Morning Edition, broadcast nationally, this morning reported that "Bob Traxler, a Congressman from Missouri," had opposed disaster aid for earthquake stricken northern California. As a Member from Michigan, I want to first apologize to my colleagues from Missouri for this mischaracterization, but on a more serious note I want to set the record straight.

First, I voted in favor of disaster relief for California, North and South Carolina, Puerto Rico, the Virgin Islands, and Texas on the floor yesterday, just as I had done in the House Appropriations Committee on Monday, NPR's characterization of my remarks on the Conte amendment yesterday as opposing aid for disaster victims is totally irresponsible, it does grave damage to my reputation, and it is an insult to the good people of Michigan's Eighth District who honor me with their trust as their representative in Congress.

Second, as chairman of the Appropriations Subcommittee responsible for funding the Federal Emergency Management Agency, I have worked very closely with my colleagues from California and the other areas recently stricken by natural disasters and with my full committee chairman Mr. WHITTEN in providing funding for all disaster victims.

My colleagues will recall that yesterday's debate on the Conte amendment discussed only how this disaster assistance will be counted in the context of Gramm-Rudman and the Congressional Budget Act. The Conte amendment did not add or subtract any moneys for disaster victims. All of my remarks were related to the technical budget scorekeeping issue raised by the Conte amendment. My remarks were not about whether aid will be provided, nor were they about how much aid would be provided. They were about how the budget scorekeepers will count this expenditure, what column will it show up in. The Conte amendment was a bookkeeping vote—not whether you were for or against disaster aid.

The tragedy in this morning's erroneous, out-of-context reporting of my remarks on this technical budget issue, was only compounded all the more, when I spoke with NPR's senior newscast editor. He denied that NPR's report was in error. He claimed that no one would misinterpret NPR's story, and therefore no correction was necessary, merely pulling the story would be adequate. I would submit that the scores of calls I received from San Francisco Bay area residents clearly showed that listeners had a different perspective of the newscast. And, I believe that any reasonable person would have been led to the same erroneous conclusion.

The good people of Northern California need our swift and compassionate assistance. They do not need misleading, off the wall, news reports intended only to inflame emotions.

Mr. Speaker, let me end by saying, I will do everything humanly possible to provide every nickel of disaster assistance needed, wherever it is needed, and whenever it is needed.

I can only hope that National Public Radio's dedication to accurate reporting will be half as diligent.

□ 1550

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. TRAXLER. I am happy to yield to the gentlewoman from California.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to add to the gentleman's remarks as a representative of San Francisco in the Congress, an area that was devastated by the earthquake, that to my friends in San Francisco, may I say that the gentleman from Michigan [Mr. TRAXLER] has been a friend of ours for many years. He has been a champion in fighting for funding for earthquake relief for us in this instance.

I heard the report on NPR on the way to work this morning. I was appalled at how mischaracterized his remarks were on the station. We are used to the press taking remarks out of context, but this was a drastic mischaracterization of what the gentleman from Michigan [Mr. TRAXLER] said yesterday and the context in which he said it and the purpose and the issue that was before us.

I publicly want to thank our colleague, the gentleman from Michigan [Mr. TRAXLER], for his assistance in the earthquake effort, and to my friends in San Francisco, for us to be calling in and thanking him for his assistance rather than listening to or believing what we hear in the media.

Mr. TRAXLER. Mr. Speaker, I thank the gentlewoman for her kind remarks.

GENERAL LEAVE

Mr. TRAXLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the disposition of the remaining Senate amendments reported in disagreement on H.R. 2916, and that I may include tables, charts, and other extraneous materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. TRAXLER. Mr. Speaker, I include at this point the following tables:

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
TITLE I									
DEPARTMENT OF VETERANS AFFAIRS									
Veterans Benefits Administration									
Compensation and pensions	15,460,581,000	15,367,506,000	15,367,506,000	15,367,506,000	15,367,506,000	-93,075,000	---	---	---
Readjustment benefits	619,812,000	434,100,000	434,100,000	501,200,000	501,200,000	-118,612,000	+67,100,000	+67,100,000	---
Veterans insurance and indemnities	9,220,000	13,940,000	13,940,000	13,940,000	13,940,000	+4,720,000	---	---	---
Loan guaranty revolving fund	778,100,000	195,500,000	453,000,000	313,500,000	313,500,000	-464,600,000	+118,000,000	-139,500,000	---
Direct loan revolving fund (limitation on direct loans)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(985,000)	(-15,000)	(-15,000)	(-15,000)	(-15,000)
Subtotal, Veterans Benefits Administration	16,867,713,000	16,011,046,000	16,268,546,000	16,196,146,000	16,196,146,000	-671,567,000	+185,100,000	-72,400,000	---
Veterans Health Service and Research Administration									
Medical care	10,882,671,000	10,741,431,000	11,561,431,000	11,514,938,000	11,434,092,000	+551,421,000	+692,661,000	-127,339,000	-80,846,000
(By transfer)	(5,000,000)	---	---	---	---	(-5,000,000)	---	---	---
Medical and prosthetic research	210,241,000	197,310,000	211,000,000	219,441,000	212,652,000	+2,411,000	+15,342,000	+1,652,000	-6,789,000
Medical administration and miscellaneous operating expenses	47,909,000	48,541,000	48,541,000	48,112,000	45,397,000	-2,512,000	-3,144,000	-3,144,000	-2,715,000
Grants to the Republic of the Philippines	500,000	500,000	500,000	500,000	492,000	-8,000	-8,000	-8,000	-8,000
Subtotal, Veterans Health Service and Research Administration	11,141,321,000	10,987,782,000	11,821,472,000	11,782,991,000	11,692,633,000	+551,312,000	+704,851,000	-128,839,000	-90,358,000
Departmental Administration									
General operating expenses	784,216,000	803,559,000	805,059,000	804,288,000	804,395,000	+20,179,000	+836,000	-664,000	+107,000
(By transfer)	(15,000,000)	---	---	---	---	(-15,000,000)	---	---	---
Office of Inspector General	---	22,249,000	22,249,000	21,949,000	21,609,000	+21,609,000	-640,000	-640,000	-340,000
Construction, major projects	363,040,000	365,849,000	420,249,000	190,266,978	413,735,000	+50,695,000	+47,886,000	-6,514,000	+223,468,022
Construction, minor projects	111,596,000	114,699,000	113,699,000	111,596,000	111,937,000	+341,000	-2,762,000	-1,762,000	+341,000
(Limitation on administrative expenses)	(41,731,000)	(45,136,000)	(44,136,000)	(44,136,000)	(43,452,000)	(+1,721,000)	(-1,684,000)	(-684,000)	(-684,000)
Parking garage revolving fund	26,000,000	7,075,000	29,375,000	---	28,920,000	+2,920,000	+21,845,000	-455,000	+28,920,000
Grants for construction of State extended care facilities	42,000,000	42,000,000	42,000,000	42,000,000	41,349,000	-651,000	-651,000	-651,000	-651,000
Grants for construction of State veterans cemeteries	9,000,000	4,356,000	4,356,000	4,356,000	4,288,000	-4,712,000	-68,000	-68,000	-68,000
Subtotal, Departmental Administration	1,335,852,000	1,359,787,000	1,436,987,000	1,174,455,978	1,426,233,000	+90,381,000	+66,446,000	-10,754,000	+251,777,022
Total, title I, Department of Veterans Affairs	29,344,886,000	28,358,615,000	29,527,005,000	29,153,592,978	29,315,012,000	-29,874,000	+956,397,000	-211,993,000	+161,419,022
TITLE II									
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT									
HOUSING PROGRAMS									
Annual contributions for assisted housing	7,538,765,000	6,875,242,365	8,002,887,625	8,001,221,525	7,989,435,000	+450,670,000	+1,114,192,635	-13,452,625	-11,786,525
Rescission of assisted housing deobligations (budget authority, indefinite)	-313,500,000	-221,500,000	-221,500,000	-221,500,000	-221,500,000	+92,000,000	---	---	---
Total, annual contributions for assisted housing (net)	7,225,265,000	6,653,742,365	7,781,387,625	7,779,721,525	7,767,935,000	+542,670,000	+1,114,192,635	-13,452,625	-11,786,525
Assistance for renewal of expiring section 8 subsidy contracts	---	667,352,000	1,092,112,375	1,091,978,475	1,075,053,000	+1,075,053,000	+407,701,000	-17,059,375	-16,925,475
Rental rehabilitation grants	150,000,000	130,000,000	130,000,000	130,000,000	127,985,000	-22,015,000	-2,015,000	-2,015,000	-2,015,000

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
Rental housing assistance:									
Rescission of budget authority, indefinite	-50,000,000	-48,000,000	-48,000,000	-48,000,000	-48,000,000	+2,000,000	---	---	---
(Limitation on annual contract authority, indefinite)	(-2,000,000)	(-2,000,000)	(-2,000,000)	(-2,000,000)	(-2,000,000)	---	---	---	---
Housing for the elderly or handicapped fund:									
(Limitation on direct loans)	(480,106,000)	(32,000,000)	(480,106,000)	(480,106,000)	(472,664,000)	(-7,442,000)	(+440,664,000)	(-7,442,000)	(-7,442,000)
Authority to borrow, indefinite	428,998,000	---	425,848,000	425,848,000	418,406,000	-10,592,000	+418,406,000	-7,442,000	-7,442,000
Congregate services	5,400,000	---	6,000,000	5,400,000	5,907,000	+507,000	+5,907,000	-93,000	+507,000
Payments for operation of low-income housing projects	1,617,508,000	1,694,200,000	1,769,200,000	1,795,600,000	1,767,768,000	+150,260,000	+73,568,000	-1,432,000	-27,832,000
(By transfer)	(88,000,000)	---	---	---	---	(-88,000,000)	---	---	---
Housing counseling assistance	3,500,000	---	3,500,000	3,500,000	3,446,000	-54,000	+3,446,000	-54,000	-54,000
Flexible subsidy fund	---	35,000,000	---	---	---	---	-35,000,000	---	---
Federal Housing Administration Fund	237,720,000	350,093,000	350,093,000	350,093,000	350,093,000	+112,373,000	---	---	---
(Limitation on guaranteed loans)	(96,000,000,000)	(67,000,000,000)	(67,000,000,000)	(75,000,000,000)	(73,837,500,000)	(-22,162,500,000)	(+6,837,500,000)	(+6,837,500,000)	(-1,162,500,000)
Temporary mortgage assistance payments (limitation on direct loans)	(103,350,000)	(88,600,000)	(88,600,000)	(88,600,000)	(87,227,000)	(-16,123,000)	(-1,373,000)	(-1,373,000)	(-1,373,000)
Total, Federal Housing Administration Fund	237,720,000	350,093,000	350,093,000	350,093,000	350,093,000	+112,373,000	---	---	---
Nonprofit sponsor assistance (limitation on direct loans)	(960,000)	(910,000)	(1,100,000)	(1,100,000)	(1,083,000)	(+123,000)	(+173,000)	(-17,000)	(-17,000)
Government National Mortgage Association									
Guarantees of mortgage-backed securities (limitation on guaranteed loans)	(144,000,000,000)	(75,000,000,000)	(75,000,000,000)	(83,000,000,000)	(81,713,500,000)	(-62,286,500,000)	(+6,713,500,000)	(+6,713,500,000)	(-1,286,500,000)
Total, Housing Programs (net)	9,618,391,000	9,482,387,365	11,510,141,000	11,534,141,000	11,468,593,000	+1,850,202,000	+1,986,205,635	-41,548,000	-65,548,000
HOMELESS ASSISTANCE									
Emergency shelter grants program	46,500,000	125,000,000	125,000,000	75,000,000	73,838,000	+27,338,000	-51,162,000	-51,162,000	-1,162,000
Transitional and supportive housing demonstration program	80,000,000	105,000,000	105,000,000	130,000,000	127,985,000	+47,985,000	+22,985,000	+22,985,000	-2,015,000
Supplemental assistance for facilities to assist the homeless	---	11,000,000	11,000,000	11,000,000	10,830,000	+10,830,000	-170,000	-170,000	-170,000
Section 8 moderate rehabilitation single room occupancy	---	50,000,000	50,000,000	75,000,000	73,838,000	+73,838,000	+23,838,000	+23,838,000	-1,162,000
Total, Homeless Assistance	126,500,000	291,000,000	291,000,000	291,000,000	286,491,000	+159,991,000	-4,509,000	-4,509,000	-4,509,000
COMMUNITY PLANNING AND DEVELOPMENT									
Community development grants	2,650,000,000	2,744,000,000	2,950,000,000	2,950,000,000	2,904,275,000	+254,275,000	+160,275,000	-45,725,000	-45,725,000
(By transfer)	(350,000,000)	(136,000,000)	(50,000,000)	(50,000,000)	(49,225,000)	(-300,775,000)	(-86,775,000)	(-775,000)	(-775,000)
(Limitation on guaranteed loans)	(144,000,000)	---	(46,000,000)	(144,000,000)	(141,768,000)	(-2,232,000)	(+141,768,000)	(+95,768,000)	(-2,232,000)
Urban homesteading	13,200,000	12,000,000	12,000,000	13,200,000	12,995,000	-205,000	+995,000	+995,000	-205,000
Total, Community Planning and Development	2,663,200,000	2,756,000,000	2,962,000,000	2,963,200,000	2,917,270,000	+254,070,000	+161,270,000	-44,730,000	-45,930,000
POLICY DEVELOPMENT AND RESEARCH									
Research and technology	17,200,000	21,400,000	21,400,000	21,000,000	20,675,000	+3,475,000	-725,000	-725,000	-325,000
FAIR HOUSING AND EQUAL OPPORTUNITY									
Fair housing activities	10,000,000	12,753,000	12,753,000	12,753,000	12,555,000	+2,555,000	-198,000	-198,000	-198,000

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
MANAGEMENT AND ADMINISTRATION									
Salaries and expenses	335,081,000	341,252,000	341,252,000	326,252,000	335,963,000	+882,000	-5,289,000	-5,289,000	+9,711,000
(By transfer)	(3,490,000)	---	---	---	---	(-3,490,000)	---	---	---
(By transfer, limitation on FHA corporate funds)	(381,528,000)	(355,846,000)	(355,846,000)	(390,693,000)	(391,120,000)	(+9,592,000)	(+35,274,000)	(+35,274,000)	(+427,000)
Office of Inspector General	---	22,681,000	22,681,000	24,481,000	24,102,000	+24,102,000	+1,421,000	+1,421,000	-379,000
(By transfer, limitation on FHA corporate funds)	---	(6,431,000)	(6,431,000)	(6,584,000)	(6,482,000)	(+6,482,000)	(+51,000)	(+51,000)	(-102,000)
Total, title II, Department of Housing and Urban Development:									
New budget (obligational) authority (net)	12,770,372,000	12,927,473,365	15,161,227,000	15,172,827,000	15,065,649,000	+2,295,277,000	+2,138,175,635	-95,578,000	-107,178,000
Appropriations	(12,704,874,000)	(13,196,973,365)	(15,004,879,000)	(15,016,479,000)	(14,916,743,000)	(+2,211,869,000)	(+1,719,769,635)	(-88,136,000)	(-99,736,000)
Authority to borrow	(428,998,000)	---	(425,848,000)	(425,848,000)	(418,406,000)	(-10,592,000)	(+418,406,000)	(-7,442,000)	(-7,442,000)
Rescissions	(-363,500,000)	(-269,500,000)	(-269,500,000)	(-269,500,000)	(-269,500,000)	(+94,000,000)	---	---	---
(Limitation on annual contract authority, indefinite)	(-2,000,000)	(-2,000,000)	(-2,000,000)	(-2,000,000)	(-2,000,000)	---	---	---	---
(Limitation on direct loans)	(584,416,000)	(121,510,000)	(569,806,000)	(569,806,000)	(560,974,000)	(-23,442,000)	(+439,464,000)	(-8,832,000)	(-8,832,000)
(Limitation on guaranteed loans)	(240,144,000,000)	(142,000,000,000)	(142,046,000,000)	(158,144,000,000)	(155,692,768,000)	(-84,451,232,000)	(+13,692,768,000)	(+13,646,768,000)	(-2,451,232,000)
(Limitation on corporate funds to be expended)	(381,528,000)	(362,277,000)	(362,277,000)	(397,277,000)	(397,602,000)	(+16,074,000)	(+35,325,000)	(+35,325,000)	(+325,000)
TITLE III									
INDEPENDENT AGENCIES									
AMERICAN BATTLE MONUMENTS COMMISSION									
Salaries and expenses	15,085,000	14,507,000	15,000,000	14,507,000	15,752,000	+667,000	+1,245,000	+752,000	+1,245,000
CONSUMER PRODUCT SAFETY COMMISSION									
Salaries and expenses	34,500,000	33,479,000	35,500,000	35,700,000	35,147,000	+647,000	+1,668,000	-353,000	-553,000
COURT OF VETERANS APPEALS									
Salaries and expenses	3,100,000	1,462,000	3,000,000	4,000,000	3,938,000	+838,000	+2,476,000	+938,000	-62,000
DEPARTMENT OF DEFENSE - CIVIL									
Cemeterial Expenses, Army									
Salaries and expenses	13,195,000	12,569,000	12,569,000	12,569,000	12,374,000	-821,000	-195,000	-195,000	-195,000
DEPARTMENT OF DEFENSE - MILITARY									
Space Shuttle activities, Air Force launch activities	---	---	---	217,000,000	---	---	---	---	-217,000,000
ENVIRONMENTAL PROTECTION AGENCY									
Salaries and expenses	810,000,000	868,583,000	874,583,000	867,483,000	861,027,000	+51,027,000	-7,556,000	-13,556,000	-6,456,000
Office of Inspector General	---	31,734,000	31,734,000	31,000,000	31,242,000	+31,242,000	-492,000	-492,000	+242,000
Research and development	202,500,000	235,000,000	241,500,000	234,950,000	237,757,000	+35,257,000	+2,757,000	-3,743,000	+2,807,000
Abatement, control, and compliance	724,625,000	700,000,000	785,000,000	829,940,000	817,076,000	+92,451,000	+117,076,000	+32,076,000	-12,864,000
Buildings and facilities	8,000,000	8,000,000	12,000,000	11,700,000	14,768,000	+6,768,000	+6,768,000	+2,768,000	+3,068,000
Subtotal, operating programs	1,745,125,000	1,843,317,000	1,944,817,000	1,975,073,000	1,961,870,000	+216,745,000	+118,553,000	+17,053,000	-13,203,000
Hazardous substance superfund	1,425,000,000	1,739,683,000	1,425,000,000	1,575,000,000	1,550,588,000	+125,588,000	-189,095,000	+125,588,000	-24,412,000
Rescission	-15,000,000	---	---	---	---	+15,000,000	---	---	---
(Limitation on administrative expenses)	(190,000,000)	(200,000,000)	(220,000,000)	(220,000,000)	(216,590,000)	(+26,590,000)	(+16,590,000)	(-3,410,000)	(-3,410,000)
Leaking underground storage tank trust fund	50,000,000	100,000,000	76,000,000	76,000,000	74,822,000	+24,822,000	-25,178,000	-1,178,000	-1,178,000
(Limitation on administrative expenses)	(5,000,000)	(6,000,000)	(6,000,000)	(6,000,000)	(5,907,000)	(+907,000)	(-93,000)	(-93,000)	(-93,000)

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
Construction grants	1,950,000,000	1,200,000,000	2,024,000,000	2,050,000,000	2,018,225,000	+68,225,000	+818,225,000	-5,775,000	-31,775,000
Rescission	---	---	-47,700,000	-47,700,000	-47,700,000	-47,700,000	-47,700,000	---	---
Total, Environmental Protection Agency	5,155,125,000	4,083,000,000	5,422,117,000	5,628,373,000	5,557,805,000	+402,680,000	+674,805,000	+135,688,000	-70,568,000
EXECUTIVE OFFICE OF THE PRESIDENT									
Council on Environmental Quality and Office of Environmental Quality	850,000	861,000	861,000	1,500,000	1,477,000	+627,000	+616,000	+616,000	-23,000
National Space Council	---	563,000	1,200,000	900,000	985,000	+985,000	+422,000	-215,000	+85,000
Office of Science and Technology Policy	1,587,000	2,997,000	2,027,000	2,997,000	2,852,000	+1,265,000	-145,000	+825,000	-145,000
Total, Executive Office of the President	2,437,000	4,421,000	4,088,000	5,397,000	5,314,000	+2,877,000	+893,000	+1,226,000	-83,000
FEDERAL EMERGENCY MANAGEMENT AGENCY									
Disaster relief	100,000,000	270,000,000	100,000,000	100,000,000	98,450,000	-1,550,000	-171,550,000	-1,550,000	-1,550,000
Salaries and expenses	137,274,000	141,329,000	141,329,000	141,489,000	140,290,000	+3,016,000	-1,039,000	-1,039,000	-1,199,000
Office of Inspector General	---	2,439,000	2,439,000	2,709,000	2,598,000	+2,598,000	+159,000	+159,000	-111,000
Emergency management planning and assistance	282,438,000	268,505,000	271,160,000	277,000,000	271,023,000	-11,415,000	+2,518,000	-137,000	-5,977,000
Emergency food and shelter program	114,000,000	134,000,000	134,000,000	134,000,000	131,923,000	+17,923,000	-2,077,000	-2,077,000	-2,077,000
(by transfer)	(12,000,000)	---	---	---	---	(-12,000,000)	---	---	---
Total, Federal Emergency Management Agency	633,712,000	816,273,000	648,928,000	655,198,000	644,284,000	+10,572,000	-171,989,000	-4,644,000	-10,914,000
GENERAL SERVICES ADMINISTRATION									
Consumer Information Center	1,354,000	1,360,000	1,360,000	1,360,000	1,339,000	-15,000	-21,000	-21,000	-21,000
(Limitation on administrative expenses)	(1,736,000)	(2,092,000)	(2,092,000)	(2,092,000)	(2,060,000)	(+324,000)	(-32,000)	(-32,000)	(-32,000)
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Office of Consumer Affairs	1,708,000	1,988,000	1,888,000	1,888,000	1,859,000	+151,000	-129,000	-29,000	-29,000
INTERAGENCY COUNCIL ON THE HOMELESS									
Salaries and expenses	1,100,000	1,200,000	1,200,000	1,100,000	1,083,000	-17,000	-117,000	-117,000	-17,000
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION									
Research and development	4,191,700,000	5,751,600,000	5,203,100,000	5,367,600,000	5,281,876,000	+1,090,176,000	-469,724,000	+78,776,000	-85,724,000
Rescission	-25,000,000	---	---	---	---	+25,000,000	---	---	---
Space flight, control and data communications	4,364,200,000	5,139,600,000	4,709,600,000	4,639,600,000	4,543,074,000	+178,874,000	-596,526,000	-166,526,000	-96,526,000
Construction of facilities	290,100,000	341,800,000	384,300,000	341,000,000	591,980,000	+301,880,000	+250,180,000	+207,680,000	+250,980,000
Science, space and technology education trust fund (by transfer)	(15,000,000)	---	---	---	---	(-15,000,000)	---	---	---
Research and program management	1,855,000,000	2,032,200,000	1,957,200,000	1,982,200,000	1,951,476,000	+96,476,000	-80,724,000	-5,724,000	-30,724,000
(By transfer)	(35,000,000)	---	---	---	---	(-35,000,000)	---	---	---
Office of Inspector General	---	8,795,000	8,795,000	8,795,000	8,659,000	+8,659,000	-136,000	-136,000	-136,000
Total, National Aeronautics and Space Administration (net)	10,676,000,000	13,273,995,000	12,262,995,000	12,339,195,000	12,377,065,000	+1,701,065,000	-896,930,000	+114,070,000	+37,870,000

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
NATIONAL CREDIT UNION ADMINISTRATION									
Central liquidity facility:									
(Limitation on direct loans)	(600,000,000)	(600,000,000)	(600,000,000)	(600,000,000)	(590,700,000)	(-9,300,000)	(-9,300,000)	(-9,300,000)	(-9,300,000)
(Limitation on administrative expenses, corporate funds)	(880,000)	(864,000)	(864,000)	(864,000)	(851,000)	(-29,000)	(-13,000)	(-13,000)	(-13,000)
NATIONAL INSTITUTE OF BUILDING SCIENCES									
National Institute of Building Sciences	---	---	500,000	---	492,000	+492,000	+492,000	-8,000	+492,000
NATIONAL SCIENCE FOUNDATION									
Research and related activities	1,620,500,000	1,803,022,000	1,715,000,000	1,685,000,000	1,688,418,000	+67,918,000	-114,604,000	-26,582,000	+3,418,000
Program development and management (limitation on administrative expenses)	(89,800,000)	(104,000,000)	(97,000,000)	(101,400,000)	(96,383,000)	(+6,583,000)	(-7,617,000)	(-617,000)	(-5,017,000)
Academic research facilities	---	---	---	20,000,000	19,690,000	+19,690,000	+19,690,000	+19,690,000	-310,000
United States Antarctic Program activities	131,000,000	156,000,000	74,000,000	73,000,000	72,853,000	-58,147,000	-83,147,000	-1,147,000	-147,000
United States Antarctica logistical support activities	---	---	---	83,000,000	80,729,000	+80,729,000	+80,729,000	+80,729,000	-2,271,000
Science education activities	171,000,000	190,000,000	210,000,000	200,000,000	206,745,000	+35,745,000	+16,745,000	-3,255,000	+6,745,000
Office of Inspector General	---	---	---	2,600,000	2,560,000	+2,560,000	+2,560,000	+2,560,000	-40,000
Total, National Science Foundation	1,922,500,000	2,149,022,000	1,999,000,000	2,063,600,000	2,070,995,000	+148,495,000	-78,027,000	+71,995,000	+7,395,000
NEIGHBORHOOD REINVESTMENT CORPORATION									
Payment to the Neighborhood Reinvestment Corporation	19,494,000	14,581,000	21,260,000	27,260,000	26,837,000	+7,343,000	+12,256,000	+5,577,000	-423,000
(By transfer)	---	(6,679,000)	---	---	---	---	(-6,679,000)	---	---
SELECTIVE SERVICE SYSTEM									
Salaries and expenses	26,313,000	26,313,000	26,313,000	26,313,000	25,905,000	-408,000	-408,000	-408,000	-408,000
Total, title III, Independent Agencies:									
New budget (obligational) authority (net)	18,505,623,000	21,234,170,000	20,455,718,000	21,033,460,000	20,780,189,000	+2,274,566,000	-453,981,000	+324,471,000	-253,271,000
Appropriations	(18,545,623,000)	(21,234,170,000)	(20,503,418,000)	(21,081,160,000)	(20,827,889,000)	(+2,282,266,000)	(-406,281,000)	(+324,471,000)	(-253,271,000)
Rescission	(-40,000,000)	---	(-47,700,000)	(-47,700,000)	(-47,700,000)	(-7,700,000)	(-47,700,000)	---	---
(By transfer)	(62,000,000)	(6,679,000)	---	---	---	(-62,000,000)	(-6,679,000)	---	---
(Limitation on administrative expenses)	(286,536,000)	(312,092,000)	(325,092,000)	(329,492,000)	(320,940,000)	(+34,404,000)	(+8,848,000)	(-4,152,000)	(-8,552,000)
(Limitation on direct loans)	(600,000,000)	(600,000,000)	(600,000,000)	(600,000,000)	(590,700,000)	(-9,300,000)	(-9,300,000)	(-9,300,000)	(-9,300,000)
(Limitation on corporate funds to be expended)	(880,000)	(864,000)	(864,000)	(864,000)	(851,000)	(-29,000)	(-13,000)	(-13,000)	(-13,000)
TITLE IV									
CORPORATIONS									
Federal Home Loan Bank Board:									
(Limitation on administrative expenses, corporate funds)	(31,942,000)	(33,464,000)	---	---	---	(-31,942,000)	(-33,464,000)	---	---
Federal Savings and Loan Insurance Corporation, (limitation on administrative expenses, corporate funds)	(1,667,000)	(1,748,000)	---	---	---	(-1,667,000)	(-1,748,000)	---	---
Total, Federal Home Loan Bank Board	(33,609,000)	(35,212,000)	---	---	---	(-33,609,000)	(-35,212,000)	---	---
Federal Deposit Insurance Corporation:									
FSLIC Resolution Fund 1/	---	---	---	1,800,000,000	1,800,000,000	+1,800,000,000	+1,800,000,000	+1,800,000,000	---

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
Grand total:									
New budget (obligational) authority (net)...	60,620,881,000	62,520,258,365	65,143,950,000	67,159,879,978	66,960,850,000	+6,339,969,000	+4,440,591,635	+1,816,900,000	-199 029,978
Appropriations.....	(60,595,383,000)	(62,789,758,365)	(65,035,302,000)	(67,051,231,978)	(66,859,644,000)	(+6,264,261,000)	(+4,069,885,635)	(+1,824,342,000)	(-191,587,978)
Authority to borrow.....	(428,998,000)	---	(425,848,000)	(425,848,000)	(418,406,000)	(-10,592,000)	(+418,406,000)	(-7,442,000)	(-7,442,000)
Rescissions.....	(-403,500,000)	(-269,500,000)	(-317,200,000)	(-317,200,000)	(-317,200,000)	(+86,300,000)	(-47,700,000)	---	---
(By transfer).....	(523,490,000)	(142,679,000)	(50,000,000)	(50,000,000)	(49,225,000)	(-474,265,000)	(-93,454,000)	(-775,000)	(-775,000)
(Limitation on administrative expenses).....	(328,267,000)	(357,228,000)	(369,228,000)	(373,628,000)	(364,392,000)	(+36,125,000)	(+7,164,000)	(-4,836,000)	(-9,236,000)
(Limitation on annual contract authority, indefinite).....	(-2,000,000)	(-2,000,000)	(-2,000,000)	(-2,000,000)	(-2,000,000)	---	---	---	---
(Limitation on direct loans).....	(1,185,416,000)	(722,510,000)	(1,170,806,000)	(1,170,806,000)	(1,152,659,000)	(-32,757,000)	(+430,149,000)	(-18,147,000)	(-18,147,000)
(Limitation on guaranteed loans).....	(240,144,000,000)	(142,000,000,000)	(142,046,000,000)	(158,144,000,000)	(155,692,768,000)	(-84,451,232,000)	(+13,692,768,000)	(+13,646,768,000)	(-2,451,232,000)
(Limitation on corporate funds to be expended).....	(416,017,000)	(398,353,000)	(363,141,000)	(398,141,000)	(398,453,000)	(-17,564,000)	(+100,000)	(+35,312,000)	(+312,000)

1/ Current indefinite authority, current estimate only

CONFERENCE REPORT ON H.R. 2916, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1990

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 25: Page 20, after line 13, insert:

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and General Insurance Fund as authorized by the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), $350,093,000, to remain available until expended.

During fiscal year 1990, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the National Housing Act, as amended.

During fiscal year 1990, additional commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, shall not exceed a loan principal of $75,000,000,000.

During fiscal year 1990, gross obligations for direct loans of not to exceed $88,600,000 are authorized for payments under section 230(a) of the National Housing Act, as amended, from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 25, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the special Risk Insurance Fund and General Insurance Fund as authorized by the National Housing Act, as amended (12 U.S.C. 1715zp-3(b) and 1735c(f)), $350,093,000, to remain available until expended.

During fiscal year 1990, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the National Housing Act, as amended.

During fiscal year 1990, additional commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, shall not exceed a loan principal of $57,290,172,000.

During fiscal year 1990, gross obligations for direct loans of not to exceed $88,600,000 are authorized for payments under section 230(a) of the National Housing Act, as amended, from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

Mr. GREEN (during the reading.) Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

PARLIAMENTARY INQUIRY

Mr. GONZALEZ. Mr. Speaker, reserving the right to object, coupling that reservation with this request, I would like to raise a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. GONZALEZ. Mr. Speaker, I do not want to lose the proper time at which I will be requesting, since I am in disagreement with the motion, a severance of time for debating this motion. Would the Chair indicate to me at what time it would be proper to recognize me for that purpose, for that request?

The SPEAKER pro tempore. Is the gentleman from New York in favor of the motion?

Mr. GREEN. Mr. Speaker, the gentleman from New York is in favor of the motion.

The SPEAKER pro tempore. Then the time can be divided three ways, and the gentleman from Texas [Mr. GONZALEZ] will be protected.

Mr. GONZALEZ. Mr. Speaker, I thank the Chair, and I withdraw my reservation of objection.

Mr. GREEN. Mr. Speaker, I renew my request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. TRAXLER] will be recognized for 20 minutes; the gentleman from Texas [Mr. GONZALEZ] will be recognized for 20 minutes; and the gentleman from New York [Mr. GREEN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me explain amendment No. 25. It is a technical amendment. It limits the amount of FHA guaranteed loans in fiscal year 1990 to $57,290,172,000.

The subcommittee section 302(b) allocation for primary guarantees is $57,436,000,000. When one takes out the $144 million for CDBG section 108 loan guarantees, the only other loan guarantee account in the bill, there is some $57,292,000,000 remaining. Thus, the committee motion brings the bill to approximately $2 million below the primary guarantees allocation.

What this motion does is simply bring the bill within the subcommittee section 302(b) primary guarantee limitation. It is a scorekeeping amendment.

Mr. Speaker, I have difficulty understanding why anyone would want to oppose the amendment, and we will be pleased to discuss it. I suspect that it is because they may oppose the committee motion to establish the FHA mortgage ceiling at $125,000.

If this motion does not pass, then amendment 54 is subject to a point of order. If that happens, further catastrophes will happen, and it would mean that we would have to take this bill down some $340 million, and I do not want any of the Members to think that that will be easy. Basically it would be another 1 percent across-the-board cut, so we need very much to have this amendment concurred in.

Mr. GREEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me rise in support of the motion. I think the distinguished chairman of the committee has laid it out quite well.

We are obviously going to have a discussion later on today as to what the ceiling should be on mortgage insurance on the part of the FHA, and I think it is appropriate that we have that.

I understand the feelings of the gentleman from Texas in not wanting that mortgage ceiling to be increased to $124,875. I would hope that the House would hold that debate, and the determination on that, when we reach that amendment in disagreement.

Essentially what the gentleman from Michigan is trying to do here is simply to bring us into a position in compliance with section 302(b) requirements, that is, a need that we are ultimately going to have to deal with in this committee and in this bill, and this seems to me as simple a way to do it as we possibly can.

□ 1540

For that reason I would hope that the House would go along with the motion of the gentleman from Michigan. The House will then have a chance to work its will as it wishes when it gets to the amendment in disagreement that specifically addresses the amount of FHA mortgage ceilings.

Mr. Speaker, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not believe there are any two Members of the House that I esteem and respect more than I do the chairman of the subcommittee, the gentleman from Michigan [Mr. TRAXLER] and the ranking minority member, the gentleman from New York [Mr. GREEN].

However, I think the chairman of the subcommittee has said it. He said if this happens to be voted down, it

will be subject to a point of order, that whole section. Well, of course. Because what the gentleman and the subcommittee are doing here is actually budget gimmickry. It is a gimmick to avoid a budget point of order and to permit the increase in the FHA mortgage limits, which the gentleman from New York says he hopes we will discuss later. But by then the real substantive issue has passed us by.

The truth of the matter is it has always been my observation that avoiding the processes for the purposes of convenience is a dangerous thing to do in the legislative process where you are involved in substantial budgetary decisions.

The integrity of the process now lacks credibility, which it is essential we restore. The fiscal year 1990 budget resolution contains an FHA credit limitation of $67 billion. We are talking about FHA now. This has been the subject matter of these lurid headlines saying, "Another FSLIC catastrophe."

Thank God, I doubt seriously it will reach that proportion. But even if it were substantially less, it still would be a catastrophe.

As I said yesterday, if my colleagues on either side of the aisle want to go on record as saying they are in favor of increasing those limits, which will be possible if we get to amendment No. 54, and of necessity we have to go through this No. 25 now pending, but this was rigged this way parliamentarily so that a proper point of order could not be sustained, but going back to the fundamental issue, if the Members of this House with full knowledge, because I am sure we all read the newspapers and Members read at least some of the reports of the subcommittee hearings, in full knowledge that the FHA insurance fund, or several of the four different funds at FHA are in a dismal actuarial situation, will go along with a premise that might have been tenable 1 year ago or 2 years ago, whereby because of certain aberrations in housing costs in certain areas you could make an argument for increasing FHA limits, but today, and the statistics that we have, yet to be produced, but we will get them on November 15, we will find out that the action that this subcommittee will bring about will be the perpetuation and the complication and compoundment of the FHA actuarial and fiscal catastrophe.

So I do not think any Member wants to do this knowingly, and I want to put every Member on notice that is what we will be doing. So we have to start with this amendment.

This increase in the FHA credit limitation is essentially tied to the change in the FHA loan limitation from $101,250 to $124,875.

This committee is already counting as revenue for their budgetary purposes moneys that are illusory based on this increase in revenue from these increased fees.

The reason I say illusory is because the latest statistics will show us that in this range of rich mortgage arrangements, which this increase targets, we will show that we have the highest rate of delinquencies within the last 13 to 14 months. So Members should know what they are doing here.

I think all of the Members on the Committee on Banking, Finance and Urban Affairs, and particularly those Members assigned to the Subcommittee on Housing and Community Development dealing with block grants, have a moral obligation to stand, even if the odds are against us on the point, and make sure that as our words are recorded and printed, every Member will have a chance to evaluate his vote.

I ask my colleagues to join me in defeating this amendment by voting "no" to the floor manager's amendment, thereby giving the Committee on Banking, Finance and Urban Affairs time to consider and evaluate the report that the GAO will give us in just a matter of about 2½ weeks. I urge my colleagues to do that.

Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. WYLIE], the ranking minority member of the committee.

Mr. WYLIE. Mr. Speaker, I oppose the motion of the gentleman from Michigan [Mr. TRAXLER] to try to clear up the smoke.

Ladies and gentlemen, we are talking about some real smoke and mirrors here. The Appropriations Committee credit allocation pursuant to section 302(b) of the Budget Act allocated $57,290,172,000 as the limit for the FHA insurance program.

The House, in its HUD appropriations bill, raised that limit to $67 billion, which I think might have been subject to a point of order, but that is questionable.

The Senate raised the ceiling then to $75 billion, another $8 billion, and increased the credit limit for FHA loans to $124,875. How they came out with $124,875 is anybody's guess.

Supposedly the $75 billion ceiling would accommodate the anticipated loan activity which would generate enough new user fee revenue to meet other budgetary targets. The Senate actions assumed that the increased premium income would be generated by a greater degree of volume of FHA activity.

It is to the credit of the gentleman from Minnesota [Mr. FRENZEL] that he called me to say he was planning to raise a point of order to amendment 25 raising the FHA credit limit to $75 billion, and that would be sustained.

If the Traxler motion is adopted, the overall credit limit would now be $57,290,172,000, and under amendment 54 the FHA mortgage limit would still be increased from the present $101,250 to $124,875, which means to this Member there would be fewer FHA loans made. If more $124,875 mortgage loans were made, we would be right back here where we are now to increase the loan limit again before we go home for Christmas. I fear that this action might deprive first-time homebuyers affordable mortgage credit.

The gentleman from New York made the point that if the gentleman from Michigan [Mr. TRAXLER], does win this one, that we can talk it out on amendment 54. If he does not win this one, we save a lot of time, we have disposed of amendment 25 and amendment 54 all in one fell swoop, and we go back to the Committee on Banking, Finance and Urban Affairs where the amendments should be debated.

□ 1550

The point I would make is that we ought not to recede to the Senate on this amendment. The Senate report language increased the FHA mortgage limits in order to meet a higher demand of loans, it says. The Senate then increases the credit limit to get more revenue which the House is about to decrease to get more revenue. This sounds like "Alice-in-Wonderland" budgeting to me where bigger is smaller and nothing is what it appears to be.

This is a complicated issue, I submit, which ought to be decided in an orderly, considered way by the House Committee on Banking, Finance and Urban Affairs.

I asked Secretary Kemp when he was at a hearing recently if he had taken a position on the need to increase FHA mortgage limits. He said he thought the limit probably should be raised, but raising the limit to $125,000, and these are his words:

As a part of the HUD appropriation bill is premature." Secretary Kemp said, "I would prefer to wait until the audit was done so we could act in a more prudent way.

GAO is doing a report. Our House Banking Committee, on a motion by our colleague, the gentleman from Wisconsin [Mr. KLECZKA] is due a report in mid-November.

In view of some of the recent disturbing findings about FHA, we ought to wait for that report, let the Banking Committee, which has jurisdiction over the issue, work its will, let the House work its will in an orderly debate after we get the GAO report.

I had not made up my mind on how much the mortgage limit should be increased. I think it probably should be increased. But last year the single-family mortgage insurance fund lost $1.4 billion in fiscal year 1988.

The SPEAKER pro tempore. (Mr. MCCLOSKEY). The time of the gentleman from Ohio [Mr. WYLIE] has expired.

Mr. TRAXLER. Mr. Speaker, I yield 1 minute to the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman for yielding this additional time.

Mr. Speaker, last year the mortgage insurance fund lost $1.4 billion, the first time such a loss has occurred. The FHA program in the overall is a good program. We need to know what happened and why it happened.

If we learned anything from the FSLIC crisis, it is to proceed with caution in the area of Federal insurance programs. Give the Committee on Banking an opportunity to study the GAO report, get a recommendation from Secretary Kemp, and then present the case for or against increasing the loan limit.

Mr. Speaker, I urge a "no" vote so we can strike the FHA provisions on a point of order and have the necessary discussions so we will know better what to do on this issue.

Mr. TRAXLER. Mr. Speaker, I rise in support of the amendment, and I reserve the balance of my time.

Mr. GREEN. Mr. Speaker, I yield myself such time as I may consume.

Since it appears we are going to have our basic debate on the mortgage ceiling at this point, I may as well proceed in that vein, and it might as well be here as elsewhere.

I should like the Members to understand the history of how we got where we are today on the mortgage ceiling. We in the House Committee on Appropriations did not presume to address the question of the level of the FHA mortgage ceiling. We brought a bill from the committee, as the members of the Committee on Banking know, which did not address that issue.

The Senate, however, when it considered our bill, did address the mortgage ceiling issue. It addressed it in very long, drawn-out debate on the floor of the Senate during which several alternate numbers were considered, all higher, as I understand it, than the present number in the bill. After many hours of debate the Senate finally settled on the $124,875 limit.

We then went to conference with the Senate. And as we, and the Congressional Budget Office, analyzed our situation for us, the Senate addition provided us—these are not our numbers, these are Congressional Budget Office numbers—$104 million of additional outlays for our bill. With that additional $104 million we were able to satisfy a number of needs that had not been satisfied in the House bill but which the Senate had been able to satisfy with this higher number.

Because of the fact that this had been an issue that had been fought out so long and so hard on the floor of the Senate, we found our friends from the Senate most adamant about reopening the issue. Nor, frankly, did we have any marvelous suggestions as to where we were proposing to cut $104 billion in order to reverse what the Senate has done.

Let me give you some examples of how the cuts might be taken if we were to spread it rather evenly but protect the VA accounts, as I think most Members here would want to do. That would result in a reduction of $137 million from HUD, $113 million from NASA—and these are all budget authority figures—$51 million from the EPA, $19 million from the National Science Foundation.

The budget authority numbers, of course, are bigger than the $104 million of outlays because many of the programs in this bill, indeed most of them, do not spend out totally in the first year but spend out over a period of years.

So when you cut $104 million out of outlays, you cut substantially more than that in budget authority.

That, I think, is the position that the House is going to have to face today as it considers the issue that our friends from the Committee on Banking are very properly raising to them as opposed to the report that we in the Appropriations Committee are bringing to them.

Let me say I have seen some materials relating to that preliminary report that the GAO has given the Banking Committee and, at least as I read those materials, and based upon my own experience, I do not think that what we have done is going to affect significantly, or at all, the loss experience of the FHA.

First of all, I think it was fairly clear from the GAO's preliminary findings that the major issue in terms of loss experience is downpayment requirements. If you have very low down payments, you will have worse loss experience; if you have higher down payments, you will have better loss experience.

So I do not think that the amount of mortgage is really the critical factor in determining loss experience.

Mention has been made of a recent GAO report that shows $4.2 billion in losses to the FHA for fiscal year 1988. It should be understood that only $1.4 billion of that came out of the single-family fund and that that fund still has a balance of $1.8 billion in reserves. That is the only fund that is affected by the Senate amendments that we bring back here today.

I should point out that traditionally that fund has been the strongest fund, it is one that of course is subject to cyclical variations.

Right now it is in trouble because of the problems in the oil patch. I can recall a time when I was a HUD regional administrator when the problem was up in Seattle because a shipyard closed and at the same time Boeing dropped its employment from 110,000 people to 30,000 or 40,000 people and the FHA was stuck with a lot of single-family homes in Seattle.

This fund is in reasonably good shape. I do not think Members should be panicked by scare tactics about this fund, because, while undoubtedly there is a question and a problem with respect to other FHA funds, this one still has a significant positive balance.

Nor do I think that simply increasing the mortgage ceiling as opposed to cutting the down payments increases the risk for the fund.

So I think the question is: Is the House prepared to take cuts of the kind that I have described, $137 million from HUD, $113 million from NASA, $51 million from EPA, $19 million from the National Science Foundation, because it is concerned about these jurisdictional quarrels between two committees? I frankly think that is too high a price to pay.

I do apologize to my friends on the Committee on Banking. I once sat with them, and I continue to value their friendship and the collegiality that we all have here.

As I said, this is not something we originated in this House, and when we went to conference it was something we were faced with, something the Senate had fought out very hard. The Senators were most adamant about reopening the issue, and that is why we are here today.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I would be happy to yield to the gentleman from Michigan.

Mr. TRAXLER. I thank the gentleman for yielding.

I just want to say that the gentleman has accurately characterized the situation in which we find ourselves. The Senate had three votes on the Senate floor on this matter and another vote in committee. It is frankly an area they do not want to revisit.

But more importantly, for the reasons the gentleman has so eloquently stated, I hope the committee motion will be adopted.

□ 1600

Mr. Speaker, having said that, let me also say that the distinguished chairman of the Committee on Banking, Finance and Urban Affairs is what I consider to be one of the finest chairman in this body. The ranking minority member is an exceptionally fine gentleman. They both have great knowledge over their subject matter. We have a fine relationship with them. They have an outstanding staff that relates very well to our staff. And it is with some pain and anguish we find ourselves in this situation. If it was possible to avoid it, we would have done so. With a certain amount of mea culpa, I extend my regrets to the gentleman, and I know that whatever the outcome is here today, I pledge to him

my cooperation in the future on matters of mutual interest in housing. The gentleman is one of the great housing champions of this Nation. It is a pleasure to be associated and working with the gentleman.

Mr. GREEN. Mr. Speaker, let me join in the gentleman's statement. As the gnetleman from Texas [Mr. GONZALEZ] knows, more often than not we are fighting shoulder to shoulder on housing issues. I deeply regret the circumstances in the other body that led Members to this position today.

The SPEAKER pro tempore (Mr. MCCLOSKEY). The gentleman from New York [Mr. GREEN] has 11 minutes remaining, the gentleman from Michigan [Mr. TRAXLER] has 17 minutes remaining, and the gentleman from Texas [Mr. GONZALEZ] has 9 minutes remaining.

Mr. GONZALEZ. Mr. Speaker, I have five Members requesting time, and I only have 9 minutes left.

Mr. TRAXLER. Mr. Speaker, I will yield to the gentleman from Texas [Mr. GONZALEZ] several minutes.

Mr. GONZALEZ. Mr. Speaker, that is a real generous expression, coupled with what the gentleman just said on the RECORD. How could I be luckier?

Mr. TRAXLER. Mr. Speaker, perhaps I could come to the gentleman's district.

Mr. GONZALEZ. If the gentleman would come in a friendly capacity, we will welcome the gentleman.

Mr. TRAXLER. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Texas [Mr. GONZALEZ].

The SPEAKER pro tempore. The gentleman from Texas [Mr. GONZALEZ] has 14 minutes remaining, and the gentleman from Michigan [Mr. TRAXLER] has 12 minutes remaining.

Mr. GONZALEZ. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. VENTO], one of the stalwarts of the Committee on Banking, Finance and Urban Affairs.

Mr. VENTO. Mr. Speaker, here I am, speaking on borrowed time, thanks to the gentleman from Michigan [Mr. TRAXLER].

I certainly want to say we all are appreciative of the work that the Appropriations Subcommittee has done, led by the new and vigorous chairman, the gentleman from Michigan [Mr. TRAXLER].

We are concerned about this provision dealing with the FHA increase in authority, not because we do not recognize, that is the Committee on Banking, Finance and Urban Affairs, the Subcommittee on Housing and Community Development recognizes the problem in high-cost areas, but we also must be mindful of the type of liability that has occurred in the past, the losses that have occurred, and of course, the potential liability in the future.

In 1982, this Congress in its wisdom, under pressure from the Reagan administration, decided to collect up front the FHA funds. The FHA insurance, up until that point, had been collected on a payment basis, generally one-half of 1 percent a month payment. However, now all of those dollars have been collected up front. What was precipitated in 1982, that gave Members more budget authority and more running room within the budget, and what is occurring right now, by virture of this particular change, is that it has serious appropriation and budgetary implications.

If we raise the FHA authority to $124,000, nearly a 25-percent increase, the end result is that we collect more dollars in 1990, and like magic all of a sudden with blue smoke and mirrors, there is more money in the 1990 budget. We like it for housing programs and the other elements of the budget that we want more funding for in this budget.

However, the fact of the matter, Mr. Speaker, is that as we look ahead in the FHA liability, some of which may stretch out as far as 30 years, the point is that it is very likely that those dollars are going to be needed. If we utilize, the FHA insurance fund and the appropriation have a troubled track record, we are surely going to continue to have FHA problems. So this is really a budget gimmick, one that we like. Spend now, pay later. It reminds me of a guy that goes out and buys a suit on sale that he cannot afford. It is only $500, 20 percent off. He takes the $100 he saves and spends that, too. That is the predicament we are in here today with regard to this particular amendment.

I want to congratulate the Committee on Appropriations and the Committee on Budget on their creative thinking with regard to the budget, but I want to warn the Members of the House, it is the same type of problem that has led Members to the types of difficulties that we have had in the past. This FHA program is having trouble. The FHA fund is going to have trouble in the future.

Therefore, I would suggest that the best course of action for Members today is to defeat this amendment, knock this out on a point of order, and try to deal with this in a more constructive manner than is being done here. I appreciate the problems that the Appropriation Subcommittee has, but I think that this is not the best course of action to increase the FHA ceiling today in this manner. I think that is their responsible course of action. We have great trouble with these guarantee programs and loan programs and it is no time to play fiscal games with the FHA Program.

Mr. Speaker, I am concerned that there has been little if any meaningful debate on the specific matter of raising the ceiling—no time for questions and answers regarding the long-term ramifications of this FHA change. This amendment is clearly a budget gimmick that provides extra dollars in 1990 without consideration of the potential cost over the total length of the FHA insurance liability.

There has been no review of the actuarial soundness of what would be a nearly 25 percent expansion of the FHA limit in high-cost areas. I can share the concerns that Members that represent these high-cost areas have, but that does not mean that Congress should arbitrarily increase the limits without knowing the consequence or the status of the program today. Recently released studies have shown that FHA has a $4 to $7 billion loss depending on when the FHA financial picture is framed. Perhaps more chilling is the fact that the system is supported by user fees with no cost to the taxpayer, that is, the FHA Program is set up on a scheme in some ways similar to the insured deposits of the savings and loan industry.

There has been a problem with FHA for years in high cost housing areas. The problem isn't new and there is no special urgency today.

It is inappropriate to raise the ceiling in this manner. The FHA ceiling issue surely demands hearings and a careful structuring or restructuring of the program to be certain that it meets its responsibilities to low and middle income home buyers. Those facts include:

First. The recent reported FHA losses of $4 to $6.9 billion.

Second. Housing is not appreciating today at the rate that it once did—in fact, it is, in too many instances, static or even depreciating in some areas.

Third. The impact of sectoral economics plays a role in areas such as the Southwest. If there had been higher FHA limits in that type of marketplace, FHA would be not just in the loss column as it is today, but probably tens of billions more into the red and seeking national Government assistance.

Fourth. Private mortgage insurance is generally available. We hear countless speeches in support of the free marketplace—why not let the free marketplace work and meet some of the needs in high-cost areas?

Fifth. The FHA insurance program allows people to qualify for a smaller downpayment. It was designed for low to moderate housing ownership—not what is most often being built and sold today. The program should continue to assist people in acquiring housing that may be in some views mundane, but affordable. Today's homes come with all the appliances, garages, fireplaces, two to three baths, larger lots, and jacuzzis. Such amenities are part and parcel of the reason that the current FHA loan limit in too many instances is inadequate.

Mr. Speaker, I appreciate the work of the Appropriations Subcommittee that was seduced because of budget rules and budget scorekeeping to adopt this policy change for an additional $157 million in spending authority. This is surely not the way to craft public policy.

I suggest to my colleagues that this kind of action is just one reason the budget law and the budget itself are unworkable and in a state of crisis. This kind of consequence is ridicu-

lous. Raising the FHA ceiling is a consideration that needs to be studied and resolved. But not in the context of the appropriations/budget scorekeeping game. This provision should be stripped from the HUD appropriations measure and considered fully by the committees of jurisdiction, one of which I serve upon.

Mr. GONZALEZ. Mr. Speaker, I yield 2½ minutes to the gentleman from North Carolina [Mr. NEAL], a top-ranking member of the Committee on Banking, Finance and Urban Affairs.

Mr. NEAL of North Carolina. Mr. Speaker, I want to support my distinguished chairman, distinguished ranking minority member here. Certainly it is nothing against the fine gentleman from Michigan, and the gentleman from New York, but this is a question of the integrity of the committee.

Now, our committee, the Subcommitte on Housing and Community Development, has clearly jurisdiction over this issue of the loan limits on FHA lending. We raised that limit in the past. Our committee has been looking into this question. The Subcommittee on Housing and Community Development has held hearings on the FHA system. The Committee on Banking, Finance and Urban Affairs has ordered and is expecting a follow-up GAO analysis concerning the effect of raising these limits and the issue of raising them is currently before the committee.

Now, what has happened here is that the Senate has simply usurped all of this, and unfortunately, our distingushed colleagues went along with it. As I say, it is a problem of the integrity of the committee system. If Members let this sort of thing go on, day after day, then the committees simply will not be worth anything. That is my main concern.

The Committee on Appropriations has not held any hearings on this, to the best of my knowledge. By the way, I know our people did their best. This is something the Senate wanted to do, but there are serious questions. What will be the impact of this on the FHA fund? Does anyone on the Committee on Appropriations know? I do not think so, because they have not had a chance to look into it. How healthy are the funds? Have they looked into that? I do not think so. It is not their jurisdiction. Do we want to increase? Do we want to limit the amount that is available for loans, and then increase the loan limit to individual lenders? What that means is that we shift lending to higher income people. Is that what we want to do, shift to higher income, and limit the low-income people?

These are serious questions. They are questions that ought to come before the committee of jurisdiction, and that process has simply been bypassed by this procedure. This is the only way I know to protest it.

Mr. GREEN. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I made a statement yesterday on the general situation, and I am going to restate it rather briefly. When this bill left the House, it did not contain the provision to increase the individual insured loan limit. That little goody was acquired in the Senate.

When the bill came back from the Senate with that additional decoration it became a matter of a point of order, because it was violating the Budget Act, not from the standpoint of outlays or VA, but from the standpoint of credit.

That induced the committee to bring the pending amendment to the House so that it would obviate that point of order, and would keep the bill as close to the version that came out of the conference as was possible.

□ 1610

Everybody knows how this came about. The Senate discovered for our conferees a way to get $104 million more in outlays by increasing the individual loan guarantee limit and, therefore, increasing the fees which are taken as offsetting receipts and, therefore, give the committee a chance to spend $100 million more.

That attraction was too great for the committee to resist. It accepted the Senate's machination even though in so doing it had to steal jurisdiction from the Committee on Banking, Finance and Urban Affairs.

That has caused the fight that is before us. That is the nature of the problem with respect to the Budget Act, and whichever way it is solved, if the budget violation is cured, then there will be no point of order lying and there will be no further problems.

However, I want to step outside of the budget considerations, and talk a little bit about jurisdiction. I can understand why the subcommittee did this and why the conferees did it. I do, however, have to say that my sympathies lie with the authorizing committee which has had its jurisdiction stripped from it by this action of the Subcommittee of the Committee on Appropriations. Our authorizing committees deserve better than that.

The money that was developed from this extra $100 million is being spent in HUD and in space, and for veterans, all things that we like very much. However, the bill was accepted without the $100 million windfall by the House on original passage. The conclusion might be that the extra spending is desirable, but not essential.

So my judgment is that the amendment ought to be defeated. The authorizing committee ought to have its opportunity to exercise its jurisdiction over this matter, and make a recommendation for the rest of the House. Allowing our appropriators to spend another $100 million not allocated by the Appropriations Committees is a serious mistake.

For that reason, Mr. Speaker, I am supporting the gentleman from Ohio [Mr. WYLIE] and the gentleman from Texas [Mr. GONZALEZ] in suggesting that the amendment be defeated.

Mr. TRAXLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say that that is all very well except for one thing: When we look at this bill, we must remember that we have already taken a 1½ percent across-the-board cut in order to bring ourselves within our outlay ceiling, as established by our 302(b) allocation. If we strip this out, I will offer a motion to reduce the bill by 1 additional percent. I want the Members to think about that. That is 1 more percent.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, let me say that the gentleman did not have $100 million when this left the House, so obviously they wanted the bill up in conference. So we are just taking it back down to where it was. How, then, is this being stripped?

Mr. TRAXLER. Mr. Speaker, I must remind the gentleman that we lost the payday change. The gentleman was helpful to us in that regard, if he recalls. That really created a bow wave for us to get over, and this is one way to do it.

I am getting to be one of those people who say that if we would repeal the Budget Control and Impoundment Act, we would not have to talk about these things, most of which I do not understand, I might add. And some other people have said that, too.

In any event, I think what is important here is that this is only a 1-year provision. It allows the distinguished chairman and his fine committee to work their will in the coming months. If they want to shorten that period, I want to say it is all right with me. Clearly it would be within their purview to do it. Whatever they want to do, it will be up to them in the coming months.

This is a 1-year provision, and it will go back to the original limits a year from now.

So I hope the Members will understand the committee's position. I hope they understand that we do this not out of enthusiasm or a desire to strip some committee of its jurisdiction. We have none of those motives. As I have said, I have a wonderful relationship with the gentleman.

Somebody has said that, "Necessity is the mother of invention." This was

necessary, period. We have no more apologies to offer. Straight-out, flat, we had to have the money. We all understand that song.

Mr. Speaker, I hope the Members concur in the amendment. I hope they will support it and vote for it.

Mr. GREEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. COUGHLIN], a member of this committee.

Mr. COUGHLIN. Mr. Speaker, in addition to what has been said by the very distinguished chairman of the subcommittee and the extraordinarily knowledgeable ranking member about the necessity for this particular provision, let me say that it did not come from the whole cloth either.

Back in May of this year GAO suggested in fact that the FHA maximum mortgage limit be raised to reduce the risk exposure of the FHA, and indeed in many areas of the country the usefulness of the FHA Program is being limited by the fact that home prices have increased and the current FHA maximum market limit is not sufficient.

This is not something that was just created by the subcommittee of the Committee on Appropriations. This indeed, as has been pointed out, was done by the other body, and what the other body did does have the support of the home builders and the realtors and the mortgage bankers, all of whom believe this is a very important provision to be included in the bill.

Mr. Speaker, I would hope that my colleagues, both those who are here and those who may be back in their offices listening, will remember when they come here that this is a provision that has a great deal of support out in the community, that it is important indeed for our housing industry, and I hope they will support the subcommittee in what it has done.

Mr. GREEN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, first I would like to commiserate with the gentleman from Michigan by telling him that I am a fan of National Public Radio's Morning Edition, and I was very saddened to hear him labeled as a Representative from Missouri and to hear the label that was given to his performance here. As a Californian, I would like to congratulate the gentleman for his fine work in behalf of our California earthquake victims.

Mr. Speaker, I have a great deal of difficulty dealing with this issue. The reason is that I am one of the very few Members who represent a high-cost area who will stand here supporting the chairman of our full Banking Committee. I do this because I strongly support the FHA program, and I have spent since the summer of 1987, as has every member of the Banking Committee, dealing with the savings and loan crisis, and we just recently resolved that problem. And then we look at the report which has been provided us from the General Accounting Office, and we are asked to come down here to provide an increase for these high-cost areas which some say will actually improve the stability of the fund. But we do not know that for sure, and I am hoping that on November 15 we will have a firm answer to that question, as to whether or not it does provide a stabilization of that fund, because I believe we have many other questions that need to be answered.

I support the distinguished chairman of the Banking Committee in this action. I believe we need to have answers to questions like this: What will the impact of increasing FHA limits have on home price appreciation? How will it affect the savings and loan industry which underwrites few FHA mortgages? Will it help only those who can already get mortgage insurance in the private market? Are low- and moderate-income families in lower-cost markets being adequately served by FHA?

And, finally, we do not know exactly what the FHA's mission is any longer.

I am very pleased that the chairman of the committee and the chairman of the Housing Subcommittee have indicated they will hold further hearings. It has, frankly, been a while since we have had hearings specifically looking at this issue, but as my friend, the gentleman from North Carolina, said, this clearly falls under the rubric of the Banking Committee and the Housing Subcommittee. And I say that, having been a cosponsor with my California colleague, ALAN CRANSTON, and the gentleman from Fresno, CA, Mr. LEHMAN, in supporting the last increase from $90,000 to $101,250. But I believe now, with that kind of credibility, that I have the right to ask these questions.

Mr. Speaker, it is for that reason that I am supporting the distinguished chairman of the Banking Committee in his action, and I say that with appreciation for the chairman of this subcommittee and its ranking member for so generously giving us time for this debate.

□ 1620

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, let me say that I think that this is more than just a minor jurisdictional dispute here. We are talking about the essence of a legislative process, and the fact is that our friends in the Senate sometimes forget that. They have these overlapping rules. They serve on the authorization committee here and the appropriations committee there, and they get their roles mixed up from time to time, and they throw stuff that is properly authorization type language into appropriations bills. This is what we have done here, and, as a result, what we are doing is undermining the entire authorizing process in this House.

Mr. Speaker, I think it is high time that chairmen, such as the gentleman from Texas [Mr. GONZALEZ], stand up and make certain that policy is made where policy is supposed to be made as a part of the authorizing process.

What is particularly disturbing here is that, having made a choice, which is definitely in the hands of the authorizing committee, we now find out that what we are likely to have is cuts that go across over authorizing jurisdiction.

Those of us on the Committee on Science, Space, and Technology who are concerned, of course, about the science programs which we think are underfunded in this bill, are now hearing that, if we do not go along with this move to strip the Committee on Banking, Finance and Urban Affairs and its authorization authority, we are going to lose money out of our accounts that are in our authorizing jurisdiction.

So, Mr. Speaker, it is an attempt to, not only undermine the authorizing process as it relates to the Committee on Banking, Finance and Urban Affairs, it is also now attempting to undermine the authorizing process as it relates to the Committee on Science, Space, and Technology.

My question for Members of this body who serve on the authorizing committees is: How long are we going to let this happen? How long are we going to continue to see policy drawn this way, maybe not at the fault of people who serve on the Committee on Appropriations, but they ultimately come back from the Senate with provisions that have the effect that all of them deplore.

Mr. Speaker, if we do not soon stand up and say that policy is going to be made by policy makers in the authorizing committees, and we do not stand for anything else, we might as well just not have the authorizing committees meet.

So, I join the gentleman from Texas [Mr. GONZALEZ] in his action. It is high time we stand up and make ourselves heard.

Mr. GREEN. Mr. Speaker, I yield myself such time as I may consume.

The SPEAKER pro tempore. (Mr. MCCLOSKEY). The gentleman from New York [Mr. GREEN] has 3 minutes remaining.

Mr. GREEN. Mr. Speaker, I think the gentleman from Pennsylvania [Mr. WALKER] has it rather backward. The fact is that we have tried to get as close as possible to what authorizing committees like his, the Committee on

Science, Space, and Technology, has authorized by way of science and space appropriations, and what the committees involved in environmental matters have authorized by way of appropriations for the Environmental Protection Agency. It was because of that that we have pushed as hard as we can to find money to fund these programs.

Mr. Speaker, it may be nice to say, "Well, the appropriators should somehow honor all of our authorizations," but the fact of the matter is we start with a zero sum game. We have only so many dollars in the pot, and we can only produce to the extent that we have dollars.

Mr. Speaker, I get back to the point that I made earlier in this debate. If those of my colleagues on the Committee on Science, Space, and Technology do not want $113 million cut from NASA and do not want $19 million cut from NSF, then they really have to support the motion on the floor to let us proceed. Similarly, if those Members involved with environmental matters do not want to get $51 million cut from EPA, then they have got to vote yes on the chairman's motion and let us proceed.

I would hope that even those on the Committee on Banking, Finance and Urban Affairs who are really concerned with the future of HUD would recognize that, if they vote against us on this, they are probably going to cut $137 million of budget authority from HUD, and I do not think they want to do that either.

So, Mr. Speaker, it may not be a pleasant situation in which we all find ourselves today. None of us is very happy. We have tried to do the thing in as decent a way as possible. We did the mortgage ceiling with a 1-year limit on it, and we did it in a way that the Committee on Banking, Finance and Urban Affairs can reverse at any time because of course it has the last word on this issue.

However, Mr. Speaker, if we are going to try to do these things that the authorizing committees want at HUD, and want at NASA, and want at the National Science Foundation, and want at EPA, then we have to have this money, and it is as simple as that.

Do my colleagues want to cut off their nose to spite their face? I do not think they do, and I urge them to support the motion.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. HOAGLAND].

Mr. HOAGLAND. Mr. Speaker, I rise in support of the position of the gentleman from Texas [Mr. GONZALEZ].

Mr. Speaker, I would like to briefly explain the reason for my vote to leave the FHA loan limit at its current level of $101,250.

My vote should not be interpreted as a rejection of the proposed increase on the merits. In fact, I think we ought to consider raising the limit in some fashion as a way of improving the health of the FHA fund. However, that is a question that should be examined and decided by the authorizing committee, or more specifically, by the Housing Subcommittee of the Banking Committee. If we vote today to raise the limits, we will have allowed the Appropriations Committee to make this decision.

As a member of the Housing Subcommittee, I look forward to exploring the issue of whether to raise FHA loan limits as well as how to reform the FHA to ensure its viability in the coming years.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. KANJORSKI], our distinguished colleague on the Committee on Banking, Finance and Urban Affairs.

Mr. KANJORSKI. Mr. Speaker, I would like to say that it is an interesting discussion here today because we all are friends. My good friend, the gentleman from Michigan [Mr. TRAXLER]; certainly we know he did not come up with this scheme. It did come over from the Senate, but let us examine what the scheme is.

Mr. Speaker, the scheme is saying that we want to put more money to allow fewer people to borrow larger mortgages. If ever we were to believe there was a Land of Oz at the time of deficits and limited ability to house American people, this is it.

What the Committee on Banking, Finance and Urban Affairs is asking for is not a negative position all the time on all issues. What we are saying is that, when an issue that is so fundamental to American public housing and to generally housing the middle class of America, we should target those funds. However, we should only decide to change the formulas as to how those funds apply after we have had detailed hearings and a detailed study. We are asking this Congress to support the Housing Subcommittee, to give us an opportunity to have the advantage of a GAO study, and contrary to what the gentleman from Pennsylvania [Mr. COUGHLIN], my friend and colleague, has said earlier, we do not have a definitive report from anyone saying that we should raise the limits at this point.

Mr. Speaker, this is the brainchild of our friends in the Senate, and I agree, and I find it sometimes difficult to agree, with my friend, the gentleman from Pennsylvania [Mr. WALKER], that this is the most unusual usurpation of legislative power that we have ever seen.

I would urge all my colleagues, not because we are trying to stop housing, but because we do not believe that we should target American taxpayers' money in support and subsidies to a program that will allow a Donald Trump to finance a home but deny other people because we will run out of funds or because they are less than advantageous to making the fund whole.

Mr. Speaker, I have had indications from people within the administration that there are potentially tens of thousands of foreclosures that have been held off in FHA. Give us the chance to see whether or not in fact we have another catastrophe like the HUD catastrophe, and, if we do, let us not be embarrassed as a Congress and say that we acted without knowing. To ask for the time before having to act is reasonable, responsible, and I ask my colleagues on both sides to support the Committee on Banking, Finance and Urban Affairs and its chairman, the gentleman from Texas [Mr. GONZALEZ], in this instance.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. KLECZKA], our fellow member on the Committee on Banking, Finance and Urban Affairs from Milwaukee.

Mr. KLECZKA. Mr. Speaker, I appreciate that very fine and accurate introduction.

Mr. Speaker and Members, I have listened intently this afternoon to the arguments as to why we have to raise the FHA limit at this time, and I am having a real problem trying to rationalize with the chairman and ranking member as to why this program has been one of the chosen few. If, in fact, we were to arm with the GAO study indicating that the FHA Program has a loss of some $4.2 billion for 1988 alone, if that were not accurate, I would say for 1-year increase is probably justified, but the red flags have been raised on this exact program, the one that we are tampering with today, and it is really kind of foolhardy for this Congress to raise the limit to provide further exposure for a Government program which has lost $4.2 billion this last year.

□ 1630

So, Mr. Speaker, I rise today in support of Chairman GONZALEZ' motion that the House not recede to the Senate amendment that would increase the maximum Federal Housing Administration [FHA] guarantee for a single-family home loan.

The other body proposes a whopping 24-percent increase in the loan ceiling for a single-family home from its current level of $101,250 to $124,875 for 1 year.

Mr. Speaker, this is a wrong change at the wrong time for the wrong reasons.

I am astonished that anyone would consider increasing the FHA's already extreme financial vulnerability less than 1 month after the General Accounting Office reported that the FHA had incurred losses of $4.2 billion in fiscal year 1988.

Nearly a year ago, I requested a detailed GAO study exploring the impact on the FHA's financial condition of just the type of change we are considering today.

This report is not yet ready. Yet we appear ready to further endanger a shaky mortgage insurance fund.

Would it not be wiser to wait until this report has been released and we can properly assess the impact of raising this loan limit before rushing to make this potentially devastating decision?

And let me add that those who do the assessing should be members of the Committee on Jurisdiction, the Banking Committee, not the Appropriations Committee. Let's stop legislating on appropriations bills and allow legislative policy to be set in the time honored and proper manner.

Common sense dictates that we allow FHA to take corrective actions to heal a multibillion dollar hemorrhage before expanding their mission.

Change is surely needed at the FHA but not this change.

William Lacey, president of Mortgage Guaranty Insurance Corp. and chairman of the Mortgage Insurance Companies of America, has suggested that FHA insurance benefits be based on borrower's income, rather than on the regional prices of houses they might buy.

In this way, we could ensure that low- and moderate-income Americans across all regions can qualify for help in buying homes, not just upper income people in certain regions. This reasonable suggestion deserves our consideration.

Now is the time for Members to consider reforms that would assist those for whom the FHA was created, not those who are already prospering.

Mr. Speaker, I urge my colleagues to give the highest priority to the FHA's original goals and actual financial condition and vote against this enormous increase in the FHA loan limit.

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. KLECZKA. I yield to the gentleman from New York.

Mr. GREEN. Mr. Speaker, the gentleman is giving the figure for all the FHA funds. We do not touch most of the FHA funds and we do not touch the funds that are in the most trouble. We are touching only the single family home fund, and that still has a balance of $1.8 billion reserve, and Members should understand that.

Mr. KLECZKA. Well, I have opposite figures on that.

MR. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. KLECZKA. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Speaker, the gentleman is accurate, but last year that fund lost $1.2 billion. I think that has to be added to this.

Mr. KLECZKA. That is exactly what I was going to say, the single family home program lost $1.2 billion, but now we are going to raise it for 1 year.

Well, first of all, let us be honest with each other. This Congress does not have a reverse gear, and knowing full well of the support for this increase by the realtors, by the homebuilders, people that have a vested interest in housing, does the gentleman think they are going to sit by and let Congress reduce the $124,000 cap next year? If we do, we are smoking some funny stuff.

For us to tamper with this before the Housing Committee has an opportunity to look to make a judgment, I am telling my friends is like throwing gas on a fire and we best be very careful in dealing with this particular program.

Mr. TRAXLER. Mr. Speaker, I yield myself such time as I may consume.

The fact of the matter is that this is sought by special interests. Well, there are special interests on the other side who oppose this amendment. Who are they? Well, it is the savings and loan industry. It is the private insurance industry. They are opposed to it. I do not know and I do not care specifically who they are. What I am troubled about here is that I have got to fund some very, very important national programs representing the whole spectrum of America.

I mean, think about it. We provide housing for ADC mothers. We are putting the most high technology that this Nation can produce into space. We are providing funding for investigators, professors, America's finest universities. We are providing veterans' health care for those persons who desperately need the kind of medical care and who otherwise would not be able to get it, those who served our Nation and were injured and wounded. That is what this bill is all about, plus a myriad of independent agencies.

What I am saying is that we have a host of budget problems.

I also told you that necessity is the mother of invention. There have been some things said here that I disagree with. But several of them I am in total agreement with.

I am very pained to interfere with the gentleman's jurisdiction. I wish you could put out a legislative bill. It would thrill me, but that is not the issue here.

What I want to say with all the passion I can muster—please know that we do not intrude upon our colleagues' area of expertise with some lightness of foot. That is not the case. We are motivated here fully by a desire to provide adequate funding for agencies that perform the most essential and vital public services across the entire American spectrum—from the poorest to the richest. That is my problem. I wish it were so simple that I could say to you not to worry, we will take a little risk. We will throw the ADC mother out in the street. We will not worry about NSF and competitiveness and research and to heck with the American veterans. I cannot do that and you cannot do it, either.

Do you know what you do? You make these decisions and then you send our subcommittee off in the back room and you say, "You go do our dirty work."

Well, I cannot and I will not anymore. I am asking you with all the fervor I can muster to assist us in this conference report. It is fair and it is just to the agencies.

The provision that is under discussion here today has only a 1-year life to it. This is not forever. It is not chiseled in stone. If the committee wants to meet this afternoon and change it, that is their prerogative. They can do it.

So I ask you for compassion and understanding of the problems that the subcommittee has in bringing to you a very balanced bill. Do not send us back to make unfortunate cuts that are going to be harmful to so many of America's needy and deserving, and also to our technology, to our space efforts and to our science efforts.

Mr. KLECZKA. Mr. Speaker, will the gentleman yield?

Mr. TRAXLER. I yield to my friend, the gentleman from Wisconsin.

Mr. KLECZKA. Mr. Speaker, let me thank the committee chairman for yielding to me.

Mr. Speaker, I do not think anyone up here is decrying the expenditure side of the legislation before us. In fact, we all support those programs, and naturally we will be with the gentleman on that portion of the legislation.

But does the gentleman not concede that the program he picked to extract the $100-plus million is in bad dire fiscal straits today?

Mr. TRAXLER. No. As the gentleman said a moment ago, there is over $1 billion in the particular account we are talking about, single family residences. It got hit last year with $1 billion-plus in losses.

Mr. KLECZKA. A billion two.

Mr. TRAXLER. Yes. There are no guarantees that will not happen again. We do not know what the economy is going to be. Those losses occurred in a specific sector of America—the oil patch—which has suffered incredible economic pain. It did not occur in the rest of the country. As a matter of fact, the rest of the country is supporting this fund very nicely, especially, I might add, Boston.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New Jersey [Mr. ROE], the chairman of the Committee on Science, Space, and Technology.

Mr. ROE. Let me say this, if I may, Mr. Speaker. It is difficult for me to come to the floor on this issue. We are an authorizing committee; but you know, we have got a crazy situation existing and I have to support the Appropriations Committee. Maybe I am a little selfish here, but I want to share something with you. I do not see why in God's name, and I checked this out,

as to why 302(B) should include veterans affairs, housing, the homeless, and the Space Program. It absolutely does not make any sense whatsoever.

We did some research on this, I say to the gentleman from Michigan [Mr. TRAXLER], as the gentleman knows. How did that happen? How in the House of Representatives did that happen? Why would we put the Space Program in with the homeless?

Somebody said, well, it just happened that way. Well, if it just happened that way, why do we not change it? It just does not belong there.

Now, the problem we are going to be faced with one more time, and here is the problem we are facing. Talk about housing, if we further diminish the Space Station Program, then what we should decide to do is to cancel it, because it takes an enormous amount of people in the whole field to be able to keep the infrastructure of the Space Program alive. If you continue to reduce it, and we are just in a holding program, then we are not going to make any progress whatsoever.

For example, we had some figures run down just to see what would happen here. We would have to cancel at least two space shuttle missions. The one Galileo that we put up just the other day was $1.2 billion. The machine has been sitting there for 11 years. Do we want to do that?

We would have to eliminate most of the funding for all of the National Aerospace Planning Program and all new program starts for NASA if we go in that direction.

I do not want to overburden the discussion today. It is very difficult, because the gentleman from Texas [Mr. GONZALEZ] is one of the best leaders we have in this House; but I would hope when we are done with this that the leadership would get together in this Congress and sit down and straighten this situation out once and for all. It can be done and it should be done.

Having said all that, I have to rise strongly in support of our Appropriations Committee bill, and the work that the gentleman from Michigan [Mr. TRAXLER] has done has been extraordinary considering the battle that has to be fought this year, and I think he has selected his priorities in the best way he possibly knew how, and I strongly support his position.

Mr. GONZALEZ. Mr. Speaker, I yield myself 1 minute, and then I will yield to our distinguished ranking minority leader, the gentleman from Ohio [Mr. WYLIE] to close out on our side.

My friend, the gentleman from Michigan [Mr. TRAXLER] has said that necessity is the mother of invention, but necessity is also the argument of tyrants and the creed of slaves. In this case, necessity is being drafted in order to justify something that I do not think we should go on record as justifying, as crucial as this moment may be.

When both gentlemen, the gentleman from New York [Mr. GREEN] and the gentleman from Michigan [Mr. TRAXLER] say, but the authorizing committee has a whole year to do something, they could meet today. Well, that is simply not true. For 7 years we had no authorization in housing because the Subcommittee on Appropriations was authorizing through the appropriations process, and there was nothing we could do because we were harpooned on this budgetary cross, so let us forget about that.

You might have a year in which you can resolve your money problems, but you foster for eternity a terrible problem in housing and in the insurance finance of housing scandal.

Mr. Speaker, To close the debate, I yield 1½ minutes to the gentleman from Ohio [Mr. WYLIE]

□ 1640

Mr. WYLIE. Mr. Speaker, as I said at the outset, this truly is a smoke-and-mirrors debate that we are having here, there is no guarantee that there is going to be $100 million new additional revenue from this program. Over and beyond the jurisdictional question of the Committee on Banking, Finance and Urban Affairs, this action is likely to redirect the FHA program away from moderate income, first-time homebuyers, which is what the FHA program is intended to serve. Instead, it is likely to direct the dollars into the higher income areas of the United States. That is just not my idea. I have a letter here from Gale Cincotta of the National People's Action, and she refers to an article by Jane Bryant Quinn. I do not always agree with her, but she says the higher FHA limits will not help first-time buyers; few first-time homebuyers can afford homes over the current FHA limit. Higher FHA limits will increase discrimination, and FHA losses are likely to increase.

Mr. Speaker, I think we need some answers to these questions, and that is why I believe we should defeat this motion, send it back to the Committee on Banking, Finance and Urban Affairs, where we will take a good look at it and come up with a better proposal.

Mr. TRAXLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Let me put this in perspective. I think this will interest the membership. This illustrates for the Members some of the problems we have in trying to put together a complex bill serving so many agencies and different aspects of our society.

Here it is, listen to this. The $104 million in outlays savings from this particular effort, the mortgage increase, is one piece of the whole puzzle. In fact, we have used creative scorekeeping to the tune of $1.2 billion in outlays in this bill. And they are legitimate, I might add, even though some of my friends on the Committee on the Budget might want to challenge them. They are all legitimate, every one of them, $1.2 billion. That has OMB very disturbed, because that pushes up our outlays for next year. It pushes up their problems for next year. And, of course, we like to create problems for them.

If we dropped that $1.2 billion, we would have to cut some $2.5 billion to $3 billion in budget authority. That would mean an 8 percent cut.

I want to tell those Members who are saying, "Gee, you guys are doing something here," that without us doing these "somethings," we would be looking at a bill that, on the average, would be 8 percent less in every account, and there are very few of the Members who would vote for final passage of that kind of a bill.

I hope the Members understand that, and I hope they will support the committee on that basis.

Mr. PRICE. Mr. Speaker, I rise today to support the HUD, VA, and independent agencies conference report and its proposed changes in the mortgage limits for FHA-insured loans.

The changed limits will help promote homeownership in this country. The 1980's have seen a decline in homeownership rates for the first time in 40 years. While the percentage of decline seems small—from 65.6 percent of households as homeowners to 63.8 percent—this still means that nearly 2 million fewer families own homes today than would have, had the prior rate been sustained. The decline in homeownership among younger households has become particularly acute: A decline of 7.4 percent from homeowners age 25 to 29 years old—from 43.3 to 35.9 percent—and a decline of 7.9 percent for those 30 to 34 years old—from 61.1 to 53.2 percent.

One reason for this decline is that moderate-income families in high cost areas have been unable to use the FHA Program. By changing the FHA limits we allow more potential homebuyers in these areas to have access to the FHA Mortgage Insurance Program. This is important because FHA substantially lowers the upfront cost of purchasing a home. Raising the FHA limits is the only way that families in these areas can get enough cash to qualify for a home mortgage. And it is not just California and the Northeast where this is true. Increasingly, the FHA limits are insufficient for places in the South like Raleigh and Memphis.

It is simply inequitable that people are denied the use of FHA insurance because of location. I have two major counties in my district, Wake and Orange Counties, where moderate-income people are unable to use the FHA Program to buy a median priced home. This is a policy that must be changed and we can take the first steps toward that end today.

I believe it is also critical to set the record straight on the financial condition of the FHA single family insurance fund. This fund, despite some recent losses, continues to be

self-sustaining with equity of $1.8 billion. There are other FHA insurance funds that have a deficit, but the single family insurance fund is not one of them.

However, I am not satisfied with this situation. We must take steps to ensure the future financial stability of FHA which has helped 15 million American families, mainly families buying their first home.

One important initiative for the fiscal soundness of the FHA fund is to enact the series of financial controls and management changes recommended by the General Accounting Office. We do need regular audits. We do need more and better staff. We do need to appoint a comptroller for FHA. And I will support these changes when they come before the House Banking Committee.

But another important safety and soundness initiative is to pass an increase in the FHA mortgage limits. As a GAO report acknowledged earlier this year FHA has sustained losses because the mortgage limits have kept it out of markets where the local economy and the real estate market are robust and strong.

In addition, unlike the private mortgage insurers, FHA has stayed in areas where real estate markets are weak. This has resulted in a situation where 55 percent of the defaults on FHA single-family mortgages in recent years came from energy patch States in the Southwest and Rocky Mountain regions.

This combination is a deadly threat that we must address. One way to solve this problem would be to shut down FHA's operations in the oil patch when defaults increase. However, while this has perhaps been a prudent decision for the private insurers, it is certainly not an appropriate action for a Federal agency created by Congress to provide stability to the Nation's housing finance system.

Instead, a better way is to make certain that FHA has a better and more stable mix of loans in its portfolio. By raising the limits, we help FHA insurance become available in stronger real estate markets. There areas are less likely to have significant defaults and therefore a better risk for the Federal Government and the FHA fund.

Of course, it would be better to make this change on an omnibus housing authorization bill. But the opportunity to improve the safety and soundness of the program and to help moderate-income homebuyers is upon us today. We should seize it. I urge my colleagues to support this conference report.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MCCLOSKEY). The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 325, nays 92, not voting 16, as follows:

[Roll No. 308]

YEAS—325

Akaka	Fascell	Manton
Alexander	Fawell	Markey
Anderson	Fazio	Martin (IL)
Andrews	Feighan	Martinez
Annunzio	Fields	Matsui
Applegate	Fish	Mavroules
Archer	Flippo	Mazzoli
Armey	Foglietta	McCloskey
Aspin	Ford (MI)	McCollum
Atkins	Ford (TN)	McCrery
AuCoin	Frost	McCurdy
Ballenger	Gallegly	McDade
Bartlett	Gallo	McEwen
Barton	Gaydos	McGrath
Bateman	Gejdenson	McHugh
Bates	Geren	McMillan (NC)
Beilenson	Gibbons	Meyers
Bennett	Gillmor	Miller (OH)
Bentley	Gilman	Miller (WA)
Bereuter	Gingrich	Mineta
Berman	Glickman	Moakley
Bevill	Gordon	Mollohan
Bilbray	Goss	Montgomery
Bilirakis	Grandy	Moorhead
Bliley	Gray	Morella
Boehlert	Green	Morrison (CT)
Boggs	Guarini	Morrison (WA)
Bonior	Hall (OH)	Mrazek
Borski	Hall (TX)	Murphy
Boucher	Hamilton	Murtha
Boxer	Harris	Myers
Brennan	Hastert	Nagle
Broomfield	Hatcher	Natcher
Browder	Hawkins	Nelson
Brown (CA)	Hayes (IL)	Nielson
Bryant	Hayes (LA)	Nowak
Buechner	Hefley	Obey
Bunning	Hefner	Ortiz
Burton	Herger	Owens (NY)
Bustamante	Hertel	Oxley
Byron	Hochbrueckner	Pallone
Callahan	Holloway	Parker
Campbell (CA)	Hopkins	Parris
Campbell (CO)	Horton	Pashayan
Cardin	Hoyer	Paxon
Carr	Hubbard	Payne (NJ)
Chapman	Huckaby	Payne (VA)
Clarke	Hughes	Penny
Clay	Hunter	Perkins
Clement	Hutto	Pickle
Coble	Hyde	Porter
Coleman (MO)	Inhofe	Poshard
Coleman (TX)	Ireland	Price
Collins	James	Pursell
Condit	Jenkins	Rahall
Conte	Johnson (CT)	Rangel
Costello	Jones (GA)	Ravenel
Coughlin	Jones (NC)	Ray
Cox	Jontz	Regula
Coyne	Kastenmeier	Rhodes
Craig	Kennelly	Richardson
Darden	Kildee	Ridge
Davis	Kolbe	Rinaldo
DeFazio	Kostmayer	Roe
DeLay	Kyl	Rogers
Dellums	Lagomarsino	Rohrabacher
Derrick	Lancaster	Ros-Lehtinen
DeWine	Lantos	Rose
Dickinson	Laughlin	Rostenkowski
Dicks	Leath (TX)	Roukema
Dixon	Lehman (FL)	Rowland (CT)
Donnelly	Lent	Rowland (GA)
Dornan (CA)	Levine (CA)	Roybal
Douglas	Lewis (CA)	Sabo
Downey	Lewis (FL)	Saiki
Durbin	Lewis (GA)	Sangmeister
Dwyer	Lightfoot	Sarpalius
Dymally	Livingston	Savage
Dyson	Lloyd	Sawyer
Early	Long	Saxton
Eckart	Lowery (CA)	Schaefer
Edwards (CA)	Lowey (NY)	Scheuer
Edwards (OK)	Luken, Thomas	Schiff
Emerson	Lukens, Donald	Schneider
English	Machtley	Schuette
Espy	Madigan	Schulze
Sensenbrenner	Stearns	Vander Jagt
Sharp	Stenholm	Visclosky
Shuster	Stokes	Volkmer
Sikorski	Studds	Vucanovich
Sisisky	Stump	Walgren
Skaggs	Sundquist	Walsh
Skeen	Swift	Watkins
Skelton	Synar	Waxman
Slattery	Talion	Weber
Slaughter (VA)	Tanner	Weiss
Smith (FL)	Tauke	Weldon
Smith (IA)	Tauzin	Wheat
Smith (NE)	Taylor	Whitten
Smith (NJ)	Thomas (CA)	Williams
Smith (VT)	Thomas (GA)	Wilson
Smith, Robert (OR)	Thomas (WY)	Wise
	Torres	Wolf
Solarz	Torricelli	Wolpe
Solomon	Traficant	Wyden
Spence	Traxler	Yates
Spratt	Unsoeld	Young (AK)
Stallings	Upton	Young (FL)
Stangeland	Valentine	

NAYS—92

Anthony	Hancock	Olin
Baker	Hansen	Packard
Barnard	Henry	Panetta
Bosco	Hiler	Patterson
Brown (CO)	Hoagland	Pease
Bruce	Houghton	Pelosi
Carper	Jacobs	Petri
Chandler	Johnson (SD)	Pickett
Clinger	Johnston	Quillen
Combest	Kanjorski	Ritter
Conyers	Kasich	Roberts
Cooper	Kennedy	Robinson
Crane	Kleczka	Roth
Crockett	Kolter	Russo
Dannemeyer	LaFalce	Schroeder
Dingell	Leach (IA)	Schumer
Dorgan (ND)	Lehman (CA)	Shaw
Dreier	Levin (MI)	Shays
Duncan	Lipinski	Shumway
Erdreich	Marlenee	Smith, Denny (OR)
Evans	McCandless	
Flake	McDermott	Smith, Robert (NH)
Frank	McMillen (MD)	
Frenzel	McNulty	Snowe
Gekas	Mfume	Staggers
Gephardt	Michel	Stark
Gonzalez	Miller (CA)	Vento
Goodling	Moody	Walker
Gradison	Neal (MA)	Whittaker
Grant	Neal (NC)	Wylie
Gunderson	Oakar	
Hammerschmidt	Oberstar	

NOT VOTING—16

Ackerman	Garcia	Smith (TX)
Brooks	Kaptur	Towns
Courter	Martin (NY)	Udall
de la Garza	Molinari	Yatron
Engel	Owens (UT)	
Florio	Slaughter (NY)	

□ 1703

The Clerk announced the following pair:

On this vote:

Mr. Courter for, with Ms. Kaptur against.

Messrs. CRANE, PANETTA, DORGAN of North Dakota, and GRANT changed their vote from "yea" to "nay."

Mrs. SAIKI, Mrs. VUCANOVICH, Mrs. SMITH of Nebraska, and Messrs. CONDIT, MILLER of Ohio, ARMEY, and DONALD E. "BUZ" LUKENS changed their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. McNULTY. Mr. Speaker, I would like to insert for clarification in the RECORD that I intended to and believed I had in fact voted

"yea," in the affirmative for Roll Call Vote No. 308, not "nay" as recorded in the CONGRESSIONAL RECORD.

The SPEAKER pro tempore (Mr. MCCLOSKEY). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 37: Page 23, line 13, strike out "$75,000,000 and insert: "$64,600,000".

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the house recede from its disagreement to the amendment of the Senate numbered 37, and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$93,400,000".

The SPEAKER pro tempore. The gentleman from Michigan [Mr. TRAXLER] will be recognized for 30 minutes, and the gentleman from New York [Mr. GREEN] will be recognized for 30 minutes.

For what purpose does the gentleman from Texas rise?

Mr. BARTLETT. Mr. Speaker, I rise in opposition to the amendment and request the control of 20 minutes of the time as per the House rules.

The SPEAKER pro tempore. Is the gentleman from New York [Mr. GREEN] opposed to the motion?

Mr. GREEN. I am not, Mr. Speaker, no.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. TRAXLER] will be recognized for 20 minutes, the gentleman from New York [Mr. GREEN] will be recognized for 20 minutes, and the gentleman from Texas [Mr. BARTLETT] will be recognized for 20 minutes.

(By unanimous consent, Mr. TRAXLER was allowed to speak out of order.)

Mr. TRAXLER. Mr. Speaker, I yield to the distinguished gentleman from Wisconsin [Mr. OBEY] for the purpose of a colloquy.

Mr. OBEY. I thank the gentleman for yielding.

Mr. Speaker, you may be aware that the EPA, the Fish and Wildlife Service, and the Army Corps have been working together in the permitting process for a project to develop a Wal-Mart shopping complex in Superior, WI.

We understand that the EPA has some reservations with regard to this project, and is in the process of reviewing additional data provided by the city and the developer. However, it is imperative that the EPA act on this and make a decision within 7 working days because the impending frost will terminate northern Wisconsin's construction season.

Mr. Speaker, would you join me in assuring that the EPA expedite this permitting process and make a decision within 7 working days?

Mr. TRAXLER. Let me assure the gentleman from Wisconsin, Mr. Speaker, that we understand the importance of this project to his district and community, and we will do all we can to assist the gentleman in expediting the permitting process.

Mr. OBEY. I thank the gentleman.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. Does the gentleman from New York wish to yield time?

Mr. GREEN. Not at this time, Mr. Speaker.

Mr. Speaker, it would be appropriate under the circumstances if the gentleman from Texas [Mr. BARTLETT] would proceed so that the Members will know what this is all about.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I yield myself 5 minutes.

□ 1710

Mr. Speaker, I would propose and ask the House to defeat amendment No. 37 of the conference report which is listed in the RECORD language. I would note that amendment No. 37 consists of the delineation of 41 special interest projects that have been designated by the committee, to designate the expenditure of $43 million in funds, $43 million that is taken directly from the formula grant that would otherwise go to cities and towns under community development block grants. Twenty of them were asked by the Senate, 6 by the House, and 15 were asked for neither by the House nor by the Senate. Indeed, 30 of these 41 have never even been applied for to HUD with any kind of an application process.

I will then, upon the defeat of amendment No. 37, I will then make a motion to restore the discretionary funding to the $50 million that is provided for in currently authorized section 107. That $50 million represents the balance of this account, once we take out the special interest fund. I would note that that discretionary fund is based on that $50 million, is based on last year's expenditures as funded in fiscal year 1989 for Indian reservations, CDBG, Trust Territory CDBG, technical assistance, work study, and $3 million in special projects. Indeed, the balance, then, would go to community development block grants.

Mr. Speaker, the men and women of the conference committee report are honorable men and women. They have, indeed, worked hard on this conference report. However, the 41 special projects which are being proposed are not an honorable exercise in legislation. Indeed, these 41 special projects would perpetuate a system of grants, based on who a person knows, not based on what is needed.

The system of special interest grants is called special interests, it is called business as usual, sometimes it is called pork barrel, but during the last 10 months of the HUD hearings it has been called by one name, and that one name is "scandal." The Committee on Government Operations of Congress has revealed scandal in the last 10 months. To adopt amendment No. 37 would be to adopt and make Congress a partner in continuing that scandal. Indeed, it would start a whole new set of scandals, this time with the imprimatur of the House of Representatives.

Mr. Speaker, there are several points about that. Funding under community development block grants ought to go to low-income families. That is what the law provides. The law of the community development block grants provides that those funds would be used with maximum feasible priority to activities which will benefit low- and moderate-income families. Those are the words of the law. Yet, these 41 special interest grants that are provided in amendment No. 37 will go to such expenditures as a collapsing utility tunnel in Salisbury, NC; a library and recreation center in Mackinac Island, MI; a regional education center in Otsego County, MI; the site clearance of Ottumwa, IA; a Newark, NJ, performing arts center.

These grants have something in common. What do they have in common? They do not help low-income families. Community development block grant money ought to be spent to help low-income residents of our Nation's cities and towns.

The other things the grants have in common is none of the grants has gone through any competitive bid process. That is how HUD got itself into a scandal in the first place. Hearing after hearing in the Committee on Government Operations have demonstrated favoritism at HUD.

The fact is that these projects—some good, some bad—have not gone through any kind of sunshine or disclosure or any kind of competitive system. So by adopting and funding these projects without any kind of hearing, without any competitive bid, without any allocation of time or resources into determining whether they are good or bad, we would perpetuate this system of favoritism and insider abuse that has occurred over the last several years.

Some of the grants have nice titles, but the fact is that some of them are allocated to homeless shelters, but east Los Angeles could use a homeless shelter. The South Side of Chicago could use a shelter for battered women, and ought to have a right to compete. A rehabilitation center could be built in Harlingen, TX, or a transition center for individuals who are

handicapped could be built in San Antonio. Other cities ought to have the right to bid for this funding.

In conclusion, a vote for amendment 37 is a vote against reform. It is a vote to continue the scandal at HUD. We ought to this year in the Congress end it, on this bill at this time, and be voting to clean up HUD, to stop the scandal, and not to continue or to join in the scandal at HUD currently. Vote against amendment No. 37. Vote to clean up the scandal. Vote for reform.

Mr. GREEN. Mr. Speaker, I yield myself such time as I may consume.

I find it beyond the pale for the gentleman from Texas [Mr. BARTLETT] to suggest that this motion is in any way related to the scandal at HUD. Our committee addressed the scandal at HUD in a number of ways. We temporarily halted the funding for the moderate rehab program, which, indeed, has been where the kinds of scandal described by the gentleman from Texas have arisen, not in the CDBG Program. We provided extra staffing for HUD so that it could manage its programs better than they've managed in the past.

Again, these are not the kinds of projects where we have had troubles at HUD. I think it is wrong to describe these projects as scandals. They are no such thing. The fact of the matter is that Members in their districts have special problems. Sometimes they fit neatly within a statutory scheme, and we can go the regular route, and the money can be provided in the ordinary course. However, sometimes the problem cannot be dealt with in that fashion, or there is an emergency, or there are time limits, and there is a need to deal with the problem, and so the Congress chooses to address the problem directly.

I think it is interesting that the gentleman from Texas only zeroes in on projects in HUD and not on other projects, because, of course, the subcommittee deals with other agencies. In addition to designate projects in HUD which the gentleman from Texas described, we have designated projects relating to the Environmental Protection Agency, and we have designated projects in here dealing with the Federal Emergency Management Agency. We have designated projects in here dealing with the Department of Veterans Affairs. In fact, one of those designated projects dealing with the Department of Veterans Affairs is one the gentleman from Texas [Mr. BARTLETT] specifically asked our subcommittee to include in this bill, and that is the designated earmarking of $300,000 for an environmental impact statement on a new veterans' cemetery in the Dallas-Fort Worth area.

□ 1720

Mr. Speaker, I guess all that proves is that, if a project is in a Member's district, it is a vitally needed project. But, if it is in another Member's district, then it is pork. I think that the subcommittee has tried to deal fairly with Members who have problems in their districts, whether they were HUD-type problems, or environmental-type problems, or problems dealing with growing veterans populations, whatever they may be. I think that if my colleagues look through the projects, both the HUD projects and the other projects, they will see they are distributed broadly nationally, and they are distributed broadly among Members of this House.

So, Mr. Speaker, I do not think we have done anything unfair, let alone scandalous, in what we have done here. As always, we have tried to address the problems that Members bring to us to the extent that we can squeeze out some funds to do so.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. GREEN. Mr. Speaker, the gentleman from Texas [Mr. BARTLETT] has his own time.

I should say that many of these are low-income projects. There is a low-income housing demonstration project in Chattanooga and money for a shelter there. There are projects for dealing with problems in public housing in various areas like Cleveland dealing with the Cuyahoga Metropolitan Housing Authority and its drug problem and on and on. There is transitional housing in Lawrence, MA.

Mr. Speaker, I remind the Members that the Community Development Block Grant Program is not limited to projects for low- and moderate-income households. It is required, I think, at the present time—the Committee on Banking, Finance and Urban Affairs keeps changing the percentage over the years—that 60 percent of the money be for the benefit of the low- and moderate-income households, and we have certainly recognized that in trying to put together these projects, although that requirement applies to the total community development block grant account and not to each project. However, the CDBG statute also recognizes that communities are going to have other community development needs, special community development needs I believe is the language of the statute, and the need to deal with slums and blight. Those, too, are permitted objectives under the community development block grant program.

So, Mr. Speaker, I think that we have tried to deal with Members' problems in a responsible way, just as we dealt with the problems of the gentleman from Texas regarding expediting the long work involved in getting a veterans' cemetery. We gave him the money to speed up the process by permitting the VA to do the environmental impact statement this year. I do not think it is scandalous that we did that, and I do not think it is scandalous that the gentleman from Texas asked us to do that. I think he should show the same respect for problems of other Members that we showed for his problem.

Mr. TRAXLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, later on I will discuss other aspects of the gentleman's amendment, but at this point let me talk about reforms. And also let me say that the gentleman, by bringing forth his amendment, gives this body a great opportunity to discuss HUD and some of the things going on there. So I welcome this opportunity and this chance to advise my colleagues.

Mr. Speaker, I think some very important matters are contained in this conference report, matters that every one of my colleagues can be very proud of because they were part of them. These matters were in the bill when it was before the House several months ago. They are still in this conference report.

Let me tell my colleagues what they do. There has been a lot of talk about HUD's problems and changes that may be necessary, but let me summarize for my colleagues what this conference report does in terms of HUD reforms.

First and foremost, this conference agreement adds 900 staff-years above the budget request for new personnel. And let me tell my colleagues furthermore that the Secretary specifically asked for them, and we are cooperating with him. But my colleagues also have to know that we have yet to see from this administration a budget amendment that will request the funds for additional HUD staff. But we are dong it anyhow because it is the right thing to do. This appropriation bill provides the additional funds for these positions—basically in the housing programs, where the problems have been.

Second, Mr. Speaker, we provide an increase of 7 percent for the HUD inspector general above last year, and we hope that he can be even more effective. We owe the inspector general a deep debt of gratitude because it was through his reports that the whole influence peddling problem began to surface. The IG's are very professional throughout the various agencies, and they have done a fine job. They deserve our continued support. They are a creature of the Congress; let us not forget that.

Third, get this one now, we zero, absolutely not a nickel, new funding for the section 8 moderate rehabilitation program which is a primary subject of the scandals. We ban the use of consultants and require remaining prior-year funds be targeted to poor communities.

Fourth, we take care of the serious problems with expiring subsidies contracts. We set up a separate appropriations account to make HUD more accountable. We require data management improvements within 30 days after passage of this conference report.

Fifth, we address the problems in the loan management set-aside program. We direct HUD to implement the inspector general's recommendations and to report to the committees on how they implement these reforms.

Sixth, we require a report from HUD on the subject of amendment funds which HUD has doubled over the last 4 years and used in 1989 in direct violation of established reprogramming procedures. We are going to keep them honest, and that will be tough.

Seventh, we also address the problem in the rehabilitation loan program of HUD dumping loans at the end of the year. We require notification of loans made over $1 million and prohibit end-of-the-year dumping by HUD.

Finally, Mr. Speaker, we take care of serious weaknesses in HUD's management organization. We require a shift in the Senior Executive Service to increase the number of career professional employees—no more political hacks as assistants and deputy assistant secretaries in the numbers that we have seen in the last 8 or 9 years. That has been one of the problems at HUD, people who are not concerned with or dedicated to housing. They are people who are concerned with their own profit and lining their own pockets. They do not care about the agency. They do not care about America's poor. They care about their bottom line, and we stop that nonsense by taking "hacks" out of those positions and putting dedicated career people in them. There is no reason for HUD to have 25 percent political SES employees when the government-wide ceiling is only 10 percent.

Mr. Speaker, we can all beat our chests on these reforms. Every one of my colleagues deserves credit for this. They voted for it. They have been supportive of it. That is what we have been doing in this conference report. That is what reform is about. That is what we tried to do.

Mr. Speaker, I will have more specifics on the gentleman's amendment in my next round, but I encourage my colleagues to support the committee on this matter.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTLETT. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, two points. First on the consultant point, I cannot find where the committee abolished consultants, but they did abolish consultants for these 41 projects. Every one of these 41 projects may well have consultants paid for in these projects because we do not have any list of specifications as to what is in the projects. They have not even had applications filed.

Second, the point about the VA cemeteries. The fact is there is no community development block grant formula funding for VA cemeteries. The only mechanism that is available to Congress to fund those cemeteries is through a discretionary grant, as is provided.

Mr. Speaker, I reserve the balance of my time.

Mr. GREEN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, I do not pretend to come before my colleagues today to speak with expertise about each and every one of these 41 projects. But I am a bit disconcerted by my colleague from Texas suggesting that any project that may be 50 miles away from his district is somehow a boondoggle or somehow attached to corruption.

Let me share with my colleagues some information about one of these projects.

□ 1730

What is the Bethlehem House in southern California? It is a homeless shelter for a specific segment of the homeless population, battered women and their children. It is a private nonprofit corporation coadministered by a private board of trustees and a community of Franciscan Sisters. It is an innovative, holistic, long-term therapeutic and multifaceted program designed to break the inherited generational cycle of family violence, a problem long overdue for our attention.

Who do they serve? They serve the low and moderate income families affected by the cycle of domestic violence. They have served 15,945 individual clients since 1986, and 68.9 percent of those clients were women. The vast majority of their clients reside in San Bernardino and Riverside Counties in California, but they serve military families in temporary situations from eight different States.

The services they provide involve drop-in or outpatient counseling, a crises hotline, adult education, and job counseling.

It is easy to point to a program and criticize, until you see the desperate need of battered women and their children in our society. This project is like none I have seen in all my years in public service. It can be a model for the country.

We desperately need to recognize that women who are abused or battered in their family circumstances, and their children, deserve the assistance of the Federal Government, and this is a program that will provide that kind of focus.

This is a project that is deserving of your attention and your support, and I urge that you give it your positive consideration.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield for a question?

The SPEAKER pro tempore. The time of the gentleman from California is expired.

Mr. GREEN. Mr. Speaker, I yield 1 additional minute to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for yielding.

My question is, and the gentleman's project sounds like a good homeless shelter, would the gentleman stipulate, through, there are other good homeless shelter projects in the country, perhaps in East L.A. or South Side Chicago or over in the South Bronx or in Arlington, TX, or in Minneapolis, MN, that could also make a good case and should be allowed to compete for that same half a million dollars?

Mr. LEWIS of California. Mr. Speaker, if I can reclaim a portion of my minute, I certainly would not suggest there are other projects around the country that are not deserving. To suggest that there is a program that involves attempting to serve battered women that is a better model than this one is something which I cannot stipulate. The creative approach of the Bethlehem House program has received no less than national recognition from the likes of Harvard's Kennedy School of Government and the Ford Foundation.

I must suggest that it is long past due for us to focus on this problem. We are talking about a half a million dollars here. That is a lot of money, but it is a pittance in terms of a $67 billion bill.

This is a fantastic project that deserves our support and our attention.

Mr. GREEN. Mr. Speaker, I yield myself such time as I may consume.

I do want to make one point clear. The gentleman from Texas suggested that the only way to get a VA cemetery is to have it designated by site in our bill. That is simply not accurate. In fact, the normal VA cemetery that comes through the normal prioritization process in the Department of Veterans Affairs is not named in our bill. We simply appropriate the money for that segment of the Department of Veterans Affairs. But every now and then Members have problems, as the gentleman from Texas has, and we designate as we did for the gentleman from Texas: that is no different from the community development block grant situation. We have most community development block grant projects come through the normal municipal process, but sometimes there are problems and we agree to deviate from the normal process in the community

block grant, as we did for the gentleman from Texas in the case of his veterans' cemetery.

Mr. Speaker, I yield such time as he may consume to gentleman from Massachusetts [Mr. CONTE], the distinguished ranking member of the Committee on Appropriations.

Mr. CONTE. Mr. Speaker, we are all alarmed about the widespread abuse of discretion at HUD over the past several years. A situation where former barflies are doling out hundreds of millions of dollars based on friendships and political clout is intolerable.

The provisions appropriating money for special projects, however, have nothing to do with discretion. Congress is telling HUD exactly how to spend our money.

The projects in this bill have been carefully scrutinized by the Members of the House and Senate subcommittees. They are fine projects, and they deserve our support.

Now, my dear and beloved friend, the gentleman from Texas [Mr. BARTLETT] has a plan for spending tens of millions of taxpayers' dollars which seems to have been scrutinized by no one other than the gentleman from Texas [Mr. BARTLETT]. As fine as the gentleman's judgment is, I am not sure that I am comfortable substituting it for the judgment of the House and the Senate subcommittees.

There has been much talk about how "special interests" stand to benefit from the earmarks in this bill. Special interests? Mr. Speaker, what special interests? There are projects in this bill for communities from Vermont to Hawaii to Washington to Mississippi. These projects strengthen communities in America from sea to shining sea.

There is no special interest, there is no special group, there is no certain segment of society that this bill is designed to advance. We are trying to benefit all segments of society throughout America. We are helping communities build and put together projects for the benefit of those communities. We are not doling out money to Exxon. We are helping finance homeless shelters. We are helping to build libraries. We are revitalizing downtown communities that have been devastated by economic circumstances.

These are important projects. They are congressional priorities. To suggest that they are scandalous is an affront to the Appropriations Committee and to this body.

No Member, no Member would put a project in here for his district that is going to bring disgrace to him.

Mr. Speaker, I urge my colleagues to support this motion.

Mr. TRAXLER. Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Speaker, I rise in support of amendment No. 37, and I ask my colleagues also to support this amendment.

This is a very special interest of mine. I hope it is a special interest of all of you, the concern for homeless women and children of this Nation.

The project that I have included in this section will provide adequate shelter for women and those with children who through no fault of their own do not have a place to spend the night in Chattanooga, TN.

The women in this project at this present time are going to seven churches on a rotating basis night after night to sleep on a cot, some of them pregnant, in church multipurpose rooms, without any sort of coordinated shelter program.

You know, I think it is time, we have talked about, well, why do we not get in here and why do we not compete on some of these? I would say to my colleagues, I think it is a responsibility of this Congress to address and recognize that there are exceptional circumstances. It is not always possible for programs to come in and compete. I say to you, this program that is working right now through seven churches in Chattanooga, TN, I do not believe will make it much longer to go through on a competing basis.

I would also say to you, there is no money to hire consultants.

This program is allowing women to come into a program, to receive their GED tests that they need, to have counseling, a place for their children to go in the daytime where the women can get out and look for jobs.

The success ratio is tremendous on this program. There are good programs around the country. I call your attention to this one. It is an honorable program. It is a great program.

This section also provides for low income housing, and I say it is in the best interests of all of us to rise to the occasion; realize, yes, there are exceptional circumstances that we should address as honorable Members of this body.

So Mr. Speaker, I do ask all my colleagues to join with me in commending the gentleman from Michigan [Mr. TRAXLER], the gentleman from New York [Mr. GREEN] and the members of this committee, to recognize these needs, to address them and come up with a good bill.

Mr. BARTLETT. Mr. Speaker, I yield 4 minutes to the gentleman from Texas [Mr. GONZALEZ], the chairman of the Committee on Banking, Finance and Urban Affairs, which is the committee of jurisdiction.

Mr. TRAXLER. Mr. Speaker, I also yield 1 minute to the gentleman from Texas [Mr. GONZALEZ].

The SPEAKER pro tempore. The gentleman from Texas [Mr. GONZALEZ] is recognized for a total of 5 minutes.

□ 1740

Mr. GONZALEZ. Mr. Speaker, yesterday when our colleague, the gentleman from Pennsylvania [Mr. WALKER], first raised the issue on the House floor and read out the list, I rose and complimented him, and today the gentleman from Texas [Mr. BARTLETT] is making a direct issue through his motion.

I also must perforce rise, because even in the last vote, we lost the gentleman from Texas [Mr. BARTLETT], and if we are going to continue to rationalize a disorderly and disintegrative process in this House of Representatives, then we ought to face it, and I want to advise my colleagues that they just cannot have it both ways. You either are for integrity, and you cannot exculpate yourself by arguing the virtues of individual projects that nobody argues with, but which are here listed because of the perversity in the processes. They are all being funded by increasing the funding for the Secretary's discretionary fund. This is what Secretary Kemp says is first and foremost in his reform package target to eliminate. This is the fund that was foisted on the authorizing committee by the Reagan administration and Secretary Pierce through the appropriating process.

Mr. TRAXLER's forebear, his predecessor, authorized for us, and there was not a thing we could do. So now that we are on the verge of scandalous conduct, it will not suffice.

Let me advise my distinguished chairman and all the Members that it will not suffice for them to come here and make an argument that they have addressed reform in an appropriation bill, because they are against saying when they say that they are providing no funds for section 8 moderate rehab. That is a program. That is a policy decision, and even the Secretary of HUD is not saying yet in his reform package which he has yet to present to us that he is zeroing that out. If you want to deny a program that worked until you had the people who were irresponsible, unaccountable and dishonest handling it, then so be it, but do not come here and try to tell us that you are reforming through the appropriation process because we do not have a reform package recommendation yet.

We have to have 80 percent of the reform, and let me complete this. The Secretary's presentation thus far to us in open hearing of what he says he wishes to change, 80 percent of it is in the administrative side of things where he does not need legislation. Let us not confuse this reform issue.

The reason the gentleman from Texas [Mr. BARTLETT] and the gentleman from Pennsylvania [Mr. WALKER] happen to be right in this context of this argument is that they are going on record at a time when you say you

do not have money, and that because of the budgetary exigency, you must do it this way.

The Secretary's discretionary budget is being increased in order to fund these 41 or 43 projects, whatever they may be, regardless of their virtue, and they look to me like very good, sound programs, that is, those housing programs.

But let me ask this question: Where are we getting the $5 million to study the possibility of extraterrestrial intelligence that you have in this bill? Where does that $5 million come from? Five million will give a lot of student aid loans. Did this come from the education side of the budget?

I think the time has come for us to recognize that the problem in our Congress, the problem in our country, is whether we have integrity or not.

I just want to complete by saying that the whole issue before us, and it has been for some years, is the compromise of integrity.

Mr. TRAXLER. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Ohio [Mr. STOKES], a dear and personal friend and an outstanding member of the subcommittee.

Mr. STOKES. Mr. Speaker, I thank our distinguished chairman of the subcommittee for yielding me this time.

Mr. Speaker, let me first commend this very distinguished chairman of our subcommittee for an excellent job he is doing as new chairman of this committee. I think he has brought to the House an excellent bill, and I support it.

I rise in opposition to the amendment of the gentleman from Texas. It is disturbing to me, Mr. Speaker, as a Member of this House and as a member of this subcommittee, to have the projects that are included in this bill referred to in any manner in conjunction with the HUD scandal. If the HUD people had been providing this type of appropriation for urban projects and for low-income and for poor people instead of providing a behind-the-scenes appropriations for large developers and for the rich and for those who are politically connected, then they would never have had the scandals over there.

There is nothing, no project, included in this amendment that could bring any type of scandal. In the first place, we have done these openly and in the light of day, and we have sat in a House-Senate conference where they were scrutinized carefully there.

Let me just refer to the project that I am particluarly interested in, $800,000 for the Cuyahoga Metropolitan Housing Authority for fighting drugs and improving security and maintenance in the Central Estates area on the east side of Cleveland, OH. If the HUD scandal had not occurred, we would have already had money for this type of project. We would not have had to include this type of project in this type of a bill, but let me tell the Members a little bit about this project, where it is going to people primarily who predominantly are black, who reside in places called the King-Kennedy Estates. JOE KENNEDY, a Member of this body, came into Cleveland and saw this deteriorated housing project and said that this project is no tribute to the name of either of the men for whom it has been named.

Mr. Speaker, the homeless have refused to live in these projects, they are so bad. Every night on the 6 o'clock TV we see drug arrests that have occurred in these projects. This is a project that tried to give these people who earn less than $2,400 a year a chance to have something done with this money to help their way of life, where the money has been misappropriated, misused by HUD. That is where the scandal is.

Nobody here is going to have to take the fifth amendment about any of these projects.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. STOKES. I am happy to yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, I want to ask the gentleman a question that I was going to ask the other three sponsors of the project. I contend that the project in the gentleman's grant is probably a good grant. My question is: Why did not you apply for it and compete with all of the other similar grants either in the $50 million grant program this bill sets up for fighting drugs in housing projects or in CDBG? There has been no application filed at HUD at all for this or the other three projects that have been mentioned.

Mr. STOKES. Mr. Speaker, I think the gentleman knows that these projects come under the Secretary's discretionary fund. What we are doing is exercising here some congressional discretion without any political implications.

□ 1750

Mr. BARTLETT. Mr. Speaker, may I inquire of the Chair how much time is remaining?

The SPEAKER pro tempore (Mr. MCCLOSKEY). The gentleman from Texas [Mr. BARTLETT] has 11½ minutes remaining; the gentleman from New York [Mr. GREEN] has 7 minutes remaining; and the gentleman from Michigan [Mr. TRAXLER] has 7 minutes and 15 seconds remaining.

Mr. BARTLETT. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona [Mr. KYL], a member of the subcommittee of the Committee on Government Operations which has been investigating this matter.

Mr. KYL. Mr. Speaker, I rise in opposition to amendment No. 37. I think the gentleman from Texas [Mr. GONZALEZ], the chairman of the Committee on Banking, Finance and Urban Affairs said it well just a moment ago, process is very important, because most of these projects do have merit. Most of them can be defended.

But we are talking here about competition for scarce resources. That is why there must be competition, fair competition.

As the gentleman from Texas [Mr. BARTLETT] just said, I served on the Government Operations Employment and Housing Subcommittee that has been investigating the so-called HUD scandal. That is what these hearings are all about.

We are critical of Sam Pierce, and rightly so, because projects were awarded on the basis of influence rather than competition. But that is precisely what Congress is doing here by adding these special projects, 15 of which have not even gone through either House as they come before us on this bill. Why should they not be subject to competition for scarce resources?

I would like to have some projects also, Mr. Speaker. I would like to have this money go for the intended purposes for these discretionary grants, for example the CDBG activities in support of low-income and Indian needs, because I believe I represent more reservation Indians than any other Member of this body.

I would like to be able to take the shortcut by suggesting projects to go on this, but that would be wrong. All of these projects should compete with each other I do not believe that there is any special necessity to either set or continue a bad precedent here.

Congress works its special deals. That is the way the people are going to perceive this. But it insists that the executive branch be holier and cleaner than Caesar's wife.

Well, this is a double standard by any standard, and I urge my colleagues for these special projects and all of the other special projects that Jack Kemp is requiring competition for, that we reject this amendment No. 37 and have all of these meritorious projects compete along with all of the others.

Mr. BARLETT. Mr. Speaker, I reserve the balance of my time.

Mr. GREEN. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. Coughlin].

Mr. COUGHLIN. Mr. Speaker, it is important to understand that these are discretionary funds. These funds have nothing to do with the funds which were allegedly abused by the executive branch in the Department of Housing and Urban Development.

In fact, the discretionary funds that are provided here are for projects that do not neatly fit into any other category.

These are projects for the homeless, they are projects for battered women, they are projects for infant mortality, they are projects for infrastructure in our poorest areas.

I believe that we in the Congress have the right to have our legislative priorities, just as the executive branch has the right to have its priorities. I do not believe that the repository of all wisdom is in the executive branch. I think there is some wisdom in this legislative branch. I think that wisdom has been expressed through the committees which have reviewed these projects and included them in this bill.

I do not think necessarily the repository of all wisdom as to where these funds should be spent is in the gentleman from Texas, my good friend and colleague. I think the committee reviewed these, as the distinguished ranking member of the full committee has said, they reviewed these projects, they looked at them, and they represent the judgment of these committees of projects that are meritorious projects that could be included under the discretionary funds.

The purpose of those discretionary funds is to fund projects exactly like these that are approved by the Congress, that are reviewed by the Congress, and that represent the priorities of the Congress, and there is nothing wrong with that. There is nothing wrong with that, my friends.

I urge Members to support the commitment.

Mr. BARTLETT. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut [Mr. MORRISON], a member of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs.

Mr. MORRISON of Connecticut. Mr. Speaker, I rise in support of the amendment to take out of this appropriation bill these earmarked items.

I am certainly familiar with the work of the Appropriations Committee in designating particular projects at particular times and particular appropriations. I in no way question their integrity or their approach to doing so.

But we have come through an 8-year period that on looking back we discover the way in which HUD was run was that decisions were made about funding particular projects, some of them good, some of them bad, and some of them in between, not on the basis of a merit system or a point system or a judgment system, but on a political system.

It seems to me that we here in the Congress need to recognize the politics and the appearance of what we are doing and what statement we are making to the American people about what Congress has learned from this 8-year experience.

Frankly, I think if what we show to have learned is that our discretionary, noncompetitive, non-merit-based selection of projects is approved, while we criticize those in the executive branch who went through a similar process, we leave the American people wondering what exactly is it that was done wrong over the last 8 years?

I think this is the wrong time and the wrong place for having a congressional earmarking, handing out discretionary funds in this fashion. There are many ways these discretionary funds could be targeted. There are many processes that could be set up to review these spending proposals. But to do this in this way at this time, it seems to me is very bad judgment.

We have had HUD run as a slush-fund agency. Let us not add to the problems; let us clean up the problems.

Mr. GREEN. Mr. Speaker, I yield myself such time as I may consume.

I rise just to clear the air about a bit of the history here. First, the HUD scandals are very simple: they involved the decision by the Department to fund favored developers or developers who hired favored consultants who earned approximately $1,000 per apartment for their consulting services, which consisted of picking up the phone and calling Debbie Dean.

That is not what this list is about. I defy any Member to get up on the floor and to say that it is. This list is not what the HUD scandals are about.

Second, the suggestion was made that the discretionary fund represents some sort of innovation of the Reagan years. That is not true. The fact is that the Secretary's discretionary fund has been in the Community Development Block Grant Program from the day it was passed by this House in 1974. That was because Members of this House understood that there were going to be cases, which because of the unusual nature of the project or the unusual time urgencies or for other reasons, would not fit within the more normal pattern established for the disposition of the bulk of the Community Development Block Grant funds. So the procedure was put into the law by this House and by the other body and signed by President Ford as his first major legislative act creating this little area within the totality of the Community Development Block Grant Program where those special needs could be met.

All we are doing today is saying that this House and the other body have the right to exercise some of that discretion, that not all of it has to be left to the executive branch. That is what this is all about, nothing more, nothing less, when all is said and done.

In another agency that is covered by this bill, the gentleman from Texas felt that it was wise to proceed and get the environmental impact statement for the veterans' cemetery that he wants out of the way in this fiscal year, instead of having to wait through the normal delays of the Department of Veterans Affairs. He asked for some help to do that. We gave him the designated project. He was right, and we thought that was the proper thing to do.

□ 1800

Well, if he was right on that, then I do not think that these other Members were wrong to ask for the help that they needed in their districts. It has nothing to do with scandals in any department, it has nothing to do with any abuse of power. It is simply a recognition that people have special needs. We are here to deal with those special needs, and we try to do it for all Members as we tried to do it for the gentleman from Texas.

I really take umbrage at his suggestion that there is something wrong in doing for others what we did for him.

Mr. BARTLETT. Mr. Speaker, I yield 5 minutes to the gentleman from Connecticut [Mr. SHAYS], a member of the Committee on Government Operations and of the subcommittee of jurisdiction.

Mr. SHAYS. Mr. Speaker, Chairman GONZALEZ is right on target. He is trying to save the soul of this precious institution.

I rise in strong opposition to amendment 37.

Mr. Speaker, I have spoken on the House floor only twice since I was elected over 2 years ago. My colleagues in Connecticut, where I served in the house for 13 years, would find that amazing since I tended to speak there much more often.

When I was elected, I expected to like my colleagues and be concerned about the process by which we do our work. And I find it is even more magnified. I like the men and women who serve here more than I ever imagined. I am grateful to be here. I do not run against Congress. I like this place. I am proud to be here. But I am even more concerned about the process than I ever imagined.

Our congressional investigation of HUD uncovered a scandalous situation. We found after 20 hearings and 50 witnesses that too many bad or less worthy projects were funded solely because of political influence. We found that projects were allocated funds before HUD had even received any applications. We found that projects were allocated funds when everyone at HUD, career employees as well as political employees, found no merit in those programs. But they were funded because of political influence.

That is what happened at HUD. Now what is happening in Congress?

The same thing. The very same thing. In amendment 37, we have 30

projects on this list of 41 for which HUD has no applications. Can you believe it? HUD has no applications for 30 projects. In fact, for one of the projects, HUD does not even have a program that covers the funding.

Of the 11 projects for which HUD has applications, one was rejected because it was determined it simply had no merit at all. And yet it's in this amendment.

Congress has mandated funding for a number of years. In 1987 we mandated 3 projects for $2.6 million; in 1988 we mandated 6 projects for $5.1 million; and in 1989 we mandated 10 projects for $10 million.

Now as we debate the fiscal year 1990, HUD appropriations, at the very time we are investigating HUD, this conference report mandates 41 projects costing $28.4 million. We went from 3 to 6 to 10 to 41 projects. Can you believe it? The House put 8 of its projects in the conference report; the Senate put 16 of its projects in. The House and Senate agreed on two more projects.

But there are 15 projects in the conference report that were not even in the House bill or the Senate bill, 15 that did not make either bill. But in conference the worthiness of these projects became evident, somehow. No political influence? Projects with no applications, but getting money? Give me a break.

This place is better than that. I am sure all the projects have some worth. That is what every witness who came before our committee investigating HUD said: "My project is worthy."

The fact is, almost all projects have some worth, but are they the best? Was there any competitive process?

We cannot let this institution do exactly what we have criticized others for doing. We need to set the example and not be guilty of the very abuses we have uncovered at HUD. We must defeat amendment 37.

Mr. BARTLETT. Mr. Speaker, I would inquire how much time remains for each of the Members?

The SPEAKER pro tempore (Mr. McCLOSKEY). The gentleman from Texas [Mr. BARTLETT] has 2½ minutes remaining.

Mr. BARTLETT. Mr. Speaker, I would seek to close at least my portion if the other gentlemen have concluded with their speakers.

Mr. TRAXLER. Mr. Speaker, I yield myself 4 minutes.

Let me have the Members' attention. The distinguished gentleman from Texas asked me about the issue of consultants. Let me direct him to the House report accompanying H.R. 2916, on page 20, where the committee says as follows: "The committee has recommended no additional regular section 8 moderate rehabilitation units for 1990." That is a spending decision, as you will appreciate. "However, the committee continues to believe that this program, if the current problems of 'influence-peddling' and abuses can be eliminated, represents an important means of adding to the Nation's low- and moderate-income housing stock."

Now get this: "In that connection, the committee directs that HUD issue rules and regulations covering 1988 and 1989 moderate rehabilitation money which explicity prohibit the use of any 'consultants' either directly or indirectly relative to awarding section 8 moderate rehabilitation contracts."

Going to the conference report which is before us now on H.R. 2916, the House and Senate said as follows: "The conferees agree that the Department is not to issue new awards under the section 8 moderate rehabilitation program until it has revised its new regulations to more properly target those funds to low-income communities." And we do have moneys that are carried forward from prior years in that account. So that is why we talk about 1988 and 1989 moneys.

Now we come to the important part: "The conferees also agree that these new regulations should ban the use of nontechnical consultants."

So we are very concerned about the consultants. And we adequately took care of them in this regard.

The question partly deals with peer review. Some Members have raised that issue—who looks at these? We have been talking about these now for almost an hour, right here in public. They are in numerous documents scattered around in the House and the Senate, including this report. These projects have been reviewed as publicly as any projects in the history of the U.S. Government. They are as public as you can make something public. I want to tell you that is the best kind of scrutiny that I have ever seen.

Did they compete? I have to be candid with you and tell you that we had more requests from Members than we could comply with. We have asked our colleagues who had those unfunded requests to be patient, and we assured them that we would review them in terms of next year and that we would give them fair hearing and, in a sense, we want to assure that will be the case.

Accordingly, come next year we will review the Members' requests and deal with them on the basis of how much money we can afford in this regard.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I am a little confused by the business that we are now reviewing these projects on the House floor. I mean it is fine to say that we have publicly acknowledged the fact that they are in there, but I do not think any of us knows the details of these projects and most of the people who have discussed them here.

Can the gentleman, for instance, tell me on the $1.2 million project for the Newark, NJ, performing arts center, what the details of that project are?

Mr. MARTINEZ. Mr. Speaker, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from California.

Mr. MARTINEZ. I thank the gentleman for yielding.

Mr. Speaker, as I sat in my office I listened to a couple of people who sat on the same committee that reviewed the HUD scandal. I just have to clear the record here in one respect.

You see, where the gentleman was just in a discourse about reviewing these projects by several members of the subcommittee and the members of the conference, so was there a process at HUD where these projects were reviewed. The difference between the review here and the review there is that the review there, professional members of the staff ruled against certain projects that the Secretary took the discretion to fund anyway.

I myself would much better rely on the judgment and review of the members of the subcommittees and the conference committee here in the Congress than I would discretionary action taken by the Secretary there who in many cases was absent from the decision at all. And the people who were not either hired or appointed made those decisions.

Mr. TRAXLER. I thank the gentleman from California for his comments.

Mr. Speaker, I might conclude by saying that regarding the gentleman's request for information on the Newark performing arts center—it is a Senate project. We have an extensive letter from the people involved which I would be glad to share with the gentleman from Pennsylvania.

I must also tell the gentleman in comity and in fairness that we accepted what the Senate told us was involved in these projects, the same as they did with the House projects.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTLETT. Mr. Speaker, if the other two controllers of the time have no further speakers, I am prepared to close my portion of the debate.

PARLIAMENTARY INQUIRY

Mr. GREEN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GREEN. Is not the chairman of the subcommittee who offered the motion entitled to close the debate?

The SPEAKER pro tempore. The gentleman is correct.

Mr. BARTLETT. The gentleman is correct. I am prepared to close my portion of the debate.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. TRAXLER] is entitled to close.

□ 1810

Mr. BARTLETT. Mr. Speaker, one thing we have learned here today is not a single speaker has been able to give Members a single detail on a single project. Indeed, in response to specific questions about downtown Holyoke or Chattanooga, TN, or Hampton, CA, or the most recent question, the details of the Newark, NJ, performing arts center, not a single shred, detail, semicolon, paragraph, application or any other fact of any of these grants has been able to be presented here today.

What have we learned? We have learned that each of these 41 projects are not necessarily bad projects, although we know for absolutely certain that this Congress, in voting to spend $43 million for these 41 projects, have no way to know whether they are bad projects or good projects, because neither we nor the conference committee nor this Congress nor HUD knows anything at all about them. We know there are 41 of the individual projects that are individually named, that go to specific developers or other agencies that have requested them. We know that they spend $43 million that would otherwise be spent by cities and towns in the community development block grant. We know that if amendment number 37 is defeated, I will offer a substitute motion, so that money will be returned to cities and towns, to be used under the formula grant, to be used under a competitive process, so that these applications can indeed be scrutinized or reviewed or at least read and submitted by the applicants.

What else do we know? We know the $43 million comes directly from the CDBG grant. It is not extra money or not new money, but money that the conference committee used to take out of your cities and towns put into those 41 individual projects. The only thing the projects have in common is they have someone on the conference committee who was either on the conference committee or willing to ask for it. We know the 41 projects do not necessarily have any relationship to low and moderate income people. We know that community development ought to be spent primarily to assist low and moderate income people, and we know that the New Jersey performing arts center may or may not have anything to do with existing low and moderate income people. What else do we know? We also know that there has been competitive or any other kind of application process at all. We know that 30 of them have not even filed an application. Of the 11 that did file an application, 3 were denied and 1 was not even eligible in the first place. We know that there has not been a single hearing on a single one of the 41 projects. We know that 30 of them, there is not a single piece of paper that has even been found except on this list of the conference committee report. We know that the committee may well have abolished consultants, but we do not know whether consultants were involved in these 41.

We know if Members are in favor of reform, Members will vote against 37 by the conference committee and vote for my motion to put the money back into the community development block grant where it belongs.

Mr. GREEN. Mr. Speaker, I yield myself the balance of my time.

The gentleman from Texas would have Members believe that most community development projects are competitive. They are not. They are developed by municipalities through a political process, just like what we are going through today. They are developed by the city council or the mayor instead of by Members, but it is not a competitive process.

HUD simply screens the municipal applications to see if they meet the minimum statutory requirement. Most community development block grant projects are not completed, and it is wrong to suggest that they are. They are not. Moreover, we have had descriptions of some of the projects today, the one in California and the one in Tennessee, and I think that they showed something of the quality of projects that we are bringing you. The gentleman from Ohio also told Members about a meritorious project in his area.

Therefore, we have seen what the projects are like. They are good projects. I think the committee has done its work well. I think we did the work well when we backed the project of the gentleman from Texas, as we did the other projects. I hope Members stick with this and support the motion.

Mr. TRAXLER. Mr. Speaker, I yield myself the remainder of my time.

Let me help clarify a few points that have been raised. The $43.4 million includes some $15 million in technical assistance funds to be allocated at the Secretary's total discretion. Total discretion. There is no peer review. There is no competitive process.

The budget request included only $10 million for technical assistance, compared to $30 to $40 million in worthwhile applications that HUD receives each year. How can anyone criticize the Committee on Appropriations for adding $15 million to meet these technical assistance needs, when we give the Secretary complete discretion in picking those projects that are the winners?

Now we will move to another point. The conference report does not increase the amount in the Secretary's discretionary fund, as some would lead Members to believe. We have already decreased the request by over $50 million. That is probably why the Secretary is so upset. However, I want to say, and I hope he is listening, that this is not a situation where we "take no prisoners and get on our steel helmets." We are going to get together after this is all over and explain certain things to the gentleman. He will understand better. He was a member, incidentally, of the full Committee on Appropriations. We are proud of our graduate, but it seems he is slow coming up to speed with the issues we are confronting today. We will discuss that.

Permit me to make another clarification. The committee's action increases the basic CDBG formula grants by more than $124 million above the Department's request. Not bad. Very fair, and that is important to every Member. Every Member and every community will benefit from that.

We will now address directly the $28.4 million earmarked for special projects, which amounts to less than 1 percent. Less than 1 percent of the total CDBG funds. Each and every one of the projects represents a compelling local problem which was brought to the Congress for resolution. There are many more out there. I hope we get to those next year. There are many more out there. The House and Senate committees received numerous requests for projects. We tried to do the best we could for Members of both sides of the aisle and in both bodies.

Now, in closing, let me ask Members this question: Who should choose? Who should choose? The conference agreement tries to make a balanced approach. We earmarked $28.4 million in congressionally designated priorities. We provide an equal amount of $28 million at the Secretary's discretion: $10 million requested for technical assistance—plus a $15 million technical assistance add-on, plus $3 million requested for special projects. The score here now stands at, and I want to say what the score is because every Member will understand this definition, 28 HUD—28 Congress. Not bad. Even.

If the Secretary has further need, there are ways in which, at his request, we can comply with reasonable requests, and we will. I urge Members to vote "yes."

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MCCLOSKEY). The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BARTLETT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 250, nays 170, not voting 13, as follows:

[Roll No. 309]

YEAS—250

Akaka	Foglietta	Michel
Alexander	Ford (MI)	Mineta
Anderson	Ford (TN)	Moakley
Andrews	Frost	Mollohan
Annunzio	Gallo	Montgomery
Anthony	Gaydos	Morella
Applegate	Gejdenson	Morrison (WA)
Aspin	Gephardt	Mrazek
Atkins	Geren	Murtha
AuCoin	Gibbons	Myers
Barnard	Gilman	Nagle
Bates	Gordon	Natcher
Beilenson	Grant	Neal (MA)
Berman	Gray	Neal (NC)
Bevill	Green	Nelson
Bilbray	Guarini	Nielson
Bilirakis	Hall (OH)	Nowak
Boehlert	Harris	Oakar
Boggs	Hatcher	Oberstar
Bonior	Hawkins	Obey
Borski	Hayes (IL)	Ortiz
Bosco	Hayes (LA)	Owens (NY)
Boucher	Hefner	Pallone
Brennan	Henry	Parker
Browder	Hertel	Pashayan
Brown (CA)	Hoagland	Payne (NJ)
Bruce	Hochbrueckner	Perkins
Bryant	Horton	Pickett
Bustamante	Houghton	Pickle
Callahan	Hoyer	Poshard
Campbell (CO)	Hutto	Price
Cardin	Ireland	Pursell
Carr	Jenkins	Quillen
Chapman	Johnston	Rahall
Clarke	Jones (GA)	Rangel
Clay	Jones (NC)	Ravenel
Clement	Jontz	Regula
Clinger	Kaptur	Richardson
Coleman (TX)	Kastenmeier	Rinaldo
Collins	Kildee	Roe
Condit	Kleczka	Rose
Conte	Kolter	Rostenkowski
Conyers	LaFalce	Rowland (GA)
Cooper	Lancaster	Roybal
Costello	Laughlin	Sabo
Coughlin	Leach (IA)	Saiki
Coyne	Leath (TX)	Sangmeister
Crockett	Lehman (CA)	Sarpalius
Darden	Lehman (FL)	Savage
Davis	Lent	Sawyer
Dellums	Levin (MI)	Saxton
Derrick	Levine (CA)	Scheuer
Dickinson	Lewis (CA)	Schiff
Dicks	Lewis (GA)	Schuette
Dingell	Lipinski	Shuster
Dixon	Lloyd	Sikorski
Donnelly	Lowery (CA)	Skaggs
Downey	Lowey (NY)	Skeen
Durbin	Luken, Thomas	Skelton
Dwyer	Manton	Slattery
Dymally	Markey	Smith (FL)
Early	Martinez	Smith (IA)
Eckart	Matsui	Smith (NE)
Edwards (CA)	Mavroules	Smith (NJ)
Engel	Mazzoli	Smith (VT)
English	McCloskey	Snowe
Erdreich	McCollum	Solarz
Espy	McCurdy	Spence
Fascell	McDade	Spratt
Fazio	McDermott	Staggers
Feighan	McGrath	Stallings
Flake	McHugh	Stearns
Flippo	Mfume	Stenholm
Stokes	Udall	Wheat
Studds	Unsoeld	Whitten
Swift	Upton	Williams
Synar	Valentine	Wilson
Tanner	Vander Jagt	Wolpe
Tauke	Vento	Wyden
Taylor	Visclosky	Yates
Thomas (GA)	Volkmer	Young (AK)
Torres	Watkins	Young (FL)
Traficant	Waxman	
Traxler	Weldon	

NAYS—170

Archer	Hammerschmidt	Payne (VA)
Armey	Hancock	Pease
Baker	Hansen	Pelosi
Ballenger	Hastert	Penny
Bartlett	Hefley	Petri
Barton	Herger	Porter
Bateman	Hiler	Ray
Bennett	Holloway	Rhodes
Bentley	Hopkins	Ridge
Bereuter	Hubbard	Ritter
Bliley	Huckaby	Roberts
Boxer	Hughes	Robinson
Broomfield	Hunter	Rogers
Brown (CO)	Hyde	Rohrabacher
Buechner	Inhofe	Ros-Lehtinen
Bunning	Jacobs	Roth
Burton	James	Roukema
Byron	Johnson (CT)	Rowland (CT)
Campbell (CA)	Johnson (SD)	Russo
Carper	Kanjorski	Schaefer
Chandler	Kasich	Schneider
Coble	Kennedy	Schroeder
Coleman (MO)	Kennelly	Schulze
Combest	Kolbe	Schumer
Cox	Kyl	Sensenbrenner
Craig	Lagomarsino	Sharp
Crane	Lantos	Shaw
Dannemeyer	Lewis (FL)	Shays
DeFazio	Lightfoot	Shumway
DeLay	Livingston	Sisisky
DeWine	Long	Slaughter (NY)
Dorgan (ND)	Lukens, Donald	Slaughter (VA)
Dornan (CA)	Machtley	Smith, Denny (OR)
Douglas	Madigan	Smith, Robert (NH)
Dreier	Marlenee	Smith, Robert (OR)
Duncan	Martin (IL)	Solomon
Dyson	Martin (NY)	Stangeland
Edwards (OK)	McCandless	Stark
Emerson	McCrery	Stump
Evans	McEwen	Sundquist
Fawell	McMillan (NC)	Tallon
Fields	McMillen (MD)	Tauzin
Fish	McNulty	Thomas (CA)
Frank	Meyers	Thomas (WY)
Frenzel	Miller (CA)	Torricelli
Gallegly	Miller (OH)	Vucanovich
Gekas	Miller (WA)	Walgren
Gillmor	Moody	Walker
Gingrich	Moorhead	Walsh
Glickman	Morrison (CT)	Weber
Gonzalez	Murphy	Weiss
Goodling	Olin	Whittaker
Goss	Oxley	Wolf
Gradison	Packard	Wylie
Grandy	Panetta	
Gunderson	Parris	
Hall (TX)	Patterson	
Hamilton	Paxon	

NOT VOTING—13

Ackerman	Garcia	Towns
Brooks	Kostmayer	Wise
Courter	Molinari	Yatron
de la Garza	Owens (UT)	
Florio	Smith (TX)	

□ 1840

Mr. TALLON, Mr. INHOFE, Mrs. BOXER, Mrs. SCHROEDER, Mr. ROTH, Mrs. KENNELLY, Messrs. KENNEDY, STARK, MILLER of California, LEWIS of Florida, and GILLMOR, Ms. LONG, and Messrs. STANGELAND, DYSON, BROOMFIELD, WALGREN, and RITTER changed their vote from "yea" to "nay."

Messrs. McDERMOTT, WYDEN, NIELSON of Utah, CLINGER, and STAGGERS changed their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

(Mr. PICKETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKETT. Mr. Speaker, the Journal of October 25—Rollcall No. 308—has me recorded as voting "no" on the Traxler motion to the conference report on H.R. 2916, Departments of Veterans' Affairs and Housing and Urban Development and Independent Agencies Appropriations Act for fiscal year 1990. I intended to vote for the motion, which cleared the way for favorable House consideration of Senate amendment numbered 54 increasing FHA mortgage limits from $101,250 to $124,875. I ask that this explanation appear in the permanent RECORD immediately after the vote.

MAKING IN ORDER OFFERING OF MOTION FOR CONSIDERATION OF SENATE AMENDMENTS ON HOUSE JOINT RESOLUTION 423, FURTHER CONTINUING APPROPRIATIONS, 1990

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that it be in order to offer an indivisible motion to take from the Speaker's table the joint resolution (H.J. Res. 423) making continuing appropriations for fiscal year 1990, and for other purposes, with Senate amendments numbered 1 through 13 thereto, and to concur in such Senate amendments; that such motion be debatable for 1 hour equally divided and controlled by myself and the gentleman from Massachusetts [Mr. CONTE] and that the previous question be considered as ordered on such motion to final adoption without intervening motion.

The SPEAKER pro tempore (Mr. MCCLOSKEY). Is there objection to the request of the gentleman from Mississippi?

Mr. WALKER. Mr. Speaker, reserving the right to object, I understand that we are taking up the continuing resolution with this. Does that mean that we have now accepted the Senate amendments?

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, it means we accept the Senate amendments as we have participated in working this out by telephone during the day. The Senate amendment carries

with it what we thought we needed in addition to what we passed yesterday.

May I say, under pressure, we had written a resolution the best we could so we could get going trying to recover from this terrible earthquake in California. On further study, we could see several changes we needed to make. So we worked that out by telephone with the Senate today, so the Senate amendments would include those changes that we thought were necessary.

So what we have here is what has been agreed on by the Senate and House conferees.

Mr. WALKER. Further reserving the right to object, the copy of the Senate amendment I have seen, and I certainly agree with the gentleman, we want to expedite this as much as possible, but the copy of the Senate amendment I have seen makes some fairly substantive changes in law both in terms of law as previously drawn and the law that is not in place.

For example, the 100-percent funding for 180 days of highway projects taken out of the Highway Trust Fund is a substantial change over any place that we have been previously. Normally there would have been a 100-percent funding, but it has been for temporary projects only. Is the gentleman telling me that we agreed to some of those substantive changes in law by telephone, that we did not really debate them at all?

Mr. WHITTEN. I say, if the gentleman will yield further, that we have seen the operation here of the drug bill where a year and a half after the gentleman from Iowa [Mr. SMITH] suggested or recommended that we correct the drug problem, and we are still trying to get together on it. Anytime we deal with jurisdictions of six or eight committees, we get so tied down, I do not know how long it would take to complete. We have certain changes here which affect the jurisdiction of Public Works and Transportation Committee. I wanted to make sure that committee had no objection to these revisions. But I am assured, through the staff, that the chairman, the gentleman from California [Mr. ANDERSON], and the chairman, the gentleman from California [Mr. MINETA] do not object to these amendments.

Those changes are here. We have cleared them with the legislative committee chairman affected. And, may I say, not only does he agree, but he is very appreciative of us including it here.

Mr. WALKER. Further reserving the right to object, may I say to the gentleman it did not take very long for members of the staff around here, when we heard about what was going on, to get a copy of the U.S. Code, which makes very specific the kind of language which is needed to protect the Highway Trust Fund during times of emergency. There is emergency language. I guess the question of this gentleman is: Why did we not simply use the language that has always been a part of the law in terms of an emergency? Why did we immediately accept the Senate language, which goes well beyond what we had typically done on emergencies?

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I understand the gentleman's concern, and we will be debating that. But the unanimous consent is merely to bring this up in the House here for an hour, half an hour on each side, and we will debate those issues and discuss them and have a vote on it.

Mr. WALKER. Further reserving the right to object, I say to the gentleman that if we give unanimous consent, we start the train rolling here. I do not think that there are very many people who want to vote against giving earthquake aid to California. Everybody wants to expedite that process. On the other hand, if we are going to come up here and ask unanimous consent to bring it up, it seems to me that there are a couple of questions with regard to what we are bringing to the floor that need to be resolved. I am particularly concerned that we are making a break with things that we have done with regard to the Highway Trust Fund, and before we get unanimous consent, I would like to be assured that at least some of the discussions took place that we are dealing here with temporary fix-ups and not the language, as I understood it, in the Senate amendment which would allow permanent roadbuilding to go on for 180 days and take it out of the trust fund.

Mr. CONTE. Mr. Speaker, if the gentleman will yield further, I planned to discuss that in my debate once we get to the debate, and I might also say that I have talked with the Director of the Office of Management and Budget, Mr. Darman, immediately after the Senate voted on this issue. They are not pleased with it, but they are going to accept this.

Mr. WALKER. Further reserving the right to object, that is my understanding.

Mr. CONTE. That is our understanding. We are going to discuss it. I am not pleased with the 180 days.

Mr. WALKER. Further reserving the right to object, I think the gentleman would agree that the administration is essentially signing onto it because they do not want to veto an earthquake aid bill either, but that they have some of the same reservations this gentleman is expressing about the particular language with regard to the raid on the highway trust fund.

What I am doing is trying to assure that we have some kind of assurance that this money is going to be used only for direct emergency relief on the quake and is not going to result in a whole bunch of new projects that are called quake-related but are simply an attempt to grab at 100-percent funding out of the highway trust fund.

Mr. CONTE. If the gentleman will yield further, I agree with the gentleman wholeheartedly, and that amendment I tried to get on yesterday said that it had to be earthquake-related or Hurricane Hugo-related.

Mr. WALKER. Further reserving the right to object, I thank the gentleman. I guess my concern is that I am not getting much of an answer here. Do we have some assurance coming out of the conference committee? Is there a statement on the part of the managers that this is to be used for temporary emergency relief, or have we simply done something by telephone and do not have any kind of assurances of this at all?

Mr. WHITTEN. If the gentleman will yield further, may I say to my colleagues, the only way we can get together, and the reason we can do this, is because the Committee on Appropriations is the only one that has say-so over the appropriation for all of these matters.

□ 1850

Where necessary, we have authorized in this bill, but without exception we have cleared it with the legislative committees' leaders, and they support our position. I saw to it that was done. We are working with the legislative committees, trying to prevent another situation like with drugs.

Mr. WALKER. Further reserving the right to object, the problem is people spending the money in some of these States are not going to be chairmen of the various legislative committees. They are people who are going to be going by the letter of the law. If we have not pinned down the law, the fact is there can be a draw-down on an awful lot of these highway trust moneys, which is a matter of concern to all of us.

All I am trying to do is seek some assurance that we have some protections in the use of that money into this particular bill. Do we have those protections?

Mr. WHITTEN. May I say as far as getting something done, we have had to go ahead as we have. In order to do this and not get bogged down, as we did a year and a half ago on drugs, we had to do these things. I assure the gentleman from Pennsylvania, in every instance we cleared this with the appropriate legislative committee, and they approved these.

Mr. WALKER. Reserving the right to object, can the gentlemen give me some assurnace that it is the intent of the managers on the part of the House that none of this money should be used beyond what is absolutely needed for temporary changes and temporary fixup of items that have been hurt by either the hurricane or the earthquake, and that this money will not be used for new permanent projects with 100 percent funding from the Federal Government?

May I get some assurance from the managers on the part of the House that that is the intention of the conference?

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, it certainly is my intent. I am sure it is the intent of the gentleman from Mississippi and he will say that, I think.

Mr. WALKER. Will the gentleman from Mississippi say that?

Mr. WHITTEN. I do agree with the statement. I have the Senate amendment here. I did not hear the statement, but I do have the amendment here, and I agree with it thoroughly.

Mr. WALKER. I did not put anything in writing. I am not certain what you have there in writing.

Mr. CONTE. The gentleman from Mississippi does agree that it is our intent that this highway exception will be limited merely to earthquake damage and not to some pothole.

Mr. WALKER. Does the gentleman from Mississippi agree with what the gentleman from Massachusetts just said?

Mr. WHITTEN. I did not hear what he said.

Mr. CONTE. I said that we, at least on the part of the House, agree that this money will be used only for those damages caused by the earthquake out there in the highways and bridges, and not to do other roads.

Mr. WHITTEN. That is correct.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MCCLOSKEY). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. WYLIE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WYLIE. Mr. Speaker, concerning the HUD-VA appropriation bill, will we get back to that this evening?

The SPEAKER pro tempore. The Chair will advise the gentleman from Ohio that House will continue with that later today. It will be temporarily interrupted.

Mr. WYLIE. I thank the Chair.

FURTHER CONTINUING APPROPRIATIONS, 1990

Mr. WHITTEN. Mr. Speaker, pursuant to the order of the House just agreed to, I move to take from the Speaker's table the joint resolution (H.J. Res. 423) making further continuing appropriations for the fiscal year 1990, and for other purposes, with Senate amendments numbered 1 through 13 thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Senate amendments:

Page 2, line 2, strike out "section" and insert "sections".

Page 2, line 11, after "Fund" insert: "and to remain available until expended".

Page 2, lines 11 and 12, strike out "120(f)(1) and"

Page 2, line 13, strike out all after "Fund" down to and including "1990" in line 16.

Page 2, line 23, after "activities" insert ": *Provided*, That during fiscal year 1990, and within the resources available to carry out Section 7(b) of the Small Business Act, as amended, gross obligations for new direct loans shall not exceed $1,813,250,000".

Page 3, line 4, after "authorized" insert: "Federal".

Page 3, line 5, after "disasters" insert ": *Provided further*, That of the sums appropriated, $20,000,000 shall be available for activities under the National Earthquake Hazards Reduction Program, including $8,000,000 to the United States Geological Survey for earthquake investigations and $12,000,000 to the Program's four principal agencies for additional efforts to improve earthquake preparedness throughout the United States".

Page 3, line 10, strike out "Significance.". and insert: "Significance.".

Page 3, after line 10, insert:

SEC. 109. Section 102(c) shall not apply to sections 107, 108, 109, 110, 111, 112, and 113."

Page 3, after line 10, insert:

"SEC. 110. Notwithstanding section 120(f) of title 23, United States Code, the Federal share payable on account of any project on the Interstate and other Federal-aid highway System resulting from Hurricane Hugo, September 1989, or the Loma Prieta Earthquake of October 17, 1989, with funds made available to carry out section 125 of such title shall be 100 percent for costs incurred in the 180-day period beginning on the date of such natural disaster.".

Page 3, after line 10, insert:

"SEC. 111. Notwithstanding section 301 of title 23, United States Code, projects on the San Francisco-Oakland Bay Bridge in the State of California resulting from the Loma Prieta Earthquake of October 17, 1989, shall be eligible for funds authorized to carry out section 125 of such title: *Provided*, That insurance payments shall be deducted from construction costs."

Page 3, after line 10, insert:

"SEC. 112. Notwithstanding section 157(a)(3) of title 23, United States Code, allocations for emergency relief in accordance with section 125 of such title with respect to projects resulting from Hurricane Hugo, September 1989, or the Loma Prieta Earthquake of October 17, 1989, shall be excluded from making the determination of amounts to be allocated among the States pursuant to such section 157(a)(3)."

Page 3, after line 10, insert:

"SEC. 113. The $100,000,000 limitation contained in section 125(a) of title 23, United States Code, on amounts authorized to be expended in any one fiscal year to carry out the provisions of section 125 of such title shall not apply with respect to expenditures for repairs and reconstruction of highways which have been damaged as a result of Hurricane Hugo, September 1989, or Loma Prieta Earthquake of October 17, 1989.".

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes, and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the disposition of the Senate amendments to the joint resolution (H.J. Res. 423) making further continuing appropriations for the fiscal year 1990, and for other purposes, and that I may include extraneous and tabular material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am proud of our committee and of the Congress. We have proved that we can act in a hurry.

Eight days after the worst earthquake since 1906, which wreaked havoc on the people of California, with deaths totaling more than 80 and destruction of billions of dollars worth of valuable property, we on the Committee on Appropriations have worked out a resolution enabling the people of the area to go full speed ahead with efforts to relieve the suffering and to return, so far as possible, to orderly business and lives.

Profiting from the experience that we have had about our efforts to act on the drug problem, still tied up in a diversity of committee jurisdictions, our committee moved ahead, since we have appropriation jurisdiction in the overall.

Mr. Speaker, moving promptly on Friday, October 20, I introduced House Joint Resolution 423 for myself and on behalf of the delegations of the State of California, the State of South Carolina, and other areas affected by natural disasters on a national scale. On Monday, at 7:15 p.m. the committee reported the resolution.

Yesterday the House passed House Joint Resolution 423 which extends the present continuing resolution, Public Law 101-100, from October 25

to November 15, 1989. The existing resolution expires tonight at midnight.

It also provides $2,850,000,000 in new section 108 to provide a dire emergency supplemental to meet the needs of natural disasters of national significance. This includes Hurricane Hugo of September 1989 and the Loma Prieta earthquake of October 17, 1989.

Mr. Speaker, the Senate earlier today adopted a resolution with 13 amendments. May I say in an effort to expedite this matter, we did work it out and reached an agreement by telephone where the Senate provision includes amendments we think important. So, it is a combination bill where we have gotten together in advance. I am glad to tell my colleagues that is the situation.

I point out again, in view of the questions asked earlier, most of these are technical in nature. Several affect the jurisdiction of Public Works and Transportation Committees. I wanted to make sure that committee had no objection to those provisions.

I am assured that Chairman ANDERSON and Chairman MINETA do not object to these amendments. In fact, as I pointed out earlier, they support them.

Concurring in these amendments will clear the resolution for the President. I am told he will sign the bill.

Briefly what this bill provides, and I say again House and Senate conferees have agreed on these items, it makes $1 billion of highway funding available until expended. It deletes House language that amended emergency fund waiver of matching funds for the first 90 days after a disaster occurs.

It strikes language exempting obligations from the supplemental from the limitation on obligations set for the highway fund in the transportation bill. The transportation bill already exempts emergency fund obligations from the limitation.

It provides that the emergency fund shall be available at 100 percent for costs incurred in the first 180 days after the disaster occurs.

It permits funds to be used on the San Francisco-Oakland Bay Bridge, a toll facility, and that any insurance payments received shall be deducted from the construction costs.

On item 12, allocations from emergency fund shall be excluded from the minimum State's allocation.

No. 13, it sets aside an annual authorization of $100 million for the emergency fund.

With regard to the Small Business Administration, it establishes SBA disaster relief direct loan ceiling of $1,813,250,000. Without this, the ceiling would be $750 million. This includes the $500 million appropriation agreed to in the House yesterday.

It adds the word "Federal" so as to make clear these funds are only for authorized Federal Government programs.

It earmarks $20 million for an earthquake hazard study of the New Madrid earthquake zone, the site of the most severe earthquake known in the United States, which occurred in 1811.

It adds a new section 109, which exempts the supplemental appropriation in the resolution from the November 15 resolution date.

Mr. Speaker, I say again, the continuing resolution that we have here goes to November 15, which the leadership in the House has agreed to. Not only is that necessary, but it represents an agreement which we have reached with the Senate where both sides understand this is our position.

I say again, I am very proud of our committee for having brought this together and not gotten bogged down on a whole lot of jurisdictions, hearings and otherwise, because time is of the essence. I am proud of us.

I appreciate very much the support we have received so we can move ahead to relieve the situation. I hope Members will support this.

Mr. Speaker, I reserve the balance of my time.

□ 1900

The SPEAKER pro tempore (Mr. MCCLOSKEY). The Chair recognizes the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I will be very brief. We are in agreement.

Mr. Speaker, I rise in support of the motion to recede and concur in the Senate amendments to the House-passed continuing resolution.

Unless we pass this continuing resolution this evening, the Government would be faced with a shutdown.

The Senate did some surgery on the bill, but in my opinion they did not do enough damage to make it worthwhile to force a conference, risk deadlock, and force a Government shutdown.

The bill comes back to the House with the same total amount of spending as when it left. I have no doubt that our success in holding the total down is directly due to the wise decision of this House to strike the Gramm-Rudman-Hollings waiver. Faced with the choice of paying for playing, the Senate passed on additional spending. So we are still at a level that provides $2.85 billion, a significant, large and substantial contribution to meeting the disaster needs in California and the Southeast. And we are still at a level that the administration has said they could handle.

But do not let me give you the impression that the Senate have been a bunch of pikers. They found ways to give California some additional assistance, and took it right to the limit of what is acceptable:

They changed current law which permits emergency highway funds to be used for 90 days to pay for 100 percent of temporary repairs. Under the Senate amendment, temporary and permanent repairs will be eligible for 100 percent Federal share for 180 days.

In addition, they allow Federal funds to be used for the repair of the Bay Bridge, which is a toll bridge and ordinarily not eligible.

They exempted the new funds for counting against the States' regular allocations, which is probably worth $100 million. And they left the $100 million limitation on spending from the highway emergency relief account.

In the SBA, the Senate made a change that OMB said was necessary to lift the limitation on expenditures from the disaster—revolving fund resulting from the recent sequester.

And they made a few other changes, that do not seem earthshaking—no pun intended.

I have reservations about some of these amendments, but in the interest of getting the needed relief to the victims of the earthquake and the hurricane, and in the interest of getting this CR down to the White House before we all turn into pumpkins, I believe we should accept them.

So I will vote for the CR in its present form. I voted against it yesterday, here in the House, because I had to. The rule did not make in order my amendment to assure that the additional funding would be used solely to repair damage from the twin catastrophes. The only way I could offer this amendment was as part of the motion to recommit. And under the rules of the House in order to qualify to offer the motion, I had to vote against the bill. I believe that amendment would have improved this bill. But I will vote for this bill now to show that I favor getting this assistance to where it is needed out there in California.

Mr. Speaker, I hope, with all my heart, that this is the last continuing resolution we will bring to the floor this year. November 15 ought to be plenty of time to finish our bills. Nothing would make me happier than knowing that you did not have the Appropriations Committee to kick around anymore.

Mr. Speaker, I urge passage of the Senate amendment.

Mr. Speaker, I hope everyone votes to concur in the Senate amendments.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. ANDERSON], the chairman of the Committee on Public Works and Transportation.

Mr. ANDERSON. I thank the gentleman for yielding.

Mr. Speaker, I wish to thank the chairman of the Appropriations Com-

mittee, the gentleman from Mississippi [Mr. WHITTEN], and his ranking Republican member, the gentleman from Massachusetts [Mr. CONTE] for their speedy action on the earthquake relief package for California.

I also want to acknowledge the work of the California members of the Appropriations Committee, especially VIC FAZIO who put a lot of effort into developing a California package.

This bill represents an unprecedented Federal response to disaster of unprecedented dimensions. The bay area of California has suffered a tragedy from which it will take years to recover. The relief package that is included on this continuing resolution will provide a Federal downpayment to help that rebuilding effort get started.

I appreciate the fact that the resolution includes much of the relief package that I, along with other members of the Committee on Public Works and Transportation, introduced on Monday. The total amount of that package should provide about $1 billion in relief to California.

First, we authorize $1 billion from the Highway Trust Fund to the Emergency Relief Highway Program for road and bridge repairs on the Federal-aid highway system;

Second, the resolution eliminates the $100 million per State and per disaster cap on emergency relief funds;

Third, we increase from 90 to 180 days the period during which 100-percent Federal funding will be available for repair work before the State is required to pay a share of 25 percent for most roads and 10 percent for interstate reconstruction;

Fourth, the San Francisco-Oakland Bay Bridge is exempted from the prohibition against toll facilities receiving Federal funds, and,

Fifth, we exempt funds for earthquake repairs from being counted as part of California's highway allocation and thereby reducing other highway funds.

The quick action on this legislation is a recognition by Congress that a crisis exists in the San Francisco Bay area that requires a national effort. The Public Works and Transportation bill was designed to provide the necessary funds for the rebuilding effort while removing unnecessary legal obstructions.

The relief package is a demonstration of the Federal Government's commitment to help the people of the bay area put their lives together again. Repairing the transportation infrastructure is a vital part of that commitment. I hope the President will sign this bill and allow the full-scale Federal effort to begin.

Mr. Speaker, I would like to engage the chairman of the Committee on Appropriations in a colloquy.

Mr. Speaker, I rise to ask the gentleman from Mississippi, the chairman of the Committee on Appropriations, to engage in a colloquy to clarify the intent of several provisions in the bill.

Mr. Chairman, is it the intent of the Committee on Appropriations that all eligible projects resulting from Hurricane Hugo and the Loma Prieta earthquake funded under the Federal Highway Administration Emergency Relief Program will be funded with a 100-percent Federal share for the first 180 days after Hurricane Hugo and the Loma Prieta earthquake?

Mr. WHITTEN. May I say to my colleague it is my understanding that amendment No. 10 does that.

Mr. ANDERSON. Specifically, would that include any Hurricane Hugo and Loma Prieta earthquake-generated projects receiving emergency relief funds made available prior to enactment of House Joint Resolution 423?

Mr. WHITTEN. Again, that is my understanding.

Mr. ANDERSON. Is it also the intent of the committee that any emergency relief funds provided for the repair and reconstruction of Federal-aid highway projects resulting from the two disasters be excluded from the minimum allocation calculation?

Mr. WHITTEN. The gentleman is correct. That is done by Senate amendment No. 12.

Mr. ANDERSON. I again thank the gentleman from Mississippi [Mr. WHITTEN], chairman of the Committee on Appropriations, and the gentleman from Massachusetts [Mr. CONTE], and the members of their committees for an outstanding job.

Mr. WHITTEN. I thank the gentleman for his comments.

Mr. Speaker, we would like to thank the Committee on Public Works and Transportation for their cooperation in getting this job done. It certainly redounds to their credit.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MINETA].

Mr. MINETA. I thank the gentleman for yielding.

Mr. Speaker, I rise to ask the gentlemen from Mississippi, chairman of the Committee on Appropriations, to engage in a colloquy concerning two studies designated in the House report.

The first study requires the Secretary of Transportation to conduct a study of the adequacy of current Federal and State standards for highway, mass transit, and airport projects constructed in areas which are likely to be subjected to earthquakes.

The second study requires the Comptroller General to study the reasons for the catastrophic failure of the Cypress Street segment of Interstate I-880 and the San Francisco-Oakland Bay Bridge on Interstate I-880.

Mr. Chairman, is it the intent of the committee to require that the Secretary and the Comptroller General conduct the designated studies and transmit them to the Congress in an expeditious manner?

Mr. WHITTEN. Mr. Speaker, that is certainly the intent. May I say that, as I watched television, it was so terrible there, it is obvious there is no way in the world to tell what it would cost in the long run. But it is very imperative that we start immediately.

So what we have done, we have started immediately and provided funds to do it. But in the report we pointed out that this is just the beginning and that these reports and other matters should have the consideration and attention in connection with handling them in line with what the gentleman from California has outlined.

□ 1910

Mr. MINETA. Mr. Speaker, I thank the gentleman very much.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, I want to express the appreciation of all Members from California for the very prompt response on the part of the leaders from the Committee on Appropriations. As Members know, we did have a minor problem in the Committee on Appropriations here in the House, and sent over, really, a compromise from the committee to the Senate side.

I want to say that this Member very much appreciates the bipartisan kind of response we got from the Senate. Both Senator CRANSTON and Senator WILSON played a very important role in the success.

Last evening in my office, late into the night, in fact, Senator WILSON was talking to me about the importance of some of these changes that are being made on the Senate floor, and those changes now have been essentially accepted by the leadership here in the House. It is a critical step in terms of meeting the challenge of this disaster for the people of California, and we want Members to know we appreciate their support.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO], a member of the Committee on Appropriations.

Mr. FAZIO. Mr. Speaker, I will not take very much of the time, but I want to, on behalf of our delegation, thank the chairman of the committee, the gentleman from Mississippi [Mr. WHITTEN], and also the ranking member, the gentleman from Massachusetts [Mr. CONTE] for the way in which they have expeditiously dealt with this problem.

We are tonight 1 week from the earthquake, and yet we have made available to the people of California through direct appropriation, or by

taking the ceiling off existing funds, $4 billion for loans to victims of the disaster in their homes or their businesses, to improve our transportation system, and simply to help out with the disaster victims in terms of their immediate needs in placing them in housing and providing them with food.

It is a real testament to the willingness of the Congress to be responsive to this disaster. I want to thank all members of the authorizing committee who cooperated with the Committee on Appropriations, and all our colleagues. This is a tremendous amount of good will that exists here on the floor this evening, and we are tremendously grateful.

The Byrd-Hatfield amendment includes a provision that would raise the loan authority ceiling to $1,813,250,000. This is necessary to allow the expenditure of whatever amounts are necessary during sequestration and beyond. Because of sequestration, SBA loan authority is fixed at $237 million. But after the appropriation of the additional $500 million in the CR, SBA will have available for obligation or allocation a total of $1.813 billion (that's a result of $1 billion appropriated earlier in the year, $300 million in repayments and, again, the $500 million in the short-term CR). Therefore, to permit the expenditure or allocation of the full $1.813 billion as needed, the loan ceiling has to be raised.

How much of this funding will go to the earthquake victims? SBA currently estimates that the hurricane victims will need $600 million to $700 million of the $1.8 billion. Therefore, based on current estimates, the bill will make $1.2 billion to $1.1 billion available to the earthquake victims.

As amended by the Senate, the CR will provide:

$1.1 billion for FEMA;

$1 billion for highways (provide 100 percent Federal funding of road improvements initiated within 180 days, provide funding for the repair of the bay bridge, lift the $100 million ceiling on how much a State can both receive and spend from the ER fund, and ensure that California's normal highways allocation will not be affected);

$500 million for SBA disaster loans (lift the ceiling on SBA loans to $1.813 billion which will permit the earthquake victims to immediately be eligible for between $1.1 and $1.2 billion in SBA disaster loans); and

$250 million in discretionary authority to the President for other Federal disaster relief efforts ($20 million of which would go to the National Earthquake Hazards Reduction Program, $8 million for USGS for earthquake investigations and $12 million for additional efforts to improve earthquake preparedness).

Grand total: The bill directly appropriates an additional $2.85 billion for disaster relief programs and makes available between $1.1 billion and $1.2 billion in SBA disaster loan assistance to earthquake victims.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to my good friend, the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I rise in opposition to the continuing resolution. Not particularly because of what I feel are the excessive and largely unknown disbursements that we are making against the earthquake relief, but really because of the nature of the CR itself. As long as we can, with impunity, continue to pass CR's, we will do so. As long as there is no cost to any Member of Congress, as long as they know they will get spending at a rate far in excess of that which was done in the last fiscal year, CR's will continue to plague Members.

I hope at some point we will slam the door on them, but it is a very sloppy procedure which really screams for reform.

With respect to the earthquake relief, I do object to the 180-day precedent of 100 percent money out of the Highway Fund. I note, however, that the costs have to be incurred during the 180-day period, and I hope that that limitation at least remains with Members.

I also notice the bill has been improved slightly in the Senate, or at least enhanced or increased, and I agree with the description made by the distinguished gentleman from Massachusetts about its nature. It is too much, I think, working in the dark. Nevertheless, I do not object to the earthquake fund. My objection is to the continuing resolution itself.

Mr. CONTE. Mr. Speaker, I yield myself 30 seconds in regard to a comment my good friend, the gentleman from Minnesota [Mr. FRENZEL] just made about the continuing resolution. I agree with the gentleman, but that Committee on the Budget is not doing too well on Reconciliation, either.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman from Mississippi for yielding to me.

Mr. Speaker, I rise in support of the continuing resolution, and to thank the chairman of the committee, the gentleman from Mississippi [Mr. WHITTEN] and the gentleman from Massachusetts [Mr. CONTE] and members of the Committee on Appropriations.

Mr. Speaker, when the book is written on the San Francisco earthquake, and the story is told on the quick response from the Federal Government and from the Congress of the United States, the story will begin with the gentleman from Mississippi [Mr. WHITTEN] leaving his home upon hearing about the earthquake, without breakfast, and coming to Congress to quickly address the needs of our constituents, people who are suffering. He came in, recognizing the responsibilities of the House of Representatives, where all appropriations bills must begin, and brought his 50 years, almost 50 years of legislative experience in the House, and a lifetime of compassion to bear on the issues.

He started the process, joined with the cooperation of the gentleman from Massachusetts [Mr. CONTE], whose compassion I recognized yesterday in a discussion of the Italian earthquake, to bring what the gentleman from California [Mr. FAZIO] referred to as some comfort and normalcy to the lives of our constituents.

On behalf of my constituents, both the gentleman from Mississippi [Mr. WHITTEN] and the gentleman from Massachusetts [Mr. CONTE] and all the members of the Committee on Appropriations and particularly the gentleman from northern California [Mr. FAZIO] who carried the ball for Members while we rushed home, I want to thank the Members very much. May God bless you all.

Mr. WHITTEN. Mr. Speaker, I yield myself 1 minute to thank the gracious lady from California. I think she is entitled to that.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume, to join in thanking the lovely lady from California.

Mr. WHITTEN. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MCCLOSKEY). The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The question was taken; the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The question was taken by electronic device, and there were—yeas 303, nays 107, not voting 23, as follows:

[Roll No. 310]

YEAS—303

Akaka	Brown (CA)	Dellums
Alexander	Bryant	Derrick
Anderson	Bustamante	Dickinson
Andrews	Byron	Dixon
Annunzio	Campbell (CA)	Donnelly
Anthony	Campbell (CO)	Dornan (CA)
Applegate	Cardin	Downey
Atkins	Carper	Dreier
AuCoin	Carr	Durbin
Ballenger	Chapman	Dwyer
Barnard	Clarke	Dymally
Bates	Clay	Dyson
Beilenson	Clement	Early
Bennett	Coble	Eckart
Bereuter	Coleman (TX)	Edwards (CA)
Berman	Collins	Edwards (OK)
Bevill	Condit	Emerson
Bilbray	Conte	Engel
Boehlert	Conyers	English
Boggs	Cooper	Erdreich
Bonior	Coughlin	Espy
Borski	Cox	Evans
Bosco	Coyne	Fascell
Boucher	Crockett	Fazio
Boxer	Dannemeyer	Feighan
Brennan	Darden	Fish
Broomfield	Davis	Flake
Browder	DeFazio	Foglietta

Ford (MI)	Machtley	Rostenkowski
Ford (TN)	Manton	Roukema
Frank	Markey	Rowland (CT)
Frost	Martinez	Rowland (GA)
Gallegly	Matsui	Roybal
Gallo	Mavroules	Sabo
Gaydos	Mazzoli	Saiki
Gejdenson	McCloskey	Sarpalius
Gephardt	McCollum	Savage
Geren	McCrery	Sawyer
Gibbons	McCurdy	Saxton
Gingrich	McDade	Scheuer
Glickman	McDermott	Schneider
Gonzalez	McGrath	Schulze
Goodling	McHugh	Schumer
Gordon	McMillan (NC)	Shaw
Gradison	McMillen (MD)	Sikorski
Grandy	McNulty	Sisisky
Grant	Meyers	Skaggs
Gray	Mfume	Skeen
Green	Michel	Skelton
Guarini	Miller (CA)	Slattery
Hall (OH)	Mineta	Slaughter (NY)
Hamilton	Mollohan	Smith (FL)
Harris	Montgomery	Smith (IA)
Hatcher	Moody	Smith (NE)
Hayes (IL)	Moorhead	Smith (NJ)
Hayes (LA)	Morella	Smith (VT)
Hefner	Morrison (CT)	Smith, Robert (OR)
Herger	Morrison (WA)	Solarz
Hertel	Mrazek	Spence
Hoagland	Murtha	Spratt
Hochbrueckner	Myers	Staggers
Horton	Nagle	Stallings
Houghton	Natcher	Stark
Hoyer	Neal (MA)	Stenholm
Huckaby	Neal (NC)	Stokes
Hunter	Nelson	Studds
Hutto	Nowak	Swift
Hyde	Oakar	Synar
Ireland	Oberstar	Tallon
Jenkins	Obey	Tanner
Johnson (CT)	Olin	Tauzin
Johnson (SD)	Ortiz	Taylor
Johnston	Owens (NY)	Thomas (CA)
Jones (GA)	Packard	Thomas (GA)
Jontz	Pallone	Torres
Kanjorski	Panetta	Torricelli
Kaptur	Parker	Traxler
Kastenmeier	Parris	Udall
Kennedy	Pashayan	Unsoeld
Kennelly	Patterson	Valentine
Kildee	Payne (NJ)	Vander Jagt
Kleczka	Payne (VA)	Vento
Kolter	Pelosi	Visclosky
Lagomarsino	Perkins	Volkmer
Lancaster	Pickett	Walgren
Lantos	Pickle	Watkins
Laughlin	Poshard	Waxman
Leath (TX)	Price	Weber
Lehman (CA)	Quillen	Weiss
Lehman (FL)	Rangel	Weldon
Lent	Ravenel	Wheat
Levin (MI)	Ray	Whittaker
Levine (CA)	Regula	Whitten
Lewis (CA)	Rhodes	Williams
Lewis (GA)	Richardson	Wilson
Lipinski	Rinaldo	Wolf
Livingston	Roberts	Wolpe
Lloyd	Roe	Wyden
Long	Rogers	Yates
Lowery (CA)	Rohrabacher	
Lowey (NY)	Ros-Lehtinen	
Luken, Thomas	Rose	

NAYS—107

Archer	Costello	Hansen
Armey	Craig	Hastert
Baker	Crane	Hefley
Bartlett	DeLay	Henry
Barton	DeWine	Hiler
Bateman	Dorgan (ND)	Holloway
Bentley	Douglas	Hopkins
Bilirakis	Duncan	Hubbard
Bliley	Fawell	Hughes
Brown (CO)	Fields	Inhofe
Bruce	Frenzel	Jacobs
Buechner	Gekas	James
Bunning	Gillmor	Kasich
Burton	Gilman	Kolbe
Callahan	Goss	Kyl
Chandler	Gunderson	LaFalce
Clinger	Hall (TX)	Leach (IA)
Coleman (MO)	Hammerschmidt	Lewis (FL)
Combest	Hancock	Lightfoot
Lukens, Donald	Ritter	Snowe
Marlenee	Robinson	Solomon
Martin (IL)	Roth	Stangeland
Martin (NY)	Russo	Stearns
McCandless	Sangmeister	Stump
Miller (OH)	Schaefer	Sundquist
Miller (WA)	Schiff	Tauke
Murphy	Schroeder	Thomas (WY)
Nielson	Schuette	Traficant
Oxley	Sensenbrenner	Upton
Paxon	Shays	Vucanovich
Pease	Shumway	Walker
Penny	Shuster	Walsh
Petri	Slaughter (VA)	Wylie
Porter	Smith, Denny (OR)	Young (AK)
Pursell	Smith, Robert (NH)	Young (FL)
Rahall		
Ridge		

NOT VOTING—23

Ackerman	Florio	Molinari
Aspin	Garcia	Owens (UT)
Brooks	Hawkins	Sharp
Courter	Jones (NC)	Smith (TX)
de la Garza	Kostmayer	Towns
Dicks	Madigan	Wise
Dingell	McEwen	Yatron
Flippo	Moakley	

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Mr. CLINGER and Mr. GUNDERSON changed their vote from "yea" to "nay."

Mr. McCOLLUM and Mr. BEREUTER changed their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 2916, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1990

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 38: Page 23, line 16, after "5301" insert ": *Provided further*, That $1,200,000 of the $64,600,000 shall be available for a special project under section 107 for infrastructure development on Hawaiian home lands by the Hawaii State Department of Hawaiian Home Lands, notwithstanding the provisions of section 107(d)(1)".

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 38, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided further*, That $1,200,000 of the $93,400,000 shall be available for a special project under section 107 for infrastructure development on Hawaiian home lands by the Hawaii State Department of Hawaiian Home Lands, notwithstanding the provisions of section 107(d)(1)".

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 39: Page 23, line 16, after "5301)" insert ": *Provided further*, That of such $64,600,000, notwithstanding any requirements or other provision in title I of the Housing and Community Development Act of 1974, as amended, $16,000 shall be available for the communities of Parshall and New Town, North Dakota, for municipal services provided in connection with properties owned by the Fort Berthold Indian Reservation Housing Authority, and $500,000 shall be available for West Valley City, Utah, for basic infrastructure in connection with the West Ridge Commerce Industrial Park".

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 39, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following ": *Provided further*, That of such $93,400,000, notwithstanding any requirements or other provision in title I of the Housing and Community Development Act of 1974, as amended, $16,000 shall be available for the communities of Parshall and New Town, North Dakota, for municipal services provided in connection with properties owned by the Fort Berthold Indian Reservation Housing Authority, and $500,000 shall be available for West Valley City, Utah, for basic infrastructure in connection with the West Ridge Commerce Industrial Park".

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 40: Page 23, line 19, strike out "proviso" and insert "provisos or for providing homeownership opportunities using funds that may be transferred in this Act from Annual Contributions for Assisted Housing".

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 40, and concur therein with an amendment, as follows: In lieu of the matter striken and inserted by said amendment, insert the following: "provisos".

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 43: Page 25, line 12, strike out "$12,000,000" and insert: "$13,200,000".

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 43, and concur there in with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "and for reimbursement to the Resolution Trust Corporation for properties conveyed by such Corporation for such use, in accordance with section 810(g)(3) of such Act, $13,200,000".

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 46: Page 26, line 18, strike out "$697,098,000" and insert: "$716,945,000".

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 46, and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$738,530,000".

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 47: Page 26, line 18, strike out "$355,846,000" and insert: "$390,693,000".

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 47, and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$397,278,000".

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

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The SPEAKER pro tempore (Mr. MCCLOSKEY). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 48: Page 26, line 20, strike out all after "tion" down to and including "Programs" in line 23.

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 48, and concur therein with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows ": *Provided*, That during fiscal year 1990, notwithstanding any other provision of law, the Department of Housing and Urban Development shall maintain an average employment of at least 1,042 for Public and Indian Housing Programs".

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 54: Page 28, after line 14, insert:

Section 203(b)(2) of the National Housing Act is amended by inserting "(185 percent during fiscal year 1990)" after "(A) 150 percent".

Section 235 of the National Housing Act is amended by adding at the end the following new subsection:

"(r) REFINANCING.—

"(1) REVIEW OF ASSISTANCE PAYMENTS CONTRACTS.—

"(A) The Secretary shall periodically review each contract under which the Secretary is making assistance payments under this section to determine if a refinancing of the mortgage, loan, or advance of credit involved will result in a sufficient reduction in assistance payments to warrant such refinancing.

"(B) In the case of assistance payments contracts in effect on the date of enactment of this section, the Secretary shall complete such review within 60 days in order to permit the refinancing to be completed during fiscal year 1990.

"(2) REFINANCING ASSISTANCE.—In any case in which the Secretary determines that refinancing is warranted, the Secretary shall offer financial assistance appropriate to encourage the refinancing. The assistance may include the following:

"(A) For lenders and mortgagees providing refinancing, the payment of reasonable mortgage or loan origination fees, discount points, and other expenses required to refinance; and

"(B) For the homeowner or cooperative member involved, the payment of an amount that does not exceed 1 percent of the principal amount refinanced.

"(3) METHOD OF PAYMENT OF REFINANCING ASSISTANCE.—In any case in which the Secretary determines that refinancing is warranted, the Secretary shall provide incentives in a manner that does not increase total expenditures in fiscal year 1990. The Secretary shall structure refinancings as follows:

"(A) Lenders and mortgagees providing refinancings under this subsection may charge an interest rate for refinancing that is not greater than 0.5 percent higher than the prevailing market rate for refinancing.

"(B) Payments to the homeowner or cooperative member to encourage refinancing shall be paid through a reduction in the monthly payment of the homeowner or cooperative member under the mortgage, loan, or advance of credit.

"(4) REVISION OF CONTRACTS AND RESCISSION OF EXCESS AMOUNTS.—

"(A) The Secretary shall make such revisions in any assistance payments contract (including the amount of assistance payments made under the contract) as are necessary to reflect a refinancing obtained pursuant to this subsection. A revised assistance payments contract under this para-

graph shall not be considered to be a new contract under this section.

"(B) Any contract authority that becomes available as a result of the revision of an assistance payments contract under this paragraph shall be rescinded.".

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 54, and concur therein.

Mr. WYLIE. Mr. Speaker, may I inquire from the gentleman from New York if he is in favor of or opposed to the amendment.

Mr. GREEN. Mr. Speaker, I am in favor of the amendment.

Mr. WYLIE. Mr. Speaker, I am opposed to the amendment, and I would ask that the time be equally divided.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. WYLIE] will be recognized for 20 minutes; the gentleman from New York [Mr. GREEN] will be recognized for 20 minutes; and the gentleman from Michigan [Mr. TRAXLER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Speaker, I yield 1 minute to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, I rise in support of amendment No. 54 to H.R. 2916, which is a very important amendment increasing the FHA mortgage limits.

Mr. Speaker, I rise today to express my strong support for the increased FHA mortgage limits that are contained in the conference report. This action is long overdue, as the cost of housing continues to increase in most of our Nation's major metropolitan areas.

This is a provision that will clearly help moderate income and first-time home buyers to realize the dream of owning their own home. In the Las Vegas metropolitan area, which is contained within my district, the current median home cost is $118,581, which is well above the current FHA maximum.

Mr. Speaker, all of us can remember the sacrifices that we made to save enough to make a downpayment on our first home. Unfortunately, many young families can no longer obtain a first home at a cost that they can afford. We must preserve the American dream of homeownership. I urge support of the higher FHA limits that are contained in the conference report.

Mr. TRAXLER. Mr. Speaker, I reserve the balance of my time.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we got soundly trounced on amendment No. 25, so I will not ask for a vote on this amendment.

I would say to the Members that as a matter of principle I think I need to restate my position for the record.

The issue of increasing the FHA insurance limits beyond the current level of $101,250 through the appropriations process is in my judgment a grievous error. The issue we are dealing with is not just a number but a hotly debated issue.

Mr. Speaker, let me put the status of FHA in some historical perspective. The GAO issued two reports this past May which examined the financial management and financial status of the mutual mortgage insurance fund of the FHA as of September 30, 1987. The final, consolidated report was issued September 27, 1989. This report determined that the single-family mortgage insurance fund, FHA's largest fund by far, lost $1.4 billion in fiscal year 1988.

As I mentioned earlier in debate, GAO is doing a final report at the request of the gentleman from Wisconsin [Mr. KLECZKA]. This report is due in mid-November and will show what the impact of the FHA increase would be on the fund.

In light of the disturbing findings and the fact that the GAO has yet some unanswered questions which it will discuss in the report about the effect of mortgage-limit increases, action on this appropriation conference report issue is ill-timed and ill-advised.

Just a few short weeks ago the Comptroller General, Mr. Bowsher, in testimony before the Senate Banking Committee, stated it would be better if we could wait until we get the study done. There are a number of critical questions that the authorizing committee must answer before we make any adjustment in these FHA limits, and they include: Is FHA properly priced for the risk it is currently putting on the books; what is the proper role for FHA in national housing policy; what is the best way to assure that there is a strong and sound FHA for the 1990's that works together with the private sector?

Mr. Speaker, the essence of these questions leads me to believe that caution would suggest a thorough review of the sources of current FHA losses prior to expanding program eligibility. Furthermore, increasing the mortgage limit means that the credit limit will be reached faster since we adopted amendment No. 25 a little earlier, and that it will not be as available to first-time homebuyers in this Member's opinion.

Furthermore, FHA is a nonpartisan, highly successful program that has helped 15 million families purchase homes. Nevertheless, I believe the issue should be further reviewed.

I have been a strong, strong supporter of FHA, and everyone knows that. But this affords me the opportunity to correct a misunderstanding. On October 12 the Secretary of HUD, Mr. Kemp, appeared before the Committee on banking, Finance and Urban Affairs, and I asked him whether the mortgage limits on FHA should be increased, and I said that the Ohio homebuilders are opposed to increasing the limits on FHA. Today I received a letter that says:

Dear Representative WYLIE: We are somewhat puzzled by a recent statement attributed to you during a recent congressional hearing in which HUD Secretary Jack Kemp presented his reform package to Congress. It is our understanding that you prefaced a question to Secretary Kemp on increasing the FHA limit by stating that your Ohio homebuilders oppose increasing the limit. This position is not correct.

Mr. "Jay" Buchert signed it. He is vice president and secretary of the National Association of Home Builders, and Mr. "Buss" Ransom, president of the Ohio Home Builders' Association signed it, as did Don Cary, president of the Building Industry Association of Central Ohio.

I did get a couple of letters from Ohio homebuilders who were opposed to the increase in the limit. May I say that one or two homebuilders apparently does not a trade association make. So I stand corrected for the record, and I wanted those fellows to know that.

Mr. Speaker, also I received just a little while ago a statement of administration policy which I would like to include in the RECORD at this point. It states:

The administration strongly opposes the inclusion of authorizing language raising the Federal Home Administration (FHA) loan limits on insured single-family loans. The recent dramatic increases in defaults and losses in the FHA fund indicate that FHA activity over the last few years has not been on an actuarially sound basis. Expanding FHA business across the board without first achieving the reforms necessary to reestablish FHA actuarial soundness will only compound FHA's basic financial problems. Given the complexity and severity of these problems, the necessary reforms will require careful and full deliberation by the Administration and Congress.

Mr. Speaker, the Committee on Banking, Finance and Urban Affairs is presently formulating legislative proposals to assist Secretary Kemp's efforts at restoring the health of the FHA insurance fund. Our first priority must be to guarantee the safety and soundness of FHA, not to meet a target in the appropriations bill, and for these reasons, Mr. Speaker, I would urge a no vote on the motion of the gentleman from Michigan [Mr. TRAXLER].

Mr. GREEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. ROGERS], my colleague on the Committee on Appropriations.

Mr. ROGERS. Mr. Speaker, I rise in support of the provision in the conference report which would raise the

FHA loan limits in high cost areas to $124,750.

I do this even though I represent a district which has one of the lowest median housing costs in the entire Nation.

If the FHA mutual mortgage insurance fund is to continue to provide access to affordable mortgages in areas like my district, it must be able to underwrite loans in some of the more economically healthy and, therefore, higher housing cost areas of our Nation.

The FHA single-family housing fund has been successful because it has been able to diversify its risks and therefore keep its costs to the consumer affordable. This ability to diversify risks, however, is being severely limited by a current maximum mortgage limit which prevents FHA from operating in many areas of this country. Current mortgage limits have become so restricted that buyers in many areas of the country cannot obtain FHA loans representing 70 percent of median home prices. This is unfair to low and moderate income would be home buyers in these localities, but it also threatens the long term financial soundness of the FHA program.

Over the past few years, the Nation's economic recovery has hidden the fact that many sections of the country have been undergoing severe recessions. These are sections of the country where housing is more affordable, but cash is tight, and frankly, where private mortgage insurance companies are very unwilling to provide insurance because of the economic risks involved. FHA has been able to stay in these economically distressed areas, as well as in other low cost areas, because the premium flows and better default experience in economically more fortunate areas have made it possible to insure the more risky loans in distressed areas.

A GAO report published in May 1989 expressed concern that, over the last 2 years, the maximum mortgage limit has not kept pace with home price appreciation. The report warned that:

> If lower risk borrowers can no longer obtain FHA insurance because their loans are above the loan ceiling, then FHA may increasingly find itself insuring more risky borrowers, for whom claim rates may be greater.

In its latest report on FHA, released in September 1989, the GAO again stated that "raising the loan ceiling could result in overall lower claim rates and, consequently, could help to boost FHA net revenues." The FHA insurance fund can only remain financially sound if the revenues earned from loans that do not default are sufficient to pay the claims on loans that do default.

Therefore, FHA must be permitted to remain in those economically strong areas where the incidence and severity of foreclosures are less than in weaker economic areas. These economically strong areas tend to be areas where rapid home price appreciation has pushed median prices beyond the current FHA maximum mortgage limit. Consequently, in the interest of the FHA program and all areas of the country, Congress should support the conference agreement provision to raise the FHA maximum mortgage limit.

Mr. GONZALEZ. Mr. Speaker I am pleased to join my colleague, the distinguished ranking minority member of the Banking Committee, Mr. WYLIE, in opposing an effort contained in this amendment in disagreement to increase the FHA mortgage limits; to provide for refinancing certain section 235 mortgages; and to provide for the refinancing of certain section 8 assisted mortgages. The justification that is being presented to us on this amendment in technical disagreement is that raising the FHA loan limits to $124,850 will result in approximately $108 million in additional revenue. This is a justification that we on the authorizing committee find difficult to believe, both on substantive as well as budgetary grounds.

The provisions contained in amendment 54 are matters that are purely legislative in nature and are clearly an invasion by the Appropriations Committee on the jurisdiction of Committee on Banking, Finance and Urban Affairs. The justification of the Senate and the House conferees in including these authorization issues in this conference report was that the changes resulting from this amendment would provide additional revenue. We believe that this is an abuse of the appropriations process to legislate Banking Committee issues, justifying the action on the basis of revenue impact. Presumably appropriation bills in the future could serve to enact all authorizing legislation under this reasoning and, therefore, take over all the responsibilities of the authorizing committees.

The Subcommittee on Housing and Community Development, which I chair, recently completed its legislative hearings in which the issue of increasing the FHA mortgage loan limit was thoroughly reviewed and is awaiting two GAO reports on the status of the FHA Mortgage Insurance Fund.

Mr. Speaker, I would point out to the Members that this issue of raising the mortgage limits on FHA-insured mortgages is a very controversial issue within the banking committee. As I indicated, we are awaiting the final GAO report as to whether increasing the ceilings would have additional detrimental affects on the FHA Mortgage Insurance Fund. As many Members know, through scandalous mismanagement by HUD and economic depression in the Southwest, the FHA insurance funds have sustained losses totaling $4 billion over the past 2 years. For us today to approve an increase in the loan limits would be to compound the already difficult financial condition of FHA. Furthermore, many of us question whether the Federal Government should be insuring mortgages at levels approaching $125,000. FHA was designed to facilitate home ownership for moderate-income people not for upscale luxury housing for those who are already homeowners.

We on the authorizing committee intend to address ourselves to this issue very shortly when we go to markup on November 1 and would ask the House not to agree to this amendment in disagreement so that the authorizing committee may exercise its responsibility to legislate in regular order. The Banking Committee has always exercised its responsibility in dealing with FHA loan limit issue. We did so in the Housing and Community Development Act of 1987 and we intend to address the issue again in dealing with this year's housing legislation. I regret that the appropriations committee sought to use this issue as a budget gimmick because that is exactly what this effort represents. I would urge the Members to defeat the motion to recede and concur so that the authorizing committee may consider this matter under the regular order that has been established in the House for handling these types of issues—through the authorizing process and not through appropriations conference reports.

Mr. MANTON. Mr. Speaker, I rise in support of motion by the gentleman from Michigan to recede to the Senate amendment to raise the FHA maximum loan limit from $101,250 to $125,000 for 1 year.

Mr. Speaker, for more than 50 years, the FHA program has provided affordable mortgages to millions of young, moderate income, first time home buyers. Like many of my colleagues, I used an FHA loan to purchase my first home. Without the affordable interest rate and low downpayment requirements provided by the FHA program, I probably would not have been able to purchase that home. Regrettably, the FHA program is no longer an option for a growing number of young families seeking to purchase their first home. Quite simply, the FHA's maximum loan limit has not kept pace with the soaring cost of housing. This is particularly true in the New York metropolitan area where the median sales prices of a new home is more than $150,000.

Mr. Speaker, in 1987, I cosponsored an amendment with my colleague from California [Mr. LEHMAN] to increase the maximum FHA loan limit in HUD designated high cost areas from $90,000 to $101,250. Our amendment was included in the Housing Act of 1987, and was the first increase in the FHA mortgage limit since 1979. Although this increase enabled several thousand families to qualify for FHA mortgage insurance in high-cost areas, escalating home prices necessitate a further increase in the loan limit.

Mr. Speaker, the FHA program and all programs administered by the Department of Housing and Urban Development have recently come under attack. Massive fraud within HUD has jeopardized the future of many worthy housing programs. Recent reports that FHA lost $4.2 billion in fiscal year 1988 have undermined support for the FHA program. However, I do not believe this loss indicates a serious weakness in the FHA single-family mortgage insurance program. Most of FHA's losses last year came from programs other than the single-family insurance program. Of the $1.4 billion loss recorded by the single-

family program, most of the loss can be attributed to regional economic difficulties. Finally, despite last year's losses, the single-family insurance fund remains solvent with over $1.8 billion in reserves. Although the FHA insurance fund is healthy, I believe HUD must improve its management and oversight of the FHA program. Another, more immediate way to strengthen the FHA single-family Mortgage Insurance Program is to create a better and more stable mix of loans in FHA's portfolio by making certain FHA is available in economically healthy, higher cost areas as well as less prosperous regions of the country. This can be accomplished by raising the mortgage ceiling on FHA single-family loans in high-cost areas. Furthermore, raising the FHA maximum mortgage limit to $125,000 would generate an additional $100 million in income for the FHA Insurance Fund.

Mr. Speaker, since 1980, home ownership rates for young families have been steadily declining. We must reverse this trend. I urge my colleagues to support this much needed increase in the FHA maximum loan ceiling which will increase home ownership opportunities for thousands of young families across the Nation.

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Mr. GREEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. TRAXLER. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 55: Page 28, after line 18, insert:

The last paragraph under the heading "Administrative Provisions" in title I of the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989 (Public Law 100-404, 102 Stat. 1021) is amended by adding the following new paragraph at the end thereof: "Prior to the implementation of such regulations the Secretary shall make revisions as may be necessary to comply with subsequent enactments of law and to provide for effective and efficient implementation of lead abatement operations under the public housing modernization program.".

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 55, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

If the Secretary of the Department of Housing and Urban Development has not issued the lead-based paint technical guidelines on reliable testing protocols, safe and effective abatement techniques, cleanup methods and acceptable post-abatement lead dust levels by April 1, 1990, the Department's September 29, 1989, draft guidelines shall take effect and remain in force until revised by the Secretary.

Of the amount appropriated in this Act under the heading "Annual contributions for assisted housing" and earmarked for the modernization of existing public housing projects pursuant to section 14 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437), the Secretary shall set aside and may use up to $1,000,000 to indemnify any public housing agency that receives assistance under section 14 of the Act to test and abate lead-based paint in the Lead-Based Paint Abatement Demonstration Program under section 302(d)(2)(A) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(d)(2)(A) and any person under contract with such agency, with respect to all or parts of claims arising from such testing or abatement, in accordance with the terms and conditions that the Secretary shall specify for the validation, processing, and payment of claims, and any other matters concerning the administration of the amount set aside: *Provided*, That any balances not obligated before October 1, 1992, shall be made available without regard to this paragraph.

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 57: Page 29, line 7, strike out "$15,000,000" and insert "$14,507,000, to remain available until expended".

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves the House recede from its disagreement to the amendment of the Senate numbered 57, and concur therein with an amendment, as follows: In lieu of the sum stricken and matter inserted by said amendment, insert the following: "$16,000,000, to remain available until expended".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 71: Page 33, line 2, strike out "$2,000,000" and insert "$2,600,000".

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 71, and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$2,800,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 75: Page 33, line 19, strike out "$12,000,000" and insert "$11,700,000".

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 75, and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$15,000,000, of which $3,000,000 shall be made available as a grant for an environmental laboratory addition to be constructed and owned by the University of Nevada, under such terms and conditions as the Administrator deems appropriate, with all of such sums".

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 80: Page 35, strike out all after line 4 over to and including line 18 on page 37 and insert:

For necessary expenses to carry out the purposes of the Federal Water Pollution Control Act, as amended, the Water Quality Act of 1987, $2,050,000,000, to remain available until expended, of which $1,025,000,000 shall be for title II (other than sections 201(m)(1-3), 201(n)(2), 206, 208, and 209) of the Federal Water Pollution Control Act, as amended; and $1,025,000,000 shall be for title VI of the Federal Water Pollution Control Act as amended: Provided further, That of the funds appropriated in previous fiscal years under this heading to carry out the purposes of section 206(a) of the Federal

Water Pollution Control Act, as amended, $47,700,000 are rescinded.

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 80, and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

For necessary expenses to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, $2,050,000,000, to remain available until expended, of which $1,002,000,000 shall be for title II (other than sections 201(m)(1-3), 201(n)(2), 206, 208, and 209) of the Federal Water Pollution Control Act, as amended; $1,002,000,000 shall be for title VI of the Federal Water Pollution Control Act, as amended; and $46,000,000 shall be for title V of the Water Quality Act of 1987, consisting of $7,000,000 for section 510, $20,000,000 for section 513, and $19,000,000 for section 515: *Provided*, That of the funds appropriated in previous fiscal years under this heading to carry out the purposes of section 206(a) of the Federal Water Pollution Control Act, as amended, $47,700,000 are rescinded: *Provided further*, That, notwithstanding sections 602(b)(6) or 201(g)(1) of the Federal Water Pollution Control Act, as amended, of the funds appropriated in this paragraph, amounts awarded in a capitalization grant to an agency of any State, including funds transferred pursuant to section 205(m), shall be available for providing assistance in that State for the construction of publicly owned treatment works as defined in section 212 of that Act: *Provided further*, That, notwithstanding any other provision of law, from sums appropriated under this paragraph and allotted to the State of Texas under section 205 of the Federal Water Pollution Control Act, as amended, the State of Texas is authorized to set aside, at the discretion of the Governor, up to $15,000,000 for the establishment of a special revolving fund for the sole purpose of making loans to residents of colonias in the counties of Cameron, Hidalgo, Zapata, Starr, Webb, Maverick, Val Verde, Terrell, Brewster, Presidio, Hudspeth, and El Paso. Repayment amounts may remain in the special revolving fund for future loans to colonia residents, and funds set aside but not used for loans, including repayment amounts, may be transferred by the State to its general title VI revolving fund. Loans from the special revolving fund shall be made for the purposes of connecting residences to sewer collection systems and making any necessary plumbing improvements to enable such residences to meet existing county or city code requirements. The Texas Water Development Board is authorized to use funds from this set-aside for the administrative expenses of the special revolving fund: *Provided further*, That, notwithstanding any provision of law, from sums appropriated under this paragraph and before allotment of title II funds to the states under section 205, the Administrator shall award a grant under title II for $6,800,000 for construction of a connector sewer line, consisting of a main trunk line and four pump stations, for the Town of Honea Path, South Carolina to the wastewater treatment facility in the Town of Ware Shoals, South Carolina: *Provided further*, That, notwithstanding any other provision of law, sums appropriated under this heading allotted for title VI capitalization grants to American Samoa, Commonwealth of the Northern Mariana Islands, Guam, the Trust Territory of Palau (or its successor entity), Virgin Islands and the District of Columbia, may be used for title II construction grants at the request of the chief executive of each of the above named entities.

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. NOWAK. Mr. Speaker, I am opposed to the motion offered by the gentleman from Michigan and would request 20 minutes of the debate time.

The PRESIDENT pro tempore. The gentleman from New York [Mr. NOWAK] is opposed to the motion?

Mr. NOWAK. Yes, I am, Mr. Speaker.

The PRESIDENT pro tempore. The gentleman from New York [Mr. NOWAK] will be recognized for 20 minutes, the gentleman from Michigan [Mr. TRAXLER] will be recognized for 20 minutes, and the gentleman from New York [Mr. GREEN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. NOWAK].

Mr. NOWAK. Mr. Speaker, I yield myself such time as I may consume for the purposes of a colloquy with the gentleman from Michigan [Mr. TRAXLER].

I would like to state my concern for the following: Amendment No. 80 contains a provision that the Administrator of EPA shall award a grant under title II of the Federal Water Pollution Control Act for construction of a connector sewer line for the town of Honea Path, SC.

It is my understanding that the conference report contains an appropriation for the construction grants program, out of which these funds would come, that is higher than contained in the House-passed bill.

I wonder if the gentleman from Michigan could describe to the House the action of the conferees on this matter in agreeing to the higher funding levels?

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. NOWAK. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Speaker, I thank the gentleman from New York for stating his inquiry, and I think it is appropriate. Let me assure the gentleman the final conference agreement was not resolved as originally planned.

As the gentleman knows, the House-passed bill took the $6.8 million for the Honea Path project from within the State's $19 million-plus allocation.

It turned out that this approach presented some more serious problems to the entire South Carolina delegation. As a consequence of that, in an effort to reconcile all of the parties, and without creating problems within the State's delegation, we went to the only alternative that was available to us, and that was to take it off the top of title II prior to the allocation to the States.

Let me assure the gentleman, I agree that this ought not to establish a precedent for such an approach in the future. I also know the history and traditions from my long years of service with the gentleman, I know how hard he has worked to create the construction grants program. I know his dedication to it, and the formula is important to every State, and I want to assure the gentleman that this approach will not be repeated.

We found ourselves in a difficult situation. This is the only exception to the general rule this Member will be a party to. I pledge to the gentleman from New York that we will avoid earmarking unauthorized projects from the construction grants account in the future.

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. NOWAK. I yield to the gentleman from New York.

Mr. GREEN. Mr. Speaker, I share the gentleman from New York's concern. Obviously I do recognize it as a special action we have taken here which does impact all States to a very modest degree. It arose because of some circumstances beyond our control, which the gentleman is well aware of.

This is obviously not something we wanted to do, and obviously not something we want to do in the future.

Mr. NOWAK. Mr. Speaker, I appreciate that remark.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield further?

Mr. NOWAK. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Speaker, there is just one point I want the membership to be aware of. In the course of the division of moneys available to the subcommittee, at the gentleman from New York [Mr. NOWAK's], urging, we were able to find the moneys to fund the construction grant program at more than $68 million above the 1989 level, some $2,018,225,000, which is almost $800 million more than the administration requested.

I want to emphasize one more point of great importance: the conference agreement we bring back to the House today provides more funds in each and every State's allocation for wastewater treatment facilities than the House-passed bill. That is because, in addition to taking the higher figure of $2,050,000,000 in amendment 80, we

dropped the nonpoint source and other setasides. And this is vitally important. Because, while South Carolina does get a small bonus for this special situation, it should be clear to every Member that a vote for the committee amendment is a vote for a higher allocation for his or her State than provided by the original House language.

I want the Members to be aware that because of the leadership of the gentleman from New York we were able to do this, even with these extreme and severe budget problems. I wish to pledge to the gentleman from New York my continued cooperation with him.

Mr. NOWAK. Mr. Speaker, I thank the gentleman.

Mr. TRAXLER. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. STANGELAND].

Mr. STANGELAND. Mr. Speaker, first of all let me say that this is to me highly unprecedented, the fact that the conferees came back from the Senate with more money than they left with from the House, and as a result we can handle this little contingency in South Carolina, is really a very unprecedented matter.

I would ask the question, in funding this direct grant from off the top of the Federal grant program, is it envisioned there will be the same cost sharing building this wastewater treatment facility with this money as normal construction, grants, the way wastewater treatment facilities are handled, or is this a $6.8 million grant that will build this facility in toto, thereby granting 100 percent of the Federal participation?

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. STANGELAND. I yield to the gentleman from Michigan.

□ 2000

Mr. TRAXLER. My understanding is that the amount of money necessary to build the line will exceed the grant and there will be some local or State money, I am told. I regret I cannot give the gentleman a specific number.

Mr. STANGELAND. But it can exceed it by what? Ten percent? Fifteen percent? Everyone's project is cost sharing at 45 percent.

Mr. TRAXLER. First, let me say to the gentleman there is no specific program to build sewer lines. The authorized program is for plant only. It is a matching program in which the Federal Government contributes now some 55 percent.

What I am saying to the gentleman is this was a unique situation that arose because our intentions were that all of this money would come from within the State share. There was some miscommunication and misunderstanding in the delegation.

As a consequence of that, we could not do it out of the State allocation. The only alternative was to take it off the top of the construction grants appropriation.

Mr. STANGELAND. I understand all that.

I thank my colleagues for that explanation. But I would point out that under the current program collector sewers are not cost-shared at all, they are totally a local expense. So the $6.8 million builds the facility, the wastewater treatment facility. Then of course the community naturally has to expend the extra dollars to put the collectors.

Mr. TRAXLER. Let me say to the gentleman he is right, but I want to say to the gentleman, this legislation is a straight grant for $6.8 million. This provision does not designate or require a cost share. That is because, and I am going to say it again, the way the legislation was originally done, it came out of the State's allocation. Unfortunately that created some problems that were not foreseen by this gentleman. I did not know about them.

In order to make the delegation whole and happy, and you understand and I like to work with my friends and keep my friends happy, we come to this language. I do not want a delegation that has controversy and that is not at peace with one another.

The only way then at the point to correct the matter was the way in which we have done it.

The gentleman raises an interesting point. I have answered all of them.

Mr. STANGELAND. I thank my colleague very kindly. Let me just point out that New York's share of this contribution to this facility in South Carolina is $759,000, no paltry sum. I just hope that the chairman's assurance to my chairman of the authorizing committee that this will not be precedent-setting will be remembered and recalled. This is no a way to do business.

From what I understand, EPA is not at all certain that this is an environmentally sound proposal, that it is going to fly, that there are plans made.

I just think it is a wrong way to do business.

Mr. NOWAK. If I may just conclude, Mr. Speaker, you know, we have a situation where all the States are looking for more money and all the States face over $60 billion in already-authenticated sewer treatment needs. We know that we have cut out the construction grant program to expire at the end of 1990 and it will be in the revolving loan program for the States to complete their treatment works, which will be totally inadequate.

I hope the House keeps that in mind as we look to the future because we have not even appropriated in this bill up to the authorized level.

I hope that next year in consideration of what we are doing here we can move forward and raise that appropriation to a much higher level.

I know the chairman is concerned about that and he will work with us.

So with that, Mr. Speaker, I am satisfied that our concerns have been satisfied and I will not oppose the motion of the gentleman.

The SPEAKER pro tempore (Mr. MCCLOSKEY). Are there other requests for time?

Hearing none, without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 199, nays 174, not voting 60, as follows:

[Roll No. 311]

YEAS—199

Akaka	Dorgan (ND)	Kolter
Alexander	Durbin	LaFalce
Anderson	Dwyer	Lancaster
Andrews	Dymally	Lantos
Annunzio	Dyson	Lehman (CA)
Applegate	Engel	Lehman (FL)
Atkins	Erdreich	Levin (MI)
AuCoin	Espy	Levine (CA)
Barnard	Evans	Lewis (GA)
Beilenson	Fascell	Lipinski
Bennett	Fazio	Lloyd
Bevill	Feighan	Lowey (NY)
Bilbray	Flake	Luken, Thomas
Boggs	Foglietta	Madigan
Borski	Ford (MI)	Manton
Bosco	Ford (TN)	Markey
Boucher	Frank	Matsui
Boxer	Gaydos	Mavroules
Brennan	Gejdenson	Mazzoli
Browder	Gephardt	McCloskey
Brown (CA)	Geren	McCurdy
Bruce	Gibbons	McDade
Bryant	Glickman	McDermott
Byron	Gordon	McMillen (MD)
Cardin	Gray	McNulty
Carper	Green	Mfume
Carr	Guarini	Mineta
Chapman	Harris	Mollohan
Clarke	Hatcher	Montgomery
Clement	Hayes (IL)	Moody
Coleman (TX)	Hayes (LA)	Morrison (CT)
Collins	Hefner	Mrazek
Condit	Hertel	Murphy
Conyers	Hoagland	Nagle
Cooper	Hochbrueckner	Natcher
Costello	Hoyer	Neal (MA)
Coughlin	Hubbard	Neal (NC)
Coyne	Hughes	Nelson
Crockett	Hutto	Oberstar
Darden	Johnson (SD)	Olin
Davis	Jones (GA)	Ortiz
DeFazio	Jontz	Owens (NY)
Derrick	Kaptur	Pallone
Dingell	Kennelly	Panetta
Dixon	Kildee	Parker
Donnelly	Kleczka	Patterson

Payne (NJ)	Scheuer	Thomas (GA)
Payne (VA)	Schumer	Torres
Pelosi	Sikorski	Torricelli
Penny	Sisisky	Traficant
Perkins	Skaggs	Traxler
Pickett	Skelton	Udall
Pickle	Slattery	Unsoeld
Price	Smith (FL)	Vander Jagt
Quillen	Smith (IA)	Volkmer
Rahall	Smith (NE)	Walgren
Rangel	Smith (VT)	Watkins
Ravenel	Solarz	Waxman
Richardson	Spence	Weiss
Roe	Spratt	Whitten
Rostenkowski	Staggers	Williams
Rowland (GA)	Stenholm	Wilson
Roybal	Stokes	Wolpe
Russo	Swift	Wyden
Sabo	Synar	Yates
Savage	Tallon	
Sawyer	Tanner	

NAYS—174

Archer	Hefley	Poshard
Armey	Henry	Ray
Baker	Herger	Regula
Bartlett	Hiler	Rhodes
Barton	Holloway	Ridge
Bates	Hopkins	Rinaldo
Bentley	Houghton	Ritter
Bereuter	Huckaby	Roberts
Bilirakis	Hunter	Robinson
Bliley	Hyde	Rogers
Boehlert	Inhofe	Rohrabacher
Brown (CO)	Ireland	Ros-Lehtinen
Buechner	Jacobs	Roth
Bunning	James	Roukema
Burton	Johnson (CT)	Rowland (CT)
Callahan	Johnston	Saiki
Campbell (CA)	Kanjorski	Sarpalius
Chandler	Kasich	Saxton
Clay	Kastenmeier	Schaefer
Clinger	Kennedy	Schiff
Coble	Kolbe	Schneider
Coleman (MO)	Kyl	Schuette
Combest	Lagomarsino	Sensenbrenner
Cox	Laughlin	Shays
Craig	Leach (IA)	Shumway
Crane	Lent	Shuster
Dannemeyer	Lewis (CA)	Skeen
DeLay	Lewis (FL)	Slaughter (NY)
DeWine	Lightfoot	Slaughter (VA)
Dornan (CA)	Livingston	Smith (NJ)
Douglas	Long	Smith, Denny (OR)
Dreier	Lowery (CA)	
Duncan	Lukens, Donald	Smith, Robert (NH)
Early	Machtley	
Eckart	Marlenee	Smith, Robert (OR)
Edwards (OK)	Martin (IL)	
Emerson	Martin (NY)	Snowe
English	McCandless	Solomon
Fawell	McCollum	Stallings
Fields	McCrery	Stangeland
Frenzel	McGrath	Stearns
Gallegly	McHugh	Stump
Gallo	McMillan (NC)	Sundquist
Gekas	Meyers	Tauzin
Gillmor	Miller (OH)	Taylor
Gilman	Miller (WA)	Thomas (CA)
Gingrich	Moorhead	Thomas (WY)
Gonzalez	Morella	Upton
Goodling	Morrison (WA)	Valentine
Goss	Myers	Visclosky
Gradison	Nielson	Vucanovich
Grandy	Nowak	Walker
Grant	Oxley	Walsh
Gunderson	Packard	Weber
Hamilton	Parris	Weldon
Hammerschmidt	Pashayan	Whittaker
Hancock	Paxon	Wylie
Hansen	Pease	Young (AK)
Hastert	Petri	Young (FL)

NOT VOTING—60

Ackerman	Conte	Frost
Anthony	Courter	Garcia
Aspin	de la Garza	Hall (OH)
Ballenger	Dellums	Hall (TX)
Bateman	Dickinson	Hawkins
Berman	Dicks	Horton
Bonior	Downey	Jenkins
Brooks	Edwards (CA)	Jones (NC)
Broomfield	Fish	Kostmayer
Bustamante	Flippo	Leath (TX)
Campbell (CO)	Florio	Martinez
McEwen	Porter	Stark
Michel	Pursell	Studds
Miller (CA)	Rose	Tauke
Moakley	Sangmeister	Towns
Molinari	Schroeder	Vento
Murtha	Schulze	Wheat
Oakar	Sharp	Wise
Obey	Shaw	Wolf
Owens (UT)	Smith (TX)	Yatron

□ 2028

Messrs. HUNTER, MILLER of Ohio, and STALLINGS changed their vote from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

□ 2030

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 86: Page 40, line 14, strike out "$141,329,000" and insert: "$141,489,000".

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 86, and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$142,499,000".

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 90: Page 43, strike out all after line 7 over to and including line 5 on page 44, and insert:

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; $5,367,600,000, to remain available until September 30, 1991: Provided, That of the funds made available under this heading, $1,850,000,000 is for space station program only, $750,000,000 of which shall not become available for obligation until June 1, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further*, That of the funds made available under this heading, $384,000,000 is for space transportation capability development only, which amount shall not become available for obligation until April 15, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further*, That of $2,047,300,000 made available under this heading for space science and applications, only $1,000,000,000 shall be available prior to April 1, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change.

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 90, and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; $5,366,050,000, to remain available until September 30, 1991: *Provided*, That of the funds made available under this heading, $1,800,000,000 is for the space station program only, $750,000,000 of which shall not become available for obligation until June 1, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further*, That of the funds made available under this heading, $320,000,000 is for space transportation capability development only, which amount shall not become available for obligation until April 15, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further*, That of the funds made available under this heading, $384,000,000 is for space transportation capability development only, which amount shall not become available for obligation until April 15, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further*, That of $2,064,600,000 made available under this heading for space science and applications, only $1,000,000,000 shall be available prior to April 1, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further*, That no funds appropriated by this Act or any other Act may be used to enter into contracts of the National Aeronautics and Space Administration for the comet rendezvous and asteroid flyby and Cassini missions (CRAF/Cassini) if the estimated total budget authority for development of the two spacecraft, through launch plus 30 days of the Cassini mission, exceeds $1,600,000,000.

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 91: Page 44, line 15, strike out "$4,709,600,000" and insert: "$4,639,600,000".

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 91, and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$4,614,600,000".

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 92: Page 44, line 22, strike out all after "change" down to and including "account" in line 25.

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 92, and concur therein with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows: In lieu of the sum named, insert: "$75,000,000".

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 93: Page 45, line 18, strike out "$384,300,000" and insert "$341,000,000".

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 93, and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$601,300,000".

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 94: Page 46, line 8, strike out "$35,600,000" and insert "$95,000,000".

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 94, and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$152,000,000".

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 95: Page 46, line 12, after "agreement" insert ": *Provided further,* That of the funds made available under this heading, $10,000,000 shall be available only for the construction of the Advanced Solid Rocket Motor Facility in Yellow Creek, Mississippi, that was authorized in Public Law 100-685".

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 95, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following

": *Provided further,* That of the amounts transferred under the authority of the foregoing proviso, not to exceed $85,000,000 may be for 'Space flight, control and data communications', and not to exceed $67,000,000 may be for 'Research and Program management': *Provided further,* That in addition to the foregoing transfers, up to $25,000,000 of the funds provided by this paragraph may be transferred to and merged with sums appropriated for 'Research and development'."

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 97: Page 47, line 10, after "conclusive" insert ": *Provided further,* That of funds made available under this heading, up to $500,000 may be transferred to the "Office of the Inspector General"."

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 97, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following ": *Provided further,* That of the funds made available under this heading, up to $195,000 may be transferred to the 'Office of Inspector General': *Provided further,* That the grade retention provisions of 5 U.S.C. 5362 shall remain available to Goddard Space Flight Center employees of the National Aeronautics and Space Administration, displaced by the conversion on September 3, 1989, of their civil service positions to private sector positions, from the time an affected employee is placed in a lower graded position until one or more of the conditions of 5 U.S.C. 5362(d) is met".

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 98: Page 47, strike out all after line 15 over to and including line 10, on page 48, and insert:

SMALL AND DISADVANTAGED BUSINESS

The NASA Administrator shall annually establish a goal of at least 6 per centum of the total value of prime and subcontracts awarded in support of authorized programs, including the space station by the time operational status is obtained, which funds will be made available to small business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6)), including Historically Black Colleges and Universities and minority educational institutions (as defined by the Secretary of Education pursuant to the General Education Provisions Act (20 U.S.C. 1221 et seq.)).

To facilitate progress in reaching this goal, the NASA Administrator shall submit within one year from enactment of this Act a plan describing the process to be followed to achieve the prescribed level of participation in the shortest practicable time.

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 98, and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

SMALL AND DISADVANTAGED BUSINESS

The NASA Administrator shall annually establish a goal of at least 8 per centum of the total value of prime and subcontracts awarded in support of authorized programs, including the space station by the time operational status is obtained, which funds will be made available to small business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) (6)), including Historically Black Colleges and Universities and minority educational institutions (as defined by the Secretary of Education pursuant to the General Education Provisions Act (20 U.S.C. 1221 et seq.)).

To facilitate progress in reaching this goal, the NASA Administrator shall submit within one year from enactment of this Act a plan describing the process to be followed to achieve the prescribed level of participation in the shortest practicable time.

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 105: Page 50, line 3, after "year" insert ": *Provided further,* That none of the funds appropriated in this Act may be used directly or through grants, contracts and other award mechanisms, for agreements executed after enactment of this Act, to pay or to provide reimbursement for the Federal portion of the salary of any individual functioning as a Federal employee at more than the daily equivalent of the maximum rate paid for ES-6 for assignments to Senior Executive Service positions, unless specifically authorized by law: *Provided further,* That notwithstanding the preceding proviso, none of the funds appropriated in this Act may be used to pay the salary of any individual functioning as a Federal employee, or any other individual, through a grant or grants at a rate in excess of $95,000 per year".

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 105, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

": *Provided further,* That none of the funds appropriated in this Act may be used directly or through grants, contracts or other award mechanisms, for agreements executed after enactment of this Act, to pay or to provide reimbursement for the Federal portion of the salary of any individual functioning as a Federal employee at more than the daily equivalent of the maximum rate paid for ES-6 for assignments to Senior Executive Service positions, unless specifically authorized by law: *Provided further,* That notwithstanding the preceding proviso, none of the funds appropriated in this Act may be used to pay the salary of any individual functioning as a Federal employee, or any other individual, through a grant or grants at a rate in excess of $95,000 per year: *Provided further,* That of the funds appropriated in this Act, $900,000 shall be available only for the International Institute for Applied Systems Analysis, and that, notwithstanding any other provision of law, the Director may choose not to obligate these funds for that purpose".

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 109: Page 51, line 19, strike out all after "DUKE" down to and including "Procurement" in line 20.

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 109, and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: ", nor for procurements covered by the GATT Agreement on Government Procurement: *Provided further,* That the vessel contracted for pursuant to the foregoing shall be of United States registry".

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 110: Page 51, after line 20, insert:

UNITED STATES ANTARCTIC LOGISTICAL SUPPORT ACTIVITIES (DEFENSE)

For necessary expenses in reimbursing the Department of the Navy, and for other related activities for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); maintenance, and operation of aircraft and purchase of flight services for research and operations support; maintenance and operation of research ships and charter or lease of ships for research and operations support; improvement of environmental practices and enhancement of safety; hire of passenger motor vehicles; not to exceed $83,000,000, to remain available until expended: *Provided,* That funds made available under this heading shall not become available for obligation until September 30, 1990, and pursuant to section 202(b) of the Balance Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further,* That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation.

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 110, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

UNITED STATES ANTARCTIC LOGISTICAL SUPPORT ACTIVITIES

For necessary expenses in reimbursing Federal agencies for logistical and other related activities for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); maintenance, and operation of aircraft and purchase of flight services for research and operations support; maintenance and operation of research ships and charter or lease of ships for research and operations support; improvement of environmental practices and enhancement of safety; hire of passenger motor vehicles; not to exceed $82,000,000, to remain available until expended: *Provided*, That funds made available under this heading shall not become available for obligation until September 30, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further*, That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation.

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 116: Page 54, after line 10, insert:

FEDERAL DEPOSIT INSURANCE CORPORATION

FSLIC RESOLUTION FUND

For payment of expenditures, in fiscal year 1990, of the FSLIC Resolution Fund, for which other funds available to the FSLIC Resolution Fund as authorized by Public Law 101-73 are insufficient, such sums as may be necessary: Provided, That the Chairman of the Federal Deposit Insurance Corporation shall provide a quarterly report to the Committees on Appropriations on the expected total costs to the FSLIC Resolution Fund in fiscal year 1990, with the first such report due on October 15, 1989.

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 116, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

FEDERAL DEPOSIT INSURANCE CORPORATION

FSLIC RESOLUTION FUND

For payment of expenditures, in fiscal year 1990, of the FSLIC Resolution Fund, for which other funds available to the FSLIC Resolution Fund as authorized by Public Law 101-73 are insufficient, such sums as may be necessary: *Provided*, That the Chairman of the Federal Deposit Insurance Corporation shall provide quarterly reports to the Committees on Appropriations beginning November 15, 1989, on the receipts, disbursements, cash balance, estimated Treasury payments required by fiscal year, and total estimated costs to the FSLIC Resolution Fund.

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 122: Page 59, line 19, strike out all after "516." over to and including line 17 on page 60, and insert "After January 1, 1990, within both the Department of Housing and Urban Development and the Environmental Protection Agency, the number of non-career appointees to the Senior Executive Service shall not exceed 15 percent of the total number of Senior Executives Services positions, unless the Office of Personnel Management approves a waiver to exceed that limitation upon sufficient justification provided by the agency. The Office of Personnel Management shall report to the Congress prior to the issuance of such a waiver and certify in that report that such a waiver is essential for the agency to fulfill its basic mission and purposes."

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 122, and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "After January 1, 1990, and for the duration of fiscal year 1990, within the Department of Housing and Urban Development, the number of non-career appointees to the Senior Executive Service shall not exceed 13 percent of the total number of Senior Executive Service positions in such department, unless the Office of Personnel Management approves a waiver to exceed that limitation in accordance with 5 U.S.C. 3134. The Office of Personnel Management, in consultation with the Office of Management and Budget, shall undertake an expedited review of Senior Executive Service positions in the Department of Housing and Urban Development and report its findings, recommendations, and justification for any waiver determination to the Congress by December 15, 1989.".

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 123: Page 60, strike out all after line 17 over to and including line 2 on page 61.

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 123, and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following:

SEC. 517. Notwithstanding any other provision of this Act, amounts otherwise provided by this Act for the following accounts and activities are reduced by the following amounts:

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

"Direct loan revolving fund", $15,000;

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

"Medical care", $115,339,000;

"Medical and prosthetic research", $3,348,000;

"Medical administration and miscellaneous operating expenses", $715,000;

"Grants to the Republic of the Philippines", $8,000;

DEPARTMENTAL ADMINISTRATION

"General operating expenses", $12,664,000;

"Office of Inspector General", $340,000;

"Construction, major projects", $6,514,000;

"Construction, minor projects", $1,762,000;

"Parking garage revolving fund", $455,000;

"Grants for construction of State extended care facilities", $651,000;

"Grants for construction of State veterans cemeteries", $68,000;

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

"Annual contributions for assisted housing", $125,786,525;

"Assistance for the renewal of expiring section 8 subsidy contracts", $16,925,475;

"Rental rehabilitation grants", $2,015,000;

"Housing for the elderly or handicapped fund", $7,442,000;

"Congregate services", $93,000;

"Payments for operation of low-income housing projects", $27,832,000;

"Housing counseling assistance", $54,000;

"Federal Housing Administration Fund" (limitation on guaranteed loans) $1,162,500,000;

"Federal Housing Administration Fund" (temporary mortgage assistance payments), $1,373,000;

"Nonprofit sponsor assistance", $17,000;

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

"Guarantees of mortgage-backed securities", $1,286,500,000;

HOMELESS ASSISTANCE

"Emergency shelter grants program", $1,162,000;

"Transitional and supportive housing demonstration program", $2,015,000;

"Supplemental assistance for facilities to assist the homeless", $170,000;

"Section 8 moderate rehabilitation single room occupancy", $1,162,000;

COMMUNITY PLANNING AND DEVELOPMENT

"Community development grants", $46,500,000;

"Community development grants" (by transfer), $775,000;

"Community development grants" (limitation on guaranteed loans), $2,232,000;

"Urban homesteading", $205,000;

POLICY DEVELOPMENT AND RESEARCH

"Research and technology", $325,000;

FAIR HOUSING AND EQUAL OPPORTUNITY

"Fair housing activities", $198,000;

MANAGEMENT AND ADMINISTRATION

"Salaries and expenses", $11,447,000;

"Salaries and expenses" (by transfer, limitation on FHA corporate funds), $6,158,000;

"Office of Inspector General", $481,000;

"Office of Inspector General" (by transfer, limitation on FHA corporate funds), $102,000;

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

"Salaries and expenses", $248,000;

CONSUMER PRODUCT SAFETY COMMISSION

"Salaries and expenses", $553,000;

COURT OF VETERANS APPEALS

"Salaries and expenses", $62,000;

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

"Salaries and expenses", $195,000;

ENVIRONMENTAL PROTECTION AGENCY

"Salaries and expenses", $13,556,000;

"Office of Inspector General", $492,000;

"Research and development", $3,743,000;

"Abatement, control, and compliance", $12,864,000;

"Buildings and facilities", $232,000;

"Hazardous Substance Superfund", $24,412,000;

"Hazardous Substance Superfund" (limitation on administrative expenses), $3,410,000;

"Leaking underground storage tank trust fund", $1,178,000;

"Leaking underground storage tank trust fund" (limitation on administrative expenses), $93,000;

"Construction grants", $31,775,000;

EXECUTIVE OFFICE OF THE PRESIDENT

"Council on Environmental Quality and Office of Environmental Quality", $23,000;

"National Space Council", $15,000;

"Office of Science and Technology Policy", $45,000;

FEDERAL EMERGENCY MANAGEMENT AGENCY

"Disaster relief", $1,550,000;

"Salaries and expenses", $2,209,000;

"Office of Inspector General", $41,000;

"Emergency Management Planning and Assistance", $4,267,000;

"Emergency Food and Shelter Program", $2,077,000;

GENERAL SERVICES ADMINISTRATION

"Consumer Information Center", $21,000;

"Consumer Information Center" (limitation on administrative expenses), $32,000;

DEPARTMENT OF HEALTH AND HUMAN SERVICES

"Office of Consumer Affairs", $29,000;

INTERAGENCY COUNCIL ON THE HOMELESS

"Salaries and expenses", $17,000;

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

"Research and development", $84,174,000;

"Space flight, control and data communications", $71,526,000;

"Construction of facilities", $9,320,000;

"Research and program management", $30,724,000;

"Office of Inspector General", $136,000;

NATIONAL CREDIT UNION ADMINISTRATION

"Central liquidity facility" (limitation on direct loans), $9,300,000;

"Central liquidity facility" (limitation on administrative expenses, corporate funds), $13,000;

NATIONAL INSTITUTE OF BUILDING SCIENCES

"Payment to the National Institute of Building Sciences", $8,000;

NATIONAL SCIENCE FOUNDATION

"Research and related activities", $26,582,000;

"Research and related activities" (program development and management), $1,517,000;

"Academic research facilities", $310,000;

"United States Antarctic program activities", $1,147,000;

"United States Antarctic logistical support activities", $1,271,000;

"Science education activities", $3,255,000;

"Office of Inspector General", $40,000;

NEIGHBORHOOD REINVESTMENT CORPORATION

"Payment to the Neighborhood Reinvestment Corporation", $423,000;

SELECTIVE SERVICE SYSTEM

"Salaries and expenses", $408,000.

In carrying out these reductions, each amount earmarked in this Act and not otherwise specified in this section shall be reduced in proportion to the overall reduction in the applicable account with the exception of the earmarking for personnel compensation and benefits costs carried in the Department of Veterans Affairs "Medical care" appropriating paragraph which shall not be reduced.

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 124: Page 61, after line 2, insert:

SEC. 517. The authority of the Department of Veterans Affairs in section 618 of Public Law 100-440 to operate a leave transfer program for employees subject to section 4108 of title 38, United States Code, is extended through December 31, 1989. The provisions of the final sentence of such section 618 shall apply to transferred leave that is unused as of December 31, 1989.

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 124, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 518. The authority of the Department of Veterans Affairs in section 618 of Public Law 100-440 to operate a leave transfer program for employees subject to section 4108 of title 38, United States Code, is extended through December 31, 1989. The provisions of the final sentence of such section 618 shall apply to transferred leave that is unused as of December 31, 1989.

Mr. GREEN. (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 128: Page 61, after line 2, insert:

SEC. 521. None of the funds appropriated under title II of this Act under the heading entitled Community Planning and Development, Community Development Grants, to any department, agency, or instrumentality of the United States may be obligated or expended to any municipality that fails to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within the jurisdiction of said municipality against any individuals engaged in nonviolent civil rights demonstrations.

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 128, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 519. None of the funds appropriated under title II of this Act under the heading entitled Community Planning and Development, Community Development Grants, to any department, agency, or instrumentality of the United States may be obligated or expended to any municipality that fails to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within the jurisdiction of said municipality against any individuals engaged in nonviolent civil rights demonstrations.

Mr. GREEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions were laid on the table.

PERSONAL EXPLANATION

Mr. BALLENGER. Mr. Speaker, I was not present during House consideration of Senate amendment No. 80 which was considered during debate on H.R. 2916. This amendment contains a provision that the Administrator of EPA award a grant for the construction of a connector sewer line of a town in South Carolina. Had I been present for rollcall vote 311, I would have voted "nay" on the amendment.

DEVELOPMENTS RELATIVE TO NATIONAL EMERGENCY WITH RESPECT TO NICARAGUA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-103)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed.

(For message, see proceedings of the Senate of today, October 25, 1989.)

APOLOGY FROM NATIONAL PUBLIC RADIO

(Mr. TRAXLER asked and was given permission to proceed for 1 minute.)

Mr. TRAXLER. Mr. Speaker, I have in front of me a very warm and delightful letter from the people at National Public Radio. I am most appreciative for their response to my pleas this morning in regard to some misleading news that went on NPR. I am grateful for this letter of explanation, signed by Adam Clayton Powell, Vice President of News and Information.

I accept the apology. All is forgiven. They are still one of my favorite radio networks.

Mr. Speaker, I include the letter for the RECORD, as follows:

NATIONAL PUBLIC RADIO,
Washington, DC, October 25, 1989.

Hon. BOB TRAXLER,
U.S. House of Representatives, Rayburn Office Building, Washington, DC.

DEAR CONGRESSMAN TRAXLER: We agree that the lead-in to the newcast did not provide a proper context for your remarks. NPR did not intend to mislead our listeners or create the impression that you were opposed to aid for California earthquake victims.

On Wednesday morning, at 5:01 a.m., UPI's Audio Service distributed to all their subscribers an audio file which included a 17-second sound bite of Congressman Bob Traxler which NPR aired verbatim. UPI's summary of the bite said: "Congress will be cutting other programs to pay for earthquake aid". We've enclosed a cassette of NPR's story as it was aired this morning.

Our intention is not to embarrass or misrepresent. Each hour we strive to inform our audience using the best information we have available at the time.

Again, NPR is sorry your position was not explained adequately. You have always been a strong supporter of NPR and we hope this morning's broadcast does not jeopardize that support.

Sincerely,

ADAM C. POWELL III,
Vice President, News and Information.

□ 2040

SHEVARDNADZE'S WORDS ON AFGHANISTAN DO NOT REFLECT REALITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. RITTER] is recognized for 5 minutes.

Mr. RITTER. Mr. Speaker, Moscow's recent condemnation of its 1979 invasion of Afghanistan has been greeted with fanfare by many in the West as a step forward—symbolic of the Soviet Union's more open and honest nature. But, Shevardnadze's words demand closer examination.

Scrutinized, Shevardnadze's words appear to be a cunning and seductive attempt to gloss over a war which Soviet officialdom continues to wage more intensely now than ever.

Just this month, the beginning of October, the Soviet Union established a new policy in their war effort. The Soviets reprioritized aircargo space on their military transport planes bound for Kabul: 80 percent weapons and 20 percent food and supplies. Weapons deliveries are now exceeding $400 million per month.

Legions of Soviet "educational" and "cultural" advisers remain in Afghanistan to direct the secret police—and the propaganda and ideological war. State-of-the-art weapons have just been delivered from Moscow to Kabul, including Mig-29 fighter planes, Su-27's, 240 MM mortars, and new types of tactical missiles to complement the already bulging arsenal of deadly SCUD-B's.

So please excuse me, my colleagues, if I say that Shevardnadze's words have somewhat of a hollow and hypocritical ring to them.

If Afghanistan was the most serious violation of the ethical standards of the Soviet Communist Party, as Shevardnadze has stated, why is Soviet officialdom continuing to pump in greater quantities of state-of-the-art weapons and specialized troops to kill Afghans? This while the Soviet Union's own economy is nearly bankrupt and the impoverished Soviet people continue to suffer from food and consumer goods shortages. Visitors familiar with the Soviet Union and Soviet life say they have not seen things so bad for the general population in decades.

My colleagues, it is time for the Soviet leadership to put its money where its mouth is.

At current rates and with continued deliveries of advanced fighter aircraft to Afghanistan, Soviet military aid will top at an estimated $4.3 billion in 1989. Over 4,000 Soviet An-12 and Il-76 transport flights have occurred since February. That would buy a lot of food, consumer goods, cars, trucks, and housing for the Soviet civilian population, Mr. Shevardnadze.

And then there is the tragedy of the little-known human cargo of the Soviet airlift: Thousands of Afghan teenagers and young adults who were systematically kidnaped as children and teenagers, since 1980, are being returned to Afghanistan after 5 to 10 years of training and indoctrination in the Soviet Union. They are now forming a vital part of the Afghan regime's military, security, and ideological infrastructure. Also among the airlift's human cargo have been hundreds of Soviet troops and military advisers disguised as Afghan Army troops who have been firing the deadly SCUD missiles. Some 300 Soviet specialists, according to a recent disclosure, have been piloting planes and providing military advice to the regime. Another disturbing thing about Shevardnadze's comments, the fine print. It conveys some of the hypocrisy masked by Shevardnadze's words. He calls Najib a true hero, the first Afghan to support the Soviet troop pullout. This is not a new Soviet proclamation. Ever since the pullout, an all-out propaganda campaign has been waged by Moscow to broadcast this to its own people and to the Afghan people through Radio Kabul the distorted lie that Najib somehow convinced the Soviets to pull out. It is a slick propaganda trick, a clever attempt to make virtue out of a Soviet military necessity.

What Shevardnadze was really articulating was that Najib was a true Soviet patriot.

But it is important for us in the West to know that Najib and his regime are no more legitimate than the Vichy French Government of World War II, an artificial, illegitimate, and militaristic police state created with violence, propaganda, and indoctrination and kidnaping of a large fraction of a generation of Afghan children.

Mr. Shevardnadze and the Soviets had a clear opportunity to disengage from Afghanistan. United States arms shipments to Afghanistan—a small fraction compared to even the lowest amounts of Soviet aid to Afghanistan—were at a virtual standstill for at least a 6-month period, following the Soviet pullout. Mujahidin fighters had virtually no stinger antiaircraft mis-

siles, and little ammunition for critical battles—at the height of the fighting season. Whether intentional or through neglect, our barebones covert program over at least 6 months afforded the Soviets every opportunity to de-escalate and disengage from Afghanistan—instead they seized the opportunity for a military victory and have engaged in the largest airlift in Soviet history.

Mr. Speaker, the Soviet Union's renunciation of its invasion of Afghanistan is a welcome first step, but until things change, it should be recognized for what it is, a contradiction, an oxymoron, if you will, inconsistent with the most recent Soviet actions in Afghanistan.

As we in the West evaluate the results of glasnost and perestroika, actions must speak louder than words. Mr. Shevardnadze, you cannot have your cake and eat it, too, especially while your people do not even have enough bread.

THE RIGHT TO LIFE "AFTER BIRTH"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. HAYES] is recognized for 5 minutes.

Mr. HAYES of Illinois. Mr. Speaker, today 231 Members of this Chamber voted to override the President's veto of the Labor-HHS appropriations measure. Unfortunately, we were short of the two-thirds majority necessary to accomplish the task.

Today's debate and other recent debates over Federal funding to enable poor women to obtain abortions have produced some rather passionate floor statements. In my judgment, no single issue seems to bring out such eloquent remarks as this one does.

As I have listened to the pleadings of those who would deny poor and low-income women the same opportunities as women of means, under the guise of "right to life" and "human rights", one question seems to reoccur over and over in my mind. Where exactly is their compassion? They claim it is with the unborn child. But, it seems to me, as evidenced by their actions, that the compassion ends at birth. I cannot help but wonder where is their compassion for the right to life "after birth".

Don't these same poor and low-income women and their children deserve a right to live in decent housing? Do they not deserve to be free from hunger and malnutrition? Do they not deserve to have adequate health care? Do they not deserve to be free from poverty? Of course the answer to these questions is "yes." Unfortunately, for many Members in this body, it seems the right to life only extends to the moment of birth and no further.

It is pretty clear from the votes cast in this body that the compassion for decent housing, the compassion for adequate health care, the compassion for a decent wage, does not extend to those same children and their families.

Passion reigns when we talk about bringing children into this world, but when it comes to supporting a minimum wage to help their parents afford to purchase food for those same kids, the passion wanes. When we talk about spending billions of dollars on producing a bomber or nuclear missile, all kinds of excuses can be found for appropriating the money. Yet, when we talk about keeping children in school, the budget deficit is used to deny funding for dropout prevention programs.

It is simply beyond my understanding how some Members of this body can stand in these chambers and say to poor women, sorry, you must bear a child conceived by rape or by incest. And, if you already have children who attend school and who receive reduced price lunches, they will have to pay more. Why? Because we have a monumental budget deficit and everybody has to help reduce it. Oh, and by the way, if you are fortunate enough to have a job at the minimum wage, be happy with what you already earn because we can't afford to increase it to a decent level. Why? Because we have a monumental budget deficit and everybody has to help reduce it.

Yes, I said everybody, including the wealthy. They will do their share as well. Why you ask? Because their capital gains tax will be reduced so they can take that extra money and invest it in industries to provide jobs for all you poor people. Somehow, to this Member, all these cuts and increases only add up to putting poor people deeper in the hole. When you step back and look at the situation, the poor people in this great country of wealth, are literally being short-changed to death.

As one of our colleagues said recently on the floor, "Since World War II, America has given $600 billion away in foreign aid with nothing to show for it except Marcos and Baby Doc." Meanwhile, here at home, the rich get richer and the poor get poorer.

I am sure many of you have seen the recent Census Bureau report that indicated that while the wealthiest families in America increased their wealth, 31 million Americans remain in poverty. Thirty-one million Americans who in many cases will never enjoy the American dream. Thirty-one million Americans who, even in poverty, must pay to reduce our budget deficit.

I ask again, where is the compassion for these people? As the Census report indicated, as long as Government income-support programs are cut and wages do not increase, these people are essentially denied a decent right to life "after birth" in America.

It is past time to reprioritize Federal Government spending allocations. Using our hard earned tax dollars in foreign countries while 31 million of our own people, our own constituents, continue to live out their lives in poverty simply does not make sense. Giving a tax break to the wealthiest individuals in this country while cutting benefits for poor people simply does not make sense. Denying Federal funds to poor women for abortions while making available more money to wealthy women to do the same, if they so choose, simply does not make sense.

In closing let me just say, I think it is past time to start showing concern for the right to life "after birth." It is time that we bring some compassion and concern for the very same poor and low-income women and children that have been the subjects of the right-to-life debates. I stand ready to meet that goal and challenge my colleagues to do likewise.

□ 2050

THE AIRLINE PASSENGER BILL OF RIGHTS

The SPEAKER pro tempore (Mr. LEHMAN of California). Under a previous order of the House, the gentleman from California [Mr. STARK], is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, after 18 years of traveling between Washington and my district, I am convinced that something should be done about the unpredictability and unreliability of airline travel. That's why today, I'm introducing the "Airline Passenger Bill of Rights."

In spite of marked improvement in handling delays, mishandled or lost baggage, and on-time performance over the past year, over 20 percent of all scheduled flights still do not land on time. In August alone, there were 227 regularly scheduled flights that arrived late 80 percent of the time or more. Between January and August of this year, there were 317,033 complaints of lost or mishandled baggage. And, during this same time, over 180,000 passengers were denied boarding. Airlines just aren't providing the service that they're capable of and my legislation is designed to push them in the right direction.

My bill includes provisions which address all aspects of airline travel that raise the blood pressure of the traveling public. This includes delays, cancellations, lost luggage, fares, and frequent flyer programs.

Provisions of the bill include the following:

An airline cannot cancel a flight within 72 hours for any reason other than safety.

An airline which cancels a flight must compensate the passenger in the same manner as if the passenger were involuntarily bumped—up to $200 if the passenger arrives at his destination using another flight, up to $400 if the passenger arrives at his destination more than 2 hours late.

If a flight is to be delayed, the airline must inform passengers of the delay and the reasons for it before they board.

The Department of Transportation must establish a toll-free number to receive and handle passenger complaints and a separate number which consumers can call for airline information relating to comparative air service, flight delays, mishandled baggage, and overbooking.

All air carriers must establish toll-free number systems to receive and handle passenger complaints.

An airline must disclose the lowest fare available for any particular flight.

Air carriers must notify passengers about fares of limited availability, fares to which restrictions apply, and fares which are limited to a certain number of seats on a flight.

No airline or travel agent may sell a ticket unless they notify the consumer of the lowest fare available from that airline for that flight, the time and expiration date of that ticket, and the toll-free numbers at the DOT and the carriers for complaints and information.

Consumers may purchase a ticket that does not include the cost of in-flight meals.

Any airline which offers a frequent flyer program must state any limitations or restrictions on qualifying for or redeeming benefits.

Airlines which offer frequent flyer programs must provide written notification to the participants of any change in the program.

No smoking on scheduled flights regardless of the duration of that flight.

Although the Steven Martin movie "Planes, Trains, and Automobiles" may be far-fetched to some; to others it smacks of the truth. If what I overhear in airline terminals is any indication, I think that the traveling public would welcome any reregulation which would improve the quality of service. My legislation is intended to accomplish this.

PERSONAL EXPLANATION

The SPEAKER pro tempore (Mr. LEHMAN of California). Under a previous order of the House, the gentleman from Florida [Mr. LEHMAN] is recognized for 5 minutes.

Mr. LEHMAN of Florida. Mr. Speaker, last week my wife had elective back surgery, and although she is now doing quite well, I needed to be there with her. I would like to take this opportunity to explain how I would have voted had I been here.

On October 17, 1989, I would have voted in favor of the conference report on H.R. 2989, the Treasury, Postal Appropriations bill for 1990. On October 18, 1989, I would have voted against the Frenzel motion to instruct conferees on H.R. 3299, the Budget Reconciliation bill. I would have voted in favor of H.R. 2494, International Development and Finance Act of 1989. Finally, on October 19, 1989, I would have voted in favor of H.R. 3402, Polish and Hungarian Democracy Initiative of 1989. On this same day, I would have voted against the Kaptur substitute to the Grandy amendment to H.R. 3402.

ABORTION

The SPEAKER pro tempore (Mr. LEHMAN of California). Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, I just received one of the most peculiar calls I have ever had in my 12-year time span serving in this Congress. Right before I was to get up and speak on the floor one of the best reporters around these hill parts, Mr. Alan Hunt of the Wall Street Journal, called me from a banquet and said that the television coverage of the floor proceedings that we have allowed by free voting process here since 1979 are going to televise a banquet tonight sponsored by spina bifida, which is a terrible childhood birth defect.

I told Al that I was doing a 1-hour special order on abortion. We know that a lot of mothers-to-be, if they get an amniocentesis test that shows their child might have this birth defect, spina bifida, kill the child in the womb. I said I would try to help and cut my 1 hour short by doing some of it tomorrow night.

Tomorrow night we may adjourn fairly early, 3:30 or 4 o'clock in the afternoon. Mr. Speaker, as you know, we are all hoping for that. So I could give most of my special order on this tragic subject for America at an earlier hour.

I have since been informed, because I recall I was invited to this, that it is a roast, a good-natured roast of one of the best reporters around, Bob Novak, one of my fellow conferees from the Capitol Hill gang and the Crossfire show on CNN, and I would not want to stand in the way of a good roast for a charity such as spina bifida.

I told Al Hunt that although they wanted to go on the air at 8, I would cut this short a little bit, and I would try to do in 8 minutes what I was going to do in an hour, and then they can go on with their roast shortly after 9 o'clock east coast time. That way they will just about be finishing up that at their dinner.

I want to accommodate them, but this is the most serious subject I have ever discussed on the House floor.

I announced I was going to take this special order tonight at the beginning of my remarks during the abortion debate today on Health and Human Services, the $157 billion appropriation bill.

I said that as a loyal practicing, not a holier-than-thou, but a devout Catholic, that is for other judgments in eternity and not by other people here, not for me to say, but practicing is not a holy word, loyal is not a holy word, that I am, and I said I was going to discuss the Catholics in this Chamber, without mentioning names, that want to have it both ways, that want to proudly proclaim they are a Catholic, it is in their biographies. But ask for a Catholic loyal vote, like all loyal ethnic groups hope their group will vote for them if they are coming to this Chamber, and then turn around and vote against Mother Teresa, the Pope, every one of the 352 active American bishops in this country, the 92 retired bishops, the 10 cardinals who never retire, only death takes them off the line as a soldier for Christ, and then the hundreds and hundreds, the thousands of Catholic bishops around the world. Some Catholics in this House say:

I know more than Mother Teresa on this. I know more than the Pope and all the shepherds of the various flocks. I know more than my bishop or archbishop, my own parish priests, or the nuns that taught me. I know about this issue.

Mr. Speaker, I quoted Mother Teresa on the floor today. I would like to quote her again. This is the 1979 Nobel Prize winner for peace.

Mother Teresa said, "The greatest threat to peace is abortion."

The Pope said, "When God gives life, he gives it forever."

That means if we are dealing with life in the womb, and I believe that is still a majority belief in this chamber, some just believe in rape and incest, they are willing to tolerate the killing of the innocent human life because that life was started in an act of cruel violence, a rape or an incest, but if there is life in that womb, it is eternal life.

The Holy Father is obviously correct. That is the very basis of every Christian faith, it is the basis of the Jewish faith, it is the basis of the Islamic faith, that when God gives life, he gives it forever.

Another time the Holy Father said, "Barbarity and cruelty are the right names." He was speaking of abortion.

A lot of Catholic Members in this House can say, "Well, he may be right. It is barbaric and cruel. But I am going to vote for it. I am going to vote to allow it and vote for Federal funds for it."

That is two different steps in the wrong direction. The Pope says in Bethlehem the Mothers tried desperately to defend their children.

In abortion it is the mothers themselves who are transformed into Herod's cutthroats. They conceive their child and then accuse it of being their unjust oppressor and suppress it.

□ 2100

That was Pope John Paul I who God took after only 33 days as the Vicar of Christ on Earth.

Back to John Paul II, I cannot conceive of a more powerful statement than this:

Every single abortion is an incalculable blow to the moral order ordained by Almighty God. It is God who creates individual human beings in his image and likeness and we humans take part only as procreators. For this reason human life in the deepest sense belongs to God. The child is that delicate spot around which the morality of families and hence the morality of whole nations and of society is either formed or broken.

He said that 2 months after he celebrated mass out here on the Mall in

front of the old red fort, the Smithsonian headquarters.

I can still hear that Polish accent ringing across that beautiful mall out there at sunset, "Stand up for life."

Again the Pope said:

The number of lives suppressed in the mother's womb has reached frightful heights. It is a silent massacre which cannot leave us indifferent. Concern for the child even before birth from the first moment of conception and then throughout the years of infancy and youth is the primary and fundamental test of the relationship of one human being to another.

Let me repeat that last line:

It is the primary and fundamental test of a relationship of one human being to another.

Our President, George Bush, was heroic in this veto because even though he believes an exception can be made for the life of the mother, rape and incest, he knows that there are those of us who worked hard for him, who support him, who believe that this primary fundamental test of our relationship with one another is being destroyed by 1,600,000 abortions a year.

Matthew in the Scriptures says, "Whatever you do to the least of my bretheren you do it to me." That means the homeless, the retarded, the spina bifida baby, but it also means that baby in the womb.

Mother Teresa said, "It is a very great poverty indeed to decide that a child must die so that you might live as you wish." She calls that poverty, for the richest of people.

So all the speeches today saying the poor should be allowed to get an abortion and have us pay for it with Federal dollars, we are intensifying their poverty. And the Catholics in this House defecting, 40 to 45 of them, almost starting to equal the number of Catholics that understand those words, it is getting to be a disgrace in this House.

Mother Teresa said, "The nations that have legalized abortions are the poorest nations on the Earth." That is us. She considers us as every bit as impoverished as the alleys of Calcutta where she has served until finally the world noticed. Some of us believe she has served so well that she is literally a walking saint.

She said the greatest destroyer of peace today is the crime against the innocent unborn child. The aborted babies are the ones most in need of all our help. They are the most deserving of our charity.

A final quote from Pope John Paul II. I cannot believe Catholics in this House think they know more about this issue than Christ's vicar on Earth.

"During your earthly life, this spiritually adopted baby," he is asking us to spiritually adopt babies who are being aborted, "who is in danger of abortion, murder, will be known only to God but in the world to come and throughout all eternity you and that child will find happiness in each other's company." He is asking not just Catholics but every Christian, every man of good faith to adopt spiritually some little baby that at this moment is being killed by a saline salt injection, being crushed, its head being crushed by a special instrument by these abortionist doctors. This is what these religious leaders are telling us.

Here is an article, and it does name names, I am not going to do it but I have got to get the article in and it does. It is from a magazine called Crisis, a Christian magazine, a Catholic Christian publication. This is the December issue of last year. I have only had a chance to read it in the last few days. it is tragic. And now it is compounded by the Congress that was sworn in a month after this article came out.

It says: "Pro-abortion Catholics in Congress. Look who is helping to promote abortion on demand."

I will read just the opening paragraph by David Shaneyfelt: "One reason abortion on demand continues to be routine practice in the United States exacting the toll of way more than 1 million lives a year is that self-proclaimed Catholics in the U.S. Congress continue to promote abortion. They restrict efforts to prohibit abortion. They oppose even parental notification laws for teenagers seeking to have abortions. They bottle up pro-life initiatives in committee. They vote for taxpayer funding of abortion. They even seek to export abortion abroad. In other words, Catholics have themselves to blame in large part for the current tragedy of abortion. To paraphrase from Pogo," the great little philosophical character of the late Walt Kelly, "we have met the enemy and he is us."

Catholic politicians give various reasons why they vote for abortion. I heard 10 different reasons from friends of mine in the House here, straight off the reservation. You would not believe some of the logic. Some of it is heartfelt, some of it is absolutely asinine. Commonly, they are personally opposed. That is the most hypocritical thing I have heard in all my years around this place, that "I personally oppose, I believe it is an immortal soul, I believe it is a human being, baby and everything, but you know, I can't force my will on the voters, so I have to vote for that killing and I have to vote to fund it too."

Now, in the case of the Governor of New York, Governor Cuomo, do not get in the way of his objection to capital punishment.

Mr. Speaker, I will wrap this up by saying that tomorrow I want to discuss the abortionists. This front-page story from the Health section of the Washington Post says, "Is Greed Eroding Medical Care? Doctors and Money."

There are no doctors on the planet more greedy that abortionists, those who specialize in nothing but tearing out, smashing inside the womb, saline injecting up these little infants and their mothers and they roll over as fast as they can. That is something we should be advised today, that people in this House, all of us, including those Catholics who are voting for abortion, they are voting to give money not to poor people, they are voting to give money to abortionists. I am going to quote that article tomorrow.

I want to discuss "Where is the choice of us who believe that this is murder and don't want our tax dollars to go to that"; I want to talk to my black brothers and sisters in this House. Whoa, you get on eggshells when you start talking like that, do you not? But I believe that since 85 percent of the ministers who are black in this country are prolife, that we have an elitist problem in this House, my friends.

I want to talk about demographic control creeping in the Republican Party, making rapid gains, that the "only way to control them is to allow abortion." What is "them"? Is it Cuban-Americans in Florida? Is it Puerto Rican-Americans in New York, is it Spanish-Americans in California, is it black Americans everywhere? What is "them"? "Them" always changes.

When my parents got here, "them" in New England, Boston, Philadelphia, that was the Irish Americans, "them."

Now I want to discuss Nat Hentoff's article. I will put that in the RECORD.

I will close with this: The only words inscribed on any of the walls in this Congress, Mr. Speaker, are right above your head. It is the words of the great Daniel Webster, born in New Hampshire, claimed as a native son there. They have a statue in Statuary Hall. But he served in Boston, the cradle of liberty, in Massachusetts. Then he came here.

He was a towering figure. Compromised once in his life on slavery and undoubtedly, as historians say, it cost him the Presidency. But his words are above your head, Mr. Speaker.

Except for those words, "In God we trust," up there as the motto of our country, up there is a gold flag that says after an ellipsis, three dots, it says, "Let us develop the resources of our land, call forth its powers, build up its institutions, promote all its great interests and see whether we also in our day and generation may not perform something worthy to be remembered." Daniel Webster.

It is that final line, his payoff line, "whether we in our day and generation," and that applies to us as well as to his generation and those in be-

tween, "may not perform something worthy to be remembered."

Is it worthy to be remembered for funding the destruction of our youngest Americans in the wombs of their mothers?

This article that I will put in its entirety so that it will be in the RECORD today and then I will read parts of it tomorrow, by Tom Bethell which just came out in the National Review, which is dated ahead 2 weeks, November 10, 1989, and came out yesterday. Tom Bethell writes in a little tour about the Golden State of California, my State, he quotes a doctor out there, Dr. Edward Allred, who gave to Reagan and always gave to my opponents. I never understood that. He gave tens of thousands to Reagan in election after election, as Governor and in the two Presidential races. And then he put thousands against me. His name is Dr. Allred. He is an abortionist, California's leading abortionist.

□ 2110

Listen to these words, and imagine if a conservative, anyone on the right, said these foul words. Here is Dr. Allred, one of the greedy abortionist doctors, just raking in the dollars, out of this human misery. He said, "When a sullen black woman of 17 or 18 can decide to have a baby and get welfare and food stamps and become a burden to us all, it's time to stop. In parts of South Los Angeles, having babies for welfare is the only industry the people have. Population control is too important to be stopped by some right-wing, pro-life types. Take the influx of Hispanic immigrants. Their lack of respect for democracy and social order is frightening. I hope I can do something to stem that tide. I'd set up a clinic in Mexico for free if I could."

Well, Mr. Speaker, I will be back tomorrow night to discuss some of the things in depth, but I ask to put the "Pro-abortion Catholics in Congress," into the RECORD. I close by saying, my wife has some feelings and quotes of her own, as the husbands of our lady Members here and our wives sometimes like to feel that their words get out on the House floor, so I will save some of my wife's more fascinating observations like a "Geraldo Rivera" show she watched, with four mothers up there with daughters and sons, all of them victims of rape. They all had their children, and one of them turned out to be a friend of mine whom I met, the wife of our head of immigration in this country.

Mr. Speaker, I wish the roast well. I wish my friend Bob Novak a lot of good laughs as his colleagues tear into him with a stiletto, but all in good-natured causes, to raise money for children who are not perfect. Who is perfect, except the Son of God? Whoever walked on this planet so perfect? And for the spina bifida babies, I am very happy because I have many friends who have worked on that cause, and I have gone through hospital wards with friends of mine from California to see the infants. Under the mentality that tried to prevail in this House the last few months, we would not have spina bifida to be cured or cause to help them and nurture them. They would just all be killed in a womb. I went a little bit longer than I thought, but I am turning it over to the gentleman only 15 minutes into my special order, and I will pick up tomorrow where I left off here. Have a good roast to Mr. Novak.

The articles to which were referred to earlier, are as follows:

PRO-ABORTION CATHOLICS IN CONGRESS—LOOK WHO'S HELPING TO PROMOTE ABORTION ON DEMAND

(By David Shaneyfelt)

One reason abortion on demand continues to be routine practice in the United States, exacting a toll of more than a million lives a year, is that self-proclaimed Catholics in the U.S. Congress continue to promote abortion. They restrict efforts to prohibit abortions, they oppose parental notification laws for teenagers seeking to have abortions, they bottle up pro-life initiatives in committee, they vote for taxpayer funding of abortion, and they even seek to export abortion abroad.

In other words, Catholics have themselves to blame, in large part, for the current tragedy of abortion. To paraphrase from Pogo, we have met the enemy and he is us.

Catholic politicians give various reasons why they vote for abortion. Commonly they say they are "personally opposed" to abortion but think it should be legal. The oddity of this view is that it does not grapple with its own implications. Why is one personally opposed to abortion? Is it not because it is unjustified killing? If so, how can one permit legalized homicide?

If logical reasons are unconvincing, perhaps historical reasons can be given for Catholic votes for abortion. Perhaps congressmen and senators are visceral Democrats who go with their party on issues rather than break ranks. It is certainly true that the vast majority of pro-abortion Catholics, in both the House and Senate are Democrats. Nevertheless a sizeable segment of Catholic Democrats in the House vote pro-life, and many of the pro-abortion Catholic Democrats have found the strength to oppose their party on other issues, from the tax cuts of 1981 to free trade to arms control.

Justifications aside, it remains a fact—and a very uncomfortable one—that a number of Catholics in Congress have backed the legalization, legitimation, and subsidy of abortion on demand.

In many cases these politicians continue to describe themselves as Catholics, to identify with Catholic or ethnic persona for the purpose of winning votes; to belong to Catholic organizations and fraternities; to seek and win awards, honorary degrees, and honoraria from Catholic educational institutions; to court and recieve the blessings of the hierarchy. It is clear that there is something glaringly contradictory and hypocritical about this. It is also clear what the Church, or the Catholic community, can do about it.

Before considering solutions, however, we should be clear about the problem. According to the Congressional Yellow Book, of the 432 voting members of the U.S. House of Representatives, 121 are Catholic. That's a large number, 28 percent, the most numerous of any religious block. Nearly a third of all women in the house, 7 out of 23 are Catholics. Four out of 23 blacks are Catholic. Reflecting their traditional roots, 81 of the Catholics in the House are Democrats, compared to only 40 Republicans.

Catholics are much less represented in the Senate, where they comprise only 19 of the 100 members. Thirteen of the Catholic Senators are Democrats, only six are Republicans. Thus whether in the House or the Senate, Catholics in Congress are twice as likely to be Democrats as Republican.

In calculating the positions of congressmen on abortion, this study examines recorded votes on both procedural and substantive issues. As the National Right to Life Committee (NRLC) rightly notes, "A congressman's true position on abortion is most clearly demonstrated by his votes on crucial 'procedural' motions" because such votes often determine the outcome on substantive issues.

The following issues were used to assemble voting profiles for Catholics in the House:

Funding abortions for federal employees.

Restricting the Medicaid funding for abortion.

Neutralizing the proposed Equal Rights Amendments with respect to abortion.

Creating reporting procedures for denying care to handicapped infants (the Baby Doe Amendment).

Voting to condemn China's coercive abortion policy and eliminating funds for United Nations Fund for Population Activities.

Denying funds to overseas organizations which perform or encourage abortion as a method of family planning (the so-called Mexico City policy).

Prohibiting the Legal Services Corporation from using funds to engage in abortion litigation.

Prohibiting the Bureau of Prisons from funding abortion of inmates.

Prohibiting the District of Columbia government from paying for abortions.

A similar set of votes is used to compute Senate records. Because of the wide variety of isssues raised in the context of abortion, it might be expected that Catholic congressmen and senators vote inconsistently. Actually, this is not the case. More than 85 percent of Catholics in Congress vote straight pro-life or pro-abortion. (Even on so-called "procedural" matters the lines appear clearly drawn, and the stakes clearly recognized.)

With recently elected officials only one vote was used to compute their pro-life or pro-abortion stance: whether they supported, or opposed, the use of government money to pay for abortions in the nation's capital.

Even with congressmen with mixed records, a strong tilt either in the pro-abortion camp is easily evident. These representatives and senators have been classified as "predominantly pro-life" or "predominantly pro-abortion."

Perhaps the most striking fact to observe from the data is that 41 percent of Catholics in Congress vote pro-abortion. There is a pro-life majority overall in the House; there 75 Catholics vote pro-life and 46 Catholics vote pro-abortion. In the Senate, which is more pro-abortion overall, only

four Catholics vote pro-life and 10 Catholics vote pro-abortion.

A second notable observation from the data is that party affiliation turns out to be the most reliable index of voting behavior on the abortion issue. Of 40 Catholic Republicans, 35 have perfect or near-perfect pro-life records, one is predominantly pro-life, and four are pro-abortion. Among 81 Catholic Democrats in the House, only 31 are solidly pro-life, eight are predominantly pro-life, nine are predominantly pro-abortion, and 33 are solidly pro-abortion.

Put differently, 88 percent of Catholic Republicans in the House are staunchly pro-life, whereas only 33 percent of their Democratic counterparts are the same. By factoring in those representatives who are "predominantly" pro-life or pro-abortion, the figures show that 52 percent of Catholic Democrats are pro-abortion, compared with only one in 10 Republican Roman Catholics.

The partisan contrast is even greater in the Senate. Of the 19 Catholic senators, all six Republicans vote consistently pro-life. On the Democratic side, 10 of 13 senators vote consistently pro-abortion.

What this adds up to are 56 Catholic legislators (46 House, 10 Senate; 52 Democrats, 4 Republicans) who always or nearly always vote in favor of expanding abortion rights. Many of them do so while continuing to parade their Catholic identification. A large number of them hail from Catholic districts and are elected with predominantly Catholic votes.

That this is anomalous becomes evident when one considers that there are very few issues in public life where the Catholic position is unequivocal. Whatever Church teaching on the just war, the public official who votes to increase defense spending and his opponent who votes to reduce it can both make a case that their views are congruent with Catholic principles. The same is true with social programs to help the poor, with national health insurance, with the death penalty, with strategic defense.

But there is not a multiplicity of Catholic positions on abortion. On no other public policy issue does the Church speak with greater clarity. Perhaps no other issue is more identified with a "Catholic position." No wonder that national organizations which militate for abortion declare themselves in fierce opposition to the Catholic Church.

Catholics in Congress who care about being Catholic should carefully reconsider their pro-abortion position. The Church hierarchy should take a pro-abortion position into account when dealing with a congressman or senator, even if he or she is Catholic—perhaps especially if he or she is Catholic. The same is true of Catholic schools and organizations. Already the Knights of Columbus has a policy of prohibiting public officials who vote for abortion from speaking at their national gatherings.

Nevertheless, it must be said that Catholics in Congress who vote pro-abortion do so with relative impunity, at least insofar as their church or the Catholic community is concerned. The notoriously pro-abortion senators Kennedy and Dodd, for instance, continue to belong to the Knights of Columbus. Other Catholics who vote against the pro-life position are invited to speak at their Catholic alma maters. Some are given positions of honor in their local parish. Certainly there is no concerted effort on the part of Catholics or their church to put sharp distance between them and these pro-abortion congressmen.

Perhaps this will change when more people recognize that the country is on the verge of a reconsideration of this vital issue, and Catholics in Congress could make the difference. (On the level of the Supreme Court, the most vociferous pro-abortion vote, Brennan, is a Catholic. Perhaps the most predictable negative vote, Scalia, is also Catholic. So is the most likely swing vote, Anthony Kennedy.)

If Catholic Congressmen vote consistently pro-life, that would create a huge pro-life majority in the House. This would help eliminate congressional inaction on crucial abortion votes. It would give new life to proposed Constitutional amendments to overturn the Supreme Court's legalization of abortion—amendments which have died without action in the Democratically controlled Judiciary Committee. A "discharge petition" could get the bill out of committee, even over the objections of a notorious pro-abortion committee chairman, through the signature of 218 members. Thereafter the amendment would require a two-thirds majority—about 290 votes—which becomes nearly feasible with Catholic support.

In the Senate, Catholics have been swing votes on several pro-life defeats, aside from their unsuccessful attempts to prevent other pro-life victories. For three straight years Catholics provided swing votes to kill bills prohibiting the District of Columbia government from paying for abortions. (Over these Catholics' votes last October, the District was prohibited from paying for abortions in the next fiscal year.) Catholic Senators could help to prevent this permanently. Catholic Senators could also have made the difference in confirming Judge Robert Bork to the Supreme Court. They did not, and a spokesman for the National Abortion Rights Action League declared, "The defeat of Bork was the single most important victory for prochoice forces during the 1980s."

CATHOLIC CONGRESSMEN WHO VOTE PRO-ABORTION

California: George Miller (D), Tony Coelho (D), Leon E. Panetta (D), Edward Roybal (D), Matt Martinez (D), Douglas Bosco (D), Nancy Pelosi (D).
Connecticut: Barbara Kennelly (D).
Florida: Daniel A. Mica (D).
Illinois: Lane Evans (D), Richard Durbin (D), Lynn M. Martin (R).
Indiana: Peter Visclosky (D), Andrew Jacobs, Jr. (D).
Iowa: David Nagle (R).
Maine: Joseph Brennan (D).
Maryland: Tom McMillen (D), Connie Morella (R).
Massachusetts: Edward Markey (D), Joseph Kennedy (D).
Michigan: John D. Dingell (D).
Minnesota: Bruce F. Vento (D).
Missouri: Bill Clay (D).
Montana: Patrick Williams (D).
New Jersey: James J. Florio (D), Bernard Dwyer (D), Peter Rodino (D), Frank Guarini (D).
New Mexico: Bill Richardson (D).
New York; Charles Rangel (D), Mario Biaggi (D), Mathew McHugh (D), Sherwood Boehlert (R).
Ohio; Marcy Kaptur (D), Dennis Eckart (D), James Traficant (D), Ed Feighan (D).
Oregon: Peter DeFazio (D).
Pennsylvania: Thomas Foglietta (D), Doug Walgren (D).
Rhode Island: Claudine Schneider (R).
Texas: Mickey Leland (D), Henry Gonzalez (D), Albert Bustamante (D).
Washington: Tom Foley (D).
Wisconsin: David Obey (D).

CATHOLIC SENATORS WHO VOTE PRO-ABORTION

Connecticut: Christopher Dodd (D).
Delaware: Joseph R. Biden (D).
Iowa: Tom Harkin (D).
Maine: George Mitchell (D).
Maryland: Barbara Mikulski (D).
Massachusetts: John F. Kerry (D), Edward Kennedy (D).
New York: Daniel P. Moynihan (D).
South Dakota: Thomas Daschle (D).
Vermont: Patrick J. Leahy (D).

CONGRESSIONAL REFORM

The SPEAKER pro tempore (Mr. LEHMAN of California). Under a previous order of the House, the gentleman from New York [Mr. WALSH] is recognized for 60 minutes.

Mr. WALSH. Mr. Speaker, I appreciate the opportunity to present another installment on the Republican policy committee special order on congressional reform. We have continued this process for the past several weeks and months, and it gives Members an opportunity to think and point out some of the errors of the ways of Congress in this session and in previous sessions.

Tonight's topic is the problems that we perceive between the authorizing committees and the Committee on Appropriations. We have titled it a "Nation of Men Not Laws." Countless Federal obligations and programs, both big and small, are kept alive through the annual appropriations process. Instead, these programs should be reauthorized on a timely basis by the proper authorizing committees. Some of the examples include the Clean Air Act, Federal Trade Commission, and the Consumer Product Safety Commission.

If I could, just allow me to present a number of terms in a glossarylike format, and give some explanation.

An authorizing committee is a standing committee of the House with legislative jurisdiction over the subject matter of those laws, or parts of laws, that set up or continue the legal operations of Federal programs or agencies. That is an authorizing committee.

Authorizing legislation is substantive legislation enacted by Congress that sets up or continues the legal operation of a Federal program or agency, either indefinitely or for a specific period of time, or sanction a particular type of obligation or expenditure within a program.

An oversight committee is a congressional committee or standing committee that has responsibility for operation of an agency or program. In most cases, but not all, the oversight committee for an agency is also the authorizing committee for that agency's programs.

Spending committees, the standing committees of the House with jurisdiction over legislation that permits the allocation of funds. For most programs, that is the House Committee on Appropriations or the spending committees.

Now, if I could, I would like to restate the words of our distinguished minority leader, the gentleman from Illinois [Mr. MICHEL], in a statement that he made to address this specific congressional reform topic. Mr. MICHEL has been here for many, many years. He has a very clear view of the Congress' recent distant past, and I think his words are very, very apt.

Authorization bills are the backbone of the legislative process. They provide the legal framework for most major Federal programs and activities. They set out the parameters for those programs and should make clear how the programs are to operate.

Most authorizations are not indefinite but expire after a certain period of time. This is designed to force congressional oversight and review of the programs, and to force Congress to make an active decision on whether a program should be extended, and if so, whether any changes should be made to enable it to operate more effectively.

When the committees fail to move reauthorizing legislation, they abdicate their oversight responsibility and give up the opportunity to make necessary changes in the operating structure of the programs.

A classic example is the HUD scandals which have recently come to light. For 7 years, from 1980 to 1987, we had no housing authorization bill. We did not have the proper congressional oversight or restructuring of the programs that might have headed off the abuses.

Now, after the fact, every committee and its brother wants to jump into the picture and express horror over what transpired. But that is no substitute for proper oversight during the time these things took place. The managers of HUD certainly must assume responsibility for what happened. But one can also make the case that because Congress took no action on reauthorizing legislation for such a long period of time, the HUD managers developed an attitude that they had carte blanche to do whatever they wanted.

The failure of Congress to act on reauthorizing legislation is graphically illustrated by the dollar level of appropriations that have gone unauthorized. Last year, for the current fiscal year, Congress appropriated some $23 billion in programs that were unauthorized. In fiscal year 1988, the previous year, a total of over $44 billion was appropriated without the necessary authorization. In fiscal 1987, the total was $33 billion.

Indeed, today, this very legislative day we took up an appropriations bill in which authorization was not granted for 41 projects, and yet those 41 projects were voted on and accepted by this House.

When the House initially considered appropriations bills in those years, the amount of unauthorized funds was many billions higher. A number of programs are authorized after we vote on the appropriations. It is against House rules to appropriate funds for unauthorized programs, but we waive such violations of the rules because if we do not do so, a good chunk of the Government would end up unfunded.

It is a disgrace to have to waive House rules because the authorizing committees are not doing their job.

This is just one of the problems we have been witnessing this year, that continues unabated. I am just in my first year of this first session and have witnessed it time and time again.

One of my colleagues, the gentleman from Missouri [Mr. BUECHNER] has been here a little bit longer, and he would like to make comments on this particular reform issue.

Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. BUECHNER].

Mr. BUECHNER. Mr. Speaker, today I rise to address the House on what I believe to be the greatest flaw in the way the majority party governs in Congress. For years, Congress has created numerous programs intended to address our Nation's problems. Proposals are offered, options are debated, and programs are ultimately created. Unfortunately, once created, these programs take on a life of their own—never receiving timely or proper review by Congress. This lack of review is not an oversight by the congressional committees. Rather, it's quite intentional.

Each year, Congress is supposed to reauthorize previously approved programs—deciding which are necessary and ending those which are outmoded or ineffective. Unfortunately, this process seldom occurs. The reason: reauthorization threatens the groups which benefit from the current structure of programs. Thus, when Federal programs are reauthorized, the debate rarely focuses on the effectiveness of a program. Instead, the debate centers on how to expand benefits and increase funding. In those rare instances when the merits of a program are questioned, the response is usually a shrill cry of indignation. Worthiness and merit are then pushed aside, and the program is reauthorized—usually at a higher level of funding.

Since the Depression, only a few Federal programs have been terminated: The Civil Aeronautics Board, the Community Services Agency, the National Recovery Act, revenue sharing, and urban development action grants. Virtually every other program survives in one form or another. How do Government programs perpetuate themselves and continue long after they have outlived their usefulness? It's quite simple—benefits are focused while costs are diffuse.

Every program attracts a constituency with a vested interest in preserving benefits. Although the beneficiaries can be readily identified, the taxpayer does not know his tax dollars are supporting numerous needless special-interest programs. The diffuse costs of these programs make it quite hard to form political opposition to special-interest spending. There is no one to speak out on behalf of the taxpayer, yet there are many to speak out in favor of Government spending.

This built-in constituency isn't the only group ready to protect a Government program. The majority party also has an interest in expanding programs. They gain power and control over the private sector through Government programs. In fact, it appears that majority party politicians cannot survive without expanding the welfare state and increasing program benefits. The structure of the majority party in Congress is based on creating programs and expanding benefits to special-interest groups. Finally, the bureaucrats hired to administer these programs have an interest in the process—namely their own jobs. The mix of Congress, bureaucrats, and special-interest groups from the so-called "Iron Triangle." All serve to perpetuate the permanent Government.

How does the iron triangle relate to the authorization process in Congress? Government decisions are political—organized groups receive protection and secure benefits for their members. These groups, once securing Government protection and funding, have the most to lose if a program is changed. Therefore, these groups stand in the way of the reauthorization and review of their benefits. Politicians, not wanting to offend a group of organized voters, will also oppose change. Good public policy practice is subjugated by political considerations and the authorization process ceases to work.

There are numerous examples of this process at work. One is the Tennessee Valley Authority [TVA]. Created in the 1930's to supply the South Central United States with electricity, the need for the TVA today is questionable at best. No one would argue that the Tennessee River Valley is a poor rural backwater in need of cheap electricity. Such power could be provided by a private entity rather than the Federal Government. Yet, to argue that TVA should be sold to private utility interests brings a storm of outrage and indignation. TVA has become a sacred cow—a program that manages to perpetuate itself even though it has long outlived its usefulness.

The "permanent government" will change only when Congress is forced to control spending. The discipline to force Congress into facing up to this problem will come only when the revenue to support unnecessary and unworkable programs is cut off. President Bush's no new tax pledge stands as the greatest roadblock to the permanent Government crowd. Reform of the budget process, which includes a line-item veto, enhanced rescission authority, and a balanced-budget amend-

ment will also help rein in Federal spending. By slowing the growth of funds to the Federal Government, Congress will have to review the need for each Federal program. This review is long overdue and much needed.

Any means to slow the growth of Government spending will be beneficial to the taxpayer. For if Federal spending is not controlled and programs are not reviewed, our Nation becomes nothing more than a host of special-interest groups groveling for Federal entitlements.

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Mr. WALSH. Mr. Speaker, I thank the gentleman from Missouri [Mr. BUECHNER] for his apt comments.

As my colleagues can see, there are a number of very, very clear and specific examples of how this abuse takes place in the benefits, or the lack of benefits, to the taxpayer. So, if I might just go back over and sum up some of the points that the gentleman from Missouri [Mr. BUECHNER] and I have made.

Mr. Speaker, it is clearly against House rules to appropriate funds for unauthorized programs. But we waive such violations to the rules.

As Dante said, "The hottest places in hell are reserved for those who at a time of moral crisis maintain their neutrality." We do not intend to be neutral on this issue. We are facing a crisis, not only budgetary, but legislative. We are not living by the rules that we ourselves have set up to govern this body.

Public reports, commentary, and political pundits would say, and those who are within this House would agree, that government is over. This budget this year is near a stalemate. Part of the reason is because of the appropriations process. Countless Federal obligations and programs, both big and small, are kept alive through the annual appropriations process, whereas instead the programs should be reauthorized on a timely basis by the authorizing committees. Departments and programs not authorized, but appropriated, include the Housing and Urban Development [HUD], Department of Justice, Department of Energy, the foreign aid bill, and many, many others.

Mr. Speaker, when we are forced to make judgment without the benefit of committee research, committee hearings, committee refinement, committee recommendations, we are relinquishing our oversight authority. We lose the collective insight of the members of the authorizing committees.

The minority leader noted in his comments to the House that authorization bills are the backbone of the legislative process. They provide the legal framework for most major Federal programs and activities. They set out the parameters for those programs and should make clear how the programs are to operate.

Authorization by appropriation is simply a bad and ineffective practice. The authorization committees have the ability to modify or eliminate current programs. Usually authorizations are not indefinite, but rather expire after a certain period of time. They contain sunset provisions. When programs are authorized through the appropriation process, they tend to outlive their usefulness, and indeed they tend to outlive the legislators. The authorization process is designed to force congressional oversight and review.

Members are aware that 13 appropriation bills must be passed in order to keep Government running. We are also aware of the timeframe, so why are we constantly late? September comes the same time every year. We are holding fewer hearings than we were 10 years ago.

In closing, Mr. Speaker, we are passing less legislation, we are using more continuing resolutions, we are seeing less work thorough to its conclusion.

What is the solution? If the authorizing committees do not want to be usurped, they better stop haggling over bills that they have questionable oversight responsibility for and clean up their own legislative backyard first.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

[Mrs. BENTLEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BROOKS (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. WALSH) to revise and extend their remarks and include extraneous material:)

Mr. RITTER, for 5 minutes, today.

(The following Members (at the request of Mr. HAYES of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. HAYES of Illinois, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. LEHMAN of Florida, for 5 minutes, today.

Mr. LIPINSKI, for 60 minutes, on October 26.

Mr. GAYDOS, for 60 minutes, each day on October 30 and November 1.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. DORNAN of California, for 60 minutes, on October 26.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SCHEUER, on H.R. 45, in the Committee of the Whole, today.

(The following Members (at the request of Mr. WALSH) and to include extraneous matter:)

Mr. PAXON.
Mr. CAMPBELL.
Mr. PORTER.
Mr. SMITH of Vermont.
Mr. RINALDO.
Mrs. ROS-LEHTINEN in two instances.
Mr. MILLER of Washington.
Mr. BROOMFIELD.
Mr. WALSH.
Mr. BILIRAKIS.
Mr. SMITH of Texas.
Mr. BARTON of Texas.
Mr. SAXTON.
Mr. PURSELL.
Mr. GINGRICH.
Mr. SCHUETTE.
Mr. HANCOCK.
Mr. MACHTLEY.
Mr. GALLO.
Mr. LENT.
Mr. GILMAN.

(The following Members (at the request of Mr. HAYES of Illinois) and to include extraneous matter:)

Mr. OLIN.
Mr. MONTGOMERY.
Mr. STARK.
Mr. MILLER of California.
Mr. NEAL of Massachusetts.
Mr. MATSUI.
Mr. GARCIA.
Mr. MURTHA.
Mr. WOLPE.
Mr. DONNELLY.
Mr. SOLARZ.
Mr. LAFALCE in two instances.
Mr. FEIGHAN.
Mr. SCHEUER.
Mr. LIPINSKI.
Mr. FLIPPO.
Mr. DWYER of New Jersey.
Mr. STOKES.
Mr. ENGEL in two instances.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2989. An act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1990, and for other purposes;

H.R. 3026. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1989, and for other purposes; and

H.J. Res. 423. Joint resolution making further continuing appropriations for fiscal year 1990; and for other purposes.

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled joint resolutions of the Senate of the following titles:

S.J. Res. 86. Joint resolution designating November 7, 1989, as "National philanthrophy Day;" and

S.J. Res. 177. Joint resolution to designate October 29, 1989, as "Fire Safety At Home—Change Your Clock, Change Your Battery Day."

ADJOURNMENT

Mr. WALSH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 30 minutes p.m.), the House adjourned until tomorrow, Thursday, October 26, 1989, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the fourth quarter of 1988 and the first, second, and third quarters of 1989 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Erika B. Schlager	11/15	11/18	Czechoslovakia				59.94				59.94
Committee total							59.94				59.94

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

STENY H. HOYER, Oct. 4, 1989.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Delegation expenses:											
Codel Hoyer (miscellaneous)	3/9	3/11	Austria						204.26		204.26
Committee total									204.26		204.26

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

STENY H. HOYER, Oct. 4, 1989.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Othe: purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
R. Spencer Oliver	5/9	5/12	England						[3] 127.79		127.79
Samuel G. Wise	5/17	5/19	France						[3] 26.47		26.47
Delegation expenses:											
Codel Hoyer (miscellaneous)	6/17	6/19	France						2,829.86		2,829.86
Committee total									2,983.52		2,983.52

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Rep. funds.

STENY H. HOYER, Oct. 4, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SMALL BUSINESS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Gus Savage	3/17	3/18	France		217.00						217.00
	3/19	3/24	Zaire		[3]802.60						802.60
	3/24	3/29	Ivory Coast		[3]540.00						540.00
Committee total					1,559.60						1,559.60

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Represents refund of unused per diem.

JOHN J. LaFALCE, Chairman, Oct. 20, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SMALL BUSINESS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Norman Sisisky	3/23	3/26	Morocco		709.00						709.00
	3/26	3/29	Hungary		332.00						332.00
	3/29	4/2	Germany		802.00						802.00
Military transportation							6,594.84				6,594.84
Steven Jenning	6/3	6/6	Italy		630.00						630.00
	6/6	6/11	Denmark		935.00						935.00
Commercial transportation							1,615.00				1,615.00
Committee total					3,408.00		8,209.84				11,617.84

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN J. LaFALCE, Chairman, Oct. 20, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Congressman David Dreier	7/28	7/29	Guatemala		149.00						149.00
	7/29	7/29	El Salvador								
	7/29	2/30	Nicaragua		95.00		[3] 2,817.94				2,912.94
Dr. Nelle Temple	8/7	8/12	Egypt		585.16						585.16
	8/13	8/16	Bangladesh		479.13						479.13
	8/16	8/20	Thailand		668.00						668.00
	8/20	8/25	Philippines		576.00		[3] 3,746.00				4,322.00
Congressman Tom McMillen	8/21	8/24	Stockholm, Sweden		750.00						750.00
	8/24	8/26	Goteborg, Sweden		438.00						438.00
	8/26	8/28	Stockholm, Sweden								
	8/28	8/31	Oslo, Norway		582.00		[3] 4,192.00				4,774.00
Congressman David Dreier	8/22	8/23	Moscow, U.S.S.R.		169.00						169.00
	8/23	8/24	Stavropol, U.S.S.R.		169.00						169.00
	8/24	8/26	Moscow, U.S.S.R.		338.00		[3] 6,567.18				6,905.18
Committee total					4,998.29		17,323.12				22,321.41

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military transportation.

HENRY B. GONZALEZ, Chairman, Oct. 12, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND LABOR, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Rep. Cass Ballenger	7/14	7/16	Nicaragua and El Salvador		250.00		([3])				250.00
Rep. Cass Ballenger	9/29	10/1	Nicaragua and El Salvador		145.00		[4] 3,911.18				4,056.18
Patricia Morrissey	8/24	9/4	Italy		900.00		959.00				1,859.00
Committee total					1,295.00		4,870.18				6,165.18

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Transportation to and from Central America provided by Department of State; prorated cost not available.
[4] Military transportation; proposed cost.

AUGUSTUS F. HAWKINS, Chairman, Oct. 17, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON POST OFFICE AND CIVIL SERVICE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Paul Berkowitz	8/14	8/19	India		475.00		32.00				507.00
Committee total					475.00		32.00				507.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

WILLIAM D. FORD, Chairman, Oct. 11, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Ed Jenkins	6/30	7/04	Ireland	529.20	720.00		1,884.07				2,604.07
	7/04	7/06	England	286.56	416.00						416.00
Hon. Marty Russo	6/31	7/09	England	1,071.19	1,673.00		1,080.00				2,753.00
Hon. Don Pease	8/15	8/17	Japan	69,721	492.00						492.00
Hon. Sander Levin	8/14	8/17	Philippines	9,555.84	423.00						423.00
	8/17	8/19	Indonesia	561,215	316.00		27.92		67.12		411.04
	8/19	8/21	Singapore	352	280.00						280.00
	8/21	8/24	Thailand	12,926	501.00						501.00
	8/24	8/27	Portugal	82,620	510.00						510.00
Military transportation							9,521.69				9,521.69
Hon. Jim Moody	7/5	7/8	Switzerland		663.00		2,727.00				3,390.00
	8/8	8/10	Hungary	6,975.40	116.00						116.00
	8/10	8/12	Yugoslavia	6,730.770	287.00						287.00
	8/22	8/26	Poland		500.00		1,379.00				1,879.00
Hon. Bill Frenzel	6/30	7/04	Ireland	529.20	720.00		1,884.07				2,604.07
	7/04	7/06	England	268.56	416.00						416.00
	8/11	8/12	Switzerland		208.00		58.00				266.00
Committee total					8,241.00		18,561.75		67.12		26,869.87

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DAN ROSTENKOWSKI, Chairman, Oct. 12, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1989

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Ronald J. McNamara	6/25	7/1	Austria		590.00		1,300.00				1,890.00
Steny H. Hoyer	6/30	7/4	Ireland		720.00		1,844.00				2,564.00
	7/4	7/6	England		416.00						416.00
John J. Finerty	8/5	8/10	Soviet Union		1,050.00		2,577.00				3,627.00
Jesse L. Jacobs	9/11	9/12	Italy		412.00		2,800.00				3,212.00
	9/13	9/14	Austria		352.00						352.00
Committee total					3,540.00		8,521.00				12,061.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

STENY H. HOYER, Oct. 4, 1989.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1879. A letter from the Secretary of Housing and Urban Development, transmitting a report on available data on loan discrimination practices including recommendations for appropriate measures to assure nondiscriminatory lending practices, pursuant to Public Law 101-73, section 1220; to the Committee on Banking, Finance and Urban Affairs.

1880. A letter from the Chairman, Advisory Committee on Student Financial Assistance, transmitting the first annual report on student financial assistance, pursuant to 30 U.S.C. 1085; to the Committee on Education and Labor.

1881. A letter from the Chairman, Department of Education, transmitting the annual report of the National Advisory Committee on Accreditation and Institutional Eligibility for fiscal year 1988, pursuant to 20 U.S.C. 1145(e); to the Committee on Education and Labor.

1882. A letter from the Chairman, Department of Education, transmitting the annual report of the National Advisory Board for International Education Programs for fiscal year 1988, pursuant to 20 U.S.C. 1233b(a)(2); to the Committee on Education and Labor.

1883. A letter from the Assistant Secretary for Educational Research and Improvement, Department of Education, transmitting the 14th annual report of the Advisory Council on Education statistics, pursuant to 20 U.S.C. 1221e-1(d)(1); to the Committee on Education and Labor.

1884. A letter from the National Board, Department of Education, transmitting the annual report of the National Board of the Fund for the Improvement or Postsecondary Education for fiscal year 1988, pursuant to 20 U.S.C. 1233b(a)(2); to the Committee on Education and Labor.

1885. A letter from the Chairman, Intergovernmental Advisory Council on Education, transmitting the fiscal year 1988 annual report of the Council, pursuant to 20 U.S.C. 3423(b)(1)(D); to the Committee on Education and Labor.

1886. A letter from the Chairman, National Council on Vocational Education, transmitting the Council's 1989 annual report,

pursuant to 20 U.S.C. 2431(g); to the Committee on Education and Labor.

1887. A letter from the Secretary of Education, transmitting copies of the fiscal year 1988 reports of the Department's advisory committees, pursuant to 20 U.S.C. 2642; to the Committee on Education and Labor.

1888. A letter from the Chairman, National Advisory Council on Educational Research and Improvement, transmitting the fiscal year 1988 report, pursuant to Public Law 99-498, section 1401 (100 Stat. 1591); to the Committee on Education and Labor.

1889. A letter from the Deputy Secretary of State, transmitting the Accountability Review Board report and recommendations concerning the April 21, 1989, assassination of Col. James N. Rowe, Chief, Ground Forces Division, Joint U.S. Military Advisory Group, Manila, pursuant to 22 U.S.C. 4834(d)(1); to the Committee on Foreign Affairs.

1890. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to amend the Trading With the Enemy Act; to the Committee on Foreign Affairs.

1891. A letter from the Assistant Secretary for Water and Science, Department of the Interior, transmitting the final James River comprehensive report as it pertains to the Garrison Division Unit of the Pick-Sloan Missouri Basin Program, pursuant to Public Law 99-294, section 3 (100 Stat. 420); to the Committee on Interior and Insular Affairs.

1892. A letter from the Chairman of the Board, Boys' Clubs of America, transmitting the annual report of the Boys' Clubs of America report and financial audit, pursuant to 36 U.S.C. 1101(16), 1103; to the Committee on the Judiciary.

1893. A letter from the Secretary of Transportation, transmitting the annual report for 1988 on the relative cost of shipbuilding in the various coastal districts of the United States, pursuant to 46 U.S.C. app. 1123(c); to the Committee on Merchant Marine and Fisheries.

1894. A letter from the Secretary of Commerce, transmitting the annual report on ocean pollution, monitoring, and research for fiscal year 1988, pursuant to 33 U.S.C. 1703(a); to the Committee on Science, Space, and Technology.

1895. A letter from the Comptroller General, transmitting the results of the review of the independent certified public accountant's audit of the Federal Home Loan Mortgage Corporation's consolidated financial statements for the years ended December 31, 1988 and 1987 (GAO/AFMD-89-95), pursuant to 12 U.S.C. 1456(b); jointly to the Committees on Banking, Finance and Urban Affairs and Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROE: Committee on Science, Space, and Technology. H.R. 1216. A bill to provide Federal assistance and leadership to a program of research, development, and demonstration of renewable energy and energy efficiency technologies, and for other purposes; with an amendment (Rep. 101-308, Pt 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. STAGGERS (for himself, Mr. TALLON, Mr. JONTZ, Mr. MORRISON of Washington, and Mr. ESPY):

H.R. 3519. A bill to amend the Rural Development Act of 1972 to assist rural counties in developing a comprehensive plan for building a renewable community resource base, fostering youth leadership, increasing productivity over time, and becoming intergrated into the global economy; to the Committee on Agriculture.

By Mr. THOMAS A. LUKEN (for himself, Mr. WHITTAKER, Mr. TAUZIN, Mr. TAUKE, Mr. SLATTERY, Mr. SCHAEFER, Mr. ECKART, Mr. GALLO, Mr. BATES, Mr. SIKORSKI, Mr. SYNAR, Mr. WALGREN, Mr. HALL of Ohio, Mr. TRAXLER, Mr. MORRISON of Connecticut, Mr. JONTZ, Mr. NEAL of Massachusetts, Mr. ENGLISH, Mr. ATKINS, Mr. WHEAT, Mr. HARRIS, Mr. NAGLE, Mr. DYMALLY, Mr. ACKERMAN, Mr. SPRATT, Ms. KAPTUR, and Mr. DELLUMS):

H.R. 3520. A bill to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1990 and 1991, to provide for greater consistency in laws and regulations governing the transportation of hazardous materials in intrastate, interstate, and foreign commerce, and for other purposes; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

By Mr. GAYDOS (for himself, Mr. OBERSTAR, Mr. PENNY, Mr. MORRISON of Connecticut, Mr. OWENS of New York, Mr. MURPHY, Mr. PERKINS, Mr. MILLER of California, Mrs. UNSOELD, Mr. WILLIAMS, Mr. MARTINEZ, Mr. BUSTAMANTE, Mr. JONTZ, Mr. FUSTER, Mr. CLAY, Ms. PELOSI, Mr. POSHARD, Mr. BATES, Ms. OAKAR, Mrs. SCHROEDER, Mr. BORSKI, Mr. ATKINS, Mr. KILDEE, Mr. VISCLOSKY, Mr. STARK):

H.R. 3521. A bill to amend the Occupational Safety and Health Act of 1970 to improve and enforce standards for employee health and safety at Department of Energy nuclear facilities, and for other purposes; jointly, to the Committees on Education and Labor and Energy and Commerce.

By Mr. LaFALCE:

H.R. 3522. A bill to amend title 18, United States Code, to exclude conduct consisting of nonviolent protest from the definition of "racketeering activity" for the purposes of chapter 96 of such title; to the Committee on the Judiciary.

By Mr. LIPINSKI (for himself, Mr. HASTERT, Mr. COSTELLO, Mr. SAVAGE, Mr. ROE, Mr. DE LUGO, Mr. HAYES of Illinois, Mrs. MARTIN of Illinois, Mr. MADIGAN, and Mr. EVANS):

H.R. 3523. A bill to amend title 23, United States Code, to establish a strategic urbanized program for providing additional assistance for the Federal-aid highway systems in urbanized areas with populations of 50,000 or more, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. MARKEY (for himself, Mr. RINALDO, Mr. RICHARDSON, Mr. RITTER, Mr. SLATTERY, Mr. COOPER, Mr. WYDEN, Mr. MCMILLEN of Maryland, Mr. HERGER, and Mr. BRYANT).

H.R. 3524. A bill to amend the Communications Act of 1934 to prohibit the use of interstate communications networks to distribute computer viruses, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MURPHY:

H.R. 3525. A bill to amend the Internal Revenue Code of 1986 to reduce to $100 the rates of the occupational taxes on certain retail dealers in liquor and retail dealers in beer; to the Committee on Ways and Means.

By Mr. RINALDO:

H.R. 3526. A bill to amend title II of the Social Security Act to phase out over 4 years the retirement earnings test as it applies above retirement age; to the Committee on Ways and Means.

By Mr. SCHEUER (for himself, Mr. TANNER, Mr. HOCHBRUECKNER, and Mr. PALLONE):

H.R. 3527. A bill to establish within the Department of Energy an Office for Environment, Safety, and Health; jointly, to the Committees on Energy and Commerce; Science, Space, and Technology; and Armed Services.

By Mr. STARK:

H.R. 3528. A bill to amend the Federal Aviation Act of 1958 to establish minimum standards for air carrier passenger services, to amend the Internal Revenue Code of 1986 to authorize appropriations from the Airport and Airway Trust Fund for administrative expenses incurred in implementing the minimum standards, and for other purposes; jointly, to the Committees on Public Works and Transportation and Ways and Means.

By Mr. LEHMAN of Florida:

H.J. Res. 427. Joint resolution designating the month of May 1990 as "National Trauma Awareness Month"; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 83: Mr. VALENTINE and Mr. BEREUTER.

H.R. 104: Mr. FALEOMAVAEGA.

H.R. 160: Mr. WYLIE.

H.R. 215: Mr. KANJORSKI, Mr. MURTHA, Mr. STUMP, and Mr. LIPINSKI.

H.R. 396: Mr. SHUMWAY.

H.R. 567: Mr. SIKORSKI.

H.R. 710: Mr. COURTER.

H.R. 747: Mr. MILLER of Washington.

H.R. 780: Mr. SKAGGS, Mr. SMITH of Florida, Mr. ROSE, Mr. ROBINSON, Mr. NEAL of North Carolina, and Mr. YATES.

H.R. 844: Mr. YATRON and Mr. SUNDQUIST.

H.R. 860: Mr. CAMPBELL of California.

H.R. 922: Mr. KANJORSKI.

H.R. 1044: Mr. CONDIT.

H.R. 1173: Mrs. ROS-LEHTINEN.

H.R. 1205: Mr. TAUKE, Mr. SOLOMON, Mr. FOGLIETTA, Mr. FRANK, and Mr. DENNY SMITH.

H.R. 1292: Mr. ENGEL.

H.R. 1317: Mr. JONES of Georgia and Mr. FALEOMAVAEGA.

H.R. 1356: Mr. TALLON and Mrs. UNSOELD.

H.R. 1395: Mr. CONYERS, Mr. FAUNTROY, Mr. FIELDS, Mr. MCNULTY, Mr. NEAL of North Carolina, and Mr. SMITH of Florida.

H.R. 1409: Mr. HARRIS, Mr. HEFNER, Mr. HUGHES, Mr. LIPINSKI, Mr. NEAL of North Carolina, and Mr. PORTER.

H.R. 1437: Mr. SOLOMON, Mrs. SMITH of Nebraska, Mr. ROE, Mr. ARMEY, Mr. CAMPBELL of Colorado, Mr. HASTERT, Mrs. BENTLEY, and Mr. BALLENGER.

H.R. 1457: Mr. PANETTA.

H.R. 1497: Mr. GILLMOR.

H.R. 1515: Mr. WOLPE, Mr. DORNAN of California, and Mrs. LOWEY of New York.

H.R. 1602: Mr. ROWLAND of Connecticut and Mr. BOUCHER.

H.R. 1725: Mr. DELLUMS.

H.R. 1805: Mr. KANJORSKI.

H.R. 2015: Mr. BROWDER.

H.R. 2172: Mr. MCNULTY, Mr. BEVILL, Mr. NOWAK, Ms. KAPTUR, Mr. HUCKABY, Mr. MCCURDY, Mr. DARDEN, Mr. BATES, and Mr. HASTERT.

H.R. 2270: Mr. GILLMOR and Mr. DIXON.

H.R. 2336: Mr. RITTER.

H.R. 2366: Mr. HUGHES, Mr. MACHTLEY, Mr. RIDGE, and Mrs. ROS-LEHTINEN.

H.R. 2407: Mr. ROHRABACHER.

H.R. 2415: Mr. MCEWEN.

H.R. 2529: Mr. FAUNTORY and Mr. SISISKY.

H.R. 2580: Mr. MRAZEK and Mr. ENGEL.

H.R. 2584: Mr. ERDREICH.

H.R. 2596: Mr. AKAKA, Mr. FLAKE, Mr. BILIRAKIS, Mr. CLAY, Mr. MACHTLEY, and Mr. WELDON.

H.R. 2613: Mr. TRAFICANT.

H.R. 2674: Mr. ROBINSON, Mr. TRAFICANT, and Mr. DORNAN of California.

H.R. 2699: Mr. STALLINGS.

H.R. 2756: Mr. WAXMAN.

H.R. 2766: Mr. TORRICELLI.

H.R. 2881: Mr. ROHRABACHER and Mr. DORNAN of California.

H.R. 2972: Mrs. COLLINS, Mr. NEAL of Massachusetts, Mrs. LOWEY of New York, Mr. ENGEL, Ms. SNOWE, Mr. ARCHER, Mrs. SMITH of Nebraska, Mr. THOMAS of Wyoming, Mrs. MEYERS of Kansas, Mr. DOWNEY, and Mr. HOCHBRUECKNER.

H.R. 3028: Mr. WHEAT.

H.R. 3067: Mr. HOYER and Mr. CONDIT.

H.R. 3079: Mr. HOLLOWAY.

H.R. 3106: Mr. TORRICELLI.

H.R. 3147: Mrs. MEYERS of Kansas.

H.R. 3191: Mr. TORRES, Mr. VENTO, and Mr. ECKART.

H.R. 3199: Mr. EDWARDS of California, Mr. HAMMERSCHMIDT, Mr. APPLEGATE, Mr. WYLIE, Mr. EVANS, Mr. MCEWEN, Mr. STAGGERS, Mr. BURTON of Indiana, Mr. ROWLAND of Georgia, Mr. BILIRAKIS, Mr. FLORIO, Mr. RIDGE, Mr. STENHOLM, Mr. ROWLAND of Connecticut, Mr. HARRIS, Mr. SMITH of New Hampshire, Mr. KENNEDY, Mr. JAMES, Mrs. PATTERSON, Mr. STEARNS, Mr. JONTZ, Mr. PAXON, Mr. PAYNE of Virginia, Mr. MORRISON of Connecticut, Mr. SANGMEISTER, Mr. PARKER, Mr. JONES of Georgia, Ms. LONG, Mr. LEATH of Texas, Mr. HEFNER, Mr. JENKINS, Mr. RICHARDSON, Mr. BROWDER, and Mr. DANNEMEYER.

H.R. 3278: Mr. FROST, Mr. SABO, Mr. ATKINS, and Mrs. COLLINS.

H.R. 3290: Mr. ECKART, Mr. CONDIT, Mr. DAVIS, and Mr. RANGEL.

H.R. 3335: Mrs. BENTLEY.

H.R. 3380: Mr. SHAYS, Mr. CAMPBELL of California, Mr. SMITH of Florida, Ms. SLAUGHTER of New York, Mrs. UNSOELD, Mr. APPLEGATE, Mr. LANTOS, Mrs. PATTERSON, Mr. MARTINEZ, Mr. UDALL, Mr. SKELTON, Mr. HORTON, Mr. LAFALCE, Mr. CHAPMAN Mr. HUNTER, Mr. BORSKI, and Mrs. VUCANOVICH.

H.R. 3386: Mr. WISE, Mr. MORRISON of Washington, Mr. HENRY, Mr. RIDGE, Mr. KOLTER, Mr. DELLUMS, Mr. DUNCAN, Ms. SLAUGHTER of New York, Mr. GOODLING, Mr. GILMAN, Mr. HYDE, and Mrs. JOHNSON of Connecticut.

H.R. 3390: Mr. MONTGOMERY, Mr. STUMP, Mr. EDWARDS of California, Mr. HAMMERSCHMIDT, Mr. APPLEGATE, Mr. WYLIE, Mr. EVANS, Mr. MCEWEN, Mr. STAGGERS, Mr. BURTON of Indiana, Mr. ROWLAND of Georgia, Mr. BILIRAKIS, Mr. FLORIO, Mr. RIDGE, Mr. STENHOLM, Mr. ROWLAND of Connecticut, Mr. HARRIS, Mr. SMITH of New Hampshire, Mr. KENNEDY, Mr. JAMES, Mrs. PATTERSON, Mr. STEARNS, Mr. JONTZ, Mr. PAXON, Mr. PAYNE of Virginia, Mr. MORRISON of Connecticut, Mr. SANGMEISTER, Mr. PARKER, Mr. JONES of Georgia, Ms. LONG, Mr. LEATH of Texas, Mr. HEFNER, Mr. JENKINS, Mr. RICHARDSON, and Mr. BROWDER.

H.R. 3391: Mr. FROST, Mr. ATKINS, and Mr. MARKEY.

H.R. 3415: Mr. HUGHES.

H.R. 3430: Mr. CAMPBELL of Colorado and Mr. DAVIS.

H.R. 3475: Mr. DAVIS and Mr. BUSTAMANTE.

H.R. 3480: Mrs. LLOYD, Mr. PARKER, Mr. APPLEGATE, Mr. SANGMEISTER, Mrs. PATTERSON, Mrs. SAIKI, Mrs. BOXER, Ms. PELOSI, Mr. SKELTON, Mr. HARRIS, and Mr. BEVILL.

H.R. 3500: Mrs. JOHNSON of Connecticut, Mr. RANGEL, Mr. LEATH of Texas, Mr. PAYNE of Virginia, Mr. WELDON, Mr. DAVIS, Mrs. ROS-LEHTINEN, Mr. MCNULTY, Mr. PENNY, Mr. BALLENGER, Mr. HEFLEY, Mr. BAKER, Mr. MCCRERY, Mr. GRANT, Mr. BUNNING, Mr. HASTERT, Mr. GRANDY, Mr. HOLLOWAY, Mr. HERGER, Mr. EMERSON, Mr. COBLE, Mr. SCHAEFER, Mr. YOUNG of Alaska, Mr. BROOMFIELD, Mr. LIGHTFOOT, Mr. RAVENEL, Mr. DORNAN of California, Mr. GINGRICH, Mr. FIELDS, Mr. DONALD E. LUKENS, Mr. BOEHLERT, Mr. LAGOMARSINO, Mr. LIVINGSTON, Mr. LOWERY of California, Mr. PAXON, Mr. MILLER of Ohio, Mr. MAVROULES, Mr. GILLMOR, Mr. DOUGLAS, Mr. SOLOMON, Mr. CRAIG, Mr. MONTGOMERY, Mr. MYERS of Indiana, Mr. LEWIS of California, Mr. PACKARD, Mr. PORTER, Mr. MCDADE, Mr. WALKER, Mr. TRAXLER, Mr. DELAY, Mr. IRELAND, Mrs. VUCANOVICH, Mrs. BENTLEY, Mr. GUNDERSON, Mr. MCCOLLUM, Mr. ROBERTS, Mrs. SAIKI, Mr. DREIER of California, Mr. BLILEY, Mr. BURTON of Indiana, Mr. GALLO, Mr. REGULA, Mr. ARMEY, Mr. STANGELAND, Mr. MILLER of Washington, Mr. QUILLEN, Mr. MCCANDLESS, Mr. COMBEST, Mr. RITTER, Mr. SPENCE, Mr. IMHOFE, Mr. CLINGER, Mr. HANCOCK, Mr. SKEEN, Mr. ROWLAND of Connecticut, Mr. DUNCAN, Mr. TALLON, and Mr. WHITTAKER.

H.J. Res. 35: Mr. HALL of Texas, Mr. SISISKY, Mr. YOUNG of Alaska, Mr. DELLUMS, Mr. DICKINSON, Mr. SCHEUER, Mr. BORSKI, Mr. SHUMWAY, Mr. CARR, Mr. CHANDLER, Mr. DERRICK, Mr. STENHOLM, Mr. CLARKE, Mr. GUARINI, Mr. ESPY, Mr. GINGRICH, Mr. CLEMENT, Mr. STAGGERS, Mr. RITTER, Mr. DONNELLY, Mr. GRANT, Mr. HARRIS, Mr. BATES, Mr. MCCANDLESS, Mr. OXLEY, and Mr. ROHRABACHER.

H.J. Res. 106: Mr. MILLER of Washington and Mr. CHANDLER.

H.J. Res. 185: Mr. DE LUGO, Mr. RINALDO, Mr. SOLOMON, Mr. GINGRICH, Mr. YATRON, Mr. HAMILTON, Mr. SCHUMER, Mr. STENHOLM, Mr. CONYERS, Mr. WEBER, Mr. WALGREN, Mr. KASICH, Mr. TOWNS, Mr. APPLEGATE, Mr. COBLE, Mr. GRANDY, Mr. LEWIS of California, Mr. WAXMAN, Mr. MAVROULES, Mr. NEAL of North Carolina, Mrs. BYRON, Mr. MURPHY, Ms. OAKAR, Mr. LANTOS, Mrs. MARTIN of Illinois, Mr. ANDERSON, Mr. GRADISON, Mr. YOUNG of Alaska, Mr. SARPALIUS, Mr. CARPER, Mr. COYNE, Mr. REGULA, Mr. MADIGAN, Mr. DARDEN, Mr. RAVENEL, Mr. BATEMAN, and Mr. SAXTON.

H.J. Res. 224: Mr. BOSCO, Mr. DIXON, Mr. FLAKE, Mr. ROYBAL, Mr. SYNAR, Mr. CLARKE, Mr. WOLPE, and Mr. GONZALEZ.

H.J. Res. 367: Mr. DURBIN, Mr. ENGEL, Mr. HAYES of Illinois, Mr. HAYES of Louisiana, Mr. LEVIN of Michigan, Mr. MCDERMOTT, Mr. MONTGOMERY, Mr. PAYNE of New Jersey, Ms. PELOSI, and Mr. ROYBAL.

H.J. Res. 409: Mr. BARNARD.

H.J. Res. 410: Mr. ROWLAND of Connecticut, Mr. SLAUGHTER of Virginia, Mr. OWENS of New York, Mr. LEHMAN of Florida, and Mr. KANJORSKI.

H.J. Res. 417: Mr. PAYNE of New Jersey, and Mr. LEVIN of Michigan.

H. Con. Res. 62: Mr. BATES, Mr. YATES, Mr. SMITH of Vermont, Mr. PAXON, and Mr. GEJDENSON.

H. Con. Res. 70: Mr. KENNEDY.

H. Con. Res. 152: Mr. KENNEDY.

H. Con. Res. 165: Mr. DORNAN of California, Mr. LANCASTER, and Mrs. MARTIN of Illinois.

H. Con. Res. 196: Mr. LANTOS, Mr. WILSON, Mr. MADIGAN, Mr. FEIGHAN, Mr. SOLARZ, Mr. LEVINE of California, Mr. HASTERT, and Mr. CLINGER.

H. Res. 193: Mr. WEISS and Mr. OWENS of New York.

H. Res. 244: Mr. DANNEMEYER, Mrs. MEYERS of Kansas, and Mr. WALSH.

PETITIONS, ETC.

Under clause 1 of rule XXII,

106. The SPEAKER presented a petition of the Office of the County Clerk, Lihue, HI, relative to the immigration and naturalization laws; which was referred to the Committee on the Judiciary.

SENATE—*Wednesday, October 25, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

prayer

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

And he shall turn the heart of the fathers to the children, and the heart of the children to their fathers, lest I come and smite the earth with a curse.—Malachi 4:6.

Our Father in Heaven, we long for the reality of which the Prophet Malachi speaks. At a time when one out of three marriages ends in divorce, battered wives, abused children, a teenager attempting suicide every 30 seconds, one out of six successfully, when more than a million children wander our city streets, abandoned, the victims of sex and drugs, the family, basic unit of social order, disintegrating. How desperately we need the heart of the fathers to be turned to the children and the heart of the children to their fathers.

God help us, lest we perish. In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, following the time reserved for the two leaders, there will be a period for morning business until 11 a.m., with Senators permitted to speak therein for up to 5 minutes each.

At 11 a.m., the Senate will begin consideration of the continuing resolution, House Joint Resolution 423. There is currently no time limitation on the resolution. I am hopeful that we can soon reach an agreement which provides that no amendments be in order except one on the part of the chairman and ranking member of the Appropriations Committee to clarify certain House language included in the resolution.

Upon disposition of the continuing resolution, which I hope will occur today, it is my hope and intention that the Senate will then begin deliberation on the Poland-Hungary assistance bill. I discussed it with the distinguished Republican leader and hope that we will be able to obtain consent to proceed to that matter today and, if at all possible, to finish that today as well.

Rollcall votes may occur during the day as these matters are presented. Senators should be alert to that point.

RESERVATION OF LEADER'S TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my time, and I yield to the distinguished assistant Republican leader.

The PRESIDENT pro tempore. Without objection, the remainder of the majority leader's time is reserved.

RECOGNITION OF THE ASSISTANT REPUBLICAN LEADER

The PRESIDENT pro tempore. Under the previous order the minority leader designee, the assistant Republican leader, is recognized.

Mr. SIMPSON. I thank you, Mr. President.

I have a few comments that I hope are received in the way that I intend to deliver them.

CONTROVERSY

Mr. SIMPSON. Mr. President, I cannot help but think how topical it was this morning at the Senate prayer breakfast when our revered former Senate colleague Frank Lausche, Democrat of Ohio, a beloved man, spoke about "controversy." The occupant of the chair was there, as was the Chaplain. He said we have a mind to think and a tongue to speak, and controversy is a very important part of the use of both of those instruments, because from it comes accord instead of discord, comes cooperation instead of intractableness.

So I thought of that, and I thought of the remarks yesterday by my colleague from New Mexico and the comments by the majority leader in response, and I can appreciate the applicability of our prayer breakfast discussion.

I would like to comment on what it is we are really doing, instead of the posturing taking place to snare the Democrats or to play the game of snare the Republicans. We all need to know the difference.

I played a little bridge in my other life, a fascinating game, and I remember the great phrase which was so common, that we should "review the bidding" every once in awhile. That is what I would do in these moments of my time that I have allotted this morning.

During my career in the Senate, I have never seen a more curious situation in regard to this legislative logjam. The occupant of the chair was characteristically fair with this Member of the minority during those times when I served as assistant minority leader and acting leader. Senator MITCHELL is a splendid leader. He is very fair. There is not a single question about his fairness with anyone on this side of the aisle. He is also accessible. I know him well. I serve on two committees with him. That is where you get to know your colleagues. I know what is occurring in his leadership post, as well as what is occurring in the leadership post of Speaker TOM FOLEY, and it is called heat from down below. It is heat generated from people who really do not like to legislate. They just like to either rule or ruin. They like to say: What are you doing accommodating the President of the United States? When are you going to stop that? When are you going to quit that? When are you going to hammer him? Are you going to let him get away with this stuff? Don't let him be the king of the hills. Get him. Forget the issues, just get him. His popularity is at 70 percent.

So that is just the kind of heat that comes from down below. I am not privileged or privy to caucus activities of the Democratic faith, but I know some of the young turks in there who really do not like that kind of accommodation. TOM FOLEY certainly has his share of them too. Both the majority leader and the Speaker get their share of heat from some on their side.

Our minority leader, our fine leader who is a very fair and patient man also gets heat from some on our side of the aisle.

Yes those are the fascinating people in this legislative arena. I think they grind their teeth at night in bed. I think they call that bruxism. That is what those people do. They are not wholly interested in governing, they are not really interested in legislating.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

They are interested in seeing who can ram it to the other side, out of ambition, out of whatever motive, but they do not ever really get in this game and legislate. You do not see their names on much. They do not lift heavy legislative lumber in this place. They have a higher agenda, and that is power. They would seek "to be king", if we only had that system here for them.

They are curious people, and Heaven forbid, some of them even lust for the Presidency. I know that is shocking, I really do know it is, but it is true.

So they rattle the cage and they say things like the "hesitancy of Presidency." That is a dazzling phrase that somebody probably cobbled up, some writer or someone. I'm sure it came from them, but I do not know.

George Bush has been called timid and other interesting things. He has been through all of that before. You are not going to intimidate George Bush. In 8 years he was called everything in the book. He was called a wimp, a sycophant, a lapdog. We have heard it all. It did not phase him a bit. That is what makes him so unique.

Yesterday was a prime example; while we sat at the White House, he discussed some of these things. He never gets into pettiness, instead he says things like: "Well, I am not going to do that to GEORGE MITCHELL. I am not going to do that to TOM FOLEY. It is not right. I did not say I was going to govern with that kind of attitude," and he will not.

So there will not be any response from George Bush to these yapping dogs. I am not referring to our majority leader or to the Speaker of the House. But there are the yapping dogs out there, and they are going to get no response from George Bush because nobody knows who they are. Ninety percent of the people do know George Bush is our President. I noted a poll the other day that was taken of registered Democrats. They thought the leader of the Congress was Jesse Jackson. That helps us to keep things in context.

Where we are right now is a curious place where we have everything wired up so that it will all clatter into the basement at one time I guess, a time that will be propitious for the Republicans to then dig out of rubble. That is not going to happen because we are not that dull-witted. That is not coming from the majority leader, because I know him. It is coming from people who are saying, "Oh, here is the cutest thing we could possibly do. George Bush is obsessed with capital gains, so therefore, we will put it on this thing right here, and the Social Security checks will not go out on November 3, and everybody will know that it was George Bush, this evil man who loves only the rich and not the poor old folks on Social Security who will not get their checks."

I do not think the American people are buying that stuff as much anymore because those kinds of arguments are just so phony, especially when 25 percent of the people who get their Social Security checks have incomes 15 times more than the poverty level. That is why the old pitch of rich versus poor does not work in this country. And that is failed liberalism.

It seems to me that we know exactly what we have to do, and it is very clear. This is a great place to work. The occupant of the Chair, who deeply loves the Senate, has taught us much about it. I love this place. And I so enjoy being a Member. Of course, I enjoyed it more when we were in the majority! The memory of those rosy days comes to me vividly in the night. But, nevertheless, it is a great place to work because the minority is always protected. Even the minority within the minority is always protected. So we know what we have to do because we have all done it.

We have section 89, which passed the House 390 to 36, and it is just laying there. We know it is there, somewhere. We did catastrophic health care. I was on the other side of that one. How I or anybody else voted is not the issue. That is not the point. But we know that we had to do that, and this is done. We also did minimum wage. That is done. Somewhere in the stack is minimum wage, and we know what the President said about that. He kept his word. He said, "That is what I want."

We know what happened with regard to child care. Catastrophic, section 89, child care, they are all out there but nothing is moving. And the reason it is not moving is that there is some unbelievable belief that the President of the United States is creating the logjam because he wants capital gains so bad he can taste it. And that is simply not true.

Mr. SYMMS. Mr. President, will the distinguished Senator from Wyoming yield for a question?

Mr. SIMPSON. I do not believe I am in a position to do that.

The PRESIDENT pro tempore. The time of the assistant leader has expired.

MORNING BUSINESS

The PRESIDENT pro tempore. There will now be a period for transaction of morning business until the hour of 11 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each. The Chair recognizes the Senator from Wyoming.

Mr. SIMPSON. I thank the President and I would yield for a question if it would not be on my time.

Mr. SYMMS. I thank the Senator from Wyoming for yielding. I apologize that I did not get here while the majority leader was still on the floor. But, for one who is not in the leadership, I find it somewhat confusing that this Senate seems to dally away needless hours on this so-called Eastern Airlines legislation. I was under the impression that we had a labor law system in this country and had a collective-bargaining system and we operated under the laws. Surely the Senate cannot be serious about this piece of legislation.

Yet we have the American people crying out for fixing section 89, catastrophic health, reducing capital gains rates of taxation, fixing the budget, the earthquake problems in San Francisco and we do not address those problems.

I just wondered if my distinguished acting Republican leader, does he know as a member of the leadership, is it the intention of leadership to keep us here until Christmas Eve and keep all these things stacked up and not allow the American people to vote on these issues, or what is the plan?

Mr. SIMPSON. Well, Mr. President, I think that will become more evident as we go through our debate in the next day or so, and all of us in good faith will deal with that, because that is the issue. I can assure you it will be resolved because otherwise people will begin to start tacking stuff on legislative vehicles as we have done time after time.

Mr. SYMMS. I guess my question is, why is it we always have to have the pressure ever since I have been here in this body and it is always right up to the wire before they will ever raise the debt limit and try to deny the American people an opportunity to vote on issues like the capital gains rate or section 89 or catastrophe or some of these? Are you just going to push those off, or are those going to become actual parts of an agenda that will become law?

Mr. SIMPSON. Mr. President, I will say those will indeed be things that we will address. That is the subject of my remarks and the remarks of the Senator from Idaho. And it will come to pass. We know that.

I think I would just take the rest of my time.

Mr. SYMMS. I thank my good friend for yielding. I apologize for interrupting him.

Mr. SIMPSON. How much time do I have remaining?

The PRESIDENT pro tempore. The Senator has 2 minutes and 50 seconds.

Mr. SIMPSON. Mr. President, I asked that my response would not be taken out of my allotted time of 5 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SIMPSON. I will conclude within the 5 minutes.

I think what the Senator from Idaho was speaking to is going to be said

more and more often. It is not contrived. These issues have passed in this place, and yet they are in limbo. Somehow it is being alleged that these issues are called wrapped in a mummy that is "capital gains." And it is just not true.

There is one critical thing that all of us in politics understand. It is called taking the heat and taking the risk. George Bush went to the American public in a political campaign and said he wanted to reduce the capital gains tax. He did that. It was pretty risky. His opponent hammered him on that and said it was rich versus poor. He had to go to national debates, and he talked about capital gains. He did it. That was his pledge; he is keeping it. Why would anyone think he would not?

The only comment that I would make about this fine majority leader is on the issue of the Holy Grail. Now, that is pretty heavy stuff, the Holy Grail. This is not the Holy Grail of George Bush. It just happens to be a campaign promise which was tough, annealed in fire. He got a lack of flak, but that is it. So here we are, and we have our work to do.

It did not come from the majority leader, but someone has addressed the flag amendment as being the "Bush-Atwater" amendment. That is offensive. It cannot help but be offensive since 17 Democrats voted for that. How do they feel when they get that kind of flak? I would think not very good. It is not a Democratic versus Republican issue; nor is capital gains. Why would the Republican minority on this side of the aisle leave hanging 64 Democratic colleagues in the House of Representatives who voted for the reduction in capital gains? Those are our allies on that issue, and they will be our allies on other issues.

Come on. This is some weird experience. It will come to pass that in these next days we will resolve this because it will be questions like these that will be honestly proposed. What is it you are trying to do? If the purpose is simply to make George Bush look like a boob, it will not work. He has been through 9 years of people trying to do that and that has not gotten a nickel's worth of benefit for his detractors. He won 40 States in the election, so forget it. A good try.

If the purpose is to make GEORGE MITCHELL look like a boob, that is not going to work because he is not. He is a steady, stable, fair person. If the purpose is to make TOM FOLEY look like a boob, that surely will not work. Or NEWT GINGRICH, that will not work. There is a young man who has come on and is doing a beautiful job in his new role as assistant minority leader.

I just wanted to share those things with you. Really, we know what we have to do. We have to deal with the tough ones and we just keep shoveling those underneath the desks. The desks are stacked high. The reason they are elevated is to get all the stuff under them which we will not touch, like Social Security reform; veterans benefit reform; Medicare reform; Medicaid reform; long-term health care and how to pay for it. I have to vote on a debt limit extension in a few days of $3.171 trillion. And yet some folks think we do not do anything for our people? That is crazy, absolutely crazy.

Maybe we ought to do what the President said at the inauguration, right at the west front of this building. He said we were elected to govern, not to bicker. Nobody on the podium first clapped at all. But back in the back, out toward the Lincoln Memorial, they clapped because that is what the people of America want. They do not want us to bicker and they do not care whose amendment wins or who played "olly, olly oxen free" or all those games. They just want us to do the work we were elected to do, and we are here to do it, and I think we can do it.

We can do it if we, with candid observation and honesty say, "what is it we really are trying to do?" Because these issues have passed and we all know they are going to pass again. Are we just going to go through the ancient December ritual or will we conclude it in a thoughtful way? I think we will conclude it in a thoughtful way and I pledge to help do that and I thank the Chair.

The PRESIDENT pro tempore. The Senator from Nevada [Mr. REID] is recognized for not to exceed 5 minutes.

A REPUBLICAN FUNDRAISING LETTER

Mr. REID. British Prime Minister Benjamin Disraeli once told a friend: "In politics, nothing is contemptible." Disraeli, Mr. President, found a disciple in one Richard Dearborn, the executive director of something called the National Republican Senatorial Committee. Yesterday I brought to the attention of this body a fundraising letter sent by Mr. Dearborn to one of my constituents, an elderly lady who felt compelled to bring it to my attention. She was afraid.

That is indicated by this letter, Mr. President, which I ask unanimous consent be made part of this RECORD. Since yesterday, Mr. President, I spoke with her and got permission from her to make this part of the RECORD.

I also ask unanimous consent a letter be made part of the RECORD that has the word "urgent" written across the top of it, seven times, from Mr. Richard Dearborn, to my constituent.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

LAS VEGAS, NV,
October 4, 1989.

HON. HARRY REID,
U.S. Senate, Committee on Appropriations, Washington, DC.

DEAR SIR: Sorry to start a letter to you like this. But to tell you the truth its a pretty tough situation I've been placed in. Really hard to explain it as its due to no fault of mine

I am so unhappy and so distressed I don't know what to do. I have enclosed this one letter as it is so hard to write in detail. I don't feel I take a chance in sending the letter to you. I do sincerely pray you will keep it from every one and return it to me.

It happens Pres. Bush & Reagan have the idea they can force me (for what reason) to sign a consent petition to help them build up the Senate with their choosing. And I have been billed for membership and regular routine contributions to build up the Senate with the election fund. With it they can follow up with it and fill their commitments to their constituents.

I have enclosed postage so you can send the letter back to me. Please, I can't turn traitor on my choice of my party. But I don't have the guts to write it too them. They write some pretty positive and demeaning remarks. But some of those people show that by how they treat other people.

I hope that is a constructive way to do. But have ever heard of a President telling I must pay money on our national deficit and I can't understand how he expects me to be all excited in wanting to sign up to accepting task force. Charter membership and match Pres. Reagan's commitment with your own $120 membership contribution today.

I thank you Kindly.

I will be anxious to learn your thoughts on all these unpredictable goings on. And perhaps you heard of much of these going ons.

See stamp check.

Sincerely,

——— ———.

URGENT . . . URGENT . . . URGENT . . . URGENT . . . URGENT . . . URGENT . . . URGENT

DEAR MS. ———: Drug abuse is up an alarming 55 percent! Violent suburban drug-related offenses are increasing by 20 percent a year!

Drug-related murders have doubled in the past 5 years and 60 percent of the killers test positive for drugs. In fact 62 percent to 82 percent of all serious crimes—murders, rapes and robberies—are committed by drug users.

And now drug kingpins have declared war on Colombia and the United States. They've even threatened to assassinate President Bush and hard-line Senators!

You, me, President Bush and every member of the senatorial committee must intensify our war against drugs.

We must help President Bush stop the tidal wave of drugs washing over our borders. We must help him end drug-related crime, murder and terror in our neighborhoods, schools and playgrounds.

All that stands in our way is the Liberal Senate Democrat majority.

They refuse to support our war on drugs unless we let them force a major tax increase on the American people.

It disgusts me how the Liberal Democrats will use any excuse—even something as serious and as devastating as the drug plague—to call for new taxes.

You and I know that the answer lies in the strong and determined leadership that only a Republican Senate majority can provide.

Only with a Republican Senate majority can we terminate costly Democrat special interest giveaways and use that money to educate our children to the evils of drugs, build prisons and beef-up police forces in our towns and communities.

And only a Republican Senate majority will appoint tough-on-crime Federal judges who will hand down stiff sentences on drug kingpins and drug users.

Every Senatorial committee member has a moral and civic duty to aid President Bush in the war on drugs by helping to elect a Republican Senate majority in 1990.

For that reason, I must ask you to make a special emergency contribution of $25 or $50 to the Senatorial Committee today.

The tax-and-spend Democrats have had their chance.

While we want to come down hard on drug users, they talk about legalizing drugs. When we needed prisons they threw our tax dollars away.

When we needed stiffer sentencing laws they gave us early parole, halfway houses and plea bargains. When we asked for the death penalty for drug kingpins, they gave us rehabilitation programs.

We can't afford to let the Liberal Democrats hold our war against drugs hostage a day longer.

Please, do your part to help elect a hardline conservative Republican Senate majority which will work with President Bush to win the war on drugs.

The Republican Party needs to show its support for our President.

Send your special contribution of $25, or hopefully $50, to the Senatorial Committee today.

Thank you for taking immediate action.

Sincerely,

RICHARD DEARBORN,
Executive Director.

URGENT . . . URGENT . . . URGENT . . . URGENT . . . URGENT . . . URGENT . . . URGENT

To: President Bush and our Republican Senators: To help the Senatorial Committee intensify its campaign support programs and elect a tough-on-drugs and crime Republican Senate majority in 1990, I've enclosed my special contribution of:

———$25 ———$50 $———Other

My check is made payable to: The National Republican Senatorial Committee.

Signature————

Paid for and authorized by the National Republican Senatorial Committee. Contributions to the NRSC are not deductible as charitable contributions for Federal income tax purposes.

Mr. REID. That letter accused, among other things, "the liberal Senate Democrat majority" of standing in the way of ending drug-related crime, murder, and terror in our neighborhoods, schools, and playgrounds.

Yesterday, Mr. President, I told this body I found the letter to be personally offensive. So does my constituent. I spoke to her, as I indicated earlier, by telephone after my speech and she, while crying, and between sobs, said she was afraid if she did not give more money, they would in some way punish her. In her own way she was saying it was an intimidating attempt to obtain money.

I say it more directly: It is fraud and it is intimidation.

I also find the letter scandalous and so should every Member of this Senate, Democrat or Republican. It unjustly attacks some of the finest and most decent Members of this body.

Mr. President, the Dearborn letter claims the answer to the drug problems in America's streets can only be provided by Republican leadership in the Senate. It blames our Nation's drug problems on the failure of the Senate in the past.

Mr. President, that attack on the senior Senator from Kansas is completely unjustified. Under his leadership, from 1980 through 1986, and under the Republican majority which Mr. Dearborn so earnestly desires, this body took the same stance it has taken over the past 3 years. It stood foursquare against drugs.

If the problem is one of past inaction, Mr. President, then Mr. Dearborn is laying the blame squarely at the feet of his own party. I, for one, reject that charge but I call on my colleagues on both sides of the aisle to do likewise. I especially call upon Senator DON NICKLES, chairman of the Republican Senatorial Campaign Committee, to denounce this epistle. I have served with Senator NICKLES; he is the ranking member of a subcommittee which I chair. I have found him to be a man of fairness, and I think fairness dictates he should denounce this letter.

But reject them or not, the charges made by Dearborn are serious. So serious, they cannot be ignored, if he is telling the truth and there is a secret cabal of prodrug Senators, indeed a secret majority which has blocked effective antidrug measures. If he is not telling the truth then Mr. Dearborn would be well to profit by the example of Jim Bakker. He ought to keep in mind it is a Federal crime to raise money through the U.S. mails by telling lies to vulnerable old people.

But, Mr. President, maybe Mr. Dearborn knows something about people in the Senate attempting to legalize the drugs we thought we were fighting. He says he does. Maybe Mr. Dearborn knows something about a secret refusal of Senate Democrats to confirm any tough antidrug judges. He says he does. Maybe Mr. Dearborn knows which Senators are secretly against building prisons and beefing up police forces. He says he does.

Mr. President, we should give Mr. Dearborn an opportunity to reveal his secrets; a chance to do it under oath. I believe a committee or committees of this Congress should have Dearborn testify about the contents of this epistle he is sending out to extort money out of frightened little old ladies. There is a difference between rhetoric and mail fraud, Mr. President, and Jim Bakker found that out yesterday and he will be able to think about it for the next 45 years.

I will look forward with interest to Mr. Dearborn's relevations, but frankly I believe the only truth we will learn from the likes of Richard Dearborn is that Benjamin Disraeli still has his disciples. I yield the floor.

The PRESIDENT pro tempore. The Senator from West Virginia is recognized for not to exceed 5 minutes.

(The remarks of Mr. ROCKEFELLER and Mr. BURNS pertaining to the introduction of S. 1791 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. REID). The Senator from Delaware is recognized.

MEDICARE CATASTROPHIC COVERAGE ACT

Mr. ROTH. Mr. President, I rise today, just over 2 weeks after the Senate voted 99 to 0 to substantially scale back the Medicare Catastrophic Coverage Act and to eliminate the surtax. Letters and telephone calls by the tens of thousands flooded Capitol Hill offices demanding reform of the law, and so, Congress acted, but we and the seniors have yet to see the fruit of those labors. Our remedy for catastrophic insurance is being held up because the House and Senate must reconcile the differences in conference. The matter is pressing, and we must expedite the appropriate reform of the Medicare Program—over 32 million beneficiaries are waiting for the outcome.

When I recently offered the amendment to repeal catastrophic insurance, I chose to offer the identical language that passed the House 2 days before the Senate took action. In discussing the amendment I, along with several of my colleagues, made it clear that in order to accomplish and expedite the repeal of the law we needed to keep catastrophic out of conference.

Senator GRAMM stated: But repeal gives us a guarantee that the same people who wrote this bill to begin with will not have an opportunity to do it again in conference.

Senator DOMENICI stated: I really feel a little strange about sending it off to conference with those who have taken all of this time to see the light, and then only reluctantly and then only under enormous pressure. I have little doubt that we will come back here after a conference with the McCain bill.

Senator NICKLES stated: I really do not want to see this bill go to conference. I am afraid the primary sponsors of the legislation would create a "son of catastrophic."

To those who say that there is no danger, let me say I remember in 1986 when the Senate had passed a provision which restricted IRA's, whereas the House had no provision. I was a conferee in conference with the House Ways and Means Committee, and when we yielded to the House at my instigation the House refused our yielding to their position. So I think that is proof you cannot be certain what will happen with catastrophic insurance in conference. While my repeal amendment would have eliminated the possibility of having a so-called creative conference, at this point, I believe it is essential that a commitment is made that the conference consideration of catastrophic not extend beyond the parameters set by the legislative language that was passed by the Senate and the House.

The House of Representatives included a total repeal version to catastrophic insurance in their budget reconciliation bill, and the Senate approved a scaled down version on a free standing bill. Because the Senate catastrophic reform bill was not included in the Senate passed reconciliation, it is unclear as to where we stand on the provisions that are conferenceable. The question I am being asked back home is "What happens next to catastrophic?"

No one can answer that quesiton. In some way, the Senate and the House will have to reconcile the differences in what was passed in each House. However, I insist on some kind of assurance that conference procedures be adhered to as I am deeply troubled by rumors I have heard regarding the conference on the omnibus budget reconciliation bill. I understand that there is a possibility that while the House has the repeal language, the Senate will go to conference with current law. This means that we could end up with benefits and a package that the Senate already rejected. Turning around and coming up with such a package through conference deliberations, at the very least, would be a violation of the people's trust.

We are approaching the end of the year. Thirty-two million elderly and disabled beneficiaries need to know what Medicare benefits and premiums will be in place next year. According to what Medicare changes are enacted, elderly citizens who have or who are seeking medigap policies need time to select the appropriate policy. And, of course, we have the private insurance industry waiting to respond to Medicare changes. Care givers dependent on Medicare dollars need to know what to expect for next year. Of course, the Department of Health and Human Services needs time to gear up and oversee the transition of benefits for next year. We need to expedite the process for catastrophic insurance reform. My view 2 weeks ago was to keep catastrophic out of conference. Now I ask that we commit that conference considerations not to go beyond what 99 Senators and 360 Representatives voted for 2 weeks ago.

THE CONTINUING RESOLUTION

Mr. GORTON. Mr. President, in just a few moments we are about to debate a second continuing resolution during the course of this Congress, a dramatic illustration of our failure to deal with fiscal problems facing this country in a timely and orderly fashion.

Not only will we be debating a continuing resolution, we will engage in that debate in the second week of what the Gramm-Rudman law calls a sequester, a mindless and automatic reduction in spending programs across the board triggered by the fact that the Congress has also failed to pass an orderly bill meeting the deficit reduction goals of the Gramm-Rudman Act.

Mr. President, in spite of the fact that the majority party has a substantial majority both in this body and in the House of Representatives, we hear constantly and most recently in this morning's newspapers two things: first, that Congress cannot solve its budget problems and meet its Gramm-Rudman deficit reduction goals because the President of the United States continues to demand a vote on special treatment for capital gains in our Tax Code; and, second, because the President of the United States continuously refuses to agree to an increase in general taxation.

But, Mr. President, the President of the United States does not control either congressional debates or congressional action. The majority leadership in the two Houses does.

If that party wishes higher taxes, either to engage in new spending programs or to reduce the deficit, let them put a tax bill on the floor of this body, let the Congress pass a general increase in taxes. Should the President of the United States veto such a bill, then next year's campaign can be run on exactly that difference, as the campaign in 1988 was run. But let us hear no more complaining that the President and the Republican Party refuse to repudiate their campaign promises and vote new taxes for the majority party to spend.

On the subject of capital gains, we have a more graphic illustration still. The blood truth is that a significant number of the party on the other side of the aisle will not follow the party leadership on the subject of capital gains. If they were willing to do so, of course, it would be very easy to bring up that subject, to vote on it and to defeat it.

The reason we are in this difficult, almost disastrous situation today stems from the fact that for some 9 weeks the House of Representatives held up bills to meet the Gramm-Rudman deficit reduction goals in a vain attempt to frustrate a vote and a defeat on the subject of capital gains. Now the leadership in the Senate refuses to allow the vote on that subject, I think primarily because it knows the result will be the same as it was in the House of Representatives.

So that leadership continues to blame the President of the United States for attempting to keep a campaign promise. It refuses to allow the majority to rule in order to frustrate the keeping of that campaign promise. It is time, Mr. President, to allow both the Senate and the House of Representatives to vote on bills which will meet the Gramm-Rudman deficit reduction goals and which will allow a vote on capital gains.

The failure in leadership, Mr. President, is not in the White House. It is right here in the Congress where, in order to disguise a disarray in the majority party, the majority party leadership refuses to allow votes on important and vital issues.

WHAT JOB WELL DONE?

Mr. BRYAN. Mr. President, the taxpayers of this country have been assaulted once again, and the American people are being told that they should call a stop to this attack on the purse or the robbers will walk away.

Yesterday, we had the spectacle of a General Accounting Office report revealing that the Department of Energy paid the contractor in charge of the Rocky Flats Weapons Facility in Colorado millions of dollars in performance bonuses for a job well done.

Mr. President, I think the American people might well inquire, what job well done? Should not performance bonuses be somehow related to performance? It needs to be remembered that Rocky Flats in a facility over which the Federal Bureau of Investigation had to maintain aerial surveillance in order to gather evidence of the release of radioactive waste.

Mr. President, this was the same facility at which the FBI had to launch a surprise raid in order to capture evidence. This is the same contractor that permitted employees to be exposed to dangerous levels of toxic and radioactive contamination.

Mr. President, I suggest the Department of Energy should not be paying millions of dollars in bonuses to a firm which the FBI had to raid in order to gather evidence.

These bonuses have been substantial. Over a 3-year period of time, Rockwell International Corp. has received some $27 million in performance bonuses. The question must be asked, Why did the DOE pay out such large sums of money to a company which was releasing nuclear contami-

nation into Colorado's environment, breaking Federal and State law, and mismanaging the Federal facility?

Yes, Mr. President, the Department of Energy has millions to reward contractors that undermine health and safety concerns and yet the agency cannot find the funds to provide Nevada adequate funding for oversight work at the Yucca Mountain high-level nuclear dump project. This agency, the Department of Energy, seems to value the comfort and care of contractors over the concerns of health and safety. The millions of dollars squandered to Rockwell's bank account for a job poorly done would have been better served in the State treasuries of Colorado, New Mexico, Idaho, and Nevada, where the money could have been put to work protecting the citizens of the West.

The problems the Department of Energy has caused at Rocky Flats go far beyond this troubling fact. The Department of Energy's waste dump in New Mexico, the waste isolation pilot project [WIPP], which was supposed to store the waste generated at Rocky Flats, is years behind schedule because of the failure of the Department of Energy to properly manage the facility in New Mexico.

The Secretary of Energy has proposed that seven western States, including my own State of Nevada, Mr. President, should temporarily store plutonium contaminated waste from Rocky Flats. The citizens of my State ask why should we always be asked to sacrifice every time Department of Energy officials commit major blunders? It is a good question, Mr. President. We are told that the Department of Energy is reluctant to penalize contractors because they may then not want to continue working at our nuclear facilities.

May I respectfully suggest that the American people, the people working at these facilities, and the people who live around these facilities, simply cannot afford to have such irresponsible contractors near these plants.

Mr. President, I ask unanimous consent that the front-page story "DOE explains why it has to pay for mistakes that contractors make." from the Wednesday, October 25, 1989, issue of the Energy Daily be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Energy Daily, Wednesday, Oct. 25, 1989]

DOE EXPLAINS WHY IT HAS TO PAY FOR MISTAKES THAT CONTRACTORS MAKE

(By Danialle Weaver)

The Department of Energy acknowledged on Tuesday that it has paid its weapons plant contractors hundreds of millions of dollars in awards and bonuses and provided them with broad exemptions from financial and legal liability despite the disclosures of severe environmental, safety and health problems at the facilities. But the agency insisted to the House Government Operations subcommittee on environment, energy and natural resources that it cannot go too far in penalizing its contractors because the contractors will walk away from their contracts if they have to accept repsonsibility for their own actions.

According to a General Accounting Office report released Tuesday by subcommittee chairman Mike Synar (D-Okla.), Rockwell International Corporation, which is vacating its contract with DOE to run the Rocky Flats weapons facility near Denver, received nearly $27 million in award fees for performance in 1986, 1987 and 1988 over and above reimbursed costs for running the facility. In determining those fees, DOE's Albuquerque operations office rated Rockwell "very good" and "excellent" in the area of waste management, which includes environmental matters, GAO's Keith Fultz said.

A GAO survey of six DOE weapons facilities, including Rocky Flats, showed that contractors received award fees ranging from $1.4 million to $10 million in fiscal years 1987 and 1988. Those fees represented between 46.5 percent and 89 percent of the total potential award fees available to them. At some facilities, performance related to environment, safety and health matters had no effect whatsoever on award fees paid, Fultz said.

Although Fultz said that he believed that Energy Secretary James Watkins is sincere about correcting deficiencies in the contracting process, GAO's recent experiences at Rocky Flats show that it is "going to take a very, very long time for a change. Regretfully, I would have to say that Rockwell is still of the opinion that the problems aren't as great as being reported in the press or that the politicians were saying they were."

DOE also continues to bear all costs associated with operating the facilities, including expenses related to contractor errors, Fultz said. Inadequate quality assurance controls at the Savannah River plant led to the improper loading of fuel and target tubes that could cost the government more than $731,000, Fultz said. Improper mixing of acetone with cement and low-level waste "sludge" from a Rocky Flats evaporation pond could cost up to $12 million, a DOE official said.

DOE's policy "is to completely indemnify its [management and operations] contractor," to "bear substantially all risks" and "pay all costs associated with running its facities," including "fines, penalties, claims, losses and damages," DOE Inspector General John Layton told Synar's committee. DOE's policy also is to fully reimburse all contractor authorized expenses without questioning them, including, in most instances, salary and bonus expenses.

In most contracts, the reasonableness of expenses can be questioned, but only if they are incurred "by the willful misconduct or bad faith" on the part of "key officicals," sometimes as few as one official per contractor, Layton said. In some instances, expensives related to fraud or theft could be routinely reimbused. DOE can stop cost reimbursement if it knows in advance that the charge should be disallowed and has, in two instances, retroactively charged contractors for past excesses, Layton said.

DOE officials contend that all costs must be reimbursed. The policy is necessary because the agency will be otherwise unable to find qualified contractors to run the facilities, DOE said. However, DOE has awarded two contracts for weapons plants within the past year or so, which "demonstrates that there are companies . . . willing to run these facilities," Layton said.

But a top DOE official disagreed. "It must be fully recognized that DOE is presently walking a fine line with its contractors," said Deputy Energy Secretary Henson Moore. With DOE's heightened sensitivity to environmental issues, contractors "are increasingly worried about criminal and civil liability for continued facility operations," Moore said, "Accordingly, while we want to aggressively demand greater management accountability and fiscal responsibility from our contractors, we also have to realize that there may not be many countervailing incentives to keep the M&O contractors from walking away altogether."

Although the contractors are hired for "particular qualifications," they do make mistakes "from time to time," Moore acknowledged. DOE must continue to foot the bill for contractor errors because that is a legitimate business expense, he said.

DOE also will not make public information regarding the salaries and bonuses of top contractor officials because that information could hinder the government's efforts to find qualified contractors, Moore said. "Will it help or hurt if we cause the managers of our plants to undergo some kind of public abuse for the salary they're being paid?" he asked.

DOE is examining its future options regarding greater accountability for its contractors, including withholding the entire award fee, Moore said. DOE also is considering adopting the civil penalty provisions used by the Nuclear Regulatory Commission to levy fines for violations of safety rules, he said. DOE also is looking at creating one standard type of contract that would apply to all of its facilities contractors, he added.

Mr. BRYAN. Mr. President, I thank you. I yield my time.

THE NATIONAL GUARD

Mr. BOND. In a recent speech, Gen. Carl E. Vuono, Army Chief of Staff, called attention to the fact that there has been a significant amount of criticism in recent months of readiness of the National Guard. I share the general's view that this criticism is misplaced. As cochairman of the Senate National Guard Caucus, I would like to take a few moments to review for my colleagues some information on Guard readiness. I would just add that I have discussed this issue with my good friend, Senator FORD, cochairman of the Guard Caucus, and he shares my views on the impressive state of Guard units across the Nation, and their readiness to carry out their national defense mission.

The Army and Air Force National Guard play a critical role in the defense of the United States. Under the total force policy that role continues to grow. The Guard will play an important role in any significant mobilization of U.S. troops, and a review of readiness figures makes it clear they are up to the task.

The Air National Guard currently is rated at its highest readiness level in history. The high level of skill among Guard pilots was clear at the recently concluded Gunsmoke competition.

Gunsmoke, the Air Force's worldwide air-to-ground fighter competition, brings together Active Air Force, Reserve, and Guard pilots and crews in a competition to determine the best of the best.

The overall top team named at the event was the 169th Tactical Fighter Group of the South Carolina National Guard. National Guard units won top honors in other events including: Top Gun in low angle, high drag bomb and level bomb competitions; Top Gun in the A-7 competition; first place in the maintenance crew competition; and first place in the A-7 munitions team competition.

In my State of Missouri, the Air Guard continues to score well. Just this past week the 131st Tactical Fighter Wing, our Air National Guard F-4 unit in St. Louis, passed with flying colors a rigid Air Force operational readiness inspection. This is the same unit which just last year deployed direct, nonstop, to Germany to participate in NATO exercises.

Our St. Joseph airlift unit, now equipped with new C-130H Hercules aircraft, daily provides assistance to the active Air Force worldwide. In addition, the Advanced Airlift Tactics Training Center in St. Joseph continues to train C-130 crews, not just from the National Guard, but from all services including the active Air Force and foreign air forces, in the latest tactical procedures and maneuvers developed for that type of aircraft.

The Army National Guard can also be proud of its readiness levels. In the past 4 years, Guard readiness has been increased 37 percent to an impressive 82 percent overall. This compares quite favorably with the readiness levels of the Active Army forces.

In Missouri, the Army National Guard has continued to increase its readiness condition and stands ready to fulfill its role as a critical element in the total force structure. During training year 1989, which ended September 30, 1989, units showed an increased trained posture in every core area on the forces command annual training evaluations. These evaluations are administered by independent active component personnel. In addition, Missouri's status of readiness and training system reports, which are submitted quarterly to the Joint Chiefs of Staff, indicate Missouri has attained the highest combat mission capable status it has ever known.

The quality of our soldiers, thanks in large part to the Montgomery GI bill, has increased vastly and our ability to attain a high percentage of military occupational specialty qualification has been most rewarding.

During the past year, Guard units conducted new equipment training for the small emplacement excavator, heavy expanded mobile tactical truck, and the Mark II bridge erection boat, as well as other systems, with outstanding success.

Modernizing our Guard force is vital. We must continue to provide Guard units with the same first-line weapons used by the Active Forces. I have been pleased to see my colleagues voting to provide these weapons recently; 100 percent of guardsmen need to operate this equipment if they are to fulfill their role in time of emergency.

The expertise of Army Guard aviation units also deserves praise. Guard units are in their third year of fielding the top-of-the-line AH-64 Apache gunship. Units in Florida, and North and South Carolina are already operating Apaches and have achieved the same readiness levels in the same amount of time as Active Force units.

Other Guard units continue to operate AH-1 Cobras with great success. In Missouri, all units are now fully qualified in the Cobra, including night vision goggle qualification. Missouri's aviation classification and repair depot in Springfield provides Europe with numerous man-hours of depot level aircraft maintenance support through the Belgium warm based facility. This speaks well of our soldiers and their commitment to the military's role in deterring possible aggression.

The Guard continues to demonstrate its capability through its dozens of overseas deployments each year. Last year the Guard deployed more than 28,000 troops to over 60 countries.

As just one example, Missouri's capability was demonstrated when it mobilized and deployed the personnel and equipment necessary to construct roads in the mountains of Honduras in larger numbers than any other State had previously or to date sent to Central America. This accomplishment was recognized by former Secretary of the Army Marsh who said that Missouri has taken the lead in this engineering effort.

The Guard also continues to excel in another important role—maintenance. In Missouri, we will soon have a new maintenance facility in Jefferson City which will have available an M-1 tank and the Bradley fighting vehicle so that our maintenance units, both National Guard and Reserve, will have a hands-on capability in repair of these high-tech weapons systems.

Mr. President, Missouri is not the only State with an outstanding Guard. Units across the country are achieving new levels of readiness, winning top honors at competitions and phasing in the newest equipment. I ask unanimous consent to introduce into the RECORD several letters detailing some of these achievements—letters to Senator HOLLINGS detailing achievements in South Carolina, to Senator BOREN about the Oklahoma Guard, to Senator LOTT about the Mississippi Guard, and to Senator BREAUX about the Louisiana Guard.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF OKLAHOMA,
MILITARY DEPARTMENT,
Oklahoma City, October 13, 1989.

Hon. DAVID L. BOREN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR BOREN: In the past few weeks I have read and heard criticisms that the National Guard and Reserve cannot handle sophisticated equipment that has been assigned to them.

First, I want to thank you for the personal efforts you have made to see that the National Guard in Oklahoma has had modern equipment to train for its mission as part of the Total Force.

Second, I feel an obligation to take issue with the idea that the National Guard cannot handle modern weapons systems. Oklahoma has proven repeatedly that National Guardsmen can excel in the use of sophisticated equipment and missions.

The most recent example was in August when the 1/158th Field Artillery Battalion completed the evaluation of its training with the Multiple Launch Rocket System (MLRS). This is the most sophisticated and complex weapon in the field artillery. The three firing batteries achieved percentage scores of 87, 92, and 95, which are outstanding.

Both of the flying units in the Oklahoma Air National Guard have been cited for their excellence in carrying out their missions on a world-wide basis. These are just a few of the examples that can be cited in Oklahoma. There are hundreds of similar success stories around the country.

Providing modern equipment brings other benefits. It enhances morale, which results in improved recruiting and retention. This increases the overall unit readiness.

The State of Oklahoma stands ready to meet the continuing challenges of the Total Force policy. We appreciate the equipment and support the Congress has provided. And we will continue to do the training to meld the new equipment and Oklahoma's manpower into the top-notch combat units required.

It might be helpful if you would circulate this letter among senators and staffers on the Hill to let them know how well we are doing in Oklahoma.

Respectfully yours,

DONALD F. FERRELL,
Major General, OKANG,
The Adjutant General.

STATE OF MISSISSIPPI,
MILITARY DEPARTMENT,
Jackson, MI, October 15, 1989.

Hon. TRENT LOTT,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LOTT: I am taking this opportunity to first thank you for your past support of the National Guard in obtaining modernized equipment and secondly to ask your support of our continued efforts to continue the procurement of modern equipment.

There are critics, both in the active military establishment and in the private sector

who question the National Guard's ability in taking on new missions and being able to train up to standards with modern equipment. I personally think the opposite is true. The success of the Mississippi National Guard should dispel any questions. I can remember the days when my personnel and I were coveters of the active establishment's good equipment which would have given us the opportunity to train our personnel to Military Occupational Specialty standards. You cannot imagine all the positive impact that modern equipment has had on the National Guard. Morale is better, recruiting and retention is better and we are able to challenge the younger generation to achieve higher readiness standards. We truly are beginning to feel a part of the one Army concept.

In the Air National Guard, the C-141 Starlifter and the add-on construction associated with that aircraft has enabled that unit to become one of the best in the Air Force structure. The Air Combat Maneuvering Instrumentation system (ACMI) in south Mississippi will enable all Reserve Component air units to achieve higher training standards utilizing the Gulfport Air National Guard facility. We look forward to getting new aircraft at the Meridian Air National Guard unit and completing the hangar facility.

In the Army National Guard, the 155th Armored Brigade, which is roundout to the First Cavalry Division, has received almost all of the new Force Modernized equipment authorized in the active Army. They are achieving readiness standards with the M-1 Abrams tank and the M-2/3 Bradley Fighting Vehicle. We are receiving new equipment every day in many of our units and those units are achieving higher readiness standards in proportion.

I am convinced that the National Guard can take on additional missions and achieve training and readiness standards as long as we receive new, modern equipment and training facilities. We must have the land title transfer at Camp Shelby for more tank maneuver space and we must have the add-on construction proposed to the Senate and House. The flow of new equipment proposed by the National Guard Bureau and the National Guard Association of the United States must continue in order for the National Guard to dispel the critics.

We need your support and it is requested that you inform your colleagues of the criticality of these issues and their importance to the national security of this nation.

Again, thank you for your support of the Mississippi National Guard.

Sincerely,

ARTHUR J. FARMER,
Major General (MS), MSARNG,
The Adjutant General.

STATE OF LOUISIANA,
MILITARY DEPARTMENT,
New Orleans, October 14, 1989.

Hon. JOHN B. BREAUX,
U.S. Senate, Washington, DC.

DEAR SENATOR BREAUX: For the past few weeks, it seems that there is open season for critics of the Guard. Our readiness, ability to recruit and ability to effectively operate "new complex and sophisticated equipment" has been questioned. That is just not true. I would like to provide you with our experience here in Louisiana.

The 159th Tactical Fighter Group of the Louisiana Air National Guard was the first Reserve Forces Unit to convert to the F-15 Eagle, the world's most advanced fighter. The airplane is equipped with a variety of highly technical air-to-air weapons systems. The F-15 Eagle can carry four radar guided sparrow missiles, four heat seeking sidewinder missiles and an internal 20 millimeter gatling gun. This one man controlled aircraft has exceeded speeds of Mach 2.5. Since taking control of this sophisticated weapons system, the 159th has excelled in all phases of its operation. They have consistently passed or exceeded all operational requirements established by the United States Air Force, and they have flown over 10,000 hours without a major accident. For this notable achievement, they were presented with both the National Guard Bureau and the USAF Flying Safety Award. During the unit's Operational Readiness Inspection of 15-23 October 1987, the 159th generated an 86 percent combat sortie effectiveness rate and received an excellent rating by 9th Air Force inspectors. On 4-9 May 1989, the 159th received its first Unit Effectiveness Inspection. The entire Group was rated excellent. Of the 177 areas rated by the USAF, five were rated outstanding and 98 excellent. All of these achievements attest to the technical skill and capability of these Louisiana Air Guardsmen. Due to their achievements and proficiency in this highly technical weapon system, the unit is currently under consideration for the Air Force Outstanding Unit Award.

The Louisiana Army Guard has received several new weapons and support systems which have challenged our units and soldiers. In every instance, I have been gratified by the depth of planning for its receipt and in the training success achieved. Our 1/141st Field Artillery Batallion fielded the TACFIRE/AN-TPQ 36 radar system during Training Year (TY) 86 and was able to train-up for a highly successful National Training Center rotation during Annual Training (AT) 87. Their AT 89 evaluator from the 5th Infantry Division stated that, in his opinion, the 141st TACFIRE section was probably the finest in the entire U.S. Army. They have since been used to evaluate their Active Component sister battalion. The battalion's progress and proficiency in the use of the recently fielded Ground/Vehicle Locator Designator (G/VLLDO) also received favorable comments during AT 89.

In addition, the 1/156 Armor Battalion received the M1 Abrams tank just prior to AT 89. They were able to receive an introduction to the tank and some training on the machine guns and publication before they began the New Equipment Training (NET). During their twenty-one day AT period, the emphasis was on individual and crew duties as well as live familiarization firing of all weapon systems. According to the NET team and the commander's evaluation, all crews progressed satisfactorily. Since AT, the battalion has had one Multiple Unit Training Assembly (MUTA)-4 which was dedicated to maneuver training. The battalion is currently on track in its train-up program, with the soldiers highly motivated and thoroughly enjoying this new challenge. I expect that our readiness status will improve significantly and rapidly during this year, barring no catastrophic fund shortfalls which would adversely affect our gunnery training.

I have enclosed a copy of an article written by Captains Santos, Dwyer and Wilson which appeared in the August 1989 issue of "Field Artillery." The article graphically illustrates the challenges faced by Reserve Component units and successes attained in the 141st.

The quality of our soldiers has never been better. It exceeds that of the Active Army and is equal to that of the Air Force. Approximately two percent of our personnel are mental Category IV; that equals to 250 out of 14,000. This past year, only one soldier in Category IV was recruited. Today 30 percent of our enlisted Guard members attend college.

We can, and we will, meet the challenge. I wish you would share our stories of success with those of your colleagues that question the Guard's ability.

Kindest personal regards.

Sincerely,

A.M. STROUD, Jr.

How does an ARNG roundout battalion prepare for its mission in the event of mobilization? An effective mobilization requires advance planning, meaningful training and proficient execution. Typically, an ARNG Field Artillery unit has 39 days of training per year to sustain the technical and tactical tasks required to conduct offensive and defensive operations in the roles of direct support, general support and reinforcing.

MULTIPLE-UNIT TRAINING ASSEMBLIES

Before our National Training Center (NTC), Fort Irwin, California, rotation, seven multiple-unit training assemblies (MUTA 5) live-fire exercises were conducted at Fort Polk. Each MUTA 5 is an actual mobilization exercise, entailing the use of alert rosters, advance parties, commercial transportation assets and realistic training objectives for the Battalion to achieve at the mobilization site.

A typical exercise begins with an advance party operating with approximately 60 personnel, comprised mostly of full-time Active Guard and Reserve (AGR) personnel supplemented by part-time or mobilization day (M-day) soldiers. The party receives vehicles and equipment from the maintenance and tactical equipment storage site (MATES) one week before the MUTA and prepositions the tactical vehicles in designated assembly areas. In addition, it draws ammunition and verifies safety data of all ranges involved in the training. Advance party operations are the key to maintaining the citizen-soldier role; the party completely prepares for the exercise by the time the main body arrives, essentially assuring the majority of the M-day soldiers are unaffected by additional requirements generated by a MUTA 5 weekend.

M-day soldiers report to Fort Polk on Friday evening and immediately prepare their vehicles and equipment for a night reconnaissance, selection and occupation of position (RSOP). The firing batteries shoot a check round and prepare for operations at first light. With 300 rounds for training, the objectives for Satuday are shooting, moving and communicating. On Sunday morning, the batteries convoy to the vehicle wash point and motor pool to conduct preventive maintenance checks and services (PMCS). The troops are then transported to home station and released. A rear detachment, primarily AGR personnel, remains at Fort Polk to complete the PMCS and turn in MATES vehicles.

This may seem like an ambitious weekend for a citizen soldier; but considering everything accomplished during the weekend, it's virtually the same as it would be in an actual mobilization. This exercise proves the Battalion can effectively mobilize, deploy and conduct tactical operations. During the NTC train-up year, these MUTA 5 exercises

helped the Battalion achieve a state of readiness never before realized. As the first ARNG Field Artillery tactical fire direction system (TACFIRE) battalion to participate in an NTC rotation, the 141st experienced many of the challenges it would face during an actual mobilization.

ROUNDOUT LESSONS LEARNED

By executing the Battalion's mobilization plan in preparation for the NTC rotation, we learned lessons that should greatly help the unit in the event of an actual call-up. The Forces Command (FORSCOM) *Mobilization and Deployment Planning System Commander's Handbook* mentions that the basic concept of premobilization processing is preparedness. This concept is certainly true, especially in the areas of personnel and administration, training and logistics.

Preparedness the Key. The "preparation phase" is ongoing in the 141st as we get the unit ready for mobilization by completing all possible peacetime actions. With good advance- and rear-party operations, the only difference in annual training at Fort Polk and training at the NTC or outside the continental US is the travel time of the main body (i.e., from home station to the assembly area).

Family and Employer Support. Issues dealing with family assistance and employer support play a major role, not only during mobilization, but throughout the year. Without the support of the M-day soldier's family and employer, a myriad of problems arise. So it's important to keep the family and employer informed as to what we expect of the soldier. This was one of the most important lessons we learned during the NTC train-up.

TACFIRE Training. In the area of training, we proved we could shoot, move and communicate. However, synchronization of the battle with fire support elements using TACFIRE proved to be our greatest challenge. It requires additional training if we are to provide the support maneuver battalion commanders need. If practice makes perfect, then the seven MUTA 5 weekends demonstrated how repetition can have positive results, particularly in areas such as TACFIRE operations, battalion and battery fire direction operations and command and control.

Logistics. In the logistical area, we're confident we can move the Battalion anywhere, using our movement plans based on the computerized movement planning and status system (COMPASS) report. We gained valuable experience in rail-load and airdrop operations, as well as in manifesting personnel for airlifts. Logistics package (Logpac) operations do work, and we refined techniques to sustain our tactical operations.

3×8 CHALLENGE

So what does the future hold? The greatest challenges the Battalion will face are yet to come. In late FY 89, the 141st Field Artillery will officially convert to the 3×8 concept. We already have TACFIRE and most of its components, and we have successfully conducted an NTC rotation using this technology. We have received our heavy expanded-mobility tactical trucks (HEMTTs) and high-mobility, multipurpose wheeled vehicles (HM-MWVs) and are receiving portions of the other modified table of organization and equipment (MTOE) items, which will help us prepare for the upcoming conversion.

Equipment, such as the fire support team digital message device (FIST DMD), the survey electronic distance measuring equipment—medium range (SEDME-MR), the ground-vehicular laser locator designator (G/VLLD), fire support vehicle (FSV), tactical combat service support computer system (TACCS) and mobile subscriber equipment (MSE) are just a few of the sophisticated items we'll receive. Our greatest test will be fielding and operating this new equipment, all of which will require highly trained soldiers.

By applying the lessons learned from the NTC, we have developed a new perspective on readiness and what is required to support a maneuver brigade in the Airland Battle effectively. With a great appreciation of where the Battalion currently stands with regard to readiness and the upcoming 3×8 conversion, we must determine how to preserve and upgrade this posture yet maintain the traditional role of the citizen soldier.

TRAINING PROGRAM CYCLE

FM 25-1 Training Land states "deployment and operational training exercises with allies and sister services provide the realistic and mission-oriented training requisite for success in war. Joint and combined training offers an unparalleled peacetime opportunity to exercise and refine the warfighting capabilities of both Active and Reserve Components." With this philosophy as our guide, we have developed a training program we would like to implement, one that would integrate three types of training years in a 10-year cycle.

The cycle would begin with a NTC rotation in the first year, followed by annual training at the mobilization station in the second and an outside continental United States (OCONUS) annual training period in the third. This cycle would continue, alternating between a NTC rotation or an OCONUS exercise every other year. Each training year would be highlighted by a continuous field training program in which the Battalion conducts a minimum of five live-fire exercises, culminating with annual training.

The most reliable and effective means of supporting this continuous, fast-paced "roundout training program cycle" would be to increase the number of AGR personnel to complement the high-tech aspect of the new equipment. Currently, we have 39 AGR personnel in the Battalion. Each battery has a core of a training NCO, supply sergeant, unit clerk and armorer. The bulk of the AGR force is in the Battalion headquarters section (eight AGR positions) and in the TACFIRE section (seven AGR positions).

In addition, the Battalion is scheduled to convert to the howitzer improvement program (HIP) howitzer, which will create an even greater demand for highly skilled and qualified soldiers. Will our citizen soldiers be able to sustain their proficiency on this state-of-the-art equipment with the traditional one-weekend-per-month training? Could the increase of full-time support personnel resolve this question? The answer to both questions is yes! With an increase in the number of AGR personnel, we'd have a highly trained cadre to maintain the technical standards and proficiency required to provide effective training for the citizen soldier, enabling the Battalion, as well as its divisional counterparts, to be confident the 1st of the 141st Field Artillery can accomplish its roundout mission within the visions of the Total-Force Army.

CPT EARL P. SANTOS, Jr., FA,
Cdr, HHB.
CPT JOHN B. DWYER, FA,
Cdr, B Btry.
CPT STEVEN J. WILSON, FA,
Cdr, C Btry, 1st Bn, 141st FA.

THE STATE OF SOUTH CAROLINA,
MILITARY DEPARTMENT,
Columbia, SC, October 18, 1989.

Hon. ERNEST F. HOLLINGS,
U.S. Senate, Senate Office Building, Washington, DC.

DEAR SENATOR HOLLINGS: I have been told that in Joint Conference Committee hearings on the defense budget, concerns were raised by a couple of senators about the National Guard's ability to field, maintain and operate sophisticated military equipment.

Since South Carolina units in the past several years have received such modern equipment as the F-16, M-1 tank, Bradley Fighting Vehicle and Apache and Blackhawk helicopters, I thought it appropriate that I share my thoughts with you and give you a brief report on the training successes and readiness of the units. I would hope that you might use some of this information to allay the concerns or correct misunderstandings on the part of those senators who are apparently misinformed.

The National Guard is undeniably and by design an essential and vital part of the sum total of our nation's defense posture. For example, the Army National Guard alone represents 29% of the Army's total strength, and possesses almost half (46%) of its combat units. Therefore, our nation will not go to combat in the future without the National Guard being Federalized. Because of these facts, our units should be and must be properly equipped.

The Congress has consistently provided modern equipment for our National Guard units. This has enhanced the morale of our soldiers and airmen, which has benefited our recruiting and retention efforts. It has also increased the combat capability and readiness posture of our units. I am personally very grateful to the Congress for this, and to you, Senator, for your strong support in this respect.

In 1983 the South Carolina Air National Guard became the nation's first Reserve Forces unit to convert to the ultra-modern F-16 tactical fighter. The conversion was accomplished in record time, and was hailed as the most economical F-16 conversion to date. The 169th Tactical Fighter Group has consistently received overall excellent ratings on inspections by the Air Force. Today the unit stands tall as the nation's premier tactical fighter unit, having just last week been named the Overall Top Team in the Air Force's world-wide gunnery meet, "Gunsmoke '89." Besting Air Force, Air Force Reserve and Air National Guard F-16, A-10, F-4, and A-7 units, the 169th Tactical Group achieved the highest overall score for skills in strafing, bombing and navigation. This certainly demonstrates the National Guard's ability to operate sophisticated equipment, and attests to the combat skills of the aircrews.

In the Army National Guard arena the South Carolina Army National Guard recently fielded the M-1 tank in a flawless manner with 57 of 58 tank crews subsequently qualifying on the Tank Gunnery ranges. (The one crew that did not qualify was due to an accident that prevented them from firing.)

The South Carolina Army National Guard is also in the process of fielding an AH-64 Apache Battalion. This has been a completely unique experience in that our pilots are being transitioned directly from the UH-1M, a 1960's vintage aircraft, directly to

the AH-64 without first going through qualification in the AH-1 surrogate trainer as all others who have gone before us have done. Thus far that fielding is going well with the major problems having occurred in the logistics area. Based on the experiences of North Carolina in fielding the AH-64, the decision was made to extend the length of the training period for South Carolina and subsequent Guard units. However, it should be noted that although the train-up period is longer because of the involvement of citizen-soldiers who must maintain their civilian occupation, the actual number of training days allotted is virtually the same for the active component and the National Guard.

I can assure you and the Joint Conference Committee from first-hand experience that our National Guard units in South Carolina have an excellent record of achieving and maintaining high standards of training and combat readiness with the modern, sophisticated weapons systems that have been assigned to us.

Thank you again for your outstanding support for our program.

Sincerely,

T. ESTON MARCHANT,
Major General, SCARNG,
The Adjutant General.

Mr. BOND. Mr. President, in summary, it is clear that the National Guard is a force of which we can all be proud. Certainly guard units can use additional training. We must remember, however, that increasing readiness levels requires funds for training as well as equipment. We cannot expect top performance if we in Congress fail to provide the necessary resources.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KOHL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ADAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ADAMS. Mr. President, before closing morning business, I have discussed a matter with the majority and minority leaders. I ask unanimous consent that the time for morning business might be extended for 15 minutes in order that Senator BIDEN, Senator MITCHELL, and myself might each spend 5 minutes on the matter of the D.C. appropriations bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

DISTRICT OF COLUMBIA APPROPRIATIONS

Mr. ADAMS. Mr. President, last week the House of Representatives agreed to the conference report on the District of Columbia Appropriations Act for fiscal year 1990 and sent the bill to the President. As my colleagues know, President Bush has chosen to ignore all of the anti-drug provisions in this bill and focus on only one issue in this bill. The issue of abortion. This past weekend President Bush vetoed the Labor-HHS bill because it included an exception for cases of rape and incest. Mr. President, the D.C. bill has included that exception since 1980. President Reagan signed it on three separate occasions. It would be a tragedy for the President to veto this bill. I want to take this opportunity to speak about the anti-drug measures that are contained in this bill. Especially since abortion is not, and should not be, an issue in the Congress on the D.C. bill.

Both the House and Senate have the exact same language. There was no conference item on abortion. The language in both bills is the same language that has been in law for 10 of the last 11 years.

Mr. President, President Bush has been saying for months that he wants to help in the drug emergency in the Nation's Capital, but so far his actions do not demonstrate any sense of emergency. On February 21, 1989, in a question-and-answer session with reporters, President Bush was asked about the violence gripping our cities and Washington, DC, in particular.

The President was asked if there was a role for the Federal Government to play in solving that problem. He replied that there certainly was in the District of Columbia because it is a Federal City, and in response to a followup question, the President stated that, "Yes, there will be Federal money, and I wish we had more."

Mr. President, I agree with President Bush and I wish we had more money to devote to our efforts to relieve our communities of the drug plague. The D.C. appropriations bill contains $31.7 million in Federal funds to attack the drug and crime problems in the District. Additional funds will be used to hire more police, provide for more judges, expand prison space, establish a drug treatment program for pregnant drug abusers, and to expand the after school programs in the D.C. public schools in order to give our kids a safer alternative to street life after school. We included these funds despite the fact that the administration has not requested the first dollar of funds to help this city.

On April 17, 1989, Drug Policy Director William Bennett stated in testimony, submitted to our subcommittee, that he was "offering help to manage the prison situation, to expedite its prosecutions, and to reduce the backlog of unresolved homicide cases" in order to give District residents renewed hope.

However, when the Senate included funds for additional judges to expedite prosecutions, the President said he would veto the bill over abortion. When the Senate included 700 additional police to stem the torrent of homicides, the President said he would veto the bill over abortion. When the District included the use of $67 million of its own funds to plan and build additional prison space, the President said he would veto the bill over abortion.

Mr. President, where is the renewed hope in that message? Where is the commitment of a Federal role to help solve this city's drug problems that the President promised in February? The promised help to manage the prison situation has resulted in 250 additional prisoners going to Federal facilities and the possibility of 500 more from the District, a system which has more than 2,000 more inmates in its institutions than it has beds for. A proposed 700-bed Federal prison was canceled because of opposition, and a proposed 500-bed pretrial detention facility still has no final site approved. I thought that the President and Secretary Bennett were sincere when they said they were serious about fighting the drug war in our Nation's Capital. But what we've seen is a lot of talk and very little action. What we have seen is the White House lure drug dealers to the neighborhood—so that Federal agents could secure a prop for the President's T V address on drugs.

Well, Mr. President, most residents in our Nation's Capital do not want to lure drug dealers to their neighborhoods—they want to expel them. They want them arrested, prosecuted, and sent to jail. Where is the President's commitment to his words.

Mr. President, we have to ask ourselves why, with the crying need for our help in every city, town, and rural area to fight drugs, does the President want to veto a bill that attacks the drug plague in America's home town, Washington, DC. What is the message to Rayful Edmond, the alleged drug kingpin on trial in Federal court, is it that if we must choose between a position on abortion, that is not held by a majority of the American people or by the members of the Congress, and fighting drugs—drugs take second place? That is not the message of this Congress and I sincerely hope it is not going to be the message of this President.

Mr. President, I want to speak briefly about President Bush's objection to the abortion language included in this bill.

This language is restrictive. It provides that no Federal funds may be used for abortion, except where the life of the mother is in danger, and in cases of rape and incest.

There is an important political element to the President's position. He would restrict the District of Columbia from spending its own funds on abortion. The President would have us impose a decision on the political entity that has no Senator and no voting Representative.

We have not told residents of the fifty states and their legislatures whether they can or cannot spend their own revenues on abortions for the poor. We have left it for them to decide. We should do no less for citizens of the District of Columbia.

When the Supreme Court ruled in 1980 that the Hyde amendment which restricted Federal funding for abortions was constitutional, it also ruled that State and local governments could choose to pay for abortions for poor women with their own funds. The President's proposal would take away from the District of Columbia, and only the District of Columbia that right which every State in the Union has. This is an assault on home rule. It doesn't tell California or Arkansas or North Carolina whether they can or cannot fund abortions, it only tells the District of Columbia. The provision of services to pregnant women—including abortion services—is clearly a matter of local public health policy intended to be left to the District of Columbia under the home rule. The District's elected representatives have chosen to provide funding for poor women from their own tax dollars and the Congress should respect that decision, just as we would respect any other State's decision.

To do otherwise is to violate the intent of the Home Rule Act, and a basic states rights tenant on which this Federal Government was founded.

Those on the other side argue that all the President wants is continuation of the current law. The current law was arrived at under duress in this body. It was 11:15 at night, on September 30, 1988, when the D.C. conference report came up. The House had insisted on language that has not ever before been acceptable to the Senate. The fiscal year was running out, we had two other appropriations conference reports to enact within the next 45 minutes. The House language was adopted by one vote—just one vote.

And that was reversed a week later in a sense of the Senate vote.

Mr. President, in fact the Senate voted for the language in both versions of the bill three times last year—

On July 7, 1988, by vote of 49 to 37;

On July 7, 1988, by vote of 51 to 34; and;

On October 7, 1988, by vote of 43 to 40.

In addition, Mr. President, President Reagan signed the D.C. appropriations bill, as a separate free standing bill with this same abortion language in it on three occasions—

On December 4, 1981, Public Law 97-91;

On December 22, 1982, Public Law 97-378, and;

On October 13, 1983, Public Law 98-125.

Mr. President, I do not know what has precipitated this change of heart, however, I do know that we do not tell any other jurisdiction in the country how to spend their own locally generated revenue on this issue.

We get no letters from the President about the priorities that the local government sets for street repair, which fire trucks to replace or thousands of other local decisions—nor should we. The citizens of the District of Columbia have no voice in this body. The President wants to restrict how their local tax dollars are spent, without giving them a voice in that decision. Our forebears dumped tea into Boston Harbor over an issue like this. It's D.C.'s tax dollars; it's D.C.'s choice.

Mr. President, I yield the floor.

Mr. BYRD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. We are in a period of morning business.

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

FUNDING FOR THE DISTRICT OF COLUMBIA

Mr. BYRD. Mr. President, I rise today to join with the distinguished chairman of the District of Columbia Appropriations Subcommittee, Mr. ADAMS, in urging President Bush to sign the bill providing fiscal year 1990 funding for the District of Columbia.

We have all heard the title that has been bestowed on the District for the last year. It has been referred to as the "murder capital of the country." Some have called it the "murder capital of the free world." This claim to fame is not one of pride to any of us.

The bill being sent to the President this week attempts to assist the District government in getting control of this crime crisis. It returns the metropolitan police force to the level of 5,100 officers which was established in 1969.

Not surprisingly, the number of murders committed in the District signals another crisis, closely related to the crime crisis, so closely related that it is unacceptable. Of the more than 360 murders in Washington alone this year, roughly 60 percent have been drug related. The prime mission of the additional several hundred police officers is to tackle these drug-related crimes.

We have been concerned about the growing drug problem in the country. The distinguished Senator from Delaware [Mr. BIDEN] has been a leader in the fight. He has sounded the clarion call from the steeple top and he has conducted long hours of hearings. He was a very active participant in the work group that was appointed recently by the distinguished majority leader and the distinguished minority leader to develop a consensus or compromise with respect to the appropriations that were included in the amendment which I had offered on behalf of several Senators.

He is an authority on the subject. He will continue to be a leader in this fight and it will continue a long time. The problem is not going to be solved probably in my day. But we need to do everything we can to ameliorate it, and that was the purpose of our money to be added to emphasize education, prevention, rehabilitation, and treatment.

It was in September, last month, that President Bush went before the American people in a televised appearance to talk about the seriousness of the drug problem and the crime problem, and in his speech he spoke specifically about drug-related crime occurring across the street from the White House in Lafayette Park.

I complimented him at the time. I applauded him. I applauded his leadership in the crisis. I am concerned that a Presidential veto of this bill may send a conflicting signal. What it may say is that it is OK to use the example of Washington's drug problem to highlight a nationally televised speech but it is not a serious enough problem to warrant passing laws to address the need.

The bill that will be sent to the President includes $32 million for the District's war on drugs. Although not requested by the President, Congress has responded to the President's and Secretary Bennett's call to assist the city by providing 700 more policemen, 8 more trial judges, 10 additional local prosecutors, expanded after-school programs, and special drug treatment programs for pregnant women, as have been called to our attention by the distinguished chairman of the subcommittee from Washington who has spent many hours, days, and weeks in giving his valuable attention and time to this problem which is a national problem, an international problem and a problem which very much affects our Nation's capital. I compliment the Senator from Washington on his leadership in this area and his work.

The reason the President has cited for a potential veto of the D.C. appropriations bill is the language dealing with abortion. Under the provisions of the bill the use of Federal funds for abortion are prohibited except in cases involving the endangerment of the life of the mother, rape, incest, and ectopic pregnancy. The bill, however, does not preclude the District from using its own locally raised revenues.

That is the point. It does not preclude the District from using its own locally raised revenues to pay for abortions for poor women nor should it. Only once during the past 8 years, in 1988, did Congress include the provi-

sion barring the District from using its own judgment as other localities do use their own judgment as to spending its own funds on the emotional and difficult matters of abortion. All the other years, 7 out of 8 of the Reagan administration, there was no such prohibition in the D.C. appropriations bill sent to the President, and President Reagan signed all of them. He signed them all.

So why should this President do otherwise when we are talking about the use of its own locally raised funds?

The needs of the District of Columbia are great. And why should we treat the District of Columbia any different from the way we treat other cities throughout the country if they use their own locally raised revenue?

So, Mr. President, I urge the President to sign the bill and not veto it.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes Senator BIDEN.

Mr. BIDEN. Mr. President, I ask unanimous consent that I be able to proceed in morning business for not to exceed 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETO THREAT

Mr. BIDEN. Mr. President, let me begin by thanking the distinguished chairman of the Appropriations Committee, Senator BYRD, for those kind and overly generous comments about my involvement in the effort to stem the dreaded effects of illegal drugs in this country. I truly appreciate it.

But even more importantly let me extend my congratulations to the Senator from the State of Washington who was the architect of this appropriations bill that the President is threatening to veto.

Mr. President, quite frankly if I had been able to shape, as chairman of the Judiciary Committee, a national drug strategy that reflected in proportion and impact the drug strategy set out in this appropriations bill, I would be able to stand before the Senate and say we truly have a significant workable and sound strategy.

The strategy that the Senator from the State of Washington [Mr. ADAMS] has put forward and is encompassed in this bill does quite frankly all we should be doing in the Nation.

The Senator from Washington indicates that there is money in there for pregnant women. He does not tell the whole story about what he did. There is money in there for all the pregnant women, in effect, in this District; whereas, in the Nation as a whole, even after our efforts to beef up the President's drug strategy, we are going to provide for the availability for treatment for fewer than two-thirds or three-quarters, as a matter of fact, of the women. Just slightly over one in four pregnant women will have access to treatment nationally.

In the District of Columbia appropriations bill that the President is about to veto, there is what every city in this Nation would love to have—every mayor of every major city would trade tomorrow—tomorrow—their share of Federal effort relative to the criminal justice system for what Washington will get—not the State of. I imagine, I note parenthetically, the Senator from the State of Washington probably wishes he could do as much for Seattle as is being done for the District of Columbia under this bill. It is a good, good, good sound crime-fighting, drug-fighting effort that is balanced with treatment money and education money. It is a sound approach.

Mr. President, why is the President going to veto this? Why, I ask the Chair, does the President, who says that drugs are the single most important problem we are fighting domestically, that he is going to end the scourge, when his drug director, who I believe probably supports all of this—I do not know that for a fact—who months ago said we are going to use Washington, the city of, as an example of how we want to approach the drug problem, why, when the administration has put so much stock, effort and rhetoric into the effort, why is he going to veto this bill?

Mr. President, my position on abortion is not dissimilar from the President's. But, this is a different issue. We are not talking about direct appropriations for the concern the President has. The President of the United States has been in this town long enough to know, as a Congressperson and an administration official, Vice President, and now President, that sometimes you have to make choices on balance.

As strongly as the President feels—and I truly respect his judgment and his feelings on the issue of abortions—how many murders might very well would be prevented by having in place this appropriations bill next year, the money available to the District of Columbia to fight drugs in education, treatment, and the criminal justice system? How many lives will be lost if the issue lost? If the issue is lives, Mr. President, I respectfully suggest that the President should take another look, on balance, as to which he chooses, no matter how strongly held his view is on the former matter.

Congressional support for D.C.'s war on drugs extends beyond rhetoric: The D.C. appropriations bill includes more than $30 million to help D.C. wage the war on drugs and crime.

These funds support all three elements of a productive war on drugs: Law enforcement, treatment, and education.

First, the bill offers the District of Columbia more police, more prosecutors, more judges, and more prison cells:

The bill adds 700 police officers to D.C.'s police force,

The bill adds $4.8 million for prosecutors and judges; and

The bill adds $5 million to D.C.'s prisons. These funds will allow D.C. to keep 250 more convicts in a Federal prison for an entire year.

Second, the Congress offers help to the most vulnerable victims of drug abuse:

The $2.2 million offered by the bill will provide treatment on demand for pregnant drug abusers;

Today, there is no program designed to meet the needs of these drug abusers; and

The District of Columbia is the unhappy owner of one of the Nation's highest infant mortality rates.

Third, through drug education, the Congress offers help to those least able to resist the temptations of drugs:

The bill offers almost $2 million, enough to double D.C.'s drug education expenditures;

Most of these funds ($1.4 million) will support after-school programs; and

The remainder will support the options program: An intensive effort aimed at children with the highest risk of turning to a life of crime and drugs

The $31 million offered by the Congress will not solve all of D.C.'s drug-related problems. However, the program offers significant promise—more police, judges, prison cells, treatment programs, and education efforts can help reclaim the street of D.C. from the crack dealers.

Mr. President, I conclude by saying that I hope this will not become or be viewed by the President as a political litmus test requiring him to satisfy one constitency or the other. It seems to me the merits are clearly on the side of life and that is the life and safety of the people of the District of Columbia. This model drug bill that is contained in this appropriation I believe will do a great deal to enhance the quality of life for the people of the District of Columbia.

I compliment my colleague from Washington.

Mr. ADAMS. Mr. President, I thank the Senator from Delaware who is the person who has led the efforts in the Senate toward attempting to solve the drug problem. This is one small piece of it.

And, I wish to personally thank the President pro tempore, who for 7 years was chairman of the D.C. Subcommittee on Appropriations for his eloquent remarks in support of this bill.

Mr. President, I ask unanimous consent that a series of articles concerning Mr. Bennett's drug program in the District and various editorials opposing President Bush's proposed veto of this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 5, 1989]

MR. BUSH'S D.C. VETO THREAT

President Bush is threatening to hold the city's budget up with a veto for one reason: the appropriations bill would allow the D.C. government to use its own money to finance abortions. This is in spite of the fact that the District's fiscal 1990 budget contains some particularly important funding, including (as agreed by both houses) money to increase the city's police force by 1,000 officers. You would think the administration, which earlier this year made a big point of its determination to help solve the city's crime and drug problem, would see the harm in such delays.

Last month, in a letter to House and Senate conferees, budget director Richard Darman reiterated that the president would veto the appropriations bill unless it contained a rider from the previous year prohibiting the city from spending any money on abortions, except in situations where the life of the mother is endangered.

The Supreme Court's *Webster* decision allows states to decide whether to place certain restrictions on abortions. The states are likewise free to spend their own money on abortions, and many do. In the District, the city council, exercising what should be its right, voted to use local funds for this purpose on behalf of thousands of women—some of them teenagers—who want but otherwise cannot afford the procedure.

The District government, which faces many critical problems, should not be used as a poster to express the president's own views on abortion. To impose such a restriction would be an unwarranted incursion into an area of prime local responsibility by an administration supposedly respectful of local and state rights. It would represent a further assault on the democratic rights of D.C. residents, whose elected representatives have chosen to make this use of their own dollars.

In August the House, which had voted every year since 1981 to forbid the city to spend its money on abortions, reversed itself on a 219-to-206 vote. A majority correctly decided that this was an issue of home rule and local autonomy. The House and Senate conferees should move farther in this direction by disregarding the president's threatened veto. What Mr. Bush is doing is wrong and unfair to the city.

[From the Washington Post, Oct. 13, 1989]

ABORTION VETOES

President Bush has painted himself into a corner on abortion, and it gets tighter by the week. He has promised again and again that he would tolerate no change in restrictive federal regulation of abortion. But voter sentiment and, perhaps as a result, legislative preference are changing. Democrats believe he will give them a useful campaign issue if he goes through with warnings to veto three major bills because of this controversy.

At stake are the appropriations bills for foreign aid, the District of Columbia and the Department of Health and Human Services. Each contains a different amendment relating to abortion that has prompted a veto threat. The foreign aid bill would restore U.S. participation in the United Nations Population Fund, which was discontinued in 1986 because of a controversy over abortions in China; no U.S. money would go to China, nor would any of it be used to fund abortions anywhere. The D.C. bill would restore to the District the right to make its own policy on spending its own tax money to provide abortions for the poor; no federal money would be used for this purpose. The HHS bill would allow states to use Medicaid money to provide abortions to poor women pregnant by reason of rape or incest, as well as in cases where a mother's life was in jeopardy.

Not one of these three bills represents a major shift in traditional federal policy. Until very recently, the United States did contribute to the U.N. Population Fund, and the District was allowed to spend its own money on abortions. The restrictions have been aberrations. Removing them is only a return to sound practice. True, the small expansion of Medicaid funding provided in the HHS bill is an important symbolic victory for abortion rights forces, but it does not turn federal policy on its head. According to polls, this kind of change is supported by the vast majority of Americans, including many who would oppose abortion for any other reason.

Since 1973, politicians have been protected by the Supreme Court from having to grapple with abortion questions. They were free to assure abortion opponents that they would stand firm. But when the court relaxed its stance last July and opened the door to the possibility of anti-abortion legislation, it quickly became apparent that unwavering support for the entire anti-abortion agenda could be politically costly. Candidates for state office this year have noticed the changing political climate. So have officeholders such as Gov. Bob Martinez of Florida, who tried and failed this week to deliver on promises made to abortion foes. President Bush has political cause in addition to substantive reason to reconsider his unfortunate veto threats.

[From the Washington Post, Oct. 24, 1989]

A VITAL APPROPRIATIONS BILL

When William J. Bennett, the national drug policy director, and other members of the Bush administration held a news conference to announce that the District of Columbia needed help to fight its drug war, Sen. Brock Adams (D-Wash.) and his congressional colleagues listened closely. They had read or listened to hundreds of local, national and international news reports on the fact that the nation's capital had the highest murder rate and the worst infant mortality rate among large American cities. They noted that the city's prison and drug-treatment facilities were swamped. They watched as President Bush underscored his new illicit drug strategy with a bag of "crack" cocaine that had been purchased in a park outside the White House.

Fortunately for the District, both the House and the Senate acted promptly and responsibly to meet the city's needs. They have outperformed the executive branch in providing badly needed resources. They have been far more consistent, in their words and actions, than the White House. At a time when the reputation of this city's home rule government—not to mention that of Mayor Marion Barry—has been damaged by ineffectiveness and controversy, Congress avoided most urges to micromanage the District. No effort was made to fulfill threats to federalize the city's police force or its prison system, nor to intrude upon its right to spend its own funds to pay for abortions. Instead, both houses of Congress voted to give the city exactly what it needed in its fiscal 1990 appropriations bill—the same bill President Bush has threatened to veto. Why? Because it allows the city to spend its own funds on abortions.

"This appropriations bill is very important. We took absolutely seriously the comments made by the president, by Mr. Bennett, and by the press, on the city's crime problem and its needs," said Sen. Adams, who chairs the House subcommittee on D.C. appropriations. "It's needed to stop the killing on the streets. The city needs this money to fight the crime and then to move rapidly on the education and treatment fronts. It needs the resources contained in this bill." A veto, said the senator, "would be a tragic mistake on the president's part. He would be vetoing a drug-fighting bill."

We repeat our plea to the president: the District government deserves its own option—the right to spend its own judgments on this very difficult issue of abortion. The president should not stand in the way of that right by vetoing the bill, nor should he delay the vital resources the city needs to fight—and win—its drug war.

[From the Washington Post, Oct. 17, 1989]

BENNETT'S ANTI-DRUG INITIATIVE MAKING LITTLE HEADWAY IN D.C.

(By Michael Isikoff)

National drug policy director William J. Bennett called it an "emergency" initiative—an immediate dose of federal aid to help the District government fight a drug problem that was spiraling "out of control."

But six months later, Bennett's efforts have failed to make any discernible dent in the local drug trade, federal and city officials agree. And Bennett's campaign has been plagued by bureaucratic roadblocks and squabbling, leaving his office unable to deliver on crucial elements of his plan.

Bennett's biggest failure, critics say, has been his inability to relieve the city's clogged prisons—which Bennett had said in April was what the District needed the most. They are now more crowded than ever.

"My problems are worse today than they were six months ago," said Walter B. Ridley, the District's acting corrections director, whose office had been targeted for the most help under Bennett's plan. "I can't think of any significant assistance that we've gotten."

At a news conference scheduled for Thursday, Bennett plans to release the first of what he promised would be regular semiannual progress reports on the D.C. initiative. Bennett staff members say he will emphasize a number of high-profile federal law enforcement operations that they believe have successfully attacked the local drug trade.

Their most notable achievement is a new, 119-member federal task force, headed by the Drug Enforcement Administration, that is targeting high-level traffickers. It is credited with arresting 102 suspected dealers and seizing more than $2 million in assets. In addition, Bennett will highlight a pair of recent U.S. Marshals Service operations that rounded up 456 fugitives and shut down 209 crack houses.

"The fact of the matter is we were careful to say, 'Don't expect miracles from this,'

and there haven't been any miracles," said David Tell, Bennett's deputy chief of staff. "These things take time and they take persistence. . . . I think things have gone okay, but the project has not been without its disappointments."

Bennett staff members acknowledge that they have had problems communicating with D.C. officials. They said D.C. officials also have not reached out for the help the federal government has made available.

The results of Bennett's D.C. initiative—unveiled under the glare of national media attention on April 10—have taken on significance beyond the nation's capital. From the outset, Bennett called the District a "test case" of his office's ability to mobilize federal help for local governments engulfed by the drug trade.

Since then, the national anti-drug "strategy" he formulated for the Bush administration has called for many of the same elements he has sought to implement most vigorously here—aggressive street-level police actions, more prison space, additional prosecutors and other law enforcement measures designed to "take back the streets" from the dealers.

But if Washington is the laboratory for Bennett's drug war, local officials argue, the early results raise questions about the ability of government to sway events on the street.

One senior D.C. police official said that such operations as the Marshals Service raids on crack houses were of limited value because they were not coordinated with local police operations, and were not followed by aggressive neighborhood patrols.

"It was hit and runs—that's all it was," said the police official, who asked not to be identified. "They would hit a place and leave. They didn't have any kind of maintenance plan to keep [the drug activity] from recurring."

But Bennett staff members say it is city officials who have not worked closely with them.

One example they cite was the plan by D.C. officials last month for a mass arrest of drug dealers, which had to be canceled when city officials realized they didn't have adequate jail space. At a Sept. 21 meeting, Bennett's staff rejected an emergency appeal by District officials to get the U.S. Bureau of Prisons to accept another 250 prisoners from the D.C. Jail, thereby freeing needed city jail space.

But Bennett staff members said that the operation was poorly planned and that District officials told them about the sweep only an hour before it was to begin.

D.C. officials said Bennett's office wasn't even interested in the details. "There really was not much discussion," said Sterling Tucker, the District's anti-drug czar. "They just focused on the fact they had limited notice. . . . While we want to coordinate with the federal government, we don't have a responsibility for reporting to them."

Some quirkier proposals have died because of mismatches between the District's needs and federal resources. The Pentagon rejected one city proposal to use the National Guard to provide security at Redskins football games, according to Bennett's staff.

In the meantime, the cycle of drug dealing and violence in many of the city's neighborhoods has continued at roughly the same pace. After stabilizing and turning down last spring, drug-related homicides soared again during the summer. In August, 52 people were killed in the city, making it the second bloodiest month in the city's history, exceeded only by January, when 53 people were killed.

In September, the slayings dropped to 28, but they have shot up again in October with 28 killed as of yesterday, bringing the District's total for the year to 360 homicides. That compares with 267 at this time in 1988, a year in which city homicides hit an all-time high of 372.

"I'm sure citizens are frustrated—they've told me the situation has not improved, and gotten worse," said Reggie Walton, a former D.C. Superior Court judge who is now Bennett's associate director for state and local affairs. "But who knows what the situation would have been had there not been the intervention of the federal government?"

Bennett's setbacks have been greatest in the single area where he said quick relief was most critical: the city's crowded prison system. At his April news conference, Bennett lashed out at D.C. Mayor Marion Barry's administration for its "irresponsibility" in not building more prisons.

As a result, Bennett declared, "thousands of people arrested for drug and other serious crimes in this city regularly go free."

So far, some of Bennett's efforts to get more prison beds have fared little better. The largest and costliest element of Bennett's initiative—a new 700-bed D.C. area federal prison in Anne Arundel County—collapsed within a week of Bennett's April news conference, when Maryland Gov. William Donald Schaefer announced his opposition.

The second key element in Bennett's initiative called for a 500-bed pretrial detention facility that would be built and operated by a private contractor within a year. But the Marshals Service—which had been charged with overseeing the project—has had difficulty finding a site. Construction has not begun.

Federal officials say the project has run into the same problems that have plagued city officials trying to build more prisons: The news that a site is being considered triggers opposition from neighborhood residents, members of Congress or other federal agencies. "It's been a nightmare of regional politics," Tell said.

Late last week, however, Justice Department officials told D.C. corrections officials that they had identified two suitable locations within the city; on the grounds of St. Elizabeths Hospital in Southeast Washington and at the site of the D.C. National Guard Armory next to Robert F. Kennedy Stadium. Both could stimulate community opposition, and have been targeted for other uses. But, one Bennett aide said, "the ball is now in D.C.'s court."

Bennett staff members say they have succeeded in implementing the third element of their prison relief initiatives; the acceptance by the U.S. Bureau of Prisons of 250 prisoners from the D.C. Jail, theoretically to make room for increased numbers of persons arrested by the DEA task force.

But Ridley said that was a "drop in the bucket" compared with the recent influx of arrestees.

The city's prisons, jails and halfway houses already exceeded their capacity of 8,253 when Bennett announced his initiative in April. Since then, the number of inmates at the city's correctional institutions (four of which are under court-ordered limits) has soared by more than 1,000 to 9,543—the largest six-month jump ever, and more than double the number of people incarcerated five years ago.

The upshot, Ridley and others say, has been to seriously worsen the "revolving door" that Bennett complained about in the first place. Three times this year, Barry has invoked a 1987 law allowing the city to reduce the sentences of nonviolent offenders when the prisons are filled. This has freed 1,600 District prisoners.

"It sends the completely wrong message to the streets," said U.S. Attorney Jay B. Stephens.

In his news conference this week, Bennett is also expected to cite his office's work on other fronts, even if, in some cases, credit for the results is in dispute.

Bennett, in his original announcement, called for the creation of a 20-member narcotics unit in Stephen's office to prosecute major drug trafficking cases. But Stephens said that he had already begun to create the unit before April, and that Bennett simply "incorporated" it into his own plan.

Bennett's April proposal also announced that the National Institute on Drug Abuse would fund three new "model" clinics to treat up to 300 addicts by June 1990. City health officials, who announced the award in July, said negotiations over the clinics had been under way with the institute for more than a year.

Bennett, in an "Accomplishments to Date" news release in August, also claimed credit for a $994,892 award to the D.C. schools. A U.S. Education Department official, who asked not to be identified, said last week that the award had already been approved by Congress last year.

Bennett aides counter that they have helped loosen funds from the federal bureaucracy. Tell said some federal grants "would not have happened if we hadn't announced it and seen it through to fruition."

VETO THREAT OF D.C. APPROPRIATIONS CONFERENCE REPORT

Mr. MITCHELL. Mr. President, President Bush made the decision to veto the Labor-HHS appropriations bill on the grounds that Federal funds should not be used to pay for abortions except under conditions of direct threat to maternal life.

This issue is not present in the D.C. appropriations bill. The Federal funds in the D.C. bill are subject to the same restrictions which govern all Federal funds, and which do not require the use of generally raised taxes for abortions except in life-threatening circumstances.

The D.C. appropriations bill does not limit the decisions of the District's elected government, the City Council, as to the use of local tax dollars, dollars raised only from those who live in the District and pay taxes to the District. Thus the concerns of the President about Federal tax dollars are simply not involved here.

More importantly, what is involved here are the funds promised to the city by Drug Policy Director, William Bennett, and desperately needed to stem the tide of drug-related killing and violence in the city.

The D.C. appropriations conference report includes funding crucial to the city's anti-drug effort:

It funds 700 additional police officers to increase the number of street

patrols and close down the notorious open-air drug markets.

It funds eight new judges and additional court workers to make sure the arrests made by police can be handled promptly and with the full force of law.

It provides for a program of treatment on demand for pregnant addicts, to do the best we can to reduce the heartbreaking cases of infants born addicted who are all too often abandoned in the public hospitals after birth;

It provides funding for vital after-school programs to give youngsters constructive alternative ways of spending time out of school that does not expose them to the pressures and temptations of the streets.

The President and Drug Director Bennett have said that the District of Columbia will be the model test case of how well a federally directed effort at drug control can work. Surely it is appropriate the lead role taken by our Government be taken in our Nation's Capital. But that goal is now threatened by an entirely unrelated issue.

In recent months, there has been a growing gap between the administration's rhetoric and reality. The administration has spent countless hours discussing the Nation's drug problems and how it wants to assist communities in efforts to combat this crisis. This is an opportunity for the President to fulfill his promise of assistance for D.C.'s battle.

I hope the President will reconsider this ill-advised veto.

Mr. McCAIN. Mr. President, I ask unanimous consent to address the Senate in morning business not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CATASTROPHIC HEALTH CARE

Mr. McCAIN. Mr. President, I had intended to propose an amendment to be attached to the continuing resolution concerning the catastrophic health care issue. This amendment would have been the proposal which I offered, and the Senate adopted on October 6, by a vote of 99 to 0. I do not intend to do so. I have been prevailed upon by my colleagues not to encumber this very important continuing resolution at this point in the hopes that we will have a resolution of the issue, either in the reconciliation bill conference or if need be as an attachment to another piece of legislation such as the debt extension which will be coming before this body sometime in the near future.

Mr. President, there is a stalemate at this point. House has a position of total repeal of the catastrophic illness insurance legislation. There is the Senate position which was passed by a vote of 99 to 0.

Very frankly, at this point in time, seniors are uncertain where we are going. The Department of Health and Human Services is unable to gear up for changes that must be implemented and Medigap insurers are unable to determine what their policies are going to look like for next year. It is incumbent that we act in order to resolve these serious problems which continue to grow as we fail to address this issue in a conclusive fashion.

I agree with my colleague from the State of Delaware [Mr. ROTH] who said on the floor a little earlier today that the Senate has acted on the issue and we have to have it resolved.

It would be my hope that if this issue is conferenced as part of the reconciliation bill conference that the Senate's position, the concept that we voted on on October 6, would be the Senate's position. I think it is important to get this issue resolved once and for all.

I also would like to inform my colleagues that all of the major seniors organizations, including the American Association of Retired Persons, have endorsed our proposal over the House bill.

I believe that outright repeal of this legislation, as I stated in the previous debate over this issue, and I will not would be unnecessarily redundant, would be a terrible mistake. We would be depriving seniors of some benefits, some of which they are already taking advantage of and paying for.

But, Mr. President, the absolute worst thing we could do is adjourn this year without resolving this issue. The status quo is unacceptable. We may have to make some compromises with the House position. The House may have to make some compromises from their position. But clearly both Houses have rejected present law. Therefore, we must arrive at some agreement which dramatically revises present law soon so we can move forward to other issues that are important to the seniors of this Nation.

I yield the remainder of my time.

DEATH OF JAMES B. RAMSEY, JR.

Mr. BUMPERS. Mr. President, it is with great sadness that I inform the members of the death of James B. Ramsey, Jr., on July 29, 1989. Jim Ramsey had been the director of secondary market activities at the Small Business Administration since 1975.

Jim spent several years working in the corporate finance area on Wall Street. He helped many small firms grow by assisting with financing and providing business advice. During this time, he developed an understanding of the problems facing small businesses in search of growth capital.

After his successful career with Thompson and McKenna on Wall Street, Jim came to SBA to assist with the development of a secondary market for the guaranteed portion of section 7(a) guaranteed business loans. He could see the value of developing a mechanism that would permit lenders to recoup the funds used for section 7(a) business loans and make these funds available for loans to other small businesses.

Before Mr. Ramsey joined SBA, there was no organized secondary market in SBA-guaranteed bank loans. There were a few banks selling the guaranteed portion of their loans, but total activity was less than $50 million per year. Since 1975, Jim worked tirelessly to develop the market. The results of his effort are clearly visible. Today, annual sales volume is over $1.2 billion in a registered market where investors can buy individual loans or a participation in a pool of loans. This market has greatly increased liquidity for small business lending and has helped infuse capital into smaller banks across the country.

Mr. Ramsey was a major participant in every step of the growth of this market. He worked hard to obtain the necessary clearances and options from the Department of Justice, the Securities and Exchange Commission, and other agencies. He was instrumental in the creation of the fiscal and transfer agent and the development of the loan pooling program.

Putting all the mechanical pieces together was only part of the job. Jim spent many days on the road making presentations to bankers and brokers around the country explaining the benefits that the secondary market could bring to the small business community. Moreover, he was always happy to share his experience and learning with the Senate Small Business Committee as we have sought to address the financing needs of small firms.

Jim Ramsey's first Government service was in the Marine Corps during World War II. He entered the service in September 1942 and was on active duty until November 1945. During this time, he saw action under hostile fire while serving in the South Pacific.

Jim Ramsey enjoyed serving the public. He cared a great deal about the small business community, the secondary market and the Small Business Administration. His knowledge and enthusiasm will be impossible to replace.

INTERVIEW WITH LEWIS JUDD, M.D.

Mr. SPECTER. Mr. President, I take this opportunity to call to the attention of my colleagues, an interview with Lewis Judd, M.D., which appeared in the August 14, 1989, issue of HealthWeek. Dr. Judd is the director

of the National Institute of Mental Health as well as a respected leader in American psychiatry. In this interview, Dr. Judd not only communicates the advances in the science of understanding and treating mental illness, but also forcefully brings that information into the forefront in an effort to end discriminatory health coverage between physical and mental illnesses.

In response to Dr. Judd's interview, the August 28 issue of HealthWeek included an editorial entitled "Mental Illness Deserves More Attention," which adopts Dr. Judd's views by calling on the President to launch a national commitment to end the stigma and discrimination in the treatment of mental illness.

The interview and editorial are particularly appropriate at this time, given that the President proclaimed the week of October 1 through 7, 1989, as "Mental Illness Awareness Week." I am advised that the concept of "Mental Illness Awareness Week" was conceived by Jay Cutler, special counsel to the American Psychiatric Association and former minority staff director and counsel to the Senate Labor and Human Resources Committee, when our respected colleague, Senator Jacob Javits, was its ranking minority member. In addition, the efforts of the American Psychiatric Association and the National Alliance for the Mentally Ill were instrumental in making this concept a reality.

The members of the American Psychiatric Association conduct research and provide necessary treatment for those suffering from mental disorders. The National Alliance for the Mentally Ill supports education and research in the mental health field and was established to help families cope with mental illness.

I am informed that the American Psychiatric Association and the National Alliance for the Mentally Ill recently conducted an excellent symposium on the advances in mental illness research and clinical care. The symposium was consistent with the Presidential proclamation for "Mental Illness Awareness Week," which called for observances with appropriate ceremonies and activities.

Among the participants were: Herbert Pardes, M.D., president of the American Psychiatric Association, dean of Columbia University Medical College and former director of the National Institute of Mental Health; Melvin Sabshin, M.D., medical director of the American Psychiatric Association; Gene Cohen, M.D., deputy director of the National Institute on Aging; Nancy Andreasen, M.D., professor of medicine at the University of Iowa College of Medicine; Herbert Kleber, M.D., deputy director for demand reduction at the Office of National Drug Control Policy; Jack Gorman, M.D., associate professor of clinical psychiatry at Columbia University College of Physicians and Surgeons; and Thomas Posey, president of the National Alliance for the Mentally Ill.

Mr. President, as the ranking minority member of the Appropriations Subcommittee on Labor, Health and Human Services, Education and Related Agencies, I have a keen interest in programs which seek to address mental illness. Therefore, for my colleagues' consideration, I ask unanimous consent that the full text of the HealthWeek interview with Dr. Judd, the HealthWeek editorial and the President's proclamation, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Health Week, Aug. 14, 1989]

INSIDER INTERVIEW WITH DR. LEWIS JUDD, DIRECTOR, NIMH

Healthweek: Why should mental illness be a priority on the national health agenda?

Judd: First of all, it's very clear that mental disorders are among the most prevalent disorders that mankind experiences. A recent study we did found that 12.6 percent of adults have a diagnosable and potentially treatable mental disorder. With more than 10 percent of the population being afflicted in this way, this is one of the more common diseases that mankind experiences.

Secondly, these disorders are very real, they are very devastating, crippling and they are often among the most eroding of the quality of life of any disease. Because there are important new things we can do to manage and treat people with these disorders, mental illness has got to be included as a part of the health care responsibilities of the nation.

HW: How widespread is the stigma of a mental health disorder? Can we change it?

Judd: The prejudice, misunderstanding and myth about mental illness have been historically present throughout all of civilization. People afflicted with mental illness centuries ago were regarded with fear and derision; people wanted to avoid them, exclude people with mental illnesses and put them someplace else. What resulted was an intense stigma as a part of a religious perception that someone was afflicted by an evil spirit, or that they had done something evil, and they were visited by evil spirits. That stigma has remained with us unto this day.

However, there is a glimmering of hope in an enlightened, modern society as we demonstrate through our science at the National Institute of Mental Health the realness of these disorders. We're also beginning to understand that these are brain disorders often related to genetic inheritance patterns and they're no fault of the individuals themselves. We have begun to make important inroads in convincing the American public and the decisionmakers that these disorders are like any other disorders or illnesses that mankind experiences and they ought to be dealt with in the same way.

HW: If part of the national mental health agenda is a public education effort, how will you counter the myths, misinformation and misunderstandings?

Judd: We see the agenda in three steps. One is to include mental illnesses with the other issues of health in this nation. The second is the priority of mental illnesses commensurate to the level of affliction. The third is a national campaign to bring all the resources of the nation together to conquer mental illnesses within the foreseeable future because we think science is ready to do this.

The vast amount of misunderstanding and myth that exists about mental illness has been the major impediment to achieving this agenda. For example, a survey by the National Alliance of the Mentally Ill found a great deal of misperception among citizens of this country about mental illness. Seventy-one percent thought it was an emotional weakness, 65 percent felt that it was bad parenting, a third felt it was probably due to sinful behavior and only 10 percent felt it had a biological basis in brain dysfunction.

With all the information available from NIMH science over the past 20 years, we will be able to counteract the misunderstandings and the myths about mental illness. We can diagnose the abnormalities in the brain that occur with these disorders reliably and validly, much as we can any medical disorder. And we can treat them. If that information becomes available in a consistent, coordinated way, the logic of the national mental health agenda we are proposing very easily follows.

HW: What about the National Leadership Forum? Will it expedite including mental health benefits on the agenda?

Judd: Yes. The National Leadership Forum is an attempt by the institute to bring together all the groups that are interested in the mentally ill—the scientific groups, the professional groups and all the advocacy patient and consumer groups. We want to meet together on a regular basis to find ways to work together in a coordinated, single effort on behalf of the mentally ill.

Right now the forum is made up of 17 different organizations, all the core organizations, and there are others that I am sure will join. It's an opportunity to develop, jell and function together that will make an extremely important force on behalf of the mentally ill.

HW: How will you fund the forum?

Judd: The forum has met three times. The first time we provided a small conference grant to the National Mental Health Organization, which was the host. At the next meeting, which was in February, the host was the American Psychiatric Association, and, again, we provided the funding. The National Institute of Mental Health will continue to provide funding for the meetings as a part of the institute's leadership function for the mentally ill and the mental health field. We will continue to do that as long as the forum is galvanizing, developing and coordinating its efforts on behalf of the mentally ill.

The thrust of the forum in the immediate future will be a national public education program to increase understanding about mental illness. Much of the focus of the forum in its early going will be in that area; so that as long as it's doing that, the institute will provide funding.

HW: Is the reimbursement for mental health inadequate?

Judd: Mental health and mental illnesses have been considered different from ordinary physical illnesses—that is at the core of the problem with the mentally ill. What happens is the reimbursement for care and health coverage policies are distinctly different, and seriously disadvantaged, for individuals with mental disorders. While that is very chronic and extremely persistent, there

are glimmerings of hope for change. However, it still remains a big problem.

In the past two years, we studied health coverage plans contrasting mental health with physical health coverage. Only 37 percent of the plans we looked at provided comparable coverage for mental and physical illnesses for inpatient services, and only 6 percent provided comparable coverage for mental and physical illnesses in outpatient services. It is a very serious problem and one that the entire nation has to take a very serious look at.

It is not only not fair, but it's not appropriate and in the long run it costs us enormously not to deal with mental disorders in a way that allows for whole treatments because the costs come out in other ways.

HW: Has AIDS funding detracted from NIMH funds, and if so, how are you alleviating this?

Judd: The National Institute of Mental Health has a large and important AIDS research program. We have a unique niche in that our research focuses on the infection in the central nervous system of the brain and its relationship to acquired immune deficiency syndrome dementia. We also have a major investment in the study of changes of attitude and behavior to try and extinguish behaviors that can cause the spread of AIDS. That is our unique contribution to the AIDS epidemic and we believe we are doing it very well.

In the federal government, AIDS research money and AIDS treatment money is segregated from that of other monies with the idea that you would not erode activities that a scientific institute such as ours might have. We have a large AIDS program that is integrated in the institute, but the funding for it is separate. It is not competing within our institute for other research.

However, some investigators who had been studying mental illnesses are now shifting their focus to the study of AIDS and its mental health and neuro-psychiatric effect. The research we're doing is basic. It will be useful in other issues regarding mental health as well. However, there could come a time, if there is a finite amount of money for biomedical research, in which the AIDS priority could erode other research. But in our institute that has not happened.

HW: What is the greatest problem in mental health today?

Judd: The biggest challenge and problem faced by the mentally ill is that mental illnesses are separated from physical illnesses. They're not conceptualized, understood, responded to, reimbursed or studied with the same level of parity that are physical illnesses. This indirect stigmatization of mental illnesses results in ignoring and disadvantaging the mentally ill compared to those with physical illnesses.

If we are able to achieve your agenda to include mental illnesses as part of the entire health spectrum, it would redress many of the problems that the mentally ill face and allow us to make a major move forward. The science of this field is comparable to any in the health care spectrum; we have begun to solve many mental illnesses and given the opportunity, we can make major and revolutionary advances in our understanding of mental illness and its treatment in the next decade.

[From the Health Week, Aug. 28, 1989]

MENTAL ILLNESS DESERVES MORE ATTENTION

(By Thomas Higgins)

Dr. Lewis Judd, director of the National Institute of Mental Health, made a telling observation in our last Insider Interview.

He said the biggest problem in mental health today is "that mental illnesses are separated from physical illnesses. They are not conceptualized, understood, responded to, reimbursed or studied with the same level of parity that are physical illnesses." He's right.

The biological basis for many mental illnesses is now firmly established. More than 10 percent of our population has a mental disorder that can be diagnosed and treated. These diseases can be devastating. The individual, the family and the community all suffer terribly because of poor access to care.

In the extreme, the homeless mentally ill are a deep reproach to our values as a civilized society. Nowhere in this country do we have a comprehensive mental-health system that meets the ideal; in most urban areas, the situation is a scandal.

Can there be any doubt about the reason for this neglect? Is it not a vestige of an age-old ignorance that falls readily into prejudice? We still stigmatize the mentally ill; we still harbor the suspicion that their aberrant behavior is entirely willful.

Or are we simply afraid, wanting to avoid the mentally ill altogether?

On a deeper level, we know there is only a thin line separating us from those afflicted with mental disorders. And so by ignoring them, we try to wish away their—and our—problems.

What a terrible price our society pays for this retrograde behavior! The loss of productivity alone takes an enormous toll on our economy. Even sadder, we are all diminished by a culture that spends vastly more on cosmetics than on rescuing people imprisoned by a chemical imbalance in their brains.

President Bush has committed this nation to go to Mars, a desolate planet but perhaps one worth exploring. There is another frontier—in the cities and small towns of America, where frightened and suffering mentally ill citizens dwell—that also is worthy of a national commitment.

The research, diagnosis and treatment of mental illness deserves no less.—*T.H.*

[A Proclamation by the President of the United States of America]

MENTAL ILLNESS AWARENESS WEEK, 1989

The 20th century has been marked by major advances in medical research and technology. Today, we can easily prevent or cure many diseases that once proved to be debilitating or even deadly. Because this remarkable scientific progress has included the study of mental illness, scientists and health care professionals now have a much greater understanding of such afflictions as depression, schizophrenia, phobias, and anxiety disorders.

During the past 10 years alone, our knowledge of mental illness has increased dramatically. Indeed, our ever-expanding knowledge of the brain might well be considered one of the most profound accomplishments of our time. That is why continued failure to diagnose or treat mental illness—and to accept and understand those who suffer from it—is so needless and so regrettable. Far too many mentally ill Americans are also victims of fear, prejudice, and distrust. Mental illness not only inhibits their ability to function normally in society, but also inflicts untold personal anquish upon them and their loved ones.

Frequently the result of biological or chemical disorders in the brain, mental illness can affect anyone—regardless of age, gender, race, or economic status. For a child or adolescent, a mental illness left untreated can mean years of torment, as well as lost opportunities to learn and grow. Adults who suffer from mental illness may not only lose their independence and ability to contribute, but also become strangers to the families and friends. Elderly victims can enjoy neither the comforts of retirement nor the well-earned respect and dignity rightfully afforded to our senior citizens. Tragically, the confusion, alienation, and loss of hope felt by some victims of mental illness—young and old alike—have even led them to take their own lives.

We can—and we must—help the victims of mental illness. Of the millions of Americans who suffer from depression, well over half could benefit from proper treatment. Scientific research has produced treatments that can alleviate the hallucinations and delusions that haunt victims of schizophrenia. There are also treatments, including medications and various forms of psychotherapy, to allay crippling panic and anxiety disorders and to help patients overcome dysfunctional behavior patterns. Today, improved methods of diagnosis and care can offer hope and healing to millions of people with mental disorders.

This week, we salute the dedicated scientists, health care professionals, and volunteers who are working hard to help solve the mysteries of mental illness and alleviate the suffering of its victims. In academic institutions, hospitals, and community-based mental health programs across the country, they are helping to destroy the myths and fears that prevent too many victims of mental illness from obtaining the help and compassion they need. All of us can assist their efforts by learning more about mental illness and by supporting continued research and effective treatment programs. Most important, however, we can help victims of mental illness and their families by giving them our encouragement and understanding.

In recognition of the importance of informing the public about mental illness and the needs of those who suffer from it, the Congress, by Senate Joint Resolution 55, has designated the week beginning October 1, 1989, as "Mental Illness Awareness Week" and has authorized and requested the President to issue a proclamation in observation of this event.

Now, therefore, I, George Bush, President of the United States of America, do hereby proclaim the week of October 1 through October 7, 1989, as Mental Illness Awareness Week. I call upon all citizens of the United States to observe this week with appropriate ceremonies and activities designed to promote greater understanding of mental illness and its victims' need for effective treatment and rehabilitation.

In witness whereof, I have hereunto set my hand this twenty-ninth day of September, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.

GEORGE BUSH.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, it is now 1,684 days—more than 4½ years—that Terry Anderson has been held in captivity in Beirut.

As Terry Anderson's 42d birthday draws nearer, I ask that my colleagues remain aware of his continuing ordeal.

NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL

Mr. DOLE. Mr. President, on Monday, October 30, ground will be broken at Judiciary Square here in Washington, DC, for the National Law Enforcement Officers Memorial. Five years ago, legislation establishing the memorial was unanimously passed by Congress and signed into law by President Reagan.

A national memorial honoring those law enforcement officers who have died in the line of duty is long overdue. Our Nation's law enforcement officers are our frontline soldiers in the war against crime and illegal drugs. Every day of the year, they fight the tough battles on the street so that all Americans can enjoy the cherished freedoms provided by our Constitution.

Unfortunately, our Nation's law enforcement officers have paid a very heavy price over the years: During the course of our Nation's history, for example, an estimated 30,000 law enforcement officers have made the ultimate sacrifice while defending the liberties of our Nation's citizens. Last year alone, 161 law enforcement officers were killed in the line of duty and more than 20,000 were wounded. And the numbers, regrettably, keep getting worse each year.

The State of Kansas has established its own law enforcement officers memorial on the lawn of the State capitol in Topeka: 179 names appear on that memorial—beginning with John F. Curry who was killed in Leavenworth more than 130 years ago, on May 2, 1866. The name of another brave officer, Jeff Young of Wichita, will be added to the memorial at a ceremony scheduled to take place next May. Jeff passed away on August 2, after being hit by a speeding car at a city roadblock and after spending 8 long months in a coma.

Mr. President, we are all indebted—deeply indebted—to our Nation's law enforcement officers. I cannot think of a group of more dedicated and hard-working men and women. And I cannot think of a group that is more deserving of a national memorial honoring the great sacrifices of its members.

THE KRASNOYARSK RADAR VIOLATION OF THE ABM TREATY

Mr. HELMS. Mr. President, U.S. intelligence first detected the illegal Krasnoyarsk ABM radar in mid-1983. The detection of the illegal Krasnoyarsk radar was first reported in the press in July 1983. Indeed, the Krasnoyarsk radar had been under construction for over 3 years when it was first detected. Thus the illegal Krasnoyarsk radar was in the early phase of construction at the very time when the SALT II Treaty was signed in June 1979.

I recall my own efforts during the late 1970's to make the Senate aware of the Soviet cheating on SALT I and SALT II. The detection of the Krasnoyarsk radar in mid-1983 finally provided the smoking gun evidence of Soviet arms control cheating, as I stated on the Senate floor on September 15, 1983.

Mr. President, 2 days ago, October 23, Soviet Foreign Minister Eduard Shevardnadze, finally got around to confirming what some of us have been saying for years. He said:

> . . . The construction of the [Krasnoyarsk radar] station equal in size to the Egyptian pyramids constituted, I say it directly, a clear violation of the ABM Treaty.

This Soviet confession came after years of repeated denials that their Krasnoyarsk radar violated the SALT I Anti-Ballistic Missile Treaty during the 6 years since the United States first detected Krasnoyarsk in 1983. These Soviet denials about their Krasnoyarsk violation can be characterized only as a lie. This admission totally undermines any basis of trust in future relations with the Soviet Union.

So, Mr. President, Shevardnadze has finally admitted the fundamental duplicity of Soviet foreign policy. He has finally admitted that the Soviets conduct arms control negotiations on the basis of falsehood, cheat on solemn arms control treaties and then try to camouflage and conceal their duplicity. Then, when Soviet arms control deception and cheating is detected, the Soviets simply deny any violations. Shevardnadze has now confirmed what many Senators have been saying for years.

Mr. President, we must remember that the Krasnoyarsk radar was in the early phase of construction in June 1979, just as the Soviets signed the SALT II Treaty. That fact gives the new Soviet admission that Krasnoyarsk is a violation an additional meaning. The admission that Krasnoyarsk violates the ABM Treaty means that the Soviets are also implicity admitting that they signed another arms control treaty, the SALT II Treaty on June 18, 1979, while they were already violating a closely related arms control treaty—the 1972 ABM Treaty. President Reagan confirmed this in his official report to Congress in December 1986.

Mr. President, United States intelligence analysis of the Soviet ABM radar construction program indicates clearly that the Soviets were planning the internetted, integrated network of 11 large phased array radar ABM battle management radars, including the illegal Krasnoyarsk radar, at the very moment that the Soviets signed the ABM Treaty on May 26, 1972. Thus Soviet leaders signed the SALT I ABM Treaty in 1972 fully intending at the outset to violate it by building the illegal Krasnoyarsk radar to cover a key attack corridor leading to key targets.

Moreover, this Soviet admission that Krasnoyarsk is a violation also means that the evidence that the Soviets signed the 1987 INF Treaty while fully intending to violate it is strengthened. In fact, by the time of the 1988 Presidential report to Congress on Soviet violations, the total evidence was in that the Soviets have violated the INF Treaty in five important ways. Those of us who opposed the INF Treaty took pains to point out beforehand the likelihood of these Soviet violations.

In sum, Mr. President, this Soviet Krasnoyarsk admission confirms the longstanding evidence that the Soviets signed SALT I, SALT II, and the INF Treaty fully intending to violate these solemn treaties. I understand that many of my colleagues were reluctant to admit that the Soviets could be so blatantly untrustworthy, but this fact can no longer be denied.

The Soviet Krasnoyarsk admission also means that we should be prepared to expect that the Soviets might sign the proposed START Treaty still under negotiation, once more with the full intent to violate it, just as they did with both SALT I and SALT II, and also the INF Treaty.

Mr. President, on September 15, 1983, I proposed an amendment to the resolution condemning the Soviet Union for shooting down KAL-007, on which flight I was almost a passenger. My amendment condemned Soviet Krasnoyarsk radar for violating the ABM Treaty. My amendment got only 45 favorable votes then, mainly because the Reagan administration insisted upon a clean KAL-007 resolution and opposed all amendments regardless of their merit.

I would remind the Senate, however, that I subsequently cosponsored an amendment to the State Department authorization bill later in September 1983, offered by our distinguished colleague, Senator McCLURE, and also cosponsored by my distinguished colleague, Senator SYMMS. This McClure-Symms-Helms amendment was developed in reaction to the illegal Krasnoyarsk radar, and it required that President Reagan report to the Con-

gress on all Soviet violations of arms control treaties. The amendment was passed by a unanimous vote of 93 to 0.

Thus when, on January 23, 1984, President Reagan delivered his first report on Soviet SALT violations to the Congress required under the McClure-Symms-Helms amendment, he reported to the Congress that the Soviet Krasnoyarsk radar was indeed a violation of the ABM Treaty. In every one of the seven subsequent reports by the President to the Congress on Soviet violations of arms control treaties, this violation has been reaffirmed. The evidence supporting the conclusion that Krasnoyarsk was in violation simply could not be denied any longer.

Accordingly, Mr. President, in 1986 and 1987, both Houses of Congress voted unanimously to support President Reagan's judgment that the Krasnoyarsk radar was a clear violation of the ABM Treaty. The Senate also voted unanimously, again in support of the President, that the Soviet Krasnoyarsk radar violation must be dismantled before the United States can sign any future arms control treaties on strategic arms with the Soviets.

Now, Mr. President, after the Soviets had denied the charge that Krasnoyarsk violates that ABM Treaty for over 6 years, the Soviet have finally admitted that it is true. In my view, Mr. President, the evidence of the violations had simply become so massive that it loomed as a significant barrier to improved United States-Soviet relations. Without taking steps to dismantle the radar, it was clear that Soviet hopes for massive financing of the failed Communist economy would be impossible to realize.

Mr. President, until we see a total reversal of Soviet deceptions and violations in arms control, I do not believe that there can be any improvement in United States-Soviet relations.

The Soviet admission that their Krasnoyarsk radar violates the ABM Treaty increases the evidence that the Soviets are violating other existing arms control treaties. For example, President Reagan has confirmed the following additional Soviet arms control violations:

Twenty-five violations of SALT II, including the super heavy SS-X-26 ICBM and their heavy SS-24 and SS-25 mobile ICBM's;

Five violations of the SALT I Interim Agreement, including the SS-19 heavy ICBM;

Ten violations of the SALT I ABM Treaty, including ABM-mode tests of SAM missiles;

Over 70 violations of the Limited Test Ban Treaty [TBT] and the Threshold Test Ban Treaty [TBT] nuclear test ban treaties;

Multiple Soviet violations of the Biological Weapons Convention and the Chemical Weapons Convention, including the Soviet biological warfare production facility at Sverdlovsk;

Multiple Soviet violations of the Kennedy-Khrushchev Agreement of 1962, including the presence of Soviet offensive weapons in Cuba.

Mr. President, now that the Soviets admit that Krasnoyarsk is and has been a violation, when will they admit to these other multiple violations? How can we ever sign a START Treaty with the Soviets unless they cease all of their other arms control violations?

TRIBUTE TO BECKY PETTISS

Mr. HEFLIN. Mr. President, I rise today to pay tribute to an outstanding woman from Mobile, AL. Tomorrow, I will have the honor of meeting Rudene Bailes Pettiss. Becky, as her friends call her, will be in Washington to be honored as Alabama's Teacher of the Year. She will be representing Alabama at the conference called, In Honor of Excellence, which will recognize the outstanding teacher from each State.

Today it has become a cliche to say that teachers offer this country hope for the future. Indeed, if each of our teachers has only a fraction of the devotion and talent which Mrs. Pettiss brings to her job, our future will be very bright. She spent long hours planning after each schoolday ends. Her students in the sixth, seventh, and eighth grades are fortunate to have someone of Mrs. Pettiss' persistence and drive to challenge them, to push them to their limits. With each of these students, Becky faces special obstacles and challenges, for most of her students are educable mentally retarded students. Each of these students requires a different approach and individual motivation.

I ask that each of my colleagues think back to his own schooldays. Each of us has at least one teacher who inspired us, pushed us to our limits, or pushed us beyond where we thought we were capable of going. Mrs. Pettiss is that kind of teacher. She has probably touched far more lives in her 8 years of teaching than she can ever know. She has been instrumental in planning and implementing programs which ensure that her special students get the attention they deserve while still functioning within the mainstream of the regular classroom.

Becky Pettiss attended the University of Alabama and earned both bachelors and masters degrees in special education from the University of South Alabama. She is a wife and a mother and is extremely active in her community and with the education department at the University of South Alabama. Becky has been active in the Junior League of Mobile, the Mobile Opera Guild Auxiliary Board, and the Women of the Church Board at St. Paul's Episcopal Church. She has also been an adviser and consultant to the Southwest Alabama Area Regional Planning Commission, the Advisory Committee to the Mobile Transit Authority, and First Alabama Bank branches. She has previously been named the Outstanding Reading Teacher at Pillans Middle School.

I hesitate to mention Becky's handicap for fear that it might overshadow her accomplishments. This Teacher of the Year Award, like numerous others Becky has earned, have been given solely for her accomplishments and contributions to the field of education. These awards have only been made more incredible by the fact that Becky Pettiss has been paralyzed since the age of 15. She has overcome the barriers placed in her way by buildings and structures not designed for the handicapped as well as barriers erected by those who did not think she could succeed.

Becky has been deeply involved in the drive to make more public and private areas accessible to the handicapped. She serves on the advisory board of the University of South Alabama Office of Development on Accessibility and Educational Services for the Handicapped. She has also advised several area churches on accessibility for the handicapped. She has helped many other handicapped people fulfill their dreams by making so many areas more accessible.

Becky Pettiss' success offers each of us an example of what the incomparable human spirit can accomplish in the face of extreme adversity. For her students especially, Becky offers hope and shows that a handicap or learning disability does not prohibit anyone from achieving great success. Students must always think twice before they tell Mrs. Pettiss, "I can't." This strategy does not work with her because she knows they can and pushes them until they fulfill their potential.

Mr. President, I look forward to meeting Mrs. Becky Pettiss tomorrow so I can congratulate her on her accomplishment. Teacher of the Year is indeed an honor which she will remember for years to come.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1990

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of House Joint Resolution 423, which the clerk will record.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 423) making further continuing appropriations for the fiscal year 1990, and for other purposes.

The Senate proceeded to consider the joint resolution.

Mr. BYRD. Mr. President, the distinguished ranking member of the appropriations subcommittee, Mr. HATFIELD, will be in the Chamber shortly. At the moment, I suggest the absence of a quorum pending his appearance.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 423

Mr. MITCHELL. Mr. President, I ask unanimous consent that only one amendment to House Joint Resolution 423, the continuing resolution, be in order; that a perfecting amendment related to the House language on earthquake relief be offered by Senators BYRD and HATFIELD; and that no motions to commit be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—REGARDING CONFEREES TO THE RECONCILIATION BILL

Mr. MITCHELL. Mr. President, I ask unanimous consent that immediately following the disposition of House Joint Resolution 423, the Senator from New Hampshire [Mr. RUDMAN] be recognized to offer a sense-of-the-Senate resolution regarding conferees on the reconciliation bill, and that there be 40 minutes equally divided on the resolution with no amendments, no motions to commit being in order, and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDING THE DISASTER ASSISTANCE ACT OF 1989

Mr. DOLE. Mr. President, I send a bill to the desk and ask for its immediate consideration on behalf of Senator KASSEBAUM, myself, Senators BENTSEN, BOREN, and DOMENICI.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1792) to amend the Disaster Assistance Act of 1989 to avoid penalizing producers who planted a replacement crop on disaster-affected acreage, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOLE. Mr. President, my distinguished colleague from Kansas may want to say something.

Mrs. KASSEBAUM. Mr. President, I thank the Republican leader.

I am just very pleased to be a part of these efforts for all who worked hard to see this come to fruition.

Mr. President, over 2 months ago, the Congress passed and the President signed into law the Disaster Assistance Act of 1989. This was the result of efforts of many in the Senate representing States which were severely affected by drought conditions and in some areas excessive flooding.

Since the passage of this act, a problem has occurred due to the wording of the assistance legislation. Many farmers, the farmers that the Disaster Assistance Act was drafted to help provide some relief, are finding their payments drastically reduced. The legislation which Senator DOLE and I are introducing is to correct this problem to avoid penalizing producers who planted a replacement crop on disaster-affected acreage.

This bill addresses section 110, the so-called double payment provision, which requires proceeds from a replacement crop on failed acres be subtracted from the farmer's disaster payments on the lost crop. The intent, which I support, was to stop double disaster payments for two different crops planted on the same base acres. If a farmer's wheat crop fails, he can plant another crop on the failed acres. If this second crop also fails, the farmer may only collect benefits for the disaster on his wheat under section 110.

The intent of section 110 is good. However, the wording requires the Department of Agriculture to calculate the value of the replacement or so-called ghost crop without factoring production costs and subtract that amount from the disaster payment.

The legislation which Senator DOLE and I am proposing would still prevent two payments on the same disaster affected acres. However, it would establish a floor to reflect the grower's planting costs, and exclude that amount from any subtraction of payments. This would protect those farmers who have lost their replacement or so-called ghost crop or did not have production of at least 50 percent of the county average yield. They will receive the full disaster payment without any deduction.

Mr. DOLE. Mr. President, this week I have been reminding my colleagues of an ongoing nightmare for farmers who have been hit hard by this year's drought.

It is the so-called second crop and ghost acres issue, problems brought on by the drought and ironically complicated by our own best efforts to help. I will not make it even more complicated by trying to explain the technical details, but it is fair to say that farmers who were wiped out by the drought shouldn't be penalized on the relief front just because they tried to raise a second crop on their disaster acres.

That is the question farmers have been asking and, no doubt about it, they had a valid complaint. And they were asking, "What happened to Washington? Where's the help?" After some unnecessary and unwarranted congressional delay, however, I am pleased to say that help will soon be on the way.

Thanks to the cooperation of the distinguished majority leader, the chairman of the Agriculture Committee, Senators LUGAR, KASSEBAUM, and other Senators, it appears we may have a breakthrough. I hope so, because farmers cannot wait any longer.

There has been plenty of attention lately on natural disasters, what with the tragedies in South Carolina and California. I am not equating the San Francisco earthquake and Hurricane Hugo with the drought of 1989, but make no mistake, thousands of farmers lost their crops this year to record heat, intense wind and hail, an early freeze, and torrential rains. The damage runs in the billions of dollars.

So while we continue our efforts to help the latest victims of natural disasters, let us not forget our farmers. The truth is, Congress has not finished the job we set out to do earlier this year when we first acted on drought relief.

By passing a responsible second crop bill today, and sending it to the House, we can help finish the job for drought-plagued farmers all across America who are simply waiting for help—and fair play.

I want to thank the distinguished majority leader, the chairman of the Agriculture Committee, Senator LEAHY, and the ranking member of that committee, Senator LUGAR. I indicate, as I had before, this is a disaster provision, obviously not of the consequence and significance as the one we are about to consider. But it does concern hundreds and hundreds of farmers in Texas, Kansas, bits of Nebraska, Oklahoma, and maybe in South Dakota. So it is important. I have been advised the House will take it up today. I thank the majority leader for accommodating us this morning.

Mr. BENTSEN. Mr. President, I am pleased to join with my distinguished colleague the minority leader, Mr. DOLE, and others in proposing this legislation. I appreciate very much the cooperation of the distinguished

Chairman of the Senate Agriculture Committee, Mr. LEAHY, in scheduling expeditious consideration of this legislation. This provision will correct a major error which was made by the Secretary of Agriculture in implementing the disaster bill which was passed this summer.

That disaster bill was passed in order to help farmers who lost crops to drought, hail, and a wide variety of other extreme weather conditions which hit major parts of our country this year. However, the regulations announced by the Secretary of Agriculture will severely penalize many of our best farmers, those who planted a second crop after the failure of their primary crop. Despite our best efforts, including a meeting arranged by the distinguished minority leader, Mr. DOLE, with Secretary Yeutter that I and a number of other concerned Senators attended, the Secretary has refused to use his authority to correct this problem. This provision removes the broad discretion that we mistakenly gave to the Secretary in this matter and revises those regulations.

One of the provisions of the disaster bill, section 110, provided that the value of any second crop should be deducted from the disaster assistance payment. These second crop acres are sometimes referred to as "ghost acres" because farmers had been assured by the local ASCS offices that crops planted on those acres would not be counted for purposes of other farm program provisions such as acreage bases.

However, the Secretary of Agriculture has announced that he will deduct 75 percent of the gross value of any replacement crop from the disaster check, and will apply that reduction against the disaster check for the entire farm even if only part of the failed acres were replanted.

That decision was wrong, and this legislation will fix that. Farmers who planted a second crop should not have their disaster payments reduced if they did not make any money on the second crop, but that is exactly what the Secretary has proposed to do. This legislation will deduct an expense figure of 50 percent of the county average yield from the value of the second crop, and then apply the Secretary's 75-percent formula to the remainder. This should more accurately reflect the actual expenses and income of the farmer. In addition, it will protect the many farmers who are making little if any profit on that second crop from losing the disaster payment which they were expecting on the first crop.

In addition, this legislation will make the cuts only on an acre for acre basis. Disaster payments will be delayed only for failed acres that were actually replanted. This will help the cash flow situation for many farmers by allowing them to qualify for immediate disaster payments on those acres which were not replanted. Under the Secretary's proposed rules, any farmer who replanted even a few acres would have to wait until the second crop was harvested before he could get his disaster check.

The uncertainty and problems surrounding this issue have dragged on much too long. The President had a bill-signing ceremony in August to announce that help was coming to our hard-pressed farmers, but just a few weeks later his Secretary of Agriculture denied that expected help to many of those farmers when he issued these misguided rules.

The Secretary is proposing to penalize farmers who lost a crop and then went right back to work growing a second crop. He is proposing to reward farmers who simply sat back and waited for a disaster check because farmers who did not replant are eligible for immediate payments.

I think that we should be rewarding the farmer who is working hard, not penalizing him. We certainly should not be adding to his losses by cutting his disaster check even if he loses money on the second crop.

Mr. President, this provision will correct that situation, and I urge its immediate passage.

Mr. MITCHELL. I join the distinguished Republican leader in thanking the chairman of the Agriculture Committee, Senator LEAHY, for his cooperation in this matter. There have been a number of related issues which have been considered in connection with this matter, and upon the disposition of this bill, I will offer, in behalf of several Senators, companion legislation making changes in the agriculture program. I hope that both measures will be able to proceed to prompt resolution.

Mr. DOLE. Mr. President, let me indicate that in addition to the Kassebaum, Bentsen, Boren, Domenici, Daschle, Nickles, Pressler, Dole provisions, there are two additional provisions in the bill we are now addressing—one by the distinguished Senator from Kentucky [Mr. FORD]. It is technical in nature. It is a no-cost amendment. It is time sensitive, and it needs immediate attention. That has been included in this particular bill, along with the other bill. And there is another provision by the distinguished Senator from Nebraska [Mr. KERREY] which is also time sensitive, which deals with certain loan forfeitures, and that has been included in the legislation.

Mr. DOMENICI. Mr. President, I rise in support of the bill adopted this morning which was offered by our distinguished minority leader, Senator DOLE.

The current interpretation of the Disaster Assistance Act of 1989 by the Department of Agriculture poses economic difficulty for many U.S. farmers, including a number of farmers in New Mexico, instead of giving them reasonable aid for their losses.

In many cases, when farmers were making the decision whether to plant a second crop, after the first crop had been destroyed by the drought, local ASCS offices advised them that the value of this second crop would not reduce their disaster assistance payment.

By allowing 50 percent of the county average yield of the second crop to not be subject to offset, this bill would seek to make disaster assistance more equitable for those farmers who tried to make a second crop where the first failed.

Mr. President, this provision was included in the reconciliation package as reported by the Senate Budget Committee. This provision was clearly extraneous to the reconciliation process, and I supported stripping it from the reconciliation bill.

At that time I indicated that there were provisions in that bill that I supported; this was one of those.

I support this bill because it will provide for more equitable treatment of those farmers with a second crop.

I want to add, Mr. President, that it is very important that these disaster assistance payments be made in a timely manner. To minimize the cash flow problems facing many farmers in this situation, I hope that the Secretary of Agriculture will issue these payments promptly.

I am encouraged that the House of Representatives will act to expedite this legislation.

In sum, I want to express appreciation to Senator DOLE and all my distinguished colleagues who have worked so hard on this issue.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill as ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1792

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPLANTED ACREAGE.

Section 110 of the Disaster Assistance Act of 1989 (Public Law 101-82; 7 U.S.C. 1421 note) is amended to read as follows:

"SEC. 110. NO DOUBLE PAYMENTS ON REPLANTED ACREAGE.

"(a) REDUCTION OF DISASTER REPAYMENTS.—Effective only for producers on a farm who receive disaster payments under this subtitle for a crop of a commodity, the Secretary of Agriculture shall reduce such payments by an amount that reflects the net value (as determined under subsection (c)) of any crop such producers plant for

harvest in 1989 to replace the crop for which disaster payments are received.

"(b) REPLACEMENT CROPS.—For purposes of subsection (a), a crop shall be considered to be planted to replace the crop for which disaster payments are received if (because of loss or damage to the first crop due to damaging weather or related condition in 1988 or 1989) the second crop is planted on the same acreage on which the producers planted, or were prevented from planting, the first crop.

"(c) ADMINISTRATION.—

"(1) DETERMINATION OF VALUE.—In carrying out this section, the Secretary shall—

"(A) only consider any production of the second crop that is in excess of 50 percent of the county average yield for such crop;

"(B) base the value of the excess second crop production on average market prices for the second crop during a representative period; and

"(C) reduce the value of such excess second crop production by 25 percent.

"(2) HISTORICAL CROPPING PATTERNS.—In carrying out this section, the Secretary shall take into account the historical cropping patterns of producers.

"(3) REDUCTION ONLY APPLICABLE TO REPLANTED ACREAGE.—The reduction provided for in this subsection shall only be applied against payments due with respect to acreage that was replanted.

"(4) FUTURE CROPPING PRACTICES.—In carrying out this section, the Secretary may make adjustments to the crop acreage bases to reflect crop rotation practices because of the occurrence of a natural disaster or other similar condition beyond the control of the producer in determining a fair and equitable crop acreage base.

"(d) SEPARATE CONSIDERATION OF PLANTED AND REPLANTED ACREAGE.—In determining disaster payments under this subtitle, the Secretary shall consider separately payments due with respect to acreage that was not replanted and payments due on acreage that was replanted.".

SEC. 2. MARKETING QUOTAS.

(a) FARM POUNDAGE QUOTAS.—

(1) IN GENERAL.—Section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e) is amended—

(A) in subsection (d)—

(i) by striking "October 1, 1982" and inserting "for the previous marketing year"; and

(ii) by striking "1978 crop year" and inserting "immediately preceding 5 crop years"; and

(B) in the second sentence of subsection (e), by striking "marketing year beginning October 1, 1982" each place it appears and inserting "previous marketing year".

(2) ACREAGE—POUNDAGE QUOTAS.—Section 317(a)(6)(B) of such Act (7 U.S.C. 1314c(a)(6)(B)) is amended by striking "years 1960 to 1964, inclusive, may be used, as determined by the Secretary" and inserting "immediately preceding 5 crop years shall be used by the Secretary".

(b) LEASE OR SALE OF ACREAGE ALLOTMENTS.—Section 316(c) of such Act (7 U.S.C. 1314(c)) is amended by striking all after the first sentence and inserting "The transfer shall be approved acre for acre.".

SEC. 3. COST REDUCTION OPTIONS.

Section 1009(d) of the Food Security Act of 1985 (7 U.S.C. 1308a(d)) is amended—

(1) by inserting after "nonrecourse loan program" the following "(including the program authorized by section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e))";

(2) by striking "savings" and inserting "benefits"; and

(3) by striking "forfeited commodity," and all that follows through the period at the end of the sentence and inserting "forfeited commodity.".

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MAKING TECHNICAL AND CORRECTING CHANGES IN THE AGRICULTURE PROGRAM

Mr. MITCHELL. Mr. President, in behalf of Senators PRYOR, HEFLIN, HARKIN, and DASCHLE, I send a bill to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1793) for the purpose of making technical and correcting changes in the agriculture program.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOMENICI. Mr. President, I rise in support of the bill adopted this morning which deals with the availability of American meat in the United States commissaries located in the European Community.

Our Armed Forces currently serve only American meat in their mess halls, and this bill would intensify efforts to extend that practice to commissaries.

This provision would be permitted under the Omnibus Trade and Competitiveness Act of 1988 and is legal under the General Agreement on Tariffs and Trade.

Mr. President, this provision was included in the reconciliation package as reported by the Senate Budget Committee. This provision was clearly extraneous to the reconciliation process, and I supported stripping it from the reconciliation bill.

At that time I indicated that there were provisions in that bill that I supported; this was one of those.

This is a worthy provision, and I am glad it came before the Senate this morning.

Mr. DOLE. Mr. President, let this Senator indicate for the record that none of these provisions is objectionable. The reason they are in a second bill is because they are not time sensitive. In the case of the first piece of legislation, some farmers have been waiting in Kansas and Texas—in fact, there is a piece in the Washington Post about our problem—for a number of weeks while this legislation has been held up. The bill now before the Senate contains a number of provisions by a number of Senators. As far as I am concerned, they are all good provisions. I will do what I can to see that the House takes immediate action on those.

Mr. MITCHELL. I thank the distinguished Senator.

For the information of the Members of the Senate, in summary, the various provisions of this bill include oat planting provisions, provisions relating to changes in the agriculture promotion program, provisions relating to the peanut program standards, and provisions relating to the earmark of export enhancement funds to commissaries, and a new authorization program for agricultural products.

Mr. President, I believe there is no further debate.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1793

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OAT ACREAGE LIMITATION PROGRAM.

(a) IN GENERAL.—Effective only for the 1990 crop of feed grains, section 105C(f)(2)(G) of the Agricultural Act of 1949 (7 U.S.C. 1444e(f)(2)(G)) is amended—

(1) by inserting "(i)" after the subparagraph designation; and

(2) by adding at the end the following new clause:

"(ii) In the case of the 1990 crop of oats, the Secretary may establish a percentage reduction for oats in accordance with paragraph (1) of less than 5 percent. If the Secretary does not establish a percentage reduction requirement for oats, the Secretary shall ensure that the crop acreage bases established for the farm and the farm acreage base are not increased as a result of this clause.".

(b) CONFORMING AMENDMENTS.—Effective only for the 1990 crop of feed grains, section 105C of such Act is amended—

(1) in subsection (d)(1), by adding at the end the following new subparagraph:

"(E) This subsection shall not apply to the 1990 crop of oats."; and

(2) in subsection (f)(1), by adding at the end the following new subparagraph:

"(E) As a condition of eligibility for loans, purchases, and payments for the 1990 crop of oats, the producers of oats on a farm may not plant oats in excess of the crop acreage base for the farm.".

SEC. 2. EXPORT ENHANCEMENT PROGRAM; PROMOTION OF UNITED STATES MEAT EXPORTS

(a) COMMISSARIES.—During each of fiscal years 1990, 1991, and 1992, the Commodity Credit Corporation shall, in carrying out the export enhancement program established pursuant to section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f)), promote the export of United States meat, including poultry products, to commissaries on military installations in the European Community.

(b) FUNDING.—

(1) IN GENERAL.—Except as provided in paragraph (2), of the amounts made available by the Commodity Credit Corporation to exporters, processors, and foreign importers under the authority of section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f)) in commodities of the Commodity Credit Corporation to enhance the export of United States commodities by making the price of such commodities competitive in the world market, the Commodity Credit Corporation shall make available to carry out subsection (a) not less than $14,000,000 in funds or commodities for fiscal year 1990, not less than $9,300,000 in funds or commodities for fiscal year 1991, and not less than $4,600,000 in funds or commodities for fiscal year 1992.

(2) TRANSPORTATION COSTS.—Funds or commodities shall be made available under this section only to the extent that funds are made available by the Department of Defense for the costs of transporting the meat to the commissaries.

(c) REIMBURSEMENT OF CORPORATION.—Section 4 of the Act of July 16, 1943 (57 Stat. 566, chapter 241; 15 U.S.C. 713a-9) shall not apply to services performed, losses sustained, operating costs incurred, or commodities purchased or delivered by the Commodity Credit Corporation pursuant to this section.

SEC. 3. EGGS.

(a) EXEMPTED EGG PRODUCERS.—Section 12 of the Egg Research and Consumer Information Act (7 U.S.C. 2711) is amended to read as follows:

"SEC. 12. EXEMPTED EGG PRODUCERS AND BREEDING HEN FLOCKS, CONDITIONS AND PROCEDURES.

"(a) IN GENERAL.—The following shall be exempt from the specific provisions of this title under such conditions and procedures as may be prescribed in the order or rules and regulations issued thereunder:

"(1) Any egg producer whose aggregate number of laying hens at any time during a 3-consecutive-month period immediately prior to the date assessments are due and payable, as determined under subsection (b), has not exceeded 30,000 laying hens.

"(2) Any flock of breeding hens whose production of eggs is primarily utilized for hatching of baby chicks.

"(b) NUMBER OF LAYING HENS.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), the aggregate number of laying hens owned by an egg producer shall include—

"(A) in cases in which the producer is an individual, laying hens owned by such producer or members of such producer's family that are effectively under the control of such producer, as determined by the Secretary;

"(B) in cases in which the producer is a general partnership or similar entity, laying hens owned by the entity and all partners or equity participants in the entity; and

"(C) in cases in which a producer holds 50 percent or more of the stock or other beneficial interest in a corporation, joint stock company, association, cooperative, limited partnership, or other similar entity, laying hens owned by the entity.

Ownership of laying hens by a trust or similar entity shall be considered ownership by the beneficiaries of the trust or other entity.

"(2) STOCK OR BENEFICIAL INTEREST.—For purposes of paragraph (1)(C), stock or other beneficial interest in an entity that is held by—

"(A) members of a producer's family described in paragraph (1)(A);

"(B) a general partnership or similar entity in which the producer is a partner or equity participant;

"(C) the partners or equity participants in an entity of the type described in subparagraph (B), or by a corporation, joint stock company, association, cooperative, limited partnership, or other similar entity in which the producer holds 50 percent or more of the stock or other beneficial interests,

shall be considered as held by the producer.".

(b) EGG PROMOTION AND RESEARCH ORDER.—

(1) AMENDMENT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall propose an amendment to the egg promotion and research order issued under the Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.) to implement the amendments made by this section. Such amendment shall be issued in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title.

(2) EFFECTIVE DATE.—The amendment to the egg promotion and research order required by subsection (a) shall become effective on the date of the publication in the Federal Register and shall not be subject to a referendum under the Egg Research and Consumer Information Act (42 U.S.C. 2701 et seq.).

SEC. 4. PEANUTS.

Section 8b of the Agricultural Adjustment Act (7 U.S.C. 608b) reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) by inserting "(1)" after the section designation; and

(2) by adding at the end the following:

"(2)(A) If an agreement with the Secretary is in effect with respect to peanuts pursuant to this section—

"(i) all peanuts handled by persons who have not entered into such an agreement with the Secretary shall be subject to inspection to the same extent and manner as is required by such agreement; and

"(ii) no such peanuts shall be sold or otherwise disposed of for human consumption if such peanuts fail to meet the quality requirements of such agreement.

"(B) Violation of this subsection by a person who has not entered into such an agreement shall result in the assessment by the Secretary of a penalty equal to 140 percent of the support price for quota peanuts, as determined under section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c-2), for the marketing year for the crop with respect to which such violation occurs.".

SEC. 5. RESEARCH INTO NEW COMMERCIAL PRODUCTS FROM NATURAL PLANT MATERIALS.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1473D (7 U.S.C. 3319d) the following new section:

"SEC. 1473E. RESEARCH INTO NEW COMMERCIAL PRODUCTS FROM NATURAL PLANT MATERIALS.

"The Secretary may—

"(1) conduct fundamental and applied research related to the development of new commercial products derived from natural plant materials for industrial, medical, and agricultural applications; and

"(2) participate with colleges and universities, other Federal agencies, and private sector entities in conducting such research.".

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I thank my colleagues, and I thank the distinguished chairman and ranking member of the Appropriations Committee for their patience and courtesy.

If I might just say that we are now going to proceed to the continuing resolution, including the earthquake relief provisions. Following completion of that legislation, which I hope will not take too long, we will move to the Poland-Hungary aid bill and begin deliberation on that today. I thank my colleagues.

I yield the floor.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1989

The Senate continued with the consideration of the joint resolution.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. BYRD. What is the business before the Senate?

The PRESIDING OFFICER. The pending business is House Joint Resolution 423.

Mr. BYRD. I thank the Chair.

Mr. President, I first want to thank the joint leadership, Mr. MITCHELL and Mr. DOLE, for their cooperation and their courtesy and the swiftness with which they acted together to make it possible for us to bring this continuing resolution to the floor and for the work that they and their staffs have done in making it possible for a consent agreement to be entered that limits the amendments to the continuing resolution.

I thank my distinguished colleague, Senator HATFIELD, the ranking member of the Appropriations Committee, as always, for his untiring effort and his expertise and cooperation, his knowledge and understanding, and always his courtesies.

House Joint Resolution 423 extends the current continuing resolution, Public Law 101-100, from October 25 to November 15, 1989. It also provides $2.850 billion under section 108 to address the needs of two recent natural disasters of national significance; namely, Hurricane Hugo of September 1989, and the earthquake which took place on October 17 in northern California.

The $2.850 billion provided in the resolution to meet natural disasters is broken down as follows: $1.1 billion for the Federal Emergency Management Agency; $1 billion for Federal highway

reconstruction; $500 million for small business disaster assistance; and $250 million for the President's contingency fund.

During consideration of the initial continuing resolution for fiscal year 1990, an amount of $1.1 billion was made available for disaster assistance needed as a result of Hurricane Hugo. These funds were made available quickly in order to provide a significant measure of relief for the affected people of the Southeastern portion of the country.

On October 17, a major earthquake struck northern California. In addition to significant loss of life and injuries, the earthquake caused major damage to homes, businesses, transportation facilities, and utilities. This natural disaster, along with the devastation wrought by Hurricane Hugo, has resulted in additional funding needs. Consequently, this resolution includes an additional $2.5 billion to begin to address these urgent needs.

In addition, subsection (e) states that "such other amounts will be made available subsequently as required." The House included that provision to provide reassurance to those who were concerned about any further unmet needs.

Several of the amendments which I will offer on behalf of myself and the distinguished ranking minority member of the Appropriations Committee, Mr. HATFIELD, Mr. CRANSTON, Mr. WILSON, Mr. HOLLINGS, and Mr. THURMOND, are intended to correct and clarify some of the House language. The remainder have been cleared by the authorizing committees. I am hopeful that we can dispose of these amendments en bloc and send the measure back to the House for concurrence. The resolution could then be quickly sent to the White House. I am further advised that the President will sign the measure if the legislation is enacted as I suggested.

Mr. President, I urge that the Senate adopt House Joint Resolution 423, along with the several amendments en bloc which I shall offer at the conclusion of the remarks by Mr. HATFIELD, the ranking member, so that the devastated areas can secure relief quickly.

In closing, I wish to thank staff on both sides for the attention and work that they have given to make it possible to move this matter expeditiously.

Mr. President, I yield the floor.

Mr. HATFIELD. Mr. President, the chairman of the Appropriations Committee, the distinguished Senator from West Virginia [Mr. BYRD] has outlined the continuing resolution that we are now considering. I wish to comment briefly on the simple fact that the Appropriations Committee has reported and the Senate has passed these bills. I wish also to reemphasize the fact that the Senate acted on these bills, that is, the Senate Appropriations Committee, prior to the end of the fiscal year and reported them to the floor. In extending this continuing resolution, I think we have also to realize that the President has only signed 2 of the 13 appropriations bills at this time, and the continuing resolution does have to address, as it does, the extension to November 15 of each of the 11 bills that have not been signed into law.

For the programs, projects, and activities covered by those 11 bills, funding will be provided at the lower of, and under the more restrictive terms and conditions of, the House-passed or Senate-passed bills.

The chairman, Senator BYRD, has put a strong emphasis, because there is a dual purpose of this continuing resolution, upon the sections dealing with the earthquake relief. I would like to point out, Mr. President, that the Congress and the President together can only appropriate and make available the funds for this purpose, whether they be assigned to FEMA, to the highway program, to the SBA disaster loans, or to the President's discretionary fund. In major part, it will be up to the agencies to move these resources out to the people in need.

I received a call, to illustrate the point that I want to make, from the presiding judge of the Ninth Circuit Court of Appeals in San Francisco. He has been a long-time personal friend, having appointed him to the State supreme court when I was Governor and seeking his appointment as a Federal district judge and later as a Federal circuit judge and now having been elevated to the presiding judge of the ninth circuit. He explained to me that there was a yellow ribbon tied around the Ninth Circuit Court of Appeals building indicating "unsafe to enter," so they are now housed in temporary facilities. He said they had made an estimate that it would take probably about $25 million to restore this building. He suggested possibly I could earmark the $25 million out of these funds to go directly to the ninth circuit for immediate implementation of this restoration act.

I indicated to him, no, that this would not be feasible at this time; that this would have to be handled through the normal channels of FEMA and GSA. And he reminded me that in some of their experiences it had been 5 years before the GSA could move a project; that they were in this kind of unique circumstance where they needed expeditious handling of the resources that we were appropriating to go to that specific need of the ninth circuit.

I only use this as an illustration because I think the normal procedures of Government have been frustrating to an awful lot of those on the delivery end of a program out there in the ninth circuit, as this case is illustrative.

I suggest that FEMA, GSA, or any other agency of the Federal Government charged with the implementation of these appropriated funds set aside normal traditions, notwithstanding bureaucratic tradition, and move these funds expeditiously within law, within all of the requirements of law—certainly not to set aside law, but let us see an example of efficiency and expeditious handling of these resources as they have been intended to reach those parties in need, whether it is an individual family or whether it is a commercial enterprise or whether it is a public function, whatever it may be.

I suggested to Judge Goodwin that to be helpful I would make this statement on the floor as a part of the legislative record and I would ask my friend from West Virginia, the chairman of our committee, perhaps along with the chairmen and ranking minority members of the appropriate subcommittees to urge them to handle these funds expeditiously to meet these needs.

So, Mr. President, I join my colleague in handling this matter on the floor and commend the chairman again for a very efficient and expeditious handling of this request, not only for the earthquake victims but as well for the continuing functions of our Federal Government. Having chaired this committee at one time and remembering looking at that clock and it was 12 o'clock, only it was a.m. and not p.m., realizing we were moving to a time when our Government would run out of money, I want to say that we are 12 hours ahead of time, so there has been a great improvement in the handling of these affairs.

Mr. BYRD. Mr. President, I thank my colleague and I will not take the time of my colleagues. There are several who want to speak.

AMENDMENT NO. 1052

(Purpose: Technical and clarifying amendments)

Mr. BYRD. Mr. President, I send to the desk a number of amendments, most of which are technical, all of which have been agreed upon. I ask unanimous consent that they be considered en bloc and agreed to en bloc and that a statement explaining the amendments be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments considered and agreed to en bloc are as follows:

On page 2, line 2, before the colon, insert the following: "and to remain available until expended".

On page 2, lines 2 and 3, delete the following: "120(f)(1) and".

On page 2, line 4, delete the colon and all after down through "1990" on line 7.

On page 2, line 14, after the word "activities", insert the following: ": *Provided*, That during fiscal year 1990, and within the re-

sources available to carry out section 7(b) of the Small Business Act, as amended, gross obligations for new direct loans shall not exceed $1,813,250,000".

On page 2, line 20, after the word "authorized", insert the word "Federal".

On page 2, line 21, before the period, insert the following: ": *Provided further*, That of the sums appropriated $20,000,000 shall be available for activities under the National Earthquake Hazards Reduction Program, including $8,000,000 to the United States Geological Survey for earthquake investigations and $12,000,000 to the Program's four principal agencies for additional efforts to improve earthquake preparedness throughout the United States".

At the end of the resolution, add the following:

"SEC. 109. Section 102(c) shall not apply to sections 107, 108, 109, 110, 111, 112, and 113.

"SEC. 110. Notwithstanding section 120(f) of title 23, United States Code, the Federal share payable on account of any project on the Interstate and other Federal-aid Highway System resulting from Hurricane Hugo, September 1989, or the Loma Prieta earthquake of October 17, 1989, with funds made available to carry out section 125 of such title shall be 100 percent for costs incurred in the 180-day period beginning on the date of such natural disaster.

"SEC. 111. Notwithstanding section 301 of title 23, United States Code, projects on the San Francisco-Oakland Bay Bridge in the State of California resulting from the Loma Prieta earthquake of October 17, 1989, shall be eligible for funds authorized to carry out section 125 of such title: *Provided*, That insurance payments shall be deducted from construction costs.

"SEC. 112. Notwithstanding section 157(a)(3) of title 23, United States Code, allocations for emergency relief in accordance with section 125 of such title with respect to projects resulting from Hurricane Hugo, September 1989, or the Loma Prieta earthquake of October 17, 1989, shall be excluded from making the determination of amounts to be allocated among the States pursuant to such section 157(a)(3).

"SEC. 113. The $100,000,000 limitation contained in section 125(a) of title 23, United States Code, on amounts authorized to be expended in any one fiscal year to carry out the provisions of section 125 of such title shall not apply with respect to expenditures for repairs and reconstruction of highways which have been damaged as a result of Hurricane Hugo, September 1989, or the Loma Prieta earthquake of October 17, 1989.".

Mr. BYRD. Mr. President, the first amendment is of a technical nature and provides that the $1 billion made available in this joint resolution from the highway trust fund for emergency highway repairs will remain available until expended, as is the usual case with highway construction funds.

The second amendment is of a technical nature and deletes reference to 23 U.S.C. 120(f)(1). The resolution, as enacted by the House, provided that the provisions of 23 U.S.C. 120(f)(1) shall not apply. Under current law, these provisions allow a more favorable matching ratio; that is, 100 percent Federal funding for expenditures made in the first 90 days following the disaster. In the case of California, this would be 90 days from October 17, 1989. The House, I am informed, had intended to extend indefinitely the 90-day period in which the Federal Government would provide 100 percent Federal funding. Unfortunately, the House language would have the opposite effect, and abolish the existing more favorable matching ratio for even the first 90 days. Consequently, the technical amendment deletes reference to a waiver of the provisions of 23 U.S.C. 120(f)(1), and lets existing law stand.

The third amendment is technical and would remove language which is duplicative of current law. Current law provides that obligations for emergency relief shall be in addition to the limitation on obligations established in the fiscal year 1990 Department of Transportation bill.

The fourth amendment is technical and provides that the limitation imposed on obligations from the Small Business Administration, disaster loan fund be increased to $1,813,250,000. This increase in limitation will bring it into conformance with the new obligation rate anticipated by the appropriation of an additional $500,000,000 included in this bill for the Small Business Administration, disaster loan fund.

The fifth amendment is technical and inserts the word "Federal" in order to clarify the intent that the funds may be transferred to any authorized Federal governmental activity to meet the requirements of the national disasters.

The sixth amendment provides that, of the sums appropriated, $20,000,000 shall be available for activities under the National Earthquake Hazards Reduction Program, including $8,000,000 to the U.S. Geological Survey for earthquake investigations and $12,000,000 to the program's four principal agencies for additional efforts to improve earthquake preparedness throughout the United States.

The seventh amendment is technical and provides that the funds previously appropriated for Hurricane Hugo and the funds included in this joint resolution for natural disasters shall not terminate on November 15, 1989, which is the termination date of the continuing resolution.

The eighth amendment relates to the Interstate System and other Federal-aid highway systems and provides that, notwithstanding existing law, the Federal share payable on account of any project on the Interstate and other Federal-aid Highway System resulting from Hurricane Hugo or the Loma Prieta earthquake of October 17, 1989, with funds made available to carry out section 125 of such title shall be 100 percent for costs incurred in the 180-day period beginning on the date of such natural disaster. Current law provides for a 90-day period, which is inadequate for disasters of the magnitude experienced in the Southeastern United States and in northern California.

The ninth amendment relates to the eligibility of the San Francisco-Oakland Bay Bridge for funding and provides that, notwithstanding existing law, projects on the San Francisco-Oakland Bay Bridge in the State of California resulting from the Loma Prieta earthquake of October 17, 1989, shall be eligible for Federal emergency relief funds as authorized by section 125 of 23 U.S.C.; provided, that insurance payments shall be deducted from construction costs.

The 10th amendment relates to minimum allocations and provides that, notwithstanding existing law, allocations for emergency relief in accordance with section 125 of 23 U.S.C. with respect to projects resulting from Hurricane Hugo or the Loma Prieta earthquake, shall be excluded from making the determination of amounts to be allocated among the States for Federal-aid highway programs.

The 11th amendment waives the $100 million limitation in existing law which limits the amount that may be expended in any one fiscal year to carry out the provisions of section 125 relating to emergency relief highway reconstruction with respect to expenditures for repairs and reconstruction of highways which have been damaged as a result of Hurricane Hugo or the Loma Prieta earthquake.

Mr. President, I move that the amendments en bloc be reconsidered and that the motion to reconsider be laid on the table.

The motion was agreed to.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from California.

Mr. CRANSTON. Mr. President, I want to express my deep gratitude to the chairman of the committee and the ranking minority member for their swift and very compassionate response to the devastation experienced in northern California 8 days ago when the Loma Prieta earthquake struck one of the Nation's most populated and most beautiful areas.

It has been a tragic situation. The committee responded with remarkable swiftness, and in behalf of all the people in California, particularly those who have suffered through this trauma, I want to express their gratitude and mine.

The House of Representatives responded magnificently to this emergency and changes being made today are mainly of a technical nature to help ensure that the funds approved by the House get out as rapidly as possible to meet the needs of those devastated communities and the people who live there.

Mr. President, the disaster in northern California will go down in the history of our Nation as one of the most devastating. Estimates of damage are now in excess of $7 billion, and they continue to mount as aftershocks continue and more structural damage is uncovered.

I spoke to my sister, who lives in Los Altos Hills, on the phone late last night, and they had just suffered another aftershock which apparently was 4.5 on the Richter scale. Each time there is an aftershock, some more buildings that are on the brink collapse, and more people's lives and fortunes are in jeopardy. The human cost is immeasurable.

As northern Californians begin to rebuild their homes, communities, and lives, Federal disaster assistance is desperately needed. The ultimate cost to the Federal Government may well exceed the amount being appropriated today. I am deeply grateful that the President and the Congress are responding to these needs so rapidly.

As I indicated earlier, the amendments being offered in behalf of the chairman and ranking minority member of the Senate, and on behalf of myself and my colleague, Senator WILSON, who is on the floor at this time, include some technical changes that will help ensure these funds are immediately available for the purposes intended.

First, with respect to the Small Business Administration's disaster loan fund, the amendment increases the authorized loan level to slightly over $1.8 billion. This will enable the Small Business Administration to make new direct loans to the victims of the Hugo disaster and the Loma Prieta earthquake up to that ceiling.

We estimate that $700 million will be needed for Hugo victims, leaving $1.1 billion for California victims. The additional appropriation of $500 million already include in the continuing resolution would be combined with approximately $1 billion already in the SBA disaster loan revolving fund.

OMB estimates that repayments in the next fiscal year will increase the fund by $500 million. Thus the SBA disaster loan relief fund will have a total of $2 billion, of which we will authorize new loans up to $1.8 billion.

Second, with regard to the $1 billion for emergency transportation funds to help rebuild and repair the federally assisted highway system, including I-880 which was so severely damaged by the earthquake, the amendment contains four technical provisions which do the following: Waive the $100 million ceiling on assistance available for any single disaster; extend from 90 days to 180 days the time period of full Federal reimbursement of the emergency funds; provide that the emergency funds will not reduce the State's allocation for highway funds; and finally, authorize Federal assistance for the San Francisco Bay Bridge repairs with a provision that the Federal aid for that bridge will be reduced by any interest reimbursements.

The bridge structure itself is not covered by insurance, but there is insurance covering the loss of toll revenues while it is inoperable.

Mr. President, with the increase in SBA loan authority, which is not new money, but rather authority to spend down the funds in the reserve accounts, California will be eligible to receive immediately $3.45 billion. It is very likely that the ultimate Federal cost for the disaster may be higher as the damage estimates continue to grow.

But this is a very good, very important allocation for a community that has been very badly shaken. We send an important moral message to Californians and to everyone in the Nation when the Federal Government responds so swiftly and so humanely to a natural disaster. It is a message of effectiveness as well as of compassion.

Mr. President, there are several other matters regarding provisions of the continuing resolution that I want to address.

The House-passed resolution contains funds for a discretionary disaster program to be used by the President for dealing with damage to Federal facilities.

Last week's earthquake also caused severe damage to the airports in the San Francisco Bay area. The Oakland Airport alone suffered $30 million in damages. The San Francisco, San Jose, Monterey, and Palo Alto airports also sustained losses. It's my understanding that at least $50 million will be needed to repair and replace airport facilities and equipment. Repair, restoration, and reconstruction of the Oakland Airport and other bay area airports should be given top priority to enable them to resume full operations and to ensure additional damage does not occur. I strongly urge that some of the discretionary moneys provided in this bill be used for this purpose.

There is an enormous need for FEMA to allocate some of the funds being provided under this measure for assistance in the area of emergency mass transit needs in the bay area. Increased operating expenses alone are estimated to run some $28 million for the next 3 months. Additional transit equipment and equipment repairs will cost an estimated $5 million. I urge FEMA to allocate the necessary funds in this area.

As Chairman of the Senate Veterans' Affairs Committee, I want to call attention to the needs of the VA facilities in Palo Alto and Martinez, CA, and my hope that the President will allocate adequate funds from this account for these needs.

Again I thank my colleagues for the support and assistance and good wishes, as we in California deal with this natural disaster. I thank the two leaders, Senator MITCHELL and Senator DOLE, as well as all the others who have been involved in this effort.

NEED FOR FUNDING FOR DEPARTMENT OF VETERANS AFFAIRS MEDICAL ACTIVITIES

Mr. CRANSTON. Mr. President, as Chairman of the Committee on Veterans' Affairs, I would like to engage the distinguished chairman of the Appropriations Committee, Mr. BYRD, in a colloquy regarding needed funding for Department of Veterans Affairs medical activities in northern California following the devastation wrought by last Tuesday's earthquake.

Mr. BYRD. Mr. President, I would be pleased to discuss this matter with the senior Senator from California in his capacity as chairman of the Veterans' Affairs Committee as well as the representative of the area affected.

Mr. CRANSTON. Mr. President, the human suffering and anguish wrought by the California earthquake disaster can never be compensated for, but we must deal now not only with the problems of an immediate nature, but also with the pressing need to take steps to avoid or minimize damage in the event of another earthquake which we must believe will certainly come.

I am deeply appreciative of the swift work of the House in including in the fiscal year 1989 continuing resolution a $2.85 billion package of new disaster assistance for California's earthquake victims and for the victims of hurricane Hugo, including $250 million in a new discretionary fund for the President to provide Federal governmental assistance through such agencies as the Department of Veterans Affairs, the Federal Aviation Administration, and the Interior Department. However, I profoundly regret that the House rejected the alternative $3.84-billion aid package which was proposed by Representative FAZIO on behalf of the entire California congressional delegation and which would, for example, have provided $700 million more in funding to the Small Business Administration, $150 million more in discretionary spending, and $64.1 million directly for VA.

As I have expressed to the very able Senator from West Virginia [Mr. BYRD] during the last week, it is critically important that substantial funding be made available swiftly to VA in order to enable it both to maintain services to veterans in the San Francisco Bay area at this tragic juncture and to repair structural damage at, and make seismically safe, certain bay area medical facilities.

Mr. President, according to the most up-to-date VA estimates, $71.6 million is needed for this work in fiscal year 1990. Of that amount, $15.6 million

would be used for current medical care operating expenses—primarily to replace badly damaged equipment and to support the transfer of patients who were evacuated at the Palo Alto VA Medical Center [VAMC] on the evening of October 17, along with staff to provide for their continuing care. The remaining $56 million would fund emergency construction needs—including acquisition of modular buildings at Palo Alto ($15 million), replacement of an elevator ($1 million), and immediate seismic corrections in building 5 ($3 million) there—as well as the preliminary steps necessary for other repairs at the Palo Alto VAMC and to begin long-delayed construction projects to correct seismic deficiencies at the Palo Alto and Martinez VAMC's.

Secretary of Veterans Affairs Edward J. Derwinski agreed last Thursday to a joint request put forth by me and the distinguished chairperson of the VA, HUD, and Independent Agencies Appropriations Subcommittee, Ms. MIKULSKI, that these projects be given the utmost priority for immediate funding and agreed that we need to take long-delayed steps now to correct these seismic problems.

In the case of Palo Alto, $22 million is needed to begin to correct seismic deficiencies and add beds in building 1, the six-story building from which 150 acute-medical and surgical patients had to be evacuated Tuesday night, and to begin long-planned and long-delayed seismic corrections in building 2. VA originally estimated that these seismic correction projects—for which construction awards are not planned until November 1991 and November 1992, respectively—will not be completed until November 1993 and November 1994, respectively, and will cost $66 million. In view of the substantial structural damage done by the earthquake to wings A, B, and C of building 1, the latest estimate is $122 million.

In the case of the Martinez VAMC, which is in close proximity to the San Andreas fault, $15 million is needed to begin to correct seismic deficiencies in current structures and for planned clinical improvements which—as part of new construction—must comply with seismic requirements. VA has estimated the total cost of these projects at $117 million. The Martinez projects are not planned for construction award until December 1991 to November 1992 and completion until December 1993 to February 1995.

In this regard, I am advised that had the epicenter of this earthquake been closer to the Martinez VA Medical Center there would have been great tragedy and devastation there. We must not risk such dire consequences through any avoidable delays in getting these long-delayed projects and the long-delayed Palo Alto projects under way as soon as possible.

The $37 million in new funds I have outlined should allow VA to accelerate the construction schedules for these urgent seismic correction projects at both VAMC's. In the meantime, $19 million is needed at Palo Alto for emergency construction of 90,000 square feet of modular units, including 90 beds, and repair and bracing to permit that medical center to continue effective operations with a reduced patient load.

Mr. President, although I believe that funds available to the President for Federal agency disaster-related needs in the House-passed measure are not adequate, I would like to ask the distinguished committee chairman whether he would agree that the funding needs I just outlined for bay area VA facilities and veterans are absolutely essential and should be accorded the highest priority by the President both to repair and recover from the immediate damage and to prevent similar or worse damage in the future?

Mr. BYRD. I fully agree with the distinguished Senator from California who so ably chairs our Veterans' Affairs Committee that the funding he has described should be given the very highest priority by the President out of the $250 million discretionary disaster fund.

Ms. MIKULSKI. I have followed the exchange by my two distinguished colleagues and committee chairs. I concur fully with their assessment of VA's urgent needs in the bay area in follow-up to the tragic earthquake and the great importance that the President respond fully and immediately to those urgent VA funding needs through the use of his discretionary fund provided for in the pending measure.

Mr. CRANSTON. Mr. President, I am deeply indebted to my two good friends and leaders on the Appropriations Committee for their support, compassion for California's citizens, and foresight. I ask unanimous consent, Mr. President, that the October 19 letter that the Senator from Maryland [Ms. MIKULSKI] and I sent to Secretary of Veterans Affairs Derwinski on the earthquake aftermath be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, October 19, 1989.

Hon. EDWARD J. DERWINSKI,
Secretary of Veterans Affairs,
Washington, DC.

DEAR ED: As the chairpersons of the Committee on Veterans Affairs and the Subcommittee on VA, HUD, and Independent Agencies of the Appropriations Committee, we are very grateful, as we're sure you also are, that no VA employees or patients were injured in Tuesday's devastating earthquake and that, except for the Palo Alto VA Medical Center, VA medical facilities in the Bay Area suffered only minor damage.

We congratulate the Department, your many highly dedicated employees in the Bay Area, and the many volunteers, on the emergency response to the very serious situation that the earthquake created at the Palo Alto facilities. We have heard only very favorable reports about the most effective and orderly evacuation of 150 acute medical and surgical patients from building 1 and 100 chronic and acute psychiatric patients from building 5 at that Center. Although complete information is not yet available regarding the extent of damage there, it appears that the damage is such that building 1 cannot readily be made seismically safe for patient occupancy or otherwise, and that building 5 may be equally unsafe. In both cases, equipment damage is reportedly extensive.

As you know, Senator Cranston has advocated and pursued since 1985 the need to accelerate both the Palo Alto VAMC seismic correction and bed addition project (CMIS 640-042) and the Martinez VAMC seismic correction project (CMIS 612-050). Nevertheless, there has continued to be most unfortunate slippage in these projects which are now not scheduled to be completed until November and December 1993, respectively.

Recently, Senator Cranston raised the urgency of these projects with then-Administrator Turnage in the attached June 9, 1987, letter to him as well as at the Committee's March 4, 1988, hearing on VA's FY 1989 budget. This step was preceded by a prehearing meeting between Senator Cranston, Administrator Turnage, Chief Medical Director Dr. John Gronvall, and Committee Chief Counsel Jonathan Steinberg, in which Senator Cranston strongly stressed the importance of removing certain bottlenecks associated with both projects. Senator Cranston again stressed the importance of these projects with then-Associate Deputy Administrator for Logistics Susan Livingstone at the Committee's March 6, 1989, hearing on VA's FY 1990 budget.

As important as these two Bay area seismic correction projects have been up to now, we believe that Tuesday's tragic events require that they be considered to have an even higher priority. We understand that had an earthquake of this magnitude occurred closer to the Martinez VAMC, the results could have been devastating.

Hence, we urge that these projects, as well as the Palo Alto seismic/patient privacy correction project for building 2 (CMIS 640-130), which is not due to be completed until November 1994, now be accorded by you the very highest priority for funding and immediate action. We believe it is essential that you now give the highest priority to funding for these projects at the earliest possible time, with a firm commitment to fund them no later than FY 1991. We also urge that you propose any reprogramming of funds that could accomplish design work or site preparation in FY 1990 in order to facilitate actual construction on these projects at the earliest possible date. Finally, we ask that, within 30 days, you submit to our Committee and Subcommittee a report on the status of these three projects which include major seismic correction components, as well as any changes necessitated by the earthquake damage, and your plans for expediting action on them.

We ask that this report also include a description of the short- and long-term plans for caring for the 250 patients evacuated at the Palo Alto VAMC.

Although we understand that damage at other VA facilities in the Bay area was minor, we ask that your report include a full assessment of the effects of the earthquake on those facilities and of any seismic corrections which may be necessary at any of them.

It also appears that the earthquake will result in substantial additional operating costs—which may be in the range of $15-$25 million—for the Palo Alto VAMC and other VA medical facilities throughout the Bay area. We urge that appropriate adjustments be made in the FY 1990 and 1991 resource allocations to enable the affected facilities to bear those costs so as to ensure the maintenance of services to veterans in Northern California and that any supplemental funding necessary for this purpose be requested expeditiously. Please advise us within a week of the actions you plan to take in this regard.

Finally, we also ask that, within 60 days, you report back to us on your evaluation of all other seismic-safety projects throughout VA's health-care system from the standpoint of ensuring that they are being afforded the very high priority that Tuesday's tragic events make clear they require.

Ed, you urgent attention to this letter and the recommendation and requests we have made in it would be greatly appreciated.

With warm regards,

Cordially,

ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs.
BARBARA A. MIKULSKI,
Chair, VA, HUD, and Independent Agencies Subcommittee, Committee on Appropriations.

Mr. CRANSTON. Mr. President, I also want to note the efforts of VA employees in the bay area—through the 17 disaster centers, VA medical centers, and regional offices—to provide bay area citizens—veterans and nonveterans—in many areas with emergency assistance, including medical services, housing, structural engineering, and counseling, in the wake of the earthquake. I believe VA's outstanding efforts here under very difficult circumstances are a tribute to the dedication, "can-do" spirit, and compassion that typify VA employees. Mr. President, I ask unanimous consent that VA's October 20, 1989, and October 22, 1989, news releases describing VA's community assistance efforts be printed in the RECORD at this point.

There being no objection, the news releases were ordered to be printed in the RECORD, as follows:

VA TO HELP IN EARTHQUAKE RECOVERY

The U.S. Department of Veterans Affairs (VA) is mounting an earthquake community assistance program in Northern California that will provide VA facilities and personnel to aid local recovery efforts.

In addition to special support operations aimed at veterans and their families, VA Secretary Edward J. Derwinski has ordered that department staff and resources be extended to help Bay area citizens in such areas as medical services, housing, structural engineering and emotional counseling.

VA is supplementing its normal benefits and health-care staff in the region with personnel from other department activities from as far away as Washington, D.C. In addition to re-locating some 260 patients evacuated from damaged buildings at the Palo Alto VA Medical Center, VA will intensify efforts to assist owners of homes with VA-guaranteed mortgages and will provide benefits counseling through the regional office and the 17 disaster centers which are being established. The regional office is also expanding its availability by remaining open over the weekend.

Immediately after the earthquake struck on Oct. 17, both the San Francisco and Martinez medical centers were made available to supplement local emergency medical activities. These and other VA hospitals and clinics in the affected region will remain available to provide needed services, Derwinski said.

VA is also donating its expertise in the treatment of post-traumatic stress disorder (PTSD), to help victims deal with the emotional aftermath of the disaster. Teams from VA readjustment counseling centers and mental health units which routinely treat veterans who suffer combat-related stress will join community psychological support efforts. PTSD can result from any emotionally upsetting life experience and VA has pioneered in its treatment.

Because of the large numbers of structures VA itself owns in the region, special engineering teams are being assembled to survey seismic damage and determine building safety. Derwinski said these same teams will work with local governments which are facing a lengthy and complex process of reviewing structural damage.

The San Francisco VA regional office is also determining the availability of VA-owned residential properties which may be offered as temporary shelter in area communities.

The unprecedented VA effort is being coordinated with the Federal Emergency Management Agency which is responsible for bringing federal assistance services to support local disaster relief and recovery operations.

OCTOBER 20, 1989.

U.S. DEPARTMENT OF VETERANS AFFAIRS SERVICES AVAILABLE MONDAY OCTOBER 23, 1989

U.S. Department of Veterans Affairs Vet Centers will provide stress debriefing counseling services for all Bay area residents, veterans and non-veterans alike, seeking help in coping with earthquake related stress. The San Jose Vet Center was damaged by the earthquake and will be closed temporarily. VA officials are seeking an alternative site for the Vet Center. Vet Centers were established by Congress ten years ago to provide counseling services to Vietnam veterans suffering from Post Traumatic Stress Disorder. (Note: Vet Center locations are listed on the Attached List of Bay area U.S. Veterans Affairs Resources.)

The Veterans Benefits Administration Regional Office, located at 211 Main Street, San Francisco, has resumed normal activities. Effective Monday, October 23, 1989 the Regional Office will extend the hours of telephone service for an indefinite period. Veterans Benefits Counselors can be reached Monday through Friday from 7:30 a.m. to 6:00 p.m. and on Saturday from 9:00 a.m. to 2:00 p.m. In Monterey veterans should call 649-3550; Oakland 893-0405; Palo Alto 321-5615; and San Jose 998-7373. In addition, veterans may call the Northern California toll-free number (800) 652-1240.

Veterans Affairs Medical Centers in Livermore, Martinez and San Francisco, the Menlo Park Division of the Palo Alto VAMC, the San Jose Outpatient Rehabilitation Center, and the VA Outpatient Clinic in Oakland have resumed normal clinic and inpatient activities. In addition, the Oakland Outpatient Clinic will be opened seven days a week for an indefinite period. Veterans are reminded to keep all scheduled appointments and to allow sufficient time for travel to VA facilities in light of street, bridge and freeway closures.

The Veterans Affairs Medical Center in Palo Alto has resumed outpatient clinic and scheduled admission activities, unless veterans have been notified otherwise. (Note: Please see the attached News Release, dated October 20, 1989 for further information concerning the Palo Alto VAMC.)

VA health and benefits counselors will be available at all FFMA disaster application centers.

OCTOBER 22, 1989.

SBA LIMITS IN PRESIDENTIAL PROGRAM

Mr. CRANSTON. I want to take a moment to ask my colleague from the State of Arkansas to clarify one issue in his capacity of chairman of the Committee on Small Business Administration.

Mr. BUMPERS. I would be happy to answer any questions the senior Senator from California may have.

Mr. CRANSTON. As I understand the SBA's emergency assistance loan fund as currently administered, the SBA limits the loans in the residential program to $100,000. Is this cap imposed by statute or by regulation?

The reason I ask is that much of the residential damage in the city of San Francisco created by last week's earthquake was concentrated in an area of the city called the marina. The cost of homes in the marina typically well exceed the $100,000 limit. do you see any reason why the SBA should feel restricted by the authorizing statute to increase the current loan limit so that all the people can be served?

Mr. BUMPERS. The cap of $100,000 was a determination made by the agency. The authorizing statute actually uses the same loan limit that is applied to provide emergency assistance to businesses.

Mr. CRANSTON. And what is that?

Mr. BUMPERS. The statutory limit on SBA disaster loans is $500,000, but SBA has for many years established an administrative limitation within the cap. In 1971, that limit was set at $50,000 for real estate and $5,000 for personal property. Over the years, with inflation, this level became intolerable, but the administration refused to raise the limit.

Consequently, Congress acted in 1984, in Public Law 98-270 to provide that the administration could establish a maximum administrative limitation of not less than $100,000 for real estate and $20,000 for personal property such as building contents and vehicles. For the most part, this amount has been adequate up until the most recent catastrophes. In the 1987 Whittier, CA, earthquake, 12,200 diaster ap-

plications were received by SBA, and only 89 were for more than $100,000 in damage.

I understand the point of the distinguished Senator from California that this amount may not be adequate for many San Francisco residents, given both the high cost of real estate in that area and the truly devastating damage to many dwellings. Unlike may lesser disasters, many of these buildings will simply have to be razed and rebuilt.

SBA has full authority to implement a higher limit than $100,000 for real property, and I hope that the administration will seriously consider whether the current limit is adequate and, if not, that it will act expeditiously to implement a new limitation.

Mr. BYRD. Mr. President, I yield to the majority leader without losing the floor.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that immediately following disposition of the Rudman resolution, the Senate proceed to consideration of Calendar Order No. 254, S. 152, a bill to amend the Foreign Assistance Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the majority leader.

Mr. President, I will take 1 minute. I want to restate for the record that most of the amendments that were agreed to en bloc were technical, but not all of those were technical.

I should also state that the amendment which I offered was on behalf of the distinguished Senator from Washington [Mr. HATFIELD]; the distinguished Senator from California [Mr. CRANSTON]; the distinguished Senator from California [Mr. WILSON]; the distinguished Senator from South Carolina [Mr. HOLLINGS]; and the distinguished Senator from South Carolina [Mr. THURMOND].

Mr. President, before I yield the floor, I am going to ask for the yeas and nays, not that there is any doubt but that this resolution will pass the Senate with an overwhelming margin, and perhaps even unanimously; not that there is any concern that we will have any problem with the House, but to send a message to the people who have suffered in this devastating earthquake, a message that tells them that when it comes to reacting to an act of God our country stands behind them. There is no party line. There is no aisle that separates us.

But we heed the admonition of the greatest teacher of all who told us to love one another and to help one another. And we want them to know that we suffer with them in their hour of need.

So I ask for the yeas and nays.

Mr. HATFIELD. Mr. President, will the chairman yield?

Mr. BYRD. Yes.

Mr. HATFIELD. Mr. President, if the Senator will yield for a moment, I would like to add one further point to these technical amendments that the chairman is offering on our joint behalf. They were at the request of Senators WILSON and CRANSTON, and legislative in character but nevertheless I understand, for the record—and I see the Senator from New York here who could confirm this—that these legislative provisions have been cleared by the Environment and Public Works authorizing committee, a committee of jurisdiction. So that we have before us, as the Senator from West Virginia has indicated, a very severe emergency.

I think such a rollcall that he is requesting is very important to go to the House with so that we do not get into a wrangle on so-called House technicalities that sometimes we have in the past. This will give the negotiators or the conference people a strengthened hand.

I join in his request. I thank the Senator.

Mr. BYRD. Mr. President, I am glad the distinguished Senator mentioned the name of the Senator from New York [Mr. MOYNIHAN] and members of the subcommittee. I want to thank him. They always respond.

The Senator from New York [Mr. MOYNIHAN] is one who has given much of his lifetime in the Senate to study the highway needs of the country, along with many other problems.

It has been with his cooperation that we have been able to advance this legislation to this point today. I personally thank him on behalf of the Senate. Has my request for the yeas and nays been granted?

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I express my appreciation, first, for the unfailing courtesy of the Senator from Oregon and the Senator from West Virginia in this matter. May I first say that in response to the remarks of the distinguished Senator from Oregon, the Committee on Environment and Public Works would be happy to hold a hearing promptly on the condition of the ninth circuit courthouse in San Francisco, and there have to be other such problems with Federal buildings in the area that our committee could look at as well. We have finally received from the White House the name of a person, the nominee, to be head of the General Services Administration, namely, Mr. Richard G. Austin. I will see that Mr. Austin comes forth to the committee, and we will discuss this and do it precisely in the spirit that the Senator from Oregon has suggested. Let us get this done. We cannot close courthouses in the aftermath of emergencies of this kind.

Mr. President, with respect to the amendments offered by this distinguished company of Senators BYRD, HATFIELD, CRANSTON, WILSON, HOLLINGS, and THURMOND, I will in just a moment speak on behalf of the chairman, our beloved QUENTIN BURDICK, and as chairman of the Subcommittee on Water Resources, Transportation, and Infrastructure. These "technical" amendments are worth $500 million to the State of California, and I think that should be recorded.

The three provisions—the extension of the emergency period to 180 days, the provision of aid to the bay bridge, and the exclusion of emergency relief funds from the minimum allocation, as it is called—will, in sum, bring in about one-half of a billion dollars over the next 3 years or so.

I make that point, first, that the people of California should know that the Senate has done this for them; second, to make clear that this will not reduce the highway funds available to any other State in consequence of this specific action. No State will now get less because California will get more. However, and to be clear—and, if anyone should say otherwise, I shall be happy to hear—this will mean a corresponding reduction in the entire budget of the United States, both for this additional one-half of a billion dollars and the $2.85 billion that has been provided by the House. That comes to $3.35 billion, total.

It will come out of defense, education, and in part out of public works, too. I think that has to be anticipated. I hope it does not entirely come out of public works, because that would be unfortunate for what we try to do in our subcommittee, and for the public in general.

May I say, Mr. President, that there were those of us—I certainly was one—who had hoped that these twin emergencies, two disasters, the second worst hurricane of the century, on the east coast, and the second worst earthquake of the century on the west coast and the consequent expenditures by Government, and by the private sector as well, would have awakened us to the fact that we do not have the revenues we need to build and maintain vital physical infrastructure, and that a very direct opportunity has presented itself to the President to say so, finally.

The President went out to California, saw that Nimitz Freeway—he served under Admiral Nimitz in World War II if memory serves me—and he said we will do what is necessary. Well, what is necessary is to have the reve-

nues to see that these things do not happen in the first place. Forty-nine story buildings in San Francisco did not collapse. A two-story freeway did, because it ought to have been rebuilt by now, and the moneys were not there. When President Eisenhower began the Interstate Highway Program in 1956, he said we will pay as we go; we will have a 3-cent per gallon gasoline tax. That tax today would equal, in constant terms, 13 cents per gallon.

It would not have been difficult for the President to say that he had made a pledge in the campaign—as a matter of fact, on October 19 he specifically pledged to the American Automobile Association that there would be no increases in gasoline taxes—but that what was then was then, and what is now is now. We have experienced an act of God, and it has brought us to our senses. He did not do this.

In this morning's the Washington Post, David Broder, that incomparable Washington observer, as generous-minded a man as you will ever find in journalism or anywhere else—aside from the clergy, I might say—opens his column by saying:

The collapse of the savings and loan system and the necessity of a $50 billion Federal bailout didn't do it. The 190-point drop in the stock market which knocked 7 percent off the value of listed securities in a single day a couple weeks ago didn't do it. The California earthquake, whose cleanup costs clearly will bust the Federal budget ceiling, hasn't done it either. None of those shocks was enough to shake Washington into getting serious about the budget deficit.

I spent the weekend on television discussing the matter. My distinguished associate, Senator SYMMS, who is the ranking member of our subcommittee, almost agreed with me on the "MacNeil/Lehrer News Hour" on Monday evening that we had to do something. My colleagues should take note that, after accounting for inflation, the price of gasoline today is one-half what it was in 1980.

We are getting back into all the old habits, getting more and more dependent on foreign oil. We are telling Detroit that "We fooled you when we said build small engines, because there is going to be a fuel emergency." Guess what? They put all that money into small cars, and then the price of gasoline dropped in half, and we started wanting to buy big cars. Guess who can sell you big cars now? The Japanese. They can make all sized cars.

The opportunity to ensure the safety of our once-great physical infrastructure, which was there, we are letting pass. Previous generations invested in capital assets to roads and bridges—and now we are disinvesting, using up our capital. Nothing seems to bring us to our senses. If the Loma Prieta earthquake and Hurricane Hugo do not bring us to our senses, I do not know what will. In the weeks leading up to the last Presidential election, the Economist in London made no endorsement. They said of Mr. Bush, that the economic side of his administration will be crisis driven. But, Mr. President, I submit that for once the Economist may be wrong. If we have not had crises enough in the last 3 months to drive the administration to its senses, I do not know what will. It appears that nothing could bring it about. I wish it were the case. It appears otherwise.

Mr. President, I ask unanimous consent that Mr. Broder's column and an editorial from the Washington Post on the same subject be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 25, 1989]

BUSH'S POLITICAL LIFE PRESERVER IS SINKING US

(By David S. Broder)

The collapse of the savings and loan system and the necessity of a $50 billion federal bailout didn't do it. The 190-point drop in the stock market, which knocked 7 percent off the value of listed securities in a single day a couple weeks ago, didn't do it. The California earthquake, whose cleanup costs clearly will bust the federal budget ceiling, hasn't done it either.

None of those shocks was enough to shake Washington into getting serious about the budget deficit.

The Gramm-Rudman-Hollings law, which is supposed to limit deficits, is in shreds. Even as its sequester provisions slice indiscriminately into useful and wasteful domestic and defense programs, Congress and the administration blithely issue "budget ceiling waivers" to avoid paying for the spending needed to deal with the crises of Bush's first year. So the bill for this—and for an increasing proportion of routine government spending—is covered by borrowing from abroad and passed on to the next generation, provoking recurrent spasms of understandable nervousness in the financial markets.

How did we get into a situation in which only a financial or physical disaster of immense proportions can jar Washington to its senses?

A year ago this week, the editors of The Economist (of London), which leans to conservatism at home and abroad, felt called upon to explain why they would not endorse George Bush, as they had Ronald Reagan. Despite what they regarded as the manifest foreign-policy shortcomings of Michael Dukakis, their editorial said Bush "has failed the one big test, on the budget, that the fates have set him. Inviting Americans to 'read my lips,' he has promised not to raise taxes, thus unilaterally disarming himself in the greatest battle he may have to fight . . . Mr. Bush has insured that the economic side of his presidency would be crisis-driven."

The Bush "read my lips" promise was, at first, no more than a rhetorical tactic to help him recover from a setback in the Iowa caucuses and regain his footing in the following week's primary in New Hampshire, probably the most tax-averse state in the nation. "The pledge" was vital to Bush's recouping the lead from Sen. Bob Dole (R-Kan.), who put governmental responsibility ahead of political opportunism.

Repeated often during the general-election campaign, it became a commitment on which the newly elected president could not renege. And as long as the president kept taxes off-limits, there could be no large-scale assault on the budget deficit. As Senate Minority Whip Alan Simpson (R-Wyo.) said years ago, the only way to reduce the deficit was for "everyone to link arms and go over the cliff together," by agreeing that all elements—entitlements, discretionary domestic spending, defense and revenues—would be part of the solution.

Early this year, Budget Director Richard Darman hinted to congressional negotiators of both parties that if they would not press Bush to go back on his word in the talks then taking place, everything—including taxes—might be on the table by this fall. That prospect now has vanished.

There's a reason why Bush is increasingly locked into his no-new-tax stance. It's not just stubbornness. It's a hard political calculus, spelled out in private conversations by some of the people to whom the president listens closely on election strategy.

Like all politicians, they worry first and foremost about nurturing their base constituency. For all the president's high standing in the polls, they know that core is shaky.

From 1980 through 1988, the GOP/conservative coalition had three cementing issues. The first was staunch anticommunism, a readiness to stand up to Moscow and to deploy the military strength that would make the Kremlin bosses think twice.

That cement is weak. Bush is cheerleading for Mikhail Gorbachev's "perestroika" and barely squawking about the cuts in the Pentagon budget.

The second bond was furnished by "the social issues," of which abortion was by far the most emotionally important. As long as Republicans could rail against abortion, while the Supreme Court protected abortion rights, the GOP could use the issue as a rallying point without mobilizing those who were on the other side of the question.

But that luxury disappeared with the *Webster* decision last spring. Increasingly, GOP strategists recognize they must find some way to move off their anti-abortion position—or pay a high price.

So what does that leave them? It leaves them the no-new-tax pledge. That is one place, and perhaps the only place, they can tell their core constituency that they really are different from the Democrats, who are stuck with a reputation for always wanting to raise taxes and spend more money.

What this means is that even if George Bush were inclined to renege on his New Hampshire-born promise, he would hear strong voices in his political entourage telling him that he would thereby jeopardize his own reelection and his party's hopes of expansion in the 1990s.

Thus do desperate campaign tactics become bedrock national policy. Remember that when it all comes crashing down.

[From The Washington Post, Oct. 25, 1989]

HIGHWAYS AND THE EARTHQUAKE

In the aftermath of the earthquake in California, there's going to be another hard look at construction standards for highways and bridges—as there is after every great disaster. It's probably going to be necessary to reinforce, or even rebuild, some of the structures on which the daily life of Ameri-

can cities depends. When President Bush saw the wreckage of I-880 in Oakland, he declared that he would "do what is necessary" to meet federal obligations. That raises once again the question of just what the federal obligations are.

For some years concern has been growing throughout the country about the condition of the highways. Deterioration of the roadways has increased not only the obvious safety hazards but the cost of wear on the cars and trucks that use them. Even before the earthquake demonstrated new dangers, the federal highway system had a substantial backlog of needed repairs and improvements. Much of the interstate system was built a generation ago and is beginning to show its age.

Federal spending on ground transportation of all sorts has risen very little during the past 25 years. But in that time the numbers of cars and trucks on the roads, and the number of miles that they travel every year, have doubled. You won't be surprised to hear that the number of cars has risen twice as fast as the population over the age of 16. A highway system that once was without precedent for safety and convenience is now being pounded by overuse to a point at which in some cities it's become a serious drag on the economy.

This year the federal government is going to spend about $14 billion on highways. That's just about equal to the revenues pouring into the Highway Trust Fund from the taxes that have been earmarked for it—a variety of taxes, but the big one is the tax on gasoline.

That $14 billion isn't enough to pay for the improvements that engineers considered necessary this year even before the earthquake. The way to expand it is by raising the gasoline tax. Each penny on the tax raises a billion dollars. Increasing it 14 cents would double the flow of revenue into the trust fund and out to the highway system.

There are a lot of reasons for increasing the gasoline tax, and for increasing it more than 14 cents. It could encourage conservation at a time when the country's imports of oil are rising rapidly. It could hold down driving and make it easier for cities to hit their clean-air targets. But it could also give drivers better and safer roads. It's a bargain that they ought to leap at. An increase in the gas tax has become, to use Mr. Bush's phrase, "what is necessary."

Mr. MOYNIHAN. Mr. President, I express my very great appreciation to the President pro tempore, the incomparable Senator BYRD, who has made it possible for this to happen. We are committed to what we wish to do. The Senator from California needed it to be done and now it is about to happen.

Mr. President, I yield the floor with great appreciation.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, earlier this week I took the floor to attempt to express the best that words can the admiration that I had for the courage, the professionalism of not only the firefighters and police officers and physicians, but the volunteers who were of assistance in this time of enormous trial, difficulty, and suffering in the wake of the terrible Loma Prieta earthquake in California.

At this point I was assured by both the distinguished majority leader and the distinguished Republican leader that they would do everything within their power to move as expeditiously as possible to bring to the floor the kind of earthquake disaster assistance relief that was warranted by this suffering and by the courage of the people of California and specifically in the bay area.

They have been as good as their word and I wish now to thank them.

I wish as well to thank the distinguished chairman of the Appropriations Committee, Senator BYRD, and the distinguished ranking member, Senator HATFIELD, for having moved not just promptly but with great sensitivity at a time when they were necessarily concerned with completion of action on the continuing resolution that will extend the activities of the Federal Government through November 15.

They have, I repeat, exhibited not just prompt attention but a sensitive one as well.

The comments of the Senator from Oregon with regard to the historic landmark that houses the ninth circuit is an example of that.

Mr. President, at this moment I will read a statement that expresses my own concern about not only that courthouse but other historic landmarks that have themselves been casualties of this quake and which will need the kind of attention that I hope can result in the restoration rather than destruction and replacement by an entirely different structure.

HISTORIC PRESERVATION AND THE LOMA PRIETA EARTHQUAKE

There is an unreported toll of the Loma Prieta earthquake, one not as important and vital as the tragic dimension of the loss of life, limb, and vital infrastructure but one that goes to the heart of the historic cities and the towns of the San Francisco Bay area and the Monterey Bay area—it is the fabric of historic preservation and cultural resources. In many and various ways the cultural resources of the Department of Interior and of the federally chartered National Trust should be readied to assist local and State governments to assist in the wake of disaster relief to help these devastated communities not only pick themselves up, but to restore community pride. Sometimes, as little as a second opinion by a specially trained historic preservation structural engineer can adapt a building to modern and safe building codes. This cannot, alas, be accomplished in every instance, but Federal assistance could make a difference in assisting those devastated by natural calamities from Charleston, SC, to Santa Cruz, CA, to reclaim these special places which are so symbolic of America's homes and hometowns.

Mr. President, I thank the members of the authorizing committees, both here and in the House. They have responded with alacrity and sensitivity.

The chairman of the subcommittee on the Senate side, Senator MOYNIHAN, has been eloquent this morning. He promptly convened the subcommittee and added to its agenda the subject of quake disaster assistance, and you have heard accurately described that not only is there funding for what will be the immediate needs of the victims of the quake in the bay area but that in order to allow the changes that are required to go forward there have been, as Senator BYRD said, not just technical but legislative changes of a substantive nature which are of great importance.

They will have the consequences described by my friend from New York in his comments this morning. They were contained in S. 1775 which my friend, the ranking member of the Moynihan subcommittee, introduced last Friday in my absence at my request and additionally contain the requirement that the 90-day period be extended to 180 days.

Mr. President, these are not just desirable, they are essential. But in total this package which represents a generous and sensitive response on the part of the Congress and in particular the addition of these amendments on the Senate side make it possible for us to begin what my colleague, Senator CRANSTON, has described as a necessary first step. What he is saying is palpably true, and that is the numbers may very well mount as time goes on. We have already learned some shocking statistics, that there have been something like 110,000 homes damaged in the bay area as a result of the quake, some of them totally destroyed. Businesses have been destroyed. Fourteen hundred more have been damaged. There is need to move very promptly because people who are dislocated from their homes and businesses require assistance now.

So I express great gratitude and I do thank my friend from Idaho, who will shortly address this body for having introduced that legislation. It, I think, was useful to the managers in providing the changes which the chairman of the Appropriations Committee has described as legislative.

Mr. President, we will, as we consult history, I think find that the American people have always been generous to those within them who have suffered a particular tragedy, when it was within their ability to do so. This is the latest chapter. Prior chapters in our history in this regard have indicated that we must first deal with the most urgent needs and at greater leisure that time may permit what may be the longer-term needs. We may

have to do that in this instance as well.

The tragedy that struck the State of Alaska some years ago when an earthquake of greater magnitude exacted a terrible toll on Anchorage and surrounding areas is an indication of the kind of response to which I have referred.

I will look forward to working with my colleagues upon that longer-term requirement, but I must say that to the generous and distinguished managers of this legislation, they have given it very, very prompt attention.

I thank their staffers as well because they have been put to great difficulty in incorporating this necessary relief as an amendment and the only amendment that has been permitted to this legislation.

Let me close in my remarks by also expressing my gratitude to those who very kindly chose not to offer amendments, and important amendments about which they feel strongly, and who agreed instead to offer them as amendments to another later vehicle in order to expedite the passage of this urgently required assistance. And I have regard specifically to Senator PHIL GRAMM, to Senator WARREN RUDMAN, and to Senator JOHN MCCAIN who will in short order be offering these amendments to other vehicles. But I do thank them for their kindness and their understanding of the need to move quickly this morning.

Mr. President, I think the prompt and sensitive action of my colleagues has been a source of great gratitude to my senior colleague, Senator CRANSTON, and to me as we sought desperately to bring as quickly as possible to the people of the bay area the relief to which they are entitled and which they keenly and urgently require.

I thank the Chair and I thank my colleagues.

Mr. CRANSTON. Mr. President, will my colleague from California yield?

Mr. WILSON. I yield.

Mr. CRANSTON. Mr. President, I say on the work of my colleague from California on this matter, it is so important to so very many of our constituents. He was effective in the effort to get the help they have been given. We are both profuse in thanking many for their help.

I know my colleague shares the appreciation of the work done in the House that started this ball rolling led by Congressman FAZIO. We have added certain additional points and numbers that were very important to the legislation, but they were very, very helpful in the first go around yesterday on the House side.

I also know that we both wish to thank the legislators from California who came back here yesterday and met with Senator WILSON and myself, who discussed first what they had seen in their district the particular needs they are aware of. They will be very helpful in this effort.

I join Senator WILSON in thanking others he thanked for their help, those in the Senate on this matter and those outside of the Senate on this matter.

Mr. WILSON. Mr. President, my colleague from California is correct in that. I might say that I thought the very appropriate comment of the chairman of the Appropriations Committee in observing that in matters of assisting those in need there is no aisle and that we should take our guidance from the greatest teacher is not just appropriate but happily I can report to him has been felt by those within the State. There has been extraordinary cooperation on a completely bipartisan basis between the Governor and the legislative leaders. And that was quite evident in the meeting that Senator CRANSTON and I had yesterday with that bipartisan legislative delegation.

Mr. President, I thank my friend and colleague from California and I yield the floor.

Mr. HOLLINGS. Mr. President, the measure now before the Senate includes $250 million to meet unanticipated needs arising from the consequences of the recent natural disasters. It has been brought to my attention that the courthouse of the ninth circuit court of appeals in downtown San Francisco was heavily damaged in the recent Loma Prieta earthquake. While the building is structurally sound, it has been declared uninhabitable by city officials because of extensive interior damage.

This courthouse, Mr. President, is the only federally owned building in San Francisco that has been damaged to the extent that it is not usable until repairs are made. Current estimates are that it will require about $25 million to repair and restore the building. Until this is done, the court will operate in temporary, leased space and plans to use district court courtrooms in a nearby facility as they may be needed and are available.

Mr. President, the courthouse of the ninth circuit court of appeals in downtown San Francisco was built at the turn of the century and survived the earthquake of 1906. It has now survived the earthquake of 1989 but with extensive interior damage. I urge the President to make available directly to the judiciary these critically needed moneys to repair and restore this courthouse.

Mr. SYMMS. Mr. President, I am pleased to support the amendment that has been offered this morning by Senator BYRD, Senator HATFIELD, and the Senators from the affected States. It largely encompasses the language from S. 1775 that was introduced on Friday on behalf of Mr. WILSON, myself, Senators BURDICK, CHAFEE, and DOLE. I think it is very important that we all support this amendment, have immediate passage, so we can address some of the major problems.

I will just take a minute or two to talk about some of the provisions as briefly as I can, and then hopefully the Senate will pass this legislation, which I think is important to our fellow Americans in California that have suffered this disaster, as well as those in South Carolina affected by Hurricane Hugo. The amendment will waive the current $100 million cap per disaster for emergency relief funds, and will allow us to have enough money available to meet the costs of the highway and bridge repairs affected by a single disaster.

In addition, it will make the Oakland Bay Bridge eligible for emergency relief funds and hold harmless the minimum allocation funding. This amendment provides each of those important aspects with respect to California and South Carolina, and I think it represents a considerable improvement over the House language.

Also, the amendment will extend to 180 days the current 90-day period in which costs incurred to repair highway and bridge damage are reimbursed at 100 percent Federal share. We did not include that extension in S. 1775 on Friday, although I mentioned it as an issue that should be reviewed before final action on the legislation. I do not oppose this, but I think it is difficult to see how it will have much impact on how much work can actually be done in the extension of an extra 90 days.

Another thing that I would like to make my colleagues aware of is that the 90-day period allows for 100 percent Federal funding, but funding does not end after 90 days, or now in this case after 180 days. Federal funding is still available, but it would be on the standard cost share basis of either 75-25, 80-20, or 90-10 as is the norm for these projects.

So I think that this is a point we need to think about. And the amendment does provide the same relief assistance for States damaged by Hurricane Hugo if they should come up against that 90-day cap, or the $100 million cap.

Another point that is important, it holds harmless the minimum allocation funding of States which may receive emergency relief funds in connection with those disasters. This may be especially important to the State of South Carolina which would otherwise stand to lose a substantial amount of minimum allocation funding as it applies for emergency relief and highway funds. In my view, Mr. President, this makes very good policy sense and I hope Congress will exempt the emergency relief funds from any minimum

allocation formula that will be included in the next highway bill.

It will be my intention to make an effort to do that. It just makes good sense. If we are going to have a national highway program, then all States should receive a minimum allocation of the amount of money they put in. There are some States that do not get back dollar-for-dollar from the Federal highway Fund, but under the minimum allocation fund they get back at least 85 cents.

I see my distinguished chairman, Senator MOYNIHAN, is on the floor. I heard his comments with respect to paying for all this. I think this focuses the subject on the decisions Congress and past administrations have made over these many years in allocating enough money for the building of the roads and bridges of this country. Where is the commitment on the past of the American people to take care of the roads and bridges?

The fact of the matter is we simply have spent money on other issues that Congress felt was of a higher priority than roads and bridges. There is enough money allocated for highways—and I would have to agree with Senator MOYNIHAN that there is no cash in the cigar box. There is an IOU in the cigar box of $10 billion.

However, the Federal Highway Administration testified that we could run a Federal highway program of up to $20 billion a year as opposed to the current $13 billion program for the next 5 years without raising any revenue and not break the Byrd amendment which requires that you keep the trust fund in balance.

Now the only point of that is, my friend from New York is willing to raise taxes now to run this $20 billion program. The Senator from Idaho would like to see Congress spend the $20 billion on the highways every year and take the money out of other projects from other parts of the Government. And this is a basic, you might say, philosophical difference, but I do agree with the chairman of the committee that we are underfunding the road system in this country and someone is going to pay for it down the road in another 20 to 25 years.

There is no question about it, roads and bridges are being underfunded. What has happened is people are taxed 9 cents a gallon for fuel taxes and Congress returns somewhere in the neighborhood of 7 cents for repairing roads and bridges. The other 2 cents are used to spend on other projects that the Government funds. You can pick out your favorite project, whether it is HUD or the Endowment for the Arts, or the Defense Department, or the Forest Service, or whatever, but the money is spent somewhere else. And there is an accumulation of IOU's stacked up in the Federal Highway Trust Fund.

I think this is an issue that we need to address. Senators need to be aware that if we ran a highway program that was honest with the American people and spent what you told them you taxed them for highways and bridges, then we could upgrade this program substantially and maybe have roads that would not collapse.

I think Chairman MOYNIHAN raised a rhetorical question on the floor last Friday, and on Monday we discussed it further in the committee. The question is: Why does the 34- or 42-story building or 50-story building not collapse, when a freeway that is only two stories high does collapse? And I must say that it is a real tribute to modern American architecture that those skyscrapers in San Francisco did not collapse.

My nephew happened to have been on the 34th floor of a skyscraper during the quake and he said it was a very frightening experience because this building was built on rollers and had leeway so it could roll as much as 11 feet at the base—if I understood him correctly—and that takes up the slack. Those buildings are built to sustain an earthquake and take that kind of a jar without crumbling, falling, and causing a lot of grief to people in the buildings. Yet the freeway engineered with 1940's and 1950's technology, the Nimitz Freeway, collapsed. I think it tells us that we should be spending more money on the roads.

I think one other factor that does need to be said on the floor, and Governor Deukmejian and the legislature in California have addressed it already, but most States in the country pay a higher State fuel tax for highways than does California.

In my State, it is 18 cents, and I think in some States it goes up to the 20-cent range. California's fuel tax is 9 cents, and I think California has recognized they must raise their State fuel tax so they will have more money for the State share.

But, California will benefit from the Federal Highway Trust Fund, as it should, to repair those damaged roads, whether it is done with 100-percent funding or 80-percent funding on a cost-share basis.

So I think the Congress is doing the right thing. I think Senator BYRD and Senator HATFIELD have introduced the correct formula to fix this problem, and I urge its immediate passage.

In closing, Mr. President, I think Congress should face reality. As far as I am concerned, I am willing to reduce expenditures on other less important activities of the Federal Government to pay for the Nation's roads and bridges. We should recommit ourselves to honesty in the highway program and spend the money we take in taxes from the American people back on roads and bridges.

Once we get that program underway, in 3 or 4 or 5 years I think we will have to look at this again and see if we can sustain a $20 billion-a-year highway program in 1993 without a fuel tax increase. Probably not. But for right now, I have not seen Congress willing to spend the money they tax from people for roads and bridges, on roads and bridges. They simply raise the taxes, as we did in 1982—and I supported the 1982 Surface Transportation Act—but we really never spent all the money we raised.

This was a dispute I had with former President Reagan and I had it with other people at OMB. As long as we have the highway program on budget, it is always going to be tempting to use a couple of cents a gallon to make the deficit look a little lower. But it is really a dishonest accounting system and we should address it for what it is and correct it.

Mr. MOYNIHAN. Would the Senator yield for a comment?

Mr. SYMMS. I would be happy to yield.

Mr. MOYNIHAN. It is just to say the most important agreement we have is we need to be doing more on our highways and our infrastructure.

Mr. SYMMS. The Senator is absolutely correct.

Mr. MOYNIHAN. Finding the resources follows from that first fact. And that we are in agreement, I think, is an important evolution. I think moving on from here is an important opportunity.

Mr. SYMMS. Mr. President, I thank the chairman, and I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask unanimous consent I be permitted to yield 3 minutes to the distinguished Senator from Tennessee without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORE. Mr. President, I thank my colleague. I know he has been waiting for recognition, and I appreciate his courtesy very much.

I wish to compliment the President pro tempore, Mr. BYRD, and the ranking member of the Appropriations Committee, Senator HATFIELD, and the staff of the committee for acting extremely quickly and very responsibly in making it possible for this body to respond to the disaster in the bay area.

As chairman of the subcommittee of the Commerce Committee, the Subcommittee on Science, Technology and Space, I have had the opportunity to look at earthquake policy, preparedness, emergency response, and related matters for quite some time.

We have legislation, S. 1062, which may come to the floor later today.

But I want to compliment the Appropriations Committee for looking at the entire subject of earthquakes and not confining their attention only to the immediate response but also looking at preparedness and preparations and the kind of measures that also ought to occupy our attention in the immediate aftermath of a disaster like the one in the Bay area.

Many Senators, Mr. President, may not be aware that when this building, the Capitol Building, was under construction, the scaffolding was knocked to the ground by an earthquake. That earthquake did not take place in Virginia or Maryland or the District of Columbia. It took place in Missouri, right by Tennessee. The New Madrid fault line today threatens Tennessee, particularly the city of Memphis; St. Louis, MO; and Kentucky, particularly Paducah. Senators FORD, HOLLINGS, DANFORTH, and I have been very active and with the cooperation of Senators CRANSTON and WILSON, we have addressed this subject.

Sherlock Holmes once solved a case by noticing the dog that did not bark. The buildings that did not fall in San Francisco should send a message to us just as powerful as the message from the buildings that did fall. The earthquake in the Bay area was almost exactly the same size as the one which cost 20,000 lives in Armenia. The difference between 20,000 dead and less than 100 dead was preparation, preparedness, prevention.

Most of our cities in America lie somewhere between Armenia and San Francisco, as far as earthquake preparedness is concerned. But cities like Memphis and Paducah and St. Louis must now focus on earthquake codes and protections so we do not have a vast loss of life when the next quake occurs on the New Madrid fault line. And it will occur.

The scientists cannot tell us when but they can tell us with certainty it will occur. The three that occurred in 1811 and 1812 were more powerful than all of the other earthquakes in the United States put together, save the one in Alaska in 1964.

I might say that Charleston, in 1880, suffered an earthquake of very large magnitude, which, again, illustrates that Tennessee, Missouri, Kentucky, South Carolina, and other Eastern States need to focus on preparation and prevention and preparedness as part of our response in the U.S. Senate to the disaster which has taken place.

I appreciate the Senator from Ohio yielding for that purpose.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to indicate my support for the $2.85 billion provided in this legislation to meet the challenge of the problems and the tragedy of the people of San Francisco, in California. I support that $2.85 billion I think it is no less than our responsibility to help them in this hour of need. And I support the $1.3 billion that we spent the other day, with hardly a word being mentioned about it, to help the victims of Hugo and the tragedy they are suffering. So I have no quarrel at all about that $2.85 billion and the $1.3 billion.

But, Mr. President, it bothers me, it bothers me because there are millions of Americans who do not have the benefit of four TV networks nightly telling the American people about the tragedy of their lives. Those are the people, 3 million of them, who are sleeping on the streets of America tonight because they do not have a place to live. And about 1 million of those 3 million are kids.

What a tragedy it is that the richest country in the world does not have the wherewithal to help those homeless who are out there sleeping on the streets of America. I think it is sad.

When on the nightly TV we hear a tremendous tragedy has occurred, we are willing to spend all the money in the world in order to help fix it, to help those people. I remember when this Nation and other nations as well spent I do not know how much to help two whales that were trapped up in Alaska, I think it was. I was sympathetic. I wanted the whales to be free.

But I am equally concerned about a number of other tragedies that exist in this country—the tragedy of our poor education, the fact that our kids are going to school and getting a worse education than are the children of Japan and so many of the Southeastern Asian nations. That is a tragedy, and we recognize it, we admit it, we talk about it. We know our kids are not getting a decent education, but we do not do anything about it. We do not have the determination, the resolve that we have here today.

Look at the tragedy of inadequate funding for AIDS research. I saw something the other night on TV where originally there were something like 185 cases, and then 1,000 cases a year, and then it went up to 2,000 and 4,000 and 10,000 and it is spreading. But we are so parsimonious when it comes to providing money for AIDS research.

Vaccinations for our little children, for children around the world. I saw something the other day that said for 75 cents a child, we could be vaccinating the children of the world who are dying daily by reason of their failure to have these vaccinations. We are talking about peanuts—75 cents to save the life of a child.

What about the tragedy of the children who cannot get in our Head Start programs because we do not have enough money? That is a tragedy that bothers me, too.

And the tragedy of our elderly people. While we cut back on community service for the elderly, we are not worried about their tragedy, the tragedy of the aged.

They are not able to come before us and tell us of the challenge. There are hundreds of thousands, yes, millions of workers out there who have lost their jobs because the plants closed down, because they lost their jobs to foreign imports, whether those imports came from Japan or Korea or Vietnam or Taiwan or Thailand or Europe. They lost their jobs. We do not have enough money to provide for their retraining so they can get back on the payroll and feed their families with the earnings that they make. That is a tragedy, too.

Long-term health care, that is a terrible tragedy. People cannot afford pharmaceuticals. People cannot afford long-term health care. People are impoverished, taking everything they have in order to provide for their long-term health care. But who concerns themselves about the tragedy of the seniors who could not obtain that and those who are not seniors, just individuals, who cannot afford to pay today's health care costs? What about the tragedy of the failing of the infrastructure of America—the bridges, the sewers, and so much more in our country? That is a tragedy, too. Maybe more San Franciscos, more problems will arise as a result of that.

I am for the $2.85 billion. I was for the $1.3 billion. But I say there are other tragedies in this country, and we are not doing a darn thing about it. Some will say, OK, Senator, you are one of those big spenders. You want to pay for it? No, that is not what I am talking about, new taxes. I am talking about the fact we can find the money if we make the Europeans pay a fair share of the $170 billion a year that we spend every year with taxpayers' money to defend Europe. We were there to help the Europeans with the Marshall plan. Why are they not there now to bear their fair share of the cost of maintaining our troops in their country? What an unfairness, what an inequity, but an unbelievable reality that we are paying $170 billion a year to defend the Europeans. They are paying a far lesser share of their gross national product to defend themselves than we are paying to defend them. We spend an additional $2.4 billion every year to maintain 40,000 United States troops in Korea.

I went over to hear the President of Korea the other day when he spoke to a joint session of Congress. I want to say to my colleagues that he spoke well and he spoke about the democracy that is now extant in Korea. I respected his speech, and I thought it was a good speech. I remember one particular part that he said. He said,

"Whatever you do, do not recall your troops. We need your assistance. We need the message it sends to the North Koreans."

OK, I understand that message. But, Mr. President, I ask you, why are you expecting Americans to pay for the cost of those 40,000 troops that are in North Korea? You are not poor anymore, and you are taking jobs of the taxpayers of this country. So on a basis of equity, Mr. President—and now I am speaking to the President of South Korea—Mr. President, you owe it to us to pick up the tab for our troops or we ought to bring them home. South Korea is spending a lesser percentage of its gross national product for its own defense than it was in 1982, a lesser percentage of its gross national product than it was in 1982, and here are Americans suffering through all kinds of tragedies, and the people of South Korea are not bearing a fair share of the burden of defending themselves.

I think the 40,000 troops that we have there ought to come home, but if we do not bring them home, at the very least the South Koreans ought to do is to pick up the tab. They are selling their Hyundais here in this country and taking jobs of Americans. They are selling all sorts of other products; whether it is the tennis shoes I bounce around the tennis court on or any one of a host of other kind of apparel that we wear. They are taking jobs of Americans. That is international trade. That is another issue. But it is not another issue as to the fairness of our spending American taxpayers' dollars that we need to meet the tragedies that we live with every day in America in order to defend the South Koreans.

Mr. President, let me go back to Europe for 1 minute. Over the past four decades, the taxpayers of the United States have paid more money out of their pockets for the defense of Europe than all of the taxpayers in Europe combined. We spend $693 for every American man, woman and child every year. The fact is that in most of Western Europe the standard of living is higher than ours. Health care is free; education is free. Sure, the Europeans spend their taxes taking care of themselves. We spend our taxes taking care of them, defending them. When 1992 arrives and the European Economic Community joins together and they achieve full integration, we will be facing a trading partner with a combined gross national product of $4.5 trillion. We still contribute 65 percent of the cost of their defense. It does not make a bit of sense. How can we continue to justify such an outrageous subsidy?

Mr. President, I support the money that is in this bill to help pay for the cost of the earthquake in California. I have not one reservation whatsoever with respect to that, but I say to my colleagues, give some heed, give some concern, be aware of the tragedy of millions of Americans in this country who live through their tragedies 365 days a year. Those are tragedies that we owe an obligation to. They are not going to be anything that comes to your attention tonight on NBC, ABC, or CNN, but they are tragedies every bit as difficult to live with as the tragedies that have occurred in San Francisco and the surrounding area.

Mr. President, we have greater obligations than those we are presently meeting. The bottom line of it all is that I believe this Congress would be willing to do something about it if the President did something more than make speeches and provided the leadership that he is expected to make. The President talks about all of these challenges in this country, and he makes pretty good speeches. I like his speeches. But the fact is he does not put any muscle behind the speeches. There is no commitment on his part to provide the leadership in order to make available the funding to meet the tragedies of America.

I am about to yield the floor but, before doing so, I want to say, Mr. President, I think the President of the United States owes the people of this country greater and more effective leadership than that which he has been giving. I think he is capable of doing it. His speeches are good, but the action is not nearly that good. We have too many tragedies in this country that are not being solved. We can do far more than we are doing, and we should be doing more. Let us join together, Mr. President. We in the Congress would like to work with you in order to meet the challenge of the tragedies that exist, as well as the tragedy of Hugo and the tragedy of the San Francisco earthquake. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, my speech on the earthquake and on the relief may be a little different than some of my colleagues because I question the speed and the haste with which we do this, but not the intentions of the U.S. Senate.

The recent earthquake in northern California and Hurricane Hugo are vivid reminders of the immense forces of nature. While we in Washington are mired down in our annual rite of figuring out how to resolve the budget deficit in a way that inflicts no pain, as though that can be done, real pain has been visited on thousands and thousands of people because of natural forces that are completely out of our control.

Sometimes here in the Senate we do not think much is out of our control. It is well that we are reminded from time to time by hurricanes, earthquakes, and other things that regretfully visit our shores.

Clearly, the magnitude of the disasters in California and South Carolina will tax relief efforts at all levels of Government and private sources as well. Preliminary estimates of damage in northern California alone exceed $7 billion. Every time an estimate is drawn up, it goes up by another billion or two. Substantial though smaller, damage estimates exist also in South Carolina and other States for Hurricane Hugo.

So it is understandable then that Members of Congress want to react to natural calamity by providing new Federal assistance to supplement existing Federal funds.

Indeed, yesterday, the House agreed to appropriate $2.85 billion during consideration of the short-term continuing resolution to fund the operations of the Federal Government, and that we are doing here as well today.

The disaster legislation that was approved by the House yesterday and what we consider today would provide $1.1 billion in new Federal emergency funds, $1 billion in highway funds from the highway trust fund—that is really already there—$500 million of new money for the Small Business Administration disaster loan fund—up to $30 million perhaps for transferring SBA personnel to do the loan processing—and an additional $250 million in discretionary funds for the White House.

Mr. President, I do not rise today to criticize the good intentions of those in the House or here in the Senate who seek to respond to clear national emergencies. Rather, I seek to raise the concern about the speed with which this legislation is moving through Congress without the benefit of any hearings, without the benefit of any substantial security, without consideration of what other kinds of programs are already in place here in the Senate and in our legislation.

All we know for sure is that the cost of this new appropriations measure will be tacked on to the budget deficit. What we do not know is the ability of the targeted agencies to respond in the manner that we all want to very pressing human needs, or even whether the response that is before us is enough.

When we considered the disaster bills for the drought with respect to farmers in my State of Minnesota and many other States, we went to great lengths to figure out exactly how much and where it should be expended and under what circumstances, and what percentage of the loss should be taken by those people who sustained the loss, because when you are in the business of farming you expect to sustain losses. And when you live in San

Francisco, the idea of earthquakes is not beyond the pale, certainly.

So that some consideration should be given to the realities of how we can meet the needs and whether or not what we are doing is doing that, or are we just throwing money at the problem without giving some forethought as to how it is going to be spent.

For example, an attempt was made and rejected to limit the expenditure of these newly appointed dollars to California and South Carolina disasters. Consequently, it is entirely possible because that was not successful—we are not limiting these funds to those two disasters—that a substantial portion of these dollars could be spent on disasters that are wholly unrelated to the hurricane or to the earthquake. I do not believe that such discretion is wise or that is what is intended by the majority of those who are going to vote for the legislation. And yet I wonder whether or not any of my colleagues even realize that their vote do this today.

Likewise, the money appropriated for the White House can be distributed to any Federal agency that has authorizing legislation dealing with natural disasters. That includes the SBA, FEMA, the FHA, the GSA. In other words, not only will these dollars be spent on disasters outside of northern California and outside of South Carolina, but they can be spent on projects that we all would agree would take a low priority and have nothing to do with these disasters but because of political backing will rise to the fore. So that things that have nothing to do with a disaster will be taken care of in this bill, even though we do not intend that to be the result.

For example, I would rather that the money be spent to finance or repair damaged housing or places of employment or major transit systems rather than being spent to patch up Government facilities which may have suffered only cosmetic damage, but yet this bill will allow us to take nonessential types of needs and patch them up as well.

Given the haste with which were are moving, I am afraid that careful scrutiny will not be given to competing projects not only in California but in South Carolina, and whatever natural disasters may occur, the priorities that we need to establish there. We cannot afford to waste the public's money in our rush to show compassion and sensitivity.

In the event that there is $7 billion of loss, there will also be, therefore, enormous deductions on people's tax returns that will also be costly to the budget, and that, of course, is to be expected.

So I would counsel that we move a little slower. I am not offering an amendment to that effect, Mr. President, because I do not like to become involved in acts that do not serve a useful purpose, and certainly such an amendment would not stand a chance of passage. We could certainly put this off to the November 15 resolution and give the matter a little scrutiny between now and that time, but that, too, is not going to happen.

But I do want to bring to the attention of the Senate that we are acting too precipitously, that the moneys we are appropriating will not necessarily be spent on South Carolina and San Francisco but may well be spent elsewhere, and that we are doing this without proper scrutiny or hearings.

I yield the floor.

Ms. MIKULSKI. Mr. President, I rise in support of this continuing resolution, and in particular for the $2.85 billion we have made available to relieve the victims of California's recent earthquake.

In the past few days, the hearts of all Americans have gone out to the people of northern California.

We were all first made aware of this event during the pregame show of the World Series. But it was only in the quake's aftermath that our country realized that this event's destructive force was worse than any earthquake in the United States since the creation of the Richter scale.

This supplemental appropriation is an important step in providing the affected areas with the resources they need to recover from this terrible tragedy.

Of the funds made available in this legislation for FEMA disaster relief, it will provide FEMA with money:

To assist those individuals and families who have lost their homes and all the possessions they have spent a lifetime accumulating;

To continue the direct Federal presence in California to help clear debris, restore power and basic infrastructure, reduce threats to public safety, and protect private property;

To pay for basic supplies that will be used to provide food and shelter to those victims of this earthquake who have nowhere else to go but their local disaster relief office.

In providing this supplemental, the Senate is saying that the budget and appropriations process can anticipate many things, but that we cannot anticipate, or budget for, an act of God.

None of us knows if the funds we are providing today will be enough for our country to recover from this earthquake. In all candor, I suspect we will need more funding for this purpose in the future. But this special appropriation is a substantial downpayment on the responsibility which we have as a nation to aid our fellow citizens in their time of need.

As chair of the subcommittee that oversees FEMA's disaster relief program, I want to especially commend my distinguished colleague from California, ALAN CRANSTON, for his work on this funding proposal.

Without his persistence and skill, this special supplemental appropriation simply could not have been acted upon in such a timely fashion.

His efforts in this time of great need for California have been extraordinary, and the people of his State are very fortunate to have such a forceful and resourceful advocate for them in the Senate.

I pledge to work with him, and all those who represent areas affected by the California earthquake, in the coming months to make sure that we do all that we can to repair the damage and destruction caused by this tragedy.

Mr. GRASSLEY. Mr. President, last Tuesday night, the people of the State of Iowa were going on with their lives. Farmers were coming in from the fields after a long day's work. It is harvest time in Iowa and everyone is especially busy with their work. Children were coming home from school. Families were a gathering for supper. Some were settling down in front of their television sets preparing to watch the third game of the World Series. They were going about their lives, concerning themselves with their problems and their hopes. Then the California earthquake struck. And every American's life was changed. At that moment, America became a community once again.

My constituents in Iowa set aside their work, their dinners, their lives. And they focused on the lives of the people of California. The people of California became their neighbors and their friends.

This legislation expresses that the United States of America is still a neighborhood in many ways. When someone in our neighborhood is hurting as a result of a disaster, we as a community are there to lend assistance.

The past 2 years, my own State of Iowa has experienced a severe drought that damaged Iowa's economy and damaged many people's lives. At that time, the people of the United States as community stepped in to lend assistance with that disaster. In kind, the people of the United States, as a community, are again lending assistance at a time of great need. I'm pleased to see this kind of reciprocity.

Mr. THURMOND. Mr. President, I rise today in strong support of House Joint Resolution 423 which provides $2.85 billion in disaster aid to the victims of Hurricane Hugo and the San Francisco earthquake. I am also pleased to join in offering an amendment along with Senators BYRD, HATFIELD, HOLLINGS, WILSON, and CRANSTON, which includes provisions regarding the distribution of highway funds for emergency use.

The damage caused in South Carolina by Hurricane Hugo has been estimated between $4 and $6 billion and the damage in California is estimated to be a similar amount. While this money provided today will not cover the entire amount of the damage, it will certainly aid in alleviating the suffering that has occurred.

After visiting South Carolina in the aftermath of Hurricane Hugo, I understand the havoc that a natural disaster can wreak. Our thoughts are also with the people of California, as they begin the difficult task of rebuilding their lives. In light of the magnitude of the damage resulting from both of these disasters, this funding is a proper response.

EARTHQUAKE INVESTIGATIONS AND PREPAREDNESS FUNDS IN THE CONTINUING RESOLUTION

Mr. GORE. Mr. President, I want to thank and commend the very distinguished chairman of the Appropriations Committee for accepting this proposal to spend $20 million to augment current earthquake investigation and preparedness activities under the National Earthquake Hazards Reduction Program. The tragic events this month in California have served as a stark reminder of the serious seismic risks facing this country and the need to take additional steps to reduce future losses of both lives and property. By acting now, we can save lives in the future, especially by learning lessons from the current disaster and by helping States across the country to improve their preparedness.

Mr. President, I also would like to take this opportunity to explain the specific purposes for which these funds would be used. First, $8 million would go to the U.S. Geological Survey [USGS] for an investigation of the California earthquake and to help prepare for investigations of other earthquakes that will inevitably occur in the future. As is currently the case, USGS would have the authority to compensate the building experts at the National Institute of Standards and Technology [NIST], experts from other Federal agencies, and, if appropriate, private contractors for help in conducting these investigations.

The remaining $12 million would go to augment current earthquake preparedness activities conducted by the four principal agencies of the National Earthquake Hazards Reduction Program. These funds would be spent as follows: $4 million to USGS to conduct new regional earthquake hazards assessment activities, including assessment activities in the central and eastern United States; $3 million to the Federal Emergency Management Agency [FEMA] for additional earthquake planning grants to the States; $3 million to the National Science Foundation [NSF] for additional research grants to universities on pressing questions in seismology and earthquake engineering; and $2 million to NIST for additional research by its experts on how to make buildings and other structures more earthquake-resistant.

It is my understanding that the full $20 million would be in addition to the regular fiscal year 1990 appropriations of these agencies. The additional funds would thus increase the contribution that these agencies can make to evaluating earthquake risks, improving building design, and strengthening preparedness efforts in the many States across the country which face serious earthquake threats.

I hope that my understanding of the uses of the $20 million concurs with the views of the committee's chairman.

Mr. BYRD. The Senator is correct. It is my intention that the funds be used in the manner described by the Senator.

Mr. DOLE. Mr. President, last Tuesday, as millions of sports fans from the United States and other nations throughout the world were turning on their televisions to watch game three of San Francisco Bay World Series, tragedy struck the city by the bay and surrounding communities.

An earthquake measured at 7.1 on the Richter scale, centered at Loma Prieta, CA, shook the thousands assembled in Candlestick Park, collapsed portions of the San Francisco-Oakland Bay Bridge and I-880, devastated homes and businesses throughout the region, injured hundreds and took the lives of scores of individuals.

With the loss of electricity and telephones, relatives were forced to wait for extended periods before contact could be made with survivors. Unfortunately, 63 persons are known to have died with several others still missing. Damage estimates now exceed $7 billion.

The Federal Government, including the President, the Vice President, the Secretary of Transportation and up to 25 departments and agencies under the direction of the Federal Emergency Management Agency responded immediately. Disaster relief agencies are in place and are addressing the urgent needs of northern California.

Dollars alone cannot replace the lives that were lost, the personal items that were destroyed or the calm that existed before the earthquake. But, it can help begin life anew in the bay area and surrounding communities.

I am pleased to rise in strong support of the Senate assistance package of $2.85 billion for the Loma Prieta earthquake. Highways, homes and businesses must be rebuilt and the region must recover from the massive devastation.

This assistance package should get the effort off to a strong start. Along with it go our thoughts for the survivors, prayers for the victims and praise to all those who joined in rescue operations.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the joint resolution.

The amendment was ordered to be engrossed and the joint resolution be read a third time.

The joint resolution was read a third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass?

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts [Mr. KENNEDY] is necessarily absent.

I further announce that the Senator from Rhode Island [Mr. PELL] is absent on official business.

I further announce that the Senator from Rhode Island [Mr. PELL] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 97, nays 1, as follows:

[Rollcall Vote No. 271 Leg.]

YEAS—97

Adams	Fowler	McConnell
Armstrong	Garn	Metzenbaum
Baucus	Glenn	Mikulski
Bentsen	Gore	Mitchell
Biden	Gorton	Moynihan
Bingaman	Graham	Murkowski
Bond	Gramm	Nickles
Boren	Grassley	Nunn
Boschwitz	Harkin	Packwood
Bradley	Hatch	Pressler
Breaux	Hatfield	Pryor
Bryan	Heflin	Reid
Bumpers	Heinz	Riegle
Burdick	Helms	Robb
Burns	Hollings	Rockefeller
Byrd	Inouye	Roth
Chafee	Jeffords	Rudman
Coats	Johnston	Sanford
Cochran	Kassebaum	Sarbanes
Cohen	Kasten	Sasser
Conrad	Kerrey	Shelby
Cranston	Kerry	Simon
D'Amato	Kohl	Simpson
Danforth	Lautenberg	Specter
Daschle	Leahy	Stevens
DeConcini	Levin	Symms
Dixon	Lieberman	Thurmond
Dodd	Lott	Wallop
Dole	Lugar	Warner
Domenici	Mack	Wilson
Durenberger	Matsunaga	Wirth
Exon	McCain	
Ford	McClure	

NAYS—1

Humphrey

NOT VOTING—2

Kennedy Pell

So the joint resolution (H.J. Res. 423) as amended, was passed.

Mr. GRAMM. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INSTRUCTIONS TO BUDGET RECONCILIATION CONFEREES

The PRESIDING OFFICER. Under the previous order, the pending order of business will be a resolution by the Senator from New Hamsphire.

The Senate will be in order before the Senate proceeds.

The time is limited to 40 minutes divided in the usual manner. No amendments or motions are in order. The Chair now recognizes the Senator from New Hampshire.

Mr. RUDMAN. I thank the chair. Mr. President, I send a resolution to the desk and ask for its immediate consideration. I am going to ask that the clerk read the entire resolution.

Mr. MOYNIHAN. Mr. President, may we have order.

The PRESIDING OFFICER. The Senators in the back of the Chamber will please cease conversation. The Senate will be in order.

The legislative clerk read as follows:

A resolution (S. Res. 197) to ensure that sufficient funds are available to aid the victims of the California earthquake and Hurricane Hugo without increasing the federal budget deficit.

S. RES. 197

Resolved, That, in order to ensure that sufficient funds are available to aid the victims of the October 17, 1989, earthquake in California and Hurricane Hugo while not risking additional damage to the economy of the United States by further increasing the Federal budget deficit, it is the position of the Senate that the conferees on H.R. 3299, the Omnibus Budget Reconciliation Act of 1989, shall include in the conference report on such bill provisions which will raise additional revenues or decrease spending, above the amounts required to be raised pursuant to House Concurrent Resolution 106, as are necessary to fully offset the additional spending approved by Congress and signed into law by President Bush in Public Law 101-100 and in H.J. Res. 423 to aid the victims of such earthquake and hurricane.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. I thank the Chair, and I thank the clerk.

Mr. President, there are 40 minutes equally divided. I do not intend to take all of that time.

Mr. President, this I suppose might be considered a very novel proposal, that we pay for problems as they arise.

I must say that what happened in California grieves all of us, and certainly I fully support what we have done. What I do not support is the proposition that here again this country is incapable of paying for its own obligations.

Admittedly this is a small new obligation. Even under Gramm-Rudman-Hollings the Government is allowed to borrow $110 billion this year, adding to the newly $3 trillion debt. But it seems to me that we send a message to the world when we have a disaster in this country and must immediately go out like impecunious beggars around the world and borrow more money to pay for it, and that, frankly, does not sit right with this Senator.

Listen to what people say. The spokesman at the White House says: "It is traditional Government financing. It is an emergency need that we feel the country wants to pay for."

That statement is inconsistent. It may be traditional Government financing to borrow all the time but the statement says the country wants to pay for it.

Mr. President, we are not paying for this. We are borrowing it. The chairman of the House Budget Committee says: "Make no mistake about it. This money is going to the deficit. Let's not kid ourselves."

Mr. President, it seems to me that we have reached a point around here when we really ought to stop and ponder for a moment what we are doing. And to a large extent this warning is addressed not just to our conferees but to young people in schools around America, mainly in grade schools, who are going to end up paying for this and will have their standard of living substantially reduced.

So that everyone understands what we are doing this morning, let me explain how much money we are going to borrow. If you say 3 or 4 billion, people do not understand that. That has become a figure that people just kind of gloss over. For the interest of those young people in particular who want to know how much we are borrowing against their future this morning you could buy 267,000 automobiles at the average price of an automobile in America with this $4 billion, 267,000 automobiles, or if you prefer, 32,000 homes at the average price of a home in America. And here, very casually, paying very little attention to it, the House and the Senate whipped this through, deficit be damned, and let the future pay for it.

There the those here who will blame the President for saying, "Read my lips." I am not one of those. There are those who will blame the Congress for being totally irresponsible. I am not one of those.

It seems to me that we have such a gridlock in this country today that it is time for the leadership to come together and reach a solution. The chairman and the distinguished ranking member of the Budget Committee are both on the floor. Obviously the solution is going to have to be one in which the President has confidence that if he agrees to any new revenue in fiscal 1991 the Congress will be responsible with that revenue and put it toward deficit reduction. If we simply spend it, then I cannot blame the President for the position that he has taken.

A couple weeks ago we stripped clean a reconciliation bill. Let me tell you some of the things that we took out of that bill. We were going to raise about $48 billion over 5 years in a variety of revenue measures to fund $31 billion over 5 years in other tax breaks. For instance, we were going to allow alcohol fuels credit for ethanol butyl alcohol. That would cost about a quarter of a billion over 5 years. We were going to allow tax-exempt bonds to finance sports facilities, at a cost of about $60 million over 5 years. We were going to allow tuxedo rental companies to depreciate tuxedos over 2 or 3 years for a cost of $29 million. We were going to expand child care tax credits at a cost of $8.4 billion over 5 years. We were going to do a number of things that would have cost about $31 billion over 5 years.

Mr. President, it seems to me that if we were willing to do all of those things to give some special tax breaks, one of the things we ought to be willing to do now is to go back to the reconciliation conference and tell the Finance Committee to pick some of these revenue measures that were shipped and pay for this very worthwhile, necessary, vital expenditure of funds.

What happens, Mr. President, if, God forbid, there is another major earthquake in this country of catastrophic proportions, ruining the whole coast of California or down through Missouri or on the east coast? What happens if this results in a $20 or $30 or $40 billion damage? It could happen. Geologists say it probably will happen. Do we simply go to our friends around the world and say: "Well, here we are again: America cannot handle its own problems. Loan us some more money."

I do not think we ought to do that. I want to say to my friends this amendment is changed from the way it read originally. It originally read, "provisions that will raise additional revenues." It now pays, "provisions which will raise additional revenues or decrease spending." I put that in there because a number of people pointed out to me there are some very real savings in the entitlement portions of the reconciliation bill.

We just cut spending across the board to fund the $3.2 billion drug bill. That all came from discretionary spending. There is an enormous amount of entitlement spending which can be reformed. People know how to do that without hurting those who need it the most. We can do that. But we are not going to do that. We are going to borrow.

So, this is a very simple amendment. It simply says to the reconciliation committees either find funding

through plugging some of these loopholes or, if you wish, reform some of the entitlement programs and find the money that way.

You know I do not think our constituents really understand what is meant by deficit spending in the real world. I understand a lot of youngsters in my State watch the Senate and House on C-SPAN II to get an idea about Government, so I am going to give them a little example of how it works. This is an example of what is going to happen next week, it will not happen quite this way because it will be done by people at a lower level of the Government, but this is an example about what is going to have to happen so we understand what is going on.

The Secretary of the Treasury will pick up the telephone and he will probably call Satoshi Sumita, who is the Governor of the Industrial Bank of Japan.

He will say, "Good morning, Mr. Sumita. This is the Secretary of the Treasury in Washington."

Mr. Sumita will say, "Well, Mr. Secretary, glad to talk to you."

And the Secretary will say, "We had a small problem in America. We had an earthquake in California. You know, we are broke and we are unwilling to take care of our own problems. And, of course, we bought all of your cars and all of your television sets and all of your watches and all of your farm equipment and you have all of our dollars right there in those banks in Tokyo. Mr. Sumita, you know, we have only borrowed $800 billion so far. Couldn't we borrow another $4 billion?"

Mr. Sumita will say, "Well, of course, Mr. Secretary. Why don't you sign a note and send it by Federal Express and we will transfer the money to the Federal Reserve Bank in New York."

And there it happens, like so. The Japanese will loan us another $4 billion. They will hold another $4 billion of our paper.

Now, of course, there is something called interest. The interest on that loan next year will be $400 million. This year we are appropriating $163 billion for interest. It is the third highest item in the Federal budget. Social Security and Medicare is first, defense is second, and interest is third. And this will add another $400 million. That is all.

What will happen, Mr. President, what will happen—and I hope I am not here when it happens—but at some point—the effect of all of this borrowing is going to cause an economic holocaust in this country the likes of which none of us really fully comprehend and every politician, Democrat, Republican, no matter what he or she stood for on either side of this issue, will be gone.

We are trifling with this country's future. I decided to rise here this afternoon on this issue to make the point that this country is going around the world like a beggar borrowing money from anyone that will loan it to us, paying any rate we have to pay. If anybody really believes that this can go on forever, they do not understand economics.

I have no great expectation that this instruction will be followed by the reconciliation conference. I asked originally to have this as part of the continuing resolution. The leadership of the Senate, the leadership of the Appropriations Committee, of which I am a member, said:

> Do not do that. That is really a matter of the jurisdiction of the Budget Committee. We really should not have it in this bill.

I would have liked it in that continuing resolution because it became law. This only becomes a sense-of-the-Senate resolution, I understand that. But I deferred to their wishes because I believe they are correct. But the point is made.

And to those young people who are going to watch this as part of their class, let me simply say to you that you will pay for this. You will pay it in a lower standard of living, and you will pay it in not having a life like your parents and grandparents had, unless this Congress and this President put aside partisan bickering and come together and do something to truly bring the deficit down in a meaningful way. If we do not, not only will we be voting to raise the debt ceiling above $3 trillion, but within 3 years, we will be raising it above $4 trillion. And the interest that this Government pays on its national debt will eat the basic standards of living alive.

Oh, we will borrow this money from the Japanese, Mr. President, or from the Germans, or from some wealthy Americans. But the youngsters will be paying this interest for the rest of their lives. It is wrong, Mr. President. As Democrats or as Republicans, we ought to admit that it is wrong. This country should not be begging around the world to help disaster victims in California or New Hampshire or New York or anywhere else. We ought to pay for it the old-fashioned way.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire has 5 minutes and 10 seconds remaining.

Mr. SANFORD. Mr. President, I wonder if the Senator would suspend.

Mr. SASSER. I yield to the Senator from North Carolina for the purpose of a unanimous-consent request.

The PRESIDING OFFICER. The Senator from North Carolina.

VISIT TO THE SENATE BY MEMBERS OF THE BRITISH-AMERICAN PARLIAMENTARY GROUP

Mr. SANFORD. Mr. President, we are honored today with a visit from members of the British-American Parliamentary Group. The British delegation from the House of Commons is in Washington, DC, this week for the Annual Parliamentary/Congressional Conference.

The members of the British delegation are:

From the Government: Rt. Hon. Kenneth Baker, MP; David Lightbown, MP; Sir Peter Emery, MP; Andrew Mitchell, MP; and Sir Hector Monro, MP. From the opposition: Rt. Hon. John Morris, QC, MP; Jimmy Dunnachie, MP; Bruce Grocott, MP; Roy Hughes, MP; Jimmy Hood, MP; and Bill O'Brien, MP.

Rt. Hon. Michael Jopling, MP; the honorary Secretary of the group, and Roger Moate, MP, a member of the Executive Committee are also part of the delegation.

In reviewing our past and in preparing for the future, I note that we have much to share and exchange with our legislative counterparts from Great Britain. I have taken particular interest in English history because it is there that we find the roots of our own representative democracy. In fact many of our rules in the Senate are based on precedents of the British Parliament.

Today we find ourselves living in an ever-shrinking world, with constant improvements in communications, transportation, and technology. The United States and her close ally, Great Britain, as prominent leaders of the Western World, are observing breathtaking events such as the democratization of Eastern European nations, the current reform movement in the Soviet Union, and the plan by the nations of Europe to join their economies into a single market by 1992.

On the occasion of these momentous times, I know I join all Senators in extending a warm and hearty welcome to our friends from Great Britain's House of Commons.

Thank you, Mr. President.

[Applause, Senators rising.]

INSTRUCTIONS TO BUDGET RECONCILIATION CONFEREES

The Senate continued with the consideration of the resolution.

The PRESIDING OFFICER. The senior Senator from Tennessee has 17 minutes and 30 seconds remaining.

Mr. SASSER. Mr. President, I ask unanimous consent that the time consumed by the distinguished Senator from North Carolina in introducing our friends from abroad not be charged against my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, before yielding to my distinguished friend from New York [Mr. MOYNIHAN], I will make one or two observations. First, I want to commend the distinguished Senator from New Hampshire for the resolution that he is offering here today. It is a simple, straightforward plea for budget honesty.

I made very much the same statement, although not quite as eloquently as my friend from New Hampshire made it, on the floor of this body 2 days ago. I called the attention of our colleagues to the fact that, as worthy as relief for earthquake victims in California is, and the fact that every Member of this body favors earthquake relief for the courageous people of California, it was simply one more thing, Mr. President, we were putting on the tab.

This will be twice this year we have increased the deficit of the United States to meet natural disasters. It indicates that we are very much, in this country, becoming like the proverbial grasshopper who eats everything in sight during the summertime, puts nothing away for the frost that is to follow, and on the first frosty day, perishes.

We are simply putting nothing aside to deal with disasters or reverses that come in the ordinary course of human affairs. What we are doing is borrowing this money and asking future generations to pay for it. I think the resolution of this distinguished Senator today, the resolution of my friend from New Hampshire, is a wake-up call to the American people. He is asking us to emerge from the budgetary dreamland that we have hidden in for the last 9 years. What he is saying with this resolution is we are becoming aware of the fact that the free lunch must come to an end. We either pay now or pay later; pay now in terms of a lower standard of living, or pay later and our children have a much lower standard of living.

I say to my friend from New Hampshire [Mr. RUDMAN], that I praise his courage in offering this resolution. And I also praise his wisdom and perception in offering it. But I am not optimistic that his wake-up call is going to be answered. Unfortunately the present occupant of the White House is continuing in the ways of his predecessor.

We thought this spring when we sat down with the distinguished Director of the Office of Management and Budget and worked out a compromise budget agreement that we were on the road to budgetary sanity in this country. We have seen the promise of this spring knocked into an ashcan by the insistance on the part of the administration that we enact an additional tax cut in the budget reconciliation that was before us. Now we are still confronted with the insistence in this conference, by some, for an additional $20 billion tax cut over the next 10 years.

But it is refreshing to know there is at least one Member of this body with the courage to stand up and ask his colleagues to pay the bills now and to pay them as they come due. I commend the Senator from New Hampshire for his resolution and yield 5 minutes to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I rise with the chairman of the Budget Committee to thank the Senator from New Hampshire for his candor, but to say I cannot share his optimism, if indeed there is any there.

On Sunday morning, on "Meet the Press," as chairman of the subcommittee responsible for these matters, I said we are going to have to look after that earthquake and look after that hurricane, but we are also going to have to pay for it. And I said, can we not simply raise the gasoline tax to the level it would be had President Eisenhower's tax continued in effect to this day?

David Broder, of the Washington Post, was skeptical. He said, "I do not think you are going to do that."

I said, I am going to make the bet that President Bush will. Now is the time to say: A crisis has come upon us that is different from an election campaign. A hurricane, an earthquake, east coast, west coast, and we ought not charge the costs for it to our grandchildren.

Are we going to borrow money from the Japanese or are we going to pay for it ourselves? I said I would be willing to bet the President will want us to pay for it, and not to borrow the money, and I said I will apologize if he does not. And I stand here to apologize.

I called our committee into session yesterday morning. The Associate Director of the Federal Emergency Management Agency was to come before us, and his appearance was scrubbed by the White House for fear he might be asked how he would have us pay for these disasters. And that brought Mr. Broder to his typewriter on this subject. He said this morning, as he listed the things that have happened, that nothing brings this administration to its senses—he says this:

> The Bush "read my lips" promise was, at first, no more than a rhetorical tactic to help him recover from a setback in the Iowa caucuses and regain his footing in the following week's primary in New Hampshire, probably the most tax-averse State in the Nation. "The pledge was vital to Bush's recouping the lead from Senator Bob Dole, Republican, Kansas, who put governmental responsibility ahead of political opportunism.

In the headline to Mr. Broder's column, it reads, "Bush's Political Life Preserver Is Sinking Us."

And what were the words the Senator from New Hampshire used? I hope he might listen to me. He said, "We are going around the world like a beggar."

That is exactly what we have become, and it is from that side of the aisle. You hear it. Nine years of that form of irresponsibility and the United States has become a beggar. We beg the Japanese to lend us money. They set the interest rates on their own. A beggar is what the American Republic has become and will remain in this setting.

Cannot some of the responsibility of a BOB DOLE be found on that side? Or downtown? Do they not see what they are doing to our Nation?

Interest? I will give one example. Every penny of income tax paid west of the Mississippi is now required to pay the interest on the debt. The debt trebled in 8 years. In 8 years of this last administration we acquired a debt almost equal to that we acquired in World War II; no intention of paying; borrow from the Japanese; let future generations pay.

But the world watches, Mr. President. The world watches us begging. Beggard. The word was used on that side of the aisle. It is painfully true. And credit to the man who used it because he is telling the truth at a time when avoidance of reality has become pathologic.

Mr. President, I will vote for this amendment and I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Tennessee has 10 minutes 30 seconds remaining.

Mr. SASSER. I misunderstood the Chair.

The PRESIDING OFFICER. The Senator from Tennessee has 10 minutes 25 seconds remaining.

Mr. SASSER. I think the Chair.

Mr. RUDMAN. How much time does the Senator from New Hampshire have remaining?

The PRESIDING OFFICER. Five minutes.

Mr. RUDMAN. I yield the remainder of that time to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I thank my colleague from New Hampshire for yielding.

We speak as beggars, but we spend as millionaires. We are, as a result of the continuing resolution we just adopted in the appropriations bill, within the budget. We agreed to increasing spending this year $70 billion above the level as spent last year, a 5.2-percent increase in Federal spending, that money being spent on a great variety of programs.

Mr. President, my dear colleague from New Hampshire proposed a sense-of-the-Senate resolution that said that we take action to pay for the damage done in California by the earthquake either through additional revenues or through additional savings.

Mr. President, I think in order to get a broad base of support in the Congress on a bipartisian basis, we have to propose the action as an action where we can deal with it either way, but to say that the only alternative is to raise taxes is clearly false.

Out dear colleague from New Hampshire pointed out that when we had the drug bill passed, there were many who rose and said now is the time to raise taxes. But what we were able to do was to go back and find offsets, have an across-the-board cut and pay for the drug bill by reducing spending in other areas.

I believe, Mr. President, that we are capable of doing that here. Our colleague from New Hampshire talked about the cost of this disaster in California, but in terms of outlays next year, the cost of the disaster in California will be less than one one-hundredth of the cost of the disaster imposed on the working men and women of America by a huge debt that requires $163 billion a year to pay interest. Because of that debt, there will be an economic disaster next year and the next year and the next year and the next year, each 100 times as great as the costs we are talking about here today.

Obviously, we all have our objectives. There are those who want to control spending so that America can grow. There are those who want to raise taxes so that Government can grow but America and opportunity cannot grow at an unlimited rate if Government grows at an unlimited rate.

The Senator from New Hampshire did not get involved in that debate. He is not here saying raise taxes today. He is not here saying go back and cut programs today. He is here saying let us make a decision.

Mr. President, we are often like a family who has a child who falls down the steps and breaks his arm and it costs $500 to fix it. The family goes to the hospital and they are trying to work out how they are going to pay for it. They sit down with their banker and their banker says: "Well, now, you all were planning this vacation you were going on." They say: "Wait a minute; wait a minute. We have already planned that vacation. We have already written it into our budget. So as a result we do not want to go back and talk about that. We are here talking about Johnny's broke, arm; it's an emergency." That is how government works. Johnny breaks his arm; it is an emergency; we go out and borrow the money and go about our business. In every family in America, they have to make hard decisions. They have to go back and decide they are not going to buy a new refrigerator, they are not going to buy a new automobile, or they are not going to go on vacation in order to pay for Johnny's broken arm.

What the Senator from New Hampshire has done is given us a resolution to express the sense of the Senate that we find a way to pay for this, not a debate about how we do it. That is a debate that will occur only if we accept this sense-of-the-Senate resolution that says we ought to make that decision. I think this is an important resolution, and I support it.

Further, let me say that out of the appropriated parts of the budget, we came up with the money to pay for the drug bill. If we could come up with the money for the drug bill, I cannot help but believe that in the bigger area of the Federal budget where constraints have been far less binding than they have been on the appropriated accounts, I believe that we can come up with a way to pay for this disaster by going back and looking at our mandatory programs, our entitlement programs and paying the bill.

We can debate whether we ought to raise taxes or whether we ought to control spending. I am sure we are going to have that debate many times, but what we are agreeing to here is that we are going to do one or the other, and I commend the Senator for giving us that choice.

The PRESIDING OFFICER (Mr. ADAMS). The time of the Senator from New Hampshire has expired.

The Senator from Tennessee.

Mr. SASSER. Mr. President, I yield 2 minutes to the distinguished Senator from California.

The PRESIDING OFFICER. The Senator for California is recognized for 2 minutes.

Mr. CRANSTON. I thank my friend from Tennessee.

I first want to thank the Senators who have spoken for the fact they first voted for the assistance to California, which is so desperately needed for the earthquake victims.

Second, I do want to agree with the position taken by all those who have spoken and by the distinguished Senator from New Hampshire. I think it is very, very important that we stop this adding to the deficit, stop running around with a borrowing cup around the world, as the Senator so eloquently described, and as the Senator from New York so eloquently described.

We must get to the business of coping with this deficit. We cannot just keep on borrowing and letting it grow. We are mortgaging the future; we are creating incredible problems potentially for our children and their grandchildren.

There are only two ways to cope with the problem. Maybe we need to combine both methods. One is to find new and reasonable avenues that do not tax people in any unfair way and that do not depress our economy. The other is to find expenditures in our budget that are not as important as coping with the deficit and getting our economy back on a sound foundation.

I think we should take a very hard look at the latter, where perhaps there is an opportunity to find ways to reduce what we are spending in areas that are not needed so that we can invest in areas where additional financial support from the Federal Government is absolutely necessary.

We are piling up not only debt, but problems. If we do not cope with the infrastructure problems, which are of grave concern to the Senator from New York, myself, and others, we are going to have larger bills to pay later for disasters and larger bills to pay later because of the inability of our society to function in many, many, ways.

In the realm of education, beyond the infrastructure, housing, health care, protection of the environment, and much else, these programs are underfunded and neglected. We must get to them, but not be going into debt.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Tennessee.

Mr. SASSER. Mr. President, the distinguished Senator from Texas made a point a moment ago that we simply need to look to cutting spending to deal with this problem of disaster relief. I must say that I agree with the concept that it is better to cut spending than simply to go out and put the disaster relief on the cuff.

But let me make this point: The inflation for the fiscal year or for 1989 stands at the rate of 4 percent. The budget resolution which we are proposing, myself and the distinguished ranking member, Senator DOMENICI, that passed this House, raises overall spending by only 3.7 percent.

In other words, the outlay side of this resolution is below the rate of inflation. Discretionary spending increases by less than 3 percent, considerably below the rate of inflation.

The refreshing thing about the resolution offered by the Senator from New Hampshire is that he is willing to make decisions.

He is willing to say that, yes; let us pay as we go. Let us do it one way or the other. Contrast that with what we have seen in this country over the last few months, running around saying, "I am the education President." Well, how are you going to pay for it? Running around saying, "We are going to be No. 1 in space." Well, how are you going to pay for it? "We need to do something for the hurricane victims in South Carolina." Well, how are you going to pay for it? "We need to help these courageous people in California." Well, how are you going to pay for it?

At least to his great credit in this resolution that the Senator from New Hamsphire offers he is saying to his colleagues in the Senate, "Let us make a decision and realize that there are priorities that have to be recognized, and let us not pass it off to future generations and act as if there is no tomorrow."

Mr. President, again, I commend my friend from New Hampshire.

Mr. HOLLINGS addressed the Chair.

Mr. DOMENICI. Mr. President, I wonder if the Senator will yield.

Mr. SASSER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes 18 seconds.

Mr. SASSER. I want to yield to my distinguished friend from South Carolina, and I do not want to shut off the distinguished ranking member of the Budget Committee. May I inquire of the Senator from South Carolina how much time he might consume?

Mr. HOLLINGS. I would like, if I could, to have about 5 minutes. I want a little more time because I would like to clarify this resolution. But I just realized when I turned on the TV, as I returned from my office and another meeting, debate was going on and I wanted to make some clarifying comments.

Mr. DOMENICI. Mr. President, I wonder if I might propose the following. I do not want to take time away from either Senator HOLLINGS or ask the chairman to yield to me. I wonder if it might be in order to yield the Senator from New Mexico 4 minutes. I ask unanimous consent that I be entitled to 4 minutes, even though there is no time remaining, and he will still retain his time.

The PRESIDING OFFICER. Is there objection?

Mr. RUDMAN. Yes. Reserving the right to object.

The PRESIDING OFFICER. The Senator from New Hampshire reserves the right to object.

Mr. RUDMAN. Mr. President, may I inform the Senate that our leaders are on a very tight schedule on something of great importance. If we prolong this, they will be unable to vote. They have to keep this obligation, which is an obligation really of diplomacy, so I hope we can hold this down to the time. Maybe Senators could speak after the vote. They do have a time problem.

Mr. DOMENICI. Does the Senator object to 1 minute? I ask unanimous consent for 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I do not think anyone has tried harder to reduce this deficit than the Senator from New Mexico, and I hope there are no inferences that we have not had a degree of success. But I would like to say I really do not believe a resolution of this significance and of this forthrightness deserves the kind of accusations against the President of the United States that have been forthcoming.

Mr. President, the President of the United States does not have anything more to do with this deficit problem than the Congress of the United States. I can tell you the reason it is difficult to tell the American people that we need new taxes to pay for this deficit is because they know the reality of it. We will spend them all. I submit to those who want new taxes to get this deficit down, instead of criticizing the President, they ought to find a way to convince themselves and us and the people that, if we are going to put on those new taxes, we will use them for the deficit and not for new programs. That is the merit of this resolution. It is dollar for dollar. Here is an emergency; pay for it. I submit we are not capable of doing that, and until we are we will not succeed.

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired. The Senator from Tennessee.

Mr. SASSER. Mr. President, I yield to the distinguished Senator from South Carolina such time as I may have remaining.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I thank the Senator.

Mr. President, right to the point of the resolution, it is very easy to vote for because it no more than restates the imperative of Gramm-Rudman-Hollings. Under Gramm-Rudman-Hollings, it is exactly what the conferees under the law are supposed to do—either raise additional revenues or cut spending. But I want to remind you where we disagree and why I asked in this morning's New York Times for a divorce from Gramm-Rudman-Hollings on grounds of irreconcilable differences. I should have said for adultery, because the leaders of Gramm-Rudman-Hollings have gotten in bed with the off-budget shenanigans of the savings and loan bailout to take care of the criminals in the thrift institutions to the tune of $160 billion, and yet we pinch pennies and get oh, so responsible on $4 billion or $5 billion for San Francisco and Hurricane Hugo. Why not issue Hugo bonds? That is what we are headed for on the floor of the Senate.

But the point is that, yes, we can enact a value-added tax to pay for cleaning up nuclear waste, for becoming an education Congress and President, for the environment, clean air, and clean water, for the war on drugs. We started the war on drugs just 2 weeks ago not by attacking but by retreating $410 million. The drug war under Bush is actually $410 million less than what President Reagan signed into law last November, not even a year ago. So sign a new drug assault into law with a retreat of $410 million and go right on down all the different needs that we have, natural disasters, and so on. We have not said anything. Let us vote for this resolution and go ahead and tell the poor conferees that all of a sudden they are supposed to either find revenues or cut spending.

Our distinguished colleague from New Mexico put in the resolution almost 3 years ago now. He received 14 votes. He took all of President Reagan's 1981 initiatives on spending cuts from Amtrak to juvenile justice to legal services to selling the petroleum reserve, all of those things, and he received 14 votes. We have been through this exercise, talking like we are serious about cutting. Get real. Republicans and Democrats are not going to cut education. The Republicans and Democrats are not going to do away with legal services. And I can go down the list. That is why we must resort to an indiscriminate cut across the board.

I called Budget Director Darman in January. I said, "You presented your budget." I said, "Where are we going to get the money?"

He said, "Do away with EDA, do away with legal services, do away with Amtrak."

In June, he put in a crime bill. I said, "Where are you going to get the money?"

He said, "Do away with legal services, do away with EDA, do away with Amtrak."

He put in a drug bill in September. I said, "Where are you going to get the money?"

He said, "Do away with EDA, do away with legal services, do away with Amtrak."

I said, "Dick, you have already eliminated those programs three times this year."

So let us come down to earth here on the subject of budget discipline, and let's not pretend we are getting discipline through this resolution from the poor conferees, because $15 billion or $20 billion is not going to make a

dent in the deficit. We need a value-added tax, with all proceeds put in a dedicated trust fund exclusively for reducing the deficit and the debt, not for starting the gravy train again. And when we bite the bullet by enacting a value-added tax, we will see an immediate dividend of $25 billion that we would otherwise be spending on interest on the debt, that now we could spend to meet the needs of the country.

I thank the Chair. I thank the Senator.

The PRESIDING OFFICER. The time of the Senator has expired. All time has expired.

Mr. RUDMAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the resolution (S. Res. 197). The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Rhode Island [Mr. PELL] is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 88, nays 11, as follows:

[Rollcall Vote No. 272 Leg.]

YEAS—88

Adams	Fowler	Mikulski
Armstrong	Glenn	Mitchell
Baucus	Gore	Moynihan
Bentsen	Gorton	Murkowski
Biden	Graham	Nickles
Bingaman	Gramm	Nunn
Boren	Harkin	Packwood
Boschwitz	Hatch	Pressler
Bradley	Hatfield	Pryor
Breaux	Hollings	Reid
Bryan	Humphrey	Riegle
Bumpers	Inouye	Robb
Burdick	Jeffords	Rockefeller
Byrd	Johnston	Rudman
Chafee	Kassebaum	Sanford
Coats	Kasten	Sarbanes
Cohen	Kennedy	Sasser
Conrad	Kerrey	Shelby
Cranston	Kerry	Simon
D'Amato	Kohl	Simpson
Danforth	Lautenberg	Specter
Daschle	Leahy	Stevens
DeConcini	Levin	Symms
Dixon	Lieberman	Thurmond
Dodd	Lott	Wallop
Dole	Lugar	Warner
Domenici	Matsunaga	Wilson
Durenberger	McCain	Wirth
Exon	McConnell	
Ford	Metzenbaum	

NAYS—11

Bond	Grassley	Mack
Burns	Heflin	McClure
Cochran	Heinz	Roth
Garn	Helms	

NOT VOTING—1

Pell

So the resolution (S. Res. 197) was agreed to.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SUPPORT FOR EAST EUROPEAN DEMOCRACY ACT

The PRESIDING OFFICER. Under the previous order of the Senate the pending business is S. 1582 involving assistance to Poland.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1582) to amend the Foreign Assistance Act of 1961 to provide for certain forms of assistance to Poland to ensure the success of freedom and democracy in Poland.

The Senate proceeded to consider the bill which had been reported from the Committee on Foreign Relations, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE AND CONTENTS

This Act, which may be cited as the "Support for East European Democracy (SEED) Act of 1989", shall become a new chapter of part I of the Foreign Assistance Act of 1961, as amended. Such chapter shall comprise the following titles:

TITLE I—UNITED STATES POLICY IN EASTERN EUROPE

TITLE II—ENTERPRISE FUNDS IN POLAND AND HUNGARY

TITLE III—LABOR MARKET TRANSITION

TITLE IV—ENVIRONMENTAL INITIATIVES

TITLE V—DIMINISHING THE BURDEN OF BILATERAL AND MULTILATERAL DEBT

TITLE VI—"TAKE-OFF" TELECOMMUNICATIONS GRANT TO POLAND

TITLE VII—FACILITATING VOLUNTARY ACTION

TITLE VIII—POLICY COORDINATION AND "SEED" INFORMATION SYSTEM

TITLE IX—TRADE AND ASSISTANCE BENEFITS AND INVESTMENT TREATIES

TITLE X—SCIENTIFIC, EDUCATIONAL, AND CULTURAL EXCHANGES

TITLE XI—MEDICAL ASSISTANCE

TITLE XII—SUPPORT FOR DEMOCRATIC INSTITUTIONS

TITLE XIII—PEACE CORPS

TITLE XIV—FOOD AID

TITLE XV—MULTILATERAL ACTION

TITLE XVI—PROGRAM ACTION AND REPORTING

TITLE I—UNITED STATES POLICY IN EASTERN EUROPE

PURPOSE

SEC. 101. (a) It is the sense of the Congress that the United States should implement, beginning in fiscal year 1989, a concerted program of Support for East European Democracy (SEED), comprising diverse undertakings designed to provide cost-effective assistance to those countries of Eastern Europe which have taken substantive steps toward institutionalizing political democracy and economic pluralism.

PROGRAM OF SUPPORT FOR EAST EUROPEAN DEMOCRACY (SEED)

SEC. 102. Funds and activities under this composite program may be referred to as SEED actions and shall include such activities as the following:

(1) ENTERPRISE FUNDS.—Grants for the establishment of private, nonprofit "Enterprise Funds", which shall be governed by Board of Directors and which shall, under sound economic criteria, undertake loans, grants, equity investments, feasibility studies, technical assistance, training, and other forms of aid to private enterprise activities in the Eastern European country for which each such Fund is established.

(2) LABOR MARKET-ORIENTED TECHNICAL ASSISTANCE.— Technical assistance programs directed at promoting labor market reforms and facilitating economic adjustment.

(3) OVERSEAS PRIVATE INVESTMENT CORPORATION.—Extension of authority for programs and activities of the overseas private investment corporation.

(4) GENERALIZED SYSTEM OF PREFERENCES.—Eligibility for trade benefits under the generalized system of preferences.

(5) MEDICAL ASSISTANCE.—Medical aid specifically targeted to overcome severe deficiencies in pharmaceuticals and other basic health supplies.

(6) ASSISTANCE FOR DEMOCRATIC INSTITUTIONS.—Aid designed to assist in the development of legal, legislative, electoral, journalistic, and other institutions of free, pluralist societies.

(7) DEBT REDUCTION AND RESCHEDULING.—Participation in multilateral activities aimed at reducing and rescheduling the international debt of particular East European countries, where reduction and deferral of debt payments can assist the process of political and economic transition.

(8) FOOD AID.—Assistance through the grant and concessional sale of agricultural commodities where such aid can ease critical shortages but not inhibit the growth of domestic markets for agricultural production and distribution.

(9) WORLD BANK AND INTERNATIONAL MONETARY FUND.—United States leadership in supporting World Bank loans designed to modernize industry, agriculture, and infrastructure; and IMF programs designed to stimulate sound economic growth.

(10) CURRENCY STABILIZATION LOANS.—United States leadership in supporting multilateral agreement to provide government-to-government loans for currency stabilization where such loans can reduce inflation and thereby foster conditions necessary for the effective implementation of economic reforms.

(11) CULTURAL CENTERS.—Contributions toward the establishment of American cultural centers that can facilitate educational and cultural exchange and expanded understanding of Western social democracy.

(12) SCIENCE/TECHNOLOGY ASSISTANCE.—Grants for the implementation of bilateral agreements providing for cooperation in science and technology exchange.

(13) MOST-FAVORED-NATION TRADE STATUS.—The granting of temporary or permanent MFN status through the application of criteria and procedures established by the Jackson-Vanik amendment to the Trade Act of 1974.

(14) PEACE CORPS.—Establishment of Peace Corps programs, focused on English language training and other services that can facilitate the transition to a modern, internationally-oriented society.

(15) EXCHANGE ACTIVITIES.—Expanded exchange activities under the Fulbright, International Visitors, and other programs conducted by the United States Information Agency.

(16) SPECIAL "TAKE-OFF" GRANTS.—Grants for special projects, such as the introduction of modern telephone systems and telecommunications technology, which are crucial in establishing the conditions for successful transition to political democracy and economic pluralism.

(17) SISTER INSTITUTIONS.—Establishment of sister institution programs between American and East European schools and universities, towns and cities, and other organizations in such fields as medicine and health care, business management, environmental protection, and agriculture.

(18) ENVIRONMENTAL ASSISTANCE.—Environmental assistance directed at overcoming crucial deficiencies in air and water quality and other determinants of a healthful society.

TITLE II—ENTERPRISE FUNDS IN POLAND AND HUNGARY

PURPOSE

SEC. 201. For the purpose of promoting development of the Polish and Hungarian private sectors, including small businesses and joint ventures with United States and host country participants, and to promote policies and practices conducive to private sector development, through loans, grants, equity investments, feasibility studies, technical assistance, training, insurance, guarantees, and other measures, there shall be designated, in accordance with section 202, a Polish-American Enterprise Fund and a Hungarian-American Enterprise Fund.

AUTHORITY

SEC. 202. (a) The President is authorized to designate two private, nonprofit organizations, which for the purposes of this title shall be referred to as the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund (the "Enterprise Funds"), as eligible to receive funds and support pursuant to section 203 upon determining that such organizations have been established for the purpose stated in section 201. Each such Enterprise Fund may be governed by a Board of Directors including private citizens of the United States and the respective host country.

(b) Nothing in this Title shall be construed to make the Enterprise Funds agencies or establishments of the United States Government, or to make the officers, employees or members of the Boards of Directors of the Enterprise Funds officers or employees of the United States for the purposes of title 5 of the United States Code.

FUNDING

SEC. 203. (a) The amount of $375,000,000 of unobligated funds appropriated for fiscal year 1990 under "Research, Development, Test, and Evaluation" accounts of the Department of Defense shall be made available to the Enterprise funds designated pursuant to section 202. Such amounts shall be allocated as follows:

(1) $300,000,000 for the Polish-American Enterprise Fund; and

(2) $75,000,000 for the Hungarian-American Enterprise Fund.

Of the sums to be made available for Poland in fiscal year 1990, at least one-third may be available for private agricultural development to address Poland's urgent agricultural infrastructure problems.

(b) There are authorized to be appropriated for each of the fiscal years 1991 and 1992 $300,000,000 for the United States contribution to the Polish-American Enterprise Fund and $75,000,000 for the United States contribution to the Hungarian-American Enterprise Fund. Such sums shall remain available until expended.

(c) Of the funds authorized by this section to be made available to the Funds, and all future funds made available, no less than 80 percent shall be for interest-bearing loans repayable to the Funds and investments from which the Funds can be expected to accrue dividends or other share-holder payments.

(d) Such contributions to the Funds may be used for the purposes of this title notwithstanding any other provision of law.

GRANTS AND SUPPORT FOR THE ACTIVITIES OF THE ENTERPRISE FUNDS

SEC. 204. (a) Funds made available pursuant to section 203 shall be granted to the Enterprise Funds by such executive agency as the President shall designate (the "Agency")—

(1) to enable the Enterprise Funds to carry out the purposes specified in section 201, taking into account such considerations as internationally recognized worker rights, human rights, environmental factors, United States economic and employment effects and the likelihood of commercial viability of the activities receiving assistance from the Enterprise Funds, and

(2) for the administrative expenses of each Enterprise Fund.

(b) Notwithstanding any other provision of law, the Enterprise Funds may hold grant funds contributed pursuant to section 203 in interest-bearing accounts, prior to the disbursement of such funds for purposes specified in section 201, and to retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress.

(c) The Agency shall have authority, notwithstanding any other provision of law, to use up to $300,000 in each fiscal year of funds from such program account or accounts of that Agency as the Agency may determine for the purpose of carrying out functions under this title.

(d) Executive branch departments or agencies shall have authority to conduct programs and activities, and to provide services, in support of the activities of the Enterprise Funds, notwithstanding any other provision of law.

(e) In addition to assistance authorized in this title, commodities eligible for programs of assistance under section 416(b) of the Agricultural Act of 1949 and under title II of the Agricultural Trade Development and Assistance Act of 1954 may be made available to, or for the benefit of, the Enterprise Funds, notwithstanding the requirements of section 416(b)(7) of the Agricultural Act of 1949 or any other provision of law, for sale or barter to generate local currencies to be used by the Enterprise Funds for the purposes stated in section 201 hereof.

ELIGIBILITY OF THE ENTERPRISE FUNDS FOR GRANTS

SEC. 205. (a) Grants may be made to the Enterprise Funds under this title only if the Enterprise Funds agree to comply with the requirements specified in this title.

(b) The Enterprise Funds may provide assistance pursuant to this title only for programs and projects which are consistent with the purposes set forth in section 201.

(c) No part of the funds of either Enterprise Fund shall inure to the benefit of any Board Member, officer or employee of such Enterprise Fund, except as salary or reasonable compensation for services.

(d) The accounts of each enterprise Fund shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of each such independent audit shall be included in the annual report required by section 205(g).

(e) The financial transactions undertaken pursuant to this title by each Enterprise Fund may be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States, so long as the Enterprise Fund is in receipt of United States Government grants.

(f) The Enterprise Funds shall ensure—

(1) that each recipient of assistance provided through the Enterprise Funds under this section keeps separate accounts with respect to such assistance and such records as may be reasonably necessary to disclose fully the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit; and

(2) that the Enterprise Funds, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Enterprise Funds under this section.

(g) Not later than March 31 of each year, each Enterprise Fund shall publish an annual report for the preceding fiscal year. The report shall include a comprehensive and detailed report of the concerned Enterprise Fund's operation, activities, financial condition, and accomplishments under this title.

TERMINATION OF ASSISTANCE

SEC. 206. In the event that the President certifies to the Congress that the present course of democratization in Poland or Hungary is significantly reversed, all authority to provide assistance to such country pursuant to this title, and other provisions of the Support for East European Democracy Act of 1989, shall terminate.

TITLE III—LABOR MARKET TRANSITION

TECHNICAL ASSISTANCE

SEC. 301. The Secretary of Labor, in consultation with representatives of labor and business in the United States shall—

(1) provide technical assistance to Poland and Hungary for the implementation of labor market reforms; and

(2) provide technical assistance to Poland and Hungary to facilitate adjustment during the period of economic transition and reform.

AUTHORITIES OF THE SECRETARY OF LABOR

SEC. 302. In carrying out the responsibilities enumerated in section 301, the Secretary of Labor may—

(1) provide technical assistance regarding policies and programs for training and retraining, job search and employment services, unemployment insurance, occupational safety and health protection, labor-management relations, labor statistics, analysis of productivity constraints, entrepreneurial support for small businesses, market-driven systems of wage and income determinations, job creation, employment security, the observance of internationally recognized worker rights (including freedom of association and the right to organize and bargain collectively), and other matters that the Secretary of Labor may deem appropriate regarding free labor markets and labor organizations;

(2) accept in the name of the Department of Labor, and employ or dispose of in furtherance of the purposes of this title, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes of the United States: Provided, That gifts and donations of property which are no longer required for the discharge of the purposes of this section shall be reported to the Administrator of General Services for transfer, donation, or other disposal in accordance with the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), as amended;

(3) enter into arrangements or agreements with appropriate departments, agencies and establishments of Poland and Hungary; and

(4) enter into arrangements or agreements with appropriate private and public sector United States parties, and international organizations.

CONSULTATION WITH APPROPRIATE OFFICERS

SEC. 303. In carrying out the responsibilities established by this title, the Secretary of Labor shall seek information and advice from, and consult with, appropriate officers of the United States.

CONSULTATION WITH LABOR AND BUSINESS REPRESENTATIVES

SEC. 304. For purposes of this title, consultation between the Secretary of Labor and United States labor and business representatives shall not be subject to the Federal Advisory Committee Act (5 U.S.C. app.).

AUTHORIZATION OF TRANSFERS

SEC. 305. Notwithstanding any other provision of law, from the funds appropriated or available to the Department of Labor, the Secretary of Labor is authorized to transfer and to obligate the following amounts for the purposes of carrying out this title—

(1) $4,000,000 for technical assistance to Poland; and

(2) $1,000,000 for technical assistance to Hungary. Funds so transferred shall be available for obligation immediately.

TITLE IV—ENVIRONMENTAL INITIATIVES

ENVIRONMENTAL PROTECTION AGENCY AUTHORITIES

SEC. 401. In addition to specific authorities contained in any of the environmental statutes administered by the Environmental Protection Agency, the Administrator of that Agency (the "Administrator") is authorized to undertake such educational, policy training, research, and technical and financial assistance, monitoring, coordinating, and other activities as he may deem appropriate, either alone or in cooperation with other United States or foreign agencies, governments, or public or private institutions, in protecting the environment in Poland and Hungary.

AUTHORIZATION OF TRANSFERS

SEC. 402. The Administrator is authorized to use up to $3,000,000 in each of fiscal years 1990, 1991, and 1992 to carry out the purposes of this title. The Administrator may also use an additional $1,000,000 appropriated to the Environmental Protection Agency without regard to fiscal year to carry out the purposes of this title.

ACTIVITIES IN POLAND

SEC. 403. The Administrator shall cooperate with Polish officials and experts to—

(1) establish an air quality monitoring network in the Krakow metropolitan area as a part of Poland's national air monitoring network; and

(2) improve both water quality and the availability of drinking water in the Krakow metropolitan area.

ACTIVITIES IN HUNGARY

SEC. 404. The Administrator shall work with other United States and Hungarian officials and private parties to establish and support a regional center in Budapest for facilitating cooperative environmental activities between governmental experts and public and private organizations from the United States and Eastern and Western Europe.

ENVIRONMENTAL ANALYSIS AND STRATEGY

SEC. 405. The report required by paragraph 3 of section 1602, in addition to describing actions already taken under this title, shall include the following:

(1) ASSESSMENT OF PROBLEMS.—An overall assessment of the environmental problems facing Poland and Hungary, including—

(A) a relative ranking of the severity of the problems and their effects on both human health and the general environment;

(B) a listing of the geographical areas of each country that have suffered the heaviest environmental damage, and a description of the source and scope of the damage; and

(C) an assessment of the environmental performance of leading industrial polluters in those countries and the expected effect on pollution levels of industrial modernization;

(2) PRIORITIES AND COSTS FOR ACTION.—An analysis of the priorities each country should assign in addressing its environmental problems, and an estimate of the capital and human resources required to undertake a comprehensive program of environmental protection;

(3) ROLE OF UNITED STATES AND MULTILATERAL ASSISTANCE.—A statement of strategy for United States assistance for the next five years in Poland and Hungary, including—

(A) recommendations for appropriate levels and forms of bilateral financial and technical assistance;

(B) recommendations concerning United States participation in cooperative multilateral undertakings;

(C) an assessment of the feasibility of debt-for-nature swaps as a technique of environmental protection in each country; and

(D) recommendations for minimizing further environmental damage to Krakow, and for the protection and restoration of historic sites in that city.

TITLE V—DIMINISHING THE BURDEN OF BILATERAL AND MULTILATERAL DEBT

MANDATE FOR REDUCING AND RESCHEDULING POLAND'S DEBT

SEC. 501. (a) It is the sense of the Congress that the payments due on the debt owned by Poland to the United States Government and payable during fiscal years 1990 through 1994 should be rescheduled, with all such payments being capitalized and made a part of the principal balance owed to the United States Government at the beginning of fiscal year 1995.

(b) It is further the sense of the Congress that the United States, recognizing that some $8.5 billion of Poland's foreign debt lies in obligations to commercial banks, should include Poland in the strengthened debt strategy known as the Brady Plan, in order to reduce Poland's overall commercial debt burden.

INTERNATIONAL COOPERATION ON DEBT RESCHEDULING

SEC. 502. It is the sense of the Congress that the President should urge all members of the "Paris Club" creditor governments and other creditor governments, including the Union of Soviet Socialist Republics, to adopt a generous and early rescheduling program for debt owed by Poland similar to the one set forth in section 501.

DEBT-FOR-EQUITY SWAPS AND OTHER SPECIAL TECHNIQUES

SEC. 503. (a) The President shall take all appropriate actions to explore and encourage innovative approaches to the reduction of the government-to-government and commercial debt burden of East European countries which have taken substantive steps toward political democracy and economic pluralism.

(b) Notwithstanding any other provision of law, the President shall have authority, under the conditions set forth in subsection (c) to undertake the discounted sale, to private purchasers, of United States Government debt obligations of such East European countries.

(c) The conditions referred to in subsection (b) shall be fulfilled when such sale will facilitate so-called debt-for-equity or debt-for-development swaps wherein such newly privatized debt is exchanged by the new holder of the obligation for local currencies, policy commitments, or other assets needed for development or other economic activities, or for an equity interest in an enterprise theretofore owned by the particular East European government.

TITLE VI—"TAKE-OFF" TELECOMMUNICATIONS GRANT TO POLAND

AUTHORIZATION

SEC. 601. In addition to other sums provided in this Act for Poland, the sum of $25,000,000 shall be made available from unobligated funds appropriated for fiscal year 1990 in "Research, Development, Test, and Evaluation" accounts of the Department of Defense for a grant to provide immediate support for the modernization of Poland's telephone and telecommunications infrastructure by means of a competitively-bid contract or contracts to a United States corporation or corporations.

ADMINISTRATION OF GRANT

SEC. 602. (a) The President shall execute the grant authorized in section 601 as a cash transfer, a grant administered by the Agency for International Development, or any other means determined by the President to be most expeditious and effective in assisting Poland to create the infrastructure necessary for the development of a substantial private business sector.

(b) In accordance with the criteria set forth in subsection (a), the President may designate as the recipient of the grant the Government of Poland, the Polish-American Enterprise Fund, or some other private sector entity.

PROTECTION OF TECHNOLOGY

SEC. 603. In the execution of the grant authorized in section 601, the President shall take all steps necessary to ensure the protection of militarily-significant telecommunications technology, in accordance with criteria and restrictions normally applied by the United States Government.

TITLE VII—FACILITATING VOLUNTARY ACTION

PRIVATE VOLUNTARY SUPPORT

SEC. 701. (a) It is the sense of the Congress that the President should take all possible steps to encourage across the Nation a massive outpouring of private contributions of money and nonperishable foods, to be collected by civic, religious, school, and youth organizations, for assistance to Poland and to Rumanian refugees in Hungary.

(b) For the transport to Poland of nonfinancial private contributions, the President should—

(1) draw upon all available authorities, including Section 1540 of the 1985 Defense Authorization Act, to use resources of the National Guard and the Department of Defense (the "Denton Amendment"), and should request any additional authorities as needed; and

(2) encourage maximum participation by such recognized private voluntary organizations as the Polish-American Congress.

SISTER INSTITUTIONS

SEC. 702. It is the sense of the Congress that the President should take steps to encourage the establishment of sister institution programs between American and East European schools and universities, cities and towns, and other organizations in such fields as medicine and health care, business management, environmental protection, and agricultural research and marketing.

TITLE VIII—POLICY COORDINATION AND "SEED" INFORMATION SYSTEM

COORDINATION

SEC. 801. The President shall designate within the Department of State a Coordinator of SEED Program Action, who shall be directly responsible for overseeing and coordinating all programs described in this chapter and all other activities of the United States Government conducted to further the purposes set forth in this chapter.

PUBLIC INFORMATION

SEC. 802. The President shall take such steps as may be necessary to establish, using existing agencies of the United States Government and acting in cooperation with the Governments of Poland and Hungary, a SEED information center system, which shall serve as a central clearinghouse mechanism for information relating to business needs and opportunities in Eastern Europe and voluntary assistance to such nations.

(b) Such system shall be organized, among other purposes, to encourage economically sound proposals to the Polish-American and Hungarian-American Enterprise Funds, and other sources of finance for the development of private enterprise in Eastern Europe.

(c) Such system shall be based jointly in Washington and, until expanded, in Warsaw and Budapest.

TITLE IX—TRADE AND ASSISTANCE BENEFITS AND INVESTMENT TREATIES

GSP TREATMENT FOR POLAND

SEC. 901. (a) Subsection (b) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462(b)), relating to the Generalized System of Preferences, is amended by striking out "Poland" in the table within such subsection.

(b) It is the sense of the Congress that, using the authority set forth in subsection (a) and other authorities, the President should immediately take such steps as are necessary to designate Poland as a beneficiary country for the purposes of the Generalized System of Preferences provided for in title V of the Trade Act of 1974, as amended.

OPIC ELIGIBILITY FOR POLAND AND HUNGARY

SEC. 902. (a) To provide for the eligibility of activities in Poland and Hungary for participation in programs of the Overseas Private Investment Corporation, Section 239(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2199(f)) is amended by inserting ", Poland, Hungary," after "Yugoslavia".

(b) In accordance with its mandate to foster private initiative and competition and enhance the ability of private enterprise to make its full contribution to the development process, the Overseas Private Investment Corporation shall support projects in Poland and Hungary which will result in enhancement of the nongovernmental sector and reduction of state involvement in the economy.

(c) For purposes of this section, the term "nongovernmental sector" in Poland or Hungary includes private enterprises, cooperatives (insofar as they are not wholly administered by the Government of Poland or Hungary), joint ventures (including partners which are not the Government of Poland or Hungary or instrumentalities thereof), businesses in Poland or Hungary that are wholly or partly owned by United States citizens, including those of Polish or Hungarian descent, religious and ethnic groups (including the Catholic Church), and other independent social organization.

(d) Notwithstanding subsection (c), the term "eligible investor" with respect to OPIC's programs in Poland and Hungary shall have the same meaning as contained in section 238(c) of the Foreign Assistance Act of 1961.

(e) The authority of OPIC to issue insurance, reinsurance, guarantees and to provide any assistance under its direct loan and equity programs with respect to Hungary and Poland shall remain in effect until September 30, 1992.

ELIGIBILITY FOR UNITED STATES LOANS AND GUARANTEES

SEC. 903. (a) Notwithstanding any other provision of law, Poland and Hungary shall be eligible for the loan, guarantee, and other programs of the United States Export-Import Bank.

(b) This section shall remain in effect until September 30, 1989.

MOST-FAVORED-NATION STATUS FOR HUNGARY

SEC. 904. It is the sense of Congress that, upon enactment by the Government of Hungary of an emigration statute that fulfills the criteria set forth in the Jackson-Vanik amendment to the Trade Act of 1974, the President should immediately take such steps as are necessary to designate and certify Hungary as eligible, on a permanent basis, for most-favored-nation trade status.

BILATERAL INVESTMENT TREATIES WITH POLAND AND HUNGARY

SEC. 905. (a) Congress finds that the United States bilateral investment treaty program, initiated in 1981 to encourage and protect United States investments in participating countries, has resulted in a more stable and predictable legal framework for foreign investors in treaty countries and has therefore served the interests both of the United States and of our treaty partners.

(b) It is therefore the sense of the Congress that the President should explore the feasibility of negotiating such treaties with the Governments of Poland and Hungary.

TITLE X—SCIENTIFIC, EDUCATIONAL, AND CULTURAL EXCHANGES

SCIENCE AND TECHNOLOGY

SEC. 1001. (a) There are authorized to be appropriated to the Secretary of State for purposes of continuing to implement the 1987 United States-Polish science and technology agreement—

(1) $1,500,000 for fiscal year 1990, and

(2) $1,560,000 for fiscal year 1991.

(b) For purposes of this section, the term "1987 United States-Polish science and technology agreement" refers to the draft agreement concluded in 1987 by the United States and Poland, entitled "Agreement Between the Government of the United States of America and the Polish People's Republic on Cooperation in Science and Technology and Its Funding", together with annexes relating thereto.

EDUCATIONAL AND CULTURAL EXCHANGE

SEC. 1002. It is the sense of the Congress that the United States should expand its participation in educational and cultural exchange activities with Poland and Hungary, using the full array of existing government and privately funded programs, with particular emphasis on the J. William Fulbright Educational Exchange Program, the International Visitor Program, the Samantha Smith Memorial Exchange Program, the exchange programs of the National Academy of Sciences, youth and student exchanges through such private organizations as the Experience in International Living and the American Field Service Committee, and research exchange sponsored by the International Research and Exchange Board (IREX).

FULBRIGHT BINATIONAL COMMISSIONS

SEC. 1003. It is the sense of the Congress that, in order to facilitate and enhance academic and scholarly exchanges with Poland and Hungary, the President should take all appropriate action to establish with those two countries binational Fulbright commissions.

TITLE XI—MEDICAL ASSISTANCE

MEDICAL SUPPLIES, HOSPITAL EQUIPMENT, AND TRAINING OF MEDICAL PERSONNEL FOR POLAND

SEC. 1101. Notwithstanding any other provision of law, in addition to amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for fiscal years 1990 and 1991, there are authorized to be appropriated to carry out that chapter for each such fiscal year $2,000,000, which shall be available only—

(1) for providing medical supplies and hospital equipment to Poland through private and voluntary organizations, including for the expenses or purchasing, transporting, and distributing such supplies and equipment; and

(2) for training of Polish medical personnel.

TITLE XII—SUPPORT FOR DEMOCRATIC INSTITUTIONS

NATIONAL ENDOWMENT FOR DEMOCRACY

SEC. 1201. Not later than three months after the date of enactment of this Act, the National Endowment for Democracy shall develop and implement a program of seminars on local government electoral processes and local government administration if such seminars are requested by the Government of Poland.

AUTHORIZATION OF ASSISTANCE

SEC. 1202. Notwithstanding any other provision of law, in addition to amounts otherwise authorized to be appropriated to the National Endowment for Democracy for fiscal years 1990 and 1991, there are authorized to be appropriated for each such fiscal year $2,000,000, of which—

(1) $1,000,000 shall be available in each such fiscal year only for the unconditional support of democratic institutions and activities in Poland; and

(2) $1,000,000 shall be available in each such fiscal year only for the unconditional support of democratic institutions and activities in Hungary.

TITLE XIII—PEACE CORPS

PEACE CORPS PROGRAMS FOR HUNGARY AND POLAND

SEC. 1301. Notwithstanding any other provision of law, there are hereby transferred to the Peace Corps out of unobligated funds appropriated for fiscal year 1990 under "Research, Development, Test, and Evaluation" accounts of the Department of Defense not less than $3,000,000 solely for establishing and operating programs for Hungary and Poland.

TITLE XIV—FOOD AID

STRATEGY

SEC. 1401. (a) A principal component of the SEED program shall be the provision of food assistance, provided by the United States so as to alleviate crucial shortages that may be created in an East European country by the transition from state-directed controls to a free market economy.

(b) In order to ensure the necessary quantity and diversity of such food assistance, the United States shall take all appropriate steps to encourage parallel efforts by the European Community and other food surplus nations.

(c) In participating in such multilateral food assistance, the United States shall seek to strike a balance wherein food aid is supplied in such quantities as will be effective in overcoming severe shortages and dampening inflation but without impeding the development of incentives for private food production and marketing in recipient countries.

MANDATE FOR FOOD AID TO POLAND

SEC. 1402. (a) Pursuant to the strategy set forth in section 1401, the President shall undertake to promote, with full United States participation, a comprehensive multilateral program of food assistance for Poland.

(b) United States participation in such program shall be based upon initial food assistance allocations of $108,400,000 for fiscal year 1989, made by the President using available authorities, and should entail all additional assistance in fiscal year 1990 and beyond as may be necessary to pursue an effective food aid strategy in Poland.

(c) Noting that the European Community has initiated food aid to Poland at an annual level of $140,000,000, Congress hereby declares its readiness to act promptly to approve all authorities and appropriations requested by the President in order that the United States may call upon the European Community to provide further food assistance to Poland, beginning in fiscal year 1990, on a matching United States-European Community basis.

ELIGIBILITY FOR FOOD PROGRAMS

SEC. 1403. Notwithstanding any other provision of law, including prohibitions on food assistance for countries in arrears on debt payments to the United States, Poland and Hungary shall be eligible for programs under the Agricultural Act of 1949 and the Agricultural Trade Development and Assistance Act of 1954, including sales credits from the Commodity Credit Corporation.

(b) This section shall remain in effect until September 30, 1992.

TITLE XV—MULTILATERAL ACTION

PLANNING

SEC. 1501. It is the sense of the Congress that the President should, on an urgent schedule, consult with the European Community and Japan, and with other members of the "Paris Club," on the establishment of a comprehensive, multiyear program for Poland and Hungary, including debt rescheduling and increased food aid and investment, designed to facilitate an enduring economic recovery in each country and the institutionalization of political democracy and economic pluralism.

SPECIFIC MULTILATERAL GOALS ON POLAND

SEC. 1502. It is the sense of the Congress that, in multilateral negotiations with regard to Poland, the United States should advocate immediate agreement and action on the following or similar goals: Provided, That the Government of Poland initiates all appropriate steps to dismantle that country's system of state controls and subsidies and inaugurate a plan of economic stabilization:

(1) "Paris Club" agreement on a four-year deferral of all government-to-government debt repayments;

(2) a multilateral currency-stabilization loan of $1,000,000,000; undertaken with urgency to accompany the initiation of Poland's economic reforms;

(3) an International Monetary Fund standby loan during the next 12 months of not less than 90 percent of Poland's International Monetary Fund quota (approximately $700,000,000); and

(4) a new World Bank Structural Adjustment Loan of $500,000,000 to assist in the relocation of workers from state firms to the private sector, and expedited implementation of approximately $350,000,000 in project loans currently under preparation.

ORGANIZATION OF MULTINATIONAL SUPPORT BY EXPERTS AND STATESMEN

SEC. 1503. It is the sense of the Congress that the President should exercise international leadership in sponsoring the creation of two groups—

(1) a multinational advisory task force of economic experts to assist the Polish Government in formulating a sound program of reforms, which can be successfully submitted to the International Monetary Fund and the World Bank and which can thereby satisfy the condition referred to in section 1502 for large-scale multilateral assistance; and

(2) a multinational committee of senior statesmen (including former Presidents and Secretaries of State) to provide long-range analysis and stimulate public support conducive to the successful transition of Poland, Hungary, and other East European countries to political and economic pluralism.

TITLE XVI—PROGRAM ACTION AND REPORTING

FINDING

SEC. 1601. Congress finds that—

(1) in order to provide the President with maximum flexibility and opportunity for innovation in implementation of the SEED Program, this chapter sets forth general goals and modalities for the support of democracy and economic pluralism in Eastern Europe;

(2) prompt United States action in devising specific measures to achieve the goals outlines in this Act will be crucial in generating the public awareness, and the international commitment, necessary for American leadership of a successful multilateral program of assistance in Eastern Europe; and

(3) clear-cut delineation of such United States actions at an early date is integral to American leadership of this effort.

SEED REPORT

SEC. 1602. Not later than January 20, 1990, the President shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a comprehensive "Report on the United States Program of Support for East European Democracy (SEED)", which shall include a full description of—

(1) actions under title II of this chapter regarding the establishment and operations of the Polish-American and Hungarian-American Enterprise Funds;

(2) actions under title III of this chapter to assist the process of labor market reform and economic adjustment in Poland and Hungary;

(3) actions under title IV of this chapter to assist in environmental protection in Eastern Europe, and other information set forth in section 405;

(4) actions under title V of this chapter, and related authorities, to relieve the debt burden on Poland, including the utilization of debt-for-equity swaps;

(5) actions under title VI of this chapter to assist Poland in creating a modern telephone and telecommunications system;

(6) actions under title VII of this chapter to energize and facilitate a national movement of voluntary assistance to Poland;

(7) actions under title VII of this chapter to stimulate in various fields the establishment of "sister institutions" in the United States and Eastern Europe;

(8) actions under title VIII of this chapter to ensure effective coordination of SEED activities within the executive branch;

(9) actions under title VIII of this chapter to ensure, through the use of existing Executive branch agencies, the effective operation of a SEED information system to facilitate initiatives in private enterprise and voluntary assistance in Eastern Europe.

(10) actions under title IX of this chapter to assist the development of private enterprise in Poland and Hungary through utilization of United States tariff policy, the programs of the Overseas Private Investment Corporation and the Export-Import Bank, and bilateral investment treaties;

(11) actions under title X of this chapter, and other authorities, to implement and expand effective programs of scientific, educational, and cultural exchange in Eastern Europe;

(12) actions under title XI of this chapter to assist Poland with medical supplies and training;

(13) actions under title XII of this chapter to assist Poland and Hungary through programs designed to support the development of democratic institutions;

(14) actions under title XIII of this chapter to assist Hungary and Poland through programs of the Peace Corps;

(15) actions under title XIV of this chapter, and other authorities, to provide United States food assistance to Poland as part of an effective and balanced multilateral effort; and

(16) actions under title XV of this chapter, and other authorities, to participate in the

effective use of multilateral diplomacy, through agencies including the Paris Club, the World Bank, and the International Monetary Fund, and through the establishment of special groups of economic experts and senior statesmen, to assist Poland's efforts to dismantle that country's system of state controls and subsidies and to institutionalize political democracy and economic pluralism.

Amend the title so as to read "A bill to promote political democracy and economic pluralism in Poland and Hungary by assisting those nations during a critical period of transition and abetting the development in those nations of private business sectors, labor market reforms, and democratic institutions; to establish, through these steps, the framework for a composite program of support for East European Democracy; and for other purposes.".

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, in recent weeks there has been much talk about the urgency of American assistance to both Poland and Hungary, and for very good reason.

Developments of enormous consequences are sweeping through these countries, and there is certainly no doubt on the part of the majority in the Senate Foreign Relations Committee and I believe in this body that the United States has, as a matter of duty and of self-interest, a critical role to play in helping encourage further positive change there and, I might add, elsewhere in Eastern Europe.

Consequently, without further ado, I think we should get about the business by acting upon the necessary legislation to do just that, and that is why we are here at this moment.

This is one subject that should not lend itself to a partisan division, to a significant partisan fight. Some in this body have complained that those among us who favor early and substantial assistance to Poland and Hungary are doing it merely to attempt to embarrass the President of the United States. I am here to say that is simply incorrect. What we are trying to do is give shape to an American foreign policy that reflects a sound and reasoned ordering of priorities.

I will not dwell on facile comparisons of relative value matching say, the $500 million Stealth bomber against the sound and timely program to aid Poland and Hungary. Suffice it to say that history will judge the U.S. Government and the U.S. Senate as profoundedly foolish if we do not see the need at this critical juncture for prompt, effective, and substantial action, as a paramount priority for American foreign policy and defense policy.

Here is the legislative situation as I see it, Mr. President: The administration originally requested a rather modest aid program for both Poland and Hungary but has now increased its request partly in response to the evolution of developments in both those countries and perhaps partly as a consequence of the response to what I would call the encouragement of the U.S. Congress.

The administration's current plan, as I tally it, envisions spending $463 million, some immediately, and some over a 3-year period. Meanwhile, the Foreign Relations Committee, of which the Presiding Officer was a member, approved a 3-year assistance program of nearly $1.2 billion in a bill that contained an endorsement of another $340 million in spending from existing authorities. This total package envisioned aid slightly in excess of $1.5 billion, roughly three times as much as the President's proposal.

Last week, Mr. President, the House passed H.R. 3402, which, by my tally, envisioned the total program of $640 million, approximately $175 million above the administration's request.

Finally, in the period since the Foreign Relations Committee acted, the committee, with the particularly dedicated leadership on the part of Senator SIMON, has worked to modify its bill so that it now brings it into the domain of a practical compromise, given the severe budgetary restrictions under which we are operating. This committee modification, which I call the Simon modification, emphasizes and represents a substantial effort at compromise while still laying the legislative foundation for a solid total aid program over the next 3 years of $799 million.

This is about $160 million higher than the House-approved program and $336 million higher than the program envisioned by the administration.

I should point out for the benefit of those who will be examining it that the administration's funding plans are almost perfectly reproduced in a bill introduced this week by the distinguished minority leader of the U.S. Senate, Senator DOLE.

In other words, the administration's up-to-date plans are still reflected in the Dole bill. While the accompanying letter of the Dole bill touts the bill as more prudent than other approaches, I think it is important to emphasize that the only real issue here is in the level of commitment. The Foreign Relations Committee bill, both originally and as amended by the Simon substitute, envisages using exactly the same mechanism of aid and applying exactly the same standards as does the administration's bill.

Thus, it is highly misleading to suggest that the committee approach reflects any throwing away or throwing money at the problem.

The same mechanism, the same mechanism as is proposed by the White House is kept intact in the committee bill and the Simon substitute.

Mr. President, I ask unanimous consent that a table showing these comparisons, that is comparisons among the various bills that I have described a moment ago, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AID TO POLAND AND HUNGARY—OVER 3 YEARS

[In millions of dollars]

	Administration	H.R. 3402	S. 1582 (as reported)	S. 1582 (as modified)	Dole
Food aid	[1] 100	[1] 125	[1] 125	[1] 125	[1] 112.5
Currency stabilization	200	200	[1] 200	200	200.0
Enterprise funds	125	200	1,125	400	125.0
Bond authority					[3] 100.0
Labor	[1] 5	5	[1] 5	5	[1] 5.0
Technical training		10		5	
Peace Corps	2	6	3	3	
Trade credit insurance		[2] 200		[2] 200	
Trade/development program		6			
Educational and cultural exchange		12			6.0
Scholarships		10			
Scientific/technical exchange	3	8	3	8	
Democratic institutions	4	12	4	4	12.0
Environment:					
EPA	[1] 10	10	[1] 10	[1] 10	[1] 20
DOE	[1] 10	30	[1] 10	[1] 10	
Medical aid	4	6	4	4	4.0
Telephone system			25	25	
Total	338	515	1,164	654	347.0
	[1] 125	[1] 125	[1] 350	[1] 145	[1] 137.5
	463	640	1,514	799	484.5
		[2] 200		[2] 200	[3] 100.0

[1] Spending from existing authorities.
[2] Insurance, which is unlikely to require spending.
[3] Possible bond-issuing by the Enterprise funds.

Mr. BIDEN. Mr. President, as to the nonbudgetary features of the legislation, Senator SIMON and others of us have worked to combine the best text from the original Foreign Relations Committee bill and from the House-approved bill, H.R. 3402. In this regard, one nonbudgetary feature, I would emphasize, is that S. 1582 contains, important language that serves to conceptualize an overall program and codify the plan of action for the U.S. policy in Eastern Europe as we enter a period of historic change. This comprehensive approach, pragmatically entitled "Support For East European Democracy," bears the appropriate acronym, SEED.

In establishing the SEED program, this legislation does what I believe good legislation should do, which is to outline objectives and broad strategies while allowing the executive branch to develop and implement specific plans of action and then to render, within a reasonable period, a comprehensive report on what it has and will be doing.

From time to time we hear the charge of micromanagement. This legislation should be exempt from that complaint. While it does authorize greater sums than the administration requested—the sums that will be subject to the requirements of subsequent appropriations, I might add—it has allowed broad latitude for executive planning and management as the situation in Eastern Europe evolves.

Mr. HELMS. Mr. President, the spirit of the American people is with the Polish people as they struggle forward in their effort to reestablish freedom in Poland and to root out the tragic elements of Communist domination that have caused such pain and hardship in that country since the close of World War II.

It would be nice to conclude that the battle for control of Poland had been settled in the last election, and in the formation of the Solidarity government. But it is not quite that simple.

There are 39 million people in Poland, but less than 2 million members of the United Workers Party, that is to say, the Communist Party of Poland. My judgment is that we must assist the 37 million non-Communist Poles restore freedom in their ancient land. By freedom, I include freedom from communism and rule by Soviet puppet regimes.

We must remember that President Jaruzelski, the military dictator of Poland stills holds the strongest position in the country. Although not a member of the current parliamentary government, he occupies a special position that was created for him by the new article 32 of the Polish Constitution.

Under Article 32 of the Polish Constitution, Jaruzelski—as President—may dismiss the Parliament, dismiss the Government, and countermand any and all laws. He has already established a special secretariat within his Presidential office which works directly with local Communist Party leadership to implement President Jaruzelski's directives—thereby shortcircuiting the parliamentary system.

Mr. President, we should not take a naive glance at Poland and imprudently respond to the thin veneer of parliamentary government—which can be dismissed at any time by Jaruzelski. No amount of funding can help an economy organized on Communist principles, that is to say, with ideological or political officials making decisions that ought to be made by the marketplace. The problem of investing in Poland is constrained by the reality that exists. We may not like that, but that is the way it is.

According to the official Polish Yearbook statistics, in 1982, there were 56,700 socialized industrial enterprises in Poland and 177,300 nonsocialized industrial enterprises. However, the real thrust of the economy does not appear until you see that the socialized enterprises employ 4,776,000 persons and the nonsocialized enterprises employ only 63,000. These figures were for 1982 but they are the latest the Library of Congress has.

What is clear is that the overwhelming majority of Poles are employed by a socialist system that is bankrupt, unproductive, and inefficient.

Poland is controlled by the Communist Party either directly through the state apparatus or through Communist party directors, managers, and commissars.

Solidarity does not have the power to dismiss the Communist bureaucracy that runs industry. Solidarity has no effective way to eliminate the Communist managers and commisars who are working under strict Communist Party discipline.

Massive infusions of credit to Poland will not prevent the disintegration of the economy. Massive infusions of U.S. taxpayers dollars will not prevent the impending collapse of the Polish economy. Massive infusions of United States taxpayers dollars will not remove the tens of thousands of Soviet troops which are stationed in Poland. Massive infusions of taxpayers will not disband the secret police.

Mr. President, we must be prudent in our assistance to the Polish people in order that we do not build up the very system which has taken away their freedom for four decades. What is required are prudent measures that will serve the Polish people in their battle to throw off the Communist establishment that has destroyed Polish society. If we allow U.S. funds to be used to entrench the Communist establishment, the Polish people will never forgive us. So if we want to help the Polish people, we should use our leverage to get them free.

AMENDMENT NO. 1054

Mr. BIDEN. Mr. President, on behalf of the Foreign Relations Committee, I send to the desk a modification of the committee amendment in the nature of a substitute.

The PRESIDING OFFICER. Is the Senator being authorized by the committee to modify the committee amendment?

Mr. BIDEN. Yes.

The PRESIDING OFFICER. The committee amendment is so modified.

(The text of amendment No. 1054 is printed in today's RECORD under "Amendments Submitted.")

Mr. BIDEN. Mr. President, I further ask that the following Senators be added as cosponsors of the substitute amendment: Senators SIMON, MIKULSKI, HUMPHREY, LIEBERMAN, LEVIN, ROBB, LAUTENBERG, and RIEGLE.

The PRESIDENT OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I yield the floor to my friend from Illinois.

Mr. SIMON. Mr. President, first I want to thank my colleague from Delaware for his helpfulness and his leadership.

I have been on the floor much of the day. We have heard a great deal about the earthquake in California and rightfully so. But let me tell you, a political earthquake like nothing we have seen since World War II is taking place in Eastern Europe and we have to respond. This is an attempt at a modest response. And the evidence of that earthquake and the importance of our responding is everywhere.

The latest Reader's Digest just came out with the story, "Poland, Hanging By a Thread." Just the other day in a Washington Post editorial, "Poland Needs Help."

Sunday's David Broder column has these words, quoting Jeffrey Sachs, a Harvard economist who is helping the new Polish Government:

If we can get through this crisis," Sachs said, "inflation will end in the next six months, and Poland can have a market economy by the end of 1990.

David Broder continues:

What is that example worth to the West in human and geopolitical terms? Far more than the few billion dollars in loan guarantees and assistance the Treasury, White House and our Western allies are procrastinating about providing. Jacek Merkel and his friends cannot be allowed to fail for lack of help.

And in Hungary, yesterday's Chicago Tribune headline, "Hungary Declares Independence."

Things are happening and we have to respond. This is an attempt, a bipartisan attempt, to respond to this.

Let me just say for any colleagues who may be watching this on the tube or who are here, or their staffs are watching: We have changed the funding. When it was originally introduced the funding was going to come out of the defense funds. We now leave that up to the Appropriations Committee to determine where the funding comes from.

Now, what does this bill specifically do? Let me just go into some of the details. First, we urge rescheduling of the debt. Poland owes about $39 billion. If you reschedule the debt so the interest is added to principal for the next few years, and if we can provide leadership on that, then I think you will see other Western countries doing the same and I hope the Soviet Union doing the same.

Second, it recommends food aid, $125 million, primarily feed grains.

Third, we encourage other nations to join in this effort. And I think other nations, Western nations, will be joining in that effort; at least one has made a specific commitment already and others will be doing so shortly.

Next, it provides for $200 million for a stabilization fund for the economy immediately. That is, I would add, in every proposal I have seen for Poland.

Next, it provides an enterprise fund. This is an idea suggested originally by the President. We are simply expanding on that idea for Poland and Hungary. The initial year would be $50 million. And then $350 million in total in the next 2 years.

Eighty percent of this funding would have to be in the form of loans and it

would be a revolving fund so the money would be paid back. This would be money that would be available for investment either by Poles or Americans or a joint operation to encourage the private sector to develop. We have never had this experience before. All of the sudden, you have a completely state-owned or virtually completely state-owned manufacturing and business enterprise system, 95 percent state-owned, and they want to shift over to the free enterprise system. It is a very difficult thing. They need some help in doing it. This provides that assistance.

The majority of board members in these two separate funds—one for Poland, one for Hungary—would be Americans appointed by the President. We have annual audits. We have GAO supervision. We have I think carefully constructed this thing.

Next, we have technical assistance by the Labor Department. Let me just add I am pleased that Senator DOLE and his wife, the Secretary of Labor, Elizabeth Dole, were over in Poland. They understand the importance of this. We provide in a 3-year period $4 million of technical assistance by the Department of Labor for Poland, $1 million for Hungary.

Next is technical training for business agriculture, $5 million for 3 years. You do not just all of the sudden develop people who know how to run businesses. You cannot move from state-owned and Government-operated businesses to the private sector just overnight without some assistance. We also include the Peace Corps, $3 million for the Peace Corps in both countries. We include Poland and Hungary in the OPIC, the Oversees Private Investment Corporation protection. It does not guarantee profits for any corporation, but it says we guarantee against government takeover. The Export-Import Bank would be permitted to operate in these two countries.

We encourage exchanges by universities and other higher education institutions.

And, in the area of science and technology for Poland, we provide $1.5 million in 1990, $2 million in 1991, and $2 million in 1992.

In Hungary we authorize $500,000 in 1990, $1 million in 1991, and $1 million in 1992.

These last, science and technology, were part of an agreement that the United States entered into with these countries in 1987; $4 million in total for the two countries to assist democratic institutions.

Senator DOMENICI has spoken about this very eloquently on the floor. Imagine a Senate and a House of all freshmen; no experience, no background, no traditions to go by. They need some assistance as they develop those institutions.

Environmental assistance is provided, $10 million in 3 years. We have a steel plant, for example, at Nowa Huta, near Krakow, in Poland, that is causing major problems for that area. The average citizen of the Krakow area lives 4 years less than the other citizens of Poland, and there is no question that that is because of environmental problems.

We have $4 million for 3 years for medical supplies and equipment. When I was in Poland, I visited two hospitals while I was there. They need some basics. One doctor said you can be the best physician in the world but if all of a sudden you do not have any insulin, what do you do for a diabetic patient? Just the basic things are needed over there.

One thing we provide here is $25 million for a phone system. Obviously, for $25 million you cannot provide a phone system for all of Poland. But you can provide a kind of overlay for the business section.

When I was in Gdansk, I went to the hotel operator and said I wanted to place a call to the United States. She said it would take 30 hours to place the call. If you are going to be an investor, you cannot wait for 30 hours to place a call if you are going to be in business over there. And, I might add, of all the proposals I made, the response from the people in Poland to this one has been just overwhelming.

The need is so very, very clear here. And part of this is stipulated it should be on a competitive basis to a U.S. company. So there will be an immediate reward for the United States, in addition to Poland.

Part of the bill is also, just as a matter of protection here, if I may read this one section:

> In the event the President certifies to the Congress that the present course of democratization in Poland or Hungary since the date of enactment of this act is significantly reversed, all authority to provide assistance shall terminate.

It is a protection. The importance of this can hardly be magnified. If Poland succeeds, if Hungary succeeds, it is going to change all of Eastern Europe. It will permit us to do things with our resources, particularly with the large defense expenditure that we have to pay. And it will not happen tonight, but it will permit us to use some of that to reduce the deficit and take care of the health care and other needs of this country.

Senator SAM NUNN gave a speech in London during a recent recess during which he spoke of the importance and significance of what is happening in Eastern Europe. We have been waiting for the day—I, frankly, did not think I would see it—when we would have a free election in an Eastern European country, moving away from Communist dictatorship.

Now we have it, and we have to make sure we seize that opportunity.

The effort under this bill is primarily to encourage the private sector. It is not just handing people aid. It is to encourage private-sector development, and here let me pay tribute to Barbara Johnson, a American citizen of Polish background, who is buying the Gdansk Shipyard. She is from Princeton, NJ.

She is taking a great risk. There is no question about it. But there are other less risky investments that can be made and should be made. And let me just say, if I were an American industrialist interested in either the Eastern European or Western Europe market, I would certainly be looking at what is taking place in Poland and seriously be looking at an investment there.

We have a low pay rate. We have a highly educated work force. We have a work force that is a hard-working work force.

What we are asking for in this modification is modest. It amounts to $7.83 per capita for Poland. Let me, by way of contrast, point out our per capita assistance to Belize is $71.43, compared to $7.83; Honduras, $42.97; El Salvador, $71.66; Jamaica, $33.10; the Seychelles, $49.61. We are asking for $7.83. Even in direct aid, we are well below several other countries.

I am not against the aid to these other countries, but I just want to stress the importance of Poland.

Italy is the first Western country to make a solid commitment. That solid commitment is for $500 million. Italy is providing $8.64 per capita to the people in Poland, in their aid. We are asking only $7.83.

I hope we move on this. We have just as much interest in freedom as Italy does. Italy is not a richer nation than the United States of America. We have every reason for doing it.

There are some risks, there is no question about it. It is a shaky situation. When I met with Lech Walesa, he said we have 6 months to determine whether we are going to be able to move ahead, and, he said, pointing his finger at me:

> To a great extent, you in the United States are going to make the determination whether or not we are going to succeed.

Let me add, the Government of Poland has taken a step. I ask unanimous consent to have printed in the RECORD the economic plan that the Government of Poland has adopted.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Council of Ministers]

OUTLINE—ECONOMIC PROGRAM FOR POLAND

I. THE STARTING POINT

1. The Polish economy requires fundamental system changes. Their objective is to set up a market system akin to the system found in the industrially developed coun-

tries. This will have to be achieved quickly, through radical actions, so that the transitional stage, so hard on the society, be cut as short as possible. Selection of this way is also dictated by the bad experience with surface-only reforms of the eighties. The causes behind the acute floundering of the reform are imbedded deeply in the economic system applied so far. Without their fundamental change we will continue to sink in an atmosphere of general incapacity and a permanent crisis situation. No expedient measures can change this situation.

2. We are embarking on the reshaping effort under extremely adverse conditions. The economy is in even more tenous disequilibrium, on the verge of financial collapse of the state. The ecological disaster, the housing crisis, the foreign debt burden, emigration to earn money by the most active part of the young generation—these have been swelling for years.

In recent months additional crisis symptoms surfaced or mounted in force: rapid price climb linked with wage explosion, the flight from the zloty and "dollarization" of the economy, the growing deficit of the state budget and also a drop in output.

3. Only a courageous breakthrough to match the historic challenge faced by Poland will allow the country to extricate itself from a civilisational collapse, to build an order corresponding with social expectations. The Government is decided to effect a system breakthrough, and the ensuing program expressed this determination.

II. GENERAL PREMISES UNDERLYING THE PROGRAM

1. The Government economic program calls for two types of actions. First, stabilising the economy, and in particular bringing inflation in hand, and second—transforming the economic system.

2. The program is to be implemented in two phases. In the first stage which will last no longer than to the beginnings of 1990, actions will be taken to slow down the rate of price increases, check the flight away from the zloty and curb the budget deficit (see III, points 1-9).

This phase also encompasses designing the proposed changes in the economic system and taking appropriate organizational and legislative action.

3. The phase of the substantive changes will begin not later than in early 1990.

It will imply the application of a set of radical anti-inflation measures which, carried out into effect consistently, will allow for decisively reducing the growth rate of prices and to recapture market balance (see II, point 12). The earlier designed, fundamental system changes will also be carried out during this phase.

4. One should note that effective implementation of the economic stabilisation program is the necessary prerequisite for success in pursuing the system changes, as such changes cannot be carried out effectively to the accompainment of rampant inflation. Furthermore, only with implementation of the described stabilisation measures, combined with system changes, can one expect real foreign assistance.

III. STABILISING THE ECONOMY

1. The aim of phase one in the stabilisation, to last not longer than to the turn of 1989/1990, is not to allow for accelerating the rate of inflation and, in as much as possible, to slowing it down, to reduce the budget deficit to below its October 1989 level and to arrest the flight away from the zloty.

2. In order not to permit acceleration of the inflation rate, the following main steps will be taken in this phase:

Counteracting monopolistic practices in the area of prices and dismantling monopolistic structures; the Government has already drafted a revision of the co-operative law; a draft of a new anti-monopoly law is also ready;

An active policy of keeping reserve commodity stocks to allow for market intervention;

Closing down production in selected plants marked by extremely high use of raw materials and energy per unit of output;

Modification of the wage indexation rules and bolstering the fiscal mechanism of counteracting the inflationary climb of wages;

Introduction of attractive forms of long-term saving; this has to be accompanied, for financial balance, by higher interest on credits;

Checking the excessive investment demand;

Starting to divest certain elements of state assets;

A stricter financial, including credit, policy vis-a-vis enterprises.

3. The guiding objective behind the revision of the wage indexation law presented to the Sejm [parliament] is not to allow for a yet more rapid climb of prices and total destabilisation of the consumer goods market.

The main change comes down to accepting the rule of so-called compensatory indexation. This means that the indexed increase in wages will accrue only to those enterprises which have not already paid out wage hikes compensating the defined percentage of price changes. This will be accompanied by introducing and exacting the appropriate tax sanctions with respect to those enterprises which will step beyond the indexation structure.

4. Still in 1989 certain material components of state assets will be sold, and above all: housing; land and building lots; small plants, service and trade outlets, shares of the State Treasury in existing companies; productive assets from liquidated enterprises and suspended central investment projects, along with privatisation of selected enterprises.

There will be absolute observance of the rule of public auction form of sale.

5. Certain of the actions outlined under point 2 (such as checking the investment demand, modification of indexation rules, sale of some state assets) will be at the same time instrumental to reducing the 1989 central budget deficit.

This aim will be further served by other measures, and in particular:

Reducing the subsidy to coal;

Reducing the number of subsidized foodstuffs and inputs for farm production;

Markedly cutting down the subsidy for social and political organizations; maintained will be only the subsidies connected with the tasks entrusted by the state, such as the subsidies for the Polish Red Cross, the Polish Committee for Social Assistance, and for Caritas;

* * * the central budget payments to local budgets for compensating the effects of increases in the cost of investment equipment and services;

Reducing the value, in real terms, of spending on public security and national defense;

Applying stricter fiscal discipline towards the enterprises late in meeting their liabilities to the budget; the practice of granting reliefs to specific enterprises will also be done away with;

Raising the officially-set prices and, correspondingly, the turnover tax on certain consumer goods.

6. The Government will ask for a change of the system, spelled out in the law establishing the Coal Community, of subsidizing coal, tying the amount of subsidy for coal to the transaction (international) price. The subsidy for the last two months of 1989 will be set in such a way that it will be just slightly higher than what would be needed to just compensate the mining industry for the losses resulting from the fact that the officially-set price for coal is lower than the average cost of mining the coal.

Even taking such measures, the subsidies to coal would climb rapidly. Therefore it becomes necessary to considerably increase the price of coal and, linked with that, the price of other fuels, electric energy and heating. This has to be accompanied by measures to counteract the overreaction of prices and wages to the increases in the price of fuel and energy. This is mainly the question of revising the system of allowances-in-kind for employees and preventing an increase of price levels in farm produce procurement above that warranted by the share of fuel in total costs of farm production. The excessive passing on of the effects of fuel and energy price hikes onto the prices of manufactured products will be counteracted by stricter fiscal and credit policy.

7. The Government will ask the National Bank of Poland to apply a stricter credit policy with respect to enterprises. In the fourth quarter of 1989 the interest rate on credits and deposits should be raised significantly, so as to reduce the credit demand and offer greater inducement to save.

The Government will also apply to the NBP to take concerted action in order to eliminate the payments bottlenecks in settlements between enterprises and to speed up banking operations.

8. There will be a gradual shrinking of the scope of applying official prices and other administrative methods of price control. In particular, official prices will be lifted on bread, milk and skim cheese.

9. There will be a marked raising of the official exchange rate to the dollar, thanks to which the spread between this rate and the open market rate will be reduced. This in turn will facilitate the switch to a uniform rate in the next phase (see IV point 9).

10. At the turn of 1989 and 1990, after completion of the necessary preparations and legislative efforts, the move will be made to the basic phase of stabilising the economy. It has the following interlinked objectives: stifling inflation and balancing the state budget, eliminating the shortages in the economy, bolstering the zloty through, among other things, its convertibility.

11. After attaining these objectives, a set of measures, concentrated in time, will be applied, and notably:

Radical reduction in the scope of tax reliefs, including elimination of tax reliefs for exports. Export incentives will be provided through the right level uniform exchange rate;

Elimination of all or practically all subsidies to enterprise investment projects;

Reduction (in real terms) of budget spending on national defense, public security and state administration—a comprehensive reform of the system of settlements under

the title of coal subsidies, and subsequently total elimination of these subsidies;

Adoption of the rule that budget deficit cannot be financed with interest-free NBP credit. The deficit can be covered only through treasury bills or credit taken outside the NBP on commercial terms. The Government shall also agree with the NBP strict observance of the rule of adjusting the volume of money supply to changes in the nominal value of the National Product, and a stricter money-credit policy through introduction of a positive, real interest rate. There will also be reductions in the scope of preferential credits and lower spread between the prime and the preferential interest rate. Credit subsidies will be offered directly to the credit takers;

Elimination, with the exception of cases dictated by anti-monopoly legislation, of administrative price controls;

Application of the sort of instruments to check the excessive rise in nominal wages and other incomes, which will allow for breaking the inflationary spiral.

12. Initially, following introduction of these measures, there cannot but follow a temporary rapid jump in prices and drop in the statistical index of real wages. Some enterprises may also be forced to declare bankruptcy. It is also not possible to preclude a temporary decline in output in certain areas and unemployment caused by letting go the employees from the liquidated plants. Following that prices and incomes will begin to stabilize. Reduction of the inflow of money to the economy will become the barrier to price increases. Consistent implementation of the outlined anti-inflation program will cause that by the end of next year inflation will be reduced to a level not higher than 3%-5% monthly. The market balance situation will also improve markedly. The first production effects set in motion by the demonopolisation and privatisation processes, should also appear.

13. To alleviate the negative effects of anti-inflation efforts, a social unbrella system will be applied (see V).

IV. SYSTEM CHANGES

1. Parallel with efforts to counteract inflation and stabilise the economy, the Government shall take steps leading to breakthrough changes of the economic system. This will consist of introducing the market economy institutions which have proven themselves in developed Western countries.

Instrumental to that will be:

Ownership changes, making the ownership structure similar to that in the industrially developed countries;

Greater autonomy of state enterprises;

Application of a full market mechanism, particularly the freedom of price-setting, elimination of rationing and mandatory intermediation;

Establishment of an environment for domestic competition by an anti-monopoly policy and complete liberty to set up new enterprises;

Opening the economy to the world by introduction of convertibility of the zloty, which will allow for increasing domestic competition and permit rational specialisation;

Restructuring state financing, including a thorough reform of the taxation system;

Further reform of the banking system and the rules of money-credit policy;

Launching a capital market;

Establishment of a labor market.

Preparations for introduction of the outlined changes are being started already this year. The fundamental changes are to take place in the years 1990 and 1991.

2. Under a Resolution of the Council of Ministers, the office of the Plenipotentiary for ownership transformations has been created. He shall work out proposals for the required legislative changes and will set up the organizational framework for the process of ownership transformations and will supervise their progress.

Ownership transformations shall take place openly, according to rules accepted by Parliament. The basic rule will be the public sale open to all citizens and also the institutions devoted to efficiency of economic operations. Solutions will be applied to facilitate the purchase of stock by employees. In case of privatisation of large enterprises, certain preferences will be offered for citizens purchasing small number of shares. There will also be a place for other efficient forms of ownership.

Ownership transformations will be accompanied by demonopolisation of the market and of production; there will be a possibility for change-over to autonomous operation by the organizational entities which are part of an enterprise and render specific services on its behalf (such as maintenance, transportation, carpentry services). This will be conductive to better use of the production capacities and formation of a market of production services.

3. Set out of state assets will be communal assets to be administered by local self-government agencies. Towns and communes will be empowered to conduct economic activities, also to float community bonds. Communal unions could be formed for the conduct of economic activity going beyond the bounds of a single commune or town.

4. The Government shall apply for lifting the applicable constraints on the size of a private farm and shall review the other acts pertaining to trade in land, with a view to eliminating all the unnecessary barriers. At the same time facilities will be applied, with the aim of encouraging investors (private and state) to increase outlays on the development of rural services and small scale food processing. Creation of new jobs in the agricultural services sector and in the industry linked to agriculture would help in changing the agrarian structure and in making better use of the potential of agriculture.

The Government shall also make efforts to secure World Bank credits for use in restructuring agriculture and the industry linked with agriculture.

5. The Government will apply for elimination of constraints on the freedom of: disposition of buildings and residential premises, building housing for sale, setting rents and charges according to market rules. Shielding measures will be applied for those social groups whose living standard will decline particularly severely in effect of the increase in rents and charges.

6. Draft bills to amend the laws on state enterprises and on self-management of state enterprises along with the following-up regulations shall be presented still in 1989. The changes will entail increasing the scope of autonomy of state enterprises. Modifications will be made in the rules governing the financial management of state enterprises and other economic entities in which the State Treasury holds shares.

There will be stricter supervision over the operation of the new stock companies and their impact on operation of the mother companies, particularly on shaping the payroll. Such efforts, however, will not mechanically curb the development of marketing go-betweens, but only prevent the application of dishonest competition.

7. The so-called price ceilings shall be eliminated at the latest in the beginning of 1990. Price controls shall be limited to exacting the provisions on counteracting monopolistic practices. All forms of rationing and mandatory intermediation in trading production inputs will be eliminated. Arbitrary retaining shall be considered as violation of the anti-monopoly regulations.

Treatment of economic entities on equal rights, and particularly a ban on awarding individual tax reliefs and extentions and on offering supply guarantees will be instrumental in consolidating market relations.

8. In order to set up an environment conducive to competing in the economy, an active anti-monopoly policy will be pursued. The anti-monopoly agency will be set apart from the structure of the Ministry of Finance and will be given more extensive powers.

9. A uniform exchange rate and domestic convertibility of the zloty will be introduced in the beginning of 1990.

Initially the current constraints on transfer of currency abroad will continue in effect. Conditions for full external convertibility of the zloty will emerge only after stabilization of the economy, and particularly after bringing the balance of payment into equilibrium.

More extensive opportunities for foreign capital investment in Poland will also be instrumental to increasing competition. Foreign investors will be able to purchase stock in Polish enterprises and also set up wholly foreign-owned enterprises.

Transfers of currency representing the profit share will be governed by currency law and bilateral agreements on protection of investment.

10. A fundamental reform of the system of state finances will be launched. Its main elements will be:

Amendment of the Budget Act;

Reform of the taxation system;

Integration of the system of extra-budgetary funds with the state budget;

Adaptation of the rules governing the financial management of enterprises to market economy conditions;

Sprucing up the currency market.

11. The Government shall propose sweeping changes in the current budget law and other regulations governing budget management. These changes should come fully into force starting with 1991. Following are some of the proposed changes:

The draft budget submitted to Parliament will specify only the revenues and expenditures of the central budget and the support subsidies for local budgets;

Adoption of the rule that a budget deficit cannot be financed with an interest-free NBP credit;

Rules for supporting local budgets out of the cental budget shall be adjusted to the new model of local self-government; objective rules are to be applied in determining the amount of subsidy due to a specific local budget;

Tax collection rules will be modified so that an increase in income and turnover, representing the base for tax assessment, should result in immediate increase in the payments effected to the budget; more severe sanctions will be applied for late payment of liabilities to the budget.

A full reformed tax system should apply, starting in 1991. The main elements of that system will be:

An income tax on corporate entities, uniform for all economic entities;

A value added tax (VAT), replacing the present turnover tax;

A personal income tax, the basis for assessing which should be practically all incomes earned by specific individuals.

13. The taxation system applicable in 1990 will represent a transitional stage from the present to the target model. In this connection, the following assumptions are proposed:

The number of turnover tax rates is to be further and considerably reduced;

The scale of equalization tax will be designed in such a way that it will encompass a much broader group of taxpayer than has been the case so far, with moderate progression; the scope of equalization tax reliefs and exemptions will be radically curtailed;

The farm tax rates will be made more realistic.

14. The Government shall review the extra-budgetary funds. Support of these funds counted against enterprise costs will be eliminated (with the exception of the Social Insurance Fund and the Culture Development Fund).

After analysis, proposals will be formulated concerning liquidation of some of the funds, particularly those for which a direct budget subsidy is the sole source of revenue.

Irrespective of the budget drawn up in the format spelled out by the present Budget Act, starting with 1990 the Government shall publish data pertaining to the financial system of the state in a format corresponding to IMF standards.

Jointly with the Central Statistical Office, the Government shall strive to streamline the system of operational financial and economic statistics, to secure for all economic entities possibly quick and full information concerning the financial situation.

15. Working in conjunction with the National Bank of Poland, the Government will strive to evolve market relations within the banking system, and particularly in the credit system. The government considers as the most important moves in this respect:

Introduction of a system of settlements preventing debtors from profiting on the difference between the interest rate on credits and the rate of inflation; this can be attained either by applying the rule of reassessing the value of liabilities (periodically raising the amount of liabilities corresponding to the rate of inflation) or by setting an interest rate which would be positive in real terms (higher than the rate of inflation); work on the conception of the rate has already been launched by a joint team of the Council of Ministers Office, the Ministry of Finance and the National Bank of Poland;

Reduction of the scope of so-called preferential credits;

Simplification of the procedure for establishing new banks, including banks with foreign capital shares;

Application of more efficient banking techniques;

Introduction of the institution of promissory notes for reciprocal crediting of enterprises.

The Government shall strive to secure funds for advancing the technical aspects of banking (communications, computers, training) in the forms of credits extended by the World Bank and credits (or other financial facilities) placed at our disposal by the Governments of Western states.

16. A securities exchange shall be established at the latest by the close of 1990.

Getting a capital market on stream will be conducive to reallocation of productive resources to high return areas. Instrumental in this respect will be the change of the legislation governing bankruptcies. The amended rules should secure:

Awarding each creditor whose claims have not been satisfied on time, the right to apply bankruptcy proceedings;

Shortening and streamlining the procedure connected with declaring bankruptcy.

17. Preparations will be undertaken still this year to shape a normal labor market. This will require updating the Labor Code, to make it easier for plant managements to adjust the structure and number of employees to real needs as well as to draft and apply the required social program (see V point 4).

V. SOCIAL POLICY IN THE LIGHT OF THE ALTERING ECONOMIC SYSTEM

1. Institutional changes in the economy and the process of economic stabilisation will be matched by due alterations in social policy. On the one hand, new needs arise from the social consequences of short-term stabilisation measures, and on the other hand, the new conditions of market economy will call for different mechanisms of securing the generally accepted social policy objectives.

2. In order to somewhat alleviate the hardships stemming from stabilisation measures, a program of shielding the economically weakest group will be applied.

The shielding efforts wil consist of:

Safeguarding the level of food consumption by introducing coupons for staple food (bread, milk) and extending the network of free (cheap) eateries;

Assisting in the form of partially reimbursing the higher cost of house rent and heating;

Maintaining the ratio between the average pension and the average at the 1988 level (assuming a temporary reduction of their spread) and quarterly revalorization ex ante, starting in 1980;

Reorganizing the system of social assistance by making use of and coordinating both state and social funds and personnel and stimulating non-budgetary sources of financing.

3. Introduction of a labor market will require legislative regulations securing a social shield for dismissed employees, the funds for training and retraining and also creating new jobs.

This system should encompass all the jobless, with special safeguards extended to those released from folding up and liquidating enterprises and those losing job due to staff reductions, in other words, those subject to so-called group dismissals. The expenses connected with operation of the unemployment security system will be covered from the Labor Fund, supported by payments from every enterprise. The system of labor exchanges will be reorganized by extending its functions (registration, administering welfare, etc.); an institution of employee insurance (including formation of new, specialized insurance agencies) will be developed.

4. Parallel with institutional changes, there will be a restructuring of social policy mechanisms on the basis of effectiveness criteria. The crux of these changes will be the curtailment of state welfare functions, particularly elimination of irrationality in spending funds and application of the rule of the dominant position of income from work in the family budgets of working people.

5. In the area of social services (health care, education, culture, etc.) the rule of effectiveness will imply, among other things rationalizing their financing while securing a basic standard for all citizens and creating a market of above standard level services, as well as binding the system of health care with the insurance system through the Health Insurance Fund.

As the economy stabilises, opportunities will be created for supporting the social programs with funds of economic entities, by applying the right tax policy instruments. Mechanisms will be created to foster decentralisation of social policy and using it for its purposes the funds of local self-governments, social associations and individual donations.

6. As of 1991, the system of social insurance will be comprehensively reformed. It calls for, among other things, safeguarding the value of benefits in real terms, linking their value more closely with the time and amount of paid insurance dues, along with gradual dispensing with the practice of awarding benefits according to income criteria.

VI. FOREIGN SUPPORT OF THE PROGRAM FOR STABILISATION AND SYSTEM CHANGES

1. An indispensable condition for carrying through the stabilisation program and the proper package of system changes is the close collaboration with our creditors and their understanding for our economic situation, as well as the cooperation and assistance of international financial institutions and governments. The breadth and structural nature of the present crisis cause that the meeting of our international obligations is not possible without fundamental changes domestically. Efforts to secure domestic stabilisation of the economy must be awarded a clear priority, also in the interest of the creditors. The Government shall strive for early conclusion of arrangements with the IMF and the World Bank and for agreeing with the various groups of creditors on terms of debt servicing in keeping with our payment capacities.

2. There will be parallel undertakings to facilitate the inflow of foreign capital to Poland and offer more stable terms for investment, more advantageous than at present, yet without infringing our interests. The rules governing the foreign trade operations of joint venture companies should be the same as those applicable to purely domestic entities. Advantageous terms for profit transfers and the tax policy should be the main elements determining the attractiveness of investing in Poland.

3. Implementation of the outlined stabilisation program and progress in further system changes will require in particular:

Obtaining from the industrially developed countries possibly early credits in the amount of some US $500 million to cover the necessary imports of industrial and farm production inputs and intervention imports of socially significant items (medicines and such) in the fourth quarter of 1989;

Agreeing with the International Monetary Fund, as soon as possible, of an adjustment program linked with a parallel US $700 million stand-by credit facility;

Getting on stream still this year of the World Bank credits for financing the already agreed projects;

Procuring so-called SAL credits, offered by the World Bank as structural change support;

Securing financial assistance from the International Finance Corporation to support the privatisation effort;

Procuring guarantes from the industrially developed countries for a US $1 billion stabilisation loan for attaining a uniform exchange rate and stabilishing the domestic curency (domestic convertibility of the zloty;

Obtaining better terms for refinancing the payments obligations to the Paris Club. We shall apply for full rescheduling of the principal and interest payments in 1989-1992. Irrespective of efforts to secure debt relief we shall strive to make the payments to be made after 1992 contingent on the inflow of new capital and the foreign trade results. Conclusion of an agreement with the Paris Club should make it possible to again benefit from government credit guarantees and also to offer facilities and guarantees for foreign investors intending to engage their funds in Poland;

Reducing the nominal value of the debt owed to commercial banks (the Brady Plan), reducing the cost of servicing this debt and obtaining access to new bank credits. In pursuing this objective we count on active support from the IMF. There are also plans to convert a portion of the guaranteed debt to equity in enterprises and in environmental projects.

The Polish Government shall also start negotiations to reduce the burden of servicing the debt owed to the Soviet Union.

4. A vital element bolstering implementation of the economic program will be supplied by closer economic integration with the European Community. In future negotiations with the Community, Poland will strive to lower the barriers in trade and in financing streams from the EEC. Poland assigns a priority to liberalising imports, financial flows, direct foreign investment, and in exchange intends to secure better access for Polish exports to the EEC.

Poland will also actively strive for fundamental restructuring of the cooperation mechanisms applicable with the CMEA countries.

It is above all the mechanism governing commodity trade between member states which is due for a change. The current centralized system of trade should be increasingly replaced with a much broader scope of independent decisionmaking on the enterprise level, applying economic criteria.

A greater role should be assigned to free currency settlements based on current international prices, with a possibility for applying, in the transitional stage, the compensation of balances in convertible currencies.

During this stage, trade protocols would continue to apply, though with the commodity lists reduced to just strategic products.

The proposed solutions could be applied on a wider scale starting in 1991, since until that time the five year agreements adopted within the CMEA framework will continue in force.

VII. THE SOCIO-POLITICAL MODALITIES DETERMINING SUCCESS OF THIS PROGRAM

1. Implementation of the program for thorough restructuring of the economic system in a situation of a deep crisis cannot yield palpable improvement in the coming few months. In such a short time frame it will not be possible to stifle inflation or improve the supply situation.

Yet failure to decide on this program would mean hyperinflation, erosion of the zloty as a currency, finally absolute disorganization of the country's economic life. The only possible consequence of such a situation would be the introduction of a war-type economy, with full rationing and ration coupons.

Given the declining output, such actions could not secure covering the most elementary social needs. By the same token, the prospects for making another turn in the direction of a market economy would be put off to the distant future, and even then it would have to be tried in much more adverse conditions than at present.

2. The outlined program, which at its start spells sacrifices and hardships for the entire society, does open prospects for gradual improvement; after one year we may expect a lowering of the rate of price growth, better supply of the consumer market, more rational work of enterprises and an increase of pay in real terms, for honest, well done work.

Furthermore, a determined effort to carry out the program of economic reconstruction will make it possible to tap considerable financial support from abroad; it is an indispensable element to assure the success of this program.

The switch to a market economy will also allow for undertaking more effective struggle with the ecological threat. First of all, thanks to the change in the economic structure and its modernization, devastation of the environment will be reduced. Second, a state which no longer has to directly administer the economy can pursue a more effective ecological policy.

3. The radical economic program of the Government and the matching program of social action will have a chance for success only if endorsed by the majority of the society.

The fundamental character of the changes proposed in the program, in essence representing a change of the economic constitution, calls for all-out support from all the meaningful political and social forces, from the trade unions, and from both houses of Parliament. Effective implementation of the program would be spurred by major streamling of the legislative procedure, due to the need for haste in introducing the various solutions, and for maintaining their sequence and subject coverage.

The document spells out the leading assumptions and directions of the Government economic policy. It expands and touches in substance the points covered in the expose presented to the Cajm by Prime Minister Tadeusz Mazowianki on September 12, 1989, and in the parliamentary presentation made by Deputy Prime Minister Leszek Balcerowicz on September 29, 1989.

The presented assumptions are to form the foundations for both programming the day-to-day actions of the Government and initiating the required analytical and legislative efforts to prepare and apply the fundamental system changes. Some of these efforts have been initiated already, others will be taken up in the nearest future by the pertinent Government agencies.

This program has been accepted by the Council of Ministers at its meeting on October 9, 1989.

The program for stabilization and system changes has chances for success only when the radical and consistent efforts will be supported through actions of the international financial organizations and governments of countries declaring assistance. For that reason the Government intends to present this program to the International Monetary Fund. This will pave the way to the last phase of talks, which as their effect should lead to agreeing on adjustment program. We count on early conclusion of the work on this adjustment program and its acceptance by the IMF Board. Such an agreement will not only allow for credits from the IMF and the World Bank, but will also considerably bolster Poland's position in negotiations with other creditors and potential investors, those considering of investing their capital in Poland.

WARSAW, *October 9, 1989.*

Mr. SIMON. Their plan is a courageous plan. They recognize they have very severe problems. They are asking for sacrifice on the part of their people.

We are, it seems to me, obligated to make at least a minimal response. And that is really all this is. There are risks, no question. But, my friends, let us gamble on freedom. That is what we are asked to do and we ought to be doing it.

From time to time, we have a bill up for this, that, or the other thing, and a Senator believes in it and thinks it is important. But I do believe, in terms of the cause of freedom, there are few bills we are going to face in this body that are as important as standing by the people of Poland and the people of Hungary in this situation.

The situation in Hungary is, frankly, not quite as desperate as it is in Poland. In Poland it is clear that we are in a very dicey situation. We are not sure whether freedom can be preserved there. Let us stand up; let us gamble for freedom. And it is a modest gamble, indeed, I am asking for.

I ask unanimous consent, Mr. President, that Senator METZENBAUM and Senator BOSCHWITZ be added as cosponsors.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

The Chair recognizes the Senator from Maryland [Mr. SARBANES].

Mr. SARBANES. Mr. President, I rise in very strong support of the substitute which has been sent to the desk. I commend the very able Senator from Illinois for his leadership in this matter, and my distinguished colleague from Delaware, who is managing this bill.

I see also on the floor the Senator from California and my colleague from Maryland, both of whom have been intimately involved with this legislation.

Mr. President, I want to commend the Senator from Illinois for offering a comprehensive, very carefully developed package of assistance.

This is not simply a one-shot proposition in a certain area. In fact, what the Senator has done is very carefully develop a balanced program that really covers a number of items across the board. I think it is particularly important to emphasize that. In other words, we are talking here about a private enterprise fund where you establish non-Government entities to promote the development of the private

sector in this country. We are talking about economic stabilization assistance to enable these countries to stabilize their economies to promote long-term economic growth. There are small amounts of money, but for very important initiatives: Labor market transition to help implement labor market reforms to facilitate adjustments during the period of economic transition; there is a strong directive to the administration to mobilize multilateral assistance; in other words, internationally to address the question of the Paris club and the rescheduling of Poland's debt. There is trade and investment assistance, which is very important as we face this challenge of moving an economy from communism toward an open economy. This is a new challenge. All the books have been written by Marxists wanting to go in the other direction. The Poles are now trying to write a different text, and it behooves us to be of assistance to them in that effort.

The Senator has provided for trade credit insurance. We address the generalized system of preferences so that Poland is eligible for such preferences, which would give it an opportunity to enhance its exports. We provide for OPIC insurance, the Overseas Private Investment Corporation, which would, again, help to secure the ability of those seeking to make investments in Poland and Hungary. There is an important provision for food aid and a telecommunications grant.

I was honored to be a part of a delegation headed by the distinguished senior Senator from California that met with Lech Walesa. One of the things that came up was this question of infrastructure, including telecommunications. Of course, he at one point remarked, "If we had infrastructure"—because everyone was pointing to the lack of such infrastructure, including telecommunications, there as a major impediment to attracting investment to come into the country. He said, "If we had that infrastructure, including a telecommunications network, we really would not need the investment. The reason we need the investment is simply because we do not have that structure."

This is a way to break through that dilemma, by providing an important grant to modernize their telephone and telecommunications infrastructure.

There are environmental initiatives which follow up, in a sense, on the commitment made by the President when he visited Poland and Hungary before the summit conference that was held in Paris in July. There is support for a Peace Corps program. There is support for democratic institutions and for medical assistance.

As you can see, what we have here is a program that touches lots of areas, in some instances with a substantial amount of money and others with only a small amount of money but enough, in effect, to plant the seed and to get these programs moving and developed.

I agree with the Senator when he said this is a time, in effect, to take a risk. I think it is very clear that what we have to do in Poland is we really have to bet our hopes and not our fears. There are a lot of fears and a lot of apprehensions. Will this work? What are its chances? But there is a real possibility that it will work. It is so important to us and to the rest of the world that I think we have to bet our hopes, not our fears, in this instance to demonstrate to those who have succeeded in Eastern Europe in moving these countries to an open, pluralistic society, to a free market, to democratic institutions, to demonstrate to them that we are on their side.

Mr. President, just 7 years ago the young Solidarity movement was brutally suppressed, but government suppression failed. The recent elections in that country dealt a stunning blow to the Communist Party. Now, for the first time since 1948, a non-Communist government holds office in Poland.

But this is only the beginning of Poland's challenge. Building democratic institutions is not easy. Poland faces economic hardship. Food is in short supply. Factories, housing, schools, hospitals, the environment have all been ravaged by 40 years of Communist mismanagement.

The people of Poland, I think, are wise and courageous. They have no illusions about the task ahead. They are determined to succeed, but they will need a helping hand. They will need food and economic help, technical assistance and advisers as they seek to build democratic political institutions and a vigorous, free economy. That is what the measure now pending before the Senate provides for. That is what the Foreign Relations Committee brought forward. That is what the substitute sent to the desk by my able colleague from Delaware calls for. We must stand behind this effort. I believe the changes in Poland, which have already transpired, and those which seem to be in the offing in Hungary, to be the transforming events of the postwar period. It is in the interest of people everywhere; it is in our interest here in the United States; it is in the interests of people around the world that the people of Poland and Hungary succeed in their struggle for a free society.

Mr. President, I very strongly back this proposal that is now before the Senate.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from California [Mr. CRANSTON].

Mr. CRANSTON. Mr. President, I want to join those who have already spoken in favor of this legislation, and I want to stress its very great importance. It is called the Support For East European Democracy Act. It is advanced in response to extraordinary opportunities that lie now before us and for the cause of peace and democracy in Eastern Europe. For two generations Americans have remained committed to the cause of democracy in Eastern Europe. We spent billions and billions of dollars, perhaps more than a trillion, to deter potential Communist aggression and to improve the prospect for democracy there and throughout Europe and the world.

Now, with the extraordinary events in Eastern Europe, we have the opportunity to materially advance American security interests peacefully in that part of the world. We can do so through very modest expenditures of humanitarian aid of an economic nature.

Why is it important to aid the people of Poland and Hungary in their struggle to establish democracy and free markets? It is important because, if these experiments fail and if a reversion to Communist dictatorship ensues, or some other form of dictatorship, possibly a red or a black military depotism of some sort, it would be a tragedy of epic proportions, a terrible setback for American interests, a terrible setback for democracy and for freedom.

How can we afford such a program when there are unmet domestic needs in the United States? I believe this program is essential to our national security interests. It is part of our national defense effort. It is certainly more cost effective than much of the $300 billion we now spend on military personnel and weapons. If democratic experiments in Poland and Hungary succeed, and military force levels and Warsaw Pact and NATO forces can be safely reduced, great savings, incredibly large savings, will ultimately ensue for the American taxpayer.

Mr. President, last August I was privileged to lead a delegation of Senators in meetings with the leadership of Poland and Hungary. Senator PAUL SARBANES, who was a member of that delegation, alluded to our trip a few moments ago. At that time, we pledged to do our best to advance a comprehensive program of aid to support democracy in those countries. Within days of the Senate's reconvening after our return, I introduced the Support for East European Democracy Act, the measure before us today. PAUL SIMON, PAUL SARBANES, BOB GRAHAM, and CHUCK ROBB all joined in this initiative. In addition to Senator SARBANES, Senator GRAHAM was in our delegation in central Europe this summer. Senator SIMON was also there

on a separate trip. I was delighted when the Senate Foreign Relations Committee voted to adopt our proposal in the form of a Simon measure in a 10-to-1 vote on September 20. The Senate committee took this action, and the full House moved last week, on a generous aid program for Eastern Europe.

The President's rhetoric has been in support of democracy but the reality of his program is that he does not come up with adequate funding for his even very modest proposals. Therefore, we had to act in Congress. We did. Hence the measure now before us.

There is an extraordinary tide of freedom sweeping across Eastern Europe, but because of the failure of leadership in the White House we are not doing all we should, all we must, all we can to capitalize on this opportunity.

In the face of the remarkable developments of just the past 72 hours, we hear more business as usual from the White House. What we need is leadership. We need boldness. We need imagination. We need a determined commitment to advance sound programs realistically funded.

The Simon-Mitchell substitute before the Senate today meets these challenges. It is a prudent measure which can clearly advance the national security interests of the United States. I urge my colleagues to support it and to reject any efforts to weaken this measure or water it down with less generous "compromise" proposals.

I join Senator SIMON also in paying tribute to Barbara Johnson for the magnificent effort she is making as a Polish-American to advance democracy in Poland and in central Europe by her investment in the Gdansk Shipyard, which is the place where Lech Walesa emerged as the startlingly effective political leader for democracy in that country. Barbara Johnson has done what I hope other Americans can do with lesser resources and lesser dimensions, invest in democracy in Poland with private enterprise funds. The public funds that we are talking about today are a public investment for the same purpose. I trust we will proceed to make that investment with no compromises and no lesser song, no cutback.

Mr. SARBANES. Mr. President, will the Senator yield.

Mr. CRANSTON. Of course.

Mr. SARBANES. Mr. President, I think it is important to put on the record the very strong leadership which the Senator from California has exercised on this issue. I was privileged to be a part of the delegation in Eastern Europe which he led during the August recess. I can remember his reaction as we examined the situation and his own commitment to return and to do what could be done, as I think was the way he put it, to provide American support and assistance with these transforming events.

He measured up to that commitment in every respect and has taken a very strong and active hand in this matter, in conjunction with the able Senator from Illinois, to move this matter forward. I simply want to thank him for that strong leadership.

Mr. CRANSTON. I thank my friend from Maryland. I am very glad I yielded to him for that purpose. I did not know what he was going to say.

He was a very valuable member of our delegation. He, too, has a deep commitment to democracy. He developed a deep commitment to democracy and to the effort we can make in Poland and in Hungary and elsewhere, and I applaud him for that. He has led the way in relationship to democracy in Greece, and in many important respects in Cyprus, too, but he is for democracy all over the world and is a very effective leader in that cause.

Ms. MIKULSKI. Mr. President, I also rise in support of this bill. I thank the leadership for the way they have pursued the fashioning of this legislation—Senator MITCHELL, Senator CRANSTON, Senator INOUYE—and the significant work they have put into it. Senator PELL has been a leader in moving this bill through the committee, and of course Senator SIMON has been an especially assertive advocate. In addition, I'd like to mention the Senator from North Carolina, the ranking minority member on foreign relations, Senator HELMS. We thank him because we know he is such a fierce advocate against communism, and when we have this opportunity to move toward democracy he will be here with us.

Mr. President, this is a special day for me. It has a great deal of meaning to me because I am the first woman of Polish extraction ever elected to the Congress of the United States. My great-grandmother came here at the turn of the century when women did not have the right to vote. So here, today, I have the opportunity in one of the greatest democratic fora in the world to move legislation that is in our national interest and that recognizes that part of our strategic concern is to make Western Europe safe and secure. We have done that through NATO, but we have always been threatened by the Warsaw Pact nations. Today through what is happening in Poland and Hungary and throughout Eastern Europe we see the dismantling of the Warsaw Pact, and now through economic means we can assist in that activity.

Mr. President, it means a lot to me to be able to help the country of my own heritage. Though I am going to focus some of my remarks on Poland I want to say a special word about Hungary in this legislation.

It is in our national interest to support Hungary, and, I must say, the other day when I saw on television the dramatic steps that Hungary took in declaring itself a republic on the 30th anniversary of the invasion of Hungary I was moved to tears.

Mr. President, I was a college girl in 1956. I remember when the Soviet troops moved into Hungary. I remember how the people of Hungary fought back with practically no military might, and the way they fought back was to put soap on the streets so that the Soviet tanks would slip and slide. They took down the street names so the Soviet tanks would have a harder time finding their targets, and finally, though they knew they had lost the battle, they would not give up their resistance. On that October day at an appointed hour in 1956 all Hungarians who could stand went to their windows and doorways and sang their national anthem, and I remember that.

And then, 30 years later, we saw the people of Hungary take to the streets once more to sing their beloved national anthem, and to pluck the red star out of their flag.

Mr. President, that indeed was a moment for the whole world to pause and give thanks for what has happened. And now we see also what is happening in Poland, and through this legislation, whether it is in Hungary or Poland, we will be able to take provable, demonstrable steps to help them help themselves reverse 40 years of unnatural Communist rule.

Both the Poles and the Hungarians are fiercely anti-Communist in that they have had Communist rule imposed upon them from outside.

We must remember history. These countries have been buffetted on the east and west by Russia and Germany. At the end of World War II along came two agreements called Potsdam and Yalta, which led to the demise of countries that are now called captive nations. Hungary and Poland, Latvia, Estonia, Lithuania, the Ukraine, to name just a few. Through Potsdam and Yalta, night fell on Eastern Europe, and the Iron Curtain was drawn shut.

It meant the end of democracy. It meant the end of the free market system. The Communist leaders tried to squelch the religious fervor of the people, but the people refused to yield, and now 40 years later they have been able to seize the opportunity to move toward democracy.

We need to be there to help them during this transitional period, to essentially provide phase 2 of the Marshall plan, joining with other Western democracies to do it. The stakes are high. All of Eastern Europe is watching Poland and Hungary. Particular attention is on Poland right now.

It is really Mr. Gorbachev's test case of whether perestroika and glasnost can work. Mr. Gorbachev has nothing to offer Poland, but we do. We of the United States and West Germany and all of Western Europe need to do it. Our help is desperately needed.

Current democratic gains are fragile. Solidarity has gone from being a movement, a suppressed movement, into now being a government. You cannot go from being an underground movement to a government without enormous help to back you up.

In a few short weeks Lech Walesa will be coming to the United States. We want to be sure that after the cheers are over and the confetti is swept up, we will be able to provide long-lasting help for Poland to help itself.

Poland needs to believe that the West is behind her. She needs to feel that every day and in every way we want her to make it. She needs to hear not only from George Bush and Maggie Thatcher and Mitterrand, but all the Western democracies and the parliaments that back them that we are with them in their efforts. Poland wants to see and needs to see what we can do. That is why this bill is so important. This bill provides financial help to help Poland and Hungary during this transitional time. This aid is the first step in helping them formulate a transitional economy from communism to free enterprise.

I call it phase two of the Marshall plan because the United States in helping Poland will probably provide one-fourth of the aid. The European Community will provide the remaining three-fourths, and I think that is right. At the end of World War II we bankrolled Western Europe to get it on its feet. Those that received should now give and join with us in a partnership to help those countries who were excluded from the original Marshall plan because of Potsdam and Yalta.

This bill focuses on the right priorities. It stresses agriculture. Agriculture is absolutely critical because we must meet the day-to-day needs of the Polish people and be able to increase their food supply and improve distribution. It has a whole new component related to technical training in order to be sure that the Poles learn how to make this transitional economy work—job training, economic analysis, and also new telecommunications.

This afternoon I had lunch with Liddy Dole, over at the Department of Labor, working on the assumption that this bill will pass. We discussed how we can provide specific, immediate, and realizable assistance to Poland.

Poland's economy is frozen in the 1920's. It has to go from being a 1920 economy to being a 21st century economy while inventing a democracy.

Well, you know they need all the help they can get. So the priorities in this bill fashioned by the Committee on Foreign Relations I think meet those needs. It is going to help move Poland to an economy of the 21st century. It will strengthen democratic institutions. And most of all it will meet a commitment to Poland that we should have made at the end of World War II.

Pulaski and Kosciuszko came to this country to help us get our democracy, and I am glad that names like SIMON, SARBANES, HELMS, and DOLE will help Poland get theirs.

I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois.

Mr. SIMON. Mr. President, I ask unanimous consent to add Senator KERRY of Massachusetts as a cosponsor of the substitute amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. I want to commend my colleagues who have spoken here, and Senator SARBANES who was over in Poland, for his leadership when he says we send our hopes and not our fears. I cannot think of a better summary of what we are all about here right now. Senator CRANSTON has been a vigorous leader in this whole field. I also want to thank Senator MITCHELL. I did not in my earlier remarks. He has been very helpful. Senator MIKULSKI has an ethnic tie to Poland, and to hear about her grandmother coming over here, or great-grandmother, I forget which—great-grandmother——

Ms. MIKULSKI. A really great grandmother.

Mr. SIMON. But to now have a chance to help provide freedom for that country. I know Senator MURKOWSKI is not on the floor right now. I know he is very much interested. Let me add that among the cosponsors on this are Senator BOSCHWITZ and Senator HUMPHREY, both of whom have taken a real interest in this.

Mr. SARBANES. Mr. President, will the Senator yield? I would like to be added as a cosponsor of the substitute. We just brought the bill out of the committee.

Second, I want to commend my very able colleague from Maryland. I know how much this moment means to her, which I think she just expressed very eloquently on the floor of the Senate. She has been a very strong leader over a sustained period of time to sort of fan the embers of freedom and democracy that have existed in Poland.

She has never taken her eye off of the fact that those embers were there and with the proper support and encouragement they could someday become a reality. That is what is happening right now. I want to commend her not only for her support of this particular initiative which course has been very strong from the outset, but more importantly for her very strong commitment over a long period of time perceiving what the possibilities were in Poland and the opportunities that existed for that nation to move to freedom and liberty, and for the Poles to realize their true selves. She has been a fighter in that cause from the very beginning.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont [Mr. LEAHY].

Mr. LEAHY. Mr. President, am I correct that we are not acting under a time agreement?

The PRESIDING OFFICER. That is correct. There is no time agreement.

Mr. LEAHY. I thank the distinguished Presiding Officer, and I along with a number of Senators who have spoken on this issue already commend my good friend and distinguished colleague from Illinois [Mr. SIMON] for bringing this issue before us.

I know that Senator SIMON has been very active in talking with the Senate Foreign Operations Subcommittee. He has been urging us, working with us, more than just urging—he has worked very carefully with us in trying to find money, money that we put in the Foreign Operations bill for Poland. He has been an invaluable aid to us. Senator MIKULSKI of course is a recent member of the Foreign Operations Subcommittee and has also been extraordinarily helpful in the time she has spent in that regard.

I wanted to compliment both of them for the work they have done. I do not mean to be in any way slighting all of the Senators who have worked hard on this, but I am well aware of their concerns. In fact, I might say the Senator from Maryland [Ms. MIKULSKI] was absolutely essential in helping us to defeat an amendment on the Foreign Operations bill that would have stripped the possibility of sending any kind of aid to Poland.

It is an important subject, Mr. President, because as we all know there is a strong wind blowing across Eastern Europe today. From Moscow to Warsaw, from Budapest to East Berlin, the winds of democracy are blowing stronger than they have at any time in my lifetime. Not since the two World Wars has there been so much upheaval and so much change on the Continent. In fact, again I look back as one who was born during the Second World War, grew up watching democracy snuffed out in so much of Eastern Europe. How thrilling it is to see so many of the candles relit. The change over the past couple of years has been extraordinary.

Who would have thought, for example, 10 years ago even a democratically elected Supreme Soviet would publicly

debate the sins of the government and do it live on national television? Who would have thought that 30 years after Russian tanks crushed a popular uprising for freedom in Hungary that the nation would formally declare itself a democracy? No tanks appeared this time.

Who would have thought that East Germany, after building the Berlin Wall, would have allowed tens of thousands of its citizens to flee to the West while a hundred thousand march in the streets demanding more freedom, all of this seen worldwide on people's television sets? Who would have thought that Solidarity, banned just a few years ago, would now be part of the Polish Government and that one of the members of that banned Solidarity would lead the nation. Despite the changes, the democratic movements in Eastern Europe are still tenuous.

We learned, also during this year, in China, how quickly an infant democratic drive can be stamped out.

We in the United States, leaders of the democratic world, have a choice: We can stand in Solidarity with these new democracies in Eastern Europe, or we can passively watch from the sidelines, doing little except issuing press releases and politely applauding each new victory by press people and stand by and say "We are proud of you. Go on with it. There is nothing we can do for you, but is it not wonderful what is happening?"

I think as an American, Mr. President, I feel very strongly that history demands we make the first choice, that we be an inspiration and a friend for these new democracies. History demands action. Everything in our history shuns inaction.

Unfortunately, the administration has chosen the second option—a passive course of action.

When asked for dramatic new steps, the administration takes a wait-and-see attitude, and when asked for a solid commitment of aid, instead they offer a few words of encouragement. Rhetoric fills the place of action. Watching from the sidelines is not enough. Watching from the sidelines does not make a strategy and certainly does not make a strategy worthy of our great Nation.

This refusal to act comes from the successor of an administration so committed to opposing the "evil empire" that it won public support for the largest arms buildup in the history of the world.

Why is this administration so willing to commit billions of dollars for war but only small change for peace?

Democrats and Republicans understand the need for strong defense. Of course, many Democrats in Congress supported President Reagan's request for more arms. But we Democrats also understand the need to support democracy. We are going to have to act if the administration continues to do little or nothing.

Over 1 month ago I do not think anybody questioned the need in Poland, and nobody now questions the immediacy of the need or the fact that with winter coming on. If we are going to help the Solidarity government, we must do it now.

Over 1 month ago I proposed $2.25 billion in emergency food assistance and loan forgiveness program for Poland, something that could have been done within days.

My proposal included a six-point plan: Forgive Poland's over $2 billion in agricultural debt. Donate $150 million in food. Authorize $100 million to a special foreign assistance. Extend the preferential tariff treatment. Supply technical assistance through the Department of Agriculture and the Extension Service. Leverage an additional $10 million in donations from the private sector. Every one of these things could be done almost immediately, but the administration has not responded.

Today, I call on the President of the United States to take the initiative to step up to bat, and I ask that he submit a comprehensive strategy on Poland.

The American people and the new democracies of the world want to know how the President plans to lead.

I challenge the President to submit a proposal to deal with Poland's most pressing problem—its huge debt.

The issue of official debt is, of course, fortunately, not limited to Poland. In fact, it is a time bomb waiting to go off around the world. Again, the problem is not going to be solved by rhetoric, and the administration finally has to start sometime and someplace.

The Poland debt to Commodity Credit Corporation is over $2 million. I urge the President to bring together officials from Treasury, State, AID, USDA, and others, to develop a policy that addresses the reality of the Polish debt.

The debt is a ticking time bomb facing Poland, but agriculture may be its salvation.

The United States has the resources, talent, the moral obligation to provide assistance. The irony is, Mr. President, we do not need new laws. We need some will, direction, and leadership from the administration. The President already has the authority to help the Poles during the upcoming winter months.

The need is obvious. The solutions are simple. All it takes is somebody willing to make a decision.

The President can use title II of the Agriculture Act of 1954 (Public Law 48), Food and Peace, 4016, the Agriculture Act of 1949, the Food for Progress Act of 1985, and provide needed agricultural commodities to Poland. These are laws that are on the books, from 1954, from 1949, from 1985.

The President also already has the authority to send teams of experts to Poland to provide training to AID and the Office of International Cooperation and Development at the Department of Agriculture. He also has the power to send United States farmers to Poland under the Farmer-to-Farmer Program.

The laws are on the books. I am willing to bet if they would finally make a decision down on the other end of Pennsylvania Avenue on this, we would have farmers all over this country who would be willing to go to Poland under the Farmer-to-Farmer Program.

If we take action, the people of the Solidarity can say to the people of Poland, "See, democracy works, because the greatest democracy in the world heard our call, they saw what we did, they opened up their arms, the generousness of America came forth; along with the generousness came the help, the technical assistance, so we can do it on our own, so we can survive on our own."

We have all these authorities in agriculture. We have additional authorities under the Foreign Assistance Act, and I have yet to see a comprehensive program for Poland. The administration has not even decided if it should have an AID mission in Poland or place an aid management team in Poland. Mr. President, it would be a tragedy and loss to world peace if the United States were to allow the historic opening in Poland and Eastern Europe to close.

Time runs out. In many ways we have probably the most historic opportunity available to this country that we have had since the time President Truman introduced the Marshall plan. Can you imagine what kind of a world we would have today if President Truman had sat around and thought about it, talked about it, and thought about it, and talked about it and never told General Marshall, then Secretary Marshall, "make this work?"

Can we, the greatest democracy in the world, ever forgive ourselves if we let Poland go through the coming winter without taking these steps to show that we are in solidarity with Solidarity?

How is Hungary going to react if they see after this tremendous change that we do not react to Poland? What are they going to say? What about the stirrings of democracy in East Germany, in Czechoslovakia if they think the world's greatest democracy will not respond?

Mr. President, I rarely speak this long on the Senate floor but I do it to implore the President of the United

States to make a decision, take some action.

Not everything I have suggested will work perfectly. Not everything we might do might work perfectly. But I will tell you what will not work, and that is inaction, and the people who yearn for democracy in Eastern Europe will never be able to forgive us if we do not act.

Can we really look at ourselves and can we look at generations of Americans to come and say this democracy did not stand up when we see such an unbelievable movement toward democracy?

I was born in 1940, Mr. President. I never really thought that I would see in my lifetime this move toward democracy in Eastern Europe. But, as a U.S. Senator, I could never forgive myself if I did not make it possible to urge us to move toward it; do everything possible. I will urge again, as I did weeks ago when we laid out these programs, I would urge the President: just decide.

Let us remember it is the end of October. Winter comes in Poland. Much of what we could have done weeks ago, when it was first suggested, can only be done with difficulty if at all now. How much more of an opportunity will we lose? Congress is ready to act. It is time for the administration to do the same.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas [Mr. BUMPERS].

Mr. BUMPERS. Mr. President, I will be very brief. I am not a member of the Foreign Relations Committee, but I have a deep and abiding interest in this legislation.

I am also filled with gratitude for my good friend and distinguished colleague from Illinois, PAUL SIMON, who was laboring in the vineyard and foresaw what was going to happen in Poland before I think any other Member of this body did, and started talking about trying to help that country deal with its economic problems so they can deal with their political problems.

He came back from Poland and told this body that all Poland needed was just some assurance from the United States that if they actually sought true democracy, if they actually sought free enterprise and reliance upon the individual, they would handle the rest of it.

So when this whole thing began to become unraveled in Poland and Solidarity was obviously going to be the big winner, the President says we can come up with $100 million. There was not a person in the United States Congress, least of all the Senator from Illinois, who believed that was anything more than a token appreciation for the courage, the bravery, and the determination of the people of Poland to break the yoke that had kept them in virtual economic servitude since the end of World War II, to say nothing of what that great country endured during World War II.

So I want first of all to pay tribute to my very good friend for his vision, for his statesmanship, for his determination, for literally forcing the White House to change its position, because it, too, has come around not only to accepting the proposal of the Senator from Illinois, but even accepting the source of funding.

So we should all express our sincere gratitude to someone who was originally laboring virtually alone, but he was also accompanied in that by the distinguished Senator from Maryland who I heard make one of the finest speeches here one evening I ever heard. It was on a totally unrelated subject. She was talking about being the first woman of Polish descent ever elected to Congress.

What is more interesting about that is she is so extremely proud of her ethnic heritage and so understanding of her roots and where she came from and those very poignant graphic descriptions of her grandmother and the kind of rearing she got from her grandmother and her parents. I know for Senator MIKULSKI this has been one of the highlights of her political career, to see this bill being offered here and which will almost certainly pass this body unanimously.

So here are two people, Mr. President, for whom all Americans, all Americans express our sincere thanks and gratitude.

Having said that, I want to also say that my quarrel—and I said this on the floor many times and I say it again—my quarrel has not been with President Reagan as a man, as an archconservative, as a Republican. Those things in the scheme of things are not all that relevant. And my quarrel with President Bush is for none of those reasons. My quarrel was, is, and will continue to be the priorities of this Nation. During my entire adult life, since my discharge from the Marine Corps at the end of World War II, the foreign policy of this Nation has sought to unravel the Warsaw Pact, to unravel the economic unity that was forced on Eastern European nations such as Poland and Hungary and Czechoslovakia and East Germany. And the whole thing, as thoughtful scholars in this country had always assured us, the whole thing is now falling of its own weight.

I submit, Mr. President, that it is not happening because of anything that we have done except to be an example and let the rest of the world, particularly Eastern Europe and even the Soviet Union, see that when you rely on incentive and when you allow people to work for goals in which they are personally rewarded, rather than the state being rewarded, your country can grow and prosper. We have always known that our system was infinitely superior, but it was only by our example that they saw it. And the more of them that saw it, the more of them wanted it.

So when the time now comes that our foreign policy, which played only a marginal role in creating this unraveling of Eastern Europe, when the time comes that we can be a player and participate in it and encourage it and aid it, we find ourselves in a very difficult position.

The difficult position is that this country is broke. Whatever we do for Poland, we will have to write a hot check to accomplish. And everybody here, considering the hot checks we have been writing for the last 9 years, will be more than happy to do it because it is high on the priority list.

The same thing is true of Hungary. The same thing is going to be shortly true of East Germany. In my opinion, it will not be long after that that the same thing may be true in Czechoslovakia.

And now we have a leader in the Soviet Union who says for God's sake, go. They cannot afford to prop up their economies any more. They cannot even afford to prop up their own economy. Yet despite 40 years of anti-Soviet bashing, of bashing the kinds of economies and lack of freedoms and violations of human rights, the time now comes when that is all coming apart, and we are scarcely in a position to take advantage of it.

I do not enjoy saying we are going to write hot checks to carry out the terms of this bill. But I can tell you one thing. It will be just about the best money we ever spent.

Mr. President, I will just close by saying, if this country were faced with either defending itself—if we were faced with either defending ourselves or solving these tremendous complex domestic problems such as being last in education among all of the developed nations of the world; having the highest infant mortality rate of any developed nation on Earth; having a drug culture second to none on Earth; having perhaps 10 times more homicides among teenagers than all of Western Europe and Japan combined this year, 1989; having more murders in the Nation's Capital of Washington, DC, by far than all the murders in Western Europe and Japan combined—you consider the magnitude of those problems and if it were just either/or defending ourselves against some aggressor or dealing with those, we would probably opt to defend ourselves.

But that is not the option. We can do both if we shift our priorities.

Mr. President, I want to tell you that all the B-1 bombers and the B-2

bombers that we can build will not save this Nation until we start addressing those problems, which hold a much greater threat for the future of this Nation than do Soviet missiles right now.

So, back to where I came from, I am so grateful for people like PAUL SIMON, who foresaw what was going to happen and started championing this bill long ago when most of us thought it was right for the heart, but did not think we could do it from an economic standpoint or from a budgetary standpoint.

And I think we ought to be preparing—we did not have a policy in Panama and I am not sure we have a policy for Poland and Hungary even yet, even thought the Soviets seem more than happy to let them go.

So I would urge the President to start thinking in terms of what is he going to send to us? What are we going to do for Hungary now? Solidarity is having tough troubles. You know, the Poles are not that much unlike we are. We want instant gratification.

When the people of Poland were able to vote and so resoundly defeat the Communists, Solidarity sort of took over. They are not in total control yet, but they literally have taken over the Government and now the life of the average Pole is not much better. They are already grumbling in discontent. The question is whether Solidarity has the intellect and the experience to deal with their problems.

Well, there is one place where we can really help Solidarity. We can help the Polish people and, by doing so, not only provide a little dignity and peace of mind to those people, but more further toward a lasting peace.

I was listening to a tape on the way in this morning of quotes from Presidents. Harry Truman said: "I would rather leave a lasting peace than to be President of the United States."

Mr. President, I would rather make a contribution to a lasting peace than to be anything. It is my opinion that this bill moves us in that direction.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). Who seeks recognition?

Mr. SIMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, this has been, I think, a very splendid discussion this afternoon on this particular issue of Poland, which very quickly has risen to the surface, not only in this country, but certainly as a message to freedom loving people throughout the world.

Without question, many individuals could be singled out today on both sides of the aisle on this debate, but especially Senators LEAHY and CRANSTON and SARBANES, Senator MIKULSKI, Senator BIDEN, all have played a very critical role in the shaping of the legislation that brings this matter to the Senate today.

This has not been, Mr. President, in many respects, an easy thing to do. Some of those who early on decided this was a battle worth fighting, this was a cause worth pursuing, were severely criticized in the early parts of this endeavor. One of those individuals, who had the vision and wisdom to see what the potential of democracy for Poland, Solidarity for Poland, might mean for the free world and all the world, was the distinguished Senator from Illinois, my friend and the friend of this body, Senator PAUL SIMON.

I was sitting, Mr. President, a few months ago, in the lunchroom. There was one of those rare, but great, eloquent discussions about the issues of the day. Suddenly our thoughts turned to Poland. I will never forget what Senator SIMON said.

To be honest, Mr. President, in the State of Arkansas there are issues, I think, that occupy more headlines and more ink and more space and more television coverage than the issue of our relationship and the relationship of the rest of the world with Poland. But the Senator from Illinois stopped me in my tracks. He asked a question of those of us in the lunchroom. This was, basically, the question: What will we say to ourselves and to our children 10 or 20 years from today if we let Solidarity fail?

To me, Mr. President, that was a penetrating question and a question by a man with a tremendous vision. PAUL SIMON did not commission a poll. He did not join a parade already in progress when he drafted this particular piece of legislation.

To his credit, the President of the United States has taken large portions of the original Simon bill and made them a part, now, of what I understand is a carefully crafted, bipartisan supported measure for this particular cause that is on the Senate floor today.

He was, as I have stated, criticized in the early days for his very bold and forthright, visionary efforts. But I think PAUL SIMON has pointed America and the free world in a bolder direction to meet Poland's rendezvous with its destiny for democracy.

The Senator from Illinois [Mr. SIMON] has not on one, but on three occasions visited Poland. I can only assume in those visits, his visits were a beacon of hope. They meant strength, they meant support to the people of Poland who were seeking freedom and who wanted to preserve it and have Solidarity prosper.

This afternoon, Mr. President, I rise in support of my colleague from Illinois [Mr. SIMON], who in my mind has been, especially on the legislation we debate this afternoon, a part of truly making the world better.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, parliamentary inquiry. What is the pending business?

The PRESIDING OFFICER. The pending matter is the committee substitute to S. 1582.

Mr. DODD. Thank you, Mr. President.

Mr. President, first of all I want to commend the chairman of the Foreign Relations Committee, Senator PELL, for bringing this matter before the Senate in an expeditious fashion and also commend our distinguished colleague, Senator BIDEN of Delaware, who chairs the Subcommittee on European Affairs, and Senator SIMON of Illinois, who championed in the Foreign Relations Committee the issue of additional assistance for Poland.

I was struck the other night thinking about it, as I was wondering how much money John Foster Dulles would have been willing to invest 30 years ago if someone could have told him that for a price we would have at least a hope of a democratic government in Poland. I suspect even in the 1950's, John Foster Dulles would have been willing to come up with a figure higher than $100 million if he thought that was the gain on that kind of an investment.

So I commend Senator SIMON for his fine efforts and particularly for taking time this past summer to visit Poland and to get firsthand information.

I, myself, Mr. President back in 1983 spent several days in Poland. In fact, I think I was the first Member of Congress to visit with Lech Walesa after the expiration of martial law. I met with him in Gdansk. I was impressed with him and with the tremendous efforts of Solidarity and the likelihood of at least some success. I would be exaggerating in the extreme, Mr. President, if I were to suggest to you that I could have envisioned in 1983 the success Solidarity has demonstrated in 1989.

I would like to take a moment having mentioned Poland, to focus my remarks on the events in Hungary in the last 72 hours. There is little question, Mr. President, in the minds of most people that the 1956 Hungarian revolution and freedom fight was one of the most dramatic events of the 20th century. This uprising resulted in the first, the very first deep crack in the armor of the monolithic Stalinist empire heralding its ultimate decline and failure.

Mr. President, I was only a young boy of 12 years of age at the time, but I can recall with great vividness the excitement many Americans felt over the dedication and heroism of the freedom fighters and the shock and revulsion that followed the revolution's bloody suppression. During the past 33 years, scores of speeches and resolutions commemorated in our Congress, this seminal event, its heros and martyrs.

While we may have thought that the revolution of 1956 was defeated, recent events in Hungary may convince us otherwise. Exhibiting a deep sense of historical sensitivity, the people of Hungary chose the 33d anniversary of the revolution on this past Monday and the very same site where it started, Kossuth Square in front of the classic Parliament building, to declare the independent and democratic Hungarian Republic. More than 100,000 Hungarians were present as the temporary head of state, Speaker of the Parliament, Matyas Szuros made the historic announcement. He used the same balcony where the revolutionary Prime Minister Imre Nagy stood on October 23, 1956, to address the people of Budapest who were in full revolt.

Mr. President, I will shortly send to the desk an amendment in the form of a Senate resolution to commemorate the declaration of the Hungarian Republic.

Monday's events are the result of a long, but gradually accelerating reform process in Hungary that started long before the emergence of Mikhail Gorbachev and his glasnost and perestroika. Until Gobrachev stepped on the scene, however, the reforms did not go beyond the introduction of market elements in the economy and a more liberal policy on human rights. Remembering the lessons of Budapest in 1956 and Prague in 1968, the dominance of the Communist Party was left undisturbed in this reform process.

Once it became obvious that Gorbachev was serious about junking the Brezhnev doctrine and was willing to tolerate governments led by non-Communists in Eastern Europe, there was no way to hold back the desire of the people of Hungary for freedom, independence, and democracy. From the May 1988 party congress, where the reformists retired long time party leader Janos Kadar, political life in Hungary has been driven by the radical reformists, riding a crest of popular demand.

It is particularly relevant to take note of these events in Hungary as the Senate is about to debate and vote on the assistance package for Poland and Hungary. The United States has a very important stake in the outcome of the reform process in Eastern Europe. This region is, of course, the former homeland of millions of Americans, but our interest is not based on bloodlines alone. Eastern Europe is where two world wars started in this century and the fate of Eastern Europe was at the core of the outbreak of the cold war as well. As the result of the cold war, we had to spend trillions of dollars to provide for the defense of our Nation against a potential Soviet aggression.

Now that monumental changes are occurring in the whole Soviet empire, we have a chance to influence this process with a fraction of what we have had to spend on weapons. Recent events in East Germany show that the desire for freedom is infectious. Poland and Hungary are likely to be followed by other countries in the region—East Germany, Czechoslovakia, and perhaps—perhaps—even that bulwark of Stalinism, Romania. The Soviet Union has openly declared that it is following the actions of the reformers in Eastern Europe with keen interest, and wants to benefit from their experiences. The success of the Polish and Hungarian reformers is crucial, as it may well open the way for the peaceful transformation of the former Soviet empire into independent democratic nation states.

Mr. President, events such as those taking place this week in Budapest ought to convince the skeptics that the reformers in Hungary and Poland are serious, that this is not a trick, but a genuine attempt to liberate those countries by peaceful means. No one suggests that we ought to finance these processes by unlimited grants and loans. The proposals before Congress contain a whole set of measures that can provide meaningful initial assistance and incentives for the reforms to take hold.

As for the alternatives that are before us, I join my friend from Maryland Senator SARBANES in stating that this is a moment when we have to bet on our hopes, not on our fears.

I have found the administration's proposal, unfortunately, inadequate to meet the pressing needs of Poland and Hungary. The substitute proposal of the distinguished Republican leader is an improvement but it still falls short of what is needed to give a chance to these countries to revive their economies. These two proposals are particularly deficient in not providing sufficient funding for the private enterprise funds that are so crucial in nursing vigorous private sectors into existence. As the chairman of the Senate subcommittee with jurisdiction over the Peace Corps, I also miss from the Dole substitute funding for the establishment of Peace Corps programs.

As we all know, Mr. President, one of the exciting announcements has been the acceptance of a Peace Corps program in Hungary. I never thought, remembering events of 33 years ago, that one day I would be standing on the floor of the Senate commending the Government of Hungary for accepting a Peace Corps program. And, of course, Poland, there are also indications of similar interest in their country.

A side-by-side comparison of the various proposals reveals that the Simon substitute provides the best thought out, most generous, most diversified approach, and I ask unanimous consent to be made a cosponsor of it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, in a few weeks we will welcome the hero of the Polish renewal, Lech Walesa, in the Halls of Congress. By that time I hope our spirited words of greetings will be matched by something more tangible, the enactment of a generous comprehensive program of assistance for Poland and Hungary. These proposals serve objectives that are eminently in the best foreign policy interests of the United States and I hope all of my colleagues will support the Simon substitute which is clearly the best of these alternatives.

AMENDMENT NO. 1055

(Purpose: To congratulate the people of Hungary on declaring the Hungarian Republic to be an independent and democratic state)

Mr. DODD. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 1055.

Mr. DODD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

Congress finds that:

On October 23, 1989, in a public ceremony in Budapest, the acting President of Hungary declared the State to be an independent and democratic Hungarian Republic;

The public ceremony was held on the 33d anniversary of Hungary's 1956 revolution that was bloodily suppressed by Soviet troops;

The public ceremony was held on the same Kossuth Square where the first mass rally of the 1956 revolution was held;

As a further symbol of Hungary's faithfulness to the legacy of 1956, the declaration by the acting President was made from the same balcony from which Imre Nagy, the martyred Prime Minister of the revolutionary government of 1956, addressed the citizens of Budapest 33 years before;

The heroic revolt and freedom fight of the Hungarian people in 1956 was an inspiring event in 20th century history reminding a generation of Americans of the sacrifices people are willing to undertake as the price of liberty; and

The present efforts of the Hungarian people to validate the legacy of 1956 by establishing a free, independent, and prosperous Hungary have gained the sympathy and admiration of the American people: Now, therefore, be it determined, That—

(1) the Senate congratulates the people of Hungary on the declaration of the democratic Hungarian Republic; and

(2) the Senate expresses its desire to enhance the friendly relations between the peoples of Hungary and the United States and between their respective governments.

Mr. DODD. This amendment merely commends the leaders of Hungary for the declaration of independence, a democratic state this past Monday, as I said, at the very site where the 1956 revolution took place. It is entirely fitting, it seems to me, at this particular moment, rather than having some freestanding proposal which might take some time, when we are considering an economic package, we not lose sight of the events of Monday in Hungary and commend the bold leadership of the new Hungary. So I hope this amendment will be accepted by both sides at this time.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise to speak on the Simon amendment, but if it is the will of the Senate to act on the Dodd resolution, I am glad to withhold.

Mr. BIDEN. Mr. President, on this side, as the manager, I accept the Dodd proposal.

Mr. KENNEDY. Mr. President, I would like to retain the floor. I see the minority leader on his feet. I wanted to speak on the Simon amendment, but I would inquire if we want to dispose of the Dodd amendment at this time, then I will wait my turn to receive recognition.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield the floor?

Mr. KENNEDY. Mr. President, I am glad to yield for action on this amendment.

Mr. HELMS. That is the purpose.

The PRESIDING OFFICER. The Senator from Massachusetts yields the floor. The Senator from North Carolina.

Mr. HELMS. Mr. President, I have two points. One is it is a fine amendment. It is acceptable on this side. The second point is I hope the Senator will make me a cosponsor of this amendment.

Mr. DODD. Mr. President, I ask unanimous consent that my good friend from North Carolina be listed as a cosponsor.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. The Chair also asks to be added as a cosponsor.

Mr. DODD. I ask unanimous consent that the Senator from Florida [Mr. GRAHAM] be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered. Who seeks recognition?

Mr. KENNEDY. Mr. President, I understand the minority leader wants to speak. I will be glad to wait until after he addresses the Senate.

The PRESIDING OFFICER. Is there further discussion on the Dodd amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1055) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, today the Senate takes up the question of what is an appropriate level of support to Poland and Hungary, in light of the dramatic democratic revolution that is occurring in those countries.

Some of us argue for a strong U.S. response, others argue for a more cautious, wait-and-see approach.

The question before us, however, is much larger than simply our level of assistance to Poland and Hungary. What we are really debating today is how the Western World—led by the United States—should respond to the historic developments for democracy taking place in Eastern Europe. Is the United States prepared to give its full, generous, and unequivocal support to those now struggling to make democracy work? Or will our response be grudging, ineffective, and uncaring—too little and too late?

Since World War II, the United States has devoted massive resources to keep the peace in Europe. With the Marshall plan, we provided $13 billion in current dollars in assistance to rebuild Western Europe after the devastation of World War II. Through NATO, we currently spend $140 billion a year to defend Western Europe from a possible Soviet or Warsaw Pact threat. Our NATO allies devote another $160 billion for their own defense. These costs, while expensive, have been a bargain. They have kept the peace in Europe for the past four decades, and brought us to this threshold of a new era.

The old order is changing. The Iron Curtain is rising and the cold war is thawing. The forces of freedom and democracy are gaining in every part of the Warsaw Pact—and in Poland, and in Hungary, they have made extraordinary breakthroughs. There are changes in the Communist governments, in the farm cooperatives, in the foreign policies, and in the fundamental thinking of the leaders of the East bloc. To be sure, there are holdouts against this change—such as in Czechoslovakia and Romania—but the trend is clear, and even those nations are unlikely to be immune.

For the first time in history, democracy is taking hold in Eastern Europe. Western democracies—and especially the United States—have a responsibility to support the struggling democractic movements in Eastern Europe. Some proclaim the end of history and victory for the West.

But no one knows whether glasnost will succeed or whether democracy will prevail. Surely, this is a time when all of us, as the heirs in public life of Harry Truman, George Marshall, and Authur Vandenburg, must act boldly, not timidly. Too much is at stake for us to fall short because our aim was not high enough.

Who would have thought, a year ago, that the office of Prime Minister of Poland would be held by a member of a newly legalized Solidarity? Who would have thought that the Polish Cabinet would be controlled by Solidarity? Who would have throught that the Government of Hungary would open its borders, abolish its Stalinist ways, and declare a multiparty democracy? Above all, who would have expected the leader of the Soviet Union to embrace, even encourage these changes?

So far, the response of the Bush administration to these developments has been unseemingly tentative. The democracy movement in Eastern Europe is no fish we are trying to catch, but a vast forest we are trying to nourish. Until the Bush administration realizes that fundamental fact, it will never lend serious support to the efforts to establish democracy in Eastern Europe.

Last summer, Lech Walesa asked for a $10-billion multilateral package of assistance to support Poland. He understands that friends of freedom in Poland need strong, consistent, and generous support from the international community. It is time the United States heard and heeded his advice.

Poland faces a severe economic crisis analogous to the Depression in the United States or the devastation of World War II in Europe. Having ac-

complished a peaceful political revolution, the new Solidarity Government now faces a challenge almost as imposing—reviving an economy wracked by decades of war, occupation, inefficiency, stagnation, and corruption. The hard facts of inflation, shortages, wage pressures, and a foreign debt can easily undermine their historic political achievement. They need and deserve our support to ensure that does not happen.

How can an administration that wants to spend $300 billion in defense against the threat of the Soviet Union and Warsaw Pact reject the idea of spending $1 billion in support of democracy in Eastern Europe? Clearly, the greater the prospect of democracy in Eastern Europe, the smaller the threat from the region, $1 billion is a modest investment in peace and freedom that could reap enormous gains for the United States, our NATO allies, and for the people of Eastern Europe. It may turn out to be among the wisest dollars in foreign aid that America has spent since the Marshall plan a generation ago.

The people of Poland, of Hungary, and the other nations of Eastern Europe are listening for our signal. Rhetoric is cheap. Action is not. If we err, let history say that we erred on the side of doing too much. It is worth the cost.

Let us act to put the United States firmly on the side of these democratic movements in Eastern Europe, and the support the Simon amendment and a more generous level of funding.

Mr. LEVIN. Mr. President, I am a cosponsor of the Simon substitute. I commend Senator SIMON for his efforts, and urge the swift passage of this much-needed aid for Poland and Hungary.

Senator SIMON has worked diligently on this effort. He stepped forward, and has provided strong leadership. The Senate and the country are indebted to the Senator from Illinois for his persistence in working to structure this important legislation.

We are witness to a remarkable sweep of history in Europe. We are watching—and are part of—once-in-a-lifetime historic events, and it is incumbent on us to seize the moment.

Poland and Hungary have begun a difficult journey, and the final destination is unclear. The Solidarity-backed government in Poland, and the emerging non-Communist government in Hungary, have tough, long roads before them. Their jobs are hard, their success is not guaranteed, and nothing can be taken for granted.

The United States also has a job to do, too, Mr. President. It is our job to assist the Polish and Hungarian people in their transition to freedom and independence.

We should do this for two reasons. First, it is the right and wise thing to do. It is right to foster the spirit of liberty and independence, and help free the people of Poland and Hungary from the yoke of an unworkable, bankrupt, and dehumanizing economic and political system. Second, helping Poland and Hungary is in our own national security interests, as well as the interests of freedom and independence throughout the world. The United States will spend $100 billion this year in Europe for military defense, as we have spent many hundreds of billions of dollars over the decades for armaments to defend ourselves and the Western World in Europe. It is incalculable what an independent and democratic Poland and Hungary will add to the security of the United States, and the cause of freedom.

This package is modest. In light of the monumental importance of the events in Eastern Europe, I wish it were more.

Mr. President, there is one specific provision of this legislation which I would like to note. Section 302 directs the Overseas Private Investment Corporation to support projects in Poland and Hungary to enhance the nongovernmental sector of the economy, and reduce the level of state involvement. On April 18 of this year, as well as during the 100th Congress, I introduced legislation to do exactly that. Even before the roundtable talks, before the stunning and overwhelming rejection of the Communist Party by the Polish people at the ballot box, and before the dramatic, historic installation of a Solidarity-backed, non-Communist Prime Minister, I believed it was important and appropriate to encourage private enterprise in Poland through OPIC. I am pleased this provision is included.

We have an historic opportunity. We should not fall short. This aid serves our national security interests, and the interests of free people everywhere. The American people want us to act.

We are fortunate not only to bear witness to history, but to be in a position to help shape it.

Mr. BIDEN. I would like to highlight a section of the Poland-Hungary aid bill that addresses one of the most pressing, noneconomic problems facing the two countries. The section calls for the Secretary of State, the Administrator of the Environmental Protection Agency, and others to develop a strategy for United States' efforts to address the extensive environmental problems in Poland and Hungary.

The report will look at the sad state of affairs that exists, particularly in Poland, and recommend an approach to reverse the worst aspects. Efforts are already underway that this aid program can support and expand. The EPA and State Department have two small programs in Poland, geared largely toward scientific research. With the radical changes that have taken place in Poland in the last few months, we have the opportunity to move well beyond those preliminary initiatives.

Programs in Hungary are operating at even lower levels. Meetings between environmental groups from the United States and Hungarian representatives have taken place, but they have been more introductory than productive. Our knowledge of where efforts should be focused in that country is not well-developed.

In addressing environmental issues in the two countries, we should not and cannot do it alone. The European Community has announced an extensive aid program that will include support for environmental reforms. The Dutch are establishing an air monitoring station in Poland. It is my understanding that the World Bank is in the process of developing a $5 million technical assistance loan for Poland, a first step toward larger energy and environmental loans in the future. We need to coordinate with those initiatives.

Some of the environmental problems are so obvious, no report is needed to bring them to light. Darkened skies at noon in Krakow and poisoned waters in the Vistula River are evident to all who live in or visit Poland. For those, the President and the House have proposed specific programs.

The importance of the report is to make sure that future proposals of the United States are not replicated by other countries or multilateral agencies. We should take the time now to start off on the right foot, in a coordinated manner, not race forward on an ad-hoc basis formulated thousands of miles away.

It is also important to recognize that long-term improvement of the environment will ultimately depend on the Poles and Hungarians building their own institutions and taking on their serious environmental problems on their own. The report called for in the bill will help set all the interested parties on that course.

I ask unanimous consent that an opinion editorial by Richard Hottelet that appeared in yesterday's Christian Science Monitor be reprinted at the end of my remarks along with a Washington Post article from earlier this year. The two articles provide a good overview of the extent of problems in Poland and Hungary that demand action.

Poland appears to be further along than Hungary in responding to environmental problems, but both need the expertise and resources that our Nation can provide. The report called for in this bill will assure that future efforts are based on an accurate study of the environmental problems in each

country, and that our efforts are not redundant of those undertaken by others.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Oct. 23, 1989]

KRAKOW'S POLLUTION IS COMMUNIST LEGACY

(By Richard C. Hottelet)

Krakow, in southern Poland is, at its center, a medieval jewel. It has escaped destruction by war and prosperity.

It is now being eaten by the acids of the obsolescent industry so typical of the old Soviet bloc.

Immediately after World War II, Stalin ordered the largest steel mill in Europe built in Poland. There was no economic reason for building it here or for constructing it at all, but Stalin decreed, as he did for Czechoslovakia and East Germany, that a communist state must have a steel mill.

In this case, a specific political reason put it literally next door to Krakow. Polish Communist Party leaders wanted a large proletarian community to outweigh the ancient city's conservative, clerical, and cultural influence.

Today, the resulting ecological catastrophe here, together with others in Poland, and the massive, dogmatic misdirection of lives and resources put the well-known problem of economic reform in the starkest terms. In Krakow, reform is not a matter of economic recovery but of human survival.

Twelve Italian stone apostles stand outside the baroque church of Peter and Paul. They had stood there for 200 years before they were removed in 1959, pitifully misshapen, for total restoration. The process completed, they resumed their old places in 1986-87.

Today, they wear thick black streaks, perhaps deteriorating faster than before. In the old city, facades are crumbling. The soft green of old copper roofs is mottled brown. The golden roof of the Sigismund chapel on Wawel Hill is decomposing.

Driving the few minutes northeast from Krakow to the Lenin steel mill in the postwar community of Nowa Huta means visiting a nightmare of the early industrial revolution. Sulphur dioxide billows from the huge stacks, sometimes bringing levels in Krakow to 100 times the government limit. Four months of the year, a cloud of smog hangs over the city.

And the Lenin mill is not the only source of poison. The prevailing wind is west, and from the frantically working industrial region of Upper Silesia it brings Krakow tons of toxic dust laden with heavy metals, lead, zinc, and mercury as well as nitrous oxide and sulphur. Pollution comes also from Czechoslovakia, East and West Germany, and Sweden.

Poland bore the brunt of radioactive fallout from the Chernobyl accident in the Soviet Ukraine. More sophisticated hazards, like chlorinated hydrocarbons and automobile exhaust in a country that does not know unleaded gasoline, add to the brew.

Several statistics bring the point home. In Krakow, infant mortality is the highest in Poland. In Upper Silesia, the Polish Academy of Sciences reported in 1988 an "appalling increase" in mental retardation among the region's schoolchildren, presumably because of metal poisoning. Overall life expectancy is down, pulmonary and other ailments sharply higher.

The party planners simply ordered the steel mill plunked down on nearly a thousand acres of Poland's finest agricultural land. No thought was given to waste disposal or its effect on subsoil and ground waters. No regional plan tried to fit the mill and its dormitory town into the landscape.

As a result, the great Vistula River, flowing through the middle of Poland from Krakow through Warsaw to Gdansk, begins to carry toxins almost from its source.

Sixty percent of the Vistula, a main source of drinking water, is now registered in Category IV, so polluted that it may not be used in industry because it clogs and corrodes machinery. The remaining 40 percent barely makes Category III, appropriate for industrial use only. Poland's Central Statistical Office classifies the Vistula as a sewer.

There is poetic justice in the fact that the 30,000 workers of the steel mill (soon to drop the name of Lenin), and their families, hailed and favored by the communist regime as the nobility of the red proletariat, have for years been a stronghold of Solidarity.

It is also noted that despite the exhortations of the central planners to produce more and more, production has fallen and workers have fled. One Krakovian remarked bitterly, "They should make it a museum."

The Communist Party is no longer in charge of Polish life. Krakow, for centuries the capital of Polish kings, the seat of the Roman Catholic primate, with one of the oldest universities in Europe, may survive.

But it will be a race against time over a course littered with the economic, social, and political wreckage of 45 years of communism.

(Richard Hottelet is a longtime UN correspondent at CBS who writes on foreign affairs.)

[From the Washington Post, Apr. 18, 1989]

NEW BREEZE IN SOVIET UNION IS FOULED BY POLLUTION

(By Jackson Diehl)

KRAKOW, POLAND—For the last two decades, people in this historic city, a former seat of the Polish kings, have watched as corrosive soot from a steel mill slowly destroyed its treasured monuments, blackening the ancient red brick of the Jagiellonian University and rendering medieval carvings at the Wawel Castle into shapeless stumps of stone.

A decade ago, Poland's Communist government did not even allow scientists and journalists in Krakow to mention the pollution in public. Not until 1981 were they allowed to establish an environmental club to study the threat. And until recently, anyone seeking to stage a peaceful demonstration calling attention to the problem was likely to be handed a two-year prison sentence.

The continuing impasse between environmentalists and industrialists here is a sign of one of the most serious conflicts Eastern Europe's Communist governments are likely to face in the 1990's. Even as they seek to rebuild their economies and political life, these countries will be confronted with the necessity of managing some of the world's most serious environmental problems, including water and air pollution, which threaten to render large areas virtually uninhabitable.

Today, some of the specialists whose environmental platforms were once junked or locked in drawers are organizing an environmental political party on the model of the West German Greens. Their followers are staging almost daily demonstrations against pollution in Krakow and around the country. Several leaders of the group have just negotiated a 26-point program of environmental action with the government that declares Krakow a place for "special defense" against "the serious danger of ecological catastrophe."

Still, the huge Lenin steel mill on Krakow's outskirts, built by the Communist regime in the early 1950s and now the country's biggest source of pollution, continues dumping 500,000 tons a year of gaseous pollutants on the only major Polish city to survive World War II. "In one sense the situation has radically changed, and yet in another way nothing has happend," said Zygmunt Fura, a chemist active in the Krakow environmental movement for the past decade. "The authorities now accept us, but the structures that created the environmental crisis have not changed."

Emboldened by Soviet leader Mikhail Gorbachev, Poland and Hungary are preparing to open a new era of change in the Communist world by dismantling their state-run economies and one-party political systems in favor of Western-style market economies and parliamentary democracy. Yet, it remains unclear whether this tricky and possibly tumultuous process will offer answers for the critical problems that helped to prompt it, particularly the environmental ones.

Already, the changes under way in Poland and Hungary have allowed for the rise of active environmental movements and parties pressing for solutions. The news media have been encouraged to publicize extensively the problems of pollution, and governments and parliamentary deputies about to be dependent for the first time on votes have begun to react to public pressure. A host of new environmental regulations have been drawn up, and some of the worst sources of industrial pollution have recently been marked for closure.

WEAK REGULATORS

Yet, despite this obvious improvement, a number of conflicts continue to brake environmental action in these countries, including some caused by the transition itself. Weak regulators have proved unable to enforce new antipollution laws on state factories, which now have strong economic incentives to avoid the controls. Environmental groups intoxicated by the new atmosphere of freedom have drifted toward broader political agendas or split into factions. Governments trying to make drastic cuts in state spending and to pay foreign debts have resisted the massive outlays needed for antipollution equipment.

Meanwhile, the international cooperation essential to resolving environmental problems in Europe is in danger of failure on both sides of the East-West divide. While conservative Communist leaderships in Czechoslovakia and East Germany cling to Stalinist policies of secrecy and obstruction on environmental issues, Western countries waver between lukewarm efforts at assitance and attempts to exploit the region's backwardness by using it as a site for waste and industrial projects no longer tolerated in the West.

"Poland could create a certain model of environmental protection for the Eastern Bloc," said Stefan Kozlowski, a specialist who headed the opposition negotiating team on the environment at the recent "roundtable" talks with the Communist leadership. "But to do that, we have to create a way of thinking that in all our countries did not

exist until now. If we do that in the next five years then we will have achieved something."

The need for quick action is particularly pressing because environmental hazards in Eastern Europe, particularly in Poland, have reached a crisis stage. As the joint program signed by the Polish government and opposition put it, "The threat to human life in Poland as a result of environmental conditions is one of the greatest in the world."

In Poland, regions covering 13,500 square miles—11 percent of the country's land area—and including one-third of the national population were declared environmentally endangered by a comprehensive study by the National Academy of Science last year. Six million people were said to be living in "environmental disaster areas." More than 125,000 acres of Polish forest already have been destroyed, and half of the country's total forest area is threatened by air pollution.

CONTAMINATED RIVERS

Ninety-five percent of the river water in Poland is now unfit for drinking, half of the lakes have been irreversibly contaminated, and more than three-quarters of drinking water sources do not meet offical standards of purity, according to Polish scientists. Warsaw and Tirana, Albania are the only capital cities in Europe that do not treat their sewage. Much of the food Poles consume also is contaminated with toxic metals, and milk in some areas of the country has been declared unfit for children under the age of 6.

The environmental problems are particularly severe in the southern industrial region of Silesia, which forms the eastern edge of a vast zone of environmental devastation stretching south into Bohemia in Czechoslovakia and east into East Germany. Lead concentrations in the Silesian soil exceed standards by 150 to 1,900 percent. Concentrations of soot in the air are up to 35 times greater than that judged dangerous to health. Life expectancy in the region is lower than in the rest of Poland and has fallen in recent years, while complications with pregnancies are far above national levels. A report issued last year by the Polish Chemical Society said that air pollution and other kinds of environmental damage appear to have caused substandard health in 30 to 45 percent of schoolchildren.

Although Hungary's environmental problems are not as severe as those of Poland, Czechoslovakia and East Germany, the country still faces severe threats from air and water pollution. Air pollution in Budapest, whose streets are clogged with thousands of cheap East Bloc cars and buses, is so severe in the winter that one study estimated a one-hour walk outdoors causes the same harm to one's lungs as smoking a pack of cigarettes. Hungary's Environment Ministry says one in 17 deaths in the country is related to air pollution. Rivers flowing from the Soviet Union are contaminated even before they reach Hungary.

The catastrophic effect of the socialist economic system on the environment has been a major factor in persuading the elites that change was essential. "We were all convinced that a planned economy created a real chance for effective environmental protection and that socialist countries having that kind of economy would have an advantage over Western countries. But that hope proved totally unfulfilled," said Adam Urbanek, chairman of the Man and Environment Committee in the Polish Academy of Science. "Priorities were neglected, because the only priority under our system turned out to be heavy industry."

At the same time, the alarming growth of the environmental threat during the past decade has played a major role in mobilizing the opposition groups that helped prompt the new process of change. The Polish Environmental Club founded in Krakow, won legal registration in 1981 in the wake of the revolution in the country led by the Solidarity trade union, but unlike Solidarity it survived the imposition of martial law that year.

As a result, the Environmental Club and a host of related movements both above and below ground soon became an outlet for political activists unable to pursue the broader aims of Solidarity. In particular, youth coming of age in the Poland of the 1980s embraced environmental causes as a field in which to act outside Solidarity's stagnating underground structures. Groups such as the Freedom and Peace Movement began environmental protests, and after the Chernobyl nuclear disaster of 1986, new local organizations sprang up to oppose Poland's nuclear program as well as other projects potentially damaging to the environment.

Polish sociologists studying the environmental movement concluded that more than 60 local and national groups had formed by early this year, while 80 more organizations of various kinds were involved in antipollution causes.

CONTROVERSIAL DAM

In Hungary, an entire social movement grew up after 1985 around a single environmental issue—the construction of a huge hydroelectric dam by the government at Nagymaros, on the Danube River, Government officials, pushed into the project by partners Czechoslovakia and Austria, now largely concede that the dam is ill-conceived and possibly damaging to the delicate environment along the river. But as they have pressed ahead with the construction, the small group of dissidents and environmentalists who formed a committee to stop the dam have seen their ranks swelled by thousands of Hungarians who had never before deared to participate in politics.

After years of slowly gaining strength, the Nagymaros movement touched off the first truly contentious debates in Hungary's once rubber-stamp parliament as a group of deputies defected to the opposition. Even after the parliament voted to go ahead with the project last year, the movement protesting the dam collected more than 100,000 signatures on petitions demanding a national referendum on the issue and prompted the government to suspend work this month pending another parliamentary debate.

"Nagymaros is the first thing that could be called a mass movement in Hungary since the revolution of 1956," said Judit Vasarhelyi, a dissident organizer and environmental activist. "This drew in tens of thousands of intellectuals and working people who gave up the mood of resignation that we had for so long after 1956 and said, 'This is ours and we must try to do something.'"

Throughout the 1980s, the environmental movements frequently suffered from official represention, and authorities refused to grant them formal channels of influence or even admit that their protests were heard. Scientists working on official reports about the environment came under intense pressure to water down their conclusions or keep them secret.

Now the environmental groups in Poland and Hungary stand to be legalized, and in Poland they will be granted substantial influence over policy through membership in various oversight commissions. The Polish party has gone so far as to promise in writing that peaceful environmental protests will not be broken up and organizers of groups will suffer no discrimination.

At least in the short term, however, the new situation presents the environmental movements with a difficult challenge of adjustment to working in a more open political system. In both countries, the relaxation of repression has quickly led to both a proliferation of groups and the eruption of somewhat anarchic competition among them. At the same time, many environmental activists have shifted to other political fields now that open organization is tolerated.

In Krakow, some activists of the original Polish ecological club moved on to found a Polish ecological party last year, only to see it change its name to the Polish Green Party and split in two. One of the two parties has shifted its platform so that its main demand is for Poland to declare neutrality. "The ecological movement did a lot to change the system because it introduced a new style of independent movement and precipitated a lot of conflicts," said Fura, an organizer of the Green Party. "But now I see a certain impasse developing in the movement."

VARIED APPROACHES

"There are a lot of initiatives, not all of them positive or constructive, and a lot of groups, each of which wants to be the leader," Fura said. "This is an inevitable stage in the process of development. Ideally all the groups should form a federation or a Green parliament and work to see that the environmental agreement worked out at the round table is really implemented. But we're simply not ready for that. It could take three years at least."

Under the modified system of centralized political and economic power maintained by Poland and Hungary until now, a handful of environmental activists protesting a source of pollution were often enough to make a difference, even if authorities pretended to ignore their protests. But as political and economic decision-making are greatly decentralized by the coming reforms, a much larger and more organized environmental movement will be needed to monitor events at the local level.

Although it may produce closings of some of the most polluting factories, the market-oriented economic program pursued by Poland and Hungary may thus conflict with the effort to clean up the environment, experts say. "If the economy is centralized, a decision maker can make a big mistake, but the mistake can be corrected. Now those that make mistakes will be counted in the thousands," said Roman Andrzejewski, a biologist leading a comprehensive program of official ecological research.

For factory managers trying to survive in the new era of profits and losses, Andrzejewski said, "the cheapest thing is to throw waste on the pile. The cheapest thing is to push environmental protection outside one's own factory. We must have strong laws and services that enforce them. But we haven't done well on that until now."

For several years, Poland and Hungary have had laws mandating the installation of water and air filters by factories and spelling out fines for none-use. But while Hungary collected $20 million in fines last year, Poland's deputy environment minister, Waclaw Kulczinski, conceded, "I don't know of a case where anyone was punished."

Kulczinski added: "There are laws, but they are not always used. There used to be a climate in which prosecutors were not to look too carefully at environmental violations. With the problems of the economic situation, it was felt that this could not be enforced."

Even factories that want to obey the new environmental regulations often are unable to do so because they cannot buy the equipment on the local market. Poland and Hungary have only the beginnings of an industry producing antipollution devices. Government officials say they do not have the money to import the equipment or invest large sums in new factories. Although Poland claims that environmental protection is one of its top three priorities, it has frozen spending for it at about $1 billion annually since 1986.

"There is a general problem for us in that we have great difficulty obtaining technology for environmental protection," said Hungary's environmental minister, Laszlo Marothy. "The real solution to our air pollution in Budapest would be 100 billion forints in foreign currency [about $2 billion] to switch to brand new cars that have catalytic converters. But that is not realistic for us."

Governmental officials and environmental activists alike frequently express the hope that some of the financial and technological problems can be overcome with Western assistance, particularly from the Central European and Scandinavian countries most affected by East European pollution. But modest initial efforts at cooperation have been overshadowed in both countries by scandals concerning efforts by Western producers to illegally export hazardous waste to Polish and Hungarian dump sites. In Poland, one of the shipments tracked by customs agents involved a shadow Austrian company that contracted with equally fleeting Polish private agents last year for the import of 9,000 barrels of hazardous chemicals.

Environmentalists are concerned that the Western industrial investors their governments now eagerly seek will use Eastern Europe for environmentally damaging production no longer tolerated in the West. One example is the Nagymaros dam, which has been financed and strongly supported by Austrian power companies that were blocked from constructing a similar Danube dam in Austria by that country's environmental lobby.

TENSIONS IN BLOC

The problem of international cooperation is further complicated by the growing tensions between Hungrary and Poland and the hardline regimes in East Germany and Czechoslovakia. These countries not only have continued to pursue policies that favor heavy industry and minimize environmental protection efforts, their critics say, but also have been slow to cooperate with neighbors seeking to coordinate antipollution efforts.

Poland, which gets 45 percent of its air pollution from Czechoslovakia and East Germany, has been trying for more than a year to negotiate an environmental cooperation agreement with the two countries, but the results have been meager. "In Czechoslovakia and East Germany, nothing changed," charged opposition expert Kozlowski. "There are no structures and no funding. There is only destruction."

Still, the Czechoslovaks and East Germans might answer that even if Poland and Hungary have created new social and political structures, they have neither brought adequate funding for the environment, nor lessened its destruction. Ultimately, "the room for maneuver in our countries is limited," said Andrezejewski. "Our governments are under a lot of internal presssure. Our economics are weak. Our people say housing and food are more important than ecology."

"Europe needs to be dealt with as a single ecological system," he said. "If Poland gets 50 percent of its pollution from abroad, how can we act independently? We can't do anything about it. When it comes to the environment, our sovereignty is limited."

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1056

(Purpose: To promote democratization and reform in Poland and Hungary through development of the private sectors, labor market reforms, and enhanced environmental protection, and for other purposes)

Mr. DOLE. Mr. President, I send an amendment to the desk in the nature of a substitute, and I will describe it for my colleagues. There may be others on this side who wish to speak on the substitute.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. DOMENICI, Mr. MURKOWSKI, Mr. WALLOP, Mr. LUGAR, Mr. ROTH, Mr. MACK, Mr. MCCONNELL, Mr. HELMS, Mrs. KASSEBAUM, Mr. SIMPSON, Mr. COATS, Mr. D'AMATO, Mr. KASTEN, Mr. GORTON, Mr. CHAFEE, Mr. COCHRAN, Mr. MCCAIN, Mr. WARNER, Mr. HATCH, and Mr. MCCLURE, proposes an amendment numbered 1056.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. (a) This act may be cited as the "Poland and Hungary Democracy and Free Enterprise Act of 1989."

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents
Sec. 2. Findings and purpose
Sec. 3. Goals of United States policy
Sec. 4. Objectives for United States assistance

TTITLE I—EMERGENCY FOOD AID AND COMMODITY IMPORT ASSISTANCE

Sec. 101. Food and
Sec. 102. Support for emergency balance of payments and importation assistance
Sec. 103. Medical supplies, hospital equipment, and medical training for Poland

TITLE II—ECONOMIC STABILIZATION

Sec. 201. Multilateral support for structural adjustment in Poland

TITLE III—ECONOMIC RESTRUCTURING AND PRIVATIZATION

Sec. 301. Enterprise Funds for Poland and Hungary
Sec. 302. Eligibility of Poland for Generalized System of Preference
Sec. 303. Overseas Private Investment Corporation
Sec. 304. Ineligibility of certain entities
Sec. 305. Assistance in support of democracy
Sec. 306. Educational and cultural exchanges
Sec. 307. Labor market transition technical assistance
Sec. 308. Environmental assistance

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Reports of Congress
Sec. 402. Government oversight
Sec. 403. Cessation of aid

FINDINGS AND PURPOSE

SEC. 2. The Congress finds that—

(a) two centuries have passed since Kazimierz Pulaski and Tadeusz Kosciuszko came from Poland to help guide our soldiers through the darkest hours of the American Revolution; and

(b) one century has passed since Joseph Pulitzer became the first Hungarian-American Member of Congress; and

(c) millions of Americans of Hungarian and Polish origin contributed greatly to this nation's prosperity at times when both Poland and Hungary were struggling against foreign tyranny; and

(d) since 1945, the United States has sought to help the people of Poland and Hungary emerge from the shackles of captivity; and

(e) for the first time since World War II, the people of Poland have held free elections resulting in a coalition government led by a non-Communist prime minister, and Hungary is preparing for free and fair democratic elections; and

(f) these historic changes, which reflect the desire of the peoples of Poland and Hungary for independence and self-determination, present the United States and every democratic society with challenges and opportunities to advance the causes of freedom and peace; and

(g) the Government of Poland has outlined an economic restructuring plan for Poland that is phased to address in turn Poland's immediate food aid and importation needs, its economic stabilization and currency reform plan, and its long term economic restructuring and privatization plan; and

(h) the fundamental task of political and economic reconstruction by the governments of Poland and Hungary is to re-enfranchise the Polish and Hungarian citizenry both economically and politically.

GOALS OF UNITED STATES POLICY

SEC. 3. (a) The United States is determined to support the transitions toward democracy in Poland and Hungary.

(b) United States assistance to Poland and Hungary will encourage bold new policies that will make possible sustained economic growth; it will not be used as a palliative to support the existing policies which discourage individual initiative, produce capital

flight, and subsidize environmentally destructive or wasteful use of resources.

(c) The President is commended for proposing an economic assistance package for Poland that is a realistic response to Poland's real needs, and consistent with the goal of encouraging bold new economic and social policies in Poland and Hungary.

OBJECTIVES OF UNITED STATES ASSISTANCE

SEC. 4. In order to ensure that United States assistance to Poland and Hungary supports the development of economic freedom and opportunities for the people of those countries, the objectives of the United States assistance to Poland and Hungary shall be the realization of the following rights by the citizens of Poland and Hungary:

(1) SECURITY OF PROPERTY AND CONTRACT.—the right to legally acquire private property in all its forms, including secure legal title to land.

(2) A REGULATORY SYSTEM WHICH FACILITATES ENTREPRENEURIAL ACTIVITY.—freedom from onerous regulations which have forced economic and entrepreneurial activity into the informal, or unregistered, economy should be eliminated.

(3) DISMANTLING OF WAGE AND PRICE CONTROLS.—a market for Polish and Hungarian industries and goods that is not distorted by government-mandated wages or prices.

(4) AN OPEN TRADE POLICY.—freedom from market-distorting restrictions or subsidies on imports and exports.

(5) LIBERALIZATION OF INVESTMENT AND CAPITAL FLOWS.—freedom from limitations on ownership of productive enterprises by both domestic and foreign investors, as well as freedom from restrictions on removal of foreign or domestic capital from Poland and Hungary.

(6) PRIVATIZATION OF THE STATE SECTOR.—The ignition of activity by Polish and Hungarian investors and entrepreneurs should be facilitated through the privatization of government enterprises.

(7) MODERATION OF THE TAX BURDEN.—relief from the burden of the existing punitive levels of various taxes.

(8) DEVELOPMENT OF A PRIVATE BANKING STRUCTURE.—secure rights to own and operate banks and other financial service firms, as well as unrestricted access to private sources of credit.

(9) INDIVIDUAL INVESTMENT IN THE PRIVATE SECTOR.—access to financial instruments through which individuals may invest in the private sector.

TITLE I—EMERGENCY FOOD AID AND COMMODITY IMPORT ASSISTANCE

SEC. 101. FOOD AID.

(a) Notwithstanding any other provision of law, Poland shall be eligible for programs under the Agricultural Act of 1949, the Agricultural Trade Development and Assistance Act of 1954, and the Food Security Act of 1985.

(b) The President is authorized for fiscal year 1990, under the programs cited in paragraph (a), to provide $112,500,000 of commodities to appropriate Polish entities.

(c) The provision of such commodities shall be targeted toward elements of the Polish population most vulnerable to hunger and malnutrition, in particular the infirm, the elderly and children.

(d) It is the intent of Congress that the President take all appropriate precautions to insure that the provision of commodities does not interfere with commercial export programs and that the selection of commodities and delivery schedules do not act to the detriment of Polish agricultural production.

(e) In carrying out the programs provided for in this section, the President shall consult with other food and agricultural aid donors to Poland to insure maximum benefit to the Polish people.

(f) Such commodities shall be distributed through existing conduit organizations with an established network inside Poland, including but not limited to the Catholic Church, the Polish Red Cross, and the Polish-American Congress Charitable Foundation.

SEC. 102. SUPPORT FOR EMERGENCY BALANCE OF PAYMENTS AND IMPORTATION ASSISTANCE

To the extent that the ongoing International Monetary Fund review of the Polish economy uncovers a probable balance of payments shortage for the fourth quarter of 1989—

(a) the United States Government should work closely with the European Community and international financial institutions to determine the extent of emergency assistance required by Poland for the fourth quarter of 1989 and should consider extending a bridge loan to relieve immediate and urgent balance of payments requirements and commodity import needs in Poland through:

(1) the Exchange Stabilization Fund pursuant to section 5302 of Title 31, United States Code, and in accordance with established Department of Treasury policies and procedures;

(2) the use of authority provided in title II, Sec. 201.; and

(3) special authorities provided by section 614 of the Foreign Assistance Act of 1961, as amended.

SEC. 103. MEDICAL SUPPLIES, HOSPITAL EQUIPMENT AND TRAINING OF MEDICAL PERSONNEL FOR POLAND

(a) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for fiscal years 1990 and 1991, $2,000,000 shall be available each such fiscal year only—

(1) for providing medical supplies and hospital equipment to Poland through private and voluntary organizations, including the expenses of purchasing, transporting, and distributing such supplies and equipment;

(2) for training of Polish medical personnel;

(b) RESTRICTIONS.—No assistance provided to Poland under this section shall be used to perform, promote, or plan abortions; or to support the Defense or security forces of any Warsaw Pact member country.

TITLE II—ECONOMIC STABILIZATION

SEC. 201. MULTILATERAL SUPPORT FOR STRUCTURAL ADJUSTMENT IN POLAND

(a) ACTIONS BY THE UNITED STATES.—To the extent that Poland continues to evolve toward democracy and economic opportunity and to develop and implement comprehensive economic reform programs—

(1) the President, acting in coordination with the European Community, should call an urgent meeting of the industrialized democracies for the purpose of establishing a multilateral effort to respond to Poland's request for $1 billion to support its economic stabilization program;

(2) upon formulation of a multilateral undertaking to support implementation of a plan of the Government of Poland to attack hyperinflation, remove structural barriers to economic opportunity for the Polish people, and relieve immediate and urgent cash requirements, the Government of the United States shall provide its share of the resources pledged by the community of industrialized nations.

(b) STABILIZATION ASSISTANCE FOR POLAND.—

(1) GENERAL AUTHORITY.—In order to carry out subsection (a)(2), the President is authorized to furnish assistance for Poland, notwithstanding any other provision of law, to assist in the urgent stabilization of the Polish economy and ultimately to promote longer-term economic growth and stability, based on movement toward free market principles. Such assistance may be provided for balance of payments support (including commodity import programs).

(2) AMOUNT OF ASSISTANCE.—A total of $200,000,000 may be made available for fiscal year 1990 under paragraph (3) to carry out this subsection, in addition to amounts otherwise available for such purpose.

(3) SOURCES OF FUNDS.—Funds to carry out this subsection are authorized to be made available in an appropriation Act by—

(A) the transfer or use, notwithstanding any other provision of law, of such funds available in fiscal year 1990 as may be specified in such appropriation Act, provided that no less than 50 percent of the amounts made available for transfer should be derived from Funds Appropriated to the President for foreign assistance or appropriated to the Department of State;

(B) the appropriation for fiscal year 1990 of any moneys in the Treasury not otherwise appropriated.

TITLE III—ECONOMIC RESTRUCTURING AND PRIVATIZATION

SEC. 301. ENTERPRISE FUNDS FOR POLAND AND HUNGARY.

(a) PURPOSES.—The purposes of this section are to promote—

(1) development of the Polish and Hungarian private sectors, including small businesses and joint ventures with United States and host country participants,

(2) policies and practices conducive to private sector development, through loans, grants, equity investments, feasibility studies, technical assistance, training, insurance, guarantees, and other measures, and

(3) establishment of a financial instrument for individuals to invest an additional $125,000,000 in the Polish private sector.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President for the three-year period beginning October 1, 1989—

(1) $100,000,000 to support a Polish-American Enterprise Fund, of which no more than $25,000,000 shall be used for the purposes of paragraph (a)(3) of this section; and

(2) $25,000,000 to support a Hungarian-American Enterprise Fund.

(c) NONAPPLICABILITY OF OTHER LAWS.—The funds appropriated under subsection (b) may be made available to the organizations designated by the President in accordance with subsection (d) and used for the purposes of this section notwithstanding any other provision of law.

(d) DESIGNATION OF ENTERPRISE FUNDS.—

(a) DESIGNATION.—The President is authorized to designate, after consultation with the leadership of each House of Congress, two private, non-profit organizations, as eligible to receive funds and support pursuant to this section upon determining that such organizations have been established for the purposes stated in subsection (a). For purposes of this section, the organiza-

tions so designated shall be referred to as the Polish-American Enterprise Funds and the Hungarian-American Enterprise Fund (hereinafter referred to as the "Enterprise Funds"),

(2) BOARD OF DIRECTORS.—Each such Enterprise Fund should be governed by a Board of Directors comprised of an equal number of private citizens of the United States and the respective host country, who shall have demonstrated experience and expertise in those areas of private sector development in which the Enterprise Fund is involved.

(A) The Board of Directors of the Polish-American Enterprise Fund shall include among its Polish membership representatives of all major non-communist political and social formations, specifically to include but not limited to Rural Solidarity, the Confideracy of Independent Poland (KPN), Fighting Solidarity, the Catholic Church, the Catholic Intellectual Club (KIK), all legitimately elected leadership groups in the Solidarity movement, the Polish Independence Party, the Polish Peasant Party, the Warsaw Economic Society, and the Krakow Industrial Society.

(B) The Board of Directors of the Hungarian-American Enterprise Fund should include among its Hungarian membership representatives of all major non-communist political and social formations, specifically to include but not limited to the Alliance of Free Democrats, the League of Free Trade Unions, and the Federation of Young Democrats (FIDESZ).

(C) PROHIBITION.—No host country Board member may be a high official of the communist party (or its equivalent, under whatever name the communist party of Poland or Hungary may be known); and

(3) PRIVATE CHARACTER OF ENTERPRISE FUNDS.—Nothing in this section shall be construed to make an Enterprise Fund an agency or establishment of the United States Government, or to make the officers, employees, or members of the Board of Directors of an Enterprise Fund officers or employees of the United States for the purpose of title 5, United States Code.

(4) ADDITIONAL OBJECTIVES.—The Polish-American Enterprise Fund shall:

(A) promote as a specific goal in its investment priorities the development of the private Polish agricultural, food processing, and food distribution sector.

(B) promote as a specific goal in obtaining resources the development of a financial instrument, such as a bond issue, through which private individuals would invest in the fund and share in its proceeds.

(e) GRANTS TO THE ENTERPRISE FUNDS.—Funds appropriated to the President pursuant to this section shall be granted to the Enterprise Funds by the Office of Management and Budget—

(1) to enable the Enterprise Funds to carry out the purposes specified in subsections (a) and (d)(4), and

(2) for the administrative expenses of each Enterprise Fund.

(f) RETENTION OF INTEREST.—an Enterprise Fund may hold funds granted to it pursuant to this section in interest-bearing accounts, or in instruments to be used as collateral to encourage investments from private individuals, prior to the disbursement of such funds for purposes specified in subsection (a) and paragraph (d)(4), and may retain for such program purposes any interest earned in such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress.

(g) ADMINISTRATIVE COSTS.—The Director of the Office of Management and Budget shall have the authority, notwithstanding any other provision of law, to use up to $300,000 in each fiscal year of funds from such program account or accounts of that agency as the Director may determine for the purpose of carrying out functions under this Title.

(h) PROVISION OF SUPPORT BY OTHER EXECUTIVE BRANCH AGENCIES.—Executive Branch departments or agencies shall have authority to conduct programs and activities, and to provide services, in support of the activities of the Enterprise Funds, notwithstanding any other provision of law.

(i) ELIGIBILITY OF THE ENTERPRISE FUNDS FOR GRANTS.—Grants may be made to an Enterprise Fund under this section only if the Enterprise Fund agrees to comply with the requirements specified in this Title.

(j) CONSISTENCY.—The Enterprise Funds may provide assistance pursuant to this section only for programs and projects which are consistent with the purposes set forth in subsection (a) and (d)(4).

(k) LIMITATION ON PAYMENTS TO ENTERPRISE FUND PERSONNEL.—No part of the funds of either Enterprise Fund shall inure to the benefit of any Board Member, officer or employee of such Enterprise Fund, except as salary or reasonable compensation for services.

(l) INDEPENDENT PRIVATE AUDITS.—The accounts of each Enterprise Fund shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of each such independent audit shall be included in the annual report required by this section.

(m) GENERAL ACCOUNTING OFFICE AUDITS.—The financial transactions undertaken pursuant to this section by each Enterprise Fund may be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States, so long as the Enterprise Fund is in receipt of United States Government Grants.

(n) RECORDKEEPING REQUIREMENTS.—The Enterprise Funds shall ensure—

(1) that each recipient of assistance provided through the Enterprise Funds under this section keeps—

(A) separate accounts with respect to such assistance;

(B) such records as may be reasonably necessary to disclose fully the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit;

(2) that the Enterprise Funds, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Enterprise Funds under this section.

(o) ANNUAL REPORTS.—Not later than March 31 of each year beginning in 1991, each Enterprise Fund shall publish an annual report. The report shall include a comprehensive and detailed report of the concerned Enterprise Fund's operation, activities, financial condition, and accomplishments under this section for the preceding fiscal year.

SEC. 302. ELIGIBILITY OF POLAND FOR GSP.

Subsection (b) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by inserting "(except during the period of three years immediately following the effective date of the Poland and Hungary Democracy and Free Enterprise Act of 1989)" after "Poland" in the table within such subsection.

SEC. 303. OVERSEAS PRIVATE INVESTMENT CORPORATION.

(a) ELIGIBILITY OF POLAND AND HUNGARY FOR OPIC PROGRAMS.—Section 239(f) of the Foreign Assistance act of 1961 (22 U.S.C. 2199(f)) is amended by inserting ", Poland, (only during the period of three years immediately following the effective date of the Poland and Hungary Democrat and Free Enterprise Act of 1989), Hungary (only during the period of three years immediately following the effective date of the Poland and Hungary Democracy and Free Enterprise Act of 1989)" after "Yugoslavia."

(b) PARTICIPATION BY NONGOVERNMENTAL SECTOR.—In accordance with its mandate to foster private initiative and competition and enhance the ability of private enterprise to make its full contribution to the transition from a centrally planned to a market economy, the Overseas Private Investment Corporation shall support only nongovernmental sector projects in Poland and Hungary.

(c) DEFINITION.—For purposes of subsection (b), the term "nongovernmental sector" in Poland or Hungary includes private enterprises, cooperatives (insofar as they are not administered by the Government of Poland or Hungary), joint ventures (including partners which are not the Government of Poland or Hungary or instrumentalities thereof), businesses in Poland or Hungary that are wholly or partly owned by United States citizens (including those of Polish or Hungarian descent), religious and ethnic groups and other independent social organizations.

SEC. 304. INELIGIBILITY OF CERTAIN ENTITIES.

(a) Neither the Polish-American Enterprise Fund, the Hungarian-American Enterprise Fund, nor the Overseas Private Investment Corporation shall finance or include in any of its programs any venture, project or enterprise which:

(1) has, individually or in combination, more than 20 percent of ownership, control, or equitable interest by the Polish or Hungarian government, the communist party of Poland or Hungary, or any entity controlled by the Polish or Hungarian government of the communist party of Poland or Hungary, or high officials thereof;

(2) has a Board of Directors more than 20 percent of whom are high officials of the respective governments or communist parties of Poland or Hungary;

(3) has been established by any organization or entity controlled by the Polish or Hungarian government or the communist party of Poland or Hungary;

(4) primarily benefits the Polish or Hungarian military or security forces, the Soviet military, or the military of any other Warsaw Pact member; or

(5) is required to accede to the rules of the Council for Mutual Economic Assistance.

SEC. 305. ASSISTANCE IN SUPPORT OF DEMOCRACY.

(a) AUTHORIZATION OF ASSISTANCE.—Notwithstanding any other provision of law,

there are authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) $12,000,000 for the three-year period which began October 1, 1989, which shall be available only for the support of democratic institutions and activities in Poland and Hungary, or which:

(1) $2,000,000 shall be available in each such fiscal year only for the unconditional support of activities and institutions in Poland, which institutions shall

(A) include all major non-communist political and social formations;

(B) not include among its membership any member of the Polish United Workers Party (or its equivalent, under whatever name the communist party of Poland may be known); and

(2) $2,000,000 shall be available in each such fiscal year only for the unconditional support of democratic activities and institutions in Hungary, which institutions shall—

(A) include all major non-communist polit-ical and social formations;

(B) not include among its membership any member of the communist party of Hungary (or its equivalent, under whatever name the communist party of Hungary may be known).

SEC. 306. EDUCATIONAL AND CULTURAL EXCHANGE.

(a) OBJECTIVE.—It is the sense of the Congress that the President should—

(1) encourage privately administered educational and cultural exchanges between the people of the United States and the people of Poland and the people of the United States and the people of Hungary; and

(2) consider the establishment of reciprocal cultural centers in Poland and the United States and in Hungary and the United States to facilitate government and privately funded cultural exchanges.

(b) AUTHORIZATION OF EXCHANGES.—Of the amounts authorized for educational and cultural exchanges administered by the United States Information Agency, not to exceed $2,000,000 in fiscal year 1990 and not to exceed $4,000,000 in fiscal year 1991 shall be available for activities in Poland and Hungary.

SEC. 307. LABOR MARKET TRANSITION TECHNICAL ASSISTANCE.

(a) PURPOSE.—The Secretary of Labor (hereinafter referred to as "the Secretary"), in consultation with representatives of labor and business in the United States, shall:

(1) provide technical assistance to Poland and Hungary for the implementation of labor market reforms; and

(2) provide technical assistance to Poland and Hungary to facilitate adjustment during the period of economic transition and reform.

(b) TYPES OF TECHNICAL ASSISTANCE, AUTHORIZED.—In carrying out the responsibilities enumerated in this Title, the Secretary is authorized to do the following:

(1) Provide technical assistance regarding policies and programs for training and retraining, job search and employment services, unemployment insurance, occupational safety and health protection, labor-management relations, labor statistics, analysis of productivity constraints, entrepreneurial support for small businesses, market-driven systems of wage and income determinations, job creation, employment security, and other matters that the Secretary of Labor may deem appropriate regarding free labor markets and labor organizations;

(2) Solicit and accept in the name of the Department of Labor, and employ or dispose of in furtherance of the purpose of this Title, any money or property, real, personal or mixed, tangible or intangible, received by gift, devise bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of secton 3670(b) of the Revised Statutes of the United States: *Provided* that gifts and donations of property which are no longer required for the discharge of the purposes of this section shall be reported to the Administrator of General Services for transfer, donation, or other disposal in accordance with the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. et seq.), as amended;

(3) Solicit and accept voluntary and uncompensated services notwithstanding Section 1342 of Title 31 U.S.C., provided that a volunteer under this authority shall not be deemed to be an employee of the United States except for the purposes of (1) the tort claims provisions of Title 28, U.S.C., and (2) subchapter I of Chapter 81 of Title 5, U.S.C., relating to compensation for work injuries;

(4) Enter into arrangements or agreements with appropriate departments, agencies and establishments of Poland and Hungary; and

(5) Enter into arrangements or agreements with appropriate private and public sector United States parties, and international organizations.

(c) CONSULTATION WITH APPROPRIATE OFFICERS.—In carrying out the responsibilities established by this Title, the Secretary of Labor shall seek information and advice from, and consult with, appropriate officers of the United States.

(d) CONSULTATION WITH LABOR AND BUSINESS REPRESENTATIVES.—For purposes of this section, consultation between the Secretary and the United States labor and business representatives shall not be subject to the Federal Advisory Committee Act (5 U.S.C. app.)

(e) AUTHORIZATION OF TRANSFERS.—Notwithstanding any other provision of law, from the funds appropriated or available to the Department of Labor, the Secretary is authorized to transfer and to obligate the following amounts for the purposes of carrying out this Title:

(1) $4,000,000 for technical assistance to Poland, and

(2) $1,000,000 for technical assistance to Hungary.

Funds so transferred shall be available for obligation immediately.

SEC. 308. ENVIRONMENTAL ASSISTANCE.

(a) ENVIRONMENTAL PROTECTION AGENCY ACTIVITIES.—In addition to specific authorities contained in any of the environmental statutes administered by the Environmental Protection Agency, the Administrator of that Agency (hereinafter referred to as the "Administrator") is authorized to undertake such educational, policy training, research, and technical and financial assistance, monitoring, coordinating, and other activities as he may deem appropriate, either alone or in cooperation with other United States or foreign agencies, governments, or public or private institutions, in protecting the environment in Poland and Hungary.

(b) AUTHORIZATION OF TRANSFERS.—The Administrator of the Environmental Protection Agency is authorized to use up to $6,000,000 in each of fiscal years 1990, 1991, and 1992 of funds appropriated under Title VI of the Clean Water Act to carry out the purposes of this Title. The Administrator may also use up to $2,000,000 appropriated to the Environmental Protection Agency under any other authorizing statutes to carry out the purposes of this Title.

(c) ACTIVITIES IN POLAND.—The Administrator shall cooperate with Polish officials and experts on appropriate environmental projects, including—

(1) establishment of an air quality monitoring network in the Krakow metropolitan area as a part of Poland's national air monitoring network; and

(2) improvement of both water quality and the availability of drinking water in the Krakow metropolitan area.

(d) ACTIVITIES IN HUNGARY.—The Administrator shall work with other United States and Hungarian officials and private parties to establish and support a regional center in Budapest for facilitating cooperative environmental activities between governmental experts and public and private organizations from the United States and Eastern and Western Europe.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 401. REPORT TO CONGRESS.

Not later than 90 days after the effective date of this Act, and every 180 days thereafter for three years after the effective date of this Act, the President shall report to the President of the Senate and the Speaker of the House of Representatives on the progress made in Poland and Hungary toward—

(a) the implementation of economic policies designed to promote sustained economic growth, to develop economic freedom, and to increase opportunities for the people of Poland and Hungary, including but not limited to the reforms and policies set forth in Section 4 of this Act;

(b) the adoption and pace of implementation of constitutional, legal, and administrative measures that limit the power of executive authorities and establish and protect the independence of the judiciary;

(c) the full elimination of all constitutional, legal, and administrative measures that favor any political party or inhibit the formulation and operation of independent political parties, groups, associations, or organizations;

(d) the adoption of constitutional, legal, and administrative measures designed to establish and protect fundamental human rights and civil liberties, including but not limited to, freedom of speech, freedom of the press, freedom of religion, the right of Polish and Hungarian citizens to work, to join, or to refuse to join trade unions or labor organizations, and other freedoms comparable to those found in other democratic countries;

(e) the reduction and elimination of industrial practices detrimental to the environment and particularly harmful to human health;

(f) elections in which all parties are able to participate freely with equal opportunity to form governments based on popular support;

(g) the elimination of espionage activities by operatives of the governments of Poland and Hungary against the United States and its allies in the North Atlantic Treaty Organization.

SEC. 402. UNITED STATES GOVERNMENT OVERSIGHT.

(a) Oversight and coordination of all programs provided for in this Act, as well as all other activities of the United States govern-

ment conducted to assist Poland, should be exercised by an interagency group to include the Director of the Office of Management and Budget, the Secretaries of State, Commerce, Treasury, Labor, Defense, Health and Human Services, and Housing and Urban Development, the Administrator of the Agency for International Development, and the Director of the United States Information Agency.

(b) Congress commends the President for agreeing to send a High Level Team of Experts to assess the dramatic transition taking place in Poland. The private and governmental experience of team members should result in the first comprehensive official review and analysis of the economic situation in Poland.

(c) The interagency group referred to in subsection (a) shall consult with the Team of Experts, and make available its findings to Congress and the American people.

SEC. 403. CESSATION OF AID.

(a) Funds provided under this Act shall cease to be available if the president of Poland declares martial law or removes members of the Senate or the Sejm to suppress the free expression of political views.

(b) Funds provided under this Act shall cease to be available if the president of Hungary declares martial law to suppress the free expression of political views, or suspends the planning for free and fair elections.

Mr. DOLE. Mr. President, I am proud to introduce the Poland and Hungary Democracy and Free Enterprise Act of 1989.

HISTORIC CROSSROADS

Poland and Hungary are at an historic crossroads. They are making the most fundamental "course change" that nations can make—from dictatorship to democracy; from communism to free enterprise.

The people of Poland and Hungary, of course, have the fundamental responsibility to determine their own future. But we have an enormous stake in the success, or failure of the great experiments on which they have embarked. We cannot stand idle "on the sidelines" while freedom and free enterprise are at stake in Central Europe.

That, Mr. President, is why so many proposals to provide aid to Poland and Hungary have already been offered. That, too, is why I am offering this new proposal today.

THE BEST APPROACH

I have no quarrel with the aims of those who have already offered their ideas. But I do believe this bill provides a much clearer policy context for our aid programs in Poland and Hungary. I believe this bill responds more directly to the real aid needs of those countries, and—in the case of Poland—to the specific aid requests its new Government has already presented to us.

I believe, too, this bill is more fiscally responsible. It does not mislead the Polish and Hungarian people, by promising more aid than we will deliver in appropriations. And it does provide maximum "bang for the buck" for America's taxpayers.

CLEAR POLICY GUIDELINES

Of all those points, none is more important than the first—that this bill, unlike others introduced, lays out clear and specific policy guidelines for our aid effort.

The bill starts with this basic proposition: Real democracy goes hand-in-hand with free enterprise economics. Unless the new Governments of Poland and Hungary can tackle the enormous economic and social problems which are the residue of decades of Communist tyranny and mismanagement—those Governments will not retain popular support; and they will fail.

I call attention of my colleagues to the piece in this morning's Wall Street Journal about Polish farmers and how they have been withholding goods, how they have been trying to struggle to make ends meet for the past 40 years.

So it seems to me that we have to be very pragmatic and practical in what we propose to do. The only way they can successfully tackle those problems—talking about the Poles—is by embracing the kind of free market economic principles that are the only path to real economic growth, and spreading prosperity.

Just pouring aid dollars into Poland and Hungary will not do the trick. Just providing new subsidies for inefficient, outmoded state enterprises will not do the trick. Poland and Hungary will not enjoy real economic progress until they revitalize their economies through a rapid conversion to free enterprise economics. Our aid will not be effective unless it encourages Poland and Hungary on that course.

Our bill—unlike others which have been introduced—lays down specific guidelines to insure that our aid meets these tests.

FISCAL COMMON SENSE

Mr. President, providing that policy context is one big difference in our bill. A second major difference, as I indicated earlier, is that our bill is more realistic and restrained in authorizing aid levels. We authorize a total of $584.5 million for Poland and Hungary.

Let me stress, every element in our package for Poland, unlike some other proposals, is directly responsive to a specific aid request from the Polish Government or its officials. Our aid is divided into three broad categories: immediate emergency aid, economic stabilization aid, long-term aid.

In the first category covered in title I of our bill, we are authorizing $112.5 million in fiscal 1990 for food assistance, a modest increase over the amount proposed by the administration. Even more important, we are doing something no other legislation, to my knowledge, does. Our mandated aid goes to Poland's neediest people. We want to help those who are indeed the poor, infirm, elderly, and the children. I think that is very important and a very important difference.

Shockingly, some of the aid that we and the Western Europeans have already provided seems to have found its way onto the shelves of bureaucrats of Poland's still powerful state security apparatus run out of the Communist-dominated Interior Ministry. Under our bill, that will not happen. That is a very, very basic difference in the two bills.

We are also providing $4 million in medical assistance over fiscal years 1990 and 1991. Finally, we urge the administration to regularly review the advisability of utilizing money from the Exchange Stabilization Fund, so-called ESF funds, or other sources, to help Poland's immediate short-term import needs.

In the second category, covered in title II, we provide $200 million in cash aid during fiscal year 1990. This money is in direct response to appeals from Poland's chief economic strategist, Finance Minister Balcerowicz, who met with many of us. I met with him in my office and heard his request. It was $200 million. It represents the U.S. contribution of what is hoped to be a $1 billion multilateral stabilization aid package, with this country putting in $200 million. It is going to be available in support of a Polish Government to attack hyperinflation—something I heard about when I was in Poland—and I know the distinguished Senator from Illinois heard about, and it is something Dr. Jerry Sachs addressed at a Solidarity caucus I attended with my wife, and I heard them talk about the inflation rates in Poland.

In addition to attacking hyperinflation, they are going to institute structural reform and relieve urgent cash requirements. I note that, contrary to other proposals, ours urges no less than 50 percent of this money should come from the foreign aid and State Department budgets—the budgets intended to support our foreign policy objectives—not by yet another mass raid on the defense budget.

While this is not spelled out in the bill, and I do not claim every one of my consponsors shares this view, my own feeling is that we have about reached a point where we need to consider freeing up funds from some of our huge foreign aid programs, programs that have just about turned into entitlement programs in many peoples' minds.

I hope that the urgency of Poland's needs and the importance of developments there to our foreign policy, will give us some backbone to at least look at these big, big accounts.

Finally, in the third category, title III, we provide aid aimed at fostering basic economic restructuring and privatization. The heart of this is the creation of private enterprise funds for Poland and Hungary, an excellent idea first proposed by President Bush and now rolled into virtually every aid proposal. We authorize a sensible funding of this idea proposed by President Bush: $125 million over 3 years—$100 million to Poland and $25 million to Hungary.

Some have tried to improve on the President's idea by multiplying its numbers. That is the way it works in this town. If one-half million is good, why not a million? If $2 million is good, why not $10 million? Then you have this one-upsmanship, "I call you and raise you" attitude, when we are almost broke ourselves. I might add that some of the polls I have read indicate that the American people are not quite as eager to start pouring money into Poland as some of those in the United States Congress. So the American taxpayers wonder where is all this money coming from. Let us help Poland in the right way. It is a cost to our taxpayers.

It seems to me that just trying to multiply the numbers makes no economic sense at this point. Private investment opportunities will take some time to develop and, again, according to Poland's own plans, developing will be back-loaded, and authorizing enormous sums up front without a clear sense of the magnitude of funding required in the out years makes good press releases, but bad budgetary policy.

We had debate here earlier today about budgetary policy, which lasted 40 minutes or so. I think we have to sort of borrow and beg from different agencies to meet some of our demands. That is why our approach is different. We authorize a prudent amount to cover rational expenditures for fiscal 1990 and reasonable program growth in fiscal 1991 and 1992. Of course, if the program grows more quickly than we anticipate, we can authorize additional amounts in the out years.

Equally important, we seek to multiply the longer-term investment value of our taxpayers' dollars by using a portion of them, $25 million from the Poland fund, as collateral for a bond issue. Any private individual or financial entity will be able to purchase those bonds, and the proceeds from the sales will be used to augment the funds available to the enterprise fund. Conservatively estimated for 20-year bonds, the original $25 million in collateral should yield $125 million for the fund. The viability of this proposal has been demonstrated in Hungary where the International Financial Corporation is now operating a similar successful program.

Many individual Americans, particularly those of Polish descent, are eager to help Poland achieve economic progress. This bond issue—they can participate in Milwaukee and Chicago, in helping the people in that country—will provide them with the opportunity, a direct opportunity, to participate in this effort.

To round out our aid package for Poland and Hungary, we also authorize $20 million in environmental projects, $12 million in support of democratic institutions and activities, $5 million in labor market reform and training programs, $4 million in educational and cultural programs.

Mr. President, we believe this total package is the best, the most effective, and most fiscally responsible way for us to seize the real opportunity we do have to foster democracy and free enterprise in Poland and Hungary. It keeps faith with our democratic ideals, reaffirms our confidence in free market economics, responds to the real needs of the people of Poland, and also Hungary, and represents a good investment in America's national interest for America's taxpayers.

We do not believe the test of American policy in Poland and Hungary is how many dollars we spend. If that is the measure, we are going to lose every time. The American taxpayers are going to lose; the people in Poland are going to lose. How can we best achieve our national goals in these two countries? Our bill is by far the best way to achieve these goals, with the lowest cost to the American taxpayer.

I hope we will put—and I know we have so far—partisanship aside, and that all Senators will take a close look at our bill, as we have at other proposals so far offered, and that many will join us as cosponsors and supporters of this particular legislation. We invite our colleagues to take a look. We hope there will be an opportunity overnight to do that. The taxpayers' dollars, America's national interest, the cause of freedom, they represent a compelling "troika" of reasons for us to work together urgently and responsibly to pass this bill.

Let me add a few other points that I think may be important to Members on both sides. This substitute is the only bill on Poland and Hungary—the only bill—which protects the United States defense budget during this provision of financial assistance to the two Warsaw Pact states. This substitute urges that at least half of its funding come from the foreign assistance and State Department money. The alternatives would commit most, or all of the funds to come from DOD. This bill, this substitute, is the only bill that would not destroy the Polish agricultural sector.

Again, I ask you to read what was in the Wall Street Journal this morning if you want to look at how bad it is and has been. If we dump a bunch of U.S. commodities on the market, we are going to hurt the very people we want to help. This bill, which targets emergency food aid to the infirm, elderly, children, the poor, will not undercut the sector of the Polish economy with the best short-term prospects for recovery. This substitute is the only bill that raises funds for the Polish and Hungarians through private resources, instead of taking all the money out of the U.S. Treasury.

As I have just said, we are going to set aside $25 million for the capitalization of the funds through the floating of a bond. We think it will raise $125 million. We think it will give American citizens an opportunity to invest directly in Poland, and we think that is the right way to go—not to drag it all out of the Treasury. Let us take as little as we have to.

This bill is the only bill that seeks to ensure that the Enterprise Funds assistance will to to genuinely private entities and not go to bail out failed socialistic dinosaurs. Is that what we want, to start pouring money into some of those failed socialistic dinosaurs that have not worked for the past 40 years? I do not think so, and I do not think our colleagues think so, and I hope they will give us an opportunity to explain this in detail.

This limits the Enterprise Funds to open participation in entities with only 20 percent control by the Government, the Communist Party, and high officials and will not fund enterprises of a military nature. It is the only bill that protects recipients of Enterprise Funds assistance from the forced participation in the requirements of the Council of Mutual Economic Assistance, Moscow's so-called economic leash on Eastern Europe.

The substitute is the only bill that does not set aside $200 million for a Trade Credit Insurance Program pursuant to the Eximbank requirements, a program certain to add to Poland's already crushing debt—they are about to collapse, we are told by Lech Walesa and the new Prime Minister—and lay that bill at the doorstep of the United States Government. It seems to me that is not the way to go.

This substitute is the only bill that ensures that the board of directors of the Enterprise Funds will reflect the full spectrum of the non-Communist elements of Polish and Hungarian society. Our bill will not permit current Communist Party members to sit on the boards of the Enterprise Funds, although they can participate, with less than 20-percent control, in programs assisted by the Funds.

Our substitute is the only one that specifically sets out detailed goals of the U.S. assistance program to ensure decentralization and free enterprise. This is what this is all about, free en-

terprise market economy, down with communism. It has failed, and so have many people trying to make a living in the process.

In addition, we have detailed reporting requirements on the full scope of political and economic reform, unlike the bill of my distinguished friend from Illinois, which only asks for reporting on implementation of the U.S. aid program

This substitute is the only bill to automatically terminate assistance in the event martial law is declared or democratic reforms are reversed. If that happens, we ought to cut off the aid. This is the only bill that does that. It ought to be incorporated. If there is reversal, if there is martial law, let us stop the aid and stop it very quickly. We think that is important. In our bill it is automatic. The other says upon Presidential certification of a significantly reversed democratic progress.

This is the only bill that safeguards the wallet of the U.S. taxpayer, because this bill privately funds a portion of the Enterprise Funds and omits the counterproductive TCIP provision and takes only half the amount of money out of the U.S. Treasury, $484.5 million, compared to $989.5 million in the so-called Simon bill, all of which comes out of the taxpayers' pockets.

The taxpayers' pockets are empty. The Treasury is empty. We have to raise the debt ceiling by Tuesday over $3 trillion so we can pay the bills and pay $180 billion every year in interest.

And despite our need to help, and we want to help, and we will help, it seems to me there should not be a contest on how much money we can drag out of the U.S. Treasury.

This substitute is the only bill that ensures that the United States medical assistance to Poland will not go to promote or perform abortions or support the military. Polish recovery will not be furthered by eliminating half of the next generation of Poles before birth or in diversion of medical resources to support the army or police, which are still controlled by the Communists. The Communists still dominate the police and the army.

This substitute is the only bill that places U.S. Government responsibility for the aid program is a statutorily created interagency group, chaired by the Vice President. The other bills will allow the responsibility to be lost in a morass of conflicting bureaucracies, none of which is responsible for the overall success of the program.

Mr. President, I ask unanimous consent to have printed in the RECORD the points I just summarized, along with a further breakdown of where the money comes from—the President bill, the House bill, the so-called Simon bill, and the so-called Dole-Domenici-Roth-Symms substitute, and others on this side who will be speaking on this matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The Dole substitute is the only bill on Poland and Hungary (including the Simon SEED bill and HR 3402) which protects the U.S. Defense budget during this provision of financial assistance to two Warsaw Pact states. The Dole substitute urges that at least half of its funding come from foreign assistance and State Department money. The alternatives would permit most—or all—funds to come from DOD.

The Dole substitute is the only bill that would not destroy the Polish agricultural sector—the only sector of the Polish economy in private hands—by dumping U.S. agricultural commodities on the Polish market for sale or barter. The Dole bill targets emergency food aid to the infirm, elderly, and children, but would not undercut the sector of the Polish economy with the best short term prospects for recovery.

The Dole substitute is the only bill that raises funds for the Polish and Hungarian Enterprise Funds through private resources—instead of taking all of the money out of the U.S. treasury. The Dole bill would set aside $25 million for the capitalization of the Funds through the floating of a bond (conservatively estimated to raise $125 million), facilitating the participation of millions of private U.S. citizens who have expressed an eagerness to help.

The Dole substitute is the only bill that seeks to ensure that Enterprise Fund assistance will go to genuinely private entities—and not go to bail out failed socialist dinosaurs controlled by the government or communist parties. The Dole bill limits Enterprise Fund and OPIC participation to entities with no more than 20% control by the government, communist party, or high officials, and would not fund enterprises of a military nature. The Dole bill is the only bill that would protect recipients of Enterprise Fund assistance from forced participation in the requirements of the Council of Mutual Economic Assistance (CMEA)—Moscow's economic leash on Eastern Europe.

The Dole substitute is the only bill that does not set aside $200 millon for a Trade Credit Insurance Program (TCIP) pursuant to ExImBank requirements—a program certain to add to Poland's already crushing debt, and lay the bill at the doorstep of the U.S. government.

The Dole substitute is the only bill that seeks to ensure that the board of directors of the Enterprise Funds will reflect the full spectrum of the non-communist elements of Polish and Hungarian society. The Dole bill would not permit current communist party members to sit on the boards of the Enterprise Funds—although they can participate (with less than 20 percent control) in programs assisted by the Funds.

The Dole substitute is the only bill that specifically sets out detailed goals of the U.S. assistance program to ensure decentralization and free enterprise. In addition, the Dole bill has detailed reporting requirements on the full scope of political and economic reform—unlike the Simon bill, which only asks for reporting on the implementation of the U.S. aid program.

The Dole substitute is the only bill to automatically terminate assistance in the event martial law is declared to suppress political expression or democratic reforms reversed. The Simon bill would only cut off aid upon a presidential certification of "significantly reversed" democratic progress.

The Dole substitute is the only bill that safeguards the wallet of the U.S. taxpayer. Because the Dole bill privately funds a portion of the Enterprise Funds and omits the counterproductive TCIP provision, it would take only half the amount of money out of the U.S. Treasury ($484.5 million) as the Simon bill ($989.5 million)—all of which comes right out of the taxpayer's pocket.

The Dole substitute is the only bill that ensures that U.S. medical assistance to Poland will not go to promote or perform abortions or to support the military. Polish recovery will not be furthered by eliminating more than half of the next generation of Poles before birth, or in diversion medical resources to support the army or police—which are still controlled by the communists.

The Dole substitute is the only bill that places U.S. Government responsibility for the aid program in a statutorily-created interagency group, chaired by the Vice President. The other bills would allow responsibility to be lost in a morass of conflicting bureaucracies—none of which is responsible for the overall success of the program.

COMPARISON OF POLAND–HUNGARY AUTHORIZATION BILLS

[Dollars in millions]

Provision/section	President	House	Simon	Dole
Economic stabilization (S) 101(b); (D) 201(b)	200	200	200	200
Food Aid (S) 102(c); (D) 101(a)	100	125	125	112.5
Enterprise funds (S) 210; (D) 301	125	200	400	125
Proceeds from private bonds collateralized by Enterprise Funds				100
Environmental initiatives (S) 502(d); (D) 308(b)	10	10	10	20
Trade credit insurance (S) 304(g)		(200)	(200)	
Peace Corps (S) 204	(1)	6	3	
Labor market transition (S) 202; (D) 307	5	5	5	5
Technical training (S) 203		10	5	
Medical supplies, etc. (S) 503; (D) 103(a)		6	4	4
Assistance in support of Democracy (S) 501; (D) 305		12	4	12
Telecommunications (S) 601			25	
Educational and cultural exchanges (S) 401; (D) 306	(1)	12		6
Science and technology exchange (S) 402	(1)	8	8	
Trade and development program (no Senate proposals)		6		
Poland-Hungary scholarships (no Senate proposals)		10		
Total	432	810	989	584.5

[1] Requested by agency; not formal administration proposal. Totals include $200 million in loans guarantees for House & Simon proposals, and $100 million in private funds generated by the Enterprise Funds in the Dole proposal.

[S=Simon; D=Dole]

AID TO POLAND AND HUNGARY (OVER 3 YEARS)

[In millions of dollars]

	Administration	H.R. 3402	S. 1582	Simon substitute	Dole
Food Aid	(100)	(125)	(125)	(125)	(112.5)
Currency stabilization	200	200	(200)	200	200
Enterprise funds	125	200	1,125	400	125
Bond authority					{100}
Labor	(5)	5	(5)	5	(5)
Tech. training		10		5	
Peace Corps	2	6	3	3	
Trade credit insurance		[200]		[200]	
Trade/development program		6			
Ed. and cultural exchange		12			6
Scholarships		10			
Scientific/tech. exchange	3	8	3	8	
Democratic institutions	4	12	4	4	12
Environment: EPA	(10)	10	(10)	(10)	(20)

AID TO POLAND AND HUNGARY (OVER 3 YEARS)—Continued

[In millions of dollars]

	Administration	H.R. 3402	S. 1582	Simon substitute	Dole
DOE	(10)	30	(10)	(10)	
Medical Aid	4	6	4	4	4
Telephone system			25	25	
Total	338	515	1,164	654	347
	(125)	(125)	(350)	(145)	(137.5)
Total	463	640	1,514	799	484.5
		[200]		[200]	{100}

Note:
( ) indicates spending from existing authorities.
[ ] indicates insurance, which is unlikely to require spending.
{ } indicates possible bond-issuing by the Enterprise Funds.

Mr. COATS. Mr. President, I rise today in support of the Poland and Hungary Democracy and Free Enterprise Act of 1989. This bill, which I have cosponsored, is generous yet responsible. It provides Poland and Hungary with badly needed relief at a critical juncture, but does not make excessive fiscal demands on the United States Government. It is consistent with the policy and intent of the Bush Administration and incorporates the most important features of H.R. 3402, the House-passed bill to provide assistance to Poland and Hungary. Moreover, it supports the Polish economic stabilization program, recently outlined by Polish Finance Minister Balcerowicz; indeed it was drafted with this program in mind.

Mr. President, recent events in Poland and Hungary are historic in nature and scope, and offer significant opportunities for institutionalizing and expanding democratic and free market principles in Eastern Europe. Successful economic and political reform in Poland and Hungary could serve as a model for positive change in the rest of Eastern Europe and throughout the Communist world. Yet, while this prospect is appealing, the obstacles should not be underestimated.

The fate of the East European reform movements—especially in Poland—rests largely on their near-term success. In the case of Poland, the Solidarity Government must confront widespread discontent among the general population. This requires immediate financial, food, and medical aid. In providing this aid, however, the West must be extremely careful that it be targeted to address the most critical shortages, but not dampen incentives for local economic growth and restructuring. Western aid can help these countries overcome critical near-term problems, yet ultimately it should help foster the structure needed for the Polish and Hungarian economies to stand and prosper on their own.

The provision of large-scale unconditional and untargeted aid to countries attempting to transform themselves from authoritarian, centrally planned systems to ones based on individual and economic freedom is likely to contribute only marginally to real reform. Aid that does not directly contribute to the construction of a free enterprise system may actually harm long-term prospects for political and economic reform—simply adding debt, not the mechanisms of economic prosperity and growth.

We need to respond with compassion, especially in helping Poland overcome its most immediate shortages in food and other essential goods. At the same time, however, we must realize that simply dumping money and food on these countries is not a solution. Carefully targeted aid can be far more effective than larger sums of untargeted funds, especially if such assistance is provided to governments that remain highly bureaucratic and inefficient. After all, our objective is to stimulate the Polish and Hungarian private sectors, not to perpetuate ossified and inefficient institutions.

Mr. President, I do not mean to imply that we should be less than generous in providing aid to democratizing countries in Eastern Europe. In my view, "the Poland and Hungary Democracy and Free Enterprise Act" is very generous. It authorizes $584.5 million over 3 years, the majority up front in fiscal year 1990. As Senator DOLE and others have pointed out, it makes no sense to authorize more than can reasonably be appropriated. To falsely raise expectations in this manner would be irresponsible. The dollar amounts contained in this bill are both responsible and adequate—for Poland and Hungary, and the American taxpayer.

This bill contributes $200 million to a coordinated international effort to support Poland's monetary and price stabilization program. It also contains $112.5 million for food aid and $4 million for medical supplies. One of its most attractive features, in my view, is the provision of $125 million for the establishment of enterprise funds for Poland and Hungary. Moreover, the bill includes significant amounts for environmental, cultural, and labor market initiatives.

What makes this bill unique is not the money it authorizes, but the principles it identifies. Our assistance is clearly targeted to encourage and support the development of private, free enterprise. Moreover, in addition to advocating the development of free enterprise, it seeks to encourage full political freedom.

Mr. President, the most important aspect of this bill is its clear articulation of United States policy toward Eastern Europe. This aid package, after all, should be a firm expression of U.S. policy, not only an act of humanitarian concern. This bill lays out a clear framework for evaluating change in Eastern Europe and establishes sound criteria by which the effectiveness of our assistance should be judged. Moreover, it provides a standard and a mechanism for terminating aid if significant reversals should occur in Poland's or Hungary's Democratic reform movements.

This bill, however, goes well beyond simply outlining U.S. policy objectives. It provides the means to ensure that scarce United States tax dollars do not get into the hands of those who for years have perpetuated political oppression and economic stagnation in Eastern Europe. While enterprise funds are common to all the legislative proposals dealing with aid to Poland and Hungary, only this bill ensures that these funds are used principally for the establishment and growth of private enterprises in these countries. It explicitly forbids the enterprise funds or the Overseas Private Investment Corporation [OPIC] from financing any venture, project, or enterprise that is completely owned or controlled by the Polish or Hungarian Government or Communist Party. Though government or Communist Party involvement is permitted in such ventures, their participation is limited to 20 percent. Moreover, it prevents the funds from being used to benefit Warsaw Pact military power. These are prudent and necessary safeguards, wholly consistent with U.S. and NATO policy.

Mr. President, while I do not criticize the intent of those who have introduced alternative aid packages for Poland and Hungary, I believe they are mistaken in one important regard. They are apparently motivated by the belief that the U.S. Congress needs to maximize the U.S. contribution of aid, yet minimize our involvement in its targeting and distribution. I believe that "the Poland and Hungary Democracy and Free Enterprise Act" strikes a perfect balance in this regard. It is timely and generous; yet, at the same time, it gives important guidance to Poland and Hungary and defines United States policy on the issue. At a time of fiscal constraint the United States needs to magnify the effectiveness of its foreign assistance. This bill has been crafted specifically with the Polish and Hungarian situations in mind. It is a good bill that makes the most of our assistance. I urge my colleagues to support it.

I yield the floor.

Mr. MACK. Mr. President, I applaud the circumstances under which we are considering aid to Poland and Hungary. Both Poles and Hungarians have taken great steps toward establishing systems of freedom and democracy, and the United States should and will support them in this endeavor. However, we ought to remember that there can be no political freedom without

economic freedom. Until the citizens of Poland and Hungary are able to benefit from their own economic actions, there will be no economic growth, and both countries will continue to be trapped by economic policies which discourage individual initiative and produce capital flight.

During the Senate Foreign Relation Committee's consideration of the foreign assistance authorization legislation in July of this year, I included an amendment which required the Agency for International Development [AID] to use an index of economic freedom to measure the extent to which growth-oriented economic policy options within the control of developing nations were being put into place. Specifically, the index would measure factors which are indicators of such growth-oriented policies including property rights, inherently restrictive business regulations and licensing requirements, the size of the informal sector or black market, wage and price controls, taxation policies, trade policies, restrictions on investment and capital flows, size of the state sector, and banking policies. Based upon these factors, a numerical index would be developed by AID which would be used to measure objectively a country's progress in instituting policies which provide economic incentives to its citizens. When AID grants economic development aid to those countries, the country's rating under the index must be taken into account.

I introduced this amendment to the foreign assistance authorization bill because I believe that our foreign assistance program is ill conceived and misdirected. A report issued by former AID Administrator Alan Woods points out that during the past 20 years the United States has given $250 billion in foreign aid. Yet, despite this assistance, not a single recipient country has moved from less developed to developed status. Clearly, our foreign aid program has turned into a global welfare system. By establishing a clear link between foreign assistance and structural economic changes, it is my belief that our foreign aid program would be more effective and more credible.

My point in raising this issue at this time—in conjunction with the Poland/Hungary aid bill—is to emphasize that our aid to these countries needs to be more than a symbol. It should foster the recipient country's movement toward sustainable economic growth. We cannot expect real and lasting progress to take place without policies that foster economic growth. Our assistance to Poland and Hungary must encourage progrowth policies if it is to be relevant to long-term democracy and economic freedom. An editorial which appeared in the Wall Street Journal in August further addresses this issue, and I would like to insert that article as part of my statement into the RECORD.

Mr. President, I am extremely gratified to see that both the bill passed by the House and Senator DOLE's amendment, which I cosponsored, contain as the policy objectives, language which will force us to evaluate how well this aid is promoting individual economic rights. Section 4 of Senator DOLE's bill details those rights to which the citizens of Poland and Hungary are entitled, including security of property and contract, dismantling of wage and price controls, an open and free trade policy, liberalization of investment and capital flows, privatization of the state sector, moderation of the tax burden, freedom from overregulation, and access to individual investment in the private sector. By requiring the President to report on the realization of these key economic factors, we will ensure that we are helping, not hindering, the democratization of Poland and Hungary.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Aug. 30, 1989]

AIDING POLAND

Now that a Solidarity leader has become prime minister, it seems everyone in Congress wants to send U.S. foreign aid to Poland. Certainly, everyone wishes this remarkable new government well, and it is important to give it a show of confidence. But unless the U.S. steers clear of past foreign-aid mistakes, and aid to Poland could be more than wasted. It might make the problems worse.

President Bush has displayed commendable caution in not immediately pledging to increase the $100 million in aid he promised in Warsaw last month. Administration officials recall the billions in loans Western banks poured into Poland after the pseudo-reforms of the 1970s. All that remains is a crushing $40 billion foreign debt. This, after all, is a country whose milk subsidies alone exceeded the defense budget until earlier this month. The White House believes the new government has to first show that it can free up the economy so that any Western aid can be spent wisely.

The administration no doubt will catch some flak for this wait-and-see attitude but there is good reason for it. A recent report by the U.S. Agency for International Development noted that while the U.S. has spent $250 billion on foreign aid in the past 20 years, none of the recipient countries has moved from less-developed to developed status. It found that U.S. aid plays only a "supportive role at best" in improving an economy compared with internal reform, free trade, U.S. volunteer groups and foreign investment. Indeed, the report noted that absent the right economic changes, U.S. aid might hinder economic progress in countries such as Poland.

This means that any U.S. assistance to Poland should be conditioned on real economic reform, and should go to private entities, not to the corrupt and inefficient state sector. Fortunately, 80% of Polish agriculture is already privately owned, though farms are usually only three to six acres. If the state choked off its ruinous 15%-a-week hyper-inflation, sold or gave away larger tracts of land to private farmers and abolished price-fixing marketing boards, Poland's food lines could start to melt away. Recall that after Chinese agriculture produced results in a more market-based climate, private capital began to flow into the country.

Poland's state-owned industries will require even more radical surgery. Lech Walesa argues that Poland's skilled, cheap labor pool can make it competitive, but that will happen only if the state's uncompetitive mines and shipyards are closed and workers redirected to private industry. But before Poles can hope to start their own businesses and succeed, the state will have to end currency controls and allow private banking.

U.S. foreign aid in general would get good results for a change if it clearly rewarded these sorts of policies. GOP Senator Connie Mack has used the AID report to draft an "Index of Economic Freedom" for use in deciding the right level of foreign aid to developing countries. The index would rate aid recipients in such areas as property rights, regulation, limits on trade and the flow of capital, taxation and the overall size of government. In June, the House voted to require that AID report back within six months on the creation of a similar index.

There was a time when expecting such commitments from stumbling economies seemed politically unrealistic. But the reality of economic failure and collapse is now causing many of these same countries to think hard about policies that work. Hungary's government this month issued a policy statement that sounds like a version of Adam Smith. It pledged an irreversible shift toward a "market economy" with different forms of ownership even, it stressed, "if it causes social conflicts." It also promised to enact "guarantees of the automony of the individual."

At this point, Solidarity's membership is obviously split, at least in public, over the shape of Poland's economy. Many of its members still claim to believe that a retooled version of socialism can work in Poland. Others reject capitalism and want Poland to steer a course between free markets and pure socialism. They could do worse than consult with Hungarian and Yugoslavian economists, who admit their countries have tried to do just that—with disastrous results.

Privately, of course, Solidarity economists will agree that a market economy is the only long-range answer to Poland's problems, but Solidarity's leaders are reluctant to be this bold in public. Yet, they are now running the government, and the time for giving lip service to ideas that cannot work may be past. Real economic reform and the positive performance it brings would go a long way to convince Western investors and governments that their heads as well as their hearts justify putting money into Poland.

The PRESIDING OFFICER (Mr. ROBB) The Senator from Illinois.

Mr. SIMON. Mr. President, I commend my colleague from Kansas for going to Poland, for his interest in this subject, but, with all due respect, his amendment goes the wrong way. It will not surprise him to hear me say that. Let me just summarize a little bit

some of the differences between our bills.

His bill, over a period of 3 years, would offer $484 million in aid to Poland. That, I would point out, is less than Italy is doing in 1 year for Poland. Are we less interested in freedom in Poland and Eastern Europe and Hungary than Italy is? I do not think so.

On the specifics, the Senator from Kansas, the distinguished minority leader, points out how they have delegated spending the money. We have left that up to the Appropriations Committee to determine where it comes from.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Secretary of State on where the money should be coming from for the funding for Poland.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, October 20, 1989.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: We face an historic opportunity to assist the newly elected Polish Government to restructure its political institutions and develop a sound economy based on the principles of private enterprise. The President has responded to this challenge, first with an aid package of $219 million (which included important food assistance and funding for the Innovative Poland Enterprise Fund), and again on October 4 with the announcement that we are prepared to respond to a specific request of the Polish Government that the industrialized countries contribute $1 billion to its economic stabilization effort.

The President has proposed that the United States contribute $200 million in grants to this important Polish effort. Other industrialized countries, especially in Europe, are expected to contribute to this stabilization program as well. Our contribution would be contingent upon conclusion of an agreement between Poland and the International Monetary Fund and on the recommendations of the Presidential Mission that will soon visit Poland and report back to the President on a wide range of issues related to Polish economic development.

Authorizing legislation for our $200 million economic stabilization grant was sent to the Congress on October 13, 1989, and is being incorporated in legislation now working its way through the legislative process.

We are proposing that funding for this important program come from three sources: $140 million from funds available to the Department of Defense in fiscal year 1990; $30 million from funds made available for the nuclear waste disposal fund in Public Law 101-101; and a total of $30 million to be derived equally from the Economic Support Fund (ESF) and/or Development Assistance (DA) accounts that will be made available in the foreign assistance appropriation bill. We are asking that these funds be transferred to the fund for Special Assistance Initiatives in the foreign assistance appropriation bill (the new account under which funding will be provided for the Multilateral Assistance Initiative, or MAI, for the Philippines). The Special Assistance Initiatives account, therefore, would consist of two specific line items, the MAI for the Philippines and the economic stabilization grant for Poland.

Since floor action has already been completed on the foreign assistance and the defense appropriation bills, your help is critical in getting the necessary transfer authorities incorporated in these bills when they are reported out of conference. I realize that this request is extraordinary. But our opportunities in Poland are extraordinary as well. We must do all that we can to take advantage of these opportunities in a way that will not seriously damage other important programs and priorities.

Your support and assistance on this important matter will be greatly appreciated.

Sincerely yours,

JAMES A. BAKER III.

Mr. SIMON. Mr. President, there are other differences. Under the proposal that I have offered, cosponsored by Members on both sides, a majority of Americans would compose the enterprise funds. That is a basic protection that we have under our bill. But, frankly, it is not there under the Dole substitute.

He mentioned that Communists might serve on the board of one of these enterprise funds. Frankly, I doubt that would happen, but I am joining with Senator HUMPHREY in an amendment that would prohibit that. So that is not a relevant issue.

Another thing that we have in our enterprise funds is that 80 percent of the funding into those enterprise funds' revolving fund should be loans, so that they can get the economy going and then be repaid into this revolving fund and sustain the economy. I think it is a much more practical way of helping the struggling free enterprise system that they have over there.

Poland has jumped the Communist ship. The question is are we just going to throw out a little bit of rope or are we going to say we are going to give you enough rope so you can help save yourself? Is our message to Poland going to be weak or strong? That is the fundamental question between the Dole amendment and the so-called Simon amendment.

He mentions they have $4 million in medical aid. We have precisely the same amount in our bill.

He says that under their bill the most needy will get the food. We, frankly, simply allocate that to the administration, and I am willing to look at an amendment that they may have though, frankly, I trust the administration in this, perhaps more than the minority leader trusts the administration, but I am willing to look at an amendment that takes a look at this.

The minority leaders says that we should follow the President on this. Frankly, when the President is right, we ought to follow him. When the President has been too timid, we should speak more forthrightly. I think this is the case where I think Members of both parties have to speak more forthrightly and say we have to do more than has been suggested.

The bond fund, I do not know precisely how this will work into what is being done by the Polish American community under the leadership of the Polish American Congress. But I would certainly be willing to work with the Senator from Kansas or others on that.

On the agriculture sector, we have to do what we can to encourage it, but frankly the most important thing for the agriculture sector is to get hold of inflation. I see the Presiding Officer here, and he was one of those who visited Poland and I commend him doing so. He saw a runaway inflation.

I was in Poland 6 days. The day I got there, $1 was worth 7,700 zloty; when I left 6 days later, it was worth 8,400 zloty. People who produce food are not going to sell it if the money they receive is worth less and less day by day. And I am pleased that the Government of Poland has now announced an economic plan that really will do some things.

The proposal that has been made by many of us in behalf of the Foreign Relations Committee and has bipartisan support says, over 3 years, let us spend $989 million.

I would simply point out that $989 million, just under $1 billion, that over a 3-year period, that compares to $140 billion we spend for the defense of Western Europe to try to resist any possible Soviet threat.

Let me tell you, the most important thing we can do right now to resist a Soviet threat is to make sure Poland and Hungary stay free. It will do more for the defense of Western Europe than almost anything we could do.

Over that 3-year period, what we are proposing in our amendment is less than one-fourth of 1 percent what we will spend over the next 3 years for the defense of Western Europe. I am not suggesting we cut back on the defense of Western Europe. But I do not think we should be saying $989 million, I am sorry; that is too much for the freedom of Poland.

Senator DODD earlier said, "I wonder what John Foster Dulles would have said he would give for the freedom of Poland, to have it not be under the Communists." I wonder indeed. Obviously, we can only speculate on that.

On the suggestion that there are more significant reporting devices and stronger reporting devices in the Dole amendment, if they want additional reporting devices, we are happy to have those in our amendment. I think we have adequate protection, but I am willing to accept more.

Finally, what we have to do in addition to this first year appropriation, we have to send a strong signal to the

private sector that the American interest in Poland is not a temporary interest, is not a short-term interest. And that is what our amendment does. It is what, with all due respect to my friend from Kansas, the Dole amendment does not do.

At an appropriate time, Mr. President, either Senator BIDEN or I will move to table the Dole amendment. We do not want to cut off any debate in the meantime. But I hope the signal will go forward from this Senate strongly, clearly to the people of Poland: We are with you, not weakly, not timidly, but we are with you heart and soul.

Mr. ROTH. Mr. President, the winds of change sweeping across Central and Eastern Europe provides three nations throughout the world with the opportunity to peacefully bring to pass objectives which have long been sought. These objectives include human rights, free enterprise, open and honest elections, and the same peace and prosperity for the people in the East as their brothers have long enjoyed in the West.

Even the most optimistic prognosticators could not have foretold 2 years ago the tremendous success in which liberty and the unified spirit of man have recently swept the Iron Curtain.

Mr. DODD. Will my distinguished colleague from Delaware yield?

Mr. ROTH. Yes, I am happy to yield without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

VISIT BY FOUR EDITORS OF MAJOR COLOMBIAN NEWSPAPERS

Mr. DODD. Mr. President, I know today that our colleagues are busy. We are very occupied with matters affecting Poland and Hungary. But I also know that my colleagues have a deep, deep interest, of course, in the drug abuse problem in this country. And also we are all cognizant of the tremendous efforts that have been waged by our friends and allies in the nation of Colombia.

Mr. President, we have been fortunate today to have with us in the Senate visiting with various Senators and also witnessing Senate debate, four of the editors of major Colombian newspapers who have had the courage and intestinal fortitude to take on the drug cartels.

I want to take this moment to recognize the presence in Washington, and also having visited the Senate, of Luis Gabriel Cano, editor in chief of El Espectador, Colombia's hardest line daily against the drug cartels. The Medellin cartel bombed his newspaper on September 2, causing almost 3 million dollars' worth of damage. They have gone after his family. They gunned down his brother in 1986. Mr. Cano continues forward relentlessly pursuing the drug cartel in Medellin.

Alejandro Galvis Ramirez. Mr. Ramirez is the editor in chief of La Vanguardia Liberal. His newspaper, Mr. President, was 80 percent destroyed on October 16, and yet they continue to fight and go forward.

Juan Manuel Santos is the chairman of the editorial board and deputy publisher of El Tiempo in Bogota, the largest and most influential newspaper in Colombia. It is closely affiliated with President Barco, and therefore under constant threat.

Last, Alvaro Jose Lloreda. Mr. Lloreda is editor in chief of El Pais in Cali. His is the most important newspaper in southern Colombia. He is also, of course, under significant threats on a daily basis.

I was fortunate enough, Mr. President, to spend a few minutes with them. I know others of my colleagues would like to do the same. I have invited these four distinguished editors to greet Senators for a few minutes, if they have the time, outside the Chamber in the reception room. I would ask any of my colleagues here on the floor who have a few minutes to please come out and express the sense of solidarity we have with these individuals and any of our colleagues who, unfortunately, are not in the Chamber at this moment, but who may be coming over momentarily, if they would do so.

It is extremely important, Mr. President, that we recognize and we express to these individuals how much they mean to us and this country and how important it is that they continue the battle they have been waging in the newspapers to try and at least bring these cartels under control in their country.

So I just wanted to take this moment to do this. I am deeply grateful to my colleague from Delaware for allowing me to interrupt his remarks on an important matter affecting Hungary and Poland. But I did not want, Mr. President, this moment to pass without my colleagues being aware of the presence of these four individuals in our city today.

I thank my colleague from Delaware for yielding.

SUPPORT FOR EAST EUROPEAN DEMOCRACY ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1056, AS MODIFIED

Mr. ROTH. Mr. President, I am requesting a modification to the substitute.

The PRESIDING OFFICER. Without objection, the amendment is modified.

The modification is as follows:

In section 402, paragraph (a), strike the word "include" and insert in lieu thereof "be chaired by the Vice President, including".

Mr. ROTH. Mr. President, even the most optimistic prognosticators could not have foretold, 2 years ago, the tremendous success with which liberty and the unyielding spirit of man have recently rent the Iron Curtain. Taken at the flood, the current momentum could lead on to serve democratic ventures, to throw open the doors of self-determination for men and women who are finally stepping out from beneath the long, cold shadow of communism. Though much of the progress thus far has been sparked by courageous leaders in these respective nations, it goes without saying that America—as the historically ordained defender of freedom—has an obligation to assist.

Consequently, I come to the floor today to cosponsor the Poland and Hungary Democracy and Free Enterprise Act—a comprehensive and vigilant piece of legislation to help facilitate the recent developments in these countries.

I call it comprehensive because the substitute provides for $584.5 million in U.S. aid, a generous but prudent offering that invites the nations of Western Europe to join us in a cooperative effort. The united objective of all nations would be $1 billion in a coordinated international Economic Stabilization Fund for Poland.

Of this $584.5 million offered by the United States, at least $375 million will be given this year. Around $112.5 million will go for food and other commodities urgently needed by the Polish people, particularly the elderly, infirm, and children; $4 million will go toward medical supplies, hospital equipment, and training of medical personnel for Poland.

Another $125 million will go for enterprise funds in Hungary and Poland to back up new private ventures by Central Europeans and joint ventures with American citizens.

In this context, my colleagues have decided to act upon an idea I introduced several months ago—and one that has gained tremendous support in the Polish-American community. The Polish-American Enterprise Fund will be authorized to use $15 million to provide collateral for a financial instrument, such as a bond issue, to raise investment dollars from private individuals. In this way, at least an additional $125 million could be raised from the public through, increasing the capitalization of the Polish Enterprise Fund by another $100 million.

Finally, another $41 million will be used for privately administered educational and cultural exchanges, labor market technical assistance, and environmental needs, especially around the Krakow metropolitan area.

The substitute is vigilant because, while it provides the assistance these countries will need to throw off the shackles of Marxist-Leninist policies, it does so in a systematic and cautious way, encouraging us to keep our eyes open and heads clear in the knowledge that the Communist Parties of Poland and Hungary may yet try to stage a political comeback.

This legislation is targeted toward specific goals and objectives of U.S. policy and will be immediately withdrawn if the trend toward democracy and free elections is reversed in these countries. It requires that Polish and Hungarian appointees to the enterprise boards shall not be senior Communist Party members. And companies assisted by the enterprise funds shall be genuinely private and not owned or controlled by governments, high level officials, or the Communist Party.

Mr. President, the primary purpose of this legislation is not simply to get money into Poland and Hungary. If that were our purpose here today, we could simply debate how much money we could load on to a C-5, then fly it over to Poland and kick it out the back door.

Rather, our purpose is to authorize an amount of money which is reasonable from both a United States and a Polish perspective and then to target those funds toward those sectors of the Polish economy where we believe our funding truly will promote economic growth.

As anyone who reads our bill will realize, we are convinced that the economic salvation of Poland and Hungary lies in the expansion of the private sector. Loans and grants to decaying, obsolete state industries will not achieve economic growth, and they will serve only to bog Poland and Hungary down even further in a morass of bad debt.

Poland and Hungary, prior to their own enslavement, made many contributions to the spread of democracy. We owe them a great deal. In particular, we owe them our honesty. It would be grossly wrong if we were to authorize huge sums in assistance to Poland knowing full well that budgetary pressures will prevent us from actually appropriating, or providing, a comparable amount for the Polish people. In other words, we would be making a promise without substance. We would also be misleading the people of Hungary and Poland—and wasting United States taxpayer dollars—if we pretended that a simple infusion of capital into the two economies will yield the desired effect.

The careless behavior of international bankers led to such a huge infusion of money, through government borrowing, in the 1970's. Now Poland and Hungary have nothing to show for that orgy of borrowing but a heavy millstone of debt around their necks. Please do not let us make the same mistake. We owe it to our taxpayers to use their money responsibly.

We currently dedicate approximately half of our national defense budget, directly or indirectly, to the defense of Western Europe against attack by the superior forces of the Soviet Union and its Warsaw Pact allies. Any development which, in the medium term, promises to build a bridge between the East and West is in the interest of the United States and all democratic nations. If half a billion to underwrite democracy and free enterprise can serve ultimately to reduce the $150 billion now spent on tanks, artillery, and ammunition, then I believe that the bargain is a good one and, I for one, will happily sign my name to it.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska [Mr. MURKOWSKI].

Mr. MURKOWSKI. Mr. President, I rise today, along with the distinguished Republican leader to introduce a bill that sets forth for the first time a comprehensive United States policy toward the emerging democracies of Poland and Hungary, the Poland and Hungary Democracy and Free Enterprise Act.

I thank the Republican leader, Senator DOLE, and Senator LUGAR, and Senator DOMENICI, for their hard work on this proposal.

I would also like to thank the President for his leadership with regard to aid to Poland and Hungary. It should be recognized that when the Senate acts on a package of assistance—and I would like to stress that we act as quickly as possible—we will be acting on a set of economic assistance tools that are the products of the President's leadership on this issue.

Mr. President, in one of his first speeches as head of the new Solidarity government, Prime Minister Tadeusz Mazowiecki said that "Poland does not need a third way" when it comes to reforming its political and economic systems. When the Prime Minister said this, he meant that Poland does not have to invent a new economic model as a substitute for its ailing economy. The new Polish Government knows which way works, Mr. President, and that way is the model offered by the United States.

Although much has been said about the unprecedented nature of the reforms being undertaken in Poland and Hungary, the changes being attempted there are not unfamiliar to Americans. Concepts such as political pluralism, democracy, and a market economy are the concepts that have built this country and will eventually rebuild Eastern Europe.

No one recognizes this more than the new Government of Poland. When the Polish Finance Minister was in Washington last month, he laid out the parameters of a plan to address the tremendous economic challenge facing his nation.

The legislation that my colleagues and I introduce today is a balanced, comprehensive package of assistance that addresses the needs of this plan. It addresses the three critical phases of the planned Polish economic recovery—emergency food and commodity import relief, economic stabilization assistance, and long-term economic restructuring and privatization assistance.

In developing this legislation, we have not constrained ourselves to traditional methods of Government foreign assistance.

In this measure, we incorporate the concept developed by the President of engaging the private sector in the economic reform effort with the creation of two privately-administered "Private Enterprise Funds" for Poland and Hungary. These funds will take the Government out of the loop of economic assistance and leave these crucial economic decisions to the experts in the private sector.

This legislation reflects, in addition, the requirement that assistance to the devastated Polish economy be conditioned on real progress toward economic reform. The Poles themselves, recognizing the inevitable hardship that transforming their economy will have on the Polish people, have requested this conditionality, and I think it is important.

In addition, this package reflects the fact that the United States cannot and should not attempt to meet this challenge alone. Our Western economic partners all share in the responsibility to see that this historic opportunity in Eastern Europe is not lost.

In that regard, this bill asks our President to act quickly, to call a meeting of the Western industrialized nations to build on the contribution contained in the legislation to meet the $1 billion economic stabilization fund the Poles have requested of the Western nations. Our leadership in this effort is essential, Mr. President. This legislation reflects the President's commitment to such leadership.

Finally, this legislation represents an economic commitment to Eastern Europe that the American people can support today and support in the years to come. Make no mistake, Mr. President, the process of rebuilding the economies of Poland and Hungary is one that we will be living with for many, many years to come.

The tone we set now, in the midst of the past year's dramatic and exciting events in these countries, must be one that we can see through to its completion. We can do no greater disservice to the people of Poland and Hungary than to fail to have the courage or the

means to live up to our commitments to their political and economic transformation.

Mr. President, last May at Texas A&M University, at a major speech on United States policy toward the changing Eastern bloc, President Bush urged this Nation to build a foreign policy consensus that is "beyond containment." These words "beyond containment," Mr. President, I think describe well the challenge facing this Nation in Poland and Hungary today. They are a way to encourage us to have the courage and the imagination to respond to our own successes in these countries.

The challenge that confronts us today in Eastern Europe goes beyond historic opportunity for the furtherance of democracy and free markets. It is, in fact, a historic obligation based on over 40 years of commitment to these principles in Eastern Europe. We are called today, Mr. President, to make good on this commitment, and I think the legislation before us attempts to do that.

We have before us, obviously, two schools of thought on legislation, both that of the majority and that of the minority. I think it fair to point out that this bill contains a clear statement of United States policy toward Poland. It sets clear goals to direct U.S. economic assistance to those areas where it simply does the most good. It targets aid to genuine economic reform. It does not repeat the mistakes of simply pouring funds into outmoded state enterprises. The bill of my colleague from Illinois contains no policy direction in this sense and would pour the bulk of U.S. assistance, some $400 million, into programs that have yet to be implemented and tested. I refer to the private enterprise funds.

Mr. SIMON. Will my colleague yield?

Mr. MURKOWSKI. If I can conclude this and then I will be happy to respond to a question. This bill conforms to Poland's specific needs in the sense that the bill responds to each phase of Poland's own economic reform plan.

I think my colleague from Illinois is more general in his plan. For example, my colleague from Illinois places the bulk of funding in long-term economic assistance when Poles have indicated their greatest need for economic stabilization is in the coming months. The bill provides a credible level of assistance in the process of reforming Poland's economy because it is going to be a long one. It is going to require a U.S. commitment over the course of the next decade. The bill sets a tone for assistance that we can sustain over an extended period of time.

In addition, this bill does not by any means attempt to mislead the Polish people by authorizing a level of assistance that Congress does not intend to appropriate.

I ask my colleagues on the other side, as we debate the differences between the Senate Republican bill as introduced by our leader and the Mitchell-Simon substitute, that in the area of food aid we are very close to a resolve. And in stabilization assistance we are using roughly the same figure. We differ in the enterprise funding. My friend from Illinois has a figure of about $400 million. We have $225 million with $100 million generated by bond sales. I hope we can work some compromise in that area. We are the same on labor. In the area of the democracy funding, we have a little higher figure. In education, we have $6 million, and the Mitchell-Simon substitute does not address that. In the environment, they have $10 million, we have $20 million. In the area of medical assistance, we have $4 million in each. In the areas of telecommunications, science, Peace Corps, technical assistance, the Mitchell-Simon bill has funded it and we do not.

We are looking at a differential between $584 million and $989 million. I gather that the trade insurance is not being counted into the Mitchell-Simon substitute. That would reduce that to $799 million. I certainly hope that the leadership can work together in addressing portions of this so that we may resolve this matter.

I believe my friend from Illinois has a question.

Mr. SIMON. Just in general, the Senator has outlined things accurately. In terms of our economic stabilization, we are talking about roughly the same figures. Food aid, we are talking about roughly the same figures. The one area where I would offer this minor correction to my respected colleague from Alaska, when you talk about the Free Enterprise Fund, what we did was, frankly, precisely what Senator DOLE said. We just took the President's program which was originally going to have only $10 million the first year, and we have expanded it.

But we have added one other thing that I think protects against the very thing the Senator from Alaska is worried about, and I certainly would not favor, because what we want to do is to build a viable, healthy free enterprise system. We say in our proposal, and it is not part of the Dole proposal, that a majority of the enterprise fund people have to be Americans appointed by the President of the United States. I have confidence in the President of the United States that he will not appoint people who are going to be making the wrong kinds of choices. If the Dole amendment should be defeated and the Senator from Alaska wants some language to clarify this, we will certainly take a look at it.

Mr. MURKOWSKI. I think the point I was attempting to bring up to my friend from Illinois was the monetary difference between the bill before us and the Mitchell-Simon substitute, where we are looking at $225 million vis-a-vis $400 million in the hopes that we might compromise. I wonder if ultimately we can reduce the Simon level by perhaps $100 million and use $50 million for bond issuance to create a $200 million additional investment because the leverage of the bond investment is substantial?

Mr. SIMON. If I can respond to my colleague from Alaska, we have already in the original bill that came out from the Foreign Relations Committee reduced it substantially. I know my colleague from Alaska has an interest in this. He wants to make sure we send a strong signal. Under the proposed substitute that is before us, Italy, for example, would provide more assistance in 1 year than we would in 3 years. Italy is not a country that has greater resources than the United States. So I hope we could go for the higher figure, and I hope our colleagues in the Senate will do the same.

Mr. MURKOWSKI. I thank the Chair. I yield.

Mr. Symms addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho [Mr. SYMMS].

Mr. SYMMS. Thank you, Mr. President.

Mr. President, I rise today to support the Dole package. I think we should recognize in all of our efforts on behalf of our friends in Poland that the Polish people will not be helped by either of these packages unless the ideas that have made this country so great are allowed to flourish over there. I appreciate the comments of the distinguished Senator from Alaska, Senator MURKOWSKI, who is a very prominent American of Polish descent.

It reminds me of a statement that our good friend from Texas, Senator PHIL GRAMM, often makes, and that is America is a Nation of very ordinary people who have accomplished extraordinary results because they have been free. So I believe that the package that Senator DOLE has presented is a reasonable and well-conceived approach toward our assistance to these countries.

It is true that dramatic events have taken place in Poland and Hungary. There are some hopeful signs there will be some emerging institutions that will carry forth the ideas of freedom to help those people accomplish more and be able to sustain a better standard of living.

I think we are correct in assessing the significance of these changes by volunteering to our assistance to these two very transitional countries. But the reason I believe the Dole bill

makes more sense is that it is not going to help Poland if we go into that country with some kind of package which will depress the production of farm products in that country.

I do think it is important we help them now because winter is coming and they do need some food to carry them through this winter. It is the old saying that the Communist countries end up having to go to the capitalist countries to get their food and oftentimes they have to get it on credit.

The Dole substitute package includes approximately $112 million for food and other commodities that are urgently needed.

Mr. President, on this note I want to briefly mention that earlier this year I wrote Under Secretary of the Department of Agriculture, Richard Crowder, on this specific issue. In bringing the Polish aid package to their attention, I urged them to include products like dried beans, peas, and lentils for that country. Mr. President, I ask unanimous consent that at the end of my remarks my letter to Secretary Crowder be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SYMMS. Mr. President, the minority leader's package includes many other positive approaches toward helping Poland and Hungary as those countries try to throw off the yoke of communism. I will not belabor the matter. However, I believe we need to make it clear that throwing money into these beleaguered countries will not provide solutions to their problems.

What we need to do, rather than send them cake, is send them the ingredients to make the cake. We need to encourage a framework where volunteer institutions can be allowed to work and to have the society gradually grow from the grassroots up to develop a sustained, strong, individual, entrepreneurial economy that will provide for the people.

The greatest export we can send these countries cannot be measured by weight or by a price tag. The most valuable commodity we can send is free market principles. That is what will move them away from the policies and practices of Communism and toward a capitalist society.

Capitalism has been proven throughout history to be the most humanitarian, economic system available to the human race. It has allowed for people to produce more and more. It has helped bring about a better standard of living, help people who are sick, improve housing, improve transportation and, in general, provide better opportunity for more people.

The doors of freedom are starting to crack open in Hungary and Poland, and we need to try to help open them wider and wider so that they cannot be closed again. I think that the package of the minority leader recognizes this.

At a time when we are winning the battle of ideas worldwide, it is no time for the United States to reach out and snatch defeat from the jaws of victory. Now is the time for us to keep doing what it is that is making us win the battle of ideas.

The Dole substitute is much more respective and careful of the way it handles the Polish agricultural sector. We have to recognize that one sector in Poland is still in private hands; that is, the agricultural sector. We do not want to be dumping too many commodities. We do not want our Polish friends to be starving to death this winter, but we do not want to break the incentive to increase the production and produce more food for their people.

The Dole bill targets emergency food aid to the infirm, to the elderly, and the children, and would not undercut that sector of the Polish economy best able to help the Polish people. It raises funds for the Polish and Hungarian Enterprise Fund through private resources. I think this is a plus and a must. Instead of taking money out of the U.S. Treasury, the Dole bill would set aside $25 million for the capitalization of the funds through the floating of a bond; conservatively estimated to raise approximately $125 million. I think that bond offering would probably be snatched up quickly by Americans; there are millions of Americans of Polish descent who would probably be purchasers of those bonds.

The Dole bill raises funds for the Polish-Hungarian enterprise funds through private resources, and seeks to ensure that our enterprise assistance would go to genuinely private entities. This is a critical point.

The Dole substitute does set aside $200 million for the Trade Credit Insurance Program pursuant to Export-Import Bank requirements. This program is certain to add to their already crushing debt. No one questions our intentions when we loan other countries money, but when these recipient countries discover that they have to service their debt, they often find that they are unable to do so without great disruption of the productive sectors of their economies. These generous American loans do not really help, and I believe the Dole bill recognizes this. I compliment Senator DOLE and his staff for working with many of us to provide some caution and care in that area.

Mr. President, there is another very important point, and my colleague from Illinois may want to comment on this. The Dole bill is the only vehicle Senators have to vote for which would automatically terminate assistance in the event martial law is declared or democratic reforms are reversed.

It is my understanding that the Simon-Mitchell bill would cut off aid only upon a Presidential certification of a significant reversal of the democratic process in Poland or Hungary. I think that is a very significant point: You cannot measure all things in terms of dollars, pounds or weight. It is ideas that have consequences; it is ideas that will save Poland.

So, Mr. President, I thank Senator DOLE for working with many, many Senators to develop this package. I compliment him for it. I hope Senators will support the Dole package because I believe it is the right aid package for the Senate to pass.

America should be exporting capitalism and freedom because we know that "freedom works," to quote our good friend from Texas again.

America is a nation made up of ordinary people who have accomplished extraordinary success because they are free.

I yield the floor.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON ENVIRONMENT
AND PUBLIC WORKS,
Washington, DC, September 18, 1989.

Hon. RICHARD T. CROWDER,
Under Secretary, United States Department of Agriculture, Washington, DC.

DEAR SECRETARY CROWDER: Thank you for returning my recent phone call. As you know, I am very interested in the Administration's effort to assist the Polish people as they throw off the yolk of communism.

Specifically, I'd like to call to the Administration's attention some possible foodstuffs to be included in the food aid package to Poland: dry edible beans, peas and lentils. These commodities are used in a number of traditional Polish dishes. For example, Polish-style Ukrainian Barszcz uses dried white beans, grochowka is a common Polish soup made of dried yellow peas, and zupa chlebowa is a green pea soup.

From a nutrition standpoint, it is hard to beat beans, peas and lentils. They are widely recognized for being excellent food staples—high in protein and vitamins, and easy to digest. In meeting the nutritional needs of the Polish people, it would be hard to find commodities that would go further than these, especially considering their comparatively low cost.

Consequently, an effort on your part to include dry edible beans, peas and lentils in the U.S. food package to Poland would be greatly appreciated—not only by those American farmers who produce them, but by the potential Polish consumer as well.

With best regards, I am

Yours for a free society.

STEVE SYMMS,
U.S. Senator.

P.S.—Thanks for your consideration.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina [Mr. HELMS].

Mr. HELMS I thank the Chair.

Mr. President, the distinguished manager on the bill, Mr. BIDEN, and I

have considered two amendments which I have to offer. I ask unanimous consent to temporarily lay aside the pending Dole amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NOS. 1057 and 1058

Mr. HELMS. Mr. President, I send these two amendments to the desk, and I ask they be stated en bloc and considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes amendments en bloc numbered 1057 and 1058.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 1057

At the end of section 201, on page 18, after line 21, add the following new paragraph:

( ) INELIGIBILITY OF ENTERPRISE FUNDS FOR MILITARY PURPOSES.—Neither the Polish-American Enterprise Fund nor the Hungarian-American Enterprise Fund nor the Overseas Private Investment Corporation shall finance or include in any of its programs any venture, project, or enterprise that benefits, directly or indirectly, the Polish or Hungarian military or security forces, the Soviet military, or the military of any other Warsaw Pact member state.

Mr. HELMS. Mr. President, this amendment is intended to ensure that in the rush and gush to assist the people of Poland and Hungary we do not inadvertently aid Warsaw Pact military power.

For it should be remembered, Mr. President, that despite all of the reform—real and desired—both nations remain committed members of the Warsaw Pact. Soviet troops remain on the soil and their own soldiers continue to pose a threat to the security of Western Europe as well as to American soldiers in Europe and their dependents.

We need to ensure that none of the funds provided by American taxpayers can be used in any manner which will support the Communist military, security, and intelligence forces in these countries.

The amendment provides:

Neither the Polish-American Enterprise Fund nor the Hungarian-American Enterprise Fund nor the Overseas Private Investment Corporation shall finance or include in any of its programs any venture, project, or enterprise that benefits, directly or indirectly, the Polish or Hungarian military or security forces, the Soviet military, or the military of any other Warsaw Pact member state.

Mr. President, let us not forget that Communist forces remain in absolute control of the military in both countries. Indeed, that concession appears to have been one which was a prerequisite for the other "reforms" which are alleged to be occurring.

What specific projects could be subsidized under the bill? Let us take Poland, for example. We have heard a great deal about the Gdansk shipyards in Poland. Everyone seems to want to assist the shipyard and the shipyard workers. Indeed, Solidarity's leadership originated among those very workers.

However, Mr. President, it should be noted that these shipyards are building more than sailboats. Much of the shipbuilding there is dedicated to Warsaw Pact warships and a merchant marine fleet intended for shipping Soviet bloc military aid throughout the world. The Soviet bloc merchant marine fleet has seriously impaired western merchant marine fleets including our own merchant marine.

We need to be certain that these aspects of shipyard work receive not one dime of the American taxpayer's money. American taxpayers should not pay for the undermining of our own naval—military and civilian—capabilities by building up Soviet bloc shipbuilding capabilities.

AMENDMENT No. 1058

On page 27, line 17, after "(2)", strike "in order to" and insert "when such liabilities".

Mr. HELMS. Mr. President, this amendment would prevent the waiving of the prudent lending standards of the Export-Import Bank called for in this bill. The bill before us appears to shift the burden of repayment for Export-Import Bank loans from the Governments of Poland and Hungary to the American taxpayer through the ambiguity of a Presidential guarantee to the Bank for loans to Poland and to Hungary.

My amendment seeks to make sure that we maintain the current fiscal responsibility mandate of the Export-Import Bank.

My amendment strikes the words "in order to" on page 27, line 17, and inserts in lieu thereof "when such liabilities."

It appears to me that the drafters, perhaps inadvertently, have reversed the prudent standards of the Export-Import Bank law. My change leaves the Presidential guarantee mechanism in place, but ensures that the new mechanism will meet the minimum standards of fiscal responsibility in current law.

The standard for Export-Import Bank loans under current law is loans which, and I quote from 12 U.S.C. 635(b)(1)(B), "* * * in the judgment of the Board of Directors, offer reasonable assurance of repayment."

The language before us appears to circumvent this lending standard by authorizing the President, and I quote from the bill "to provide guarantees to the Bank for liabilities described in paragraph (2) in order to satisfy the requirement of section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 USC 635(b)(1)(B) that the bank have reasonable chance of repayment."

Mr. President, the truth of the matter is that some of these may well be loans that do not meet fiscally responsible standards. That is why those who have proposed the Export-Import Bank loans have to include this provision to override lending standards.

Senators should know that as of today the Export-Import Bank already has $1.3 billion in arrearages—75 percent of which are loans overdue for over a year. In the face of staggering costs to the American taxpayer from the savings and loan bailout, not to mention vast additional taxpayer liabilities from Federal credit programs, we cannot take such a risk.

Mr. President, I ask unanimous consent that a Wall Street Journal article concerning the crisis in Federal credit programs by William G. Gale, assistant professor of economics at UCLA, entitled "The Big Debt Overhang" be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, it is clear to many experts that the Polish economy is disintegrating every day and there is no way to prevent its collapse in the coming months. No amount of American taxpayers' money can rescue the Communist economy of Poland; nor should American taxpayers bail out Communist countries.

Poland and Hungary are members of the Warsaw Pact. Poland and Hungary are members of the Soviet-controlled COMECON economic bloc. The responsibility for the economic disaster behind the Iron Curtain lies with Moscow and the Communist economic system. No amount of American taxpayers money can bail out the Communist bloc.

The fiscally responsible lending standards requiring "reasonable assurance of repayment" are overridden in the legislation before us by authorizing the President of the United States "provide guarantees to the Bank" instead of the governments of Poland or Hungary providing "reasonable assurance of repayment."

In short, the burden of repayment is shifted from the borrower—Poland and Hungary—onto the shoulders of the American taxpayer by means of a Presidential guarantee to the Bank.

This Presidential guarantee for the Export-Import Bank establishes a dangerous precedent which can in the future be expanded to include untold billions of dollars of taxpayer liabilities for bad debt in the Third World and Soviet bloc countries. For the Export-Import Bank to remain solvent

there cannot be exceptions to its current lending policies.

My amendment leaves the Presidential guarantee but ensures that we preserve the fundamental fiscal responsibility mandate of the Export-Import Bank.

(Exhibit 1)

[From the Wall Street Journal, Oct. 25, 1989]

THE BIG DEBT OVERHANG

(By William G. Gale)

Few people are aware that the federal government lends almost as much money as it borrows. From 1980 to 1988, while federal budget deficits totaled $1.41 trillion, the government issued $394 billion of new direct loans and an additional $756 billion of new primary loan guarantees. These figures omit secondary guarantees, deposit insurance, and the activities of Government-Sponsored Enterprises a huge concern in its own right, as detailed on this page May 3).

Federal credit programs date back to the New Deal, and were meant to break even financially. Since the 1950s, federal lending has experienced extraordinary growth in credit volume (see graph), subsidy rates, and policy applications, spurred on by the growth of government in general and budget gimmicks and deceptive management in particular. As we will see, many of these obligations don't show up as part of the federal deficit.

But recent events indicate that federal credit is out of control. Student loan defaults remain high at about 12%, and the program has been rocked by allegations of fraud and mismanagement. Farmers Home Administration (FmHA) loans have turned into de factor giveaway programs; losses over the next three years are expected to exceed $20 billion. Defaults on Veterans' Affairs loan guarantees have quadrupled in the past eight years.

POTENTIAL LOSSES

Last month, the General Accounting Office reported that defaults in Federal Housing Administration guarantees were five times as high as previously estimated, and that FHA's equity fell to minus $2.9 billion. GAO findings are particularly troubling because the FHA has about $300 billion in obligations outstanding and had previously been considered one of the most financially secure credit programs.

Scores of other credit programs, subsidizing agriculture, small business, exporters, defense, energy, transportation and others, are less visible but in no better shape. If the programs continue their present path, the potential government losses are staggering: The federal government holds $222 billion indirect loans outstanding and backs an additional $550 billion in primary guarantees. (Secondary guarantees of pools of FHA and VA-backed loans by the agency known as Ginnie Mae currently exceed $330 billion.)

Although external events have contributed to the morass, the principal causes of the current crisis are internal and generic to all programs. To reduce the risks while still retaining the legitimate benefits these programs can provide, credit policy must:

1. Use credit to improve the operation of capital markets, not to provide subsidies.

There is a fundamental conflict between providing a subsidy and maintaining the integrity of a credit program. If the program is meant to provide a subsidy, collecting the debt defeats the original goal. Thus, subsidized loans tend to turn into giveaway programs, with increasing subsidy and default rates over time. To avoid this problem, government should issue credit only if it intends to use every legal method to collect.

In contract, credit programs can be appropriate tools to improve the operation of capital markets. For example, legal restrictions on interstate banking once inhibited the supply of credit to the agricultural sector. Farm lending was enacted to correct this problem by providing a reliable flow of lendable funds. However, this in no way justifies the huge government subsidies and losses on such loans.

Credit policy should separate these two competing objectives and eliminate aspects that provide the subsidy. For example, student loans currently attempt to subsidize college attendance and mitigate problems created by the fact that students' future earning are not accepted as collateral. The program provides highly subsidized loans to any student whose family earns less than a particular amount. High default rates, a low interest rate, and government coverage of all interest costs while the student is in school make program costs extremely high. Families that do not need the loan can make money simply by putting the loan in the bank and paying it back when the student graduates.

In contrast, student loan program that was meant solely to correct capital-market imperfections would allow loans for any student, regardless of family income, at market or near-market rates. While the student was in school, interest costs would either be paid by the student or added to the loan balance. This program, combined with cash grants to needy students, would reduce program costs and much more effectively target the intended beneficiaries.

2. Provide better incentives.

Given the structure of most credit programs, it is surprising that default rates are not even higher. Guarantee rates are typically 100%, giving lenders little reason to screen customers carefully. Reducing those rates moderately (say, to 75%) would still provide substantial assistance to borrowers. But it would also encourage lenders to choose more creditworthy customers, and go a long way toward reducing defaults. For example, the Small Business Administration has had reasonable success in reducing both guarantee rates and default rates in its Preferred Lenders' Program.

Borrowers' incentives are equally skewed. Since the government has a dismal record of collecting bad debts, the costs to the borrower of defaulting are usually low. In addition, it is often possible to obtain a new government loan even if existing debts are not paid off. Simple policy prescriptions in this case would be to improve debt collection (taking the gloves off contracted collection agencies) and to deny new credit to defaulters. These provisions would be difficult to enforce for a program intended to provide a subsidy, but would be reasonable and effective devices for programs that attempt to offset market imperfections.

3. Record the true costs of credit programs in the federal budget.

Since the budget measures cash flow, a new $1 direct loan is treated as a $1 expenditure, even though at least part of the loan will be paid back. Loan guarantees don't appear at all until the borrower defaults, so new guarantees do not raise the deficit, even though they create future liabilities for the government. By converting an expenditure or loan to a guarantee, the government can ensure the same flow of resources and reduce the current deficit. Predictably, guarantees outstanding have risen by $130 billion since 1985, while direct loans outstanding have fallen by $30 billion.

The true budgetary cost of a credit subsidy is the discounted value of the net costs to government. This figure could be estimated using techniques employed by private lenders to forecast losses, or determined by selling loans to private owners (without federal guarantees). Neither technique is perfect, but both are better than the current system, which misstates the costs of new credit programs by amounts that vary substantially and average about $20 billion annually, according to the Congressional Budget Office. A budget that reflected the real costs of lending would eliminate incentives to convert spending or lending programs to guarantees and would let taxpayers know what Congress is committing them to.

4. Impose standard accounting and administrative practices.

Creative accounting is a hallmark of federal credit. Many agencies roll over their debt, paying off delinquent loans by issuing new loans, or converting defaulted loan guarantees into direct loans. In any case, they avoid having to write off the loans. Some agencies simply keep bad loans on the books; as late as 1987, the Export-Import Bank held in its portfolio at face value loans made to Cuba in the 1950s. More seriously, FmHA has carried several billion dollars of defaulted loans at face value. Until GAO's recent audit, FHA books had not been subject to a complete external audit in 15 years.

A MORE USEFUL ROLE

The administration of federal credit should closely parallel private lending practices, including the development of a loan loss reserve and regular outside audits. Establishing these practices would permit earlier identification of emerging financial crisis, provide better information for loan sales and budgeting decisions, and reduce fraud.

Government lending was not intended to be a way to obfuscate spending figures, hide fraudulent activity, or provide large subsidies. The reforms described above would provide a more limited, but clearer, safer and ultimately more useful role for government as a lender. Without such reforms, credit programs will continue to be a large-scale, high-risk proposition for taxpayers.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I will be very brief. The intent of both of these amendments is sound. It was never the intention of the Foreign Relations Committee, Senator SIMON, or any of us who support the Simon approach, that any of this money should go to aiding the military establishment. I think it is a useful addition. One of the amendments relates to that. The other amendment relates to the Export-Import Bank. I think it is also a valuable addition. We accept both amendments.

Mr. HELMS. I thank the distinguished Senator.

Is there further debate on the amendments? If not, the question is on agreeing to the amendments of the Senator for North Carolina.

The amendments (Nos. 1057 and 1058) were agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. I thank the able Senator from Delaware. I wish him Godspeed in his trip tonight.

Mr. BIDEN. I thank the Senator.

Mr. President, what is the business before the Senate?

AMENDMENT NO. 1056

The PRESIDING OFFICER. The pending amendment is No. 1056.

Mr. BIDEN. That is the Dole amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. BIDEN. Mr. President, it is my understanding from the distinguished minority leader, Senator DOLE, that there are a number of colleagues on the Republican side, our colleagues on the Republican side of the aisle, who have an interest and desire to speak to and in favor of the Dole amendment. We are at this moment trying to determine whether or not it will be possible for us to agree on a time certain to vote sometime early tomorrow. When I say "early," I mean early in the day, not necessary early the first moment on coming in.

The distinguished minority leader is considering that. I have discussed it with the champion of this bill, Senator SIMON. He is in agreement that if it is possible for us to get a time certain on this Dole amendment that would be an appropriate way to proceed.

I further understand, Mr. President, that there is essentially—I say this for my colleagues and I know this is a time when Senators who manage bills are most listened to, about 5 minutes of 6. It always gets the attention of all of our colleagues who have their squawk boxes on and the televisions on to determine what the rest of the evening will be like.

I do not have the authority nor the ability to determine what the rest of the evening will be except I can outline very briefly what may happen. There is one important and albeit controversial amendment that I am aware of that is left, although there are several noncontroversial amendments left. The controversial amendment relates to cargo preference; always something to attract the attention and interest of our colleagues on both sides of that issue.

So if we can work out a time agreement on the Dole amendment, time as to when we will vote, then I expect, Mr. President, it would be the desire of the majority leader that all those who wish to speak generally and specifically on this bill would be able to do so this evening, but with the hope maybe we would not have any more rollcall votes this evening, although I want to emphasize I have no authority to make that assertion.

We are waiting to see whether or not there will be a time certain and waiting to resolve whether or not the cargo preference amendment will or will not be introduced this evening.

FOOD PROCESSING IN THE POLISH AND HUNGARIAN DEMOCRACY INITIATIVE

Mr. EXON. Mr. President, the House Committee report accompanying the Polish and Hungarian Democracy Initiative contains an important section which states that—

> The development of Polish and Hungarian private agricultural sector shall include the development in Poland and Hungary through loans, grants, equity investments, feasibility studies, technical assistance, training and insurance guarantees and other measures, programs and policies addressing food production, food processing, food storage, transportation, distribution and retail systems. It is of critical importance to the improvement of the Polish economy that all aspects of the food chain process be addressed and it is the intent of the Congress to engage the involvement of the private sector of the American food industry through efforts similar to the industry-to-industry program of the Food Industries International Trade Council a co-operative effort of the Food Processing Machinery and Supplies Association and the National Food Processing Association to develop the food industry in the Soviet Union.

I ask the manager of the bill, the distinguished Senator from Delaware whether the Senate bill is consistent with and embraces this section of the House committee report?

Mr. BIDEN. The concept expressed by the House committee report is completely consistent with the intentions of the Senate Foreign Relations Committee with regard to this bill. If a Senate report were issued, a similar passage certainly would have been included.

Mr. EXON. Mr. President, I thank the distinguished Senator for clarifying this important point.

Mr. CRANSTON. Mr. President, I rise to speak against the pending amendment offered by the minority leader. Our friend, Senator DOLE, has a heavy obligation now and then to carry water for the administration. On this issue, I suggest the pail is only half full.

What is before us in effect is the Bush amendment, the administration position, on aid to Poland. It is because the administration position is timid and inadequate that we are here discussing aid to Poland. The Senate Foreign Relations Committee recognized the inadequacy of the Bush administration proposal, voting 10 to 1 to greatly increase our assistance to Poland. The House of Representatives recognized the same thing, voting more than 6 to 1 to reject the President's halfhearted proposal, and the House passed a more far-reaching package by 345 to 47.

That was the overwhelming vote in favor of doing more than the administration wished. There are a number of Senators on the other side of the aisle sponsoring the Simon-Mitchell substitute, including Senators BOSCHWITZ and HUMPHREY. They apparently recognize the need to do more for Poland than the administration wishes or intends.

I want to urge all of our colleagues to stick with the Simon-Mitchell bill and to reject the Dole-Bush substitute which would undercut it. The plea has been made that we are spending too much if we do this. But think of the trillions of dollars that we have spent or the bills that may amount to more than a trillion to defend freedom specifically in Central Europe, to arrest the expansion of communism, by force if necessary.

Now we find an opportunity to support burgeoning freedom in Poland and in Hungary by peaceful methods. It is a tremendous investment. If democracy fails there, we might get another dose of communism or we might get some form of a military dictatorship.

Some sustained, steady, and reasonable help to the Polish people, their society, and their economy could help ensure victory for freedom and democracy in that part of the world. That is a very small investment compared to the vast sums that we might otherwise be compelled to spend in defense of freedom by force rather than bolstering freedom by peaceful methods as we now have the opportunity to do. I think it is very shortsighted if we do not do all we can. For that reason, I urge opposition to the Dole amendment.

APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore and upon the recommendation of the majority and minority leaders, pursuant to provisions of Senate Resolution 194 (101st Congress, 1st session), appoints the following Senators as members of the Senate's special delegation, to host a delegation of members of the Supreme Soviet of the Union of Soviet Socialist Republics:

The Senator from Rhode Island [Mr. PELL]; the Senator from Georgia [Mr. NUNN]; the Senator from Louisiana [Mr. JOHNSTON]; the Senator from Maryland [Mr. SARBANES]; the Senator from Ohio [Mr. GLENN]; the Senator from California [Mr. CRANSTON].

The Senator from Maine [Mr. COHEN]; the Senator from Florida [Mr. MACK]; the Senator from Oklahoma [Mr. NICKLES]; the Senator from South Dakota [Mr. PRESSLER]; the

Senator from Delaware [Mr. ROTH]; the Senator from Virginia [Mr. WARNER].

SUPPORT FOR EAST EUROPEAN DEMOCRACY ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Does any Senator seek recognition?

Mr. SIMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, it is in the spirit of the American people—and this spirit is obviously, and definitely with the Polish people, as they struggle forward in their effort to reestablish freedom in Poland—to root out the tragic elements of Communist domination that have caused such pain and hardship in that country since the close of World War II.

It would be nice to conclude that the battle for control of Poland has been settled in the last election and in the formation of the Solidarity government. But it is not quite that simple. There are 39 million people in Poland, but fewer than 2 million are members of the United Workers Party—that is to say, the Communist Party—of Poland.

My judgment is that we must assist the 37 million non-Communist Poles to restore freedom in their ancient land. By freedom, I emphasize and include freedom from communism and freedom from rule by Soviet puppet regimes.

We must remember, and a lot of people tend to forget it, that President Jaruzelski, the military dictator of Poland, still holds the strongest position in that country. There is no change in that regard. This has been all but obscured in the news reports about developments in Poland.

But we must not forget the fact that General Jaruzelski is in control. He is not a member of the current parliamentary government, but he occupies a special position, as President, that was created for him by the new article 32 of the Polish Constitution.

Under article 32 of the Polish Constitution, General Jaruzelski, as President, may dismiss the Parliament. He may dismiss the government; he may countermand any and all laws; all he has to do is stroke the pen. He has already established a special secretariat within his Presidential office, which works directly with local Communist Party leadership, to implement the President's directives, thereby, short circuiting the parliamentary system.

Mr. President, we should not take a naive glance at Poland and imprudently repond to what amounts to a thin veneer of parliamentary government, a government which can be dismissed at any time by President Jaruzelski. No amount of funding by the United States or anybody else can help an economy organized on Communist principles; that is to say, with ideological or political officials making decisions that ought to be made in the marketplace.

The problem of Poland is constrained by the reality that exists. We may not like it, but that is the way it is. Now, according to the official Polish yearbook statistics, in 1982, there were 56,700 socialized industrial enterprises in Poland, and 177,300 nonsocialized industrial enterprises.

However, the real thrust of the economy does not appear until you see that the socialized enterprises employ 4,776,000 people, and the nonsocialized enterprises employ only 63,000.

These figures are from 1982, but they are absolutely the latest figures available anywhere. I obtained these figures from the Library of Congress.

Mr. President, what is clear is that the overwhelming majority of poles are employed by a socialist system that is patently bankrupt, unproducitve, and inefficient. Poland is controlled by the Communist Party, either directly through the state apparatus, or through Communist Party directors, managers, and commissars.

I wish it were otherwise, but it needs to be expressed on the record that Solidarity does not have the power to dismiss the Communist bureaucracy that runs the industry, such as it is in that country. Solidarity has no effective way to eliminate Communist managers and commissars who are working under strict Communist Party discipline.

Massive infusions of credit into Poland will not prevent the disintegration of the economy. Massive infusions of United States taxpayer dollars will not prevent the impending collapse of the Polish economy. Massive infusions of United States taxpayer dollars will not remove the tens of thousands of Soviet troops which are still stationed in Poland. Massive infusions of U.S. taxpayer money will not disband the secret police.

Now, these are the facts, and we ought to be aware of them, and we ought to consider them.

Mr. President, all of this leads me to say that we must be prudent in our assistance to the Polish people, in order that we do not unwittingly build up the very system which has taken away the freedom of the Polish people for four decades. What is required is a prudent measure that will serve the Polish people in their battle to throw off the Communist establishment that has virtually destroyed the Polish society.

If we allow U.S. funds to be used to entrench the Communist establishment, the Polish people will never forgive us, and why should they? So if we want to help the Polish people—and I am sure that everybody in this Senate wants to do that—we should use our leverage really to set them free.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. (Mr. ROCKEFELLER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, Let me in just 1 minute respond. I agree 90 percent with what my colleague from North Carolina has to say.

Mr. HELMS. If the Senator will yield, that is an improvement; that is an improvement.

Mr. SIMON. I will just, add when the Senator talks about a thin veneer of parliamentary government, there is really, on the part of the Polish people, a firm desire to see this thing work. It is true that all the guns are in the hands of the Communists. So it is shaky, and the Senator from North Carolina is correct there.

The second thing I would say, I hope my colleague will have a chance to read the economic plan adopted by the Government of Poland. It calls for just moving dramatically into the free-enterprise system. That has been adopted by the Government of Poland. Now adopting something and getting there, frankly, are not the same. We even find that here.

Mr. HELMS. Mr. President, if the Senator will yield that is precisely the point. I want to help them get there.

Mr. SIMON. We are in agreement.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I rise in support of Senator SIMON's bill on Polish relief. One of the reasons I am in support of his position is just the conversation that has transpired here on the floor a moment ago between the distinguished Senator from North Carolina and the Senator from Illinois, and that is that the Poles have, in fact, adopted, in large measure, those things that are necessary to turn their very managed Communist economy, socialistic economy, into a more free-enterprise economy, and Senator SIMON's bill addresses that.

To just give money to a country that has no means of receiving it and has

no means of implementing the things that are necessary to bring about a more free enterprise type of economy, to give an economy that is not prepared to receive it such money is probably not the smart thing to do and is probably just throwing good money after bad, so to speak.

But what is happening, and the reason I am so much behind the bill of the Senator from Illinois, is the recognition that the Poles have, indeed, made those internal changes or are in the process of making them. All of them have not yet been implemented, but, nevertheless, they have taken the necessary steps, and the bill of the Senator from Illinois addresses itself to those changes and addresses itself to them in a manner to which the moneys can accommodate those changes.

Truly historic changes are occurring in Eastern Europe, not only in Poland, but in other parts of Eastern Europe as well. The scope of those changes is simply breathtaking and beyond anyone's expectations, even expectations that might have existed as recently as a year ago.

We certainly have not only a vital interest in promoting democracy there, but we have an opportunity to promote democracy in Eastern Europe in a manner that has never really existed within our lifetimes.

During the 1980's, democracy has spread to many parts of the world, particularly in South America. Virtually all of South American countries have adoped democratic institutions, with the exception of Chile, and even if it is moving in that direction. But Brazil, Argentina, Uruguay, Bolivia, and Peru, even Paraguay, and Ecuador have been democracies in the 1980's. So it is all around the world, whether it is Korea, the Philippines or Taiwan or Bangladesh or Pakistan, Turkey, Sudan; many countries in this decade have become democracies.

Interestingly, no country that has had any type of pluralistic political society has lost that pluralism in the 1980's. So during this decade we have seen a faster move toward democracy than at any other time in our lives, perhaps with the exception of the period immediately after the world war. But this is a remarkable decade when there has been no backsliding, when even the Communists or dictators to the right made any progress at all, as democracy has been on the march, as has free enterprise, and nowhere in more dramatic fashion than in Poland, Hungary, and perhaps other Eastern European countries in the very near future.

Clearly, the factor contributing to the success of those democracies, success for democracy in Poland, will be the ability of the Polish economy to make a transition from stagnation of the Communist system to free markets.

It is an interesting historic fact that democracy's political rights have never existed without the coexistence of economic rights.

Alan Friedman always speaks about that in his writings, that economic rights and political rights may have always coexisted; one may not exist without the other.

So it is enormously important that Poland adopt a more economic system, and transition from a Communist system to an open system is difficult.

The problems facing Poland are daunting. Our primary effort has to be in helping that country cope with the transition, and that means developing the necessary infrastructure, and the bill crafted by my friend and colleague, the Senator of Illinois [Mr. SIMON] is directed and intended to do just that.

A recent article in the Economist pointed out five different areas of required action in Poland, or any Communist economy that is going to make the transition to a more open society.

First, it must revive the private sector by allowing private businessmen to gain access to the labor, capital, and raw materials. In many of those countries the laws say you can only employ so many people, 5 people, 20 people. It varies from country to country. Poland, to its credit, has passed legislation assuring that access, but there is, as we all know, often a gap between passing legislation and implementing that legislation.

Poland must also open up the public sector; that is, it must break up the huge and inefficient public sector industries and allow their smaller replacements to compete. It must also allow raw materials to go to the private sector rather than the public sector.

Very often, in Communist countries that have tried to develop a private sector, they have not allowed the raw materials to go to the private sector or given it even an equal shot to get the raw materials, as opposed to the public sector, which always had its order either filled first to speak. It must cut subsidies to those private sector industries so inefficient ones may fall away while liberating the efficient ones. Poland began making valiant efforts in this regard, and we ought to help it there as well.

Third is price reform, which is absolutely essential. Poland has already opened up about 50 percent of its economy to market prices, and, hopefully, it will be up to 90 percent by 1993. Those are daring steps to take. In those kinds of economies, when you open up the pricemaking mechanism, you normally create quite a bit of inflation.

Fourth, the banking system has to be opened, with lending done on objective economic grounds, that there be an open market in money. Commercial banks must be divorced from the State and become joint-stock companies. While there has been some legislation, I understand, in Poland to achieve those ends, that is moving forward rather slowly.

Finally, there is the role of the West. One of the factors attracting me to Senator SIMON's proposal is the authorization of debt-for-equity swaps. It is one of the most important things that we can do. Western owners of Polish debt must be able to offer some of that debt for a Polish company and raise in effect the debt for interest in the Polish company or trade the debt to somebody who is willing to trade the debt instrument for Polish assets.

Our expertise may then come to bear directly in the transformation of the Polish economy by getting some Western ownership into the Polish economy, and they are prepared to accept that. We must also be involved in joint ventures to help build up the private sector, which really is in its infancy.

This bill is aimed primarily at strengthening the private sector in Poland because we know that democracy, as I have mentioned, has never succeeded when not joined with the engine of the free market. We all wish to see democracy prevail in Poland and other Eastern European countries. This bill provides a mechanism for us to do what we do best to assure that result: give Poland the benefit of our expertise in the free market economy.

Let me speak for a moment about a special feature of the Polish economy, and that is the agricultural sector. In a word, Mr. President, it is a mess. Another article that appeared in the Economist described the situation very well, and I ask unanimous consent that that article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BOSCHWITZ. The article points out that while 70 percent of agricultural land remains in private hands, far and away the great majority of that is in very small farms, farms that are 5 hectares, 12.5 acres, or less, and there are very severe restrictions on the amount of land that any one farmer can own. That, of course, is a prescription for tremendous inefficiency. Also, it is not uncommon in Poland to see crops being harvested very much the way the grandparents and great grandparents of the farmers did it 100 years ago.

The shortage of machinery and the inability to get the spare parts for that machinery is such that most farmers, or many farmers, are harvesting their

crops in what we would consider a most backward manner.

Rural poverty is widespread: nearly half of rural buildings lack running water, central heating, and gas. State monopolies that have been characterized by gross inefficiency and corruption have only worsened the problem. At the production end, the corruption and inefficiency has meant that Polish farmers lack everything from tractors to feed, fertilizer and even buckets and string are in short supply. As a result, Polish farmers are still often planting and harvesting by hand, as their parents did.

At the other end of the production line, let me quote the Economist in describing the situation:

Slaughterhouses that could butcher 1,200 hogs a day process only 50, but maintain the same number of employees. Outdated production materials push costs higher than they should be. Nonsensical distribution systems ship potatoes from one end of Poland to the other and back again. Illogical regulations are everywhere—for example, preventing butchers from selling hides directly to leather manufacturers.

The article goes on to say that "at both ends of the food business, a little fast help from the West—one or two pieces of processing machinery, extra tractors—could make a big difference." The bill before us will allow that to happen. It is directed toward providing the funds to build up the infrastructure of the Polish economy, particularly the agriculture economy, from where most economies begin, to provide the expertise of the United States in such a way that it makes a difference. We should move expeditiously to see that this occurs during this period of historic opportunity.

Mr. President, I wish to say again to my friend from Illinois that I compliment him for the bill that he has introduced. I think it is a constructive one. I think it is spending money, to be sure, that we need. But this is an historic opportunity to do something and his bill is so structured that it will fit into the economy that is being opened up.

I yield the floor.

EXHIBIT 1

[From the Economist, Oct. 21-27, 1989]

POLAND: THE FARMING FIASCO

If shiny new steel mills symbolised communist Poland in the 1950s, empty meat shops and queues represent the nearly-post-communist Poland of the 1980s. The two pictures are not unconnected: 40 years of investing in heavy industry have left Poland without an agricultural infrastructure to speak of. The resulting high food prices and food shortages are now the main cause of social unrest, and farm investments have been the most sought-after form of western aid. Polish economists point out that, while heavy industry creaks to a halt, food production and exports are the country's largest potential growth areas and could be made to turn a profit within a year. But before that happens, a vast web of irrationality must be unravelled.

Polish farmers were largely spared the horrors of collectivisation in the 1950s, but the difficulty of buying and selling land prevented the tiny farms of pre-war Poland from growing as much as they should. As a result, 70% of agricultural land remains in private hands, but 60% of the country's 2.8m private farms are smaller than five hectares (12.5 acres). Laws governing land vary from region to region, with owners limited to 50 hectares in south and central Poland, 100 hectares in the north. Much private land has been slowly reverting to the state because farmers must give up ownership of their land in order to receive pensions. They are unable to find buyers; up to 5% of fertile land now lies uncultivated.

Rural poverty is endemic. Some villages of 500 people have no telephones; 45% of rural buildings lack tap water, central heating and gas. Many villagers now commute to factory jobs, or send their children to them, because farming alone cannot keep them alive. The lack of shops in the countryside forces others into subsistence farming. Unable to buy food, farmers must produce virtually everything themselves.

With their long production cycles and need for careful planning, Polish farmers are suffering the most from Poland's triple-digit inflation. "What if today I sell 100 kilograms of potatoes, hoping to buy spare parts for my tractor. Then I have to wait four weeks for the spare parts to arrive. In the meantime, the price has quadrupled. How am I supposed to plan anything?" complains one farmer from the Lublin region. Inflation makes it particularly unprofitable to raise animals. Last year farmers all over Poland slaughtered their sows rather than breeding them, because the cost of raising piglets was going up faster than the sale price.

Beyond land and inflation, there are two big bottlenecks: disastrous state monopolies in the production of farm equipment at one end, and inefficient state-owned wholesalers and distributors at the other. The first problem means that Polish farmers suffer from lack of everything: tractors, fertiliser, feed, even string and buckets. What is available reaches state farms first. Private farmers who try to buy feed speak of feeling like "beggars", not clients. The country's sole tractor factory produces only a few of the small tractors needed for small farms, and almost no spare parts. To ensure that they will always have a running tractor or combine, Polish farmers need to own three or four. Not everybody can afford one, let alone several, so motorists in Poland are treated to the sight of peasants digging potatoes or harvesting wheat by hand, just like their grandparents.

At the other end of the production line, the problem is not capacity but inefficiency and corruption. Slaughterhouses that could butcher 1,200 hogs a day process only 50, but maintain the same number of employees. Outdated production materials push costs higher than they should be. Nonsensical distribution systems ship potatoes from one end of Poland to the other and back again. Illogical regulations are everywhere—for example, preventing butchers from selling hides directly to leather manufacturers. With a few notable exceptions, exporting is not organised sensibly: Poland earns hard-currency profits from cattle sales, but does not necessarily reinvest the money in breeding new animals.

To oversee the wastage, each region of Poland has a meat, dairy and horticultural monopoly, whose ruling nomenklatura can make trouble for new private competition. In the past, private food production has been possible only through close links with these firms; the half-dozen private meat producers in the Warsaw region are therefore even less friendly to newcomers than the state ones. Now new laws make it legal for anyone to set up a processing plant: a small meat factory costs less than $100,000. But without connections and small amounts of hard currency, entrepreneurs cannot obtain essential items like cold-storage equipment or lorries. Retailing is the same. One company trying to set up a private meat shop in Warsaw found itself unable to get hold of refrigerators when the state retailers refused to relax their exclusive right to import them.

At both ends of the food business, a little fast help from the West—one or two pieces of processing machinery, extra tractors—could make a big difference. Many aid programmes for Poland already focus on the food industry, any many joint-venture projects are aimed in the same direction. One notable success so far has been the Rockefeller Foundation's small Polish programme, which has managed to turn in a profit in ham exports in less than one year through identifying shortages and bottlenecks.

It is no surprise that politics in the countryside is tangled. No one has tried to organise the farmers properly for 45 years and now, with local elections looming, everyone wants to. The Peasants' party (ZSL), linked to the old agricultural nomenklatura, is a partner in the ruling coalition, but it competes directly with Rural Solidarity. Both of these groups, along with a handful of others, are trying to model themselves after the prewar Peasants' party (PSL). If they ever succeeded in uniting, they could be the biggest political party in Poland—with the fastest-growing economic clout.

Mr. DOMENICI. Mr. President, a parliamentary inquiry: There is no time agreement on this matter, is there?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Mr. President, about 4 or 5 weeks ago, I was privileged to visit Poland with former Senate majority leader Howard Baker, former Vice President Fritz Mondale, former chairman Jim Jones of the House Budget Committee, and former Senator Tom Eagleton. Nine outstanding members of European parliaments joined us, and were a great help.

Our visit was not one to engage in a discussion of the macroeconomics of Poland, but rather to meet with the new Parliament's members. And it was indeed, at least for this Senator, a rather exciting event to get to know about 50 men and women who serve in Poland's House and Senate. We had a chance to visit for about 2½ days, and to learn about their new role. We picked up firsthand from them the excitement of a new government, rather fantastic enthusiasm about what might happen to their country, and for their people, the sensation of them being free.

That was coupled with huge economic and social burdens that they

were very nervous about. Obviously, we take for granted that we grew up in a democracy. We grew up in a system where we do not really have to understand, if we could, what makes the American economy particular. We do not even have to know what the essentials of a capitalist society are. We take them for granted. Our economy is so mature here that we are still writing books on how it works.

We have to understand that very few, if any, of these new Polish parliamentarians have ever experienced a democratic government and, through a process of liquidation, very few Polish adults know anything about a private sector free-enterprise type economy, the marketplace economy that they read about.

So it was an exciting thing to share views and to see that they really want to make it work. The National Democratic Institute and N.E.D. put the delegation together.

These newly elected Polish leaders are looking out to the world, but it seemed to me that their real ideal is the United States of America. They know that we are not going to be able, nor should we, to provide all by ourselves the kind of economic assistance, expertise, or resources by way of loans and the like. They know this help is going to come from a number of places.

It was quite obvious that they felt very, very energized by the idea that the United States of America was genuinely interested in what was going on. So that brings us here in an effort to see what we ought to be doing.

Before we get to that, what I would like to do is give a brief analysis of my own as to what the President has proposed and to compliment him, what Senator SIMON has proposed in his bill, and why I think overall it is a good bill, although some of it might not work.

Of course, the pending amendment of Senator DOLE has some good ideas in it. Let me acknowledge that I see the handwriting on the wall. The Dole Republican proposal, which I support, is not going to pass. Apparently, the bill of the very distinguished Senator from Illinois is going to pass.

Before we finish, I say to my friend from Illinois, he ought to take a good look at some of the provisions in the Dole bill that I am a cosponsor of. It is good policy. Some of it also reaffirms for the American people that we are doing the right thing and we expect Poland to respond in the right way.

Mr. SIMON. Will my colleague yield?

Mr. DOMENICI. I am pleased to yield.

Mr. SIMON. I am certainly open, assuming that the Dole substitute does not prevail, as I have indicated both to Senator DOLE and others, to ideas in his amendment that are sound. We certainly would welcome them.

Mr. DOMENICI. Well, perhaps I am reading more into the situation than I should. Perhaps, on balance, the Dole bill that I am a cosponsor of might be more attractive to more Members. In any event, I think there are some ideas whose times have come and are needed in both bills.

I would like to get to another point, in my own way. There appears to be competition to see who can get the Senate floor asking for the most as soon as possible in time for Poland in transition.

No one around is smart enough, clairvoyant enough, or wise enough to know how this Polish economy is going to make this transition and whether it will work or not. No one really knows what is the proper role of free world governments, or what is the role of the private sector. That is too complex.

We have never experienced it and anyone that runs around saying they know how to do it has to be omniscient.

On the other hand, my short visit to Poland indicated that we are already engaged, and we will be more so with the passage of each month, in a competition to see who can do what for Poland the quickest. I am not just talking about this bill, in this Senate. There are already people in Poland, I say to the distinguished Presiding Officer, who are running around with proposals and ideas. They are all going to fix some things that are wrong with Poland, they told me.

I hope that the free world, before the passage of too much more time, after we have committed enough money from the free world—and America has done her share—to try to help Poland stabilize its money, I hope that we would get to a point sometime when there is a major master coordinating effort by the free world, sort of a center to monitor what is going on in Poland. Then we can all get our information from the same place; we can all know what is going on without having to disrupt them with frequent visits.

I hope that our long-term aid effort would be preceded by an evaluation of the basics by the best minds we can put together.

Let me suggest we are not there yet, although this President is to be commended because he understands this is a free world effort and he is working closely with the European Community.

Maybe it is not all over the headlines, but the Polish people know the OECD, the European Community, and the United States, are working together to secure a major billion dollar loan fund to help Poland stabilize its currency. While we were there, it was obvious that the European Community was in constant contact, through their experts. So we are started.

The President has indicated he is going to appoint a commission of experts: businessmen, those who are familiar with the basics of free enterprise economics, and perhaps some eminent scholars who understand, from some of our best business schools. They are going to try to make an evaluation of the essentials. I think that is good.

I am not on the Foreign Relations Committee but I had a little bit to do with recommending that commission of experts. Personally, I would have expanded it. I would make it the free world's commission, analyzing the essentials, helping to set up some kind of a central focus for gathering information and the disseminating aid and other activities.

Nonetheless, the President has announced his intent to do that. I hope it expands, and I hope it works. I hope it has some very powerful and dedicated people, because this is an exciting venture in freedom for those in the free world, led by the United States. I am not sure we ever expected this day to come during our lifetimes. We ought to capitalize on it.

Freedom is on the move. If we do it right, it means capitalism and marketplace activities of the type we have experienced and that Japan and the European Community are experiencing, will be there for others, too; those who, heretofore, had no idea they could get it.

That gets me to the point that I hope we do not let competition see who can get to Poland fastest with the mostest be the measure as to whether we are helping Poland in the best way or not. I assure my colleagues, there are already groups running around Poland offering their best help, and they are going to make some bad mistakes. I think the Polish people know that.

We do not have our own assistance coordinated yet, and it may be difficult to do it. Maybe we want a degree of freedom under some central evaluating group.

Nonetheless, everyone wants to help Poland. No one can overtake the distinguished manager in his determination to help Poland. Our distinguished Republican leader has offered his substitute because he wants to help Poland. Our President has made some very significant efforts because he wants to help Poland.

We all share in this common determination to support this emerging democracy and do what we can to make it work.

So the question is, is this bill going to help Poland? Is it going to help Hungary?

Both the Simon bill and the Dole bill authorize the President's program.

And to the extent it is here, it is a sound program. There is at least $100 million in food aid for urgent needs, $200 million of our share of a $1 billion international fund to support Poland's difficult attempt to stabilize its currency, and $125 million over 3 years to establish a new type of foreign aid, Enterprise Funds for Poland and Hungary.

It is very important we understand our ongoing foreign aid programs are not going to work in Poland. They are just destined, calculated not to work. They are built around completely different sets of facts; not a Communist centralized economy in transition. We can not afford to use the old, contorted AID procurement rules. They just won't make sense.

In addition, the President has on his own undertaken to coordinate some multilateral efforts, as I previously indicated. He is working with the European Community and others, quietly, nonetheless effectively. I think we ought to compliment him for that.

I also commend President Bush for dispatching this broad-based team of private and public experts to Poland because, before we can, as a part of the free world, effectively help Poland in a sustained manner, we need a comprehensive assessment of what that new government is and what it faces; what facts are there and where the facts ought to end up.

This kind of team can do that. They can at least start with such an assessment. Another group ought to be responsible for following through on its recommendations.

I am not saying the President's program is sacred. Congress has a right to make its own assessments and I think the Dole substitute makes some very important improvements on the President's proposal. It makes sure the private Enterprise Funds go to private enterprises, not the State-controlled inefficient operations or fronts for the Communist bureaucracy.

It makes sure we are not accidentally helping the military strength of the Warsaw Pact. It expresses the conviction that our own defense budget cannot support every foreign aid initiative. There is $15 billion in foreign aid available, and some prioritizing has to occur there, too.

The Simon bill adds some useful ideas. It encourages voluntary American efforts in Poland and, I might say to my good friend from Illinois, he can rest assured that is going to happen. Americans are excited about that.

The issue is, as I see it, let us encourage volunteers, but could we not better coordinate them so we at least enhance the chance that the voluntary efforts will be successful.

I do not know how to do that but I think somebody ought to be evaluating where the voluntary help should go. Should there be some focal point to evaluate the need to which this voluntary effort could be addressed?

Let me mention some of the notions and ideas that are in the bill of the Senator from Illinois. It cuts off aid if democracy is ended, as does Senator DOLE's bill, of which I am a cosponsor. It addresses some of the very, I might say, terrible environmental problems. That is one area where the Dole program doubles the Simon program.

Frankly, even there I think there is room for American expertise and free world expertise, in addition to dollars. We will find some of our environmental and scientific experts could be of assistance in evaluating it. Maybe we ought to add some of that to one of these bills.

The real problem with the Simon substitute is it does some things that will not work. This does not detract from its authenticity and its appropriateness. But it does promise money that we cannot provide at this time. The Exim bank trade credit insurance program was a good idea for Central America. It did work well there. It will not work in Poland. It will only add more debt and Poland does not need that. And the infrastructural structural basis on which you repay that kind of debt is not there. So the Simon proposal is going to authorize a trade credit program that we will either not fund or, if we do, after a few trials and obvious errors, it will not be continued.

The extra money for the Enterprise Fund in the proposal of the Senator from Illinois may or may not make sense. We will not know until we set up an Enterprise Fund.

I do know this. The appropriators, in my opinion, will not be funding that extra money any time soon. That seems obvious from what I have already seen.

Obviously we are here today, as I see it, in the best way possible to provide up front assistance and a declaration of commitment to the Polish people. Some of the things we do are going to work. Some are not. Hopefully we will not be in this alone.

We are not in it alone now, and over the long run the entire community of free nations have a big stake in Poland's success. It ought to have a big stake in the commitments and contributions and resources and ideas that go to this Poland in transition.

Mr. President, I hope a year or so from now we will be in a position where we will know better what we are doing and what we should continue to do.

And then, as with other major American efforts, such as the Marshall plan, we will be down here on the Senate floor in harmony and in synchronization with a President and a free world community also providing momentum.

I think we will get there. I hope rather soon. We will not be competing among ourselves, either here in the Congress, Democrats and Republicans, or free world countries, one against the other. We should, by then, be able collectively to make a real commitment, to the best of our ability, to make this new dream and new hope work in Poland and Hungary.

I yield the floor.

Mr. SIMON. Mr. President, if I can just comment briefly.

First, I want to commend my colleague from New Mexico for his leadership on assistance to the brand new parliament of Poland. I was pleased to cosponsor his proposal. I think it is of real help.

Second, his suggestion we have to encourage voluntary efforts as much as possible. I could not agree with more.

Let me add, in addition to the bill, I have been working with some people. The American Council on Education is the umbrella organization for American colleges and universities. I met with Dr. Bob Atwell there to encourage them to work on programs to get American colleges and universities to adopt sister institutions in Poland.

One of the things they desperately need is a branch of an American bank over there. I have been working with several banks, and I think we now have three. I am not in a position to make any announcements, but I think we have three American banks that are now interested in establishing branches in Poland.

Let me here commend the Secretary of the Treasury, Nick Brady, with whom I have been working on this and who has been making some phone calls on this. I think we have been making progress.

Finally, I could not agree more that what we want is a bipartisan bill.

First of all, my proposal does have sponsorship on both sides, but I hope what emerges tomorrow will be a bill that all of us can support and support genuinely. There is no reason for any partisanship on this at all. This is an area where all Americans ought to be working together. I could not agree with my colleague from New Mexico more.

Mr. DOMENICI. Mr. President, let me just add, I might say to my friend from Illinois, I really think it is essential that, at the earliest possible time, there be a free world plan. I do not have a better word than "plan." It is not quite right because you are never going to know the details, but I think ultimately the free world must unite behind a common effort.

I see the distinguished Senator is genuinely interested and he is talking to universities. Granted, he is out front so—I would not be able to draw the analogy that there are 500 Senator

Simons around. But I can say, before the energy and enthusiasm to do something ends, there are going to be hundreds of thousands of actions by individuals, volunteer organizations, businesses, and governments. The sooner we do that we can collaboratively and with basic ideas in mind, the better off Poland is going to be, I assure you.

I repeat, there are people around with a bill of goods for Poland's people. I am not saying we are dealing with this problem, but Poles are going to be endangered if two much of the wrong type of "help" is forced on them.

Mr. SIMON. No question about that.

Mr. DOMENICI. We ought to minimize that.

Mr. SIMON. I am pleased to say the negotiations between Poland and the IMF are going very well right now.

Let me add, to a Senator with the last name of Domenici, that the first free world country that has come aboard in a substantial way with assistance to Poland is Italy. It has come aboard with $500 million. That is a substantial contribution and commitment on the part of Italy.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside so that I may offer the following four amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NOS. 1059, 1060, 1061, AND 1062, EN BLOC

Mr. LIEBERMAN. Mr. President, I send to the desk four amendments and ask that they be considered en bloc. I understand they have been cleared by both sides.

The PRESIDING OFFICER. The clerk will report the amendments en bloc.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN] proposes amendments en bloc numbered 1059, 1060, 1061, and 1062.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

At the appropriate place, insert the following:

AMENDMENT No. 1059

SEC. . ESTABLISHMENT OF SCHOLARSHIP AND EDUCATIONAL EXCHANGE PROGRAMS.

(a) The Administrator of the Agency for International Development is authorized to establish and administer a program of scholarship assistance, in cooperation with State governments, universities, community colleges, and businesses, to provide scholarships to enable students from Poland and Hungary to study business and economics in the United States. The programs may range from the standard management courses to more specialized assistance in commercial banking and the creation of a stockmarket. Grants to States pursuant to this section may be made with funds made available to carry out chapter 1 of part 1 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) or chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund). In addition to amounts otherwise available for such purpose under those chapters, there are authorized to be appropriated $1,000,000 for the 3-year period beginning October 1, 1989, for use in carrying out this section.

(b) The United States should expand its participation in educational exchange activities with Poland and Hungary, using the full array of existing government-funded and privately funded programs. The primary purpose of these exchanges should be to develop skills in business and economics that are necessary for the development of a free market economy. To enable the United States Information Agency to support these activities, there are authorized to be appropriated to the Agency $1,000,000 for the 3-year period beginning October 1, 1989, in addition to amounts otherwise available for such programs.

AMENDMENT No. 1060

At the appropriate place, insert the following:

SEC. . EXPANDING THE NUMBER OF COMMERCIAL OFFICES TO UNITED STATES EMBASSIES AND MISSIONS TO POLAND AND HUNGARY.

(a) It is the sense of the Congress that to the extent practicable—

(1) the United States Embassy to Hungary shall be assigned one additional economic and commercial officer;

(2) the United States Embassy to Warsaw shall be assigned one additional economic and one additional commercial officer;

(3) the United States Trade Center in Warsaw shall be assigned one additional economic and commercial officer;

(4) the United States Mission to Krakow shall be assigned one additional economic and commercial officer; and

(5) the commercial and economic officers assigned to United States Embassies and Missions to Poland and Hungary in addition to the regular duties shall help members of the private sector of both nations to do business with OECD nations.

AMENDMENT No. 1061

In section 203(b), add after paragraph (2) the following:

And renumber paragraphs (3), (4), (5), (6), and (7) accordingly:

"(3) the United States Department of the Treasury;

"(4) the Bureau of the Census;

"(5) the Small Business Administration;

"(6) the Federal Reserve board;

"(7) the United States Export-Import Bank;"

AMENDMENT No. 1062

At the appropriate place in the bill, add the following:

SEC. . OECD.

(a)(1) It is the sense of the Congress that the United States Ambassador to the OECD should enter into discussions with other member nation missions to establish a working group on providing assistance to Eastern European national economies, drawing on experts from all appropriate OECD directorates.

(2) The working group should—

(A) provide technical assistance to the government of Poland and Hungary, or any other Eastern European government the President determines has taken substantive steps toward instituting political democracy and economic pluralism, and members of the private sector of those nations attempting to make the transition from a nonmarket to a market based economy; and

(B) monitor economic changes in Eastern Europe.

(3) The group structure should be modeled after the OECD Consensus Group for export Credits.

(4) The United States Ambassador should also enter into discussions with other member nation missions about the possibility of Poland and Hungary being admitted as observers to the OECD for a one-year period.

(5) The United States Mission to the OECD should submit a report to the President pro tempore of the Senate and the Speaker of the House and the Commission on Security and Cooperation in Europe on the progress of these discussions no later than 90 days after enactment of this Act, and should submit a report annually thereafter on the activities of the working group.".

Mr. LIEBERMAN. Mr. President, much has been said today about the extraordinary events occurring in Europe. The truth is there is not too much that can be said about these events because they are indeed extraordinary, unexpected, unprecedented, and, in some sense, miraculous. They, I think, contribute to having led one observer of the political scene to suggest that the end of history is near. I presume and hope that what he means is not that the end of history is near because so long as the human race goes on, there will be history, but that the end of a particular period of human history is at hand.

It is the postwar period, the period in which two great ideologies struggled in their own way for their own independence and security and, in a sense, for domination, for victory. That struggle appears to be ending.

We, in the West, we who have stood for freedom, we who have believed in capitalism, we who have stood against tyranny and against communism, can have a real sense of satisfaction, while not gloating, not that we have won, but that the forces of freedom, political and economic, have, indeed, won. I think the reason for that is that the basic Communist ideology and approach to government was simply inconsistent with human nature.

People want to be free. People want to enjoy the rewards of their own labor. People want to be able to express their opinions—political and personal. People want to be able to observe their faith, express their belief in God without restriction and inhibition from central state authority. It has taken since the end of the Second

World War and, in some sense, since the Russian revolution for these changes to occur. What we see happening now is an extraordinary affirmation of the desire of people for political and economic freedom.

Mr. President, what is happening in Eastern Europe now, I am sure we would all agree, is a revolution, a second and I believe more profound and ultimately more hopeful Russian-Eastern European revolution. It presents us with a choice to make: Will we be spectators or will we be actors working together with the people of Eastern Europe and the Soviet Union to help bring about a meaningful and long-lasting change?

By putting together an aid package for Poland and Hungary, we can become patrons of economic freedom. And in doing so, we can support economic freedom which will advance political freedoms and will inevitably lead to a more secure, democratic, and prosperous Eastern Europe, but also Western Europe as well.

Since the end of the Second World War, we have committed vast resources toward keeping the West strong and free—hundreds of billions of dollars. In fact, today, each year, we spend approximately $150 billion associated with the defense of Europe with NATO. Is it not worth at least $1 billion to help freedom grow in Eastern Europe, to create the bonds that ultimately can unite Western and Eastern Europe?

Mr. President, I was struck recently to hear the words of Soviet Foreign Minister Shevardnadze that we will come to a day, hopefully in the not too distant future, where we will talk not of arms control agreements but of NATO and the Warsaw Pact.

I hope the steps we take today with this bill will lead us down a road where the people of Europe, Eastern Europe, and Western Europe will see themselves linked with common values and a common destiny and feel a common sense of security so that Eastern Europe will come to represent as little a threat to the security of Western Europe as France represents to Germany or Britain to France; that there will be a commonality of purpose and a strength of security.

We are in a position to help the countries of Eastern Europe determine their destiny. Over the years, we have encouraged those who believed in freedom in Poland and Hungary. Today it is not just our political opportunity but our moral responsibility to follow through on our commitment to freedom. It is a responsibility that we Americans fulfilled for Western Europe after the Second World War.

In 1947, George C. Marshall said of the economic recovery plan for Europe that bears his name that "Its purpose should be the revival of a working economy in the world so as to permit the emergence of political and social conditions in which free institutions can exist."

That should be our compass today, and that is our purpose in moving forward, I hope, with the Simon-Mitchell plan which, in my opinion, is a fitting successor to the Marshall plan.

Mr. President, we want to save the people of Poland and Hungary from the possibility of an economic chaos that if unabated could lead to a reversal of the tremendous gains we have witnessed in recent months. This legislation obviously alone will not solve all the problems, but it is a first and necessary step.

I believe that the institution of a market-based economy is essential to the economic development of Hungary and Poland. I think the people of those countries agree with that, and in that spirit and in full support of the Simon-Mitchell bill, I offer the following amendments that I have sent to the desk which will help, I believe, serve the purposes of Senators SIMON and MITCHELL, and help promote economic freedom in Europe by doing the following:

My first amendment would ensure that scholarships given to students from Poland and Hungary for study in this country emphasize graduate-level business and economic studies. The people of these two countries desperately need expertise in free market economics and we help them and ourselves by making sure that their students gain the kinds of skills that will be most unseful to those countries in making the transition to a market-based economy.

The bill as it stands does not give a priority to scholarships for business or economic studies. I think that this is important. This amendment would earmark $2 million for that purpose.

My second amendment specifies that we send experts from the Department of Treasury, from the Census Bureau, from the Small Business Administration, and the Federal Reserve to offer technical assistance to Poland and Hungary. These agencies of our Government are not mentioned in the bill, and I think they have a special and unique role to play in assisting these two countries.

My third amendment instructs the U.S. Ambassador to the Organization for Economic Cooperation and Development [OECD] to work for the establishment of a group within the OECD to help the nations of Eastern Europe to make the transition from a nonmarket to a market-based economy.

Mr. fourth and final amendment states that it is the sense of the Senate that the number of commercial and economic officers in our embassies and consulates in Poland and Hungary should be increased to provide more direct, on-site assistance to the people of these two countries and to American businessmen as they attempt to do business in these countries in helping them develop a market-based economy.

Mr. President, next month we will receive Lech Walesa, who in a sense fired the shot that was heard round the world and helped give rise to the revolution that is now taking place in Eastern Europe. I believe we can make no greater tribute than by enacting the Simon-Mitchell plan. It is much more than a relief package. It is an investment in freedom.

This is an historic opportunity for America. I am grateful to my colleague from Illinois and to the distinguished majority leader for their vision. I am hopeful that what we do today will pay dividends for Americans, Poles, Hungarians, and other freedom-loving peoples of Eastern Europe for decades to come.

Mr. President, over the years in Connecticut I have had the honor to address Polish-American groups in support of the solidarity movement, and I learned a few words of Polish, which are nyi stoiyum, which means "we stand together." We expressed that solidarity with Solidarity over the years here in America when the hope of their ascendence to power was really a dream, a dream that many of us thought might never come.

Today the dream has been realized with this bill, and I hope that by these amendments we say once again to our friends in Poland, "nyi stoiyum," we stand together, in the name of freedom.

Mr. President, I urge adoption of the amendments and yield the floor.

Mr. SIMON. Mr. President, first, if I may follow the Senator's good example and say "djen kuye," which is "thank you" in Poland.

These are sound amendments. We have no opposition. I do not see Senator HELMS on the floor, but it is my understanding he has also approved these amendments. I think we can go ahead and act on them favorably.

The PRESIDING OFFICER. Is there further debate on the amendments? If not, the question is on agreeing to the amendments.

The amendments (Nos. 1059, 1060, 1061, and 1062) were agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LIEBERMAN. Mr. President, I thank Senator SIMON and I thank my friend on the minority side for approving the amendments. I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

AMENDMENT NO. 1064

(Purpose: To prohibit host country Communist Party members from serving on the Board of Directors of the Polish-American Enterprise Fund and Hungarian-American Enterprise Fund)

Mr. HUMPHREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

Mr. HUMPHREY. Mr. President, I believe it is necessary for me first to seek unanimous consent to lay aside the Dole amendment.

The PRESIDING OFFICER. Is there objection to the Senator's request? Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. HUMPHREY], for himself and Mr. SIMON, proposes an amendment numbered 1064:

At the end of section 201, on page 18, add the following new subsection:

"INELIGIBILITY OF CERTAIN INDIVIDUALS

"(1) No host country Board member may be a current member of a communist party (or its equivalent, under whatever name the communist party of Poland or Hungary may be known)."

Mr. HUMPHREY. Mr. President, this is an amendment that has been cleared on both sides. Indeed, Senator SIMON is a principal cosponsor of the amendment.

The purpose is very simple. It provides that no member of the Communist Party, by whatever name that party may go by, in either Poland or Hungary, now or in the future, could sit on the board of either the Hungarian-American Enterprise Fund or the Polish-American Enterprise Fund.

This is something that we hope will not come to pass. We hope that no one would attempt to appoint—attempt to appoint—a member of the newly renamed Hungarian Communist Party to the Hungarian counterpart or the Polish Communist Party to the Polish counterpart. But in view of the fluidity of present events nowadays in Eastern Europe, I feel it is necessary to ensure that such a scenario could not occur.

Communism now appears to be on the run in Poland and elsewhere, but if some unfortunate circumstance were to result in the resurgence of either of the Communist parties in Poland or Hungary or some gloomy turn of events were to enbolden Polish or Hungarian Communists to assume that they could seize some role in dispensing of United States funds, I want to make it clear, indeed make it impossible, in this law that such could never occur.

Mr. President, this has been approved by both sides.

Mr. SIMON. Mr. President, I am pleased to be a cosponsor. I hope we would not have to worry about this eventuality, but it is much better to protect in advance. An ounce of prevention, like the old saw goes, is worth a pound of cure. This is a good ounce of prevention. I am pleased to support the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. HUMPHREY. Mr. President, the Hungarian-American Enterprise Fund and the Polish-American Enterprise Fund are going to be making decisions about who gets our money. It is that simple. We want to be sure that the Hungarian and the Polish counterparts are not members of the Communist Party. That seems to be an essential, elementary protection of our funds which we give in good faith and with greatest hopes. I think this is an important provision and I appreciate the support in accepting the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1064) was agreed to.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUMPHREY. Mr. President, I do want to address the Simon substitute for 2 or 3 minutes, but I would be perfectly happy to wait until the majority leader speaks.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of Senators, I have discussed the matter with the distinguished Republican leader, and he has, as every Senator knows, a major amendment and would prefer further time for debate on it on tomorrow.

Accordingly, there will be no further rollcall votes this evening. We will continue on the bill, if there are any other amendments to be accepted, and further debate. Shortly we will attempt to obtain an agreement setting forth the schedule for tomorrow, including return to this matter and a vote on the amendment of the distinguished Republican leader, but for now, Senators are advised that there will be no further rollcall votes this evening.

I thank the Senator from New Hampshire for his courtesy.

Mr. HUMPHREY. Mr. President, the events in Poland and elsewhere in Eastern Europe are astonishing, to say the least, exciting, exhilarating. None of us foresaw this turn of events. None of us dreamt 10 years ago or even 5 years ago that we would be, in the year 1989, debating a substantially major American foreign aid program for Poland. It is just a miracle. The turn of events has been quick. We must be equally quick in seizing this opportunity.

Times have changed, not irreversibly. To be sure, there are great risks in this for the people of Poland, Eastern Europe, and the people of the United States—very great risks. It is not irreversible by any means. We could easily end up with egg on our face. that would be the least of the tragedy, were that to occur.

But things are changing quickly. We must change our policies with equal speed. We must aggressively, and with boldness and courage, knowing the risks, reach out and grasp this incredibile opportunity which now presents itself.

This is an opportunity that has arisen, in my view, largely because of the massive defense expenditures and the adherence, tough adherence, to principle in our conduct of foreign policy since World War II.

This is the payoff. Let us grab it. Let us make the most of it. There is a debate here, a legitimate debate, about how much is enough. How much can we afford?

I side with the Senator from Illinois. I think even at the risk to defense expenditures that now is the time to go for it. Now is the time to make the most—to aggressively, and boldly, and courageously grasp this opportunity before it slips away. Indeed it could.

It could slip away because the democratic nations do not respond sufficiently or with sufficient speed. That is a real possibility. If things get really tough and grim in Poland—they are already—but if somehow those conditions cross that invisible line, there could be a reaction. There could be a return to the bad old days. That would be a great tragedy for that part of the world and for us.

So I say, let us go for it, and let us go for it aggressively. I think the Senator from Illinois has the better approach.

Mr. SIMON. If my colleague will yield, I want to thank my colleague from New Hampshire. If this experiment in Poland succeeds, it may be that all of us can look back on this as one of the most important things we did during our terms in the United States Senate. I think it is worth that risk.

I thank my colleague from New Hampshire.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

AMENDMENT NO. 1065

Mr. PACKWOOD. Mr. President, I send to the desk a second-degree amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD], for himself, and Mr. KASTEN, Mr. DOMENICI, Mr. ROTH, and Mr. DOLE, proposes an amendment numbered 1065 to the Dole amendment 1056.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. SIMON. If my colleague will yield, we do not have a copy of that amendment.

Mr. PACKWOOD. I know.

Mr. SIMON. It is a secretive amendment. All right.

Mr. PACKWOOD. I will tell the Senator what it is right now.

Mr. SIMON. I would like a copy of it.

Mr. President, I would like to see the amendment.

Mr. DECONCINI. Will the Senator from Oregon permit me to proceed for a couple of minutes on a statement?

Mr. PACKWOOD. Will the Senator hold on just a second?

Mr. SIMON. Reserving the right to object——

The PRESIDING OFFICER. There is no right to object, I have been informed by the Parliamentarian; no right to reserve.

Mr. DECONCINI. Mr. President, who has the floor?

The PRESIDING OFFICER. The regular order is to read the amendment. Is there objection to the request to dispense with reading of the amendment?

Mr. SIMON. As I understand it, it is a brief amendment. Is that correct?

Mr. PACKWOOD. No. Is it a short amendment?

Mr. SIMON. Mr. President, I question the presence of a quorum.

The PRESIDING OFFICER. The absence of a quorum cannot be suggested procedurally. The regualr order is the request to dispense with reading of the amendment.

Mr. PACKWOOD. Mr. President, I ask unanimous consent to dispense with reading of the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

[The text of the amendment is printed in today's RECORD under "Amendments Submitted".]

Mr. SIMON. Mr. President, I question the presence of a quorum.

Mr. DECONCINI. Mr. President, will the Senator withhold that request?

Mr. SIMON. I withhold.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DeCONCINI. Mr. President, I thank you. I will not take long.

Mr. President, I rise in support of the proposition of the Senator from Illinois, Mr. Simon, that is put before us today. This type of financial assistance is desperately needed in Poland. It is a challenging experience that we have there.

This past August, I led a delegation of the Helsinki Commission to Poland. There I had an opportunity to sit with the Polish parliamentarians, to visit with the Prime Minister, Mr. Mazowiecki. As a matter of fact, we were fortunate to sit in the assembly the day he was elected by the members of that lower body.

I was deeply moved by this historical experience, quite frankly. We all know what government is about, having served in this body, and we have all been to our State legislatures and sometimes visited other legislative bodies in other countries.

This truly was an experience that left an impression with me, that here we have the budding, the roots, the absolute infancy of a democratic process that for over 40 years could not be stopped and eliminated. It could not be stomped out, it could not be eliminated, no matter how hard the people in control of that government attempted to do it. But the hurdles ahead are very, very substantial for this government and for the people of Poland. The battle has to be won. There really is no retreat, no alternative but to join with other Western countries, and the United States, I think, is taking a leadership role here to see that there is some financial assistance.

When we met with Mr. Lech Welesa, he told us straightforward that he was not looking for loans. He was not looking for giveaways. He was looking for investment, looking for the capitalistic system of the Western world to work in his country. He explained to us how the people of Poland are willing to work hard, and that is so obvious. Yet, what an economy; it just boggles one's mind to see this country literally on its knees economically.

In September, during the Appropriations Committee markup of the 1990 foreign operations bill, I was successful, with Senator LAUTENBERG of New Jersey, to add $75 million to the $25 million already put in the appropriation bill. Of that $75 million, we added $35 million targeted for private sector initiatives. The balance of the $75 million was realized by raising the Overseas Private Investment Corporation's guaranteed loan ceiling by $40 million and earmarking that amount for Poland.

I support the Simon package that is before us. I think it goes even further than we were able to secure in the early support in the appropriation process. We must help a basic problem. There was telecommunications, or lack thereof. In their Lower House, we saw that they had not even the minimal amount of technology that was necessary to carry on the routine business: telephone services, copy machines, voting processes, even microphones at the desk, so that they could proceed to make their points from the floor.

The population of this country is 35 million people. There are only 25 outgoing telephone lines. So you can imagine the complications that this country has, to try to step into the 20th century in the economic world, when it has no communication system. It lacks the technology and the experience of operating in truly an economic environment that is competitive. This is just one area.

The environment and the agricultural sectors are also added into the Simon bill. Of course, the President's initiative, the initial concept of a private enterprise fund is expanded upon and given the type of financial support that we should stand up and give to the people of Poland and to assist that government.

The United States can and must respond to this historic change that is going on and has taken place to some extent. When I went there, it was an experience, as I said, that I cannot forget. I think it is important that the United States remember its history, that some people came to our aid when it was necessary, and we were a struggling democracy.

I urge the passage of this, and I urge the administration to support it without changes. It is a valid, good program that has a good deal of merit. I thank the Senator from Oregon for permitting me to have the floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

AMENDMENT NO. 1065

Mr. PACKWOOD. Mr. President, if I might fully explain what this amendment is that I have offered, it is the capital gains provision that I introduced the other day on the floor with a good many sponsors. It is Senator ROTH's IRA provision that was a part of that capital gains provision. It is the repeal of section 89 that Senator KASTEN has worked so hard on. And it is a speedup of the collection of the airline ticket tax and a speedup of the collection of the telephone excise tax. The latter two, I think, are not seriously contested.

The amendment, I believe, is in order, and I am prepared to vote on it now, if the leader would like, or to debate it at some length, or whatever is the majority leader's preference.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois [Mr. SIMON] is recognized.

Mr. SIMON. Mr. President, I will shortly question the presence of a quorum. There are going to be plenty of vehicles to put this on. I hope we will not jeopardize aid to Poland and Hungary because of this constitution-

ally questionable and very controversial procedure.

Mr. PACKWOOD. I would be happy to accept an hour's time limit on it.

Mr. SIMON. Mr. Presisent, obviously, I have control of my own bill, and if it had to be, I could withdraw the bill. But I hope the Senator from Oregon will not want to jeopardize aid to Poland and Hungary and that we can find some other way of making sure that there is a vote on the floor of the Senate on this, without jeopardizing that very, very important aid.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. I am intrigued with the suggestion of the Senator from Illinois. If we can be promised a vote on this in the very near future, there might be room for negotiation. I think he made the offer in good faith. We might be willing to even consider that.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I ask unanimous consent that I may yield to the Senator from New Hampshire [Mr. HUMPHREY] for 5 minutes so he may speak as if in morning business after which the Senate return to the order for a quorum call.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Hampshire [Mr. HUMPHREY] is recognized.

Mr. HUMPHREY. Mr. President, I thank the floor managers for their indulgence. I want to address a matter as if in morning business.

RICO AND THE FIRST AMENDMENT

Mr. HUMPHREY. Mr. President, the Racketeer Influenced and Corrupt Organizations Act, popularly known as RICO, has become one of the most controversial laws in the country.

RICO's original purpose was straightforward and sound. It was designed as a powerful tool for prosecutors to use in their efforts to battle the infiltration and corruption of legitimate businesses by organized crime and racketeers. It provided tough and effective remedies which were specifically designed for use against the complex financial arrangements employed by sophisticated criminals to generate and conceal their illegal profits.

And in fact, RICO has served us well when it has been employed for this sound original purpose.

Almost as an afterthought, Congress included provisions for private parties to bring civil actions under RICO, in the hope that private enforcement could serve as a supplement to government prosecutions.

And since the intended targets of these civil actions were organized crime and racketeers, Congress provided that private plaintiffs could obtain the same sweeping remedies made available in RICO suits brought by the Government, including treble damages and recovery of attorney's fees.

To put it mildly, the RICO statute brought us much more than we bargained for.

RICO's original purpose as a tool for prosecuting racketeers has been all but eclipsed by its development as an all-purpose tool for aggressive lawyers in ordinary civil litigation. RICO's draconian remedies are now routinely invoked in everything from copyright infringement cases to campaign financing disputes to ordinary contract litigation.

The flood of civil RICO suits has reached the point where Chief Justice Rehnquist has called on Congress to limit RICO actions to their original purpose of prosecuting genuine racketeers.

These improper uses of civil RICO are bad enough to justify the efforts to develop RICO reform legislation which are now underway in both Houses. But there is one particular abuse of civil RICO that should arouse the concern of every Member of this body:

RICO actions are now being used as a conscious and effective tool to suppress freedom of speech in this country.

Let me repeat that because it is shocking but it is true.

RICO actions are now being used as a conscious and effective tool to suppress freedom of speech in this country.

Just last March, the U.S. Court of Appeals for the Third Circuit upheld the application of harsh RICO remedies against prolife demonstrators who were protesting against abortions in Philadelphia.

Encouraged by that decision, civil RICO suits are now being filed across the country in increasing numbers in a conscious, concerted effort to suppress the first amendment rights of demonstrators. And in order to have the broadest possible "chilling effect" on potential demonstrations, these RICO complaints include even persons who merely assist in the organization and dissemination of information concerning demonstrations.

That is, people who do not even participate in such demonstrations are now the target of these RICO provisions.

Mr. President, just last week I joined many other Senators in stressing the first amendment issues raised by the effort to enact a constitutional amendment on the flag-burning issue. Although those concerns were sound and legitimate, they pale in comparison to the "clear and present danger" to free speech presented by this onslaught of abuse of civil RICO actions.

The first amendment issues raised in the flag debate focused on hypothetical situations that might arise in the future. But civil RICO actions are suppressing free speech in this country even as we speak. I have learned that there are reputable organizations which are afraid to even send correspondence supporting pro-life demonstrations because they have been made aware that such actions may cause them to be named as a defendant in a RICO suit.

I wish to stress that RICO's threat to free speech knows no ideological or political boundaries. And that is the point. Indeed, some of the Nation's leading liberal champions of civil liberties have been among the leading voices in identifying and condemning this abuse of RICO. Washington Post columnist Nat Hentoff, Harvard law professor, Alan Dershowitz, and the American Civil Liberties Union have all spoken out forcefully against the abuse of RICO as a tool to suppress protest and demonstrations. More recently, the Washington Post published an editorial stressing the need for Congress to reform RICO to prevent its misapplication to demonstrations and protests.

As Professor Dershowitz has stated, the use of RICO against demonstrators is "A harebrained idea promoted by those who think the end justifies the means."

While pro-life demonstrators are the targets of the current wave of RICO suits, the same legal theory can be used to justify RICO suits against protesters of any political or ideological persuasion. In fact, the prospect of RICO suits being used against antinuclear demonstrators has recently been reported in my own State of New Hampshire. Anyone who is offended or irritated by a vigorous public demonstration now has a convenient and effective tool to silence the demonstrators: hire a pushy lawyer and have him file the broadest possible RICO complaint, naming anyone even remotely connected with the demonstration as a coconspirator in a racketeering scheme.

My opposition to the use of RICO against protesters should not be confused with the view that legitimate laws can be violated with impunity simply by invoking the first amendment. That is not my point at all. If

demonstrators damage property or commit unlawful trespass, they should be held accountable for those violations like anyone else. Existing State and local laws are more than adequate to deal with protesters who cross the line into violent activity. But an incidental trespass hardly converts a legitimate demonstration into a racketeering conspiracy, and hardly converts all the demonstrators into racketeers. Yet that is precisely the legal effect when RICO is applied to demonstration cases.

Mr. President, it is clear that RICO has no proper application to these demonstration and protest cases. RICO's unlimited breadth and draconian remedies present an intolerable threat to free speech. Accordingly, I am working with my colleagues on the Judiciary Committee to assure that the RICO reform legislation now under consideration will include a provision to remove the RICO threat to first amendment rights.

The proposal which I have authored will make it clear that the term "racketeering activity" as used in RICO does not extend to nonviolent protests and demonstrations and that no RICO civil action can be based on such conduct. I urge all my colleagues to support this effort to eliminate this growing threat to freedom of speech.

The PRESIDING OFFICER. The Chair informs the Senator that the 5 minutes has expired.

Mr. HUMPHREY. I think it is actually a good deal more than 5 minutes. I thank the Chair for his generosity and I yield the floor.

Mr. SIMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order of the quorum call be rescinded.

Mr. SIMON. Mr. President, reserving the right to object, and I will not object if the Senator proceeds as if in morning business and immediately upon the conclusion of his remarks we return to a quorum call.

The PRESIDING OFFICER. Is there objection to calling off the quorum?

Mr. HUMPHREY. Mr. President, I will revise my request. I ask unanimous consent that the quorum call be rescinded exclusively for the purpose of the Senator from New Hampshire addressing the Senate as if in morning business for not to exceed 10 minutes, upon which the Senate would return to the quorum call.

The PRESIDING OFFICER. The Chair has been informed by the Parliamentarian that a quorum call cannot be conditionally suspended. A unanimous-consent request would be in order after the quorum call is suspended.

Mr. HUMPHREY. I yield to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois, Mr. SIMON.

We are in a quorum call, the Chair might inform the Senator.

Mr. SIMON. Before actually making the request, so that everyone knows what I will do, I will ask that the quorum call will be suspended and then immediately request that we ask unanimous consent that it be subject only to the Senator from New Hampshire speaking as if in morning business and then we return to a quorum call.

The PRESIDING OFFICER. Is there objection?

Without objection, the quorum call is rescinded.

Mr. SIMON. Mr. President, I ask unanimous consent that the Senator from New Hampshire be recognized to speak for 10 minutes as in morning business and that immediately following that that we then move into a quorum call.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New Hampshire is recognized.

AFGHANISTAN

Mr. HUMPHREY. Mr. President, for the past 5 years the Senator from New Hampshire has used every opportunity to focus the Senate's attention on Afghanistan. The Senate, in part at my urging, has passed numerous resolutions condemning Soviet activities in Afghanistan. Indeed, the Congress, displaying extraordinary bipartisanship, played an important role in shaping our Nation's response to the Soviet invasion and occupation of Afghanistan.

While I have often been the most outspoken Member of the Senate to condemn Soviet policy toward Afghanistan, the time has come for some praise.

Soviet Foreign Minister Shevardnadze's statement earlier this week is breathtaking in its scope and candor. Speaking before the Supreme Soviet on Monday, the Foreign Minister said that the Soviet invasion of Afghanistan was "the most serious violation of our own legislation, of party and civic norms, and ethical standards of the time." This sort of frank admission of sins long denied bodes well for the success of glasnost, for openness and honesty of Soviet officials. And in response to Mr. Gorbachev's policy of glasnost and in response to Foreign Minister Shevardnadze's statements on Monday, I say bravo.

So while Mr. Shevardnadze's statement this week offered no specific proposals for ending the war in Afghanistan, we can hope that the admission of having made a mistake will lead to a correction of policy. Originally, the Soviet premise was that invasion and occupation was a legitimate expression of Soviet foreign policy. The conclusion to which that false premise inevitably led was a disaster for both the Afghan people and the Soviets themselves, although obviously the Afghans suffered far more than the invaders.

But now the Soviets have acknowledged the error in their premise. They are looking for ways to distance themselves from the erroneous policies of Brezhnev, Andropov, and Chernenko. The withdrawal of troops was a significant start. A critical development. But the crux of the conflict in Afghanistan was not solely the presence of Soviet troops. It was the presence in Kabul of an illegitimate regime installed and propped up by 120,000 Soviet troops. That regime persists. As long as that regime remains in power, the war will continue.

Mr. President, the illegitimate invasion and occupation of Afghanistan left behind an illegitimate regime. If the Soviets have recognized the illegitimacy of the invasion and occupation, we can hope they will recognize the illegitimacy of the regime they set in place and continue to prop up today by means of massive material assistance. Our sincere hope is the Soviets, having shown the courage to admit it was a mistake to invade and occupy Afghanistan, will now have the courage to admit it is a mistake to continue their support of the illegitimate regime that came into being only because of the invasion and occupation.

The head of the puppet regime, Mr. Najibullah, is not just an insignificant bureaucrat. He is a man who presided over the genocide of his own people. The failure of the Afghan people to embrace Najibullah's appeals for a "negotiated settlement" stems from a very simple truth: they know Najibullah. They know who he is. They know what he has done to the Afghan nation. And they know what he is capable of doing. And they know that a continuation of the war is preferable to the imposition of a regime dominated by Najibullah's cohorts.

Najibullah is a ruthless man. In the early 1980's the Soviets installed "Dr. Najibullah" as the head of the Afghan Secret Police, known as KHAD. The Afghan Secret Police is responsible for running the many prison camps around Kabul where thousands of innocent Afghans were brutally tortured and murdered following the Soviet invasion. As Amnesty International reported in 1986, "Most reports of torture relate to people held in the custody of the KHAD.—State information services." The report goes on to state that torture has been reported from

both the KHAD office in Kabul and the ministry of the Interior Building.

Mr. President, I ask unanimous consent that excerpts from the Amnesty International report, documenting specific cases of KHAD-supervised torture, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. HUMPHREY. I emphasize that these documented acts of torture all occurred during the time that Mr. Najibullah was head of the Afghan Secret Police.

In 1987, a distinguished group of international lawyers traveled to Pakistan to speak with Afghan refugees in order to document the human rights violations in Afghanistan. I will read just one brief section from the report:

The torture was usually administered by Afghans. In one case, the witness reported that Dr. Najibullah, then head of the KHAD and now leader of the Afghan Communist Party, came eight times to watch.

So, Mr. President, this is how Mr. Najibullah made his name in Afghanistan. I, for one, will never forget a hearing that I chaired in October 1987, when one of Mr. Najibullah's victims testified before the congressional task force on Afghanistan. Mrs. Fahima Nassery, a former teacher in Kabul, was kidnapped by Najibullah's thugs and detained in the notorious Pol-i-charki prison where she was tortured for weeks—in the most brutal manner. Miraculously, she was able to escape Afghanistan. There are tens of thousands of Fahima Nasseries in Afghanistan.

Mr. Najibullah's crimes did not cease when he was promoted to head of the Afghan Communist Party in 1986. In fact, the human rights situation was so grave, that it was described in a report of the UN Human Rights Commission as a "situation approaching genocide." Genocide is not a word that is thrown around lightly—especially not by the United Nations.

Mr. President, the documentation against Najibullah is chilling. I could fill hundreds of pages of the CONGRESSIONAL RECORD with documentation from such groups as: Helskinki Watch, Amnesty International, the United Nations, Freedom House, the Independent Council on International Human Rights, and other international organizations.

Against this background, the Soviets cannot expect the Afghans to tolerate any role for Najibullah or his henchmen in a future government. Unfortunately, the Soviets are currently engaged in the largest airlift in history. Since February 15, when Soviet troops completed their withdrawal, the Soviets have flown more than 3,800 resupply flights to Kabul. This includes over 100 tanks, 600 armored personnel carriers, cluster bombs, and Scud missiles. The Soviets, I emphasize, not the Afghan puppet regime, the Soviets have fired more than 700 Scud missiles and are continuing to send even more Scuds to the Najibullah regime. We also know that Soviet advisers dressed in regime uniforms are operating Scud missile sites near Kabul.

Mr. President, the Soviet investment in Mr. Najibullah's government totals more than $300 million per month. The vast majority of this assistance is military hardware—not humanitarian supplies. Despite all this equipment, the regime is not gaining any ground. Despite all of Najibullah's posturing, refugees continue to stream out of Afghanistan.

The cold reality is that this regime must go. It has no broad base of support. It was illegitimate from the first day. It has driven more than one-third of the Afghan people into foreign exile. It is responsible for the deaths of more than 1 million Afghans. Efforts to build any interim government around the PDPA are destined to fail.

Perhaps Foreign Minister Shevardnadze's bold statement earlier this week signals the beginning of new thinking on Afghanistan. Perhaps the Soviets are beginning to realize what is self-evident: The Kabul regime is merely perpetuating the war, and Soviet aid to Kabul is money that could be more wisely spent in the Soviet Union. Perhaps the Soviets are also beginning to realize that the United States has no designs on Afghanistan.

Let me close, Mr. President, by reciting our objectives.

The objectives of the United States remain today as they were 9 years ago: Self-determination for the Afghans, and the independence of their nation. Mr. President, these are unselfish goals which we invite the Soviets to sincerely embrace. The United States seeks no territory. Neither do we seek a regime aligned with the United States, nor do we seek a regime hostile to the Soviet Union. What we seek is simply this: Justice for the Afghan people and an honest expression of self-determination and independence, once again for their nation.

Mr. President, I salute Mr. Gorbachev for the courage to proclaim glasnost, for the courage to persist where glasnost has led to painful reevaluations and even admissions of grave error. With respect to Afghanistan, now that Mr. Gorbachev has admitted the premise for Soviet policy toward Afghanistan was wrong, I urge him to admit the consequences are wrong as well. In the interest of the Afghan people and in the interest of continued progress in the Soviet Union, and a continued improvement in the relations between the Soviet Union and the West, I urge Mr. Gorbachev to permit the Afghan people to choose their own leaders and their own form of government. For this to happen, Mr. Najibullah and his cohorts must go.

EXHIBIT 1

PLACES OF TORTURE: THE KHAD

Most reports of torture relate to people held in the custody of the Khedamat-e Etela 'at-e Dawlati (KHAD), State Information Services. The KHAD is the third in the succession of intelligence agencies established under PDPA governments. The government of President Taraki established Da Afghanistan da Gato da Satalo Adara (AGSA), Organization for the Protection of the Interests of Afghanistan. After he was replaced by President Amin in 1979, the agency was re-established as the Kargari Astekhbarati Muassessa (KAM), Workers' Intelligence Bureau. When the KAM was abolished by the government of President Karmal in January 1980, the KHAD was established in its place:

"It is hereby announced that hereafter there will exist in Afghanistan no such organization to strangle, pressure or torture the people. On the contrary, there will be established within the government framework an intelligence service to protect democratic freedoms, national independence and sovereignty, the interests of the revolution, the people and the state, as well as neutralise the plots hatched by external enemies of Afghanistan under the PDPA leadership." (Kabul New Times, 12 January 1980)

The Director of the KHAD from its establishment in 1980 until November 1985 was Dr. Najibullah, who from 1981 was a member of the Political Bureau of the PDPA; in May 1986 he succeeded President Babrak Karmal as General Secretary of the PDPA. In January 1986, on its sixth anniversary, the KHAD was upgraded to the status of a ministry, the Ministry of State Security. The present Minister of State Security is a member of the PDPA's Central Committee.

There is a separate military intelligence agency, known as KHAD-e Nezami, military KHAD, under the direction of the Ministry of Defence. A third security service, the Sarandoy or security police, is responsible to the Ministry of the Interior. Torture has been reported from both the KHAD-e Nezami office in Kabul and the Ministry of Interior building.

There are central and local KHAD interrogation centres in Kabul, and one or more KHAD centres in provincial cities. Among the cases reported to Amnesty International, the largest number allege that torture occurred in the two Kabul centres known as Shashdarak and Sedarat. The most common pattern is for people arrested to be taken first to the KHAD headquarters and primary interrogation centre at Shashdarak for initial interrogation, and subsequently transferred to the central interrogation office at Sedarat for interrogation over a long period, which may extend to several months. In other cases, initial interrogation accompanied by torture is reported to have taken place at other KHAD offices to which detainees are taken on arrest, before transfer to Sedarat. In some cases they are taken to Sedarat directly. Other KHAD offices in Kabul from which torture has been reported are offices numbered Three, Four and Five; former private houses known as the Ahmad Shah Khan house and the house in Wazir Akbar Khan; and the KHAD office in the Howzai Barikat district.

Following interrogation and sometimes prolonged detention in KHAD centres, prisoners in Kabul may be transferred to the main prison, Pul-e Charkhi, outside Kabul city. Pul-e Charkhi prison consists of several blocks, responsibility for which is said to be divided between the Ministry of the Interior and the KHAD, now the Ministry of State Security. Most prisoners interviewed said they had not been subjected to further torture once they had been transferred to prison, but torture by the KHAD within Pul-e Charkhi is reported to have occurred in a minority of cases, chiefly in Block I, as well as ill-treatment by the prison authorities.

Amnesty International has also received reports of torture at KHAD centres in the provincial cities of Bamian, Ghazni, Jalalabad, Kandahar, Lashkargah and Pol-e Khomri, and in the prisons of Kunduz and Mazar-e Sharif, although some people arrested in other cities were taken immediately to Kabul for interrogation in Sedarat.

In Kandahar, the headquarters of the KHAD are said to be in the former house of Abdul Rahim Latit in Shahr-e Nau district, but most torture is reported to be practised in a building known as the Musa Khan building. Another KHAD centre in Kandahar from which torture was reported was described as Darwazan (Herat Gate).

In addition to KHAD centres and prisons, Amnesty International has interviewed people who said they were tortured in military posts.

THE NATURE OF TORTURE

From the testimonies of many former detainees Amnesty International has been able to identify a consistent pattern of the types of torture and other ill-treatment inflicted on prisoners as well as of their conditions of detention.

Beatings routinely take place during the early stages of interrogation soon after arrest, and frequently continue throughout the time detainees are held in KHAD custody. A typical account is that of the Kabul shop-keeper arrested in February 1985:

"I was taken to Shashdarak. Within five minutes of my arrival they started questioning me. 'Which party do you belong to? What are your activities?' I was afraid and defensive. I said I didn't know who had thrown the night letter in front of my shop. After another five or ten minutes, they started abusing me and beating me. Two men took turns to beat me for some hours on the first day. They hit me, punched me, kicked me for an hour or two every day during my first week of detention. . . . They started beating me again after my third week of detention. For about 45 minutes or an hour every day or otherwise at night, the beatings continued for two and a half months. . . . I was not beaten during the last month or so of my detention. After the scars from my beatings had healed, they released me."

Another report is that of the 24-year-old student arrested in March 1981 on suspicion of making his way to Pakistan, who was held for about 50 days in the KHAD centre in Jalalabad before being transferred to the central jail there:

"After three days the interrogation started and I was beaten with sticks and once they tied me to a tree in the courtyard while beating me. . . . A friend of mine, [name given], who now lives in Kabul, was tied to a table and beaten, and when I saw him after the torture he was sitting sideways on a chair, half lying, because his back was full of wounds from the beating."

Prisoners report being beaten with several kinds of instruments and abused in a variety of ways:

"After about three hours they took me into the interrogation room. . . . First they began to show me the torture instruments. These were wire cables, wooden sticks and rubber lashes. . . . They tried to get me to talk but as I did not say anything they began to slap me very hard on the face. They began to beat me with the lash and with the wooden sticks. At about 12 midnight they took me from KHAD-e Atrafi [suburban KHAD—another name for the KHAD centre in Wazir Akbar Khan] to Shashdarak. . . . Without even asking me a question, they began to beat and kick me, so much that my nose began to bleed. . . . Someone grabbed my hair and started to pull. . . . They laid me on the floor and a very big and fat man trod on my stomach. They also put my hand on the wall and hit it with a wooden stick." (26-year-old student, KHAD centre in Wazir Akbar Khan and Shashdarak, detained late 1984)

Many prisoners reported being deprived of sleep and required to stand for prolonged periods. The same prisoner just quoted further describes his treatment in Shashdarak:

"They sent me to a yard where I had to stand on one foot all the time. The weather was very cold and they forced me to take everything off except for a shirt and my trousers. And this was not a torture peculiar to younger people. I saw old men with white beards who had to stand there on one foot. We could not sit down because there were people who would beat and hit us with lashes and wooden sticks, slapping and kicking and so on. . . . I was kept in that yard for a whole week. I had to stand two to three hours on one foot every day."

Many other prisoners describe being forced to stand or to do exercises to the point of collapse:

"During the questioning I was also forced to do physical exercises until I collapsed and when I was lying on the floor they kicked me. Once I had to stand against the wall and keep my nose on a line drawn on the wall." (35-year-old teacher, Shashdarak, September 1984)

"Once we were forced to stand in the sun for almost five hours and many of the prisoners fainted. I was also forced to do exercises with a heavy metal sheet on my back and when I couldn't straighten my legs the torturers pulled my ears. . ." (24-year-old student, KHAD centre, Jalalabad, between March and May 1981)

In other cases, too, such treatment was exacerbated by prisoners being exposed to sun or forced to stand in water or snow. A 37-year-old woman prisoner reported being forced to stand partially buried in snow in Shashdarak during her detention from January to September 1982. The prisoner who was forced to stand in the sun in the KHAD centre in Jalalabad subsequently, after his transfer to jail there, witnessed prisoners said to have attempted to escape being forced to stand in a water tank during cold winter weather.

Some prisoners reported being only threatened with electric shock torture, but many others reported being subjected to it, apparently quite routinely at an early stage as well as later stages of their interrogation. The most common electric shock torture device is referred to as the "telephone": a small machine that looks like an old-fashioned telephone with wires that are attached to the victim's body and a handle which is turned or pulled to apply the current. Other prisoners simply referred to a small box with wires coming out of it.

"They started beating me and after a while I was brought to a room with a square-shaped machine with wires. The wires were tied first to my fingers and then a KHAD agent started pulling the handle and I got strong electric shocks. Then they fastened a wire to my tongue and when they pulled the handle I became unconscious. This electric torture lasted for more than two hours." (35-year-old businessman, KHAD centre, Musa Khan building, Kandahar, late 1981)

"The soldiers took me to another room. That was the 'Iron Room'. It was small, three by two metres. No sound could possible pass through its iron walls. In a corner there was a machine which had a distinctive handle. It has wires attached to it. Two of the wires were bare. The machine was as big as a normal typewriter. By turning the handle it would produce an electric current; the faster the handle was turned, the stronger the electric current became. They attached the bare wires to my feet. The room was wet. The interrogation started again. The soldiers left the room while the interrogators remained. They began to turn the handle on the machine. I cannot describe what I felt at that time. All my body was vibrating. The pressure was harder on my heart. I jumped and fell down several times. On the one hand the floor was wet, on the other the current was strong. I cannot tell you how long this lasted. Eventually I became unconscious." (22-year-old student, Shashdarak, winter 1982/3)

"When I was brought to Shashdarak they started asking me questions about a coup and some names involved in the alleged coup, but I told them that I didn't know anything. I was forced to lie on the floor and they placed a chair on my stomach. One man was sitting on the chair and one on my head and one on my knees. Then they brought in the telephone and tied the wires to my toes and started pulling the handle. One of the men told me to move my feet if I wanted to answer. All the while one man was prepared to make notes." (35-year-old teacher, Shashdarak, September 1984)

Some prisoners reported receiving electric shocks administered with sticks or batons, and others referred to the use of an electric chair.

"During these months, they also used an electric rod on me five or six times. They used to place it against my chin, my belly or in my armpits. Two or three times I lapsed into semi-consciousness while being tortured." (28-year-old shop-keeper, Shashdarak, February-May 1985)

"Beating was routine and then I got electric torture with a wire connected directly to a socket in the wall. They tied the wires to my toes and ears. And once I was asked to sit in a steel chair. I saw the wires from the chair and when they switched on the electricity I jumped high in the air." (30-year-old government official, Shashdarak, 1981)

"There was a chair on which they made you sit. They tied us to it and connected the wires to the electricity. Then they pushed a switch. The chair turned around in a circle. I was tortured like this for 15 days, between one and four in the morning." (18-year-old female student, Shashdarak, October/November 1984)

Electric shock torture was reported from inside Pul-e Charkhi prison in Kabul and from military posts and detention centres as well as from KHAD interrogation centres. A 30-year-old man released from Ghazni

prison in December 1983 reported having been detained for the first 10 days after his arrest in November 1982 at an army outpost near Ghazni, where he was given electric shocks from a "temporary torture machine made out of three vehicle batteries". Electric shock torture in military custody was also reported by a 23-year-old student imprisoned from April to December 1983, who went on to describe an apparently more sophisticated machine in use at a KHAD centre in Kandahar:

"I was arrested by a unit of Afghan soldiers and detained for two days in a military detention centre. The second day in this centre I got electric shocks with the 'telephone'. They tied wires to my toes and before they started moving the handle they poured water on me.

"From the military detention centre I was transferred to the KHAD investigation centre Darwazan (Herat Gate) . . . After two days I was taken to a room with a machine that looked like a computer screen. There were two small lamps on this machine, one yellow and one red, and from the machine a wire to a small device which looked like a microphone.

"When they pressed this microphone on my body I got strong electric shocks. This room with the machine was on the first floor and all of my 16 cell-mates were taken to this room and got the same torture. Many of them fainted after the torture and when they were brought back to the cell they were dizzy and felt sick.

"I got these shocks on my penis and sometimes I still bleed when urinating. I was three months in the KHAD centre and I was tortured with this machine eight or nine times. After the torture we were so weak that the soldiers had to drag us back to our cells."

Other injuries reported as a result of electric shock torture included burnt skin, impaired hearing after shocks administered with wires to the ears, and impaired speech after shocks administered with wires to the tongue. Dousing with water was said to be used as a means of intensifying electric shock torture.

A 19-year-old Kabul University student, arrested in August 1984 following an explosion in the faculty of which he was a student, reported being tortured in Shashdarak with a device designed to subject the victim to partial suffocation:

"My interrogation started on the second day, at 6 am. I was taken to a room with two chairs and a small table. There were two interrogators. They put this 'black bag' over my head and pumped it up, preventing me from breathing. It was made of rubber inside, and thick material outside, with a valve on top. I was suffocated inside this three times. Each time it lasted one or two minutes. I didn't completely lose consciousness. I had heard about the 'black bag' before: one of my friends had had it used on him."

Several other forms of serious physical abuse were reported. These included prisoners having a bottle or in one case a heated wire thrust into the rectum, having fingernails pulled out or needles inserted under them, being cut with a knife, having a chair placed on the stomach or hands and sat upon, being burnt with cigarettes, being scalded with very hot water, and having hair torn out. Several prisoners reported being forced to eat or drink until they vomited, or being denied the opportunity to relieve themselves, sometimes by a string being tied around the penis.

Women prisoners reported being directly subjected to physical torture of these kinds. But there are also consistent accounts from women being forced to witness the torture of male prisoners and, in three separate cases, of being incarcerated in the presence of a dead body.

"One man was tortured in front of my eyes. For two hours they hit him with firewood and scratched his body so that the skin came off. They hit him with an electric stick on his shoulders and on his calves. The man lost consciousness and was dragged out from the room. Then I fainted away.

"The worst torture for me was when I saw [name given]'s dead body. It was the second time I was in Sedarat. He had been shot in the head. His arms and legs were bloody. I fainted away." (25-year-old teacher, Sedarat, between August and November 1981)

"One night when I was taken to the investigation room a man was lying on the floor. He was dead. His face was swollen up and blueish. The rest of his body was covered with a blanket. The KHAD people said that they had tortured him to death and told me: 'That's what happens to those who do not speak.' They wanted to frighten me so that I would speak." (26-year-old former student, Sedarat, between May and October 1980)

Several prisoners gave the names of fellow detainees they said had died as a result of torture.

"There is something else I should mention. Several days after my arrest a college friend, [name given], was also arrested and brought to Sedarat. He was in my cell for two to three weeks. The beatings and torture soon took their toll of him and after a while he was transferred to a military hospital. I learned later that he died there one week later from his injuries. That was the only death that I knew of personally in Sedarat. I heard stories of others and it would not surprise me in the least, but I cannot tell you of others." (25-year-old student, Sedarat, 1980)

"I was in the same room as [name given], a boy who had been transferred with me. He was being interrogated too. I saw that he died in front of me when they hit his head against the wall. They held his hair and banged his head against the wall. I saw him die in front of me.

"They told me I would be facing the same fate if I did not tell them what they were looking for." (16-year-old school student, Pul-e Charkhi, 1984)

In other cases, the families of prisoners reported that the prison authorities had stopped accepting clothes and other articles for their relatives are believed that this indicated that they had died. Deaths were not formally notified although in some cases they were informally confirmed. Since there have also been consistent accounts from released inmates of fellow prisoners being taken away for execution, it is impossible to conclude in individual cases whether a prisoner has been executed or has died as a result of torture. Threatened execution was frequently reported as a means of torture.

Mr. HUMPHREY. Mr. President, I thank the Chair. I thank my colleagues for their forbearance, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Under the previous agreement, the absence of a quorum is suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, we welcome the suggestion made by the distinguished Senator from Oregon that we proceed to prompt resolution of this matter. We have been aware that the proponents of a capital gains cut were prepared to sacrifice the budget process in this country to achieve that objective. It is now clear they are prepared to sacrifice aid to Poland and Hungary as well to achieve that objective. So I guess there is no matter in the universe or before the U.S. Senate that the proponents might not be willing to sacrifice for this purpose.

Mr. PACKWOOD. If I might respond to the majority leader, we are only asking to sacrifice for an hour or two and then we will be happy to vote.

Mr. MITCHELL. I was going to suggest that. Why does the Senator not file the cloture motion tonight and let us vote on cloture tomorrow on his amendment? I think that would get this over with once and for all.

If the Senator has the votes to prevail on cloture on his amendment, obviously he has the votes to get his amendment adopted. And if he does not have the votes, we would hope that finally this matter could be disposed of and we can proceed to act on aid to Poland and Hungary and the budget deficit.

If the Senator wants a quick vote, let us have a quick vote. Tomorrow is a good time to vote on cloture on the Senator's amendment.

Mr. PACKWOOD. I wonder if the majority leader—I am not sure I can round up 20 signatures now, but would the majority leader be willing to get unanimous consent that if we got 20 signatures by tomorrow, we could?

Mr. MITCHELL. Why do we not just agree by unanimous consent we have a cloture vote on the Senator's motion tomorrow? I will spare the Senator the trouble of getting the signatures. Why do we not set a time and have a cloture vote on the Senator's motion tomorrow?

If the Senator wants a quick vote, let us have a quick vote.

Mr. PACKWOOD. I would like to make one or two phone calls and I may accept on that, but I need to make the phone calls first.

Mr. MITCHELL. My colleague may make whatever phone calls he wants. Let us get on with finally having this matter presented.

The Senator has suggested he wanted prompt disposition and I am saying to him I am prepared to have prompt disposition. Let us have a vote on cloture on the Senator's amend-

ment tomorrow. That is my offer and let us proceed to it.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum while a phone call is being made.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I believe we would like to accept the offer of the majority leader and will be happy to waive the requirement of getting 20 signatures and vote cloture tomorrow. We would like to have more than the normal 1 hour of debate. Is it possible we could have 4 hours equally divided?

Mr. MITCHELL. I think that is fine. Mr. President, I think since this will obviously dispose of this matter once and for all that there ought to be 4 hours of debate.

Mr. PACKWOOD. It may or may not dispose of it once and for all, but it might dispose of it on this bill. This does not mean——

Mr. MITCHELL. What I suggested was that we have a vote on cloture tomorrow. If the Senator gets cloture, the Senator has the amendment. If the Senator does not get cloture, that is the end of the issue.

Mr. PACKWOOD. On this bill.

Mr. MITCHELL. Does the Senator mean he wants to offer it on other bills?

Mr. PACKWOOD. We may offer it on some other bill.

Mr. MITCHELL. Well, now the Senator is coming back with a condition.

Mr. PACKWOOD. No. I thought all the majority leader said was cloture tomorrow.

Mr. MITCHELL. Yes, and I said that we could dispose of this issue once and for all.

Mr. PACKWOOD. No, no.

Mr. MITCHELL. Once we finish tomorrow, then this matter is finished one way or the other.

Mr. PACKWOOD. No. I do not think we could agree to that.

Mr. MITCHELL. Is the Senator planning on losing the vote tomorrow?

Mr. PACKWOOD. You never know what may happen tomorrow. But I sense the majority leader may have some knowledge I do not have about some of his Members who might otherwise be with us on the substance but may not be with us on the procedure.

I am not sure how we will come out tomorrow. But however it comes out, if we lose it, we are not going to foreclose any option to offer this on some other relevant vehicle before the session is out.

Mr. MITCHELL. Mr. President, I was aware of the—well, I will try to put it charitably—high level of interest among our Republican colleagues on the capital gains tax cut. I have already alluded to it several times, and I will not repeat that here.

But am I to understand now that what the Senator is saying is that he wants a cloture vote tomorrow on this bill and if he fails on that, and we can then, thankfully, act to provide aid to Poland and Hungary, that he then wants to come back on the next bill and the next bill and the next bill, so that we are going to be voting on capital gains over and over and over again, no matter what the matter is, no matter what the number of votes?

Is that what I am understanding from my friend and colleague?

Mr. PACKWOOD. I am not going to say the number of votes. I assume not more than 15 or 20. We actually think the capital gains would be good for the Polish economy also.

Mr. MITCHELL. The Senator does. I think the Polish people in government, with winter not far away and inflation skyrocketing, would prefer that we deal with their problems in a serious, straightforward way and not attempt to divert our action on this legislation. But they, of course, are free to speak for themselves.

Does the Senator have further information of which he wishes to inform us?

Mr. PACKWOOD. I will say again, we are perfectly happy to vote on cloture tomorrow on this issue, on this bill, with respectable debate, and then we will simply reserve our options or other alternatives after that.

Mr. MITCHELL. Mr. President, throughout these past several days of discussions, the demand—and it really has not been a request, it has been a demand—of our friends and supports of the capital gains tax cut is that they have a vehicle or an opportunity or some way to bring it up so that there could be a vote on it.

Mr. PACKWOOD. On the substance not just on procedure.

Mr. MITCHELL. May I remind the Senator from Oregon that on September 13, 1989, he was one of 34 Senators who voted to sustain the President's position on the FSX veto. Although 66 Senators voted to the contrary, the position of the Senator from Oregon prevailed.

On August 3, 1989, the Senator from Oregon was 1 of 46 Senators who voted not to place the S&L bailout bill on budget. Although 54 Senators voted to the contrary, the position of the Senator from Oregon prevailed.

Did the Senator regard those as proper votes and fair under the rules of the Senate?

Mr. PACKWOOD. I think what the Senator is going to do in terms of this cloture, in an attempt to shut us off in this bill, is legitimate, within the rules of the Senate. I have no quarrel with that.

We would like to show how many votes we have, but I will be very frank. I have used the filibuster on many occasions, frequently on the subject of abortion, when people were trying to put things in bills that I did not like.

I have no objection to it being used. I have no objection to the majority leader attempting to cut it off. But surely under the rules of the Senate, we have ample opportunity to offer it again and again, and if the majority leader is suggesting that in order to get a cloture vote tomorrow we have to agree that this will never come up again for the rest of this year, maybe not this Congress but the rest of this year, then we simply cannot agree to that, and I would suggest we just go on with the debate on the amendment.

Mr. MITCHELL. I was hoping, for the sake of all concerned, there could be some way of determining this issue, and I have just suggested such a way. I have been urged to permit the matter to come up in a way that the Senator could get a vote on it. That is what is going to happen tomorrow.

If what I am being told is that if the Senator does not win tomorrow, that he wants to be prepared—as he has the right to do under the rules—I think the Senator will be further demonstrating the accuracy of my characterization of the esteem in which he holds this one issue to the denigration of all others.

I obviously cannot prevent that, but I would just say to my colleague that that is going to make it very difficult for us to proceed, to get any of the other business of the Senate done; that if what the Senator is saying is that he is going to proceed to try to offer this on the next vehicle that comes along, and the next vehicle that comes along, no matter what the vote is, then I would encourage my colleague to think about the interests of the country and the interests of the Senate in achieving some kind of finality with respect to this issue.

It just seems to me that what I thought the Senator wanted is what we are going to do, and I thought I made clear in my opening remarks that what I would like to see is the matter resolved one way or the other. If the Senator wins, he wins. If he does not win, he does not win.

Now what the Senator is saying is that what he wants is an arrangement whereby if he wins, he wins; and if he does not win, well, he tries again, and tries again, and tries again.

I hope there would be some finality, even recognizing that the Senator is perfectly within his rights to offer the same amendment to every bill that comes before the Senate for the next month, year, decade. I recognize that right.

But I was trying to think a little beyond the interests of the participants to the interests of the country and the Senate as an institution.

Mr. PACKWOOD. If I might paraphrase, or it may be a quote, I cannot remember which, speaking of the interest of the country, When Winston Churchill returned to speak at Harrow, a school which he had not enjoyed, had gone to and had not gotten back for I recall 50 or 60 years, but finally went to address the young boys at Harrow, the entire length of his speech was something as follows: Boys; never, never, never, never, never give in. And he sat down. I think that is roughly our position on capital gains.

Mr. MITCHELL. If I can paraphrase Senator PACKWOOD, paraphrasing Winston Churchill: Never, never, never, never, give in, that is roughly our position on capital gains. And I thought that we could decide which one would prevail and which not by having a vote, which is what I was under the impression the Senator wanted, and to which I am prepared to agree. I would just like to get some degree of finality in this matter.

Mr. PACKWOOD. I think perhaps we can play out the debate on this until everybody is tired of debating, and then we can vote on it.

Mr. MITCHELL. Then we have achieved nothing.

Mr. PACKWOOD. Well, then we would get a vote on the substance.

Mr. MITCHELL. That is providing the Senator gets cloture.

Mr. PACKWOOD. Well, I said we can speak until everybody is done speaking on it. Then we can vote on it.

Mr. MITCHELL. On cloture.

Mr. PACKWOOD. Well, if everyone has finished speaking and has nothing else to say, we do not need cloture.

Mr. MITCHELL. The Senator is going to need cloture. I assure the Senator of that.

Mr. PACKWOOD. Do I understand the majority leader to say he would file cloture when nobody has anything else to say anyway?

Mr. MITCHELL. There is an almost inexhaustible supply of things to be said about capital gains, beginning, I expect, with what the Senator said about capital gains in 1986.

Mr. PACKWOOD. And I have wonderful quotes about what the majority leader said about it in 1986, and 1981 also.

Mr. MITCHELL. We can begin with that, and I suspect that that would take us a rather indefinite period of time, so I can assure the Senator of one thing: Whenever we vote, under whatever circumstances, whatever bill, whatever day, whatever month, it will be a cloture vote.

Mr. PACKWOOD. Mr. President, I think I understand what the majority leader has said.

Mr. MITCHELL. If I may interrupt, years ago when I started trying cases, an elderly attorney said to me that if you want to get the jury's attention, when you begin you must do three things: First, tell them what you are going to say, then say it. Then tell them what you just said.

Having now told the Senator from Oregon what I was going to say and having said it, I will tell him what I said. It is going to have to be a cloture vote.

Mr. PACKWOOD. I heard what the majority leader said. Unfortunately, much as I agree with the theory before the jury, I find many of our fellow Senators taking that to the extreme in speaking on the Senate floor.

Mr. MITCHELL. Present company excepted, I hope.

Mr. PACKWOOD. Obviously, the two of us would not do that. The two of us might do that in the next couple of days.

Mr. MITCHELL. I would like to explore with the distinguished Senator from Oregon the possibility of reaching some agreement where we could deal with this matter in a way that will be responsible. I do not ask him to surrender any rights that he has under the rules.

On a serious note, this is important legislation to provide aid to the people of Poland and Hungary in a very critical time. It is extremely time-sensitive, given the urgency of the situation, and I hope that we can resolve this in a matter that is prompt enough to permit us to deal with this very important legislation.

Mr. PACKWOOD. My guess is, if I might say this to the Senator, we are not going to agree to accede to our rights under all bills. I think we would be in a position to know tomorrow. I have not spoken to the minority leader. My hunch is, yes, clearly the majority leader is going to have to file a motion for cloture. I do not think we are going to want to delay the voting. We would like to have this little debate. I think that part can be worked out.

Mr. MITCHELL. I think a debate of 4 hours is fair on this subject. I think it is of sufficient relevance to call for that extent of debate, and I would be prepared to even extend that somewhat more if enough Senators wish to speak on it.

But in a serious vein—and the distinguished Senator from Oregon and I have been friends at least from the day I entered the Senate, and I regard him as such—my interest is also in completing the action before the Senate. I know that he has a right to offer this without limit. I expect that is not his intentional plan. I want to explore with him in a serious vein the possibility of attempting to do this with some degree of finality; that we could try to reach some agreement; that we can dispose of this one way or the other because we have still several appropriations conference reports to deal with. We have the debt limit, which is a very serious matter. We have the reconciliation bill. We have a lot of things we are trying to deal with all of which have been affected by this problem in one way or another.

It seems to me we are not going to be able to reach a degree of finality on them which the national interest requires until we reach a degree of finality on this.

So why do we not explore that possibility—if the Senator will at least discuss with me some mechanism for trying to figure out a way that at some point he would be satisfied that he has had his fair shot at the issue; and, if he does not prevail, that we could agree we would proceed to other matters.

I do not know if that is even going to be possible. But the thing I am reluctant to do is just look forward to a landscape of unending series of votes on this in a way that has a serious adverse effect on other matters.

Mr. PACKWOOD. Let me think out loud. First, let us take tomorrow. My hunch is we could reach an agreement on a cloture vote tomorrow. It might be tomorrow at 7 or 8 o'clock or whatever time the leader wanted. I think we have a cloture vote on Eastern Airlines at 10:30. If by chance that passes, that changes our schedule a bit, if cloture is invoked. It does not? OK.

Then we have 4 hours.

Mr. MITCHELL. We could by consent reach whatever agreement we want.

Mr. PACKWOOD. Then we have 4 hours on the death penalty, taking us into midafternoon. My guess is if we want to go into tomorrow night, start on this at 3 o'clock, 3:30, 4 o'clock, whatever time we finish up on the death penalty, we could probably agree on a cloture vote tomorrow night if that is what the majority leader wanted, or the next morning, whichever way he wants to go.

As to future disposition, if the majority leader is saying no matter what this is offered on, let us say we have a clean reconciliation bill. So we have no repeal of section 89, no settlement of catastrophic health insurance, no extension of the research and development credits, and a tax bill starts to move through here. If we were to offer this, which is clearly relevant to the tax bill, we would not even get a vote at that stage because if we offered the amendment, it would be filibustered. We would have to have cloture, and I sense that is what the majority leader is saying.

Even if it is on a bill perfectly germane, that would probably have to be defeated three or four times, not 30 or 40, but three or four. We would have

to show we could only get 55 votes, that we cannot get 60. At some stage we might say, all right, we have 55 votes, but not 60. But I think we want a chance to show that—three or four times before we decide whether or not we cannot, and that the majority leader did have the votes because I am perfectly confident when we finally get down to a vote on the substance of this, there are, I will say, someplace between 58 and 62 votes for it, divided as follows:

About 10 Democrats are for it, solid, and another 4 or 5 who say when it has 55 votes they are going to vote for it. They are not going to vote for it if it is in the 52-to-48 range.

We are never going to get to that if we cannot get the 60 votes on cloture.

I sense the majority leader may have sufficient Democrats that are pledged to him on the cloture that might even be with us on the substance that we will have a tough time getting 60 votes.

Mr. MITCHELL. I think the last part of the analysis is correct with respect to cloture. But I do not want silence to be deemed as acquiescence in the remainder of the analysis which I do not agree with but I think it is not relevant——

Mr. PACKWOOD. It is not relevant if we can ever get past cloture.

Mr. MITCHELL. To a discussion about that now.

Mr. PACKWOOD. But the leader is saying even if we have a tax bill and capital gains is offered, it will be his intention that we would not get to a vote on the substance, even on a tax bill or capital gains.

Mr. MITCHELL. That is correct. I think we ought to discuss further how best to proceed on this.

As I indicated, I am perfectly willing—indeed, I am eager—to have a vote on this because I think the vote is going to be substantially less in favor of the proposition of the Senator from Oregon than perhaps he feels might be the case. But I am trying to figure out a way to accommodate his legitimate interest and concern, and also reconcile it with the interests of the Senate and the Nation.

That is, as the Senator knows, my personal view, which I surely do not ask him to subscribe to. We have already devoted a truly extraordinarily excessive amount of time to this issue. The President has devoted large amounts of time to independent meetings with Senators to the virtual exclusion of all the other issues confronting the Nation—foreign and domestic.

I am trying to withdraw from that situation so that we can dispose of this, as I said, one way or the other, and to proceed to other business.

I regret the extraordinary time and emphasis which this issue has consumed and generated, and I am hoping that we can dispose of it promptly and decisively.

Mr. PACKWOOD. Well, I would be willing—although I have a very important event tomorrow night which the chair may be involved in, the annual House-Senate bridge game—to forego that and debate this and vote on it tomorrow night, at some stage, if we can get an agreement on time.

Mr. MITCHELL. I am sorry.

Mr. PACKWOOD. I would be willing to vote tommorrow night or Friday morning, whichever is the preference of the leader, after we have had 4 hours. He has indicated perhaps more debate. I think that is not a problem in terms of accommodation. We will have the vote and see where the vote comes out, and that, I think, we can work out by unanimous consent, maybe tonight or in the morning, as the leader prefers.

Mr. MITCHELL. Actually, I prefer to do this prior to the Specter bill and get this done with and then move the Specter bill back. Perhaps we ought to leave it at that for this evening and then discuss the possibility of an agreement that would permit us to proceed in that fashion.

Mr. PACKWOOD. Mr. President I would like to say how much I appreciate the majority leader. We have been good friends, and he has never blindsided me. I appreciate that when we were doing tax reform, he did not attempt to upset it. At the time, I think he realized then, that his amendment was not going to succeed on the floor, and he wanted his record to be clear. He knew at that stage that I had the votes. I sense at this stage that he may have the votes, but he has been fair and has never blind-sided me in all the dealings we have had.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, thank you.

Reluctantly I am unable to agree to a unanimous consent tonight. We have to in order to agree to move a previous unanimous consent that we would start on the death penalty, which Senator SPECTER is very interested in. We cannot find him. We were hesitant to move without him.

I can assure the majority leader that as far as a vote on cloture on my amendment in IRA's, capital gains, section 89 and whatnot, we are anxious to have a vote on this tomorrow. We would like to have an early test of strength. It is not in our interest to delay it until Friday, Saturday, or something like that. So I think when the majority or minority leader is back tomorrow, we can work this out and we will get a vote tomorrow. I am not in a position to agree to a unanimous consent tonight.

Mr. MITCHELL. Mr. President, of course, I regret that very much. The distinguished Senator from Oregon had indicated earlier in the evening that he wanted a vote on this. I then offered a vote for tomorrow.

Mr. PACKWOOD. I still want a vote tomorrow.

Mr. MITCHELL. I understand that. But the Senator is unwilling to go to a vote tomorrow at this time.

I appreciate the sentiments he has expressed but I think the record is clear that I offered to have a vote tomorrow, to enter into an agreement tonight to have a vote tomorrow, and we do not have an agreement. There is no assurance of a vote tomorrow because the Senator cannot agree to it for understandable reasons which he just expressed.

I hope that we will be able to resume this in the morning. We want to vote on this. As I indicated earlier, we would like to dispose of this issue so we can get on to what we believe are other issues facing the Nation, but which I am not sure are shared by others as other issues facing the Nation.

But obviously if we cannot get an agreement, we cannot get an agreement. Unanimous consent means just that, unanimous consent, and if we cannot get it, we cannot get it. Accordingly, I regret that. I wish we could have had a vote on this promptly tomorrow. We will work at it and hope we can reach agreement as soon as possible to have a vote on it.

Mr. PACKWOOD. I thank the majority leader.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

RALPH EVERETT'S DEPARTURE FROM THE SENATE

Mr. FORD. Mr. President, 12 years ago, the Senate Commerce Committee was involved in a spirited debate on the no-fault insurance legislation. Since Kentucky had already passed a bill to provide for no fault automobile insurance while I served as Governor, I took a major role in the debate. Senator HOLLINGS was my colleague in the effort to provide for States rights in the bill and he had recently hired a young lawyer from South Carolina and assigned him to his Commerce

Committee work. That young man was Ralph Everett. I have had many opportunities to work with Ralph since 1977—on some occasions on different sides of the issue, but most times together in efforts to further the Commerce Committee's agenda. Ralph has always been a source of great information but, most importantly, he has never lost his sense of humor. I have often said that when we lose our sense of humor in Washington, we are in real trouble.

I count on Ralph as a true friend and I want to wish him good fortune in his new role. He will be deeply missed on the committee, but I look forward to working with him in his new capacity. I am pleased that the law firm of Paul, Hastings, Janofsky & Walker has recognized the talents of Ralph and have chosen to make him a partner in the firm. He will be a great credit to the firm and I am certain he will make their partners' meetings much more spirited.

Ralph is involved in many activities outside of his Commerce Committee work. He is active in community activities, his church, and his alma mater for undergraduate school Morehouse, and law school Duke committees. He takes a great interest in his young son, Jason, and has somehow managed to work in soccer games, school meetings, and piano lessons with his busy schedule. Ralph's walls in his office are a history of Jason's activities and talents. It is hoped that his new job will allow him more time with his wife, Gwen, and Jason.

I am going to miss Ralph in Commerce markups. It was always a relief when the debate got a little intense to look up and see Ralph smiling and seeking a resolution to the situation. Ralph always had a smile and a kind word for every Senator and the staff on the committee. He has assisted in many careers in the Senate and helped South Carolinians to find positions in the Federal Government. I think the fine staff now on the Commerce Committee is a credit to Ralph's abilities to attract top staff.

I know that I will not be the only Senator to miss Ralph's reasoned approach as well as sunny disposition. The Commerce Committee has been fortunate to have the services of Ralph for the past 6 years and I am certain we will continue our friendship in different roles.

AMENDING THE DISASTER ASSISTANCE ACT

Mr. KERREY. Mr. President, I wish to thank the Republican leader, Senator DOLE, and the chairman and ranking republican member of the Committee on Agriculture, Senators LEAHY and LUGAR, for their cooperation in including in this urgent legislation the text of S. 1220, a bill I introduced on June 21 with the support of Senators LUGAR, HARKIN, DASCHLE, BOSCHWITZ, CONRAD, and EXON.

The language of S. 1220, now a provision in the legislation currently before the Senate introduced by Senators DOLE and KASSEBAUM, would give the Secretary of Agriculture the authority to avoid grain forfeitures by allowing the Secretary to reduce the principal owed on expiring reserve or regular commodity price support loans. This authority will provide the Secretary with an important new farm policy tool that, if properly used, will benefit both the farmer and the taxpayer.

Mr. President, under current law, farmers whose commodity loans have matured often are forced by low market prices to forfeit to the Government the grain which serves as collateral for the loan if market prices are less than the principal and interest owed on the loan. When the grain is forfeited, the Government loses all principal and interest due and incurs additional costs for handling, storing, and eventually disposing of the commodity.

The Secretary currently has the authority to forgive interest due on expiring loans, but the Secretary does not have the authority to reduce or waive principal, even if the move would save the Government money by ensuring that most of the principal is repaid.

The new authority included in this provision would ensure that most of the principal is repaid to the Commodity Credit Corporation while also relieving the taxpayer of the additional costs inherent in acquiring, storing, and disposing of forfeited grain.

Historically the commodity loan rate provide a floor under market prices because the loan allows farmers to obtain financing and store their grain rather than sell their crop at prevailing prices. In this role the loan does much to promote orderly marketing by farmers. Some may contend, Mr. President, that my legislation will undermine this basic function. I believe such concern is misplaced.

The fact is that the loan's price support mechanism has already been compromised by the proliferation of new farm policy devices, for example, generic certificates, posted county prices [PCP's], CCC grain catalogs, and so forth, that have been used to permit the steady flow of grain to the market.

This new waiver authority is intended to provide, quite simply, a less complex and costly way for the Department to make stocks available to the market. In the process, this new tool should also restore the original intent of the loan program to provide farmers—and not grain companies—the opportunity to market grain in an orderly fashion.

I do not believe, Mr. President that this authority should be used in each and every case were forfeitures are likely, but it should be an available option, particularly when the Government intends to acquire the grain only to turn around and put the commodity back on the market.

As concern persists about the adequacy of CCC stocks used to back the issuance of generic certificates, it is also time, I believe, for farm policymakers to examine new options to protect farm income, to ensure that the market has ready access to grain, and to simplify our farm programs. These new options should preserve for the farmer a central role in offering grain to the market—a role that the present forfeiture-cataloging scheme does not provide.

Others may view this new authority as a simple extension of the marketing loan concept. Like the marketing loan, the authority to reduce principal owed on expiring loans would help to keep commodities moving to the market. Unlike the marketing loan, however, this authority would provide the Secretary with greater flexibility to adjust loan redemption levels as necessary to meet temporary, localized, or other specific conditions where grain forfeitures threaten or where the Secretary determines that producers should have access to grain under loan.

The need for prompt approval of this provision is made necessary because at the present time millions of bushels of grain are being forfeited to the Government by farmers and, according to published reports, the Department of Agriculture is preparing to issue another catalog that will make this grain available to the market. The additional costs associated with this process could be avoided if the Secretary had the option offered by this bill.

In summary, Mr. President, I believe this new discretionary authority offers significant potential benefit to farmers and taxpayers, and I greatly appreciate the cooperation that made possible this provision's inclusion in the bill before us.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations

which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON NATIONAL EMERGENCY WITH RESPECT TO NICARAGUA—MESSAGE FROM THE PRESIDENT—PM 68

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

I hereby report to the Congress on developments since my last report of April 21, 1989, concerning the national emergency with respect to Nicaragua that was declared in Executive Order No. 12513 of May 1, 1985. In that order, President Reagan prohibited: (1) all imports into the United States of goods and services of Nicaraguan origin; (2) all exports from the United States of goods to or destined for Nicaragua except those destined for the organized democratic resistance; (3) Nicaraguan air carriers from engaging in air transportation to or from points in the United States; and (4) vessels of Nicaraguan registry from entering U.S. ports.

1. The declaration of emergency was made pursuant to the authority vested in the President by the Constitution and laws of the United States, including the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.*, and the National Emergencies Act, 50 U.S.C. 1601 *et seq.* This report is submitted pursuant to 50 U.S.C. 1641(c) and 1703(c).

2. The Office of Foreign Assets Control (FAC) of the Department of the Treasury issued the Nicaraguan Trade Control Regulations implementing the prohibitions in Executive Order No. 12513, effective May 7, 1985; 50 *Fed. Reg.* 19890 (May 10, 1985). There have been no amendments to these regulations since my last report.

3. Since my report of April 21, 1989, fewer than 30 applications for licenses have been received with respect to Nicaragua, and the majority of these applications have been granted. Of the licenses issued in this period, some authorized exports for humanitarian purposes, covering donated articles beyond the scope of the exception to the export ban, to assist in the rebuilding of houses and churches that were destroyed by Hurricane Joan in 1988. Certain licenses authorized the export of equipment to *La Prensa*, the major opposition publication in Nicaragua, as well as to other opposition press groups. A license was also issued to the United Nations that authorized the export of certain equipment for use by the U.N. Observer Mission in verifying the electoral process in Nicaragua.

4. Since my last report, the Department of the Treasury completed two significant enforcement actions. A U.S. organization, which has been engaging in unauthorized imports from Nicaragua in protest of U.S. policies in Central America, agreed to cease its illegal trade activities. This agreement followed issuance of a warning letter sent to the group in March 1988 by the United States Attorney and the execution of a search warrant covering the organization's offices by the U.S. Customs Service.

In April 1989, in the U.S. District Court for the District of Puerto Rico, a U.S. shipowner whose oil tanker had been seized on two separate occasions by the U.S. Customs Service for unauthorized transshipment of aviation fuel to Nicaragua settled a civil forfeiture action against the vessel by paying $125,000, including a $10,000 civil penalty under the regulations.

5. The trade sanctions are an essential element of our policy that seeks a democratic outcome in Nicaragua by diplomatic means. The Sandinista regime made numerous commitments to democratization and national reconciliation when it signed the Esquipulas Agreement in 1987. The Government of Nicaragua reiterated these commitments on February 14, 1989, at Tesoro Beach, El Salvador, and, in addition, promised to hold free, fair, and honest elections in February 1990 under international observation. I do not believe that current conditions in Nicaragua justify lifting the trade sanctions. If Nicaragua fully implements its Esquipulas commitments to democratize; holds free, fair, and honest elections; undertakes genuine national reconciliation; and ends its support for subversion in the region and its close security ties to the Soviet bloc, the emergency that prompted the imposition of the trade sanctions would largely be resolved.

6. The expenses incurred by the Federal Government in the period from May 1, 1989, through November 1, 1989, that are directly attributable to the exercise of powers and authorities conferred by the declaration of the Nicaraguan national emergency are estimated at $197,715, all of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Customs Service, as well as in FAC and the Office of the General Counsel), with expenses also incurred by the Department of State and the National Security Council staff.

7. The policies and actions of the Government of Nicaragua continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. I shall continue to exercise the powers at my disposal to apply economic sanctions against Nicaragua as long as these measures are appropriate and will continue to report periodically to the Congress on expenses and significant developments pursuant to 50 U.S.C. 1641(c) and 1703(c).

GEORGE BUSH.

THE WHITE HOUSE, *October 25, 1989.*

MESSAGES FROM THE HOUSE

At 10:19 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 91. An act to prohibit exports for military equipment to countries supporting international terrorism, and for other purposes;

H.R. 2095. An act to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize the collection of reclamation fees, and for other purpose; and

H.R. 2120. An act to amend the Deep Seabed Hard Mineral Resources Act to authorize appropriations to carry out the provisions of the Act for fiscal years 1990, 1991, 1992, 1993, and 1994.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 167. Concurrent resolution authorizing the printing of the book entitled "Women in Congress";

H. Con. Res. 168. Concurrent resolution authorizing the printing of the book entitled "The U.S. Capitol: A Brief Architectural History";

H. Con. Res. 169. Concurrent resolution authorizing the printing of the book entitled "Origins of the House of Representatives: A Documentary Record"; and

H. Con. Res. 193. Concurrent resolution authorizing the printing of the book entitled "How Our Laws Are Made."

At 1:28 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 86. Joint resolution designating November 17, 1989, as "National Philanthropy Day";

S.J. Res. 120. Joint resolution to designate the period commencing November 12, 1989, and ending November 18, 1989, as "Geography Awareness Week"; and

S.J. Res. 177. Joint resolution to designate October 29, 1989, as "Fire Safety at Home—Change Your Clock, Change Your Battery Day."

The message also announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 241. Joint resolution designating October 25, 1989, as "National Arab-American Day"; and

H.J. Res. 278. Joint resolution to designate the period commencing on November 20, 1989, and ending on November 26, 1989, as "National Adoption Week".

At 3:07 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House having proceeded to reconsider the bill (H.R. 2990) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1990, and for other purposes, returned by the President of the United States with his objections, to the House, in which it originated, it was resolved, that the said bill do not pass, two-thirds of the House of Representatives not agreeing to pass the same.

The message also announced that the Speaker makes the following supplemental appointment in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3299) entitled "An Act to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990":

The first panel from the Committee on Ways and Means is appointed also for consideration of the third item listed under miscellaneous charges in the fee schedules set forth in section 301(a)(1) of the Senate amendment, and modifications committed to conference.

The message further announced that pursuant to the provisions of section 54(b), Public Law 94-201, the Speaker appoints to the Board of Trustees of the American Folklife Center in the Library of Congress the following individuals from private life on the part of the House: Mrs. Nina M. Archabal, St. Paul, MN, to fill the existing vacancy thereon; and Mr. John Penn Fix III, Spokane, WA, for a 6-year term.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 5:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

H.R. 2989. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies for the fiscal year ending September 30, 1990, and for other purposes;

H.R. 3026. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1990, and for other purposes;

S.J. Res. 86. Joint resolution designating November 17, 1989, as "National Philanthropy Day"; and

S.J. Res. 177. Joint resolution to designate October 29, 1989, as "Fire Safety at Home—Change Your Clock, Change Your Battery Day."

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore [Mr. BYRD].

At 7:46 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the joint resolution (H.J. Res. 423) making further continuing appropriations for the fiscal year 1990, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 423. Joint resolution making further continuing appropriations for the fiscal year 1990, and for other purposes.

The enrolled joint resolution was subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES REFERRED

The following bills and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2095. An act to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize the collection of reclamation fees, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2120. An act to amend the Deep Seabed Hard Mineral Resources Act to authorize appropriations to carry out the provisions of the Act for fiscal year 1990, 1991, 1992, 1993, and 1994; to the Committee on Energy and Natural Resources.

H.J. Res. 278. Joint resolution to designate the period commencing on November 20, 1989, and ending on November 26, 1989, as "National Adoption Week"; to the Committee on the Judiciary.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 167. Concurrent resolution authorizing the printing of the book entitled "Women in Congress"; to the Committee on Rules and Administration.

H. Con. Res. 168. Concurrent resolution authorizing the printing of the book entitled "The U.S. Capitol: A Brief Architectural History"; to the Committee on Rules and Administration.

H. Con. Res. 169. Concurrent resolution authorizing the printing of the book entitled "Origins of the House of Representatives: A Documentary Record"; to the Committee on Rules and Administration.

H. Con. Res. 193. Concurrent resolution authorizing the printing of the brochure entitled "How Our Laws Are Made"; to the Committee on Rules and Administration.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 91. An act to prohibit exports for military equipment to countries supporting international terrorism, and for other purposes.

ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, October 25, 1989, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 86. Joint resolution designating November 17, 1989, as "National Philanthropy Day"; and

S.J. Res. 177. Joint resolution to designate October 29, 1989, as "Fire Safety At Home—Change Your Clock, Change Your Battery Day."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce Science, and Transportation, with an amendment in the nature of a substitute:

S. 561. A bill to provide for testing for the use, without lawful authorization, of alcohol or controlled substances by the operators of aircraft, railroads, and commercial motor vehicles, and for other purposes (Rept. No. 101-172).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

Mr. ROCKEFELLER (for himself, Mr. BURNS, Mr. HOLLINGS, Mr. DANFORTH, Mr. BRYAN, Mr. LOTT, Mr. PRESSLER, Mr. KASTEN, Mr. WALLOP, Mr. INOUYE, Mr. MCCAIN, Mr. GORE, Mr. STEVENS, Mr. DECONCINI, Mr. EXON, Mr. GORTON, Mr. PACKWOOD, Mr. ROBB, Mr. BREAUX, Mr. KERRY, Mr. FORD, Mr. BENTSEN, Mr. BOND, Mr. DURENBERGER, Mr. WARNER, Mr. MATSUNAGA, and Mr. BYRD):

S. 1791. A bill to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States and for other purposes; to the Committee on Commerce, Science, and Transportation

By Mr. DOLE (for MRS. KASSEBAUM (for herself, Mr. DOLE, Mr. BOREN, Mr. BENTSEN, Mr. KERREY, Mr. DASCHLE, Mr. DOMENICI, Mr. FORD, Mr. NICKLES, and Mr. PRESSLER)):

S. 1792. A bill to amend the Disaster Assistance Act of 1989 to avoid penalizing producers who planted a replacement crop on disaster-affected acreage, and for other purposes; considered and passed.

By Mr. MITCHELL (for Mr. PRYOR (for himself, Mr. HEFLIN, Mr. HARKIN, and Mr. DASCHLE)):

S. 1793. A bill to make technical and correcting changes in agriculture programs; considered and passed.

By Mr. SPECTER:

S. 1794. A bill to amend the Securities Exchange Act of 1934 with respect to mergers and corporate tender offers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HOLLINGS (for himself, Mr. MITCHELL, Mr. INOUYE, Mr. CRANSTON, Mr. SIMON, Mr. DASCHLE, Mr. ROBB, Mr. DODD, Mr. JOHNSTON, Mr.

CONRAD, Mr. SHELBY, Mr. EXON, Mr. FOWLER, Mr. REID, Mr. BRYAN, Mr. HEFLIN, Mr. BUMPERS, Mr. BREAUX, Mr. LAUTENBERG, Mr. WIRTH, Mr. FORD, Mr. PRYOR, Mr. DECONCINI, Mr. LEVIN, Mr. BIDEN, and Mr. BINGAMAN):

S. 1795. A bill to exclude the Social Security Trust Funds from the deficit calculation and to extend the target date for Gramm Rudman Hollings until fiscal year 1995; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have thirty days of continuous session to report or be discharged.

By Mr. GARN (for himself and Mr. HEINZ):

S. 1796. A bill to provide authority to regulate exports, to improve the efficiency of export regulation and to minimize interference with the ability to engage in commerce; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HARKIN:

S. 1797. A bill to provide for the Secretary of Transportation to reimburse the Commodity Credit Corporation for certain shipping costs relating to food assistance to Poland; to the Committee on Commerce, Science, and Transportation.

By Mr. SPECTER:

S. 1798. A bill to provide for the imposition of the death penalty for the terrorist murder of U.S. nationals abroad; ordered held at the desk.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. RUDMAN (for himself and Mr. COHEN):

S. Res. 197. A resolution to ensure that sufficient funds are available to aid the victims of the California earthquake and Hurricane Hugo without increasing the Federal budget deficit; considered and agreed to.

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 198. A resolution to authorize testimony of Senator Howell Heflin; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROCKEFELLER (for himself, Mr. BURNS, Mr. HOLLINGS, Mr. DANFORTH, Mr. BRYAN, Mr. LOTT, Mr. PRESSLER, Mr. KASTEN, Mr. WALLOP, Mr. INOUYE, Mr. MCCAIN, Mr. GORE, Mr. STEVENS, Mr. DECONCINI, Mr. EXON, Mr. GORTON, Mr. ROBB, Mr. BREAUX, Mr. KERRY, Mr. FORD, Mr. BENTSEN, Mr. BOND, Mr. DURENBERGER, Mr. WARNER, Mr. MATSUNAGA, and Mr. BYRD):

TOURISM POLICY AND EXPORT PROMOTION ACT

Mr. ROCKEFELLER. Mr. President, today, I am pleased to be rising, joined by 22 of my colleagues as consponsors, to introduce legislation titled "The Tourism Policy and Export Promotion Act of 1989." As the title suggests, our objective with this bill is to help maximize the export potential of America's tourism industry. By updating our national tourism policy, with an eagle eye on the trade implications, we are proposing a series of steps to increase and invigorate the powerful impact that this industry has on America's economy and job base.

This bill has a "one-two" punch. One crucial aspect is to lure more foreign visitors and tourists to this country. The other is to encourage them to take roads less traveled, and specifically to visit rural America far more than they are doing now.

These are objectives that are very important to the people we represent. My own State—West Virginia—has experienced the tangible benefits a healthy tourism industry provides. Tourists spend nearly $4 million a day in West Virginia. Tourism tax revenues raise $1 million a year. And most importantly, 30,000 West Virginians are employed by some part of this multifaceted industry.

Mr. President, I believe this bill is necessary to sustain the positive trends we are seeing. The tourism industry has done well over the last decade, but this industry is not recession-proof. We cannot expect the industry to continue to be an engine of growth, in an uphill international battle, with no assistance. That would be naive and unrealistic.

Competition—in the marketplace, over products and over services—is waged between governments, not companies alone. The effort to market a given country as a final destination for tourists should fully involve our Nation's Government. Every other country's government does so because they recognize that it makes very good sense economically. A particular hotel or restaurant cannot promote a country as a final destination—their success in attracting foreign visitors and customers, for example, is tied to policies developed and pursued on a much broader scale.

The U.S. Government should accept its part of the responsibility to promote tourism. Our performance has been pitiful, I might note. The United States ranks 45th in per capita spending on tourism trade development. Our commitment to this industry lags behind the commitment of countries that include Kenya, Lesotho, and Yemen. Hopefully, with enactment of this bill, we can begin to have a Government policy affecting tourism that is more fitting to an industry of its size and that holds the untapped potential awaiting us.

The goal of the Tourism Policy and Export Promotion Act of 1989 is to reduce the travel and tourism deficit and maintain a travel and tourism surplus. The industry is the largest generator of export revenue in the country—tourism brings in $37.1 billion annually. Nonetheless, our tourism trade account has a $2.9 billion deficit. In the larger scheme of our trade imbalance, that is not so bad, but I believe with the kind of assistance this bill calls for, we can turn that deficit into a surplus in the near future.

Mr. President, I will ask that the entire bill be printed in the RECORD. I would like to highlight some of the key provisions of the legislation:

First, this bill requires the Department of Commerce to keep monthly statistics on the tourism industry. Currently, we receive only monthly statistics that are buried in the larger service sector grouping. The Government keeps tabs on all other major industries on a monthly basis. Tourism economic indicators as just as important and should be treated as such.

Second, our bill will identify and focus attention on tourism trade barriers, by requiring the U.S. Trade Representative to report these barriers in the annual National Trade Estimates Reports.

Third, the bill requires the United States Travel and Tourism Administration [USTTA], which is part of the Department of Commerce, to focus on those countries which have the greatest ability to affect our tourism trade account. USTTA received $13.8 million last year. That is not money that allows a program to be everthing to everybody. This bill says to USTTA: concentrate your efforts where we can get the biggest bang for our buck.

Fourth, we propose the creation of a new rural tourism foundation, modeled after the National Park Foundation, in order to facilitate public-private partnerships for tourism promotion. I am attracted to this idea, because I see it helping States like West Virginia where tourism serves as a powerful engine for economic development, job growth, and diversification.

Fifth, finally, this bill sets a new authorization level for USTTA, proposing a modest expenditure of 15, 16, 17 million dollars over the next 3 fiscal years. Many tourism supporters, myself included, wish this number could be higher. But today's fiscal realities impose tight constraints. My hope is that we will generate strong support in Congress and the administration for this modest level of funding—so that we can adequately and properly invest in an area with tremendous payoffs for our economy and people.

Mr. President, as I have tried to lay out, this is a bill with straightforward objectives that are aimed squarely at benefiting the country. Unlike other trade-related bills, this one sets on quotas, requires no negotiations, and calls for no protectionist policies. It is an act for vigorous export promotion

and for strong action on behalf of our Nation's economic future.

And support for the bill is growing, from the tourism industry and within the administration. Just yesterday, I received letters of support from five Governors. My hope is that we will pass this bill quickly, and I urge all of my colleagues to join me as cosponsors of the Tourism Policy and Export Promotion Act of 1989.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1791

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Tourism Policy and Export Promotion Act of 1989".

FINDINGS

SEC. 2. The Congress finds that—

(1) the travel and tourism industry is the second largest retail or service industry in the United States;

(2) travel and tourism receipts make up over 6.6 percent of the United States gross national product;

(3) travel and tourism expenditures last year were approximately $323 billion;

(4) in 1988 the travel and tourism industry generated about 6 million jobs directly and about 2.5 million indirectly;

(5) international visitors spent approximately $37 billion in the United States last year;

(6) travel and tourism services ranked as the largest United States export in 1988;

(7) advanced technologies, industrial targeting, the industrialization of the Third World, and the flight of some United States manufacturing capacity to overseas locations have affected the international competitiveness of the United States;

(8) although the trade deficit is shrinking, imports continue at record levels, and export expansion must remain a national priority; and

(9) exporting those goods and services which United States industry can produce at a comparative cost-advantage, such as tourism services, will be in the Nation's long-term strategic interest.

NATIONAL GOAL

SEC. 3. It shall be the national goal under this Act to increase and sustain United States export earnings from United States tourism and transportation services traded internationally, toward—

(1) the elimination of the travel and tourism export deficit of the United States and the overall United States trade deficit; and

(2) the achievement and maintenance of a travel and tourism export surplus.

MONTHLY STATISTICAL REPORT

SEC. 4. Not later than January 1, 1991, the Secretary of Commerce shall publish on a monthly basis the statistical report on United States international travel receipts and payments published in the document known as "The Survey of Current Business", prepared by the Bureau of Economic Analysis within the Department of Commerce.

TOURISM TRADE BARRIERS

SEC. 5. (a) Section 181(a)(1)(A)(i) of the Trade Act of 1974 (19 U.S.C. 2241(a)(1)(A)(i)) is amended by inserting "travel and tourism;" immediately after "commodities;".

(b) Section 181(b)(1) of the Trade Act of 1974 (19 U.S.C. 2241(b)(1)) is amended by inserting "and Committee on Commerce, Science, and Transportation" immediately after "Finance".

TOURISM TRADE DEVELOPMENT

SEC. 6. (a) Section 202 of the International Travel Act of 1961 (22 U.S.C. 2123) is amended by adding at the end the following new subsection:

"(e) Beginning with fiscal year 1990, each annual tourism trade development plan developed and submitted to the Congress by the Secretary under subsection (a)(15) of this section shall focus on those countries with respect to which tourism trade development has the greatest potential for increasing travel and tourism export revenues.".

(b)(1) Section 202(a)(15) of the International Trade Act of 1961 (22 U.S.C. 2123(a)(15)) is amended by inserting "after a majority vote of approval by the Travel and Tourism Advisory Board" immediately after "within six weeks".

(2) Section 303(a)(3) of the International Travel Act of 1961 (22 U.S.C. 2124b(a)(3)) is amended—

(A) in subparagraph (A), by striking "and";

(B) in subparagraph (B), by striking "one" and inserting in lieu thereof "two" and by striking the period at the end and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) at least one shall be a representative of a city who is knowledgeable of tourism promotion.".

(3) The first sentence of section 303(f) of the International Travel Act of 1961 (22 U.S.C. 2124b(f)) is amended—

(A) by striking "and" and inserting in lieu thereof a comma; and

(B) by inserting just before the period at the end the following: ", and shall vote on such plan prior to its submission to the Congress".

(4) The requirements added by paragraphs (1), (2), and (3) of this subsection shall not apply until fiscal year 1990.

(c)(1) Section 204 of the International Travel Act of 1961 (22 U.S.C. 2123b) is amended by striking "marketing" each place it appears and inserting in lieu thereof "tourism trade development".

(2) Section 301(a) of the International Travel Act of 1961 (22 U.S.C. 2124(a)) is amended—

(A) by striking "Marketing" and inserting in lieu thereof "Trade Development"; and

(B) by striking "marketing" and inserting in lieu thereof "tourism trade development".

(3) Section 303(f) of the International Travel Act of 1961 (22 U.S.C. 2124b(f)) is amended—

(A) by striking "Marketing" and inserting in lieu thereof "Trade Development"; and

(B) by striking "marketing" and inserting in lieu thereof "tourism trade development".

COORDINATION

SEC. 7. Section 301 of the International Travel Act of 1961 (22 U.S.C. 2124) is amended by adding at the end the following subsection:

"(c) The Secretary shall ensure that the facilities and services of the United States and Foreign Commercial Service are available to assist the United States Travel and Tourism Administration at locations identified by the Under Secretary of Commerce for Travel and Tourism, in consultation with the Director General of the United States and Foreign Commercial Service, as necessary to assist the Administration's foreign offices in stimulating and encouraging the travel to the United States by foreign residents and in carrying out other powers and duties of the Secretary specified in section 202.".

RURAL TOURISM FOUNDATION

SEC. 8. (a)(1) The Congress finds that increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, or recreational resources for future generations of Americans and foreign visitors.

(2) In order to enable the United States Travel and Tourism Administration to coordinate and assist in the promotion of rural tourism, there is established a charitable and nonprofit corporation to be known as the Rural Tourism Fundation (hereinafter referred to as the "Foundation").

(b)(1) The Foundation shall have a Board of Directors, consisting of—

(A) the Under Secretary of Commerce for Travel and Tourism (hereafter in this section referred to as the "Under Secretary");

(B) representatives of such Federal agencies with responsibility for Federal recreational sites as the Under Secretary determines appropriate (including the National Park Service, Bureau of Land Management, Forest Service, and Corps of Engineers); and

(C) twelve private citizens of the United States, who shall be appointed by the Under Secretary and at least six of whom shall have experience and expertise in tourism trade promotion, resource conservation, or financial administration in a fiduciary capacity.

(2) Private citizens appointed to membership on the Board shall each serve a term of six years, except that—

(A) initial terms shall be staggered to assure continuity of administration; and

(B) if a person is appointed to fill a vacancy occurring prior to the expiration of the term of his or her predecessor, that person shall serve only for the remainder of the predecessor's term.

(3) The Under Secretary shall be the Chairman of the Board, and shall appoint a Vice Chairman from among the private citizen members of the Board.

(4) The Board shall meet at the call of the Chairman and there shall be at least two meetings each year. A majority of the members of the Board serving at any one time shall constitute a quorum for the transaction of business, and the Foundation shall have an official seal, which shall be judicially noticed. Membership on the Board shall not be deemed to be an office within the meeting of the laws of the United States.

(c) No compensation shall be paid to the members of the Board for their services as members, but they may be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of Foundation funds available to the Board for such purposes.

(d) The Foundation is authorized to accept, receive, solicit, hold, administer, and use any gifts, devises, or bequests, either absolutely or in trust, of real or personal prop-

erty or any income therefrom or other interest therein for the benefit of or in connection with rural tourism, except that the Foundation may not accept any such gift, devise, or bequest which entails any expenditure other than from the resources of the Foundation. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons of any current or future interest therein is for the benefit of rural tourism.

(e) Except as otherwise required by the instrument of transfer, the Foundation may sell, lease, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof as the Board may from time to time determine. The Foundation shall not engage in any business, nor shall the Foundation make any investment that may not lawfully be made by a trust company in the District of Columbia, except that the Foundation may make any investment authorized by the instrument of transfer and may retain any property accepted by the Foundation. The Foundation may utilize the services and facilities of the Federal Government and such services and facilities may be made available on request to the extent practicable without reimbursement therefor.

(f) The Foundation shall have perpetual succession, with all the usual powers and obligations of the corporation acting as a trustee, including the power to sue and to be sued in its own name, but the members of the Board shall not be personally liable, except for malfeasance.

(g) The Foundation shall have the power to enter into contracts, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to its purposes.

(h) In carrying out the provisions of this section, the Board may adopt bylaws, rules, and regulations necessary for the administration of its functions and contract for any necessary services.

(i) The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of the Board, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not exempt from taxation by virtue of this subsection or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived therefrom if such agreement is a condition of the transfer. Contributions, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

(j) The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

(k) The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

(l) As used in this section, the term "rural tourism" means travel and tourism activities occurring outside of United States Standard Metropolitan Statistical Areas, including activities on Federal recreational sites and in the territories, possessions, and commonwealths of the United States.

TOURISM DEVELOPMENT STUDY

SEC. 9. (a) The Secretary of Commerce shall assemble available information on economic activity associated with scenic and recreational travel, including but not limited to case studies of existing scenic byways. The Secretary shall consult with other departments and agencies of the United States which may have relevant data.

(b) The Secretary shall also conduct a study and make recommendations regarding—

(1) economic effects associated with the public identification and promotion of scenic byways as tourist attractions; and

(2) techniques for incorporating scenic byways into tourism development programs.

(c) Not later than one year after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the information assembled under subsection (a) and the results of the study conducted under subsection (b).

POLICY CLARIFICATIONS

SEC. 10. (a)(1) Section 101(b)(1) of the International Travel Act of 1961 (22 U.S.C. 2121(b)(1)) is amended to read as follows:

"(1) optimize the contributions of the tourism and recreation industries to the position of the United States with respect to international competitiveness, economic prosperity, full employment, and balance of payments;"

(2) Section 101(b) of the International Travel Act of 1961 (22 U.S.C. 2121(b)) is amended—

(A) by redesignating paragraphs (2) through (12) as paragraphs (5) through (15), respectively; and

(B) by inserting immediately after paragraph (1) the following new paragraphs:

"(2) increase United States export earnings from United States tourism and transportation services traded internationally;

"(3) ensure the orderly growth and development of tourism;

"(4) coordinate and encourage the development of the tourism industry in rural communities which (A) have been severely affected by the decline of agriculture, family farming, or the extraction or manufacturing industries, or by the closing of military bases; and (B) have the potential necessary to support and sustain an economy based on tourism;".

(b) Section 201 of the International Travel Act of 1961 (22 U.S.C. 2122) is amended—

(1) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively;

(2) in paragraph (3), as so redesignated, by striking "tourist facilities," and all that follows and inserting in lieu thereof the following: "receptive, linguistic, informational, currency exchange, meal, and package tour services required by the international market;"; and

(3) by inserting immediately after paragraph (1) the following new paragraph:

"(2) provide export promotion services that will increase the number of States, cities, and companies in the United States that sell their tourism services in the international market, expand the number of foreign markets in which exporting States, cities, and companies are active, and inform States, cities, and companies in the United States regarding the specialized services the international market requires;".

(c)(1) Section 202(a)(9) of the International Travel Act of 1961 (22 U.S.C. 2123(a)(9)) is amended by striking "United States travel and tourism interests" and inserting in lieu thereof "the United States national tourism interest".

(2) Section 202 of the International Travel Act of 1961 (22 U.S.C. 2123) is amended by adding at the end the following:

"(e) The Secretary is authorized to expend funds appropriated to carry out this Act, without regard to the provisions of sections 501 and 3702 of title 44, United States Code. Funds appropriated for the printing of travel promotional materials are authorized to be made available for two fiscal years.".

(d) The International Travel Act of 1961 (22 U.S.C. 2121 et seq.) is amended by repealing section 203.

(e)(1) Section 302(b)(1) of the International Travel Act of 1961 (22 U.S.C. 2124(b)(1)) is amended—

(A) by redesignating subparagraphs (H) and (I) as subparagraphs (L) and (M); and

(B) by inserting immediately after subparagraph (G) the following new subparagraphs:

"(H) the Secretary of Agriculture;

"(I) the Chairman of the Tennessee Valley Authority;

"(J) the Commanding General of the Corps of Engineers of the Army, within the Department of Defense;

"(K) the Administrator of the Small Business Administration;".

(2) Section 302(d) of the International Travel Act of 1961 (22 U.S.C. 2124a) is amended by adding at the end the following new paragraph:

"(4)(A) Every year, each of three Federal departments and agencies represented on the Council, as designated by the Secretary of Commerce in accordance with subparagraph (B), shall detail to the Council for that year one staff person and associated resources.

"(B) In making the designation referred to in subparagraph (A), the Secretary of Commerce shall designate a different group of agencies and departments each year and shall not redesignate any agency or department until all the other agencies and departments represented on the Council have been designated the same number of years.".

AUTHORIZATION

SEC. 11. The first sentence of section 304 of the International Travel Act of 1961 (22 U.S.C. 2126) is amended by inserting immediately before the period the following: ", not to exceed $15,000,000 for the fiscal year ending September 30, 1990, not to exceed $17,000,000 for the fiscal year ending September 30, 1992.".

Mr. DANFORTH. Mr. President, I am pleased to cosponsor the Tourism Policy and Export Promotion Act of 1989, a bill to help the United States capture its share of the international tourism market. This bill is being introduced today largely because of the enthusiasm and hard work of Peter Herschend—a Missourian with vision who has served for almost 5 years on the Commerce Committee's Travel and Tourism Industry Advisory Council.

Peter Herschend knows what tourism can do for the economy of a rural community and a State. He's proven it in his own Branson, MO, backyard with the success of Silver Dollar City. When Silver Dollar City opened in

1960, it attracted 60,000 visitors. Last year, 1.6 million people visited the theme park, which now employs 3,000 at peak season. Silver Dollar City and the surrounding four-county area—known as Ozark Mountain Country—generate about $1 billion in tourism sales annually.

Peter Herschend believes tourism can do more for the economy of the United States, if we will get serious about competing in the international tourism market. Peter Herschend doesn't believe the United States has to be an also ran.

At this time, we are lagging behind. While Western Europe attracts between half and two-thirds of all world tourism earnings, the United States attracts only about 10 percent, or $37.1 billion. Ironically, at $37.1 billion, tourism by foreign visitors generated our largest export revenue earnings last year, followed by agriculture at $37 billion, chemicals at $32.3 billion, and motor vehicles at $25.2 billion. However, the U.S. tourism industry had an international trade deficit of $2.9 billion.

The bill we introduce today would help us pick up the pace. It directs the U.S. Travel and Tourism Administration to work toward elimination of the travel and tourism export deficit of the United States, and to achieve and maintain a travel and tourism export surplus. It requires USTTA to focus trade development activities on countries that have the greatest potential for increasing our travel and tourism export earnings. It creates a Rural Tourism Foundation to ensure that foreign visitors see all of the United States of America, spreading tourism export earnings to every region of the country.

I urge my colleagues to join me in supporting this bill.

Mr. BURNS. Mr. President, I want to associate myself with the remarks made by my distinguished colleague, the Senator from West Virginia [Mr. ROCKEFELLER]. We have joined forces on this legislation in the Commerce Committee, and I feel it is an important time this country looks at this business of tourism. When we consider that his figure is right on, $37.1 billion in this country received from international tourism out of a total that is estimated around $323 billion and, I might add, that is just a freckle over 10 percent of the world market, I think this country deserves to get, for what it has to offer, a few more dollars or a bigger percentage of that pie. So we have to take this business of tourism very seriously. The figures show us that export dollars rank slightly ahead of agriculture in 1988. In that, that concerns us today when we are trying to balance a Federal budget. We need to look long and hard in areas of business that obviously have the highest potential of attaining that goal.

Tourism is just that kind of business, and the industry already exists. It does not have to be created. It is not controversial. It spans a wide territory in terms of types of businesses that it involves and it is nonpolitical. It can be sold and has wide appeal to people all over the world.

We do a large export business now, but we are just barely tapping the edge of our potential. There is a big vacuum, of course. I think it was realized when we started our discussions on this particular project that the big vacuum is in our rural areas. It has long been apparent to those of us in Montana and, of course, to the Senator from West Virginia in his State, that there is a major difference between gate receipts of tourist attractions in cities like Los Angeles and New York and gate receipts in Montana and other rural States. I am not only talking about domestic traffic. I am referring to international tourism that comes to our shores. We see a lot of difference. There is a portion of this bill that satisfies the needs of Government lands divisions of the Department of Interior.

Section 8 refers to the formation of a nonprofit foundation that would be organized for the sole purpose of accepting funds to promote development and implementation of a 5-year national rural tourism trade development plan which sets deadlines for achieving major objectives relating to the goal of attracting foreign visitors to rural areas of America, including Government recreation lands, such as in the rural areas.

It would also provide for the development and implementation of a regional rural tourism trade development initiatives in support of the national plan and of new and ongoing cooperative interests, including Federal agencies, State and local governments, private travel and tourism industries.

One of the resource problems that is currently stunting our promotions in Europe and the Pacific Rim countries is a lack of money to translate materials that are needed to sell foreign visitors on the idea of coming to the United States for a vacation.

I think we found out in the State of Montana just this past month that what few things we could do to draw the world's attention to the United States was a big centennial cattle drive in Montana.

This foundation would provide as well for development, publication, and distribution of resources in foreign languages as necessary to achieve the objectives of a national rural tourism trade development plan, including brochures, maps, guidebooks, and interpretive materials.

Mr. President, tourism is a conduit between all countries in this world in which we live. It allows learning, communication, and the privilege of sharing with others the resource of freedom of democracy, that we are fortunate to have here in the country. However, when we welcome our visitors from foreign shores, we should encourage them to see the heartland of America as well as the shoreline States.

All of America is not represented in the large cities of our country. There is another part of this great country that has a great story to tell. In fact, if you go to the heartland and the West, you will find if there is one thing, maybe we do not have all the facilities to handle the multitude of people, but what we hear from our foreign visitors is we are authentic; it is where America really lives.

I urge all my colleagues to get behind this piece of legislation because it facilitates a business that is bigger than we can ever imagine. I urge my colleagues' support and look forward to working with them on this important piece of legislation. I yield the floor.

Mr. WALLOP. Mr. President, it gives me great pleasure to join with a number of my colleagues today in introducing the Tourism Policy and Export Promotion Act of 1989. I would particularly like to thank Senators ROCKEFELLER and BURNS for their efforts in putting together this important piece of legislation and commend it to the rest of my colleagues for their cosponsorship.

The main focus of this bill is to encourage more foreign visitation to the United States so that we might reduce our tremendous travel and tourism export deficit. One of the ways in which the bill proposes to do that is authorizing an increase in appropriations for the U.S. Travel and Tourism Administration over the next 3 fiscal years.

Time and time again, representatives of the tourism industry make the comment that we are the laughing stock of Europe because we contribute so little financially to the USTTA. In point of fact, many foreign countries devote more than twice the funds that the United States does to tourism-related activities.

With that in mind, it is not surprising to me that in recent years a greater number of Americans have traveled abroad than foreigners have visited the United States. In 1988, for example, Americans spent $40 billion in other countries and as a result we currently have a $2.9 billion travel deficit. If we are to become more competitive in attracting foreign visitors to our beautiful country in an attempt to reduce that travel deficit, I believe it bodes well for us to allocate additional funds to USTTA for that specific purpose.

Section 8 of this bill creates a Rural Tourism Foundation to enable USTTA

to facilitate private/public partnerships aimed at promoting rural America as a travel destination for foreign visitors. A board, made up of USTTA representatives of Federal scenic and recreational areas and private citizens will be established to administer this foundation. The foundation will be a charitable and nonprofit corporation and is expected to meet at least twice a year. I fully expect this foundation to promote tourism as an economic development tool in rural States like Wyoming. The tourism industry is Wyoming's largest employer and I welcome the opportunity to use this foundation to diversify tourism development in our State.

This past summer, visitation in Yellowstone National Park was up 26 percent over last year. In fact an estimated 2,526,853 visited the park. A great many of those were foreign visitors. That this increase is directly attributed to public curiosity about the result of last year's fires. But I would also point out to my colleagues that visitation at Yellowstone may not have been quite as high had it not been for the series of European press briefings sponsored by the U.S. Travel and Tourism Administration at my request. I commend them for their work and thank them for putting to rest the fear that Yellowstone was so severely damaged by last year's fires that it is no longer worth visiting. The USTTA has indicated to me that they will be doing similar promotions in Europe again this year and I look forward to working with them on that project.

While visitation at Yellowstone increased, however, some of the other national monuments in Wyoming reported a decline in visitation. So that we might improve upon that record next year, it is my hope that the members of the Rural Tourism Foundation will coordinate travel promotion activities with the U.S. Travel and Tourism Administration which are focused on some of these less frequently visited tourist attractions in rural America.

In 1987, U.S. travel expenditures in Wyoming for personal trips amounted to $760.2 million, while general business trips totaled $741.7 million. Travel-generated employment in Wyoming was 17,900 or 9.9 percent of the payroll generated in my State. Tax revenues generated by travel in Wyoming amounted to a total of $73 million or $38 million Federal, $22 million State, and $14 million in local taxes. In the context of other State revenues, these figures are overwhelming and for those reasons alone, I believe this bill is worthy of strong support.

Mr. President, the travel and tourism industry is a vital and growing segment of our economy. If we are to continue on that course and become more competitive in the global market, we must take a more active role in attracting foreign visitors and promoting the many scenic vistas that we all know and treasure. Each time I go home to Wyoming, I am reminded of the many natural wonders and recreational adventures which lure me back and make me so proud of my heritage. I am sure there are other Members of this body which share that same sentiment about their State and hope they will join me in inviting others to enjoy the diverse recreational and scenic pleasures this country has to offer. I have great expectations that this bill will play a positive role in that effort.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

TOURISM

Mr. BOND. Mr. President, first, I wish to associate myself with the remarks of the Senator from West Virginia about the importance of tourism, and we, along with my colleague, Senator DANFORTH, are cosponsors of that measure.

I am particularly excited about the emphasis that this new measure will place on rural tourism, tourism off the beaten path in the States of West Virginia and Missouri, which have much to offer. We feel we can contribute not only to the economic well-being of our own States, but to the United States.

By Mr. DOLE (for Mrs. KASSEBAUM (for herself, Mr. DOLE, Mr. BOREN, Mr. BENTSEN, Mr. KERREY, Mr. DASCHLE, Mr. DOMENICI, Mr. FORD, Mr. NICKLES, and Mr. PRESSLER)):

S. 1792. A bill to amend the Disaster Assistance Act of 1989 to avoid penalizing producers who planted a replacement crop on disaster affected acreage, and for other purposes; considered and passed.

(Statements on this legislation and the text of the legislation appear earlier in today's RECORD.)

By Mr. MITCHELL (for Mr. PRYOR (for himself, Mr. HEFLIN, Mr. HARKIN, and Mr. DASCHLE)):

S. 1793. A bill to make technical and correcting changes in agriculture programs; considered and passed.

(Statements on this legislation and the text of the legislation appear earlier in today's RECORD.)

By Mr. SPECTER:

S. 1794. A bill to amend the Securities Exchange Act of 1934 with respect to mergers and corporate tender offers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

CORPORATE TAKEOVERS

Mr. SPECTER. Mr. President, the legislation which I am introducing today addresses various aspects of the corporate takeover issue and proposes specific reforms. The bill is derived, in part, from legislation which I introduced in the 100th Congress as S. 634. It is based on my own experience as a lawyer in this field, and discussions with leading lawyers, economists, business analysts, labor leaders, corporate executives and community leaders.

The issue of corporate takeovers has been a problem for the entire Nation but particularly so for my State, Pennsylvania. It is obviously difficult to balance the interests of corporate democracy with the unproductive corporate takeovers where raiders manipulate the system for their own personal financial advantage. The legislative branch and regulatory agencies must exercise great care to avoid upsetting the free functioning of the marketplace.

In February 1984, the Senate considered legislation to provide for a 6-month moratorium on acquisitions of oil companies. At that time, takeover efforts were being directed against Gulf Oil which had major Pennsylvania interests including its corporate headquarters in Pittsburgh and a refinery in Philadelphia. Notwithstanding parochial interests which might have been served by such a moratorium, I voted against it because of the potential disadvantages to the free market. In June 1988 the Senate considered corporate takeover legislation, but the bill was taken off the Senate floor because of the uncertain consequences of Federal legislation on the poison pill provision in State legislation.

It may be that modifications of the tax laws will provide some assistance on some of these issues. For example, on junk bonds, some current tax proposals would limit deductibility of interest and other proposals would seek to place equity investment on a par with debt for certain tax purposes. These issues are very complex and have to be thought through very carefully because they may have unexpected ramifications. Notwithstanding such considerations, in my judgment, the Congress should now consider legislation in the takeover area.

I have no expectation that this bill will be enacted in this precise form, and, frankly, that is not my intention. Rather, this proposal results from the evolving debate generated by corporate takeovers and it is my hope that this bill will help us to focus on the proper response Congress should adopt in this area. My views on certain of these issues may well change on the basis of upcoming debate and my ongoing discussions with those affected by the takeover process.

While it is my sense that legislation is necessary at the Federal level, I am also aware that the States have spent much time and many resources studying this problem. Thus, various approaches have been developed to govern the corporate structure and

deferences should be given to such State legislation. It is my intention to closely monitor activity at the State level to determine the effect of their responses and the need for increased Federal involvement.

I shall briefly summarize the bill's treatment of eight major issues of particular concern in the takeover field:

I. CREEPING TAKEOVERS

This bill would close the Williams Act's so-called 10-day window, which permits creeping takeovers. The Williams Act requires any person who acquires 5 percent of a company's shares to make that fact public, and to disclose whether he or she has any plans to attempt a takeover. Under the act, however, the individual need not make either disclosure for 10 days after having reached the 5-percent level. Because the indivdual can continue purchasing shares during the 10-day period, his or her ownership can greatly exceed 5 percent by the time the public actually is informed.

The 10-day Williams window thus permits a creeping takeover: The raider slowly and gradually purchases stock, careful to remain below the 5-percent level. Then, upon reaching 5 percent and triggering Federal disclosure requirements, the raider rapidly purchases a powerful block of shares in the 10 days before disclosure must be made. What interests are served by depriving management and the market of this information for such a lengthy period? None, and having decided that accumulation of a 5-percent interest is so significant as to warrant disclosure, Congress should have required immediate disclosure. This bill does so by amending section 13(d)(1) of the Securities Exchange Act to require disclosure within 48 hours.

In addition, this section imposes a standstill," prohibiting the acquisition of additional shares beyond the 5-percent threshold until disclosure.

II. UNIFORM VOTING RIGHTS

This bill would require that common stock traded on national exchanges have uniform voting rights. As a practical matter, publicly traded companies traditionally have adhered to the principle of one share-one vote. Recently, as part of the ongoing struggle by executives, raiders and their lawyers to carve out some tactical advantage, companies have sought to create common stock with nonuniform voting rights. These companies have issued shares with inferior voting rights—or no rights at all—as a way of raising necessary capital without the risk of undesirable votes by shareholders—for example, in a proxy fight to oust the incumbent management. In addition, there is concern that companies may issue shares with disproportionately high voting rights to friendly holders, who have indicated support for incumbent management.

To defenders of this new practice, the issue is one of private contract. So long as no purchaser is misled or deceived as to the voting rights associated with a particular share of stock, why should the company and the purchaser not be free to enter into this arrangement at a price reflecting its value? To critics, the context of the debate is as important as its contours: The new practice plainly is an effort to protect incumbent management from the threat of a takeover, and does so at the expense of shareholder democracy.

My sense is that the critics of nonuniform voting rights have the better argument, for the same reasons that we would not permit an ordinary citizen to sell or otherwise alienate his or her right to vote—even pursuant to contract, even with full knowledge as to the consequences, and notwithstanding that one might construct a perfectly tenable economic argument for permitting such a practice. I believe that the notion of shareholder participation in the governance of corporations should be preserved and encouraged. Indeed, there is strong evidence that the stock exchanges themselves prefer such an approach, although none of them acting indivdually can afford to impose such a requirement.

Accordingly, this bill would prohibit nonuniform voting rights within a class of common stock in any corporation traded on a national exchange. It would not affect the right of a company to differentiate among classes—for example, distinctions between common and preferred stock—and it would grandfather the shares of companies which already have issued nonuniform stock.

In recognition of the fact that the issuance of shares with disproportionate voting power may be done for legitimate economic reasons, my bill also would permit such action if approved by a majority of the votes of the aggregate outstanding voting securities of the issuer.

III. TWO-TIERED TAKEOVERS

The bill eliminates the coercive raider tactic known as the two-tiered tender offer. This tactic consists of an extremely attractive first tier cash offer for only a limited number of shares—enough to give the offeror a controlling interest in the company's stock rather than for all the stock. If a controlling interest is obtained, the second tier of the takeover will occur: a much less attractive offer for the remaining shares, frequently not payable in cash. By making a two-tiered offer, a bidder may create a shareholder stampede in which shareholders tender their shares without awaiting a thorough analysis or management response. Shareholders may fear that if they do not subscribe to the high-valued first tier of the offer, they will be forced later to accept the lower valued second tier.

I am not aware, however, that many States have taken action in the area. In my own State of Pennsylvania, the legislature has enacted a statutory scheme which provides certain rights to shareholders in the event of a change of control of the issuer. In recognition that States have traditionally governed the corporate structure, my legislation would not be applicable in cases where the laws of the State of incorporation provide otherwise. While my sense is that uniform national standards in this may be preferable, I believe that the wiser course is to study the effect of these laws before making a final judgment.

IV. JUNK BOND FINANCED TAKEOVERS

"Junk bond" leveraged tender offers occur in the context of a tender offer which is financed by noninvestment grade securities. Because leveraged buyouts and junk bond financing have played such a key role in the takeover arena in recent years, debt has replaced equity in the capital structure of many corporations. Indeed, it is estimated that more than $500 billion of equity capital has been replaced by debt during the past 4 years.

I am deeply concerned about the impact of increased debt on our economy. Some economists view leveraged transactions as potential time bombs that could explode in the event of an economic downturn. Businesses which are supported by junk bond financing may not be equipped to function in a less favorable economic climate and eventually could be forced into bankruptcy. The ripple effect, and the resulting impact on the American economy, could be severe.

While I generally support a "free market" approach to economic development, we must be careful to avoid creating transactions which result in an emphasis on short-term profits over long-term growth. Too often, this may lead to the unnecessary termination of jobs, closing of plants and the reduction of business commitment to communities and philanthropic causes.

Thus, the bill I introduce today would require a 90-day tender offer period for any tender offer financed by noninvestment grade securities. A tender offer would be considered to be financed by noninvestment grade securities if any part of the financing is provided from sources other than cash on hand, bank financing for which commitments have been received, or the sale of investment grade securities or common stock for which firm underwriting commitments have been received. In addition, the company would be required to provide full access to its books and records to any other person who makes a bona fide proposal to acquire the company.

The 90-day tender offer period in the case of junk bond financed tender offers will ensure that the market and all other relevant parties have sufficient time to consider the attractiveness of the transaction. The requirement that other potential bidders have access to the company's books and records will aid in the development of potential alternatives and provide protection against the risk that shareholders will be deprived of the full value of their investment.

V. MANAGEMENT LEVERAGED BUYOUTS

Management leveraged buyouts, as the term indicates, occur when management employees propose to purchase the shares of the company for which they work. There has been considerable criticism of such transactions. In such situations, management is both attempting to buy a controlling interest in the company and advising shareholders whether to accept the purchase offer. In short, management is on both sides of the transaction, and obvious questions arise as to its ability to pursue personal self-interest while fulfilling fiduciary obligations to shareholders.

While I do not agree, as some have argued, that management should be banned altogether from attempting a leveraged buyout, I do believe that certain additional procedural safeguards are necessary.

Under my bill, a "management leveraged buyout" would be defined as an acquisition of a company in connection with which one or more members of the management of such company will own, directly or indirectly, within 5 years of the consummation of such a transaction at least 5 percent of the equity capital of the surviving or continuing business.

My legislation would make two changes to the Securities Exchange Act in this context. In the event of a management leveraged buyout, whether by means of a shareholder approved business combination or a tender offer, my bill would require a 90-day period—either proxy solicitation period or tender offer period—before the leveraged buyout could be completed. In addition, the company would be required to provide full access to its books and records to any other person who makes a bona fide proposal to acquire the company.

When management is dealing with itself, it seems particularly appropriate to slow down the process and permit shareholders more time to analyze the situation. as well as provide a fair time period and information to encourage competing bidders to emerge.

VI. ENFORCEMENT OF MARGIN REQUIREMENTS

There are many industry practitioners who are deeply concerned that certain market participants exist solely to put companies "in play," with no serious interest in mounting a legitimate tender offer. It is believed that these persons often initiate the tender offer procedure without legitimate financing. One perceived abuse is the announced purchase of shares in violation of existing margin requirements. In order to ensure that the margin requirements are fully enforced, my bill creates a private right of action for the issuer and any shareholder to enforce margin requirements and to recover any actual damages sustained as a result of their violation.

VII. GREENMAIL

As I stated above, I am deeply concerned about persons who initiate takeover activity without any real interest in completing a tender offer. In many situations, it would appear such activity is begun by raiders whose sole goal is to put a company "in play" in order to force a corporation into paying "greenmail," a premium over the market value of the shares. In other circumstances, the incumbent board of directors and/or management may pay such a premium in order to deter a legitimate takeover attempt or to buy back shares held in unfriendly hands.

Currently, the appropriateness of a corporation's payment of greenmail is judged under the State law "business judgement rule." Under this standard, the payment of greenmail is generally deemed to be within the discretion of the issuer's board of directors in the absence of proving bad faith or self-dealing. While I recognize there are certain circumstances which justify the payment of a premium to certain shareholders, I am deeply concerned that the current State schemes do not adequately protect the interests of small shareholders, who are often not in a position to litigate the "business judgment" of the company's directors.

In order to remedy real and potential abuses, my bill would permit a corporation to recover such greenmail payments, unless such payments were approved by a vote of the majority of the aggregate outstanding voting securities of the issuer. In addition, it would permit a shareholder to bring an action on behalf of the corporation, if the corporation failed to do so after notice and an appropriate time to respond. My bill also permits the Securities and Exchange Commission to exempt certain transactions from this requirement, as it deems necessary.

VIII. INCREASED PENALTIES FOR INSIDER TRADING AND OTHER PROHIBITED ACTIVITY

Finally, my bill would increase the penalties for insider trading and perjury and obstruction of justice in that context to a fine of not more than $1,000,000 or imprisonment for up to 10 years or both. I believe that this increase takes into account the need for greater deterrence in view of the increased magnitude of financial deals during the past 10 years. In addition, in order to serve notice that our country takes these laws seriously, given the impact that these violations have had on the integrity and stability of our financial markets, my bill would also impose a minimum jail sentence of 1 year for such above violations.

CONCLUSION

Mr. President, as I stated at the beginning of my remarks, I hope that this bill will serve to continue the in-depth debate and discussion which these issues merit. While I have spent considerable time studying these issues and formulating the major components of this bill, I know that there are many complexities in this area. While I am not unalterably committed to every particular provision of this bill—and, in fact, am continuing to seek input and advice from experts around the country—I am committed to moving the debate forward, and ensuring that the 101st Congress takes a serious look at these issues.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

S. 1794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREEPING TAKEOVERS.

Section 13(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(d)(1)) is amended by striking out "within ten days after such acquisition" and inserting in lieu thereof "cease to acquire additional shares of such class until the expiration of 24 hours after the statement required by this subsection has been filed, and shall, not later than 48 hours after such acquisition,".

SEC. 2. UNIFORM VOTING RIGHTS.

(a) REGISTRATION.—Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 781) is amended by adding at the end thereof the following:

"(m)(1) A security may not be registered under subsection (b) of this section on a national securities exchange if such security is a common stock that is part of a class of securities of the issuer which is nonvoting or which carries disproportionate voting rights, unless the issuance of such security has been approved by the affirmative vote of a majority of the aggregate outstanding voting securities of the issuer.

"(2) Paragraph (1) shall not prohibit the continued registration of a common stock that is part of a class which carries disproportionate voting rights if such common stock (A) was admitted to listed trading on a national securities exchange prior to the date of enactment of this subsection, (B) remains continuously listed on such exchange, and (C) within 2 years after the date of enactment of this subsection, meets the minimum standards for original listing in effect on the date of enactment of this subsection with respect to disproportionate voting rights of the national securities exchange which had the third highest trading volume in 1986.

"(3) For purposes of this subsection, a class of common stock carries a disproportionate voting right if the beneficial owner of a share of any class of common stock of the issuer is entitled to cast more or less

than one vote on the basis of such share on any matter requiring the vote of the common stock of the issuer.".

(b) AUTOMATED QUOTATION SYSTEM.—Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3) is amended by adding at the end thereof the following:

"(i)(1) A security may not be quoted on an automated quotation system operated by a national securities association registered pursuant to this section if such security is a common stock that is part of a class of securities of the issuer which is nonvoting or which carries disproportionate voting rights, unless the issuance of such security has been approved by the affirmative vote of a majority of the aggregate outstanding voting securities of the issuer.

"(2) Paragraph (1) shall not prohibit the continued quotation of a common stock that is part of a class which carries disproportionate voting rights if such common stock (A) was prior to the date of enactment of this subsection quoted on an automated quotation system operated by a national securities association, and (B) within 2 years of the date of enactment of this subsection, meets the minimum standards for original listing in effect on the date of enactment of this subsection with respect to disproportionate voting rights of the national securities exchange which had the third highest trading volume in 1986.

"(3) For purposes of this subsection, a class of common stock carries a disproportionate voting right if the beneficial owner of a share of any class of common stock of the issuer is entitled to cast more or less than one vote on the basis of such share on any matter requiring the vote of the common stock of the issuer.".

SEC. 3. TWO-TIERED TAKEOVERS.

Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end thereof the following:

"(i)(1) Unless the laws of the State of incorporation of the issuer provide otherwise, it shall be unlawful for any person, directly or indirectly, by use of the mails or by any means or instrumentality of interstate commerce or of any facility of a national securities exchange or otherwise, to make a tender offer for, or a request or invitation for tenders of, any class of any equity security which is registered pursuant to section 12, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in section 12(g)(2)(G), or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940, if, after consummation thereof, such person would, directly or indirectly, be the beneficial owner of more than 20 percent of such class unless—

"(A) such person is the issuer of that security; or

"(B) the offer is a cash offer for all outstanding shares of the class.

"(2) When two or more persons act as a partnership, limited partnership, syndicate, or other group for the purpose of acquiring, holding, or disposing of securities of an issuer, such syndicate or group shall be deemed a 'person' for purposes of this subsection.

"(3) In determining, for purposes of this subsection, any percentage of a class of any security, such class shall be deemed to consist of the amount of the outstanding securities of such class, exclusive of any securities of such class held by or for the account of the issuer or a subsidiary of the issuer.

"(4) The Commission shall, by rules and regulations or upon application of an interested person, exempt from the prohibition contained in paragraph (1) any class of securities of any issuer upon such terms and conditions and for such period as it deems necessary or appropriate if it finds that such action is not inconsistent with the public interest or the protection of investors.".

SEC. 4. JUNK BONDS.

Section 14(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(d)) is amended by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively, and inserting after paragraph (4) the following new paragraph:

"(5)(A) Any person making a tender offer or request or invitation for tenders which is either (A) part of a management leveraged buyout (as such term is defined in subsection (a)(2)(B) of this section), or (B) financed by noninvestment grade securities shall hold such offer, request, or invitation open for at least 90 days from the date on which the statement required by paragraph (1) of this subsection with respect to such offer, request, or invitation is filed with the Commission. In the event such offer, request, or invitation is part of a leveraged buyout which has been approved by the issuer, during such 90-day period, the issuer shall, to the extent legally permitted, provide full access to its books and records, subject only to reasonable assurance of the confidentiality thereof, to any other person who makes a bona fide proposal to acquire substantially all of the assets, or all of the capital stock entitled to vote generally in the election of directors, of the issuer.

"(B) For purposes of this paragraph, such offer, request, or invitation shall be considered to be financed by noninvestment grade securities if—

"(i) any part of the financing thereof shall not have been committed at the time of the commencement of such offer, request, or invitation, or

"(ii) any part of the financing thereof shall be provided from any source other than (I) cash on hand, (II) bank financing for which commitments have been received at or prior to the commencement of such offer, request, or invitation, or (III) the proceeds of the sale of common stock or securities having a rating of at least 'BBB' issued by Standard and Poor Corporation or 'Baa' issued by Moody's Investor Service, Inc. or having an equivalent rating issued by a nationally recognized bond rating organization, for which firm underwriting commitments have been received at or prior to the commencement of such offer, request or invitation.".

SEC. 5. LEVERAGED BUYOUTS BY MANAGEMENT.

Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following:

"(2)(A) In the case of any solicitation of proxies or consents pursuant to this subsection for the approval of a management leveraged buyout not subject to subsection (d)(5) of this section, such management leveraged buyout shall not be consummated prior to 90 days after all information required by such rules and regulations of the Commission with respect thereto shall have been provided to the shareholders of the issuer. Prior to the consummation of such management leveraged buyout, the issuer shall, to the extent legally permitted, provide full access to its books and records, subject only to reasonable assurance of the confidentiality thereof, to any other person who makes a bona fide proposal to acquire substantially all of the assets, or all of the capital stock entitled to vote generally in the election of directors, of the issuer.

"(B) For purposes of this section, 'management leveraged buyout' means an acquisition of shares of an issuer in connection with which one or more members of the management of such issuer will own, directly or indirectly, within 5 years of the consummation of such transaction, at least 5 percent of the equity capital of the surviving or continuing business.".

SEC. 6. MARGIN REQUIREMENTS.

Section 7 of the Securities Exchange Act of 1934 (15 U.S.C. 78g) is amended by adding at the end the following:

"(h) An issuer of securities or any shareholder of securities, purchased or carried in violation of this section or the rules or regulations thereunder, may bring an action in any court of competent jurisdiction to recover actual damages sustained by such issuer or shareholder, and the cost of the suit, including attorney fees, and to seek such equitable relief as the court deems proper to carry out the purposes of this section.".

SEC. 7. GREENMAIL.

Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end thereof the following new subsection:

"(h)(1) For the purpose of discouraging manipulative tender offer practices, any profit realized by any person from any disposition, directly or indirectly, to an issuer of securities described in subsection (d)(1), of equity securities of such issuer, shall inure to and be recoverable by such issuer, if such person was the beneficial owner, at the time of such disposition, of more than 3 percent of the class of securities so disposed of, and had held any or all of such securities for less than one year prior to the disposition thereof, unless (A) such disposition has been approved by the affirmative vote of a majority of the aggregate outstanding voting securities of the issuer, or (B) the same offer is made available to all shareholders.

"(2) The Commission shall, by rule, regulation, or by order upon application, conditionally or unconditionally exempt any person, security, or transaction from any or all of the provisions of this paragraph as it determines to be necessary or appropriate and consistent with the public interest, the protection of investors, and the purposes of this paragraph.

"(3) An action to recover profit under this subsection may be brought in any court of competent jurisdiction by the issuer or by the owner of any equity security of the issuer in the name and on behalf of such issuer if the issuer fails or refuses to bring such action within 60 days after request or shall fail diligently to prosecute the same thereafter. No such action shall be brought more than 2 years after the date such profit was realized. This subsection does not apply to any transaction where the profits realized are, or may be, recovered under section 16(b) of this title.".

SEC. 8. INCREASED PENALTIES FOR INSIDER TRADING, PERJURY, AND OBSTRUCTION OF JUSTICE.

Section 32 of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended by adding at the end thereof the following:

"(d) Any person who willfully violates any provision of this title or the rules and regulations thereunder by communicating or by purchasing or selling a security while in possession of material nonpublic information, in a transaction on or through the facilities of a national securities exchange or from or through a broker or dealer, but not including transactions which are part of a public offering by an issuer of securities other than standardized options, shall upon conviction be fined not more than $1,000,000, or imprisoned not more than 10 years, or both.

"(e) Any person who willfully in the course of an investigation of a violation of this title relating to the purchasing or selling of a security while in the possession of material nonpublic information violates section 1505, 1510, 1621, or 1622 of title 18, United States Code, shall upon conviction be imprisoned for one year, which shall be in addition to and served consecutively to any other term of imprisonment for the violation.".

By Mr. HOLLINGS (for himself, Mr. MITCHELL, Mr. INOUYE, Mr. CRANSTON, Mr. SIMON, Mr. DASCHLE, Mr. ROBB, Mr. DODD, Mr. JOHNSTON, Mr. CONRAD, Mr. SHELBY, Mr. EXON, Mr. FOWLER, Mr. REID, Mr. BRYAN, Mr. HEFLIN, Mr. BUMPERS, Mr. BREAUX, Mr. LAUTENBERG, Mr. WIRTH, Mr. FORD, Mr. PRYOR, Mr. DECONCINI, Mr. LEVIN, Mr. BIDEN, and Mr. BINGAMAN):

S. 1795. A bill to exclude the Social Security Trust Funds from the deficit calculation and to extend the target date for Gramm-Rudman-Hollings until fiscal year 1995; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Government Affairs.

SOCIAL SECURITY PRESERVATION ACT

Mr. HOLLINGS. Mr. President, today I am introducing my proposal for taking the Social Security surpluses off-budget for purposes of calculating compliance with Gramm-Rudman-Hollings. This initiative will be a critical first step toward restoring truth in Federal budgeting. And, let's face it, until we acknowledge the truth—the true scale and enormity—of our deficits, then we will continue on our current reckless course of do-nothingism, denial, and deception.

The late John Mitchell, when he was Attorney General in the Nixon administration, used to say over and over again, "Watch what we do, not what we say." Well, the American people would do well to take that same advice if they want to understand just how desperate our current fiscal crisis really is.

Look not at what we are saying, but at what we are doing. We say that the budget deficit for 1990 will be just under $100 billion. Yet, lo and behold, at the end of this month we are going to raise the debt limit by some $300 billion to allow for expected public borrowing during fiscal year 1990. Now, if the deficit is only $100 billion, why are we going to borrow $300 billion? The answer is simple. We are going to borrow $300 billion in 1990 because the true deficit, once you cut through all the monkeyshine, is going to be $300 billion. We arrive at that fanciful $100 billion projection only by indulging in enough fraud and larceny and malfeasance to land an ordinary citizen in the penitentiary.

Of course, the most reprehensible fraud in this great jambalaya of frauds is the systematic and total ransacking of the Social Security Trust Fund in order to mask the true size of the deficit. As we all know, the Social Security payroll tax has become a money machine for the U.S. Treasury, generating fantastic revenue surpluses in excess of the costs of the Social Security Program. Excess Social Security tax revenues will be $65 billion in 1990 alone—boosted by yet another rise in the Social Security tax rate, slated to kick in January 1. By 1993, the annual Social Security surplus will soar to $99 billion.

The public fully supported enactment of hefty new Social Security taxes in 1983 to ensure the retirement program's long-term solvency and credibility. The promise was that today's huge surpluses would be set safely aside in a trustc fund to provide for baby-boomer retirees in the next century.

Well, look again. The Treasury is siphoning off every dollar of the Social Security surplus to meet current operating expenses of the government. By thus "reducing" the deficit, we mask the true enormity of the Federal budget crisis while creating the illusion that Congress and the administration are actually doing something about deficits.

Mr. President, on this amendment, which I intend, along with the leadership, to attach to the debt-ceiling bill, would put Social Security surpluses "off budget" for purposes of calculating the Federal budget deficit beginning October 1, the first day of fiscal 1990. The distinguished junior Senator from Texas and, I assume, his Republican colleagues, aiming to rescue the administration's "read my lips" strategy, plan an alternative amendment that would put Social Security off budget in the distant future, in 1994.

By 1994, however, a cumulative sum in excess of a half-trillion dollars will have been "borrowed" from the Social Security Trust Fund, and the denuded trust fund will be piled high with IOU's. Those IOU's are a charming bookkeeping nicety, but the sheriff who tries to collect on them is truly going to have his work cut out for him.

The hard fact is that, in the next century, the Social Security system will find itself paying out vastly more in benefits than it is taking in through payroll taxes. And the American people will wake up to the reality that those IOU's in the trust fund vault are a 21st-century version of Confederate banknotes.

Of course, the Treasury would have the option of raising taxes to repay the astronomical sums we have borrowed from the trust fund. But that would be a brazen rip-off of working Americans, many of whom will be retirees obliged to pay a second time for the benefits they have already earned.

On the other hand, if the Treasury wimps out and chooses not to raise taxes to reimburse the trust fund, then there will be no alternative but to slash Social Security benefits. The most likely scenario is that Social Security payments would be turned into just another "means-tested" welfare program for the very poor; if you make more than, say, $15,000 per year, then forget about collecting any Social Security benefits.

Any way you slice it, it is lousy public policy to borrow massively from the Social Security Trust Fund with no credible plan for reimbursement. Of course, the immediate damage from this approach is that it allows us to mask the true scale of the Federal budget deficit, thus making it easier for us politicians to sit on our hands.

This is a gross breach of faith with the American people. Social Security is perhaps the most successful social program ever enacted by the Federal Government. Without question, it is the most effective anti-poverty program in history. Social Security is not charity or welfare. On the contrary, it is a supplementary retirement fund that workers pay for with their hard-earned money.

I say it is time to stop playing games with Social Security and the Government's finances. It is time to use honest budget numbers and to make honest budget choices. By all means, let us begin by putting Social Security truly in trust and totally off budget.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1795

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Preservation Act."

SEC. 2. EXCLUSION OF RECEIPTS AND DISBURSEMENTS OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM DEFICIT AMOUNTS.

(a) DEFINITION OF DEFICIT.—(1) The second sentence of paragraph (6) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) is repealed.

(2) Section 275(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act

of 1985 (2 U.S.C. 901 note) is amended by striking out "and the second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution)".

(b) SOCIAL SECURITY ACT.—Subsection (a) of section 710 of the Social Security Act is amended by striking "shall not be included in the totals of the budget" and inserting "shall not be included in the budget deficit or any other totals of the budget".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to fiscal years beginning after September 30, 1989.

SEC. 3. MAXIMUM DEFICIT AMOUNT.

Section 3(7) of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"(7) The term 'maximum deficit amount' means—

"(A) with respect to the fiscal year beginning October 1, 1985, $171,000,000,000;

"(B) with respect to the fiscal year beginning October 1, 1986, $144,000,000,000;

"(C) with respect to the fiscal year beginning October 1, 1987, $144,000,000,000;

"(D) with respect to the fiscal year beginning October 1, 1988, $136,000,000,000;

"(E) with respect to the fiscal year beginning October 1, 1989, $165,000,000,000;

"(F) with respect to the fiscal year beginning October 1, 1990, $139,000,000,000;

"(G) with respect to the fiscal year beginning October 1, 1991, $114,000,000,000;

"(H) with respect to the fiscal year beginning October 1, 1992, $91,000,000,000;

"(I) with respect to the fiscal year beginning October 1, 1993, $61,000,000,000;

"(J) with respect to the fiscal year beginning October 1, 1994, $31,000,000,000; and

"(K) with respect to the fiscal year beginning October 1, 1995, $0.".

SEC. 4. CONFORMING CHANGES.

(a) DEFINITION OF MARGIN.—Section 257(10) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by—

(1) striking "fiscal year 1992" and inserting "fiscal year 1995"; and

(2) striking "fiscal year 1993" and inserting "fiscal year 1996".

(b) EFFECTIVE DATE.—Section 275(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "1993" and inserting "1996".

SEC. 5. REVIEW METHODS OF MAXIMIZING INVESTMENT RETURN ON TRUST FUNDS.

Paragraph (5) of section 201(c) of the Social Security Act (U.S.C. 401(c)) is amended by inserting "(including investment policies which maximize the return on the Trust Funds within the requirements of subsection (d))" after "managing the Trust Funds".

By Mr. GARN (for himself and Mr. HEINZ):

S. 1796. A bill to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the ability to engage in commerce; to the Committee on Banking, Housing, and Urban Affairs.

EXPORT ADMINISTRATION ACT

● Mr. GARN. Mr. President, I rise today to introduce legislation to reform the process by which the United States controls the flow of strategic materials and technology to our adversaries. The Export Administration Act of 1990 is a major revision of current law that would centralize management of a streamlined process for controlling the export of militarily critical technologies in an Office of Strategic Trade and Technology. The Director of the upgraded Office would serve as principal adviser to the President on technology security issues.

Although this bill reflects my current thinking on technology security issues, the heart of the legislation is essentially the same as that of the Office of Strategic Trade bill that I introduced twice before in the 97th and 98th Congresses. I have watched this process for 15 years and I am firmly convinced that the export control system will never function well as long as it is based on open competition among bureaucracies, each with inherent biases that distort their approach to export controls. Defense will oppose selling pencils because they can be used by the Soviet military. Commerce will favor licensing anything if there is the merest threat that a foreign firm will make the sale. I do not even pretend to understand the role of the State Department in the process.

This focus on agency views and prerogatives has become far too important in a system that is supposed to be dedicated to protecting U.S. national security. The problems of the system will not be brought under control until the basic system is reformed. It is my firm belief that this legislation, if enacted, will bring the era of interagency disputes, needless delay, and lack of policy direction to a close.

In centralizing all export control functions, this bill will make the system more efficient, more responsive to U.S. exporters, and better able to meet its primary objective of protecting U.S. national security. It is with some satisfaction that I welcome the support today of my Banking Committee colleague, Senator HEINZ, who has not been a supporter of consolidating export control functions in the past but now joins me in urging this fundamental reform.

In proposing this legislation, I recognize that there is no one perfect plan in this complex area. It addresses a basic structural flaw but there are certainly elements of this bill that need improvement. There are many parts of the law that I believe bear improvement, but Senator HEINZ and I have not taken on every issue that might be raised in the export control debate. I welcome the suggestions of my colleagues for improving the bill, as we consider export control legislation over the next year. Control of exports is by no means a science and the potential dangers and costs of failure are far too great to rely on the wisdom of any one Senator.

It is precisely because the dangers are so great that it is high time we correct this system. It is now 40 years since the Export Control Act of 1949 first established the policy that nonmilitary trade should be controlled to ensure that it does not adversely affect our national security. The law has necessarily evolved since 1949 without ever abandoning this basic principle. But while this principle has been preserved, it is also true that, with one or two exceptions, repeated revisions of the law through the 1960's, 1970's, and 1980's have been driven by pressure not to strengthen national security but to ease controls.

During the 1980's, the debate over balancing free trade and national security objectives has taken two distinctly negative turns. First, competing Cabinet agencies have become proxies for competing policy objectives. The legislative process has become focused on amendments that expand or reduce the roles and prerogatives of individual agencies in order to advance a free trade or national security policy agenda. The 1988 trade bill included provisions to strengthen the Commerce Department at the expense of other agencies, for example in the area of foreign availability determinations.

I may even have contributed to this problem by achieving only partial success in my past efforts to create a single Office of Strategic Trade. The EAA amendments of 1985 created an Under Secretary of Commerce for Export Administration. Creation of a separate export control bureau at Commerce was intended to increase the status of export controls in the Department and insulate control decisions from the Department's broader trade promotion mission. That reorganization has produced some efficiency gains and a sounder system within the Agency. But elevation of the export control job to the Under Secretary level has only sparked further interagency debate over which agency is in charge, which has the higher ranking export control official, and on and on. It has increased the volume of the debate rather than ending it.

The second major turn for the worse was the decision by Congress to deal with its frustration over the poor functioning of the system by making licensing decisions and setting control levels itself. The 1988 trade bill was a frightening first step in that direction, with Congress setting licensing thresholds for shipments to Cocom and the free world and reducing Presidential discretion over certain controls.

I believe firmly that this drift toward congressional participation in interagency bidding wars and control decisions is a formula for disaster. The best way to end that drift is to put the system in good working order. But I have watched a succession of Presidents, Democrat and Republican, try and fail to do that over 15 years. The Bush administration has seen its first

major export control decision disintegrate into interagency namecalling. The decision to decontrol personal computers on grounds of widespread availability to the East bloc degenerated into public recriminations between the Commerce and Defense Departments. Discussions now underway at Cocom regarding machine tool controls have also generated an interagency dogfight.

In addition, we are very unlikely to see any President take tough action against foreign violators of Cocom rules if we leave the management of the process and international negotiations to a committee. Evidence has emerged of potentially major sales of controlled equipment to the Soviets by European firms, without any indication that available sanctions authority will be used to punish the Cocom violations and upset friendly governments. Meanwhile, the State Department is asking for sanctions legislation against foreign companies that sell chemical weapons know-how but they want it in a form that gives maximum discretion to the President not to impose controls.

The urgency to make sense of the system is underlined by developments in the Soviet Union and Eastern Europe. Everyone welcomes the sweeping changes taking place in the Soviet empire and we all hope they will continue. However, I worry very much that the siren song of perestroika and glasnost will produce a headlong rush to drop our guard and sweep away supposedly "outdated" export controls long before it is clear the Soviet threat has in fact diminished. The expiration of the Export Administration Act next September 30 will be an opportunity to fix the problems or watch the system disintegrate further.

For all of these reasons, Senator HEINZ and I are putting forward the Export Administration Act of 1990 which is a major redraft of current law. Its principal objective is to insulate the technology security process from the pressures of competing agencies and the fashions of the moment by placing it in an independent Office of Strategic Trade and Technology.

This revision streamlines export control procedures and generally cleans up outdated legislative language in current law. It also extends the law for 10 years to Sept. 30, 2000. I would like to take a few moments to discuss its major provisions.

The new office, or OSTT, would be created within the Executive Office of the President as the single agency responsible for technology security issues. Its Director would be the President's principal advisor on technology issues and would serve in the Cabinet as well as the various committees, offices and agencies responsible for ensuring the economic security of the United States. Day-to-day licensing of dual use and munitions items, control list review and other routine operations of the U.S. export control system would be the exclusive province of the OSTT.

A Strategic Trade Policy Council would be created to approve broad export control and technology transfer policies. The council would be chaired by the OSTT Director and would include the Secretaries of Commerce, Defense, State and Treasury, the U.S. Trade Representative, the Director of Central Intelligence and such other officials as may be invited by the Director. This would be the forum for participation of interested agencies in the policy process. The contentious interagency referral for clearance of individual export licenses and policies, however, would be eliminated in favor of approval by the council of broad export control policies.

In this reconfigured system, dispute resolution would be required less frequently since it would only arise in the case of challenges to implementation of broad policies by the Director. Such challenges would be referred to the STPC for action, and any STPC member could refer a decision to the President for final review. All decisions would be made within a 30-day review period. Failure of the council or the President to act would constitute concurrence with the proposed action of the Director.

There would be a single U.S. national security export control list identifying all goods or technology subject to U.S. controls, including dual-use, munitions, missile, chemical/biological, nuclear, and other foreign policy controlled items. The militarily critical technologies list and munitions list would be incorporated into the comprehensive list.

All export administration functions of the Bureau of Export Administration at the Commerce Department and munitions licensing performed by the Office of Munitions Control at State would be vested in the OSTT and managed by an Associate Director of Export Administration. All export licensing decisions and maintenance of a single U.S. control list would be managed in this one location.

Growing attention to the proliferation of nuclear-capable missile, chemical weapons, and biological weapons capabilities would be recognized in creation of a separate Bureau headed by an Associate Director for Non-Proliferation. The spread of destabilizing technologies to Third World destinations presents the difficult challenge of negotiating new control arrangements outside the traditional Cocom framework. The new Bureau would provide necessary support for this added workload and provide focus to these efforts.

Increasing attention to economic security issues would similarly be recognized in creation of a new Bureau for Economic Security. This office would assume the growing responsibilities of the Commerce Department with regard to foreign availability, imports threatening U.S. national security under section 232 of the Trade Expansion Act of 1962, short supply controls, antiboycott regulations, and the Defense Production Act including investment review under the Exon-Florio provisions. In addition, this Bureau would be responsible for OSTT's role on the Competitiveness Policy Council, the Trade Policy Committee, and the Committee on Foreign Investment in the United States, including monitoring overall foreign direct investment.

Some may be troubled about the elevation of such issues as unduly interferring in free trade and open investment approaches that have characterized U.S. policy in the postwar years. However, I believe this structure only recognizes reality. These issues require high level attention and the President should have the best advice possible.

All negotiations associated with Cocom controls, the initiative to promote third country cooperation, missile technology controls, and chemical and biological weapons controls would be the responsibility of the OSTT. A chief negotiator, with the rank of Ambassador, would be appointed by the President for these purposes.

Current enforcement authorities and functions would be consolidated under an Assistant Director of Compliance. The primary role of the Customs Service in international enforcement would be clarified and other international agencies directed to assist in the enforcement of the U.S. export control regime.

The advisory role of U.S. industry would be upgraded through creation of an Office of Industry Advisory Committees. The chairman of the President's Export Council Subcommittee on Export Administration would head the Office and would advise the Director on technology issues and coordinate the activities of the various industry advisory committees. While the Industry Advisory Committees would have no role in setting U.S. policy, they would be assured of timely access to export control deliberations and feedback on policy recommendations to OSTT.

It is to be expected that the efficiency and effectiveness of the system would be enhanced by consolidation of functions in the OSTT. Budget savings would be realized through combination of budget and personnel from the Bureau of Export Administration at Commerce, the Office of Munitions Control at State, and the Defense Technology Security Administration at Defense.

In my view, this bill makes essential structural changes to focus interagency debate on key policy issues, not on every piece of paper that goes through the export control system. It excludes no agency from the process and denies no one their right of appeal to the President. The Secretary of Commerce will no longer run the system but will have a seat at the policy table in the Strategic Trade Policy Council. The Secretary of Defense will not have the special rights provided in section 10(g) of current law but will no longer need special rights to neutralize the pro-trade influence of Commerce. With no one agency holding special rights, we can stop worrying about who is in the ascendancy and who is in decline.

The bill shifts some functions and emphases but it does not create any new responsibilities or functions that do not exist today. Certain issues like the debate over foreign investment may become more visible and the Director of the Office will perhaps provide a greater focus on them. But this is only recognizing reality.

I believe it is a sound approach to the problems of the system. In fact, I believe it is the only hope left short of having Congress destroy the system by trying to fix it. I urge my colleagues to consider it carefully and I look forward to working for adoption of this approach as we reauthorize the Export Administration Act in 1990.●

● Mr. HEINZ. Mr. President, today I join with my distinguished colleague, the senior Senator from Utah [Mr. GARN] in introducing the Export Administration Act of 1990. It's good to share the yoke with him on this effort. We have been in the traces before. I do not expect that the journey will be any less arduous on this trip or the hills less steep, but I do believe that delivering the goods to the destination is a vital and necessary endeavor.

We share, I believe, a common view on the recent history of our export control programs. We would both agree with Thomas Jefferson's observation: "I like the dreams of the future better than the history of the past." For those with the responsibility of overseeing them, implementing them, and living under them, the Export Administration Act and the Arms Export Control Act—the legal bases for U.S. export control policies—have been a bad dream.

Frankly, Mr. President, we can no longer afford the status quo. Export control policy is central to our national defense and defense industrial base, to our balance of trade and the health of our high technology sector, and to the success of our foreign policy with our closest allies in NATO, with developing nations, and with the Warsaw Pact. With a sea change occurring in Eastern Europe and the Soviet Union and major uncertainty about the future course of events in China, the opportunity to lead and the responsibility of leadership have never been greater. The choices we make will not only affect our relations with the East for a generation, they can revitalize our relations with our allies, strengthen our common sense of purpose, and restore our eroding position of leadership.

The legislation we are introducing today makes sweeping changes in the process by which our Nation arrives at decisions on technology matters. It does not seek to impose a specific policy orientation on this administration or its successors. It does seek to insure that decisions are made promptly, with full account of all relevant factors, and with finality. That is not happening now, although it is the least we should expect from any Federal regulatory system. Understanding how we have arrived at this point in our thinking demands some discussion of the history of export controls in the United States. I will touch on some of the key points this morning, Mr. President, and I ask that my full statement be printed in the RECORD as if read.

INTRODUCTION

To understand the plethora of problems that convinced us to introduce a bill to establish a new independent Federal agency responsible for export controls and technology transfer policy, this statement proposes to analyze systematically the following topics:

The evolution of the U.S. national security export control system, including brief histories of the Export Administration Act [EAA] and the Arms Export Control Act [AECA], and such contentious issues as the length and complexities of the control lists and streamlining.

The U.S. national security export control system and its relationship to the Coordinating Committee [CoCom], and an analysis of the multilateral export control system's policies toward the Soviet Union and China.

A discussion of "economic security," what I call the new basis to the U.S. national security export control system, including an analysis of the status of the U.S. defense and technology base, foreign direct investment, the acquisition of defense-related firms, the Committee on Foreign Investments in the United States [CFIUS], declining exports, trade barriers—EC-92, for example—and foreign availability.

The agenda the U.S. export control system faces in the 1990's.

A description of the current export control system and its deficiences as we head into the next century, with critiques from private and government studies as well as industry.

And a detailed discussion of the centerpiece of the proposed Export Administration Act of 1990, the Office of Strategic Trade and Technology [OSTT].

It is our belief that such a "tour d'horizon" will demonstrate that our current national security export control system was established in response to considerations that may be anachronistic in the decade ahead.

THE EVOLUTION OF THE U.S. NATIONAL SECURITY EXPORT CONTROL SYSTEM

The Arms Export Control Act [AECA]

U.S. arms export controls predate dual-use export controls. Arms export controls date back to World War I. However, it was not until 1935 that the United States adopted an arms export control regime to regulate the fast growing multibillion dollar munitions industry. In 1935, the President signed the Neutrality Act, which provided the first legal basis for the export of munitions products and services. Between 1935 and the adoption of the Arms Export Control Act [AECA] in 1976, the legal basis for the export of munitions went through no less than seven different authorities.

The 1935 act provided for a munitions licensing system and a munitions control list (the "International Traffic in Arms" Regulations—ITAR). The Secretary of State administered the ITAR through the Office of Arms and Munitions Control, the forerunner to today's Office of Munitions Control [OMC]. From the adoption of the act to the outbreak of World War II, the munitions control office issued licenses valued around $1.2 billion.

The original arms export control regime established the basis for today's regime. For example, the Secretary of State had then, as now, oversight of the arms export control regime. The Secretary's authority, however, was more limited than today: licenses could only be denied if the proposed export violated U.S. laws or treaties. Licenses could also be denied by the Secretary for national security reasons, as is the case today. In the mid-1950's, licenses were necessary for parts and components, setting the stage for today's comprehensive arms export control regime. Another novel feature introduced about the same time, gave the Secretary, for the first time, the authority to regulate exports of technical data and to deny import licenses for foreign policy and national security reasons. In the late 1950's, the seeds for today's commodity jurisdiction disputes were sown when civil aircraft and civil aviation equipment were transferred from the ITAR to the CCL. By the late 1960's, the Office of Munitions Control had adopted end-use certificates (DSP-83) and had effected still another transfer of its import functions to the Department of the Treasury.

In August 1977, the Carter administration made the last significant

change to the ITAR before the comprehensive 1985 revision. This change required the Department of State's prior approval for the sale, production, or assembly of "significant combat equipment."

Our bill transfers to the Office of Strategic Trade and Technology the current statutory authority for regulating commercial arms exports as provided in section 38 of the Arms Export Control Act of 1976. It does not alter the Government's role in administering security assistance programs such as the Foreign Military Sales Program [FMS] or Military Assistance Programs [MAP]. It authorizes the President to regulate both arms imports and exports. Executive Order 11958 delegated these authorities to the Secretaries of State (exports) and Treasury (imports). The items controlled by both departments constitute the U.S. Munitions List under title 22, CFR, part 47. The Secretary of State, with the concurrence of the Secretary of Defense, is responsible for identifying those items or categories of items considered as defense articles and services subject to the export control provisions of the ITAR's U.S. Munitions List.

The State Department's Politico-Military Bureau's Office of Munitions Control [OMC] is responsible for discharging the functions of the Secretary of State in controlling commercial export of defense articles and services. OMC administers the ITAR by a licensing process which has come under considerable criticism in the past few years. In 1988, OMC processed nearly 50,000 licenses, approximately 80 percent which are routinely processed by OMC licensing officers. The remaining 20 percent are generally referred to the Department of Defense, ACDA, NASA or the Department of Energy depending on the export involved.

In recent years, the Department of Defense has recommended denial of less than 10 percent of the nearly 10,000 licenses referred to it. The denial percentage, however, has grown steadily since the early 1970's when in a typical year only 1 or 2 percent were denied overall. Industry, not surprisingly, considers Defense's steadily increasing denials as one important factor in the decline of defense exports.

Finally, on January 1, 1985, the ITAR was substantially revised for the first time since 1969. The new ITAR provided for changes in OMC's licensing policies and procedures; introduced several new exemptions from licensing requirements; established procedures for distribution agreements; relaxed certain prior approval requirements; strengthened controls by closing loopholes; improved enforcement; and required U.S. persons engaged with foreign businesses to register with OMC.

The changes, as will be seen below, were necessary but not sufficiently timely to ward off a sweeping criticism of OMC by the General Accounting Office and by the defense industry.

The Export Administration Act

The regulation of dual-use technologies followed as the realization sank in that other countries could develop an indigenous arms industry both to rival commercially the U.S. arms industry and, of course, militarily threaten U.S. national security if in the hands of an enemy.

The 1949 act. The United States has had an export control system in one form or another since July 1940. The expectation was that export controls would cease after the war. However, the onset of the cold war, with its anti-Communist rhetoric and the implementation of the Marshall Plan, led to the adoption of the Export Control Act of 1949. The act conceived of export controls as an instrument of U.S. policy in waging economic warfare against the Communist world. It also provided for the review of proposed exports to the Soviet Union and its allies of industrial goods and commodities which would improve their military capabilities.

During the 1950's and the early 1960's, the consensual basis underlying the act remained consistent in both the executive and legislative branches of government. However, as 1969 approached, Congress and U.S. industry began to argue that changes were needed that reflected the growing ability of the Soviet Union and its allies to manufacture products on the control lists or buy controlled technologies from sources other than the United States or CoCom.

The 1969 act. With the growth of sentiment to liberalize export controls towards the Soviet Union in the late 1960's, the 1949 act was revised in 1969 effectively limiting the use of foreign economic policy as an instrument of U.S. national security export controls. The 1969 Act continued the litmus test for controlling the export of strategic technologies to proscribed destinations—whether or not the product contributed to the military capability of our adversaries—but added the seeds for two future contentious provisions: foreign availability and reexport controls with their extraterritorial reach.

Prior to the adoption of the 1979 act, the Department of Commerce's authority to control exports was limited to commodities or technologies that were subject to U.S. jurisdiction, including the financing, transporting and servicing of those exports. In 1977, the EAA was first amended to expand the authority of Commerce for controls over foreign-origin goods and technical data exported by a U.S.-owned or controlled company located abroad, regardless of origin, and foreign-produced products of U.S. technical data. The 1969 act also provided for an improved licensing system which would become the focal point of contention during the reauthorization of the EAA in 1983. In sum, the 1969 act provided for a mixture of both national security export controls and liberalized trade, but as we have learned, it did not resolve the issue then and it remains unresolved today.

The 1979 act. By 1979, the broad outlines of the current system, particularly its extraterritorial characteristics, had taken shape. For example, the Department of Commerce regulated the export of commodities and technical data from the United States, reexports of U.S.-origin commodities and technical data from one foreign country to another, exports and reexports from a foreign country of foreign products containing U.S.-origin parts and components, and exports and reexports from a foreign country of foreign products based on U.S.-origin technical data.

The 1979 act further expanded U.S. export controls to include foreign policy and short supply considerations. The 1979 act provides that greater weight shall be give to national security concerns that to foreign policy and short supply concerns, but as the National Academy of Science's 1987 study revealed, "to the extent that the United States fails to distinguish clearly between national security and foreign policy export control objectives, allied cooperation in the national security export control regime [was] undermined."

The Commodity Control List [CCL]

Finally, the various iterations of the EAA created an unwieldy control list with the implementing regulations alone currently totaling 588 pages. The latest version of the Commodity Control List contains 162 pages with over 200 entries divided into 10 categories, not including nearly 30 categories controlled unilaterally for national security reasons. Not surprisingly, the CCL has been characterized by industry as "impenetrable" and "obfuscatory."

Streamlining. By far the most controversial issue facing the United States and Cocom in the next decade is streamlining the United States and Cocom control lists. The success or failure of Cocom to resolve this issue may well determine whether the institution survives in the next decade. It is no exaggeration to say that the United States holds the key to that success or failure. For example, On October 13, Italian President Francesco Cossiga urged President George Bush to review and reconsider U.S. export restrictions on high technology sales to Poland and Hungary and other Soviet bloc countries comparing Cocom's control list and procedures as "dogma" that is highly complicated and outdat-

ed. The Italian Foreign Minister argued that rapid technological change had made existing controls obsolete.

In January 1988, the United States made a commitment to Cocom to reduce the U.S. control lists in return for improved enforcement efforts from Cocom members. To date, the United States has not vigorously pursued streamlining the lists, except in the perfunctory manner established by Cocom list review procedures: one fourth of the Cocom control list is reviewed annually, thus taking 4 years to review the entire list.

Streamlining by legislative Fiat. In response to this slow pace, the 1988 Trade and Competitiveness Act mandated the elimination from the CCL of low-end technologies which are subject only to national discretion (or administrative exceptions notes—AEN's) as well as all medical instruments and equipment. Equally important, the act mandated the elimination of unilaterally-controlled items except where there is no foreign availability or else the United States is "actively" pursuing negotiations with other countries to achieve multilateral export controls on those goods. These measures, however, amount to only minor changes in the lengthy and complex CCL.

One of the prevailing assumptions in the U.S. export control community—and made clear in the 1987 NAS study—is that there is no effective mechanism for "weeding out" from the control lists items that are no longer strategic or are readily available from non-Cocom sources. In fact, there is the potential for such mechanisms, but as so many initiatives that threaten the status quo, they have been blocked by turf-conscious interagency disputes.

The Director for Central Intelligence, for example, has been experimenting with a methodology called "Starbase," which looks at Soviet acquisition requirements from a different perspective: how the Soviets, not the United States, determine what technologies will be needed for future Soviet weapons systems. Unfortunately, because so much of this program, particularly the data base program, is classified, the CIA has been unable to convince the executive branch or U.S. industry of its potential utility as a streamlining methodology.

The bill we are introducing today, in contrast, mandates that the U.S. control lists—Commerce's Commodity Control List and State's Munitions List—be integrated into one control list compatible with CoCom's International List, and that the U.S. control list review process be synchronized with Cocom's list review process. In short, the bill seeks to construct one multilaterally agreed control list for national security export controls. The Office of Strategic Trade and Technology created by the bill—which I will discuss shortly—provides us with a system to develop a continuity that is currently missing. U.S. negotiators change more frequently than European negotiating team members, putting the United States at a disadvantage as far as Cocom historical memory is concerned. U.S. negotiators have been accused of "reinventing the wheel" much too often in the past.

U.S. NATIONAL SECURITY EXPORT CONTROLS IN A MULTILATERAL SETTING

The Coordinating Committee [CoCom]

Forty years ago, the central purpose of U.S. foreign policy was to contain the expansion of communism. To implement the containment strategy, particularly in Europe, the United States cofounded the North Atlantic Treaty Organization [NATO], a high profile political-military organization, and the Coordinating Committee [CoCom], a low profile multilateral export control system comprised of the NATO countries, minus Iceland. Japan joined in 1954; Australia in 1989. Cocom did not and does not have a formal relationship to NATO. But, clearly, multilateral export control issues are arguably as steeped in arcana as the more highly publicized arms control issues.

Cocom grew out of consultations in 1949 between the United States and Marshall Plan recipients on the need to prevent diversion of Marshall Plan aid or other strategic resources to the Soviet bloc. Cocom, unlike NATO, began its mission shrouded in secrecy: it was only recently that its location in Paris became publicly known. Over time, Cocom's basic mission evolved to include the restriction on exports of goods and technology which would make a significant contribution to the military potential of the Soviet Union, the Warsaw Pact countries, and China. These countries form the core of the list of Cocom-proscribed countries. The United States unilaterally embargoes strategic trade to Cuba, Laos and Cambodia.

Functions

Cocom has three major functions:

Establish and revise the three embargo lists: industrial or dual-use, munitions, and atomic energy; known collectively as the "International List."

Review "exceptions" to the International List.

Coordinate enforcement policies. The CoCom multilateral export system is comprised of unilateral export enforcement systems, laws, and procedures that vary from country to country. CoCom itself does not have enforcement authority. It can only seek to persuade a member country to establish an effective enforcement system or improve the current system.

Circumventing CoCom Rules

CoCom, I have established, faces a serious challenge in the years ahead. There are, unfortunately, cracks forming in the multilateral export control organization stemming from disagreements over the lengthy control lists and the disagreement over interpreting the provisions of the controlled categories.

In the past few years, three countries—the U.K., France and Italy—have circumvented CoCom procedures by refusing to submit their proposed joint venture cases to CoCom for review because each joint venture contained technologies which the United States was prepared to veto in CoCom. The three argued that the levels of technologies involved were below the "No-exceptions level," a judgment permitted under a CoCom procedure called "national discretion treatment." National discretion permits members to license exports which the members have agreed qualify as "administrative exceptions notes," or low-end technologies. The assumption is that members have checked the proposed level of the export with the controlled lists, and have made a determination that the export is at the low end of the controlled lists, and eligible for national discretion treatment. The creation of these procedures was intended to relieve CoCom from reviewing thousands of cases involving low-end technologies.

The following is a brief summary of each case:

Alcatel telecommunications case. Alcatel, N.V., is a French computer and telecommunications firm which signed a contract in the early 1980's with a Soviet enterprise, Krashna Zarayato, to provide the Soviet Union with telephone digital switching equipment and manufacturing technology. This technology cost ITT, one of Alcatel's parent companies, more than $1 billion to develop. Under the agreement, the Soviet Union will procure outright the equipment, and construct an assembly facility near Leningrad. In 1984, the United States agreed in CoCom to decontrol the equipment by 1988, by which time it was assumed the Soviet Union would have developed an indigenous capability comparable to the equipment under consideration. By 1988, the United States had reason to believe that the Soviet Union had failed to develop a comparable system. The U.S. raised an objection in CoCom, but failed. Alcatel has made some exports in the past year. This case, the first assault on the no exceptions policy, was a harbinger of things to come.

Simon-Carves. In 1988, Simon Carves, a British engineering firm, signed a $450 million contract to build a plant to manufacture factory-automation equipment in Yerevan, the capital of Armenia. The factory, scheduled to be completed in 1991, will make industrial microcomputers capa-

ble of directing precision assembly-line production of printed circuit boards. The United States argues that the level of technology is covered by the control lists, and requires submission to CoCom. The U.K., fearing a veto on equipment it has approved under national discretion treatment, has refused to submit the case. The U.K. has allowed the first shipments of equipment to be exported.

Olivetti case. This case is similar to Simon-Carves in the equipment involved; however, the United States was successful in persuading the Italian Government to downgrade the technology involved. The Italian Government has also refused to submit the cases to CoCom in any event.

The Soviet Union and China

For the first 30 years, CoCom's mission remained relatively unchanged. In the next 10 years, CoCom's mission changed as the Western alliance's relations with the Communist world evolved. For example, between 1949 and 1957, the United States and CoCom instituted the so-called "China Differential," or total ban of high technology exports to China. CoCom dropped the ban in 1957. The United States unilaterally maintained the trade embargo until 1972, coincident with President Nixon's visit to China.

Until the Soviet invasion of Afghanistan in December 1979, the Soviet Union fared better than China in United States and CoCom export control policy. After Afghanistan, the pendulum swung toward China. For example, since 1980, United States technology exports to the Soviet Union, primarily low-end technologies, have averaged $58.3 million. Since 1983, United States exports of dual-use high technology to China have increased from $650 million to $1.72 billion in 1988. Since China became eligible for commercial munitions exports from the United States in 1982, the United States Government has processed over 1,000 license applications valued at over $1 billion, and approved sales in excess of $800 million. Of course, the effect of the Tiananmen massacre is yet to be fully seen.

The "No Exceptions Policy:" A Case Study in the Use of Export Controls as an Instrument of U.S. Foreign Policy

The Soviet invasion of Afghanistan occurred on December 26, 1979. On January 4, 1980, the United States decided to freeze high tech exports to the Soviet Union. The United States denied, for example, eight pending cases for such strategic technologies as ballistic protectors and high-strength military structures, digital computing systems and peripheral enhancements for Soviet computers, seismic data processing equipment, research equipment used in the development of microwave semiconductors, and technical data and equipment for a telecommunications plant. The policy did not apply to agricultural commodities—these goods were covered by the grain embargo—other items deemed essential to public health and safety (a high level computer for Moscow's airport was approved for public safety reasons, as have other controlled items for the earthquake in Armenia and the Chernobyl nuclear disaster), or if the export served United States and Western national security interests—the communications hot line linking Moscow and Washington.

The so-called no exceptions policy's effectiveness depended on CoCom's cooperation and enforcement. Parenthetically, I would note that the policy derives its name from the three levels of cases established under CoCom procedures: administrative exceptions notes, or AEN's, which require approval at capitals only with statistical reporting required to CoCom; favorable consideration, or cases with a presumption of approval by CoCom; and general exceptions cases, or cases which must be submitted to CoCom and which require consensus for approval.

General exceptions cases are the most contentious of the three categories because they involve higher levels of strategic technologies. CoCom would only agree to review carefully general exceptions requests submitted to it. CoCom did not agree to the total embargo. The United States, by contrast, refused to process licenses at the exceptions level. Further the United States, by dint of its veto power—CoCom operates on a rule of unanimity—forced CoCom to abandon the case-by-case review of high technology exports to the Soviet Union and Eastern Europe adopted in 1949.

The "no exceptions policy," therefore, became the prototype example of export controls used by the United States as an instrument of foreign policy. The policy met with mixed success: it succeeded in legally keeping highly coveted Western technology from the Soviet bloc, but it failed to gain CoCom's formal approval and increased the illegal acquisition and diversion of Western technology by the Soviet bloc.

Soviet technology theft. According to Soviet documents obtained by the West in 1982, about 60 percent of Moscow's illegally acquired technology was of U.S. origin, and about 70 percent of the total acquired from all sources is on the CoCom control lists. In the late 1970's and into the 1980's, an average of 5,000 Soviet military equipment and weapons programs benefited from the 6,000 to 10,000 pieces of hardware and 100,000 documents acquired annually through illegal means. The Soviets budgeted roughly $1.4 billion in 1980 dollars for the programs, a sum I strongly recommend Mr. Gorbachev redirect into the economy, thereby removing one obstacle to improved trade with the United States.

The no exceptions policy was rescinded by the United States after the Soviet withdrawal from Afghanistan in February 1989. The United States, however, reserved the right to veto cases submitted to CoCom, thereby ensuring that the spirit of the policy continued.

CHINA

China certainly benefited from the worsening of United States-Soviet relations in the wake of the Soviet invasion of Afghanistan. China, it should be especially recalled in the wake of the Tiananmen Square massacre, is still formally on CoCom' proscribed destinations list, subject to national security controls along with the Soviet Union and other Communist countries. The United States Government justifies the retention of China on the CoCom proscribed list because China "has strategic capabilities unlike those of other friendly countries."

This view notwithstanding, United States policy allows transfers to the People's Republic of China of dual-use and munitions equipment and technologies restricted to conventional defensive capabilities and reviews exports on a case-by-case basis with the presumption of denial in the following six mission areas: nuclear weapons and delivery systems, intelligence gathering, electronic warfare, antisubmarine warfare, power projection, and air superiority. CoCom has generally adopted the United States guidelines for reviewing strategic exports to China, but there was growing evidence, before Tiananmen, that CoCom was prepared to liberalize export controls substantially for a fourth time. Some members of CoCom even floated a trial balloon to remove China from the CoCom lists. The Chinese Government and the PLA shot more than their citizens in Tiananmen; they shot themselves in the proverbial foot regarding prospects for the further liberalization of CoCom controls.

ECONOMIC SECURITY: THE NEW BASIS TO THE U.S. NATIONAL SECURITY EXPORT CONTROL SYSTEM

THE END OF THE COLD WAR

Wide-ranging social, economic, and political reform programs in the communist world, starting first in China in the late 1970's, then in Eastern Europe in the mid-1980's, and most recently in the Soviet Union, converged to change our collective perceptions of the nature of the threat, and to raise questions about the cold war basis of United States and CoCom export control policies.

Peace, it was said, was breaking out all over. Cold war solutions to new problems were becoming irrelevant. Even the recent events in China, which culminated in the massacre of prodemocracy students in Tiananmen

Square in the early morning hours of June 4, did not lead to a reassessment of China by either the United States or CoCom as a threat to the national security of the United States and its allies.

Containment, President Bush announced in his first Soviet policy address at Texas A&M University on May 12, had "worked," and now it was time to move beyond it. But, peace, paradoxically, is shaping up to be more of a challenge to the U.S. national security export control system than the cold war was. For example, while the U.S. Government has been generous in putting together a financial aid package for Poland and Hungary, the Government has been unable—or unwilling—to include any provisions for transfer of technology to the two countries.

THE ORIGINS OF ECONOMIC SECURITY AS A COMPETING BASIS FOR U.S. NATIONAL SECURITY EXPORT CONTROLS

In the mid-1980's, the United States, in growing recognition of the seriousness of its budget and trade deficits and our change from credit to debtor nation status, began to redefine the mission of the national security export control system.

It is clear today that the global marketplace is in the throes of an unpredictable convulsive transition period. The United States, to be sure, no longer dominates the international marketplace as it once did. Since 1972, the United States' net international investment position [NIIP] has fallen from a surplus of $37 billion—with a high of $141 billion in 1982—to a deficit of $368 billion at the end of 1987. Net foreign debt, one of the many components of the NIIP, exceeds that of all the Latin American countries combined.

The United States has also lost its dominance of the high technology marketplace. The international high tech market has become multipolar, with major economic and financial centers springing up in Europe and Asia—Japan and the East Asia newly industrialized countries of Taiwan, Singapore, Hong Kong, and South Korea.

Foreign governments have increasingly adopted aggressive marketing strategies through a variety of well coordinated and integrated economic policies—most notably subsidies for their export-oriented industries and protective measures against competitive imports—to erect officially sanctioned trade barriers that have impeded U.S. trade competitiveness. Trade barriers, the growing dependence on foreign sources of raw materials and critical manufactured goods, including high technology products, and reliance on foreign investments and foreign researchers in U.S. institutions of higher education have converged domestically to coin a new tenet of international economic relations, "economic security."

DEFENSE INDUSTRIAL AND TECHNOLOGY BASE

Three recent assessments by the Defense Science Board, the Air Force Association and the Congressional Office of Technology Assessment of the U.S. defense industrial and technology base project a grim picture of the ability of the U.S. economy to support a war effort under current policies and conditions. For example, the Air Force Association concluded that the United States and its allies "are not prepared to sustain a conventional war much beyond 30 days, and that American industry today could not meet wartime mobilization requirements in less than 18 months."

These assessments generally blame this state of affairs on the decline of the U.S. defense budget, changes in the world economy, bureaucratic ineptitude and corruption in the defense procurement system, conflicts between dependence—Buy American—and interdependence—arms cooperation—policies and programs, the adversarial relationship between U.S. industry and the U.S. Government, and the long term neglect of the health of the U.S. industrial base by both the public and private sectors.

Congress is currently reviewing the Defense Production Act, possibly to amend it to prevent the further erosion of the U.S. defense industrial base and to stem the growing dependence on foreign sources for defense materiels, manufacturing technologies and equipment. The objective of the various proposed amendments is to provide R&D support to the Department of Defense to improve the U.S. ability to sustain or expand production in the event of a national emergency or war. This sense of urgency is understandable. A survey between 1980 and 1985 of 215 defense industries that account for 95 percent of the Department of Defense purchases concluded that three-quarters achieved worse than average growth in real shipments and 62 percent had lower-than-average capital expenditures in 1980. This adverse trend continued in 1985 when 72 percent had lower-than-average capital expenditures, and 47 percent had below-average-productivity growth and 17 actually had declining productivity.

FOREIGN DIRECT INVESTMENT

In 1988, foreign direct investment inflows totaled $65 billion, a 61-percent increase over 1987, reflecting continued strong foreign interest in U.S. manufacturing, retail and wholesale trade, and real estate. The United Kingdom accounted for the largest share, $21.5 billion, followed by Japan, $14.2 billion, and Canada, $10.4 billion. Japan's increases, mainly in manufacturing and real estate, were almost entirely related to acquisitions.

On a cumulative basis, foreign investment in the United States reached $262 billion in 1987. European firms, principally British, Dutch, and German accounted for half of the total foreign direct investments, with 40 percent of the European amount invested in manufacturing industries. By contrast, nearly half of the Japanese investment, ranked third in total foreign investment in the United States, is concentrated in wholesale trade, with only 16 percent in manufacturing industries.

Foreign direct investment in the United States has produced mixed reactions. Official U.S. policy "welcomes" it and applies principles of national treatment, most-favored-nation [MFN] status, and the protection of investor rights in accordance with international legal principles and multilateral conventions. The Government recognizes that total direct foreign investment, estimated around $1.2 trillion, or roughly 5 percent of the total financial assets of the United States, has benefited the U.S. economy by modernizing factories, increasing jobs and exports, bringing in new technology and management techniques, and ameliorating the full impact of our twin deficits.

EXON-FLORIO

At the same time, the growing number of acquisitions in sectors some consider sensitive, has led to concern that foreign acquisition of U.S. defense-related firms threatens our economic security. These concerns were partially addressed in the so-called Exon-Florio provision of the trade bill which grants the President authority to suspend or prohibit any acquisition, merger, or takeover of a U.S. firm by or with a foreign person or enterprise if he determines that the investment will threaten to impair U.S. national security.

ACQUISITION OF DEFENSE-RELATED FIRMS

The concern over the acquisition of defense-related firms is not unfounded. From 1981 to 1986, foreign acquisitions rose from about 35 American businesses to over 120 firms. Of the latter number, 36 percent of the firms were in the electronic and telecommunications sectors, 20 percent in chemicals, pharmaceuticals and biotechnology sectors, 16.2 percent in the computer sector, 13.3 percent in machine tool manufactures, and 10.9 percent in the precision instruments sector. Since 1983, 196 or 15 percent of all reported foreign acquisitions have been defense-related firms.

U.S. industry is concerned that foreign ownership of U.S. defense companies will compromise classified information, redirect vital investments away from U.S. defense needs, and make the U.S. dependent on foreign resources, including foreign researchers in U.S. higher education and research institutes. According to industry sources, in the past few years,

almost 40 percent of all graduate students in engineering in the United States are foreign born.

THE COMMITTEE ON FOREIGN INVESTMENTS IN THE UNITED STATES [CFIUS]

The one Government agency with the formal responsibility to review foreign investments in the United States is the Committee on Foreign Investments in the United States [CFIUS]. CFIUS is an interagency group chaired by the Treasury Department. Since CFIUS was established in 1981, however, it has reviewed only 29 cases.

Since the Omnibus Trade and Competitiveness Act became law on August 23, 1988, CFIUS has reviewed a few cases under the Exon-Florio provision: a West German company's takeover of a subsidiary of Monsanto that produced silicon safers used in semiconductor production—approved; a merger between Westinghouse Electric Corp. and a Swiss electrical engineering firm, Asea Brown Boveri—approved on grounds that Exon-Florio does not call for Government review or investigations of foreign mergers with United States companies; and a takeover by a Japanese company, Tokuyama Soda, of General Ceramics Inc., which has a classified defense research and development contract with the Department of Energy. The Japanese withdrew the takeover bid.

It is perhaps too soon to determine the soundness of CFIUS' decisions based on a few cases. However, this bill proposes to establish an office of CFIUS in the Office of Strategic Trade and Technology to allow for a greater range of participation, access to information, and more informed decisions in those cases involving the acquisition of defense-related firms. In addition, the Director will have a seat on CFIUS in order to achieve better coordination on technology security issues.

DECLINING EXPORTS

The U.S. national security export control system is arguably the most restrictive in the Western World. For this reason, it has attracted its share of the blame in the United States and abroad for the loss of U.S. dominance of strategic trade. Indeed, during Secretary Baker's initial visit to Europe, he reportedly heard more complaints about U.S. export control policy from our NATO allies than any other single issue.

The data regarding the decline of U.S. high tech exports are compelling. In 1986, the U.S. registered its first deficit in high technology trade—$2.6 billion. The most precipitous drop in the high tech trade surplus occurred between 1983 and 1984 when our surplus dropped three-fold—$18.8 billion to $6 billion. Since 1984, the U.S. high tech trade surplus has averaged $2.72 billion; before 1984, $21.6 billion.

According to the defense industry, in the last 5 years, U.S. defense exports have dropped 53 percent, from $19.72 billion in fiscal year 1983 to $9.26 billion in fiscal year 1987. The U.S. share of the defense market has declined from approximately 43 percent in fiscal year 1983 to about 20 percent in fiscal year 1986.

In 1988, the Omnibus Trade and Competitiveness Act sought to broaden the context for national security beyond the strictly military by including provisions designed to limit export disincentives and provisions that would support various U.S. industries for economic security reasons. Yet it is precisely this broadening of the system that the current export control process is ill-equipped to address.

TRADE BARRIERS—EC-92

By 1992, the European Community's 12 member states plan to remove all internal economic barriers, creating a single market of over 323 million consumers. The European plan will allow for free movement of goods throughout Europe and will abolish technical trade barriers, such as differing national product standards, purchasing policies, and export-import licensing requirements.

It is not yet clear how non-EC countries will fare in the single market, but the prevailing fear is that EC-92 has the potential to be the ultimate protectionist tactic in the Western trading system. Given the interdependence of the United States and EC markets, trade barriers of the magnitude made possible by EC-92 pose a potentially serious threat to U.S. economic security interests.

In 1988, the EC had a gross domestic product [GDP] of $4.72 trillion, compared to the United States total of $4.80 trillion and Japan's $2.84 trillion. The EC generally accounts for about 40 percent of total world trade, compared with 14 percent for the United States and 8 percent for Japan. The United States, however, is the Community's single largest trading partner. In 1988, our bilateral trade totaled $164.6 billion, or 21 percent of total U.S. trade. The United States trade deficit with the EC-12 totaled $12.8 billion, or 9.3 percent of the total trade deficit, ranking third behind Japan and the East Asian NIC's.

The United States fared better on high technology exports to the EC-12 mainly on the strength of defense exports to NATO. Consequently, we enjoyed a high tech trade surplus with the EC in 1988 of $15.6 billion. The volume of high tech trade not related to NATO's defense requirements will become a serious concern if the export licensing paper trail vanishes in 1992.

EC-92 has the potential to be the most porous trade control system in the West. Since 11 of the 16 CoCom countries are members of the EC, the implications of EC-92 for West-West high tech trade are significant. The likelihood that the EC will be forced to adopt a least-common denominator enforcement policy will converge with certain trade disincentives in the 1988 trade bill to cause serious enforcement problems for a multilateral export control system that already has an uneven standard.

The elimination or reduction of certain licensing requirements to CoCom countries, and the creation of a "license free zone" with CoCom members similar to that which the United States maintains with Canada, is an open invitation to diversion. This development underscores the urgency for the United States to fulfill its commitment to streamline the CoCom control lists in return for improved enforcement efforts from CoCom member countries whose export control systems are weak by CoCom standards.

The U.S. Government's response to EC-92 is mixed. On the positive side, USTR has appointed an interagency task force to study 10 EC-92 issues. On the negative side, the strategic trade community has not organized itself as well. Where USTR has a well-defined leadership role in general trade policy, this crucial role is missing in strategic trade policy. The Department of Commerce, which one would expect to take the lead in assessing the impact of EC-92 on strategic trade export controls within the executive branch, has been given a supporting role in a working level committee not headed by any of the principal line agencies responsible for technology transfer and export control policies.

The Office of Strategic Trade and Technology created by our bill is designed to assume this leadership role.

JAPAN AND THE EAST ASIA NIC'S

Japan's trade balance with United States accounted for 40 percent of the total United States merchandise trade deficit in 1988, and nearly 60 percent of the manufactures trade deficit. Next to Japan, the East Asia NIC's enjoy the largest trade balance with the United States, $31 billion, of 23 percent of our total deficit in 1988. The United States high technology trade deficit with the East Asia NIC's totaled $10 billion, second only to Japan's $23 billion.

FOREIGN AVAILABILITY

Beginning in 1977, the Congress directed that CoCom-controlled products not be controlled if they were freely available to the proscribed countries from other non-CoCom countries unless the President exercised a national security override.

In 1983, Commerce created the foreign availability program, and the 1985 amendments to the EAA formally established the Office of Foreign Availability [OFA] in the Department of Commerce. The 1988 trade bill expanded OFA's responsibilities to include the creation of West-West for-

eign availability assessments, the imposition of new publication requirements and deadlines, an expedited licensing procedure in which eligibility depends upon foreign availability, and removal of controls on less sophisticated goods and technology.

Since 1983, OFA has completed 83 foreign availability assessments and reviews. Thirty-four of these studies dealt with possible decontrol actions; 11 dealt with new or ongoing foreign policy controls; three supported licensing decisions; 27 studies supported the CoCom list review process; and 8 reports assessed foreign availability for new and revised national security controls.

In 1983, four assessments were forwarded to the President for a decision whether or not to invoke a national security override: 8-16-bit micriprocessors, jig grinders, wire bonders, and sputter deposition equipment. The President—Reagan—decided to decontrol all but the sputters. Negotiations with the host country were subsequently initiated without resolution. The source country continues to sell sputters to the Soviet bloc. The decision on wire bonders, however, is a classic case study on the problems and prospects of foreign availability.

WIRE BONDERS: A CASE STUDY

On December 23, 1987, the Department of Commerce published in the Federal Register the U.S. decision to decontrol wire bonders West-West. In July 1988, Commerce drafted a cable to notify CoCom of the decision to decontrol wire bonders West-East, thereby fully implementing the President's decision. The Department of Defense, however, alleged that Commerce's finding was based on faulty and incomplete information, and refused to clear the cable. The NSC was unable to resolve the dispute, and opted instead to recommend to the President that the United States make a demarche to the source country to determine whether or not it would agree to control only those machines the Defense Department argued would significantly improve the military capabilities of the bloc.

On July 17, 1988, the President authorized the State Department to make a demarche to the source country. On September 12, the source country promised the U.S. Government a decision by February 1989, but failed to meet the deadline. Two more deadlines were subsequently missed.

What are the lessons learned in this case study?

First, the Reagan administration circumvented the foreign availability provisions—section 5f—of the EAA by authorizing negotiations after the President had decided against a national security override to maintain controls on wire bonders. Negotiations are appropriate only when the President has determined that it is in the national security interests of the United States to maintain controls on products which are foreign available, as was the case with the sputters. Because the administration decided to negotiate, the Department of Defense now argues that this was the equivalent of a national security override, and the negotiations having failed, the wire bonders in question should continue to be controlled.

Second, the Congress provided for the decontrol of U.S.-controlled items where there was foreign availability because such controls placed U.S. industry at a competitive disadvantage against foreign firms that are not constrained by their export control policies. There is evidence that U.S. firms were placed at a competitive disadvantage in this case.

Third, in February 1988, the General Accounting Office evaluated the program and one of its principal findings was the lack of information sharing and cooperation between Commerce and Defense. Charges and countercharges regarding the lack of information sharing led incredibly to the interagency gridlock that prevented a Presidential decision from being implemented.

Fourth, the United States has led the effort in CoCom to obtain cooperation from third countries in controlling United States and CoCom-controlled technologies to the bloc in return for liberalized licensing benefits under section 5(k) of the EAA. Countries granted liberalized licensing benefits agree to control technologies at the same levels controlled by CoCom. In the wire bonder case, the Department of Defense was correct when it argued that "once the U.S. Government has granted a third country 5(k) benefits, that country cannot be considered as a source of foreign availability (GAO Report, p. 40).

Fifth, the source country still refuses to negotiate the control of the wire bonders with the U.S. Government. Section 5(k)(3) of this act therefore provides that if a country is rewarded with section 5(k) benefits and fails to impose controls as required by the agreement, the Director of the Office of Strategic Trade and Technology shall enter into negotiations with the country to resolve the issue. If such a country continues to fail to comply with the agreement, the Director shall take appropriate action to reduce or eliminate that country's 5(k) benefits.

AGENDA FOR THE 1990'S

As the 1980's draw to a close, the broadening of the U.S. national security export control system coverages with well-defined geopolitical and technology trends to increase the pressure on the United States to narrow or eliminate export controls West-East and West-West. These trends, combined with several contentious export control issues, make up a formidable agenda. Consider the following trends:

Decreasing geopolitical tensions in Europe and a corresponding increase in pressure on the United States from CoCom members to remove or relax significantly current strategic trade restrictions to the Soviet bloc.

A decreasing view of China as a threat to the United States and the Western alliance and a corresponding increase in pressure up to the time of the Tiananmen massacre on the United States to remove China from the CoCom proscribed list.

Increasing pressure on the United States, mainly from domestic sources, to narrow or eliminate its export controls West-West, which account for over 80 percent of U.S. trade, and the corresponding decrease in confidence, in the U.S. Government towards the current export enforcement systems of CoCom member states.

Increasing pressures to expand the scope of Western export control regimes because of Third World pursuit of Western technologies for missile and chemical weapons capabilities and the corresponding decrease in cooperation by Western suppliers in developing an effective export control regime to prevent missile and chemical weapons proliferation.

The trend noted by the National Academy of Science toward the globalization, commoditization, and foreign availability of technologies outside CoCom which will make United States and CoCom export control policies more difficult to implement and enforce.

THE CURRENT SYSTEM: A CAMEL IS A HORSE DESIGNED BY COMMITTEE

The key to an efficient, rational, and predictable export control system for the 1990's lies in its ability to develop, formulate and administer coherent policies. An organization without coherent policies becomes dysfunctional; policies without an efficient coordinating and implementing authority become diffuse and uncertain.

Mr. President, imagine if you will the following scenario. An export control system expert is asked to construct a U.S. export control system from scratch, and comes up with the following:

A trifurcated control list, which assigns oversight of one type of technology to the Department of Commerce—dual-use—another to the State Department—munitions—and splits another with the Departments of Energy and Commerce—nuclear.

Assigns the munitions licensing system to the State Department for foreign policy oversight and technical oversight to the Department of Defense, thereby ensuring licensing gridlock.

Establishes two licensing systems, but fails to resolve the contentious

issue called commodity jurisdiction, whereby certain technologies are claimed by both licensing systems.

Provides for an executive branch referral system that could involve as few as one agency and as many as a dozen, but does not establish a clear line of policymaking authority between the three key line agencies—the Departments of State, Commerce, and Defense.

Establishes a system which guarantees interagency conflict but does not provide an effective dispute resolution mechanism to resolve issues.

Assigns 724 people to BXA, OMC, and DTSA with a combined budget of $48 million to process 150,057 licenses in 1988, of which only about 1 percent require special attention.

Builds in mutually incompatible missions within the principal agencies responsible for carrying out export control policies rendering them unable to balance—much less manage—the natural tension between national and economic security interests.

The Department of Commerce is commercially unable to balance and manage trade promotion and trade controls. The Department of Defense is militarily unable to strike a balance between arms cooperation and technology transfer programs. The Department of State is diplomatically unable to balance foreign policy goals and technology transfer programs. The National Security Council staff is conceptually unable to balance policy coordination and policy leadership. U.S. Customs and Commerce cannot agree on enforcement cooperation abroad.

CRITIQUES OF THE CURRENT SYSTEM

Both the EAA and the AECA have come under harsh criticism in special studies as well as from industry itself. The best known critique of the EAA was the February 1987, landmark study of our national security export control system by the National Academy of Sciences, "Balancing the National Interest." The 1988 trade bill also made several important changes in the EAA.

The best known critique of OMC, and thereby the oversight of the ITAR, was made by the General Accounting Office in 1988: "Arms Export Licensing at the Department of State." Finally, the defense industry and defense export consultants have critized OMC harshly before congressional hearings and letters sent to my office within the last 2 years.

NAS CRITIQUE OF EAA

This study made two basic recommendations with 17 corollary prescriptions to the current export control system. The following is a selected sample of the findings of the NAS study:

The administrative structures established by the executive branch have not proven effective in resolving in a coherent and timely fashion the frequent policy differences that occur among these agencies on matters relating to national security export controls.

U.S. national security export controls are not generally perceived as rational, credible, and predictable by many of the nations and commercial interests whose active cooperation is required for an effective system. The [NAS] concurs with this judgment.

National security export controls impede the ability of U.S. companies to compete in world markets.

There is a need for high-level industry input in the formulation of national security export control policy.

The extraterritorial reach of U.S. controls damages allied relations and disadvantages U.S. exporters.

THE OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988

The trade bill modified the EAA by reducing export disincentives and strengthening export enforcement. The latter was partly in response to the Toshiba-Kongsberg diversion of controlled machine tools to the Soviet Union. The bill reduced or eliminated certain licensing requirements for exports to CoCom countries and for goods that could be exported to China under the PRC Greenline, adopted two new liberalized licenses—G-CoCom and GFW, called for the reduction of the CCL, strengthened the concept of foreign availability, expanded trade with China by creating a distribution license, suspended after the Tiananman massacre, limited the dispute resolution mechanism to national security, not foreign policy, considerations, and provided for stronger enforcement of United States and CoCom controls. So far it has taken the Department of Commerce over a year to draft and publish a little over half—5 of 8—of the new export control provisions mandated by the new law.

The trade bill also provided for a second NAS study of the U.S. national security export control system. Unfortunately, it took over 9 months for the Departments of State, Commerce, and Defense to set up the parameters for the study instead of the statutory 60 days. The study was intended as one input to the reauthorization of the Export Administration Act which is due to expire on September 30, 1990, but since it will take 18 months to complete, it will not be finished until after the next revision is completed, unless Congress postpones the expiration date.

GAO CRITIQUE OF THE ARMS EXPORT CONTROL ACT

The General Accounting Office study found four serious problems with OMC's license application review process and exporters' compliance with certain administrative and reporting requirements:

OMC did not routinely check export license application data and information and rarely requested U.S. embassies' assistance in verifying the bona fides of the purchaser or other foreign parties to the sale.

OMC's facilities and automation capabilities are not sufficient to provide much assistance to licensing officers during their reviews.

OMC does not have adequate systems and procedures to ensure that exporters comply with administrative requirements.

OMC understates the values on authorized arms exports and exports actually made in its reports.

In a followup telephone conversation with GAO in preparation for this evaluation of OMC, GAO stated that OMC had made progress in all four areas, but perhaps not the point where there was any reason for either OMC or GAO to be satisfied with that progress.

INDUSTRY'S CRITIQUE OF OMC

In this year alone, industry representative appearing before congressional committees with oversight for the AECA have criticized OMC's performance. The following are selected comments from those hearings:

"* * * the situation has deteriorated for export of defense articles under the Arms Export Control Act [AECA] administered by the State Department office of Munitions Control. Problems exist with an unsuitable definition for a defense article, with the process of deciding jurisdictional control—State versus Commerce—of items, and with an inefficient administrative process."

"The U.S. defense export policies established well over 40 years ago are not responsive today, to meet the challenges of the global marketplace. The current system was originally designed immediately after World War II, at a time when the United States was technologically and militarily without equal throughout the world. Today this is no longer realistic. In today's world we must realize that national security is comprised of many facets, which include the U.S. industrial base as well as military superiority."

"Inadequate management resources and procedures have resulted in a slow, inefficient and burdensome—munitions—licensing system which is contrary to the best interests of U.S. foreign and fiscal policy * * *."

"At present, it is often impossible to determine, prior to application for an export license, how long the license application process will take and what conditions of approval will be imposed * * *. This process is both time consuming and unpredicable. Meanwhile, U.S. companies must compete with foreign suppliers who, with the active support of their governments, sell defense—exports—throughout the world. This contributes to the image of U.S. manufacturers as unreliable suppliers."

One industry consultant wrote the following about OMC:

"Many exporters are of the view that (a) there is needless duplication

in two export licensing systems, (b) jurisdictional issues— that is, whether a product should be maintained on the ITAR or CCL—would diminish if there were a single agency responsible, and (c) the exporting community, especially in defense-related products and technology, must have a licensing system that works with maximum efficiency * * *."

THE OFFICE OF STRATEGIC TRADE AND TECHNOLOGY: THE CENTERPIECE OF THE EXPORT ADMINISTRATION ACT OF 1990

Although this bill constitutes a rewrite of the Export Administration Act of 1979, one of its specific purposes is to address the numerous problems Senatore GARN and I have mentioned through a sweeping reform of the entire process by which we control technology. The essence of the problems we have had for more than 10 years has been interagency fratricide caused by inability to agree either on policy or process. Theoretically, a strong policy hand at the top could prevent the time-consuming squabbles that have crippled the system. But the decisions in question are often ones of extreme detail, and it is unrealistic to expect the President—currently the only person at the top in a position to make these decisions—to occupy himself with minutiae. Indeed, both sides in the many struggles we have had over the years have learned this very well and know how to use referral to the President as a device to delay a decision rather than as a means of obtaining one. It is time to stop using the President as the chief licensing officer for the U.S. Government.

This is the kind of tactic Senator GARN and I want to end, notwithstanding the fact that we have disagreed in the past, and will probably disagree in the future, on the proper policy outcome of a variety of specific issues. On the recent decision to decontrol certain computers, for example, I supported it, and I suspect he had some reservations about it. But we both had an identical interest in a process that can produce rapid, coherent decisions that grow out of an effective policymaking process that guarantees that national security considerations will be fully taken into account. Delay and uncertainty do not serve the interests of anyone who wants good policy.

Such a process, unfortunately, does not exist at present. On the contrary, as I indicated, the trifurcated system creates incentives to delay or obstruct. It has led to endless debates about specific licenses and, increasingly, foreign availability. These are all arguments that should be made and addressed, but it should be done within a framework that guarantees a conclusion to the argument and a decision that is consistent with our overall policy goals.

The experience both of us have had for more than 10 years is that such a process does not exist and cannot exist in an environment where control of the process is so diffuse. Our bill will create such a system; and in doing so will not eliminate the differences in perspective or even the fights between strongly held points of view. But it will put them all in one office with one director and will thereby prevent the bureaucratic games that occur now. This will not prevent referral of important matters to the President; nor will it shut out the involvement of other agencies at the political level. It will, however, add unity, coherence, and efficiency to the process, which can only lead to better, more timely, decisions. Our business community deserves nothing less, but they have had to live with a lot less for years, and it has hurt us grievously in overseas markets.

The second purpose of the bill is to refocus our understanding of technology policy in an integrated perspective that better reflects the role economics plays in national security. As the recent episode with the Japanese FSX program demonstrated, our Government simply lacks the procedures necessary to take economic considerations into account in making such decisions. Had that deficiency not existed in that case, the entire embarrassing episode could have been avoided and some additional difficulties in our bilateral relationship forestalled.

The Office of Strategic Trade and Technology created by our bill seeks to create that broader policy perspective through the creation of an Associate Director for Economic Security, whose responsibilities will include both the traditional EAA activity of short supply controls, but also administration of the Defense Production Act, section 232 national security import relief cases, and monitoring of foreign investment. The OSTT Director will have a seat on the Committee on Foreign Investment in the United States [CFIUS]. These added responsibilities, along with the overall mandate of the position, will ensure that the administration takes an integrated approach to national security rather than the uncoordinated approach that is presently the rule. We should not have to have an FSX fiasco to persuade the Government that perspectives beyond those of the Defense Department need to be involved in defining our security.

Let me also emphasize, Mr. President, that this bill is the product of extensive consultation with affected parties. In putting it together, we have discussed the contents of the bill with a number of industry organizations, including the chamber of commerce, the American Electronics Association, the Electronics Industries Association, the Aerospace Industry Association, the Business Roundtable, the Defense Policy Advisory Committee, Deltac, the National Association of Manufacturers, the Computer & Communications Industry Association and the Computer Business Equipment & Manufacturers Association. The membership of these organizations includes a veritable who's who of those concerned with export controls and technology transfer.

Obviously, not all these organizations or their individual member companies are on board regarding this bill. Some oppose the bill because they are opposed to any change, some because they believe the bill creates a new regulatory agency that may become too powerful and work against their interests, and some because they fear that the efficiency and streamlining of the export control system will hurt them in the pocketbook. Obtaining an export license is big business, and there are those who are making a good living from the gridlock and inefficiency of the current system.

Senator GARN and I, of course, believe that the bill is a good one, and one whose time has come, but we also welcome the debate that we hope the bill will stimulate. In our judgment the past 10 years are dramatic testimony to the failure of incrementalism. Instead, we are recommending an entirely new approach, but we are more than prepared to debate this issue, a process which I hope will, by itself, facilitate an informed reauthorization of the EAA.

UNIQUE FEATURES

The OSTT has the following unique features:

First, it brings under one administrative roof the control lists and the licensing systems established under the Export Administration Act and the Arms Export Control Act. Exporters will have one-stop license processing, and license referrals will be greatly reduced. For example, West-West licenses will no longer be referred to the Department of Defense, thus removing one major obstacle to the timely processing of these licenses. The number of East-West licenses submitted for dispute resolution will also be reduced under the OSTT because of the centralization of the licensing process. Disputed licenses will have short turn-around times. The days of licenses taking months and even years to be approved or denied are over.

Second, the bill transfers the Bureau of Export Administration from Commerce, the Office of Munitions Control from State, and the Defense Technology Security Administration from Defense to the OSTT. While the bill provides for substantive policy input from key line agencies, the OSTT is designed to channel that input in an efficient and predictable manner, something missing from today's system.

Third, it includes three offices headed by associate directors, equivalent to undersecretaries, for:

First, Export Administration, which will include oversight of the EAA and ITAR, including the control list, licensing system, technology policy, foreign affairs analysis, foreign availability determinations, and CoCom affairs.

Second, Nonproliferation, which will include foreign policy controls, including chemical, biological, and missile nonproliferation.

Third, economic security, which will address industrial base, foreign investment, Defense Production Act, short supply and antiboycott issues.

The Bureau of Economic Security is a new idea. It will function as an advisory group concerned with how national security considerations should influence economic policy and the decisionmaking process itself. I believe that if the current export control system had such an office we could have avoided such difficult confrontations between the legislative and executive branches as the FSX and the Korean fighter program.

The Bureau of Non-Proliferation is also a new idea. Missile and chemical weapons proliferation has reached an acute state in the last few years. About 20 Third World countries possess missiles with the potential to destabilize regional disputes, and to pose a threat to United States and Western security. Many Third World countries with longstanding trade ties to the United States are among those developing missile and chemical weapons without accountability.

To counter missile proliferation, the United States and its economic summit partners developed the Missile Technology Control Regime [MTCR] to control the exports of missile technology and equipment. The MTCR, like CoCom, is an informal, non-treaty organization, and thereby suffers from the same problems, particularly enforcement, as CoCom does. Further, the MTCR is perceived by nonadherents, the Soviet Union and China in particular, as a Western condominium which would relegate them to second-class status if they joined. Finally, the MTCR-Seven cannot agree among themselves who should or should not join, or under what circumstances they should join.

The proliferation of chemical weapons has also become a threat to regional stability and to U.S. security interests, particularly in the Middle East where no less than six countries are seeking precursors, agents and technology to construct chemical weapons facilities. CW use in the Iran-Iraq war, and subsequent by Iraq against the Kurds, has spawned interest in the use of export controls to deny materials and equipment for chemical weapons. One of the major missions of the OSTT will be to strengthen the Australia group, another informal 20-country group headed by Australia and the OECD countries to stem chemical weapons proliferation.

Fourth, the OSTT provides for an Industry Advisory Committee [IAC] to ensure that the private sector has direct access to the Director. The IAC will have direct input to the CoCom list review process and its chairman will be a member of U.S. delegations traveling to CoCom. We have never accorded our private sector experts—the most directly concerned parties—the attention and opportunity for input that our trading partners have. Our businesses are not the enemy, and we should not treat them as if they are. The act seeks to ensure that U.S. strategic trade policy is in approximate harmony to that of the trade-facilitating policies of allies and friends, and seeks to ease the burden that export controls impose on U.S. manufacturers and exporters.

Finally, the OSTT will include a Strategic Trade Policy Council [STPA] comprised of the Secretaries of State, Defense, Commerce, and Treasury, the Director of the CIA and the U.S. Trade Representative. The STPC will approve export control and technology transfer policies, approve and streamline the U.S. unified control list, and resolve technology transfer issues arising from all bilateral defense, coproduction, and strategic trade agreements. The STPC will resolve only those licensing issues submitted to it by the Director based on agreed policy guidelines between the Director and the STPC.

I see the interaction between the Policy Council and the Director, who is appointed by the President, confirmed by the Senate, and has Cabinet-level status, as similar to that between the U.S. Trade Representative and the Trade Policy Committee or Economic Policy Council. The Director shall formulate export control and technology transfer policies subject to the approval of the STPC. The Director will have the right to present the OSTT's position on cases directly to the President, as will the STPC.

The bill prescribes no increase in personnel. Initially, the cost of the operation of the OSTT is anticipated to be approximately that of the current system. In time, with the elimination of duplicative services and personnel, and the establishment of a single control list and one centralized licensing office, I foresee a reduction of costs and personnel. I have asked CBO to undertake a cost estimate of the system given my assumptions.

CONCLUSION

Mr. President, I approach this bill—and the restoration of this issue to the legislative "front burner"—with mixed feelings. As Senators may recall, I opposed Senator GARN's efforts in 1983 and 1984 to create an Office of Strategic Trade. Although the bill we are introducing today is significantly different from that earlier bill, it is similar in that it acknowledges the failure of an incremental approach to EAA reform and recognizes that structural revision is an integral part of policy reform. Unlike Senator GARN's earlier effort, this bill does not make major policy reforms—although it contains a good many changes in the EAA that are by no means technical. Instead it seeks to confront head-on the interagency difficulties that have crippled the development of coherent policy over the years, and I join the Senator from Utah in his conclusion that that is the proper place to begin.

I also particularly welcome the bill's acknowledgement that protection of our national security is conceptually a broader task than simply controlling exports of high technology goods. The OSTT's emphasis on the broader idea of economic security is overdue, in my judgment, and will give the administration the structural tools it needs to formulate security policies that fully meet our needs heading into the next century.

Mr. President, this is a serious effort to reform our current national security export control system. I have had a role in nurturing the growth of the current system, at various times as chairman and ranking member of the Subcommittee on International Finance and Monetary Policy that oversees export controls, and I will be among the first to admit that the system, with its long tortured historical growth and anachronistic policies and appendages, must be reformed if we are to avoid the problems of the past.

I believe this bill is such a reform. I hope Senators will study it carefully and give it their support.●

ADDITIONAL COSPONSORS

S. 498

At the request of Mr. PELL, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 498, a bill to establish programs for the professional development, recruitment, and training of elementary and secondary schoolteachers, to establish a national academy for teaching, and for other purposes.

S. 511

At the request of Mr. INOUYE, the names of the Senator from Oklahoma [Mr. BOREN], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of S. 511, a bill to recognize the organization known as the National Academies of Practice.

S. 513

At the request of Ms. MIKULSKI, the names of the Senator from Kentucky [Mr. FORD], and the Senator from North Dakota [Mr. BURDICK] were

added as cosponsors of S. 513, a bill to amend chapters 83 and 84 of title 5, United States Code, to extend certain retirement provisions of such chapters which are applicable to law enforcement officers to inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the U.S. Customs Service, and revenue officers of the Internal Revenue Service.

S. 563

At the request of Mr. MATSUNAGA, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 563, a bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive retired pay concurrently with disability compensation after a reduction in the amount of retired pay.

S. 565

At the request of Mr. KASTEN, his name was withdrawn as a cosponsor of S. 565, a bill to authorize a new corporation to support State and local strategies for achieving more affordable housing; to increase homeownership; and for other purposes.

S. 619

At the request of Mr. SARBANES, the names of the Senator from Washington [Mr. ADAMS], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of S. 619, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 720

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 720, a bill to amend the Internal Revenue Code of 1986 to extend and modify the targeted jobs credit, and for other purposes.

S. 1201

At the request of Mr. BENTSEN, the names of the Senator from Arkansas [Mr. BUMPERS], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 1201, a bill to amend title XIX of the Social Security Act to make certain modifications in the Medicaid Program to provide pregnant women and children greater access to health care under such program, and for other purposes.

S. 1216

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1216, a bill to amend the National Labor Relations Act to give employers and performers in the live performing arts, rights given by section 8(e) of such act to employers and employees in similarly situated industries, to give to such employers and performers the same rights given by sections 8(f) of such act to employers and employees in the construction industry, and for other purposes.

At the request of Mr. FORD, the names of the Senator from Alabama [Mr. HEFLIN], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 1277, a bill to amend the Federal Aviation Act of 1958 to prohibit the acquisition of a controlling interest in an air carrier unless the Secretary of Transportation has made certain determinations concerning the effect of such acquisition on aviation safety.

S. 1400

At the request of Mr. KASTEN, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 1400, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 1661

At the request of Mr. PRYOR, the name of the Senator from Indiana [Mr. COATS], was added as a cosponsor of S. 1661, a bill to amend the Internal Revenue Code of 1986 to provide for a tax credit for qualifying disability expenses.

S. 1676

At the request of Mr. PELL, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1676, a bill to strengthen the teaching profession, and for other purposes.

S. 1678

At the request of Mr. COCHRAN, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1678, a bill to provide for the establishment of the Margaret Walker Alexander National African-American Research Center.

S. 1779

At the request of Mr. BENTSEN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1779, a bill to change the tariff treatment of certain brooms wholly or in part of broom corn.

SENATE JOINT RESOLUTION 53

At the request of Mr. D'AMATO, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Joint Resolution 53, a joint resolution to designate May 25, 1989, as "National Tap Dance Day."

SENATE JOINT RESOLUTION 198

At the request of Mr. SIMON, the names of the Senator from Oregon [Mr. PACKWOOD], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Virginia [Mr. WARNER], the Senator from Florida [Mr. GRAHAM], the Senator from Missouri [Mr. DANFORTH], the Senator from Minnesota [Mr. DURENBERGER], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Indiana [Mr. LUGAR], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Massachusetts [Mr. KERRY], the Senator from Missouri [Mr. BOND], the Senator from Kansas [Mr. DOLE], and the Senator from Ohio [Mr. METZENBAUM], were added as cosponsors of Senate Joint Resolution 198, a joint resolution designating November 1989 as "An End to Hunger Education Month".

SENATE JOINT RESOLUTION 205

At the request of Mr. BIDEN, the names of the Senator from Pennsylvania [Mr. HEINZ], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Joint Resolution 205, a joint resolution designating December 3 through 9, 1989, as "National Cities Fight Back Against Drugs Week."

SENATE JOINT RESOLUTION 206

At the request of Mr. GORE, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of Senate Joint Resolution 206, a joint resolution calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative parties, for the full protection of Antarctica as a global ecological commons.

SENATE JOINT RESOLUTION 210

At the request of Mr. DOLE, the names of the Senator from Washington [Mr. ADAMS], the Senator from Colorado [Mr. ARMSTRONG], the Senator from North Carolina [Mr. HELMS], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Maryland [Mr. SARBANES], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of Senate Joint Resolution 210, a joint resolution to designate the month of October 1989 as "National Spina Bifida Month."

SENATE JOINT RESOLUTION 215

At the request of Mr. COCHRAN, the names of the Senator from California [Mr. WILSON], the Senator from Idaho [Mr. MCCLURE], the Senator from South Carolina [Mr. HOLLINGS], the Senator from New York [Mr. D'AMATO], the Senator from North Dakota [Mr. BURDICK], the Senator from Maryland [Ms. MIKULSKI], the Senator from Nebraska [Mr. EXON], the Senator from New Mexico [Mr. DOMENICI], the Senator from South Carolina [Mr. THURMOND], the Senator from Arizona [Mr. DECONCINI], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Georgia [Mr. NUNN], the Senator from Mississippi [Mr. LOTT], the Senator from Florida [Mr. MACK], the Senator from Utah [Mr. GARN], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Missouri [Mr. BOND], the Senator from Colorado [Mr. ARMSTRONG], the Senator from Virginia [Mr. WARNER], the Senator from North Carolina [Mr. SANFORD], the Senator from Kentucky [Mr. FORD], the Senator from Utah [Mr. HATCH], the Senator from Vermont [Mr. JEFFORDS], the Senator from Maine [Mr. MITCHELL], the Senator from Ohio

[Mr. METZENBAUM], the Senator from Colorado [Mr. WIRTH], the Senator from Wisconsin [Mr. KASTEN], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Massachusetts [Mr. KERRY], the Senator from North Carolina [Mr. HELMS], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of Senate Joint Resolution 215, a joint resolution acknowledging the sacrifice that military families have made on behalf of the Nation and designating November 20, 1989 as "National Military Families Recognition Day."

SENATE JOINT RESOLUTION 216

At the request of Mr. DURENBERGER, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from Colorado [Mr. WIRTH], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Delaware [Mr. ROTH], the Senator from California [Mr. CRANSTON], the Senator from Wisconsin [Mr. KOHL], the Senator from North Dakota [Mr. CONRAD], the Senator from Massachusetts [Mr. KERRY], the Senator from North Carolina [Mr. SANFORD], the Senator from New Mexico [Mr. DOMENICI], the Senator from Vermont [Mr. JEFFORDS], the Senator from Rhode Island [Mr. PELL], the Senator from Maryland [Ms. MIKULSKI], the Senator from Oregon [Mr. HATFIELD], the Senator from Wyoming [Mr. WALLOP], the Senator from North Carolina [Mr. HELMS], the Senator from California [Mr. WILSON], the Senator from Utah [Mr. HATCH], the Senator from Idaho [Mr. SYMMS], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Washington [Mr. GORTON], the Senator from Arkansas [Mr. PRYOR], the Senator from Wisconsin [Mr. KASTEN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Arizona [Mr. DECONCINI], the Senator from Virginia [Mr. WARNER], and the Senator from Missouri [Mr. BOND] were added as cosponsors of Senate Joint Resolution 216, a joint resolution designating November 12 through 18, 1989, as "Community Foundation Week."

SENATE JOINT RESOLUTION 217

At the request of Mr. WILSON, the names of the Senator from Colorado [Mr. ARMSTRONG], the Senator from Missouri [Mr. BOND], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Mississippi [Mr. COCHRAN], the Senator from New York [Mr. D'AMATO], the Senator from Missouri [Mr. DANFORTH], the Senator from Kansas [Mr. DOLE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Washington [Mr. GORTON], the Senator from Iowa [Mr. GRASSLEY], the Senator from Utah [Mr. HATCH], the Senator from Oregon [Mr. HATFIELD], the Senator from North Carolina [Mr. HELMS], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Wisconsin [Mr. KASTEN], the Senator from Florida [Mr. MACK], the Senator from Arizona [Mr. MCCAIN], the Senator from Idaho [Mr. MCCLURE], the Senator from Oklahoma [Mr. NICKLES], the Senator from Oregon [Mr. PACKWOOD], the Senator from South Dakota [Mr. PRESSLER], the Senator from Alaska [Mr. STEVENS], the Senator from South Carolina [Mr. THURMOND], the Senator from Virginia [Mr. WARNER], the Senator from Washington [Mr. ADAMS], the Senator from Texas [Mr. BENTSEN], the Senator from Oklahoma [Mr. BOREN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Nevada [Mr. BRYAN], the Senator from North Dakota [Mr. BURDICK], the Senator from Arizona [Mr. DECONCINI], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Ohio [Mr. GLENN], the Senator from Alabama [Mr. HEFLIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Massachusetts [Mr. KERRY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Michigan [Mr. LEVIN], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Ohio [Mr. METZENBAUM], the Senator from Maryland [Ms. MIKULSKI], the Senator from New York [Mr. MOYNIHAN], the Senator from Georgia [Mr. NUNN], the Senator from Nevada [Mr. REID], the Senator from Michigan [Mr. RIEGLE], the Senator from North Carolina [Mr. SANFORD], the Senator from Alabama [Mr. SHELBY], the Senator from Illinois [Mr. SIMON], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of Senate Joint Resolution 217, a joint resolution to designate the period commencing February 4, 1990, and ending February 10, 1990, as "National Burn Awareness Week."

SENATE JOINT RESOLUTION 220

At the request of Mr. DOLE, the names of the Senator from Washington [Mr. ADAMS], the Senator from Texas [Mr. BENTSEN], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mr. BURDICK], the Senator from Montana [Mr. BURNS], the Senator from North Dakota [Mr. CONRAD], the Senator from Mississippi [Mr. COCHRAN], the Senator from Illinois [Mr. DIXON], the Senator from New York [Mr. D'AMATO], the Senator from California [Mr. CRANSTON], the Senator from Connecticut [Mr. DODD], the Senator from Minnesota [Mr. DURENBERGER], the Senator from New Mexico [Mr. DOMENICI], the Senator from Utah [Mr. GARN], the Senator from Tennessee [Mr. GORE], the Senator from Washington [Mr. GORTON], the Senator from Iowa [Mr. GRASSLEY], the Senator from Utah [Mr. HATCH], the Senator from Alabama [Mr. HEFLIN], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Hawaii [Mr. INOUYE], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Vermont [Mr. JEFFORDS], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Wisconsin [Mr. KASTEN], the Senator from Massachusetts [Mr. KERRY], the Senator from Nebraska [Mr. KERREY], the Senator from Wisconsin [Mr. KOHL], the Senator from Florida [Mr. MACK], the Senator from Michigan [Mr. LEVIN], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Idaho [Mr. MCCLURE], the Senator from Ohio [Mr. METZENBAUM], the Senator from Maryland [Ms. MIKULSKI], the Senator from Maine [Mr. MITCHELL], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Georgia [Mr. NUNN], the Senator from Oregon [Mr. PACKWOOD], the Senator from South Dakota [Mr. PRESSLER], the Senator from Arkansas [Mr. PRYOR], the Senator from Virginia [Mr. ROBB], the Senator from Delaware [Mr. ROTH], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Wyoming [Mr. SIMPSON], the Senator from South Carolina [Mr. THURMOND], the Senator from Virginia [Mr. WARNER], the Senator from California [Mr. WILSON], and the Senator from Alaska [Mr. STEVENS], were added as cosponsors of Senate Joint Resolution 220, a joint resolution to designate the week of December 3, 1989, through December 9, 1989, as National Autism Week and 1990 as National Silver Anniversary Year for the Autism Society of America.

SENATE CONCURRENT RESOLUTION 55

At the request of Mr. DOLE the name of the Senator from Washington [Mr. ADAMS], was added as a cosponsor of Senate Concurrent Resolution 55, a concurrent resolution to commemorate the volunteers of the United States and the Hugh O'Brian Youth Foundation.

SENATE RESOLUTION 161

At the request of Mr. PELL, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Resolution 161, a resolution expressing the sense of the Senate that long-term care aides make significant contributions to individuals of all ages in the United States and deserve recognition and compensation for their efforts.

SENATE RESOLUTION 197—INSTRUCTIONS TO BUDGET RECONCILIATION CONFEREES

Mr. RUDMAN (for himself and Mr. COHEN) submitted the following resolution, which was considered and agreed to:

S. RES. 197

Resolved, That, in order to ensure that sufficient funds are available to aid the victims of the October 17, 1989, earthquake in California and Hurricane Hugo while not risking additional damage to the economy of the United States by further increasing the federal budget deficit, it is the position of the Senate that the conferees on H.R. 3299, the Omnibus Budget Reconciliation Act of 1989, shall include in the conference report on such bill provisions which will raise additional revenues or decrease spending, above the amounts required to be raised pursuant to House Concurrent Resolution 106, as are necessary to fully offset the additional spending approved by Congress and signed into law by President Bush in Public Law 101-100 and in House Joint Resolution 423 to aid the victims of such earthquake and hurricane.

SENATE RESOLUTION 198—AUTHORIZING TESTIMONY OF SENATOR HOWELL HEFLIN

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution, which was considered and agreed to:

S. RES. 198

Whereas, in the case of *Thomas Hawthorne, et al.* v. *John Baker, et al.*, Civil Action No. CA 89-T-381-S, pending in the United States District Court for the Middle District of Alabama, the plaintiffs have requested the attendance and testimony of Senator Howell Heflin at a deposition;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave: Now, therefore, be it

Resolved, That Senator Howell Heflin is authorized to testify in the case of *Thomas Hawthorne, et al.* v. *John Baker, et al.*, Civil Action No. CA 89-T-381-S, except when his attendance at the Senate is necessary for the performance of his legislative duties.

AMENDMENTS SUBMITTED

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1990

BYRD (AND OTHERS) AMENDMENT NO. 1052

Mr. BYRD (for himself, Mr. HATFIELD, Mr. CRANSTON, Mr. WILSON, Mr. HOLLINGS, and Mr. THURMOND) proposed an amendment to the joint resolution (H.J. Res. 423) making further continuing appropriations for the fiscal year 1990, and for other purposes, as follows:

On page 2, line 2, before the colon, insert the following: "and to remain available until expended".

On page 2, lines 2 and 3, delete the following: "120(f)(1) and".

On page 2, line 4, delete the colon and all after down through "1990" on line 7.

On page 2, line 14, after the word "activities", insert the following: ": *Provided*, That during fiscal year 1990, and within the resources available to carry out Section 7(b) of the Small Business Act, as amended, gross obligations for new direct loans shall not exceed $1,813,250,000".

On page 2, line 20, after the word "authorized", insert the word "Federal".

On page 2, line 21, before the period, insert the following: ": *Provided further*, That of the sums appropriated, $20,000,000 shall be available for activities under the National Earthquake Hazards Reduction Program, including $8,000,000 to the United States Geological Survey for earthquake investigations and $12,000,000 to the Program's four principal agencies for additional efforts to improve earthquake preparedness throughout the United States".

At the end of the resolution, add the following:

"SEC. 109. Section 102(c) shall not apply to sections 107, 108, 109, 110, 111, 112, and 113.

"SEC. 110. Notwithstanding section 120(f) of title 23, United States Code, the Federal share payable on account of any project on the Interstate and other Federal-aid Highway System resulting from Hurricane Hugo, September 1989, or the Loma Prieta earthquake of October 17, 1989, with funds made available to carry out section 125 of such title shall be 100 percent for costs incurred in the 180-day period beginning on the date of such national disaster.

"SEC. 111. Notwithstanding section 301 of title 23, United States Code, projects on the San Francisco-Oakland Bay Bridge in the State of California resulting from the Loma Prieta earthquake of October 17, 1989, shall be eligible for funds authorized to carry out section 125 of such title: *Provided*, That insurance payments shall be deducted from construction costs.

"SEC. 112. Notwithstanding section 157(a)(3) of title 23, United States Code, allocations for emergency relief in accordance with section 125 of such title with respect to projects resulting from Hurricane Hugo, September 1989, or the Loma Prieta earthquake of October 17, 1989, shall be excluded from making the determination of amounts to be allocated among the States pursuant to such section 157(a)(3).

"SEC. 113. The $100,000,000 limitation contained in section 125(a) of title 23, United States Code, on amounts authorized to be expended in any one fiscal year to carry out the provisions of section 125 of such title shall not apply with respect to expenditures for repairs and reconstruction of highways which have been damaged as a result of Hurricane Hugo, September 1989, or the Loma Prieta earthquake of October 17, 1989.".

INVESTIGATION OF EASTERN AIRLINES DISPUTE

DANFORTH (AND OTHERS) AMENDMENT NO. 1053

(Ordered to lie on the table.)

Mr. DANFORTH (for himself, Mr. DOLE, and Mr. GRAMM) submitted an amendment intended to be proposed by him to the bill, H.R. 1231, an act to direct the President to establish an emergency board to investigate and report respecting the dispute between Eastern Airlines and its collective bargaining units as follows:

In lieu of the language proposed to be inserted, insert the following:

SECTION 1. ESTABLISHMENT OF COMMISSION.

There is hereby established a commission (hereinafter in this Act referred to as "the Commission") to investigate and make findings on the adequacy of current laws and procedures relating to the ownership and operation of commercial airlines and the timely and successful resolution of disputes between labor and management.

SEC. 2. MEMBERSHIP.

(a) COMPOSITION.—The Commission shall consist of five members, of which not later than 10 days after the date of enactment of this Act—

(1) one member of the Commission shall be appointed by the President;

(2) one member of the Commission shall be appointed by the Majority Leader of the Senate;

(3) one member of the Commission shall be appointed by the Minority Leader of the Senate;

(4) one member of the Commission shall be appointed by the Speaker of the House of Representatives;

(5) one member of the Commission shall be appointed by the Minority Leader of the House of Representatives.

(b) VACANCIES.—A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(c) CHAIRPERSON.—The President shall designate a chairperson from among the membership.

(d) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the Commission.

SEC. 3. DUTIES.

Not later than 30 days after the enactment of the Act, the Commission shall submit to the President, the Secretary of Transportation, the Secretary of Labor, the Secretary of the Treasury and Congress a written report containing its findings and recommendations concerning—

(a) the powers of departments and agencies of the Executive Branch of the Federal Government to intervene on behalf of the public interest to maintain competitiveness in the aviation industry in light of mergers, acquisitions, leveraged buy-outs, and bankruptcies of air carriers;

(b) the effect of bankruptcy proceedings involving air carriers on employee collective bargaining rights;

(c) the impact of increased concentration and increased foreign ownership of domestic air carriers; and

(d) the effectiveness of the National Mediation Board in resolving disputes under the Railway Labor Act in a fair, equitable and timely manner.

(e) current practices within the airline industry regarding the rehiring of airline employees, including pilots, who have lost their jobs in a labor dispute.

SEC. 4. REPORT AVAILABILITY TO PUBLIC.

The Secretary of Transportation shall make the report available to the public.

SEC. 5. ADMINISTRATION.

(a) INFORMATION.—The heads of executive agencies, the General Accounting Office, and the Congressional Budget Office, to the extent permitted by law, shall provide the commisson with such information as the

Commission may require in carrying out the duties and functions of the Commission.

(b) COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Commission shall serve without any additional compensation for work performed on the Commission.

(2) TRAVEL EXPENSES.—Such members who are private citizens of the United States may be allowed travel expenses, including a per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service under sections 5701 through 5707 of title 5, United States Code.

(c) STAFF.—Subject to the approval of the Secretary of Transportation and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, the Chairperson of the Commission may hire and fix the compensation of such staff personnel as the Commission determines are necessary to carry out duties and functions of the Commission.

(d) PERSONNEL AND SUPPORT SERVICES.—

(1) DEPARTMENT OF TRANSPORTATION.—On request of the Commission, the Secretary of Transportation shall furnish the Commission with such personnel and support services as are necessary to assist the Commission in carrying out the duties and functions of the Commission.

(2) OTHER AGENCIES.—On the request of the Commission, the heads of other executive agencies and the General Accounting Office may furnish the Commission with such personnel and support services as the head of the agency or Office and the Chairperson of the Commission agree are necessary to assist the Commission in carrying out the duties and functions of the Commission.

(3) REIMBURSEMENT.—The Commission shall not be required to pay or reimburse an agency or the Office for personnel and support services provided under this section

(l) RECORDS.—

(1) IN GENERAL.—In accordance with section 12 of the Federal Advisory Committee Act (5 U.SC. App. 2), the Secretary of Transportation shall maintain records of—

(A) the disposition of any funds that may be at the disposal of the Commission; and

(B) the nature and extent of activities of the Commission.

(2) GAO ACCESS.—The Comptroller General of the United States shall have access to such records for the purpose of audit and examination.

(f) EXEMPTION FROM CERTAIN PROVISIONS.—The Commission shall be exempt from sections 7(d), 10(e), 10(f), and 14 of the Federal Advisory Committee Act and sections 4301 through 4308 of title 5 of the United States Code.

SEC. 6. FUNDING.

This Act shall be carried out using funds otherwise available to the Secretary of Transportation for the expenses of advisory committees.

SEC. 7. TERMINATION.

This Act and the Commission shall terminate on the submission of the report required under section 3.

Amend the title so as to read as follows: "To establish a commission to investigate and report relating to the ownership and operation of commercial airlines."

ASSISTANCE TO ENSURE THE SUCCESS OF FREEDOM AND DEMOCRACY IN POLAND

BIDEN (AND OTHERS) AMENDMENT NO. 1054

Mr. BIDEN (for himself, Mr. SIMON, Ms. MIKULSKI, Mr. HUMPHREY, Mr. LIEBERMAN, Mr. LEVIN, Mr. ROBB, Mr. LAUTENBERG, Mr. RIEGLE, Mr. PELL, Mr. METZENBAUM, Mr. BOSCHWITZ, Mr. KERRY, Mr. SARBANES, and Mr. DODD) submitted an amendment to the bill (S. 1582) to amend the Foreign Assistance Act of 1961 to provide for certain forms of assistance to Poland to ensure the success of freedom and democracy in Poland, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Support for East European Democracy (SEED) Act of 1989".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. United States policy in Eastern Europe.
Sec. 3. Program of support for East European Democracy (SEED).

TITLE I—STRUCTURAL ADJUSTMENT

Sec. 101. Multilateral support for structural adjustment in Poland and Hungary.
Sec. 102. Food aid.
Sec. 103. Debt-for-equity swaps and other special techniques.

TITLE II—PRIVATE SECTOR DEVELOPMENT

Sec. 201. Enterprise Funds for Poland and Hungary.
Sec. 202. Labor market transition in Poland and Hungary.
Sec. 203. Technical training for private sector development in Poland and Hungary.
Sec. 204. Peace Corps programs in Poland and Hungary.
Sec. 205. Use of Polish currency generated by agricultural assistance.
Sec. 206. AID administrative expenses.

TITLE III—TRADE AND INVESTMENT

Sec. 301. Eligibility of Poland for Generalized System of Preferences.
Sec. 302. Overseas Private Investment Corporation programs for Poland and Hungary.
Sec. 303. Export-Import Bank programs for Poland and Hungary.
Sec. 304. Trade Credit Insurance Program for Poland.
Sec. 305. Bilateral investment treaties with Poland and Hungary.

TITLE IV—EDUCATIONAL, CULTURAL, AND SCIENTIFIC ACTIVITIES

Sec. 401. Educational and cultural exchanges and sister institutions programs with Poland and Hungary.
Sec. 402. Science and technology exchange with Poland and Hungary.

TITLE V—OTHER ASSISTANCE

Sec. 501. Assistance in support of democratic institutions in Poland and Hungary.
Sec. 502. Environmental initiatives for Poland and Hungary.
Sec. 503. Medical supplies, hospital equipment, and medical training for Poland.
Sec. 504. Facilitating voluntary assistance.

TITLE VI—"TAKE-OFF" TELECOMMUNICATIONS GRANT TO POLAND

Sec. 601. Authorization of appropriations.
Sec. 602. Administration of grant.
Sec. 603. Protection of technology.

TITLE VII—POLICY COORDINATION

Sec. 701. Coordination.
Sec. 702. Public information.

TITLE VIII—PROGRAM ACTION AND REPORTING

Sec. 801. Findings.
Sec. 802. SEED report.
Sec. 803. Termination of assistance.

SEC. 2. UNITED STATES POLICY IN EASTERN EUROPE.

It is the sense of the Congress that the United States should implement, beginning in fiscal year 1990, a concerted program of Support for East European Democracy (SEED), comprising diverse undertakings designed to provide cost-effective assistance to those countries of Eastern Europe which have taken substantive steps toward institutionalizing political democracy and economic pluralism.

SEC. 3. PROGRAM OF SUPPORT FOR EAST EUROPEAN DEMOCRACY (SEED).

Funds and activities under this composite program may be referred to as SEED actions and shall include such activities as the following:

(1) ENTERPRISE FUNDS.—Grants for the establishment of private, nonprofit "Enterprise Funds", which shall be governed by Board of Directors and which shall, under sound economic criteria, undertake loans, grants, equity investments, feasibility studies, technical assistance, training, and other forms of aid to private enterprise activities in the Eastern European country for which each such Fund is established.

(2) LABOR MARKET-ORIENTED TECHNICAL ASSISTANCE.— Technical assistance programs directed at promoting labor market reforms and facilitating economic adjustment.

(3) OVERSEAS PRIVATE INVESTMENT CORPORATION.—Extension of authority for programs and activities of the various Overseas Private Investment Corporation.

(4) GENERALIZED SYSTEM OF PREFERENCES.—Eligibility for trade benefits under the generalized system of preferences.

(5) MEDICAL ASSISTANCE.—Medical aid specifically targeted to overcome severe deficiencies in pharmaceuticals and other basic health supplies.

(6) ASSISTANCE FOR DEMOCRATIC INSTITUTIONS.—Aid designed to assist in the development of legal, legislative, electoral, journalistic, and other institutions of free, pluralist societies.

(7) DEBT REDUCTION AND RESCHEDULING.—Participation in multilateral activities aimed at reducing and rescheduling the international debt of particular East European countries, where reduction and deferral of debt payments can assist the process of political and economic transition.

(8) FOOD AID.—Assistance through the grant and concessional sale of agricultural commodities where such aid can ease critical shortages but not inhibit the growth of domestic markets for agricultural production and distribution.

(9) WORLD BANK AND INTERNATIONAL MONETARY FUND.—United States leadership in sup-

porting World Bank loans designed to modernize industry, agriculture, and infrastructure; and IMF programs designed to stimulate sound economic growth.

(10) CURRENCY STABILIZATION LOANS.—United States leadership in supporting multilateral agreement to provide government-to-government loans for currency stabilization where such loans can reduce inflation and thereby foster conditions necessary for the effective implementation of economic reforms.

(11) CULTURAL CENTERS.—Contributions toward the establishment of American cultural centers that can facilitate educational and cultural exchange and expanded understanding of Western social democracy.

(12) SCIENCE/TECHNOLOGY ASSISTANCE.—Grants for the implementation of bilateral agreements providing for cooperation in science and technology exchange.

(13) MOST-FAVORED-NATION TRADE STATUS.—The granting of temporary or permanent MFN status through the application of criteria and procedures established by the Jackson-Vanik amendment to the Trade Act of 1974.

(14) PEACE CORPS.—Establishment of Peace Corps programs, focused on English language training and other services that can facilitate the transition to a modern, internationally-oriented society.

(15) EXCHANGE ACTIVITIES.—Expanded exchange activities under the Fulbright, International Visitors, and other programs conducted by the United States Information Agency.

(16) SPECIAL "TAKE-OFF" GRANTS.—Grants for special projects, such as the introduction of modern telephone systems and telecommunications technology, which are crucial in establishing the conditions for successful transition to political democracy and economic pluralism.

(17) SISTER INSTITUTIONS.—Establishment of sister institution programs between American and East European schools and universities, towns and cities, and other organizations in such fields as medicine and health care, business management, environmental protection, and agriculture.

(18) ENVIRONMENTAL ASSISTANCE.—Environmental assistance directed at overcoming crucial deficiencies in air and water quality and other determinants of a healthful society.

TITLE I—STRUCTURAL ADJUSTMENT

SEC. 101. MULTILATERAL SUPPORT FOR STRUCTURAL ADJUSTMENT IN POLAND AND HUNGARY.

(a) ACTIONS BY THE UNITED STATES.—To the extent that Poland and Hungary continue to evolve toward pluralism and democracy and to develop and implement comprehensive economic reform programs—

(1) the United States Government shall take the leadership in mobilizing international financial institutions (in particular the International Monetary Fund and the International Bank for Reconstruction and Development and its affiliated institutions in the World Bank group) to provide timely and appropriate resources to help Poland and Hungary;

(2) the United States Government, in conjunction with other member governments of the Organization of Economic Cooperation and Development (OECD) and international financial institutions (including the International Monetary Fund), shall support the implementation of a plan of the Government of Poland to attack hyperinflation and other structural economic problems, address pressing social problems, carry out comprehensive economic reform, and relieve immediate and urgent balance of payments requirements in Poland, through the use of mechanisms such as—

(A) the Exchange Stabilization Fund pursuant to section 5302 of title 31, United States Code, and in accordance with established Department of the Treasury policies and procedures; and

(B) the authority provided in subsection (b) of this section; and

(3) the United States Government shall urge all members of the "Paris Club" of creditor governments and other creditor governments to adopt, and participate in, a generous and early rescheduling program for debts owed by the Government of Poland.

(b) STABILIZATION ASSISTANCE FOR POLAND.—

(1) GENERAL AUTHORITY.—In order to carry out subsection (a)(2), the President is authorized to furnish assistance for Poland, notwithstanding any other provision of law, to assist in the urgent stabilization of the Polish economy and ultimately to promote longer-term economic growth and stability, based on movement toward free market principles. Such assistance may be provided for balance of payments support (including commodity import programs), support for private sector development, or for other activities to further efforts to develop a free market-oriented economy in Poland.

(2) AMOUNT OF ASSISTANCE.—A total of $200,000,000 may be made available under paragraph (3) to carry out this subsection, in addition to amounts otherwise available for such purpose.

(3) SOURCE OF FUNDS.—Funds to carry out this subsection are authorized to be made available in an appropriation Act by—

(A) the appropriation for fiscal year 1990 of any moneys in the Treasury not otherwise appropriated; or

(B) the transfer or use, notwithstanding any other provision of law, of such unobligated funds available in fiscal year 1990 as may be specified in such appropriation Act.

(4) EXTENDED AVAILABILITY OF FUNDS.—Funds made available under paragraph (3) are authorized to be made available for obligation through September 30, 1991.

SEC. 102. FOOD AID.

(a) STRATEGY.—(i) A principal component of the SEED program shall be the provision of food assistance, provided by the United States so as to alleviate crucial shortages that may be created in an East European country by the transition from state-directed controls to a free market economy.

(ii) In order to ensure the necessary quantity and diversity of such food assistance, the United States shall take all appropriate steps to encourage parallel efforts by the European Community and other food surplus nations.

(iii) In participating in such multilateral food assistance, the United States shall seek to strike a balance wherein food aid is supplied in such quantities as will be effective in overcoming severe shortages and dampening inflation but without impeding the development of incentives for private food production and marketing in recipient countries.

(b) ACTIONS BY THE UNITED STATEES.—To the extent that Poland and Hungary continue to evolve toward pluralism and democracy and to develop and implement comprehensive economic reform programs, the United States Government—

(1) shall make available to Poland, in coordination with the European Community, United States agricultural assistance to alleviate immediate food shortages and to facilitate the transition from state-directed controls to a free market economy, while avoiding disincentives to domestic agricultural production and reform; and

(2) in order to ensure the necessary quantity and diversity of such agricultural assistance, shall take all appropriate steps to encourage parallel efforts by the European Community and other agricultural surplus nations.

(c) FY 1990 AGRICULTURAL ASSISTANCE FOR POLAND.—In carrying out subsection (a)(4)(A), for Poland, the President is authorized to provide $125,000,000 in assistance for fiscal year 1990 under section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 and following), and the Food for Progress Act of 1985 (7 U.S.C. 1736o), Such assistance—

(1) to the maximum extent practicable, shall be provided through nongovernmental organizations; and

(2) shall emphasize feed grains.

SEC. 103. DEBT-FOR-EQUITY SWAPS AND OTHER SPECIAL TECHNIQUES.—

(a) The President shall take all appropriate actions to explore and encourage innovative approaches to the reduction of the government-to-government and commercial debt burden of East European countries which have taken substantive steps toward political democracy and economic pluralism.

(b) Notwithstanding any other provision of law, the President shall have authority, under the conditions set forth in subsection (c) to undertake the discounted sale, to private purchasers, of United States Government debt obligations of such East European countries.

(c) The conditions referred to in subsection (b) shall be fulfilled when such sale will facilitate so-called debt-for-equity or debt-for-development swaps wherein such newly privatized debt is exchanged by the new holder of the obligation for local currencies, policy commitments, or other assets needed for development or other economic activities, or for an equity interest in an enterprise theretofore owned by the particular East European government.

TITLE II—PRIVATE SECTOR DEVELOPMENT

SEC. 201. ENTERPRISE FUNDS FOR POLAND AND HUNGARY.

(a) PURPOSES.—(1) The purposes of this section are to promote—

(A) development of the Polish and Hungarian private sectors, including small businesses, the agricultural sector, and joint ventures with United States and host country participants, and

(B) policies and practices conducive to private sector development in Poland and Hungary,

through loans, grants, equity investments, feasibility studies, technical assistance, training, insurance, guarantees, and other measures.

(2) Of the funds made available to the Enterprise Funds (as designated by subsection (d)) under this section or any successor provision of law, not less than 80 percent shall be used for interest-bearing loans repayable to the Enterprise Funds and for investments from which the Funds can be expected to accrue dividends or other share-holder payments.

(b) AUTHORIZATION OF APPROPRIATIONS.—To carry out the purposes specified in subsection (a), there are authorized to be ap-

propriated to the President for the 3-year period beginning October 1, 1989—

(1) $320,000,000 to support the Polish-American Enterprise Fund, as designated pursuant to subsection (d); and

(2) $80,000,000 to support the Hungarian-American Enterprise Fund, as designated pursuant to subsection (d).

Such amounts are authorized to be made available until expended.

(c) NONAPPLICABILITY OF OTHER LAWS.—The funds appropriated under subsection (b) may be made available to the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund and used for the purposes of this section notwithstanding any other provision of law.

(d) DESIGNATION OF ENTERPRISE FUNDS.—

(1) DESIGNATION.—The President is authorized to designate two private, nonprofit organizations as eligible to receive funds and support pursuant to this section upon determining that such organizations have been established for the purposes specified in subsection (a). For purposes of this section, the organizations so designated shall be referred to as the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund (hereinafter in this section referred to as the "Enterprise Funds").

(2) CONSULTATION WITH CONGRESS.—The President shall consult with the leadership of each House of Congress before designating an organization pursuant to paragraph (1).

(3) BOARD OF DIRECTORS.—Each Enterprise Fund shall be governed by a Board of Directors comprised of private citizens of the United States, and citizens of the respective host country, who have demonstrated experience and expertise in those areas of private sector development in which the Enterprise Fund is involved. A majority of the directors shall be citizens of the United States.

(4) ELIGIBILITY OF ENTERPRISE FUNDS FOR GRANTS.—Grants may be made to an Enterprise Fund under this section only if the Enterprise Fund agrees to comply with the requirements specified in this section.

(5) PRIVATE CHARACTER OF ENTERPRISE FUNDS.—Nothing in this section shall be construed to make an Enterprise Fund an agency or establishment of the United States Government, or to make the officers, employees, or members of the Board of Directors of an Enterprise Fund officers or employees of the United States for purposes of title 5, United States Code.

(e) GRANTS TO ENTERPRISE FUNDS.—Funds appropriated to the President pursuant to subsection (b) shall be granted to the Enterprise Funds by the Agency for International Development (hereinafter in this section referred to as the "Agency") to enable the Enterprise Funds to carry out the purposes specified in subsection (a) and for the administrative expenses of each Enterprise Fund.

(f) MATTERS TO BE CONSIDERED BY ENTERPRISE FUNDS.—In carrying out this section, each Enterprise Fund shall take into account such considerations as internationally recognized worker rights and other internationally recognized human rights, environmental factors, United States economic and employment effects, and the likelihood of commercial viability of the activity receiving assistance from the Enterprise Fund.

(g) RETENTION OF INTEREST.—An Enterprise Fund may hold funds granted to it pursuant to this section in interest-bearing accounts, prior to the disbursement of such funds for purposes specified in subsection (a), and may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress.

(h) NONAPPLICABILITY OF OTHER LAWS.—Executive branch agencies may conduct programs and activities and provide services in support of the activities of the Enterprise Funds notwithstanding any other provision of law.

(i) ELIGIBLE PROGRAMS AND PROJECTS.—The Enterprise Funds may provide assistance pursuant to this section only for programs and projects which are consistent with the purposes set forth in subsection (a).

(j) LIMITATION ON PAYMENTS TO ENTERPRISE FUND PERSONNEL.—No part of the funds of either Enterprise Fund shall inure to the benefit of any board member, officer, or employee of such Enterprise Fund, except as salary or reasonable compensation for services.

(k) INDEPENDENT PRIVATE AUDITS.—The accounts of each Enterprise Fund shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of each such independent audit shall be included in the annual report required by this section.

(l) GAO AUDITS.—The financial transactions undertaken pursuant to this section by each Enterprise Fund may be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States, so long as the Enterprise Fund is in receipt of United States Government grants.

(m) RECORDKEEPING REQUIREMENTS.—The Enterprise Funds shall ensure—

(1) that each recipient of assistance provided through the Enterprise Funds under this section keeps—

(A) separate accounts with respect to such assistance;

(B) such records as may be reasonably necessary to disclose fully the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

(C) such other records as will facilitate an effective audit; and

(2) that the Enterprise Funds, or any of their duly authorized representatives, have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Enterprise Funds under this section.

(n) ANNUAL REPORTS.—Each Enterprise Fund shall publish an annual report, which shall include a comprehensive and detailed description of the Enterprise Fund's operations, activities, financial condition, and accomplishments under this section for the preceding fiscal year. This report shall be published not later than January 31 each year, beginning in 1991.

SEC. 202. LABOR MARKET TRANSITION IN POLAND AND HUNGARY.

(a) TECHNICAL ASSISTANCE.—The Secretary of Labor (hereinafter in this section referred to as the "Secretary"), in consultation with representatives of labor and business in the United States, shall—

(1) provide technical assistance to Poland and Hungary for the implementation of labor market reforms; and

(2) provide technical assistance to Poland and Hungary to facilitate adjustment during the period of economic transition and reform.

(b) TYPES OF TECHNICAL ASSISTANCE AUTHORIZED.—In carrying out subsection (a), the Secretary is authorized to provide technical assistance regarding policies and programs for training and retraining, job search and employment services, unemployment insurance, occupational safety and health protection, labor-management relations, labor statistics, analysis of productivity constraints, entrepreneurial support for small businesses, market-driven systems of wage and income determinations, job creation, employment security, the observance of internationally recognized worker rights (including freedom of association and the right to organize and bargain collectively), and other matters that the Secretary may deem appropriate regarding free labor markets and labor organizations.

(c) ADMINISTRATIVE AUTHORITIES.—In carrying out subsection (a), the Secretary is authorized to do the following:

(1) Accept in the name of the Department of Labor, and employ or dispose of in furtherance of the purposes of this section, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise. Gifts and donations of property which are no longer required for the discharge of the purposes of this section shall be reported to the Administrator of General Services for transfer, donation, or other disposal in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 and following).

(2) Accept voluntary and uncompensated services notwithstanding section 1342 of title 31, United States Code.

(3) Enter into arrangements or agreements with appropriate departments, agencies, and establishments of Poland and Hungary.

(4) Enter into arrangements or agreements with appropriate private and public sector United States parties, and international organizations.

(d) CONSULTATION WITH APPROPRIATE OFFICERS.—In carrying out the responsibilities established by this section, the Secretary shall seek information and advice from, and consult with, appropriate officers of the United States.

(e) CONSULTATION WITH LABOR AND BUSINESS REPRESENTATIVES.—For purposes of this section, consultation between the Secretary and United States labor and business representatives shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(f) DELEGATION OF RESPONSIBILITIES.—The Secretary shall delegate the authority to carry out the programs authorized by this section to the head of the Bureau of International Labor Affairs of the Department of Labor.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Labor for the 3-year period beginning October 1, 1989, to carry out this section—

(1) $4,000,000 for technical assistance to Poland; and

(2) $1,000,000 for technical assistance to Hungary.

SEC. 203. TECHNICAL TRAINING FOR PRIVATE SECTOR DEVELOPMENT IN POLAND AND HUNGARY.

(a) TECHNICAL TRAINING PROGRAM.—The Agency for International Development shall develop and implement a program for extending basic agribusiness, commercial, entrepreneurial, financial, scientific, and technical skills to the people of Poland and Hungary to enable them to better meet their needs and develop a market economy. This program shall include management training and agricultural extension activities.

(b) PARTICIPATION BY ENTERPRISE FUNDS AND OTHER AGENCIES AND ORGANIZATIONS.—In carrying out subsection (a), the Agency for International Development may utilize the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund (as designated pursuant to section 201(d)) and other appropriate Government and private agencies, programs, and organizations such as—

(1) the Department of Agriculture;

(2) the Department of Commerce;

(3) the Farmer-to-Farmer Program under section 406(a) (1) and (2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736(a) (1) and (2));

(4) the International Executive Service Corps;

(5) the Foundation for the Development of Polish Agriculture;

(6) the World Council of Credit Unions; and

(7) other United States, Polish, and Hungarian private and voluntary organizations, private sector entities, and free trade unions, including the Solidarity union.

(c) NONAPPLICABILITY OF OTHER PROVISIONS OF LAW.—Assistance provided pursuant to subsection (a) under the authorities of part I of the Foreign Assistance Act of 1961 may be provided notwithstanding any other provision of law.

(d) AUTHORIZATION OF APPROPRIATIONS.—For purposes of implementing this section, there are authorized to be appropriated $5,000,000 for the 3-year period beginning October 1, 1989, to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance), in addition to amounts otherwise available for such purposes.

(e) LIMITATION WITH RESPECT TO FARMER-TO-FARMER PROGRAM.—Any activities carried out pursuant to this Act through the Farmer-to-Farmer Program under section 406(a) (1) and (2) of the Agricultural Trade Development and Assistance Act of 1954 shall be funded with funds authorized to be appropriated by this Act and local currencies made available under section 205, and shall not be funded with funds made available pursuant to section 1107 of the Food Security Act of 1985 (7 U.S.C. 1736 note) or a similar, subsequent provision of law.

SEC. 204. PEACE CORPS PROGRAMS IN POLAND AND HUNGARY.

There are authorized to be appropriated to carry out programs in Poland and Hungary under the Peace Corps Act, $3,000,000 for the 3-year period beginning October 1, 1989, in addition to amounts otherwise available for such purposes. Such programs shall give priority to using Peace Corps volunteers to extend the technical skills described in section 203(a) to the people of Poland and Hungary, using the Associate Volunteer Program to the extent practicable.

SEC. 205. USE OF POLISH CURRENCY GENERATED BY AGRICULTURAL ASSISTANCE.

(a) ADDITIONAL ASSISTANCE FOR POLAND.—A portion of the agricultural commodities described in subsection (c) may be made available and sold or bartered in Poland to generate local currencies to be used—

(1) to complement the assistance for Poland authorized by sections 101(a)(4)(A), 201, and 203 of this Act, and

(2) to support the activities of the joint commission established pursuant to section 2226 of the American Aid to Poland Act of 1988 (7 U.S.C. 1431 note),

notwithstanding section 416(b)(7) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)) or any other provision of law.

(b) EMPHASIS ON AGRICULTURAL DEVELOPMENT.—The uses of local currencies generated under this section should emphasize the development of agricultural infrastructure, agriculture-related training, and other aspects of agricultural development in Poland.

(c) COMMODITIES SUBJECT TO REQUIREMENTS.—Subsection (a) applies with respect to agricultural commodities made available for Poland for fiscal years 1990, 1991, and 1992 under section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 and following), and the Food for Progress Act of 1985 (7 U.S.C. 1736o).

(d) OTHER USES NOT PRECLUDED.—The uses of agricultural commodities and local currencies specified in subsection (a) are in addition to other uses authorized by law.

SEC. 206. AID ADMINISTRATIVE EXPENSES.

For the purpose of carrying out its functions under this Act, the Agency for International Development may use up to $500,000 each fiscal year of the funds authorized to be appropriated by this Act that are appropriated to the Agency.

TITLE III—TRADE AND INVESTMENT

SEC. 301. ELIGIBILITY OF POLAND FOR GENERALIZED SYSTEM OF PREFERENCES.

Subsection (b) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by striking out "Poland" in the table within such subsection.

SEC. 302. OVERSEAS PRIVATE INVESTMENT CORPORATION PROGRAMS FOR POLAND AND HUNGARY.

(a) ELIGIBILITY OF POLAND AND HUNGARY FOR OPIC PROGRAMS.—Section 239(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2199(f)) is amended by inserting ", Poland, Hungary," after "Yugoslavia".

(b) ENHANCEMENT OF NONGOVERNMENTAL SECTOR.—In accordance with its mandate to foster private initiative and competition and enhance the ability of private enterprise to make its full contribution to the development process, the Overseas Private Investment Corporation shall support projects in Poland and Hungary which will result in enhancement of the nongovernmental sector and reduction of state involvement in the economy.

SEC. 303. EXPORT-IMPORT BANK PROGRAMS FOR POLAND AND HUNGARY.

(a) AUTHORITY TO EXTEND CREDIT TO POLAND AND HUNGARY.—Notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(2)), the Export-Import Bank of the United States may guarantee, insure, finance, extend credit, and participate in the extension of credit in connection with the purchase or lease of any product by the Hungarian People's Republic, or any agency or national thereof, or by the Polish People's Republic, or any agency or national thereof.

(b) PRIVATE FINANCIAL INTERMEDIARIES TO FACILITATE EXPORTS TO POLAND.—Consistent with the provisions of the Export-Import Bank Act of 1945 (12 U.S.C. 635 and following), the Export-Import Bank of the United States shall work with private financial intermediaries in Poland to facilitate the export of goods and services to Poland.

SEC. 304. TRADE CREDIT INSURANCE PROGRAM FOR POLAND.

(a) ESTABLISHMENT OF PROGRAM.—Chapter 2 of part I of the Foreign Assistance Act of 1961 is amended by inserting after section 224 (22 U.S.C. 2184) the following new section:

"SEC. 225. TRADE CREDIT INSURANCE PROGRAM FOR POLAND.

"(a) GENERAL AUTHORITY.—

"(1) ASSURANCE TO EXPORT-IMPORT BANK OF REPAYMENT.—The President is authorized to provide guarantees to the Bank for liabilities described in paragraph (2) in order to satisfy the requirement of section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) that the Bank have reasonable assurance of repayment.

"(2) LIABILITIES WHICH MAY BE GUARANTEED.—The liabilities that may be guaranteed under paragraph (1) are liabilities incurred by the Bank in connection with guarantees or insurance provided under the Export-Import Bank Act of 1945 for financing for transactions involving the export of goods and services for the use of the private sector in Poland.

"(b) GUARANTEES AVAILABLE ONLY FOR SHORT-TERM GUARANTEES AND INSURANCE.—Guarantees provided under subsection (a) shall be for short-term guarantees and insurance extended by the Bank which shall be repayable within a period not to exceed one year from the date of arrival at the port of importation of the goods and services covered by such guarantees or insurance.

"(c) AGREEMENT ON CRITERIA AND PROCEDURES.—Guarantees or insurance extended by the Bank and guaranteed pursuant to subsection (a) shall be provided by the Bank in accordance with criteria and procedures agreed to by the Administrator and the Bank.

"(d) RESERVE FUND.—The agreement referred to in subsection (c) shall also provide for the establishment of a reserve fund by the administering agency, with such funds made available to the reserve as the Administrator deems necessary to discharge liabilities under guarantees provided under subsection (a).

"(e) DISCHARGE OF LIABILITIES.—

"(1) FUNDS WHICH MAY BE USED.—Such amounts of the funds made available to carry out chapter 4 of part II of this Act (relating to the economic support fund) as the President determines are necessary may be made available to discharge liabilities under guarantees entered into under subsection (a).

"(2) CREDITING OF SUBSEQUENT PAYMENTS.—To the extent that any of the funds made available pursuant to paragraph (1) are paid out for a claim arising out of liabilities guaranteed under subsection (a), amounts received after the date of such payment, with respect to such claim, shall be credited to the reserve fund established pursuant to subsection (d), shall be merged with the funds in such reserve, and shall be available for the purpose of payments by the Administrator to the Bank for guarantees under subsection (a).

"(f) APPROPRIATIONS ACTION REQUIRED.—Commitments to guarantee under subsection (a) are authorized only to the extent and in the amounts provided in advance in appropriations Acts.

"(g) LIMITATION ON OUTSTANDING COMMITMENTS.—The aggregate amount of outstanding commitments under subsection (a) may not exceed $200,000,000 of contingent liability for loan principal during any fiscal year.

"(h) BIANNUAL REPORTS TO CONGRESS.—Every 6 months, the Administrator and the President of the Bank shall prepare and transmit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report on the amount and extension of guarantees and insurance provided by the Bank and guaranteed under this section during the preceding 6-month period.

"(i) ADMINISTRATIVE AND TECHNICAL ASSISTANCE.—The Bank shall provide, without reimbursement, such administrative and technical assistance to the administering agency as the Bank and the Administrator determine appropriate to assist the administering agency in carrying out this section.

"(j) FEES AND PREMIUMS.—The Bank is authorized to charge fees and premiums, in connection with guarantees or insurance guaranteed by the administering agency under subsection (a), that are commensurate (in the judgment of the Bank) with the Bank's administrative costs and the risks covered by the agency's guarantees. Any amounts received by the Bank in excess of the estimated costs incurred by the Bank in administering such guarantees or insurance—

"(1) shall be credited to the reserve fund established pursuant to subsection (d),

"(2) shall be merged with the funds in such reserve, and

"(3) shall be available for the purpose of payments by the administering agency to the Bank for guarantees under subsection (a).

"(k) RESTRICTIONS NOT APPLICABLE.—Prohibitions on the use of foreign assistance funds for assistance for Poland shall not apply with respect to the funds made available to carry out this section.

"(l) EXPIRATION OF AUTHORITY.—The President may not enter into any commitments to guarantee under subsection (a) after September 30, 1992.

"(m) DEFINITION.—For purposes of this section—

"(1) the term 'administering agency' means the Agency for International Development;

"(2) the term 'Administrator' means the Administrator of the Agency for International Development; and

"(3) the term 'Bank' means the Export-Import Bank of the United States.".

(b) CONFORMING AMENDMENT.—Section 224 of that Act is amended by inserting "FOR CENTRAL AMERICA" after "PROGRAM" in the section caption.

SEC. 305. BILATERAL INVESTMENT TREATIES WITH POLAND AND HUNGARY.

The Congress urges the President to seek bilateral investment treaties with Poland and Hungary in order to establish a more stable legal framework for United States investment in those countries.

TITLE IV—EDUCATIONAL, CULTURAL, AND SCIENTIFIC ACTIVITIES

SEC. 401. EDUCATIONAL AND CULTURAL EXCHANGES AND SISTER INSTITUTIONS PROGRAMS WITH POLAND AND HUNGARY.

(a) EDUCATIONAL AND CULTURAL EXCHANGES.—The United States should—

(1) expand its participation in educational and cultural exchange activities with Poland and Hungary, using the full array of existing government-funded and privately-funded programs, with particular emphasis on the J. William Fulbright Educational Exchange Program, the International Visitors Program, the Samantha Smith Memorial Exchange Program, the exchange programs of the National Academy of Sciences, youth and student exchanges through such private organizations as The Experiment in International Living, The American Field Service Committee, and Youth for Understanding, and research exchanges sponsored by the International Research and Exchanges Board (IREX); and

(2) take all appropriate action to establish binational Fulbright commissions with Poland and Hungary in order to facilitate and enhance academic and scholarly exchanges with those countries.

(b) SISTER INSTITUTIONS PROGRAMS.—The United States Government encourages the establishment of "sister institution" programs between American and Polish organizations and between American and Hungarian organizations, including such organizations as institutions of higher education, cities and towns, and organizations in such fields as medicine and health care, business management, environmental protection, and agricultural research and marketing.

SEC. 402. SCIENCE AND TECHNOLOGY EXCHANGE WITH POLAND AND HUNGARY.

(a) AGREEMENT WITH POLAND.—There are authorized to be appropriated to the Secretary of State for purposes of continuing to implement the 1987 United States-Polish science and technology agreement—

(1) $1,500,000 for fiscal year 1990,

(2) $2,000,000 for fiscal year 1991, and

(3) $2,000,000 for fiscal year 1992.

(b) AGREEMENT WITH HUNGARY.—There are authorized to be appropriated to the Secretary of State for purposes of implementing the 1989 United States-Hungarian science and technology agreement—

(1) $500,000 for fiscal year 1990,

(2) $1,000,000 for fiscal year 1991, and

(3) $1,000,000 for fiscal year 1992.

(c) DEFINITION OF AGREEMENTS BEING FUNDED.—For purposes of this section—

(1) the term "1987 United States-Polish science and technology agreement" refers to the agreement concluded in 1987 by the United States and Poland, entitled "Agreement Between the Government of the United States of America and the Polish People's Republic on Cooperation in Science and Technology and Its Funding", together with annexes relating thereto; and

(2) the term "1989 United States-Hungarian science and technology agreement" refers to the agreement concluded in 1989 by the United States and Hungary, entitled "Agreement Between the Government of the United States of America and the Government of the Hungarian People's Republic for Scientific and Technology Cooperation", together with annexes relating thereto.

TITLE V—OTHER ASSISTANCE

SEC. 501. ASSISTANCE IN SUPPORT OF DEMOCRATIC INSTITUTIONS IN POLAND AND HUNGARY.

(a) AUTHORIZATION OF ASSISTANCE.—In addition to amounts otherwise available for such purposes, there are authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) $4,000,000 for the 3-year period beginning October 1, 1989, which shall be available only for the support of democratic institutions and activities in Poland and Hungary.

(b) NONAPPLICABILITY OF OTHER LAWS.—Assistance may be provided under this section notwithstanding any other provision of law.

SEC. 502. ENVIRONMENTAL INITIATIVES FOR POLAND AND HUNGARY.

(a) EPA ACTIVITIES GENERALLY.—In addition to specific authorities contained in any of the environmental statutes administered by the Environmental Protection Agency, the Administrator of that Agency (hereinafter in this section referred to as the "Administrator") is authorized to undertake such educational, policy training, research, and technical and financial assistance, monitoring, coordinating, and other activities as the Administrator may deem appropriate, either alone or in cooperation with other United States or foreign agencies, governments, or public or private institutions, in protecting the environment in Poland and Hungary.

(b) EPA ACTIVITIES IN POLAND.—The Administrator shall cooperate with Polish officials and experts to—

(1) establish an air quality monitoring network in the Krakow metropolitan area as a part of Poland's national air monitoring network; and

(2) improve both water quality and the availability of drinking water in the Krakow metropolitan area.

(c) EPA ACTIVITIES IN HUNGARY.—The Administrator shall work with other United States and Hungarian officials and private parties to establish and support a regional center in Budapest for facilitating cooperative environmental activities between governmental experts and public and private organizations from the United States and Eastern and Western Europe.

(d) FUNDING OF EPA ACTIVITIES.—To carry out subsections (a), (b), and (c), the Administrator of the Environmental Protection Agency is authorized to use, during the 3-year period beginning October 1, 1989, up to $10,000,000 of the funds made available to the Environmental Protection Agency during such period.

(e) CONTENTS OF REPORT.—The report required by title VIII shall include the following:

(1) ASSESSMENT OF PROBLEMS.—An overall assessment of the environmental problems facing Poland and Hungary, including—

(A) a relative ranking of the severity of the problems and their effects on both human health and the general environment;

(B) a listing of the geographical areas of each country that have suffered the heaviest environmental damage, and a description of the source and scope of the damage; and

(C) an assessment of the environmental performance of leading industrial polluters in those countries and the expected effect on pollution levels of industrial modernization;

(2) PRIORITIES AND COSTS FOR ACTION.—An analysis of the priorities each country should assign in addressing its environmental problems, and an estimate of the capital and human resources required to undertake a comprehensive program of environmental protection;

(3) ROLE OF UNITED STATES AND MULTILATERAL ASSISTANCE.—A statement of strategy for United States assistance for the next five years in Poland and Hungary, including—

(A) recommendations for appropriate levels and forms of bilateral financial and technical assistance;

(B) recommendations concerning United States participation in cooperative multilateral undertakings;

(C) an assessment of the feasibility of debt-for-nature swaps as a technique of environmental protection in each country; and

(D) recommendations for minimizing further environmental damage to Krakow, and for the protection and restoration of historic sites in that city.

SEC. 503. MEDICAL SUPPLIES, HOSPITAL EQUIPMENT, AND MEDICAL TRAINING FOR POLAND.

(a) AUTHORIZATION OF ASSISTANCE.—In addition to amounts otherwise available for such purposes, there are authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) $4,000,000 for the 3-year period beginning October 1, 1989, which shall be available only—

(1) for providing medical supplies and hospital equipment to Poland through private and voluntary organizations, including for the expenses of purchasing, transporting, and distributing such supplies and equipment, and

(2) for training of Polish medical personnel.

(b) NONAPPLICABILITY OF OTHER LAWS.—Assistance may be provided under this section notwithstanding any other provision of law.

SEC. 504. FACILITATING VOLUNTARY ASSISTANCE.

(a) It is the sense of the Congress that the President should take all possible steps to encourage across the Nation a massive outpouring of private contributions of money and nonperishable foods, to be collected by civic, religious, school, and youth organizations, for assistance to Poland and to Rumanian refugees in Hungary.

(b) For the transport to Poland of nonfinancial private contributions, the President should—

(1) draw upon all available authorities, including Section 1540 of the 1985 Defense Authorization Act, to use resources of the National Guard and the Department of Defense (the "Denton Amendment"), and should request any additional authorities as needed; and

(2) encourage maximum participation by such recognized private voluntary organizations as the Polish-American Congress.

TITLE VI—"TAKE-OFF" TELECOMMUNICATIONS GRANT TO POLAND

SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the President for fiscal year 1990 $25,000,000, which amount shall be available only for a grant to provide immediate support for the modernization of Poland's telephone and telecommunications infrastructure by means of a competitively-bid contract or contracts to a United States corporation or corporations.

SEC. 602. ADMINISTRATION OF GRANT.

(a) IN GENERAL.—The President shall provide the grant authorized in section 601 as a cash transfer, a grant administered by the Agency for International Development, or any other means determined by the President to be most expeditious and effective in assisting Poland to create the infrastructure necessary for the development of a substantial private business sector.

(b) DESIGNATION OF GRANT RECIPIENT.—In accordance with the criteria set forth in subsection (a), the President may designate as the recipient of the grant the Government of Poland, the Polish-American Enterprise Fund, or some other private sector entity.

SEC. 603. PROTECTION OF TECHNOLOGY.

In providing the grant authorized in section 601, the President shall take all steps necessary to ensure the protection of militarily-significant telecommunications technology, in accordance with criteria and restrictions normally applied by the United States Government.

TITLE VII—POLICY COORDINATION AND "SEED" INFORMATION SYSTEM

SEC. 701. COORDINATION.

The President shall designate within the Department of State a Coordinator of SEED Program Action, who shall be directly responsible for overseeing and coordinating all programs described in this chapter and all other activities of the United States Government conducted to further the purposes set forth in this chapter.

SEC. 702. PUBLIC INFORMATION.

The President shall take such steps as may be necessary to establish, using existing agencies of the United States Government and acting in cooperation with the Governments of Poland and Hungary, a SEED information center system, which shall serve as a central clearinghouse mechanism for information relating to business needs and opportunities in Eastern Europe and voluntary assistance to such nations.

(b) Such system shall be organized, among other purposes, to encourage economically sound proposals to the Polish-American and Hungarian-American Enterprise Funds, and other sources of finance for the development of private enterprise in Eastern Europe.

(c) Such system shall be based jointly in Washington and, until expanded, in Warsaw and Budapest.

TITLE VIII—PROGRAM ACTION AND REPORTING

SEC. 801. FINDINGS.

Congress finds that—

(1) in order to provide the President with maximum flexibility and opportunity for innovation in implementation of the SEED Program, this Act sets forth general goals and modalities for the support of democracy and economic pluralism in Eastern Europe;

(2) prompt United States action in devising specific measures to achieve the goals outlined in this Act will be crucial in generating the public awareness, and the international commitment, necessary for American leadership of a successful multilateral program of assistance in Eastern Europe; and

(3) clear-cut delineation of such United States actions at an early date is integral to American leadership of this effort.

SEC. 802. SEED REPORT.

Not later than January 20, 1990, the President shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a comprehensive "Report on the United States Program of Support for East European Democracy (SEED)", which shall include a full description of—

(1) actions regarding the establishment and operations of the Polish-American and Hungarian-American Enterprise Funds;

(2) actions to assist the process of labor market reform and economic adjustment in Poland and Hungary;

(3) actions to assist in environmental protection in Eastern Europe, and other information set forth in section 502;

(4) actions to relieve the debt burden on Poland, including the utilization of debt-for-equity swaps;

(5) actions to assist Poland in creating a modern telephone and telecommunications system;

(6) actions to energize and facilitate a national movement of voluntary assistance to Poland;

(7) actions to stimulate in various fields the establishment of "sister institutions" in the United States and Eastern Europe;

(8) actions to ensure effective coordination of SEED activities within the executive branch;

(9) actions to ensure, through the use of existing Executive branch agencies, the effective operation of a SEED information system to facilitate initiatives in private enterprise and voluntary assistance in Eastern Europe.

(10) actions to assist the development of private enterprise in Poland and Hungary through utilization of United States tariff policy, the programs of the Overseas Private Investment Corporation and the Export-Import Bank, and bilateral investment treaties;

(11) actions to implement and expand effective programs of scientific, educational, and cultural exchange in Eastern Europe;

(12) actions to assist Poland with medical supplies and training;

(13) actions to assist Poland and Hungary through programs designed to support the development of democratic institutions;

(14) actions to assist Hungary and Poland through programs of the Peace Corps;

(15) actions to provide United States food assistance to Poland as part of an effective and balanced multilateral effort; and

(16) actions to participate in the effective use of multilateral diplomacy, through agencies including the Paris Club, the World Bank, and the International Monetary Fund to assist Poland's efforts to dismantle that country's system of state controls and subsidies and to institutionalize political democracy and economic pluralism.

SEC. 803. TERMINATION OF ASSISTANCE.

In the event that the President certifies to the Congress that the course of democratization in Poland or Hungary since the date of enactment of this Act has been significantly reversed, then this Act, including all authority to provide assistance thereunder, shall terminate.

Amend the title so as to read "A bill to promote political democracy and economic pluralism in Poland and Hungary by assisting those nations during a critical period of transition and abetting the development in those nations of private business sectors, labor market reforms, and democratic institutions; to establish, through these steps, the framework for a composite program of support for East European Democracy; and for other purposes.".

DODD (AND OTHERS) AMENDMENT NO. 1055

Mr. DODD (for himself, Mr. HELMS, and Mr. GRAHAM) proposed an amendment to the bill S. 1582, supra, as follows:

At the appropriate place insert the following:

Congress finds that:

On October 23, 1989, in a public ceremony in Budapest, the acting President of Hungary declared the State to be an independent and democratic Hungarian Republic;

The public ceremony was held on the 33d anniversary of Hungary's 1956 revolution

that was bloodily suppressed by Soviet troops;

The public ceremony was held on the same Kossuth Square where the first mass rally of the 1956 revolution was held;

As a further symbol of Hungary's faithfulness to the legacy of 1956, the declaration by the acting President was made from the same balcony from which Imre Nagy, the martyred Prime Minister of the revolutionary government of 1956, addressed the citizens of Budapest 33 years before;

The heroic revolt and freedom fight of the Hungarian people in 1956 was an inspiring event in 20th century history reminding a generation of Americans of the sacrifices people are willing to undertake as the price of liberty; and

The present efforts of the Hungarian people to validate the legacy of 1956 by establishing a free, independent, and prosperous Hungary have gained the sympathy and admiration of the American people: Now, therefore, be it determined that—

(1) the Senate congratulates the people of Hungary on the declaration of the democratic Hungarian Republic; and

(2) the Senate expresses its desire to enhance the friendly relations between the peoples of Hungary and the United States and between their respective governments.

DOLE (AND OTHERS) AMENDMENT NO. 1056

Mr. DOLE (for himself, Mr. DOMENICI, Mr. MURKOWSKI, Mr. WALLOP, Mr. LUGAR, Mr. ROTH, Mr. MACK, Mr. MCCONNELL, Mr. HELMS, Mrs. KASSEBAUM, Mr. SIMPSON, Mr. COATS, Mr. D'AMATO, Mr. KASTEN, Mr. GORTON, Mr. CHAFEE, Mr. COCHRAN, Mr. MCCAIN, Mr. WARNER, Mr. HATCH, and Mr. MCCLURE) proposed an amendment, which was subsequently modified, to the bill S. 1582, supra, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. (a) This act may be cited as the "Poland and Hungary Democracy and Free Enterprise Act of 1989."

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents
Sec. 2. Findings and purpose
Sec. 3. Goals of United States policy
Sec. 4. Objectives for United States assistance
TTITLE I—EMERGENCY FOOD AID AND COMMODITY IMPORT ASSISTANCE
Sec. 101. Food aid
Sec. 102. Support for emergency balance of payments and importation assistance
Sec. 103. Medical supplies, hospital equipment, and medical training for Poland
TITLE II—ECONOMIC STABILIZATION
Sec. 201. Multilateral support for structural adjustment in Poland
TITLE III—ECONOMIC RESTRUCTURING AND PRIVATIZATION
Sec. 301. Enterprise Funds for Poland and Hungary
Sec. 302. Eligibility of Poland for Generalized System of Preference
Sec. 303. Overseas Private Investment Corporation
Sec. 304. Ineligibility of certain entities
Sec. 305. Assistance in support of democracy
Sec. 306. Educational and cultural exchanges
Sec. 307. Labor market transition technical assistance
Sec. 308. Environmental assistance
TITLE IV—MISCELLANEOUS PROVISIONS
Sec. 401. Reports of Congress
Sec. 402. Government oversight
Sec. 403. Cessation of aid

FINDINGS AND PURPOSE

SEC. 2. The Congress finds that—

(a) two centuries have passed since Kazimierz Pulaski and Tadeusz Kosciuszko came from Poland to help guide our soldiers through the darkest hours of the American Revolution; and

(b) one century has passed since Joseph Pulitzer became the first Hungarian-American Member of Congress; and

(c) millions of Americans of Hungarian and Polish origin contributed greatly to this nation's prosperity at times when both Poland and Hungary were struggling against foreign tyranny; and

(d) since 1945, the United States has sought to help the people of Poland and Hungary emerge from the shackles of captivity; and

(e) for the first time since World War II, the people of Poland have held free elections resulting in a coalition government led by a non-Communist prime minister, and Hungary is preparing for free and fair democratic elections; and

(f) these historic changes, which reflect the desire of the peoples of Poland and Hungary for independence and self-determination, present the United States and every democratic society with challenges and opportunities to advance the causes of freedom and peace; and

(g) the Government of Poland has outlined an economic restructuring plan for Poland that is phased to address in turn Poland's immediate food aid and importation needs, its economic stabilization and currency reform plan, and its long term economic restructuring and privatization plan; and

(h) the fundamental task of political and economic reconstruction by the governments of Poland and Hungary is to re-enfranchise the Polish and Hungarian citizenry both economically and politically.

GOALS OF UNITED STATES POLICY

SEC. 3. (a) The United States is determined to support the transitions toward democracy in Poland and Hungary.

(b) United States assistance to Poland and Hungary will encourage bold new policies that will make possible sustained economic growth; it will not be used as a palliative to support the existing policies which discourage individual initiative, produce capital flight, and subsidize environmentally destructive or wasteful use of resources.

(c) The President is commended for proposing an economic assistance package for Poland that is a realistic response to Poland's real needs, and consistent with the goal of encouraging bold new economic and social policies in Poland and Hungary.

OBJECTIVES OF UNITED STATES ASSISTANCE

SEC. 4. In order to ensure that United States assistance to Poland and Hungary supports the development of economic freedom and opportunities for the people of those countries, the objectives of the United States assistance to Poland and Hungary shall be the realization of the following rights by the citizens of Poland and Hungary:

(1) SECURITY OF PROPERTY AND CONTRACT.—the right to legally acquire private property in all its forms, including secure legal title to land.

(2) A REGULATORY SYSTEM WHICH FACILITATES ENTREPRENEURIAL ACTIVITY.—freedom from onerous regulations which have forced economic and entrepreneurial activity into the informal, or unregistered, economy should be eliminated.

(3) DISMANTLING OF WAGE AND PRICE CONTROLS.—a market for Polish and Hungarian industries and goods that is not distorted by government-mandated wages or prices.

(4) AN OPEN TRADE POLICY.—freedom from market-distorting restrictions or subsidies on imports and exports.

(5) LIBERALIZATION OF INVESTMENT AND CAPITAL FLOWS.—freedom from limitations on ownership of productive enterprises by both domestic and foreign investors, as well as freedom from restrictions on removal of foreign or domestic capital from Poland and Hungary.

(6) PRIVATIZATION OF THE STATE SECTOR.—The ignition of activity by Polish and Hungarian investors and entrepreneurs should be facilitated through the privatization of government enterprises.

(7) MODERATION OF THE TAX BURDEN.—relief from the burden of the existing punitive levels of various taxes.

(8) DEVELOPMENT OF A PRIVATE BANKING STRUCTURE.—secure rights to own and operate banks and other financial service firms, as well as unrestricted access to private sources of credit.

(9) INDIVIDUAL INVESTMENT IN THE PRIVATE SECTOR.—access to financial instruments through which individuals may invest in the private sector.

TITLE I—EMERGENCY FOOD AID AND COMMODITY IMPORT ASSISTANCE

SEC. 101. FOOD AID.

(a) Notwithstanding any other provision of law, Poland shall be eligible for programs under the Agricultural Act of 1949, the Agricultural Trade Development and Assistance Act of 1954, and the Food Security Act of 1985.

(b) The President is authorized for fiscal year 1990, under the programs cited in paragraph (a), to provide $112,500,000 of commodities to appropriate Polish entities.

(c) The provision of such commodities shall be targeted toward elements of the Polish population most vulnerable to hunger and malnutrition, in particular the infirm, the elderly and children.

(d) It is the intent of Congress that the President take all appropriate precautions to insure that the provision of commodities does not interfere with commercial export programs and that the selection of commodities and delivery schedules do not act to the detriment of Polish agricultural production.

(e) In carrying out the programs provided for in this section, the President shall consult with other food and agricultural aid donors to Poland to insure maximum benefit to the Polish people.

(f) Such commodities shall be distributed through existing conduit organizations with an established network inside Poland, including but not limited to the Catholic Church, the Polish Red Cross, and the Polish-American Congress Charitable Foundation.

SEC. 102. SUPPORT FOR EMERGENCY BALANCE OF PAYMENTS AND IMPORTATION ASSISTANCE

To the extent that the ongoing International Monetary Fund review of the Polish

economy uncovers a probable balance of payments shortage for the fourth quarter of 1989—

(a) the United States Government should work closely with the European Community and international financial institutions to determine the extent of emergency assistance required by Poland for the fourth quarter of 1989 and should consider extending a bridge loan to relieve immediate and urgent balance of payments requirements and commodity import needs in Poland through:

(1) the Exchange Stabilization Fund pursuant to section 5302 of Title 31, United States Code, and in accordance with established Department of Treasury policies and procedures;

(2) the use of authority provided in title II, Sec. 201.; and

(3) special authorities provided by section 614 of the Foreign Assistance Act of 1961, as amended.

SEC. 103. MEDICAL SUPPLIES, HOSPITAL EQUIPMENT AND TRAINING OF MEDICAL PERSONNEL FOR POLAND

(a) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for fiscal years 1990 and 1991, $2,000,000 shall be available each such fiscal year only—

(1) for providing medical supplies and hospital equipment to Poland through private and voluntary organizations, including the expenses of purchasing, transporting, and distributing such supplies and equipment;

(2) for training of Polish medical personnel;

(b) RESTRICTIONS.—No assistance provided to Poland under this section shall be used to perform, promote, or plan abortions; or to support the Defense or security forces of any Warsaw Pact member country.

TITLE II—ECONOMIC STABILIZATION

SEC. 201. MULTILATERAL SUPPORT FOR STRUCTURAL ADJUSTMENT IN POLAND

(a) ACTIONS BY THE UNITED STATES.—To the extent that Poland continues to evolve toward democracy and economic opportunity and to develop and implement comprehensive economic reform programs—

(1) the President, acting in coordination with the European Community, should call an urgent meeting of the industrialized democracies for the purpose of establishing a multilateral effort to respond to Poland's request for $1 billion to support its economic stabilization program;

(2) upon formulation of a multilateral undertaking to support implementation of a plan of the Government of Poland to attack hyperinflation, remove structural barriers to economic opportunity for the Polish people, and relieve immediate and urgent cash requirements, the Government of the United States shall provide its share of the resources pledged by the community of industrialized nations.

(b) STABILIZATION ASSISTANCE FOR POLAND.—

(1) GENERAL AUTHORITY.—In order to carry out subsection (a)(2), the President is authorized to furnish assistance for Poland, notwithstanding any other provision of law, to assist in the urgent stabilization of the Polish economy and ultimately to promote longer-term economic growth and stability, based on movement toward free market principles. Such assistance may be provided for balance of payments support (including commodity import programs).

(2) AMOUNT OF ASSISTANCE.—A total of $200,000,000 may be made available for fiscal year 1990 under paragraph (3) to carry out this subsection, in addition to amounts otherwise available for such purpose.

(3) SOURCES OF FUNDS.—Funds to carry out this subsection are authorized to be made available in an appropriation Act by—

(A) the transfer or use, notwithstanding any other provision of law, of such funds available in fiscal year 1990 as may be specified in such appropriation Act, provided that no less than 50 percent of the amounts made available for transfer should be derived from Funds Appropriated to the President for foreign assistance or appropriated to the Department of State;

(B) the appropriation for fiscal year 1990 of any moneys in the Treasury not otherwise appropriated.

TITLE III—ECONOMIC RESTRUCTURING AND PRIVATIZATION

SEC. 301. ENTERPRISE FUNDS FOR POLAND AND HUNGARY.

(a) PURPOSES.—The purposes of this section are to promote—

(1) development of the Polish and Hungarian private sectors, including small businesses and joint ventures with United States and host country participants,

(2) policies and practices conducive to private sector development, through loans, grants, equity investments, feasibility studies, technical assistance, training, insurance, guarantees, and other measures, and

(3) establishment of a financial instrument for individuals to invest an additional $125,000,000 in the Polish private sector.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President for the three-year period beginning October 1, 1989—

(1) $100,000,000 to support a Polish-American Enterprise Fund, of which no more than $25,000,000 shall be used for the purposes of paragraph (a)(3) of this section; and

(2) $25,000,000 to support a Hungarian-American Enterprise Fund.

(c) NONAPPLICABILITY OF OTHER LAWS.—The funds appropriated under subsection (b) may be made available to the organizations designated by the President in accordance with subsection (d) and used for the purposes of this section notwithstanding any other provision of law.

(d) DESIGNATION OF ENTERPRISE FUNDS.—

(a) DESIGNATION.—The President is authorized to designate, after consultation with the leadership of each House of Congress, two private, non-profit organizations, as eligible to receive funds and support pursuant to this section upon determining that such organizations have been established for the purposes stated in subsection (a). For purposes of this section, the organizations so designated shall be referred to as the Polish-American Enterprise Funds and the Hungarian-American Enterprise Fund (hereinafter referred to as the "Enterprise Funds"),

(2) BOARD OF DIRECTORS.—Each such Enterprise Fund should be governed by a Board of Directors comprised of an equal number of private citizens of the United States and the respective host country, who shall have demonstrated experience and expertise in those areas of private sector development in which the Enterprise Fund is involved.

(A) The Board of Directors of the Polish-American Enterprise Fund shall include among its Polish membership representatives of all major non-communist political and social formations, specifically to include but not limited to Rural Solidarity, the Confideracy of Independent Poland (KPN), Fighting Solidarity, the Catholic Church, the Catholic Intellectual Club (KIK), all legitimately elected leadership groups in the Solidarity movement, the Polish Independence Party, the Polish Peasant Party, the Warsaw Economic Society, and the Krakow Industrial Society.

(B) The Board of Directors of the Hungarian-American Enterprise Fund should include among its Hungarian membership representatives of all major non-communist political and social formations, specifically to include but not limited to the Alliance of Free Democrats, the League of Free Trade Unions, and the Federation of Young Democrats (FIDESZ).

(C) PROHIBITION.—No host country Board member may be a high official of the communist party (or its equivalent, under whatever name the communist party of Poland or Hungary may be known); and

(3) PRIVATE CHARACTER OF ENTERPRISE FUNDS.—Nothing in this section shall be construed to make an Enterprise Fund an agency or establishment of the United States Government, or to make the officers, employees, or members of the Board of Directors of an Enterprise Fund officers or employees of the United States for the purpose of title 5, United States Code.

(4) ADDITIONAL OBJECTIVES.—The Polish-American Enterprise Fund shall:

(A) promote as a specific goal in its investment priorities the development of the private Polish agricultural, food processing, and food distribution sector.

(B) promote as a specific goal in obtaining resources the development of a financial instrument, such as a bond issue, through which private individuals would invest in the fund and share in its proceeds.

(e) GRANTS TO THE ENTERPRISE FUNDS.—Funds appropriated to the President pursuant to this section shall be granted to the Enterprise Funds by the Office of Management and Budget—

(1) to enable the Enterprise Funds to carry out the purposes specified in subsections (a) and (d)(4), and

(2) for the administrative expenses of each Enterprise Fund.

(f) RETENTION OF INTEREST.—an Enterprise Fund may hold funds granted to it pursuant to this section in interest-bearing accounts, or in instruments to be used as collateral to encourage investments from private individuals, prior to the disbursement of such funds for purposes specified in subsection (a) and paragraph (d)(4), and may retain for such program purposes any interest earned in such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress.

(g) ADMINISTRATIVE COSTS.—The Director of the Office of Management and Budget shall have the authority, notwithstanding any other provision of law, to use up to $300,000 in each fiscal year of funds from such program account or accounts of that agency as the Director may determine for the purpose of carrying out functions under this Title.

(h) PROVISION OF SUPPORT BY OTHER EXECUTIVE BRANCH AGENCIES.—Executive Branch departments or agencies shall have authority to conduct programs and activities, and to provide services, in support of the activities of the Enterprise Funds, notwithstanding any other provision of law.

(i) ELIGIBILITY OF THE ENTERPRISE FUNDS FOR GRANTS.—Grants may be made to an Enterprise Fund under this section only if the Enterprise Fund agrees to comply with the requirements specified in this Title.

(j) CONSISTENCY.—The Enterprise Funds may provide assistance pursuant to this section only for programs and projects which are consistent with the purposes set forth in subsection (a) and (d)(4).

(k) LIMITATION ON PAYMENTS TO ENTERPRISE FUND PERSONNEL.—No part of the funds of either Enterprise Fund shall inure to the benefit of any Board Member, officer or employee of such Enterprise Fund, except as salary or reasonable compensation for services.

(l) INDEPENDENT PRIVATE AUDITS.—The accounts of each Enterprise Fund shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of each such independent audit shall be included in the annual report required by this section.

(m) GENERAL ACCOUNTING OFFICE AUDITS.—The financial transactions undertaken pursuant to this section by each Enterprise Fund may be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States, so long as the Enterprise Fund is in receipt of United States Government Grants.

(n) RECORDKEEPING REQUIREMENTS.—The Enterprise Funds shall ensure—

(1) that each recipient of assistance provided through the Enterprise Funds under this section keeps—

(A) separate accounts with respect to such assistance;

(B) such records as may be reasonably necessary to disclose fully the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit;

(2) that the Enterprise Funds, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Enterprise Funds under this section.

(o) ANNUAL REPORTS.—Not later than March 31 of each year beginning in 1991, each Enterprise Fund shall publish an annual report. The report shall include a comprehensive and detailed report of the concerned Enterprise Fund's operation, activities, financial condition, and accomplishments under this section for the preceding fiscal year.

SEC. 302. ELIGIBILITY OF POLAND FOR GSP.

Subsection (b) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by inserting "(except during the period of three years immediately following the effective date of the Poland and Hungary Democracy and Free Enterprise Act of 1989)" after "Poland" in the table within such subsection.

SEC. 303. OVERSEAS PRIVATE INVESTMENT CORPORATION.

(a) ELIGIBILITY OF POLAND AND HUNGARY FOR OPIC PROGRAMS.—Section 239(f) of the Foreign Assistance act of 1961 (22 U.S.C. 2199(f)) is amended by inserting ", Poland, (only during the period of three years immediately following the effective date of the Poland and Hungary Democrat and Free Enterprise Act of 1989), Hungary (only during the period of three years immediately following the effective date of the Poland and Hungary Democracy and Free Enterprise Act of 1989)" after "Yugoslavia."

(b) PARTICIPATION BY NONGOVERNMENTAL SECTOR.—In accordance with its mandate to foster private initiative and competition and enhance the ability of private enterprise to make its full contribution to the transition from a centrally planned to a market economy, the Overseas Private Investment Corporation shall support only nongovernmental sector projects in Poland and Hungary.

(c) DEFINITION.—For purposes of subsection (b), the term "nongovernmental sector" in Poland or Hungary includes private enterprises, cooperatives (insofar as they are not administered by the Government of Poland or Hungary), joint ventures (including partners which are not the Government of Poland or Hungary or instrumentalities thereof), businesses in Poland or Hungary that are wholly or partly owned by United States citizens (including those of Polish or Hungarian descent), religious and ethnic groups and other independent social organizations.

SEC. 304. INELIGIBILITY OF CERTAIN ENTITIES.

(a) Neither the Polish-American Enterprise Fund, the Hungarian-American Enterprise Fund, nor the Overseas Private Investment Corporation shall finance or include in any of its programs any venture, project or enterprise which:

(1) has, individually or in combination, more than 20 percent of ownership, control, or equitable interest by the Polish or Hungarian government, the communist party of Poland or Hungary, or any entity controlled by the Polish or Hungarian government of the communist party of Poland or Hungary, or high officials thereof;

(2) has a Board of Directors more than 20 percent of whom are high officials of the respective governments or communist parties of Poland or Hungary;

(3) has been established by any organization or entity controlled by the Polish or Hungarian government or the communist party of Poland or Hungary;

(4) primarily benefits the Polish or Hungarian military or security forces, the Soviet military, or the military of any other Warsaw Pact member; or

(5) is required to accede to the rules of the Council for Mutual Economic Assistance.

SEC. 305. ASSISTANCE IN SUPPORT OF DEMOCRACY.

(a) AUTHORIZATION OF ASSISTANCE.—Notwithstanding any other provision of law, there are authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) $12,000,000 for the three-year period which began October 1, 1989, which shall be available only for the support of democratic institutions and activities in Poland and Hungary, or which:

(1) $2,000,000 shall be available in each such fiscal year only for the unconditional support of activities and institutions in Poland, which institutions shall

(A) include all major non-communist political and social formations;

(B) not include among its membership any member of the Polish United Workers Party (or its equivalent, under whatever name the communist party of Poland may be known); and

(2) $2,000,000 shall be available in each such fiscal year only for the unconditional support of democratic activities and institutions in Hungary, which institutions shall—

(A) include all major non-communist polit-ical and social formations;

(B) not include among its membership any member of the communist party of Hungary (or its equivalent, under whatever name the communist party of Hungary may be known).

SEC. 306. EDUCATIONAL AND CULTURAL EXCHANGE.

(a) OBJECTIVE.—It is the sense of the Congress that the President should—

(1) encourage privately administered educational and cultural exchanges between the people of the United States and the people of Poland and the people of the United States and the people of Hungary; and

(2) consider the establishment of reciprocal cultural centers in Poland and the United States and in Hungary and the United States to facilitate government and privately funded cultural exchanges.

(b) AUTHORIZATION OF EXCHANGES.—Of the amounts authorized for educational and cultural exchanges administered by the United States Information Agency, not to exceed $2,000,000 in fiscal year 1990 and not to exceed $4,000,000 in fiscal year 1991 shall be available for activities in Poland and Hungary.

SEC. 307. LABOR MARKET TRANSITION TECHNICAL ASSISTANCE.

(a) PURPOSE.—The Secretary of Labor (hereinafter referred to as "the Secretary"), in consultation with representatives of labor and business in the United States, shall:

(1) provide technical assistance to Poland and Hungary for the implementation of labor market reforms; and

(2) provide technical assistance to Poland and Hungary to facilitate adjustment during the period of economic transition and reform.

(b) TYPES OF TECHNICAL ASSISTANCE, AUTHORIZED.—In carrying out the responsibilities enumerated in this Title, the Secretary is authorized to do the following:

(1) Provide technical assistance regarding policies and programs for training and retraining, job search and employment services, unemployment insurance, occupational safety and health protection, labor-management relations, labor statistics, analysis of productivity constraints, entrepreneurial support for small businesses, market-driven systems of wage and income determinations, job creation, employment security, and other matters that the Secretary of Labor may deem appropriate regarding free labor markets and labor organizations;

(2) Solicit and accept in the name of the Department of Labor, and employ or dispose of in furtherance of the purpose of this Title, any money or property, real, personal or mixed, tangible or intangible, received by gift, devise bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of section 3670(b) of the Revised Statutes of the United States: *Provided* that gifts and donations of property which are no longer required for the discharge of the purposes of this section shall be reported to the Administrator of General Services for transfer,

donation, or other disposal in accordance with the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. et seq.), as amended;

(3) Solicit and accept voluntary and uncompensated services notwithstanding Section 1342 of Title 31 U.S.C., provided that a volunteer under this authority shall not be deemed to be an employee of the United States except for the purposes of (1) the tort claims provisions of Title 28, U.S.C., and (2) subchapter I of Chapter 81 of Title 5, U.S.C., relating to compensation for work injuries;

(4) Enter into arrangements or agreements with appropriate departments, agencies and establishments of Poland and Hungary; and

(5) Enter into arrangements or agreements with appropriate private and public sector United States parties, and international organizations.

(c) CONSULTATION WITH APPROPRIATE OFFICERS.—In carrying out the responsibilities established by this Title, the Secretary of Labor shall seek information and advice from, and consult with, appropriate officers of the United States.

(d) CONSULTATION WITH LABOR AND BUSINESS REPRESENTATIVES.—For purposes of this section, consultation between the Secretary and the United States labor and business representatives shall not be subject to the Federal Advisory Committee Act (5 U.S.C. app.)

(e) AUTHORIZATION OF TRANSFERS.—Notwithstanding any other provision of law, from the funds appropriated or available to the Department of Labor, the Secretary is authorized to transfer and to obligate the following amounts for the purposes of carrying out this Title:

(1) $4,000,000 for technical assistance to Poland, and

(2) $1,000,000 for technical assistance to Hungary.

Funds so transferred shall be available for obligation immediately.

SEC. 308. ENVIRONMENTAL ASSISTANCE.

(a) ENVIRONMENTAL PROTECTION AGENCY ACTIVITIES.—In addition to specific authorities contained in any of the environmental statutes administered by the Environmental Protection Agency, the Administrator of that Agency (hereinafter referred to as the "Administrator") is authorized to undertake such educational, policy training, research, and technical and financial assistance, monitoring, coordinating, and other activities as he may deem appropriate, either alone or in cooperation with other United States or foreign agencies, governments, or public or private institutions, in protecting the environment in Poland and Hungary.

(b) AUTHORIZATION OF TRANSFERS.—The Administrator of the Environmental Protection Agency is authorized to use up to $6,000,000 in each of fiscal years 1990, 1991, and 1992 of funds appropriated under Title VI of the Clean Water Act to carry out the purposes of this Title. The Administrator may also use up to $2,000,000 appropriated to the Environmental Protection Agency under any other authorizing statutes to carry out the purposes of this Title.

(c) ACTIVITIES IN POLAND.—The Administrator shall cooperate with Polish officials and experts on appropriate environmental projects, including—

(1) establishment of an air quality monitoring network in the Krakow metropolitan area as a part of Poland's national air monitoring network; and

(2) improvement of both water quality and the availability of drinking water in the Krakow metropolitan area.

(d) ACTIVITIES IN HUNGARY.—The Administrator shall work with other United States and Hungarian officials and private parties to establish and support a regional center in Budapest for facilitating cooperative environmental activities between governmental experts and public and private organizations from the United States and Eastern and Western Europe.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 401. REPORT TO CONGRESS.

Not later than 90 days after the effective date of this Act, and every 180 days thereafter for three years after the effective date of this Act, the President shall report to the President of the Senate and the Speaker of the House of Representatives on the progress made in Poland and Hungary toward—

(a) the implementation of economic policies designed to promote sustained economic growth, to develop economic freedom, and to increase opportunitites for the people of Poland and Hungary, including but not limited to the reforms and policies set forth in Section 4 of this Act;

(b) the adoption and pace of implementation of constitutional, legal, and administrative measures that limit the power of executive authorities and establish and protect the independence of the judiciary;

(c) the full elimination of all constitutional, legal, and administrative measures that favor any political party or inhibit the formulation and operation of independent political parties, groups, associations, or organizations;

(d) the adoption of constitutional, legal, and administrative measures designed to establish and protect fundamental human rights and civil liberties, including but not limited to, freedom of speech, freedom of the press, freedom of religion, the right of Polish and Hungarian citizens to work, to join, or to refuse to join trade unions or labor organizations, and other freedoms comparable to those found in other democratic countries;

(e) the reduction and elimination of industrial practices detrimental to the environment and particularly harmful to human health;

(f) elections in which all parties are able to participate freely with equal opportunity to form governments based on popular support;

(g) the elimination of espionage activities by operatives of the governments of Poland and Hungary against the United States and its allies in the North Atlantic Treaty Organization.

SEC. 402. UNITED STATES GOVERNMENT OVERSIGHT.

(a) Oversight and coordination of all programs provided for in this Act, as well as all other activities of the United States government conducted to assist Poland, should be exercised by an interagency group to include the Director of the Office of Management and Budget, the Secretaries of State, Commerce, Treasury, Labor, Defense, Health and Human Services, and Housing and Urban Development, the Administrator of the Agency for International Development, and the Director of the United States Information Agency.

(b) Congress commends the President for agreeing to send a High Level Team of Experts to assess the dramatic transition taking place in Poland. The private and governmental experience of team members should result in the first comprehensive official review and analysis of the economic situation in Poland.

(c) The interagency group referred to in subsection (a) shall consult with the Team of Experts, and make available its findings to Congress and the American people.

SEC. 403. CESSATION OF AID.

(a) Funds provided under this Act shall cease to be available if the president of Poland declares martial law or removes members of the Senate or the Sejm to suppress the free expression of political views.

(b) Funds provided under this Act shall cease to be available if the president of Hungary declares martial law to suppress the free expression of political views, or suspends the planning for free and fair elections.

HELMS AMENDMENTS NOS. 1057 AND 1058

Mr. HELMS proposed two amendments to the bill S. 1582, supra, as follows:

AMENDMENT No. 1057

At the end of section 201, on page 18, after line 21, add the following new paragraph:

( ) INELIGIBILITY OF ENTERPRISE FUNDS FOR MILITARY PURPOSES.—Neither the Polish-American Enterprise Fund nor the Hungarian-American Enterprise Fund nor the Overseas Private Investment Corporation shall finance or include in any of its programs any venture, project, or enterprise that benefits, directly or indirectly, the Polish or Hungarian military or security forces, the Soviet military, or the military of any other Warsaw Pact member state.

AMENDMENT No. 1058

On page 27, line 17, after "(2)", strike "in order to" and insert "when such liabilities".

LIEBERMAN AMENDMENTS NOS. 1059 THROUGH 1062

Mr. LIEBERMAN proposed four amendments to the bill S. 1582, supra, as follows:

At the appropriate place, insert the following:

AMENDMENT No. 1059

SEC. . ESTABLISHMENT OF SCHOLARSHIP AND EDUCATIONAL EXCHANGE PROGRAMS.

(a) The Administrator of the Agency for International Development is authorized to establish and administer a program of scholarship assistance, in cooperation with State governments, universities, community colleges, and businesses, to provide scholarships to enable students from Poland and Hungary to study business and economics in the United States. The programs may range from the standard management courses to more specialized assistance in commercial banking and the creation of a stockmarket. Grants to States pursuant to this section may be made with funds made available to carry out chapter 1 of part 1 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) or chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund). In addition to amounts otherwise available for such purpose under those chapters, there are authorized to be appropriated $1,000,000 for

the 3-year period beginning October 1, 1989, for use in carrying out this section.

(b) The United States should expand its participation in educational exchange activities with Poland and Hungary, using the full array of existing government-funded and privately funded programs. The primary purpose of these exchanges should be to develop skills in business and economics that are necessary for the development of a free market economy. To enable the United States Information Agency to support these activities, there are authorized to be appropriated to the Agency $1,000,000 for the 3-year period beginning October 1, 1989, in addition to amounts otherwise available for such programs.

AMENDMENT No. 1060

At the appropriate place, insert the following:

SEC. . EXPANDING THE NUMBER OF COMMERCIAL OFFICES TO UNITED STATES EMBASSIES AND MISSIONS TO POLAND AND HUNGARY.

(a) It is the sense of the Congress that to the extent practicable—

(1) the United States Embassy to Hungary shall be assigned one additional economic and commercial officer;

(2) the United States Embassy to Warsaw shall be assigned one additional economic and one additional commercial officer;

(3) the United States Trade Center in Warsaw shall be assigned one additional economic and commercial officer;

(4) the United States Mission to Krakow shall be assigned one additional economic and commercial officer; and

(5) the commercial and economic officers assigned to United States Embassies and Missions to Poland and Hungary in addition to the regular duties shall help members of the private sector of both nations to do business with OECD nations.

AMENDMENT No. 1061

In section 203(b), add after paragraph (2) the following:

And renumber paragraphs (3), (4), (5), (6), and (7) accordingly:

"(3) the United States Department of the Treasury;

"(4) the Bureau of the Census;

"(5) the Small Business Administration;

"(6) the Federal Reserve board;

"(7) the United States Export-Import Bank;"

AMENDMENT No. 1062

At the appropriate place in the bill, add the following:

SEC. . OECD.

(a)(1) It is the sense of the Congress that the United States Ambassador to the OECD should enter into discussions with other member nation missions to establish a working group on providing assistance to Eastern European national economies, drawing on experts from all appropriate OECD directorates.

(2) The working group should—

(A) provide technical assistance to the government of Poland and Hungary, or any other Eastern European government the President determines has taken substantive steps toward instituting political democracy and economic pluralism, and members of the private sector of those nations attempting to make the transition from a nonmarket to a market based economy; and

(B) monitor economic changes in Eastern Europe.

(3) The group structure should be modeled after the OECD Consensus Group for export Credits.

(4) The United States Ambassador should also enter into discussions with other member nation missions about the possibility of Poland and Hungary being admitted as observers to the OECD for a one-year period.

(5) The United States Mission to the OECD should submit a report to the President pro tempore of the Senate and the Speaker of the House and the Commission on Security and Cooperation in Europe on the progress of these discussions no later than 90 days after enactment of this Act, and should submit a report annually thereafter on the activities of the working group.".

INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT

DURENBERGER AMENDMENT NO. 1063

(Ordered to lie on the table.)

Mr. DURENBERGER submitted an amendment intended to be proposed by him to amendment No. 1051 proposed by him to the joint resolution (H.J. Res. 280) increasing the statutory limit on the public debt, as follows:

At the appropriate place in the amendment, add the following new sections:

SEC. 3667. TELEPHONE EXCISE TAX MADE PERMANENT.

(a) IN GENERAL.—Paragraph (1) of section 4251(a) (relating to imposition of tax) is amended by striking "the applicable percentage" and inserting "3 percent".

(b) CONFORMING AMENDMENT.—Subsection (b) of section 4251 is amended to read as follows:

"(b) COMMUNICATIONS SERVICES.—For purposes of subsection (a) the term 'communications services' means—

"(1) local telephone service,

"(2) total telephone service, and

"(3) teletypewriter exchange service."

SEC. 3668. ACCELERATION OF DEPOSIT REQUIREMENTS.

(a) IN GENERAL.—Section 6302 (relating to mode or time for collection) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) DEPOSITS OF SOCIAL SECURITY TAXES AND WITHHELD INCOME TAXES.—If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21 and 24 on the basis of eight-month periods, such person shall make deposits of such taxes on the first banking day after any day on which such person has $250,000 or more of such taxes for deposit. Rules similar to the rules of section 5061(e)(3) shall apply to the $250,000 amount in the preceding sentence.".

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), the amendment made by subsection (a) shall apply to amounts required to be deposited after July 31, 1990.

(2) SPECIAL RULE FOR 1991 AND 1992.—In the case of amounts required to be deposited under the amendment made by subsection (a) on or after January 1, 1991, and before January 1, 1993, a person shall make deposits of taxes described in the amendment made by subsection (a) not later than the close of the third banking day after any day on which such person has $250,000 or more of such taxes for deposit.

(3) RULE FOR 1995 AND THEREAFTER.—For calendar year 1995 and thereafter, the Secretary of the Treasury shall prescribe regulations with respect to the date on which deposits of such taxes shall be made in order to minimize the unevenness in the revenue effects of the amendment made by subsection (a).

SEC. 3669. REPEAL OF AUTOMATIC REDUCTION IN AVIATION-RELATED TAXES.

(a) IN GENERAL.—Section 4283 (relating to reduction in aviation-related taxes in certain cases) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 6427 is amended—

(A) by striking subsection (q) and redesignating subsection (r) as subsection (q),

(B) by striking "(l), or (p)" in subsection (i)(1) and inserting "and (l)", and

(C) by striking "(h), and (p)" in subsection (i)(2)(A)(i) and inserting "and (h)".

(2) Section 4041(c) is amended by striking paragraph (6).

(c) EFFECTIVE DATE.—The repeal and amendments made by this section shall be effective after December 31, 1989.

● Mr. DURENBERGER. Mr. President, I submit for printing an amendment to printed amendment No. 1051 which I submitted yesterday. When this matter comes before the Senate, I intend to modify amendment 1051 with the addition of the language I am submitting today. Three provisions were inadvertently omitted from the original document. These modifications conform the language of the revenue portion of the amendment to the language that was contained in the original Finance Committee bill. The provisions concern the permanent telephone excise tax; acceleration of withholding tax requirements; and repeal of the automatic reduction in aviation taxes.●

ASSISTANCE TO ENSURE THE SUCCESS OF FREEDOM AND DEMOCRACY IN POLAND

HUMPHREY (AND SIMON) AMENDMENT NO. 1064

Mr. HUMPHREY (for himself and Mr. SIMON) proposed an amendment to the bill S. 1582, supra, as follows:

At the end of section 201, on page 18, add the following new subsection:

"INELIGIBILITY OF CERTAIN INDIVIDUALS

"(1) No host country Board member may be a current member of a communist party (or its equivalent, under whatever name the communist party of Poland or Hungary may be known)."

PACKWOOD (AND OTHERS) AMENDMENT NO. 1065

Mr. PACKWOOD (for himself, Mr. KASTEN, Mr. DOMENICI, Mr. ROTH, and Mr. DOLE) proposed an amendment to the bill S. 1582, supra, as follows:

In lieu of the language proposed to be inserted, insert the following:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. (a) This act may be cited as the "Poland and Hungary Democracy and Free Enterprise Act of 1989."

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents
Sec. 2. Findings and purpose
Sec. 3. Goals of United States policy
Sec. 4. Objectives for United States assistance

TITLE I—EMERGENCY FOOD AID AND COMMODITY IMPORT ASSISTANCE
Sec. 101. Food aid
Sec. 102. Support for emergency balance of payments and importation assistance
Sec. 103. Medical supplies, hospital equipment, and medical training for Poland

TITLE II—ECONOMIC STABILIZATION
Sec. 201. Multilateral support for structural adjustment in Poland

TITLE III—ECONOMIC RESTRUCTURING AND PRIVATIZATION
Sec. 301. Enterprise Funds for Poland and Hungary
Sec. 302. Eligibility of Poland for Generalized System of Preference
Sec. 303. Overseas Private Investment Corporation
Sec. 304. Ineligibility of certain entities
Sec. 305. Assistance in support of democracy
Sec. 306. Educational and cultural exchanges
Sec. 307. Labor market transition technical assistance
Sec. 308. Environmental assistance

TITLE IV—MISCELLANEOUS PROVISIONS
Sec. 401. Reports to Congress
Sec. 402. Government oversight
Sec. 403. Cessation of aid

FINDINGS AND PURPOSE

SEC. 2. The Congress finds that—

(a) two centuries have passed since Kazimierz Pulaski and Tadeusz Kosciuszko came from Poland to help guide our soldiers through the darkest hours of the American Revolution; and

(b) one century has passed since Joseph Pulitzer became the first Hungarian-American Member of Congress; and

(c) millions of Americans of Hungarian and Polish origin contributed greatly to this nation's prosperity at times when both Poland and Hungary were struggling against foreign tyranny; and

(d) since 1945, the United States has sought to help the people of Poland and Hungary emerge from the shackles of captivity; and

(e) for the first time since World War II, the people of Poland have held free elections resulting in a coalition government led by a non-communist prime minister, and Hungary is preparing for free and fair democratic elections; and

(f) these historic changes, which reflect the desire of the peoples of Poland and Hungary for independence and self-determination, present the United States and every democratic society with challenges and opportunities to advance the causes of freedom and peace; and

(g) the Government of Poland has outlined an economic restructuring plan for Poland that is phased to address in turn Poland's immediate food aid and importation needs, its economic stabilization and currency reform plan, and its long term economic restructuring and privatization plan; and

(h) the fundamental task of political and economic reconstruction by the governments of Poland and Hungary is to re-enfranchise the Polish and Hungarian citizenry both economically and politically.

GOALS OF UNITED STATES POLICY

SEC. 3. (a) The United States is determined to support the transitions toward democracy in Poland and Hungary.

(b) United States assistance to Poland and Hungary will encourage bold new policies that will make possible sustained economic growth; it will not be used as a palliative to support the existing policies which discourage individual initiative, produce capital flight, and subsidize environmentally destructive or wasteful use of resources.

(c) The President is commended for proposing an economic assistance package for Poland that is a realistic response to Poland's real needs, and consistent with the goal of encouraging bold new economic and social policies in Poland and Hungary.

OBJECTIVES OF UNITED STATES ASSISTANCE

SEC. 4. In order to ensure that United States assistance to Poland and Hungary supports the development of economic freedom and opportunities for the people of those countries, the objectives of the United States assistance to Poland and Hungary shall be the realization of the following rights by the citizens of Poland and Hungary.

(1) SECURITY OF PROPERTY AND CONTRACT.—The right to legally acquire private property in all its forms, including secure legal title to land.

(2) A REGULATORY SYSTEM WHICH FACILITATES ENTREPRENEURIAL ACTIVITY.—Freedom from onerous regulations which have forced economic and entrepreneurial activity into the informal, or unregistered, economy should be eliminated.

(3) DISMANTLING OF WAGE AND PRICE CONTROLS.—A market for Polish and Hungarian industries and goods that is not distorted by government-mandated wages or prices.

(4) AN OPEN TRADE POLICY.—Freedom from market-distorting restrictions or subsidies on imports and exports.

(5) LIBERALIZATION OF INVESTMENT AND CAPITAL FLOWS.—Freedom from limitations on ownership of productive enterprises by both domestic and foreign investors, as well as freedom from restrictions on removal of foreign or domestic capital from Poland and Hungary.

(6) PRIVATIZATION OF THE STATE SECTOR.—The ignition of activity by Polish and Hungarian investors and entrepreneurs should be facilitated through the privatization of government enterprises.

(7) MODERATION OF THE TAX BURDEN.—Relief from the burden of the existing punitive levels of various taxes.

(8) DEVELOPMENT OF A PRIVATE BANKING STRUCTURE.—Secure rights to own and operate banks and other financial service firms, as well as unrestricted access to private sources of credit.

(9) INDIVIDUAL INVESTMENT IN THE PRIVATE SECTOR.—Access to financial instruments through which individuals may invest in the private sector.

TITLE I—EMERGENCY FOOD AID AND COMMODITY IMPORT ASSISTANCE

SEC. 101. FOOD AID.

(a) Notwithstanding any other provision of law, Poland shall be eligible for programs under the Agricultural Act of 1949, the Agricultural Trade Development and Assistance Act of 1954, and the Food Security Act of 1985.

(b) The President is authorized for fiscal year 1990, under the programs cited in paragraph (a), to provide $112,500,000 of commodities to appropriate Polish entities.

(c) The provision of such commodities shall be targeted toward elements of the Polish population most vulnerable to hunger and malnutrition, in particular the infirm, the elderly, and children.

(d) It is the intent of Congress that the President take all appropriate precautions to insure that the provision of commodities does not interfere with commercial export programs and that the selection of commodities and delivery schedules do not act to the detriment of Polish agricultural production.

(e) In carrying out the programs provided for in this Section, the President shall consult with other food and agricultural aid donors to Poland to insure maximum benefit to the Polish people.

(f) Such commodities shall be distributed through existing conduit organizations with an established network inside Poland, including but not limited to the Catholic Church, the Polish Red Cross, and the Polish-American Congress Charitable Foundation.

SEC. 102. SUPPORT FOR EMERGENCY BALANCE OF PAYMENTS AND IMPORTATION ASSISTANCE.

To the extent that the ongoing International Monetary Fund review of the Polish economy uncovers a probable balance of payments shortage for the fourth quarter of 1989—

(a) the United States Government should work closely with the Euorpean Community and international financial institutions to determine the extent of emergency assistance required by Poland for the fourth quarter of 1989 and should consider extending a bridge loan to relieve immediate and urgent balance of payments requirements and commodity import needs in Poland through:

(1) the Exchange Stabilization Fund pursuant to section 5302 of Title 31, United States Code, and in accordance with established Department of Treasury policies and procedures;

(2) the use of authority provided in Title II, Sec. 201.; and

(3) special authorities provided by section 614 on the Foreign Assistance Act of 1961, as amended.

SEC. 103. MEDICAL SUPPLIES, HOSPITAL EQUIPMENT AND TRAINING OF MEDICAL PERSONNEL FOR POLAND.

(a) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for fiscal years 1990 and 1991, $2,000,000 shall be available each such fiscal year only—

(1) for providing medical supplies and hospital equipment to Poland through private and voluntary organizations, including the expenses of purchasing, transporting, and distributing such supplies and equipment;

(2) for training of Polish medical personnel;

(b) RESTRICTIONS.—No assistance provided to Poland under this section shall be used to perform, promote, or plan abortions; or to support the Defense or security forces of any Warsaw Pact member country.

TITLE II—ECONOMIC STABILIZATION

SEC. 201. MULTILATERAL SUPPORT FOR STRUCTURAL ADJUSTMENT IN POLAND.

(a) ACTIONS BY THE UNITED STATES.—To the extent that Poland continues to evolve toward democracy and economic opportunity and to develop and implement comprehensive economic reform programs—

(1) the President, acting in coordination with the European Community, should call an urgent meeting of the industrialized democracies for the purpose of establishing a multilateral effort to respond to Poland's request for $1 billion to support its economic stabilization program;

(2) upon formulation of a multilateral undertaking to support implementation of a plan of the Government of Poland to attack hyperinflation, remove structural barriers to economic opportunity for the Polish people, and relieve immediate and urgent cash requirements, the Government of the United States shall provide its share of the resources pledged by the community of industralized nations.

(b) STABLIZATION ASSISTANCE FOR POLAND—

(1) GENERAL AUTHORITY.—In order to carry out subsection (a)(2), the President is authorized to furnish assistance for Poland, notwithstanding any other provision of law, to assist in the urgent stabilization of the Polish economy and ultimately to promote longer-term economic growth and stability, based on movement toward free market principles. Such assistance may be provided for balance of payments support (including commodity import programs).

(2) AMOUNT OF ASSISTANCE.—A total of $200,000,000 may be made available for fiscal year 1990 under paragraph (3) to carry out this subsection, in addition to amounts otherwise available for such purpose.

(3) SOURCES OF FUNDS.—Funds to carry out this subsection are authorized to be made available in an appropriation Act by—

(A) the transfer or use, notwithstanding any other provision of law, of such funds available in fiscal year 1990 as may be specified in such appropriation Act, provided that no less than 50 percent of the amounts made available for transfer should be derived from Funds Appropriated to the President for foreign assistance or appropriated to the Department of State;

(B) the appropriation for fiscal year 1990 of any moneys in the Treasury not otherwise appropriated.

TITLE III—ECONOMIC RESTRUCTURING AND PRIVATIZATION

SEC. 301. ENTERPRISE FUNDS FOR POLAND AND HUNGARY.

(a) PURPOSES.—The purposes of this section are to promote—

(1) development of the Polish and Hungarian private sectors, including small business and joint ventures with United States and host country participants,

(2) policies and practices conducive to private sector development, through loans, grants, equity investments, feasibility studies, technical assistance, training, insurance, guarantees, and other measures, and

(3) establishment of a financial instrument for individuals to invest an additional $125,000,000 in the Polish private sector.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President for the three-year period beginning October 1, 1989—

(1) $100,000,000 to support a Polish-American enterprise Fund, of which no more than $25,000,000 shall be used for the purposes of paragraph (a)(3) of this section; and

(2) $25,000,000 to support a Hungarian-American Enterprise Fund.

(c) NONAPPLICABILITY OF OTHER LAWS.—The funds appropriated under subsection (b) may be made available to the organizations designated by the President in accordance with subsection (d) and used for the purposes of this section notwithstanding any other provision of law.

(d) DESIGNATION OF ENTERPRISE FUNDS.—

(1) DESIGNATION.—The President is authorized to designate, after consultation with the leadership of each House of Congress, two private, non-profit organizations, as eligible to receive funds and support pursuant to this section upon determining that such organizations have been established for the purposes stated in subsection (a). For purposes of this section, the organizations so designated shall be referred to as the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund (hereinafter referred to as the "Enterprise Funds"),

(2) BOARD OF DIRECTORS.—Each such Enterprise Fund should be governed by a Board of Directors comprised of an equal number of private citizens of the United States and the respective host country, who shall have demonstrated experience and expertise in those areas of private sector development in which the Enterprise Fund is invovlved.

(A) The Board of Directors of the Polish-American Enterprise Fund shall include among its Polish membership representatives of all major non-communist political and social formations, specifically to include but not limited to Rural Solidarity, the Confederacy of Independent Poland (KNP), Fighting Solidarity, the Catholic Church, the Catholic Intellectual Club (KIK), all legitimately elected leadership groups in the Solidarity movement, the Polish Independence Party, the Polish Peasant Party, the Warsaw Economic Society, and the Krakow Industrial Society.

(B) The Board of Directors of the Hungarian-American Enterprise Fund should include among its Hungarian membership representatives of all major non-communist political and social formations, specifically to include but not limited to the Alliance of Free Democrats, the League of Free Trade Unions, and the Federation of Young Democrats (FIDESZ).

(C) PROHIBITION.—No host country Board member may be a high official of the communist party (or its equivalent, under whatever name the communist party of Poland or Hungary may be known); and

(3) PRIVATE CHARACTER OF ENTERPRISE FUNDS.—Nothing in this section shall be construed to make an Enterprise Fund an agency or establishment of the United States Government, or to make the officers, employees, or members of the Board of Directors of an Enterprise Fund officers or employees of the United States for the purposes of title 5, United States Code.

(4) ADDITIONAL OBJECTIVES.—The Polish-American Enterprise Fund shall:

(A) promote as a specific goal in its investment priorities the development of the private Polish agricultural, food processing, and food distribution sector.

(B) promote as a specific goal in obtaining resources the development of a financial instrument, such as a bond issue, through which private individuals would invest in the fund and share in its proceeds.

(e) GRANTS TO THE ENTERPRISE FUNDS.—Funds appropriated to the President pursuant to this section shall be granted to the Enterprise Funds by the Office of Management and Budget—

(1) to enable the Enterprise Funds to carry out the purposes specified in subsections (a) and (d)(4), and

(2) for the administrative expenses of each Enterprise Fund.

(f) RETENTION OF INTEREST.—an Enterprise Fund may hold funds granted to it pursuant to this section in interest-bearing accounts, or in instruments to be used as collateral to encourage investments from private individuals, prior to the disbursement of such funds for purposes specified in subsection (a) and paragraph (d)(4) and may retain for such program purposes any interest earned in such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress.

(g) ADMINISTRATIVE COSTS.—The Director of the Office of Management and Budget shall have the authority, notwithstanding any other provision of law, to use up to $300,000 in each fiscal year of funds from such program account or accounts of that agency as the Director may determine for the purpose of carrying out functions under this Title.

(h) PROVISION OF SUPPORT BY OTHER EXECUTIVE BRANCH AGENCIES.—Executive Branch departments or agencies shall have authority to conduct programs and activities, and to provide services, in support of the activities of the Enterprise Funds, notwithstanding any other provision of law.

(i) ELIGIBILITY OF THE ENTERPRISE FUNDS FOR GRANTS.—Grants may be made to an Enterprise Fund under this section only if the Enterprise Fund agrees to comply with the requirements specified in this Title.

(j) CONSISTENCY.—The Enterprise Funds may provide assistance pursuant to this section only for programs and projects which are consistent with the purposes set forth in subsections (a) and (d)(4).

(k) LIMITATION ON PAYMENTS TO ENTERPRISE FUND PERSONNEL.—No part of the funds of either Enterprise Fund shall inure to the benefit of any Board Member, officer or employee of such Enterprise Fund, except as salary or reasonable compensation for services.

(l) INDEPENDENT PRIVATE AUDITS.—The accounts of each Enterprise Fund shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of each such independent audit shall be included in the annual report required by this section.

(m) GENERAL ACCOUNTING OFFICE AUDITS.—The financial transactions undertaken pursuant to this section by each Enterprise Fund may be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States, so long as the Enterprise Fund is in receipt of United States Government Grants.

(n) RECORDKEEPING REQUIREMENTS.—The Enterprise Funds shall ensure—

(1) that each recipient of assistance provided through the Enterprise Funds under this section keeps—

(A) separate accounts with respect to such assistance;

(B) such records as may be reasonably necessary to disclose fully the amount and

the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit;

(2) that the Enterprise Funds, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Enterprise Funds under this section.

(o) ANNUAL REPORTS.—Not later than March 31 of each year beginning in 1991, each Enterprise Fund shall publish an annual report. The report shall include a comprehensive and detailed report of the concerned Enterprise Fund's operation, activities, financial condition, and accomplishments under this section for the preceding fiscal year.

SEC. 302. ELIGIBILITY OF POLAND FOR GSP.

Subsection (b) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by inserting "(except during the period of three years immediately following the effective date of the Poland and Hungary Democracy and Free Enterprise Act of 1989)" after "Poland" in the table within such subsection.

SEC. 303. OVERSEAS PRIVATE INVESTMENT CORPORATION.

(a) ELIGIBILITY OF POLAND AND HUNGARY FOR OPIC PROGRAMS.—Section 239(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2199(f)) is amended by inserting ", Poland, (only during the period of three years immediately following the effective date of the Poland and Hungary Democracy and Free Enterprise Act of 1989), Hungary (only during the period of three years immediately following the effective date of the Poland and Hungary Democracy and Free Enterprise Act of 1989)" after "Yugoslavia."

(b) PARTICIPATION BY NONGOVERNMENTAL SECTOR.—In accordance with its mandate to foster private initiative and competition and enhance the ability of private enterprise to make its full contribution to the transition from a centrally planned to a market economy, the Overseas Private Investment Corporation shall support only nongovernmental sector projects in Poland and Hungary.

(c) DEFINITION.—For purposes of subsection (b), the term "nongovernmental sector" in Poland or Hungary includes private enterprises, cooperatives (insofar as they are not administered by the Government of Poland or Hungary), joint ventures (including partners which are not the Government of Poland or Hungary or instrumentalities thereof), businesses in Poland or Hungary that are wholly or partly owned by United States citizens (including those of Polish or Hungarian descent), religious and ethnic groups and other independent social organizations.

SEC. 304. INELIGIBILITY OF CERTAIN ENTITIES.

(a) Neither the Polish-American Enterprise Fund, the Hungarian-American Enterprise Fund, nor the Overseas Private Investment Corporation shall finance or include in any of its programs any venture, project or enterprise which:

(1) has, individually or in combination, more than 20 percent of ownership, control, or equitable interest by the Polish or Hungarian government, the communist party of Poland or Hungary, or any entity controlled by the Polish or Hungarian government or the communist party of Poland or Hungary, or high officials thereof;

(2) has a Board of Directors more than 20 percent of whom are high officials of the respective governments or communist parties of Poland or Hungary;

(3) has been established by any organization or entity controlled by the Polish or Hungarian government or the communist party of Poland or Hungary;

(4) primarily benefits the Polish or Hungarian military or security forces, the Soviet military, or the military of any other Warsaw Pact member; or

(5) is required to acede to the rules of the Council for Mutual Economic Assistance.

SEC. 305 ASSISTANCE IN SUPPORT OF DEMOCRACY.

(a) AUTHORIZATION OF ASSISTANCE.—Notwithstanding any other provision of law, there are authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) $12,000,000 for the three-year period which began October 1, 1989, which shall be available only for the support of democratic institutions and activities in Poland and Hungary; of which:

(1) $2,000,000 shall be available in each such fiscal year only for the unconditional support of activities and institutions in Poland, which institutions shall

(A) include all major non-communist political and social formations;

(B) not include among its membership any member of the Polish United Workers Party (or its equivalent, under whatever name the communist party of Poland may be known); and

(2) $2,000,000 shall be available in each such fiscal year only for the unconditional support of democratic activities and institutions in Hungary, which institutions shall—

(A) include all major non-communist political and social formations;

(B) not include among its membership any member of the communist party of Hungary (or its equivalent, under whatever name the communist party of Hungary may be known).

SEC. 306. EDUCATIONAL AND CULTURAL EXCHANGE.

(a) OBJECTIVE.—It is the sense of the Congress that the President should—

(1) encourage privately administered educational and cultural exchanges between the people of the United States and the people of Poland and the people of the United States and the people of Hungary; and

(2) consider the establishment of reciprocal cultural centers in Poland and the United States and in Hungary and the United States to facilitate government and privately funded cultural exchanges.

(b) AUTHORIZATION OF EXCHANGES.—Of the amounts authorized for educational and cultural exchanges administered by the United States Information Agency, not to exceed $2,000,000 in fiscal year 1990 and not to exceed $4,000,000 in fiscal year 1991 shall be available for activities in Poland and Hungary.

SEC. 307. LABOR MARKET TRANSITION TECHNICAL ASSISTANCE.

(a) PURPOSE.—The Secretary of Labor (hereinafter referred to as "the Secretary"), in consultation with representatives of labor and business in the United States, shall:

(1) provide technical assistance to Poland and Hungary for the implementation of labor market reforms; and

(2) provide technical assistance to Poland and Hungary to facilitate adjustment during the period of economic transition and reform.

(b) TYPES OF TECHNICAL ASSISTANCE AUTHORIZED.—In carrying out the responsibilities enumerated in this Title, the Secretary is authorized to do the following:

(1) Provide technical assistance regarding policies and programs for training and retraining, job search and employment services, unemployment insurance, occupational safety and health protection, labor-management relations, labor statistics, anlaysis of productivity constraints, entrepreneurial support for small businesses, market-driven systems of wage and income determinations, job creation, employment security, and other matters that the Secretary of Labor may deem appropriate regarding free labor markets and labor organizations;

(2) Solicit and accept in the name of the Department of Labor, and employ or dispose of in furtherance of the purposes of this Title, any money or property, real, personal or mixed, tangible or intangible, received by gift, devise bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes of the United States: *Provided,* that gifts and donations of property which are no longer required for the discharge of the purposes of this section shall be reported to the Administrator of General Services for transfer, donation, or other disposal in accordance with the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), as amended;

(3) Solicit and accept voluntary and uncompensated services notwithstanding Section 1342 of Title 31 U.S.C., provided that a volunteer under this authority shall not be deemed to be an employee of the United States except for the purposes of (1) the tort claims provisions of Title 28, U.S.C., and (2) subchapter I of Chapter 81 of Title 5, U.S.C., relating to compensation for work injuries;

(4) Enter into arrangements of agreements with appropriate departments, agenices and establishments of Poland and Hungary; and

(5) Enter into arrangements or agreements with appropriate private and public sector United States parties, and international organizations.

(c) CONSULTATION WITH APPROPRIATE OFFICERS.—In carrying out the responsibilities established by this Title, the Secretary of Labor shall seek information and advice from, and consult with appropriate officers of the United States.

(d) CONSULTATION WITH LABOR AND BUSINESS REPRESENTATIVES.—For purposes of this section, consultation between the Secretary and the United States labor and business representatives shall not be subject to the Federal Advisory Committee Act (5 U.S.C. app.).

(e) AUTHORIZATION OF TRANSFERS.—Notwithstanding any other provision of law, from the funds appropriated or available to the Department of Labor, the Secretary is authorized to transfer and to obligate the following amounts for the purposes of carrying out this Title:

(1) $4,000,000 for technical assistance to Poland, and

(2) $1,000,000 for technical assistance to Hungary.

Funds so transferred shall be available for obligation immediately.

SEC. 308. ENVIRONMENTAL ASSISTANCE.

(a) ENVIRONMENTAL PROTECTION AGENCY ACTIVITIES.—In addition to specific authorities contained in any of the environmental statutes administered by the Environmental Protection Agency, the Administrator of that Agency (hereinafter referred to as the "Administrator") is authorized to undertake such educational, policy training, research, and technical and financial assistance, monitoring, coordinating, and other activities as he may deem appropriate, either alone or in cooperation with other United States or foreign agencies, governments, or public or private institutions, in protecting the environment in Poland and Hungary.

(b) AUTHORIZATION OF TRANSFERS.—The Administrator of the Environmental Protection Agency is authorized to use up to $6,000,000 in each of fiscal years 1990, 1991, and 1992 of funds appropriated under Title VI of the Clean Water Act to carry out the purposes of this Title. The Administrator may also use up to $2,000,000 appropriated to the Environmental Protection Agency under any other authorizing statutes to carry out the purposes of this Title.

(c) ACTIVITIES IN POLAND.—The Administrator shall cooperate with Polish officials and experts on appropriate environmental projects, including—

(1) establishment of an air quality monitoring network in the Krakow metropolitan area as a part of Poland's national air monitoring network; and

(2) improvement of both water quality and the availability of drinking water in the Krakow metropolitan area.

(d) ACTIVITIES IN HUNGARY.—The Administrator shall work with other United States and Hungarian officials and private parties to establish and support a regional center in Budapest for facilitating cooperative environmental activities between governmental experts and public and private organizations from the United States and Eastern and Western Europe.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. REPORT TO CONGRESS.

Not later than 90 days after the effective date of this Act, and every 180 days thereafter for three years after the effective date of this Act, the President shall report to the President of the Senate and the Speaker of the House of Representatives on the progress made in Poland and Hungary toward—

(a) the implementation of economic policies designed to promote sustained economic growth, to develop economic freedom, and to increase opportunities for the people of Poland and Hungary, including but not limited to the reforms and policies set forth in Section 4 of this Act;

(b) the adoption and pace of implementation of constitutional, legal, and administrative measures that limit the power of executive authorities and establish and protect the independence of the judiciary;

(c) the full elimination of all constitutional, legal, and administative measures that favor any political party or inhibit the formulation and operation of independent political parties, groups, associations, or organizations;

(d) the adoption of constitutional, legal, and administrative measures designed to establish and protect fundamental human rights and civil liberties, including but not limited to, freedom of speech, freedom of the press, freedom of religion, the right of Polish and Hungarian citizens to work, to join, or to refuse to join trade unions or labor organizations, and other freedoms comparable to those found in other democratic countries;

(e) the reduction and elimination of industrial practices detrimental to the environment and particularly harmful to human health;

(f) elections in which all parties are able to participate freely with equal opportunity to form governments based on popular support;

(g) the elimination of espionage activities by operatives of the governments of Poland and Hungary against the United States and its allies in the North Atlantic Treaty Organization.

SEC. 402. UNITED STATES GOVERNMENT OVERSIGHT.

(a) Oversight and coordination of all programs provided for in this Act, as well as all other activities of the United States government conducted to assist Poland, should be exercised by an interagency group to include the Director of the Office of Management and Budget, the Secretaries of State, Commerce, Treasury, Labor, Defense, Health and Human Services, and Housing and Urban Development, the Administrator of the Agency for International Development, and the Director of the United States Information Agency.

(b) Congress commends the President for agreeing to send a High Level Team of Experts to assess the dramatic transition taking place in Poland. The private and governmental experience of team members should result in the first comprehensive official review and analysis of the economic situation in Poland.

(c) The interagency group referred to in subsection (a) shall consult with the Team of Experts, and make available its findings to Congress and the American people.

SEC. 403. CESSATION OF AID.

(a) Funds provided under this Act shall cease to be available if the president of Poland declares martial law or removes members of the Senate or the Sejm to suppress the free expression of political views.

(b) Funds provided under this Act shall cease to be available if the president of Hungary declares martial law to suppress the free expression of political views, or suspends the planning for free and fair elections.

TITLE II—SAVINGS AND INVESTMENT INCENTIVES AND REPEAL OF SECTION 89

SEC. 201. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Capital Gains Provisions

PART I—REDUCTION IN CAPITAL GAINS TAX

SEC. 202. REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end thereof the following new section:

"SEC. 1202. REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

"(a) DEDUCTION ALLOWED FOR CAPITAL GAIN.—

"(1) IN GENERAL.—If, for any taxable year, a taxpayer other than a corporation has a net capital gain, an amount equal to the applicable percentage of the net capital gain shall be allowed as a deduction.

"(2) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under paragraph (1) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

"(b) APPLICABLE PERCENTAGE.—For purposes of this subsection, the applicable percentage shall be the percentage determined in accordance with the following table:

"In the case of:	The applicable percentage is:
1-year gain	5
2-year gain	10
3-year gain	15
4-year gain	20
5-year gain	25
6-year gain	30
7-year gain	35.

"(c) GAIN TO WHICH DEDUCTION APPLIES.—For purposes of this section—

"(1) 1-YEAR GAIN.—The term '1-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the net capital gain for the taxable year determined by taking into account only gain or loss from the sale or exchange after October 1, 1989, of assets with a holding period of more than 1 year but not more than 2 years.

"(2) 2-YEAR GAIN, ETC.—The terms '2-, 3-, 4-, 5-, and 6-year gain' mean the amounts determined under paragraph (1)—

"(A) by reducing the amount of the net capital gain under subparagraph (A) thereof by the amount of net capital gain determined by taking into account only gain or loss from the sale or exchange of assets with a holding period less than the minimum holding period for any such category, and

"(B) by substituting 2, 3, 4, 5, or 6 years for 1 year and 3, 4, 5, 6, or 7 years for 2 years, respectively, in subparagraph (B) thereof.

"(3) 7-YEAR GAIN.—The term '7-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, reduced by 1-, 2-, 3-, 4-, 5-, and 6-year gain, or

"(B) the net capital gain for the taxable year determined by taking into account only gain or loss from the sale or exchange after October 1, 1989, of assets with a holding period of more than 7 years.

"(4) SPECIAL RULES FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying this subsection with respect to any pass-thru entity, the determination of when a sale or exchange has occurred shall be made at the entity level.

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund.

"(5) SPECIAL RULES FOR CARRYOVERS, ETC.—

"(A) CERTAIN CARRYOVERS.—For purposes of this subsection—

"(i) any amount treated as a loss under section 1212(b) for any taxable year begin-

ning after October 1, 1989, shall be treated as a loss from a sale or exchange occurring after such date, and

"(ii) any such loss described in section 1212(b)(1)(B) shall be treated as a loss from the sale or exchange of a capital asset held for more than 1 year but not more than 2 years.

A similar rule shall apply to any loss carried to such a taxable year under section 465(a)(2) or 469(b).

"(B) RECAPTURE OF NET ORDINARY LOSS UNDER SECTION 1231.—For purposes of this subsection, if any amount is treated as ordinary income under section 1231(c) for any taxable year—

"(i) the amount so treated shall be allocated proportionately among the section 1231 gains (as defined in section 1231(a)) for such taxable year, and

"(ii) the amount so allocated to any such gain shall reduce the amount of such gain."

(b) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof)."

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(c) MINIMUM TAX.—Section 56(b)(1) is amended by adding at the end thereof the following new subparagraph:

"(F) CAPITAL GAINS DEDUCTION DISALLOWANCE.—The deduction under section 1202 shall not be allowed."

(d) PASSIVE ACTIVITY.—Subsection (j) of section 469 (relating to special rules for passive activities) is amended by adding at the end thereof the following new paragraph:

"(13) COORDINATION WITH SECTION 1202.—In the case of the disposition of any interest in a passive activity, any gain from such interest shall be reduced by the amount of any unused deduction or credit allocable to such interest before such gain is taken into account in computing the net capital gain of the taxpayer."

(e) CONFORMING AMENDMENTS.—

(1) Section 62(a) is amended by inserting after paragraph (13) the following new paragraph:

"(14) CAPITAL GAINS DEDUCTION.—The deduction allowed by section 1202."

(2) Clause (ii) of section 163(d)(4)(B) is amended by inserting ", reduced by the amount of any deduction allowable under section 1202 attributable to gain from such property" after "investment".

(3)(A) Section 170(e)(1)(B) is amended by inserting "the nondeductible percentage" before "the amount of gain".

(B) Section 170(e)(1) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), the term 'nondeductible percentage' means 100 percent minus the applicable percentage with respect to such property under section 1202(b), or, in the case of a corporation, 100 percent minus the deduction equivalent of the applicable percentage of section 1201.

(4)(A) Section 172(d)(2) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(5)(A) Section 221 (relating to cross reference) is amended to read as follows:

"SEC. 221. CROSS REFERENCES.

"(1) For deduction for net capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 is amended by striking "reference" in the item relating to section 221 and inserting "references".

(6) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for net capital gain). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(7) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The deduction under section 1202 (relating to deduction for net capital gain) shall not be taken into account."

(8) Paragraph (4) of section 691(c) is amended by striking "1201, and 1211" and inserting "1201, 1202, and 1211".

(9) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 (relating to deduction for net capital gain) and" after "except that".

(10) Section 1402(i)(1) is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply."

(11)(A) Sections 7518(g)(6)(A) is amended by striking the last sentence.

(B) Section 607(h)(6)(A) of the Merchant Marine Act, 1936, is amended by striking the last sentence.

(f) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1202. Reduction in capital gains tax for noncorporate taxpayers."

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to taxable years ending after October 1, 1989.

(2) TREATMENT OF COLLECTIBLES.—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years beginning after October 1, 1989.

(B) SPECIAL RULE FOR 1989 TAXABLE YEAR.—In case of any taxable year which includes October 1, 1989, for purposes of sections 1201 and 1202 of the Internal Revenue Code of 1986 and section 1(g) of such Code, any gain or loss from the sale or exchange of a collectible shall (within the meaning of section 1222(12) of such Code) be treated as gain or loss from a sale or exchange occurring on or before October 1, 1989.

SEC. 203. NET CAPITAL GAIN NOT TAKEN INTO ACCOUNT UNDER PHASEOUT OF 15-PERCENT RATE AND PERSONAL EXEMPTIONS.

(a) GENERAL RULE.—Subparagraph (A) of section 1(g)(1) is amended to read as follows:

"(A) taxable income reduced by the excess (if any) of—

"(i) the qualified net capital gain, over

"(ii) the deduction allowed under section 1202, over".

(b) QUALIFIED NET CAPITAL GAIN.—Subsection (g) of section 1 is amended by adding at the end thereof the following new paragraph:

"(5) QUALIFIED NET CAPITAL GAIN.—The term 'qualified net capital gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the net capital gain for the taxable year determined by taking into account only gain or loss from sales or exchanges after October 1, 1989.

For purposes of the preceding sentence, the rules of paragraphs (4) and (5) of section 1202(c) shall apply."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after October 1, 1989.

SEC. 204. RECAPTURE UNDER SECTION 1250 OF TOTAL AMOUNT OF DEPRECIATION.

(a) GENERAL RULE.—Subsections (a) and (b) of section 1250 (relating to gain from disposition of certain depreciable realty) are amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, if section 1250 property is disposed of, the lesser of—

"(1) the depreciation adjustments in respect of such property, or

"(2) the excess of—

"(A) the amount realized (or, in the case of a disposition other than a sale, exchange, or involuntary conversion, the fair market value of such property), over

"(B) the adjusted basis of such property,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(b) DEPRECIATION ADJUSTMENTS.—For purposes of this section, the term 'depreciation adjustments' means, in respect of any property, all adjustments attributable to periods after December 31, 1963, reflected in the adjusted basis of such property on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for exhaustion, wear and tear, obsolescence, or amortization (other than amortization under section 168 (as in effect before its repeal by the Tax Reform Act of 1976), 169, 185 (as in effect before its repeal by the Tax Reform Act of 1986), 188, 190, or 193). For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed as a deduction for any period was less than the amount allowable, the amount taken into account for such period shall be the amount allowed."

(b) LIMITATION IN CASE OF INSTALLMENT SALES.—Subsection (i) of section 453 is amended—

(1) by striking "1250" the first place it appears and inserting "1250 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1989)", and

(2) by striking "1250" the second place it appears and inserting "1250 (as so in effect)".

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 1250(d)(4) is amended—

(A) by striking "additional depreciation" and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(2) Subparagraph (B) of section 1250(d)(6) is amended to read as follows:

"(B) DEPRECIATION ADJUSTMENTS.—In respect of any property described in subparagraph (A), the amount of the depreciation adjustments attributable to periods before the distribution by the partnership shall be—

"(i) the amount of gain to which subsection (a) would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time, reduced by

"(ii) the amount of such gain to which section 751(b) applied."

(3) Subparagraph (D) of section 1250(d)(8) is amended—

(A) by striking "additional depreciation" each place it appears and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(4) Paragraph (8) of section 1250(d) is amended by striking subparagraphs (E) and (F) and inserting the following:

"(E) ALLOCATION RULES.—For purposes of this paragraph, the amount of gain attributable to the section 1250 property disposed of shall be the net amount realized with respect to such property reduced by the greater of the adjusted basis of the section 1250 property disposed of, or the cost of the section 1250 property acquired, but shall not exceed the gain recognized in the transaction."

(5) Subsection (d) of section 1250 is amended by striking paragraph (10).

(6) Section 1250 is amended by striking subsections (e), (f), and (g) and by redesignating subsections (h) and (i) as subsections (e) and (f), respectively.

(7) Paragraph (5) of section 48(q) is amended to read as follows:

"(5) RECAPTURE OF REDUCTION.—For purposes of sections 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation."

(8) Clause (i) of section 267(e)(5)(D) is amended by striking "section 1250(a)(1)(B)" and inserting "section 1250(a)(1)(B) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1989)".

(9)(A) Subsection (a) of section 291 is amended by striking paragraph (1) and redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(B) Subsection (c) of section 291 is amended to read as follows:

"(c) SPECIAL RULE FOR POLLUTION CONTROL FACILITIES.—Section 168 shall apply with respect to that portion of the basis of any property not taken into account under section 169 by reason of subsection (a)(4)."

(C) Section 291 is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(D) Paragraph (2) of section 291(d) (as redesignated by subparagraph (C)) is hereby repealed.

(E) Subparagraph (A) of section 265(b)(3) is amended by striking "291(e)(1)(B)" and inserting "291(d)(1)(B)".

(F) Subsection (c) of section 1277 is amended by striking "291(e)(1)(B)(ii)" and inserting "291(d)(1)(B)(ii)".

(10) Subsection (d) of section 1017 is amended to read as follows:

"(d) RECAPTURE OF DEDUCTIONS.—For purposes of sections 1245 and 1250—

"(1) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

"(2) any reduction under this section shall be treated as a deduction allowed for depreciation."

(11) Paragraph (5) of section 7701(e) is amended by striking "(relating to low-income housing)" and inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1989)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after October 1, 1989, in taxable years ending after such date.

PART II—ALTERNATIVE CAPITAL GAINS RATE FOR CORPORATIONS

SEC. 211. ALTERNATIVE CAPITAL GAINS RATE FOR CORPORATIONS.

(a) IN GENERAL.—Section 1201 is amended to read as follows:

"SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.

"(a) GENERAL RULE.—If, for any taxable year, a corporation has an applicable net capital gain, then, in lieu of the tax imposed by sections 11, 511, and 831 (a) or (b), there is hereby imposed a tax (if such tax is less than the tax imposed) in an amount equal to the sum of—

"(1) a tax computed on the taxable income reduced by the sum of the applicable net capital gain, at the rate and in the manner as if this subsection had not been enacted, plus

"(2) a tax equal to the applicable percentage of the applicable net capital gain.

"(b) APPLICABLE PERCENTAGE.—For purposes of this section, the applicable percentage shall be the percentage determined in accordance with the following table:

"In the case of:	The applicable percentage is:
3-year gain	33
6-year gain	32
9-year gain	31
12-year gain	30
15-year gain	29.

"(c) TERMS RELATING TO GAIN.—For purposes of this section—

"(1) APPLICABLE NET CAPITAL GAIN.—The term 'applicable net capital gain' means 3-, 6-, 9-, 12-, or 15-year gain.

"(2) 3-year gain.—The term '3-year gain' means the lesser of—

"(A) the net capital gain for the year, or

"(B) the net capital gain for the taxable year determined by taking into account only gain or loss from the sale or exchange after October 1, 1989, of assets with a holding period of more than 3 years but not more than 6 years.

"(3) 6-YEAR GAIN, ETC.—The terms '6-, 9-, and 12-year gain' mean the amounts determined under paragraph (2)—

"(A) by reducing the amount of the net capital gain under subparagraph (A) thereof by the amount of net capital gain determined by taking into account only gain or loss from the sale or exchange of assets with a holding period less than the minimum holding period for any such category, and

"(B) by substituting 6, 9, or 12 years for 3 years and 9, 12, or 15 years for 6 years, respectively, in subparagraph (B) thereof.

"(4) 15-YEAR GAIN.—The term '15-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, reduced by the 3-, 6-, 9-, and 12-year gain, or

"(B) the net capital gain for the taxable year determined by taking into account only gain or loss from the sale or exchange after October 1, 1989, of assets with a holding period of more than 15 years.

"(5) SPECIAL RULE.—For purposes of this subsection, the rules of paragraphs (4) and (5) of section 1202(c) shall apply.

"(d) CROSS REFERENCES.—For computation of the alternative tax—

"(1) in the case of life insurance companies, see section 801(a)(2),

"(2) in the case of regulated investment companies and their shareholders, see sections 852(b)(3) (A) and (D), and

"(3) in the case of real estate investment trusts, see section 857(b)(3)(A)."

(b) CONFORMING AMENDMENT.—Clause (iii) of section 852(b)(3)(D) is amended by striking "66 percent" and inserting "66 percent (or in the case of applicable net capital gains, 100 percent minus the applicable percentage under section 1201(b))".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after October 1, 1989.

PART III—INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN

SEC. 221. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—If an individual elects not to have the provisions of section 1201 apply for any taxable year, then, solely for purposes of determining gain on the sale or other disposition during such taxable year by such individual of an indexed asset which has been held for more than 2 years, the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) SPECIAL RULE FOR RECAPTURE GAIN.—

"(A) IN GENERAL.—Paragraph (1) shall not apply for purposes of determining the amount of recapture gain on the sale or other disposition of an indexed asset, but the amount of any such recapture gain shall increase the adjusted basis of the asset for purposes of applying paragraph (1) to determine the amount of other gain on such sale or other disposition.

"(B) RECAPTURE GAIN.—For purposes of subparagraph (A), the term 'recapture gain' means any gain treated as ordinary income under section 1245, 1250, or 1254.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) any stock in a corporation, and

"(B) any tangible property (or any interest therein),

which is a capital asset or property used in the trade or business (as defined in section 1231(b)).

"(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

"(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

"(B) COLLECTIBLES.—Any collectible (as defined in section 408(m)(2) without regard to section 408(m)(3)).

"(C) OPTIONS.—Any option or other right to acquire an interest in property.

"(D) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (i)(3)).

"(E) CERTAIN PREFERRED STOCK.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

"(F) STOCK IN FOREIGN CORPORATIONS.—Stock in a foreign corporation.

"(G) STOCK IN S CORPORATIONS.—Stock in an S corporation.

"(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Paragraph (2)(F) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis or is authorized for trading on the national market system operated by the National Association of Securities Dealers other than—

"(A) stock of a foreign investment company (within the meaning of section 1246(b)),

"(B) stock in a passive foreign investment company (as defined in section 1296), and

"(C) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(c) INDEXED BASIS.—For purposes of this section—

"(1) INDEXED BASIS.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset shall be determined by dividing—

"(A) the CPI for the calendar year preceding the calendar year in which the disposition takes place, by

"(B) the CPI for the later of—

"(i) the calendar year preceding the calendar year in which the taxpayer's holding period for such asset began, or

"(ii) 1990.

The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest one-hundredth.

"(3) CONVENTIONS.—For purposes of paragraph (2), if any asset is disposed of during any calendar year—

"(A) such disposition shall be treated as occurring on the last day of such calendar year, and

"(B) the taxpayer's holding period for such asset shall be treated as beginning in the same calendar year as would be determined for an asset actually disposed of on such last day with a holding period of the same length as the actual holding period of the asset involved.

"(4) CPI.—For purposes of this subsection, the CPI for any calendar year shall be determined under section 1(f)(4).

"(d) SHORT SALES.—

"(1) IN GENERAL.—In the case of a short sale of an indexed asset with a short sale period in excess of 2 years, for purposes of this title, the amount realized shall be an amount equal to the amount realized (determined without regard to this paragraph) multiplied by the applicable inflation ratio. In applying subsection (c)(2) for purposes of the preceding sentence, the date on which the property is sold short shall be treated as the date on which the holding period for the asset begins and the closing date for the sale shall be treated as the date of disposition.

"(2) SHORT SALE OF SUBSTANTIALLY IDENTICAL PROPERTY.—If the taxpayer or the taxpayer's spouse sells short property substantially identical to an asset held by the taxpayer, the asset held by the taxpayer and the substantially identical property shall not be treated as indexed assets for the short sale period.

"(3) SHORT SALE PERIOD.—For purposes of this subsection, the short sale period begins on the day after property is sold and ends on the closing date for the sale.

"(e) TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

"(1) ADJUSTMENTS AT ENTITY LEVEL.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the adjustment under subsection (a) shall be allowed to any qualified investment entity (including for purposes of determining the earnings and profits of such entity).

"(B) EXCEPTION FOR CORPORATE SHAREHOLDERS.—Under regulations—

"(i) in the case of a distribution by a qualified investment entity (directly or indirectly) to a corporation—

"(I) the determination of whether such distribution is a dividend shall be made without regard to this section, and

"(II) the amount treated as gain by reason of the receipt of any capital gain dividend shall be increased by the percentage by which the entity's net capital gain for the taxable year determined without regard to this section exceeds the entity's net capital gain for such year determined with regard to this section, and

"(ii) there shall be other appropriate adjustments (including deemed distributions) so as to ensure that the benefits of this section are not allowed (directly or indirectly) to corporate shareholders of qualified investment entities.

For purposes of the preceding sentence, any amount includible in gross income under section 852(b)(3)(D) shall be treated as a capital gain dividend and an S corporation shall not be treated as a corporation.

"(C) EXCEPTION FOR QUALIFICATION PURPOSES.—This section shall not apply for purposes of sections 851(b) and 856(c).

"(D) EXCEPTION FOR CERTAIN TAXES IMPOSED AT ENTITY LEVEL.—

"(i) TAX ON FAILURE TO DISTRIBUTE ENTIRE GAIN.—If any amount is subject to tax under section 852(b)(3)(A) for any taxable year, the amount on which tax is imposed under such section shall be increased by the percentage determined under subparagraph (B)(i)(II). A similar rule shall apply in the case of any amount subject to tax under paragraph (2) or (3) of section 857(b) to the extent attributable to the excess of the net capital gain over the deduction for dividends paid determined with reference to capital gain dividends only. The first sentence of this clause shall not apply to so much of the amount subject to tax under section 852(b)(3)(A) as is designated by the company under section 852(b)(3)(D).

"(ii) OTHER TAXES.—This section shall not apply for purposes of determining the amount of any tax imposed by paragraph (4), (5), or (6) of section 857(b).

"(2) ADJUSTMENTS TO INTERESTS HELD IN ENTITY.—

"(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

"(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(3) QUALIFIED INVESTMENT ENTITY.—For purposes of this subsection, the term 'qualified investment entity' means—

"(A) a regulated investment company (within the meaning of section 851), and

"(B) a real estate investment trust (within the meaning of section 856).

"(f) OTHER PASS-THRU ENTITIES.—

"(1) PARTNERSHIPS.—

"(A) IN GENERAL.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners (but only for purposes of determining the income of partners who are individuals).

"(B) SPECIAL RULE IN THE CASE OF SECTION 754 ELECTIONS.—In the case of a transfer of an interest in a partnership with respect to which the election provided in section 754 is in effect—

"(i) the adjustment under section 743(b)(1) shall, with respect to the transferor partner, be treated as a sale of the partnership assets for purposes of applying this section, and

"(ii) with respect to the transferee partner, the partnership's holding period for purposes of this section in such assets shall be treated as beginning on the date of such adjustment.

"(2) S CORPORATIONS.—In the case of an S corporation, the adjustment made under subsection (a) at the corporate level shall be passed through to the shareholders. This section shall not apply for purposes of determining the amount of any tax imposed by section 1374 or 1375.

"(3) COMMON TRUST FUNDS.—In the case of a common trust fund, the adjustment made under subsection (a) at the trust level shall be passed through to the participants (but only for purposes of determining the income of participants who are individuals).

"(g) DISPOSITIONS BETWEEN RELATED PERSONS.—This section shall not apply to any sale or other disposition of property between related persons (within the meaning of section 465(b)(3)(C)) if such property, in the hands of the transferee, is of a character subject to the allowance for depreciation provided in section 167.

"(h) TRANSFERS TO INCREASE INDEXING ADJUSTMENT.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is to secure or increase an adjustment under subsection (a), the Secretary may disallow part or all of such adjustment or increase.

"(i) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) A substantial improvement to property.

"(B) In the case of stock of a corporation, a substantial contribution to capital.

"(C) Any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—The applicable inflation ratio shall be appropriately reduced for periods during which the asset was not an indexed asset.

"(3) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased property where—

"(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

"(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) GAINS AND LOSSES FROM INDEXED ASSETS NOT TAKEN INTO ACCOUNT UNDER LIMITATION ON INVESTMENT INTEREST.—Subparagraph (B) of section 163(d)(4) (defining investment income) is amended by adding at the end thereof the following new sentences:

"Gain from the sale or other disposition of an indexed asset (as defined in section 1022) held for more than 2 years shall not be taken into account for purposes of the preceding sentence. The preceding sentence shall not apply to gain from the sale or other disposition of any such asset if the taxpayer elects to waive the benefits of section 1022 in determining the amount of such gain."

(c) REPEAL OF SECTION 1(j).—

(1) IN GENERAL.—Subsection (j) of section 1 is hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (4) of section 691(c) is amended by striking "1(j)".

(B)(i) Subparagraph (B) of section 904(b)(2) is amended by striking so much of such subparagraph as precedes clause (i) and inserting the following:

"(B) SPECIAL RULE WHERE CORPORATE CAPITAL GAIN RATE DIFFERENTIAL.—In the case of a corporation for any taxable year for which there is a capital gain rate differential—".

(ii) Subparagraph (D) of section 904(b)(3) is amended to read as follows:

"(D) CAPITAL GAIN RATE DIFFERENTIAL.—There is a capital gain rate differential for any taxable year in the case of a corporation if any rate of tax imposed by section 11, 511, or 831 (a) or (b) (whichever applies) exceeds the alternative rate of tax under section 1201(a) (determined without regard to the last sentence of section 11(b)(1))."

(iii) Subparagraph (E) of section 904(b)(3) is amended by striking clauses (ii) and (iii) and inserting the following:

"(ii) HIGHEST APPLICABLE TAX RATE.—For purposes of clause (i), the term 'highest applicable tax rate' means the highest rate of tax specified in section 11(b).

"(iii) ALTERNATIVE TAX RATE.—For purposes of clause (i), the term 'alternative tax rate' means the alternative rate of tax under section 1201(a)."

(d) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets for purposes of determining gain."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to any disposition of property in any taxable year beginning after December 31, 1991.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1989.

Subtitle B—Individual Retirement Plus Accounts

SEC. 231. ESTABLISHMENT OF INDIVIDUAL RETIREMENT PLUS ACCOUNTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

"408A. INDIVIDUAL RETIREMENT PLUS ACCOUNTS.

"(a) GENERAL RULE.—Except as provided in this section, an individual retirement plus account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) INDIVIDUAL RETIREMENT PLUS ACCOUNT.—For purposes of this title, the term 'individual retirement plus account' means an individual retirement plan which is designated at the time of the establishment of the plan as an individual retirement plus account. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) CONTRIBUTION RULES.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an individual retirement plus account.

"(2) CONTRIBUTION LIMIT.—

"(A) IN GENERAL.—Except in the case of rollover contributions, the aggregate amount which may be accepted as contributions to an individual retirement plus account shall not be greater than the excess (if any) of—

"(i) the nondeductible limit with respect to the individual for the taxable year under section 408(o) (after application of subparagraph (B)(ii) thereof), over

"(ii) the designated nondeductible contributions made by the individual for such taxable year to 1 or more individual retirement plans.

"(B) $1,000 INCREASE AFTER 1994.—In the case of any taxable year beginning after December 31, 1994, the amount determined under subparagraph (A)(i) (without regard to this subparagraph) shall be increased by $1,000.

"(C) SPECIAL RULE FOR MARRIED INDIVIDUALS.—The nondeductible limits under subparagraph (A) for an individual and for such individual's spouse shall be an amount equal to the excess (if any) of—

"(i) $2,000, over

"(ii) the sum of the amount allowed as a deduction under section 219 for contributions on behalf of such individual or such spouse, plus the amount determined under subparagraph (A)(ii) with respect to each.

In no event shall the sum of such limits exceed an amount equal to the sum of the compensation includible in the individual's and spouse's gross income for the taxable year, reduced by the sum of the amounts determined under clause (ii).

"(3) CONTRIBUTIONS AFTER AGE 70½.—Contributions may be made by an individual to an individual retirement plus account after such individual has attained the age of 70½.

"(4) LIMITATIONS ON ROLLOVER CONTRIBUTIONS.—No rollover contributions may be made to an individual retirement plus account unless such rollover contribution is a contribution of a distribution or payment out of—

"(A) another individual retirement plus account, or

"(B) an individual retirement plan which is not allocable to any amount transferred to such plan which represented any portion of the balance to the credit of an employee in a qualified trust (or any income allocable to such portion).

"(d) DISTRIBUTION RULES.—For purposes of this title—

"(1) IN GENERAL.—Except in the case of a qualified distribution, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an individual retirement plus account.

"(2) TREATMENT OF QUALIFIED DISTRIBUTION.—In the case of a qualified distribution from an individual retirement plus account—

"(A) the amount of such distribution shall not be includible in gross income; and

"(B) section 72(t) shall not apply.

"(3) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified distribution' means any distribution—

"(i) made on or after the date on which the individual attains age 59½,

"(ii) made to a beneficiary (or to the estate of an individual) on or after the death of the individual,

"(iii) attributable to the employee's being disabled (within the meaning of section 72(m)(7)), or

"(iv) which is a qualified special purpose distribution (within the meaning of subsection (e)).

"(B) DISTRIBUTIONS WITHIN 5 YEARS.—No distribution shall be treated as a qualified distribution if—

"(i) it is made within the 5-taxable year period beginning with the 1st taxable year in which the individual made a contribution to an individual retirement plus account, or

"(ii) in the case of a distribution properly allocable to a rollover contribution (or income allocable thereto), it is made within 5 years of the date on which such rollover contribution was made.

"(4) SPECIAL RULES RELATING TO ROLLOVERS FROM REGULAR INDIVIDUAL RETIREMENT ACCOUNTS.—

"(A) IN GENERAL.—Except as provided in this paragraph, any amount paid or distributed out of an individual retirement plan on or before the earlier of—

"(i) the date on which the individual attains age 55, or

"(ii) January 1, 1992,

shall not be included in gross income (and section 72(t) shall not apply to such amount) if the individual receiving such amount transfers, within 60 days of receipt, the entire amount received to an individual retirement plus account.

"(B) TREATMENT OF TAX-FAVORED AMOUNTS.—

"(i) IN GENERAL.—Notwithstanding subparagraph (A), there shall be included in gross income (but section 72(t) shall not apply to) the portion of any amount transferred which bears the same ratio to such amount as—

"(I) the aggregate amount of contributions to individual retirement plans with respect to which a deduction was allowable under section 219, bears to

"(II) the aggregate balance of such plans.

"(ii) TIME FOR INCLUSION.—Any amount described in clause (i) shall be included in gross income ratably over the 4-taxable year period beginning with the taxable year in which the amount was paid or distributed out of the individual retirement plan.

"(e) QUALIFIED SPECIAL PURPOSE DISTRIBUTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified special purpose distribution' means—

"(A) a qualified first-time homebuyer distribution, or

"(B) an applicable medical or educational distribution.

"(2) 25 PERCENT ACCOUNT LIMIT.—A distribution shall not be treated as a qualified special purpose distribution to the extent it exceeds the amount (if any) by which—

"(A) 25 percent of the sum of—

"(i) the aggregate balance of individual retirement plus accounts established on behalf of an individual, plus

"(ii) the aggregate amounts previously treated as qualified special purpose distributions, exceeds

"(B) the amount determined under subparagraph (A)(ii).

"(3) DISTRIBUTIONS USED TO PURCHASE A HOME BY FIRST-TIME HOMEBUYER.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by a first-time homebuyer from an individual retirement plan to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence for such individual.

"(B) BASIS REDUCTION.—The basis of any principal residence described in subparagraph (A) shall be reduced by any amount excluded from the gross income of such first-time homebuyer by reason of this section.

"(C) RECOGNITION OF GAIN AS ORDINARY INCOME.—

"(i) IN GENERAL.—Notwithstanding any other provision of this subtitle, except as provided in clause (ii)—

"(I) gain (if any) on the sale or exchange of a principal residence to which subparagraph (A) applies shall, to the extent of the amount excluded from gross income under this section, be treated as ordinary income by such individual, and

"(II) section 72(t) shall apply to such amount.

"(ii) EXCEPTION.—Clause (i) shall not apply to any taxable year to the extent of any amount which, before the due date (without extensions) for filing the return for such year, the taxpayer contributes to an individual retirement plus account. Such amount shall not be taken into account for purposes of any provision of this title relating to excess contributions.

"(iii) COORDINATION WITH OTHER PROVISIONS.—In the event all or part of the gain referred to in clause (i) is treated as ordinary income under any other provision of this subtitle, such provision shall be applied before clause (i).

"(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If—

"(i) any amount is paid or distributed from an individual retirement plus account to an individual for purposes of being used as provided in subparagraph (A), and

"(ii) by reason of a delay in the acquisition of the residence, such amount cannot be so used,

the amount so paid or distributed may be paid into an individual retirement plus account as provided in section 408(d)(3)(A)(i) without regard to section 408(d)(3)(B), and, if so paid into such other plan, such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) QUALIFIED ACQUISITION COSTS.—The term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(ii) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this paragraph applies.

"(iii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(iv) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(4) APPLICABLE MEDICAL DISTRIBUTIONS.—For purposes of paragraph (1), the term 'applicable medical distributions' means any distributions made to an individual (not otherwise taken into account under this subsection) to the extent such distributions do not exceed the amount allowable as a deduction under section 213 for amounts paid during the taxable year for medical care (without regard to whether the individual itemized deductions for the taxable year).

"(5) DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLUS ACCOUNTS FOR EDUCATIONAL EXPENSES.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable educational distributions' means distributions to an individual to the extent that the amount of such distributions (not otherwise treated as qualified special purpose distributions, determined after application of paragraph (4)) does not exceed the qualified higher education expenses of the individual for the taxable year.

"(B) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(I) the taxpayer,

"(II) the taxpayer's spouse, or

"(III) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

at an eligible educational institution (as defined in section 135(c)(3)).

"(ii) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135.

"(f) ROLLOVER CONTRIBUTIONS.—For purposes of this section, the term 'rollover contributions' means contributions described in sections 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), and 408(d)(3).

"(g) DETERMINATIONS.—For purposes of this section, any determinations with respect to aggregate contributions to, or the balance of, individual retirement plus accounts shall be made as of the close of the calendar year preceding the calendar year in which the taxable year begins."

(b) MINIMUM TAX.—Section 56(b) is amended by adding at the end thereof the following new paragraph:

"(4) EXCLUSIONS ON INDIVIDUAL RETIREMENT PLUS ACCOUNTS.—Section 408A(d)(2) shall not apply to any qualified distribution from an individual retirement plus account."

(c) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. Individual retirement plus accounts."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

Subtitle C—Repeal of Section 89 Nondiscrimination Rules

SEC. 241. REPEAL OF SECTION 89.

(a) IN GENERAL.—Section 89 (relating to benefits provided under certain discriminatory employee benefit plans) is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by striking the item relating to section 89.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 1151 of the Tax Reform Act of 1986.

SEC. 242. REINSTATEMENT OF PRE-1986 ACT NONDISCRIMINATION RULES.

(a) IN GENERAL.—

(1) Each provision of law amended by subsection (b), (c), (d)(1), (f), (g), (h) (other than paragraph (3)), or (k)(3) of section 1151 of the Tax Reform Act of 1986 is amended to read as if the amendments made by such subsection had not been enacted.

(2) Each provision of law amended by paragraph (22), (27), or (31) of section 1011B(a) of the Technical and Miscellaneous Revenue Act of 1988 is amended to read as if the amendments made by such paragraph had not been enacted.

(3) Subparagraph (A) of section 125(g)(3) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking "described in subparagraph (B) of section 410(b)(1)" and inserting "who qualify under the classification established by the employer and such classification is found by the Secretary not to be discriminatory in favor of highly compensated individuals".

(4) Section 162(l)(2) of such Code is amended by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(5) Subparagraph (C) of section 401(a)(9) of such Code is amended—

(A) by striking "(as defined in section 89(i)(4))", and

(B) by adding at the end the following: "For purposes of this subparagraph, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B))."

(6)(A) Subparagraph (C) of section 414(n)(3) is amended by striking "89,".

(B) Paragraph (1) of section 414(r) of such Code is amended by striking "sections 89 and" and inserting "section".

(C) Paragraph (2) of section 414(t) of such Code is amended by striking "89,".

(7) Paragraph (3) of section 505(b) of such Code is amended by striking "paragraph (1) and inserting (1) and (7)".

(8) Sections 3021(c) and 6070 of the Technical and Miscellaneous Revenue Act of 1988 are hereby repealed.

(b) EXCEPTIONS.—

(1)(A) Paragraph (7) of section 79(d) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended to read as follows:

"(7) EXEMPTION FOR CHURCH PLANS.—This subsection shall not apply to a church plan maintained by a church for church employees. For purposes of the preceding sentence, the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B))."

(B) Paragraph (2) of section 223(d) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new subparagraph:

"(D) SECTION 79(d).—Unless the employer elects otherwise, the references to section 79(d) in this paragraph shall be treated as references to such section as in effect on the day before the date of the enactment of the Tax Reform Act of 1986."

(2) Paragraph (2) of section 125(d) of such Code (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended to read as follows:

"(2) DEFERRED COMPENSATION PLANS EXCLUDED.—

"(A) IN GENERAL.—The term 'cafeteria plan' does not include any plan which provides for deferred compensation.

"(B) EXCEPTION FOR CASH AND DEFERRED ARRANGEMENTS.—Subparagraph (A) shall not apply to a profit-sharing or stock bonus plan or rural cooperative plan (within the meaning of section 401(k)(7)) which includes a qualified cash or deferred arrangement (as defined in section 401(k)(2)) to the extent of amounts which a covered employee may elect to have the employer pay as contributions to a trust under such plan on behalf of the employee.

"(C) EXCEPTION FOR CERTAIN PLANS MAINTAINED BY EDUCATIONAL INSTITUTIONS.—Subparagraph (A) shall not apply to a plan maintained by an educational organization described in section 170(b)(1)(A)(ii) to the extent of amounts which a covered employee may elect to have the employer pay as contributions for post-retirement group life insurance if—

"(i) all contributions for such insurance must be made before retirement, and

"(ii) such life insurance does not have a cash surrender value at any time.

For purposes of section 79, any life insurance described in the preceding sentence shall be treated as group-term life insurance."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 1151 of the Tax Reform Act of 1986.

SEC. 243. OTHER PROVISIONS RELATING TO NONTAXABLE BENEFITS.

(a) TREATMENT OF LEASED EMPLOYEES.—

(1) REPLACEMENT OF HISTORICAL TEST WITH CONTROL TEST.—Subparagraph (C) of section 414(n)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

"(C) such services are performed by such person under the control of the recipient."

(2) SERVICES INCIDENTAL TO SALES OR CONSTRUCTION DISREGARDED.—Paragraph (2) of section 414(n) of such Code is amended by adding at the end thereof the following new flush sentence:

"The term 'leased employee' shall not include an individual solely because such individual is performing services incidental to the sale of goods or equipment or incidental to the construction of a facility. Such term shall include the support staff of professional employees."

(b) APPLICATION OF LINE OF BUSINESS TEST FOR PERIOD BEFORE GUIDELINES ISSUED.—In the case of any plan year beginning on or before the date the Secretary of the Treasury or his delegate issues guidelines and begins issuing determinations under section 414(r)(2)(C) of the Internal Revenue Code of 1986, an employer shall be treated as operating separate lines of business if the employer reasonably determines that it meets the requirements of section 414(r) (other than paragraph (2)(C) thereof) of such Code.

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to years beginning after December 31, 1983.

(2) The provisions of subsection (b) shall apply to years beginning after December 31, 1986.

Subtitle D—Acceleration of Deposit Requirements

SEC. 251. ACCELERATION OF DEPOSIT REQUIREMENTS FOR TELEPHONE EXCISE TAX AND AIRLINE TICKET TAX.

(a) ACCELERATION OF DEPOSIT REQUIREMENTS.—Section 6302 (relating to mode or time of collection) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) TIME FOR DEPOSIT OF TAXES ON COMMUNICATIONS SERVICES AND AIRLINE TICKETS.—If, under regulations prescribed by the Secretary, a person is required to make deposits of any tax imposed by section 4251 or subsection (a) or (b) of section 4261 with respect to amounts considered collected by such person during any semimonthly period, such deposits shall be made not later than the 3rd day (not including Saturdays, Sundays, or legal holidays) after the close of the 1st week of the 2nd semimonthly period following the period to which such amounts relate.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments of taxes considered collected for semimonthly periods beginning after June 30, 1990.

EARTHQUAKE HAZARDS REDUCTION ACT AMENDMENTS

AMENDMENT NO. 1066

Mr. MITCHELL (for Mr. GORE) proposed an amendment to the bill (S. 1062) to amend the Earthquake Hazards Reduction Act of 1977 to improve the Federal effort to reduce earthquake hazards, and for other purposes, as follows:

At the end, add the following new sections:

EARTHQUAKE INVESTIGATIONS

SEC. 12. (a) The Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.) is amended by adding at the end the following new section:

"EARTHQUAKE INVESTIGATIONS

"SEC. 8. (a) ESTABLISHMENT OF INVESTIGATIONS PROGRAM.—In addition to the other activities of the National Earthquake Hazards Reduction Program, there is established within the United States Geological Survey an Earthquake Investigations Program, the purpose of which is to investigate major earthquakes, including their geologic characteristics and the behavior of buildings and other structures, so as to learn lessons which can be applied to reduce the loss of lives and property in future earthquakes. The Director of such Survey is authorized to utilize scientists and engineers from the National Institute of Standards and Technology, other Federal agencies, and private contractors, on a reimbursable basis, in the conduct of these earthquake investigations.

"(b) FOCUS OF INVESTIGATIONS.—Each such earthquake investigation shall analyze—

"(1) the cause of the earthquake and the nature of the resulting ground motion;

"(2) the behavior of structures and facilities of all kinds (including utility lines and equipment), both those that were damaged and those that were undamaged; and

"(3) the effectiveness of pre-earthquake engineering and earthquake hazards mitigation programs and actions.

"(c) OTHER AREAS OF EMPHASIS.—In addition, each such earthquake investigation shall draw any appropriate lessons which will help—

"(1) improve methods for determining the seismic risks existing at specific sites;

"(2) determines the degree and nature of the hazards posed by different kinds of structures and facilities;

"(3) develop engineering and construction approaches to improve the earthquake resistance of both new and existing structures and facilities; and

"(4) improve earthquake hazards mitigation generally throughout the United States.".

AUTHORIZATION APPROPRIATIONS

SEC. 13. (a) Section 7(b) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(b)) is amended by striking "$43,283,000" and inserting in lieu thereof "$47,283,000".

(b) Section 7(a) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(a)) is amended by striking "$5,788,000" and inserting in lieu thereof "$8,788,000".

(c) Section 7(c) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(c)) is amended by striking "$35,454,000" and inserting in lieu thereof "$38,454,000".

(d) Section 7(d) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(d)) is amended—

(1) by striking "NATIONAL BUREAU OF STANDARDS" and inserting in lieu thereof "NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY";

(2) by striking "Bureau" and inserting in lieu thereof "National Institute of Standards and Technology"; and

(3) by striking "$525,000" and inserting in lieu thereof "$2,525,000".

(e) At the end of section 7 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706) add the following new subsection:

"(f) EARTHQUAKE INVESTIGATIONS.—In addition to such sums as are otherwise authorized under this Act, there are authorized to be appropriated to the United States Geological Survey for earthquake investigations under section 8 of this Act $8,000,000 for the fiscal year ending September 30, 1990.".

DANFORTH AMENDMENT NO. 1067

Mr. PACKWOOD (for Mr. DANFORTH) proposed an amendment to the bill S. 1062, supra, as follows:

On page 30, line 19, insert immediately before the semicolon the following: ", which plan shall assess the emergency broadcast capability in such area to ensure that the capability can be sustained in the event of an earthquake and shall take into account the probable effects of earthquakes on the radio stations and broadcast towers that are designated as emergency broadcast stations in such areas".

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on the preparation of the 1990 farm bill: Reform of Public Law 480 "Food for Peace." The hearing will be held on November 7, 1989 at 2:30 p.m. in SR-332.

For further information, please contact Jim Phippard of the committee's staff at 224-2035.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 25, at 2 p.m. to hold a nomination hearing on R. James Woolsey, for the rank of Ambassador during his tenure as U.S. Representative to the negotiation on conventional Armed Forces in Europe [CFE].

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, October 25, 1989, at 2:30 p.m., to hold a hearing on S. 590, a bill to prohibit injunctive relief, or an award of damages against a judicial officer for action taken in a judicial capacity.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Communications Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 25, 1989, at 9 a.m., to hold a hearing on reinstating FCC rules requiring cable television systems to carry local television stations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Wednesday, October 25, 1989, at 10 a.m., to conduct an oversight hearing on the condition of the banking system.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, October 25, 1989, at 9:30 a.m., for a hearing on drug treatment.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES AND THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources/Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate October 25, 1989, at 2 p.m., to conduct a joint oversight hearing to receive testimony concerning the national forest planning process as provided in the National Forest Management Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HISTORIC PRESERVATION ADMINISTRATION ACT (S. 1578) AND NATIONAL PRESERVATION POLICY ACT (S. 1579)

● Mr. FOWLER. Mr. President, with apologies to Dickens, it might truly be said that these are the best of times and the worst of times for historic preservation. In 1988, we passed the abandoned shipwreck bill to protect historic resources close to shore. We saved the Manassas battlefield from commercial overdevelopment. We strengthened the Archeological Resources Protection Act. And once again, we staved off administration efforts to gut the Federal Preservation Program.

And if the 1980's have too often been a time of retrenchment and retreat at the Federal level, they have been an explosion of interest and involvement in preservation in the States, among native American groups, in local governments, and in the private sector.

Yet for all of these achievements, the overall picture is far from encouraging. Federal funding for preservation continues to be inadequate and uncertain, and the Federal Preservation Program is uneven and uncoordinated. Changes made in the rehabilitation tax credit have resulted in a 43-percent reduction in tax cut certifications for historic preservation. Our national heritage continues to be threatened by careless development, neglect, and looting.

In response, on August 4 I introduced two bills designed to strengthen our national effort to preserve and

protect our national prehistoric and historic heritage: The Historic Preservation Administration Act (S. 1578) and the National Historic Preservation Policy Act (S. 1579).

In developing this legislation over the past 2 years, I have had the help and advice of many in the preservation community. The National Conference of State Historic Preservation Officers, the Society for American Archaeology, Preservation Action, the Navajo Nation and many other groups and individuals have all made significant contributions in improving my original drafts.

HISTORIC PRESERVATION ADMINISTRATION ACT (S. 1578)

The Historic Preservation Administration Act addresses what turned out to be the most controversial feature of my original bill: The creation of an independent historic preservation agency. I have received many thoughtful comments in opposition to this approach, and I believe they raise legitimate substantive and political objections to the establishment of the new agency. However, after weighing the pros and cons, I have concluded that a historic preservation agency, where preservation is the only priority, offers the best long-term approach for achieving the level of Federal leadership which I feel to be necessary and appropriate in this field.

I am under no illusions about the difficulties which will lie ahead in congressional consideration of the historic preservation agency proposal. However, at the very least I hope this will provide a vehicle for us to thoroughly examine the organizational problems which currently face our national preservation efforts.

The bill also provides for the creation of a national center for preservation technology to promote research, development and dissemination of historic preservation technologies.

NATIONAL HISTORIC PRESERVATION POLICY ACT (S. 1579)

The National Historic Preservation Policy Act includes provisions on: Federal agency preservation responsibilities; the national register; national historic landmarks; archeological resource protection; State, tribal, and local preservation programs; and preservation education. In order to allow these proposals to stand on their own merit, they are premised on the current organizations of the Federal Preservation Program, with the National Park Service and the Advisory Council on Historic Preservation as the chief instruments.

At this point I ask to enter into the RECORD summaries of my two bills, and several letters of support I have received from some of the organizations which have endorsed the legislation.

The material follows:

SUMMARY OF S. 1578, HISTORIC PRESERVATION ADMINISTRATION ACT

The Historic Preservation Administration Act is designed to strengthen the visibility, the accountability, and the clout of the federal historic preservation program. The major features of the bill include:

Creating a new Historic Preservation Agency to oversee and coordinate the national preservation program (Section 5). The new agency would not represent an expansion of the federal bureaucracy, but would be put together by transferring existing functions and personnel from other agencies (all of the staff of the Advisory Council on Historic Preservation, and certain positions from the Park Service). An independent agency, whose sole focus is on preservation policy, will provide increased Federal leadership and coordination within the national preservation partnership of Federal, State, local, and private preservation organizations.

Establishing a Preservation Advisory Committee "to advise the Preservation Agency on national preservation policy and to assist the Preservation Agency in coordinating Federal preservation activities" (Section 6). In membership and function, the Committee to a certain extent duplicates the current role of the members of the Advisory Council on Historic Preservation, though the Council exercises more direct authority while the Committee will have broader representation (especially from Federal agencies and Indian tribes).

Establishing an Archaeology Advisory Board "to advise the Preservation Agency on Federal archaeology policies" and to assist in the development of professional standards for archaeologists and of relevant archaeological research questions that may be addressed in federally conducted archaeological projects. [The Advisory Board's responsibilities pertaining to professional standards and archaeological research questions are described in more detail in S. 1579, the National Historic Preservation Policy Act.] The Archaeology Board will provide a broadly-based panel of experts to help guide Federal archaeological policies.

Creating a National Center for Preservation Technology to research, develop, and disseminate historic and pre-historic preservation technologies (Section 8). This Center, which is based on the recommendations of the National Coalition for Applied Preservation Technology, responds to the finding of a 1986 report by the Office of Technology Assessment that "the lack of adequate (preservation) technology transfer demonstrates a conspicuous need for an institution to coordinate research, disseminate information, and provide training about new technologies."

SUMMARY OF NATIONAL HISTORIC PRESERVATION POLICY ACT

The National Historic Preservation Policy Act (S. 1579) is aimed at strengthening, and improving the accountability of, our national preservation program. The bill represents the first comprehensive update and fine-tuning since 1980 of the two cornerstones of our national preservation program: the National Historic Preservation Act and the Archaeological Resources Protection Act. It is based on the following principles (with the appropriate section of the proposal indicated in parentheses):

1. Re-asserting federal leadership (Title I) while recognizing and providing for the Federal/state/local/private sector partnership which has evolved in recent years (Titles II and IV), and for the first time, extending this partnership to Indian tribes (Title III).

2. Strengthening the federal protection for historic properties (Sections 101-112).

3. Strengthening the federal archaeology program, both in protection and content (Sections 113-123).

4. Further defining the role of the States in the national preservation program by allow State programs to take on additional responsibilities while insuring they receive adequate resources to do so (Title II).

5. Strengthening the role of Indian tribes in the national preservation program while providing sufficient flexibility to allow for diverse and innovative local approaches to preservation needs (Title IV).

6. Defining the role of local governments in the national preservation program while providing sufficient flexibility to allow for diverse and innovative local approaches to preservation needs (Title IV).

7. Strengthening preservation education programs (Title V).

The major features of the proposal are:

Clarifying, coordinating and strengthening federal preservation programs, including federal agency responsibilities (Sections 101, 102, 103 and 108), the National Register of Historic Places (Section 109), and National Historic Landmarks (Section 110). Among these provisions are a requirement that federal agencies demonstrate that there was no "prudent and feasible" way for Federal agencies to follow the Advisory Council on Historic Preservation's recommendations for minimizing harm to historic properties adversely by federal undertaking (Section 102(a)(3)(B)(iii)), new preservation responsibiliities for Federal agencies working abroad (Section 108), and strengthened authorities for timely Federal action to protect threatened historic properties (Section 111).

Improving the conduct of federally-sponsored archaeology by focusing on important research topics (Section 116), requiring the professional certification of participating archaeologists (Section 118), and creating a broadly representative Archaeology Advisory Board to help Federal archaeology policies (Section 122). With the Federal government currently spending approximately $300 million a year on archaeological projects, taxpayers certainly have a right to expect that these projects produce the maximum return in increased understanding and enhanced protection for the archaeological record of our national heritage.

Combating the looting and illegal trade of archaeological resources by: calling for an international conference on the antiquities trade (Section 117); providing information and incentives to encourage private owners of archaeological resources to protect those resources (Section 119); establishing a new government-sponsored registration of antiquities program to both encourage the conduct of scientifically valid excavations and create a potential market incentive in favor of certified antiquities (Section 121); and extending Federal protection to submerged archaelogical resources, including abandoned shipwreck sites, lying up to 200 nautical miles offshore (Section 123).

Clarifying and strengthening state preservation programs, by allowing the states to assume additional responsibilities for administering the national program, while insuring that the states will be reimbursed for the costs of carrying out these duties (Section 201).

Defining and strengthening the role of Indian tribes within the national preservation program (Section 301), and providing

greater sensitivity to the concern of Indian tribes by allowing tribes (rather than Federal agencies) to assume responsibility for issuing permits for archaeological work on tribal lands (Section 114(d)) and establishing a federal policy on the reburial of human remains and grave-associated artifacts which gives priority to the wishes of living descendants (Section 120).

Defining the role of local preservation programs within the federal/state partnership and allowing qualified local programs to take on additional responsibilities (Section 401).

Requiring the Advisory Council on Historic Preservation to establish a comprehensive education and training program, designed to increase public awareness of preservation concerns, to increase opportunities for avocational preservationists to participate in the Federal program and to expand training opportunities in the field (including special assistance to Historically Black Colleges and Universities and to schools with large numbers of American Indians). In order to insure that sufficient priority is given to the program, a requirement is made that all recipients of grants from the Historic Preservtion Fund carry out appropriate forms of education and training as components of their Federally assisted preservation program (Section 501).

SOCIETY FOR AMERICAN ARCHAEOLOGY,
Washington, DC, September 27, 1989.

Senator WYCHE FOWLER,
Russell Building, Washington, DC.

DEAR SENATOR FOWLER: I am pleased to inform you that the Society for American Archaeology fully supports the pair of historic preservation bills you recently introduced in Congress; S. 1578 and S. 1579. You are to be congratulated on addressing several long standing archaeological and historic preservation issues through this legislation. It has been a pleasure working with you and your staff, particularly Mr. William Jonstone, on the development of this package of bills, and we look forward to continued participation as they move through Congress. If the Society can be of assistance in any way feel free to call on either of us, or on our Washington representative Ms. Loretta Neumann of CEHP, Inc. Our addresses and phone numbers are enclosed.

Sincerely,

JEREMY A. SABLOFF, Ph.D.,
President, University Professor of Anthropology and the History and Philosophy of Science.

WILLIAM A. LOVIS, Ph.D.,
Chair, Government Affairs Committee, Professor and Curator of Anthropology.

NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS,
Washington, DC, October 4, 1989.

Re S. 1578 and S. 1579.

Hon. WYCHE FOWLER, Jr.,
U.S. Senate, 204 Russell Senate Office Building, Washington, DC.

DEAR SENATOR FOWLER: The National Conference of State Historic Preservation Officers is happy to endorse the Historic Preservation Administration Act (S. 1578) and the National Preservation Policy Act (S. 1579). These bills will "rehabilitate" the national preservation program strengthening it for the challenges of the twenty-first century. A result of exhaustive study of the existing preservation program and extensive consultation with preservationists and interested organizations, these bills make essential improvements, building on the successes of the national preservation program. The National Conference of State Historic Preservation Officers offers its assistance in securing the early passage of both bills.

The Historic Preservation Administration Act (S. 1578) makes needed administrative corrections by creating an independent federal agency responsible for the national historic preservation program. For two decades, the National Conference of State Historic Preservation Officers has worked on strengthening the federal partner in the national preservation program. The NCSHPO, as a result of lengthy study, believes that the interests of the nation's historic resources are best served by a federal partner whose sole mission is that national preservation program. The interests of historic properties can only be secondary when other agency missions are primary.

The Historic Preservation Administration Act does not create a new agency. Rather, it will re-organize and streamline existing activities. This bill will not result in an increase in personnel or in annual operating costs. Existing personnel now asked to carry out the preservation program on a part time basis will be reassigned to the nation's preservation program exclusively.

The National Historic Preservation Policy Act (S. 1579), a companion bill, up-dates existing preservation law for the challenges of the 1990s. The Preservation Policy Act, a product of lengthy analysis of the current program operations, enhances existing preservation law. In fact, most of the National Historic Preservation Act of 1966 (as amended in 1980, 16 USC 470) remains unchanged. The National Historic Preservation Policy Act (S. 1579): strengthens the capability of the federal government to preserve historic properties, includes Native Americans as full partners in the national preservation program, gives qualified SHOPs authorities to match their existing responsibilities, makes public education a major goal of preservation, and provides meaningful improvements for the protection of all historic properties, particularly archaeological sites.

The National Conference of State Historic Preservation Officers feels fortunate to have been one of the many organizations working with you on this bill. The NCSHPO believes that historic preservation, as carried out in the nation's preservation program, offers an ethic and a value system of conservation that is essential to the continued existence of man on this planet.

The NCSHPO acknowledges your role as a lender of the national historic preservation movement and one of its champions in Congress. We look forward to working with you toward the passage of S. 1578 and S. 1579, legislation that will strengthen preservation for the challenges of the next century.

Sincerely,

F. LAWERENCE OAKS,
President, National Conference of State Historic Preservation Officers and Executive Director, Alabama Historical Commission.

THE NAVAJO NATION,
Window Rock, AZ, October 10, 1989.

Hon. WYCHE FOWLER, Jr.,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR FOWLER: The Navajo Nation Historic Preservation Department has received the copy of S. 1579, the "National Historic Preservation Policy Act of 1989", which you so kindly sent to me. I have taken this opportunity to review the bill. This bill will amend the National Historic Preservation Act, the Historic Sites Act, the Archaeological Resources Protection Act, the Abandoned Shipwreck Act and various other laws as they relate to historic preservation in the United States.

This bill proposes a number of changes that, I think many preservationists will agree, are needed. There are many Acts that relate to historic preservation and little effort has been made to coordinate them or to bring them into a uniform system. This has hampered the national preservation program. S. 1579 takes an important step in correcting this situation.

From my perspective, Title III—Tribal Historic Preservation Programs, represents a critical element of the bill. When this bill is enacted, for the first time Indian tribes will be able to become full participants in the national historic preservation program. This is an important and long overdue advance. I say this not merely because Title III will help the Navajo Nation and other tribal governments in their preservation efforts, but also because expanding the base of preservation programs to include tribal programs will ultimately provide greater protection to our Nation's heritage as a whole.

I am pleased to have the opportunity to offer my support for this important piece of legislation. I look forward to the opportunity to testify on this bill and to work with you in any way that I can to advance its passage.

Sincerely,

ALAN DOWNER,
Historic Preservation Officer.

RESOLUTION 89-17; SUPPORTING LEGISLATION TO AUTHORIZE ESTABLISHMENT OF TRIBAL HISTORIC PRESERVATION PROGRAMS AND TO INCLUDE TRIBES IN THE PROTECTION OF HISTORIC PLACES ON NON-INDIAN LANDS

1. Whereas: This Nation's historic preservation program as implemented through the National Historic Preservation Act has essentially excluded the interests and participation of Indian and Alaska Native people,

2. Whereas: Funding under the National Historic Preservation Act has gone exclusively to state historic preservation programs, even though authority exists to provide grants to tribes,

3. Whereas: Tribal governments, unlike state governments, have not been afforded the financial resources with which to develop historic preservation programs,

4. Whereas: The knowledge and protection of places and sites of historic interest, including those of religious significance, are an important part of the education and survival of Native people,

5. Whereas: State historic preservation programs, generally have not involved Indian and Alaska Native people, and do not, therefore, make adequate provisions for protection of sites and places of significance to Indian and Alaska Native people nor adequately interpret Indian and Alaska Native histories,

Now therefore be it resolved that:

1. The National Indian Education Association commends Senator Wyche Fowler for his work with Indian organizations on the development of S. 1579, the National Historic Preservation Policy Act, and for his successful effort to provide $500,000 in FY 1990 monies for tribal historic preservation programs.

2. Be it therefore further resolved that the National Indian Education Association

specifically supports the following provisions of S. 1579: (a) the establishment and funding of tribal historic preservation programs, (b) the involvement of tribes in state historic preservation programs, (c) the taking over by tribes of federal responsibilities for issuing permits for archaeological work on tribal lands and (d) the inclusion of tribal colleges and other higher education institutions with large numbers of Indian students as eligible recipients of funds to provide training in historic preservation field.●

U.S. CORN FARMERS AND THE CBI—ALLIES, NOT ENEMIES

● Mr. GRASSLEY. Mr. President, the genuine concerns of Caribbean Basin nations are being used as a stalking horse for attacks on the U.S. sugar program. These attacks will not only cripple our efforts to provide long-term economic development in the Caribbean, they will hurt our family farmers as well. In fact, the international practices which create problems for sugar exporting nations in the Caribbean are the same practices which forced the United States to adopt the defense of a quota system.

The real problem with the international sugar economy is that world prices are artificially low—the result of a worldwide pattern of abusive subsidies which has pushed residual sugar prices below the cost of production even for efficient producers in the Caribbean and the United States. Economic studies have shown that even if we end our sugar program, the major beneficiaries will be the European Economic Community and Cuba, not the CBI nations.

For CBI nations, the U.S. sugar market is important because here they can get a reasonable price for their sugar, instead of depressed world dumping prices. If the United States canceled it's program, two things would happen, neither of which would benefit CBI economies.

First, while Caribbean sugar exporters would be able to send more sugar to the United States, their sugar would no longer earn a reasonable return. Instead, they would face the kinds of depressed prices that have hurt them in world markets.

Second, by canceling it's sugar program the United States would undermine the chances for international sugar reforms at the multilateral trade talks. Unilateral reform by the United States, at this point, would remove any incentive for the European Community and other trading partners to reform their programs.

The example of the United States sugar program's impact on the CBI nations serves as an illustration of the broader effects of this program. Changes in the current United States policy will have implications for America's corn farmers, sugar producers, as well as Caribbean Basin countries dependent upon the United States sugar market. For instance, in my State of Iowa, corn fructose production generates a demand for 170 million bushels of corn each year. If we open our doors to allow unfairly subsidized sugar into the United States, our family farmers will pay the consequences along with the CBI nations.

We need real relief for the CBI nations as well as a domestic program which can counter the dumping practices of our trading competitors. The current U.S. sugar program provides the leverage for our negotiators who are trying to achieve these goals through long-term multinational reforms.●

GLOBAL WARMING OR GLOBAL CONFUSION

● Mr. WALLOP. Mr. President, over the past 3 years, the Senate Energy Committee has held a series of hearings on the question of global warming. The hearings established much of the current public awareness and concern about global climate change. We had presentations from some of the leading climatologist theorists, such as Dr. James Hansen of NASA, on this issue. And, inevitably, a number of bills have been introduced in the 101st Congress to establish a national policy on global warming. However, doubts are now coming to surface regarding the extent, and actually existence, of a global climate problem.

Warren Brookes recently analyzed the controversy about global warming in four articles which appeared in the Washington Times. He has interviewed and researched scientists who are not on the global warming bandwagon. He focused on leading climatologists, scientists like Dr. Thomas Karl of NOAA. The most recent work on the climate, described by Mr. Brookes, punctures many of the prevalent arguments promoting global warming. For instance, the theory states that the Earth has been warming due to carbon dioxide emissions since the late 19th century. As Brookes relates, Dr. Karl investigated the U.S. temperature record, with an urban adjustment, and concluded, "there is no statistically significant evidence of an overall increase in annual temperature or change in annual precipitation for the 48 contiguous United States, 1895-1987." In other words, the global warming trend has not been demonstrated.

A reading of the four Brookes articles reveals the weakness of the global warming crusade. One interesting comment is that not too long ago, we were worried about global cooling, another ice age. The perspective has shifted 180 degrees. Whether this new perspective is any more accurate is currently in dispute.

The Energy Committee is holding more hearings over the next few weeks on legislation developed in response to global warming. There appears to be a growing urgency to do something, even though it is becoming clear that this something may be in response to a phantom problem. Before we rush forward with this urge to legislate, we should have the issue in clear focus. As Warren Brookes points out, we have not even demonstrated the problem. We should temper our rush to legislate.

I ask that the Brookes articles appear in the RECORD.

The articles follow:

[From the Washington Times, Sept. 11, 1989]

IS THE GLOBE WARMING? SCIENTISTS QUESTION DATA

As the nation gets back to work after one of the cooler and wetter summers in memory, Congress gets down to work trying to figure out what to do about something called "global warming."

That's the thesis, promoted most heavily by Dr. James Hansen, director of the Goddard Institute at the National Aeronautic and Space Administration, that the planet is now warming sharply because of a 30 percent rise in the concentration of carbon dioxide in the atmosphere in the last 100 years.

Because that concentration is expected to rise another 40 percent between now and the year 2050, Mr. Hansen says the planet will warm up by about 4 degrees Celsius, or over 7 degrees Fahrenheit. He says this will cause major coastal flooding and inland droughts.

But both Congress and NASA have a big problem with Mr. Hansen. It's called the facts. For Mr. Hansen's greenhouse thesis to "work" it should have warmed 1.3 degrees C in the last 100 years, and at least 1 full degree in the last 50 years.

Fortunately, neither is even close: Over the last 100 years, the statistically inflated warming trend was less than 0.5 degrees C. Most of that happened by 1938 before any CO_2 buildup. In the last 50 years since 1938, there has been practically no net warming at all—and the Northern Hemisphere has actually cooled slightly during two-thirds of the CO_2 buildup.

This is why the Climate Trends Panel of the top 61 climatologists in the world last May 12 made the following joint statement: "It is tempting to attribute [the warming] to the increase in greenhouse gases. . . . However, such an attribution cannot now be made with any confidence."

Dr. Andrew Solow of the Woods Hole Oceanographic Institution writes for Oceanus, "Even assuming the apparent, slow, irregular warming that has occurred since 1880 is real, there is no evidence that any of it is due to an enhanced greenhouse effect."

One reason is the growing counterevidence that a large share of Mr. Hansen's claimed warming since 1880 is primarily the result of urbanization. Cities are "heat islands" whose readings inflate the actual regional temperatures by up to 1 degree F.

This may explain why Mr. Hansen is now engaged in his own public data-inflation. Last Aug. 25, during an interview on CBS, he said the earth had heated up 1 full degree C in a century.

But when he is in front of his peers, he almost always uses the number 0.6 degrees C, and in 1987, when confronted by the

growing evidence of the "urbanization" pollution of global temperature records, be admitted the number was possibly as low as 0.35 C. That's a 200 percent variation in his story. It gets worse.

Last December, Mr. Hansen was confronted with a new study by the most respected climate analyst in the world, Dr. Thomas Karl, head of the National Climate Data Center for the National Oceanographic and Atmospheric Administration.

Mr. Karl and NOAA scientists George Maul and Kirby Hanson took a definitive, urban-adjusted look at the best temperature record in the world (U.S.), and concluded "there is no statistically significant evidence of an overall increase in annual temperature or change in annual precipitation for the 48 contiguous United States, 1985–1987." No U.S. warming, period.

Mr. Hansen was stunned, and tried to suggest that the United States was too small to be expected to reveal a world trend. But Dr. Richard Lindzen, Sloan professor of meteorology at the Massachusetts Institute of Technology, told us, "That's absurd. Actually, the smaller the area, the greater the variability. The absence of a trend in the U.S. record leads to the suspicion that all the trends in the global record may in fact be spurious."

Indeed, new urban-adjusted data from Europe and Canada support the absence of a warming trend over land masses, and as Mr. Lindzen notes, "most of the Earth's surface is covered by oceans over which we have no fixed-station records," only very inconsistent ocean-going ship records.

When Mr. Lindzen "area-weights" these climate records between sea and land, "none indicate any significant temperature change between the start of the record, and now." One reason is that Mr. Lindzen starts his record in the 1860s, and not in 1880. (1880 is the base year preferred by the "Global Warmers," because it was so cold!)

The distinguished founder of the Institute for Environmental Studies at the University of Wisconsin, Dr. Reid Bryson, warns that Mr. Hansen's data base begins "in the last part of what has been called 'The Little Ice Age' (1500–1880)." Mr. Bryson's renowned contemporary, Dr. Hugh Ellsaesser of Lawrence Livermore Laboratories, says, "All we probably have seen is a modest recovery from those Little Ice Age lows." Change the base and warming disappears!

Mr. Bryson concludes: "The very clear statements [by Mr. Hansen] that the 'greenhouse warming' is here already and that the globe will be 4 degrees C warmer in 50 years cannot be accepted."

Mr. Hansen is now embarrassing NASA before the whole world.

ACID RAIN VERSUS WARMING?

As Congress sits down to wrestle with the Bush Clean Air Program, it suddenly faces a serious dilemma: If it votes to remove 10 million tons of annual sulphur dioxide (SO_2) emissions from the air, as President George Bush proposes, it will very likely make global warming, such as it is, much worse.

The reason is very simple. SO_2 not only acidifies rain, it combines with water vapor to form what are known as "aerosols," which have the effect of brightening clouds. This makes them reflect more heat away from the earth, thereby cooling it.

There is mounting evidence that these SO_2 cloud-brightening effects are major and could explain in part why Northern Hemisphere temperatures have not risen at all in the last 50 years, despite a nearly 20 percent buildup of carbon dioxide in the atmosphere, which should have caused significant warming.

Back in the 1960s, when temperatures were falling sharply, Dr. Reid Bryson, founder of the Institute for Environmental Studies at the University of Wisconsin, cited as one cause what he called "the human volcano" of particulate emissions acting to "backscatter the radiation" of the sun. He was widely scorned for this thesis.

But last June, he was vindicated in an article in Nature magazine by Thomas Wigley, one of England's top climate modelers, who concluded "the [cooling] effects of SO_2 may have significantly offset the temperature changes that resulted from the greenhouse effect."

The implications of Mr. Wigley's findings are developed in an important new paper by Dr. Patrick Michaels, a leading environmental scientist at the University of Virginia. Mr. Michaels says the main reason the global warming models don't account for the failure of the Northern Hemisphere to warm up is that "they do not have any way of handling cloud cover. They just assume that on balance, cloud cover contributes to warming. But because of SO_2, that turns out to be dead wrong."

Dr. V. Ramanathan of the University of Chicago and a team of scientists on the Earth Radiation Budget Experiment concluded in 1988 that "clouds have a net cooling effect on the earth that is large over the mid- and high-latitude oceans [Northern Hemisphere]. . . ."

As Mr. Michaels points out, "That happens to be precisely in the paths of both the United States and Eurasian coal-burning emission plumes. Careful analysis of cloud brighteness by Dr. Robert Cess at the State University of New York shows clear patterns of high and then declining brightness out 2,500 miles or more. But no such trends exist in the Pacific Ocean, where there is no SO_2.

"This would explain not only why U.S. and Northern Hemisphere temperatures have failed to respond to CO_2, but also why U.S. daytime temperatures (when brighter clouds have the most cooling effect) have actually declined in the last 50 years, even as the nighttime lows have risen."

While the CO_2/global warming model is consistent with rising nighttime lows, it does not imply falling daytime highs. Mr. Michaels says, "This is because there has been no attempt to factor in any effect of SO_2."

As Reid Bryson notes, "(SO_2) Aerosols are not included in the increased CO_2 (models) . . . Yet the emissivity overlap between (SO_2) aerosols and CO_2 must be taken into account if one is to realistically calculate the radiative heat losses from the earth."

Indeed, at the June 1 meeting of the American Meteorological Association, global warming enthusiast Dr. James Hansen admitted in a question-and-answer session that SO_2 could in fact cause some cooling.

"This should make you wonder," said Mr. Michaels. "Why we have only perturbed the models with CO_2 and not with SO_2 as well? If you only perturb the model with CO_2, it will predict greenhouse warming. If you only perturb it with SO_2, you get an ice age!"

Mr. Wigley supplied one reason SO_2 isn't in the models: "If we were successful in halting or reversing the increase in SO_2 emissions, we could as a byproduct accelerate the rate of greenhouse-gas-induced warming, so reducing one problem at the expense of increasing another." This is the environmentalists' ultimate nightmare.

It's even worse: SO_2 emissions may be making the greenhouse effect good for us. As Mr. Michaels argues: "If (CO_2-induced) warming takes place primarily at night, the Popular Vision [of global-warming doom] is dead wrong. . . . Increases in drought frequency are minimized. The growing season is longer, because that period is primarily determined by night low temperatures . . . many plants, including several agriculturally important species, would show enhanced growth from the fertilizer effect of CO_2."

Incidentally, this is precisely the vision of the leading Soviet climatologist, Mikhail Budyko, who says global warming will create an "Eden" by "much higher rates of moisture everywhere." He also suggests the least costly way to limit warming is "to increase the stratospheric aerosol concentrations by burning sulphur (SO_2) delivered by aircraft into the lower stratosphere."

Instead of removing another 10 millions tons a year of SO_2 from the air, Congress may now wonder whether we should even have taken out 10 million tons a year since 1973.

HIGH COST OF GORE'S GREENHOUSE HYSTERIA

Sen. Al Gore, Democrat of Tennessee, will preview his 1992 presidential campaign today at the Global Change conference at the National Press Club in Washington.

His topic will be global warming, which he terms "the most serious environmental challenge in history," posing "an imminent and grave danger" and demanding "changes in our collective behavior to prevent the horrendous prospect of an ecological collapse."

Mr. Gore is basing this on the advice of Dr. James Hansen of the National Aeronautics and Space Administration, who predicts that rising levels of carbon dioxide (CO_2) in the earth's atmosphere will raise global average temperatures by 8 degrees Fahrenheit by 2050.

That is supposed to produce coastal flooding and also interior droughts. Since historically an average of one-sixth of the United States is in some kind of drought each year, and the natural Pacific-current cycle now predicts warmer temperatures in 1991 to 1992. Mr. Gore could well mobilize liberals away from Jesse Jackson to Mother Earth.

But that's likely to make Americans once again embrace the Republican national ticket, because if Messrs. Gore and Hansen were right (most climatologists don't think they are), Americans would be in big trouble.

Stanford University doomsday biologist Paul Ehrlich warned on NBC's "Today Show" last May 3 that under global warming, "we are going to see massive extinction . . . we could expect to lose all of Florida, Washington, D.C., and the Los Angeles basin . . . we'll be in rising waters with no ark in sight. . . ."

Indeed, if Mr. Hansen's model really were right, eliminating all the auto driving in North America would only save us about half a degree of warming. The Environmental Protection Agency admits if we are to cut U.S. CO_2 emissions by 20 percent, we have to double the price of oil and coal by taxation.

Fortunately, Mr. Gore's global-warming scenario is scientifically unsustainable conjecture by people like Mr. Ehrlich, who predicted in 1968 that because of food-production limits, "by 1985 enough millions will

have died to reduce the earth's population to some arbitrarily acceptable level like 1.5 billion people." Instead, world food production has increased at an even faster rate ever since.

Ironically, one reason for rising world food production is that in the United States at least, nighttime temperature lows have been rising, while daytime highs have been falling. That combination lengthens the growing season and reduces evaporation, leading some to think global warming will produce an Eden, not a Sahara.

The Soviet's counterpart to Mr. Hansen, Mikhail Budyko, told the September 1988 Climate Trends Panel at the National Academy of Sciences that "beginning with the first quarter of the 21st century, the moisture conditions will improve everywhere. This casts doubt on the expediency of carrying out very expensive actions aimed at retarding or terminating global warming."

At Reading University in the United Kingdom last July a conference of agriculturalists were told that under one global-warming scenario, "the growing season would be longer . . . cereals would ripen more quickly and two crops of some species might be grown in a single season," as reported in the Financial Times, which also said, "On the whole, conferees seemed to think global warming would be sustainable, if not downright advantageous to Britain."

Dr. Hugh Ellsaesser of Lawrence Livermore Laboratories says not only are the effects of CO_2 "minimal," but they may in fact, "be just what we need to offset the long overdue next ice age."

Indeed, back in 1974 and 1975, many of today's "global warmers" were predicting an ice age because of sharp cooling since 1938, which was not predicted or explained by any global warming model. In fact, from 1960 to 1985, advancing glaciers rose from 6 percent of the total to 55 percent—and the Arctic currents are now cooling.

Mr. Ellsaesser says the reason the models don't work is "they completely ignore the cooling effect of deep convection in tropical latitudes. Two-thirds of the predicted global warming is not because of CO_2 buildup, but because of increased water vapor in the troposphere—allegedly caused by CO_2 warming.

"The trouble is, in the tropics, where the temperature change from surface up to troposphere is more rapid, water vapor rises by deep convection in towers, and that leads to more rapid precipitation.

"That in turn causes a drying and thinning of the upper atmosphere in what is called subsidence. In the tropics, a rise in CO_2 emissions will produce a 3-to-1 rise in greenhouse blanket thinning, exactly the opposite of what happens elsewhere."

National Oceanographic and Atmospheric Adminstration's world renowned climatologist Tom Karl agrees: "As CO_2 speeds up the hydrological cycle, more convection creates more clouds and more cooling. So, the greenhouse effect could turn out to be minimal or even benign."

Massachusetts Institute of Technology's top meteorologist, Richard Lindzen, says: "My guess is that correcting for deep convection alone could lower the estimates of warming by a factor of about 6."

As Mr. Ellsaesser reminded us, "Last summer while Mr. Hansen was telling Congress, 'The greenhouse effect is here,' the whole eastern tropical ocean dropped 7 degrees very suddenly, and it is now at nearly record lows. Last winter was one of the coldest on record in the northern latitudes."

Mr. Lindzen concludes, "Unfortunately scientists like Hansen [and politicians like Mr. Gore] are always tempted to play God, to act as if they know what lies ahead. Less than 20 years ago, many of these same people were openly forecasting a new ice age—using the same premises as for global warming. It's all so idiotic."

GLOBAL WARMING'S ALCHEMIES

Last Aug. 7, as commuters shivered in a 52-degree morning of one of the coolest Washington, D.C., summers in memory, they found on The Washington Post's front page the amazing headline:

"Will Palm Trees Replace Pines on the Potomac?"

Beneath it was a 2,000-word fantasy by one D'Vera Cohn, replete with charts and diagrams, that made ABC's faked spy footage seem almost real:

"It's summer in Washington and the daily temperature rarely dips below 90 degrees. The Potomac River regularly laps at the steps of the Lincoln Memorial, and National Airport is surrounded by dikes to keep the water away. Pine trees wither, palm trees prosper."

Three more paragraphs of this floridly fatuous scenario and the writer finally tells us "this is what the Washington area could look like by the middle of next century, if theories that are predicted by a growing number of scientists come true."

Fortunately for Washingtonians (and the world) only a tiny handful of scientists actually predict such things, and two of the world's four major climate models have cut their doomsday forecasts of global warming by half or more in the last six months.

As University of Virginia environmental scientist Patrick Michaels said, "the more sophisticated the models have become the lower the level of predicted warming. Since climate modeling is still in its infancy, that trend will continue."

Even the Environmental Protection Agency's global-warming specialist, Larry Kalkstein, admitted openly on "Crossfire" on Aug. 25 that there's an 80 percent chance that global warming from the greenhouse effect will not occur. Even if it does, it is likely to be minimal.

Massachusetts Institute of Technology Sloan Professor of Meteorology Richard Lindzen, in a July 6 paper, says "I personally think it very unlikely we will see more than a few tenths of a degree Centigrade from this cause over the next century—a magnitude that will continue to be masked by natural variability."

Unfortunately, even as global warming is rapidly becoming the "cold fusion" of climatology, its advocates have become more reckless. The latest example is a new book, "Global Warming," by Stephen Schneider of the National Center for Atmospheric Research, to be published next week by Sierra Club Books.

Mr. Schneider begins his book with even more lurid scenarios than The Post's, including a doubleheader in Wrigley Field, Chicago, stopped because of a thick black haze caused by huge forest fires in Canada, caused by drought caused by global warming. This was followed by a hurricane that ate Long Island and the deforestation of northern Minnesota by the northward migration of the Corn Belt.

Mr. Schneider called these "plausible scenarios" that "are based on extensive studies." Yet, back on Sept. 23, 1987, his colleague and leading global-warming guru, Dr. James Hansen of the National Aeronautics and Space Administration, volunteered to an EPA conference of his increasingly skeptical climatological peers "you cannot use the general circulation models to make point estimates of climate change."

It's too bad Mr. Hansen didn't heed his own advice. In June of 1988, at the very moment he was telling Congress he was "99 percent confident the greenhouse effect is here," the Pacific current was dropping 9 degrees, and the National Oceanographic and Atmospheric Administration was reporting that Siberia had as large an area that was "as cold as the American interior was warm."

Mr. Hansen also predicted that the largest global-warming effect would be in the high latitudes in winter, but the next 12 months produced one of the coldest winter air masses ever measured in Alaskan history, and a much colder and wetter Northern Hemisphere than normal.

The reason Mr. Hansen's model can't predict the future? It can't even explain the past. As MIT's Mr. Lindzen says, "the rise in carbon dioxide in the atmosphere over the last 150 years should already have produced warming of 1 degrees to 2 degrees C. But the data . . . do not suggest any warming of such magnitude. . . ."

Indeed, total global warming, when adjusted for urbanization, has been less than 0.4 degrees, and the only totally reliable temperature data, from the 48 contiguous United States, show a rise of only 0.25 degrees C, a statistically insignificant variation, not even within 200 percent of what the global-warming models would suggest.

Dr. Patrick Michaels, a top climatologist at the University of Virginia, says, "The models' discrepancy is even greater. When you add in all of the other trace gases to the CO_2 the effective greenhouse gas buildup is 407 parts per million, up from 270 ppm 100 years ago. So we have already gone over half way to doubling.

"Yet the higher-latitude temperatures simply haven't responded as predicted. The Northern Hemisphere is in fact no warmer than it was 55 years ago. Polar regions which should show amplified warming, have a temperature history over much of the last 40 years just the opposite to what the CO_2-forced models predict."

In fact, on balance, glacial ice is now advancing, not receding, and NOAA reports that Arctic currents and the Antarctic Continent have sharply cooled since 1987. As Dr. Reid Bryson, founder of the University of Wisconsin's Institute for Environmental Studies, put it "The models have not demonstrated a 50-years predictive capability, nor have they demonstrated even a five years predictive capability. For those familiar with the pitfalls of long-range forecasting, the greenhouse warming forecasts do not inspire confidence."

As MIT's Mr. Lindzer told us, "The shakiness of the physics of these models is astonishing, and to be making confident predictions about the future from them borders on alchemy."

The global-warming alchemists are meeting today at the National Press Club. Enjoy.●

NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL

● Mr. LAUTENBERG. Mr. President, next Monday, ground will be broken on the National Law Enforcement Officers Memorial.

Our Nation should recognize the sacrifices made by courageous Federal, State, and local law enforcement officers who are killed in the service of their communities and their country. There are more than half a million men and women who devote their lives to law enforcement. These are the people at the frontlines in the war on crime. The people who protect our families and our homes. The people who answer our calls for help.

All too often, they also give their lives. The statistics are appalling. Every 57 hours, another law enforcement officer is killed. Over the past decade, more than 1,500 have died in the line of duty.

Mr. President, the law enforcement community deserves to be honored through a memorial in our Nation's Capital. Legislation to authorize such a memorial was enacted in 1984 with my strong support. Since then, many people have contributed a great deal of time and money to turn the memorial into a reality.

The National Law Enforcement Officers Memorial will provide a meaningful place of honor for a special group of American heroes. It will express the gratitude of our Nation for the thousands who have given their lives on our behalf, and express our shared grief to the families they left behind.

This memorial also will send a strong, clear message to today's law enforcement officers. A message that we, the American people, appreciate and support what you do for our Nation.●

THE COLLEGE OF IDAHO HONORED BY THE NEWCOMEN SOCIETY

● Mr. SYMMS. Mr. President, the College of Idaho, in Caldwell, ID, recently received special recognition by the Newcomen Society, a nonprofit organization established in April 1923. The college was the 211th institution honored by the Society for its outstanding contributions to the free enterprise system including business, industry, and institutional history and achievements.

Robert L. Hendren, Jr., president of the College of Idaho, gave an excellent statement at a dinner, held in honor of the school. As a member of the board of trustees of the College of Idaho, I am proud of this recognition and would like to have the president's remarks inserted in the CONGRESSIONAL RECORD:

ADDRESS BY ROBERT L. HENDREN, JR.

Fellow members of Newcomen and Guests, we at the College are deeply honored to receive special recognition by the Newcomen Society. Of the more than 2,000 institutions and enterprises that have been acknowledged by the Society, the College represents the 211th institution of higher education. We are sincerely grateful.

In accordance with Newcomen tradition, I should like to describe the past and present, and project a desired future for our institution. As is true for many colleges that are not yet 100 years old, no carefully chronicled history of The College of Idaho exists. We are still too young to have spent the necessary hours to accumulate and present this history in a cogent document.

I will discuss the College's history through citation and analysis of both written materials and traditional items that relate to the lives and actions of three presidents. While I will be dealing principally with important historical figures and physical resources that represent the College's history and present stature, I want to admit that I am giving you a skeletal history, a chronicle of the very most obvious ups and downs. Because the story of The College of Idaho has been a struggle for survival, the backbone of that story is skeletal. Of course, the people and ideals of the College are the most interesting to all of us, and I want to acknowledge now, with appreciation, the College's various faculties, boards of trustees, deans and administrators and students that shaped the College into the institution that it is.

The College of Idaho, like many American colleges, was founded by clergy to educate more churchmen. The Presbyterian church, whose religious leaders founded The College of Idaho, began this process as early as 1746, and has launched more than 200 colleges since the middle of the 18th century. Not uncharacteristically, then, in the late nineteenth century, a small group of Presbyterians studied the need of higher education in the Idaho Territory and recommended the establishment of a college in Idaho. Location was the principal problem for the clergy assigned to develop this Idaho college. The report of the committee selected to study the location problem states:

"While there is a desire everywhere for this institution, no one place has offered sufficient means or hold out the hope in the present of sufficient pecuniary help to warrant the beginning of the work." (Hayman 94)

Sites for the school were offered near Shoshone, Nampa, and in Caldwell. After numerous heated meetings, the Wood River Presbytery accepted Caldwell's offer of properties and water rights in April 1891.

The College opened and classes began in October 1891, in a small lecture room of the Presbyterian church with a faculty of seven and a student body of two. Class began with a Bible reading from the Book of Proverbs and with a few profound and prepared statements by the faculty. One prepared lecture described the challenges of fertilizing the arid Idaho soil and educating the pioneer population. With its distinct nineteenth century syntax, it reads:

"The sage-brush is fast disappearing from the plains, the prune and alfalfa are taking its place, so ought ignorance and superstition to be eradicated from the minds of our youth and knowledge and righteousness to be planted therein, this to do, we the faculty of The College of Idaho have set ourselves." (Hayman 98)

Tasks were assigned the two students, and The College of Idaho had begun. Careful historians identify The College of Idaho as the oldest four year institution of higher education in Idaho. The continuing story of The College of Idaho reads like a fairy tale, not in the shallow sense of narratives about unreal or immaterial beings but in the very structure of the institutional lifeline. The gender of the protagonist is quite clearly feminine as the chronology reveals a pattern of growth from humble (though noble) birth of an unpretentious infant to alma mater. How appropriate. The Presbyterian church parentage of sponsorship provides the nobility and humility of the Christian tradition, and so the church-parent monitors the infancy of the College. The hero and heroine of the fairy tale must undergo a series of trials in order to secure the appropriate role and identity in adulthood. So, also, does the College encounter trial after trial in her quest for role and identity.

From this modest beginning until this date, more than 6,000 students have completed their undergraduate education here. The College has been led by nine presidents, and it has emerged as one of the fine liberal arts colleges of the West.

William Judson Boone was the first president. He was followed by Raymond Hotchkiss Leach, William Webster Hall, Jr., Paul Marsh Pitman, Thomas E. Shearer, Warren Barr Knox, William C. Cassell, Arthur H. DeRosier, Jr., and Robert L. Hendren, Jr. Boone was presiding officer from the College's founding in 1891 until his death in 1936, and at the time of his death presented a tenure unmatched for longevity among contemporary college presidents. Because of the extent of Boone's administrative reign, he deserves considerable attention in any discussion of the College's history. Boone's early life is described by his daughter Margaret as follows:

"* * * [he] * * * was born in 1860 on a farm in Lawrenceville, Pennsylvania * * * He graduated from Elders Ridge Academy, a Presbyterian-controlled school in 1880. The next four years he attended and graduated from Wooster College, a Presbyterian-related college in Wooster, Ohio. It was characteristic of him to choose this college because it was the farthest west at that time and was still very much in the pioneering stage * * *. At first he thought he wanted to become a doctor * * * [but] was discouraged by his aunt who told him his hands were too big and too clumsy * * * And so the ministry seemed to hold more and more appeal. After graduating from Wooster with Phi Beta Kappa honors, he entered Western Theological Seminary in Pittsburgh. While attending seminary, William met his future bride—Annie Jamison. They were married in 1887. She was a teacher in the Allegheny schools and later taught algebra at The College of Idaho. "(Boone 3-10)"

Much of what we experience today was present in the early College. The community took warm interest in the institution's activities, the president feared for the successful outcome of its important occasions, and the budget was tight. *The Tribune*, the local newspaper, described the College's closing activities of its first year as arguing "well for the future of advanced education in Idaho." (Hayman 106) President Boone, in his diary, reports. "Closing exercises a success, fine audience and students did well indeed, no breakdowns." (Hayman 107)

The treasurer's report of the College for the following year illuminates the financial condition of the institution's beginning. Receipts for tuition from the College's 18 students in 1891-1892 were $265.00 Some of these students were present for the full year, others for only one semester. Expenditures for operation of the College, which included coal, labor and other items, totaled $167.02. Money to pay incidental expenses was collected from private donors, and all teaching was donated. The excess of income

over expenditures was intended to be spent for books because President Boone insisted that "Our young people * * * [should] * * * have access of the most reliable information and the best thoughts that the world has produced." (Hayman 108-109).

President Boone was committed to excellence. He studied carefully the curricula of other fine colleges and remained committed to the liberal arts. In his efforts to establish the quality performance of the College's graduates, he submitted our course of study to the Leland Stanford University faculty and asked them to ". . . make any changes or make a new outline of study as they saw fit . . . [he also requested that they] . . . name the best text-books for the various subjects in the course." (Hayman 111) The reviewers agreed that the proposed course of study was an excellent approach to liberal arts education. Cornell, Michigan, and Chicago University also assessed the course of study. This universal review gave our students the benefit of other older and larger liberal arts institutions. In addition to Boone's careful creation of a solid liberal arts curriculum, his administration brought to the College five of its earliest buildings—Sterry, Finney, Voorhees, Strahorn and Blatchley halls. The story of these buildings manifests Boone's shaping hand on the College's heritage.

As early as 1907, Boone recognized the need for an enlarged plant. Knowing such a facility would require tremendous financial support, Boone encouraged his entire staff to work hard to acquire the necessary funds. To this end, his vice president, Julia V. Finney, had secured a commitment from Dr. D.K. Pearsons of Chicago for $25,000, which had to be matched three to one to create a total $75,000 endowment. Boone accepted these terms and first acquired $20,000 from Mr. and Mrs. W.M. Kirkpatrick of Parma to be used in construction of a new building named for her father, Christopher W. Sterry. The entire campaign was successful, and three new buildings were committed in 1910.

In 1910 on twenty acres of ground donated by Henry and Carrie Blatchley, an area which was then known as Cleveland Heights, the three permanent buildings of the campus were begun: Sterry Hall, Finney Hall, and Blatchley Hall, although the latter was built as a private residence and was not given to the College until 1916. Upon completion of Sterry Hall, the College moved from its twenty-year residence on Albany Street in Caldwell to its present location.

Sterry Hall was the first building on the new campus. The 1912 Catalogue for The College of Idaho identifies Sterry as a "substantial stone and brick building equipped with the modern conveniences of steam heat, electricity, telephones and hot and cold water." It furnished "ample room for administration-recitation purposes," and also contained "two halls for literary society work, an assembly hall seating 1000 persons, YMCA & YWCA rooms, and a library," these latter important rooms nurturing the important symbiotic relationship with Caldwell and the greater Treasure Valley community. Imagine putting a gymnasium and a community center on the top floor of a multipurpose building today!

Sterry Hall has been the office for most of The College of Idaho presidents, and provided classrooms for the College for many years. It is currently the College's administration center and an important provider of classroom space. The building remains quite similar to the original edifice constructed in 1910. To remove homesteading pigeons and to strengthen it structurally, however, the building was repaired in 1984. Sterry is a symbol of the durability of the College, a reminder of the strength and pioneering spirit of the founders, a monument to the integrity, tenacity, and vision of the College's founder, William Judson Boone. Here he taxed his splendid fund-raising skills to their limits and established the cornerstone of The College of Idaho campus.

Boone's profile is evident in yet another of the College's buildings—Finney Hall. The administration was well aware that the College would need dormitories for the many students it hoped to attract. The student population of this rural state lived too far away to consider that the College could be a commuter school. Vice President Julia V. Finney—who, in addition to her administrative duties, also taught German and English—had been successful in securing the $25,000 from Dr. Pearsons and in 1910 a woman's dormitory was completed that bears her name. Since that time it has been used as the student clinic, the chemistry department, the dining hall, the student union, and a men's dormitory.

Voorhees Hall, yet another building to be completed under the formidable President Boone, was built in 1912 as a men's dormitory. It too has served a number of functions. At one time it housed the chemistry department, at another it was a women's dormitory. There were many contributions for construction for this building but the principal donor was Elizabeth R. Voorhees, of Clinton, New Jersey. Mrs. Voorhees had neither seen Caldwell nor been on the campus. In the historical records of the College is a brief note that accompanies her gift:

"Enclosed find my check for $10,000 for the Boy's dormitory at Caldwell, Idaho. Please acknowledge check and oblige." [Signed] Mrs. Elizabeth R. Voorhees

These three buildings have served the College well. Today, Voorhees is our only all male dormitory, and Finney is our only all women's dormitory. The three stood alone as college buildings until 1916 when Mr. and Mrs. Henry Blatchley donated their spacious home to the College. At first, Blatchley provided a home for President and Mrs. Boone. It later became the locaton of the studios of the teachers of music and public speaking, the center for women's physical education, the YWCA, and social activities.

Strahorn, the last of the buildings to bear the direct imprint of President Boone, was built in 1926 as a library and a memorial to Carrie Adell Strahorn, wife of Robert Strahorn, one of the founders of the College. Built entirely of Boise sandstone at Strahorn's insistence, Strahorn was to be the library for the College until 1967 when Terteling Library was opened. The College of Idaho catalogue of 1939 describes Strahorn as a "library * * * that] * * * will be an ever enlarging memorial as generation after generation of students glean from its store of knowledge."

These were the buildings of President William Judson Boone's campus—each and all continue as memorials to the vision of this man and his dedication to private education. His thoughts and work have affected the College so profoundly that it is impossible to separate the institution from the lengthened shadow this man cast. His daughter, Margaret, described his philosophy of childraising as follows:

"* * * [As his children] * * * we chose our own courses and ran them ourselves * * * But if we steered our course in such a manner that we ran off the track and into trouble, we were very definitely permitted to get out of trouble and back on the track through our very own efforts. His theory was that if we used our heads to begin with, we would have thought the action through and there would be little need for wailing over failure. I rather imagine that this had been the philosophy on the old Boone farm in Pennsylvania." (Boone 6)

Boone used these same philosophies in the administration of the College, allowing space for individual expression and ideas, while at the same time providing forceful leadership and direction.

Boone was not always optimistic that all would be well at the College. His daughter writes that there were moments when he was certain, "that the National Board of Christian Education did not smile on the project." (Boone 6) In fact, she recounts, one of its representatives advised President Boone to "close the school declaring that we were too far away from things to ever hope to become anything, and that an education in the liberal arts nature would be wasted on these people." (Boone 6) Despite his success as a fund-raiser, Boone's daughter reports that he found the task of "holding out the hat" onerous.

After this unequalled service to The College of Idaho was in many ways complete, though still in the harness, Boone died of a heart attack on July 8, 1936. His biographer, Dr. Herbert Hayman summarized the man's character when he added a final paragraph to Boone's diary.

"Day clear. Sleep fair through night. Toward evening gather some vegetables from garden for supper. Fearful pain strikes * * * Body fell heavily on floor. Was released from body. Body lies in state at Sterry Hall from eleven a.m. to two p.m. Thoughtful to have funeral there. Great crowd; not half can get in church. * * * So many people appreciative of me; thoughtful of them." (Hayman 223-224)

So ended an era at The College of Idaho. "When nature removes a great man," Emerson wrote, "people explore the horizon for a successor; but none comes and none will. His class is extinguished with him. In some other and quite different field, the next man will appear." Of course, we know that Emerson today would say "the next man or woman will appear."

Eight others were to serve as President of The College of Idaho, each vital to the College and each serving a specific need were identified for the time. However, I wish to talk tonight in detail of only two other presidents. William Webster Hall and Tom Shearer, the third and fifth presidents, both of whom made a profound difference in the College.

William Webster Hall, Jr. who served the College as President from 1939 to 1947, came to the College with superb credentials. One of the College's two presidents with Ph.D. degrees, he earned his bacalaureate degree from Princeton and his Ph.D. was from Yale. He had spent five years in Sofia, Bulgaria, as a member of the faculty of the newly organized American College. His experience in Europe had taught him much and his gift for understatement enabled him to express the lesson succinctly: "Colleges operate under difficulties—budgetary and otherwise." (Hall 18) A colleague at American College provided Hall with a litany that he would repeat in his tenure as college president: "* * * get the students, get the faculty, get the money * * *" (Hall 24) Hall

was appointed president of The College of Idaho when he was only 35. Like President Boone, his influence was and is considerable on the College.

President Hall came to a school that needed refining, restructuring, and refitting to receive its next generation of students. When interviewed for the presidency and asked; "What sort of college do you want?" Hall replied, "I am looking for an adventurous proposition, a place where a fellow can take off his coat and do a job." (Hall 15) His search for such a challenge ended when he agreed to be the third president of The College of Idaho. When Hall arrived on campus in 1939, the College was serving 433 students, tuition was $50 a semester, a single room was $35 a semester, and board was $4 per week. Five buildings existed on campus, the faculty consisted of 31, two of whom held a Doctor of Divinity, two had terminal degrees in music, and one possessed a Doctor of Philosophy degree. The College was still suffering from the Depression. Hall succinctly describes its effect on the College as follows:

During depression years, however, it was found impossible to operate in the black. The College's half million dollar endowment remained intact and the yearly earnings greased the wheels of current operations. The faculty submitted willingly to two successive salary cuts of twenty per cent each, and the faculty, like endowment principal, remained intact. Condition of grounds and buildings was allowed to deteriorate to an alarming extent. In spite of all this belt-tightening, the College for the past six years had run a small annual operating deficit which had been met by borrowings and which had reached the accumulated total of approximately $30,000 in the summer of 1939." (Hall 74).

During the time that Hall was president, he retained the half million dollar endowment intact, raised the student fees, and increased the faculty salaries by more than 100 percent.

Hall encouraged the faculty expansion and the replacement of retiring faculty. Applicants for new positions had impressive credentials and included people like Lyle Stanford, Erwin Schwiebert, and George Wolfe. Two new buildings were erected during Hall's administration—Covell Memorial Chemistry building and Kirkpatrick Gymnasium.

During Hall's tenure the College felt the effects of the Second World War. Students in the National Guard were called up, and the Selective Service tapped the male students with increasing frequency. With the National Guard, the College lost almost all the members of its renowned pep band. Slowly the number of young men who would be attending college began to dwindle. After war was declared, Hall indicated that he would be required to use more imagination than he had previously thought. He writes that this new event "* * * marked the end of an era with respect to the experience and expectations of youth." (Hall 64)

Hall began immediately the necessary processes to have The College of Idaho identified as a center for a war training program and, in 1943, it was selected among the first 80 colleges for an Army-Air Forces College Training Program—a financial rescue for a college that had been weakened by the depression and the decline of enrollment caused by the war.

President Hall was not only among the most careful and methodical of our administrators, he was also, perhaps, the most visionary of the College's presidents. He sought the advice of other college presidents and endeavored to reproduce part of other colleges at The College of Idaho that could be useful for its growth. From Hall's many visits to other colleges and from his own experience as an academic, he recognized the importance of retaining good faculty with good salaries. He was also determined to improve student housing to facilitate study and increase enrollment.

President Hall steadily began to improve faculty salaries. Qualifications for new faculty were clearly defined and selection processes were improved. At the same time, Hall began assembling support for a dormitory building program which, together with a strengthened faculty, would provide the College with the "opportunity to both look and function like a college." (Hall 106) Hall cited Woodrow Wilson when he discussed the importance of a college that functioned like a residence:

" 'Education of the mind does not come from words of instruction alone.' It is gained from participation in a pattern of community living as well. Supplementing all formal courses of study in the prevailing intellectual climate in which students and teachers live. It is the residential college that is most able to translate all available educational influences into a true community of learning." (Hall 110)

It was during President Hall's tenure that a relationship with one of the most dynamic Idaho indivduals began—when Hall was President, Jack Simplot first manifested an interest in the College. Hall describes his first meeting with J.R. Simplot as follows:

"* * * Jack Simplot strode in. He was in his shirtsleeves, the picture of energy, cheerfulness, confidence. He handed me a check, which as I glanced at it, made me gasp. It wasn't much, he said, he wished it could be more." (Hall 178)

Jack Simplot has been investing in the College ever since that first meeting. He contributed the first tennis courts on campus * * * he contributed the funds for Simplot Hall which is now a dormitory and a dining hall * * * he has been involved in every major fund drive at the College. A member of the College's Board of Trustees since 1944, Jack tells people that he received his education at The College of Idaho; he has learned how to keep the College's doors open. Simplot has served the College for 45 years as a community liaison and a financial reservoir.

In addition to the consequences of the important encounter with Simplot, Hall's presidency brought much to the College. His concepts of a residential college began to be realized with the addition of Simplot Hall and dining center. The faculty was rewarded for its efforts with better salaries. The Board of Trustees appointed during his tenure was one that encouraged increased regional involvement. Hall left the College much stronger than he found it.

In 1954, Tom E. Shearer was to begin the second longest tenure as President of The College of Idaho. Coming to The College of Idaho from the presidency of Parsons College in Iowa, President Shearer, with his degree in law, had taught political science at Penn State University and had served 12 years as a college administrator. Like his predecessors, he concentrated his efforts on building faculty and expanding the student body. In 1954-55, as President Shearer began, the student enrollment was 634. Tuition was $197 per semester ($150 more than it was in Hall's time) and board and room averaged $250 per semester. The endowment totaled $424,000, the faculty included 34 full time members with an average salary of $4,115 annually plus 5 percent fringe benefits. President Shearer developed a plan that was expected to increase enrollment, strengthen the endowment by two million five hundred thousand dollars, remodel several existing buildings on campus, add a 200 bed women's dormitory, a 200-bed men's dormitory, a new library, a science building, a student union, a chapel and auditorium and new classroom building. These plans among others exist in a "Profile of The College of Idaho" 1954-1974 submitted to the Board of Trustees in December 1963. An ambitious plan and a plan not totally realized, it was nevertheless a plan obviously developed from a most careful study of needs. The curriculum was studied, revised, and refined, bringing the College to the level of the quality liberal arts colleges of the day. The faculty was again strengthened. Salaries were nearly doubled in Shearer's 10 years, and the faculty grew to 56, 22 of whom held their doctorates, with three others holding terminal degrees in their discipline. C.C. Anderson Hall was built in 1957 as a men's dormitory, Hayman Hall was built in 1964 as a co-educational dormitory. The Student Union was built in 1958 and Jewett Auditorium and Chapel were finished in 1962 with funds from both the Presbyterian Synod of Idaho and the Jewett Foundation. A ten year plan was established, four new buildings were added to the campus, faculty salaries were increased—the College was becoming known for its quality education. Two Rhodes Scholars had graduated during these years of growth, and many physicians had pursued their undergraduate work here. In the words of his academic dean, Ralph Sayre, Shearer was a man that

"* * * had a faith in and a respect for learning. He believed that education, and particularly liberal arts education could help people solve problems and enrich their lives * * * and those were convictions. Equally important for a college president, he had genuine respect, bordering on awe, for serious and skillful practitioners of education. He valued their learning, and even more he valued the patience, the organization and the tolerance of plodding drudgery that are essential elements of teaching but that he could not face for himself. He always listened. He was totally accessible. He found it easy and natural to give credit to others for their own—and often his accomplishments." (Sayre 2-3)

In 1968, during the administration of a president not discussed here, the Boone Hall Science Center was begun; it was completed and dedicated in 1970. During the efforts to find the gifts to support the science facility, it became clear to the Board that all was not well with the College and its development. The fund drive was not fully subscribed, and the Board was forced to sign a series of notes so that construction could proceed. Enrollment declined substantially, dipping below 500 students. The College continued to decline. During these years, however, a local businessman, J.A. Albertson emerged as the champion of the school. When the mortgage notes on Boone Hall Science Center that were not met could have forced foreclosure, a one million dollar gift from Joe and Kay Albertson and elaborate legal maneuvering paid off the notes and preserved the financial integrity of the College for the moment. Payments that

were delinquent as much as seven years on the HUD bonds for dormitories hovered over the College like a dark cloud. Enrollment was still low, the endowment had been consumed—all but $700,000 held in trust as security for the dormitory bonds was gone. The College's prospects seemed dim indeed.

Discreet inquiries were made with two different churches to see if either had interest in purchasing the College and assuming its debts. Neither was interested. In late 1979 a foreign school seemed ready to buy the institution but that effort was stifled. Unquestionably, the College was to proceed, but how?

A small group of trustees from the Board of the College seized the initiative to assess its chances for survival. A full day retreat was scheduled for the full Board, with the Chairman of The Wooster College Board of Trustees and the Chairman of a large Eastern foundation invited as speakers.

It was concluded that the college provided an excellent educational opportunity, that it was needed, and that it should and could be preserved. The solution was the creation of a strong working Board of Trustees whom were committed to private higher education. The new Board was formed and almost immediately divided into nine working Committees. New by-laws were created, a new president was found, a major fundraising effort—"Project 90" was initiated, and the renaissance began. HUD was pursuaded to recast the seven years' delinquent dormitory loans at the same low interest rates; the local business community from florists, to publishers that had been carrying delinquent bills for several years were told that their bills would be paid. The success of "Project 90" in raising $3.1 million created an incalculably positive public image. One group of the College's creditors who could not be repaid was the faculty and staff members who had stuck by the College loyally during those dark years.

The Board of Trustees, meantime, had been steadfast in their efforts to preserve this higher educational asset at Caldwell. Financial injections were constantly needed and just as faithfully provided by the Board and the community it served. These years had seen several millions of dollars of gifts from Joe and Kay Albertson and other faithful donors. A consensus was achieved by the Board that an endowment of $50 million was needed and that this endowment should be in place by the time the College celebrated its one hundredth birthday. A chairman was chosen and the search for initial gifts began. Major commitments for the campaign once again were drawn from longtime supporters of the College. Jack and Esther Simplot, Albertson's Inc., and again, two of the College's former students, Joe and Kay Albertson, were extremely generaous in their gifts to this campaign. One of the College's former students, Joe was a student here from 1924 to 1926, an athlete and self-supporting student. Kay McCurry from Boise was a student at the same time, and since the institution's student body numbered only 387, it was mathematically probable that the two would take the same classes. Indeed they did. They met in Professor Roblyer's chemistry class and became friends.

The opportunity for campus employment came with the building of the memorial library for Carrie Adelle Strahorn, and Joe carried hod and sandstone blocks for the construction of that building. He recently, whimsically observed that "if the chemistry department were to study the composition of the sandstone in Strahorn, they would find large quantities of my sweat there."

When Warren McCain agreed to serve as the new chair for the 2nd Century $50 Million Endowment Campaign with J. A. Albertson, J. R. Simplot, and Velma Morrison as honorary chairs, the success of the campaign for $50 million was assured. The Search Committee charged with the responsibility of finding a new president for the College determined the new chief executive was to have a business and administrative background. That search produced the president who is your speaker this evening reporting that the endowment now stands at more than $27,000,000.

In its short life, the College has encountered many obstacles but surely four of these were of national proportions and ought to have put it out of business. Two of these problems were faced during Boone's presidency; the last one we are hoping to solve soon. The first obstacle to growth known as the panic of 1893 was a depression of national consequence including the matter of silver and its value. Many wondered if the institution would survive. The second was "The Depression." The 1930s seemed to endure forever, and the life of the College was in grave danger. The Depression had scarcely ended when World War II caused such a reduction of student body—the class of 1945 consisted of five graduates—that is was not certain that the College could continue. The final trial, though more difficult to analyze, occurred in the post-Viet Nam era when enrollment plummeted from nearly 950 students to a figure nearer 450, a time when the consequences of over-building, continuing indebtedness, inflation, and grossly inadequate endowment coincided with national and regional shifts of philanthropy away away from private education and toward tax-supported institutions. This trial has not yet been successfully concluded; we hope to resolve it in this administration.

What is at stake in this final challenge is the existence of the private liberal arts colleges that are destined to receive very little of the public money but who are at the same time shaping many of the nation's finest citizens. Listen to a few statistics. While 53 percent of college students were enrolled in private institutions in 1950, only 21 percent of the total enrollment in higher education are in independent colleges and universities today. However, 60 percent of all National Merit scholars attend private schools, and 33 percent of all baccalaureate degrees are awarded by private colleges. Private colleges and universities have produced 20 of our 31 college-educated United States Presidents. The majority of leadership in government and business emerges unquestionably from the private colleges. Private colleges must endure and prosper, and private enterprise must continue to support them, for tuition alone has never been adequate to finance the private segment of higher education.

The College has survived some trying and fateful times in its nearly 100 years. Its very existence suggests its worthiness. Engraved in its history are not only the investments of the intellect, industry, money, and dedicated people but a steady flow of quality graduates who have taken their places among the most noteworthy of our nations leaders, physicians, scientists, musicians, businessmen, and educators. The real measure of the College's worth is its product—its graduates. The College has these nearly 100 years served a regional need; our graduates continue to prove that the College is its own justification. It must continue! It must grow in students and it must grow in endowment. It must continue to distill, refine, and expand its Liberal Arts Philosophy * * * the renaissance men and women of its past and its present offer a resource for our nation that must and will continue.

I feel profoundly the influence of the previous presidents of The College of Idaho, and I stand before you ever mindful of the necessity to build the Endowment Fund and increase our student body to something in the range of 1,000 undergraduates. To these goals we remain dedicated * * * and with God's help they shall be achieved.●

A TIME OF HOPE IN POLONIA

● Mr. SIMON. Mr. President, Poland's new movement toward democracy may well define a line of demarcation between the postwar era and a new era in which the face of Eastern Europe is remade.

It is too early for us to predict the outcome. But one day soon it may well be too late for us to influence that outcome. As a way of lengthening the odds for the rebirth of a free Poland, I have introduced legislation that calls for a modest investment to help the new Solidarity-led government chart this difficult course.

The changes in Poland are historic for all of us, but they are particularly meaningful to the Nation's Polish Americans, and nowhere more so than in Chicago's Polonia, where each day's news from Poland resonates with profound intensity.

As the Senate considers legislation that would show more tangibly this Nation's support for Solidarity's struggle to cultivate democracy and to sow the seeds of a market economy, I commend to my colleagues' attention another article in a series by the Chicago Sun-Times which documents the mood of Chicago's Polonia during these times of challenge and hope.

I ask that the article be printed in the RECORD.

The article follows:

[From the Chicago Sun-Times, Oct. 15, 1989]

WARSAW TO CHICAGO—POLONIA THRIVES AS INVISIBLE KINGDOM WITHIN THE CITY

(By Alf Siewers)

Polonia is history's magic kingdom.

Centuries ago, it was the name for Poland, a realm known as a beacon of learning and freedom in Eastern Europe.

Then it vanished from the map, only to be rebuilt in American bungalow communities whose backyards stretch back to Warsaw.

The estimated 1 million Poles and people of Polish descent in the Chicago area are the heart of a worldwide diaspora known today as Polonia. And today's events in Poland have given them a world role to play.

But to an outsider looking for it, Polonia remains something of an invisible kingdom. That's because "free Poland" in Chicago is a slice of American dream, where Grabowskis live with Walesas (a cousin of Lech's lives in

Park Ridge), and the Rodriguezes are part of the family.

It reaches from a place called Jackowo, a business district around Central Park and Milwaukee Avenue where the newest immigrants gather, to the far suburbs, where second- and third-generation Polish-Americans study the language of their grandparents on Saturday mornings at Palatine High School.

The crossroads of Polonia, its old downtown at Milwaukee and Division, is shorn of its identity now, its last landmark a gourmet Polish restaurant where businessmen of Polish background lunch with corporate clients.

This was the Polonia of factory, stockyard and steel mill workers who forged the bungalow belt. Many were peasants, and some of their grandchildren, like Ed Wozniak, became millionaires.

"Never work in a steel mill" was the hard-learned advice Wozniak got from his father. Today, the son is majority owners of Wozniak Industries, a $110 million-a-year company in Oakbrook Terrace whose heart is a steel-forging operation in Bedford Park.

"My father never told me I couldn't own a steel mill," he likes to say.

Jackowo is the center of a new Polonia, straight up Milwaukee from the old crossroads and stretching roughly from Belmont to Central Park. Here lawyers from Poland have come to work as cleaning ladies.

Polish for "Hyacinth neighborhood," Jackowo (pronounced yahts-KOH-voh), takes its name from St. Hyacinth Roman Catholic Church, 3636 W. Wolfram, where most of the services are in Polish and weekly mass attendance is double the turnout at any other parish in the Chicago Archdiocese.

Seen from the window of Jan Tkaczow's second-floor office on Milwaukee, the area presents a kaleidoscope of immigrant lives and Polish-named businesses.

"We call this community Polonia," said Tkaczow, who was a lawyer in Poland and works here as an interpreter helping the newest arrivals through the maze of U.S. bureaucracy. "But it's very hard to even try to establish what Polonia means. There are at least three groups of Polonia-the old families who came before the Second World War, the after-war Polonia, and this group, most of whom came after 1980 when Solidarity was founded."

The layers of these Polish immigrations are like a mixed-up archeoligical dig, with traces left along Milwaukee Avenue to the northwest and Archer Avenue to the southwest. One thread runs through them and binds them to Poland itself: devotion to an idea of Polishness based on family, friends and freedom.

Tkaczow said the three immigrant groups unite only in the "unofficial help" they given to Poland, in the form of aid to their families there. America's Polonia is the source of an estimated $1 billion in cash and goods pumped annually into Poland's economy—part of it cash earned by Poles working here illegally. A paycheck here of, say, $360 can be worth years of wages in Poland.

On the leafy Far Northwest Side, Polonia is older and more American than in Jackowo. But at a Tuesday night open house in the Milwaukee Avenue office of Ald. Roman C. Pucinski (41st), many of the conversations still are in Polish, on Polish themes, or with Polish-American constituents.

On a recent evening, Pucinski was discussing the upcoming visit of Lech Walesa, the Solidarity leader, who is planning a U.S. tour in search of investment dollars for Poland. Walesa is scheduled to be in Chicago Nov. 18.

A promoter had stopped by the office to get Pucinski to invite Walesa to a soccer game at the Rosemont Horizon to benefit Solidarity.

"Everybody wants him. The Mercantile Exchange wanted him, but he couldn't come when they were open," Pucinski said of the former shipyard worker who has become a virtual icon to many Americans.

Another visitor to Pucinski's office, a man from Poland who filed suit in 1982 over an elevator accident that fractured his spine, came to ask the alderman why his case still hadn't been heard.

"It takes anywhere from five to eight years for a personal injury lawsuit in Cook County," Pucinski told him, switching between English and Polish to explain justice in capitalist society.

"Your case should be coming up soon," Pucinski said. The man smiled gratefully as he left, perhaps convinced the alderman had just fixed his case.

The gatehouse to today's Polonia is on Milwaukee beyond Pucinski's office, out of the city in Niles. At the huge Przybylo's White Eagle banquet hall, where two presidents and a pope have been feted, old ties to Poland are affirmed nearly every day in one direction or another.

The hall, on the site of an old ethnic picnic grove, is across Milwaukee Avenue from two Polish cemeteries. Owner Ted Przybylo's business cards suggest that "after the funeral" you eat at his place. On a recent weekday six funeral parties did.

But Przybylo, whose parents came from Poland, also hosts events initiating new families into Polonia. Recently the Lechici Dancers were there for the wedding of two of their own, Marek and Krystyna Rys, second-generation Polish-Americans surrounded by Polish-speaking friends and rites. The next week, the Lechicis were back for a testimonial in honor of Chicago Deputy Police Supt. Matt Rodriguez—the product of a mixed marriage common in Polonia's third and fourth generations.

One of Przybylo's own daughters married a German-American and moved to Vermont, where she has pursued a career in politics, backing bills to mark Polish holidays in that Yankee state's legislature. His grandson recently started at Yale, but he knows how to speak some Polish.

"I made sure of that," Przybylo said.

To college professor Douglas Bukowski, a third-generation Polish-American living in Oak Park, the culture and traditions of Polonia need to be kept alive because they constitute a spiritual sap—a "value and strength lacking in American society as a whole."

"For example, the way we celebrate Christmas and Easter I find preferable to the way television celebrates them," Bukowski said.

"There is a tradition that on Christmas Eve all the farm animals will talk, and that only those pure of heart will hear. So we always go up to our basset hound to see if she talks. . . . It's almost an alternative life view, our focus on family, our focus on faith, for that matter our focus on friends."

Surprisingly to sociologists who repeatedly have predicted its demise, Polonia continues to flourish.

About a dozen new Polish-language magazines and newspapers have started here in the 1980s, and a phone book listing Polish-language businesses has doubled in size, even as long-established Polish-Americans gain increased success at building political coalitions and social status.

Loyola University sociologist Helena Lopata recalls how her Polish father co-authored a classic academic study of Polonia around 1920 that found the community in danger of being assimilated into American life.

"When I was a student at the University of Chicago in the 1950s, they asked me, 'So why isn't the Polish community dead? Your father said it was disorganized," Lopata said. "Now going into the 1990s, you're asking me the same question, 'Why isn't the Polish community dead?' "

Her answer: "These stubborn Poles!"●

KODAK'S LATEST INNOVATION: HDTV CONVERTER FOR MOTION PICTURE FILM

● Mr. D'AMATO. Mr. President, since its founding in 1880, the Eastman Kodak Co. of Rochester has kept New York, and the United States, in the forefront of the imaging industry worldwide.

Kodak is continuing to break new ground in the field of imaging technology. On Monday, October 23, 1989, the Wall Street Journal reported on Kodak's latest innovation: A converter that transforms standard motion-picture film into high-definition video. I ask unanimous consent that a copy of the Wall Street Journal article be included in the RECORD at the conclusion of my remarks.

One of the many hurdles to be overcome before high-definition television becomes a reality in the United States is a projected shortage of programming for the new medium. At present, only 250 hours of such programming is available for airing. By making it possible to create high-definition videos from movies and television programs shot in standard 35mm motion-picture film, the Kodak converter will take us over this hurdle.

I am proud of, but not surprised by, Kodak's latest technological innovation. I am confident that Kodak's continued leadership in imaging technology will keep our Nation at the vanguard of this industry for years to come.

[From Wall Street Journal, Oct. 23 1989]

KODAK ENTERS THE HDTV MARKET WITH CONVERTER FOR MOVIE FILM

(By Peter Pae)

Eastman Kodak Co., seeking to position itself in the potentially huge high-definition television market, unveiled a converter that can transform conventional motion-picture film into high-definition video.

The move also helps the Rochester, N.Y., photographic giant ensure that its motion-picture film business—for which it holds a virtual monopoly, supplying every Hollywood movie company—isn't made obsolete by the upstart HDTV business.

While the prototype converter is costly, it's being lauded by the infant HDTV industry as a way of increasing the number of

high-quality shows that can be seen on the new medium.

"The industry has been waiting with bated breath for the machines to come along," says David Niles, president of Eleven Twenty Five Productions Inc., a New York pioneer in high-definition programming. He notes that industry executives have until now worried that they would face a severe shortage of programs once consumers begin replacing their TV sets with HDTVs.

Japanese electronic giants, such as Sony Corp. and Hitachi Ltd., have focused almost entirely on HDTV hardware, and vitually ignored software or programs shot in high-definition software development. It's estimated that just about 250 hours of HD programming is currently available for airing.

Kodak says its new CCD HDTV converter will help alleviate the problem by allowing programmers and broadcasters to convert movies and television programs shot in 35mm motion-picture film into high-definition video. Consumers will be able to switch on their HDTV sets and get all the viewing benefits the high-tech medium offers. Otherwise, they'd be watching programs that are no different in quality from what they currently view on color TVs.

It would be like "watching a black and white movie on color TV set,' says Malcolm G. Spaull, chairman of the film and video department at the Rochester Institute of Technology.

The new converters are "a critical link between film and the television domain," says Joerg D. Agin, vice president and general manager of Kodak's Motion Picture and Audiovisual products division.

Kodak won't disclose the cost or when its converter will be on the market, but it's estimated the machine may be available within two years. A smiliar machine already on the market, made by Rank Sintel Ltd., a unit of Rank Organisation, costs about $500,000.

And the potential market is tremendous, industry experts say. If HDTV takes off in the U.S., there will be demand for some 4,000 to 5,000 HDTV converters, known in the industry as telecines. Demand will come first from programming production companies and then from television stations.

"The converter is head and shoulders above anything else I've seen," says Richard J. Stumpf, vice president-engineering and development at MCA Inc.'s Universal City Studios. And Mr. Niles, the program producer, contends that Kodak's move is "a sound marketing decision. They can't afford to stay out of HDTV."

Indeed, the stakes are high. The U.S. electronics industry estimates that the HDTV market will total about $150 billion over the next two decades, with an additional $400 billion expected to go for related products.

HDTV's break down images into more than 1,100 lines, compared with 525 for today's televisions, providing considerably sharper detail. And the sets are wider, resembling the dimensions of a movie screen.

But the financial rewards aren't expected soon, nor are they guaranteed. Experts estimate the first sets of HDTVs won't be available for another five to 10 years, and will probably retail for more than $3,000 each in today's dollars. Some critics say they won't be quickly embraced by consumers because of the high price.

Nevertheless, Kodak couldn't risk letting HDTV turn its motion-picture film business into a dinosaur. "Kodak understands HDTV is where everybody is going," says RIT's Mr. Spaull.

THE RULE OF LAW

● Mr. MOYNIHAN. Mr. President, last Wednesday I rose to remind those who would loosen restrictions on assassinations that this is a subject governed by law. At the Nuremberg trials we helped to establish the principle that the murder of prisoners and assassinations violate acceptable norms of behavior. This rule is codified in the four Geneva Conventions of 1949 on the laws of war. The United States is a party to these conventions. They are, therefore, American law, the supreme law of the land under article VI, paragraph 2 of the Constitution.

Several days after I spoke, on October 23, 1989, a letter written by Mr. Benjamin B. Ferencz appeared in the New York Times. Mr. Ferencz was the executive counsel at the Nuremberg war crimes trials. He states that the "Nuremberg tribunals, led by the United States, held that even a head of state is answerable to law." He notes that President Bush "acted in conformity with the rule of law" in his restrained response to the attempted coup against General Noriega.

That same day I received a letter from Francis A. Boyle, professor of international law at the University of Illinois at Urbana-Champaign. He enclosed a letter to the editor which he wrote on the same subject, published in the New York Times on February 9, 1989. Professor Boyle cites treaty law and Federal cases to show that the rule against assassinations is based upon law and not merely an Executive order. He also cites the judgment at Nuremberg and notes that the Nuremberg trials established the principle that assassination violates customary international law.

I commend Mr. Ferencz and Professor Boyle for their articulate efforts to remind us that assassinations are the subject of law—our law—and that any Government official who involves himself in an assassination runs grave risks regardless of the contents of Executive orders on the subject.

Mr. President, I urge my colleagues to study the full text of these two important letters and I ask that they be printed in the CONGRESSIONAL RECORD.

The letters follow:

[From the New York Times, Oct. 23, 1989]

BUSH DESERVES PRAISE FOR RESTRAINT ON NORIEGA

To the Editor:

Instead of blame, President Bush deserves praise for his restrained response to the attempted coup against Panama's indicted drug trafficker Gen. Manuel Noriega. Intervention by covert or direct military action would have violated the United Nations Charter, the consensus definition of aggression and a host of treaties with concerned Latin American states. The American public has grown weary of official distortions of law to justify desired political goals.

Our President acted in conformity with the rule of law—even if it led to the painful conclusion that justice might be delayed. The main lesson to be learned from the Panamanian failure is that the force of law must be made more effective if it is to replace the law of force.

The Nuremberg tribunals, led by the United States, held that even a head of state is answerable to the law. Until we are prepared to insist upon clearer international laws, courts with binding authority and effective international law enforcement, the law-abiding community will remain hostage to lawbreakers.

The U.N. Legal Committee will consider a new proposal to create an international court to deal with drug traffickers. Representatives Jim Leach and Senator Arlen Specter have introduced legislation that would bring such criminals, and terrorists, before as international tribunal.

These efforts to overcome inadequacies of our present international system deserve support. To condemn crimes for which there is no court is to mock justice and encourage criminality.

BENJAMIN B. FERENCZ.

NEW ROCHELLE, NY, *October 8, 1989.*

[From the New York Times, Feb. 9, 1989]

WHAT'S STILL WRONG WITH POLITICAL ASSASSINATION

To the Editor:

As a professor of international and criminal law, I must write in profound disagreement with the suggestion by David Newman and Bruce Bueno de Mesquita that the United States Government's prohibition of political assassination be repealed (Op-Ed, Jan. 26).

The rule to that effect found in President Reagan's Executive Order 12333 of 1981 is based on article 23(b) of the regulations annexed to Hague Convention IV, Oct. 18, 1907, respecting the laws and customs of war on land: "It is especially forbidden . . . to kill or wound treacherously individuals belonging to the hostile nation or army." Paragraph 31 of Department of the Army Field Manual 27-10, "The Law of Land Warfare" (1956), authoritatively defines this provision to mean: "This article is construed as prohibiting assassination, proscription or outlawry of an enemy, or putting a price upon an enemy's head, as well as offering a reward for an enemy 'dead or alive.'"

Even more recently, the United States District Court for the District of Columbia specifically held in Letelier v. Republic of Chile, 488 F. Supp. 665, 673 (1980) that Chile's assassination of Orlando Letelier in the streets of Washington was "clearly contrary to the precepts of humanity as recognized in both national and international law."

Hence, it is the longstanding position of the United States Government that assassination of anyone—let alone a head of state or head of government (e.g., Muammar el-Qaddafi)—is a violation of the laws and customs of warfare and therefore an international crime. Furthermore, according to Field Manual 27-10, paragraph 498, any person, whether a member of the armed forces or a civilian, who commits an act that constitutes a crime under international law is responsible for it and liable to punishment. Finally, Paragraph 510 of the same source denies the defense of "act of state" to such alleged international criminals by providing that though a person who committed an act constituting international crime has acted as a head of state or as a responsible government official he is not relieved from responsibility for that act.

Irrespective of Executive Order 12333, Hague Convention IV is a "treaty" of the United States that has received the advice and consent of the Senate and is therefore the supreme law of the land according to Article 6 of the United States Constitution, the so-called Supremacy Clause. But even if Congress were to enact a statute that expressly repealed the rule found in Hague regulation article 23(b), that would still not help U.S. Government officials allegedly responsible for assassinations during the course of their travels abroad. This is because the Nuremberg Tribunal of 1945 expressly ruled that the rules found in the Hague regulations had entered into customary international law as of 1939.

Therefore, it would be impossible for a state or its leaders to ignore the internationally recognized rule prohibiting assassination. Such government officials would be subject to prosecution in any state of the world that obtained jurisdiction over them for the commission of an international crime without limitation of time. I doubt seriously that the American people would want any aspect of our foreign affairs and defense policies to be conducted by alleged international criminals.

The outbreak of World War I provides a very compelling example of the principle at stake. This conflagration started because of a terrorist attack at Sarajevo by a Serbian nationalist who assassinated Archduke Francis Ferdinand, heir-apparent to the throne of the Austro-Hungarian empire. With the backing of Germany, Austria-Hungary issued an ultimatum to Serbia, which in turn was supported by Russia. Eventually, the world went to war, and approximately 20 million people were killed.

At the 1919 Paris Peace Conference the Allied Powers put the responsibility for the outbreak of the war squarely upon the shoulders of the Central Powers by means of article 231 of the Treaty of Versailles.

Mr. Newman and Mr. Bueno de Mesquita draw examples from the Middle East. Yet that region could most readily become the Balkans for the 1990's. Except that at this point in the thermonuclear age, there will probably not be a peace conference at the end of the World War III.

As George Santayana wrote, "Those who cannot remember the past are condemned to repeat it." The authors foolishly and quite contemptuously suggest that we try to rewrite the tragic lessons of modern history. Our Government officials are obliged to obey the well-considered rule of domestic and international law found in Hague Regulation article 23(b), prohibiting assassinations until further notice from both Congress and the international community, on pain of criminal prosecution. The repeal of Executive Order 12333 would not change this.

FRANCIS A. BOYLE.

CHAMPAIGN, IL., *Jan.* 27, 1989.●

MEASURE HELD AT THE DESK—S. 1798

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator SPECTER's death penalty bill, S. 1798, be held at the desk until called up tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR TESTIMONY OF SENATOR HOWELL HEFLIN

Mr. MITCHELL. Mr. President, on behalf of myself and the distinguished Republican leader, Mr. DOLE, I send to the desk a resolution on testimony by Senator HOWELL HEFLIN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 198) authorizing the testimony of Senator HOWELL HEFLIN in the case of *Thomas Hawthorne, et al.* v. *John Baker, et al.*

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, Senator HOWELL HEFLIN has been asked by the plaintiffs to testify at a deposition in the case of *Thomas Hawthorne, et al.* v. *John Baker, et al.*, a civil action which is pending in the U.S. District Court for the Middle District of Alabama. The matter in controversy is a change in the rules of the State Democratic Executive Committee of Alabama.

Under rule VI of the Standing Rules of the Senate no Senator shall absent himself from the service of the Senate without leave. The resolution would authorize Senator HEFLIN to testify at the deposition except when his attendance at the Senate is necessary for the performance of his legislative duties.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 198) was agreed to.

The preamble was agreed to.

The resolution with its preamble, reads as follows:

S. RES. 198

Whereas, in the case of Thomas Hawthorne, et al. v. John Baker, et al., Civil Action No. CA 89-T-381-S, pending in the United States District Court for the Middle District of Alabama, the plaintiffs have requested the attendance and testimony of Senator Howell Heflin at a deposition;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave: Now, therefore, be it

Resolved, That Senator Howell Heflin is authorized to testify in the case of Thomas Hawthorne, et al. v. John Baker, et al., Civil Action No. CA 89-T-381-S, except when his attendance at the Senate is necessary for the performance of his legislative duties.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHANGE IN CONFEREES—H.R. 1487

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator SANFORD replace Senator CRANSTON as a conferee on H.R. 1487, the State Department authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—H.R. 91

Mr. MITCHELL. Mr. President, I ask unanimous consent that H.R. 91, the Anti-Terrorism and Arms Export Amendments Act of 1989, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL ARAB-AMERICAN DAY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 241, a Joint resolution designating October 25, 1989, as "National Arab-American Day."

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

Joint resolution (H.J. Res. 241) designating October 25, 1989 as "National Arab-American Day."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 241) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. MITCHELL. I move to reconsider the vote by which the joint resolution was passed.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EARTHQUAKE HAZARDS REDUCTION ACT AMENDMENTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senate proceed to the immediate consideration of Calendar No. 285, S. 1062, the Earthquake Hazards Reduction Act of 1977.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1062) to amend the Earthquake Hazards Reduction Act of 1977 to improve

the Federal effort to reduce earthquake hazards, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (S. 1062) to amend the Earthquake Hazards Reduction Act of 1977 to improve the Federal effort to reduce earthquake hazards, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause, and insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Earthquake Hazards Reduction Act of 1977 Amendments Act".

FINDINGS

SEC. 2. (a) Section 2 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701) is amended by striking paragraphs (5) and (6) and inserting in lieu thereof the following new paragraphs:

"(5) The geological study of active faults and features can reveal how recently and how frequently major earthquakes have occurred on those faults and how much risk they pose. Such long-term seismic risk assessments are needed in virtually every aspect of earthquake hazards management, whether emergency planning, public regulation, detailed building design, insurance rating, or investment decision.

"(6) The vulnerability of buildings, lifelines, public works, and industrial and emergency facilities can be reduced through proper earthquake resistant design and construction practices. The economy and efficacy of such procedures can be substantially increased through research and development.".

(b) Section 2 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701), as amended by subsection (a) of this section, is further amended—

(1) by redesignating paragraphs (7) through (10) as paragraphs (8) through (11), respectively; and

(2) by inserting immediately after paragraph (6), the following new paragraph:

"(7) Programs and practices of departments and agencies of the United States are important to the communities they serve; some function, such as emergency communications and national defense, and facilities, such as dams, bridges, and public works, must remain in service during and after an earthquake. Federally owned, operated, and influenced structures and facilities should pose hazards to their occupants and to the community that are no greater than those posed to the community by other structures and facilities that are under private, local, or State control or regulation.".

PROGRAM LEADERSHIP

SEC. 3. (a) Paragraph (2) of section 5(b) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(b)) is amended to read as follows:

"(2) The Federal Emergency Management Agency is designated as the agency with the primary responsibilities to plan, coordinate, and lead the National Earthquake Hazards Reduction Program. The Director of the Agency shall—

"(A) lead, through the mechanisms outlined in this section, the National Earthquake Hazards Reduction Program;

"(B) recommend to the President the role and responsibility of each appropriate Federal department, agency, and entity with respect to each object and element of the program;

"(C) recommend to the President goals, priorities, budgets, and target dates for implementation of the program;

"(D) establish and chair an interagency committee, whose other members shall be the Directors of the United States Geological Survey, the National Science Foundation, and the National Institute for Standards and Technology, and the heads of such other agencies involved in the program as the Director of the Agency determines appropriate, and which shall meet regularly for the purpose of developing plans, tasks, and milestones, of assuring close cooperation and coordination among the Federal agencies involved in the execution of those plans, and of evaluating the effectiveness of their implementation;

"(E) provide a method for cooperation and coordination with, and assistance (to the extent of available resources) to, interested governmental entities in all States, particularly those containing areas of high or moderate seismic risk;

"(F) recommend appropriate roles for State and local units of government, individuals, and private organizations;

"(G) compile and maintain a written plan for the program specified in subsections (a), (e), (f), (g), (h), and (i) of this section, which shall include specific tasks and milestones for the coming and future years for each agency involved in the program, and which shall be submitted to the Congress as part of the annual report and updated at such times as may be required by significant program events;

"(H) utilize other Federal agencies, when and as appropriate, for the conduct of specific program activities;

"(I) bring to the attention of the President those proposed Federal programs, regulations, and practices with implications for earthquake hazards reduction and recommend to the President changes that offer improved safety with an assessment of the implications of these changes on safety and economy;

"(J) appoint an advisory committee, which will meet regularly, review program activities, and advise the Director of the Agency of program goals, objectives, plans, and performance and which will have balanced representation from the disciplines and communities at interest including appropriate representatives of State and local governments, the design professions, the research community, business and industry, and the general public;

"(K) make, in cooperation with those agencies determined by the Director of the Agency to be appropriate under subparagraph (D) of this paragraph, the United States Geological Survey, the National Science Foundation, and the National Institute for Standards and Technology, an annual presentation to the appropriate committees of the Congress within 60 days after the end of each fiscal year for the purpose of communicating any events and any programmatic requirements determined to be significant by the National Earthquake Hazards Reduction Program; and

"(L) to the extent practicable, assure that the process leading to the recommendations to the President on the roles and responsibilities of the Federal departments, agencies, and entities and their relative priorities and budgets for the purposes of the national program are separated from the operational management of those research and implementation aspects of the national program for which the Survey has operational responsibility.".

PROGRAM OBJECTIVES

SEC. 4. (a) Section 5(c) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(c)) is amended—

(1) by redesignating paragraphs (1) through (7) as paragraphs (2) through (8), respectively; and

(2) by inserting, immediately before paragraph (2), as so redesignated, the following new paragraph:

"(1) the accelerated implementation of effective State and local governmental and private sector programs designed to reduce earthquake hazards through the development of innovative strategies, practical methodologies, and appropriate mechanisms to enhance application of research results and the provision of technical and financial assistance to State and local governments and to the private sector;".

(b) Section 5(c) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(c)), is amended by subsection (a) of this section, is further amended—

(1) by striking "and" at the end of paragraph (7), as so redesignated;

(2) by striking the period at the end of paragraph (8), as so redesignated, and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new paragraphs:

"(9) the performance of basic and applied research on all aspects of earthquake hazards reduction (including mitigation, prediction, hazard identification, insurance, preparedness, response, recovery, and utilization of developed knowledge and information); and

"(10) the development of innovative approaches and means to accelerate technology transfer so that the results of scientific research can be effectively utilized in the development of earthquake hazards reduction measures through State and local governments and the private sector.".

FEDERAL PARTICIPATION

SEC. 5. Section 5(d) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(d)) is amended by inserting "Department of Education," immediately after "Department of Housing and Urban Development,".

RESEARCH

SEC. 6. (a) Section 5(e) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(e)) is amended by inserting ", which shall consist of basic and applied research," immediately after "elements of the program".

(b) Section 5(e) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(e)), as amended by subsection (a) of this section, is further amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new paragraphs:

"(10) development of approaches to combine measures for earthquake hazards reduction with measures for reduction of other natural and technological hazards;

"(11) maintenance of an appropriate data base of earthquake occurrence throughout the Nation through the operation of a National Seismic Network, which shall comple-

ment and support existing university-based regional seismic networks; and

"(12) systematic assessment of each of those regions of the Nation believed to be prone to earthquakes (including the development of an understanding of the geological origin of the earthquakes); reliable estimation of the size, frequency, and probability of the expected earthquakes; determination of the character of the resulting strong ground motion and the area affected; estimation of the potential for surface fault rupture, ground distortion, liquefaction, landsliding, elevation change, and ground motion amplification and other effects; and making the products of the assessment available in forms useful for mitigation actions (including actions relating to land use, engineering design, insurance, emergency planning, and construction standards, practices, and codes).".

MITIGATION

SEC. 7.(a) Paragraph (1) of section 5(f) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(f)) is amended to read as follows:

"(1) the issuance by the Director of the United States Geological Survey of earthquake predictions or other earthquake advisories as the Director of the Survey determines necessary, in connection with which—

"(A) the Director of the Federal Emergency Management Agency shall be notified as soon as possible, in advance of public release if practicable;

"(B) for purposes of evaluating a prediction, the National Earthquake Prediction Evaluation Council shall be exempt from the requirements of section 10(a)(2) of the Federal Advisory Committee Act; and

"(C) the Director of the Federal Emergency Management Agency shall have responsibility to provide State and local officials and residents of an area for which a prediction has been made with recommendations of actions to be taken;".

(b) Section 5(f) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(f)) is amended—

(1) by striking paragraphs (7) and (8);

(2) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(3) by inserting immediately after paragraph (2) the following new paragraph:

"(3) the development of guidelines for land-use management, and the provision of them to local legislatures and land-use planners, along with the basis for their adoption;".

(c) Paragraph (4), as so redesignated, of section 5(f) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(f)) is amended to read as follows:

"(4) the development and promulgation of specifications, building costs, and standards of practice for design, construction, and retrofitting to achieve appropriate earthquake resistance for new and existing structures and lifelines;".

(d) Section 5(f) of the Earthquake Hazards Reduction Act of 1977, as amended by this section, is further amended by adding at the end the following new paragraphs:

"(8) the identification of social, legal, and economic factors that influence or motivate the public and private sector entities to adopt earthquake hazard mitigation policies and programs;

"(9) the definition of the costs and benefits of earthquake hazard mitigation programs to the public and private sector entities;

"(10) the development of a systematic program for loss estimation for high-risk areas;

"(11) the implementation and administration of training programs consisting of workshops and seminars for State, local, and private sector emergency planners, responders, and officials in earthquake planning, mitigation, response, and recovery measures;

"(12) the implementation of an education program for State and local officials responsible for seismic code adoption and enforcement;

"(13) the adoption of seismic design and construction standards, which shall be developed by the Interagency Committee on Seismic Safety in Construction and which shall be adopted by the President not later than June 1, 1993, for new and existing Federal buildings and facilities and for buildings and facilities involving Federal domestic assistance (including grants, loans, and mortgage insurance), leasing, and regulatory programs; and

"(14) the development and implementation of preparedness plans (for response to earthquake predictions for areas specified by the Director of the United States Geological Survey), which shall be carried out by the Director of the Federal Emergency Management Agency so as to assure that such plans are integrated with long term preparedness response plans, are coordinated with State and local government efforts, and are reviewed and revised as necessary as new and relevant information becomes available.".

PUBLIC EDUCATION

SEC. 8. Section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704) is amended—

(1) by striking subsection (i);

(2) by redesignating subsections (g), (h), and (j) as subsections (i), (j), and (k), respectively; and

(3) by inserting immediately after subsection (f) the following new subsection:

"(g) EDUCATION OF THE PUBLIC.—The public education elements of the program shall provide for—

"(1) examining the levels of understanding about hazard prediction probabilities among the public and media, and evaluating how their perceptions may affect behavior;

"(2) developing a comprehensive education and awareness program to inform the public regarding the existence of earthquake hazards and the ways the public can help to reduce such hazards;

"(3) establishing regional clearinghouses to provide information and technical assistance through the publication of information in the form of pamphlets, newsletters, and issue papers; and

"(4) implementing cooperative programs between the private sector and universities, governmental bodies, and regulatory groups to disseminate earthquake information to the public, including the possible establishment of university earthquake centers as a means for educating the public about earthquake hazards and for transferring to the design and construction professions, industry and business, preparedness officials, and the public the technologies developed for earthquake hazards reduction and preparedness.".

PLANNING AND RESPONSE

SEC. 9. Section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704) is amended by inserting immediately after subsection (g), as added by section 8 of this Act, the following new subsection:

"(h) EARTHQUAKE PLANNING AND RESPONSE.—The earthquake planning and response elements of the program shall provide for—

"(1) accelerating the development, publication, and distribution of postulated earthquake scenarios for various events in risk areas throughout the United States;

"(2) expanding the use of advanced information technologies, including computers, telecommunications, and audio and video devices, in defining and mitigating earthquake risks, preparing emergency response plans, and responding to and recovering from damaging earthquakes;

"(3) expanding the planning and information transfer capabilities of existing regional earthquake preparedness projects and consortia;

"(4) creating and maintaining additional regional earthquake preparedness planning and earthquake education efforts in each high-risk area of the United States, including the development and implementation by the Director of the Federal Emergency Management Agency of a program to enhance local government involvement in such regional efforts;

"(5) increasing the ability of State and local governments to conduct earthquake planning and preparedness efforts;

"(6) determining the adequacy of health and social services to meet the disaster needs of the populace in areas of high seismic risk;

"(7) evaluating the role of the National Disaster Medical Service in earthquake response and rescue planning;

"(8) determining the adequacy of available search and rescue personnel and equipment in areas of high seismic risk and developing a plan to supplement such resources where necessary;

"(9) developing a national emergency response plan for each area of high seismic risk; and

"(10) defining the nature and extent to which disaster planning is currently being carried out in the private sector to ensure that public and private plans are compatible.".

CENTER FOR THE INTERNATIONAL EXCHANGE OF EARTHQUAKE INFORMATION

SEC. 10. (a) Congress finds and declares the following:

(1) On December 11, 1987, the General Assembly of the United Nations established an International Decade for Natural Disaster Reduction beginning in 1990.

(2) The goal of the International Decade for National Disaster Reduction is to promote cooperative efforts to reduce the ravages of all types of natural hazards through the international exchange of data, the identification of gaps in knowledge, cooperative research projects, implementation of mitigation measures, preparedness planning and hazard awareness, and the timely and effective transfer of information and knowledge.

(3) Earthquakes have caused, and can cause in the future, enormous loss of life, injury, destruction of property, and economic and social disruption in both the United States and around the world.

(4) American scientists have developed methods for estimating the frequency and severity of future earthquakes, for identifying active faults, and for predicting the amount of ground motion during an earthquake.

(5) American earthquake engineers have developed techniques for building more earthquake-resistant buildings and lifelines.

(6) Federal, State, and local authorities have valuable experience in planning for

and responding to moderate and major earthquakes.

(7) In many nations, earthquake risks have not been evaluated and minimal earthquake preparedness programs exist. American expertise in earthquake research and earthquake preparedness could be more effectively applied in many nations, with the result that thousands of lives could be saved and millions of dollars in property losses prevented worldwide.

(8) Studies of major earthquakes in other nations can provide valuable insights about earthquakes, earthquake hazard mitigation, and emergency management which can be applied in the United States.

(9) By promoting the two-way international flow of information on earthquakes, the United States Government can help save lives and protect property both in the United States and overseas.

(10) At present there is no coordinated effort to share the breadth of useful information developed through the National Earthquake Hazards Reduction Program with other nations.

(11) The United States Geological Survey has a long tradition of international cooperation and is well-suited to promote increased international exchange of information on earthquake research and earthquake preparedness.

(b) Section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704) is amended by inserting immediately after subsection (k), as so redesignated by section 8 of this Act, the following new subsection:

"(l) CENTER FOR INTERNATIONAL EXCHANGE OF EARTHQUAKE INFORMATION.—A Center for the International Exchange of Earthquake Information shall be established within the United States Geological Survey which shall—

"(1) promote the exchange of information on earthquake research and earthquake preparedness between the United States and other nations;

"(2) maintain a library containing reports, research papers, and data produced through the National Earthquake Hazards Reduction Program;

"(3) answer requests from other nations for information on United States earthquake research and earthquake preparedness programs; and

"(4) direct foreign requests to the agency involved in the National Earthquake Hazards Reduction Program which is best able to respond to the request.".

CONFORMING AMENDMENTS

SEC. 11. (a) Section 5(a) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(a)) is amended—

(1) in paragraph (2) by striking "(h)" and inserting in lieu thereof "(j)"; and

(2) in paragraph (3) by striking "(e) and (f)" and all that follows and inserting in lieu thereof "(e), (f), (g), and (h) and the assistance to the States specified in subsection (i).".

(b) Section 6 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7705) is amended by striking "section 5(b)(2)(E)" and inserting in lieu thereof "section 5(b)(2)(G)".

(c) Section 7(a) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(a)) is amended by inserting "of the Federal Emergency Management Agency" immediately after "Director" each place it appears.

Mr. GORE. Mr. President, today, we are considering S. 1062, the Earthquake Hazards Reduction Act of 1977 Amendments Act, which would improve this Nation's ability to deal with earthquakes. I was preparing to bring this bill to the floor last week, when the Loma Prieta earthquake struck the San Francisco Bay area. We still do not know how many people were killed—rescue workers continue to dig through the rubble. Property damage estimates are in the billions. And officials there say it will be months before normal routines are restablished. In some areas, life will never be the same.

It is an understatement to say that had this earthquake not occurred, few people would have noticed this bill. We would rather not think about earthquakes. We cannot predict them, we cannot control them, we cannot board up our windows or protect our families and homes in anticipation of the impending devastation. Earthquakes are not like hurricanes or floods or other natural disasters that we can chart for days or weeks to predict their arrival with nearly pinpoint accuracy. Earthquakes almost always occur without warning, sometimes killing tens of thousands of people in terrifying minutes.

Anyone who dismissed the threat of earthquakes or their power was almost literally jolted out of skepticism these past days. The news from California is riveting; some have said the earthquake that shattered bay area lives has brought us together as a country. "There but for the Grace of God * * *." We hear it in all our States these days, as Americans from one coast to the other send help west. It is impossible to ignore the pictures of buildings crumpled like sandcastles, of bridges snapping like erector sets. Of families reunited in tears. Of Buck Helm, the longshoreman pinned under highway 880, being carried to safety "There but for the Grace of God * * *."

The threat of earthquakes is very real, too real for too many Americans. Millions of people in 37 of our 50 States are at risk. The New Madrid Seismic Zone, which affects my home State and threatens Memphis, could produce a killer quake at any time, according to Dr. Robert Keller of the National Center for Earthquake Engineering Research. In 1811 and 1812, three of the most severe earthquakes in U.S. history struck the New Madrid, MO, area near Memphis—earthquakes strong enough to knock the scaffolding off the White House and ring church bells in Boston.

In the last few days, we have seen the power of a single earthquake. And for all that devastation—for the loss of lives and home and property and history—last week's earthquake was neither as big nor as deadly as earthquakes that have occurred in the past and will occur in the future.

If the 1906 San Francisco earthquake hit today registering an 8 on the Richter scale as it did then, thousands of people would be killed and damage estimates would exceed $125 billion.

In Memphis alone, a repeat today of the 1811 New Madrid, MO, earthquake would leave more than 2,000 people dead and more than $30 billion in property damage.

Now, think about how we feel—as individuals and as a Nation—after the last week's earthquake. We do not know the exact death toll from the Loma Prieta earthquake. Officials there say it will probably not exceed 80. Total damage costs now are estimated at about $6 billion. Now, imagine if it were five or six times worse. Multiply that by 5 or 10 and you get some idea of the destructive power of a magnitude 8 earthquake. Such an earthquake will occur, it is just a matter of when and where.

Because we do not know when an earthquake will hit, we must always be prepared and preparing for earthquakes means long-term planning. Not just storing extra batteries in the cellar or candles under the sinks. In earthquake-prone regions, our lifelines must be built differently. Buildings, roads, pipelines, powerlines must be quake-resistant. Our citizens must know how to respond; fire departments and emergency personnel must have plans and equipment in place when a major earthquake occurs.

The legislation before us would strengthen the National Earthquake Hazards Reducing Program [NEHRP] by refocusing the program and ensuring that the funding for NEHRP is used as effectively as possible to increase our Nation's readiness to cope with earthquakes.

The earthquake program was created in 1977, thanks in large part to the leadership of Senators CRANSTON and HOLLINGS. When the program was created, most Americans thought they didn't have to worry about earthquakes. It has been NEHRP-funded research that has revealed the threat to 37 of our States. And, discovered earthquakes in the last 300 years that, if they occurred today would leave hundreds dead and extensive damage in a string of American cities. Boston, New York City, Charleston, SC, Memphis, St. Louis, Little Rock, Los Angeles, and San Francisco all have experienced earthquakes in the last three centuries.

In just the last few years, geologists have found evidence of ancient earthquakes in Washington State and Oregon that were as large as the largest earthquakes ever recorded. These quakes dwarfed even the mammoth 1964 Good Friday earthquake that devastated Anchorage, AK. Geologists working in Hawaii have found evidence of massive tidal waves triggered by ancient earthquakes. Just a few months ago, a magnitude 6 earth-

quake reminded Hawaiians of the threat earthquakes pose.

We are lucky. Earthquakes occur very infrequently in most parts of our country. But that also means that most Americans have not experienced a major earthquake; most of us do not know we even face the threat, and we are not motivated to prepare for the danger.

NEHRP was established to address this problem. It was set up to coordinate and expand Federal agency programs that address the threat of earthquakes. The four principal agencies in NEHRP are the Federal Emergency Management Planning Agency [FEMA], the United States Geological Survey [USGS], the National Science Foundation [NSF], and the National Institute of Standards and Technology [NIST]. FEMA is responsible for helping States prepare for and respond to major earthquakes. The USGS monitors and investigates earthquakes, assesses seismic risks throughout the country, and assists State and local officials in identifying the areas most vulnerable to earthquakes. NSF, as part of its mission to support basic scientific and engineering research in universities, supports academic investigators in both geology and earthquake engineering. NIST's Center for Building Technology investigates the properties and behavior of construction materials and helps develop methods of seismic-resistant construction.

Since 1980, FEMA also has been responsible for coordinating the overall program. FEMA is to recommend to the President roles and responsibilities of the appropriate Federal agencies, compile and maintain a program plan for the NEHRP, report to Congress on NEHRP activities, and in general develop an overall strategy for the program.

The bill before us today would update the legislation that established the earthquake program. In the last 12 years, research funded by the NEHRP has revealed that the threat of earthquakes is even greater than we thought. Unfortunately, during the same period, the amount of funding for the earthquake program has decreased by 40 percent in real dollars. By refocusing the earthquake program, S. 1062 should stop this erosion of funding levels, and ensure that existing funds are spent wisely and effectively.

One reason for the decrease in funding for the NEHRP is that we have been very lucky—though the Loma Prieta earthquake may make us think otherwise, there has not been a catastrophic earthquake in the continental United States since the 1906 San Francisco earthquake. There have been Richter magnitude 6 and magnitude 7 earthquakes, such as the one last week, which have killed dozens of people and caused billions of dollars of damage, but we have been spared a truly catastrophic earthquake. It's unlikely our luck will continue—the odds are against us. According to the USGS, there is a 90 percent chance of a catastrophic earthquake in California in the next 30 years. At a hearing in April, the Science Subcommittee learned that in the eastern and central United States there is an almost 100 percent chance of a smaller, but still deadly quake before 2010.

If funding levels for the NEHRP continue to decline, we will not be ready when the next catastrophic earthquake hits. That is why Senator DANFORTH and I introduced S. 1062 to expand and strengthen the national earthquake program. When the earthquake program was started we did not know much about earthquakes and the threat they posed, or about what could be done to reduce that threat. As a result, the program focused primarily on research. While there is still much to learn about earthquakes and preparing for them, and while we must continue to have a well-funded earthquake research program, it is also time to make more effective use of the research that has been done. Geologists have identified active earthquake faults, but in many places developers and homebuilders are constructing right on top of them. Earthquake engineers have developed inexpensive, effective ways to make buildings more earthquake-resistant, and yet often, even in earthquake-prone Western States, these techniques are not being applied. The recent earthquakes in California, Armenia, and Mexico City have provided a number of valuable lessons about how to respond to an earthquake, but most State and local emergency managers do not have the equipment and resources to apply those lessons. Had last week's earthquake occurred anywhere instead of California, the death toll would have been much worse. California is years ahead of the rest of the country in preparing for earthquakes.

S. 1062 expands the goals of the NEHRP and stresses the need for more earthquake preparedness and more public education about earthquakes. It calls for the Federal Government to do more to help State and local authorities reduce earthquake hazards with better land-use plans, building codes, and earthquake preparedness plans. In particular, it calls for seismic design and construction standards for federally-owned, leased, and insured buildings, because in many localities, Federal buildings are exempt from local building codes and are less earthquake-resistant than private buildings. The Federal Government owns or leases more than 400,000 buildings and should do what it can to protect the inhabitants of those buildings. Furthermore, we need to ensure that military bases, Federal hospitals, and other government facilities will survive a major earthquake. At the time of disaster, these facilities will be essential to provide critically needed services to those left injured or homeless.

This legislation calls for the development of standards by the Interagency Committee on Seismic Safety in Construction [ICSSC] which each agency could then implement. Since its inception in 1978, the ICSSC has worked hard to improve the seismic safety of Federal buildings, but in the past, its efforts have been blocked by the Office of Management and Budget. This legislation will allow the ICSSC to do the job it was established to do.

S. 1062 also puts added emphasis on public education, because the public will not prepare for earthquakes if it does not understand the threat they pose. It calls for regional clearinghouses and cooperative programs with the private sector to disseminate information on earthquake hazards. In addition, it would establish a center for the International Exchange of Earthquake Information at the USGS to facilitate the two-way flow of information on earthquakes and earthquake engineering with other countries that must cope with the threat of these disasters. We can learn a lot about dealing with earthquakes from countries such as Japan, Mexico, and the Soviet Union, where catastrophic earthquakes are far more common than in the United States.

This is an important piece of legislation that will improve an important program, but there is more to be done. Next year, the Senate will reauthorize the national earthquake program. My colleagues on the Commerce Committee and I will continue our efforts to strengthen the NEHRP when we consider the reauthorization legislation. At the same time, we must make sure the agencies have the appropriations to do their jobs.

It is impossible to ignore an earthquake of any magnitude once it hits. We were painfully reminded of that reality last week. We must make it as tough to ignore the threat of earthquakes; the very real possibility they will ravage our communities. I cannot predict when and where the next major earthquake will occur but I can predict that wherever and whenever it hits, without a strong national earthquake program, there will be lives lost that we could have saved and destruction that could have been prevented. When that day comes, I do not think any of us wants to say, "we could have done more."

Mr. HOLLINGS. Mr. President, in the last month, this country has received a deadly one-two punch from Mother Nature: First, Hurricane Hugo and now the Loma Prieta earthquake. The combined death toll for these two

disasters is over 50 and still rising, and damage estimates are in the billions. Apparently, Mother Nature is in a mean and nasty mood.

We have all seen the television coverage from the bay area of the fires, the collapsed freeways, the injured people, the crushed cars, and the hundreds of damaged buildings. The sudden death of so many people comes as a shock, both to the residents of the bay area and to the rest of the Nation.

All this was caused by just 15 seconds of shaking. Over $5 billion of damage in 15 seconds. It is hard to comprehend. Just repairing the bay bridge will take weeks, perhaps months, and costs tens of millions of dollars.

Besides the visible damage, there is the economic impact and the disruption to people's lives. It is hard to put in a good day's work when you are homeless or your office building is condemned or it takes 3 hours to get to work.

As we know in South Carolina, a major disaster can hobble the economy for months, leaving hundreds of thousands homeless and jobless. The impact of this terrible earthquake, like the effects of Hurricane Hugo, will be felt for a long time, long after the story has dropped from the front page of the newspapers.

Fortunately, we can take action to reduce that impact. We can work now to save life, limb, and property in future disasters. Preparing now is particularly important for earthquakes, since they occur without warning.

Earthquake preparedness takes many forms: designing and building earthquake-resistant buildings, highways, and pipelines; identifying areas where unstable soils magnify shaking during earthquakes; developing comprehensive emergency plans and making sure the resources are in place to carry them out; and prehaps most importantly, educating the public on how to deal with the earthquake threat.

In recent months, the Commerce Committee has been working on legislation to improve and strengthen the National Earthquake Hazards Reduction Program [NEHRP]. In August, the committee approved S. 1062, which Senators GORE and DANFORTH had introduced earlier this year. The bill was reported, and the members of the committee were working with their colleagues in the Senate to bring the bill to a vote when the disaster in the bay area hit.

Mr. President, I want to commend my colleagues, Senators GORE and DANFORTH, for their work to strengthen the National Earthquake Hazards Reduction Program [NEHRP]. S. 1062 will expand the mission of the earthquake program, set concrete goals for the program, and improve this Nation's ability to deal with catastrophic earthquakes.

To meet this threat, we need to prepare as a nation, because earthquakes are a national problem. When the NEHRP was created in 1977, most people thought earthquakes were something only Californians had to worry about. But that was not true then, and it is not true now. Most people do not know it, but much of my hometown of Charleston, SC, was flattened by an earthquake in 1886. That earthquake was almost as large as the Loma Prieta earthquake, killed 60 people, and left thousands homeless. If such an earthquake happened today, the death toll would be much higher and the total damage could be in the billions of dollars. Earthquake researchers tell us that damaging earthquakes can occur in more than 35 States, and that the economic consequences of a major earthquake would affect the whole country.

What happened in San Francisco could also happen in Seattle, Boston, Memphis, and hundreds of other cities across the country. Unfortunately, those other cities are not nearly as well prepared as San Francisco. Because Californians have been spending tens of millions of dollars a year for decades preparing for earthquakes, they could deal quite effectively with this disaster. Because people were informed, the crowd at Candlestick Park did not panic, and people throughout the bay area took steps to minimize the number of deaths and injuries.

California has set a standard that the rest of the Nation should try to match when it comes to earthquake preparedness.

Of course, even in California more must be done. We need to remember that this latest earthquake was not the "big one" that everyone has been expecting. The "big one" will have a magnitude of eight or greater, like the great 1906 San Francisco earthquake, and if it hits the bay area, more than just one section of the Bay Bridge will collapse—most of it could end up in the water, along with many of the other major bridges in the region. The number of homes destroyed will number in the thousands and the death toll could top 10,000. And the consequences would be felt nationwide. If the "big one" hits San Francisco it could disrupt the entire country's banking and insurance industries, and our national defense could be adversely affected as well. A truly catastrophic earthquake in Silicon Valley, in Los Angeles, or near Boston could put hundreds of defense plants out of commission and jeopardize major weapons programs.

Unfortunately, the national earthquake program has not met the goals which the Congress set for it in 1977. Many people still think that only Californians need to worry about earthquakes. Even those who know better often would not know what to do in a major earthquake because we have not done a good job of educating the public on the threat of earthquakes. In many of the seismically active parts of the United States, building codes still do not require that buildings be designed and built with earthquakes in mind. Any earthquake expert will tell you that, "earthquakes don't kill people, buildings do." The Soviets learned that the hard way in the 1988 Armenian earthquake when over 30,000 people died because the Soviets built homes and apartment buildings without using earthquake-resistant construction techniques.

Proper building codes and construction techniques can make a huge difference. The Loma Prieta earthquake was just as powerful as the Armenian earthquake but because seismic building codes have been in force in California for more than 50 years, the death toll will be in the hundreds, not the tens of thousands—still a major catastrophe, but not nearly as deadly as the Armenian quake. Unfortunately, nationwide there are millions of unreinforced masonry buildings that would collapse just as quickly as an Armenian apartment building, even in a moderate earthquake.

Perhaps most disturbing is the fact that in many States, emergency management agencies are not ready for a major earthquake. In some cases, there are well-thought-out disaster plans, but not the resources to carry them out. And the situation at the Federal level is not any better. In the event of a catastrophic earthquake, the Federal Government and the Federal Emergency Management Agency [FEMA] will have to take the lead because States just will not have the resources to do the job. Yet, in the weeks since Hurricane Hugo we have learned that FEMA is not as effective as it should be. Clearly more effort is needed.

The legislation before us will strengthen the NEHRP and start to correct many of these problems. Since its inception, I have been a strong supporter of the NEHRP. As chairman of the Commerce Committee, I have supported larger authorizations for this critical program and worked to improve it. I cosponsored the legislation before us because we need a stronger national earthquake program. From South Carolina to Alaska, earthquakes pose a deadly threat, and this legislation will improve our Nation's ability to cope with earthquakes wherever they may occur.

I urge my colleagues to support S. 1062.

Mr. CRANSTON. Mr. President, I am pleased to support S. 1062, a bill to amend the Earthquake Hazards Reduction Act of 1977, introduced by my

colleagues Senators GORE and DANFORTH. S. 1062 complements and incorporates provisions of S. 629, which I introduced earlier this year.

This past week has given us new evidence—both timely and terrifying—of the need for this Federal earthquake research and mitigation program. As tragic as it is, the Loma Prieta earthquake is but a mild precursor of the truly devastating quake that is certain to come. For California, the future quake—and future could be as soon as right now or 30 years from now—is likely to pack a punch 30 to 50 times greater than the Loma Prieta quake. For the central and eastern United States, there is a 100-percent chance of an earthquake by 2010.

Whenever and wherever these earthquakes strike, they will come—as the Loma Prieta quake did—without immediate warning. For most floods and hurricane, there is at least marginal notice, so that some preparations and evacuations can take place. For earthquakes, we are able only to make long-range predictions, and the exact location of the quake's epicenter cannot be predicted at all.

What this means is that any earthquake, anywhere in the United States, will catch hundreds of thousands of people unaware. Their lives will be saved only by the preparations we have made in advance. The difference between life and death will depend upon the seismic readiness of our buildings, and construction and reinforcement of our roads, and the educational effort we have made with our citizens. In short, the lives saved will be in direct proportion to the work we have done.

There can be no mandate more clear than this.

Twelve years ago I authored the National Earthquake Hazards Reduction Act which formed the basis for our Federal earthquake mitigation effort. We knew then that nearly every State in the Nation faces some degree of risk from future earthquakes. Thirty-nine States—with a population of over 70 million Americans—are wholly or partly in areas that are at high to moderate risk for earthquake damage. Acknowledging the seriousness of the threat is not to cause panic, but to face facts and to get on with the task of preparing to save lives. For while earthquakes are certain, total devastation is not. We can take actions to save lives and property. But there is much yet to do, and given the high probability of more, serious quakes, little time in which to do it.

During the last 12 years the National Earthquake Hazards Reduction Program has achieved both the capability and the capacity to be more aggressive in its mission. We have created both the expertise and the capability needed to make major reductions in earthquake consequences, and earthquakes are now viewed as a national, not regional, threat. Whereas earthquake preparedness was once focused only in California and Alaska, we can now point to well-mounted preparedness efforts in the Northwest, the Inter-Mountain Region, the Midwest, the Southeast, and the Northeast. Whereas engineering and scientific research was previously concentrated in Western universities, with a few expert individuals in other regions, we now have major efforts and centers of expertise in the East. Whereas the public perception in 1977 was of earthquakes as a Western problem, citizens are much more aware of their vulnerability in other areas of the country and they are beginning to seek protection.

These are major shifts in attitude, perception, and expertise, and they are directly attributable to the success of the NEHRP. Now, through what we've learned since 1977, we have what we need to intimate more aggressive, effective actions to prepare for, mitigate, and recover from earthquakes. It is time, based upon the program's success in its original mission, to reorient the NEHRP from a program focused on building capability and capacity to a focused, goal-oriented, centrally managed effort to develop knowledge and foster application of earthquake hazards reduction, while maintaining a vigorous research effort.

An incredible amount of work remains to be done. We have created both the expertise and the capability to make major reductions in the terrible consequences of earthquakes, but there are shortcomings in the current program in the area of application. Recovery after a quake is a key issue in earthquake hazards reduction, yet we have not undertaken recovery planning. Providing financial and insurance incentives could be compelling in advancing seismic safety voluntarily, yet after 12 years we are still performing planning studies. Seismic codes and standards are key elements in regulation construction, yet the so-called initiatives of today are merely refinements of projects completed more than 10 years ago. We have made no sustained effort to develop construction practices and regulations for existing buildings such as we have for new buildings. We have yet to promulgate Federal directives for Federal agencies to follow to reduce the hazards of earthquakes. An Executive order has been drafted, but due to Federal inertia it has not been implemented. We have not done an effective job of training practicing engineers, architects, and public officials in earthquake hazard mitigation.

In S. 1062, the NEHRP's goals are both more clearly articulated and expanded. There is a pronounced emphasis on public education and cooperative public/private sector programs in earthquake hazards information dissemination. The Federal Goverment is called upon to give greater help to State and local authorities in earthquake preparedness and building code. There is attention paid to seismic design and construction standards for Federal buildings, recognizing Federal buildings are often exempt from local building codes and the need to protect the occupants of Federal buildings is acute. Under S. 1062, standards will be developed by the Interagency Committee on Seismic Safety in Construction [ICSSC] for application by each agency.

A center for the international exchange of earthquake information is established within the U.S. Geological Survey, in clear recognition of the importance of sharing international data on catastrophic earthquakes.

We have been fortunate that the damaging earthquakes of the past decade have not cast doubt on the wisdom or our original decision to build knowledge and capability before we focused on application. Though the earthquakes in California, Idaho, Kentucky, Alaska, and Hawaii have caused damage and life loss, they have not forced the massive soul searching that the Soviets have had to face in Armenia. There, the seismic hazard was well known and the engineering well understood, but the practical, implementing actions were lacking. The result was tens of thousands of lives lost and tens of billions of dollars in economic damage.

Now, especially after the Loma Prieta quake, we know that the hazard in many parts of the United States is no less certain than it was in Armenia. The challenge that faces us now is to take the actions necessary to use our new capability and capacity for earthquake hazards reduction before we have to face the public and explain our inaction—as the Soviets now must.

Twelve years ago, when George Brown and I began to discuss the urgency of earthquake hazards, many of our colleagues saw earthquakes as a problem for California but not for the Nation. The earthquake threat is now recognized to be of national consequence. The National Earthquake Hazards Reduction Program has been a resounding success not only in bringing us to a point of recognition of a national issue, but in bringing us to a place where we can act on this threat with clarity, purpose, and lifesaving effect.

Mr. FORD. Mr. President, all of us have something to learn from what we have seen of the human response to the San Francisco earthquake. But there is another lesson that must not be forgotten. The continuing threat of devastating earthquakes is not just a California concern, but an extremely

serious problem for much of our Nation.

All or parts of 39 States lie in regions classified as having major or moderate earthquake risk. Seventy million people in these States are exposed to earthquake risks.

During the winter of 1811-12, three earthquakes occurred in the Mississippi Valley and these earthquakes have been determined by earthquake experts to range in the 8.4 or higher magnitude. Since no Richter scale was available at the time, we have to depend on the calculations and measures gained from newspaper accounts and isoseismal maps. The magnitudes of the three earthquakes are comparable and larger than the California earthquake of the last 20 years. The disturbing situation is that they were felt over areas much larger than the California quakes. The earthquakes were strong enough to cause minor damage as far away as Indiana and Ohio on the north, the Carolinas on the east, and southern Mississippi to the south. They also caused severe or structural damage in parts of Missouri, Illinois, Indiana, Kentucky, Tennessee, Mississippi, and Arkansas. Newspapers indicate that the New Madrid quakes were strong enough to be felt as far away as Washington, DC. Nearly 2,000 aftershocks were reported felt at Louisville, KY, some 200 miles from the epicenter in the 3 months after the quakes. Although the area was sparsely populated in 1811 and 1812, things have changed during the last 170 years since the New Madrid quakes.

The question is what would happen if a series of earthquakes as strong as the recent San Francisco earthquake were to occur in the New Madrid seismic zone today? Much already has been done to reduce the potential effects of major earthquakes through tougher construction standards and other measures in California. This planning and community preparedness clearly helped save lives. It is time to insist that similar steps be taken as quickly as possible particularly along the New Madrid fault.

An October 20, 1989, article in the Washington Post entitled "Clock Ticking for East Coast" quotes geologists that project a 100-percent probability of a destructive quake hitting somewhere in the Eastern United States before the year 2010, and an 86 to 97 percent probability of a quake at least 6.3 on the Richter scale hitting New Madrid again before 2035. Mr. President, I would like to include a copy of this article to be reprinted in the RECORD.

How prepared are we, Mr. President? I recently heard testimony before the Senate Commerce, Science, and Transportation Committee that any repetition of such earthquakes would bring at least 4,000 deaths, many more injuries and tens of billions of dollars worth of damage. As a Kentuckian, I am all too aware that the devastation would be spread across a wide area of western Kentucky. Earthquakes on the east coast are thought to extend their force 10 times further than in California because of the makeup of the Appalachian bedrock. Only three States, California, Massachusetts, and Connecticut, have enacted seismic building codes. Making the problem worse on the east coast is the fact that many of the buildings are older than those on the west coast. Also, there are many more brick buildings on the east coast which have shown to be less capable to withstand earthquake damage than other building materials. Roads, bridges, and utilities are not as earthquake resistant as those in California which were not damaged last week. There is no doubt that if a similar earthquake hit New Madrid as the one last week in California, there would be major loss of life and property damage.

There have been a number of occasions in the Senate Commerce Committee where Senator GORE, Senator DANFORTH, Senator HOLLINGS, and I have questioned witnesses on the east coast problem. In particular, after the Armenian earthquake, we joined forces to look at the New Madrid problem. In June, I joined with Senator GORE, Senator CRANSTON, Senator DANFORTH, Senator WILSON, and Senator BRYAN in requesting $4 million for extensive studies of earthquake hazards and potential countermeasures in the Central United States including the New Madrid seismic zone.

These funds, unfortunately, have not been made available during the appropriations process, but I am pleased that the managers of this bill have agreed to include the study for additional research of seismic hazards in those States subject to earthquake risk, particularly the New Madrid area. I am very pleased that the Senate is considering this matter and addressing the problems on the east coast.

I would particularly like to commend my colleagues on the Senate Commerce Committee, Senator HOLLINGS and Senator DANFORTH, the chairman and the ranking minority of the committee and Senator GORE and Senator PRESSLER, chairman and ranking minority of the Science Subcommittee which has jurisdiction of earthquake research efforts.

I was pleased that Senator HOLLINGS and Senator DANFORTH, shortly after the San Francisco earthquake, ordered an immediate investigation of building, highway, and bridge collapses in the San Francisco area. The results of the National Institute of Standards and Technology [NIST] review of the infrastructure and building damage will assist the members of the Commerce Committee in devising legislation for the review of the bridges and roads on the east coast. A recent study by the University of Kentucky School of Engineering's Transportation Research Center suggests that 20 to 40 percent of the 283 bridges in 26 western Kentucky counties would fall in a severe earthquake. I believe that a Federal Government review of the situation on the east coast is necessary and must be done at once. I look forward to working with my colleagues to devise a response to the earthquake problem on the east coast.

Mr. President, I ask unanimous consent to print in the RECORD two articles from Kentucky newspapers, the Courier-Journal and the Lexington Herald-Leader on the problems facing Kentucky if an earthquake hits the New Madrid area, and also an article from the Washington Post of October 20, 1989.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Courier-Journal, Oct. 19, 1989]

KENTUCKIANS AREN'T READY FOR BIG QUAKE, BUT IT'S LIKELY

(By Robin Garr)

The New Madrid Fault could cause an earthquake far more severe than the one that ravaged San Francisco Tuesday, Kentucky geologists and disaster officials say.

Furthermore, a serious quake on the fault, which lies near the Mississippi River close to Kentucky's borders with Missouri and Tennessee, would find residents only marginally prepared.

Earthquakes can't be predicted with certainty, but geologists believe a serious quake—ranging from 6.2 to 6.5 on the Richter scale—could occur by 2000, according to Ron Street, a seismologist with the University of Kentucky.

There's a 40 to 60 percent chance of an earthquake of that magnitude by 2000 and a 97 percent chance that one will occur by 2035, Robert Ketter, director of the National Center for Earthquake Engineering Research, told a congressional subcommittee earlier this year.

Such an earthquake would be likely to topple chimneys and shake bricks from buildings as far east as Owensboro and could cause more significant damage around Paducah, Fulton and other cities in the state's far western end, Street said.

However, he said damage comparable to that in the San Francisco quake, which measured 6.9 on the Richter scale, would be unlikely.

Several of the greatest earthquakes in the nation's history, thought to have ranged up to 8.7 on the Richter scale (which had not yet been created), occurred along the New Madrid fault during 1811 and 1812. (An increase from 7 to 8 on the Richter scale means at least a tenfold increase in strength.)

Those jolts caused the Mississippi River to run backward, created Reelfoot Lake in northwestern Tennessee, stopped clocks in Boston and rang bells in Norfolk, Va., but caused relatively little property damage or loss of life because the area was sparsely populated.

Such an earthquake today could kill up to 5,000 people and leave 460,000 homeless in a four-state area that includes the cities of Paducah; Evansville, Ind.; Memphis, Tenn.; and Little Rock, Ark., Ketter said.

However, based on the pattern of smaller earthquakes along the fault in recent years, geologists believe there's only a 1 percent chance of such an earthquake by 2000 and a 4 percent chance by 2035, said Jafar Hadizadeh, an assistant professor of geology at the University of Louisville.

Street said the earthquakes in 1811 and 1812 may have released so much energy from the fault that it may be 600 to 1,800 years before such a large earthquake occurs again.

But, he said, "We could be wrong."

Because earthquakes are relatively rare in the Eastern United States, buildings, roads, bridges and utilities are generally not as earthquake-resistant as California's.

Modern building codes now require sturdier construction, but the codes govern only buildings erected within the past decade, according to Michael Cassaro, a professor of civil engineering at U of L and a subcommittee chairman of the Kentucky Governor's Earthquake Hazards and Safety Technical Advisory Panel.

"We don't pay much attention to it here, so I'd suspect if we got an earthquake of that type (comparable with Tuesday's San Francisco quake), we could expect to see more damage."

Projections are hard to come by because earthquakes are by nature unpredictable, but a recent study by the UK engineering school's Transportation Research Center suggested that 20 percent to 40 percent of the 283 bridges along a 1,000-mile section of major roads in 26 Western Kentucky counties would fail in a severe earthquake, said David L. Allen, the center's chief research engineer.

Large bridges and older bridges would be at the greatest risk, Allen said. He said interstate-highway bridges such as Louisville's Kennedy Bridge may be relatively sturdy, but older Ohio River bridges, such as Louisville's Clark Memorial Bridge and the bridges at Madison, Ind., and Brandenburg, Ky., could be at risk.

Bridges built in Kentucky since 1975 have followed the relatively strict earthquake-resistance standards of the American Association of State Highway and Transportation Officials, Allen said.

"Changes are coming, but it's expensive and it does take time," he said.

Under the national rules of the Building Administrators and Code Officials, buildings erected in Kentucky since the early 1980s also must adhere to some earthquake-resistance standards, but they are less stringent than California's requirements, Cassaro said.

"I wouldn't say we're ill-prepared, but we're not adequately prepared for a major earthquake," he said.

"We're probably prepared for a 5.5, maybe as high as a 6 (on the Richter scale), but I doubt we're well-prepared for one much stronger than that."

Quakes that have hit the region in the last two years have ranged from 4.5 to 5.0 on the Richter scale.

An earthquake along a fault in Eastern Kentucky in 1980 measured 5.4 on the scale.

Louisville and Jefferson County disaster-preparedness officials have no specific plan for responding to a major earthquake, according to Bud Fekete, coordinator of plans and operations with local Disaster and Emergency Services.

He said police and emergency officials would bring the pertinent portions of tornado and flood operations to bear if a major earthquake occurred.

[From the Lexington Herald-Leader, Oct. 19, 1989]

OFFICIALS: STATE LAGS IN PREPARING FOR INEVITABLE

(By Kevin Nance)

Hundreds dead, thousands homeless. Utilities and communications systems disrupted for days, maybe weeks. Underground gas lines exploding. Roads crumbling, bridges collapsing. Hospitals clogged. Hunger. Panic. Chaos.

This scenario, conjured by Tuesday night's earthquake in San Francisco, is made all the more chilling by experts who say Kentucky is almost certain to experience a major quake in the New Madrid Fault area within the next two decades—probably before the end of this century.

And it is the San Francisco disaster that gives them the opportunity to point out what they've been saying for years: The question isn't *whether* it's going to happen here, and not even *when*.

The most appropriate question is, they say, "What are we doing to get ready?"

The answer: More than some other states, but still not enough.

"There's not enough being done," said Vincent Dmevich, acting dean of the University of Kentucky College of Engineering and a member of Gov. Wallace Wilkinson's blue-ribbon earthquake panel. "There are people who are making efforts along these lines, but there's only one person in Frankfort working on the problem full-time."

That person is Mike Lynch, the state's earthquake program coordinator. "I'm the whole staff," Lynch said yesterday.

"In California, of course, they're ahead of much of the rest of the country in preparedness, because they spend a lot more money on it and they have more staff," he said. "In Kentucky, we simply don't have as many people or as much money involved. There are plenty of additional things we could do, but we will have to move into those areas as we can get to them."

And there is only one person—UK seismologist Ron Street—consistently monitoring seismic activity in the state.

"Ron Street is doing a great job, but he's doing it all by himself," said Kenneth Taylor, a graduate research assistant in the department of earth and atmospheric science at St. Louis University. "There needs to be three or four Ron Streets there in Kentucky."

Street is doing his work, furthermore, with instruments that were up to date 30 years ago. The instruments provide only about 10 percent of the information he could get with state-of-the-art, computerized monitors that would cost $200,000, Street said.

Civil preparedness in Western Kentucky, which is closest to the New Madrid Fault, is high, said Mike Molloy, executive director of the state Division of Disaster and Emergency Services. But UK's Larry Piercy, who has worked with several Western Kentucky communities through the agricultural extension service, said some counties have done more than others. "People know more or less what they should do to prepare," he said, "but it's kind of down the road."

While Street predicts that fatalities during a major Kentucky quake will be less than 100, Dmevich's estimate is gloomier.

"A lot of these small communities still have brick masonry structures with crumbling mortar that were built 30, 50, 70 years ago," he said. Toppled by an earthquake, "you'll have isolated pockets of heavy casualties—20, 30 people here and there, and it doesn't take too many of those to add up."

The news is not all bad. Experts say Kentucky is more prepared for an earthquake than some neighboring states, including members of the Central United States Earthquake Consortium, states that include portions of the New Madrid Fault.

At least three earthquakes hit the New Madrid region in 1811 and 1812. The quakes, estimated to have measured more than 8.0 on the Richter scale, caused the Mississippi River to flow backward and created Reelfoot Lake in Tennessee.

The Richter scale is a gauge of energy released by an earthquake. Tuesday's earthquake in California registered 6.9.

As a member of the consortium, Kentucky would give or receive aid from the other states in the event of an earthquake, Lynch said.

Unlike most other states in the consortium, researchers at the UK Transportation Research Program have been developing a priority route system in and out of Western Kentucky. Chief research engineer David L. Allen said the four-year study for the system is about six months from completion.

The study will recommend fortifying about 90 features, mostly bridges, that might block routes if an earthquake occurred. The estimated cost is $6 million.

Kentucky also is one of only a few states with seismic provisions in statewide building codes. "We're ahead of the game in that respect," Dmevich said. Eight westernmost counties—Ballard, Carlisle, Fulton, Graves, Hickman, Livingston, Marshall and McCracken—have Risk Zone 3 classifications, requiring new buildings to be more resistant to earthquakes. (San Francisco has Risk Zone 4.) Nine more Kentucky counties have Risk Zone 2 classification.

Allen said only one location in Kentucky—Louisville's River Road, a half-mile section of which runs under Interstate 64—might be vulnerable to problems similar to the San Francisco Bay area's, where the top section of a double-deck highway collapsed, killing hundreds.

In addition, Kentucky has an emergency operations plan, which Lynch called an "all-hazards approach to preparedness." It includes contingency plans for a number of natural disasters, including floods and major toxic waste spills.

Other preparations include:

"Earthquake Preparedness Week," which will be Oct. 29-Nov. 4. The highlights, Lynch said, will include specials on Kentucky Educational Television and an earthquake conference in Louisville Nov. 3-4. Scheduled speakers include disaster and emergency relief officials from San Francisco. "They should have a lot to talk about," he said.

A variety of earthquake curriculum materials have been made available to schools for grades K-6. About 500 schools have requested the curriculum, Lynch said. To order a copy, call (502) 564-8628.

[From the Washington Post, Oct. 20, 1989]

THE LOMA PRIETA EARTHQUAKE: CLOCK TICKING FOR THE EAST COAST

(By Malcolm Gladwell)

Here's the scenario:

An earthquake registering 8.0 on the Richter scale has hit Memphis. Half of all highways and bridges across the city are impassable, older buildings are in ruins, utilities are knocked out, and thousands are dead or injured.

As far away as Pittsburgh and Chicago, the quake has left its mark: broken windows, shattered dishes and church bells suddenly and inexplicably tolling.

This outlook was presented at a planning conference last fall in Washington in anticipation of what many geologists feel is inevitable: a major earthquake in the eastern United States within the next century, a temblor at least as serious as the one that rocked San Francisco this week.

Where and when such an earthquake might occur is a matter of conjecture. But at least two areas of the east—the Charleston area of South Carolina and the area around Memphis chosen for the scenario—are considered by geologists to have a major probability of seismic activity within the next century.

Many of the areas where an earthquake is likely to occur, like much of California, have taken steps through stricter building codes to prepare for a future disaster. Still, the eastern United States has geological characteristics that would spread the shock waves of a quake for hundreds of miles and it has architectural features that would make its effects especially severe. These include the predominance of older buildings in the East and Middle West, and a complacency about a potential earthquake. These have led many to worry about the preparedness of many cities for a disaster that is almost certain to happen.

"How prepared are we? The answer is 'Not very,'" said Robert Lee Chartrand, a senior fellow at the Congressional Research Service and author of the Memphis quake scenario. "It has just been too long. It is very difficult to get people excited about something that hasn't happened for 100 years. One of these days we will have a major eastern earthquake, and then you will find great unhappiness."

The earthquake concerns center on Memphis and Charleston because those are the sites of the most recent major eastern quakes: three consecutive temblors in 1811 and 1812 near New Madrid, Mo., that rank as the most serious of all U.S. earthquakes (estimated as high as 8.8 on the Richter scale, which was not invented until this century), and an 1886 quake in Charleston estimated at 7.7.

Geologists project that there is a 100 percent probability of a destructive quake hitting somewhere in the eastern United States before the year 2010, and an 86 to 97 percent probability of a quake, at least 6.3 on the Richter scale, hitting New Madrid again before 2035.

The frequency of East Coast quakes is much lower than that of those on the West Coast or in the world's seismic hotbeds—Taiwan, New Zealand, Japan, China and Turkey—where quakes can occur as often as once a month, Still experts say the effects could be more serious than in quakes of similar size on the West Coast because of the different geological structure of the eastern bedrock.

In California, for example, the bedrock in riven with fractures that absorb energy easily and the epicenters of quakes are relatively shallow. By contrast, eastern quakes tend to begin from deeper within the Earth and radiate their power over longer distances because of the rigidity of the Appalachian bedrock that makes up the eastern part of the North American tectonic plate.

After the 1811 quake, for example, church bells were ringing in Boston nearly 900 miles from the epicenter. In general, eastern quakes are thought to extend their force 10 times farther than their western counterparts.

Compounding potential problems on the Eastern Seaboard, specialists said, is the fact that many of the buildings are older than those on the West Coast and more vulnerable to damage.

Stricter codes and advanced building techniques are aimed at giving structures the flexibility to absorb the seismic shocks of an earthquake. But engineers say that many structures built before World War I may not be able to withstand a major tremor.

"The fact is that the East Coast is more vulnerable because people aren't thinking about earthquakes," said Bob Fowler, chairman of the American Institute of Architects' building performance and regulators committee. "If you're not thinking about earthquakes, you're not as likely to specifically shape what you're building and take pains to guard against them."

Mr. WILSON. Mr. President, earlier today the Senate provided $3.4 billion in disaster relief for the earthquake damaged areas of northern California. And I am pleased with this action.

However, there is still more that must be done in response to this tragedy. More than ever, the events of October 17 call to our attention the critical need to address our Nation's ability to prepare for and respond to earthquakes. In just one short moment, the Loma Prieta earthquake left untold casualties, taking lives, destroying buildings and homes, and leaving many homeless. As Senators know, the trail of destruction has literally paralyzed bay area communities.

And while we know that the ongoing recovery effort and volunteerism have been nothing less than extraordinary, it is clear, and experts do warn us, that this is not the "big one."

San Francisco and its surrounding communities have proven in this most recent experience that they were prepared to respond quickly and professionally in the aftermath of a major earthquake. In fact, Mr. President, I am amazed and thoroughly impressed with the level of response that has ensued to date.

Mr. President, it is a real tribute to the people of the State of California, the bay area, and those Federal agencies in charge of managing the National Earthquake Hazards Reduction Program that life for most in the bay area will return to normal.

However, while California was prepared for this disaster, the rest of the country, and the world for that matter, may not be as prepared. The bay area's strict building codes enabled the tallest structures to survive the Loma Prieta disaster, resulting in an extraordinarily low death toll for an earthquake of this magnitude. It is apparent that much of the death and destruction that resulted in the recent earthquakes in Armenia and Mexico could have been avoided had the construction practices like those required in California been used.

Earthquakes cannot be prevented, nor can we predict when and where they will occur. This unfortunate reality makes it absolutely critical that our preparedness and response capabilities for future earthquakes be flawless.

For this reason, the Senate action today is both timely and appropriate. S. 1062 provides us with a vehicle to examine the many questions that must be answered and to study the many policies that must be implemented to ensure maximum protection and recovery from future earthquakes.

Through earthquake hazards education programs, seminars, and workshops, the public will be better prepared to cope with a similar earthquake. This legislation addresses this concern. In addition, S. 1062 establishes a center for the international exchange of earthquake information to promote the exchange of earthquake information between the United States and other countries.

It develops model building codes and establishes construction standards for our Nation's transportation, telecommunications, and other networks. S. 1062 also requires the reevaluation of existing emergency plans, with an emphasis on medical services and search and rescue responsiveness in the event of an earthquake.

In light of the northern California earthquake, I cannot emphasize enough the importance of strengthening our Nation's earthquake preparedness and response capabilities. I am pleased that the Senate is taking this action today, and I urge its adoption.

AMENDMENT NO. 1066

Mr. MITCHELL. Mr. President, on behalf of Senator GORE, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. GORE, proposes an amendment numbered 1066.

Mr. MITCHELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end, add the following new sections:

EARTHQUAKE INVESTIGATIONS

SEC. 12. (a) The Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.) is amended by adding at the end the following new section:

"EARTHQUAKE INVESTIGATIONS

"SEC. 8. (a) ESTABLISHMENT OF INVESTIGATIONS PROGRAM.—In addition to the other

activities of the National Earthquake Hazards Reduction Program, there is established within the United States Geological Survey an Earthquake Investigations Program, the purpose of which is to investigate major earthquakes, including their geologic characteristics and the behavior of buildings and other structures, so as to learn lessons which can be applied to reduce the loss of lives and property in future earthquakes. The Director of such Survey is authorized to utilize scientists and engineers from the National Institute of Standards and Technology, other Federal agencies, and private contractors, on a reimbursable basis, in the conduct of these earthquake investigations.

"(b) FOCUS OF INVESTIGATIONS.—Each such earthquake investigation shall analyze—

"(1) the causes of the earthquake and the nature of the resulting ground motion;

"(2) the behavior of structures and facilities of all kinds (including utility lines and equipment), both those that were damaged and those that were undamaged; and

"(3) the effectiveness of pre-earthquake engineering and earthquake hazards mitigation programs and actions.

"(c) OTHER AREAS OF EMPHASIS.—In addition, each such earthquake investigation shall draw any appropriate lessons which will help—

"(1) improve methods for determining the seismic risks existing at specific sites;

"(2) determine the degree and nature of the hazards posed by different kinds of structures and facilities;

"(3) develop engineering and construction approaches to improve the earthquake resistance of both new and existing structures and facilities; and

"(4) improve earthquake hazards mitigation generally throughout the United States.".

AUTHORIZATION OF APPROPRIATIONS

"SEC. 13. (a) Section 7(b) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(b)) is amended by striking "$43,382,000" and inserting in lieu thereof "$47,283,000".

(b) Section 7(a) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(a)) is amended by striking "$5,788,000" and inserting in lieu thereof "$8,788,000".

(c) Section 7(c) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(c)) is amended by striking "$35,454,000" and inserting in lieu thereof "$38,454,000".

(d) Section 7(d) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(d)) is amended—

(1) by striking "NATIONAL BUREAU OF STANDARDS" and inserting in lieu thereof "NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY";

(2) by striking "Bureau" and inserting in lieu thereof "National Institute of Standards and Technology"; and

(3) by striking "$525,000" and inserting in lieu thereof "$2,525,000".

(e) At the end of section 7 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706) add the following new subsection:

"(f) EARTHQUAKE INVESTIGATIONS.—In addition to such sums as are otherwise authorized under this Act, there are authorized to be appropriated to the United States Geological Survey for earthquake investigations under section 8 of this Act $8,000,000 for the fiscal year ending September 10, 1990.".

Mr. GORE. Mr. President, the disaster in the bay area has shown two things: the destructiveness of a major earthquake and the value of earthquake preparedness.

For decades, Californians have been preparing for earthquakes and spending tens of millions of dollars a year on earthquake preparedness. Because most buildings, bridges, and highways in the bay area were designed and built to withstand earthquakes, thousands of lives were saved in last week's earthquake.

We need to apply the building techniques developed in California in seismically active regions nationwide.

That is why I am offering an amendment to S. 1062 for myself, Senator HOLLINGS, and Senator CRANSTON to authorize a $20 million program to thoroughly investigate this earthquake and to apply the lessons learned throughout the country.

Eight million dollars would go to the U.S. Geological Survey to fund a study of the Loma Prieta earthquake and the damage it caused. This will be a broad, thorough study: Seismologists and geologists will study the cause of the earthquake and how the geology and soil type affected the severity of the damage; earthquake engineers will study how well different types of buildings, highways, and other structures performed in the earthquake; and emergency managers will evaluate how well State and local authorities responded to the disaster.

But a study is only a study if the lessons learned are not applied. In this case, we need to apply the lessons from this disaster nationwide, and that will require additional funding. This amendment would authorize an additional $12 million for the National Earthquake Hazards Reduction Program and would provide: $4 million to the U.S. Geological Survey for earthquake hazard assessments in all States subject to major earthquakes; $3 million to the Federal Emergency Management Agency for additional grants to States for earthquake preparedness; $3 million to the National Science Foundation for research on earthquake hazards and the design and construction of earthquake-resistant structures; and $2 million to the National Institute of Standards and Technology for additional research on how to construct buildings and other structures to survive an earthquake.

In 1811 and 1812, my own State of Tennessee was hit by three huge earthquakes centered around New Madrid, MO. All three quakes had magnitudes estimated at 8 or greater and were felt throughout the East. Clearly, the central United States is one place where the lessons of the Loma Prieta earthquake need to be applied, and in the coming weeks I will be working to get additional money to expand earthquake research and earthquake preparedness programs in the New Madrid area.

This amendment represents a balanced approach to earthquake preparedness. In our efforts to help California, we cannot ignore the earthquake threat faced by the rest of the country. Similarly, we should not focus exclusively on the aftermath of this quake and forget about the steps we must take to prepare for the next major earthquake.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 1066) of the Senator from Tennessee.

The amendment was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1067

(Purpose: To provide for the assessment of the emergency broadcast capability in earthquake-prone areas)

Mr. PACKWOOD. Mr. President, I send an amendment to the desk on behalf of Senator DANFORTH and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD], for Mr. DANFORTH, proposes an amendment numbered 1067.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 30, line 19, insert immediately before the semicolon the following: ", which plan shall assess the emergency broadcast capability in such area to ensure that the capability can be sustained in the event of an earthquake and shall take into account the probable effects of earthquakes on the radio stations and broadcast towers that are designated as emergency broadcast stations in such area".

Mr. DANFORTH. Mr. President, on October 17, a devastating earthquake hit the San Francisco area. Hundreds of people were killed or injured. Bridges and buildings collapsed, and roads buckled. Many were left homeless. Officials estimate the damage to be at least a billion dollars. Today, the Senate has an opportunity to pass a bill to amend the Earthquake Hazards Reduction Act of 1977 to improve the Federal effort to prepare for and respond to serious earthquakes like the one that happened on October 17. I was an original cosponsor of the bill, along with Senator GORE. This bill will strengthen the country's preparedness for similar earthquakes that will continue to strike California as well as other areas of the country.

Last April, experts told the Senate Commerce Committee that serious and potentially devastating earthquakes are inevitable in many regions of the Nation. The threat is well known in California. However, the Midwest—including my home State of Missouri, the eastern seaboard, the Pacific Northwest, Utah, Alaska, and Hawaii are all probable sites for destructive earthquakes. For example, in 1811 and 1812, possibly the most powerful earthquakes known to the continental United States occurred in New Madrid, MO. Scientists predict that there is almost a 100-percent chance that a major earthquake will strike somewhere east of the Rocky Mountains before the year 2010. There is a 50-percent chance that such an earthquake will occur on the New Madrid fault, which runs through Missouri, Mississippi, Tennessee, Kentucky, Illinois, Indiana, and Arkansas. The witnesses told the committee that if such an earthquake does happen, it will result in untold damage, disruption, injury, and even death. Shortly after the hearing, Senator GORE and I introduced legislation to improve the Nation's preparedness for such a disaster.

The earthquake on October 17 in California was a major one, measuring 7.1 on the Richter scale, but it is not the inevitable large quake that scientists are still expecting. We saw how much injury and destruction the earthquake on October 17 caused. If an even larger earthquake were to occur today, even more people would suffer, and the immediate financial loss to the Nation could be as great as $80 billion. Will we be prepared for this disaster? San Francisco is one of the better prepared cities in the Nation. What would people in Missouri, or Tennessee, or North Carolina do? If a major earthquake hit Cape Girardeau, MO tonight, would people know what to do? Would they know who to call? Where to go for rescue workers and equipment? How to transport medical personnel to the scene? Where to transport victims who need hospital treatment?

This bill provides answers to these questions. It directs the Federal earthquake agencies—the Federal Emergency Management Agency [FEMA], the U.S. Geological Survey, the National Science Foundation, and the National Institute of Standards and Technology—to carry out specific tasks to improve preparedness and minimize damage. These mandates include:

Developing education programs about the particular local earthquake hazards around the Nation;

Establishing regional clearinghouses to distribute earthquake information;

Establishing cooperatives among the private sector, government, and local universities to organize seminars and workshops for the general public;

Developing and adopting model building codes and construction guidelines;

Establishing construction standards for the Nation's infrastructure, such as oil and gas pipelines, bridges, roads, rail lines, and telecommunications networks;

Providing guidelines for land-use management to avoid future construction on high-risk sites; and

Assessing existing emergency plans, including local personnel and equipment available for rescue operations after an earthquake, and acquiring additional resources where needed.

Last month, the St. Louis Post-Dispatch reported that radio station KMOX, the lead emergency broadcast system station in the St. Louis area, may be unavailable after an earthquake—precisely when people will need it most. The KMOX radio tower sits on land that is likely to liquefy during an earthquake. If liquefaction occurs, the tower will collapse. Where would the other emergency broadcast stations in the area turn for information? How would the people in the stricken area learn what was happening or where to go for help?

Today, I am offering an amendment which requires the agencies to assess the adequacy of the emergency broadcast system in each high-risk area and to ensure that each area has a contingency plan in place and ready to go. The plan must consider the effects of an earthquake on the operating ability of radio stations and towers that are part of the local emergency broadcast system. Such a plan will ensure that areas like St. Louis have reliable communications systems available at all times during earthquake emergencies.

The bill requires the agencies to document their progress on these duties in an annual report to Congress.

Finally, the bill establishes a Center for the International Exchange of Earthquake Information within the U.S. Geological Survey to:

Promote the exchange of information on earthquake research and earthquake preparedness between the United States and other countries;

Maintain a library of reports, research papers, and data produced through the National Earthquake Hazards Reduction Program;

Answer requests from other nations for information on American earthquake research and earthquake preparedness programs; and

Direct foreign requests to the Federal earthquake agency best able to respond to the request.

Devastating earthquakes will inevitably strike. We cannot predict when or where, and we cannot prevent them. The least we can do is be prepared. Let us not wait until it is too late.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment (No. 1067) was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engorssed for a third reading, was read the third time, and passed, as follows:

S. 1062

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Earthquake Hazards Reduction Act of 1977 Amendments Act".

FINDINGS

SEC. 2. (a) Section 2 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701) is amended by striking paragraphs (5) and (6) and inserting in lieu thereof the following new paragraphs:

"(5) The geological study of active faults and features can reveal how recently and how frequently major earthquakes have occurred on those faults and how much risk they pose. Such long-term seismic risk assessments are needed in virtually every aspect of earthquake hazards management, whether emergency planning, public regulation, detailed building design, insurance rating, or investment decision.

"(6) The vulnerability of buildings, lifelines, public works, and industrial and emergency facilities can be reduced through proper earthquake resistant design and construction practices. The economy and efficacy of such procedures can be substantially increased through research and development.".

(b) Section 2 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701), as amended by subsection (a) of this section, is further amended—

(1) by redesignating paragraphs (7) through (10) as paragraphs (8) through (11), respectively; and

(2) by inserting immediately after paragraph (6), the following new paragraph:

"(7) Programs and practices of departments and agencies of the United States are important to the communities they serve; some function, such as emergency communications and national defense, and facilities, such as dams, bridges, and public works, must remain in service during and after an earthquake. Federally owned, operated, and influenced structures and facilities should pose hazards to their occupants and to the community that are no greater than those

posed to the community by other structures and facilities that are under private, local, or State control or regulation.".

PROGRAM LEADERSHIP

SEC. 3. (a) Paragraph (2) of section 5(b) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(b)) is amended to read as follows:

"(2) The Federal Emergency Management Agency is designated as the agency with the primary responsibilities to plan, coordinate, and lead the National Earthquake Hazards Reduction Program. The Director of the Agency shall—

"(A) lead, through the mechanisms outlined in this section, the National Earthquake Hazards Reduction Program;

"(B) recommend to the President the role and responsibility of each appropriate Federal department, agency, and entity with respect to each object and element of the program;

"(C) recommend to the President goals, priorities, budgets, and target dates for implementation of the program;

"(D) establish and chair an interagency committee, whose other members shall be the Directors of the United States Geological Survey, the National Science Foundation, and the National Institute for Standards and Technology, and the heads of such other agencies involved in the program as the Director of the Agency determines appropriate, and which shall meet regularly for the purpose of developing plans, tasks, and milestones, of assuring close cooperation and coordination among the Federal agencies involved in the execution of those plans, and of evaluating the effectiveness of their implementation;

"(E) provide a method for cooperation and coordination with, and assistance (to the extent of available resources) to, interested governmental entities in all States, particularly those containing areas of high or moderate seismic risk;

"(F) recommend appropriate roles for State and local units of government, individuals, and private organizations;

"(G) compile and maintain a written plan for the program specified in subsections (a), (e), (f), (g), (h), and (i) of this section, which shall include specific tasks and milestones for the coming and future years for each agency involved in the program, and which shall be submitted to the Congress as part of the annual report and updated at such times as may be required by significant program events;

"(H) utilize other Federal agencies, when and as appropriate, for the conduct of specific program activities;

"(I) bring to the attention of the President those proposed Federal programs, regulations, and practices with implications for earthquake hazards reduction and recommend to the President changes that offer improved safety with an assessment of the implications of these changes on safety and economy;

"(J) appoint an advisory committee, which will meet regularly, review program activities, and advise the Director of the Agency of program goals, objectives, plans, and performance and which will have balanced representation from the disciplines and communities at interest including appropriate representatives of State and local governments, the design professions, the research community, business and industry, and the general public;

"(K) make, in cooperation with those agencies determined by the Director of the Agency to be appropriate under subparagraph (D) of this paragraph, the United States Geological Survey, the National Science Foundation, and the National Institute for Standards and Technology, an annual presentation to the appropriate committees of the Congress within 60 days after the end of each fiscal year for the purpose of communicating any events and any programmatic requirements determined to be significant by the National Earthquake Hazards Reduction Program; and

"(L) to the extent practicable, assure that the process leading to the recommendations to the President on the roles and responsibilities of the Federal departments, agencies, and entities and their relative priorities and budgets for the purposes of the national program are separated from the operational management of those research and implementation aspects of the national program for which the Survey has operational responsibility.".

PROGRAM OBJECTIVES

SEC. 4. (a) Section 5(c) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(c)) is amended—

(1) by redesignating paragraphs (1) through (7) as paragraphs (2) through (8), respectively; and

(2) by inserting, immediately before paragraph (2), as so redesignated, the following new paragraph:

"(1) the accelerated implementation of effective State and local governmental and private sector programs designed to reduce earthquake hazards through the development of innovative strategies, practical methodologies, and appropriate mechanisms to enhance application of research results and the provision of technical and financial assistance to State and local governments and to the private sector;".

(b) Section 5(c) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(c)), is amended by subsection (a) of this section, is further amended—

(1) by striking "and" at the end of paragraph (7), as so redesignated;

(2) by striking the period at the end of paragraph (8), as so redesignated, and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new paragraphs:

"(9) the performance of basic and applied research on all aspects of earthquake hazards reduction (including mitigation, prediction, hazard identification, insurance, preparedness, response, recovery, and utilization of developed knowledge and information); and

"(10) the development of innovative approaches and means to accelerate technology transfer so that the results of scientific research can be effectively utilized in the development of earthquake hazards reduction measures through State and local governments and the private sector.".

FEDERAL PARTICIPATION

SEC. 5. Section 5(d) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(d)) is amended by inserting "Department of Education," immediately after "Department of Housing and Urban Development,".

RESEARCH

SEC. 6. (a) Section 5(e) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(e)) is amended by inserting ", which shall consist of basic and applied research," immediately after "elements of the program".

(b) Section 5(e) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(e)), as amended by subsection (a) of this section, is further amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new paragraphs:

"(10) development of approaches to combine measures for earthquake hazards reduction with measures for reduction of other natural and technological hazards;

"(11) maintenance of an appropriate data base of earthquake occurrence throughout the Nation through the operation of a National Seismic Network, which shall complement and support existing university-based regional seismic networks; and

"(12) systematic assessment of each of those regions of the Nation believed to be prone to earthquakes (including the development of an understanding of the geological origin of the earthquakes); reliable estimation of the size, frequency, and probability of the expected earthquakes; determination of the character of the resulting strong ground motion and the area affected; estimation of the potential for surface fault rupture, ground distortion, liquefaction, landsliding, elevation change, and ground motion amplification and other effects; and making the products of the assessment available in forms useful for mitigation actions (including actions relating to land use, engineering design, insurance, emergency planning, and construction standards, practices, and codes).".

MITIGATION

SEC. 7.(a) Paragraph (1) of section 5(f) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(f)) is amended to read as follows:

"(1) the issuance by the Director of the United States Geological Survey of earthquake predictions or other earthquake advisories as the Director of the Survey determines necessary, in connection with which—

"(A) the Director of the Federal Emergency Management Agency shall be notified as soon as possible, in advance of public release if practicable;

"(B) for purposes of evaluating a prediction, the National Earthquake Prediction Evaluation Council shall be exempt from the requirements of section 10(a)(2) of the Federal Advisory Committee Act; and

"(C) the Director of the Federal Emergency Management Agency shall have responsibility to provide State and local officials and residents of an area for which a prediction has been made with recommendations of actions to be taken;".

(b) Section 5(f) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(f)) is amended—

(1) by striking paragraphs (7) and (8);

(2) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(3) by inserting immediately after paragraph (2) the following new paragraph:

"(3) the development of guidelines for land-use management, and the provision of them to local legislatures and land-use planners, along with the basis for their adoption;".

(c) Paragraph (4), as so redesignated, of section 5(f) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(f)) is amended to read as follows:

"(4) the development and promulgation of specifications, building costs, and standards

of practice for design, construction, and retrofitting to achieve appropriate earthquake resistance for new and existing structures and lifelines;".

(d) Section 5(f) of the Earthquake Hazards Reduction Act of 1977, as amended by this section, is further amended by adding at the end the following new paragraphs:

"(8) the identification of social, legal, and economic factors that influence or motivate the public and private sector entities to adopt earthquake hazard mitigation policies and programs;

"(9) the definition of the costs and benefits of earthquake hazard mitigation programs to the public and private sector entities;

"(10) the development of a systematic program for loss estimation for high-risk areas;

"(11) the implementation and administration of training programs consisting of workshops and seminars for State, local, and private sector emergency planners, responders, and officials in earthquake planning, mitigation, response, and recovery measures;

"(12) the implementation of an education program for State and local officials responsible for seismic code adoption and enforcement;

"(13) the adoption of seismic design and construction standards, which shall be developed by the Interagency Committee on Seismic Safety in Construction and which shall be adopted by the President not later than June 1, 1993, for new and existing Federal buildings and facilities and for buildings and facilities involving Federal domestic assistance (including grants, loans, and mortgage insurance), leasing, and regulatory programs; and

"(14) the development and implementation of preparedness plans (for response to earthquake predictions for areas specified by the Director of the United States Geological Survey), which shall be carried out by the Director of the Federal Emergency Management Agency so as to assure that such plans are integrated with long term preparedness response plans, are coordinated with State and local government efforts, and are reviewed and revised as necessary as new and relevant information becomes available.".

PUBLIC EDUCATION

SEC. 8. Section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704) is amended—

(1) by striking subsection (i);

(2) by redesignating subsections (g), (h), and (j) as subsections (i), (j), and (k), respectively; and

(3) by inserting immediately after subsection (f) the following new subsection:

"(g) EDUCATION OF THE PUBLIC.—The public education elements of the program shall provide for—

"(1) examining the levels of understanding about hazard prediction probabilities among the public and media, and evaluating how their perceptions may affect behavior;

"(2) developing a comprehensive education and awareness program to inform the public regarding the existence of earthquake hazards and the ways the public can help to reduce such hazards;

"(3) establishing regional clearinghouses to provide information and technical assistance through the publication of information in the form of pamphlets, newsletters, and issue papers; and

"(4) implementing cooperative programs between the private sector and universities, governmental bodies, and regulatory groups to disseminate earthquake information to the public, including the possible establishment of university earthquake centers as a means for educating the public about earthquake hazards and for transferring to the design and construction professions, industry and business, preparedness officials, and the public the technologies developed for earthquake hazards reduction and preparedness.".

PLANNING AND RESPONSE

SEC. 9. Section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704) is amended by inserting immediately after subsection (g), as added by section 8 of this Act, the following new subsection:

"(h) EARTHQUAKE PLANNING AND RESPONSE.—The earthquake planning and response elements of the program shall provide for—

"(1) accelerating the development, publication, and distribution of postulated earthquake scenarios for various events in risk areas throughout the United States;

"(2) expanding the use of advanced information technologies, including computers, telecommunications, and audio and video devices, in defining and mitigating earthquake risks, preparing emergency response plans, and responding to and recovering from damaging earthquakes;

"(3) expanding the planning and information transfer capabilities of existing regional earthquake preparedness projects and consortia;

"(4) creating and maintaining additional regional earthquake preparedness planning and earthquake education efforts in each high-risk area of the United States, including the development and implementation by the Director of the Federal Emergency Management Agency of a program to enhance local government involvement in such regional efforts;

"(5) increasing the ability of State and local governments to conduct earthquake planning and preparedness efforts;

"(6) determining the adequacy of health and social services to meet the disaster needs of the populace in areas of high seismic risk;

"(7) evaluating the role of the National Disaster Medical Service in earthquake response and rescue planning;

"(8) determining the adequacy of available search and rescue personnel and equipment in areas of high seismic risk and developing a plan to supplement such resources where necessary;

"(9) developing a national emergency response plan for each area of high seismic risk, which plan shall assess the emergency broadcast capability in such area to ensure that the capability can be sustained in the event of an earthquake and shall take into account the probable effects of earthquakes on the radio stations and broadcast towers that are designated as emergency broadcast stations in such area; and

"(10) defining the nature and extent to which disaster planning is currently being carried out in the private sector to ensure that public and private plans are compatible.".

CENTER FOR THE INTERNATIONAL EXCHANGE OF EARTHQUAKE INFORMATION

SEC. 10. (a) Congress finds and declares the following:

(1) On December 11, 1987, the General Assembly of the United Nations established an International Decade for Natural Disaster Reduction beginning in 1990.

(2) The goal of the International Decade for National Disaster Reduction is to promote cooperative efforts to reduce the ravages of all types of natural hazards through the international exchange of data, the identification of gaps in knowledge, cooperative research projects, implementation of mitigation measures, preparedness planning and hazard awareness, and the timely and effective transfer of information and knowledge.

(3) Earthquakes have caused, and can cause in the future, enormous loss of life, injury, destruction of property, and economic and social disruption in both the United States and around the world.

(4) American scientists have developed methods for estimating the frequency and severity of future earthquakes, for identifying active faults, and for predicting the amount of ground motion during an earthquake.

(5) American earthquake engineers have developed techniques for building more earthquake-resistant buildings and lifelines.

(6) Federal, State, and local authorities have valuable experience in planning for and responding to moderate and major earthquakes.

(7) In many nations, earthquake risks have not been evaluated and minimal earthquake preparedness programs exist. American expertise in earthquake research and earthquake preparedness could be more effectively applied in many nations, with the result that thousands of lives could be saved and millions of dollars in property losses prevented worldwide.

(8) Studies of major earthquakes in other nations can provide valuable insights about earthquakes, earthquake hazard mitigation, and emergency management which can be applied in the United States.

(9) By promoting the two-way international flow of information on earthquakes, the United States Government can help save lives and protect property both in the United States and overseas.

(10) At present there is no coordinated effort to share the breadth of useful information developed through the National Earthquake Hazards Reduction Program with other nations.

(11) The United States Geological Survey has a long tradition of international cooperation and is well-suited to promote increased international exchange of information on earthquake research and earthquake preparedness.

(b) Section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704) is amended by inserting immediately after subsection (k), as so redesignated by section 8 of this Act, the following new subsection:

"(l) CENTER FOR INTERNATIONAL EXCHANGE OF EARTHQUAKE INFORMATION.—A Center for the International Exchange of Earthquake Information shall be established within the United States Geological Survey which shall—

"(1) promote the exchange of information on earthquake research and earthquake preparedness between the United States and other nations;

"(2) maintain a library containing reports, research papers, and data produced through the National Earthquake Hazards Reduction Program;

"(3) answer requests from other nations for information on United States earthquake research and earthquake preparedness programs; and

"(4) direct foreign requests to the agency involved in the National Earthquake Hazards Reduction Program which is best able to respond to the request.".

CONFORMING AMENDMENTS

SEC. 11. (a) Section 5(a) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(a)) is amended—

(1) in paragraph (2) by striking "(h)" and inserting in lieu thereof "(j)"; and

(2) in paragraph (3) by striking "(e) and (f)" and all that follows and inserting in lieu thereof "(e), (f), (g), and (h) and the assistance to the States specified in subsection (i).".

(b) Section 6 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7705) is amended by striking "section 5(b)(2)(E)" and inserting in lieu thereof "section 5(b)(2)(G)".

(c) Section 7(a) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(a)) is amended by inserting "of the Federal Emergency Management Agency" immediately after "Director" each place it appears.

EARTHQUAKE INVESTIGATIONS

SEC. 12. (a) The Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.) is amended by adding at the end the following new section:

"EARTHQUAKE INVESTIGATIONS

"SEC. 8. (a) ESTABLISHMENT OF INVESTIGATIONS PROGRAM.—In addition to the other activities of the National Earthquake Hazards Reduction Program, there is established within the United States Geological Survey an Earthquake Investigations Program, the purpose of which is to investigate major earthquakes, including their geologic characteristics and the behavior of buildings and other structures, so as to learn lessons which can be applied to reduce the loss of lives and property in future earthquakes. The Director of such Survey is authorized to utilize scientists and engineers from the National Institute of Standards and Technology, other Federal agencies, and private contractors, on a reimbursable basis, in the conduct of these earthquake investigations.

"(b) FOCUS OF INVESTIGATIONS.—Each such earthquake investigation shall analyze—

"(1) the causes of the earthquake and the nature of the resulting ground motion;

"(2) the behavior of structures and facilities of all kinds (including utility lines and equipment), both those that were damaged and those that were undamaged; and

"(3) the effectiveness of of pre-earthquake engineering and earthquake hazards mitigation programs and actions.

"(c) OTHER AREAS OF EMPHASIS.—In addition, each such earthquake investigation shall draw any appropriate lessons which shall help—

"(1) improve methods for determining the seismic risks existing at specific sites;

"(2) determine the degree and nature of the hazards posed by different kinds of structures and facilities;

"(3) develop engineering and construction approaches to improve the earthquake resistance of both new and existing structures and facilities; and

"(4) improve earthquake hazards mitigation generally throughout the United States.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. (a) Section 7(b) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(b)) is amended by striking "$43,283,000" and inserting in lieu thereof "$47,283,000".

(b) Section 7(a) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(a)) is amended by striking "$5,788,000" and inserting in lieu thereof "$8,788,000".

(c) Section 7(c) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(c)) is amended by striking "$35,454,000" and inserting in lieu thereof "$38,454,000".

(d) Section 7(d) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(d)) is amended—

(1) by striking "NATIONAL BUREAU OF STANDARDS" and inserting in lieu thereof "NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY";

(2) by striking "Bureau" and inserting in lieu thereof "National Institute of Standards and Technology"; and

(3) by striking "$525,000" and inserting in lieu thereof "$2,525,000".

(e) At the end of section 7 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706) add the following new subsection:

"(f) EARTHQUAKE INVESTIGATIONS.—In addition to such sums as are otherwise authorized under this Act, there are authorized to be appropriated to the United States Geological Survey for earthquake investigations under section 8 of this Act $8,000,000 for the fiscal year ending September 30, 1990.".

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TIME FOR FILING SECOND DEGREE AMENDMENTS TO H.R. 1231, THE EASTERN AIRLINES BILL

Mr. MITCHELL. Mr. President, I ask unanimous consent that second-degree amendments on the Eastern Airlines bill may be filed up to 10:15 a.m. tomorrow, with all other provisions of rule XXII remaining in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M., THURSDAY, OCTOBER 26, 1989

Mr. MITCHELL. Mr. President, if the distinguished acting Republican leader has no further business, and if no other Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess, under the previous order, until 10 a.m. on October 26.

There being no objection, the Senate, at 9:31 p.m. recessed until Thursday, October 26, 1989, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate October 25, 1989:

DEPARTMENT OF STATE

FRANCES D. COOK, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CAMEROON.

INTERNATIONAL ATOMIC ENERGY AGENCY

RICHARD T. KENNEDY, OF THE DISTRICT OF COLUMBIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE THIRTY-THIRD SESSION OF THE GENERAL CONFERENCE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY.

THE JUDICIARY

ARTHUR D. SPATT, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK VICE HENRY BRAMWELL, RETIRED.

DEPARTMENT OF JUSTICE

TIMOTHY D. LEONARD, OF OKLAHOMA, TO BE U.S. ATTORNEY FOR THE WESTERN DISTRICT OF OKLAHOMA FOR THE TERM OF 4 YEARS VICE WILLIAM S. PRICE, RESIGNED.

EXECUTIVE OFFICE OF THE PRESIDENT

ALLAN V. BURMAN, OF VIRGINIA, TO BE ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY, VICE ROBERT P. BEDELL, RESIGNED.

EXTENSIONS OF REMARKS

A FAREWELL TO ALMS

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. WILSON. Mr. Speaker, I would like to recommend to my colleagues that they read the following, an article that was published in a recent issue of Policy Review. I feel it is an intelligent, important analysis of the Contra organization in Nicaragua, and is therefore valuable information for anyone concerned with our interests in Central America:

A FAREWELL TO ALMS: THE CONTRAS CAN WIN IF THEY BREAK THEIR CULTURE OF DEPENDENCY

(By F. Andy Messing Jr., and Allen B. Hazelwood)

The Central American agreement to demobilize Contra bases in Honduras could be the final nail in the coffin of Nicaragua's democratic insurgency. Or it could be a big opportunity for the Contras to free themselves from their unhealthy dependence on foreign bases, foreign aid, and foreign advisers—a dependence that has limited their effectiveness in guerrilla warfare.

The 15,000 Contra fighters in the region still have sufficient strength to mount a successful insurgency against the Managua regime. Their rank and file have demonstrated extraordinary courage and perseverance, and, with better leadership, would be highly effective fighters. Meanwhile, popular support for the Sandinistas is at an all-time low; their attempts to impose Marxism on the Nicaraguan economy have left it on the brink of collapse, with even the most basic necessities in short supply. Perhaps even more important, the Sandinistas have lost control over the population; anti-goverment graffiti is to be found everywhere in the cities, and the totalitarian block-by-block apparatus of Sandinista Defense Committees is in disarray.

The Contras could therefore be in a good position to bring democracy to Nicaragua, should the elections scheduled for February prove to be the expected sham. To succeed in overthrowing the Sandinistas, however, the Contras need to make major revisions in their strategy, tactics, and organization. In particular, they must begin to wage a classic guerrilla war instead of the hit-and-run commando operations from foreign bases that they have conducted up to the present.

The Contras have been severely hurt over the last eight years by the vacillating and contradictory policies of the U.S. Congress and by the refusal of Latin American governments to support them. They also were confused and demoralized by Reagan administration statements that the objective of supporting their effort was to secure concessions at the negotiating table rather than democracy in Nicaragua. More important, though, have been several serious mistakes by the Contras and their CIA advisers that have prevented them from attaining the victory within their reach.

The Contras' first weakness is that they started fighting to early, before they had prepared the political, social, and economic infrastructure for a successful insurgency. Actual military combat constitutes only about 5 percent of a classic guerrilla warfare strategy. The other 95 percent involves winning popular support in the countryside and setting up a parallel government there, organizing underground movements in the cities, and developing a self-supporting system for food, clothing, and munitions. Military operations, no matter how extensive, cannot prevail when conducted in a vacuum that lacks these elements. This basic truth, however, has yet to be fully appreciated by the Contras.

ADDICTION TO OUTSIDE SUPPORT

The development of a self-sustaining system of supply and materiel has been crucial for every successful insurgency in modern history. The Vietminh and later the Vietcong in South Vietnam, the guerrillas in Rhodesia/Zimbabwe, and the contemporary FMLN insurgents in El Salvador have all been able to obtain the bulk of their day-to-day supplies within the country where they were operating. Battlefield acquisition from the forces of the opposing government should provide much of the needed military materiel—though, of course, sophisticated equipment such as Stinger and anti-aircraft missiles and code cipher books for radio communications can come only from a country such as the United States. If the guerrillas have genuine support, the local populace will supply most of the rest of their requirements.

When successful guerrilla movements become better established, they even set up light manufacturing plants for munitions, explosive devices, and clothing. This occurred in Vietnam, Rhodesia, and El Salvador. The Contras instead became addicted to support from outside Nicaragua, leaving them vulnerable to the whims of a U.S. Congress that never demonstrated anything more than lukewarm enthusiasm at best.

Closely related to the need to establish a domestic supply infrastructure is the need to place a strong emphasis on nation-building. The guerrillas must establish a parallel system of government along with a presence in as many villages as possible. Only by maintaining this continuing presence, and living and working alongside the people on a daily basis, can they conceivably claim to represent them. The guerrillas' presence in the villages and towns throughout the country also gives them the capability to recruit new members for the movement. The Contras, relying on advice from the CIA and others, were not organized into semi-autonomous cells that would permit them to do this.

There are about 1,000 Contras in southern Nicaragua who have been living among the people and inflicting substantial damage on the Sandinista military; and it is significant that they have been operating outside the regular Contra command structure. This war in the south has received virtually no media attention. It is a rudimentary model for the rest of the Contra movement, which has tended to return the bulk of its forces to safe areas on the Honduran border after conducting operations within Nicaragua, thus artifically limiting its opportunities to build local support.

CELLING OUT

Underlying all successful guerrilla movements in the concept of cellular expansion. Guerrilla units are sent into the countryside to establish permanent cells. The cadres of each cell recruit and train new members, and establish networks for an intelligence and supply infrastructure. With a cell structure, a small number of guerrillas can give the impression of widespread activity and strength—a key psychological component of guerrilla warfare. Each cell operates semi-autonomously, but has the capability to join with others in combat operations against larger government units.

From the outset of the movement, the cells seek to win and sustain popular support, and help create a parallel government. They begin by providing services such as medical treatment and help with harvests. Later, the services become more elaborate—for instance, roadbuilding and the administration of justice. In all cases, the purpose is to demonstrate the guerrillas' concern for the needs of the people. Within urban areas, the cells also help organize political activities, engage in economic warfare such as strikes and sabotage of key industries, and seek to penetrate important government and political organizations.

The failure of the Contras to establish an effective urban underground has made it impossible for them to engage in such economic and political warfare, and has made it highly difficult to obtain the intelligence necessary to conduct operations. Without a strong urban presence, especially in the capital, it is difficult if not impossible to mount attacks against the military targets that are normally located there.

Inadequate security has been a major reason for failure in the cities. Typically, recruits from urban areas have been taken to the Contras' bases in Honduras for training and mixed with the general insurgent population. However, these bases are so thoroughly penetrated by Sandinista agents that their identities soon become known to Managua. Upon returning to Nicaragua, the Contra supporters have been readily apprehended or, worse, allowed to operate under close surveillance to expose other members of their networks before arrest.

COMMANDOS, NOT GUERRILLAS

A second critical mistake of the Contra leaders has been an overreliance on hit-and-run commando operations rather than guerrilla tactics. Commandos are uniformed semi-conventional forces that operate in small integrated units from fixed bases. They generally are used in operations against important targets in support of larger conventional forces, or in "surgical strikes." The Israelis employ such tactics, for example, against PLO strongholds in southern Lebanon.

By contrast, guerrillas are highly mobile unconventional units, and are generally not uniformed. They do not operate from fixed bases, but rather establish themselves in the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

countryside, and live and work among the people. In many instances, guerrilla fighters maintain the appearance of leading normal lives during the day, venturing out at night to attack the government's forces.

The Contras' CIA advisers, however, have been unenthusiastic about genuine guerrilla tactics. The Agency evidently did not feel that genuine guerrilla warfare would afford it sufficient control over operations. Even if the CIA had been inclined to organize guerrilla operations, President Carter's massive cutbacks of paramilitary agents had stripped the Agency of the necessary experience and expertise.

Instead, the CIA convinced the Contras to adopt a model essentially based on commando-style raids that had been used in earlier CIA-led operations in Laos in the late 1960s and early 1970s. The Laos commando raids were designed to support conventional operations in South Vietnam, and they were highly effective in blocking North Vietnamese divisions that otherwise would have entered the South. The commando model is wholly inappropriate, however, for the war in Nicaragua, where nation-building should be the paramount objective.

AVOIDING CIVILIAN CASUALTIES

Commandos are trained to strike hard and fast, leaving the maximum devastation in their wake. Guerrillas, by contrast, must be far more careful in the selection of targets, and take pains to avoid collateral damage, especially civilian casualties. While cultivating the image of fierce opposition to the government's troops, insurgents must at the same time nurture their reputation as a friend of the people. As a result, guerrillas will stage attacks on the government's command, control communication, and intelligence facilities, but pass up targets of lesser importance. Here, again, the Contras have failed to follow the genuine guerrilla model, with unfortunate results.

Many Contra commando units have been sent into Nicaragua without a well-thought-out plan of action—something that would have been easier to develop if they lived among the people and had adequate intelligence. The result is that, all too often, the Contras have struck at any target they have encountered—anything from passing patrols of local militia to civilian guards at coffee plantations. Such random attacks have led to unintended civilian losses and needlessly high Contra casualties, as they alerted the Sandinistas to their location.

The importance of avoiding military operations that result in civilian casualties underscores a fundamental difference between democratic insurgents and their Communist counterparts. Democratic insurgents must proceed with a high regard for human rights. Instilling this attitude must be one of the principal goals of the leadership. Every member of a democratic insurgency must accept a code of conduct that unconditionally refuses to resort to death squads, repressive actions, theft of property from civilians, abuse of women and children, and the mistreatment of prisoners of war.

Democratic insurgents must reject the tactics of Communists such as the NPA in the Philippines and the FMLN in El Salvador, which routinely engage in bank robberies, kidnappings, and the narcotics trade to finance their activities, Similarly, democratic insurgents must reject the use of assassinations of civilians, terror, torture, and the extortion of taxes.

Although the Contra directorate did not condone or encourage violations of human rights, it failed at the outset to provide the affirmative leadership that insists on proper conduct, As a result, a number of incidents occurred in the field, which damaged the Contras' reputation both in Nicaragua and abroad. Under the guidance of Lt. Col. Oliver North and Contras' human-rights performance did improve in the mid-1980s, one area where U.S. influence was beneficial.

Insistence on respect for human rights is not just essential from a moral standpoint. It carries a practical rationale as well: Developing and sustaining the support of the populace is simply impossible if the guerrillas routinely abuse them. Proper conduct breeds loyalty and dedication. Terrorism only breeds fear.

THE GOOD LIFE IN MIAMI

The organizational structure of the Contra effort has also suffered from serious deficiencies. The national leadership and logisticians have been located away from the front, primarily in Miami and the Honduran capital of Tegucigalpa. Many leaders of the insurgency even brought their families. This practice implied a lack of commitment, which generated distrust and hard feelings among field combatants. Seeking to appease congressional critics, Washington planners insisted that the Contra directorate include Nicaraguan business and political leaders who had no military experience or any inclination to lead guerrillas in the field. This approach may have backfired, however, by undermining the revolutionary authenticity of the Contra movement.

Moreover, the failure to monitor closely the support system in Miami and Honduras has opened the door to corruption and the misuse of funds. This lack of monitoring has been further complicated by the numerous avenues through which funds have flowed to the Contras. At one point, money was being provided to one Contra group by several U.S. agencies, several foreign governments, large private contributors, fund-raising dinners, and direct-mail solicitations of small donors. Contributions from each source went into different bank accounts, with no central disbursement authority, and no means of auditing the overall flow of funds, or, more important, setting priorities for expenditures. The potential for abuse in such a complex system is all too obvious. While most Contra leaders have resisted the temptation to line their own pockets, a few took full advantage of the situation and thereby sullied the reputations of all.

The most serious organizational flaw of the Contra directorate, however, has arisen from the CIA's insistence on a conventional "top down" command structure. While this may have permitted greater control, and is consistent with the CIA's conventional view of unity of command, it has hindered the development of a "divisible" force structure that can break down into smaller semi-autonomous components or cells. It has also deprived the insurgency of some extremely talented combat leaders who have found it difficult to follow orders from armchair generals in Miami.

Divisibility assures that the defeat or even annihilation of any one element of the insurgent force structure does not result in defeat of the overall movement. Like the many-headed Hydra of mythology, when one head is loped off, another emerges in its place. Since each cell can generate additional cells through recruitment and training, the movement can recover from defeat as long as one cell survives.

Had the United States insisted that the Afghan mujahideen unify their command before we gave them Stingers, the Soviets would still be in Afghanisian today. Similarly, in Nicaragua there was no reason why the FDN (Democratic Nicaraguan Force) had to have a political monopoly over fighting factions. U.S. support for two or more competing military/political movements would probably have been more effective. The conventional military principle of unity of command does not rigidly apply to unconventional warfare, particularly in countries where there isn't a fully developed national leadership. Indeed, competition on the battlefield between rival guerrilla leaders can weed out defective organization and leaders.

Under a competitive model, active participation in combat is a prerequisite for elevation to leadership. By its very nature, competition favors leaders who choose to fight, live, and work at the cutting edge of danger with their troops. The overfed guerrilla leader exhorting his troops to greater sacrifice from the steps of an air-conditioned trailer would not survive.

LACK OF INTELLIGENCE

Another element missing from the Contra effort has been the ability to conduct operations in secret. Secrecy is essential to virtually every aspect of the insurgency, ranging from the creation of mystique to the success of assaults on targets and the protection of the insurgency's underground.

The absence of a working intelligence network and counter-intelligence system within the Contra structure has been one of its more serious deficiencies. For an insurgency movement, effective intelligence is often the difference between life and death. The development of a full-fledged intelligence network should have been one of the Contras' priorities at the outset. It is easiest to infiltrate the government's infrastructure, and to place agents in institutions capable of influencing the general public, before the regime pays much attention to the insurgency. Once the insurgency grows, the task of placing agents and building a network becomes immeasurably more difficult.

Still, this deficiency could be corrected if the Contras were to begin following a traditional guerrilla warfare approach. This would require that they shift the location of training for their urban underground away from the camps along the Honduras border to other remote and highly secure areas. They must make sure that anyone assigned to the task of training new members of the underground is thoroughly vetted—to help weed out the Sandinista agents that currently riddle their organization. They must jealously guard the identities of the members of the underground from the very onset of training. Finally, they must exercise great care in recruitment—the Sandinistas have a highly effective counter-intelligence program, and have found it all too easy to place agents inside the Contra organization.

THE GUERRILLA MYSTIQUE

Above all, the Contras have failed to cultivate that key ingredient in a successful insurgency, mystique: the reputation for being everywhere and nowhere, all-powerful, always on the march, never at rest, and, most important, at one with the people. Every successful insurgency leader from George Washington to Fidel Castro has carefully developed a revolutionary mystique.

The Contras' reliance on base camps in adjacent countries, their inactivity in Managua and other Nicaraguan cities, their com-

mando tactics, and their failure to address the political, economic, and social aspects of the insurgency have all contributed to the poor reputation of the Contras in the international community and in Nicaragua. Perhaps most damaging for the Contras' mystique has been the perception that they really haven't planned to win themselves, but instead have been hoping that the U.S. would eventually mount a Grenada-style operation and produce a quick victory.

STRATEGY FOR VICTORY

Despite the flaws in organization, planning, tactics, and structure, the Contras still retain the capability to win. As individuals, the Contras are brave and, when properly led and directed, effective fighters. They passionately want to see their homeland free. Many insurgents have demonstrated a willingness to endure hardship that some of their leaders would do well to emulate. The Central American agreement of August now gives them the opportunity to pursue tactics that will win.

Here is some of what they must do:

First, and foremost, develop an insurgent mentality—in particular, they must give higher priority to the social, political, and economic infrastructure for guerrilla war;

Change their structure from a monolithic command structure to a multi-insurgent movement with an emphasis on decentralized independent action;

Develop the all-important element of mystique;

Change the location of their safe areas in Honduras to ones within Nicaragua, and maintain strict security concerning the new locations (possibly developing tunnel networks similar to those of the North Vietnamese and the Salvadoran FMLN);

The leaders must relocate their families within the region, and induce their sons to fight;

Set up an effective intelligence and counter-intelligence system;

Establish an urban underground and carry the war to the capital;

Root out and eliminate corruption where it exists, and implement safeguards to prevent its return;

Develop a self-supporting supply system for food, clothing, and other war materials, and come to understand that their principal military suppliers are not U.S. taxpayers but ambushed enemy troops;

Maintain the level of insurgents at a number that can be supported by existing aid and logistical provisions, even if it requires reducing their numbers; and

Avoid the field use of sophisticated communications equipment, computer banks, and other technology too cumbersome for guerrilla war. There is no need, for example, for the Contras to have six 20-megabyte computers at their field headquarters; a guerrilla army that cannot break camp with all its gear in minutes is following the wrong strategy.

A sample of what the United States can do to help the Contras take advantage of its new opportunities would be:

Put strong diplomatic pressure on the Soviets to end or reduce their military and economic support to the Sandinista regime;

Clarify organizational support responsibilities in Washington. The Central Intelligence Agency, the Agency for International Development, the State Department, and the Pentagon have all had various, and often conflicting, responsibilities for the Contras, with no one below the president fully accountable. Someone of high authority (and who knows unconventional warfare) must be in charge; and

End congressional micromanagement. A small team of unconventional warfare experts can be highly effective, if they are left in place for the duration, and given the latitude—within sound legal and moral guidelines—to get the job done.

Failing, this, Nicaragua and its neighbors will be doomed to a long-term cycle of violence from an entrenched Communist government.

U.N. GENERAL ASSEMBLY VOTE ON ISRAEL'S ACCREDITATION

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mrs. ROS-LEHTINEN. Mr. Speaker, on October 17, 1989, the U.N. General Assembly rejected the eighth consecutive attempt to deny Israel its U.N. accreditation: 95 countries voted to block the Arab-sponsored resolution; 37 voted to pass the measure; 15 countries abstained. Saudi Arabia, Iraq, Jordan, Kuwait, Syria, Libya, and the rest of the Arab bloc—except Egypt—led the campaign to delegitimize Israel. As well, they exerted pressure on Third World countries to do likewise.

This vote may direct one's attention on the broader context of the Arab-Israeli conflict, and on the wider scope of the continuing threat to Israel's security. That problem is the refusal of Arab States to make peace with Israel. They demand that Israel turn over territory and weaken its security while surrounded by nations that consider themselves at war with Israel.

The Arab vote undermines any contention that glasnost is reaching the Middle East. The Arabs say they want peace. If this is true, why don't they drop their annual ritual of trying to throw Israel out of the U.N. General Assembly? Their objective is to continue to delegitimize Israel as a nation worthy of respect in the world; part of a continuous campaign of psychological warfare.

In the course of the Middle East peace process, the October 17, 1989, occurrence is pathetic.

HELPING HANDS DESERVE CREDIT FOR HUGO RELIEF EFFORT

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. PORTER. Mr. Speaker, when tragedy strikes, Americans have always pitched in to help those in need. Although our attention is now turned toward the tragic earthquake in California, I want to recognize a relief effort coordinated in my district for the residents of South Carolina, who are still recovering from Hurricane Hugo.

The relief drive was inspired by Jennifer Boger of Lake Forest, whose Girl Scout troop worked with my office to get the work out, set up collection centers, and package donations. Thanks are due to School District 115 for allowing Lake Forest High School's west campus to be used as a dropoff point, and also to township supervisors who made their offices available. We are especially grateful to Abbott Laboratories for generously donating a truck and driver to deliver the collected supplies to South Carolina.

We collected 22,000 pounds of cleaning and building supplies, as well as infant needs and paper products. Included were hundreds of boxes of detergent, brooms, mops, nails, roofing material and other items that will help the victims of Hurricane Hugo put their lives back together again.

To everyone who contributed time and donated supplies, a resounding thank you!

TRIBUTE TO GEN. ALFRED G. HANSEN

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. RAY. Mr. Speaker, I rise today to pay special tribute to Gen. Alfred G. Hansen who is retiring as commander of the Air Force Logistics Command on October 31, 1989. This command has direct supervision over the Air Logistics Center at Robins Air Force Base in my district. As a result, I have had the opportunity to work closely with General Hansen on many occasions. My experiences have shown that General Hansen is an excellent representative of the U.S. Armed Forces and he has become a close personal friend.

General Hansen was born in 1933 in New York City. He received a bachelor's degree in business administration and management from Troy State University. He enlisted in the Air Force in 1955 and received his pilot wings at Vance Air Force Base in Oklahoma. His first flying assignment was as a KC-97 pilot with the 303d Air Refueling Squadron at Davis-Monthan Air Force Base in Arizona. In December 1958, he went to Castle Air Force Base, CA, for KC-135 combat crew training. He was then assigned as an EC-135 and KC-135 pilot with the 34th Air Refueling Squadron at Offutt Air Force Base, NE.

General Hansen attended the Air Command and Staff College from 1965 until 1966 at Maxwell Air Force Base in Alabama. He then served as a member of the Apollo spacecraft recovery team until 1968 at the Air Force Systems Command at Patrick Air Force Base in Florida.

During the Vietnam war, General Hansen flew as an A-1 pilot with the 1st Air Command Squadron at Nakhom Phanom Royal Thai Air Force Base, Thailand. This unit was later designated as the 1st Special Operations Squadron. General Hansen flew 113 combat missions. After this, he served as a fighter operations staff officer at headquarters 7th Air Force at Tan Son Nhut Air Base.

General Hansen returned to the States in 1969 and was assigned to Headquarters Tactical Air Command at Langley Air Force Base. He served as chief and operations staff officer in the aircraft allocation and flying hour, and operational planning branches within the

Office of the Deputy Chief of Staff, Operations.

From 1971 through 1972, General Hansen attended the Air War College at Maxwell Air Force Base in Alabama. Upon graduation, he went to Pope Air Force Base in North Carolina, serving as operations officer of the 39th Tactical Airlift Squadron and squadron commander of the 41st Tactical Airlift Squadron. During this period, he commanded several overseas squadron rotational missions in England, Germany, and Thailand. He later served as the deputy commander for maintenance of the 317th Tactical Airlift Wing Staff.

In October 1977, the general was director of maintenance engineering in the Headquarters Military Airlift Command at Scott Air Force Base. After serving there for a year, General Hansen took command of the 314th Tactical Airlift Wing at Little Rock Air Force Base. During his tenure, the 314th won the Best Maintenance Award and the Gen. William Moore trophy for best overall airlift wing at the worldwide airlift competition.

In 1981, General Hansen returned to the Military Airlift Command Headquarters as deputy chief of staff for logistics with responsibilities to ensure the logistics readiness of worldwide airlift forces. He became a brigadier general during this time. He was then assigned as director for logistics plans and programs with the Office of the Deputy Chief of Staff for Logistics and Engineering at the U.S. Air Force Headquarters at the Pentagon. While there, he became a major general and served as primary member of the Air Staff Board.

In June 1985, General Hansen became a lieutenant general and Director for Logistics for the Organization of the Joint Chiefs of Staff. He was responsible for worldwide logistics in support of theater commander's war plans. Additionally, he was a member of the senior NATO logistics forum and directed the study that resulted in the formation of the U.S. Transportation Command.

General Hansen assumed command of the Air Force Logistics Command on July 31, 1987, and was promoted to general on August 1, 1987.

Throughout General Hansen's career, he has served with honor and distinction. He has been awarded numerous decorations and service awards. Among these are: the Defense Distinguished Service Medal, the Air Force Distinguished Service Medal, the Legion of Merit with two oak leaf clusters, the Distinguished Flying Cross with the oak leaf cluster, the Bronze Star Medal, the Meritorious Service Medal, the Air Medal with seven oak leaf clusters, the Air Force Commendation Medal with two oak leaf clusters, the Presidential Unit Citation Emblem, the Air Force Outstanding Unit Award with three oak leaf clusters, the Combat Readiness Medal, the National Defense Service Medal with one service star, and the Republic of Vietnam Gallantry Cross with Palm.

The Air Force logistics command is charged with providing logistics resources which are necessary to keep the Air Force in a state of readiness and to maintain their operations. The command carries out this mission through five air logistics centers, one of which is Warner Robins Air Logistics Center, and 12 specialized centers. The Air Force logistics command exploys over 98,000 people who are assigned throughout the world.

I wish General Hansen and his lovely wife and family all the best in his upcoming retirement. I will miss him, and I am sure that the Air Force will miss his leadership and capabilities.

REPRESENTATIVE BOXER CASTIGATES BUSH ON ABORTION

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. MILLER of California. Mr. Speaker, just 2 weeks ago, our colleague Congresswoman BARBARA BOXER led an outstanding legislative triumph when the House voted to permit poor women who are the victims of rape and incest the same access to health care as other Americans.

It is an outrage that the President has vetoed the Labor-HHS bill in the face of the determined votes of the Congress and the overwhelming support of the American people for equal access to health care. And it is tragic that this House compounded that veto with its vote to sustain that veto today.

The provision in the Labor-HHS bill was not merely one of choice. The President himself doesn't oppose legislation to prohibit abortion in every case of rape or incest. The only rape and incest victims the President believes ought to be denied access to abortion are poor victims. Rarely has the President of the United States sanctioned a more blatantly discriminatory policy.

Discrimination on the basis of income is abhorrent to the Constitution and the laws of this Nation, and the day of the President's veto was a very sad day not only for women, but for all of us who value equity and justice under the law for every American. Today, as the Congress upholds that veto, is no less tragic.

No one has expressed this viewpoint more effectively or more eloquently than Mrs. BOXER, the author of the key amendment. We are proud of her leadership on this issue over many years. Congresswoman BOXER recently stated her views on the President's unconscionable veto in a guest column in USA Today. I submit a copy of her column for the RECORD:

[From the USA Today, Oct. 23, 1989]

BUSH'S VETO PUNISHES THE POOR

(By Barbara Boxer)

It's hard to believe President Bush would veto legislation to put our government on the side of women and girls who are the victims of rape or incest.

But that's what he has done.

The Senate and House voted to allow Medicaid dollars be used for abortion in those cases. But the president vetoed that legislation after his advisers said off the record that, without a veto, he would look like a wimp.

Rape and incest have been described as two of the most violent crimes. The victim is made to feel helpless, defenseless, drifted, violated and invaded.

Suppose a woman were raped by a violent criminal who scarred her and killed her husband. It happened in California many times. That is the Night Stalker case, and thank God that criminal has been apprehended.

Suppose that woman were impregnated by this violent man who then killed her husband while she watched. Should she have to bear that vicious killer's child? President Bush says that she must—if she's poor.

That is wrong. That is inhumane.

In Oregon, there was a sixth-grade child sexually abused by her father. She became pregnant and cried for help. Her mother cried for help. This child, this 11-year-old baby, did not even know what pregnant meant.

Getting an abortion was complicated, and the government did not help. So she sat like a sitting duck waiting for help. One day her father blew her brains out.

I was proud that the House, for the first time in almost a decade, agreed to my amendment to provide an exception for Medicaid dollars in cases of rape and incest.

President Bush's veto is the height of hypocrisy. The president supports the right of a wealthy woman to choose an abortion if she's a victim of rape or incest. But through his veto, the president is really saying to poor women: I can't help you. You have to bear the product of violence without a choice because I don't want to look like a wimp.

The president has endorsed a double standard based on wealth, connections and power. And that is injustice in the Land of the Free.

This veto will haunt him for the rest of his career.

It is bad policy, bad politics and bad news. I urge all Americans to write to President Bush and ask him to reconsider his veto, and I also ask all Americans to write their members of Congress and urge a veto override of this uncompassionate and ill-considered veto.

HEROES AGAINST DRUGS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. STARK. Mr. Speaker, our war on drugs will not be won by triumphant declared victories and pronouncements. If we're going to combat the use and abuse of legal and illegal durgs, it's going to be with a long-term, continual string of what I term "little victories." Such a little victory occured back in my congressional district just the other day. The general in this battle was a brave citizen named Brent Wallace. Mr. Wallace deserves our thanks, and the thanks of every other resident in the Palomar Terrace Apartment complex.

The following article describes in detail how Brent took on his apartment complex management—who had been looking the other way and had not confronted open drug dealing—and won. I encourage my colleagues to consider the Hayward Daily review article:

ANGRY RESIDENT WINS ONE AGAINST DRUGS

(By Ben Charny)

HAYWARD.—Brent Wallace won a dollar in court Monday and called it a tremendous victory.

Hayward-San Leandro Municipal Judge David Hunter ordered Palomar Terrace Apartments to pay him the buck because it allowed drug dealing to occur unchecked inside several apartments when Wallace lived there.

"I find it (drug dealing) clearly was (occurring at the apartments)." Hunter wrote in his decision. "However, the plaintiff (Wallace) did not show damages as a result of the activity."

Wallace took the apartments to court in August, suing it for $1,200 or four months rent. He claimed the excessive noise, drug dealing and police activity were not part of his lease.

With the moral victory in hand. Wallace doesn't know how to collect his winnings and isn't sure he even wants to. "I proved my point." Wallace said. "It really wasn't the money. I won the case.

"Whether you win the case with a dollar or win the case with twelve hundred dollars, you win the case. "Aside from the dollar. Hunter awarded Wallace, who now lives in San Leandro, $30 for court fees.

Hunter ruled that police reports produced from a raid on an apartment, which netted rock cocaine and resulted in four arrests, proved the drug activity existed.

During the 40 minute hearing in Small Claims Court, Hunter berated Palomar Terrace Apartment representatives for claiming there were no drugs in the complex.

"The defendants said there were no drugs found when police raided some apartments. Yet, a (police) report shows two people were charged with" drug possession charges, the judge said.

One of several witnesses the complex used was Alonzer Irwin, a woman inside the apartment that was raided. Irwin, who was not arrested, testified there were no drugs there.

"They got caught in a little lie," Wallace said, Palomar Terrace Apartment property manager Monty Killingsworth would not comment on the allegation.

Killingsworth argued that Wallace used a citizen's patrol he headed as an excuse to impersonate a police officer and "run around in ninja suit, with a billy club, late at night."

Wallace formed the patrol to raid the complex of drugs, he said.

Wallace filed the suit on Aug. 11, claiming the complex was overrun by drugs and crime.

He said one of his neighbors was taking out the trash when he was nearly struck by a bullet fired from a passing car. The bullet struck an apartment door. No injuries were reported, according to police.

The same day, another one of Wallace's neighbors was nearly struck by a rock, thrown by a man who asked him for money, according to police.

In June, Jerome Scott, 38, was arrested while visiting the apartments. Scott was charged in U.S. District Court in San Francisco for bank robberies in Castro Valley and Hayward, including six Wells Fargo Banks. He is suspected in at least 20 other bank robberies, said FBI spokesman Chuck Latting.

An apartment resident, who refused to give her name fearing retaliation, said on July 7 she was assualted by several boys in the complex and suffered minor bruises on her arm.

Wallace's victory should send notice to all apartment owners, he said.

"Beware to the Drug dealers," Wallace said Monday. "People out there aren't going to sit around and take their (bull). If you don't, your apartment complex will get overrun by drugs.

SIXTY-FIFTH ANNIVERSARY OF POLISH WOMEN'S CLUB OF THREE RIVERS

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. NEAL of Massachusetts. Mr. Speaker, it is my privilege to take this opportunity to salute the Polish Women's Club of Three Rivers, Massachusetts on the occasion of their 65th anniversary. This is an organization that is truly a resource for the people of the town of Three Rivers.

The Polish Women's Club of Three Rivers was established in 1924 by 58 women, led by Miss Anna Rusek. Their original goal was to help Polish women become United States citizens. The club assisted women as they went through the process of becoming citizens and then to take full advantage of the political process. The early years of the club were filled with lively political debate covering a wide range of viewpoints.

Having met this need of helping Polish women obtain citizenship, the Polish Women's Club of Three Rivers turned to new challenges. As membership grew, the club began to branch into other areas. A priority was the preservation and cultivation of the rich traditions of the Polish people. The club was soon a key social institution in the community. A great many people from Poland have settled in the Three Rivers area and for 65 years they have been able to count on the Polish Women's Club in good times and during tough times. The members of the club have a long tradition of devoting a great deal of time and effort to charitable efforts in the community. During World War II, the members of the club worked tirelessly on Blood Banks, Bond Drives, U.S.O. efforts, the National War Fund and Polish Relief. Club members took leadership roles in virtually every wartime support effort in Western Massachusetts. More recently the club has rallied local people to the aid of Poland during tough economic times there and they have solidly supported Wing Memorial Hospital with both their time and donations. Giving something back to the community has been the distinguishing mark of this club since its' inception.

Mr. Speaker, I salute president Helen Grzywna, vice president Marcie Topor, recording secretary Sophie Valtelhas, financial secretary Phyllis Misisazek, treasurer Edna Pytka and all the members of the Polish Women's Club of Three Rivers on 65 years of outstanding community involvement. I am sure Three Rivers will benefit from many more years of service by this club.

A BOOK FAIR FOR JEWISH UNITY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mrs. ROS-LEHTINEN. Mr. Speaker, 9 years ago the Dave and Mary Alper Jewish Community Center [JCC] began to fulfill the need for Jewish awareness in the south Florida area. Due to a lack of Jewish bookstores, the JCC wanted to strengthen the identity of Jewish people with culture and create a greater interest in books. This week (Oct. 23–29) the ninth annual Jewish Book Fair will be another attempt to raise cultural awareness among South Dade's growing Jewish community.

More than 1,500 books, ranging from Bibles to best sellers, will be on sale at the weeklong fair. The books, on consignment from the Chosen Jewish bookstore in Kendall and Booksworks in South Miami, include works on Jewish philosophy, holidays, cooking, and customs, as well as popular fiction and nonfiction by Jewish and non-Jewish writers. Prominent Jewish authors will be feature speakers including: Joseph Heller, author of "Catch–22"; A. Scott Berg, biographer of movie mogul Samuel Goldwyn; Helen Nash, author of "Kosher Kitchen"; David Ariel, a writer on Jewish mysticism; and Ellen Sue Stern, author of "The Indispensable Woman."

The fair will conclude Sunday with a carnival featuring Israeli dancing, rides, and a toy sale. As another year of effort comes to an end, I wish to thank the individuals involved in this extraordinary venture. I commend their successes, for they are excellent examples of true community leaders.

TRIBUTE TO COL. BILLY G. EDENFIELD

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. RAY. Mr. Speaker, I rise today to pay special tribute to Col. Billy G. Edenfield, who is retiring as base commander of Robins Air Force Base in Warner Robins, GA, on October 27, 1989. Colonel Edenfield has served the Air Force and America in an exemplary manner for 30 years, and has done an outstanding job at Robins Air Force Base during the past 3 years. I appreciate all the help he has been to me and I must add that he has become a close friend of mine.

Colonel Edenfield was born in Metter, GA. He graduated from the University of Georgia with a bachelor of science degree in forest management. He later earned a master's degree in personnel management from Troy State University.

Colonel Edenfield was commissioned through the Air Force Reserve Officers Training Corps from the University of Georgia. He was initially assigned in the civil engineering career field but was transferred to navigation training in 1962. He served as a strategic air

command B-52 crew member and was on one of the first two B-52 squadrons deployed in Southwest Asia. He eventually flew approximately 50 combat sorties in the B-52.

Colonel Edenfield completed a 1-year "education with industry" assignment to General Dynamics Corp. in Fort Worth, TX, in 1969. following that training, he was assigned to MacDill Air Force Base, FL, and Ubon Royal Thai Air Base in Thailand. While in Thailand, he performed duties as a weapons systems operator in the electro-optically equipped B-57G and flew 120 combat sorties.

From 1971 until 1974, Colonel Edenfield served at Robins Air Force Base as logistics systems manager for the C-130, VC-140, and B-57 aircraft. He then served as commander of both the field maintenance and organizational maintenance squadrons at K.I. Sawyer Air Force Base, MI.

The colonel then attended the Air War College while at Maxwell Air Force Base in Alabama. Upon graduation in 1978, he was assigned to Castle Air Force Base, CA, and later assumed command of the 93d Field Maintenance Squadron. In 1979, he became assistant deputy commander for maintenance at Castle Air Force Base and was promoted to colonel in December of that year.

Colonel Edenfield became deputy commander for maintenance at Andersen Air Force Base, Guam. In May 1982, he returned to the Warner Robins Air Logistics Center as director of materiel management.

Colonel Edenfield assumed command of the Air Force Logistics Command Support Group Europe in 1984. This depot maintenance facility provided a variety of repair capabilities for the European theater. He assumed his present command in August 1986.

Colonel Edenfield has had a very distinguished career with the Air Force and this has been reflected by the fact that he has been awarded numerous decorations and awards. These include the Legion of Merit, the Distinguished Flying Cross with two Oak Leaf Clusters, the Air Medal with seven Oak Leaf Clusters, the Meritorious Service Medal with two Oak Leaf Clusters, and the Air Force Commendation Medal with one Oak Leaf Cluster.

Robins Air Force Base has had a history of excellent base commanders. Colonel Edenfield has only helped this image of ability and competence. The colonel has proven time and time again to be a fine commander and the Air Force will no doubt miss his leadership.

While I will miss working with Colonel Edenfield, I wish him all the best in his retirement.

TRIBUTE TO DICK ALAIMO

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. SAXTON. Mr. Speaker, I rise today to pay tribute to Richard Alaimo, a constituent of mine from Mount Holly, NJ, who is being honored October 27, 1989, by the Burlington County Council Boy Scouts of America as an outstanding community leader and successful businessman. I urge my colleagues to join me in the celebration of Dick's many achievements.

Dick has been a lifelong resident of our State of New Jersey. Born and raised in Passaic, Dick was named Outstanding Scholar-Athlete in his senior year at Passaic High, demonstrating early his talent and drive.

Graduating from Rutgers University, Dick earned a degree in engineering. A man of great energy and dedication, Dick opened his own engineering consultant firm, Richard A. Alaimo Associates which grew from two employees to a corporation with four subsidiaries and more than 150 employees. In addition, he has served as a consulting engineer to more than 70 municipalities and public agencies. I commend Dick for his 30 years of expertise in all phases of civil, structural, and environmental engineering.

Dick is a distinguished individual who has also found time to serve previously as director of the South Jersey Port Corp., and both president and chairman of the board of Mount Holly State Bank. Dick currently is the president of the Burlington County United Way, Mount Holly Rotary, and the Westwood Swim Club.

Dick is not unused to being commemorated for his contributions. In the past he has received recognition as an outstanding citizen by the Mount Holly Jaycees, the Mount Holly Elks, and was the recipient for the Dr. Harold M. Longsdorf Award in 1988 for his contributions to his community.

Perhaps his greatest commitment is to the youth of our area. A strong believer in Scouting and athletics, Dick is a great leader and character builder for the youth athletic teams that he sponsors all over the county.

Not only has Dick devoted himself to his work and helping others, he and his lovely wife, Doris, have raised a large, happy, family. The newest family member, his grandson Ryan, is fortunate to have such an admirable and likeable role model as his grandfather.

It is a great privilege for me to join the Boy Scouts of America in honoring my good friend Dick Alaimo for his tremendous ambition, leadership, and contributions to the community.

HELP STOP DRUGS AT THE SOURCE

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. GINGRICH. Mr. Speaker, my constituents in Newman, GA, have been working on a project to stop drug use among the youth in our country. This program, "Help Stop Drugs at the Source," has gained support from all States around the Nation. Bull Worldwide Information Systems has also been helpful in contributing a computer program to link the people involved in this project from coast to coast. Today, Jacques Stern, the chairman of the board of directors of Bull, is being honored in Georgia for his help. The following is a letter to Mr. Stern written by students at Newman High School. I would also like to extend my appreciation to Mr. Stern for helping in such a worthwhile cause.

The letter follows:

HELP STOP DRUGS AT THE SOURCE,
October 26, 1989.

MR. JACQUES STERN,
Chairman of the Board of Directors, Bull HN Chairman Emeritus of Groupe Bull.

DEAR MR. STERN: Welcome to Georgia! We welcome you on behalf of the people of Georgia and the United States of America. We salute you and your great company for helping us become good citizens.

BULL Worldwide Information System is one of the patriotic organizations that are standing shoulder-to-shoulder with the American people and, soon we trust, with the people of the entire world.

America's 3,106 county school communities are accepting the greatest challenge in our country's history. We will attack the cause of the drug problem, the insidious evil that will destroy every free society. We have discovered the source of the drug problem. Pogo said it best * * * "We have met the enemy and it is us." Our civic illiteracy, our inability to use our own system of self-government, grants automatic license to the promotion and availability of drugs to all our children.

The United States is a very young country. We are the world's melting pot of every nationality which, is some respects, contributes to our strength, However, diversity of purpose in the threat of national security is our weakness. Just as Americans needed help when we won our independence, we need help now as we learn to defeat civic illiteracy to preserve our independence.

Two hundred years ago, Marie Joseph Paul Yves Roch Gilbert du Motier, the Marquis de Lafayette, helped us win our independence; one hundred years ago, Edouard René Lefevre de Laboulaye, another Frenchman, gave us the Statue of Liberty, the symbol of independence. Today, we thank you and your great company for giving us the data base and information system that will enable us to see where we are, how we are doing, and where we are going as we learn how to preserve our independence and celebrate our Constitution by using it to keep drugs away from all children.

God bless you, your great company, and your great country France, as we stand together to protect all the children in every country of the world. You have honored us with your visit.

Sincerely,

ALAN D. WOOD,
Principal, Newman High School.

CHRIS JENNINGS,
Associate Principal.

BOBBY WELCH,
Superintendent, Coweta County School System.

CHRIS JORDAN,
THOMAS RANEY,
LEE DISKERY,
VANESSA PATTERSON,
Officers, Newman High School, Student Government Association.

REALISM AND CHINESE REPRESSION

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. BARTON of Texas. Mr. Speaker, for the information of my colleagues, I am inserting into the RECORD an article from the Washington Post written by Jeane Kirkpatrick.

[From the Washington Post, Oct. 13, 1989]

REALISM AND CHINESE REPRESSION

(By Jeane Kirkpatrick)

The foreign minister of the People's Republic of China, Qian Qichen, took advantage of his trip to the United Nations to chide Americans for their "interference" in China's internal affairs. Though the Bush administration's low-key response to China's repression of the democracy movement has frustrated a good many Americans, it did not satisfy the Chinese government. Irritated by continuing criticism of China in the U.S. Congress, Qian said plainly, "At present Sino-U.S. relations are at a crossroads. We hope to see our bilateral relations repaired and developed. But that will depend on the policy and action of the U.S. government."

Americans' continued concern about repression of the prodemocracy movement is not compatible with a good relationship between the two countries, Qian added. Instead, Americans should build their relations with China on the basis of shared economic and strategic concerns.

Once again China offers a choice especially difficult for Americans; between a foreign policy based on moral concerns and one that gives priority to geostrategic factors. Again the U.S. relationship with China poses head-on a conflict between Realpolitick and human rights.

China's size, population and location have always made it a prime candidate for exemption from U.S. standards. The Nixon administration explicitly chose "realism" over moral concerns when it opened relations with the People's Republic. Even Sen. Henry "Scoop" Jackson (D-Wash.), author of the doctrine of linkage between human rights and foreign relations, applauded. Both the Carter and Reagan administrations honored "the China exception" to their human rights policies. The Bush administration reaction to the Tiananmen Square massacre stood squarely in this tradition. Now the Chinese are demanding silence from Congress as well.

The repression at Tiananmen Square was not the most brutal event in the history of Chinese revolution. The consolidation of power and the Cultural Revolution both involved the brutal elimination of millions. But they did not take place on television. The events of Tiananmen Square are unique because the demonstrators' high hopes, reasonable demands and ruthless repression were watched by millions.

"Realists" cannot deny the "reality" of these events. This reality confronts any U.S. government with a starker choice and less opportunity for obfuscation than has hitherto been the case. This time the U.S. government makes its policies in broad daylight before citizens who know the nature of the Chinese regime.

The situation is further complicated by the PRC's policies in Tibet and Cambodia.

The massacre at Tiananmen Square was in fact only a reapplication in Peking of techniques already used against Tibetans in Lhasa. The slaughter of Chinese students who demanded only dialogue had been foreshadowed by the slaughter of Tibetans who demonstrated against Chinese rule in March 1989. The repression of Tibet continues and is made harder to forget by Tibetans who have become more skilled at reminding the world of their suffering.

The Khmer Rouge bid for power in Cambodia is another extremely unwelcome reminder of the Chinese government's indifference to human rights. Pol Pot is one of the champion killers of all time. The Khmer Rouge government he headed specialized in slave labor and mass murder of its subjects. Most observers believe that at least 2 million Cambodians were starved, shot or worked to death in the Khmer Rouge killing fields. Just as did Joseph Stalin and Adoph Hitler, the Khmer Rouge systematically wiped out whole classes of society.

The Khmer Rouge is a subsidiary of China. Without Chinese money and materiel and subtle pressure on Thailand, the Khmer Rouge would have shriveled and died after the Vietnamese invasion dislodged it from power. With Chinese help it is once again a contender for supreme power in Cambodia. The Vietnamese army, which was the only important obstacle to the Khmer Rouge return to power, has been removed. The Cambodian people are not confronted with re-establishment of the genocide that symbolized Pol Pot's rule.

The Khmer Rouge say they will behave differently should they return to power. They say they have revised their beliefs and goals and changed their leadership. But refugees report that in the border communities controlled by the Khmer Rouge, they rule as they ruled in Cambodia—by terror—and that no matter who has the title, Pol Pot still has the power.

Can the United States have a good relationship with a country that makes war on its own dissidents and arms the Khmer Rouge? Henry Kissinger says the brutality of the attacks at Tiananmen Square was "shocking and even more so the trials and Stalinist-style propaganda that followed. Nevertheless, China remains too important for Americans and national security to risk the relationship on the emotion of the moment.

Milovan Dalas says to the contrary: "The true political realists in the West and East are only those who refuse to accept tyranny."

I think they are both right. We should maintain a relationship with China while facing squarely both moral and geopolitical realities. China is important, and it is in our interest to have normal relations with a major regional power. But realism does not require us to enhance the power of that government—or any whose practices violate democratic values.

IN HONOR OF ASSEMBLYMAN OLIVER KOPPELL

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. ENGEL. Mr. Speaker, on Thursday, October 26, 1989, my good friend, New York State Assemblyman Oliver Koppell, will be honored by the Kingsbridge, Riverdale, Van Cortlandt Development Corp.

I have known Oliver Koppell for over 17 years and had the privilege of serving with him for 12 years in the New York State Assembly.

Assemblyman Koppell can only be described as one of the best and the brightest that government can offer the people of New York. Since his election to the New York State Assembly in 1970, Oliver Koppell has distinguished himself on numerous occasions.

Formerly chairman of the environmental conservation committee and the committee on corporations, authorities and commissions, he now serves as chairman of the prestigious judiciary committee. He has authored over 1,000 bills during his career and has seen well over 100 of them signed into law.

Oliver Koppell provides exemplary service to his constituents by maintaining several district offices. His popularity is evidenced by the fact that he has been reelected 11 times.

I count Oliver Koppell among my closest friends. He has always been there when I have needed him. I am delighted to join the Kingsbridge, Riverdale, Van Cortlandt Development Corp. In honoring a very distinguished public servant, Assemblyman Oliver Koppell.

CHANGE YOUR CLOCK, CHANGE YOUR BATTERY

HON. Carl D. Pursell

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. PURSELL. Mr. Speaker, I would like to bring to the attention of this Congress and the citizens of this country the campaign for "Change Your Clock, Change Your Battery."

As the weekend approaches when daylight saving time ends, it is recommended that we also mark this time as one to change the battery in our smoke detectors. This once-a-year task can eliminate the neglect that is a significant factor in newly emerging trends that show the death toll from home fires plateauing, even rising, despite an all-time-high smoke detector usage rate of 80 percent.

Change Your Clock, Change Your Battery, is a program endorsed by the International Association of Fire Chiefs and the American Burn Association. The benefit of a working smoke detector provides critical early warning and escape time, and can double the chances of surviving a fire. A working flashlight facilitates a safe, swift exit by cutting through smoke and darkness—most home fires occur at night—or providing a signal for help.

Mr. Speaker, I sincerely and enthusiastically endorse this project, and encourage everyone to change your clock, change your battery this weekend.

Another aspect of the project is providing a first-of-its-kind award for making a visible and significant difference over the course of the year in the safety of communities through programs that increase the level of placement and maintenance of smoke detectors. I am proud that this award is being presented to my constituent, M. Leora Bowden, who is chief social worker at the renown University of Michigan Burn Center in Ann Arbor, MI.

Ms. Bowden's work has focused on fire and burn education programs for children. She set a personal objective to train firefighters throughout Michigan on how to counsel juvenile fire starters and their families so that every community would have access to such a troubleshooter. Believing that prevention is as important as fire suppression, Ms. Bowden also has worked to help fire departments in Michigan put into place broader fire safety education programs for the community.

"Smoke detectors are our best solution because they are our simplest solution," says Bowden. "If we can keep that concept in focus, we can spare a lot of innocent lives and a lot of human suffering." Ms. Bowden also has worked with community groups and the K Mart Corp. to distribute free smoke detectors to needy families as part of holiday gift packages.

Mr. Speaker, I commend the efforts of M. Leora Bowden and all those involved in the Change Your Clock, Change Your Battery Program, and hope my colleagues and constituents will participate in the program this weekend.

INTRODUCTION OF NP-5 PROGRAM ACT AMENDMENTS OF 1989

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. DONNELLY. Mr. Speaker, I am introducing legislation today to extend and make modifications to the highly successful NP-5 Visa Program enacted as part of the 1986 Immigration Reform and Control Act.

Mr. Speaker, in 1986, I offered an amendment to the 1986 immigration legislation to deal with the serious problems faced by residents of the traditional "seed" countries of immigration to the United States. These countries—primarily from Western Europe—have suffered a precipitous decline in immigration since 1965, when Congress last dealt with the issue of legal immigration.

The problem stems from the current focus of our immigration laws on family reunification. Although I support the concept of family reunification in our immigration laws, it's equally important that the laws don't discriminate against people who have no immediate relatives in the United States.

The NP-5 Program, then, was designed to address this problem on a temporary basis until Congress can deal with legal immigration issues. The NP-5 Program required the Secretary of State to come up with a list of countries determined to be "adversely affected" from the 1965 law. The Secretary published a list of 37 countries, residents of which qualified for 5,000 NP-5 visas in 1987 and again in 1988. Last November, President Reagan signed an extension of the NP-5 Visa Program through 1990. That legislation increased the number of visas available to 15,000 per year.

Mr. Speaker, Congress has still not addressed the issue of legal immigration in any comprehensive fashion. Although the Senate has passed legislation which balances the need for family reunification with a recognition of the special problems of the adversely affected countries, that legislation has not been acted on by the House. This makes the need for another extension of the NP-5 Program all the more pressing.

My legislation extends the NP-5 Program for 5 years, with 15,000 visas available in each year through 1995. It authorizes a new lottery pool because I believe the existing pool may be outdated. In addition, it codifies a definition of "adversely affected" country and makes needed technical corrections to the implementation of the program. I would urge the House Judiciary Committee to act promptly on this legislation.

TECHNICAL DESCRIPTION OF THE NP-5 PROGRAM AMENDMENTS OF 1989

1. 5-YEAR EXTENSION OF NP-5 PROGRAM

Present Law

The Immigration Reform and Control Act (IRCA) of 1986 established the NP-5 Visa Program. Under the initial Act, 5,000 visas were available in 1987 and 1988 for countries determined to be "adversely affected" from the 1965 Immigration Act. A country was "adversely affected" under the 1965 Act if it had suffered a precipitious drop in immigration since the Act's implementation. The Immigration and Naturalization Service identified 37 "adversely affected" countries.

The Immigration Amendments of 1988 (P.L. 100-658) extended the NP-5 Program for two additional years, through 1990. In addition, the 1988 legislation increased the number of visas available under the program to 15,000 per year.

Visas are awarded under a lottery under the NP-5 program. The lottery was held shortly after the implementation of the program; visas are awarded from applications received during the initial lottery.

Explanation of Provision

Under the bill, the NP-5 Program is extended for five year, through 1995. As under present law, 15,000 visas are available in each of those five years.

The bill also authorizes a new lottery to award the visas because of concern that the existing lottery pool is outdated. Under the new lottery, visas would be awarded based on the chronological order in which applicants apply. If one applicant submits more than one application, all applications on behalf of that individual would be voided.

The legislation also requires the State Department to report to the House and Senate Judiciary Committees by June 1, 1990 on their plans for implementing the new lottery.

2. REVISION OF DEFINITION OF ADVERSELY AFFECTED COUNTRY

Present Law

The Department of State published a list of 37 countries determined to be "adversely affected" from the 1965 Act. The Department's rationale for its method of implementation was promulgated as an Interim Rule on January 14, 1987 (53 FR 1447) and as a Final rule on May 13, 1987 (52 FR 17944).

Explanation of Provision

The legislation codifies a definition of "adversely affected" country. Under the bill, a country is "adversely affected" from the 1965 Act if, in fiscal year 1985, the total number of immigrants from that country is less than 60% of the average annual number of immigrants from the country between fiscal years 1957 and 1965. A special rule is provided for countries that were adversely affected under the NP-5 program created in the 1986 legislation if, in 1985, many immigrants from such countries (such as Poland) were refugees.

3. ADDITIONAL TECHNICAL CORRECTIONS TO IMPLEMENTATION OF NP-5 PROGRAM

(a) Waiver of Two-Year Foreign Residency Requirement

Present Law

Foreign Nationals who are in the United States on temporary visas (such as, for example, educational "J-1" visas) may not apply for an immigrant visa until they have returned to their home country for two years. The Secretary of State and Attorney General have discretion to waive this two-year foreign residence requirement in certain cases. Under present law, it is unclear whether this requirement applies to individuals who are awarded NP-5 visas.

Explanation of Provision

The bill waives the two-year foreign residency requirement for individuals who receive an NP-5 visa.

(b) Relation to Nonimmigrant Status

Present Law

Foreign nationals may be precluded from receiving nonimmigrant visas if they have expressed an interest in immigrating to the United States.

Explanation of Provision

The legislation clarifies that an applicant for an NP-5 visa who does not receive the visa will not be precluded from applying for a nonimmigration visa.

(c) Carryover of Unused NP-5 Visas

Present Law

A total of 40,000 NP-5 visas have been authorized between fiscal years 1987-1990. Visas are awarded on a fiscal year basis; thus, if all visas have not been awarded by the end of one fiscal year, the un-allocated visas are lost forever.

Explanation of Provision

The legislation provides that unused or un-awarded NP-5 visas at the end of the fiscal year be retained. Thus, for example, if 5,000 visas were left unused at the end of fiscal year 1990, a total of 20,000 visas would be available in fiscal year 1991.

(d) No Denials of Visas for Failure to Have U.S. Employment

Present Law

Under present law, a consular officer may deny a visa to an applicant (including an NP-5 visa applicant) if, in the opinion of the consular officer, the applicant is "likely at any time to become a public charge" (8 USC 1192(a)(15)). Reports have surfaced that certain consular officers are interpreting this section of the law to require that the applicant have a job waiting in the United States before an NP-5 visa can be awarded.

Explanation of Provision

The bill clarifies that an applicant for an NP-5 visa does not need an offer of employment in the United States to be awarded an NP-5 visa.

4. STUDY BY GENERAL ACCOUNTING OFFICE

Present Law

Section 221(g) of the Immigration and Nationality Act (8 USC 1201(g)) grants to consular officers broad discretion to deny visas to certain classes of aliens.

Explanation of Provision

The bill requires that the GAO conduct a study on the number of individuals denied visas worldwide under section 221(g). The study would be required to compare the number of denials on a country-by-country basis, identify reasons for the denials, and compare the proportion of aliens who are initially denied visas under section 221(g) but who are later awarded visas. The report is due to the House and Senate Judiciary Committees on October 1, 1990.

5. EFFECTIVE DATES

The legislation is generally effective on enactment. With respect to the technical corrections described in item 3, above, the provisions are generally retroactively effective. The provisions relating to waiver of the two-year foreign residency requirement and relation to nonimmigrant status are effective as if included in IRCA, to visas applied for or awarded before, on, or after enactment of IRCA. The rules relating to carryover of unused NP-5 visas are effective as if included in PL 100-658. Finally, the clarification that no job is required is effective as if included in the 1986 Act.

A TRIBUTE TO THE SAGINAW COUNTY LEAGUE OF CATHOLIC WOMEN

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. SCHUETTE. Mr. Speaker, I would like to pay tribute today to the Saginaw County League of Catholic Women. The league will be celebrating its 50th anniversary at a special banquet on November 2, 1989.

The Saginaw County League of Catholic Women was founded by Bishop William Murphy with several local parish members on March 6, 1939. Its purpose was to promote religious, intellectual, and charitable work within the community. Historically, the LCW has focused on social charities and made contributions to the poor and the needy in the county. While in the past the league has raised money through banquets, fashion shows, and card parties, currently funding is derived entirely from membership fees.

The league currently supports many organizations, including Abortion Alternatives, Right to Life, the City Rescue Mission, the Jail Ministry, the Guest House, the Soup Kitchen, and the Underground Railroad. In 1945, the league founded the Guadalupe Center Clinic at St. Joseph's Parish to assist the mentally disabled. They also assisted in the founding of the St. Francis Home in Saginaw township for senior citizens.

The League of Catholic Women is a member of the Council of Social Agenices. In this capacity, it has donated several thousands of dollars to worthwhile agencies. The league has set up scholarships and supported several local needs programs. Recently, the league donated $500 to the leukemia fund for a local woman in need of a bone marrow transplant.

Mr. Speaker, I urge my colleagues in the House to pay tribute to this very special group, the Saginaw County League of Catholic Women on the occasion of their 50th anniversary. Through the efforts of these selfless women, many lives have been improved and our entire society has been made better. This is something for which these people deserve to be very proud.

THE 65TH ANNIVERSARY OF BOY SCOUT TROOP 145

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. ENGEL. Mr. Speaker, this month, one of the oldest organization in the Northeast Bronx, Boy Scout Troop 145 is celebrating its 65th anniversary.

Though a small troop, it has the distinction of having had 98 boys achieve the rank of Eagle Scout over the last 65 years. Young men who have been members of Troop 145 have gone on to prestigious universities extending from MIT to the military academies and then have gone on to hold professional positions in our society.

I congratulate the sponsors of Scout Troop 145, the Parents-Teachers Association of the Rose E. Scala School, P.S. 71 as well the Tremont Terrace Moravian Church, which provides meeting space, for being so supportive of the scouts. The strong commitment of the community has been the key to its success. I also wish to commend the current scoutmaster John Bratumil, as well the parents of the scouts, for their devotion.

Boy Scout Troop 145, keep up the good work.

PERSONAL EXPLANATION

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. CLEMENT. Mr. Speaker, on October 18, 1989, I was unavoidably detained from reaching the House floor to record my vote on passing House Joint Resolution 423, short-term continuing appropriations for fiscal year 1990—rollcall 302. Had I been present, I would have voted "yes" on final passage of House Joint Resolution 423.

CONGRESSMAN ANDREWS COSPONSORED H.R. 3443

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. OBERSTAR. Mr. Speaker, on Monday I added our colleague, MIKE ANDREWS, as a cosponsor to H.R. 3443, a bill to provide for the review of certain acquisitions of voting securities of air carriers. Because the cosponsor form was misplaced or lost after it was filed with the House, MIKE ANDREWS' name does not appear on the list of additional sponsors of the bill reported by the Committee on Public Works and Transportation. I want to assure MIKE ANDREWS' constituents that he is indeed a sponsor of this legislation. He and I have had valuable discussions about the need for this legislation, and I appreciate his interest, leadership, and contributions on this important issue.

HONORING STEVEN COHN

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. SOLARZ. Mr. Speaker, Brooklyn's rich and vibrant mix of communities and cultures is well represented by some of its most outstanding local leaders. Steve Cohn is one such leader.

Steve is a native son of Kings County. He's a product of P.S. 122, Boys High School, a brief exile in Manhattan to earn a B.A. at New York University, and a triumphant return to Brooklyn Law School where he received his J.D. He also holds a master of laws from NYU Law School.

As a practicing attorney in Brooklyn, Steve has earned a reputation for scholarship and legal acumen. He has brought his considerable talents to the service of his neighbors, donating thousands of hours of pro-bono legal assistance to the community.

Steve has argued such renowned cases as the Garbage Barge case and helped set the precedent which compels the Parking Violations Bureau to pay a wronged citizen when it makes a mistake. Steve also worked to protect free speech rights in the poster law case which protects individuals from receiving more than five summonses from the city.

His successes in these landmark cases have never blinded Steve to the most basic concerns of his neighbors. Whether fighting the terrible drug menace or working to make the intersection of Tillary and Adams Streets safe for pedestrians, Steve never forgets the day-to-day lives of the people of Brooklyn.

Steve Cohn's many "mitzvot" extend far beyond the courthouse steps. He serves as the president of the Brooklyn Heights Chapter of B'nai B'rith, and on the board of the North Brooklyn Development Corp., Camp Hatikvah, as vice-chair of the Brooklyn Bar Association Family Law Committee, as a trustee of Congregation Tifereth Israel, the Brooklyn Law School Alumni Board and the Independence Community Center.

Steve's neighbors have recognized his abilities and his outstanding record by electing him for the past 7 years to the post of district leader/State committeeman from Brooklyn's 50th Assembly District, a district which includes Fort Greene, Greenpoint, Williamsburg, and downtown Brooklyn.

Mr. Speaker, I would be remiss if I failed to note that in addition to being an outstanding public servant and exemplary neighbor, Steve Cohn is also a good friend. He is a man of rare decency and keen insight. I am proud to call him my neighbor, my friend, and my colleague.

ONEROUS QUICK FIX

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. MURPHY. Mr. Speaker, today I am introducing legislation which will undo one of the mistakes we made 3 years ago in another futile attempt to balance the Federal budget. This bill is the House counterpart to S. 1644.

One of the more onerous quick fixes we used to increase Federal revenue was to pass a substantial increase in the special occupancy tax stamp fee paid by liquor license holders. The increase, from $100 to $250, has had a demonstrable effect upon the small tavern, restaurant, and barowners. The very small, mom-and-pop-style operations that are all too common in my district have been hurt by this increase.

My legislation would repeal this increase and roll the fee back to its previous $100 level. Mistakes like this one happen because Congress is not serious about deficit reduction and until we get serious, we will go on fooling no one but ourselves.

Previous attempts to raise big revenue by sneaking in little tax increases hurt the people who can least afford it. Whether it is raising taxes on utilities or fees for taverns, we are sending the wrong message. Let's stop any future attempts to attack this budget monster with tiny and ineffective weapons. Let's begin by repealing this increase and working toward a more serious approach to the budget.

TWENTY YEARS OF SERVICE TO THE HOUSE

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. IRELAND. Mr. Speaker, it has recently come to my attention that Margaret "Peg" Donnelly-O'Beirne has completed 20 years of service here in the House of Representatives. Over the years many of us have had the pleasure of getting to know her very well as the result of the enormous number of day-to-day tasks she performs for the Members of this body. In the last 20 years Peg has risen from an entry level employee of the Architect of the Capitol to the job of Assistant Superintendent of Buildings. Her many duties include organizing the crucial room-filling event at the beginning of each Congress to overseeing our House personnel which numbers some 700 employees.

Margaret O'Beirne was born in Detroit, MI, to John Donnelly (deceased) and Anne S. Donnelly, who now resides in Erie, PA. Her aunt was the famed American painter, Sister M. Angelica Cummings. Peg grew up and attended schools in Meriden, CT, and then came to Washington and graduated from Immaculata College in 1969. Upon graduation she accepted a job on Captiol Hill with the Architect.

In her 20 years of service, here in the Halls of Congress, Peg has created a file which is filled with hundreds of letters of appreciation from Members of Congress, foreign dignitaries, congressional staff members, and members of the public. In 1980, she received a Distinguished Service Award from the Congressional Staff Club. She is always professional and courteous in her manner and is always informed when a Member has an emergency or merely a simple question. Despite her long hours in the Capitol, Peg finds time to assist several Washington area charities and also serves as the secretary of the Washington St. Patrick's Parade Committee.

Mr. Speaker, it is an honor for me to be able in such a public way to thank one of the people who normally receives no publicity for what they do to assist this body in its important constitutional functions. Margaret O'Beirne is one of those people who is not often recognized but without whose integrity, allegiance, and just plain hard work the House of Representatives would have a difficult time functioning. I am sure I speak for the membership when I say thank you Peg for your two decades of service and I look forward to working with you in the many years to come.

SHENANDOAH VALLEY CIVIL WAR SITES STUDY ACT

HON. JIM OLIN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. OLIN. Mr. Speaker, yesterday, I and two colleagues were pleased to introduce the Shenandoah Valley Civil War Sites Study Act, H.R. 3513.

The violent upheaval that threatened to destroy our young country—and which shaped its later development—is still visible in Virginia's Shenandoah Valley, which I represent along with my neighbor, Congressman FRENCH SLAUGHTER.

There were Southern victories here; there were Northern victories. The tragedy of war scarred not only the warriors, but practically every village and every family in the valley.

And while the battlefield sites remain identifiable, Mr. SLAUGHTER, Congressman MRAZEK—who is a Civil War scholar and a landowner in the Shenandoah Valley—and I are asking the Department of the Interior to study the feasibility of including significant Shenandoah Valley Civil War sites under the administration of the national park system.

An identical bill (S. 1770) has been introduced in the other body by the two Senators from Vermont and the two Senators from Virginia. Sponsorship in both Houses is bipartisan and a North/South mix. I invite others who share an interest in our Nation's history to join us as cosponsors.

The text of our bill follows:

H.R. 3513

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Shenandoah Valley Civil War Sites Study Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) there are situated in the Shenandoah Valley in the State of Virginia the sites of Civil War battles and campaigns that deserve consideration as national battlefield and historic sites; and

(2) concerned individuals and non-profit organizations have expressed interest in donating land in the Shenandoah Valley to the United States for the purpose of preserving sites of significant Civil War engagements.

SEC. 3. STUDY AND REPORT.

(a) STUDY.—The Secretary shall conduct a study to assess the suitability and feasibility of including Shenandoah Valley Civil War sites as units administered by or affiliated with the national park system.

(b) INCLUSION OF HISTORIANS IN STUDY TEAM.—The Secretary shall designate at least 2 recognized Civil War historians to participate in the study required by subsection (a).

(c) REPORT.—(1) Not later than 1 year after the date of enactment of this Act the Secretary shall submit a report to Congress describing the manner in which the study required by subsection (a) was conducted and the results of the study.

(2) The report required by paragraph (1) shall include an analysis of the effect that inclusion of Shenandoah Valley Civil War sites as units administered by or affiliated with the national park system would have on the economy in the Shenandoah Valley.

SEC. 4. DEFINITIONS.

For the purposes of this Act—

(1) the term "Secretary" means the Secretary of the Interior; and

(2) the term "Shenandoah Valley Civil War sites" means battle fields, historic sites, landscapes, and their associated structures and properties situated in the Shenandoah Valley in the State of Virginia that are thematically tied with the nationally significant events that occurred in this region in 1862 through 1864, including General Thomas "Stonewall" Jackson's "Valley Campaign" and the campaign of 1864 that culminated in the battle of Cedar Creek on the 19th of October, 1864.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary $150,000 to carry out this Act.

U.S. SENATOR AL D'AMATO OF NEW YORK

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. LENT. Mr. Speaker, every Member of Congress, whether Democrat or Republican, is, by nature, a politician. Because we represent the one occupation which serves at the pleasure of its constituency, we are considered part of the public domain and, therefore, subject to intense scrutiny and unceasing criticism by news reporters and pundits or the perennial opponent who always thinks he or she can do a better job.

But that's accepted as part of the deal when one runs for election to public office. I've served in public office for 27 years, yet I have never been able to tolerate unfair accusations against my personal or professional reputation by individuals who, motivated by their own bias or intentions, prefer to act ac-

cording to hearsay and conjecture rather than the facts.

During that time, I've weathered my share of controversies, as I'm sure many of my colleagues have, wherein we are attacked by the media, tried by rumor, and convicted by innuendo. Unfortunately, the sad reality is that protests of innocence and full disclosure of the facts don't sell newspapers. The penchant of the media for sensationalism and editorializing rather than reporting is disturbing, more so because it seems to be becoming the norm rather than the exception.

A case in point involves my good friend, New York's distinguished U.S. Senator, AL D'AMATO, who has earned a reputation in Congress as a powerful advocate for his constituents' interests. I'd like to take this opportunity to bring to my colleagues' attention an editorial by the New York Post, October 19, 1989, entitled, "On D'Amato—put up or shut up." The editorial points out that during the many weeks, even months, of public, media attention, not a single substantive charge has been made against Senator D'AMATO. And if there are no charges, then AL D'AMATO should be left alone so he can continue doing what he does best—being one of the most effective Senators New York has ever had.

The article is hereby submitted for inclusion in the RECORD of today's proceedings. Thank you.

ON D'AMATO—PUT UP OR SHUT UP

For many months now, New York's junior U.S. Senator, Alfonse D'Amato, has been the subject of vicious rumor buttressed by relentless press accounts implying serious wrongdoing.

No such wrongdoing has been documented, however. No illegality whatsoever.

D'Amato's 1986 Democratic opponent has filed a formal complaint with the Senate Ethics Committee, alleging misconduct on the senator's part. The Ethics Committee has yet to evidence any interest in the charges.

In the meantime, story upon story and editorial upon editorial have appeared in the press, all marked by sly innuendo. The goal, it would seem, is to destroy Al D'Amato's reputation.

Who loses from this effort?

Not just D'Amato, but also the ordinary citizen of the state of New York.

For rarely in recent history has New York been represented by a senator so adept at bringing home the bacon. In the tradition of the great Southern senators and congressmen—the men who chaired the key committees and racked up seniority—D'Amato has turned himself into a powerful force for New York interests in Washington.

Indeed, the fact that he will fight—and fight hard—for projects of concern to his constituents seems to be the source of many of his current difficulties.

D'Amato, for example, is alleged to have battled for federal funds in order to aid projects based in Israel and Puerto Rico. That New Yorkers have a special interest in both Israel and Puerto Rico seems manifest. That federal agencies are under no obligation to assist unworthy endeavors also seems plain.

Yet it is represented as some sort of crime that, say, the Agency for International Development was especially concerned about projects in which D'Amato was known to have an interest.

Would that other senators from New York over the last half century had inspired this sort of respect among Washington bureaucrats—a good deal more federal money would likely have come our way.

As for illegality, we wish the purveyors of innuendo would either put up or shut up.

Let the accused be confronted with his alleged misdeeds—that, in the end, is the American way. And if there's nothing with which to confront him, let's leave Al D'Amato alone.

After all, no one even contends that the senator enriched himself personally. Thus we're left with the notion that he performed favors in exchange for political support.

But D'Amato has had thousands upon thousands of campaign contributors. Some of them subsequently asked for his assistance in pursuing federal grants. Should he refuse to aid anyone who's supported his campaigns, lest *quid pro quo* charges be aired? Such a policy would make no sense.

As for the allegation that he has aided friends and relatives in improper ways, these claims remain utterly unsubstantiated—and some seem altogether empty.

By way of example, let's look at one of the major allegations—the charge that a D'Amato cousin received a HUD-subsidized house thanks to the senator's intervention.

The story has a couple of problems, not least the fact that the transaction in question took place in the summer of 1980, before D'Amato had been elected to the Senate (before, in fact, he'd even won the Republican primary). Then there's the ancillary fact that D'Amato's cousin earned only $12,500 a year, and was therefore entitled to the federally subsidized home.

Finally, it's also relevant—in view of the implication that this and other HUD-subsidized houses were promptly resold at significantly higher prices—that the senator's cousin still lives in the house.

As for unworthy political appointments, D'Amato—like virtually all public officials—has recommended some folks who haven't performed well in their posts. Seldom is it noted, however, that D'Amato has also recommended the appointment of dozens of stellar federal judges and regional administrators.

Make no mistake about it. The attacks have taken their toll. This campaign has not been without effect. D'Amato's standing in opinion polls has dropped. Those who had hoped to injure him are seeing results.

But New Yorkers are savvy. Eventually, they'll begin to wonder whether there's anything behind the endlessly repeated allegations. They'll wonder about the fairness of the anti-D'Amato effort. And they'll recognize that if D'Amato's Washington effectiveness is blunted, New York itself will suffer most.

IN HONOR OF ARCHBISHOP IAKOVOS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. GILMAN. Mr. Speaker, His Eminence, Archbishop Iakovos, the head of the Greek Orthodox Church, has been a great friend to Members of Congress for many years. He is an outstanding, dedicated religious leader, who has earned the respect of all who know of his many accomplishments.

The Greek community in this country is a strong, vital part of our society. This is due, in great part to the three decades of significant efforts by Archbishop Iakovos, who also serves as Primate of the Greek Orthodox Archdiocese of North and South America.

In celebration of the 30th anniversary of the enthronement of His Eminence, Archbishop Iakovos, the United Hellenic American Congress is hosting a major banquet in his honor on November 11, 1989, in Chicago, IL.

The Greek-American Community, and indeed all Americans owe a great deal to this spiritual leader of over 2 million Greek Orthodox faithful. He has worked tirelessly initiating reforms to bring vitality and unity to the Eastern Orthodox Church. I am honored to bring his many accomplishments to the attention of my colleagues.

TRIBUTE TO R.C. LONGMIRE, CONSERVATIONIST

HON. WES WATKINS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. WATKINS. Mr. Speaker, I rise today to pay tribute to Oklahoma conservationist Richard C. Longmire, Pauls Valley, OK. On November 4, 1989, the R.C. Longmire Lake will be dedicated in honor of this great Oklahoman involved in soil and water conservation on a county, State, and national level. While Mr. Longmire passed from this life on August 19, 1986, he or his accomplishments will not be forgotten.

Without question, had it not been for Mr. Longmire or others like him we would not have the effective soil and water conservation programs of today. He was a pioneer when it came to soil and water conservation. Having personally gone through the Dust Bowl days in the early days of statehood, he made sure that history would not be repeated in Oklahoma or the Nation. He was a persistent lobbyist for soil and water conservation legislation and funding.

No one has found out for sure what the initial "C" stood for in Mr. Longmire's name, but many suspect that it stood for "Conservation"; because even before the conservation districts were formed in Oklahoma in 1937, Richard Longmire was working to control erosion and stop the flooding in Garvin County. He worked long and hard in getting the conservation district law passed in 1937 and continued to work for passage of favorable conservation legislation both in the Oklahoma Legislature and in the U.S. Congress.

Records show that he made more than 250 trips to Washington, DC, visiting with Members of Congress, the President, and Department of Agriculture officials concerning conservation problems throughout the Nation. He helped organize the Garvin-Murray Conservation District, now Garvin Conservation District, and served on the board of directors since its formation in 1938 until the time of his death. It is believed that Longmire served as a conser-

vation district director longer than anyone in the United States.

He was a member of the board of directors of the National Association of Conservation Districts [NACD] for 18 years. He also chaired the legislative committee of the NACD and was the principal spokesman in this capacity on legislative matters to the U.S. Congress. In 1953, Longmire was named as a member of President Dwight D. Eisenhower's Commission on Small Watersheds.

He served as president of the Oklahoma Association of Conservation Districts in 1947 and again in 1970–71. He served 3 years on the Oklahoma Conservation Commission and was selected "Watershed Man of the Year" at the National Watershed Congress in 1972.

In addition to his interest in conservation, he served in a variety of civic organizations. Mr. Longmire operated a family farm and an agribusiness.

The lake that will be dedicated in Mr. Longmire's honor was constructed with funds available through the Soil Conservation Service's Small Watershed Program, Public Law 566. He would have been proud that his efforts for conservation continues today such as with this flood control, and municipal and water supply structure. It is appropriate that Dick "Conservation" Longmire be recognized for his great contributions through the name designation at this lake. It is also appropriate that we in the Congress give this tribute as well.

UNCLE SAM WAS RIGHT: THE SOVIETS LIED ABOUT THE KRASNOYARSK RADAR SITE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. BROOMFIELD. Mr. Speaker, I am proud to report that our Government told the truth about the real purpose of the Krasnoyarsk radar facility in the U.S.S.R. The Soviets just admitted that they lied about the mission of that radar site and violated the ABM Treaty in the process. I am disappointed that in past years some Members chose to believe Soviet lies rather than trust the administration. Thanks to our intelligence community, our Government knew the real purpose of the Krasnoyarsk facility and stood firm on its position throughout many days of heated debate on the issue. The administration took a hardline approach to this treaty violation and our strategy worked. The entire world now knows the truth about Krasnoyarsk and that station will soon be turned to dust.

This week, Soviet Foreign Minister Eduard Shevardnadze condemned the construction of the controversial Krasnoyarsk radar station in Siberia. He noted that the radar installation was a "clear violation" of the historic 1972 Anti-Ballistic Missile [ABM] Treaty between the United States and the U.S.S.R. He also noted that the construction of the facility had been concealed from the leadership of the Soviet Union.

For many years, both President Reagan and Bush clearly stated that our Government knew the real purpose of that electronic facility and wisely chose to focus attention on it. Krasnoyarsk was designed to detect and track ballistic missiles and coordinate defenses against missiles. Overwhelming evidence revealed that this was a serious violation of the ABM Treaty. Our Government dismissed Soviet claims that the purpose of the radar was to track space satellites and observed that the facility had been deployed to fill a gap in the U.S.S.R.'s early-warning system. The construction of this radar site was a Soviet attempt to ignore the ABM Treaty, which prohibits the deployment of radars inland. Our Government also told Kremlin leaders that removal of the radar was a condition for further strategic arms accords. It is unfortunate that this Soviet violation of the ABM Treaty was an impediment to the entire arms reduction negotiating effort of the United States.

The Soviets persisted in their falsifications. They invited a group of United States Congressmen to inspect the site and the group said that it was too soon to determine if the radar was a violation since the equipment was not actually deployed. Shortly after their visit, Soviet leaders announced that the United States claims that the radar violated the ABM Treaty "were without foundation," and noted that the delegation would not have been invited if the Soviet had been lying about the radar. Finally, the Soviets realized the folly of their duplicity and their efforts to convince the world that Krasnoyarsk was not what it really was. Soviet Foreign Minister Shevardnadze finally admitted to the Soviet legislature that the radar station was illegal, would be dismantled and that "ill-thought-out decisions can prove very, very costly."

The Soviet radar site was first observed by a United States intelligence satellite in 1983 and the Reagan administration, confident about its facts, immediately told Soviet leaders that the facility was a gross violation of the ABM Treaty. There is no substitute for quality intelligence for America's decisionmakers. Although men and women around the world risk their lives to obtain accurate and timely information for our intelligence community, its value is seen in this classic case study of how good information revealed Soviet duplicity about this important facility.

There is a happy ending to the saga of Krasnoyarsk. Uncle Sam spoke the truth and the Soviets just admitted that they deceived us and the world. Soon, Krasnoyarsk will be dismanted, the ABM Treaty is still intact, and the United States and the U.S.S.R. can get on with dealing with each other in an honest and open way.

DEPARTMENT OF VETERANS AFFAIRS TO HELP IN EARTHQUAKE RECOVERY

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. MONTGOMERY. Mr. Speaker, on October 19, I reported to my colleagues an assessment of the damage sustained by our veterans' medical facilities during the earthquake 2 days earlier in California. I also reported the courageous efforts of our dedicated staffs at the four veterans' hospitals in the region—particularly at Palo Alto where damage was severe—to ensure the safety of their patients.

Today, I am pleased to report that the Department of Veterans Affairs [DVA] continues to play a vital role in the earthquake recovery effort.

DVA staff and resources are being used to provide medical services to bay area citizens and to help in such areas as housing, structural engineering, and emotional counseling. The Department is supplementing its benefits and health care staffs in the region with personnel from other parts of the country.

The Department plans to intensify efforts to assist owners of homes with DVA-guaranteed mortgages and will provide benefit counseling through the San Francisco regional office, which has expanded its hours, and through the 17 disaster centers which are being established. The regional office also is determining the availability of DVA-owned residential properties which may be offered as temporary shelter in area communities.

DVA, recognized for its expertise in the treatment of post traumatic stress disorder [PTSD], is also helping victims deal with the emotional aftermath of the disaster. Teams from DVA readjustment counseling centers and mental health units which routinely treat veterans who suffer combat-related stress are joining community psychological support efforts.

Because of the large numbers of structures DVA owns in the region, special engineering teams are being assembled to survey seismic damage and determine building safety. These same teams will work with local governments which are facing a lengthy and complex process of reviewing structural damage.

Mr. Speaker, this unprecedented DVA effort is being coordinated with the Federal Emergency Management Agency which is responsible for bringing Federal assistive services to support local disaster relief and recovery operations. I know my colleagues will want to join with me in commending the Department and its employees for their integral role in assisting the citizens of California—both veteran and nonveteran—as they strive to recover and rebuild from this disaster.

OCEAN STRIP MINING

HON. JOHN MILLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. MILLER of Washington. Mr. Speaker, several times this year, I have come into the well of the House to speak about the nets that strip mine the oceans of fish, seabirds and marine mammals.

Mr. Speaker, last term I cosponsored the Drift Net Enforcement Act, which resulted in good agreements with Taiwan and South Korea and a weak agreement with Japan. I have told you before about high seas pirates stealing our salmon. Today, I want to update the House on four important actions related to drift nets.

First, Mr. Speaker, the Committee on Merchant Marine and Fisheries approved key amendments to the Magnuson Fishery Conservation and Management Act which further our resolve to end the use of large-scale drift nets on the high seas.

As we look around the world, we see that large-scale high seas drift nets pose major threats to the oceans environment as well as international trade. We now have evidence that illegally caught salmon from North America is processed in Thailand and sold to France. According to information I have seen, Thailand exported approximately 2,200 tons of salmon—including over 700 containers of pink and chum salmon—to Western Europe at prices roughly 30 percent below the market rate for legally caught and processed salmon. It appears that France is the primary market for this contraband salmon.

I have written to our State Department and to the Ambassadors of France and Thailand urging them to help us end this practice. If we cut off the market for stolen salmon, we will have won a major victory for our fishermen and our processing plant workers.

Not only do high seas drift nets threaten the jobs of people who work in the fishing industry—they also threaten our environment. To this end, I have joined in cosponsoring two important resolutions on drift nets. One, introduced by Representative PETER DEFAZIO, H.R. 3496, would prohibit the importation of fish or fisheries products caught by high seas drift nets. The other, by Representative FALEOMAVAEGA, House Concurrent Resolution 214, would prohibit the importation of fish and fisheries products from American Samoa. This resolution is aimed at protecting valuable Albacore tuna stocks from depletion.

Under H.R. 3496, the Secretary of Commerce would prepare a list of species known to be caught by drift nets. The United States would then forbid the importation of these species or their byproducts from countries which conduct drift net operations or from countries which process these fish.

I have spoken at length before about the threat to the salmon fisheries off Alaska, Washington, and Oregon. But let me remind my colleagues that other species—including Albacore tuna—are also threatened. West Coast Albacore catches have dropped from an average of 17,500 metric tons to just 5,000 metric tons last year. Dockside sampling of tuna landed has shown that many are marked by drift nets. Because this tuna is often bruised, it is canned and shipped to the United States, where most of the canned tuna is purchased. A majority of imported tuna is caught by drift nets. Under this bill, we are not calling for a ban on drift netting. Rather, we are saying that if a country continues to practice high seas drift netting, it will not be able to enjoy access to the U.S. market.

However, many countries are calling for a ban on all large scale drift net fishing. For example, 15 countries from the South Pacific recently called for negotiation of a regional convention to establish a drift net free zone. This initiative, commonly known as the Tarawa agreement, was endorsed by the Merchant Marine and Fisheries Committee. The leaders of the South Pacific deserve the support of the United States. House Concurrent Resolution 214 calls upon the United States to join in these efforts.

Finally, Mr. Speaker, later this week, the Committee on Merchant Marine and Fisheries and the Committee on Ways and Means will hold a hearing on H.R. 132, a bill introduced by our colleague, DON YOUNG, to expand the Pelly amendment. The Pelly amendment provides for an embargo of edible seafood products from countries which violate our fishery management, conservation and environmental protection laws. Our existing laws are outmoded and H.R. 132 will give an updated and improved tool to discourage environmentally destructive fisheries.

Mr. Speaker, drift net fishing continues to pose a major threat to the ocean's ecology and commercial fisheries around the world. Let us, as a Congress, take the steps needed to ensure the United States continues to be a leader in calling for an end to these fisheries.

WAIVER OF STATE ASSISTANCE REQUIREMENT FOR FEDERAL APPROVAL OF CERTAIN TYPES OF FINANCIAL ASSISTANCE

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. CAMPBELL of California. Mr. Speaker, a number of private schools and colleges are worried that State restrictions, specifically those that prohibit private schools and colleges from receiving State funds, could interfere with the ability of the Federal Government to provide assistance to these institutions. In particular, there is a concern that FEMA could interpret these restrictions to mean that it may not provide any assistance to these private schools. This would be highly unfortunate given the devastation that these institutions of learning have recently suffered in California. This would also be unfair. Only private schools and colleges would be so affected; all other private firms or institutions are immune from this threat.

Report language that accompanies the continuing resolution clarifies that nonprofit educational institutions, damaged as a result of Hurricane Hugo or the Loma Prieta earthquake, may receive Federal assistance under the Robert T. Stafford Disaster Relief Emergency Act without regard to whether or not State assistance may be provided with respect to such damages. This language does not create any preferential treatment; it merely provides that these institutions be eligible to receive their fair share of Federal assistance.

Given the devastation that these private institutions have suffered, the House does expect the administration to follow the direction of this report language. In my district alone, estimates indicate that schools and colleges may have suffered between $150 and $200 million in damages. Institutions in the greater bay area such as the University of San Francisco, the University of Santa Clara, Golden Gate University, and a host of secondary and primary schools will likewise be hardpressed to rebuild their facilities. In too many cases, the cost of earthquake insurance was so high that our private schools were simply unable to purchase adequate protection. And now they could be left to fend for themselves, leaving students without the opportunity to receive proper instruction, unless the intent of this language is adhered to.

Mr. Speaker, I would like to thank the Committee on Appropriations for coming to the rescue of our schools and including this provision in the report language. In particular, I would like to thank my colleagues Chairman WHITTEN and Representatives LEWIS, FAZIO, TRAXLER, and LOWERY. All of these fine individuals, and their staffs, were very helpful, having done the extra work necessary to make this provision a reality.

INTRODUCTION OF LEGISLATION PROHIBITING INTERSTATE DISTRIBUTION OF COMPUTER VIRUSES

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. MARKEY. Mr. Speaker, today I join with Congressmen RINALDO, RICHARDSON, RITTER, SLATTERY, COOPER, WYDEN, MCMILLEN of Maryland, HERGER, and BRYANT in introducing legislation that will discourage interstate computer virus attacks of our Nation's computer and telecommunications networks.

Increasing the statutory protection of America's computer and telecommunications networks is vital to our progress as a nation and a society. As hard as it may be to imagine, the exponential explosion of computer and networking technology we have witnessed over the past decade is literally just the tip of the iceberg. The next decade promises a more rapid and more extensive infusion of computing and communicating technology into our lives.

Soon, our Government plans to begin development of the next generation of the main computer network supporting the U.S. research community. Once completed, data will travel on it at a rate of 3 billion bits per second—many thousands of times faster than on its predecessor, Internet. More academic, government, and business research facilities will be connected than ever before, and each will enjoy greater access to the latest generation of American supercomputers. If attacked by a computer virus, however, the damage can be expected to spread that much faster and be significantly more extensive.

Outside the research community, intelligent, high-speed networks with integrated voice, data and video services to the home, office, and classroom are on the horizon. They too, would be vulnerable.

This bill was developed in response to concerns raised in the aftermath of the November 1988 computer virus that literally shut down Internet, the U.S. research community's main computer network. In formulating this legislation, however, consideration was also given to the computer security concerns that the General Accounting Office identified in its report on the Internet virus attack, as well as to broader concerns raised during hearings on

the vulnerability of national telecommunications networks to computer viruses, held on July 20, 1989, by the Subcommittee on Telecommunications and Finance. As a result, this bill's protections extend to all interstate government, business, and educational computer networks, whether public- or private-switched, as well as to the Nation's telephone networks—80 percent of which are switched by computers.

This bill recognizes that there is no technological defense capable of deterring computer virus attacks. Consequently, it is based on the premise that strengthening Federal laws to facilitate the timely, effective prosecution of computer virus crimes may, in turn, strengthen whatever deterring effect our system of justice has on the propagation of computer viruses. Accordingly, this bill makes clear the criminal nature of implanting a computer or network virus and related activities, provides a more comprehensive definition of damages, establishes more extensive fines and penalties, and gives computer virus victims the option of choosing either a Federal Communications Commission or civil remedy. I urge my colleagues to support this bill to provide today's—and tomorrow's—computer and telecommunications networks with greater statutory protection from computer viruses.

BUFFALO SABRES CELEBRATE 20TH ANNIVERSARY SEASON

HON. BILL PAXON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. PAXON. Mr. Speaker, I rise today to salute the Buffalo Sabres, Buffalo, NY's professional hockey team, which is celebrating its 20th anniversary season this year.

For the past 20 years, the Sabres have provided exciting memories for Buffalo hockey fans, and this year's team promises to be one of the best ever.

The 1989–90 season will be full of nostalgia as Sabres fans and players, both new and old, recall their most memorable moments.

Who can forget the speed and grace of number 11, Gilbert Perrault, and his teammates Rene Robert and Rick Martin, the "French Connection?" Other greats include some of the Sabres all-time scoring leaders: Danny Gare, Craig Ramsey, and Don Luce and on defense; Jerry Korab and Jim Schoenfield. Fans too young to remember the Sabres earliest seasons have players like Phil Housley, Dave Andreychuk, Mike Foligno, and Pierre Turgeon as their heroes. Behind the bench, former coach Scotty Bowman broke the NHL record for most coaching wins in history.

Former Sabres coach, Joe Crozier, made some of the proudest Sabres moments by leading them to the final round of the Stanley Cup playoffs in 1975. I will always remember that series against the Philadelphia Flyers, which was interrupted briefly when the ice at Buffalo's Memorial Auditorium was enshrouded by fog. Although the Sabres eventually lost the series, 4 games to 2, the pride every Sabres fan felt for their team that year is unforgettable.

The Sabres have always enjoyed the faithful support of the Buffalo fans, through good times and bad. The 1989–90 season just might be the one Sabres fans have been waiting for. General Manager Gerry Meehan and new head coach Rick Dudley have high expectations for this squad.

Mr. Speaker, I would like to take this time to wish the Buffalo Sabres the best of luck and success for this season. I am sure that the entire Sabres organization would like to mark this anniversary season by bringing the Stanley Cup home to Buffalo.

SALUTE TO THE POKE RUN PRESBYTERIAN CHURCH

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. MURTHA. Mr. Speaker, the congregation of the Poke Run Presbyterian Church of Apollo, PA, will be celebrating the 100th anniversary of the Poke Run Academy Building on Sunday, October 29, 1989. I would like to extend my congratulations and best wishes to the congregation on this happy occasion.

The people of Apollo have seen a great deal of change in the last 100 years. The American Industrial Revolution brought prosperity to the region, and Apollo became one of the many western Pennsylvania towns that benefited from the growth of the steel and coal industry. The later downturn in these industries brought difficult times to this area, but the spirited people of Apollo, like others in western Pennsylvania, have persevered and are now diversifying and benefiting from an economic turnaround.

Throughout this period, the Poke Run Presbyterian Church has been a place for the people of Apollo to gather, to worship, and to share their joys and sorrows. As it heads into its second century, the Poke Run Presbyterian Church remains a source of strength and stability for the Apollo community. I salute the Poke Run Presbyterian Church and wish them another 100 years of prosperity and community service.

OVERRIDE OF PRESIDENTIAL VETO OF H.R. 2990

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. MFUME. Mr. Speaker, let me express my sincere regret at having missed this important vote. Had I been present, however, my vote would have been "yea," consistent with my previous votes on the issue.

Mr. Speaker, I rise today to join in the debate over the issue of Federal funding for Medicaid abortions for rape and incest victims. No single issue seems to evoke such vociferous and eloquent debate as abortion. Clearly this debate must continue as long as poor women are repeatedly denied the same rights which women of means seem guaranteed.

Let's stop hiding behind the feeble and redundant argument of morality and fess up; admit to the President, to ourselves, and to the Nation that poor women who are victims of rape or incest are the real victims. They are victims of poverty. Poverty, Mr. Speaker, by far has a more exacting toll than nearly every other criminal act conceivable. It victimizes entire families, especially children, or a daily, long-term basis and unfortunately has no discernable perpetrator that continues to destroy lives unchallenged. That, Mr. Speaker, is truly criminal.

Just as we all readily admit that rape and incest are hideous, reprehensible acts of brute violence, we must also be ready to admit that these are not merely womens' issues any more than abortion is merely an issue of morality. Abortion is ultimately an individual's private choice. Everyone, regardless of their socioeconomic status, should have the right to make choices, not just those with the money to buy choice.

As a victim of rape or incest, a woman's right to choose motherhood or not, has already been taken away. Will we then exacerbate the situation and further diminish her rights by denying access to abortion?

I am personally opposed to abortion, however, I am equally opposed to dictating that one segment of society has rights over another, based on economics, gender, or moral disposition. We cannot legislate opinions or judgment; neither should we attempt to regulate morality by taking away rape and incest victims' right to choose abortion.

The morality argument against the right to choose abortion, particularly in denying Federal funding for Medicare abortions, smacks of hypocrisy. Fervent efforts to restrict abortions among our Nation's poor, should be coupled with equally fervent efforts to deal swiftly and definitively with rapists and incestuous persons. These efforts should also be directed at improving the quality of life for those children already among us. Namely we should be sincerely committed to eradicating poverty and infant mortality as many of our Nation's children live in poverty.

THE LAW ENFORCEMENT OFFICERS MEMORIAL

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. WALSH. Mr. Speaker, I rise today to pay tribute to America's law enforcement officers, and to herald the long-overdue construction of a memorial to officers who have died in the line of duty.

The Law Enforcement Officers Memorial, as my colleagues know, will be built on Judiciary Square on three acres of federally owned park land in Washington. Other than this donation of land no Federal money will be spent. So far, more than $4 million has been raised from corporations, police groups, and some 400,000 individuals toward a goal of $5 million.

About 30,000 law enforcement officers have been killed on duty in the history of the United

States. In 1988, 161 were killed, 21,000 were injured, and 58,000 were assaulted. Of the more than 500,000 active law enforcement officers in the United States, 1 is killed every 57 hours. These are our casualties in the war on crime.

Groundbreaking is set for October 30, of this year, and we hope the memorial will be ready for a Peace Officers Memorial Day ceremony on May 15, 1990.

It is important to note that the memorial will not only pay tribute to the slain men and women, but will also recognize all who serve as law enforcement officers in the United States.

It is fitting that, as we heighten our national awareness of drugs and their effect on crime in our country, we now honor the law enforcement people in each community who have to face these hard facts every time they begin a work-shift:

Violent crime has increased 30 percent in the last 10 years.

A violent crime is committed in America every 20 seconds.

On average, 104 Americans are assaulted every hour.

I ask my colleagues to remember these fallen warriors, and those of their comrades who still fight the battle every day—as all Americans will remember them, thanks to this Law Enforcement Officers Memorial.

VETERANS OF FOREIGN WARS NATIONAL HOME HONORS MRS. FRANCES ROSSMAN

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. WOLPE. Mr. Speaker, I rise to pay tribute to a special constituent of mine, Mrs. Frances Rossman. She is being honored by the Veterans of Foreign Wars National Home, Eaton Rapids, MI for her 40 years of dedicated service to the home.

The Veterans of Foreign Wars National Home is a residential facility established in 1925 on land donated by a local cattle baron, Corey Spencer, whose desire was to care for widows and orphans of deceased or disabled U.S. veterans. With the purchase of additional land, the national home's site is now some 640 acres.

On November 1, 1949, Frances Rossman began her employment at the national home as a general office worker. She has served in several capacities since then and recently is the executive secretary of the home life department. During these four decades, there have been many personnel changes, and numerous young people have lived at and since left the national home. Frances has provided a sense of stability to the institution and to those who have returned to "their home." Her colleagues know her for the special caring and concern she has always exhibited for each person with whom she has worked. Those who have lived at the home know how she goes out of her way to make the national home a special place for each resident.

Frances Rossman's commitment and dedication were recognized by her community when, in 1987, she was selected as the Eaton Rapids "Employee of the Year." In addition to her employment responsibilities of managing the secretarial duties of three administrator—which she does with extraordinary effectiveness and efficiency—she is an active member of the First United Methodist Church, and is also a contributing member of the Business and Professional Women's Organization and of the Rebekah Lodge.

Mr. Speaker, I am certain my colleagues will want to join with me in congratulating Mrs. Frances Rossman for the outstanding job she has done for 40 years as an employee of the Veteran of Foreign Wars National Home. I am honored to represent a constituent who has consistently manifested in so many ways her love for her fellow human beings and for her community. For her contributions and her inspirations, we are all in her debt.

SOCIAL SECURITY HEARINGS

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. RINALDO. Mr. Speaker, perhaps no single issue has generated more controversy and confusion among Social Security beneficiaries, than the earnings test. It has been the subject of congressional hearings, countless studies and reports, and become a key issue for many aging advocacy groups.

Simply stated, the earnings limits penalizes those beneficiaries under age 70 who, in many cases, are forced to work to supplement their benefits. Beneficiaries between 65 and 69 who continue to work are penalized if they earn more than the limit, losing a dollar of benefits for every two dollars earned.

The principal reason this is so unfair, Mr. Speaker, is the emphasis it places on earned, as opposed to unearned income. An individual can receive unlimited dividend and investment income and not lose a penny of Social Security benefits. But those who earned over the limit working part time in the town library or local department store—who often need this income the most—lose benefits.

In hearings not only before the Aging Committee, but before other congressional committees as well, we have repeatedly focused our attention on the operation of the Social Security system, and the fact that its popularity is due in many ways to its fundamental fairness. It is, after all, a partnership between the Federal Government and the workers of America. If you pay into the system, you earn a benefit.

But when we penalize those who have paid into the system their entire lives simply because they are forced to continue to work, we erode their confidence in the fairness of the system.

There are many other reasons why we must eliminate the earnings limitation. To begin with, keeping the current provision in effect ignores the changing demographics of the work force. With the continuing decline in the number of young workers, and the increasing demand for skilled labor, we can no longer afford to lock out the older worker with his experience and expertise. Thus, the earnings test discourages the participation in the job market of some of our most valuable employees.

The earnings test has become a bureaucratic nightmare as well. I have seen estimates that the Social Security Administration spends over $200 million a year, and uses 8 percent of its employees to monitor income levels. If we eliminate the earnings limit, we also reduce Social Security's administrative costs.

I am aware of the arguments against modifying the limitation. Some say it will be too expensive. Others believe only the rich will benefit from the change.

These arguments ignore the increased income and payroll taxes which would be brought in by senior workers returning to the work force. While it is unclear as to the amounts that may be involved, we would collect these additional revenues and remove the administrative expense of administering the test.

I am convinced the earnings limit is unfair and unjust. I am introducing legislation to phase out that arbitrary limit and I hope my colleagues will join me in removing this discriminatory provision of law.

PERSONAL EXPLANATION

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. GARCIA. Mr. Speaker, due to other engagements in my home district I was unable to vote in the House yesterday, October 24, 1989. If I had been in Congress I would have voted in the following manner:

House Joint Resolution 423, "yes."

H.R. 2916, "yes."

ACTION NEEDED ON DOE ENVIRONMENT, SAFETY AND HEALTH

HON. JAMES M. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. SCHEUER. Mr. Speaker, today I am pleased to introduce a bill that addresses one of the most serious environmental threats to our Nation. Unparalleled toxic contamination and the continuing lax safety precautions typifying the Department of Energy operations threaten each of us. The legislation that I offer will create by statute an Office of Environment, Safety and Health, within the Department of Energy [DOE].

Admiral James Watkins, the Secretary of Energy, is a proven, forthright, and effective leader. He has served his country brilliantly in a variety of positions. Admiral Watkins now faces a monumental challenge, and the time has come for Congress to match his sense of responsibility and commitment.

The veil of secrecy that had surrounded the Department of Energy's nuclear reactors and

weapons facilities has been lifted. It is now evident that DOE is one of the worst polluters in our country. In July of this year we adopted the Spratt amendment. This amendment authorized an additional $300 million for environmental remediation activities. Long-term estimates for the cleanup of DOE's environmental disasters now exceed $100 billion.

As chairman of the authorizing subcommittee for the DOE's existing program, I am familiar with both its strengths and weaknesses. The legislation that I offer will curtail the disastrous predilections of DOE field offices to ignore environmental and safety needs. It places the burden of adequate attention to safety and environmental concerns squarely on the shoulders of each worker. Yet, while shifting away from the production-at-all-costs agenda, the bill maintains a strong, independent internal oversight function within the Department of Energy.

The health and welfare of millions of citizens is at risk from toxic and radioactive contamination. Congress must join in the effort to change the Department of Energy's attitudes on environment, safety, and health from the ground up. The time to act is now. I urge my colleagues to join me in this endeavor by supporting this critical legislation.

SECTION-BY-SECTION SUMMARY

A BILL TO ESTABLISH WITHIN THE DEPARTMENT OF ENERGY AN OFFICE FOR ENVIRONMENT, SAFETY AND HEALTH

SEC. 1. Establishes the Office for Environment, Safety and Health.

SEC. 2. Creates the positions of Assistant Secretary for Environment, Safety and Health, Chief Environmental Officer, Chief Safety Officer and Chief Health Officer. The Chief Officers for Environment, Safety and Health, as well as the Assistant Secretary, will be chosen by the Secretary of Energy from a list of five nominees for each position that will be provided by the Advisory Committee on Nuclear Facilities Safety.

SEC. 3. Describes the functions of the Office for Environment, Safety and Health. These include the review and assessment of department activities designed to carry out the coordinated policy agenda set by the Assistant Secretary for Environment, Safety and Health. The Office will also obtain up to date information through technical liaison with outside experts; act as liaison for the Department of Energy with the Defense Nuclear Facilities Safety Board, and with other Federal agencies; report to the Congress on any amendments made to environment, safety and health activities; and report annually on results of review and assessment activities.

A SPECIAL RECOGNITION FOR THE MAINE RECIPIENTS OF THE NATIONAL ASSOCIATION OF SECONDARY SCHOOL PRINCIPAL'S AWARDS

HON. JOSEPH E. BRENNAN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. BRENNAN. Mr. Speaker, I rise today to honor two of Maine's exemplary education leaders, Marjorie Miller and Michael Timmons. They have come to Washington to receive special recognition from the National Association of Secondary School Principals for their efforts in education.

Both have dedicated their careers to improving education as well as encouraging community involvement in their schools. This important combination of combining academic excellence in the schools with community attention to that effort is critical to providing necessary quality education for our youth.

Marjorie Miller, an educator for 12 years, received the 1989 National Association of Secondary School Principals Maine Teacher of the Year Award for her work with students at the Longfellow Elementary School in Portland, ME. Ms. Miller is noted for her belief that the most profitable investment that American business can make is an investment in the K–12 programs that meet the educational needs of today's student.

Michael Timmons, principal of Windham High School in Windham, ME, was 1 of 52 school administrators recognized by the National Association of Secondary School Principals as principal of the year. Mr. Timmons has worked in education for 27 years and as a graduate of Windham High School, he represents to his students, teachers, and State that the best in educational achievement can occur through dedication.

Education remains a critical investment in the quality of life in our State of Maine and I am pleased to recognize the commitment to education these two individuals represent. They have been and will continue to be leaders for their colleagues, influential in their communities, and most important of all, inspiring educators for their students.

RICO

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. LAFALCE. Mr. Speaker, in 1970 Congress enacted the Racketeer Influenced and Corrupt Organizations Act, popularly known as RICO.

This law, as its name suggests, was intended to be used as a new tool in the fight against organized crime. It had several provisions designed to make prosecution of mobsters easier and to ensure that appropriate penalties would be imposed upon conviction of these nefarious criminals.

Among its provisions, RICO permits both the Government and private victims to bring civil cases against racketeers and, if successful, to recover "treble damages." In other words, a criminal would have to pay three times the amount of damages suffered by the plaintiff in such a case.

At a time when the drug problems of our Nation are becoming more and more serious, it is essential that our law enforcement system be in a position to act quickly, effectively, and aggressively against mobsters who would corrupt our youth and subvert the entire fabric of our society. RICO can be used as a major part of the fight against these individuals and groups.

But as sometimes happens, a law's intent isn't always followed when it is put into practice. And this has happened with RICO.

For example, whatever we may think of Lt. Col. Oliver North and his associates in the Iran-Contra situation, most of us don't view them as mobsters. But a fringe political group brought an action against North under RICO—in this instance the judge threw those charges out.

In another case, antiabortion protesters in Philadelphia were charged with violating RICO by the operators of an abortion clinic. Again, whatever view we may have on the abortion question, I don't think any of us view those who are simply speaking out and protesting nonviolently as racketeers, nor would we expect those on the other side to bring an action under an antiracketeering statute when there are dozens of other laws which have been on the books for centuries providing ample remedy with regard to any wrongs that may have taken place—laws dealing with trespassing, harassment, disorderly conduct, and the like. Surely, those laws and the remedies they provide would be more appropriate than to use an antiracketeering statute like RICO.

All of these examples are instances where, in my view, the intent of Congress isn't being followed by those seeking to use RICO as a way of achieving their goals. Judges, prosecutors, and private litigants have all played a part in bringing about this result.

To address this situation, I have introduced legislation eliminating use of RICO in circumstances where the actions complained against involved nonviolent activity in the course of carrying out moral or political protests. This very minor change will not impinge on the value of RICO as a prosecutorial tool when dealing with organized crime. Rather, it will clarify the statute to bring it in line with the true intent of Congress when it was initially enacted.

FUNDING FOR EARTHQUAKE VICTIMS

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. LEWIS of Florida. Mr. Speaker, yesterday, as is my custom, I voted against the continuing resolution.

As many of my colleagues are aware, I believe that the Government should be able to meet its budgetary schedule properly. Governing by continuing resolution is a terrible way to govern. In addition, these continuing resolutions are usually loaded with unrelated add-ons.

Unfortunately, my justified opposition to continuing resolutions has caused me to be in the unfortunate position of voting against emergency funds for the earthquake in San Francisco.

This earthquake was one of the most terrible disasters to strike the United States in the last century. I grieve for the victims and their families, and I believe the Government should do all in its power to help.

If the House had considered emergency help for these victims, I would have actively and wholeheartedly supported this funding. Unfortunately, I did not get this chance.

As the full extent of the repairs become known, I would like to let the people of California know that I will support any reasonable funding to help them out of their predicament, and that they are in my thoughts.

TRIBUTE TO THE LATE CHESTER KOCH

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. STOKES. Mr. Speaker, I am saddened to report the passing of Mr. Chester Koch, affectionately known as Cleveland's No. 1 patriot and perennial parade marshal. Mr. Koch died today after devoting many years of his life to veterans and the city of Cleveland. He will be sadly missed by those in the community who benefited from his special caring and efforts. At this time, I would like to share with my colleagues highlights of Mr. Koch's colorful career.

As Cleveland's first and only coordinator of patriotic affairs, Mr. Koch was the grand marshal for more than 100 Memorial Day and Veterans Day parades. In addition, he tirelessly aided war veterans, decorated servicemen's graves, and planted and tended the flags on Public Square located in the middle of downtown Cleveland.

Mr. Koch's mission began in early 1941 when he witnessed a group of soldiers on their way to combat in World War II leaving the city without a proper sendoff. A veteran of World War I, Mr. Koch decided then and there to form a send off committee for the young men going off to war. Immediately, he arranged to have bands send the next group of draftees off to camp. He got his old sergeant's brass whistle and personally led the men from draft headquarters in the Standard Building to the train terminal.

Then Mayor Edward C. Blythin was impressed by Mr. Koch's initiative and asked him to devote all of his efforts to dealing with draftees. In April 1941, Mr. Koch was named coordinator of patriotic activities by the city council, a post he held until his death.

In honor of Mr. Koch's long career of outstanding service to the city of Cleveland and to veterans, the city hosted a celebration at city hall in honor of his 95th birthday in 1987.

Mr. Speaker, I join many others in extending my deepest sympathy to Mr. Koch's family and his many friends. Our city will always remember and be grateful for the devotion and commitment he displayed throughout his lifetime. As we plan this year's Veterans Day celebration we will be reminded of the legacy of this patriotic and caring individual.

CARDINAL LASZLO PASKAI OF HUNGARY VISITS WASHINGTON

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. FEIGHAN. Mr. Speaker, this month, Cardinal Laszlo Paskai, Archbishop of Esztergom and the Primate of the Hungarian Catholic Church, visited Washington. Members of Congress, the American Hungarian Federation, and the Human Rights Caucus honored the Cardinal during his visit.

Cardinal Paskai has been involved in issues affecting church-state relations in Hungary. These issues include the future of the church in a reformed Hungarian society, the future status of Hungarian religious orders, religious instruction, and persecution of Hungarian Catholics in Transylvania, Romania. Cardinal Paskai was optimistic that freedom of religion in Hungary would eventually become a reality but that much work had to be done to cultivate the country's rebirth of religion. In Transylvania, religious persecution continues and it is incumbent upon the West to use its influence to require the Romanian Government to change its policy toward the church.

Mr. Speaker, we are pleased that the Cardinal-Primate visited the United States and he has left a feeling of good will and hope for the future of religious freedom in Hungary and Romania. Dr. Z. Michael Szaz, Secretary of International Relations of the American Hungarian Federation, is to be commended for his role in helping Cardinal Laszlo Paskai make his views known to Members of Congress. I wish the Cardinal well in his work.

A TRIBUTE TO ELKS LODGE 655

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. FLIPPO. Mr. Speaker, I rise in order to recognize the considerable efforts of the Elks Lodge 655 in Decatur, AL, in support of the National Red Ribbon Campaign against drug abuse.

The Elks Lodge 655 is the Morgan County sponsor of the National Red Ribbon Campaign which is being observed across the Nation during Red Ribbon Week this month.

This project seeks to focus the Nation's attention on the Drug-Free America Program and to ensure that all Americans through their business, school, churches, government, and other institutions are aware of the dangers of drug abuse and the benefits to our health and well-being of remaining drug-free. The symbol of each individual's commitment to that goal is the display of red ribbons during this week, October 22–29, 1989.

I would like to commend the efforts of President Bush and First Lady Barbara Bush, who serve as national cochairs of this program and the efforts of Elks Lodge 655 for sponsoring Red Ribbon Week in Morgan County.

Through everyone's efforts we can win the battle against drug abuse and the terrible consequences drug abuse has visited on our society.

"ALL ISLAND" MARCH

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. MACHTLEY. Mr. Speaker, I rise today to pay tribute to the Portsmouth, Newport, and Middletown Substance Abuse Task Forces who will sponsor the first "All Island" march against substance abuse on October 28, 1989.

This march is especially important because for the first time, the citizens will be responding not only in representation of their own towns but also as residents of Aquidneck Island. As well, people from all walks of life will join in the march to remind us that substance abuse is a problem shared by all members of society.

The walk will be a finale to Red Ribbon Week in Rhode Island. The week was held to create awareness of substance abuse and its impacts on community. Through establishment of effective parent/community substance abuse education in Rhode Island, the week sought to promote drug-free, healthy lifestyles.

I commend the coordinators of this march. The time and hard work they have put into Red Ribbon Week and the "All Island" march is a testament to their devotion and belief in their cause. Substance abuse has become a national crisis, but with the efforts of the Substance Abuse Task Forces, we have begun our journey to a drug-free country. As the old saying goes "A 1,000-mile journey begins with one step."

YOUTH'S LETTER GIVES FRESH PERSPECTIVE ON DRUG ABUSE

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. DWYER of New Jersey. Mr. Speaker, I rise today to share with you and with my colleagues a letter which I received this week from Neil Bernstein, a senior at Metuchen High School in New Jersey.

I do not know Neil, but as I read his letter, which is addressed to the Middlesex County prosecutor, I was struck by the clarity of his thoughts and the interesting perspective which he has brought to the question.

All of us in this Chamber, as we go about our routine business—as we react to the drug crisis in much the same way as we consider child care or the farm bill or any other legislative matter—would do well to reflect carefully on this young man's comments for they strike deeply at the core of the problem.

Law enforcement, drug education and rehabilitation all have an important place in the drug war, but so do the broader social questions which are raised in this letter. Opportuni-

ty for all of our citizens to participate fully in the fruits of this great society of ours may be politically more difficult to achieve, but exponentially more effective in redressing the problem.

Neil Bernstein's letter follows:

16 BEVERLY COURT
METUCHEN, NJ,
October 20, 1989.

Mr. ALAN A. ROCKOFF,
1 John F. Kennedy Square, P.O. Box 71, New Brunswick, NJ.

DEAR SIR: I attended your address on drug abuse delivered at Metuchen High School on Thursday, October 19, 1989. I was impressed by the fervor, sincerity, and tenacity of the law enforcement bureaucracy; evidently the administration has not decided to throw in the towel in this demoralizing war. However, I was deeply disturbed by the apparent lack of insight in the message. A government should not rely on emotion and spontaneous reaction; it should act with foresight and analysis.

The efforts of law enforcement agencies throughout my lifetime have proven themselves to be largely ineffective. The jails fill up; ton upon ton of cocaine is seized; celebrity after celebrity wails poignantly on a talk show about how he or she hopes to reclaim his or her life from the horror of addiction; but the users, abusers, and dealers still increase in numbers. Additionally, our efforts to "contain" the international drug trade often backfire. Does it really help our problem to ruin the stability of Colombia?

Evidently, a new approach to this problem is necessary. Two courses of action present themselves. The first, to legalize all presently illegal drugs, is unacceptable. We cannot wilfully create a nation of semi-conscious, self-destructive addicts. We cannot commit suicide. But the second course—to remove the reason for which people take drugs—seems to be eminently preferable.

At present we battle the addiction from the outside. We close our borders; we terrorize drug-exporting nations; we waste incalculable sums on overcrowded jails, unconstitutional searches and seizures, prosecutions which are often travesties of justice due to the impetus to come to a quick decision, and propaganda which is largely ignored because of its ubiquity. A message declines geometrically in power each time it is repeated. It should be realized that the only successful battle against drugs can be fought from the inside; by offering addicts an alternative to illicit "highs." At present we spend millions offering people a simple message: "If you take drugs, you will either die or go to jail." Not one cent of the taxpayer's dollar, however, is spent on offering an alternative.

It is human nature to seek out "highs." People without the will power, courage, or desperation to break the law turn to athletics, the arts, "adventure" in the classic sense. I believe that skiing the Canadian Rockies, or performing a beautiful piece by Chopin, affords just as potent a thrill as any created by the coca plant. However, people who cannot find these beauties, these dangers, these stimulations; whose wills have been crushed by the daily rigors and stresses of the inner city; whose hopes and futures have been narrowed by poverty; these people turn to crack, "ice," and marijuana as a way to transcend—if only for a few hours!—the sordid realities that surround them. Evidently, our alternative must compete with the allure of chemical illusions.

Our alternative, if implemented, will additionally destroy the entire tribe of people who surround the drug trade; the chemists, producers, suppliers, dealers, contacts, grafters, spies, soldiers, and common thieves who make their livelihoods from the public's consumption. Every address that I have heard on the topic has babbled some sort of a statistic or another about how much of the country's money is spent jailing links of the drug trade. For every link that is sundered, however, ten other links are scrambling to replace it. If the problem was attacked from the root—if the public no longer poured in the money required to pay all these middlemen and women—then the crime rate would be greatly reduced, as drug-related criminality would no longer be imperative.

My grand "alternative," therefore, is nothing complex. Earlier I alluded to the human desire to search for "highs." One searches for an illicit, life-threatening high when life is so desperate that no alternative is necessary. Naturally we cannot hope to make everyone's life rosy; to do would be unnatural. But if we made the majority of cities more habitable; if we offered hope to the slums where ninety-five percent of the crack trade flourishes; if we gave city and suburban dwellers alike pride in their community, respect for their law enforcement officers, trust in their local politicians—for once, a real trust that their safety was uppermost in the politician's mind, and not the drug bandwagon that is all too easy to jump on—and unlimited license to seek their own, natural highs . . . More fervor against the enemy will not scare them. Making them irrelevant just might.

Yours sincerely,

NEIL BERNSTEIN,
Senior, Metuchen High School.

EARTHQUAKE RELIEF ON THE CONTINUING RESOLUTION

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. BROWN of California. Mr. Speaker, yesterday I was unable to be here to vote on the continuing resolution, which contained disaster relief funding to respond to the earthquake damage in northern California. Had I been present, I would have voted "aye" on rollcall No. 299, 300, and 302, and "no" on rollcall No. 301.

As a Californian and the author of the National Earthquake Preparedness Program, naturally, I am very concerned about the risk to our society posed by earthquakes. I am pleased that the disaster relief funding is being provided expeditiously and without too much political jockeying. The damage caused by last week's earthquake is too serious a matter to be the subject of partisan politics.

I was forced to miss yesterday's votes because I was participating in a 3-day conference in Williamsburg, VA, on other issues dear to my heart. The conference, titled "Global Food and Technology Issues in the 21st Century," was an amazing collection of experts from the academic, business, political, scientific, and agricultural fields to discuss current trends in issues such as biotechnology, food safety, and world hunger. In attendance were the current and former Secretaries of Agriculture, the Secretary of Health and Human Services, the Commissioner of the Food and Drug Administration, and scores of prominent business executives. A few Nobel laureates were in attendance, as were Henry Kissinger and Eric Severeid.

Members of Congress face tough calls in arranging their schedules, since important events to which we should be in attendance so often take place in two different places at the same time. Since the Congress is in the midst of dealing with the difficult issues of reducing the risks posed by pesticides in our food supply, minimizing the problems raised by the advance of biotechnology, developing a means for combating world hunger, and helping create an agriculture policy that takes this Nation into the next century, I felt it would be valuable to have a Member of Congress in attendance at this important conference.

H.R. 3506 UNDERMINES CURRENT LAW

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. GALLO. Mr. Speaker, today the House will be asked to approve H.R. 3506 to provide a 3-year exemption from the immigration laws for people from El Salvador, Nicaragua, and mainland China.

While I am supportive of the need for a Federal policy that protects refugees from deportation, I cannot support this bill, which proposes a return to an ad hoc nation-specific refugee approach that is inherently unfair because it is piecemeal.

I strongly support the Chinese people in their struggle to break the bonds of oppression, but I believe H.R. 3506 is premature. Chinese individuals here in the United States are currently protected until June 1990. The INS has assured Congress that the exemption would continue until it is safe for individual Chinese to return to their homeland.

I believe H.R. 3506 undermines current law in several ways. It involves Congress prematurely and abrogates due process. It pushes aside the current immigration laws, which give the U.S. Attorney General the authority to grant protected status. It gives blanket status in three specific cases, but ignores individuals from nations not specifically covered.

I would encourage close cooperation between Congress and the administration on all of these questions and would hope that an ongoing review of all refugee cases be conducted within the current framework of Federal policy, taking into account the ever-changing world situation.

Mr. Speaker, this measure is premature and represents a piecemeal approach to the questions we face. I urge my colleagues to join me in opposing H.R. 3506.

INTRODUCTION OF LEGISLATION TO FOCUS THE NATIONAL HIGHWAY PROGRAM ON URBAN NEEDS

HON. WILLIAM O. LIPINSKI
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. LIPINSKI. Mr. Speaker, I rise to call attention to the Comprehensive Urban Transportation Program, which I introduced today. The bill will make great strides in addressing the greatest transportation need in our country today—the crisis of urban and suburban traffic congestion.

Since 1956 when President Eisenhower signed legislation creating the United States' 40,000-mile Interstate Highway System, Congress' Federal highway plan has revolved around constructing and maintaining the interstate network. As a result, Americans enjoy 43,000 miles of the world's most complete highway system, which connects every major population center and provides access to the Nation's most rural pockets.

However, during the same 33 years of the Federal focus on the interstates, the overwhelming national population shift toward urban areas has accelerated. The crucial urban transportation needs that have resulted have gone unaddressed by the National Highway Program. Eighty percent of nearly 20,000 respondents to a 1988 survey said that traffic congestion was a major problem in their community. Urban traffic is increasing by 6 percent a year and is expected to double in many areas by the year 2000. Although the 1991 expiration date of the current highway program draws near, there is still no national plan to address growing urban transportation demands.

This year Congress will have a chance to provide a new direction for the highway program as it formulates the 1991 highway bill. The interstate system is essentially complete, leaving a significant window of opportunity for Federal highway money. It is vital that the next highway plan address the crucial needs of urban surface transportation, with a strategic approach to congestion and planning for continued growth. The Comprehensive Urban Transportation Program will see that it does.

Even in 1987, when the current 5-year highway bill was drafted, the time was not ripe for a reorientation toward urban roads, although gridlock was already commonplace nationwide. City corridors and expressways have long been viewed as local responsibilities. Under the current program, interstate construction is granted $3.15 billion yearly, with $2.8 billion to interstate maintenance. An additional $3 billion to the Federal aid primary and secondary systems, which also concentrate funding in rural areas, makes it clear that the Federal agenda for surface transportation has largely ignored urban needs. In fact, the only Federal funding which is guaranteed the Nation's largest cities is $750 million yearly under the Federal aid urban system.

During the same time period that Federal funds have been focused on rural interstates, the most obvious crisis in transportation has been urban/suburban traffic congestion. All signs indicate that population trends toward urban areas and the subsequent increase in traffic congestion will continue. Since the interstate program began in 1956, vehicle miles traveled on American highways have tripled from 600 million to 1.8 billion vehicle miles, with the increase focused in urban areas. The implications of urban congestion on our environment alone are significant enough to justify a national solution. Aside from the obvious effect on the quality of life in urban areas, the failure to address inadequate urban transportation has profound implications for urban economies. For instance, traffic congestion in Los Angeles County costs $500 million each year, wasting over 70 million gallons of gasoline. These costs may increase by as much as 400 percent within 20 years.

As David Aschauer of the Federal Reserve Bank of Chicago demonstrated in a 1985 study, there is a strong statistical linkage between investment in transportation infrastructure and economic productivity. Aschauer found that between 1950 and 1970, investments in nonmilitary infrastructure in the United States grew at a rate of 4.3 percent, and productivity grew at an annual rate of 1.8 percent. As the growth in public infrastructure investment decreased to 1.5 percent per year from 1970 and 1985, American productivity growth dropped to 0.8 percent. Transportation also plays a vital role in international economic competition. The United States ranks behind all of its top competitors in percent of GNP invested in public infrastructure, and trails these nations in productivity growth. Clearly, addressing the needs of urban highways is not just important in making today's cities livable, but will play a vital role in the economic future of all urban areas.

Because economic activity is centered in urban areas, the deterioration of the urban transportation network will have even greater impact on American productivity. Sixteen percent of the national GNP is attributable to highway passenger and freight transportation, and the interstate network certainly plays a key role. However, if we do not provide adequate access to, from, and within cities with a sufficient urban highway system, congestion and gridlock on urban roads threaten to undermine the effectiveness of the national surface transportation network, and consequently American economic competitiveness.

With the interstate system essentially complete and the transportation needs of cities increasing daily, it is imperative that a comprehensive urban transportation program is an integral part of the next national highway program. In order to focus the highway planning discussion on urban needs, I have introduced the Comprehensive Urban Transportation Program, which will provide the Federal funding necessary to urbanized areas to relieve congestion and plan for urban growth.

The Comprehensive Urban Transportation Program [CUTP] should be one element in the National Surface Transportation Program, redirecting Federal funds to urbanized areas for projects which address congestion and traffic flow crises. The program provides flexibility in addressing urban transportation needs by allowing the State and the localities to determine which projects best combat congestion and efficiency problems. Any road or project on any Federal system within an urbanized area—50,000 or more population—would be eligible for Federal funds, including routine improvements, major capacity improvements, new construction, and the development of innovative transportation technology.

The bill has two complementary parts which work together to preserve and improve the urban transportation network. First, the CUTP reauthorizes the existing Federal aid urban system at $1.3 billion dollars per year, an increase from the current yearly authorization of 750 million. The CUTP focuses roughly a quarter of FAU funds on the Nation's cities over 500,000, where gridlock relief is most urgently needed. Remaining FAU funds are apportioned to the States based on the percentage of urban population—200,000 or more, just like the current FAU system. The FAU program is the bread and butter of Federal funding to large cities, and should remain intact as the provider of funds for routine urban needs caused by high volumes of city traffic.

More importantly, the Strategic Urbanized Program [SUP] would authorize an additional $2 billion per year for the growing needs of urbanized areas. The funds are apportioned to the States based on percentage of urbanized population—50,000 or more, for any Federal surface transportation improvement project within the urbanized area. Whereas one current proposal has called for Federal funding for interstates within urbanized areas, the SUP allows each city and State the flexibility to determine how to fight congestion. If an urban bridge causes congestion, bridge rehabilitation is eligible for funding. If an urban primary road's unsophisticated traffic light system creates gridlock, traffic light modernization is fundable. Under this proposal, the State and the localities will work together to set the urban transportation agenda. Projects are to be initiated by the State or local governments to be considered as part of the metropolitan transportation improvement programming process. By providing for State and city cooperation in creating an urban strategy, granting the project flexibility necessary to implement the strategy, and authorizing a sufficient amount of Federal highway money to urban areas to tackle congestion and growth, the Strategic Urbanized Program will begin to relieve the nationwide urban traffic crisis.

Of course, I completely agree that the interstate system must be maintained, and in some places improved. However, new contruction funds for interstates will be subsiding, and urban areas clearly represent the Nation's greatest transportation need. The time may not have been ripe during the 1987 highway bill, but I am confident that a ground swell of urban and suburban support will allow urban roads to be a major component in the next highway program.

The Comprehensive Urban Transportation Program will provide the necessary Federal emphasis to solve urban congestion. I urge my colleagues to study the proposal, see what it will do for your district's cities and towns and your State, and to consider cosponsoring this vital transportation legislation.

TRIBUTE TO VETERANS' DAY

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1989

Mr. LAUGHLIN. Mr. Speaker, on November 11, we will pause to reflect on those who have proudly served this great Nation. This period of remembrance will be marked by numerous Veterans' Day ceremonies that will take place in cities throughout the country and at military installations worldwide.

One such event will coincide with the opening of a new veterans' out-patient clinic that will be located in Victoria, TX and will serve over 25,000 veterans residing in my congressional district.

I am thrilled to make this announcement, as it was in this very Chamber that I spoke this spring of the plight of the numerous members of Texas' veterans' organizations who had worked long and hard to convince the Veterans' Administration to construct a medical facility in the southern portion of my district, only to discover that funding for the facility had not been authorized.

After bringing this situation to Chairman Montgomery's attention, we were able to ensure the funding for the clinic.

Our Veterans' Administration lived up to its word to provide adequate medical care to the many veterans of my district who risked life and limb in the protection of this great Nation.

Today, the Members of this institution are faced with a task every bit as important as those faced by our veterans in service to this country: We are being asked to vote on the amount of appropriations that will be authorized for our veterans' programs.

At a time when we face the most serious skilled labor crisis in modern times, I appeal to my colleagues to support legislation that will provide over $500 million for veterans' education, training, and rehabilitation programs for fiscal year 1990.

These programs do much more than demonstrate the commitment that this Nation deserves to keep to her veterans. They ensure that larger number of better educated, skilled workers are introduced to the American workforce. They provide for the retraining of many people who require more education in order to adapt to the times.

Finally, these programs help veterans who can no longer help themselves. Through rehabilitation, many may reenter the workplace. For some, this may never become a reality. For them, adequate rehabilitation services represent the least this Nation can do for those who served her so proudly.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, October 26, 1989, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 27

10:00 a.m.

Commerce, Science, and Transportation

To hold hearings on the nominations of James B. Wyngaarden, of North Carolina, and J. Thomas Ratchford, of Virginia, both to be Associate Directors of the Office of Science and Technology Policy.

SR-253

Foreign Relations

To hold hearings on the nominations of Smith Hempstone, Jr., of Maryland, to be Ambassador to the Republic of Kenya, Francis T. McNamara, of California, to be Ambassador to the Republic of Cape Verde, and Keith L. Wauchope, of Virginia, to be Ambassador to the Gabonese Republic and to serve concurrently as Ambassador to the Democratic Republic of Sao Tome and Principe.

SD-419

Governmental Affairs

To hold hearings on the nominations of Kathleen Day Koch, of Virginia, to be General Counsel, and Jean McKee, of the District of Columbia, Tony Armendariz, of Texas, and Pamela Talkin, of California, each to be a Member, all of the Federal Labor Relations Authority, Ronald G. Hein, to be U.S. Marshal for the Superior Court of the District of Columbia, and Bill R. Phillips, of Texas, to be Deputy Director, Office of Personnel Management.

SD-342

Labor and Human Resources

To hold hearings on the nomination of Debra R. Bowland, of Louisiana, to be Administrator of the Wage and Hour Division, Department of Labor.

SD-430

Select on Indian Affairs

To hold oversight hearings to examine Indian education programs.

SR-485

1:00 p.m.

Finance

International Trade Subcommittee

To hold hearings on H.R. 3275, to extend the termination date until March 31, 1992, for enforcement of bilateral steel arrangements, and to implement the President's steel trade liberalization program.

SD-215

OCTOBER 31

9:30 a.m.

Energy and Natural Resources

To resume hearings on the Department of Energy's efforts to improve the operations and management of its atomic energy defense activities and its efforts to restore public credibility in the Department's ability to operate its facilities in a safe and environmentally sound manner, and on S. 972, S. 1304, and other related measures with respect to the environment, safety, and health aspects of operation of the Department of Energy's nuclear facilities.

SD-366

Governmental Affairs

To hold hearings on trade and technology issues.

SD-342

Labor and Human Resources

To hold hearings on S. 1675, to provide financial assistance for teacher recruitment and training, and S. 1676, to strengthen the teaching profession.

SD-430

10:00 a.m.

Foreign Relations

To hold open and closed hearings on S. 1227, to restrict proliferation of missiles and missile equipment and technology, and S. 1421, to provide for sanctions on persons who export, transfer, or otherwise engage in the trade of certain items in violation of laws and regulations implementing the Military Technology Control Regime (MTCR).

SD-419

11:00 a.m.

Judiciary

To hold hearings to review drug abuse prevention campaigns.

SD-226

2:30 p.m.

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold hearings on S. 1540, to establish a program of grants for critical languages and area studies programs in elementary and secondary schools, and S. 1690, to establish programs to improve foreign language instruction.

SD-430

NOVEMBER 1

9:00 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on proposed legislation authorizing funds for the National Telecommunications and Information Administration, Department of Commerce.

SD-562

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings on S. 1741, to increase competition among commercial air carriers at the Nation's major airports.

SR-253

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Governmental Affairs

Government Information and Regulation Subcommittee

To resume hearings to examine the quality of U.S. education information,

focusing on the availability of national education data bases.
SD-342

10:00 a.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold oversight hearings on programs administered by the U.S. and Foreign Commercial Service, Department of Commerce.
SD-628

Labor and Human Resources
Business meeting, to consider pending committee business
SD-430

NOVEMBER 2

9:30 a.m.
Energy and Natural Resources
To hold hearings on the findings of the study conducted by the Monitored Retrievable Storage (MRS) Commission and the Department of Energy's plans for including MRS in the waste management system.
SD-366

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on wheat production.
SR-332

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings on Indian health facilities.
SR-485

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

NOVEMBER 3

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider the nomination of Martin L. Allday, of Texas, to be a Member of the Federal Energy Regulatory Commission, Department of Energy.
SD-366

Select on Indian Affairs
To hold oversight hearings to review the current state of Indian agriculture, focusing on future directions and recommendations on ways to overcome barriers to existing farming techniques.
SR-485

10:00 a.m.
Labor and Human Resources
To hold hearings on S. 1425, to prescribe nutrition labeling for foods.
SD-428

1:00 p.m.
Finance
International Trade Subcommittee
To hold hearings on proposed legislation to extend international trading rules to agriculture in the Uruguay Round of General Agreement on Tariffs and Trade (GATT) negotiations.
SD-215

NOVEMBER 6

2:00 p.m.
Finance
International Trade Subcommittee
To hold hearings on the U.S.-Japan Structural Impediments Initiative (SII).
SD-215

NOVEMBER 7

9:30 a.m.
Energy and Natural Resources
To resume hearings on S. 324, to establish a national energy policy to reduce global warming, focusing on provisions relating to the Public Utility Regulatory Policy Act contained in Subtitle B of Title III.
SD-366

2:00 p.m.
Finance
International Trade Subcommittee
To resume hearings on the U.S.-Japan Structural Impediment Initiative (SII).
SD-215

NOVEMBER 8

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 891, to provide for the modernization of testing of consumer products which contain hazards or toxic substances.
SR-253

NOVEMBER 9

9:30 a.m.
Energy and Natural Resources
To hold hearings on a proposed committee amendment to S. 406, Competitive Wholesale Electric Generation Act.
SD-366

Governmental Affairs
To hold hearings to examine the current status of science and math education.
SD-342

NOVEMBER 15

9:30 a.m.
Veterans' Affairs
To hold hearings on health care for rural veterans.
SR-418

NOVEMBER 16

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold oversight hearings on the implementation of the Cable Telecommunications Act (P.L. 98-549).
SR-253

NOVEMBER 17

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To continue oversight hearings on the implementation of the Cable Telecommunications Act (P.L. 98-549).
SR-253

NOVEMBER 21

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 1236, to provide for a waiting period before the sale, delivery, or transfer of a handgun.
SR-226

CANCELLATIONS

OCTOBER 27

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 1236, to require a waiting period and certain documentation prior to the sale, delivery, or transfer of a handgun.
SR-226

POSTPONEMENTS

OCTOBER 26

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on cotton.
SR-332

SENATE—*Thursday, October 26, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Except the Lord build the house, they labour in vain that build it: except the Lord keep the city, the watchman waketh but in vain.—Psalm 127:1.

Lord, help us to understand the implication of the Psalmist's words; the vanity of human effort, the futility of the most we can do. Despite our ingenuity, things seem to get worse, not better. Greed and lust, over which legislation has no power, poison our society. Our maximum response to the problems is like putting BandAids on a cancer patient. Social evil grows epidemically, and we are able only to treat the symptoms. We have no cure for the disease.

We labor in vain, we watch in vain, because we do not call upon the Lord. Forgive human pride which behaves as though it has the last word for human need. Make us see, "Man's extremity is God's opportunity." Help us to hear Your invitation, "Call upon me and I will show thee great and mighty things * * *." Be our Builder, our Watchman, O Lord, lest we perish.

In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning following the time for the two leaders, there will be a period for morning business until 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each. When morning business closes at 10:30 a.m., there will be a rollcall vote on the motion to invoke cloture on my substitute amendment on the Eastern Airlines bill.

Once that vote has been completed, and regardless of the outcome, under the provisions of the unanimous-consent agreement, the Senate will consider the Specter death penalty legislation, S. 1798.

This bill will be considered under a 4-hour time limitation with only one amendment in order, that to be offered by Senators LEVIN, HATFIELD, and SIMON.

AID TO POLAND AND HUNGARY

Mr. MITCHELL. Mr. President, late last night the distinguished Senator from Oregon offered an amendment to provide for a capital gains tax cut to the then pending legislation, which would provide assistance to Poland and Hungary.

Earlier this year, the President made a dramatic and emotional visit to Poland in which in several public appearances he promised to the people of Poland that the United States would assist in their historic effort to replace the Communist system with democracy by peaceful means.

Now, several months later, with the Polish economy in a fragile state, with the onset of winter close at hand, with inflation skyrocketing, with the new democratic government beset by a host of difficulties, we in the Senate and the House are trying to move forward to vindicate the President's commitment to the Polish Government and the Polish people to provide assistance to them in a timely fashion.

I stress the words "timely fashion." Repeatedly in recent weeks, in the contacts I have had with Polish Government officials, they have stressed the importance of prompt action with respect to this assistance, as much as the level and nature of the assistance itself.

This is one of those cases in which assistance provided too late will be of no assistance at all. Therefore, Mr. President, it is most unfortunate that the administration has now encouraged and supported this effort to attach a capital gains tax cut to legislation providing assistance to Poland and Hungary.

Obviously, the capital gains issue has nothing to do with aid to Poland and Hungary, and obviously the only effect of this effort can be to delay and perhaps kill the effort to provide aid to Poland and Hungary.

I ask what kind of priorities are those? Does the President seriously want to provide aid to Poland and Hungary? If so, then he should urge, indeed he should insist, that those Republican Senators who have initiated and are supporting this most unwise effort should withdraw from this effort and seek to place their capital gains tax cut amendment on some other legislation so that we can go forward with aid to Poland and Hungary.

There are millions of Americans of Polish and Hungarian descent who await anxiously our action because they, more than anyone, know the importance of restoring democracy in those nations.

The administration has taken what I believe to be a series of unwise, almost baffling steps with respect to the capital gains tax cut. The administration has made clear that a capital gains tax cut is more important than reducing the deficit. The administration has made clear that a capital gains tax cut is more important than the budget process. The administration has made clear that a capital gains tax cut is more important than good relations with the Congress.

Now, by this unwise action, the administration has made clear that a capital gains tax cut is more important than providing aid to Poland and Hungary in a timely and effective fashion.

Is there no one within the administration calculating the cost of this effort? Is there no one prepared to step back and say, "Wait a minute; is this worth the effort?"

The budget deficit problem worsens, the budget process cannot move forward. Relations with the Congress decline. And now delaying, perhaps killing aid to Poland and Hungary? For what purpose?

Is the effort worth it? At what point does the cost exceed the benefit to be attained?

Mr. President, there are only a few more weeks in this legislative session. We have critically important matters to deal with, not the least of which is the aid to Poland and Hungary, which we are seeking to provide in this legislation, which we are attempting to move forward.

The injection of this controversial matter will result, I believe, certainly in delay—there can be no doubt of that—possibly in killing the entire measure. It is unwise, inappropriate, and ill-timed.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

I urge the administration to reconsider this unwise strategy. I urge my colleagues to permit us to go forward and enact this important legislation providing aid to Poland. Surely the people of Poland, the brave leaders of Solidarity who have struggled so hard to restore democracy to that nation, who are now in the process of making an historic transformation from communism to democracy by peaceful means, know that this assistance is needed in a timely fashion. To subordinate it to the unwise proposal that is now before us, to say that it really does not matter, I think is not in our national interest.

Mr. President, I reserve the remainder of my time, if any.

RECOGNITION OF THE REPUBLICAN LEADER

The PRESIDENT pro tempore. The Republican leader recognized under the order.

THE POLISH AID BILL AND CAPITAL GAINS

Mr. DOLE. Mr. President, I apologize for not being here earlier. I was entertaining the Soviet delegation, as the majority leader was earlier.

But I would not want anybody to believe, if we passed this Polish aid bill, that aid would start flowing. It is only an authorization bill. Food aid is already on the way to Poland and has been and will continue to be. As far as I know, none of the other provisions will kick in for weeks and weeks or months. So I would not want to indicate that we are doing anything to slow down the Polish aid.

What we have done on this bill, though, is double the amount of the request the President wanted. We believe that slowing it down just for that purpose, to give Members a chance to look at what the President suggested and what, in a brief hearing, has been reported to the floor, reported out of the House, passed by the House, and now wanting quick action in the Senate.

It seems to me that this is a very important issue. We are going to be back here again and again in efforts to assist the new Polish Government. We ought to be very certain up front that we are doing it the right way.

We pointed out in our alternative yesterday a number of ways we believe to be superior, not partisan but superior ways, to approach some of the problems, whether it is credits, whether it is the enterprise funds, whether it is the bond money which could raise some of this money privately. We do not have much money in the Treasury. We do not have any money in the Treasury.

But, on the other hand, we would like a vehicle to put capital gains on. We think it is very important. We know a majority in this body supports capital gains reduction. We have been unable to get a vote.

I do not quarrel with the majority leader. As he said many times, he used the rules, and we will need 60 votes, probably, in whatever we do. If we only needed 51, in my view, we would have had a capital gains package before now.

But it is important. It is important to the American economy. It is not a case of class versus class. We are trying to be more competitive. That is one of the big issues everywhere we go. How do we become more competitive? How do we prepare for EC-92? How do we give our people in business the same opportunities?

For one thing, you reduce the cost of capital, and that is through the capital gains. We have the highest capital gains rates of any industrialized country that I know of. We are trying to create jobs in the private sector. We are trying to expand the economy. Capital gains reduction is very, very important.

The package on the Senate side, I must say, is far superior to the 2-year proposal, which I am not in favor of, that passed the House. But this is an issue upon which we should have an up or down vote. It was an issue in the campaign. It did not sneak up on anybody. The President talked about it in the campaign. The American voters knew precisely where he was.

It seems to me that we have to do our best, even though we are in the minority, as Republicans, to make certain that somehow there is a focus on what the President considers to be very important.

Polish aid is important. The President said the other day that a lot of people are discovering Poland that never knew it existed.

The reason the Polish Government is changing and the reason we are having change in other parts of the Soviet Union, whether it is Hungary, whether it is the Baltic States, in my view, is you have to give a lot of credit to President Reagan and President Bush for hanging in there when many in this Chamber were cutting defense and cutting this and cutting that. But the President stood firm, and I think the Soviets knew that we were not going to back away from our commitment to freedom. And now we have it at least started in Poland. Now we have Solidarity.

Some of us have been there. We are not experts, but we have been there. We believe that we ought to be very careful when we start down this road because we do not want to end up coming back month after month after month seeing who can outdo the other on how much money we spend in Poland.

So we believe that, first of all, we have a superior alternative. As I have indicated to the distinguished Senator from Illinois [Mr. SIMON] and others, we believe there are some parts of our package, whether we win or lose in the vote, that should be looked at seriously by the majority and included in any final package. We also believe there are ways to reduce the total cost—and we pointed that out—and still get the same benefit; reduce the total cost of the package.

It seems every time we have a bill before the Senate, the measure of its importance is who can spend the most money. If you spend more than I do, then you have a better proposal. We do not believe that is necessarily correct.

There was no opportunity, or very little opportunity, on the debt ceiling. It is not before us now. We have to extend it by next Tuesday night at midnight. Options on this side for at least a look at capital gains, repeal of section 89, and IRA proposals were shrinking daily. It finally occurred to us that if we did not act on this particular bill, the Polish aid bill, we were going to be shut out completely.

Again, we do not quarrel with the rules. We would have been faced with offering capital gains on the debt ceiling next Tuesday, probably, and then being faulted if something did not happen and we did not get a clean bill, did not get it passed by midnight on Tuesday evening. So we are going to stand our ground on this issue.

We are not denying any money to Poland. The only thing Poland is getting now is food aid. There is not a thing in this bill, in the majority bill, that would help Poland this week, next week, next month. It is only an authorization. It would have to be an appropriation. Many of these are credits. The enterprise fund has to be set up. It is going to take weeks and weeks and months. So I do not want to leave the impression that somehow, by not acting today, we are eliminating or, in fact, reducing our support for Solidarity or the Polish people, and the President feels the same way.

If there is any doubt about that, I would just complete the record by suggesting that it was yesterday when I encouraged successfully, along with the majority leader, keeping amendments off the appropriation bill on earthquake aid. That is an emergency. There was need to act very quickly. No amendments. A lot of people were tempted: "Oh, what a place for catastrophic coverage. What a place for repeal of section 89." On this side, we were able to dissuade some of our colleagues: "Let's don't put anything on that particular piece of legislation."

And I commend the majority leader, the chairman of the Appropriations Committee, and Senator HATFIELD for

very quick, expeditious, and appropriate action on that bill.

This is a different matter. This has been rushed through the Senate on a partisan basis, the Polish aid bill.

We would like to make it bipartisan. We believe Republicans and Democrats are concerned about the future of Poland, the Polish people. We want the Solidarity government to succeed. But we do not want to start out by pouring money into some of these failed socialistic enterprises, and we believe that is essentially what the majority bill does.

So we are prepared to work with the majority leader. I think, in the final analysis, the Packwood amendment on this bill may make it a lot easier, frankly, to deal with, essentially, the debt ceiling.

I reserve the remainder of my time.

The PRESIDENT pro tempore. Without objection, the remaining time of the two leaders is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. The Senate will now proceed to the consideration of morning business until the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from New Jersey [Mr. BRADLEY] is recognized for not to exceed 5 minutes.

CAPITAL GAINS

Mr. BRADLEY. Mr. President, last night when I learned the capital gains proposal had been attached to the Polish-Hungarian aid bill my first question was: Is that capital gains for investment in Poland and Hungary? And the answer was: No, this is the capital gains amendment of the Congress and it applies to investment in the United States.

Mr. President, I think the capital gains amendment attached to the Polish-Hungarian aid bill is the ultimate now-nowism. The proponents of this amendment cannot wait until there is a tax bill, a second tax bill; they cannot wait until there is a tariff or other revenue measure; and most assuredly they seem unable to wait until next year. They have to get it now—now.

Mr. President, this amendment has had no considered economic analysis. I believe there is an idea in this amendment that could possibly shock the American people with its irresponsibility but we have yet to be able to deal with that in a hearing setting.

Mr. President, I have received no avalanche of letters from citizens demanding this amendment. I have had no calls from small business saying that they cannot live without this amendment.

Mr. President, I have had little urging from Wall Street. However, I have had a few calls from Wall Street and the question is; What is all this about the capital gains? Do you guys not know the deficit is more important?

My response is; The President seems to want it.

Why, they ask.

I say; I do not know.

They say; Why do they offer this amendment? Can't they see tax reform is working: Business investment is booming; profits are high; business fixed investment is three times the rate in the years before tax reform; industrial equipment investment has gone from minus 8 percent in the 5 years prior to tax reform to a plus 19 percent, since 1986? They say; There will always be those people who want more—more now. But most of us like the low rates of tax and we know if we put back in exclusion and capital gains, the rates are going to go back up.

They also say; Will this not poison the water? Will this public assault on the Senate rules not offend Senators?

They say; It sounds to me like the President is following a blind pursuit of the ephemeral.

And my response is; Well, it sounds to me like maybe it is the blind pursuit of the ephemeral. Then I looked up ephemeral in the dictionary, and the definition: Temporary, transient, fleeting.

Do not wait to deal with this issue, the President is saying; do it with this amendment on this bill. Do not wait; do it now. Do not worry what it will do to rates; do not worry what it will do to the budget deficit; do not worry what it will do to aid to Poland and the prospects for successfully assisting a transition to democracy.

Why the President has chosen to divide the Senate on this issue, an issue that has little interest in the public and less substantive justification, I do not know. I echo the words of the majority leader in hopes that wiser heads will prevail.

Mr. President, we face big problems and we need good relations between the executive and the legislative branch. This amendment on this bill is not the way to get those relations improved.

The PRESIDENT pro tempore. The Senator from Nevada [Mr. BRYAN] is recognized for not to exceed 5 minutes.

RONALD REAGAN AND THE JAPANESE

Mr. BRYAN. Mr. President, we Americans are a patient and tolerant people. But I must say that some things try our patience and test our tolerance.

Like millions of Americans I enjoy reading my newspaper over the morning coffee. But this morning's reading made me particularly angry. I read in the paper this morning that, while former President Reagan is on a highly paid trip to Japan—the estimate is he is being paid personally $2 million and an additional $5 million is being expended on promotion and advance expenses—that the former President suggested that Hollywood could learn some decency from Japan.

Mr. President, that is an insult to our motion picture industry and an insult to all Americans. We need no lectures from the Japanese, or former Presidents in their employ, on morals.

Moreover, Mr. President, we should not be so complacent, as former President Reagan is, when he welcomes the prospects of Japanese firms buying up huge chunks of American business. Americans will recall, and I believe, Mr. President, will regret, that it was former President Reagan who initiated the ill-conceived FSX fighter negotiation. And history will record, Mr. President, it was during the administration of former President Ronald Reagan that the trade deficit with Japan reached the disconcerting levels that confront us today.

No one denies that Ronald Reagan should be able to speak his mind or to earn his salary as he sees fit. His choices, however questionable in taste, are his business. But he should remember that, as long as we address him as Mr. President, that he once worked for Americans and they should have the first claim on his loyalty and affections.

I thank the Chair.

The PRESIDENT pro tempore. The Senator from Missouri [Mr. BOND] is recognized for not to exceed 5 minutes.

CAPITAL GAINS

Mr. BOND. Thank you, Mr. President. Before getting into my main point for rising today, I want to comment on some statements made by colleagues of mine who say the President seems to be in blind pursuit of something that is fleeting, and want to know why it is of any importance to add a capital gains exclusion.

I suggest to my colleagues that knowledgeable observers have linked the withdrawal of the capital gains provision to the tumble in the stock market, which had been heartened by the action of the House of Representatives.

Who is, in fact, interested in capital gains exclusions? I have had many farmers in my office who, approaching retirement, want to be able to sell their farms without having to pay the top income tax rates on the phantom gains, the phantom gains in the value

of their property coming from inflation.

Mr. President, probably the most telling conversation I had was from a pushcart operator, Barney Allis Plaza, in Kansas City, who stopped me to ask about capital gains exclusion this summer.

I said, why are you interested in capital gains?

He said: I worked on this pushcart hard all my life. I put some money into rental housing. My wife and I want to retire. We will sell those rental houses at two and three times what we paid for them but the dollars we will get will be less than what we put in. I can't afford to pay 33-percent gains, current income tax rates, on the phantom gains of inflation.

That is the reason I believe capital gains is important.

(The remarks of Mr. BOND pertaining to the introduction of S. 1799 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDENT pro tempore. The Senator from Tennessee [Mr. SASSER].

CAPITAL GAINS—A REVENUE LOSER

Mr. SASSER. Mr. President, I was stunned to learn last evening that an effort had been made, I suppose a successful effort, to attach a capital gains amendment onto the Polish relief bill. I was particularly surprised to learn that this effort had been made at a time when we were trying to arrange for an orderly process for reconciliation, an orderly process to reach an agreement on reconciliation with our counterparts in the House of Representatives in order that we could move then to lift the sequester that has occurred. Also as a part of this ongoing effort to have an orderly process here, there were discussions underway to attempt to arrange an independent vehicle on which capital gains could be discussed here in the U.S. Senate.

Frankly, I was puzzled by this unseemly, what I consider to be unseemly, haste to bring capital gains to the floor on what is purported to be a Polish relief bill. I learned from a reliable source this morning that the Director of the Office of Management and Budget was here yesterday meeting with some of our colleagues, and he indicated at that time that it was the administration's intent to attach a capital gains amendment to every piece of moving legislation that they could attach it to between now and the end of this session of Congress.

I am puzzled as to why the administration should be in such an unseemly haste to deal with this whole capital gains matter. Why would they be willing to put the reconciliation in danger; why they would be willing to put the debt limit in danger; why they would be willing to forestall the orderly processes of this body, all for this so-called capital gains proposal.

We simply have not had the opportunity to fully review the proposal that was presented last night. The Senate Budget Committee staff is now in the process of trying to determine the overall ramifications of what was introduced, but it is clear from the outset that this capital gains proposal is going to be a revenue loser from the very beginning. Why in the world this administration is so intent on attaching a revenue-losing measure to any piece of legislation moving through the U.S. Senate is a mystery to me.

In fact, Mr. President, you could say it is an act of irresponsibility. This body within just a few days is going to be asked to raise the debt limit to over $3 trillion. That means the American people are going to be indebted in that amount. It means that future generations are going to be indebted in that amount, and rather than trying to deal with this problem, rather than trying to stem the hemorrhage of funds out of this country that is occurring now, rather than trying to deal with the deficit in what I perceive to be a responsible way, this administration comes before this body and asks for an additional revenue loser, a capital gains tax cut that will benefit the wealthiest people of this country; a capital gains tax cut that breaks faith with the tax reform bill of 1986.

Mr. President, it is my firm belief that we should be working hand in glove with the administration in an effort to try to come up with some valid deficit-reduction proposals. I believe, Mr. President, that is our responsibility.

Mr. President, I conclude my remarks.

UNANIMOUS-CONSENT AGREEMENT—IMPEACHMENT PROCEEDINGS AGAINST JUDGE WALTER L. NIXON, JR.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate resume consideration of the impeachment proceedings against Judge Walter L. Nixon, Jr., of the Southern District of Mississippi at 2 p.m. on Wednesday, November 1, for any remaining motions offered by Judge Nixon and for final arguments on the merits by the managers on the part of the House of Representatives and by Judge Nixon and his counsel for not more than 1½ hours per side.

I further ask unanimous consent that on Thursday, November 2, at 2 p.m., the Senate shall meet in closed session to deliberate on the articles of impeachment and the pending motions, and that these orders have effect notwithstanding any other rule of the Senate, including rule XXII.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, for the information of Senators, I indicate now that the joint leadership will object to any unanimous-consent requests to permit committees to meet on Wednesday, November 1, and Thursday, November 2, at 2 p.m. so that all Senators may attend these important proceedings and that a live quorum will be commenced on each of those days at 1:45 p.m.

MOTION TO INVOKE CLOTURE ON H.R. 1231

Mr. KOHL. Mr. President, I am sure you are familiar with many of the slogans that characterize advertisements for the various airlines. "Fly the friendly skies" is one of them. This is certainly a statement from a bygone era in the airline industry. There is nothing friendly about the industry these days. Not for employees, who don't know on any given day for whom they work or whether they'll be working. Not for customers, who don't know whether the airline from which they've bought a ticket will be in existence on the day they fly. And not for stockholders, who have seen their stock values jeopardized by industry takeover bids, such as the recent one for United Airlines.

Eastern Airlines is now losing $3 million a day. It doesn't take an accountant to see that Eastern is drowning in red ink.

I support, as I hope my Senate colleagues will, the passage of H.R. 1231 as amended by the Mitchell substitute to create a Blue Ribbon Commission to make our skies friendly again. This Commission will have 45 days to make recommendations to Congress and the Secretary of Transportation on a settlement to Eastern's current dispute. The Commission will also look generally at the use of replacement workers and their affect on airline safety, collective bargaining rights of airline employees, and the implications of the increasing concentration of ownership of domestic air carriers. The Blue Ribbon Commission is not the answer to the problems in the airline industry, but it gets us started down the right road.

Mr. President, countless Eastern pilots and machinists have entered my office requesting a fair shake with respect to their own investment in Eastern Airlines. And I am quite saddened to say that I don't believe they're going to get a fair shake unless the government intervenes. We have waited far too long not to take the advice of the National Mediation Board in settling this matter. It has now been 234 days without progress in bringing settlement to this dispute. President Reagan followed the advice of the National Mediation Board 11

times to institute emergency boards. I do not understand why this particularly sensitive dispute should not get the same attention from President Bush as the eleven similar stalemates his predecessor helped settle by using the National Mediation Board.

Congress has a responsibility to help bring stability back to this once great airline. Support for us doing so is exemplified by those individuals who walked 3,000 miles in the longest picket line in American history from Miami to Boston. Many of these people did not even work for an airline. They simply marched for fairness for their fellow worker. They marched for a just settlement to this tragic dispute at Eastern Airlines.

Mr. President, the Eastern dispute has brought high visibility to the problems in the industry. Problems that need to be addressed. And resolving the Eastern dispute will be the first step towards meeting some of the broader industry needs. For this reason, I hope my colleagues will join me in voting for the creation of a Blue Ribbon Commission that will offer an opportunity to end this bitter feud and put these problems behind us. Thank you.

IMPEACHMENT PROCEEDINGS AGAINST JUDGE ALCEE HASTINGS

Mr. ADAMS. Mr. President, impeachment is one of the Senate's most important powers, and one that must be exercised with the greatest sensitivity. In the Senate, impeachment is not a criminal proceeding. Instead, it involves removal from office, and potential humiliation, and lifelong damage to one's reputation.

The impeachment proceedings against Judge Alcee Hastings presented Senators with a very difficult decision. They involved very complex evidentiary conclusions drawn from circumstantial evidence. I personally spent several days listening to the presentation of the case and a number of nights examining the documentary evidence and reading the briefs. Judge Hastings also presented part of his argument and testified in his own behalf.

After reviewing the evidence and listening to the arguments, I have concluded that Judge Alcee Hastings was not guilty. The constitutional procedure governing impeachment and the rules established in this case by the Senate require each Senator to set his or her own standard of the evidence required to convict. I believe, that because of the special nature and implications of the Senate impeachment process, the standard for conviction should be clear and convincing, unequivocal evidence.

I realize that this is not the test of probable cause required in the House of Representatives to start impeachment procedures nor the test of beyond a reasonable doubt required by juries to convict in a criminal case. However, both the chairman and vice chairman of the Senate Committee, Senators BINGAMAN and SPECTER, indicated that they also believed the test for conviction should be clear, convincing and unequivocal evidence. I will also note that both the chairman and the vice chairman of the committee who heard all the evidence, voted that Alcee Hastings was not guilty and should not be impeached.

Judge Hastings' activities in the crucial period involved in this case appear innocent, but could also be consistent with a very clever conspiracy. The impeachment case involved allegations that the judge conspired to solicit a bribe from defendants in a criminal case before his court in return for mitigation of sentences and return of certain property. The judge's actions in court, however, regarding return of property were consistent with appellate decisions governing his court; and the judge never did anything to reduce the sentences of the defendants in question.

A Florida jury acquitted the judge on these charges of conspiracy using a test of guilty beyond a reasonable doubt. A judicial conference panel later reviewed the case and recommended impeachment proceedings be conducted by the Congress.

After my independent examination of the evidence and listening to the arguments of the various parties, I could not conclude that there was clear, convincing evidence that Judge Hastings was involved in a conspiracy. Frankly, the FBI broke the case before the sting money was distributed, and therefore we will never know whether the money was to remain with Mr. Borders or go to Judge Hastings or to someone else.

The background evidence in this case shows it started from information given to the FBI by an FBI informant, a former convicted felon named Dredge. Dredge had serious criminal charges pending against him and agreed to cooperate. He had conversations with William Borders, a former head of a national bar association, who was a Washington, DC, attorney and a friend of Judge Hastings. Mr. Borders has since been convicted on charges similar to those brought against Judge Hastings.

In this case, Mr. Borders undoubtedly did attempt to extort money from those he thought were defendants in a criminal case by contacting members of the Miami underworld and asking them if the defendants would pay to have their property returned and their sentences mitigated. The strange part of this case is that Mr. Borders never met the defendants or their representatives and apparently never discussed with Judge Hastings what the defendants looked like. The FBI substituted a sting operator named Rico—a former FBI agent—who gave money to Mr. Borders and acted the part of one of the defendants. All of the defendants are now dead and were unavailable to testify.

The case against Mr. Borders was very clear because Rico passed him $25,000 at one time and $125,000 at another time. Mr. Borders was convicted of his criminal activity, but the FBI arrested him before he had time to pass the money to anyone else. Therefore, the money was stopped before it could implicate anyone. Mr. Borders has refused to testify to anything concerning Judge Hastings and no money was ever traced to the judge. The judge testified he was innocent.

There was not a single government circumstantial charge in the case that was not disputed by the judge and therefore, the entire case rested on the inference or conclusion that one drew from what the judge did in his independent actions and what Mr. Borders did in his independent actions. In my mind, there was not clear and convincing evidence to support impeaching a judge with an unblemished record, who had served well, was regarded as an excellent, hard-working judge by his associates, and who had no direct involvement with the FBI informant, money or any other direct connection with Mr. Borders' illegal activities.

I do not believe there was clear and convincing evidence in this case to support this charge, and I voted to acquit.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,685th day that Terry Anderson has been held in captivity in Beirut.

I ask unanimous consent that an article from yesterday's Buffalo News be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BATAVIA TO HONOR HOSTAGES WITH SCULPTURE OF ANDERSON

BATAVIA.—"National Hostage Awareness Day" will be marked here Friday with the unveiling of a sculpted bust of former Batavia resident Terry Anderson in chains and the ringing of bells at noon.

The sculpture by Louis Dlugosz of Lackawanna has been mounted on a pedestal carved by Batavia artist Don Carmichael and will remain on display in the Genesee County Mall "until it is presented to Terry Anderson, unchained," organizers said.

Anderson, Associated Press bureau chief in Beirut, was taken captive March 16, 1985. His plight as America's longest-held captive in Lebanon was underscored by a network television news show last weekend. A joint resolution of Congress last month designat-

ed Oct. 27 as National Hostage Awareness Day.

The Journalists Committee to Free Terry Anderson is marking the day by sponsoring an essay contest for high school students in Grades 9 through 12 on the theme "How I Would Cope With Being a Hostage." Details are available from the committee, Box 10404, McLean, Va. 22102-0404. The deadline is Nov. 23.

RALPH EVERETT: A FRIEND AND COLLEAGUE DEPARTS THE SENATE

Mr. HOLLINGS. Mr. President, at the end of this month the Senate will bid farewell to a very special colleague, Ralph Everett. It seems almost trite to point out that Ralph is the first black in the history of the U.S. Senate to head a committee staff, though certainly he will be remembered for that historic, path-breaking achievement. However, I rise today, first and foremost, simply to express my thanks and best wishes to a good friend and truly exceptional colleague.

The fact is that, in my 23 years in this body, Ralph is without a doubt the best staff director and most skilled lawyer I have worked with in either the Senate or the House of Representatives. He came to the Capitol Hill in 1977 with blue-chip credentials as a Phi Beta Kappa graduate of Morehouse, as a top graduate of Duke University Law School who has served as Associate Attorney General for the State of North Carolina. After 5 years on my personal staff, Ralph moved to the Commerce Committee in 1982 as Democratic staff director and chief counsel to the minority, later becoming overall staff director and chief counsel when the Democrats returned to the majority in 1986.

Mr. President, I frankly do not know where to begin with the superlatives. At the committee Ralph has been a superb, hands-on manager of a large, complex staff. He is a top-notch lawyer dealing with an incredible range of technical legal issues. As executive of the committee, he has been a combination quarterback, hurdle-jumper, and javelin-catcher, and he has never flinched or buckled.

Perhaps my highest praise for Ralph Everett is that he stands out as one of the very best politicians in the Senate—a politician's politician. He knows people and how to deal with them. Most importantly, he has excellent, tough-minded judgment, knowing when to compromise and when to hang tough, when to move and when to hold back, when to rise to the bait and when to back off.

Of course, all of Ralph's skills have been put to the test on the Commerce Committee, a committee that is an unusual mix of personalities and jurisdictions. Divisions among the members are less ideologically driven than policy driven, and party affiliation often gets lost in the shifting factions. In this unique chemistry, with a mercurial membership and some would say a quicksilver chairman, Ralph has been the stabilizer and catalyst. He is respected and trusted on both sides of the aisle as a fair dealer and honest broker.

The bottom line is that Ralph, more than any other person, has ensured that the Commerce Committee works, works hard, and works well. And the old rule obtains, that first-rate people hire first-rate people, and second-rate people hire third-rate people. Ralph has built a staff of the finest attorneys and experts, and he has given them the leeway and support they need to excel. At all times, the key to Ralph's success on the committee has been his leadership by example: the long hours, the high standards, the professionalism, the simple decency and courtesy that are his trademarks.

On that score, in saluting Ralph Everett, I hasten to add my appreciation to his wife, Gwen, and son, Jason, for their own contributions. His family has always been Ralph's first priority, and I regret those occasions when the long hours and heavy burdens of running the Committee may have intruded. Having said that, I also know how tremendously proud Gwen and Jason are of their husband and daddy, as I know how tremendously proud Ralph is of them.

Mr. President, at the end of the month Ralph will take up his new responsibilities as partner with the law offices of Paul, Hastings, Janofsky & Walker. On behalf of the Commerce Committee and, if I may, on behalf of the entire Senate, I wish Ralph Everett the very best of luck. I look forward to a continuing friendship and partnership.

ARCHBISHOP IAKOVOS

Mr. PRESSLER. Mr. President, this is a very special year for both the Greek-American community and those who are members of the Greek Orthodox Church throughout the Americas. This year marks the 30th anniversary of the enthronement of His Eminence Archbishop Iakovos as Archbishop of the Greek Orthodox Church of North and South America.

For the last 30 years, his reforms have brought greater harmony to the church and to the Greek-American community. His Eminence has been honored by numerous universities, by nations, and by the leaders of many churches.

On November 11, 1989, His Eminence Archbishop Iakovos will be honored for his years of distinguished service by the United Hellenic American Congress at a dinner in Chicago, IL. I am proud to be able to join in recognizing this honor to a great man. Archbishop Iakovos is loved and respected by all.

BRUCE GOFF EXHIBIT AT THE UNIVERSITY OF OKLAHOMA MUSEUM OF ART

Mr. BOREN. Mr. President, I would like to recognize today an important exhibit now being shown at the University of Oklahoma Museum of Art titled "Bruce Goff: Toward Absolute Architecture." Bruce Goff is an important and highly respected figure in the world of architecture, and the State of Oklahoma is proud to call him our own. I would like to commend the University of Oklahoma Museum of Art for bringing this exhibit to our State. Dedicated to the memory of Fred Jones, Jr., the museum has served a vital role in contributing to the world of fine arts and learning in Oklahoma, and I am honored to serve with several outstanding leaders on the Fred Jones, Jr. Memorial Art Center's Board of Visitors. Because of the museum's dedication to knowledge and awareness of the arts, I ask unanimous consent that the museum's description of the Bruce Goff exhibit may be printed in the RECORD, The exhibit was made possible with the assistance of the State Arts Council of Oklahoma and the Oklahoma Foundation for the Humanities.

There being no objection, the description was ordered to be printed in the RECORD; as follows:

This major retrospective includes approximately eighty-five drawings, models, and furnishings from the lengthy career of Bruce Goff (1904–1982), and documents his concept of "absolute architecture" which stressed the celebration of architectural space. The exhibition has been organized by the Los Angeles County Museum of Art in conjunction with the opening of the museum's Pavilion for Japanese Art, Goff's last working design.

Ranging from drawings of the Prairie-style houses Goff designed in the late teens to the working drawings for the Pavillion, the exhibit reflects Goff's non-traditional approach to architecture which included houses built on stilts, airplane struts used for flooring, and ashtrays as windows.

Goff produced more than 450 commissioned designs, of which 147 were realized, during his career of nearly seventy years. Forty photographs from the Bruce Goff archives will provide viewers with an idea of how the working drawings relate to the final buildings. Of special interest to Oklahomans will be the drawings for the numerous Goff projects in this state, including the famous Bavinger house located near Norman. In 1987, the American Institute of Architects awarded Goff's most well-known design with their Twenty-Five Year Award in recognition of its importance to American architecture.

Inspired by the work of Frank Lloyd Wright, Bruce Goff began making architectural drawings at the age of eight. At twelve he was apprenticed to the Tulsa architectural firm Rush, Endacott and Rush, where he eventually became a full partner. Goff's first design was published when he was only

fourteen, and ten years later he received international professional recognition with the Boston Avenue Methodist-Episcopal Church in Tulsa.

After writing for the advice of Frank Lloyd Wright and Louis Sullivan, Goff decided against a formal architectural education, preferring to develop his own inherent sense of creativity. His maverick character was again apparent when he turned down an offer from Wright to join his staff at Talesin West. As Goff told the famous architect, "Mr. Wright, you are too big a man for me to be close to, and I need to be away from you in order to keep the right perspective."

While Goff was careful to maintain his independence, a principle stated by Wright in 1908 was to have a lasting impact on Goff's work: "There should be as many kinds (styles) of houses as there are kinds (styles) of people and as many differentiations as there are different individuals."

Goff's emphasis on individuality had a profound impact on architecture in the State of Oklahoma, especially through his teaching at the University of Oklahoma's School of Architecture. Goff accepted a position with the School in 1946, and in 1947 he was appointed Chairman. During his nine years at the University, Goff developed a School of Architecture noted for its creativity. As Los Angeles architect Frank Gehry writes in the preface to the exhibition catalogue:

He believed in the young. He wanted to liberate them from the world of rules and the imprisonment of conventional ideas. He wanted them to design and make an open society, and he encouraged them to follow their own intuition—not to be followers of Bruce Goff, but to be free and open to explore their own ways, their own personalities, as they apply to architecture.

REPEAL OF PHYSICIAN AND DENTIST SPECIAL PAY OFFSET

Mr. CRANSTON. Mr. President, on June 20, as chairman of the Committee on Veterans' Affairs, I introduced, with three committee members, Mr. MATSUNAGA, Mr. DECONCINI, and Mr. MITCHELL, S. 1211, a measure to reverse an action taken in 1982 by then-Administrator of Veterans' Affairs Robert Nimmo to limit the amount of special pay paid to VA physicians and dentists and prevent such an action from occurring in the future (RECORD, S6997-S6998). At the committee's July 27 markup of various health-care legislation, the provisions of this bill were ordered reported as section 268 of S. 13, the proposed Veterans Benefits and Health Care Act of 1989, and that bill was reported on September 13.

The Senate passed the provisions of S. 13 in H.R. 901 on October 4.

Mr. President, I am delighted to report that the Secretary of Veterans Affairs, on October 6, shortly after Senate passage of legislation on this issue, took administrative action to revoke the cap on special pay imposed by Administrator Nimmo.

Although I am pleased with VA's excellent response to the Senate-passed legislation, I believe that legislation is still necessary in order to prevent such a cap from being imposed in the future.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Under the order, morning business is closed.

INVESTIGATION OF EASTERN AIRLINES DISPUTE

CLOTURE MOTION

The PRESIDENT pro tempore. The hour of 10:30 a.m. having arrived, under the order the clerk will now report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the substitute amendment offered by the Senator from Maine [Mr. MITCHELL] for H.R. 1231, an act to direct the President to establish an emergency board to investigate and report respecting the dispute between Eastern Airlines and its collective bargaining units.

George Mitchell, Alan Cranston, Wendell Ford, Tom Daschle, John Breaux, Max Baucus, Harry Reid, Claiborne Pell, Frank Lautenberg, Jim Sasser, Patrick Leahy, Daniel P. Moynihan, Daniel K. Inouye, John D. Rockefeller, Bob Graham, Edward M. Kennedy, and Howard Metzenbaum.

CALL OF THE ROLL

The PRESIDENT pro tempore. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDENT pro tempore. The question is, Is it the sense of the Senate that debate on the Mitchell substitute amendment, No. 1043 to H.R. 1231, an act to direct the President to establish an emergency board to investigate and report respecting the dispute between Eastern Airlines and its collective-bargaining units shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 62, nays 38, as follows:

[Rollcall Vote No. 273 Leg.]

YEAS—62

Adams	Bradley	Conrad
Baucus	Breaux	Cranston
Bentsen	Bryan	D'Amato
Biden	Bumpers	Daschle
Bingaman	Burdick	DeConcini
Boren	Byrd	Dixon
Dodd	Kennedy	Pell
Exon	Kerrey	Pressler
Ford	Kerry	Pryor
Fowler	Kohl	Reid
Glenn	Lautenberg	Riegle
Gore	Leahy	Robb
Graham	Levin	Rockefeller
Harkin	Lieberman	Sanford
Hatfield	Matsunaga	Sarbanes
Heflin	Metzenbaum	Sasser
Heinz	Mikulski	Shelby
Hollings	Mitchell	Simon
Humphrey	Moynihan	Specter
Inouye	Nunn	Wirth
Johnston	Packwood	

NAYS—38

Armstrong	Gorton	McConnell
Bond	Gramm	Murkowski
Boschwitz	Grassley	Nickles
Burns	Hatch	Roth
Chafee	Helms	Rudman
Coats	Jeffords	Simpson
Cochran	Kassebaum	Stevens
Cohen	Kasten	Symms
Danforth	Lott	Thurmond
Dole	Lugar	Wallop
Domenici	Mack	Warner
Durenberger	McCain	Wilson
Garn	McClure	

The PRESIDENT pro tempore. On this vote, the yeas are 62, the nays are 38. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

IMPOSITION OF THE DEATH PENALTY FOR THE TERRORIST MURDER OF U.S. NATIONALS ABROAD

The PRESIDENT pro tempore. Under the previous order the Senate will now proceed to the consideration of S. 1798, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1798), to provide for the imposition of the death penalty for the terrorist murder of U.S. nationals abroad.

The Senate proceeded to consider the bill.

The PRESIDENT pro tempore. The Senate will be in order.

On this measure there are 2 hours of debate equally divided and controlled by Senators SPECTER and LEVIN with an additional 2 hours on the Levin-Hatfield-Simon amendment with that time also equally divided and controlled by Senators SPECTER and LEVIN.

Who seeks recognition?

Mr. SPECTER addressed the Chair.

The PRESIDENT pro tempore. Who yields time?

Mr. SPECTER addressed the Chair.

The PRESIDENT pro tempore. The Senator from Pennsylvania [Mr. SPECTER].

Mr. SPECTER. I thank the Chair.

Mr. President, is the pending business S. 1798, a bill to impose the death penalty for terrorists who murder American citizens in the course of a terrorist act?

The PRESIDENT pro tempore. The pending business is S. 1798. How much time does the Senator yield?

Mr. SPECTER. 20 minutes.

The PRESIDENT pro tempore. The Senator is recognized for 20 minutes.

Mr. SPECTER. I thank the Chair.

Mr. President, this bill proposes a death penalty along with a possible life imprisonment for an act of murder by a terrorist against a U.S. citizen anywhere in the world.

Mr. President, the death penalty is a very important weapon in the war against violent crime, generally, which includes the war against drugs and the war against terrorists. Most people would be surprised to know that there had not been an effective Federal law imposing the death penalty since 1972.

Mr. President, may we have order in the Senate?

The PRESIDENT pro tempore. The Senate will be in order.

Mr. SPECTER. As I was saying, most people would be surprised to know that there had not been the availability of the death penalty for any Federal crime since 1972, until last year, when Congress enacted legislation providing for the death penalty for major drug dealers, where death results. That is aside from the Uniform Code of Military Justice.

In 1972, the Supreme Court of the United States, in a landmark decision captioned Furman versus Georgia, the Supreme Court said that the death penalty could not be constitutionally imposed in the absence of mitigating and aggravating circumstances being considered by a jury, in order to eliminate indiscriminate application of the death penalty.

Although there are many Federal offenses traditionally which had called for the death penalty—treason, espionage, murder, assassination of an American President, explosives causing death, train wrecks causing death—the Congress had never been able to bring back the death penalty until last year when, in the midst of the great national concern over the drug issue, the death penalty was brought back for that limited item.

Mr. President, I believe that the death penalty is necessary as an important weapon against the war on violent crime, and that it ought to be available on an act like terrorism, resulting in the death of U.S. citizens.

It ought to be available more broadly, but the issue which we have before us at the moment is limited to that one item. When we consider the incidents of terrorism, Mr. President, and recall just a few of the atrocities involving mass murders of U.S. citizens, I think it becomes very apparent why the death penalty is an appropriate penalty.

Less than a year ago, on December 21, 1988, in the famous Pan Am 103 tragedy, that plane was blown up by a terrorist bomb over Lockerbie, Scotland, and 259 passengers were brutally murdered; 79 of those 259 passengers were women and children, with 189 United States citizens.

Just a few months ago, on July 31, 1989, Lt. Col. Higgins was reportedly hanged by Hezbollah captors in retaliation for the Sheik Obeid incident, bringing an outraged reaction worldwide. Regrettably, our outrage on incidents like Colonel Higgins and like Pan Am 103 are short lived. We have to continue our focus on them, and see to it that appropriate responses are undertaken.

Mr. President, there is a long line of terrorist activities resulting in deaths of U.S. citizens which, regrettably, tend to be forgotten. I would like to review just a few of them at this moment.

The year of 1985 was a big year for terrorism, and a very serious year for the murder of U.S. citizens as a result of terrorist acts.

On June 14, 1985, a 17-day ordeal occurred on TWA flight 847, where three U.S. citizens were severely and repeatedly beaten by terrorists. Robert Stethem, a Navy diver, was not only savagely beaten, but executed with a shot to his head, his body dumped out of the plane onto the airfield in an egregious and reprehensible act of murder as a result of a terrorists plot.

On October 7, 1985, Leon Klinghoffer, an American citizen, was taking a pleasure cruise on the ship *Achille Lauro.* Mr. Klinghoffer was confined to a wheelchair. He was rolled to the open deck of the cruise ship, *Achille Lauro,* where he was hit in the head and chest by terrorists and his body dumped into the Mediterranean Sea.

On December 27, 1985, at the Rome airport, 15 people were killed, including 5 U.S. citizens, and 73 wounded in a grenade and machinegun attack by the Abu Nidal terrorist organization.

Back in 1973, members of the Black September organization terrorists group murdered the United States Ambassador chargé and the Belgian chargé, after being marched into the basement of the Saudi Embassy and machinegunned to death.

There is a long list, Mr. President, of atrocities and terrorism, which are summarized in a document which I would like to have printed at the end of my statement.

I ask unanimous consent for that purpose.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Mr. President, on April 2, 1986, TWA flight 840 was en route to Athens, Greece, a bomb was placed under a passenger seat by terrorists; it exploded, causing four United States citizens, including a mother and her infant child and the child's grandmother, to be sucked out of the aircraft, falling to their deaths.

Later that year, Mr. President, on September 5, 1986, Pan Am 73 at Karachi, Pakistan, was held by terrorists for 17 hours; gunmen indiscriminately exploding grenades and firing machineguns; 21 people died, 100 people were wounded, two United States citizens were killed.

Mr. President, the list of terrorist attacks goes on and on. U.S. citizens are victimized repeatedly. The incidents of terrorism, Mr. President, are summarized comprehensively in a document published by the U.S. Department of State in March 1989, and it summarizes the growing incidents of terrorism around the world and the impact on the American citizens.

Let me summarize just a bit from this document. At page 4, the following conclusions are reached: In 1988, 856 international terrorist incidents were recorded with 658 persons being killed and 1,131 individuals wounded.

Terrorism set a record number of attacks in 1988, and particularized herein are the acts of terrorism in the Mideast, the Western European groups on their terrorist activities, West German Red Army faction, Italian Red Brigades, the 17 November group in Greece, and other terrorist incidents around the world are described.

We know, Mr. President, that terrorism was the triggering factor in strong action taken by the United States in the bombing of Qadhafi in Libya back on March 14, 1986.

So there is no question, I would suggest, about the seriousness of the problem of terrorism worldwide, and its very severe impact on U.S. citizens.

Mr. President, as a result of the escalating problems of terrorism, the Congress of the United States has responded by moving for what we call extraterritorial jurisdiction, which is a unique approach in the fight against worldwide crime, including terrorism and including drug activities.

Customarily, the case is tried in the jurisdiction which takes control of a criminal matter in the locale where it occurs. If there is a murder in Pennsylvania, the incident is tried in Pennsylvania, customarily in the county, until there is a change of venue. But some offenses have been so notorious and so troublesome that nations have legislated to undertake what we call extraterritorial jurisdiction.

The first time that was done by the United States was in the Omnibus Crime Control Act of 1984, where we made it a violation of United States law for terrorists to take hostages or to hijack U.S. planes. That law was augmented in 1986 by legislation which this Senator introduced, which makes it a violation of U.S. law to attack, maim, or murder a U.S. citizen anywhere in the world. That was in response to serious gaps in the legisla-

tion from the 1984 Omnibus Crime Control Act. For example, we saw the murders in the Vienna and Rome airports in December 1985.

So, Mr. President, the United States of America has made a forceful declaration that we are not going to rely upon the laws of any nation where U.S. citizens may be victimized by terrorism. We are going to make it a violation of United States law, and we are going to enforce laws of the United States where Americans are victimized.

It was pursuant to that extraterritorial jurisdiction that Fawaz Yunis was brought to the United States on a daring James Bond type of maneuver, where Yunis was lured onto a fishing boat in the Mediterranean on a very unique act of law enforcement by FBI agents, far beyond the territorial limits of the United States. Yunis was brought back to the United States where he was tried, convicted, and sentenced to 30 years in jail.

Mr. President, I suggest that the time has come to specify that where death results to a U.S. citizen as a result of an act of a terrorist anywhere in the world, that it is appropriate that the jury should have the option of imposing the death penalty on that kind of a henious act.

If we are able to bring to justice the perpetrators of the Pan Am bombing, who could doubt that, in a context where 259 people are ruthlessly murdered, it would be appropriate to have the jury have the option of imposing the death penalty?

Who could deny that in a case like the brutal murder of Robert Stethem after being beaten, executed and tossed onto the tarmac, that the jury ought to have the option of imposing the death penalty, or, in the case of Leon Klinghoffer, or in the case of many, many incidents where U.S. citizens have been victimized by terrorism?

I am not saying, Mr. President, that the death penalty has to be imposed. That is the province of the jury under U.S. constitutional law. One great thing about the United States of America is whoever the defendant is, in our court he receives a full range of constitutional rights. For example, when Fawaz Yunis was brought into the United States for prosecution, the United States accorded him an opportunity to challenge his confession, to challenge the prosecution procedures, to challenge the way he was treated, considerations which Yunis and other terrorists would never dream of according their victims. So it is a matter for jury discretion, and it might be necessary on some extradition matters to make a commitment not to impose the death penalty.

When the United States was negotiating to try to get Hamadi back to the United States for trial for the murder of Stethem, the commitment was made by our State Department that we would not seek the death penalty. The fact was, really, we did not have the death penalty available to us. We could not impose it ex post facto. The death penalty was not in existence. This ought to be an option and ought to be a remedy and ought to be available when evaluating the propriety of the punishment of death.

Mr. President, it is not an easy matter, and there are many who have conscientious scruples against the death penalty, and I respect that. But I believe in a fair evaluation of what is appropriate, what may serve as a deterrent and what is in society's interest, that the death penalty ought to be available for certain kinds of outrageous, heinous, reprehensible acts.

I believe, Mr. President, that the death penalty has to be very carefully used.

When I served as district attorney of Philadelphia, from 1966 through 1974, it was my policy to review personally every case where the death penalty was to be requested. Out of some 500 homicides a year in the city of Philadelphia, the death penalty was requested in a very limited number of cases. A strict standard was applied because I felt it was necessary to be very, very restrained in the use of the death penalty, as a matter of fairness and also as a matter of retention of the death penalty. I do not think that it can be overused.

Chief Justice Earl Warren is one of the most noted of the American jurists, widely respected for his broad view of civil rights. In 1958, when he considered the issue of the death penalty and its constitutionality in the case of Trop versus Dulles, Chief Justice Warren said the following:

> At the outset let us put to one side the death penalty as an index of the constitutional limit on punishment. Whatever the arguments may be against capital punishment both on moral grounds and in terms of accomplishing the purpose of punishment, and they are forceful, the death penalty has been employed throughout our history and, in a day when it is still widely accepted, it cannot be said to violate the constitutional concept of cruelty.

The death penalty was considered at length, Mr. President, in the 1976 decision of Gregg versus Georgia, and in the learned opinion filed by Justice Potter Stewart, joined in by Justice Powell and Justice Stevens, there are some very illuminating descriptions of the purpose of the death penalty, its proportionality, and its justification.

Justice Stewart wrote as follows:

> Indeed, the decision that capital punishment may be the appropriate sanction in extreme cases is an expression of the community's belief that certain crimes are themselves so grievous an affront to humanity that the only adequate response may be the penalty of death.

He wrote further:

> In part, capital punishment is an expression of society's moral outrage at particularly offensive conduct. This function may be unappealing to many, but it is essential in an ordered society that asks its citizens to rely on legal processes rather than self-help to vindicate their wrongs.

Justice Stewart quotes from Lord Justice Denning, Master of the Rolls of the Court of Appeal in England, when Lord Justice Denning spoke to the British Royal Commission on capital punishment, as follows:

> Punishment is the way in which society expresses its denunciation of wrong doing: and in order to maintain respect for law, it is essential that the punishment inflicted for grave crimes should adequately reflect the revulsion felt by the great majority of citizens for them. It is a mistake to consider the objects of punishment as being deterrent or reformative or preventive and nothing else. The truth is that some crimes are so outrageous that society insists on adequate punishment, because the wrong-doer deserves it, irrespective of whether it is a deterrent or not.

Mr. President, I will come in a moment to some of the other considerations on capital punishment such as its deterrent effect, but I believe that it is both fair and accurate to say that, on basic concepts of fairness and basic concepts of justice, the death penalty is fair in certain kinds of egregious cases like murder resulting from the act of terrorism.

Mr. President, I allocate to myself an additional 8 minutes at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I think it appropriate at this time, Mr. President, to take that additional time to discuss the second aspect of society's interest in the death penalty, and that is as a deterrent.

Again a good starting point is the comprehensive and erudite opinion of Justice Stewart in Gregg versus Georgia, where he summarizes in a few words a great body of the raging debate on whether capital punishment is or is not a deterrent, and Justice Stewart said this:

> Although some of the studies suggest that the death penalty must not function as a significantly greater deterrent than lesser penalties, there is no convincing empirical evidence either supporting or refuting this view. We may, nevertheless, assume safely that there are murderers, such as those who act in passion, for whom the threat of death has little or no deterrent effect. But for many others, the death penalty undoubtedly is a significant deterrent. There are carefully contemplated murders, such as murder for hire, where the possible penalty of death may well enter into the cold calculus that precedes the decision to act. And there are some categories of murder, such as murder by life imprisonment where other sanctions may not be adequate.

Mr. President, I think it is hard to deny the necessity for an additional penalty for someone serving life imprisonment. If a lifer faces no penalty

beyond an additional sentence for life, he can only obviously do one sentence, why not murder a guard or another prisoner when no other penalty is present?

I think, too, Mr. President, that capital punishment is a deterrent just as Justice Stewart outlines it. There are statistics and there are studies on both sides of this issue.

A very interesting study by Prof. Steven Gabison, an econometric analyst comes to the conclusion, after studying some 7,092 executions between 1900 and 1985, that approximately 125,000 innocent lives have been saved by the death penalty.

These studies, Mr. President, go both ways. But I am personally convinced that the death penalty is a deterrent based upon substantial experience that I have had as a prosecuting attorney, cases where hoodlums did not take along a weapon where they were about to undertake a robbery because they were worried about the possibility of the death penalty; professional criminals, burglars, robbers, who made forceful statements about their concern about the death penalty.

There was one very unique opinion—it is a dissenting opinion—when the Supreme Court of California was badly divided on a case of capital punishment, and the majority reversed the death penalty but three of the justices came to the conclusion that the death penalty should have been imposed. And an opinion by Justice McComb written in 1961 is unique in setting out some 14 cases where criminals stated that they did not take along a weapon or they were concerned about killing because the death penalty might result.

Mr. President, I ask unanimous consent that the full text of this dissenting opinion be printed in the RECORD.

There being no objection, the opinion was ordered to be printed in the RECORD, as follows:

Gibson, C. J., and Peters, White and Dooling, JJ., concur.

McComb, Justice.

I dissent.

First: I do not believe that the district attorney's argument to the jury constituted prejudicial misconduct.

In my opinion, it is a matter of common knowledge that the death penalty is a deterrent, because:

(a) Christians and Jews from the beginning of recorded history have recognized that the death penalty is a deterrent to murder.

This is demonstrated by the fact that, according to the account contained in the Old Testament (see New American Catholic Edition, The Holy Bible (1950), the Lord spoke to Moses and said: "He that striketh and killed a man: dying let him die." (Leviticus 25, verse 17.) "If any man strike with iron, and he die that was struck: he shall be guilty of murder, and he himself shall die. If he throw a stone, and he that is struck die: he shall be punished in the same manner. If he that is struck with wood die: he shall be revenged by the blood of him that struck him. * * * These things shall be perpetual, and for an ordinance in all your dwellings. * * * You shall not take money of him that is guilty of blood: *but* he shall die forthwith." (Numbers 35, verses 16-31.)

(b) In the early history of the western states of the United States of America, including California, the death penalty was imposed by the early settlers to stop the rustling of cattle. It is a matter of common knowledge that in the early days of this state the apprehension and hanging of cattle rustlers reduced, and almost stopped, the theft of cattle.

(c) In the early history of San Francisco, law enforcement broke down and chaotic conditions prevailed. A group of citizens, known as the Vigilantes, undertook to restore order. To do this, they apprehended criminals and after trial promptly executed the guilty parties. Order was restored, and the civil authorities assumed control again. Clearly fear of the death penalty was the basic reasons for the restoration of order.

(d) Any prosecuting attorney or criminal defense attorney or any trial judge who has sat for a substantial period in a department of the superior court devoted to the trial of felony cases knows that many felons are careful to refrain from arming themselves with a deadly weapons because they do not want to take the chance of killing anyone and suffering death as a penalty.

A few recent examples of the accuracy of this view are to be found in the following cases involving persons arrested by officers of the Los Angeles Police Department: [1]

(i) Margaret Elizabeth Daly, of San Pedro, was arrested August 28, 1961, for assaulting Pete Gibbons with a knife. She stated to investigating officers: "Yeh, I cut him and I should have done a better job. *I would have killed him but I didn't want to go to the gas chamber.*"

(ii) Robert D. Thomas, alias Robert Hall, an ex-convict from Kentucky; Melvin Eugene Young, alias Gene Wilson, a petty criminal from Iowa and Illinois; and Shirley R. Coffee, alias Elizabeth Salquist, of California, were arrested April 25, 1961, for robbery. They had used toy pistols to force their victims into rear rooms, where the victims were bound. When questioned by the investigating officers as to the reason for using toy guns instead of genuine guns, all three agreed that real guns were too dangerous, *as if someone were killed in the commission of the robberies, they could all receive the death penalty.*

(iii) Louis Joseph Turck, alias Luigi Furchiano, alias Joseph Farino, alias Glenn Hooper, alias Joe Moreno, an ex-convict with a felony record dating from 1941, was arrested May 20, 1961, for robbery. He had used guns in prior robberies in other states but simulated a gun in the robbery here. He told investigating officers that he was aware of the California death penalty although he had been in this state for only one month, and said, when asked why he had only simulated a gun, *"I knew that if I used a real gun and that if I shot someone in a robbery, I might get the death penalty and go to the gas chamber."*

(iv) Ramon Jesse Velarde was arrested September 26, 1960, while attempting to rob a supermarket. At that time, armed with a loaded .38 caliber revolver, he was holding several employees of the market as hostages. He subsequently escaped from jail and was apprehended at the Mexican border. While being returned to Los Angeles for prosecution, he made the following statement to the transporting officers: "I think I might have escaped at the market if I had shot one or more of them. *I probably would have done it if it wasn't for the gas chamber.* I'll only do 7 or 10 years for this. I don't want to die no matter what happens, you want to live another day."

(v) Orelius Mathew Stewart, an ex-convict with a long felony record, was arrested March 3, 1960, for attempted bank robbery. He was subsequently convicted and sentenced to the state prison. While discussing the matter with his probation officer, he stated: "The officer who arrested me was by himself, and if I had wanted, I could have blasted him. *I thought about it at the time, but I changed by mind when I thought of the gas chamber.*"

(vi) Paul Anthony Brusseau, with a criminal record in six other states, was arrested February 6, 1960, for robbery. He readily admitted five holdups of candy stores in Los Angeles. In this series of robberies he had only simulated a gun. When questioned by investigators as to the reason for his simulating a gun rather than using a real one, he replied that *he did not want to get the gas chamber.*

(vii) Salvador A. Estrada, a 19-year-old youth with a four-year criminal record, was arrested February 2, 1960, just after he had stolen an automobile from a parking lot by wiring around the ignition switch. As he was being booked at the station, he stated to the arresting officers: "I want to ask you one question, do you think they will repeal the capital punishment law. *If they do, we can kill all you cops and judges without worrying about it.*"

(viii) Jack Colevris, a habitual criminal with a record dating back to 1945, committed an armed robbery at a supermarket on April 25, 1960, about a week after escaping from San Quentin Prison. Shortly thereafter he was stopped by a motorcycle officer. Colevris, who had twice been sentenced to the state prison for armed robbery, knew that if brought to trial, he would again be sent to prison for a long term. The loaded revolver was on the seat of the automobile beside him and he could easily have shot and killed the arresting officer. By his own statements to interrogating officers, however, *he was deterred from this action because he preferred a possible life sentence to death in the gas chamber.*

(ix) Edward Joseph Lapienski, who had a criminal record dating back to 1948, was arrested in December 1959 for a holdup committed with a toy automatic type pistol. When questioned by investigators as to why he had threatened his victim with death and had not provided himself with the means of carrying out the threat, he stated, *"I know that if I had a real gun and killed someone, I would get the gas chamber."*

(x) George Hewitt Dixon, an ex-convict with a long felony record in the East, was arrested for robbery and kidnaping committed on November 27, 1959. Using a screwdriver in his jacket pocket to simulate a gun, he had held up and kidnaped the attendant of a service station, later releasing him unharmed. When questioned about his using a screwdriver to stimulate a gun, this man, a hardened criminal with many felony arrests and at least two known escapes from custody, indicated his fear and respect for the California death penalty and stated, *"I did not want to get the gas."*

[1] The cases cited are taken from the records on file in the Los Angeles Police Department.

(xi) Eugene Freeland Fitzgerald, alias Edward Finley, an ex-convict with a felony record dating back to 1951, was arrested February 2, 1960, for the robbery of a chain of candy stores. He used a toy gun in committing the robberies, and when questioned by the investigating officers as to his reasons for doing so, he stated: "I know I'm going to the joint and probably for life. *If I had a real gun and killed someone, I would get the gas. I would rather have it this way.*"

(xii) Quentin Lawson, an ex-convict on parole, was arrested January 24, 1959, for committing two robberies, in which he had simulated a gun in his coat pocket. When questioned on his reason for simulating a gun and not using a real one, he replied that *he did not want to kill someone and get the death penalty.*

(xiii) Theodore Roosevelt Cornell, with many aliases, an ex-convict from Michigan with a criminal record of 26 years, was arrested December 31, 1958, while attempting to hold up the box office of a theater. he had simulated a gun in his coat pocket, and when asked by investigating officers why an ex-convict with everything to lose would not use a real gun, he replied, *"If I used a real gun and shot someone, I could lose my life."*

(xiv) Robert Ellis Blood, Daniel B. Gridley, and Richard R. Hurst were arrested December 3, 1958, for attempted robbery. They were equipped with a roll of cord and a toy pistol. When questioned, all of them stated that *they used the toy pistol because they did not want to kill anyone, as they were aware that the penalty for killing a person in a robbery was death in the gas chamber.*

(e) The people of the State of California have, through their Legislature, on many occasions considered whether the death penalty should be abolished in this state—this as recently as the 1961 session of the Legislature—and in each instance have come to the conclusion that the death penalty is a deterrent and have retained it. Therefore, the judiciary of this state is bound to follow the legally expressed will of the soverign people of the State of California.

Second: Defendant did not object to the prosecutor's statements. Therefore, he cannot raise the issue of their propriety on appeal unless they were of such character that the error could not have been cured by prompt admonition and instructions of the trial court. (People v. Hampton, 47 Cal. 2d 239, 240 [3], 302 P.2d 300.) In my opinion, any alleged prejudice could have been cured by a prompt request for, and the giving of, an admonition and instruction by the trial judge.

Third: In my opinion, the trial judge properly exercised his discretion in denying the motion for a new trial on the penalty phase.

Any judge or attorney who has had trial court experience knows that a trial judge is not always familiar with all the procedural law at the outset of the trial of a case. This is particularly true at the present time and is in part due to the ever-changing rules of law. This view was recently expressed by Hon. Evelle J. Younger, of the Los Angeles Superior Court, in an address which he delivered before the Lawyers Club. The following report on Judge Younger's remarks appeared in one of the Los Angeles legal newspapers: " * * *.

"As an example Judge Younger noted the recent changes in the rules on admissibility of evidence obtained by illegal search and seizure. 'We have just recently run the gamut from the common law rule that such evidence was admissible in Federal or State courts regardless of how obtained, if of probative value, to absolute exclusion.' The latest rule of absolute exclusion was handed down this year in the case of Dolly Mapp. [Dollree Mapp v. Ohio, 364 U.S. 868, 81 S.Ct. 111, 5 L.Ed.2d 90].

"The result of these changes is that it becomes increasingly difficult for local peace officers to determine what are, and what are not, allowable procedures in 'coping with mounting criminal activity.' An arrest, he stated, cannot be justified if it shocks the conscience—but whose conscience is the determining factor? 'Not the community's. Not the Police Chief's. * * * We are talking about the conscience of the Ninth Member of the United States Supreme Court. And, we are not talking about his conscience yesterday; we are talking about his tomorrow's conscience.'

"If judges and legal scholars have difficulty in defining due process, one can sympathize with the lonely policeman patrolling his beat who is expected to make legally correct split-second decisions, he commented.

" * * * * * *

"The speaker concluded by reiterating, 'We must zealously guard the rights of individuals; but in protecting the individual charged with crime we should never lose sight of the rights of society.'" (Metropolitan News, Vol. XXXIX, No. 152 (8/31/61); The Los Angeles Daily Journal, Vol. LXXIV, No. 175 (9/1/61).

The result is that a trial judge must rely to a large measure upon the information furnished him by the attorneys appearing before him. In the present case this was done. After the trial judge expressed doubts as to his authority to reweigh the evidence following the jury's fixing of the death penalty, counsel for the defendant pointed out to him that he did have such authority. Whereupon the judge accepted the view that he had authority on the motion for a new trial to reweigh the evidence as to the application of the death penalty. He then stated that assuming he had such authority, he would deny the motion, as the penalty was properly imposed, and that this view was supported by the fact that three juries had imposed the death penalty for the crime of which the defendant was convicted.

The problem presented is not a mere academic one. The people of this state are faced with an extremely important situation.

I would affirm the judgment and the order denying the motion for a new trial.

Schauer, Justice (dissenting).

I concur in the conclusions stated by Mr. Justice McComb and in his reasoning. I find it necessary, however, to emphasize my differences with the majority opinion.

I can understand with the majority that there is a reasonably debatable question as to whether the record affirmatively and satisfactorily shows that the trial court performed its full duty to independently weigh the evidence as required by People v. Borchers (1958) 50 Cal.2d 321, 328 [1, 2], 330 [9, 10], 325 P.2d 97 and People v. Moore (1960) 53 Cal.2d 451, 454 [2], 2 Cal.Rptr. 6, 348 P.2d 584. However, construing the record favorably to affirmance, as is the duty of a reviewing court, I am satisfied with Justice McComb's conclusion that the judgment should be affirmed.

The reversal of a judgment in a case of this character (and this is a second reversal in the same case) even when clearly required under established law, is in itself a serious matter. But far transcending the importance of the reversal in adverse effect on law enforcement, are certain pronouncements in the opinion (hereinafter quoted) which, whether so intended or not, constitute an attack on the death penalty. I cannot find justification in fact or in law for the majority's criticism of the prosecutor's argument to the jury regarding the death penalty or for the pronouncements which constitute an undermining attack on that penalty.

The majority relate that "For the third time a jury has fixed defendant's penalty at death for the murder of his wife * * *. [After the first trial] the trial court granted a new trial on the ground of newly discovered evidence, and we affirmed. [Citation.] Defendant was again * * * found guilty * * *; again the jury fixed the penalty at death. We affirmed the judgment as to the adjudication that defendant is guilty of murder of the first degree and was sane * * *. We reversed [McComb, J., and Schauer, J., dissenting] * * * as to the imposition of the death penalty because of the admission of evidence tending to inflame and prejudice the jury. (People v. Love [1960] 53 Cal.2d 843 [3 Cal.Rptr. 665, 350 P.2d 705].)"

The order of the majority in the above referred to reversal is as follows (page 858 of 53 Cal.2d, at page 674 of 3 Cal.Rptr., at page 714 of 350 P.2d): "The judgment is reversed as to the imposition of the death penalty, and the cause is remanded for retrial and redetermination of the question of penalty only and for the pronouncement of a new sentence and judgment in accordance with such determination and the applicable law." The applicable law includes the provision of section 190.1 of the Penal Code, that "Evidence may be presented at the further proceedings on the issue of penalty, of the circumstances surrounding the crime, of the defendant's background and history, *and of any facts in aggravation of mitigation of the penalty.* The determination of the penalty of *life imprisonment or death* shall be * * * *on the evidence presented* * * *." (Italics added.)

Yet today the majority rule that (ditto, p. 9 [16 Cal.Rptr. 781, 366 P.2d 37]) "Since it appears, * * * that the prosecutor committed prejudicial misconduct in arguing the deterrent effect of the death penalty to the jury, the judgment * * * must be reversed."

What possible rationality can be found in the provision of section 190.1 that "Evidence may be presented * * * on the issue of penalty * * * and of *any facts in aggravation or mitigation* of the penalty" if evidence and argument cannot be addressed to what is then the sole issue in litigation? What can the words "Evidence * * * in aggravation or mitigation of the penalty" mean if they do not relate to a basis for selecting as between the more drastic penalty—the greater deterrent—and the mitigated one of imprisonment?

I agree with the majority that (p. 2 of ditto [16 Cal.Rptr. 779, 366 P.2d 35]) "The court did not err in dismissing defendant's subpoena for Governor Brown and Warden Duffy. * * * He had subpoenaed Governor Brown to elicit his views on capital punishment. The penalties for first degree murder have been fixed by the Legislature. (Pen.Code, § 190.) The wisdom or deterrent effect of those penalties are for the Legislature to determine and are therefore not justifiable issues. [Manifestly the Legislature has made the determination.] Hence evidence as to these matters is inadmissible."

Certainly the above holding is correct. But most assuredly no inference can properly be drawn from that holding that the Legislature has left any doubt that on its findings and in its judgment both the death penalty—for its greater deterrent effect, particularly in aggravated cases—and so-called life imprisonment—with its lesser effect for mitigated cases—are essential for the protection of society in California.

But in contrast to the law the majority go on to assert that the judgment here must be reversed and remanded for a new (fourth) trial on the issue of penalty because: "[The prosecutor] stated as a fact the vigorously disputed proposition that capital punishment is a more effective deterrent than imprisonment." Would "vociferously" perhaps be a more accurate adverb than "vigorously"? And since, as the majority already had held, the Legislature has fixed the penalties for first degree murder and they "are therefore not justiciable issues," why should the prosecutor not accept the findings of the Legislature and the law as to the two alternative penalties, exactly as he did, and offer evidence and argument pertinent to the jury's performance of duty, as clearly contemplated by the Legislature in its enactment of Penal Code, sections 190 and 190.1?

The majority continue: "The Legislature has left to the absolute discretion of the jury the fixing of the punishment for first degree murder [i.e., without any control by the judge of *their* discretion but, of course, presumably rationally in the light of the evidence]. [Citation.] *There is thus no legislative finding, and it is not a matter of common knowledge, that capital punishment is or is not a more effective deterrent than imprisonment.*" The italicized pronouncement, in my view, is obnoxious to fact and law. Unsupported by statute or prior decision, it is a blow which appears to be aimed directly against rational application, and therefore toward ultimate abolition, of the death penalty. If the quoted italicized pronouncement were true—that there is neither legislative finding nor common knowledge "that capital punishment is or is not a more effective deterrent than imprisonment" then, of course, the death penalty should be abolished.

Further implementing its tenet the majority opinion continues: "Since evidence on this question [presumably evidence in aggravation or mitigation of penalty as contemplated by Penal Code, section 190.1] *is inadmissible,* argument thereon by prosecution or defense could serve no useful purpose, is apt to be misleading, and is therefore improper. It is true that in People v. Friend [1957] 47 Cal.2d 749, 766-768, 306 P.2d 463, we stated that counsel could advance 'arguments as to which penalty will better serve the objectives of punishment' and listed deterrence of crime as one of those objectives. To the extent that People v. Friend is inconsistent with our conclusion herein it is overruled." (Italics added.)

By the above quoted holdings the majority in effect place the prosecutor in a forensic strait jacket as to argument for the greater deterrent. Those holdings also effectually emasculate the provision of Penal Code, section 190.1, for the taking of evidence to aid the jury in making an intelligent and informed selection as between the alternative, but by no means equal, penalties of death or imprisonment. In so doing it appears to me that the majority action trenches upon an invasion of the legislative province in disregard of the distribution of powers prescribed by California Constitution, article III, section 1. (Compare Muskopf v. Corning Hospital Dist. (1961) 55 Cal.2d 211, 213-221, 11 Cal.Rptr. 89, 359 P.2d 457; see also dissenting opinion, pp. 221-224; Civ. Code, § 22.3; Stats. 1961, ch. 1404, p. 3209). To the same end today's majority also disregard the doctrine of *stare decisis* in overruling (as above quoted) the decisional law which admittedly had bound the trial court at the time of trial.

Although overruling the cited decision the majority rely on it as a basis for reversal. They say "That decision [Friend (1957)], however, was binding on the trial court at the time this case was tried, and it would have been an idle act for defendant to object in the trial court to the prosecutor's argument that capital punishment is a more effective deterrent than imprisonment. He is therefore not precluded from raising the question for the first time on appeal." The trial court thus is reversed for following the law as it existed at the time of trial—*and as it also existed at the time of this court's first reversal of the judgment and remand "for retrial and redetermination of the question of penalty only."*

Actually the correct rules, as had been held by this court in the Friend (1957) decision, relative to the selection of penalty (as between death and so-called life imprisonment) are stated or indicated in the now overruled case. Insofar as appears proper to be quoted here, the opinion in that case declares (page 764 [8] of 47 Cal.2d at page 472 of 306 P.2d): "We note * * * that the trend is toward the more liberal admission of evidence pertinent only to the selection of penalty. For example, if has become established practice to advise the jury *of the facts* concerning the possibilities of pardon, commutation, parole, etc. [Citations.] Obviously, *the law* pertaining to pardons, commutations and paroles has not the slightest relevancy to the issue of guilt; it is pertinent only as a *fact* which may be considered in selecting the penalty to be imposed; i.e., it is evidence which may be considered as relevant to the 'aggravation' or 'mitigation' of punishment in the sense in which those terms have been used in relation to the selection of penalty. * * * [Page 767 [13], 306 P.2d at page 474.] They [the jury] should be told * * * that beyond prescribing the two alternative penalties the law itself provides no standard for their guidance in the selection of the punishment; * * * that in deciding the question whether the accused should be put to death or sentenced to imprisonment for life it is within their discretion alone to determine, each for himself, how far he will accord weight to the considerations of the *several objectives of punishment,* of the *deterrence of crime,* of the *protection of society,* of the *desirability of stern retribution, or of sympathy or clemency,* * * *" (Italics in last sentence added.) We pointed out also that (footnote 8, page 766, 305 P.2d at page 474) "For some years many courts and writers on criminal law and penology have held that the purpose of legally adjudicated punishment is not *or* should not be vengeance, but rather *deterrence* of the offender and *other prospective offenders* from crime, * * *" (Italics added.) All of the foregoing, the majority today brush aside.

Regardless of individual preferences among the justices I deem it to be the duty of this court to accept the fact that the Legislature has determined that the death penalty, in the cases wherein it is prescribed, is the strongest deterrent against the commission of such crimes. The fact that the jury (or the trial judge) has a final power of determination as to whether the death penalty or life imprisonment shall be imposed in a given case is of course *not* a legislative determination that life imprisonment is an equally strong deterrent. It merely shows the concern of the Legislature that liability to suffer the strongest deterrent be surrounded by the strongest safeguards for the accused. Even as the death penalty is the strongest deterrent against murder, so is it also the most effective protector of the lives of the victims of those who deliberately choose the commission of crimes of violence as a profession.

That the ever present potentially in California of the death penalty, for murder in the commission of armed robbery,[1] each year saves the lives of scores,[2] if not hundreds of victims of such crimes, cannot I think, reasonably be doubted by any judge who has had substantial experience at the trial court level with the handling of such persons. I know that during my own trial court experience, which although not extensive in criminal law, included some four to five years (1930-1934) in a department of the superior court exclusively engaged in handling felony cases, I repeatedly heard from the lips of robbers—some amateurs (no prior convictions), some professionals (with priors)—substantially the same story: "I used a toy gun [or a simulated gun or a gun in which the firing pin or hammer had been extracted or damaged] because I didn't want my neck stretched." (The penalty, at the time referred to, was hanging; death by lethal gas was substituted in 1941.)

I, of course, recognize that there are persons who in all sincerity urge that the death penalty be abolished. They point to the cases which reach the courts and say: "See, it has not deterred the commission of these crimes." Certainly the potentiality of the penalty is not 100 per cent effective as a deterrent *as to all criminals.* But it would be absurd to claim that because it did not deter *all* it did not deter *any.* As to each victim of each armed robbery whose life is spared because that one robber was deterred from killing, I dare say that the victim and his loved ones would not quibble over the percentage of the deterrent's efficacy.

There are also persons who entertain a conscientious scruple against *any* taking of human life. When a person who conscientiously believes that the state should never take a human life is called upon to take part in the operation of a death penalty law he, understandably—being conscientious in duty as well as in personal conviction—will suffer grieveously. Whether he shall advocate repeal of the law would be one thing; urging forbearance of execution might be another. But regardless of whether a person has or has not any official connection whatsoever with law enforcement, and whether

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[1] I use robber as the example for discussion because the deterrent effect of the death penalty for murder in the commission of (or attempt to commit) robbery is particulary well known among law enforcement officers who handle such cases at the investigation, arrest, and trial court levels. The point of my discussion, however, is equally applicable to the deterrent effect of the death penalty against harming kidnap victims and against murder committed in the perpetration or attempt to perpetrate arson, rape, burglary, mayhem or lascivious acts upon a child under the age of fourteen. (See Pen.Code, §§ 209, 189, 190, and 288.)

[2] According to the 1958-1960 Report of the Department of Justice the number of robberies reported in California in 1959 was 11,548.

It may be noted also that in the same year 108,002 burglaries were reported in this state.

he realizes it or not, the death penalty law is a matter of importance to his safety. Whether any citizen would urge amendment of the law to make its application more swift and sure, or would repeal it altogether, or change it otherwise, the decision he makes should be of grave concern to him—and to his neighbors. Certainly each person must live with his own conscience. It is, however, to be hoped that his decision, as to any action affecting the death penatly which is motivated by conscience, will be an enlightened decision; that the decision he makes will be more than superficially consistent with his true objective. To make such a decision requires thinking—and information. By information, I mean facts, not theories. Probably all of us who have thought on the subject—and particularly those of us who have some responsibility in these cases (even as remote as it is at the appellate level)—devoutly wish that the death penalty were no longer necessary. But we have not yet reached the state which Sir Thomas More envisioned. Until a Utopian government has become reality, organized society (if it is to exist) must continue on the posit of free will and personal responsibility for one's choices of action (see People v. Gorshen (1959) 51 Cal.2d 716, 724, 336P.2d 492) with sanctions for crimes appropriate to their gravity. A good government owes protection to its law abiding citizens.

Let us consider further this business of armed robbery. It is much more profitable, ordinarily, than burglary but it entails more risk. Robbery means facing the victim and taking the property "from his person or immediate presence * * * against his will, accomplished by means of force or fear." (Pen.Code, § 211). The victim (if not blind and deaf) is a potential witness. Robbery is "in the first degree" if "perpetrated by torture or by a person being armed with a dangerous or deadly weapon. * * *" (Pen.Code, § 211a). Other kinds of robbery are of the second degree. Robbery in the first degree is punishable "by imprisonment in the state prison * * * for not less than five years;" that of the second degree, by like imprisonment "for not less than one year." [Pen.Code, § 213]. The *maximum in both cases is life imprisonment.* Few, if any, law respecting people would contend that these sentences, particularly in view of the early parole probabilities, are too severe.

The risk of undergoing such a sentence is just as much a calculated risk of the professional robber as is the risk of deflation (or competition) a calculated risk of the conventional businessman. But the robber can do one thing that will vastly decrease the risk of identification and conviction: he can eliminate the known witnesses—the victims he robs. To accomplish any robbery he must at least make a show of force and induce fear; and for that reason he usually carries a gun—or something that looks like a gun. It cannot be validly disputed that the choice as to which he carries—a gun or what looks like a gun—is in case after case controlled solely by his respect for the death penalty. If the punishment he risks for robbery is to be imprisonment—and only imprisonment, even if he eliminates the only witness—it would seem inevitable that the incentive to kill would be greatly increased. The greater chance of escaping any punishment would, in the minds of some at least, outweigh the slighter risk of having the term increased. Many a robber who would take the risk of a longer term would absolutely shun any plan which substituted death for imprisonment.

And now I return to the subject of conscientious scruples against the execution of a human being. From what has already been said it must be obvious that I understand that it would be poignantly desirable (in the faithful performance of their law enforcement duties) for jurors and trial judges particularly, and also for justices of courts of review, and governors or other officers having the power of commutation, if the death penalty were abolished. But I comprehend also that it would be tragically undesirable to the families of the innocent victims who would die violently as a result.

Because of what my own eyes have seen and my ears have heard I cannot doubt the efficacy of the death penalty as a savior of the lives of victims of robbers, kidnapers, burglars, and criminals of similar dispositions. But if there were doubt in my mind I should resolve it in favor of protecting the innocent victims of the future rather than sparing the guilty killers of the past.

Inasmuch as today's majority opinion (1) may well be construed as at least approaching an invitation to the Legislature to repeal the death penalty; (2) as it declares a proposition which, if accepted, would constitute a basis arguably demanding repeal;[2] and (3) as it shackles district attorneys and trial courts in effective administration of the present law as it was enacted, it may well be that the Legislature should give attention to the legislation so affected. In that connection, in view of today's court action and of the entire record of appeals from penalty determinations under Penal Code, sections 190 and 190.1 (as those sections were, respectively, amended and added by Stats. 1957, ch. 1968, p. 3509, and Stats. 1959, ch. 738, p. 2727), the Legislature perhaps will wish to give consideration to the possible desirability of eliminating the alternative of imprisonment in certain situations to be designated by the Legislature, and making the greater deterrent the sole penalty, to follow as a matter of law on final conviction in any such designated situation. It would seem that, if such action is contemplated, the Legislature in its study might consider whether the greater deterrence of such certainty might reasonably be made applicable to those who personally would kill, or direct another to kill, "in the perpetration or attempt to perpetrate arson, rape, robbery, burglary, mayhem, or any act punishable under section 288," or in kidnapping (See Pen. Code, §§ 189, 209.)

Finally, I emphasize: each person who officially or unofficially participates in or advocates enforcement, repeal or amendment of the subject law—and who receives the benefits of its protection—must live with his own conscience. But I respectfully and earnestly urge that he who would consider repealing or otherwise defeating operation of this law, the principal purpose of which is to protect the lives of the victims of crimes of violence, will either make sure that the information on which he acts is sound and convincing or will pause to consider what his conscience may tell him as to some measure of moral responsibility for the "eliminations" which reason suggests may thereby be encouraged.

McComb, J., concurs.

Rehearing denied; Schauer and McComb, JJ., dissenting.

Mr. SPECTER. I shall not read all of it because of the time limitation. But a few cases are worthy of note illustratively.

A case involving Margaret Elizabeth Daly of San Pedro, arrested on August 28, 1961, for assaulting one Pete Gibbons with a knife, she said to investigating officers:

Yeh, I cut him and I should have done a better job. I would have killed him but I didn't want to go to the gas chamber.

Louis Joseph Turck said, relating to a 1961 robbery:

I knew that if I used a real gun and that if I shot someone in a robbery, I might get the death penalty and go to the gas chamber.

Orelius Mathew Stewart was arrested on March 3, 1960, for an attempted bank robbery. While discussing the matter he stated:

The officer who arrested me was by himself, and if I had wanted, I could have blasted him. I thought about it at the time, but I changed my mind when I thought of the gas chamber.

Salvador A. Estrada, 19 years of age, February 2, 1960, was arrested just after he had stolen an automobile from a parking lot by wiring around the ignition switch. As he was being booked at the station, he stated to the arresting officers:

I want to ask you one question, do you think they will repeal the capital punishment law? If they do, we can kill all you cops and judges without worrying about it.

There are many, many cases like this, some 14 cited in this opinion, Mr. President. But I believe that the realistic inferences, as a matter of human experiences, are that people are deterred by capital punishment, that those who receive the death penalty, almost all of them, ask for commutation of sentences to life imprisonment because of their obvious concern about the death penalty.

When Sheik Obeid was taken into custody by the Israelis earlier this year in what was an appropriate act of an arrest and taking into custody under international law principles, the one thing that Sheik Obeid was most concerned about was the possibility that he might be extradited to the United States for the murder of Colonel Higgins because of the certainty of punishment in the United States, albeit not a death penalty. But even a known terrorist like Sheik Obeid is worried about punishment.

The Colombian drug dealers are very apprehensive about being brought to the United States, extradited, because once you are in the United States judicial criminal justice system, you do not get out even though it is only jail and not the death penalty.

Mr. President, I ask unanimous consent to be allocated, at this juncture, an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, just a few more comments on this subject

[2] Why, indeed, should it not be repealed if, as the majority declare, it is no more of a deterrent to murder than is mere imprisonment?

with respect to what may be the differences with terrorists who may be motivated by fanaticism, who may say they are not to be concerned about the death penalty. It is entirely possible that some are not so concerned.

The terrorist who drove his vehicle, his truck, laden with explosives into the U.S. compound resulting in the death of 241 U.S. Marines back on October 23 of 1983, may have been someone driven by a fanatical urge. But there are many, many who are concerned about punishment and who would be concerned about the death penalty.

Sheik Obeid, Bahwai Ghamas, the Colombian drug dealers, as long as there are any, even one, who would say, "I do not want to face the death penalty as a result of a prosecution in a United States court," then, Mr. President, I say that it is appropriate that that penalty be available in the United States prosecution for terrorism. There is absolutely no question from many, many, many, many cases that criminals are concerned about the death penalty. And my own view is that terrorists similarly have such a concern. Nobody can assert with absolute positiveness what is in any man's mind, but as a result of our experience, I believe that that is a fair conclusion.

When United States citizens are confronted by terrorists around the world and blown out of airplanes or murdered as they discharge their official duties in Greece, as one United States Marine was within the past year, or murdered ruthlessly, as Colonel Higgins was in Lebanon, then I think it is not too much for the Congress of the United States to enact legislation allowing for the option of imposing the death penalty.

The President and the administration support this legislation. I believe the American people, by and large, support this legislation. In the interest of justice and appropriate law enforcement, I urge my colleagues to support this legislation.

How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 28 minutes and 54 seconds remaining.

Mr. SPECTER. I thank the Chair and I yield the floor.

EXHIBIT 1

FATAL TERRORIST INCIDENTS AGAINST AMERICANS (Revisions in italic)

Dec 21, 1988—PanAm 103 downed by a terrorist bomb over Lockerbie, Scotland. Of the 259 passengers murdered, 189 were Americans and 79 were women and children. The Palestinian Front for Liberation of Palestine—General Command most likely responsible. *No arrests for this act.*

June 14, 1985—In a 17-day ordeal on TWA 847, three U.S. passengers were severely and repeatedly beaten by terrorists. Robert Stethem was not only savagely beaten, but also executed with a shot to the head and his body dumped out of the plane onto the airfield. Hizballeh terrorists responsible. *Only one of the terrorists, Hamadei, has been tried and sentenced to life imprisonment.*

Oct 7, 1985—Leon Klinghoffer, confined to a wheelchair, was rolled to the open deck of the Italian cruise ship, the Achille Lauro, where he was shot in the head and chest and his body pushed into the Mediterranean Sea. Terrorists from Abu Abbas' Popular Liberation Front responsible. *One terrorist held responsible for the killing of Mr. Klinghoffer was sentenced to 30 years imprisonment. His seven other accomplices received lesser sentences. Their leader Abu Abbas has been tried, convicted and sentenced in absentia to life imprisonment.*

May 16, 1984—William Buckley was kidnapped in Beirut and over a period of months was brutally and continually tortured by terrorists. His body has never been recovered. Islamic Jihad terrorists likely responsible. *No arrests.*

Apr 2, 1986—As TWA 840 was enroute to Athens, Greece, a bomb placed under a passenger seat by terrorists exploded and caused 4 Americans, including a mother and her infant child and the child's grandmother were sucked out of the aircraft and fell to their death. Forces of Col Hawari's—a lieutenant of Arafat—was responsible. *No arrests.*

March 2, 1973—Members of the Black September Organization terrorist group under the direction of Abu Iyad—currently Yasser Arafat's chief lieutenant in Tunis for the dialogue with U.S. Ambassador Pelletreau—executed in cold blood Ambassador Cleo Noel and his deputy George Moore. *Ambassador Noel's last request to speak to his wife was rejected. The Ambassador, DMC Moore and the Belgium Charge were marched into the basement of the Saudi Embassy and machine-gunned to death. The terrorists were initially arrested, but eventually released. To this day, those terrorists are free.*

Dec 27, 1985—At Rome airport, 15 people were killed including 5 Americans and 73 wounded in a grenade and machine gun attack by Abu Nidal Organization. *One terrorists was convicted and received a 30-year sentence. Abu Nidal was also tried and sentenced in absentia to life imprisonment.*

Sept 5, 1986—Pan Am 73 at Karachi, Pakistan airport. ANO held plane 17 hours and gunman indiscriminately exploded grenades and machine gun fire. 21 died, 100 wounded including two US killed. *5 terrorists have received the death sentence but have not yet been executed. There is strong Shiite pressure upon the government not to execute them.*

May 25, 1989—*Jeffrey Ball and Todd Wilson, two young Mormons doing missionary work in Bolivia, were executed gangland style on their doorsteps by terrorists for "violation of our national sovereignty." Jeffrey and Todd were both 20 years old. Bolivian officials have seized suspects.*

Jun 13, 1988—*In Peru, two USAID subcontractors, one of whom—Constantine Gregori—was an American, were executed by Sendero Luminoso terrorists. Both men were ordered to lie on the ground and then were shot in the back of the head.*

Jun 28, 1988—Capt William Nordeen, USN, our Defense Attache in Athens was murdered by the "17 November" terrorist group who exploded a bomb in a parked car as Capt Nordeen drove past. *No arrests.*

April 17, 1986—In Beirut, Peter Kilburn, a librarian at American University of Beirut, was taken hostage. On Apr 17, 1986 he was found slain with a bullet to the head along with two British citizens. Islamic Jihad had claimed his kidnapping in 1984. A note found with the bodies said the 3 were killed in retaliation for the US bombing of Libya. *No arrests.*

Mr. LEVIN. I suggest the absence of a quorum, and ask unanimous consent to have it taken out of our time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1068

(Purpose: To provide for the penalty of life imprisonment without the possibility of release for acts of terrorism against United States nationals abroad)

Mr. HATFIELD. Mr. President, I send an amendment as a substitute for the Specter amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for himself, Mr. LEVIN, and Mr. CHAFEE, proposes an amendment in the nature of a substitute numbered 1068.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF RELEASE FOR TERRORIST ACTS ABROAD AGAINST UNITED STATES NATIONALS.

Section 2331(a)(1) of title 18, United States Code, is amended by striking "be fined" through the semicolon and inserting "be imprisoned for life without the possibility of release and, in addition, may be fined under this title;".

Mr. HATFIELD. Mr. President, I make an inquiry on the time.

The PRESIDING OFFICER. Two hours, equally divided, on the amendment, respectively controlled by Senator SPECTER and Senator LEVIN.

Mr. HATFIELD. I ask Senator LEVIN if I might have 15 minutes?

Mr. LEVIN. Fine.

Mr. HATFIELD. Mr. President, time and again, we come to this floor seeking simple solutions to complicated problems. Time and again, we come to this floor hoping to find a magic wand we can wave over all the difficulties we face.

And here we are again, Mr. President: the death penalty for terrorists. My colleagues seem to think we have found one of those magic wands—we will wave the death penalty over the

legacies of violence and repression around this troubled world and, poof, they will be gone.

I come here today—as I have so often in the past—to say, it is not quite so simple. No one condemns the cowardly and outrageous acts of terrorists more than I do, Mr. President. Their random and senseless acts of violence continue to cause pain, suffering, and grief to people throughout the world.

But we cannot legislate this pain away—any more than we can build our national security on the backs of the illiterate and hungry children in our midst. The problem is very real, but the solution my colleagues propose, I believe, is wrong.

There are those who claim that a death penalty for terrorists will deter future terrorist acts. Deterrence, however, presupposes rational conduct on the part of the person to be deterred.

Terrorists, calculating as they may be, are fanatics who are not afraid to die—and members of terrorist organizations view their comrades who die in support of the cause as martyrs. Execution of terrorists in this country will only serve to give terrorist organizations the publicity they so ravenously seek—and offer martyrdom as a reward for their brutality.

In fact, Mr. President, it is all together possible that the execution of terrorists will increase acts of terror rather than stop them. History is clear on the one simple fact: violence begets violence.

Imposition of the death penalty for terrorist acts abroad also will complicate our efforts to extradite terrorists to this country for trial.

Many countries will not extradite their own citizens to a country that is likely to execute those citizens. The nation of Colombia is a recent example that comes to mind. My colleagues are well aware of the fact that Colombia will only extradite its citizens for trial if assurances are made that the death penalty will not be imposed.

It is no secret that our fascination with the death penalty is out of step with other civilized nations. This was underscored by a recent ruling by the European Court on Human Rights. The Court ruled against returning a German murder suspect to face trial and possible imposition of the death penalty in Virginia. The European Court found that the possibility of execution violated the suspect's human rights as defined by the European Human Rights Convention.

In fact, Mr. President, almost half of the nations in this world have now abolished the death penalty either in law or in practice. We pride ourselves on being the human rights example to the rest of the world—but we make a mockery of that pride by our lust for revenge. And we make a mockery of all our efforts to uphold the sanctity of life by officially sanctioning murder on the part of the State.

But let me be frank, Mr. President. Even if the death penalty would deter acts of terrorism—and even if the death penalty were universally accepted—I would oppose it. My reason is simple: the death penalty is wrong. By punishing murder with murder, we contradict the most fundamental ethic of all: the absolute value of human life.

Our lust for revenge must not blind us to principles that sustain life. Government-sanctioned executions only perpetuate the circle of hate and violence, ultimately cheapening the value of human life.

Think for a moment of the message we will send if we enact the death penalty for terrorists—the message we already send by even having the death penalty on our books. The message is this: killing people is an acceptable way to address social problems. We can talk all we want about human rights certifications, and we pontificate about human rights violations in other parts of the world—we can condemn those regimes around the world which brutalize their citizens—but it is our example which counts.

This, Mr. President, is the worst possible example to set for any society. Indeed, as Justice Stewart wrote in Furman versus Georgia:

> The penalty of death differs from all other forms of criminal punishment, not in degree but in kind. It is unique in its total irrevocability. It is unique in its rejection of rehabilitation of the convict as a basic purpose of criminal justice. And it is unique, finally, in its absolute renunciation of all that is embodied in our concept of humanity.

What is our concept of humanity? I would like to believe that our concept of humanity is embodied in principles and policies that promote, enhance, and sustain human life. But that is not the concept of humanity inherent in the death penalty. The death penalty, by its very nature, is the greatest conceivable degradation of such principles and policies. It is imposed disproportionately and arbitrarily upon the poor, the powerless, the ignorant, the mentally deficient, and even the innocent. Study after study bears this out.

Mr. President, at least 25 innocent people have been executed in this country since 1900. Executed with the official sanction of the Government—executed by the Government. By our Government. It would be interesting to hear the families of those 25 people discuss our Nation's concept of humanity.

My colleagues—Senators LEVIN and CHAFEE—and I are offering an amendment, in the nature of a substitute, which would establish mandatory life imprisonment for terrorists who execute American citizens. Mandatory life imprisonment—without the possibility of release.

Mr. President, I am convinced that support for the death penalty rests upon our frustration with the reality that most murderers serve only a fraction of the time to which they are sentenced. The public resents this kind of practice. We are all appalled that a life sentence actually means only 5, 10, or 15 years in prison. This amendment that Senator LEVIN, Senator CHAFEE, and I are offering would remedy this problem by mandating a life sentence for those terrorists who murder American citizens abroad.

Under our amendment, life means life. There is no possibility of release. By supporting this amendment, we can take a tough stand against crime, a tough stand against terrorism, against the murderous tactics of international terrorists. But we can take that stand without sanctioning murder.

Actually, our amendment toughens current law to a greater degree and provides greater certainty of punishment than Senator SPECTER's bill does. Senator SPECTER's bill makes the death penalty just another of several punishment options. Under his legislation, a terrorist who murders an American citizen abroad could be fined, imprisoned for a term of years or for life, fined and imprisoned, or executed. Our amendment tells the terrorist who murders Americans abroad: "If you are convicted, you will be in prison for the rest of your life." Period.

If we want retribution for these heinous terrorist acts, what better way than to deprive the perpetrator of his or her freedom for life?

I warn my colleagues: The death penalty is not a magic wand. We cannot wave it over the legacies of violence and repression which fuel terrorism and make them go away. The death penalty does absolutely nothing to get at the root causes of terrorism—indeed, it fuels them in the process.

Terrorism, Mr. President, grows out of the frustration of the world's hungry, the poor, the dispossessed and the disenfranchised and certainly it represents fanaticism at its worst. I am not excusing the acts of terrorists. What I am saying is that the death penalty only adds to the world's miseries.

If we really want to address terrorism, we would devote our energies to addressing the root human causes of terrorism.

As I have stood on this floor many times and said in opposing an increase of the arms race, we ought to address the causes of war. What are the breeding grounds that create war? And I would say the same of terrorism. We are always dealing with the symbols, never the causes.

We would reorder our national priorities, for one thing, and we would make fundamental changes in the way

we view the world and the plight of the rest of the people on this planet.

I can recall when the Senate has also addressed only the symptoms of problems. The bombing of Libya, with the resulting news pictures of dead children and civilians comes to mind as an example. My, the applause came from both sides of the aisle. Across this Nation the message was, "We're going to get Qadhafi and, therefore, the ends justify the means.

Mr. President, we have frequently been victims of violence and terrorism. We are always motivated by such noble purposes that the ends justify the means.

I might also comment that that penetrates all other phases of Government: Watergate, the ends justify the means; Iran-Contra, the ends justify the means. But, we criticize it when it is used by others, and yet we tend to, with increasing frequency, employ the same.

I urge my colleagues to support our amendment. By enacting it, we can severely punish the cowardly acts of terrorists, and we can punish them without debasing ourselves and without demeaning our own humanity, without trampling on the absolute sanctity of human life.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Will the Senator from Michigan yield me 8 minutes?

Mr. LEVIN. I will be happy to yield the Senator from Massachusetts 8 minutes.

Mr. KENNEDY. Mr. President, I rise in opposition to this death penalty bill because it is wrong in principle, wrong in practice, and the wrong response to the scourge of terrorism.

I believe that the death penalty is wrong in principle because the Government should not have the awesome law enforcement power to put a human being to death. No matter how brutal the crime a person has committed, the infliction of death at the hands of Government brutalizes our society. Other civilized nations have recognized this fundamental truth—the United States is the only Western democracy that has the death penalty for peacetime crimes.

In my view, the death penalty is also wrong as a matter of constitutional principle, because it violates the eighth amendment's prohibition against cruel and unusual punishment. It is true that the Supreme Court has not yet concluded that capital punishment is unconstitutional in all cases. But I am sure that someday the Court will recognize that the death penalty is cruel and unusual.

The death penalty is also wrong because of the likelihood that innocent people will be executed. No system of justice, however wise or resourceful its judges and juries may be, can eliminate this risk. That is a risk we must accept when the punishment is imprisonment, because a jailed defendant can always be set free when innocence is proved. But that is a burden we cannot tolerate when the punishment is death.

The risk of executing innocent persons is no theoretical, hypothetical, proposition. A study published in the Stanford Law Review lists 350 cases in which defendants convicted of capital or potential capital crimes in this century have later been found innocent—350 defendants. I challenge any Member of the Senate to examine that study and then tell us that there is only a small chance that an innocent person will be put to death.

Perhaps our answer would be different, if there was convincing evidence that the death penalty deters crime. True, statistical studies purport to show some marginal deterrent effect from capital punishment. But for every scant study claiming deterrence, there are other, more convincing, studies establishing that the death penalty is no deterrent whatsoever.

Some of the most convincing evidence that the death penalty does not deter is found in the experience of other Western democracies. As I mentioned earlier, not one of those countries has capital punishment for peacetime crimes, and yet every one of them has a murder rate less than half that of the United States.

The suggestion that the death penalty will actually deter international terrorists is particularly ludicrous. Many terrorists die in the course of their crimes; and we know that the desire to die as a martyr is the real motive for some terrorists. So there is absolutely no evidence that there will be fewer acts of terrorism if we enact this death penalty bill.

This legislation is the wrong approach to combating international terrorism because it would actually interfere with our efforts to prosecute those who murder U.S. citizens abroad. Extradition treaties currently in effect with no fewer than 20 countries permit those countries to refuse to extradite criminals to countries where they would be subject to the death penalty, unless the requesting country refuses to seek the death penalty.

I ask unanimous consent that a list of these countries be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. So if we pass this death penalty legislation and a terrorist who killed an American citizen is captured in one of those 20 countries, the country can refuse to extradite that terrorist to the United States unless we renounce the death penalty. These 20 countries include some of our closest allies: Argentina, Brazil, Canada, Colombia, West Germany, Ireland, Israel, Italy, Mexico, The Netherlands, and the United Kingdom, just to mention a few. Many of these nations have already been the site of terrorist actions against U.S. citizens, and if we pass this death penalty bill terrorists who are captured in those countries may be able to avoid extradition.

This is not just an abstract possibility; it is a very real and current dilemma.

In the previous remarks of the Senator from Oregon, he reviewed the Soering versus United Kingdom case which stated that the United Kingdom could not extradite an accused murderer to the United States because the defendant faced the death penalty in Virginia.

The United States subsequently agreed that Soering would not be subject to the death penalty, but the defendant still has not been extradited.

Let there be no mistake about it: If we pass this death penalty legislation, we are providing a road map for terrorists seeking safe haven from the long arm of the United States law. The message will be clear: If you kill an American, hide in one of those 20 countries, and if you are captured, your lawyers stand a good chance of keeping the United States from ever laying a glove on you.

Mr. President, all of us condemn the vicious acts of international terrorists and no Member of this body wants to cast a vote that is soft on terrorism. But voting for this death penalty bill will help those who kill U.S. citizens to avoid prosecution under the U.S. law. That is truly soft on terrorism. I urge my colleagues to defeat this bill.

I yield back the remainder of my time.

EXHIBIT 1

1. Argentina—23 U.S.T. 3501, T.I.A.S. 7510, art. 8;
2. Australia—27 U.S.T. 957, T.I.A.S. 8234, art. VIII;
3. Brazil—15 U.S.T. 2093, T.I.A.S. 5691, art. VI;
4. Canada—27 U.S.T. 983, T.I.A.S. 8237, art. 6;
5. Colombia—T.I.A.S., art. 7;
6. Denmark—25 U.S.T. 1293, T.I.A.S. 7864, art. 8;
7. Finland—31 U.S.T. 944, T.I.A.S. 9626, art. 9;
8. Germany, Federal Republic—32 U.S.T. 1485, T.I.A.S. 9785, art. 12;
9. Ireland—T.I.A.S. 10813, art. VI;
10. Israel—14 U.S.T. 1707, T.I.A.S. 5476, art. VII;
11. Italy—T.I.A.S. 10837, art. IX;
12. Mexico—31 U.S.T. 5059, T.I.A.S. 9656, art. 8;
13. Netherlands—T.I.A.S. 10733, art. 7;
14. New Zealand—22 U.S.T. 1, T.I.A.S. 7035, art. VII;
15. Norway—31 U.S.T. 5621, T.I.A.S. 9679, art. 8;

16. Paraguay—25 U.S.T. 967, T.I.A.S. 7838, art. 7;
17. Spain—22 U.S.T. 737, T.I.A.S. 7136, art. 7;
18. Sweden—14 U.S.T. 1845, T.I.A.S. 5496, art. VIII;
19. United Kingdom—28 U.S.T. 8468, T.I.A.S. 8468, art. IV;
20. Uruguay—T.I.A.S. 10850, art. 7.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, I ask of the distinguished Senator from Michigan if I might have 15 minutes.

Mr. LEVIN. I yield to the Senator from Rhode Island 15 minutes.

Mr. CHAFEE. Mr. President, I thank the distinguished Senator from Michigan.

I wish to express my great concern about the pending legislation. Let me make clear that I do not doubt the commitment and the dedication of our distinguished colleague from Pennsylvania. He is a man who has been deeply concerned about terrorism for a good number of years. I believe that his bill stems from the frustration he feels, and indeed all of us feel, in trying to shape a policy that will prevent terrorism and punish terrorists, but I do not believe this approach is a policy we ought to be shaping.

I have consistently opposed the concept of the death penalty. I am opposed for two reasons. First, because the death penalty is irreversible. Once the person is dead, that is it. If further evidence proves the individual was innocent, you cannot revive the individual who has been hung, shot, electrocuted, whatever it might be; he is gone.

Second, Mr. President, I do not think there is any evidence anyone can cite which indicates that the death penalty has been proven to be an effective deterrent to crime.

A brief discussion on each of those points. First of all, the irreversibility. I do not think that has to be debated, but you might be interested in why I so argue.

Why am I so concerned about the irreversibility? In my home State of Rhode Island, the last execution was held on Valentine's Day in 1845. What occurred was that the murderer, or suspected murderer of Amasa Sprague was convicted and hung on February 14, 1845. Later on, it was discovered that the individual who had been executed was innocent. Now, that did not do much for that individual; he was gone. But 7 years later, in 1852, my State abolished the death penalty—1852, 137 years ago. Ever since then we have proceeded without a death penalty. We have life imprisonment, but we do not have the death penalty.

The history of our criminal system has shown that what appear to be simple, clear, open-and-shut criminal cases have later been proven to be far more complex than originally thought. And guilt that seems blatantly apparent today has subsequently in some instances been disproven. We have seen that in our own Nation. I respect our judicial system, but nonetheless, at times it can fail us. At times it can make mistakes.

When a serious mistake is made and an innocent individual is jailed, we can reverse that. We can take the individual out of jail, and indeed in some instances we pay compensation to that individual for the time he or she has served in jail. But when the death penalty has been invoked, by definition that denies any such opportunity for reconsideration. It is over. The individual is gone.

Some might say that although innocent persons may lose their lives, in the big picture some sacrifices have to be made. Those mistakes, few that they might be, are justifiable even though they are irreversible because the death penalty is a deterrent to crime.

No one has ever been able to prove that. You can look at all the statistics, and indeed the statistics indicate—and one has to be careful of these—that the States which do not have the death penalty have a lower rate of crime—fewer murders, for example. I am not at all convinced that terrorists have not already considered the likely possibility they will be killed when they carry out a terrorist act.

No one is standing up defending terrorism. It is a terrible crime against society and against individuals. But because its effectiveness is contingent upon creating a highly charged emotional atmosphere of terror and panic, it is a high-risk crime, so death is a risk that is fully accepted by the terrorist. He is not going to be deterred by understanding that if he is caught and if he is extradited to the United States, he can be executed. He thinks he might well be shot while he does the crime, so he has discounted any deterrence resulting from the possibility of the death penalty lying in wait for him. So death as a punishment for terrorists is not going to deter them. Indeed, Mr. President, many terrorists, if not executed in the course of committing the crime, if extradited, and if subject to a trial in which death could result, revel in the publicity.

There is a tremendous difference between the publicity associated with a trial where the individual, if convicted, can be executed, killed, the death penalty invoked, and a trial where there is life imprisonment. We know this in our State. In our State, as I say, for 30-plus years we have not had the death penalty and when we have trials for murders, for example, they are relatively low profile. Journalists do not flock from New York City or Boston to sit in on the trial, diagnose the murderer and analyze every aspect of his or her life. There is no yellow journalism associated with it. The individual is going to go to jail. He is not going to be hung or shot or electrocuted. But in many instances that is just the kind of trial in which a terrorist revels and, indeed, seeks.

Mr. President, I know there are other reasons for opposing the death penalty. There are more questions, some constitutional, about it—if it is appropriate and if it is administered in a discriminatory fashion. And there are even some questions about whether it is cost effective. One of the crass arguments used on occasion for the death penalty is think of all the money you save. You put them in prison for life; very expensive. But the cost of the trials associated with the death penalty themselves are very expensive.

But I am not going to debate those points one way or the other. I rest solely on the points I have made; that it is final, it is complete, and there is no reversibility to it. A human being is a human being, whether he is somebody from a foreign nation accused of a terrorist act that is later proven mistaken. We have to consider that. Second is the deterrence possibility.

I do not think there is any Senator on this floor who analyzes issues more carefully, more constructively than the distinguished Senator from Pennsylvania. We have seen this in numerous instances. He never comes to this floor when he is not prepared.

So it is with regret that I find myself on the opposite side of him on this particular issue. But I believe the proposition he is embracing today is not the best.

Thus, I support the second-degree amendment to the proposition of the Senator from Pennsylvania, the bill, and I am of course referring to the one I support which is the Heflin-Hatfield amendment.

I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the quorum call be charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The time used in the quorum call will be charged equally to both sides.

Without objection, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I yield 5 minutes to the Senator from Delaware.

Mr. BIDEN. Mr. President, I thank the distinguished Senator from Oregon for yielding me 5 minutes. Let me say at the outset that I wish to compliment Senator SPECTER for providing—unlike other death penalty provisions that have been offered here on the floor in the past—significant additional protections to deal with the thing that concerns the Senator, and historically has concerned the Senator from Delaware the most, and that is, that we accidentally put to death an innocent party. I believe I was the first one on this floor to offer minimum mandatory life imprisonment, no probation, no parole, for some capital offenses. That has been my position, not because I can claim—and I mean this with the greatest respect—the moral high ground of the distinguished Senator from Oregon but because of my concern about the adequacy of the safeguards against executing an innocent person. Seventeen years ago, in one of the most incredible speeches I ever heard on the floor of the Senate, the former Senator from Iowa, Senator Hughes, made a compelling speech against the death penalty.

At that time, as a freshman Senator, I remember rising and indicating to the Senator from Iowa that, although I was going to vote with him, it should not be mistaken that I could claim the moral high ground that the Senator from Iowa occupied, because I do not have a moral objection to the death penalty. My objection is because we sometimes kill the wrong person.

I want to compliment the Senator from Pennsylvania, who, unlike others who have proposed death penalty provisions, has built in a number of safeguards, the same safeguards, I might add, that we built into the drug bill for death for so-called kingpins. I compliment him on that.

I, quite frankly, would be happier if the Kennedy amendment, the so-called Racial Justice Act, were part of this. I am not at all sure the Senator from Pennsylvania would object to it. I am not suggesting he would or would not, but I do know that under the unanimous-consent agreement which we all agreed to, this is not amendable except by the Hatfield amendment. So the Senator from Delaware will not be able today to offer further amendment to the Specter death penalty provision that we are debating here today.

I have one concern that goes beyond the question of whether we are likely to put the wrong person to death. I might add that I think that in the case of terrorists, the likelihood of putting the wrong person to death diminishes because of the requirement of proof and the practical requirement of having to have so many intelligence agencies involved to come about with enough evidence to apprehend and actually bring to justice such a person. So my concern in the case of the death penalty for terrorists is diminished greatly, compared to having the death penalty for premeditated murder or other offenses here, domestically.

Although I will probably vote for the Specter amendment in the final analysis, I do think that the Hatfield amendment does something particularly useful here. Under the Specter amendment, as I understand it, the maximum sentence would be death. There would be no minimum sentence. Therefore, if a defendant were the ringleader of a band of terrorists, he or she could be sentenced to death, but if he were a mere aider and abettor, the pilot, the guard, someone who had a much less significant position in the undertaking, a judge would have the discretion, limited by the sentencing guidelines, to set a relatively light sentence. You might find the anomaly here where you would have one member of the terrorist organization being released in 8 years and another member of the organization being put to death.

Under the Hatfield amendment, everyone who participated, everyone, would get minimum mandatory real life sentence. Everyone involved who was convicted would, in fact, never see the light of day again, other than behind bars or in a position of incarceration.

So, in a strange way, although, if we were able to amend the Specter amendment other than by the Hatfield amendment, we might be able to correct it, I think that we will find ourselves in a stronger position relative to dealing with terrorism with the Hatfield amendment than we would with the Specter amendment.

I ask unanimous consent that I be able to proceed for 2 more minutes.

Mr. LEVIN. I yield 2 additional minutes to the Senator from Delaware.

Mr. BIDEN. I say to my colleagues that I intend to vote for the Hatfield amendment, because, although I am certain that the Senator from Oregon has introduced it for a reason in addition to the reason that the Senator from Delaware is inclined to vote for it, I nonetheless wanted him to know why I was going to be supporting his amendment. If, in fact, this amendment passes—that is, the Hatfield amendment—then it is the intention of the Senator from Delaware, hopefully with the cooperation of the Senator from Pennsylvania, that we are going to be bringing another death penalty provision to the floor, on a much larger bill, to add a provision regarding terrorism to the larger bill; and it would be my intention to have it encompass the safeguards that we have now built in by committee vote in the Judiciary Committee on a larger bill.

The so-called Thurmond bill has been amended in the Judiciary Committee, reported to the floor, and it contains, in the opinion of the Senator from Delaware, reasonable, but serious and important, safeguards built into the death penalty, which, in fact, if anyone has oral objections to the death penalty, understandably would not satisfy them.

But if their objections are similar to those of the Senator from Delaware, who is concerned that innocent people are occasionally put to death, and there is evidence to sustain that, they would go a long way in these additional safeguards to diminish that possibility. Nothing is foolproof, but this is to diminish it.

So I just wish my colleagues, and I say as well to the Senator from Michigan, all three of whom are numbered among the most informed, intelligent and reasonable men in the Senate, that my rationale for the way I am likely to vote today I am going to vote for the Hatfield amendment because first, absent the stronger safeguards, it is a better way to go, and, second, quite frankly it is, I think, a greater deterrent and is likely to encompass more the will of the people of this country by seeing to it that everyone who participates is brought within the net of never seeing the light of day again. And if in fact it fails, although I would much, much prefer to have added the greater safeguards—and although I have not fully made up my mind, I want to hear more of debate—I am still inclined to support the Senator from Pennsylvania.

I want to advise the Senator from Pennsylvania, however, that when the death penalty sees the floor again, which it will in the crime bill, the comprehensive crime bill that the Senator from Delaware plans to introduce, will include further safeguards, notwithstanding the fact that the Senator from Pennsylvania has made a genuine, sincere, and I think significant attempt to build in the safeguards.

I thank my colleagues for their indulgence.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I yield myself such time as I may use. I would like to discuss some of the issues raised by the distinguished Senator from Delaware. Perhaps we may have an exchange, something that is relatively rare on the Senate floor, that is to have debate in the world's greatest deliberative body.

The distinguished Senator from Delaware articulates some reasons for the Hatfield-Levin amendment which I think Senator HATFIELD may not have anticipated. I think it was one of

the original purposes perhaps to defeat the death penalty bill as opposed to providing the kind of avenues which the Senator from Delaware suggests, I might say.

Mr. BIDEN. Mr. President, will the Senator yield for 30 seconds?

Mr. SPECTER. I yield.

Mr. BIDEN. I acknowledged that at the outset. As the Senator from Pennsylvania knows, unlike my friend who feels strongly on this issue on the death penalty, I have voted for the death penalty in the past on specific occasions where there were safeguards against the likelihood of the wrong person being convicted.

I acknowledged at the outset that my reasons—and that is why I felt compelled to come to the floor to state them—are not the same as my friends from Michigan and from Oregon.

Mr. SPECTER. I thank the distinguished Senator from Delaware for his kind comments about the safeguards. I said in my opening remarks that I believe we have to be very, very careful in the utilization of the death penalty in terms of fairness and also in terms of preserving the death penalty.

The Senator from Delaware knows that this legislation and the amendments which this Senator supported in the Judiciary Committee were designed to build in safeguards. This Senator favored the so-called Kennedy amendment on the broadest grounds of trying to protect from racial discrimination.

Mr. BIDEN. I acknowledge that.

Mr. SPECTER. I think probably among those on the Judiciary Committee who had the strongest views in favor of the death penalty, I was willing to make the accommodation, go as far as conceivably possible on the grounds of fairness.

When it came to the issue of age, this Senator supported the 18-year limit as opposed to the 16-year limit. We talked about diminished capacity aside from the issue of the M'Naghten Rule or even the Durham Rule. This Senator was prepared to have utmost safeguards on that point and I do that for two explicit reasons.

First, fairness, which is always No. 1 and, second, on the question of maintaining the death penalty. Contrary to what the Senator from Massachusetts [Mr. KENNEDY] said about this being cruel and unusual punishment, the death penalty, it is not. It withstood that test and I think withstood a rigorous test, and will withstand the test so long as we are very careful as to what we do with it.

I was somewhat amused—I would not say surprised—to hear the distinguished Senator from Massachusetts [Mr. KENNEDY] say that the Specter bill was soft on terrorism, or to hear the distinguished Senator from Oregon [Mr. HATFIELD] say that his amendment was tougher than the death penalty. I think those are fascinating characterizations because I do not think it conceivable that the death penalty is soft on anything or that you can be tougher than the death penalty.

The amendment for mandatory life sentence is, I guess, I would not want to use the word killer amendment but I would say it is at least diversionary.

But when the Senator from Delaware raised the consideration about the uniformity, I would suggest that there are some other considerations which I would like to suggest. They are that flexibility is desirable.

If you have say three terrorists, because it may be that one of the terrorists will turn state's evidence and if you have a mandatory sentence for death which results from terrorism and you have three coconspirators, you may have the trigger man, and you may have a terrorist who is moderately involved, and the third terrorist who was peripherally involved, and the third terrorist who could conceivably face the death penalty is a coconspirator, there might be a desire on the part of the prosecution to have a lesser penalty for that individual. That is foreclosed by the Hatfield-Levin amendment.

Mr. BIDEN. Mr. President, will the Senator yield for a question on that?

Mr. SPECTER. I yield.

Mr. BIDEN. I appreciate his willingness to do this. It is genuinely the intention of the Senator from Delaware to try to learn if he is mistaken on this.

Is the flexibility not preserved at the front end, where the prosecutor makes the judgment how and under what statute to proceed against each of the coconspirators? Is that not still available to the prosecutor under the Hatfield-Levin amendment?

Mr. SPECTER. I think it would not be.

Mr. LEVIN. If my friend will yield on that, it clearly is preserved and it is also preserved at the later stages, because other charges, including involuntary manslaughter, are preserved as well. So a plea can be arranged for a lesser offense at a later stage as well as a charge to the lesser offense being preserved at the front end of the process.

Mr. SPECTER. I disagree with that interpretation, and I do so because the amendment by its language strikes the language from "be fined" through the semicolon and inserting "be imprisoned for life without the possibility of release and, in addition, may be fined under this title;".

So that as I read the amendment, and let us dissect it now in terms of statutory interpretation, there is a mandatory life sentence and that is all there is if you are charged with murder resulting from a terrorist attack on a U.S. citizen.

Mr. LEVIN. If the Senator from Pennsylvania will yield, the amendment only touches 2331(a)(1). It does not touch (a) (2) or (3). And (a)(2) is the voluntary manslaughter section and (a)(3) is the involuntary manslaughter section. So the amendment does not touch those lesser included offenses. It only goes to the sentence for subsection (a)(1). So, just to assure my friend from Delaware, both to the front end in terms of the charge, and later end in the terms of plea bargaining, that flexibility remains.

Mr. BIDEN. Mr. President, will the Senator yield to allow me to ask a question?

Mr. SPECTER. And I may reply, I question the issue of statutory interpretation. It undercuts the arguments made so far from the distinguished Senator from Oregon and the Senator from Rhode Island. As yet we have not heard the argument from Senator LEVIN. I commented in the Cloakroom a few moments ago, I was waiting to hear the arguments. The whole point of this argument is mandatory life imprisonment.

Mr. LEVIN. For murder for subsection (a)(1).

Mr. SPECTER. That is what we are talking about.

Mr. LEVIN. Lesser included offenses under (2) and (3), which permit the charge for something less than murder and a conviction by a plea for something less than murder.

That flexibility remains. What will not remain under our amendment is the possibility that a terrorist who commits a murder will be let out after just a few years. But for an American citizen who is murdered by a terrorist under the Specter bill, we have four options. A fine, believe it or not, a fine, is still permitted; a term of years; life imprisonment; and then the Specter bill adds the possibility of capital punishment. But he leaves those three other options for the conviction of murder. We do not. We say if you are convicted of murder of an American citizen during the course of a terrorist act you ought to go away for life and we shall throw away the key. The Senator does not throw away the key. We do.

Mr. SPECTER. I suggest the Senator read his amendment. He has in here "may be imprisoned for life without the possibility of release and, in addition, may be fined under this title."

So starting with——

Mr. LEVIN. That is "and." In the Senator's case he has an "or" which remains in the law, which means that under his bill a fine could be imposed with nothing else, because the word "or" remains in the current law. Under our amendment the word "or" is changed to "and."

If there is going to be a fine it must be in addition to life imprisonment without the possibility of parole. In the Senator's bill, he leaves four options, including a fine alone, including a term of years, life imprisonment or capital punishment.

So, in a very significant sense, we have a much tougher bill than the Specter bill. And that is why the description by my friend from Delaware is exactly right.

My views on capital punishment are well known. But this is a unique proposal and in this bill, the Specter bill, we have a severe weakening, because there are four options following a conviction of murder.

And if I could also add one other thing for my friend from Delaware, because he missed an earlier part of the debate which is critical on this. There are many countries which will not extradite terrorists to the United States in the event capital punishment is an option. So we would be weakening the possibility of extraditing to our justice system the very people whom we want to bring under our justice system.

Mr. BIDEN addressed the Chair.

Mr. SPECTER. Mr. President, I believe I still have the floor.

I want to thank my friend from Michigan for offering a tougher bill. I had not realized until now that this was a tougher bill when it eliminates the possibility of a death penalty.

What the Senator from Michigan is suggesting is that there may be a variety of charges, so that you move out from under the mandatory sentence of life imprisonment if it turns out to be a manslaughter charge or turns out to be less than murder.

Mr. LEVIN. The same is true with the capital punishment option. If there is a lesser charge, then capital punishment is not an option.

(Mr. FORD assumed the chair.)

Mr. SPECTER. Of course. But the consequence of what the Senator from Michigan is saying is that you can manipulate the charges so that you end up with less than life imprisonment, mandatory life imprisonment, by having a lesser charge of manslaughter, but you do not have the possibility, under your tougher bill, of ending up with the death penalty.

Mr. LEVIN. Will my friend from Pennsylvania yield?

Mr. SPECTER. I do.

Mr. LEVIN. It is my friend who was looking for flexibility, who was saying that he wanted the possibility of something less than mandatory life in order to obtain a plea bargain for someone testifying. That possibility remains under our substitute if the prosecutor wishes to charge someone with a lesser-included offense or have that person plead guilty to a lesser included offense. The flexibility remains.

But what your bill provides is four options. What you provide and continue to provide is uncertainty. Someone who kills an American, under your bill, could get just a fine or a term of years or life in prison or capital punishment. In our bill, it is a mandatory sentence of life without possibility of release for murder.

And I say this without any question in my mind, our approach is a tougher approach than the one which is offered by the Senator from Pennsylvania. It is a significantly tougher approach, because we have the certainty of that life imprisonment without possibility of release and because we do not open up the door to people running to countries who will not extridite to the United States if there is even a possibility of capital punishment.

Mr. SPECTER. When you talk about the extradition issue, it is a very simple matter. As I said in my opening statement, a commitment can be made that there not be the use of the death penalty.

When the Senator from Michigan talks about flexibility, I must say that it is anomalous if not absurd. There is the uncertainty as to whether a person will get the death penalty or life imprisonment under our bill.

Mr. LEVIN. Or a term of years.

Mr. SPECTER. If I may finish.

Under the provisions of the Hatfield-Levin amendment, the death penalty is not a possibility. You are talking about uncertainty. I am talking about flexibility. But it strains credulity to say that your approach is tougher when the maximum is life imprisonment than an approach where the possibility exists of the death penalty.

My view of the appropriate application of criminal justice is that all the facts be weighed and that there be the maximum range of alternatives. One of the alternatives should be death in the electric chair, or death by some other prescribed means. It is that possibility, that uncertainty, which motivates human conduct.

So that I do not believe it is logical, appropriate, realistic to say that you have a tougher bill when your maximum penalty is life imprisonment and my maximum penalty is the death penalty.

Mr. LEVIN. In all fairness, if the Senator will yield, it is not our maximum penalty. It is our mandatory penalty of life imprisonment with no possibility of release, in fairness to the characterization of our bill.

Mr. SPECTER. It is mandatory providing you have the indictment and conviction only on murder.

Mr. LEVIN. Of course.

Mr. SPECTER. But the same offense as you already said may be downgraded to manslaughter may carry less than life.

Mr. LEVIN. And the same is true under the bill of the Senator from Pennsylvania. It could be downgraded.

Mr. SPECTER. Of course. But the possibility is present that the death penalty may be imposed.

Mr. LEVIN. And the possibility is present under my friend's bill if someone is convicted of murder, this is premeditated murder, that that person gets just a term of years. That possibility is not present in the Hatfield-Levin approach. You have a possibility in there which is repugnant, which is that somebody convicted of murder of an American citizen during the course of a terrorist act will be given a term of years. I find that repugnant.

Mr. SPECTER. Let us not say that that is my approach. That is the existing statute. As the Senator from Michigan found it repugnant, why did he not offer an amendment, before I offered mine for the death penalty, saying there ought to be a mandatory sentence of life imprisonment? Was it not repugnant in May?

Mr. LEVIN. It was repugnant.

Mr. SPECTER. Why did not the Senator from Michigan offer an amendment making it mandatory for murder?

Mr. LEVIN. Because the Senator raised an important issue about the weakness of our current law about murder following an act of terrorism. The Senator raised an important question. His solution to that problem, I believe, is a weaker solution than one that we have devised, because he permits the possibility of someone leaving prison after a few years who has murdered an American citizen in a premeditated way. As a matter of fact, you leave in the law the possibility that somebody could be fined for that.

Mr. SPECTER. I do not leave it in the law. The current law provides that. My addition is the possibility of the death penalty. But would the Senator from Michigan concede that under his logic the same act which might be categorized as murder could also be categorized as manslaughter?

Mr. LEVIN. The prosecution always has to have the decisionmaking power to charge someone with an act.

Mr. SPECTER. I take it that is a yes answer.

Mr. LEVIN. Well, I cannot answer the question, because the same act presumably would be characterized in the same way by all prosecutors. Theoretically, the same act should be characterized in the same way. That would be my answer. An act of murder should be characterized as an act of murder by all prosecutors.

Mr. SPECTER. Well, I still take that to be a yes answer.

As the Senator articulated in advance, he says that he has maintained the flexibility for someone to come forward and cooperate with the pros-

ecutor. That person could then be charged with manslaughter and would not necessarily fit under your category of murder and would not get a mandatory life sentence. And when you have said that, you have conceded, aside from what you articulate as a theoretical possibility, that under your approach the same act might be categorized as murder which would carry a mandatory sentence of life imprisonment or it might be characterized as manslaughter and it might carry a term of years. Any way you slice your approach, you end up with the flexibility of having, as you interpret your bill, and I do not think it says it on its face, but take your interpretation, you can have a term of years or you can have a mandatory life sentence. But let me ask the Senator——

Mr. LEVIN. If the Senator will yield at that point, that is not an accurate characterization.

Mr. SPECTER. No, I will not yield. I will ask one question and then I will yield, because we have to finish the discussion with the Senator from Delaware.

That is: Is it indisputable that under your approach the death penalty cannot be imposed in any sentence for an act of murder by a terrorist against a U.S. citizen?

Mr. LEVIN. I will be happy to answer that question, that the death penalty is not one of the options.

And I ask my friend if he would also answer this question. Under his approach could somebody convicted of murder get a term of years?

Mr. SPECTER. That is true.

Mr. LEVIN. And under our approach——

Mr. SPECTER. And the death penalty as well, and I would leave it to the sentencing process to work it out.

The point is that as long as the possibility of the death penalty exists, that is what we seek to accomplish in the criminal justice system.

Mr. LEVIN. And as long as there is uncertainty of what the punishment is, we are going to continue to have these massive acts of terrorism and massive acts of violence. What counts in criminal law is certainty and swiftness. You provide both uncertainty in the punishment, because you could get as little as a term of years or probation, and you even provide uncertainty in the extradition process, because the option of capital punishment will result in other countries refusing to extradite the very terrorists we are trying to get our hands on.

Mr. BIDEN. Will the Senator yield for a question?

Mr. SPECTER. I do.

The PRESIDING OFFICER. So we might put this in proper perspective, the request should be put through the Chair.

Mr. BIDEN. I beg your pardon, Mr. President.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Will the Senator from Pennsylvania yield for a question?

Mr. SPECTER. I do.

Mr. BIDEN. Mr. President, as I read the Senator's bill, S. 1798, it would provide for the death penalty as being available, an available option that the court would have, for both first-degree and second-degree murder. That is an unusual circumstance, as I read it.

Let me explain why I say that. Section 2331 is being amended; 2331(a)(1) of title 18, United States Code, reads as follows: "If the killing is a murder as defined in section 1111(a) of this title." Going back to section 1111(a) of this title, it reads—There is the longer paragraph but the concluding line is: "and any other murder is murder in the second degree."

So it appears that the Senator has done something maybe inadvertently, but it appears as though the Senator has done something unusual here and that is provided for the death penalty for murder in the second degree.

I may be mistaken. I do not believe there is any other circumstance under which that is being proposed and/or exists in law or existed in Federal law prior to the Supreme Court decisions in the early 1970's and late 1960's.

So my question is: Is the court able to order death for someone convicted of second-degree murder under this section?

Mr. SPECTER. The imposition of the death penalty would be limited to murder in the first degree.

Mr. BIDEN. Will the Senator explain to me how he reaches that conclusion?

Mr. SPECTER. The bill provides that section 2331(a)(1) of title 18 is amended by inserting before the semicolon the following: "or the court may impose a sentence of death in accordance with procedures set forth in section 7001 of the Anti-Drug Abuse Act of 1988."

Mr. BIDEN. Is that the Senator's answer?

Mr. SPECTER. Yes.

Mr. BIDEN. I suggest to the Senator any reasonable legislative reading would suggest that 7001 of the Anti-Drug Abuse Act refers to the safeguards and in no way, supersedes section 1111(a).

Because if it comes in before the semicolon it would read as follows: "If the killing is murder as defined in section 1111(a) of this title, fined under this title, or imprisoned for any term of years or for life, or so fined and so imprisoned. Or the court may impose the sentence of death in accordance with the procedures set forth in section 7001 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. 848."

It seems to me the controlling element continues to be the definition of murder.

It says you can get death for murder as defined in section 1111(a).

The Senator may not have it available to him, but if he has section 1111(a) of title 18, United States Code, it reads, under section (a):

Murder is the unlawful killing of a human being with malice aforethought. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing; or committed in the perpetration of, or attempt to perpetrate, any arson, escape, murder, kidnapping, treason, espionage, sabotage, aggravated sexual abuse or sexual abuse, burglary, or robbery; or perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than him who is killed, is murder in the first-degree.

Continuing with the same section: "Any other murder is murder in the second degree."

Mr. SPECTER. I ask the Senator from Delaware, after enumerating the categories of murder in the first-degree, what does the Senator from Delaware comprehend to be left to murder in the second-degree?

Mr. BIDEN. I assume by definition it could be anything from lack of premeditation, lack of it being malicious.

But if the Senator looks at the definition of murder it says that all other murder committed, other than the ones that have been enumerated, would be murder in the second degree.

I am not trying to be argumentative with the Senator. I know the Senator is extremely careful. I know it is not his intention for the death penalty to be applicable to murder in the second degree. But what I am fearful of is that that is what inadvertently or unintentionally has been accomplished.

I am not adverse to the Senator seeking unanimous consent to amend his amendment so it is clear it does not cover murder in the second degree. But, frankly, I say to my friend from Pennsylvania, I think the conclusion is inescapable.

Because the definition of murder one and murder in the second degree is encompassed in section 1111(a) of title 18, United States Code. So it seems to me it is inescapable. And it concerns me because I know that is not the intention.

Although I am prepared to vote for the death penalty for terrorists, I am not prepared to vote for the death penalty for murder in the second degree.

Mr. SPECTER. If I may respond?

Mr. BIDEN. Please.

Mr. SPECTER. As the Senator from Delaware has recited the provisions of section 1111(a), which defines in the first paragraph murder in the first degree, there is no act of terrorism which would result in the death of someone which would be outside of the scope of that kind of deliberation or malice.

So when we deal with a murder which results from terrorism, I know of no factual circumstances which would come outside of the scope of the first paragraph of 1111(a), which defines murder in the first degree.

Mr. BIDEN. I can suggest a couple, Mr. President. If the Senator will yield, I think I can suggest a couple to him.

Mr. SPECTER. I do.

Mr. BIDEN. Although I have not thought of it before, I can suggest a circumstance where we have a terrorist who sets off a bomb in an airport, gets in an automobile, and while escaping, escapes to a parking garage, and getting out of the parking garage, races through the parking garage, inadvertently hits and kills a parking attendant.

I can see that as a very likely prospect.

Mr. SPECTER. That is not the kind of an act that this bill seeks to accomplish.

Mr. BIDEN. Mr. President, if the Senator will yield, I understand that that is not what the distinguished Senator from Pennsylvania intends, but that would clearly, it seems to me, fall within the purview of section 2331, a terrorist act resulting in a murder, just like a felony murder. As the Senator from Pennsylvania knows more about than anyone in this body, and I am not being solicitous when I say that, I can see that circumstance existing.

Mr. SPECTER. If the Senator will yield, on the circumstance postulate, when the Senator talks about an automobile death, he is talking about what is essentially involuntarily manslaughter. He is not talking about a murder case if death results from an automobile accident.

Mr. BIDEN. If the Senator will yield, Mr. President, maybe I am mistaken here, but let us assume in the case where there is a robbery taking place down the street here and while running out of the store, after having robbed an individual, the felon jumps into the automobile, pulls into traffic and hits someone and kills them. What would that be?

Mr. SPECTER. That is not felony murder. It is an automobile accident and it would be involuntary manslaughter. It would be carelessness, gross carelessness in the operation of an automobile, which is involuntary manslaughter.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. SPECTER. I do.

Mr. BIDEN. Would not the jury, under the Senator's amendment, be able to conclude that any of the elements of murder 1, as defined in section 1111, were absent and yet find the accused terrorist guilty of murder in the second degree? For example, that the murder was not deliberate; that the terrorist intended to do just that, terrorize, but did not intend to murder anyone; that the bomb they had in their pocket accidentally went off, killing one of them and maiming the other who is now on trial, and that defendant asking the case that it was never the intention for them to detonate that bomb, as evidenced by the fact it blew up in the pocket of the terrorist while walking down the aisle of the airplane killing 25 Americans, and the jury concludes that what the terrorist on trial said was true, that it was not intentional; the killing was not deliberate, the killing was not premeditated; therefore, did not meet the standard required in paragraph 1 of 1111(a) of title 18 United States Code; nonetheless reached the conclusion that it was murder but murder in the second degree. Is not that a conclusion that is possible for a jury to reach?

Mr. SPECTER. I suggest to the Senator from Delaware that it is not, because if the terrorist has the bomb in his pocket, the natural and probable consequences of that act of having the bomb in his pocket is that it will explode and will result in deaths.

I suggest to the Senator from Delaware that where you take the first paragraph of 1111 and you deal with every murder perpetrated by any kind of willful, deliberate, malicious, and premeditated killing, that that is the definition, the classical definition of murder in the first degree, and I think that would comprehend every kind of a terrorist act.

Mr. BIDEN. I can respond, Mr. President, and I will yield in a minute because this is educational to the Senator from Delaware, I suggest to the Senator, Mr. President, that it is, nonetheless, a jury question. And although the Senator from Pennsylvania may conclude that it is not reasonable to reach such a conclusion, I am confident the Senator from Pennsylvania, while being a distinguished district attorney and trying many murder cases and/or being responsible for the trial of many murderers, has gone in on murder 1 where someone has had a gun, a loaded gun, and knowing the natural consequences of carrying that gun would be that if it were fired at someone, it is possible or likely to kill them, and a jury reaching the conclusion that, in fact, no, that was not the intended consequence; it was not, in fact, deliberate or premeditated; the person always carried a gun, they had a license to carry a gun, and in anger the husband or wife pulled out the gun to threaten their spouse who was having an affair and, in the process of that, the gun went off. The law books are replete with cases in your State and mine where juries have come back and said, notwithstanding the fact it was a gun, notwithstanding the fact it was carried, notwithstanding the fact it was pulled, notwithstanding the fact we know the probable consequence of that, that, in fact, the person who pulled the trigger was not guilty of murder 1 and the juries come back with murder 2. I do not see how that is any different than here.

Granted, you may be right. Maybe no American jury would ever come to that conclusion. But it seems to me it is an inescapable legal judgment one has to make that it is possible, legally possible, for them to come back with murder 2 and inescapable that under that circumstance that person could still be subject to the death penalty. Although the Senator from Pennsylvania may point out if the jury came back and said it is really murder 2, not murder 1, it was not premeditated, that you find them not wishing to impose the death penalty and the judge wishing not to impose the death penalty, that is possible. But to the best of my knowledge, it is the first time in recent memory in the 17 years I have been here, and I think the first time in relatively recent memory in the last 25 years or so that there is a possibility in Federal law of someone receiving the death penalty for what is, in fact, murder 2, as opposed to first-degree murder.

I fully respect the explanation of the Senator from Pennsylvania. I disagree with him. I come to a fundamentally different conclusion than he does, notwithstanding what I know his intent is, and I respect it. I know there are others who want to speak here. I do not want to continue to monopolize the time of the distinguished Senator from Pennsylvania. Before I yield back, I would like to ask a question and maybe ultimately I have to ask the Senator from Pennsylvania this question.

Mr. SPECTER. Before the Senator asks the question, may I inquire how much time is left on my time on this?

The PRESIDING OFFICER. Seventeen minutes, and twenty-nine minutes on the bill.

Mr. BIDEN. Mr. President, I ask my distinguished colleague from Michigan if he would be willing to yield me 3 minutes.

Mr. LEVIN. I not only will be willing to yield 3 minutes to my friend from Delaware, but also we can work out an adjustment on the time if the Senator from Pennsylvania needs additional time, because much of this colloquy really should come out of our time.

Mr. SPECTER. That is something I think we can agree on, if nothing else, that the last 40 minutes ought not to be all charged to my time.

The PRESIDING OFFICER. The Senator from Pennsylvania does have the floor.

Mr. BIDEN. I ask the Senator from Pennsylvania if he would be willing to yield the floor to me for 3 minutes on

the time of the Senator from Michigan.

Mr. SPECTER. I do.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. I would like to ask the Senator from Pennsylvania a question on the 3 minutes' time. As I indicated to the President of the Senate, it may have to be propounded in the way of a parliamentary inquiry. I am not certain. If it is possible under the unanimous-consent agreement for the Senator to amend his amendment, would the Senator be willing to amend his amendment to include what have heretofore been referred to by both the Senator from Pennsylvania and the Senator from Delaware as the civil rights provisions which we did amend in the Thurmond amendment? If he were willing to do that, not that this is enough reason for him to do it, I would be willing to cosponsor his amendment on terrorism.

I would be willing to do that. But I may have to ask that in the form of a parliamentary inquiry. I can see the noble Presiding Officer indicating that I probably do have to do that.

The PRESIDING OFFICER. Not necessarily. I say to the distinguished Senator from Delaware that he seeks to amend the bill, and under those circumstances he would have to have unanimous consent.

Mr. BIDEN. Will the Senator be willing to——

Mr. SPECTER. Yes.

Mr. BIDEN. Do that?

Mr. SPECTER. If the Senator will yield, I might say, the so-called Kennedy amendment has been amplified after we had this issue delineated.

Mr. BIDEN. I agree.

Mr. SPECTER. I have no objection to broadening that area of protection. I frankly consider it to be irrelevant in this kind of case, but I have no objection to broadening the scope of protection, expecially in light of the offer of cosponsorship.

Mr. BIDEN. Mr. President, in the seconds I probably have remaining, let me say I think the Senator from Pennsylvania is right, that its relevance to this particular amendment is de minimis. It is much more relevant on the other provisions, but nonetheless it is an additional safeguard the Senator from Delaware would feel much more comfortable having.

I will leave it up to the good judgment of the Senator from Pennsylvania whether or not he wishes to seek unanimous consent to do that. But I again thank him.

I thank the Senator from Michigan, who is always the quintessential gentleman, and not many people around here, when they got this far down in the debate, would be willing to stand up without being asked and suggest that the time remaining be equally shared.

I thank the Chair. I thank my colleagues, and I will await the outcome of the unanimous-consent request if one is proffered.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. While I had understood the distinguished Senator from Delaware would make the unanimous-consent request, I would be glad to take care of that ministerial detail.

Mr. BIDEN. Mr. President, I ask unanimous consent that I be able to send an amendment to the desk to what I refer to as the Racial Justice Act, and ask that it amend the amendment of the Senator from Pennsylvania, S. 1798.

The PRESIDING OFFICER. Is there an objection?

Mr. LEVIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll, on the time of the Senator from Michigan.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. SPECTER. I yield to the distinguished Senator from South Carolina 7 minutes, which I understand to be his request.

The PRESIDING OFFICER. Seven minutes are yielded to the Senator from South Carolina. He may proceed.

Mr. THURMOND. Mr. President, before I start with my statement, I want to say I object to this so-called Kennedy amendment being added to this bill.

The PRESIDING OFFICER. I remind the Senator from South Carolina it is being offered by the Senator from Delaware.

Mr. THURMOND. Mr. President, I object to this amendment being offered to this bill.

The PRESIDING OFFICER. Objection is heard.

Mr. THURMOND. I will oppose the bill strongly if it is offered.

Mr. BIDEN. I understand.

The PRESIDING OFFICER. Objection is heard.

Mr. THURMOND. Mr. President, today I rise in strong support of this legislation which would authorize the death penalty for terrorist murders against U.S. nationals abroad. Acts of international terrorism against our Nation's citizens, like the recent brutal murder of Col. William Higgins, must not be permitted to go unpunished. Terrorism—the heinous, politically motivated acts carried out against the world's innocent—must be brought to an end. We must not allow these vicious murderers to hide behind a veil of political struggle and spill American blood without facing severe punishment.

This bill would amend title 18 to authorize a sentence of death for a terrorist murder against a U.S. national. Currently, numerous Federal statutes provide that a sentence of death may be imposed if a person is found guilty. However, the reality is that the death penalty may not be imposed for these offenses because constitutional procedures for imposing such a sentence have not existed. In 1972, the Supreme Court in Furman versus Georgia, ruled existing death penalty statutes were unconstitutional because the jury was permitted to use its unfettered discretion in determining whether a sentence of death should be imposed. This decision rendered the Federal death penalty inoperative. Subsequently, in a series of landmark decisions, the Court determined that the death penalty was constitutional when imposed under certain procedures specifically designed to guard against a jury having unfettered discretion. Such procedures were enacted into Federal law last year as part of the Anti-Drug Abuse Act of 1988, to be used only in cases of drug-related cop killings and for drug kingpin murderers.

This bill proposes to amend current Federal law to implement the death penalty for terrorist murderers through the use of the procedures enacted last year as part of the drug bill. I believe that enactment of a comprehensive death penalty bill is the most effective course of action to take in our efforts to bring back the death penalty into the Federal system. S. 32, which I introduced on the first day of this Congress is just such a bill and it was recently reported by the Senate Judiciary Committee. However, despite the importance of comprehensive death penalty legislation, I feel we must take immediate steps to address the pressing problem of international terrorism.

Terrorism has plagued the world for many years. Without question, such acts have a great impact upon this Nation, especially when our citizens are killed. For example, no one can forget the 241 U.S. military servicemen killed in Beirut by a suicide truck bomber in October 1983 or the innocent Americans killed in the December 1988 crash of Pan Am flight 103 in Scotland. Most recently, the Nation was shocked to see the body of Colonel Higgins—kidnaped and murdered in Beirut where he was on a U.S. peacekeeping mission. These incidents clearly illustrate the fact that there is, indeed, a worldwide epidemic of terrorist violence and that the United States of America is a primary target.

Mr. President, this bill will send a strong signal to those international

terrorist groups that choose to make victims of innocent Americans. That message is, "If you choose to prey upon innocent Americans, you will pay with your life." We simply cannot hesitate any longer to ensure that terrorist acts will be dealt with harshly.

In closing, U.S. citizens must not be subjected to sudden, violent death at the hands of terrorists. We must treat terrorists for what they are—murderers—who should face the death penalty for their heinous crimes.

For these reasons, I strongly support this important bill and urge its passage.

I wish to thank the distinguished Senator from Pennsylvania. I wish to say to him that if any amendments come up like the so-called Kennedy amendment or any other amendment, I would appreciate it if the Senator would let me know so I can come to the floor.

I cannot support the bill if such amendments are attached. That amendment, I think, will nullify any capital punishment bill. It might not have effect in a few States, but in most States it will.

Mr. SPECTER. I thank my distinguished colleague from South Carolina for his comments. While he and I disagree with the effect of the so-called racial justice amendment, I understand his position. Unanimous consent would be required.

I would respect that even with his absence on the floor.

Mr. THURMOND. I thank the Senator.

Mr. WILSON. Mr. President, will the distinguished Senator from Pennsylvania be willing to yield some of his time? I would like to speak in support of his bill and against the proposed substitute amendment.

Mr. SPECTER. How much time would the distinguished Senator from California like? I yield 5 minutes.

The PRESIDING OFFICER. The Senator from California is recognized for 5 minutes.

Mr. LEVIN. Will the Senator yield for a unanimous-consent request?

Mr. WILSON. I yield for that purpose.

Mr. LEVIN. This has been cleared with my friend from Pennsylvania, but I would not want to go ahead without his knowledge because it would result in an up or down vote on the substitute and not provide for the motions to table. If the Senator from Pennsylvania wishes that option, I have to amend the unanimous-consent offer that I am going to make

ORDER OF PROCEDURE

Mr. LEVIN. Mr. President, I ask unanimous consent that the vote on the Hatfield-Levin amendment occur at 3 p.m. and that, immediately upon disposition of the amendment, without any intervening action or debate, the Senate proceed to vote on final passage of S. 1798, as amended, if amended.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LEVIN. I thank my friend.

The PRESIDING OFFICER. The Senator from California is recognized for 5 minutes.

Mr. WILSON. Mr. President, what is being proposed in the underlying legislation is a death penalty to supplement those presently in Federal law that relate to drug kingpins as defined in the law and to those who slay a Federal, State, or local narcotics or police officer in a drug-related incident.

This is a bill specifically aimed at protecting Americans abroad from acts of terrorism. Acts of terrorism, by definition, are political acts. The element of premeditation is beyond dispute if we are talking about genuine terrorism. If we are to protect Americans, be they in uniform or be they innocent civilians, from the kind of terrorism that we have seen in the Pan Am crash at Lockerbie, the bombing of the Marine barracks at Beirut, the murder of innocent civilians aboard cruise ships, the bombing of night clubs, taking the lives of American servicemen—in any of those instances we have to have, I think, very clearly spelled out the death penalty that the Senator from Pennsylvania seeks to put into our law by S. 1798.

As I came to the floor, I heard a debate between my friend from Michigan and the Senator from Pennsylvania. It perhaps was confusing to laymen. The Senator from Pennsylvania seeks to add the possibility of a death penalty for premeditated murder committed as an act of terrorism. My friend from Michigan seeks to place in the law an alternative. He criticizes the bill that is on the floor, the underlying legislation, because it would permit a lesser penalty than life imprisonment without the possibility of parole.

What the Senator from Pennsylvania has done is add the distinct possibility of a death penalty. Personally, what I would like to see—I suspect what many laymen witnessing this debate would like to see—is a death penalty as a possible penalty for this act of murder or, at the very least, life imprisonment without the possibility of parole.

But three are being posed by my friend from Michigan as necessarily mutually exclusive. I do not think they are. It is simply that my friend from Michigan, my friend from Oregon, and others, for reasons that I respect, do not think that a death penalty is appropriate under any circumstances. We have a fundamental disagreement in that regard. I respect their views, but I fervently disagree.

It seems to me that, in particular where it is our purpose to protect American citizens from political murder, we need to be very clear that acts of terrorism will be dealt with severely. And if my friend from Michigan is interested in certainty, I think that adding the possibility of a death penalty and the certainty, in the event that penalty is not imposed, of at least life imprisonment without the possibility of parole gives a certainty to terrorists and to those who employ them in cold-blooded premeditation to achieve political ends—that they will not be able to impose acts of terrorism without paying a price, that they cannot pull the trigger or plant a bomb with impunity.

That is what we ought to be seeking. But the amendment would preclude the death penalty. It would, it is quite true, provide life imprisonment without the possibility of parole. Why not both? They are not mutually inconsistent, and I suggest it is still possible to modify the basic underlying legislation to provide for both and we would have even a better bill. But if the choice we are to have is between the amendment that is being proposed as a substitute to S. 1798, then I have to reject that in favor of seeing a death penalty added as a possible penalty for the kind of acts of terrorism that the United States cannot tolerate.

Mr. President, the first duty of a democracy is to protect its people. This is an extension of American power in a perfectly legitimate way beyond the boundaries of the United States against those who are political murderers.

So I hope there perhaps could be a modification that would join life imprisonment without the possibility of parole to a possible death penalty. But if we are to choose, then I will choose the death penalty. I hope this legislation passes. It is needed. It is needed urgently.

I thank the Chair.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Indiana.

Mr. COATS. Mr. President, I ask the Senator from Pennsylvania to yield time so I might speak on this.

Mr. SPECTER. How much time would the Senator like?

Mr. COATS. I think 5 minutes would be ample.

Mr. SPECTER. How much time do I have remaining on the amendment?

The PRESIDING OFFICER. I regret to advise the Senator from Pennsylvania that he has 2 minutes and 25 seconds remaining.

Mr. SPECTER. How much time does the Senator from Michigan have left on the amendment?

The PRESIDING OFFICER. The Senator from Michigan has 14 minutes.

Mr. COATS. Mr. President, I wonder, in light of the earlier discussion, if I can ask the Senator from Michigan to yield enough time so that I can make my statement without imposing on the restricted time that the Senator from Pennsylvania lost during that long colloquy.

Mr. LEVIN. I would be happy to yield 5 minutes off the bill or the amendment.

The PRESIDING OFFICER. The Senator from Michigan graciously yields 5 minutes of his time to the Senator from Indiana.

Mr. COATS. Mr. President, I graciously accept and thank the Senator from Michigan for that time.

Mr. President, in my congressional career, I have wrestled with few issues more troublesome than the issue of the death penalty. Respect for life is a matter of individual conscience as well as, I think, the highest call of Government. A nation that is casual in the taking of life has not learned the brutal lessons of this very bloody century, a century in which human life and dignity has been treated with such contempt.

We can never justify, nor should we ever attempt to justify, blood lust, and we should never attempt in any way or form to justify the acts of death that have occurred during this century. It is not justice. This is barbarism.

But, at the same time, I am convinced that there is a moral law that applies both to men and to nations, and that this law specifies that some human actions taken with intention and taken with free choice are so heinous that a man may forfeit his life by an act of this will.

Over the years, I have attempted to apply three principles to the death penalty legislation which Congress has faced in an attempt to meet the mandates that I have just enumerated, respect for life and the demands for justice. Those three principles are these:

First, I think the dealth penalty should only be applied out of justice, not utility. We should not make a determination to apply a death penalty because we lack prison space or because the cost of caring for a prisoner is too expensive. It should not matter that the public wants vengeance or the judge wants to make an example out of a particular person.

The death penalty should not be applied because it is either efficient or effective. There is only one circumstance, in my mind, when it should be applied and when a life can be taken, and that is when justice demands it.

Second, I think, one that says that justice must be informed by moral law, those traditions, religious convictions, the reason that is behind this decision, I think that moral law is clear. A life is the just punishment for taking a life, if it is done with murderous intent. This is a harsh penalty.

Demands of justice often are harsh, but it is also, in an important manner, limiting. If we say a life for a life, we are also saying we cannot take a life for less than a life, or supreme provocation. Justice Potter Stewart summarized his position when he said that the death penalty is an extreme sanction suitable to the most extreme of crimes.

The third principle I think should be applied, and which I have attempted to apply, is that the penalty can only be applied with very stringent safeguards, appropriate to the respect for life.

Even in the Old Testament where the death penalty was applied with some regularity, the evidential requirement was two witnesses. Today, with DNA tracing and fingerprinting and so forth, the principle does not apply as directly. Any death penalty must embody an equal concern for the innocent, and every act of justice has an element of uncertainty. And in capital cases we have to effectively eliminate that element in applying those principles.

That means in the past—in 1985, for instance, I voted against the death penalty where a modification of the military legal code to make peacetime espionage punishable by death did not meet these principles, because the prosecution was not required to prove that a life had been taken as a direct result of the crime.

In 1988 I voted for the death penalty, when it was applied to drug kingpins. That measure specified this could only be used when such an individual had knowingly or willfully contributed to the death of another individual.

Today the measure offered by Senator SPECTER is very careful in its language and says that the death penalty may be applied, not simply for terrorist planning and actions, but for terrorist murder. It specifically imposes the death penalty for the terrorist murder of U.S. nationals abroad.

Thus, I think it is a measure motivated simply by concerns of utility or efficiency. It appeals to an eternal standard of justice, a life for a life. This standard may make it uncomfortable, and I am not willing to stand in judgment above it, for no judge or legislature can do that.

But this amendment does not take a life for lesser crimes. Life demands our respect, and imposing the death penalty can only be done with some fear. There is no joy in execution, but there can be a duty to a moral law. And I think that duty is one which we are choosing here today.

The choice which men have between good and evil deserves praise and punishment. One punishment has such gravity, and that punishment can mean death. In fact, it is a way in which we can evidence the value of life, by the ultimate death of those who seek to destroy it. For that reason, I will support the Specter bill, and I urge my colleagues to do likewise.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana yields the floor. The Senator from Michigan has 8 minutes. The Senator from Pennsylvania has 2 minutes 4 seconds.

The Senator from Michigan.

Mr. LEVIN. Mr. President, I yield myself those 8 minutes.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 8 minutes.

Mr. LEVIN. Mr. President, the current law on murder that occurs during a terrorist act is weak. It has to be strengthened. Our friend from Pennsylvania pointed out a weakness in this law, a different weakness than the one I am going to point out, but nonetheless there is agreement here.

I believe that the current law on terrorism and murders that occur during terrorist acts is a weak law. I believe it is weak, because it permits somebody who kills an American, as part of a terrorist act, to walk out of prison after a few years. As a matter of fact, you can be convicted of murder during the course of a terrorist act, under the current law, and be given just a fine. Those are two options which I happen to find totally abhorrent.

I think anybody who is convicted of a murder of an American during the course of a terrorist act, ought to go to prison for life, and we ought to throw away the key. That is what our substitute does. Our substitute says we are no longer going to permit a term of years or probation or parole. If you commit that murder, you are going away, without the possibility of release. That is what the Hatfield-Levin amendment does. It is that certain, it is that tough. It is that mandatory life sentence, without the possibility of release, which is the heart of this substitute.

We believe it is a much stronger approach than we would be left with, if the Specter bill is adopted, because if Senator SPECTER's bill is adopted, there will be four options. He adds the death penalty as one option, but he leaves in place the option of a term of years. He leaves in place the option of a life sentence or a fine. Two of those four options that are left in place, if the Specter bill is adopted, I find to be totally offensive, unacceptable, and weak options.

The bill before us, for which we seek to substitute our language, is also weak in another way, and that is, that it makes it less likely that we are going to be able to extradite terrorists.

Country after country, including Colombia, will not extradite people to the United States, if there is the possibility of a death sentence. We have to struggle to extradite terrorists to the United States.

My friend from Pennsylvania is right on many things, and one of the things that he is right about is that the thing which terrorists fear the most is that they will be extradited to the United States. But we find the list of countries is a long one, which will not allow for the extradition of persons to the United States, if there is a possibility of capital punishment.

The underlying bill adds that possibility. Therefore, it makes it less likely that we are going to get our hands on the very people that we are trying to punish which are the people who commit murders of American citizens in the course of terrorist acts.

Acts of terrorism deserve harsh punishment and certain punishment. We had in front of us a member of a drug cartel testifying at the Governmental Affairs Permanent Subcommittee on Investigations. That terrorist, as far as I am concerned—but a drug kingpin in any event—testified that what puts terror into the hearts of the drug people is not capital punishment; they face the threat of capital punishment everyday of their lives. The amount of money involved is such that they are willing to take that risk. But the testimony of this drug kingpin was, in front of our subcommittee, what strikes terror into the hearts of those kingpins is that they will end up in jail for life, without the possibility of ever seeing daylight, and that they will be extradited to the United States. That is their greatest fear.

Our substitute keeps the extradition lines flowing, because we do not open up the possibility of the death penalty, and imposes the mandatory sentence of life in prison, without the possibility of release, which is the very punishment that these drug kingpin fear.

I suggest the same thing is true with terrorists. The description of these terrorists by all of us on this floor is a common description. There is no difference between the supporters of one approach or the other approach over acts of terrorism and the heinous offense which is involved. The difference is over which is the strongest approach, not which sounds strongest at first blush, but which is the strongest approach.

There is no doubt in our minds that the stronger approach is the one which excludes the possibility that someone can commit and be convicted of murder in the course of a terrorist act and walk out of prison after a few years, and which excludes the possibility that that terrorist will only get a fine, needless to say.

Mr. President, a list of countries that prohibit the extradition of their nationals to any country which permits the possibility of a death sentence has been made part of the Record.

Mr. President, I also note for those listening to this that those countries include, Argentina, Brazil, Colombia, Mexico, Paraguay, and Uruguay, and that those are some of the Central American and South American countries that are on this list. It is longer than that. But those are some of the very countries from which we are trying to extradite drug kingpins and possibly terrorists as well.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan yields the floor.

The Senator from Pennsylvania has 2 minutes.

If no Senator uses the time, the time will be divided equally between the sides.

Mr. LEVIN. Mr. President, I suggest the absence of a quorum under those conditions.

The PRESIDING OFFICER. The Senator from Michigan suggests the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ADAMS). Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I ask unanimous consent that Senators D'AMATO and WILSON be added as cosponsors of the Specter bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, how much time remains for the Senator from Michigan and myself on both the bill and the amendment?

The PRESIDING OFFICER. The time on the amendment has expired for both sides. On the bill, the Senator from Michigan has 39 minutes remaining and the Senator from Pennsylvania has 13 minutes remaining.

Mr. LEVIN. Mr. President, if my friend from Pennsylvania will yield, I ask unanimous consent that the remainder of the time between now and 3 o'clock be equally divided between myself and Senator SPECTER.

The PRESIDING OFFICER. Is there objection? the Chair hears none, and it is so ordered. The time of the Senator from Michigan and the Senator from Pennsylvania will be added together and equally divided so that each has now an equal amount of time. In a moment we will calculate that for the Senators.

Mr. SPECTER. I sugggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the qourum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senate will come to order.

VISIT TO THE SENATE BY DELEGATION OF THE PEOPLES DEPUTIES FROM THE U.S.S.R.

Mr. MITCHELL. Mr. President, it is a pleasure to be able to make this historic introduction to my colleagues in the U.S. Senate. I ask all Senators to now give a warm welcome to the first delegation of peoples deputies from the Soviet Union ever to officially visit the United States.

[Applause.]

Mr. MITCHELL. Chairman Primakov and the members of his delegation are the first elected Soviet parliamentarians to come to the U.S. Congress. We hope this will be the first of many such delegations, and the beginning of a substantive and constructive dialog that will continue for years to come.

We have all watched with interest as the Soviet Union's new parliamentary system takes form and grapples with problems familiar to legislative bodies all over the world.

We in this country are the fortunate heirs of a legislative tradition that is 200 years old. Many of the problems of organization and process were solved for us long ago. It is hard to imagine the difficulties facing a newly constituted body seeking to devise the procedures essential to running a legislative body and resolving simultaneously the substantive problems which all legislatures face.

All Senators will have the opportunity to meet and talk with our visitors. I encourage each to take advantage of the opportunity. We will all benefit from a frank and thorough exchange of opinions and views.

The mutual concerns that face our two great nations in the closing decade of this century are immense. They range from the overarching need for peace in the world to the enormous environmental challenges that confront all peoples.

We have much to learn from each other, and I believe much to give each other in mutual friendship and respect.

I hope this visit marks the beginning of many more such exchanges in the future. On that basis, I believe we can both look forward to leaving for children in the United States, in the

Soviet Union, and throughout the world, a better place in which to live.

Mr. President, I would like to yield now to my distinguished colleague, the Republican leader, for such remarks as he may wish to make in welcoming our visitors.

Mr. DOLE. Mr. President, I want to share the views expressed by the distinguished majority leader.

We certainly are pleased to have our visitors in the Senate Chamber. We are very honored that they are here. We are very pleased that they are visiting other parts of the United States, including two of the outstanding places in America, Maine and Kansas. They will have a good time. They will see a lot of real people, and they will find that the people everywhere in America are wishing everyone success in our relationships with continued growth. We will have more and more opportunities to work together for world peace.

So I join the majority leader in thanking them for making this arduous trip, and expressing our best wishes and hoping they will have a good time in America.

I say to our visitors, as far as the Senate itself is concerned, I would not pay too much attention. You may be confused as we are most of the time. [Laughter.]

Thank you, Mr. President.

Mr. MITCHELL. Mr. President, if I might add just two comments. First, Senator DOLE and I will be hosting a dinner for our guests this evening to which all Senators are invited. I hope very much that as many Senators as possible will be coming. In a moment, I will suggest the absence of a quorum so that individual Senators may meet our guests.

Finally, in line with what Senator DOLE said earlier, this summer I met with the delegation of deputies and staff trying to devise rules for the new Soviet Parliament. And my advice to them was do not copy ours. Start from scratch with something simpler and more direct. And everything that has happened since I gave that advice has reinforced my view. [Laughter.]

I thank my colleagues.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPOSITION OF THE DEATH PENALTY FOR THE TERRORIST MURDER OF U.S. NATIONALS ABROAD

The Senate continued with the consideration of the bill.

Mr. SPECTER. Mr. President, there is one other document I wish to add to the RECORD. I ask unanimous consent that this table showing the number of terrorist acts from 1968 through April of 1989 be printed in the RECORD, showing worldwide terrorism, the number killed, wounded, and the number of U.S. citizens killed and wounded.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TOTAL CASUALTIES FROM INTERNATIONAL TERRORISM [1]

Year	Worldwide		Americans	
	Killed	Wounded	Killed	Wounded
1989 (to Apr. 1)	59	106	0	5
1988	658	1,131	192	40
1987	612	2,293	7	47
1986	604	1,717	12	100
1985	825	1,217	38	157
1984	312	967	11	31
1983	637	1,267	271	115
1982	128	755	8	11
1981	168	804	7	40
1980	507	1,062	9	17
1979	697	542	15	21
1978	435	629	9	21
1977	230	404	4	7
1976	409	806	7	32
1975	266	516	18	78
1974	311	879	42	17
1973	121	199	23	2
1972	151	390	23	33
1971	36	225	4	23
1970	127	209	6	14
1969	56	190	3	3
1968	34	207	5	10
Total	7,383	16,515	714	824

[1] Source: State Department's Office of Counterterrorism.

Mr. SPECTER. Mr. President, how much time is remaining allocable to each side.

The PRESIDING OFFICER. The Senator from Pennsylvania has 14½ minutes. The Senator from Michigan has 15 minutes.

Mr. SPECTER. I thank the Chair.

Mr. President, let me express regret that we have not used all of the time. We had expected others to come to the floor to discuss this issue. There has not been a yielding back of time because Senators had expected that we would not vote until 4 hours from 11 o'clock, which was why the 3 o'clock time was established. So that accounts for why we have had the quorum calls here this afternoon.

Mr. President, I wish to comment on a few of the issues raised regarding this issue, before coming down really to the central aspect of the matter now before the Senate, which succinctly stated is, should there be a death penalty, or is it sufficient to provide for a mandatory penalty for life imprisonment?

The arguments have been advanced that the death penalty applies disproportionately to the poor. I believe that does not really apply in the situation of terrorism.

There has been argument advanced that there may be errors, and you cannot go back on a situation where somebody has been executed. I suggest, Mr. President, that given the procedure now at hand, that the likelihood of error is very, very minimal. When it comes to terrorism, given our procedures, and finally the terrorists, sometimes photographs like in the Stethem case, identifying Hamadei, that we are dealing with a phase of capital punishment on terrorism where errors are very remote.

One assertion was made that the death penalty advances a simple solution to a complex problem. There is no representation made here that there is any real effort or expectation of a solution, but this is an important arsenal in the weapon against terrorism, just another weapon.

A consideration was raised as to whether second-degree murder would call for the death penalty, and that is not realistic or possible, where terrorism is involved, Mr. President. As a matter of statutory construction of the two reasons, first, the murder statute defines murder in the first degree as willful, deliberate, malicious and premeditated killing. Senator BIDEN and I had a discussion regarding this matter.

Terrorism by its very definition is a premeditated, willful, calculated act. So that under the definition of murder under title 18 U.S. Code, section 1111, there is no aspect of terrorism where you can have second-degree murder. That is made more emphatic under the provisions of the terrorism bill itself, which has a special limitation on prosecutions in section E, which says that it will apply only where there has been the determination that the conduct of the terrorist was to coerce, intimidate, or retaliate against the Government or a civilian population.

That is the definition of terrorism, and that has to be premeditation, to coerce, intimidate or retaliate. So that first-degree murder is all that is comprehended, obviously, when you deal with the question of terrorism. Mr. President, now we come to the nub of the case, and that is, whether there ought to be the opportunity for the death penalty. The bill before us today provides that it is up to a jury to provide the death penalty, it is not mandated, or you fall short with a mandatory life sentence.

One of the opponents said that the death penalty is soft on terrorism, and another said that mandatory life is tougher. Anybody who believes that, ought to vote for the Levin-Hatfield amendment and ought to vote against the Specter bill.

By definition, the death penalty is the toughest penalty. Let there be no mistake about that. Had the Levin-Hatfield amendment sought to toughen up the terrorism penalties, they had full latitude to bring it up at any time in the past many months or years. But this amendment was offered by Senator LEVIN and Senator HATFIELD in order to defeat the death penalty provision. That is it, pure and simple. The issue is whether you are going to have the possibility of a death penalty or not. When we talk about extradiction, it is a red herring. The United States of America can always waive extradiction.

Mr. President, the most succinct definition of why you call for the death penalty was that from Justice Stewart, which is worth repeating:

> The decision that capital punishment may be the appropriate sanction in extreme cases is an expression of the community's belief that certain crimes are themselves so grievous an affront to humanity that the only adequate response may be the death penalty.

The only adequate response may be the death penalty. I ask my colleagues and the people in the gallery, and I ask America watching on C-SPAN II, whether that penalty ought to be possible for the perpetrators of the Pan Am 103 terrorist act, where 259 innocent passengers were blown out of the sky.

I ask my colleagues whether the death penalty ought to be present for the perpetrators at the Rome airport, where 15 people were killed and 73 wounded in an airport lobby by a machinegun and grenade attack.

I ask whether the death penalty ought to be available where Pan Am 73 at Karachi, where terrorists held passengers for 17 hours, and gunmen indiscriminately exploded grenades and fired machineguns wounding 100 people and killing 21 people.

I ask whether the death penalty ought to be a possibility when Leon Klinghoffer, in a wheelchair, was shot and pushed into the Mediterranean.

If anybody says life imprisonment is tougher, let them vote for Senator LEVIN's amendment. For anybody who wants the death penalty to be an option, to be imposed by an American jury, I say vote for this bill and make the death penalty a possibility to deter terrorism.

How much time do I have left, Mr. President?

The PRESIDING OFFICER. The Senator has 6 minutes, 45 seconds.

Mr. SPECTER. I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the substitute which Senator HATFIELD and I have offered is a stronger and tougher approach than that of Senator SPECTER for two reasons. First, our approach provides for a certainty of life imprisonment. No release, no parole. If you murder an American in the course of a terrorist act, you are going away, and we are throwing away the key.

Under Senator SPECTER's approach, he leaves the law with four options. Yes, one of them is capital punishment, but that is one of four options. He also leaves the option of a few years in prison or probation or even a fine for the act of murder against Americans in the course of a terrorist act.

So just as my friend from Pennsylvania asks our colleagues questions, so I would frame the question this way: Do any of us really believe that a few years in prison is an adequate response to the Klinghoffer murder or to the Pan Am terrorist acts? Will any of us accept that as adequate? That is permitted under Senator SPECTER's approach. It is not permitted under the Hatfield-Levin approach.

So ours is tougher, because we mandate life behind bars with no possibility of parole for murdering an American in the course of a terrorist act. If you want to allow a few years in prison for the terrorist who killed Leon Klinghoffer, then you vote for the Specter approach, because that is allowed under the Specter approach. As a matter of fact, a fine would still be permitted as the sole punishment under the law if Senator SPECTER's bill is adopted.

I find that totally abhorrent and believe that the strongest approach to terrorist acts is to have a mandatory sentence, not to have four options which is the Specter approach, all the way from a fine, to a few years in prison, to life in prison, to capital punishment—four options without any certainty that someone will spend at least the rest of his life in prison. There is no certainty of that under the Specter approach. Either go with the four-option uncertainty of the Senator from Pennsylvania or the certainty under Senator HATFIELD's and my approach, that if you commit a murder against an American, you are going away for life, and we are throwing away the key. That is tougher than a four-option uncertainty which is provided by the underlying bill.

There is another reason why our approach is tougher and that is that the key to getting your hands on terrorists is to extradite them. And if you have even the possibility of a death penalty, we are not going to be able to extradite terrorists.

We put in the RECORD a list of the countries which will not allow for extradition, if capital punishment is a possibility under American law.

Those countries include Colombia. We are not going to be able to extradite people who commit murder in the course of a terrorist act if they are Colombian nationals, if the act of murder in the course of a terrorist act is subject to capital punishment. We are going to defeat our very purpose.

Our purpose is to get our hands on these terrorists and to put them through the American justice system, the thing they fear most. And I agree with my friend from Pennsylvania on that issue that the thing that the terrorists and the drug kingpins who commit murder fear the most is the American system of justice and extradition to America to face the music. They will not have to face the music if the option of capital punishment is there, because they are not extraditable if they face the possibility of capital punishment.

Those countries, as I say, include Colombia which will not extradite. They include other Central and South American countries—Argentina, Brazil, Colombia, Mexico, Uruguay, Paraguay, and a whole host of other countries throughout the world.

While I commend my friend from Pennsylvania for raising an issue which is important, that being the current inadequacy of our law against terrorism and our efforts to get our hands on persons who commit murders of Americans in the course of a terrorist act, I believe that our approach is a far stronger, a far tougher approach to handling those terrorists than is the approach that has been offered in the underlying bill by our friend from Pennsylvania.

On the extradition issue, I read here just a portion of an article written by Richard Cohen in the Washington Post. The article is dated January 1987:

> Last week, German police arrested a man at the Frankfurt airport carrying liquid explosives in his luggage. He turned out to be Mohammed Ali Hamadei, one of four men indicted by the United States following the 1985 hijacking of a TWA jetliner and the murder of a passenger. The Germans, to their credit, refused to extradite Hamadei until the United States agreed not to seek capital punishment. Almost 42 years after the Nazi era, it is the Germans who instruct us in the morality of the death penalty.
>
> If guilty, Hamadei would seem the perfect candidate for execution. Not only was the TWA passenger, Navy diver Robert D. Stethem, killed in cold blood, but 39 other passengers were forced to spend 17 harrowing days as hostages in Beirut. And now there is additional evidence that Hamadei was intent on even more killing. At only 22 years of age, he is a man to be reckoned with.

Then Richard Cohen goes on to say the following:

> Terrorists court death. They do not put much of a premium on their own lives, not to mention the lives of others. Some of them willingly sacrifice themselves to further their cause.

He then describes the Marine barracks in Beirut.

The point of this article is the point of a letter from which I am going to read a part, from a former assistant U.S. attorney in Florida. Unless we waive the possibility of capital punishment we are not going to be able to extradite the perpetrators of these terrorist acts. The presence of that option is going to make it more difficult for us to extradite the terrorists we are seeking to put through the American system of justice.

Mr. President, I would like to read a letter from Richard Gregorie who was chief assistant U.S. attorney for the Southern District of Florida dated August 5, 1988. Here is what he wrote me:

Most of the countries in Europe and South and Central America will not extradite a defendant if that defendant faces the death penalty. In fact, in recent cases involving terrorism, the United States has had to agree to withdraw the death penalty in order to get defendants extradited to the United States. Colombia has abrogated its extradition treaty with the United States and no Colombians are being extradited at this time. In order to get the cooperation of countries in Europe and South and Central America, the United States must extend its diplomatic efforts. Passing legislation which provides for the death penalty would be useless in that the very defendants who might be subject to those penalties would not be extradited from their safe havens abroad.

This is the key point:

Further the existence of the death penalty may provide an excuse to countries in Central and South America and Europe to refuse to cooperate in sending drug kingpins to the United States for trial.

It is my position that it should be the priority of both the State Department and the Justice Department that drug kingpins be indicted and brought to the United States for trial. I am opposed to any legislation which may interfere with that priority. It is for that reason that I have testified that capital punishment for drug kingpins would not be productive legislation.

That is precisely the same reasoning that applies here, which is that if we have the option of capital punishment, we are going to provide the excuse to countries not to extradite the very terrorists that we are trying to get into our criminal justice system.

In summary, we have got two options to correct a weak law relative to terrorists. One is the underlying bill of Senator SPECTER which gives four options—from a fine, to a term of years, to life imprisonment, to death penalty. It is a four-option approach with all the uncertainty that is involved.

The other approach is mandatory life in prison without parole, no options. If you are convicted of murder—and those are key words because obviously you could be convicted for something less or plead guilty to something less—of an American citizen during the course of a terrorist act, your going away and you are never going to see "daylight" again, in the words of Senator BIDEN. That is strength. That is certainty. That is toughness, compared to the uncertainty which will exist if we adopt the underlying bill.

And the other point, which is a critical point in our approach, is we avoid the problem of the Specter bill which is that the very presence of the option of capital punishment is going to make it more difficult to extradite people, and many countries, including key countries from which we are currently extraditing people, will not extradite terrorists to the United States if the death penalty option is present in our laws.

So for both of those principal reasons I would urge that the better, tougher, stronger, clearer option that faces us to correct the current flaws in our statutes relative to the treatment of people who commit murders during the course of a terrorist act, the better approach and stronger approach is the Hatfield-Levin substitute.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator from Pennsylvania has 6 minutes 39 seconds. The Senator from Michigan has 3 minutes 35 seconds.

Mr. SPECTER. Mr. President, the repetition of the argument about extradition continues to be, if I may say, a red herring.

I am glad that the distinguished Senator from Michigan quoted the Richard Cohen column, because Richard Cohen answers Senator LEVIN'S argument. Richard Cohen says in the article quoted that Germany was correct in refusing to extradite Hamadei until the United States assured that there would not be any use of the death penalty. That is the conclusive answer to that extradition argument.

In many situations, Mr. President, the United States acquires custody through our own efforts without the extradition. For example, Fawaz Yunis, the terrorist seized in the Mediterranean, was brought back to the United States for trial, and sentenced and convicted in a court in Washington, DC. We almost secured the terrorist in the *Achille Lauro* case when U.S. Navy fighter planes forced down the Egyptian airliner. We almost gained custody of Abu Abbas until the Italian authorities insisted on primacy. So we had the opportunity to gain custody in many situations without extradition.

When the distinguished Senator from Michigan says that the Specter approach has four options it simply is not true. My bill offers one amendment to existing law to provide for the opportunity of the death penalty.

With all due respect, Mr. President, it is disingenuous to say that the Levin substitute was brought to toughen up the terrorist bill. The Levin substitute has been advanced here in an effort to derail the death penalty. Ample time existed if there were really an effort to tighten up the penalties for terrorism, and it was not attempted.

The crystal argument, Mr. President, in a candid way was offered by Senator HATFIELD earlier this afternoon when he said, "Even if capital punishment were to deter and were universally accepted, the death penalty is wrong."

The opposition to the death penalty provision comes from that conclusion and not as a motivation to offer the substitute bill, Mr. President.

When we talk about the kinds of offenses which are an affront to humanity, they could not be more clearly categorized than the kinds of atrocities committed against American citizens which warrant the death penalty.

I yield the floor and ask how much time remains, Mr. President?

The PRESIDING OFFICER. The Senator from Pennsylvania has 3 minutes and 33 seconds. The Senator from Michigan has 3 minutes and 35 seconds.

Who yields time?

Mr. MITCHELL. Mr. President, will the distinguished Senator from Pennsylvania yield to me for the purpose of obtaining a unanimous-consent agreement?

Mr. SPECTER. Yes, of course, I am delighted to yield.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President I ask unanimous consent that, when the Senate resumes consideration of H.R. 1231, the Eastern Airlines labor dispute bill, it be considered under the following time limitation and that the time prior to 6 p.m., from the time it is taken up until 6 p.m., be equally divided and controlled between the two leaders or their designees on the pending Mitchell substitute amendment No. 1043; that no other amendments or motions to recommit be in order; that upon the disposition of the Mitchell amendment, the Senate proceed without any intervening action or debate to vote on H.R. 1231, as amended, if amended.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

Mr. MITCHELL. I thank the Senator from Pennsylvania for yielding to me and I thank all Senators for their cooperation.

Mr. President, I ask unanimous consent that I be permitted to obtain the yeas and nays on the vote on the pending Mitchell substitute amendment No. 1043. And I now request the yeas and nays.

The PRESIDING OFFICER. Is there objection?

Without objection it is so ordered. Is there a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. I might just add for the information of Senators, there will be at least one vote coming up at 3. Do I understand the situation to be two votes?

Mr. SPECTER. We expect two votes.

Mr. MITCHELL. There will be two votes at 3, back to back, on the pending issue. And then at 6 p.m., there will be another vote and that will be on the Mitchell substitute amendment. We do not have a request for the yeas and nays on the bill as amended, if amended. So unless someone requests that, it would not be my intention to have a vote at that time. That will be the last rollcall vote today. So Senators can plan their schedules accordingly. There will be two votes beginning at 3 o'clock, one vote at 6 o'clock, and that will be the last rollcall vote today.

I again thank my colleagues.

IMPOSITION OF THE DEATH PENALTY FOR THE TERRORIST MURDER OF U.S. NATIONALS ABROAD

The Senate continued with the consideration of the bill.

Mr. SPECTER. Mr. President, have the yeas and nays been ordered on the Levin-Hatfield substitute?

Mr. LEVIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and were ordered.

Mr. SPECTER. Mr. President, I ask for the yeas and nays on the Specter bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who seeks recognition?

Under the previous order of the Senate, all time having expired on both the substitute amendment and on the underlying bill, the Senate will now vote on amendment No. 1068, offered by the Senator from Oregon [Mr. HATFIELD], for himself, the Senator from Michigan [Mr. LEVIN], and the Senator from Rhode Island [Mr. CHAFEE].

The question is on agreeing to the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New York [Mr. MOYNIHAN] is necessarily absent.

The PRESIDING OFFICER (Mr. KERREY). Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 29, nays 70, as follows:

[Rollcall Vote No. 274 Leg.]

YEAS—29

Biden	Gore	Levin
Burdick	Harkin	Matsunaga
Chafee	Hatfield	Metzenbaum
Cohen	Inouye	Mitchell
Conrad	Kennedy	Pell
Cranston	Kerrey	Sarbanes
Danforth	Kerry	Sasser
Durenberger	Kohl	Simon
Fowler	Lautenberg	Wirth
Glenn	Leahy	

NAYS—70

Adams	Ford	Murkowski
Armstrong	Garn	Nickles
Baucus	Gorton	Nunn
Bentsen	Graham	Packwood
Bingaman	Gramm	Pressler
Bond	Grassley	Pryor
Boren	Hatch	Reid
Boschwitz	Heflin	Riegle
Bradley	Heinz	Robb
Breaux	Helms	Rockefeller
Bryan	Hollings	Roth
Bumpers	Humphrey	Rudman
Burns	Jeffords	Sanford
Byrd	Johnston	Shelby
Coats	Kassebaum	Simpson
Cochran	Kasten	Specter
D'Amato	Lieberman	Stevens
Daschle	Lott	Symms
DeConcini	Lugar	Thurmond
Dixon	Mack	Wallop
Dodd	McCain	Warner
Dole	McClure	Wilson
Domenici	McConnell	
Exon	Mikulski	

NOT VOTING—1

Moynihan

So the amendment (No. 1068) was rejected.

DEATH PENALTY FOR TERRORIST MURDER

Mr. D'AMATO. Mr. President, I rise today not only in support of S. 1798, a bill to provide for the death penalty for the terrorist murder of U.S. nationals abroad, but also in honor of the memory of all the victims of such murders, including: Navy diver Robert Stethem, murdered in June 1985; U.N. military observer Lt. Col. Richard Higgins, kidnaped in February 1988, whose murder we learned of this year; and Leon Klinghoffer, murdered on October 1985.

Under this bill, there must be a determination made by the Justice Department that the murder in question was a terrorist act, that is, one "intended to coerce, intimidate, or retaliate against a government or a civilian population." (21 U.S.C. 2331(e)).

I can think of no better example of a crime that undermines the foundations of society than a murder intended to coerce, intimidate, or retaliate against a government or a civilian population.

The report of the 98th Congress, Senate Judiciary Committee on "Constitutional Procedures for the Imposition of the Capital Punishment" clearly states the justification for capital punishment:

> The Committee finds that capital punishment serves the legitimate function of retribution. This is distinct from the concept of revenge in the sense of the "eye for an eye" mentality; rather through retribution society expresses its outrage and sense of revulsion toward those who undermine the foundations of civilized society by contravening it laws.

No act undermines the foundations of civilized society more than terrorist murder—no crime is more abhorrent and more deserving of the death penalty.

This bill amends section 2331(a)(1) of title 18 of the United States Code to authorize capital punishment for terrorists. It authorizes a U.S. district court to "impose a sentence of death in accordance with the procedures set forth in section 7001 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 848)."

This legislation meets all constitutional requirements. If the sentence of death is sought and imposed, the court is required to follow all the constitutional procedures set forth in the death penalty statute we enacted last year.

This bill sends a powerful message to terrorists around the world—and I urge my colleagues to vote in support of it.

This bill says that when a terrorist commits the cowardly act of murdering an American on foreign soil, he should be subject to capital punishment. This bill puts every terrorist on notice and tells him: If you murder an American, you may pay for this crime with your life.

Mr. President I urge my colleagues to support this bill overwhelmingly.

DEATH PENALTY FOR TERRORISTS

Mr. MITCHELL. Mr. President, the Senate is being asked to consider legislating on the basis of a slogan instead of reason.

This time the slogan is "death for terrorists," a slogan so direct, so appealing and so politically unassailable that it captures the reflexive support of virtually everyone who has ever been outraged by an act of terrorism.

Americans have been so outraged for 10 years. Since the Iranian Government condoned and assisted the taking of hostages in our Teheran Embassy in November 1979 to the existing tragic captivity of innocent Americans at the hands of Mideast terrorists today, there has been no shortage of outrageous incidents and attacks by terrorists on peaceful citizens and societies for the last decade.

So it's not surprising that the idea of trying and executing the criminals who commit these crimes has broad support.

But there's a difference between a desire to retaliate, which every one of us feels instinctively, and the means of doing so in the real world.

It's the difference between a political slogan and a public policy.

Sensible public policy against terrorism requires that we think through what we are trying to accomplish.

Terrorist acts directed against Americans because they are Americans demand a response from our Government. First and foremost that response requires us to develop the practical means of capturing and extraditing the persons who commit those acts.

That means a focus on intelligence work to infiltrate the groups active in terrorism, it means the development of strong relationships with the police and intelligence forces of other nations where these crimes are committed, and finally, it means effective government-to-government agreements for the extradition of captured persons to stand trial in the United States.

These processes are primarily the responsibility of the executive branch.

These are activities carried out by our intelligence and police agencies and our diplomatic corps.

One thing Congress can do is not complicate the work of those executive branch agencies as they try to perform what is already an extremely difficult task.

But the thing Congress is now being asked to do will complicate the work of the executive branch agencies.

The reason for that is simple.

We remain virtually the only Western nation in which the death penalty is in force. None of our NATO allies and few of our Latin American neighbors are willing to extradite anyone charged with a capital crime to a jurisdiction where capital punishment is in effect.

When the 1986 law which defines the crime of terrorism was enacted, it specified, in addition to the requirement that the act occur outside the United States, that it be certified as a terrorist act by the Attorney General before it could be prosecuted under the law.

The act contains no specific penalty so as to permit our State Department the broadest possible leverage in the negotiations which are always necessary to extradite terrorists.

If we now enact the possibility of executive as one such potential penalty, all we will do is hand governments a reason for avoiding extradition when their domestic political pressures make it easier to do so.

Terrorism is effective precisely because it forces democratic, accountable governments to choose between two evils. A government whose own citizens are held hostage is placed in a difficult position when the extradition of a terrorist to the United States creates the threat of execution against its hostages.

Americans, who have seen such threats made against Americans and sometimes carried out, know directly how searing such a choice is.

We recognize that just as our Government has faced immense difficulties dealing with these threats, so other democratic governments, faced with their own outraged citizens, find it no easier to condemn one of their own to death.

So enacting the possibility of a death penalty for instances where the individual involved will almost certainly have to be extradited means only that we are reducing the chances of ever being able to bring any of these terrorists to trial in the United States.

This concern is not speculative. It is based on fact and on events that have already occurred. Just a couple of years ago, the U.S. attorney for the Southern District of Florida was attempting to gain custody of one of the most notorious drug lords in Latin America, Jorge Ochoa. Mr. Richard Gregory has testified to the Congress what happened:

> I personally traveled to Spain on two occasions in order to attempt to get Spain to extradite cocaine kingpin Jorge Ochoa to the United States. He was, instead, sent to Colombia where he bought his way out of prison within two weeks. * * *
>
> Most of the countries in Europe and Central and South America will not extradite a defendant if that defendant faces the death penalty. In fact, in recent cases involving terrorism, the United States has had to agree to withdraw the death penalty in order to get defendants extradited to the United States. * * *
>
> Passing legislation which provides for the death penalty would be useless in that the very defendants who might be subject to those penalties would not be extradited from the safe havens abroad.

That is the testimony of Richard Gregory who has personal experience of what he recounts.

It is counterproductive to fly in the face of that direct knowledge by one of our most experienced law enforcement people.

For that reason alone, this bill should be defeated.

The alternative of a mandatory life imprisonment with absolutely no chance of release is a sensible and effective one. It mirrors what is now in law, and enacting it will emphasize our national commitment to bringing terrorists to justice without undercutting our chances of bringing them here to stand trial in person.

The argument of deterrence against terrorism makes no sense. Despite their appearance of rationality, terrorists are fanatics. Persons who pursue political goals by means of murdering helpless civilians or terrorizing populations cannot be deterred. They are beyond the reach of civilized society, either to deter or to encourage.

This proposal, understandable in light of the outrage that terrorist killings inspire, makes no sense if we want to actually avenge those killings.

We would not undercut our chances of getting custody of any of these murderers for the sake of a slogan that makes us feel good but produces no good. This bill deserves to be defeated and I urge my colleagues to vote against it.

Mr. GRASSLEY. Mr. President, as a strong supporter of a general Federal death penalty for certain heinous and abominable acts, I rise to support the imposition of the death penalty for terrorists.

However, I must say that I find it odd that we are only considering imposing the death penalty for a narrow, yet deserving, category of capital defendant.

The Senate Judiciary Committee has recently reported a bill which has been described as widening the general Federal death penalty provisions. As a member of that committee, I take issue with that description. My views regarding our committee's actions are available in the committee's report on its passage without recommendation of S. 32.

The Judiciary Committee actually gutted the general death penalty statute with weakening amendments, such as the Racial Proportionality Act.

If that provision remains a part of a general death penalty statute, I guarantee that the death penalty will never be imposed in the United States, by either the Federal Government or by any of the States that enact death penalty provisions.

And, I look forward to taking part in the effort to improve S. 32 on the Senate floor to ensure that we enact a true general death penalty law.

In the meantime, aside from the fact that there are other procedures that must occur before we can gain personal jurisdiction over a foreign national, bring that individual to this country, try them and convict them, under the provisions of S. 1798 we are going to treat them differently than domestic capital defendants.

My colleagues may disagree with me, but I believe that the individuals responsible for the death of Leon Klinghoffer are just as guilty as John Booth and Willie Reid, the killers of Irvin and Rose Bronstein of Maryland.

If consistency is our goal, the death penalty should be imposed as this bill would impose it, or as the Judiciary Committee would impose it under its version of S. 32.

Otherwise, to impose the ultimate sanction, under different standards depending on the nature of the capital defendants, is wrong.

Mr. DURENBERGER. Mr. President, I am voting today against the legislation brought before us by the distinguished Senator from Pennsylvania, to establish a death penalty for those who engage in terrorist acts against American citizens.

Throughout my career in the Senate, I have voted against the death penalty and will continue to do so. I do not believe a fallible system of jurisprudence can be entrusted with the

power to end a human life. It has been said that it is better for 10 guilty people to go free than for 1 innocent person to be imprisoned. What possible recompense could there be for one improperly executed? There is none.

The only legitimate justification for the most severe penalties under our criminal system is that they will act as a deterrent to the community. It is inconceivable to me that the type of person who would engage in terrorism would be deterred by the prospect of a death penalty. Terrorists, by nature, have already renounced their own lives for their cause, and believe that they have nothing to lose. In some cases they may even prefer in some strange way to be killed in pursuit of the cause. How then would the punishment of death deter them?

I also believe that in some cases, enactment of the provision before us may have the effect of frustrating bringing a terrorist to justice. Very few nations still exercise capital punishment. Some nations may choose not to extradite a prisoner to a country which does.

I far prefer the approach proposed by the Senator from Michigan [Mr. LEVIN]. Life imprisonment represents an acceptable, practical means of accomplishing the goals of the bill before us.

Mr. DOLE. Mr. President, I would like to express my support for the bill introduced today by my distinguished colleague from Pennsylvania [Mr. SPECTER].

TERRORIST MURDER: THE ULTIMATE CRIME

If there is any crime that requires the death penalty, if there is any crime that screams out for the death penalty, it is the act of murder committed by the terrorist. Terrorist murder is cruel; it is barbaric. And it is the ultimate act of political cowardice.

CURRENT LAW

Under current law, any person who murders a U.S. citizen beyond the borders of this country is subject to the possibility of life imprisonment. That is a good start—but it is not enough. It is not enough to deter the terrorist thugs who would indiscriminately attack—and kill—U.S. citizens abroad just to make a political statement and just to get on the evening news here in the United States.

Mr. President, let us face it: We cannot negotiate with terrorists. We have learned that lesson too many times. This country has had too many Leon Klinghoffers, too many Robert Stethems, and too many people like Lt. Col. William Higgins.

The language of the law is not the language of the terrorist. Terrorists understand one thing, and one thing only: The barrel of a gun. And perhaps they will understand the meaning of the hangman's noose once the bill becomes the law of the United States.

CONCLUSION

Mr. President, I commend Senator SPECTER for introducing this legislation. It offers a much-needed layer of protection for American citizens residing or traveling outside the United States. And it sends the right message to the terrorists—that American life is expensive and cannot be taken "on-the-cheap."

So I urge my colleagues to support this important death penalty legislation with their votes. The terrorist must be held fully accountable for his deadly acts of cowardice—not with a 20-year jail term, not with life imprisonment, but with the death penalty.

Mr. ADAMS. Mr. President, I intend to cast my vote in favor of this legislation. In recent years, this Nation has watched with horror as groups and individuals have carried out acts of unspeakable cruelty in the name of some alleged political objective. Frequently, innocent citizens of this country have lost their lives as hostages, or as random victims of international terrorists who feel that their political goals justify the killing and maiming of innocent American citizens. In some instances, imprisoned terrorists already convicted of crimes against society become the subject of bargaining by terrorists who take still other hostages in the hope of securing freedom for their comrades.

Under this amendment, we state firmly our belief that this society has both the moral authority and the legal right to impose the death penalty on an individual convicted of murdering a U.S. citizen, outside the United States under circumstances where it is clear that the offense was committed with the purpose of coercing, intimidating, or retaliating against a government or civilian population. The law maintains ample safeguards for the imposition of a lesser sentence, including imprisonment or fine, or both, in appropriate circumstances. In addition, the law requires the same procedural safeguards contained in the Anti-Drug Abuse Act regarding the death penalty for drug kingpins, including a separate penalty-phase hearing, consideration of mitigating and aggravating factors, and the obligation to instruct the jury not to consider the race, color, religious beliefs, national origin, or sex of the defendant or victim.

Mr. President, it is clear to me, as a former U.S. attorney, that the death penalty as a sanction should not be lightly considered or imposed. However, I firmly believe that our diplomatic personnel and their families living abroad, and other citizens of this country who chose to travel, study, and visit in foreign countries deserve to be protected from the brutal acts of terrorists. In addition, those who consider perpetrating such unspeakable acts of cruelty and violence should be forewarned that this Nation will prosecute them to the full extent of the law.

Mr. HARKIN. Mr. President, I rise against the bill offered by the Senator from Pennsylvania which would authorize a court to impose the death sentence for persons convicted of a terrorist murder of a U.S. national outside of the United States.

Let me say at the outset that I believe that we should do all within our power to halt the awful reign of violence which terrorists are trying to impose around the world. But I do not believe that the bill before us would do anything to achieve that.

In the case of terrorism, I just cannot see how the death penalty would work as a deterrent. Many terrorists are more than willing to risk their own lives to achieve their wrong and evil purposes. To them, terrorism is a crusade. The prospect of death will not stop them in that crusade. In fact, many terrorists believe that they will go to heaven if they die in the "ceremony" of their causes.

Moreover, by subjecting these international criminals to the death penalty, we run the risk of making them martyrs. I fear that would only strengthen the resolve of their allies and comrades and other individuals engaged in terrorism to intensify their heinous activities.

Last, I understand many European nations will refuse to extradite these individuals to the United States because of the death penalty in this country.

I voted for the Levin-Hatfield amendment to impose a mandatory life sentence without parole. If this amendment had been adopted, the bill would be much stronger, which is another reason I am opposing final passage.

Mr. KERRY. Mr. President, anyone who intentionally murders an American citizen in cold blood as a political killing has committed a crime that deserves the most terrible punishment that any civilized country can impose.

The great irony of the Specter legislation is that by imposing the death penalty on terrorists who murder Americans abroad, is that we are doing the one thing that would make it most likely that they would never face justice in the United States.

As Assistant U.S. Attorney Richard Gregorie told me in testimony before the subcommittee I chair, the Subcommittee on Terrorism and Narcotics, the death penalty would be counterproductive.

Gregorie, who brought the indictments against General Noriega, Jorge Ochoa, and other members of the Medellin cartel, and who devoted a career to prosecuting the most terrible narcotics traffickers and terrorists, told the subcommittee that the death pen-

alty would only hurt U.S. law enforcement.

Let me quote directly the testimony he gave on July 12, 1989:

Most countries in Europe and in Latin America will not extradite anyone if the death penalty is a possible penalty as a result of that extradition, so that if we are trying to get the Colombians to send us drug lords, and we are trying to get the Germans or French to send them to us, they won't do it if they believe that the death penalty is a possibility.

I was a prosecutor. I put people behind bars for committing terrible crimes, and a lot of them are still there, which is where they should be. When a terrorist kills an American citizen, he should be tried, convicted, and put in prison for the rest of his life without any possibility of getting out. We should literally, throw away the key.

Because, in fact, I believe that there is a punishment that is worse than the death penalty—life imprisonment, at hard labor, with no possibility of parole or furlough. We should be that tough for those who commit these deplorable acts of terrorism. They should know—for certain—that every single day, for as long as they live, they will be punished and suffer for their crime. They should know every morning that they will work at hard labor, that they will have no freedom, and that every single morning they will face the same misery for as long as they are alive.

But what is the point of imposing the death penalty on terrorists if the result is the terrorist will never face trial in the United States?

This amendment would frustrate law enforcement, and interfere with the prosecution of terrorists. It would damage the very cause of prosecuting terrorists that it purports to advance. In this case, the emotional appeal of an eye-for-eye should not be permitted to obscure that fact that in passing this amendment we would actually be helping terrorists avoid the one thing they fear most—extradition to the United States to face justice.

Moreover, Mr. President, given the nature of international terrorism that we see in the world today is it not likely that inflicting the death penalty on terrorists would simply fan the flames of passion that are the spawning places of terrorism in the first place? Would not foreign terrorists put to death in America, quickly become the martyrs whose deaths would be avenged with untold additional atrocities? Do we really believe that imposing the death penalty on a terrorist will not simply multiply the killing and maiming on all sides?

In addition, won't terrorist organizations whipped into a frenzy by a U.S.-imposed death penalty, or one of the faithful, thirsts for revenge until it is quenched? Americans are far more likely to be targets of expanded terrorism if we impose a death penalty than if we do not.

Mr. President, we should make life a living hell for any terrorist who kills an American. Ironically, this legislation may instead cause the terrorist and those who share his cause, whatever it might be, to be seen as a martyr and that is certainly not in America's interest, the interest of humanity, or the interest of the victim.

Accordingly, I will vote against the Specter amendment.

Mr. BIDEN. Mr. President, earlier today the Senator from Pennsylvania and I were discussing whether this bill would permit the imposition of the death penalty for the offense of second degree murder.

As currently drafted, the bill appears to permit the imposition of the death penalty for that offense. If it were possible to do so, I would offer an amendment at this time to make clear that the death penalty could only be imposed for a violation of section 2331(a)(1) of title 18 where the jury found that the killing was murder in the first degree as defined in section 1111(a). the unanimous consent agreement governing the debate on this bill unfortunately does not permit such an amendment to be offered.

But I want the Senator from Pennsylvania to know that I will urge our colleagues in the House of Representatives to amend the bill in that fashion, and if that is not done, that I will seek to add such an amendment myself in conference.

The amendment would simply insert into S. 1798 the language in section 219 of S. 1225, one of the other death penalty bills now pending in the Judiciary Committee, which makes it clear that the death penalty would only be available for this offense where first degree murder was involved. I ask unanimous consent that section 219 of S. 1225 be printed at this point in the RECORD.

I hope that the Senator from Pennsylvania would consider supporting that amendment.

There being no objection, the section was ordered to be printed in the RECORD, as follows:

SEC. 219. CONFORMING AMENDMENT RELATING TO TERRORIST ACTS.

Paragraph (1) of subsection 2331(a) of title 18 of the United States Code is amended to read as follows:

"(1)(A) if the killing is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, or be fined under this title, or both;

"(B) if the killing is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned;".

Mr. SPECTER. Mr. President, I would be willing to support such an amendment in order to remove any conceivable ambiguity even though I do not believe it to be necessary for reasons I have specified in the floor debate.

As I said earlier in the debate, S. 1798 is intended to authorize the death penalty in cases of premeditated terrorist homicides. As a practical matter, only premeditated murders will be prosecuted under 18 U.S.C. 2331 because of the very nature of terrorism and in light of the "limitation on prosecution" contained in subsection (e). That subsection bars prosecution under section 2331 unless the Attorney General certifies to the court that the offense "was intended to coerce, intimidate, or retaliate against a government or a civilian population." Thus, premediation is mandated.

To the extent that there is any question about the scope of S. 1798, I welcome efforts by the distinguished chairman of the Judiciary Committee to clarify that the death penalty would only be available in the case of terrorist murders constituting murder in the first degree.

Mr. BIDEN. I thank my friend from Pennsylvania. And I add that if the Senator offers to add this bill, with such a clarifying amendment, to the Thurmond death penalty bill, S. 32, when it comes to the floor, I will support that amendment. I think it would be a good idea to do that so that all of the procedural protections included in S. 32 would apply to the imposition of a death sentence for this offense.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New York [Mr. MOYNIHAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 79, nays 20, as follows:

[Rollcall Vote No. 275 Leg.]

YEAS—79

Adams	Coats	Gorton
Armstrong	Cochran	Graham
Baucus	Conrad	Gramm
Bentsen	D'Amato	Grassley
Biden	Daschle	Hatch
Bingaman	DeConcini	Heflin
Bond	Dixon	Heinz
Boren	Dodd	Helms
Boschwitz	Dole	Hollings
Bradley	Domenici	Humphrey
Breaux	Exon	Jeffords
Bryan	Ford	Johnston
Bumpers	Fowler	Kassebaum
Burdick	Garn	Kasten
Burns	Glenn	Kerrey
Byrd	Gore	Lieberman

Lott	Pressler	Shelby
Lugar	Pryor	Simpson
Mack	Reid	Specter
McCain	Riegle	Stevens
McClure	Robb	Symms
McConnell	Rockefeller	Thurmond
Mikulski	Roth	Wallop
Murkowski	Rudman	Warner
Nickles	Sanford	Wilson
Nunn	Sarbanes	
Packwood	Sasser	

NAYS—20

Chafee	Inouye	Matsunaga
Cohen	Kennedy	Metzenbaum
Cranston	Kerry	Mitchell
Danforth	Kohl	Pell
Durenberger	Lautenberg	Simon
Harkin	Leahy	Wirth
Hatfield	Levin	

NOT VOTING—1

Moynihan

So the bill (S. 1798) was passed.

INVESTIGATION OF EASTERN AIRLINES DISPUTE

The Senate resumed consideration of the bill.

Pending:

Mitchell amendment No. 1043, in the nature of a substitute.

The PRESIDING OFFICER. The question now occurs on the Mitchell substitute amendment to H.R. 1231.

Who yields time?

Mr. KENNEDY. Mr. President, as I understand there has been an agreement to vote on the leadership proposal at 6 p.m., this evening. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. And the time is equally divided between the opponents and the proponents?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. Mr. President, before we begin the debate on this I would be glad to yield to the Senator from Minnesota. I ask that it be on my time.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that I might proceed for no more than 5 minutes as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ON THE KIDNAPING OF JACOB WETTERLING OF ST. JOSEPH, MN

Mr. DURENBERGER. Mr. President, this past Sunday, at 9:30 at night, a crime occurred that has shaken the soul of Minnesota.

Eleven-year-old Jacob Wetterling was kidnaped at gun point by a masked man. And despite a massive investigation and manhunt by Federal, State, and local law enforcement officials, as well as hundreds of concerned citizens, there is no clue as to Jacob's whereabouts or the identity of the perpetrator of this heinous crime.

Jacob and two of his friends were bicycling home from a local convenience store within 2 miles of their home. It was a trip they had taken many times, but because it was dark they wore extra bright clothing and brought a flash light to protect them from cars. The path to and from the store took them down a deserted rural road and it was on this road that the boys were stopped by a masked man waving a gun who abducted Jacob, and ordered the others to run home or he would shoot them. That was the last anyone has seen or heard from 11-year-old Jacob Wetterling.

As you can imagine, Mr. President, this crime has shaken the foundation of those of us from Minnesota. One of the most disturbing aspects is where this crime took place: In St. Joseph, MN. St. Joseph is a small town of less than 3,000 located in the heart of Minnesota where I spent many childhood days. St. Joe was smaller then, as I was. I was raised 4 miles from town, and we went into St. Joe on weekends to do our shopping, get our haircut, and all the rest of that sort of thing. It is a little town guided principally by family values where people work together, go to church together, and care deeply for each other. It is a town that symbolizes the best virtues of America's small towns.

Crime, as we know it here in Washington, DC, is nonexistent. In fact as one neighbor said, "We don't even lock our doors in St. Joes." Thus, a crime of this magnitude shocks our senses.

Words, Mr. President, cannot express the pain of such a tragedy. We can only pray for Jacob and his safe return and reach out to his family and friends to be with them to ease their pain. We also think of our own loved ones and wonder why such horrendous and senseless crimes like this occur.

I appeal to my neighbors of Stearns County to redouble their efforts in supporting the Wetterling family and law enforcement officials as they search for young Jacob.

INVESTIGATION OF EASTERN AIRLINES DISPUTE

The Senate continued with the consideration of the bill.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. RUDMAN. Will the Senator from Massachusetts yield for a moment——

Mr. KENNEDY. Yes.

Mr. RUDMAN. For a parliamentary inquiry, if we are now on the Eastern bill?

Mr. KENNEDY. I will yield for that purpose.

Mr. RUDMAN. Parliamentary inquiry, Mr. President. Does the order as entered into by unanimous consent by the Senate preclude the offering of the Danforth substitute?

The PRESIDING OFFICER. The unanimous-consent order was for the bill without amendments.

Mr. RUDMAN. So the amendment would not be in order?

The PRESIDING OFFICER. That is correct.

Mr. RUDMAN. I yield to the Senator from Massachusetts.

I would like to make a couple of comments about that in a moment, after the Senator from Massachusetts has completed.

Mr. President, I suggest the absence of a quorum.

Mr. KENNEDY. Time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RUDMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. KENNEDY. Mr. President, I ask that the time of the Senator be evenly divided and that he be entitled to whatever time he might take.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New Hampshire is recognized.

Mr. RUDMAN. I thank the Senator. The Senator from Kansas will also speak briefly on this.

Mr. President, I am one who believes that some legislation regarding the airline industry, and what is happening in terms of takeovers and in terms of bankruptcies and in terms of the inadequacy of the bankruptcy courts to deal with that issue, is very appropriate.

I had hoped that we would have had an opportunity today to vote on the Danforth amendment. My understanding is that, procedurally, we are precluded from doing that. The major problem that I have with the legislation that is pending before us, the Mitchell substitute, is that it does deal with the problem generally, but is rather specific as to one airline, that is, Eastern Airlines. I do not particularly consider myself an expert in what has gone on there, but I do know this: a number of pilots decided to go on strike, which was their privilege. However, a number of pilots are now working, and that is their privilege under our labor laws.

There were some several thousand—I am not sure of the precise number, it might be 5,000 or 6,000—who are working, and they are very concerned, as are many other employees of Eastern, that if the Congress of the United States passes legislation that is Eastern-specific, which this pending substitute is, it will undoubtedly be used and

exploited by parties who are truly not interested in resolving the dispute, but unfortunately, are determined to destroy the airline, and they feel very strongly about that.

I disagree with some of them when they say we should do no legislation at all. I think we should. There are major problems facing the American airline industry, and we ought to do something about it.

Mr. President, I will be unable to support the Mitchell substitute, because it seems to me that by making it specific to one airline, and yet including others, but naming only one, that the conclusion that would be drawn by the traveling public—particularly, if that legislation were exploited by those who are out to get Eastern—then the normal conclusion of that would be some damage to that airline and to the good men and women presently working and flying for Eastern.

I have no view of the owners of Eastern or of the unions. As I said, I am not an expert in the field, but I do not think we ought to be passing legislation citing a particular union in bankruptcy in the middle of a labor dispute. It would be much better to pass a generic piece of legislation. If we did that, I could support it.

I have been advised by the Chair that I cannot do that, and Senator DANFORTH cannot offer his amendment, and because of that, I will be unable to support legislation which I believe has many good parts contained therein. Since it is specific to one airline, I do not feel I can cast an affirmative vote.

I thank the Chair, and I thank my friend from Massachusetts for being so courteous in yielding me time.

Mr. KENNEDY. I thank the Senator from New Hampshire.

Mr. President, I intend just to take a moment of the Senate's time. There was a time agreement which I supported and was supported by the majority leader, providing for a 2-hour debate on the Danforth amendment, and then following the outcome of that, a 1-hour time to be equally divided on the leadership substitute. Quite frankly, I supported that time agreement, and I know the majority leader had.

So I want to just say at this point, in establishing the record, that I know that Senator MITCHELL had made that proposal to the Republican leader, and for whatever reason, the final agreement was propounded.

As far as this Senator and the majority leader, both of us believe that Senator DANFORTH was entitled to a vote, should he seek it, and we would have been more than glad to have had it.

Mr. RUDMAN. If the Senator will yield for a moment.

I thank my friend for that information, and I am aware of that. I did not want my remarks in any way—they were not indicated, nor do I think they indicated there was any unfairness here. The majority leader has been fair in all of his dealings on this floor. Somehow, as this agreement was reached—I am not sure who reached it—the Danforth amendment suddenly became precluded from being offered. How that happened, I am not sure. I wanted to get up here, not accusing anybody of anything, to say that I am sorry we are in that position.

I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

Mr. KENNEDY. Mr. President, I yield to the Senator from Kansas and ask that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I appreciate the Senator from Massachusetts yielding a few minutes to me, because Senator RUDMAN has really expressed my thoughts as well. I had hoped that we could reach a compromise.

I just say that the Senator from Massachusetts [Mr. KENNEDY] and others, have been very accommodating in reaching some element of compromise. But I, too, am really bothered that Eastern Airlines specifically is the target of this legislation.

I know that in my State where we have a major hub for Braniff Airlines, and the fact that Braniff is now under chapter 11, and there is a great dislocation there for employees, I believe there is room to look at the whole question of management-labor relations, when there is stress and uncertainty in an airline, particularly the time of bankruptcy proceedings.

That is why, Mr. President, I, too, would have to vote against the legislation that will be before us, because I would hope that we can look at it in a broader context.

I very much appreciate being able to speak to that for a few moments.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to just address, and I will address in greater detail in a few moments, two issues that have been raised by the Senator from Kansas and the Senator from New Hampshire.

There have been emergency boards which have been established in some 213 instances with regard to airline or railroad disputes. There have been 34 that have been specific with regard to airlines. We have even taken the extraordinary steps in 1986 as well as in 1988 to implement the findings of those boards in the form of legislation, and it was done by consent.

To my knowledge, at any time when those boards have been established specifying the particular carrier, there really has not been the adverse impact to those particular entities.

All of this, as the Senators know, was to try and make some recommendations of what would be a fair and just accommodation of interests between the parties.

But the second point I want to mention to the Senator from Kansas is that I am very familiar with the Braniff situation. The fact is the provisions in this bill would have some bearing on the Braniff situation, and I will just read them: "(A) The powers of the Secretary to intervene on behalf of the public interest to maintain competitiveness in the aviation industry in light of mergers, acquisition and bankruptcy of air carriers, and (B), the adequacy of protection of employee collective-bargaining rights and bankruptcy proceedings involving air carriers."

So those two provisions involving the bankruptcies, acquisitions, and mergers are not limited to Eastern but apply to the aviation industry as a whole. And I would certainly encourage, should this legislation become law, that the Commission reference specifically the situation that the Senator has recommended.

But there are other provisions in here that relate to trying to make some findings and make recommendations for fair and just resolution to the outstanding points of difference, in the Eastern dispute. Obviously, the Commission would take into account where we have gone in terms of the bankruptcy proceedings. But the other provisions which will give or make policy recommendations to Congress and the Secretary of Transportation apply to the aviation industry as a whole, and specifically mention the mergers, acquisitions, and bankruptcies, such as Braniff, and then in part (B) talks about the protection of the rights involving the bargaining rights of the employees involving air carriers.

So it would hopefully, if this does become law, apply to Braniff. And it is my belief that there are very important lessons to learn from this Eastern experience. We had to make some changes in the bankruptcy law following the Continental bankruptcy some years ago, and I believe that we will probably be in a situation having to address similar kinds of issues when the smoke finally settles on the whole question about Eastern.

I wanted to just mention that to the Senator in responding to the points that she made.

Mr. President, I yield such time as I might use.

As we come into now the final time of the consideration of this resolution, once again I relate the sum and substance of the legislation because I think it has in some areas been misrepresented as to what the specific underlying proposal, the leadership proposal, really requires. I would create a

balanced board of four members, one appointed by the majority leader, one from the minority leader, one by the Speaker, one by the minority leader in the House. Four members, two Republicans and two Democrats, so the board is evenly balanced in terms of the political appointees that would be recommended. And I have sufficient confidence that those who would be appointed would have the kind of breadth of experience to be able to sift through these difficult questions.

I think it is important as we move to the consideration of this legislation that we understand that at least the employees had agreed to arbitration prior to the time of the strike. I know there have been some references made here about who is interested in doing what to whom and to Eastern in particular.

The interesting point is that the workers themselves, prior to the strike, said these are the range of different issues; we are quite prepared to go to arbitration; we are prepared to accept the findings of arbitration, and so there would not be the kinds of major disruptions which have taken place, disruptions in terms of employees' lives and the disruption in terms of the workings and the functionings of what was a very proud and distinguished airline.

Furthermore, as I pointed out on other occasions, this is the only time in this industry when the Mediation Board made the recommendation to the President to move ahead with an emergency board that the recommendation was rejected; the first time in this industry.

There is a good reason for that, Mr. President, and that is the Mediation Board's obligation to make that recommendation if they believe a labor dispute would be sufficiently disruptive to seek its avoidance by an emergency board being appointed by the President.

That has been the case. In the great majority of cases in the past, even in complex, difficult cases which have involved a great deal of acrimony and difference between the various parties. The fact is there is good reason to believe even with the areas of dispute that should that Board have been appointed there would not have been any disruption in terms of Eastern Airlines, the families would not have been in disruption, and that airline would have continued in the proud tradition that had been its history.

There really is no doubt that Eastern, as it served over 100 cities in this country, fell very clearly within the Railway Labor Act. That should be well understood by the membership. Eastern had been the subject of six different emergency boards previously. So here we have a situation which is on all four's and the Railway Labor Act applies. It has applied in the past and it applies certainly today.

If you look at certainly the markets that were being reached by Eastern, there are more really at the present time or there were 8 months ago, certainly when the act had been applied to Eastern in the past.

So we have a situation where at the end of mediation or just before the end of the Mediation Board the employees said they would go to arbitration; Mr. Lorenzo said no. You have a Mediation Board which, following past history and the construction of the act, applied it to Eastern Airlines, which it had been applied to in the past, and this President, for the first time in history as the Mediation Board has applied this provision to the airline industry, said no.

Now we have seen action that has taken 8 months on strike. Some people have returned to work. There are also about 16,000 or 18,000 families who have not gone back to work, been unable to go back to work under the current conditions. Certainly they have some interest in being treated fairly and being treated equitably. And that has not been the case, and that is why we support this proposal which will permit the findings to take place.

There is no requirement, no governmental intrusion in respect of requiring the settlement of this dispute. All we are asking for is some findings of fact that would be relevant to a fair and just settlement in this case. For the life of me, I cannot understand—and perhaps I can, quite frankly—why the Eastern management, Mr. Lorenzo, refuses to be willing to share that information, information which certainly would be important for a fair and just settlement.

Why has he refused to share that information? What are the facts that he is so concerned we will be found? I think certainly we may gain information that indicates other kinds of activities other than what we know to date, which was the sale of one of the most sophisticated reservation systems.

As our good friend, Mr. DANFORTH, pointed out, it clearly gives a very distinctive advantage to any airline that has it. One of the opponents of Mr. DANFORTH even said in considering his legislation that they are going to try to ensure that some of the major companies are not going to be able to have the very sophisticated kind of computers because it gives them an unfair advantage over other competitors.

Now, one of the first actions of Mr. Lorenzo was to sell that off; sell it off right away. Get rid of it, and then lease it back. So that in a period of some 14 or 15 months, the money that he gained from the sale would have all been expended and he will be charging Eastern Airlines some $10 million a month to use their own system. He sold that for a very reduced price to another one of his holdings, Texas Air, and continues that arrangement.

So that much we know about. We know about the management fees. That is those management fees that get paid that he requires Eastern to pay, which I think could be called mismanagement fees when we look at the advice that has been given to that company. We would find out about the selling off of assets again to another airline which Mr. Lorenzo has control over for what would basically have to be considered sweetheart prices, all of these wasting away the assets.

Many of those matters have been put into the RECORD. But there certainly is some indication of what has been the track record of Mr. Lorenzo at Eastern.

So, Mr. President, we are grateful, all of us are, for the support that we have received by all of the membership in supporting cloture on this particular measure. We have had two votes on this question, and they have had to meet the requirements of the Senate rules to ensure that we are going to have a vote. All of us who support the legislation appreciate the willingness of the membership to permit us to bring this to an early conclusion this afternoon.

We have been in support of this legislation or similar legislation for a period now of some 8 months. At least we will be able to move this legislation further down the course by adopting it this evening, and I am confident it will be adopted. All of us are grateful to the membership for permitting us to move this measure along.

Mr. President, as I have mentioned, there are those who strongly feel that Government should not intervene in the private labor disputes, but they should recognize the particular requirements that have been established under the Railway Labor Act that apply to transportation, rail transportation, and airline transportation. Different laws apply to those critical industries which are basic to the heartbeat of the American economy.

So Congress, in its wisdom, adopted a procedure to try to assist the process of collective bargaining so that it would not become involved in these extremely critical areas of rail and air transportation. We have different ways of dealing with the labor disputes under the National Labor Relations Act. But in the particular area of railroads and airlines, we have set up a process and a procedure for mediation and for factfinding, and attempts to avoid the misunderstandings that can grow up in terms of disputes between the parties. And it has worked well. I think our colleagues should understand that.

Those that are expressing some concern about governmental action, many

of them were here in 1986 and 1988 when actually we took the recommendations of the board, the findings of the board, and put them right into law. It was done by unanimous consent.

Now, that is really Government intervention. But we made that judgment given the critical nature of those disputes and the industry being willing to do so. We did it. That is real intervention.

But we have in these selective industries been willing to go even that far, not often over history, very rarely as a matter of fact, in superimposing the board's recommendations. But if that has been what has been required in terms of the interests of the transportation industry and our economy, we have been prepared to do so.

We are not even going that far this afternoon. All we are again going to is the point of having the findings of fact. These will be nonbinding recommendations which cannot conceivably be construed as interfering with the ongoing bankruptcy proceedings.

So, Mr. President, when cloture was invoked on the motion to proceed, we listened to the stated concerns of many from the other side of the aisle.

The majority leader, I believe, has crafted a substitute which took those concerns into account. There were complaints that the original Commission was not balanced. Well, that was an expression that was said here—it was not balanced.

Now the majority leader, in what I think was an extraordinary demonstration of fairness to respond to those challenges, said well, how can you have more balance than two Members from the House and two Members from the Senate, one being appointed by the majority and one the minority? That is about as good a balance as you are going to get around here, evenly balanced between the House and the Senate, and evenly balanced between the leadership.

It does not get any more balanced than that, Mr. President. I think that we have responded to those that had expressed views and concerns about fairness.

Then there were complaints about the scope of the Commission's inquiry. It was too broad. So the scope was narrowed; narrowed to the specific dispute in terms of trying to identify those issues of fairness and equity that could resolve this dispute, and then to deal in the broader scope with the issues of mergers and acquisitions and how that has affected and impacted the aviation industry.

That is more generic, that is true. But that is certainly clearly in the public interest.

So we tried to balance the specific dispute with regard to the findings, fair findings, findings of fact, and then to the specific areas of competitiveness which we must be concerned about to look at the aviation industry as a whole.

Mr. President, I believe, quite frankly, that there is sufficient power within the Department of Transportation and within the Justice Department, if we had a Justice Department that was committed to strong antitrust, to deal with these issues currently today.

As one who certainly supports that proposal to deal with the competitiveness issue, I just want to underline the fact that I believe that we probably do not need another study; that there is sufficient authority now in the Department of Transportation from the 1978 act, and in the Justice Department under the antitrust laws, to deal with those questions of competition.

But the leadership proposal was targeted and responsive to those concerns in a way which I think meets the central concerns and complaints of those who believe that the inquiry was too broad. There were complaints that an emergency board would require going back to the status quo ante of March 4, so the leadership substitute does not do that.

Under our substitute, no one would go back to work pending the recommendations, as they would under an emergency board. That is a very significant concession. When we have the establishment of the board, that entitles the employees to be able to go back to work. There was the concern, well, that is going to weigh in favor of one of the parties. So the leadership position says, well, we will not require that. And I think that was a very major and significant concession.

That is an area that obviously concerns me. I know it does the majority leader. But to try to demonstrate fairness and evenhandedness, he took that particular step, and I think that is a further demonstration of the willingness and the openness of the leadership's position in approaching this issue.

With regard to Eastern, all the Commission does is get before the parties, the public, and the Eastern family, a set of recommendations by a balanced panel of experts for what they think would be the equitable settlement of this dispute.

Mr. President, I see my good friend and colleague from Illinois here, and, therefore, I am happy to yield to him such time as he desires. Then I will come back and make some additional comments.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from Illinois.

Mr. SIMON. Madam President, first I want to thank our colleague from Massachusetts [Mr. KENNEDY] for his leadership on this. This is really an unfortunate situation.

We have 30,000 Eastern employees, people, and their families who are afflicted by this abuse of our free-enterprise system. For reasons I do not know, maybe someone on this floor understands, the President of the United States has refused to do what every President has done in the past 60 years, including President Reagan. That is, when the National Mediation Board recommends the appointment of an emergency board to deal with a transportation strike, that emergency board is appointed. Generally we have avoided strikes as a result.

In this case, President Bush, for reasons that are incomprehensible to me, refused to make that appointment. So we have this situation that is hurting the economy of the Nation and specifically hurts these 30,000 workers and their families.

It also, Madam President, is an illustration of the abuse of the leveraged buyouts and of one corporation buying another corporation and building up these houses of cards of abuse, of just milking the credits of one corporation for another corporation.

We have not dealt with this effectively in this body. I do not know how to do it. I do not want to create a situation where any corporation can just be totally secure, where they can have mismanagement and not think anyone is going to come in.

One of the things I am checking out, in part because of the Lorenzo abuses—and there is no question they have been very massive—is the possibility of changing our tax laws so, if a corporation has a net income of $100,000 or more, it could deduct only one-half of the interest but could deduct dividends. So we would encourage equity rather than debt. We would not have this kind of mess, and that is what it is, in the Eastern Airlines situation, if our tax laws did not encourage debt.

We had a situation in Illinois just recently where a railroad went bankrupt. They invested $50,000 and got a $107 million loan. That just does not make sense. Not surprisingly, because of that debt structure, they went belly up.

If we have a recession, we are going to have a lot of companies doing this. We have to deal with two things here. No. 1 is to see what we can do to get some justice for these Eastern Airlines employees, and this legislation is a step in that direction. The second thing we have to do is to recognize we have a problem in our society in piling up too much debt in the corporate structure. I do not care whether we look at the RJR Nabisco Corp. situation or any one of a number of mergers or leveraged buyouts that have taken place. Look at the debt, and we recognize, if we have a recession, a lot of things are going to topple.

Who is going to suffer? It is also going to be people who get pensions,

because a lot of these funds come from pension trust funds.

We have to deal with this problem. I commend my colleague from Massachusetts for his leadership. He has, on this as on so many other things, stood up for people who are not on the side of the most powerful economically, but people who need help, for middle-income Americans and for less fortunate Americans.

Let me add while I am on the floor, there is no one else who has done that more than the Presiding Officer of this body, Senator MIKULSKI, and I am proud to serve with her, too.

But, Madam President, I think we ought to move on this. I hope we will pass this decisively, and I hope the President will not use his threatened veto pen, but will ask himself who is he serving when he vetoes this?

We are spending a lot of time right now, for example, on capital gains. Who benefits by that? Sixty percent of the benefits go to two-tenths of 1 percent of our population. Yet we get vetoes when it comes to workers for Eastern Airlines, we get vetoes when it comes to the minimum wage.

I think, if we are going to have a kinder, gentler America, there ought to be some rethinking somewhere.

Madam President, I yield.

The PRESIDING OFFICER. The Senator from Massachusetts.

VISIT TO THE SENATE BY POLISH SENATOR ZBIGNIEW ROMASZEWSKI

Mr. KENNEDY. Madam President, we have Senator Zbigniew Romaszewski who is a leading member of the Polish Senate and of Solidarity's National Executive Committee visiting us today. He is one of the strongest leaders in human rights and political rights in Poland.

In 1976, he organized the Aid for Repressed Workers and, with the imposition of martial law, began publication of an underground newspaper. He produced the first program of Radio Solidarity. He was arrested in 1982, and was released as part of the general amnesty in 1984.

Lech Walesa has been a strong supporter of Senator Romaszewski and in 1986 appointed him as Director of Solidarity's Commission on Intervention and Lawfulness which deals with the issue of human rights.

He will be meeting with a number of leaders in the administration and a number of groups here, including the National Endowment for Democracy and the Congressional Human Rights Caucus will be meeting with him.

I want to say to him that we welcome him here.

If he had been here yesterday, he would have heard a very spirited debate about what role this country should play in terms of aid and assistance to Poland.

That debate was being led by my good friend and colleague, the Senator from Illinois. He had the strong support of myself, and I know of the Senator from Maryland, BARBARA MIKULSKI. Both the Senator from Illinois, myself, and Senator MIKULSKI have had the good opportunity to visit Poland in the past and to spend time with leaders of Solidarity.

We are filled with admiration for Senator Romaszewski's personal courage and for the strong work he is doing at the present time to build democratic institutions in his country and to address the very difficult and trying economic conditions.

RECESS

Mr. KENNEDY. Madam President, I ask unanimous consent that the Senate stand in recess for 4 minutes so we will have the opportunity to greet our colleague, Mr. Romaszewski, and welcome him to the U.S. Senate.

There being no objection, the Senate, at 4:20 p.m, recessed until 4:27 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Ms. MIKULSKI].

INVESTIGATION OF EASTERN AIRLINES DISPUTE

The Senate continued with the consideration of the bill.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum, the time to be equally divided.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Madam President, during the debate in these past few days there are those who have expressed opposition to the leadership position and recommendations. They pointed out that Eastern was really back, it was flying, it was increasing its service, and asked us why are we still considering these issues since effectively Eastern was back.

I noted during the course of the debate at that time a report of Wednesday, October 18, in the Wall Street Journal. It is a short article, and I would want the membership to understand at least the most recent assessment of the condition of Eastern Airlines in terms of its financial conditions because there are those who say, well, look, some employees are back, so there are 20,000 that are not: at least this whole issue is really behind us.

We speak for those who are still out of work and for the families of those still out of work and we speak for those who are working but are concerned about their future as well. The reason we do I think is very well summarized in the course of this article, and I bring it to the attention of the membership this afternoon. I will excerpt certain parts of it but I think it makes the case very well.

I think this is an important consideration for our colleagues. I will include the whole article in the RECORD but since we are going to be voting on this prior to the time that the Members will have a chance to examine it in detail, I will read excerpts from it.

This is an article in the Wall Street Journal, Wednesday, October 18, by Bridget O'Brian titled "Eastern Air's Creditors Ask Experts To Present Options for Reorganization."

Eastern Airlines' creditors committee, unhappy with the carrier's plans for emerging from bankruptcy-law proceedings, asked its own experts to devise alternate approaches to a reorganization.

This is the creditors' committee asking help and assistance because they were not satisfied. This is the creditors' own committee. If they are concerned, you can imagine what the real conditions must be like. It continues that:

Representatives of the accounting firm of Ernst & Young and the securities firm of Goldman, Sachs & Co., hired by creditors to consult on Eastern's financial plans, told the committee in a private meeting yesterday that Eastern's latest plan to emerge from bankruptcy-law protection is far riskier than an earlier one which won the creditors' approval.

According to the one person present at the meeting, Eastern's new plan is financially "overly optimistic."

Asked about the consultants' reports, an Eastern spokeswoman said, "We totally disagree." She said they have "oversimplified and made some erroneous assumptions that make their analysis completely off base."

At a later news conference here, Frank Lorenzo, chairman of the Eastern's parent Texas Air Corp., said Eastern was exceeding its goals for getting back into operation and predicted it would emerge from Chapter 11 protection from creditors early next year, operating with more service than it originally had scheduled. He insisted, as he has before, that creditors would be paid in full under the plan.

Mr. Lorenzo made no mention of the creditors' negative response to the plan.

In July, Eastern and its creditors agreed on a reorganization plan that called for Eastern to sell $1.8 billion in assets and to emerge from bankruptcy-law protection at two-thirds its former size. But after selling off pieces such as its East Coast shuttle, its Philadelphia hub and various planes, Eastern hit a stumbling block. It couldn't sell its South American routes, one of the major assets marked for disposal.

Those routes, valued by the creditors' professionals at about $400 million, were to be sold to AMR Corp.'s American Airlines. A last-minute snag in negotiations with AMR over an unrelated lawsuit between American and another Texas Air unit caused the deal to collapse.

Eastern ultimately decided it would have to keep and operate the routes itself, which would leave it with less cash for its reorganization. It also would leave Eastern a bigger carrier than the scaled-down one proposed under the initial plan. Those changes in its condition meant the reorganization plan previously presented to creditors would have to be revamped.

The committee has employed two sets of experts to analyze Eastern's new plan. Both said it wouldn't work.

Here are the reorganization experts hired by the creditors' committee and both reviewed the plan and said it will not work.

Ernst & Young said Eastern's plans will miss its projections of earnings before interest, tax and depreciation by $100 million, and that Eastern's plan presented no comfort level, according to a source present at yesterday's session.

Experts from Goldman Sachs estimated that Eastern would miss the mark by $120 million to $135 million, the source said.

Under bankruptcy law, Eastern has exclusive rights for a certain period to develop its own reorganization plan. That deadline has been extended once and could be extended again. If Eastern can get creditor support, court confirmation of its plan could be relatively swift. But creditors are free to press for court approval of their own plan, or the court could ignore both sides and draw its own.

So, Mr. President, as I said, I will include the full article in the RECORD, but in these past very few days this kind of report should not be terribly salutory to the thousands of workers who are currently working for Eastern. We believe that to ensure their rights and their protection as well as those individuals who today are effectively locked out of the opportunity to provide for their family this measure is required.

So we have the situation where the experts say that Frank Lorenzo's plan will not work, yet Frank Lorenzo continues to deny the reality, continues to pretend that everything is fine. He has yet to realize that Eastern will not be successful until he comes to terms with his employees. This legislation hopefully will provide the blueprint for an equitable agreement.

Madam President, I ask unanimous consent that the article to which I have referred be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EASTERN AIR'S CREDITORS ASK EXPERTS TO PRESENT OPTIONS FOR REORGANIZATION

(By Bridget O'Brian)

NEW YORK.—Eastern Airlines' creditors committee, unhappy with the carrier's plans for emerging from bankruptcy-law proceedings, asked its own experts to devise alternate approaches to a reorganization.

Representatives of the accounting firm of Ernst & Young and the securities firm of Goldman, Sachs & Co., hired by creditors to consult on Eastern's financial plans, told the committee in a private meeting yesterday that Eastern's latest plan to emerge from bankrupcy-law protection is far riskier than an earlier one which won the creditors' approval.

According to one person present at the meeting, Eastern's new plan is financially "overly optimistic."

Asked about the consultants' reports, an Eastern spokeswoman said, "we totally disagree." She said they have "oversimplified and made some erroneous assumptions that make their analysis completely offbase."

At a later news conference here, Frank Lorenzo, chairman of Eastern's parent Texas Air Corp., said Eastern was exceeding its goals for getting back into operation and predicted it would emerge from Chapter 11 protection from creditors early next year, operating with more service than it originally had scheduled. He insisted, as he has before, that creditors would be paid in full under the plan.

Mr. Lorenzo made no mention of creditors' negative response to his plan.

"We're in the process of discussing an amended plan with the creditors and anticipate filing that amended plan shortly," Mr. Lorenzo told reporters. "We're meeting and surpassing our goals," he added.

In July, Eastern and its creditors agreed on a reorganization plan that called for Eastern to sell $1.8 billion in assets and to emerge from backruptcy-law protection at two-thirds its former size. But after selling off pieces such as its East Coast shuttle, its Philadelphia hub and various planes, Eastern hit a stumbling block. It couldn't sell its South American routes, one of the major assets marked for disposal.

Those routes, valued by the creditors' professionals at about $400 million, were to be sold to AMR Corp.'s American Airlines. A last-minute snag in negotiations with AMR, over an unrelated lawsuit between American and another Texas Air unit, caused the deal to collapse.

Eastern ultimately decided it would have to keep and operate the routes itself, which would leave it with less cash for its reorganization. It also would leave Eastern a bigger carrier than the scaled-down one proposed under the initial plan. Those changes in its condition meant the reorganization plan previously presented to creditors would have to be revamped.

Since then, Eastern has been negotiating with creditors over revisions. The committee has been having problems with them, but one source said this doesn't mean an agreement is impossible. He said tension between a company and its creditors often rises when talks reach this sensitive stage. The committee has employed two sets of experts to analyze Eastern's new plan. Both said it wouldn't work.

Ernst & Young said Eastern's plans will miss its projections of earnings before interest, tax and depreciation by $100 million, and that Eastern's plan presented no comfort level, according to a source present at yesterday's session.

Experts from Goldman Sachs estimated Eastern would miss the same mark by $120 million to $135 million, the source said.

The experts said they expected Eastern would have to issue new debt to cover its costs, and that it would generate far less cash than anticipated. Other costs also would increase, including maintenance, because Eastern has an older fleet.

At the news conference, Mr. Lorenzo and Eastern President Phil Bakes presented a far rosier assessment. Flanked by flight attendants, pilots and gate agents dressed in spiffy new blue uniforms, they said Eastern has exceeded its operational goals and is filling its seats. Starting next month, Eastern will begin flying 775 flights daily instead of the previously announced 700, they said.

Mr. Bakes declined to give out Eastern's daily losses, but said he didn't expect Eastern would have to dip into the cash from asset sales currently held in escrow. These accounts hold several hundred million dollars, primarily from asset sales. The plan Eastern hopes to pursue, he said, calls for Eastern to have $390 million in cash by year's end. Both he and Mr. Lorenzo predicted that plan might be confirmed in January.

As to negotiations with creditors, Mr. Lorenzo said in remarks after the conference "we'll have to see how they [talks] come along." However, he added, "it's not a requirement that the plan be accepted by creditors. It must be accepted by the court."

Under bankruptcy law, Eastern has exclusive rights for a certain period to develop its own reorganization plan. That deadline has been extended once and could be extended again. If Eastern can get creditor support, court confirmation of its plan could be relatively swift. But creditors are free to press for court approval of their own plan, or the court could ignore both sides and draw its own.

In any event, some people familiar with the case question whether the court will act by January as forecast by Mr. Lorenzo and Mr. Bakes. Eastern sought bankruptcy-law protection a few days after a crippling strike began March 4.

Mr. Lorenzo told reporters the reorganization Eastern is pursuing would create a carrier 85% to 90% of the size of the prebankruptcy Eastern. He projected it would be operating about 1,000 flights a day by late spring, only slightly fewer than the carrier's old volume of 1,050 a day.

Mr. KENNEDY. How much time remains, Madam President?

The PRESIDING OFFICER. The Senator has 20 minutes.

Mr. KENNEDY. And the other side?

The PRESIDING OFFICER. Sixty-four.

Mr. KENNEDY. I ask unanimous consent that the time for the quorum be charged to the minority.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Missouri?

Mr. BOND. Madam President, I ask unanimous consent that I may be permitted to proceed as if in morning business for a period not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Thank you, Madam President.

ACID RAIN

Mr. BOND. Madam President, the Environment and Public Works Committee will soon begin markup on the acid rain title of the Clean Air Act reauthorization. This legislation will have a profound impact on my State of Missouri and on the entire Midwest.

There are several important issues which the committee must address as it works on acid rain. The first is how to allocate the required SO_2 reductions. Reductions either can be required of all sources which emit SO_2—for example, powerplants and industrial emissions or they can be targeted to just one type of source.

The draft committee bill follows the latter course requiring 20 powerplants in nine States, including my State, to make the first phase reductions, and all powerplants over 75 megawatts which emit more than 1.2 pounds of SO_2 to reduce in the second phase.

There is nothing wrong with targeting reductions. In fact, it might be the most economic way to obtain the most significant amount of reductions. What is wrong, however, is to require these nine States to pay for that portion of this reduction allocation which is above and beyond what they actually emit.

My point is graphically illustrated by the fact that while Missouri contributes 4.9 percent of the total amount of annual SO_2 emissions in this country, the committee bill would require my State to reduce an amount which equals 8.8 percent of total annual emissions. It is simply unfair to make Missouri and its ratepayers or any of the other eight States foot the bill for reductions beyond their actual contribution to the problem.

Those of us from the Midwest have been chanting the Mantra for a long time, and it is as true today as it ever has been. Acid rain is a national problem which requires a national solution. That, Madam President, means that the tremendous burden cannot be imposed totally on utility ratepayers in a few States.

I know this idea is upsetting to many of my colleagues from other regions of the country but it need not be. For one thing, it is not an alien concept. We have applied it in a variety of situations from the establishment of the Superfund to the construction of federally sponsored hydroelectric dams. For another, I think we can be more innovative then we have been in the past in how we structure a cost-sharing plan.

There are currently several different proposals under discussion in both the Senate and House, and I am hopeful we can devise one that is acceptable to all regions of the country.

If we do not find the solution, the prognosis is grim for my State and the Midwest. The Missouri Department of Natural Resources estimates that a 20-percent increase in utility rates in compliance costs will come about and that will amount to $592 million. This unfair burden would turn the industrial heartland of the Midwest into an industrial wasteland. No one wins under that scenario.

Madam President, several other important pieces are needed to make the acid rain puzzle come together. One is flexibility in the means utilities may use to make reductions. A successful reduction program would allow utilities to choose from the full menu of scrubbers, fuel switching, conservation, and innovative clean coal technology.

I have long been a true believer in the potential for clean coal technology. It seems good, common sense to me that if we are going to make these necessary but expensive investments to protect our environment, we should make darned sure we can get the most bang for the buck.

I hope the committee recognizes the vital importance of clean coal technology, and will draft its bill in such a way that utilities can take advantage of it.

I also urge the committee to include an emissions trading system in its legislation as the President did in his proposal. There are many different options which are being discussed but it is quite possible that in the two-for-one incentive for reductions for credits that would be made available for a utility that comes in below the emissions level it would be able to sell that credit to other utilities which in the future would need that flexibility to increase their generation.

Many of our friends in other areas of the country, in the South and Midwest, will find that the caps in this bill, which are very stringent, will in a very few years mean that literally no fossil fuel fired electrical generation can go on steam unless they find offsets elsewhere.

Under this two-for-one incentive credits which would be salable by utilities which adopt the cleanest type of fossil fuel, generated electricity would be able to recoup much of their capital investment, lower their costs, and provide other areas of the country with the flexibility needed to increase their generation of power to meet demands of the future.

Madam President, I and my fellow Missourians are committed to clean air. We must all put aside our regional differences and work together for an effective acid rain program which makes sense to the entire country.

Madam President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. KENNEDY. Madam President, I ask that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Madam President, is this a matter of time that has to be yielded, or may I speak?

Mr. KENNEDY. I yield such time as the Senator might use.

Mr. KERRY. I thank my distinguished colleague.

The PRESIDING OFFICER. If the Senator would withhold. Is the Senator speaking on the substance or as in morning business?

Mr. KERRY. On the substance.

I would like, first of all, Madam President, to commend my colleague, the senior Senator from Massachusetts, whose leadership on this matter is not unlike his leadership on so many other issues of concern to people who are bucking the system, so to speak.

In this case, it is clear that the airline pilots and flight attendants are indeed bucking the process. I think that the reason we are here and the reason this issue continues to be in front of the Senate in the manner that it is, and with some cause for hope that the Senate would take some action, is because of my colleague's commitment to it. I commend him for that, as I know the people who are on the strike lines at this moment in time are grateful to him for his leadership.

Madam President, on January 30 of this year the National Mediation Board declared an impasse in the negotiations between Eastern and the International Association of Machinists. On March 4, the machinists declared a strike against Eastern, and that strike is being honored, as we know, by the pilots and by the flight attendants. Only 5 days after that strike was declared, on March 9, Eastern filed for protection from its creditors under chapter 11 of the Bankruptcy Code.

Prior to that, on February 24, the National Mediation Board had recommended to President Bush that he appoint an emergency board to address the dispute and to try to work out the settlement. The President refused to do that, a step which I think, and other Senators agree, was a reasonable step in an effort to resolve a legitimate dispute, and keep Eastern, an important asset of this country, and particularly of the eastern seaboard, working and functioning in a way that would assist all those who benefit from its service.

But President Bush, became the first President in history to decline a recommendation of that kind from the National Mediation Board. As a result of that decision, I joined 32 other Sen-

ators in sending a letter to President Bush urging that he comply with the NMB's recommendation and appoint such a board. Again, the President declined. On March 17, many of us came to the floor to urge passage of legislation that would have required the President to carry out the Mediation Board's recommendation. That legislation has been held up for over 7 months, while Eastern's employees remain out of work, and its assets are being divided up in the bankruptcy court.

Clearly, Madam President, the time has come for us, responsibly concerned about the future of this company, as well as about the lives of these people on the line, to take a close look at how this long and tumultuous dispute has affected those who work for Eastern, those who depend on it for its services, and those who hold its debt. It really seems to me a matter of simple fairness, simple reasonableness to try to do that. This airline is critical to this country, at a time when our productivity is already in decline, and when there are important competitiveness issues at stake.

The systematic dismantling of Eastern runs counter to the clearly expressed sentiment of the Senate when it unanimously adopted a resolution urging the return to service of a whole Eastern Airlines. The airline industry has already become highly concentrated with eight carriers handling over 90 percent of the traffic.

So there are ancillary and critical issues at stake in this dispute, the most important of which, I think, is how people are being served and whether or not the interests that once were being served by the multitude of competing airlines are going to continue to be served after the rapid consolidation that is currently taking place.

By passing this legislation, Congress can expect a report within 45 days, and that report can help us address and, hopefully, to resolve this divisive episode which is obviously doing damage to one of the Nation's largest and most important businesses.

I think it is also very regrettable, Madam President, that the dispute between Eastern and the unions has come to the point where we in Congress feel compelled to force some kind of action. But it is equally as disturbing that, ever since Mr. Lorenzo took control of Eastern in 1986 and proposed massive reductions in wages and benefits, totaling over $100 million annually for Eastern employees, the day-to-day operations of the airline have been hampered severely by the tensions that have culminated in this strike. It is vital to the interests of those who depend on Eastern for employment and for service that this impasse end and that serious negotiations begin.

Too many families are suffering, too many futures have been put on hold. We simply have to find a way to put an end to the fear, the anger, and the suffering in order that these men and women, who simply want to live and work in a fair, secure, and safe environment, will be able to do just that.

As a member of the Senate Subcommittee on Aviation, Madam President, I believe that the continued operation of Eastern as an efficient and competitive and safe airline is vital to an industry that has been plagued with increasing fares, with deterioration of service, and with lapses in safety. It is my hope that the passage of this measure is going to begin to address the problems standing in the way of a settlement to this dispute.

I really cannot think of anything that is more fundamentally fair or sensible. How can we stand here and watch this once mighty company literally be ripped apart in front of our eyes, cannibalized by the court system, as well as its ownership, because of the anger and the fear and the sort of feet-in-concrete positions that have been taken as a result of this strike.

If the National Mediation Board can say to the President, "Mr. President, why do you not look at this and let us have a cooling-off period," I cannot think of anything more reasonable or more in the interest of the country than to have done that.

Now we find ourselves at a point where the Senate of the United States has to pass a law to require the President merely to establish an objective commission to look into this dispute which has adversely affected so many Americans. At a time when you pick up Time magazine and the cover story questions whether or not Government can even work, at a time when we are watching a former President of the United States visiting Japan, talking about how Sony is going to cure the problems of the movie industry in which he once took part, it seems to be incumbent on us to try to take responsible actions that prove to the citizens of this country that the Government can work, and laws are there for a reason, and we will carry them out, and the process is not beyond redemption.

I think this effort is eminently reasonable—a 45-day period to report to the Congress in an effort to try to see if we cannot lead to the creation of a plan that is mutually acceptable in order to permit Eastern Airlines to survive.

Once again, I commend my colleague, whose leadership on this has really been so important, and who continues to act as a champion for those who seek fairness from the Government which we represent.

I yield the floor.

INVESTIGATION OF EASTERN AIRLINES DISPUTE

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER (Mr. BURDICK). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes, and the Republicans, 51 minutes.

Mr. KENNEDY. I yield myself such time as I may use.

I thank my colleague from Massachusetts [Mr. KERRY] for his kind remarks and for his excellent presentation on this issue. And being a member of the Aviation Subcommittee, he brings to this whole issue an insight and an understanding of the importance of this airline to the total aviation industry, and he obviously has a keen awareness and understanding of the significance, not only as it affects our region, but also in the total industry.

So I am grateful for his comments and for really a splendid presentation. I thank him for his work.

Mr. KERRY. I thank my colleague.

Mr. KENNEDY. Mr. President, Frank Lorenzo has been consistent in two areas during his 18 years in the airline industry: treating employees unfairly and losing money.

In 1981, Lorenzo lost $34 million with Texas International. That was not enough. He purchased New York Air and lost $11 million in that same year.

That was still not enough. Lorenzo bought Continental in 1982 and lost $71 million at Continental and $23 million at New York Air.

In 1983, he lost $186 million at Continental and filed bankruptcy. The only years he showed a profit in Continental were in 1984 and 1985, when under the protection of—you guessed it—the bankruptcy court. Since then at Continental he has lost $185 million in 1986, $257 million in 1987, and $315 million in 1988.

Since purchasing Eastern in 1986, he has lost $130 million that year, $181 million in 1987, and $335 million in 1988.

Is this any way to run an airline? You bet it is not. The financial figures show that an airline wizard Frank Lorenzo is not, but he has made many jobs disappear and he siphoned off Eastern assets, leaving it a shell of its former self.

The final interesting point is, Mr. President, he pays himself the highest salary in the aviation industry, the highest salaried CEO in the aviation industry.

Mr. President, I ask unanimous consent to have printed in the RECORD the losses of Texas International, Continental, New York Air, and Eastern.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OPERATING RESULTS FOR AIRLINES CONTROLLED BY FRANK LORENZO

Year	Texas International	Continental	New York Air	Eastern
1971	($6,946,000)			
1972	(1,298,000)			
1973	1,180,000			
1974	401,000			
1975	(4,371,000)			
1976	3,214,000			
1977	9,316,300			
1978	12,850,400			
1979	40,495,000			
1980	3,622,600		($206,000)	
1981	(34,127,300)		($11,648,000)	
1982		($71,041,000)	(23,268,000)	
1983		(186,452,000)	4,514,000	
1984		34,800,000	(6,768,000)	
1985		78,061,000	(2,352,000)	
1986		(185,169,000)	44,498,000	($130,761,000)
1987		(257,971,000)		(181,676,000)
1988		(315,520,000)		(335,351,000)

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum, the time to be charged to the minority.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I understand I have 7 minutes left?

The PRESIDING OFFICER. The Senator has 7 minutes left.

Mr. KENNEDY. I ask unanimous consent to yield 10 minutes to the Senator from Ohio, equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President I thank my colleague from Massachusetts and I commend him for his able leadership in connection with this matter as well as so many others.

The matter before us is the amendment to create a four-person blue ribbon commission to help resolve the Eastern Airlines strike. The commission is a balanced bipartisan approach: Two commissioners would come from the Senate, two from the House; two Democrats and two Republicans.

Mr. President, leadership needs to be shown. That leadership has to come, not alone from the Members of Congress, but from the President of the United States as well. What are we dealing with? We are dealing with a strike in which 30,000 Eastern workers and their families have suffered by reason of this labor dispute. These are decent Americans. They are machinists. They are airline pilots. They are flight attendants.

What do they want? They want a job at a decent wage; an opportunity to provide for their families. These people are not some kind of goons. They are not some kind of thugs. They are ordinary working people who have found themselves in a dispute with Mr. Frank Lorenzo.

Mr. Lorenzo is a very special kind of person, because, frankly, he does not know how to run a profitable airline. He knows how to milk an airline. He knows how to take some of its assets and bounce them from one airline to another.

What has he done in his efforts? He has run Eastern into the ground. He has done it before with other airlines. He had Continental, took that over, immediately went into bankruptcy in order to break the contract with his employees.

He had People Express which was a very successful airline. I remember standing with my wife, waiting to get on a People Express airline flight, and it was so busy it was like a mob scene. You could not get on the plane. People Express is no longer in existence.

The same is true of Frontier Airlines—nonexistent now. And now we have Eastern.

The Wall Street Journal had a tremendous article showing how Mr. Lorenzo moves his money from one place to another, from one airline to the other. He does not want to run an airline. He does not want to provide service to the public. No, he is more interested in playing games with that airline and with that airline's assets.

But, frankly, I say to my colleagues, we cannot afford to lose another airline. There are only nine major airlines operating in this country at the present time. Seventy-eight airlines have filed for bankruptcy since 1978, since we deregulated the industry.

I remember the arguments made about deregulating the industry. How great it would be. Free competitive forces would work. But the fact is, all deregulation has made possible is leveraged buyouts and gamesmanship and bankruptcy courts and loss of service and loss of competitive rates for the American people.

Mr. President—and I talk to the President of the United States, not to the Presiding Officer of the U.S. Senate—Mr. President, nobody is asking you to come down on the side of the workers, the strikers. Nobody is asking you to come down on the side of management. All we are saying is to look of the history. There have been 34 emergency boards involving airline labor disputes that have been appointed by Democratic and Republican Presidents alike.

An interesting thing, in connection with those 34 disputes, 26 of those strikes were settled without a work stoppage. But for some reason that I do not understand, this President is reluctant to provide some leadership in bringing about a settlement of the case. He did not have to do much, just appoint an emergency board under the present law. Or under this amendment creating a blue ribbon task force, all he has to do is sign this bill into law.

But the sad commentary is we are getting signals that the President will veto this bill if we pass it. Why? What under the sun would cause the President to want to veto a bill that might bring about some labor harmony; that might put people back to work; that might make it possible for the American people who ride on planes to get better service? Why would he veto it? Why would he not have appointed a commission in the first instance?

I believe the President of the United States is a decent human being. I think he is a well-intentioned person. I think he is well meaning. And I could understand it if he said "I am not going to take the side of the Eastern workers against the management." I would understand that.

But nobody is asking him to do that. We are talking about a bipartisan committee, a bipartisan committee partially appointed by the Senate, partially appointed by the House, half Democrats, half Republicans to see whether labor peace could be restored.

President Bush, I think I speak for the American people when I say they are asking you if we pass this bill and the House joins us in passing it, and we send it to you, sign it. Sign it and be a participant to bringing about labor harmony where disharmony presently exists. We are not asking you to take one side or the other. We are just asking you to sign the bill if the Congress of the United States sees fit to enact it. I think you owe the American people nothing less. I think you owe the workers who have tried so hard in this battle nothing less. I urge you, please, affix your signature to it if we see fit to pass it. Mr. President, I reserve the remainder of my time.

Mr. KENNEDY. I yield 6 minutes of the remaining time.

The PRESIDING OFFICER (Mr. HARKIN). The Senator has 5 minutes left on his time.

Mr. DOMENICI. Mr. President, is there time left on this side?

The PRESIDING OFFICER. Twenty-four minutes left on the side of the Senator from New Mexico.

Mr. DOMENICI. We are not giving any of our time at this point, are we? I was asked to reserve our time for Senator DANFORTH.

Mr. KENNEDY. Mr. President, as I understand the Senator from New Mexico has yielded 10 minutes of the remaining 24 minutes of his time to us.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I yield 5 minutes to the Senator from Washington and 5 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Washington is recognized for 5 minutes.

Mr. ADAMS. I thank the manager of the bill.

Mr. President, I have spoken on this subject before because both Senator KENNEDY and I were Members of both Congress and the administration when airline deregulatioin was created, and it was certainly never the intention during that period of time that we would have the leveraged buyouts, the return to an oligopoly that has occurred under airline deregulation.

But even more tragic is this particular situation because this involves a dispute on one of the oldest, most famous, one of the largest airlines in the United States that has come upon very difficult times. A great part of that has been due to a labor dispute, and labor dispute that involves some very deep issues, as far as the membership is concerned. In particular, I believe it has been made worse by the fact that a new management came in that had had an experience with Continental Airlines, run by one Frank Lorenzo. I put in the RECORD the other day, and I refer to that again, the chamber of mirrors that has been created by Frank Lorenzo to be able to take over airlines with leveraged buyouts by using their own assets, by ladening them with debt and by reducing the ability of the airlines that he has taken over to be true airline participants and, instead, have been part of a gigantic financial manipulation.

There have not been improvements in service on Continental Airlines, which is a proud airline. As was pointed out by my colleague from Ohio, People Express was swallowed up and is gone. Those low fares are not around any more on Frontier Airlines which was a competitor in the West, and some of us used to have a chance every so often to get a good or low fare on it. It is gone; it is part of this.

All of this started from a small interstate airline known as Texas International owned by Frank Lorenzo. A gigantic empire has been built through the skill of financial manipulation, and in one case through use of the bankruptcy court to destroy labor contracts. That is why this has been such a bitter dispute, and that is why this bill is before the Senate and we hope will be passed by the House and signed by the President.

This dispute needs some neutral people in it. There is a lot of distrust by people who have worked for Frank Lorenzo because in the Continental case he used a particular section of the bankruptcy law after having driven that airline into bankruptcy to void labor contracts. It was so bad that this Congress had to come back and correct the bankruptcy law to prevent him from doing it again.

Now he is using the bankruptcy law in another fashion in order to do the same thing, and it is no wonder that these parties cannot make the collective-bargaining system work. They need help. They need neutral parties before them to carry out the true purpose of the deregulation act, which was not to break unions; it was to allow more airlines to fly more places and not to have regulatory restrictions on them in terms of their exact fares and the exact places they could fly.

Instead, this has been used by this particular management as a system for using the labor force and a lot of debt. We have not been able to see for certain yet, but I suspect and I am very fearful, that a lot of deferred maintenance in their total flight operation has been used in the hope of driving other airlines out of business.

Mr. Lorenzo has been successful in swallowing a number of airlines. He has had a long period of time to do this. I hope, Mr. President, that we will pass this bill and that the President of the United States will sign it. It is necessary. Emergency boards have been utilized by many of President Bush's predecessors, and this legislation is our hope for saving one more wonderful airline in this Nation. I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 5 minutes.

Mr. DODD. Mr. President, let me commend the leaders on this particular proposition. This has been unnecessarily, I say, Mr. President, a lengthy debate. This is a kind of matter we should have been able to move forward weeks ago. It is regrettable it has taken us this long to get to a point where we might have relief or some possibility for settlement of this issue.

I certainly hope the Mitchell substitute will be adopted, as I believe it will be this afternon, so that we can set up this Commission, a bipartisan Commission, an equitable Commission to try and help resolve some of these outstanding questions and bring an end to this tragedy.

The suggestion somehow that this is getting involved or unnecessarily taking sides, I suggest to those who makes that argument that by not doing anything, we are taking a side, if you will, and affecting not only the people who work at this airline, but the traveling public as well and their communities which economies have been adversely affected. To suggest something neutral because there is not a resolution to this problem is to be absolutely blind to the facts as they are in this matter. I hope the President will recognize this is an opportunity we are providing him, an opportunity which should be able to bring some resolution to this problem in the coming days.

I also think it is instructive, Mr. President, that when you look over the record of the last several days, you will find that Mr. Lorenzo has lost in the neighborhood of $2 billion since 1981.

That is a record, it seems to me, based on what I know, in terms of losses in the airline industry. I find it intriguing that he blames his very workers for these losses, and yet he has lost the most money on Continental Airlines. That is the one airline where he has the biggest losses of all.

In that particular airline he broke the unions. He broke their backs. He claims that it is the workers, it is the unions that are causing him his troubles, and yet at the very airline he has lost the most money, he broke the union. Now, how do you explain that?

This is a gentleman who likes to go around convincing the country that it is the average worker causing him the difficulties, yet the facts tell you an entirely different story.

All we are trying to do, as I said earlier, is appoint this Commission, where you have people who will represent, if you will, possibly some different points of view but will not have any one point of view dominating at that kind of commission, to try to mediate this. That is all it amounts to.

Mr. Lorenzo, of course, at Continental Airlines, in addition to having broken the unions, had the lowest operating costs of any airlines and yet he still loses the most money with that airline. So my hope today is that our colleagues will join to put this matter behind us once and for all.

It is tragic it has had to come to this. I am sorry that we have to take this kind of action. Most of us would prefer that it were resolved otherwise, but the fact is that this matter is not going to be resolved unless we take this action. We have waited long enough to move in this direction.

Again I commend the distinguished Senator from Massachusetts and others who have fought long and hard to see this matter come to the floor. I am confident that he and others would have preferred it could have been resolved otherwise, but, frankly, for us not to insist upon this would be the height of irresponsibility.

I urge the adoption of the Mitchell substitute.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. Four minutes and 42 seconds.

Mr. KENNEDY. Mr. President, I yield myself 1½ minutes.

I thank my friend from Connecticut for pointing out that Mr. Lorenzo has the lowest operating costs at Continental in the entire industry. One of

the other interesting points—and I quote Financial World of 1988. Let me just read one paragraph:

Eastern's SODA reservations system, for example, whisked away last March into Texas Air's System One subsidiary, is perhaps the third-largest in the industry, and generated an estimated $30 million in profits for Eastern including fees for its use by other airlines. In exchange for this valuable asset, Eastern got junk, a 25-year $100 million bond convertible into Texas Air stock. The bond pays just 6 percent, one-third the going rate for similar bonds, which pay 16 percent and normally mature in 10 years. By conservative estimates, the bonds Eastern got for its reservation system are worth about $35 million in the open market. At the time Lorenzo bought Eastern the SODA system was valued at $200 million to $250 million by Merrill Lynch.

That is what has happened—screwing down the employees and then trading off the assets. The families have paid a fierce price for that in disruption of their lives, and all we are asking is for fair adjudication of these facts so that the public and the employees will know.

Mr. DODD. Will the Senator yield? I did not mention this, but I think it may be illustrative as well.

Is it not true that Mr. Lorenzo ranks in the highest category of chief executive officers taking salaries for themselves?

Mr. KENNEDY. The Senator is absolutely right—highest paid CEO in the airline industry today and has lost more, by far, than any other airline CEO. He has sweetheart contracts, management fees that pay him and pay his associates very well for what I consider to be the mismanagement of those airlines.

Mr. DODD. I thank my colleague.

Mr. KENNEDY. Mr. President, we have 15 minutes left.

I understand the Senator from Missouri was going to use some of the time, and then I guess I only have 3 minutes. I wanted to reserve——

The PRESIDING OFFICER. The Senator has 2 minutes left.

Mr. KENNEDY [continuing]. At least 2 minutes to be able to respond. I will yield my remaining time to the Senator from Florida.

Mr. GRAHAM. Mr. President, as I understand, we have a vote set at 6 o'clock; is that correct?

Mr. KENNEDY. Yes.

Mr. GRAHAM. I ask unanimous consent to speak for 5 minutes on the matter before the Senate?

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, I understand that we have 14 minutes remaining. Rather than extend the time beyond the agreed-upon voting time, I will yield 5 minutes off our side—is that all right with the manager——

Mr. KENNEDY. Fine.

Mr. DOMENICI [continuing]. To the distinguished Senator from Florida.

Mr. GRAHAM. I thank the Chair. I appreciate the courtesy of my colleague from New Mexico.

Mr. President, it seems to me ironic that we arrive at this late afternoon debate at the end of many days of discussion of this issue in a very similar position to that with which the Senator from New Mexico has been so involved, and that is the resolution of our Nation's financial dilemma. Both of these issues, Eastern Airlines and the airlines generally and America's financial conundrum, at this point, are essentially problems looking for creative solutions. I suggest that in both cases creative solution is to be found in elevating the nature of the question and broadening the perspective within which those issues are looked at.

In the next few days, I intend to make some statements on the floor relative to a process that I believe needs to be undertaken at this point relative to the national fiscal issues. Those comments, Mr. President, are going to be very similar to the brief remarks I will make this afternoon relative to this issue.

Having spoken twice before at different times on this question, the basic points that I have to make have already been made, and so my comments now are essentially to the President, who will be the next responsible official to review this.

I call upon the President, Mr. President, to accept this work of the Congress as a legitimate effort to try to solve a lingering labor-management dispute which has eluded the other processes that were available and has eluded those other processes largely because of the structural inadequacy of the means that have been available.

The mediation process that operated prior to the commencement of the strike was insufficient to bring the parties to a resolution. Since the strike, the issue has primarily been fought out in a bankruptcy court where most of the focus has been on the issue of creditors' rights, not the issue of how to resolve a labor-management dispute and some of the broader public interests that have been largely subverted.

Also, I say to the President that the specific example of Eastern Airlines is not sui generia, a limited application instance. In fact, it has many of the ingredients that potentially could occur throughout the industry. It has the ingredients of an airline which got into trouble because of very heavy debt. It has the ingredients of the inability to bring to the labor-management negotiation some of the openness, some of the mutual respect which is necessary in order to make the changes everyone admits are going to be required in the newly deregulated industry. It has the elements of understanding the distinction between deregulation and nonsupervision. What are the essential public requirements that must be met, whether you are in a regulated or deregulated price and route structure?

Mr. President, I hope that the President of the United States will see this mechanism as an appropriate one in order to resolve this issue which has done so much harm to so many communities in America, and may provide a beacon of light through which we can see the means to avoid similar circumstances in other airlines in other communities in the future.

I hope when this legislation is presented to the President he will sign it, and we will move quickly to utilize the mechanism that is provided here, and that shortly after his taking affirmative action on this legislation he will be of a mind to give a similar comprehensive approach to a resolution of America's financial problems.

Thank you, Mr. President.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, how much time do we have on this side?

The PRESIDING OFFICER. There are 9 minutes remaining.

Mr. DOMENICI. I say to my friend from Massachusetts, I do not think I will use all of our time. What I do not use I will be glad to yield.

DELAYING THE AUTHORIZATION WON'T HURT POLAND

Mr. President, I will take a few minutes to speak on a different subject and use the time on this bill. I want to take a few minutes to follow up on a point made this morning by the Republican leader.

This point I want to make is a very simple one. Delaying the authorization bill for Polish aid will not affect Poland. I repeat: no single person in Poland and no Polish plan that the Americans are involved with will be adversely affected by delaying the Polish aid authorization.

Of course, we heard much weeping and gnashing here on the floor this morning indicating that if we did not pass S. 1584 the entire Polish package would go down the drain and our commitment to help the Polish people would go up in flames.

The authorization bill for aid to Poland that we are talking about is not even necessary. It does not appropriate one dollar to Poland. It could turn out to be a good bill but it is not necessary.

Let me say it another way: delaying Senate passage of the bill for any purpose will not adversely affect a single individual in Poland. I am convinced that is true, and I would like to explain briefly why.

First and mostly, this is an authorization bill. It does not provide $1 to help Poland. The dollars are provided in appropriation bills.

Second, it is mostly a foreign aid authorization bill. Mr. President, fellow Senators, for 6 of the past 8 fiscal years we have appropriated funds for foreign aid without the benefit of a foreign aid authorization bill. And that is what we did this year.

THE SENATE HAS ALREADY FUNDED POLAND

Mr. President, I remind my fellow Senators that we have already passed the foreign aid appropriations bill. It is not pending. It is not going to come around next week. It is not going to fund any authorization bill we pass today, tomorrow, or next week.

My third point is we have already funded Poland in the agriculture and foreign assistance appropriations bills. They are already passed. Believe it or not, the Senate did not wait for this bill when it provided foreign aid for Poland. In fact, it waived the requirement for authorization.

In fact, the pending bill on Poland was on the Senate Calendar when the Senate passed its foreign aid bill on September 26.

The authorization bill had been on the calendar since September 20. We went ahead with the foreign aid appropriations anyway.

If this bill was needed in order to provide appropriations for Poland, why did we not pass it again between the 20th and 26th when we finished the foreign aid appropriations bill?

The fourth point is the one I made at the very beginning: Failure to pass an authorization bill did not stop the Senate from providing foreign assistance to Poland on September 26, and failure to pass it last evening or today will not stop assistance for Poland now.

As the Republican leader indicated this morning, $100 million of the food aid is already on its way to Poland; $100 million that is included in the pending authorization bill is already on its way to Poland. That was the President's initiative. We supported it. He already had the authority under the continuing resolution, and in the farm bill, to do that. Delaying this bill will not affect that food aid.

We ask the President to send another $25 million. We do not need a bill for that. He has the authority to do that, if it is needed.

The first year funding for the new enterprise funds is a significant part of the authorization debate here on the floor. I must remind the Senators that $45 million for the first year of that program has already been appropriated. That was taken care of when we passed the appropriations bill on September 24. Other funds were appropriated for medical assistance—also part of the authorization effort.

The only element of American effort to help Poland that has not yet already been appropriated is the $200 million commitment of the United States toward a $1 billion international stabilization fund for Poland.

The President has asked that we take that money for Poland out of defense. I do not support that. I do not think it should come out of defense.

The Defense appropriations subcommittees agree with the President. I understand that the House and Senate Appropriations subcommittees have already agreed to transfer the money needed for that $200 million initiative. The 302 budget allocations have already been adjusted. They will do that.

The appropriations will do what they can afford for Poland without this bill. And conversely, if the appropriations do not make the necessary transfers, the authorization bill will not have any effect. They will either do it or we will not make our $200 million contribution to the so-called $1 billion stabilization fund.

Again, I repeat: an authorization bill is a good thing. It moves policy in the right direction if we do our job right. It clearly puts us on record. But it is not necessary today or tomorrow or the day after tomorrow.

The principal ingredients of United States aid to Poland are either funded or will be funded in the agriculture, foreign assistance, or the defense appropriations bill. As to the latter, the stabilization assistance will be funded there or not at all, if the President has his way.

Let me close by saying this, loud and clear: "no one in Poland should be concerned about the United States Senate delaying the so-called Polish relief bill which is before the Senate."

The money is on its way. The political support is here, on a bipartisan basis.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. One minute and 56 seconds.

Mr. KENNEDY. Mr. President, I yield myself the remaining time.

Mr. KENNEDY. Mr. President, there has been a good deal of talk about the families that are effected by the whole Eastern Airlines drama. But now we have a real opportunity to take action. I am very hopeful that we will have strong bipartisan support for the leadership substitute. All it is asking is for a balanced group, two from the House, two from the Senate, appointed by the leaders so it will be truly reflective of the views of the House and the Senate to get the best people out there—neutral individuals to propose what will be a fair and equitable resolution.

If they do that, there will be a prompt settlement. I believe the employees, the creditors, and the American people are entitled to that kind of action.

I urge my colleagues to support the leadership proposal.

Mr. President, I yield the remainder of my time.

Mr. LAUTENBERG. Mr. President, I rise in support of the majority leader's proposal for a blue-ribbon panel to study the Eastern Airlines situation.

I support this measure because it represents a reasonable, constructive effort to put an end to the unfortunate strike at Eastern Airlines—a strike that could have been avoided.

The strike, which has worn on for 7 months, could have been avoided had the President appointed an emergency board to mediate a resolution. Many of us here urged the President to do so back on March 1, before the strike deadline.

Unfortunately, that call fell on deaf ears. President Bush's failure to appoint an emergency board signaled the first time in the 62-year history of the Railway Labor Act that a President had rejected the National Mediation Board's recommendation. One hundred and ninety-nine times before, the National Mediation Board recommended the appointment of an emergency board; on each of those occasions, the President had agreed with that recommendation.

In fact, even President Reagan complied with the Mediation Board's recommendation on 11 different occasions. This situation was, and is, no less pressing.

What's at stake here? For one thing, the fate of 30,000 men and women who once were proud to wear Eastern uniforms. They and their families are going through extremely trying times. To fight for something they believe in—a first-class airline that treats its employees fairly—they've put their careers on hold, and at great risk.

Mr. President, I've talked with many of these people. They are dedicated, highly trained professionals, who don't want to work under conditions that are unfair, and could be dangerous for them and the passengers. They want nothing more than to be able to work in an environment that's fair and safe, for them and their customers. For this chance, they're putting everything on the line. As a matter of fairness to Eastern employees, this strike should be brought to an end as quickly as possible.

Let's look at what's happened since 1986, when Frank Lorenzo gained control of Eastern. In that time, we've seen the sale of Eastern's computer reservation system to a subsidiary of Texas Air for a $100 million note due in the year 2012, although it was valued by Texas Air analysts at between $200 and $320 million, and was generating annual revenues of $250 million for Eastern. Today, Eastern

pays a hefty fee to use the reservations system it once owned.

Eastern planes, gates, and slots have been sold to Continental. Eastern pays a management fee of $6 million a year to Texas Air. And Eastern now pays a Texas Air subsidiary a fee to purchase fuel, although it used to purchase its own.

In 1986, Texas Air announced a goal of restoring Eastern's financial condition, largely by reducing its costs. But the means to that end should not have been through the wages of dedicated men and women who worked for Eastern.

Mr. President, to be fair, we should not pretend that all was well with Eastern when Mr. Lorenzo came on the scene. It was a company with significant debt, and some labor problems. But the situation since 1986 has gone downhill fast. Before, the patient may have been bleeding and wounded; today, it's hemorrhaging, and on the critical list.

Eastern's workers are being asked to pay for the mistakes of management. That's wrong. Management's most recent offer sought reductions in wages and benefits totaling approximately $125 to $150 million annually. They would have us believe that inflated wages are the reason for Eastern's debt, and its losses of more than $1 billion over the last decade. But it's just not that simple. Even a cursory look at the airline industry shows that Eastern's labor costs are not out of line with the other major carriers; they'are not even the highest.

But, according to the publication Aviation Daily, Eastern has lost $517 million over the last 2 years. Yet, at other unionized airlines, these have been times of profit. American Airlines showed profits of $675 million; United Airlines reported profits of $595 million; Northwest Airlines, $328 million; and USAir, $360 million.

Mr. President, Eastern management says it wants to bring Eastern out of bankruptcy, and restore it to full service. But what's been happening over the last few months seems to tell another story: A story of an airline that, unless something is done, may be headed on an irreversible course toward its demise. It's the story of an airline being stripped of so many of its assets that, in the end, it won't be able to fly. That's clearly not in the interest of the 30,000 people who worked for Eastern. And it's not in the best interest of the American consumer.

This issue goes beyond the specifics of the Eastern dispute. What happens at Eastern affects the entire airline industry, and all those who use the airlines.

I'm speaking of the issue of airline competition—or more appropriately, the lack of competition. When Congress passed the 1978 deregulation act, it did so with the idea that the industry would be controlled by free market competition. That competition would bring down prices, improve services, and make sure the airline industry was serving its customers well.

But competition is going by the wayside. Today, the top eight domestic carriers control over 90 percent of the market. That's more concentrated than the industry was back in 1978, when we decided to deregulate, to encourage more competition.

Over the years, Eastern has been a major carrier, a major force in our domestic airline industry. Prior to strike, Eastern served 102 cities in North America and South America. It was the country's 6th largest carrier, employing about 30,000 people.

Its demise might further concentrate the airline industry. It would mean one less competitor along each of its routes. That's not what was intended through deregulation. It's not good for the American consumer. The Federal Government has the right—and the obligation—to try to help resolve this situation.

In supporting this provision, we're saying we want a resolution. We don't want to see this strike go on; we don't want to see the continued dismantling of Eastern.

The approach is simple, and quick. A blue-ribbon bipartisan panel would assemble, to look at the issues that could lead to a fair, prompt settlement. Further, the panel would make policy recommendations to the Congress and the Secretary of Transportation.

Among the issues the panel would consider are the powers of the Secretary to intervene on behalf of the public interest to maintain competitiveness in the industry and the adequacy of protection of employee collective-bargaining rights in airline bankruptcy proceedings.

Mr. President, it should be kept in mind that this panel would not have binding powers of arbitration, nor would its actions preclude further congressional consideration of the issues cited earlier. It would look at the issues as they pertain to the Eastern situation, in an effort to bring an end to an unfortunate chapter in management-labor relations in this country.

Mr. President, it's time to bring this affair to an end. President Bush declined to exercise his statutory authority to try to resolve the strike. Now we're saying it's important enough that we want to lend a hand in solving it. I urge my colleagues to support this measure.

Mrs. KASSEBAUM. Mr. President, with regard to the proposed establishment of a Blue Ribbon Commission, I would like to make clear my concern not only for the future of the airline industry in the wake of recent events but also for those who have been caught in the middle of this upheaval: the airline workers and their families.

Eastern Airlines is just one example of how a once proud and strong airline, with a long tradition of service has been reduced to a fraction of its former stature. Whatever the cause of this apparent demise, however we chose to predict the future success or failure of Eastern, one fact will remain true: it is the airline worker without a job who will suffer most. In the high stakes game of mergers and acquisition, it is the employees who serve as pawns. It is the employees who must pay the price when things go wrong.

Sadly, the situation at Eastern is not unique. Last month, over 2,700 Braniff employees woke up one morning only to find out they had been laid off from their jobs. Braniff Airlines had declared bankruptcy for the second time in 7 years. If Braniff is unable to make yet another comeback, as I hope it will, what then will happen to the remaining employees and their families?

I can understand the well-intentioned motives behind the substitute amendment offered by the majority Leader and others. I have met with and listened to striking employees of Eastern. I certainly sympathize with the hardships they have suffered. But if we are going to take the time and effort, as well as the taxpayers' dollars, to establish a commission, let us at least direct it at the root of the problem, a problem that is much larger than Eastern alone.

Eastern Airlines is not the first airline to seek refuge in bankruptcy court nor is it the last—Braniff is testimony to that fact. As other airlines also amass greater and greater debt, who will be next to run into financial trouble? In my view, Congress should be directing its attention to the industry-wide problem.

I understand that the substitute offered by the majority Leader will examine the Transportation Secretary's powers and the protection of collective bargaining rights during bankruptcy. However, the commission is ultimately a commission to investigate Eastern. I'm not sure this commission, or Congress for that matter, can undo what has already taken place with respect to Eastern Airlines. But we can and should look at the broader issues affecting the entire industry. This, I believe, should be the approach of a blue-ribbon panel. That is why I support the alternative offered by Senator DANFORTH.

This alternative provides for a commission that is not Eastern specific but instead will examine problems facing the entire airline industry. Such a commission would consider, among other things, the impact of increased concentration on the airline industry. I would investigate current practices within the industry regarding the rehiring of airline employees, including pilots, who have lost their

jobs in a labor dispute. These are issues that need to be examined. I do not favor cloture because it will prevent us from considering this alternative approach. It is critical that the problems facing the airline industry as a whole be addressed not only for the well-being of the traveling public but, most importantly, for the welfare of those who stand to lose the most—airline workers and their families.

Mr. DURENBERGER. Mr. President, I would like to offer a few comments regarding my votes against cloture and on final passage of Senator MITCHELL's substitute to H.R. 1231, establishing a Blue Ribbon Commission to comment on the Eastern Airlines strike.

The ongoing labor dispute before the Frank Lorenzo managed Eastern Airlines and its employees has been bitter and protracted. The striking employees allege that some of the asset transactions between Eastern Airlines and other subsidiaries of the Texas Air Corp. [TAC] are designed to simultaneously financially weaken Eastern and to enhance the financial conditions of TAC's other subsidiaries. Those allegations are alarming.

However, the task of analyzing the propriety of these transactions is now under the jurisdiction of the U.S. Bankruptcy Court. The Federal bankruptcy judge in charge of the Eastern Airlines' bankruptcy has appointed an examiner to investigate every aspect of the labor situation at Eastern.

In my years as a public servant, I have always supported the collective bargaining process. Collective bargaining laws were legislated at the behest of both labor and business interests. Both labor and management have a mutual interest in avoiding political entanglements. Consequently, while I sympathize with the difficult plight of striking Eastern Airlines employees, I have concerns about establishing a blue ribbon panel. I fear that undertaking would interfere and undercut the actions of the appointed examiner and create an imprudent precedent that could confound future collective bargaining efforts.

At the same time, I am encouraged that Congress and the administration are now actively reviewing the affiliated concerns which the Blue Ribbon Commission would address. The Secretary of Transportation is taking an increasingly active role in reviewing the long-term ramifications of merger transactions which increase the debt load of air carriers, increase foreign ownership of U.S. airlines and exacerbate hub dominance. Likewise, Congress is actively pursuing legislative remedies which will address these concerns. The Senate Commerce Committee and the House Transportation Committee have already held hearings on these issues and they are now using the testimony and information they received and they are now using the testimony and information they received at their hearings to promulgate effective legislation.

I believe that it is important that Congress continues to address this issue through the normal legislative process. This would involve addressing the industry as a whole, rather than focusing on one specific concern. I am committed to protect the financial integrity of our Nation's air carriers and the livelihoods of the employees who work for them.

Mr. DOLE. Mr. President, Yogi Berra was once quoted to have said "It's like deja vu all over again."

Just before the Easter recess, now more than 7 months ago, we were barraged with pleas from many of my colleagues on the other side of the aisle to force the Senate to intervene in a specific labor/management dispute.

"We need to pass this bill," they said. "Force President Bush to establish a Presidential Emergency Board over his objections," they called.

Then, mysteriously, the proponents of the Presidential Emergency Board pulled the bill. At that time I asked the question "What happened to the emergency, where did it go, why aren't we pushing to resolve this dispute?" Well, I still haven't received an answer to my question of 7 months ago.

And now, here they come again. "We have an emergency on our hands, we need to invervene, we need to force the hand of President Bush," they are saying. About the only thing they aren't saying is "The sky is falling," but that may yet come.

HISTORY

Mr. President, I think we should briefly review the history of this affair, so we can keep today's call for immediate action in perspective.

In February 1986, Texas Air purchased controlling interest in Eastern Airlines. By the end of that year, Texas Air had completed its purchase of common stock, and began looking for ways to cut costs to remain competitive in the deregulated commercial airline industry.

The first move by the new management was to propose a $100-million job retraining program for employees in positions for which wages were thought by management not to be in line with other airlines. This was the largest proposed job retraining program ever announced by private industry and was intended to keep employees working in more skilled positions for Eastern Airlines.

When negotiations proved unsuccessful both sides prepared to negotiate the upcoming machinists contract. This is the contract which brought us to this point.

On December 31, 1987, the machinists' contract expired, but work continued under the provisions of the Railway Labor Act. Negotiations were ongoing under the jurisdiction of the National Mediation Board. Efforts by the NMB continued for 17 months, during which the company experienced losses of over $500 million.

After determining no agreement was in sight, the NMB released both sides from further talks on February 1, clearing the way for a strike by the machinists on the 4th of March, 1988. The vast majority of pilots and flight attendants joined their colleagues in the machinists union, and Eastern Airlines immediately dropped all but a handful of its 1,050 daily flights.

The next major action in this tragic case came in the summer of 1988, an event that brought the dispute into clear focus for me. After losing over $200 million in 3 years at the hub, Eastern Airlines stopped service and locked its doors in Kansas City.

Certainly I felt sympathy for members of the unions, and especially for their families. I feel sorry that one of the historically proud and strong U.S. airlines—Eastern—has been devastated and has been forced to retrench. But I also feel deep regret that middle America lost substantial air service to one of its major cities. I won't take the time to discuss the fact that air service to Kansas City has also experienced a drop with the bankruptcy of Braniff, but I can assure you that with all the interest in resolving the Eastern labor dispute, I intend to focus attention on the real losers—the traveling public.

PRESIDENTIAL EMERGENCY BOARD

Mr. President, that brings us to the final item—the effort last March to force a Presidential Emergency Board. The effect of establishing the Board is a back-to-work order. All sides are supposed to return to what they were doing before the strike.

But that won't work now, since Eastern has neither the number of aircraft or flights that it had before the strike.

So now we have a new approach—create a three-member Commission to look at what Eastern Airlines should pay a mechanic, or what type of health insurance should be given to pilots, or whether flight attendants at Eastern Airlines should get 3 weeks of paid vacation or 4 weeks. These are important issues, to the employees and to the company who is going to pay for them.

But, the question is, should the U.S. Senate be trying to pick sides on these matters? I'm not aware of any Senator who was elected to office because he or she promised to mediate every labor dispute.

And, why are we only attempting to resolve the Eastern dispute? Why don't we become the mediators in the Pittston Coal strike, or the Boeing Aircraft strike? And there must be some other strikes out there; maybe we should mediate teachers strikes and automobile strikes.

So Mr. President, since my questions of last spring haven't been answered, I tried to find the answers to these new questions myself. And, for a minute, I thought I had found it.

It seems the Democratic National Committee has adopted a resolution on this matter. There, I thought, the answer could be found. But no, the resolution calls for, and I quote:

The U.S. Congress acting in the public interest [to] adopt swift and positive measures to restore Eastern Airlines to its full operating potential * * *.

Well I cannot see that the new approach in forming a mediating board is positive or that it will restore Eastern Airlines, so I looked elsewhere.

I thought maybe the Eastern creditors were calling for this Board, to protect their investments. But then I received a letter from chairman of the Creditors Committee, and they are opposed to this new idea.

So then I thought maybe there was a Senator who just thought mediating labor disputes might be a welcome respite for us, something to take our minds off of General Noriega in Panama, off of the budget deficits, free our minds temporarily from the scourge of drugs that is attacking our social fabric. But then I found a quote from the majority leader.

On March 30, 1988, the distinguished majority leader—on the floor of the Senate said:

It is my position that political intervention in labor disputes is inappropriate—serving only to undermine the collective bargaining process. Nothing in my statements should be construed in any way as a desire for congressional intervention in any particular dispute. I will not do so. I do not encourage any other Member of Congress to do so.

SUMMARY

In summary, Mr. President, I am still trying to figure out what the need for this legislation is, who is for it, and why we are doing it.

The Congress should not take sides in labor disputes, as the majority leader has stated. I urge all of my colleagues to take his sage advice to heart, and oppose the new substitute.

The PRESIDING OFFICER. There remains 1 minute to the opposition on the other side.

Mr. KENNEDY. I yield the remainder of the time.

The PRESIDING OFFICER. All time has been yielded.

Under the previous order, the hour of 6 p.m. having arrived, the question is on agreeing to the amendment of the Senator from Maine in the nature of a substitute. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. BREAUX). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 65, nays 35, as follows:

[Rollcall Vote No. 276 Leg.]

YEAS—65

Adams	Glenn	Metzenbaum
Baucus	Gore	Mikulski
Bentsen	Graham	Mitchell
Biden	Harkin	Moynihan
Bingaman	Hatfield	Nunn
Boren	Heflin	Packwood
Bradley	Heinz	Pell
Breaux	Hollings	Pressler
Bryan	Humphrey	Pryor
Bumpers	Inouye	Reid
Burdick	Jeffords	Riegle
Byrd	Johnston	Robb
Conrad	Kennedy	Rockefeller
Cranston	Kerrey	Sanford
D'Amato	Kerry	Sarbanes
Daschle	Kohl	Sasser
DeConcini	Lautenberg	Shelby
Dixon	Leahy	Simon
Dodd	Levin	Specter
Exon	Lieberman	Stevens
Ford	Lott	Wirth
Fowler	Matsunaga	

NAYS—35

Armstrong	Garn	McConnell
Bond	Gorton	Murkowski
Boschwitz	Gramm	Nickles
Burns	Grassley	Roth
Chafee	Hatch	Rudman
Coats	Helms	Simpson
Cochran	Kassebaum	Symms
Cohen	Kasten	Thurmond
Danforth	Lugar	Wallop
Dole	Mack	Warner
Domenici	McCain	Wilson
Durenberger	McClure	

So the amendment (No. 1043) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill, having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 1231), as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I send to the desk an amendment to the title and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

Amend the title so as to read as follows: "To establish a commission to investigate and report respecting the dispute between Eastern Airlines and its collective bargaining units and for other purposes.".

The PRESIDING OFFICER. The question is on agreeing to the amendment to the title.

The amendment was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

The PRESIDING OFFICER. Without objection, a motion to lay the motion on the table is agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will please call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOVIET CONDOLENCES ON THE CALIFORNIA EARTHQUAKE

Mr. BYRD. Mr. President, as President pro tempore I have received two condolence messages from the Soviet Union about last week's devastating earthquake in california. These messages are from Mr. E. Primakov, the Chairman of the Soviet of the Union, U.S.S.R. Supreme Soviet, and from Mr. R. Nishanov, the Chairman of the Soviet of Nationalities of the U.S.S.R. Supreme Soviet. It is deeply gratifying to receive these condolence messages. As I said on the floor of the Senate yesterday, when it comes to an act of God, our country stands behind the people who have suffered. There is no party line when disaster hits. There is no aisle that separates us.

And, as these messages demonstrate, ideological differences and national boundaries do not separate us when disaster strikes. I am confident that my colleagues will join me in thanking our fellow Soviet parliamentarians for their messages of support.

Mr. President, I ask unanimous consent that these messages be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMBASSADOR OF THE
UNION OF SOVIET SOCIALIST REPUBLICS,
Washington, DC, October 19, 1989.

Hon. ROBERT C. BYRD,
President Pro Tempore, U.S. Senate, Washington, DC.

DEAR MR. BYRD: I have been instructed to urgently transmit to you a message from Chairman of the Soviet of the Union of the U.S.S.R. Supreme Soviet E. Primakov, which is enclosed herewith.

Sincerely,

YURI V. DUBININ.

[Unofficial translation]

Hon. ROBERT C. BYRD,
President Pro Tempore, U.S. Senate, Washington, DC.

DEAR MR. BYRD: Accept the deepest condolences in connection with the natural disaster in California which caused a loss of numerous human lives and destruction.

Entire Soviet people share the pain and sufferings of those Americans who lost their kith and kin in the aftermath of this earthquake.

Sincerely,

E. PRIMAKOV,
Chairman of the Soviet of the Union U.S.S.R. Supreme Soviet.

Moscow, *October 19, 1989.*

AMBASSADOR OF THE
UNION OF SOVIET SOCIALIST REPUBLICS,
Washington, DC, October 19, 1989.

Hon. ROBERT C. BYRD,
President Pro Tempore, U.S. Senate, Washington, DC.

DEAR MR. BYRD: I have been instructed to urgently transmit to you a message from Chairman of the Soviet of Nationalities of the U.S.S.R. Supreme Soviet R. Nishanov, which is enclosed herewith.

Sincerely,

YURI V. DUBININ.

[Unofficial translation]

Hon. ROBERT C. BYRD,
President Pro Tempore, U.S. Senate, Washington, DC.

DEAR MR. BYRD: Please, accept the deepest condolences in connection with the devastating consequences of the earthquake in California.

Together with you and your compatriots we are mourning over the victims of the calamity descended on your country.

Sincerely,

R. NISHANOV,
Chairman of the Soviet of Nationalities, U.S.S.R. Supreme Soviet.

Moscow, *October 19, 1989.*

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. WIRTH. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESOLVE TO ADDRESS GLOBAL WARMING

Mr. WIRTH. Mr. President, I rise to address once again an issue I discussed the night before last related to the resolve of this administration to address the issue of global warming. I pointed out in rather lengthy remarks the history of the administration's lack of commitment to addressing the issue of global warming despite President Bush's fine statements during the campaign.

Last year, we were told that we were going to see the White House effect at work on greenhouse effect. But, the administration has backed off over and over again. I think the record of that, which I laid out on Tuesday, is very clear. What we are doing now, Mr. President, is asking the administration to step up to the commitments that it has made to become not only a major player in, but a world leader in looking at the programs and advocating the policies to prevent global warming that we should be pursuing in the United States. We cannot stop global warming but we can temper and slow down the warming of the globe.

The United States has not stepped up to that commitment. It has an enormous opportunity to do so on November 6 and 7, 1989, at a major meeting in The Netherlands. What we are doing is asking the administration to take the lead that it should take. I have been asked since the discussion the other night and following articles in the paper, why are we so concerned about this? Why is this something we have to do now? I would like to take a few minutes to discuss that, if I might.

First of all, the debate is, Mr. President, is there a need to do this? Do we know enough at this point? Is the evidence conclusive that the globe is warming, or should we simply do more research? That debate is going on, apparently, within the administration right now, with many people saying, "Well, we just do not know enough yet."

I think the preponderance of scientific evidence in the United States and around the world is that the issue is not any longer will the globe warm, but by how much, and how fast. That conclusion almost everybody else has come to. Prime Minister Thatcher has come to that. Mr. Mitterrand has come to that. Mr. Kohl has come to that. Individuals from the Soviet Union have testified in front of committees of the Congress on that subject. It is very clear to just about every major country in the world, that every nation needs to make a national commitment, not just to do more research—and we do have to do that—but to start implementing the policy programs to slow the impact of global warming.

Having said that, I think we must be very clearly over the line of making a commitment to global warming, making a commitment to the facts which are that the globe is warming.

Once we are over that line and beyond the research debate, then the question comes up, what can we be doing specifically? Some arguments are made, particularly by some in the administration, that if we take steps now on the issue of global warming, we will be putting the United States at a comparative disadvantage to the rest of the world.

I would like to spend a couple of minutes, if I might, Mr. President, to disabuse people of those arguments. The steps that we should be taking today are steps that we ought to take anyway, steps that are good for our economy, they are good for our national security, and they are good environmental policy. Let me give you a few examples.

We, in the United States, in the area of energy usage, are 50 percent as efficient as the Germans and the Japanese. In other words, they use one-half the energy that we use for every unit of gross national product. Those are not perfect parallels by any means. They are not perfect comparisons. Our economy is not just like the Germans, our economy is not just like that of the Japanese, but it is instructive to note that we are 50 percent less energy efficient than the Germans and the Japanese. It would be good for us in the United States to conserve that energy. We are spending more than $400 billion on energy in this country. Any savings on our energy investments could be invested instead in education, invested in new plants and equipment, in research and development, or a whole host of other things. What we are doing now is wasting energy and wasting money.

What can we do on that front does not put us at a competitive disadvantage—the opposite is true in fact. Therefore, we should put utilities on least-cost programs, allow them to build conservation in the utility rate bases. Those are all obvious things that ought to be done.

We had a fascinating hearing this morning with the Department of Energy, who now is advocating least-cost energy programs. That was controversial 10 years ago. It is no longer controversial.

Another example that certainly does not put us at a competitive disadvantage is automobile efficiency. The average American automobile today could be much more efficient. With existing technology we could increase the efficiency on new cars by 8 to 10 miles per gallon. Detroit will say, "We cannot make it any more efficient. It will cause us all kinds of problems."

They had made those same arguments, Mr. President, when the energy crisis was upon us in the mid-1970's. When there was a 13-mile-a-gallon average automobile in the United States, Detroit said, "We cannot get more efficient without putting ourselves at enormous disadvantage, and without encountering technical problems," and so on. We doubled our efficiency to 27 miles per gallon in 10 years, and we can increase it still very significantly.

What will that do for us? What that will do for us is precisely what is good for our national security and economy anyway, to import less oil. We have gotten to the point, Mr. President—and you have been very concerned about this as have many—we have gotten to the point now where more than 50 percent of the oil used in the United States is imported.

What are we going to do about that? Continue along that merry path and find ourselves increasingly dependent upon such areas of great stability as the Middle East and so on? Of course not. We ought to, for our national security purposes, break into that cycle. By breaking into that cycle, we can do things that are not only good for the economy, good for the environment, but make us less dependent upon imported oil. Those are smart things for us to do.

A third area is forest policy. We know that all over the globe the process of deforestation is going on at an alarming rate. We know that all over the globe the process of desertification is going on at an alarming rate. We say to the rest of the world, do not do that anymore. It is very bad for you and it is bad environmental policy. But what are we doing in our own backyard? We are doing precisely the same thing with taxpayer-subsidized tearing down of our forests. One-half to two-thirds of the timber sales off of the Federal lands are done at below cost. In other words, they are subsidized by the taxpayers. The most egregious example of all, an issue that is in front of us now in conference with the House on the reconciliation bill, is the Tongass National Forest. What we are doing is tearing down the last great rain forest in North America, at heavy subsidization by the taxpayer, and we are shipping almost all the product to Japan. What kind of sense does that make? It makes no sense whatsoever.

That is a third example of the kind of thing we ought to be doing anyway, which is good for global warming but it is also very good economics, very good conservation policy, and very good national security policy.

So I take the floor for these few minutes, Mr. President, to respond to questions that have come in; why should we be concerned at this point, and are not the steps being advocated ones that are going to put the United States at a comparative disadvantage with our international competitors? The answer is that all of the steps we ought to be taking to prevent global warming are ones we ought to take anyway, for other reasons. I have talked about the whole set of questions of alternative energy, and so on. These are all issues we ought to be moving on anyway.

The summary of all this then, Mr. President, is why does not the administration take the lead? Issues of policy that are easy for us to take on in the United States, to be advocating conservation, to be advocating preservation of forests, to be advocating utility reform, to be advocating more efficient automobiles, and a whole set of other steps, are issues that we ought to do anyway. Why does not the administration do it? The jury is certainly out. I know the debate is going on in the administration, but it is awfully hard to find, Mr. President, where the evidence is on the other side for the timid approach being taken.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSISTENCY OF THE EMIGRATION LAWS AND POLICIES OF THE REPUBLIC OF HUNGARY—MESSAGE FROM THE PRESIDENT PM 69

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Finance:

To the Congress of the United States:

I hereby transmit the documents referred to in Subsections 402(b) and 409(b) of the Trade Act of 1974 ("the Act"), 19 U.S.C. 2432(b) and 2439(b), with respect to the consistency of the emigration laws and policies of the Republic of Hungary with the criteria set out in Subsections 402(a) and 409(a) of that Act, 19 U.S.C. 2432(a) and 2439(a). These documents constitute my decision that a waiver of Subsections (a) and (b) of Section 402 of the Act will no longer be required for the Republic of Hungary.

I include as part of these documents my Determination that the Republic of Hungary is not in violation of paragraph (1), (2), or (3) of Subsection 402(a) or paragraph (1), (2), or (3) of Subsection 409(a) of the Act. I also include information as to the nature and implementation of the emigration laws and policies of the Republic of Hungary and restrictions or discrimination applied to or against persons wishing to emigrate, including those persons wishing to emigrate to the United States to join close relatives.

GEORGE BUSH.

THE WHITE HOUSE, *October 26, 1989.*

MESSAGES FROM THE HOUSE

At 11:18 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2916) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending Sept. 30, 1990, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 6, 13, 15, 20, 21, 26, 27, 30, 32, 41, 42, 45, 53, 54, 56, 60, 79, 89, 100, 103, 106, 112, 114, 117, 119, and 121 to the bill, and agrees thereto; and that the House recedes from its disagreement to the amendments of the Senate numbered 4, 8, 9, 17, 18, 19, 25, 37, 38, 39, 40, 43, 46, 47, 48, 55, 57, 71, 75, 80, 86, 90, 91, 92, 93, 94, 95, 97, 98, 105, 109, 110, 116, 122, 123, 124, and 128 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 120. Joint resolution to designate the period commencing November 12, 1989, and ending November 18, 1989, as "Geography Awareness Week."

The enrolled joint resolution was subsequently signed by the President pro tempore [Mr. BYRD].

At 4:42 p.m., a message from the House, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 1792) to amend the Disaster Assistance Act of 1989 to avoid penalizing producers who planted a replacement crop on disaster-affected acreage, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that pursuant to the provisions of section 601, Public Law 99-603, the Speaker appoints on the part of the House the Most Reverend Theodore E. McCarrick, Archbishop of Newark, Newark, NJ, to the Commission for the Study of International Migration and Cooperative Economic Development to fill the existing vacancy thereon.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1826. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Consolidated Farm and Rural Development Act to delete reference to obsolete procedures

for evaluation of applications for community and business programs, loans, and grants, and to eliminate the requirement for county committee certification prior to release of liability under community and business loans and grants; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1827. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend section 331(d) of the Consolidated Farm and Rural Development Act to extend the authority of the Secretary of Agriculture to settle debts to all programs administered through the Farmers Home Administration; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1828. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to remove the prohibition against charging interest on interest which is less than 90 days overdue in order to facilitate the rescheduling and reamortization of loans made by the Secretary of Agriculture under the Consolidated Farm and Rural Development Act; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1829. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, the contract award report for the period November 1, 1989 to December 31, 1989; to the Committee on Armed Services.

EC-1830. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to make uniform the provisions for determining the interest rate on notes issued by the Secretary of Agriculture for the purpose of obtaining funds for the Agricultural Credit Insurance Fund, the Rural Development Insurance Fund, and the Rural Housing Insurance Fund; to the Committee on Banking, Housing, and Urban Affairs.

EC-1831. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report with respect to a transaction involving United States exports to Colombia; to the Committee on Banking, Housing, and Urban Affairs.

EC-1832. A communication from the Assistant Secretary of the Interior (Water and Science), transmitting, pursuant to law, the James River Comprehensive Report, Garrison Diversion Unit of the Pick-Sloan Missouri Basin Program; to the Committee on Energy and Natural Resources.

EC-1833. A communication from the Deputy Assistant Secretary of the Interior (Land and Minerals Management), transmitting, pursuant to law, the annual report on the cumulative environmental effects of the Outer Continental Oil and Gas Program for 1988; to the Committee on Energy and Natural Resources.

EC-1834. A communication from the Secretary of Commerce, transmitting pursuant to law, the annual report on Ocean Pollution, Monitoring, and Research for fiscal year 1988; to the Committee on Environment and Public Works.

EC-1835. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on low-level radioactive waste management progress for 1988; to the Committee on Environment and Public Works.

EC-1836. A communication from the U.S. Trade Representative, transmitting, pursuant to law, a report concerning Canada's production-based duty remission programs for automotive products; to the Committee on Finance.

EC-1837. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, reports on the "Volume and Intensity of Physician Services"; "Relative Value Scale for Physician Services"; and "Implementation of a National Fee Schedule"; to the Committee on Finance.

EC-1838. A communication from the Secretary of Commerce, transmitting, pursuant to law, an interim report on actions taken relative to the National Trade Data Bank; to the Committee on Governmental Affairs.

EC-1839. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, notice of the establishment of salary schedules and adjustments to those schedules; to the Committee on Governmental Affairs.

EC-1840. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, a report entitled "The Senior Executive Service: Views of Former Executives"; to the Committee on Governmental Affairs.

EC-1841. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Review of Agency Fund 814—Securities Held by the D.C. Treasurer"; to the Committee on Governmental Affairs.

EC-1842. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on State laws regarding HIV-related confidentiality and discrimination; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. 347. A bill to combat international terrorism and otherwise further the national security and foreign policy interests of the United States (Rept. No. 101-173).

By Mr. BOREN, from the Select Committee on Intelligence, with amendments:

S. 1342. A bill to authorize appropriations for the fiscal years 1990 and 1991 for intelligence activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. No. 101-174).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

H.J. Res. 131. Joint resolution to designate May 25, 1989, as "National Tap Dance Day."

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, without amendment.

S. 148. A bill to require the Secretary of the Treasury to mint coins in commemoration of the Golden Anniversary of the Mount Rushmore National Memorial.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 42. Joint resolution to designate March 16, 1989, as "Freedom of Information Day."

S.J. Res. 53. Joint resolution to designate May 25, 1989, as "National Tap Dance Day."

S.J. Res. 131. Joint resolution to designate November 1989, as "National Diabetes Month."

S.J. Res. 187. Joint resolution to designate the periods commencing on November 19, 1989, and ending on November 26, 1989, and commencing on November 18, 1990, and ending on November 25, 1990, as "National Adoption Week."

S.J. Res. 198. Joint resolution designating November 1989, as "An End to Hunger Education Month."

S.J. Res. 210. Joint resolution to designate the month of October 1989, as "National Spina Bifida Month."

S.J. Res. 215. Joint resolution acknowledging the sacrifice that military families have made on behalf of the Nation and designating November 20, 1989, as "National Military Families Recognition Day."

S.J. Res. 216. Joint resolution designating November 12 through 18, 1989, as "Community Foundation Week."

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment and an amendment to the title and with a preamble:

S.J. Res. 217. Joint resolution to designate the period commencing February 4, 1990, and ending February 10, 1990, as "National Burn Awareness Week."

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 220. Joint resolution to designate the week of December 3, 1989, through December 9, 1989, as National Autism Week and 1990 as National Silver Anniversary Year for the Autism Society of America.

S. Con. Res. 55. A concurrent resolution to commemorate the volunteers of the United States and the Hugh O'Brian Youth Foundation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Stephen J. Markman, of Michigan, to be U.S. attorney for the Eastern District of Michigan for the term of 4 years.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BOND:

S. 1799. A bill amend the United States Housing Act of 1937 to expand the capability of resident management corporations to purchase public housing; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATCH (for himself and Mr. THURMOND):

S. 1800. A bill to reauthorize the U.S. Commission on Civil Rights, and for other purposes; to the Committee on the Judiciary.

By Mr. SIMON:

S. 1801. A bill to extend the U.S. Commission on Civil Rights; to the Committee on the Judiciary.

By Mr. JOHNSTON (for himself and Mr. MCCLURE):

S. 1802. A bill to enhance nuclear safety at Department of Energy nuclear facilities to apply the provisions of the Occupational, Health, and Safety Act to certain Department of Energy nuclear facilities, to encourage independent research of the effects of radiation on human beings, to establish a comprehensive program within the Department of Energy of research, development,

and demonstration of methods for waste cleanup and remediation to establish a process for ensuring cleanup of Department of Energy nuclear facilities, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 1803. A bill to amend section 108(f) of the Internal Revenue Code of 1986 to clarify the tax treatment of discharges of indebtedness under certain student loans; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr. WARNER, and Mr. STEVENS):

S. 1804. A bill to amend title 23, United States Code, to reduce the amount of Federal highway funds allocated to any State that does not provide for the revocation or suspension of the driver's license of any individual convicted of a drug offense; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOND:

S. 1799. A bill to amend the U.S. Housing Act of 1937 to expand the capability of resident management corporations to purchase public housing; to the Committee on Banking, Housing, and Urban Development.

URBAN HOMESTEAD ACT

Mr. BOND. Mr. President, I rise today to introduce the Urban Homestead Act of 1989 which is designed to make it easier for tenants in public housing to purchase their dwellings. This legislation builds on resident management and ownership provisions in current law by adding additional flexibility and funding to allow public housing tenants to become homeowners.

There are three main provisions to the bill: It makes the current authorization for the tenant ownership program permanent; it provides $10 million in technical assistance for homeownership projects; and most importantly, it adds additional flexibility to the one for one replacement rule. Under current law, every unit of public housing that is purchased by the tenants must be replaced so that there is no loss to the public housing stock. My legislation allows for more creative replacement plans by allowing the use of section 8 certificates or vouchers and low and moderate income housing produced by States, local governments, nonprofit corporations, and resident management corporations to meet this requirement.

The reason that I am introducing this bill is because I am inspired and heartened by the efforts of some residents of St. Louis who have taken some of St. Louis' public housing and made it an example for the Nation. Bertha Gilkey, who is the head of the Resident Management Corp. at Cochran Gardens, and Loretta Hall, who is spearheading the drive for the tenants to buy Carr Square, are helping hundreds of people in St. Louis to take charge of their lives and better themselves.

Cochran Gardens and Carr Square are vivid examples of empowerment—what happens when ownership of public services is pulled out of the hands of bureaucrats and put in the hands of those receiving the services. They are living proof that when people are treated as helpless clients for whom decisions must be made, they will learn dependency; but when they are given control over their destinies, they will learn independence.

There are several arguments raised by opponents of resident management and ownership. Some say that it just will not work—that tenants are just not capable of managing large properties. It is true that not every public housing project is ready for resident management or tenant ownership right now, but there are interim steps that can be taken to develop the skills necessary. Residents should have input into housing authority decisions. When tenants are powerless, they become dependent. Our public policy goal should be to break individuals' dependency on government and encourage their personal initiative and their empowerment.

One of the most important features of resident management is that it is an engine for economic development. Since residents themselves do much of the repair and maintenance on the buildings, resident management can provide jobs and training for public housing tenants. A successful resident management program can then set the stage for tenant ownership.

Some charge that resident management and ownership is just a smokescreen for those who want to gut Federal housing programs. This is ideological nonsense. Resident management and ownership are not a substitute for all housing programs, but they are innovative, successful social policy that deserves to be explored fully. Resident empowerment is just one component of an overall shift in housing policy away from the failed programs of the past that have wasted billions on cumbersome and costly projects whose only beneficiaries have been builders and developers. Our housing policy should assist the poor, not enrich the middleman.

I am encouraged by some of Jack Kemp's ideas to reform and rejuvenate HUD. I believe that this modest initiative to encourage tenant ownership fits in with Kemp's broader policy of getting housing assistance directly to the poor. I will be working with the administration to have these provisions included in the housing authorization and reform package that they will be presenting to us in the next several weeks.

Mr. President, all Americans deserve a decent place to live and a chance to run their own lives. Tenant ownership can help achieve their goals and it deserves a chance to work.

I ask unanimous consent that a copy of the legislation and several articles on tenant ownership and management be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1799

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Urban Homestead Act of 1989".

SEC. 2 HOMEOWNERSHIP ASSISTANCE.

(a) REHABILITATION ASSISTANCE.—Section 21(a)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437s(a)(2)(A)) is amended by inserting after "section 14" the following: "or rehabilitation assistance under section 8(e)(2),".

(b) EXTENSION OF AUTHORITY.—Section 21(a)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437s(a)(2)) is amended by striking subparagaph (C).

(c) TECHNICAL ASSISTANCE.—Section 21(a)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437s(a)(2)) (as amended by subsection (b) of this section) is further amended by adding at the end the following new subparagraph:

"(C)(i) To the extent budget authority is available pursuant to clause (iii), the Secretary shall provide financial assistance directly to resident management corporations to permit the corporations to obtain, by contract or otherwise, technical assistance in carrying out homeownership activities under this section. Applications for assistance under this subparagraph may be submitted directly to the Secretary by resident management corporations.

"(ii) The financial assistance provided under this subparagraph for any resident management corporation may not exceed $250,000.

"(iii) Of the amounts available for discretionary grants under section 107 of the Housing and Community Development Act of 1974, the Secretary may use to carry out this subparagraph not more than $5,000,000 for fiscal year 1991 and $5,000,000 for fiscal year 1992.".

SEC. 3. CONDITIONS OF PURCHASE BY MANAGEMENT CORPORATION.

(a) REPLACEMENT OF PUBLIC HOUSING UNITS SOLD.—Section 21(a)(3)(A)(iv) of the United States Housing Act of 1937 (42 U.S.C. 1437s(a)(3)(A)(iv)) is amended—

(1) by striking "and" at the end of subclause (I);

(2) by striking "and" at the end of subclause (II); and

(3) by adding at the end the following new subclauses:

"(III) the use of certificates or vouchers under section 8; or

"(IV) production, acquisition, or rehabilitation of low and moderate income housing by States, local governments, nonprofit corporations, resident management corporations, and other entities, which housing shall be located in the same metropolitan area as the sold units that the housing is intended to replace; and".

(b) EXTENSION OF REQUIREMENTS.—Section 21(a)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437s(a)(3)) is amended by striking subparagraph (C).

SEC. 4. USE OF PROCEEDS.

The first sentence of section 21(a)(5) of the United States Housing Act of 1937 (42 U.S.C. 1437s(a)(5)) is amended by striking "and amounts recaptured under paragraph (4)".

[From the New York Times, June 11, 1988]

FROM SQUALOR TO SHOWCASE: HOW A GROUP OF TENANTS WON OUT

(By Isabel Wilkerson)

ST. LOUIS.—A decade ago the Cochran Gardens public housing development here was a squalid den for narcotics dealers. There were bullet holes in the walls and pools of urine in the hallways. The tenants, most of them welfare recipients, were virtual prisoners of the 12-building complex, and the city wanted to tear it down.

Now Cochran Gardens is a showcase of urban ingenuity. Where once there was only dirt, there are now azaleas and "keep off the grass" signs. Tenants sweep the hallways every day and dare not mark the freshly painted walls.

The development, with 1,900 residents, has been transformed since the tenants began managing the buildings in a movement that is spreading across the country. Fifteen years ago there were just two such tenant management groups; now there are 15, and dozens more are being formed in Cleveland, Chicago, Philadelphia, New Haven and other cities.

In most such cases, the tenants, though they hire building janitors, also perform cleaning and minor maintenance work themselves, and they apply peer pressure to insure that the development stays well kept. They collect rent for the local housing authority, which pays them a fee for their management services.

In so doing, they not only gain a new sense of independence but also deal effectively with their own housing problems, whose solutions often escaped seemingly distant bureaucracies.

NEXT STEP IS OWNERSHIP

Now some tenant management groups are seeking total control: they want to buy their complexes from their local governments under legislation, signed into law by President Reagan last February, that allows tenants to buy public housing at a small fraction of the market price.

At least two such groups—the one at Cochran Gardens here and another in Washington—are now drafting purchase proposals to be submitted to the Department of Housing and Urban Development. They hope to reach tentative agreements with the department by the end of this summer.

Already, though, the tenants at Cochran Gardens, organized into the Cochran Tenant Management Corporation, have been astonishingly successful. Using foundation grants as well as the hundreds of thousands of dollars in management fees they receive, they have built a community-wide empire: a $400,000-a-year catering business, five day-care centers, a cable-television installation service for low-income neighborhoods and a limited partnership in several private housing complexes nearby.

The corporation employs 250 people, most of them Cochran residents, and hopes within the next year to open a factory across the street that will hire hundreds more.

A LONG LIST OF RULES

The tenants' leaders run Cochran Gardens like the military, with almost as many rules and with their own hierarchy. Below the board of directors are floor and building captains who, in monitoring residents' behavior, are not above searching through garbage to find out who violated one of the complex's strictures.

At Cochran Gardens, it is forbidden to hang wash outdoors, throw garbage out the windows, speak discourteously to managers, put old furniture on the balconies, let the corridors go unswept or have pets, even goldfish.

Prospective tenants must sign a two-page list of these and other regulations before they move in, and are given periodic updates in the form of frankly written fliers. A recent edict warned, "Anyone caught spitting or urinating on the elevator, incinerator or anywhere in the building will be evicted."

That the development could vastly upgrade itself was first envisioned by Bertha Gilkey, the 39-year-old head of the board, who founded the tenant management group. She remembers moving there as a child, with her parents and 14 brothers and sisters, from a St. Louis tenement that had dirt floors. Cochran Gardens then was landscaped and clean, and she thought it was utopia.

By the late 1960's, though, the development had begun to change. Drug dealers became the unofficial managers, setting up shop in vacant apartments, stealing tenants' checks from the mailboxes and barricading the street. Drivers forced to stop at the barricades were robbed.

Many tenants moved away, and the buildings fell into disrepair. The complex, once racially mixed, had become predominantly black and predominantly poor, most of its households headed by women. Despair set in, Mrs. Gilkey recalls, and many residents gave up hope and caring.

"THE ABNORMAL BECAME NORMAL"

"People threw garbage out of the windows, and the hallways were lined with garbage bags stuffed with month-old food and mice jumping out of the trash," Mrs. Gilkey said. "The abnormal became normal."

By the mid-1970's, Mrs. Gilkey and several other outspoken tenants were fed up. "We decided things didn't have to be this way," she said. "We wanted to build accountability and standards and self-esteem."

They began with a modest wish list. They wanted clean, well-kept buildings that had front and back doors, which had been torn down by drug dealers who wanted quick access to hiding places. They scheduled a cleanup day, brought soap and water, and scrubbed the floors and walls themselves. They bought new paint, and every family painted its own hallways. They sold pig's feet and chicken wings to get the money to replace the doors.

Early successes helped the tenants convince the local and national governments that they could run the complex, and in 1976 they signed a management contract with the St. Louis Housing Authority that provided them a fee of $69,000 a year. Today that fee is $858,000, more than 95 percent of the $895,000 in publicly subsidized annual rents paid by the residents.

Morgan Doughton, a senior domestic policy analyst at the White House, says the group has surprised even its supporters.

"It turned into an all-purpose organization that had earned the right to manage its own housing," Mr. Doughton said. "It's more than collecting rent and making sure broken windows get repaired. It makes residents feel they are part of the community."

To work, the system relies in part on people like Nellie Moore, a building captain who tracks her charges like a private investigator. "If somebody leaves a bag of trash in the rubbish room, I go through the trash to find out who they are," Mrs. Moore said. "If you look long enough, you usually find a bill in there with their name on it."

Mrs. Moore does her "building check" every day, making sure that the floors, walls and baseboards are cleaned and that there are no cobwebs in the stairwells.

"We run Cochran like a real estate manager would, not like a social program," Mrs. Gilkey said. "The buildings aren't writing graffiti on themselves. They're not tearing themselves down. There are consequences for that kind of behavior, and the consequence here is that we're going to put you out."

Mrs. Gilkey herself has now risen to international prominence as a leader in the tenants' rights movement. She has traveled to Europe, Africa and the Middle East, training low-income residents and preaching the gospel of tenant management.

At the same time, her group's business ventures have expanded rapidly. When the complex received $22 million for renovations from the Department of Housing and Urban Development, the tenants decided to reduce the number of residents in each of the buildings. They enlarged the old apartments, built a complex of town houses for the displaced residents and then sold the town houses back to the housing authority, at a profit of about $10,000.

And when Mrs. Gilkey heard that some cable television companies were afraid to send crews to low-income neighborhoods, the Cochran Gardens group trained its residents in installation. Now the group receives from the cable company 10 percent of the revenues from each household the group serves. "What becomes a problem for other folks becomes a market for us," Mrs. Gilkey said.

The successes of the Cochran and similar tenant management groups have put pressure on local housing authorities to either improve their management or allow more tenants to run their own complexes. "This is one of the best ways to make the public sector more efficient," said Mr. Doughton, the White House aide.

Thomas Costello, who as St. Louis housing director handed management of Cochran Gardens to the tenants in 1976, agreed. Tenant management "is not necessarily a panacea" for all the problems confronting public housing, he said. "But if properly nurtured, it's the best of both worlds."

[From the Washington Post, Oct. 25, 1988]

(By Courtland Milloy)

THE REPUBLICAN APPROACH

An amazing transformation of Kenilworth-Parkside public housing project in Northeast Washington—from a crime-ridden rot hole into a landscaped, townhouse-style development—will be celebrated today when federal officials turn over a symbolic key of ownership to the residents.

Much will be made of the vision and dogged determination of Kimi Gray, the Kenilworth management corporation chairman. Mayor Marion Barry also will share in the glory.

But the true meaning of this auspicious occasion will be lost unless we face the facts underlying the rise of these "underclass" tenants into the ranks of homeowners,

many of them now gainfully employed, some in their own small businesses.

Simply put, the Republican philosophy of self-sufficiency, entrepreneurship and bureaucratic deregulation has borne a mighty sweet fruit.

Most black people will not like to hear this, I'm sure, and that is understandable given the fact that outrageous acts of racism by Republicans—the latest example being the "psychosexual" use of black murderer Willie Horton by the Bush campaign—has obscured an otherwise powerful economic message.

But if we can agree that the Democrats' treatment of Jesse L. Jackson shows that neither political party is above racism, and move on to the one thing that can nullify its effects—meaning money—then it is in the interest of all black people to look at what the Republican approach has done for the people of Kenilworth-Parkside.

Here was a 464-unit project that, in 1982, was without heat or hot water, with the highest crime rate of any city-owned property and more than 80 percent of its residents on welfare. It was then that Mayor Barry agreed to sign a contract with the newly formed Kenilworth-Parkside Resident Management Corp., headed by Gray, that gave residents the authority to try to solve the problems themselves.

As residents wrangled with ways to increase rent payments and reduce crime, Robert L. Woodson, president of the National Center for Neighborhood Enterprise, was working on a resident management plan designed to foster tenant ownership of housing projects. Woodson presented his plan before the Republican Party platform committee in 1984, and it was adopted unanimously.

Rep. Jack F. Kemp (R-N.Y.), and Sen. William Armstrong (R-Colo.) then sponsored briefings before Republican members of Congress on this subject, and later Reps. Steve Bartlett (R-Tex.) and Richard K. Armey (R-Tex.) went to Kenilworth and began holding field hearings, actually listening to what residents wanted to accomplish.

Tenants explained that there were barriers built into the existing public housing regulations, that created disincentives for self-improvement.

Not only were tenants prohibited from buying their developments, but tenant groups did not even have a right to exist. Residents were, in effect, totally under the control of the local housing authorities. If tenant groups began complaining too much, for example, government housing officials could simply abolish them.

Residents also pointed out that as they began taking courses in home improvement, the cost of operating and maintaining the housing project decreased, creating a surplus of funds. But housing regulations required that this money be returned to the federal government, instead of being pumped into day care and small businesses, as residents would have liked.

Out of these and other hearings came the Housing and Community Development Act of 1987, which was initially opposed by many Democrats. One reason: union members, traditional Democrats, did not like the idea of residents performing their own maintenance. Yet, as residents contended, it had become almost impossible for them to get plumbers, electricians and other maintenance workers to venture into their neighborhood when they needed them.

To his credit, D.C. Del. Walter E. Fauntroy (D) broke away from the Democratic pack on this one and, indeed, took a lot of heat from his stance. But credit is also due to Jim Nutnall, a member of Fauntroy's church as well as a member of Woodson's group, and the late Carl Holman, president of the National Urban Coalition, who helped pursuade Fauntroy that cosponsoring the legislation along with Jack Kemp was the right thing to do. Despite last-minute efforts by some Democratic members of Congress to kill the bill, the measure passed.

What we have today is a national showcase, with 132 former welfare recipients now working, a 77-percent increase in rent collection, a relatively crime-free environment and a projected $5 million tax benefit to the city.

Most important, plans are under way to duplicate this transformation at 12 public housing sites around the country, all because of a Republican-inspired piece of legislation which recognizes that poor people have the capacity and the will to help themselves, and simply need the opportunity to do so like everybody else.

[From the Washington Post, Oct. 31, 1988]

THE KENILWORTH STORY

(By William Raspberry)

For the people who live there, the conversion of Northeast Washington's Kenilworth-Parkside public housing project to tenant ownership is the fulfillment of a dream.

For Democrats loath to give the Republicans any additional edge in a presidential contest they already appear to be winning, the conversion—or at any rate, the timing of its announcement—is just another cynical manipulation of symbols.

No one has actually said the novel plan—which will permit the sale of the 464-unit project to a tenants' association for $1—is a bad idea. How can it be a bad idea to allow public housing tenants to become homeowners, with all the social benefits that go with it? The unseemly fight is not about the idea but about politics.

Thus, while Kenilworth-Parkside residents were holding a press conference last Tuesday to announce their new status, Jesse Jackson, a man they greatly admire, was in front of a boarded-up building across town holding a counter-press conference to denounce the Reagan administration's "exploitation" of the transformation.

"This administration is having a housing press conference instead of a housing policy," Jackson said, explaining his seeming opposition to what he acknowledges is a good idea. "My fear is that an uncritical media will let them have this photo opportunity and escape responsibility for the fact that they have cut the federal housing budget by 75 percent at a time when 7.7 million people are in inadequate housing, when 5.4 million needy families receive no housing assistance, when 3 million to 5 million Americans are homeless.

"Unless we show that there are two sides to the Kenilworth story, we would allow them to get away with the appearance of saying to poor people, 'If you really want to own something and not just live in the projects, look to us; we give away money and buildings.' "

Jackson has a point, but it might have been stronger if the Democrats and liberals in Congress had helped facilitate the Kenilworth dream, which is scheduled to be repeated in a dozen cities.

The plan, the brainchild of conservatives associated with the Heritage Foundation, encourages housing authorities to move toward tenant management and tenant ownership of public housing—not just because it is a cheap way of making conservatives seem sympathetic to the poor but because it makes pragmatic sense.

Before Kimi Gray and her Resident Management Corp. took over operations at Kenilworth-Parkside, it was a deficit-ridden, crime-infested slum project that once went for three years without heat and hot water. The project now not only produces an income surplus but also has put scores of residents to work and sent hundreds of youngsters to college. In an area where drug-related violence is the norm, Kenilworth-Parkside is largely crime free.

But because conservative Republicans were in the van of the experiment, Democrats were reluctant to sign on. Some objected to the fact that maintenance workers were paid less than union rate; some to the demand that surpluses resulting from the doubled rate of rent collections be retained by the management council instead of being handed over to the Housing authority.

The sad truth is that the "good guys" fought the idea virtually all the way. Only late in the game did Del. Walter Fauntroy agree to support the plan, and then with less than total enthusiasm. And last Tuesday, instead of being with Kimi Gray to share the accolades, he was with Jackson at the counter-press conference.

It is true that the Reagan administration's overall housing policy has been sadly inadequate, even brutal. It is true that allowing a few thousand public housing tenants to become homeowners does not solve the problem of homelessness. But it is also true that a good idea is a good idea, regardless of parentage. Even Jackson acknowledges that Kenilworth-Parkside is a good idea: "What this group has done—allowing people to manage where they live and in effect turning projects into condominiums, is right and sound."

It's too bad he couldn't have been on hand to say it to the tenants themselves.

Instead of worrying that Kenilworth-Parkside is a conservative idea, conservatives and liberals alike ought to acknowledge that it is a good idea that deserves to become a national policy.

By Mr. HATCH (for himself and Mr. THURMOND):

S. 1800. A bill to reauthorize the U.S. Commission on Civil Rights, and for other purposes; to the Committee on the Judiciary.

U.S. COMMISSION ON CIVIL RIGHTS REAUTHORIZATION ACT

Mr. HATCH. Mr. President, today I am introducing the U.S. Commission on Civil Rights Reauthorization Act of 1989. It is a straightforward bill. It simply extends the life of the current U.S. Commission on Civil Rights for 6 years. It makes no changes in the current law authorizing the Commission.

An independent and balanced Commission can serve the useful purpose of examining the direction of civil rights into the 1990's. I believe the Commission should be left free to examine those issues it feels merit its consideration. We should reauthorize it as is, without imposing constraints on it and without tampering with the Commission's independence.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1800

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Commission on Civil Rights Reauthorization Act of 1989".

SEC. 2. REAUTHORIZATION.

(a) TERMINATION.—Section 8 of the United States Commission on Civil Rights Act of 1983 (42 U.S.C. 1975f) is amended by striking "1983" and inserting "1989".

(b) AUTHORIZATION OF APPROPRIATION.—Section 7 of the United States Commission on Civil Rights Act of 1983 (42 U.S.C. 1975e) is amended by striking "1989" and inserting "1995".

By Mr. SIMON:

S. 1801. A bill to extend the U.S. Commission on Civil Rights; to the Committee on the Judiciary.

CIVIL RIGHTS COMMISSION TEMPORARY REAUTHORIZATION ACT

● Mr. SIMON. Mr. President, today I am introducing a bill to extend the charter of the U.S. Commission on Civil Rights, which is due to expire on November 30, for 6 months. A companion bill in the other body is being introduced by my good friend and distinguished colleague, the gentleman from California, Mr. DON EDWARDS.

The U.S. Commission on Civil Rights was created in 1957 by President Eisenhower, and for many years it enjoyed an excellent reputation as a nonpartisan, independent agency. The Commission attracted many distinguished Americans to its service, and its landmark studies made important contributions to our Nation's progress in the area of civil rights.

In the recent past, however, the Commission has suffered under a series of partisan appointments and a loss of credibility. As a result, there is currently no consensus on what to do when the Commission expires next month.

Several weeks ago I introduced S. 1714, which would create a new, reinvigorated Civil Rights Commission after letting the old one expire. Other legislation has since been introduced by my colleagues in this and the other body. There is interest from the administration in finding a workable solution.

But there is little time. The Simon-Edwards bill provides that time, by giving a short, 6-month extension to the current Commission. The bill also allows the Commission to fill the post of staff director, which has been vacant, save for an acting staff director, for 35 months.

Mr. President, I believe the work of the Commission is far too important to let it die, particularly since discussions in Congress and the administration are well underway. The majority leader has told me he will do all he can to expedite this legislation. I hope we can act quickly on this and extend the life of the Commission before time runs out.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1801

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "The Civil Rights Commission Temporary Reauthorization Act of 1989".

SEC. 2. REAUTHORIZATION.

The United States Commission on Civil Rights Act of 1983 is amended—

(1) in section 7, by striking "1989" and inserting "1990"; and

(2) in section 8, by striking "six years after its date of enactment" and inserting "on May 31, 1990".

SEC. 3. STAFF DIRECTOR.

Section 6(a)(1) of the United States Commission on Civil Rights Act of 1983 is amended by striking "the President with the concurrence of a majority of".●

By Mr. JOHNSTON (for himself and Mr. MCCLURE):

S. 1802. A bill to enhance nuclear safety at Department of Energy nuclear facilities, to apply the provisions of the Occupational, Health, and Safety Act to independent research on the effects of radiation on human beings, to establish a comprehensive program within the Department of Energy of research, development, and demonstration of methods for waste cleanup and remediation, to establish a process for ensuring cleanup of Department of Energy nuclear facilities, and for other purposes; to the Committee on Energy and Natural Resources.

DEPARTMENT OF ENERGY NUCLEAR FACILITIES ACT OF 1989

Mr. JOHNSTON. Mr. President, today I introduce a comprehensive bill to address the waste management problems confronting our Nation's nuclear defense facilities. The bill establishes an office of environment, safety, and health and an office of waste management and environmental restoration within the Department of Energy. It subjects nuclear facilities to the regulations of the Occupational, Safety, and Health Act of 1970. Research in epidemiology and radioactive waste management will be promoted. The health of the people and radiological conditions in the Northern Marshall Islands will be monitored and treated. To promote the disclosure of environmental violations, whistleblower protection is extended to employees of contractors at nuclear facilities. The bill clarifies the definition of the term "solid waste" in the Resource Conservation and Recovery Act. The bill establishes a procedure that ensures environmental violations by nuclear facilities will be cured.

A few weeks ago, Rocky Flats, our Nation's only producer of plutonium triggers for nuclear weapons, almost had to close its doors. This would have placed our Nation's security seriously at risk. The Department of Energy's contract with the Rockwell Corp., the operator of the plant, required actions of Department of Energy and Rockwell employees that would have placed them in danger of civil and criminal prosecution by the Environmental Protection Agency, the Justice Department and the State of Colorado. Faced with this untenable situation, the Rockwell Corp. quit operating the facility. Other Department of Energy nuclear defense facilities may well face similar problems.

It is not an issue that Federal facilities should handle waste in a responsible manner. It is also not an issue that Federal nuclear defense facilities must operate. Without Rocky Flats our Nation would effectively declare a unilateral cessation of the production of nuclear weapons. The issue, Mr. President, is to find a way to operate these facilities without entangling the Federal Government and its contractors in a web of conflicting laws that act as obstacles to waste management and not solutions.

The bill I offer today ensures responsible waste management. At the same time, it allows essential facilities to continue operating. The bill recognizes that these facilities were designed and operated initially in a very different political environment and with very different expectations than we have today. The bill does not seek to simply place the blame for noncompliance. Rather, the bill goes to the heart of the issue by ordaining a process that compels compliance.

Strong leadership is needed to ensure nuclear facilities comply with our Nation's environmental laws. The bill calls for the creation of two new offices within the Department of Energy, the office of environment, safety, and health and the office of waste management and environmental restoration. These offices will assume that leadership and spearhead the development and coordination of the policy of the Department of Energy on compliance.

The health of the workers at our Nation's nuclear facilities is of no less concern than in the private sector. Federal workers should be given the same protection other workers are given. This bill directs the Occupational Safety and Health Administration to apply the Occupational Safety and

Health Act of 1970 to our workers at our nuclear facilities.

One area of current concern is our failure to use and develop the best technology to manage waste. The bill directs the Department of Energy to expand its research efforts to improve techniques for managing wastes. It also provides easier access by scientists to radiation research.

Efforts to help the people of the Marshall Islands exposed to the fallout from the 1954 Bravo test must continue. The bill assures monitoring and research on radiation-related issues of importance to these people.

The thrust of the bill is to ensure environmental violations are exposed and cured. The following two provisions will accomplish this.

The bill directs the Secretary to determine what facilities are not in compliance, and it protects whistleblowers. Just as whistleblowers in the private sector are protected from repercussions, so should employees at Federal facilities. The bill prohibits retaliation against employees at Federal facilities who come forth with their knowledge of any violations.

The heart of the bill is the compliance agreement section. Instead of sending in the FBI once a Federal facility is found out of compliance, the bill makes the Department of Energy, the Environmental Protection Agency and the relevant State sit down, identify the problems and agree to a solution. If they fail to reach an agreement, an action may be brought in the U.S. district court to have the terms of the agreement set.

The compliance process allows all interested parties to have a say in how to best solve the problem. No one is shut out and no one can unilaterally dictate their will. The process ensures that the problems will be identified and dealt with in a responsible manner.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis of its provisions be entered into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1802

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be referred to as the "Department of Energy Nuclear Facilities Act of 1989".

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(a) the term "nuclear facility" has the definition set forth in section 318(1) of the Atomic Energy Act of 1954, as amended;

(b) the term "Secretary" means the Secretary of Energy;

(c) the term "Department" means the Department of Energy; and

(d) the term "compliance" means compliance with the substantive and procedural requirements of Federal and State environmental laws.

TITLE I—OFFICE OF ENVIRONMENT, SAFETY, AND HEALTH AND WASTE MANAGEMENT AND ENVIRONMENTAL RESTORATION WITHIN THE DEPARTMENT OF ENERGY

SEC. 101. OFFICE OF ENVIRONMENT, SAFETY, AND HEALTH.

There shall be within the Department and Office of Environment, Safety, and Health which shall be headed by an Assistant Secretary who shall be one of the Assistant Secretaries appointed as provided in section 203 of the Department of Energy Organization Act (42 U.S.C. 7133).

SEC. 102. OFFICE OF WASTE MANAGEMENT AND ENVIRONMENTAL RESTORATION.

There shall be within the Department an Office of Waste Management and Environmental Restoration which shall be headed by an Assistant Secretary who shall be appointed in addition to the Assistant Secretaries appointed as provided in section 203 of the Department of Energy Organization Act (42 U.S.C. 7133).

TITLE II—APPLICATION OF OSHA TO DOE NUCLEAR FACILITIES

SEC. 201. PLAN.

(a) The purpose of this title is to improve and enforce standards for employee health and safety at Departmental facilities.

(b) Within six months after the date of the enactment of this title, the Secretary, after consultation with the Administrator of the Occupational Safety and Health Administration, shall publish a draft plan to phase in application of the substantive requirements of the Occupational Safety and Health Act of 1970 at the nuclear facilities of the Department.

(c) The Secretary shall provide opportunity for public comment on the draft plan under subsection (b) and shall hold public hearings at at least three Departmental nuclear facilities in different regions of the nation before submitting a final plan to Congress under subsection (d).

(d)(1) The Secretary shall publish a written response to any comment on the draft plan that the Secretary considers substantial and shall submit a final plan under this section to Congress within one year after the date of the enactment of this title.

(2) The Secretary may implement the final plan under this section beginning 90 days after submission of the plan to Congress under paragraph (1).

SEC. 202. CONFORMING AMENDMENTS.

(a) Section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)) is amended—

(1) by striking out "Nothing" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), nothing"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) Beginning on the date that is five years after the date of the enactment of the Department of Energy Nuclear Facilities Act of 1989, this Act shall apply with respect to employment performed at facilities of the Department of Energy involved in the defense production missions of the Department of Energy.".

(b) The Secretary of Labor, in consultation with the Secretary, shall promulgate regulations to govern the application of the Occupational Safety and Health Act of 1970 to nuclear facilities of the Department in time to permit orderly compliance with the requirements of such Act with respect to the facilities of the Department under amendments made by subsection (a). These regulations shall include—

(A) the occupational safety and health standards to be applied at such facilities; and

(B) the manner and process of enforcement of the standards, including provisions for access to such facilities for purposes of inspection or investigation and for the safeguarding of information in possession of the Secretary that is designated sensitive or classified under other law.

TITLE III—RADIATION RESEARCH

SEC. 301. PURPOSES.

The purposes of this title are to—

(a) afford qualified independent researchers access to epidemiologically relevant data, information, and records in possession of the Secretary on persons who work or who have worked at nuclear facilities of the Department; and

(b) provide for the creation of a repository of such data, information, and records that can facilitate such access at significant cost savings relative to current practices.

SEC. 302. PANEL.

(a)(1) Promptly after the date of the enactment of this title, the Secretary shall appoint a "Panel for Evaluation of Epidemiological Programs of the Department of Energy" (hereinafter in this title referred to as the "Panel") composed of at least seven professional persons who by virtue of education, training, and experience are especially well qualified to evaluate the epidemiology programs of the Department and to make findings and recommendations with respect to such program as required under subsection (b).

(2) Upon request of the Panel, the Secretary shall promptly provide the Panel with—

(A) a complete listing of information, data, and records held or maintained by the Department and of potential use in the conduct and evaluation of epidemiological and related studies;

(B) a complete record of funds expended by the Department on research related to the health effects of exposure to radiation during any period of interest to the Panel;

(C) access to information, data, or records described in subparagraph (A) and copies of studies or reports supported under subparagraph (B); and

(D) any other information the Panel determines is needed to carry out the purposes of this section.

(3) The Panel, members of the Panel, and staff of the Panel shall take such steps as are necessary to ensure the confidentiality of information pertaining to individuals who are subjects of records reviewed under this section.

(b) Within 240 days after its appointment, or 180 days after the date after the enactment of this title, whichever is sooner, the Panel shall submit a report to the Secretary making findings and recommendations as the Panel determines appropriate with respect to the Department's epidemiology data management and research programs, including programs of studies of the incidence, distribution, and control of disease that occurs as a result of or in connection with radiation or radionuclides. The panel shall examine and evaluate—

(1) the goals, objectives, and management of such programs;

(2) the resources needed by and available to such programs, including the needs of Departmental contractors and independent researchers involved with such programs;

(3) information, data, and record management in such programs, including questions

of data completeness and accuracy, access and preparation of information, data, or records for access, controls on information, data, or records affecting personal privacy or national security, and release policies for raw data, work in progress, and completed analysis;

(4) current and proposed mechanisms for storage and access to epidemiologically relevant information, data, and records in the possession of the Secretary;

(5) the utility and feasibility of transferring to another entity the epidemiologic research functions of the Department, including control of and responsibility for the necessary information, data, and records; and

(6) such other matters that the panel determines are relevant to the purposes of this title.

(c)(1) The Secretary shall provide the Panel with office space and administrative support as needed, shall make any of the facilities and services of the Department available to the Panel upon request, and may detail Departmental personnel to the Panel to assist in carrying out the duties of the Panel under this section.

(2) The Secretary of Health and Human Services shall cooperate with the Panel and provide, on a reimbursable basis, personnel and other assistance as requested by the Panel.

(d)(1) A vacancy in the Panel shall be filled in the manner in which the original appointment was made.

(2) A Chairman of the Panel shall be appointed by the Secretary. The Panel shall meet at the call of the Chairman.

(3) All members of the Panel shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(4) The Panel shall have a Staff Director who shall be appointed by the Chairman. The Director shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS-18 of the General Schedule.

(5) Subject to such rules as may be adopted by the Panel, the Chairman may appoint, terminate, and fix the pay of such personnel as the Chairman considers appropriate. No individual so appointed may receive pay in excess of the maximum rate of basic pay payable for GS-16 of the General Schedule.

(6) The Director and staff of the Panel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(7) Notwithstanding section 552(b)(1) or section 552(b)(4) of title 5, United States Code, the Panel may obtain from any department or agency of the United States information determined by the Panel to be necessary to carry out this section. Upon request of the Chairman of the Panel, the head of such department or agency shall furnish such information to the Panel. Each person under contract with the Department to operate a Departmental facility shall cooperate fully with the Panel and provide the Panel with timely access to such facilities, personnel, and information of the contractor as the Panel considers necessary to carry out this section.

(8)(A) The Secretary shall provide that security clearances or access authorizations necessary for the Panel to carry out this section are granted as expeditiously as practicable.

(B) Members of the Panel and the Director and staff of the Panel shall handle all classified information and any other information to which access is restricted in accordance with existing law.

(9) The Panel shall cease to exist on the date which is 30 days after the date on which the Panel submits its final report.

(f) The Secretary may provide up to $1,000,000 from appropriations to the Department for fiscal year 1989 or 1990 for support of the panel and its activities.

SEC. 303. REPOSITORY.

The Secretary, after reviewing the findings of the Panel under section 302 and after consultation with the Secretary of Health and Human Services, the National Academy of Sciences, and appropriate state agencies responsible for public health, shall establish within the Department an Epidemiologic Data Repository (hereinafter in this title referred to as the "Repository") containing research quality data and records without individual identification with respect to employees of the Department and of contractors to the Department at Departmental facilities on—

(1) the types and quantities of radiation and radionuclides to which such employees have been exposed;

(2) health, mortality, and morbidity histories of such employees;

(3) demographic, occupational performance, and illness-absence characteristics of such employees;

(4) injuries and accidents at such facilities;

(5) autopsy results for such employees in the case of high internal depositions of radionuclides; and

(6) such other data, records, and information as the Secretary determines, based on the recommendations of the Panel established under section 303, will further the purposes of this title.

SEC. 304. INTERIM RESPONSE.

Until the establishment and readiness of the Repository, the Secretary shall grant access to epidemiologically relevant raw data of the Department to qualified independent researchers if—

(a) the proposal of such researcher has been favorably reviewed by scientists designated for such purpose by the National Academy of Sciences;

(b) the researcher agrees to conditions determined by the Secretary to be necessary to protect the confidentiality of personal records and the national security; and

(c) the researcher agrees to provide reimbursement for direct costs to the Department resulting from the access requested.

SEC. 305. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary to carry out the purposes of this title, not more than—

(a) $1,000,000 in fiscal year 1990;

(b) $5,000,000 in fiscal year 1991;

(c) $7,500,000 in each of the fiscal years 1992-1995.

TITLE IV—RADIOACTIVE WASTE REMEDIATION RESEARCH

SEC. 401. FINDINGS AND PURPOSE.

(a) Congress finds that—

(1) wastes generated at Departmental nuclear facilities may be simultaneously classified as solid wastes under the Solid Waste Disposal Act (42 U.S.C. 6900 et seq.) and source, special nuclear, or by-product material under the Atomic Energy Act of 1954, as amended (68 Stat. 923);

(2) such mixed wastes are subject to differing and occasionally inconsistent regulatory requirements;

(3) there is a need for improved techniques, methods, and technologies for retrieving, handling, disposing of, stabilizing, treating, analyzing, and otherwise managing mixed wastes to ensure public confidence in the management of these wastes and to better meet regulatory requirements.

(b) It is the purpose of this title to establish a program of research, development, and demonstration in the Department to identify, develop, demonstrate and transfer to the private sector such improved techniques, methods, and technologies.

(c) As used in this title, the term "mixed waste" means materials in mixture or combination containing a species of constituent parts that is a solid waste under section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)) and a species of such parts that is source, special nuclear or by-product material under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014).

SEC. 402. PROGRAM.

(a)(1) The Secretary, in continuing consultation with the Administrator of the Environmental Protection Agency, the Nuclear Regulatory Commission, and the National Academy of Sciences, shall establish and maintain within the Department a comprehensive program of research, development, demonstration, and transfer to the private sector of advanced techniques, methods, and technologies for the management of mixed wastes generated at nuclear facilities of the Department.

(2) Within one year after the date of the enactment of this section, the Secretary shall submit to Congress a five-year plan for the program under this title.

(b) The Secretary shall designate a national laboratory of the Department as a technology research and development center for purposes of this title.

(c) The program under this title shall include at least one solicitation of private sector proposals for cost-shared joint ventures involving the Secretary and more than one private sector firm in the cooperative development, demonstration and transfer to the private sector of technology for the management of mixed wastes.

SEC. 403. MODEL PROGRAM.

(a) The Nuclear Regulatory Commission, in consultation with the Administrator of the Environmental Protection Agency, shall develop model standards and regulations for the disposal of mixed wastes generated at Departmental nuclear facilities. The model standards and regulations under this section shall, in the opinion of the Commission, provide reasonable assurance that the public health and safety will be protected if mixed wastes are disposed of as provided therein.

(b) The Secretary shall seek to enter into a memorandum of understanding with the Commission to carry out subsection (a) under which the Secretary will provide funding from appropriations to the Secretary for the development of the model standards and regulations.

SEC. 404. AUTHORIZATION OF APPROPRIATIONS.

(a) There is authorized to be appropriated to the Secretary to carry out the purposes of this title not more than—

(1) $20,000,000 for fiscal year 1991; and

(2) $50,000,000 for fiscal year 1992.

(b) Such sums as may be necessary are authorized to be appropriated to the Secretary to carry out the purposes of this title in fiscal year 1993-95.

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TITLE V—MONITORING OF HEALTH AND RADIOLOGICAL CONDITIONS IN THE NORTHERN MARSHALL ISLANDS

SEC. 501. PURPOSE.

The purposes of this title are—

(a) to assure that the people of the northern Marshall Islands exposed to the fallout from the 1954 Bravo test receive medical monitoring and treatment for radiation related illnesses.

(b) to ensure that information about the radiological conditions resulting from the nuclear weapons tests conducted by the United States in the northern Marshall Islands is gathered, analysed, and made available through the Department of Energy for rehabilitation and resettlement activities; and

(c) to provide experience and expertise to the Department of Energy in the detection, diagnosis, analysis, and mitigation of the effects of radiological contamination.

SEC. 502. DUTIES OF THE SECRETARY.

The Secretary shall continue to maintain a comprehensive program of radiological activities in the northern Marshall Islands. Such program shall include—

(a) logistical support for qualified activities;

(b) medical monitoring and treatment of exposed populations;

(c) whole-body dose assessment, including plutonium bioassay, as appropriate;

(d) environmental monitoring, analysis, and the continuation of research on mitigation strategies;

(e) acquisition, as appropriate, of capital equipment;

(f) a mechanism for external review of the activities of the program;

(g) technical assistance, as requested by the Government of the Republic of the Marshall Islands, for educational activities for the benefit of the people of the northern atolls to increase their understanding of the nature of radiation, and of the activities and findings of the program; and

(h) technical assistance, as requested by the Government of the Republic of the Marshall Islands, for rehabilitation and resettlement of the islands.

SEC. 503. REPORTS.

The Secretary shall report annually to Congress on the program under this title.

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary to carry out the program under this title an amount not to exceed $6,000,000 for fiscal year 1991, $7,000,000 in fiscal year 1992, and such sums as may be necessary in subsequent fiscal years.

TITLE VI—WHISTLEBLOWER PROTECTION

SEC. 601. CONTRACTORS.

The provisions of 42 U.S.C. 5851 (relating to the protection of employees of licensees of the Nuclear Regulatory Commission) shall apply to each contractor (or subcontractor thereof) at a Departmental nuclear facility, as if such contractor (or subcontractor thereof) were an employer under 42 U.S.C. 5851.

SEC. 602. EMPLOYEES.

The provisions of 42 U.S.C. 5851 (relating to the protection of employees of licensees of the Nuclear Regulatory Commission) shall apply to each employee of a contractor (or subcontractor thereof) at a Departmental nuclear facility, as if such employee were an employee under 42 U.S.C. 5851.

SEC. 603. CONFORMING DEFINITIONS.

For purposes of this title, the term as used in 42 U.S. 5851—

(a) "this Act or the Atomic Energy Act of 1954" should be read as "this Act, the Department of Energy Organization Act, Federal or state environmental laws, or the Atomic Energy Act of 1954"; and

(b) "Commission" should be read as "the Secretary of Energy".

TITLE VII—MIXED HAZARDOUS WASTE

SEC. 701. CLARIFYING AMENDMENT TO DEFINITION OF SOLID WASTE.

Section 1004 (27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)) is amended—

(a) by inserting "(A)" after "(27)";

(b) by striking out ", or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923) "; and

(c) by adding at the end thereof the following new subparagraph:

"(B) The term 'solid waste' does not include—

"(i) source, special nuclear, or by-product materials as defined in section 11 of the Atomic Eneregy Act of 1954, as amended (68 Stat. 923);

"(ii) wastes emplaced in a repository, as defined in section 2(18) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(18)); or

"(iii) wastes emplaced in the Waste Isolation Pilot Plant authorized under section 213 of the Department of Energy National Security and Military Applications of Nuclear Eneergy Authorization Act of 1980 (93 Stat. 1265).".

SEC. 702. APPLICABILITY OF AMENDMENTS.

This title and the amendments made thereby do not—

(a) alter existing authority of the Secretary to regulate source, special nuclear or by-product material when in a mixture or combination with a solid waste; or

(b) affect, modify, or amend the Uranium Mill Tailings Radiation Control Act of 1978.

TITLE VIII—NUCLEAR FACILITIES CLEANUP COMPLIANCE AGREEMENTS

SEC. 801. NEGOTIATION OF AGREEMENTS.

(a) Except as provided in subsection (b), not later than 12 months after the date of enactment of this Act,

(1) the Secretary;

(2) the Administrator of the Environmental Protection Agency; and

(3) each state in which is located such nuclear facility of the Department,

shall complete negotiaton of a nuclear facility compliance agreement with respect to any such nuclear facility that the Secretary determines is not or may not be in compliance with the substantive and procedural requirements of Federal and state and environmental laws on the date of enactment of this Act.

(b) Nothing in this title affects or requires the modification of any agreement entered into prior to the date of enactment of this Act.

SEC. 802. CONTENT OF AGREEMENT.

The compliance agreement referred to in section 801 shall, with respect to each nuclear facility of the Department, include the following:

(a) an inventory of environmental violations at the facility that require cleanup and abatement;

(b) a schedule for achieving compliance with milestones and deadlines;

(c) provisions for independent state validation of environmental monitoring data;

(d) an agreement as to the type of notice that shall be given if there are any violations of the agreement or Federal or state environmental law;

(e) provisions which would extend the coverage of the agreement to any contractor operating at the facility (including any official, officer, director, employee, agent, or subcontractor of such contractor); and

(f) a requirement that the Department immediately amend any contract for the operation and maintenance of the facility to incorporate the terms of the agreement.

SEC. 803. FAILURE TO REACH AGREEMENT.

(a) Within 12 months after the date of enactment of this Act, the Secretary shall provide a report to Congress on any failure to reach agreement in accordance with section 801 and include an explanation of the reasons for such failure. At the request of a state involved in the negotiation under section 801, the Secretary shall include in the report an explanation of the reasons for the failure prepared by such state.

(b) At any time after the date on which the Secretary notifies Congress of failure to reach agreement with the state, the Attorney General or the state involved in the negotiation of the compliance agreement may institute an action in the U.S. District Court having jurisdiction over the nuclear facility for which agreement cannot be reached, to determine the content of a compliance agreement. Such an action shall be the exclusive means by which a failure to reach agreement may be resolved. The content of any compliance agreement imposed by the U.S. District Court shall be in accordance with section 802 of this Act.

SEC. 804. JUDICIAL REVIEW AND ENFORCEABILITY OF AGREEMENT.

(a) Actions to enforce the terms of any agreement entered into under this title may only be brought by the Attorney General, on behalf of a party to the agreement other than the state, or by the state in accordance with subsection (b).

(b) In the event that the Secretary and the Attorney General, within 60 days after the request by the state, file to enforce any term of an agreement entered into under this title, the state may bring an action in the appropriate United States District Court to enforce such term.

SEC. 805. ENFORCEMENT OF COMPLIANCE WITH ENVIRONMENTAL LAWS PENDING COMPLETION OF AGREEMENT NEGOTIATION.

(a) Upon a finding of noncompliance by the Secretary under section 801, pending the completing of an agreement by the parties or by the court with respect to a nuclear facility of the Department under section 801, the Department and any contractor engaged in operations at the nuclear facility (including any official, officer, director, employee, agent or subcontractor of the Department or any such contractor) shall not be subject to any actions, whether civil, criminal or for administrative findings, order, fines or penalties under Federal or state environmental law, or for any liability in torts, damage, or other award based upon failure to comply with such environmental laws, which arise in connection with operations at such nuclear facility during that period.

(b) Once an agreement has entered into force, conformance with the terms of the agreement shall be deemed to satisfy all substantive and procedural requirements of Federal and state environmental laws.

(c) The provisions of subsections (a) and (b) shall not apply to actions resulting from willful misconduct by the Department or a contractor at a nuclear facility that threatens human life.

(d) The provisions of subections (a) and (b) shall not apply to violations in existence and known but not under negotiation or not included in the compliance agreement once in force.

SEC. 806. USE OF PENALTIES AND FINES.

Funds collected by a state through penalties and fines imposed for violations of any substantive or procedural requirement of federal or state environmental laws with respect to a nuclear facility within such state shall be used by the state only for projects designed to improve or protect the environment at such facilities or to defray the costs of environmental protection or enforcement at such facilities.

SEC. 807. PAYMENT OF ATTORNEY FEES.

(a) If the requirements of subsection (b) are met, the Secretary may pay, from funds available to the Department, attorney fees incurred by a individual in connection with a civil action, criminal indictment, or criminal prosecution for violation for the substantive or procedural requirement of a Federal or state environmental law. The Secretary may pay attorney fees in advance of final disposition of the action, indictment, or prosecution upon receipt of an undertaking by the individual to repay the amount advanced if the Secretary determines ultimately that the individual is not entitled to payment of attorney fees under this section.

(b) The Secretary may pay attorney fees under subsection (a) if the Secretary finds the individual—

(1) is an agent, officer or employee of the Department;

(2) was acting in good faith and in compliance with applicable rules, regulations or orders of the Secretary;

(3) had no reasonable cause to believe the conduct was unlawful; and

(4) was acting within the scope of the assigned duties of the individual.

SECTION-BY-SECTION ANALYSIS—DEPARTMENT OF ENERGY NUCLEAR FACILITIES ACT OF 1989

Section 2. Definitions.—This section contains the definitions that apply to the Act as a whole. A significant term defined in this section is "nuclear facility," which limits the coverage of the Act to the facilities described in section 318(1) of the Atomic Energy Act of 1954.

TITLE I. OFFICES OF ENVIRONMENT, SAFETY AND HEALTH AND WASTE MANAGEMENT AND ENVIRONMENTAL RESTORATION WITHIN THE DEPARTMENT OF ENERGY

This title establishes an Office of Environment, Safety, and Health and an Office of Waste Management and Environmental Restoration within the Department of Energy. The Office of Environment would be headed by an Assistant Secretary who would in addition to the Assistant Secretaries required by the Department of Energy Organization Act.

TITLE II. APPLICATION OF OSHA TO DOE NUCLEAR FACILITIES

This title establishes a procedure for phasing in compliance by the nuclear facilities of the Department with the regulation of the Occupational, Safety, and Health Administration over a five-year period.

Under section 201, the Secretary is required, within six months after the date of the enactment of the title, to publish a draft plan to accomplish this. After public comment on the proposed plan, the Secretary would submit a final plan to Congress, and would be authorized to implement the plan beginning 90 days after such submittal.

Under section 202, the Secretary of Labor is required to promulgate regulations to permit orderly compliance with the requirements of the Occupational Safety and Health Act of 1970, including the standards to be applied to the manner and process of enforcement of the standards.

TITLE III. RADIATION RESEARCH

This title provides a procedure for qualified independent researchers to obtain access to epidemiological data, information, and records in possession of the Secretary of Energy.

Section 302 establishes a panel of seven professionals to make findings and recommendations on the Department's epidemiology data management and research programs, including goals, objectives, and management of the programs; resources required; mechanisms for storage and access to data; and the utility and feasibility of transferring to another entity the epidemiologic research functions of the Department.

The panel must report within 180 days after the enactment of the title.

The Secretary, after reviewing the recommendations of the panel, and after consultation with appropriate entities, is directed to establish a Epidemiologic Data Repository within the Department. The Repository would contain research-quality data without individual identification about employees of the Department and its contractors.

Finally, pending the establishment of the repository, the Secretary must grant access to epidemiologically relevant raw data to qualified independent researchers if the research proposal is favorably reviewed by the National Academy of Sciences; the researcher agrees to protect the confidentiality of personal records and the national security; and the researcher reimburses the Department for direct costs of providing the data.

There is authorized to be appropriated $36 million for fiscal years 1990–1995 for this title.

TITLE IV. RADIOACTIVE WASTE REMEDIATION RESEARCH

This title establishes within the Department of Energy a program to identify, develop, demonstrate, and transfer to the private sector improved techniques for managing mixed radioactive and toxic wastes. The Secretary is required to submit to Congress within one year after the date of enactment a five-year plan for this program and to designate a national laboratory as a center for purposes of the title.

The Nuclear Regulatory Commission, in consultation with the Administrator of the Environmental Protection Agency, is required to develop model standards and regulations for the disposal of the mixed wastes generated at nuclear facilities of the Department.

There is authorized to be appropriated to the Secretary $70 million for fiscal years 1991 and 1992 for purposes of this title.

TITLE V. MONITORING OF RADIOLOGICAL CONDITIONS IN THE MARSHALL ISLANDS

The purpose of this title is to require the Secretary of Energy to continue to maintain a program of radiological activities at the atolls in the Marshall Islands that were contaminated by United States nuclear weapons testing. These activities include medical monitoring and analysis, including wholebody counting and plutonium bioassay, as appropriate; environmental monitoring, analysis and research on mitigation strategies; educational activities for the benefit of the people of the Northern Marshall Islands to increase their understanding of the nature of radiation and of the activities and findings of the program; and technical assistance, as requested by the Government of the Republic of the Marshall Islands, for rehabilitation and resettlement of the islands.

There is authorized to be appropriated for this program $13 million for fiscal years 1991 and 1992.

TITLE VI. WHISTLEBLOWER PROTECTION

This title applies "whistleblower" protection provisions to the employees of contractors and subcontractors at nuclear facilities of the Department. These provisions apply the provisions of section 211 of the Energy Reorganization Act of 1974, 42 U.S.C. 5851, that provide protection to whistleblowers who are employees of Nuclear Regulatory Commission licensees.

Section 601 makes the whistleblower section of the Energy Reorganization Act apply to Department of Energy contractors. This will prohibit any contractor from discriminating against any employee because of his participation in a proceeding under this Act, the Department of Energy Organization Act, federal or state environmental laws, or the Atomic Energy Act of 1954 for administration or enforcement of the Acts.

Section 602 gives employees of the contractors the protection afforded by the whistleblower section of the Energy Reorganization Act. This will allow an employee who believes he has been discriminated against to file a complaint with the Secretary of Labor. The Secretary of Labor would investigate the complaint, and if a violation of this title is found, issue an order providing relief. The Secretary of Labor may not settle the proceeding on a complaint without the participation and consent of the complainant.

Section 603 provides for conforming definitions.

TITLE VII. MIXED HAZARDOUS WASTE

This title clarifies the definitions in the Solid Waste Disposal Act to make clear that the term "solid waste" does not include source, special nuclear, or by product materials under the Atomic Energy Act of 1954, wastes placed in a repository under the Nuclear Waste Policy Act of 1982, or wastes placed in the Waste Isolation Pilot Plant.

TITLE VIII. NUCLEAR FACILITIES CLEANUP COMPLIANCE AGREEMENTS

This title provides a process for bringing into compliance the nuclear facilities of the department that are not now in compliance with the environmental laws.

Under section 801, the Secretary, the Administrator of the Environmental Protection Agency, and the state containing any such facility are required to complete negotiation on a nuclear facility compliance agreement within 12 months after the date of the enactment of this title. Nothing in the section affects or requires modification of any agreement entered into prior to such date of enactment.

Section 802 describes the content of the agreement. The agreement must include an inventory of environmental problems at the facility that require cleanup and abatement; a schedule for achieving compliance, with milestone and deadlines; provisions for independent state validation of environmental monitoring data; an agreement on notice of violations of the agreement or of any federal or state environmental law; provisions ex-

tending coverage to any contractor or subcontractor at the facility; and a requirement that the Department immediately amend any contract for operation and maintenance of the facility to incorporate the terms of the agreement.

Section 803 requires the Secretary to report to Congress any failure to reach an agreement with a state within the 12 month period. At any time thereafter, the United States or the state may seek action in U.S. District Court to determine the content of a compliance agreement. Any compliance agreement imposed by the court shall be in accordance with section 802.

Section 804 provides that actions to enforce the terms of the agreement may only be brought by the U.S. Attorney General on behalf of a party to the agreement, and the state. The state may only bring an action if the Secretary of the Department of Energy and the Attorney General failed to enforce the terms of the agreement within 60 days after being requested to do so by the state.

Section 805 provides that until either the parties or the court complete the compliance agreement, the Department or any contractor or subcontractor at the facility are not subject to any actions whether civil, criminal or administrative based upon the failure to comply with federal or state environmental laws at such facility.

Once an agreement has entered into force, compliance with the terms of the agreement shall be deemed to satisfy the substantive and procedural requirements of federal and state environmental laws.

Section 805 does not apply to actions resulting from willful misconduct that threatens human life or to violations that are in existence and known but not under negotiation or not included in the compliance agreement once in force.

Section 806 provides that all funds collected by a state through penalties and fines shall be used by the State only to improve or protect the environment at Federal facilities.

Section 807 allows the Secretary to pay the attorney fees incurred by an agent, officer, or employee of the Department of Energy in connection with a civil action, criminal indictment, or criminal prosecution for violation of a state or federal environmental law. The individual must have acted in good faith, reasonably believed the conduct was lawful and was acting within the scope of his assigned duties.

Mr. McCLURE. Mr. President, the American people have a right to expect that the U.S. Government, as the leader of the free world, will not only maintain our nuclear deterrent but will also adequately protect the health and safety of the American people through the credible, safe, and environmentally sound operation and management of the nuclear facilities of the Department of Energy. Unfortunately, this has not always been the case.

For over 40 years, the Department of Energy and its predecessor, the Atomic Energy Commission, have operated an extensive complex of civilian and nuclear weapons facilities. Unfortunately, we now find that at some of these facilities we must deal with the unacceptable legacy of past mismanagement practices. Some of these facilities are plagued with environmental, health and safety problems that should not have been allowed to occur; they should have been dealt with as they arose.

Consequently, as the United States enters the 21st century, we are confronted with some of the most challenging problems in our history. For example, because of safety concerns at the Savannah River production complex, for the first time since the beginning of the nuclear age the U.S. Government has had to suspend tritium production. This is clearly unacceptable.

We find ourselves faced with a situation that has been characterized as the equivalent of a balloon mortgage payment. When we initially built the defense production complex, and for many years of its operation, this Nation collectively deferred or ignored its responsibility to fully deal with the related issues of health, safety, and waste management.

And now that bill has come due. Secretary of Energy Watkins and we in the Congress must formulate a responsible plan to clean up our past mistakes. There is enough blame to go around for why this was allowed to occur; all of us—DOE and its predecessor agencies, administrations of both parties, and we in the Congress—did not sufficiently exercise our oversight responsibilities or provide adequate funding. But simply pointing fingers doesn't deal with this problem: the bottom line is that the Federal Government has an obligation—indeed, it has a responsibility—to correct these problems and modernize our defense production complex. The Federal Government must now absorb the full-costs of past nuclear deterrence policies over a short period of time. Just as we cannot abdicate our position with respect to global defense, we also cannot neglect the health and safety of the very citizens that our defense strategy is designed to protect.

From this perspective, I fully support efforts by the Secretary to change the Department's philosophy governing the operation of the defense production complex to place long overdue emphasis on environmental, safety and health concerns. I further support his efforts to realign the Department's management functions based on the principles of—

First, competent DOE and contractor management that is prepared to provide the necessary leadership to foster a "safety culture" that has been sorely lacking at many departmental facilities; and

Second, line management that is wholly accountable for safety and attainment of the highest standards of operational excellence.

But it would be a mistake to assume that changes in structure are enough. Changes in structure alone will not solve this problem, because the problem resides as much in the behavior of people as in the management structure. I would note that the structure to deal with the problems has always been there. The prevailing mindset, best characterized as a "production culture," still pervades many of DOE's defense production facilities. The problem is how to change this mindset.

We are all familiar with reports in the media and from various "watchdog" agencies about the problems at certain DOE weapons facilities, such as West Valley, the Feed Materials Production Center, the Savannah River production reactors, and Rocky Flats. But little is heard about other DOE nuclear facilities, such as the Pantex or Pinellas plants, or the Los Alamos, Sandia, or Livermore laboratories.

Each of DOE's nuclear facilities has a different environmental, health, and safety record. Some of the facilities would appear to have a better record than others, while some are in need of major improvement. A critical question is: What has produced the differences that we observe today in the various environmental, health, and safety records? If I am not mistaken, all of these facilities operated under essentially the same contractual arrangements. What produced the difference?

Equally important, among the various DOE nuclear facilities there is a wealth of environmental, safety and health expertise and experience that can be marshaled to deal with the issues before us today. Another critical question is: How can we transfer the expertise that exists at those DOE facilities with the best records to those that have the greatest problems? For example, there is extensive expertise and experience at the INEL—the Idaho National Engineering Laboratory—among the DOE and contractor personnel that is nationally recognized. This expertise is now being relied on at Savannah River. Other DOE facilities have similar expertise and experience on both how things should and should not be done. A mechanism must be established to make this expertise available to those DOE facilities faced with environmental, health, and safety problems.

If we are to be successful in dealing with the environmental, safety, and health problems at these nuclear production facilities, then our effort must be founded on a commitment to excellence, competence and confidence. Only when and if the American people understand that our effort is formulated and implemented with a dedication to these principles can it be effective.

For these reasons, today I cosponsor the Department of Energy Nuclear Facilities Act of 1989. This measure—

Establishes an Office of Waste Management and Environmental Restoration and authorizes an additional, new Assistant Secretary for Waste Management and Environmental Restoration.

Codifies the duties and responsibilites of the existing Assistant Secretary for Environment, Safety, and Health.

Applies the substantive requirements of the Occupational Safety and Health Act of 1970 to the DOE's nuclear facilities. Within 1 year of enactment, requires formulation of a compliance plan, with an opportunity for public comment, to be implemented by DOE within 90 days of notification of the Congress.

Establishes a continuing, DOE Panel for Evaluation of Epidemiological programs. Within 180 days of enactment, the panel must examine and evaluate DOE epidemiology data management and research programs. Requires consultation with the Secretary of Health and Human Resources. Provides an epidemiological data repository to be established within DOE; however, in the interim, the Secretary must grant access to qualified independent researchers to epidemiologically relevant raw data.

Directs DOE to establish a comprehensive program of research, development, and demonstration transfer to the private sector of advanced techniques, methods, and technologies for the management of mixed wastes generated at DOE nuclear facilities. The program shall include at least one cost-shared joint venture. Authorizes $20 million in fiscal year 1991 and $50 million in fiscal year 1992.

Requires the NRC, in consultation with the EPA, to develop model standards and regulation for the disposal of mixed wastes.

Directs the Secretary to maintain a comprehensive program of radiological activities in the northern Marshall Islands. Authorizes $6 million in fiscal year 1991 and $7 million in fiscal year 1992.

Extends existing employee—whistleblower—protections now afforded employees of NRC licensees or their contractors—under section 210 of the Energy Reorganization Act of 1974—to DOE contractor employees.

Requires within 1 year after enactment, that negotiations be completed on compliance agreements—with EPA and the host State—with respect to all DOE nuclear facilities not in compliance with the substantive and procedural requirements of Federal or State environmental laws.

In my judgment, Mr. President, this measure strengthens our commitment to the principles of excellence, competence and confidence in dealing with the environmental, safety, and health problems at the Department of Energy's nuclear production facilities.

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 1803. A bill to amend section 108(f) of the Internal Revenue Code of 1986 to clarify the tax treatment of discharges of indebtedness under certain student loans; to the Committee on Finance.

TREATMENT OF DISCHARGES OF INDEBTEDNESS UNDER CERTAIN STUDENT LOANS

● Mr. STEVENS. Mr. President, today I am introducing S. 1803, a bill to bring fairness and equity to the tax treatment of Alaska's student loan forgiveness program. The bill is a companion measure to H.R. 3518, introduced yesterday by Representative DON YOUNG of Alaska.

Mr. President, before I explain the need for this bill, I'd like to give Senators some background on this issue. In general, forgiveness of debt in return for an action on the part of the debtor is taxable and must be reported as "other income." This principle applies generally to forgiveness of student loan debt.

However, section 108(f) of the Internal Revenue Code provides an exemption from taxation for certain student loan forgiveness programs; the exemption applies to student loan programs which condition forgiveness of the loans on the recipient "work(ing) for a certain period of time in certain professions for any of a broad class of employers." This exemption, in effect, permits States to treat as nontaxable grants, loan amounts made to individuals who end up serving in various needed professions in their home States.

However, this exemption does not cover Alaska's forgiveness program for the following reason. One of the unique characteristics of my home State of Alaska is that because of our small population and our location, we have no professional schools in our State to train lawyers and doctors, and we're also limited to a small number of undergraduate institutions. Our student loan forgiveness program was therefore designed to encourage students to return to our State after receiving an education elsewhere. While other States designed their programs to help populate specific professions, Alaska needed to focus on populating the State, itself.

Under Alaska's program, for loans made before July 1, 1987, Alaska will forgive up to 50 percent of the loan amount made to individuals who reside in the State for a specified number of years following their graduation. Essentially, the State chooses to treat the forgiven portion of the loan as a grant.

Consequently, our loan forgiveness provisions—unlike those of other States—are conditioned on residing in the State for specified period of time following graduation. However, because the program is not tied into service in specified professions, Alaska's loan forgiveness program does not technically fall within the section 108(f) exemption.

The bill I am introducing today is intended to bring Alaska's student loan program under the section 108(f) exemption. Specifically, the amendment would exempt from taxation student loan programs which forgive loans "made by a State * * * which had no accredited professional schools for the study of law or medicine on the date the loan was made, if the individual resided for a certain period of time in the State after completion of the individual's attendance at the educational organization with respect to which the loan was made." The amendment would be effective retroactively through calendar year 1986. For those individuals who have already paid tax on loan forgiveness received during those years, the bill clarifies that they may receive refunds.

Mr. President, the need for this legislation arose due to a recent enforcement program initiated by the Internal Revenue Service. The IRS Office in Anchorage determined recently to initiate an enforcement campaign to collect tax on unreported student loan forgiveness income. Unfortunately, many Alaskans who benefited from the forgiveness program were totally unaware that forgiven amounts are considered to be gross income. This is quite understandable since the instructions accompanying the 1040 form do not mention loan forgiveness as includible in income; and the Alaska agency administering the program was not required to—and did not—inform students of their tax liability. And most importantly, the forgiven amounts are naturally seen by the public as similar to grants—which are not taxed insofar as they are needed to cover tuition.

Consequently, many students who have come back to Alaska following their education are facing the prospect of having to pay back taxes, plus interest, on 1987 and 1988 loan forgiveness amounts. These are amounts which should not be taxed. Alaska should have the opportunity, along with other States, to treat as grants, those portions of loans which have been forgiven for individuals who bring their educational training back home. Moreover, Alaska should not be precluded from utilizing the existing student loan forgiveness exemption, simply because Alaska chose to condition its forgiveness program on residency, rather than practicing in specified professions.

Bringing Alaska's student loan forgiveness program under the section 108(f) exemption will incur only a very limited revenue loss to the Treasury. I have asked the Joint Committee on Taxation for a revenue estimate. My

own staff estimates the loss to be approximately $1 million a year through fiscal year 1994 declining to zero loss per year by the end of the decade. The loss declines to zero because the only loans eligible for forgiveness were issued prior to July 1, 1987.

I thank Senators for their attention and would welcome their support of this bill.●

By Mr. LAUTENBERG (for himself, Mr. WARNER, and Mr. STEVENS):

S. 1804. A bill to amend title 23, United States Code, to reduce the amount of Federal highway funds allocated to any State that does not provide for the revocation or suspension of the driver's license of any individual convicted of a drug offense; to the Committee on Environment and Public Works.

DRUG OFFENDER'S DRIVING PRIVILEGES SUSPENSION ACT

● Mr. LAUTENBERG. Mr. President, today, along with Senators WARNER and STEVENS, I am introducing legislation, the Drug Offender's Driving Privileges Suspension Act of 1989, to encourage States to enact legislation calling for the suspension of driver's licenses of convicted drug offenders.

Mr. President, reducing demand is central to combating the drug problem. We need to discourage people from using drugs—through education and through effective deterrents.

Empty threats of imprisonment will not deter the causal user. Instead, we need alternative sanctions that are realistic, certain, and cost effective. One such sanction is to take away the driver's license of drug offenders.

The States of New Jersey enacted such a law in 1987, and last year suspended the licenses of about 9,600 drug offenders. New Jersey law enforcement officials are convinced that the threat of losing one's license is a real deterrent, particularly for young people. This is supported by the findings of a recent Gallup poll, in which 57 percent of teenagers said that suspending driver's licenses would be a "very effective" deterrent.

The State of New Jersey enacted such a law in 1987, and last year suspended the licenses of about 9,600 drug offenders. New Jersey law enforcement officials are convinced that the threat of losing one's license is a real deterrent, particularly for young people. This is supported by the findings of a recent Gallup pol, in which 57 percent of teenagers said that suspending driver's licenses would be a "very effective" deterrent.

Evidence of the effectiveness of license suspension laws is also provided by developments in West Virginia, which recently enacted a law calling for suspension of licenses of high school dropouts. Soon after enactment of that law, the dropout rate declined by about one-third.

Mr. President, the concept of suspending driver's licenses of drug offenders already has won widespread support. President Bush endorsed the idea in his national drug control strategy. A report by law enforcement groups, including the National Association of Attorneys General and the National District Attorneys Association, also recommended that States enact such laws. Moreover, a recent Gallup poll found that 78 percent of both adults and teenagers are in favor of taking away the driver's licenses of drug users.

Also, this bill is also endorsed by the Fraternal Order of Police, the International Police Association, and the National Drug Information Center of Families in Action, the antidrug group.

My bill would give States a reasonable period to enact such laws, and would withhold a modest portion of highway funds for those that refuse. The withholding provisions essentially track existing law establishing the national 21-year-old drinking age. Under the legislation, States would have the option of providing for exceptions to mandatory suspension where individual circumstances warrant, such as the young person who needs to drive to get to a drug rehabilitation center.

Withholding highway funds from States, Mr. President, is a tough sanction. But it has been proven effective, for example, in encouraging States to enact a 21-year-old drinking age.

Some may argue that it would be better to provide monetary grants to States as an incentive to enact license suspension laws. I am concerned, though, that given our tight budgetary constraints the Federal Government simply could not afford an incentive grant program at a funding level high enough to produce results.

Mr. President, I want to thank Senator MOYNIHAN, the chairman of the Water Resources, Transportation, and Infrastructure Subcommittee, for agreeing to hold hearings on this bill. I look forward to working with him and the other members of the Environment and Public Works Committee—particularly the bill's primary cosponsor, Senator WARNER—as the legislative process moves forward.

I ask unanimous consent that a copy of the bill and letters of endorsement from the International Police Association and the National Drug Information Center of Families in Action be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1804

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug Offender's Driving Privileges Suspension Act of 1989".

SEC. 2. REVOCATION OR SUSPENSION OF DRIVER'S LICENSES.

(a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 159. Revocation or suspension of the driver's license of individuals convicted of drug offenses

"(a)(1) The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (2), (5), and (6) of section 104(b) on October 1, 1991, if the State does not meet the requirements of paragraph (3) on such date.

"(2) The Secretary shall withhold 10 percent of the amount required to be apportioned to any State under each of paragraphs (1), (2), (5), and (6) of section 104(b) on the first day of each fiscal year beginning after September 30, 1992, if the State does not meet the requirements of paragraph (3) on the first day of such fiscal year.

"(3) A State meets the requirements of this paragraph if the State has enacted and is enforcing a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception—

"(A) the revocation, or suspension for at least 6 months, of the driver's license of any individual who is convicted, after the enactment of such law, of—

"(i) any violation of the Controlled Substance Act, or

"(ii) any drug offense, and

"(B) a delay in the issuance or reinstatement of a driver's license to such an individual for at least 6 months after the individual applies for the issuance or reinstatement of a driver's license if the individual does not have a driver's license, or the driver's license of the individual is suspended, at the time the individual is so convicted.

"(b)(1)(A) Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 1993, shall remain available for apportionment to such State as follows:

"(i) If such funds would have been apportioned under section 104(b)(5)(A) but for this section, such funds shall remain available until the end of the fiscal year for which such funds are authorized to be appropriated.

"(ii) If such funds would have been apportioned under section 104(b)(5)(B) but for this section, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(iii) If such funds would have been apportioned under paragraph (1), (2), or (6) of section 104(b) but for this section, such funds shall remain available until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(B) No funds withheld under this section from apportionment to any State after September 30, 1993, shall be available for apportionment to such State.

"(2) If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirements of subsection (a)(3), the Secretary

shall, on the first day on which the State meets the requirements of subsection (a)(3), apportion to the State the funds withheld under subsection (a)(3), apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

"(3) Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure as follows:

"(A) Funds originally apportioned under section 104(b)(5)(A) shall remain available until the end of the fiscal year succeeding the fiscal year in which such funds are apportioned under paragraph (2).

"(B) Funds originally apportioned under paragraph (1), (2), (5)(B), or (6) of section 104(b) shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse or, in the case of funds apportioned under section 104(b)(5), shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

"(4) If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for approtionment to a State under paragraph (1), the State does not meet the requirements of subsection (a)(3), such funds shall lapse or, in the case of funds withheld from apportionment under section 104(b)(5), such funds shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

"(c) For purposes of this section—

"(1) The term 'driver's license' means a license issued by a State to any individual that authorizes the individual to operate a motor vehicle on highways.

"(2) The term 'drug offense' means any criminal offense which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act.

"(3) The term 'convicted' includes adjudicated under juvenile proceedings.".

(b) The table to contents for chapter 1 of title 23, United State Code, is amended by adding at the end thereof the following new item:

"159. Revocation or suspension of the driver's license of individuals convicted of drug offenses.".

INTERNATIONAL POLICE ASSOCIATION,
U.S. SECTION,
October 4, 1989.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: The International Police Association strongly supports your legislation to encourage states to suspend the drivers licenses of drug offenders.

We believe your bill will provide an important deterrent that will discourage citizens from engaging in illegal drug activity. The possibility of losing a driver's license will be seen as a real threat by potential drug users, particularly young people, many of whom place a very high value on having a driver's license.

Driver's license suspensions also have the advantage of being a highly cost effective way to deter illegal drug behavior. The administrative costs of suspending a driver's license are relatively low, particularly when contrasted to the enormous costs associated with imprisonment. These lower costs, and the relative ease of suspending a driver's license, mean that this sanction would, in fact, be consistently applied. The resulting increase in the certainty of strong punishment upon conviction would enhance the effectiveness of the nation's drug abuse laws.

In addition, suspending the driver's license of drug offenders will enhance the safety of our nation's highways. Much attention, quite properly, has been focused on the problem of drunken driving. Yet the problem of drugged driving has not received the national attention it deserves. We believe that suspending license of drug users will reduce the number of highway accidents and save lives.

For the reasons, the International Police Association is pleased to endorse your legislation and encourages the Congress to ensure its swift passage. We congratulate you for your leadership in combating the nation's drug problem.

Yours in friendship,

ANDREW MCLACHLAN,
President-U.S. Section IPA.

NATIONAL DRUG INFORMATION CENTER OF FAMILIES IN ACTION
September 28, 1989.

Senator FRANK R. LAUTENBERG,
Hart Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: The National Drug Information Center of Families in Action is pleased to offer its support for the bill you propose to introduce in the United States Senate providing for the revocation or suspension of the driver's license of convicted drug offenders.

Any effort we can make to reduce the demand for illicit drugs will help in the ongoing war against drugs. This law will be a particularly effective deterrent for our youth. The incentive involving reduction of Federal highway funds to states which do not comply is a proven one. We cannot imagine any lack of support for this bill and hope it is passed quickly and with minimal discussion.

Sincerely,

SUE RUSCHE,
Executive Director.●

ADDITIONAL COSPONSORS

S. 135

At the request of Mr. GLENN, the names of the Senator from Florida [Mr. GRAHAM] and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 135, a bill to amend title 5 United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

S. 273

At the request of Mr. HEINZ, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 273, a bill to amend title 39, United States Code, to designate as nonmailable matter solicitations of donations which could reasonably be misconstrued as a bill, invoice, or statement of account due, solicitations for the purchase of products or services which are provided either free of charge or at a lower price by the Federal Government connection or endorsement unless such matter contains an appropriate conspicuous disclaimer and for other purposes.

S. 435

At the request of Mr. REID, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 435, a bill to amend section 118 of the Internal Revenue Code to provide for certain exceptions from certain rules determining contributions in aid of construction.

S. 458

At the request of Mr. DECONCINI, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 458, a bill to provide for a General Accounting Office investigation and report on conditions of displaced Salvadorans and Nicaraguans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Salvadorans and Nicaraguans, and for other purposes.

S. 464

At the request of Mr. SANFORD, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 464, a bill to promote safety and health in workplaces owned, operated or under contract with the United States by clarifying the U.S. obligation to observe occupational safety and health standards and clarifying the U.S. responsibility for harm caused by its negligence at any workplace owned by operated by or under contract with the United States.

S. 511

At the request of Mr. INOUYE, the names of the Senator from Utah [Mr. GARN], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 511, a bill to recognize the organization known as the National Academies of Practice.

S. 1088

At the request of Mr. EXON, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 1088, a bill to amend title XIX of the Social Security Act to improve the provision and quality of services to individuals with mental retardation or related condition.

S. 1115

At the request of Mr. EXON, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1115, a bill to amend the Rural Electrification Act of 1936 to permit the prepayment and refinancing of Federal Financing Bank loans made to rural electrification and telephone systems, and for other purposes.

S. 1277

At the request of Mr. FORD, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Maryland [Ms. MIKULSKI], the Senator from West Virginia [Mr. BYRD], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of S. 1277, a bill to amend the Federal Aviation Act of 1958 to prohibit the acquisition of a controlling interest in an air carrier unless the Secretary of Transportation has made certain determinations concerning the effect of such acquisition on aviation safety.

S. 1627

At the request of Mr. MOYNIHAN, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 1627, a bill to amend the Internal Revenue Code of 1986 to generally treat bonds issued for section 501(c)(3) organizations in a manner similar to governmental bonds.

S. 1653

At the request of Mr. BAUCUS, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 1653, a bill to preserve the solvency of the railroad retirement system.

S. 1783

At the request of Mr. MCCAIN, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 1783, a bill to regulate Indian child protection and prevent child abuse on Indian reservations.

S. 1791

At the request of Mr. ROCKEFELLER the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1791, a bill to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes.

S. 1798

At the request of Mr. THURMOND, his name was added as a cosponsor of S. 1798, a bill to provide for the imposition of the death penalty for the terrorist murder of United States nationals abroad.

SENATE JOINT RESOLUTION 53

At the request of Mr. D'AMATO, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of Senate Joint Resolution 53, a joint resolution to designate May 25, 1989, as "National Tap Dance Day."

SENATE JOINT RESOLUTION 77

At the request of Mr. SARBANES, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of Senate Joint Resolution 77, a joint resolution recognizing the National Fallen Firefighters' Memorial at the National Fire Academy in Emmitsburg, MD, as the official national memorial to volunteer and career firefighters who die in the line of duty.

SENATE JOINT RESOLUTION 159

At the request of Mr. CHAFEE, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of Senate Joint Resolution 159, a joint resolution to designate April 22, 1990 as Earth Day, and to set aside the day for public activities promoting preservation of the global environment.

SENATE JOINT RESOLUTION 216

At the request of Mr. DURENBERGER, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of Senate Joint Resolution 216, a joint resolution designating November 12 through 18, 1989, as "Community Foundation Week."

SENATE JOINT RESOLUTION 217

At the request of Mr. WILSON, the names of the Senator from Virginia [Mr. ROBB] and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Joint Resolution 217, a joint resolution to designate the period commencing February 4, 1990, and ending February 10, 1990, as "National Burn Awareness Week."

AMENDMENTS SUBMITTED

IMPOSITION OF DEATH PENALTY FOR TERRORIST MURDER OF UNITED STATES NATIONALS ABROAD

HATFIELD (AND OTHERS) AMENDMENT NO. 1068

Mr. HATFIELD (for himself, Mr. LEVIN, and Mr. CHAFEE) proposed an amendment to the bill (S. 1798) to provide for the imposition of the death penalty for the terrorist murder of U.S. nationals abroad, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF RELEASE FOR TERRORIST ACTS ABROAD AGAINST UNITED STATES NATIONALS.

Section 2331(a)(1) of title 18, United States Code, is amended by striking "be fined" through the semicolon and inserting "be imprisoned for life without the possibility of release and, in addition, may be fined under this title;".

STATUTORY INCREASE IN PUBLIC DEBT LIMIT

SANFORD AMENDMENT NO. 1069

(Ordered to lie on the table.)

Mr. SANFORD submitted an amendment intended to be proposed by him to legislation increasing the statutory limit on the public debt, as follows:

At the appropriate place, insert the following:

SEC. . HONEST DEFICIT ACCOUNTING.

(a) DEFINITION OF DEFICIT.—

(1) IN GENERAL.—Section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"(6) The term 'deficit' means with respect to any fiscal year, the amount (if any) by which—

"(A) the sum of—

"(1) the face amount of obligations issued under chapter 31 of title 31, United States Code, plus

"(ii) the face amount of obligations whose principal and interest are guaranteed by the United States Government,

that are outstanding at the close of such fiscal year, exceeds

"(B) the sum of such amounts at the close of the preceding fiscal year.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to fiscal years beginning with fiscal year 1991.

(b) MAXIMUM DEFICIT AMOUNT.—Section 3(7) of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"(7) The term 'maximum deficit amount' means—

"(A) with respect to fiscal year 1990, $270,000,000,000;

"(B) with respect to fiscal year 1991, $243,000,000,000;

"(C) with respect to fiscal year 1992, $216,000,000,000;

"(D) with respect to fiscal year 1993, $189,000,000,000;

"(E) with respect to fiscal year 1994, $162,000,000,000;

"(F) with respect to fiscal year 1995, $135,000,000,000;

"(G) with respect to fiscal year 1996, $108,000,000,000;

"(H) with respect to fiscal year 1997, $81,000,000,000;

"(I) with respect to fiscal year 1998, $54,000,000,000;

"(J) with respect to fiscal year 1999, $27,000,000,000;

"(K) with respect to fiscal year 2000, $0.".

(c) CONFORMING CHANGES.—

(1) DEFINITIION OF MARGIN.—Section 257(10) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by—

(A) striking "1992" and inserting "1999"; and

(B) striking "fiscal year 1993" and inserting "fiscal year 2000".

(2) EFFECTIVE DATE.—Section 275(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "1993" and inserting "2000".

Mr. SANFORD. Mr. President, as we try to work out differences in House and Senate budget reconciliation legislation, I want to talk briefly about the bottom line—the real numbers—not those conjured up by the Gramm-Rudman-Hollings process with which we are overly preoccupied.

First, let me post a disclaimer. I am not knocking the Gramm-Rudman-Hollings concept of deficit reduction. Instead, this concept has had some very positive effects on Congress. It has caused us to tighten expenditures, and it has demonstrated that the White House and Congress can self-discipline themselves. And Gramm-Rudman-Hollings has taught us the power of the point of order which any

one Senator can invoke to enforce our agreed upon goals.

The problem with Gramm-Rudman-Hollings is that it allows the White House and Congress to define deficit in the absolute best light possible—casting much of it aside, as if it did not exist.

In fiscal year 1990 we face a real deficit of $270 billion, and that number will likely grow larger. This is how much CBO estimates the Federal debt will increase in 1990, this fiscal year. This is what our true deficit will be. Yet we are talking about a deficit of $100, $110, or maybe $116 billion. None of these figures are honest figures.

Using real numbers, if we want to achieve a real deficit of $100 billion, if we want the real debt for fiscal year 1990 to increase by only $100 billion, we would be required to reduce the projected deficit by about $170 billion. I repeat, using real numbers we would be required to achieve $170 billion in savings, not $14 billion, in order to reach a deficit level of $100 billion. We are playing tiddlywinks in the galley, while the yacht is sliding toward Niagara Falls.

Mr. President, it is time to use honest figures, not pretend figures. It is time we begin calculating honest deficits, not pretend deficits.

I plan to offer an amendment to the debt limit that will require honest budgeting. It will redefine deficit as the amount by which our debt, subject to the limit, increases annually. It is just that simple, it is honest, and will allow us to truly eliminate our annual deficits by the year 2000.

DEVELOPMENT AND APPLICATION OF ECONOMICALLY STRATEGIC TECHNOLOGIES

HATCH (AND OTHERS) AMENDMENT NO. 1070

Mr. STEVENS (for Mr. HATCH, for himself, Mr. HOLLINGS, Mr. BYRD, Mr. BENTSEN, Mr. HEINZ, Mr. BOND, Mr. D'AMATO, Mr. BRADLEY, Mr. GARN, Mr. GRASSLEY, Mr. KENNEDY, Mr. MATSUNAGA, Mr. INOUYE, Mr. SIMON, Mr. JEFFORDS, Mr. LUGAR, Mr. KERRY, Mr. WARNER, Mr. CRANSTON, Mrs. KASSEBAUM, Mr. SANFORD, Mr. WILSON, and Mr. GLENN) proposed an amendment to the bill (S. 1191) to authorize appropriations for the Department of Commerce's Technology Administration, to speed the development and application of economically strategic technologies, and for other purposes, as follows:

On page 29, lines 9 through 21, strike all and insert in lieu thereof the following:

(e) INTERNATIONAL STANDARDS PILOT PROGRAM.—(1) In addition to sums otherwise authorized by this Act, there are authorized to be appropriated to the Secretary for each of the fiscal year 1990, 1991, and 1992, up to $250,000 for use in paying the Federal share of the cost of establishing and carrying out a pilot program, under section 112 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 (15 U.S.C. 272 note), to assist in the development of comprehensive industrial standards for a country or countries that have requested such assistance from the United States and will require the continuous presence of United States personnel for a period of 2 or more years to provide such assistance.

(2) Of the moneys appropriated pursuant to the authorization under paragraph (1) for any such fiscal year, the aggregate amounts made available for such fiscal year from such moneys for purposes of establishing and carrying out the pilot program under paragraph (1) shall not exceed the aggregate amounts made available for such purposes for such fiscal year from non-Federal sources.

HOLLINGS (AND DECONCINI) AMENDMENT NO. 1071

Mr. WIRTH (for Mr. HOLLINGS, for himself, and Mr. DECONCINI) proposed an amendment to the bill S. 1191, supra, as follows:

(1) Strike all on page 31, line 3 through 7.

(2) On page 34, lines 19 through 21, strike "companies, in accordance with the provisions set forth in subsection (d) of this section;" and insert in lieu thereof "companies;".

(3) On page 35, lines 12 through 13, strike all after "PARTICIPATION" and insert in lieu thereof "BY FOREIGN COMPANIES.—".

(4) On page 35, lines 17 through 18, strike "paragraphs (2) and (3)" and insert in lieu thereof "paragraph (2)".

(5) Strike all on page 38, line 15, through page 39, line 15.

(6) On page 39, line 16, strike "(4)" and insert in lieu thereof "(3)".

(7) On page 39, line 18, strike "paragraphs (2) and (3)" and insert in lieu thereof "paragraph (2)".

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public and my colleagues that two additional nominees have been added to the previously announced full committee hearing on Friday, November 3, at 9:30 a.m. The Department of Energy nominees are Melva Anne Gibson Ray, to be Director, Office of Minority Impact; and William Harold Young, to be Assistant Secretary for Nuclear Energy.

The hearing will be held in room SD-366 of the Dirksen Senate Office Building. For further information, please contact Nancy Blush at 4-3606.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that an oversight hearing on potential alternative energy sources for transportation has been scheduled before the Committee on Energy and Natural Resources.

This hearing is a sequel to the committee hearing of October 17, 1989, which focused on methanol. The hearing I am announcing today will consider alternative energy sources such as compressed natural gas, reformulated gasoline, ethanol, and electricity—electric vehicles.

The hearing will take place Tuesday, November 14, 1989, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

For further information, please contact Jim Bruce at 224-5052, Joel Saltzman at 224-7932, or Cheryl Moss at 224-7569.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON EDUCATION, ARTS AND HUMANITIES

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts and Humanities, Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Thursday, October 26, 1989, at 10 a.m., for an executive session on the following agenda: S. 1109, the Carl D. Perkins Vocational Act; and S. 1310, the Comprehensive Illiteracy Elimination Act of 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation and the National Ocean Policy Study, be authorized to meet during the session of the Senate on October 26, 1989, at 9:30 a.m. to hold a hearing on the national weather service and related weather programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATIONAL RESOURCES

Mr. LEVIN. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on October 26, 1989, at 9:30 a.m. for a hearing to receive testimony on the provisions relating to the Public Utility Regulatory Policy Act [PURPA] contained in subtitle B of the title III of S. 324, the National Energy Policy Act of 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. LEVIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, October 26, 1989, at 2 p.m. to hold a closed hearing on Intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FOREIGN COMMERCE AND TOURISM

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on Foreign Commerce and Tourism, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 26, 1989, at 2 p.m. to hold a hearing on the Federal policy on tourism.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, October 26, 1989, at 10 a.m. to conduct a hearing on S. 648, the Market Reform Act of 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on October 26, 1989, at 9:15 a.m.

SCHEDULE—SENATE JUDICIARY COMMITTEE BUSINESS MEETING, THURSDAY, OCTOBER 26, 1989, AT 9:15 A.M. IN SD-226

I. NOMINEES

Stephen J. Markman, to be United States Attorney for the Eastern District of Michigan.

II. COMMEMORATIVES

S.J. Res. 42—A joint resolution to designate March 16, 1989, as "Freedom of Information Day."—Packwood.

S.J. Res. 53—A joint resolution to designate May 25, 1989, as "National Tap Dance Day."—D'Amato.

H.J. Res. 131—A joint resolution to designate May 25, 1989, as "National Tap Dance Day."—Conyers.

S.J. Res. 131—A joint resolution to designate November 1989 as "National Diabetes Month."—Durenberger.

S.J. Res. 187—A joint resolution to designate the periods commencing on November 19, 1989, and ending on November 26, 1989, and commencing on November 18, 1990, and ending on November 25, 1990, as "National Adoption Week."—Hatch.

S.J. Res. 198—A joint resolution to designate November 1989 as "An End to Hunger Education Month."—Simon.

S.J. Res. 210—A joint resolution to designate October 1989 as "National Spina Bifida Month."—Dole.

S.J. Res. 215—A joint resolution to designate November 20, 1989, as "National Military Families Recognition Day."—Cochran.

S.J. Res. 217—A joint resolution to designate the period commencing February 4, 1990, and ending February 10, 1990, as "National Burn Awareness Week."—Wilson.

S.J. Res. 220—A joint resolution to designate the week of December 3, 1989, through December 9, 1989, as "National Autism Week and 1990 as National Silver Anniversary Year for the Autism Society of America".—Dole.

S. Con. Res. 55—A concurrent resolution to commemorate the volunteers of the U.S. and the Hugh O'Brian Youth Foundation.—Dole.

III. BILLS

S. 458—A bill to provide for a General Accounting Office investigation and report on conditions of displaced Salvadorans and Nicaraguans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Salvadorans and Nicaraguans, and for other purposes.—DeConcini.

S. 438—To amend chapter 96 of title 18, United States Code.—DeConcini.

S. 865—To amend the Sherman Act regarding retail competition.—Metzenbaum.

S.J. Res. 14—Joint Resolution proposing an amendment to the Constitution of the United States to allow the President to veto items of appropriation.—Thurmond.

S.J. Res. 23—Joint resolution proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations.—Dixon.

S. 1259—A bill to amend section 3143 of title 18, United States Code, to require the detention of any person found guilty of a violent offense pending sentence of appeal, and for other purposes.—Simon.

S. 594—A bill to establish a specialized corps of judges necessary for certain federal proceedings required to be conducted, and for other purposes.—Heflin.

S. 84—A bill to amend title 28, United States Code, to provide Federal debt collection procedures.—Biden.

S. 993—A bill to implement the convention on the prohibition of the development, production, and stockpiling of bacteriological (biological) and toxin weapons and their destruction, by prohibiting certain conduct relating to biological weapons.—Kohl.

S. 185—A bill to amend title 18 of the United States Code to punish as a federal criminal offense the crimes of international parental child abduction.—Dixon.

S. 198—A bill to amend title 17, United States Code, the Copyright Act, to protect certain computer programs.—Hatch.

S. 497—A bill entitled the "Copyright Remedy Clarification Act."—DeConcini.

H.R. 3045—A bill entitled the "Copyright Remedy Clarification Act."—Kastenmeier.

S. 1271—A bill to amend title 17, United States Code, to change the fee schedule of the Copyright Office, and to make certain technical amendments.—DeConcini.

H.R. 1622—A bill to amend title 17, United States Code, to change the fee schedule of the Copyright Office, and to make certain technical amendments.—Kastenmeier.

S. 1272—A bill to amend chapter 8 of title 17, United States Code, to reduce the number of Commissioners on the Copyright Royalty Tribunal, to provide for lapsed terms of such Commissioners, and for other purposes.—DeConcini.

S. 459—A bill to amend title 35, United States Code, and the National Aeronautics and Space Act of 1985, with respect to the use of inventions in outer space.—Gore.

S. 82—A bill to recognize the organization known as the 82nd Airborne Division Association, Incorporated.—Thurmond.

S. 1563—A bill granting the consent of the Congress to amendments to the Southeast Interstate Low-Level Radioactive Waste Management Compact.

S. 1485—A bill to grant the consent of Congress to the Quad Cities Interstate Metropolitan Authority Compact entered into between the States of Illinois and Iowa.—Grassley.

S.J. Res. 183—A joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget.—Simon.

S. 396—A bill to amend title 11 of the United States Code, the bankruptcy code regarding swap agreements with an amendment in the nature of a substitute.—DeConcini.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, October 26, at 10 a.m. for a joint hearing with the Committee on Budget on the issue of budget reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO FLIGHT ATTENDANTS ABOARD UNITED FLIGHT 232

● Mr. DIXON. Mr. President, I would like to take this opportunity to honor the flight attendants who served so bravely and honorably in their duties aboard United flight 232 which crashed in Sioux City, IA. In particular I would like to remember an Illinoisan, flight attendant Rene LeBeau of Schaumburg, who was among the 111 people killed aboard the aircraft and the only flight attendant killed.

Miss LeBeau, 23 years old, made the supreme sacrifice when she died while in the service of others. Rene LeBeau was a bright young woman, and her death was a great loss to all who knew her. I wish to offer my heartfelt sympathy to Miss LeBeau's family. Rene was a fine person, and her parents can be proud of her.

With the many problems associated with air travel today, the coolheaded actions of Janice Brown, Donna McGrady, Timothy Owens, Susan White, Virginia Murray, and Rene LeBeau aboard flight 232 represent the ultimate in professional service to others. During the flight, the attendants acted to reassure passengers as they themselves were living with the terrible knowledge that the damaged airliner could suffer a disastrous crash killing everyone aboard. After the plane did land in a fiery crash in Sioux City the attendants did everything possible to assist the injured aboard, many of them returning to the broken fuselage to assist others in exiting the plane.

The cockpit flight crew deserves great praise. We all heard the heroic tale of how United Airlines Capt. Al Haynes together with copilot, First Officer William R. Records, Flight Engineer Dudley Dvorak, and off-duty

pilot Denny Fitch regained control of the plane after losing all hydraulic power, by manipulating the speed of the different engines. Many of us heard the replay of the flight recorder in which these men facing possible death calmly plotted their best course of action. Their heroism and skill go without saying.

Today I recognize the flight attendants. They are the unsung heroes in the airline industry. Their dedication may go unnoticed, but their service in times of crisis is invaluable.

I would like to thank Janice Brown, Donna McGrady, Timothy Owens, Susan White, and Virginia Murray for their dedication to service that they so valiantly displayed. I further wish to honor the memory of Rene LeBeau whose service will be sorely missed by her colleagues.●

INTERNATIONAL STUDENT EXCHANGE

● Mr. GRASSLEY. Mr. President, I rise to address a very disturbing situation affecting more than 17 of this Nation's collegiate institutions. These schools and the students attending those schools are being deprived the benefits of an international student exchange with Chinese students.

The American College Locators International is a network of 35 private American schools across this Nation. ACLI actively recruits and organizes international student exchanges for the participating colleges. This program fuels the opportunity for cultural diversity and educational enhancement at these institutions.

Currently, there are approximately 168 Chinese students stranded in Japan, who planned to participate in the ACLI program but to whom the United States is denying student visas. While in Japan, they study Japanese and take accelerated classes in English.

These students have traveled to Japan with the purpose of going on to attend schools in the United States. However, the State Department has summarily denied visas to these students based upon the most recent political troubles in China. In every way, these students have met the requirements for obtaining a student visa. Nonetheless, it seems that the State Department believes that once these students arrive for their studies they will choose to remain in the United States.

The State Department's position comes despite the following facts:

First. Each student will bring to the school two cashiers checks: One for tuition and expenses; and one for the cost of returning home at the end of the program.

Second. Each student has provided a letter from a company in China, carrying a company seal, promising a job to the student upon returning to China.

Third. Most of the students have been in Japan before the June 4, 1989, events in China. In fact, some students have been in Japan for 2 years. Certainly the massacre at Tiananmen Square cannot be identified as the impetus for these students' desires to study in the United States.

Fourth. Many of the students will have family, including spouses and children, remaining in China.

Fifth. The ACLI has provided written documentation assuming full responsibility to ensure the students leave the United States after completing their studies.

Sixth. The students have signed affidavits commiting to leave the United States after their studies are complete, as well as relinquishing any privilege to apply for any other visa.

It is outrageous that this Government has reacted to the closing of Chinese society by closing of our own educational institutions to these open-minded students. These students have invested a great deal of time and work in order to have the experience of an American education. Such an experience not only enriches our own system, it gives to these students a piece of our Government, our culture, our heritage, our freedom, to take home with them.

When the State Department denied visas to these students, it also denied the ACLI schools $10,000 it would have received from each student, which will result in serious economic implications for these schools. The student bodies of these schools also will be denied the prosperity that cultrual diversity brings.

In an amendment to the State Department authorization bill, introduced by Senator EXON, the United States Embassy in Tokyo was mandated to cease from denying student visas to nationals of the People's Republic of China currently in Japan, based on the recent political events in China. The students would be required to demonstrate an ability to meet all the other requirements of a student visa and demonstrate that the student initiated an education plan prior to June 4, 1989.

The mandates of this amendment must be implemented and the end must come to this unfortunate situation.●

FRANK S. SWAIN, CHIEF COUNSEL FOR ADVOCACY, SMALL BUSINESS ADMINISTRATION

● Mr. BOSCHWITZ. Mr. President, I would like to take this opportunity to say a few words about a fine public servant who has carried out a congressional mandate in a very sensitive post for 8 years and who is now leaving to begin a new phase in his career. I am speaking of Frank S. Swain, Chief Counsel for Advocacy of the Small Business Administration.

The Office of Advocacy was created in 1976 by Congress to perform several important functions on behalf of small business: Examine its role in the American economy; assess the effectiveness of existing Federal subsidy and assistance programs; measure the direct costs and other effects of Government regulation on small businesses; make legislative proposals for eliminating excessive regulations; and other mandates.

In addition to carrying out these tasks, Mr. Swain has worked selflessly in the interests of all small firms. He has been a congressional witness many times. He has worked with trade organizations, White House task forces, and individual businessmen and women to tell the story of the contributions made by small business to our Nation's economy, and to represent their needs and prevent undue burdens placed on them that would stunt their growth.

Under his able leadership, the advocacy staff has provided leadership on many issues, as well as pertinent research statistics that were not previously available to policymakers about small firms.

While Frank will be missed by many, I feel confident he will not abandon the cause of small business and I wish him all the best in his new endeavor.●

ADDRESS BY ATTORNEY GENERAL THORNBURGH BEFORE THE AMERICAN BANKERS ASSOCIATION

● Mr. KERRY. Mr. President, today, the Attorney General of the United States, Dick Thornburgh, addressed a joint meeting of the American Bankers Association and the American Bar Association in New York on an issue that I believe is of vital significance in the war on drugs: money laundering.

I believe that the Attorney General's address represents the most significant statement on money laundering to come from the administration. I want to congratulate him on that statement and to voice my support for both his analysis of the problem and his commitment to doing something about it.

There are a few areas in his address that I would particularly like to highlight.

First, the Attorney General talked about the importance of the U.N. Anti-Drug Convention signed in Vienna last December. That convention is now before the Foreign Relations Committee and I want to underscore the remarks of the Attorney General and urge both the committee and the full Senate to move expeditiously to ratification.

Second, I applaud the Attorney General in the efforts that the Justice Department is making to combat money laundering in this country. The various agencies, particularly the DEA, are indeed working relentlessly to uncover money laundering schemes. The Attorney General is right that we now have both a legal and enforcement framework in place that is making it increasingly costly for the drug traffickers to attempt money laundering in this country.

Third, I believe that the Attorney General put his finger on the crux of the problem when he stated that what we need most now is cooperation from banks operating in foreign countries. The Attorney General correctly understands that different nations must arrive at strict means by which their banking system can part with closely held secrets. That was exactly the rationale behind the amendment that I offered last year as part of the omnibus drug bill. That provision, section 4702, is now the law of the land, and requires the Treasury Department to negotiate bilateral agreements with our banking and trading partners on recording large deposits of U.S. currency. I hope those charged with the negotiations at the Treasury have the opportunity to read the Attorney General's speech because he clearly views international cooperation as extremely significant.

Finally, I would simply like to thank the Attorney General for recognition of assistance that I have offered in this area. We have much still to do. I believe the Attorney General understands this and is prepared to wage the necessary fight.

I ask that the statement by Attorney General Thornburgh be submitted into the RECORD.

The statement follows:

REMARKS BY ATTORNEY GENERAL THORNBURGH

Let me present you with a cash problem. The annual gross income from drug sales in this country is estimated at over $100 billion. On the street, a crack sale is done for five or ten dollars, so that the largest denomination of currency in street circulation is usually a twenty-dollar bill. Those twenties are crumpled, so covered with film that they sometimes jam the counting machines, and usually bundled in such ways that, if seized, they can be put into evidence at trials as displaying all the characteristics of a drug deal. Enough of these bundles, collected from all the street dealers, ultimately total the over $100 billion I've mentioned. Together, they would weigh about 26 million pounds.

Here is the problem: how do you push 26 million pounds of these twenties through a bank window?

An even tougher problem: how do you shove over $100 billion in twenties through a bank window without attracting attention?

That, in a nutshell, is what I would describe as the drug dealers' greatest dilemma. The laundering of these billions is far more crucial to their operations—and much more difficult, and high-risk—than the actual trafficking in drugs. If the DEA seizes cocaine with a street value of $19 million, it does not cost the Medellin cartel $19 million to replace that cocaine. Far less, somewhere between $2 and $4 million at Colombian prices. But when $19 million in cash is confiscated from a New York drug warehouse, there is no discount. That loss is $19 million. Nineteen million dollars that does not make its underground way into the worldwide economy to further capitalize the international drug trade, which must have these ill-gotten funds to stay malevolently solvent.

The drug dealers at that New York warehouse were probably planning to smuggle the money out of the country. Perhaps—they've tried it in the past—in Kelloggs cornflake boxes. But a box of cornflakes, stuffed with greenbacks, weighs 18 pounds—a discrepancy that does not escape notice at U.S. Customs. Even if they'd gone out as cornflakes, those twenty millions would still have to reappear as a legal deposit somewhere in the vast, worldwide, financial network. That is why money laundering has become so lucrative an international trade.

That is also why money laundering has now been declared an international crime, under the United Nations Anti-Drug Convention signed in Vienna last December. Signatory nations, including the United States, are committed to prosecute international money launderers under present or new and mutually compatible national laws. And they are mutually pledged to assist each other in enforcing these laws against money laundering.

In this country, that task falls to the Justice Department. We prosecute all money laundering cases, whether they originate with DEA, FBI, IRS, Customs, or other federal agencies. Typically, we have in the past brought to trial sophisticated schemers, who use various banks—like coin-operated machines in a laundromat—to launder money legally owed to the Internal Revenue Service. An unscrupulous lawyer, for example, will arrange to issue cashier's checks on the account of his professional association to a dozen doctors, who have previously deposited an unreported percentage of their fees with him. Political rebels favor these tax-evasion pools, which we discover whenever they grow noxious enough from the telltale fumes of bleach and greed during the rinse cycle.

But what has loomed far larger in the 80s is the international laundering of funds generated by criminal enterprises, particularly drug money. There is no greater criminal fortune to be made, yet no harder task—for the drug kingpins—than sequestering that criminal fortune within the licit, modern, world economy. That is, so that its grimy origins—on the street, with those twenties—are cleansed by computer bookkeeping, then all but vanish in a millisecond into an international monetary transfer to Panama, the Cayman Islands or Luxembourg.

In fact, Chuck Sapphos, from our money-laundering unit at Justice, says the most vulnerable point for any drug operation is at the doorway to the bank. That can come at the low level of "smurfing"—when, for instance, Mr. Tobon-Builes and a female companion purchased cashier's checks together at ten different banks within 6 hours in northern Florida. Each check was for less than $10,000, so it did not trigger the required Currency Transaction Report by any bank. But the total of each pair of transactions always equaled $18,000. U.S. v. Tobon-Builes first imposed criminal liability upon money launderers for this rudimentary concealment. But what we are now seeing—and what I want to discuss with you this morning—is a pattern of increasing sophistication, a more intricate working of criminal wiles to slip by the bank door, and gain access to financial freedom.

We are working relentlessly—with your help, and in your best interests—to counter these dissembling schemes to sneak drug money into legitimate circulation. We have two strong legal weapons with which you are already familiar—the Bank Secrecy Act of 1972, and the Money Laundering Control Act of 1986, as amended in 1988. The Control Act criminalized the "structuring" of financial transactions to set up "smurfing." We can prosecute such ruses and other collusive action by money launderers that cause a bank to fail to file either a CTR or a CMIR.

But we now have greater legal powers. We can prosecute money launderers involved in underlying predicate crimes. Besides drug dealing, those crimes include all RICO predicates, numerous fraud offenses, and Export-Import violations. With the Kerry amendments, sting operations against money launderers are legalized. There is also a forfeiture provision for money laundering. Our U.S. attorneys are using these legal tools in a growing number of cases, and we are turning the drug dealers' own capital and seized organizational assets against them.

All this, of course, has been immeasurably helped by your own increased attention to your obligations to report all financial transactions over $10,000 to Treasury. We are grateful for your diligence, which has aided us in catching these criminals. I recognize your sincere concern and commend your willingness to cooperate. But in candor, I must say that this started coincident with a number of prosecutions during the mid-80s of banks which had failed to make proper reports, some of these banks served by bank officers in cahoots with the money launderers. We count on those being the misdemeanors and oversights of the past. Certainly the statistics indicate this. In 1983, reports numbered around 740,000 annually. But three years later, 3.5 million were filed. This year we are already over six million.

In equal candor, I must also admit that these millions of reports are now part of the problem, as well as the solution. We have had great success, in the recent past, with Operation Greenback in Miami, which led to important convictions of drug money launderers. Agents in that case winnowed through the CTR's and CMIR's by hand to secure indictments, but by now that data is enough to overwhelm human analysis. And money launderers are taking advantage of this inundation, hiding the brief ripples of their illegal transactions in the flood of reported activity.

One countermove, developed at Treasury, has been to use artificial intelligence to catch the money launderers. For the past two years, U.S. Customs has been employing a expert, rule-based system to spot patterns in reporting data that might indicate money laundering. The process is called "knowledge engineering." The expertise of human analysts who know how to sift reporting data is codified as rules within a computer program that makes judgement calls in microseconds by mathematical weight. This system outputs likely targets—700 to date—and among these, we have thus far developed 68 indictments against individuals.

To give you only one intriguing example of how it works, the computer can kick out a set of names of those using the same set of different checking accounts. If you find six individuals operating as unique transactors—that is, financially and geographically separate from each other—active into three or more checking accounts, I'm told you have the first grounds for suspicion. Often more checking on the names leads, as one agent puts it, to "additional layers of enticement to go farther."

It is reassuring to have these probing mechanical wizards, honed sharp enough to pick up the hidden paper trail left by money launderers. This system will shortly be available to all those Federal agencies involved in the war on drugs through the Financial Crimes Enforcement Network. Also known as FINCEN, we are delighted to be part of its operations, as we are already the beneficiary of its tracking down possible targets for investigation.

But as ingenious and helpful as FINCEN will be, I hasten to say that computer runs alone cannot flush out most of the money launderers. They are too diabolically innovative themselves. They are accessing every financial institution to wash their wares, from brokerage houses to bullion and jewelry dealerships, as we discovered during Operation Polar Cap. They will go to any lengths to join the list of those exempt from financial transaction reporting, including owning their own bank in Southern Florida. They will employ any financial instrument as a cleanser, including unendorsed lottery tickets. By and large, we must still depend upon human intelligence to uncover them—that is, tips, spin-offs from other investigations, even lucky breaks in the case. That means that the best help you can be to us—also for your own protection—is to follow the old-fashioned practice, restated by Chemical Bank after its prosecution for laundering money in 1977. "Know your customer," Chemical reiterated its policy. Chemical requires all bank employees "to do business only with individuals, businesses and other entities whose reputations are sound."

Finally, however, there is a dimension to money laundering that no computer, nor even your best caution, can encompass. That is the worldwide dimension. So much of the smuggling, so many of the millisecond transactions occur beyond our shores. The international drug cartels are like the House that Jack Built. This is coca that grew in Peru that was processed in Colombia to be the coke that crossed from Mexico to become the crack that was sold in Omaha for the dollars that sat in Los Angeles to be the funds to go into the bank in Panama to pay for the House that Crack Built.

To fight these drug cartels—to seize their laundered money for forfeiture, per the UN convention—law enforcement must not only have help from our own banking community—your help—but cooperation from the banks of other countries. Here, as you can well understand, matters turn highly sensitive. Generally, banks have every good reason to want to protect their customers' privacy. To do so—as well as serve their own nation's interests—different banks follow different practices in particular. How then does law enforcement, faced with these conflicting banking interests, obtain cooperation without encroaching on established, and profitable, banking practices?

Take, for example, the banking system of Colombia. There is no internal reporting. Anybody can deposit any amount of pesos, but nobody can legally export money out of the country except by buying foreign currency at exorbitant rates through the Colombian government. South American money launderers have moved millions of pesos out of Colombia without going through this cumbersome, and confiscatory, process. They have been doing it so long, for wealthy Colombians with flight capital, that most Colombian money launderers are second-generation.

Now take our own banking system. There are strict reporting requirements, but no restrictions on incoming or outgoing funds. Here you have the perfect crossing of two banking systems for the benefit of drug money launderers. The drug trafficker wishes to repatriate dollars as pesos. The wealthy Colombian wishes to change his pesos for dollars. Through the money launderer, they agree to do their own private exchange. The drug trafficker deposits his dollars in the U.S. for the wealthy Colombian. In Colombia, the flight capitalist deposits his pesos for the drug trafficker. Laundering has taken place without any currency physically leaving either country.

Legally, the Colombian bank doesn't have to report the drug trafficker's new deposit to its government. Legally, the American bank must report the wealthy Colombian's sizable new deposit to Treasury. But does the American bank tell the Colombian government it has knowledge of a rogue Colombian depositor? Does Treasury? What is the incentive for Treasury to do so if there is no reciprocal intelligence—word about the drug trafficker's pesos—forthcoming from the Colombian government? And wouldn't some bankers, even Treasury itself, perhaps prefer to keep quiet about wealthy flight capital altogether?

I stretch this case, a realistic one, to its limits, so that you can see some of the ramifications—especially for yourselves—in our international pursuit of drug money launderers. These only enlarge when we approach European countries, whose bankers share your same capitalistic faith in Adam Smith's Invisible Hand, only more so. Why should the Invisible Hand ever have to sign its name in public? Give the Hand its own secret number, say the Swiss. But you should also know that the Swiss have now agreed to let us go into their banks after the deposits of drug dealers—since drug-dealing is a crime in Switzerland—if we have a name, and know the number of the account. My conversations last year with leaders in the Swiss banking community clearly indicated that they recognize such cooperation to be in their own best interest, and a new law to criminalize money laundering is on its way to passage in Switzerland.

In other words, even the West's strictest guardians of bank privacy are willing to yield when felonious use is being made of their banking system to fund the international drug trade. Since Europe itself has recently had an estimated 400 percent rise in drug usage, the G-7 countries are increasingly well disposed to cooperate in apprehending drug money launderers.

But the British, the French, the Italians, others will each cooperate in their own nationalistic way. We at Justice might wish every country required the same financial reporting that the United States Treasury directly demands, and that the law fell hard and automatically on all evaders. That is not how the bargain will be struck. We will negotiate together, and likely arrive at strict means by which each country's banking system can part with its closely held secrets, but in its own tradition, and only to prosecute money launderers for crimes that its own laws define.

One principle is bound to prevail: reciprocity. Each cooperating nation can only ask for information about money laundering that it would, in turn, be willing to offer. The possibilities of apprehension and prosecution increase considerably as international bankers themselves agree to support this exchange of information. That means that much of the first burden will fall upon yourselves. In this country, under drug seige, we have the strongest motivation for sacrificing a certain measure of bank privacy—and risking some loss of more legitimate depositors—to bring international money launderers to justice. You are the ones who are most involved, but this sacrifice is in everybody's interest, including your own.

Ripping out these illegal financial webs, pulling apart the money-laundering networks—this is the most effective way to bring down the drug cartels. I have said that there is great poetic justice in using the fruits of forfeiture against the drug dealers themselves. It is satisfying to think that it is now possible for a drug-dealer to serve time in a forfeiture-financed prison, after being arrested by agents driving a forfeiture-provided automobile, while working in a forfeiture-funded sting operation.

But don't misunderstand me. The major objective, always, is to break the drug dealers by impoverishing them. To dismember their financial system, so that they cannot keep capitalizing their vicious enterprises, which are truly the darkest, most satanic mills of our times.

You, as leaders of the banking industry, have the opportunity—even, I suggest, the honor—to be among the very first who can really help us close them down, for good and all.●

COMMUNITY FOUNDATIONS—SENATE JOINT RESOLUTION 216

● Mr. SANFORD. Mr. President, I rise today to express my appreciation to Senator DURENBERGER for his recognition of the critical, philanthropic role played by community foundations. As the fastest growing sector of philanthropy in this Nation, these foundations fund numerous programs to address the particular problems faced by the communities they serve.

North Carolina benefits from nine community foundations including the Community Foundation of Western North Carolina, the Foundation for the Carolinas, the Triangle Greater Community Foundation, the Cumberland Community Foundation, the Greater Foundation of Greensboro, the Community Foundation of Henderson County, the Outer Banks Community Foundation, the Cape Fear Community Foundation, and the Winston-Salem Foundation. Through personal experience with several of these organizations, I can say that their commitment to North Carolina provides a tremendous benefit to the State.

Community Foundations are designed to pool the resources of citizens in order to address the particular

unmet needs of the community served by the foundation. While some foundations concentrate only on their immediate town or county, others expand their assistance throughout the region or State. The presence of volunteer community leaders and citizens on the foundations' boards ensures that the funds are distributed in a meaningful and productive manner.

I am pleased to join Senator DURENBERGER in commemorating the 75th anniversary of the formation of community foundations, and I hope that Community Foundation Week will draw attention to this impressive source of charitable activity.●

ABORTION AND THE GOP

● Mr. HUMPHREY. Mr. President, I would like to direct the Senate's attention to an article by Pat Buchanan. The article, entitled "Abortion and the GOP," appeared in October 25, 1989, edition of the Washington Times.

Buchanan writes, "Abortion on demand is the great evil of our time, the ultimate act of selfishness and cruelty, the defining statement of the me generation in the now decade."

Buchanan raises this important point: "For the GOP to buckle or waffle now on right-to-life would disgust and alienate the most powerful social movement in America."

Mr. President, as Buchanan points out, rape and incest are horrible crimes for which the perpetrator may deserve the death penalty, but does the child deserve death as well? The answer is unequivocally no. The offspring of human beings are human beings, even in the tragic cases of rape and incest.

I hope each Senator will take the time to read Mr. Buchanan's article. I ask that the article be entered into the RECORD.

[From the Washington Times, Oct. 25, 1989]

(By Patrick Buchanan)

ABORTION AND THE GOP

In New Jersey, the GOP candidate for governor is in trouble for declaring he will not, if elected, impose his right-to-life views. In Virginia, a Democrat makes gains with ads saying he would leave it to women themselves to decide. In Florida, the legislature turned down all of Gov. Bob Martinez's proposal for new restrictions. In the House, 29 right-to-lifers switched, rather than fight funding of abortions for poor women in cases of rape and incest; before last Saturday's veto, even President George Bush hesitated.

Political consultants (now listed beneath used-car dealers in public esteem) are warning GOP candidates that an uncompromising right-to-life stance can drive away younger voters.

How the GOP handles this issue will be instructive. For no one in politics is less predictable than the man who feels the ground shifting beneath his feet. In 1972, Dr. Hunter S. Thompson compared a fast-fading Ed Muskie with a crazed bull elk in heat, crashing through the forest in search of a cow, eyes bulging, blind to the hunters everywhere waiting to bring him down.

How should the GOP respond to the resurgence of pro-abortion activism after the Webster decision? First, calm down. Even in cold political terms, Mr. Bush did the right thing. For the GOP to buckle or waffle now on right-to-life would disgust and alienate the most powerful social movement in America. For what? Republicans can no more compete with liberals for pro-choice votes than we can compete for socialist votes. Liberals will simply outbid us.

Abortion is not about money, where compromise is possible, it is about right and wrong, about who we are; it is a moral issue, on which, Dante reminds us, a special place in hell has been set aside for those who adopt a posture of neutrality.

The pro-choice crowd has sought to recapture the high ground by manifesting outrage on behalf of poor women raped, or violated by the men in the family. But why is the GOP on the defensive?

Rape is a horrible crime; and the rapist may deserve the death penalty, but does the innocent unborn child deserve death as well? The alcoholic father who invades his daughter may deserve to be horsewhipped; but, how do we show compassion for the girl by taking tax dollars from God-fearing people to pay off some grisly abortionist to kill her child?

If Roe vs. Wade was the great liberator of American women, why are there no great annual testimonials to the guarantors of the new freedom? Why are the abortionists not celebrated in the press, as civil rights leaders always were? Is it not because we all still know in our hearts the back alley is where they belong?

Looking back 16 years to Roe vs. Wade, the momentum remains with right to life. Most converts are coming that way, and the cops brutalizing the demonstrators of Operation Rescue, as politicians avert their gaze, are beginning to resemble Bull Connor and his cohorts.

Abortion on demand is the great evil of our time, the ultimate act of selfishness and cruelty, the defining statement of the Me Generation in the Now Decade. The analogy to slavery remains valid. There were surely men troubled in their souls about buying and selling black folk like cattle. What kept them from heeding the voices of the heart were heredity, history, ideology, self-interest. To call for an end to slavery was to admit one had engaged in a great crime, to betray one's class, to break with family and friends, to call for an end to a way of life on which the South depended. Moral courage has always been an uncommon virtue.

In "The God That Failed," Arthur Koestler wrote of how good men came to be devoted to an evil cause, communism.

"A faith is not acquired by reasoning. One does not fall in love with a woman, or enter the womb of a church, as a result of logical persuasion. Reason may defend an act of faith—but only after the act has been committed, and the man committed to the act. Persuasion may play a part in man's conversion; but only the part of bringing to its full and conscious climax a process which has been maturing in regions where no persuasion can penetrate. A faith is not acquired; it grows like a tree."

The True Believer is immune to logic. A score of TV arguments with pro-choice advocates persuades me that women who deny the self-evident biological truth that a fetus is a living, growing human being in their womb are not going to be persuaded by facts. Needed is conversion; and, regrettably, epiphany comes for many only after they have paid some squalid abortionist to get rid of their child.

Few could help more in refocusing this great issue than the reluctant moral warriors of the Roman Catholic hierarchy.

Virtually all of America's leading elected Catholic politicians, Gov. Mario Cuomo, Sens. George Mitchell, Daniel Patrick Moynihan and Edward Kennedy, House Speaker Thomas Foley, support the use of tax dollars to pay abortionists to destroy unborn children; they support government funding of what the Church teaches is a terrible moral crime, participation in which, under canon law, incurs automatic excommunication. If, at their Baltimore conclave next month, the Catholic bishops would denounce these politicians by name, the hierarchy might swiftly recapture the moral authority it once had. The price, however, would be the vilification by the secular media, which, come to think of it, the bishops, in an age like ours, ought to welcome.●

NICARAGUAN ELECTIONS

● Mr. LEAHY. Mr. President, on October 17 the Senate passed a bill to provide $9 million to assist the opposition in the forthcoming Nicaraguan elections in February. The President signed the bill into law just before last weekend.

All during the debate on the Nicaragua election aid package, we opponents were told over and over again that it was vital that this money be rushed through so that the opposition could use it to launch a campaign to get voters to register. How many times did we hear on this floor that "there are only two Sundays left when voters can register"? Senator after Senator came to the floor to say that the February election would be settled during the month of October, during the four Sundays when voter registration occurs.

Supporters of the administration's aid proposal insisted that without $9 million of the American taxpayers' money being rushed down to Nicaragua, voters who might support the opposition to the Sandinistas would not register. We were told the Sandinistas would make sure their own supporters would get to the registration centers, while opponents would have no transportation to provide their supporters, no phone banks to urge Nicaraguans to register, no funds for radio or television and calling for registration.

Mr. President, here is an article by Mark Uhlig from the October 23 edition of the New York Times that says that 1,336,342 Nicaraguans out of a total voting age population of 1,970,486 registered to vote during the first three Sundays of October. That means, Mr. President, that before one dime of this "urgent' $9 million President Bush told us we just had to pass at once, more than 65 percent of Nicaraguan voters registered. The article

goes on to say by next Sunday, more than 90 percent of eligible Nicaraguans are expected to have registered to vote. They will have done so without the benefit of phone banks, fleets of cars and vans, radio and TV ads and everything else our money was sent down there to pay for.

So, Mr. President, the administration's arguments were phoney. There was no need to rush that bill through, there was no need for that amount of money, and there was no need to finance the Nicaraguan opposition to mount a voter registration campaign.

Once 90 percent of the voters are registered, what happens to the administration's claim that the February election will be decided during the October registration period?

Mr. President, I ask that the article from the New York Times of October 23 by Mark Uhlig entitled "Nicaraguans Register in Huge Numbers" be included in the RECORD at this point.

The article follows:

[From the New York Times, Oct. 23, 1989]

NICARAGUANS REGISTER IN HUGE NUMBERS

(By Mark A. Uhlig)

MANAGUA, NICARAGUA, October 22.—Nicaraguans jammed voter registration stations here today for the fourth consecutive Sunday in what diplomats described as an "overwhelming" response to preparations for national elections in February.

With three of the four registration days counted, Government officials said last week that 1,336,342 Nicaraguans, of a voting population of 1,970,486, had already registered for the Feb. 25 vote. Further registrations today, the last and traditionally most important of the four Sundays of the registration period, were expected to bring the total to more than 90 percent of all elegible voters.

Tens of thousands of Nicaraguans lined up today at registration booths at schools, Government offices and other buildings across the country. Diplomats and local politicians marveled at the seemingly deep desire of Nicaraguans to stand up and be counted after years of turmoil and conflict.

"ABSOLUTELY MARVELOUS"

"This is absolutely marvelous, overwhelming," said a foreign diplomat whose country has remained neutral in the long years of civil strife here. "It is already an extraordinary figure, and if the final count reaches 1.6 million or higher, this will really become an election to watch."

Would-be voters came to neighborhood registration stations to put their signatures and thumbprints in each of three thick ledger books, which will remain available for public inspection. Under election rules, the enrollment process has taken place in the presence of pollwatchers from the governing Sandinista National Liberation Front, the main opposition coalition, the National Opposition Union, and other political parties.

Opposition parties filed some complaints about the registration process, particularly on the first day of the procedure. But they have generally expressed satisfaction with the election preparations, which are being supervised by a large, coordinated network of observers from the United Nations, the Organization of American States and several other international groups.

Among the foreign monitors overseeing today's registration efforts was Elliot L. Richardson, the former United States Attorney General, who was named last month as the personal representative of the United Nations Secretary General, Javier Pérez de Cuéllar, in supervising the hundreds of United Nations personnel who will monitor the election.

MEASURE OF PUBLIC'S IMPATIENCE

Both the Government and its opponents have asserted that a strong voter turnout would benefit them in the elections. But foreign experts and international officials say the strength of the registration figures is, above all, a measure of the public's growing impatience after years of turmoil and war, and the desire of average Nicaraguans to make their views known after years in a political crossfire between the Sandinistas and their opponents.

Just what those views are remains a matter of great dispute. Recent polls generally give an advantage to the incumbent President, Daniel Ortega Saavedra. But almost all of the opinion polls conducted recently reflect a high number of undecided voters, sometimes reaching as much as 50 percent of the overall poll sample.

According to official statistics, the total population of Nicaragua is roughly 3.5 million. Much of the population is quite young, but the voting population is made larger due to the lowering of the voting age, which was set at 16 years after the Government came to power.

EXILES CAN VOTE

The many Nicaraguans who have left the country under the Sandinistas are eligible to vote and have been able to register at Nicaraguan consulates abroad. But they must return to the country to cast their ballots.

Nicaraguan exile organizations in Costa Rica, Honduras and the United States have recently tried to organize themselves to encourage a large exile vote at polling stations just inside the Nicaraguan frontier. But opposition leaders have tended to discount the importance of that effort in the final vote, saying that cost and logistical problems make it unfeasible.●

DISASTER ASSISTANCE ACT AMENDMENTS

Mr. WIRTH. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1792.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1792) entitled "An act to amend the Disaster Assistance Act of 1989 to avoid penalizing producers who planted a replacement crop on disaster-affected acreage, and for other purposes," do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. REPLANTED ACREAGE.

Section 110 of the Disaster Assistance Act of 1989 (Public Law 101-82; 7 U.S.C. 1421 note) is amended to read as follows:

"SEC. 110. NO DOUBLE PAYMENTS ON REPLANTED ACREAGE.

"(a) REDUCTION OF DISASTER PAYMENTS.—Effective only for producers on a farm who received disaster payments under this subtitle for a crop of a commodity, the Secretary of Agriculture shall reduce such payments by an amount that reflects the net value (as determined under subsection (c)) of any crop such producers plant for harvest in 1989 to replace the crop for which disaster payments are received.

"(b) REPLACEMENT CROPS.—For purposes of subsection (a), a crop shall be considered to be planted to replace the crop for which disaster payments are received if (because of loss or damage to the first crop due to damaging weather or related condition in 1988 or 1989) the second crop is planted on acreage on which the producers planted, or were prevented from planting, the first crop.

"(c) ADMINISTRATION.—

"(1) DETERMINATION OF VALUE.—In carrying out this section, the Secretary shall—

"(A) only consider any production of the second crop that is in excess of 50 percent of the county average yield for such crop;

"(B) base the value of the excess second crop production on average market prices for the second crop during a representative period; and

"(C) reduce the value of such excess second crop production by 25 percent.

"(2) HISTORICAL CROPPING PATTERNS.—In carrying out this section, the Secretary shall take into account the historical cropping patterns of producers.

"(3) REDUCTION ONLY APPLICABLE TO REPLANTED ACREAGE.—The reduction provided for in this subsection shall only be applied against payments due with respect to acreage that was replanted.

"(4) FUTUTE CROPPING PRACTICES.—In carrying out this section, the Secretary may make adjustments to the crop acreage bases to reflect crop rotation practices because of the occurrence of a natural disaster or other similar condition beyond the control of the producer in determining a fair and equitable crop acreage base.".

SEC. 2. MARKETING QUOTAS.

(a) FARM POUNDAGE QUOTAS.—

(1) IN GENERAL.—Section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e) is amended—

(A) in subsection (d)—

(i) by striking "October 1, 1982" and inserting "for the previous marketing year"; and

(ii) by striking "1978 crop year" and inserting "immediately preceding 5 crop years"; and

(B) in the second sentence of subsection (e), by striking "marketing year beginning October 1, 1982" each place it appears and inserting "previous marketing year".

(2) ACREAGE—POUNDAGE QUOTAS.—Section 317(a)(6)(B) of such Act (7 U.S.C. 1314c(a)(6)(B)) is amended by striking "years 1960 to 1964, inclusive, may be used, as determined by the Secretary" and inserting "immediately preceding 5 crop years shall be used by the Secretary".

(b) LEASE OR SALE OF ACREAGE ALLOTMENTS.—Section 316(c) of such Act (7 U.S.C. 1314(c)) is amended by striking all after the first sentence and inserting "The transfer shall be approved acre for acre.".

SEC. 3. REDUCTION OPTIONS.

Section 1009(d) of the Food Security Act of 1985 (7 U.S.C. 1308a(d)) is amended—

(1) by inserting after "nonrecourse loan program" the following "(including the program authorized by section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e))";

(2) by striking "savings" and inserting "benefits"; and

(3) by striking "forfeited commodity," and all that follows through the period at the end of the sentence and inserting "forfeited commodity.".

Mr. WIRTH. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. WIRTH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF COMMERCE TECHNOLOGY ADMINISTRATION AUTHORIZATION ACT

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 286, S. 1191, the Technology Administration authorization bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1191) to authorize appropriations for the Department of Commerce's Technology Administration, to speed the development and application of economically strategic technologies, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (S. 1191) to authorize appropriations for the Department of Commerce's Technology Administration, to speed the development and application of economically strategic technologies, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Technology Administration Authorization Act of 1989".

STATEMENT OF POLICY

SEC. 2. Congress finds that in order to help United States industries to speed the development of new products and processes and in order to maintain the economic competitiveness of the Nation, targeted increases are required in the programs and activities of the Department of Commerce's Technology Administration (hereafter in this Act referred to as the "Administration") and its National Institute of Standards and Technology (hereafter in this Act referred to as the "Institute").

TECHNOLOGY ADMINISTRATION

SEC. 3. There is authorized to be appropriated to the Secretary of Commerce (hereafter in this Act referred to as the "Secretary"), to carry out executive and analytical activities performed by the Administration, $4,675,000 for fiscal year 1990, which shall be available for the following line items:

(1) Executive Direction, $1,013,000.

(2) Technology Policy and Commercial Affairs, $2,662,000.

(3) Japanese Technical Literature, $1,000,000.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SEC. 4. (a) FINDING.—Congress finds that the Institute can assist United States industry in three ways to speed the commercialization of new products and processes: through the Institute's internal research and services programs, which provide industry with precise measurement and quality assurance techniques and with new generic manufacturing and process technologies; through its technology extension activities, which disseminate technical information and advanced manufacturing techniques to a wide range of companies; and through its Advanced Technology Program, which can promote and assist industry's own efforts to develop new generic technologies.

(b) INTERNAL RESEARCH AND SERVICES.—There is authorized to be appropriated to the Secretary, to carry out the internal science and technology research and services activities of the Institute, $196,360,000 for fiscal year 1990, which shall be available for the following line items:

(1) Measurement Research and Standards, $50,185,000, of which $3,200,000 shall be available for chemical measurements and quality assurance and $2,500,000 for research on the atomic-level performance of electrical and optical systems.

(2) Materials Science and Engineering, $27,084,000, of which $3,600,000 shall be available to develop improved processing procedures for highperformance composites, and $2,000,000 for steel technology.

(3) Engineering Measurements and Standards, $69,428,000, of which $7,500,000 shall be available to develop measurement and quality assurance techniques for applications in advanced imaging electronics, including advanced television, $7,800,000 for research in superconductivity, $7,500,000 for lightwave and optoelectronic technology, $2,500,000 for a new initiative in advanced semiconductors, $2,500,000 for a new initiative in automation research, $3,650,000 for the development of measurement and quality assurance techniques for bioprocess engineering, and $9,912,000 for fire and building research.

(4) Computer Science and Technology, $15,088,000, of which $7,500,000 shall be available for computer security activities pursuant to the Computer Security Act of 1987 (Public Law 100-235; 100 Stat. 1724).

(5) Research Support Activities, $34,575,000, of which $6,000,000 shall be available for improvements in computer support and $6,500,000 shall be available for the Cold Neutron Research Facility.

(c) INDUSTRIAL TECHNOLOGY EXTENSION ACTIVITIES.—In addition to the sums already authorized by statute to be appropriated for fiscal year 1990 for Regional Centers for the Transfer of Manufacturing Technology and for assistance to State technology extension services, there is authorized to be appropriated to the Secretary to carry out the industrial technology extension activities to the Institute for fiscal year 1990, $4,000,000, of which $2,000,000 shall be available for the Technology Evaluation Program and $2,000,000 shall be available for the Institute's management of its industrial technology extension activities.

(d) TRANSFERS.—(1) Funds may be transferred among the line items listed in subsection (b), so long as—

(A) the net funds transferred to or from any line item do not exceed 10 per centum of the amount authorized for that line item in such subsection; and

(B) the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) The Secretary may propose transfers to or from any line item exceeding 10 per centum of the amount authorized for the line item in subsection (b), but such proposed transfer may not be made—

(A) unless a full explanation of any such proposed transfer and the reasons therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing committees of the House of Representatives and the Senate; and

(B) until the expiration of the thirty-day period following the transmission of such written explanation.

(e) INTERNATIONAL STANDARDS.—The Secretary is authorized and directed, to the extent provided in appropriations Acts, to provide up to $125,000 from fiscal year 1990 funds appropriated to the United States and Foreign Commercial Service for a one-year project to place a technical standards expert in Saudi Arabia for the purpose of helping the Kingdom of Saudi Arabia to write product standards which treat United States exports fairly, only if every dollar contributed by the Secretary is matched by at least one dollar raised by the private sector. The Director shall assist the Director General of such Service in selecting an appropriate technical expert and shall provide appropriate technical support.

(f) OFFICE OF INDUSTRIAL TECHNOLOGY SERVICES.—Section 26 of the Act of March 3, 1901 (15 U.S.C. 278l), is amended by adding at the end the following new subsection:

"(c) There is established within the Institute an Office of Industrial Technology Services, which shall supervise the Centers program, the Institute's assistance to State technology programs, and such other activities or programs as the Secretary, Under Secretary, or Director may specify.".

ADVANCED TECHNOLOGY PROGRAM

SEC. 5. (a) FINDINGS AND STATEMENT OF POLICY.—Congress finds and declares the following:

(1) It is in the national interest for the Federal Government to encourage and, in selected cases, provide limited financial assistance to industry-led private sector efforts to increase research and development in economically critical areas of technology. Further, both joint research and development ventures (hereafter in this section referred to as "joint ventures") and selected research assistance to small firms are established and effective ways to create economically-valuable new technology. Joint ventures are a particularly effective and appropriate way to pool resources to conduct research that no one company is likely to undertake but which will create new generic technologies that will benefit an entire industry and the welfare of the Nation.

(2) In accordance wtih existing national policy, both the technology developed by any joint venture supported by the Department of Commerce as well as the resulting products should be made available, on a license and royalty basis and subject to the terms and conditions listed in this section, to nonparticipants.

(3) When a joint venture receives financial assistance from the Department of Commerce, the technology resulting from the

joint venture should be licensed in such a way that the technology promotes the domestic manufacture of resulting products and components.

(b) AUTHORIZATIONS FOR ASSISTANCE TO INDUSTRY-LED RESEARCH PROJECTS.—In addition to sums otherwise authorized by this Act, there is authorized to be appropriated to the Secretary, pursuant to section 28 of the Act of March 3, 1901 (15 U.S.C. 278n), as amended by section 7 of this Act, and subject to the terms specified in subsections (c) and (d) of this section, $100,000,000 for fiscal year 1990, which shall be available for the following line items:

(1) Assistance to industry-led joint ventures to create and test generic enabling technologies, $75,000,000, which shall be available to support joint ventures in—

(A) advanced imaging electronics, including advanced television;

(B) advanced manufacturing;

(C) applications of high-temperature superconducting materials;

(D) advanced ceramic and composite materials; and

(E) semiconductor production equipment, for the development of x-ray lithography as a method of producing semiconductor chips.

(2) Assistance to industry-led joint ventures in other areas of technology which the Secretary and Director believe are of great economic importance to the United States, $13,000,000.

(3) Assistance to United States small businesses which have held Small Business Innovation Research Program Phase II awards from other Federal agencies and which the Institute judges to have promising technologies in economically important technical fields, $10,000,000.

(4) Program management, analyses, and workshops, $2,000,000.

(c) GENERAL TERMS AND CONDITIONS FOR AID TO JOINT VENTURES.—(1) Subsequent to any appropriation made pursuant to the authorizations in subsection (b) (1) or (2) of this section, the Secretary shall invite requests for financial assistance from existing or proposed joint ventures in the designated technical areas. If requests are made, the Secretary, after an appropriate review of the technical and economic merits of each request, shall judge which individual requests or combination thereof, if any, merit assistance and shall decide what type and level of assistance each such meritorious proposal shall receive, except that in addition to the terms and conditions set forth in section 28 of the Act of March 3, 1901, as amended by section 7 of this Act, the Secretary shall make no award of any funds appropriated pursuant to an authorization contained in subsection (b)(1) of this section unless and until—

(A) the joint venture is led by at least two North American companies;

(B) the joint venture demonstrates that it has raised, or has firm commitments for, private funds which exceed the level of Federal funds that the joint venture has requested from the Secretary;

(C) the joint venture has developed and submitted to the Secretary a business plan which, in the judgment of the Secretary, adequately—

(i) states a clear and focused research and development agenda, including the prototype products and production processes to be created and how that agenda complements a related research project or projects already being funded by Federal departments or agencies;

(ii) provides assurance that the joint venture will have a sound management team;

(iii) demonstrates that a party to the joint venture, acting on the joint venture's behalf, has filed a written notification with the Attorney General and the Federal Trade Commission, as required under section 6 of the National Cooperative Research Act of 1984 (15 U.S.C. 4305);

(iv) provides, as appropriate, for participation in the joint venture by small businesses owned by United States citizens;

(v) considers metrology needs, and as appropriate, draws upon the technology, expertise, and facilities in the Institute's laboratories;

(vi) sets forth provisions regarding the disposition of intellectual property resulting from the joint venture, including the rapid transfer of that intellectual property to members of the joint venture; the licensing, as appropriate, of the intellectual property to other North American companies and to foreign companies, in accordance with the provisions set forth in subsection (d) of this section; and, as appropriate, requirements for royalties which will return funds to the investors in the joint venture, including the United States Government; and

(vii) sets forth reporting and auditing procedures; and

(D) the Secretary, after an appropriate review of the business plan, judges that the proposed research and development agenda and the proposed management team have high technical merit.

(2) The Secretary may not make an award to a joint venture for the performance of research and development, or for the construction of any research or other facility, unless the award is made using competitive or other merit-based procedures.

(d) PARTICIPATION AND LICENSING BY FOREIGN COMPANIES AND NON-MEMBERS OF A JOINT VENTURE.—(1) In addition to the terms and conditions set forth in section 28 of the Act of March 3, 1901 (15 U.S.C. 278n), as amended by section 7 of this Act, and in subsection (c) of this section, the terms and conditions set forth in paragraphs (2) and (3) of this subsection also shall apply to any joint venture which receives any financial assistance from the Secretary pursuant to the authorizations provided in subsection (b) (1) or (2).

(2)(A) No joint venture which contains a foreign company or a subsidiary thereof shall be eligible to receive financial assistance from the Secretary, and no foreign company shall participate in any joint venture which has received financial assistance from the Secretary, unless—

(i) the foreign company is prepared to make material contributions to the joint venture and the Secretary, after such consultations with the North American companies belonging to the joint venture or proposed joint venture as the Secretary considers appropriate, certifies that the foreign company's contributions and its participation in the joint venture would be in the interests of the United States;

(ii) the foreign company has already made and agrees to make a substantial commitment to the United States market, as evidenced by investments in the United States in long-term research, development, and manufacturing (including the domestic manufacture of major components and subassemblies); significant contributions to employment in the United States; and agreement with respect to any technology arising from the joint venture to manufacture within the United States products resulting from that technology, to procure parts and materials from competitive North American suppliers, and to support a North American supplier infrastructure;

(iii) the foreign company's home market affords reciprocal treatment to United States companies comparable to that afforded the foreign company in the United States, as evidenced by affording comparable opportunities for United States companies to participate in any joint ventures similar to those authorized under this Act; encouraging local investment opportunities for United States companies that are comparable to investment opportunities for foreign companies in the United States; and affording adequate and effective protection for the intellectual property rights of United States companies; and

(iv) the parent and affiliate organizations of the foreign company have not been identified on two or more occasions within the previous five years as a foreign manufacturer, producer, or exporter within the meaning of section 771(9)(A) of the Tariff Act of 1930 (19 U.S.C. 1677(9)(A)) in proceedings that have resulted in or involved a final dumping or countervailing duty determination.

(B) In the event the Secretary certifies a foreign company under subparagraph (A)(i) of this paragraph and certifies that the foreign company meets the requirements set forth under subparagraph (A)(ii) through (iv) of this paragraph, the Secretary shall waive the prohibition on the foreign company's participation and allow the foreign company to participate in the joint venture, subject to such terms and conditions as the Secretary may specify.

(C) The Secretary shall monitor the participation of any foreign company allowed into a joint venture assisted by the Secretary, shall periodically report to Congress on the participation of such foreign company and any other foreign companies participating in federally assisted joint ventures, and shall suspend the foreign company and its employees from continued participation in the joint venture if the Secretary determines that the foreign company or its home market has failed to satisfy any of the criteria set forth in subparagraph (A)(i) through (iv) of this paragraph or any of the terms and conditions the Secretary may set under subparagraph (B) of this paragraph.

(3) A joint venture which receives financial assistance from the Secretary may grant licenses to companies, including foreign companies, that are not members of the joint venture, for the use of intellectual property which the joint venture has developed, only if—

(A) licensing fees for the intellectual property are based on—

(i) the amount of research and development, product design, and manufacturing of products using the intellectual property that the company performs within the United States and Canada;

(ii) the percentage of domestically manufactured components, including electronic components, used in products which incorporate the intellectual property; and

(iii) in the case of a foreign company, the amount of reciprocal access North American companies have to that company's home market, as determined by the Secretary; and

(B) in the case of a foreign company, that company, in the judgment of the Secretary, has not within the past five years engaged in dumping practices within the United States or engaged in practices, either in the United States or abroad, which have the effect of infringing on or otherwise damaging the intellectual property rights of North American companies.

(4) The Secretary shall prescribe such rules and collect such information as may be nec-

essary to monitor and enforce any requirements set forth in paragraphs (2) and (3) of this subsection.

(e) COORDINATION.—(1) When reviewing private sector requests for Department of Commerce assistance to proposed joint ventures, and when monitoring the progress of assisted joint ventures, the Secretary shall, as appropriate, coordinate with the Secretary of Defense and other senior Federal officials to ensure cooperation and coordination in Federal technology programs and to avoid unnecessary duplication of effort. The Secretary is authorized to work with the Secretary of Defense and other appropriate Federal officials to form interagency working groups or special project offices to coordinate Federal technology activities.

(2) As appropriate, the Secretary shall coordinate Advanced Technology Program policies and activities with the economic, trade, and security policies of the Department of Commerce so as to promote the economic competitiveness of United States industries and shall, when so instructed by the President, coordinate these policies with the science, technology, economic, trade, and security policies of other Federal departments and agencies.

(f) ADVICE AND REVIEW.—In order to analyze the need for and value of joint ventures in specific technical fields, to evaluate any joint ventures for which North American companies request the Secretary's assistance, or to monitor the progress of any joint venture which receives Federal funds or loan guarantees pursuant to the authorizations contained in this section, the Secretary, the Under Secretary of Commerce for Technology, and the Director of the Institute may—

(1) organize and seek advice from such industry advisory committees as they consider useful and appropriate;

(2) organize an Advanced Electronics Advisory Board for the purpose of bringing industry and government leaders together to explore options for research and development in advanced electronics, including advanced television; and

(3) commission studies or reviews by the National Research Council.

(g) DEFINITIONS.—As used in this section, the term—

(1) "foreign company" means a company or other business entity in which majority ownership or control is held by individuals who are not citizens of the United States or Canada.

(2) "North American company" means a company or other business entity in which majority ownership or control is held by individuals who are citizens of the United States, or citizens of Canada, or a combination of United States and Canadian citizens, except that such term includes a company owned or controlled by Canadian citizens only if, in the judgment of the Secretary, the company is not acting, with respect to the joint venture concerned, as an agent or intermediary for a third-country company or foreign government.

REPORT ON HIGH DEFINITION TELEVISION

SEC. 6. (a) IN GENERAL.—On or before the expiration of the ninety-day period following the date of enactment of this Act, the Secretary shall submit to the President and Congress a report concerning the establishment, as a domestically based industry within the United States, of a high definition television enterprise or enterprises, together with ancillary products and services.

(b) ISSUES TO BE ADDRESSED.—The report required under subsection (a) shall identify the requirements for establishing in the United States a viable industry for the production of high definition television, the components of such television, and production and transmission equipment relating to programming for such television, and the development and manufacture of derivative and hybrid products relating to the computer and telecommunications industries.

(c) SCOPE; RECOMMENDATIONS.—The report required under subsection (a) shall—

(1) be comprehensive, including not only issues such as the encouragement of technologies, but issues pertaining to licensing, regulations, international standards, international trade, and specialized financing problems; and

(2) separately specify the recommendations of the Secretary for the role of the Federal Government in the development of such enterprise, including missions for individual elements of the executive branch, timelines and methods for attaining full coordination, requirements for legislative action necessary to the development of such enterprise, and anticipated funding needs.

(d) DEFINITION.—As used in this section, the term "enterprise" means—

(1) an entity—

(A) formed in the United States;

(B) operating its productive facilities in the United States; and

(C) owned in its entirety by citizens of the United States; or

(2) a foreign owned entity if—

(A) such entity establishes and operates research facilities in the United States for the purpose of developing and producing high definition television in the United States;

(B) all personnel of such entity engaged in such research in connection with high definition television in the United States are citizens of the United States;

(C) the research product of such entity is available for licensing without bias to any public and private entity or agency within the United States, and on an equal footing with any foreign entity or agency;

(D) such entity establishes and operates production facilities in the United States for the purpose of manufacturing finished components, components and subcomponents relating to high definition television, and ancillary equipment and spinoff products relating to high definition television; and

(E) all personnel of such entity engaged in the establishment and operation of such production facility are citizens of the United States.

AMENDMENT TO ADVANCED TECHNOLOGY PROGRAM PROVISIONS

SEC. 7. Section 28 of the Act of March 3, 1901 (15 U.S.C. 278n), is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting immediately after subsection (d) the following new subsection:

"(e)(1) The Secretary may, for the purpose of managing the Program, employ at the Institute such technical and professional personnel and fix their compensation without regard to the provisions of title 5, United States Code, as the Secretary may deem necessary for the discharge of responsibilities under this section.

"(2) The Secretary may, under the authority provided by paragraph (1) of this subsection, appoint for a limited term or on a temporary basis, scientists, engineers, and other technical and professional personnel on leave of absence from industrial, academic, research, or State institutions to work for the Program.

"(3) The Secretary may pay, to the extent authorized for certain other Federal employees by section 5723 of title 5, United States Code, travel expenses for any individual appointed for a limited term or on a temporary basis and transportation expenses of his or her immediate family and his or her household goods and personal effects from that individual's residence at the time of selection or assignment to his or her duty station. The Secretary may pay such travel expenses and transportation expenses to the same extent for such an individual's return to the former place of residence from his or her duty station, upon separation from the Federal service following an agreed period of service. The Secretary may also pay a per diem allowance at a rate not to exceed the daily amounts prescribed under section 5702 of title 5, United States Code, to such an individual, in lieu of and when less than transportation expenses of the immediate family and household goods and personal effects, for the period of his or her employment with the Program. Notwithstanding any other provision of law, the employer's contribution to any retirement, life insurance, or health benefit plan for an individual appointed for a term of one year or less, which could be extended for no more than one additional year, may be made or reimbursed from appropriations available to the Secretary.".

SALARY ADJUSTMENTS

SEC. 8. In addition to any sums otherwise authorized by this Act, there are authorized to be appropriated to the Secretary for fiscal year 1990 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

AVAILABILITY OF APPROPRIATIONS

SEC. 9. Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

ANNUAL INDUSTRIAL TECHNOLOGY REPORT

SEC. 10. Section 5 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704) is amended by adding at the end the following new subsection:

"(f) ANNUAL INDUSTRIAL TECHNOLOGY REPORT.—(1) By February 15 of each year following the date of enactment of this subsection, the Secretary, through the Under Secretary, shall submit to Congress a report on the state of United States industrial technology. Each such report shall include, but not be limited to—

"(A) a list of what the Secretary and Department of Commerce technical experts consider to be the most economically important technologies and the estimated current and future size of domestic and international markets for products derived from these technologies;

"(B) a list of the technologies and markets targeted by major trading partners for development or capture;

"(C) an assessment of the current state of United States product technology, process technology, and manufacturing capability in the fields of technology and the markets identified under subparagraph (A), as compared with the current levels of such technologies and manufacturing capability achieved, or future levels likely to be achieved, by major trading partners;

"(D) an identification of the types of research and development needed to close any significant gaps or deficiencies in the technology base of the United States, as com-

pared with the technology bases of major trading partners;

"(E) an analysis of private and public investments in the United States in research and development, including Federal research and development investments, by department and agency, in the specific fields of technology and the markets identified under subparagraph (A); a summary of Federal policies, including research policies, to promote United States industrial competitiveness in those fields of technology and markets; and an analysis of what additional private and Federal actions are needed to close gaps between the civilian technology base of the United States and the technology bases of major trading partners, including what steps are necessary to ensure that the Institute can provide North American companies with the support technologies needed to remain competitive in those fields of technology and markets;

"(F) an evaluation of flows of industrial technology between the United States and major trading partners, including flows of technology through licenses and patent-sharing or cross-licensing, corporate investments and acquisitions, investments in universities and government laboratories, technical literature, and personnel exchanges, and a summary and analysis of annual foreign investments in, and acquisitions of, high-technology firms or organizations within the United States; and

"(G) a statement concerning any policies, regulatory obstacles, or other institutional problems which, in the judgment of the Secretary, adversely affect the creation and use of industrial technology in the United States or limit the contribution that Federal research and development makes to United States leadership in industrial technology.

"(2) The Secretary may, to the extent permitted by other Acts, collect such information as may be necessary to prepare the annual report required by this subsection.

"(3) The Directors of the Office of Science and Technology Policy, the Office of Management and Budget, and the National Science Foundation, as well as the heads of other Federal departments and agencies, shall provide such information and assistance in the preparation of the annual report as the Secretary may request.".

REPORT ON STRATEGY FOR REDUCING THE COST OF CAPITAL

SEC. 11. (a) IN GENERAL.—Not later than one hundred and twenty days after the date of enactment of this Act, the Secretary shall submit to Congress a report detailing options and a strategy for equalizing the real cost of capital, including interest rates, paid by manufacturing and electronics companies in the United States with the real cost of capital in Japan.

(b) TOPICS REQUIRED FOR REPORT.—The report shall include, but not necessarily be limited to, a discussion of the following topics:

(1) Such costs of capital paid by corporate borrowers in the United States and Japan during the ten-year period ending on the date of enactment of this Act, including such costs of capital under loan programs backed by the Government of Japan;

(2) the payback periods typically associated with such costs of capital and the effect of these costs and payback periods on the ability and willingness of companies in the two countries to make long-term investments in new research and development, products, and manufacturing plants;

(3) the consequences for the economic competitiveness and trade balance of the United States if United States companies are unable to invest substantially in new areas such as advanced television and related products, superconductivity, and advanced semiconductor production facilities;

(4) the expected levels of such costs of capital in the United States under various levels of United States budget deficits, trade deficits, and savings rates;

(5) the benefits and limitations of tax credits and other tax-based measures to reduce such costs of capital for United States companies, including their benefits and limitations in situations where initial investment costs of a company are high and the company initially generates little or no profit for which taxes are assessed;

(6) an analysis of the effect of other options for reducing such costs of capital for United States companies, including low-cost loans and loan guarantees, and the feasibility of using these options to reduce the costs of capital for United States companies to levels that are near or at effective Japanese levels; and

(7) a proposed strategy for reducing such costs of capital for United States companies to levels that are near or at effective Japanese levels.

(c) ASSISTANCE; CONSULTATION.—Other Federal departments and agencies shall provide the Secretary with such information and assistance as the Secretary considers necessary to prepare the report required by this section. The Secretary is encouraged to consult with private sector officials and experts during the preparation of the report.

REPORT ON CREATION AND COMMERCIALIZATION OF COLLEGE AND UNIVERSITY RESEARCH

SEC. 12. Not later than six months after the date of enactment of this Act, the Secretary, with the participation of the Director of the National Science Foundation, shall submit to Congress a program plan, including any necessary proposed regulations, to establish and implement collaborative progams between the two agencies to—

(1) stimulate the transfer of federally supported research to the private sector through steps to encourage and assist United States small businesses to develop and commercialize basic technologies created at colleges and universities; and

(2) assist academic researchers at a wide range of colleges and universities, including smaller institutions and institutions which do not traditionally receive large amounts of Federal research funds, to pursue high-quality research of economic potential and to transfer that research to the private sector.

REPORTS ON MANUFACTURING

SEC. 13. Not later than one hundred and twenty days after the date of enactment of this Act, the Secretary shall submit to Congress the following two reports:

(1) A report on the feasibility and advisability of establishing, in affiliation with the Institute, a Quality Institute and a privately funded foundation to support that Quality Institute, the purpose of which would be—

(A) to conduct workshops and company tours to share with managers, engineers, and production employees in the United States advanced techniques for improving manufacturing organization, quality, and productivity, including team-oriented organizational approaches to managing production technology and corporate research and development; and

(B) to help develop and disseminate model curricula in advanced manufacturing which might be used by technical colleges and other educational institutions to provide training to students and manufacturing company employees.

(2) A report analyzing the advantages and disadvantages of small manufacturing firms in the United States participating in new multi-company manufacturing centers, either on a local or regional scale, and what steps, if any, in the judgment of the Secretary, the Federal Government can and should take to encourage the development of such new organizations for manufacturing.

REPORT ON A STRATEGY TO STIMULATE COMPETITIVE RESEARCH

SEC. 14. (a) IN GENERAL.—No later than February 1, 1990, the Director of the Office of Science and Technology Policy shall submit to Congress a report presenting a proposed strategy for improving the university research capabilities of those States which historically have received relatively little Federal research and development funding. The report shall particularly discuss the feasibility and advisability of using the National Science Foundation's Experimental Program to Stimulate Competitive Research as a model for similar programs in other Federal departments and agencies which fund research and development.

(b) ANALYSIS AND DISCUSSION.—The report shall include, but not necessarily be limited to, an analysis and discussion of—

(1) the geographic distribution of Federal research and development grants and contracts;

(2) current Federal efforts to stimulate competitive research; and

(3) the feasibility and advisability of new programs to stimulate competitive research in the National Aeronautics and Space Administration; the Departments of Defense, Energy, Agriculture, Health and Human Services, and the Interior; and the Environmental Protection Agency.

Mr. HOLLINGS. Mr. President, I am pleased to bring before the Senate S. 1191, the Technology Administration Authorization Act of 1989. This bill would provide fiscal year 1990 authorizations for the Commerce Department's Technology Administration, a new organization which contains the National Institute of Standards and Technology [NIST] and other important programs. The bill was approved by the Commerce Committee without objection.

S. 1191 is another step in the Commerce Committee's continuing efforts to strengthen programs which aid U.S. technological competitiveness. This legislation builds on two statutes that the committee authored during the last Congress—the Technology Competitiveness Act, a part of the Omnibus Trade and Competitiveness Act, and the NIST Authorization Act for fiscal year 1989, which combined Department of Commerce [DOC] technology activities into the new Technology Administration.

Under these statutes, NIST now has three main programs that respond to the technology needs of American industry: the agency's traditional laboratory program, which provides companies with essential measurement services and precise quality control techniques; its technology extension activi-

ties, including Manufacturing Technology Centers which help small firms automate and improve competitiveness; and the Advanced Technology Program, which will encourage and assist industry-led research consortia in such economically critical fields as electronics, manufacturing, and superconductivity.

Mr. President, the legislative package before the Senate today is, with two exceptions, the same bill as ordered reported by the Commerce Committee on August 1.

The first exception is an amendment based on Senator HATCH's S. 1545. The Senator's bill would create a NIST-industry pilot program, jointly funded, to place American standards experts in foreign countries which have requested U.S. help in writing their national product standards. This is an important trade issue, since a nation's standards code determines which products may be imported and sold. Saudi Arabia is one country that has welcomed American participation. Senator BENTSEN first brought this issue to the attention of the Commerce Committee a year ago, and I am pleased today to accept Senator HATCH's specific proposal.

The second change is an amendment which deletes the provision in the reported version of the bill dealing with the licensing of technology created by DOC-assisted joint research and development ventures. After the Commerce Committee ordered S. 1191 reported, several companies as well as Senator DECONCINI's patent staff raised questions about this particular section. Under the circumstances, it seems best to delete the current provision, which would leave licensing arrangements under existing law. If this licensing issue comes up again during conference discussions with the House, I want to pledge now to continue to discuss this important issue with all concerned parties. My objective here remains simple: to ensure that the technology resulting from any taxpayer-assisted research consortium is used in ways which advance U.S. interests.

I now want to comment briefly on one other feature of S. 1191 as reported. The language for the Advanced Technology Program would allow the Secretary of Commerce, under certain conditions, to approve the participation of a foreign-owned company in a DOC-assisted research consortium. I want to make clear that I believe that any U.S. taxpayer dollars used to assist industrial consortia should advance U.S. interests. Several foreign companies, however, have substantial research and manufacturing facilities in this country and have technology which could contribute materially to American research projects. Therefore, the committee accepted language authored by Senator GORE that would allow the Secretary to judge foreign companies on a case-by-case basis. I also have asked Deputy Secretary of Commerce Thomas Murrin for his suggestions on this issue, and as this bill heads toward conference we will continue to discuss the precise language with the administration.

Mr. President, in conclusion I want to say briefly why this bill is important, in fact, critical.

Beneath today's surface prosperity, many of the fundamental foundations of the American economy are falling apart. The technological and industrial strength responsible for this nation's standard of living and national defense is evaporating and evaporating fast. In the 1960's, for example, the United States had over 20 television manufacturing firms; now we have one. U.S. companies once led in core industries such as machine tools; from 1970 to 1987 the percentage of U.S. market held by American machine tool-makers fell from 100 percent to under 40 percent. Americans invented the semiconductor chip; today we barely have an industry in the important memory chip sector. In critical areas for the future such as semiconductor equipment and advanced materials, American firms are dropping out or selling out to foreign companies.

To be sure, foreign firms are often excellent at products and manufacturing. But also contributing to our decline are other factors in these countries—huge industry-government technology projects, subsidized investment capital, dumping at below-cost prices, and closed markets that keep out American products even when they are the world's best.

I do not object to some foreign ownership, provided that Americans have the same opportunities abroad. As a governor I welcomed foreign investment and still do. But to lose control of entire sectors destroys our ability to guide our own national destiny and reduces us to a second-class nation, dependent on others for the technology that underpins both our economy and national defense.

An obvious point must be repeated: American companies no longer compete just with foreign firms but with active industry-government partnerships. Invoking tired old rhetoric about the value of laissez-faire policies will not make those foreign programs disappear and will not make the challenge go away. Pretending that the rest of the world should be different will not save us. We need Government actively on industry's side.

S. 1191 is an important response to the technology part of this challenge.

For the past 10 months, Congress and American industry have waited to see what position the Bush administration will take on these issues of competitiveness and technology. Early on, Secretary Mosbacher actively took the lead on these issues and won praise from both Democrats and Republicans in Congress. However, the administration position has become muddled, and no far-reaching proposals responding to the Nation's technological and industrial decline have been offered. I would like to think that the President cares about the strength of the United States, but so far we have seen little. In the case of S. 1191, the administraion has neither endorsed nor opposed the bill.

It is time for the administration to take a stand on these issues. I, for one, do not want to see this subject become partisan. But frustration is growing in both Congress and industry over the silence of this administration, and one day these officials will be held accountable for the state of U.S. industry. If the President can spend $6 billion on an atom smasher for Texas, then I respectfully submit that he might find some funds to help prevent the further destruction of our industrial base. I am willing to work with the administration to find sound solutions to these problems.

In the meantime, Mr. President, I urge our colleagues to support this well-conceived and limited bill to provide American industry with the basic technology support it needs to stay competitive. The bill enjoyed bipartisan support in the Commerce Committee and I hope it will have the same support here on the floor.

Mr. HATCH. Mr. President, I believe that the bipartisan support for this amendment demonstrates the commitment that now exists in Congress for active promulgation of U.S. product standards overseas. A year ago Congress instructed Secretary Verrity to initiate a pilot project in foreign standards assistance to Saudi Arabia, but this project was to be soley financed by the private sector. This amendment now strengthens that mandate by calling for matching Federal funding for 3 years, on a dollar-for-dollar basis.

It is the concern of myself and Senate leadership on both sides of the aisle that the adoption of product standards by industrializing nations be recognized as a vital concern to American exports. United States market interests are no less at stake in these countries than in Europe where the harmonization of standards has won appropriate attention from the administration. The difference may be only one of time.

There are fledgling economies around the world which will have grown into substantial trading markets by the next century. Our trade competitors know this and are actively working to corner those markets on the ground floor. The United States is one of the few major trading nations that does not actively promulgate its product standards in the developing

world. Our competitors would like nothing better than to see the United States sleep through this nuts and bolts process.

Mr. President, in the United States we have a style of product standards development that is private and diversified. Therefore, we are at a considerable disadvantage when it comes to international representation. It is my concern that a public as well as private component is needed for an overseas program that could adequately defend U.S. market share around the world. This public/private strategic partnership is the concept underlying the pilot project we are about to launch.

Let us understand that this project need not be complicated, expensive, or without terminus. It merely needs to have appropriate market-savvy guidance from the private sector, and it needs to have the sustained and legitimate representation of the U.S. Government.

On the subject of public funding, I would like to add that it is important to assure as universal a program as possible and to assure adequate liaison to industries that are not necessarily able to finance their own representation. Furthermore, it is not an efficient use of resources for any one industry, no matter how large or well-financed, to try to remain on site over the duration of an indigenous standard-writing project.

Mr. President, I want to thank my fine colleagues, Senator HOLLINGS and Senator BENTSEN, for their foresight and generous spirit of cooperation. There are many people who have worked to alert us to the urgency of product standards as an export tool. I would also like to congratulate my colleagues in the Senate who have nurtured this opportunity for so long. May I also thank the American-Saudi Roundtable, the American Businessmen of the Gulf Arab States, the National U.S. Arab Chamber of Commerce, our advisers at Commerce, members of the standards-writing community, and all those concerned with this issue for their informed counsel, discernment, and perseverance.

Mr. BINGAMAN. Mr. President, I rise in support of the Technology Administration Authorization Act of 1989. I believe that this is an important step toward crafting a comprehensive technology policy for this Nation. The bill goes beyond a simple reauthorization of the Commerce Department's Technology Administration and National Institute of Standards and Technology. It includes essential programs for the support of important developing technologies. Over the past 8 years this Nation has suffered from a neglect of our civilian technological base. This bill will reverse that trend.

This bill also parallels the work of the Defense Industry and Technology Subcommittee of the Armed Services Committee in reversing the decline of our industrial and research base. It is extremely crucial that we have coordinated civilian and military research in critical technological areas. This bill requires such coordination and makes the Secretary of Commerce a key player in the process.

In addition, the legislation requires a report on critical civilian technologies, including an assessment of the current state of American technology relative to our major trading partners. This is something we required last year that the Defense Department do on an annual basis with respect to critical military technologies and are expanding in this year's DOD authorization bill. The combination of these reports will, I believe, give us a complete view of our technological priorities.

This legislation is an important part in our technology policy. I urge its adoption.

AMENDMENT NO. 1070

(Purpose: To make an amendment to section 4)

Mr. STEVENS. Mr. President, I send to the desk in behalf of Senator HATCH and others an amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. HATCH (for himself, Mr. HOLLINGS, Mr. BENTSEN, Mr. BYRD, Mr. HEINZ, Mr. BOND, Mr. D'AMATO, Mr. BRADLEY, Mr. GARN, Mr. GRASSLEY, Mr. KENNEDY, Mr. MATSUNAGA, Mr. INOUYE, Mr. SIMON, Mr. JEFFORDS, Mr. LUGAR, Mr. KERRY, Mr. WARNER, Mr. CRANSTON, Mrs. KASSEBAUM, Mr. SANFORD, Mr. WILSON, and Mr. GLENN), proposes an amendment numbered 1070.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 29, lines 9 through 21, strike all and insert in lieu thereof the following:

(e) INTERNATIONAL STANDARDS PILOT PROGRAM.—(1) In addition to sums otherwise authorized by this Act, there are authorized to be appropriated to the Secretary for each of the fiscal years 1990, 1991, and 1992, up to $250,000 for use in paying the Federal share of the cost of establishing and carrying out a pilot program, under section 112 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 (15 U.S.C. 272 note), to assist in the development of comprehensive industrial standards for a country or countries that have requested such assistance from the United States and will require the continuous presence of United States personnel for a period of 2 or more years to provide such assistance.

(2) Of the moneys appropriated pursuant to the authorization under paragraph (1) for any such fiscal year, the aggregate amounts made available for such fiscal year from such moneys for purposes of establishing and carrying out the pilot program under paragraph (1) shall not exceed the aggregate amounts made available for such purposes for such fiscal year from non-Federal sources.

The PRESIDING OFFICER. Is there debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Utah.

The amendment (No. 1070) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WIRTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1071

(Purpose: To amend section 5)

Mr. WIRTH. Mr. President, I send an amendment to the desk in behalf of Senator HOLLINGS and Senator DECONCINI, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH], for Mr. HOLLINGS for himself, and Mr. DECONCINI, proposes an amendment numbered 1071.

Mr. WIRTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(1) Strike all on page 31, lines 3 through 7.

(2) On page 34, lines 19 through 21, strike "companies, in accordance with the provisions set forth in subsection (d) of this section;" and insert in lieu thereof "companies;".

(3) On page 35, lines 12 through 13, strike all after "PARTICIPATION" and insert in lieu thereof "BY FOREIGN COMPANIES.—".

(4) On page 35, lines 17 through 18, strike "paragraphs (2) and (3)" and insert in lieu thereof "paragraph (2)".

(5) Strike all on page 38, line 15, through page 39, line 15.

(6) On page 39, line 16, strike "(4)" and insert in lieu thereof "(3)".

(7) On page 39, line 18, strike "paragraphs (2) and (3)" and insert in lieu thereof "paragraph (2)".

The PRESIDING OFFICER. Is there debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1071) was agreed to.

Mr. WIRTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing

to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Technology Administration Authorization Act of 1989".

STATEMENT OF POLICY

SEC. 2. Congress finds that in order to help United States industries to speed the development of new products and processes and in order to maintain the economic competitiveness of the Nation, targeted increases are required in the programs and activities of the Department of Commerce's Technology Administration (hereafter in this Act referred to as the "Administration") and its National Institute of Standards and Technology (hereafter in this Act referred to as the "Institute").

TECHNOLOGY ADMINISTRATION

SEC. 3. There is authorized to be appropriated to the Secretary of Commerce (hereafter in this Act referred to as the "Secretary"), to carry out executive and analytical activities performed by the Administration, $4,675,000 for fiscal year 1990, which shall be available for the following line items:

(1) Executive Direction, $1,013,000.

(2) Technology Policy and Commercial Affairs, $2,662,000.

(3) Japanese Technical Literature, $1,000,000.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SEC. 4. (a) FINDING.—Congress finds that the Institute can assist United States industry in three ways to speed the commercialization of new products and processes: through the Institute's internal research and services programs, which provide industry with precise measurement and quality assurance techniques and with new generic manufacturing and process technologies; through its technology extension activities, which disseminate technical information and advanced manufacturing techniques to a wide range of companies; and through its Advanced Technology Program, which can promote and assist industry's own efforts to develop new generic technologies.

(b) INTERNAL RESEARCH AND SERVICES.—There is authorized to be appropriated to the Secretary, to carry out the internal science and technology research and services activities of the Institute, $196,360,000 for fiscal year 1990, which shall be available for the following line items:

(1) Measurement Research and Standards, $50,185,000, of which $3,200,000 shall be available for chemical measurements and quality assurance and $2,500,000 for research on the atomic-level performance of electrical and optical systems.

(2) Materials Science and Engineering, $27,084,000, of which $3,600,000 shall be available to develop improved processing procedures for highperformance composites, and $2,000,000 for steel technology.

(3) Engineering Measurements and Standards, $69,428,000, of which $7,500,000 shall be available to develop measurement and quality assurance techniques for applications in advanced imaging electronics, including advanced television, $7,800,000 for research in superconductivity, $7,500,000 for lightwave and optoelectronic technology, $2,500,000 for a new initiative in advanced semiconductors, $2,500,000 for a new initiative in automation research, $3,650,000 for the development of measurement and quality assurance techniques for bioprocess engineering, and $9,912,000 for fire and building research.

(4) Computer Science and Technology, $15,088,000, of which $7,500,000 shall be available for computer security activities pursuant to the Computer Security Act of 1987 (Public Law 100-235; 100 Stat. 1724).

(5) Research Support Activities, $34,575,000, of which $6,000,000 shall be available for improvements in computer support and $6,500,000 shall be available for the Cold Neutron Research Facility.

(c) INDUSTRIAL TECHNOLOGY EXTENSION ACTIVITIES.—In addition to the sums already authorized by statute to be appropriated for fiscal year 1990 for Regional Centers for the Transfer of Manufacturing Technology and for assistance to State technology extension services, there is authorized to be appropriated to the Secretary to carry out the industrial technology extension activities to the Institute for fiscal year 1990, $4,000,000, of which $2,000,000 shall be available for the Technology Evaluation Program and $2,000,000 shall be available for the Institute's management of its industrial technology extension activities.

(d) TRANSFERS.—(1) Funds may be transferred among the line items listed in subsection (b), so long as—

(A) the net funds transferred to or from any line item do not exceed 10 per centum of the amount authorized for that line item in such subsection; and

(B) the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) The Secretary may propose transfers to or from any line item exceeding 10 per centum of the amount authorized for the line item in subsection (b), but such proposed transfer may not be made—

(A) unless a full explanation of any such proposed transfer and the reasons therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing committees of the House of Representatives and the Senate; and

(B) until the expiration of the thirty-day period following the transmission of such written explanation.

(e) INTERNATIONAL STANDARDS PILOT PROGRAM.—(1) In addition to sums otherwise authorized by this Act, there are authorized to be appropriated to the Secretary for each of the fiscal years 1990, 1991, and 1992, up to $250,000 for use in paying the Federal share of the cost of establishing and carrying out a pilot program, under section 112 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 (15 U.S.C. 272 note), to assist in the development of comprehensive industrial standards for a country or countries that have requested such assistance from the United States and will require the continuous presence of United States personnel for a period of two or more years to provide such assistance.

(2) Of the moneys appropriated pursuant to the authorization under paragraph (1) for any such fiscal year, the aggregate amounts made available for such fiscal year from such moneys for purposes of establishing and carrying out the pilot program under paragraph (1) shall not exceed the aggregate amounts made available for such purposes for such fiscal year from non-Federal sources.

(f) OFFICE OF INDUSTRIAL TECHNOLOGY SERVICES.—Section 26 of the Act of March 3, 1901 (15 U.S.C. 278l), is amended by adding at the end the following new subsection:

"(c) There is established within the Institute an Office of Industrial Technology Services, which shall supervise the Centers program, the Institute's assistance to State technology programs, and such other activities or programs as the Secretary, Under Secretary, or Director may specify.".

ADVANCED TECHNOLOGY PROGRAM

SEC. 5. (a) FINDINGS AND STATEMENT OF POLICY.—Congress finds and declares the following:

(1) It is in the national interest for the Federal Government to encourage and, in selected cases, provide limited financial assistance to industry-led private sector efforts to increase research and development in economically critical areas of technology. Further, both joint research and development ventures (hereafter in this section referred to as "joint ventures") and selected research assistance to small firms are established and effective ways to create economically-valuable new technology. Joint ventures are a particularly effective and appropriate way to pool resources to conduct research that no one company is likely to undertake but which will create new generic technologies that will benefit an entire industry and the welfare of the Nation.

(2) In accordance wtih existing national policy, both the technology developed by any joint venture supported by the Department of Commerce as well as the resulting products should be made available, on a license and royalty basis and subject to the terms and conditions listed in this section, to nonparticipants.

(b) AUTHORIZATIONS FOR ASSISTANCE TO INDUSTRY-LED RESEARCH PROJECTS.—In addition to sums otherwise authorized by this Act, there is authorized to be appropriated to the Secretary, pursuant to section 28 of the Act of March 3, 1901 (15 U.S.C. 278n), as amended by section 7 of this Act, and subject to the terms specified in subsections (c) and (d) of this section, $100,000,000 for fiscal year 1990, which shall be available for the following line items:

(1) Assistance to industry-led joint ventures to create and test generic enabling technologies, $75,000,000, which shall be available to support joint ventures in—

(A) advanced imaging electronics, including advanced television;

(B) advanced manufacturing;

(C) applications of high-temperature superconducting materials;

(D) advanced ceramic and composite materials; and

(E) semiconductor production equipment, for the development of x-ray lithography as a method of producing semiconductor chips.

(2) Assistance to industry-led joint ventures in other areas of technology which the Secretary and Director believe are of great economic importance to the United States, $13,000,000.

(3) Assistance to United States small businesses which have held Small Business Innovation Research Program Phase II awards from other Federal agencies and

which the Institute judges to have promising technologies in economically important technical fields, $10,000,000.

(4) Program management, analyses, and workshops, $2,000,000.

(c) GENERAL TERMS AND CONDITIONS FOR AID TO JOINT VENTURES.—(1) Subsequent to any appropriation made pursuant to the authorizations in subsection (b) (1) or (2) of this section, the Secretary shall invite requests for financial assistance from existing or proposed joint ventures in the designated technical areas. If requests are made, the Secretary, after an appropriate review of the technical and economic merits of each request, shall judge which individual requests or combination thereof, if any, merit assistance and shall decide what type and level of assistance each such meritorious proposal shall receive, except that in addition to the terms and conditions set forth in section 28 of the Act of March 3, 1901, as amended by section 7 of this Act, the Secretary shall make no award of any funds appropriated pursuant to an authorization contained in subsection (b)(1) of this section unless and until—

(A) the joint venture is led by at least two North American companies;

(B) the joint venture demonstrates that it has raised, or has firm commitments for, private funds which exceed the level of Federal funds that the joint venture has requested from the Secretary;

(C) the joint venture has developed and submitted to the Secretary a business plan which, in the judgment of the Secretary, adequately—

(i) states a clear and focused research and development agenda, including the prototype products and production processes to be created and how that agenda complements a related research project or projects already being funded by Federal departments or agencies;

(ii) provides assurance that the joint venture will have a sound management team;

(iii) demonstrates that a party to the joint venture, acting on the joint venture's behalf, has filed a written notification with the Attorney General and the Federal Trade Commission, as required under section 6 of the National Cooperative Research Act of 1984 (15 U.S.C. 4305);

(iv) provides, as appropriate, for participation in the joint venture by small businesses owned by United States citizens;

(v) considers metrology needs, and as appropriate, draws upon the technology, expertise, and facilities in the Institute's laboratories;

(vi) sets forth provisions regarding the disposition of intellectual property resulting from the joint venture, including the rapid transfer of that intellectual property to members of the joint venture; the licensing, as appropriate, of the intellectual property to other North American companies and to foreign companies; and, as appropriate, requirements for royalties which will return funds to the investors in the joint venture, including the United States Government; and

(vii) sets forth reporting and auditing procedures; and

(D) the Secretary, after an appropriate review of the business plan, judges that the proposed research and development agenda and the proposed management team have high technical merit.

(2) The Secretary may not make an award to a joint venture for the performance of research and development, or for the construction of any research or other facility, unless the award is made using competitive or other merit-based procedures.

(d) PARTICIPATION BY FOREIGN COMPANIES.—(1) In addition to the terms and conditions set forth in section 28 of the Act of March 3, 1901 (15 U.S.C. 278n), as amended by section 7 of this Act, and in subsection (c) of this section, the terms and conditions set forth in paragraph (2) of this subsection also shall apply to any joint venture which receives any financial assistance from the Secretary pursuant to the authorizations provided in subsection (b) (1) or (2).

(2)(A) No joint venture which contains a foreign company or a subsidiary thereof shall be eligible to receive financial assistance from the Secretary, and no foreign company shall participate in any joint venture which has received financial assistance from the Secretary, unless—

(i) the foreign company is prepared to make material contributions to the joint venture and the Secretary, after such consultations with the North American companies belonging to the joint venture or proposed joint venture as the Secretary considers appropriate, certifies that the foreign company's contributions and its participation in the joint venture would be in the interests of the United States;

(ii) the foreign company has already made and agrees to make a substantial commitment to the United States market, as evidenced by investments in the United States in long-term research, development, and manufacturing (including the domestic manufacture of major components and subassemblies); significant contributions to employment in the United States; and agreement with respect to any technology arising from the joint venture to manufacture within the United States products resulting from that technology, to procure parts and materials from competitive North American suppliers, and to support a North American supplier infrastructure;

(iii) the foreign company's home market affords reciprocal treatment to United States companies comparable to that afforded the foreign company in the United States, as evidenced by affording comparable opportunities for United States companies to participate in any joint ventures similar to those authorized under this Act; encouraging local investment opportunities for United States companies that are comparable to investment opportunities for foreign companies in the United States; and affording adequate and effective protection for the intellectual property rights of United States companies; and

(iv) the parent and affiliate organizations of the foreign company have not been identified on two or more occasions within the previous five years as a foreign manufacturer, producer, or exporter within the meaning of section 771(9)(A) of the Tariff Act of 1930 (19 U.S.C. 1677(9)(A)) in proceedings that have resulted in or involved a final dumping or countervailing duty determination.

(B) In the event the Secretary certifies a foreign company under subparagraph (A)(i) of this paragraph and certifies that the foreign company meets the requirements set forth under subparagraph (A)(ii) through (iv) of this paragraph, the Secretary shall waive the prohibition on the foreign company's participation and allow the foreign company to participate in the joint venture, subject to such terms and conditions as the Secretary may specify.

(C) The Secretary shall monitor the participation of any foreign company allowed into a joint venture assisted by the Secretary, shall periodically report to Congress on the participation of such foreign company and any other foreign companies participating in federally assisted joint ventures, and shall suspend the foreign company and its employees from continued participation in the joint venture if the Secretary determines that the foreign company or its home market has failed to satisfy any of the criteria set forth in subparagraph (A)(i) through (iv) of this paragraph or any of the terms and conditions the Secretary may set under subparagraph (B) of this paragraph.

(3) The Secretary shall prescribe such rules and collect such information as may be necessary to monitor and enforce any requirements set forth in paragraph (2) of this subsection.

(e) COORDINATION.—(1) When reviewing private sector requests for the Department of Commerce assistance to proposed joint ventures, and when monitoring the progress of assisted joint ventures, the Secretary shall, as appropriate, coordinate with the Secretary of Defense and other senior Federal officials to ensure cooperation and coordination in Federal technology programs and to avoid unnecessary duplication of effort. The Secretary is authorized to work with the Secretary of Defense and other appropriate Federal officials to form interagency working groups or special project offices to coordinate Federal technology activities.

(2) As appropriate, the Secretary shall coordinate Advanced Technology Program policies and activities with the economic, trade, and security policies of the Department of Commerce so as to promote the economic competitiveness of United States industries and shall, when so instructed by the President, coordinate these policies with the science, technology, economic, trade, and security policies of other Federal departments and agencies.

(f) ADVICE AND REVIEW.—In order to analyze the need for and value of joint ventures in specific technical fields, to evaluate any joint ventures for which North American companies request the Secretary's assistance, or to monitor the progress of any joint venture which receives Federal funds or loan guarantees pursuant to the authorizations contained in this section, the Secretary, the Under Secretary of Commerce for Technology, and the Director of the Institute may—

(1) organize and seek advice from such industry advisory committees as they consider useful and appropriate;

(2) organize an Advanced Electronics Advisory Board for the purpose of bringing industry and government leaders together to explore options for research and development in advanced electronics, including advanced television; and

(3) commission studies or reviews by the National Research Council.

(g) DEFINITIONS.—As used in this section, the term—

(1) "foreign company" means a company or other business entity in which majority ownership or control is held by individuals who are not citizens of the United States or Canada.

(2) "North American company" means a company or other business entity in which majority ownership or control is held by individuals who are citizens of the United States, or citizens of Canada, or a combination of United States and Canadian citizens, except that such term includes a company owned or controlled by Canadian citizens

only if, in the judgment of the Secretary, the company is not acting, with respect to the joint venture concerned, as an agent or intermediary for a third-country company or foreign government.

REPORT ON HIGH DEFINITION TELEVISION

SEC. 6. (a) IN GENERAL.—On or before the expiration of the ninety-day period following the date of enactment of this Act, the Secretary shall submit to the President and Congress a report concerning the establishment, as a domestically based industry within the United States, of a high definition television enterprise or enterprises, together with ancillary products and services.

(b) ISSUES TO BE ADDRESSED.—The report required under subsection (a) shall identify the requirements for establishing in the United States a viable industry for the production of high definition television, the components of such television, and production and transmission equipment relating to programming for such television, and the development and manufacture of derivative and hybrid products relating to the computer and telecommunications industries.

(c) SCOPE; RECOMMENDATIONS.—The report required under subsection (a) shall—

(1) be comprehensive, including not only issues such as the encouragement of technologies, but issues pertaining to licensing, regulations, international standards, international trade, and specialized financing problems; and

(2) separately specify the recommendations of the Secretary for the role of the Federal Government in the development of such enterprise, including missions for individual elements of the executive branch, timelines and methods for attaining full coordination, requirements for legislative action necessary to the development of such enterprise, and anticipated funding needs.

(d) DEFINITION.—As used in this section, the term "enterprise" means—

(1) an entity—

(A) formed in the United States;

(B) operating its productive facilities in the United States; and

(C) owned in its entirety by citizens of the United States; or

(2) a foreign owned entity if—

(A) such entity establishes and operates research facilities in the United States for the purpose of developing and producing high definition television in the United States;

(B) all personnel of such entity engaged in such research in connection with high definition television in the United States are citizens of the United States;

(C) the research product of such entity is available for licensing without bias to any public and private entity or agency within the United States, and on an equal footing with any foreign entity or agency;

(D) such entity establishes and operates production facilities in the United States for the purpose of manufacturing finished components, components and subcomponents relating to high definition television, and ancillary equipment and spinoff products relating to high definition television; and

(E) all personnel of such entity engaged in the establishment and operation of such production facility are citizens of the United States.

AMENDMENT TO ADVANCED TECHNOLOGY PROGRAM PROVISIONS

SEC. 7. Section 28 of the Act of March 3, 1901 (15 U.S.C. 278n), is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting immediately after subsection (d) the following new subsection:

"(e)(1) The Secretary may, for the purpose of managing the Program, employ at the Institute such technical and professional personnel and fix their compensation without regard to the provisions of title 5, United States Code, as the Secretary may deem necessary for the discharge of responsibilities under this section.

"(2) The Secretary may, under the authority provided by paragraph (1) of this subsection, appoint for a limited term or on a temporary basis, scientists, engineers, and other technical and professional personnel on leave of absence from industrial, academic, research, or State institutions to work for the Program.

"(3) The Secretary may pay, to the extent authorized for certain other Federal employees by section 5723 of title 5, United States Code, travel expenses for any individual appointed for a limited term or on a temporary basis and transportation expenses of his or her immediate family and his or her household goods and personal effects from that individual's residence at the time of selection or assignment to his or her duty station. The Secretary may pay such travel expenses and transportation expenses to the same extent for such an individual's return to the former place of residence from his or her duty station, upon separation from the Federal service following an agreed period of service. The Secretary may also pay a per diem allowance at a rate not to exceed the daily amounts prescribed under section 5702 of title 5, United States Code, to such an individual, in lieu of and when less than transportation expenses of the immediate family and household goods and personal effects, for the period of his or her employment with the Program. Notwithstanding any other provision of law, the employer's contribution to any retirement, life insurance, or health benefit plan for an individual appointed for a term of one year or less, which could be extended for no more than one additional year, may be made or reimbursed from appropriations available to the Secretary.".

SALARY ADJUSTMENTS

SEC. 8. In addition to any sums otherwise authorized by this Act, there are authorized to be appropriated to the Secretary for fiscal year 1990 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

AVAILABILITY OF APPROPRIATIONS

SEC. 9. Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

ANNUAL INDUSTRIAL TECHNOLOGY REPORT

SEC. 10. Section 5 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704) is amended by adding at the end the following new subsection:

"(f) ANNUAL INDUSTRIAL TECHNOLOGY REPORT.—(1) By February 15 of each year following the date of enactment of this subsection, the Secretary, through the Under Secretary, shall submit to Congress a report on the state of United States industrial technology. Each such report shall include, but not be limited to—

"(A) a list of what the Secretary and Department of Commerce technical experts consider to be the most economically important technologies and the estimated current and future size of domestic and international markets for products derived from these technologies;

"(B) a list of the technologies and markets targeted by major trading partners for development or capture;

"(C) an assessment of the current state of United States product technology, process technology, and manufacturing capability in the fields of technology and the markets identified under subparagraph (A), as compared with the current levels of such technologies and manufacturing capability achieved, or future levels likely to be achieved, by major trading partners;

"(D) an identification of the types of research and development needed to close any significant gaps or deficiencies in the technology base of the United States, as compared with the technology bases of major trading partners;

"(E) an analysis of private and public investments in the United States in research and development, including Federal research and development investments, by department and agency, in the specific fields of technology and the markets identified under subparagraph (A); a summary of Federal policies, including research policies, to promote United States industrial competitiveness in those fields of technology and markets; and an analysis of what additional private and Federal actions are needed to close gaps between the civilian technology base of the United States and the technology bases of major trading partners, including what steps are necessary to ensure that the Institute can provide North American companies with the support technologies needed to remain competitive in those fields of technology and markets;

"(F) an evaluation of flows of industrial technology between the United States and major trading partners, including flows of technology through licenses and patent-sharing or cross-licensing, corporate investments and acquisitions, investments in universities and government laboratories, technical literature, and personnel exchanges, and a summary and analysis of annual foreign investments in, and acquisitions of, high-technology firms or organizations within the United States; and

"(G) a statement concerning any policies, regulatory obstacles, or other institutional problems which, in the judgment of the Secretary, adversely affect the creation and use of industrial technology in the United States or limit the contribution that Federal research and development makes to United States leadership in industrial technology.

"(2) The Secretary may, to the extent permitted by other Acts, collect such information as may be necessary to prepare the annual report required by this subsection.

"(3) The Directors of the Office of Science and Technology Policy, the Office of Management and Budget, and the National Science Foundation, as well as the heads of other Federal departments and agencies, shall provide such information and assistance in the preparation of the annual report as the Secretary may request.".

REPORT ON STRATEGY FOR REDUCING THE COST OF CAPITAL

SEC. 11. (a) IN GENERAL.—Not later than one hundred and twenty days after the date of enactment of this Act, the Secretary shall submit to Congress a report detailing options and a strategy for equalizing the real cost of capital, including interest rates, paid by manufacturing and electronics com-

panies in the United States with the real cost of capital in Japan.

(b) TOPICS REQUIRED FOR REPORT.—The report shall include, but not necessarily be limited to, a discussion of the following topics:

(1) Such costs of capital paid by corporate borrowers in the United States and Japan during the ten-year period ending on the date of enactment of this Act, including such costs of capital under loan programs backed by the Government of Japan;

(2) the payback periods typically associated with such costs of capital and the effect of these costs and payback periods on the ability and willingness of companies in the two countries to make long-term investments in new research and development, products, and manufacturing plants;

(3) the consequences for the economic competitiveness and trade balance of the United States if United States companies are unable to invest substantially in new areas such as advanced television and related products, superconductivity, and advanced semiconductor production facilities;

(4) the expected levels of such costs of capital in the United States under various levels of United States budget deficits, trade deficits, and savings rates;

(5) the benefits and limitations of tax credits and other tax-based measures to reduce such costs of capital for United States companies, including their benefits and limitations in situations where initial investment costs of a company are high and the company initially generates little or no profit for which taxes are assessed;

(6) an analysis of the effect of other options for reducing such costs of capital for United States companies, including low-cost loans and loan guarantees, and the feasibility of using these options to reduce the costs of capital for United States companies to levels that are near or at effective Japanese levels; and

(7) a proposed strategy for reducing such costs of capital for United States companies to levels that are near or at effective Japanese levels.

(c) ASSISTANCE; CONSULTATION.—Other Federal departments and agencies shall provide the Secretary with such information and assistance as the Secretary considers necessary to prepare the report required by this section. The Secretary is encouraged to consult with private sector officials and experts during the preparation of the report.

REPORT ON CREATION AND COMMERCIALIZATION OF COLLEGE AND UNIVERSITY RESEARCH

SEC. 12. Not later than six months after the date of enactment of this Act, the Secretary, with the participation of the Director of the National Science Foundation, shall submit to Congress a program plan, including any necessary proposed regulations, to establish and implement collaborative progams between the two agencies to—

(1) stimulate the transfer of federally supported research to the private sector through steps to encourage and assist United States small businesses to develop and commercialize basic technologies created at colleges and universities; and

(2) assist academic researchers at a wide range of colleges and universities, including smaller institutions and institutions which do not traditionally receive large amounts of Federal research funds, to pursue high-quality research of economic potential and to transfer that research to the private sector.

REPORTS ON MANUFACTURING

SEC. 13. Not later than one hundred and twenty days after the date of enactment of this Act, the Secretary shall submit to Congress the following two reports:

(1) A report on the feasibility and advisability of establishing, in affiliation with the Institute, a Quality Institute and a privately funded foundation to support that Quality Institute, the purpose of which would be—

(A) to conduct workshops and company tours to share with managers, engineers, and production employees in the United States advanced techniques for improving manufacturing organization, quality, and productivity, including team-oriented organizational approaches to managing production technology and corporate research and development; and

(B) to help develop and disseminate model curricula in advanced manufacturing which might be used by technical colleges and other educational institutions to provide training to students and manufacturing company employees.

(2) A report analyzing the advantages and disadvantages of small manufacturing firms in the United States participating in new multi-company manufacturing centers, either on a local or regional scale, and what steps, if any, in the judgment of the Secretary, the Federal Government can and should take to encourage the development of such new organizations for manufacturing.

REPORT ON A STRATEGY TO STIMULATE COMPETITIVE RESEARCH

SEC. 14. (a) IN GENERAL.—No later than February 1, 1990, the Director of the Office of Science and Technology Policy shall submit to Congress a report presenting a proposed strategy for improving the university research capabilities of those States which historically have received relatively little Federal research and development funding. The report shall particularly discuss the feasibility and advisability of using the National Science Foundation's Experimental Program to Stimulate Competitive Research as a model for similar programs in other Federal departments and agencies which fund research and development.

(b) ANALYSIS AND DISCUSSION.—The report shall include, but not necessarily be limited to, an analysis and discussion of—

(1) the geographic distribution of Federal research and development grants and contracts;

(2) current Federal efforts to stimulate competitive research; and

(3) the feasibility and advisability of new programs to stimulate competitive research in the National Aeronautics and Space Administration; the Departments of Defense, Energy, Agriculture, Health and Human Services, and the Interior; and the Environmental Protection Agency.

Mr. WIRTH. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AID TO DEMOCRACY IN POLAND

Mr. WIRTH. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on Senate Concurrent Resolution 74.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S. Con. Res. 74) entitled "Concurrent resolution authorizing the "Gift of Democracy" from the United States Congress to the new Senate and Sejm in Poland. This gift is comprised of equipment and training that is determined to be most useful in helping Poland establish an effective parliamentary system", do pass with the following amendments:

Strike out all after the resolving clause and insert:

That this resolution may be cited as the "United States Congressional Gift of Democracy to Poland Resolution".

SEC. 2. (a) The Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate, acting jointly, shall establish an ad hoc delegation of employees of the legislative branch, with expertise in legislative systems management, legislative research, parliamentary procedure, and related legislative matters, to travel to Poland.

(b) In order to assist the Polish people in developing an effective parliament, the delegation shall—

(1) assess the training and equipment needs of the Sejm and Senate of Poland in the areas of expertise referred to in subsection (a); and

(2) not more than thirty days after completion of the assessment, submit to the Congress a report of findings derived from the assessment.

(c) Upon receipt of the report, the leadership of the Congress shall endeavor to identify and secure the ways and means to provide an appropriate United States congressional gift of democracy to Poland in the form of training and equipment relating to the areas of expertise referred to in subsection (a). In this endeavor, the leadership is encouraged to coordinate its efforts with appropriate private and public entities such as the National Democratic Institute for International Affairs, the National Republican Institute for International Affairs, and the parliments of the nations of Western Europe.

SEC. 3. Travel expenses of the delegation shall be paid in accordance with the policies of the House of Representatives or the Senate, as applicable. For purposes of payment of such expenses, employees of the Congressional Research Service shall be treated in the same manner as employees of the Senate.

Amend the preamble to read as follows:

Whereas the members of the new Sejm and Senate of Poland are undertaking the historic process of organizing the first parliment in Poland in more than half a century with a majority of democratically elected members;

Whereas these new legislators, citizens from many walks of life, are taking on the tremendous responsibility of such organization without the benefit of previous legislative experience;

Whereas these new legislators are united in their commitment to reform dramatically the social and economic structure of Poland;

Whereas these new legislators are dedicated to permanent establishment of individual

freedom and have a renewed hope for, and confidence in, the future of Poland;

Whereas, faced with the need to revive the economy of Poland, these new legislators must create entities to faciliate efficient government;

Whereas, among many other challenges to be met in the coming months, the Sejm and Senate of Poland must confront a lack of training and equipment for legislative systems management, legislative research, parliamentary procedure, and related legislative matters; and

Whereas the Congress has a well established legislative operations capability: *Now, therefore, be it*

Amend the title so as to read: "Concurrent resolution authorizing a staff assessment of the legislative operations needs of the new Sejm and Senate of Poland in order to faciliate a gift of democracy to Poland, consisting of training and equipment to meet those needs.".

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT REGARDING IMPEACHMENT PROCEEDINGS AGAINST JUDGE WALTER L. NIXON, JR.

Mr. WIRTH. Mr. President, earlier today, by unanimous consent, the Senate scheduled final argument on the impeachment of Judge Walter L. Nixon, Jr., of the Southern District of Mississippi, for Wednesday, November 1, at 2 p.m. The Senate agreed to allot 1½ hours for each side to present its arguments on the merits, including Judge Nixon's pending motions.

The House managers have requested permission to share their presentation among three managers, rather than the two persons ordinarily provided for in the Senate's impeachment rules. Judge Nixon has indicated that he wishes to divide his presentation between himself and one of his counsel. I ask unanimous consent that in this Wednesday's final argument on this impeachment three managers from the House of Representatives be permitted to present argument to the Senate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDERS FOR TOMORROW

RECESS AND MORNING BUSINESS

Mr. WIRTH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. Friday, October 27, and that, following the time for the two leaders, there be a period for morning business until 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONFERENCE REPORT ON H.R. 2916

Mr. WIRTH. Mr. President, I ask unanimous consent that at 10:30 a.m., the Senate begin consideration of the conference report accompanying H.R. 2916, the VA-HUD appropriations bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. WIRTH. Mr. President, if the distinguished acting Republican leader has no further business and if no Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess, under the previous order, until 10 a.m. Friday, October 27.

There being no objection, the Senate, at 7:09 p.m., recessed until Friday, October 27, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, October 26, 1989*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O God, for those who have special need this day, and particularly we pray for those who seek health in body and spirit. May our faith be made strong, and may our hope be made real, and may Your will be done on Earth as it is in Heaven. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Florida [Mr. JOHNSTON] will come forward and lead the House in the Pledge of Allegiance.

Mr. JOHNSTON of Florida led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 241. Joint resolution designating October 25, 1989, as "National Arab-American Day".

APPOINTMENT AS MEMBER TO COMMISSION FOR STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT

The SPEAKER. Pursuant to the provisions of section 601, Public Law 99-603, the Chair appoints on the part of the House the Most Reverend Theodore E. McCarrick, Archbishop of Newark, Newark, NJ, to the Commission for the Study of International Migration and Cooperative Economic Development to fill the existing vacancy thereon.

OVERRIDE HHS APPROPRIATIONS VETO

(Mr. JOHNSTON of Florida asked and was given permission to address the House for 1 minute.)

Mr. JOHNSTON of Florida. Mr. Speaker, yesterday, 191 members of the House voted against an amendment to protect women who were victims of rape or incest. Of that number, 183 were men.

I have always felt that as a man, I could not tell a woman what she could or could not do with her body. Likewise, as a Representative, I could not tell a victim of rape or incest who did not want to carry a baby to term that because she was too poor, she could not have an abortion.

In a survey of my congressional district last month 80 percent of the respondents supported a women's right to choose whether she has an abortion or not. In addition, 19 percent supported abortion in the event of rape, incest, or endangerment.

There is a broad and heartfelt conviction growing among the American public that abortion should be a woman's right—even more so in the event of rape or incest.

Mr. President, this issue will come back again and again—so be prepared.

PUERTO RICO STATUS REFERENDUM ACT

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, the 101st Congress has an opportunity to resolve the major issue affecting the lives of the 3½ million United States citizens of Puerto Rico: The future relationship between the United States and Puerto Rico.

On January 2 of this year, Governor Hernandez-Colon of Puerto Rico courageously declared:

It is necessary to meet face to face the continuous debate over our relationship with the United States of America. This is a debate which the Puerto Ricans wish to settle. * * * I believe that it is equally essential for the Government of the United States of America to express its position.

One month later President Bush expressed his position in his first address to a joint session of the Congress by stating:

I have long believed that the people of Puerto Rico should have the right to determine their own political future. Personally, I strongly favor statehood. But I ask the Congress to take the necessary steps to let the people decide in a referendum.

The Senate was first to respond with the leadership of Senators JOHNSTON and MCCLURE, chairman and ranking Republican of the Senate Committee on Energy and Natural Resources. After an extensive series of hearings the committee reported a carefully developed and remarkably well-balanced bill providing for a referendum in Puerto Rico in June 1991 and the accompanying enabling legislation for the three status alternatives.

Today I am introducing legislation providing for a referendum on the future relationship of the people of Puerto Rico and the United States. The bill contains the legislation as reported by the full Senate Committee on Energy and Natural Resources without the text of the tax and trade provisions for each status alternative. The Senate Finance Committee has yet to address these matters and they will also be considered by the House Ways and Means Committee.

I have discussed the introduction of this bill with the presidents of the three political parties in Puerto Rico. Senator Berrios of the Independence Party and former Governor Romero of the Statehood Party both have urged that the Senate committee-reported bill be introduced. The president of the Commonwealth Party, Governor Hernandez-Colon said he was not happy with the Senate committee's reported bill but he wanted to see progress on the legislation in the House. The Governor's initial proposal is contained in S. 712 star print of April 5.

It is the loyal United States citizens of Puerto Rico who have been and are patiently waiting for the Congress to exercise the constitutional responsibility to "make all needed rules and regulations respecting the territory" of the United States. I urge my colleagues to diligently consider the legislation before the Congress and provide the people of Puerto Rico with the opportunity to chose a clearly defined future relationship with the United States.

NATIONAL HOSTAGE AWARENESS DAY

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, tomorrow, October 27, the 42d birthday of journalist Terry Anderson, we will observe National Hostage Awareness Day.

While I have a general policy against cosponsorship of commemorative legislation, I felt strongly a need to become a part of this observance. As this Nation has watched the days of Terry Anderson's captivity stretch into months and the months into years, as we have watched other Americans fall victim to the same fate, and as we have watched some of our countrymen die in captivity, our collective outrage and frustration has grown. Tomorrow, we will once again seek strength in numbers as we dedicate a day to thoughts of and hope for Americans in captivity.

Terry Anderson originally hails from Lorain, OH, in my congressional district. Last year, I was deeply moved when Jack Lavriha, a friend of Terry's late father, organized what he though would be a small, local campaign to send Christmas greetings to Terry Anderson. It is an understatement to say that I was overwhelmed by the response inspired by Mr. Lavriha's "little" campaign. Tens of thousands of Christmas greetings from all over the world poured into Lorain, OH, representing a tremendous outpouring of the deep concern and hope that Americans harbor for Terry and his fellow hostages.

Those emotions have not diminished in the years that Terry has been held captive, and in my view, it is quite appropriate that we are celebrating his birthday by calling the world's attention to his continued detainment as well as the detainment of 9 other Americans and 11 hostages from 6 other countries. I will be wearing my yellow ribbon tomorrow with pride and with the profound hope that next year, Terry will celebrate his 43d birthday with his family, in his homeland, as a free man.

MINIMUM GAINS AND THE TRICKLE UP THEORY

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, the President pushing so hard now to get capital gains tax breaks for the upper income is the same President who recently vetoed the first increase in the minimum wage in 9 years. He loves capital gains for the rich, but opposes minimum wages for the working poor. Perhaps it is time to change the message.

So from today forward, I will only refer to raising the minimum wage as a favorable minimum gains treatment. That is right, give the lowest income favorable minimum gains treatment. And from now on we talk about the "trickle up" theory. Give the low-income workers the first minimum gains hike since 1981 and watch that revenue begin to trickle up.

Think what a package this is. With capital gains you give the wealthiest 600,000 a $25,000 windfall. With minimum gains you give millions of working poor a 90-cent per hour raise over 2 years, still keeping them below the poverty line.

Try it, Mr. President. Minimum gains. Just think. Hopefully these new earnings will trickle up to capital gains investors, who will then make more money that you can try to cut taxes on even further. It is time to support minimum gains.

THE FUJI APPLE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Japan started out taking small bites with TV's and VCR's. Now they literally want the whole apple. That's right, the Japanese are targeting the apple market in America with their new high-technology apple called, really, the Fuji apple. They say it is the sweetest apple, and they predict it will become No. 1 in America, dethroning the American red delicious.

Now, if that is not enough to sauce your apple, just think of this: with their trade policies, Japan is already doubling the cost of food. Now they are coming over here and attacking the apple pie to boot.

What I have to say, folks, is it is getting bad around here when Americans are driving their Toyotas to fruit boutiques and buying an imported Fuji apple. It sounds to me as if there is a rotten apple in there somewhere and the American people are continuing to be screwed, right to the core.

□ 1010

LET US SUPPORT AN INCREASE IN MINIMUM WAGE

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, with the average price of a new home at $117,800, many claim that housing is unaffordable. With the average cost of a private college education costing $44,320, many claim that it is out of reach. The average new car in America now costs about $14,700, a price too dear for a good number of Americans.

Why? Because the prices have increased too much? No, because wages have not kept pace. For example, in the First Congressional District of Indiana between 1980 and 1988 real earnings dropped between 20 to 23 percent. Nationally the real value of the minimum wage has declined by more than 30 percent.

President Bush accused Ronald Reagan of engaging in voodoo economics; he now engages in "won't do" economics.

Let us support an increase in the minimum wage.

CHEMICAL CONFUSION

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, reports indicate we now plan to unilaterally withdraw our chemical stockpiles from Germany. Unilaterally, Mr. Speaker.

When Congress debated our chemical modernization program, it was understood that the new binary weapons had to replace the old unitary weapons in Germany. Yet many of us warned that the same German public that doesn't want the current stockpile would not allow them to be replaced by new binaries, and it was specious to argue we should produce them for this purpose.

While our Bigeye and 155mm weapons are not yet deployable, we are about to take a giant step backward. The weapons to be removed are, according to the Army, "among the best" in our stockpiles.

With our German stockpile removed, we will have no chemical deterrent in Europe where it is needed the most. Our chemical weapons still be stationed in the United States, too far away to do any military good. We will have handed the Soviets a major arms control victory without them having to sign anything.

Mr. Speaker, there must be no unilateral withdrawal of our chemical deterrent in Germany. We must maintain it until the last Soviet chemical weapon is removed and destroyed.

SUPPORT AN INCREASE IN THE MINIMUM WAGE

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker and colleagues, I am pleased to have this opportunity once again to address the House in support of an increase in the minimum wage.

Next Wednesday we will have an opportunity to vote on that issue and it is clearly the fair thing to do to increase the minimum wage in our Nation.

It has not been increased since January of 1981. Since January of 1981 the purchasing power of the dollar has decreased by over 40 percent. Every other sector of our economy has received wage increases except for the very poor.

It is clearly long overdue, it is time for the very poor to receive those ben-

efits of economic growth and prosperity enjoyed by virtually everyone else.

So I urge my colleagues to support next Wednesday, and I urge the President to sign before the end of the year, an adequate increase in the minimum wage.

ECONOMIC EXPANSION NOW IN ITS 84TH MONTH

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, for the last few minutes I have been listening to my colleagues on the other side of the aisle telling us how things started to decline in January of 1981.

Well, just this morning we got the report from the Department of Commerce telling us in the last quarter we have been at 2.5 percent growth, we have seen the inflation rate at 2.9 percent annual level.

Now they are talking about the necessity for us to bring about this minimum wage increase which we are going to be voting on next week.

Mr. Speaker, next month marks the 84th month of the longest, strongest, most dynamic economic expansion in peacetime history.

I multiplied 12 times—at any rate, I figured it out; 84 means the beginning of the 8th year of this economic expansion.

Mr. Speaker, I believe it is very important for us to realize this has taken place under the leadership of President Reagan and now President Bush.

For those who talked about the decline that began in 1981, we should recognize that that started this economic recovery which we are now enjoying.

RAISE THE STANDARD OF LIVING FOR THE WORKING POOR

(Mr. POSHARD asked and was givern permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POSHARD. Mr. Speaker, the working poor of southern Illinois and around the country are waiting for help. They are waiting to hear from us on whether or not we are going to help them become full partners in the American dream.

They want to work for a living. They do not want welfare. They want to contribute. They cannot do that on a wage that is not keeping pace with the cost of staying alive.

How can we bail out the savings and loans? How can we lose millions in the Department of Housing and Urban Development while at the same time we say to the least well-paid of our working men and women, "You are not worthy. Your standard of living is not so important in our eyes."

It is time to help the people provide for their families. It is time to help people receive a living wage for their work.

STATES WITH ONE-TENTH THE DRUG PROBLEM GET THREE TIMES THE MONEY

(Mr. FAWELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAWELL. Mr. Speaker, imagine the outrage if Congress mandated that $1 of every $5 of the emergency relief money passed to help earthquake-stricken California had to be parceled out equally among every State in the Union? Sounds ridiculous, but in the case of another national disaster, the scourge of drug crime in the Nation, we are doing just that.

Congressional leaders blasted the President for not spending enough to fight drugs. Their solution? A $450 million Law Enforcement Block Grant Program that has Minnesota getting three times as much money as the District of Columbia, which has 10 times as many drug arrests. Minnesota, thankfully, arrests only 1.5 people per thousand for drugs, yet they get $6 million. The District of Columbia has almost 17 arrests per thousand people and $2 million. Which needs more help with law enforcement to cope with drugs? Which has the more severe drug problem?

This is not a big-State, little-State issue. Compare New Mexico, a border State with a tough drug problem, with its 4.44 arrests per thousand and $3 million to Wisconsin, which gets twice as much money to deal with less than half the arrests.

Is this how Congress is going to solve this awful situation, by spraying money all over the Nation without regard for where the problem is most severe?

What can you do? First, vote yes on the McCollum-Hughes amendment to Commerce, Justice, State, which will at least lower the amount every State automatically gets $1.5 million to $500,000. This is a good temporary solution. But for next year, the State and local Drug Law Enforcement Program must be linked to the severity of the drug problem in a given State.

MINIMUM WAGE

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, for the past 8 years the White House has sent a cruel message to the working poor in our country—they don't care. They don't care that full-time minimum wage workers earn only $6,969 per year—far below the poverty level of a family with only one child. And, they don't care that nearly two-thirds of the 6.7 million minimum wage workers are women—mostly women who, alone, must care for children.

It is obvious who President Bush cares most about. His only significant economic initiative has been to provide the very richest in our Nation with an additional huge tax break.

Minimum wage workers are the youngest and most unprotected segment of our work force. They aren't looking or asking for handouts. They are working to support families, finance educations and, like all other Americans, struggling to meet overwhelming medical costs.

Unless we act, minimum wage workers will think no one cares. For the working poor, this is not a kinder and gentler nation. We have an obligation to raise the minimum wage and to restore dignity and buying power to our most vulnerable families. We must show them that we do care.

JAPANESE INVESTMENT IN THE UNITED STATES/UNITED STATES INVESTMENT IN JAPAN

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, this morning on Japanese television former President Ronald Reagan was asked by a Japanese interviewer what he thought about Sony's recent buyout or acquisition of Columbia Pictures for $3.4 billion. President Reagan said he thought there was not anything wrong with that because America welcomes foreign investment.

What was not discussed in that interview was the Boone Co. of Texas' acquisition of a major Japanese corporation. They bought 25 percent of the Kyoto Corp. in Japan, and that corporation will not even allow Mr. Boone or any of his executives to sit on that board of directors. He owns 25 percent of that corporation.

The next largest stockholder is Toyota. They have three people on the board of directors. Mitsubishi owns 5 percent of the stock, and they have one person on that board of directors.

Yet Mr. Boone, who owns 25 percent, cannot have anybody on the board of directors. They will not even let him attend stockholders meetings and they will not give him any financial information about that corporation.

□ 1020

Now this is a perfect example of how the Japanese are treating the United States of America. They are erecting

trade barriers to our products. They will not allow Americans to invest in their corporations where we can have a choice, and yet we are allowing them to buy America. There needs to be a fair playing field. Not just free trade, but fair trade.

POOR JUDGMENT BY PRESIDENT BUSH

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, 50 years ago America reached an important judgment. We decided that those who labored, those who worked day in and day out in the tasks of building America would have the ability to feed their families and to clothe their children. It was a decent decision. It resulted in a fair minimum wage. It freed workers from poverty in a compact with our people. It was good social policy. It was fair. It was good economics.

Recognizing that the genius of the American economy is the ability of those who make products to buy these products. Time and inflation have eroded that important judgment. Today, those who work, who do the work of America, find themselves 30 percent below the poverty line. This institution has voted to ensure that those who do this work will at least be restored above the poverty line. George Bush has said no. It is bad judgment. Bad economics. It is not fair. Mr. Speaker, he should be urged to make good faith with the American worker again and reverse this judgment.

PRESIDENT BUSH WAS RIGHT

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, many of the House Members just like the last one who took the podium are mashing and wailing and weeping and bashing the President of the United States for, as they put it, his insensitivity to the working man.

Well, President Bush has proposed a measure to raise the minimum wage. He did bring to this Congress a plan for a steady, noninflationary working type of minimum wage increase. However, the people who are standing up here criticizing and bashing the President are the first ones who voted against that proposal, one that would have been acceptable to the American people to the Congress, would have been noninflationary, work for the working man, and keep our steady economic growth in place.

That is what President Bush proposed. That is what these people who are criticizing that they voted against a fair rise in the minimum wage, a good plan for the disadvantaged worker, a temporary plan to the temporary worker just coming on the work force, and a comprehensive plan that would have been noninflationary, and would have kept our economic situation stiumlated. The President was right, and the speakers here are wrong.

REMOVAL OF NAMES OF MEMBERS AS COSPONSORS OF HOUSE CONCURRENT RESOLUTION 214

Mr. FALEOMAVAEGA. Mr. Speaker, on October 19, 1989, I introduced House Concurrent Resolution 214, a resolution supporting regional efforts to end drift net fishing in the South Pacific.

Inadvertently, during the submission process, I submitted two lists of cosponsors for the resolution. One of these lists contained the names: Mr. ASPIN, Mr. FASCELL, Mr. FROST, Mr. GEREN, Mr. HANCOCK, Mr. MARLENEE, and Mr. SLAUGHTER of Virginia. These seven members of Congress were not and are not cosponsors of House Concurrent Resolution 214, and I ask unanimous consent that their names be removed.

The SPEAKER pro tempore (Mr. JOHNSTON of Florida). Is there objection to the request of the gentleman from American Samoa?

There was no objection.

INTRODUCTION OF FEDERAL JUDGESHIPS

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, during the past several Congresses, the Administrative Office of the U.S. Courts has been recommending that new Federal judgeships be created across the United States in order to deal with the tremendous backlog of cases jamming our Nation's legal system.

Case overload at the Federal district court level is a most serious threat to our U.S. judicial system. Backlogged dockets prolong and sometimes prevent the application of justice.

Unfortunately, Congress has yet to respond to the Administrative Office's recommendation.

The problem of case overload in Illinois is so severe that it is reaching crisis proportions. In order to help meet this crisis, in my home State, I, along with my colleague, the gentleman from Illinois [Mr. ANNUNZIO] will be introducing a measure today to provide the resources requested by the Administrative Office of the U.S. Courts for Illinois.

Mr. Speaker, this legislation is a simple remedy designed to reduce case overload in Illinois by establishing several new Federal judgeship positions throughout the State's districts.

I would hope the Committee on the Judiciary would look with favor on what we are proposing, and report out our bill favorably.

CONSOLIDATE DRUG COMMITTEES

(Mr. DOUGLAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOUGLAS. Mr. Speaker, Larkin Smith died over 2 months ago. However, an idea he had proposed lives on. It is an idea that many Members in the freshman class are supporting.

I would hope that the folks on the other side of the aisle could support this also because it is a very simple idea. We have 80 committees and subcommittees that are supposed to be fighting the war on drugs. Now, even the Declaration of Independence could not have been written by a committee. The Founding Fathers gave up and said, "Thomas Jefferson, you go write it." All that we ask is at least the 80 committees and subcommittees be consolidated into one House committee, one Senate committee, if we are serious about fighting the war on drugs.

I would suggest to my colleagues on the Democratic side of the House, that when they start saying we did not do anything in the war on drugs, it is because of the very committee structure that this House operates under. I hope we could all get behind the gentleman from New York, Mr. PAXON's bill, and Larkin Smith's memory, and get serious about fighting the drug war in this House rather than just talking about it.

UNFAIR TRADE EMBARGO AGAINST NICARAGUA

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, yesterday, President Bush announced his intention to extend the U.S. trade embargo against Nicaragua. In continuing this shameful policy, the President repeated the Reagan administration's preposterous claim that Nicaragua—a small, impoverished nation of only 3 million people—poses an unusual and extraordinary threat to the national security of the United States.

Yesterday, President Bush extended the 4-year-old national emergency to deal with this so-called threat.

The U.S. trade embargo against Nicaragua is an outdated holdover from the Reagan administration and is

out-of-step with recent developments in Central America. Under the leadership of the Central American Presidents, regional efforts to achieve peace are flourshing. Elections in Nicaragua are proceeding under worldwide scrutiny. And the complex issue of Contra demobilization is finally being resolved.

Yet our President has decided to extend a disastrous U.S. policy which will add to, not alleviate, the suffering of the people of Nicaraguan.

I urge my colleagues to join in supporting legislation I have introduced to terminate this ineffective, immoral, and inhumane policy of economic sanctions against Nicaragua.

CONSECUTIVE MONTHS OF ECONOMIC GROWTH

(Mr. McEWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McEWEN. Mr. Speaker, at 8 o'clock this morning the Department of Commerce announced another month of economic growth, taking the United States to 84 consecutive months, the longest period of economic growth in our history. It was previously 56 consecutive months. During this period of expansion since 1982, 7 out of 10 jobs created on this planet have been created in one country—the United States of America.

Jesse Jackson and company run around, faced with those facts and say they must be hamburger-flipping jobs. During any period of expansion in the top-paying category, usually 24 percent are in that category. During this expansion since 1982, 48 percent of all those new jobs created are in the top managerially-skilled area. What about the hamburger-flipping jobs? Seven percent are in the bottom paying category. In other words, 93 percent of all those new jobs created in America are in the middle or upper income category.

What happens to unemployed, black teenage employment? It drops by two-thirds. The number of people on minimum wage is cut in half. As a result, we are now at the same percentage in manufacturing as in 1950. We are No. 1 in electronics production. No. 2 is Japan, but their largest production is done by IBM.

Mr. Speaker, let Members not go back to the recommendations of the past, unemployed blacks, those on minimum wage, and those at the bottom scale again.

PRESIDENT REAGAN BASHES AMERICA AND CONGRESS

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, in the Post this morning, there is a story with a headline "Sony May Restore Decency to Hollywood," says former President Reagan.

In the press release, the AP wire story, the President is quoted that "Hollywood needs some outsiders to bring back decency."

Well, maybe so, but I would hope we would not look to outsiders. There is a further story about trade, and the former President is quoted on trade policy,

> There are just a few little itsy things here and there that we still are working on from both sides, and part of our problem is our own Congress that we have to bring into line.

In the same story, there is a discussion of the rice policy of Japan, and their continued refusal to open their doors to American rice.

President Reagan, come back home. Traveling overseas to bash America and the U.S. Congress seems ill-fitting for a former President of the United States.

□ 1030

APPROVAL OF ABORTION DEPENDS ON SUPPORT BY PRACTICING CATHOLICS

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, we have had 84 months of expansion. That makes us the richest country in all of recorded history, and that is good. But 16 years, 9 months, and 4 days of legalized abortion on demand across the board, even if the fifth, sixth, seventh, and eighth month—that is an unabridged evil that is going to eventually destroy this country.

I would like to make an observation this morning as a loyal practicing Catholic. The Catholic Church that I love is responsible for the ongoing continued abortions in this country, and I will tell the Members why. As funny as that may sound to those who have a simmering anti-Catholicism deep within them and think that the church is the one impediment to free-wheeling, open abortion all the time, it is simply that on that vote yesterday and a couple of weeks ago the margin of defeat for life was by self-proclaimed Catholics in this House, and they never have to pay a price for it—never with the bishops in this country.

There are 352 active bishops, and they never lean on the self-proclaimed Catholics in this House who say, "I personally believe it is a human being with an immortal soul, a child in the womb, but go ahead and kill it and I'll help you pay for it."

There is no price to pay for those. We only needed 6 votes to sustain Hyde a few weeks ago, and there are at least 40 self-proclaimed Catholics in the House who vote for abortion and pay no price for it.

So, Mr. Speaker, I hope the bishops meeting in Baltimore in about a week will face up to this problem in their own church.

DISASTER ASSISTANCE ACT OF 1989 AMENDMENTS

Mr. GLICKMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1792) to amend the Disaster Assistance Act of 1989 to avoid penalizing producers who planted a replacement crop on disaster-affected acreage, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. JOHNSTON of Florida). Is there objection to the request of the gentleman from Kansas?

Mr. ROBERTS. Mr. Speaker, reserving the right to object, I shall not object, and under my reservation I yield to my colleague, the gentleman from Kansas [Mr. GLICKMAN], to explain the legislation.

Mr. GLICKMAN. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, earlier this year the House and the Senate passed and sent to the President a disaster assistance bill covering farm disasters which occurred this year. As a part of that bill, there was a provision in that law, which emanated from the Senate bill, section 110, which had to do with replacement crops. It was an arcane provision having to do with requiring a deduction from a disaster payment for a second crop produced by a farmer under that acreage.

Unfortunately, the language of section 110 and its subsequent interpretation resulted in an arcane method by which farmers would be restricted from getting their full disaster payments and the methods of computation was extremely complicated. So this legislation we are now debating provides fundamentally for a technical change which has to do with the definition of "replacement crop" and treatment of replacement crop in disaster situations. It is intended to treat those farmers who planted a replacement crop, or ghost crop, more fairly and equitably.

This comes over as a bill sponsored on a bipartisan basis by Senators KASSEBAUM, DOLE, GRAMM, BENTSEN, KERREY, and others to make those technical changes in the earlier passed law.

There is also a section on poundage quotas, and there is a section on cost-reduction options regarding farmer-owned reserve loans.

But, Mr. Speaker, the bill is a technical bill, and there is no problem with it. The Republican side has agreed to the bill.

Mr. Speaker, I rise in support of S. 1792, which amends the 1989 Disaster Assistance Act to ensure equitable disaster payments to farmers who planted a replacement crop after their initial crop failed due to the severe drought that much of the our farmers, in particular the winter Wheat Belt suffered last winter.

In August, Congress passed the 1989 Disaster Assistance Act, to assist farmers who lost their crops due to the drought which seriously damaged and destroyed most winter and some spring planted crops. One of the provisions in the bill, section 110, which was inserted into the final legislation by the Senate, was intended to prevent farmers from receiving windfalls from proceeds generated from their second crop and large disaster payments from their failed crop. That provision basically stated that if a farmer plants a second crop on land where the first crop failed, the farmer's disaster payment for the first crop would be reduced by the market value of the second crop.

However, the implementation of this provision by the U.S. Department of Agriculture has unfairly penalized producers who made the extra effort and spent additional money to grow a second crop after losing their entire first crop. This absolutely was not the intent of Congress in passing the 1989 Disaster Assistance Act and my colleague from Kansas and I want to correct this inequity by passing S. 1792 with a minor technical amendment.

This bill would do the following:

Require USDA to only consider the amount of replacement crop production that is in excess of 50 percent of the county's average yield in determining the net value of the replacement crop

Require USDA to reduce the value of the excess second crop production on the average market prices for the second crop during a representative period.

Require USDA to reduce the value of the excess second crop by 25 percent in calculating the reduction in disaster payment.

Require USDA to take into account the historical cropping patterns of producers.

Require that reduction in disaster payments only be applicable to payments for replanted acreage.

Allow USDA to make adjustments to crop acreage bases to reflect crop rotation practices due to natural disasters.

S. 1792 includes another provision which incorporates the provisions of H.R. 2706 I introduced last June.

This section expands the discretionary authority of the Secretary of Agriculture in settling loans made to farmers under price support loan programs administered by the Commodity Credit Corporation. While this provision applies to all CCC loans, should the Secretary decide to use this authority, it is the intent of the authors that the authority is especially suited for application to long-term loans made under the Farmer-owned Reserve Program and the Special Producer Storage Loan Program. This authority will provide an incentive to farmers to redeem their commodities and paying off these loans as opposed to forfeiting the grain to the Government.

The forfeiture of grain is very costly to the Government in that the Government loses all principal and interest due on the loan and incurs new costs for storing the grain over the loan period and thereafter. It is also undesirable for the Government to acquire huge stocks of grain, not only because these stocks depress prices, but they cost the Government huge sums of money.

Although current law specifies that the Secretary may waive part or all of the interest on a price support loan in order to avoid forfeiture, he does not have specific authority to waive part of the principal. Section 3 would allow the Secretary to do this in the event that large amounts of grain are in danger of being forfeited to the Government and resulting in new costs to the Government.

Section 3 amends the cost reduction provisions of the 1985 Food Security Act which give the Secretary broad authority to make fine-tuning adjustments in farm programs if by doing so he can effect cost savings. In this particular example, if the Secretary determines that the Government would save money by reducing the amount of principal on outstanding loans to encourage farmers to redeem those loans as opposed to forfeiting the collateral to the CCC he can do so. In many cases, based on market conditions, it may indeed be more economical for the Secretary to reduce outstanding loans in this manner than to take over the grain backing the loans, pay for its transportation and storage. This is discretionary authority and predicated on a determination by the Secretary that such a reduction in principal would indeed provide benefits to the Government.

Mr. Speaker, I want to express my appreciation for the assistance of the distinguished chairman of the Agriculture Committee, Mr. DE LA GARZA, and the ranking member, Mr. MADIGAN, in bringing this bill to the floor today. Their assistance has been invaluable in first getting the initial disaster relief measure enacted and in getting this much needed technical fix made to it. I urge my colleagues to support it.

Mr. ROBERTS. Mr. Speaker, I thank my colleague, the gentleman from Kansas, for his explanation.

I would like to assure my colleagues that this bill has been cleared by the minority, including the minority leader, the gentleman from Illinois [Mr. MICHEL], the gentleman from Illinois [Mr. MADIGAN], and obviously myself. This will certainly clear up a great many problems in farm country. It is a technical correction bill.

Mrs. SMITH of Nebraska. Mr. Speaker, I rise today to express my support for S. 1792 to amend the Disaster Assistance Act of 1989 to avoid penalizing producers who planted a replacement crop on disaster-affected acres.

Congress, following a second straight year of devastating dry weather conditions, passed legislation to help those producers in most need of assistance. This drought relief package, now Public Law 101-82, was brought to the floor with great speed in order that we might provide the most timely assistance possible.

However, in our rush to complete disaster assistance legislation, we overlooked a minor provision that promises to unfairly reduce the assistance provided to farmers who planted a second crop to replace drought-destroyed acres.

For example, wheat producers who certified a failed wheat acreage and planted a second crop to increase their incomes, found that current policy cut their disaster benefits without adequately accounting for production costs. This policy left many farmers feeling that they were being penalized for their extra effort in planting a second crop, while those who did not undertake the additional labor, time, and expense were rewarded.

S. 1792 will correct our technical oversight and provide equitable drought assistance payments to producers who planted replacement crops. This legislation will more properly account for the value of replacement crops in determining the amount of disaster assistance producers may receive.

Upon the President's approval, this legislation directs the Secretary of Agriculture to reduce disaster assistance payments by an amount that reflects the net or actual value—not the gross value—of any crop farmers planted to replace failed crops.

I would like to thank my colleagues on the House Agriculture Committee for their careful attention to this problem and offer my special thanks to my friend and colleague, Mr. ROBERTS, and my colleague, Mr. GLICKMAN, for their leadership in bringing this amendment before the House to ensure that producers who planted replacement crops receive fair and equitable treatment.

Mr. COMBEST. Mr. Speaker, as many people in the farming community know, there has been a gross misinterpretation of the replacement crop provision in section 110 of the 1989 Crop Disaster Act. Rather than count the net value of the second crop, the Department of Agriculture has taken the intent of Congress and twisted it into an unfair provision. This interpretation will penalize those farmers who tried to salvage a crop year by planting a second crop in good faith. Furthermore, USDA will reward those people who did nothing but wait for Federal disaster payments.

Today, we are considering legislation which would address this matter. However, I am concerned that this may simply be nothing more than a piecemeal fix to a problem that needs a solid solution. Under this legislation, we are offering only partial relief and creating other problems. This is especially true in regard to how the value of the second crop is calculated, with no regard to irrigated and nonirrigated acreage.

Earlier this year I introduced legislation which would be a solid fix to this problem. My legislation is very simple. It would define the value of the second crop as net value and allows the cost of production to be determined on a county-by-county basis. Therefore, you are preventing double payments, while providing much needed relief to U.S. farmers. It is important that we do not penalize the producer who tried to offset losses and prevent damage to farmland caused by erosion.

Although this legislation is a step in the right direction, it does not put the issue to rest. The ideal case would have been if the Department of Agriculture had listened to the calls of farmers and corrected the situation administratively. Unfortunately, a correction was not made, and therefore we are faced with passing a partial correction.

Mr. ROBERTS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1792

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPLANTED ACREAGE.

Section 110 of the Disaster Assistance Act of 1989 (Public Law 101-82, 7 U.S.C. 1421 note) is amended to read as follows:

"SEC. 110. NO DOUBLE PAYMENTS ON REPLANTED ACREAGE.

"(a) REDUCTION OF DISASTER PAYMENTS.—Effective only for producers on a farm who receive disaster payments under this subtitle for a crop of a commodity, the Secretary of Agriculture shall reduce such payments by an amount that reflects the net value (as determined under subsection (c)) of any crop such producers plant for harvest in 1989 to replace the crop for which disaster payments are received.

"(b) REPLACEMENT CROPS.—For purposes of subsection (a), a crop shall be considered to be planted to replace the crop for which disaster payments are received if (because of loss or damage to the first crop due to damaging weather or related condition in 1988 or 1989) the second crop is planted on the same acreage on which the producers planted, or were prevented from planting, the first crop.

"(c) ADMINISTRATION.—

"(1) DETERMINATION OF VALUE.—In carrying out this section, the Secretary shall—

"(A) only consider any production of the second crop that is in excess of 50 percent of the county average yield for such crop;

"(B) base the value of the excess second crop production on average market prices for the second crop during a representative period; and

"(C) reduce the value of such excess second crop production by 25 percent.

"(2) HISTORICAL CROPPING PATTERNS.—In carrying out this section, the Secretary shall take into account the historical cropping patterns of producers.

"(3) REDUCTION ONLY APPLICABLE TO REPLANTED ACREAGE.—The reduction provided for in this subsection shall only be applied against payments due with respect to acreage that was replanted.

"(4) FUTURE CROPPING PRACTICES.—In carrying out this section, the Secretary may make adjustments to the crop acreage bases to reflect crop rotation practices because of the occurrence of a natural disaster or other similar condition beyond the control of the producer in determining a fair and equitable crop acreage base.

"(d) SEPARATE CONSIDERATION OF PLANTED AND REPLANTED ACREAGE.—In determining disaster payments under this subtitle, the Secretary shall consider separately payments due with respect to acreage that was not replanted and payments due on acreage that was replanted.".

SEC. 2. MARKETING QUOTAS.

(a) FARM POUNDAGE QUOTAS.—

(1) IN GENERAL.—Section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e) is amended—

(A) in subsection (d)—

(i) by striking "October 1, 1982" and inserting "for the previous marketing year"; and

(ii) by striking "1978 crop year" and inserting "immediately preceding 5 crop years"; and

(B) in the second sentence of subsection (e), by striking "marketing year beginning October 1, 1982" each place it appears and inserting "previous marketing year".

(2) ACREAGE—POUNDAGE QUOTAS.—Section 317(a)(6)(B) of such Act (7 U.S.C. 1314c(6)(B)) is amended by striking "years 1960 to 1964, inclusive, may be used, as determined by the Secretary" and inserting "immediately preceding 5 crop years shall be used by the Secretary".

(b) LEASE OR SALE OF ACREAGE ALLOTMENTS.—Section 316(c) of such Act (7 U.S.C. 1314b(c)) is amended by striking all after the first sentence and inserting "The transfer shall be approved acre for acre.".

SEC. 3. COST REDUCTION OPTIONS.

Section 1009(d) of the Food Security Act of 1985 (7 U.S.C. 1308a(d)) is amended—

"(1) by inserting after "nonrecourse loan program" the following "(including the program authorized by section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e))";

(2) by striking "savings" and inserting "benefits"; and

(3) by striking "forfeited commodity," and all that follows through the period at the end of the sentence and inserting "forfeited commodity.".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GLICKMAN

Mr. GLICKMAN. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. GLICKMAN: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. REPLANTED ACREAGE.

Section 110 of the Disaster Assistance Act of 1989 (Public Law 101-82; 7 U.S.C. 1421 note) is amended to read as follows:

"SEC. 110. NO DOUBLE PAYMENTS ON REPLANTED ACREAGE.

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SEC. 3. COST REDUCTION OPTIONS.

Section 1009(d) of the Food Security Act of 1985 (7 U.S.C. 1308a(d)) is amended—

(1) by inserting after "nonrecourse loan program" the following "(including the program authorized by section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e))";

(2) by striking "savings" and inserting "benefits"; and

(e) by striking "forfeited commodity," and all that follows through the period at the end of the sentence and inserting "forfeited commodity.".

Mr. GLICKMAN. Mr. Speaker, the amendment contains the language that I pointed out in explaining the basic bill, and I ask for its adoption.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Kansas [Mr. GLICKMAN].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

29-059 O-90-46 (Pt. 18)

GENERAL LEAVE

Mr. GLICKMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

CONFERENCE REPORT ON H.R. 2991, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

Ms. SLAUGHTER of New York. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 274, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 274

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 2991) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and all points of order against consideration of the conference report for failure to comply with the provisions of section 302(f) of the Congressional Budget Act of 1974, as amended (Public Law 93-344, as amended by Public Law 99-177) are hereby waived, All points of order against consideration of the motions printed in the joint statement of the managers to dispose of Senate amendments numbered 43 and 80 for failure to comply with the provisions of section 303(a) of the Congressional Budget Act of 1974, as amended, are hereby waived. All points of order against the motion printed in the joint statement of the managers to dispose of Senate amendment numbered 187 for failure to comply with the provisions of clause 7 of rule XVI are hereby waived.

The SPEAKER pro tempore. The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield the customary 30 minutes, for the purposes of debate only, to the gentleman from New York [Mr. SOLOMON], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 274 provides for the consideration of the conference report on H.R. 2991, making appropriations for the Departments of Commerce, Justice, and State, the judiciary, and related agencies for the fiscal year ending September 30, 1990.

This resolution provides for three waivers of the House rules so that the House can consider the complete package the conferees have worked out over the past few days.

The rule waives section 302(f) of the Congressional Budget Act which prohibits consideration of any bill which would cause the subcommittee's 302(b) allocation of credit authority to be exceeded. In the Small Business Administration section of the conference report, the subcommittee's 302(b) allocation of credit authority has been exceeded. If this waiver is not granted, the entire conference report could be ruled out of order. Therefore, the waiver is necessary if the House is to be allowed to consider the conference report.

The rule also waives points of order under section 303(a) of the Congressional Budget Act against consideration of the motions to dispose of Senate amendments numbered 43 and 80, providing funding for redress payments to Japanese-American internees under the Civil Liberties Act of 1988. Section 303(a) prohibits consideration of budgetary legislation before the concurrent resolution on the budget for that fiscal year has been adopted.

Senate amendment 43 would appropriate up to $500 million in fiscal year 1991 for redress payments to Japanese-Americans as authorized by Public Law 100-383, the Civil Liberties Act of 1988. Senate amendment 80 would establish beginning in fiscal year 1991 an entitlement for redress payments to Japanese-American internees, subject to the availability of funds in the civil liberties public education fund.

Finally, the rule waives points of order under clause 7 of rule XVI, which prohibits nongermane amendments, against consideration of the motion to dispose of Senate amendment 187. Amendment 187 includes language not included in either the original House or Senate versions of the bill.

Mr. Speaker, the House passed H.R. 2991 on August 1. Unfortunately the other body did not finish its consideration of the bill until September 29. The conference committee has now worked out the differences in the two bills and its report to the House has been unanimously endorsed by the House conferees.

The Appropriations subcommittee asked for and the Rules Committee agreed to these waivers so that the House can consider the conference report as a whole and in its entirety. The granting of these waivers merely allows the House to consider and work its will on these provisions.

I want to emphasize that these waivers in no way affect the usual procedures of dealing with amendments in disagreement in appropriations conference reports. The amendments which the rule will protect from points of order are still open to debate and subject to votes in the usual manner.

Mr. Speaker, the Commerce, Justice, State, the judiciary, and related agencies appropriations bill appropriates $17.2 billion for many of the core functions of our Government. The Federal courts and law enforcement agencies fulfill our constitutional mandates to "establish justice" and "insure domestic tranquility." The Commerce Department, the Trade Representative, and the Small Business Administration work to keep American businesses competitive. The State Department and the U.S. Information Agency represent our country in 165 nations around the globe.

This bill provides $7.6 billion for agencies in the front line of our war on drugs including the FBI, the Drug Enforcement Agency, and the Federal Prison System. When combined with an additional $1.9 billion in the Transportation appropriations bill, our fiscal year 1990 expenditures in this crucial effort will exceed $9.4 billion.

Mr. Speaker, today we are 26 days into the 1990 fiscal year. As lawmakers we have a responsibility to act as expeditiously as possible on this and other overdue appropriations measures. This rule will allow the House to consider this important conference report in its entirety, while still protecting Members' rights to debate and vote on its provisions. I ask my colleagues to support the rule so that we may proceed with consideration of the merits of this legislation.

□ 1040

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say to the press and to the Members back in their offices, "Listen up." Mr. Speaker, and Mr. MOAKLEY, where has all the fairness gone? Please come over here and take a look at these two brochures that I made up praising Speaker TOM FOLEY, praising Chairman MOAKLEY for their statements promising fairness.

Where has all the fairness gone? Mr. Speaker, as the gentlewoman from New York [Ms. SLAUGHTER] has stated, and I have deep respect for the gentlewoman from New York, this rule will make in order the consideration of H.R. 2991, fiscal year 1990 appropriations for the Departments of Commerce, Justice, and State.

Mr. Speaker, I do not usually stand up here and explain the technical details of a rule whenever I manage a bill on this side of the aisle. However, Mr. Speaker, on this occasion I believe it is particularly important for Members to know what they are voting on, because this is one of the worst rules to ever come before this body; under Speaker FOLEY, under Speaker Wright, under Speaker Tip O'Neill, God bless him, it is one of the worst rules we're seen in a long time.

Mr. Speaker, this rule contains three important waivers of provisions, not of just House rules, but of law. We in this body are waiving the law.

First, the rule waives section 302(f) of the Budget Act. Section 302(f) prohibits new entitlement or credit authority in any legislation that is passed after the concurrent budget resolution has already been enacted, which in fact we have already done. We are now being asked to waive this provision of law; not House rules, of law. This is a blanket waiver affecting the entire conference report; and it opens the way, at least, for spending ceilings, already enacted by this body, to be exceeded.

Mr. Speaker, if my colleagues are picking up a whiff of yet another breach of fiscal discipline, I think they are on the right track.

I know, of course, someone may come back and say that the waiver will only be used to provide some extra loan authority for the Small Business Administration. However, Mr. Speaker, my point is this: Just when and where does this process stop,

We are not being asked in this rule to just set aside House rules. We are now being asked to set aside law.

Mr. Speaker, there is not a Member of this House, particularly on the other side of the aisle, who would not be talking about impeachment if President Bush issued waivers at will setting aside laws that he finds inconvenient. There were resolutions put in on the other side of the aisle to impeach Richard Nixon, to impeach Ronald Reagan, for supposedly doing this. And here we are doing the same thing. That is exactly what the House is doing today.

Mr. Speaker, my colleagues, the second big waiver in this rule concerns section 303(a) of the Budget Act, the law of the land. Section 303(a) prohibits new budget, entitlements or credit authority for a subsequent fiscal year from being enacted before the current budget resolution for that subsequent fiscal year has been enacted. This rule is aimed in part at controlling the proverbial "outyear" spending, which is how we get ourselves in such budgetary trouble. We are being asked today to waive it in order to accommodate two Senate amendments: Numbers 43 and 80.

Mr. Speaker, I hope my colleagues take the time to read those two Senate amendments with which the House position in the conference report is in technical disagreement. These two amendments have to do with the payments to Japanese-Americans. Mr. Speaker, I have no inclination today to debate the merits of the Civil Liberties Act of 1988 or that whole issue, and at the appropriate time the gentleman from California [Mr. MINETA] and I will be having a colloquy to determine just what can be expected in the implementation of that act under the terms of this conference report.

Suffice it to say for the moment that my real concern is the process here today. Here we are being asked to waive the law so that we can accelerate a program into the next fiscal year when we could not keep it going this year in a timely fasnion as required by law.

As my colleagues know, Congress has a real talent for second-guessing the past, dreaming about the future, and doing everything except facing up to the present, which we are not doing here today. Mr. Speaker, if we could do our jobs as required by law, we would not have to issue waivers like this; and, if we could establish spending priorities for the present fiscal year, we would not have to preempt our priorities for next year. I ask my colleagues, "Why don't we do our job?"

Finally, Mr. Speaker, the third waiver in this proposed rule really takes the cake. We are being asked to set aside our own rules, rule XVI, clause 7. Remember the rule book? Has anyone even looked at the rule book lately?

Rule XVI, clause 7, prohibits nongermane amendments. That is why we are so much better than the other body, because we insist that amendments be germane. But here we are, willy-nilly, just waiving that rule. It is as simple as that.

Mr. Speaker, we are being asked to waive the germaneness rule in order to accommodate, listen to this: Amendment No. 187, another item in which the House is in disagreement with the Senate. I hope my colleagues are listening because, if they are like me, they have a lot of private colleges in their district which need help.

But what are we doing today? This provision gives $15.2 million in appropriations for new facilities at three selected colleges, none of yours, none of mine, but three of them out there for somebody. Neither the House bill, nor the Senate bill, as passed, contain any such provision.

Does that tell my colleagues something? That means it is a nonconferenceable item. How in the devil did it get in this bill, this conference report?

So, Mr. Speaker, here we are waiving House rules in order to accommodate a nongermane amendment which was conjured up in conference.

A vote for this rule really is a vote to endorse the continuing corruption of the legislative process in this House. I do not want to belittle the work of the conferees, or their motives, because they have done a good job. However, Mr. Speaker, when a rule comes before the House with these kinds of waivers, an objective observer is led to no other conclusion but that the legislative process itself, the very thing that my colleagues and I live by, is breaking down.

□ 1050

So, Mr. Speaker, and my colleagues back in your offices if you are listening, this is a terrible rule. It breaks down all the rules of this House.

I hope that all of you Republicans come over here and vote no on the rule, and I hope that you fair-minded Democrats come over here and vote no on this rule. Let us get back to living by the rules of this House.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me remind Members that the waiver of Senate Amendment 184 in no way prevents Members from objecting to motions to dispose of the disagreement with the Senate amendment. Members' rights to debate and vote on these projects are protected under this rule.

Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I rise in support of the rule. The adoption of this rule is a vital step toward implementing an important civil rights program as Congress intended.

I am speaking of the Civil Liberties Public Education Fund, which was created in August 1988 to compensate loyal Americans of Japanese ancestry for the abrogation of their civil rights by the Federal Government some 47 years ago.

Though the program was signed into law more than a year ago, no funds have yet been appropriated to provide this compensation. More than half of those eligible are over 60 years old. An estimated 2,400 of those eligible die every year.

Without the language included in this confrence report regarding the appropriation of moneys to this fund, many—if not most—of those affected will not receive the benefits which Congress envisioned.

Let me offer several statistics about the compensation program.

First, an estimated 60,000 people are eligible for compensation.

Second, as I mentioned, the majority are more than 60 years old. The eldest located so far is 107 years old. More than 1,300 are aged 90 and older.

Third, an estimated 200 eligible people are dying every month.

Fourth, not a single check has yet been issued because, through the domestic discretionary appropriations process, we have not been able to find any compensation moneys for either fiscal year 1989 or fiscal year 1990.

Under Public Law 100-383, up to $500 million may be appropriated in any 1 fiscal year for this program.

The Department of Justice, whose Office of Redress Administration administers the program, not only requested $500 million for fiscal year

1990, but $500 million for fiscal year 1989.

The agreement we will vote on today contains language which will fund the program as Congress intended, beginning in fiscal year 1991, but mandating an annual appropriation at the maximum level authorized in the law.

The intent of the Civil Liberties Act is clear. When Congress indicated that the program could be fully funded in just 3 fiscal years, we were saying that we wanted the compensation to be paid first to individuals.

This intent is obviously not being met. Yet we have an obligation to fill. This conference report will allow us to meet this responsibility to the best of our ability.

Mr. Speaker, the compensation program is unique. It is unique because of the aging population affected and because of the commitment which Congress made to these recipients and to our Constitution.

An injustice was done; and in the intervening 47 years, half of those who were wronged have passed away. Of those who do survive, the majority teeter on the brink of old age.

As a former Budget Committee member, I understand full well the pressures the Federal deficit is bringing to bear on the Congress, and the difficulty in finding money for programs, however worthy.

But it is more difficult for me, as a Member of this respected institution, to watch our commitment become empty words through inaction.

What do we tell the family of my friend, Ed Kawazoe? He died October 17, a victim of the earthquake, at the age of 52. He lived long enough to hear that his nation would apologize and compensate him for tragic events of 47 years ago, but not long enough for him to see this promise to become reality. Yes, Ed and Harry Kawanishi, age 101, and John Yeshima, age 72, and Steve Hirano, age 66, and thousands of others, all have died with their hopes cruelly awakened only to be dashed. They died still waiting for the stigma on their loyalty to be lifted.

This body cannot prevent the deaths of these elderly loyal Americans. But Congress can make the effort to disburse the redress compensation as quickly as possible.

Congress and the President made a promise last year to 60,000 loyal Americans. It is our responsibility to hasten this program along as quickly and as completely as possible.

I would like to remind my colleagues that the Government of Canada, which has a similar redress program issued its first check within 3 months of passage of the program. Their government began their program after we did, yet they plan to complete their program long before we issue our first check.

As the Senator from New Hampshire, one of the writers of Gramm-Rudman-Hollings, stated on the floor of the other body:

> There comes a time when something is the right thing to do, and this is one of those times. I hope we would have overwhelming support to waive the Budget Act to redress finally for the now elderly Americans the justice that money will never recompense.

He was talking specifically about this legislation, and his colleagues in the Senate did indeed vote overwhelmingly in support of this waiver.

My esteemed colleague, the chairman of the Budget Committee, has assured me that he does not oppose the waiver in this rule.

So let us keep our word. I urge you all to support this important legislation and to vote for this rule.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, at the outset let me just say how much I deeply admire and respect the gentleman in the well.

Second, there was no one of the two or three Members who have taken the lead on this issue who have worked any harder on this than the gentleman in the well.

The SPEAKER pro tempore. The time of the gentleman from California has expired.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman, if he will accept it.

Mr. MINETA. I do, and I yield to my colleague, the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, let me just say, the gentleman has done yeoman work on this issue; and when it does come to fruition we should all heap praise on him, even though we may have some differences on the issue itself.

I would just like to clarify a couple things that concern some of us, because we are waiving the section in the Budget Act which prohibits entitlement programs from being enacted at this point in the legislative process, are concerned that these amendments are to be considered an entitlement program.

What is the intent of the gentleman? Are all these claims to be paid, or to be attempted to be paid, within the 3-year period, as originally stated in the legislation when it was passed by this House?

Mr. MINETA. Mr. Speaker, if I may reclaim my time, I am pleased that the gentleman brings this point up.

As the language in I believe it is amendment No. 43 in the conference report states, the moneys are appropriated "subject to the provisions of section 104(e) of the Civil Liberties Act of 1988."

Now, this provision referred to setting the total authorization of this bill at $1.25 billion, with up to $500 million to be appropriated in any 1 fiscal year. Therefore, the conference report language makes mandatory a 3-year period in which this program will be completed, beginning in fiscal year 1991.

□ 1100

In addition, other sections of the law which remain unchanged have set a 10-year authorization period for this legislation, and therefore sunsets it at that point. So there was some reference to an eternal entitlement program, but that is in fact not correct.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MINETA. I am pleased to yield to my colleague, the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, that does relieve some of our concerns. In other words, what the gentleman from California is saying is that within the next 3 years, with appropriations of up to $500 million each year, all of these claims are to be settled.

However, if there are probates for estates to be settled, it could go over into the fourth, fifth, sixth, seventh, or eighth year, but the intent is not to establish an interminable entitlement program. The intent is to pay off these claims that are due, justly due under the law, within this 3-year period.

Mr. MINETA. Mr. Speaker, that is correct.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from Massachusetts, the chair of the subcommittee that considered this matter.

Mr. FRANK. Mr. Speaker, I thank the gentleman from California. As the gentleman said with the subcommittee I chair that brought out this bill which had bipartisan support, I think what the gentleman from New York is doing is useful.

Obviously we are all leery of setting entitlements. Generally by entitlement we mean, and no one is misstating it, but we should be clear, we mean we are creating a whole new kind of indefinite class of people who have an annual claim on the Treasury.

Here we are dealing with a very limited class of people, so limited in fact no one has entered it since 1945 and no one else may ever enter it.

This is not even a general piece of language on internment. None of us think this is going to happen again. This bill that the appropriation references deals only with those people who are interned up until 1945.

So this is a class of people that cannot be expanded. It is a set of claims that cannot be expanded. It is a

very, very limited claim. So in that sense it is different from other sorts of entitlements.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Speaker, I thank the gentleman for yielding. The point is, whether we call it an entitlement or whatever, it is a mandatory item, which means it goes to the top of the list, when we are talking about funding education or child care or other things.

By this language we are putting the Japanese-American separation payments above all of those.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, I agree with that. It is not exceptional. We are saying this $1.5 billion is going to be paid. If I calculate correctly, that is about 1 percent of what we said previously this year we are going to do with the saving and loan depositors, and I believe we should pay off those people. They are people we promised too.

Given it is a very limited category of people, the $500 million per year will not strain our ability to do other things.

This was originally entitled entitlement. We changed that. We talk about a 3-year period. It is actually a 4-year period from the time we began consideration of the bill in 1988. We said for that current year there would be nothing.

The only question is when we passed this bill, did we contemplate paying it? It was my sense that those Members that voted for the bill by a large majority contemplated paying it.

I believe by the appropriations sticking to the terms of the bill, the $500 million a year strictly limited is not going to strain our ability to pay other things.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from Kentucky.

Mr. ROGERS. When we passed that bill in 1988, did we have in mind that we put it above child care and above agriculture programs, above the war on drugs, above every other item in the budget entitlements?

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, my interpretation is we put it on the same level. That is all we are doing here. We said we would pay it. The alternative has been, unfortunately, to not put it at any level at all and not pay it.

Mr. SOLOMON. Mr. Speaker, I yield 7 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

I rise disappointed by this rule, in fact somewhat nauseated by it.

REQUEST TO STRIKE LANGUAGE IN HOUSE RESOLUTION 274

Mr. WALKER. If this, as it has just been described here, is not an entitlement program, then, Mr. Speaker, I would ask unanimous consent that we strike in the rule the sentence beginning on line 7, "All points of order * * *" and ending on line 12 with the word "waived."

Ms. SLAUGHTER of New York. Mr. Speaker, a point of order. The gentleman is not recognized for that purpose.

Mr. WALKER. Mr. Speaker, I am asking unanimous consent. I am making a unanimous-consent request that that language be stricken.

Mr. FRANK. Mr. Speaker, I object.

The SPEAKER pro tempore (Mr. JOHNSTON of Florida). Objection is heard.

Mr. WALKER. Mr. Speaker, then that proves the point. This is an entitlement program. We do not have to debate it here, it is an entitlement program. It is being waived in the act as an entitlement program because it is an entitlement program, and if you ask to strike the language that says it is not an entitlement program, then that is objected to.

Let me say flat out, this is an entitlement program we are waiving in the Budget Act. The fact is we are waiving a bunch of other stuff here too.

The gentlewoman from New York, when she stood to make her statement, said flatly with the blanket waiver of section 302(f) of the Budget Act, if this is not approved, the whole conference report could be ruled out of order.

That is probably right. It should scare the devil out of us that we are bringing a conference report to the floor that would be ruled out of order if we did not waiver the Budget Act for it.

We have had a lot of talk here in the last few minutes about commitments. What about the strong commitment that Members have to the rules of the House, or should have to the rules of the House, and a strong commitment to the law of the land? Do those mean nothing?

The Rules Committee is no longer a place where the rules of the House and the rights of the Members are protected. The Rules Committee has become a place where we go to evade the rules and find ways to do things that we ought not do under the rules.

The gentlewoman from New York herself has talked about protecting Members' rights. One of the chief Members' rights on this floor is to make a point of order under the rules against things that are not right to do.

So what happens in the Rules Committee? Members go to the Rules Committee who know their bill is in violation, and they say, let us not give the Members the right to do that. Why? We have money that we want to spend. We have got pork that we have to protect. So let us waive the rules to protect the pork.

Let me tell Members, the waiver of rule XVI, clause 7 of the House rules is nothing but a pork protector. That is the only reason why it is in there.

It is not pork from the House, it is pork from the Senate. The Senate has become the legislative equivalent of pork-belly futures. We are protecting them under the rules of the House.

I think it is high time Members face up to what we are doing when we do these kinds of rules, that we are waiving the law of the land in the Budget Act. There are not mere technical waivers, they are real waivers. The gentlewoman from New York herself admitted that, that the whole bill could come down if we do not approve this one waiver, and in the case of the other one we are going to create a brand new entitlement program that if we do not put that waiver of law in, the entitlement program takes place.

I believe it is an absolute disaster that this kind of rule comes to the House floor.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I appreciate the gentleman's remarks. The reason I started off in our debate calling attention to Members on both sides of the aisle and back in their office, is that this is the first time, I believe, in the recent history of the U.S. Congress that we have ever waived the Budget Act to establish an entitlement program. That is why it is so important for us to pay attention.

Certainly, I believe, if a clean bill came to the floor establishing an entitlement program, it probably would pass. There are many Members that would vote for it. But to do this by waiving the Budget Act sets a terrible precedent that we are all going to regret. The taxpayers of this Nation are going to regret it.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Massachusetts.

Mr. FRANK. Like the gentleman from Pennsylvania, I try to be very careful about what I say. I never said it was not an entitlement. I said it was an entitlement very different than the usual phrase by which we refer to this program in that it is not open-ended, it does not create a category of new people.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Massachusetts for

his explanation. Let me say to the gentleman that we always have these distinctions that are made when we bring these kinds of programs to the floor. The fact is what Members are committed to around here is spending other people's momey. We have all of these things we making moral commitments to. Somehow we never remember the fact that what we are doing is coercing money out of the pockets of very hard-working Americans to do all of these good things we want to do.

□ 1110

And now the rules of the House are being waived, the law of the land is being waived in order to continue the coercion on spending. And I suggest it is a little nauseating.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Hawaii [Mr. AKAKA].

Mr. AKAKA. Mr. Speaker, I commend the Rules Committee for the rule on this conference report. While it waives points of order against provisions of the Budget Act, these waivers are fair and appropriate under the circumstances.

Specifically, the rule provides a waiver against provisions of the conference agreement which make the civil liberties public education fund, better known as the Redress Program, an entitlement beginning in fiscal year 1991. This waiver is entirely appropriate and should have the support of every Member of the House.

Let me emphasize that what is being waived is the Budget Act, and not the requirements of Gramm-Rudman-Hollings. Nor are we busting the budget by granting this waiver. Every dime appropriated for the Redress Program will be subject to full accounting under the budget process and will fall within the Gramm-Rudman ceiling.

The rule only waives the technical requirement of the Budget Act that a budget resolution first be adopted by the House before a bill creating a new budget authority can be considered on the House floor. This waiver is necessary because the budget resolution which governs the new budget authority in this bill, namely the concurrent budget resolution for fiscal year 1991, cannot be considered by the House until next spring at the earliest.

Let me remind my colleagues that the new fiscal year began nearly a month ago. Obviously, we cannot wait until spring for next year's budget resolution to be considered before we take up the bill making appropriations for the Department of Commerce, the Department of Justice, and the Department of State, as well as for the Federal judiciary.

Among other things, this bill provides nearly $10 billion to fight the war on drugs. The departments and agencies funded under this bill include the Drug Enforcement Administration, the Federal Bureau of Investigation, the U.S. Attorneys Office and the Marshals Service, and a host of other Federal activities related to deterring, detaining, and incarcerating drug offenders. This bill also funds the 1990 census. We must take up this appropriations bill as soon as possible, and that is why this rule is necessary.

With respect to waiving the Budget Act, I want to point out to my colleagues that when we passed the Budget Act we also approved a process for waiving its provisions, for good cause shown. This provision appears in section 904 of the law. Clearly, if there were no circumstances under which a waiver of the Budget Act should be granted, the act would not contain a waiver provision. The opportunity to grant a waiver has been established by law, and that is why we are making use of it today. Waivers such as this have not been granted indiscriminately. Rather, they have been provided on a prudent and selective basis.

I urge my colleagues to support this rule so that we can proceed to this important appropriations bill.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentlewoman from Illinois [Mrs. MARTIN], a member of the Committee on Rules.

Mrs. MARTIN of Illinois. Mr. Speaker, a nameless member of the Committee on Rules described the reason that God gave us two hands: One was to hold your nose, while with the other we voted "yes" on a terrible bill. This rule is so bad that two hands are not enough.

We have a conference report which should not need a rule; they are privileged matters. Yet because the conferees have violated at least three major rules, including two Budget Act provisions, the report was tacked onto the Rules Committee agenda at the last minute Tuesday without prior notice.

That alone was enough to give warning the some skulduggery was afoot. Especially in the Halloween season, which I suspect should not be surprising.

Ordinarily, when conference reports come to the Rules Committee, it is to waive the 3-day layover rule or the Budget Act or a scope point of order against the conference report. And indeed in this case we have waived 302(f) of the Budget Act. But, Mr. Speaker, this rule does not stop there.

For the first time in my memory we are waiving points of order against amendments in disagreement. The first two amendments, numbered 43 and 80, relate to payments to Japanese-American internees. I know and I can understand the strong feeling. I would like to concentrate on the third waiver granted.

Unless you are from New Jersey, Kansas, or South Carolina, I do not believe there should be a great deal of emotion involved.

The third amendment, No. 187, authorizes a total of $15.5 million for three colleges and universities even where we have rules against authorizing on appropriation bills and even though none of these provisions was in the original House or Senate bill.

Mr. Speaker, enough is enough. The time has come to call a halt to these shenanigans, sneaking items onto conference reports in the dead of night. This is the kind of thing that causes people to think that this Congress, indeed, does not have the best interests of the people in mind.

I know the argument will be made that the funds for these projects are available in already enacted appropriation bills and that simply—always be wary of the word "simply"—gives the Secretary of Education authority to go ahead and spend the money.

Never mind that we have put the cart ahead of the horse in this crazy process and the cart is backing off a cliff marked "deep deficit."

The fact is, Mr. Speaker, we will never climb out of that deep gulch filled with red ink as long as we all insist on pulling our little carts with goodies and backing off that cliff.

The former beloved Senator from Illinois, Edward Dirksen, used to say, "A million here and a million there, and pretty soon you're talking about real money."

Let us begin to follow a little orderly process around this place. Maybe we can begin to restore a little fiscal sanity in the process.

I do urge, and I know it is difficult, defeat of this rule. Failing that, I at least urge my colleagues to join with me in voting down the motion to concur in amendment No. 187 with an amendment which authorizes three college projects worth $15.5 million.

Mr. SOLOMON. Mr. Speaker, I thank the Senator, I mean the Congresswoman, for her remarks.

Mr. Speaker, I yield 1 minute to the gentleman from Kentucky [Mr. ROGERS], a member of the Committee on Apropriations.

Mr. ROGERS. I thank the gentleman for yielding.

Mr. Speaker, back to the point of whether or not these payments, the Japanese-American internee payments, are entitlements or otherwise.

I point to section 110 of the conference report, one of the two that is in question here. Section 110 is headed "Entitlements to Eligible Individuals."

It goes on to say, in part, "The payments to be made," and I am quoting from the conference report the language of the Senate, "The payments to be made to any eligible individual under the provisions of this title shall be an entitlement."

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in conclusion, we know there is a lot of sincere concern about the Japanese-American reparations. But that is not the issue here. The issues here today are this proposed rule and the breakdown of the rules in this House.

There is no question at all about the fact that we are establishing an entitlement program.

Page 42 of the conference report specifically says, as the gentleman from Kentucky has outlined, "Entitlements to Eligible Individuals."

It goes on to establish an entitlement program.

I tried in our colloquy with the gentleman from California [Mr. MINETA], to have it stated that this is not an entitlement program, and he did just that. But I am not sure that that is good enough, because if we enact this conference report we are in effect establishing an entitlement program. That is wrong under the rules of this House.

Mr. Speaker, I would hope that all Members, when a vote is called for, will come over here and live up to the rules of this House and vote against the rule.

Mr. Speaker, I yield back the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 226, nays 189, not voting 18, as follows:

[Roll No. 312]

YEAS—226

Ackerman	Borski	Collins
Akaka	Bosco	Condit
Alexander	Boucher	Conyers
Anderson	Boxer	Costello
Annunzio	Brennan	Coyne
Anthony	Brown (CA)	Crockett
Applegate	Bruce	de la Garza
Aspin	Bryant	DeFazio
Atkins	Bustamante	Dellums
AuCoin	Campbell (CA)	Derrick
Barnard	Campbell (CO)	Dicks
Bates	Cardin	Dingell
Beilenson	Carper	Dixon
Bennett	Carr	Donnelly
Berman	Chapman	Dorgan (ND)
Bilbray	Clarke	Downey
Boehlert	Clay	Durbin
Boggs	Clement	Dwyer
Bonior	Coleman (TX)	Dymally
Early	Lewis (GA)	Roberts
Eckart	Lipinski	Roe
Edwards (CA)	Long	Rose
Engel	Lowey (NY)	Rostenkowski
English	Luken, Thomas	Rowland (GA)
Espy	Manton	Roybal
Evans	Markey	Sabo
Fascell	Martinez	Saiki
Fazio	Matsui	Sarpalius
Feighan	Mavroules	Savage
Flake	Mazzoli	Sawyer
Foglietta	McCloskey	Scheuer
Ford (MI)	McCurdy	Schroeder
Frank	McDermott	Schuette
Frost	McHugh	Schumer
Gejdenson	McMillen (MD)	Skaggs
Gephardt	McNulty	Slattery
Geren	Meyers	Slaughter (NY)
Gibbons	Mfume	Smith (IA)
Gingrich	Miller (CA)	Smith (NJ)
Glickman	Mineta	Solarz
Gonzalez	Moakley	Spence
Gordon	Mollohan	Spratt
Gray	Moody	Stallings
Guarini	Morella	Stangeland
Hall (OH)	Morrison (CT)	Stark
Hatcher	Morrison (WA)	Stokes
Hawkins	Mrazek	Studds
Hayes (IL)	Murtha	Swift
Hayes (LA)	Nagle	Synar
Hefner	Natcher	Tallon
Hertel	Neal (MA)	Torres
Hoagland	Neal (NC)	Torricelli
Hochbrueckner	Nelson	Towns
Horton	Nowak	Traficant
Hoyer	Oakar	Traxler
Hughes	Oberstar	Udall
Johnson (SD)	Obey	Unsoeld
Johnston	Ortiz	Vento
Jones (NC)	Owens (NY)	Volkmer
Jontz	Owens (UT)	Walgren
Kaptur	Pallone	Watkins
Kastenmeier	Pashayan	Waxman
Kennedy	Patterson	Weber
Kennelly	Payne (NJ)	Weiss
Kildee	Pease	Wheat
Kleczka	Pelosi	Whittaker
Kolter	Penny	Whitten
Kostmayer	Perkins	Williams
LaFalce	Pickett	Wilson
Lancaster	Pickle	Wise
Lantos	Poshard	Wolpe
Laughlin	Price	Wyden
Lehman (CA)	Rahall	Yates
Lehman (FL)	Rangel	Young (AK)
Levin (MI)	Richardson	
Levine (CA)	Rinaldo	

NAYS—189

Andrews	Dickinson	Hopkins
Archer	Dornan (CA)	Houghton
Armey	Dreier	Hubbard
Baker	Duncan	Huckaby
Ballenger	Dyson	Hunter
Bartlett	Edwards (OK)	Hutto
Barton	Emerson	Hyde
Bateman	Erdreich	Inhofe
Bentley	Fawell	Ireland
Bereuter	Fields	Jacobs
Bevill	Frenzel	James
Bilirakis	Gallegly	Jenkins
Bliley	Gallo	Johnson (CT)
Broomfield	Gaydos	Jones (GA)
Browder	Gekas	Kanjorski
Brown (CO)	Gillmor	Kasich
Buechner	Gilman	Kolbe
Bunning	Goodling	Kyl
Burton	Goss	Lagomarsino
Byron	Gradison	Leach (IA)
Callahan	Grandy	Leath (TX)
Chandler	Grant	Lent
Coble	Green	Lewis (CA)
Coleman (MO)	Gunderson	Lewis (FL)
Combest	Hall (TX)	Lightfoot
Conte	Hamilton	Livingston
Cooper	Hammerschmidt	Lloyd
Coughlin	Hancock	Lowery (CA)
Cox	Hansen	Lukens, Donald
Craig	Harris	Machtley
Crane	Hastert	Madigan
Dannemeyer	Hefley	Marlenee
Darden	Henry	Martin (IL)
Davis	Herger	Martin (NY)
DeLay	Hiler	McCandless
DeWine	Holloway	McCollum
McCrery	Ritter	Smith, Robert (OR)
McDade	Robinson	Snowe
McEwen	Rogers	Solomon
McGrath	Rohrabacher	Staggers
McMillan (NC)	Ros-Lehtinen	Stearns
Miller (OH)	Roth	Stenholm
Miller (WA)	Roukema	Stump
Montgomery	Rowland (CT)	Sundquist
Moorhead	Saxton	Tanner
Murphy	Schaefer	Tauke
Myers	Schiff	Tauzin
Nielson	Schulze	Taylor
Olin	Sensenbrenner	Thomas (CA)
Oxley	Sharp	Thomas (GA)
Packard	Shaw	Thomas (WY)
Panetta	Shays	Upton
Parker	Shumway	Valentine
Paxon	Shuster	Vander Jagt
Payne (VA)	Sikorski	Visclosky
Petri	Sisisky	Vucanovich
Porter	Skeen	Walker
Pursell	Skelton	Walsh
Quillen	Slaughter (VA)	Weldon
Ravenel	Smith (NE)	Wolf
Ray	Smith (VT)	Wylie
Regula	Smith, Denny (OR)	Young (FL)
Rhodes	Smith, Robert (NH)	
Ridge		

NOT VOTING—18

Brooks	Florio	Russo
Clinger	Ford (TN)	Sangmeister
Courter	Garcia	Schneider
Douglas	Michel	Smith (FL)
Fish	Molinari	Smith (TX)
Flippo	Parris	Yatron

□ 1142

Mr. RAY, Mr. OLIN, Mrs. BYRON, and Messrs. PAYNE of Virginia, DYSON, JENKINS, SHAYS, KANJORSKI, HUBBARD, and BEVILL changed their vote from "yea" to "nay."

Messrs. YOUNG of Alaska, ROBERTS, and GINGRICH changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries.

CONFERENCE REPORT ON H.R. 2991, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

Mr. SMITH of Iowa. Mr. Speaker, pursuant to House Resolution 274, I call up the conference report on the bill (H.R. 2991) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. JOHNSTON of Florida). Pursuant to House Resolution 274, the conference

report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 20, 1989, at page 25384.)

The SPEAKER pro tempore. The gentleman from Iowa [Mr. SMITH] will be recognized for 30 minutes, and the gentleman from Kentucky [Mr. ROGERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Iowa [Mr. SMITH].

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report and amendments in disagreement on H.R. 2991, and that I be permitted to insert a table and extraneous matter following my remarks on the conference report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report has been long in coming. We passed the bill in the House on August 1, after a long period of hearings with many agencies and many witnesses, and at this point I want to thank the members of the committee, the subcommittee and the staff that worked on this bill. This bill went to the Senate, and, as we all know, it took the Senate considerable time to pass it. It was held up some over there because they were waiting for the additional requests from the administration for drug law enforcement and they did not come up until mid-September. So, Mr. Speaker, the bill did not pass the Senate until September 29.

I want to say this about this bill: The $7,580 million that is in this bill for the war on drugs is not all the funds that are available for that purpose. In addition, there is $1,912 million in title IV of H.R. 3015, the Transportation appropriations bill. My colleagues may not realize, by looking at the tables, but when they add together the amount of money that is in this conference report with the amount of money that is in the Transportation appropriations bill, they will find that there is a total of $9,492 million for the war on drugs for fiscal year 1990, and in each and every instance there is at least as much money appropriated as the administration requested. In fact, overall there is an additional $136 million over the amount the administrator requested for the war on drugs.

For the Department of Commerce, this bill provides for $3,527 million in budget authority; the Department of Justice, $6,277 million; the Department of State, $3,019 million; the judiciary, $1,577 million; and then for the related agencies the bill contains $2,847 million.

Mr. Speaker, the details are in the conference report, and I do not intend to repeat them. However, Mr. Speaker, I believe it is the best bill that we can come out with. As a matter of fact, it is a lot better than I thought we would have at the time the bill originally passed the House.

Mr. Speaker, a few years ago there were a number of reports about possible security problems at our Embassy in Moscow. Our subcommittee held extensive hearings on this matter with State Department officials and others in the administration, and at the subcommittee's direction, and with its support, the Department took the necessary action to investigate each of these items and correct them where necessary. While some of the work required is still in process, I believe that the Department is moving in the right direction to provide a secure and safe environment in the current facilities at the U.S. Embassy in Moscow for all U.S. personnel, and while there in August, I witnessed the substantial changes which have occurred. However, the subcommittee believes that it is appropriate at this time for the Department to submit a complete status report to the Appropriations Committees on its efforts to upgrade security at the Moscow Embassy, and that is all that is intended by the provision in the "Joint Explanatory Statement of the Managers" accompanying the conference report on this appropriations bill.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY AND RELATED AGENCIES

	FY 1989 Enacted	FY 1990 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - DEPARTMENT OF COMMERCE						
General Administration						
Salaries and expenses	$26,396,000	$29,009,000	$28,429,000	$28,250,000	$28,173,000	+$1,777,000
Office of the Inspector General	14,008,000	14,341,000	14,045,000	13,500,000	13,500,000	-508,000
Total, general administration	40,404,000	43,350,000	42,474,000	41,750,000	41,673,000	+1,269,000
Bureau of the Census						
Salaries and expenses	96,035,000	116,635,000	101,314,000	101,288,000	101,288,000	+5,253,000
Periodic censuses and programs	517,304,000	1,380,579,000	1,322,967,000	1,322,967,000	1,322,967,000	+805,663,000
Total, Bureau of the Census	613,339,000	1,497,214,000	1,424,281,000	1,424,255,000	1,424,255,000	+810,916,000
Economic and Statistical Analysis						
Salaries and expenses	32,899,000	32,861,000	32,861,000	31,150,000	31,150,000	-1,749,000
Economic Development Administration						
Economic development assistance programs	182,028,000			194,482,000	191,196,000	+9,168,000
(Limitation on loan guarantees)	(150,000,000)			(150,000,000)	(150,000,000)	
Salaries and expenses	24,742,000	20,000,000	26,061,000	25,500,000	25,475,000	+733,000
Total, Economic Development Administration	206,770,000	20,000,000	26,061,000	219,982,000	216,671,000	+9,901,000
International Trade Administration						
Operations and administration	167,502,000	174,591,000	179,579,000	181,296,000	181,296,000	+13,794,000
Export Administration						
Operations and administration	40,106,000	42,284,000		41,800,000	42,000,000	+1,894,000
Minority Business Development Agency						
Minority business development	39,705,000	39,741,000		39,741,000	39,741,000	+36,000
United States Travel and Tourism Administration						
Salaries and expenses	13,800,000			14,300,000	14,300,000	+500,000
National Oceanic and Atmospheric Administration						
Operations, research, and facilities	1,240,052,000	998,448,000	966,932,000	1,216,830,000	1,214,607,000	-25,445,000
Aviation weather services program (Airport and Airways Trust Fund)	28,717,000	30,000,000		30,000,000	30,000,000	+1,283,000
(By transfer from Promote and Develop Fund)	(45,600,000)	(53,700,000)		(51,900,000)	(55,000,000)	(+9,400,000)
(By transfer from Coastal Energy Impact Fund)	(6,500,000)	(8,500,000)		(4,500,000)	(4,500,000)	(-2,000,000)
Fisheries promotional fund (availability of funds)	(3,000,000)			(2,000,000)	(2,000,000)	(-1,000,000)
Fishing vessel and gear damage fund		1,000,000	1,000,000	1,000,000	1,000,000	+1,000,000
Fishermen's contingency fund	719,000	750,000	736,000	736,000	736,000	+17,000
Foreign fishing observer fund	1,919,000	2,000,000	1,986,000	1,986,000	1,986,000	+67,000
Total, National Oceanic and Atmospheric Administration	1,271,407,000	1,032,198,000	970,654,000	1,250,552,000	1,248,329,000	-23,078,000
Patent and Trademark Office						
Salaries and expenses	109,000,000	101,912,000	101,912,000	85,900,000	85,900,000	-23,100,000
Technology Administration						
Salaries and expenses		4,100,000		4,100,000	3,900,000	+3,900,000
National Institute of Standards and Technology						
Scientific and technical research and services	159,000,000	155,609,000		175,600,000	163,609,000	+4,609,000
National Telecommunications and Information Administration						
Salaries and expenses	13,630,000	14,554,000		14,200,000	14,200,000	+570,000
Public telecommunications facilities, planning and construction	20,000,000		20,449,000	20,200,000	20,000,000	
National Endowment for Childrens' Educational Television				2,500,000		
Total, National Telecommunications and Information Administration	33,630,000	14,554,000	20,449,000	36,900,000	34,200,000	+570,000
Total, title I, Department of Commerce:						
New budget (obligational) authority	2,727,562,000	3,158,414,000	2,798,271,000	3,547,326,000	3,527,024,000	+799,462,000
(By transfer)	(52,100,000)	(62,200,000)		(56,400,000)	(59,500,000)	(+7,400,000)
(Limitation on loan guarantees)	(150,000,000)			(150,000,000)	(150,000,000)	
(Availability of funds)	(3,000,000)			(2,000,000)	(2,000,000)	(-1,000,000)
TITLE II - DEPARTMENT OF JUSTICE						
General Administration						
Salaries and expenses	69,459,000	100,925,000		90,664,000	87,439,000	+17,980,000
Office of the Inspector General	18,901,000	19,433,000		20,673,000	20,673,000	+1,772,000
Total, general administration	88,360,000	120,358,000		111,337,000	108,112,000	+19,752,000

	FY 1989 Enacted	FY 1990 Estimate	House	Senate	Conference	Conference compared with enacted
United States Parole Commission						
Salaries and expenses	10,893,000	10,335,000		10,261,000	10,500,000	-393,000
Legal Activities						
Salaries and expenses, general legal activities	250,594,000	303,967,000		262,491,000	257,000,000	+6,406,000
Vaccine injury compensation fund					1,000,000	+1,000,000
Independent counsel (permanent, indefinite)	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	
Civil liberties public education fund		20,000,000	50,000,000			
Salaries and expenses, Antitrust Division	44,937,000	47,222,000		42,222,000	32,222,000	-12,715,000
Salaries and expenses, United States Attorneys	460,212,000	525,561,000		444,862,000	444,862,000	-15,350,000
United States Trustees System Fund	47,370,000	62,777,000		60,729,000	60,729,000	+13,359,000
Salaries and expenses, Foreign Claims Settlement Commission	472,000	440,000		440,000	440,000	-32,000
Salaries and expenses, United States Marshals Service	208,900,000	240,846,000		217,027,000	217,027,000	+8,127,000
Support of United States prisoners	115,100,000	160,034,000		137,034,000	137,034,000	+21,934,000
Fees and expenses of witnesses	52,203,000	56,784,000		56,784,000	56,784,000	+4,581,000
Salaries and expenses, Community Relations Service	27,858,000	29,609,000		29,334,000	29,334,000	+1,476,000
Assets forfeiture fund	75,000,000	100,000,000	76,513,000	75,000,000	75,000,000	
Rescission	-2,232,000					+2,232,000
Total, legal activities	1,286,414,000	1,553,240,000	132,513,000	1,331,923,000	1,317,432,000	+31,018,000
Interagency Law Enforcement						
Organized crime drug enforcement		214,921,000		168,560,000	168,560,000	+168,560,000
Federal Bureau of Investigation						
Salaries and expenses	1,445,400,000	1,550,385,000		1,423,340,000	1,423,340,000	-22,060,000
Drug Enforcement Administration						
Salaries and expenses	551,700,000	556,481,000		492,180,000	492,180,000	-59,520,000
Immigration and Naturalization Service						
Salaries and expenses	830,200,000	898,959,000		823,486,000	828,300,000	-1,900,000
Immigration examinations fee				50,000,000	50,000,000	+50,000,000
Emergency Immigration fund				35,000,000	35,000,000	+35,000,000
Total, Immigration and Naturalization Service	830,200,000	898,959,000		908,486,000	913,300,000	+83,100,000
Federal Prison System						
Salaries and expenses	953,012,000	1,152,554,000		1,097,631,000	1,097,631,000	+144,619,000
National Institute of Corrections	9,590,000	10,112,000		10,112,000	10,112,000	+522,000
Buildings and facilities	331,793,000	1,401,332,000		401,332,000	401,332,000	+69,539,000
Federal Prison Industries, Incorporated:						
Borrowing authority	20,000,000					-20,000,000
(Limitation on administrative and vocational training expenses)	(7,051,000)	(2,857,000)		(2,857,000)	(2,857,000)	(-4,194,000)
Total, Federal prison system	1,314,395,000	2,563,998,000		1,509,075,000	1,509,075,000	+194,680,000
Office of Justice Programs						
Justice Assistance	299,075,000	421,253,000	305,843,000	304,976,000	309,976,000	+10,901,000
Rescission	-2,053,000					+2,053,000
Public safety officers' benefits program	24,000,000	25,000,000	25,000,000	25,000,000	25,000,000	+1,000,000
Total, Office of Justice Programs	321,022,000	446,253,000	330,843,000	329,976,000	334,976,000	+13,954,000
Total, title II, Department of Justice:						
New budget (obligational) authority	5,848,384,000	7,914,930,000	463,356,000	6,285,138,000	6,277,475,000	+429,091,000
(Limitation on expenses)	(7,051,000)	(2,857,000)		(2,857,000)	(2,857,000)	(-4,194,000)
TITLE III - DEPARTMENT OF STATE						
Administration of Foreign Affairs						
Salaries and expenses	1,789,250,000	1,880,760,000		1,744,467,000	1,741,489,000	-47,761,000
(By transfer)				(29,152,000)	(51,152,000)	(+51,152,000)
Office of the Inspector General		18,672,000		18,672,000	21,000,000	+21,000,000
Representation allowances	4,590,000	4,600,000		4,600,000	4,600,000	+10,000
Protection of foreign missions and officials	9,100,000	9,100,000		9,100,000	9,100,000	
Acquisition and maintenance of buildings abroad	240,021,000	348,100,000	129,200,000	348,100,000	348,100,000	+108,079,000
Emergencies in the diplomatic and consular service	4,500,000	4,700,000		4,700,000	4,700,000	+200,000
Payment to the American Institute in Taiwan	10,890,000	11,300,000		11,300,000	11,300,000	+410,000
Payment to the Foreign Service Retirement and Disability Fund	107,684,000	106,034,000	106,034,000	106,034,000	106,034,000	-1,650,000
Total, administration of foreign affairs	2,166,035,000	2,383,266,000	235,234,000	2,246,973,000	2,246,323,000	+80,288,000
International Organizations and Conferences						
Contributions to international organizations	485,940,000	714,927,000		668,011,000	622,000,000	+136,060,000
Contributions for international peacekeeping activities	29,000,000	111,184,000		111,184,000	81,500,000	+52,500,000
(By transfer from Defense and Foreign Operations)	(125,000,000)					(-125,000,000)
International conferences and contingencies	6,000,000	6,340,000		6,340,000	6,340,000	+340,000
Total, international organizations and conferences	520,940,000	832,451,000		785,535,000	709,840,000	+188,900,000

	FY 1989 Enacted	FY 1990 Estimate	House	Senate	Conference	Conference compared with enacted
International Commissions						
International Boundary and Water Commission, United States and Mexico:						
Salaries and expenses	10,261,000	10,460,000		10,460,000	10,460,000	+199,000
Construction	3,166,000	11,500,000		11,500,000	11,500,000	+8,334,000
American sections, international commissions	4,316,000	4,500,000		4,500,000	4,500,000	+184,000
International fisheries commissions	10,548,000	11,000,000		12,300,000	12,300,000	+1,752,000
Total, international commissions	28,291,000	37,460,000		38,760,000	38,760,000	+10,469,000
Other						
United States Bilateral Science and Technology Agreements	2,000,000	4,000,000		4,000,000	4,000,000	+2,000,000
Payment to the Asia Foundation	13,700,000	8,300,000		14,100,000	13,900,000	+200,000
Soviet-East European research and training	4,600,000	4,600,000		4,600,000	4,600,000	
Fishermen's guaranty fund	1,725,000	900,000		900,000	900,000	-825,000
Fishermen's protective fund		1,000,000	1,000,000	1,000,000	1,000,000	+1,000,000
Total, Other	22,025,000	18,800,000	1,000,000	24,600,000	24,400,000	+2,375,000
General Provisions						
Expenses of participation in U.S. - E.C. Interparliamentary Group	50,000					-50,000
Total, title III, Department of State:						
New budget (obligational) authority	2,737,341,000	3,271,977,000	236,234,000	3,095,868,000	3,019,323,000	+281,982,000
(By transfer)	(125,000,000)			(29,152,000)	(51,152,000)	(-73,848,000)
TITLE IV - THE JUDICIARY						
Supreme Court of the United States						
Salaries and expenses:						
Salaries of justices	1,116,000	1,154,000	1,154,000	1,154,000	1,154,000	+38,000
Other salaries and expenses	14,785,000	16,159,000	16,159,000	16,280,000	16,280,000	+1,495,000
Total, salaries and expenses	15,901,000	17,313,000	17,313,000	17,434,000	17,434,000	+1,533,000
Care of the building and grounds	2,131,000	5,714,000	3,300,000	5,547,000	4,400,000	+2,269,000
Total, Supreme Court of the United States	18,032,000	23,027,000	20,613,000	22,981,000	21,834,000	+3,802,000
United States Court of Appeals for the Federal Circuit						
Salaries and expenses:						
Salaries of judges	1,287,000	1,210,000	1,210,000	1,210,000	1,210,000	-77,000
Other salaries and expenses	7,013,000	7,775,000	7,620,000	7,390,000	7,620,000	+607,000
Total, salaries and expenses	8,300,000	8,985,000	8,830,000	8,600,000	8,830,000	+530,000
United States Court of International Trade						
Salaries and expenses:						
Salaries of judges	909,000	860,000	860,000	860,000	860,000	-49,000
Other salaries and expenses	7,091,000	7,563,000	7,412,000	7,412,000	7,412,000	+321,000
Total, salaries and expenses	8,000,000	8,423,000	8,272,000	8,272,000	8,272,000	+272,000
Courts of Appeals, District Courts, and Other Judicial Services						
Salaries and expenses:						
Salaries of judges	105,235,000	102,607,000	102,607,000	102,607,000	102,607,000	-2,628,000
Other salaries and expenses	1,064,765,000	1,286,867,000	1,247,196,000	1,187,317,000	1,184,817,000	+120,052,000
Subtotal	1,170,000,000	1,389,474,000	1,349,803,000	1,289,924,000	1,287,424,000	+117,424,000
Indefinite appropriation				40,000,000	40,000,000	+40,000,000
Offsetting receipts				-33,000,000	-33,000,000	-33,000,000
Total, salaries and expenses	1,170,000,000	1,389,474,000	1,349,803,000	1,296,924,000	1,294,424,000	+124,424,000
Defender services	110,100,000	167,260,000	133,260,000	118,787,000	86,627,000	-23,473,000
Fees of jurors and commissioners	48,135,000	58,700,000	58,700,000	54,700,000	54,700,000	+6,565,000
Court security	41,423,000	58,490,000		43,090,000	43,090,000	+1,667,000
Total, courts of appeals, district courts, and other judicial services	1,369,658,000	1,673,924,000	1,541,763,000	1,513,501,000	1,478,841,000	+109,183,000
Administrative Office of the United States Courts						
Salaries and expenses	33,600,000	34,670,000	32,670,000	34,670,000	33,670,000	+70,000
Federal Judicial Center						
Salaries and expenses	11,200,000	14,188,000	12,648,000	12,648,000	12,648,000	+1,448,000
Judicial Retirement Funds						
Payment to judicial officers' retirement fund	2,300,000	1,000,000	4,000,000	6,500,000	6,500,000	+4,200,000

	FY 1989 Enacted	FY 1990 Estimate	House	Senate	Conference	Conference compared with enacted
United States Sentencing Commission						
Salaries and expenses	5,183,000	6,920,000	6,520,000	6,520,000	6,520,000	+1,337,000
Total, title IV, the Judiciary, new budget (obligational) authority	1,456,273,000	1,771,137,000	1,635,316,000	1,613,692,000	1,577,115,000	+120,842,000
TITLE V - RELATED AGENCIES						
DEPARTMENT OF TRANSPORTATION						
Maritime Administration						
Operating-differential subsidies (liquidation of contract authority)	(248,900,000)	(225,870,000)	.....	(225,870,000)	(225,870,000)	(-23,030,000)
Operations and training	66,250,000	66,300,000	.....	64,050,000	65,050,000	-1,200,000
(By transfer)	.....	(2,250,000)	.....	(2,250,000)	(2,250,000)	(+2,250,000)
Ready reserve force	110,751,000	239,030,000	.....	106,600,000	89,000,000	-21,751,000
Federal ship financing fund	515,000,000	.....	.....	.....	.....	-515,000,000
Portion applied to debt reduction	-515,000,000	.....	.....	.....	.....	+515,000,000
Total, Department of Transportation	177,001,000	305,330,000	.....	170,650,000	154,050,000	-22,951,000
Advisory Commission on Conference in Ocean Shipping						
Salaries and expenses	.....	500,000	300,000	300,000	300,000	+300,000
Arms Control and Disarmament Agency						
Arms control and disarmament activities	31,030,000	33,876,000	.....	33,876,000	33,876,000	+2,846,000
Board for International Broadcasting						
Grants and expenses	194,900,000	218,175,000	.....	195,000,000	190,000,000	-4,900,000
Israel Relay Station	33,000,000	207,000,000	.....	183,500,000	183,500,000	+150,500,000
Total, Board for International Broadcasting	227,900,000	425,175,000	.....	378,500,000	373,500,000	+145,600,000
Christopher Columbus Quincentenary Jubilee Commission						
Salaries and expenses	212,000	220,000	220,000	220,000	220,000	+8,000
Commission on Agricultural Workers						
Salaries and expenses	500,000	500,000	500,000	300,000	300,000	-200,000
Commission on the Bicentennial of the United States Constitution						
Salaries and expenses	6,936,000	14,589,000	14,300,000	14,300,000	15,005,000	+8,069,000
Commission on Civil Rights						
Salaries and expenses	5,707,000	7,857,000	.....	5,707,000	5,707,000	.....
Commission for the Preservation of America's Heritage Abroad						
Salaries and expenses	.....	200,000	200,000	200,000	200,000	+200,000
Commission on Security and Cooperation in Europe						
Salaries and expenses	741,000	912,000	850,000	850,000	850,000	+109,000
Commission on the Ukraine Famine						
Commission on the Ukraine Famine	.....	.....	.....	100,000	100,000	+100,000
Commission for the Study of International Migration and Cooperative Economic Development						
Salaries and expenses	1,290,000	1,290,000	1,290,000	1,290,000	1,290,000	.....
Competitiveness Policy Council						
Salaries and expenses	.....	.....	.....	1,000,000	750,000	+750,000
Equal Employment Opportunity Commission						
Salaries and expenses	180,712,000	188,700,000	184,926,000	184,926,000	184,926,000	+4,214,000
Federal Communications Commission						
Salaries and expenses	99,613,000	109,831,000	.....	109,831,000	109,000,000	+9,387,000
Federal Maritime Commission						
Salaries and expenses	13,585,000	16,350,000	15,650,000	15,650,000	15,650,000	+2,065,000
Federal Trade Commission						
Salaries and expenses	66,243,000	69,580,000	.....	64,580,000	54,580,000	-11,663,000
International Trade Commission						
Salaries and expenses	35,958,000	39,943,000	.....	39,000,000	39,000,000	+3,042,000

	FY 1989 Enacted	FY 1990 Estimate	House	Senate	Conference	Conference compared with enacted
Japan - United States Friendship Commission						
Japan - United States Friendship Trust Fund	1,415,000	1,350,000	1,350,000	1,350,000	1,350,000	-65,000
(Foreign currency appropriation)	(1,700,000)	(1,610,000)	(1,610,000)	(1,610,000)	(1,610,000)	(-90,000)
Legal Services Corporation						
Payment to the Legal Services Corporation	308,555,000	295,314,000		321,000,000	321,000,000	+12,445,000
Marine Mammal Commission						
Salaries and expenses	953,000	960,000	960,000	960,000	960,000	+7,000
Martin Luther King, Jr. Federal Holiday Commission						
Salaries and expenses		300,000		300,000	300,000	+300,000
Office of the United States Trade Representative						
Salaries and expenses	15,229,000	16,830,000		18,830,000	18,000,000	+2,771,000
Securities and Exchange Commission						
Salaries and expenses	142,640,000	168,707,000		168,707,000	168,707,000	+26,067,000
Offsetting receipts				-26,000,000	-26,000,000	-26,000,000
Total, Securities and Exchange Commission	142,640,000	168,707,000		142,707,000	142,707,000	+67,000
Small Business Administration						
Salaries and expenses	228,490,000	268,367,000	240,545,000	239,136,000	242,000,000	+13,510,000
(By transfer, indefinite)	(88,669,000)		(96,160,000)	(96,160,000)	(96,160,000)	(+7,491,000)
Office of the Inspector General		7,552,000	7,400,000	7,552,000	7,400,000	+7,400,000
Business loan and investment fund	167,500,000	94,000,000	164,500,000	155,500,000	159,500,000	-8,000,000
Surety bond guarantees revolving fund	9,497,000	7,000,000	11,000,000	11,000,000	11,000,000	+1,503,000
Pollution control equipment contract guarantee revolving fund	13,656,000	11,500,000	13,000,000		13,000,000	-656,000
Total, Small Business Administration	419,143,000	388,419,000	436,445,000	413,188,000	432,900,000	+13,757,000
State Justice Institute						
Salaries and expenses	10,980,000	15,000,000	11,233,000	12,000,000	8,000,000	-2,980,000
United States Information Agency						
Salaries and expenses	620,347,000	655,068,000		647,875,000	638,569,000	+18,222,000
Office of the Inspector General		3,677,000		3,675,000	3,675,000	+3,675,000
Educational and cultural exchange programs	150,040,000	153,000,000		160,300,000	156,506,000	+6,466,000
Radio construction	65,000,000	89,000,000		85,000,000	85,000,000	+20,000,000
Radio broadcasting to Cuba	11,175,000	12,700,000		12,700,000	12,700,000	+1,525,000
East-West Center	20,000,000	20,000,000		20,700,000	20,700,000	+700,000
National endowment for democracy	15,800,000	15,800,000		15,800,000	17,000,000	+1,200,000
Total, United States Information Agency	882,362,000	949,245,000		946,050,000	934,150,000	+51,788,000
Total, title V, Related agencies:						
New budget (obligational) authority	2,628,705,000	3,050,978,000	668,224,000	2,877,665,000	2,848,671,000	+219,966,000
(By transfer)	(88,669,000)	(2,250,000)	(96,160,000)	(98,410,000)	(98,410,000)	(+9,741,000)
(Liquidation of contract authority)	(248,900,000)	(225,870,000)		(225,870,000)	(225,870,000)	(-23,030,000)
(Limitation on direct loans)						
(Foreign currency appropriation)	(1,700,000)	(1,610,000)	(1,610,000)	(1,610,000)	(1,610,000)	(-90,000)
Grand total:						
New budget (obligational) authority	15,398,265,000	19,167,436,000	5,801,401,000	17,419,689,000	17,249,608,000	+1,851,343,000
(By transfer)	(265,769,000)	(64,450,000)	(96,160,000)	(183,962,000)	(209,062,000)	(-56,707,000)
(Limitation on expenses)	(7,051,000)	(2,857,000)		(2,857,000)	(2,857,000)	(-4,194,000)
(Limitation on guaranteed loans)	(150,000,000)			(150,000,000)	(150,000,000)	
(Limitation on direct loans)						
(Appropriations to liquidate contract authorizations)	(248,900,000)	(225,870,000)		(225,870,000)	(225,870,000)	(-23,030,000)
(Foreign currency appropriation)	(1,700,000)	(1,610,000)	(1,610,000)	(1,610,000)	(1,610,000)	(-90,000)
Total appropriations, including appropriations to liquidate contract authorizations	(15,647,165,000)	(19,393,306,000)	(5,801,401,000)	(17,645,559,000)	(17,475,478,000)	(+1,828,313,000)

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, I rise in support of this conference report. The conferees have had an almost impossible task on the funding problem to find a deal simultaneously with Gramm-Rudman-Hollings expenditure targets of the agencies within their jurisdiction, and they have worked very long and very hard, and they deserve our support. I want to thank the gentleman from Iowa [Mr. SMITH] also for his cooperation with the Committee on Foreign Affairs. We have jurisdiction, of course, over the Department of State authorization. We are going into conference on that authorization bill today as a start, and I wanted to thank the Committee on Appropriations for giving us the time by virtue of the waiver that they have extended so that at least we would have until November 30 if we cannot come up with a conference report on the authorizing legislation.

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Otherwise, we would have an impossible task. If it should so happen in the conference that the other side relents, because they wanted absolutely no time at all, they wanted to go right ahead with the full waiver; but if they change their mind, Mr. Speaker, and decide that they can go with a continuing rate subject to an authorization bill, I would hope the chairman would give that some consideration. It would provide some incentive both to the administration and to the other body to help us get a conference report on the authorization bill.

With this problem and with the problem of nongermane amendments, both on the authorizing bill and on other bills affecting the jurisdiction of the authorizing committees, we are in difficult shape; but I am very proud to say that we have had the cooperation of both the appropriation subcommittees on the House side in working with the authorizing committee, and I am very grateful to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I thank the gentleman for his remarks.

I want to say that we try to cooperate with all the authorizing committees. In the case of the Foreign Affairs Committee, the gentleman has done what some of the other authorizing committees have not done and that is the gentleman has tried to keep the authorization a year ahead so that whenever they make up the budget requests downtown they have to make it up according to an authorization. In that instance, we can hold hearings based on an authorization as some of the committees do, and wait until after the appropriation comes up to start on authorizing hearings, then we do not have the benefit of the guidelines in the authorizing legislation.

Mr. FASCELL. Mr. Speaker, if the gentleman will yield further, let me say it was the suggestion of the gentleman from Iowa for us to do that. The Foreign Affairs Committee did go on a 2-year cycle, so we are on a 2-year cycle both on the State Department authorization and on the foreign aid bill, if we can ever get them considered in the other body.

Mr. SMITH of Iowa. But as I understand it, the bill that is over there would authorize the State Department and USIA also for fiscal year 1991.

Mr. FASCELL. The gentleman is correct.

Mr. SMITH of Iowa. So if we get a conference report adopted, then they will have to send up a budget request in January and February based on that authorization. That is the way we would rather have it.

Mr. FASCELL. That is our idea. We want to cooperate fully to get that done.

Mr. Speaker, I rise in support of the conference report.

I recognize that our conferees had an almost impossible task with respect to the funding problem. Simultaneously they had to meet the Gramm-Rudman-Hollings expenditure reduction targets and deal with pressing needs to strengthen our war on drugs as well as to meet other compelling needs of our country. The conferees have worked long and hard and their effort deserves our support.

In addition to the funding problem, the conference report waives the requirement for the State Department authorization legislation now in conference. When the appropriations conference report is considered in the other body an amendment may be offered to hold funding levels for the State Department and related agencies at the current rate until the authorization legislation is signed into law. I would urge the House to agree to that amendment in order to uphold the authorization process.

This is an exciting time in the history of the world. Every day we see headlines one more surprising than the last confirming the fact that momentous currents of changes are sweeping our planet. These changes range from the advance of liberty in Eastern Europe, to the resurgent role of Japan, to global problems like the warming of our atmosphere. All these and a host of others present great opportunities, as well as challenges and dangers, for America and for mankind. But if we are to steer these waters with the skill needed to seize these opportunities and avoid the pitfalls of an uncharted future we must have a strong, creative, and dynamic foreign policy. And while money alone cannot bring wisdom, courage, and the imagination needed to provide an effective foreign policy it is an essential ingredient.

Our diplomats must have the tools and instruments to do their job. This bill provides much of what is needed but it cuts $140 million from salaries and expenses of the State Department at a time when the importance of American diplomacy is increasing. The amount for the core of the State Department is $48 million less then last year.

Even more disconcerting are the levels in the conference report for U.S. assessed contributions to international organizations and to the peacekeeping of the United Nations. In the authorization bill approved by the House the full amount requested by the President was provided for both assessed contributions and for peacekeeping.

In an increasingly interpendent world it is abundantly clear that many global problems from AIDs, to the world's food shortages can most effectively be addressed through global institutions. That is why the United States chose to join the United Nations and a number of other international organizations. Our annual assessed contributions are treaty obligations, solemn international legal obligations. As a deliberate act of policy the United States in recent years has withheld a portion of these contributions but this year the President stated these reforms were being achieved and asked that Congress provide both the full amounts requested for this fiscal year and that we also begin to pay back our arrearages. This conference report would put the United States another $92 million in arrears. That is the amount not provided this year to meet treaty obligations. Not only are we not beginning to pay back what we owe, we are failing to live up to a de facto bargain the United States proposed: Reform and we'll gladly pay up. Certainly there is room for much more improvement at the United Nation but so too is there at our own Department of Housing.

Failing to provide our full share of funding hurts our foreign policy two ways: First, by forcing the curtailment of programs, most of which, we have identified as important to our national interests; and second, by cheapening the reputation of our country and thus damaging our prestige. What kind of a message do we send about our reliability when we don't live up to our side of a bargain? More importantly, what kind of an example do we set when we do not meet the international legal obligations we have freely accepted?

But the most disappointing aspect of all in this conference report is the failure to provide the full amount requested by the President for international peacekeeping. This conference report falls almost $30 million short. Peacekeeping lies at the heart and soul of the United Nations. Changes in the Soviet Union and among combatants around the world have provided an opportunity we have not had since the end of World War II to reduce global

conflict. In the last year, the United Nations has been able to play a vital role in ending the bloodbath between Iran and Iraq, in policing Cuban withdrawal from Angola, and in easing the path toward independence in Namibia. The United Nations has been active in trying to carry out the Afghanistan accords. Meanwhile, its peacekeeping forces are on duty in many places throughout the world, such as Cyprus, trying to prevent old quarrels from erupting again into war. And the United Nations is ready to play a role in policing the borders in Central America and to facilitate possible peace agreements in north Africa and Southeast Asia. Yet peacekeeping costs a lot of money. Small countries generously contribute troops and risk the lives of their soldiers for peace. These countries, at the very least, need to be reimbursed for the financial burdens they bear. Are we in such desperate financial straits that the United States, still the world's wealthiest and most powerful nation, cannot find another $30 million to fully fund peacekeeping? Have we abandoned the commitment our Nation has repeated throughout this century to ending the scourge of war?

The problems I see in this conference report are not the making of the conferees. They reflect a failure of leadership by all of us, Presidents and Congress, to come to grips with our deficit and at the same time to reorder our priorities to meet the emerging challenges and opportunities confronting our Nation.

Mr. SMITH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, first of all, I want to thank the gentleman from Iowa and thank Senator HOLLINGS for conferring with me about section 609 of the conference report dealing with turtles and a possible embargo on the importation of shrimp from some foreign countries that are not cooperating properly with our attempt to save the lives of turtles.

I have read the language in the committee report, and I agree with it.

I would like to add this thought to it, based upon the jurisdiction of the Ways and Means Committee and the fact that we must cooperate with these other countries, referring to section 609 I think it is intended to promote international cooperation in the conservation of those threatened or endangered sea turtles found within the U.S. shrimp fisheries. These sea turtles migrate through the waters beyond U.S. jurisdiction where they may be adversely impacted by commercial shrimping operations of vessels from foreign countries. The potential ban on imports in this section is intended to encourage governments of these nations to enter into agreements with the United States to conserve these turtles, consistent with the General Agreement on Tariffs and Trade.

I would just like to leave that thought and that idea with the matter that is already in the statement of the managers in the report of the conferees on this bill.

Mr. SMITH of Iowa. Mr. Speaker, I thank the gentleman for his statement.

We certainly will continue to cooperate and work with the gentleman on this matter.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, as we know, the Bering Sea fishery is the largest single groundfish and crab fishery in the exclusive economic zone of the United States. One of the top priorities of the entire Pacific Northwest and Alaska fishing fleets was funding for Bering Sea groundfish and crab research. Concerns about overfishing have made it critical to determine what species are in the Bering Sea and how they interact to support healthy fish populations. International negotiations with the Soviets on Bering Sea fishery management are currently underway, but data on population and species interaction is inadequate.

Unfortunately, the $750,000 included in the Senate bill for Bering Sea Pollack Research was not included in the conference report for this appropriations bill.

Mr. Speaker, we in the Northwest would appreciate your assistance in working with NOAA and the National Marine Fisheries Service to make discretionary funds available on a priority basis for this valuable research.

Mr. SMITH of Iowa. Mr. Speaker, I want to say that I regret that budgetary constraints prevented us from meeting all the funding needs for fisheries research, but I do agree that the Bering Sea groundfish research should be a priority for discretionary funds from NOAA, and I will be pleased to work with my colleague toward that end.

Mr. DICKS. Mr. Speaker, I want to say that I rise in support of the conference report and say to the chairman that I appreciate his cooperation and that of the ranking member on a whole host of other fisheries issues. We in the Northwest deeply appreciate all the help that the gentleman has given us.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, nearly 3 months ago, the committee chairman, the gentleman from Iowa [Mr. SMITH] and the members of the subcommittee came to the floor to present a bill of which no one could be too proud.

Our 302(b) allocation was, and is, extremely restrictive.

We in the House deferred action on all accounts for which there was no authorization—two-thirds of the bill, even the war on drugs—the national priority; but we worked with the Senate, which funded all the accounts. We answered to the call of the President and Director Bill Bennett to attack the scourge of illegal drugs.

We have hammered out compromises on hundreds of Senate amendments, most of which I believe will be satisfactory to the House. But at least two Senate amendments, in my view, take us down the wrong road, and there will be efforts to defeat them or improve them later as we take up the items in disagreement. They are controversial, and Members deserve the chance to vote them up or down when they come up separately.

Mr. Speaker, the members of the subcommittee have labored hard on a very tough bill. The missions of the agencies and departments we fund could not be more diverse, from drug grants for the local sheriff to funding United Nations peacekeeping forces in Iraq; from border patrol funds to secure our borders to diplomatic security funds to secure our overseas missions.

We modernized the Weather Service in one part of the bill. In another, we modernized our ability to speak to the world through the tried and true Voice of America.

All of these bedrock programs were competing not just for our limited pot of funds, but against the No. 1 priority, the war on drugs. The President asked us for over $3.7 billion to wage the battle, and this made our job extremely tough.

This agreement with the Senate provides $17.2 billion for the year we are in now. When added to the drug title in the Transportation appropriations bill, we match the President's total request in the drug war, and we have kept the agreement fiscally responsible. Both budget authority and outlays are below the subcommittee's ceilings.

But let me alert Members as they watch this debate to three serious problems.

First, this agreement creates a permanent appropriation and entitlement authority.

Mr. Speaker, I repeat, this agreement creates an entitlement in an appropriations bill, and I hope that we will face that later on as we face the items in disagreement.

□ 1200

We are rewriting in this bill the Civil Liberties Act of last year to mandate Japanese-American reparation payments beginning in fiscal year 1991. The House approved $50 million for payments this year, $30 million more than was sought. The Senate provided nothing, nothing but a mandatory program for next year that will carve $500 million for payments right off the top above child care, above defense, above

every other item in the budget except other entitlement programs.

I strongly oppose that change. Procedurally it is wrong. We are writing entitlement language in a general appropriation bill, and in doing so violating the Budget Act, and I would hope the Committee on the Budget members would come to the floor and object to it.

Fiscally, it is indefensible. Hark back to the programs I just described. They are clamoring legitimately for more funds. By creating $500 million in mandatory payments, we shrink a minuscule pie and make it even tougher next year to fund vital programs, plus the trust fund is authorized for 10 years under the law we passed last year over which any payments we do approve can be spread if we so desire.

Internees or their survivors are eligible alike. We should not front-load the 10-year program by paying it in 2½ years.

Mr. Speaker, at the appropriate time, I will ask for a vote on the amendment that provides this mandatory funding so that all Members can weigh in on this unfair proposal.

Unfortunately the conference report rejects the Shelby amendment in the Senate which would have prevented counting illegal aliens for next year's census. I am hard pressed to find a greater injustice in this agreement. Consider the irony that in the same act that provides $300 million to keep illegal aliens out of the country, we confer upon them the benefit of representation in this assembly. For 200 years the Census Bureau has counted only those persons who have a usual residence in the United States. For the first time now we will break that very basic tenet of American Government and count for representation those who do not have a usual residence in the United States, and I call that representation without taxation.

Mr. Speaker, I hope we can reverse some of these items as we take up the items in disagreement with the Senate.

This bill provides $810 million more than last year to fund the census. That is under the request, and hopefully it is adequate to do the job.

International Trade Administration: It provides the full increase for the United States and Foreign Commercial Service, very important to all of us.

In NOAA, we fund upgrades in the Weather Service, preserve the warning and forecast services so many areas depend upon. World drought, ozone depletion, and the threats they portend for the human race cannot be ignored, and we fund the multiagency global and climate change initiative among many other programs.

The SEC: The full request is given, responding to the major demands on that agency. The U.S. information Agency, the cornerstone of our public diplomacy: we give $934 million, $51 million more than last year, not near as much as this Member would like.

The world anxiously awaits American messages of freedom and democracy. We have seen entrenched societies like Romania where citizens are proudly drawn to our overseas libraries to read American literature and view taped television news, and yet they do so at tremendous risk.

The Voice of America: for some in the world, that is the only outlet to the free world and a reliable accounting of events. These programs and exchanges are best judged by the results we now see in Hungary and Poland, even in the Soviet Union, where the winds of freedom and choice are blowing strong, in Soviet Asia, the People's Republic of China where restless peoples yearn for a society they only know because of our electronic presence through the Voice of America, Radio Free Europe, and others.

What we have is a good return on our investment, and we do more in the bill before us. The same for the Board for International Broadcasting, parent to Radio Free Europe, Radio Liberty, and in this agreement we fund a major relay station which will get our message to enormously critical parts of Soviet Central Asia and Afghanistan, drawing millions of listeners brimming with reform and change.

The most important achievement of this bill, however, Mr. Speaker, is in the Justice and the Judiciary to wage the battle against drugs and crime. The President's drug-control strategy was our marching order to get moving, to provide every penny's worth of effort possible, and we have done that. Some $3.8 billion is provided between this agreement and the drug portion of Transportation.

We must make our neighborhoods safe, and there is $450 million in State and local grants to combat at that level. Felony drug convictions are the single largest and fastest-growing part of the Federal prison population. We provide a $1 billion increase, and that means another 23,000 beds in our Federal system.

Drug sales are estimated at more than double the profits of all Fortune 500 companies combined. The increases for FBI and U.S. attorneys will help put the brakes on money networks that underwrite this filth.

Illegal immigration continues at alarming rates and an ever-growing number are drug smugglers, so we have provided for a total of 4,700 Border Patrol agents, 200 over last year; from better lab services to intelligence equipment to pure and simplified manpower.

The bill before us keeps a promise that we in the Congress have been welching on for, I think, too long. I am pleased, in major part, with our work which will support law enforcement at every level, from investigation to incarceration.

Mr. Speaker, finally I close my general remarks as I did this time last year with respect to the Legal Services Corporation. Again, we face another round of strangling Senate amendments restricting the ability of the Legal Services Corporation to see that legal help for the poor is its mandate, not social engineering, not lobbying, not union organizing, not political redistricting. Legal services for the poor is what it should be doing and, again, there are many Members on both sides of the aisle in this Chamber who want material reform of the Legal Services Corporation including competition for grants, timekeeping requirements, application of Federal antifraud statutes, and other sensible changes.

Unlike last year, all we have to report back with are additional Senate-proposed restrictions on reforming the Legal Services Corporation. Nothing positive came out of the conference on these issues. The Senate was unwilling to compromise, so I will again support efforts later today to implement fair-minded reforms for Legal Services, a program I support but a program in need of change.

I share my chairman's wish that this be handled on another vehicle, but the committee of jurisdiction, the Committee on the Judiciary, has had it garaged for 9 solid years, and the tires, I am sad to say, are flat.

Mr. Speaker, in conclusion I ask Members for three things today: first, I ask for support of the conference report, the result of many months of effort. Second, I urge Members to reject the entitlement provisions of the Civil Liberties Act. And, third, I ask Members to support the McCollum-Stenholm Legal Services reform package to be offered later in the day.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, for purposes of a colloquy, I yield such time as he may consume to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Speaker, I want to commend the gentleman from Iowa for his help for funding for fisheries and especially his attention to the tremendous problem of high seas driftnet fishing fleets from Japan, Taiwan, and South Korea. These driftnet fleets, which are stripmining the ocean, sometimes in blatantly illegal harvests of salmon, and they are devastating the marine resources of the North Pacific Ocean, including birds and mammals.

The gentleman's committee has provided $3 million for implementation of the Driftnet Act of 1987, which will better enable us to monitor driftnet fleets and assess their impact on our fish and wildlife.

While these are essential activities for dealing with driftnets, I also want to see existing laws and agreements against illegal salmon harvests enforced to the maximum. One critical enforcement tool is the genetic stock identification data bank. By giving us the ability to identify the river of origin of migratory salmon and steelhead, our agents can nail those who have taken our fish illegally. And by demonstrating that those fish in the high seas are ours, we can better pressure drift-netting nations to join agreements which protect our resources.

I would like to ask the gentleman from Iowa: In the funding for driftnet implementation, are there resources included to complete the genetic stock identification data bank, which has been developed by the National Marine Fishery Service?

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. AuCOIN. I am happy to yield to the gentleman from Iowa.

□ 1310

Mr. SMITH of Iowa. The answer is yes, within the $3 million appropriated for Driftnet Act implementation, funding is provided for the genetic stock identification bank.

I did not know what driftnets were until I heard from all of the people on the west coast. But as a result of the gentleman's request, and we did have several requests from Members, funding is provided. The Department has reported to the committee on their need to complete work on this enforcement tool, and they have indicated that this project is a priority in their implementation of the Driftnet Act.

Mr. AuCOIN. Mr. Speaker, I thank the gentleman from Iowa for his cooperation at this time and for this colloquy. I certainly compliment the gentleman on the superb work in his appropriation, which I support.

Mr. SMITH of Iowa. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I thank the chairman for yielding time. I would like to engage in a colloquy with the distinguished chairman about certain assurances and clarifications concerning the use of filing fees as a source of funding for the Antitrust Division and the Federal Trade Commission.

Mr. Speaker, I would ask the chairman of the subcommittee if the revenues from the Hart-Scott-Rodino filing fees begin to fall short of projected figures, and we have the assurance that the Appropriations Subcommittee will make available the necessary funds to avoid any adverse impact on personnel and enforcement activity at the antitrust agencies.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I say to the gentleman from California first that when he looks at the funding tables, it appears as though there is a cut in antitrust enforcement funding. But as a matter of fact, you have to add to that the fees they are going to collect. When you do that, there is not a cut, but there is in fact a program increase of $5,000,000.

Let me say that last year they had approximately 2,800 filings. In estimating the amount of fees that they will receive, we only used an estimate of 2,000. So they should not fall short.

I do want to assure the gentleman that we will do everything in our power to ensure that neither the Antitrust Division nor the FTC will suffer from funding shortfalls in the event of lower than anticipated filing fees.

Mr. EDWARDS of California. Mr. Speaker, I thank the chairman.

Mr. Speaker, I would ask the chairman that in the eventuality of such a shortfall in projected revenues, can we have the assurance from the gentleman from Iowa that no later than 6 months after the enactment of this provision other moneys or funds will be made available to the antitrust agencies so that the Antitrust Division and the Federal Trade Commission will have available no less than the level of funding requested for fiscal year 1990?

Mr. SMITH of Iowa. Mr. Speaker, the answer is generally yes. We will be closely monitoring the actual fees received in the antitrust agencies, and if the projected revenues fall short of the revenues, then we will pursue other means of funding to reach the levels that are needed for the Antitrust Division.

I cannot guarantee when a bill can be passed that would do this, but we will do our best one way or another to provide the needed money.

Mr. EDWARDS of California. Mr. Speaker, I thank the chairman.

Mr. Speaker, I ask the chairman, is the Appropriations Committee setting a precedent for the furture, creating a filing fee system as a source of funding for antitrust enforcement activities?

Mr. SMITH of Iowa. Mr. Speaker, no. The cuts made in the line-item appropriation request and the use of alternative filing fee revenues to make up for it are not meant to set a precedent. These fees are an experiment born out of budgetary necessities which are very stringent, and we are not necessarily wedded to this approach for future fiscal year appropriations decisions at all.

Mr. EDWARDS of California. Mr. Speaker, is the gentleman from Iowa aware that under other types of filing fees designed to produce revenue for agencies, litigation has ensued which has tied up funds?

Mr. SMITH of Iowa. Mr. Speaker, yes. But we believe we have structured the procedures here in a manner so they can withstand any legal challenge.

Mr. EDWARDS of California. Mr. Speaker, I would ask the chairman if it has been ruled out ever granting the Attorney General some transfer authority to move funds into the Antitrust Division if the need arises?

Mr. SMITH of Iowa. Mr. Speaker, we have not granted such authority in this provision at this time. But again, our action on this issue does not foreclose future consideration of this matter.

Mr. EDWARDS of California. Mr. Speaker, I thank the chairman for these assurances and clarifications. I thank him for his long history of supporting the enforcement of the Nation's antitrust laws.

Mr. SMITH of Iowa. Mr. Speaker, I want to say we appreciate the cooperation of the gentleman from California and the Judiciary Committee.

Mr. EDWARDS of California. Mr. Speaker, I think we are all painfully aware that, during the Reagan administration, our antitrust agencies were virtually crippled—both in will and resources—in enforcing our competition statutes, statutes which many rightly have termed America's "Economic Bill of Rights." At the Department of Justice, since 1980, there has been a 42-percent reduction in personnel. This decimation has had a drastic effect on the public enforcement of our antitrust laws, and with that drop in visible public enforcement, business self-discipline has eroded as well.

Given these circumstances, today is not the time to signal that Congress in any way sanctions the dismal state into which antitrust enforcement has fallen. This is particularly true today, when America desperately needs to be at its competitive best in meeting the challenges of the swiftly changing international marketplace.

Thus, I rise to express my serious concerns about the cut in funding for the antitrust agencies found in amendment No. 176 (section 605) of this conference report on H.R. 2991. Chairman BROOKS of the House Judiciary Committee recently wrote to the House Appropriations Committee to express his deep concerns, which I share, about reducing secure line-item appropriations for the antitrust agencies through the substitution of a filing fee system. Unfortunately, Chairman BROOKS is unable to be here to address this because of his recent hospitalization. I know I speak for all of us in wishing him a speedy recovery.

The conference agreement before us today cuts $15 million from the $47 million requested by the Justice Department for the operations of its Antitrust Division—more than a one-third cut. And, it is very important to note that a similar cut has been made to the funding for the Federal Trade Commission's antitrust enforcement activities.

By the terms of amendment No. 176 (section 605), these reductions in line-item appropriations for our antitrust agencies are to be made up through filing fees designed to reimburse the Antitrust Division and the FTC for their actual costs in processing Hart-Scott-Rodino notifications.

Underlying amendment No. 176 (section 605) appears to be a supposition by the conferees that sufficient fees will be generated to fund the actual total costs of the Hart-Scott-Rodino Program and that collection of such fees will go very smoothly.

Unfortunately, the number of Hart-Scott-Rodino filings will always vary with macro- and micro-economic developments—which are hardly susceptible to precise prediction. Thus, until amendment No. 176 (section 605) has been in place long enough to evaluate its effects, we simply have no way to gauge whether the amount of proceeds raised in this manner will be sufficient to ensure adequate enforcement of our antitrust laws.

Basing crucial funding for our antitrust agencies on possible future developments concerns me very deeply. Critical staff positions and ongoing enforcement activities could be placed in severe jeopardy, and the stability and morale of antitrust enforcers further disrupted.

For all of these reasons, I engaged in this colloquy with the gentlemen from Iowa, the distinguished chairman of the Appropriations Committee's Subcommittee on State, Justice, and Commerce, and I appreciate his assurances and clarifications concerning the use of filing fees as a source of funding for the Antitrust Division and the Federal Trade Commission.

Mr. ROGERS. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona [Mr. KOLBE], a very valued member of the subcommittee.

Mr. KOLBE. Mr. Speaker, I want first to comment both the gentleman from Iowa [Mr. SMITH], chairman of the subcommittee, and the gentleman from Kentucky [Mr. ROGERS], the ranking Republican and vice chairman of the subcommittee, and the staff on both sides for the work they have done in putting this bill together.

Like other subcommittees, our subcommittee has certainly felt the pinch in recent years that comes from the deficit, meeting the Gramm-Rudman targets, and meeting our 302(b) allocations.

And, now our subcommittee work has been further complicated because one of the biggest priorities, one of the biggest responsibilities of recent years, has been handed to us. I am speaking, of course of the war on drugs.

There are a number of important programs included in this bill. I do not want to take the time to enumerate all of them, but let me mention one of particular interest to all Members this year, and all Americans. That is the census.

This bill contains important funds to complete the work of the census this year. We need to make sure we have adequate funding to get that census done during this fiscal year.

This has been a sensitive issue. I understand the sensitivity of it. I am pleased, though, that through all of this we have maintained an understanding of the need to provide the necessary funds to carry out the census. I am also gratified that this body and the conference committee, saw fit to maintain the integrity of the census, to drop the so-called Shelby amendment that would have required separating undocumented aliens from the census count.

One issue the conference does not address is our embassy in Moscow. Our silence on this issue troubles me, because I believe it is an issue which we should be keeping at the forefront of our discussion.

The administration has not yet made a decision on how to proceed with the Embassy, whether we are going to reconstruct portions of it, knock down some of it, knock down the whole thing and rebuild it, or something altogether different. This is an issue that we must solve as soon as possible. Having been to Moscow with the subcommittee this summer, I can tell Members that the need for space in Moscow Embassy is critical.

Another important item, as I have already mentioned, is the war on drugs. This bill, together with the transportation appropriations measure, provides full funding for the drug programs.

I am pleased we were able to provide this funding. I continue to believe that this subcommittee and others need to go farther in providing more resources. This can be accomplished by setting priorities in a better way, and cutting programs that have not shown the usefulness that the war on drugs has clearly shown for the American people.

Instead of trying to minimize the pain of cuts and sequestrations by spreading it equally among all of the programs, we should take a hard look at certain programs and upon realizing that they are not needed, cut them out. We are going to have an opportunity later on today to debate such a program—the Legal Services Corporation. I believe that Legal Services is a program from which some of the funds could have been taken and applied to the war on drugs.

Finally, Mr. Speaker, while I am pleased that the funding for the drug program is complete, I am disappointed and unhappy that we are so late in getting this carried out. While we continue to debate appropriation measures, continuing resolutions, debt extension, and budget reconciliation, drug programs that have claimed a priority are suffering under the sequestration order in effect.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Speaker, during hearings last month of the House Government Operations Subcommittee on Government Activities and Transportation, on which I serve as ranking member, we heard a great deal of expert testimony about the need for continued aggressive research and development into ways to counter the increasingly sophisticated techniques used by terrorists against aviation.

A number of scientists and Government officials discussed ongoing research efforts, including the pluses and minuses of some of the explosive detection systems already deployed or in development, such as thermal neutron activation or TNA.

During the hearings, reference was also made to the National Counter-terrorism Research and Development Program, which includes projects which may prove useful for aviation security, as well as for protecting buildings or detecting chemical and biological agents.

The Federal Aviation Administration and about two dozen other agencies participate in the program, which is coordinated by the State Department and funded through its budget.

This is a modest program, particularly in light of the ever-evolving threat posed by international terrorism. As with numerous other Government programs, it sports its share of scars from the scalpel of budget cutbacks.

However, I must admit I was rather surprised to learn that, despite the tragic bombing of Pan Am Flight 103 and other terrorist events, and the numerous statements we have heard from this floor in support of the struggle against terrorism, the conference report on the Commerce, State, and Justice Department appropriations bill includes only $2 million for this program.

The administration requested $6 million. It had requested the same amount last year, but because of actions in the Senate, the final compromise appropriation for fiscal year 1989 was only $3 million. The conferees could not even provide last year's spending level.

Mr. Speaker, as things go here in Congress, $1 million is not a huge sum of money, but it would fund critical research and development for equipment which may prevent future tragedies like Pan Am 103.

The conference report may be a done deal for the time being, but I hope the administration and the appropriation committees can give this program a higher priority and restore the cuts to this counterterrorism research and development effort.

□ 1220

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I rise in support of efforts to implement essential reforms for the Legal Services Corporation.

I am particularly supportive of the provisions directed at problems facing the agricultural community because of Legal Services activities.

While I support the concept behind the Legal Services Corporation, I feel many legal services attorneys have overstepped their authority in the past few years and forced many good farmers to go bankrupt and lose their farms.

For many, many years, there has been a close working relationship between farmers in my District and the migrant workers they employ. When the Migrant and Seasonal Worker Protection Act became law, the farmers tried best to comply with the law.

Unfortunately, not every farmer knew every provision of the law and minor infractions are now resulting in court cases brought against farmers by attorneys supported by the Legal Services Corporation. These are not, in many instances, flagrant violations. For example, suit has been brought because a farmer forgot to write the designation "U.C." for employment compensation on the wage statement 1 week. Every other week the U.C. was written in the appropriate block. The proper amount was deducted from the worker's pay each week; but, because of a minor oversight 1 week, legal action was taken. Another case involved a farmer who had not displayed the required MSPA poster.

Finally, there was a case where an unemployed migrant family stopped by a farm on a Friday night and requested work. The farmer had no work for the family; however, they pleaded for a place to stay overnight. They had two small children with runny noses and no shoes. The farmer, concerned about the children staying outside at night, finally gave in and told them they could stay. However, the only room he had left was in a facility he was no longer using. His only request was that they leave first thing in the morning. In the morning, the family refused to move and continued to plead with him for employment. He finally acquiesced and provided the father with a job. He then tried to move the family to acceptable housing, but they refused to leave the trailer in which they had been staying. The father eventually quit his job with the farmer. He still refused to leave the trailer. A magistrate wrote out an order requiring the family to leave, but it was not enforced. "Friends of Farmerworkers," then entered the picture and threatened the farmer with a lawsuit. While he had technically not done anything wrong, he finally paid the migrant worker $650 in damages. His total legal fees for this case and another case in which he was involved at the same time was $25,000.

While these issues needed to be addressed, they did not require lawsuits. There are, of course, more serious cases involving questionable claims; however, several of them are still in litigation and I cannot discuss them in detail.

Mr. Speaker, migrant labor is important in the 19th Congressional District. Farmers need the migrant workers and the workers need the farmers. Farmers know if they abuse the workers, they will not get a good day's work for a day's pay. There is every reason for them to try to work things out. In fact, most of my farmers would be quite willing to negotiate with the migrant workers and their attorneys and avoid court proceedings. Negotiation, however, does not appear to be on the agenda of the advocacy groups funded through the Legal Services Corporation. At this point, the farmers don't trust the workers and the workers don't trust the farmers—and some of these individuals worked together harmoniously for years before Legal Services came on the scene.

The sad part of this situation is that for every farmer that goes out of business because of unnecessary lawsuits, numerous migrant worker become unemployed. Before lawsuits are filed, we need to require that administrative remedies be exhausted. This action protects the farmers and the farmworkers alike.

Mr. Speaker, I support the original mandate of the Legal Services Corporation to provide affordable, effective legal representation to those who cannot otherwise afford it. What I question, however, is the unfair treatment of hardworking farmers by Legal Services attorneys whose efforts are of questionable long-term benefit to the well-being of migrant workers.

I urge my colleagues to support these necessary reforms in the Legal Services Corporation.

Mr. SMITH of Iowa. Mr. Speaker, I yield 3 minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. I thank the chairman for yielding.

Mr. Speaker, I congratulate the chairman and the ranking member on the leadership in the war against drugs.

For a number of years now this committee has been out front in fighting that war, and currently we are getting a lot of help from the President and from the so-called drug czar and other members of the administration who are concerned about the problem of increased drug traffic in the United States.

This bill primarily deals with enforcement, and we have supplied about a third more for enforcement than over last year's level.

Some suggest that enforcement needs to be doubled. I know in the Miami office, which is one of the principal offices that deals with drugs, the managers of that office, of the Drug Enforcement Administration there, will say they need twice as many agents as they have now. They have roughly 500; they need about 1,000 in order to carry out the policies against illegal drug trafficking in the United States.

But there is more for prosecution, more money for the courts in general, more funds for more prison space to house those convicted because of the efforts that are made by the administration to prosecute the illicit drug trafficking.

Ultimately, however, we must disrupt the supply.

I congratulate the administration for its policy statements in that regard.

Finally, we must dissuade persons from using drugs to eliminate or reduce the demand. That is where we ultimately come from.

I do not suppose that if we double the amount of money for enforcement it will eliminate illegal drugs because ultimately it must come down to reducing demand, which comes through education and leadership at the local communities, the churches, among families and in cooperation, of course, with the national policy against drugs.

There are a lot of things in this bill, but none as important as the funds that are provided to support the war against drugs.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the very able gentleman from Minnesota [Mr. FRENZEL], the ranking member on the Committee on the Budget.

Mr. FRENZEL. Mr. Speaker, I rise in opposition to the conference report on H.R. 2991, making appropriations in fiscal year 1990 for Commerce, State, Justice, and the Judiciary.

Amendment No. 43 appropriates such sums as necessary to pay Japanese-Americans who were interned during World War II, with no more than $500 million allowed in any one year. This amendment appropriates $500 million for fiscal year 1991 and each fiscal year thereafter, up to the authorized limit of $1.2 billion. Section 303(a) of the Budget Act states that it is not in order to provide new budget authority for a fiscal year for which no concurrent budget resolution has been agreed to. Section 303(a) has clearly been violated with this conference report.

Furthermore, amendment No. 80 poses another problem. The Appropriations Committee is declaring that the payments to Japanese-Americans in fiscal years 1991 through 1993 are

entitlements, thereby attempting to ensure that these payments will be mandatory and thus never counted against future discretionary spending limits or caps, and placing the payments beyond the reach of Gramm-Rudman.

We ought to be honest with these payments. If we wish to guarantee that these moneys will be paid to eligible recipients, then appropriate those amounts directly in this fiscal year, putting aside lower-priority items to do so. Don't try to call such payments mandatory or appropriate funds for future fiscal years before budget resolutions for those years have been discussed.

The conference report commits another Budget Act violation by providing approximately $800 million in new guaranteed loan authority for the Business Loan Investment Fund of the Small Business Administration, over the subcommittee's allocation for new guaranteed loan authority. This increase in new guaranteed loan authority violates section 302(f)(1) of the Budget Act.

I urge my colleagues to vote against this conference report to maintain some semblance of fiscal responsibility.

Mr. ROGERS. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, later today we are going to have the opportunity to vote on some new regulations and guidelines for the Legal Services Corporation. It really should not be in the appropriations bill. I think everybody concerned knows that. I know the chairman, I, and the ranking member all agree on that.

Unfortunately, we have not had an authorization bill on Legal Services in the 9 years that I have been in Congress.

Despite all the efforts we have made over the years as Members, and many of us have, to bring some sanity into the Legal Services world and provide the real kind of relief for the poor that many think ought to be there, that is the type of thing like going after landlord-tenant problems, child custody problems, child support problems, and so on, Legal Services still abounds in attorneys that out in the field, without proper guidelines, would rather go after large class-action lawsuits and lobby Congressmen and legislators for changes in the poverty law and so on.

□ 1230

Mr. Speaker, later today there will be a chance to make some significant changes. Reform has not been adopted yet. We do not know what they will do, but rather than depending on regulations, what this proposal will do is offer some changes in redistricting, and to provide that if any Legal Service lawyers want to get involved in that, he will not be able to. So, he will be prohibited from that. We will prohibit Legal Services lawyers from being able to solicit clients. We will require them in suits that they get involved with like class action suits, first to exhaust their legislative remedies and go through mediation, if that is required, and to do a number of other things that would notify the person who is being sued a little bit better about what they are being sued about, and what will be happening if they do not follow the requirements and the requests of the lawyers.

We will require timekeeping records, like any other attorney has to have. We will reinstate and clearly spell out the powers of the local Legal Services board of directors of the grantee boards, and have the power to control the operations fully. We would apply the fraud laws of this Nation, and the audit requirements to the Legal Services Corporation, like it is to almost every other Federal agency.

Last but not least, an earmarking of about $30 million of the roughly $300 million Legal Services budget for child support matters, to go out and find the fathers that are not supporting the children. Only about 3 percent of the budget is now being used for that. Then, a tiny fraction, $5 million, would be earmarked for the effort to have a drug-free workplace with regard to Legal Service participation.

There is no change in the budget or appropriated monies. There is no effort here to reduce it. Those Members involved in this process do believe in the Legal Services Corporation, do believe in their goals and objectives, and do believe in fully funding it. The entire efforts that will be made later today will be simply to try to put some regulatory sense into this process, and keep from having this thing continue to float around because there has been a great debate on the board, because some members of one body or the other do not agree with the ideas of the national board.

We think this is a responsible way to go. I urge my colleagues to give it real serious consideration and vote for these reforms when the proposal comes up in the appropriate amendment to recede and concur.

Mr. SMITH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from Hawaii [Mr. AKAKA].

Mr. AKAKA. Mr. Speaker, I rise to commend the chairman of the subcommittee, the gentleman from Iowa [Mr. SMITH], and the members of the committee, the House conferees for their work on this bill for fashioning such a good bill, for giving needed attention to drugs and the drug problem, and needed attention to the research programs in our Nation. I commend them for it.

I commend Chairman SMITH and the House conferees for their continued support for the Civil Liberties Act of 1988. Under the leadership of Chairman SMITH, the conferees agreed to a Senate proposal making redress payments to Americans of Japanese ancestry interned during World War II an entitlement.

Mr. Speaker, I would like to share with my colleagues a letter I received from the director of the Congressional Budget Office, concerning the provisions of this bill, making the redress program an entitlement. In this letter, the director states that unless the Committee on the Budget determines otherwise, "CBO would treat the Civil Liberties Public Education Fund as a mandatory spending program if the substitute were accepted," in light of the changes recommended in the conference agreement.

The letter is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 17, 1989.

Hon. DANIEL K. AKAKA,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN: As you requested in your letter of October 12, 1989, we have reviewed the proposed substitute for Senate Amendments 43 and 80 of the Commerce, Justice, State and the Judiciary Appropriations Bill, Fiscal Year 1990. The substitute would appropriate funds for the Civil Liberties Public Education Fund and would amend the Civil Liberties Act of 1988 beginning in fiscal year 1991 to make payments from the fund an entitlement. Unless otherwise directed by the Budget Committees, CBO would treat the Civil Liberties Public Education Fund as a mandatory spending program if the substitute were accepted.

Mandatory spending is not a legal concept but an accounting concept developed by the Budget and Appropriations Committees to assist the Congress in enforcing spending targets set forth in the Congressional Budget Resolution. The Budget Committees direct CBO to score spending programs as mandatory if they are not controllable through the annual appropriation process. The proposed language would avoid the annual appropriation process for spending from the fund, because it would provide spending authority on a permanent basis without further action on the part of the Appropriations Committees. Therefore, it is likely that CBO would score the program as mandatory.

If you have further questions on this issue, we will be pleased to provide them. The CBO staff contacts are Gail Del Balzo and Marta Morgan, who can be reached at 226-2886 and 226-2860, respectively.

Sincerely,

ROBERT D. REISCHAUER,
Director.

I am pleased that the conferees agreed to release this worthy program from the yearly budgetary scuffle. I am well aware of the budgetary constraints facing this country, however, I fervently believe that the Japanese-Americans who were unjustifiably evacuated, relocated, and interned during World War II deserve the com-

pensation promised to them by the Federal Government.

The Department of Justice estimates that 2,400 internees will die in each fiscal year, that is 200 individuals a month. Thus, 5,000 internees will have passed away between the time that this legislation was signed into law on August 10, 1988, and the time that funds are finally appropriated.

The Department of Justice also estimates that there are 35 individuals over 100 years old, approximately 1,000 individuals over 90 years, and 1,700 over 85 years of age. Mr. Speaker, I would like to remind my colleagues that Public Law 100-383 requires Japanese-Americans who were denied their constitutional rights during World War II be compensated regardless of whether they die after the bill was signed into law. Allowing these individuals to die before they are compensated will not lessen our obligation or reduce the cost of this program.

The conference agreement adopts Senate amendments 43 and 80 which will change the redress compensation from an annual discretionary appropriation to an entitlement, beginning in fiscal year 1991. This change would mandate an annual $500 million appropriation for fiscal years 1991 and 1992, and the balance of $250 million to complete the program in fiscal year 1993.

This important change will allow the approximately 60,000 eligible individuals to finally see that justice is done. Mr. Speaker, for individuals who have waited over 40 years to receive fair and just treatment, waiting an additional fiscal year will certainly be a hardship. However, waiting an additional 8, 9, or 10 years will be an incredible pain and a devastating blow to those internees who so proudly support this great Nation.

When Congress passed the Civil Liberties Act of 1988, we made a commitment to stand by our Constitution and ensure that the rights of all were protected. We cannot shirk our responsibilities. Supporting the conference agreement will allow funds to be appropriated, but more importantly it will allow us to meet our obligation to those citizens deprived of their liberty and freedom.

When the matter was before the Senate, Senator WARREN RUDMAN, one of the authors of the Gramm-Rudman-Hollings Act, eloquently stated "* * * there are times that we deal with fiscal reality, and there are certainly times during this month that we will deal with extraordinary fiscal reality. But there are also times, * * *, that one must set fiscal reality aside, * * * and look at what is the right thing to do." Mr. Speaker, voting for the conference report is the right thing to. I urge my colleagues to join me in finally correcting this injustice by providing civil rights to all Americans.

On a completely unrelated matter, I want to address my remarks to five research programs, within the jurisdiction of the Department of Commerce, that have been funded under the conference agreement. The purpose of my remarks is to establish further legislative history on these programs.

Due to the many problems that my Hawaii constituents and I have experienced in securing the proper administration of these funds, I am compelled to take the floor today to provide a roadmap to the legislative history so that NOAA will not overlook the clear expressions of legislative intent with respect to these programs.

Of the five programs to which I refer, the first four are sub-Arctic fisheries research also known as APPRISE; Hawaii stock management plan; Mahi Mahi technology research; and Asian aquaculture exchanges. The amounts the conferees have instructed NOAA to apply to these initiatives appear in the budget table on pages 13 through 17 of the conference agreement, House Report 101-299.

Specific details of the projects approved by the conferees appear in volume 7 of the fiscal year 1990 hearings by the Commerce, Justice, State, and Judiciary, and Related Agencies Subcommittee. Beginning on page 1235 of volume 7, in testimony by myself and representatives of the Oceanic Institute in Hawaii, the goals and objectives of these projects, and a general statement of the activities to be performed, are detailed.

Each of these grants is a continuation of projects funded by Congress during the previous 2 years and, as the record of the hearings makes clear, each has been advanced by the same research institution that has performed this research in past years. Consequently, NOAA should treat these as continuing grant activities to be performed by the same project sponsor, namely the Oceanic Institute, when administering these funds in fiscal year 1990.

There would be no need to take the floor to establish legislative history on these programs if it were not for the agency's poor record of complying with the directives of the House and Senate committees in the past. For example, the agency has conceded that it simply overlooked congressional directives in past years. With this in mind, the Senate report to accompany H.R. 2991 admonished NOAA for failing to release funds appropriated for three of these programs. I am speaking of the statement appearing on page 27 of Senate Report 101-144. This section of the Senate report concludes with the statement:

> Therefore, the Committee directs NOAA to expedite the obligation of funds for the Hawaii stock management plan, the Asian aquaculture exchanges, and Mahi Mahi technology research, and in doing so, carry out the congressional intent of appropriations acts. Further, the Committee mandates that NOAA cease the apparent discrimination exhibited against congressionally funded and supported initiatives.

Under the longstanding policy of the House and Senate Appropriations Committees, the directive on page 27, which was not contradicted in the House report nor specifically denied in the conference report, shall be considered as having been approved by both Houses of Congress. The details of this policy are spelled out on page 10 of Senate Report 101-144 under the heading "Committee procedures regarding report language."

Finally, with respect to the fifth program, the Hawaii Undersea Research laboratory, known as HURL, I want to point out that the conference agreement provides $14,285,000 for the NOAA Undersea Research Program, the same level as the previous fiscal year and the full amount necessary to administer a dollar-for-dollar the continuation of fiscal year 1989 grants in fiscal year 1990. The total contains $3,000,000 for HURL, the same amount provided in fiscal year 1989.

Specific details of the HURL program appear in volume 7 of the fiscal year 1990 hearings by the Commerce, Justice, State, and the Judiciary, and Related Agencies Subcommittee. Beginning on page 1235 of volume 7, the goals and objectives of this project, and a general statement of the activities to be performed, are detailed.

Furthermore, the Senate report specifies that $3,000,000 be provided to HURL. This statement appears on page 26 of the Senate Report 101-144. As I outlined earlier, the longstanding policy of the House and Senate Appropriations Committees provides that the Senate directive relating to HURL, which was not contradicted in the House report nor specifically denied in the conference report, shall be considered as having been approved by both Houses of Congress. The details of this policy are spelled out on page 10 of Senate Report 101-144.

Since the conferees adopted the higher level of funding contained in the Senate bill for the NOAA Undersea Research Program, and the legislative history clearly provides funds for HURL, there should be no question that the conference agreement provides for a continuation of the grant to HURL in the coming year at the fiscal year 1989 level.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. WALSH].

Mr. WALSH. Mr. Speaker, I want to speak today about how disappointed I am in the pending conference report on the Commerce, State, and Justice appropriations bill, which allows $2 million for the National Counterter-

rorism Research and Development Program—one-third of the administration request of $6 million.

My colleagues remember flight 103 and what terrorism did to my district in central New York. There were 35 Syracuse University students on that plane and two other local residents. I hope I never again experience, and I hope no one ever has to experience, that feeling of rage and frustration and horrible sadness. We can only imagine the pain of the parents.

To say we will spend $6 million to fight back, in a peaceful way, to protect our citizens, is a strong answer to the barbarians who murdered those people. To say we will now spend only one-third of that, I am afraid, sends another kind of less threatening message. A message that we lack the will to succeed.

I don't say that throwing money at a problem will solve it. I don't recommend action on emotion alone. I agree that we are a nation of people who must limit our expectations when it comes to spending.

I also believe Americans have the right to expect protection from their Government. And, being a pragmatist, I believe in the power of research and development.

This requested $6 million would not produce a new bureaucracy to tell Americans how to live the lives. It would produce equipment to detect weapons that terrorists would use to take their lives.

I respectfully ask that the Appropriations Committee and the administration try again to reprogram funds for this cause.

Mr. SMITH of Iowa. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Let me close by saying that the chairman of the subcommittee has done yeoman service again on the subcommittee. This is good work that he has performed under extremely tough circumstances, with some very controversial items, I must say. Most of the items I agree with the chairman on. A couple we obviously disagree on. It takes nothing away from the tremendous admiration and thanks I have to and for the gentleman for the work that he and the other members of this hardworking subcommittee have performed.

Mr. Speaker, I have some disagreements on some items with the Senate, which I will voice when the time comes, but now the conference report by and large is a good report. I urge our colleagues to support it. We will have a chance when the times come up in disagreement, to wage our fight on those, but for the conference report I urge a yes vote.

Mr. Speaker, I yield back the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman for his comments, and I want to thank the gentleman for the way he has helped to fashion this bill and to work its way through the obstacle course. If there is anything controversial, it will be in this bill. It has been that way forever, I guess. It has 3 departments and about 27 related agencies involved, and somehow they seem to attract controversies like flies, whether it is the FCC or FTC or any of these other agencies. Usually we have some groups down here wanting riders on one or another of the departments. At least we got by without that this year, pretty much.

I want to thank the gentleman for his cooperation.

Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, first I want to thank the distinguished chairman of the subcommittee for yielding time to me. He and the distinguished gentleman from Kentucky have done a very good job. It is a very difficult area to make everyone happy, particularly with regard to some of the Senate amendments. The Senate seems to have no rules whatsoever by which to operate, and as a result, while it is a good conference report, and I intend to support it, there are some problems in the conference report that I do object to and will, in fact, challenge.

However, Mr. Speaker, I think it is overall a good conference report. Among other things, it contains about $7.5 billion for those departments and agencies involved in law enforcement efforts against illegal drug trafficking. This amount, added to the sum $1.9 billion contained in title IV of H.R. 3015, brings the total amount available for fiscal year 1990 to about $9.4 billion. This amount is an increase of about $1.36 million above the amount requested by the administration, including budget amendments to combat violent crime and implement the national drug control strategy.

It is a major step in the direction of providing more resources to the law enforcement community. Police operations are strained, all over, and the criminal justice system is in serious trouble.

Mr. Speaker, I did indicate that there are a few areas where I have some problems, and in particular with three different amendments that were tacked on by the Senate. I am not going to challenge all three, because I think we can live with two of them.

□ 1240

One, however would be a serious mistake. The Senate forced upon us a 75 to 25 sharing program. When we developed the Justice Assistance Program, we made it a hard 50 to 50 match between State and Federal money. Indeed we lost the Law Enforcement Assistance Administration Program many years ago because many people perceived it to be free Federal money. There was much abuse and great waste. We made it a 50 to 50 match because we wanted the States to have a full partnership with the States and insure their total commitment. While I object to what the Senate has done because they are legislating in an appropriation bill, the gentleman from Iowa [Mr. SMITH] and the gentleman from Kentucky [Mr. ROGERS] did hold it down to a 1-year extension, not a 2-year extension. That is something we don't like but can live with. But we cannot live with what the Senate did with regard to the funding formula. They have changed the funding formula by again legislating in an appropriation bill. Moreover they make permanent changes.

The funding formula was evolved in our subcommittee and in the full Committee on the Judiciary after much thought, after a tug of war between large States and smaller States, between big cities against smaller cities, and by governors that wanted to have control over all of the money and local units of government that wanted to have automatic passthroughs. We custom-tailored the formula to fairly and objectively deal with these concerns. It has worked well. It is not broken, so we should not fix it.

So, Mr. Speaker, I am going to challenge that motion to recede and concur on amendment 83 by which the Senate is attempting to change the funding formula. Most all the larger States in this country lose under the proposed change. They do not get the lion's share now on a per capita basis. It is the smaller States that get the lion's share on a per capita basis. We think the existing formula is a good formula, and I hope you will support me in this challenge to the Senate amendment No. 83.

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that I may be allowed to reclaim my time.

The SPEAKER pro tempore (Mr. MINETA). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in support of the bill, but I feel it necessary to express my reservations about several important aspects of this legislation that must be addressed during the next fiscal cycle.

The Commerce, Justice, and State appropriations bill only includes $2 million for counterterrorism research

and development. This is very disturbing because it undermines the U.S. Government's counterterrorism efforts, both in our own research, and in our attempts to encourage international cooperation.

The administration had requested $6 million for the National Counterterrorism Research and Development Program which provides seed money for priority projects which could be used by a variety of agencies but otherwise were not being funded by any individual department. The State Department, as the lead agency for dealing with international terrorism, coordinates the program. The State Department authorization bill previously approved by the House would contain sufficient funding to accommodate this request.

In addition to helping fund important research in American laboratories, the National Counterterrorism R&D Program also is used to finance the U.S. Government's participation in the joint effort with a dozen other countries to produce a taggant which can be used to help detect plastic explosives. This international effort was launched after it was determined that Pan Am 103 was destroyed by a plastic explosive.

The National Counterterrorism R&D Program is also the focal point of a growing bilateral effort with several close allies to coordinate our research and development with their programs to enhance the overall research effort and prevent duplication. As cochairman of the Interparliamentary Exchange Between Members of the European Parliament, and Members of the U.S. Congress, I have taken part in many discussions on terrorism with our European counterparts. I strongly believe that international cooperation is the key to a successful effort.

The sharp cutback in R&D funding represented in the conference report would badly hurt this important part of our antiterrorism effort. The Congress and the State Department should take steps to remedy this problem, and restore funding for this critically important program.

The second issue I wish to address is the cut in contributions to international organizations and international peacekeeping activities. For some reason, we find ourselves in the precarious position of having reduced U.S. assessed contributions to international organizations and peacekeeping activities as well as arrearages by almost $125 million in spite of the stated views of Secretaries Baker and Shultz.

As we know, this body as well as our colleagues on the Senate side both voted full funding for assessments, partial payment of arrearages and the full administration request for peacekeeping in the State authorization bill. The need for this additional funding is readily apparent to those of us who closely follow the good works of these bureaus.

International organizations have made considerable progress in dealing with important multilateral issues such as terrorism, narcotics, AIDS, the environment, and peacekeeping. We have pressed the United Nations to reform its budget process. In light of the significant progress on these issues, I feel it is now an appropriate time to pay our assessments in full.

Mr. Speaker, I thank the Chair for its indulgence.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, since a couple of Members have talked about counterterrorism research and development funding, I think I should point out a couple of things. The State Department is a very, very minor player in research on counterterrorism. The vast majority of funding in this area, almost all of it, is done by the Departments of Defense and Transportation. The State Department's part in this is only as a minor player. We do not do anything in here like this without consulting the State Department. So any impression that this has any effect at all on counterterrorism research is simply not correct.

Mr. ESPY. Mr. Speaker, I speak in opposition to the McCollum-Stenholm amendment.

I have the greatest respect for the authors of this amendment. The gentlemen from Texas is a valued colleague, senior member of the Agriculture Committee.

But I must oppose this amendment because it seeks I think to promote the interests of the Legal Service Corporation over the interest of the indigent clients its designed to serve.

It undermines the honorable mission of the Legal Services Corporation and prevents the barrister, the counselors, the advocates from fulfilling the oath that all lawyers must take upon passage of the bar—the oath to zealously represent the client. Zealous representation demands full use of the legal process.

I am a lawyer—I cut my teeth through service to the indigent client as a Mississippi Legal Services lawyer—I know of the good work of the legal service lawyers. I also know of what would be the damaging effect of the McCollum-Stenholm amendment. Among the 550,000 income eligible clients in Mississippi, almost half are in my district.

Two dramatic and devastating effects of the amendment we are considering would force legal services clients to exhaust all mediation effects before they seek legal remedies. It would deny the option of class action suits by common claimants. These are useful tools of advocacy. To deny the use of these tools is to hamstring the advocate—to cripple the client who is often times already illiterate and uneducated—to make hollow and false the promise of zealous representation.

I ask my colleagues to defeat the McCollum-Stenholm amendment. Allowing immediate and full access to our legal system should be the effort and goal of Government. Never should Government unwittingly or willfully impede those seeking legal aid. Please defeat this burdensome amendment.

Mr. PANETTA. Mr. Speaker, I rise today in support of the conference report for H.R. 2991, the Commerce, Justice, State, the Judiciary, and related agencies appropriations bill for fiscal year 1990. I would first like to commend Chairman WHITTEN, Chairman SMITH, and all the conferees for their hard work on this appropriations bill and I also would like to take a few moments to discuss with my colleagues two of the programs funded in this measure which are of great importance to my district.

Included in this appropriations bill is funding for the National Oceanic and Atmospheric Administration [NOAA]. NOAA supports many important projects in my district, one of the most prominent being the designation of the Monterey Bay as a national marine sanctuary.

Last year, in its reauthorization of the national marine sanctuary program, Congress provided for the first time the actual designation of a number of sites including Monterey Bay in my own district.

Monterey Bay is a marine resource of truly national significance and one of tremendous importance to the people of central California. The deep marine canyon which lies beneath the waters of the Monterey Bay is home to an extraordinary number of endangered and threatened species of marine mammals and birds. In addition, the bay is also the site of commercial and recreational fisheries, many tourist activities, and extensive national and international marine research efforts.

In its reauthorization of the national marine sanctuary program, Congress expressed its commitment to the protection of our sensitive marine environments, like the Monterey Bay. Recent environmental disasters have reemphasized to us in the most dramatic terms the fragility of our coastal areas and has signaled the need for strong protection of these sensitive areas.

While neither House was able to fund the national marine sanctuary program at its fully authorized level of $4.9 million in either the House or Senate version of this appropriations bill, I was very pleased that the conferees were able to maintain the higher level of $3.1 million for the national marine sanctuary program in the conference report. Only through proper funding of the national marine sanctuary program may Congress ensure that our mandate of environmental protection of our sensitive marine environments is responsibly and effectively implemented.

On a separate, but related matter, I was very pleased that the conferees maintained the $500,000 appropriation for the NOAA Center for Oceanic Analysis and Prediction also located in Monterey, CA. The Center, which is part of NOAA's "Center for Excellence" program, is designed to be a national center for developing practical applications for ocean and coastal pollution and climate activities. It was located in Monterey not by chance, but in order to take advantage of the wealth of oceanic research activities located there.

It is my understanding that the $500,000 contained in this bill for the COAP will fill the most basic infrastructure needs at the Center. Ultimately, of course, hopes to do beyond merely the maintenance of existing services and use its resources to produce a coastal model to be utilitized by all the coastal areas of the United States.

I was especially encouraged by the conferees maintenance of the funding for the COAP as it is the first time Congress has provided NOAA with direct funding for the COAP in Monterey and wish to thank the conferees for including this important item in this appropriations bill.

Once again, I would like to express my appreciation to the conferees for their support in funding the national marine sanctuary program and the NOAA Center in Monterey. Through the funding of these programs Congress has expressed its continued commitment to sound environmental protection of our unique coastal resources. I strongly urge my colleagues to support the passage of this bill.

Ms. PELOSI. Mr. Speaker, I rise in support of the conference report of Commerce, Justice, State, and Judiciary appropriations bill. On behalf of the many Japanese-Americans in my district, I would like to thank Chairman NEAL SMITH for his support of reparations for Japanese-Americans who were interned during World War II and Congressmen NORMAN MINETA and BOB MATSUI for their leadership.

Too many years have gone by during which we have not redressed the wrong that was committed during World War II when the United States Government interned over 100,000 Americans of Japanese ancestry. Unfortunately, through time, we have lost many of those loyal citizens who were unfairly and unjustly treated.

Today, we have the opportunity to establish an entitlement program beginning in the fiscal year 1991 for the reparations process. I am pleased that my colleagues have included this entitlement program in this legislation. However, I am disappointed that we cannot begin processing the payments now. Congress has already determined that Japanese-Americans will receive compensation, but this entitlement program will reaffirm the Government's commitment to justice and fairness and it will serve as a reminder, that no American citizen should be incarcerated based on their ancestry, race, religion, or sex or denied their constitutional rights in America.

I urge my colleagues to support the conference report on Commerce, Justice, State, and Judiciary.

Mr. LOWERY of California. Mr. Chairman, I rise to express my support for the conference report on H.R. 2991, the Commerce, Justice, State appropriations bill for fiscal year 1990. Despite tight budgetary constraints, this legislation adequately funds important law enforcement agencies that are being required to increase their efforts to combat illegal drugs while maintaining their other statutory responsibilities.

I want to call attention to the important work being done by the Immigration and Naturalization Service and the U.S. Border Patrol. The INS and the Border Patrol have been called on to play a vital role in the war on drugs and at the same time deal with the critical problem of illegal immigration to this country.

The San Diego District of the INS and the San Diego Sector of the Border Patrol are probably the busiest in the Nation. The per capita alien population is the highest in the United States. The INS and Border Patrol must process millions of travelers, business people, and other legal entrants to the United States, while apprehending thousands of illegal aliens. The task of drug interdiction has grown in importance and complicates the other duties of the Border Patrol and INS. We must provide adequate funding for the complex and growing duties of these agencies.

The conference report goes a long way toward meeting these needs. Chairman SMITH and Mr. ROGERS, the ranking minority member are to be congratulated for their efforts on the bill.

I also want to thank the Chairman and Mr. ROGERS for working with the Senate conferees to enable the FBI to offer a reward of up to $100,000 for information on incidents of terrorism in the United States. This type of reward was authorized in the Anti-Terrorism Act of 1984, but had never been appropriated. Senator SPECTER and I requested this appropriation with the support of the FBI to assist them in the investigation of the March, 1989 bombing of a van driven by Mrs. Will Rogers, wife of the captain of the U.S.S. *Vincennes*. I want to thank the committee for its assistance and cooperation on this matter.

In conclusion, the committee has produced a good bill, and while it is not perfect, it does provide the necessary funding for important departments and agencies of the U.S. Government and I urge its approval by the House.

Mr. PRICE. Mr. Speaker, I rise in support of H.R. 2991, and want to commend the chairman of the Commerce, Justice, State Appropriations Subcommittee, NEAL SMITH, ranking member HAL ROGERS, and Chairman WHITTEN for their work in bringing this conference report before the House today.

The National Weather Service plays a vital role in providing accurate and timely storm information, and I am particularly pleased with the level of funding appropriated in this year's bill for the next generation doppler radar or NEXRAD. Our current radar system is in deplorable condition. We have learned this the hard way in North Carolina. All across the country, there have been incidents where technologically outdated radars have failed to detect severe storms or tornadoes, costing lives and millions of dollars in property damage. There is good evidence that the doppler radar will detect severe storms and tornadoes more quickly than our current system. In fact, NEXRAD may increase our present lead time of 2 to 3 minutes to 25 or 30 minutes. This increased lead time could save hundreds of lives each year.

The National Weather Service has recently completed a series of tests on the NEXRAD system to determine its capabilities, and the results are excellent. The funding level included in the bill, $71.4 million, will be enough for the National Weather Service to begin implementing their modernization plan and I commend the conference committee for recognizing the importance of this program.

I want further to note the compelling need to conduct research on Eastern storm cells. They are smaller and much harder to detect than storm cells in the West and Midwest. This is important when we consider that currently all tornado research is conducted in the West and Midwest. The fiscal year 1990 NOAA reauthorization bill passed by the House included an amendment offered by me and my colleague, TIM VALENTINE, that earmarks $650,000 for severe storm research funding in the Southeast region. It is critically important that NOAA and the National Weather Service direct a portion of the $5.6 million appropriated for severe storm mesoscale research toward research on Southeastern storm cells.

Finally, I want to say a few words about the Textile/Clothing Technology Corp. or [TC^2]. In 1979, the National Science Foundation sponsored a study recommending that the apparel industry tap state-of-the-art technology in an effort to maintain a competitive advantage. The industry responded to NSF's recommendations, and pooled funds to establish [TC^2].

The principal purpose of [TC^2] is to research and develop the most modern equipment, computer systems and methodologies for apparel manufacturing in an operating plant environment. The corporation also functions as an education and training center. Manufacturing management, engineers, technicians, and students are trained in the operation and capabilities of the new technology.

Since its inception [TC^2] has been a joint venture between the Government, the industry, and labor, and this bill continues that partnership by providing $3.4 million for [TC^2]. This strong alliance is helping to turn the apparel industry into a competitive force by developing and promoting the most modern technology to stay ahead of ever-increasing foreign competition. I strongly support the conference committee's initiative in providing these funds to keep the textile and apparel industry strong and vital.

I urge my colleagues to support the passage of this important legislation.

Mr. VALENTINE. Mr. Speaker, during hearings held last February on the Pan Am 103 disaster by the House Transportation, Aviation, and Materials Subcommittee, which I chair, there was a great deal of discussion about the need to improve aviation security.

One approach is to develop better equipment to detect the increasingly sophisticated bombs used by terrorists, such as the one hidden in a radio and used to blow up Pan Am 103. In combating this type of terrorism, the research and development effort is critical. The Federal Aviation Administration Research Program, which helped develop the thermal neutron analysis [TNA] equipment, has received a great deal of publicity lately.

However, there are other lines of research underway to develop additional ways of helping protect our people, airplanes, and buildings. In late 1986, Congress helped establish a National Counterterrorism Research and Development Program to provide seed money for priority projects that otherwise were not being funded by any specific agency and thus were falling between the cracks. Some of the research projects are turning out to be useful for

aviation security as well as meeting other needs.

I am troubled, therefore, that the State Department appropriation bill conference report, which we are considering in this Chamber today, includes only $2 million for the National Interagency Counterterrorism Research and Development Program.

Despite the need for a coordinated research effort, this National Interagency Program, small as it is, has not been adequately supported by the other body. Although the House last year authorized and appropriated the full $6 million request, the appropriations conferees only approved $3 million for fiscal year 1989. This year the administration again requested $6 million, but the conference report on the Commerce, State and Justice Department appropriations bill, which we are considering today, includes $2 million. This is very troubling.

These cuts endanger efforts to develop equipment to detect explosives before they are brought aboard airplanes or into buildings as well as other projects such as those designed to detect chemical and biological agents. This is not the time to be cutting back on antiterrorism research and development efforts. If anything, we should be increasing our efforts.

I call on the administration to try to restore the funding for the program. Somewhere in the nooks and crannies of the State Department budget there should be another $1 or $2 million which can be found to help prevent future terrorist attacks. The budget may be tight, but it is time to give more than lipservice to preventing terrorist attacks.

Mr. RAHALL. Mr. Speaker, I rise in support of the conference report on H.R. 2991, the fiscal year 1990 appropriations bill for Commerce, Justice, State the Judiciary and related agencies. I would like to take this opportunity to highlight those programs which are of particular importance to my home State of West Virginia.

The agreement provides $191 million for the Economic Development Administration [EDA]. The EDA is of vital importance to the State of West Virginia. The EDA targets economically needy areas for assistance. EDA grants finance roads, waste water treatment, business incubators, industrial parks, vocational schools and other projects important to the creation of new jobs and long-term development. The EDA also provides small businesses with the necessary start-up funding essential to begin operation.

While it is difficult to successfully measure the direct effectiveness of EDA due to its mission, various econometric analyses have supported the notion that EDA has had a positive effect on employment. I know that in West Virginia, EDA has been instrumental in assisting in a variety of important projects.

I commend the conferees for providing these funds for this worthy program. We should be promoting economic growth to increase our tax base, increase employment, increase our share of the world market, and ultimately to decrease the dual deficits. Support of EDA is a good first step in this effort.

I am also pleased that the agreement includes language requiring the agency to make or complete grants for projects described in the fiscal year 1989 Appropriations Act. Unfortunately, there was some confusion regarding congressional intent with respect to the funding of certain projects contained in last year's appropriations bill. As a result of this confusion, funds have not yet been dispersed to Marshall University to help fund the creation of an institute for advanced flexible manufacturing systems.

This project is meant to support the transfer of technology and innovation within West Virginia, stimulate joint venture opportunities between university and industry, provide education and retraining, and generally assure the successful competition in regional, national, and world markets. It is my hope that the language in the agreement has clarified our intent.

The agreement also provides $14.3 million to support the activities of the U.S. Travel and Tourism Administration [USTTA]. This important agency promotes international travel to the United States and provides States with information on potential markets and how to best target those markets. Next to coal, tourism is the largest industry in West Virginia.

The USTTA has greatly assisted West Virginia attract foreign business. In 1986 foreign travelers spent $10.8 million in our State. Nationally, USTTA encouraged foreign travelers to spend $29.2 billion in 1988. In 1989, foreign travelers are projected to spend $1.2 billion more than U.S. travelers spend abroad. I think it is clear that the $14.3 million the agreement provides for this program is money well spent, and I hope that we will be able to provide the agency with more funding in fiscal year 1991.

Finally, I would like to mention how pleased I am that this agreement provides $10.9 million for the continuation of the Trade Adjustment Assistance Program. This level provides for the continuation of all trade adjustment assistance centers at current operating levels. The services provided under this program are of great importance to many unemployed workers in West Virginia, especially those who have been involved in coal and steel production, whose jobs have been lost due to unfair trade practices by many of our trade partners. This program has greatly assisted those men and women who desperately want to work to support themselves and their families, but who can no longer find employment in the fields of work for which they are trained. The training offered by the TAA Program enables many to master a new trade and start in a new line of worthwhile, fulfilling work to provide for themselves and their families.

I strongly support the funding provided in this agreement and urge my colleagues to support its adoption.

Mr. EDWARDS of California. Mr. Speaker, I rise in strong support of the rule.

The conference on the Commerce, Justice, State and Judiciary appropriations bill adopted a Senate-passed provision which would allow the Civil Liberties Act to begin implementation in fiscal 1991, a year from now. Payments under the Civil Liberties Act would become entitlements, and the program would be completed in only 3 years.

We have come a long way to redress the grievous wrong committed by our Government nearly 50 years ago. By enacting the Civil Liberties Act over a year ago, our Nation admitted that a terrible mistake was made when 120,000 persons of Japanese ancestry were incarcerated without due process of law. This violation of basic civil and constitutional rights marked a dark chapter in American history.

We stood very tall in the eyes of the world when we enacted the Civil Liberties Act last year. It was a proud day for our country, and for me personally, when Congress apologized for our Nation and acknowledged that a terrible wrong was committed. And we made a promise to make monetary redress to those still alive.

Mr. Speaker, this is a promise we must keep. The conference agreement has worked out a full schedule of payments to begin next year.

I know some of our colleagues will argue against an entitlement, and note that when we passed the act last year we did not make the program an entitlement. When Congress enacted the Civil Liberties Act, we intended that payments be made quickly and fairly, and envisioned that the program be completed in 3 years.

As a senior member of the authorizing committee, the Committee on the Judiciary, I support making redress payments an entitlement. Although the committee did not want to mandate the level of payments on the Appropriations Committees, we did intend that these payments begin promptly and be completed quickly. And now, the Appropriations Committees have determined that these payments should be entitlements. I strongly support that decision.

The House has tried to provide some payments in the supplemental appropriation for 1989 and in the 1990 House-passed appropriation bill, but not a single cent has yet been paid or will be paid in the coming year. By approving this conference report, we can begin a full schedule of payments, implementing the intent of Congress, starting next year.

I know others will argue that we will never gain control over the deficit if we continue to waive the Budget Act. In this case, I join with my distinguished colleague in the Senate, the primary author of the Deficit Control Act of 1985, Senator WARREN RUDMAN, in agreeing that this is one of those occasions that the right thing to do is to waive the Budget Act.

Each day we delay payments, more and more survivors of the incarceration will die. The youngest of these loyal Americans is now approaching 50, the oldest located survivor is 106, and 2,400 are dying each month. To delay beyond providing a full schedule of payments starting in fiscal 1991 would show the world that the redress program was only an empty gesture.

The Judiciary Subcommittee on Civil and Constitutional Rights, which I chair, conducted hearings in March on the authorization request of the Civil Rights Division of the Department of Justice. The Civil Rights Division, through its Office of Redress Administration [ORA], is responsible for carrying out the implementation of the act.

According to testimony at the hearing, we learned that the ORA, working on a shoestring budget, has done an excellent job thus far. ORA has contacted nearly all of the persons eligible for payments under the act, and will

be able to fully carry out the program beginning next year. ORA will need sufficient funds to administer the act, and I am confident that the Attorney General will see that the Office is able to fully carry out the act.

On the day the House passed H.R. 442 in 1987, our Nation celebrated the bicentennial of the Constitution. There was no more fitting tribute to the strength of our Constitution than to attempt to remove this infamous blot on our history by formally acknowledging the wrong done to Japanese-Americans and to provide token monetary redress. We have the opportunity to begin this promise by adopting this rule and agreeing with the conference report. Let us not walk away from that opportunity.

Mr. Speaker, nearly 50 years is delay enough. I urge adoption of the rule and adoption of the conference report.

Mr. ROGERS. Mr. Speaker, I yield back the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROGERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 323, nays 81, not voting 29, as follows:

[Roll No. 313]

YEAS—323

Ackerman	Campbell (CO)	Dwyer
Akaka	Cardin	Dymally
Alexander	Carper	Dyson
Anderson	Carr	Early
Andrews	Chandler	Eckart
Annunzio	Chapman	Edwards (CA)
Anthony	Clarke	Edwards (OK)
Aspin	Clay	Emerson
Atkins	Clement	Engel
AuCoin	Coleman (MO)	English
Baker	Coleman (TX)	Espy
Barnard	Collins	Evans
Bateman	Condit	Fascell
Bates	Conte	Fazio
Beilenson	Conyers	Feighan
Bennett	Costello	Flake
Bentley	Coughlin	Foglietta
Bereuter	Coyne	Ford (MI)
Berman	Craig	Ford (TN)
Bevill	Crockett	Frank
Bilbray	Darden	Frost
Bilirakis	Davis	Gallegly
Bliley	de la Garza	Gallo
Boehlert	DeFazio	Gaydos
Boggs	DeLay	Gejdenson
Bonior	Dellums	Gephardt
Borski	Derrick	Geren
Bosco	DeWine	Gibbons
Boucher	Dickinson	Gillmor
Boxer	Dicks	Gilman
Broomfield	Dingell	Gingrich
Browder	Dixon	Glickman
Bruce	Donnelly	Gonzalez
Bryant	Dorgan (ND)	Gordon
Buechner	Douglas	Goss
Bustamante	Downey	Gradison
Campbell (CA)	Durbin	Grandy
Grant	McCloskey	Roybal
Gray	McCollum	Sabo
Green	McCrery	Saiki
Guarini	McCurdy	Sarpalius
Hall (OH)	McDade	Savage
Hamilton	McDermott	Sawyer
Hastert	McGrath	Saxton
Hatcher	McHugh	Scheuer
Hawkins	McMillan (NC)	Schiff
Hayes (IL)	McMillen (MD)	Schneider
Hayes (LA)	McNulty	Schroeder
Hefley	Meyers	Schuette
Hefner	Mfume	Schulze
Hiler	Michel	Schumer
Hoagland	Miller (CA)	Sharp
Hochbrueckner	Miller (OH)	Shaw
Hopkins	Miller (WA)	Shays
Horton	Mineta	Sikorski
Houghton	Moakley	Skaggs
Hoyer	Mollohan	Skeen
Hubbard	Moody	Slattery
Huckaby	Morella	Slaughter (NY)
Hughes	Morrison (CT)	Smith (FL)
Hyde	Morrison (WA)	Smith (IA)
Inhofe	Murtha	Smith (NE)
James	Myers	Smith (VT)
Jenkins	Nagle	Smith, Robert (OR)
Johnson (CT)	Natcher	Snowe
Johnson (SD)	Neal (MA)	Solarz
Johnston	Nelson	Spence
Jones (GA)	Nowak	Spratt
Jones (NC)	Oakar	Staggers
Jontz	Oberstar	Stallings
Kaptur	Obey	Stearns
Kastenmeier	Olin	Stokes
Kennedy	Ortiz	Studds
Kennelly	Owens (NY)	Swift
Kildee	Owens (UT)	Synar
Kleczka	Oxley	Tauke
Kolbe	Packard	Thomas (CA)
Kolter	Pallone	Thomas (GA)
Kostmayer	Panetta	Torres
LaFalce	Parker	Torricelli
Lagomarsino	Parris	Towns
Lancaster	Payne (NJ)	Traficant
Lantos	Pelosi	Traxler
Laughlin	Perkins	Unsoeld
Leach (IA)	Pickett	Valentine
Lehman (CA)	Pickle	Vander Jagt
Lehman (FL)	Porter	Vento
Levin (MI)	Poshard	Visclosky
Levine (CA)	Price	Volkmer
Lewis (CA)	Pursell	Vucanovich
Lewis (FL)	Quillen	Walsh
Lewis (GA)	Rahall	Watkins
Lipinski	Rangel	Waxman
Livingston	Ravenel	Weber
Lloyd	Regula	Weiss
Long	Rhodes	Weldon
Lowery (CA)	Richardson	Wheat
Lowey (NY)	Ridge	Whittaker
Luken, Thomas	Rinaldo	Whitten
Machtley	Ritter	Wilson
Madigan	Roe	Wolf
Manton	Rogers	Wolpe
Markey	Ros-Lehtinen	Wyden
Martin (NY)	Rose	Wylie
Martinez	Rostenkowski	Yates
Matsui	Roukema	Young (AK)
Mavroules	Rowland (CT)	Young (FL)
Mazzoli	Rowland (GA)	

NAYS—81

Applegate	Gunderson	McCandless
Archer	Hall (TX)	McEwen
Ballenger	Hammerschmidt	Montgomery
Bartlett	Hancock	Moorhead
Barton	Hansen	Murphy
Brown (CO)	Harris	Nielson
Bunning	Henry	Pashayan
Burton	Herger	Patterson
Byron	Hertel	Paxon
Callahan	Holloway	Payne (VA)
Coble	Hunter	Pease
Combest	Hutto	Penny
Cox	Ireland	Petri
Crane	Jacobs	Ray
Dannemeyer	Kanjorski	Robinson
Dreier	Kasich	Rohrabacher
Duncan	Kyl	Roth
Erdreich	Leath (TX)	Schaefer
Fields	Lightfoot	Sensenbrenner
Frenzel	Lukens, Donald	Shumway
Gekas	Marlenee	Shuster
Goodling	Martin (IL)	Sisisky
Skelton	Solomon	Tauzin
Slaughter (VA)	Stangeland	Taylor
Smith, Denny (OR)	Stenholm	Thomas (WY)
Smith, Robert (NH)	Stump	Upton
	Sundquist	Walker
	Tanner	

NOT VOTING—29

Armey	Flippo	Smith (NJ)
Brennan	Florio	Smith (TX)
Brooks	Garcia	Stark
Brown (CA)	Lent	Tallon
Clinger	Molinari	Udall
Cooper	Mrazek	Walgren
Courter	Neal (NC)	Williams
Dornan (CA)	Roberts	Wise
Fawell	Russo	Yatron
Fish	Sangmeister	

□ 1307

The Clerk announced the following pair:

On this vote:

Mr. Brown of California for, with Mr. Armey against.

Messrs. THOMAS of Wyoming, SCHAEFER, LEATH of Texas, and SISISKY, Mrs. BYRON, Mr. TAYLOR, and Mr. HUTTO changed their vote from "yea" to "nay."

Mr. RITTER changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the first amendment in disagreement.

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that the Senate amendments numbered 1, 5, 10, 15, 16, 17, 20, 21, 22, 23, 24, 26, 29, 33, 34, 35, 36, 39, 45, 46, 48, 49, 50, 51, 55, 58, 59, 60, 62, 63, 65, 66, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 81, 88, 89, 90, 92, 93, 94, 97, 99, 100, 101, 102, 103, 104, 105, 107, 108, 113, 118, 120, 123, 126, 135, 138, 139, 141, 143, 145, 146, 147, 149, 151, 153, 155, 157, 166, 167, 169, 172, 173, 175, and 178 be considered en bloc and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The texts of the various Senate amendments referred to in the unanimous-consent request are as follows:

Senate amendment No. 1: Page 2, line 5, after "law" insert ", including not to exceed $2,000 for official entertainment".

Senate amendment No. 5: Page 2, line 20, after "$1,322,967,000" insert ", to remain available until expended".

Senate amendment No. 10: Page 3, line 9, after "law," inset "and including demonstrating new alternatives to providing services domestically and engaging in trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; and implementation of section 406(b) of the U.S.-Canada Free-Trade Agreement Implementation Act of 1988, notwithstanding section 406(b)3 of said Act; full medical coverage for dependent members of immediate families of employees sta-

tioned overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $300,000 for official representation expenses abroad; and purchase of passenger motor vehicles for official use abroad; obtain insurance on official motor vehicles, rent tie lines and teletype equipment;".

Senate amendment No. 15: Page 3, after line 10, insert:

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $39,741,000, of which $25,321,000 shall remain available until expended: *Provided,* That not to exceed $14,420,000 shall be available for program management for fiscal year 1990.

Senate amendment No. 16: Page 3, after line 10, insert:

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; and including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $12,000 for representation expenses abroad; $14,300,000.

Senate amendment No. 17: Page 3, line 16, after "craft" insert "; 439 commissioned officers on the active list;".

Senate amendment No. 20: Page 3, after line 20, insert:

FISHERIES PROMOTIONAL FUND

Of the funds deposited in the Fisheries Promotional Fund pursuant to section 209 of the Fish and Seafood Promotion Act of 1986, $2,000,000, to remain available until expended, shall be made available as authorized by said Act.

Senate amendment No. 21: Page 3, line 24, after "1980(f)" insert ", to remain available until expended".

Senate amendment No. 22: Page 4, line 4, after "Act" insert ", to remain available until expended".

Senate amendment No. 23: Page 4, line 13, after "$1,986,000" insert ", to remain available until expended".

Senate amendment No. 24: Page 4, line 17, after "law," insert "and including defense of suits instituted against the Commissioner of Patents and Trademarks;".

Senate amendment No. 26: Page 4, line 19, after "376" insert ", to remain available until expended".

Senate amendment No. 29: Page 4, after line 21, insert:

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $14,200,000 of which $700,000 shall remain available until expended.

Senate amendment No. 33: Page 5, line 10, after "Act" insert ", and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest".

Senate amendment No. 34: Page 5, after line 17, insert:

SEC. 103. No funds in this title shall be used to sell to private interests, except with the consent of the borrower, or contract with private interest to sell or administer, any loans made under the Public Works and Economic Development Act of 1965 or any loans made under section 254 of the Trade Act of 1974.

Senate amendment No. 35: Page 5, after line 17, insert:

SEC. 104. Hereafter, the National Institute of Standards and Technology is authorized to accept contributions of funds, to remain available until expended, from any public or private source to construct a facility for cold neutron research on materials, notwithstanding the limitations contained in 15 U.S.C. 278d.

Senate amendment No. 36: Page 5, after line 17, insert:

SEC. 105. None of the funds appropriated in this title for the Department of Commerce shall be available to reimburse the fund established by 15 U.S.C. 1521 on account of the performance of a program, project, or activity, nor shall such fund be available for the performance of a program, project, or activity, which had not been performed as a central service pursuant to 15 U.S.C. 1521 before July 1, 1982, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such action in accordance with the Committees' reprogramming procedures.

Senate amendment No. 39: Page 5, after line 20, insert:

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $20,673,000; including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; and for the acquisition, lease, maintenance and operation of motor vehicles without regard to the general purchase price limitation.

Senate amendment No. 45: Page 6, after line 2, insert:

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, $444,862,000, of which not to exceed $5,000,000 shall be available until September 30, 1991, for the purposes of (1) providing training of personnel of the Department of Justice in debt collection, (2) providing services related to locating debtors and their property, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations, and (3) paying the costs of sales of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs: *Provided,* That of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses.

Senate amendment No. 46: Page 6, after line 2, insert:

UNITED STATES TRUSTEE SYSTEM FUND

For the necessary expenses of the United States Trustee Program, $60,729,000, to remain available until expended and to be derived from the Fund, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554): *Provided,* That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors.

Senate amendment No. 48: Page 6, after line 2, insert:

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including acquisition, lease, maintenance, and operation of vehicles and aircraft; $217,027,000 as authorized in Public Law 100-690 (102 Stat. 4513): *Provided,* That notwithstanding the provisions of title 31 U.S.C. 3302, for fiscal year 1990 and hereafter the Director of the United States Marshals Service may collect fees and expenses for the services authorized by 28 U.S.C. 1921 as amended by Public Law 100-690, and credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: *Provided further,* That not to exceed $6,000 shall be available for official reception and representation expenses.

Senate amendment No. 49: Page 6, after line 2, insert:

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in non-Federal institutions, $137,034,000, to remain available until expended; of which not to exceed $5,000,000 shall be available under the Cooperative Agreement Program.

Senate amendment No. 50: Page 6, after line 2, insert:

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances; $56,784,000, to remain available until expended, of which not to exceed $1,690,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites: *Provided,* That for fiscal year 1990 and hereafter the Attorney General may enter into reimbursable agreements with other Federal Government agencies or components within the Department of Justice to pay expenses of private counsel to defend Federal Government employees sued for actions while performing their official duties: *Provided further,* That for fiscal year 1990 and hereafter the Attorney General, upon notification to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 606 of this Act, may authorize litigating components to reimburse this account for expert witness expenses when it

appears current allocations will be exhausted for cases scheduled for trial in the current fiscal year.

Senate amendment No. 51: Page 6, after line 2, insert:

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $29,334,000, of which not to exceed $21,500,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: *Provided*, That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act.

Senate amendment No. 55: Page 6 after line 6, insert:

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; expenses for conducting drug education programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase of not to exceed 703 passenger motor vehicles of which 489 are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $492,180,000, of which not to exceed $1,200,000 for research shall remain available until expended; and of which not to exceed $1,700,000 for purchase of evidence and payments for information, not to exceed $9,638,000 for contracting for ADP and telecommunications equipment, and not to exceed $2,000,000 for technical and laboratory equipment, shall remain available until September 30, 1991: *Provided*, That not to exceed $30,000 shall be available for official reception and representation expenses.

Senate amendment No. 58: Page 6, after line 6, insert:

FEDERAL PRISON SYSTEM

Senate amendment No. 59: Page 6, after line 6, insert:

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 159 of which 55 are for replacement only) and hire of law enforcement and passenger motor vehicles; $1,097,631,000: *Provided*, That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further*, That uniforms may be purchased without regard to the general purchaser price limitation for the current fiscal year: *Provided further*, That not to exceed $3,000 shall be available for official reception and representation expenses.

Senate amendment No. 60: Page 6, after line 6, insert:

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351-4353 of title 18, United States Code, which established a National Institute of Corrections, $10,112,000, to remain available until expended.

Senate amendment No. 62: Page 6, after line 6, insert:

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

Senate amendment No. 63: Page 6, after line 6, insert:

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON IDNUSTRIES, INCORPORATED

Not to exceed $2,857,000 of the funds of the corporation shall be available for its administrative expenses for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and such amount shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

Senate amendment No. 65: Page 6, line 15, after "6093" insert "and 7289".

Senate amendment No. 66: Page 6, line 16, after "4339-4340" insert "and 4461".

Senate amendment No. 68: Page 7, line 6, strike out "60993" and insert "7265".

Senate amendment No. 69: Page 7, line 7, strike out "4339-4340" and insert "4448 and 4449".

Senate amendment No. 70: Page 7, strike out lines 12 to 16, and insert:

In addition, $5,000,000 for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in State facilities for terms requiring incarceration for the full period October 1, 1989, through September 30, 1990, following their conviction of a felony committed after having been paroled into the United States by the Attorney General: *Provided*, That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1990, a listing of names of such Mariel Cubans incarcerated in their respective facilities: *Provided further*, That the Attorney General, not later than April 1, 1990, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: *Provided further*, That the amount of reimbursements per prisoner per annum shall not exceed $12,000.

Senate amendment No. 71: Page 7, after line 22, insert:

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

Senate amendment No. 72: Page 7, after line 22, insert:

SEC. 201. A total of not to exceed $30,000 from funds appropriated to the Department of Justice in this title shall be available only for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

Senate amendment No. 73: Page 7, after line 22, insert:

SEC. 202. During fiscal year 1990 and hereafter, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code.

Senate amendment No. 74: Page 7, after line 22, insert:

SEC. 203. For fiscal year 1990 and hereafter, appropriations for "Salaries and expenses, General Administration", "Salaries and expenses, United States Marshals Service", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Drug Enforcement Administration", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Federal Prison System", shall be available for uniforms and allowances therefor as authorized by law (5 U.S.C. 5901-5902).

Senate amendment No. 75: Page 7, after line 22, insert:

SEC. 204. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96-132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) With respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1990, may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1990, may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1990, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the certification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(4)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1990—

(i) submit the results of such audit in writing to the Attorney General, and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operations, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to.

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

(5) For purposes of paragraph (4)—

(A) the term "closed" refers to the earliest point in time at which—

(i) all criminal proceedings (other than appeals) are conducted, or

(ii) covert activities are concluded, whichever, occurs later,

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operations" and "undercover operation" means any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000 or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code, except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

Senate amendment No. 76: Page 7, after line 22, insert:

SEC. 205. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape: *Provided*, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

Senate amendment No. 77: Page 7, after line 22, insert:

SEC. 206. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

Senate amendment No. 78: Page 7, after line 22, insert:

SEC. 207. Nothing in the preceding section shall remove the obligation of the director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided*, That nothing in this section in any way diminishes the effect of section 206 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

Senate amendment No. 81: Page 7, after line 22, insert:

SEC. 210. Pursuant to the provisions of law set forth in 18 U.S.C. 3071-3077, not to exceed $100,000 of the funds appropriated to the Department of Justice in this title shall be available for rewards to individuals who furnish information regarding acts of terrorism against a United States person or property.

Senate amendment No. 88: Page 8, after line 2, insert:

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), and for representation by United States missions to the United Nations and Organization of American States, $4,600,000.

Senate amendment No. 89: Page 8, after line 2, insert:

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956, and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, $9,100,000.

Senate amendment No. 90: Page 8, line 4, after "the" insert "Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), and the".

Senate amendment No. 92: Page 8, after line 11, insert:

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $4,700,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

Senate amendment No. 93: Page 8, after line 11, insert:

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8 (93 Stat. 14), $11,300,000.

Senate amendment No. 94: Page 8, after line 15, insert:

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

Senate amendment No. 97: Page 8 after line 15, insert:

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Au-

thorities Act of 1956, contributions for the United States share of general expenses of international organizations, including arrearages incurred through fiscal year 1989, and representation to such organizations as provided for by 22 U.S.C. 2656 and 2672 and personal services without regard to civil service and classification laws as authorized by 5 U.S.C. 5102, $6,340,000, to remain available until expended as authorized by 22 U.S.C. 287(e), of which not to exceed $200,000 may be expended for representation as authorized by 22 U.S.C. 2269 and 4085.

Senate amendment No. 99: Page 8, after line 15, insert:

INTERNATIONAL COMMISSIONS

For necesary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, conventions or specific Acts of Congress, as follows:

Senate amendment No. 100: Page 8, after line 15, insert:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section including not to exceed $6,000 for representation; as follows:

Senate amendment No. 101: Page 8, after line 15, insert:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, including preliminary surveys, operations and maintenance of the interceptor system to be constructed to intercept sewage flows from Tijuana and from selected canyon areas as currently planned, and the operation and maintenance upon completion of the proposed Environmental Protection Agency and Corps of Engineers pipeline and plant project to capture Tijuana sewage flows in the event of a major breakdown in Mexico's conveyance system, $10,460,000: *Provided,* That expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions contained in the appropriation for said project as provided by the Act approved April 25, 1945 (59 Stat. 89).

Senate amendment No. 102: Page 8, after line 15, insert:

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, $11,500,000 to remain available until expended as authorized by 22 U.S.C. 2696(c).

Senate amendment No. 103: Page 8, after line 15, insert:

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, including not to exceed $9,000 for representation expenses incurred by the International Joint Commission, $4,500,000; for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain.

Senate amendment No. 104: Page 8, after line 15, insert:

INTERNATIONAL FISHERIES COMMISSIONS

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, as amended, for necessary expenses for international fisheries commissions, not otherwise provided for, $12,300,000: *Provided,* That the United States' share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 529.

Senate amendment No. 105: Page 8, after line 16, insert:

U.S. BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

For necessary expenses, not otherwise provided, for Bilateral Science and Technology Agreements, $4,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

Senate amendment No. 107: Page 8, after line 16, insert:

SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

For expenses, not otherwise provided for, to enable the Secretary of State to carry out the provisions of title VIII of Public Law 98-164, $4,600,000.

Senate amendment No. 108: Page 8, after line 16, insert:

FISHERMEN'S GUARANTY FUND

For expenses necessary to carry out the provisions of section 7 of the Fishermen's Protective Act of 1967, as amended, $900,000 of which $450,000 shall be derived from the receipts collected pursuant to that Act, to remain available until expended.

Senate amendment No. 113: Page 9, line 14, after "$17,313,000" insert ", of which not to exceed $15,000 shall be available for the procurement of an oil portrait of former Chief Justice Warren E. Burger to be placed in the United States Supreme Court Building; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve".

Senate amendment No. 118: Page 10, line 21, after "3341-64)" insert ": *Provided further,* That of the total amount appropriated, $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions: *Provided further,* That, notwithstanding any other provision of law, not to exceed $2,500,000 for expenses of the Claims Court associated with processing cases under the National Childhood Vaccine Injury Act of 1986 shall be reimbursed from the special fund established to pay judgments awarded under the Act".

Senate amendment No. 120: Page 11, line 6, after "$133,260,000" insert ", and the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, and the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences".

Senate amendment No. 123: Page 11, after line 14, insert:

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100-702); $43,090,000 to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

Senate amendment No. 126: Page 12, after 13; insert:

SEC. 402. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210 and the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93-236.

Senate amendment No. 135: Page 12, after line 16, insert:

OPERATING-DIFFERENTIAL SUBSIDIES

(LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $225,870,000, to remain available until expended.

Senate amendment No. 138: Page 12, after line 22, insert:

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed $55,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), $33,876,000.

Senate amendment No. 139: Page 12, after line 22, insert:

BOARD FOR INTERNATIONAL BROADCASTING

Senate amendment No. 141: Page 12, after line 22, insert:

ISRAEL RELAY STATION

For an additional amount for the Board for International Broadcasting for the purpose of making and overseeing grants to Radio Free Europe/Radio Liberty, Incorporated, and its subsidiaries and of making payments as necessary in order to implement the agreement signed on June 18, 1987, between the United States Government and the Government of Israel to establish and operate a radio relay station in Israel for use by Radio Free Europe/Radio Liberty and the Voice of America, $183,500,000, to remain available until expended.

Senate amendment No. 143: Page 13, line 13, after "500,000" insert ", to remain available until expended".

Senate amendment No. 145: Page 13, after line 25, insert:

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles $5,707,000, of which $2,000,000 is for regional offices and $700,000 is for civil rights monitoring activities: *Provided,* That not to exceed $20,000 may be used to employ consultants: *Provided further,* That not to exceed $185,000 may be used to employ temporary or special needs appointees: *Provided further,* That none of the funds shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner whose compensation shall not exceed the equivalent of 150 billable days at

the daily rate of a level 11 salary under the General Schedule: *Provided further,* That not to exceed $40,000 shall be available for new, continuing or modifications of contracts for performance of mission-related external services: *Provided further,* That none of the funds shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairman who is permitted 125 billable days: *Provided further,* That the General Accounting Office shall audit the Commission's use of this appropriation under such terms and conditions as deemed appropriate by the Comptroller General and shall report its findings to the Appropriations Committees of the Senate and House of Representatives.

Senate amendment No. 146: Page 14, after line 13, insert:

COMMISSION OF THE UKRAINE FAMINE

For necessary close out expenses of the Commission on the Ukraine Famine, $100,000.

Senate amendment No. 147: Page 14, line 21, after "$1,290,000" insert ", to remain available until expended".

Senate amendment No. 149: Page 15, line 7, after "$184,926,000" insert ": *Provided,* That the final rule regarding unsupervised waivers under the Age Discrimination in Employment Act, issued by the Commission on August 27, 1987 (29 CFR sections 1627.16(c)(1)-(3)), shall not have effect during fiscal year 1990: *Provided further,* That none of the funds may be obligated or expended by the Commission to give effect to any policy or practice pertaining to unsupervised waivers under the Age Discrimination in Employment Act, except that this proviso shall not preclude the Commission from investigating or processing claims of age discrimination, and pursuing appropriate relief in Federal court, regardless of whether an unsupervised waiver of rights has been sought or signed

Senate amendment No. 151: Page 15, line 16, after "$15,650,000" insert ": *Provided,* That not to exceed $1,500 shall be available for official reception and representation expenses".

Senate amendment No. 153: Page 15, after line 16, insert:

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $39,000,000.

Senate amendment No. 155: Page 16, after line 5, insert:

MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Martin Luther King, Jr. Federal Holiday Commission, as authorized by Public Law 98-399, as amended, $300,000, to remain available until expended.

Senate amendment No. 157: Page 16, after line 5 insert:

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $3,000 for official reception and representation expenses, $168,707,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions: *Provided,* That immediately upon enactment of this Act, the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) shall increase from one-fiftieth of 1 per centum to one-fortieth of 1 per centum and such increase shall be deposited as an offsetting receipt to the general funds of the Treasury.

Senate amendment No. 166: Page 19, line 2, after "$11,233,000" insert ", to remain available until expended: *Provided,* That section 607 of the Judicial Improvements and Access to Justice Act, Public Law 100-702, amending section 215 of the State Justice Institute Act of 1984 is hereby repealed and section 7321(a) of the Anti-Drug Abuse Act of 1988, Public Law 100-690, is hereby revived".

Senate amendment No. 167: Page 19, after line 2, insert:

UNITED STATES INFORMATION AGENCY

Senate amendment No. 169: Page 19, after line 2, insert:

OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $3,675,000.

Senate amendment No. 172: Page 19, after line 2, insert:

RADIO BROADCASTING TO CUBA

For an additional amount, necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act (providing for the Radio Marti Program or Cuba Service of the Voice of America), including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $12,700,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a).

Senate amendment No. 173: Page 19, after line 2, insert:

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to any appropriate recipient in the State of Hawaii, $20,700,000: *Provided,* That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the rate authorized for GS-18 of the Classification Act of 1949, as amended, exclusive of any cap on such rate.

Senate amendment No. 175: Page 19, after line 16, insert:

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

Senate amendment No. 178: Page 19, after line 2, insert:

SEC. 607. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendments of the Senate numbered, 1, 5, 10, 15, 16, 17, 20, 21, 22, 23, 24, 26, 29, 33, 34, 35, 36, 39, 45, 46, 48, 49, 50, 51, 55, 58, 59, 60, 62, 63, 65, 66, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 81, 88, 89, 90, 92, 93, 94, 97, 99, 100, 101, 102, 103, 104, 105, 107, 108, 113, 118, 120, 123, 126, 135, 138, 139, 141, 143, 145, 146, 147, 149, 151, 153, 155, 157, 166, 167, 169, 172, 173, 175, and 178, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

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The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 2: Page 2, line 6, strike out "$28,429,000" and insert "$28,250,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment insert the following: "$28,173,000, of which not to exceed $1,467,000 shall be available for the Office of the General Counsel".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 7: Page 3, after line 1, insert:

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $194,482,000: *Provided,* That during fiscal year 1990 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided further,* That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further,* That the Secretary of Commerce or his designees shall not promulgate or enforce any rule, regulation, or grant agreement provision affecting programs authorizing by the Public Works and Economic Development Act of 1965, as amended, unless such rule, regula-

tion, or provision is either required by statute or expressed as the explicit intent of the Congress or is in substantial conformity with those rules, regulations and provisions in effect prior to December 22, 1987.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 7 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $191,196,000, of which, notwithstanding any other provision of law $11,350,000 shall be used to make or complete each grant designated in P.L. 100-459 in subsections (a), (c), (h), (i), (k), and (l) under the heading "Economic Development Assistance Programs" which has not been made and for which pre-application or applications have been filed: *Provided,* That during fiscal year 1990 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided further,* That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further,* That the Secretary of Commerce or his designees shall not promulgate or enforce any rule, regulation, or grant agreement provision affecting programs authorized by the Public Works and Economic Development Act of 1965, as amended, unless such rule, regulation, or provision is either required by statute or expressed as the explicit intent of the Congress or is in substantial conformity with those rules, regulations and provisions in effect prior to December 22, 1987.

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 8: Page 3, line 5, strike out "$26,061,000" and insert "$25,500,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 8 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following: "$25,475,000 of which not to exceed $494,000 shall be available for the Office of Chief Counsel".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 9: Page 3, line 5, after "$26,061,000" insert ": *Provided,* That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977: *Provided further,* That none of the funds appropriated by this Act shall be available to enable the Economic Development Administration, Department of Commerce, to implement any of recommendations outlined in Final Audit Report No. D-164-8-024 issued by the Department of Commerce or to delay or otherwise adversely affect any grant application for fiscal year 1990 by the City of Chicago as a result of negotiations on the grant described in such audit report: *Provided further,* That none of the funds appropriated by this Act shall be available to enable the Economic Development Administration, Department of Commerce, to delay or otherwise adversely affect any grant application for fiscal year 1990 by the State of Oregon, or to which the State of Oregon will contribute funds, on the basis that the contribution by the State of Oregon does not conform with law or regulation. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1990, and such positions shall be maintained in the various States within the approved organizational structure in place on December 1, 1987, and where possible, with those employees who filled those positions on that date".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: ": *Provided,* That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977: *Provided further,* That notwithstanding any other provision of law, not to exceed $4,016,618 of the funds appropriated by this Act for "Economic Development Assistance Programs" shall be available for the purpose of paying the Economic Development Administration for any debt that rises due to the expenditure of funds under grant number 06-19-01498 as described in Inspector General Final Audit Report No. D-184-8-024 and that none of the funds appropriated by this Act shall delay or otherwise adversely affect any grant application for fiscal year 1990 by the City of Chicago as a result of negotiations on the grant described in such audit report: *Provided further,* That none of the funds appropriated by this Act shall be available to enable the Economic Development Administration, Department of Commerce, to delay or otherwise adversely affect any grant application for fiscal year 1990 by the State of Oregon, or to which the State of Oregon will contribute funds, on the basis that the contribution by the State of Oregon does not conform with law or regulation. Notwithstanding any other provision of the Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1990, and such positions shall be maintained in the various States within the approved organizational structure in place on December 1, 1987, and where possible, with those employees who filled those positions on that date: *Provided further,* That none of the funds may be used to formulate or implement any action, activity, guideline, program, project, policy or regulation which alters the practice of making grants directly to planning and development districts which was in effect on December 31, 1988, or which results in denial of funding to any planning and development district on the basis of the number of years such district has received economic development assistance program funding or on the basis of the geographic area such district encompasses or on the basis of the population situated in the geographic area such district encompasses or a combination of any of these factors."

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 12: Page 3, line 10, after "$179,579,000" insert ", to remain available until expended: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities;

and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment of assessments for services provided as part of these activities".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 12 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following: ", to remain available until expended, of which $3,000,000 shall be for support costs of a new materials center in Ames, Iowa: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities; and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange act shall include payment of assessments for services provided as part of these activities".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 13: Page 3, line 10, after "$179,579,000" insert ": *Provided further*, That of the funds provided in this Act or any previous Acts for the International Trade Administration, including those amounts provided in advance to recipient organizations, not less than $10,877,000 shall be available for the Trade Adjustment Assistance Program during fiscal year 1990. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: *Provided further*, That the number of Commercial Service officers accorded such diplomatic title at any time shall not exceed eight".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 13 and concur therein with an amendment, as follows: In lieu of matter proposed by said amendment insert the following: ": *Provided further*, That of the funds provided in this Act or any previous Acts for the International Trade Administration Trade Adjustment Assistance Program including those amounts provided in advance to recipient organizations which remain unexpended or which have been obligated or reserved for fiscal year 1990 expenses, including close out costs, by those organizations as of October 1, 1989, not to exceed $10,877,000 shall be available for the Trade Adjustment Assistance Program during fiscal year 1990. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: *Provided further*, That the number of Commercial Service officers accorded such diplomatic title at any time shall not exceed eight".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 14: Page 3, after line 10, insert:

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $5,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $41,800,000, to remain available until expended, of which $1,000,000, including $775,000 previously appropriated, shall be available for additional regional export control assistance offices to be located in the Northern California area, in Portland, Oregon, and in the Boston/Nashua area: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 14 and concur therein with an amendment, as follows: In lieu of the sum "$41,800,000" named in said amendment insert the following: "$42,000,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 19: Page 3, line 20, strike out "$966,932,000" and insert "$1,216,830,000, to remain available until expended, of which $1,500,000 shall be available for construction and renovation of facilities at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas; and of which $550,000 shall be available for operational expenses at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas; and in addition, $30,000,000 shall be derived from the Airport and Airways Trust Fund as authorized by 49 U.S.C. 2205(d); and in addition, $51,900,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $4,500,000 shall be derived by transfer from the Coastal Energy Impact Fund: *Provided*, That grants to States pursuant to section 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000: *Provided further*, That in addition to the sums appropriated elsewhere in this paragraph, not to exceed $500,000 shall be available from the receipts deposited in the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries" for grant management and related activities".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 19 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following: "$1,214,607,000, to remain available until expended, of which $1,500,000 shall be available for construction and renovation of facilities at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas; and of which $550,000 shall be available for operational expenses at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas; and of which $377,000 shall be available only for a semi-tropical research facility located at Key Largo, Florida; and in addition, $30,000,000 shall be derived from the Airport and Airways Trust Fund as authorized by 49 U.S.C. 2205(d); and in addition, $55,000,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in

addition, $4,500,000 shall be derived by transfer from the Coastal Energy Impact Fund: *Provided*, That grants to States pursuant to sections 306 and 306(a) of the Coastal Zone Management Act, as awarded, shall not exceed $2,000,000 and shall not be less than $450,000: *Provided further*, That in addition to the sums appropriated elsewhere in this paragraph, not to exceed $500,000 shall be available from the receipts deposited in the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries" for grant management and related activities: *Provided further*, That for fiscal year 1990 and hereafter funds appropriated under this heading shall be available for acquisition of land for facilities".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 27: Page 4, after line 19, insert:

TECHNOLOGY ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Technology Administration. $4,100,000.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 27 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert the following: "$3,900,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 28: Page 4, after line 19, insert:

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $175,600,000, to remain available until expended, of which not to exceed $3,430,000 may be transferred to the "Working Capital Fund"; and of which not to exceed $1,300,000 shall be available for construction of research facilities.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 28 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the core programs of the National Institute of Standards and Technology, $144,809,000, to remain available until expended, of which not to exceed $3,430,000 may be transferred to the "Working Capital Fund"; and of which not to exceed $1,300,000 shall be available for construction of research facilities; and in addition for grants for regional centers for the transfer of manufacturing technology as authorized by section 5121 of the Omnibus Trade and Competitiveness Act of 1988, $7,500,000, to remain available until expended; and in addition for expenses of the Advanced Technology Program as authorized by section 5131 of the Omnibus Trade and Competitiveness Act of 1988, $10,000,000, to remain available until expended; and in addition for technology transfer extension services pursuant to section 5121 of the Omnibus Trade and Competitiveness Act of 1988, $1,300,000, to remain available until expended.

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 30: Page 4, line 25, strike out "$20,449,000" and insert "$20,200,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 30 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment insert the following: "$20,000,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 31: Page 5, line 4, after "amended" insert: ": *Provided further*, That notwithstanding the provisions of section 391 of the Communications Act of 1934, as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year: *Provided further*, That notwithstanding sections 391 and 392 of the Communications Act, as amended, up to $200,000 appropriated in this paragraph shall be available for the establishment and administration of the Pan-Pacific Educational and Cultural Experiments by Satellite program (PEACESAT)".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 31 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided further*, That notwithstanding the provisions of section 391 of the Communications Act of 1934, as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 38: Page 5, after line 20, insert:

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $90,664,000.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amend-

ment of the Senate numbered 38 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert the following: "$87,439,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 40: Page 5, after line 20, insert:

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission, as authorized by law, $10,261,000.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 40 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert "$10,500,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 41: Page 5, after line 21, insert:

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $262,491,000, of which not to exceed $4,882,000 shall be available for the operation of the United States National Central Bureau, INTERPOL; and of which not to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1991: *Provided*, That of the funds available in this appropriation, not to exceed $6,474,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Anti-Trust Division, and offices funded through Salaries and expenses, General Administration. *Provided further*, That for fiscal year 1990 and hereafter the Chief, United States National Central Bureau, INTERPOL, may establish and collect fees to process name checks and background records for noncriminal employment, licensing, and humanitarian purposes and, notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services. *Provided further*, That for fiscal year 1990 and hereafter the Attorney General may establish and collect fees to cover the cost of identifying, copying and distributing copies of tax decisions rendered by the Federal Judiciary and that any such fees shall be credited to this appropriation notwithstanding the provisions of 31 U.S.C. 3302.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 41 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $257,000,000, of which not to exceed $5,751,000 shall be available for the operation of the United States National Central Bureau, INTERPOL; and of which not to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1991: *Provided*, That of the funds available in this appropriation, not to exceed $12,160,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through Salaries and expenses, General Administration: *Provided further*, That for fiscal year 1990 and hereafter the Chief, United States National Central Bureau, INTERPOL, may establish and collect fees to process name checks and background records for noncriminal employment, licensing, and humanitarian purposes and, notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: *Provided further*, That for fiscal year 1990 and hereafter the Attorney General may establish and collect fees to cover the cost of identifying, copying and distributing copies of tax decisions rendered by the Federal Judiciary and that any such fees shall be credited to this appropriation notwithstanding the provisions of 31 U.S.C. 3302: *Provided further*, That, notwithstanding any other provision of law, not to exceed $1,000,000 for expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986 shall be reimbursed from the special fund established to pay judgements awarded under the Act.

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 43: Page 6, after line 2, insert:

Subject to the limitations of section 104(e) of the Civil Liberties Act of 1988 (Public Law 100-383) and for the maximum amount provided for under such section, effective in the fiscal year beginning on October 1, 1990, and continuing each fiscal year thereafter, such sums as hereafter may be necessary are appropriated from money in the Treasury not otherwise appropriated, for payments to eligible individuals entitled to such payments under the provisions of the Civil Liberties Act of 1988 (Public Law 100-383).

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 43 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

Subject to the provisions of section 104(e) of the Civil Liberties Act of 1988 (Public Law 100-383; 50 U.S.C. App. 1989(b-3(e)), the maximum amount authorized under such section for any fiscal year is appropriated, from money in the Treasury not otherwise appropriated, for each fiscal year beginning on or after October 1, 1990, to the Civil Liberties Public Education Fund established by section 104(a) of the Civil Liberties Act of 1988, for payments to eligible individuals under section 105 of that Act.

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. ROGERS. Mr. Speaker, I request time in opposition.

The SPEAKER pro tempore (Mr. NAGLE). The gentleman from Iowa [Mr. SMITH] will be recognized for 30 minutes, and the gentleman from Kentucky [Mr. ROGERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Speaker, this is one of the two items in the Senate amendments upon which a number of

us would like to be heard, and I will be seeking a vote on the matter.

Mr. Speaker, this is the Japanese-American reparations plan that is in the amendments from the Senate. This amendment involves a major change which all of us should scrutinize before we vote. This is the issue of the Japanese-American entitlements; entitlements.

Mr. Speaker, I will not argue here the merits of whether or not we should make the payments. We voted on that last year in the Congress, and that is not the driving issue here. The merits of that law are not the issue. The issue today is: Do we create entitlement legislation in this appropriation bill, something that the House has enacted a rule against? Second, do we change an authorization without justification? Third, can we afford to do what we say in this amendment we would like to do?

All of us would like to make those payments as quickly as we can. The question is: Do we elevate them above everything else except entitlements? Do we elevate those payments above child care, the defense of the country, other issues that many in this body have fought long and hard for?

In this amendment these Japanese-American reparation payments will be placed above all of those except other entitlements. The motion and the amendment would provide an advanced fixed appropriation of $500 million for payments to Japanese-American internees beginning in fiscal 1991. Along with a separate amendment which follows on later in this afternoon's debate, this is an effort to turn the reparation payment program from a discretionary program which we enacted last year, stretched over a 10-year period, into an entitlement over 2½ years, a clear violation of the Budget Act of this Congress, shielding it from our annual battles, giving it higher priority than any other item that we search and scrape and dig to find funds for every single year.

This Senate proposal says that these Japanese-American reparation payments are more important than child care; it is not an entitlement; more important than fighting drugs, the drug war is not an entitlement; more important than education; education is not an entitlement; and on and on and on.

The truth is it will reduce the amount available for all discretionary spending, a pot that shrinks and shrinks year after year after year.

□ 1320

The deficit is not the fault of the Appropriations Committee. The deficit is being caused by the entitlement programs which command so much of the overall revenue of the country.

We should reject this change today for three reasons. One, the procedure is wrong. It violates the Budget Act. It massively rewrites the law, barely a year after it was created, and without one hearing, and on an appropriation bill.

It is a huge advance appropriation, coupled with entitlement language in one general appropriations bill.

We cannot afford it as quickly as this entitlement says we should pay it. When Members passed this law last year, we said we will pay this over a 10-year period, and the bill passed and became law.

All of a sudden today we say we are going to make it mandatory that the Government pay it not in 10 years, but in just over 2 years, and elevate it to the top of all the other spending priorities that each of us have. This comes first.

It is not right. Every dollar Congress makes mandatory comes out of our hides, as we sit down to find monies for the other priority programs Congress faces. Not just in this bill, in every bill, because this being an entitlement comes off the top of all spending in the appropriations process.

When it comes time to funding agriculture programs, if you are interested, Japanese reparations payments would get top billing. Environmental needs, sorry about that. Education, maybe next year. Child care? Nice try. Even national defense would come second to these payments, because national defense is not an entitlement.

The law terminates the fund in 10 years, over which time the payments legally can be made under the law passed last year. Maybe it would not be 10. Let us hope it is 5 or less. But do not make it mandatory upon us. We have the full 10 years under the law to fulfill this obligation that Congress voted on last year.

How do we get to a $64 billion deficit next year, as the law mandates, and fund drug wars and all the other programs that must be funded, with another $500 million taken off the top, as this entitlement would surely do?

At this time, with this deficit, it is not fiscally responsible to pass this amendment the Senate has attached to our bill.

This amendment is the first of two items which carry this change. It will be this amendment, and then one later on in the procedure in the afternoon. It would appropriate the maximum amount, $500 million, starting next year.

Mr. Speaker, I urge Members to study this matter carefully before they vote, because it is very important in the fiscal matters of the Nation, and it means that money will be taken off the programs all Members are interested in. This money will come first, as other entitlements do.

If we defeat the gentleman's motion, we remove the money and mark a blow for restraint. If we do not, do not complain next year when Members' priorities are unattended.

All Members should be clear about the precedent we will make if we approve this amendment today. The prudent choice, the sensible option, is to deal with this program the way it was intended, the way it was enacted last year. I ask for a no vote on the motion.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, I thank the gentleman for yielding. The gentleman has been a responsible appropriator.

I would be interested if we were to do as the gentleman said and reject Senate-initiated positive and important appropriations. We are in the first year in which we anticipated funding the program. Would that not leave us with no money this year?

If it was up to the gentleman from Kentucky, how much money would he appropriate for the next fiscal year to pay off the obligation? What would be the gentleman's view of what a fair amount would be? I assume the gentleman does not want to leave us with nothing.

Mr. ROGERS. Mr. Speaker, when the House passed the bill, we put in $50 million. When it came to the Senate, the Senate put in nothing. Then in conference the Senate put the entitlement language in.

Mr. FRANK. Mr. Speaker, if the gentleman would yield further, the gentleman illustrates a problem. The $50 million I must say, and Members are entitled to their own opinions, is a very inadequate amount. People would have died.

We are not talking about an ongoing situation, but a limited group of people to which this happened 45 years ago. The $50 million does seem to me to be a wholly inadequate number.

This does indicate to me what the problem is if we do it in alternative ways. The $500 million I will say is the amount we contemplated when we passed the bill. To do this $50 million at a clip over a 20-year period, it seems to me that would be a very unfortunate way to do it.

Mr. ROGERS. Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr Speaker, I yield 3 minutes to the gentleman from California [Mr. MINETA].

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. MINETA. Mr. Speaker, I am very pleased to yield to my distinguished colleague and friend from San Jose, the gentleman from California [Mr. EDWARDS], chairman of the Subcommittee on Civil and Constitutional

Rights of the Committee on the Judiciary.

Mr. EDWARDS of California. Mr. Speaker, I thank the gentleman for yielding. I should call the matter to the attention of the Members that this is a very solemn obligation that this Congress has, to comply with its obligation of the promise it has made.

I am sure that the eloquent gentleman from California [Mr. MINETA], will explain in more detail the scope of the obligation that we have to these men and women who were treated so terribly badly in my war, the war that I fought in a long time ago. Unless we pay as promised, the redress that is due these Americans and others, quite a number are dying every year. These people are getting old.

Mr. Speaker, I thank the gentleman for yielding, and I urge support of the subcommittee and the committee and an aye vote on the amendment.

Mr. MINETA. Mr. Speaker, I thank my colleague for his comments.

Mr. Speaker, I do rise in very strong support of amendments No. 43 and 80. When we passed the Civil Liberties Act of 1988 and President Reagan signed that bill into law on August 10, 1988, we created an obligation. If we do not accept this amendment, we will then fail in meeting this obligation.

The gentleman from Kentucky [Mr. ROGERS] says we have 10 years to pay, and that is correct. The law authorizes over a 10-year period payment under the Civil Liberties Act of 1988.

The problem is people are dying at the rate of over 200 per month, and it seems to me that the obligation is to those who were in fact evacuated, forcibly removed from their homes and interned during World War II, with the loss of their constitutional rights.

If we do not pay those who in fact were interned, then we will heap upon ourselves additional administrative costs of trying to find out who the rightful payees ought to be when the internee is no longer living.

I believe it would be appropriate to go over what some of the Nation's leading newspapers are saying. They say it best.

The Chicago Tribune says, "Words alone won't erase this shame."

The New York Times says, "Aged war detainees still unpaid for lost freedom."

The San Jose Mercury News says, "A debt of honor, still."

The Christian Science Monitor says, "Breaking faith again."

The San Jose Mercury News says, "Just how good is the word of the United States?"

The Washington Post says, "A debt of honor."

The New York Times in another editorial says, "Another insult to the internees."

The Los Angeles Times says, "The issue is national honor."

A publication called Legal Times says, "Time running out for World War II internees."

My dear colleagues, I urge support for this amendment.

Mr. ROGERS. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota [Mr. FRENZEL], the ranking minority member of the Budget Committee.

Mr. FRENZEL. Mr. Speaker, I voted for the act that authorized this payment to these internees last year at the request of a number of those who are speaking in favor of this amendment today.

I rise in opposition to the amendment, however, because it clearly violates the spirit of that act we passed last year, and because it even more clearly violates the Budget Act.

□ 1330

Under the act that we passed last year this particular spending account has to compete with the others for appropriations, as suggested by the gentleman from Kentucky.

The competition for appropriations is admittedly difficult. If our Committee on Appropriations and if our House Members support them, and decide that the money is to be spent for this purpose rather than someplace else this year, and maybe in a different place next year, that is the judgment of the House and of the Congress, and I, of course, will abide by it.

I myself give this particular account a high priority and believe that it should be paid off within the 3 years in question. However, where we went wrong is that instead of appropriating money this year we appropriated money next year in this conference report. That is contrary to the Budget Act. That is not fair. That is making a decision for next year and leapfrogging priorities that this House has not set yet.

The Budget Act quite correctly says that you cannot appropriate money unless there has been a budget resolution passed for that fiscal year.

As far as I know, we have not passed any such budget resolution yet.

Therefore, this amendment should be defeated.

Now after amendment 43, which appropriates in a future fiscal year, we will come eventually to amendment No. 80. Amendment No. 80 does something even worse. It establishes this payment as an entitlement. That, of course, will put this particular spending function beyond the reach of Gramm-Rudman and give it the special status also described earlier by the gentleman from Kentucky [Mr. ROGERS].

Now I do not mind the House doing this, but we have already passed a bill which many of us voted for, and which has become law which did not do this.

After that arrangement, the promoters of these amendments No. 43 and No. 80, asking to give two more escalations to the priority for this spending. They are demanding two more bites at the apples.

Again, as I said, I believe in spending for this purpose but I believe it ought to be done under the appropriations process, which means that something else has to stand aside for this rather high-priority item.

Mr. MATSUI. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. No, I will not yield until I finish my own points. I have a short time.

In fact, the gentleman has so bumped me off my stride that I may never recover.

The problem here is the two escalations give this a special priority that was not intended in the Reparations Act passed last year.

So I think we are breaking faith with every other participant in the appropriation and budget processes, to violate the Budget Act and create this entitlement and this future spending.

Mr. MATSUI. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. MATSUI. I thank the gentleman for yielding.

The gentleman from Minnesota will never have his stride broken. As a member of the committee he serves on, I understand his ability to handle it very well.

The gentleman from Minnesota realizes very well that both Mr. RUDMAN and Mr. HOLLINGS, authors of the Gramm-Rudman-Hollings, were the makers of this particular amendment in the Senate.

Both Mr. RUDMAN and Mr. HOLLINGS were the two sponsors of this particular provision in the Senate. So, frankly, it seems odd to me that we would raise Gramm-Rudman-Hollings as being a problem in this issue when the makers of the original Gramm-Rudman-Hollings were the ones who offered this particular amendment in the Senate.

It seems to me the way to solve the problem.

Mr. FRENZEL. I thank the gentleman for his contribution. I would note for the record that the gentleman's persuasiveness occasioned my vote, or rather persuaded me to vote for the bill last year. My intention, prior to his earnest persuasion, was to vote "no."

However, it is painfully obvious that there is no consistency in actions taken by the other body. If the two Senator noted do not want to stand up for their handiwork, I will still defend it.

Mr. SMITH of Iowa. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. I thank the chairman of the subcommittee for according me this opportunity to rise in support of the committee's amendment and to remind the House of the need to keep our pledge to these people for real redress for a very real grievance, a deprivation of liberty on a level that shames us all, not because we were originally responsible but because we as a nation are responsible.

It was a proud moment when the House passed this legislation and we debated the issue: Should it be only an apology in words? Or should there be dollars? That is, the difficult dollars that we all know are so hard to come by for all the important programs that we need to fund in this Federal Government.

We made that decision: Dollars it would be, a clear statement that something very wrong had been done and some small compensation needed to be paid.

Well, we can keep putting off and putting off the appropriations process because the choices are so difficult and because this hurt, while it is so real, is so far in the past.

Some might think that any immediate problem we have now would have to take higher priority. I think the Appropriations Committee, understanding this difficult process of coming back year after year, has taken the right step. We have got to get this behind us. We need to do what is right and follow through on our commitment to make this payment. This is the way to do it. This is a good, solid, efficient way to do it. We can make technical arguments, we all know how to make those arguments on both sides of every issue about the way the procedure is not right in this case. But we have used procedures, and we saw the S&L bill, we spent $350 billion without ever getting it under the Budget Act. That found support on the other side of the aisle from some of those who are speaking against this.

I would just emphasize that we ought not have this decision turn on technical questions of budgeting. We ought to have the decision turn on getting the job done and getting the job done within a short, reasonable period of time, making payments to all those eligible individuals.

We do not want to see these payments dribbled out to heirs, grandchildren, and the like, but actually have these payments made to the individuals who were interned.

That was the idea. That was why the thought from the beginning was to do it within 3 years. We have already lost a year, we are about to lose another year; let us not have this go on far into the next decade.

Let us adopt the motion of the Committee on Appropriations. It is the best way to do what we all agreed to do, which is to make a payment which says we will make the sacrifice as a nation to compensate individuals from whom we exacted a very unjust and very devastating sacrifice.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. I thank the gentleman for yielding.

Mr. Speaker, I feel constrained to come to the well this afternoon and say to my friends over here that, as I know they recall very well, last year I voted in favor of the act in question and I did so enthusiastically.

For all the reasons stated by the gentleman from Kentucky [Mr. ROGERS] and the gentleman from Minnesota [Mr. FRENZEL], I cannot vote for this amendment here this afternoon. This in no way reflects a diminution of my support and enthusiasm for the action that we took last year.

□ 1340

If we had the opportunity to do it again, I would do so, the same as we did last year, with the same degree of enthusiasm. I think this is an unfortunate situation that those Members like myself, like the gentleman from Minnesota [Mr. FRENZEL] have been put into. I very seriously believe that there will be those who, perhaps not here in this body, but outside the body who will accuse Members of going back on the commitment that we made last year in reversing ourselves. Nothing could be further from the truth. The commitment is as strong today as it was then.

However, when we passed the law last year, we passed a very carefully thought out, very carefully crafted process to complete what we obligated ourselves to do and what we felt obligated to do. The gentleman from Minnesota [Mr. FRENZEL] and the gentleman from Kentucky [Mr. ROGERS] have very cogently explained not only fiscally but from a process standpoint why we should not support this amendment. I fervently hope that no Member will say that those Members who do not want to change the process we put into law last year, are changing our commitment to correct the wrongs that were committed during World War II.

Mr. SMITH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from Hawaii [Mr. AKAKA].

Mr. AKAKA. Mr. Speaker, I rise today in strong support of the conference agreement on H.R. 2991, the Commerce, Justice, State, and the Judiciary Appropriations bill for fiscal year 1990.

I commend Chairman SMITH and the House conferees for their continued support for the Civil Liberties Act of 1988. Under the leadership of Chairman SMITH, the conferees agreed to a Senate proposal making redress payments to Americans of Japanese ancestry interned during World War II an entitlement.

I am pleased that the conferees agreed to release this worthy program from the yearly budgetary scuffle. I am well aware of the budgetary constraints facing this country, however, I fervently believe that the Japanese-Americans who were unjustifiably evacuated, relocated and interned during World War II deserve the compensation promised to them by the Federal Government.

The Department of Justice estimates that 2,400 internees will die in each fiscal year, that is 200 individuals a month. Thus, 5,000 internees will have passed away between the time that this legislation was signed into law on August 10, 1988, and the time that funds are finally appropriated.

The Department of Justice also estimates that there are 35 individuals over 100 years old, approximately 1,000 individuals over 90 years, and 1,700 over 85 years of age. Mr. Speaker, I would like to remind my colleagues that Public Law 100-383 requires Japanese-Americans who were denied their constitutional rights during World War II be compensated regardless of whether they die after the bill was signed into law. Allowing these individuals to die before they are compensated will not lessen our obligation or reduce the cost of this program.

The conference agreement adopts Senate amendments 43 and 80 which will change the redress compensation from an annual discretionary appropriation to an entitlement, beginning in fiscal year 1991. This change would mandate an annual $500 million appropriation for fiscal years 1991 and 1992, and the balance of $250 million to complete the program in fiscal year 1993.

This important change will allow the approximately 60,000 eligible individuals to finally see that justice is done. Mr. Speaker, for individuals who have waited over 40 years to receive fair and just treatment, waiting an additional fiscal year will certainly be a hardship. However, waiting an additional 8, 9 or 10 years will be an incredible pain and a devastating blow to those internees who so proudly support this great Nation.

When Congress passed the Civil Liberties Act of 1988, we made a commitment to stand by our Constitution and ensure that the rights of all were protected. We cannot shirk our responsibilities. Supporting the conference agreement will allow funds to be appropriated, but more importantly it will allow us to meet our obligation to

these citizens deprived of their liberty and freedom.

When the matter was before the Senate, Senator WARREN RUDMAN, one of the authors of the Gramm-Rudman-Hollings Act, eloquently stated "* * * there are times that we deal with fiscal reality, and there are certainly times during this month that we will deal with extraordinary fiscal reality. But there are also times, * * * that one must set fiscal reality aside, * * * and look at what is the right thing to do." Mr. Speaker, voting for the conference report is the right thing to do. I urge my colleagues to join me in finally correcting this injustice by providing civil rights to all Americans.

Mr. SMITH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, I want to commend the chairman of the subcommittee for having come up with a very good document out of the conference committee. I would hope that none of the Members here today would be in any shape or form, attempting to back out on a commitment that we made, a commitment that we really believe needs to be fulfilled, a commitment that this country owes to those Japanese-Americans, those of Japanese ancestry in this country, American citizens, then and now, who were interned in those horrible camps during the war.

I will not ascribe anything but the best of motives, the fiscal motives, to those who are supporting receding from this part of the bill. However, I would urge Members to think about something else. We can find the money for an MX missile, we can find the money for star wars, we can find the money to build a B–2 at $500 million a copy. We can find the money for almost everything, but yesterday somehow we were told we could not find the money to fund an abortion for a 12-year-old girl who was raped by her father, and told, "We agree with the principle, but we cannot find the money to pay those 62,000 Americans who happen to be of Japanese ancestry and look Japanese. Sorry, we will get to it, do not worry about a thing, but we cannot do it this way, it should not be an entitlement, your redress should rise and fall with the whims of the Congress." That is not the commitment we made. That is not the way we have done business in this Congress.

This is a debt of honor that we owe. It is a debt of pilgrimage that we owe. How would Members have liked to have been one of those 62,000, or the families of those who have died since they were interned? This does nothing more than say to them, "We made the commitment and now we are willing to stand behind it."

Vote with the chairman. Vote to do the right thing.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, the issue here is not the commitment. That was already decided on by the Congress some years ago. Some years ago we made a decision that we were, in fact, going to pay this money, and that we were going to do it in a particular kind of way. The question is not the commitment. The question is what we have before Members today, which has now changed the commitment into an entitlement. The commitment we made was that we could pay the money as available. We have, because of a series of budget priorities determined in years past, that there was not the availability of funds for this particular priority. We have to make a determination with a lot of priorities.

We sometimes have underfunded, in my opinion, the veterans who fought in World War II because we did not have the funds available. We have done a lot of things along the way because we did not have the funds available. That does not mean we are necessarily committed. It simply means that we did not have all of the money that we would like to have available at the time that the issues came before Members.

Well, now we are changing the commitment that we made. Now, today we come back, with no more authorization from the House, and we are now saying that we are creating an entitlement program. An entitlement program is something very, very different, because now we are saying that regardless of any other priorities, this becomes the single highest priority. Regardless of anything else that the Nation has to do, whether it is fight the drug war in these accounts or whatever, this is the single highest priority. This is an entitlement.

I am not certain that when we passed the bill a couple of years ago that we in any way indicated to the Members that they were making this the single highest priority in the accounts of the Subcommittee on Commerce, Justice, State, and Judiciary. I think that that is a decision that is before the Members today.

Mr. SMITH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. Mr. Speaker, I would like to thank the gentleman from Iowa for his leadership in this particular issue. I would like to mention to the gentlemen from Illinois and Kentucky and others, we do not question their sincerity, and we appreciate what the gentlemen are doing. We understand, very much.

I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Speaker, I hope the gentleman does understand. I understand the commitment was made in this body, and I sympathize with the cause that we were involved with. My main concern and only concern is the fact we are making it an entitlement.

Mr. MATSUI. Mr. Speaker, I understand. We certainly, as I indicated, do not question any Member's sincerity on this particular issue. That is not our intent.

I do have to say that it is a very difficult issue for all Members. As Members know, the gentleman from California [Mr. MINETA] and I and Senator INOUYE on the Senate side have been working on this issue for 5 years, and hopefully one day soon we will reach the culmination of this issue.

I have to tell Members, last August when President Reagan signed the bill, August 13, and we were at the White House, it was probably one of the happiest days of my life. I know it was also true for the gentleman from California [Mr. MINETA].

I guess the best way for me to express the importance of this issue, and the reason it is an entitlement, is to explain my situation. My mother passed away, my sister recently passed away. They will not be in a position to collect, and both of them were interned. Both of them were American citizens, and I may add, and I find it odd to say this as a Member of Congress, but we were all raised and born in Sacramento, CA. American citizens.

□ 1350

But for 3½ years of our lives we were put in internment camps by our own Government, and I cannot think of anything more horrible than being accused of potentially being a spy against your own country. That is one of the few crimes at the Federal level that we say is punishable by death, and for good reason, because it is a heinous crime against society and against one's own people.

We were incarcerated, but they are gone. My father is 74 years old. He was in his 20's in 1942. He went through the public schools in Sacramento, CA, and he had a little produce business. He was given 72 hours to take whatever he could carry, with myself and my mother, going to camp for 3½ years of his life.

He is going to die shortly. He is 74 years old. The mortality tables do not allow him to live to 100. If we get $50 million a year, it will take 25 years before these people are paid.

We made a point there making sure that this money did not go to heirs, because we wanted to insist that the payments went to those who suffered, and if we do not make this an entitle-

ment today, those who suffered will not receive their due and just apology.

Mr. Speaker, I hope that my colleagues will support the committee on this issue. It is a fundamental issue of right and wrong. It is a fundamental issue of what our country stands for.

The SPEAKER pro tempore (Mr. NAGLE). The Chair wishes to inform the gentleman from Kentucky [Mr. ROGERS] that he has 12 minutes remaining, and the gentleman from Iowa [Mr. SMITH] has 16 minutes remaining.

Mr. SMITH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I first rise in support of the amendment. Second, I wish to associate myself with the remarks of all my distinguished colleagues who have spoken so powerfully and eloquently in support of this amendment.

I participated in the debate that gave rise to the authorizing legislation. For some of us in this Chamber, that was a very painful debate for me, a very emotional debate. Hopefully, for all of us it was a debate full of principle integrity, and compassion.

The amendment before us at this point addresses a very dark period in the history of this country. I would suggest, Mr. Speaker, in no uncertain terms that to authorize without the accompanying resources is indeed a hollow gesture, particularly when we are confronted with the emerging new realities, and that is that people who are ostensibly the beneficiaries of this legislation are dying on a daily basis. We have to be rational and intelligent enough and bright enough and compassionate enough to make the necessary changes to be flexible enough if we are committed at the level of principle to see to it that the resources get to those people that they were designed to get to make the necessary changes.

It is unworthy of us to engage in a hallow process. This is an issue that in my opinion we must address with dignity and with integrity.

Mr. Speaker, I urge support of the amendment before us. This is a matter of high principle, and those of us who recall the debate on the floor remember there were tears in the House Chamber, and there was conflict, agony, and pain in this Chamber. Let that same spirit that allowed us to pass that legislation allow us to agree to this amendment. Let us not hide behind the technical, the earthbound, and the pedestrian.

Mr. Speaker, I urge my colleagues to support this motion.

Mr. SMITH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I rise in very strong support of the conference report and of this amendment to recede to the Senate language, and I compliment the chairman of the subcommittee of the Committee on Appropriations, who has had the very difficult job of reconciling an incredible series of demands with a very limited allocation.

I cannot think of a better case in which to apply the term, "entitlement." I know that this is a word that causes concern. It is one that, when extended and applied in other areas, causes Members of this House to fear the loss of their discretionary authority, but when the Government that operates with the consent of the governed took tens of thousands of those whom it governed with their consent, took these U.S. citizens and moved them from their homes, with the loss of their homes and their liberty and their businesses, to these camps for that period, with no specific basis other than the fact that they were descendants of Japanese, I must ask this: When better to apply the process and the meaning of the term, "entitlement," than with the compensation that we previously authorized and are now turning into an entitlement?

Mr. Speaker, I do say to the gentleman from Minnesota who spoke earlier—and I wish he were still on the floor—that I know he supported this legislation when it went through, but when he indicates his support for the appropriation process, I would ask him to look at what happened this year. If we do not do this at this time, this money will not come. We might recall the very recent history. The administration proposed a year after the passage of this bill the payment of $20 million, an amount so low that more people would die and thereby lose their chance to be the direct beneficiaries of this program that we promised them.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. BERMAN] has expired.

Mr. SMITH of Iowa. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, Members have said that if we adopt this, we will not be living up to the spirit of the bill that was adopted, and that is true. We, unfortunately, broke the spirit of the bill that was adopted when we failed to appropriate the money this year.

The bill came through, and it has been pending for a long time. It originally called for payments in 3 years, and that would have begun in the year in which we now are. Instead, what we said is that it would have begun last year. We passed the bill and said we will wait a full year before anything happens. But then the intent of the bill was to make the payments in 3 years. It did give a 10-year period, but that was to provide for any detail, any problems that might come up. The clear intent was to make these payments in 3 years.

So Members who were upset about a violation of the spirit of the act ought to understand that the primary violation came when the administration refused to appropriate very much money. As the gentleman from California said, they would appropriate $20 million, and the gentleman from Kentucky said $50 million. Both of those broke the spirit of the amendment.

Members are entitled to change their minds. I do not charge that that is some breach of faith that is mitigable in court. But if we want to look at who changed the terms of this, the terms were changed when we did not get the final amount.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Speaker, could the gentleman point out to me where in that bill it said we were intending to make the payments in 3 years?

Mr. FRANK. Mr. Speaker, I do not have the bill right with me, but I will get it and make that point.

Mr. ROGERS. I have the bill before me.

Mr. FRANK. The gentleman has it, but I do not. I will say as the author of the bill and the chairman of the authorizing subcommittee, and as we talked about it, that was our intention, and that is how we explained it to people. That is why it had the limit of how much we were to pay. If we look at the overall amount to be spent and we look at the annual limit, that is how we get the 3-year period, and so that was clearly our intention.

I will be glad to show that to the gentleman in the RECORD.

The question we have now is this: We were able to get $50 million only; the Senate said nothing. I would have preferred that we do this through the regular appropriations process, but this fealty to the spirit of the bill did not come forward before.

The other point I want to address is the word, "entitlement." Yes, if we pass this, it will entitle those people to this money if they live or if they have the right kind of survivors.

The problem we have generally found with entitlement has been that they are open-ended. Generally we worry about entitlements because they are open-ended and they are a drain on the Treasury and there is no limit. This is very limited in several ways. It is limited as to the people eligible. This is a specific group of people.

It is very much limited as to the amount either in any one year or over the full term. Entitlements have become a problem because we do not

know how much they are going to cost; they are open-ended, and they come and they come and they come. This is not such an entitlement. This is a specific recognition of a claim.

If we want a comparison, we could look at what we do with the Federal Tort Claims Act. If we have a claim against the Government which we judge to be legitimate, we pay it out of a permanent appropriation. We judge those claims to be legitimate. They are a specific and limited number. The amount to be paid is determined in advance. It is nothing that is open-ended. There is no uncertainty about the budgetary commitment.

Yes, this is not what we anticipated. It is a year later, but justice a year later is still justice. If we defeat this motion, through, it will not happen.

□ 1400

Mr. SMITH of Iowa. Mr. Speaker, I yield 2 minutes to the gentlewoman from Hawaii [Mr. SAIKI].

Mr. SAIKI. Mr. Speaker, I rise in support of amendments 43 and 80 as presented by the gentleman from Iowa [Mr. SMITH].

Mr. Speaker, last year this Congress and the President of the United States extended an apology to the Americans of Japanese ancestry who were taken from their homes and interned during World War II. Along with that initial apology reparations were assured to those who were unjustly incarcerated. We have not fulfilled the commitment by appropriating the money that is needed.

We could argue procedures here, however legitimate those procedures may be, but that is very little comfort, very little assurance, to those who were interned who are getting older every day.

My colleagues, let us be good on our word, and let us do what is right. Let us support this amendment.

Mr. SMITH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, no one in this body comes to the House floor and questions the trade practices in Japan and probably speaks out more about Japan than I do.

However, Mr. Speaker, today we are not talking about Japan. Today we are not talking about the Japanese. Today we are talking about Americans, Japanese Americans.

Mr. Speaker, I represent a district that is going to wonder, "Why would JIM support this money?"

It is very simple.

Mr. Speaker, during the Second World War we did not lock up Italian Americans, we did not lock up German Americans, and I am not going to second-guess President Roosevelt. Maybe he had some concerns, but history has proved there were no stateside conspiracies, and the Japanese Americans were taken away from their people and their children, natural citizens born in this country seeing their father leave.

That was wrong. Today America should right that wrong.

Mr. Speaker, I am glad to see that we have brought this out as an entitlement because we made a great mistake, and everybody in this country should be treated the same way. When we start doing something other than that, we throw stones at and tear up page by page the Constitution.

So, I rise here today, and I am very proud to do so as an outspoken Member on the trade policies of Japan, to stand up today on behalf of the Japanese American citizens of our country, and I hope the Congress does as well.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. GINGRICH], the minority whip of the House.

Mr. GINGRICH. Mr. Speaker, I very much appreciate the gentleman from Kentucky [Mr. ROGERS], my friend, yielding particularly in a case like this, and I just want to make a straightforward plea to my colleagues, and, Mr. Speaker, I say to them, "You could make the argument that we should not reimburse Americans who have been hurt by their government. I was convinced by a number of our most conservative members of the Committee on the Judiciary that, if you believe in the Constitution, that clearly the rights of Americans of Japanese descent were infringed upon. Clearly they were without help."

Now the House, the Congress and the President agreed to that and said, "Let's help them," and now we are faced with the tragedy of history, with the fact that the people we are trying to help tend to be over 60 years of age. Many of them are over 80 years of age, but the original amount of money we were going to allocate, if it had been targeted by age, would only have reached people who were 87 years old or over.

Mr. Speaker, I have been told that on the average every month 200 of these Americans die, and it just seemed to me that this is a very unusual situation, that we are trying to pay off a debt, a debt that we owe for things that were done in World War II, in a period of hysteria, a debt to Americans, to Americans just like us who were just as patriotic as any other American, and they deserve to have their rights protected just as much as any other American.

Mr. Speaker, when we are dealing with people in their nineties, in their eighties and their seventies, it seems to me that we have an obvious obligation to pay this priority off at a fairly high rate, and that is all this is about, trying a make sure that those who are now elderly, who once suffered a grievous harm, are given a chance to have their Government and the country they love repay that harm before they pass on.

Mr. Speaker, it is for those reasons that I urge we vote with the amendment and that we take care of this obligation.

Mr. ROGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I rise today in strong opposition to the Senate amendment to the conference report making reparations to Japanese internment victims an entitlement program.

I object to the manner in which this amendment has been included in the bill. An entitlement program has been created without appropriate hearings and placed in the appropriations bill contrary to the rules of our own budget process.

Making this program an entitlement program places internment reparations out of the scope of our Gramm-Rudman budget law and ahead of other more important programs in our budget process.

Mr. Speaker, I cannot in good conscience place these payments ahead of our veterans benefits, ahead of Medicare reimbursements and ahead of funding for our national defense. I cannot support this effort which violates our own budget act and gives these payments budgetary priority over a series of much more important programs.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume, and I plan to yield back the balance of my time when I finish my remarks, and I hope not to use all the time remaining.

Mr. Speaker, let me quickly disabuse those who might think what we are doing here is attempting to defeat the rights and the obligations that we acknowledged last year to the Japanese-American internees to whom we owe the money. Now that that is the law; we support it. No one is arguing we should not make the reparation payments. We should, and I will support appropriations in our subcommittee, in the full committee and the House to make those payments in a reasonable manner.

All I am saying, Mr. Speaker, is that it is unreasonable to try to make these huge payments above everything else we are obligated to do in the telescoped span of time that this amendment requires that we would do. When we passed the law last year, we said that we are going to make these payments within a 10-year span of time. That was the obligation that the Congress made. That was the planning that went into the Committee on the Budget, on which I serve, as well as the Committee on Appropriations. That was the planning that was done all along in the Justice Department in researching, in trying to relocate, and identify and validate those who are entitled to these moneys.

However, Mr. Speaker, how can we elevate these payments above those of children who need care from this Congress? Above the needs of the Nation's defense that this Congress is responsible for? How could we elevate these claims above those who are not receiving a proper education in this country that this Congress is obligated to try to help? How can we elevate these claims above the legitimate longstanding claims of many others who are looking to this Congress for a recompense?

Let us pay this claim as we can afford it, just as we balance the priorities of education, child care, defense, all the other needs that we are obligated to face. Let us place this item in the same priority as we place the other demanding, desperate claims made upon this body.

The question really is to the Members of this body, "Are you willing to place these reparation payments above the desperate needs of the other claimants that you're trying to represent in this body?"

Mr. Speaker, each of us have different types of interests. Each of us has those special groups that we try to represent here. I ask my colleagues, "Are you willing in your own priorities to place this claim above those?"

Mr. Speaker, that is the question.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield briefly to me?

Mr. ROGERS. Briefly I will yield.

Mr. DELLUMS. Mr. Speaker, the difference here is that this is a matter of historical principle, and it seems to me that there are moments when we rise above this pedestrian approach which the gentleman from Kentucky [Mr. ROGERS] is laying out. We violated people historically, and the debate was around rising to a much higher level of principle and a much higher level of integrity here.

Mr. ROGERS. Mr. Speaker, reclaiming my time, I respect and admire the gentleman from California [Mr. DELLUMS], but let me say this:

We have a historical obligation to help the poor, young people with education in my district and the gentleman's.

Mr. DELLUMS. Mr. Speaker, if the gentleman will yield, I would say to him, "So, let's not build a B-2 bomber. That costs $700 million."

Mr. ROGERS. Mr. Speaker, reclaiming my time, I am not willing to place these payments above the obligations we owe to those young kids in my district that are poor and have historically, ever since we have been a nation, been denied a proper education.

Mr. Speaker, all of us have those kinds of obligations, and are my colleagues willing to place this one above those?

In the California earthquake this body arose, and we obligated ourselves to make those payments, but we said that they must come from all program spending. It has to come off defense, it has to come off education, it has to come off all the other appropriations bills that come before the body. We said that when we said it must comply with Gramm-Rudman, the California quake emergency payments. Now we are saying with these payments that we do not so believe. These payments in effect are given a priority above the California earthquake emergency payments in that respect.

Mr. Speaker, I ask my colleagues, "Are you willing to cut the programs you're most interested in in order to make these payments?"

Mr. Speaker, I think we are obligated to these people. We need to make payments in a reasonable budgetary fashion just like we deal with the other emergency priorities that face this body, and I urge the Members to support us on this move and to defeat the Senate amendment.

Mr. SMITH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Speaker, I rise in support of the amendment.

Mr. Speaker, I rise today in strong support of legislation that would establish an entitlement program for the redress of the unjustified, mass incarceration of Japanese-American citizens during World War II.

As a veteran of the Vietnam conflict and an officer in the Army Reserve, I share a special sensitivity with those who have fought to preserve freedom and democracy for this great country. History speaks for itself in documenting that none have shed their blood more valiantly for America than those Japanese-Americans that served in the 442d Infantry, 100th battalion, while fighting Axis Forces in Europe. With over 18,000 Japanese-American soldiers receiving medals for bravery in battle, the record shows that this unit was the most heavily decorated Army combat unit in World War II.

For these patriotic soldiers to return to the United States only to be reunited with their families that were rounded up like cattle and jailed behind barbed wire compounds, underscores the depth of the transgression committed by our Government against its own citizens. The rape of the constitutional rights of these Japanese-Americans constitutes a shameful black mark on the history of our country that should never be forgotten, lest it raise its ugly head again.

The Japanese-American people have paid their dues in blood to protect America's liberty. For their emotional humiliation, physical suffering, and loss of property caused by the en masse internment, there can never be sufficient reparation. This country, however, can demonstrate its remorse by living up to its moral obligation to financially compensate, in part, those who were interned.

I urge my colleagues in Congress to support full appropriations for the entitlement redress program, and further urge the President to sign the legislation when it comes before him.

Mr. Speaker, it is also my intention to examine the records of these brave Americans, and I am certain more Medals of Honor should have been awarded to members of this famous unit.

I submit for the RECORD, Mr. Speaker, a summary outline of one of the most famous combat units ever recorded in the annals of American military history.

SUMMARY HISTORY OF 100TH BATTALION 442D INFANTRY

1. Mission: As with all infantry units, the mission of the 100th Battalion, 442d Infantry, is to close with the enemy by means of fire and maneuver in order to destroy or capture him or repell his assault by fire, close combat and counterattack. Its combat support unit provides reconnaissance, and ground surveillance, indirect fire support, antitank support and limited air defense support for the infantry battalion, infantry division or separate infantry brigade. Its headquarters unit provides command, control and supervison of the operations of the infantry battalion.

2. History: The history of the 100th Battalion, 442d Infantry begins with the attack on Pearl Harbor on December 7, 1941. At the time of the attack, there were already some 1,500 Nisei's serving in the U.S. Army most of them with the 24th and 25th Infantry Divisions, and the 298th and 299th Infantry Regiments at Schofield Barracks. Six months after Pearl Harbor, In May 1942, Army Chief of Staff George C. Marshall ordered the formation of the 100th Battalion, composed of men already in the U.S. Army. The 100th Battalion (Separate) was thus activated on 12 June 1942, at Oakland, California.

The unit took its basic training at Camp Shelby, Mississippi under LTC Farrant L. Turner and was deployed overseas in August 1943. Landing in Oran, North Africa, the battalion crossed over to Italy, attached to the 133d Infantry Regiment, 34th Infantry Division. It participated in the bitter advance up the Italian peninsula fighting in the major battles at Salerno, Valturno River, Rapido River and Cassino.

The 442d Regimental Combat Team was activated at Camp Shelby, Mississippi on 1 February 1943 with COL Charles Spence commanding. After training at Camp Shelby and in the Louisiana Army Maneuvers, the RCT deployed overseas in May 1944. Landing in Italy, it joined the 34th Infantry Division and, the 100th Infantry Battalion. Together, they participated in the Anzio and Rome-Arno campaigns and later fought in the Rhineland and North Appenines campaigns attached to the 36th Infantry Division.

While attached to the 36th, they rescued the 1st Battalion, 141st Regiment, known as the "Lost Battalion." During the rescue, the RCT became closely attached to the people of Bruyeres, France, a little town in the Vosges Mountains. A sister city relationship exists today between Bruyeres and Honolulu.

In March 1945, the RCT returned to Italy and attached to the 92d Infantry Division, participated in the Po Valley campaign, their last campaign before the end of the war.

The record of the RCT is without equal. The unit suffered 314% casualities, earned 18,143 individual decorations, participated in six campaigns and received seven Distinguished Unit Citations, three by the 100th Battalion. It emerged as the most decorated unit of its size in the U.S. Army.

The unit was inactivated in August 1946 and reactivated in the U.S. Army Reserve in July 1947. The Battalion is the only battalion-sized unit in the U.S. Army authorized its own shoulder patch.

During the period July 1947 to 13 May 1968, the Battalion underwent organizational changes from Regimental to Battle Group, to its present battalion structure. Significant events during this period were providing individual personnel replacements during the Korean War when all company grade officers and senior NCO's were recalled to active duty. The Battalion also participated in Operation Koolau with the 25th Infantry Division in 1959 and Exercise Coral Sands 11 with the 11th Infantry Brigade in 1967.

On March 13th, 1968, during the Vietnam War, the 100th Battalion, 442d Infantry was ordered to active duty and attached to the 29th Infantry Brigade (HANG) as one of its Maneuver Battalions. Its mission was to provide strategic reserve in the Pacific. Stationed at Schofield Barracks, Hawaii, the Battalion trained for eventual deployment, and provided a manpower pool of trained personnel replacements.

On an individual basis, most members of the Battalion were reassigned to Vietnam. During the period 13 May 1968 to 12 December 1970 a total of nine gallant men from the 100th Battalion, 442d Infantry gave their lives while serving in combat in the Republic of Vietnam.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself the balance of my time.

□ 1410

Mr. Speaker, I lived during the World War II period, and I spent 18 months in the Pacific. I doubt that anyone who did not live through that time could fully appreciate the attitude we had in this country, the way people felt against Japan at that time. There was really very, very strong feeling, but in spite of that fact, I always knew the internment of Japanese-Americans in those camps was wrong. I think a lot of people in this country knew it was wrong at the time, but the feeling against Japan was very strong.

Now we have two amendments before us. The Japanese-American redress bill finally was passed a couple years ago that made an authorization for appropriations. The bill should always have contained an entitlement, but it was not done in that law.

So we have amendment No. 43 that we are on at the present time, which makes the appropriation for 1991 for a maximum of $500 million. That is necessary because of a technicality in the Gramm-Rudman law. Gramm-Rudman is full of technicalities, we find out from time to time that we need to do something about them.

Amendment No. 80 provides the entitlement for the payments, but they both are really all hooked together.

Now, it is going to cost the same whether there is an entitlement or we make the payments out of discretionary funding annually. The only way you can reduce the cost is to say that we do not want to pay the bill. I do not hear anybody arguing here today that we do not want to pay the bill, but that is the only way you can reduce the cost. It is going to come out of the budget one way or another. It will not cost $1 more one way or the other. We owe the money, and the law says they are entitled to the money.

The Department only asked for $20 million for fiscal year 1990. During fiscal year 1989, they only asked for one-third of the amount needed to put together a list of eligible individuals. Out of the supplemental we appropriated the extra money so they can get the list put together of all the claimants. That list is put together now, or it soon will be.

You know, we take pride in this country in the statement that the U.S. Government has never failed to pay a mitigated obligation, but we are not paying this one on time, and unless we do something different than we have been doing, it will not be paid timely enough so we can continue to say that we never failed to pay our obligations.

Time is important in these circumstances. An aye vote is necessary on this to assure that these claims will be paid.

You know President Bush went out to California last year. He said, "I am for making these redress payments." He did not say 10 years from now. He did not say 5 years from now. He did not say 5 percent per year. He said, "I am for paying these claims. Read my lips."

If you are for paying the claims, if you are for keeping your campaign promises, then I do not know how anyone could oppose this who agreed with him at that time. If you are going to pay this bill, the only way to do it is to make it an entitlement today. You will be sure it is in the budget next spring and it will not be competing with everything else in the Budget Committee and that is what will happen if we do not do it this way. It will be competing in the Budget Committee for all these other things that everybody is for.

So I am saying to you that we really need to make sure that this promise that we made is not a hollow promise.

Vote aye for this amendment.

Mr. BRENNAN. Mr. Speaker, today we have the opportunity to repay a great debt, a moral obligation, that is long past due.

During World War II, the fears of a nation at war clouded the judgment of our leaders, and we sought a false security by taking away the liberty of our fellow Americans of Japanese descent. We called it "internment." To be honest, a more accurate word is "imprisonment."

However, we justified that action yesterday, we know today that we were wrong. There is no question about that.

There also is no question that we must somehow repay these individuals and their families for unjustly taking their freedom. They suffered greatly through that time. And now we must suffer knowing that, however we make restitution, we can never truly repay them for the indignities we thrust upon them.

Still, let us do what we can. And let us do it thinking not of our timeframe but of theirs. Many of those wronged are now between the ages of 60 and 80. Some are beyond 80. Their time is running out.

Please join me in expressing my great sorrow and my sincere apology to those individuals we wronged so many years ago. Please support the payment of restitution today.

The SPEAKER pro tempore (Mr. NAGLE). The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROGERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 249, nays 166, not voting 18, as follows:

[Roll No. 314]

YEAS—249

Ackerman	Clay	Flake
Akaka	Clinger	Foglietta
Alexander	Coleman (MO)	Ford (MI)
Anderson	Coleman (TX)	Ford (TN)
Andrews	Collins	Frank
Annunzio	Condit	Frost
Anthony	Conte	Gejdenson
Aspin	Conyers	Gephardt
Atkins	Costello	Geren
AuCoin	Coyne	Gibbons
Barnard	Craig	Gillmor
Bateman	Crockett	Gilman
Bates	Davis	Gingrich
Beilenson	de la Garza	Glickman
Bennett	DeFazio	Gonzalez
Bereuter	Dellums	Gradison
Berman	Derrick	Grant
Bilbray	DeWine	Gray
Boehlert	Dicks	Hall (OH)
Boggs	Dixon	Hamilton
Bonior	Donnelly	Hayes (IL)
Borski	Dornan (CA)	Herger
Bosco	Downey	Hertel
Boucher	Dreier	Hoagland
Boxer	Durbin	Hochbrueckner
Brennan	Dwyer	Horton
Broomfield	Dymally	Hoyer
Brown (CA)	Early	Hughes
Brown (CO)	Eckart	Hyde
Bruce	Edwards (CA)	Jacobs
Bryant	Edwards (OK)	Johnson (CT)
Bustamante	Engel	Johnston
Campbell (CA)	Espy	Jones (GA)
Campbell (CO)	Evans	Jones (NC)
Cardin	Fascell	Jontz
Carr	Fazio	Kaptur
Chandler	Feighan	Kastenmeier

Kennedy	Murtha	Slattery
Kennelly	Nagle	Slaughter (NY)
Kildee	Natcher	Smith (FL)
Kleczka	Neal (MA)	Smith (IA)
Kolbe	Nelson	Smith (NJ)
Kolter	Nowak	Smith (VT)
Kostmayer	Oakar	Smith, Robert (OR)
Lagomarsino	Oberstar	
Lancaster	Obey	Snowe
Lantos	Ortiz	Solarz
Leach (IA)	Owens (NY)	Spratt
Lehman (CA)	Owens (UT)	Staggers
Lehman (FL)	Pallone	Stallings
Lent	Panetta	Stark
Levin (MI)	Pashayan	Stokes
Levine (CA)	Payne (NJ)	Studds
Lewis (CA)	Pease	Swift
Lewis (GA)	Pelosi	Synar
Lipinski	Perkins	Thomas (CA)
Long	Pickle	Thomas (WY)
Lowery (CA)	Porter	Torres
Lowey (NY)	Poshard	Torricelli
Luken, Thomas	Price	Towns
Lukens, Donald	Rahall	Traficant
Machtley	Rangel	Traxler
Manton	Ravenel	Udall
Markey	Richardson	Unsoeld
Martinez	Roe	Upton
Matsui	Ros-Lehtinen	Valentine
Mavroules	Rose	Vander Jagt
Mazzoli	Rostenkowski	Vento
McCloskey	Roukema	Visclosky
McDermott	Roybal	Vucanovich
McGrath	Sabo	Waxman
McHugh	Saiki	Weber
McMillen (MD)	Savage	Weiss
McNulty	Sawyer	Wheat
Mfume	Saxton	Whitten
Miller (CA)	Scheuer	Williams
Miller (WA)	Schiff	Wilson
Mineta	Schneider	Wise
Moakley	Schroeder	Wolpe
Mollohan	Schumer	Wyden
Moody	Sharp	Yates
Morella	Shays	Young (AK)
Morrison (CT)	Sikorski	
Morrison (WA)	Skaggs	

NAYS—166

Archer	Grandy	McEwen
Baker	Green	McMillan (NC)
Ballenger	Guarini	Meyers
Bartlett	Gunderson	Michel
Barton	Hall (TX)	Miller (OH)
Bentley	Hammerschmidt	Montgomery
Bevill	Hancock	Moorhead
Bilirakis	Hansen	Murphy
Bliley	Harris	Myers
Browder	Hastert	Neal (NC)
Buechner	Hatcher	Nielson
Bunning	Hayes (LA)	Olin
Burton	Hefley	Oxley
Byron	Hefner	Packard
Callahan	Henry	Parker
Carper	Hiler	Parris
Chapman	Holloway	Patterson
Clarke	Hopkins	Paxon
Clement	Houghton	Payne (VA)
Coble	Hubbard	Penny
Combest	Huckaby	Petri
Cooper	Hunter	Pickett
Coughlin	Hutto	Pursell
Cox	Inhofe	Quillen
Crane	Ireland	Ray
Dannemeyer	James	Regula
Darden	Jenkins	Rhodes
DeLay	Johnson (SD)	Ridge
Dickinson	Kanjorski	Rinaldo
Dorgan (ND)	Kasich	Ritter
Douglas	Kyl	Roberts
Duncan	Laughlin	Robinson
Dyson	Leath (TX)	Rogers
Emerson	Lewis (FL)	Rohrabacher
English	Lightfoot	Roth
Erdreich	Livingston	Rowland (CT)
Fawell	Lloyd	Rowland (GA)
Fields	Madigan	Sarpalius
Frenzel	Marlenee	Schaefer
Gallegly	Martin (IL)	Schuette
Gallo	Martin (NY)	Schulze
Gaydos	McCandless	Sensenbrenner
Gekas	McCollum	Shaw
Goodling	McCrery	Shumway
Gordon	McCurdy	Shuster
Goss	McDade	Sisisky
Skeen	Stangeland	Thomas (GA)
Skelton	Stearns	Volkmer
Slaughter (VA)	Stenholm	Walgren
Smith (NE)	Stump	Walker
Smith, Denny (OR)	Sundquist	Walsh
	Tallon	Weldon
Smith, Robert (NH)	Tanner	Whittaker
	Tauke	Wolf
Solomon	Tauzin	Wylie
Spence	Taylor	Young (FL)

NOT VOTING—18

Applegate	Flippo	Mrazek
Armey	Florio	Russo
Brooks	Garcia	Sangmeister
Courter	Hawkins	Smith (TX)
Dingell	LaFalce	Watkins
Fish	Molinari	Yatron

□ 1435

Mr. VOLKMER changed his vote from "yea" to "nay."

Mr. ATKINS changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 44: Page 6, after line 2, insert:

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $42,222,000.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 44 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert: "$32,222,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 47: Page 6, after line 2, insert:

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109; allowances and benefits similar to those allowed under the Foreign Service Act of 1980 as determined by the Commission; expenses of packing, shipping, and storing personal effects of personnel assigned abroad; rental or lease, for such periods as may be necessary, of office space and living quarters of personnel assigned abroad; maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances of funds abroad; advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for field use only; and employment of aliens; $440,000.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 47 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, $440,000: *Provided*, That for fiscal year 1990 and hereafter, funds appropriated under this heading shall be available for: allowances and benefits similar to those allowed under the Foreign Service Act of 1980 as determined by the Commission; expenses of packing, shipping, and strong personal effects of personnel assigned abroad; rental or lease, for such periods as may be necessary, of office space and living quarters of personnel assigned abroad; maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances of funds abroad; advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for field use only; and employment of aliens.

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 53: Page 6, after line 6, insert:

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For necessary expenses of agencies of the Department of Justice, for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, $168,560,000, notwithstanding the reimbursements procedure contained in section 1055 of Public Law 100-690: *Provided*, That any amounts obligated from this appropriation may be used under authorities available to the organiza-

tions reimbursed in this Act: *Provided further,* That this appropriation may be used to reimburse Department of Justice agencies for any costs incurred by Organized Crime Drug Enforcement Task Forces between October 1, 1989 and the date of this Act.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 53 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, $168,560,000: *Provided,* That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed in this Act: *Provided further,* That appropriations under this heading may be used to reimburse agencies for any costs incurred by Organized Crime Drug Enforcement Task Forces between October 1, 1989 and the date of this Act.

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 54: Page 6, after line 6, insert:

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 2,600 passenger motor vehicles of which 1,850 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,423,340,000, of which not to exceed $25,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1991; of which not to exceed $8,000,000 for research and development related to investigative activities shall remain available until expended; and of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism and drug investigations: *Provided,* That for fiscal year 1990 and hereafter the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records and name checks for non-criminal justice, non-law enforcement employment and licensing purposes and for certain employees of private sector contractors with classified Government contracts, and notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services, and that the Director of the Federal Bureau of Investigation may establish such fees at a level to include an additional amount to establish a fund to remain available until expended to defray expenses for the automation of fingerprint identification services and associated costs: *Provided further,* That not to exceed $30,000 shall be available for official reception and representation expenses: *Provided further,* That not to exceed $7,500,000 for a language translation system shall remain available until expended.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 54 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 2,730 passenger motor vehicles of which 1,850 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,423,340,000, of which not to exceed $25,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1991; of which not to exceed $8,000,000 for research and development related to investigative activities and $15,000,000 for construction of Pod B of the Engineering Research Facility at Quantico, Virginia, shall remain available until expended; and of which $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism and drug investigations: *Provided,* That the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records and name checks for non-criminal justice, non-law enforcement employment and licensing purposes and for certain employees of private sector contractors with classified Government contracts, and notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this apopropriation to be used for salaries and other expenses incurred in providing these services, and that the Director of the Federal Bureau of Investigation may establish such fees at a level to include an additional amount to establish a fund to remain available until expended to defray expenses for the automation of fingerprint identification services and associated costs: *Provided further,* That not to exceed $30,000 shall be available for official reception and representation expenses: *Provided further,* That not to exceed $7,500,000 for a language translation system shall remain available until expended.

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 56: Page 6, after line 6, insert:

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed 525, for replacement only) without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $823,486,000, of which not to exceed $400,000 for research shall remain available until expended: *Provided,* That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year *Provided further,* That for fiscal year 1990 and hereafter capital assets acquired by the Immigration Legalization account may be made available for the general use of the Immigration and Naturalization Service after they are no longer needed for immigration legalization purposes: *Provided further,* That title 8, United States Code, section 1356(n) is amended by deleting "in excess of $50,000,000" after "Immigration Examinations Fee Account," and by deleting "At least annually, deposits in the amount of $50,000,000 shall be transmitted from the 'Immigration Examinations Fee Account' to the General Fund of the Treasury of the United States": *Provided further,* That not to exceed $5,000 shall be available for official reception and representation expenses.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 56 and concur therein with an amendment, as follows:

In lieu of the number "525" named in said amendment insert "620", and

In lieu of the sum "$823,486,000" named in said amendment insert "$828,300,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 57: Page 6, after line 6, insert:

IMMIGRATION EMERGENCY FUND

For necessary expenses of the emergency fund as authorized by section 404(b) of the Immigration and Nationality Act, $35,000,000.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 57 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

IMMIGRATION EMERGENCY BOARD

For necessary expenses of the immigration emergency fund as authorized by section 404(b) of the Immigration and Nationality Act, $35,000,000, to remain available until expended.

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 61: Page 6, after line 6, insert:

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase, leasing and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $401,332,000, to remain available until expended: *Provided*, That labor of United States prisoners may be used for work performed under this appropriation: *Provided further*, That not to exceed 10 per centum of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and expenses", Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 606 of this Act: *Provided further*, That of the amount appropriated under this heading, $14,000,000 shall be for the expansion of Oakdale II to 1,000 beds for the custody of criminal aliens.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 61 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase, leasing and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $401,332,000, to remain available until expended: *Provided*, That labor of United States Prisoners may be used for work performed under this application: *Provided further*, That not to exceed 10 per centum of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and expenses", Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 606 of this Act.

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 64: Page 6, line 14, strike out "$81,150,000" and insert "$80,783,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 64 and concur therein with an amendment, as follows: In lieu of the sum "$80,783,000" named in said amendment insert: "$90,783,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 67: Page 7, line 5, strike out "$69,693,000" and insert "$69,193,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 67 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following "$64,193,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 79: Page 7, after line 22, insert:

SEC. 208. Section 6077 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690, 102 Stat. 4324-25) is amended—

(1) in subsection (a) by striking "; and "(B) is not so transferred to circumvent any requirement of State law that prohibits forfeiture or limits use or disposition of property forfeited to State or local agencies.";

(2) in subsection (a) by striking "— "(A) has a value" and inserting "has a value"; and

(3) by striking subsection (c).

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 79 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

SEC. 208. Section 6077(c) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690, 102 Stat. 4325) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 80: Page 7, after line 22, insert:

SEC. 209. The Civil Liberties Act of 1988 (Public Law 100-383) is amended by adding at the end thereof the following new section:

"SEC. 110. ENTITLEMENTS TO ELIGIBLE INDIVIDUALS.

"Notwithstanding any other provision of this title, beginning on October 1, 1990 the payments to be made to any eligible individual under the provisions of this title shall be an entitlement as defined in section 401(c)(2)(C) of the Congressional Budget Reform and Impoundment Control Act of 1974 (Public Law 93-344).".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 80 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment insert the following:

SEC. 209. (a) The Civil Liberties Act of 1988 (Public Law 100-383; 50 U.S.C. App. 1989b and following) is amended by adding at the end thereof the following new section:

"SEC. 110. ENTITLEMENTS TO ELIGIBLE INDIVIDUALS.

"Subject to Sections 104(e) and 105(g) of this title, beginning on October 1, 1990, the payments to be made to any eligible individual under the provisions of this title shall be an entitlement. As used in this section, the term 'entitlement' means 'spending authority' as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974.".

(b) Section 105 of the Civil Liberties Act of 1988 is amended by adding at the end thereof the following:

"(g) LIABILITY OF UNITED STATES LIMITED TO AMOUNT IN THE FUND.—

"(1) GENERAL RULE.—An eligible individual may be paid under this section only from amounts in the Fund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in this title shall authorize the payment to an eligible individual by the United States Government of any amount authorized by this section from any source other than the Fund.

"(3) ORDER IN WHICH UNPAID CLAIMS TO BE PAID.—If at any time the fund has insufficient funds to pay all eligible individuals at such time, such eligible individuals shall, to the extent permitted under paragraph (1), be paid in full in the order specified in subsection (b).".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 82: Page 7, after line 22, insert:

SEC. 211. Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 6091 of the Anti-Drug Abuse Act of 1988, is amended by striking "1989" and inserting in lieu therof "1991".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 82 and concur therein with an amendment, as follows: In lieu of the date "1991" named in said amendment, insert "1990".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 83: Page 7, after line 22, insert:

SEC. 212. Section 506(a) of part D of title I of the Omnibus Crime Control and Safe Streets (42 U.S.C. 375(a)) is amended to read as follows:

"SEC. 506. (a) Of the total amount appropriated for this part in any fiscal year, the amount remaining after setting aside the amount to be reserved to carry out section 511 of this title shall be set aside for section 502 and allocated to States as follows:

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 83 and concur therein with an amendment, as follows: In lieu of "part D" named in said amendment insert "part E".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore (Mr. NAGLE). The gentleman from Iowa [Mr. SMITH] will be recognized for 30 minutes, and the gentleman from Kentucky [Mr. ROGERS] will be recognized for 30 minutes.

□ 1440

PARLIAMENTARY INQUIRY

Mr. HUGHES. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. NAGLE). The gentleman will state it.

Mr. HUGHES. Mr. Speaker, I am opposed to the motion of the gentleman from Iowa to recede and concur. Mr. Speaker, would I be entitled to time if my colleague, the gentleman from Kentucky [Mr. ROGERS] is not in opposition?

The SPEAKER pro tempore. Is the gentleman from Kentucky [Mr. ROGERS] opposed or in opposition to the motion?

Mr. ROGERS. Mr. Speaker, I am not in opposition to the motion.

Mr. HUGHES. Mr. Speaker, I am in opposition to the motion.

The SPEAKER pro tempore. The gentleman from Iowa [Mr. SMITH] will be recognized for 20 minutes, the gentleman from Kentucky [Mr. ROGERS] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, this involves State and local drug grants. In fiscal year 1988 we appropriated $75 million for State and local grants, and in fiscal year 1989 they got $150 million.

In this bill we provide $150 million, and when that amount is added to the

$300 million in title IV of the transportation bill will make available $450 million for fiscal year 1990. That is three times as much for State and local drug grants as was available 2 years ago.

The law requires that they set up a system, of course, for distributing these grants. Frankly, I am very concerned that they very fully monitor these grants. I do not want to happen to this program what happened to LEAA. That program was so loose and got so bad that we finally had to kill it.

Each State needs to do a good job of administering these grants and make sure that they go for the purposes for which they were authorized and intended.

So in this one bill the States are getting over triple the amount of money for this new program they received in fiscal year 1989.

Now last year there was a minimum amount of $500,000 provided to each State.

That turned out to be a formula of four-tenths of 1 percent.

Now, if you triple the program, the Senate said, then you need to come somewhere close to tripling the minimum amount of money going to each State. I am telling you what the Senate position was on this.

The Senate said then we need to go to four-tenths of 1 percent, and as we increase the program or reduce the program, either one, the minimum amount going to each State should go up and down by a like percentage.

Now I want to tell you that the Senate was very strong about this.

I do not like to change authorizations in an appropriation act, I do not like to agree to such authorizations; I always consult with the authorizing committee and I do my very best to go along with the authorizing committee. But the Senate was not only very strong about this, but the supporters of doing this were the strong supporters in the Senate of increasing the amount of these grants.

Now I want to tell you, and I hope that some of the people in the State and local governments will read this in the RECORD, the support for increasing State and local grants is not overwhelming.

People remember what happened last summer when we had a supplemental around here to increase State and local grants of $100 million. The States were not to be heard from. They were not interested in a mere $100 million. They did not help one bit.

We never got one communication from them. They did not seem to be interested.

But now when we increase it to $450 million, they start looking at a few dollars here and a few dollars there. And, "If the formula were this or that way, I might get a few extra dollars."

So that is what you have been hearing about.

Now I did not want to do this, but I went along with the Senate finally because the strong supporters of increasing the amount of money were the people who wanted to go to four-tenths of 1 percent.

Every State will get more money in 1990 than they got in 1989. For example, let us take some of the big States: California in 1989 got $10,782,000. Under this bill they will get $37,203,000. That is a $26,421,000 increase.

Let us take Florida, for example, Florida got $4,969,000 last year. Under this bill they get $17,111,000. That is a $12,142,000 increase.

So every State gets an increase. But it is true, if you have one formula rather than another you get a few dollars more or a few dollars less.

I have laid out to you what the Senate position is and what the facts are. I am asking you for an "aye" vote.

This is one of those rare occasions where we did something that the legislative committee did not agree to in advance and under the circumstances I felt it was about all we could do.

So I ask for an "aye" vote on the amendment.

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. HUGHES. First of all, Mr. Speaker, I want to say to my colleague, the gentleman from Iowa, NEAL SMITH, that he is my friend today, and he is going to be my friend tomorrow. He is an ace of a guy to work with. We are lucky as an authorizing committee to have NEAL SMITH of Iowa and HAL ROGERS of Kentucky to work with because they really have been very cooperative, and accommodating. They are reasonable. They just happen to be wrong in this instance.

I know NEAL cannot have his heart in advocating his position on amendment 83 today because it basically is fair or reasonable. I understand what happened on the Senate side. This could be called the Great Train Robbery of 1989, if they get away with it, because what they are trying to do is change the funding formula to further benefit the small States at the expense of the larger States. They want a permanent funding change for the formula for the State and local assistance program. The proponents would change the laws floor of $500,000 that we wrote into the bill many years ago to give every State a stake in the local assistance program regardless of size. It gives small States a minimum amount so they can develop a grant program. Even though that floor was biased in favor of small States, we felt it was fair, it was reasonable. The formula we developed in 1982 was crafted to deal with the larger States and their concerns and the smaller States and their concerns.

We had the larger cities wanting more control over their share of the justice assistance funds than the States wanted to give them. The Governors wanted control over those funds. The cities and townships and communities wanted an automatic passthrough of their funds without having to answer to the State.

We wrote legislation that we think is fair to all concerned—that balances all of those interests and concerns. Now the Senate is attempting to change that formula in the appropriations bill. They are writing legislation in an appropriations bill to change the permanent formula without hearings or a national basis.

Mr. Speaker, I rise in opposition to the motion to recede and concur in the Senate amendment No. 83 with an amendment. Frankly, if the gentleman from Iowa is successful, States such as Florida, California, Michigan, Ohio, Illinois, Indiana, Massachusetts, Missouri, New Jersey, New York, North Carolina, Pennsylvania, Tennessee, Texas, Virginia, Washington, Wisconsin, and on and on I could go, are all going to have moneys taken away from them.

I think most people will acknowledge that much of our problem today is in the larger States, and in particular in the larger cities.

If you look at it from the standpoint of population, there is already a bias in the legislation in favor of smaller States. About $2 per capita now goes to smaller States compared to about $1 per capita for larger States.

So there is already a bias in favor of small States. In fact, if the effort of the Senate prevails, it is going to be some 3-to-1 bias in favor of small communities.

Now, Mr. Speaker, that is unfair, that is unreasonable. It does great violence to the whole legislative process and to the Justice Assistance Program. I would urge my colleagues to vote "no" on the motion to recede and concur and support the existing formula which has worked. It is fair, "it ain't broke" and we should not try to fix it.

□ 1450

Mr. EDWARDS of California. Mr. Speaker, will the gentleman from New Jersey [Mr. HUGHES] yield?

Mr. HUGHES. Mr. Speaker, I yield to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I urge that the suggestion made by our colleague, the gentleman from New Jersey [Mr. HUGHES], very much involved in the war against drugs, that his views be respected. Does the gentleman from New Jersey think that this money should be distributed on the basis of population?

Mr. HUGHES. Of course, that is the way the program passed the House unanimously, and my colleague knows there were not very many folks in the Congress interested in the State and local assistance programs. We resurrected it from the ashes from the old Law Enforcement Assistance Administration, and we developed a program for the States that was fair and reasonable. The States, big and little, came together, large cities and small cities came together on behalf of a formula that has worked. The gentleman is absolutely correct. It is a good formula. It is a fair formula, and we should stay with the existing formula.

Mr. EDWARDS of California. Mr. Speaker, I thank the gentleman for his contribution, and I urge that the gentleman from New Jersey's suggestion be honored.

Mr. EDWARDS of California. Mr. Speaker, this is a simple matter of fairness. Federal drug money should be allocated to the States on the basis of need, and the best way to determine need is based on population. The law already has a minimum $500,000 grant per State. Regardless of its size, regardless of the extent of its crime and drug problem, every State gets half a million dollars. Beyond that, the money is currently allocated on the basis of population, and that is the way it should remain.

The Senate amendment, without any justification, casts aside a fair system that was produced through negotiation and compromise. What are the reasons for this change, where is the data supporting this Senate amendment? There are no reasons for it, no data supporting it.

It is difficult to compare crime and drug situations from State to State. Crack is epidemic in some place, not in others. PCP is a problem is some areas, not others. The only fair, workable way to determine need is on the basis of population. States with the greatest need are the more populous States.

Three hundred Members of this body are from States that would lose drug money if we concur in the Senate amendment. I urge my colleagues to vote against the motion to recede and concur. This Senate amendment would wreck a decent compromise and hurt a majority of Americans.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

I do not think we will take the full time on this amendment. I certainly hope not.

I rise in support of the chairman's motion to concur in the Senate amendment, because I think it is the fair way for Members to go about allocating their scarce moneys. This amendment again gives each State, based on its population, a certain amount of money, as it should, and then for the additional moneys it gives each State four-tenths of 1 percent. I do not know any more fair way to go about allocating scarce moneys, counting population, and then what is left, giving it to each State in the same percentage.

Again, as the chairman has said, this Member first became aware of other States' concerns about the Senate provision only after the conference was over. I wish we had known before the conference was over. I have some concerns. A letter came from the Illinois delegation. No matter which State a Member comes from, each State will get a tremendous increase over last year's moneys. We have increased the overall funding up to $450 million from $150 million. We have tripled the amount of money, and each State will get an additional sum of money.

Let me say this about some of the small States. I come from a small State that happens to be one of the Nation's largest producers of marijuana, not something we are proud of. Nevertheless, it is there. State and local police agencies are making enormous progress to eradicate the marijuana crop. Yet it is one of the Nation's biggest suppliers of marijuana. The State of Kentucky, as does other small States, needs additional funds for the war on drugs. I think it is a fair allocation of moneys, all States getting additional funds.

New Jersey, I would point out to the gentleman, will receive not $3.3 million which you received last year, but $11.3 million, almost an $8 million increase. I respect the gentleman very highly. I respect the distinguished gentleman who is a fighter of crime.

I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, I understand the gentleman, and the gentleman from Kentucky benefits from the new formula, as do most smaller States. However, when we wrote the formula, and it was written in our committee after many, many hearings, and in no hearing that I am aware of on the Senate side. We took into account the fact that the fund would grow.

For instance, the authorization was $350 million for this year, goes to $400 million next year, and such sums as may be appropriate in the following years. So the formula was based upon population, with the $400,000 or $500,000 on the supposition that we would have $400 million to spend, so the argument that States are going to get more, that it true, because they will get more because we are funding more, but the formula is fair because it is based on population, and the population and the distribution within the States are based upon the amount of money that is spent on their criminal justice system. So it is a fair formula.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I am delighted to point out we are $50 million over the authorization for this program. If we were not $50 million over, the gentleman might have a better argument. But we are $50 million over the authorization. We have put enough in to give every State more than they would have gotten if we stayed within the authorization.

Mr. ROGERS. Mr. Speaker, I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, the amount available is irrespective as to whether the question of the formula is fair. Members are trying to create a new formula, without hearings, without taking into account the fact that most of our problems today were in the large cities, the bigger States, States like Pennsylvania, New Jersey, California, New York, and other larger States. We have humongous problems, and the program was designed to be targeted to those States, based upon population. What could be fairer than that?

Kentucky gets more than their $500,000 minimum, and it will get more under this program. What, in fact, the amendment would do would be to give smaller States 0.4 percent of the amounts being allocated, and that is not fair. That is not fair. That is why there is so much opposition to it.

The gentleman from Kentucky says that we did not consult with him. The fact of the matter is that the chairman of the full committee wrote to the Committee on Appropriations to make known to the gentleman our opposition to it. As the gentleman from Iowa, I am sure, will concede, I indicated as soon as I found out that some agreement had been arrived at, that we could not accept that. It does great violence to the program, without hearings, without any consultation in the context of an appropriations bill.

Mr. ROGERS. Mr. Speaker, reclaiming my time, this gentleman did not receive notice from the Committee on the Judiciary on this side. Of course, the language that we are talking about came over from the Senate, and as I say, there was no discussion or no awareness on our part while we were in conference in the Senate of the kind of opposition that we are hearing today.

Nevertheless, I think it is a fair approach. I think the Senate approach is fair. Each State, based on its population, gets a substantial sum of money based on that population, and if a Member is from a large State, they get more. Smaller States get less, and the other part of the population, all States get 0.4 percent, which is a minuscule amount, but nevertheless an equalizing factor.

Mr. Speaker, I urge our colleagues to support the chairman's amendment.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. STAGGERS].

Mr. STAGGERS. Mr. Speaker, I rise in support of the conference report which provides more equity in the distribution of funds under the Drug Control and System Improvement Grant Program.

Mr. Speaker, I must remind my colleagues that the war on drugs is not limited to the urban areas of this country. As drug traffickers find more barriers to pedaling their deadly wares in the cities, we find them moving into the rural areas of America where police forces are less equipped and poorly manned to combat this recent invasion. In 1987, West Virginia narcotic drug arrests increased by nearly 28 percent over 1986. The interstate highways which run through West Virginia serve as a delivery route for drug trafficking looking for an easy market in the small communities and rural areas along these routes.

This year, a Newsweek magazine story highlighted the increasing problem which drug abuse and drug-related crime is causing in rural America. It pointed to a recent survey of 100 southern sheriffs in which 83 stated that crack cocaine is a significant problem in their areas. Moreover, a survey by the Drug Enforcement Agency highlights the rapid appearance of this deadly drug in rural areas.

Critics of the change in formula claim that there are more drug-related arrests in urban areas than rural. However, I contend that those higher numbers are due more to the greater number of law enforcement personnel in urban areas, rather than proof that the drug problem is minor in rural America. Indeed, rural areas lack the necessary resources to increase their arrest figures for lack of manpower. Rural poverty levels are now 35 percent higher than those in urban areas. In rural America we simply do not have the tax base for a great increase in law enforcement resources as do urban areas. For instance, in rural America, one sheriff may represent the only law enforcement in an entire county. Through utilization of the grant program for drug funds, these rural areas can form task force programs which integrate Federal, State, and local law enforcement agencies and prosecutors for the pooling of resources. This program has been successful in providing personnel training, added manpower, and more sophisticated equipment to combat the growing scourge of drug-related crime in rural America.

While the battle against drug abuse and drug-related crime has been focused on the urban areas of this country, we must not ignore the evidence of a growing problem in rural America. We missed the opportunity to stem the tide of drug trafficking in our cities before it reached epidemic proportions; we now have the critical opportunity to commit the resources to law enforcement efforts in rural America, thereby addressing the crisis in the most effective manner possible.

The conference agreement on the funding formula for the Drug Control and System Improvement Grant Program is prudent public policy by recognizing the need for correcting an unfair urban bias in the formula. The Congress is constantly accused of allowing problems to get too big before we take corrective action—the S&L crisis is the perfect example. By supporting the conference agreement, we will be exhibiting praiseworthy action in proactive policymaking.

Mr. HUGHES. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. MCCOLLUM]., the distinguished ranking minority member of the Subcommittee on Crime, who helped write the formula.

Mr. MCCOLLUM. Mr. Speaker, I rise to support the gentleman from New Jersey [Mr. HUGHES'] efforts in this case. I think the gentleman from New Jersey is correct in his approach to this.

We have debated many times the formula in our committee. The formula, as it was originally written, to distribute these law enforcement assistance grants is, indeed, fair. It is a formula that says there is a base amount of $500,000 for every State, regardless of its size. The rest of the pot is divided per capita, depending on the size of the State, the number of people in your population. That is what the State will get.

When Members think about it, that is where the crime problems are, where the people are, the largest cities, the street crime. In the cities is where we are trying, with the President's war on drugs, to devote a good deal of our resources. It is the intent of the Bennett plan, to attack those resources. That is why this money is so important, that it be kept in the same formula we have had all along and not to change the formula.

□ 1500

Some Members say that this change that came out of this conference which the Senate proposed is fair, that somehow we have more money and what-have-you, and that simply is not so. It does not make any difference what the money is in terms of the total amount. The fact of the matter is that if we make an increase of three times, which is what we are doing, the base amount that each and every State gets before we start dividing it per capita, we have significantly increased the amount the smaller populated States get per capita and we have significantly decreased the amount that those States that are larger in population get, and then we have significantly reduced the amount that law enforcement people get. And that is really the important thing. That is where the bulk of our law enforcement problems are.

Nobody is trying to be unfair to smaller States in this at all. In fact, the formula has been accepted for years. The problem is that we only have so much of a resource in the Congress, and to take away from it, as this new change that is proposed would do, and never having it come through our committee, is just plain wrong. It does not make sense. It does not get the job done.

Mr. Speaker, I urge my colleagues to look at the formula. Look at the States Members are from, and look at what is going to happen. No matter what State Members are from, in the name of fairness and in the name of winning the war against drugs, I ask the Members to support this effort of the gentleman from New Jersey [Mr. HUGHES] and vote no on this amendment.

Mr. HUGHES. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in favor of what the gentleman from New Jersey [Mr. HUGHES] is doing. It is something which I think goes to the heart of the process around here.

We have in this particular program a formula that has been appropriately authorized. It is something which has been working. It is something which has been in the law, and all of a sudden the Appropriations Committee goes over and talks to the Senate and comes back here with a brand new formula that no one on the authorizing committee has ever heard of.

How in the world can we continue to say that we have a legitimate process if in fact that is going to continue to be the pattern of operation? The Senate is not acting in the best interest of the legislative process when they continue to pull this kind of stunt and when the appropriators continue to go along with it.

I realize it is a tough job to go over and try to deal with these guys that are being irresponsible, but somewhere along the line we have to stand up and say, "That's too much, and we do not accept this."

It is one thing for Members to come here and tell us we do not have an authorization bill in place and so, therefore, we have to do what the Senate wants to do because we have no authorization bill in place. But in this case that is not what we are dealing with. In this case we have a program which is in place, one which has been duly authorized, and we are still trying to do a brand new authorization in this bill. I say to the Members that is wrong. Any Members around here who serve on authorizing committees ought

to be appalled at what is talking place here.

So I hope that we will support the gentleman from New Jersey [Mr. HUGHES] and vote no with him so that we can get back to the kind of process that assures us that all of us have some input in the policies, because at the present time this kind of action denies to most of the Members of this body their appropriate opportunity to influence the policies that are being implemented.

Mr. HUGHES. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, it has been a pleasure to work with the gentleman as the chairman of the Subcommittee on Crime of the Committee on the Judiciary.

This argument has been pretty well crystallized already by the few speakers who have risen and basically explained their arguments. The gentleman from Iowa [Mr. SMITH] for whom I have great respect, has given us his overview, and it is one that I hope we will take with a grain of salt.

It is all true, yes, that every State is going to get more money. The difference is, however, that a number of States are going to get less than they would have under the new formula. Let us be realistic about this. This is a new formula that the other body, without hearings, without testimony, without any groundwork or foundation, as far as we are concerned—certainly not the kind of work we did over here for the almost 2 years it took to get this bill passed into law—just decided at the time of the conference that they were going to put in. That is not the way to do business. That may be the way they do business in the other body, but that is not the way we have done it here. There was careful thought and careful analysis given this. Strict attention was given to the needs of individual States before we decided on the final work product. Not only is it unfair of the Senate to think that we should be able to change that without the same kind of analysis, but it is extremely disingenuous.

How can we stand up and claim, as I am sure some of the Members of the other body will do with great vehemence, that, therefore, drug fighting and antidrug efforts are improved when in fact the work product they turn out cuts out huge sums of money from places like inner-city Chicago or Boston or cities in New Jersey or upstate New York or, I might add, my own home State of Florida? That is not the way to fight drugs.

We on this floor made a significant criticism of the President in his new drug program because in order to fight drugs he was going to take $305 million which had already been appropriated for immigration impact funds and help States that have the biggest impact and that have had to take money out of their own pockets for a Federal matter.

Are we now going to turn around and give credibility to this approach by verifying what the Senate did? How could we do that? That would be working against everything we stood for before, Republicans and Democrats.

This is not a partisan issue. Oh, yes, tangentially from time to time everything becomes partisan, but the question is: Is the fight against drugs really a partisan issue? It is not. The question is: What is best for everybody?

This House made a strong, legitimate, concerted effort to find a middle ground. The Senate is now in the process of making that unworkable and unfair, and I urge the Members to reject that approach and stand with the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I meant what I said about the working relationship that I have and that my staff has with the subcommittee of the Committee on Appropriations. It has been a splendid relationship.

I really am somewhat disappointed that we have any legislation in the context of the appropriation bill, but I recognize that this was forced upon the subcommittee of the Committee on Appropriations by the Senate. It was not in the House appropriations bill. And I understand that my colleague, the gentleman from Iowa, cannot have his heart in it because he knows that what he is doing is basically wrong.

We are talking about a bias, more of a bias than presently exists, in a very important program for State and local police departments. There is already a bias in favor of small States. It is about a 2-to-1 bias. If Senate amendment 83 becomes law, the least populous State would receive about $5 for each person residing in their States. Our most populous States would then receive only about $1.50 per resident. That is simply not fair.

So, Mr. Speaker, we must reject the motion to recede and concur and stay with the existing formula. If there are Members out there who believe we can improve on the formula, the proper process is to come to the authorizing committee that has lived with this legislation for 8 years and make their case, but not attempt to slip it in the back door by a Senate amendment in a conference report growing out of a House/Senate conference.

Mr. Speaker, I urge a "no" vote.

□ 1510

Mr. Speaker, I urge a no vote, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. NAGLE). Does the gentleman from Minnesota have any more requests for time?

The gentleman from Kentucky [Mr. ROGERS]; I apologize. I do not know why I want to move him to another State.

Mr. ROGERS. The Speaker pro tempore keeps wanting to move me to Minnesota.

The SPEAKER pro tempore. The Chair apologizes.

Mr. ROGERS. Mr. Speaker, I urge support for the motion offered by the subcommittee chairman, the gentleman from Iowa [Mr. SMITH], and ask for a yes vote.

Mr. Speaker, I yield back the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, I want to very briefly summarize this in a different way.

The authorization was $400 million. We added $50 million; the Senate did this, and we went along with it, $50 million over the authorization. Of that $50 million, $18 million will be used for this purpose.

Mr. Speaker, every State will get more than they would have if we had not found the $50 million somewhere to go over the authorization. We are staying with the same percentage, but a different dollar minimum figure.

So, it amounts to this: If we had found $50 million above the authorization and not changed the formula, of course somebody would have gotten a little bit more, but everybody is going to get more than they would if we stayed within the original authorization.

The Senate was very strong on this; they were strong supporters of the State and local grant program, and maybe the best thing to do is go back to a $150 million funding level for the program and the old formula. Anyway we came out with more support for State and local grants.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, the gentleman from Iowa [Mr. SMITH] has been very accommodating.

It does not make any difference how much money it is. We wrote a fair formula. The present formula is the same whether applied to $50 million or $500 million.

The question is one of fairness—as well as process.

Mr. SMITH of Iowa. Well, Mr. Speaker, the other question is whether it makes any difference whether it is a $450 million program or a $150 million program. Some people think State and local governments are not

going to use these funds very well anyway. So, we had an opportunity to discuss that question. As long as we have good support in the Senate for a high funding level, we have to go along with the Senate in the change in the formula if we would like to have more money in the program.

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa.

The question was taken, and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. HUGHES. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 123, nays 287, not voting 23, as follows:

[Roll No. 315]

YEAS—123

Akaka	Hopkins	Schaefer
Alexander	Hubbard	Schiff
Anthony	Huckaby	Schneider
Baker	Inhofe	Schroeder
Bates	Johnson (CT)	Shays
Bereuter	Johnson (SD)	Shuster
Bevill	Kennelly	Sikorski
Bilbray	Kolbe	Skaggs
Boggs	Kyl	Skeen
Brennan	Leach (IA)	Slattery
Browder	Lightfoot	Smith (IA)
Brown (CA)	Livingston	Smith (NE)
Brown (CO)	Machtley	Smith, Denny (OR)
Bunning	Marlenee	Smith, Robert (NH)
Callahan	Mazzoli	Snowe
Campbell (CO)	McCrery	Spence
Carper	McCurdy	Spratt
Craig	Meyers	Staggers
de la Garza	Moakley	Stallings
DeFazio	Mollohan	Stangeland
Derrick	Montgomery	Stump
Dickinson	Morrison (CT)	Synar
Dorgan (ND)	Nagle	Tallon
Douglas	Natcher	Tauke
Dwyer	Nielson	Tauzin
Early	Oberstar	Taylor
Edwards (OK)	Owens (UT)	Thomas (WY)
English	Parker	Traxler
Erdreich	Patterson	Udall
Espy	Penny	Vento
Gejdenson	Perkins	Vucanovich
Gibbons	Rahall	Weber
Glickman	Ravenel	Wheat
Grandy	Rhodes	Whittaker
Hammerschmidt	Richardson	Whitten
Hansen	Roberts	Williams
Harris	Robinson	Wise
Hayes (LA)	Rogers	Wyden
Hefley	Rose	Young (AK)
Hefner	Rowland (CT)	
Hoagland	Sabo	
Holloway	Saiki	

NAYS—287

Ackerman	Beilenson	Boxer
Anderson	Bennett	Broomfield
Andrews	Bentley	Bruce
Annunzio	Berman	Bryant
Archer	Bilirakis	Buechner
Aspin	Bliley	Burton
Atkins	Boehlert	Bustamante
AuCoin	Bonior	Byron
Bartlett	Borski	Campbell (CA)
Barton	Bosco	Cardin
Bateman	Boucher	Carr
Chandler	Hoyer	Pallone
Chapman	Hughes	Panetta
Clarke	Hunter	Parris
Clay	Hutto	Pashayan
Clement	Hyde	Paxon
Clinger	Ireland	Payne (NJ)
Coble	Jacobs	Payne (VA)
Coleman (MO)	James	Pease
Coleman (TX)	Jenkins	Pelosi
Collins	Johnston	Petri
Combest	Jones (GA)	Pickett
Condit	Jones (NC)	Pickle
Conte	Jontz	Porter
Conyers	Kanjorski	Poshard
Cooper	Kaptur	Price
Costello	Kasich	Pursell
Coughlin	Kastenmeier	Quillen
Cox	Kennedy	Rangel
Coyne	Kildee	Ray
Crane	Kleczka	Regula
Crockett	Kolter	Ridge
Dannemeyer	Kostmayer	Rinaldo
Darden	LaFalce	Ritter
Davis	Lagomarsino	Roe
DeLay	Lancaster	Rohrabacher
Dellums	Lantos	Ros-Lehtinen
DeWine	Lehman (CA)	Rostenkowski
Dixon	Lehman (FL)	Roth
Donnelly	Lent	Roukema
Dornan (CA)	Levin (MI)	Rowland (GA)
Downey	Levine (CA)	Roybal
Dreier	Lewis (CA)	Sarpalius
Duncan	Lewis (FL)	Savage
Durbin	Lewis (GA)	Sawyer
Dymally	Lipinski	Saxton
Dyson	Lloyd	Scheuer
Eckart	Long	Schuette
Edwards (CA)	Lowery (CA)	Schulze
Emerson	Lowey (NY)	Schumer
Engel	Luken, Thomas	Sensenbrenner
Evans	Lukens, Donald	Sharp
Fascell	Madigan	Shaw
Fawell	Manton	Shumway
Fazio	Markey	Sisisky
Feighan	Martin (IL)	Skelton
Fields	Martin (NY)	Slaughter (NY)
Flake	Martinez	Slaughter (VA)
Foglietta	Matsui	Smith (FL)
Ford (MI)	Mavroules	Smith (NJ)
Ford (TN)	McCandless	Smith, Robert (OR)
Frank	McCloskey	Solarz
Frenzel	McCollum	Solomon
Frost	McDade	Stark
Gallegly	McDermott	Stearns
Gallo	McEwen	Stenholm
Gekas	McGrath	Stokes
Gephardt	McHugh	Studds
Geren	McMillan (NC)	Sundquist
Gillmor	McMillen (MD)	Swift
Gilman	McNulty	Tanner
Gingrich	Mfume	Thomas (CA)
Gonzalez	Michel	Thomas (GA)
Goodling	Miller (CA)	Torres
Gordon	Miller (OH)	Torricelli
Goss	Miller (WA)	Towns
Gradison	Mineta	Traficant
Grant	Moody	Unsoeld
Green	Moorhead	Upton
Guarini	Morella	Valentine
Gunderson	Morrison (WA)	Vander Jagt
Hall (OH)	Mrazek	Visclosky
Hall (TX)	Murphy	Volkmer
Hamilton	Murtha	Walgren
Hancock	Myers	Walker
Hastert	Neal (MA)	Walsh
Hatcher	Neal (NC)	Waxman
Hawkins	Nelson	Weiss
Hayes (IL)	Nowak	Weldon
Henry	Oakar	Wilson
Herger	Obey	Wolf
Hertel	Olin	Wolpe
Hiler	Ortiz	Wylie
Hochbrueckner	Owens (NY)	Yates
Horton	Oxley	Young (FL)
Houghton	Packard	

NOT VOTING—23

Applegate	Fish	Molinari
Armey	Flippo	Russo
Ballenger	Florio	Sangmeister
Barnard	Garcia	Smith (TX)
Brooks	Gaydos	Smith (VT)
Courter	Gray	Watkins
Dicks	Laughlin	Yatron
Dingell	Leath (TX)	

□ 1532

Messrs. RANGEL, COYNE, JOHNSTON of Florida, and TANNER, Mrs. BYRON, and Messrs. DYSON, MATSUI, ATKINS, MANTON, and MYERS of Indiana changed their votes from "yea" to "nay."

Mrs. VUCANOVICH changed her vote from "nay" to "yea."

So the motion was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. BALLENGER. Mr Speaker, during House consideration of Senate amendment No. 83 to the conference report on H.R. 2991, making appropriations for the Departments of Commerce, State, and Justice, I was present on the House floor and cast my vote. However, for some reason, it was not recorded. I would like the RECORD to show that I case a "nay" vote on rollcall vote No. 315.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 3015, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, October 26, 1989, to file a conference report on the bill (H.R. 3015) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990, and for other purposes.

The SPEAKER pro tempore (Mr. NAGLE). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CONFERENCE REPORT ON H.R. 2991, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

The SPEAKER pro tempore. The Chair recognizes the gentleman from Iowa [Mr. SMITH].

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House insist on its disagreement to the amendment of the Senate numbered 83.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 86: Page 8, after line 2, insert:

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Department of State and the Foreign Service, not

otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945) and expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); telecommunications; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, conventions, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674, except that passenger motor vehicles with additional systems and equipment may be purchased without regard to any price limitation otherwise established by law as authorized by 31 U.S.C. 1343(c), $1,743,967,000, of which $33,498,000 is for the construction security program, to remain available until expended, and in addition not exceed $500,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 38(b)(3)(A) of such Act (section 1255(c) of Public Law 100-204). In addition, not to exceed $29,152,000, to remain available until expended, may be transferred to this appropriation from "Acquisition and Maintenance of Buildings Abroad: *Provided further,* That the level of service provided through the Foreign Affairs Administrative Support System (FAAS) shall be commensurate with the amounts appropriated, or otherwise made available therefor in Appropriations Act Abroad."

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 86 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment insert the following:

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945) and expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); telecommunications; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, conventions, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674, except that passenger motor vehicles with additional systems and equipment may be purchased without regard to any price limitation otherwise established by law as authorized by 31 U.S.C. 1343(c), $1,741,239,000, and in addition not to exceed $250,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 38(b)(3)(A) of such Act (section 1255(c) of Public Law 100-204). In addition, not to exceed $51,152,000, to remain available until expended, may be transferred to this appropriation from "Acquisition and Maintenance of Buildings Abroad": *Provided,* That the level of service provided through the Foreign Affairs Administrative Support System (FAAS) shall be commensurate with the amounts appropriated, or otherwise made available therefor in Appropriations Acts.

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 87: Page 8, after line 2, insert::

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, $18,672,000.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 87 and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment insert the following "$21,000,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 95: Page 8, after line 15, insert:

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress $668,011,000: *Provided,* That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement of the amendment of the Senate numbered 95 and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment insert the following "$622,000,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 96: Page 8, after line 15, insert:

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

The payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, including arrearages incurred through fiscal year 1989, $111,184,000.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 96 and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment insert the following "$81,500,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 106: Page 8, after line 16, insert:

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, $14,100,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 106 and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment insert the following "$13,900,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 110: Page 9, after line 2, insert:

SEC. 303. For fiscal year 1991, the Department of State shall submit a budget justification document to the Committees on Appropriations which provides function, subfunction, and object class information for each program, project, activity, subactivity, and bureau within the Department.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 110 and concur therein with an amendment, as follows: In lieu of matter inserted by said amendment insert the following:

SEC. 302. For fiscal year 1992, the Department of State shall submit a budget justification document to the Committees on Appropriations which provides function, subfunction, and object class information for each activity, subactivity, and bureau within the Department.

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 115: Page 9, line 19, after "$3,300,000" insert "of which $3,338,000 shall remain available until expended: *Provided*, That for fiscal year 1990 and hereafter, funds appropriated under this heading shall be available for improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances; special clothing for workmen; and personal and other services (including temporary labor without regard to the Classification and Retirement Acts, as amended), and for snow removal by hire of men and equipment or under contract, and for the replacement of electrical transformers containing polychlorinated biphenyls both, without compliance with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5)".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 115 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following ", of which $2,121,000 shall remain available until expended: *Provided*, That for fiscal year 1990 and hereafter, funds appropriated under this heading shall be available for improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances; special clothing for workmen; and personal and other services (including temporary labor without regard to the Classification and Retirement Acts, as amended); and for snow removal by hire of men and equipment or under contract, and for the replacement of electrical transformers containing polychlorinated biphenyls, both witout compliance with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5)".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 117: Page 10, line 16, strike out "$1,349,803,000" and insert "$1,289,924,000 (including the purchase of firearms and ammunition)".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 117 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following: "$1,287,424,000 (including the purchase of firearms and ammunition)".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 119: Page 11, line 6, strike out "$133,260,000" and insert "$118,787,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 119 and concur therein with an amendment, as follows: In the lieu of the matter stricken and inserted by said amendment, insert "$86,627,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 122: Page 11, line 14, strike out "$58,700,000" and insert "$54,700,000, to remain available until expended: *Provided*, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 122 and concur therein with an amendment, as follows: In the lieu of the matter stricken and inserted by said amendment, insert $54,700,000, to remain available until expended: *Provided*, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code: *Provided further*, That for fiscal year 1990 and hereafter, funds appropriated under this heading shall be available for refreshment of jurors".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 124: Page 11, line 22, strike out "$32,670,000" and insert "advertising and rent in the District of Columbia and elsewhere, $34,670,000 of which an amount not to exceed $5,000 is authorized for official reception and representation expenses".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 124 and concur therein with an amendment, as follows: In lieu of the sum "$34,670,000" named in said amendment, insert the following "$33,670,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 128: Page 12, after line 13, insert:

SEC. 404. Notwithstanding any other provision of law, for fiscal year 1990 and hereafter, (a) The Administrative Office of the United States Courts, or any other agency or instrumentality of the United States, is prohibited from restricting solely to staff of the Clerks of the United States Bankruptcy Courts the issuance of notices to creditors and other interested parties. (b) The Administrative Office shall permit and encourage the preparation and mailing of such notices to be performed by or at the expense of the debtors, trustees or such other interested parties as the Court may direct and approve. (c) The Director of the Administrative Office of the United States Courts shall make appropriate provisions for the use of and accounting for any postage required pursuant to such directives.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 128 and concur therein with an amendment, as follows: In lieu of the section designation in said amendment, insert "403".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 129: Page 12, after line 13, insert:

SEC. 405. For fiscal year 1990 and hereafter, such fees as shall be collected for the preparation and mailing of notices in bankruptcy cases as prescribed by the Judiciary Conference of the United States pursuant to 28 U.S.C. 1930(b) shall be deposited to the "Courts of Appeals, District Courts, and Other Judicial Services, Salaries and Expenses" appropriation to be used for salaries and other expenses incurred in providing these services.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 129 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 404. (a) For fiscal year 1990 and hereafter, such fees as shall be collected for the preparation and mailing of notices in bankruptcy cases as prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. 1930(b) shall be deposited to the "Courts of Apeals, District Courts, and Other Judicial Services, Salaries and Expenses" appropriation to be used for salaries and other expenses incurred in providing these services.

(b) JUDICIARY AUTOMATION FUND.—

(1) ESTABLISHMENT AND USE OF FUND.—Chapter 41 of title 28, United States Code, is amended by adding at the end of the following new section: "Section 612. Judiciary Automation Fund

"(a) ESTABLISHMENT AND AVAILABILITY OF FUND.—There is hereby established in the Treasury of the United States a special fund to be known as the 'Judiciary Automation Fund' (hereafter in this section referred to as the 'Fund'). Moneys in the Fund shall be available to the Director without fiscal year limitation for the procurement (by lease, purchase, exchange, transfer, or otherwise) of automatic data processing equipment for the judicial branch of the United States. The Fund shall also be available for expenses, including personal services and other costs, for the effective management, coordination, operation, and use of automatic data procesing equipment in the judicial branch.

"(b) PLAN FOR MEETING AUTOMATIC DATA PROCESSING NEEDS.—

"(1) DEVELOPMENT OF PLAN.—The Director shall develop and annually revise, with the approval of the Judicial Conference of the United States, a long range plan for meeting the automatic data processing equipment needs of the judicial branch. Such plan and revisions shall be submitted to Congress.

"(2) EXPENDITURES CONSISTENT WITH PLAN.—The Director may use amounts in the Fund to procure automatic data processing equipment for the judicial branch of the United States only in accordance with the plan developed under paragraph (1).

"(c) DEPOSITS INTO FUND.—

"(1) DEPOSITS.—There shall be deposited in the Fund—

"(A) all proceeds resulting from activities conducted under subsection (a), including net proceeds of disposal of excess of surplus property and receipts from carriers and others for loss of or damage to property;

"(B) amounts available for activities described in subsection (a) from funds appropriated to the judiciary; and

"(C) any advances and reimbursements required by paragraph (2).

"(2) ADVANCES AND REIMBURSEMENTS.—Whenever the Director procures automatic data processing equipment for an entity in the judicial branch other than the courts or the Administrative Office, that entity shall advance or reimburse the Fund, whichever the Director considers appropriate, for the costs of the automatic data processing equipment, from appropriations available to that entity.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund for any fiscal year such sums as are required to supplement amounts deposited under subsection (c) in order to conduct activities under subsection (a).

"(e) CONTRACT AUTHORITY.—

"(1) FOR EACH FISCAL YEAR.—(A) In fiscal year 1990, and in each succeeding fiscal year, the Director may enter into contracts for the procurement of automatic data processing equipment in amounts which, in the aggregate, do not exceed $75,000,000 in advance of the availability of amounts in the Fund for such contracts.

"(2) MULTIYEAR CONTRACTS.—In conducting activities under subsection (a), the Director is authorized to enter into multiyear contracts for automatic data processing equipment for periods of not more than five years for any contract, if—

"(A) funds are available and adequate for payment of the costs of such contract for the first fiscal year and for payment of any costs of cancellation or termination of the contract;

"(B) such contract is awarded on a fully competitive basis; and

"(C) the Director determines that—

"(i) the need for the automatic data processing equipment being provided will continue over the period of the contract; and

"(ii) the use of the multiyear contract will yield substantial cost savings when compared with other methods of providing the necessary resources.

"(3) CANCELLATION COSTS OF MULTIYEAR CONTRACT.—Any cancellation costs incurred with respect to a contract entered into under paragraph (2) shall be paid from currently available amounts in the Fund.

"(f) APPLICABILITY OF PROCUREMENT STATUTE.—The procurement of automatic data processing equipment under this section shall be conducted in compliance with section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759).

"(g) AUTHORITY OF ADMINISTRATOR OF GENERAL SERVICES.—Nothing in this section shall be construed to limit the authority of

the Administrator of General Services under sections 111 and 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 and 759).

"(h) ANNUAL REPORT.—The Director shall submit to the Congress an annual report on the operation of the Fund, including on the inventory, use, and acquisition of automatic data processing equipment from the Fund and the consistency of such acquisition with the plan prepared under subsection (b). The report shall set forth the amounts deposited into the Fund under subsection (c).

"(i) REPROGRAMMING.—The Director of the Administrative Office of the United States Courts, under the supervision of the Judicial Conference of the United States, and upon notification to the Committees on Appropriations of the House of Representatives and the Senate, may use amounts deposited into the Fund under subparagraph (c)(1)(B) for purposes other than those established in subsection (a) only by following reprogramming procedures in compliance with provisions set forth in Section 606 of Public Law 100-459.

"(j) APPROPRIATIONS INTO THE FUND.—If the budget request of the Judiciary is appropriated in full, the amount deposited into the Fund during any fiscal year under the authority of subparagraph (c)(1)(B) will be the same as the amount of funds requested by the Judiciary for activities described in subsection (a). If an amount to be deposited is not specified by Congress and if the full request is not appropriated, the amount to be deposited under (c)(1)(B) will be set by the spending priorities established by the Judicial Conference.

"(k) DEFINITION.—For purposes of this section, the term "automatic data processing equipment" has the meaning given that term in section 111(a)(2)(A) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2)(A)).

"(1) TERMINATION OF AUTHORITY.—The Fund, and the authorities conferred by this section, terminate on September 30, 1994. All unobligated amounts remaining in the Fund on that date shall be deposited into the "Judicial Services Account" to be used to reimburse other appropriations.

"(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 41 of title 28, United States Code, is amended by adding at the end the following new item: "612. Judiciary Automation Fund.".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There is no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 131: Page 12, after line 13, insert:

SEC. 407. Appropriations made in this title which are available for salaries and expenses shall be available, notwithstanding the limitations in 31 U.S.C. section 1345, for the Judicial Conference of the United States to sponsor and host the Fifth International Appellate Judges Conference in the United States, provided that an amount shall be available only if the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of any obligation or expenditure. The Judicial Conference may supplement such appropriations with other funds made available by any department or agency for the purposes of technical foreign aid, educational and cultural programs with the people of foreign countries, or commemorating the bicentennial anniversary of the United States Constitution and the Bill of Rights, provided that any supplementation shall be only for the expenses of the Fifth International Appellate Judges Conference. The Director of the Administrative Office may also accept and utilize gifts of funds, to be deposited as special deposit account in the Treasury, for the expenses of the Fifth International Appellate Judges Conference for reimbursement of appropriations or direct expenditure, provided that any unexpended balance of the special deposit account shall be returned to the donor or donors. For the purpose of the conference, the Director is authorized to pay for local travel and incidental expenses of foreign participants and dependent members of their immediate household, to pay for per diem to such persons in lieu of subsistence at rates prescribed by the Director, and to conduct and pay for the activities set forth in subsections (1), (2), (9), (15), and (18) of section 804 of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. section 1474). Appropriations for commemorating the bicentennial or for salaries and expenses of the Judiciary shall not be made available by this section for the travel and incidental expenses of dependents. Nothing in this section precludes payment for the travel and other expenses of foreign participants and their dependents by any other department or agency, or by the Director on their behalf, as authorized by law.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 131 and concur therein with an amendment, as follows: In lieu of the section designation in said amendment, insert: "405".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 132: Page 12, after line 13, insert:

SEC. 408. Section 1930(a)(1) of title 28, United States Code, is amended by striking out "$90" and inserting in lieu thereof "$120". Pursuant to section 1930(b) of title 28, the Judicial Conference of the United States shall prescribe a fee of $60 on motions seeking relief from the automatic stay under 11 U.S.C. section 362(b) and motions to abandon property of the estate. All fees as shall be hereafter collected for any service enumerated after item 18 of the bankruptcy miscellaneous fee schedule prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. section 1930(b) and 25 percent of the fees hereafter collected under 28 U.S.C. section 1930(a)(1) shall be deposited as offsetting receipts to the fund established under 28 U.S.C. section 1931 and the Judicial Conference shall report to the Committees on Appropriations of the House of Representatives and the Senate on a quarterly basis beginning on the first day of each fiscal year regarding the sums deposited in said fund.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 132 and concur therein with an amendment, as follows:

SEC. 406. (a) Section 1930(a)(1) of title 28, United States Code, is amended by striking out "$90" and inserting in lieu thereof "$120". Pursuant to section 1930(b) of title 28, the Judicial Conference of the United States shall prescribe a fee of $60 on motions seeking relief from the automatic stay under 11 U.S.C. section 362(b) and motions to compel abandonment of property of the estate. The fees established pursuant to the preceding two sentences shall take effect 30 days after the enactment of this Act.

(b) All fees as shall be hereafter collected for any service enumerated after item 18 of the bankruptcy miscellaneous fee schedule prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. section 1930(b) and 25 percent of the fees hereafter collected under 28 U.S.C. section 1930(a)(1) shall be deposited as offsetting receipts to the fund established under 28 U.S.C. section 1931 and shall remain available to the Judiciary until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the Courts of Appeals, District Courts, and other Judicial Services and the Administrative Office of the United States Courts. The Judicial Conference shall report to the Committees on Appropriations of the House of Representatives and the Senate on a quarterly basis beginning on the first day of each fiscal year regarding the sums deposited in said fund.

(c) Section 589a(b)(1) of title 28, United States Code, is amended by striking out "one-third" and inserting in lieu thereof "one-fourth".

(d) Section 1931 of title 28, United States Code, is amended by striking out the following before the colon "as provided in annual appropriation Acts".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 136: Page 12, after line 16, insert:

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $66,300,000, to remain available until expended, of which $2,250,000 shall be derived from unobligated balances of "Ship Construction": *Provided*, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 136 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

OPEATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $65,050,000, to remain available until expended, and in addition $2,250,000 shall be derived from unobligated balances of "Ship Construction": Provided, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated.

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 137: Page 12, after line 16, insert:

READY RESERVE FORCE

For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and related programs, $106,600,000, to remain available until expended: *Provided*, That reimbursement may be made to the Operations and Training appropriation for expenses related to this program.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 137 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert the following "$89,000,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 140: Page 12, after line 22, insert:

GRANTS AND EXPENSES

For expenses of the Board for International broadcasting, including grants to Radio Free Europe/Radio Liberty, Incorporated as authorized by the Board for International Broadcasting Act of 1973, as amended (22 U.S.C. 2871-2883), $195,000,000, of which not to exceed $52,000 may be made available for official reception and representation expenses as authorized by section 304(a)(8) of the Board for International Broadcasting Act of 1973, as amended.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 140 and concur therein with an amendment, as follows: In lieu of the sum "$195,000,000" named in said amendment insert the following "$190,000,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

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The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 144: Page 13, line 19, after "$14,300,000" insert ", to remain available until expended, and in carrying out the purposes of this Act, the Commission is authorized to enter into contracts, grants, or cooperative agreements as directed by the Federal Grant and Cooperative Agreement Act of 1977 (92 Stat. 3; 31 U.S.C. 6301), of which $705,000 shall be available to the National Park Service to carry out provisions of Public Law 100-421, and".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 144 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following: ", to remain available until expended, and in carrying out the purposes of this Act, the Commission is authorized to enter into contracts, grants, or cooperative agreements as directed by the Federal Grant and Cooperative Agreement Act of 1977 (92 Stat. 3; 31 U.S.C. 6301), and in addition, $705,000 to remain available until expended shall be available to the National Park Service to carry out provisions of Public Law 100-421; in all, appropriating $15,005,000,".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 148: Page 14, after line 21, insert:

COMPETITIVENESS POLICY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the Competitiveness Policy Council as authorized by Sec. 5209 of the Omnibus Trade and Competitiveness Act of 1988, $1,000,000, to remain available until expended.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 148 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert "$750,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 150: Page 15, after line 7, insert:

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901-02); not to exceed $300,000 for land and structures; not to exceed $300,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed fourteen) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $109,831,000, of which not to exceed $300,000 of the foregoing amount shall remain available until September 30, 1991, for research and policy studies: *Provided*, That none of the funds appropriated by this Act shall be used to repeal, to retroactively apply changes in, or to continue a reexamination of, the policies of the Federal Communications Commission with respect to comparative licensing, distress sales and tax certificates granted under 26 U.S.C. 1071, to expand minority and women ownership of broadcasting licenses, including those established in the Statement of Policy on Minority Ownership of Broadcasting Facilities, 68 F.C.C. 2d 979 and 69 F.C.C. 2d 1591, as amended 52 R.R. 2d 1313 (1982) and Mid-Florida Television Corp., 60 F.C.C. 2d 607 Rev. Bd. (1978), which were effective prior to September 12, 1986, other than to close MM Docket No. 86-484 with a reinstatement of prior policy and a lifting of suspension of any sales, licenses, applications, or proceedings, which were suspended pending the conclusion of the inquiry: *Provided further*, That none of the funds appropriated to the Federal Communications Commission by this Act may be used to diminish the number of VHF channel assignments reserved for non-commercial educational television stations in the Television Table of Assignments (section 73.606 of title 47, Code of Federal Regulations): *Provided further*, That none of the funds appropriated by this Act may be used to repeal, to retroactively apply changes in, or to begin or continue a reexamination of the rules and the policies established to administer such rules of the Federal Communications Commission as set forth at section 73.3555(c) of title 47 of the Code of Federal Regulations.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 150 and concur therein with an amendment, as follows: In lieu of the sum "$109,831,000" named in said amendment insert the following: "$109,000,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 152: Page 15, after line 16, insert:

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $64,580,000: *Provided*, That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374).

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 152 and concur therein with an amendment, as follows: In lieu of the sum "$64,580,000" named in said amendment insert "$54,580,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 154: Page 15, after line 25, insert:

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $321,000,000 of which $275,306,000 is for basic field programs, $7,313,000 is for Native American programs, $10,100,000 is for migrant programs, $1,146,000 is for law school clinics, $1,041,000 is for supplemental field programs, $650,000 is for regional training centers, $7,528,000 is for national support, $8,168,000 is for State support, $901,000 is for the Clearinghouse, $531,000 is for computer assisted legal research regional centers, and $8,316,000 is for Corporation management and administration: *Provided*, That not less than $5,000,000 of the amounts provided for basic field programs of the Legal Services Corporation shall be used directly or indirectly to assist public housing tenants, public housing authorities, tenant associations, tenant management associations and State and local school boards and officials with efforts to expel from public housing or school areas any individual engaged in drug-related criminal activity. For purposes of this paragraph, the term "drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 154 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $321,000,000 of which $274,965,000 is for basic field programs, $7,304,000 is for Native American programs, $10,088,000 is for migrant programs, $1,144,000 is for law school clinics, $1,040,000 is for supplemental field programs, $649,000 is for regional training centers, $7,518,000 is for national support, $8,158,000 is for State support, $900,000 is for the Clearinghouse, $531,000 is for computer assisted legal research regional centers, and $8,703,000 is for Corporation management and administration.

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 156: Page 16, after line 5, insert:

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $18,830,000, of which $1,000,000 shall remain available until expended: *Provided*, That not to exceed $89,000 shall be available for official reception and representation expenses.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 156 and concur therein with an amendment, as follows: In lieu of the sum "$18,830,000"

named in said amendment, insert the following "$18,000,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 158: Page 16, line 12, strike out "$240,545,000" and insert $239,136,000".

MOTION OFFERED BY MR. SMITH OF IOWA.

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 158 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following $242,000,000, of which $500,000 shall be made available for a grant to St. Norbert College in De Pere, Wisconsin, for a regional center for rural economic development, and of which $500,000 shall be made available for the establishment of a training program at the East-West Center to assist American businessmen and trade delegations in the Pacific basin, and of which $1,500,000 shall be made available for a grant to the University of Kentucky's Somerset Community College for a regional center for rural economic development with a special emphasis on small business and".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 164: Page 18, after line 21, insert:

ADMINISTRATIVE PROVISIONS

(1) Section 405 of the Small Business Investment Act of 1958 (15 U.S.C. 694) is hereby repealed. Any monies remaining in the Pollution Control Equipment Contract Guarantee Revolving Fund on the date of enactment of this Act shall be transferred to the Small Business Administration's business loan and investment fund.

(2) Section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) is amended to read as follows:

"(2) In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration, except as provided in paragraph (6), shall be—

"(A) not less than 90 percent of the balance of the financing outstanding at the time of disbursement if such financing does not exceed $155,000: *Provided*, That the percentage of participation by the Administration may be reduced below 90 percent upon request of the participating lender; and

"(B) subject to the limitation in paragraph (3)—

"(i) not less than 70 percent nor more than 85 percent of the financing outstanding at the time of disbursement if such financing exceeds $155,000: *Provided*, That the participation by the Administration may be reduced below 70 percent upon request of the participating lender; and

"(ii) not less than 85 percent of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (16);

The Administration shall not use the percent of guarantee requested as a criterion for establishing priorities in approving guarantee requests nor shall the Administration reduce the percent guaranteed to less than 85 percent under subparagraph (B) other than by determination made on each application. Notwithstanding subparagraphs (A) and (B), the Administration's participation under the Preferred Lenders Program or any successor thereto shall be not less than 80 percent, except upon request of the participating lender. As used in this subsection, the term 'Preferred Lenders Program' means a program under which a written agreement between the lender and the Administration delegates to the lender (I) complete authority to make and close loans with a guarantee from the Administration without obtaining the prior specific approval of the Administration, and (II) authority to service and liquidate such loans.".

(3) Section 7(a)(19) of the Small Business Act (15 U.S.C. 636(a)(19)) is amended to read as follows:

"(19)(A) In addition to the Preferred Lenders Program authorized by the proviso in section 5(b)(7), the Administration is authorized to establish a certified Lenders Program for lenders who establish their knowledge of Administration laws and regulations concerning the guaranteed loan program and their proficiency in program requirements. The designation of a lender as a certified lender shall be suspended or revoked at any time that the Administration determines that the lender is not adhering to its rules and regulations or that the loss experience of the lender is excessive as compared to other lenders, but such suspension or revocation shall not effect any outstanding guarantee.

"(B) In order to encourage all lending institutions and other entities making loans authorized under this subsection to provide loans of $50,000 or less in guarantees to eligible small business loan applicants, during fiscal years 1989, 1990, and 1991, the Administration shall (i) develop and allow participating lenders to solely utilize a uniform and simplified loan form for such loans, and (ii) allow such lenders to retain one-half of the fee collected pursuant to section (7)(a)(18) on such loans. A participating lender may not retain any fee pursuant to this paragraph if the amount committed and outstanding to the applicant would exceed $50,000 unless the amount in excess of $50,000 is an amount not approved under the provisions of this paragraph.".

(4) The last sentence of subparagraph (A) of section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)) is amended to read as follows: "In the case of cosponsored activities which include the participation of a Federal, State, or local public official or agency, the Administration shall take such actions as it deems necessary to ensure that the cooperation does not constitute or imply an endorsement by the Administration of or give undue recognition to the public official or agency, and the Administration shall ensure that it receives appropriate recognition in all cosponsored printed materials, whether the participant is a profit making concern or a governmental agency or public official.".

(5) Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended by adding at the end thereof the following new subsections:

"(d) The Administration is authorized to make, and to contract to make, periodic interest reduction payments to the holder of a debenture or the appropriate fiscal agent of a small business investment company described in section 301(d) to cover the difference, if any, between—

"(1) the amount of interest the company is required to pay on debentures issued by it (other than debentures issued to the Administration), and

"(2) the amount of interest the company would be required to pay on debentures purchased by the Administration, as determined under section 317.

Amounts authorized for direct purchase of debentures and preferred securities under this title shall also be available for interest payments under this subsection, or to purchase capital notes from section 301(d) licensees.

"(e) Notwithstanding any other provision of law, amounts available for guarantees of debentures issued by small business investment companies may be used for guarantees of debentures issued by companies licensed under section 301(d) and financed by issuance and guaranty of certificates under section 321.".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 164 and concur therein with an amendment, as follows: In lieu of the matter by said amendment insert the following:

ADMINISTRATIVE PROVISIONS

(1) Section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) is amended to read as follows:

"(2) In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration, except as provided in paragraph (6), shall be—

"(A) not less than 90 percent of the balance of the financing outstanding at the time of disbursement if such financing does not exceed $155,000: Provided, That the percentage of participation by the Administration may be reduced below 90 percent upon request of the participating lender; and

"(B) subject to the limitation in paragraph (3)—

"(i) not less than 70 percent nor more than 85 percent of the financing outstand-

ing at the time or disbursement if such financing exceeds $155,000: Provided, That the participation by the Administration may be reduced below 70 percent upon request of the participating lender; and

"(ii) not less than 85 percent of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (16); The Administration shall not use the percent of guarantee requested as a criterion for establishing priorities in approving guarantee requests nor shall the Administration reduce the percent guaranteed to less than 85 percent under subparagraph (B) other than by determination made on each application. Notwithstanding subparagraphs (A) and (B), the Administration's participation under the Preferred Lenders Program or any successor thereto shall be not less than 80 percent, except upon request of the participating lender. As used in this subsection, the term 'Preferred Lenders Program' means a program under which a written agreement between the lender and the Administration delegates to the lender (I) complete authority to make and close with a guarantee from the Administration without obtaining the prior specific approval of the Administration, and (II) authority to service and liquidate such loans.".

(2) Section 7(a)(19) of the Small Business Act (15 U.S.C. 636(a)(19) is amended as follows:

"(19)(A) In addition to the Preferred Lenders Program authorized by the proviso in section 5(b)(7), the Administration is authorized to establish a Certified Lenders Program for lenders who establish their knowledge of Administration laws and regulations, concerning the guaranteed loan program and their proficiency in program requirements. The designation of a lender as a certified lender shall be suspended or revoked at any time that the Administration determines that the lender is not adhering to its rules and regulations or that the loss experience of the lender is excessive as compared to other lenders, but such suspension or revocation shall not effect any outstanding guarantee.

"(B) In order to encourage all lending institutions and other entities making loans authorized under this subsection to provide loans of $50,000 or less in guarantees to eligible small business loan applicants, during fiscal years 1989, 1990, and 1991, the Administration shall (i) develop and allow participating lenders to solely utilize a uniform and simplified loan form for such loans, and (ii) allow such lenders to retain one-half of the fee collected pursuant to section (7)(a)(18) on such loans. A participating lender may not retain any fee pursuant to this paragraph if the amount committed and outstanding to the applicant would exceed $50,000 unless the amount in excess of $50,000 is an amount not approved under the provisions of this paragraph.".

(3) The last sentence of subparagraph (A) of section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1) is amended to read as follows: "In the case of cosponsored activities which include the participation of a Federal, State, or local public official or agency, the Administration shall take such actions as it deems necessary to ensure that the cooperation does not constitute or imply an endorsement by the Administration of or give undue recognition to the public official or agency, and the Administration shall ensure that it receives appropriate recognition in all cosponsored printed materials, whether the participant is a profit making concern or a governmental agency or public official.".

(4) Section 303 of the Small Business Investment Act of 1958 is amended by striking subsection (c) and inserting in lieu thereof the following new subsections:

"(c) Subject to the following conditions, the Administration is authorized to purchase preferred securities, and to purchase, or to guarantee the timely payment of all principal and interest payments as scheduled, on debentures issued by small business investment companies operating under the authority of section 301(d) of this Act. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this subsection.

"(1) The Administration may purchase shares of nonvoting stock (or other corporate securities having similar characteristics), provided—

"(A) dividends are preferred and cumulative to the extent of 3 per centum of par value per annum, except as provided in paragraph (5);

"(B) on liquidation or redemption the Administration is entitled to the preferred payment of the par value of such securities; and prior to any distribution (other than to the Administration) the Administration shall be paid any amounts as may be due pursuant to subparagraph (A) of this paragraph;

"(C) the purchase price shall be at par value and, in any one sale, $50,000 or more;

"(D) the amount of such securities purchased and outstanding at any one time shall not exceed—

"(i) from a company licensed on or before October 13, 1971, 200 per centum of the combined private paid-in capital and paid-in surplus of such company, or

"(ii) from any such company licensed after October 13, 1971, and having a combined paid-in capital and paid-in surplus of less than $500,000, 100 per centum of such capital and surplus, or

"(iii) from any such company licensed after October 13, 1971, and having a combined private paid-in capital and paid-in surplus of $500,000 or more, 200 per centum of such capital and surplus; and

"(E) the amount of such securities purchased by the Administration in excess of 100 per centum of such capital and surplus from any company described in clause (i) or (iii) may not exceed an amount equal to the amount of its funds invested in or legally committed to be invested in equity securities; for the purposes of this subsection, the term 'equity securities' means stock of any class (including preferred stock) or limited partnership interests, or shares in a syndicate, business trust, joint stock company or association, mutual corporation, cooperative or other joint venture for profit, or unsecured debt instruments which are subordinated by their terms to all other borrowings of the issuer.

"(2) The Administration may purchase or guarantee debentures subordinated pursuant to subsection (b) of this section (other than securities purchased under paragraph (1) of this subsection (c)), provided—

"(A) such debentures are issued for a term of not to exceed fifteen years;

"(B) the interest rate is determined pursuant to this section or section 317; and

"(C) the amount of debentures purchased or guaranteed and outstanding at any one time pursuant to this paragraph (2) from a company having combined private paid-in capital and paid-in surplus of less than $500,000 shall not exceed 300 per centum of its combined private paid-in capital and paid-in surplus less the amount of preferred securities outstanding under paragraph (1) of this subsection, nor from a company having combined private paid-in capital and paid-in surplus of $500,000 or more, 400 per centum of its combined private paid-in capital and paid-in surplus less the amount of such preferred securities.

"(3) Debentures purchased and outstanding pursuant to section 303(b) of this section may be retired simultaneously with the issuance of preferred securities to meet the requirements of subparagraph (2)(C) of this subsection (c).

"(4) The Administration may require, as a condition of the purchase or guarantee of any securities in excess of 300 per centum of the combined private paid-in capital and paid-in surplus of a company, that the company maintain a percentage of its total funds available for investment in small business concerns invested or legally committed in venture capital (as defined in subsection (b) of this section) determined by the Administration to be reasonable and appropriate.

"(5) Notwithstanding the foregoing provisions of this subsection, securities purchased by the Administration on or after the effective date of this Act (A) shall provide that dividends shall be preferred and cumulative to the extent of 4 per centum of par value per annum and (B) shall include a provision requiring the issuer to redeem such securities, including any accrued and unpaid dividends, in 15 years from the date of issuance: *Provided*, That the Administration may, in its discretion, guarantee debentures in such amounts as will permit the simultaneous redemption of such securities, including such amounts as it deems appropriate to include all or any part of accrued and unpaid dividends: *Provided further*, That the Administration shall not pay any part of the interest on such debentures except pursuant to its guarantee in the event of default in payment by the issuer.

"(6) In no event shall the Administration purchase or guarantee debentures or securities if the amount of outstanding securities and debentures of a company operating under the authority of section 301(d) would exceed 400 per centum of its combined private paid-in capital and paid-in surplus or $35,000,000, which ever is less.

"(d) If the Administration guarantees debentures issued by a small business investment company operating under authority of section 301(d) of this Act, it shall make, on behalf of the company payments in such amounts as will reduce the effective rate of interest to be paid by the company during the first five years of the term of such debentures to a rate of interest 3 points below the market rate of interest determined pursuant to section 321. Such payments shall be made by the Administration to the holder of the debenture, its agents or assigns, or to the appropriate central registration agent, if any. The aggregate amount of debentures with interest rate reductions as provided in this subsection or as provided in section 317 which may be outstanding at any time from any such company shall not exceed 200 per centum of the private paid-in capital and paid-in surplus of such company. The authority to reduce interest rates as provided in this subsection shall be limited to amounts provided in advance in appropriations acts, and the total amount shall be reserved within the business loan and investment fund to pay an amount equal to

the amount of the reduction as it becomes due.

"(e) In determining the private capital of a small business investment company, Federal, State, or local government funds received from sources other than the Administration shall be included solely for regulatory purposes, and not for the purpose of obtaining financial assistance from or licensing by the Administration, providing such funds were invested prior to the effective date of this Act.

"(f) Notwithstanding the provisions of any other law, rule, or regulation, the Administration is authorized to allow the issuer of any preferred stock heretofore sold to the Administration to redeem or repurchase such stock upon the payment to the Administration of an amount less than the par value of such stock. The Administration, in its sole discretion, shall determine the repurchase price after considering factors including, but not limited to, the market value of the stock, the value of benefits previously provided and anticipated to accrue to the issuer, the amount of dividends previously paid, accrued, and anticipated, and the Administration's estimate of any anticipated redemption. The Administration may guarantee debentures as provided in paragraph (5) of subsection (c) and allow the issuer to use the proceeds to make the payments authorized herein. Any monies received by the Administration from the repurchase of preferred stock shall be deposited in the business loan and investment fund and shall be available solely to provide assistance to companies operating under the authority of section 301(d), to the extent and in the amounts provided in advance in appropriations acts.".

(5) Section 321(a) of the Small Business Investment Act of 1958 is amended by inserting after the word "companies" the following: ", including companies operating under the authority of section 301(d),".

(6) Section 204 of the Small Business Development Center Act of 1980 (Public Law 96-302), as amended, is further amended by striking "October 1, 1990" and by inserting in lieu thereof "October 1, 1991".

(7) Notwithstanding any other provision of this Act, none of the funds appropriated or made available by this Act or otherwise appropriated or made available to the Small Business Administration shall be used to adopt, implement, or enforce any rule or regulation with respect to the Small Business Development Center program authorized by section 21 of the Small Business Act, as amended (15 U.S.C. 648) nor may any of such funds be used to impose any restrictions, conditions or limitations on such program whether by standard operating procedure, audit guidelines or otherwise, unless such restrictions, conditions or limitations were in effect on October 1, 1987, unless specifically approved by the Committees on Appropriations under reprogramming procedures except that this provision shall not apply to uniform common rules applicable to multiple Federal departments and agencies including the Small Business Administration; nor may any of such funds be used to restrict in any way the right of association of participants in such program.

(8) The funds made available by this Appropriations Act for Small Business Development Centers shall be available for grants for performance in fiscal year 1990 or fiscal year 1991.

(9) The limitation of $1,813,250,000 on gross obligations for new direct loans to carry out section 7(b) of the Small Business Act, as amended, which is contained in Sec. 108(c) of H.J. Res. 423 as enacted into law is hereby waived: *Provided*, That the de facto credit limitation during fiscal year 1990 on gross obligations for new direct loans to carry out Section 7(b) of the Small Business Act, as amended, imposed in the final Presidential sequestration order of October 16, 1989 and based on the calculation listed in the Final OMB Sequester Report to the President and Congress for Fiscal Year 1990 is hereby waived.

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 165: Page 19, line 2, strike out "$11,233,000" and insert "$12,000,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 165 and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert "$8,000,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 168: Page 19, after line 2, insert:

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $700,000, of this appropriation), as authorized by 22 U.S.C. 1471, expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928 and 22 U.S.C. 287e-1; and entertainment, including official receptions, within the United States, not to exceed $20,000 as authorized by 22 U.S.C. 1474(3); $647,875,000, none of which shall be restricted from use for the purposes appropriated herein: *Provided*, That not to exceed $1,210,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085: *Provided further*, That not to exceed $12,902,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided further*, That not to exceed $500,000 shall remain available until expended as authorized by 22 U.S.C. 1477(b), for expenses (including those authorized by the Foreign Service Act of 1980) and equipment necessary for maintenance and operation of data processing and administrative services as authorized by 31 U.S.C. 1535-1536: *Provided further*, That not to exceed $6,000,000 may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion picture, television, and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended:

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 168 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment insert the following:

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.) and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $700,000, of this appropriation), as authorized by 22 U.S.C. 1471, expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928 and 22 U.S.C. 287e-1; and entertainment, including official receptions, within the United States, not to exceed $20,000 as authorized by 22 U.S.C. 1474(3); $638,569,000, none of which shall be restricted from use for the purposes appropriated herein: *Provided*, That not less than $32,800,000 shall be available for the Television and Film Service notwithstanding Section 209(e) of Public Law 100-204: *Provided further*, That not to exceed $1,210,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and

4085: *Provided further,* That not to exceed $12,902,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided further,* That not to exceed $500,000 shall remain available until expended as authorized by 22 U.S.C. 1477(b), for expenses (including those authorized by the Foreign Service Act of 1980) and equipment necessary for maintenance and operation of data processing and administrative services as authorized by 31 U.S.C. 1535-1536: *Provided further,* That not to exceed $6,000,000 may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, television, and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended.

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 170: Page 19, after line 2, insert:

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship, Private Sector, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636) $160,300,000, including up to $1,500,000, to remain available until expended, for the Eisenhower Exchange Fellowship Program.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 170 and concur therein with an amendment, as follows:

In lieu of the sum of "$160,300,000" named in said amendment insert "$156,506,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 171: Page 19, after line 2, insert:

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $85,000,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a), of which not to exceed $16,000,000 may be available for the completion of testing and first-year operations of television broadcasting to Cuba, including, but not limited to the purchase, rent, construction, improvement and equipping of facilities, operations, and staffing: *Provided,* That such funds for television broadcasting to Cuba may be used to purchase or lease, maintain, and operate such aircraft (including aerostats) as may be required to house and operate necessary television broadcasting equipment.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 171 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment insert the following:

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $85,000,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a), of which not to exceed $16,000,000 may be available for the completion of testing and first-year operations of television broadcasting to Cuba, including, but not limited to the purchase, rent, construction, improvement and equipping of facilities, operations, and staffing: *Provided,* That such funds for television broadcasting to Cuba may be used to purchase or lease, maintain, and operate such aircraft (including aerostats) as may be required to house and operate necessary television broadcasting equipment: *Provided further,* That the availability of such funds for television broadcasting to Cuba shall be subject to the provisions of Part B, title II of H.R. 1487 as passed the House of Representatives until such time as legislation authorizing such activity is enacted into law.

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 174: Page 19, after line 2, insert:

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $15,800,000.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 174 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$17,000,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 176: Page 19, after line 16, insert:

SEC. 605. The Attorney General and the Commissioners of the Federal Trade Commission shall establish a fee schedule for filing premerger notification reports required by the Hart-Scott-Rodino Antitrust Improvement Act of 1976 within one hundred and eighty days after approval of this Act, such fees to be collected by the Federal Trade Commission and divided evenly between and credited to the appropriations Federal Trade Commission "Salaries and expenses" and Department of Justice "Salaries and expenses, Antitrust Division": *Provided,* That immediately following approval of this Act, a temporary fee of one-fiftieth of 1 per centum of the value of the transaction shall be levied pending the establishment of a fee schedule with proceeds distributed as shown above: *Provided further,* That fees in excess of $30,000,000 in fiscal year 1990 shall be deposited to the credit of the Treasury.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 176 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

SEC. 605. Five working days after enactment of this Act and thereafter, the Federal Trade Commission shall assess and collect

filing fees established at $20,000 which shall be paid by persons acquiring voting securities or assets who are required to file premerger notifications by the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18a) and the regulations promulgated thereunder. For purposes of said Act, no notification shall be considered filed until payment of the fee required by this section. Fees collected pursuant to this section shall be divided evenly between and credited to the appropriations, Federal Trade Commission, "Salaries and Expenses" and Department of Justice, "Salaries and Expenses, Antitrust Division": *Provided*, That fees in excess of $40,000,000 in fiscal year 1990 shall be deposited to the credit of the Treasury of the United States.

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 177: Page 19, after line 16, insert:

SEC. 606. (a) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates on office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $250,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 177 and concur therein with an amendment, as follows: In lieu of the sum "$250,000" named in said amendment, insert the following "$500,000".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 179: Page 19, after line 16, insert:

SEC. 608. Funds appropriated to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1990 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1990 at not less than $8.98 per poor person within the geographical area of each grantee or contractor under the 1980 census or 9 cents per poor person more than the annual per-poor-person level at which each grantee and contractor was funded in fiscal year 1989, whichever is greater; and

(2) each such grantee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under (1) above, falls below $16.68 per poor person within its geographical area under the 1980 census:

Provided, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used to bring a class action suit against the Federal Government or any State or local government unless—

(1) the project director of a recipient has expressly approved the filing of such an action in accordance with policies established by the governing body of such recipient;

(2) the class relief which is the subject of such an action is sought for the primary benefit of individuals who are eligible for legal assistance; and

(3) that prior to filing such an action, the recipient project direrctor has determined that the government entity is not likely to change the policy or practice in question, that the policy or practice will continue to adversely affect eligible clients, that the recipient has given notice of its intention to seek class relief and that responsible efforts to resolve without litigation the adverse effects of the policy or practice have not been successful or would be adverse to the interest of the clients:

except that this proviso may be superseded by regulations governing the bringing of class action suits promulgated by a majority of the Board of Directors of the Corporation who have been confirmed in accordance with section 1004(a) of the Legal Services Corporation Act: *Provided further*, That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used—

(1) to pay for any publicity or propagranda intended or designed to support or defeat legislation pending before Congress or State or local legislative bodies or intended or designed to influence any decision by a Federal, State, or local agency;

(2) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device, intended or designed to influence any decision by a Federal, State, or local agency, except when legal assistance is provided by an employee of a recipient to an eligible client on a particular application, claim, or case, which directly involves the client's legal rights or responsibilities;

(3) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official—

(A) to favor or oppose any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council or any similar governing body acting in a legislative capacity,

(B) to favor or oppose an authorization or appropriation directly affecting the authority, function, or funding of the recipient or the Corporation, or

(C) to influence the conduct of oversight proceedings of the recipient or the Corporation;

(4) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official to favor or oppose any Act, bill, resolution, or similar legislation, except that this proviso shall not preclude funds from being used to provide communication directly to a Federal, State, or local elected official on a specific and distinct matter where the purpose of such communication is to bring the matter to the official's attention if—

(A) the project director of a recipient has expressly approved in writing the undertaking of such communication to be made on behalf of a client or class of clients in accordance with policy established by the governing body of the recipient; and

(B) the project director for a recipient has determined prior to the undertaking of such communication, that—

(i) the client and each client is in need of relief which can be provided by the legislative body involved;

(ii) appropriate judicial and administrative relief have been exhausted; and

(iii) documentation has been secured from each eligible client that includes a statement of the specific legal interests of the client, except that such communication may not be the result of participation in a coordinated effort to provide such communications under this proviso; and

(C) the project director of a recipient maintains documentation of the expense and time spent under this proviso as part of the records of the recipient; or

(D) the project director of a recipient has approved the submission of a communica-

tion to a legislator requesting introduction of a private relief bill:

except that nothing in this proviso shall prohibit communications made in response to a request from a Federal, State, or local official: *Provided further,* That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used to pay for any administrative or related costs associated with an activity prohibited in clause (1), (2), (3), or (4) of the previous proviso: *Provided further,* That none of the funds appropriated under this Act for the Legal Services Corporation will be expended to provide legal assistance for or on behalf of any alien unless the alien is present in the United States and is—

(1) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

(2) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of twenty-one years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157, relating to refugee admissions) or who has been granted asylum by the Attorney General under such Act; or

(4) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)):

Provided further, That an alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of the previous proviso, to be an alien described in clause (3) of the previous proviso: *Provided further,* That none of the funds appropriated for the Legal Services Corporation may be used to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, including the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients or to advise any eligible client as to the nature of the legislative process or inform any eligible client of his rights under statute, order, or regulation: *Provided further,* That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to insure that financial assistance under this Act shall not be terminated, and a suspension of financial assistance shall not be continued for more than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing and, when requested, such hearing shall be conducted by an independent hearing examiner, subject to the following conditions—

(1) such request for a hearing shall be made to the Corporation within thirty days after receipt of notice to terminate financial assistance, deny an application for refunding, or suspend financial assistance and such hearing shall be conducted within thirty days of receipt of such request for a hearing;

(2) the Corporation shall make such final decision within thirty days after completion of such hearing; and

(3) hearing examiners shall be appointed by the Corporation in accordance with procedures established in regulations promulgated by the Corporation:

Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to ensure that an application for refunding shall not be denied unless the grantee, contractor, or person or entity receiving assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing to show cause why such action should not be taken and subject to all other conditions of the previous proviso: *Provided further,* That none of the funds appropriated in this Act for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts for legal assistance unless the Corporation insures that the recipient is either (1) a private attorney or attorneys (for the sole purpose of furnishing legal assistance to eligible clients) or (2) a qualified nonprofit organization chartered under the laws of one of the States, a purpose of which is furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance, or, with regard to national support centers, the locality where the organization maintains its principal headquarters: *Provided further,* That none of the funds appropriated in this Act for the Corporation shall be used, directly or indirectly, by the Corporation to promulgate new regulations or to enforce, implement, or operate in accordance with regulations effective after April 27, 1984, unless the Appropriations Committees of both Houses of Congress have been notified fifteen days prior to such use of funds as provided for in section 606 of this Act: *Provided further,* That none of the funds appropriated to the Legal Services Corporation for fiscal years prior to fiscal year 1986 and carried over into fiscal year 1990, either by the Corporation itself or by any recipient of such funds, may be expended, unless such funds are expended in accordance with the preceding restrictions and provisos, except that such funds may be expended for the continued representation of aliens prohibited by said provisos where such representation commenced prior to January 1, 1983, or as approved by the Corporation: *Provided further,* That if a Presidential Order pursuant to Public Law 100-119, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, is issued for fiscal year 1990, funds provided to each grantee of the Legal Services Corporation shall be reduced by the percentage specified in the Presidential Order: *Provided further,* That if funds become available to the Legal Services Corporation because a national support center has been defunded or denied refunding pursuant to section 1011(2) of the Legal Services Corporation Act, as amended by this Act, such funds may be transferred to basic field programs to be distributed in the manner specified by this Act: *Provided further,* That none of the funds appropriated by this Act or prior Acts or any other funds available to the Corporation or a recipient may be used by an officer, board member, employee or consultant of the Corporation or by any recipient to implement or enforce the 1984 and 1986 regulations on legislative and administrative advocacy (part 1612) or to implement, enforce or keep in effect provisions in the regulation regarding legislative and administrative advocacy and training (part 1612, 52 FR 28434 (July 29, 1987)) which impose restrictions on private funds except to the extent that such restrictions are explicitly set forth in sections 1007 (a)(5), (b)(6), (b)(7), and 1010(c) of the Legal Services Corporation Act, as amended: *Provided further,* That the Corporation shall not impose requirements on governing bodies of the recipients that are additional to, or more restrictive than, the provisions of this Act and section 1007(c) of the Legal Services Corporation Act, as amended, including, but not limited to (1) the procedures of appointment, including the political affiliation and the length of terms of board members, (2) the size, quorum requirements and committee operations of such governing bodies, and (3) any requirements on appointment of board members of national support centers that would preclude the bar associations in the States in which the center's principal offices are located from making all appointments required to be made by bar associations: *Provided further,* That none of the funds appropriated under this Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion: *Provided further,* That the Corporation shall utilize the same formula for distribution of fiscal year 1990 migrant funds as was used in fiscal year 1989: *Provided further,* That the fourteenth and fifteenth provisos of this section (relating to parts 1607 and 1612 of the Corporation's regulations) shall expire if such action is directed by a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate: *Provided further,* That none of the funds appropriated under this Act or under any prior Acts for the Legal Services Corporation shall be used to consider, develop, or implement any system for the competitive award of grants or contracts until such action is authorized pursuant to a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate, except that nothing herein shall prohibit the Corporation Board, members, or staff from engaging in in-house reviews of or holding hearings on proposals for a system for the competitive award of all grants and contracts, including support cen-

ters, and that nothing herein shall apply to any competitive awards program currently in existence; subsequent to confirmation such new Board of Directors shall develop and implement a proposed system for the competitive award of all grants and contracts. *Provided further,* that the Corporation shall insure that all grants and contracts made for calendar year 1990 to all grantees receiving funds under sections 1006(a) (1)(A) and (3) of the Legal Services Corporation Act as of September 30, 1989, with funds appropriated by this Act or prior appropriations Acts, shall be made for a period of at least twelve months beginning on January 1, 1990, so as to insure that the total annual funding for each current grantee or contractor is no less than the amount provided pursuant to this Act: *Provided further,* That such grants or contracts shall not be subject to any amendments to regulations relating to fee-generating cases (45 CFR part 1609) or the use of private funds (45 CFR parts 1610 and 1611) not in operational effect on October 1, 1988: *Provided further,* That any changes in procedures in operational effect as of September 1, 1989, that would have the effect of imposing timekeeping requirements on recipients must be adopted as rules or regulations in accordance with section 1008(e) of the Legal Services Corporation Act and all of the requirements of this Act: *Provided further,* That any new rules or regulations, or revisions to existing rules or regulations adopted by the Board of the Legal Services Corporation after October 1, 1989, shall not become effective until after October 1, 1990, or until authorized pursuant to a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate: *Provided further,* That, notwithstanding any decision or action of the President of the Corporation after September 7, 1989, funds appropriated under this Act or any prior Acts shall not be denied, for the period October 1, 1989 through December 31, 1990, to any grantee or contractor which in fiscal year 1989 received funding appropriated under any prior Act, as a result of activities which have found by an independent hearing officer appointed by the President of the Corporation prior to October 1, 1989, not to constitute grounds for a denial of refunding, and any decisions or action of the President of the Corporation reversing or setting aside such decision of an independent hearing officer concerning section 1010(c) of the Act rendered in fiscal year 1989 shall be null or void.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 179, and concur therein.

Mr. ROGERS. Mr. Speaker, I request the question be divided.

The SPEAKER pro tempore (Mr. NAGLE). The question will be divided.

Mr. SMITH of Iowa. Mr. Speaker, I move that the House recede from its disagreement to the amendment of the Senate numbered 179.

The SPEAKER pro tempore. The question is, Will the House recede from its disagreement to the amendment of the Senate numbered 179?

The House receded from its disagreement to the amendment of the Senate numbered 179.

PREFERENTIAL MOTION OFFERED BY MR. STENHOLM

Mr. STENHOLM. Mr. Speaker, I offer a preferential motion.

Mr. MORRISON of Connecticut. Mr. Speaker, I reserve a point of order against the motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. STENHOLM moves that the House concur in the Senate amendment No. 179 with the following amendment: In lieu of the matter proposed to be inserted by the Senate, insert the following:

SEC. 608. Funds appropriated to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1990 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1990 at not less than $8.98 per poor person within the geographical area of each grantee or contractor under the 1980 census or 9 cents per poor person more than the annual per-poor-person level at which each grantee and contractor was funded in fiscal year 1989, whichever is greater; and

(2) each such grantee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under (1) above, falls below $16.68 per poor person within its geographical area under the 1980 census:

Provided, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used to bring a class action suit against the Federal Government or any State or local government unless—

(1) the project director of a recipient has expressly approved the filing of such an action in accordance with policies established by the governing body of such recipient;

(2) the class relief which is the subject of such an action is sought for the primary benefit of individuals who are eligible for legal assistance; and

(3) that prior to filing such an action, the recipient project director has determined that the government entity is not likely to change the policy or practice in question, that the policy or practice will continue to adversely affect eligible clients, that the recipient has given notice of its intention to seek class relief and that responsible efforts to resolve without litigation the adverse effects of the policy or practice have not been successful or would be adverse to the interest of the clients:

except that this proviso may be superseded by regulations governing the bringing of class action suits promulgated by a majority of the Board of Directors of the Corporation who have been confirmed in accordance with section 1004(a) of the Legal Services Corporation Act: *Provided further,* That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used—

(1) to pay for any publicity or propaganda intended or designed to support or defeat legislation pending before Congress or State or local legislative bodies or intended or designed to influence any decision by a Federal, State, or local agency.

(2) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device, intended or designed to influence any decision by a Federal, State, or local agency, except when legal assistance is provided by an employee of a recipient to an eligible client on a particular application, claim, or case, which directly involves the client's legal rights or responsibilities;

(3) to pay for any personal service, advertisement, telegram, telephone communications, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official—

(A) to favor or oppose any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council or any similar governing body acting in a legislative capacity,

(B) to favor or oppose an authorization or appropriation directly affecting the authority, function, or funding of the recipient or the Corporation, or

(C) to influence the conduct of oversight proceedings of the recipient or the Corporation;

(4) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official to favor or oppose any Act, bill, resolution, or similar legislation, except that this proviso shall not preclude funds from being used to provide communication directly to a Federal, State, or local elected official on a specific and distinct matter where the purpose of such communication is to bring the matter to the official's attention if—

(A) the project director of a recipient has expressly approved in writing the undertaking of such communication to be made on behalf of a client or class of clients in accordance with policy established by the governing body of the recipient; and

(B) the project director of a recipient has determined prior to the undertaking of such communication, that—

(i) the client and each client is in need of relief which can be provided by the legislative body involved;

(ii) appropriate judicial and administrative relief have been exhausted; and

(iii) documentation has been secured from each eligible client that includes a statement of the specific legal interests of the client, except that such communication may not be the result of participation in a coordinated effort to provide such communications under this proviso; and

(C) the project director of a recipient maintains documentation of the expense and time spent under this proviso as part of the records of the recipient; or

(D) the project director of a recipient has approved the submission of a communication to a legislator requesting introduction of a private relief bill:

except that nothing in this proviso shall prohibit communications made in response to a request from a Federal, State, or local official: *Provided further,* That none of the funds appropriated in this Act made available by the Legal Services Corporation may

be used to pay for any administrative or related costs associated with an activity prohibited in clause (1), (2), (3), or (4) of the previous proviso: *Provided further,* That none of the funds appropriated under this Act for the Legal Services Corporation will be expended to provide legal assistance for or on behalf of any alien unless the alien is present in the United States and is—

(1) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

(2) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of twenty-one years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157, relating to refugee admissions) or who has been granted asylum by the Attorney General under such Act; or

(4) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)):

Provided further, That an alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of the previous proviso, to be an alien described in clause (3) of the previous proviso: *Provided further,* That none of the funds appropriated for the Legal Services Corporation may be used to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, including the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients or to advise any eligible client as to the nature of the legislative process or inform any eligible client of his rights under statute, order, or regulation: *Provided further,* That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to insure that financial assistance under this Act shall not be terminated, and a suspension of financial assistance shall not be continued for more than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing and, when requested, such hearing shall be conducted by an independent hearing examiner, subject to the following conditions—

(1) such request for hearing shall be made to the Corporation within thirty days after receipt of notice to terminate financial assistance, deny an application for refunding, or suspend financial assistance and such hearing shall be conducted within thirty days of receipt of such request for a hearing;

(2) the Corporation shall make such final decision within thirty days after completion of such hearing; and

(3) hearing examiners shall be appointed by the Corporation in accordance with procedures established in regulations promulgated by the Corporation:

Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to ensure that an application for refunding shall not be denied unless the grantee, contractor, or person or entity receiving assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing to show cause why such action should not be taken and subject to all other conditions of the previous proviso: *Provided further,* That none of the funds appropriated in this Act for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts for legal assistance unless the Corporation insures that the recipient is either (1) a private attorney or attorneys (for the sole purpose of furnishing legal assistance to eligible clients) or (2) a qualified nonprofit organization chartered under the laws of one of the States, a purpose of which is furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance, or, with regard to national support centers, the locality where the organization maintains its principal headquarters: *Provided further,* That none of the funds appropriated in this Act for the Corporation shall be used, directly or indirectly, by the Corporation to promulgate new regulations or to enforce, implement, or operate in accordance with regulations effective after April 27, 1984, unless the Appropriations Committees of both Houses of Congress have been notified fifteen days prior to such use of funds as provided for in section 606 of this Act: *Provided further,* That none of the funds appropriated to the Legal Services Corporation for fiscal years prior to fiscal year 1986 and carried over into fiscal year 1990, either by the Corporation itself or by any recipient of such funds, may be expended, unless such funds are expended in accordance with the preceding restrictions and provisos, except that such funds may be expended for the continued representation of aliens prohibited by said provisos where such representation commenced prior to January 1, 1983, or as approved by the Corporation: *Provided further,* That if a Presidential Order pursuant to Public Law 100-119, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, is issued for fiscal year 1990, funds provided to each grantee of the Legal Services Corporation shall be reduced by the percentage specified in the Presidential Order: *Provided further,* That if funds become available to the Legal Services Corporation because a national support center has been defunded or denied refunding pursuant to section 1011(2) of the Legal Services Corporation Act, as amended by this Act, such funds may be transferred to basic field programs to be distributed in the manner specified by this Act: *Provided further,* That none of the funds appropriated by this Act or prior Acts or any other funds available to the Corporation or a recipient may be used by an officer, board member, employee or consultant of the Corporation or by any recipient to implement or enforce the 1984 and 1986 regulations on legislative and administrative advocacy (part 1612) or to implement, enforce or keep in effect provisions in the regulation regarding legislative and administrative advocacy and training (part 1612, 52 FR 28434 (July 29, 1987)) which impose restrictions on private funds except to the extent that such restrictions are explicitly set forth in sections 1007 (a)(5), (b)(6), (b)(7), and 1010(c) of the Legal Services Corporation Act, as amended: *Provided further,* That the Corporation shall not impose requirements on governing bodies of the recipients that are additional to, or more restrictive than, the provisions of this Act and section 1007(c) of the Legal Services Corporation Act, as amended, including, but not limited to (1) the procedures of appointment, including the political affiliation and the length of terms of board members, (2) the size, quorum requirements and committee operations of such governing bodies, and (3) any requirements on appointment of board members of national support centers that would preclude the bar associations in the States in which the center's principal offices are located from making all appointments required to be made by bar associations: *Provided further,* That none of the funds appropriated under this Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion: *Provided further,* That the Corporation shall utilize the same formula for distribution of fiscal year 1990 migrant funds as was used in fiscal year 1989: *Provided further,* That the fourteenth and fifteenth provisos of this section (relating to parts 1607 and 1612 of the Corporation's regulations) shall expire if such action is directed by a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate: *Provided further,* That none of the funds appropriated under this Act or under any prior Acts for the Legal Services Corporation shall be used to consider, develop, or implement any system for the competitive award of grants or contracts until such action is authorized pursuant to a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate, except that nothing herein shall prohibit the Corporation Board, members, or staff from engaging in in-house reviews of or holding hearings on proposals for a system for the competitive award of all grants and contracts, including support centers, and that nothing herein shall apply to any competitive awards program currently in existence; subsequent to confirmation such new Board of Directors shall develop and implement a proposed system for the competitive award of all grants and contracts: *Provided further,* That a person or entity receiving funds appropriated by this

Act and made available by or through the Legal Services Corporation may not—

(1) advocate or oppose, or contribute or make available any funds, personnel, or equipment for use in advocating or opposing, any plan or proposal, or

(2) represent any party or participate in any other way in litigation,

that is intended to or has the effect of altering, revising, or reapportioning a legislative, judicial, or elective district at any level of government. The activities prohibited by this section include influencing the timing or manner of the taking of a census: *Provided further,* That, with respect to the use of funds appropriated by this Act to the Legal Services Corporation—

(1) for purposes of sections 286, 287, 641, 1001, and 1002 of title 18, United States Code, the Legal Services Corporation shall be considered to be a department or agency of the United States Government;

(2) for purposes of sections 3729 through 3733 of title 31, United States Code, the term "United States Government" shall include the Legal Services Corporation;

(3) for purposes of section 3801 of title 31, United States Code, the term "authority" includes the Legal Services Corporation, and the provisions of section 3801 through 3812 of title 31, United States Code, shall apply to all parties with whom the Corporation makes grants or contracts under sections 1006(a)(1) and 1006(a)(3) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(1) and 2996(a)(3));

(4) applicants for financial assistance from the Legal Services Corporation shall file applications supported by written declaration pursuant to section 1746 of title 28, United States Code, and such declarations shall be subject to sections 1621(2) and 1622 of title 18, United States Code, relating to perjury;

(5) for purposes of sections 716 and 717 of title 31, United States Code, the Legal Services Corporation shall be considered to be a department or agency of the United States Government;

(6) for purposes of section 1516 of title 18, United States Code, as added by section 7078 of the Anti-Drug Abuse Act of 1988 (Public Law 100-680)—

(A) the term "Federal auditor" shall include any auditor employed or retained on a contractual basis by the Legal Services Corporation,

(B) the term "contract" shall include any grant or contract made by the Legal Services Corporation, and

(C) the term "person", as used in subsection (a) of such section, shall include any grantee or contractor receiving financial assistance under section 1006(a)(1) or 1006(a)(3) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(1) or 2996e(a)(3)); and

(7) funds provided by the Legal Services Corporation under section 1006 of the Legal Services Corporation Act (42 U.S.C. 2996e) shall be deemed to be Federal appropriations when used by a contractor, grantee, subcontractor, or subgrantee of the Legal Services Corporation:

Provided further, That—

(1)(A) a person or entity receiving funds appropriated by this Act and made available by or through the Legal Services Corporation, and any employee of such person or entity, may not solicit clients for purposes of facilitating or pursuing legal action against a farmer or any other agricultural entity, or solicit clients for any kind of class action or other lawsuit involving any agricultural entity; and

(B) for purposes of subparagraph (A), the term "solicit" means to enter the premises of a farm, dwelling, or facility housing migrant farmworkers, workers under contract with a farm owner or operator, or other employees, without first receiving a documented request from a named worker or employee; and

(2) a person or entity receiving funds appropriated by this Act and made available by or through the Legal Services Corporation, and any employee of such person or entity, may not file a complaint or otherwise pursue litigation against or engage in precompliant settlement negotiations with a farmer, grower, or any other agricultural entity unless—

(A) any and all administrative remedies bearing on the claim or controversy have been exhausted;

(B) mechanism for alternative dispute resolution have been utilized, if available, and the claim or controversy has not been specifically identified, by name, in any complaint filed for purposes of litigation, or in any correspondence or communication for the purpose of negotiating a settlement; and

(D) an affidavit enumerating all the particular facts on which the claim or controversy is based is attached to the complaint:

Provided further, That—

(1) the Legal Services Corporation shall require any person or entity receiving funds appropriated by this Act and made available through the Legal Services Corporation by grant, contract, subgrant, or subcontract, to maintain records of time spent on the cases or matters with respect to which that person or entity engages in activities;

(2) pursuant to such requirements, such employee of such person or entity shall record by case or matter, at the time such employee engages in an activity regarding such case or matter, the time spent and the source of funds to be charged for the activity; and

(3) records maintained pursuant to this proviso shall also specify the total time spent on classes of such cases or matters, as specified by the Corporation:

Provided further, That—

(1) None of the funds appropriated by the Act shall be made available to any grantee or contractor who does not have full and complete authority over the selection of those matters and cases to which all employees, including the executive director, of the grantee or contractor shall devote their time and resources;

(2) the Board of Directors of such grantee or contractor may delegate all or a portion of this authority to its executive director, except that the Board of Directors may not delegate decisions with regard to the preparation, filing, or appeal of any class action suit; and

(3) for purposes of this proviso, the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Northern Mariana Islands, and any other territory or possession of the United States:

Provided further, That

None of the funds appropriated in this Act shall be made available by or through the Legal Services Corporation to any person or entity which, through the use of private funds, engages in actions prohibited by the provisions of this Act:

(1) subject to paragraph (2), the Legal Services Corporation shall ensure that, of the funds appropriated in this Act for the Corporation's basic field programs—

(A) not less than $5,000,000 is used to assist eligible clients in bringing administrative or other legal proceedings—

(i) against persons who allegedly use or distribute drugs illegally, and

(ii) against persons or entities affiliated with persons described in clause (i); and

(B) at least $20,000,000 is used to enforce the support obligations of absent parents to their children and the spouses (or former spouses) with whom such children are living, to locate absent parents, to establish paternity, and to obtain child and spousal support; and

(2) if funds made available to a grantee or contractor by the Legal Services Corporation cannot be used for the purposes specified in subparagraphs (A) and (B) of paragraph (1) because of a lack of eligible clients to pursue such purposes, the Corporation shall waive any requirement of such subparagraphs to the extent of such unused funds:

Provided further, That notwithstanding any other provision of law, rights under sections 1007(a)(9) and 1011 of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(6) and 1996j) shall not apply to the termination or denial of financial assistance under that Act as a result of the competitive award of any grant or contract required by this Act, and the expiration of any grant or contract under the Legal Services Corporation Act as a result of such competitive award shall not be treated as a termination or denial of refunding under section 1007(a)(9) or 1011 of that Act.

Mr. STENHOLM (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentleman from Iowa [Mr. SMITH] will be recognized for 30 minutes, and the gentleman from Kentucky [Mr. ROGERS] will be recognized for 30 minutes.

PARLIAMENTARY INQUIRY

Mr. ROGERS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. ROGERS. Mr. Speaker, will there be more time on the amendment? I understand the chairman of the subcommittee will be granted 30 minutes, and the offeror of the motion will be granted 30 minutes. Is that correct?

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. ROGERS] will be recognized for 30 minutes on the original motion of the gentleman from Iowa. He will have to yield time to the gentleman from Texas [Mr. STENHOLM].

Mr. ROGERS. Mr. Speaker, could I ask for a clarification: What time is allocated to whom on the amendment offered by the gentleman from Texas [Mr. STENHOLM]?

The SPEAKER pro tempore. Debate on the motion to concur and the motion to concur with an amendment

runs concurrently. The gentleman from Iowa [Mr. SMITH] has 30 minutes, and the gentleman from Kentucky [Mr. ROGERS] has 30 minutes.

Mr. ROGERS. Mr. Speaker, is it the Chair's ruling that the gentleman from Texas has no time of his own?

The SPEAKER pro tempore. The gentleman from Texas will have to receive time yielded by the gentleman from Kentucky and the gentleman from Iowa. The gentleman from Kentucky, for example, could yield 10 minutes to the gentleman from Texas now; the gentleman from Iowa could yield 10 minutes to the gentleman from Texas now; and the gentleman from Texas would have 20 minutes.

Mr. ROGERS. Mr. Speaker, I would be delighted to yield the gentleman from Texas 10 minutes of my time.

Mr. SMITH of Iowa. Mr. Speaker, I do not want to do that. The time is divided equally, as I understand it. The gentleman from Kentucky has half of it, and he can yield it, as he is on the same side as the gentleman from Texas. The gentleman from Kentucky has 30 minutes and I have 30 minutes.

Mr. STENHOLM. Mr. Speaker, will the gentleman from Kentucky yield me 15 minutes?

Mr. ROGERS. Mr. Speaker, I will be delighted to yield 15 minutes to the gentleman from Texas.

POINT OF ORDER

The SPEAKER pro tempore. The gentleman from Connecticut [Mr. MORRISON] has reserved a point of order on the motion. Does the gentleman wish to press his point of order.

Mr. MORRISON of Connecticut. Mr. Speaker, I do. I ask to be heard on my point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. MORRISON of Connecticut. Mr. Speaker, I make a point of order against the motion on the grounds that it violates rule XVI, clause 7, of the rules of the House of Representatives in that the subject matter of the proposed amendment is not germane to the matter under consideration.

The proposed motion deals with eight different issues relevant to the operation of the Legal Services Corporation and funds provided thereunder.

Six of the eight issues are not addressed at all in the underlying amendment. These six issues are as follows: First, prohibition on redistricting activity—the 19th proviso; second, protection against theft and fraud—the 20th proviso; third, procedural safeguards for agricultural litigation—the 21st proviso; fourth, timekeeping—the 22d proviso; fifth, authority of local governing boards—the 23d proviso; and sixth, earmarking of certain funds—the 24th proviso.

With regard to the seventh issue addressed by the motion, that dealing with the regulation of nonpublic resources—also addressed in the 24th proviso—the proposed motion is substantially broader than the provision dealing with nonpublic resources contained in the Senate amendment. The Senate amendment would prevent the Corporation from implementing proposed regulations that would place restrictions on nonpublic resources. The proposed amendment, on the other hand, would amend the Legal Services Act to extend existing restrictions on the use of private funds to "all nonpublic funds and in-kind services used or obtained by that person or entity." Current restrictions in the act apply only to funds provided for the purpose of providing legal services and not other activities for which funds may be received.

The last issue in the proposed amendment is the amendment dealing with competition—the 25th proviso. The underlying Senate amendment would prohibit the implementation of a competitive bidding process unless done under the authority of a confirmed board of directors composed of members named by the current president. The motion under consideration here, however, goes considerably beyond the question of whether the current board may implement a competitive bidding process. In addition, to that question, the proposed amendment would eliminate critical procedural safeguards against termination or defunding of existing LSC grantees within the context of a competitive bidding process.

In addition to the foregoing, the provisions of the motion relating to theft and fraud—the 20th proviso—would criminalize activity not previously subject to Federal criminal statutes. The amendment proposes to do so by applying the provisions of sections 286, 287, 641, 1001, and 1002 of title 18, United States Code to the Legal Services Corporation. In addition, the amendment would make applications for financial assistance subject to section 1746 of title 28, United States Code, and sections 1621(2) and 1622 of title 18, United States Code, relating to perjury. The underlying Senate amendment makes no reference to Federal criminal statutes and such conduct is not now covered by such acts.

Also, the theft and fraud provisions—the 20th proviso—would make sections 716 and 717 of title 31, United States Code, relating to audits by the Controller General and the evaluation of programs and activities of the U.S. Government, applicable to the Legal Services Corporation. That section of the amendment also provides that funds provided to the Legal Services Corporation shall be "deemed to be Federal appropriations when used to a contractor, grantee, subcontractor, or subgrantee of the Legal Services Corporation." Those issues are not dealt with in any way in the underlying Senate amendment and deal with subject matter properly within the jurisdiction of the Committee on Government Operations.

Finally, the 21st proviso, which places limits on the ability of employees of Legal Services supported programs to represent farm workers is a substantial intrusion on the jurisdiction of the Committee on Education and Labor in that it would substantially diminish the ability of farm workers to assert their Federal rights under the Migrant and Seasonal Agricultural Workers Act, and would set up barriers not contemplated in that act for the exercise of such rights. The amendment would require that, before a legal services attorney could file a suit on behalf of such a farm worker to vindicate Federal rights, the farm worker would have to exhaust all administrative remedies and participate in negotiations and in mediation programs, if available. In each case, the name of the farm worker would have to be revealed to the grower. Finally, attorneys could not act without receiving a "documented request from the named worker or employer."

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Mr. Speaker, on all these grounds, I ask that the amendment be ruled not in order.

The SPEAKER pro tempore (Mr. NAGLE). Does the gentleman from Texas wish to respond?

Mr. STENHOLM. Yes, I do, Mr. Speaker.

Mr. Speaker, I thank the gentleman for thoroughly explaining our bill.

I would respond to the point of germaneness by simply pointing out that our amendment is germane to the Rudman amendment, which is the purpose for which we offer this amendment.

The Rudman amendment has already had all points of order relating to authorizing in the appropriation bill waived by the rule under which we are being considered today.

The second point that I would make is that every item in our amendment refers to how these appropriations are or are not supposed to be spent.

The gentleman from Connecticut has done an excellent job of explaining our amendment.

I would just simply say on the germaneness question, again: Every suggestion that we make refers to how the money should be spent. The Rudman amendment has already had all points of order that the gentleman refers to waived under the rule that we operate under.

The SPEAKER pro tempore (Mr. NAGLE). Do any other Members desire to be heard on the point of order?

If not, the Chair is prepared to rule.

The gentleman from Connecticut [Mr. MORRISON] makes the point of

order that the amendment offered by the gentleman from Texas [Mr. STENHOLM] is not germane to the Senate amendment No. 179. As described on pages 82 and 83 of the joint statement of the managers, Senate amendment No. 179 is a comprehensive series of restrictions on Legal Services Corporation activities accomplished by means of funding restrictions on the Legal Services Corporation and its grantees.

In addition to the various funding restrictions in the Senate amendment, changes in the Legal Services Corporation law governing corporation activities, a directive that the Corporation reconstitute its board of directors, are included. The Senate amendment does not, however, incorporate provisions of criminal law, the False Claims Act, and other laws requiring the furnishing of information to the General Accounting Office.

The proposed amendment, in addition to the inclusion of additional funding restrictions, attempts to indirectly apply substantive provisions of Federal criminal law and other laws to render the Legal Services Corporation an agency of a department of the U.S. Government for purposes of prosecution of certain activity and the furnishing of information. While these incorporations of provisions of law are prefaced as being "with respect to the use of funds appropriated by this act to the Legal Services Corporation," it appears that these provisions in the amendment go beyond merely a restriction on the use of funds and constitute an application of other Federal law for the period covered by the appropriation in the bill.

On June 16, 1983, the Chair ruled nongermane an amendment conditioning the availability to certain recipients of the funds in an authorization bill upon their compliance with Federal law not otherwise applicable to those recipients and within the jurisdiction of other House committees.

In the opinion of the Chair, that portion of the proposed amendment which incorporates several provisions of law not contained in the Senate amendment and enacts those provisions as positive law applicable to the Legal Services Corporation and its grantees for the period fiscal 1990 renders the amendment not germane.

The Chair sustains the point of order.

Does the gentleman from Texas [Mr. STENHOLM] have another motion?

PREFERENTIAL MOTION OFFERED BY MR. STENHOLM

Mr. STENHOLM. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. STENHOLM moves that the House concur in the Senate Amendment No. 179 with the following amendment: In lieu of the matter proposed to be inserted by the Senate, insert the following:

SEC. 608. Funds appropriated to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1990 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1990 at not less than $8.98 per poor person within the geographical area of each grantee or contractor under the 1980 census or 9 cents per poor person more than the annual per-poor-person level at which each grantee and contractor was funded in fiscal year 1989, whichever is greater; and

(2) each such grantee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under (1) above, falls below $16.68 per poor person within its geographical area under the 1980 census:

Provided, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used to bring a class action suit against the Federal Government or any State or local government unless—

(1) the project director of a recipient has expressly approved the filing of such an action in accordance with policies established by the governing body of such recipient;

(2) the class relief which is the subject of such an action is sought for the primary benefit of individuals who are eligible for legal assistance; and

(3) that prior to filing such an action, the recipient project director has determined that the government entity is not likely to change the policy or practice in question, that the policy or practice will continue to adversely affect eligible clients, that the recipient has given notice of its intention to seek class relief and that responsible efforts to resolve without litigation the adverse effects of the policy or practice have not been successful or would be adverse to the interest of the clients:

except that this proviso may be superseded by regulations governing the bringing of class action suits promulgated by a majority of the Board of Directors of the Corporation who have been confirmed in accordance with section 1004(a) of the Legal Services Corporation Act: Provided further, That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used—

(1) to pay for any publicity or propaganda intended or designed to support or defeat legislation pending before Congress or State or local legislative bodies or intended or designed to influence any decision by a Federal, State, or local agency;

(2) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device, intended or designed to influence any decision by a Federal, State, or local agency, except when legal assistance is provided by an employee of a recipient to an eligible client on a particular application, claim, or case, which directly involves the client's legal rights or responsibilities;

(3) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official—

(A) to favor or oppose any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council or any similar governing body acting in a legislative capacity,

(B) to favor or oppose an authorization or appropriation directly affecting the authority, function, or funding of the recipient or the Corporation, or

(C) to influence the conduct of oversight proceedings of the recipient or the Corporation;

(4) to pay for any personal service, advertisement, telegram, telephone communications, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official to favor or oppose any Act, bill, resolution, or similar legislation, except that this proviso shall not preclude funds from being used to provide communication directly to a Federal, State, or local elected official on a specific and distinct matter where the purpose of such communication is to bring the matter to the official's attention if—

(A) the project director of a recipient has expressly approved in writing the undertaking of such communication to be made on behalf of a client or class of clients in accordance with policy established by the governing body of the recipient; and

(B) the project director of a recipient has determined prior to the undertaking of such communication, that—

(i) the client and each client is in need of relief which can be provided by the legislative body involved;

(ii) appropriate judicial and administrative relief have been exhausted; and

(iii) documentation has been secured from each eligible client that includes a statement of the specific legal interests of the client, except that such communication may not be the result of participation in a coordinated effort to provide such communications under this proviso; and

(C) the project director of a recipient maintains documentation of the expense and time spent under this proviso as part of the records of the recipient; or

(D) the project director of a recipient has approved the submission of a communication to a legislator requesting introduction of a private relief bill: except that nothing in this proviso shall prohibit communications made in response to a request from a Federal, State, or local official: *Provided further,* That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used to pay for any administrative or related costs associated with an activity prohibited in clause (1), (2), (3), or (4) of the previous proviso: *Provided further,* That none of the funds appropriated under this Act for the Legal Services Corporation will be expended to provide legal assistance for or on behalf of any alien unless the alien is present in the United States and is—

(1) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

(2) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of twenty-one years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157, relating to refugee admissions) or who has been granted asylum by the Attorney General under such Act; or

(4) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)):

Provided further, That an alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of the previous proviso, to be an alien described in clause (3) of the previous proviso: *Provided further,* That none of the funds appropriated for the Legal Services Corporation may be used to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activites, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, including the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients or to advise any eligible client as to the nature of the legislative process or inform any eligible client of his rights under statute, order, or regulation: *Provided further,* That none of the funds appropriated in this Act of the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to insure that financial assistance under this Act shall not be terminated, and a suspension of financial assistance shall not be continued for more than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing and, when requested, such hearing shall be conducted by an independent hearing examiner, subject to the following conditions—

(1) such request for a hearing shall be made to the Corporation within thirty days after receipt of notice to terminate financial assistance, deny an application for refunding, or suspend financial assistance and such hearing shall be conducted within thirty days of receipt of such request for a hearing;

(2) the Corporation shall make such final decision within thirty days after completion of such hearing; and

(3) hearing examiners shall be appointed by the Corporation in accordance with procedures established in regulations promulgated by the Corporation:

Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to ensure that an application for refunding shall not be denied unless the grantee, contractor, or person or entity receiving assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing to show cause why such action should not be taken and subject to all other conditions of the previous proviso: *Provided further,* That none of the funds appropriated in this Act for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts for legal assistance unless the Corporation insures that the recipient is either (1) a private attorney or attorneys (for the sole purpose of furnishing legal assistance to eligible clients) or (2) a qualified nonprofit organization chartered under the laws of one of the States, a purpose of which is furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance, or with regard to national support centers, the locality where the organization maintains its principal headquarters: *Provided further,* That none of the funds appropriated in this Act for the Corporation shall be used, directly or indirectly, by the Corporation to promulgate new regulations or to enforce, implement, or operate in accordance with regulations effective after April 27, 1984, unless the Appropriations Committees of both Houses of Congress have been notified fifteen days prior to such use of funds as provided for in section 606 of this Act; *Provided further,* That none of the funds appropriated to the Legal Services Corporation for fiscal years prior of fiscal year 1986 and carried over into fiscal year 1990, either by the Corporation itself or by any recipient of such funds, may be expended, unless such funds are expended in accordance with the preceding restriction and provisos, except that such funds may be expended for the continued representation of aliens prohibited by said proviso where such representation commenced prior to January 1, 1983, or as approved by the Corporation: *Provided further,* That if a Presidential Order pursuant to Public Law 100-119, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, is issued for fiscal year 1990, funds provided to each grantee of the Legal Services Corporation shall be reduced by the percentage specified in the Presidential Order: *Provided further,* That if funds become available to the Legal Services Corporation because a national support center has been defunded or denied refunding pursuant to section 1011(2) of the Legal Services Corporation Act, as amended by this Act, such funds may be transferred to basic field programs to be distributed in the manner specified by that Act: *Provided further,* That none of the funds appropriated by this Act or prior Acts or any other funds available to the Corporation or a recipient may be used by an officer, board member, employee or consultant of the Corporation or by any recipient to implement or enforce the 1984 and 1986 regulations on legislative and administrative advocacy (part 1612) or to implement, enforce or keep in effect provisions in the regulation regarding legislative and administrative advocacy and training (part 1612, 52 FR 28434 (July 29, 1987) which impose restrictions on private funds except of the extent that such restrictions are explicitly set forth in sections 1007(a)(5), (b)(6), (b)(7) and 1010(c) of the Legal Services Corporation Act, as amended: *Provided further,* That the Corporation shall not impose requirements on governing bodies of the recipients that are additional to, or more restrictive than, the provisions of this Act and section 1007(c) of the Legal Services Corporation Act, as amended, including, but not limited to (1) the procedures of appointment, including the political affiliation and the length of terms of board members, (2) the size, quorum requirements and committee operations of such governing bodies, and (3) any requirements on appointment of board members of national support centers that would preclude the bar associations in the States in which the center's principal offices are located from making all appointments required to be made by bar associations: *Provided further,* That none of the funds appropriated under this Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion: *Provided further,* That the Corporation shall utilize the same formula for distribution of fiscal year 1990 migrant funds as was used in fiscal year 1989: *Provided further,* That the fourteenth and fifteenth provisos of this section (relating to parts 1607 and 1612 of the Corporation's regulations) shall expire if such action is directed by a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate: *Provided further,* That none of the funds appropriated under this Act or under any prior Acts for the Legal Services Corporation shall be used to consider, develop, or implement any system for the competitive award of grants or contracts until such action is authorized pursuant to a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate, except that nothing herein shall prohibit the Corporation Board, members, or staff from engaging in in-house reviews of or holding hearings on proposals for a system for the competitive award of all grants and contracts, including support centers, and that nothing herein shall apply to any competitive awards program currently in existence; subsequent to confirmation such new Board of Directors shall develop and implement a proposed system for the competitive award of all grants and contracts:

Provided further, That a person or entity receiving funds appropriated by this Act and made available by or through the Legal Services Corporation may not—

(1) advocate or oppose, or contribute or make available any funds, personnel, or equipment for use in advocating or opposing, any plan or proposal, or

(2) represent any party or participate in any other way in litigation,

that is intended to or has the effect of altering, revising, or reapportioning a legislative, judicial, or elective district at any level of government. The activities prohibited by this section include influencing the timing or manner of the taking of a census:

Provided further, That—

(1)(A) a person or entity receiving funds appropriated by this Act and made available by or through the Legal Services Corporation, and any employee of such person or entity, may not solicit clients for purposes

of facilitating or pursuing legal action against a farmer or any other agricultural entity, or solicit clients for any kind of class action or other lawsuit involving any agricultural entity; and

(B) for purposes of subparagraph (A), the term "solicit" means to enter the premises of a farm, dwelling, or facility housing migrant farmworkers, workers under contract with a farm owner or operator, or other employees, without first receiving a documented request from a named worker or employee; and

(2) a person or entity receiving funds appropriated by this Act and made available by or through the Legal Services Corporation, and any employee of such person or entity, may not file a complaint or otherwise pursue litigation against or engage in precomplaint settlement negotiations with a farmer, grower, or any other agricultural entity unless—

(A) any and all administrative remedies bearing on the claim or controversy have been exhausted;

(B) mechanisms for alternative dispute resolution have been utilized, if available, and the claim or controversy has not been resolved;

(C) the plaintiff has been specifically identified, by name, in any complaint filed for purposes of litigation, or in any correspondence or communication for the purpose of negotiating a settlement; and

(D) an affidavit enumerating all the particular facts on which the claim or controversy is based is attached to the complaint:

Provided further, That—

(1) the Legal Services Corporation shall require any person or entity receiving funds appropriated by this Act and made available through the Legal Services Corporation by grant, contract, subgrant, or subcontract, to maintain records of time spent on the cases or matters with respect to which that person or entity engages in activities;

(2) pursuant to such requirements, each employee of such person or entity shall record by case or matter, at the time such employee engages in an activity regarding such case or matter, the time spent and the source of funds to be charged for the activity; and

(3) records maintained pursuant to this proviso shall also specify the total time spent on classes of such cases or matters, as specified by the Corporation:

Provided further, That—

(1) None of the funds appropriated by the Act shall be made available to any grantee or contractor who does not have full and complete authority over the selection of those matters and cases to which all employees, including the executive director, of the grantee or contractor shall devote their time and resources;

(2) the Board of Directors of such grantee or contractor may delegate all or a portion of this authority to its executive director, except that the Board of Directors may not delegate decisions with regard to the preparation, filing, or appeal of any class action suit; and

(3) for purposes of this proviso, the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Northern Mariana Islands, and any other territory or possession of the United States:

Provided further,

None of the funds appropriated in this Act shall be made available by or through the Legal Services Corporation to any person or entity which, through the use of private funds, engages in actions prohibited by the provisions of this Act:

(1) subject to paragraph (2), the Legal Services Corporation shall ensure that, of the funds appropriated in this Act for the Corporation's basic field programs—

(A) not less than $5,000,000 is used to assist eligible clients in bringing administrative or other legal proceedings—

(i) against persons who allegedly use or distribute drugs illegally, and

(ii) against persons or entities affiliated with persons described in clause (i); and

(B) at least $20,000,000 is used to enforce the support obligations of absent parents to their children and the spouses (of former spouses) with whom such children are living, to locate absent parents, to establish paternity, and to obtain child and spousal support; and

(2) if funds made available to a grantee or contractor by the Legal Services Corporation cannot be used for the purposes specified in subparagraphs (A) and (B) of paragraph (1) because of a lack of eligible clients to pursue such purposes, the Corporation shall waive any requirement of such subparagraphs to the extent of such unused funds:

Provided further, That notwithstanding any other provision of law, rights under sections 1007(a)(9) and 1011 of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(6) and 1996j) shall not apply to the termination or denial of financial assistance under that Act as a result of the competitive award of any grant or contract required by this Act, and the expiration of any grant or contract under the Legal Services Corporation Act as a result of such competitive award shall not be treated as a termination or denial of refunding under section 1007(a)(9) or 1011 of that Act.

Mr. STENHOLM (during the reading). Mr. Speaker, I ask unanimous consent that the motion and the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MORRISON of Connecticut. Mr. Speaker, I reserve a point of order on the motion.

Mr. Speaker, I have not seen the amendment.

Mr. STENHOLM. We left out the provision of the waste, fraud and abuse section of the amendment.

The SPEAKER pro tempore. The gentleman from Connecticut [Mr. MORRISON] reserves a point of order.

The gentleman from Iowa [Mr. SMITH] will be recognized for 30 minutes on the main motion with the amendment, and the gentleman from Kentucky [Mr. ROGERS] will be recognized for 30 minutes.

Does the gentleman from Kentucky yield time to the gentleman from Texas?

Mr. ROGERS. Mr. Speaker, I yield 15 minutes of my 30 minutes to the gentleman from Texas [Mr. STENHOLM].

The SPEAKER pro tempore. The gentleman from Connecticut [Mr. MORRISON] has reserved a point of order.

The Chair suggests that the gentleman from Texas [Mr. STENHOLM] proceed with the debate.

Mr. STENHOLM. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise today to offer an amendment which I believe strengthens legal services for the poor, a goal which I find most worthy and meritorious. My amendment would introduce modest reforms to the Legal Services program in a way that will make legal services grantees more accountable for fulfilling Congress' intent of meeting the day-to-day legal needs of the poor.

There are several points which must be underlined at the start of this debate.

First, everyone who speaks in favor of this amendment and eventually votes in support of it believes in the value of the Legal Services Corporation [LSC] and wants to see it continued. Opponents who argue or insinuate that there is a hidden agenda to abolish the corporation either are intentionally seeking to mislead or else they are stuck in a time warp—that argument may have been relevant nearly a decade ago when President Reagan was seeking to defund the LSC, but it is no longer relevant for anyone here today supporting this amendment. We believe in legal services to the poor. We believe that the vast majority of the 320 legal services grantees do a good job of properly meeting those legal needs. However, we also believe that there have been abuses by some grantees, keeping those funds and services from the poor. And finally, we believe that these amendments will help to eliminate some of those abuses.

Second, we would far prefer the regular, deliberative committee process for dealing with changes to the LSC. The last reauthorization of the Legal Services Act was in 1977, and unfortunately the appropriations riders which have made changes in the LSC since then have been haphazard and cursory. Members have had to vote on amendments without fully having time to investigate the issues and debate the merits of those amendments. During last year's appropriations debate, then-subcommittee chairman, Mr. KASTENMEIER, did commit to moving a reauthorization bill. He, however, is no longer positioned as the appropriate subcommittee chairman. The current chairman, Mr. FRANK, did hold two hearings this year in March and July, but since then has not proposed a reauthorization vehicle. We will gladly work with any effort to move a reauthorization bill.

Third, the language included by Senator RUDMAN in this conference report not only engages in authorization-type instruction to the LSC, but shows a

true disregard for the "rule of the law" as well. In numerous instances, the Rudman language interferes with procedures established by Congress and currently in law. In doing so, the Rudman language casts serious blows to the limited accountability measures which currently exist.

Those things being said, I submit for the RECORD at this point a brief summary of my legal services reform amendment. Review of the provisions shows that they are largely noncontroversial and include basic precautions and restrictions which are common for many other Government programs.

LEGAL SERVICES REFORM AMENDMENTS

The Legal Services Reform Amendments are the legislative response to a growing consensus that reform of the legal services program is both necessary and long overdue if it is to fulfill its original purpose of providing legal services to the indigent. These very basic reforms are intended to increase accountability throughout the legal services program and provide direction to the grantees as to some priorities of the program.

1. PROHIBITION OF REDISTRICTING ACTIVITY

A prohibition against redistricting activity by legal services grantees currently exists as a regulation; the amendment would enact that restriction into law. By nature, redistricting activities are political, and therefore should not be part of the LSC's activities.

2. APPLICATION OF EXISTING FEDERAL WASTE, FRAUD AND ABUSE PROVISIONS TO LEGAL SERVICES PROGRAMS

Unlike virtually all other Federal grant recipients, legal service grantees are not subject to existing Federal statutes and auditing standards dealing with waste, fraud and abuse. The application of these standards will help ensure that the funds available are used to meet the legal needs of the poor rather than fill the pockets of program personnel.

3. AGRICULTURAL PROVISIONS

Agriculture producers have been some of the greatest victims of inappropriate, unfair and costly LSC suits. The amendment would: prohibit the solicitation of clients; require that any lawsuits filed by LSC attorneys be accompanied by an affidavit enumerating the facts on which the suit is based; require that the plaintiffs be identified by name during any negotiations prior to filing a lawsuit; require that administrative remedies be exhausted prior to the commencement of litigation and that methods for alternative dispute resolution be utilized if available.

4. TIMEKEEPING

As is common practice for most attorneys, legal services programs would be required to keep accurate and contemporaneous records as to the time spent on cases.

5. AUTHORITY OF LEGAL SERVICES PROGRAM BOARDS OF DIRECTORS

The Boards of Directors of local legal services programs would be responsible for the selection of the cases to be handled by their programs.

6. REGULATION OF PRIVATE FUNDS

The Legal Services Act states that a grantee's private funds must follow the same guidelines and restrictions as the public LSC funds. However, provisions added through appropriations bills since the last reauthorization in 1977 have not held private funds to the same standards. This loophole, which has permitted the use of funds to finance LSC activities that Congress specifically prohibited, would be closed.

7. EARMARKING OF CERTAIN FUNDS

Two pressing problems facing the poor in the United States today are the lack of child support and the struggle for drug-free neighborhoods. The amendment would earmark $20 million for child support enforcement and $5 million for drug cases for indigent people fighting these legal battles. A waiver will permit alternate use of the earmarked funds if a given grantee does not have the demand for those kinds of cases.

As stated before, while many legal service grantees perform well in fulfilling congressional intent to care for the poor, other grantees have pursued an agenda for social and economic reform that hardly could be considered national policy. Redistributing wealth, creating revolutions, and overcoming citizens boards of directors—all things which some legal services grantees have straightforwardly promoted in writings about their cases—have nothing to do with child support enforcement, insurance claims, tenants' rights, and other cases for which legal services attorneys are supposed to be responsible.

One of the reasons I first became interested in the LSC was because of the large number of cases of abuse related to me by agricultural producers. I want to share an excerpt from a letter by one producer who is experiencing such a problem.

We seem to continually be subject to one of two harassment or new precedent setting lawsuits, despite our best efforts to be good and far above average farm labor employers. Currently we are working toward settlement (estimated $20,000 plus my $15,000 legal fees) over wage payments and MISWAPA violations on employees that never, we believe, worked for either us or our labor contractor. We survived wage and housing scrutiny during the season and yet two years later without any notification we are sent a copy of a suit filed against us by a group of people who claim they worked for us and were not properly paid. Naturally they claim record keeping violations because how can we have payroll records on people who didn't work. Why did it take two years for a group to "remember" they worked and were not paid? . . . We will be forced to take the "rational" choice and settle $70,000 worth of allegations . . . The big lesson we learned was not to operate where legal services is militant.

It is for reasons such as this that I believe reforms are necessary.

I urge all of my colleagues to show their support for a healthy legal services program which truly meets the legal needs of our Nation's poor by supporting the Stenholm amendment.

□ 1600

Mr. ROGERS. Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. MCCOLLUM], a member of the Committee on the Judiciary.

Mr. MCCOLLUM. Mr. Speaker, this is an extremely important opportunity that we have today to amend the Legal Services Corporation guidelines.

The gentleman from Texas, who with myself, and the gentleman from Kentucky coauthored this particular proposal, said so eloquently, we are not about to rip apart or destroy or in any way damage the Legal Services Corporation. We all believe in providing legal services to the poor. We want to continue that. We also believe that the funding level should be maintained, and that there is nothing in this amendment which in any way reduces funding or changes the funding portion of it.

What we are about in here, is to strip out some stuff that has been explained, the Senate put it in the conference, which would further tie the hands of the Legal Services Corporation board, and not allow them to be able to perform the regulatory function and oversight that was intended by the laws that they adopted long ago.

We tried to provide these guidelines, in addition, and there is a separate affirmative part that is in our amendment, to not only strip out these new restrictions that have never been placed before or never been before an authorizing committee, but make changes of our own we think ought to be made.

The reason why we propose it today is because the 9 years that this Member has been here, we have not had an authorization on the floor, as the appropriations vehicle is the only place. Legal Services lawyers continue to file class action suits, continue to get involved in class action suits, continue to get involved in lobbying legislators, and interested in redistricting far beyond the scope of the normal things most people think of for the poor and needy. We need to put Legal Services lawyers back in the business of being concerned about landlord-tenant, and child support—of everyday matters that people have as individual poor, to take care of themselves, and not so much spending the fragile and limited resources on broad, sweeping social policies.

Here is what the guidelines say we would put in. First of all, we would limit, by prohibiting the Legal Services lawyers from being involved in any reapportionment or redistricting matters. Twenty-eight thousand manhours were spent, according to one study done by Senator HATCH, on the last reapportionment, by Legal Services lawyers. Only 33 of the 300 or so Legal Services offices reported this in to him, so I am sure many more hours were spent. Legal Services has no business involved in litigating redistricting. That should be left to the legislatures, and spend the resources elsewhere. Second, provide procedural safeguards for agricultural farmers and in agricul-

tural suits. Before litigation can be brought, first of all there is a prohibition on soliciting clients. There is no business for going out, looking for business for Legal Services. There is plenty of that just walking in the door. Second, we require mediation when that is available to be used. We require any kind of exhaustion of remedies, when that is possible, before a lawsuit is brought. We require adequate notice in listing of the items that should be brought in any matter of complaint to the farmer or to the agricultural entity before a suit is brought. That seems only reasonable. We also require time records to be kept by attorneys so that the oversight authorities, the boards, can see what the attorneys are actually spending their time doing, which is what all law offices do, and also provide explicit, what is implicit in the law, the power to the local board, the local governing grantee boards, to control the nature and the manner of litigation and what kind of cases can be taken and not. They ought to have that power.

Lastly, we earmarked $20 million for child support matters. Only 3 percent of the money is going to child support, in terms of what Legal Services' attorneys spend of all of their funding. We have a lot of fathers out there that need to be found. In my area alone in Florida we looked at over 2,500 cases last year that Legal Services offices had, and we only had 30 or so actually on child support. It seems ridiculous. In addition, we stripped out one of the things that was done by the Senate, last but not least, in which we attacked the private funding use that has been made available through various donations, I guess, independently being made to Legal Services' grantees, and they have been using private funds to do things which the appropriated monies cannot be used for. Our laws say they cannot do this or that or another thing. We had the laws in place a long time. Congress does not want certain things done by Legal Services' lawyers, and should not be allowed to go out and get privately donated funds, and doing the things in that same fashion as we did not have the restrictions there. I think all of these are exceedingly important.

If we can get these restrictions placed there, very simply as they are, new guidelines, as I call it, we will have a major improvement in the Legal Services Corporation. I think it is absolutely essential that we do this. We have no business running this shop the way it has been run. These are major improvements being offered today. I would submit to my colleagues that they are not radical in any way, shape or form, simply housekeeping guidelines. Because of political controversy, the present board has not been able to impose, by regulation, and we would impose them by statute, pending whatever time it is in the future that we have a new board, and the politics disappear that would allow that board to function more normally.

I urge my colleagues to vote aye on this.

Mr. MORRISON of Connecticut. Mr. Speaker, I withdraw my point of order.

The SPEAKER pro tempore. The point of order is withdrawn.

Mr. SMITH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I rise in oppositon to the Stenholm-McCollum amendment for two reasons:

First, Legal Services Corporation continues to be held hostage by a holdover board of directors from the Reagan administration. This board continues its efforts to destroy the organization it is sworn to uphold. Their terms have expired, but they press ahead with attempts to make major policy changes and terminate funding to specific recipients. Congress should not impose major restrictions while Legal Services remains under the control of a terrorist board of directors.

Second, I am a member and former chairman of the Subcommittee on Administrative Law and Governmental Relations, which is the authorizing committee for Legal Services Corporation. We are holding hearings to reauthorize this program—and this is the appropriate forum to review the successes and failures of Legal Services. The restrictions contained in my colleagues amendment have not been considered by the subcommittee, and we should have the opportunity to do that.

Mr. SMITH of Iowa. Mr. Speaker, I yield 4 minutes to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Speaker, I think it is unfortunate that we are here on another one of these kinds of amendments, and I do not say that because I think there is any evil intent in my colleague from Texas or any other members that have allied with him in the promotion of this amendment.

I believe that this amendment is taking the side of people on the board of directors of the Legal Services Corporation who have waged an unremitting war on the provisions of legal assistance to the poor, who had had to be restrained over and over again, by Congress and the courts, to keep from interfering with the legitimate assertion of the rights of poor people eligible for Legal Services programs.

In many ways, these amendments are fighting a war that was over long ago, a war that might have had some legitimate points in the early 1980's, when people were concerned about whether the purpose of the Legal Services program was as it ought to be.

□ 1610

However, Mr. Speaker, throughout the 1980's, starting with the actions of this House in 1981 and the passage of an authorization bill, which never became law because of the threat of the veto of President Reagan, the Committee on Appropriations has taken up the cause and with the subcommittees in both the House and the Senate have crafted a set of reasonable restrictions that meet the goals that were enunciated back then in 1981.

What this amendment seeks to do is to break that carefully crafted, effectively done compromise which has been in effect in essentially the same form for most of the 1980's.

Now there certainly may be points in this amendment that could be considered, that ought to be debated and that ought to be part of an authorization bill. Those of us on the Committee on the Judiciary have said repeatedly to the last administration and to this administration, "When you are willing to say you're willing to sign a legal services bill, we'll be willing to take one up," and we said more at the beginning of this year, that, when the President of the United States would be willing to appoint a board of directors to be confirmed by the Senate, a board that would stand scrutiny in supporting the basic objectives of the Legal Services program, then we could move forward in a negotiated way for an authorization bill and relieve the Committee on Appropriations of having to come to the floor every year with authorizing language in the appropriation bill.

However, Mr. Speaker, we have gotten nowhere. It is almost November. Not only has the President not nominated a board of directors, he has not even suggested who are the potential candidates, and at least one candidate, a distinguished former Member of this body who worked very hard on that 1981 compromise, has been run off the stage by the same people who are supporting this amendment.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. MORRISON of Connecticut. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, I think the gentleman from Connecticut [Mr. MORRISON] should not keep our colleagues in suspense. They ought to know that this potential president of the Legal Services Corporation who was rejected for being a dangerous leftist, apparently, who was considered to be too radical, was Caldwell Butler, a former Republican member from Virginia.

Now I do not mean to concur in that characterization, but the potential president, who we would have been glad to see, who was rejected because

of criticism from the right that he would not be sufficiently restricted, was that notorious radical, Mr. Butler.

Mr. ROGERS. Mr. Speaker, I yield myself 5 mintues.

Mr. Speaker, this motion from the gentleman from Texas [Mr. STENHOLM], our colleagues, to the much needed pragmatic reforms for the Legal Services Corporation is crafted by the gentleman from Texas and the gentleman from Florida [Mr. MCCOLLUM]. This debate should be taking place in the Committee on the Judiciary, but, Mr. Speaker, they have been debating these things now for 9 years, and not a single authorization bill has emerged from the Committee on the Judiciary, and so it has been left to our Subcommittee on Appropriations, State, Commerce, Justice, and related agencies, like Legal Services, left up to the Committee on Appropriations to do it or it would not be done.

So, Mr. Speaker, we have been trying to appropriate, as well as authorize, for the last, ever since I have been here, 9 years, and we are not likely to get an authorization bill this year or next year, it looks like from what we are hearing from that committee. So, it has fallen to our lot to do something.

Mr. Speaker, the object of the efforts here today is to give some accountability to programs that lack it to try and be sure that the Legal Services program are fulfilling the obvious mission; that is, bringing the resource of the Federal Government and the attorneys to those who need legal help. Many of these programs do just that, but many have their sights on the larger agenda. They would rather influence legislation, or dabble in redistricting, or carry on in ways that satisfy their intellectual curiosity while neglecting the job to be done.

That is why, Mr. Speaker, these gentleman and others have questioned the Legal Services Corporation for so many years, the focus of the program's efforts, the efficacy of support centers and whether there is overall good management.

Mr. Speaker, I support Legal Services. It does good work in my district, and I work hand in hand with them, and they do a lot of help for the folks that need it, and I do not seek to undermine the work of the Legal Services staff, but the time has come for some very basic steps to provide assurance that the money we are providing is being used responsibly.

Mr. Speaker, this preferential motion by the gentleman from Texas [Mr. STENHOLM] does two basic things. It maintains all the current restrictions passed to date, and it provides seven provisions which speak more to common sense management than all-out reform. They include prohibitions on restricting activity, a political activity that should not occur, but has, and I think we would all agree that, if we took this question in a vacuum, that the Legal Services Corporation should not be involved in redistricting.

No. 2, timekeeping requirements, the most common practice in the legal profession, and every responsible law office in America, private-wise, has timekeeping requirements, and this bill, this amendment, requires that, the one most necessary matter is to monitor the use of Federal dollars.

Three, regulation of private funds, the overhead costs that our appropriations fund do enable corporations to raise private funds or take private cases generating fat fees to be used for purposes I have described. That is wrong. It is a loophole and conflicts with the Legal Services Act which calls for programs to use private funds under the same guidelines that apply to Federal dollars. The loopholes have been crafted in our appropriations bills, and they should be replaced.

Mr. Speaker, there are other important provisions which I have not mentioned, but they will be discussed in this conversation.

This is the time for changes at LSC, ones that improve services to the poor, that help the tenant with a landlord dispute, that assist the mother seeking child support, that prevent frivolity or noble causes from rising within the agenda of these programs.

Mr. Speaker, I implore our colleagues not to be swayed by the argument that changes will come with a new board.

We settled last year for implementing competition for grant on the hopeless condition that they occur after a new LSC board is confirmed by the Senate. We seem no closer to that reality than we were last year. The new-board excuse is a ruse to prevent anything further by the status quo, and the status quo is a disservice at this point.

Mr. Speaker, I urge Members to support the motion of the gentleman from Texas [Mr. STENHOLM].

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I want to extend my appreciation to the gentleman from Iowa [Mr. SMITH], the chairman of the subcommittee, who has done very important work here.

The gentleman from Kentucky [Mr. ROGERS] said that last year we said we would fix these when we got a new board, and we did not fix it. That is because there was no new board. The President refused to appoint one. The current President has refused to appoint one.

The situation we have is this: In 1981 this House, controlled by the Democrats, brought out and passed an authorization bill for Legal Services. There was a lot of effort. There was an open rule. There were a lot of amendments. Nobody was perfectly satisfied with it, but we had one. It went to the other body, which was controlled by the other party, and they killed the bill. They would not act on it. That is when the authorization went off the track. The Democratic House passed an authorization bill. The President was opposed even to the compromise bill that was passed, and it was a bill that was passed with unanimous subcommittee support, and we had the gentleman from Michigan, Mr. Sawyer, the gentleman from Illinois, Mr. Railsback, and the aforementioned gentleman from Virginia, Mr. Butler, whose appointment as president was apparently lobbied against very strongly by people who thought he was too sympathetic to the mission of Legal Services. That is when we stopped authorizing. That is when it became the burden of the Appropriations Subcommittee.

Mr. Speaker, for the next 5 years the Republicans continued to control the Senate, and they said there would be no bill.

Then we reached this point. The President appointed people to run the board, and the gentlemen have said in response to this amendment that they support Legal Services. I know the gentleman from Texas [Mr. STENHOLM] does. We differ in some ways about how it should operate, but he is not on the board.

The board of directors of the Legal Services Corporation consists in the majority of people whom the Senate refused to confirm, whom leading Republicans in the Senate opposed, Senator RUDMAN and others who have been supportive of Legal Services while they wanted to restrain them some.

□ 1620

This is a Board which in the majority, as has been pointed out, hired a lawyer to prove that they were unconstitutional with Government money, and when the lawyer that they hired said, "I'm sorry, you are constitutional," they were very disappointed.

So the question is this. Should we treat this Board, a holdover board, not confirmed, not submitted for confirmation by the previous administration or the current one, should we give them more power, more authority to control a program to which they are opposed?

Several of the proposals that the gentleman from Texas and the gentleman from Florida have I am in favor of. I now chair the authorizing subcommittee. I have promised the gentleman from Iowa, no one is more eager to see this authorized than the gentleman from Iowa, who has enough aggravation without it, and he is right, as soon as a board is submitted to the

Senate which consists of people who are supportive of the program, and I expect that we will disagree with them on many aspects, we will come forward with an authorization, but it has not been authorized, first because the House authorized it in 1981 and the Republican Senate said, "No, we don't want to see a program," at the request of the President, and subsequently a majority is in charge of this Board and they tell you they think it is a terrible program. They think it is unconstitutional. They are against it.

What we are saying is please do not empower us, do not make us empower that Board which is opposed to the program; and yes, we did say last year, give us a new Board.

I have talked to Senator RUDMAN, I have talked to the gentleman from Iowa. We would like to authorize it, but there has not yet been an appointed Board.

We are told by some of the President's people that they are close to doing that. As soon as we get that Board, we will bring this out.

We have got a problem also with a cultural lag. There were some excesses in the Legal Services that were bad. In 1981, we came up with a bill that was somewhat restrictive of them. The most recent excesses have been the excesses of this Board. They have been documented in hearings. There have been abuses. The Legal Services people said they should not be forced to solicit and they should be forced to do this, that and the other.

There are rules on the books. Under an amendment sponsored by the gentleman from Florida, which we have been scrupulously enforcing through our authorizing subcommittee, every grantee has to have a Board-appointed majority by the local bar association. So you do not have random crazies running this, except to the extent that random crazies dominate your local bar association, and that is not federally correctible.

The fact is that these are Boards controlled by local bar associations. There are not a lot of specific bars. There are some restrictions here.

By and large, however, the Smith-Rudman compromise says to the President, we are in favor of a Legal Services Corporation that is controlled in a rational way, but we do not think that the people who are now appointed, who make no bones about the fact they are opposed to the program, who think that they are unconstitutional, who seek to prevent their own program from operating. What we are saying is, please do not expect us to treat them as a normal Board. Send us a board. Send us a Caldwell Butler.

Let me stress again the point that the gentleman from Connecticut made, which I interrupted prematurely, although I suppose any interruption is always premature.

The gentleman from Virginia [Mr. Butler] would be a conservative Member of this body. He was in favor of the Legal Services. He was opposed to the abuses. My guess is the gentleman from Texas and he had similar views on the general way it ought to be operated, and the gentleman from Virginia who was suggested as a potential President was objected to by many of the people who now run the Board. They do not think he is sufficiently opposed to the program. That is the issue here.

I ask the Members to stick with the committee until we get a new Board appointed.

Mr. STENHOLM. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Speaker, I want to thank my friend, the gentleman from Texas, for yielding this time to me.

I rise to express my support for his preferential motion.

I have heard a lot here today about the nature of the Board which is charged with the responsibility to govern this organization, and I have heard a lot of things that make good sense to me; but I want to point out to the body at least two practices which I know of my own personal knowledge have occurred in my State of North Carolina repeatedly, which will be addressed and stopped by this preferential motion.

The Farm Workers Legal Services of North Carolina has been involved in the practice in past years of writing letters to farm producers, to farmers, which were by and large form letters which said in effect that, "I represent a person who has worked for you, and you have violated his or her rights," without naming the individual or without giving enough particulars for that farmer to be able to form any judgment even as to whether or not the person had ever been employed by him. These letters would say, "If you will send us $5,000 or $3,000, we will end the matter. If you don't pay us, we are going to sue you."

I know this of my own knowledge, because I have drafted the responses for many of my constituents in these situations. We have sought to have this matter addressed by the disciplinary parties in the North Carolina Bar Association.

Other lawyers would be disciplined, but these people were allowed, and so far as I know are allowed to get by with this kind of conduct.

Now, this measure, as I understand, will stop that sort of thing and will strengthen the program of the Legal Services, which I support. I do not have any question or any quarrel with the proposition that it is a legitimate use of tax money for people who cannot afford attorneys to have them provided at taxpayers' expense, but what these people have been doing in my State amounts to attempted legal extortion, and this measure stops it.

Mr. STENHOLM. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. Mr. Speaker, I thank the gentleman from Texas for yielding me this time.

Let me say that I rise in support of the Stenholm and McCollum amendment.

We need the Legal Services. I am one who feels that it is extremely important that we have the Legal Services, but I do not think in many areas that we have the kind of services that we need.

In July of this year, as a response to an unprecedented attack on six of the orchards within my district, I introduced two bills. One would encourage mediation and conciliation prior to filing lawsuits, and the second would award attorney's fees to farmers if a lawsuit is pursued for the pure purpose of harassment.

During the past 6 years, legal assaults have contributed to a dramatic decline in the apple production in western Maryland and has forced several orchards into bankruptcy. One such orchard was hit with over 100 lawsuits. This amendment would specifically address the concerns that I have voiced in the past.

It would prohibit the solicitation of clients. It would require lawsuits filed by Legal Service attorneys to be accompanied by an affidavit stating the facts on which the suit is based. It would require plaintiffs to be identified by name during any negotiations prior to filing a suit. It would require parties to exhaust all administrative remedies before starting litigation. It would require Legal Service programs to keep accurate records on time spent on cases.

In other words, it would require Legal Services to operate under the same guidelines as any other attorney should.

Mr. Speaker, I urge support for this amendment.

Mr. SMITH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I want to thank the gentleman from Iowa for yielding me this time, and I want to compliment the gentleman from Iowa for the compromise that was reached in conference that will encourage the appointment of a new Board for the Legal Services Corporation, which is so desperately needed.

If you believe in equal access to our legal system, then you must oppose the Stenholm amendment.

Let me just give you one example. My friend, the gentlewoman from Maryland, mentioned the fact that we want Legal Services attorneys to have

the same rights as any other lawyer, yet in this amendment we are imposing different requirements on the Legal Services attorneys and the private attorney in migrant worker cases. That is just not fair. That is not equal access to our judicial system.

The amendment would restrict the use of private funds. If you do that, let me tell you who you are going to hurt. You are going to hurt the elderly. You are going to hurt the handicapped person.

Right now there are some people who do not qualify for LSC consideration that can be helped by the funds that are brought in by the Legal Services groups. Those individuals will be hurt if this amendment is adopted. I do not think we want to do that.

We talk about allowing our Boards to set local priorities. There is a tremendous shortage of funds available for legal services today in our communities. The local Boards are in the best position to determine where the priorities should be. This amendment will take away that right from the local Boards to determine local priorities.

As I said in the beginning, if you believe in equal access to our legal system, then you must oppose this amendment. The American Bar Association, the Legal Services providers, the advocates for the legal service community, all oppose this amendment, because they know it will hurt the people who need the help from the legal services community.

Mr. Speaker, I urge the defeat of the amendment.

□ 1630

Mr. SMITH of Iowa. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I plead with my colleagues in the House and with the well-intentioned authors of this amendment to look at the specifics of one part of the preferential motion now before us, and that is section 4 titled "Procedural safeguards for agricultural litigation." What this section does in all its parts is put forth a series of onerous, unprecedented burdens on one specific type of plaintiff that applies to no other plaintiff, no other clients of legal services programs, no individuals, corporations anywhere in this country, and that one particular type of plaintiff that will now have a whole series of new procedural obstacles is a migrant farmworker eligible for Legal Services Program because of his impoverished status who will now be faced with a series of restrictions that no other plaintiff anywhere is obligated to comply with.

What is the nature of these new obstacles? The bill puts in a doctrine of exhaustion of administrative remedies. There already is a doctrine of administrative remedies well known in administrative law applicable in all of the States of our country and all the courts of our land. It says where there is a reasonable administrative remedy, a nonfrivolous, speedy alternative to court litigation, the plaintiff is required to exhaust it. That applies to everyone including migrant farmworkers. All of a sudden now if this amendment were to pass and become law, if this motion were successful, only migrant farmworkers will have any and all, are the exact terms of the language, administrative remedies that might be put in front of them before they have access to the court. It will not apply to the tenant going after a landlord in a landlord-tenant matter. It will not apply to one spouse going after another in a child-support case. It will only apply to migrant farmworkers suing their employers because they believe that one aspect of their employment relationship, and a law that protects them in that employment relationship, the class of workers that everyone has to acknowledge are the least sophisticated, least likely to know about all of the available alternatives that they have, this is a barrier that they will now face only. This just is not fair.

There is a prohibition on solicitation here. The Supreme Court has held that as to nonprofit corporations providing legal services, the general restrictions on solicitation do not apply. All of a sudden now this prohibition will reappear for one type of nonprofit legal operation, a legal services program, and for only one type of plaintiff, and that is the migrant farmworker plaintiff who seeks to sue an agricultural employer. This is holding out an unfair situation.

So one might say: "Why do they need to solicit?" How many farmworkers, how many migrant farmworkers are going to know the detailed nature of every aspect and the protection of the law that they have managed to get, and there are not that many, that might exist in Federal legislation or State legislation? How many migrant farmworkers live on the property of the grower or in the farm labor contractor or farm labor camp where they have no access to any kind of legal services representation?

This says that after one farmworker has come forth and pointed out that that grower may be violating his legal obligations to provide adequate and decent and safe and sanitary housing or to provide a minimum wage, if one farmworker comes forth to a legal services lawyer and says, "Can we do anything about this," that lawyer cannot go to other farmworkers in that farm labor camp and seek to find out if this is a practice and pattern that deserves the kind of legal attack that it should have.

Mr. Speaker, I urge defeat of this preferential motion.

Mr. STENHOLM. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. Mr. Speaker, I would say to my colleagues who spoke earlier, the argument every year in the three terms I have been here that we should not be debating this issue on appropriations, and yet here in those three terms I have been here, we have not had an authorization bill up. I understand why. I understand the process it has been through. However, that has not been our fault, and simply because we have not had anything to do with it, I do not think we should roll over and play dead.

Also, I would contend that we may not have this amendment up today if it was not for action taken in the Senate that we feel has to be addressed. I applaud the authorization committee. I think we should debate it under an authorization program. I hope we get a bill out so we can debate legal services. However, this happened to be the only opportunity that we had to deal with it.

I do believe strongly in the Stenholm amendment. I support it strongly. It has in it many portions of a bill which I have introduced, H.R. 2884, which is before the Committee on the Judiciary, which would be a new authorization for legal services. It would completely revise the way we look at legal services today, and I think the initial intent of many of us who have looked at it is that we want to eliminate and totally do away with legal services. That is not correct. What we want to do is to provide legal services that does what the intent was initially set up under the law when it was provided years ago, that, in fact, many of those allegations of abuse, of misuse of funds, of use of funds for political activity, frivolous lawsuits are subject to some type of oversight by a Federal entity, that being the Legal Services Corporation, and rather than taking them out of the loop, that they in fact are in a loop, and that they have control over their State charters and the State corporations which administer legal services on a local basis.

It is taxpayer money, and I think those who should be responsive to Congress have some right to maintain a role in this.

To my friend from Massachusetts I would say I neither supported the appointment or supported the removal of the gentleman whom he mentioned a while ago who was up for Chairman. I had absolutely no fight in that and no dog in that hunt at all.

I certainly support the amendment of the gentleman from Texas and urge its passage.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE], a member of the subcommittee.

Mr. STENHOLM. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr KOLBE].

Mr. KOLBE. Mr. Speaker, this issue is not about the Board of the Legal Services Corporation. We have heard all about the Board from speaker after speaker here, but this is not about the Board. The Board is not the issue. The issue is restrictions on the grantees.

But, if we were talking about the Board, I would point out that we have heard some erroneous information. All the members of that Board have been confirmed by the Senate, and all but two of them were confirmed unanimously. The other two were confirmed by very wide margins. But the Board is not the issue.

I want to make it clear that I support legal services for the poor. It is the fundamental mission of the Legal Services Corporation. We ought to focus that mission on giving services to those who need it, those who can least afford legal services. Legal representation is a fundamental part of our system of justice.

What is needed here, what we are talking about today, are reforms. What was added by the Senate is some attempt to shackle the Legal Services Corporation Board, which has tried to put some responsible and reasonable limits on the way the grantees use the funds. What we are talking about now is restoring some of that right, some of that responsibility to the Legal Services Board through the McCollum-Stenholm amendment.

Two limitations, in particular, ought to be noted. This amendment would prohibit legal services grantees from engaging in impermissible political activity, specifically redistricting and reapportionment.

Mr. Speaker, there is no reason why grantees of the Legal Services Corporation ought to be engaged in that kind of thing, fighting our own State legislatures on what is fundamentally a political issue. They ought to be providing legal services for the poor.

Mr. Speaker, legal assistance should provide day-to-day legal assistance for poor individuals, period. That is what it ought to be about.

It is outrageous that the grantees use Federal money not to carry out their stated purpose and engage in these kinds of activities.

We do not need to tell the Board to behave. We need to tell the grantees this kind of acitivity is not sanctioned and is no longer going to be tolerated.

□ 1640

This amendment would do one other thing. It would provide money for assistance to tenants trying to evict drug dealers from public housing. Congress adopted legislation last year which said HUD ought to get drug dealers out of public housing. This amendment says to the Legal Services Corporation that they ought to assist tenants trying to do that, trying to get drug dealers out of public housing. Instead, often Legal Services Corporation is defending the drug dealers from being evicted. We should at least give equal rights to the tenants that live there and who want to get drug dealers out.

These two items alone warrant support for the Stenholm-McCollum amendment. I urge your support of it.

Mr. STENHOLM. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I rise in strong support of the Stenholm/McCollum motion. In my opinion, the LSC is in dire need of reform and redirection if it is to fulfill its original objectives. This motion would give us the opportunity to strengthen the LSC from within by rectifying its inadequacies.

Legal Services is designed to serve the legal needs of the poor. The Stenholm/McCollum motion serves just that purpose. It eliminates potential abuses and highlights areas of need. It is not aimed at abolishing the LSC—rather, it seeks to improve it. Are my colleagues aware that this motion earmarks $20 million for pursuing spouses who owe child support payments? Considering that nationwide 40 percent of single-parent households live in poverty, this earmark represents a worthwhile objective for the LSC.

Additionally, this motion contains an earmark to help law-abiding citizens rid their neighborhoods of drug dealers, especially in light of the fact that the LSC is representing those very drug dealers.

I strongly support this type of program; an offshoot of it has been very successful in Houston, TX.

I urge my colleagues to support this motion and consequently vote to strengthen legal services for the most needy in our Nation.

I include for the RECORD a letter from Legal Services Corporation.

LEGAL SERVICES CORPORATION,
October 26, 1989.

DEAR MEMBER OF CONGRESS: Yesterday you received a Dear Colleague letter from Representative Frank and others concerning the appropriation for the legal services program contained in H.R. 2991. The Frank letter claims that adoption of the Conference Report will guarantee the viability of the legal services program until a new Board of Directors is appointed and confirmed. I am writing to explain why I disagree with that and several other matters contained in his letter.

First, with regard to the Senate language aimed at the current Legal Services board of directors. Regulations passed by the board to restrict political activities such as redistricting have strengthened the integrity of the legal services program. The Congress has supported that regulation during the reprogramming and legislative process.

The board's regulation on attorney's fees also attempted to discourage programs from filing cases on a financial or political basis rather than legal merit and was modeled after language in Senator Rudman's authorization bill introduced in 1986. In sum, these regulations have not hindered the federal legal services program, as Representative Frank would have you believe, but have encouraged the delivery of basic legal services to the poor.

Second, I would like to address Representative Frank's concerns with the McCollum/Stenholm amendment.

Representative Frank states that none of the provisions are necessary to be consistent with Congressional purpose. In fact, the McCollum/Stenholm provisions on private funds, the authority of local boards of directors, timekeeping, and redistricting are grounded solidly in the LSC Act.

Representative Frank states that the agricultural provisions are especially onerous and would place unncessary burdens on programs in the handling of cases brought on behalf of migrant farmworkers. In fact, Representative Frank's own sub-committee has taken testimony from numerous farmers outlining the abuses they have suffered at the hands of legal services attorneys. The McCollum/Stenholm provision is designed to require the legal services attorneys to explore other ways to resolve disputes before a farmer is destroyed by financially costly litigation. I do not see how farm workers benefit when growers are put out of business.

The American Farm Bureau reports frequent instances of LSC attorneys soliciting farmworker clients. Legal services programs lobby on agricultural labor issues before Congress and the agencies. They file lawsuits against farmers with little or no notice, with no attempt to negotiate reasonable settlements, on behalf of workers frequently unknown to the grower.

The Frank letter charges that agriculture's claims are false. This contradicts Representative Barney Frank's earlier acknowledgement of the grower's problems at hearings he held in July 1989. The McCollum/Stenholm amendment would discourage expensive nuisance lawsuits without inhibiting vindication of bona fide claims.

Representative Frank states that a 1988 GAO report "repudiated the assertions made by LSC in support of timekeeping and functional accounting." In fact, the 1988 GAO Report did not repudiate the LSC position. The GAO stated that "LSC's proposed improvements could provide valuable information for monitoring and evaluating grantee performance" and suggested criteria for developing a timekeeping system.

The Frank letter argues that the matters addressed by the amendment are properly the province of his subcommittee and should await debate over reauthorization. In fact, funds have been appropriated without authorization since 1981, and most observers think it is unlikely that a reauthorization is imminent.

Finally, the Frank letter raises another procedural matter claiming that these issues have not been considered by relevant committees with specific reference to the application of Federal waste, fraud and abuse statutes. In fact, most of these issues have been addressed in committee hearing after committee hearing, in authorization and appropriations committees in both Houses. With regard to waste, fraud and abuse, Representative Frank noted in a July 19, 1989 oversight hearing that in response to earlier testimony by the Corporation, "I have asked the staff to begin developing language which would put criminal sanctions against any conversions to personal use of Legal Services funds . . . I have asked the staff to begin drafting such a statute."

What Representative Frank's letter does not mention is that five million dollars would be earmarked to help law abiding citizens rid their neighborhood of drug dealers.

Detractors of this provision say this would create a conflict of interest because the legal, services programs now represent drug dealers and not the law abiding citizens the provision is intended to help.

Nor does the Frank letter mention that twenty million dollars would be earmarked for pursuing spouses who owe child support. Currently, only 2.64% of LSC funds are used for child support cases, more than 40 programs handle fewer than 10 child support cases a year, while study after study reveals that more than 40 percent of single parent households live in poverty.

The McCollum/Stenholm amendment strengthens the Legal Services program. There is a consensus that the poor need help with their day-to-day legal needs—like living in a drug free neighborhood and receiving the child support that would help keep them out of poverty. A vote for McCollum/Stenholm is a vote for the poor.

Sincerely,

TERRANCE J. WEAR,
President,

Mr. STENHOLM. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Speaker, I rise in strong support of the McCollum-Stenholm amendment, and I thank them for their tireless efforts to bring a reasonable amendment before this House concerning Legal Services Corporation.

The gentleman from Kansas reluctantly opposed it. I just do not really think we are that far apart. I hope those that are going to vote on this amendment, for or against it, will read it and see it is not as extreme as has been pointed out.

The gentleman from Kansas, I think, very well stated the cause.

There is no question that the process is flawed to the extent that a present Member of this Congress was sued when he was a State prosecutor simply because he had arraigned a defendant in his sock feet. We have things that are that ridiculous and that silly.

As we prepare to vote on this issue, I believe we need to understand that we have an opportunity to take a program, a program that I think we all agree has some problems, and bring it back into the original intent of this Congress.

This does not adversely affect equal access, it ensures it. The Legal Services Corporation was created by Congress, and all Members agree it was there to provide free legal advice and representation to the poor. I think we all want to see this program work, but not without proper guidelines. It does not have an opportunity to work.

Some of my colleagues believe that the language created by the other body provides a workable solution, and I am sure their efforts are sincere, but the McCollum-Stenholm amendment contains provisions that make so much sense, so much common sense, that there should not be any question that it is a sensible, logical way to make this program work to the benefit of those people that need it.

Take the timekeeping provision, for instance. Timekeeping is an essential recordkeeping part of a professional attorney's business. All of us would expect this kind of professionalism from any lawyer we retain.

My question is, Does it not make sense to expect the same professionalism from an attorney who presents his bill to the taxpayer?

Another provision in the amendment is the regulation of private funds to be used as mandated, is all this amendment directs them to do.

Mr. Speaker, I urge the adoption of the amendment.

Mr. ROGERS. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Speaker, I rise in strong support of this motion. It will help ensure that the Legal Services Corporation meets the most basic needs of poor people. Child support enforcement is vital to improving the lives of children in single parent families. Establishing this as a priority for Legal Services will do more to improve the lives of individual poor people than any litigation drawing off scarce dollars for political issues.

Regrettably, we do not have endless resources for all programs. The Legal Services client trying desperately to obtain child support from a delinquent ex-spouse will find her economic situation improved far more by the successful resolution of her case than by any politically oriented class action lawsuit. The day-to-day casework needed by Legal Services clients may not be glamorous, but to clients, it means food on the table for themselves and for their children. Let us ensure that this type of casework is the LSC's first priority.

Mr. ROGERS. Mr. Speaker, how much time is remaining on each side?

The SPEAKER pro tempore (Mr. NAGLE). The gentleman from Kentucky [Mr. ROGERS] has 2 minutes remaining, the gentleman from Texas [Mr. STENHOLM] has 2 minutes remaining, and the gentleman from Iowa [Mr. SMITH] has 13 minutes remaining.

Mr. ROGERS. Mr. Speaker, I yield the balance of my time to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, we have heard a lot of accusations and debate about this amendment today, but I can assure my colleagues that farm workers' rights are not affected by this amendment; I can assure my colleagues that the Corporation Board and its direct powers are not affected by this amendment.

What is affected by this amendment is the carrying out of the Legal Services Program at the grassroots. As a matter of fact, the key to this is the fact we have not had an authorization for a long time, and the fact of the matter is that many of the things that we would like to have seen promulgated by regulation by the Board have not been done.

It is those things that are incorporated by statute. We do not leave it to regulation in this case. That is what is in this proposal, the recordkeeping requirements, the timekeeping requirements, the guidelines on farmer lawsuits, the issues regarding the prohibition on getting involved in redistricting.

Gosh, I cannot think of what's more important than that, with reapportionment coming up, than to keep these lawyers out of that. That is not an area the poor ought to be involved in.

The earmarking of $20 million for specifically looking for daddies and parents of children, things like that really should have been done by the Board, but we never gave them the power to do it.

This is a sensible and rational amendment. I urge that Members vote for the Stenholm-McCollum amendment. I think it is the way to go, that will give Members some breathing room until we do get an authorization by.

I plead with my colleagues to look at this from an objective standpoint, and give us the Stenholm-McCollum amendment and vote aye.

Mr. STENHOLM. Mr. Speaker, I yield myself 1½ minutes.

Mr. SMITH of Iowa. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, there has been a lot of statements made today that I would kindly classify as absurd. I appreciate the fact though that many of those acknowledged that the authors of the amendment, the gentleman from Florida, [Mr. MCCOLLUM] and myself, truly are not out to kill the Legal Services Corporation, because certainly this gentleman in offering this amendment has no such intent.

We believe that the amendments that we offer today will in fact improve the delivery of legal services to those that need it the most and cannot pay for it.

It has been amazing to this Member to listen to those that complain about not having a board before we act. This is truly amazing.

Since when does the Congress wait on the President to act before we pass the laws under which he and his designees are going to be operating?

That seems to be splitting hairs in a very fine way in order to continue to defend a very, very narrow social program by a handful of the grantees, of which all of us who have been here attempting to change this for the last

several years have in fact now presented these amendments.

Now, when we talk about this evil board though, and you look at the things that they have done, in lobbying for example, in competition in amnesty on aliens and fee-generating cases, this Congress has in fact authorized the things that many of my colleagues complained about.

As far as timekeeping, for example, it is interesting that in the area of private dollars which we have talked about today, the private dollars almost in total come from States. In all cases when the States are involved in payment of fees to Legal Services, they require the timekeeping requirements that many of my colleagues find so onerous as far as what we are trying to put upon the same Legal Services.

□ 1650

It is amazing to me that someone would say that our amendment is taking local control away from the Board. Our amendment puts local control back in charge of Legal Services.

You have not read the amendment to stand up and to say they are taking local control away. We are saying the local people ought to, in fact, be the ones in control.

We are splitting hairs today in defense of some personal problems down the line. And I hope we do not do that. I hope the entire House will look at the facts of the amendment and vote accordingly.

Mr. SMITH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginia [Mr. STAGGERS].

Mr. STAGGERS. Mr. Speaker, I rise in support of the conference report and in opposition to the McCollum-Stenholm amendment.

Mr. Speaker, the proponents of this amendment support reform of the Legal Services Corporation, as I do. However, this appropriations bill is not the time, the place, nor the vehicle for these substantial reforms—the reauthorization bill is. The reforms proposed in the amendment should be the subject of hearings in the Judiciary Committee for a thorough examination of the changes proposed. We have already had some hearings on this topic and I realize that the controversy which has surrounded the Legal Services Program for years is going to continue until a full examination of the program can occur. By reauthorizing the Legal Services Corporation Act, Congress can establish a full hearing record that will serve to substantiate or refute the allegations which are made by those on both sides of this issue.

However, the reauthorization of the Legal Services Corporation Act—which is certainly preferable to yearly appropriations language—will not become reality unless the President stops dragging his feet and appoints a new Board of Directors for the Corporation. The conference report exerts greater pressure on the administration to appoint a new board by prohibiting the implementation of any new rules or regulations until October 1, 1990, or until they are adopted by a new Board of Directors. The McCollum/Stenholm amendment has no such provision.

We need leadership on this issue, and I compliment the authors for their efforts, but the leadership should first come from the executive branch by appointing a new Legal Services Corporation Board of Directors. Only then will Congress know that the President is serious about reform.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. NAGLE). The gentleman from Iowa [Mr. SMITH] is recognized for 12 minutes.

Mr. SMITH of Iowa. Mr. Speaker, I would like to summarize where we are, not only on this amendment but on this important subject.

You know, it has been some years ago now that we had a program called the Office of Economic Opportunity. Under that office—we had the Legal Aid Program. They had a good many problems.

Then during the Nixon administration it was decided there ought to be a different approach to this, and, of course, the idea was to set up a corporation. That has a good name, corporation; if it is a corporation, it has got to be good.

In this case it really was good.

The idea is good. I think the structure is good.

So a corporation was set up with the idea that it would provide legal services in civil cases, not in criminal cases but in civil cases, to people who otherwise could not afford those services.

Now we had an authorization. But the last authorization that passed the House was effective through fiscal year 1980. Since then we have not had an authorization.

The following year the new authorization came in, wanted to zero out all the money there was for the corporation, was very hostile to the idea of even having a corporation or providing legal services.

We have had, as you all know, appointment of a very hostile board that did not even believe in the program that they were supposed to be administering.

Now we need an authorization. Surely everybody agrees on that here today. We need an authorization. This subcommittee does not like being both the authorizing committee and the appropriating committee. We have been forced into this position in order to keep the Corporation alive.

The majority on this floor have voted several times to the effect they want a Legal Services Corporation. So we have no alternative but to try to be both an authorizing and appropriating committee temporarily.

We need a confirmed board. But they have 10 members who are being held over after these terms have expired.

Can you imagine a board, its term of office comes to an end, but it is held over until there is an appointment to replace its members?

So we need a new board. That is what has gotten us into this problem. I believe that if we had a new board, we would not have these problems today.

The Appropriations Committee has been forced to handle this situation in two ways. First, we have had prohibitions upon the board and upon local programs concerning certain things we all agreed should not be done.

For example, there is a prohibition on abortion litigation. We wrote that into the bill so they would not be getting into that area.

There is a prohibition on representation of aliens.

There is a restriction on bringing class-action suits. They were doing that in cases where they should not have been. So there are restrictions on that.

There is a requirement that the State and local bar associations appoint a majority of the local board of directors.

Now those things, we think, need to be in the permanent law, they need to be in the authorization when they come out. I hope nobody is arguing about that. But those restrictions are in place, they are a part of this bill, and they will remain in place.

In addition to that, though, we found ourselves in the position of having to have prohibitions on the hostile board doing things they should not do. That is what we have had to do.

So what we have done, for example, is to prohibit the board from implementing new regulations which we know would be very hostile, until a new board is confirmed. However, we provide that if a new board is confirmed, this requirement will be terminated.

Then we require that any timekeeping requirement must be impaired by regulation. We do not prohibit that. But we want a new board to do it, one that we know is not hostile to the purpose of the program.

We have these new amendments that are before us today. I want to touch on two or three of them because they have been talked about here.

One of them is a prohibition on local programs allocating their resources to redistricting cases.

Our subcommittee last summer approved a Corporation regulation on this matter. We approved that.

Now, concerning the new regulation proposed today on selection of cases, let me say this: The board sets policy. I do not think you can expect local lawyers who are trying to make a living, serving on a board and trying to do their civic duty, to also go down

every day and select the cases that come in that day, that the local director should. They appoint a director, they expect him to operate within their policy guidelines. This new regulation would really be micromanaging.

As to the $20 million, that would be earmarked for child support cases in the gentleman's amendment, we cannot effectively require this in all of these field offices. You could not possibly handle this that way.

We have local field programs all over the country. You cannot say to each one of them that they ought to spend a certain amount of money on any certain kind of case.

Anybody who has ever practiced law knows that you do not have control over the kinds of cases that come to you. They come in, you look at them, and you take the highest priority case and that is the one that you work in. If a local program does not have enough money, then they are going to drop some cases that they would like to handle.

We did say in the statement of the managers, local programs should give a high priority to assist local housing authorities in evicting drug law violators from public housing projects.

I want to close by saying this: Legal Services is needed, everybody seems to agree on that now. That is a little progress we have made in the last 2 or 3 years.

I want to remind you that the sixth amendment to the Constitution requires that an attorney be provided to defendants in criminal cases. If you have a criminal case, you have to provide an attorney to an indigent defendant. But here is a law-abiding citizen who needs the help of an attorney to negotiate through some Government forms to show that he is eligible for some Government services. Three or four years ago we had a study made: Thirty-eight percent of the people who walked through the door of a local Legal Services Corporation field office needed some help in getting some right that they had, such as Social Security. That is one of the main categories of Legal Services cases. These people need help in getting this.

We have a government of laws, not of men. We do not have, as they have in Vietnam the white mice. If you have a problem in Vietnam, they have a white mouse, as they call them, come along in a Volkswagen. If you have an automobile accident he drives up and makes a decision right there on the spot. Whoever he says is responsible for the accident, is thrown in jail. Then the family comes down and pays the other side off. We do not have that. We abide by laws in this country. If you abide by the civil law, you have to have somebody to negotiate the law and uphold your rights.

□ 1700

The administration wanted to eliminate funding for the program. However, let me point this out: We only have the amount of money in the bill that Legal Services had in 1981. It is woefully inadequate, compared to the need. No other program I know of is still operating on 1981 dollars, but we do have an administration that says they are not opposed to Legal Services. What we need to do is to get a new board confirmed. In the meantime, this amendment is not going to help Members accomplish our objective. What we need to do now, is to defeat this amendment, to go on with what is in this bill, and then as soon as a new board is appointed and confirmed, I think that some of the things that people are complaining about will disappear.

Mr. CONYERS. Mr. Speaker, will the gentleman from Iowa yield?

Mr. SMITH of Iowa. Mr. Speaker, I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I agree with the gentleman from Iowa [Mr. SMITH].

Mr. Speaker, the proposed amendment should be soundly rejected. It is one more example of the unceasing guerrilla warfare being waged against the embattled Legal Services Program by those who have failed in the all-out war they have waged to totally obliterate this much-needed service for the poor and powerless.

The parts of the amendment dealing with agricultural cases are particularly obnoxious because they attempt to impose upon farmworkers—one of the most powerless groups of citizens—burdens that no other segment of the population must meet in order to receive legal representation.

It is well known that throughout this country farmworkers have faced terrible obstacles in attempting to receive elementary due process by having lawyers available. Time after time, representatives of such workers have been forced to resort to the courts merely to gain the right to have access to legal services. This amendment would impose new barriers to the exercise of this elementary right of access to the legal system.

Another vulnerable segment of the population which would be penalized by the Stenholm amendment is the elderly. By forbidding Legal Services Corporation funds to be used to match Administration on Aging funds, the amendment would reduce representation available to the elderly. Current LSC grantees use these funds to match AOA funds and provide extensive services to the elderly.

Let us soundly defeat this amendment and tell its proponents to go pick on someone their own size, and leave the old, the infirm, and the powerless alone.

Mr. SMITH of Iowa. Mr. Speaker, I ask for a no vote on the amendment.

I reserve the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore (Mr. NAGLE). The question is, Will the House concur in the amendment of the Senate numbered 179 with an amendment?

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. STENHOLM. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 199, nays 206, not voting 28, as follows:

[Roll No. 316]

YEAS—199

Andrews	Henry	Regula
Archer	Herger	Rhodes
Baker	Hiler	Ridge
Ballenger	Holloway	Rinaldo
Bartlett	Hopkins	Ritter
Barton	Houghton	Roberts
Bateman	Hubbard	Robinson
Bentley	Huckaby	Rogers
Bereuter	Hunter	Rohrabacher
Bilbray	Hutto	Ros-Lehtinen
Bilirakis	Hyde	Roth
Bliley	Inhofe	Roukema
Broomfield	Ireland	Rowland (CT)
Brown (CO)	Jacobs	Rowland (GA)
Buechner	James	Saiki
Bunning	Jenkins	Sarpalius
Burton	Johnson (CT)	Saxton
Byron	Jones (NC)	Schaefer
Callahan	Kasich	Schiff
Campbell (CA)	Kolbe	Schuette
Chandler	Kyl	Schulze
Clinger	Lagomarsino	Sensenbrenner
Coble	Lancaster	Shaw
Coleman (MO)	Laughlin	Shumway
Combest	Leath (TX)	Shuster
Condit	Lent	Skeen
Coughlin	Lewis (CA)	Skelton
Cox	Lewis (FL)	Slaughter (VA)
Craig	Lightfoot	Smith (NE)
Crane	Lipinski	Smith (NJ)
Dannemeyer	Livingston	Smith (TX)
Darden	Lloyd	Smith (VT)
Davis	Lowery (CA)	Smith, Robert (NH)
de la Garza	Lukens, Donald	Smith, Robert (OR)
DeLay	Madigan	Snowe
Derrick	Martin (IL)	Solomon
DeWine	Martin (NY)	Spence
Dickinson	McCollum	Stallings
Dornan (CA)	McCrery	Stangeland
Douglas	McDade	Stearns
Dreier	McEwen	Stenholm
Duncan	McGrath	Stump
Dyson	McMillan (NC)	Sundquist
Edwards (OK)	Meyers	Tallon
Emerson	Michel	Tanner
English	Miller (OH)	Tauke
Fawell	Miller (WA)	Tauzin
Fields	Montgomery	Taylor
Gallegly	Moorhead	Thomas (CA)
Gallo	Morrison (WA)	Thomas (GA)
Gekas	Myers	Thomas (WY)
Gillmor	Nielson	Upton
Gilman	Olin	Valentine
Gingrich	Oxley	Vander Jagt
Goodling	Packard	Vucanovich
Goss	Parker	Walker
Grandy	Parris	Walsh
Grant	Pashayan	Weber
Gunderson	Paxon	Weldon
Hall (TX)	Payne (VA)	Whittaker
Hammerschmidt	Penny	Wilson
Hancock	Petri	Wolf
Hansen	Porter	Wylie
Hastert	Poshard	Young (AK)
Hatcher	Pursell	Young (FL)
Hayes (LA)	Quillen	
Hefley	Ravenel	

NAYS—206

Ackerman	Gibbons	Nowak
Akaka	Glickman	Oakar
Alexander	Gonzalez	Oberstar
Anderson	Gordon	Obey
Annunzio	Gradison	Ortiz
Anthony	Gray	Owens (NY)
Aspin	Green	Owens (UT)
Atkins	Guarini	Pallone
AuCoin	Hall (OH)	Panetta
Bates	Hamilton	Patterson
Bellenson	Harris	Payne (NJ)
Bennett	Hawkins	Pease
Berman	Hayes (IL)	Pelosi
Bevill	Hefner	Perkins
Boehlert	Hertel	Pickett
Boggs	Hoagland	Pickle
Bonior	Hochbrueckner	Price
Bosco	Horton	Rahall
Boucher	Hoyer	Rangel
Boxer	Hughes	Richardson
Brennan	Johnson (SD)	Roe
Browder	Johnston	Rose
Brown (CA)	Jones (GA)	Rostenkowski
Bruce	Jontz	Roybal
Bryant	Kanjorski	Sabo
Bustamante	Kaptur	Sangmeister
Campbell (CO)	Kastenmeier	Savage
Cardin	Kennedy	Sawyer
Carper	Kennelly	Scheuer
Carr	Kildee	Schneider
Chapman	Kleczka	Schroeder
Clarke	Kolter	Schumer
Clay	Kostmayer	Sharp
Clement	LaFalce	Shays
Coleman (TX)	Lantos	Sikorski
Collins	Leach (IA)	Sisisky
Conte	Lehman (CA)	Skaggs
Conyers	Lehman (FL)	Slattery
Cooper	Levin (MI)	Slaughter (NY)
Costello	Levine (CA)	Smith (FL)
Coyne	Lewis (GA)	Smith (IA)
Crockett	Long	Solarz
DeFazio	Lowey (NY)	Spratt
Dellums	Luken, Thomas	Staggers
Dicks	Machtley	Stark
Dixon	Manton	Stokes
Donnelly	Markey	Studds
Dorgan (ND)	Martinez	Swift
Downey	Matsui	Synar
Durbin	Mavroules	Torres
Dwyer	Mazzoli	Torricelli
Dymally	McCloskey	Towns
Early	McDermott	Traficant
Eckart	McHugh	Udall
Edwards (CA)	McMillen (MD)	Unsoeld
Engel	McNulty	Vento
Erdreich	Mfume	Visclosky
Evans	Miller (CA)	Volkmer
Fascell	Mineta	Walgren
Fazio	Moakley	Waxman
Flake	Mollohan	Weiss
Foglietta	Moody	Wheat
Ford (MI)	Morella	Whitten
Frank	Morrison (CT)	Williams
Frenzel	Murphy	Wise
Frost	Nagle	Wolpe
Gejdenson	Natcher	Wyden
Gephardt	Neal (MA)	Yates
Geren	Nelson	

NOT VOTING—28

Applegate	Flippo	Murtha
Armey	Florio	Neal (NC)
Barnard	Ford (TN)	Ray
Borski	Garcia	Russo
Brooks	Gaydos	Smith, Denny (OR)
Courter	Marlenee	Traxler
Dingell	McCandless	Watkins
Espy	McCurdy	Yatron
Feighan	Molinari	
Fish	Mrazek	

□ 1722

The Clerk announced the following pair:

On this vote:

Mr. McCandless for, with Mr. Dingell against.

Messrs. SMITH of Florida, GUARINI, UDALL, McNULTY, ROSE and MURPHY changed their vote from "yea" to "nay."

Messrs. INHOFE, STERNS, and SMITH of Vermont changed their vote from "nay" to "yea."

So the House refused to concur in the amendment of the Senate numbered 179 with an amendment.

The result of the vote was announced as above recorded.

PREFERENTIAL MOTION OFFERED BY MR. STENHOLM

Mr. STENHOLM. Mr. Speaker, I offer a preferential motion.

Mr. MORRISON of Connecticut. Mr. Speaker, I reserve a point of order against the motion.

The SPEAKER pro tempore (Mr. BRUCE). The Clerk will report the motion.

The Clerk read as follows:

Mr. STENHOLM moves that the House concur in the Senate Amendment No. 179 with the following amendment: Page 95, line 6, strike out "Provided" and all that follows through page 96, line 21.

The SPEAKER pro tempore. The Chair will announce the time remaining.

The gentleman from Texas [Mr. STENHOLM] has 30 seconds remaining, the gentleman from Kentucky [Mr. ROGERS] has no time remaining, and the gentleman from Iowa [Mr. SMITH] has 2 minutes remaining.

Mr. STENHOLM. Mr. Speaker, simply what this amendment does, it strikes all of the so-called Rudman language that the gentleman from Iowa himself has brought back to the House in technical disageement. It keeps all of the Rudman language that the gentleman from Iowa and the gentleman from Texas, and I believe a large majority of the House believe, should be included in future directions for the Legal Services Corporation.

If you truly believe that we ought not to be legislating on appropriation bills, that we ought not to be authorizing on appropriation bills, you will support this amendment and then deal with the entire question of Legal Services in the proper authorizing procedure next year.

The SPEAKER pro tempore. Does the gentleman from Connecticut withdraw his point of order?

Mr. MORRISON of Connecticut. Mr. Speaker, I reserve my point of order.

The SPEAKER pro tempore. The gentleman from Iowa [Mr. SMITH] is recognized for 2 minutes.

Mr. SMITH of Iowa. Mr. Speaker, we are in the unfortunate position of having a very hostile Board of Directors with 10 of the 11 members holding over, holding office after their terms have expired.

What we are trying to do is get by until we can get a new Board nominated and confirmed. That is all we want to do.

In the meantime, we had a few new provisions to try to get through the crisis that we have down there. One of these provisions prohibits the Corporation from implementing new regulations until a new Board is confirmed. As soon as a new Board is confirmed, this problem disappears. If the administration nominates a new Board and it is confirmed by the Senate, they do not have to worry about this.

The next provision is on timekeeping requirements. The Corporation wanted to require local Legal Services programs to keep records of time spent on cases without going through the regulatory process. The provision requires the Corporation to adopt a regulation on timekeeping requirements.

Another provision deals with a decision of an independent hearing officer appointed by the president of the Corporation in a defunding action whose decision was overruled by the Corporation president. We said that he cannot do that.

So I say, we are taking the minimum action necessary until a new Board is confirmed. I ask for a no vote on the Stenholm amendment so that we can go ahead until we get a new Board confirmed.

PARLIAMENTARY INQUIRIES

Mr. MORRISON of Connecticut. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MORRISON of Connecticut. Mr. Speaker, is the motion before us a motion that begins with striking language out on page 95, line 6, through page 96, line 21?

The SPEAKER pro tempore. The gentleman is correct.

Mr. MORRISON of Connecticut. The only language that is struck out is this one page of language in the middle of the bill, without any particular reference to sections or any other portion; is that correct, Mr. Speaker?

The SPEAKER pro tempore. The gentleman will be advised by the Chair that it strikes on page 95, line 6, of the Senate engrossed amendment striking out "provided" and all that follows through page 96, line 21.

Mr. McCOLLUM. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. McCOLLUM. Am I correct, Mr. Speaker, that this amendment offered by the gentleman from Texas would strike out that language from this bill that is the language that Senator RUDMAN added this year that he did not have in the bill last year?

The SPEAKER pro tempore. The Chair will advise the gentleman from Florida that is not a parliamentary inquiry.

The question is, Will the House concur in the amendment of the Senate numbered 179 with an amendment?

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. STENHOLM. Mr. Speaker, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 178, noes 233, not voting 32, as follows:

[Roll No. 317]

AYES—178

Andrews	Hatcher	Quillen
Archer	Hayes (LA)	Ravenel
Baker	Hefley	Regula
Ballenger	Herger	Rhodes
Bartlett	Hiler	Ritter
Barton	Holloway	Roberts
Bateman	Hopkins	Robinson
Bentley	Hubbard	Rogers
Bereuter	Hunter	Rohrabacher
Bilbray	Hutto	Roth
Bilirakis	Hyde	Roukema
Bliley	Inhofe	Rowland (CT)
Broomfield	Ireland	Rowland (GA)
Brown (CO)	James	Sarpalius
Buechner	Jenkins	Saxton
Bunning	Kasich	Schaefer
Burton	Kolbe	Schiff
Byron	Kyl	Schuette
Callahan	Lagomarsino	Sensenbrenner
Campbell (CA)	Lancaster	Shaw
Chandler	Laughlin	Shumway
Coble	Leath (TX)	Shuster
Coleman (MO)	Lent	Skeen
Combest	Lewis (CA)	Skelton
Coughlin	Lewis (FL)	Slattery
Cox	Lightfoot	Slaughter (VA)
Craig	Lipinski	Smith (NE)
Crane	Livingston	Smith (NJ)
Dannemeyer	Lloyd	Smith (TX)
Darden	Lowery (CA)	Smith, Robert (NH)
de la Garza	Lukens, Donald	Smith, Robert (OR)
DeLay	Madigan	Solomon
Derrick	Martin (IL)	Spence
DeWine	Martin (NY)	Stallings
Dickinson	McCollum	Stangeland
Dornan (CA)	McCrery	Stearns
Douglas	McDade	Stenholm
Dreier	McEwen	Stump
Duncan	McGrath	Sundquist
Dyson	McMillan (NC)	Tanner
Edwards (OK)	Meyers	Tauke
Emerson	Michel	Tauzin
Fawell	Miller (OH)	Taylor
Fields	Miller (WA)	Thomas (CA)
Gallegly	Montgomery	Thomas (WY)
Gallo	Moorhead	Upton
Gekas	Morrison (WA)	Valentine
Gillmor	Myers	Vander Jagt
Gilman	Nielson	Vucanovich
Gingrich	Olin	Walker
Goodling	Oxley	Weber
Goss	Packard	Weldon
Grandy	Parker	Whittaker
Grant	Parris	Wilson
Gunderson	Pashayan	Wolf
Hall (TX)	Paxon	Wylie
Hammerschmidt	Payne (VA)	Young (AK)
Hancock	Petri	Young (FL)
Hansen	Poshard	
Hastert	Pursell	

NOES—223

Ackerman	Berman	Bryant
Akaka	Bevill	Bustamante
Alexander	Boehlert	Campbell (CO)
Anderson	Boggs	Cardin
Annunzio	Bonior	Carper
Anthony	Bosco	Carr
Aspin	Boucher	Chapman
Atkins	Boxer	Clarke
AuCoin	Brennan	Clay
Bates	Browder	Clement
Bellenson	Brown (CA)	Clinger
Bennett	Bruce	Coleman (TX)
Collins	Jontz	Porter
Condit	Kanjorski	Price
Conte	Kaptur	Rahall
Conyers	Kastenmeier	Rangel
Cooper	Kennedy	Richardson
Costello	Kennelly	Ridge
Coyne	Kildee	Rinaldo
Crockett	Kleczka	Roe
DeFazio	Kolter	Ros-Lehtinen
Dellums	Kostmayer	Rose
Dicks	LaFalce	Rostenkowski
Dixon	Lantos	Roybal
Donnelly	Leach (IA)	Sabo
Dorgan (ND)	Lehman (CA)	Saiki
Downey	Lehman (FL)	Sangmeister
Durbin	Levin (MI)	Savage
Dwyer	Levine (CA)	Sawyer
Dymally	Lewis (GA)	Scheuer
Early	Long	Schneider
Eckart	Lowey (NY)	Schroeder
Edwards (CA)	Luken, Thomas	Schumer
Engel	Machtley	Sharp
English	Manton	Shays
Erdreich	Markey	Sikorski
Evans	Martinez	Sisisky
Fascell	Matsui	Skaggs
Fazio	Mavroules	Slaughter (NY)
Flake	Mazzoli	Smith (FL)
Foglietta	McCloskey	Smith (IA)
Ford (MI)	McDermott	Smith (VT)
Frank	McHugh	Snowe
Frenzel	McMillen (MD)	Solarz
Frost	McNulty	Spratt
Gejdenson	Mfume	Staggers
Gephardt	Miller (CA)	Stark
Geren	Mineta	Stokes
Gibbons	Moakley	Studds
Glickman	Mollohan	Swift
Gonzalez	Moody	Synar
Gordon	Morella	Tallon
Gradison	Morrison (CT)	Thomas (GA)
Gray	Murphy	Torres
Green	Nagle	Torricelli
Guarini	Natcher	Towns
Hall (OH)	Neal (MA)	Traficant
Hamilton	Neal (NC)	Udall
Harris	Nelson	Unsoeld
Hawkins	Nowak	Vento
Hayes (IL)	Oakar	Visclosky
Hefner	Oberstar	Volkmer
Henry	Obey	Walgren
Hertel	Ortiz	Walsh
Hoagland	Owens (NY)	Waxman
Hochbrueckner	Pallone	Weiss
Horton	Panetta	Wheat
Hoyer	Patterson	Whitten
Hughes	Payne (NJ)	Williams
Jacobs	Pease	Wise
Johnson (CT)	Pelosi	Wolpe
Johnson (SD)	Penny	Wyden
Johnston	Perkins	Yates
Jones (GA)	Pickett	
Jones (NC)	Pickle	

NOT VOTING—32

Applegate	Flippo	Mrazek
Armey	Florio	Murtha
Barnard	Ford (TN)	Owens (UT)
Borski	Garcia	Ray
Brooks	Gaydos	Russo
Courter	Houghton	Schulze
Davis	Huckaby	Smith, Denny (OR)
Dingell	Marlenee	Traxler
Espy	McCandless	Watkins
Feighan	McCurdy	Yatron
Fish	Molinari	

□ 1747

The Clerk announced the following pair:

On this vote:

Mr. McCandless for, with Mr. Dingell against.

Mrs. VUCANOVICH and Messrs. DERRICK, McDADE, and CAMPBELL of California changed their vote from "no" to "aye."

So the House refused to concur in the amendment of the Senate numbered 179 with an amendment.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BRUCE). The question is, Will the House concur in the amendment of the Senate numbered 179?

The House concurred in the amendment of the Senate numbered 179.

The SPEAKER pro tempore (Mr. BRUCE). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 181: Page 19, after line 16, insert:

SEC. 610. (a) The Secretary of State, in consultation with the Secretary of Commerce, shall, with respect to those species of sea turtles the conservation of which is the subject of regulations promulgated by the Secretary of Commerce on June 29, 1987—

(1) initiate negotiations as soon as possible for the development of bilateral or multilateral agreements with other nations for the protection and conservation of such species of sea turtles;

(2) initiate negotiations as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, commercial fishing operations which, as determined by the Secretary of Commerce, may affect adversely such species of sea turtles, for the purpose of entering into bilateral and multilateral treaties with such countries to protect such species of sea turtles;

(3) encourage such other agreements to promote the purposes of this section with other nations for the protection of specific ocean and land regions which are of special significance to the health and stability of such species of sea turtles;

(4) initiate the amendment of any existing international treaty for the protection and conservation of such species of sea turtles to which the United States is a party in order to make such treaty consistent with the purposes and policies of this section; and

(5) provide to the Congress by not later than one year after the date of enactment of this section—

(A) a list of each nation which conducts commercial shrimp fishing operations within the geographic range of distribution of such sea turtles;

(B) a list of each nation which conducts commercial shrimp fishing operations which may affect adversely such species of sea turtles; and

(C) a full report on—

(i) the results of his efforts under this section; and

(ii) the status of measures taken by each nation listed pursuant to paragraph (A) or (B) to protect and conserve such sea turtles.

(b)(1) IN GENERAL.—The importation of shrimp or products from shrimp which have been harvested with commercial fishing technology which may affect adversely such species of sea turtles shall be prohibited not later than May 1, 1991, except as provided in paragraph (2).

(2) CERTIFICATION PROCEDURE.—The ban on importation of shrimp or products from shrimp pursuant to paragraph (1) shall not apply if the President shall determine and certify to the Congress not later than May 1, 1991, and annually thereafter that—

(A) the government of the harvesting nation has provided documentary evidence of the adoption of a regulatory program governing the incidental taking of such sea

turtles in the course of such harvesting that is comparable to that of the United States; and

(B) the average rate of that incidental taking by the vessels of the harvesting nation is comparable to the average rate of incidental taking of sea turtles by United States vessels in the course of such harvesting.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 181 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 609. (a) The Secretary of State, in consultation with the Secretary of Commerce, shall, with respect to those species of sea turtles the conservation of which is the subject of regulations promulgated by the Secretary of Commerce on June 29, 1987—

(1) initiate negotiations as soon as possible for the development of bilateral or multilateral agreements with other nations for the protection and conservation of such species of sea turtles;

(2) initiate negotiations as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, commercial fishing operations which, as determined by the Secretary of Commerce, may affect adversely such species of sea turtles, for the purpose of entering into bilateral and multilateral treaties with such countries to protect such species of sea turtles;

(3) encourage such other agreements to promote the purposes of this section with other nations for the protection of specific ocean and land regions which are of special significance to the health and stability of such species of sea turtles;

(4) initiate the amendment of any existing international treaty for the protection and conservation of such species of sea turtles to which the United States is a party in order to make such treaty consistent with the purposes and policies of this section; and

(5) provide to the Congress by not later than one year after the date of enactment of this section—

(A) a list of each nation which conducts commercial shrimp fishing operations within the geographic range of distribution of such sea turtles;

(B) a list of each nation which conducts commercial shrimp fishing operations which may affect adversely such species of sea turtles; and

(C) a full report on—

(i) the results of his efforts under this section; and

(ii) the status of measures taken by each nation listed pursuant to paragraph (A) or (B) to protect and conserve such sea turtles.

(b)(1) IN GENERAL.—The importation of shrimp or products from shrimp which have been harvested with commercial fishing technology which may affect adversely such species of sea turtles shall be prohibited not later than May 1, 1991, except as provided in paragraph (2).

(2) CERTIFICATION PROCEDURE.—The ban on importation of shrimp or products from shrimp pursuant to paragraph (1) shall not apply if the President shall determine and certify to the Congress not later than May 1, 1991, and annually thereafter that—

(A) the government of the harvesting nation has provided documentary evidence of the adoption of a regulatory program governing the incidental taking of such sea turtles in the course of such harvesting that is comparable to that of the United States; and

(B) the average rate of that incidental taking by the vessels of the harvesting nation is comparable to the average rate of incidental taking of sea turtles by United States vessels in the course of such harvesting; or

(C) the particular fishing environment of the harvesting nation does not pose a threat of the incidental taking of such sea turtles in the course of such harvesting.

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There is no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 182: Page 19, after line 16, insert:

SEC. 611. No monies appropriated by this Act may be used to review or approve any export license applications for the launch of United States-built satellites on Soviet- or Chinese-built launch vehicles.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 182 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

SEC. 610. (a) No monies appropriated by this Act may be used to reinstate or approve any export license applications for the launch of United States-built satellites on Soviet- or Chinese-built launch vehicles unless the President makes a report under subsection (b) or (c) of this section.

(b) The restriction on the approval of export licenses for U.S.-built satellites to the People's Republic of China for launch on Chinese-built launch vehicles is terminated if the President makes a report to the Congress that:

(1) the Government of the People's Republic of China has made progress on a program of political reform throughout the entire country which includes—

(A) lifting of martial law;

(B) halting of executions and other reprisals against individuals for the nonviolent expression of their political beliefs;

(C) release of political prisoners;

(D) increased respect for internationally recognized human rights, including freedom of expression, the press, assembly, and association; and

(E) permitting a freer flow of information, including an end to the jamming of Voice of America and greater access for foreign journalists; or

(c) it is in the national interest of the United States.

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 186: Page 19, after line 16, insert:

SEC. 615. ADOPTION OF FOREIGN BORN ORPHANS.—

(a) IN GENERAL.—Section 101(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(2)) is amended by inserting before the period at the end the following: ", except that, for purposes of paragraph (1)(F) (other than the second proviso therein) in the case of an illegitimate child described in paragraph (1)(D) (and not described in paragraph (1)(C)), the term 'parent' does not include the natural father of the child if the father has disappeared or abandoned or deserted the child or if the father has in writing irrevocably released the child for emigration and adoption.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1989, upon the expiration of the similar amendment made by section 210(a) of the Department of Justice Appropriations Act, 1989 (title II of Public Law 100-459, 102 Stat. 2203).

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 186 and concur therein with an amendment, as follows: In lieu of the section designation named in said amendment insert: 611

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 187: Page 19, after line 16, insert:

SEC. 616. (a) The Federal building/courthouse located in Baton Rouge, Louisiana, is hereby redesignated as the Russell B. Long Building.

(b) Any and all references in Federal law and documents to the old name shall be

conformed and referred to as the Russell B. Long Building.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 187 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

SEC. 612(a)(1) The Federal Building and United States Courthouse located at 707 Florida Avenue in Baton Rouge, Louisiana, shall hereafter be known and designated as the "Russell B. Long Federal Building and United States Courthouse".

(2) Each reference in law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "Russell B. Long Federal Building and United States Courthouse".

(b)(1) There is hereby authorized to be appropriated such sums, not to exceed $5,500,000 to remain available until expended, as may be necessary to establish a clinical law center at Seton Hall University in Newark, New Jersey.

(2) The Secretary of Education shall make such grant in accordance with all of the terms, conditions, and requirements set forth for such a center in Amendment Numbered 70 of Conference Report 99-236 (Public Law 99-88 [99 Stat. 305]) and the Secretary of Education is authorized to receive, review and certify for payment applications for said grant. Not more than $1,000,000 of such grant shall be devoted to facilities.

(c) There is hereby authorized to be appropriated under Title III of the Higher Education Act of 1965, as amended, $4,500,000 to remain available until expended, for the cost of construction and related costs for a Health and Human Resources Center at Voorhees College in Denmark, South Carolina.

(d)(1) The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, is authorized, in accordance with the provisions of this subsection, to provide a grant for a Bioscience Research Center serving the midwestern States to be established at the University of Kansas in Lawrence, Kansas.

(2) No financial assistance may be made under this subsection unless an application is made at such time, in such matter, and containing or accompanied by such information as the Secretary of Health and Human Services may reasonably require.

(3) There are authorized to be appropriated not to exceed $5,200,000 to carry out the provisions of this subsection. Funds appropriated pursuant to this section are authorized to remain available until expended.

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. ROGERS. Mr. Speaker, there is opposition to this motion.

Mrs. MARTIN of Illinois. Mr. Speaker, I rise in opposition to the motion.

The SPEAKER pro tempore (Mr. BRUCE). Is the gentleman from Kentucky [Mr. ROGERS] opposed to the motion?

Mr. ROGERS. The gentleman is not opposed, Mr. Speaker.

The SPEAKER pro tempore. Then the gentlewoman from Illinois [Mrs. MARTIN] is entitled to 20 minutes to speak in opposition.

The gentleman from Iowa [Mr. SMITH] will be recognized for 20 minutes, the gentleman from Kentucky [Mr. ROGERS] will be recognized for 20 minutes, and the gentlewoman from Illinois [Mrs. MARTIN] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois, Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. WHITTAKER].

Mr. WHITTAKER. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise in support of Senate amendment 187 in this conference report that authorizes greatly needed resources to various institutions of higher education in our country. These funds have already been appropriated, and will not add any money to the Federal deficit or increase outlays. Of particular interest to me and the State of Kansas, is an authorization that would allow the University of Kansas to enter into a competitive bidding process for the construction of a biosciences research center at the University of Kansas at Lawrence. This facility—which would serve the Midwestern States—could enable the University of Kansas to move forward in the essential research of the diagnosis and treatment of drug abuse, alcoholism, neurological diseases, and mental illness. Its outstanding accomplishments in these areas have earned national recognition for the university's biosciences research center. Therefore, I urge my colleagues to support Senate amendment 187 to allow for current and future achievements in this important field.

Mr. SMITH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. GALLO].

Mr. GALLO. Mr. Speaker, I thank the distinguished chairman of the subcommittee for yielding to me.

Mr. Speaker, I rise in support of the conference committee provision authorizing $5.5 million for the Seton Hall model law center.

Seton Hall has a longstanding tradition of academic excellence and a tremendous commitment to serving the legal needs of inner-city residents.

That is why Seton Hall has made a commitment to construct a 60,000-square-foot law library in the heart of Newark. The entire project will cost $35 million—of which this $5.5 million is the Federal share. The rest will be provided through public and private support. But, this is much more than just a law library.

It will provide clinical law programs to serve the most needy. This model program will offer legal services for the homeless, the disabled, the elderly, and for troubled juveniles, to name a few.

The potential benefits are great—to the students who devote over 90,000 hours to legal services for the poor and for the residents of the surrounding community who will have a place to turn to for legal assistance.

I urge my colleagues to support the conference committee position.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hope the Chamber and those listening on their televisions realize that none of us would like to stay here a great deal longer and we are going to try to move debate quickly. In that spirit of comity, the first person I yielded to is someone who favors the amendment.

I would like to return to that a bit because it has been an interesting afternoon for me, I must say, as I worked on this amendment.

When the House and Senate conferencees met to consider the fiscal year 1990 Commerce, Justice, State appropriation bill, it called very simply for the redesignation of a building in the beautiful city of Baton Rouge, LA, as the Russell B. Long Federal Building and U.S. Court House. The honor which the amendment bestows on Russell Long is deserved. I commend the other body for that regard.

But when it came out of conference it bore little resemblance to that original amendment. In addition to renaming the court house, the amendment emerged authorized, authorized the expenditure of over $15 million for three projects having nothing to do with the content of the bill.

Notwithstanding the fact that we are dealing with an appropriation bill, amendment No. 187 authorizes $5.5 million for a law center, $5.2 million for a bioscience research center, and authorizes yet another $4.5 million for a college health and human resources center.

I am willing to stipulate they are all wonderful projects. If you are from Kansas, if you are from South Carolina, if you are from New Jersey, I bet you really think they are wonderful. I am willing to help you move them along in the correct process.

But we are destroying ourselves here, and we are destroying ourselves when we come and, in effect, tell the Members that are saying this process is killing us that somehow they would be against doing what this amendment wants.

This was put on by the other body. You have never looked at this stuff.

What kind of body are we that we would not say, for our authorizers, that they will have the opportunity to look at bills?

So let us agree they have merit. Let us agree if you are from that State you are probably going to vote to keep them. Let the rest of us say: Is this really what we can continue to do as we then go home and talk about budget deficits?

I can think of a lot of programs and projects in my district that could use some money. I am sure in that respect I have a great deal in company with all of you. Do you want to go home and, "Now, listen, why didn't you get some money in at the last minute?" We all want that. It is one of the things we try to do. We are supposed to do it. We try to play by the rules. We get projects authorized, we get money appropriated. We get what we can and we wait for the rest.

Sometimes we wait a long time. Our constituents get very antsy. But that is the process.

It is all right as long as everyone is playing by the same rules. In this case, everybody is not.

Mr. Speaker, the shenanigans and the shortcuts have got to stop. Nobody seems to be getting overly anxious of the fact that we are going to be in sequester in just a few days for 1 whole month.

□ 1800

We have not begun to think at all in a constructive way how we will deal with next year's constructive challenge. The critics and political pundits, of whom there will never be a shortage in this town or in this institution, for that matter, are finding all sorts of creative places to lay blame for the unraveling of the budget process. Washington's deep thinkers are doing a lot of deep thinking, and I have a suggestion that is a lot simpler than most.

Let me suggest that the problem is right here, right here in little amendment 187. I think if Members say no to this amendment, and Members say no tomorrow or the day after, to an amendment just like it, then those Members will have found the beginnings of a simple solution to one part of a very big problem. Every time we have a process we unravel, and this is an extraordinary one, every time we bend these rules or argue for an exception because it matters just this time, more of the ground shifts.

So let Members take a stand on the ground that is left. I know it is hard to say no to some of the nicest colleagues we could ask to join. This is not a partisan issue, I will be blunt. If Members think I like taking on some of the people involved in this one, Members know it is no joy for me, politically. But we must do it. We must do it.

Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, I rise today in support of a provision in H.R. 2991 authorizing funds for the purpose of building a bioscience research center at the University of Kansas.

Kansas University has been a leader in the development of medical products that have greatly enhanced the international competitiveness of the United States in the areas of biotechnology and pharmaceutical sciences. The university's research in these areas has won both national and international acclaim for its importance in furthering the diagnosis and treatment of various diseases.

KU's accomplishments in the area of biosciences research are in centers for biomedical research, bioanalytical research, and center for drug delivery research.

KU is a leader in research into the detection and treatment of drug abuse and alcoholism. Through the efforts of two award-winning scientists at KU, the United States is on the cutting edge in the development of drugs that would block the actions of alcohol in the brain and allow people to stop abusing alcohol. KU scientists are also working to devise ways to block the mind-altering effects of such hard drugs as PCP and cocaine.

In the diagnosis and treatment of neurological diseases, prestigious awards have been accorded to KU scientists for research on chemical changes in the brains of schizophrenic individuals.

Cancer research at the University of Kansas has resulted in significant improvements in finding treatments for cancer. Significant work is also being carried out to develop drugs which can prevent cancer.

Inroads made toward combating the effects of sexually transmitted diseases can also be attributed to University of Kansas research. Using funds from the National Institutes of Health, several KU researchers are investigating the effects of several promising drugs. One of these drugs has even been patented and is under study by industrial firms with future plans for commercialization.

The establishment of a biosciences research center at the University of Kansas would be of great benefit to the people of this Nation. It would also serve to enhance U.S. competitiveness, thereby enabling American firms to compete more effectively in the global economy.

Mr. Speaker, I urge my colleagues to reject any effort to strip these vital authorized funds from H.R. 2991.

Mr. SMITH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Speaker, I rise today in support of amendment No. 187, because not a day passes without being reminded of the importance education plays in the future of our Nation. In fact, our President, who refers to himself as the "Education President," has just completed a series of intense meetings to hammer out plans for strengthening educational opportunities in this country.

We hear a great deal about cooperative efforts to encourage young people to get involved in helping the needy and disadvantaged. We hear talk about taking back our cities and turning them into centers of growth and development. And we have even heard the President refer to voluntarism as a legal adequate counsel. And if that was not enough, Monsignor Petillo, the chancellor of Seton Hall, wants to further expand the clinical law programs. Why? Because every day, at least 100 homeless persons in Newark alone seek legal counsel about tenant's rights. Not to mention the hundreds of disabled and elderly persons who need, but cannot afford, counsel.

In light of this, Mr. Speaker, I would encourage my colleagues to join me in supporting this worthy amendment.

Mr. SMITH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I rise in support of amendment 187. I do so, fully sympathetic to some of the arguments that my friend, the gentlewoman from Illinois, has made, and certainly I have tried to respect, as best I could, the process that we would like to work with around here. However, in a perfect world, I think the gentlewoman from Illinois is perhaps correct, but goodness knows, we do not live in a perfect world around here. We do not work in a perfect world around here, either.

I would point out to my colleagues, that really what we are talking about here this evening is authorization language. The fact of the matter is in a previous appropriation measure that was passed in this body, it contained the appropriations required. What we are doing with this legislation is just authorizing money that we have already proposed.

Again, it is not the way we would always like to do things, but in my opinion, the merits of the case before Members this evening warrants that.

I would concur with the remarks of my colleague from Kansas which have already been made. I know the hour is late. I will be brief in pointing out, as far as I am concerned, the work to be done at the biomedical science laboratory at Kansas University is going to put this country on the cutting edge in this area. If there is one area of our Federal budget we have historically

neglected, it is the area of scientific research. If we expect to be competitive in the year 2000, as far as I am concerned, we will have to do far more in this area.

What we are talking about here this evening is a woefully small amount to move in that direction. Let me also just observe that for some that might be worried about whether the projects are competitive or not, the fact of the matter is in the case of the Kansas University project, the University of Kansas is going to have to get this project approved by the National Institutes of Health, and other universities are able to come in and meet the criteria and get an authorization. They will be in a position to compete for this also.

I know the hour is late, and I would again urge my colleagues to vote yes on the amendment No. 187.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Speaker, I thank my friend and colleagues for yielding time to me.

The gentlewoman from Illinois, who has approached this issue like a virtual banshee in a dark forest, trying to set the legislative process right, I agree with her. I wish we could. People crawl out of train wrecks faster than we will set this process right.

She was referring to this whole issue as a shortcut and a shenanigan. Well, it is a shortcut. I agree with that. The gentlewoman is absolutely right. However, it is not a shenanigan. Those are worthy projects.

As I have indicated, my goodness, we will never get these projects on board, that are vitally needed, unless we take this shortcut. The University of Kansas is at the cutting edge of research in regard to the diagnosis and treatment of drugs, alcoholism, and mental illness. If we are going to win the war on drugs, Mr. Speaker, we will have to have this kind of research on drugs, as well as adding billions to virtually every program on supply and demand.

□ 1810

That is what we are talking about, Mr. Speaker, and I would also point out that the authorization contained in the Senate language does not guarantee the funds for these projects. It is an authorization for the projects to complete through the normal process of peer review.

So, I agree with the concern about process, and I agree with the gentlewoman from Illinois [Mrs. MARTIN], my colleagues, but on this particular issue we should take the short cut, fund these vitally needed projects.

My colleagues, I urge a yes vote.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, the gentlewoman from Illinois [Mrs. MARTIN] said this is tough for her, because she is talking about her colleagues. It is not an easy thing politically. I feel the same way. It is even tougher though, because I serve on this subcommittee. I am here to tell my colleagues today that, as one member of that subcommittee, I was not aware this had been done.

Mr. Speaker, I want to show my colleagues something. This paper is all the information we had when we went into the conference committee. It says, "Amendment No. 187. Amendment adds a general provision which designates the Federal Building Courthouse in Baton Rouge, Louisiana, as the Russell B. Long Building and changes references in Federal law and documents accordingly."

That's all we know. We went into that conference, and when we came out, this is the last we knew of this issue. It was not until much later, until the gentlewoman from Illinois [Mrs. MARTIN] identified it, that I was even aware this had been added.

Mr. Speaker, it is embarrassing to me, as a member of the subcommittee, to have to stand here and tell my colleagues I was not aware of it. However, I was not the only member of the subcommittee to be unaware that this had been added at the last minute through a last-minute deal.

Mr. Speaker, we have heard from Members about the value of these projects. I do not doubt that these projects are worthwhile. I do not doubt the value of the biosciences project at the University of Kansas. But that is not the issue. This is an appropriation bill for the Departments of Commerce, Justice, and State and for the judiciary and related agencies, and yet these projects in question earmark funds for the Secretary of Education and the Secretary of Health and Human Services. They are not even part of the jurisdiction of this subcommittee.

I am frustrated. I am disappointed. I don't know what to say.

We had one colleague who said a few moments ago, "This isn't a perfect world."

Mr. Speaker, I agree, but I do not think today we should try to make it a worse world. I think we ought to try to make this process work, and part of the process of making it work is to have projects authorized through the normal process. This is the worst sort of thing we can do with an appropriations bill.

My colleagues, I urge you to defeat this.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina [Mr. SPENCE].

Mr. SPENCE. Mr. Speaker, I rise in opposition to the motion of the gentlelady from Illinois which would have the effect, among other things, of not allowing funds to be authorized for the construction of a health and human resources center at Voorhees College in Denmark, SC. These funds are appropriated in last year's Labor/HHS/Education appropriations bill. The authorization included in this report would simply enable the Department of Education to release money that has already been appropriated.

Voorhees is a historically black college. Many of you joined me earlier this year in commemorating the tremendous contributions to society that have been made by historically black colleges. Projects at the University of Kansas and at Seton Hall University are also included in the amendment.

The completion of this project at Voorhees will enable the college to provide a physical education academic program in order to award a bachelor of science degree in community health education. Such a degree is important in providing and improving health care to minority and low-income communities.

Voorhees is up for reaccreditation next year. Without this program, their accreditation is in jeopardy and the quality education that they provide to many minority students will no longer be available. I think we all realize the importance of education in our increasingly complex and technological society. Voorhees College plays an important role in encouraging academic pursuits amongst a sector of our population who have had little hope for success. It is a small school in a predominantly rural area with chronically high unemployment and it is a center of economic activity for the black community. Without this education, many of those who have been underprivileged will remain in the cycle of poverty that has consumed whole generations and communities.

For this reason, it is extremely important—for the education of these young people and the well-being of their communities—that this money be allowed to be spent. Doing so will not increase the deficit since the funds have already been appropriated. But I can tell you, it will make a great difference in the lives of those who depend upon Voorhees College, and institutions like it, to fulfill their dreams of success and achievement.

How would you like to wake up and begin the day with news that one of your colleagues is trying to take out funds for your historically black college from the conference report on Commerce, Justice, State, and Judiciary appropriations?

It can ruin your whole day.

Without regard to the motives of the gentlelady, all I can say is, I would not want to do this to a colleague.

All of us, at one time or another can be faced with a similar problem in the future and I don't think any of you would agree with the lady from Illinois and, if it concerned her own district she would not be taking the position she is today.

You can call these projects by all kinds of names as long as it's in someone else's district but when it's your ox that's being gored, it gets personal.

I hope my colleagues will agree with me and will oppose the Martin motion.

Mr. SMITH of Iowa. Mr. Speaker, I yield 30 more seconds to the gentleman from South Carolina [Mr. SPENCE] and ask him to yield to me.

Mr. SPENCE. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I want to say that when somebody told me that this project was in the district of the gentleman from South Carolina [Mr. SPENCE], I said, "There's nobody I'd rather please than the gentleman from South Carolina."

Mr. Speaker, we all know the battle which the gentleman from South Carolina [Mr. SPENCE] has been through. He is looking wonderful today, and we certainly want to do something to please him. He has been a good Member of this body, a very fair person on everything, and I am sure glad we can please him.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I crawl out from under my rock responsible for being mean to more human beings than anyone else.

May I suggest that we remember a few things?

The gentleman from South Carolina [Mr. SPENCE] that we all care about a great deal said something interesting. The thing was appropriated money before we ever authorized it, but in this bill we are going to take two other items and authorize on the appropriations bill. Does anybody think this has just gone awry?

In addition, Mr. Speaker, I must say to the gentleman from South Carolina [Mr. SPENCE] that most of the Members in here are not going to be in this position because they are going to have to go through the formal process. They are not going to have it added on in a conference report by a Member of the other body.

I say to my colleagues, "Look, this all could be you, but in reverse. I'm not asking you to vote against your fellow Members. I'm asking you to vote for the House. I'm asking you to vote for people who are not members of the Committee on Appropriations, and I am asking you to, I believe, do the right thing."

Mr. Speaker, we all would like to help each other, but we are U.S. Representatives. It is appropriate that the Members represent their own district, and it is appropriate that we care also about what happens to this country and to this institution.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I rise in support of the conference report on H.R. 2991, fiscal year 1990 Commerce, Justice, State appropriations, and against the Martin motion which would strike the authorization of certain grants by the Departments of Education and HHS for several colleges. One of these authorizations is for the Biosciences Research Center at the University of Kansas, a center whose work has focused on some of our Nation's most threatening problems: Drug abuse, cancer, and life-threatening infections such as the AIDS virus.

The University of Kansas has taken a major leadership role in basic research and the training of qualified scientists to identify new drugs for the problems we face in modern medicine. Scientists at KU have developed a revolutionary model which has been widely used in the pharmaceutical industry to evaluate ways to improve delivery of drugs to the brain for the treatment of AIDS and Alzheimer's disease.

The pioneering research by scientists at KU has led the National Cancer Institute to designate this group as the team that receives all NCI contracts for the formulation of dosages for anticancer agents. The drugs that are being developed at the Biosciences Research Center are the drugs that will appear in clinics across the country in the next few years.

The past generation's worth of research has resulted in significant improvements in finding treatments for cancer. This work is ongoing, and in part with funds from the Wesley Foundation in Wichita, KS, various new drugs are in preparation in laboratories affiliated with the center for the treatment of cancer. Significant work is also being done on potential drugs which can prevent cancer.

Using NIH funds, KU has a multidepartment grant, one of the few in the country, to identify safe and effective chemicals able to reverse damage to cells caused by environmental chemicals. At a time when we are realizing the negative impact pollution from the environment is having on the health of our families and children, this research is greatly needed so that we may begin to prevent cancer in people and animals highly at risk.

I urge my colleagues to recognize the invaluable work which is being done at the Biosciences Research Center at the University of Kansas. I urge them to recognize the decision made by the Rules Committee to allow these authorizations, and I urge them to accept the rule.

Mr. SMITH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Speaker, it would appear that the principal distinction in whether these projects are vital national concerns or misuse of resources has something to do with geography. From an Illinois perspective it appears that each are wasteful. From a New Jersey perspective they are essential.

Mr. Speaker, the difference is not simply where a Member lives or who he represents. I think it has something to do with understanding the projects involved.

In the case of $5½ million for Seton Hall University, this is not to build a new or a redundant legal center. It is for a clinical law center, to aid the advocacy of the homeless, to help in the rights of the disabled, to promote the needs of juvenile justice, to help provide access for legal skills in one of America's most disadvantaged cities, for people who otherwise would have no opportunity to participate in the legal process. It is an advocacy of public service, and it is followed by $37 million in private funding to match what we are doing here today.

The gentlewoman from Illinois [Mrs. MARTIN] suggests that to vote for a national need to represent this House. I have a different idea. Represent some other things my colleagues are speaking about as well: the homeless, biomedical research in Kansas, the disabled. Those priorities are represented in what the committee has done on the national basis.

I urge support for the conference report, for amendment 187. I urge support for the committee.

□ 1820

Mr. ROGERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I would ask us to do something that is very difficult, listening to the words and hearts of our colleagues, and that is to vote "no," say "no," and get this train on at least a track that will not lead to total destruction.

I, too, am moved. I will support all of you in an appropriate authorization bill.

Mr. Speaker, I yield back the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, I ask why, oh, why is it that every time we bring this bill to the floor everybody wants to pick on our little old bill?

We cannot do anything, it seems, to satisfy everybody, as much as we try. We are here to make laws, and so we have been hearing all year these complaints about not passing enough laws, so we bring before you a law. No, we do not want to pass that.

Then we have been hearing these complaints about the majority not being given the opportunity to work its will. We are giving you the opportunity to work your will.

Then there is a complaint that the procedure is not right. I do not want

to work my will today, some other time.

Now the majority is going to get a chance. Nobody denies these are worthy projects that we are doing today, and there are only three of them. They are not controversial. There is no money in the bill for them. They have been through this House one way or another before. It is not that the House has never had a chance to work its will. It has. They have been through the House before, but they did not make it all the way through the process. They are good projects.

Now we complain about the procedure. Well, I do not hear any complaints by the authorizing committees. They are the ones we primary check with.

So I say let us go ahead and vote for the motion to recede and concur.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SMITH of Iowa. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 273, nays 121, not voting 39, as follows:

[Roll No. 318]

YEAS—273

Ackerman	Collins	Gejdenson
Akaka	Condit	Gephardt
Alexander	Conte	Geren
Anderson	Conyers	Gibbons
Andrews	Cooper	Gillmor
Annunzio	Costello	Glickman
Anthony	Coughlin	Gonzalez
Aspin	Coyne	Gordon
Atkins	Crockett	Grant
AuCoin	Darden	Gray
Beilenson	Davis	Green
Bennett	de la Garza	Guarini
Bereuter	DeFazio	Hall (OH)
Berman	Dellums	Harris
Bevill	Derrick	Hastert
Bilbray	Dicks	Hatcher
Boehlert	Dixon	Hawkins
Boggs	Donnelly	Hayes (IL)
Bonior	Dorgan (ND)	Hayes (LA)
Borski	Downey	Hefner
Bosco	Durbin	Hertel
Boucher	Dwyer	Hoagland
Boxer	Dymally	Hochbrueckner
Brennan	Dyson	Hoyer
Broomfield	Early	Hubbard
Browder	Eckart	Hughes
Brown (CA)	Edwards (CA)	Hunter
Bruce	Edwards (OK)	Hyde
Bryant	Emerson	Ireland
Bustamante	Engel	Jones (GA)
Callahan	English	Jones (NC)
Campbell (CO)	Erdreich	Jontz
Cardin	Evans	Kanjorski
Carper	Fascell	Kaptur
Carr	Fazio	Kasich
Chandler	Flake	Kennelly
Chapman	Foglietta	Kildee
Clarke	Ford (MI)	Kleczka
Clay	Frost	Kolter
Coleman (TX)	Gallo	Kostmayer
LaFalce	Oakar	Skeen
Lancaster	Oberstar	Skelton
Lantos	Olin	Slattery
Laughlin	Ortiz	Slaughter (VA)
Leath (TX)	Owens (NY)	Smith (FL)
Lehman (CA)	Oxley	Smith (IA)
Lehman (FL)	Packard	Smith (NE)
Lent	Pallone	Smith (NJ)
Levin (MI)	Parker	Smith (VT)
Levine (CA)	Parris	Smith, Robert (OR)
Lewis (GA)	Pashayan	Solarz
Lipinski	Patterson	Spence
Livingston	Payne (NJ)	Spratt
Lloyd	Payne (VA)	Staggers
Long	Pelosi	Stallings
Lowery (CA)	Penny	Stark
Lowey (NY)	Perkins	Stenholm
Luken, Thomas	Pickett	Stokes
Madigan	Pickle	Studds
Manton	Poshard	Swift
Markey	Price	Synar
Martin (NY)	Pursell	Tanner
Martinez	Quillen	Tauke
Matsui	Rahall	Tauzin
Mavroules	Rangel	Thomas (CA)
Mazzoli	Ravenel	Torres
McCloskey	Regula	Torricelli
McCollum	Richardson	Towns
McDade	Ridge	Traficant
McDermott	Rinaldo	Udall
McGrath	Roberts	Unsoeld
McHugh	Roe	Valentine
McMillan (NC)	Rogers	Vander Jagt
McMillen (MD)	Rose	Vento
McNulty	Roukema	Volkmer
Meyers	Rowland (CT)	Walgren
Mfume	Rowland (GA)	Waxman
Miller (CA)	Roybal	Weber
Mineta	Sabo	Weiss
Moakley	Saiki	Wheat
Mollohan	Sangmeister	Whittaker
Montgomery	Sarpalius	Whitten
Moody	Savage	Wilson
Morrison (CT)	Sawyer	Wise
Morrison (WA)	Saxton	Wolpe
Murphy	Scheuer	Wyden
Myers	Schuette	Yates
Nagle	Schumer	Young (AK)
Neal (MA)	Sharp	Young (FL)
Neal (NC)	Shaw	
Nelson	Sikorski	
Nowak	Skaggs	

NAYS—121

Archer	Gunderson	Petri
Baker	Hall (TX)	Porter
Ballenger	Hamilton	Rhodes
Bartlett	Hammerschmidt	Ritter
Barton	Hancock	Robinson
Bateman	Hansen	Rohrabacher
Bentley	Hefley	Ros-Lehtinen
Bilirakis	Herger	Roth
Bliley	Hiler	Schaefer
Brown (CO)	Holloway	Schiff
Buechner	Hopkins	Schneider
Bunning	Hutto	Schroeder
Burton	Inhofe	Sensenbrenner
Byron	Jacobs	Shays
Campbell (CA)	James	Shumway
Clinger	Johnson (CT)	Shuster
Coble	Johnson (SD)	Sisisky
Coleman (MO)	Johnston	Slaughter (NY)
Combest	Kastenmeier	Smith (TX)
Cox	Kennedy	Smith, Robert (NH)
Craig	Kolbe	Snowe
Crane	Kyl	Solomon
Dannemeyer	Lagomarsino	Stangeland
DeLay	Leach (IA)	Stearns
DeWine	Lewis (FL)	Stump
Dickinson	Lightfoot	Sundquist
Dornan (CA)	Lukens, Donald	Tallon
Douglas	Machtley	Taylor
Dreier	Martin (IL)	Thomas (GA)
Duncan	McEwen	Thomas (WY)
Fawell	Michel	Upton
Fields	Miller (OH)	Visclosky
Frank	Miller (WA)	Vucanovich
Frenzel	Moorhead	Walker
Gallegly	Morella	Walsh
Gekas	Natcher	Weldon
Gilman	Nielson	Williams
Goodling	Obey	Wolf
Goss	Panetta	Wylie
Gradison	Paxon	
Grandy	Pease	

NOT VOTING—39

Applegate	Garcia	Mrazek
Armey	Gaydos	Murtha
Barnard	Gingrich	Owens (UT)
Bates	Henry	Ray
Brooks	Horton	Rostenkowski
Clement	Houghton	Russo
Courter	Huckaby	Schulze
Dingell	Jenkins	Smith, Denny (OR)
Espy	Lewis (CA)	Traxler
Feighan	Marlenee	Watkins
Fish	McCandless	Yatron
Flippo	McCrery	
Florio	McCurdy	
Ford (TN)	Molinari	

□ 1844

Messrs. RHODES, BURTON of Indiana, HALL of Texas, OBEY, HERGER, VISCLOSKY, SCHAEFER, and JOHNSON of South Dakota changed their vote from "yea" to "nay."

Mr. WEBER and Mr. STUDDS changed their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 189: Page 19, after line 16, insert:

SEC. 618. (a) The Congress finds that—

(1) the illegal use of drugs is a crisis in America, causing incalculable suffering and damage to individuals, families, and social institutions;

(2) the economic and social dislocation caused by illegal drugs has had a devastating effect on the fabric of our society and citizens;

(3) it will take a multifaceted approach, both domestically and internationally, to successfully address the multifaceted problem of illegal drugs;

(4) Manuel Noriega's continued exercise of power in Panama has contributed to political unrest and international illegal drug trafficking in the hemisphere and the world, and that he should be removed from any position of power in Panama in order to reduce the drug flow and increase democracy;

(5) Public Law 100-690, the Anti-Drug Abuse Act of 1988, enacted on November 18, 1988, expressed the sense of the Congress that the President should convene as soon as possible an international conference on combating illegal drug production, trafficking, and use in the Western Hemisphere; and

(6) the national drug strategy announced by the President on September 5, 1989, states that "priority consideration should be given to convening at an early date a drug summit".

(b) It is the sense of the Congress that—

(1) the agenda of the international drug summit should include, among others, the subjects of interdiction, crop eradication, crop substitution, law-enforcement, education and prevention, and the international sharing of intelligence;

(2) the President should consult with the leaders of participating countries at the international drug summit on ways to achieve international cooperation and coordination in support of measures directed

at removing Manuel Noriega from any position of power in Panama; and

(3) in addition to or in the absence of an international drug summit, the United States should intensify unilateral and bilateral efforts as well as efforts in concert with international organizations and other multinational forums to assist the nations of the hemisphere in their battle against drugs and the drug traffickers, including measures directed at removing Manuel Noriega from any position of power in Panama.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 189 and concur therein with an amendment, as follows: In lieu of the section designation named in said amendment insert "613".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 191: Page 19, after line 16, insert:

SEC. 620. (a) The Senate finds that—

(1) officials representing eight United States airports recently met with Secretary Skinner to discuss the need for more airport gateways for United States cities for international service;

(2) these officials believe that the United States Government must place greater emphasis in United States international aviation negotiations on maximizing the new international trade opportunities;

(3) direct nonstop air service to foreign destinations facilitates international business for our country's industries, attracts foreign investment, makes travel abroad more convenient for United States citizens and increases foreign tourism;

(4) direct international air transport is especially important to tourism and the high-tech industries on the cutting edge of our Nation's drive for international competitiveness, both of which tend to be located away from traditional air service gateways;

(5) a single nonstop air service to a previously unserved foreign point can result in economic benefits to the United States community alone of up to a quarter of a billion dollars or more in the first year, with the benefits compounding thereafter; and

(6) the time savings to United States travelers alone from such a service are greater than profits United States airlines would lose, if any, from traffic diversion.

(b) It is the sense of the Senate that the United States Senate supports the designation of markets previously without nonstop international air service as new "gateways", and believes that other airlines, United States or foreign, be able to provide "gateway" service when United States airlines already serving the foreign country in question fail to do so.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 191 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

SEC. 614. Until H.R. 1487, the Foreign Relations Authorization Act for Fiscal Year 1990 is enacted into law, the funds appropriated by this Act for the Department of State and the United States Information Agency may be obligated and expended on or before November 30, 1989, at a rate of operations not exceeding the rate available for fiscal year 1989 or the rate provide in H.R. 2991 as passed the Senate, whichever is lower and under the authority and conditions in applicable appropriations acts for fiscal year 1989, notwithstanding section 15 of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and Educational Exchange Act of 1948: *Provided*, That if H.R. 1487, the Foreign Relations Authorization Act of Fiscal Year 1990 is not enacted into law by November 30, 1989 funds appropriated by this Act for the Department of State and the United States Information Agency may be obligated and expended at the rate of operations and under the terms and conditions provided by H.R. 2991 as enacted into law, notwithstanding section 15 of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and Educational Exchange Act of 1948.

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

PERSONAL EXPLANATION

Mrs. JOHNSON of Connecticut, Mr. Speaker, on Monday, October 23, 1989, I was unavoidably detained in my district and missed two rollcall votes on bills on the suspension calendar. Had I been here I would have voted "aye" on both House Resolution 257 and H.R. 2095.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was objection.

PERSONAL EXPLANATION

Mr. CLINGER. Mr. Speaker, I was absent from the Chamber when recorded votes were taken on the rule waiving points of order against consideration of the Commerce, State, Justice appropriations conference agreement, and on the conference report. Had I been present at that time, I would have voted "nay" on the rule and "yea" on the conference report.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO HAVE UNTIL MIDNIGHT, FRIDAY, OCTOBER 27, 1989, TO FILE VARIOUS REPORTS

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce have until midnight on Friday, October 27, 1989, to file its reports on H.R. 3265, authorizing appropriations for the Federal Communications Commission for fiscal years 1990 and 1991, and H.R. 3310, authorizing appropriations for the National Telecommunications and Information Administration for fiscal years 1990 and 1991.

Mr. RITTER. Mr. Speaker, reserving the right to object, I will not object, but I reserve the right to object to say that this has been cleared by the ranking member, and we have no problem with it on this side.

Mr. Speaker, I withdraw my reservation objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts.

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 142

Mr. PENNY. Mr. Speaker, my name was inadvertently added to the list of cosponsors of House Joint Resolution 142, the resolution to designate "Geography Awareness Week." As a general rule I do not sponsor commemorative legislation. Accordingly, I ask unanimous consent that my name be removed from this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota.

There was no objection.

CONFERENCE REPORT ON H.R. 3012, MILITARY CONSTRUCTION APPROPRIATION, 1990

Mr. HEFNER. Mr. Speaker, pursuant to the order of the House of Wednesday, October 25, 1989, I call up the conference report on the bill (H.R. 3012) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. BRUCE). Pursuant to the order of the House of Wednesday, October 25, 1989, the conference report is considered as having been read.

(For conference report and statement, see Proceedings of the House of

Tuesday, October 24, 1989, at page H7433.)

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. HEFNER] will be recognized for 30 minutes, and the gentleman from California [Mr. LOWERY] will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. HEFNER].

GENERAL LEAVE

Mr. HEFNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report and the amendments in disagreement on the bill, H.R. 3012.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. HEFNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report we present to the House today for military construction and family housing contains agreements on about 350 line items.

Mr. Speaker, before I continue, I would like to take this time to thank the ranking minority member of the Military Construction Subcommittee, Mr. LOWERY, for his cooperation and his diligence all year so we can be here today to present this conference report to the House. I also want to thank the other members of the subcommittee for their support and cooperation. I want to thank JAMIE WHITTEN, the chairman of the full committee, who is also a member of this subcommittee, for his leadership.

Mr. Speaker, the conference agreement on H.R. 3012 that we are presenting to the House today provides $8.5 billion for both military construction and family housing. The conference agreement is within the section 302 allocations for both budget authority and outlays. It is below the President's request by $55 million. When you exchange the base closure amount of $500 million, it is below last year's level by almost $1 billion, which represents about 14 percent real negative growth.

So Mr. Speaker, this agreement is not a budget buster. It provides for a reasonable level of spending at a time when there is a need to reduce the deficit and our subcommittee has certainly made a major contribution to holding the line on spending.

Mr. Speaker, this is a bill that provides projects in support of major weapons as well as quality of life projects such as barracks, family housing, child care centers, better working conditions which all contribute to keeping our top performers in the service. The subcommittee is second to none in giving priority to improving quality of life for our service members.

With regard to base closure, I will advise the House that the conference agreement includes $500 million to capitalize the base closure account so that agencies can begin the work of closing obsolete bases starting January 1, 1990.

This is a good bill and a good agreement which deserves the support of the House. I ask for your support of the conference agreement. Mr. Speaker, I will include in the RECORD at this point a narrative of the major features of the bill, along with a comparative tabulation of the conference agreements.

Mr. Speaker, I reserve the balance of my time.

MAJOR FEATURES OF H.R. 3012

MX RAIL GARRISON

Funding of $105 million is provided for facilities at F.E. Warren AFB, Wyoming subject to authorization.

B-2 BEDDOWN

Funding of $65.5 million is provided as the third increment of funding for the beddown of the B–2 bomber at Whiteman AFB.

FAMILY HOUSING

Funding in the amount of $3.2 billion is provided for family housing of which $200 million is for 1832 new units of housing. Funding for whole house improvements of existing housing units amount of $255 million.

CHILD CARE CENTERS

Funding in the amount of $81 million is provided for 44 child development centers at various installations.

BARRACKS

Funding in the amount of $253 million is provided for barracks to replace existing World War I and World War II vintage barracks.

RELOCATION OF NAPLES COMPLEX

Funding of $47 million is provided as the second increment of funding for relocation of the Navy's Command Control Communications and Intelligence Complex in the vicinity of Naples, Italy.

STRATEGIC HOMEPORTING

Funding of $63 million is provided for continuation of construction of strategic homeport sites at Mobile, Alabama; Staten Island, New York; Pascagoula, Mississippi; Ingleside, Texas; and Everett; Washington.

RELOCATION OF THE 401ST TACTICAL WING

Funding of $425 million is provided for the NATO Infrastructure fund, part of which can be used to begin construction of a new base at Crotone, Italy to support the relocation of the 401st Tactical Wing from Torrejon, Spain.

LARGE ROCKET TEST FACILITY (J-6)

Funding of $66 million is provided as the second increment of funding for a large rocket test facility at Arnold Engineering Center, Tennessee. The total cost of the project is estimated at $223 million.

KINGS BAY TRIDENT BASE

Funding of $67 million is provided for continuation of construction at the new Trident Base at Kings Bay, Georgia.

SOLID ROCKET MOTOR ASSEMBLY

Funding of $89 million is provided for a solid rocket motor assembly building at Cape Canaveral AFS.

GUARD AND RESERVE

Funding of $662 million is provided for the Guard and Reserve components.

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference
Military construction, Army	927,292,000	745,300,000	834,222,000	726,075,000	819,129,000
Prior year advance appropriation	214,000,000	---	---	---	---
Total, Army	1,141,292,000	745,300,000	834,222,000	726,075,000	819,129,000
Military construction, Navy	1,576,516,000	1,133,200,000	1,167,750,000	1,151,783,000	1,139,250,000
Military construction, Air Force	1,225,926,000	1,393,300,000	1,208,136,000	1,122,249,000	1,227,296,000
Rescission	---	---	---	-18,500,000	-18,500,000
Total, Air Force	1,225,926,000	1,393,300,000	1,208,136,000	1,103,749,000	1,208,796,000
Military construction, Defense agencies	679,533,000	596,200,000	531,320,000	468,332,000	537,440,000
Rescission	-19,548,000	---	-30,000,000	-21,800,000	-21,800,000
Total, Defense agencies	659,985,000	596,200,000	501,320,000	446,532,000	515,640,000
North Atlantic Treaty Organization Infrastructure	492,000,000	501,900,000	424,714,000	462,300,000	424,714,000
Military construction, Army National Guard	229,158,000	114,000,000	192,533,000	246,830,000	223,490,000
Military construction, Air National Guard	158,508,000	164,600,000	190,890,000	251,480,000	238,330,000
Military construction, Army Reserve	85,958,000	76,900,000	80,505,000	104,000,000	97,460,000
Military construction, Naval Reserve	60,900,000	50,900,000	56,600,000	62,400,000	56,600,000
Military construction, Air Force Reserve	70,600,000	46,200,000	46,200,000	53,200,000	46,200,000
Total, Reserve components	605,124,000	452,600,000	566,728,000	717,910,000	662,080,000
Total, military construction:					
New budget (obligational) authority (net)	5,700,843,000	4,822,500,000	4,702,870,000	4,608,349,000	4,769,609,000
Appropriations	(5,506,391,000)	(4,822,500,000)	(4,732,870,000)	(4,648,649,000)	(4,809,909,000)
Rescission	(-19,548,000)	---	(-30,000,000)	(-40,300,000)	(-40,300,000)
Prior year advance appropriations	(214,000,000)	---	---	---	---
Family housing, Army:					
Appropriation	1,527,602,000	1,438,200,000	1,524,410,000	1,459,771,000	1,453,982,000
Portion applied to debt reduction	-371,000	-300,000	-300,000	-300,000	-300,000
Subtotal, family housing, Army	1,527,231,000	1,437,900,000	1,524,110,000	1,459,471,000	1,453,682,000
Family housing, Navy and Marine Corps:					
Appropriation	799,169,000	752,200,000	918,585,000	742,073,000	798,321,000
Portion applied to debt reduction	-128,000	---	---	---	---
Subtotal, family housing, Navy and Marine Corps	799,041,000	752,200,000	918,585,000	742,073,000	798,321,000
Family housing, Air Force:					
Appropriation	910,951,000	1,015,900,000	1,026,035,000	870,800,000	941,879,000
Portion applied to debt reduction	-66,000	---	---	---	---
Subtotal, family housing, Air Force	910,885,000	1,015,900,000	1,026,035,000	870,800,000	941,879,000
Family housing, Defense agencies	20,700,000	21,300,000	21,300,000	21,300,000	21,300,000
Homeowners Assistance Fund, Defense	2,000,000	5,100,000	5,100,000	5,100,000	5,100,000
Total, family housing:					
New budget (obligational) authority	3,259,857,000	3,232,400,000	3,495,130,000	3,098,744,000	3,220,282,000
Appropriations	(3,260,422,000)	(3,232,700,000)	(3,495,430,000)	(3,099,044,000)	(3,220,582,000)
Applied to debt reduction	(-565,000)	(-300,000)	(-300,000)	(-300,000)	(-300,000)
Base realignment and closure account	---	500,000,000	500,000,000	---	500,000,000
Grand total:					
New budget (obligational) authority (net)	8,960,700,000	8,554,900,000	8,698,000,000	7,707,093,000	8,489,891,000
Appropriations	(8,766,813,000)	(8,555,200,000)	(8,728,300,000)	(7,747,693,000)	(8,530,491,000)
Rescission	(-19,548,000)	---	(-30,000,000)	(-40,300,000)	(-40,300,000)
Applied to debt reduction	(-565,000)	(-300,000)	(-300,000)	(-300,000)	(-300,000)
Prior year advance appropriation	(214,000,000)	---	---	---	---

□ 1850

Mr. LOWERY of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first, I would like to thank my friend, the chairman of our subcommittee, for his leadership and diligence in bringing this bill to conference. We resolved over 350 line item differences. We are presenting to the House a conference report which is a good and fair compromise.

The conference agreement on H.R. 3012, contains $8 billion for military construction and family housing. This represents a $960 million cut, or real negative growth of 14 percent, from last year's appropriation. Also included is $500 million, as requested by the administration, for initial funding of the base realignment and closure account. When combined, the total appropriation provided is $8.5 billion. This is $200 million less than the House passed bill which includes our contribution to the drug initiative. It is $55 million below the administration's request.

Mr. Speaker, there is much interest in the base realignment and closure account.

Under the leadership of our chairman, the House conferees were able to hold the House position and bring to the floor a conference report which contains the entire $500 million to begin implementation of the closures.

I assure my colleagues, there are no provisions included in this bill which undermine the intent of the House, or the Commission, for implementing the realignments and closures.

Mr. Speaker, I know we have a scarcity of resources. This conference report does not include every project I would have liked to see funded; however, it is a balanced and fair compromise. We are providing needed facilities, worldwide, to support air, sea and land operations of our forces; and those facilities necessary to maintain a vast array of weapons and equipment. It provides for barracks, housing, hospitals, clinics, child-care centers and community facilities. These projects have a direct effect on the efficiency, productivity and quality of life of the men and women in our Armed Forces and their families.

Mr. Speaker, the House conferees have done a good job in maintaining the House position.

We have worked hard and in a bipartisan manner to bring this conference report to the House fl[illegible]. The administration supports it. It is a good agreement and deserves the support of the House.

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. I thank the gentleman for yielding.

Mr. Speaker, I want to join the gentleman in his remarks, and I compliment the subcommittee for doing a fine job and urge my colleagues to vote for the conference report.

Mr. Speaker, I want to give a special vote of thanks to the Subcommittee on Military Construction for bringing this conference report back to us today.

One of the key elements of this report is the resolution of the base closure and realignment account.

The other body had wanted to keep this account in limbo in the Defense appropriations bill and provide funds for the initial [illegible]alignment action at a lower level that could have hamstrung the process.

Acting on our motion instructing the conferees to insist on the House position, the distinguished chairman, the gentleman from North Carolina [Mr. HEFNER], and the outstanding ranking member from California [Mr. LOWERY], together with our other House conferees, extracted the concession from the other body's conferees that keeps base closure on track.

They should all be commended for their diligence and persistence in this matter. We are going to have decreasing resources allocated to the defense function in the future. Acting now on initiatives such as base closure and realignment will make our national security apparatus more efficient as our defense budgets decrease. Placing this account where I think it belongs in Milcon at a working level of funding is an important step in the process.

I understand that there will be an effort today to overturn that good work and cripple base closure when we get to amendment No. 36. I will address that issue and explain to the House what is going on if that issues arises.

I also want to note that the conference report is supporting a number of bricks and mortar projects that will help our Reserves and National Guard.

We are going to have to give more support to our reserve elements in the future in order to maintain capable national security forces. The conference report is getting us out front on this issue and I hope that will continue.

As the tensions in the world subside, we must be ready to capitalize on those situations by putting our national security structure to more efficient uses whether it is assisting in drug interdiction or moving defense industrial assets to other productive uses while maintaining a strong mobilization base.

Such an effort will take careful planning and preparation as well as a whole lot of wisdom. Military construction, base closing, and realignment and family housing are areas that we will need to give a great deal of support and scrutiny.

In this report we have also emphasized to our allies the need for more burden sharing; we have kept the support of child care high and we have funded virtually all of those stateside projects which have been agreed to for authorization.

So Mr. Speaker, I wish to reiterate my appreciation for the fine work of our conferees and urge all Members in joining me in supporting this conference report.

Mr. LOWERY of California. Mr. Speaker, I reserve the balance of my time.

Mr. HEFNER. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the full Committee on Appropriations, the gentleman from Mississippi [Mr. WHITTEN].

Mr. Speaker, I rise in support of the conference agreement for military construction.

I serve on this subcommittee as I have for many years.

My friend, BILL HEFNER, does a great job as chairman. Mr. Speaker, I truly believe we will have to turn more and more to the National Guard and Reserve, where the members contribute to the economy during the week and train on the weekend.

To this end, we have provided funds for three armories, at Ackerman, Amory, and Iuka. The bill also includes funds for land acquisition at Camp McCain which will provide training opportunities for guardsmen and reservists in northern Mississippi.

May I add that I am glad we have worked out a transfer of 1989 funds for joint operation of the air field at Grenada, MS, by the National Guard and the city of Grenada.

Again, Mr. Speaker, this subcommittee has again done a great job.

Mr. HEFNER. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Georgia [Mr. Thomas], a member of the committee.

Mr. THOMAS of Georgia. Mr. Speaker, I am pleased to rise in strong support of the conference agreement on H.R. 3012, the fiscal year 1990 military construction appropriations bill.

I want to thank our distinguished chairman, BILL HEFNER, and ranking minority member, BILL LOWERY, for all their hard work in crafting this compromise agreement.

Mr. Speaker, this bill appropriates $8.5 billion for important military construction and family housing projects in the United States and overseas. It is $55 million below the President's request, and $460 million below the amount we appropriated last year.

This conference agreement appropriates $500 million to begin implementation of the recommendations of the Base Closure Commission.

It provides essential funds to support the basing of major weapons systems including the MX missile and the B-2 Stealth bomber.

It continues the progress we have made in the past toward improving the facilities and working conditions of our soldiers, airmen, sailors, and marines.

It appropriates critical funds for new construction and revitalization of family housing units, barracks, child care centers, and needed medical facilities.

This is an important bill, Mr. Speaker, because it addresses quality of life issues that have proven to be essential in recruiting and retaining the quality

personnel we must have in our All-Volunteer Force.

This is a lean and effective bill that meets our priority construction needs here in the United States and abroad.

Let me again thank Chairman HEFNER and Mr. LOWERY for the outstanding job they have done in guiding the subcommittee to responsible action on this legislation, and I urge my colleagues to support this conference agreement.

Mr. LOWERY of California. Mr. Speaker, I yield 1 minute to the gentleman from Rhode Island [Mr. MACHTLEY] for the purpose of engaging in a colloquy with the chairman of the subcommittee, the gentleman from North Carolina [Mr. HEFNER].

Mr. MACHTLEY. I thank the gentleman for yielding.

Mr. Speaker, I would like to inquire of the chairman of the subcommittee:

According to this conference report, "report language included by the House which is not changed by the report of the Senate or the conference, and Senate report language which is not changed by the conference is approved by the conference."

Am I correct in stating that notwithstanding reduction of Navy family housing maintenance and improvement funds, the committee of conference concurs in the repair and improvement of 220 family housing units at the Newport Naval Education and Training Center as approved by the two Houses?

Mr. HEFNER. The Speaker, will the gentleman yield?

Mr. MACHTLEY. I yield to the chairman.

Mr. HEFNER. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is exactly right, that is correct.

Mr. MACHTELY. I thank the chairman.

Mr. LOWERY of California. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, I rise in support of the conference report accompanying the fiscal year 1990 appropriation bill for military construction.

As a member of the Subcommittee on Military Construction I'm well aware of the difficult choices we make each year as we try to strike a balance between our main priorities—building the infrastructure necessary to support our weapons programs—and improving the quality of life for the service members and their families.

We have a pittance with which to accomplish this task—roughly $8.7 billion worldwide. This is a mere 2.6 percent of the total Department of Defense budget. As each Congress votes for more and newer weapons systems we must modernize bases, lengthen runways, build more hangers, more pier space, more support buildings. And yet our subcommittee is also given the task of caring for the families of people in the service. We build their on-base housing, their meeting places, the day care centers for their children.

We have all been to bases in our districts and seen the decay of the infrastructure. At all three of the military facilities in my district I have toured so-called temporary facilities built in World War II and still in use. I've heard stories from many of my colleagues about similar buildings in their districts. This is a problem we all have seen.

It's easy to dismiss the importance of working conditions at our military facilities. It's easy to put off replacement of decayed buildings for another few years. However, we must be aware of the chilling effect working conditions have on our retention rate. People are not motivated to stay in the military if they don't believe their work is highly valued. If they're working in a building with a condemned sign on it—as I have seen at many military facilities—and living in unimproved 1950's vintage base housing, how can the service person believe the top military brass and the Congress place a high value on their work? How can we pretend and pay lip service to our commitment to the service people and then not support giving them a decent quality of life?

On the shoulders of this subcommittee falls much of the responsibility for convincing the servi member to stay in the service. Our attrition rate will climb and the cost of retraining of recruits will skyrocket if we continue to ignore the needs of the service member at home, with his or her family. I think this subcommittee did the best job possible of striking this difficult balance while taking a decrease in our allocation for this fiscal year. I urge my colleagues to support the conference report.

□ 1900

Mr. LOWERY of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I rise in support of the conference report.

Over the past 3 years, military construction appropriations have suffered by continued cuts in the budget process. Year after year, the subcommittee is faced with the dilemma of having a increasing need for additional construction and a decreasing amount of dollars to meet that need. With that in mind, I feel compelled to bring up a subject that is very near and dear to me—Davis-Bacon reform.

Many of you may know that I was prepared to offer an amendment during considering of the defense authorizing bill that would have eliminated Davis-Bacon requirements for "quality of family life" construction. In light of current budget constraints and the outlook for continued decreasing funding figures, I proposed an idea that would have simply exempted from Davis-Bacon requirements the construction of quality of family life projects such as housing, chapels, child care centers, recreation centers, and the like.

However, for one reason or another, my amendment, that would have saved the American taxpayer hundreds of millions of dollars over the next few years, was not made in order.

Regardless of that fact, studies have shown us time and time again that Davis-Bacon boosts wages at military construction projects. In fact, all service branches have testified that Davis-Bacon tacks on an additional 5 percent to the cost of a project.

Rest assured, I will be back next year to try once again to loosen the grip of Davis-Bacon. Davis-Bacon is a blatant waste of taxpayer dollars and a complete injustice to all hard-working Americans.

Although all who have fought for reform over the years have failed to receive a favorable response from Congress, we should not walk away from efforts to relieve this burden. This is a problem that has been with us for some time and will not simply go away.

I feel that Davis-Bacon requirements create a serious problem that will have detrimental long-term effects on the quality of our military forces. Budget cuts—specifically, defense cuts—are a reality. The sheer size of the deficit and the bleak outlook for the deficit in the short-term future demands that we live within this reality. We need to develop a plan that allows the Pentagon to stretch out the dwindling military family housing dollar. My idea will do just that.

Do we really need to continue abiding by these outdated regulations? I don't think we do.

Mr. FAZIO. Mr. Speaker, I rise today in support of the Military Construction Appropriation Act of fiscal year 1990. I would like to thank my chairman, BILL HEFNER and ranking minority member, BILL LOWERY for crafting this bill today. I realize that the proposal to close military installations across the country dominated much of the debate this year and want to commend the chairman, the ranking minority, and the staff for their efforts on this issue.

H.R. 3012 provides $8.5 billlon in fiscal year 1990 for military construction and family housing projects. This figure represents a cut of $65 million from the President's request. As a member of the Appropriations Subcommittee on Military Construction, I am pleased that this bill ultimately contributes to the retention rate of our military personnel. Every new housing unit translates into a reduction in housing allowances, every dilapidated facility that is replaced means a reduction in utility consumption and building repair, and every new building that allows the Defense Department to move out of leased space means a reduction in annual lease payments. Quality of life is the real issue. There is no question that pride in the workplace and in the home translates into higher morale and greater retention rates.

This year, the bill funded $73.15 million for renovations at northern California military bases, including $1.2 million for construction of a new child care facility at McClellan for children of civilian employees at the base. The

only civilian child care centers to be funded by Congress are ones located at Air Force Logistic Centers. McClellan, an ALC facility, employs 13,000 Federal employees.

I am pleased that Congress recognizes that the children of civilians who repair and provide the critical support for our Air Force are as important as the children of military personnel.

MCCLELLAN AFB ($27.2 MILLION)

Civilian Child Care Center ($1.2 million): Renovate an existing building to provide child care to civilian employees.

Add to and alter depot hydraulic facility ($0.4 million): McClellan AFB has primary responsibility for all Air Force depot hydraulic repair work. The existing facility is saturated because of increased workloads associated with new weapons systems. Testing is done on a 24-hour basis during the week and a 16-hour operation on weekends. This schedule severely limits wartime surge capability. Space limitations prohibit installation of additional F-15, F-16 or B-1B test stands required to support added workloads.

Jet fuel storage complex ($4.0 million): The proposed project will include a fenced jet fuel storage area including two fuel storage tanks, vapor recovery system, spill containment walls, and a lead prevention/detection system. Nine tanks need replacement to comply with new California underground storage tank regulations.

Vehicle maintenance facility ($5.0 million): No facilities exist for adequately performing auto body repairs and periodic spark-plug checks. A substantial portion of the operations are located in the south runway clear zone and cannot be remodeled or expanded due to current aircraft traffic.

Add and alter child care facility ($0.62 million): This is a quality-of-life project. $620,000 is slated to expand the current 7,300-square-foot facility by 50 percent (2,600 sq. ft.). This will allow the child care center to increase the number of children from 99 to 134. The child care center currently has a long waiting list.

Upgrade electrical substation ($9.5 million): The renovation is required in order to increase base electrical supply capacity, to ensure adequate electrical power for numerous new facilities, and allow for maximum flexibility in load shifting. The project will also stabilize voltage fluctuations that cause severe disruption to numerous facilities, electronic instruments, and equipment which are critical to daily operations.

Failure to provide this project will perpetuate a recurring condition of precarious power supply, frequent "load shedding" practices, and fluctuating voltage quality detrimental to execution of base missions. In the event of power failure, cabling capacity will limit backup electric supply to 19 percent of switch station capability.

MATHER AFB ($2.63 MILLION)

While Mather AFB is slated for closure, the following two projects for the Army National Guard will be compatible to the closure decisions currently being made by the local community.

Army National Guard Armory ($2.14 million): A new facility is required to support medical assets and troops for a peacetime mission. The space will permit personnel to perform tasks necessary in support of Federal and State missions. This building will house the 126th Medical Company (air ambulance) consisting of 197 personnel.

C-12 hangar for the Army National Guard ($498,000): This project provides for a hangar to house one C-12 aircraft, administrative shop, and storage space for personnel provided under contract from Beechcraft Aviation to maintain the fixed wing aircraft. The current maintenance hangar is not adequate to support the new assigned area support aircraft.

SACRAMENTO ARMY DEPOT ($3.9 MILLION)

Microwave/radar maintenanc facility ($3.9 million): $3.9 million is needed to construct a radar maintenance shop. This facility is required to support a multitude of signal intelligence electronic warfare mission systems. The present Signal Intelligence Division provides support at five widely scattered locations within the installation.

BEALE AFB ($13.40 MILLION)

U-2 weather shelter ($3.5 million): This project is designed to shelter two U-2R aircraft. During the winter months, Beale has severe rainy periods. Moisture enters the aircraft structure through the nose, cockpit, and hatch seals while the aircraft is on the ground. The moisture saturations have caused numerous maintenance problems and have resulted in airborne malfunctions with near catastrophic results.

Alert crew facility ($3.1 million): The facility will house KC-135 crews during their mandatory 24-hour alert. A recent top-secret mission change generated the requirement for the KC-135 aircraft assigned to Beale AFB.

Upgrade alert complex ($1.2 million): In order to accomplish the above it is necessary to upgrade the existing alert aircraft parking area. The new alert mission cannot be adequately supported without an upgrade and alteration of the former alert complex.

Unaccompanied enlisted personnel housing ($5.6 million): A dormitory is required to house enlisted personnel to supplement current housing facilities. Local rentals and utilities are so expensive in the surrounding community that enlisted personnel cannot afford to live off base.

TRAVIS AFB ($16.5 MILLION)

Alter the consolidated mission support center ($9.0 million): This project is designed to alter the vacated medical center for use as a mission support center. A consolidated, centrally located facility is needed to house the 22d Air Force HQ, components of the 60th Air Base Group which include: Consolidated Base Personnel Office, Vehicle Registration and Personnel Identification Office, Personnel Security Management and Classification Management Office, and social actions as well as certain functions in the wing to include accounting and finance, public affairs, the Transportation Management Office (handles shipment of household goods), and the Air Force Auditing Agency. These functions are currently housed separately in 19 widely dispersed World War II and Korean war vintage facilities.

Family housing renovations ($7.5 million): This project will be the first major improvement other than routine repairs and maintenance, for 144 housing units which were originally constructed in 1951. It will include renovating the kitchens and baths, constructing patios with privacy fences, adding storage sheds and family rooms and will upgrade the wiring, roofs, and heating systems.

MARE ISLAND NAVAL SHIPYARD ($9.0 MILLION)

Controlled industrial building addition ($6.3 million): A specifically designed and controlled facility is needed to accommodate consolidation of solid waste handing functions while improving work space utilization within the industrial repair facility.

Dredging improvements ($2.7 million): The proposed 8,700 linear feet of cross-pond dredge line is required to allow systematic filling of dispersed spoils ponds from various locations on the waterfront. This project is required to maximize the life of these spoils ponds, and preclude the need of disposing of dredge spoils off the installation.

Also included in the bill was language directing the Air Force to include a new dining facility at Travis Air Force Base in the fiscal year 1991 budget.

Mr. Speaker, this is a responsible and well-crafted bill and I urge my colleagues to support H.R. 3012.

Mr. DORGAN of North Dakota. Mr. Speaker, I wish to congratulate Subcommittee Chairman HEFNER and his colleagues for a job well done; the conference report on fiscal year 1990 military construction appropriations is an excellent compromise between the House and Senate versions of this legislation.

In particular, I would like to thank the House conferees for assuring that the conference legislation addressed the pressing military construction needs for DOD's facilities in North Dakota. These included the following:

At the Grand Forks Air Force Base, an existing child care facility was taken over in June of 1988 to accommodate a reorganization of the Strategic Air Command headquarters. As a result, the child care facility needs of the enlisted personnel were not being adequately addressed. The $1.9 million appropriated in this bill will assure that a new facility can be built in fiscal year 1990 which will meet these needs.

At the Minot Air Force Base, a similar situation exists. The Minot preschool facility is currently full and there is a waiting list of over 100 children. The conference wisely adopted the House subcommittee's recommendation that the Air Force should expend $100,000 to complete architectural and engineering work this year and follow up with a request for construction funds in the next fiscal year.

I would also like to add my thanks for the conferee's support of DOD's modernization plans at other facilities in North Dakota. In Bismarck, the conferees funded a much needed, $1 million warehouse to replace the Army National Guard's existing 40-year-old building. This new warehouse will assure that the National Guard unit based there has adequate space to meet its readiness requirements. A similar need is also being addressed in Fargo where sufficient funds were appropriated to enable design and planning work to be completed on a new Armed Forces reserve center.

In Fargo, at Hector Field, the half million dollars of work planned for the Air National Guard avionics shop will support the replacement of F-4 fighters by newer F-16's. Addi-

tionally, the $1.8 million in support facility construction work will free up needed aircraft maintenance hanger space by moving other activities to another building. Both of these improvements will support the modernization of the Fargo Air National Guard aircraft which was brought about by the House amendment to the fiscal year 1987 DOD authorization conference report.

Furthermore, I would like to recognize the conference report's support for $1 million to begin planning and design of a center for health sciences and aerospace medicine at the University of North Dakota. This center will pioneer research on the medical implications of space travel—research which needs to get under way now to prepare for the future.

Finally, let me commend the House conferees for negotiating reductions in overseas military spending. Our allies need to shoulder a larger share of our mutual defense costs and this bill will make important progress toward that goal.

In conclusion, Mr. Speaker, I would note that this conference report reduces the total military construction spending in fiscal year 1990 by nearly $500 million from current levels. This is yet another reason why it warrants the support of this House and another reason why I encourage my colleagues to vote in favor.

Mr. LOWERY of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HEFNER. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore (Mr. SYNAR) The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 3: Page 2, line 21, strike out "$1,167,750,000" and insert "$1,151,783,000".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$1,139,250,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 5: Page 3, line 4, after "therefor" insert ": *Provided further,* That none of the funds available to the Department of the Navy in this or any other Act may be utilized to initiate agricultural leases of more than one year's duration on land in or around Naval Air Station Fallon, Nevada".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 5 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 6: Page 3, line 9, strike out "$1,208,136,000" and insert "$1,122,249,000".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$1,227,296,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 8: Page 3, line 17, after "therefor" insert ": *Provided further,* That of the funds appropriated for "Military Construction, Air Force" under Public Law 100-447, $18,500,000 is hereby rescinded".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 8 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 10: Page 3, line 25, strike out "$531,200,000" and insert "$468,332,000".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House Recede from its disagreement to the amendment of the Senate numbered 10 and concur therein with an amendment, as follows: in lieu of the sum named in said amendment, insert the following: "$537,440,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 13: Page 4, line 19, after "rescinded" insert ": *Provided further,* That none of the funds appropriated in this Act for Defense Agencies planning and design may be obligated until the Defense Medical Facilities Office initiates design of an aerospace medicine facility as required by the conference report accompanying Public Law 100-447".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 13 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ": *Provided further,* That, effective February 1, 1990, none of the unobligated funds appropriated in this Act for Defense Medical Facilities Office planning and design may be obligated until the Defense Medical Facilities Office initiates design of the aerospace medicine facility as required by the conference report accompany Public Law 100-447".

Mr. LOWERY of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 20: Page 6, line 22, strike out "$143,810,000" and insert "$91,171,000".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 20 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$78,982,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 22: Page 6, line 23, strike out "$1,524,410,000" and insert "$1,459,771,000".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 22 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$1,453,982,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 27: Page 7, line 20, strike out "$773,300,000" and insert "$765,800,000".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 27 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$741,808,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 36: Page 15, after line 6, insert:

SEC. 127. (a) SALE OF LANDS.—Notwithstanding any other provision of law, and subject to subsections (b) through (h), the Secretary of the Navy (hereinafter the "Secretary") may sell the following real property together with improvements thereon—

(1) approximately 108 acres in Pearl City, Oahu, Hawaii, known as the Manana Storage Area; and

(2) approximately 14 acres in Pearl City, Oahu, Hawaii, known as Pearl City Junction.

(b) CONDITIONS OF SALE.—

(1) MANANA STORAGE AREA.—The State of Hawaii shall have the right to acquire and the Secertary shall have the authority to sell to the State of Hawaii this property by meeting the terms and conditions set forth in subsection (c).

(2) PEARL CITY JUNCTION.—The Secretary shall have the authority to sell this property through competitive procedures.

(3) Consideration for each sale shall not be less than the fair market value of the property, as determined by the Secretary.

(4) Payment may be by cash or as specified in subsections (c) and (d), as determined by the Secretary.

(c) SALE OF MANANA STORAGE AREA.—

(1) As consideration for any transfer to the State of Hawaii of the Manana Storage Area, the State must—

(a) at a site or sites to be determined by the Secretary, design and construct to the Secretary's specifications and satisfaction: (1) an openable causeway from mainside Pearl Harbor Naval Base of Ford Island; and (2) replacement facilities for those Navy facilities presently on Manana Storage Area; and actually relocate, to the satisfaction of the Secretary, the functions presently on Manana Storage Area; or

(b) provide funds to allow the Secretary to perform the design, construction and relocation specified in subsection c(1)(a); or

(c) provide any combination of the consideration enumerated in subsections c(1)(a) and c(1)(b) above that accomplishes the design, construction, and relocation, at the discretion of, and to the satisfaction of, the Secretary.

(2) If the State of Hawaii constructs the causeway or replacement facilities or any portion thereof, upon the acceptance by Secretary, the State shall transfer complete title to those facilities to the Secertary free of any liens or encumbrances.

(d) SALE OF PEARL CITY JUNCTION.—As consideration for the sale of Pearl City Junction, the Navy shall receive either funds, or actual design and construction of facilities plus relocation, or a combination thereof, as determined by the Secretary, to accommodate consolidation and relocation of the functions on the sale property to other Navy and Marine Corps property. This may include—

(1) relocation and consolidation of functions at Manana Storage Area and Pearl City Junction to common replacement facilities; and

(2) relocation of Marine Corps functions that would be displaced by such consolidation to replacement facilities to be designed and constructed at Marine Corps Air Station, Kaneohe Bay.

(e) USE OF FUNDS.—

(1) The Secretary may use the funds derived from any sale of land under this section accomplish any of the purposes described in subsections (c) and (d) including any related expenses.

(2) Funds received from the sales of lands under this section may be placed in an interest bearing account by the Secretary until expended and the accrued interest therefrom may be used in the same manner as the sale proceeds.

(3) Any funds which are unexpended after all the actions described in subsections (c) and (d) have been accomplished, shall be available for design and construction of additional support facilities for Naval Supply Center, Pearl Harbor.

(f) LEGAL DESCRIPTIONS OF LANDS.—The exact acreages adn legal descriptions of the properties to be transferred to the State of Hawaii or sold under this section shall be in accordance with surveys that are satisfactory to the Secretary.

(g) NOTIFICATION.—The Secretary may not enter into any contract under this section to—

(1) convey title to real property;

(2) provide for design or construction of a causeway to Ford Island, replacement facilities or other support facilities; and

(3) provide for relocation of functions from the properties to be sold until—

(a) the Secretary has transmitted to the Appropriations Committees of the Senate and House of Representatives a report of the details of the proposed tran· ction; and

(b) A period of 21 days has expired from the date such report has been received by the Committees.

(h) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in agreements entered into under this section as the Secretary considers appropriate to protect the interests of the United States.

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 36 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 127.

(a) SALE OF LANDS.—Notwithstanding any other provision of law, and subject to subsections (b) through (h), the Secretary of the Navy (hereinafter the "Secretary") may sell the following real property together with improvements thereon:

(1) Approximately 108 acres in Pearl City, Oahu, Hawaii, known as the Manana Storage Area; and

(2) Approximately 14 acres in Pearl City, Oahu, Hawaii, known as Pearl City Junction.

(a) CONDITIONS OF SALE.—(1) Manana Storage Area. The State of Hawaii shall have the right to acquire and the Secreatary shall have the authority to sell to the State of Hawaii this property by meeting the terms and conditions set forth in subsection (c);

(2) Pearl City Junction. The State of Hawaii shall have the first right to acquire and the Secretary shall have the authority to sell to the State of Hawaii this property by meeting the terms and conditions set forth in subsection (d). Should the State and the Secretary fail to consummate an agreement, the Secretary shall have authority to sell this property through competitive procedures;

(3) Consideration for each sale shall not be less than the fair market value of the property, as determined by the Secretary; and

(4) Payment may be by cash or as specified in subsections (c) and (d), as determined by the Secretary.

(c) SALE OF MANANA STORAGE AREA.—(1) As consideration for any transfer to the State of Hawaii of the Manana Storage Area, the Secretary shall receive:

(a) At a site or sites to be determined by the Secretary, design and construction to reasonable specifications to the Secretary's satisfaction: (1) an openable causeway from mainside Pearl Harbor Naval Base to Ford Island; and (2) replacement facilities for those Navy facilities presently on Manana Storage Area; and actually relocate on Oahu, to the satisfaction of the Secretary, the functions presently on Manana Storage Area; or

(b) Funds to allow the Secretary to perform the design, construction and relocation specified in subsection (c)(1)(a); or

(c) Any combination of the consideration enumerated in subsections(c)(1)(a) and (c)(1)(b) above that accomplishes the design, construction, and relocation, at the discretion of, and to the satisfaction of, the Secretary.

(2) If the State of Hawaii constructs the causeway or replacement facilities or any portion thereof, upon the acceptance by the Secretary, the State shall transfer complete title to those facilities to the Secretary free of any liens or encumbrances.

(d) SALE OF PEARL CITY JUNCTION.—As consideration for the sale of Pearl City Junction, the Navy shall receive either funds, or actual design and construction of facilities plus relocation, or a combination thereof, as determined by the Secretary, to accommodate consolidation and relocation of the functions on the sale property to other Navy and Marine Corps property. They may include:

(1) Relocation and consolidation of functions at Manana Storage Area and Pearl City Junction to common replacement facilities; and

(2) Relocation of Marine Corps functions that would be displaced by such consolidation to replacement facilities to be designed and constructed at Marine Corps Air Station, Kaneohe Bay.

(e) USE OF FUNDS.—(1) The Secretary may use the funds derived from any sale of land under this section to accomplish any of the purposes described in subsections (c) and (d) including any related expenses;

(2) Funds received from the sales of lands under this section may be placed in an interest bearing account by the Secretary until expended and the accrued interest therefrom may be used in the same manner as the sale proceeds; and

(3) Any funds which are unexpended after all the actions described in subsections (c) and (d) have been accomplished, shall be available for design and construction of additional support facilities for Navy supply Center, Pearl Harbor.

(f) LEGAL DESCRIPTIONS OF LANDS.—The exact acreages and legal descriptions of the properties to be transferred to the State of Hawaii or sold under this section shall be in accordance with surveys that are satisfactory to the Secretary.

(g) NOTIFICATION.—The Secretary may not enter into any contract under this section to:

(1) Convey title to real property;

(2) Provide for design or construction of a causeway to Ford Island, replacement facilities or other support facilities; and

(3) Provide for relocation of functions from the properties to be sold until:

(a) The Secretary has transmitted to the appropriate Committees of Congress a report of the details of the proposed transaction; and

(b) A period of 21 days has expired from the date such report has been received by the Committees.

(h) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in agreements entered into under this section as the Secretary considers appropriate to protect the interests of the United States.

Mr. LOWERY of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROHRABACHER. Mr. Speaker, I would like to debate the motion.

The SPEAKER pro tempore. Is the gentleman opposed to the motion?

Mr. ROHRABACHER. Yes, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from California [Mr. ROHRABACHER] will be recognized for 20 minutes, the gentleman from California [Mr. LOWERY] will be recognized for 20 minutes, and the gentleman from North Carolina [Mr. HEFNER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, first of all, let Members start by examining what this amendment is all about. First, it disposes of 108 acres of prime real estate in Honolulu, now owned by the Federal Government, and it opens it with State approval to the private and commercial development. We are talking about giving away Federal land, conservatively valued at three-quarters of a million dollars per acre. That is prime real estate. This, without any opportunity for review by the House Government Operations Committee. Now, as I understand the House Government Operations Committee, it has the responsibility of overseeing the transfer of any Federal property. Yet, not this time.

The second thing this amendment will do is in a different part of Hawaii, and this amendment will result in the building of a causeway to an island in the middle of Pearl Harbor. This is without the need for approval or involvement of the Committee on Public Works, which I am told has jurisdiction over the construction of such causeways. However, not this time.

I am also told the projects like this causeway, paid for with Federal resources and built for Federal purposes, should be subject to compliance with environmental restrictions that apply to Federal projects. However, not this time.

Now, as all this is going on, far away in California, there is the battleship *Missouri*. The third purpose of the Senate amendment No. 36 is to set the stage for the transfer of this great battlewagon, away from California, and to the State of Hawaii. This is, of course, without the nod, official nod, of the Committee on Armed Services. Although I am only a freshman, I could have sworn that the Committee on Armed Services has jurisdiction over things like this, like the transfer of home ports for battleships. However, not this time.

Meanwhile, back in Hawaii, we are told that there is a severe shortage of naval housing, and that the Senate amendment No. 36 will result in the building of more housing. However, with the arrival of the *Missouri*, one wonders what that will do to the housing shortage. If there is a housing shortage in Hawaii, which I have no doubt that there is a naval housing shortage in Hawaii, the last place in the world that we should be sending the *Missouri*, with its thousands of crew, family, and support personnel, is Hawaii. That may be the conversation that we would hear discussed at a meeting at a public hearing of the Committee on Armed Services. Unfortunately, we did not have that meeting.

In fact, there are many questions that may well have been answered, had the Senate amendment actually gone through the standard progression of legislation, rather than having just been sprung upon Members. Perhaps we would like to know just who will be benefiting from the private development of 108 acres of federally owned prime real estate in Honolulu. Who will be the developers who will be developing? Who will be the citizens who will be benefiting? Who will be making money? Who will be making the deals?

All this could have been answered with a public hearing. We have had no public hearing, and we have at disposal some very valuable Federal real estate.

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Perhaps we would like to know why Hawaii's naval housing shortage is any worse than California's naval housing shortage or Virginia's naval housing shortage. After all, if we are going to shortcircuit the process for Hawaii, why is Hawaii any better than California, or Virginia, or other places where there is a naval housing shortage, where the rest of us have to follow the proper procedures? Perhaps we would like to know why the Federal Government should spend so much in allocating so much for the cost for relocation for the families of the *Missouri*, for duplicating in Hawaii facilities that already exist in California, for hiring highly paid ship maintenance personnel whose job will be redundant to the personnel for the same work in California, in short for wasting millions of defense dollars at a time when every dollar is supposed to count.

Mr. Speaker, we have got to end this costly politicking with defense dollars, and that is exactly what Senate amendment 36 is all about, politicking with defense dollars. We are being told that Senate amendment 36 is about naval housing. If it is, why has the process been circumvented? If it is, why are there statements in the press about taking the battleship *Missouri* to Hawaii?

We are told that the base closing bill mandates the transfer of the *Missouri*. First and foremost, the Base Closure Commission never had authority to transfer a ship from a base which is not being closed or realigned to another base. The Commission's report did not close or realign Long Beach Naval Station. Hunter's Point in San Francisco was closed, or, more precisely, construction was stopped by the Commission. However the *Missouri* was never officially assigned to Hunter's Point. The Navy never made a final decision before the Commission stopped construction at Hunter's Point and removed the San Francisco option.

The U.S.S. *Missouri* was then, is now, and continues to be home ported in Long Beach. If it is going to be pulled out and given to Pearl Harbor, it is because of Senate amendment 36. Senate amendment 36 is making that happen, not the base closing bill.

Besides, let us ask ourselves: Does the base closing bill mandate that we give away 108 acres of Federal real estate so it can be privately developed, all accomplished without going through the standard legislative procedures? Nonsense. We heard that the Navy is duty-bound to send this great battleship to Hawaii, that their hands are tied. Well, their hands are not bound, and the Congress' mouth is not gagged. This type of maneuvering at the taxpayers' expense, frustrating standard legislative procedures, bypassing authorizing committees, making policy without the benefit of congressional hearings, in either body, is unacceptable and should not be tolerated.

Mr. Speaker, let me answer the allegation before it surfaces. If the decision to move the *Missouri* would be cost effective for the Navy and offer some savings for the taxpayers, I would support it. However that is not the case. Senate amendment 36 and the relocation of the *Missouri*, which will surely follow, is bad for the taxpayers. The duplication of facilities and personnel comes to the tens of millions of wasted dollars.

It is bad for the Navy. The Long Beach Naval Station is equipped to homeport two battleships. Why should the Navy be forced to duplicate the support system for those battleships?

In addition, it is bad for the House. This deal violates established congressional procedure by bypassing appropriate review by the Committee on Armed Services, the Committee on Public Works and Transportation, and the Committee on Government Operations, as well as the appropriate Senate committees.

This is bad also for the environment. By technically removing this project from Federal jurisdiction Hawaii would actually build this causeway. The conferees also bypass normal environmental requirements for Federal construction.

So, Mr. Speaker, let us stop this land swap raid on the Treasury. The maneuver of sending the battleship to Hawaii is political, has little, if no, defense benefit, and it will mean the loss of 108 acres of extremely valuable Federal land and will incur enormous unnecessary costs.

Most of all, let us send this message, and that is, "Let's quit bypassing and trashing the authorizing committees."

Mr. Speaker, I urge a no vote on the Hefner motion.

Mr. Speaker, I reserve the balance of my time.

Mr. HEFNER. Mr. Speaker, there is a letter that has been circulated among Members that has given them some reason to be concerned, and there are some things in this particular letter that are just not correct. That "Dear Colleague" letter dated October 25, 1989, which is cosigned by the gentlemen from California [Mr. ANDERSON and Mr. ROHRABACHER] is as follows:

HOUSE OF REPRESENTATIVES,
October 25, 1989.

GIVE AWAY LAND? CIRCUMVENT CONGRESSIONAL COMMITTEES? FLOUT ENVIRONMENTAL PROTECTION REQUIREMENTS?

DEAR COLLEAGUE: During debate on the Conference Report on the Military Construction Appropriations Bill, H.R. 3012, Congressman Hefner will offer a motion to agree to the Senate plan to give away 108 acres of prime real estate in Honolulu, Hawaii in return for a causeway designed and constructed by the state.

This motion, part of a deal to relocate the battleship MISSOURI from a California homeport to one in Hawaii, is bad:

Bad for the taxpayers—The duplication of facilities and personnel come to tens of millions of wasted dollars.

Bad for the Navy—The Long Beach Naval Station was equipped to homeport two battleships. Why should the Navy have to split up the administration of those battleships?

Bad for the House—This deal violates established Congressional procedure by bypassing appropriate review by the Armed Services Committee, the Public Works Committee, and the Government Operations Committee, as well as the appropriate Senate committees.

Bad for the environment—By technically removing this project from federal jurisdiction (Hawaii would build the causeway) the conferees also bypass the normal environmental requirements for federal construction.

Please join us in a bi-partisan effort to stop this land swap raid on the Treasury. The maneuver of sending the battleship MISSOURI to Hawaii is political, has little (if any) defense benefit, will mean the loss of 108 acres of extremely valuable federal land, and will incur enormous unnecessary costs.

Senate Amendment 36, which Congressman Hefner is asking the House to approve, is, in short, a boondoggle.

Please vote "no" on the Hefner motion.

Sincerely,

GLENN M. ANDERSON,
Member of Congress.
DANA ROHRABACHER,
Member of Congress.

Mr. Speaker, I have here a copy of that "Dear Colleague" letter cosigned by Mr. GLENN M. ANDERSON and Mr. DANA ROHRABACHER and would like to take issue with several of the statements that are made.

To begin with, the statement that it is a giveaway of 108 acres in return for a causeway to be constructed by the State of Hawaii is misleading. To begin with, it is a sale of 122 acres, to be sold at no lower than market value, and this is clearly stipulated in the legislation. So it is not a giveaway. Second, the letter speaks only to construction of a causeway estimated to cost about $75 million. What is not mentioned is that the causeway would allow the Navy to realize the potential for development on 450 acres of Navy-owned land on Ford Island which is considered a more strategic location. Let me say further that the 450 acres is needed to develop operational facilities as well as family housing in Hawaii which has the most severe housing deficit in all the United States.

Third, the State's responsibility would not be limited to just a causeway as the letter clearly states. In the contractual arrangement, the State would also have to construct new warehouses for the Marines at Kaneohe Bay, rehab vacant warehouses for Navy use, and alter existing hangars on Ford Island.

The basic legislation provides options for the State to build facilities to the Secretary of the Navy's satisfaction or for the Navy to construct facilities using the proceeds from land sale, or the combination of both. Regardless of which plan is executed, the Secretary cannot accept payment less than the fair market value. So this is not a giveaway as stated by the gentlemen from California.

The gentlemen then state their real reason for opposing the Senate amendment—that is, to prevent the Missouri Battlegroup from relocating from the temporary location at Long Beach to Pearl Harbor as required by the base realignment and closure plan. Mr. Speaker, this body has voted overwhelmingly two times to implement the base realignment and closure plan as a total package with no exceptions.

I would further state that this plan would be necessary regardless of the Missouri Battlegroup. The realignment only precipitated this plan to be placed on a fast track.

The gentlemen's statement that the amendment violates the established congressional procedures by supposedly bypassing legislative committees is completely in error. First of all, the amendment is not within the jurisdiction of the Public Works Committee. The causeway is a military project which will be constructed on land

owned by the Department of the Navy. The bridge will not be part of the Federal Highway system, but will be owned and operated by the Navy. Such work is carried out under the program known as the Defense Access Road Program, not the highway bill. With regard to the Government Operations Committee, all the land affected is owned by the Navy and not GSA. Therefore, the Government Operations Committee is not the committee of jurisdiction. The Armed Services Committee, however, is a partner with us in jurisdiction, and our committee, prior to agreeing to accept the Senate amendment, had unofficially cleared it with the Armed Services Committee. Despite all the rhetoric by the gentlemen, we did operate in proper form and did not circumvent the congressional process.

The gentlemen also state that the amendment bypasses the normal environmental requirements. That is completely false. The EIS announcement was published in the Federal Register of October 17, 1989. A consulting firm has been retained to prepare the draft and final environmental inpact statements, and a public hearing is scheduled for November 2, 1989.

I am sorry to see so much misinformation published and I find it necessary to make this statement to clarify the record.

Mr. Speaker, let me just continue by saying that the gentlemen who are opposing this amendment happen to be from the Long Beach area of California. It is in the Long Beach area where the battleship *Missouri* is temporarily located. Now, the base realignment and closure plan which the Congress overwhelmingly supported proposes to move that battleship to Pearl Harbor, HI. So it is Pearl Harbor where the Navy, in conjunction with the State of Hawaii, has worked out a comprehensive plan to sell excess land and from the proceeds construct necessary facilities in support of the future homeporting of the battlegroup. I would say further that the proposed land exchange for facilities would be necessary even if the battlegroup were not assigned to Pearl Harbor. So I cannot but summize that—while the gentlemen are attempting to lead us to believe that this is a big land grab for the State—I cannot but assume that the gentlemen's motives are parochial and that this is an attempt to nip at the base realignment and closure plan as it affects Long Beach and Hawaii. I cannot blame the gentlemen for wanting to protect their interests at home. Let me speak about our conference.

Mr. Speaker, as the chairman of this subcommittee, I have been delegated to make sure that the base closure plan does not become unraveled in the appropriations process. I have taken that responsibility very seriously. We have been waiting for over 1½ months to go to conference with the Senate. The reason for the hold was the large differences in respective funding levels for base closure, together with a jurisdiction dispute over which bill should fund the base closure account. When we named conferees, our conferees were instructed by the House to insist on the House position. I can tell you that I went into that conference and stood firm on the House position. The Senate had offered compromises but I would not accept anything short of the House position. We won that part, but in the spirit of compromise we accepted the amendment dealing with the land sale and replacement in Hawaii knowing that the amendment would be compatible with the military needs in Hawaii and that the amendment protects the interests of the United States.

Members may be led to believe that this is a unique and unprecedented land exchange. I will tell you that it is not. There have been numerous land sale and replacement packages legislated over the years and some of those are in the State of California. So this is not new or unique. For every land transfer the interests of the United States are protected just as in this case.

Let me speak to the issue of legislating in an appropriation bill. If you are to examine the military construction bills for the last several years you will find that this subcommittee has avoided legislating in the appropriations bill. If we have, you will find that the matter was coordinated through the appropriate committees. I submit to you that we have had an outstanding cooperative arrangement with Mr. DELLUMS, Mrs. SCHROEDER, and Mr. MARTIN regarding jurisdictional issues.

Let me now speak to the merits of the legislation. If you study our amendment to the Senate amendment, you will find that the interests of the United States are protected. The Secretary of the Navy basically has the trump card. First of all, any compensating construction of facilities in exchange for the land sale has to be to the satisfaction of the Secretary. The legislation does not permit the sale of the parcels to be less than the fair market value. This legislation is very clear on this part; so the notion that it is a giveaway is purely false. The legislation also requires the Secretary to report to the appropriate committees of Congress 21 days prior to entering into any contract. If we think that he has made a decision that is out of line, we can stop it.

Let me just say that this is not a proposal that popped up overnight. It is something where the Navy has been working with the State for over 3 years. The reason the plan can be activated at this point is that the State apparently has the funds to go forward. Arrangements such as this are not unusual. At many of our bases, the bases are being impacted by urban pressures—pressures to establish and revise land use plans that ultimately impact operations or transfer of land. In the case of Hawaii, the Navy sees an opportunity to sell 122 acres of land and in exchange construct facilities that will make available 450 acres of unused Navy-owned land known as Ford Island. The Navy would not only quadruple available land at no net cost to the Government—and I emphasize no net cost to the Government—but the land made available will be at a location strategically important to the Navy. More than that, it would create an opportunity to build family housing in an area which has the most serious military housing deficit in all of the United States.

Let me conclude by saying that this debate is a base closure issue in no uncertain terms. The gentlemen from California want to keep the battleship *Missouri* in Long Beach and I don't fault them for that. By defeating my motion, this is one way to start unraveling the whole plan one step at a time. This committee and the House have had to take a difficult stand in assuring that the base closure plan stays on track. We have done that even though many members of our committee are impacted.

Mr. Speaker, this amendment is a good amendment and a good deal for the Navy. I would urge Members to vote aye on my motion.

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Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. HEFNER. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I just want to say that the gentleman from North Carolina is absolutely right, and everybody here should support the gentleman from North Carolina. He has worked very hard with the authorizing committee which I chair.

Mr. Speaker, the opponents of this motion to recede and concur make three arguments:

First. Jurisdiction; the amendment, they claim, tramples on the jurisdiction of the Committees on Public Works and Government Operations;

Second. U.S.S. *Missouri* home port; the amendment, they say, is a backhanded attempt to home port the U.S.S. *Missouri* at Pearl Harbor, instead of Long Beach; and

Third. Ripoff. The amendment, they suggest, is a ripoff of taxpayer's dollars because the causeway to Ford Island is unneeded.

None of these arguments has much weight.

First, as to jurisdiction, the Navy owns Naval Station Pearl Harbor. It owns Ford Island. Therefore, the Navy will own the causeway. The jurisdic-

tion over construction of military roads on military bases is solely within the jurisdiction of the Committee on Armed Services. The causeway will not be a Federal highway. Therefore, Public Works has no jurisdiction.

Moreover, no land is being declared excess to the needs of the Navy. The General Services Administration has responsibility to dispose of excess lands. No lands are excess; therefore, GSA has no role. And, as the oversight committees to GSA, Public Works and Government Operations have no jurisdiction.

If the jurisdictional argument of Public Works and Government Operations were upheld in this case, these two committees could claim jurisdiction over virtually every piece of military construction. If Government Operations has jurisdiction over construction at Pearl Harbor, why should they not have jurisdiction over construction of new National Guard armories? If Public Works has jurisdiction over the new causeway to Ford Island, why should not that committee have jurisdiction over tank trails at Fort Bragg?

The second argument has to do with assignment of the U.S.S. *Missouri*, a battleship which was assigned to San Francisco until the Base Closure Commission recommended the mothballing of Hunters Point. On page 71 of the Commission's report, the Commission recommends that the U.S.S. *Missouri* and two cruisers go to Pearl Harbor. As the House may remember, we voted on April 18 by 43 to 386 not to disapprove the recommendations of the Commission. The Senate voted 86 to 14 on September 26 to table a motion to undermine the Commission recommendations. Under the base closure law, the recommendations of the Commission go into effect without amendment. So, basing the U.S.S. *Missouri* at Pearl Harbor is not back-handed as the opponents claim. It was something the House and Senate already voted overwhelmingly to support.

More important is the fact that the land swap and causeway construction have nothing whatever to do with the basing of the U.S.S. *Missouri*. Nothing. Hawaii has a desperate shortage of military family housing. If we have a causeway out to Ford Island, we can build housing on Ford Island. No causeway, no housing. In this year's bill, we have 330 units of housing construction on Hawaii. We need hundreds of additional units.

Incidentally, we tried to authorize new, needed family housing at Long Beach, but had to cancel the project because there was not sufficient land to site the housing.

The third argument is that the deal is a ripoff. Nothing could be further from the truth. The provision requires that the State of Hawaii provide facilities equal in value to the land. The land is worth about $85 million; the causeway, utilities, and replacement warehouse cost about $85 million. With the military construction budget being as tight as it is, getting $85 million into the budget would be nearly impossible. By working this deal with the State of Hawaii, we can get needed facilities without increasing the Federal deficit.

Frankly, I do not like legislation of this sort in the appropriations bill. It should have been in the authorization bill. But, that said, I want to assure my colleagues that we who have jurisdiction over military construction have no problem with this provision and the taxpayers are well protected. Support Chairman HEFNER.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Speaker, I thank the gentleman for yielding to me.

I do so, rising to support the amendment that is presented by the conference. I do so, one, having served as the subcommittee chair for Military Installations and Facilities from 1983 to 1988, the subcommittee now ably chaired by the gentlewoman from Colorado [Mrs. SCHROEDER].

Second, I rise, having chaired more issues on the issue of home porting than any other committee in this House or in the other body.

No. 3, I do so as one person intimately involved in the politics of the *Missouri*. I am sure most of my colleagues are aware of the significant battles that we had over the issue of the *Missouri* being home ported in San Francisco.

Having now established those bona fides, I would like to say to my colleague, the gentleman from California, that the gentleman from North Caroline indicates that the Navy had been working on this program for 3 years, but I would suggest that this issue has been rattling around in the Armed Services Committee since 1983, longer than 3 years, before the issue of home porting became a policy, before the issue of the *Missouri* became public at all.

So I can say to my colleague that they have been trying to resolve this problem long before the issue of the *Missouri* came up. There has been to this gentleman's recollection, as I said, I am no longer the chair of this committee, a shortfall of approximately 6,000 housing units in the Hawaii area, irrespective of home porting the *Missouri*. So I can say to my colleague that if you move aside the politics of the *Missouri* and address the issue on the efficacy of its merits, then I would say to my colleague that his amendment lacks merit, because this is not about the *Missouri*. This issue was rattling around for several years, 6 years during the time that this gentleman chaired the subcommittee.

I might say that I am pleased with the fact that it has now been finally resolved. The property is now being sold for fair market value. The money derived will take care of portions of this issue. We then find family housing that is desperately needed in that area.

The issue of the *Missouri* aside, when you place that aside it seems to me you have a major responsibility to support the efforts of this committee in trying to resolve a matter that could not be resolved, not in 3 years, but literally in 6 years, almost 7 years.

Mr. LOWERY of California. Mr. Speaker, I rise in support of the motion and yield myself such time as I may consume.

Mr. Speaker, this is not a new problem, access to Ford Island from Pearl Harbor has been a longstanding issue and one this committee has been concerned with. Pearl Harbor has a drastic need for additional space, regardless of the *Missouri*. In fact, last year our committee directed the Department of the Navy to enter into negotiations with the State of Hawaii for the sale of this land and construction of the causeway before a base closure and realignment policy was enacted. The Navy was underway with this process well before the base closure recommendations were made.

Last December, when the Commission came out with its report, it recommended the *Missouri* be relocated to Pearl Harbor and I will quote from page 71 of the report:

> Naval station, San Francisco, Hunters Point. The Commission recommends that the proposed strategic homeport program construction for Hunters Point not be executed. Instead comparable construction should be accomplished at Pearl Harbor, Hawaii, and Long Beach and San Diego, California.

On page 72 further:

> The Commission recommends relocating the battleship and two cruisers from Hunters Point to Pearl Harbor, one cruiser, two destroyers and two frigates to San Diego, California, and one cruiser to Long Beach.

Let me just say, as a southern Californian, I prefer to keep the *Missouri* in southern California. San Diego, I have to say, would be my first choice, but Long Beach would be an adequate second. But the fact of the matter is this Congress supported the recommendations by an overwhelming margin when we voted down a resolution of disapproval in April, by a vote of 43 to 381. It was then we agreed to the decision to send the *Missouri* to Pearl Harbor.

Several questions have been raised on the Commission's requirement to comply with the recommendations for receiving bases.

In January of this year, the Deputy Secretary of Defense, Will Taft, said

that on January 5, 1989, Secretary Carlucci decided to adopt in totality the Commission's recommended closures and realignments. Such closures and realignments include relocation of operating forces. I have checked with the Department of Defense and this is still the policy.

Mr. Speaker, this is not a deal or manueuver to send the *Missouri* to Hawaii; this concept has been in the works for several years. It benefits the Navy. This is not a giveaway. The State has three options. To pay for the land, to design and construct the causeway and replacement facilities, or a combination of both. All at fair market value.

This is not bad for the House. It is my understanding the Armed Services Committee, which has jurisdiction, supports this language.

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Let me just correct one other misstatement, and there are a number; the one about bypassing environmental requirements. The fact of the matter is the Navy is complying with all Federal statutes. The Navy issued an environmental impact statement announcement in the Federal Register last week, pursuant to the National Environment Policy Act of 1969. This covers the causeway, the operational and community support facilities, and the family housing. Public hearings are scheduled for November 2, 1 week from today.

The law is being fully complied with in all instances. Mr. Speaker, as much as I would like to see the *Missouri* stay in southern California, the fact of the matter is this Congress by overwhelming margins has made a decision to send it to Hawaii.

Mr. ROHRABACHER. Mr. Speaker, I yield 4 minutes to my distinguished colleague, the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I rise in opposition to the Hefner motion agreeing to the Senate amendment No. 36.

This amendment does several things without the benefit of examination of the pertinent committees. It creates what appears to be a swap, whereby the State of Hawaii will build a causeway to Ford Island in Pearl Harbor, and in exchange, the Navy will give to the State 198 acres of land on Oahu, arguably some of the most valuable land in the country.

I have two problems with this arrangement, Mr. Speaker. First, although the State is building the causeway, it is really being paid for by Federal funds in the form of some very expensive land, and as a result, the construction should be reviewed by the usual Federal overseers.

Second, Mr. Speaker, is the fact that the land in question is being given to the State, disposed of by the Federal Government, without involvement of the GSA. The military has again found a way to circumvent the procedures and safeguards set up to administer the disposal of land. GSA has the responsibility for the use and disposal of Federal land considered excess and surplus. Why has the Government Operations Committee not been consulted?

This swap of land for a causeway is of a very questionable financial nature. This agreement stipulates that a fair market value shall be received for the land, but since the land will not be put on the market, who can say what the land is worth? Is taxpayer money being thrown away? The answer appears to be, yes.

This amendment is misleading, bypasses the legislative process, and tries to evade committee review. It is an end run by the military. An arrangement has been made so that Hawaii gains Federal land in exchange for building a causeway to a Federal installation, and the whole situation comes to pass without scrutiny.

I urge you to vote "no" on the Hefner motion to agree to the Senate amendment. Insist on the House position. We are spending Federal money on a project of dubious worth, and we are subverting the process.

Vote "no" on the Hefner motion.

Mr. LOWERY of California. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, I rise in support of the request of the gentleman from North Carolina that the House concur with the Senate on this issue.

There is going to be a lot of talk about the value of land in Hawaii, and we have already heard that, whether it is a good trade to have the State build a causeway in exchange for the land.

Do not be misled by these peripheral arguments. I want my colleagues to understand what is really behind this attempt to keep the battleship *Missouri* from being moved to Pearl Harbor.

The *Missouri* was recommissioned in May of 1986 and temporarily assigned to Long Beach until a new home port could be constructed at Hunters Point, CA. The Base Closure Commission report included a provision canceling the Hunters Point home port and directing the redistribution of the entire battle group to existing ports in Hawaii and California.

Mr. Speaker, the Members may remember my attempts several times earlier this year to point out that certain portions of the base-closing agreement I did not feel were cost-effective. I did not believe they should go forward. No one knows better than I do the will of the House of Representatives, and that is to leave the base-closing recommendations intact. I made my attempt to stop what I thought was a mistake in the Base Closing Commission, but by an overwhelming vote, the House said, "We do not want to tinker with the recommendations."

I want my colleagues to recognize that this is tinkering with the recommendations.

Let me read for the Members again from the base-closure report:

> The Commission recommends that the proposed strategic home port program construction for Hunters Point not be executed. Instead, comparable construction should be accomplished at Pearl Harbor, HI, and Long Beach and San Diego, CA. The Commission recommends relocating the battleship and two cruisers to Pearl Harbor, one cruiser, two destroyers and two frigates to San Diego, and one cruiser to Long Beach.

Mr. Speaker, the intent is clear. There are no weasel words here. The Commission made its recommendation, and now the House has to decide whether we are going to attempt to block one of the specific recommendations of the Commissioners. If we do, we are opening an incredible Pandora's box which the House previously, by an enormous margin, indicated it wants to keep closed.

Let me say again, I did not vote for the base-closings report. I did not support its recommendations. I voted against it.

The gentleman from California voted to approve those recommendations. Where was he last April when this issue was brought up?

One other point, the gentleman from California said that the Department of Defense does not have to abide by this, and they do not have to move this. Let me quote from something that was given today by the Department of Defense to us today:

> The Base-Closure Realignment Act stipulates that once the Secretary of Defense accepts all of the Commission's recommendations and the Congress does not enact a joint resolution of disapproval, the Commission's recommendations have the force of law. The Congress has not enacted the joint resolution of disapproval. Consequently, the Department of Defense must, by law, implement all of the closures and realignments as recommended by the Commission in accordance with Public Law 105-526.

Mr. Speaker, this issue has been debated. It is over. It is finished. This is too late.

I urge my colleagues to support the Committee on Appropriations on the conference agreement and recede to the Senate on this issue.

Mr. ROHRABACHER. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I would like to share with the Members of the House a letter from JOHN CONYERS, chairman of the Committee on Government Operations. I will not read the entire letter, but I am including it in the RECORD. I will read portions of it.

JOHN CONYERS, the chairman of the Committee on Government Operations, states:

I rise in opposition to the motion to dispose of the amendment. Once again, as Chairman of the Government Operations Committee, I am confronted with an attempt by the Department of Defense to circumvent established procedures to dispose of Federal property.

We have heard often that this is not unique in this debate obviously. The chairman of the Committee on Government Operations thinks it is, and he says also:

The effective functioning of the property disposal program, which benefits all taxpayers, is jeopardized. There is no mention of park, recreational, or educational use of this property. In contrast, all of these uses are considered under the traditional disposal procedures.

Legislating "favoritism"—

And let me repeat that Chairman CONYERS calls this favoritism—

is poor public policy. For these reasons, I urge my colleagues to vote "no" on the Hefner motion.

The letter referred to follows:

MR. SPEAKER: I rise in opposition to the motion to dispose of the amendment. Once again, as chairman of the Government Operations Committee, I am confronted with an attempt by the Department of Defense (DOD) to circumvent established procedures to dispose of Federal property. As you know, this amendment would allow the Secretary of the Navy to sell Federal property to the State of Hawaii, thereby "short-circuiting" not only the Federal Property Act, but also conferring on the Navy Secretary authority given to the Administrator for GSA. The Department of Defense has frequenly supported legislative provisions, at the expense of the Federal Property Act, seeking special authority to dispose of lands under its control. In fact, since 1985, there have been no less than 54 provisions providing exemptions to the Federal Property Act—all of these for DOD.

This particular transfer involves property with an estimated value of approximately $100 million!!

This trend toward DOD favoritism underscores my concern that these special provisions are precedent setting and evade the existing property disposal structure and process established under the Federal Property Act. That is bad policy with taxpayers dollars anytime, especially when we are cutting deficits. The effective functioning of the property disposal program, which benefits all taxpayers, is jeopardized. There is no mention of park, recreational, or educational use of this property. In contrast, all of these uses are considered under the traditional disposal procedures.

Legislating "favoritism" is poor public policy. For these reasons, I urge my colleagues to vote "no" on the Hefner motion.

JOHN CONYERS,
Chairman,
Government Operations Committee.

Mr. Speaker, I yield 3 minutes to my distinguished colleague, the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I have friends on all sides of this issue and, frankly, I am very surprised at some of the inflammatory rhetoric when good people can come down on a different opinion on this issue.

First of all, the Base Closing Commission group had no authority to order where naval ships should be placed. What they are saying is to move the battleship *Missouri* from Hunters Point. It never got to Hunters Point. It is based right now in Long Beach sitting right next to one of its sister Iowa-class ships, the U.S.S. *New Jersey,* which has been there off and on since the Vietnam war. I have been on that ship for over 20 years.

The problem with this is that when San Francisco had a big battle with the lady mayor on one side and a lot of Congressmen saying, "Keep that weapon out of there, that admiral's toy," and blocked the whole move to have it in San Francisco where there already are excellent supercarriers, as there are down in San Diego, and it left Long Beach, the smallest of our naval shipyards but an excellent asset to this country nevertheless. It left them with the option of picking up this other battleship, the sister ship of the *New Jersey,* and servicing these two ships.

□ 1940

This is not a sneak attack on something that Pearl Harbor wanted. They have had more naval ships than they could handle since the day it was picked as a strategic and tactical naval base way out in the middle of the Pacific. As our Vice President says, it is there; it always will be, and it is in the middle of the Pacific, and it is still a United States' State. That is fine.

But Long Beach was given part of the battle group from Hunter's Point, the part that never got there anyway, and another part it is said should go to San Diego, and some to Pearl Harbor. The point is, the bottom line, we are going to cost the Defense Department precious millions of dollars, as the gentleman from California, Mr. GLENN ANDERSON has said, if we take this facility in Long Beach, which is already set up to handle two battleships, and move it to another State where we will have to spend a lot of taxpayers' money.

The only argument that could have been possibly entertained by a nonmilitary person is: Is this a jackpot target to put two battleships side by side instead of having four separate ports? What about the jackpot target of San Francisco Bay with several supercarriers? What about the jackpot target of San Diego that has always had multiple supercarriers in that port because of its excellent facilities?

I voted for base closing, and there were some stupid things in there. They closed down one of the greatest desert fighter bases in the world where I flew for almost 3 years, George Air Force Base, with seven gunnery ranges, 364 flying days a year out of 365. I did not want to sign away a base that I served at and would love to go back and visit, but I accepted that.

I get 3 minutes. Hold on. The penguins out there are chirping already. Hold it just a minute, please. I am almost through, 10 seconds, and I thank Members for their courtesy.

The SPEAKER pro tempore (Mr. SYNAR). The time of the gentleman from California has expired.

Mr. DORNAN of California. Members have cost me 10 seconds.

So support the gentleman from California [Mr. ANDERSON] and the other gentleman from California [Mr. ROHRABACHER].

Mr. LOWERY of California. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I probably will not take the whole time. I just have to answer my good friend from California, and my other good friend from California who is bringing this motion.

I do not fault the gentleman for trying to protect his interests and the interests of his constituents in keeping the *Missouri* in Long Beach. But I must point out that true, the Commission does not direct where ships will be placed, but it does direct and make recommendations, and did make recommendations where the facilities would be to house these ships and service these ships.

If the *Missouri* were even kept in Long Beach, we would have to build facilities for the servicing of the *Missouri.* So there is no savings, the $8 million claimed. Facilities would still have to be built to maintain and house the *Missouri.*

I understand the gentleman. The Commission has made its recommendations, and I hope the House will support the committee.

Mr. HEFNER. Mr. Speaker, I yield 1 minute to the gentleman from Hawaii [Mr. AKAKA].

Mr. AKAKA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the committee's position on amendment No. 36.

Mr. Speaker, this amendment has little to do with homeporting battleships. It has nothing to do with the procedures of this House. The real story of this amendment has to do with whether or not we provide sufficient family housing for the military.

The gentleman from California may not know it, but I represent a district that has the greatest shortage of military family housing of any other district in the Nation. We have a deficit of 4,000 family housing units, more than any other site in the country. In fact, of the total number of family housing units that are needed nationwide, 21 percent are in Hawaii.

I don't have to tell my colleagues how expensive housing costs are in Hawaii. And if you think that existing housing is expensive, the cost of constructing new housing units is even worse.

There is no more important quality of life issue in the military today than the availability of affordable housing. What kind of lifestyle do we expect the families of men and women in uniform to lead if they lack decent housing. This is a quality of life issue, pure and simple. That is why this amendment appears in our bill.

Improving the quality of life and working conditions in the military is essential to improving overall military readiness. If we do not provide the necessary housing for our armed services personnel and their families, we cannot expect them to perform as a modern and professional military force.

I assure my colleagues that the proposal contained in our bill is not the outlandish proposition that my opponents would have it. In essence, what the committee has recommended is that the State of Hawaii build a much needed bridge to Ford Island in Honolulu Harbor, and in exchange the State be given land elsewhere to cover the cost of construction. Hawaii builds the bridge, and in exchange they receive land of fair market value.

One need only examine the armed services bill for any given year to find a host of instances where the Department of Defense is trading land for the construction of new facilities that are important to its mission. There are four transactions of this kind in the DOD authorization bill which passed the House earlier this year and two more in last year's bill. So any characterization of this amendment as some kind of a one-of-a-kind boondoggle or a giveaway is wrong—dead wrong. In an era of tight budgets, such arrangements have become commonplace.

I can understand that some of my colleagues from southern California are dissatisfied with the recommendations of the Base Realignment and Closure Commission that would remove a battleship group from Hunters Point and transfer its elements to three sites, Pearl Harbor, Long Beach, and San Diego. I suppose that if I were from California, I would be unhappy as well. But that recommendation was not made by me or by Congress as a whole, but by the Secretary of Defense. And the House endorsed that recommendation by a vote of 381 to 43.

The reality is that the amendment before us is essential to the DOD's mission in Hawaii regardless of whether ships are homeported in Hawaii. This causeway is essential because without it, the only means of access that enlisted personnel and dependents have to the rest of Honolulu is a ferry service. This ferry is inadequate to support existing functions at Ford Island. My colleagues, without this bridge, you will leave those military families fortunate to have housing on Ford Island high and dry. What is worse is that without this amendment, plans to build 4,000 units for military families that are currently waiting for housing may not go forward. And that, my friends, will destroy the morale of service men and women in my State.

To prove my point, I refer my colleagues to the Army's policy statement on this issue. According to the Army, the latest survey shows a deficit of 4,000 housing units, and I quote, "making this location the number one family housing deficit problem." What I want to emphasize is that the Army goes on to say that this deficit "does not include any new requirements that may result from the Services' restationing decisions (e.g., the Battleship Group)."

Thus the Army makes clear that battleship or no battleship, the construction activity carried out under this amendment is vital to eliminating the military housing shortage on Oahu.

Now I know someone is about to stand up and say that what would be built by this amendment is not housing units but a bridge. That is true, but without the bridge the military families stationed on Ford Island will have no way to get to their work stations at Pearl Harbor except by ferryboat.

When I examine amendment No. 36, and then I listen to the debate on the floor, I can hardly believe that what we are talking about is the same amendment.

Do not be misled. This amendment is a great deal for the Federal Government. It specifically provides that, I quote, "Consideration for each sale shall not be less than the fair market value of the property." This transaction must be carried out at fair market value.

Thus, whether the State pays cash or agrees to construct a bridge, the consideration it must pay for the land cannot be less than the appraised value of the land. However, when it comes to the cost of designed and constructing the bridge to connect the military facilities on Ford Island with Pearl Harbor, the amendment places no limit on the amount the State must pay for this construction. The Department of Defense is guaranteed not less than fair market value and the State must build a causeway, regardless of cost.

In their "Dear Colleague" letter, my friends from California have branded this amendment a "raid on the Treasury" and a "land giveaway." Well, if this is a giveaway, then the Federal Government should do this more often.

Mr. LOWERY of California. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. MARTIN], the ranking member on the authorizing committee.

Mr. MARTIN of New York. Mr. Speaker, the good news is if I can have the attention of the Members for a minute and a half, I will do it in that time; otherwise I am going to take my full time.

My friends, I ask Members to support the Hefner position. We heard the gentleman from California, Mr. DELLUMS, speak earlier about these negotiations that were started many years ago between the State and the Federal Government and the city.

While Members want to bring in the question of base closure, it should not even be in this argument, because the fact of the matter is, and most important to this debate is the fact that we are 6,000 housing units short today in Hawaii. It is very, very expensive for our young people who try to live there on the economy.

I do not blame the gentleman and he can go and fight for the *Missouri* to stay in Long Beach. But please do not interfere with something that we have been negotiating for many, many years. It is a great benefit to the taxpayer, it is a great benefit to the Navy, and it is a great benefit to Hawaii.

I would like to point out for those particular Members from Hawaii and those interested with the issues of Hawaii and land values, there is no Member that has ever suggested that the gentleman from New York was easy when it comes to giving away land in Hawaii. My colleagues will remember the battles over Fort Derussey.

Please do not try to fight the base closure legislation on this longstanding attempt to do something for our service people.

I yield back the balance of my time.

Mr. LOWERY of California. Mr. Speaker, I yield 3 minutes to the gentlewoman from Hawaii [Mrs. SAIKI].

Mrs. SAIKI. Mr. Speaker, I would ask for the indulgence of my colleagues. This is a very important bill for those of us in Hawaii.

Mr. Speaker, I rise in strong support of the motion by Mr. HEFNER and urge my colleagues to vote in favor of this motion.

The Hefner motion will allow the Navy and the State of Hawaii to proceed on a land transaction which will allow the Navy to construct critically needed housing for its strategically forward-deployed personnel in the Pacific.

The Navy would build personnel housing on Ford Island, an island of some 450 acres in the middle of Pearl Harbor.

Today, the only access to Ford Island is by ferry. The State of Hawaii

has agreed to build a causeway from the shoreside of Pearl Harbor to Ford Island for ready access, in order to build the housing and to provide a roadway to the shore.

Approximately 1,000 new units of needed housing for military personnel could be created on Ford Island.

In return, the Navy would sell to the State of Hawaii some 108 acres of underutilized Navy land adjacent to Pearl Harbor. The State of Hawaii would, in turn, create more housing on this land, much of which would undoubtedly be used by military personnel.

This land which would go to the State, an area called the Pearl City Peninsula, currently is filled with dilapidated, underused, World War II-era warehouses. The State's efforts to construct low- and moderate-income housing here would be a giant step toward relieving the critical housing shortages in Honolulu which impact severely on military personnel stationed in Hawaii.

Mr. Speaker, this proposal is good for the U.S. Navy, it's good for the State of Hawaii, it's good for military personnel who have families and need affordable housing, and it makes good sense in general because it creates useable housing on both Ford Island and the Pearl City Peninsula for the sake of Oahu residents, military and civilian.

The Navy and the State of Hawaii have been working on this project for at least 5 years, and everyone is in agreement that the proposal is sound, necessary, and should proceed.

The state of military housing in Hawaii can only be described as sad.

The military currently estimates a shortfall of 4,000 housing units with this number getting higher and higher as older facilities fall into disrepair. Those servicemen and their families who cannot live in military housing are forced to live off base in more expensive, sometimes substandard, facilities because they cannot afford a nicer place to live.

I am not arguing that our dedicated military personnel live the lifestyle of Waikiki, but I must ask: Is this how our servicemen and women on the Pacific front-line should be treated—forced because of a severe housing shortage to live in substandard housing?

A "Dear Colleague" recently distributed by some of my colleagues from California claims that this transaction is being done with the intent of homeporting the *Missouri* at Pearl Harbor.

Mr. Speaker, the recommendation for the *Missouri* homeporting was fully addressed in the Base Closure Act.

Could this be an affort to undermine the Base Closure Act?

If it is—are we in this House going to become partners in the unraveling of the base closure recommendations that this Congress has already formulized into law?

This provision of the bill is to provide urgently needed military housing to our personnel stationed on the front-line in the Pacific—the cause way is needed with or without the *Missouri.*

Mr. Speaker, the issue here is housing.

On Oahu, in Honolulu—in my district—the median price of a house is $262,000. That's a level only second to San Francisco that with each passing day becomes farther and farther out of reach for civilians, not to mention military personnel.

Here we have an agreement between the Navy—desperate for affordable personnel housing—and the state of Hawaii—equally desperate to create more housing to ease this crunch—both agreeing to help each other with the larger problem.

The best way to do this is to let the State build the causeway to Ford Island so the Navy can build housing, in exchange for letting the State build housing with the Navy's Pearl City Peninsula land.

The result will be decent, more affordable housing for military personnel.

Mr. Speaker, I urge my colleagues this evening to vote in favor of this motion.

It makes good policy, good sense, and will make a bad situation better for everyone involved—especially our military personnel.

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Mr. ROHRABACHER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this issue, we have heard from many people who talked here, this is an issue about the housing for military dependents. Let me suggest there are many military dependents throughout the United States who are in need of more housing and in need of proper housing, including my district, including districts in Virginia, Florida, Texas, and throughout the United States.

However, when this body is trying to come up with the money and trying to come up with the decisionmaking process to provide housing for these military dependents, the proper procedures are used.

The proper procedures, as we have heard from the heads of the committees today, has not been followed in this process.

Another situation: If this is a debate about housing for military dependents, why is it that the proper procedures were not used in the first place? Also, if we can look at this issue and if it is the issue of housing for military dependents, why is there a suggestion that the battleship *Missouri* will be going to Hawaii? Everyone in this room knows today that the battleship *Missouri* and its support crew and the people that go with the battleship *Missouri* encompasses thousands of people, which means they will need housing for thousands of more people.

That argument is totally without merit.

If you look at this issue, you can see we are discussing whether or not a particular wheeling and dealing that has been made about where the battleship *Missouri* will be stationed is coming to a head on this floor. This is not about the unraveling of the base-closure bill. The Base Closure Commission had no authority whatsoever to reassign the battleship *Missouri* from a base that was not being closed.

Long Beach is not being closed. It was never officially assigned to Hunter's Point. Thus the Base Closing Commission had no authority to make that order.

Mr. Speaker, I just leave you with this thought: This motion is bad for the Navy, it is going to eat up the millions and millions of dollars that should be used for the Navy and for housing of naval personnel, and the duplication of facilities and services in personnel that are currently in Long Beach. It is bad for the Navy, it is bad for the taxpayers and a gross violation of procedure that we have seen on this measure. It is bad for the House of Representatives.

Mr. Speaker, I ask for this motion to be defeated.

Mr. LOWERY of California. Mr. Speaker, I yield myself such time as I may consume and ask unanimous consent to include in the RECORD a memorandum from the Deputy Assistant Secretary of Defense, to the service secretaries dated January 10, 1989, regarding base closure.

Mr. Speaker, I also ask unanimous consent to include in the RECORD, the Department of the Navy's intent to prepare an environmental impact statement for proposed development at Naval Base Pearl Harbor, Oahu, HI, as published in the Federal Register of Tuesday, October 17, 1989.

Mr. Speaker, I have no additional requests for time and yield back the remainder of my time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Memorandum for Secretaries of the Military Departments, Chairman of the Joint Chiefs of Staff, Directors of the Defense Agencies.

Subject: Recommendations of the Commission on Base Realignment and Closure.

On December 29, 1989 the Commission on Base Realignment and Closure presented us with its detailed findings and recommendations. On January 5, 1989 Secretary Carlucci decided to adopt in totality the Commission's recommended closures and realignments; such closures and realignments include relocations of operating forces.

WILLIAM H. TAFT IV,
Deputy Secretary of Defense.

[From the Federal Register, Oct. 17, 1989]

DEPARTMENT OF DEFENSE

DEPARTMENT OF THE NAVY

Intent To Prepare an Environmental Impact Statement for Proposed Development at Naval Base Pearl Harbor, Oahu, Hawaii

Pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500-1508), the Department of the Navy announces its intent to prepare an Environmental Impact Statement (EIS) for the construction of various improvements at Naval Base Pearl Harbor. The improvements are required to support various activities, including the homeporting of a battleship and two cruisers to support the recommendations of the Secretary of Defense Commission on Base Realignment and Closure.

Three major components are included as part of the proposed action, and they are:

(1) A causeway connecting Ford Island to the rest of the Naval Base;

(2) Various operational and community support facilities on Ford Island, and on Naval Station and Naval Shipyard Pearl Harbor; and

(3) Housing for about 600 to 1,200 Navy families on Ford Island.

Each major component is functionally independent of the others and could be implemented as a separate action.

Causeway

The proposed causeway would be constructed to improve access to Ford Island and, hence, make possible further development of the island to serve existing and future missions at the Naval Base. Development of the mainside Pearl Harbor complex has reached the saturation point, while Ford Island contains 300 acres of open space (out of a total of about 450 acres) which is not being used to its fullest possible potential by the Navy. Given improved access, approximately 2,800 feet of ship berthing space and other facilities could be put to more effective use. The slow and inefficient vehicular ferry and passenger boat transportation system presently in operation severely constrains the potential use of Ford Island's vacant land and underused facilities.

The preferred alternative for providing access is a floating bridge, which would consist of a concrete pile causeway with a channel to allow passage of large vessels, as well as a 100 foot long, 33 foot height span to provide vertical clearance for small boat navigation. The Ford Island terminus of the proposed causeway would be to the north of the existing housing area, intersecting Saratoga Boulevard, and the mainside terminus would be near Halawa Landing, between the U.S.S. Bowfin Memorial and the Navy marina.

Alternatives to the floating bridge type of causeway include no action, expanded water-based system, fixed pile causeway without a moveable span, and sunken tube tunnel. Alternative termini on Ford Island for the floating bridge, causeway, and tunnel alternatives include a terminus passing north of the Public Works Center, intersecting the realigned Saratoga Boulevard west of its present junction with Princeton Place; and, a terminus passing through the housing area on the east end of the island, intersecting Lexington Boulevard west of the Arizona Memorial. Alternative termini on mainside include the Richardson Recreation Center and McGrew Point.

Operational and Community Support Facilities

The following projects will be required to support the homeporting of a battleship and two cruisers in response to recommendations of the Base Realignment and Closure Commission, and Congressional mandate. Proposed facilties include upgrading and extension of Berth F-5 (Foxtrot Pier) on Ford Island to accommodate the battleship, including maintenance dredging, utilities improvements and shore support facilities; upgrading the fender system at Wharf Bravo Berths B20 and B21, and upgrading shore power outlets and electrical distribution at Bravo Wharves B23 and B24 at the Naval Station to accommodate the two cruisers; new fender systems along Bravo Basins B15 and B18, and upgrading shore power outlets and electrical distribution at Bravo Wharf B25 and Mike Dock M3 to support the two cruisers; a 4,800 square foot pre-engineered building at Naval Shipyard Pearl Harbor to store parts for the homeported battleship; a 7,200 square foot addition to the Applied Instruction Building (Building 1377) at the Naval Station to provide additional training and administrative space required for Mobile Technical Unit One (MOTU-1); three new buildings at the Naval Station to house transient enlisted personnel, legal hold and restricted enlisted personnel, administrative and shop space for the Transient Personnel Unit (TPU), and enlisted personnel assigned to the station; a 5,500 square foot addition to the club on Ford Island (Building 38) to house a snack bar, game room, dining and lounge spaces, enlarged kitchen and bar areas, restrooms, and storage; and Fleet Shoreside Support Center on Ford Island consisting of an amusement center, laundromat, outdoor basketball/volleyball courts, playing fields and racquetball courts.

Alternatives to these proposed Operational and Community Support Facilities include postponing the action and using other locations for specific projects. For the proposed Applied Instruction Building Addition, two specific alternatives have been considered: A different design and training of ship personnel on the west coast. An additional alternative to the proposed TPU Unit/BEQ is the use of civilian accommodations. In accordance with provisions of the Base Realignment and Closure Act of 1988 (10 U.S.C. 2687), the no action alternative will not be considered in this EIS for these proposed facilities.

Family Housing

A number of alternatives are being considered to fulfill the requirement to house approximately 1,200 Navy families. With improved access to Ford Island, development of the underutilized acreage on the island becomes possible. About 100 acres in the old runway area would be available for family housing. The runway is currently used as a general aviation practice landing airfield. These general aviation practice exercises will be displaced. Alternatives include no action (build no new housing and have families finding housing elsewhere, either in existing military housing or in the private sector); construct 1,200 housing units on Ford Island, which most likely would consist of a mixture of low and mid-rise buildings; construct about 600 to 700 units on Ford Island and accommodate the remaining units in existing military housing areas, new military housing at other locations, or in the private sector.

Potential environmental impacts resulting from the proposed action include short-term impacts during construction (noise, dust, temporary changes in water quality), increases in traffic, socio-economic effects and visual impacts.

The consulting firm of Belt Collins & Associates has been retained to prepare the draft and Final Environmental Impact Statements.

The Navy will initiate a scoping process for the purpose of determining the scope of issues to be addressed and for identifying the significant issues related to this proposed action. A public scoping meeting will be held on November 2, 1989, beginning at 7:00 pm, at Aliamanu Intermediate School cafeteria, 3271 Salt Lake Boulevard, Honolulu, Hawaii. This meeting will be advertised in the Honolulu Advertiser, the Honolulu Star Bulletin, and the State of Hawaii OEQC (Office of Environmental Quality) Bulletin.

A short formal presentation will precede the request for public comments. Navy representatives will be available at this meeting to receive comments from the public regarding issues of concern. It is important that federal, state and county agencies, and interested individuals and groups take this opportunity to identify environmental concerns that should be addressed during the preparation of the EIS. In the interest of available time, each speaker will be asked to limit their oral comments to five (5) minutes.

Agencies and the general public are also invited and encouraged to provide written comment in addition to, or in lieu of, oral comments at the public meeting. To be most helpful, scoping comments should clearly describe specific issues or topics which the commentor believes the EIS should address. Written statements and/or questions regarding the scoping process should be mailed no later than November 17, 1989, to Mr. Gordon Ishikawa (Code 90P2), Pacific Division, Naval Facilities Engineering Command, Pearl Harbor, Hawaii 96880-7300; telephone (808) 471-7130.

Mr. Speaker, I yield back the balance of my time.

Mr. HEFNER. Mr. Speaker, I yield myself such time as I may consume.

Just briefly: First of all, this is a good bill. There are probably more hearings on this bill than any other bill of its size in the House of Representatives. It is a good bill, and it looks after quality of life for our service people.

The gentleman's opposition to my motion is an attempt to unravel the base-closure recommendations, make no mistake about it. Besides, my motion does not trample on anybody's jurisdiction.

The gentleman has stated that the amendment violates the established congressional procedures by supposedly bypassing legislative committees. First of all, the amendment is not within the jurisdiction of the Public Works Committee. For example, the causeway is a military activity which will be constructed on land owned by the Department of the Navy. The bridge will not be part of the Federal Highway System but will be owned and operated by the Navy along with the causeway. Such work is carried out

under the program known as the Defense Access Road Program, not the highway bill. With regard to the Government Operations Committee, all the land affected is owned by the Navy and not GSA. Therefore, the Government Operations Committee is not the committee of jurisdiction. The Armed Services Committee, however, is a partner in jurisdiction and the committee, prior to agreeing to accept the Senate amendment, had unofficially cleared it with the Armed Services Committee. Despite all the rhetoric by the gentlemen, we did operate in proper form and did not circumvent the congressional process.

This is a good bill. It merits your 100-percent vote on this amendment.

I thank you for your time and your cooperation.

The SPEAKER pro tempore (Mr. SYNAR). Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

TRADE AND EMIGRATION POLICIES WITH RESPECT TO HUNGARY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-104)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Ways and Means and ordered to be printed.

To the Congress of the United States:

I hereby transmit the documents referred to in Subsections 402(b) and 409(b) of the Trade Act of 1974 ("the Act"), 19 U.S.C. 2432(b) and 2439(b), with respect to the consistency of the emigration laws and policies of the Republic of Hungary with the criteria set out in Subsections 402(a) and 409(a) of that Act, 19 U.S.C. 2432(a) and 2439(a). These documents constitute my decision that a waiver of Subsections (a) and (b) of Section 402 of the Act will no longer be required for the Republic of Hungary.

I include as part of these documents my Determination that the Republic of Hungary is not in violation of paragraph (1), (2), or (3) of Subsection 402(a) or paragraph (1), (2), or (3) of Subsection 409(a) of the Act. I also include information as to the nature and implementation of the emigration laws and policies of the Republic of Hungary and restrictions or discrimination applied to or against persons wishing to emigrate, including those persons wishing to emigrate to the United States to join close relatives.

GEORGE BUSH.

THE WHITE HOUSE, *October 26, 1989.*

APPOINTMENT OF CONFEREES ON H.R. 2939, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1990

Mr. OBEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2939) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1990, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin? The Chair hears none and appoints the following conferees: Messrs. OBEY, YATES, MCHUGH, LEHMAN of Florida, WILSON, GRAY, MRAZEK, COLEMAN of Texas, WHITTEN, EDWARDS of Oklahoma, LEWIS of California, PORTER, GALLO, and CONTE.

With respect to the appointment of conferees on the foreign operations appropriations conference, the Chair reserves the right to appoint additional conferees.

The Clerk will notify the Senate of the change in conferees.

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RESIGNATION AS MEMBER OF COMMITTEE ON SMALL BUSINESS

The SPEAKER laid before the House the following communication from the Honorable CHARLES A. HAYES, a Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, October 13, 1989

Hon. THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I respectfully resign my seat on the Committee on Small Business to accept my recent appointment to the Committee on Post Office and Civil Service.

I appreciate your support in this endeavor and look forward to working closely with you in the future.

With kind, personal regards, I remain

Sincerely,

CHARLES A. HAYES,
Member of Congress.

ADJUSTMENT IN APPOINTMENT OF CONFEREES ON H.R. 3299, OMNIBUS BUDGET RECONCILIATION ACT OF 1989

The SPEAKER. Pursuant to the previous order of the House of October 18, 1989, the Chair announces the following adjustment in the appointment of conferees:

After the appointment of the first panel from the Committee on Interior and Insular Affairs insert the following:

Provided, That Mr. Sharp is appointed in place of Mr. Williams for consideration of subtitles B and C of title VI of the House bill.

The Clerk will notify the Senate of the adjustment in appointment of conferees.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I would like to inquire of the distinguished majority leader of the program of next week.

I yield to the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, obviously we have finished the voting for this evening. Tomorrow, we will have a pro forma session on Friday.

On Monday, October 30, the House will meet at noon, and we will have under consideration seven bills under suspension. Recorded votes on the suspensions will be postponed until Tuesday, October 31.

The bills that will be considered that day are:

H.R. 3199, Veterans Health Professionals Educational Amendments of 1989;

H.R. 3390, Veterans Education Amendments of 1989;

H.R. 2642, Southeast Interstate Low-Level Radioactive Waste Compact Amendments of 1989;

H.R. 3021, to extend deadlines for FERC projects;

H.R. 3310, National Telecommunications and Information Administration Authorization Act for fiscal years 1990 and 1991;

H.R. 3265, FCC Authorization Act; and

H.R. 922, naming of a post office after M.P. Daniel and Thomas F. Calhoon.

Tuesday, October 31, the House will meet at noon. We will have recorded votes on the suspensions that are postponed from Monday, October 30. Then we will take up:

H.R. 3015, consideration of the conference report for the Transportation Appropriation Act of fiscal year 1990; and

H.R. 3443, to provide DOT review of air carriers securities acquisition (open rule, 1 hour of debate).

Wednesday, November 1, the House will meet at 10 a.m., for consideration of:

H.R. 2710, to amend the Fair Labor Standards Act of 1938 and increase the minimum wage (subject to a rule); and

H.R. 1465, Oil Pollution, Prevention, Response, Liability and Compensation Act of 1989 (subject to a rule).

On Thursday, November 2, and Friday, November 3, the House will meet at 10 to consider:

H.R. 2883, consideration of the conference report for the Agriculture Appropriation Act of Fiscal Year 1990; and

H.R. 2459, Coast Guard Authorization Act of 1989 (open rule, 1 hour of debate).

Obviously, the conference reports may be brought up at any time, and any further program will be announced later.

Mr. MICHEL. Mr. Speaker, I just want to thank the majority leader for the requests of the gentleman from Illinois for rolling the votes on Monday's suspension over to Tuesday in deference to the minority leader's program that he has especially arranged for Monday, and I am most appreciative of the accommodation on the part of the majority side.

ADJOURNMENT TO MONDAY, OCTOBER 30, 1989

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Friday, October 27, 1989, it adjourn to meet at noon on Monday, October 30, 1989.

Mr. SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, NOVEMBER 1, 1989

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

REPORT ON RESOULUTION PROVIDING FOR CONSIDERATION OF H.R. 3443, FEDERAL AVIATION ACT OF 1958 AMENDMENTS

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-314) on the resolution (H. Res. 275) providing for the consideration of the bill (H.R. 3443) to amend the Federal Aviation Act of 1958 to provide for review of certain acquisitions of voting securities of air carriers, and for other purposes, which was referred to the House Calendar and ordered to be printed.

IN SUPPORT OF H.R. 3496, ANTI-DRIFT NET LEGISLATION, AND COMMENDING NEW ZEALAND PRIME MINISTER GEOFFREY PALMER ON HIS ADDRESS REGARDING DRIFT NET FISHING BEFORE THE UNITED NATIONS

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FALEOMAVAEGA. Mr. Speaker, I want to recommend the distinguished gentleman from Oregon, Mr. PETER DEFAZIO, for introducing H.R. 3496. I am very pleased to be a cosponsor of this legislation which would, at its heart, prohibit the importation into our country of products made from fish caught with drift nets. By embargoeing drift net fish products from entering the U.S. market, this will materially assist the fight to internationally outlaw this ludicrous and environmentally destructive fishing practice.

Mr. Speaker, I would also like to take this opportunity to share with my colleagues the remarks given on October 2, 1989, before the United Nations General Assembly by the Honorable Geoffrey Palmer, Prime Minister of New Zealand. In discussing the increasing use of drift nets in the South Pacific, Prime Minister Palmer eloquently described the threat that the foreign drift net fleet poses to the economic and social well-being of the people of the Pacific. I commend Prime Minister Palmer for his leadership on this matter, and attach his incisive comments regarding drift net fishing for the RECORD.

STATEMENT BY THE RIGHT HONORABLE GEOFFREY PALMER, PRIME MINISTER OF NEW ZEALAND

Imagine representing one of the countries in the South Pacific with few or no natural resources other than the fish in the ocean. You discover that foreign fishermen from outside the region have begun to use in your region a fishing technology not used there before. A technology which threatens to collapse the albacore tuna fishery which is of vital economic importance to the coastal states of the region.

I am speaking of the "Wall of Death"—the enormous drift nets which in the last few years have been employed in the South Pacific by distant water fishermen. The technology is not new in itself. What is new, and what makes it quite unacceptable, is a new technique for the use of drift nets. This involves several vessels working in cooperation each deploying a series of very long nets. Each net can be up to 50 kilometres in length. Each vessel sets a number of these nets in a very long line across the ocean. They sometimes cover thousands of kilometres of ocean. In the North Pacific, at the height of the season, an estimated 50,000 km of drift nets are set nightly. They then drift, literally like a wall of death. They catch and kill, like a vacuum cleaner, virtually every living creature—including some endangered species—which come in contact with them.

The indiscriminate nature of the catch makes this an unacceptable fishing technology. Turtles, whales, dolphins, birds—all are trapped and killed. Large percentages of the catch are lost or wasted when the nets are recovered. In the North Pacific drift net fishing has seriously damaged valuable salmon stocks.

I have to say that this is a technology which was rejected unanimously by the countries of the South Pacific. In July this year at the South Pacific Forum in Tarawa, South Pacific Heads of Government adopted a Declaration condemning the practice of large scale drift net fishing. But "wall of death" fishing is not just a moral problem. It is a legal, political and economic problem. And it has global implications.

Freedoms of the high seas cannot be invoked to protect what is in effect a systematic assault on the regional marine ecosystem.

There was a time when some argued that the freedom of the high seas legitimised unacceptable and illegal practices. But customary international law has responded over the years to outlaw unreasonable and repugnant practices. At the present time international law is again responding to the unacceptable and unreasonable uses of the high seas for drift net fishing.

There is already some evidence of the international community's response to this unreasonable use of the high seas. Many Pacific states including New Zealand have already taken action to outlaw the practice in their domestic regulations and in their 200 mile zones. The Tarawa Declaration was vigorously supported only 4 weeks ago by a resolution at the South Pacific Conference on Nature and Conservation of Protected Areas. It will be reinforced and codified later this year when the South Pacific countries adopt a regional convention to prevent "wall of death" fishing in our region.

I want to make it clear that what is troubling the South Pacific nations is not the practice of small scale inshore use of drift nets of limited size used by various developing countries. Our concern is with the new and highly destructive phenomenon of very long pelagic drift nets.

The Tarawa Declaration called on the international community to support the position of the South Pacific countries on drift netting. We have asked the Secretary General to circulate the Tarawa Declaration as a UN Document for the information of all delegations.

The South Pacific will be vigorously pursuing this issue bilaterally, regionally and globally. We will be proceeding in a dispassionate, rational and reasonable manner. But those who engage in this ecologically irresponsible activity should be in no doubt that the techniques they use are unacceptable wherever they may be used. New Zealand looks to the United Nations to support the Tarawa Declaration. Resolutions in the United Nations system to combat drift netting are inevitable if these practices are not phased out quickly. New Zealand, in close cooperation with the South Pacific countries and other members of the United Nations who have declared their abhorrence of the new drift net technology, will be pursuing this issue within the United Nations system. At the present session opportunities exist under agenda items before several Committees of this Assembly.

We note that the government of the Republic of Korea has temporarily halted drift net fishing in the Pacific. That is welcome. We also welcome the decision by Japan in

the past few weeks to reduce its drift net fishing fleet. This is also a step in the right direction. But a cessation of this fishing technique is the only ecologically acceptable solution. Only Taiwan has yet to respond to the concerns of the Pacific countries on this matter. We urge all concerned to act quickly.

Indeed, Mr. President, the state of our global fisheries is a good example of the broader environmental problems that our planet is facing.

There is really only one international measure regulating fisheries that proceeds on acceptably sound ecosystem principles. That is the Convention for the Conservation of Antarctic Marine and Living Resources. In this connection I would remind the Assembly of the important and valuable environmental protection measures that have been achieved under the Antarctic Treaty, and note that further significant steps will be sponsored by New Zealand at the Antarctic Treaty Consultative Meeting in Paris next week. The Antarctic Treaty is an effective institution. we are making it even more effective in the environmental field. It is an institution that should be supported by the United Nations General Assembly.

Even 20 years ago it was generally assumed that the fish in the open sea were inexhaustible. In general, anyone could go fishing without limitation. Yet we all now know that the biomass of any fishery can easily be overfished. We face a situation where the world's fish catching capacity may already be close to or in excess of sustainable yield from the commercial fisheries in the world's oceans. We are technically capable of catching fish faster than they can breed. Fishing rights are therefore tightly regulated and licensed. Will we soon have to apply to our atmosphere regulatory principles similar to those we are now applying to our fisheries?

I have to say that, if this is the case, the example we have set with our fisheries is a frightening one. Drift netting is simply the latest in a long history of irresponsible fishing practices. It is just as well that humanity did not depend on fisheries alone for survival. The record of international fisheries management is such a sorry one that, if that had been the case, whole populations would have long since perished in the wake of collapsed fisheries.

But the reality is that there is no alternative atmosphere to breathe. There is only one global climate. We must do better than the halting attempts at fisheries conservation that have been taken to date.

UPCOMING ABORTION DEBATE

The SPEAKER pro tempore. (Mr. HAYES of Illinois). Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, I love the great State of Ohio. I will do anything for that State.

I am not doing my special order tonight on the series of House votes we have had on human life, abortion, when does live begin, rape, incest, all of these heavy duty issues, because one of my 7 grandchildren, my first grandaughter, turned 7 years of age tonight. I am racing off to her dinner and that family situation takes precedence over everything. I will do that special order on abortion next Tuesday or Wednesday.

I wish I had a car radio to listen to my colleague, the gentleman from Ohio [Mr. MCEWEN] on his great special order.

AMERICA IS ENJOYING THE GREATEST PERIOD OF ECONOMIC GROWTH IN ITS HISTORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. MCEWEN] is recognized for 5 minutes.

Mr. MCEWEN. Mr. Speaker, today at 8 o'clock this morning the Department of Commerce announced that America had entered the 84th consecutive month of economic expansion. That means that the economy is growing, producing more, and more people at work than ever in the history of the world, and, as a result, it is important that we take note of this fact because there are many people who build their political careers upon the decision to somehow misrepresent the condition of America's economy.

Let us put it in perspective. Since 1982 nearly 7, more than 6, nearly 7 out of every 10 jobs created on this planet since 1982 have been created in one country, the United States of America.

Now during the 1970's it is true we were losing jobs at the rate of 50,000 a week. We had the highest inflation and interest rate since the Civil War, and we were in a decline. But we pursued the proper policies since the beginning of the 1980's. Some people call it Reaganomics. Some people call them new ideas. Actually all it was was an affirmation of basic principles that called on the economy to expand, and, as a result, we have now created nearly 300,000 jobs a month every month for 84 consecutive months.

Mr. Speaker, we have cut black teenage unemployment in half; pardon me. We have cut teenage black unemployment by two-thirds. We have cut minimum wage employees by half.

We are not only No. 1 in a whole series of areas, but one of the ones that is most often misrepresented is that America is No. 1 in electronics. That is electronic production in America is No. 1. My colleagues know who No. 2 is. No. 2 is Japan. And yet the largest manufacturer of electronics in Japan is International Business Machines, or IBM, which is an American company. Sixty percent of all the basic research that is done in the world is done by the United States of America.

Mr. Speaker, I saw a distinguished Member speak the other day about the fact that at the Patent Office last year there were more non-Americans who received patents than Americans and how terrible this was that America was obviously crushed and over the hill because more non-Americans had gotten patents. I checked with the Patent Office and discovered an interesting thing of course, and that is, I say to my colleagues, "If you have a patent, if you have an invention, you want to patent it in one place. No disrespect intended, but you obviously don't wish to get a patent in Uganda, or Afghanistan or Burma. If you have an invention, you want a patent in the United States of America because that's where the patent law protects you internationally."

So, Mr. Speaker, all inventions are patented in the United States, and 48 percent of all those patents last year were Americans.

What does that mean? That means of all the new inventions of the world, half of them were done by the United States, virtually as many as the rest of the world combined. Not a bad percentage in my judgment.

Final observation would be that we are creating jobs that somehow or another are not significant. During any period of expansion since the turn of the century that we have kept these kinds of records, during any period of expansion a fourth or 24 percent on the average of all the new jobs created are in the top-paying category, the highly skilled managerial level. During this expansion since 1982, however, 48 percent of all the new jobs created since 1982 are in that top managerial level.

Mr. Speaker, we have all heard Jesse Jackson go through his rat-a-tat about the fact that we have created a lot of jobs, but they are not any good, people should be embarrassed to have them. Somehow or another the fact that they are employed is not worthy of observation or contentment, that what we should do is acknowledge these are just hamburger-flipping jobs.

Let us go on to the facts. Of the four categories, at the bottom category, 7 percent of all those new jobs created since 1982 are in the bottom $7,800 or below category, the hamburger-flipping jobs, if my colleagues will. In other words, 93 percent of all of these jobs are in the middle or upper income category.

Final observation, and with this I close, Mr. Speaker, is also the statement that somehow or another America is not manufacturing. America is not producing. In 1950, when America at the end of World War II was entering the decade in which the standard of living rose the most rapidly in the history of recorded man, 1950, the year I was born, one job in five, 20 percent of all the jobs, were in manufacturing.

This is 1989, United States of America. Of all the jobs today, one job in

five, 20 percent of all the jobs today in America are in manufacturing. The percentage has not changed 1 percent.

The conclusion has to be to the impartial observer that, if they are a businessman in West Germany, or Japan, or Korea, or Taiwan or Great Britain, there is only one place they want to invest, and save and produce. That is the United States of America, and that is why the dollar is so strong. That is why investment flows here. That is why the jobs are created here. And that is why America is enjoying the greatest period of economic growth in its entire history.

Mr. Speaker, I regret I do not have more bad news to share, but I am pleased to share that with my colleagues tonight.

GEORGE BUSH'S SWISS-CHEESE GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. ECKART] is recognized for 5 minutes.

Mr. ECKART. Mr. Speaker, what we have exhibited before us is a wonderful example of George Bush's swiss-cheese government. Oh, it looks like a whole lot more than what one really gets.

Now everyone knows that the holes in swiss cheese really imbibe to it some flavor, some character, real texture, and the more uniform the holes, the better is the cheese.

I would suggest to my colleagues, however, that what we have here is the exact opposite: uniform holes in the Bush administration.

As this chart suggests, one of the key factors that we have learned to know about the Reagan-Bush era is their desire to have less government. What we did not know is that that actually translated into less governors.

Now with the Bush administration almost 20 percent complete, a full 40 percent of the senior Government positions remain unfilled. For some that may seem to be a boon, but for others it may be their bane, and why is it that George Bush, the President, as a Presidential candidate who promised us with the greatest experience he has had as Ronald Reagan's copilot, would hit the ground running? Well, he has hit the ground all right, but the thud has been deafening.

Mr. Speaker, statistics prepared by the Congressional Research Service and assembled by the Democratic Study Group raise very serious questions as to whether or not the Bush administration will ever get up to speed. I say, "Mr. President, we'd be happy if you just reached jogging speed, let alone running speed."

The analysis is really quite clear. In Agriculture, there are two people less there to make decisions. In Commerce, we are short one Secretary and two agency heads. In Defense, we are short one Under Secretary and three Assistant Secretaries. At HHS, we are short two Assistant Secretaries, one agency head. At the independent agencies, 24 individuals requiring confirmation by the Senate of the United States at GSA, AID, OPM, EPA—President Bush, the environmental President—arms control and disarmament agencies are missing.

Unlike the holes in the Swiss cheese, Mr. President, vacancies and holes in your administration are not indicative of top quality.

When we look closely, however, beyond the specifics of the entire administration, we discover that it is not just true for all the agencies, but uncharacteristically remarkably true at an agency that has been at the center, if my colleagues will, of major catastrophes on both coasts of this United States. The Federal Emergency Management Agencies cries out for leadership. Its eight top management positions remain unfilled by permanent Government employees. The director is vacant. The inspector general is vacant. The deputy director is a temporary holdover. There are temporary holdovers at associate directors for State and local programs and external affairs at the Federal Insurance Administration and at the administration for the U.S. Fire Office.

Now, when the President was asked about this, his office said, and I quote, "We're very comfortable."

Of course he is. He is very comfortable in his office. Let us ask the people in South Carolina who waited 9 days before he gave them a telephone number to call how comfortable they are.

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Let us ask the people in South Carolina who waited 13 days before you opened one assistance office, how comfortable they were, and for 2 weeks after that hurricane ravaged the South Carolina coast, how comfortable were those people while your people sat as invisible ghosts in an administration that sees, hears, and feels no evil that the constituents felt in South Carolina.

Mr. President, what we want is I thought what you wanted, Government to work. What we want in FEMA are professionals who want to do their jobs.

Mr. President, you cannot manage government without managers.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. BRYANT] is recognized for 5 minutes.

Mr. BRYANT. Mr. Speaker, the Times Herald Printing Co. of Dallas, TX, has filed a request that the Federal Communications Commission issue an Order to Show Cause relating to its assertion that recent actions by the A.H. Belo Corp. violated the Commission's rules governing newspaper-television media combinations which are grandfathered exceptions to the cross-ownership rule. The cross-ownership rule, in general, prohibits one company from owning a newspaper and a television station in the same market.

Specifically, the petitioner has alleged that A.H. Belo's ownership of a license to operate WFAA-TV in Dallas was a factor in inducing the Universal Press Syndicate, Inc. to terminate its longstanding contract to provide comic strips and features to the Dallas Times Herald, and instead to provide all the features exclusively to Belo's publication, the Dallas Morning News.

A.H. Belo denies the allegation and asserts that its ownership of WFAA-TV had nothing to do with the grant to it of exclusive rights to all Universal Syndicate comics and features.

Inasmuch as the termination of the Times Herald's rights to these popular features may have seriously undermined its ability to survive, and since there are very few American cities which still have two independent, competitive newspapers, this is a very serious matter that is worthy of careful examination by the FCC. If the allegations of the Times Herald are true, this is a matter directly related to the policy of protecting the diversity of viewpoints available to the public which is supported and protected by the Commission's cross-ownership rules. If the allegations prove not to be true no harm will have come from a thorough examination of the matter.

As a member of the Subcommittee on Telecommunications, I am strongly committed to the policy of protecting the diversity of viewpoints and to the cross-ownership rule of the Commission. I believe that the Times Herald petition raises a very important issue and that question should be the subject of formal scrutiny by the FCC, including testimony and evidence submitted under oath, to determine if policies concerning grandfathered newspaper-television media combinations have been violated.

It they have, action should be taken to restore the Times Herald's competitive position. If they have not, the public will be reassured that the grandfathered cross-ownership exceptions are not contributing to the demise of another American newspaper.

I strongly urge the FCC to grant a full Commission review of this matter.

CONFERENCE REPORT ON H.R. 3015

Mr. LEHMAN of Florida submitted the following conference report and statement on the bill (H.R. 3015) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-315)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3015) "making appropriations for the Department of Transportation and Related Agencies, for the fiscal year ending September 30, 1990, and for other purposes,"

having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 16, 21, 22, 23, 33, 34, 35, 36, 41, 43, 44, 45, 46, 47, 48, 49, 50, 52, 53, 54, 55, 56, 57, 58, 59, 60, 76, 78, 81, 82, 83, 87, 88, 89, 91, 96, 97, 102, 106, 107, 108, 121, 123, 135, 137, 138, 139, 140, 141, 142, 143, and 144.

That the House recede from its disagreement to the amendments of the Senate numbered 10, 12, 19, 26, 28, 29, 39, 40, 51, 61, 63, 64, 98, 103, and 114, and agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$6,850,000*; and the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$137,700,000*; and the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$30,735,000*; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$204,200,000*; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$21,600,000*; and the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$72,800,000*; and the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$20,800,000*; and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$3,842,000,000*; and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,746,487,000*; and the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$234,000,000*; and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$41,080,000*; and the Senate agree to the same.

Amendment numbered 37: That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$12,260,000,000*; and the Senate agree to the same.

Amendment numbered 62: That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named by said amendment insert: *$5,800,000*; and the Senate agree to the same.

Amendment numbered 73: That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$74,550,000*; and the Senate agree to the same.

Amendment numbered 74: That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$37,486,000*; and the Senate agree to the same.

Amendment numbered 75: That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$32,300,000*; and the Senate agree to the same.

Amendment numbered 77: That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$14,589,000*; and the Senate agree to the same.

Amendment numbered 84: That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$24,800,000*; and the Senate agree to the same.

Amendment numbered 86: That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the word "first" insert: *second*; and the Senate agree to the same.

Amendment numbered 93: That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,625,000,000*; and the Senate agree to the same.

Amendment numbered 99: That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$85,000,000*; and the Senate agree to the same.

Amendment numbered 100: That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$11,400,000*; and the Senate agree to the same.

Amendment numbered 104: That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$27,600,000*; and the Senate agree to the same.

Amendment numbered 109: That the House recede from its disagreement to the amendment of the Senate numbered 109, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,400,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 5, 6, 7, 8, 9, 13, 15, 24, 27, 32, 38, 42, 65, 66, 67, 68, 69, 70, 71, 72, 79, 80, 85, 90, 92, 94, 95, 101, 105, 110, 111, 112, 113, 115, 116, 117, 118, 119, 120, 122, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, and 136.

Solely for consideration of Senate amendments Nos. 1 through 135 and modifications committed to conference:

WILLIAM LEHMAN,
WILLIAM H. GRAY III,
BOB CARR,
RICHARD J. DURBIN,
R.J. MRAZEK,
MARTIN OLAV SABO,
JAMIE L. WHITTEN,
LAWRENCE COUGHLIN,
SILVIO O. CONTE,
FRANK R. WOLF,
TOM DELAY,

As additional conferees solely for consideration of Senate amendments Nos. 136 through 144 and modifications committed to conference:

JAMIE L. WHITTEN,
WILLIAM H. NATCHER,
NEAL SMITH,
SIDNEY R. YATES,
DAVID R. OBEY,
EDWARD R. ROYBAL,
TOM BEVILL,
JOHN P. MURTHA,
BOB TRAXLER,
WILLIAM LEHMAN,
JULIAN C. DIXON,
VIC FAZIO,
W.G. HEFNER,
SILVIO O. CONTE,
JOSEPH M. MCDADE,
LAWRENCE COUGHLIN,
RALPH REGULA,
MICKEY EDWARDS,
BILL GREEN,
HAROLD ROGERS,

JOE SKEEN,
Mangers on the Part of the House.

For titles I-III (amendments 1-135) of H.R. 3015:

FRANK R. LAUTENBERG,
ROBERT C. BYRD,
TOM HARKIN,
(with the exception of amendment No. 87),
JIM SASSER,
BARBARA A. MIKULSKI,
ALFONSE D'AMATO,
BOB KASTEN
(with the exception of amendment No. 87),
PETE V. DOMENICI,
CHUCK GRASSLEY,
MARK O. HATFIELD,

For the purpose of the drug amendment (title IV):

ROBERT C. BYRD,
DANIEL K. INOUYE,
MARK O. HATFIELD,

The chairman and ranking minority member of the Subcommittee on Agriculture and Related Agencies for items falling within the jurisdiction of that subcommittee; for title IV:

QUENTIN N. BURDICK,
THAD COCHRAN,

The chairman and ranking minority member of the Subcommittee on Commerce, Justice, State, and the Judiciary for items falling within the jurisdiction of that subcommittee for title IV:

FRITZ HOLLINGS,
WARREN B. RUDMAN,

The chairman and ranking minority member of the Subcommittee on Defense for items falling within the jurisdiction of that subcommittee; for title IV:

DANIEL K. INOUYE,
TED STEVENS,

The chairman and ranking minority member of the Subcommittee on the District of Columbia for items falling within the jurisdiction of that subcommittee; for title IV:

BROCK ADAMS,
PHIL GRAMM,

The chairman and ranking minority member of the Subcommittee on Energy and Water Development for items falling within the jurisdiction of that subcommittee; for title IV:

J. BENNETT JOHNSTON,
MARK O. HATFIELD,

The chairman and ranking minority member of the Subcommittee on Foreign Operations for items falling within the jurisdiction of that subcommittee; for title IV:

PATRICK LEAHY,
BOB KASTEN,

The chairman and ranking minority member of the Subcommittee on HUD and Independent Agencies for items falling within the jurisdiction of that subcommittee; for title IV:

BARBARA A. MIKULSKI,
JAKE GARN,

The chairman and ranking minority member of the Subcommittee on Interior for items falling within the jurisdiction of that subcommittee; for title IV:

ROBERT C. BYRD,
JAMES A. MCCLURE,

The chairman and ranking minority member of the Subcommittee on Labor, Health and Human Services for items falling within the jurisdiction of that subcommittee; for title IV:

TOM HARKIN,
ARLEN SPECTER,

The chairman and ranking minority member of the Subcommittee on Legislative Branch for items falling within the jurisdiction of that subcommittee; for title IV:

HARRY N. REID,
DON NICKLES,

The chairman and ranking minority member of the Subcommittee on Military Construction for items falling within the jurisdiction of that subcommittee; for title IV:

JIM SASSER,
CHUCK GRASSLEY,

The chairman and ranking minority member of the Subcommittee on Transportation for items falling within the jurisdiction of that subcommittee; for title IV:

FRANK R. LAUTENBERG,
ALFONSE D'AMATO,

The chairman and ranking minority member of the Subcommittee on Treasury, Postal Service and General Government for items falling within the jurisdiction of that subcommittee; for title IV:

DENNIS DECONCINI,
PETE V. DOMENICI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on amendments of the Senate to the bill (H.R. 3015) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

CONGRESSIONAL DIRECTIVES

The conferees agree that Executive Branch wishes cannot substitute for Congress' own statements as to the best evidence of Congressional intentions—that is, the official reports of the Congress. Report language included by the House that is not changed by the report of the Senate, and Senate report language that is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, is not intended to negate the language referred to above unless expressly provided herein.

PROGRAM, PROJECT, AND ACTIVITY

During fiscal year 1990 and any year thereafter, for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended, with respect to funds provided for the Department of Transportation and related agencies, the terms "program, project and activity" shall mean any item for which a dollar amount is contained in an appropriation Act (including joint resolutions providing continuing appropriations) or accompanying reports of the House and Senate Committees on Appropriations, or accompanying conference reports and joint explanatory statements of the committee of conference. In addition, the reductions made pursuant to any sequestration order to funds appropriated for "Facilities and equipment, Federal Aviation Administration" and for "Acquisition, construction, and improvements, Coast Guard", shall be applied equally to each "budget item" that is listed under said accounts in the budget justifications submitted to the House and Senate Committees on Appropriations as modified by subsequent appropriation Acts and accompanying committee reports, conference reports, or joint explanatory statements of the committee of conference. The conferees recognize that adjustments to the above allocations may be required due to changing program requirements or priorities. The conferees expect any such adjustments, if required, to be accompanied only through the normal reprogramming process.

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter striken and inserted by said amendment, insert the following:

IMMEDIATE OFFICE OF THE SECRETARY

For necessary expenses of the Immediate Office of the Secretary, $1,090,000.

IMMEDIATE OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Immediate Office of the Deputy Secretary, $470,000.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $6,120,000

OFFICE OF THE ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Policy and International Affairs, $8,250,000.

OFFICE OF THE ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS

For necessary expenses of the Office of the Assistant Secretary for Budget and Programs, $2,325,000, including not to exceed $40,000 for allocation within the Department of official reception and representation expenses as the Secretary may determine.

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Governmental Affairs, $2,300,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration, $24,700,000.

OFFICE OF THE ASSISTANT SECRETARY FOR PUBLIC AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Public Affairs, $1,350,000.

EXECUTIVE SECRETARIAT

For necessary expenses of the Executive Secretariat, $835,000.

CONTRACT APPEALS BOARD

For necessary expenses of the Contract Appeals Board, $488,000.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $1,315,000.

OFFICE OF COMMERCIAL SPACE TRANSPORTATION

For necessary expenses of the Office of Commercial Space Transportation, $725,000.

OFFICE OF ESSENTIAL AIR SERVICES

For necessary expenses of the Office of Essential Air Service, $1,727,000.

OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION

For necessary expenses of the Office of Small and Disadvantaged Business Utiliza-

tion, $3,500,000, of which $2,600,000 shall remain available until expended and shall be available for the purposes of the Minority Business Resource Center as authorized by 49 U.S.C. 332: Provided, That, notwithstanding any other provision of law, funds available for the purposes of the Minority Business Resource Center in this or any other Act may be used for business opportunities related to any mode of transportation.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement establishes the following distribution of Office of the Secretary salaries and expenses:

	Appropriation	Staff years
Immediate Office of the Secretary	$1,090,000	14
Immediate Office of the Deputy Secretary	470,000	9
General Counsel	6,120,000	100
Policy and International Affairs	8,250,000	139
Budget and Programs	2,325,000	36
Governmental Affairs	2,300,000	44
Administration	24,700,000	168
Public Affairs	1,350,000	25
Executive Secretariat	835,000	20
Contract Appeals Board	488,000	7
Office of Civil Rights	1,315,000	23
Office of Commercial Space Transportation	725,000	13
Office of Essential Air Service	1,727,000	29
Office of Small and Disadvantaged Business Utilization	3,500,000	16

Foreign investment in airline acquisitions or mergers.—The conferees direct that on February 1, 1990, annually thereafter and with an interim report every six months, the Secretary of Transportation shall provide a comprehensive report in both unclassified and classified forms to the Committee on Appropriations and the appropriate authorizing committees of the Senate and the House of Representatives on the exact nature of foreign participation in all airline acquisitions or mergers in the previous calendar year and their impact, individually and cumulatively on U.S. national security and the goal of long-term U.S. citizen control of U.S. airlines.

Drug-testing assessment.—As part of an ongoing review of agency drug-testing programs, the General Accounting Office reported that until July 1989, the Department of Transportation had not implemented a blind performance-testing program for assessing the accuracy and reliability of its drug-testing laboratory as required by Health and Human Services guidelines for drug testing. The conferees direct the Secretary to ensure that the Department is in full compliance with these guidelines. Further, the Secretary is directed to report to the House and Senate Committees on Appropriations not later than December 1, 1989, regarding implementation of the blind performance-testing program, including its plans to ensure that the Department of Transportation remains in full compliance with all Health and Human Services guidelines.

TRANSPORTATION/PLANNING, RESEARCH, AND DEVELOPMENT

Amendment No. 2: Appropriates $6,850,000 instead of $6,200,000 as proposed by the House and $8,000,000 as proposed by the Senate.

The conference agreement distributes these funds as follows:

Personnel compensation and benefits	$2,310,000
(Policy office staff years)	(26)
(Commercial space office staff years)	(10)
Planning, research, and development contracts	4,400,000
(Transportation policy and planning)	(1,500,000)
(Commercial space contracts)	(2,900,000)
Other costs	140,000

WORKING CAPITAL FUND

Amendment No. 3: Limits obligations to $137,700,000 instead of $131,000,000 as proposed by the House and $144,400,000 as proposed by the Senate.

PAYMENTS TO AIR CARRIERS

Amendment No. 4: Appropriates $30,735,000 instead of $12,400,000 as proposed by the House and $35,530,000 as proposed by the Senate. The conference agreement is distributed as follows:

Additional amount to continue current service for first 45 days after enactment, and amounts for certain interim rate adjustments and hold-in service	$4,200,000
Base subsidy (full year)	26,535,000
Total subsidy	30,735,000

The conferees recognize that the EAS appropriation that has been agreed upon will not support the same level of service provided in fiscal year 1989. It is expected that the Department of Transportation will take immediate regulatory action to permit the program to be carried out within the appropriated amount. Such action should be completed within 45 days of enactment and should follow the subsidy reduction criteria recommended by the Department of Transportation in its September 1989 report to Congress, except as otherwise described in this report.

The Department recommends in its report to Congress that EAS subsidies be reduced by revising eligibility criteria to (1) limit EAS payments based on the isolation of the community, and (2) impose a $200 subsidy-per-passenger cap. The DOT-recommended isolation criteria would require that a community within the 48 contiguous states or Puerto Rico be (1) 75 highway miles or more from the nearest medium or large hub airport, (2) 55 highway miles or more from the nearest small hub airport, and (3) 45 highway miles or more from the nearest nonhub airport that has enplaned 100 or more passengers per day based on the most recently available data. A large hub airport is one that annually enplanes 1.0% or more of the total annual enplanements reported by certificated air carriers in the United States. A medium hub airport enplanes between 0.25% and 0.999% of the total enplanements; a small hub airport enplanes between 0.05% and 0.249% and a nonhub enplanes less than 0.05% of total annual certificated enplanements.

The conferees have provided funds to implement this proposal with technical changes reducing the 75-mile standard to 70 miles, and continuing service to a state capital that is located more than (1) 55 highway miles from the nearest medium or large hub airport, (2) 40 miles from the nearest small hub airport and, (3) 30 miles from the nearest qualifying non-hub airport and whose per passenger subsidy does not exceed $15, as of September 30, 1989.

The conferees expect that funds made available in this bill combined with the regulatory changes described above will support air service at the following communities:

SUBSIDIZED AIR SERVICE

EAS points receiving subsidized air service	Hub(s) served	Carrier	Fiscal year 1988 traffic: Total	Fiscal year 1988 traffic: Enplanements per day	Current annual subsidy	Subsidy per passenger
Alabama:						
Anniston	Atlanta	Atlantic Southeast	16,585	26.5	(*)	(*)
Gadsden	Atlanta	Atlantic Southeast	1,659	2.7	$183,137	$110.39
Arizona:						
Kingman (community is temporarily without air service)	Las Vegas Phoenix	Golden Pacific	[1] 5,155	8.2	263,591	51.13
Page	Phoenix	Sky West	8,575	13.7	177,433	20.69
Arkansas:						
El Dorado/Camden	Memphis	Exec Express II	[2] 6,861	11.0	717,766	104.62
Harrison	Dallas/Ft. Worth Memphis	Exec Express II	[2] 3,388	5.4	544.432	160.69
Hot Springs	St. Louis Dallas/Ft. Worth	Exec Express II	[2] 2,609	4.2	507,407	194.48
Jonesboro	Memphis	Exec Express II	[2] 1,476	2.4	260,273	176.34
California:						
Crescent City	San Francisco	WestAir	4,202	6.7	154,660	36.81
Merced	San Francisco Los Angeles	WestAir	18,197	29.1	310,521	17.06
Colorado:						
Alamosa	Denver	Rocky Mountain	17,322	27.7	(*)	(*)
Cortez	Denver	Mesa Air Services	9,545	15.2	138,210	14.48
Lamar	Denver Wichita	Air Midwest	2,435	3.9	244,317	100.34
Georgia: Athens	Charlotte	CCAir	30,346	48.8	(*)	(*)

SUBSIDIZED AIR SERVICE—Continued

EAS points receiving subsidized air service	Hub(s) served	Carrier	Fiscal year 1988 traffic		Current annual subsidy	Subsidy per passenger
			Total	Enplanements per day		
Illinois:						
Mount Vernon (community is temporarily without air service)	St. Louis	Prime Air	3,515	5.6	307,772	87.56
Sterling/Rock Falls	Chicago	Propheter Aviation	1,744	2.8	248,011	142.21
Iowa: Ottumwa	Des Moines	Great Lakes	1,576	2.50	238,498	151.33
Kansas:						
Dodge City	Wichita/Denver	Air Midwest	5,242	8.4	244,317	46.61
Garden City	Wichita/Denver	Air Midwest	9,282	14.8	244,317	26.32
Goodland	Wichita/Denver	Air Midwest	1,724	2.8	244,317	141.72
Great Bend	Denver/Kansas City	Air Midwest	2,930	4.7	244,317	83.38
Hays	Denver	Air Midwest	8,561	13.7	244,317	28.54
Liberal/Guymon, OK	Wichita/Kansas City Denver/Wichita	Air Midwest	5,766	9.2	244,317	42.37
Maine: Bar Harbor	Boston	Bar Harbor Airlines	16,840	26.9	(*)	(*)
Michigan:						
Iron Mountain/Kingsford	Chicago	Great Lakes	8,799	14.1	182,799	20.77
Ironwood/Ashland, WI	Chicago	Great Lakes	4,514	7.2	182,799	40.50
Manistee/Ludington	Chicago	Great Lakes	[3] 4,455	7.1	268,414	60.25
Marinette/Menominee, WI	Chicago	Great Lakes	[4] 3,889	6.2	403,409	103.73
Minnesota:						
Fairmont	Minneapolis	Great Lakes	2,812	4.5	303,427	107.90
Mankato	Minneapolis	Bemidji	2,510	4.0	179,600	71.55
Worthington	Minneapolis	Bemidji	1,778	2.8	179,600	101.01
Mississippi: Laurel/Hattiesburg	Atlanta	Atlantic Southeast	[5] 7,396	11.8	(*)	(*)
Missouri:						
Ft. Leonard Wood	St. Louis	Air Midwest	9,356	14.9	168,983	18.06
Kirskville	Kansas City	Midcontinent	6,281	10.0	235,637	37.52
Montana:						
Glasgow	Billings	Big Sky Airlines	3,011	4.8	168,229	55.87
Glendive	Billings	Big Sky Airlines	1,764	2.8	131,515	74.55
Havre	Billings	Big Sky Airlines	1,797	2.9	190,495	106.01
Lewistown	Billings	Big Sky Airlines	984	1.6	190,495	193.59
Miles City	Billings	Big Sky Airlines	2,295	3.7	131,515	57.31
Sidney	Billings/Bismark	Big Sky Airlines	4,720	7.5	315,815	66.91
Wolf Point	Billings	Big Sky Airlines	2,737	4.4	168,229	61.46
Nebraska:						
Alliance	Denver	GP Express	1,444	2.3	222,727	154.24
Chadron	Denver	GP Express	1,154	1.8	222,727	193.00
Grand Island	Denver	GP Express	[6] 5,313	8.5	457,977	86.20
Hastings	Denver/Omaha	GP Express	1,821	2.9	222,727	122.31
Kearney	Denver/Omaha	GP Express	5,429	8.7	222,727	41.03
Mc Cook	Denver/Omaha	GP Express	2,416	3.9	222,727	92.19
Norfolk	Omaha	Midcontinent	2,562	4.1	218,079	85.12
North Platte	Omaha	GP Express	[7] 3,943	6.3	274,222	69.55
Scotsbluff	Omaha Lincoln	GP Express	[7] 6,076	9.7	274,222	45.13
Nevada: Ely	Reno	Sky West Airlines	4,430	7.1	359,194	81.08
New Hampshire:						
Keene (communmity is temporarily without air service)	Boston	Precision	16,458	26.3	(*)	(*)
Laconia	Boston	Valley Airlines	2,758	4.4	249,786	90.57
New Jersey: Cape May (community is temporarily without air service)	Philadelphia	Southern Jersey	5,585	8.9	(*)	(*)
New Mexico:						
Alamogordo/Hollman AFB	Albuquerque	Mess Air Service	6,144	9.8	165,766	26.98
Clovis	Albuquerque	Mesa Air Service	6,195	9.9	133,651	21.57
Hobbs	Albuquerque	Mesa Air Services	6,234	10.0	85,690	13.75
Santa Fe	Albuquerque	Mesa Air Service	11,262	[12] 18.0	132,314	11.75
Silver City/Hurley/Deming	Albuquerque	Mesa Air Service	4,504	7.2	169,390	37.61
New York:						
Nassena	Syracuse Burlington	Metro Northeast	8,671	13.9	166,289	19.18
Ogdensburg	Syracuse Burlington	Metro Northeast	9,490	15.2	166,289	17.52
Plattsburgh	Albany Burlington	Metro Northeast	25,250	40.3	166,289	6.59
Saranac Lake/Lake Placid	Albany Burlington	Metro Norheast	18,731	29.9	166,289	8.88
Watertown	Syracuse	Metro Northwest	15,883	[13] 25.4	166,289	10.47
North Dakota:						
Devils Lake	Minneapolis	Mesaba	4,134	6.6	294,396	71.21
Jamestown	Minneapolis	Mesaba	7,744	12.4	294,396	38.02
Williston	Billings Bismarck	Big Sky Airlines	10,421	16.6	315,815	30.31
Oklahoma:						
Enid	Tulsa	Exec Express II	[2] [8] 1,534	2.5	178,235	116.19
Ponca City	Tulsa	Exec Express II	[2] 3,058	4.9	178,235	58.28
Pennsylvania: Oil City/Franklin	Pittsburgh	Crown Airways	21,444	34.3	128,504	5.99
South Dakota:						
Brookings	Minneapolis	Mesaba	4,167	6.7	108,938	26.14
Huron	Minneapolis	Mesaba	6,216	9.9	108,938	17.53
Mitchell	Minneapolis	Mesaba	1,852	3.0	108,938	58.82
Pierre	Denver	Rocky Mountain Airways	[9] 9,425	15.1	371,165	39.38
Yankton	Omaha	Midcontinent	1,198	1.9	218,079	182.04
Texas:						
Brownwood	Dallas/Ft. Worth	Exec Express II	[2] 3,772	6.0	285,898	75.79
Paris	Dallas/Ft. Worth	Exec Express II	[2] 1,595	2.5	228,799	143.45
Utah:						
Cedar City	Salt Lake City	Sky West Airlines	10,435	16.7	167,489	16.05
Moab	Salt Lake City	Alpine Aviation	1,871	3.0	172,930	92.43
Vernal	Salt Lake City	Sky West Airlines	3,934	6.3	203,784	51.80
Vermont: Rutland (community is temporarily without air service)	Boston	Precision	15,524	24.8	(*)	(*)
Virginia: Hot Springs	Washington	Presidential	[10] 2,341	5.5	150,017	64.08
Washington: Ephrata/Moses Lake	Seattle	Horizon Airlines	6,620	10.6	164,336	24.82
West Virginia:						
Beckley	Charlotte	CCAir	21,553	34.4	55,123	2.56
Clarksburg/Fairmont	Washington [11]	Presidential	3,430	5.5	128,830	37.56
Elkins	Washington	Presidential	1,808	2.9	263,096	145.52
Morgantown	Washington [11]	Presidential	7,714	12.3	128,830	16.70
Princeton/Bluefield	Charlotte	CCAir	23,826	38.1	55,123	2.31
Wyoming: Worland	Denver	Mesa Air Services	2,543	4.1	352,655	138.68
Puerto Rico: Ponce	San Juan	Executive Air Charter	9,125	14.6	265,058	29.05

[1] Passengers are for YE March 31, 1988, the most recent data available.

[2] Passengers are for YE March 31, 1988, the most recent consecutive 12-month period without a significant service disruption.
[3] No data available for the fourth quarter of 1987 or the first quarter of 1988. Traffic figures reflect the three quarters ended December 31, 1988 (3341) increased to reflect a full year.
[4] No data available for the fourth quarter of 1987 or the first quarter of 1988. Traffic figures reflect the three quarters ended December 31, 1988 (2917) increased to reflect a full year.
[5] Laurel/Hattiesburg currently receives subsidy-free service to Memphis and generated 19,096 Memphis passengers, 31 per day in each direction, in FY 1988.
[6] Grand Island currently receives subsidy-free service to Kansas City, Lincoln and Omaha and generated 31,075, passengers in these markets in FY 1988, an average of 50 passengers per day in each direction.
[7] North Platte and Scottsbluff receive subsidy-free service to Denver and generated 18,451 and 27,947 passengers, 29 and 45 per day in each direction, respectively, in FY 1988.
[8] Enid currently receives subsidy-free service to Kansas City but did not during FY 1988.
[9] Pierre currently receives subsidy-free service to Minneapolis and generated 19,259 passengers, 31 per day in each direction, in FY 1988.
[10] Based on 213 service days. Seasonal service from April 1 through November 30.
[11] Clarksburg and Morgantown receive subsidy-free service to Pittsburgh and generated 37,351 and 37,765 passengers, respectively, 60 per day in each direction at each community, in FY 1988.
* Indicates points at which no subsidy rates are in effect; therefore no subsidy-per-passenger calculation can be made.

Note: This table includes all communities receiving subsidized air service or where we are attempting to secure air service, except Alaska and Rota have been excluded.

COMMISSION ON AVIATION SECURITY AND TERRORISM

Amendment No. 5: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$1,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

From the funds provided, the conferees direct that compensation in an amount not to exceed the daily rate for one individual specified for GS-15 of the General Schedule be made available to each of the members of the Commission representing the Congress for the purpose of retaining designated support staff, including independent expert consultation and technical services. Such support would be in addition to any such services provided to the Commission as a whole.

COAST GUARD

OPERATING EXPENSES

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate making $25,000,000 of the "Operating expenses" appropriation available for obligation until September 30, 1991.

The conference agreement assumes the availability of $300,000,000 to be provided in the Department of Defense Appropriations Act, 1990, thereby making available a total of $2,252,000,000 for Coast Guard operating expenses in fiscal year 1990. This is $129,384,000, or 6.1 percent above the amount provided for fiscal year 1989.

The conferees agree to adjust the Senate funding recommendation to permit follow-on funding of up to $2,731,000 for the 110-foot Island Class cutter, and to permit the Coast Guard to retain, for obligation in 1990, funds expended in 1989 for clean-up activities on the *Exxon Valdez* oil spill, which have been reimbursed by Exxon.

The conferees direct the Coast Guard to submit a comprehensive report within 90 days to the House and Senate Committees on Appropriations on its cost recovery efforts, including such recoveries as the Customs forfeiture fund, safety violations fines, and payments pursuant to the Ocean Dumping Ban Act of 1988.

The conferees also direct the Coast Guard to submit a report, through the Secretary of Transportation, to the House and Senate Committees on Appropriations within 90 days, analyzing the impact of the Administration's new drug plan on Coast Guard interdiction efforts.

The Coast Guard's budget justification for 1990 was focused primarily on incremental changes to the prior year. The amounts in the base were not described, explained, or justified to any substantial degree.

The conferees direct the Coast Guard to include a full explanation and justification of its 1991 budget proposal so that the Committees may review its geographic and programmatic implications. Further, the justification shall include a detailed description and justification of the amounts included in the base, in addition to a full justification of its proposed increases and decreases.

Reprogramming procedures.—The following are the current procedures governing reprogramming actions for the United States Coast Guard programs and activities funded in the Transportation and Related Agencies Appropriations Act:

1. Definition: "Reprogramming", as defined in these procedures, includes the intra-account reallocation of funds from one project or program or activity to another for the following appropriations as described herein:

Acquisition, Construction, and Improvements (AC&I)

Research, Development, Test, and Evaluation (RDT&E)

Alteration of Bridges (AB)

Operating Expenses (OE)

A reprogramming shall also consist of any significant change in scope of a project described in the agency's budget justifications. Specific definitions are included below.

2. Criteria for reprogramming: Any project which is deferred, canceled or significantly reduced in scope through a reprogramming (i.e., funds have been "borrowed"), shall not later be accomplished by means of further reprogramming; but, instead, funds should again be sought for the deferred, canceled or significantly reduced project through the regular appropriations process.

3. Congressional review, notification, and approval: Certain reprogramming actions require congressional approval, or notification. The Secretary will submit correspondence to the Congressional Appropriations Committees for reprogramming actions as outlined below.

These guidelines are intended to permit congressional oversight and monitoring and involvement in funding decisions, including allocation of project savings and funding of resource shortfalls, without unnecessarily constraining the Secretary.

(a) Acquisition, construction, and improvements: Prior Congressional Appropriations Committees approval is required on any reprogramming action which:

(1) Is a significant change in the scope of a project as described in the agency's budget justification;

(2) Is a new project which exceeds the cost limit for "Minor AC&I" projects;

(3) Is a termination (other than a completion; or

(4) Is a dollar increase or decrease of more than 15% in either the benefiting or providing project.

Additionally, Congressional concurrence is required for projects which involve an increase or decrease of more than $1,000,000, except when the project is over $10,000,000 and where the shift does not significantly change the scope of the project.

(b) Research, development, test, and evaluation: No prior Congressional Appropriations Committees approval is required for reprogramming actions in the RDT&E account. The Secretary shall report to the committees quarterly on new projects, termination of projects other than completions, and projects involving shifts (increases or decreases) of more than 25% or $500,000 (whichever is less), based on the detailed project sheets included in the justification.

(c) Alteration of bridges: Prior Congressional approval is required for new starts, terminations other than completions, and changes of more than 25% or $500,000 (whichever is less), for projects included in the justification.

(d) Operating expenses: To ensure that the Committees may perform effective oversight, the Secretary shall seek concurrence for the following reprogramming actions:

(1) When during the budget year OE funds are not utilized for the purpose which Congress approved as described in the Operating Expenses justification section of the Coast Guard's Budget Estimates for that year.

(2) When the Secretary proposes to close a facility or significantly increase or decrease the operational capability of a unit or facility either by a significant increase or decrease in funding and/or personnel.

(3) When the Secretary intends to make a permanent significant change in the mission of a unit or facility.

(4) When the Secretary intends to initiate a new program, to significantly increase in scope, to cancel or significantly reduce in scope, or to change allocations specifically denied, limited or increased by the Congress in the Act or the report. In cases where unforeseen events or conditions are deemed to require such changes, the proposal shall be submitted in advance to the Committees, and be fully explained and justified. In emergency cases where the prior submission and review requirement would impair the Secretary's ability to perform, the Secretary shall provide timely notification.

(e) Congressional approval: Reprogramming proposals submitted to the Committees for prior approval shall be considered approved after 30 calendar days if the Committees pose no objection. However, the agency will be expected to extend the approval deadline if specifically requested by either Committee.

(f) As permitted by 14 U.S.C. 656, the Secretary may reprogram funds to restore, repair, or replace damaged or destroyed facilities, including acquisition of sites.

4. Report language: Any limitation, directive, or earmarking contained in either the House or Senate report which is not contraindicated by the other report nor specifically denied in the conference report shall be considered as having been approved by both Committees.

5. Periodic reports: All reprogrammings, including reprogrammings which do not require prior Committee approval, shall be reported to the Committees periodically and shall include cumulative totals.

6. Assessments: No assessments shall be levied against any Coast Guard program, budget activity, subactivity, or project

funded by the Transportation Appropriations Act unless such assessments and the basis therefore are presented to the Committees on Appropriations and are approved by such Committees, in compliance with these procedures.

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing that not less than $168,467,000 shall be available for environmental protection activities.

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: , *or to close or decommission any unit of the United States Coast Guard unless such closure or decommissioning was provided for in the Budget of the United States, and its supporting documentation, and was agreed to by the Congress in this Act, as provided for in its legislative history, including Committee reports*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *$445,500,000, of which $7,500,000 shall be derived by transfer from "Operating expenses"*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 10: Provides $132,700,000 for vessel acquisition, construction, and improvements as proposed by the Senate instead of $115,200,000 as proposed by the House.

Amendment No. 11: Provides $204,200,000 for aircraft acquisition, construction and improvements instead of $202,100,000 as proposed by the House and $217,100,000 as proposed by the Senate.

Amendment No. 12: Provides $15,900,000 for command, control, and communications improvements as proposed by the Senate instead of $13,200,000 as proposed by the House.

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$71,100,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 14: Provides $21,600,000 for acquisition, construction and improvements administration costs instead of $20,900,000 as proposed by the Senate and $30,500,000 as proposed by the House.

The appropriation of $445,500,000 is distributed as follows:

Vessels:	
Polar icebreaker acquisition	$500,000
Polar icebreaker improvements	1,300,000
378-foot high endurance cutter renovation and modernization (FRAM)	97,000,000
378-foot high endurance cutter weapons modernization	10,000,000
210-foot medium endurance cutter major maintenance availability (MMA)	8,000,000
180-foot buoy tender replacements	3,200,000
180-foot buoy tender service life extension project (SLEP)	3,200,000
Motor lifeboat replacements	5,800,000
Cutter boat replacements	2,600,000
Barge replacements	1,100,000
Total vessels	132,700,000
Aircraft:	
HU-25 (Falcon jet) spare parts	[1] $10,200,000
HU-25 (Falcon jet) engine improvement	1,600,000
HH-65 (Dolphin helicopter) spares provisioning	18,100,000
HH-65 (Dolphin helicopter) engine improvements	10,200,000
HH-60 (MRR helicopter) replacements	132,000,000
TALON shipboard helicopter tiedown	7,100,000
HC-130 prototype radar installation	25,000,000
Total, aircraft	204,200,000
Command, Control and Communications:	
HC-130 forward looking airborne radar	$4,900,000
Global positioning system installation	1,600,000
SARSAT local user terminals	5,300,000
Aircraft repair and supply center computer replacement	1,500,000
Distributed computing system	1,900,000
Portable intelligence collection system	700,000
Total, command, control, and communications	15,900,000
Shore facilities/aids to navigation:	
Puget Sound vessel traffic service	$4,000,000
Minor shore construction projects	7,500,000
Underground storage tank cleanup	1,000,000
Clearwater, FL SEUS station improvements	5,100,000
Seattle, WA support center renovation, pier 35 construction	1,200,000
Elizabeth City, NC clinic replacement	3,200,000
Kodiak, AK fuel farm containment construction	1,900,000
Petaluma, CA replacement water line	2,400,000
Cape May, NJ beach erosion control	3,400,000
Public family quarters	10,000,000
Ketchikan, AK base renovation	4,900,000
Palm Beach, FL new station	3,200,000
Rodanthe, NC station replacement	3,600,000
Southport, NC rebuild station	3,000,000
Greenville, MS moorings relocation	2,200,000
East Tawas, MI rebuild station	2,200,000
Aids to navigation projects	6,000,000
Cape May, NJ barracks	6,300,000
Total, shore facilities/ ATON	71,100,000
Administration:	
Personnel support	[2] $17,600,000
Survey and design	4,000,000
Total, administration	21,600,000
Total, AC&I program level	445,500,000
Derived by transfer	−7,500,000
Total, AC&I appropriation	438,000,000

[1] Includes $7,500,000 derived by transfer.
[2] In addition, $8,400,000 shall be made available from prior year funds.

Vessel Traffic Service Puget Sound.—The conferees agree to appropriate $4,000,000 for the Puget Sound VTS system, and direct the Coast Guard to use the funds to expand coverage to Tacoma and integrate the Point Robinson-to-Tacoma coverage into a system-wide modernization of radar vessel tracking in Puget Sount. The appropriation shall provide for upgraded, automatic digital processing equipment throughout the extended Puget Sound VTS, which will correct the existing blind spot in Rosario Strait near Cypress Island and enhance safety by providing for improved course prediction and collision avoidance.

Motor lifeboat replacement.—The conferees reiterate the House directive pertaining to motor lifeboat testing and evaluation. The conferees agree that up to $825,000 of the funds provided may be used for prototype testing prior to submission of written certification from the Inspector General that design issues have been addressed satisfactorily.

Aids to navigation.—The conferees reiterate the Senate directive specifying that $4,500,000 of the funds provided for waterway aids to navigation be available for Chesapeake Bay and Rappahannock Channel projects.

SARSAT local user terminals.—The conference agreement includes $5,300,000 to replace three prototype SARSAT local user terminal systems now in operation and to establish two new LUTs to increase South Pacific, Caribbean, and North Atlantic SARSAT capability. The new LUTs shall be installed in Hawaii and Puerto Rico.

Dolphin engine helicopter engine replacement.—The conferees agree that the report specified in the House report on Dolphin helicopter reengining options shall be submitted no later than August 31, 1990.

Cold water survival training center.—The conferees have deleted the Senate language providing funds for the construction of a cold water survival training center. The con-

ferees expect the Coast Guard to give this project full consideration in its fiscal year 1991 budget submission.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which transfers and merges the unobligated balances of "Coast Guard, Shore Facilities" into "Acquisition, Construction, and Improvements".

Amendment No. 16: Deletes reprogramming language proposed by the Senate. The House bill contained no similar provision.

RESERVE TRAINING

Amendment No. 17: Appropriates $72,800,000 instead of $71,800,000 as proposed by the House and $73,800,000 as proposed by the Senate.

The conference agreement provides for an increase of 650 positions over fiscal year 1989 for the selected reserve.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Amendment No. 18: Appropriates $20,800,000 instead of $18,800,000 as proposed by the House and $22,800,000 as proposed by the Senate.

Marine Environmental Protection.—The conference agreement includes $4,150,000 to accelerate the Coast Guard's applied research activities in the marine environmental protection area. The conferees expect the Coast Guard to submit to the House and Senate Committees on Appropriations a fiscal year 1990 research and development funding plan by November 30, 1989.

BOAT SAFETY

Amendment No. 19: Inserts language providing a direct appropriation of $30,000,000 as proposed by the Senate instead of language limiting obligations to $30,000,000 as proposed by the House.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

Amendment No. 20: Appropriates $3,842,000,000 instead of $3,836,000,000 as proposed by the House and $3,865,000,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Operations of air traffic control system	[1] $1,732,887,000
(Positions)	(27,960)
NAS logistics support	208,000,000
(Positions)	(1,525)
Maintenance of air traffic control system	718,774,000
(Positions)	(10,454)
Leased telecommunications services	268,073,000
Administration of aviation standards program	426,383,000
(Positions)	(6,755)
Development direction	15,400,000
(Positions)	(143)
Administration of airports program	36,500,000
(Positions)	(515)
Human resources management	292,000,000
(Positions)	(1,380)
Direction, staff and supporting services	125,342,000
(Positions)	(1,067)
Headquarters administration	28,641,000
(Positions)	(397)

[1] Including $10,000,000 derived by transfer for reemployed annuitants.

The conferees expect that any potential shortfalls in safety programs resulting from this distribution will be reported promptly to the House and Senate Committees on Appropriations.

Mid-Atlantic Aviation Training and Education Center.—The conferees concur in the Senate directive to provide $3,000,000 for the Mid-Atlantic Aviation Training and Education Center in Clarksburg, West Virginia.

Sacramento Airspace Management Study.—The conferees concur with the House report language regarding the Sacramento Airspace Management Study. This study should address restructuring the airspace in the Sacramento region, the possibility of relocating the Sacramento VORTAC, and the feasibility of adding more navigational aids to allow for use of the Yolo Causeway and other undeveloped areas as an arrival or departure corridor for the airport.

Amendment No. 21: Provides that $816,500,000 of the amount provided for operations shall be derived from the Airport and Airway Trust Fund as proposed by the House instead of $906,500,000 as proposed by the Senate.

Amendment No. 22: Deletes language extending FAA's reemployed annuitant authority from December 31, 1989 to December 31, 1990 proposed by the Senate. The House bill contained no similar provision.

Amendment No. 23: Restores language proposed by the House providing $3,400,000 for the Mid-American Aviation Resource Consortium.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing for the lease or purchase of one aircraft. The House bill contained no similar provision.

Aircraft lease/purchase.—The conferees are aware of the Department's view that other financial arrangements or another aircraft may better suit the FAA's requirement for an "N1" aircraft to perform high priority transportation missions. The conferees have therefore agreed to the Senate amendment that allows the lease or purchase of one aircraft. While such transaction is authorized for fiscal year 1990, the conference agreement contains no funds for this purpose. Should the Department determine that such an expenditure is desirable, the conferees will entertain a Facilities and Equipment reprogramming request only if such funds are derived from project savings or contract underruns that will not be necessary to recoup at a later time.

Amendment No. 25: Appropriates $1,746,487,000 instead of $1,732,000,000 as proposed by the House and $1,780,131,000 as proposed by the Senate. These funds are distributed as follows:

Air route traffic control centers:	
Long range radar	$39,048,000
Radar microwave link replacement/expansion	15,000,000
NEXRAD	5,808,000
ATC en route radar facilities improvements	4,977,000
Advanced automation system	365,000,000
Software development and integration	11,000,000
Central weather processor	9,177,000
Aeronautical data link	6,800,000
Automation improvements	5,000,000
ODAPS/EARTS software	3,700,000
NADIN II	11,170,000
ARTCC improvements/modernization	38,000,000
Data multiplexing network	7,725,000
Communications facilities consolidation/networking	2,000,000
Communications and control facilities improvements	8,600,000
Traffic management system	17,700,000
Voice switching and control system (VSCS)	184,240,000
Communications expansion	11,890,000
High capacity voice recorders	8,375,000
Air-ground radio frequency interference elimination	5,000,000
Subtotal, air route traffic control centers	760,210,000
Airport traffic control towers:	
Terminal doppler weather radar	107,000,000
Mode S spare parts, support, repairs	25,000,000
Terminal radar upgrades	8,100,000
Airport surveillance radars	10,000,000
Terminal NEXRAD	11,735,000
Parallel and converging runway monitors	9,500,000
Los Angeles Basin facilities consolidation	19,200,000
Terminal automation improvements	8,000,000
Mode C intruder	14,490,000
Dallas/Fort Worth Metroplex expansion	53,000,000
ATC terminal software costs	3,000,000
Remote maintenance monitoring	23,700,000
Tower replacements	18,800,000
Tower/TRACON modernization	7,222,000
Integrated communications switching systems	9,435,000
Interim support plan	73,000,000
Terminal communications improvements	13,865,000
New Denver airport facilities	40,000,000
Tower communications system	2,000,000
Camarillo, CA, tower establishment	2,800,000
Radio tone control equipment	10,000,000
Subtotal, airport traffic control towers	469,847,000
Flight service facilities:	
Flight service station modernizaiton	11,000,000
Very high frequency direction finder network	15,000,000
Flight service facilities improvements	1,150,000

Direct user access terminal system (DUATS)	9,000,000
Subtotal, flight service facilities	36,150,000
Air navigation facilities:	
VOR/DME	10,750,000
Nondirectional radio beacon facilities establishment/replacement	750,000
MLS demonstration program	12,000,000
Approach lighting system improvement program	4,800,000
Automated weather observing system (AWOS)	10,555,000
Visual navaids	7,500,000
St. Louis LDIN	(1,500,000)
Instrument landing systems	23,275,000
Runway visual range	4,450,000
System capacity enhancements	16,500,000
Airport approach and landing aid facilities improvements	3,500,000
Automated flight procedures development for terminal navigation facilities (IAPA)	3,900,000
Subtotal, air navigation facilities	97,980,000
Housing, utilities, and miscellaneous facilities:	
National radio communications system (NARACS)	4,650,000
Unmanned facilities improvements	20,000,000
Airport cable loop system	3,500,000
Computer-based instruction	7,595,000
Electrical power system improvements	12,000,000
Fuel storage tank replacements	6,000,000
ADP facilities management (CORN)	9,000,000
Automated command and control technology	10,000,000
Maintenance control centers	4,250,000
Land/easement purchases	3,000,000
Airport datum monument program	1,500,000
Employee safety upgrades at towers	5,500,000
Systems engineering and support	109,500,000
Air navigation facility/ACC system support	8,000,000
Mike Monroney Aeronautical Center—lease	7,191,000
Logistics support services	6,000,000
Air navigation aids/ATC facilities improvements	3,000,000
Frequency and spectrum engineering	1,800,000
Human resource management plan for NAS transition/implementation	1,000,000
Test equipment/printed circuit board software	3,800,000
Air traffic control simulators	13,000,000
Advanced design and management control contract support	6,000,000
Independent operational test and evaluation	1,440,000
Hazardous material management	7,000,000
ATC part-task trainers	7,397,000
Aircraft and airmen registry	4,000,000
Contract support	2,000,000
Mid-America Aviation Resource Consortium	3,000,000
Subtotal, housing, utilities, and miscellaneous facilities	271,123,000
Aircraft and related equipment:	
B-727 flight systems and avionics upgrade	2,500,00
TCAS OT&E equipment	1,000,000
TCAS II (13 systems)	1,200,000
Visual contact lighting systems (62 systems)	241,000
B-727 simulator retrofit for low visibility operations	1,300,000
Turbojet training device	80,000
Turboprop training device	80,000
TCAS training device	80,000
CV-580 aircraft avionics upgrade and airframe refurbishment	2,200,000
Electronic flight instrumentation (7 systems)	2,910,000
B-727 long range fuel system	1,000,000
Subtotal, aircraft and related equipment	12,591,000
Development, test, and evaluation:	
FAA Technical Center Building lease	5,290,000
Atlantic City International Airport improvements	1,200,000
Technical Center laboratory modernization	3,100,000
Target generator facility	13,000,000
New ATC R&D laboratory	2,000,000
Engineering support equipment	400,000
Subtotal, development, test, and evaluation	24,990,000
Personnel compensation, benefits, and travel:	
Eastablishment/improvement of facilties	63,642,000
Flight inspection	1,566,000
Factory inspection/contract support	6,767,000
Aeronautical Center	1,621,000
Subtotal, personal compensation, benefits and travel	73,596,000
Total appropriation	1,746,487,000

System capacity initiative.—The conference agreement includes $16,500,000 for various system capacity enhancements to be distributed as follows:

New instrument landing systems	$12,000,000
Bessemer, AL; Detroit, MI; Elkhart, IN; Miami, FL; Natchez-Adams County, MS; Ogden-Hinckley, UT; Portland, ME; Raleigh-Durham, NC; St. Louis, MO; Syracuse, NY; West Memphis, AR; Worcester, MA.	
New runway visual range equipment	3,000,000
Baltimore, MD (1); Chamblee, GA (1); Chicago (MDW), IL (2); Detroit (Willow Run), MI (1); Miami, FL (6); Minneapolis, MN (3); Philadelphia, PA (1); Roanoke, VA (1); San Antonio, TX (1); Syracuse, NY (2); Washington (Dulles), VA (1).	
Other capacity enhancements	1,500,000
Bessemer, AL—DME.	
Jasper, AL—DME/localizer.	
Morristown, NJ—PAPI.	
Mountain Home, AR—ASOS.	
St. George, AK—beacon/DME.	

The conferees also direct the FAA to submit a report to the House and Senate Appropriations Committees by January 30, 1990 assessing the most cost effective way, and feasibility of establishing airport surveillance radar systems at Wood County, WV and Roswell, NM. Such report also shall analyze the need for a terminal radar approach control system at the Eastern West Virginia Regional Airport in Martinsburg, WV, that would also serve the needs of Hagerstown, MD, and Winchester, VA.

New Denver airport.—The conference agreement includes $40,000,000 to initiate design and construction of necessary facilities and equipment at the new Denver airport. The conferees agree that any new TRACON at this facility should be integrated fully into the ACF consolidation plan. The new Denver airport is addressed further under amendment number 28.

Microwave landing system limited prototype program.—The conference agreement provides $12,000,000 to continue the nine major elements of the MLS demonstration program. No funds are included to award the limited production for Category II/III prototype systems. The conferees agree that it may not be necessary to withhold prototype funding until the end of the 30-month demonstration program (November, 1991) if preliminary results from the major evaluations currently underway produce favorable findings. The conferees will expect the FAA to be in a position to present the preliminary results of this work at the fiscal year 1991 appropriations hearings if prototype funding is requested. The conferees also have no objection to the continuance of preparatory work necessary to issue an RFP for this program. The conferees direct, however, that any planned prototype program be limited to a total of 12 systems—six from each of two different competing sources.

National Weather Graphics Display System.—The conferees are deeply concerned with the FAA's proposal to purchase

a new and very costly National Weather Graphics System. The conferees are not convinced this proposal will significantly improve the FAA's ability to provide weather graphics information. However, the conferees do not want to prevent the FAA from improving the current system if in fact significant improvements are available for a new national plan. The conferees recommend that the FAA continue with its procurement process of the new national plan. But, the conferees will retain the right to review the cost and proposed improvements of the new system before the final contract can be awarded.

Washington National Airport hangar upgrades.—The conferees have deleted the requested funds for hangar upgrades at Washington National Airport. Such work should be financed by the Metropolitan Washington Airports Authority.

Radio communications systems.—The conferees are aware of several changes in the FAA communications environment since the inception of the NAS Plan. The most important of these is the increasing amount of high speed digital data transmissions. The FAA is directed to continue with its planning to transition to a digital radio communications system consistent with sound operational and economic practices and established long-term requirements.

Interim support plan.—The conference agreement provides $73,000,000 for the interim support plan as proposed by the House. The conferees agree that the Medford, OR airport surveillance radar system shall be funded under this program.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

Amendment No. 26: Appropriates $173,000,000 as proposed by the Senate instead of $185,000,000 as proposed by the House. The conference agreement distributes these funds as follows:

Air traffic control	$93,725,000
Advanced computers	18,683,000
Navigation	2,920,000
Aviation weather	13,287,000
Aviation medicine	6,513,000
Aircraft safety and aviation security	35,872,000
Environment	2,000,000

Iowa State University.—The conferees have included $3,000,000 to initiate a university/industry/Government cooperative aircraft crashworthiness program at Iowa State University.

Wichita State University.—The conferees have also included $2,000,000 for the advancement of aviation safety research at the Institute for Aviation Research at Wichita State University, Wichita, Kansas. These research funds are to study aging aircraft, aircraft crashworthiness, and human factors in aviation. Available funds should also be used, as needed and at the discretion of the Institute, for continued development of a prototype electronic data base and automated system to identify civil aviation aircraft, track modifications, and distribute airworthiness materials to owners/operators.

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *: Provided further, That of the funds available under this head, $1,000,000 to remain available until expended, is appropriated and shall be available for grants under the Federal Grant and Cooperative Agreement Act of 1977 to the National Aviation Institute, Pleasantville, New Jersey, to fund research and development in the area of facilitating research by cataloguing and prioritizing aviation related research efforts and providing a central clearinghouse for aviation research*

The managers on the part of the Senate will move to concur in the amendment of House to the amendment of the Senate.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

Amendment No. 28: Deletes House language that provides for the purchase of airport access control systems from $100,000,000 set aside in the bill for airport capacity projects. This amount is in addition to the discretionary grants available under current law.

The conferees wish to emphasize their expectation that existing airports shall receive necessary funding and the same priority for capacity projects as new airports.

Instrument Landing Systems.—The conferees direct that up to $12,000,000 be allocated from the airport improvement program for the purchase or lease and installation of instrument landing systems for the following airports: Brookings, SD; Brookley, AL; Flagstaff, AZ; Great Bend, KS; Lanai, HI; Lawrence, KS; Mitchell, SD; Newton, IA; Olaathe Executive, KS; Ponca City, OK; Spencer, IA; Stillwater, OK.

New Denver airport.—The conferees agree that federal participation in land acquisition and construction costs for Phase 1 of the new Denver airport shall not exceed 30% of the estimated total cost. The conferees direct that all airport improvement entitlement funds designated for the new airport (and/or Stapleton airport) through fiscal year 1997 be applied to these Phase 1 costs. Any federal participation in access road construction should come from state and federal highway programs to the extent available.

The conferees also direct the Secretary to work to assure that Phase 1 costs have been reduced to the maximum extent feasible for operations to begin at the anticipated opening. Potential cost-saving options to be reviewed by the Secretary include but are not limited to such items as terminal size, number and configuration of runways, number of gates, airport parking concourses, the use of revenues from the sale of Stapleton airport for Phase 1, the imposition of special assessment districts at the redeveloped Stapleton location, the use of cost control measures such as making state and local entities financially responsible for cost overruns, providing state/local refund incentives for project underruns, and requiring state/local bond guarantees or insurance. The Secretary shall review and report on potential cost savings plans by April 15, 1990.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

Amendment No. 29: Limits borrowing authority to $10,000,000 as proposed by the Senate instead of $50,000,000 as proposed by the House.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Amendment No. 30: Limits general operating expenses to $234,000,000 instead of $222,600,000 as proposed by the House and $236,896,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Personnel compensation and benefits	$134,140,000
Working capital fund	10,340,000
Demonstration projects	2,959,000
Central support	44,120,000
National Highway Institute	1,361,000
Contract programs	41,080,000
R&D, highways and safety	(21,500,000)
Trucking program	(900,000)
Rural transportation	(3,700,000)
National scenic byways study	(1,000,000)
I-80/I-94 congestion study (IL/IN)	(500,000)
Minority business	(7,900,000)
Central DFD lab	(45,000)
Western DFD lab	(435,000)
University transportation centers	(5,000,000)
Kansas feasibility study	(100,000)

Highway use Tax evasion.—The conferees agree that the Federal Highway Administration may use up to $500,000 of available funds to support additional efforts to increase highway tax compliance activities.

TRANSCOM.—The conferees have agreed to provide $3,000,000 to continue to support further collaborative efforts to manage the congestion problem in northeastern New Jersey and the New York metropolitan region. Funds are to be made available to TRANSCOM through the States of New York and New Jersey Transportation Departments. In addition to the collaborators listed in the Senate report, the managers expect the commercial trucking industry to continue their support. TRANSCOM is expected to continue to solicit cost-sharing. The conferees direct the Federal Highway Administration to ensure that information on results on successful strategies is widely disseminated.

Trucking programs.—The conferees have agreed to provide $900,000 for trucking research and development programs, which includes an increase of $500,000 above the budget. The funds provided above the budget are to be available only to a not-for-profit entity, which is to provide cost-sharing of an additional $100,000 of services, equipment, labor, overhead, or general and administrative services to supplement the increase. Furthermore, $375,000 of the increase should be made available only to entities exclusively engaged in trucking-related research. The Federal Highway Administration shall contract for this research by March 15, 1990.

District of Columbia apportionment.—The conferees have agreed to reprogram $5,000,000 of District of Columbia interstate highway trust fund apportionments for the Northeast Corridor Improvement Project. The conferees expect Amtrak to use the funds to further work on the Union Station parking garage project, and to apply unneeded funds back to additional NECIP projects.

Timber Bridge research.—The conferees direct the Federal Highway Administration to cooperate with the Constructed Facilities Center in the planning and expenditure of the $500,000 included for low-cost bridge technology involving wood.

Amendment No. 31: Provides that $41,080,000 shall remain available until expended instead of $30,580,000 as proposed by the House and $42,444,000 as proposed by the Senate.

Amendment No. 32: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and

concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

UNIVERSITY TRANSPORTATION CENTERS

(HIGHWAY TRUST FUND)

For necessary expenses for university transportation centers, as authorized by section 21(i)(2) of the Urban Mass Transportation Act of 1964, as amended, $5,000,000, to be derived from the Highway Trust Fund (other than the Mass Transit Account).

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

(HIGHWAY TRUST FUND)

Amendment No. 33: Appropriates $6,080,000 as proposed by the House. The Senate bill contained no similar appropriation.

HIGHWAY-RELATED SAFETY GRANTS

(HIGHWAY TRUST FUND)

Amendment No. 34: Limits obligations to $9,405,000 as proposed by the House instead of $10,000,000 as proposed by the Senate.

RAILROAD-HIGHWAY CROSSINGS

DEMONSTRATION PROJECTS

Amendment No. 35: Appropriates $15,000,000 as proposed by the House instead of $7,700,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Augusta, Georgia	$1,000,000
Springfield, Illinois	4,500,000
Lafayette, Indiana	3,500,000
Pine Bluff, Arkansas	2,500,000
Lincoln, Nebraska	3,500,000

Amendment No. 36: Provides that $10,000,000 shall be derived from the Highway Trust Fund as proposed by the House instead of $5,133,333 as proposed by the Senate.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

Amendment No. 37: Limits obligations for Federal-aid highways and highway safety construction programs to $12,260,000,000 instead of $12,050,000,000 as proposed by the Senate and $12,463,500,000 as proposed by the House.

Federal-aid Highways obligational authority.—Following is the conferees' best estimate of fiscal year 1990 federal-aid highways obligational authority that will be made available to the states under the $12,260,000,000 obligation limitation. These figures are subject to change when more accurate data become available. In addition, an estimated $1,239,000,000 will also be obligated for federal highway programs exempted from the obligation limitation.

COMPARISON OF ESTIMATED FISCAL YEAR 1990 OBLIGATION LIMITATION TO ACTUAL FISCAL YEAR 1989

[Limitation in thousands]

State	Fiscal year—1990	
	Conference report	1989 limitation
Alabama	202,889	233,902
Alaska	145,295	139,824
Arizona	122,159	117,284
Arkansas	102,298	97,787
California	902,177	839,078
Colorado	172,969	169,358
Connecticut	310,191	241,235
Delaware	47,823	45,470
District of Columbia	87,326	98,682
Florida	327,876	378,732
Georgia	261,694	267,614
Hawaii	132,395	131,948
Idaho	68,812	72,536
Illinois	334,426	331,880
Indiana	180,719	173,051
Iowa	147,042	146,550
Kansas	128,972	126,397
Kentucky	152,756	146,553
Louisiana	200,841	244,280
Maine	57,594	53,322
Maryland	272,777	244,647
Massachusetts	861,963	316,953
Michigan	273,230	267,828
Minnesota	156,268	167,240
Mississippi	111,470	109,299
Missouri	220,451	211,554
Montana	101,258	97,587
Nebraska	90,155	87,627
Nevada	68,353	65,349
New Hampshire	51,156	49,052
New Jersey	338,028	272,009
New Mexico	98,075	94,752
New York	632,867	595,268
North Carolina	209,511	207,093
North Dakota	68,041	65,707
Ohio	332,999	318,119
Oklahoma	134,612	133,617
Oregon	122,988	113,343
Pennsylvania	467,201	439,797
Rhode Island	106,725	97,952
South Carolina	116,934	116,921
South Dakota	74,971	72,844
Tennessee	209,162	205,048
Texas	551,166	579,492
Utah	87,586	86,135
Vermont	51,584	49,141
Virginia	203,596	198,345
Washington	224,216	252,895
West Virginia	105,624	101,529
Wisconsin	147,513	146,084
Wyoming	76,312	73,620
American Samoa	398	381
Guam	398	381
Puerto Rico	54,384	51,698
W. Marianas	398	381
Virgin Islands	398	381
Territories	10,820	10,372
Subtotal	10,719,842	9,955,934
Administration	234,000	215,000
Federal lands	237,000	237,000
Allocation reserve	1,069,158	1,592,066
Total	12,260,000	12,000,000

Note: Fiscal year 1990 amount assumes no reduction for sequestration.

Interstate Transfer—highways.—The conference agreement includes the following allocations of interstate transfer-highways discretionary funds:

Colorado	$40,684
Illinois	90,000,000
Iowa	39,000,000
Maryland	30,000,000
Minnesota	19,624
Oregon	700,000
Pennsylvania	6,353,246
Rhode Island	5,000,000
Other	13,886,446

The conferees recognize that delays in some regions' projects might necessitate adjustments to the above allocations. The conferees expect these adjustments, if required, to be accomplished through the normal reprogramming process.

Utah Pedestrian Safety Demonstration project.—The Conference report 100-957 accompanying Public Law 100-457 directed $1,000,000 of the funds already available to the State of Utah by section 149 of Public Law 100-17 be made available for preliminary engineering, environmental studies and right-of-way acquisition to widen 8400 West Street in Magan, Utah. The conferees understand that the State of Utah has completed these studies and, because of effective management and cost efficiencies achieved, has not expended all available funds. Therefore, the conferees believe it is appropriate for the State of Utah to utilize the remaining funds from this study to begin construction of the project. Any funds remaining of the $1,000,000 after construction of the project is completed may be used for other transportation purposes and needs in the State of Utah.

Johnson City Interstate.—The conferees acknowledge the continuing efforts of local and state officials in Tennessee and North Carolina to extend Interstate 26 from Asheville, North Carolina to the Tri-Cities area in Northeast Tennessee. As part of that effort, North Carolina officials recently announced that an environmental study is underway on upgrading U.S. 23 to interstate standards. Once that upgrade is complete, U.S. 23 can connect to an interstate quality highway Tennessee officials have already committed to building. The conferees encourage the Federal Highway Administration to work with local and state officials on the project, with particular emphasis on preliminary design work on the extension of U.S. 23 pending completion of the environmental study.

RIGHT-OF-WAY REVOLVING FUND

(LIMITATION ON DIRECT LOANS)

(HIGHWAY TRUST FUND)

Amendment No. 38: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$42,500,000, together with an amount not to exceed the amount of 1989 obligations recovered*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Michigan and Virginia highway projects.—The conferees direct the Federal Highway Administration to make repayable right-of-way revolving fund loans of $15,000,000 to the State of Michigan for use in conjunction with the M-59 corridor project and $15,000,000 to the Commonwealth of Virginia for right-of-way acquisition for Route 7100-029. The conferees expect loan repayments shall be adhered to as prescribed by the Federal Highway Administration right-of-way revolving fund program guidelines.

MOTOR CARRIER SAFETY

Amendment No. 39: Appropriates $33,690,000 as proposed by the Senate instead of $32,190,000 as proposed by the House.

Amendment No. 40: Provides that $2,782,000 shall remain available until expended as proposed by the Senate instead of $1,282,000 as proposed by the House.

MOTOR CARRIER SAFETY GRANTS

(HIGHWAY TRUST FUND)

Amendment No. 41: Limits obligations to $60,200,000 as proposed by the House instead of $60,000,000 as proposed by the Senate.

Virginia enforcement program.—The conferees reiterate the directive in the House report that provides $200,000 to the Commonwealth of Virginia for additional inspectors in northern Virginia for the purpose of demonstrating the effect of increased motor carrier safety inspections on interstate high-

ways in urban and suburban regions of the country.

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *Notwithstanding subsection (d) of Sec. 402 of the Surface Transportation Assistance Act of 1982 (Public Law 97-424, 96 Stat. 2155, 2156) for states which have recieved only development grants under such section 402 and which have participated in the Commercial Motor Carrier Safety Inspection and Weighing Demonstration Program, the Secretary shall only approve a plan under such section 402 for fiscal year 1990 which provides that the aggregate expenditure of funds of the State and political subdivisions thereof, exclusive of Federal funds, for commercial motor vehicle safety programs will be maintained at a level which does not fall below the average level of such expenditure for the last two full fiscal years preceding the date the plan is approved.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

BALTIMORE-WASHINGTON PARKWAY

(HIGHWAY TRUST FUND)

Amendment No. 43: Appropriates $12,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

INTERMODAL URBAN DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

Amendment No. 44: Appropriates $10,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

HIGHWAY SAFETY AND ECONOMIC DEVELOPMENT DEMONSTRATION PROJECTS

(HIGHWAY TRUST FUND)

Amendment No. 45: Appropriates $12,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

HIGHWAY SAFETY IMPROVEMENT DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

Amendment No. 46: Appropriates $11,000,000 as proposed by the House. The Senate bill contained no similar appropriation. The conferees direct that these funds be eligible for the following improvements in the Walton Blvd. corridor: Walton Blvd. from Airport Road to Squirrel Road; Baldwin Road; Joslyn Road; and Lake Angeles Road.

HIGHWAY-RAILROAD GRADE CROSSING SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

Amendment No. 47: Appropriates $9,500,000 as proposed by the House. The Senate bill contained no similar appropriation.

HIGHWAY WIDENING DEMONSTRATION PROJECT

Amendment No. 48: Appropriates $2,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

BRIDGE IMPROVEMENT DEMONSTRATION PROJECT

Amendment No. 49: Appropriates $4,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

HIGHWAY WIDENING AND IMPROVEMENT DEMONSTRATION PROJECT

Amendment No. 50: Appropriates $5,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

HIGHWAY CAPACITY IMPROVEMENT DEMONSTRATION PROJECT

Amendment No. 51: Deletes appropriation of $100,000 proposed by the House. The Senate bill contained no similar appropriation.

CLIMBING LANE SAFETY DEMONSTRATION PROJECT

Amendment No. 52: Appropriates $2,500,000 as proposed by the House. The Senate bill contained no similar appropriation.

INDIANA INDUSTRIAL CORRIDOR SAFETY DEMONSTRATION PROJECT

Amendment No. 53: Appropriates $2,400,000 as proposed by the House. The Senate bill contained no similar appropriation.

OKLAHOMA HIGHWAY WIDENING DEMONSTRATION PROJECT

Amendment No. 54: Appropriates $2,500,000 as proposed by the House. The Senate bill contained no similar appropriation.

ALABAMA HIGHWAY BYPASS DEMONSTRATION PROJECT

Amendment No. 55: Appropriates $8,300,000 as proposed by the House. The Senate bill contained no similar appropriation.

KENTUCKY BRIDGE DEMONSTRATION PROJECT

Amendment No. 56: Appropriates $5,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

VIRGINIA HOV SAFETY DEMONSTRATION PROJECT

Amendment No. 57: Appropriates $4,650,000 as proposed by the House. The Senate bill contained no similar appropriation.

URBAN HIGHWAY CORRIDOR DEMONSTRATION PROJECT

Amendment No. 58: Appropriates $4,500,000 as proposed by the House. The Senate bill contained no similar appropriation.

URBAN AIRPORT ACCESS SAFETY DEMONSTRATION PROJECT

Amendment No. 59: Appropriates $5,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

EBENSBURG BYPASS DEMONSTRATION PROJECT

Amendment No. 60: Appropriates $13,740,000 as proposed by the House. The Senate bill contained no similar appropriation.

BRIDGE REHABILITATION DEMONSTRATION PROJECT

Amendment No. 61: Deletes appropriation of $350,000 proposed by the House. The Senate bill contained no similar appropriation.

HIGHWAY DEMONSTRATION PROJECT—PRELIMINARY ENGINEERING

Amendment No. 62: Appropriates $5,800,000 instead of $12,400,000 as proposed by the House. The Senate bill contained no similar appropriation.

The conference agreement includes the following allocations for preliminary engineering, environmental studies and right-of-way acquisition for highway demonstration projects:

Rural economic development demonstration project (Illinois 336 from US 24 to US 136)	$1,600,000
New Mexico railroad overpass demonstration project (Las Vegas, New Mexico)	1,500,000
Highway safety and economic development demonstration projects (right-of-way acquisition for state route 6 and state route 302)	2,700,000

CORRIDOR SAFETY IMPROVEMENT PROJECT

(HIGHWAY TRUST FUND)

Amendment No. 63: Appropriates $17,300,000 as proposed by the Senate. The House bill contained no similar appropriation.

BRIDGE CAPACITY IMPROVEMENTS

(HIGHWAY TRUST FUND)

Amendment No. 64: Appropriates $4,000,000 as proposed by the Senate. The House bill contained no similar appropriation.

CORRIDOR H IMPROVEMENT PROJECT

Amendment No. 65: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $32,000,000.

ROAD EXTENSION DEMONSTRATION

Amendment No. 66: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

ROAD EXTENSION DEMONSTRATION

For the purpose of carrying out a demonstration of economic growth and development benefits of four lane bypasses of cities, there is hereby appropriated $11,000,000, to remain available until expended, for the acquisition of rights-of-way and other costs incurred in the upgrading and construction of a portion of a four-lane facility bypassing the cities of Pella, Iowa, and Oskalossa, Iowa, on Highway 163: Provided, That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

DES MOINES INNER LOOP DEMONSTRATION PROJECT

Amendment No. 67: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $2,800,000.

CORRIDOR G IMPROVEMENT PROJECT

Amendment No. 68: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $10,000,000.

CORNING BYPASS SAFETY DEMONSTRATION PROJECT

Amendment No. 69: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and

concur in the amendment of the Senate appropriating $20,000,000.

SPRING MOUNTAIN DEMONSTRATION PROJECT

Amendment No. 70: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $2,200,000.

MANHATTAN BRIDGE REPLACEMENT DEMONSTRATION PROJECT

Amendment No. 71: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $3,210,000.

JUNCTION CITY HIGHWAY IMPROVEMENT DEMONSTRATION PROJECT

Amendment No. 72: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as folows:

In lieu of the U.S. route number named in said amendment, insert: *77*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

Amendment No. 73: Appropriates $74,550,000 instead of $71,684,000 as proposed by the House and $78,400,000 as proposed by the Senate.

Amendment No. 74: Provides that $37,486,000 shall remain available until expended instead of $34,690,000 as proposed by the House and $41,390,000 as proposed by the Senate.

OPERATIONS AND RESEARCH (HIGHWAY TRUST FUND)

Amendment No. 75: Appropriates $32,300,000 instead of $31,772,000 as proposed by the Senate and $32,316,000 as proposed by the House.

Amendment No. 76: Provides that $2,000,000 of the funds provided for "Operations and Research (Highway Trust Fund)" shall be available for light truck and van safety research and analysis as proposed by the House. The Senate bill contained no similar provision.

The conference agreement includes the following distribution for the Operations and Research activity:

Rulemaking (92 positions)	$8,100,000
Enforcement (101 positions)	12,800,000
Highway safety (180 positions)	[1] 35,150,000
Research and analysis (146 positions)	44,000,000
General administration (91 positions)	[2] 8,600,000
Office of the Administrator (46 positions)	[3] 3,100,000

[1] Includes $3,651,000 derived from section 402 grant program.

[2] Includes $947,000 derived from section 402 grant program.

[3] Includes $302,000 derived from section 402 grant program.

The conference agreement includes the following project distribution and program guidance in addition to the mutually agreed upon levels set forth in House Report 101-183 and in Senate Report 101-121.

Occupant protection information program	$5,375,000
Drunk driving prevention incentive grants (Section 410)	4,000,000
Advanced driving simulator	3,000,000
Jackson Memorial shock-trauma research	2,000,000
Speed enforcement demonstration projects (one in Northeast U.S. and one in Northwest U.S.)	1,000,000
Dade County trauma system support	200,000
Community traffic safety demonstration project	150,000
New car assessment retest program	100,000

Section 410 drunk driving prevention incentive grants.—The conferees have provided $4,000,000 for Operations and Research to fund the new section 410 drunk driving prevention incentive grant program authorized in Public Law 100-690. The conferees agree that this program, included in the Omnibus Anti-Drug Abuse Act of 1988, will advance the cause of reducing drunk driving and the costs it imposes on its victims and our society.

Random drug testing pilot grants.—Although funds are not provided in this bill for a four-state demonstration program for random drug testing in connection with first time drivers licenses and licensed drivers during the first year after issuance of their licenses, the managers agree that states able to implement such programs without federal aid should receive the full cooperation and assistance of NHTSA in commencing their programs.

Injury control grants.—The conferees expect that $150,000 of previously available funds for injury control grants shall be used for an injury control grant to promote education and public awareness of measures to prevent head and bodily injury.

Advanced driver simulator.—The conferees have provided $3,000,000 for the advanced driver simulator which should be able to perform necessary truck research.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

Amendment No. 77: Appropriates $14,589,000 instead of $14,400,000 as proposed by the House and $15,144,000 as proposed by the Senate. The conference agreement is distributed as follows:

Salaries and expenses	$13,164,000
Staff years	(196)
Contractual support	925,000
Super-speed fixed guideway activities	500,000

Amendment No. 78: Provides that $1,425,000 shall remain available until expended as proposed by the House instead of $1,980,000 as proposed by the Senate.

Amendment No. 79: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$500,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Super-speed fixed guideway activities.—In light of the growing interest in high speed rail, especially MAGLEV technology as a future transportation alternative, the conferees are concerned that the safety, economic and technical feasibility of the systems be fully assessed and evaluated. The Federal Railroad Administration has sole governmental responsibility for railroad safety and oversight of the railroad industry; therefore, the managers direct the FRA to assume lead agency responsibility to ensure the safe development of high speed rail technologies. The conferees expect any governmental efforts in the development of high speed rail and MAGLEV to be coordinated through and by the FRA. Further, it is the managers' intent that any further funding to develop these technologies will be funneled through the FRA. To that end, the conferees have provided $500,000 to be used for grants for up to 50 percent of the cost of contractual support needed to evaluate and verify the benefits and impacts of specific private sector interstate high speed rail projects, and for the FRA to engage in studies relating to safety provisions of super high speed magnetic levitation systems.

LOCAL RAIL SERVICE ASSISTANCE

Amendment No. 80: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $7,000,000 for local rail service assistance. The House bill contained no similar appropriation.

RAILROAD SAFETY

Amendment No. 81: Appropriates $31,900,000 as proposed by the House instead of $32,057,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Federal enforcement	$24,777,000
(positions)	(419)
Automated track inspection program	1,175,000
Regulation and administration	5,948,000
(position)	(67)

Amendment No. 82: Provides that $1,175,000 shall remain available until expended as proposed by the House instead of $1,181,000 as proposed by the Senate.

RAILROAD RESEARCH AND DEVELOPMENT

Amendment No. 83: Appropriates $9,600,000 as proposed by the House instead of $9,277,000 as proposed by the Senate.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

Amendment No. 84: Appropriates $24,800,000 instead of $19,500,000 as proposed by the House and $30,000,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Delaware-New Jersey CETC	$5,000,000
Penn Station train servicing facilities	2,400,000
Electric traction upgrades	1,500,000
Communications and signal system upgrades	3,300,000
Bridge replacement and upgrades	4,000,000
Track improvements	41,100,000
New York tunnels fire protection equipment	4,500,000

In addition, the conferees have agreed under amendment No. 30 to reprogram $5,000,000 in highway funds designated for the Washington Union Station parking garage to complete Amtrak facilities related to the parking garage project.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

Amendment No. 85: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that distributes the funds appropriated as follows:

Operating/labor protection	$530,000,000
Capital improvements	85,000,000

Kingston, RI station.—The conferees direct Amtrak to make funds available to pay for 50 percent of the total cost to repair the fire-damage train station at Kingston, Rhode Island.

Amendment No. 86: Restores the House language restricting federal participation for Atlantic City rail line capital projects and the Amtrak share of Westside, New York, rail line capital projects to not more than 60 percent of the total cost.

Operation of Atlantic City service.—The conference agreement also restores and modifies the House language to prohibit Amtrak from operating Atlantic City service unless at least 80 percent of short-term avoidable operating costs are covered the second year of operation and 100 percent of such costs are covered for each year thereafter. Under the House bill, these operating cost recovery percentages were 80 percent the first year and 100 percent for each year thereafter.

In light of various start-up difficulties experienced by Amtrak in restoring the Atlantic City rail line, the conferees agree that the economic performance goals required by current law do not provide a reasonable test of whether it is appropriate to continue its operation in fiscal year 1990. The conference agreement has the effect of postponing the application of these standards for one year. The conferees recognize that this change in law could have a significant impact on the expectations that Amtrak and New Jersey Transit had when they originally contracted to restore this rail service. It is expected that Amtrak and New Jersey Transit will execute a new agreement described in the Senate Report that has been worked out by the parties to establish a fair financial relationship between them with respect to future rail operations on the Atlantic City line. The conferees agree to review Amtrak's financial performance in conjunction with the fiscal year 1991 appropriations bill.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

Amendment No. 87: Restores House language providing that, notwithstanding any other provision of law, for fiscal year 1989 and each fiscal year thereafter all amounts realized from the sale of notes or securities sold under authority of this Act shall be considered as current year domestic discretionary outlay offsets and not as "asset sales" or "loan prepayments" as defined by section 257(12) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Amendment No. 88: Deletes $50,000,000 ceiling on new Section 511 loan guarantees proposed by the Senate. The House bill contained a separate provision prohibiting all new loan guarantee commitments under this head, whch was agreed to by the Senate. The conferees agree that, if loan guarantee authority is provided at a later time, the Secretary shall make no guarantee nor make commitments to guarantee obligations of railroads under Section 511 without prior consultation with the Chairmen and Ranking Members of the House of Representatives and Senate Committees on Appropriations to determine the available level of credit authority.

CONRAIL COMMUTER TRANSITION ASSISTANCE

Amendment No. 89: Appropriates $5,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

AMTRAK CORRIDOR IMPROVEMENT LOANS

Amendment No. 90: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amend to read as follows:

AMTRAK CORRIDOR IMPROVEMENT LOANS

The Secretary is authorized to provide $3,500,000 in loans to the Chicago, Missouri and Western Railroad, or its successors, to replace existing jointed rail with continuous welded rail between Joliet, Illinois and Granite City, Illinois; Provided, That any loan authorized under this section shall be structured with a maximum 20-year payment at an annual interest rate of 4 per centum: Provided further, that the Federal Government shall hold a first and prior purchase money security interest with respect to any materials to be acquired with federal funds; Provided further, That any such loan shall be matched on a dollar for dollar basis by the State of Illinois.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

URBAN MASS TRANSPORTATION ADMINISTRATION

ADMINISTRATIVE EXPENSES

Amendment No. 91: appropriates $31,809,000 as proposed by the House instead of $31,880,000 as proposed by the Senate.

Amendment No. 92: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that prohibits the use of funds to implement or enforce UMTA's April 25, 1989, NPRM on "Major Capital Investment Projects".

FORMULA GRANTS

Amendment No. 93: Appropriates $1,625,000,000 instead of $1,600,000,000 as proposed by the Senate and $1,706,000,000 as proposed by the House.

Amendment No. 94: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that limits funds for operating assistance to $804,691,892.

Amendment No. 95: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that sets aside $16,554,033 for the Section 18 (nonurbanized areas) program before apportionment of the balance of the formula grant funds.

Amendment No. 96: Deletes Senate language allocating $8,800,000 of formula grant funds to those urbanized areas whose fiscal year 1989 general fund apportionments did not meet authorized operating assistance caps. The House bill contained no similar provision.

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

Amendment No. 97: Deletes Senate language providing $5,000,000 of fiscal year 1990 funds and $2,000,000 of prior year funds for preliminary engineering work on the Newark International Airport rail link. The House bill contained no similar provision.

The bill contains an obligation limitation of $1,140,000,000. The conference agreement distributes these funds as follows:

Bus and bus facilities	$132,500,000
Rail modernization and extensions	432,000,000
New systems and new extensions	420,500,000
(Los Angeles—rail construction)	(140,000,000)
(Atlanta—rail construction)	(52,500,000)
(St. Louis—light rail construction)	(67,500,000)
(Miami—rail construction)	(12,000,000)
(San Francisco—rail construction and PE)	[1] (28,500,000)
(Houston—construction and PE)	(65,000,000)
(Denver—HOV)	(16,000,000)
(Portland—right-of-way)	(8,000,000)
(Baltimore—light rail construction)	(6,000,000)
(Jacksonville—auto. guideway)	(15,000,000)
(Cleveland—PE)	(2,000,000)
(Newark—PE)	(5,000,000)
(Chicago—AA)	(1,000,000)
(Salt Lake City—light rail construction)	(2,000,000)
Planning	45,000,000
Elderly and handicapped	35,000,000
University transportation centers	5,000,000
Section 9(B) formula grants	70,000,000

[1] Distribution between Colma extension and TASMAN to be determined by the Metropolitan Transportation Commission.

Salt Lake City.—The conferees concur that the new funds provided are for further right-of-way acquisition.

Los Angeles.—The conferees concur with the House report language directing UMTA to consider the Los Angeles Metro Rail Project corridor alternatives analysis/draft environmental impact statement as a separate project within the urbanized area, and to allow that project to proceed without prejudice from or to any other project in that urbanized area.

St. Louis.—The conferees concur with the Senate report language directing UMTA to amend the St. Louis full funding grant agreement (FFGA) to accommodate the impacts of the recently announced plans to construct new runways at the St. Louis Lambert International Airport.

The conferees also concur with the Senate report language that directs that, notwithstanding the UMTA proposed rulemaking that would affect advancement of the proposed extension of the metro link system from systems analysis to alterntives analysis on a line to Belleville, IL, $450,000 of the funds earmarked for the project in fiscal year 1990 may be used for the purpose of conducting an alternatives analysis study in a corridor between downtown St. Louis and Belleville, IL.

Portland.—The conferees wish to clarify that the amount of the federal obligation for the Westside light rail extension project referred to in report language is that amount of the total project cost for the segment between downtown Portland and 185th which is equal to the maximum percentage share available under existing law for "new start" projects. The conferees reiterate that the alternative analysis and preliminary engineering for the Hillsboro segment and preliminary engineering for the

downtown Portland to 185th segment shall proceed independent of and concurrent with each other and, upon completion of alternatives analysis and preliminary engineering for the second segment to Hillsboro, that the second segment shall be eligible for inclusion in a revised full funding agreement that would include both segments at the maximum federal share.

Upon initiation of alternatives analysis for the Eastside/I-5 and I-205 corridors by the Portland-Vancouver metropolitan area, UMTA is directed to approve Clark County, Washington, and Oregon City, Oregon, as the corridors termini. Further, the conferees instruct UMTA to permit the Portland-Vancouver metropolitan area to proceed with the alternatives analysis/draft environmental impact statement for any portion of or for the entire length of the corridors without prejudice to any other project in the urbanized area.

INTERSTATE TRANSFER GRANTS—TRANSIT

Amendment No. 98: Appropriates $160,000,000 as proposed by the Senate instead of $180,000,000 as proposed by the House.

Interstate Transfer—Transit Allocations.—The conferees have agreed to the following discretionary allocations:

Chicago	$45,596,534
Baltimore	32,517,585
Duluth	185,881
Portland	1,300,000
Construction management	400,000

The conferees recognize that delays in some regions' projects might necessitate adjustments to the above allocations. The conferees expect these adjustments, if required, to be accomplished through the normal reprogramming process.

WASHINGTON METRO

Amendment No. 99: Appropriates $85,000,000 instead of $73,400,000 as proposed by the Senate and $100,000,000 as proposed by the House.

Child Care Facilities.—The conferees reiterate the House report language directing the Washington Metropolitan Area Transit Authority to prepare a plan of action for developing at least two child care facilities located in or near WMATA facilities. At least one center should be located in Maryland and one in Virginia.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

Amendment No. 100: Appropriates $11,400,000 instead of $11,100,000 as proposed by the Senate and $11,750,000 as proposed by the House.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

Amendment No. 101: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by *$17,373,000* said amendment, insert:

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the following amounts:

Operations:	
Administrator	$337,000
(positions)	(4)
Chief Counsel	521,000
(positions)	(9)
Program management and administration	1,115,000
(positions)	(14)
Aviation information management	2,650,000
(positions)	(22)
Emergency transportation	900,000
(positions)	(10)
Hazardous materials	9,525,000
(positions)	(97)
Research and technology	680,000
(positions)	(7)
(Transportation Systems Center positions)	(518)
Research and Development:	
Hazardous materials	1,115,000
Emergency transportation	230,000
Research and technology	300,000

Aviation Information Management Office.—The conferees have maintained the AIM office as a responsibility of the Research and Special Programs Administration as proposed by the House. The Senate proposed transferring this office to the Federal Aviation Administration. The conferees are aware of the need for adequate data on which to base transportation decisions such as that provided by AIM and direct the Secretary to review the issue of transportation data collection requirements and the appropriate organizational responsibility for such data collection during the development of the proposed national transportation policy.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

Amendment No. 102: Appropriates $10,325,000 as proposed by the House instead of $9,277,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Personnel compensation and benefits	$2,325,000
(positions)	(51)
Administrative costs	1,048,000
Program funds	1,827,000
Research and development	725,000
State grants	4,400,000

Model one-call notification systems.—The conference agreement includes $750,000 under "Program funds" to assist States in developing one-call notification systems as proposed by the House.

Amendment No. 103: Provides that $5,250,000 shall remain available until expended as proposed by the Senate instead of $5,875,000 as proposed by the House.

TITLE II—RELATED AGENCIES

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

Amendment No. 104: Appropriates $27,600,000 instead of $26,600,000 as proposed by the House and $28,000,000 as proposed by the Senate.

The conference agreement provides for 15 additional staff years over the fiscal year 1989 level of 324 staff years.

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

Amendment No. 105: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the sum proposed by said amendment, insert: *$44,450,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the following amounts:

Chairman	$626,000
(staff years)	(7)
Commissioners	1,994,000
(staff years)	(24)
Satellite offices	993,000
(staff years)	(15)
Secretary	3,470,000
(staff years)	(82)
General Counsel	1,926,000
(staff years)	(25)
Proceedings	7,487,000
(staff years)	(111)
Hearings	406,000
(staff years)	(5)
Public assistance	1,097,000
(staff years)	(140
Transportation analysis	2,338,000
(staff years)	(27)
Accounts	4,575,000
(staff years)	(61)
Traffic	2,961,000
(staff years)	(59)
Compliance and consumer assistance	12,235,000
(staff years)	(197)
Managing Director	4,342,000
(staff years)	(74)

PANAMA CANAL COMMISSION

PANAMA CANAL REVOLVING FUND

Amendment No. 106: Limits administrative expenses to $49,842,000 as proposed by the House instead of $49,855,000 as proposed by the Senate.

Amendment No. 107: Limits obligations for non-administrative and capital programs to $452,005,000 as proposed by the House instead of $463,467,000 as proposed by the Senate.

DEPARTMENT OF THE TREASURY

REBATE OF SAINT LAWRENCE SEAWAY TOLLS

(HARBOR MAINTENANCE TRUST FUND)

Amendment No. 108: Provides that not to exceed $250,000 shall be available for expenses of administering rebates as proposed by the House instead of $284,000 as proposed by the Senate.

TITLE III—GENERAL PROVISIONS

ADVISORY COMMITTEES

Amendment No. 109: Limits funds for the Department of Transportation advisory committees to $1,400,000 instead of $400,000 as proposed by the House and $1,500,000 as proposed by the Senate.

UMTA GRANT ANNOUNCEMENTS

Amendment No. 110: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *Every 30 days.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

RENTAL PAYMENTS TO GSA

CAPE VINCENT COAST GUARD STATION

Amendment No. 111: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that deletes language proposed by the

House limiting rental payments to the General Services Administration and inserts language conveying the former Coast Guard station at Cape Vincent to the Saint Lawrence Seaway Development Corporation.

Rental Payments to GSA.—The conferees direct the Department of Transportation to submit a separate single appropriation for all rental payments to the General Services Administration for fiscal year 1991 and each year thereafter.

MASS TRANSIT CAPITAL FUND

HAWAII AIRPORT GRANTS

Amendment No. 112: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that deletes language proposed by the House expanding the availability of appropriations under the Mass Transit Capital Fund and inserts language proposed by the Senate that permits the State of Hawaii to use general aviation airport grant funds at primary airports.

ESSENTIAL AIR SERVICE COMPENSATION

COAST GUARD USE OF DEADLY FORCE

Amendment No. 113: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(a) ESSENTIAL AIR SERVICE COMPENSATION.—Notwithstanding any other provision of law, the Secretary of Transportation shall make payment of compensation under subsection 419 of the Federal Aviation Act of 1958, as amended, only to the extent and in the manner provided in appropriations Acts, at times and in a maner determined by the Secretary to be appropriate, and claims for such compensation shall not arise except in accordance with this provision.

(b) USE OF DEADLY FORCE.—The Secretary shall report to the Committees on Appropriations and the Committees on the Judiciary of the Senate and House of Representatives, to the Senate International Narcotics Control Caucus, and to the Select Committee on Narcotics Abuse and Control of the House of Representatives on:

(1) All current provisions of law and regulation permitting the use of deadly force during time of peace by United States Coast Guard personnel in the performance of their official duties—

(A) within the territorial land, sea, and air of the United States, its territories and possessions; and

(B) outside the territorial land, sea, and air of the United States, its territories and possessions.

(2) Changes, if any that may be necessary to existing law, regulations, treaty, or executive agreements to permit United States Coast Guard personnel to employ deadly force under the following circumstances—

(A) to bring down a suspected drug smuggling aircraft which has refused or ignored instructions to land at a specified airfield for customs inspection after penetrating the territorial airspace of the United States;

(B) to halt a suspected drug smuggling vessel on the sea which has been ordered to heave to for inspection by a United States vessel or aircraft and has ignored or refused to obey the order;

(C) and to halt a suspected drug smuggler who has crossed the land border of the United States illegally and who has refused to obey or ignored an order to stop for customs inspection.

(3) The required report shall be submitted not later than ninety days after the enactment into law of this Act. The required report may be submitted in both classified and unclassified versions.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

OFFICE OF THE SECRETARY TRANSFER AUTHORITY

Amendment No. 114: Limits transfer authority for any office of the Office of the Secretary to 5 percent as proposed by the Senate instead of 4 percent as proposed by the House.

TECHNICAL AMENDMENTS

Amendment No. 115: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(a) VILLAGE OF ALSIP, ILLINOIS.—Section 149(a)(30)(D) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended—

(1) by striking out the heading "CALUMET PARK" and inserting in lieu thereof "VILLAGE OF ALSIP"; and

(2) by striking out all that follows after "reconstruction" and inserting in lieu thereof "of 127th Street between Illinois Route 83 and Kostner Avenue in Alsip, Illinois.".

(b) WYOMING STATE HIGHWAY REST AREA.—Notwithstanding section 16 of the Federal Airport Act of 1946 or any other provision of law, the United States hereby releases the right of reversion of the United States on 7.8 acres of land at the South Big Horn Country Airport in Wyoming proposed to be transferred to the Wyoming State Highway Department provided such land is used for a highway rest area.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

VESSEL TRAFFIC SAFETY FAIRWAY

HONOLULU INTERNATIONAL AIRPORT

Amendment No. 116: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(a) VESSEL TRAFFIC SAFETY FAIRWAY.—None of the funds in this Act shall be available to plan, finalize or implement regulations that would establish a vessel traffic safety fairway less than five miles wide between the Santa Barbara Traffic Separation Scheme and the San Francisco Traffic Separation Scheme.

(b) HONOLULU INTERNATIONAL AIRPORT.—Notwithstanding section 23 of the Airport and Airway Expansion Act of 1970 (as in effect on November 29, 1976), or any other provision of law, including obligations arising under grant agreements issued pursuant to the Airport and Airway Improvement Act of 1982, as amended, or implementing regulations, the Administrator of the Federal Aviation Administration is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (63 Stat. 700; 50 U.S.C. App. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance, dated November 29, 1976, under which the United States conveyed certain property to the State of Hawaii for airport purposes.

Any release granted by the Administrator pursuant to this subsection shall be subject to the following conditions:

(A) The property for which a release is granted under this subsection shall not exceed 4,550.2 acres of submerged lands known as Keehi Lagoon as described in the quitclaim deed, dated November 29, 1976.

(B) The property for which a release is granted shall not include submerged lands within an area 1,000 feet perpendicular to either side of the centerline of Runway 26L, extending 2,000 feet from the end of Runway 26L at the Honolulu Inernational Airport.

(C) The use of property to which such release applies shall not impede or interface with the safety of flight operations or otherwise derogate approach and clear zone protection at the Honolulu International Airport.

(D) Any subsequent release or authorization for use of the property for other than airport purposes shall contain the right to overfly the property and the right to make noise.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

CALIFORNIA HIGHWAYS

Amendment No. 117: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that makes technical modifications to the House language related to certain interchange projects in the State of California.

SURFACE TRANSPORTATION

Amendment No. 118: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(a) INTERMODAL URBAN DEMONSTRATION PROJECT.—Funds appropriated in this Act for "Intermodal Urban Demonstration Project" shall remain available until expended.

(b) UMTA COMMUTER RAIL SERVICE.—Section 337 of Public Law 100-457 is amended to read as follows:

"Notwithstanding any other provision of law, when a commuter rail service has been suspended for safety reasons, and when a statewide or regional agency or instrumentality commits to restoring such service by the end of 1989, and when the improvements needed to restore such service are funded without Urban Mass Transportation Administration funding, the directional route miles of such service shall be included for the purpose of calculating the fiscal year 1990 section 9 apportionment, as well as the apportionment for subsequent years. If such service is not restored by the end of 1989, the money received as a result of the inclusion of the direcional route miles shall be returned to the disbursing agency, the Urban Mass Transportation Administration.".

(c) STATEWIDE OPERATING ASSISTANCE—Section 9(2)(A).—In any case in which a statewide agency or instrumentality is responsible under State laws for the financing, construction and operation, directly by lease, contract or otherwise, of public transportation services, and when such statewide agency or instrumentality is the designated recipient of UMTA funds, and when the statewide agency or instrumentality provides service among two or more urbanized

areas, the statewide agency or instrumentality shall be allowed to apply for operating assistance up to the combined total permissible amount of all urbanized areas in which it provides service, regardless of whether the amount for any particular urbanized area is exceeded. In doing so, UMTA shall not reduce the amount of operating assistance allowed for any other state, or local transit agency or instrumentality within the urbanized areas affected. This provision shall take effect with the fiscal year 1990 section 9 apportionment.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

SMOKING PROHIBITION ON CERTAIN FLIGHTS

Amendment No. 119: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *Permanent Prohibition Against Smoking on Scheduled Airline Flights.—*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 120: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *by deleting in subparagraph (A) of section 404(d)(1) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1374(d)(1)(A)) all after the words "any scheduled airline flight" and inserting in lieu thereof the following: "segment in air transportation or intrastate air transportation, which is—*

(i) between any two points within Puerto Rico, the United States Virgin Islands, the District of Columbia, or any State of the United States (other than Alaska and Hawaii), or between any point in any one of the aforesaid jurisdictions (other than Alaska and Hawaii) and any point in any other of such jurisdictions;

(ii) within the State of Alaska or within the State of Hawaii; or

(iii) scheduled for 6 hours or less in duration, and between any point described in clause (i) and any point in Alaska or Hawaii, or between any point in Alaska and any point in Hawaii.",

to take effect upon the commencement of the 96th day following the date of enactment of this Act, and

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 121: Deletes Senate language establishing the effective date for the smoking prohibition. This date is established under amendment No. 120.

The conferees have agreed to language in section 335 that would ban permanently smoking on scheduled airline flights. The ban would apply to all flight segments within the contiguous 48 States, District of Columbia, Puerto Rico, and the Virgin Islands; flight segments within the States of Alaska and Hawaii; and to flight segments between the States of Alaska and Hawaii, and between points in those States and a point in the contiguous 48 States, the District of Columbia, Puerto Rico, or the Virgin Islands, if such segment is scheduled for 6 hours or less in duration. The ban would apply to foreign airlines operating on any of these routes as well as to domestic carriers.

The conferees urge air carriers to be sensitive to the effect of second-hand smoke on the health of flight attendants working on the flight segments where smoking will be permitted, and to try to accommodate the preferences of flight attendants who do not want to be exposed to second-hand smoke in the airline cabins which are their workplace environment.

The conferees further believe that, in conjunction with the ban imposed in this section, it is imperative that suitable smoke detectors be installed on all transport category aircraft used for passenger carrying operations. It is the understanding of the conferees that a number of the smoke detectors now installed in airline lavatories are simple household smoke detectors, potentially suceptible to being disabled, without the crew being aware of such tampering. Therefore, the FAA should perform on-site inspections of airline smoke detector installations to determine whether the device has been installed properly and is secure from potential tampering. The FAA should also develop a simple test for the Principal Maintenance Inspectors to perform to evaluate the smoke detectors's responsiveness and require that all new installations of smoke detectors should have the following characteristics: (1) power supplied by the main aircraft power supply with appropriate backup power supply; (2) an indicator to alert the cockpit and/or cabin crew to detection of smoke or fire, and to the status of the device; and (3) installation in a manner preventing tampering that could prevent the detectors from performing their intended function.

FHWA APPORTIONMENTS

Amendment No. 122: Report in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that permits the use of certain Federal Highway Administration apportionments for on-the-job training.

STATE USE OF SAFETY REST AREAS

Amendment No. 123: Deletes Senate language related to the use of safety rest areas for extraordinary State occasions. The House bill contained no similar provision.

TECHNICAL AMENDMENT

Amendment No. 124: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "339" insert: *338*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

MASS TRANSIT SAFETY REVIEW

Amendment No. 125: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "340" insert: *339*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

UMTA PROJECT MANAGEMENT OVERSIGHT

Amendment No. 126: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "341" insert: *340*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

EXPRESS PACKAGE INDUSTRY REGULATORY STUDY

Amendment No. 127: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "342", insert *341*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees expect the study to be completed on or before July 1, 1990.

RAILROAD ABANDONMENT

Amendment No. 128: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "343" insert: *342*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

COAST GUARD FUNDS AVAILABILITY

Amendment No. 129: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "344" insert: *343*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

PUBLIC LANDS HIGHWAYS

Amendment No. 130: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "345" insert: *344*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

RAILROAD RESEARCH AND DEVELOPMENT

Amendment No. 131: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "346" insert: *345*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

NOISE ABATEMENT

Amendment No. 131: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "347" insert: *346*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

DOT ADVISORY OR ASSISTANCE SERVICES

Amendment No. 133: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 347. Not more than $14,000,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory or assistance services by the Department of Transportation.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

ALASKA HIGHWAY

Amendment No. 134: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "349" insert: *348*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

CALIFORNIA HIGHWAYS

Amendment No. 135: Deletes language proposed by the Senate amending section 149(a)(41) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

H.R. 3015 - DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1990

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Title I-III Conference Agreement	Title IV Drug Funding Offsets	Revised Conference
TITLE I - DEPARTMENT OF TRANSPORTATION							
Office of the Secretary							
Salaries and expenses	---	56,481,000	---	56,470,000	---	---	---
Immediate Office of the Secretary	1,071,000	---	1,090,000	---	1,090,000	---	1,090,000
Immediate Office of the Deputy Secretary	464,000	---	470,000	---	470,000	---	470,000
Office of the General Counsel	6,000,000	---	6,250,000	---	6,120,000	---	6,120,000
Office of the Assistant Secretary for Policy and International Affairs	7,950,000	---	8,595,000	---	8,250,000	---	8,250,000
Office of the Assistant Secretary for Budget and Programs	2,241,000	---	2,290,000	---	2,325,000	---	2,325,000
Office of the Assistant Secretary for Governmental Affairs	2,265,000	---	2,300,000	---	2,300,000	---	2,300,000
Office of the Assistant Secretary for Administration	24,300,000	---	24,700,000	---	24,700,000	---	24,700,000
Office of the Assistant Secretary for Public Affairs	1,455,000	---	1,290,000	---	1,350,000	---	1,350,000
Executive Secretariat	824,000	---	835,000	---	835,000	---	835,000
Contract Appeals Board	440,000	---	450,000	---	488,000	---	488,000
Office of Civil Rights	1,305,000	---	1,315,000	---	1,315,000	---	1,315,000
Office of Commercial Space Transportation	585,000	---	645,000	---	725,000	---	725,000
Office of Essential Air Service	1,727,000	---	1,127,000	---	1,727,000	---	1,727,000
Office of Small and Disadvantaged Business Utilization	3,915,000	---	3,500,000	---	3,500,000	---	3,500,000
Subtotal, Salaries and expenses	54,542,000	56,481,000	54,857,000	56,470,000	55,195,000	---	55,195,000
Transportation planning, research, and development	5,600,000	8,126,000	6,200,000	8,000,000	6,850,000	-21,000	6,829,000
Working capital fund	3,200,000	6,150,000	4,500,000	4,500,000	4,500,000	-13,000	4,487,000
(Limitation on working capital fund)	(130,350,000)	(144,400,000)	(131,000,000)	(144,400,000)	(137,700,000)	(-413,000)	(137,287,000)
Payments to air carriers	31,600,000	---	12,400,000	35,530,000	30,735,000	-92,000	30,643,000
Commission on Aviation Security and Terrorism	---	---	---	1,200,000	1,000,000	---	1,000,000
Total, Office of the Secretary	94,942,000	70,757,000	77,957,000	105,700,000	98,280,000	-126,000	98,154,000

H.R. 3015 - DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1990

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Title I-III Conference Agreement	Title IV Drug Funding Offsets	Revised Conference
Coast Guard							
Operating expenses	1,912,116,000	2,252,200,000	1,952,000,000	1,952,000,000	1,952,000,000	-5,856,000	1,946,144,000
(By transfer)	(4,500,000)	---	---	---	---	---	---
Funds included in Department of Defense Appropriations Act, 1989 (by transfer)	(206,000,000)	---	---	---	---	---	---
Acquisition, construction, and improvements	395,000,000	682,300,000	423,800,000	455,200,000	438,000,000	-1,314,000	436,686,000
(By transfer)	---	---	---	---	(7,500,000)	(-22,000)	(7,478,000)
Funds included in Military Construction Appropriations Act, 1989	(50,300,000)	---	---	---	---	---	---
Alteration of bridges	8,500,000	2,330,000	2,330,000	2,330,000	2,330,000	-7,000	2,323,000
(By transfer)	(5,000,000)	---	---	---	---	---	---
Retired pay	410,800,000	420,800,000	420,800,000	420,800,000	420,800,000	---	420,800,000
Reserve training	67,000,000	73,800,000	71,800,000	73,800,000	72,800,000	-218,000	72,582,000
Research, development, test, and evaluation	18,800,000	19,000,000	18,800,000	22,800,000	20,800,000	-62,000	20,738,000
Offshore oil pollution compensation fund (limitation)	(60,000,000)	(60,000,000)	(60,000,000)	(60,000,000)	(60,000,000)	(-180,000)	(59,820,000)
Deepwater port liability fund (limitation)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(-150,000)	(49,850,000)
Boat safety (Aquatic Resources Trust Fund)	---	---	---	30,000,000	30,000,000	-90,000	29,910,000
(Liquidation of contract authorization)	(30,000,000)	(15,000,000)	(30,000,000)	---	---	---	---
(Limitation on obligations)	(30,000,000)	(15,000,000)	(30,000,000)	---	---	---	---
Total, Coast Guard:							
New budget (obligational) authority	2,812,216,000	3,450,430,000	2,889,530,000	2,956,930,000	2,936,730,000	-7,547,000	2,929,183,000
(DoD transfer)	(256,300,000)	---	---	---	---	---	---
(Limitations on obligations)	(30,000,000)	(15,000,000)	(30,000,000)	---	---	---	---
Total	(3,098,516,000)	(3,465,430,000)	(2,919,530,000)	(2,956,930,000)	(2,936,730,000)	(-7,547,000)	(2,929,183,000)

H.R. 3015 - DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1990

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Title I-III Conference Agreement	Title IV Drug Funding Offsets	Revised Conference
Federal Aviation Administration							
Headquarters administration	36,600,000	---	---	---	---	---	---
Operations	3,410,000,000	3,923,000,000	3,836,000,000	3,865,000,000	3,842,000,000	-11,526,000	3,830,474,000
(By transfer)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(-30,000)	(9,970,000)
Subtotal, Headquarters administration and operations	3,446,600,000	3,923,000,000	3,836,000,000	3,865,000,000	3,842,000,000	-11,526,000	3,830,474,000
Facilities and equipment (Airport and Airway Trust Fund)	1,384,528,000	1,955,000,000	1,732,000,000	1,780,131,000	1,746,487,000	-5,239,000	1,741,248,000
Research, engineering, and development (Airport and Airway Trust Fund)	160,000,000	165,000,000	185,000,000	173,000,000	173,000,000	-519,000	172,481,000
Grants-in-aid for airports (Airport and Airway Trust Fund):							
(Liquidation of contract authority)	(1,150,000,000)	(1,166,000,000)	(1,190,000,000)	(1,190,000,000)	(1,190,000,000)	---	(1,190,000,000)
(Limitation on obligations)	(1,400,000,000)	(1,350,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(-75,000,000)	(1,425,000,000)
Rescission of contract authority	-100,000,000	---	---	---	---	-25,000,000	-25,000,000
Aircraft purchase loan guarantee program:							
(Limitation on borrowing authority)	(50,000,000)	(57,000,000)	(50,000,000)	(10,000,000)	(10,000,000)	(-30,000)	(9,970,000)
Appropriations	11,905,941	---	---	---	---	---	---
Portion applied to debt reduction	-10,770,941	---	---	---	---	---	---
Total, Federal Aviation Administration:							
New budget (obligational) authority	4,892,263,000	6,043,000,000	5,753,000,000	5,818,131,000	5,761,487,000	-42,284,000	5,719,203,000
(Limitations on obligations)	(1,400,000,000)	(1,350,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(-75,000,000)	(1,425,000,000)
Total	(6,292,263,000)	(7,393,000,000)	(7,253,000,000)	(7,318,131,000)	(7,261,487,000)	(-117,284,000)	(7,144,203,000)

H.R. 3015 - DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1990

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Title I-III Conference Agreement	Title IV Drug Funding Offsets	Revised Conference
Federal Highway Administration							
(Limitation on general operating expenses)	(217,350,000)	(228,246,000)	(222,600,000)	(236,896,000)	(234,000,000)	(-702,000)	(233,298,000)
University transportation centers (Highway Trust Fund)	---	---	---	5,000,000	5,000,000	-15,000	4,985,000
Highway safety research and development (Highway Trust Fund)	6,080,000	---	6,080,000	---	6,080,000	-18,000	6,062,000
Highway-related safety programs (Highway Trust Fund):							
(Liquidation of contract authorization)	(10,000,000)	(10,000,000)	(9,405,000)	(10,000,000)	(9,405,000)	(-28,000)	(9,377,000)
(Limitation on obligations)	(9,405,000)	(10,000,000)	(9,405,000)	(9,405,000)	(9,405,000)	(-28,000)	(9,377,000)
Railroad-highway crossings demonstration projects	7,560,000	---	15,000,000	7,700,000	15,000,000	-45,000	14,955,000
Federal-aid highways (Highway Trust Fund):							
(Limitation on obligations)	(12,000,000,000)	(11,310,000,000)	(12,463,500,000)	(12,050,000,000)	(12,260,000,000)	(-50,000,000)	(12,210,000,000)
(Liquidation of contract authorization)	(12,700,000,000)	(13,660,000,000)	(13,660,000,000)	(13,660,000,000)	(13,660,000,000)	(-40,980,000)	(13,619,020,000)
Right-of-way Revolving Fund (limitation on direct loans) (Highway Trust Fund)	(46,000,000)	(47,850,000)	(42,500,000)	(47,850,000)	(42,500,000)	(-127,000)	(42,373,000)
Motor carrier safety	27,000,000	32,190,000	32,190,000	33,690,000	33,690,000	---	33,690,000
Motor carrier safety grants (Highway Trust Fund):							
(Liquidation of contract authorization)	(50,000,000)	(52,000,000)	(52,000,000)	(52,000,000)	(52,000,000)	(-156,000)	(51,844,000)
(Limitation on obligations)	(60,000,000)	(60,000,000)	(60,200,000)	(60,000,000)	(60,200,000)	(-181,000)	(60,019,000)
Access highways to public recreation areas on certain lakes	1,291,000	---	---	---	---	---	---
Baltimore-Washington Parkway (Highway Trust Fund)	12,825,000	---	12,000,000	---	12,000,000	-36,000	11,964,000
Intermodal urban demonstration project (Highway Trust Fund)	8,550,000	---	10,000,000	---	10,000,000	-30,000	9,970,000
Highway safety and economic development demonstration projects (Highway Trust Fund)	8,550,000	---	12,000,000	---	12,000,000	-36,000	11,964,000
Airport access demonstration project (Highway Trust Fund)	1,300,000	---	---	---	---	---	---
Highway safety improvement demonstration project (Highway Trust Fund)	1,260,000	---	11,000,000	---	11,000,000	-33,000	10,967,000
Highway-railroad grade crossing safety demonstration project (Highway Trust Fund)	8,100,000	---	9,500,000	---	9,500,000	-28,000	9,472,000
Nuclear waste transportation safety demonstration project (Highway Trust Fund)	3,600,000	---	---	---	---	---	---
Highway widening demonstration project	1,800,000	---	2,000,000	---	2,000,000	-6,000	1,994,000
Bridge improvement demonstration project	8,550,000	---	4,000,000	---	4,000,000	-12,000	3,988,000
Highway widening and improvement demonstration project	4,100,000	---	5,000,000	---	5,000,000	-15,000	4,985,000
Intersection safety demonstration project	900,000	---	---	---	---	---	---
Highway capacity improvement demonstration project	900,000	---	100,000	---	---	---	---
Climbing lane safety demonstration project	450,000	---	2,500,000	---	2,500,000	-7,000	2,493,000
Indiana industrial corridor safety demonstration project	1,000,000	---	2,400,000	---	2,400,000	-7,000	2,393,000
Oklahoma highway widening demonstration project	400,000	---	2,500,000	---	2,500,000	-7,000	2,493,000
Alabama highway bypass demonstration project	3,600,000	---	8,300,000	---	8,300,000	-25,000	8,275,000
Kentucky bridge demonstration project	3,600,000	---	5,000,000	---	5,000,000	-15,000	4,985,000
Virginia HOV safety demonstration project	500,000	---	4,650,000	---	4,650,000	-14,000	4,636,000
Urban highway corridor demonstration project	225,000	---	4,500,000	---	4,500,000	-13,000	4,487,000
Urban airport access safety demonstration project	225,000	---	5,000,000	---	5,000,000	-15,000	4,985,000

H.R. 3015 - DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1990

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Title I-III Conference Agreement	Title IV Drug Funding Offsets	Revised Conference
Ebensburg bypass demonstration project	---	---	13,740,000	---	13,740,000	-41,000	13,699,000
Bridge rehabilitation demonstration project	---	---	350,000	---	---	---	---
Highway demonstration projects - preliminary engineering	---	---	12,400,000	---	5,800,000	-17,000	5,783,000
Corridor safety improvement project (Highway Trust Fund)	28,000,000	---	---	17,300,000	17,300,000	-52,000	17,248,000
Bridge capacity improvements (Highway Trust Fund)	3,763,000	---	---	4,000,000	4,000,000	-12,000	3,988,000
Corridor H improvement project	16,000,000	---	---	32,000,000	32,000,000	-96,000	31,904,000
Road extension demonstration	600,000	---	---	11,000,000	11,000,000	-33,000	10,967,000
Des Moines inner loop demonstration	---	---	---	2,800,000	2,800,000	-8,000	2,792,000
Corridor G improvement project	---	---	---	10,000,000	10,000,000	-30,000	9,970,000
Corning bypass safety demonstration project	---	---	---	20,000,000	20,000,000	-60,000	19,940,000
Spring Mountain demonstration project	---	---	---	2,200,000	2,200,000	-7,000	2,193,000
Manhattan Bridge replacement project	---	---	---	3,210,000	3,210,000	-10,000	3,200,000
Junction City accleration/deceleration lane demonstration project	---	---	---	400,000	400,000	-1,000	399,000
Bridge restoration	2,000,000	---	---	---	---	---	---
Reservation road	3,500,000	---	---	---	---	---	---
Total, Federal Highway Administration:							
New budget (obligational) authority	166,229,000	32,190,000	180,210,000	149,300,000	282,570,000	-744,000	281,826,000
(Limitations on obligations)	(12,069,405,000)	(11,380,000,000)	(12,533,105,000)	(12,119,405,000)	(12,329,605,000)	(-50,209,000)	(12,279,396,000)
Total	(12,235,634,000)	(11,412,190,000)	(12,713,315,000)	(12,268,705,000)	(12,612,175,000)	(-50,953,000)	(12,561,222,000)
National Highway Traffic Safety Administration							
Operations and research	67,899,000	74,933,000	71,684,000	78,400,000	74,550,000	-224,000	74,326,000
Operations and research (Highway Trust Fund)	30,751,000	31,772,000	32,316,000	31,772,000	32,300,000	-97,000	32,203,000
Subtotal, Operations and research	98,650,000	106,705,000	104,000,000	110,172,000	106,850,000	-321,000	106,529,000
Highway traffic safety grants (Highway Trust Fund) (Liquidation of contract authorization)	(130,500,000)	(132,000,000)	(132,000,000)	(132,000,000)	(132,000,000)	(-396,000)	(131,604,000)
State and community highway safety grants: (Limitation on obligations)	(115,000,000)	(115,000,000)	(115,000,000)	(115,000,000)	(115,000,000)	(-345,000)	(114,655,000)
Alcohol safety incentive grants: (Limitation on obligations)	(11,000,000)	(13,500,000)	(11,000,000)	(11,000,000)	(11,000,000)	(-33,000)	(10,967,000)
Education grants (Sec. 209): (Cumulative limitation on obligations)	(4,750,000)	(4,750,000)	(4,750,000)	(4,750,000)	(4,750,000)	(-14,000)	(4,736,000)
Total, National Highway Traffic Safety Administration:							
New budget (obligational) authority	98,650,000	106,705,000	104,000,000	110,172,000	106,850,000	-321,000	106,529,000
(Limitations on obligations)	(126,000,000)	(128,500,000)	(126,000,000)	(126,000,000)	(126,000,000)	(-378,000)	(125,622,000)
Total	(224,650,000)	(235,205,000)	(230,000,000)	(236,172,000)	(232,850,000)	(-699,000)	(232,151,000)

H.R. 3015 - DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1990

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Title I-III Conference Agreement	Title IV Drug Funding Offsets	Revised Conference
Federal Railroad Administration							
Office of the Administrator	20,975,000	15,180,000	14,400,000	15,144,000	14,589,000	---	14,589,000
(By transfer)	(4,000,000)	---	---	---	---	---	---
Local rail service assistance	---	---	---	7,000,000	7,000,000	-21,000	6,979,000
Railroad safety	27,825,000	30,307,000	31,900,000	32,057,000	31,900,000	---	31,900,000
Railroad research and development	9,286,000	9,277,000	9,600,000	9,277,000	9,600,000	-29,000	9,571,000
Northeast corridor improvement program	19,600,000	---	19,600,000	30,000,000	24,800,000	-74,000	24,726,000
Grants to the National Railroad Passenger Corporation.	584,000,000	---	615,000,000	---	---	---	---
Operations	---	---	---	530,000,000	530,000,000	-1,590,000	528,410,000
Capital	---	---	---	85,000,000	85,000,000	-255,000	84,745,000
Railroad Rehabilitation and Improvement Financing Funds: (Railroad credit enhancement)	(99,000,000)	(15,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(-150,000)	(49,850,000)
Regional rail reorganization program	---	101,577,979	101,577,979	101,577,979	101,577,979	-304,979	101,273,000
Portion applied to debt reduction	---	-94,932,979	-94,932,979	-94,932,979	-94,932,979	+284,979	-94,648,000
Conrail commuter transition assistance	4,500,000	---	5,000,000	---	5,000,000	-15,000	4,985,000
Amtrak corridor improvement loans	---	---	3,500,000	---	3,500,000	-10,000	3,490,000
(Loan authorization)	---	---	(3,500,000)	---	(3,500,000)	(-10,000)	(3,490,000)
Total, Federal Railroad Administration	666,186,000	61,409,000	705,645,000	715,123,000	718,034,000	-2,014,000	716,020,000
Urban Mass Transportation Administration							
Administrative expenses	31,882,000	---	31,809,000	31,880,000	31,809,000	---	31,809,000
Research, training, and human resources	10,000,000	---	10,000,000	10,000,000	10,000,000	-30,000	9,970,000
Formula grants	1,605,000,000	---	1,705,000,000	1,605,000,000	1,630,000,000	-4,890,000	1,625,110,000
Formula transit grants (Highway Trust Fund) (limitation on obligations)	---	(1,523,000,000)	---	---	---	---	---
Discretionary grants (Highway Trust Fund) (limitation on obligations)	(1,140,000,000)	---	(1,140,000,000)	(1,140,000,000)	(1,140,000,000)	(-3,420,000)	(1,136,580,000)
Mass transit capital fund (Highway Trust Fund) (liquidation of contract authorization)	(400,000,000)	(900,000,000)	(900,000,000)	(900,000,000)	(900,000,000)	(-2,700,000)	(897,300,000)
Interstate transfer grants - transit	200,000,000	---	180,000,000	160,000,000	160,000,000	-480,000	159,520,000
Washington Metro	168,000,000	42,000,000	100,000,000	73,400,000	85,000,000	-255,000	84,745,000
Total, Urban Mass Transportation Administration:							
New budget (obligational) authority	2,014,882,000	42,000,000	2,026,809,000	1,880,280,000	1,916,809,000	-5,655,000	1,911,154,000
(Limitations on obligations)	(1,140,000,000)	(1,523,000,000)	(1,140,000,000)	(1,140,000,000)	(1,140,000,000)	(-3,420,000)	(1,136,580,000)
Total	(3,154,882,000)	(1,565,000,000)	(3,166,809,000)	(3,020,280,000)	(3,056,809,000)	(-9,075,000)	(3,047,734,000)

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H.R. 3015 - DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1990

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Title I-III Conference Agreement	Title IV Drug Funding Offsets	Revised Conference
Saint Lawrence Seaway Development Corporation							
Operations and maintenance (Harbor Maintenance Trust Fund)	11,100,000	11,788,000	11,750,000	11,100,000	11,400,000	---	11,400,000
Research and Special Programs Administration							
Research and special programs	14,800,000	17,541,000	16,800,000	14,715,000	17,373,000	---	17,373,000
Pipeline safety (Pipeline Safety Fund)	9,300,000	9,848,000	10,325,000	9,277,000	10,325,000	-31,000	10,294,000
Total, Reseach and Special Programs Administration	24,100,000	27,389,000	27,125,000	23,992,000	27,698,000	-31,000	27,667,000
Office of the Inspector General							
Salaries and expenses	29,000,000	32,475,000	32,100,000	32,100,000	32,100,000	---	32,100,000
Total, title I, Department of Transportation:							
New budget (obligational) authority (net)	10,809,568,000	9,878,143,000	11,808,126,000	11,802,828,000	11,891,958,000	-58,722,000	11,833,236,000
Appropriations	(10,920,338,941)	(9,973,075,979)	(11,903,058,979)	(11,897,760,979)	(11,986,890,979)	(-34,006,979)	(11,952,884,000)
Appropriations for debt reduction	(-10,770,941)	(-94,932,979)	(-94,932,979)	(-94,932,979)	(-94,932,979)	(+284,979)	(-94,648,000)
Rescission	(-100,000,000)	---	---	---	---	(-25,000,000)	(-25,000,000)
(DoD transfer)	(256,300,000)	---	---	---	---	---	---
(By transfer)	(23,500,000)	(10,000,000)	(10,000,000)	(10,000,000)	(17,500,000)	(-52,000)	(17,448,000)
(Limitations on obligations)	(14,765,405,000)	(14,396,500,000)	(15,329,105,000)	(14,885,405,000)	(15,095,605,000)	(-129,007,000)	(14,966,598,000)
(Appropriations to liquidate contract authorizations)	(14,470,500,000)	(15,935,000,000)	(15,973,405,000)	(15,944,000,000)	(15,943,405,000)	(-44,260,000)	(15,899,145,000)
Total, title I, New budget (obligational) authority, (DoD transfer) and (limitations on obligations)	(25,831,273,000)	(24,274,643,000)	(27,137,231,000)	(26,688,233,000)	(26,987,563,000)	(-104,009,000)	(26,883,554,000)

H.R. 3015 - DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1990

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Title I-III Conference Agreement	Title IV Drug Funding Offsets	Revised Conference
TITLE II - RELATED AGENCIES							
Architectural and Transportation Barriers Compliance Board							
Salaries and expenses	1,891,000	2,000,000	1,950,000	1,950,000	1,950,000	---	1,950,000
National Transportation Safety Board							
Salaries and expenses	25,360,000	25,967,000	26,600,000	28,000,000	27,600,000	---	27,600,000
Interstate Commerce Commission							
Salaries and expenses	43,115,000	44,689,000	43,860,000	42,863,000	44,450,000	---	44,450,000
Payments for directed rail service (limitation on obligations)	(475,000)	(475,000)	(475,000)	(475,000)	(475,000)	---	(475,000)
Total, Interstate Commerce Commission	(43,590,000)	(45,164,000)	(44,335,000)	(43,338,000)	(44,925,000)	---	(44,925,000)
Panama Canal Commission							
Panama Canal Revolving Fund:							
(Administrative expenses)	(50,287,000)	(49,855,000)	(49,842,000)	(49,855,000)	(49,842,000)	(-150,000)	(49,692,000)
(Limitation on operating and capital expenses)	(436,548,000)	---	(452,005,000)	(463,467,000)	(452,005,000)	(-1,356,000)	(450,649,000)
Department of the Treasury							
Rebate of Saint Lawrence Seaway Tolls (Harbor Maintenance Trust Fund)	10,700,000	10,084,000	10,050,000	10,050,000	10,050,000	-30,000	10,020,000
Washington Metropolitan Area Transit Authority							
Interest payments	51,663,569	51,663,569	51,663,569	51,663,569	51,663,569	---	51,663,569
Total, title II, Related Agencies:							
New budget (obligational) authority	132,729,569	134,403,569	134,123,569	134,526,569	135,713,569	-30,000	135,683,569
(Limitation on obligations)	(475,000)	(475,000)	(475,000)	(475,000)	(475,000)	---	(475,000)
Total	(133,204,569)	(134,878,569)	(134,598,569)	(135,001,569)	(136,188,569)	(-30,000)	(136,158,569)

H.R. 3015 - DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1990

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Title I-III Conference Agreement	Title I, Drug Funding Offsets	Revised Conference
TITLE III - GENERAL PROVISIONS							
International Zaragosa Bridge	3,000,000	---	---	---	---	---	---
Rescission	-3,000,000	---	---	---	---	---	---
Alabama Feasibility Study	675,000	---	---	---	---	---	---
Expressway safety improvement demonstration project	2,600,000	---	---	---	---	---	---
Airport emergency relief	100,000	---	---	---	---	---	---
Wisconsin rail service	6,000,000	---	---	---	---	---	---
Consultant services (sec. 347)	-34,171,000	---	---	---	---	---	---
Total, title III, General Provisions:							
New budget (obligational) authority (net)	-24,796,000	---	---	---	---	---	---
Appropriations	(-21,796,000)	---	---	---	---	---	---
Rescission	(-3,000,000)	---	---	---	---	---	---
Grand total:							
New budget (obligational) authority (net)	10,917,501,569	10,012,546,569	11,942,249,569	11,937,354,569	12,027,671,569	-58,752,000	11,968,919,569
Appropriations	(11,031,272,510)	(10,107,479,548)	(12,037,182,548)	(12,032,287,548)	(12,122,604,548)	(-34,036,979)	(12,088,567,569)
Appropriations for debt reduction	(-10,770,941)	(-94,932,979)	(-94,932,979)	(-94,932,979)	(-94,932,979)	(+284,979)	(-94,648,000)
Rescissions	(-103,000,000)	---	---	---	---	(-25,000,000)	(-25,000,000)
(DoD transfer)	(256,300,000)	---	---	---	---	---	---
(By transfer)	(23,500,000)	(10,000,000)	(10,000,000)	(10,000,000)	(17,500,000)	(-52,000)	(17,448,000)
(Limitations on obligations)	(14,765,880,000)	(14,396,975,000)	(15,329,580,000)	(14,885,880,000)	(15,096,080,000)	(-129,007,000)	(14,967,073,000)
(Appropriations to liquidate contract authorizations)	(14,470,500,000)	(15,935,000,000)	(15,973,405,000)	(15,944,000,000)	(15,943,405,000)	(-44,260,000)	(15,899,145,000)
Grand total, New budget (obligational) authority, (DoD transfer) and (limitations on obligations)	(25,939,681,569)	(24,409,521,569)	(27,271,829,569)	(26,823,234,569)	(27,123,751,569)	(-104,040,000)	(27,019,711,569)

TITLE IV—EMERGENCY DRUG FUNDING

Amendment No. 136: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

TITLE IV—EMERGENCY DRUG FUNDING

CHAPTER I

DEPARTMENT OF JUSTICE

General Administration

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $10,261,000 to enhance drug and criminal law enforcement efforts with special emphasis on improving drug law enforcement efforts among the various Justice Department agencies and on expedited deportation proceedings of convicted criminal aliens.

Legal Activities

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $41,476,000, to remain available until expended, to improve the effectiveness of the Department's legal activities, to improve coordination between law enforcement programs in this country and other countries, to improve efforts in extradition of drug cartel kingpins and to improve Criminal Division efforts in Federal/State task forces.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

To continue efforts begun in fiscal year 1989 to improve the ability of the United States Attorneys to prosecute drug and other crime related offenses, $80,699,000, for new assistant United States Attorneys, for annualization of new attorney positions funded in fiscal year 1989, and for automation enhancements necessary to improve productivity and case management in the various United States Attorneys offices.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $23,819,000 to improve the ability of the United States Marshals Service to pursue and apprehend alleged major drug and organized crime figures, and to improve the security required for anti-drug and organized crime judicial proceedings.

SUPPORT OF UNITED STATES PRISONERS

To fight the war on drugs, $23,000,000 to remain available until expended for enhancing the availability of jail space for unsentenced Federal prisoners in the custody of the United States Marshals Service; of which not to exceed $10,000,000 shall be available under the Cooperative Agreement Program to obtain guaranteed housing for Federal prisoners in State and local detention facilities.

ASSETS FORFEITURE FUND

To fight the war on drugs, $25,000,000 for awards for information in drug cases, purchase of evidence for drug violations, equipping conveyances for drug law enforcement, and other expenses as authorized by 28 U.S.C. 524 (c)(1)(A)(ii), (B), (C), (F) and (G), as amended, to be derived from the Department of Justice Assets Forfeiture Fund.

Interagency Law Enforcement

ORGANIZED CRIME DRUG ENFORCEMENT

For carrying out efforts at National Drug Control $46,361,000 to strengthen the ability of the Federal Government to attack drug cartels and other organized crime groups through the eleven cooperating Federal agencies which participate in the organized crime drug enforcement task forces.

Federal Bureau of Investigation

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control, $97,045,000, to strengthen Federal domestic law enforcement at the local level to include additional agents, support personnel and equipment, improvements in automation and telecommunications, and enhancements in field equipment and training.

Drug Enforcement Administration

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control, $64,301,000, for additional agents, support personnel and equipment for improved domestic drug law enforcement; for expanded cleanup and disposal of toxic chemicals from clandestine laboratories; to expand State and local task forces; to complete the nationwide placement of asset removal teams; and to improve intelligence programs.

Immigration and Naturalization Service

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $16,891,000, for additional Border Patrol agents to improve drug interdiction efforts and for additional investigators and other staff needed to increase the apprehension and detention of criminal aliens.

Federal Prison System

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $54,923,000, for additional staff to activate new prisons, to improve staffing at existing institutions, and to fund additional support costs associated with the projected increases in Federal prison populations.

BUILDINGS AND FACILITIES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $1,000,000,000, to remain available until expended, for acquisition and construction of new Federal prison facilities in order to handle the projected growth in prisoner populations resulting from the increased number of drug-related convictions.

Office of Justice Programs

JUSTICE ASSISTANCE

To fight the war on drugs, $308,821,000, to remain available until expended; of which $300,000,000 is for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs for State and local agencies to improve efforts in street-level and community-based drug law enforcement efforts; and of which $8,821,000 is for the Juvenile Justice and Delinquency Prevention Program in order to improve programs for the prevention, intervention and treatment of juvenile crime, especially where it relates to youth gangs and drugs.

The Judiciary

Courts of Appeals, District Courts, and Other Judicial Services

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $59,550,000 for additional clerks, office personnel, probation and pretrial services personnel, magistrates and related support personnel, and drug aftercare treatment services necessary to handle the growth in drug and crime related caseloads in the Federal courts.

DEFENDER SERVICES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $41,373,000, to remain available until expanded, for the increased expenses associated with Federal public defender and community defender organizations and private panel attorneys necessary to handle the growing drug and crime related caseload of the Federal courts.

FEES OF JURORS AND COMMISSIONERS

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $4,000,000, to remain available until expanded, for the increased cost of grand and petit juries resulting from the growth in the drug and crime related caseload of the Federal courts.

COURT SECURITY

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $15,400,000, to provide for expanded security and protective services for the Federal courts to handle the increase in drug and crime related judicial proceedings which require a high level of security.

RELATED AGENCY

State Justice Institute

SALARIES AND EXPENSES

For carrying out the provisions of section 7321 of the Anti-Drug Abuse Act of 1988 (P.L. 100-690), $4,020,000, to remain available until expended, to allow the State Justice Institute to expand its programs to assist States in improving their court systems to allow them to handle the growing drug and crime related caseload.

CHAPTER II

DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

CONSTRUCTION

To fight the war on drugs, $4,000,000 to remain available until expended, for the provision of additional emergency shelters for Indian youth and for the construction of juvenile detention facilities.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

To fight the war on drugs, $7,250,000, for the Indian Health Service to increase after care services and provide for family outpatient care, expand community education and training efforts with a focus on prevention and training of program staff, expand alcoholism and drug abuse prevention efforts for adolescents through urban Indian health programs, and provide contract health services for substance abuse treatment and rehabilitation of Indian youth and their families.

INDIAN HEALTH FACILITIES

To fight the war on drugs, $1,500,000 to remain available until expended, to allow

the Indian Health Service to complete the construction or renovation of facilities to provide detoxification and rehabilitation services in youth regional treatment centers.

CHAPTER III

DEPARTMENT OF LABOR

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for substance abuse employee assistance programs in the workplace, $2,000,000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out activities to fight the war on drugs including substance abuse research, treatment, and prevention, $727,000,000: Provided, That of this amount, $415,000,000 shall be provided for block grants to States under title XIX of the Public Health Service Act to be used exclusively for substance abuse activities and shall remain available for obligation by the States until March 31, 1991 and such obligated funds shall remain available for expenditure by the States until March 31, 1992: Provided further, That of this amount, $40,000,000 shall be available for treatment waiting period reduction grants, if authorized in law.

FAMILY SUPPORT ADMINISTRATION

COMMUNITY SERVICES BLOCK GRANT

For an additional amount for anti-drug abuse activities under the Community Services Block Grant Act, $2,000,000.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

HUMAN DEVELOPMENT SERVICES

To fight the war on drugs by providing assistance to runaway and homeless youth, by providing drug prevention activities related to youth gangs, and by providing temporary child care, crisis nurseries and abandoned infants assistance to children impacted by drugs, $23,750,000.

DEPARTMENT OF EDUCATION

SCHOOL IMPROVEMENT PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

To ensure a drug free learning environment for American students by carrying out the Drug-Free Schools and Communities Act of 1986, as amended, part F of title IV of the Elementary and Secondary Education Act, as amended, and the Department of Education Organization Act, $183,500,000: Provided, That of this amount $170,000,000 shall be for State grants under part B, which become available on July 1, 1990 and remain available until September 30, 1991; $2,000,000 shall be for innovative alcohol abuse programs under section 4607; $7,500,000 shall be for teacher training under part C; $2,000,000 shall be for national programs under part D; and $2,000,000 shall be transferred to "Departmental Management, Program Administration" for administrative costs: Provided further, That of the amounts available for part B, not less than $25,000,000 shall be for section 5121(a) for urban and rural emergency grants: Provided further, That funds available under the "Department of Education Appropriations Act, 1990" for "Rehabilitation Services and Handicapped Research" shall also be available for activities under title II of Public Law 100-407; funds available for "School Improvement Programs" shall also be available for activities under title IX of the Education for Economic Security Act, as amended; and funds available for "Student Financial Assistance" shall be administered without regard to section 411F(1) of the Higher Education Act of 1965 (20 U.S.C. 1001 et. seq.), and the term "annual adjusted family income" shall, under special circumstances prescribed by the Secretary of Education, mean the sum received in the first calendar year of the award year from the sources described in that section.

RELATED AGENCY

ACTION

OPERATING EXPENSES

For an additional amount for substance abuse prevention and education activities under Part C of title I of the Domestic Volunteer Service Act of 1973 as amended, $1,500,000, of which not more than $150,000 may be used for administrative expenses.

CHAPTER IV

DEPARTMENT OF THE TREASURY

BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

SALARIES AND EXPENSES

To fight the war against armed career criminals, an additional amount of $10,000,000 for the hiring, training and equipping of additional agents and inspectors to enhance the arrest and conviction of armed career criminals who violate Federal firearms statutes.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

To fight the war on drugs, an additional amount of $18,000,000, of which $15,000,000 shall be available to undertake investigations to counter drug-related money laundering or other law enforcement activities, and of which $3,000,000 shall be available to increase the air interdiction program staffing level to 960 permanent full-time equivalent positions: Provided, That none of the additional funds shall be made available for the establishment of the Financial Crimes Enforcement Network without the advance approval of the House and Senate Committees on Appropriations.

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

To fight the war on drugs, an additional $35,800,000, to remain available until expended, for the procurement of interceptor and support aircraft, and to provide for the operation and maintenance expenses of these assets to more effectively interdict the illegal importation of drugs into the United States.

CUSTOMS FORFEITURE FUND

(LIMITATION ON AVAILABILITY OF DEPOSITS)

To fight the war on drugs, an additional amount of $5,000,000, to be derived from deposits in the Fund, for authorized law enforcement purposes.

INTERNAL REVENUE SERVICE

INVESTIGATION, COLLECTION, AND TAXPAYER SERVICE

To fight the war on drugs, an additional amount of $5,000,000 for criminal investigative activities to support a vigilant enforcement of Federal tax law violations and money laundering related to illegal narcotics activity.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

To fight the war on drugs, an additional amount of $25,000,000 for drug control activities related to the designation of high intensity drug trafficking areas: Provided, That from within available funds, the Office of National Drug Control Policy, in conjunction with other departments and agencies, shall undertake assessments of program effectiveness of all federally funded anti-drug programs for the purposes of determining their impact in reducing the illegal drug problem, including their impact on the production, importation, cost availability, and use of drugs, as well as on the successful treatment and rehabilitation of users and addicts: Provided further, That said assessments shall contain comparative cost-benefit and cost-effectiveness data to aid in determination of the absolute and relative value of each program in reducing the illegal drug problem.

SPECIAL FORFEITURE FUND

For Federal prison construction purposes to incarcerate drug traffickers and others who violate Federal statutes, an amount not to exceed $115,000,000, to be derived from deposits in the Fund, and to remain available until expended.

CHAPTER V

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

MEDICAL CARE

For providing necessary medical care and treatment to eligible veterans with alcohol or drug dependence or abuse disabilities, an additional $50,000,000, which shall be available only for programs and activities described in section 2502(b) of the Anti-Drug Abuse act of 1988 (Public Law 100-690), and as authorized under chapter 17 of title 38 United States Code.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

To fight the war on drugs and eliminate drug-related crime in public housing projects, without regard to section 9(d) of the United States Housing Act of 1937 (42 U.S.C. 1437), an additional $50,000,000, which shall be available only for grants authorized under the Public Housing Drug Elimination Act of 1988 (42 U.S.C. 11901 et seq.) and subject only to the requirements of such Act for project security, physical improvements, enforcement activities, support for voluntary organizations, and innovative programs designed to reduce drug use in and around public housing projects: Provided, That $1,000,000 shall be available for contracts, including the provision of technical assistance to public housing officials and resident groups to better prepare and educate them to confront the widespread abuse of controlled substances in public housing projects, pursuant to the Drug-Free Public Housing Act of 1988 (42 U.S.C. 11922, 11923).

CHAPTER VI

DEPARTMENT OF ENERGY

NUCLEAR WASTE DISPOSAL FUND

In order to provide funds for the war on drugs, funds appropriated by the Energy and Water Development Appropriations Act for Fiscal Year 1990 (Public Law 101-101) for the "Nuclear Waste Disposal Fund" are reduced by $46,000,000.

CLEAN COAL TECHNOLOGY

The second paragraph under this head contained in the Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending Sep-

tember 30, 1990 is amended by striking "$450,000,000" and inserting "$419,000,000" and by striking "$125,000,000" and inserting "$156,000,000".

SPR PETROLEUM ACCOUNT

Outlays in fiscal year 1990 resulting from the use of funds appropriated to this account in the Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1990 shall not exceed $145,125,000: Provided, That for purposes of section 202 of Public Law 100-119 (2 U.S.C. 909) this action is a necessary (but secondary) result of a significant policy change.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

LAND ACQUISITION AND DEVELOPMENT FUND

The authority to borrow from the Treasury of the United States provided under this heading in the Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1990, is hereby reduced to $100,000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH CARE FINANCING ADMINISTRATION

PROGRAM MANAGEMENT

Notwithstanding the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1990, the amount available for Health Care Financing Administration Program Management shall include not to exceed $1,885,172,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance, the Federal Supplementary Medical Insurance, the Federal Catasrophic Drug Insurance, and the Federal Hospital Insurance Catastrophic Coverage Reserve Trust Funds.

LEGISLATIVE BRANCH

In order to provide funds for the war on drugs, each discretionary appropriation for fiscal year 1990 provided in the Legislative Branch Appropriations Act, 1990, (H.R. 3014), shall be reduced by 0.43 percent: Provided, That $3,578,000 representing excess receipts from the sale of publications shall be transferred from the Government Printing Office revolving fund to the Salaries and Expenses Appropriation of the Office of the Superintendent of Documents, Government Printing Office.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

Notwithstanding any other provision of this Act, each discretionary appropriation account, loan program, and obligation limitation in Titles I and II of this Act is hereby reduced by 0.3 percent: Provided, That the reductions made pursuant to this paragraph shall not apply to "Federal-Aid Highways (Limitation on Obligations) (Highway Trust Fund)", the obligation limitation under "Grants-in-Aid for Airports", and to any appropriation account applicable to salaries and expenses in an amount less than $45,000,000: Provided further, That this paragraph shall not reduce the minimum amount specifically designated for drug enforcement activities under "Coast Guard, Operating Expenses": Provided further, That, notwithstanding any other provision of this paragraph, the obligation limitation under the head "Grants-in-Aid for Airports" is hereby reduced to $1,425,000,000 and the obligation limitation under the head "Federal-Aid Highways (Limitation on Obligations) (Highway Trust Fund)" is hereby reduced to $12,210,000,000: Provided further, That $25,000,000 of unobligated contract authority available for airport planning and development under section 505(a) of the The Airport and Airway Improvement Act of 1982, as amended, is rescinded.

DEPARTMENT OF THE TREASURY

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $14,000,000 are rescinded.

INTERNAL REVENUE SERVICE

SALARIES AND EXPENSES

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $141,000 are rescinded.

PROCESSING TAX RETURNS

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $1,499,000 are rescinded.

EXAMINATION AND APPEALS

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $3,488,000 are rescinded.

INVESTIGATION, COLLECTION, AND TAXPAYER SERVICE

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $2,299,000 are rescinded.

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

The limitation established under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, for the rental of space, as well as the aggregate limitation established thereunder, are reduced by $14,400,000.

FEDERAL PROPERTY RESOURCES SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $945,000 are rescinded.

CHAPTER VII

OFFICE OF NATIONAL DRUG CONTROL POLICY

Not later than 30 days after the enactment of this Act, the Director of National Drug Control Policy shall report on how funds made available under Title IV of this Act have been allocated and shall, for each quarter of the fiscal year thereafter, within 45 days following the close of the quarter, report on how these funds have been obligated. Reports made under this section shall be filed with the House of Representatives and the Senate and made available to the Committees on Appropriations and other committees as appropriate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment provided $3,187,224,000 in emergency funding for the war on drugs. The conferees have agreed to include this funding with only a few modifications from the Senate proposal. These funds are desperately needed to effectively deal with the terrible problem of illegal drugs in the country. The conferees believe that through the careful application of these funds we can begin to regain control of this problem.

The problem is not simply lack of money or organizations dealing with the problem. Increased funding has been appropriated in fiscal years 1986, 1987, 1988, 1989, and now in 1990.

But this is war, and to fight this war effectively, we must implement an overall plan. The 41 Federal departments and agencies responsible for those multiple programs have done as well as they can, but the overlapping Federal, State, and local programs to reduce the supply of, and the demand for, drugs in this country require a central control, with authority to cross jurisdictions.

We need more than coordination. We need operational ability in law enforcement though education must follow with strong leadership and central authority to carry out the plan. We must guarantee that all the programs that can contribute to an agreed upon national drug policy are under a central control if we are to reach our goal.

In addition it is important to stress the use of available military facilities for use as prisons, or, as proposed in H.R. 1591 and Public Law 101-45, the FY 1989 supplemental, Civilian Conservation Corps-type camps for drug offenders.

The Senate amendment included provisions on funding reductions to keep the emergency drug funding deficit neutral. The conferees have not included the Senate proposed mechanism to achieve the required cuts. Instead, specific reduction amounts were assigned to each of the 13 appropriations subcommittees. These subcommittees, in turn, determined how to implement their share of the total reduction. Chapter VI of Title IV contains the required reductions for the subcommittees whose regular bills had completed conference prior to development of this conference report. For the remaining subcommittees, their reduced amounts are factored into their regular bills.

Explanation of the emergency drug funding and necessary reductions included in Title IV follows:

CHAPTER I

DEPARTMENT OF JUSTICE, THE JUDICIARY, THE STATE JUSTICE INSTITUTE

The conference agreement provides a total of $1,916,940,000 as proposed by the Senate for agencies of the Justice Department, the Federal courts and the State Justice Institute, involved in law enforcement efforts against illegal drug trafficking. The House bill contained no similar provision.

The conference agreement for these drug and violent crime-related accounts, when added to amounts provided for these agencies in H.R. 2991 (Fiscal Year 1990 Appropriations for the Departments of Commerce, Justice and State, the Judiciary and Related Agencies), exceeds by $183,000,000 the amounts requested by the Administration. The conferees agree that appropriations provided in Chapter I of this Act be obligated under the terms and conditions identified in the conference report (101-299) and Statement of Managers accompanying H.R. 2991. The following table identifies the total amount available for these drug-related agencies for fiscal year 1990:

FISCAL YEAR 1990 FUNDING—DRUG-RELATED AGENCIES

[In millions of dollars]

	Fiscal year 1990 budget request	Appropriations		
		Conference H.R. 2991 [1]	Title IV H.R. 3015	Total available
Department of Justice:				
General administration	$101	$87	$10	$97
General legal activities	304	258	41	299
U.S. attorneys	526	445	81	526
U.S. marshals	241	217	24	241
Support of U.S. prisoners	160	137	23	160
Fees and expenses of witnesses	57	57		57
Assets forfeiture fund	100	75	25	100
Organized crime drug enforcement	215	169	46	215
Federal Bureau of Investigation	1,550	1,453	97	1,550
Drug Enforcement Administration	556	492	64	556
Immigration and Naturalization Service	891	878	17	895
Federal Prison System:				
Salaries and expenses	1,153	1,098	55	1,153
National Institute of Corrections	10	10		10
Buildings and facilities	1,401	401	1,000	1,401
Office of justice programs	446	330	309	639
Subtotal	7,711	6,107	1,792	7,899
Judiciary:				
Courts of appeals, district Courts and other services	1,350	1,288	60	1,348
Defender services	128	87	41	128
Fees of jurors	59	55	4	59
Court security	58	43	15	58
Subtotal	1,595	1,473	120	1,593
State Justice Institute:				
Salaries and expenses	15	8	4	12
Grand total	9,321	7,588	1,916	9,504

[1] If authorized.

CHAPTER II

DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND THE INTERIOR

The managers have included a total of $4,000,000 for the Bureau of Indian Affairs and $8,750,000 for the Indian Health Service. The funds for the Bureau include $3,000,000 for emergency shelters and $1,000,000 for construction of juvenile detention centers.

CHAPTER III

The conference agreement allocates the funding provided in Chapter III as follows:

Department of Labor

Employee Assistance	$2,000,000

Department of Health and Human Services

Alcohol, Drug Abuse and Mental Health Administration:	
Block grant	$415,000,000
Waiting period reduction grants	[1] 40,000,000
Crisis area treatment grants	20,000,000
Homeless substance abuse demos	7,000,000
Quality of treatment grants	40,000,000
OSAP prevention grants.	45,000,000
Community youth activities	5,000,000
New community prevention grants	40,000,000
NIDA research	25,000,000
Treatment demonstrations	40,000,000
NIAAA research	20,000,000
Treatment outcome evaluations	3,000,000
Training	20,000,000
Direct operations	7,000,000
Subtotal, ADAMHA	727,000,000
Community Services Block Grant:	
Block grant	$1,000,000
National Youth Sports Program	1,000,000
Subtotal, CSBG	2,000,000
Human Development Services:	
Runaway youth	$1,250,000
Abandoned infants	6,000,000
Runaway youth—transitional living	5,000,000
Runaway youth—drugs	5,000,000
Youth gangs	3,500,000
Child care/crisis nurseries	3,000,000
Subtotal, HDS	23,750,000
Subtotal, HHS	752,750,000

Department of Education

School improvement:	
Drug-free schools State grants	$170,000,000
Teacher training	7,500,000
National programs	2,000,000
Alcohol abuse	2,000,000
Salaries and expenses	2,000,000
Subtotal, Education	183,500,000
Action	$1,500,000
Total	939,750,000

[1] If authorized.

The conferees have provided funding for drug abuse prevention, treatment, and education under existing program authorities. They are aware, however, that additional authorizing legislation may be enacted subsequent to the passage of appropriations. The conferees would expect the Departments to submit a reprogramming a request to the Appropriations Committees if they determine that this is needed to better conform appropriations and authorizing action.

The conferees have provided extended funding availability for the drug abuse block grant to States so that States will be able to obligate the funds provided through March 31, 1991 and to outlay the funds through March 31, 1992. The conferees expect, however, that the Administration will take no action to prevent the States from having access during fiscal year 1990 to the entire amount provided and that every effort will be made to ensure that all of these funds are immediately put to use in the war on drugs.

The conferees are agreed that with the rise of cocaine and heroin abuse the development of new medications for the treatment of drug abuse is one of the highest priorities for NIDA. Research is currently underway on numerous new medications that hold great promise in counteracting the addictive properties of cocaine and opiates. These include agents which may block the euphoric effects of these drugs, prevent craving, and ameliorate their toxic effects. The conferees encourage further research into treatment agents which do not cross the placental barrier so that pregnant addicts can be treated without risk to the fetus. The successful development of these medications could provide the means to counteracting drug addiction and to stem demand for narcotics, cocaine, and other illegal drugs.

In addition, the conferees agree that the amount for national programs under Drug-free Schools shall be allocated on a prorata basis among activities under national programs.

The conference agreement provides $7,000,000 for direct operations for the Alcohol, Drug Abuse and Mental Health Administration. The conferees intend that these funds be distributed throughout the agency for additional expenses associated with implementing the substance abuse programs funded in this bill.

The conference agreement also includes legislative language under the School Improvement account clarifying three legislative citations for programs funded under the regular fiscal year 1990 Appropriations Act for the Department of Education. These citations are technical in nature and do not change any of the amounts agreed to by the conferees (H.Rpt. 101-274). These citations involve Star Schools, Technology Assistance for the Handicapped and student financial assistance.

CHAPTER IV

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

SALARIES AND EXPENSES

The Conferees have provided an additional $10,000,000 for the hiring, training and equipping of additional agents and inspectors to enhance the Bureau's ability to implement the Armed Career Criminal Apprehension Act of 1984, as amended. This amount will satisfy the President's request of June 1, 1988 in addition to providing the necessary funds to implement the authorization contained within the Anti-Drug Abuse Act of 1988, Public Law 100-690.

U.S. Customs Service

SALARIES AND EXPENSES

The Conferees have provided an additional $18,000,000 for drug enforcement purposes within the "Salaries and expenses" account of the U.S. Customs Service. Of this amount, the Conferees intend that $15,000,000 will be used to hire, train and equip additional personnel to conduct money laundering investigations or other law enforcement activities. The Conferees are aware of the Administration's proposal to establish a Financial Crime Enforcement Network (FINCEN) within the Department of the Treasury. The Conferees believe that the concept of a centralized facility to gather and coordinate intelligence information on money laundering activities has significant merit. However, the Conferees have serious reservations about providing additional funding for an initiative which has no detailed implementation plan and has not received the necessary endorsement from other Federal agencies which have been identified as key participants. Consequently, the Conferees intend that the Department of the Treasury develop a complete implementation plan for FINCEN before these additional funds can be used. In the meantime, the $3,000,000 provided to the U.S. Customs Service for money laundering investigations, in the "Treasury, Postal Service and General Government Appropriations Act, 1990", is available for initial development of this financial network.

The Conferees applaud the initiative taken by the U.S. Customs Service to establish a program which will result in a more vigilant attack on money laundering. If the Treasury Department wishes to expand this initiative in fiscal year 1990, then the Department should submit a request to repro-

gram existing funds to the Committees on Appropriations. This request must include a detailed budget justification for the establishment of this money laundering network. In addition this request should be accompanied by a fully developed implementation plan which demonstrates the endorsement of the agencies which have been identified as necessary participants.

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

The Conferees have provided an additional $35,800,000 for the procurement of aircraft assets for the U.S. Customs Service to carry-out its lead drug air interdiction mission. $35,000,000 of these funds are intended for the procurement of interceptor aircraft and the remaining $800,000 shall be used to refurbish surplus military helicopters transferred to the Service for on-the-ground investigative purposes.

CUSTOMS FORFEITURE FUND

(LIMITATION ON AVAILABILITY OF DEPOSITS)

The Conferees have approved an additional $5,000,000 in spending authority for the Customs Forfeiture Fund, to be derived from deposits in the Fund, for carrying-out the purposes of the Trade and Tariff Act of 1984, as amended. This increase will enable the Customs Service to share additional resources, derived from forfeited assets, with State and local law enforcement agencies which assist the Customs Service in their law enforcement mission.

INTERNAL REVENUE SERVICE

INVESTIGATION, COLLECTION AND TAXPAYER SERVICE

The Conferees have provided an additional $5,000,000 for the Internal Revenue Service's Criminal Investigation Division. These funds, added to the additional $7,400,000 made available in the Treasury, Postal Service and General Government Appropriations Act, 1990, will permit the Service to increase its investigative activities related to tax code violations as well as intensify its efforts to uncover drug-related money laundering activities.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

The Conferees have provided an additional $25,000,000 to permit the Director of the Office of National Drug Control Policy (ONDCP) to undertake activities related to the designation of high-intensity drug trafficking areas throughout the nation. These funds will enable the Director of ONDCP to implement the authorizations contained in the Anti-Drug Abuse Act of 1988, Public Law 100-690, and enhance drug control efforts in those regions where drug trafficking has reached epidemic proportions. The Conferees expect the Director of ONDCP to report to the House and Senate Committees on Appropriations by February 1, 1990 on the areas he will designate for the use of these funds. This report should also contain an explanation of why these particular areas were chosen.

ANTI-DRUG PROGRAM ASSESSMENT

Funding for anti-drug programs has increased significantly over the past several years, but little information has been available as to whether these anti-drug programs and the increased funding for them have had a positive impact on the problem. Furthermore, even less information has been available on which programs have the greatest impact. The Survey on U.S. Anti-Drug Abuse Programs conducted by the House Appropriations Surveys and Investigations Staff in October of 1988 noted many programs for which no formal assessment of program effectiveness had been carried out. The National Drug Control Strategy does not emphasize this area. In making funding decisions, it would be useful to have an overview of the accomplishments of each of these programs as well as estimates of the expected benefits of additional spending for a particular program, and how those benefits compare with additional spending on other programs. Within a month after enactment of this Act, the ONDCP is expected to report to the Committees on Appropriations of the House and Senate on the program assessments that have been conducted and within two months after enactment of this Act, the ONDCP is expected to produce a plan and timetable for carrying out the requirements of this section.

ANTI-DRUG ABUSE FUNDING LEVELS

While approving these funds for Federal anti-drug abuse programs, the conferees are concerned that a lack of precision in drug funding budget information may be misleading the American people as to the scope of these efforts. What constitutes anti-drug funding, and what it does not, is not clear under current budget accounts.

Section 1003(c) of the Anti-Drug Abuse Act of 1988 spells out procedures under which the national drug control program budget is to be developed by the Director of National Drug Control Policy, or the "Drug Czar." Those procedures appear adequate on paper. However, the conferees note that agency budget numbers now available to the Director and to Congress appear, in some cases, to lump anti-drug funding with other non-drug related agency operations and, in other cases, may not include all activities that might be considered drug related.

For instance, when the Congress receives tabulations of the status of drug account obligations from the Department of Justice, they are full agency accounts. A footnote tells us that "in many cases it is not possible to break down these accounts into discrete drug sub-accounts." The tables include the entire budgets for the FBI, U.S. Atorneys, the Immigration and Naturalization Service and the Bureau of Prisons. Those agencies certainly are responsible for many non-drug related activities, yet no further breakdown is provided.

On the other hand, the Department of Defense has neglected to include all drug-related activities in their anti-drug budgets. Demand reduction, drug testing, drug education and military police efforts in the drug area have been treated as ongoing personnel matters and have not been included in anti-drug budget totals.

If the Congress is ever to get a handle on the comparative effectiveness of anti-drug programs, it is imperative that we know how much is being spent for what. The conferees direct the Director of National Drug Control Policy, working together with the Office of Management and Budget and program managers of departments and agencies, to report to the Committees on Appropriations no later than March 15, 1990, on methods by which more accurate anti-drug funding data will be made available to Congress.

SPECIAL FORFEITURE FUND

The Conferees are agreed that of the total amount made available from the Special Forfeiture Fund $115,000,000 will be used for Federal prison construction purposes. The Conferees expect the Director to provide to the Committees on Appropriations of the House and Senate a report on how future funds, which become available in the Special Forfeiture Fund, will be expended As required by Public Law 100-690, as amended.

REDUCTIONS IN APPROPRIATIONS ACCOUNTS

The conferees have recommended a reduction in the amounts appropriated to the Internal Revenue Service (IRS) for fiscal year 1990. The conferees direct the IRS to achieve these savings in areas unrelated to activities necessary to achieve the level of revenues assumed in the Bipartisan Budget Agreement. The conferees recommend that to the maximum extent possible these reductions be achieved by reductions in travel expenses.

CHAPTER V

DEPARTMENT OF VETERANS' AFFAIRS

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

MEDICAL CARE

Appropriates $50,000,000 for drug treatment and prevention activities for veterans as proposed by the Senate. The Department of Veterans Affairs requested approximately $80,000,000 for drug and alcohol abuse and treatment prevention activities in fiscal year 1990. The conference agreement on the 1990 VA, HUD, and Independent Agencies Appropriations Act added $10,000,000 above the budget request for these purposes. This conference agreement of $50,000,000 is in addition to the funds provided to the VA in the regular 1990 Appropriations Act.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

Appropriates $50,000,000 to fight the war on drugs and eliminate drug-related crime in public housing projects as proposed by the Senate. These funds are for grants authorized by the Public Housing Drug Elimination Act of 1988. This amount is in addition to $50,000,000 in the conference agreement on the 1990 VA, HUD, and Independent Agencies Appropriations Act for this purpose. The conferees have included language earmarking $1,000,000 of this amount for the contract costs of establishing and operating the clearinghouse on drug abuse and the regional training program for public housing officials as required by sections 5143 and 5144 of the Drug-Free Public Housing Act of 1988, as well as for technical assistance to public housing officials and resident groups to better prepare them to confront the widespread abuse of controlled substances in public housing projects.

In distributing these funds, and the nearly $50,000,000 provided in the 1990 VA, HUD, and Independent Agencies Appropriations Act, the conferees direct that HUD follow the criteria set forth in the 1988 Drug Act. The conferees intend that the General Accounting Office will carefully monitor all awards to ensure that the funds are distributed according to the legislative criteria and in an equitable manner to the areas most in need.

CHAPTER VI

DEPARTMENT OF ENERGY

The managers have agreed to reduce the funds appropriated by the Energy and Water Development Appropriations Act for Fiscal Year 1990 (Public Law 101-101) for

the "Nuclear Waste Disposal Fund" by $46,000,000. This reduction will make funds available for the drug prevention effort.

The managers have agreed to reductions to the Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (Public Law 101-121) in order to accommodate additional drug-related appropriations.

The reductions are in three areas. The new budget authority for Clean Coal Technology of $450,000,000 for fiscal year 1990 is reduced by $31,000,000 with this same amount added to the advance appropriation for fiscal year 1991. With this change the new amount for fiscal year 1990 is $419,000,000 while fiscal year 1991 increases to $156,000,000. The second area of change is the imposition of an outlay ceiling on Strategic Petroleum Reserve oil acquisition. Outlays will be reduced from an estimated $169,945,000 to $147,125,000 and will decrease the fill rate from approximately 50,000 barrels per day to approximately 46,000 or 47,000 barrels per day. The third reduction relates to the Pennsylvania Avenue Development Corporation. The borrowing authority is reduced from $5,000,000 to $100,000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

The conference agreement includes bill language reducing the amount of funds transferred from trust funds to the Health Care Financing Administration Program Management account by $32,000,000, from $1,917,172,000 to $1,885,172,000. This reduction, along with the outlays reserved from the regular 1990 Labor, Health and Human Services, and Education appropriations bill, will be sufficient to support the Subcommittee's share of the cost of anti-drug abuse funding. The conferees intend that the reduction in trust fund transfers be associated with activities to implement catastrophic health insurance, where funding needs may be diminished.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

The conferees agree that, in order to partially fund the high priority emergency drug abuse prevention programs contained in Title IV of this Act, all discretionary appropriations, loan programs, and obligation limitations contained in Titles I and II of this Act for the Department of Transportation and related agencies shall be reduced by 0.3 percent. This across-the-board reduction shall not reduce the minimum amount specifically designated in the bill for drug enforcement activities under "Coast Guard, Operating Expenses". In addition, the across-the-board reduction does not apply to the obligation limitations for "Grants-in-Aid for Airports" and for "Federal-Aid Highways". Instead, Title IV sets revised obligation limitations of $1,425,000,000 for "Grants-in-Aid for Airports" and $12,210,000,000 for "Federal-Aid Highways". The conference agreement also rescinds $25,000,000 in unobligated contract authority available for airport planning and development. In addition, the conference agreement exempts from the 0.3 percent across-the-board reduction all Department of Transportation and related agency salaries and expenses accounts of less than $45,000,000 and all mandatory appropriation accounts. These accounts are as follows:

Immediate Office of the Secretary.
Immediate Office of the Deputy Secretary.
Office of the General Counsel.
Office of the Assistant Secretary for Policy and International Affairs.
Office of the Assistant Secretary for Budget and Programs.
Office of the Assistant Secretary for Governmental Affairs.
Office of the Assistant Secretary for Administration.
Office of the Assistant Secretary for Public Affairs.
Executive Secretariat.
Contract Appeals Board.
Office of Civil Rights.
Office of Commercial Space Transportation.
Office of Essential Air Service.
Office of Small and Disadvantaged Business Utilization.
Commission on Aviation Security and Terrorism.
Retired pay.
Motor carrier safety.
Office of the administrator (FRA).
Railroad safety.
Administrative expenses (UMTA).
Operations and maintenance (SLSDC).
Research and special programs (RSPA).
Salaries and expenses (IG).
Salaries and expenses (ATBCB).
Salaries and expenses (NTSB).
Salaries and expenses (ICC).
Interest payments (WMATA).

The conferees agree that all reductions necessitated by this section shall be applied in the same manner as sequestration.

CHAPTER VII

OFFICE OF NATIONAL DRUG CONTROL POLICY

The conferees have included reporting requirements for emergency drug funding. The drug czar is required to submit an initial report on how the money in this title is allocated within 30 days after enactment. Subsequently, quarterly reporting is required on the progress in spending these funds within 45 days of the close of the quarter. Reports are required to be made to the House of Representatives and the Senate and to the Committees on Appropriations and other committees, as appropriate.

Amendment No. 137: Deletes language proposed by the Senate regarding authorizations for treatment grants and a perinatal addiction resource center. The conferees have agreed to delete this language since it is included in S. 1735 and it will be addressed by the appropriate legislative Committees.

Amendment No. 138: Deletes language proposed by the Senate regarding authorization of emergency protective child services grants. The conferees have agreed to delete this language since it is included in S. 1735 and it will be addressed by the appropriate legislative Committees.

Amendment No. 139: Deletes language proposed by the Senate regarding authorization of training grants. The conferees have agreed to delete this language since it is included in S. 1735 and it will be addressed by the appropriate legislative Committees.

Amendment No. 140: Deletes language proposed by the Senate regarding drug abuse prevention plans at institutions of higher education and local educational agencies and drug testing of students participating in extracurricular activities and deletes language proposed by the Senate regarding alcohol and controlled substances testing in the aviation, motor vehicle, and railroad areas. The conferees have agreed to delete this language since it is included in S. 1735 and it will be addressed by the appropriate legislative Committees.

Amendment No. 141: Deletes two general provisions (Sec. 407 and 408) proposed by the Senate. The House bill contained no similar provisions.

Sec. 407 would have amended provisions included in the Anti-Drug Abuse Act of 1988 relating to the seizure of forefeited assets. The conferees have agreed to delete this language since it is included in S. 1735 and it will be addressed by the appropriate legislative Committees.

Sec. 408 would have amended Section 6077 of the Anti-Drug Abuse Act of 1988 to repeal language dealing with the equitable sharing of forefeited assets with State and local law enforcement agencies. The conferees have agreed to delete this provision since it has been addressed in the conference report (101-299) accompanying H.R. 2991, the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1990.

Amendment No. 142: Deletes language proposed by the Senate regarding State drug treatment plans. The conferees have agreed to delete this language since it is included in S. 1735 and it will be addressed by the appropriate legislative Committees.

Amendment No. 143: Deletes language proposed by the Senate concerning waivers related to Colombia, Bolivia and Peru. These waivers will be handled through the regular Foreign Operations appropriations and authorizing bills.

Amendment No. 144: Deletes language proposed by the Senate regarding modifications of the alcohol, drug abuse and mental health block grant formula, authorization of emergency grants to schools in urban and rural areas with severe drug problems, and technical changes. The conferees have agreed to delete this language since it is included in S. 1735 and it will be addressed by the appropriate legislative Committees.

EMERGENCY DRUG FUNDING

	New budget (obligational) authority
TITLE V—EMERGENCY DRUG FUNDING	
CHAPTER I.—DEPARTMENT OF JUSTICE	
GENERAL ADMINISTRATION	
Salaries and expenses	$10,261,000
LEGAL ACTIVITIES	
Salaries and expenses, general legal activities	41,476,000
Salaries and expenses, United States Attorneys	80,699,000
Salaries and expenses, United States Marshals Service	23,819,000
Support of United States prisoners	23,000,000
Assets forfeiture fund	25,000,000
Total, Legal activities	193,994,000
INTERAGENCY LAW ENFORCEMENT	
Organized crime drug enforcement	46,361,000
FEDERAL BUREAU OF INVESTIGATION	
Salaries and expenses	97,045,000
DRUG ENFORCEMENT ADMINISTRATION	
Salaries and expenses	64,301,000
IMMIGRATION AND NATURALIZATION SERVICE	
Salaries and expenses	16,891,000
FEDERAL PRISON SYSTEM	
Salaries and expenses	54,923,000

Buildings and facilities	1,000,000,000
Total, Federal Prison System	1,054,923,000
OFFICE OF JUSTICE PROGRAMS	
Justice Assistance	308,821,000
THE JUDICIARY	
Court of Appeals, salaries and expenses	59,550,000
Defender services	41,373,000
Fees of jurors and commissioners	4,000,000
Court security	15,400,000
Total Judiciary	120,323,000
STATE JUSTICE INSTITUTE	
Salaries and expenses	4,020,000
Total, Chapter I	1,916,940,000
CHAPTER II.—DEPARTMENT OF THE INTERIOR	
BUREAU OF INDIAN AFFAIRS	
Construction	4,000,000
DEPARTMENT OF HEALTH AND HUMAN SERVICES	
INDIAN HEALTH SERVICE	
Indian health services	7,250,000
Indian health facilities	1,500,000
Total, Department of Health and Human Services	8,750,000
Total, Chapter II	12,750,000
CHAPTER III.—DEPARTMENT OF HEALTH AND HUMAN SERVICES	
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION	
Alcohol, drug abuse, and mental health	727,000,000
FAMILY SUPPORT ADMINISTRATION	
Community services block grant	2,000,000
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES	
Human development services	23,750,000
Total, Department of Health and Human Services	752,750,000
DEPARTMENT OF EDUCATION	
School Improvement Programs	183,500,000
DEPARTMENT OF LABOR	
DEPARTMENTAL MANAGEMENT	
Salaries and expenses	2,000,000
RELATED AGENCIES	
Action	1,500,000
Total, Chapter III	939,750,000
CHAPTER IV.—DEPARTMENT OF THE TREASURY	
Bureau of Alcohol, Tobacco and Firearms	10,000,000
UNITED STATES CUSTOMS SERVICES	
Salaries and expenses	18,000,000
Operations and maintenance, air interdiction program	35,800,000
Customs forfeiture fund (limiation on availability of deposits)	5,000,000
Total, United States Customs Service	58,800,000
INTERNAL REVENUE SERVICE	
Investigation, collection, and taxpayer service	5,000,000
EXECUTIVE OFFICE OF THE PRESIDENT	
OFFICE OF NATIONAL DRUG CONTROL POLICY	
Salaries and expenses	25,000,000
Special forfeiture fund	115,000,000
Total, Office of National Drug Control Policy	140,000,000
Total, Chapter IV	213,800,000
CHAPTER V.—DEPARTMENT OF VETERANS AFFAIRS	
Medical care	50,000,000
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT	
HOUSING PROGRAMS	
Annual contributions for assisted housing	50,000,000
Total, Chapter V	100,000,000
Total, Emergency Drug Funding	3,183,240,000

Solely for consideration of Senate amendments Nos. 1 through 135 and modifications committed to conference:

WILLIAM LEHMAN,
WILLIAM H. GRAY, III,
BOB CARR,
RICHARD J. DURBIN,
R.J. MRAZEK,
MARTIN OLAV SABO,
JAMIE L. WHITTEN,
LAWRENCE COUGHLIN,
SILVIO O. CONTE,
FRANK R. WOLF,
TOM DELAY,

As additional conferees solely for consideration of Senate amendments Nos. 136 through 144 and modifications committed to conference:

JAMIE L. WHITTEN,
WILLIAM H. NATCHER,
NEAL SMITH,
SIDNEY R. YATES,
DAVID R. OBEY,
EDWARD R. ROYBAL,
TOM BEVILL,
JOHN P. MURTHA,
BOB TRAXLER,
WILLIAM LEHMAN,
JULIAN C. DIXON,
VIC FAZIO,
W.G. HEFNER,
SILVIO O. CONTE,
JOSEPH M. MCDADE,
LAWRENCE COUGHLIN,
RALPH REGULA,
MICKEY EDWARDS,
BILL GREEN,
HAROLD ROGERS,
JOE SKEEN,

Managers on the Part of the House.

For titles I-III (amendments 1-135) of H.R. 3015:

FRANK R. LAUTENBERG,
ROBERT C. BYRD,
TOM HARKIN,
JAMES R. SASSER
(with the exception of amendment No. 87),
BARBARA A. MIKULSKI,
ALFONSE M. D'AMATO,
BOB KASTEN,
PETE V. DOMENICI
(with the exception of amendment No. 87),
CHUCK GRASSLEY,
MARK O. HATFIELD,

For the purpose of the drug amendment (title IV):

ROBERT C. BYRD,
DANIEL K. INOUYE,
MARK O. HATFIELD,

The chairman and ranking minority member of the Subcommittee on Agriculture and Related Agencies for items falling within the jurisdiction of that subcommittee; for title IV:

QUENTIN N. BURDICK,
THAD COCHRAN,

The chairman and ranking minority member of the Subcommittee on Commerce, Justice, State and the Judiciary for items falling within the jurisdiction of that subcommittee; for title IV:

FRITZ HOLLINGS,
WARREN B. RUDMAN,

The chairman and ranking minority member of the Subcommittee on Defense for items falling within the jurisdiction of that subcommittee; for title IV:

DANIEL K. INOUYE,
TED STEVENS,

The chairman and ranking minority member of the Subcommittee on the District of Columbia for items falling within the jurisdiction of that subcommittee; for title IV:

BROCK ADAMS,
PHIL GRAMM,

The chairman and ranking minority member of the Subcommittee on Energy and Water Development for items falling within the jurisdiction of that subcommittee; for title IV:

J. BENNETT JOHNSTON,
MARK O. HATFIELD,

The chairman and ranking minority member of the Subcommittee on Foreign Operations for items falling within the jurisdiction of that subcommittee; for title IV:

PATRICK J. LEAHY,
BOB KASTEN,

The chairman and ranking minority member of the Subcommittee on HUD and Independent Agencies for items falling within the jurisdiction of that subcommittee; for title IV:

BARBARA A. MIKULSKI,
JAKE GARN,

The chairman and ranking minority member of the Subcommittee on Interior for items falling within the jurisdiction of that subcommittee; for title IV:

ROBERT C. BYRD,
JAMES A. MCCLURE,

The chairman and ranking minority member of the Subcommittee on Labor, Health and Human Services for items falling within the jurisdiction of that subcommittee; for title IV:

TOM HARKIN,
ARLEN SPECTER,

The chairman and ranking minority member of the Subcommittee of the Legislative Branch for items falling within the jurisdiction of that subcommittee; for title IV:

HARRY N. REID,
DON NICKLES,

The chairman and ranking minority member of the Subcommittee on Military

Construction for items falling within the jurisdiction of that subcommittee; for title IV:

JIM SASSER,
CHUCK GRASSLEY,

The chairman and ranking minority member of the Subcommittee on Transportation for items falling within the jurisdiction of that subcommittee; for title IV:

FRANK R. LAUTENBERG,
ALFONSE M. D'AMATO,

The chairman and ranking minority member of the Subcommittee on Treasury, Postal Service and General Government for items falling within the jurisdiction of that subcommittee; for title IV:

DENNIS DECONCINI,
PETE V. DOMENICI,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DORNAN of California) to revise and extend their remarks and include extraneous material:)

Mrs. BENTLEY, for 60 minutes each, on November 2, 7, 8, 9, 10, 14, 15, and 16.

Mr. MCEWEN, for 5 minutes, today.

Mr. DORNAN of California, for 60 minutes each, on November 1, 8, 9, 15, and 16.

(The following Members (at the request of Mrs. UNSOELD) to revise and extend their remarks and include extraneous material:)

Mr. ECKART, for 5 minutes, today.

Mr. SABO, for 5 minutes, today.

Mr. TORRICELLI, for 5 minutes, today.

Mr. WISE, for 5 minutes, today.

Mr. BRYANT, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. GAYDOS, for 60 minutes, on October 31.

Mr. ECKART, for 5 minutes, on October 31.

Mr. FROST, for 5 minutes, on October 31.

Mr. TORRICELLI, for 5 minutes, on October 31.

Mr. FRANK, for 60 minutes, on November 7.

Mr. MILLER of California, for 60 minutes, on November 7.

Mr. PEASE, for 5 minutes each, on October 30, 31, and November 1.

Mr. DYMALLY, for 5 minutes each, on October 30 and 31.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DORNAN of California) and to include extraneous matter:)

Mr. GINGRICH.

Mr. LAGOMARSINO.

Mr. PACKARD.

Mr. RITTER.

Mr. EMERSON.

Mr. BURTON of Indiana.

Mr. GREEN in two instances.

Mr. CAMPBELL of California.

Mr. SHUMWAY.

Mr. GEKAS.

Mr. SMITH of New Jersey.

Mr. HORTON.

Mr. BALLENGER.

Mr. MCGRATH.

Mrs. ROS-LEHTINEN.

(The following Members (at the request of Mrs. UNSOELD) and to include extraneous matter:)

Mr. MRAZEK.

Mr. HAMILTON.

Mr. DINGELL.

Mr. LAFALCE.

Mr. ACKERMAN in two instances.

Mr. SAWYER.

Mr. MCMILLEN of Maryland.

Mr. BONIOR.

Mr. KOLTER in two instances.

Mr. SMITH of Florida.

Mr. TALLON.

Mr. ASPIN.

Mr. WOLPE.

Mrs. COLLINS.

Mr. HERTEL.

Mr. MFUME.

Mr. MANTON.

ENROLLED JOINT RESOLUTION SIGNED.

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 241. Joint resolution designating October 25, 1989, as "National Arab-American Day."

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 120. Joint resolution to designate the period commencing November 12, 1989, and ending November 18, 1989, as "Geography Awareness Week."

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills and a joint resolution of the House of the following title:

On October 25, 1989:

H.R. 2989. An act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1930, and for other purposes;

H.R. 3026. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1989, and for other purposes; and

H.J. Res. 423. Joint resolution making further continuing appropriations for fiscal year 1990, and for other purposes.

ADJOURNMENT

Mr. ECKART. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 22 minutes p.m.), the House adjourned until tomorrow, Friday, October 27, 1989, at 10 a.m.

OATH OF OFFICE—MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> "I, Gene Taylor, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. so help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Members of the 101st Congress, pursuant to the provisions of 2 U.S.C. 25:

Hon. GENE TAYLOR, Fifth District, Mississippi.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1896. A letter from the Acting Chairman, Federal Maritime Commission, transmitting a report on the implementation of the provisions of section 8E of the Inspector General Act, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

1897. A letter from the Principal Deputy Comptroller of the Department of Defense, transmitting notification of the transfers of authorized and appropriated DOD funds, pursuant to Public Law 98-473, section 8025 (98 Stat. 1928); Public Law 99-591, section 9015 (100 Stat. 3341-103); Public Law 100-202 section 8015 (101 Stat. 1329-65); jointly, to the Committees on Appropriations and Armed Services.

REPORT OF COMMITTEE ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce, H.R. 2642. A bill granting the consent of the Congress to amendments to the Southeast Interstate Low-Level Radioactive Waste Management Compact; with an amendment (Rept. 101-238, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Science, Space, and Technology. Oversight of the National Science Foundation fiscal year 1990 programs (Rept. 101-309). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Science, Space, and Technology. Setting priorities in science and technology (Rept. 101-310). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 2612. A bill to provide temporary authority to certain employees of the Panama Canal Commission to purchase food and other goods at any commissary or exchange store located in Panama which is operated by any military department of the United States. (Rept. 101-311, Pt. 1). Ordered to be printed.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 3199. A bill to amend title 38, United States Code, to establish a program to provide postsecondary educational assistance to students in health professions who are eligible for educational assistance under the Reserve GI Bill Program in return for agreement for subsequent service with the Department of Veterans Affairs; with amendments (Rept. 101-312). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 3390. A bill to amend title 38, United States Code, with respect to certain veterans' education programs, and for other purposes; with amendments (Rept. 101-313). Referred to the Committee of the Whole House on the State of the Union.

Mr. FROST: Committee on Rules. House Resolution 275. Resolution providing for the consideration of H.R. 3443, a bill to amend the Federal Aviation Act of 1958 to provide for review of certain acquisitions of voting securities of air carriers, and for other purposes (Rept. 101-314). Referred to the House Calendar.

Mr. LEHMAN of Florida: Committee of conference. Conference report on H.R. 3015 (Rept. 101-315). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. COLLINS:

H.R. 3529. A bill to amend the Federal Property and Administrative Services Act of 1949 to establish a term of office for the Administrator of General Services; to the Committee on Government Operations.

By Mr. BOEHLERT (for himself, Mr. MARTIN of New York, Mr. GILMAN, Mr. SMITH of Vermont, Mr. RIDGE, Ms. SLAUGHTER of New York, Mr. GEKAS, Mr. TOWNS, Mr. HOUGHTON, Ms. SNOWE, and Mr. TALLON):

H.R. 3530. A bill to improve rural development in the United States: to the Committee on Agriculture.

By Mr. CARDIN:

H.R. 3531. A bill to exclude the receipts and disbursements of the Social Security trust funds, the highway trust fund, and the airport and airway trust fund from the calculation of deficits and maximum deficit amounts under the Balanced Budget and Emergency Control Act of 1985, and for other purposes; to the Committee on Government Operations.

By Mr. EDWARDS of California:

H.R. 3532. A bill to extend the U.S. Commission on Civil Rights; to the Committee on the Judiciary.

By Mr. EMERSON (for himself, Mr. BROWN of California, Mr. BOEHLERT, Mr. WALGREN, Mr. HUBBARD, Mr. HANCOCK, Mr. SKELTON, Mr. SUNDQUIST, Mr. TANNER, Mr. CAMPBELL of California, Mr. ALEXANDER, Mr. POSHARD, and Mr. BUECHNER):

H.R. 3533. A bill to amend the Earthquake Hazards Reduction Act of 1977 to improve the Federal effort to reduce earthquake hazards, and for other purposes; jointly, to the Committee on Interior and Insular Affairs and Science, Space, and Technology.

By Mr. FAZIO:

H.R. 3534. A bill to provide for the extension of the Tehama-Colusa Canal in California; to the Committee on Interior and Insular Affairs.

By Mr. LAFALCE:

H.R. 3535. A bill to amend the Small Business Act to establish a Small and Minority Business Subcontracting Demonstration Program, and for other purposes; to the Committee on Small Business.

By Mr. LAGOMARSINO (for himself, Mr. MURPHY, Mr. COLEMAN of Missouri, Mr. SKELTON, and Mr. GREEN):

H.R. 3536. A bill to provide for a referendum on the political status of Puerto Rico; jointly, to the Committees on Interior and Insular Affairs and Rules.

By Mr. MFUME:

H.R. 3537. A bill to establish a national center for information and technical assistance relating to all types of family resource and support programs, and for other purposes; to the Committee on Education and Labor.

By Mr. MICHEL (for himself and Mr. ANNUNZIO)

H.R. 3538. A bill to provide an additional judgeship for the Northern District of Illinois, and to provide an additional temporary judgeship for each of the Northern, Central, and Southern Districts of Illinois; to the Committee on the Judiciary.

By Mr. SCHUETTE:

H.R. 3539. A bill to provide for the imposition of the death penalty for the terrorist murder of U.S. nationals abroad; to the Committee on the Judiciary.

By Mr. TALLON (for himself and Mr. RAVENEL):

H.R. 3540. A bill to amend the Disaster Assistance Act of 1989 to clarify provisions relating to disaster payments for nonprogram crops on acres in Presidential disaster areas due to Hurricane Hugo, and for other purposes; to the Committee on Agriculture.

By Mr. SOLARZ (for himself and Mr. LEACH of Iowa):

H. Con. Res. 217. Concurrent resolution honoring the centennial of the birth of India's Pandit Jawaharlal Nehru; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 8: Mr. HUTTO.

H.R. 39: Mr. COURTER, Mr. POSHARD, and Mr. JOHNSTON of Florida.

H.R. 41: Ms. SLAUGHTER of New York, and Mr. HAYES of Illinois.

H.R. 84: Mr. NELSON of Florida.

H.R. 140: Mr. CARPER and Ms. SLAUGHTER of New York.

H.R. 215: Mr. DELLUMS and Mr. VALENTINE.

H.R. 746: Mr. PARKER and Mr. GEREN.

H.R. 913: Mr. MCNULTY and Mr. MONTGOMERY.

H.R. 978: Mr. ROBINSON.

H.R. 1044: Mr. OWENS of New York.

H.R. 1136: Mr. OBEY and Mr. GILMAN.

H.R. 1306: Mr. ROWLAND of Connecticut.

H.R. 1515: Mr. DYMALLY, Mr. ROBINSON, Mr. CRAIG, Mr. DELAY, Mr. DOUGLAS, Mr. HANCOCK, Mr. HANSEN, Mr. EDWARDS of Oklahoma, Mr. COUGHLIN, and Mr. WOLF.

H.R. 1699: Mr. VENTO, Mr. MILLER of California, Mr. OBEY, Mr. WOLF, Mr. RIDGE, Mr. GLICKMAN, Mr. GORDON, and Mr. KOSTMAYER.

H.R. 1730: Ms. KAPTUR, Mr. GINGRICH, Mr. TAUKE, Mr. ENGEL, Mr. HERGER, Mr. WALSH, and Mr. BARNARD.

H.R. 2002: Ms. SLAUGHTER of New York, and Mr. DEFAZIO.

H.R. 2174: Mr. EMERSON.

H.R. 2323: Mr. LIPINSKI, Mr. MCDERMOTT, Mr. COYNE, and Mr. JOHNSTON of Florida.

H.R. 2437: Mr. UPTON and Mr. PENNY.

H.R. 2538: Mr. OBERSTAR, Mrs. BYRON, Mrs. LOWEY of New York, and Mr. LANCASTER.

H.R. 2544: Mr. KANJORSKI and Mr. SAWYER.

H.R. 2589: Mr. BEREUTER, Mr. SCHAEFER, and Mr. SHUMWAY.

H.R. 2674: Mr. NIELSON of Utah, Mr. LIGHTFOOT, and Mr. RHODES.

H.R. 2700: Mr. THOMAS of Georgia and Mr. BALLENGER.

H.R. 2714: Mr. JOHNSON of South Dakota.

H.R. 2903: Mr. OBEY.

H.R. 2958: Mr. FISH and Mr. NEAL of North Carolina.

H.R. 3053: Mr. MARTINEZ, Mr. FROST, and Ms. OAKAR.

H.R. 3085: Mr. SMITH of Florida, Mr. GEJDENSON, Mr. MCDERMOTT, Mr. BRENNAN, and Mr. CONDIT.

H.R. 3122: Mr. NEAL of North Carolina and Mr. SHAYS.

H.R. 3147: Mr. SHAYS and Mr. ECKART.

H.R. 3258: Mr. UNSOELD and Mr. MILLER of California.

H.R. 3267: Mr. MCNULTY.

H.R. 3364: Mr. CRAIG, Mr. DREIER of California, Mr. DUNCAN, Mr. GALLEGLY, Mr. GOSS, Mr. LANCASTER, Mr. DONALD E. LUKENS, Mr. MCEWEN, Mr. MCMILLAN of North Carolina, Mr. MILLER of Washington, Mr. PAXON, Mr. RITTER, Mr. SKEEN, Mr. SOLOMON, Mr. THOMAS of Wyoming, and Mr. WALKER.

H.R. 3395: Mr. BEVILL and Mr. SPRATT.

H.R. 3401: Mr. PALLONE, Mr. TAUKE, Mr. GEJDENSON, and Mr. SOLARZ.

H.R. 3409: Mr. LAGOMARSINO, Mr. BRUCE, Mr. FALEOMAVAEGA, Mr. SMITH of Florida, Mr. ENGEL, and Mr. LEWIS of Georgia.

H.R. 3423: Mr. TOWNS, Mr. MORRISON of Connecticut, Mrs. UNSOELD, Mr. RANGEL, Mr. YATES, Mr. FOGLIETTA, Mr. ROYBAL, Mr. MATSUI, Mr. OWENS of New York, Mr. LEWIS of Georgia, Mr. FUSTER, and Mr. FAUNTROY.

H.R. 3428: Mr. DELLUMS, Mr. TOWNS, Mr. ROE, Mrs. JOHNSON of Connecticut, Mr. SABO, and Mr. JACOBS.

H.R. 3460: Mr. HANSEN.

H.R. 3475: Mr. UPTON, Mr. DOUGLAS, Mr. BALLENGER, Mr. REGULA, Mrs. SMITH of Nebraska, and Mr. PAXON.

H.R. 3483: Mr. SMITH of Vermont and Mr. FAUNTROY.

H.R. 3500: Mr. MARTIN of New York, Mr. CARR, Mr. WALSH, Mr. HOUGHTON, Mr. ROBINSON, Mr. GOSS, Mr. OXLEY, Mr. NIELSON of Utah, Mr. JONTZ, Mr. BROWN of Colorado, Mr. BRUCE, Mr. ROHRABACHER, Mr. BATES, Mr. BENNETT, Mrs. MARTIN of Illinois, Mr. WEBER, Mr. HORTON, Mr. EDWARDS of Oklahoma, Mr. PARKER, Mr. SMITH of New Hampshire, Mr. SMITH of Vermont, Mr. MOORHEAD, Mr. DANNEMEYER, Mr. MOODY, Mr. SLATTERY, Mr. DEFAZIO, Ms. LONG, Mr. SHUSTER, Mr. SCHIFF, Mr. STEARNS, Mr. LENT, Mr. GALLEGLY, Mr. HANSEN, Mr. CONYERS, Mr. GILMAN, Mr. LEACH of Iowa, Mr. HUNTER, Mr. GOODLING, Mr. YOUNG of Florida, Mr. BILIRAKIS, Mr. HOPKINS, Ms. SNOWE, Mr. GEKAS, Mr. DELLUMS, Mr. LEVINE of California, Mr. LEWIS of Georgia, and Mr. THOMAS of Wyoming.

H.R. 3513: Mr. SMITH of Vermont.

H.R. 3517: Mr. WAXMAN, Mr. ROYBAL, Mr. ANDERSON, Mr. EDWARDS of California, Mr. DYMALLY, Ms. PELOSI, Mrs. BOXER, Mr. MATSUI, Mr. FAUNTROY, and Mr. STARK.

H.J. Res. 35: Mr. SUNDQUIST, Mr. WELDON, Mr. PANETTA, and Mr. GEREN.

H.J. Res. 106: Mrs. VUCANOVICH.

H.J. Res. 183: Mr. POSHARD, Mr. WILSON, Mr. CRAIG, Mr. KOLTER, Mr. PICKETT, Mr. MRAZEK, Mr. LEWIS of California, Mr. MCNULTY, and Mr. JONES of Georgia.

H.J. Res. 286: Mr. KANJORSKI, Mr. SHUMWAY, Mr. BATES, Mr. JONTZ, Mr. LEACH of Iowa, Mr. GILMAN, Mr. REGULA, Mr. PAYNE of New Jersey, Mr. HASTERT, and Mr. SCHUETTE.

H.J. Res. 341: Mr. ARCHER, Mrs. MORELLA, Mr. HUTTO, Mr. COUGHLIN, Mr. GILMAN, Mr. OXLEY, Mr. PARRIS, Mr. GRANT, Mr. KENNEDY, Mrs. BOGGS, Mr. MCHUGH, Mr. MINETA, Mr. SCHEUER, Mr. BURTON of Indiana, Mr. LEVINE of California, Mr. TANNER, Mr. HEFNER, Mr. HAYES of Louisiana, Mr. ANTHONY, Mr. DYSON, Mr. CLARKE, Mr. FEIGHAN, Mr. PORTER, Mr. SARPALIUS, Mr. PERKINS, Mr. BRYANT, Mr. ERDREICH, Mr. MADIGAN, Mr. IRELAND, Mr. CROCKETT, Mr. MORRISON of Connecticut, Mr. DIXON, Mr. FLAKE, Mr. KOLTER, Mr. JOHNSON of South Dakota, Mr. SMITH of New Jersey, Mr. GONZALEZ, Mr. YATES, Mr. BERMAN, Mr. HUGHES, Mr. ROBERT F. SMITH, Mr. PALLONE, Mr. BUSTAMANTE, Mr. FLORIO, Mr. GRAY, Mr. GREEN, Mr. SCHIFF, Mrs. ROUKEMA, Mr. BRENNAN, Mr. MCCOLLUM, Mrs. UNSOELD, Mr. VENTO, Mr. MILLER of Washington, Mr. BARTLETT, Mr. WELDON, Mr. BOUCHER, Mr. RAHALL, Mr. BILIRAKIS, Mr. SANGMEISTER, Mr. EDWARDS of Oklahoma, Mr. PAYNE of Virginia, Mr. STUDDS, Mr. BONIOR, Mr. ORTIZ, Mr. BENNETT, Mr. SCHUMER, Mr. ROSE, Mr. TORRES, Mr. JONES of North Carolina, Mr. HAYES of Illinois, Mr. PAYNE of New Jersey, Mr. OWENS of New York, Mr. ROHRABACHER, Mr. NEAL of Massachusetts, Mr. STALLINGS, Mr. MONTGOMERY, Mr. BROWDER, Mr. WEBER, and Mr. KANJORSKI.

H.J. Res. 374: Mr. CARPER and Mr. MCDADE.

H.J. Res. 388: Mr. DEFAZIO.

H.J. Res. 408: Mr. LAUGHLIN and Mr. TOWNS.

H.J. Res. 417: Mr. FLORIO.

H.J. Res. 425: Mr. AKAKA, Mr. MCCLOSKEY, Mr. DICKS, Mr. SYNAR, Mr. WOLPE, Mr. KOLTER, Mr. RICHARDSON, Mrs. MARTIN of Illinois, Mr. SKELTON, Mr. GORDON, Mr. FOGLIETTA, Mr. BEVILL, Mr. ANDERSON, Mr. THOMAS A. LUKEN, Mr. MCCANDLESS, Mrs. PATTERSON, Mr. DEFAZIO, Mr. RANGEL, Mr. NAGLE, Mr. SCHUMER, Mr. ANNUNZIO, Mr. BUSTAMANTE, Mr. MARTINEZ, Mr. UDALL, Mr. MURTHA, Mr. BONIOR, Mr. SMITH of Iowa, Mr. AUCOIN, Mr. CHAPMAN, Mr. DURBIN, Mr. ECKART, Mr. HAYES of Louisiana, Mr. JACOBS, Mr. JENKINS, Mr. BARNARD, Mr. HAMILTON, Mr. TORRICELLI, Mr. SKAGGS, Mr. BROWN of California, Mr. STENHOLM, Mr. GILLMOR, Mr. APPLEGATE, Mr. DONALD E. LUKENS, Mr. ATKINS, Mrs. UNSOELD, Mr. GONZALEZ, Mr. MILLER of California, Mr. BEILENSON, Mr. ENGLISH, Mr. SISISKY, Mr. ANTHONY, Mr. HUTTO, Mr. MAVROULES, Mr. RAHALL, Mr. DYSON, Mr. TALLON, Mr. MOAKLEY, Mr. WEBER, Mrs. LOWEY of New York, Mr. MORRISON of Connecticut, Mr. HUBBARD, Mr. HOYER, Mr. HEFNER, Mr. COSTELLO, Mr. CLEMENT, Mr. CAMPBELL of Colorado, Mr. BORSKI, Mr. KANJORSKI, Mr. KLECZKA, Mr. MOLLOHAN, Mr. PAYNE of New Jersey, Mr. PAYNE of Virginia, Mr. PALLONE, Mr. CALLAHAN, Mr. EVANS, Mr. JONES of Georgia, Mr. LEWIS of Georgia, Mr. HAYES of Illinois, Mr. DELLUMS, Mr. TORRES, Mr. EDWARDS of California, Ms. PELOSI, Mr. FAZIO, Mr. BERMAN, Mr. MATSUI, Mr. PANETTA, Mr. WAXMAN, Mr. HAWKINS, Mr. ROYBAL, Mrs. BOXER, Mr. LEVINE of California, Mr. ROTH, Mr. MILLER of Washington, Mr. OBERSTAR, Mr. SAWYER, Mr. KASICH, Ms. SLAUGHTER of New York, Mr. SMITH of Florida, Mr. STANGELAND, Mr. LIPINSKI, Mr. ASPIN, Mr. STOKES, Mr. DIXON, Mr. LEHMAN of California, Mr. GEJDENSON, Mr. BRUCE, Mr. BUNNING, Mr. MCDERMOTT, Mr. RAVENEL, Mrs. SAIKI, Mr. SLAUGHTER of Virginia, Mr. HANSEN, Mr. SMITH of New Hampshire, Mr. YOUNG of Alaska, Mr. IRELAND, Mr. RHODES, Mr. DOWNEY, Mr. FLORIO, Mr. GUARINI, Mr. HUGHES, Mr. ROE, Mr. MINETA, Mr. YOUNG of Florida, Mr. BILIRAKIS, Mr. BILBRAY, Mr. HYDE, Mr. PURSELL, Mr. DREIER of California, Mr. BARTLETT, Mr. LEWIS of California, Mr. DWYER of New Jersey, Mr. CARR, Mr. WILSON, Ms. LONG, Mr. SHAYS, Mr. CONTE, Mrs. BOGGS, Mr. TRAFICANT, Mr. FLAKE, Mr. MFUME, Mr. WHEAT, Mr. STARK, Mr. PRICE, Mrs. BENTLEY, Mr. MONTGOMERY, Mr. HOPKINS, Mr. STUMP, Mr. MCNULTY, Mr. HALL of Texas, Mr. PARKER, Mr. TAUZIN, Mr. FLIPPO, Mr. HARRIS, Mr. MRAZEK, Mr. ANDREWS, Mr. COYNE, Mr. WEISS, Mrs. LLOYD, Mr. TAUKE, Mr. SKEEN, Mr. BAKER, Mr. MILLER of Ohio, Mr. GREEN, Mr. NATCHER, Mr. PERKINS, Mr. COUGHLIN, Mr. FASCELL, Mr. CARPER, Mr. SPENCE, Mr. CHANDLER, Mr. FEIGHAN, Mr. BROWDER, Mr. MCMILLEN of Maryland, Mr. HUCKABY, Mr. BEREUTER, Mr. MANTON, Mr. BENNETT, Mr. STALLINGS, Mr. LEACH of Iowa, Mr. MARTIN of New York, Mr. EARLY, Mr. BATES, Mr. KILDEE, Mr. MCHUGH, Mr. ROWLAND of Georgia, Mr. GLICKMAN, Mr. NOWAK, Mr. LAGOMARSINO, Mr. GALLEGLY, Mr. WHITTEN, Mr. CONYERS, Mr. WHITTAKER, Mr. MICHEL, and Mr. SAXTON.

H. Con. Res. 177: Mr. FALEOMAVAEGA, Mr. PAYNE of New Jersey, and Mr. FLORIO.

H. Con. Res. 182: Mr. ENGEL, Mr. LEVINE of California, and Mr. TORRICELLI.

H. Con. Res. 186: Mr. SCHUETTE and Mr. LANCASTER.

H. Con. Res. 190: Mr. HAYES of Louisiana.

H. Con. Res. 195: Mr. SHAYS.

H. Res. 261: Mr. BATES, Mr. AUCOIN, Mr. BOUCHER, Mr. PEASE, and Mr. ENGEL.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res. 142: Mr. PENNY.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

107. By the SPEAKER: Petition of the Washington State Good Roads & Transportation Association, Olympia, WA, relative to the reestablishment of rail service by Amtrak from Seattle to Vancouver, BC; to the Committee on Energy and Commerce.

108. Also, petition of the Washington State Good Roads & Transportation Association, Olympia, WA, relative to the inclusion of Washington's scenic highway system in any national program of scenic routes; to the Committee on Interior and Insular Affairs.

109. Also, petition of the Governor of the State of Nebraska, relative to the South Dakota-Nebraska Boundary Compact; to the Committee on the Judiciary.

110. Also, petition of the Washington State Good Roads & Transportation Association, Olympia, WA, relative to enabling foreign-flag luxury cruise vessels to operate from U.S. ports in the interstate market; to the Committee on Merchant Marine and Fisheries.

111. Also, petition of the Washington State Good Roads & Transportation Association, Olympia, WA, relative to funds for road repairs in the State of Washington; to the Committee on Public Works and Transportation.

112. Also, petition of the Washington State Good Roads & Transportation Association, Olympia, WA, relative to the use of appropriate side skirt devices by heavy-duty trucks when driving on Washington State highways; to the Committee on Public Works and Transportation.

113. Also, petition of the Embassy of the Republic of Korea, Washington, DC, relative to a copy of the "Resolution of the National Assembly on Trade Relations between the Republic of Korea and the United States"; to the Committee on Ways and Means.

114. Also, petition of the Washington State Good Roads & Transportation Association, Olympia, WA, relative to its opposition to an increase in the Federal motor fuel tax; to the Committee on Ways and Means.

115. Also, petition of the Washington State Good Roads & Transportation Association, Olympia, WA, relative to dedicating an equitable share of the motor vehicle excise tax dollars to highways; to the Committee on Ways and Means.

116. Also, petition of the Washington State Good Roads & Transportation Association, Olympia, WA, relative to the use of

the Federal gas tax for maintenance and construction of roads; jointly, to the Committees on Ways and Means, and Public Works and Transportation.

117. Also, petition of the Governor of the State of South Dakota, relative to H.R. 1465 concerning oil spill liability and compensation; jointly, to the Committees on Merchant Marine and Fisheries; Public Works and Transportation; Interior and Insular Affairs; Foreign Affairs; and Science, Space, and Technology.

EXTENSIONS OF REMARKS

IMPROVING SUBCONTRACTING OPPORTUNITIES FOR SMALL BUSINESSES

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. LAFALCE. Mr. Speaker, in a period of stringent budget constraints, it is incumbent upon the Federal Government to constantly search for new and innovative ways to expand competition at all levels in the procurement process. Given the sorry history of cost overruns by major defense contractors, I believe that there is no better way to introduce more competition into the acquisition system than by introducing the acquisition system to our Nation's small businesses. And to do just that, we need a vigorous subcontracting program.

According to the Small Business Administration's annual report, in fiscal year 1987 small businesses subcontractors received $26 billion, or 41 percent of the $63.4 billion available in subcontract awards. As this figure indicates, the subcontractors program is of immense significance, involving the distribution of billions of taxpayers' dollars.

For that reason, the House Small Business Committee continually has pursued efforts to increase subcontractings with small and small disadvantaged business. It was this committee, in 1978, that first proposed individual subcontracting plans, which is part of Public Law 95-507. Under section 211 of that law—section 8(d) of the Small Business Act—small businesses and small disavantaged businesses must be afforded the maximum practicable opportunity to participate as subcontractors and suppliers to firms awarded contracts by the Federal Government. To implement this policy, all Federal contracts exceeding $500,000—$1 million, for construction—must contain a subcontracting plan for small and small disadvantaged business if the award is made to other than a small business; the contract has subcontracting possibilities; and performance is to take place in the United States and the services called for under the contract are not purely personal in nature.

Unfortunately, over the past 12 years, this subcontracting program has not worked as intended. Non-compliance has been a continuing, serious problem, as the General Accounting Office pointed out in a report issued last year on the subcontracting programs at the department of Navy, the General Services Administration, and the Department of Energy.

That is why, as chairman of the House Small Business Committee, I believe that now might be the time to take a look at a new approach to improve our subcontracting plans, one which might enhance the opportunities for small- and small-disadvantaged businesses in subcontracts by allowing the negotiation of companywide or divisionwide goals. In order to determine whether this innovative concept will produce these benefits, I am introducing today a bill which calls for a 3-year test program beginning in fiscal year 1991 at the Department of Defense that would permit the negotiation of subcontracting plans on a companywide or divisionwide basis. This program will be developed in consultation with the Small Business Administration and be limited to one contracting activity in each component of the Department of Defense.

While this test program is limited in scope and duration, I believe that in many cases such subcontracting plans may be more advantageous to both the Government and industry. It is anticipated that authorizing the negotiation of companywide subcontracting plans will increase subcontracting with small businesses and small disadvantaged businesses by firms holding multiple contracts with the Government. Such plans also should encourage firms to seek small business and small disadvantaged business participation in contracts that support the overall corporate or divisional operation, not just those directly related to the performance of a particular contract. This change to the small business act should result in a broader range of business opportunities for smaller firms that may not be available on an individual contract basis.

The use of companywide or divisionwide plans also should reduce the paperwork burdens associated with reporting on a contract by contract basis, thereby streamlining the acquisition process. Also, there should be little confusion as to who actually is responsible for monitoring compliance since the bill mandates the designation of a single Federal official to administer and enforce the subcontracting plans.

One reason why the committee has in the past resisted the idea of companywide goals is the fear that prime contractors could, and perhaps would, concentrate all their small business contracts in narrow areas such as janitorial services in order to meet the overall goals, but thereby reduce broader opportunities for subcontracts in high-tech or manufacturing sectors. That is why I have taken steps in my bill to ensure that this does not become an issue. The bill requires that prime contractors negotiate plans which include specific goals and timetables for the awarding of subcontracts in areas where small and small disadvantaged businesses have not traditionally been involved. This is most important.

Finally, I want to make clear to small and small disadvantaged businesses which currently rely on Government subcontracts that I believe that this new test approach should increase the role of small and small disadvantaged businesses. Opportunities should be gained, not lost. If for any reason the demonstration does not turn out as intended, and if there should be any overall loss in small business subcontracting opportunities, the program will be terminated.

The text of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DEMONSTRATION PROGRAM FOR SMALL AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING

SECTION 1. SHORT TITLE.

This Act may be known as the "Small and Small Disadvantaged Business Subcontracting Demonstration Program Act of 1989."

SEC. 2. NEGOTIATION OF COMPREHENSIVE SMALL AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLANS

Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended by adding at the end the following new paragraph:

(12) (A) DEMONSTRATION PROGRAM.—(i) The Secretary of Defense, in consultation with the Administrator of the Small Business Agency, shall establish a demonstration program under which one contracting activity in each military department and Defense Agency is authorized to undertake one or more demonstration projects to determine whether the negotiation and administration of comprehensive small and small disadvantaged business subcontracting plans will result in simplified administration of the small and small disadvantaged business subcontracting opportunities provided for small and small disadvantaged business concerns under Department of Defense contracts.

(ii) In developing the demonstration program, the Secretary of Defense shall provide an opportunity for public comment on the demonstration program.

(B) COMPREHENSIVE SMALL AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN.—(i) In a demonstration project under the demonstration program, the Secretary of a military department of head of a Defense Agency shall negotiate a comprehensive subcontracting plan with a Department of Defense contractor described in paragraph (iii).

(ii) The comprehensive subcontracting plan shall provide for small business concerns to participate as subcontractors in the contracts awarded by the Secretary or agency head to the contractor (or any division or operating element of the contractor) to which the subcontracting plan applies; and shall apply to the entire business organization of the contractor or to one or more of the contractor's divisions or operating elements, as specified in the subcontracting plan.

(iii) A Department of Defense contractor referred to in paragraph (i) is, with respect to a comprehensive subcontracting plan, a business concern that—

(A) during the fiscal year ending on September 30, 1989—

(i) pursuant to at least five Department of Defense contracts, furnished supplies or services (including professional services) to the Department of Defense, engaged in research and development for the Department, or performed construction for the Department; and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

(ii) was paid $25,000,000 or more for such contract activities; and

(B) during the fiscal year in which the comprehensive subcontracting plan is negotiated, is voluntarily participating in an annual company-wide plan under the authority of Office of Federal Procurement Policy Letter 80-2 or any subsequent policy on the same subject issued by Office of Federal Procurement Policy.

(C) WAIVER OF CERTAIN SMALL BUSINESS ACT SUBCONTRACTING PLAN REQUIREMENTS.—A Department of Defense contractor is not required to negotiate or submit a subcontracting plan under paragraph (4) or (5) of section 8(d) of the Small Business Act (15 U.S.C. 637(d)) with respect to a Department of Defense contract if—

(i) the contractor has negotiated a comprehensive subcontracting plan under the demonstration program that includes the matters specified in section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6));

(ii) the contractor has negotiated a comprehensive subcontracting plan which includes specific goals and timetables for awarding small and small disadvantaged subcontractors with work in which such subcontractors have not traditionally been involved;

(iii) such matters have been determined acceptable by the Secretary of the military department or head of a Defense Agency negotiating such comprehensive subcontracting plan;

(iv) the Secretary has designated a single federal official to administer and enforce the subcontracting plan; and

(v) the comprehensive subcontracting plan applies to the contract.

(D) DEMONSTRATION PROGRAM PERIOD.—The demonstration program authorized by paragraph (A) shall begin on October 1, 1990 and shall terminate on September 30, 1993.

(E) REPORT.—(i) Not later than March 1, 1994, the Secretary of Defense shall submit a report on the results of the test program to the Committees on Armed Services and on Small Business of the Senate and the House of Representatives.

(ii) Before submitting such report to the committees referred to in paragraph (i), the Secretary shall transmit the proposed report to the Administrator of the Small Business Administration. The report submitted to the committees shall include any comments and recommendations relating to the report that are transmitted to the Secretary by the Administrator before the date specified in such paragraph.

(F) DEFINITIONS.—As used in this section ((8)(d)(12)):

(i) The term "small business concern" shall have the same meaning as is provided in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)), and includes a small business concern owned and controlled by socially and economically disadvantaged individuals.

(ii) The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall have the same meaning as is provided in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)).

HONORING THE JACKSON HEIGHTS COMMUNITY DEVELOPMENT CORP.

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. ACKERMAN. Mr. Speaker, I rise today to honor an organization that has done more than any other group to build a sense of community in the Jackson Heights area. That organization is the Jackson Heights Community Development Corp., which will hold a 10th Anniversary Dinner Dance Fundraiser on October 28 at the Marine Air Terminal at La Guardia Airport.

The Jackson Heights Community Development Corp. has truly lived up to its name by working strenuously to improve many different facets of the neighborhood. It has developed a number of programs to resolve housing disputes, counsel youth, and promote business investment in Jackson Heights. Through its housing program, the corporation has acted as an ombudsman, providing free assistance to tenants, landlords, small homeowners, and the elderly.

This group has distinguished itself most notably through its service to the youth in Jackson Heights. Volunteers tutor students twice a week in remedial reading, math, and English as a second language in after school centers. The development corporation is particularly proud of its more creative programs, such as its classes in dance, journalism, graphic arts, and photography. It has also encouraged students to apply their creative talents to produce their own publications and murals, which now hang in the auditoriums of their schools.

In addition to the Community Development Corp. significant efforts in the areas of housing and education, it has made huge strides in the last decade in its promotion of business in Jackson Heights. At present the development corporation assists local merchants by offering advice and pamphlets to help them improve their businesses. Sometime in the near future, the development corporation will publish an exciting new dining guide which will market the wide variety of restaurants that exist in the Jackson Heights area.

In the decade that the Jackson Heights Community Development Corp. has been in existence, it has grown to become a governing board of 11 with 4 active officers, made up of a cross section of Jackson Heights society. In that time, notable contributions have been made by a number of individuals, especially its present president, Malcolm Press, the Reverend Austin Armitstead, an incorporating member, and Vera Corrando, an extremely active board member and a primary organizer of the 10th anniversary dinner.

In an era when neglect and violence appear to have stripped the inhabitants of our Nation's uban centers of any hope of realizing the American dream, it gives me great pleasure to witness a group like the Jackson Heights Community Development Corp. restore the dream to its community. Let me once again congratulate the Jackson Heights Community Development Corp. and its officers on its "decade of service to its neighborhood" and may I express my sincere hope that it continues to serve Jackson Heights as well in its second decade as it has done in its first.

THE 100TH ANNIVERSARY OF MORAVIA PRESBYTERIAN CHURCH

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. KOLTER. Mr. Speaker, I rise to commemorate the 100th anniversary of Moravia Presbyterian Church near Wampum, PA, located in my Fourth Congressional District of Pennsylvania.

The Moravia Presbyterian Church has a unique religious history. Zeisberger, the Moravian missionary, established a mission for the Christian conversion of western Pennsylvania's native Americans in 1770, at a site not far from the established church.

After the congregation had purchased land and erected a building at a cost of $2,500, the congregation of West Moravia was chartered, almost 100 years ago today, on October 29, 1889. The present church is located on the same grounds, near Route 18 in Lawrence County.

The 1889 organization of 51 persons was an outgrowth of a Sunday school that community women had already established. Three elders and three trustees were elected. The first pastor, the Rev. John C. Pickens, was chosen in 1890. By 1902, the congregation had grown to 124, and in 1912, a new manse was purchased in West Pittsburg, later to be sold in 1946. In 1952, a church addition provided three new classrooms and other facilities and a new manse was built.

By 1964, the sanctuary was completely remodeled and the first new stained glass windows since 1889 were installed in the late 1960's.

Mr. Speaker, the religious foundation of a community is most important and Moravia Presbyterian Church has excelled in building a strong and prosperous foundation. Today, the 100 members of the church, together with pastor Dr. William Walker, face the God-given challenge of continuing this Christian endeavor into the 21st century. With God at their side, this church will excel and meet the challenge, as it has met so many others over the past 100 years. I am, therefore, extremely proud to rise before the Members of the 101st Congress of the United States and honor Moravia Presbyterian Church on its 100th anniversary.

CONGRESSIONAL SALUTE TO JOSEPH S. ZICCARDI, COLONEL, USAR

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. FOGLIETTA. Mr. Speaker, it is with great enthusiasm that I rise today to salute Col. Joseph S. Ziccardi, USAR. Colonel Ziccardi brings his long military career to a close next month. November 20, 1989 marks the end of a career spanning over three decades. I want to take this opportunity to honor Colonel Ziccardi's strong committment to both our Nation and the U.S. Army Reserve.

Colonel Ziccardi enlisted in the U.S. Army over 30 years ago. He soon earned a commission as 1st lieutenant, serving in the Judge Advocate General Corps as a U.S. Army Reservist. Since then, Colonel Ziccardi has served in a variety of positions including commander of the 153rd Military Law Center in Willow Grove, PA, and most recently as staff judge advocate of the 79th Army Reserve Command also in Willow Grove.

Colonel Ziccardi's successes as an Army Reserve officer parallel those of his civilian career. As an attorney, he served as special assistant to the attorney general of the Commonwealth of Pennsylvania. During this period, Colonel Ziccardi also served as a liaison to the U.S. Army Reserve. A long standing member of the Philadelphia Bar, Colonel Ziccardi chaired the Military Affairs Committee, further strengthening the bond between the armed services and the legal profession. Today, Colonel Ziccardi is a practicing attorney in Philadelphia for the firm of Ominsky, Welsh & Rosenthal.

I have known Colonel Ziccardi for over 30 years. He worked in my office when I served as city councilman-at-large for the city of Philadelphia. During this time, I have come to respect both his judgment and integrity. I consider Colonel Ziccardi a friend who can be counted on when you need him.

Mr. Speaker, I congratulate Colonel Ziccardi upon his retirement from the U.S. Army Reserve and salute his outstanding service to our country and the legal profession. I wish him good luck and continued success.

FORTY YEARS OF JUDICIAL SERVICE—JUDGE IRVING R. KAUFMAN

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. GREEN. Mr. Speaker, I am pleased to share with my colleagues the 40th anniversary of the judicial service of the Honorable Irving R. Kaufman, U.S. court of appeals judge. On November 1, the judges of the U.S. Court of Appeals for the Second Circuit will honor Judge Kaufman at a special en banc session of the court to honor the anniversary.

After serving as an assistant U.S. attorney for the southern district of New York and as special assistant to the Attorney General of the United States, Judge Kaufman was appointed to the U.S. District Court for the Southern District in 1948 by President Truman. He was elevated to the second circuit in 1961.

Judge Kaufman has handed down a number of landmark decisions in the areas of freedom of speech, antitrust law, criminal law, civil procedure, and desegregation. He has also contributed significantly to the field of judicial administration.

I am proud that the Harvard Law School, of which I am a graduate, has established, through the generosity of former Ambassador Walter Annenberg, a $1 million Public Service Fellowship Program to honor the 40th anniversary of Judge Kaufman's service.

I know that my colleagues will join me in honoring the anniversary of this remarkable jurist and outstanding public servant.

ORGANIZED CRIME NARCOTICS TASK FORCE PROGRAM: SUCCEEDING IN THE BATTLE AGAINST ILLEGAL DRUGS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. BROWN of California. Mr. Speaker, contained in the $16.9 billion appropriations bill that we adopted today for the Departments of Commerce, State, Justice, Judiciary, and related agencies is $3 million for the Organized Crime Narcotics [OCN] Program administered by the Bureau of Justice Assistance. Although seemingly small in scale, this appropriation represents an extremely wise investment in our effort to combat the problem of illegal drugs.

OCN has been an enormously successful program, resulting in a startling rate of return on investment. Initiated in 1986, OCN has cost the Government only $9.2 million, while resulting in property and drug seizures worth more than $200 milllon and the arrest of more than 4,000 drug traffickers.

OCN has been so successful because of its novel regional approach to narcotics enforcement. The program was established with the understanding that the sale of narcotics in America today has become a sophisticated nationwide business, spanning jurisdictional and geographical boundaries. OCN takes a similar multijurisdictional approach, pulling together task forces comprised of Federal, State, and local agencies.

These task forces, currently operating in 19 areas throughout the United States, have succeeded where other approaches have failed. This is primarily due to the cooperative management approach used by the task forces and the interagency leveraging that is achieved through the combined effort of the task force participants.

Managing an interagency task force can be problematic, since the participants have allegiances to their individual agencies which are often stronger than their commitment to the task force. With the OCN Program, however, each participant has a vote in the decisions about which cases to pursue and how to spend their budget. All votes must be unanimous, which means that everyone involved has a stake in the success of the projects.

Each task force is comprised of at least one State or local law enforcement agency, a prosecuting agency, and the U.S. Drug Enforcement Agency. These agencies have different strengths and a variety of complementary resources which can be leveraged within the context of an OCN task force. The result is a total effort which is greater than the sum of its parts.

The OCN task forces not only work well individually, but they also have worked well together. For example, last year the task force in Riverside, CA and the one in Multnomah County, OR combined forces to break up a major west coast cocaine trafficking network. The effort resulted in the arrest in Oregon of four major distributors and the seizure of 77 pounds of cocaine—the largest cocaine seizure in Oregon State history. The Riverside task force arrested the Colombian drug suppliers in California.

I could provide more examples of how successful the OCN Program has been, but the important thing at this point is that this valuable program continue. Without the $3 million provided by the legislation we voted on today, the OCN Program would have run out of funds and been shut down next July. Mr. Speaker, that would have been a terrible mistake. At a time when illegal drug use is posing one of the most serious challenges our Nation has ever faced, it would have been a failure of Government to terminate a program that has proven to be as effective as has the OCN effort. The OCN task forces represent a model of how local, State, and Federal agencies can work together to break up narcotics distribution and sales networks that have been established in recent years throughout the Nation. We have acted wisely today by voting to extend the life of the OCN Program.

DO YOU KNOW?

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. SHUMWAY. Mr. Speaker, we hear a great deal of controversy concerning the timber industry, and most of the emphasis seems to be on the negative. Recently, however, I came across an editorial in the Mountain Messenger, California's oldest weekly newspaper published in Downieville, which focuses on the very positive aspects of logging. The editorial rightfully praises the courage of loggers, as they confront what has been viewed as the most dangerous work in the country. Equally importantly, it puts in perspective the very valuable contributions the industry makes to the Nation, and to our position in international trade. I would like to share that editorial with my colleagues, and I urge them to review it carefully. Personnaly, I consider myself both privileged and proud to represent these dedicated Sierra County workers:

Do You Know?

(By Carolyn Dobbs)

A surprisingly large number of men in Sierra County are employed in the logging industry. Within the area comprising Sierra City, Downieville, and Goodyears Bar there are over a dozen hardy men who earn their living and support their families through this occupation.

It may startle many people to learn OSHA and the insurance companies consider this kind of work the most dangerous in the United States. Yearly, the fatalities are quite high; so much so, it is obvious there is as much courage involved as brawn.

It takes strong-muscled men with a determined spirit to face the challenges of each day, with ever-encircling risks of serious injury or even sudden death.

In addition to the high casualties, the arduous days are at least ten hours long, without taking into consideration several hours of travel or commuting back and forth to the work site.

Furthermore, a logger loses a day's wages every time it rains or snows; and he does not get time-and-a-half until he has put in 40 full hours of work. He considers himself very fortunate if he gets six to eight full months of work a year.

In the event of injury, he has to discontinue his labor, and rely entirely upon Workers Compensation. There is no sick leave, and very few employment benefits. When the work site is too far to commute, the men camp out, without the comfort of home and no home-cooked meals.

Beyond the strenuous hardships, high risks, and relentless labor, are important monetary benefits for our country. One-fourth of all timber revenue is allocated for roads and schools.

Explained in another way, out of every dollar derived from timber sales, 12½¢ is for county roads and 12½¢ is for schools.

Among our local young men who work in this dangerous occupation as employees of Robinson Timber as fallers are Tom Dines, Aaron Hill, and Randy Hughes. Billy Epps works as a landing man, Wesley Smith is a choke setter, Steve Folsom is a foreman, Pat Hill, Jr., is a log loader, Chris Hallman and Keith Gregory work as loader operators.

Among those who work for Siller Brothers are Donny Marshall, loader-operator, Troy Kinder, choker setter, Shawn Owen, skidder operator, Terry Foster, foreman, Greg Arnaldi, landing man, Walter Nowakowski, cat skinner, and Eddie Epps, laborer. In addition, some of our college-bound boys do this kind of work to help pay their way through school.

Over the years there have been a great many other hardy men of our area who have labored valiantly in this highly challenging occupation. All contributed in a substantial way toward the welfare not only of their families, but also toward the welfare of our county and our Nation.

Without the loggers there would be no houses, and a vast number of very essential products. Furthermore, our loggers are involved in a multi-faceted industry with far-reaching benefits extending into foreign markets.

Although they live in a quiet, inconspicuous manner, we can look upon our loggers with much respect and sincere appreciation. They are productive members of our community, and contribute to its economic stability.

THE CAPITOL HISTORICAL SOCIETY—LOOKING TO THE FUTURE

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. PICKLE. Mr. Speaker, those of us who are privileged to serve in this Chamber are all too often caught up in the legislative priorities of the moment and not able to reflect on the historic events which have taken place in this hallowed Chamber. Each year, millions of Americans visit our Nation's Capitol, and it is important that we teach them the great lessons that our history holds.

Since coming to Congress 25 years ago, I have been honored to be involved with the good works of the Capitol Historical Society. Some of my colleagues may not be aware of all the activities the society undertakes not only to make history accessible but to encourage scholarly research and analysis of our history.

I want to share the insights of James M. Banner, Jr., the director of the Washington Seminar on American History and Culture. A former member of the Princeton University history faculty, Mr. Banner was founder of the American Association for the Advancement of the Humanities and served as a member of the board of directors of the American Council of Learned Societies. He recently spoke to the annual meeting of the Capitol Historical Society regarding the past, present, and future of the society, and I think my colleagues will find the following excerpts from his remarks informative and thought provoking:

EXCERPTS OF ADDRESS BY JAMES M. BANNER, JR.

To those of us who pursue history as a craft, a duty, and a pleasure, the world about us often seems to care little for the past or for those who take a serious interest in it. Evidence of a heedlessness of history and of disrespect for its presence in our lives lies all about. Historic sites—to some hallowed by sacrifice of like (like Manassas Battlefield) or by surpassing vision (like the Seneca Falls meeting house)—are threatened by development or lack of funds. Bicentennial commissions trivialize the Revolution and Constitution by licensing their insignia for application on goods and services. Men who break laws are saluted as patriotic heroes and likened to statesmen like Washington and Lincoln. Even a president of the United States complains that universities are "subsidizing intellectual curiosity." Is it any wonder that we worry that the future may not have a past to recall and that the past may not have a future? "Out of our conception of the past," Thomas Hobbes remarked somewhere, "we make a future." That is, without an accurate conception of the past, we venture toward the future unprepared and unmoored.

Yet if evidence to the contrary is needed about the health of history and about the ability of people of different interests, talents, and intentions to inhabit the same house, then in this, its 27th year, the United States Capitol Historical Society bears witness that we need not despair on either count.

When the Society was born of the vision of Fred Schwengel in 1962, it is doubtful that either the difficulties that attend an initiative of this sort or the opportunities that would open before it could have been envisaged. Historical studies in the United States had not yet emerged from their prosperous post-war condition and were not yet, as we like to say, "in crisis." History was considered to serve its traditional functions. As a subject, it was required in schools and popular in colleges.

Within a decade—under the spurs of war, the civil rights and women's movements, the demographic revolution of the era, and fresh intellectual currents—all of these traditional features of history were being called into question. Historical studies in schools and colleges were taken at a discount; history, it was said by some, was no longer "relevant," by others too "trendy;" and, assailed from both sides, scholars and teachers of history saw enrollments in history classes begin to fall off. Young people no longer envisaged a future for themselves upon college and university faculties.

Into this sea of conflicting cultural, intellectual, economic, and institutional currents the United States Capitol Historical Society was launched. It's a nice question whether its pilot would have taken the helm had he known of the whirlpools and rips. Yet, needless to say, this ship has passed through its heavy swells and, after 27 years, sails proudly in calmer waters. Why is this so?

No doubt, it has to do with its privileged place within the Capitol and with the energy and clarity of its helmsman and those others who have shared his vision for all these years. However, the Society has endured and prospered for other, less remarked, reasons as well.

That kind of history whose impulses are purely patriotic or partisan is not history at all but romance and myth. In every nation, much that passes for history is really an endeavor to create or sustain a mythic idea of the past, not of its substance or reality; and nothing attaches more easily and with greater injury to the great symbols of a nation or its people—symbols like the Capitol and the Constitution of which it is the living embodiment than an idea of the past that rouses and gladdens the heart without reference to fact.

This Society has refused to build itself upon such sand. It has answered the desires of the millions of Americans who visit the Capitol for a captivating introduction to its history without flinching from the need to present that history faithfully. As a result, our fellow citizens are introduced—by tour, book, and film—to aspects of the history of the Capitol, the Constitution, and the Congress with fidelity to evidence while in no manner being denied the grandeur and enchantment of the place or diminished in their feelings for the country and what it represents.

It would have been easy, and not at all surprising, for this Society to have simply ignored the scholarly dimension of historical pursuits—or at least to have done no more than to depend upon others' research and writing. Instead, it has actively underwritten the production and presentation of fresh historical thinking since 1978. Its scholarly symposia have earned for the Society that rarest of tributes: praise of its work from the scholarly community. As many attest, the conferences which Ron Hoffman has organized and the resulting books that he has edited have greatly enriched historical studies of the early nation in this country and have given the Society a

footing in the scholarly world enjoyed by few others of its kind.

For still another reason, this society, by endeavoring something unusual, has endured for 27 years. It has held to the conviction that the celebration of a people's history is neither frivolous nor a one-time thing. History is deadly serious and, being so, must be pursued consistently, repeatedly, independently. One has only to compare the Society's work to the two bicentennial endeavors of the past 15 years—those surrounding the Revolution and the Constituton—to understand the advantages of clarity and continuity of purpose and act.

Finally, the Society has prospered by avoiding a narrow focus. It has tried to make contributions to a variety of history's dimensions by undertaking a broad range of activities. It publishes books, leads tours, maintains a department of historical research—whose latest work, a history of the House Ways and Means Committee, is a major contribution to historical knowledge—sponsors scholarly meetings, offers fellowships to scholars, preserves and adds to the brilliant beauty of the Capitol, and always seems to prepare to add something new to its programs.

The Society is now assessing its next departures. How can it make additional contributions to historical understanding? Within its resources, what should it continue to do and what add? I am not privy to the Society's deliberations, and it would be presumptuous of me to make proposals for an organization in which I play no part. I do, however, wish to suggest some issues for your consideration by emphasizing some programs that you now support and by alerting you to some matters that might fall within the Society's compass.

I emphasize immediately that I see nothing extraneous in what the Society already does. Its publications about the Capitol, its tours, its visitors' information center, its films, medals, and calendar, its custodianship of and additions to the Capitol's art, furnishings, and archives—these are all central to its mission and the crown of its achievements. It is unimaginable that they would not continue.

Growing naturally from these core programs are others that, I understand, are now contemplated—a sound and light program on the Capitol's west front and films about various moments in the nation's collective history. Both continue the Society's efforts to carry historical knowledge to all citizens while providing entertainment to them. They are likely to succeed.

I understand, too, that thought is being given to an extension of the symposia series beyond the years of the Constitution. As a scholar, I welcome that news; as a historian of the early republic, I find it particularly promising. Yet what, some may ask, is an organization devoted to the history of the Capitol and emerging from its special patronage doing supporting analytical scholarship, some of which, as represented by the topics of these symposia, appears to have little to do with the Capitol and its history, and much of which is not likely to find its way into the hands of the general public? These are good questions, and they deserve answers.

The principal value of these symposia has not lain in their subject matter, which has been, and will always be, pursued by scholars—although the papers given at these symposia have made important, occasionally signal, contributions to knowledge and understanding. The chief benefits have lain elsewhere. First, the audiences, increasingly large, have been composed principally of teachers and interested citizens—brought together by the Society to enlarge their knowledge of the nation's history. There are few occasions in which scholars are presented to a room full of informed readers and teachers and asked to speak to them, not to each other. It does a world of good for us all.

Second is the regularity of occurrence of the symposia. That regularity, enhanced by the consistent application and accumulated experience of Ron Hoffman and his associates, makes the annual gatherings widely anticipated events among scholars and teachers who attend. It also means that the contributions of each symposium, made tangible in book form, possess a consistency of appearance, editing, and direction that is rare among books of this sort.

Third, these symposia have for many years focused on the same large subject—the era of the Revolution and Constitution—from different perspectives but always with the same concentration. As a result, a single, though complex, subject of inquiry has gotten repeated scrutiny and has gained immeasurably from this approach.

Fourth and finally, the symposia have produced enduring works of scholarship—not proceedings volumes, not occasional essays, but lasting contributions to knowledge. When the last in this initial series of symposia has been held in 1991, fourteen gatherings will have been convened; well over 100 scholars will have contributed papers, many of them genuine additions to knowledge and understanding; and fourteen volumes of lasting value to historians and others will have been published from them by the University Press of Virginia. This is a grand achievement.

The continuance of these symposia and the extension of their subject beyond the early 1790s is greatly to be desired. Part of their initial success having resided in their focus, it would do well to spend some years on an equally well-defined, yet intellectually rich, period of our history—namely the era from roughly 1790 to 1828, the years of the young republic, bounded on the one hand by the Constitutional Convention and on the other by the emergence of genuinely democratic politics and the settlement of the lingering international issues of the revolutionary era. I hope that the Society will extend his wonderful program in this way.

I would like to turn now to a few other matters where I beg your indulgence for some modest presumptuousness. I would like to offer two or three proposals.

First, I commend to your attention opportunities to commission additional works—both scholarly and popular—on the history of the Capitol, its buildings, its institutions, and its inhabitants—especially lesser known ones.

As you may know, the historical study of this city has greatly matured in the last few years.

All of these initiatives add up to a major advance in knowledge about the seat of government. Yet much more could be done. And given the energy of this Society, its epicentral location at the Capitol, its sharp focus upon this great national institution, I urge that the Society, in its own distinctive way, consider how it might provide incentives for the creation of better scholarly history about the Capitol.

I also offer for your consideration some initiatives for the schools. Indirectly, through programs for teachers, its publications, and its forthcoming films, the Society already serves the students of the nation. The question is whether it can do so in more ways, while remaining faithful to its charter mission. I believe that it can.

I would suggest two initiatives—both building upon the Society's existing secondary school program.

The first has to do with teachers. One of the proven ways to teach and revitalize classroom instructors is through subject-intensive workshops—programs, whether they be of weekly meetings or of concentrated periods during the summer, that immerse teachers in a field of inquiry, be it Renaissance art, plant biology, or social psychology. Ideal subjects for such an approach are the history and operations of institutions of government. External funds can be raised for such an endeavor. No more ideal sponsor for such programs could be found than the Society.

What I have in mind is this: the creation of a continuing program of intensive, graduate-level instruction for Washington, DC, junior and senior high school teachers somewhere in the Capitol Building, sponsored by the Society, and led by senior scholars from the area in subjects related to the Society's interests and mission.

The second intiative has to do with school students themselves. Here, again, I would use the resources of the Society's glorious home, the Capitol itself—not just for tours, not just for films, not just for visits to Congress at work—all of these being useful activities of demonstrated value. Rather, in addition, I would try to develop programs both more extensive and lasting for this city's high school students. Perhaps the Society could host entire classes of students from single schools for up to two weeks in some space in the Capitol in order to immerse them in instruction in the workings of government, or the history of the Constitution, or civic responsibility in a democratic republic.

I cannot resist concluding what I fear is a more serious and programmatic reflection than you bargained for tonight without taxing you for one more moment to speak about the great missing element in this city's collection of active historical societies, of which this one is a leader.

Washington is the greatest repository in the country of resources about the history of the nation. One has only to mention the Library of Congress, the Smithsonian Institution, and the National Archives to make the point. No other location can rival this one; no other institutions, not even our greatest universities, can match these three for their richness in American history. Yet where is the center for advanced study, the research center, to promote the pursuit of knowledge in American history in this city? We have a center for the study of Byzantium and pre-Columbia art—Dumbarton Oaks. We have a center for the interpretation of ancient culture—the Center for Hellenic Studies. We have an institution for the study of English drama and letters—the Folger Shakespeare Library. And in the National Gallery of Art we have the center for the Advanced Study of the Visual Arts. But where is the National Center for American History and Culture? We don't have one. And we don't have one anywhere in the country.

We should. And it should be in Washington.

Such an endeavor may not be for the Capitol Historical Society to pursue. It probably is not. But its absence affects the Society by

leaving it, almost single-handedly, through its annual symposia and the other activities it sponsors, to offer the principal programs in pursuit of fresh knowledge of our history as a people in this city. In a nation as old, as powerful, and as wealthy as ours, that should not be.

This nation was born out of respect for the past. It will be fully seasoned only when it learns to accept its past in all its dimensions, unworthy as well as worthy. Only then will be able "to disenthrall ourselves," as Abraham Lincoln would have had us do. Only then will we be able to say, "This is our past. It has made us what we are. We are Americans because of it."

I know that it is common, as the Society does in its own general brochure and as the National Archives does above its entrance, to cite the celebrated words of Shakespeare to the effect that "the past is prologue." Well, it just so happens that Shapespeare, in this instance at least, was wrong—dead wrong. The past is not prologue. It is part of the present, the very warp and woof of our lives. Without the past, we have no present; without a memory of the past, we have no capacity to think and to dream. Fortunately, the United States Capitol Historical Society does not act on these words. It has always, as it continues to do, celebrated the existence of the past, attempted to illuminate it for all American citizens, and sought to make the past integral to life on-going. I salute the Society as it marks another year of its own history of doing so.

ANTI-ISRAEL THEATRICS IN THE UNITED NATIONS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. ACKERMAN. Mr. Speaker, for the eighth consecutive year, the U.N. General Assembly recently voted on a resolution to oust Israel from the United Nations. Although the resolution was defeated by a vote of 95 to 37 with 15 abstentions, it is interesting to note that every Arab nation, with the exception of Egypt, supported Israel's expulsion. Mr. Speaker, this is a serious impediment to Middle East peace. How can Israel work with these nations if they don't even recognize her right to exist? Arab unwillingness to accept Israel's existence continues to stall any hope for a peaceful settlement.

I urge my colleague to read this commentary by A.M. Rosenthal, which appeared in the New York Times last week. As Mr. Rosenthal points out, it is high time for the Arab world to join the real world and stop its anti-Israel theatrics in the United Nations.

[From the New York Times, Oct. 17, 1989]

OUT, OUT, BRIEF HOPE

(By A.M. Rosenthal)

The Arab states have stamped out a faint, brief hope that they might take one small step toward real peace in the Middle East.

For a while, some Israelis and Westerners cherished the thought that maybe this year the Arabs would be wise enough and want peace enough to drop their annual ritual of trying to throw Israel out of the United Nations General Assembly.

It would cost the Arab states almost nothing and win considerable political profit.

At a time of negotiations about Israeli-Palestinian talks, it would get them an admiring press around the world. It would signal that they might at least be giving a little thought to solving the one basic problem lying behind the Israeli-Palestinian dispute, which prevents peace in the Middle East and keeps the possibility of another war ever present.

That problem is the refusal of every Arab state except Egypt to make peace with Israel. With arrogance and contempt, they demand that Israel turn over territory and weaken its security while surrounded by nations that consider themselves at war with Israel.

Anyway, that brief hope is dead. Sometime today, the Libyan delegate is scheduled to march to the rostrum and in the name of the Arab states demand again that Israel be kicked out as an outlaw country unfit to sit in the community of nations. Libya!

The move will fail. But the Arabs are not looking for a voting victory. Their objective is to continue the relentless effort to obliterate Israel as a nation worthy of respect in the world—part of a continuous and sophisticated campaign of psychological warfare.

The campaign is worth considering not only for what it tells us about the intentions of the Arab states but our own double standards.

Think: How many news stories have you read or heard on TV during the current session of the General Assembly about this annual ugliness and about the Arab decision to continue it for the seventh straight year?

A number of American columnists and editorial writers and members of Congress are demanding that Israel at once accept Egyptian or American or Palestinian suggestions about Israel's own election proposals. How many also have written to remind Arabs that peace efforts between Israelis and Palestinians are hardly helped by a simultaneous Arab campaign to drive Israel out of the United Nations?

Like most Americans and Israelis I hope some way can be found to put Israeli's plan into operation. But I think that with their very existence involved, the Israelis have the duty to use all the political mine-detectors they own.

It is strangely unfeeling for Americans to scream for the United States Government to harass, threaten and blackmail Israelis into acquiescence while remaining silent about the continuing Arab rejection of Israel.

MIDDLE EAST, DOUBLE STANDARDS AND SICK COMEDY

But the sorrow is that the double standard about Israel and the Arabs is so ingrained now we hardly notice it anymore. The world reacts in anger about the killing of Palestinians on the West Bank—except when the Palestinians are being killed by Palestinian terrorists.

Hard conditions in an Israeli camp for Palestinian prisoners get continuing attention—correctly. But two years ago, when the Iraqis dropped poison gas on the Kurds, fellow Muslims and inhabitants of Iraq, the world hardly noticed. Thousands were killed, according to Kurdish leaders, and hundreds of thousands fled into exile. When the atrocity surfaced, the story lasted a day or two. Then most diplomats and journalists yawned and turned away.

Every deliberately obscure word Yasir Arafat mumbles about accepting Israeli's existence is praised. But when he travels around the world inspiring the economic boycott of Israel, nobody pays much attention.

The double standard is not the fault of Israel's enemies. They do not hide the depth of their enmity against Israel. Four decades after Israel's creation, European publishers have to print special maps in school textbooks if they want to sell them in most Arab states. The maps obliterate the very name of Israel.

The fault lies in the rest of the world, particularly the West, where the truth can be known and said. But it is not, year after year it is not said.

Peace will come in the Middle East when the Arab states are ready to make peace, not before. To pretend otherwise is a sardonic joke.

It is not absolutely necessary to have a sense on in the Middle East. But it does help, particularly if it is a taste for sick comedy.

CONGRESSIONAL SALUTE TO WILLIAM CASSIDY

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. FOGLIETTA. Mr. Speaker, I rise today to salute Mr. William Cassidy for over 44 years service to his community. His commitment to his family, his neighborhood and the city of Philadelphia provide an example to all of us.

Born on Constitution Day, September 17, 1914, Bill grew up during the depression. An ardent supporter of President Franklin D. Roosevelt, Bill later joined the board of directors of the FDR Club in Philadelphia. He also served as president of the 5th and Lycoming Civic Association.

Bill has been married over 48 years to Frances Cassidy. As father to 4 children, grandfather to 10 and great-grandfather to 2, Bill has imparted his ideals to three generations. He is a retired Southeastern Pennsylvania Transportation Authority worker and a member of Saint Henry's Roman Catholic Church.

As Bill is retiring as a committeeperson, I salute his many years as a community leader. I wish him continued luck in the years to come.

SUPPORT FOR A PLEBISCITE IN PUERTO RICO

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. GREEN. Mr. Speaker, I am pleased to join our colleague from California [Mr. LAGOMARSINO] in cosponsoring legislation which provides for a referendum on the political status of Puerto Rico. While much remains to be considered and this may not be the final word, there seems to be a consensus in Puerto Rico that we should have a binding status referendum, and this is a good way to start the House process. I commend the purpose of the legislation because it provides for

the exercise of self determination by the 3.3. million citizens of Puerto Rico. There is no principle cherished more by the American people than the right of self determination.

In January, Gov. Hernandez Colon announced that he would seek a plebiscite and President Bush declared his personal support for statehood, calling on the Congress to authorize a referendum on whether Puerto Rico should become the 51st State. The last referendum, which was held in 1967, was a choice between "perfected" commonwealth, statehood, or independence, with the opportunity to approach Congress with the legislation necessary to implement the new status. Unfortunately, the people of Puerto Rico had to vote on three uncertainties, because all of the options depended on future action by Congress. More than two decades have passed since the Puerto Rican people were consulted on their relationship to the United States and there seems to be a consensus that the time has come for another referendum. The legislation offered today provides an appropriate mechanism which would implement what Puerto Rican people ultimately decide in a 1991 referendum. It is a fair and balanced approach that does not favor any of the competing interests.

With an overwhelming majority of the Puerto Rican people supporting a plebiscite, I believe that we should take this opportunity to begin working toward that goal. I look forward to the continued political status debate and to working with my colleagues to enhance this important initiative.

VETERANS OF THE YEAR

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. KOLTER. Mr. Speaker, today I rise to honor two constitutents from the Fourth Congressional District of Pennsylvania who will be honored by the Butler County War Veterans Committee as Veterans of the Year, for their outstanding service and dedication to this great Nation and to the veterans of their community. They will be honored at a special Veterans Day recognition dinner at the General Butler Vagabond Center, Lyndora, PA, on November 4, 1989.

Mr. P.P. "Dave" Boshko, a retired steel worker from Armco Steel Co., has received numerous awards and accomplishments in the Butler area community. A life member of Veterans of Foreign Wars Post 249 of Butler, PA, Mr. Boshko served as post commander, county commander, and 25th district commander. He was involved on the local, State, and national level for many years. Mr. Boshko is also an active member of Michael Kosar American Legion Post 778, Lyndora, PA, and has served on the Butler County War Veterans Committee, playing an active role for the Memorial Day and Veterans Day observances in the city of Butler. He served on the Butler area Honor Guard and ceremonial squad, and is a member of the Vietnam College Scholarship Foundation.

During World War II and the Korean war, Mr. Boshko served over 8 years in the U.S. Army in both the Asiatic-Pacific theater of operations and the European theater, and was awarded numerous citations for his outstanding service to his country.

Mr. Howard J. Fritz has served his post since the charter was formed at Mars Veterans of Foreign Wars Post 7505, dedicating himself with continuous effort toward the offices he has commanded. These offices include commander of VFW post, commander of the Butler County Council, and commander of the 25th district.

For many successful years, Mr. Fritz has managed numerous baseball teams in the Mars area. He is a past chairman of the Needy Basket Program of the Mars area school district. Mr. Fritz is a U.S. Postal Service retiree, after 33 years of distinguished service to the Valencia area.

Despite numerous awards and accomplishments, Mr. Boshko and Mr. Fritz have never stopped helping their community. Their dedicated service has been invaluable to Butler County, and I am very proud to honor these respected and distinguished men by relating their untiring efforts to my colleagues in this 101st Congress.

THE AMARILLO SENIOR CITIZENS ASSOCIATION

HON. BILL SARPALIUS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. SARPALIUS. Mr. Speaker, I would like to take a few moments of this House's time to discuss an organization that does phenomenal work in my district. I'm talking about the Amarillo Senior Citizens' Association, a service organization with more than 2,300 members that is celebrating its 16th birthday Saturday.

Frankly, there isn't enough time for me to tell you about all the good things the senior citizens' association do for the people of Potter and Randall counties, but I would like to tell you a few. The association serves more than 8,000 residents, age 55 and older. They provide recreation activities, meals and employment opportunities for these senior citizens.

More than that, they help operate a federally sponsored nutrition program in Potter and Randall counties, a senior aid program for more than 60 of our senior citizens and a 150-unit housing project in Amarillo known as Independence Village.

Sometimes, Mr. Speaker, I fear we in this country tend to forget just what a valuable resource we have in our senior citizens. These are people who have helped shape our country during the most exciting century in its history. In my district, many are true pioneers, the people that transformed my hometown of Amarillo from a small rural community into the economic center of the Texas Panhandle.

These are productive, vibrant people who have so much to contribute and who want to contribute. We rarely do enough as a society to help them make that contribution. Well, the Amarillo Senior Citizens Association is making a difference with their many, many valuable programs. They deserve our best wishes, our support, and our heartfelt thanks.

Mr. Speaker, I would ask the other Members of this House to join with me today in congratulating the Amarillo Senior Citizens' Association on the occasion of its 16th birthday.

THE FAMILY RESOURCE ACT

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. MFUME. Mr. Speaker, I am proud to come before the House of Representatives today and introduce the Family Resource Act. This timely measure will strengthen the efforts of existing family support centers and will facilitate the establishment of such services in communities nationwide.

As a nation, we are continually barraged with images and examples of a decaying society with a crumbling family structure at the center. Moreover, we are reminded daily through a network of mediums of the growing number of homeless, unemployed, victimized, and disadvantaged Americans unable to adequately cope with the inconsistencies and sometimes drastic fluxuations that so often accompany life. Rarely do we experience to any significant degree, examples of families adapting positively to changes in their lives or in their communities.

It is time to counter that image, however, and undergird existing programs, such as family support centers, specifically designed to combat and alleviate the isolation and sense of hopelessness which often accompanies crises and can lead to the breakdown of family. Many families, in fact, have been in the fore of developing self-help services and programs and therefore contribute to the overall development and success of a viable family unit. This movement has a great deal of momentum in the communities of Maryland's Seventh District and should certainly be developed nationwide as the benefits are many and far-reaching.

Community-based family support outreach programs have consistently been about the business of rejuvenating and empowering families set back by personal crises or changes within the community. These programs focus on the continually changing family and deal with such problems as substance abuse, child abuse, divorce, teenage, and single parenthood, and child poverty. More importantly, these centers help stave off accompanying isolation and stress within families by offering adult education early childhood development, and job skills.

Mr. Speaker, the spread of the family support movement throughout my home district of Baltimore, and in fact throughout the great State of Maryland, has been in the face of the unchanging traditional system characteristically lacking in supportive services for parents and very young children. Both public and private social services institutions do not adequately meet the needs of today's changing family and continue to deliver services in a reactive, crises-driven manner geared toward treating existing and often already acute problems. Family support centers, on the other hand, work to build and develop family skills

and coping mechanisms in an effort to avoid crises by dealing with problems at an early stage. Moreover, rather than focusing on a circumscribed and often limited group of families, support centers reach out to everyone in the community, with the goal of helping them function better and to enhance their quality of life.

In an effort to facilitate the development of family support centers in as many communities as desire them, I am introducing this bill today to develop a national family support center whose principal role would be to promote the establishment of model family resource and support programs nationwide. This center would be critical as it would serve as a national clearinghouse to systematically identify, gather, and disseminate information on all types of family resource and support programs. Additionally, the national center is to develop training and technical assistance materials and seminars for use by communities nationwide in setting up such model programs.

The Family Resource Act would also mandate the manner of reviews and evaluations of the several types of family resource and support programs. These services are critical as they will demonstrate which programs are most effective and will offer direction to both practitioners and policymakers about which programs should be advanced in the future.

RAMON B. FISCH: PRESIDENT OF THE MIAMI BEACH BOARD OF REALTORS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mrs. ROS-LEHTINEN. Mr. Speaker, I rise to offer special congratulations to one of my constituents, Mr. Ramon Benatar Fisch, who was elected for an unprecedented third term as president of the Miami Beach Board of Realtors on September 23, 1989.

Mr. Fisch has a long history of civic involvement in Miami Beach. He first served as the board of realtors president in 1977 and again in 1988. In addition, he was awarded "Realtor of the Year" in 1976 and "Outstanding Citizen of the Year" in 1984.

Mr. Fisch's successes are not only gauged in the business arena, but also on the area of community involvement. He founded the Realtors Emergency Action Committee on Housing [REACH], a countywide group of realtors dedicated to assist in solving the homeless problem in Dade County.

A graduate of the Wharton School of the University of Pennsylvania, he also holds a juris doctor degree. He has served on many city committees and is presently a member of the city of Miami Beach Budget Advisory Committee. Mr. Fisch is also a longtime Rotarian, and headed the Rotary Club of Miami Beach. In addition, he served two terms as president of the Miami Beach Taxpayers Association. He is also a trustee of Temple Israel of Greater Miami.

Mr. Speaker, Ramon Fisch is that kind of model citizen which help make our communities a better place to live. I applaud his accomplishments and his commitment to the Miami Beach area and its citizens.

MELVIN H. PELFREY

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Ms. KAPTUR. Mr. Speaker, I rise to request that the following remarks which I delivered yesterday during the memorial service for my dear friend Melvin H. Pelfrey who recently passed from us be included in today's RECORD of congressional proceedings:

To Shirley, Mel's beloved wife and lifelong partner who was always at his side, their children, Terry, Pamela, and Kim, grandchildren, family members, relatives, and associates, and friends all.

Indeed, it is a high honor—and privilege to pay tribute—and publicly say thank you—to Mel Pelfrey—on behalf of our entire community, our Great Lakes region, our state, and our nation. He was our friend, our brother, for whom we all hold the deepest and abiding respect and affection.

It is said: "When a great man dies, the light he leaves behind him lies upon the paths of those who will follow." Each of us has been fortunate to have known him, to have shared in his dreams, to have enjoyed his friendship.

Today, I know Mel is smiling down on us—as we gather next to the building he anchored with union pension funds to help build a new Toledo, locating it here along our major tributary to Lake Erie which opens to the St. Lawrence Seaway system—a system whose future and potential he envisioned in his mind's eye more clearly than any person I have ever known. A brilliant man. Inside this structure, as a result of his efforts, is the simulator training center used by our entire nation to train ship's officers and pilots.

Eric Hoffer has written: "How frighteningly few are the persons whose death would spoil our appetite and make the world seem empty". Mel was such a man.

And sometimes I think that through these special people that God shares with us for just a while, He seeks to humble us, lest we lose our appreciation for their truly great gifts.

Farmboy. Son of a steelworker. Devoted husband, father, and grandfather. Marine Engineer. Seafarer. Pilot. Hunter. Union Organizer. Political activist. Citizen. Gourmet. Whose unquenchable thirst for adventure led him around the world. This was indeed our true friend who always travelled in "fair winds and following seas."

Builder, visionary. Union Leader. President of the AFL-CIO Maritime Trades Department's Toledo Port Council, who raised the consciousness of our nation, and elevated the living and working. standards for Lakes seamen and their families. He was always there for us, for our community—our projects large and small. Port Authority, the Medical College, the United Way, the Labor-Management Committee, the International Trade Association, Chairman of the Great Lakes Task Force which promotes the eight state Great Lakes region; Vice-President of the National Marine Engineers Beneficial Association. An unceasing fighter for a modern American flag ship fleet on our Great Lakes.

Particularly I feel blessed in that just a few weeks ago by pure coincidence, Mel was in Washington, D.C. along with Dick Gable of the International Longshoremen's Association. By pure chance, we had occasion to lunch together—no planned agenda. Just good friends enjoying the moment. We talked about matters large and small. Mel, as usual, was brimming with ideas. This time about a new, specially designed, Great Lakes shipping fleet under the U.S. flag and how we could move national legislation in conjunction with the combined backing of all the bonding authorities of the various Great Lakes ports. The objective: to build a fleet especially engineered to meet the unique conditions of our Lakes Seaway system. Mel had an ability to think beyond present limitations and sketch a future that would take us beyond where we had ever been before.

We also talked about other matters that day. We discussed—of all things—retirement. I told him I thought the epitome of happiness in retirement might be owning a dairy queen and bakery and serving those marvelous confections to all comers. He disagreed; and countered "no that would be too much work." The answer for him was "honey bees" • • • lots of honey bees. You'd just have to take the hives out and the bees would do all the work—and you then collected their golden harvest whenever you wanted to. Mel was always thinking ahead.

He was such a patriot. Last July 4 we were all gathered here together to celebrate the nation's birthday, enjoy the fireworks, and participate in the hoisting of the new American flag that was to fly over the new flag pole Mel had built atop the MEBA building. If you were present at that moment, just know there was no greater patriot than Mel Pelfrey. As that flag was raised up the pole, no prouder American could have stood on Water Street, straining his neck to see the full length of that giant flag unfurl. The flag of course changed the entire skyline of Toledo and is causing artists to redraw our cityscape once again. Mel asked "But do you think it's large enough? Mel was not given to small plans.

When I learned of his untimely death, I truly was shocked. So were other Members of Congress, Mel knew well—Walter Jones, Chairman, Merchant Marine Committee (North Carolina) Jim Oberstar (Chair of the Great Lakes Caucus from Duluth, Minnestoa and Thunder Bay at the headwaters of the Great Lakes). I was feeling very, very low until the moment I spoke to Congressman John Dingell of Michigan, our neighbor to the North who also knew Mel. Some of you know John Dingell is also an avid hunter. They call him "Big John". He asked me how Mel had died and I told him. He paused for a moment and said "What a great way for a son of the outdoors to die. I should be so lucky."

I've thought about that many times these last days. And I'm glad God was good to Mel in his closing moments on earth. He died with friends. They ensured his journey home was safe. He did not suffer. And he died doing something he truly loved.

The renowned American poet Robert Lewis Stevenson seems to have written the perfect words that Mel if could speak to us today would say:

Under the wide and starry skies
Glad did I live and gladly die
This be the verse you gave for me

Here he lies where he longed to be
Home is the sailor, home from the sea
And the hunter home from the hill.

OFFICE OF ADMINISTRATOR OF GENERAL SERVICES

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mrs. COLLINS. Mr. Speaker, today I am introducing a bill (H.R. 3529) to establish a 4-year term of office for the head of the General Services Administration; namely, the Administrator of General Services. That office was established by the Federal Property and Administrative Services Act of 1949, which mandates to GSA the performance of several basic logistical and management functions in support of the executive and judicial branches. These services are acquisition and operation of buildings, procurement and distribution of supplies, use and disposal of property, transportation and travel, and communications management.

Why, after 40 years, do I propose amending the Federal Property Act to establish a statutory term of office? Because since 1972, we have watched 16 changes in GSA's chief executive, 10 of which represent periods when individuals served in an acting capacity. This extraordinary administrative turnover, which has been accompanied by inevitable changes in senior subordinates, has seriously affected GSA's morale, stability, and operational effectiveness, including the ability to retain and develop strong professional staff resources.

Furthermore, there has been a distressing trend toward filling subordinate management and operations positions in GSA with political appointees. This, too, aggravates discontinuity and weakens the professional responsiveness of the operating services.

Mr. Speaker, the conclusions I have just summarized are not anecdotal. They are based on studies by GSA, the National Academy of Public Administration, and the General Accounting Office. Focus on the matter has recently been sharpened by the 18-month period since the resignation of the last confirmed Administrator, Terry Golden. During this time, GSA has been run by Acting Administrators. After an inexplicably long delay, the President on October 10 at last sent to the Senate this nomination of Acting Administrator Richard G. Austin to be Administrator of General Services.

The so-called revolving door syndrome at GSA is unlikely to cure itself. It is time, therefore, that the Congress consider curative measures. The bill I am introducing is a step which I believe will elevate the position of Administrator and encourage stability of incumbency.

Assigning a 4-year term to the Administrator is an unusual step to take with respect to the office of a major agency head. It is not a unique step, however. For example, the position of Director of the Office of Personnel Management has a 4-year statutory term. Let me add that the President's constitutional power to appoint and terminate would not, of course, be limited by such a provision. In specifying a fixed term, however, it would establish an expectation on the part of the President, a candidate for the position, the Agency, and the Congress.

GSA clearly has a special functional character as the central service and administrative agency for the Government. In its report on an Office of General Services, the first Hoover Commission stated: "To the general public, the 'housekeeping' activities listed above are little known, but unless they are properly administered, the executive branch cannot be effectively managed." Greater stability and continuity of leadership in GSA are essential to its own effective management and hence to the effective management of the agencies it serves.

The bill would also raise the Administrator's position on the Executive Schedule to pay level II. In addition, the Deputy Administrator, whose designation is the statutory prerogative of the Administrator, would have to be selected as a career appointee in the Senior Executive Service. Finally, the Deputy Administrator's position would be raised to level III of the Executive Schedule.

Mr. Speaker, the Government Activities and Transportation Subcommittee, which I chair, plans a hearing early next month on this bill. We look forward to building a record that will clearly delineate the leadership and management problems at GSA and assist the subcommittee to fashion needed legislative remedies.

THE RETIREMENT OF MR. JOE O'DONNELL

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. HORTON. Mr. Speaker, I rise today to pay tribute to Mr. Joe O'Donnell of Rochester, NY, who recently retired after 40 years at Kodak. Today is the day that friends, coworkers, and admirers from across the Nation are gathering to pay tribute to this gentleman whose work has profoundly influenced the steamship industry around the world and saved American industry millions of dollars.

Through these years, Joe O'Donnell has toiled in relative anonymity as far as the general public is concerned. However, he is well known to those in the cargo shipping industry

In the words of one of his admirers, Mr. Raymond Luzar of OOCL (USA), Inc, "Mr. O'Donnell has singlehandedly revolutionized the industry by consolidating cargo descriptions under a blanket nomenclature. This was an immense study project and sales effort to the various steamship owners around the world and * * * literally changed the philosophy of our industry."

As a result of his efforts, Kodak alone saved millions of dollars and helped create many jobs. Further, American importers and exporters of all types have adopted his system and will enjoy the benefits of it for years to come.

Mr. Speaker, I am proud to bring to the attention of my colleagues the achievements of Joe O'Donnell. He represents the epitome of American ingenuity.

My wife Nancy and I want to offer our best to him on this happy occasion. May his future years be ones of continued fulfillment.

THE JOHN W. WYDLER FEDERAL DEPOSITORY LIBRARY

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. McGRATH. Mr. Speaker, today, at Hofstra University in Hempstead, NY, the Federal Depository Library will be named after my predecessor and good friend, the late Hon. John W. Wydler.

John served the Fifth Congressional District for 20 years and one of his proudest accomplishments was having Hofstra University designated as a Federal document depository. His efforts make today's dedication a fitting tribute to his memory.

The Federal depository of Hofstra University adds a new dimension as well as a wealth of resources to students and scholars of government. Hofstra is already highly regarded as an excellent educational institution offering many of my constituents many opportunities for scholastic advancement.

I wish to congratulate Hofstra University and its administration on their decision to honor John Wydler is this manner. Not only will the memory of John's extraordinary service to Long Island be preserved, but Hofstra's reputation will be enhanced as a center of learning.

THE HAZARDOUS MATERIALS TRANSPORTATION ACT UNIFORM SAFETY AMENDMENTS ACT OF 1989

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. THOMAS A. LUKEN. Mr. Speaker, explosions, fires, and evacuations. Disasters and near disasters caused by hazardous materials accidents have become an everyday feature of American life. The reason for such disasters is an inadequate system of regulation, a system that makes no distinction between the movement of apples or the movement of cyanide when regulating rail operations; and, a system that permits any licensed truck driver, regardless of how poor his safety record, to transport life threatening substances such as explosives and poisonous gases.

Bhopal. Chernoble. Their names are indelibly etched in our memories. We watched with a combination of horror and morbid fascination as these man-made disasters unfolded before us on our television screens. But most of us took solace in the knowledge that a man-made disaster of such a magnitude couldn't happen here. But it can! Ask the citizens of Miamisburg, OH.

On the afternoon of July 8, 1986, 15 cars of a southbound Baltimore and Ohio Railroad Co. freight train derailed while traveling at 45

miles per hour near Miamisburg, OH. Three of the derailed cars were old tank cars containing yellow phosphorus, molten sulfur, and tallow. These tank cars, which had not been updated to current design standards, struck a bridge abutment, were extensively damaged, and began to lose their contents. The accident scene was soon engulfed in a major fire. Approximately 7,000 residents from a section of Miamisburg were initially evacuated as a safety precaution. On the following day, as a wreckage-clearing crew was preparing to remove the smoldering debris, the phosphorus car ruptured, spilling several hundred gallons of molten phosphorus into the river and causing a poisonous cloud to engulf the area. During the next 48 hours a 3 square mile area of Montgomery County, OH, was evacuated, forcing an estimated 30,000 people to leave their homes and businesses and sending 569 people to the hospital. The people of Miamisburg were lucky. Things could have been much worse.

Every day in this country there are at least 500,000 shipments of hazardous materials by truck, train, barge, and aircraft—an incredible 4 billion tons of this dangerous stuff will move this year. And the amount of hazardous materials movements continues to increase. These shipments run the gamut from gasoline, to radioactive materials, to poisonous gases. They're important raw materials and by-products of our industrial economy but they also create the potential for catastrophe every time there is an accident, collision, or derailment. In 1988, there were 6,118 transportation accidents or incidents in which hazardous materials were released, resulting in 15 deaths and over $20 million in damages.

Hardly a day goes by that we don't hear, see, or are inconvenienced by an accident involving a tanker truck of gasoline or spilled chemicals. Then there are the really big accidents that are occurring with increasing frequency such as the derailment at Miamisburg or a similar accident that happened on July 22 of this year at Freeland, MI, that also forced the evacuation of thousands of people from their homes for several days, or the explosion last November in Kansas City of a truck trailer containing 23 tons of ammonium nitrate that killed 6 firefighters. It is only through a combination of luck and the skill of the emergency responders that a truly major disaster has been avoided. We are forced to wonder whether that truck next to us on the highway or the train across town will become a Bophal on wheels. Is anybody doing anything to protect us?

The transportation of hazardous materials is governed by an increasingly crazy quilt pattern of Federal, State, and local hazardous materials regulations that baffles the industry being regulated, diverts valuable enforcement assets into nonproductive efforts, and does little to ease the concern of citizens that they might be the next victim of a manmade disaster.

Among the regulations that have been enacted recently by States or local jurisdictions are provisions that: prevent the movement of hazardous materials on the afternoon of a home football game, prevent movements if the temperature outdoors drops below 35 degrees or if it has rained within the last 2 hours, and require a special code instead of standard units of measure—such as pounds or gallons—on shipping papers. Instead of concentrating on important safety concerns such as the integrity of fittings and valves, required emergency response information, the placement of warning placards, and the safe operation of the vehicle, the hazardous materials transporters must also be able to predict the weather, follow the sports teams, and understand the unique codes and symbols of communities located hundreds of miles from where they live or do business.

Then there is the Federal regulatory scheme which contains such incredibly big holes that you could drive a truck—or a train—through them. As the Federal regulations read today, any licensed trucker, regardless of how bad of a safety record he possesses, can haul hazardous materials including the really deadly commodities such as explosives and poisonous gases. And the Federal regulations governing the safe operation of trains pay scant heed to the commodities being hauled. Regulations governing speed of trains, conditions of track, operating procedures, and crew qualifications are the same whether the train is moving a carload of apples or a carload of cyanide. The goal of preventing all accidents is commendable but logic dictates that we pay special attention to those shipments that, if involved in an accident, could cause a catastrophe.

The courts must also shoulder part of the blame for the evolving crazy quilt of regulation. The Hazardous Materials Transportation Act as it currently reads is so vague that it is an invitation for each and every Federal court to write its own hazardous materials regulations. In a case in my home State of Ohio, a Federal district court ruled that the Federal Railroad Safety Act, which was enacted 4 years before the HMTA, has precedence over the HMTA and banned enforcement of hazardous materials regulations by the State against railroads. If this decision is upheld on appeal and applied nationwide, enforcement of hazardous materials regulations against almost 600 railroad companies with hundreds of yards and sidings and almost 200,000 miles of track, will be limited to 48 Federal Railroad Administration inspectors. And even this pitiful level of enforcement will be hamstrung. In perhaps the most outrageous decision in this area, a Federal district court has ruled that carriers can use the negligence of their employees as a defense to prevent the Federal Government from collecting fines for violation of Federal hazardous materials regulations. In this particular case, a carrier charged with mishandling a vehicle containing sulfuric acid used as a defense that its employees failed to notice the placards on the vehicle even though they had performed work on the vehicle less than 5 feet from a placard. The court ruled that since the employees didn't intend to violate the regulations—they just didn't happen to notice that there was something special about that vehicle—the carrier couldn't be held accountable.

It is clear that we must act now to straighten out this mess. We have avoided a major disaster as much through luck as through anything else. We cannot count on being lucky forever.

Today we are introducing the Hazardous Materials Transportation Act—Uniform Safety Amendments Act of 1989. This legislation will make the first major changes in the Hazardous Materials Transportation Act since it was enacted in 1974. Although the bill is comprehensive, it is based on two simple premises. First, in certain critical areas of hazardous materials transportation there is a need for nationally uniform regulations, in part, so that the hazardous materials transportation industry knows what is expected of them. And second, these regulations must be vigorously enforced. The bill also recognizes the need of emergency responders, who put their lives on the line every time there is an accident, for better information on the materials involved in the accident and the best procedures to use to deal with the emergency.

The HMTA-USA Act will:

Spell out the areas where uniform regulations are necessary to prevent confusion and ensure the safe transportation of hazardous materials. Even in these areas, however, States will be able to enact and enforce the Federal regulations as State law. This demonstrates our belief that the States are an important partner of the Federal Government in the enforcement of hazardous materials regulations.

Allow cities and States to adopt hazardous materials restrictions in areas not specifically governed by Federal regulations, if such restrictions further the purposes of the HMTA and don't conflict with Federal law.

Provide that in areas of regulation normally limited to the Federal Government, States can seek DOT approval to impose regulations to address unique, local problems.

Require DOT to establish standards for States and local jurisdictions to designate hazardous materials highway routes.

Beef up enforcement against violators of hazardous materials regulations by: First, allowing the Secretary of Transportation to go after companies who knew or should have known that their actions, and those of their employees, violated hazardous materials regulations; and second, giving the Secretary greater powers to direct compliance with regulations and to impose civil penalties for violations.

Increase the capability of Federal authorities to stop violators when there is an imminent risk that endangerment to persons, property, or the environment will occur from the transportation of hazardous materials.

Increase the civil and criminal penalties that may be imposed on violators of hazardous materials regulations and, for the first time, establish minimum civil penalties for violations.

Make it a crime to tamper with any package, container, or vehicle used for the transportation of hazardous materials including the markings, labels, or placards on such packages, containers, or vehicles.

Require the Secretary of Transportation to implement a registration program for all persons involved in the transportation of hazardous materials, thus providing information necessary to improve identification, compliance, and enforcement of hazardous materials laws and regulations.

Require the Secretary of Transportation to implement a safety permit program for trucks that carry ultrahazardous materials such as explosives, poisonous gases and radioactive materials, and require that these motor carriers maintain the Department's highest safety rating.

Require that the Secretary of Transportation, for the first time, issue regulations tailored to the safe operation of trains that move ultrahazardous materials.

Require the Secretary of Transportation to establish regulations for the safe and secure transportation of highly radioactive materials by each mode of transportation as well as standards to be used by the Department of Energy and the Department of Defense for the selection of the modes and routes to be used for shipments of these materials.

Provide for 200 new Federal hazardous materials safety inspectors; 100 for the Federal Highway Administration, 60 for the Federal Railroad Administration, and 40 for the Research and Special Programs Administration.

Direct Federal agencies to make recommendations, in association with the States, regarding: First, ways to better identify hazardous materials flow routes; second, the existing capabilities of each state to respond to hazardous materials emergencies; and third, the existing training programs for emergency responders that are available in each state.

Require shippers of hazardous materials to disclose information regarding the materials they are offering for transportation, the hazards presented by an unintentional release, and appropriate responses to unintentional releases.

Direct that documents accompany every hazardous materials shipment that identify the hazardous materials being shipped and the appropriate emergency response to an accident, and require that in the event of an accident, this document be made available immediately to emergency responders.

Require the Secretary of Transportation to issue regulations mandating the training of transportation workers of the proper procedures to follow in the event of an accident involving hazardous materials.

Direct the Secretary of Transportation, in consultation with emergency responders and other interested parties, to study the shortcomings in the present system of identifying hazardous materials in transit, ways to improve this system, and possible alternatives that could replace this system.

Prohibit the use of tank cars like those involved in the Miamisburg accident until they have been brought up to current standards. The bill also requires an independent study of the process used to approve the design, modification, and repair of tank cars to ascertain the proper Federal role in the process.

Prohibit the transportation of food, drugs and other items intended for human consumption in vehicles or containers used for the transportation of hazardous materials or solid waste—including garbage—except in those cases where the vehicles or containers have been decontaminated in accordance with procedures to be established by the Federal Government.

THE GLOBAL CHANGE RESEARCH ACT OF 1989

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. SMITH of New Jersey. Mr. Speaker, this morning the Human Rights and International Organizations Subcommittee held a hearing on H.R. 2984, the Global Change Research Act of 1989. This subcommittee has now held several hearings dealing with global climate change and the role the United States must play.

Mr. Speaker, the problem of global climate change cuts across all national borders. The devastating effects which a rise of only a few degrees of temperature could have on our planet, demand that we take steps now to prevent such manmade changes on our global environment.

Scientists tell us that global warming may occur due to the buildup in our atmosphere of what have become known as greenhouse gases—specifically carbon dioxide, methane, chlorofluorocarbons or CFC's, nitrous oxides, ground level ozone, and other trace gases. In order to respond to this threat, it is imperative that the United States pass clean air legislation, phase out the use of CFC's, as called for in the Montreal protocol, and take other actions which will reduce our own emissions of greenhouse gases.

However, unilateral actions taken by the United States cannot solve the problems of global climate change. Almost 80 percent of greenhouse gas emissions come from countries other than the United States, including developing countries. EPA estimates that the share of greenhouse gas emissions could climb as high as 60 percent in about the next 100 years. It is essential that the United States take the lead in encouraging the rest of the world to reduce greenhouse gas emissions.

Mr. Speaker, H.R. 2984, the Global Change Research Act of 1989, was introduced by my good friend and chairman of the Science, Space, and Technology Committee, BOB ROE. I strongly support this legislation and I am proud to cosponsor it.

H.R. 2984 would establish a National Global Change Research Program aimed at understanding and responding to global change. Under title I, the Committee on Earth Sciences, established by President Reagan in 1986 by Executive order, would be reorganized to better coordinate the activities of the many Federal entities currently conducting research on global climate change [NASA, NOAA, USGS, NSF, EPA, DOE, USDA, DOI, and may others].

Title II of H.R. 2984, which the Human Rights and International Organizations Subcommittee has jurisdication over, directs the Secretary of State to initiate discussions for protocols on global change research and assessment. Among the sections of this title is one which I am particularly interested in, section 6, which calls for:

The prompt establishment of international projects to create globally accessible formats for data collected by various international sources; and combine and interpret data from various sources to produce information readily usable by policymakers attempting to formulate effective strategies for mitigating and adapting to harmful effects of global change.

Mr. Speaker, earlier this year during floor consideration of the State Department authorization bill, the House passed an amendment I offered on this same subject in a different context. My amendment called for the Secretary of State to study the feasibility of establishing a framework for disseminating information regarding global climate change which is already available in the United States, but not in other countries around the world. It was my intention to take the Secretary's recommendations and then seek to create this structure within the State Department, preferrably through the U.S. Information Agency.

The fact is that our Government has a wealth of material which could help many countries, including those in the developing world, to address global environmental issues, such as reducing emissions of greenhouse gases, without compromising their economic goals. For example, the Department of Energy has numerous publications on methods to reduce energy production through energy conservation or new advances in energy efficiency. By reducing energy consumption at the same level of production, developing countries can decrease their emissions of both carbon dioxide and nitrous oxide, two of the primary greenhouse gases.

Using the U.S. Information Agency as the vehicle, we could collect and disseminate information provided by the Department of Energy, the Environmental Protection Agency, the Department of Agriculture, the Forest Service, and any other department and agency which produces accessible information which could help mitigate global environmental changes. In fact, several industry and trade organizations have indicated that they would also have information which would be useful in combating global environmental problems.

Mr. Speaker, by providing the world with information on how to help mitigate global climate changes, we would be making a major contribution to the world's and America's, environmental future. In addition, by taking this leadership role, the United States may be seen in a more positive light by the world community, which would further enhance our national objectives.

A TRIBUTE TO ANDREA WILLIS

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. HERTEL. Mr. Speaker, I rise today to recognize an outstanding individual Andrea Willis, who has been honored as the 1989 Michigan Teacher of the Year.

Ms. Willis is an elementary school teacher at Sven Holden Elementary School in Sterling Heights. She has been an educator for 25 years and has received additional awards for the excellent job that she has done. She received the Invent America! award and also the

WDIV-Detroit Television Outstanding Educator Award. She truly exemplifies the dedication, the patience, and the enthusiasm that every teacher needs.

Ms. Willis will be honored for her achievement at the sixth annual Burger King Corp. "In Honor of Excellence" education symposium October 25–29 in Washington, DC. She will be joining the 1989 Teachers of the Year from every State in addition to Puerto Rico. The Council of Chief State School Officers selected the teachers based on their dedication to improving education and on their encouragement of community involvement in the schools. She will be attending a series of workshops and seminars during her stay in Washington.

My dear colleagues please join me in recognizing Andrea Willis, an outstanding educator, who is an example for all teachers to follow.

CORRECT A MISUNDERSTANDING IN THE INTERPRETATION OF THE DISASTER ASSISTANCE ACT OF 1989

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. TALLON. Mr. Speaker, today I, along with Congressman ARTHUR RAVENEL, am introducing legislation to correct a misunderstanding in the interpretation of the Disaster Assistance Act of 1989.

A little over a month ago, South Carolina was devastated by the worst storm of this century. By now the rest of America knows that hurricane Hugo ploughed through South Carolina leaving in its wake complete destruction and chaos.

We've got a half million people displaced, a quarter of a million out of work, and damage to physical property exceeding $4 billion. That's not taking into account the effects on tourism and daily increase in clean up costs. It will take us years to recover.

But, as the people of South Carolina begin the long, painful process of piecing their lives and belongings back together, it has become clear that among the greatest casualties were our farmers.

Congress has made some emergency assistance available for agricultural producers of program and nonprogram crops. The Disaster Assistance Act of 1989 provides disaster assistance payments to farmers who suffered losses in production due to damaging weather including hurricane.

Unfortunately, however, the Agriculture Stabilization and Conservation Service [ASCS] is interpreting their regulations in a manner to make the Disaster Assistance law useless for producers of nonprogram crops.

Contrary to the Agriculture Committee's intent, ASCS is interpreting the 1989 Disaster Assistance Act in a manner that will not help farmers who grow separate spring and fall nonprogram crops.

Farmers in our area have grown spring and fall vegetable crops for years. And while the spring crop is generally larger than the fall, both spring and fall crops are well defined and each is considered an entity of its own.

Yet ASCS is saying that both crops must be counted together effectively eliminating the possibility of these producers reaching the 50-percent threshold of eligibility for disaster payments. For example, many of our tomato growers planted a large spring crop which was extremely successful and followed that with a small fall crop which was destroyed. Yet because their larger fall crop was fine, the combined loss does not exceed 50 percent. Contrast that with the producers of almost any other crop who would qualify for assistance, even those who grow tomatoes in the spring and cucumbers in the fall!

The bottom line is the small farmers in our State are struggling to recover from a natural disaster only to face a bureaucractic one. One of my farmers said it best when he wrote, "We don't need this nonsense."

That's why today I, along with Congressman RAVENEL, am introducing legislation to clarify that crops traditionally planted in two separate seasons are indeed two crops under the Disaster Assistance Act. Mr. Speaker, I urge you and my colleagues to help South Carolina's farmers get the assistance they deserve.

THE DEATH OF HECTOR GONZALEZ-HERRERO

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. LEWIS of Georgia. Mr. Speaker, I have recently learned of the death of Hector Gonzalez-Herrero, a Cuban detainee who hanged himself at the Federal prison at Lompoc, CA. Mr. Gonzalez was 1 of over 2,000 detainees who remain in indefinite detention in our country—primarily in our Federal prisons.

When I first spoke on this issue on the floor of the House of Representatives on April 27, 1987, I urged the Reagan administration to change its policy of indefinite detention of the Cuban detainees. I am now urging the Bush administration to correct this unjust policy. It is a policy that is foreign to our national history and one that we should not now continue to countenance.

Equally as troubling to me as the indefinite detention of the detainees is their current treatment. One of the specific provisions of the agreement ending the 1987 uprisings was that detainees requiring mental health assistance would receive such medical care. The Federal Government's promise to do this has not been kept.

In the case of Mr. Gonzalez, shortly before his suicide, his legal representative wrote the following to the Department of Justice Review Panel:

> Gonzalez reports that he is not receiving any medication at this point other than aspirin. A locked-down prison is not the proper environment for a person who is suffering from a mental illness. Mr. Gonzalez should be removed from prison immediately and transferred to a hospital facility where he can be properly diagnosed and treated.

Mr. Gonzalez was not transferred but was left to commit suicide. This lack of proper treatment is not unique. Combined with a policy of indefinite detention and a policy that still confines about 50 percent of the detainees in "lock-down"—so that they are rarely permitted out of their cells—it is not surprising that mental problems are exacerbated.

The Warden at Lompoc, Richard Rison, admitted in an August 27, 1989 article in the Los Angeles Times that the long periods of lock-down "take its toll." About one detainee a month, he said, "loses it mentally." Warden Rison's comments proved prophetic in the case of Mr. Gonzalez, who had spent the prior 2 years locked down in indefinite detention.

For the same newspaper article, the Los Angeles Times interviewed detainee Orlando Hernadez-Bango, who has been held under lock-down conditions for 2 years in three Federal prisons. His forehead and cheeks are covered with small scars and scratch marks, a patchwork of self-inflicted wounds.

"Sometimes I feel like I'm going to blow up * * * I get so nervous I start scratching my face," said Hernandez, who was sent to a Federal prison after serving a 6-month sentence for drug possession. "Always being in your cell * * * with loud noise around you all the time drives your crazy. I've seen friends dragged out of their cells after hanging themselves. Waiting, waiting, waiting all the time * * * It's a terrible feeling."

In the past several weeks, the Bureau of Prisons has begun to move larger numbers of detainees out of lock-down and into general population. I commend that action and hope to see it continue. While there are detainees who are not fit to be released into the general population as a result of past behavior, lock-down should be the exceptions and not the rule.

The continuing Justice Department reviews of Cuban detainees support the view that change is necessary. Of those detainees denied release by the Immigration and Naturalization Service, some 40 percent have been approved by the Department of Justice review panels to be deserving of release from custody.

As we approach the 10-year anniversary of the Mariel boatlift, many of those now being subjected to indefinite detention were only children when they reached our shores. These children were taught in our schools that this country stands for equitable and fair treatment for all who live here. The detainees have never received equitable and fair treatment and are not receiving it now. I continue to call for those in the Mariel boatlift and other excludable aliens to have the same limited rights as other undocumented aliens. Our national policy of indefinite detention should be abolished once and for all.

I stand with the Reverend Augustin Roman, auxiliary bishop of Miami, and Reverend Enrique San Pedro, auxiliary bishop in Galveston/Houston, who have stated that "it is a basic human right that after a man or woman has paid his or her debt to society, his or her freedom should be restored. We cannot accept that those persons who committed crimes in this country remain indefinitely imprisoned after serving their sentences."

CONGRATULATIONS TO DR. ELLEN S. BAKER ON A JOB WELL DONE

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. MANTON. Mr. Speaker, I want to take a moment to commend one of Queens' finest citizens, Dr. Ellen S. Baker. Ellen is the daughter of my good friends, Dr. Melvin Schulman and his wife, Claire Schulman, who serves as Queens Borough president. They are deeply proud of Ellen, who recently made history as a member of the crew of the space shuttle *Atlantis,* which earlier this week completed a 1.7-million-mile space mission.

Mr. Speaker, Ellen has always reached for the stars. She graduated from Bayside High School in New York City in 1970. Four years later she was awarded a bachelors of arts degree from the State University of New York at Buffalo. In 1978, Ellen earned her M.D. from Cornell. After 3 years of training as a resident, Ellen joined NASA as a medical officer at the Lyndon Baines Johnson Space Center. There she graduated with honors from the Air Force Aerospace Medicine primary course and served as a physician, in the Flight Medicine Clinic.

In 1984, Ellen was selected by NASA as an astronaut. In little more than a year, she qualified as an astronaut to be assigned as a mission specialist for future space shuttle crews. Now she has completed her first space flight and served as an integral part of the crew that successfully launched the Galileo spacecraft which will reach Jupiter during the next decade.

Mr. Speaker, these are indeed impressive accomplishments of which anyone would be proud. However, Ellen has not allowed success to affect her. She has her feet planted firmly on the ground. In addition to her career, Ellen is married to Kenneth Baker. They have a 1-year-old daughter named Karen Sarah.

Mr. Speaker, I know all of my colleagues join me in congratulating Ellen Baker, astronaut, physician and mother, on her important achievements. All of us expect many more important achievements from her in the years ahead.

TRIBUTE TO CHARLES G. DHARTE, JR.

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to a celebrated individual, Mr. Charles G. Dharte, Jr. of Clinton Township, MI. Mr. Dharte is being recognized as a Distinguished Citizen by the Clinton Valley Council Boy Scouts of America.

Mr. Dharte is currently president of First Macomb Bank headquartered in the city of Mount Clemens, MI with 13 offices throughout northeast Macomb County. He began his distinguished banking career with a major Detroit bank in 1958. He has been with First Macomb Bank since 1964. In 1978, after serving in various management and administrative capacities, Mr. Dharte became the bank's president.

Just as important as Mr. Dharte's distinguished professional career is his commitment to our community. He has invested a tremendous amount of time and energy toward the youth of Macomb County. He currently serves as director and treasurer of the Boys and Girls Club of Metro Detroit. He is also campaign chairman for the Clinton Valley Boy Scouts Macomb District sustaining membership drive.

His additional community involvement has earned him such accolades as Business Citizen of the Year by the Mount Clemens Business Association and Benefactor of the Year by the Macomb Arts Council. It then comes as no surprise that such an eminent individual has been chosen as a Distinguished Citizen by the Clinton Valley Council Boy Scouts of America.

I commend Mr. Dharte on his exceptional community involvement. He will long be remembered as a true friend of Mount Clemens.

PUERTO RICO STATUS REFERENDUM ACT

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. LAGOMARSINO. Mr. Speaker, the 101st Congress has an opportunity to resolve the major issue affecting the lives of the 3½ million United States citizens of Puerto Rico: The future relationship between the United States and Puerto Rico.

On January 2 of this year, Gov. Hernandez-Colon of Puerto Rico courageously declared:

> It is necessary to meet face-to-face the continuous debate over our relationship with the United States of America. This is a debate which the Puerto Ricans wish to settle . . . I believe that the time has come for the people to again express their choice between the three status alternatives and I believe that it is equally essential for the Government of the United States of America to express its position.

One month later President Bush expressed his position in his first address to a joint session of the Congress by stating:

> I have long believed that the people of Puerto Rico should have the right to determine their own political future. Personally, I strongly favor statehood. But I ask the Congress to take the necessary steps to let the people decide in a referendum.

The Senate was first to respond with the leadership of Senators JOHNSTON and MCCLURE by introducing three variations of a bill providing for a referendum in Puerto Rico in the future relationship with the United States. The bill preferred by the three political parties representing the three status options of independence, statehood, or enhanced commonwealth, clearly defined the precise terms of the various options and would be effective upon approval by a majority of the people of Puerto Rico.

That bill, S. 712, was subsequently reprinted as a star print with the provisions of each status option defined by the respective political party. The Senate Energy and Natural Resources Committee conducted an extensive series of hearings both in Puerto Rico and in Washington to learn the views of the people of Puerto Rico, the administration, and numerous experts.

The Senate committee deliberated long and hard over the many difficult provisions that are involved in such an ambitious and expansive legislation. Each of the status proposals were modified considerably, but in a reasonable ane even-handed manner within constitutional, political, and budgetary constraints.

The Senate Energy Committee's reported bill is remarkably well-balanced and reflects the enormous amount of effort personally expended by Senators JOHNSTON and MCCLURE. Although changes in the Senate bill will be made by the House, and there are some that I feel are warranted, it presents fair, realistic, and viable alternatives to the people of Puerto Rico. It is most crucial to keep the three alternatives on a level playing field, in order for the referendum to be perceived as equitable to the people of Puerto Rico and the international community as well.

Today I am introducing legislation providing for a referendum on the future relationship of the people of Puerto Rico and the United States. The bill contains the legislation as reported by the full Senate Committee on Energy and Natural Resources without the test of the tax and trade provisions for each status alternative. The Senate Finance Committee has yet to address these matters and they will also be considered by the House Ways and Means Committee.

I have discussed the introduction of this bill with the presidents of the three political parties in Puerto Rico. Senator Berrios of the Independence Party and former Governor Romero of the Statehood Party both have urged that the Senate committee-reported bill be introduced. The president of the Commonwealth Party, Gov. Hernandez-Colon said he was not happy with the Senate committee's reported bill but he wanted to see progress on the legislation in the House. The Governor's initial proposal is contained in S. 712 star print of April 5.

It is the loyal United States citizens of Puerto Rico who have been and are patiently waiting for the Congress to fulfill the constitutional responsibility to "make all needful rules and regulations respecting the territory" of the United States. I urge my colleagues to diligently consider the legislation before the Congress and provide the people of Puerto Rico with the opportunity to choose a clearly defined future relationship with the United States.

JOHN VANDER PLOEG

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. WOLPE. Mr. Speaker, I rise to pay tribute to a special constituent of mine, Mr. John Vander Ploeg, Jr. Mr. Vander Ploeg has been

selected to receive the prestigious E. Earl Wright Community Achievement Award.

The annual award, associated with the W.E. Upjohn Institute for Employment Research and given in memory of one of the institute's most distinguished directors, is presented to individuals who have demonstrated success in promoting community achievement and leadership. Mr. Vander Ploeg is the award's sixth recipient.

In being chosen as this year's honoree, John Vander Ploeg is being recognized for advancing the economic development of the Greater Kalamazoo community and of southwestern Michigan. His efforts have resulted in the creation and retention of literally hundreds of jobs, the strengthening of the local and regional economies, and the enhancement of the area's quality of life.

John Vander Ploeg played a key role in the Kalamazoo County's CEO Council, an economic development institution that he currently chairs. He has also served as a member of numerous boards, commissions and civic organizations, including: a member of the Task Force on Economic Development for the city of Kalamazoo; a leader of the Small Business Association of Michigan; cochair of the Economic Alliance for Michigan; and, coleader of Michigan's Delegation to the 1986 White House Conference on Small Business. Additionally, John Vander Ploeg is a businessman who just celebrated 25 years of extraordinary success as founder and head of his own firm.

Mr. Speaker, the respect and appreciation of his colleagues and associates hold for John Vander Ploeg was demonstrated in 1982 when he was selected as the Michigan Small Business Person of the Year, and in 1984 when he was named executive of the year by the Kalamazoo Chapter of Professional Secretaries International. His selection as the 1989 E. Earl Wright Community Achievement Awardee is testimony to the fact that in his commitment to his community John Vander Ploeg continues to go beyond the call of duty. I am certain that my colleagues will want to join with me in recognizing a person whose selfless deeds remind us all that "one person can, indeed, make a difference." For everything that he has contributed, we are all in his debt.

INTRODUCTION OF THE BUDGET TRUST FUND REFORM ACT

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. CARDIN. Mr. Speaker, the House will soon be considering changes to Gramm-Rudman during the debate on raising the debt ceiling. I am no fan of Gramm-Rudman. I believe deficit reduction is a matter of will, not process, and I would vote to repeal Gramm-Rudman. Since this is not a viable alternative, I have drafted the Budget Trust Fund Reform Act to inject some honesty and discipline into the Gramm-Rudman process.

First, my legislation would exclude the surpluses of the Social Security, hospitalization insurance [HI], highway, and airways trust funds from the calculation of maximum deficits. We should not be relying, as part of our deficit reduction strategy, on funds which are designated to meet long-term obligations.

Second, this bill would establish new annual deficit targets based on these corrected deficit calculations. It requires an estimated $23 billion in deficit reduction in each of the next 5 years to bring our fiscal year 1994 Federal funds deficit down to 1 percent of gross national product—$72 billion as estimated by the Congressional Budget Office. When the deficit reaches $72 billion the sequestration provisions of Gramm-Rudman would sunset. I believe this is a manageable deficit level. Our deficit is now close to 3.5 percent of GNP.

Perhaps most important, this bill provides that any excess deficit incurred because of legislation passed after the OMB snapshot or inaccurate economic assumptions will trigger an equal reduction in the following year's target. This will greatly reduce both the ability and the incentive for Congress and the administration to pass spending into other fiscal years in order to meet current Gramm-Rudman targets.

If this Congress insists on being driven by an automatic deficit reduction law, then we should employ an honest system that tolerates no post-sequestration spending, shifting of pay dates or other budget fun and games. We should also take necessary measures to permit the buildup of Social Security Trust Funds, as contemplated by the 1982 Social Security Act amendments, to take place. My bill will help to achieve both these worthwhile ends.

TRIBUTE TO MR. GREG SEEFELDT

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. ASPIN. Mr. Speaker, today I would like to pay tribute to one of Rock County's great citizens, Mr. Greg Seefeldt. Greg has been the Rock County clerk for the past 14 years. Earlier this month, Greg gave up his position to become the administrative coordinator for Dunn County. Greg and his family will truly be missed by all of those who know him in Rock County, WI.

Greg began his career in public service in 1974. He has been continuously reelected and he has amassed one of the largest winning percentages ever in the county as an elected Democratic official. Under his helm, the office of county clerk has been computerized, so that it can serve the county like a well-oiled machine.

Each member of the Seefeldt family, Greg, Jan, Gennessee, Aimie, Becky, and Amanda, are actively involved in Democratic politics. The Seefeldts unselfishly contribute many hours of campaigning for local, State and national candidates.

Mr. Speaker, I rise today to congratulate Greg on his new position. His numerous accomplishments, dedication to the community, and his unique and outgoing personality and style will be remembered by each and every one of us in Rock County. Greg and his family will be deeply missed by all of the folks in Rock County. The Seefeldts are a very special family and Dunn County will be very fortunate to have them.

AMERICA—IN CONTRAST

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. GINGRICH. Mr. Speaker, the following is a poem written by Alice Presley of College Park, GA, concerning pollution in our environment. I urge my colleagues to read this vivid poem, and realize the urgent need to clean up the land and air of our Nation.

AMERICA-IN CONTRAST

America—so beautiful
Mountains, plains and trees,
With rain, sun, snow and breeze.
A land rich and free.

America—so lovely
Flowers, herbs, vegetables and fruit,
City and country—whatever suits.
A land of plenty and free.

America—not free
Resources—so many and used.
Littered with trash and abused.
A land given and taken.

America—rich-poor
With people—sharing and kind
And others—rude, ungrateful and blind.
A land possessing and poor.

America—in contrast
With good times and bad,
Scenic beauty and scenes so sad.
A land—free to be.

Alice Parish Presley.

A CONGRESSIONAL TRIBUTE TO LENNARD R. KENNETT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding citizen and member of our community, Lennard R. Kennett. Mr. Kennett is completing his 25th year as head professional at the Los Verdes Golf Course. I would like to honor him at this time and express my sincere appreciation for his many years of tireless service to the golfing community. His devotion to his work and his commitment to help others serves as an inspiration to us all.

Lennard Kennett has been part of the southern California community for many years. After his birth in Denver, CO, Lennard moved to Arcadia where he would spend much of his childhood. He attended Monrovia High School and his aptitude for leadership got him elected student body president.

Lennard first became enamored with golf as a youngster when he obtained a job as a caddy at the Santa Anita Golf Course. The job paid him 75 cents per bag; an even dollar from the big tippers!

Prior to entering college, World War II erupted and Lennard immediately joined the U.S. Marine Corps. He served honorably until he was discharged at the end of the war.

Following the war, Lennard fulfilled his academic ambition and enrolled in the University of Southern California. It wasn't long until he displayed his golfing proficiency. He was the southern California intercollegiate champion and was awarded the number one position on the USC team.

When Lennard completed his studies at USC, he held the post of assistant golf pro at Santa Anita. During this time, he honed his skills and won the San Diego Match Play Championship as well as competing in the San Diego Open. In 1957 he was the leader after the first round.

Having never lost his sense of duty, Lennard rejoined the Marine Corps during the Korean war and again served with distinction. In fact, after the close of that war, Lennard served as head professional at the Marine Memorial Golf Course at Camp Pendleton, San Diego.

In 1957 Lennard became the head golf professional at one of California's oldest and most traditional clubs, the San Gabriel Country Club. While he was working at San Gabriel, he competed in several big tournaments such as the Bing Crosby Tournament and three PGA championships.

In 1964, he moved his wife, Marie, and his children, Teresa and Beverly, back to the southern California area. Lennard was selected from over 100 applicants to be the head professional at the Los Verdes Golf Course. While at Los Verdes he has consistently promoted the public enjoyment of golf and advanced international understanding by coordinating the People to People Golf Tours to many countries through the auspices of the State Department. Lennard is now serving as chairman of the United States People to People Golf Council.

Lennard has also branched off into his own private business, naturally involving golf. He currently owns the Shamrock Golf Club Manufacturing Co.

Mr. Speaker, my wife, Lee, joins me in extending our sincere appreciation to Mr. Lennard Kennett for his devoted service to his country, his community, and his family. We truly wish Lennard, his wife, Marie, and their daughters, Teresa and Beverly, all the best in the years to come.

HONORING LITTLE LEAGUE BASEBALL FOUNDER

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. GEKAS. Mr. Speaker, I ask my colleagues to join me in recognizing a Pennsylvanian whose vision has benefited some 2.5 million youngsters around the world. The man is Carl Stotz of Williamsport, PA, and the vision was Little League Baseball.

It all started one August day in 1939 when Carl Stotz decided his two sons needed more competition in batting and catching than he could provide them. So he mustered 30 neighborhood youngsters and formed a three-team league. By the next spring he had found a sponsor, Lycoming Dairy, and his pint-sized players had real uniforms and the field had real bases.

In the half century since that humble beginning, Little League has been an integral part of boyhood and more recently, girlhood. And Carl Stotz, who still lives in Williamsport, has proudly watched it his vision become reality. The birthplace of Little League is now home to the 45-acre international headquarters of the league.

That headquarters oversees the 140,000 teams in 6,000 leagues across the United States and throughout 33 foreign countries. It is the largest sports organization in the world.

But the numbers themselves cannot begin to reflect the solid place in our culture held by Little League. All Americans rightfully regard it as a tradition of integrity, friendly competition, discipline, fair play, good sportsmanship and responsibility.

Mr. Speaker, Pennsylvania is indeed proud to call Carl Stotz, founder of Little League Baseball, a native son.

NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. DINGELL. Mr. Speaker, on Monday, October 30, a groundbreaking ceremony for the National Law Enforcement Officers Memorial will take place nearby at Judiciary Square. This memorial will honor Federal, State, and local law enforcement officers who die in the line of duty as well as all officers who continue to serve. The ceremony and memorial will stand as a strong message to law enforcement officers around the country that the American people support them, and that their great efforts in fighting this Nation's war on crime are much appreciated.

As a strong proponent of the memorial, I supported the original legislation in 1984 allowing it to be built on Federal land at Judiciary Square. The legislation, however, did not provide Federal funding for its construction, and I commend those individuals and organizations who helped raise over $4 million to see this important project realized.

Crime in our Nation has become a problem of increasing proportions. Every 20 seconds a violent crime is committed in America. Our Nation's law enforcement officers must remain committed and encouraged to remain on the front lines of the war on crime so that we can succeed in reducing this alarming statistic.

In the last 10 years, over 1,500 officers have been killed in the line of duty, 39 in my home State of Michigan. The dedication of these officers who risked their lives, and those who continue to fight the dangerous and often thankless war on crime, deserves widespread recognition. Hopefully, this memorial will remind citizens across the country of the great contributions of our Nation's law enforcement officers.

TRIBUTE TO MICHAEL R. DeSTEFANO

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. MRAZEK. Mr. Speaker, I rise today to pay tribute to Michael R. DeStefano for his 50 years of dedicated service to the Mineola Fire Department.

The volunteer fire department, Mr. Speaker, is one of the great institutions in America today. Thousands of our citizens across the country freely give of their time, their efforts, and sometimes their lives, in order to protect our communities.

For the past 50 years, Michael R. DeStefano has proudly upheld this tradition. On thousands of occasions in his career, Mr. DeStefano answered the call in his community regardless of the time of day or the possible danger to himself. He has served his community with pride and distinction.

Mr. Speaker, I take great pride in the many volunteer fire departments throughout the Third Congressional District on Long Island. Those like Mr. DeStefano who serve these departments prove that the values of community spirit and volunteerism are alive and well in America today.

On December 2, the Mineola Fire Department and the entire Mineola community will honor Michael R. DeStefano with a dinner at the Wheatley Hills Tavern in Westbury. I join them in their salute and wish Mr. DeStefano well in his future endeavors.

SALUTE TO THE LEHIGH VALLEY'S EMERGENCY SERVICES VOLUNTEERS

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. RITTER. Mr. Speaker, I rise today to honor the Emergency Services Volunteers of the Lehigh Valley in Pennsylvania. These hundreds of men and women, who serve as firemen, ambulance crews, and fire-police, give countless hours of their time and expertise to help the injured, rescue lives and property, and provide for the general safety of the people of the Allentown-Bethlehem-Easton area.

These individuals are on call 24 hours a day, in all kinds of weather. They leave the comfort and safety of their families to donate their time for the good of their communities. They freely give their time and energy, as do their families, because they stand by and support their volunteers. Their families understand when dinners are disturbed, a gathering is disrupted, or the serenity of an early morning sleep is invaded.

Mr. Speaker, I am proud to say that the effort to recognize Pennsylvania's emergency services volunteers started in my district, in South Whitehall Township. Steve Okun, president of the South Whitehall Township Board

of Commissioners, took up this cause as a personal crusade. As a result of his efforts, the Pennsylvania State Senate and the Governor have proclaimed October 1989, "Volunteer Emergency Services Month."

Mr. Speaker, my colleagues, please join me in saluting the Lehigh Valley's Emergency Services Volunteers for the time, effort and contribution they give to the community.

COSPONSORS OF HOUSE JOINT RESOLUTION 380

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. BATES. Mr. Speaker, due to an oversight I would like to establish for the RECORD that the following Members were cosponsors of House Joint Resolution 380, which designated October 18, 1989, as Patient Account Management Day.

LIST OF COSPONSORS

Mr. Fazio, Mr. McEwen, Mr. Dymally, Mr. Kolter, Mr. de Lugo, Mr. Emerson, Mr. Horton, Mr. Rangel, Mr. Evans, Mr. Parris, Mr. Lowery of California, Mr. Scheuer, Mr. Walgren, Mr. Hunter, Mr. Brown of Colorado.

Mr. Rose, Mr. Thomas A. Lukens, Mr. Fish, Mr. Bonior, Mr. Green, Mr. Mrazek, Mr. Dixon, Mr. Markey, Mr. Torricelli, Mr. Traficant, Mr. Wise, Mr. Andrews, Mr. Jones of Georgia, Mr. Kanjorski, Mr. Durbin, Mr. Hochbrueckner.

Mr. Richardson, Mr. Lehman, Mr. Wilson, Mr. Guarini, Mr. Mineta, Mr. Kasich, Mr. Volkmer, Mr. Smith of New Hampshire, Mr. Vento, Mr. Annunzio, Mr. Savage, Mr. Foglietta, Mr. Hughes, Mr. Hayes of Illinois, Mr. Towns.

Mr. Rahall, Ms. Oakar, Mr. Jacobs, Mr. Rohrbacker, Ms. Long, Mr. Wheat, Mr. McCloskey, Mr. Darden, Mr. Gallegly, Mr. Jontz, Mr. Fieghan, Mr. Stallings, Mr. Staggers, Mr. Mfume, Mr. Visclosky, Ms. Slaughter of New York, Mr. Ortiz, Mr. Bartlett.

Mr. Applegate, Mr. Rowland of Georgia, Mr. Crane, Mr. Clinger, Mr. Slattery, Mr. Oxley, Mr. Panetta, Mr. Gingrich, Mr. Lancaster, Mr. Martinez, Mr. Kennedy, Mr. Dellums, Mr. Gordon, Mr. Valentine, Mr. Shays, Mr. Dyson, Mr. Condit, Mr. Kildee.

Mr. Bustamante, Mr. Owens of New York, Mr. Flake, Mr. Young of Florida, Mr. Engel, Mr. Jones of North Carolina, Mr. Fascell, Mr. Tallon, Mr. McHugh, Mr. Gonzales, Mr. Flippo, Mr. Boehlert, Mr. Burton of Indiana, Mr. Poshard, Mr. Torres, Mr. Crockett, Mr. Boggs, Mr. Miller of Washington.

Mr. Miller of California, Mr. Downey, Mr. Beilenson, Mr. Lewis of California, Mr. Moakley, Mr. Espy, Mr. Manton, Mr. Bosco, Mr. Perkins, Mr. Smith of Florida, Mr. Dreier of California, Mr. Gunderson, Mr. Bevill, Mr. Rhodes, Mr. Akaka, Mr. Hubbard, Mr. Matsui, Mr. Whittaker, Mr. Sabo.

Mr. Davis, Mr. Mavroules, Mr. McDade, Mr. Weber, Mr. Young of Alaska, Mr. Tauzin, Mr. Payne, Mr. Mazzoli, Mr. Gray, Mr. Borski, Mr. Thomas of California, Mr. Dannemeyer, Mr. Martin of New York, Mr. Porter, Mr. DeWine, Mr. Lewis of California, Mr. Stark, Mr. Traxler.

Mrs. Morella, Mr. Wolpe, Mr. Bennett, Mr. Dornan of California, Mr. DeFazio, Mr. Studds, Mr. Ford of Tennessee, Mr. Espy, Mr. Moody, Mr. Hall of Ohio, Mr. Siksorski, Mr. Hatcher, Mr. Ray, Mr. Oberstar, Mr. Bryant, Mr. Roybal, Mr. Levine of California, Mr. Donnelly, Mr. Nagle, Mr. McNulty, Mrs. Saiki, Mr. Chandler, Mr. Bliley, Mr. Upton, Mr. Price, Mr. Payne of Virginia, Mr. Donald E. Luken of Ohio, Mr. Ackerman, Mr. Wyden, Mr. Johnston of Florida, Mr. Carr, Mr. Edwards of California, Mrs. Boxer, Mr. Fauntroy, Mr. Manton.

Mr. Sarpalius, Mr. Skaggs, Mr. Henry, Mr. Neal of Massachusetts, Mr. Faleomavaega, Mr. Kaptur, Mr. Wylie, Mr. Gillmor, Mr. Sangmeister, Mr. Sawyer, Mr. Hoagland, Mr. Jenkins, Mr. Clark, Mr. Clement, Mr. McMillen of Maryland, Mr. Tanner, Mr. Nelson of Florida.

Mrs. Patterson, Mr. Coble, Mr. Lehman of California, Mr. Russo, Mr. Ridge, Mr. Ireland, Mr. Shaw, Mr. Rogers, Mr. Fields, Mr. Cardin, Mr. Morrison of Washington, Mr. AuCoin, Mr. Hyde, Mr. Waxman, Mr. Lagomarsino, Mr. Brennan, Mr. Saxton, Mr. Kastenmeier, Mr. Levin of Michigan, Mr. Montgomery, Mr. Sisisky, Mr. Bentley, Mr. Bilirakis, Mr. Mollohan.

LOMA PRIETA—FIRST PRIORITY

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. CAMPBELL of California. Mr. Speaker, I rise to explain my absence from the four recorded votes on October 18 and 19. Immediately after learning of the Loma Prieta earthquake, I flew out to my district in California to be with those who were hardest hit, and I stayed with them until this Monday. The epicenter of the earthquake, Loma Prieta, is in my district. Though I take my obligation to vote extremely seriously, on an occasion such as this, I hope it will be understood that my place was with my constituents.

JEWISH NATIONAL FUND HONORS BERNARD AND MARTA FRIEDMAN

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. SMITH of Florida. Mr. Speaker, on October 26, 1989, the Jewish National Fund [JNF] will present Bernard and Marta Friedman of Hollywood, FL, with the 1989 Tree of Life Award, that organization's highest honor. It is with considerable pride that I call to your attention the achievements of Bernie and Marta, my constituents and personal friends, who are receiving this honor for their dedication to this community's spiritual and physical well-being.

Since 1901, the Jewish National Fund has aided the people of Israel in turning barren desert areas into productive fertile farmland and forests. The JNF's award to Bernie and Marta is a symbol of their appreciation for the Friedmans' constant hard work toward these goals.

While holding down full-time jobs and raising a family, Bernie and Marta still make the time to be active and effective members of their community. They are in the forefront of local civic, political, and religious issues.

Marta Friedman is on the board of the Holocaust Documentation and Education Center at Florida International University. She also has been a teacher for the Dade and Broward Counties' CAJE for 15 years.

Bernie Friedman has been president of the College Democrats of America and was a speaker at the 1980 Democratic Nominating Convention. In 1982, after my election to the House of Representatives, I appointed Bernie as my administrative assistant. He was one of the youngest people ever to hold such a position on Capitol Hill. Not only was he adept at handling the many responsibilities of an administrative assistant, but during his tenure in my office, he also obtained a law degree. As a member of the U.S. Jewish Appeal's National Young Leadership Cabinet and the board of the Posnack Jewish Community Center, he has remained active in addressing issues of local concern both abroad and in his hometown of Hollywood, FL.

Bernie and Marta recently added to their list of achievements with the birth of their beautiful daughter, Elana.

The Friedmans can be proud of the role they play in guiding and encouraging the growth of one of America's largest Jewish populations. I heartily congratulate them on receiving the Tree of Life Award.

NATIONAL ADOPTION WEEK

HON. TOM SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. SAWYER. Mr. Speaker, I would like to take this opportunity to recognize the efforts of my colleague, Congressman CHRIS SMITH of New Jersey, in bringing before the House House Joint Resolution 278, to designate the week of November 20, 1989, as "National Adoption Week." Clearly, this matter is of critical importance to us as we wrestle with issues relating to the care of our Nation's children.

As a natural part of growing up, many of us have asked ourselves at one point or another, "Am I adopted?". For most of us, the answer is "no." However, for at least 36,000 children awaiting adoption in the public foster care system, the answer is "No—not yet, not today, not tomorrow, and, quite possibly, never."

While I wholeheartedly support the concept and practice of adoption, I do not believe we can advocate adoption as a resolution for the problems of unwanted pregnancies. In addition to decrying the number of teenagers aborting pregnancies, some also would discourage women who choose to carry children to term from keeping them.

To those who promote the advantages to be gained by children adopted into families that are better off financially, I would say that we have an equally important obligation to provide support to the mothers who choose to keep their children.

Adoption is, and should remain, primarily "an optimum service for children," as the Child Welfare League has declared, rather

than a service for infertile couples and others who want to adopt. Let us not forget our focus in discussions about adoption—that is, the welfare of the children in question—not the agency, not the policymakers, not the waiting families.

For an additional 276,000 children receiving foster care, adoption is tragically not even an option. These children have been removed from their parents' care, but the parents have not relinquished legal authority, as required for adoption. Our overworked, flawed system often leaves these children neglected for years, while they grow up in foster care unnecessarily.

I suggest that while we continue to urge women with unwanted pregnancies to consider adoption, we strive to improve the broader context in which decisions about a child's future are made. We have a responsibility to consider the quality of the foster care system into which these children will enter, as well as the conditions under which teenage girls and others are forced to raise the children they choose to keep.

FHA AND HOME OWNERSHIP

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. McMILLEN of Maryland. Mr. Speaker, while I support raising the Federal Housing Administration [FHA] guarantee for a single-family home in concept, I must oppose the provision in this conference report on H.R. 2916 that raises the present guarantee to $124,875 for jurisdictional reasons.

By changing the FHA limits in conference, the Appropriations Subcommittee has disregarded parliamentary procedure and have prevented the House Banking Committee from rightfully taking action on this issue. This is simply unacceptable.

Nationally, homeownership has dropped from 66 to 62 percent in the last 20 years. The median home sale prices far exceed $101,250 in many regions. In Anne Arundel County—the largest portion of my District—the median cost is $125,000.

All across this great Nation, hardworking families are juggling to make ends meet. As the cost of housing soars, it becomes increasingly difficult for them to buy a home. Where many could probably afford a monthly mortgage payment, the high cost of rent keeps them from saving enough money to become homeowners.

Certainly, FHA mortgage insurance provides real help in other ways. It substantially lowers the up-front cash requirements for the purchase of a home. For a number of first time buyers, especially when times are economically tough, FHA is often the only insurance available. Similarly, State housing agencies rely heavily, if not entirely, on FHA to meet the housing needs of lower income families.

While I do not believe that FHA should be left to operate unbridled in the marketplace, I do believe it has used reasonable mortgage limits to target its loans. Contrary to the implications made by its opponents, FHA's mortgage limits are lower today than they were 20 years ago on a relative basis as compared to national existing housing average sales prices. Equally important is the fact that FHA provides mortgage insurance in all market areas with the same underwriting criteria at the same cost. Many private insurers alter their client base and their requirements as they experience losses on new mortgage instruments, creative underwriting, or in response to downturns in the economics.

Many opponents of raising the guarantee state that the FHA should serve only low-income families. It is clear they are unconcerned with the ingredients that comprise FHA's formula for success. The FHA section 203(b) is an insurance program that operates at no expense to the taxpayer. It is essential that FHA has a broad base of borrowers over which to spread its insurance risk. By its very nature, FHA insurance benefits some borrowers at the expense of others. One group of borrowers actually pay the cost, as if cross-subsidizing, the homeownership opportunities of higher risk, marginal and often lower income borrowers. For that reason, there are no references to the income of section 203(b) borrowers throughout that section of the National Housing Act.

Homeownership, which is one of the contributing factors towards upward mobility, is no longer a viable option for some households. Affordable housing stock and homeownership opportunities—for low- and moderate-income families—continue to shrink. Increasing the FHA maximum mortgage ceiling would serve the lower half of the housing market as well as the market of more modest homes. When the combined income of a husband and wife no longer amounts to a piece of the American dream, it is time to put the dream of homeownership back within their reach.

SAVIMBI'S ELUSIVE VICTORY IN ANGOLA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. BURTON of Indiana. Mr. Speaker, in view of recent developments in Angola and the vicious smear campaign being waged against Jonas Savimbi and UNITA, I commend to my colleagues this excellent article by Michael Johns of the Heritage Foundation, recently published in "Human Events."

SAVIMBIA'S ELUSIVE VICTORY IN ANGOLA

"In resistance terms, we have won the war. Their aim was to destroy UNITA. They did not succeed," Angolan rebel leader Jonas Savimbi declared last week in Washington.

Fourteen years after Angola's Marxist government took power with the assistance of Cuban troops and Soviet aid, Savimbi's National Union for the Total Independence of Angola (UNITA) has, indeed, overcome remarkable military odds. Despite promises of departure, some 40,000 Cuban troops remain in Angola to fight Savimbi.

And despite Gorbachev's rhetoric, the Soviets remain deeply committed to a military victory. Over the past 12 months, an estimated $1.5 billion in Soviet military assistance has arrived in Angola with the sole intention of driving the Angolan freedom fighters into the ground.

But Jonas Savimbi is still standing. His forces operate in every Angolan province, and over one-third of the country is firmly in their control. All this from a movement whose every survival remains nothing short of miraculous.

In resistance terms, Savimbi is clearly correct. UNITA has won the war. In political terms, however, the struggle for Angolan freedom remains ever elusive. The Angolan regime shows little sign of agreeing to the free and fair elections it promised in 1975, leaving Savimbi with little alternative but to continue his battle for freedom.

Diplomatically, events have been transpiring quickly in Angola. Last December, the United States mediated a series of multinational negotiations that resulted in an agreement signed by Angola, Cuba, and South Africa. Under the agreement, Cuban troops are to depart Angola by July 1991 and Namibia, occupied for over 70 years by South Africa, is to achieve independence.

But like most international agreements, the rub of the Angola/Namibia agreement is in the details, not the stated objectives. In this regard, the Angola/Namibia agreements leaves much to be desired for American interests and the Angolan freedom fighters.

Savimbi told conservative leader Howard Phillips and me last March during a visit to Savimbi's headquarters in the Angolan bush, "there are a lot of loopholes in that agreement. The agreement is not good at all."

As a result of the Angola/Namibia agreement, South African assistance to UNITA, estimated to have been in the neighborhood of $80 million annually, has been terminated.

Furthermore, while the agreement provides for elections next month in Namibia, there is no provision for free and for elections in Angola. Consequently, the Angolan government is scoffing at Savimbi's demands for these elections. And with the Angolan regime generating significant foreign revenues from American oil companies operating in Angola and military support flowing liberally from Moscow and Havana, there remains little economic or military incentive for Luanda to hold such elections.

The final concern with the Angola/Namibia agreement is that it by no means guarantees the departure of Cuban troops. During the negotiations leading up to last December's agreement, Fidel Castro and Angola's dictator, Jose Eduardo dos Santos, demanded the right to renegotiate the departure of Cuban troops up until July 1991.

Should Castro or dos Santos decide to keep Cuban troops in Angola, they will be able to cancel their end of the deal. In all likelihood, this would be done after the Angola/Namibia agreement gives the Soviet-backed South West African People's Organization (SWAPO) its opportunity to take control in next month's Namibian elections.

Consequently, one possible outcome of the Angola/Namibia agreement is the consolidation of the Angolan dictatorship and the rise of a new Marxist-Leninist state in neighboring Namibia.

Because the Angola/Namibia agreement made no provision for a settlement to the internal conflict in Angola, the Angolan freedom fighters, who were excluded from the American-mediated talks leading to the agreement, have pushed assertively for

direct talks with the Angolan government to discuss their differences.

Last June, in the presence of 18 African heads of state, including the chairman of the Organization of African Unity, Mali's Moussa Traore, Savimbi and dos Santos met in Gbadolite, Zaire. The two leaders agreed to set up a commission to monitor details of a cease-fire and to begin talks toward national reconciliation. But 60 days later, in an apparent reversal of its position at Gbadolite, the Angolan regime launched a military offensive against UNITA.

When a subsequent summit was called in Harare, Zimbabwe, on August 23, UNITA found the Angolan regime backpedaling on provisions it had accepted earlier at Gbadolite. As prerequisites to peace, the Angolan regime demanded Savimbi's exile from Angola, the dissolution of UNITA's army, and UNITA's acceptance of a one-party state. Appropriately, these terms were rejected by UNITA, and there has been little progress toward reconciliation since.

In the meantime, the freedom fighters are reportedly facing difficulties with their supply line from Zaire.

Last week, the Washington Post reported that Zaire's president, Mobutu Sese Seko, had terminated U.S. arms shipments to the Angolan resistance through Zaire, though the reason for Mobutu's change of policy is not readily apparent.

In Washington, the picture is no prettier. The Angolan government had launched a propaganda campaign intended to discredit the Angolan freedom fighters among its Washington supporters.

Last week, the Angolan government purchased advertising space in the Washington Post and the New York Times in which it quoted from an August National Review article that described Savimbi's intentions as fighting to extend "his autocratic grip on the people within his domain." Despite Savimbi's consistent support for democratic values, the author described UNITA as "a highly centralized, Leninist organization."

The radical organization TransAfrica, which has received donations from the governments of Cuba and Angola, is also weighing in against the freedom fighters. Last week TransAfrica director Randall Robinson held two press conferences in one week to denounce UNITA, and in an apparent effort to overturn any diplomatic gains made by Savimbi's Washington visit, his organization invited Angolan dictator dos Santos to visit Washington to press his case for a termination of UNITA aid.

Meanwhile, continued Soviet involvement in Angola seems almost the least important point of discussion. "The Russians, they are not giving up their clients," Savimbi warned last week. "Najibullah is still in Kabul. They are still supporting the MPLA [in Angola]." In other words, declarations that we have reached "the end of history" with "an unabashed victory of economic and political liberalism" appear quite incredible from the Angolan battle lines. Here, as elsewhere, the Cold War rages. And the enemy is playing to win.

THE NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1989

Mr. PACKARD. Mr. Speaker, on October 30, 1989, ground will be broken for the National Law Enforcement Officers Memorial. This memorial will honor all Federal, State, and local law enforcement officers; those who have died in the line of duty as well as those who risk their lives every day to uphold the laws of our country.

We have monuments all over Washington dedicated to those who have given their lives in our country's wars. In my judgment, law enforcement officers fight a war every day. They protect decent people from criminals who break the laws of this country. People need a visible reminder of these courageous individuals.

Law enforcement officials face a great deal of stress. They know that their every action is under public scrutiny and any human error will be judged by the entire populace. They serve as role models to others and the strict code of honor which they abide by is far more rigid than most other occupations in our society.

I am pleased that we are honoring the fine men and women who are law enforcement officials. Their dedicated service to the communities around the country indicates the depth of their commitment to law and order. I believe we need to show them that we appreciate the extraordinary job they are doing.